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PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, SECOND SESSION

SENATE—*Monday, July 13, 1970*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. RUSSELL).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who hast made all things for man, and man for Thy glory, consecrate us at the beginning of this new week, that what we think or speak or do may be for the betterment of this Nation, the improvement of all mankind, and the hastening of Thy coming kingdom. Deliver us from self-seeking and self-serving, from impure motives and unworthy actions. Keep us pure in motive, fair in all our dealings, and firm in our faith in Thee.

Teach us, O Lord, what the past has to say to the present about the future. May we cherish all that is holiest in our heritage, and welcome all that is healthiest, redemptive, and wise in the present. Guide us through the vexing problems of these perilous days to an era of lasting peace and world brotherhood.

In the name of Thy Servant-Son who went about doing good. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

THE PRESIDENT PRO TEMPORE

Mr. MANSFIELD. Mr. President, before I make any requests, I am sure it is with the approval of the distinguished Senator from Ohio (Mr. YOUNG) and the Republican leader that I express my gratification, my happiness, and my delight that the distinguished senior Senator from Georgia (Mr. RUSSELL) is occupying his chair as the President pro tempore this morning.

He adds light and substance to this Chamber.

He looks exceedingly well. I cannot tell you how happy we are that you are back, sir.

Mr. SCOTT. Mr. President, if the distinguished majority leader will yield, I should like to concur. I agree so often with the majority leader but never more heartily than in the sentiments he has just expressed.

The distinguished President pro tempore of the Senate adds the qualities of judgment and balance to this body which are often needed.

We are immensely pleased to see him back, looking so well.

Mr. MANSFIELD. And, may I add, with grace and dignity as well.

Mr. SCOTT. Grace and dignity, indeed.

The PRESIDENT pro tempore (Mr. RUSSELL). The Chair would like to thank the majority and minority leaders for the kind and gracious statements they have just made.

He is greatly touched, and only wishes that he deserved such encomiums.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, July 10, 1970, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from Wisconsin (Mr. PROXMIRE), there be a period for the transaction of routine morning business, with a time limitation of 3 minutes therein.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Chair now recognizes the distinguished Senator from Ohio (Mr. YOUNG) for 20 minutes.

LET SANITY PREVAIL—BRING THE BOYS HOME

Mr. YOUNG of Ohio. Mr. President, nearly 20 years have elapsed since there was need for American combat troops to remain in South Korea.

Many months ago I began speaking out in the Senate in favor of withdrawing all American combat troops from Korea. On June 29, less than 2 weeks ago, for the last time I urged in this Chamber that all of these GI's be returned to the United States without further delay. The fact that the Pentagon will remove one of the two U.S. divisions—about 25,000 of the 60,000 American soldiers, airmen, and other combat troops—is a sign of a step in the right direction. Any influence that my statements may have had on this decision is a source of pride to me.

However, even after these troops have been withdrawn from South Korea, approximately 35,000 American combat troops remain there. This represents some 60 percent of our current strength.

Pentagon officials have not gone far enough. Except for a few advisers and observers, all of our troops should be withdrawn from South Korea as soon as possible. By that I mean before the end of the present year.

Twenty years have passed since American soldiers and soldiers of Turkey and other friendly nations were engaged in combat in Korea. Today, there are more than 60,000 American fighting men stationed in South Korea, most of them along the demilitarized zone close to the 38th parallel separating South Korea and North Korea.

Mr. President, in the first 5 or possibly 10 years following the Korean conflict there was some justification for our continuing a strong military presence in South Korea. It was obvious that the armed forces of South Korea at that time would by themselves have been unable to repel a second attack from the north.

At this time the situation is entirely different. Were the North Koreans to launch an attack against South Korea the armed forces of our client or satellite country—South Korea—should be able to repel that invasion and without additional aid from our Government.

We have continued our presence in Korea far longer than necessary. The

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South Koreans are now capable of defending themselves.

The fact is that today South Korea has a regular army of 550,000 men, the fifth largest standing army in the world. North Korea has a standing army of but 350,000 men. There are 17,000 men in the South Korean Navy and only 9,500 in that of North Korea. South Korea has 30,000 men trained as marines while North Korea has none. In addition, the reserve forces of South Korea number more than two million men who drill at least twice a week. North Korea has a reserve force of but 1,200,000 men. The Republic of Korea—ROK—standing army and reserves are well equipped with the most modern weapons.

The only category of arms in which North Korea excels South Korea is in its air force of 25,000 men and 590 combat aircraft. The South Korean Air Force is composed of 23,000 men with 215 combat aircraft. Officials of the South Korean Government have stated that plane for plane and airman against airman they have the power to defend their country.

Mr. President, South Korea is the only nation in the world that provides substantial armed forces to assist us in Vietnam. More than 53,000 Republic of Korea soldiers are now fighting in Vietnam alongside our forces. According to our military experts, they have fought well and hard. Many have been killed and wounded in combat. The famed ROK Tiger Division has earned the respect of its allies and foes as have other units in the ROK armed forces now in combat in South Vietnam.

In October 1965 in Korea the distinguished junior Senator from Nevada (Mr. CANNON) and I had the honor to visit the Tiger Division in the field and observe them march in review shortly before they left for Vietnam. Of course, these troops were transported to South Vietnam on American ships and planes and are maintained there entirely at the expense of American taxpayers. South Korea, in reality a client nation of the United States, was given hundreds of millions of dollars in addition to military and economic assistance as a quid pro quo for helping maintain the Saigon militarist regime of Thieu and Ky in power.

Since 1951, the United States has given more than $3 billion in military assistance to South Korea. In addition, we have given $4.6 billion in economic aid to that country. Its increasing prosperity is in large part a result of our help.

Mr. President, I had the opportunity to visit all areas of South Korea. I visited with our officers and men along the 38th parallel near Panmunjom, and elsewhere, and saw for myself the hard conditions under which they live during their tour of duty. At that time nearly 5 years ago I expressed my views that we should not have such a sizable number of American fighting men defending the border separating North Korea from South Korea.

Furthermore, South Korea with 31,200,000 people is twice as populous as North Korea with its 13,300,000 people. Its economy is now booming and the degree of its economic growth is tremendous as compared to that of North Korea, a poverty stricken, backward nation.

President Nixon has pledged to withdraw another 50,000 American troops from South Vietnam in the next few months. Hopefully, all U.S. troops will be out of Southeast Asia within a year and our involvement in that civil war in Vietnam will be ended.

At that time, and it should be much before then, the 53,000 South Korean troops in South Vietnam will also be returned to their homeland. There cannot be any justification whatever for our continuing to station thousands of young Americans in South Korea. They should be returned home immediately even before the return of ROK forces from South Vietnam.

South Korea undeniably has now sufficient military, naval, and air power to defend itself against any possible attack from the North Koreans. In the very unlikely event of that occurring, our warplanes stationed in Japan and Okinawa but a few minutes flying time distant from North Korea could readily come to the assistance of the South Korean Air Force, if that assistance were required.

Mr. President, surely it cannot be claimed that the United States has a mandate from God to police the entire world. Now, after all these years, we should bring out all of our Armed Forces from South Korea. It is a form of foreign aid that we have maintained this huge force in Korea throughout all the years from the end of 1950 to the present time.

We should withdraw all our Armed Forces from South Korea this year and at the same time proceed without delay to end our involvement in all areas of the Indochinese empire. Southeast Asia is 10,000 miles distant from our sphere of influence. May sanity prevail at the White House and Pentagon. May we bring the boys home from Southeast Asia—all of them within a year at most. Then give top consideration to our grave needs at home which have been neglected.

MORE MADNESS IN MAINTAINING THIEU AND KY

Mr. YOUNG of Ohio. Mr. President, on July 6 the Nixon administration announced a new aid program to the south Vietnamese military regime of General Thieu and Air Marshal Ky. This new program will supply 47,300 tons of canned food as well as materials for the construction of 100,000 housing units for South Vietnamese soldiers and their families to be completed within 5 years. This expenditure will total $100 million. Sweat on, American taxpayers.

That South Vietnam is facing serious economic problems is undeniable. Morale in the South Vietnamese Army has gone down and further down due to the critical shortages of dwellings for soldiers and their families. Already the streets of Saigon have been marked with violence from disabled veterans seeking housing and other aid, and the veterans have begun erecting miserable shantytowns on private and government property. The cost of living during 1969 rose 50 percent.

Mr. President, no one denies that these problems are indeed serious. However, President Thieu demanded $212 million from the United States and without delay. He hinted that the policy of Vietnamization would fail if such aid were not forthcoming immediately. Apparently the Thieu-Ky dictatorship claims that the United States is a bottomless well of giveaway programs for their regime. Apparently they feel that we have not yet done enough for them, that any demand they make cannot be refused.

How much more can we do for this military regime, Mr. President? In fiscal year 1970 the Saigon government received $365 million in economic aid from the United States through the Agency for International Development. That represents 20 percent of the total amount of this country's foreign aid for that fiscal year, and is greater than the total amount of foreign aid since 1946 to 87 different countries in the world—including 15 in Latin America. Furthermore, in the last 6 years in addition to economic aid the United States has spent $115 billion on the war in Southeast Asia to support the Saigon militarist government. In 1969, that was $600 from each American family to support the war, 23 cents out of each tax dollar. This is not counting the 50,000 American GI's who have died in battle or the nearly 300,000 wounded, many maimed for life.

Is it to maintain General Thieu and Air Marshal Ky in power and to uphold their imprisonment of political prisoners crowding them in stone tiger cages in Con Son, and brutally torturing them, that 50,000 Americans have been killed?

No one can justly claim that the United States has failed to aid the South Vietnamese. No one can say we have not gone the extra mile in South Vietnam. We have given more of ourselves than anyone could have or would have expected.

President Nixon vetoed appropriations for the Department of Health, Education, and Welfare, and he vetoed appropriations for hospital construction. He did so because he said these expenditures would be inflationary. The administration requested funding for the food-stamp program far below what is necessary to fulfill the promise of that vital program. The administration calls for sacrifices, patience, and asks that programs of crucial interest be curtailed or canceled. Why, then, this new $100 million giveaway of our taxpayers' money for the Thieu regime? The Department of Housing and Urban Development estimates that the United States will need 26 million housing units in the 1970's in order to provide decent houses for all Americans, and $100 million would pay for more than 10,000 units here at home, but is $100 million given to the Thieu dictatorship less inflationary than the same amount used on desperately needed programs in this country?

Very definitely, Mr. President, this new giveaway to the Saigon regime represents an expense that the American people should be spared at this time. This should not be tolerated. No one is suggesting that the United States run from those who need our help or return to isolationism. However, the time has come to begin to exercise careful control over giveaway programs such as this one. Domestic priorities and the state of our own economy require that this type of assistance be denied.

Mr. President, it is particularly important to note that many of the U.S. officials in our embassy in Saigon were opposed to this new economic grant. They regard this proposed gift as a move aimed toward insuring the reelection of the Thieu-Ky dictatorship next year. Soldiers on active duty and veterans constitute the largest single voting bloc in South Vietnam, and Thieu and Ky could gain many votes from this bloc by building houses for them. Certainly the housing shortage is critical, but why should the U.S. Government use its foreign assistance programs to help insure the election of its own chosen dictators? General Thieu and Air Marshal Ky had the support of our CIA when they overturned the duly elected civilian government in Saigon.

Furthermore, this new $100 million gift is being made with absolutely no conditions attached, another reason many officials in our embassy in Saigon opposed it. No requirement is being made that the Thieu government make any attempt at economic reforms. In the past 2 years, economic assistance to Saigon has been linked to the willingness of the South Vietnamese Government to increase taxes and make urgently needed reforms to bring their lopsided economy into balance. Suddenly, this policy developed by the Agency for International Development and carefully followed by our own officials has been abandoned for direct, no-strings-attached gifts.

Mr. President, the Thieu-Ky regime proclaims loudly and at some length their willingness to institute the needed reforms. They now say, however, that they will have to wait until next year, after the election, because the undeniably harsh measures required might lose some votes. Apparently, the Nixon administration has decided to help the Thieu regime avoid working to solve the serious economic problems facing South Vietnam. Perhaps the reforms will be made next year, perhaps not.

The needed reforms will not be popular and it will take courage to institute them. The Saigon government needs to increase taxes on the rural population; it must control the large number of imports of luxury goods; it must increase the reliability of its own tax base—the income tax is now being almost totally ignored and avoided. In addition, the Government must institute stringent measures to control the staggering escape of domestic capital—already between $1.5 and $2 billion has been surreptitiously taken from South Vietnam and has been deposited in Swiss banks in unlisted accounts, and more is removed every day for secret bank accounts in Hong Kong and Taiwan.

Mr. President, the economic crisis is rapidly becoming the most serious threat facing South Vietnam. The Saigon government must make the necessary economic reforms if it is to avoid a slide into total chaos and anarchy. Apparently, the Thieu regime will avoid making the reforms as long as possible, and now it seems clear the Nixon administration is willing to permit this in order to insure the reelection of that regime. It is not the officials of the Thieu-Ky dictatorship who are being hurt by the shortage and inflation in South Vietnam; it is the peasants, the soldiers, the working people of the towns and cities. The ultimate success or failure of a democratic, non-Communist government for South Vietnam rests with these people, not with the Thieu-Ky military clique. Encouraging the Thieu-Ky dictatorship to avoid meeting the economic challenges facing South Vietnam is a sure guarantee that South Vietnam will continue to be a source of instability in the future.

It is evident that this militarist Saigon regime would be overthrown within a week if the United States, including our CIA, would withdraw altogether the support which all along has maintained them in office. The present serious rioting of disabled soldiers and clashes with the military in the streets of Saigon offers evidence that the Thieu-Ky regime lacks public backing and support. It has just about run its course.

Within the very near future I predict that this flamboyant Air Marshall Ky will suddenly leave the country and rendezvous with his unlisted Hong Kong and Swiss bank accounts.

NIXON: NO RETREAT

Mr. YOUNG of Ohio. Mr. President, that Presidential decision to invade Cambodia, President Nixon's recent statements regarding Indochina, our extended involvement in fighting in Southeast Asia, and increased bombing in Laos and Cambodia dramatize the dangers of permitting this immoral, undeclared war to drag on with no end in sight. Americans must face the serious risk that another horrendous mistaken effort, similar to the invasion of Cambodia, will be attempted in order to achieve a decisive military victory. Who knows what the Joint Chiefs of Staff who seem to be running things will advise next.

President Nixon has done no more than pay lipservice to the idea that diplomatic negotiations and withdrawal of our GI's lead to the paths to peace in Southeast Asia. His main concern appears to be the achievement of victory in a war that is really unwinnable. He appears to like to display a tough posture. The President has warned that he would proceed with "strong and effective measures" if Hanoi does not lie down and play dead now that American combat troops are out of Cambodia.

President Nixon and his military advisers should have learned by now that escalation simply does not work. We have dropped more tons of bombs on North Vietnam and Laos than we dropped on Germany and Japan in World War II. This bombing served only to strengthen the resolve of the North Vietnamese.

Incidentally our bombing has devasted more than one-fifth of the entire area of Vietnam and has killed more than 300,000 civilians, most of them women and children, and maimed many thousands of others.

We invaded Cambodia to drive the North Vietnamese from the border sanctuaries and principally, it was proclaimed, to find and destroy COSVN, the so-called huge headquarters of the VC and North Vietnam forces. When this was not accomplished Nixon administration leaders said this headquarters was mobile, and was moved away due to advance intelligence that was leaked to the VC. Hence it eluded them, they alleged. Now the VC and North Vietnamese control more than half of Cambodia. Escalation will not end the Indochina war. The way to end our involvement in that war is to bring all of our fighting men home now.

Mr. President, an outstanding journalist, Clayton Fritchey, has written an enlightening column regarding President Nixon's recent foreign policy announcements. This column, which appeared recently in the New York Post and other leading newspapers, deserves the attention of Senators, and of all those who are concerned about our expanded involvement now throughout all Indochina. I ask unanimous consent that this article be printed in the RECORD at this point as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NIXON: NO RETREAT

(By Clayton Fritchey)

WASHINGTON.—President Nixon has had his say about his Cambodian action. And, in rebuttal, his critics have had theirs. So now the question is: where do we go from here?

It is a sobering question, for in all probability the answer—based on past performance and on conditions, just restated by the President—is that the worst is yet to come. The signs suggest that the next major development in the broadened Indochina war will be another dangerous escalation, this time perhaps beyond the point of no return.

This may sound ominous, but it is no more ominous than the exposed position which Nixon has consigned the U.S. to in the months ahead, for, as he implies, our future military action will be determined more in Hanoi than in Washington. Under Nixon's terms the initiative will rest with the enemy.

This is the policy that got us into Cambodia. Last Nov. 3, and on subsequent dates, the President, in discussing his plans for troop withdrawal over an indefinite period of time, put himself on the spot by warning Hanoi that if it made any new moves he would "take strong and effective measures to deal with the situation."

Thus, when the President determined that the enemy was making threatening moves in Cambodia, he felt compelled, as he said, to make good on his ultimatum. Else, he insisted, the U.S. would seem like a "pitiful, helpless giant," and become "a second-rate power." So, showing Hanoi and the rest of the world that he couldn't be trifled with, he sent the troops into Cambodia.

On the basis of his latest television appearance, it must be concluded that Nixon has learned little or nothing from that experience. He has appointed David Bruce as the new Paris peace negotiator, but this is a gesture. Like Harriman and Lodge before him, Bruce is an able diplomat; but what matters are his instructions and the real intent of the President.

On his recent appearances on the tube, it was only too apparent that Nixon's pockets, so to speak, were bulging with pearl-handled pistols, a la Gen. Patton. And again he made himself the prisoner of a fresh ultimatum when he warned that he would strike again if Hanoi stepped up offensive operations after the U.S. left Cambodia.

So now the future depends on whether Hanoi lies low and does nothing for the next few years, or whether like any normal foe, it exploits opportunities that may arise, such as, for example, seizing most of Cambodia, overrunning Laos, or reactivating the demilitarized zone between North and South Vietnam.

It is a good guess that the U.S. reaction will not be another invasion of Cambodia, but a new bombing offensive against North Vietnam, with no holds barred, including knocking out the port of Haiphong, regardless of hitting Russian ships.

Those who believe that Nixon is engaged in a "great retreat" (an "elegant bug-out") camouflaged by alleged feints like Cambodia, have not been listening to him carefully. It is true he oftens talks about peace, but the dominant theme in nearly every speech is that he is "going to end the war." Not end U.S. involvement, mind you, but end the war, which is a very different matter.

The President, of course, could end U.S. involvement tomorrow, but there is no evidence that he has the power to end the war itself in the foreseeable future. It may go on for 20 years, with or without U.S. participation, but mostly with, if Nixon remains President.

At the time U.S. troops were sent into Cambodia, Admiral Smedberg quoted the President as saying, "I am not going to let Cambodia go down the drain." Since then, Vice President Agnew has said that "America's cause" is a "non-Communist future for Southeast Asia."

And Nixon himself says he would rather be a one-term President than "accept the first defeat" in U.S. history. In short, his real aim is not disengagement, but some kind of a "win," no matter how long it takes or how much it costs in men and money.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore (Mr. Metcalf). Under the previous order, the Senator from Wisconsin is recognized for 30 minutes.

POINT OF PERSONAL PRIVILEGE

Mr. PROXMIRE. Mr. President, I rise on a point of personal privilege.

Last Wednesday afternoon's Washington Daily News contains an item on page 7 which reads as follows:

> Senatorial Wrath
>
> Senator Barry M. Goldwater publicly chided Senator William Proxmire for lowering the wall of secrecy surrounding a new Pentagon weapon which uses electronic sensors, *laser* beams and computers to direct enemy movements.

The story appeared in other newspapers, as well.

The original source of that news item is a statement which the Senator from Arizona (Mr. Goldwater) made on the Senate floor last Tuesday in supporting an amendment which would abolish the draft.

This is what the Senator from Arizona said as it is printed on page 22902 of the Record for July 7, 1970.

> One of the reasons, I think, that we can go to volunteer force, is that the Army, which is the great user of men, is depending on what our friend from Wisconsin (Mr. Proxmire) discussed as the "electronic battlefield" yesterday. He did it in a very critical way, and I might say it is so highly classified that even the Armed Services Committee has not been able to hold hearings on it; but as long as he has sprung it, so to speak, I can mention it.

IMPROPER INFERENCE

The clear inference from the statement of the Senator from Arizona is that I had made public or released what was previously secret or classified information. After referring to the electronic battlefield as "so highly classified that even the Armed Services Committee has not been able to hold hearings on it," the Senator from Arizona stated that I had "sprung" the information. I think there is no other inference that can be made from that statement but that I had improperly made public what was otherwise secret and classified information.

The Washington Daily News certainly reported it that way. On the basis of what the Senator from Arizona actually said, I cannot gainsay the Daily News for the way it reported the statement.

SENATOR GOLDWATER'S STATEMENT WAS INCORRECT

But I am here to say now, that the statement was wrong and that the Senator from Arizona was wrong. I did not "spring" any classified or secret information. I did not "lower the wall of secrecy" surrounding the electronic battlefield. The Senator from Arizona was entirely incorrect in his statement and the inference which the press drew from his statement.

NO SECRET OR CLASSIFIED SOURCES

Not one single word I uttered was from any source other than open public sources. As a matter of policy, I refuse to receive or to accept classified documents and information. And I can say truthfully that no member of my staff who worked with me in developing the data for the speech I gave last Monday on the electronic battlefield, either saw or used any classified information about that project.

I think that both the statement which the Senator from Arizona made on the floor of the Senate, and the inferences which not only can be drawn from it but which have been drawn from it, are so serious that I have notified him of the speech I am giving now and I will ask him when I finish my speech today to make a public withdrawal of his statement and to deny the inference which has been drawn from it.

Not only do I want to make this statement denying that any classified documents were used for my speech, but I want to detail precisely where I got the information which formed the basis of my speech.

SOURCE WAS GENERAL WESTMORELAND'S PUBLIC SPEECH

First of all, there was the speech which General Westmoreland made before the Association of the U.S. Army last October 14. It is a gold mine of information. Not only did I use it as a basis for my speech but numerous reports and quotations from it appeared in the public press. They were in the January 31, 1970, issue of Business Week and the February 16, 1970, issue of Product Engineering.

The Business Week article quotes General Westmoreland as saying that—

> The Army has undergone in Vietnam a quiet revolution in ground warfare—tactics, techniques, and technology. This revolution is not fully understood by many.

The February 16 issue of Product Engineering quotes General Westmoreland as follows:

> On the battlefield of the future, enemy forces will be tracked and targeted almost instantaneously through the use of data links, computer-assisted intelligence evaluation, and automated fire control.

Thus, the "automated battlefield"—which is the term General Westmoreland uses, or the "electronic battlefield," by which it is popularly called—has been mentioned repeatedly in public sources as a result of a public speech made by no less than General Westmoreland himself.

DATA PUBLISHED BY SENATOR GOLDWATER

That speech gives a great deal of information about the electronic or automated battlefield. Not only did General Westmoreland make that speech. Not only was it a public speech. But it was even published in the Congressional Record.

It was introduced into the Record on October 16, 1969. And the Senate and the public may be surprised to know that it was none other than the Senator from Arizona (Mr. Goldwater) who introduced that speech by General Westmoreland in the Congressional Record. The heading read, "New Developments in Ground Warfare." It was introduced with the following words—and I quote the Senator from Arizona.

> Mr. President, during the course of the hearing before the Committee on Armed Services, we learned of a number of new developments in ground warfare which were not sufficiently enough developed to be contained in this year's authorization.
>
> I have seen a number of these devices in operation and I am very enthusiastic about what these will do for our ground forces and eventually, because the theory can be applied to all forces what we will accomplish in the field of intelligence of the economy (sic) for the entire military.
>
> On October 14, the Chief of Staff of the U.S. Army, Gen. W. C. Westmoreland, addressing the Association of the U.S. Army, gave a broad brush of the impressing, interesting, and exciting possibilities in the new aproaches to intelligence and support. The paper, naturally, did not get into the subject in great detail, but I can assure Senators that if they are interested in what the Army of the next decade will look like and how it will function, they can get a fine beginning knowledge by reading the general's outstanding discussion. (Congressional Record, vol. 115, pt. 22, pp. 30348–30349.)

BIZARRE SITUATION

In these circumstances, Mr. President, it is not only wholly incorrect but somewhat bizarre that the Senator from Arizona should claim that the Senator from Wisconsin had "sprung," so to speak, the secret of classified data that there was such a weapons system as the electronic battlefield.

If anyone "sprung" this information about the electronic battlefield, it was the Senator from Arizona himself. It could be said that he sprang it last October. It was not because I "sprung" it that last Tuesday he was free to mention it, as he said on the floor. He was free to mention it because General Westmoreland had made a major speech about it last October, because the Senator from Arizona placed that speech in the CONGRESSIONAL RECORD, and because of repeated and detailed references in nonclassified public sources to this weapons system.

NO IMPROPER USE OF INFORMATION

But in fairness to the Senator from Arizona, I do not charge, and I urge no one else to charge, that he has improperly revealed secret or classified information. That would be as unfair an inference about him as his statement was about me.

OTHER PUBLIC SOURCES

It may be that what the Senator from Arizona is really complaining about is that information originally developed for the use of the dues-paying members of the military-industrial complex has been drawn to the attention of a majority of the Members of the Senate.

In addition to General Westmoreland's speech, the two articles to which I have already referred give a vast amount of information about the electronic battlefield.

The Business Week article gives us information on the following subjects dealing with it. It tells us how much has been spent and the estimate for its total cost. It gives information about how the project has grown over the last few years. It mentions the kinds of sensors needed and the general components of the system. It lists the major contractors. It goes into the kinds of problems which are being encountered. It tells who was in charge of the project; namely, Lt. Gen. John D. Lavelle of the Defense Communications Planning Group. It gives data on early budgets. It gives details about the Army program, the Integrated Battlefield Control System (IBCS), and some details about the organization and problems it has faced. It gives data about testing, some of the Vietnam experience, and the Army's hopes to have more of the equipment in Vietnam by the end of the year.

BUSINESS WEEK, PRODUCT ENGINEERING—DMS

This is all public information. It is to be found in detail in Business Week for January 31, 1970. Similar information is to be found in Product Engineering for February 16, 1970. Even greater detail is to be found in McGraw Hill's DMS Market Intelligence Reports—a public document for November 1969.

An article by Lt. Gen. Harry W. O. Kinnard entitled "Narrowing the Combat Intelligence Gap," published in Army magazine for August 1969, gives a great deal of information, especially concerning STANO, one of the key components of the electronic battlefield. The Defense Industry Bulletin for March 1970 contains a seven-page article by Brig. Gen. Wilson R. Reed, USA, in which he discusses automation, the Army Computer Systems Command, and the electronic battlefield.

The fact is that there is far greater detail in these public sources than it was possible for me to use in my speech. I ask unanimous consent that these articles as well as the speech by General Westmoreland be published in the RECORD at the end of my speech.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. PROXMIRE. In addition, Mr. President, I ask unanimous consent that the speech I gave in the Senate last Monday and which appears in the CONGRESSIONAL RECORD for that date, also be printed in the RECORD along with these public sources in order that anyone can compare my speech with the information which General Westmoreland and others have made public.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

$2 BILLION SYSTEM—NO SPECIFIC AUTHORIZATION

Mr. PROXMIRE. Mr. President, I repeat what I said on Monday. Here is a new weapons system on which at least $2 billion has already been spent. Its ultimate cost is estimated to be as much as $20 billion. Yet, no public hearings have been held on it. The Congress has never "authorized" it in any specific or deliberate fashion. It is not a line item in the authorization bill. Most Senators did not even know about it. When I brought it up, I was accused wrongly as I have shown overwhelmingly, of "springing" classified or secret information. It is a weapons system which must rely on the most complex electronic equipment—the cause of the overruns and delays in weapons systems and the shocking waste in weapons systems to date. In addition, it may well be an indiscriminate weapons unable to distinguish between friend or foe, combatant and civilian.

For all these reasons it should be subjected to the closest public and Senate scrutiny. There is no reason why $2 billion should have been spent on it without proper and public authorization.

FOOT IN DOOR TECHNIQUES

It is a classic example of the Pentagon's foot-in-the-door technique. It personifies the reasons why the military budget is out of control.

This system may ultimately turn out to be a useful system. It may modernize warfare. But Congress and the public have a right to know what we are buying and what billions are being spent for. For that reason, without ever looking at or using any classified information, I raised that point in the Senate on Monday.

ASK SENATOR TO WITHDRAW STATEMENT

I ask the Senator from Arizona, whom I notified of this speech, to withdraw the statement he made last Tuesday and the inference attached to it that I had sprung any classified or secret information now making it possible for him to mention this subject.

In view of the circumstances, I believe that is a course of action which he should now take.

EXHIBIT 1

ADDRESS BY GENERAL W. C. WESTMORELAND, CHIEF OF STAFF, UNITED STATES ARMY, ANNUAL LUNCHEON ASSOCIATION OF THE UNITED STATES ARMY, SHERATON PARK HOTEL, WASHINGTON, D.C., OCTOBER 14, 1969

I always welcome the opportunity to address those who support this Association . . . I know I am among friends who are vitally concerned about our Army.

Our Army today is a dynamic organization undergoing change to stay abreast of a rapidly changing technology and society.

In our adult lifetime many of us have witnessed change unequalled in history—the jet airplane, nuclear power, television, and the computer—to name a few. And the social change that *should have* come within the last century has been our legacy to accomplish in our generation—*now*.

As an integral part of our changing society, the Army has also been challenged to meet those demands. We in the Army accept the challenge . . . just as we have accepted and met all our challenges in the past.

Today our Army is weathering a period not too unlike others in our proud history.

Today once again the fundamental principles of our profession—the pillars of discipline on which an Army is built—the trust and confidence that have traditionally motivated the soldier are being questioned. We cannot this time wait for a call to action. The problems that we must address exist within our own ranks . . . we share them with the entire Nation. With our troubled society questioning the role of the Army more than ever before, each soldier in a position of leadership is on trial . . . both his character and his integrity are being tested. To meet the test, he must stand on his principles . . . his personal and professional code of ethics, his dedication, his leadership. These are the principles that resolve the crucial . . . these determine the worth of a man's life. These are the hallmarks of the professional soldier in his finest tradition.

The U.S. Army has served its country proudly. It continues to respond to legally constituted executive authority. But the American people also must understand that their Army does not exist to fight without something to fight for. Our Armed Forces on the international scene are as necessary for the security of our country as our domestic police forces are necessary for law and order at home. Our Army can only be as effective as the spirit of its soldiers. And certainly this spirit is sparked by public trust, support, and confidence.

The Army is as dedicated now as it has been for nearly two centuries . . . dedicated to the preservation of our way of life. In guarding this trust, we have never failed. What more could a country ask of its soldiers?

Recently, a few individuals involved in serious incidents have been highlighted in the news. Some would have these incidents reflect on the Army as a whole. They are, however, the actions of a pitiful few. Certainly the Army cannot and will not condone improper conduct or criminal acts—and I personally assure you that I will not. We will always regard the rights of the individual and acknowledge due process of law. But the Army as an institution should never be put on trial as we deal with the few.

We are a proud Army. We do have confidence in our officers, noncommissioned officers, and soldiers who continue to provide the Army and the Nation with the selfless devoted service that has always been our cherished tradition.

This year, I take special satisfaction in addressing this audience—for I know you are dedicated to the maintenance of a strong, modern Army through military-industrial-labor-academic-scientific cooperation. This team provides the Armed Forces with the best equipment science and technology can produce. This cooperative effort is an element of national power that must never be eroded.

For this reason, I will focus now on purely military matters . . . on developments that are of special interest to this audience.

I will proceed on the assumption that neither the Congress nor the Nation wants us to lay down our shield of armed readiness. On the contrary, our citizens continue to demand from us the best military forces possible within the resources made available to us. This is a fair and demanding challenge which we accept.

In meeting this challenge, the Army has undergone in Vietnam a quiet revolution in ground warfare—tactics, techniques, and technology. This revolution is not fully understood by many. To date it has received only limited attention. Analysis of the lessons from this revolution will influence the future direction of our Army both in fundamental concepts of organization and development of equipment.

When the first American units were committed in Vietnam, they were to a large extent a reflection of the organization, tactics, techniques, and technology of World War II, with one noteworthy exception. That exception, of course, was best demonstrated by the 1st Air Cavalry Division. For the first time, an Army unit of division size had been organized and equipped to free itself from the constrictions of terrain through the use of battlefield air mobility. The concept and resultant organization were logical outgrowths of the development of sturdy, reliable helicopters for troops carriers, weapons platforms, command and control, aerial ambulances, and reconnaissance vehicles and larger helicopters for carrying artillery, ammunition, and supplies. Even before the arrival of American combat troops, the effective use of the helicopter had been demonstrated in the support of the Vietnamese. I am confident that the vitality of air mobility is recognized and understood by this informed audience.

We learned that Vietnam posed a problem even more difficult than mobility. The enemy we face in Vietnam is naturally elusive and cunning in his use of the dense jungle for concealment. As a result, in the early days of the American commitment we found ourselves with an abundance of firepower and mobility. But we were limited in our ability to locate the enemy. We were not quite a giant without eyes, but that allusion had some validity. Whenever we engaged the enemy, we won the battle. Too often those battles were at enemy initiative and not our own. Too often battles were not fought because the enemy could not be found or because, after initial contact, he had slipped elusively into the jungle or across borders politically beyond our reach . . . or had literally gone underground.

Since 1965 a principal thrust of our experimentation, adaptation and development in tactics, techniques, and technology has been toward improvement of our capability to find the enemy. Each year of the war witnessed substantial improvement. In 1965, 1966, 1967, and early 1968 we increased the number of both air and ground cavalry units. We added a second airmobile division. As our troops arrived, we progressively organized special reconnaissance elements of all kinds, including long-range patrol companies and special forces teams. We found ourselves more and more using the infantry for the purpose of finding the enemy. When the enemy broke down into small units, we did likewise. We learned to operate skillfully at night. We mastered the enemy's ambush techniques. Technical means were reinforced and improved. Intelligence organizations were expanded and refined.

During this period, the Director of Defense Research and Engineering urged the scientific community to develop a new family of sensors and associated communications equipment to help locate enemy forces on infiltration routes. After proving these devices workable in test, we developed plans in 1967 to use them throughout the battlefield. In mid 1968, our field experiments began. Since then, we have integrated these new devices with the more conventional surveillance equipment and other intelligence collection means. As a result, our ability to find the enemy has improved materially.

Comparing the past few years of progress with a forecast of the future produces one conclusion: we are on the threshold of an entirely new battlefield concept.

Now let me briefly examine the past and relate it to the future.

The Napoleonic Wars are well documented in history texts. Firepower was limited. Mobility was limited essentially to the foot soldier. Support services were provided by contract or foraging. Cavalry, scouts and pickets provided intelligence. This chapter of military history is replete with numerous examples of battles that might have been . . . had the opposing forces known of each other's presence. But when forces made contact, they massed to do battle. At Waterloo, for example, over 140,000 troops crowded into less than three miles of front line contact.

A little over a century later, World War I brought trench warfare. The advent of the machine gun and massed artillery introduced sizeable increases in the firepower capabilities available to ground forces. Mobility and support efforts experienced little change. Maneuver on the battlefield was almost nonexistent. Only a few visionaries saw any real utility in the tank. Primitive aerial observation brought only marginal improvements in intelligence gathering. The density of troops in the front line, reduced from that of Waterloo, still remained high as soldiers crowded shoulder to shoulder in their network of trenches. Without mobility and information about the enemy, the newly acquired firepower served little purpose.

World War II saw the tank mature, and armies organized to capitalize on this capability. Mobility began to gain on firepower. While the Navy was developing sonar and air elements proceeded with intercept radars, Army target acquisition systems remained essentially at the World War I level. The wheeled vehicle improved our support effort. But we were still confined to the ground with our airlift capability remained minimal.

The increased mobility, however, did permit combat elements to disperse over a wider front, and the density of troops along the battle lines became smaller. Still, the absence of a refined intelligence capability permitted only small economies of force.

But the Vietnam War has seen a revolution in ground force mobility. We no longer assign units a sector of frontage. Instead, units are responsible for an operational area. And with the mobility of the helicopter, units like the 1st Cavalry and the 101st Airborne Divisions cover hundreds of square miles with their airmobile blankets.

The revolution I envision for the future comes not from the helicopter alone, but from systems that heretofore have been unknown.

For a moment, let us consider the basic combat role of the Army. As the Nation's land force, our mission is to defeat enemy forces in land combat and to gain control of the land and its people. In this role, we have traditionally recognized five functions. But we have emphasized only three: mobility, firepower, and command and control—in other words—move, shoot, and communicate. To me, the other two—intelligence and support—have not been sufficiently stressed. Placing the functions in proper perspective, I visualize the Army's job in land combat as:

First, we must find the enemy.

Second, we must destroy the enemy.

And third, we must support the forces that perform the other two functions.

By studying operations in Vietnam, one can better understand these functions.

Large parts of the infantry, ground and air cavalry, and aviation are used in what I will now call "STANO"—surveillance, target acquisition and night observation, or function number one—finding the enemy. In this function large areas can be covered continuously by aerial surveillance systems, unattended ground sensors, radars and other perfected means of finding the enemy. These systems can permit us to deploy our fires and forces more effectively in the most likely and most productive areas.

The second function—destroying the enemy—is the role of our combat forces—artillery, air, armor, and infantry, together with the helicopters needed to move the combat troops. Firepower can be concentrated without massing large numbers of troops. In Vietnam where artillery and tactical air forces inflict over two-thirds of the enemy casualties, firepower is responsive as never before. It can rain destruction anywhere on the battlefield within minutes . . . whether friendly troops are present or not.

Inherent in the function of destroying the enemy is fixing the enemy. In the past, we have devoted sizeable portions of our forces to this requirement. In the future, however, fixing the enemy will become a problem primarily in time rather than space. More specifically, if one knows continually the location of his enemy and has the capability to mass fires instantly, he need not necessarily fix the enemy in one location with forces on the ground. On the battlefield of the future, enemy forces will be located, tracked, and targeted almost instantaneously through the use of data links, computer assisted intelligence evaluation, and automated fire control. With first round kill probabilities approaching certainty, and with surveillance devices that can continually track the enemy, the need for large forces to fix the opposition physically will be less important.

Although the future portends a more automated battlefield, we do visualize a continuing need for highly mobile forces to surround, canalize, block or otherwise maneuver an enemy into the most lucrative target.

The third function includes an improved communication system. This system not only would permit commanders to be continually aware of the entire battlefield panorama down to squad and platoon level, but would permit logistics systems to rely more heavily on air lines of communications.

Today, machines and technology are permitting economy of manpower on the battlefield, as indeed they are in the factory. But the future offers even more possibilities for economy. I am confident the American people expect this country to take full advantage of its technology—to welcome and applaud the developments that will replace wherever possible the man with the machine.

Based on our total battlefield experience and our proven technological capability, I foresee a new battlefield array.

I see battlefields or combat areas that are under 24 hour real or near real time surveillance of all types.

I see battlefields on which we can destroy anything we locate through instant communications and the almost instantaneous application of highly lethal firepower.

I see a continuing need for highly mobile combat forces to assist in fixing and destroying the enemy.

The changed battlefield will dictate that the supporting logistics system also undergo change.

I see the forward end of the logistics system with mobility equal to the supported force.

I see the elimination of many intermediate support echelons and the use of inventory-in-motion techniques.

I see some Army forces supported by air—in some instances directly from bases here in the continental United States.

In both the combat and support forces of the future, I see a continuing need for our traditionally highly skilled, well-motivated individual soldier . . . the soldier who has always responded in time of crisis—and the soldier who will accept and meet the challenges of the future.

Currently, we have hundreds of surveillance, target acquisition, night observation and information processing systems either in being, in development or in engineering. These range from field computers to advanced airborne sensors and new night vision devices.

Our problem now is to further our knowledge—exploit our technology, and equally important—to incorporate all these devices into an integrated land combat system.

History has reinforced my conviction that major advances in the art of warfare have grown from the Fullers and Guderians—men who detected, in the slow, clumsy, underarmed, largely ineffective tanks of World War I, the seeds of the future. Between the two World Wars, they foresaw with clarity the blitzkrieg of armored and panzer forces that introduced a new dimension to ground warfare.

More recently, Generals Howze and Wheeler and the late Lieutenant General Bill Bunker conceived air mobility long before the machinery existed to fulfill the concept. Today we witness both the airmobile concept and the airmobile division proved in Vietnam.

We are confident that from our early solutions to the problem of finding the enemy, in Vietnam the evidence is present to visualize this battlefield of the future . . . a battlefield that will dictate organizations and techniques radically different from those we have now.

In summary, I see an Army built into and around an integrated area control system that exploits the advanced technology of communications, sensors, fire detection, and the required automatic data processing—a system that is sensitive to the dynamics of the ever-changing battlefield—a system that materially assists the tactical commander in making sound and timely decisions.

To achieve this concept of our future Army, we have established, at the Department of Army Staff level, a Systems Manager, Brigadier General Bill Fulton, to coordinate all Army activities in this field. We have done this because of problem complexity. We are dealing with systems that are fundamental to the Army—its doctrine, its organization, and its equipment. We are on the threshold for the first time in achieving maximum utilization of both our firepower and our mobility. In order to succeed in this effort, we need the scientific and engineering support of both the military and the industrial communities.

To complement the systems management, we are establishing at Fort Hood a test facility through which new equipment, new organizations, and new techniques can be subjected to experimentation, adaptation, evaluation, and integration. This facility will be headed by Major General Jack Norton who will report to the Project Director, Lieutenant General Bev Powell, III Corps Commander and Commanding General, Fort Hood.

Hundreds of years were required to achieve the mobility of the armored division. A little over two decades later we had the airmobile division. With cooperative effort, no more than 10 years should separate us from the automated battlefield.

Some will say that this is an unrealistic expectation. Some will say that the current experience in Vietnam, in which the infantry continues to bear the brunt of combat, does not support this visualization of the future. History tells another story. The experience and technology at the time of the British Mark IV tank at Cambrai in 1917 and the H–34 helicopter in the fifties provided the evidence to define the future of these systems.

I believe our future path has been clearly blazed.

We will pioneer this new dimension in ground warfare and develop an integrated battlefield system. The United States Army will again lead the way. Our young officers and NCO's will accept the challenge.

[From Business Week, Jan. 31, 1970]

THE PENTAGON PLAYS ELECTRONIC WAR GAMES

In the jungles of Vietnam, at Fort Hood, Tex., in military and industrial laboratories in the U.S. and West Germany, and at dozens of other locations here and abroad, the Pentagon has been secretly experimenting with a new concept of warfare.

General William C. Westmoreland, Army chief of staff, calls the concept the "automated battlefield." More commonly, it is known as the "electronic battlefield." By any name, it is nothing less than an effort to develop a totally new method of waging war at the footslogger's level. To date, the effort has been hidden within myriad programs of the three services. Thus far, $2 billion has been spent, and costs may soar to $20 billion in the next decade.

Out of the spending will come exotic new sensors—seismic, acoustic, infrared, radar, and others—to detect enemy movements over huge areas. Strikes will be made through use of data links, computer-assisted intelligence evaluation, and automated fire controls. And GIs will get costly electronic gear to help them find and fight the foe.

Soldiers on the front lines are already applying electronic battlefield techniques. General Westmoreland touched on this in a speech before the Assn. of the U.S. Army last Oct. 14: "The Army has undergone in Vietnam a quiet revolution in ground warfare—tactics, techniques, and technology. This revolution is not fully understood by many."

CONSOLIDATION

Now the diffuse concept is emerging more clearly as the Pentagon attempts to whip it into an understandable whole. Today, hundreds of systems for surveillance, target acquisition, night observation, and data processing are being used by or developed for all the services. And scores of contractors are working on them.

Covering a wide spectrum of projects are such companies as RCA, Westinghouse, Hughes Aircraft, Honeywell, General Electric, and ITT. Some, like Barnes Engineering, Sandia, and Texas Instruments, are working on such specialized devices as "intrusion alarms." Others, such as Varo, Inc., of Garland, Tex., and AeroJet-General, are developing night vision optical equipment.

Out of all the technological effort, two big problems have emerged:

Projects are becoming too many and too big to be buried within the three services' separate budgets as attempts to improve battlefield reconnaissance. Congressmen are probing for wasteful duplication and demanding that the program be brought into focus.

Technology, especially of systems to collect battlefield data, is now so advanced that further research is needed to make use of it. Almost certainly, entirely new tactics and troop organizations will have to be developed, and elaborate computerized command and control centers will direct them.

The Pentagon has set up the mechanism to coordinate projects and eliminate duplication under its electronic battlefield program. Lieutenant General John D. Lavelle of the Air Force is in over-all charge of the work. He heads a task force called the Defense Communications Planning Group. Secrecy cloaking most electronic battlefield projects, however, still makes it hard to follow their costs and judge how effectively they fit together.

GROWTH

Even the titles of many projects are classified. However, McGraw-Hill's DMS Industrial News Service has figures on how some of them have grown. In fiscal 1967, the Defense Dept's Advanced Research Projects Agency (ARPA) budgeted $3.5-million for sensor studies, and two years later the annual appropriations for electronic battlefield research topped $80-million. Then, as the armed forces placed orders for equipment developed and tested in the preceding two years, appropriations for procurement rose to $524-million.

For fiscal 1970, DMS estimates, $78.5-million has been approved in this area for R&D and $214.1-million for procurement. But either figure may increase through reshuffling of Pentagon funds before the fiscal year ends.

Says Dr. John S. Foster, Jr., the Pentagon's director of defense research and engineering: "We may well be on the verge of providing complete, realtime battlefield surveillance around the clock." But putting such information to full use will require command and control centers able to keep track of friendly, as well as enemy, forces. Companies such as Litton, Motorola, Otis Elevator, and HRB-Singer are deeply involved in developing the centers. But, in addition, special new troop formations may be needed just to handle complex electronic field equipment.

FIELD TESTS

The Army is tackling this problem on several fronts. This year, infantry and tank units will take part in full-scale battlefield experiments at Fort Hood, Tex., called Project Master. The aim is to develop an integrated Battlefield Control System (IBCS), where computerized control systems could make use of data from the new sensors.

Going into IBCS will be Army experience in earlier and much more limited projects: Tacfire, a computerized tactical fire control system developed in the last three years, and TOS, a tactical operations system that was tested in Germany and demonstrated in December. Computerized equipment used in TOS will be shipped from Germany to Fort Hood this spring.

SENSORS THAT CAN SEE IN THE DARK ARE CHANGING THE WAY ARMIES FIGHT

The Army's Combat Developments Command also has run small-scale tests of the new tactics, weapons, and troop organization at the Hunter-Liggett Military Reservation in California. Now the Army is trying to decide who will get its expensive night-fighting devices—all fighting men or only certain units. To help get an answer, it is testing "limited action forces"—small units heavily equipped with sensors and special communications gear—in Hawaii and other training grounds.

A prototype picture of the electronic battlefield already exists in a limited way. In Vietnam, the Army is using more than a dozen new night vision devices as well as other types of sensors. These include infrared sensors, light-amplifying telescopes, and seismic detectors to monitor enemy movements for more than a mile around allied bases.

Some of this equipment, largely untested, was rushed into use two years ago during the siege of Khesanh, and hundreds of air strikes were directed against targets identified by sensing.

In the not too distant future, says the Army, airmen and infantry will work closely together, their tasks coordinated by control centers like those the Army and Air Force are trying to develop. For low-level strafing, the Air Force this year will try to build up to a total of 100 heavily armed, slow-flying "gunships" with amplified television, radar that penetrates jungles, and screens that display both radar and infrared images of what lies ahead of the plane. Bendix, Emerson, Itek, and Admiral are among companies working on these systems.

The Army also wants to put less weighty detection equipment aboard its Huey combat helicopters, built by Textron's Bell Helicopter Co. At least 16 companies are engaged in building or developing multisensored aircraft and helicopter systems, including Grumman, Fairchild Hiller, IBM, LTV, Martin Marietta, and Northrop.

To achieve surprise in reconnaissance, the Army and Marines, who fly at rooftop level, want more than a dozen Lockheed YO–3 "quiet" airplanes with several new sensing systems aboard. The YO–3s will whisper over the enemy and detect his presence before the planes are spotted. And the Air Force wants to quiet the turbojet Beech King executive aircraft, fit it with larger, more elaborate sensors and viewing equipment, and use it at about 17,000 ft. altitude.

In their efforts to get even quieter and more stable observation platforms for surveillance, military men are even looking into balloons. And Dr. Eberhardt Rechtin, director of ARPA believes that an unmanned, armored and sensor-equipped helicopter can be used to spot targets for the artillery. He expects to have such a helicopter operating within two years.

Ordnance. Many of the munitions that tie in with the concept of remote-controlled warfare will be in Vietnam by the end of the year. Among companies involved in their development are General Dynamics, Raytheon, and Sylvania. Already in use are shells, rockets, and bombs packed with hundreds of deadly, nail-like steel darts. And the Army is stocking up on a new type of tracer bullet that shows up only on night-vision equipment and thus avoids disclosure of a gunner's position.

Electro-Optical Systems is delivering to the Air Force kits that will convert conventional bombs to laser-guided weapons. Other companies at work on laser applications include Philco-Ford and Perkin-Elmer. This year the Air Force will begin to air-drop vast numbers of land and water mines that will detonate when anyone comes close to their sensors.

In a project related to air-dropped mines, the Air Force already has equipment to sow tiny, rugged "intrusion detectors" across vast stretches of land. Under a program called "College Eye," these high-flying U.S. aircraft are able to pick up concentrations of enemy activity. To aid in the subsequent attack, bombers carry TV cameras that can amplify light from the moon and the stars tens of thousands of times, thus allowing around-the-clock visual bombing.

The huge mass of information that such developments will make available may be the biggest problem in the electronic battlefield. As Lieutenant General George S. Boylan, Jr., deputy chief of staff for Air Force programs, says: "Our capacity to obtain information is continuing to increase more rapidly than our ability to reduce it to usable intelligence."

[From the Product Engineering, Feb. 16, 1970]

ELECTRONIC BATTLEFIELD DRAWS SCRUTINY ON HILL

(The Pentagon has never given Capitol Hill a full view of the total elements and costs of the electronic battlefield. This is the year Congress puts defense under surveillance.)

Congressmen this year will discover they have been trapped again into financing another multibillion-dollar military development program while learning almost nothing about its overall size, cost, or future defense implications.

Gen. William C. Westmoreland, Army Chief of Staff, calls it the "automated battlefield." Others call it the "electronic battlefield." Others call it the "electronic battlefield concept" because it requires vast amounts of electronic equipment, including:

Manned and unmanned airplanes, helicopters, and "drone" aircraft to locate, shoot, and bomb enemy forces by day and night.

Highly-amplified "image generators" to give daylight-clear television, infrared, and radar pictures of the enemy at night or in bad weather.

Whole families of acoustic, seismic, and magnetic devices to detect voices, footfalls, guns, and trucks of enemy troops.

Airborne and ground-based radars capable of detecting moving targets in thick jungle, rain, or fog.

High-powered lasers to illuminate targets with visible and invisible energy and to guide bombs, rockets, and anti-tank weapons.

Night telescopes, gunsights, binoculars, and goggles—for individual soldiers—that amplify starlight and moonlight up to 40,000 times.

Possibly millions of tiny "button bomblets" that give a sonic or radio signal to remote receivers, pinpointing the position of a soldier who steps on them.

Ground and air computers, communications links, and other devices to give enemy position data, TV images, and photos to central Army, Navy, and Air Force command centers.

Elaborate electronic command and control displays that pull together all data gathered by the electronic network and automatically show troop movements over vast areas of terrain.

Radar beacons worn by soldiers to help separate friend from foe.

"On the battlefield of the future," says Gen. Westmoreland, "enemy forces will be tracked and targeted almost instantaneously through the use of data links, computer-assisted intelligence evaluation, and automated fire control."

Congress in the dark. This whole new concept of warfare began as a modest R & D project to improve the night-moving, jungle-fighting enemy in Vietnam. Now Congress will discover the program has grown as expensive as the cost overrun on the C5–A jet transport, as advanced as the Main Battle Tank (MBT), and as complicated as the canceled F–111 electronics system. Army, Navy, and Air Force developers have spent nearly $2 billion in less than four years, according to McGraw-Hill's DMS industry news service.

Congressmen will also discover that potential campaign contributors from industry know more about the program now than does Congress, the taxpayers, and perhaps the President. Early in January, more than 800 defense contractors—nearly twice that number were turned away—jammed the National Bureau of Standards' auditorium for a classified briefing on the program's future. All the reports and predictions of the meeting were classified. For awhile, the Defense Dept. and the National Security Industrial Assn. considered releasing a speculative report on what might happen after 1980; but the paper, by retired Marine General F. P. Henderson, was pulled back into the "secret" category.

Only bits and pieces of the overall program emerged during last year's lengthy Congressional examination of defense budget and through a few industry-oriented pronouncements by defense officials. Those bits and pieces, however, give a fascinating picture of future warfare.

FLUSHING OUT THE ENEMY

One part of the picture is growth. In 1970, the Air Force will acquire the capability to sow land-mines and rugged, tiny seismographs across vast stretches of trails and mountain passes, through valleys, and around suspect Viet Cong assembly points. Under a program called "college eye," the Air Force apparently can monitor "blips" of activity in the neighborhood of these and other sensors while flying high above a suspect area. Television cameras capable of amplifying starlight and moonlight tens of thousands of times are being installed on B–52 bombers to make bombing possible around the clock.

Marine, Army, and Air Force troops are getting ground-based, light-amplifying telescopes, infrared sensors, and seismic detectors to monitor movement through jungles surrounding their bases.

This year the Air Force will try to have nearly 100 low, slow-flying "gunships" equipped with a variety of sensing equipment and armed to swoop down on trails and enemy camps with fast-firing guns and cannon. Amplified television, jungle-penetrating radar, forward-looking radar and forward-looking infrared images on TV-like screens in the cockpits will enable the pilots to follow their foe anywhere.

SILENT SURVEILLANCE

The Army, doing much of the same thing for its helicopters, received a severe setback last year when Lockheed's swift and powerful Cheyenne helicopter flunked its pre-production tests. Now the Army wants to put less weighty equipment aboad its Bell-built combat helicopters.

The Army and Marines, who fly at tree-top levels, have asked for dozens of Lockheed's YO–3 "quiet airplanes" with several sensing systems aboard. The Air Force, able to operate at 17,000 ft., wants to quiet the turbojet Beech King executive aircraft and fit it out with a larger, more elaborate suit of sensors and viewing equipment.

In their attempts to get even quieter and more stable observation platforms for battlefield surveillance, the military developers have been exploring balloons as observation vehicles. Dr. Eberhardt Rechtin, director of the Advanced Research Projects Agency (ARPA) for the Defense Dept., is spending nearly $30 million a year to advance sensor technology.

He has also demonstrated that an unmanned, Navy anti-sub helicopter armored and equipped with sensors can relay real-time combat reconnaissance information and help direct artillery fire on enemy targets. He expects to have an armed, operational version of the helicopter ready within a couple of years.

One more technique is being used in Vietnam to guide gunships, bombers, and helicopters to Viet Cong and North Vietnamese targets. "Hunter" aircraft, equipped with night-vision sensors, are zapping trucks, infiltrators, and boats with chemicals that glow in the dark. This glow remains visible for 10 to 15 minutes, plenty of time for heavily-armed "killer" airplanes and helicopters to swoop down for an attack.

Same game, new rules. This is the year the electronic battlefield concept will come under more intense scrutiny by Congress, because if it's going to be workable, it will require unification of battlefield communications, control, and command systems. All three services came under fire last year from the normally friendly House Appropriations Committee because of duplication and incompatibilities of computerized command systems already being developed in three services.

Even heavily-committed "hawks" will seek a fuller explanation of the Defense Dept.'s intentions, because the electronic battlefield concept, with its new weapons, requires fundamental changes in the way men fight.

For example, the Army faces a choice in how to equip its men. Should all soldiers receive the same equipment, making them equally capable of fighting by day or night? Another alternative being weighed: issuing all the special night combat equipment to only half the soldiers and dividing troops into daylight and night combat units.

A convert to the cause. By all accounts, the new sensors and night-fighting capabilities won their case with Gen. Westmoreland during the battle of Khe Sanh, besieged from January into April, 1968. Even though the Pentagon was not ready for field tests of much of the equipment, every type of sensor aid that could be fielded was brought into use, nearly six months ahead of the formal start of field tests. Hundreds of air strikes were directed against targets identified through ground and airborne sensing equipment.

"Khe Sanh made a believer in air power out of Westmoreland," said an officer who was on his Saigon staff during the battle.

Another application very useful in the Vietnam type of combat involves deploying a whole family of so-called "leave-behind" devices. This relieves some of the military's frustrations over engaging in heavy combat for territory that must be abandoned after the battle. Now when the enemy soldiers move back into an area, their movements are targeted through automatic equipment that relays data to nearby U.S. headquarters.

Problems vs. promises. Moving to electronic battlefield equipment poses problems despite its promises. For instance, it exposes highly sensitive technology to the roughest treatment. One hopeful infrared night-observation device for use over medium-range distances failed to develop properly and has been abandoned.

The multiplicity of sensors may also be giving the military too much data. Lt. Gen. George S. Boylan, Jr., Deputy Chief of Staff for Air Force programs and resources, says, "Our capacity to obtain information is continuing to increase more rapidly than our ability to reduce it to usable intelligence."

Both the Army and the Air Force are working on computerized control centers that can stand up in rugged field environments and help sort out significant events. The Army plans 26 division tactical operations systems (DIVTOS) for command and control functions, a development effort that will cost hundreds of millions of dollars over several years.

Keeping up with the Joneses. To complete development, the military must overcome objections to the proposed electronic battlefield as a menace to civilians. A few Congressional critics point out that most of the sensors can't discriminate between friend and foe, or animal and women and children. And in such primitive parts of the world as Vietnam, whole village may be wiped out or immobilized by seeding wide areas with air-dropped explosive devices designed to kill anyone who ventures into their neighborhood.

However well the military defends its electronic battlefield programs in Congress this year, the U.S. is well-launched into another escalatory R & D race with China, Russia, and their allies. Dr. John S. Foster, Jr., director of Defense Research & Engineering, believes Russia has a massive infrared sensory capability and should have wipespread use of image-intensified television by 1975. By the very nature of its air-dropped, unattended use, much of the latest U.S. sensing equipment moves back up the Ho Chi Minh Trail to military scientists in North Vietnam, Russia, China, and their allies. The U.S. defense industry must move fast to keep ahead of the Joneses. (1.28; 7.61) *Warren Burkett, McGraw-Hill World News, Washington.*

WHO'S GETTING ELECTRONIC-BATTLEFIELD CONTRACTS

Command control centers: Litton Industries, Computer Development Corp.

Image-intelligence control centers: Motorola, Raytheon, HRB-Singer, IBM, Otis Elevator, Philco-Ford, Cubic Corp.

Low-light-level television (LLTV), including laser illumination: RCA, Westinghouse, Textron, Philco-Ford.

Sound, heat, metal, and smell "intrusion alarms" for surveillance on land and water: General Electric, Sanders Association, Honeywell, Magnavox, Hazeltine Corp., Texas Instruments, Kaiser Industries, Dorsett Electronics, Sandia Corp., Westinghouse, Sperry Rand, Barnes Engineering, Hughes Aircraft, Sylvania.

Night-vision optical equipment: Varo Inc., Machlett, Electrospace Corp., Kollsman Instruments, RCA, Phillips, General Electronics, Itek Corp., Aerojet-General Corp., Polan Industries, Avien Inc., ITT-Aerospace, Canadian Commercial Corp.

Other hidden-surveillance lights and devices: Ling-Temco-Vought, Varo, Electrospace.

Laser illumination and attack systems: RCA, Perkins-Elmer Corp., Philco-Ford, Electro-Optical Systems, Hughes Aircraft.

Anti-mortar, target locator, and man-carried radar: General Dynamics, Texas Instruments, Admiral, RCA, Sperry Rand, Gray Mfg. Co., Cutler-Hammer, ITT-Gilfillan, Emerson, General Electric; also MIT-Lincoln Labs, Syracuse Univ., and Univ. of Michigan.

Airborne hunter-killer infrared and radar systems: Texas Instruments, HRB-Singer, Itek, Bendix, Admiral, Motorola, Hughes Aircraft, Emerson.

Multi-sensored aircraft-helicopter systems: Bell Aerospace, Radiation Inc., IBM, Grumman, Fairchild-Hiller, Lockheed, General Electric Northrop, Ryan, Aerojet-General, Gyrodyne, Martin-Marietta, Hughes Aircraft, Honeywell, Ling-Temco-Vought, Beech Aircraft.

Quiet aircraft: Curtiss-Wright Corp., Bolt Beranek & Newman.

Guns, bombs, mines, and shells for night-fighting systems: Honeywell, General Electric, Raytheon, Sylvania, General Dynamics.

[From the DMS Market Intelligence Report]

ELECTRONIC BATTLEFIELD

DESIGNATION

Electronic Battlefield; Army designation Surveillance, Target Acquisition and Night Observation (STANO); Formerly Dyemarker/Muscle Shoals, Practice Nine, Double Eagle, Igloo White and various other nicknames.

DOD PROGRAM

Research and Development, Procurement, Air Force, Army, Navy.

EXECUTIVE

Air Force Systems Command, Aeronautical Systems Div., Wright-Patterson AFB, Dayton, Ohio. Bomblets; mines, airborne equipment procurement.

Electronic Systems Div., L. G. Hanscom Field, Bedford, Mass. SEAOR–62 procurement.

Rome Air Development Center, Griffiss AFB, Rome, N.Y. IR, radar, airborne & ground sensor equipment R & D.

Army Material Command, Washington, D.C. Overall Army program manager.

STANO Systems Manager (STANSM), Office of Army C–in–C, Washington, D.C. R & D, procurement for STANO.

Mobile Army Sensor Systems, Test, Evaluation, and Review, (MASSTER) Project Officer, Ft. Hood, Tex. STANO (Army) equipments T & E.

Defense Communications Planning Group, Washington, D.C. Overall program management.

Naval Air Systems Command, Washington, D.C. Sono and aquabuoys; DCPG support.

PRIME

(See Electronic Battlefield CONTRACTORS Report).

STATUS

Advanced Development, Engineering Development; Procurement.

MISSION

Provide a variety of sensors for surveillance, including electronic battlefield surveillance, perimeter defense, target acquisition.

TYPE

Acoustic, seismic, IR, magnetic, RF sensors, radar, LLTV, and laser detectors; aircraft; ordnance (including some laser-guided bombs); anti-personnel mines; bomblets to trigger sensors, bombs; night vision devices; target acquisition sensors.

[In millions of dollars]

	Fiscal year—			
	1970	1969	1968	1967
R.D.T. & E.:				
Air Force	15.0	[1] 20.0	15.0	9.0
Army	[2] 14.0	[2] 10.0	10.0	20.8
Navy	[2] 6.0	9.7	20.0	16.0
DCA	14.0	15.0	20.6	[2] 20.0
ARPA	[3] 29.5	14.4	17.2	[3] 10.0
Total	78.5	69.1	[4] 82.8	75.8
Procurement:				
Air Force	71.4	43.3	5.8	[2] 5.0
Army	129.5	468.7	300.0	162.9
Navy	13.2	12.0	2.4	24.7
Total	214.1	[3] 524.0	308.2	192.6

[1] Air Force reprogramed $19,100,000 of fiscal year 1969 request.

[2] Estimate; fiscal year 1970 Army funding for STANO.

[3] ARPA's fiscal year 1969 advanced sensors funded $13,500,000 for SEA relating to the dyemarker/muscle shoals and an estimate of $15,000,000 of the fiscal year 1970 request is for identical purpose to extend the barrier concept to the "electronic battlefield" concept.

TIMETABLE

Program study initiated: mid-1966.

Defense Communications Planning Group organized: late CY66.

Program initiated: Sept. 1966.

Initial funding: FY67.

Barrier partly operational: Dec. 1967.

Original "barrier" concept discarded: FY69.

Army STANO Systems office established: July 1969.

Dyemarker/Muscle Shoals concept re-oriented to "Electronic Battlefield": FY 70.

Sensors development & production to continue: thru 1970s.

GENERAL

Electronic Battlefield is the designation currently applied to reconfigured segments of the "McNamara Wall", or "electronic fence" in SEA, managed by the Defense Communications Planning Group (DCPG) created in late CY66 to direct the tri-service program. Designated in CY66 as the result of a study as Dyemarker/Muscle Shoals and until CY69 by various other nicknames (Practice Nine, Igloo White etc.) the program was to furnish a sophisticated barrier between North and South Viet Nam to stop North Vietnamese infiltration. Heavy procurement as well as construction effort was begun, but saw a drastic re-orientation during CY68, and the program under the new designation is now continued toward the objective of creating what DOD calls "the electronic battlefield." The original FY67 funding of the program was $3.5 million. After creation of the DCPG, the three services quickly upped funding to several hundred times that by reprogramming and use of emergency funds. The total RDT&E and procurement funding from FY67 through FY69 has been variously put at $1.6 billion and $2.0 billion. Of that figure used at Congressional hearings in FY70, DMS has identified $1,535.1 billion allocated for RDT&E and procurement by the three services, the

Defense Comunications Agency (DCA), and the Advanced Research Projects Agency (ARPA) from FY67 through FY70. The total refers to funds specifically allocated to the DCPG. But other funds are involved (ammunition buys, for example) and increase overall appropriations to the cited Congressional total of $1.6 billion through FY 69.

The electronic fence effort began in mid-1966 with a study, under the administrative sponsorship of the Institute of Defense Analysis (IDA), and led to the creation of the DCPG in Sept. 1966. The DCPG could be considered a DOD agency, although its role involves only modest in-house R&D, and allocation of funds appropriated by the services to specific R&D and procurement efforts. The DCPG does no contracting. This is done by appropriate agencies of the three services. The IDA study examined enhancement of ground and air functions in SEA to stop or reduce infiltration. The result was the concept of the "McNamara Wall", which has been abandoned except for some minor portions. Its follow-on relies on R&D done for the wall, but in concept it differs considerably. Touted by DOD as "the electronic battlefield", responsibility for R&D and procurement of equipments is assigned now to the services on a "segment" basis, corresponding to requirements of air and ground forces for battlefield surveillance, intrusion detection, base defense, correlation of intelligence, as well as the resulting requirement for command/control of reaction.

The shift from a "wall" of Dyemarker/Muscle Shoals concept to the Electronic Battlefield has led DOD to a reevaluation of the service's role in the concept managed by DCPG, although FY70 funding of services supports the overall effort directed by the special agency. The first to demand a role for itself involving its entire R&D and procurement structure is the Army. In July, 1969, the service created a Surveillance, Target Acquisition and Night Observation (STANO) program with a STANO Systems Manager (STANSM) directly in the Office of Chief of Staff, Army. In addition, it created Project MASSTER, an acronym for Mobile Army Sensor Systems Test, Evaluation and Review, with a PO at Ft. Hood, Tex. Creation of STANO has apparently taken away from the Combat Developments Command the short-range goal of development and production of Electronic Battlefield equipment, but the long range goal of validating requirements of equipment, doctrine and integration of developed equipments will remain with CDC. The long-range mission will continue to be performed by Task Force Riposte, whose creation preceded STANO.

The creation of STANO by the Army indicated that developments for the McNamara Wall in Viet Nam for the specific purpose of halting or reducing infiltration from the north, are now used in Viet Nam to create an Electronic Battlefield in that war theatre. More importantly, the current effort indicates that the wall concept has led to the Electronic Battlefield idea for application to other situations and conflicts.

The efforts of the three services overlap to some extent, but provision of R&D and procurement indicates some delineation: the Army is working in battlefield surveillance sensors, anti-personnel mines (along with the Air Force), and the entire range of ground-emplaced sensors; the Air Force effort is devoted to two areas, airborne emplacement of sensors, their monitoring, and base defense alert equipment; and the Navy and Marine Corps are almost exclusively working in the areas of land sonobuoys, as well as aquabuoys placed in Viet Nam waterways and coastal areas.

The service efforts include:

Air Force: The service is involved in two inter-related programs: support of the Electronic Battlefield through emplacement of sensors, anti-personnel mines, monitoring of sensors through communications/command/control, and in development of centrally-monitored airbase security systems.

The AF requested $189.0 million in FY70 for sensors RDT&E, with $15.0 million allocated. The breakdown of the $19.0 million request into six areas included: design changes and modifications to aerial emplaced intrusion detection devices, $0.7 million; development of radar, radio and visual devices for accurate emplacement and location of sensors, $1.0 million; data collection, $1.5 million; data processing changes to ground terminal equipment which receive sensor information from airborne relay vehicle (EC–121R), $8.0 million; testing at AF Flight Test Center, $6.5 million; and follow-on development of new equipments in ECM, delivery of sensors at high airspeed and improved accuracy, $1.3 million. Funds in the six areas are programmed through FY71, and none beyond. Efforts in the six areas are underway, with the exception of those designated "follow-on."

Developments completed by the AF since February 1968, excluding those to be completed during FY70—include for the DCPG:

Munitions: SUU–42/A dispenser, an externally mounted 8-tube unit for delivery of various types of sensors/flares from F–4 aircraft, completed RDT&E in March 1968 at a cost of $0.5 million (See DMS Ships/Vehicle/Ordnance binder for details); SUU–41 dispenser, a device dispensing the Gravel mine from high speed aircraft, completed development in April 1969, at a cost of $0.9 million; chemical weapon BLU–52, which is a BLU–1 napalm tank filled with riot control agent CS–2 used for area denial and harrassment, developed by April 1968 at a cost of $10,000; CBU–46 (consisting of SUU–7 and BLU–66), a jungle bomblet in 19-tube dispenser, completed RDT&E in February 1969 at a cost of $0.4 million; and CBU–42 (consisting of SUU–38 and BLU–54), which is the new 30-day Wide Area Anti-Personnel Mine (WAAPM), also known as Wampum, completing development in March 1969, at a cost of $6.4 million. Honeywell is prime on Gravel Mine, and received the WAAPM production contract (including the dispenser) of initial $24.9 million on a total contract of $49.8 million in November 1968. (Honeywell has recently asked for quotes from subs on a reported six million units). (See DMS Ships/Vehicles Ordnance binder O-Mines and O-Dispensers Bomb and Mine Reports for details).

Another new development is the Grasshopper pop-up RF triggered anti-personnel mine under development by GD/Pomona, with FY70 funding of $0.9 million, total RDT&E of estimated $2.2 million, and RDT&E completion in FY73. The program was initiated in FY70.

Communications/Command/Control: The AF completed development in Nov. 1968 at a cost of $2.0 million of the Deployable Automatic Relay Terminal (DART) for Commando Shackle, the surveillance system for the 3rd Corps Area in Viet Nam. DART is a transportable ground station with a single ADR antenna capable of receiving, processing and displaying data relayed through EC–121R, (SEAOR–62), or Pave Eagle drone sensor relay equipment, from sensor fields containing up to 150 units. DART is in operation with the Command Shackle relay, with the latter a single shelter containing EC–121R links. Three EC–121R aircraft are currently undergoing modification by LTV/Electro-systems to provide increased capability. Fiscal year 1970 AF procurement of $71.4 million (excluding $3.6 million for spares) is divided between the communications/command/control element with $20.0 million to provide DART relay and terminal stations, and $51.4 million to buy sensors.

Base Security: the AF is requesting $1.6 million, up from $1.0 million, for RDT&E of Base Security sensing devices, as well as for development of the Security Control Center which would co-ordinate and display information fed to it by Base Defense sensors, as well as those implanted by Army and Marine Corps units on the perimeter of an airbase. To procure tactical security support equipment for protection of 12 SEA bases, the AF in FY69 sought $12.3 million, and in FY 70, $13.0 million.

Equipment in six areas was under RDT&E in FY69; a composite seismic antenna loading detector (Seed); a wide area remote sensor system to detect intruders beyond the airbase perimeter; remote sensor data transmission network for channeling information to Central Security Station including communications under SEAOR–127; preliminary development of Central Security Station display; a discrimination analysis study to identify sensor stimuli; and continuation of work on Foliage Penetration Radar (FOPEN), of which two are under development. The interim sensor system for wide area surveillance; components of the remote sensor data transmission network; and a prototype of Seed will be procured during FY70.

Major Air Force hardware developed under previous budget funding include equipments in SEAOR–62, the College Eye EC–121R aircraft used by the AF to monitor sensor information; the family of foliage penetration battlefield surveillance radars (AN/PPS–5, AN/PPC–9, 10 and 11); acoustic sensors; the "people sniffer"; breakwire and laser detectors, and command/control centers monitoring sensor information. One of the few contracts identified as part of the SEA effort was an $5.8 million initial increment on a $11.7 million cost plus incentive fee letter contract to Radiation Inc. for development and production of airborne equipment reportedly for the EC–121 College Eye (SEAOR–62) aircraft. The equipment for relay of signals from ground senors to command/control centers is for Phase 3 of the program and involves the DART. IBM/Gathersburg is on Phase 3 computer programming and in Sept. 1969 received $2.1 million as definitization of a previously awarded letter contract. ESD issued both awards.

Army: The service in mid-1969 created a new program designated Surveillance, Target Acquisition and Night Observation (STANO), which appears to tie together experience gained in Viet Nam with the barrier to develop systems for the future evolving into the Electronic Battlefield.

All Army agencies from labs to commands, will contribute to STANO, with T & E performed at Ft. Hood by MASSTER. The range of Army effort to create an Electronic Battlefield in STANO will involve: night vision devices, surveillance aircraft (YO–3 included), personnel and equipment detectors, radars, ground sensors, photo equipment, optical equipment, and aural equipment electronic surveillance equipment, information transmission, identification and positioning devices and systems, and test, measurement and diagnostic equipment related to the systems and equipments.

MASSTER will provide the test bed for material evaluation of STANO development hardware and determinations on potential of commercial hardware. The test concept "as portrayed by the system assessment model will be developed," according to the Army, within the framework of what it has designated the Integral Battlefield Control System (IBCS), the closest anyone in DOD has come to giving a name to the "new" Electronic Battlefield as currently envisioned. (The IBCS is currently under study.) Two large systems under development, the TOS and Tactifire portions ADSAF, will be introduced into the MASSTER test system. The coordination of Electronic Battlefield activity by the Army in STANO, with its project manager in the Chief of Staff's office, is funded in FY70 at an estimated $14.0 million.

The Army's RDT&E funding in FY70 therefore supports STANO are not DCPG, although the other services in the current year identify their funds as supporting the agency supervising the Viet Nam Barrier. In addition, the Army in FY70 identified its Electronic Battlefield funding for procurement of $129.5 million, under the designation Duel Blade, which it said is a "barrier" equipment project, directly derived from Dyemarker/Muscle Shoals. Thus the Army is the first one to come full circle to begin development of the Electronic Battlefield, with its value apparently demonstrated by the McNamara Wall, despite the derision that concept received.

Navy: The service's RDT&E effort funding has declined since FY67 for DCPG. The Navy budget supports both its efforts, believed to be directed mostly at aquabuoys & sonobuoys, and those of the Marine Corps, which involve perimeter sensors. In succeeding years the service and the Marine Corps are expected to integrate DCPG sensor programs into regular roles and missions. Use of air-dropped sonobuoys, bought by the Navy and constituting the major share of its Naval Air Systems Command funding of $39.1 million for DCPG from FY67 through FY69, has been confirmed. The sono and aquabuoys used by all services on land and in water are produced by Sanders, Magnavox and others.

COMMENT

The Viet Nam program embodies in the Dyemarker/Muscle Shoals barrier authorized in Sept. 1966 has been terminated except for a minor segment, but the concept is alive, funded in FY70 and on its way to becoming what the Dept. of Defense Research and Engineering director now calls the Electronic Battlefield. The new description tells more than was apparent when the program was derided as the "McNamara Wall" and "Maginot Line East"—and that is that Dyemarker/Muscle Shoals was never a "wall", not even an invisible one of concealed sensors. More than half of its funding through FY69 procured ammunition—anti-personnel mines, the Gravel Mine, silent button bomblets to trigger sensors, the laser-guided bombs deployed in CY68, and other ordnance. Another large segment of funds bought specially equipped aircraft, vehicles and related equipment, with perhaps about 20 to 40 per cent of funds (varying with each service) buying what could be characterized as "electronic sensors." Additionally, total funds also paid for O&M and Military Construction. The Navy's expenditures from FY67 through FY69 provide a picture of the relationships: its total of $130.4 million directly supporting the effort of the Defense Communications Planning Group, elusive overseer of the Viet Nam program, show that the Navy spent $40.4 million for RDT&E; $28.1 million on procurement of aircraft and missiles (PAMN); $43.0 for other procurement (electronics); and $18.9 million for O&M.*

Procurement other than sensors—again, with the major support item ammunition—is reflected in Army contributions to DCPG. A major portion of the reduction in FY 69 funding for Dyemarker/Muscle Shoals from the requested $691 million (actual figure $680.2 million) to $524.0 million by SecDef Laird involved the buyout of the Gravel Mine with a reduction of $127.7 million in that fiscal year's Army budget for the Honeywell-produced item, as well as other ammunition items.

The shift to the Electronic Battlefield is more clearly reflected in the FY 70 budget requests. Of tri-service procurement budgeted in the request at $214.1 million, $146.9 million is for the range of sensors—acoustic, magnetic, RF, IR, seismic, as applicable to personnel, vehicles, and aircraft. This, however, does not mean that ammunition procurement has stopped. Beside specific DCPG funding, the services buy ammunition of various types under their ammunition budget item, for continued support of the "barrier."

Including FY 70 RDT&E and procurement funding, the Dyemarker/Muscle Shoals/Pratice Nine/Igloo White/Dual Blade/Electronic Battlefield program since its inception in FY 67 through reprogramming and other budget actions as well as specific funding for the DCPG, totals $1,535.1 million. This total, arrived at independently by DMS corresponds to the published estimates of $1.6 billion to $2.0 billion for the program. DMS believes, however, that its established total for RDT&E and procurement is low, since a number of ammunition items funded under their budget line items were procured for the "barrier," while they were not included in specific "barrier" funding. The O&M and MILCON funds are not included in the DMS total. Whether the specific—and still classified—program funding totals $1.5 billion or as much as $2.0 billion is of relative interest. There is no question that what began as the "barrier" concept has consumed huge sums (with all of RDT&E included in the SEA project designated PROVOST of which specific Dyemarker/Muscle Shoals RDT&E funding is part).

The question arises, "where did it all go?" A Senator offered the opinion during FY70 budget debate on the "barrier" funding that "I understand that much of the equipment sent over is rusting around Da Nang because the places where it was to be put are now occupied by the enemy." Bought on crash basis, mostly through unannounced contracts, equipment may indeed be "rusting around Da Nang", and as the result, DDR&E in FY70 is finally attempting to bring order into the battlefield detection and surveillance area. It therefore is pushing the Electronic Battlefield concept of rational sensor emplacement, and utilization of intelligence from them. Consequently, the high-dollar-yield fiscal years of indiscriminate Dyemarker/Muscle Shoals spending are over, foreclosing marginal equipments. The companies capable of foreseeing the possibilities of rational Electronic Battlefield development will benefit, and certainly the dollars to support the effort are included in FY70, and will be sought through the 1970s.

The development of the Electronic Battlefield is clearly the aim of the Army under STANO. The other two services apparently have not yet made an organizational shift to support of a STANO-like approach. Indeed, the Army's program includes so many items, that it too apparently will continue certain programs temporarily in FY70 as they were—especially in its night vision effort under SEA NITEOPS, identified as such in the FY70 budget (See Night Vision-Army Report.) But in FY71 SEA NITEOPS will be STANO. Although the Army has pulled together its Electronic Battlefield concept in STANO, the effort will be divided into a large number of items under various code names, already on its STANO list, with the latter classified. There are about 100 specific items listed.

[From Army magazine, August 1969]

NARROWING THE COMBAT INTELLIGENCE GAP

(By Lt. Gen. Harry W. O. Kinnard)

At the end of World War II, the Army made significant improvements in its firepower by developing several new weapons and munitions. In the early 1960s, it enhanced its mobility by adopting the helicopter and the airmobile concept. At the same time, great strides were made in command and control through improved communications equipment and automatic data processing. Support services, which include logistical services, have also been considerably modernized. However, in comparison to improvements in firepower, logistics, mobility and communications, the Army has lagged in developing the fifth element of land combat—intelligence.

The war in Vietnam has provided a stimulus for developing several devices used in detection and surveillance on the battlefield. Detection becomes a major problem in an unconventional war like the one in Vietnam. In conflicts of higher intensity it may well be the key to survival.

When I took the 1st Cavalry Division (Airmobile) to the Republic of Vietnam in 1965, I knew that finding the enemy would be one of our toughest jobs. It occurred to me that perhaps we would be able to identify the guerrilla—a farmer by day and a fighter by night—by the dark circles under his eyes. As things turned out, one of our best means of intelligence was just about that unsophisticated, and terribly unnerving for our pilots. Pilots scouted the area in helicopters until the enemy revealed his presence by firing at them. Many major battles began in just that way.

Of course, the 1st Cavalry Division had other means of surveillance, ranging from foot patrols to electronic intercept and side-looking radars. We used them quite effectively but, in looking back, we see that our ability to find the enemy did not match our battlefield mobility and firepower. Since then, the gap has been narrowed somewhat by the development and use in Vietnam of devices such as the "people sniffer," the starlight scope and improved frontline surveillance radar.

But equipment alone does not necessarily improve the Army's capability. Devices used in surveillance and target acquisition must be matched with doctrine that prescribes their employment and a capability for processing information that will rapidly convert raw information into usable intelligence. The cycle is completed only when the resulting intelligence is transmitted and displayed to the troops who must engage the target or the enemy's forces. In short, our biggest job is to bring all the information gained through devices and human means into a system—including the front-line soldier—that gives the battlefield commander the intelligence he needs and in time for him to act or react.

The verbs *collect, process, transmit, display, act,* and *react* suggest the magnitude of the problem, which is not a new one. It is as old as the art of war. Nor are the recognition of the problem and our attempts to solve it new. Our army has come a long way since the days of the Indian scout, in both its ability to gather intelligence and its ability to react to it. Intelligence is a function in which the demand, and the development of the capacity to serve that demand, constantly stimulate each other and generate new and higher degrees of sophistication and capability. Today, we again face a great expansion in intelligence technology, an expansion that springs from a combination of new demands and technological developments.

During the past few years, several programs have been undertaken to meet the demands of our forces stationed throughout the world. These concern such diverse things as security of border barriers, the mobile army sensor system, and the orderly integration of the system of surveillance, target acquisition and night operations (STANO). Each of these has contributed to our capability.

At Combat Developments Command we recently set up Task Force Riposte to bring under a single effort within CDC the responsibility for planning and monitoring the integration in the Army of all devices used in surveillance, night vision and target acquisition. Riposte's mission is to validate requirements for equipment, write doctrine for its use and place it within the Army's tables of organization and equipment (TOE). Riposte will also evaluate field and troop tests of devices and concepts.

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*The total and individual Navy funding figures differ from those in the major funding table for this Report because the latter provides latest Navy figures.

Our approach to the task is through two major objectives. The short-range objective is to speed developments to meet the urgent needs of our forces in Southeast Asia. The longer-range objective is to provide improvements in the combat intelligence system for world-wide use that employs the most effective mixture of equipment for collection, data linkage, processing and display.

The principal aim in the short-range objective is to fill voids and gaps in the ability at any echelon to meet a combat commander's information needs, at the same time avoiding costly overlaps. First generation equipment, now rapidly entering the Army's inventory, is backed up with doctrine for its employment. This equipment includes improved radar, night vision devices and sensors which reveal the presence of the enemy through physical agents such as heat, light, pressure, sound motion and chemical or electro-magnetic variations.

Properly programmed, the short-range effort will enhance the longer-range plan to develop the needs for a second generation of equipment targeted for the Army up through 1985. Improvements in the first generation of materiel are clearly predictable in such features as weight range, reliability compatibility and automation. For the first time, these improvements offer the possibility that our forces will be able to carry out continuous operations, employing a full 24-hour combat capability, by extending the fighting into conditions of poor visibility and darkness at near-daylight effectiveness.

So far, much of the drive for development has come from our objectives to improve our defensive capability. The greatest potential value of STANO lies in exploiting its offensive capabilities as the means to gain decisive results in combat. Offensive operations allow the combat commander to retain the initiative; they give him the flexibility he needs to strike the enemy at his most vulnerable point in time and space. Further, by coordinating his collecting capabilities with his means of fire support, the commander can control areas that are not occupied by his troops—an application of the principle of economy of force.

Battlefield reconnaissance, essential as it is, can reveal only what is in an area up to the time a reconnaissance takes place. On the other hand, sensors placed in the same area by reconnaissance troops, or by other means, can give the commander permanent surveillance at a very low risk.

We realize that during our studies many human factors must be constantly weighed. Very real matters such as combat fatigue and psychological processes bear heavily, so we don't profess to have all the answers. Scientists can build many capabilities into equipment; only people can make use of those capabilities. That is why we feel that doctrinal considerations and developments must guide advances in materiel, not the opposite.

The situation of the Army is necessarily one of constant change. That is why we must constantly bring our doctrine up to date. At Combat Development Command we consider a doctrinal study to be one that translates and operational concept into a clearly defined tactically sound arrangement of material manpower and operational capability. A doctrinal study must have a valid objective and provide a solution to a problem. Desirability, it also provides guidance for budgeting in the programming of resources. Not only must we establish needs for materiel and manpower, including MOS training, methods of employment must be published in field manuals or other doctrinal literature, and the TOE must be worked out.

Many considerations enter into the organization for continuous operations. For example, is it advisable to organize and equip one unit for night operations, and another for daytime fighting, somewhat like the two-platoon system in football? We must remember, of course, that, unlike the gridiron, the battlefield has no sidelines that are safe from attack. Or might we enhance the soldier's powers of endurance through stimulants? I am not suggesting that either of these is a practical solution; I mention them only to suggest that there is considerable ground to be explored in human research.

Human actions in the intelligence function also offer a fruitful area for exploration. Our equipment can alert us to the presence of people, but it cannot tell us which side they are on. Blips on a screen can indicate presence and even numbers, but only humans can reveal intentions. Our ability to extract information from the enemy is still somewhat crude. Our combat elements are often confronted with opportunities to gather intelligence from prisoners or local inhabitants which are not fully exploited because of lack of interrogators whose knowledge of the language is good enough to unlock the needed information. This effort is also limited—and properly so—by international agreements. Human actions in intelligence can be modernized through the use of technology and better understanding and application of the behavioral sciences.

Drawing on our experiences of the past, we realize that advancements in firepower and mobility have come through newly developed materiel; however, a higher combat capability was realized only when the materiel was integrated with new concepts of operation, organization, training and logistical support. Thus we can conclude that the recent proliferation of equipment for surveillance, target acquisition, and night observation (STANO) offers an opportunity for significant gains in continuous operations and in the intelligence function of land combat.

The introduction of first generation STANO equipment into the conflict in Vietnam has been encouraging and has done a lot to narrow the intelligence gap. Likewise some of this equipment is proving useful in Korea, where infiltration from the north is a constant threat. These considerations were instrumental in the decision to create within CDC an agency to plan and monitor the integrated introduction of STANO capabilities into the Army. The principal means for developing these capabilities is a series of operational evaluations in the combat zones.

Concurrently, the U.S. Army Combat Developments Command's Experimentation Command is running a series of field experiments in the highly instrumented, controlled environment of Hunter Liggett Military Reservation, where soldiers and scientists are coming to grips with the problems.

Other agencies, such as Army Materiel Command's Test and Evaluation Command (TECOM), the Night Vision Laboratory, the Human Engineering Laboratory and the Behavioral Science Research Laboratory, are attacking various facets of the matter. The objective of this intensive and extensive testing of STANO is to produce or collect data on doctrine, organization, tactics, training and materiel.

These laboratory and field experiments will determine human performance, fatigue, operator selection and techniques, and technical support factors relating to STANO capabilities and developments. Continental Army Command will incorporate the results into a training program.

Under its charter, CDC is charged with integrating STANO capabilities into the present and future Army. Obviously, AMC and CONARC have a continuing part in this undertaking. Interactions among these three commands, as well as the overseas commands that are affected, are close and constant.

In viewing any new system, it is first necessary to determine the variables in the tasks to be performed. If the system is to be applied Army-wide, then it must be viewed in differing environments, at all intensities of conflict. In viewing the functions of combat, it appears that while STANO is oriented principally to the intelligence function, it also affects mobility, firepower, command and control and, to a lesser degree, the support services. Thus, we use a "program matrix," or mold, as a management tool. This places all elements of the system against the demands of task, function and intensity of conflict. Besides, no system can be viewed in isolation: its relation with other systems must be considered. For example, target acquisition subsystems linked through automation to the tactical fire direction system (TACFIRE) may significantly improve the accuracy and effectiveness of firepower. Surveillance and night operations subsystems logically would have an effect on the tactical operations system (TOS) to improve our means of disseminating operational information and intelligence. Ideally, a battlefield commander would have an accurate and contemporaneous display of the situation of the friendly unit and that of the enemy, including target intelligence and counterintelligence.

Even a partial listing of tasks would be lengthy, but within each level of conflict intensity, some tasks stand out. In conflicts of low intensity, characterized by much of the action in Vietnam, detection of enemy movements and positions in jungle terrain during darkness and poor weather is a formidable task. Also, identifying the enemy who mingles with and uses local people as a cover is very difficult. Current STANO equipment is improving our ability to do these tasks, and new materiel offers us the capability to overcome one of the greatest difficulties in that conflict.

In conflicts of medium intensity, like World War II and Korea, accurate intelligence of enemy means of delivering fire is desired in enough detail to permit their neutralization. Also, the positions and movements of enemy reserves from deep in the rear must be detected early, to permit interdiction and counter-maneuver.

In conflicts of high intensity, priority must go to locating and destroying enemy nuclear stockpiles and means of delivery. Besides, intelligence that will give some warning of a nuclear strike can permit our forces to take protective measures that will enhance their chances of survival.

The continued equipment of the Army with aircraft is greaty expanding the size of the area over which a commander must maintain surveillance. In past wars, battalions fought along relatively narrow frontages, and even our fastest mounted forces measured movements in terms of kilometers and hours. Today, with the mobility provided by the helicopter, our ground forces range over dozens of kilometers in minutes.

In our studies for the Army of 1970–75, it became apparent that intelligence capability had lagged behind the other elements of combat. Many of the materiel systems discussed in this and other issues of ARMY have resulted from attempts to close this gap. During the past two years, a concept of organization for combat intelligence has been studied, a modification of which was combat-tested by a combat intelligence battalion in the 1st Infantry Division in Vietnam.

This study, labeled Target Acquisition and Combat Surveillance in Vietnam (TACSIV III), served to validate or disprove many theoretical claims. One conclusion of the study is that perhaps a company-sized unit is needed in divisions to handle intelligence.

In brigades and battalions, smaller battlefield information centers are needed to help the S2 process, and to produce and disseminate intelligence. Future TOE will reflect these additions. This unit would furnish assistance needed by the division G2 and the brigade and battalion S2 by providing battlefield information control centers to coordinate the collection of information, to process and disseminate intelligence, and to furnish dedicated communication circuits.

Finally, the problems of surveillance, target acquisition and night operations have been recognized and many are well on the way to solution. These solutions will not come free, so we must carefully weigh the trade-offs. Far-reaching decisions must be made on how much of our resources of materiel and manpower should be expended to gain better and more timely information about the enemy. Solutions to many of the problems call for highly sophisticated and costly equipment, with the associated high cost in training troops. During our study we must weigh these factors and the relative merits and faults of trying to gain an improved intelligence capability at the expense of other needs. Our objective is a proper balance within the limits of our resources. I am convinced that a combination of technology and ingenuity will bring us to that objective.

[From Defense Industry Bulletin]

AUTOMATION—FORCE EFFECTIVENESS MULTIPLIER

(By Brig. Gen. Wilson R. Reed, USA)

Data systems are like weapon systems, only more so.

A system is far more than a mere complex of intricate equipment: It is a combination of machines, methods and men, organized to accomplish a mission.

The Army, which incubated the Electronic Numerical Integrator and Calculator (ENIAC) during World War II and, thus, introduced electronic digital computer technology to the world, came to an early understanding of this dictum, and is applying its understanding vigorously.

In March 1969, the Chief of Staff of the Army established the U.S. Army Computer Systems Command (CSC) and assigned to the command a scope of responsibility and a range of automatic data processing (ADP) action areas, that are broader than any ever before assigned to a single line command in the defense establishment. The Computer Systems Command is responsible for centralized data systems development, integration, and support of all multi-command automatic data processing systems. Its charter establishes the CSC commanding general as project manager over ADP systems for combat, combat support, and combat service support in a tactical environment, as well as over the entire spectrum of administrative systems which are required both within the continental United States and overseas, but which can operate within a conventional fixed-station installation. The command is, therefore, the central systems design and management agency for systems calling for development of new vehicle-mounted, militarized data processing equipment, and for systems using the same commercial computer equipment used by industry, universities and Government for the full range of scientific, management and process control systems.

The command is located within the Army and is internally structured to play a central role in the development of all four system components (mission, men, machines, methods). The command is dedicated to the principle that men and mission are by far the most important system components.

MISSION

System missions are defined by the top functional managers of the Army, by each of the Deputy and Assistant Chiefs of Staff, and by other agency heads of Headquarters, Department of the Army. To assure the proper interplay and collaboration between management need and technical response, the Computer Systems Command reports directly to the Army's Vice Chief of Staff, who maintains an Army Management Information Systems Master Plan. This plan establishes priorities within which all of the Department of the Army functional staff works to develop its management systems requirements. The Computer Systems Command works closely with these agencies to assure that thee management requirements evolve into a system mission statement, which takes full advantage of the advancing technology and which is fully understood by the system designers.

The Computer Systems Command is a worldwide organization, but its headquarters is located at Fort Belvoir, Va. Fort Belvoir is not only close to the offices of the Army's top managers in the Pentagon, but is also the location of Headquarters, Army Combat Developments Command. Thus, for all tactical systems and, especially, for combat and combat support systems, mission definition is greatly enhanced by the intimate collaborations between the personnel of these two commands.

MACHINES

System design is based solidly on system mission definition, and the design phase is characterized by continuous dialog between designers, managers, and combat doctrine specialists. Hardware-software tradeoff analysis is performed when system design has progressed to the point that machine requirement and computer programming requirements can be specified separately. Acquisition of machines is accomplished with the participation of two other Army agencies.

Materiel development is the responsibility of the Army Materiel Command, whose headquarters is also within a short drive of Fort Belvoir. Whenever new ADP equipment development is necessary, either to meet militarization requirements or to advance the state of the art beyond the off-the-shelf stage, the Army Materiel Command performs the equipment acquisition. When commercial equipment is required, the Army Computer Systems Support and Evaluation Command at nearby Fort Myer, Va., makes the equipment selection. Both of these commands work in response to equipment specifications set by the Computer Systems Command, and all procurement is executed through Army Materiel Command procurement offices.

METHODS

The methods component of each data system combines the manual methods for system operators and users, and the automated methods which are programmed into the computers. Once again, constant teamwork is performed to maintain full synchronization between user and management procedures, developed by the management agencies; and computer programs, data control, and operations procedures, developed by the Computer Systems Command. Often, the assistance of software contractors is engaged through the Army Materiel Command procurement offices.

MEN

As the systems design progresses, incorporating equipment development, computer programming, and standard operating procedures preparation, project personnel of the Computer Systems Command work closely with the Army Materiel Command, the Combat Developments Command, and the Continental Army Command to perform the necessary methods and skills analysis, and to determine the numbers and qualifications of personnel required to operate and use the systems.

Training of both user and operator personnel is performed by the Continental Army Command. To assist in the training process, the Computer Systems Command, working with the Combat Developments Command, provides:

Essential inputs to the establishment of tables of organization and equipment.

Systems documentation to serve as basis for training manuals and user and operator reference material.

Instructor training.

Assurance that plans of instructions are up to date with current versions of system design.

TYING THE SYSTEM TOGETHER

System integration is performed by the Computer Systems Command. Trained men and delivered equipment are brought together with the computer programs and all appropriate documentation by the command's field operations specialists. Command personnel supervise the knitting together of these elements into an operational system, and deliver the system to the ultimate customer, the field commander. Command personnel help the field commander to conver from his earlier procedures to the new system. A worldwide network of support groups and field assistance teams continue to provide field engineering support for the entire useful life of the system, calling upon CSC headquarters design personnel who hold their toothbrushes at the ready-to-go-anywhere-in-the-world posture if a sufficiently serious design problem calls for it.

Operation of the delivered system is turned over entirely to the field commander. It is his system, and its men and machines belong to him. Methods are updated by the Computer Systems Command when design improvements are required, or when top Army management modifies the mission statement for the system.

CSC ORGANIZATION

Though the Computer Systems Command derives much benefit from its relationships with the many other agencies, both within and outside the Army, the projected growth of the command will provide self-sufficiency in all aspects of data systems technology.

Special emphasis is placed upon the CSC Scientific and Management Advisory Committee, a specialized version of the Army Scientific Advisory Panel, devoted to all aspects of research and development in computer technology and information science. Convened and coordinated by the CSC Chief Scientist, within the Office of the Commanding General, the committee has a membership of data systems authorities of national reputation. The committee includes scientists from industry, Government and academic institutions whose specialties range from systems architecture to equipment production and the management of data and information systems.

The CSC mission is divided between two major organizational units, headed by a Deputy for Systems Management and a Deputy for Technical Management.

DEPUTY FOR SYSTEMS MANAGEMENT

Operating under a project manager's charter, issued by the Secretary of the Army, the Computer Systems Command implements the principles of project management with an organizational structure which designates a system director or system manager for each data system assigned to the command. Each systems management office serves as the coordinating agency for the execution of all actions in the life-cycle management of a system and, as such, works as a central clearing house on all systems developed and released by the command for field use.

System management offices are located within the Project Control and Integration Directorate, and are organized into divisions according to echelon levels serviced. The Organization Systems Division contains systems management offices for all data systems designed primarily to serve lowest echelon organizational units. Similarly, the Base Systems Division and the Army Support Command Systems Division contains systems management offices for all data systems to be implemented at respectively higher echelons.

The various system management offices represent the primary authority within the command for assigned systems. For other than emergency programming support, they are the offices at CSC headquarters through which field units, support groups, and higher headquarters staff agencies interface with the command. They obtain the necessary resources from Headquarters, Department of the Army; surface problems and speed up the decisions necessary for their solution; and, above all, expedite the delivery of support to the user in the field.

Data systems development directorates perform actual system development, maintenance support, and emergency programming support. Each directorate is keyed to one technical specialty of the Army and contains a staff of system designers, system analysts, and computer programmers.

The Logistics Data Systems Directorate specializes in logistic systems, including supply systems, transportation systems, and materiel readiness system. It also represents a concentrated source of advice and assistance in these areas.

The Personnel and Force Accounting Data Systems Directorate is devoted to all matters dealing with manpower. Examples include personnel record keeping, force accounting, and medical regulating.

The Financial Data Systems Directorate concentrates on systems which serve the comptroller function throughout the Army.

These directorates actually design and develop the data systems released to field and to fixed-station installations. They are responsible for producing a fully tested and documented operational package, and for its support once it goes into operation. Rigid adherence to test standards and procedures minimize the need for on-site emergency fixes. Each directorate maintains a full-time standby service for furnishing emergency fixes and advice to the user.

From the very start of the system life cycle, each of these directorates is the primary contact with its counterpart Department of the Army staff element responsible for defining system requirements. The directorates provide "hands-on" experience in functionally specialized ADP design. Thus, their personnel are functional specialists, as well as ADP specialists.

At CSC headquarters, the Field Operations Directorate is engaged in certifying the operability of all systems and modifications developed by the command, and in delivering them to the field. Field operations personnel coordinate and perform site surveys, advise on-site preparation, arrange for equipment delivery, and monitor acceptance tests of ADP equipment. They assist in the installation of the equipment, and assure that the hardware is ready to accept the systems workload.

Because field operations personnel also perform system testing and certification, they are expert in systems capability and operations requirements. They are experienced in data conversion planning and cutover of operations from old system to new. Field operations personnel have a working knowledge of data processing operations management—scheduling, machine room procedures, data control and utilization reporting. They serve as a central clearing house for manufacturers' support to commercial ADP equipment. They interface with the Continental Army Command to assure proper training support. Field operations personnel are proficient and ready to assist on all problems related to ADP preparation and installation, and the establishment of smooth operation, whether or not the system is one the Computer Systems Command has delivered.

On the current Tactical Operations System (TOS) and the Tactical Fire Direction System (TACFIRE), systems, management and field operations are supported as on other projects, but from totally project-oriented directorates devoted to TOS and TACFIRE, and similar systems as assigned. Thus the command maintains in-depth capability, even when the problem involves Army-developed hardware and in-house Army executive software support capability.

DEPUTY FOR TECHNICAL MANAGEMENT

Through the staff of its Quality Assurance Directorate, the command imposes rigorous standards of quality assurance on its in-process activity. This group of ADP generalists also serves as a staff of in-house consultants to evaluate data systems design and progress, to identify incipient problems, and to make timely recommendations for their solution.

Development and modification of general purpose executive software is a growing function associated with ADP systems. General purpose software is at times inefficient and unnecessarily time consuming, when applied to a limited range of applications. Tailoring can result in significant improvements in efficiency. Particular skill is required, however, to adapt machine-oriented programs. Therefore, the Computer Systems Command has established a Design Support Directorate of software specialists who are devoted to software research and development activity, developing new techniques, and modifying manufacturers' software.

An Engineering Support Directorate, with a staff of data system-oriented electronic engineers and communications specialists, assures proper communications planning in support of multi-command ADP systems. Electronic engineers, specializing in computer equipment design, are included in this staff. This planning resource is available to all Army users of ADP systems.

CURRENT PROJECTS

Several major systems assigned to the Army Computer Systems Command are intended for battlefield deployment.

The Tactical Fire Direction System (TACFIRE) is an integrated truck-mounted, online tactical computer system being developed for the Army's field artillery units. TACFIRE is being built to increase the effectiveness of field artillery support through increased accuracy, better and more rapid use of target information, reduced reaction time, and greater efficiency in the determination of fire capabilities and the allocation of fire units to target. Specifically, TACFIRE applies automatic data processing to perform technical fire control, tactical fire control, fire planning, artillery target intelligence, artillery survey, meteorological data, and ammunition and fire unit status. One of the goals of the present program is to provide the materiel base for a family of militarized general purpose ADP equipment suitable for use by other Army tactical ADP systems.

The Tactical Operations System (TOS) is a truck-mounted combat system, an online automated information system incorporating remote inquiry and time sharing features. TOS is being developed to use high-speed computer facilities located at communications centers near division, corps and Army main headquarters to serve the commander, planning staff, and tactical operations centers. The objective of TOS is to increase significantly the effectiveness of tactical operations within the Army in the field in three areas: operations (including personnel and logistics summary information pertinent to the operations estimate); intelligence, and fire support coordination. The introduction of a first-generation ADP system is projected for the mid-1970 time frame, and most TOS equipment will be identical to TACFIRE materiel.

Combat Service Support System (CS3), a van-mounted automated administrative support system for use at several echelons of the Army in the field, provides through integrated automation a computer-supported logistics, personnel and administrative system to increase the responsiveness of combat service support required by the Army in the field.

Quick Reaction Inventory Control Center (QRICC) is a special combat service support which uses equipment and logistics programs of the CS3 System. The QRICC is a deployable inventory control center, using CS3 logic, which can be used in expediting the provisioning of any special task force.

Theater Army Support Command System (TASCOM) requirements are now being defined for combat service support. These requirements will be implemented by the Computer Systems Command.

Division Logistics System (DLOGS) is a van-mounted combat service support system which automates repair parts provisioning, property book reporting, and equipment status reporting. Now operational, the DLOGS system will be phased out as the more powerful CS3 system becomes ready to replace it.

The Direct Support Unit/General Support Unit Computer System (DSU/GSU) is also fully operational. It is a magnetic ledger card system used for automation of stock record accounting of repair parts (previously accomplished annually by the use of visible record files) in direct and general support units. A small-scale, low-cost computer system, using commercial off-the-shelf ADP equipment mounted in two M373 semi-trailer vans, the system is self-sufficient and operates from a 30KW trailer-mounted generator shipped with each system. Over 105 DSU/GSU systems have already been delivered to the Army in the field in Vietnam, Thailand, Okinawa, Germany and the continental United States; and 43 additional systems will be delivered by June 1970. Even after deployment of CS3, the DSU/GSU system will continue to operate as the organization level ADP system for the Army in the field, exchanging data with CS3 to assure optimum support from rear echelons.

The Personnel Management and Accounting-Card Processor System (PERMACAPS) automates various military personnel applications for the Army in the field. PERMACAPS uses card processor and peripheral equipment mounted in four transportable expansible vans. PERMACAPS combines Army division and personnel services company personnel data processing systems and the Army-wide personnel reporting system, to enhance data processing capabilities and improve internal division personnel management support. There are 37 PERMACAPS installations worldwide, with 17 additional installations planned by the end of 1970. Like DLOGS, PERMACAPS will be phased out as CS3 is deployed worldwide.

To back up battlefield automation, several other data systems, operating fixed-station installations, complete the roster of systems assigned to the Computer Systems Command:

CONARC Class One Automated System (COCOAS) is a base-level management information system designed to meet many management and reporting requirements at installation level, and to serve commanding officers of Class 1 posts, camps and stations throughout the continental United States. The prototype equipment configuration, operational at Fort Sill, Okla., uses third-generation commercial computer equipment. The fundamental objective of COCOAS is to improve the readiness of Army units by being responsive to the informational requirements of all unit commanders, and by providing timely and accurate administrative and supply support to obtain maximum effectiveness from available resources.

Centralization of Supply Management and

Operations System (COSMOS) is an automated retail supply system which performs supply management and stock fund management for each continental U.S. Army. The primary equipment configuration consists of a third-generation, disk-oriented central processor with a satellite computer for communications switching.

The Standard Supply System (3S) became the responsibility of Computer Systems Command in the Pacific Theater. It is a theater-wide depot/inventory control center supply and stock fund data processing system, designed by the U.S. Army, Pacific, and responsive to the various missions of the major subordinate commands in the Pacific Theater. The 3S system processes supply and related financial transactions for subordinate command supply depots and finance and accounting offices, to satisfy depot customer's materiel demands quickly and economically through maximum use of electornic computer capabilities.

The Continental Army and Major Overseas Command System (CARMOCS) is used among other functions to maintain personnel master files of all military personnel assigned to the geographical areas of eight data processing centers, one serving each of the five continental U.S. Armies; U.S. Army, Pacific; U.S. Army, Vietnam; and U.S. Army, Europe. An equipment upgrading program is now underway. CARMOCS assures accuracy in the maintenance of active Army personnel data banks and timely processing and transmission of data. Among the benefits are management control based on, planning, standard system and strict reassignment controls, reduction of workloads, and system-wide compatibility.

LOOKING TO THE FUTURE

Projects earmarked for assignment to the Computer Systems Command in 1970 and following years include:

The USAREUR Supply and Maintenance System was developed by the Materiel Command of Theater Army Support Command, U.S. Army, Europe (USAEUR), to provide centralized theater control of supply management, stock control, field depot maintenance, and supporting finance and transportation functions. The system is operational at the single USAEUR Inventory Control Center. Maintenance of the system will be assumed by the Computer Systems Command early in calendar year 1970.

The Army Authorization Document System (TAADS) is a guidance and reporting system in the definition stage. CSC personnel are participating members of the TAADS team of Headquarters, Department of the Army, to initiate the cycle. A General Functional System Requirement is currently being developed. The Computer Systems Command is anticipating the assignment of TAADS as an additional operating information system within several of the established projects.

Integrated Facilities System (IFS) is a guidance and reporting system in the development stage within Headquarters, Department of the Army. CSC liaison with the proponent, Deputy Chief of Staff for Logistics, is being accomplished in the development of Functional Systems Requirements.

Military Police Operating Information System (MPOIS) is a system for the support of military police functions in the definition stage. CSC liaison has been established.

Communications-Electronics Management Information System (CEMIS) is a system to support the Assistant Chief of Staff for Communications-Electronics. The initial application is "Automated Frequency and Call Sign Assignment Procedure for the Army in the Field." CSC personnel are working closely with Headquarters, Department of the Army, in planning for the installation of the contractor-developed system.

GREATER FORCE EFFECTIVENESS

The Army Computer Systems Command is a single agency whose functions cover lifecycle project management, systems development, and systems support for all Army's multi-command data systems. Substantial manpower growth of the command is projected for the next five years, but centralizing control over system development and support will lead to better application of resources, and far more data processing capability with, if anything, a net reduction in requirements for scarce design and support talent.

Automation does not add to the nation's defense arsenal; it multiplies its effectiveness. The systems being developed and delivered by the Computer Systems Command to the Army in the field and at home do not do the soldier's thinking for him. They incorporate data shaping machine tools, relieving the soldier of the drudgery of rethinking tactical and administrative processes which have already been thoroughly defined by experienced doctrine developers and top managers. As such, they multiply the effectiveness of the weapons available to the Army today.

The Computer Systems Command is dedicated to this force effectiveness multiplication in an era when additives are not likely to be sufficient.

Exhibit 2

The Electronic Battlefield

Mr. PROXMIRE. Mr. President, I rise today to point out a classic example of the Pentagon's "foot-in-the-door technique," one of the main reasons why the military budget is out of control. I am informed that the Pentagon has already spent some $2 billion on a secret weapons system called the electronic battlefield. Some estimate its ultimate cost at $20 billion or more. To my knowledge this weapons system, as a weapons system, has never been directly authorized in the annual procurement bill in which major weapons systems are examined, judged, and passed on by the House and the Senate.

There are other ramifications as well. Among these are the fact that the system involves vast amounts of complicated electronic equipment—sensors, lasers, computers—which have been the major cause of cost overruns, late deliveries, and failures to meet specifications on a large number of other major weapons systems.

In addition to all of this, the electronic battlefield includes items which are difficult to control and which may well result in indiscriminate killing. Thus, there are reasons going beyond the huge potential cost of the system why public hearings and detailed reviews of the system should be held.

Mr. President, under article 1, section 8, of the Constitution, "The Congress shall have power to raise and support armies," and "to provide and maintain a Navy." The Constitution also provides that no appropriation of money for these uses shall be for a longer term than 2 years.

It is, therefore, widely assumed that Congress authorizes in the military authorization bill all of our major weapons systems—tanks, planes, ships, missiles, and the research which precedes them. Before the Pentagon builds a tank or a new airplane, Congress approves the project and authorizes the funds for its development. This system, of course, is not perfect. Even with congressional approval, as with the C–5A, the procurement of weapons systems leaves a great deal to be desired.

With regard to the electronic battlefield, I think it is safe to say that most Congressmen have never heard if it. Like Topsy, it just grew. It exemplifies, as few other examples can, why the military budget is out of control.

Yet, speaking of this new system, Gen. William Westmoreland has said: "It will revolutionize ground warfare."

An industry source has called it "as advanced as the main battle tank and as complicated as the canceled F–111 electronics system." Designed to kill anything that moves it cannot discriminate between enemy soldiers and women and children. Despite the fact that as a weapons system it has never been specifically authorized, it has already cost the American taxpayer almost $2 billion. Some experts predict it will ultimately cost $20 billion, almost twice as much as we are spending on the ABM and four times as much as we have spent on the C–5A. What is this new system? Although known by various code names, it has been called the automated battlefield by General Westmoreland. Among industry officials, it is more commonly known as the electronic battlefield. By any name, it is nothing less than an effort to develop a totally new method of waging ground warfare. Essentially, it is a system of applicated sensors designed to assist in the detection of enemy movements over wide areas. The system involves the use of data links, computer-assisted intelligence evaluation and automated fire controls. In a word, it is extremely complex. It requires vast amounts of complicated electronic equipment including:

First, whole families of acoustic, seismic, and magnetic devices to detect voices, footfalls, guns, and enemy troop carriers;

Second, high-powered lasers to illuminate targets with visible and invisible energy designed to guide bombs, rockets, and antitank weapons:

Third, millions of tiny "button bomblets" that give a sonic or radio signal to remote receivers, pinpointing the position of anything that steps on them; and

Fourth, elaborate electronic command and control displays that pull together all data gathered by the electronic network, and automatically show troop movements over vast areas of terrain.

In short, the electronic battlefield involves an entirely new concept in ground warfare, and if widely adopted, will require fundamental changes in the way our men fight.

Yet, this revolutionary weapons system on which as much as $2 billion has already been spent, and upon which as much as $20 billion may well be spent, has gone ahead beyond the research and development stage without any specific authorization of Congress. We have never been asked, Do you wish to authorize billions of dollars for the automated battlefield?

The program was developed as an outgrowth of the ill-fated McNamara wall in Vietnam. That was a sophisticated electronic barrier between North and South Vitnam which was designed to stop North Vietnamese infiltration. When the original barrier concept was discarded as unworkable, the program was reoriented and renamed the electronic battlefield. No longer designed to provide an electronic barrier, it is now intended to provide complete surveillance of enemy movements through the use of sophisticated sensoring devices backed by highly complex computer systems. First tested in Vietnam, the new devices are now undergoing intensive development for a variety of combat uses.

Perhaps the outstanding feature of the program is the sharp rise in costs which have been incurred. Although the official figures are secret, some published figures show how explosively the program costs have grown.

Research: In fiscal 1967 the Defense Department's Advanced Research Products Agency budgeted $3.5 million for sensor studies. One year later the amount spent on research for the electronic battlefield had grown to $82.8 million or over 25 times the amount spent the previous year.

Procurement: Two years after the start of the program, procurement costs for the new surveillance devices had risen from $192.6 million in fiscal 1967 to $524 million in fiscal 1969.

Although just over 2½ years old, the cost of the entire program, research, procurement, ammunition for testing, and funds from other sources—totals close to $2 billion.

The most frightening fact about all of this is that this may be just the beginning of a cost spiral. Should the Armed Forces decide to deploy these devices in large numbers, costs could rise astronomically. This is so because much of the program consists of very expensive electronic devices supported by computer systems. If the experience the Pentagon has had with other complicated electronic systems such as that used in the F-111 is any kind of indicator, costs could increase spectacularly while performance is continually compromised.

But, in view of the size and nature of the program, the most shocking fact about the electronic battlefield is that it has never been directly authorized by Congress. The program has never been subjected to public hearings or a detailed review.

But what is more, the military contractors know more about the program than most Congressmen and Senators. Early in January of this year more than 800 defense contractors jammed the National Bureau of Standards auditorium for a classified briefing on the program's future. All the reports and predictions made at the meeting were classified, as is practically all of the information relating to the program.

Major problems and questions: The program raises several fundamental questions regarding not only congressional control over military spending, but also control over the secret development of new weapons.

Perhaps most important, how is Congress to control expenditures if it does not even have knowledge, much less control, over major programs such as the electronic battlefield? The fact that the Pentagon could initiate such a large program without specific inclusion under the military authorization bill suggests that military spending may rise by several billion dollars more than we have been led to believe. How many more programs like the electronic battlefield costing millions of dollars and unknown to Congress has the Pentagon failed to include in the military authorization request? If Congress does not know about them, how can Congress approve them?

The second important set of questions which the program raises centers around the development of secret weapons and their future implications for military policy. General Westmoreland has said that the electronic battlefield will revolutionize ground combat. In a speech given last October before the Association of the U.S. Army, he declared:

"The Army has undergone in Vietnam a quiet revolution in ground warfare—tactics, techniques, and technology. The revolution is not fully understood by many."

The financial implications alone of this so-called revolution are frightening. Will the Congress suddenly be told that it is essential that all ground forces be equipped with the new electronic sensors before the full implications of such a decision are known? Will we be told that the expenditure of almost $20 billion is necessary if we are to match the Russians in ground capability? In short, will Congress be confronted with a "decision" on the electronic battlefield over which it has little control? These are just a few of the questions which are raised by the secret nature of the program.

The electronic battlefield also presents several other problems related to its use in combat. One of the biggest problems is that it may be an indiscriminate weapon. The sensors cannot tell the difference between soldiers and women and children. It has been pointed out that in such underdeveloped parts of the world as Vietnam, whole villages may be wiped out by seeding wide areas with air dropped explosive devices designed to kill anyone who ventures into their neighborhood. Once seeded, we would lose control over these devices and they could represent a permanent menace to the civilian population, much like old land mines.

A second major problem is presented by the extreme vulnerability of much of the electronic equipment to malfunction due to rough treatment. One infrared night observation device for use over medium range distances has already been abandoned because it could not withstand handling under combat conditions. In addition, the replacement costs alone for equipment damaged by rough handling could be enormous.

Finally, the most important, is the program really worth the money? Is combat capability increased to such an extent that the probable investment of billions of dollars is warranted? Once the Vietnam war is over, will we really need such a complicated system of sensors for combat operations?

These are all questions which should be carefully examined before the Congress approves any more money for the electronic battlefield. They should be answered before we become committed to it as a weapons system. The program may not necessarily be a bad investment. My remarks today should not be interpreted as meaning necessarily opposition to the program. I am saying that it needs to be very carefully studied before additional money is committed for its development. I am asking for information. In an effort to obtain more information on the program, I have written a letter to Secretary of Defense Laird requesting answers to several questions related to the purpose and application of the electronic battlefield. I also intend to raise questions about it when the military authorization bill is before us. I believe it should be subjected to a full review before it goes any further.

Mr. President, the fact that a program of this size and importance has never been specifically authorized and that the Pentagon has spent almost $2 billion on it, is outrageous. If Congress is to have any hope at all of controlling military spending it must have control over all major weapons systems. The electronic battlefield is no exception. It deserves the same detailed scrutiny to which all major weapons are subjected. I shall continue to work to see that it receives that review.

Mr. President, along that line, I think this is a perfect example of why we needed to have line items in the bills that come before Congress, even though it takes a 300- or 400-page bill. We should have a line item on each subject so that the Congress will know what it is voting on and will have a chance to find out where our money is going.

Mr. President, I yield the floor.

Mr. President, I ask unanimous consent that a copy of the letter I sent to Secretary Laird on this subject be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

"JUNE 28, 1970.

"Hon. MELVIN LAIRD,
"Secretary of Defense, Department of Defense, Washington, D.C.

"DEAR SECRETARY LAIRD: Recently I learned of a new weapons system known as the electronic or automated battlefield. As I understand it, this is an integrated system of sensors which, according to General Westmoreland, 'will revolutionize ground combat.'

"In view of the critical nature of the program, I would appreciate answers to the following questions. Although I am aware that much of the information related to the program is classified, I would like the responses to be unclassified.

"1. When was this program started? What is the purpose of the program and which services are involved in its development?

"2. When was the program authorized by Congress?

"3. What costs have been incurred for research and procurement? What has been the total cost of the program to date?

"4. What applications are planned for the program? Will the program be restricted to purely military intelligence?

"5. What future developments are expected and what will be the probable cost of the program in the years ahead?

"6. How effective have the sensors proven in actual combat? Where have they been used?

"7. Are there any plans to equip all ground forces eventually with sensor devices and support systems? What would be the cost of such a decision?

"Your answers to these questions will greatly improve understanding of the nature and purposes of the electronic battlefield program. Thank you for your cooperation and I shall look forward to hearing from you shortly.

"Sincerely,

"WILLIAM PROXMIRE,
"U.S. Senator."

Mr. SYMINGTON. Mr. President, will the able senior Senator from Wisconsin yield to me?

Mr. PROXMIRE. I am happy to yield to the distinguished Senator from Missouri.

Mr. SYMINGTON. Once again I would hope the people of America realize the great service being done for the taxpayers of this country by the able senior Senator from Wisconsin.

This particular subject has long been a sore point with me, because, although I was a ranking member of the Senate Armed Services Committee, back in 1966 or 1967, I first learned of this particular operation, a defense line south of the DMZ, and all the electronic fixture contained in it, when I read about it in a weekly magazine. I thereupon went to the chairman of the committee and asked whether he knew about it, before that, I went to the staff and asked whether it had ever come before the Armed Services Committee. I was told by both, no, that it had never come before the committee, despite the hundreds of millions of dollars involved, which later turned into billions.

So I asked if we could have a briefing on the matter, which was already an accomplished fact, and on which the Department of Defense at that time was spending hundreds of millions of dollars of the taxpayers' money.

As a result of that request, a briefing was given by a high-ranking general, in the Department of Defense. There were two of us there. When it was over the other Senator present remarked, "All I can say, General, is that it is too bad Rube Goldberg is no longer around, because he could have drawn all this better than you have explained it."

Later, at a meeting of the Department of Defense Subcommittee of the Senate Appropriations Committee, with two Senators present, of which I was one, we asked the witness if he would tell us about the weapons system.

The witness did not feel he was in a position to do so, then turned to an officer, I believe a major general, and asked him to give details of what was going on in this case. That officer stated he was sorry, but the matter was too highly classified to be discussed even in executive session.

I present this story to illustrate just how far away is real control by Congress of money expended in certain fields. Inasmuch as years ago I tried, with little success at first, to find out why we needed this system, especially in that some friends in the Pentagon itself told me that the whole idea was absurd, that the billions of dollars to be ultimately spent was nothing more than a sheer waste of the taxpayers' money, I was interested; but for a long time could not find out the details despite my being on the committee.

Again, I congratulate the able Senator from Wisconsin, who is working as no one else in the Congress to show how we can save money in our budget, especially our Defense budget. It is as clear as light to me there are many investments we should not make that we are making and I have never seen a better illustration than what the Senator from Wisconsin presented this morning.

I thank the Senator for yielding.

Mr. PROXMIRE. First, I commend the distinguished Senator from Missouri, because there is no Senator who can speak with more authority. He is the only Senator who serves on both the Armed Services Committee and the Committee on Foreign Relations, and he is also an ex officio member of the Appropriations Committee with respect to Defense expenditures. So he is in a position to know what he is talking about.

Did I correctly understand the Senator to tell the Senate that when he first read of this in a news weekly magazine, he talked with the chairman of the Armed Services Committee, who said he had not heard of it?

Mr. SYMINGTON. That is correct.

Mr. PROXMIRE. So the chairman of the Armed Services Committee did not know about it, the Senator from Missouri, one of the top-ranking members of that committee, knew nothing about it.

Mr. SYMINGTON. That is correct.

Mr. PROXMIRE. And when later a top-rank briefing was held, and a major general was one of those asked to inform the members of the committee who were present about the electronic battlefield, he stated, when asked to go into detail, that this was too secret a matter to go into detail about, even in a private, executive session?

Mr. SYMINGTON. In executive session. Right.

Mr. PROXMIRE. Although it had already involved $2 billion in expenditures, and could involve a $20 billion expenditure, and very likely, in the light of our experience with electronic weapons in the past, will involve more than $20 billion?

Mr. SYMINGTON. Perhaps the able Senator is a little high on that figure.

This at the time became quite famous as the so-called "McNamara Line." The words were used in that way in effort to compare it with the tragedy of the French Maginot Line.

I was so worried about it, Mr. President, I went out to South Vietnam, around the DMZ, and talked with officers about it there. There was some difference of opinion, but my impression was most considered it a waste of money at that time; and in any case, when we went into the field we got the facts.

In all fairness to the present administration, my experience in this particular matter was during the past administration. But I think it about time that Congress, following the great work of the Senator from Wisconsin, notify everyone that we intend to know more about what is being done with the taxpayers' dollar before we appropriate these billions that through taxes are just about breaking the backs of our people.

Mr. PROXMIRE. The Senator from Missouri may well be correct, that the $20 billion estimate may be too much. The reason I use that figure is that I am quoting an article in Business Week—this weekly magazine which seems to have more information than Senators do, even though they serve on the Armed Services Committee—entitled "The Pentagon Plays Electronic War Games," published in the January 31, 1970, issue of that magazine. They say:

> Thus far $2-billion has been spent, and costs may soar to $20-billion in the next decade.

The reason I think that may not be an extravagant estimate is that almost every forecast we have had of electronic weapons—the Senator will recall the Stubbings report, for example—is that they cost on the average more than twice as much as originally estimated. I am not just talking about the so-called "McNamara Line," in Vietnam. The $2 billion is a starter, because the notion was that this would be used very widely, and would be something we would use in every theater.

So I think the Senator can see that this could conceivably eventually cost $20 billion. As I say, this comes from a responsible and a very respectable publication, Business Week, and for that reason as well as the other reasons I have stated, I do think $20 billion is not an exaggeration.

Mr. SYMINGTON. It is my understanding that it costs hundreds of millions of dollars a year to operate this so-called line, as well as billions of dollars to produce it, and under those circumstances, the Senator's figure may well be correct.

Later on, when this became a "celebrated cause," you might say, we did have briefings on it, plus detailed explanations of it. My opinion was even less as far as to its efficiency on the basis of its cost-benefit ratio.

Mr. PROXMIRE. Yes. The point I was making is that, as I understand it, the Defense Department seems to be going ahead to universalize this system. At any rate, this demonstrates very clearly to me—I think the Senator from Missouri has made the point far better than I have—that we simply must insist that we have a thorough investigation of any weapons system that has already cost $2 billion, and may cost a great deal more, before we go further ahead with it.

It is my understanding that there is a substantial amount in proposed expenditures of this type in bills that will be before the Senate in the coming weeks and months, and when they come before the Senate we should certainly be in a position to challenge the amounts in those bills, to determine how much is for such purposes, and to insist upon justification. Maybe the Senate doors will have to be closed at that time. But certainly everything I have disclosed so far this morning, and everything the Senator from Missouri has said, is unclassified public information.

I thank the distinguished Senator from Missouri very much for his most enlightening help in this discussion.

Mr. SYMINGTON. Mr. President, I thank the Senator from Wisconsin again for what he is doing in an effort to meet the increasingly serious financial problem characteristic of our overall situation today. I would hope that more would follow his leadership, just as we would do in private business, where, before you put up this kind of money, you justify the reasons in detail why you are spending it. You have to do it for your stockholders in any private business. Our taxpayers are stockholders of a great country.

Mr. PROXMIRE. I thank the Senator.

Mr. President, I yield the floor, and suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, will the Senator withhold that?

Mr. PROXMIRE. I am happy to withdraw the request for the quorum call.

Mr. MANSFIELD. Mr. President, I have listened to the distinguished Senator from Wisconsin with interest. I am glad that he has made the record clear and has pointed out that what he has stated on the floor of the Senate some time ago has been a matter of public record for a number of months. I am delighted that the sources have been cited.

I know of no man in this body who is more careful of his facts and figures nor more qualified to speak on the subjects which he has.

Mr. PROXMIRE. Mr. President, I thank the majority leader. I deeply appreciate what he has said. I mean it when I say that there is no man in the country from whom I would rather have that kind of support.

Mr. SYMINGTON. Mr. President, I would make one more comment about this matter.

The whole question of unnecessary and ill-advised secrecy in Government, and what that secrecy could do to the future of our country, is involved in this discussion. Many people believe a lot more information could be released, not only to the Congress but also to the public. I agree, and have so stated for some time. The best illustration of the importance of lifting unnecessary secrecy seen in some time was that presented by the able Senator from Wisconsin this morning.

Mr. PROXMIRE. I thank the Senator.

I should like to point out to the Senate that I understand that in a few days we will have the military procurement bill before us. I think that what we have discussed this morning is another good reason to consider seriously a sharp reduction in the military procurement bill. It not only would mean a great saving to the taxpayers of this country and the best and most effective way to fight inflation, but also, in my view, it could mean a stronger, leaner, and tougher military establishment.

I yield the floor.

RETIREMENT BENEFITS FOR AIR TRAFFIC CONTROLLERS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1016, S. 3959.

The ACTING PRESIDENT pro tempore (Mr. METCALF). The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 3959) to provide certain retirement benefits under title 5, United States Code, for air traffic controllers.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Post Office and Civil Service with amendments on page 1, after the enacting clause, strike out:

S. 3959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(n)(1) For the purpose of this subsection, 'air traffic controller' means an employee who performs duties as—

"(A) an air traffic control specialist in the Department of Transportation and is engaged in the separation and controlling of aircraft; or

"(B) a first line supervisor in that Department directly and is engaged in supervising such air traffic control specialists at an air traffic control tower, center, or approach control facility.

"(2) The annuity of an employee who is an air traffic controller, or was an air traffic controller, retiring under this subchapter is computed under subsection (a) of this section, except that the years of creditable service as an air traffic controller to be considered as part of the employee's total service shall be determined by multiplying the number of full years and twelfth parts of years of service as an air traffic controller (excluding the fractional parts of a month, if any) by 1.4. An employee who has at least thirty years of service, as determined under the preceding sentence, is entitled to an annuity."

And, in lieu thereof, insert:

That (a) section 8331 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new subsection:

On page 4, line 2, after the word "section", strike out "8339(n)" and insert "8331"; and in line 6, after the word "certified", insert "to"; so as to make the bill read:

"(20) 'air traffic controller' means an employee who performs duties as—

"(A) an air traffic control specialist in the Department of Transportation or its predecessor organizations engaged in the separation and controlling of aircraft; or

"(B) a supervisor directly engaged in supervising air traffic control specialists at an air traffic control tower, center, or approach-control facility."

(b) Section 8332 of such title is amended by adding at the end thereof the following new subsection:

"(1) Service as an air traffic controller is the product obtained by multiplying the full years and twelfth parts thereof by 1.4 excluding from the aggregate fractional parts of a month, if any.

(c) Section 8336 of such title is amended by redesignating subsection "(g)" as subsection "(h)"; and adding immediately after subsection "(f)" the following new subsection:

"(g) An employee who is separated from the service after completing thirty years of service, and who has at least ten years of service as an air traffic controller, is entitled to an annuity."

S. 3959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(n)(1) For the purpose of this subsection, 'air traffic controller' means an employee who performs duties as—

"(A) an air traffic control specialist in the Department of Transportation and is engaged in the separation and controlling of aircraft; or

"(B) a first line supervisor in that Department directly and is engaged in supervising such air traffic control specialists at an air traffic control tower, center, or approach control facility.

"(2) The annuity of an employee who is an air traffic controller, or was an air traffic controller, retiring under this subchapter is computed under subsection (a) of this section, except that the years of creditable service as an air traffic controller to be considered as part of the employee's total service shall be determined by multiplying the number of full years and twelfth parts of years of service as an air traffic controller (excluding the fractional parts of a month, if any) by 1.4. An employee who has at least thirty years of service, as determined under the preceding sentence, is entitled to an annuity." That (a) section 8331 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new subsection:

"(20) 'air traffic controller' means an employee who performs duties as—

"(A) an air traffic control specialist in the Department of Transportation or its predecessor organizations engaged in the separation and controlling of aircraft; or

"(B) a supervisor directly engaged in supervising air traffic control specialists at an air traffic control tower, center, or approach-control facility."

(b) Section 8332 of such title is amended by adding at the end thereof the following new subsection:

"(1) Service as an air traffic controller is the product obtained by multiplying the full years and twelfth parts thereof by 1.4, excluding from the aggregate fractional parts of a month, if any.

(c) Section 8336 of such title is amended by redesignating subsection "(g)" as subsection "(h)"; and adding immediately after subsection "(f)" the following new subsection:

"(g) An employee who is separated from the service after completing thirty years of service, and who has at least ten years of service as an air traffic controller, is entitled to an annuity."

SEC. 2. Section 6307 of title 5, United States Code, is amended by adding the following new subsection:

"(d) An employee who is an air traffic controller, as defined in section 8331 of this title, is entitled to sick leave in addition to any other sick leave authorized by this section for such reasonable periods as determined by the Secretary of Transportation upon a finding by the Secretary, based on sufficient medical evidence certified to by a flight surgeon and at least two medical doctors, that the employee is temporarily unable to perform his duties."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1012), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This legislation would change the computation factor for determining civil service retirement benefits from 1.0 to 1.4 for each year of air traffic controller service. The special provision would apply only to air traffic controllers and "first-line" supervisors directly supervising air traffic controllers. A controller or a supervisor would be eligible to retire after completing 30 such years of service regardless of age if he has at least 10 years of service as an air traffic controller or supervisor.

JUSTIFICATION

For several years, the committee has studied legislation to resolve the unique problems pertaining to early retirement for air traffic controllers. Because of the stress involved in working as a controller in high-density airports, air traffic controllers are subject to mental and physical strains and disabilities not found in other employment in the Federal service or as air traffic controllers at less impacted airports.

The most effective solution to the problem of air traffic controllers is the appropriation and effective expenditure of money to maintain an adequate supply of controllers in the Federal Aviation Administration and to purchase and use the kind of electronic equipment to improve air traffic control methods and improve air safety. The record of the Federal Aviation Administration and the Bureau of the Budget in planning and executing policies in compliance with this objective is poor. The recent "sick-out" of air traffic controllers at key airports over the Nation was, in the committee's judgment, directly attributable to the lack of foresight on the part of those responsible for the development of an efficient and effective air traffic control system.

Nonetheless, the failure to resolve by other means these difficult problems does not argue against the enactment of legislation designed to improve the nature of employment of air traffic controllers. Benefits for these employees should be adequate to insure the recruitment and retention of high-quality personnel. The legislation proposed in S. 3959 is part of that solution. It will offer the air traffic controller, who has reached the age of no longer being able to operate with 100 percent efficiency at an extremely exacting and exhausting kind of employment, the alternative of retiring from the Federal service on an annuity that will not drastically reduce his standard of living.

Under existing law, an employee under civil service retirement may retire voluntarily after 30 years' service at age 55, or 20 years' service at age 60. An employee who is involuntarily separated may retire after 20 years' service at age 50 or with 25 years' service regardless of age.

Air traffic controllers do not readily fit this employment pattern because many of them are recruited when they are in their early twenties, frequently after having been trained for air traffic controller duties in the Armed Forces, and do not become eligible for voluntary retirement until they are well past 50 years of age. The nature of air traffic controller service is simply too great a strain on the mental and physical capabilities of a human being to stay on the job until attaining age 55 or 60. Unfortunately, other occupations in the Federal Aviation Administration are not available in sufficient numbers to maintain a systematic line of transfer from controller duties to administrative duties. No program for retraining controllers for other kinds of duties has yet been satisfactorily developed in the Federal Aviation Administration to insure other employment opportunities.

This legislation will provide one alternative for controllers who believe that the time is at hand to leave the stresses and strains of the radar scope and tower observation. By so multiplying service as a controller or as a supervisor directly engaged in supervising controllers on the job, a controller with 22 years' service as a controller will be eligible to retire on an unreduced annuity as if he had 30 years service. His retirement annuity based on 30 such years of service is equal to 56.25 percent of the employee's average salary during the high 3 years of his career. Thus, a controller who entered the service at the age of 23 or 24 would be eligible to retire at the age of 45 or 46, but for annuity purposes would be treated as if he had remained in service an additional 8 years, and his annuity will not be reduced because he is less than 55.

COMMITTEE RECOMMENDATIONS

The committeee also recommends that the Federal Aviation Administration, in cooperation with the Civil Service Commission, consider changes in the nature of air traffic control employment to insure that controllers and air safety traffic does not suffer because of the nature of air traffic control employment.

A controller ordinarily works at least 8 hours a day, at least 5 days a week. In busy towers, this service in recent years has more frequently been 10 or 12 hours a day, 6 days a week. Because of scheduling difficulties and the shortage of personnel, employees usually work a rotating shift, frequently being assigned to the swing shift for a few weeks, the day shift for a few weeks, and the graveyard shift for a few weeks. The effect of these changes on the mental and physical strength of an individual is adverse.

It is ironic, in the committee's judgment, that a blackjack card dealer at a gambling casino in Las Vegas is generally relieved from his duty after 40 minutes of dealing because of the monotony and mental strain of keeping up with a deck of cards, while an air traffic controller responsible for moving airplanes in and out of a busy airport will frequently remain on a radarscope for 4 hours without relief, and when relief comes after 4 hours or more, it will be so that he can go to the tower for visual control of takeoffs and landings.

The Federal Aviation Administration and the Civil Service Commission must develop programs for relief from these working conditions for air traffic controllers. The recruitment of additional controllers is part of the problem, but the mental and physical strain of staying on the radar scope or in the tower for long periods of time should not be continued under any circumstances. Periods of rest and the assurance that short breaks and adequate lunch breaks will be taken must be made. Today, controllers eat a sandwich while staying at the radar scope instead of being able to leave the tower for a real break from the monotony and the stress and strain of this duty to eat a meal and relax for a few minutes.

The committee expects the Federal Aviation Administration and the Civil Service Commission to report to this committee by the beginning of the first session of the 92d Congress on what steps have been taken to change these employment practices.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "An act to amend title 5, United States Code, to provide additional civil service retirement and sick leave benefits for air traffic controllers."

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, inasmuch as the distinguished acting minority leader is in the Chamber, I would like to discuss with him, for the benefit of the Senate, just what the schedule will be.

The pending business, when we get through with the morning business, will be the legislative appropriations bill, which should be completed this afternoon.

Hopefully, later this afternoon, we will take up Calendar No. 1006, S. 3586, amendment of the Public Health Service Act; and then, due to a change in plans, instead of proceeding to the consideration of Calendar Nos. 924 and 925, S. 26 and S. 27, the recreation bills, which tentatively had been slated for tomorrow, we will, hopefully, proceed to the consideration of Calendar No. 1010, S. 2455, authorizing appropriation for the Civil Rights Commission and make that the pending business for tomorrow, to be followed by Calendar No. 926, S. 1830, a bill to provide for the settlement of certain land claims of Alaska natives, and for other purposes.

Upon the disposition of that bill, it is anticipated we will proceed to the consideration of S. 26 and S. 27, on Wednesday or thereabouts.

Mr. GRIFFIN. I thank the distinguished majority leader.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now transact routine morning business.

The Senator from Kansas is recognized.

AMERICAN PRISONERS OF WAR

Mr. DOLE. Mr. President, I suppose the most tragic part of North Vietnam's prisoner of war policy is that it has, in fact, no policy at all.

The word "policy" means some sort of rational, measured approach to a problem. In this case, an international policy had been set forth in the Geneva Convention on Treatment of Prisoners of War. The Government of North Vietnam was a signatory thereto.

The convention is deliberately worded to include all types of conflict, whether or not there is an actual declaration of war. It provides for some very basic actions on the part of those nations adhering to it. The simplest of these is preparation of a list of prisoners held, and communication between them and their families.

Instead, we have a wall of silence imposed between American prisoners held by North Vietnam and their families here in our country. This might be expected from some primitive tribe or society, but hardly from a government seeking recognition as one of the family of nations.

Mr. President, I call once more for every effort to be made at the public and private level to open communications on the fate of American prisoners of war held by North Vietnam.

TESTIMONY OF CYRUS EATON BEFORE THE JOINT ECONOMIC COMMITTEE

Mr. FULBRIGHT. Mr. President, this morning, Mr. Cyrus Eaton appeared as a witness before the Joint Economic Committee. Mr. Eaton is 86-plus years old, has had some 70 years of experience in American business at all levels, and has had a great interest in bringing about a better understanding between the Communist countries and our country. He has gone to a great deal of trouble to inform himself about the attitudes and the policies of people in various Communist countries, all the way from Cuba to Russia and North Vietnam.

His testimony this morning was extremely interesting. I ask unanimous consent that his opening prepared statement be printed in the RECORD, in order that it be made available to the Members of this body.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FULBRIGHT. I regret that Mr. Eaton's answers to the questions and the discussions which took place following his opening statement cannot be made a part of this RECORD, although I expect that in due time the hearings will be published.

I certainly commend to the Senate and to the public a perusal of Mr. Eaton's remarks. In a way, he is a unique figure, with his long experience, going back to the days of the first Rockefeller in business and on up to the present. He is a lifelong Republican, and his uncle was a Republican Representative from the State of New Jersey.

Mr. Eaton is one of the leading businessmen of this country; and, together with his interest in international political affairs, I do not know of anyone quite comparable to him in the world. He is personally acquainted with many of the leading political figures of the world and has gone to great trouble to talk with them. I do think that his judgment is entitled to great respect, and I hope that the Members of this body and the people of the country will at least go to the trouble of reading and informing themselves about his views, which were very well expressed, especially in the question-and-answer period and in the discussion that followed his opening statement before the Joint Economic Committee this morning.

I compliment the chairman of the Joint Economic Committee, Representative WRIGHT PATMAN, for arranging to make available in public session a man of Mr. Eaton's stature.

Exhibit 1

Opening Statement of Cyrus Eaton Before the Joint Economic Committee of the Congress of the United States, July 13, 1970

My name is Cyrus Eaton. I am Chairman of the Board of The Chesapeake and Ohio Railway Company. I welcome the opportunity afforded by your invitation to express my views on the state of the economy.

In my opinion, we are already in the midst of a full-scale recession. Moreover, no amount of explanatory telecasts by the President or other members of the Administration will save us from a devastating depression unless the war in Southeast Asia is brought to a quick and complete conclusion.

My business career, starting almost at the beginning of this century, has included active participation in industry, public utilities, banking, railroads and farming, both in the United States and abroad. I have known the giants of industry—Rockefeller, Ford, Firestone, Edison and many others. I have been a reader of "The Economist," of London, for 70 years and of "The Wall Street Journal" for 65 years.

I have considered it an urgent duty, consistent with my stake in America and capitalism, to know and maintain close contact with the heads of state in the communist and socialist nations, as well as in the capitalistic countries.

As a businessman, I have experienced first-hand all of the economic depressions and panics of this century, including those of 1907, 1914, 1921, and the prolonged world-wide collapse that started in 1929. The panic in 1921 all but toppled Ford Motor Company and Goodyear Tire & Rubber. The 1929 crash wiped out many banks. In my hometown of Cleveland, alone, two of the largest closed forever, and the double liability that shareholders were forced to pay on their stock crippled for years to come.

Whatever is to follow in the current economic crisis, we have already witnessed the bankruptcy of the Penn Central, the nation's largest railroad system. The full repercussions of that disaster remain to be felt. One immediately measurable effect is the stock market loss to a widespread family of shareholders. The value of their holdings has shrunk 92 per cent, from the post-merger high of slightly more than $2 billion to approximately $157 million. The similar declines which have occurred in many other corporations have caused painful losses to millions of American investors.

The abrupt resignation of seven Penn Central directors because of conflicts of interest arising from their affiliation with financial institutions holding Penn Central loans, points to the necessity for legislative reform. Officers of banks and insurance companies should not be permitted to be directors of corporations to which they lend money. Not involved in the Penn Central case, but relating to the conflict of interest problem, is the reprehensible practice of bank officers perpetuating themselves in office by voting the stock of their own bank held in a fiduciary capacity. This abuse should be prohibited by law.

Because the undeclared war in Vietnam is so inextricably involved in our business and financial crises, affecting the money markets and credits, I must refer to it in this discussion. Congress supplies the money for war and has an equally grave responsibility for the nation's economic health.

The Nixon Administration was elected on the strength of a purported but still undisclosed plan to terminate the war in Vietnam. Three of the key figures in the Administration, the President, the Secretary of State and the Attorney General, are Wall Street lawyers who have been closely associated with the problems of corporate and municipal finance. Their failure to recognize the portents of impending economic doom and to conclude the rash military adventure responsible for those portents, even after eighteen months in office, is incredible. Instead we have been treated to the spectacle of escalation in desperation, accompanied by economic chaos, if not collapse.

As a concerned capitalist, I have communicated my misgivings to the Administration. Last November, when Bell Telephone bonds were sold at the, up to then, highest interest rates in American corporate history, I called this to President Nixon's attention by telegram.

My message to the President stated:

"Our government's massive expenditures on world-wide military commitments threaten the greatest crisis in our financial markets and the very soundness of the dollar. Unless there are immediate and drastic changes in our foreign policies, I feel we are headed for a panic that could destroy the Nixon Administration even as the financial debacle of 1929 destroyed the political career of Herbert Hoover."

That was probably an understatement since there was no war in 1929.

The chaos in the bond market still exists, but has more recently been overshadowed by the stock market collapse. At the beginning of June, I felt impelled to wire the President as follows:

"Businessmen are watching your Administration with increasing anxiety for signs that you will come to grips with the nation's grave economic problems. Unemployment increases. The squeeze on credit and money supply tightens. Operating profits are disappearing. Several large corporations are in serious trouble. Wall Street is in a panic. The international payments deficit threatens the dollar. Mammoth military expenditures make it impossible to restrain inflation. Those of us who witnessed inflation in World War I can testify to its causes and hazards. The business community beseeches you to act before the financial storm breaks into full fury."

If the President will not act, then the Congress must. Under the Constitution, the Congress is charged with controlling the public purse and determining how much of the estimates submitted by the Executive will be funded. This nation simply cannot afford to continue spending $80 billion a year for military purposes. The $25 billion included in that budget for the Vietnam adventure is money completely down the drain, while much of the remainder goes for the development and production of weapons that would extinguish the human race if ever used.

It is sobering to consider that we have Vietnam-style commitments to forty-three foreign countries. If we should be obliged to live up to all of them, we could find ourselves in forty-three wars at one time, even though we are going broke on just the one in Vietnam.

One half the world is Communist. Many of the Communist nations are anxious to purchase the products of our factories and our farms. We should trade with them and extend credit to them as do all the nations that are our allies and friends.

The astronomical sums we are spending annually to kill people could better be spent to improve their standard of living.

Less than a week ago I received a letter from Viscount Montgomery written at his home in England. The great general, a student of warfare throughout the ages, makes this judgment on President Nixon's conduct of the war in Vietnam—

"He (Nixon) should realize that a political end to the war in Vietnam is the only possible way to end that war."

Holders of American securities abroad were disturbed by the extension of the war into Cambodia. It is harmful to the nation and its credit in world financial markets for the President to commit the nation and its armed forces to warfare in a situation where the President's authority to do so is doubtful. Steps ought to be taken to clarify the matter of jurisdiction and power, and they ought to be taken not only with respect to Vietnam, Cambodia and Laos, but with respect to anything that may arise in the future.

In other words, whether by legislation or by constitutional amendment or by judicial decision, there ought to be a firm definition of when, if ever, the President of the United States can involve our armed forces in warfare outside the boundaries of the United States without getting prior Congressional approval.

In conclusion, let me offer a few specific steps that I believe should be taken without delay to stave off complete economic calamity.

1. First, and foremost, the war in Southeast Asia must be terminated with a negotiated settlement.
2. Astronomical federal expenditures for such abhorrent military projects as ABM, for military aid to other nations, for the so-called intelligence activities of the Pentagon and the State Department and such unproductive agencies as the CIA and the FBI should be pared to the bone.
3. Money rates should be substantially reduced, and funds should be made available for housing and other essential American needs.
4. Margin requirements on stock purchases should be lowered to 33 per cent.
5. A strong federal corporation on the pattern of the old Reconstruction Finance Corporation should be created immediately to make funds available for business concerns, industrial corporations, railroads, banks and insurance and loan companies.

I repeat that the war in Southeast Asia must be terminated immediately. I have recently visited Hanoi, Cambodia and Laos and have conferred with their statesmen. I have also talked to spokesmen for Great Britain, Soviet Union, Japan, Canada, Poland and France.

The example of France's ending the war in Algeria is the one we should follow. After years of killing and endless negotiations, DeGaulle decided to end the war. He stopped the fighting and withdrew 500,000 soldiers and a million French civilians, and France is none the worse for it. Not one more American life is worth spending on a war we cannot win; a war in which the only thing we seem to be salvaging is foolish pride.

The allegation that North Vietnam and the Provisional Revolutionary Government of South Vietnam will not negotiate is not in accord with the facts. I suggest for the Congress' consideration that a small committee of the Senate and House meet informally in Canada or in France with a similar group from North Vietnam and the Provisional Revolutionary Government. By so doing they would learn at first hand, as I did, the terms on which this expensive and economically disruptive war may be ended.

PERU'S DISASTER STIRS DRAMATIC U.S. AID EFFORT

Mr. GRIFFIN. Mr. President, the whole world has been stunned by the suffering visited on the people of Peru as a result of the May 31 earthquake.

This disaster has been described as "unprecedented in scope in the history of South America." Informed estimates as to the number of people killed have risen to over 60,000.

The extent of aid from foreign governments and international relief agencies has been impressive. Our Government has already committed over $10 million in aid. Certainly, Mrs. Nixon's flight to Peru with a planeload of needed medicine, clothing, and so forth, has helped to demonstrate the concern of the United States and its citizens for the victims of the disaster.

A long and very interesting article appeared in the National Observer for June 29, concerning the efforts of U.S. private citizens and groups to help, as well as the efforts of governments here and elsewhere.

The article is also a reminder that among the things "right with America," is the deep reservoir of good will and charity, always available to help the less fortunate.

The article quotes Mrs. Alicia Esteves, first secretary at the Peruvian Embassy in Washington about the American response to her country's ordeal:

> These people are so great and doing this in such a nice way. People are sensitive about other people's sorrow. There are not many countries like that.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Peru's Disaster Stirs Dramatic U.S. Aid Effort: Government, Companies, Volunteer Groups Rush To Help Earthquake Victims

(By Lawrence Mosher)

"For Christ's sake, I want to help my brothers in distress. God be with you." The note from a man in Maplewood, Mo., was sent to the Peruvian Embassy in Washington, D.C., in early June. It contained $5.

The violent earth shudder that rattled northern Peru and sent tons of mud and rock cascading down a valley high in the Andes called Callejon de Huaylas was measured on the Richter Scale at 7.7. But on the human scale Peru's nightmarish disaster has plumbed an immeasurable depth of human concern. And last week, almost a month after the May 31 tragedy, that response had catapulted to astonishing heights, particularly in the United States.

Private donations from all over the country have already exceeded $3,000,000, coming separately and through a score of U.S. voluntary organizations like the Red Cross, Catholic Relief Services, Church World Service, and CARE, Inc. U.S. companies both with and without interests in Peru provided help: road equipment to cut through the landslides from Cerro de Pasco Corp., and food and clothing from Sears, Roebuck and Co., and International Petroleum Co., an American-owned corporation expropriated in late 1968 by the Peruvian government. The U.S. Government pledged $10,500,000 in aid, along with help from dozens of other countries, including Cuba but curiously excluding the Soviet Union.

And this week Mrs. Richard Nixon flies to Lima for a three-day visit and tour of the stricken areas. In what is the First Lady's first official trip abroad, Mrs. Nixon is to personally hand over to the wife of the Peruvian president, Mrs. Juan Velasco Alvarado, some blankets and children's clothing, tokens of the avalanche of emergency supplies that are now descending on Peru.

During the first day after the earthquake there was little indication in Washington of what an American Red Cross official would later describe from the scene as a disaster "unprecedented in scope in the history of South America." The U.S. ambassador to Peru, Taylor G. Belcher, cabled his first report June 1, which reached the State Department at 8 p.m.

It wasn't until June 3 and Ambassador Belcher's first detailed report that official Washington began to appreciate the full gravity of the situation in northern Peru. After flying over the crumpled coastal towns and the mud-choked inland valley, Mr. Belcher cabled this account:

"Canon del Pato and Callejon de Huaylas worse than press reports. Entire valley remains isolated except for helicopter and parachute drops. . . . Town of Carez severely damaged but Yungay and Raurahirca wiped off map by wall of water and mud brought by waters of dislocated glacial Lake Llanganuco. This is major calamity. . . ."

Ambassador Belcher's cable brought an immediate decision from Assistant Secretary of State Charles A. Meyer for "maximum effort" by the U.S. Government. Estimates of Peruvian dead were climbing daily, to reach 60,000 by last week. Among the known casualties were five Americans—two Peace Corps workers, a Catholic priest in Huaraz, and two nuns in Chimbote.

Even before Mr. Belcher's June 3 cable, however, the Defense Department had dispatched a 24-member disaster relief team (later increased to 135) from Howard Air Force Base in Panama. The initial group, made up of two doctors, sanitary and construction engineers, and communications specialists, took with them two small "Huey" helicopters and emergency medical supplies. The team left Panama shortly after 6 a.m. June 2, and by the end of the next day were in full operation at Chimbote.

Peruvian and American relief workers first had to overcome monumental transportation and communications hurdles. "The tremendous mountains turned back all efforts to reach the Callejon de Huaylas," said Stephen R. Tripp, co-ordinator for the Disaster Relief Center. "After the earthquake had moved an entire mountain impenetrable dust, mixed with mist and clouds, prevented helicopters and airplanes from landing in the valley. To get to the Callejon de Huaylas they had to go up over 14,000 feet to clear the mountains and carry enough fuel for a 200-mile round trip."

The little one-rotor Hueys were clearly unsuitable, so the Defense Department again went into action. By late June 3 the Army's New Cumberland materiel depot in Pennsylvania was preparing two big CH–47C "Chinook" helicopters for shipment in two Air Force C–133 Cargomasters.

The Chinooks have long cigarlike bodies that are lifted by two rotors, and are designed to carry 40 fully equipped soldiers, or a total of 23,450 pounds. Like the Hueys they can fly as high as 15,000 feet. By 4 a.m. June 5 the disassembled Chinooks were loaded aboard the Cargomasters with nine service personnel for the 7½-hour flight to Lima.

CARRIER HEADS FOR PERU

Far to the south in the Caribbean Sea, the helicopter carrier Guam received orders June 5 to make for Peru. On board were 11 large Chinook-type HGO helicopters, 4 Hueys, a transportable 60-bed receiving hospital, and a mountain of needed medical and other supplies. The Guam arrived off Chimbote June 11 and immediately began flying medical and communications teams into the valley. In two days the Guam mercy flights had placed relief teams with 26 clusters of stranded earthquake victims, and had flown out the injured either to the ship's 1,000-bed "sick bay" or Peruvian hospitals.

The Chinooks from Pennsylvania began operating in the stricken area June 9. During its last flight the next evening one of the helicopters spotted a group of 80 children stranded near a devastated village 8,500 feet up in the mountains north of Yungay. The children were strapped two-to-a-seat aboard the 40-passenger helicopter and lifted over a 14,000 foot mountain to safety.

At the Disaster Relief Center in Washington one of the most impressive public responses for help came from nurses. Part of the over-all $10,500,000 U.S. aid committed to Peru was two Public Service "package" hospitals, which were flown down in crates. On June 2 the U.S. Agency for International Development (AID) was asked to staff the hospitals.

AID's Virginia Worsely, a Public Health Service (PHS) nurse and disaster relief medical co-ordinator, called another PHS nurse in Washington, who in turn called the director of nurses at California's Highland Hospital in Oakland. This nurse, Miss Dorothy Merrill, approached the California Nurses Association. And then, as nurse Worsely tells it, "all hell broke loose."

Radio spot announcements placed every 15 minutes in California brought in 5,000 telephone responses at the PHS office in San Francisco. And in Washington, the Disaster Control Center's four telephone lines all became jammed with calls from nurses eager to go to Peru.

By June 5 AID had 200 nurses inoculated, provided with passports, and ready to fly to Lima, Pan American World Airways, which along with Braniff International Airlines and others were providing free airlifts on a space-available basis, offered to round up the nurses in the United States and whisk them south. But as of last week, they were still in the United States.

The reason? The world's overwhelming response to the earthquake tragedy had already met the medical needs in Peru. France sent a transportable hospital unit with 60 nurses, and by the end of last week the French medical team was already heading home again. Chile staffed a hospital, and Norway flew in a complete medical unit.

The Norwegian plane broke down in Brasilia, the capital of Brazil, so the U.S. Air Force assisted the Norwegians in the last leg of their trip. But after the Norwegians set up, they received only one patient, an old lady who fell down and fractured her shoulder.

"It's true of earthquakes," Nurse Worsely later explained. "Few are injured. People are either killed outright or they survive unhurt. As it turned out they had empty hospital beds all over Peru."

U.S. voluntary organizations also rallied impressively. The American Red Cross assembled 50,000 "comfort kits," containing dozens of needed items like soap, sewing needles and thread, safety pins, and buttons. The first batch will arrive this week with Mrs. Nixon. The sewing kits will be especially useful because the earthquake victims, mostly Peruvian Indians, are smaller than their North American donors and will need to alter their "new" clothes.

World Medical Relief, Inc., a Detroit group, supplied chewable antibiotics in the first U.S. air shipments. The easily administered drugs were effectively used by the Army disaster relief team. Project Hope, which uses a borrowed Navy hospital ship to teach effective medicine around the world, sent a disease control team.

The Salvation Army flew down two jeeps that had been driven from New Orleans to the Miami International Airport, and a bundle of picks, shovels, hammers, and nails from St. Louis. Catholic Relief Services had 600 tons of food, clothing, and medicines on hand in Peru for immediate relief. Later an unnamed sponsor paid for full-page ads appealing for aid in both the New York Times and the New York Daily News. The list could go on and on.

Church World Service, a Protestant relief organization, dispatched more than 100 tons of various supplies, mostly from a combined 2,000-ton stock maintained in four warehouses around the country. Then the organization found itself in the middle of a logistics "fiasco" in Los Angeles.

A Presbyterian minister in Whittier, Calif., one of Los Angeles' many satellite communities, initiated a public appeal that eventually used the national organization's name without gaining specific clearance from Church World Service's New York City headquarters. The public, through radio and television news programs and a paid Los Angeles Times advertisement, was asked to take clothes, blankets, and other items to some 45 collection points around the city, mostly churches. The main problem, as explained by Wilson Radway, an officer of the national group, is that the newspaper advertisement failed to include Church World Service's usual provision that says it can also use the donations to replace goods already shipped to the needy area.

What happens so often in disaster-appeal drives among the voluntary groups is that many of the donated items are processed, sorted, and stored for the next emergency. Goods given in previous appeals are used to provide fast relief for the current emergency. But in Los Angeles, because of the advertisement, the city's Department of Social Service is insisting that all the goods collected in the local Protestant drive be shipped directly to Peru, whether Peru now needs the goods or not.

DONATED GOODS PILE UP

Los Angeles International Airport is currently glutted with more than 125 tons of donated but unsorted goods that are now awaiting transfer by sea following Peru's request to stop further air shipments, at least until Lima's airport can clear out its own pile-up of supplies. The 5,000-foot runway there is now completely lined with goods that could be ruined with the approach of Lima's damp season.

"It's a bit of a mess," admits Mr. Radway. "The Lord knows what it will cost to get out of this. We want to make the best use of the goods without turning off the people."

Despite such foul-ups, which may be unavoidable in the rush to help, Americans demonstrated innumerable ways that when there is need they are seemingly incapable of turning away.

In Perth Amboy, N.J., one of the first Americans to pass the word about the enormity of the Peruvian tragedy was Joseph Kozna, a factory supervisor and ham radio operator. The day after the earthquake Mr. Kozna turned on his set in a mixed mood of dread and expectancy. He was the regular radio contact between a Paterson, N.J., priest who was running a mission in Peru, and the priest's friends and relatives at home.

At 5 p.m. on June 1 the voice of the Rev. James Jannucci came in on schedule to report that Chimbote, where the mission had a branch, was 90 per cent destroyed. Soon a reporter at the Paterson Evening News was talking with Father Jannucci over a radiotelephone "patch," and the word went out for help. By June 3, even before Ambassador Belcher in Peru had cabled his first detailed report, the newspaper's publisher donated $500 to start a disaster-relief drive. By last week more than $5,300 had been collected just in Paterson.

At the Peruvian Embassy in Washington, Mrs. Alicia Esteves, the embassy's first secretary, said this about the American response to her country's ordeal:

"These people are so great and are doing this in such a nice way. People are sensitive about other people's sorrow. There are not many countries like that."

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the entrolled bill (S. 3430) to amend the Peace Corps Act to authorize additional appropriations, and for other puropses, and it was signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

JOINT REPORT OF THE COMPTROLLER OF THE CURRENCY

A letter from the Acting Comptroller of the Currency, transmitting, pursuant to law, a joint report of the Federal supervisory agencies (with an accompanying report); to the Committee on Banking and Currency.

REPORT ON DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for July 1969–April 1970 (with an accompanying report); to the Committee on Banking and Currency.

PROPOSED LEGISLATION PROVIDING FOR DISPOSITION OF APPROPRIATED FUNDS TO PAY JUDGMENTS IN FAVOR OF CERTAIN INDIAN TRIBES

A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation to provide for the disposition of funds appropriated to pay judgments in favor of the Snohomish Tribe in Indian Claims Commission docket numbered 125, the Upper Skagit Tribe in Indian Claims Commission docket numbered 92, and the Snoqualmie and Skykomish Tribes in Indian Claims Commission docket numbered 93, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of Louisiana; to the Committee on Armed Services:

"HOUSE CONCURRENT RESOLUTION NO. 277

("A concurrent resolution relative to the continued value to the United States of Fort Polk as a permanent military installation)

"Whereas, Fort Polk, located in Vernon Parish in the state of Louisiana, serves an invaluable role in the military preparation of the fighting men of the United States since World War II; and

"Whereas, during its proud history Fort Polk has been the site for the training of nearly eight million soldiers during World War II, of some forty thousand men during the Korean Conflict, and the place where, between 1962 and 1970, some eight hundred thousand more of our nation's fighting men have been trained; and

"Whereas, the variety of terrain of the some two hundred thousand acre reservation comprising Fort Polk is such that it is there possible to train soldiers in topography which duplicates areas of North Africa, Western Europe, Southeast Asia and Latin America; and

"Whereas, due to the topographical similarity of portions of Fort Polk to the jungles and highlands of Southeast Asia, Fort Polk was selected to conduct Vietnam-oriented advanced infantry training, and now provides more infantry replacements to Vietnam than any other training center; and

"Whereas, the moderate climate of the area in which Fort Polk is located reduces military training costs by reason of the fact that special winter clothing is not required; food costs are reduced due to lower caloric intake requirements in warmer climate; construction costs are lessoned by reduced insulation and other building requirements; the short winter season and its relative mildness minimizes fuel costs, and there is a significantly low loss of training days due to upper respiratory infections and other ailments in comparison to posts located in many other areas of the Nation; and

"Whereas, the relatively rural location of Fort Polk insures unrestricted use of air space, freedom from smog and from air and water pollution, and an ample supply of fresh water is readily available; and

"Whereas, significant investments of public monies have been made to provide training facilities at Fort Polk, as evidenced by the fact that the present value of the properties of this magnificent military installation for the training of men for combat approximates three hundred thirty-five million dollars; and

"Whereas, the nearly four million citizens of the state of Louisiana take great pride in the fact that this outstanding military base is located within this state, and over the nearly three decades of its existence a highly desirable spirit of camaraderie has developed and been maintained between the citizens of the area surrounding Fort Polk and the military commanders and their personnel and are honored to have them as friends, neighbors and associates.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the Legislature of Louisiana, for all of the citizens of this state, hereby expresses to President of the United States and the Congress of the United States its considered view that the development and maintenance of Fort Polk in Vernon Parish, State of Louisiana, as a major permanent military installation for the training and preparation of military personnel for combat duty long has served a vitally essential function in the overall effort for preservation of this great democracy, and its further view and sincere belief that the continued operation and maintenance of said installation, with its tremendous advantages and vast investment of public funds, as a permanent military training center, is in the best interest of the entire nation.

"Be it further resolved that a copy of this Concurrent Resolution shall be transmitted to the President of the United States, to the presiding officers of the Senate and House of Representatives of the Congress of the United States and to each member of the Louisiana delegation in the Congress.

"JOHN S. GARRET,
"Speaker of the House of Representatives.
"C. C. AYCOCK,
"Lieutenant Governor and President of the Senate."

A concurrent resolution of the Legislature of the State of Louisiana; to the Committee on Commerce:

"Senate Concurrent Resolution No. 134

("A concurrent resolution to memoralize the President of the United States, the members of Congress and the Governors of each of the states of the Union to give vigorous support to the adoption of legislation to prohibit the advertisement of movies which are not recommended by the motion picture industry rating code for viewing by general audiences, including children, in theatres where the main feature being shown is recommended for general audience viewing)

"Whereas, the great majority of motion pictures produced today are ascribed a rating by a board of the motion picture industry, based primarily on the amount of sex and violence attendant to each movie and which, in some instances, restricts the age of persons allowed to attend certain movies; and

"Whereas, the movie rating code is a great public benefit to all communities and is a valuable instrument to guide the concerned parents of our young people in determining the fitness of a particular movie for their individual child, especially in times such as these, when sex and violence are so prevalent on the movie screens; and

"Whereas, it has become the practice in some theatres to advertise excerpts from movies which have been ascribed a restricted rating at times when the main feature being shown is recommended for viewing by general audiences, including children, thereby defeating and undermining one of the primary purposes of the rating code; and

"Whereas, this problem is one of grave concern to all parents throughout the country and uniformity in legislation at the federal level and in all of the several states is highly desirable, due to the increased interstate travel and mobility of families in these times; and

"Whereas, the health and welfare of the youth of this country should be of paramount importance to the political leaders of the United States and of each of the several states.

"Therefore, be it resolved by the Senate of the Legislature of Louisiana, the House of Representatives thereof concurring that the President of the United States, the Honorable Richard M. Nixon, and the Congress of the United States and the Governors of the several states are hereby memorialized to give vigorous support to the adoption of appropriate legislation to prohibit the advertising by owners or operators of motion picture theatres of movies which are not recommended under the motion picture rating code for viewing by general audiences, including children, at times when the main feature being shown at the theatre is recommended under said code for viewing by general audiences, including children.

"Be it further resolved that copies of this Resolution shall be transmitted forthwith to the President of the United States, the Honorable Richard M. Nixon, and to each member of the Congress of the United States and to the Governors of the several states.

"C. C. AYCOCK,
"Lieutenant Governor and President of the Senate.
"JOHN S. GARRET,
"Speaker of the House of Representatives."

A concurrent resolution of the Legislature of the State of Louisiana; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION NO. 93

("A concurrent resolution to urge and request the Congress of the United States to adopt and the members of the Louisiana delegation in Congress to support legislation providing for the sharing of a portion of the revenues from the federal income tax with state and local governments)

"Whereas, the concept that the federal government should share a portion of the revenues produced from the levy and imposition of the federal income tax with state and local governments has been endorsed by the National Governors' Conference and the National Legislative Conference and such proposal has the support and endorsement of many other public officials, educators and businessmen;

"Whereas, state and local expenditures have increased at a far greater rate than federal expenditures in the last decade, and state and local governments rely primarily on property and sales taxes and forms of taxation other than an income tax as a source of revenue since the field of income taxation is the source of the bulk of federal revenues; and

"Whereas, the trend of expenditures by state and local government will continue upward due to the efforts of states and cities to meet the crisis in our cities and in providing necessary services to citizens; and

"Whereas, statistics indicate that the public throughout the nation disapproves of additional tax increases thus limiting the sources of additional revenues to state and local government; and

"Whereas, while the financial condition of state and local governments has been weakened despite tax increases, federal revenues are increasing on an annual average of approximately six billion dollars; and

"Whereas, federal revenue sharing would provide state and local governments with a continuing, dependable source of revenue which will in some measure relieve these governments of the constant shortage of funds thereby enabling the states to be in a better financial position to provide additional educational, hospital, health and welfare services for their growing populations.

"Therefore, be it resolved by the House of Representatives of the legislature of Louisiana, the State thereof concurring, that the Congress of the United States is hereby respectfully urged and requested to adopt legislation providing for the sharing of a portion of the revenues from the Federal income tax with State and local governments, and that the members of the Louisiana delegation in Congress are hereby respectfully urged and requested to support such legislation.

"Be it further resolved that copies of this resolution shall be transmitted to the presiding officers of each of the two Houses in Congress and to each member of the Louisiana delegation in Congress.

"JOHN S. GARRET,
"Speaker of the House of Representatives.
C. C. AYCOCK,
"Lieutenant Governor and President of the Senate."

A resolution adopted by the Florida Jaycees, Lakeland, Fla., praying for the enactment of legislation to review the status of cancer research appropriations; to the Committee on Appropriations.

A resolution adopted by the Tallahassee, Fla., Women's Republican Club, commending the President for his efforts in South Vietnam; to the Committee on Foreign Relations.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

H.R. 7517. An act to amend the Canal Zone to provide cost-of-living adjustments in cash relief payments to certain former employees of the Canal Zone Government, and for other purposes (Rept. No. 91–1015).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ALLEN:

S. 4077. A bill to repeal Public Law 91–285; to the Committee on the Judiciary.

(The remarks of Mr. ALLEN when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. JACKSON (for himself and Mr. MAGNUSON) (by request):

S. 4078. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Snohomish Tribe in Indian Claims Commission docket numbered 125, the Upper Skagit Tribe in Indian Claims Commission docket numbered 92, and the Snoqualmie and Skykomish Tribes in Indian Claims Commission docket numbered 93, and for other purposes; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. JACKSON when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. MONDALE:

S. 4079. A bill to increase the authorization for annual contributions in aid of low-rent public housing; to the Committee on Banking and Currency.

(The remarks of Mr. MONDALE when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 4077—INTRODUCTION OF A BILL TO REPEAL PUBLIC LAW 91–285

Mr. ALLEN. Mr. President, I introduce a brief and simple bill to repeal Public Law 91–285. I ask unanimous consent that the bill be printed at this point in the RECORD and I send it to the desk for appropriate reference.

The PRESIDING OFFICER (Mr. GRAVEL). The bill will be received and appropriately referred; and, without objection, will be printed at this point in the RECORD as requested.

The bill (S. 4077) to repeal Public Law 91–285, introduced by Mr. ALLEN, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 4077

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 91–285 is repealed.

Mr. ALLEN. Mr. President, Public Law 91–285 is the statute recently debated as H.R. 4249 and the misleading title "to extend the Voting Rights Act of 1965 with respect to discriminatory use of tests and devices."

H.R. 4249 with various amendments became the present ludicrous hodgepodge of new propositions of constitutional law and is now officially designated Public Law 91–285.

In the first place, Public Law 91–285 does not extend the Voting Rights Act of 1965. The Act would not have expired. So, rather than extend the Voting Rights Act of 1965, which would not have expired in the first instance, the law as enacted expands the old law so as to suspend the qualification of literacy as a condition for registration and voting in all States of the Union. I must say that such an expansion of coverage is indeed an extension—not of the Voting Rights Act of 1965, but rather of an alleged power in Congress to proscribe and prescribe qualifications for voting in all States of the Union.

From time immemorial, students of government have believed that the ideal government would be one in which the power to govern is exercised by the intelligent and virtuous. There are some who continue to believe in that ideal. It is true that Public Law 91–285 does not deal with the subject of virtue as a qualification for voting. Certain felons may continue to be deprived of the right to vote. Yet when Congress denies the people the right to establish literacy as a qualification for voting, it has asserted the power to deal with the subject of virtue also, as well as other qualifications for the exercise of the franchise.

For example, one of the amendments attached to the hodgepodge bill which became law, is predicated on the proposition that the Constitution delegated to Congress the power to prescribe residency requirements for voting. Another provision added by the amendment is predicated on the proposition that the Constitution delegated to Congress the power to fix age qualifications for voting at 18, or any other age which Congress may arbitrarily decide upon.

Mr. President, it seems likely that some will try to advance the idea that this law is really aimed at the South and that a little bit of unconstitutional law and a little bit of cynicism and double standards and demagoguery when aimed against the people of the South are justified on political grounds if not by morality and law.

Mr. President, I am no prophet, but I dare say that the majority of the people of the United States are sickened by laws enacted in cynical disregard of the law of the Constitution of the United States. No Senator—no Member of Congress—will seriously contend that the Federal Constitution does not recognize the inherent right and power in the States to determine the qualifications for voting. I am not talking about discriminatory State laws—I am talking about a power supposedly delegated by the Constitution to Congress to fix qualifications for voting. Congress has no such power. The people know that Congress has no such power. Laws enacted without or beyond powers delegated to Congress are nullities. Public Law 91–285 improperly assumes this power in Congress, and it should be repealed.

Mr. President, Public Law 91–285 should be repealed for other and perhaps more compelling reasons that I have already mentioned. This enactment breaks new ground in the area of constitutional theory in that it adopts a new and dangerous method of amending the Constitution. This statute says in effect that regardless of what the Constitution may otherwise say, Congress can propose an amendment to the Constitution in the form of legislation and that such amendment may be ratified and approved by judicial decree. This idea is revolutionary. It does violence to the Constitution.

Mr. President, every Member of this Senate knows full well that the Constitution prescribes only two methods of amendment. Amendment of the Constitution by judicial decree is not one of them. Let it be remembered that debate on the 18-year-old voting age amendment on the floor in the Senate invoked this new method of amendment. It was earnestly urged and strongly advocated that the Constitution could in effect be amended by the enactment of a statute and ratification and approval by the Supreme Court of the United States. This is a dangerous innovation. It should be rejected in principle and denounced by repeal of Public Law 91–285.

Mr. President, at the beginning of these remarks, I mentioned that the bill used as the vehicle for enacting Public Law 91–285 was deceptive. It invokes the idea that masses of voters in the South are disfranchised. Let me elaborate for a moment on this particular point.

Mr. President, according to official returns released last Friday from the Office of the Secretary of State of New York State, only 944,998 persons in the entire State of New York voted last month in the Democratic primary election for Governor. In a similar primary election in Alabama last month, a total of 1,085,783 persons voted for candidates for Governor. Yet, New York State, according to latest available estimates, has a population of 18,321,000—while the population of Alabama is only 3,372,463.

Thus, 140,785 more persons voted in the Alabama Democratic primary election than New York State Democrats did in their statewide primary election.

Also, less than 30 percent of the registered Democratic voters in New York State participated in nominating their candidates for Governor. In contrast, approximately 67 percent of all Alabama registered voters—Democrats and Republicans alike—participated in choosing the Democratic candidate for Governor.

To illustrate further the disparity in voter interest and participation in elections, let me cite a random comparison of recent examples of congressional races in Alabama and in New York. In the congressional district presently represented by Congressman ADAM CLAYTON POWELL, a total of 23, 915 votes were cast for five candidates in the Democratic primary election to choose a candidate to represent that district in Congress.

In contrast, in the Seventh Congressional District in Alabama, a total of 115,108 votes were cast for a single candidate—Congressman TOM BEVILL of that district.

In this connection, I believe that it is worth noting that, according to figures furnished by the Library of Congress, roughly 65 percent of the total voting age population in New York State is registered to vote. In contrast, 85.4 percent of the total voting age population of Alabama is registered to vote. These figures speak volumes about the distorted concept of federalism which seeks to justify denying citizens of the sovereign State of Alabama the fundamental constitutional right to register qualified voters and to conduct its own free and open elections by laws and procedures and principles in force and effect in other States of the Union. The citizens of Alabama and the citizens of six other States of the South are denied this fundamental right because in 1964 they had literacy tests and less than 50 percent of the voting age population of such States were registered to vote or else for good and sufficient reasons failed to vote in the presidential election of 1964.

The cynicism behind this absurd standard for depriving States of their constitutionally protected powers is exposed to public view and to increasing condemnation with each election, such as those I have cited.

Yet, this absurd standard for purposeful discrimination against Alabama and the South has been solemnly perpetuated by this Congress with the blessings of this administration in the enactment of Public Law 91–285.

Mr. President, there is much talk about the danger of polarization. I know of nothing more certain to polarize this Nation than continued application of double standards by which one region of this great Nation is subjected to absurd and unjust discrimination.

Mr. President, Public Law 91–285 is a monstrosity. It establishes a judicial despotism. It pleads the Constitution as the source of its authority to do so. The time has come for a change. The wave of the future is constitutional government. Those who resist that change are in opposition to the vast majority of the people of this Nation. Let us begin that change with the repeal of the monstrous and infamous Public Law 91–285.

S. 4078—INTRODUCTION OF A BILL TO PROVIDE FOR THE DISPOSITION OF FUNDS APPROPRIATED TO PAY JUDGMENTS IN FAVOR OF CERTAIN INDIANS

Mr. JACKSON. Mr. President, I introduce for appropriate reference, for myself and the senior Senator from Washington (Mr. MAGNUSON), by request, a bill to provide for the disposition of funds appropriated to pay judgments in favor of the Snohomish Tribe in Indian Claims Commission docket No. 125, the Upper Skagit Tribe in Indian Claims Commission docket No. 2, and the Snoqualmie and Skyomish Tribes in Indian Claims Commission docket No. 3, and for other purposes.

I ask unanimous consent that the Executive communication requesting the introduction of this legislation be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. SCHWEIKER). The bill will be received and appropriately referred; and, without objection, the communication will be printed in the RECORD.

The bill (S. 4078) to provide for the disposition of funds appropriated to pay judgments in favor of the Snohomish Tribe in Indian Claims Commission docket No. 125, the Upper Skagit Tribe in Indian Claims Commission docket No. 92, and the Snoqualmie and Skykomish Tribes in Indian Claims Commission docket No. 93, and for other purposes, introduced by Mr. JACKSON (for himself and Mr. MAGNUSON), by request, was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

The communication, presented by Mr. JACKSON, is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 10, 1970.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To provide for the disposition of funds appropriated to pay judgments in favor of the Snohomish Tribe in Indian Claims docket numbered 125, the Upper Skagit Tribe in Indian Claims Commission docket numbered 92, and the Snoqualmie and Skykomish Tribes in Indian Claims Commission docket numbered 93, and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration and that it be enacted.

The three awards represent additional payments for lands ceded by the respective tribes under the Point Elliott Treaty of January 22, 1855 (12 Stat. 927), ratified March 8, 1859, which had been concluded with some 22-named tribes or groups "and other allied and subordinate tribes and bands of Indians," located in the Puget Sound area of the then Territory of Washington.

Funds to cover the Snohomish judgment, in the amount of $136,165.79, were appropriated by the Act of May 29, 1967 (81 Stat. 30, 42), and the funds to cover the Upper Skagit and the Snoqualmie and Skykomish judgments, in the sums of $385,471.42 and $257,698.29, respectively, were appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198). Financial statements on the judgment funds are enclosed. The beneficiaries in each of the three awards have been determined to be the scattered living lineal descendants of members of the respective tribes as they existed in 1855. For the purpose of expediting the disposition of these funds, the three awards have been combined in one legislative proposal, as the nature of the claims and the situation of the tribal groups are similar. The general information presented in this transmittal letter is applicable to all four tribes involved in these awards. Detailed information specifically relating to the respective tribes is provided in the background data report which accompanies this letter.

Under the Point Elliott Treaty, four separate reservations were established for all the treaty participants—Port Madison or Suquamish, Perry's or Swinomish, Island of Chah-choo-sen or Lummi, and Tulalip or Snohomish. Many of the Snohomish Indians and a number of the Indians of the other three tribes settled on Tulalip Reservation along with other groups of Indians who participated in the 1855 treaty, and it is where their descendants still live.

The Indians were given an opportunity to obtain land allotments on Tulalip, and 165 Indians were allotted, which included 76 Snohomish, 33 Snoqualmie, 2 Skykomish, and 16 Skagit. There was no indication whether the persons of Skagit blood were Upper Skagit or Lower Skagit. Lower Skagit, a separate tribe, has a claim pending before the Indian Claims Commission.

A number of the Indians who moved to Lummi, Swinomish, and Port Madison received lands on those reservations and have continued to live as members of the respective groups. Through intermarriage and affiliation with other tribal groups, many of them have lost their original tribal identity. An indeterminate number of the treaty Indians have never affiliated with any recognized reservation group and are now widely scattered. It is believed that the majority of them live throughout the Pacific Northwest. Their ancestors chose not to move to the reservations and continued to live in the area where homes had been developed prior to the 1855 treaty. Later, they were given homesteads in fee simple or trust status on the public domain portion of the area occupied by the aboriginal groups. A considerable number of the Western Washington tribes and bands have managed to maintain their identity in some form, either as an organized or unorganized group, banded together for social purposes or to promote business enterprises.

None of the tribes represented in these awards has a reservation which is exclusively its own. There is a group of Snohomish Indians which identifies itself as the Snohomish Tribe of Indians, a group of Upper Skagit Indians which identifies itself as the Upper Skagit Tribe, and a group of Snoqualmie Indians which identifies itself as the Snoqualmie Tribal Organization. These organizations have not been recognized by the Federal Government as tribal entities. They have, however, been recognized for the purposes of prosecuting their land claims against the United States. There is no presently existing organization known as the Skykomish Tribe but among the present-day Snoqualmie tribal membership there are persons who have Skykomish ancestors.

The individual members of these organizations are considered descendants of members of former tribes, rather than present-day members of successor tribes. These organizations do not represent all of the descendants of the respective tribes. The majority of the members of these organizations are persons who have never affiliated with any reservation group. The organizations have membership requirements, but such matters as degree of blood and proof of ancestry, etc., have not been verified. Persons have been able to register if they paid a fee.

The Upper Skagit organization does not include in its membership individuals whom the group considers belong to the Suiattle group. The Upper Skagits feel that because the Suiattle-Sauk separated from the Upper Skagits at the time claims were filed before the Indian Claims Commission, they have no right to participate in the Upper Skagit award in docket 92. The Commission has found that the aboriginal Suiattle-Sauk can be properly classified as Upper Skagit Indians. Information on the Suiattle-Sauk Band is included in the background data report on the Upper Skagit Tribe.

Some 35 tribal groups of the Western Washington area, including 12 tribes of the Point Elliott Treaty group, are represented in 31 separate dockets which were filed before the Indian Claims Commission on behalf of aboriginal tribes and groups, including 6 dockets by non-treaty groups and 25 dockets by participants in 5 separate treaties. A list of the tribes and groups who filed claims with the Indian Claims Commission is enclosed.

The Indian Claims Commission has completed 16 dockets and the remaining 15 dockets are pending in various stages of litigation. Seven of the pending dockets involve Point Elliott Treaty groups, and 3 dockets are of unorganized tribes. We have no estimate as to when they will be finally settled.

So far, there have been favorable judgments in 11 dockets and 5 dockets have been dismissed. Congress has enacted legislation providing for the disposition of judgment funds from 7 awards. Five tribal organizations, which have been recognized as successors in interest of aboriginal tribes, have participated in judgment funds from 4 awards, while funds from 3 awards are to be distributed per capita to living descendants of members of aboriginal tribes as they existed at treaty times.

The Snohomish and Upper Skagit organizations favor distribution of the judgment funds only to persons not affiliated with any other tribal group, and believe persons of mixed-blood should not be entitled to share in more than one award. The specific recommendations of these organizations are discussed in the socio-economic report which accompanies this letter. The documents presented by these organizations in support of their positions are attached to the socio-economic report. The Snoqualmie organization has not expressed itself to the matter of distribution of the judgment funds. Bureau of Indian Affairs field personnel have met with these groups and have consistently informed them that the awards probably would go to all descendants without regard to membership.

Many of the Indians of the Northwest area have blood connections with quite a few other Northwest coast tribes. Such multiple blood ties are common within the membership of many Northwest coast tribes. In all probability mixed-bloods of the 4 tribes involved in the 3 awards can trace their ancestry to one or more of the tribes or bands of the Point Elliott Treaty groups, and possibly to other Western Washington tribes whose claims have been settled or are pending before the Commission. They therefore could claim the right to share solely on the basis of descent in more than one award unless limited by legislation.

Previous judgment disposition acts distributing funds on a descendancy basis to Western Washington tribes contained no restrictions limiting persons of mixed-blood to participate in only one award. Entitlement was solely on the basis of descent and included both reservation-affiliated and non-reservation-affiliated Indians, provided they met the eligibility requirements of the authorization act. We do not propose a change in the class of persons who will be entitled to participate in the distribution of the three awards covered by the draft bill.

We recommend that the scattered lineal descendants be named the beneficiaries of the awards in Snohomish docket 125, Upper Skagit in docket 92, and Snoqualmie-Skykomish Tribes in docket 93. For this purpose, the proposed bill authorizes the Secretary of the Interior to prepare separate rolls of all lineal descendants of members of the respective tribes as they existed in 1855 who meet the eligibility requirements set forth in the proposed bill.

Neither the Tulalip Tribes of the Tulalip Reservation nor the Swinomish Indian Tribal Community of the Swinomish Reservation, as now organized in connection with its reservation, will be the beneficiaries of any claims awards. No tribe or band named Tulalip was a party to the 1855 treaty, and no such band or tribe ever existed. Individual members of these organizations who are able to trace their ancestry to the respective tribes as they existed in 1855 will be entitled to share in the judgment funds.

We have considered the possibility of programing the funds, but find it impracticable since, in each instance, we are not dealing with a tribal group but with scattered descendants. Therefore, the proposed bill provides that the Secretary shall distribute per capita shares of living enrollees directly to such enrollees and gives authority to the Secretary to develop procedures for the disposition of the shares of minors and persons under legal disability.

Information is not readily available on the number of persons who will participate in the distribution of each of the funds. However, the Bureau of Indian Affairs estimates the following number of persons will be on the rolls of the respective tribes: Snohomish Tribe, 2,450; Upper Skagit Tribe, including the Suiattle-Sauk Band, 1,000–1,500; Snoqualmie and Skykomish Tribes 1,000–1,500.

The Indians of the Tulalip Reservation are organized under the Indian Reorganization Act of 1934 (48 Stat. 984), and incorporated under the corporate name of "The Tulalip Tribes of the Tulalip Reservation." Their current membership roll, now under preparation, includes the names of 997 persons, 778 of whom are of Snohomish descent. Of the persons shown to be of Snohomish descent, 185 are also shown as possessing the blood of other tribes, including Snoqualmie, Skykomish, and Skagits.

In 1919, Special Allotting Agent Charles Roblin prepared a "Schedule of Unenrolled Indians," listing tribal groups separately. Roblin's lists included the following number of unenrolled Indians of the tribes involved in these awards: Snohomish, 355; Snoqualmie 251; Skagit 471 (appears to include Lower Skagits). Roblin also prepared a list of Suiattle Indians in 1916, which contains 129 names.

There is no single roll or record of the respective tribes which might be used to trace ancestry. For those Indians who are affiliated with the four treaty reservations, there are census rolls and allotment records which contain the names of persons of the blood of these tribes who may be enrolled with other tribes, many of whom may have lost their separate tribal identity.

The Office of Management and Budget advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely yours,

FRED J. RUSSELL,
Under Secretary of the Interior.

S. 4079—INTRODUCTION OF A BILL TO INCREASE THE AUTHORIZATION FOR ANNUAL CONTRIBUTIONS IN LOW RENT PUBLIC HOUSING

Mr. MONDALE. Mr. President, I am introducing a bill to increase the authorization for annual contributions in low-rent public housing for the fiscal year 1970–71 by $150,000,000. This action is of urgent necessity because the authorizations available to this program are rapidly being exhausted. Unless such an action is taken now, new commitments for the remainder of this fiscal year just begun will come to a virtual end. The new authorization made available on July 1, 1970, has been fully committed, and new contract agreements will have to be frozen for the remainder of this current fiscal year.

The new authorization for public housing which became available on July 1, 1970, will enable the Federal Government to assist approximately 90,000 dwelling units. At the present time, there are pending program reservations for local communities covering some 180,000 to 190,000 units. In addition to these reservations, there are applications pending from local communities for another 250,000 units that have not been processed because of lack of authorization funds. Furthermore, it is anticipated that local communities will apply for an additional 200,000 units during fiscal year 1971.

Mr. President, many local communities throughout the Nation, including many in my home State of Minnesota, have proceeded in good faith to develop plans for badly needed low-income housing. They are being informed that there is not a sufficient authorization for their reservations to be honored, or their applications to be processed. We cannot permit this situation at a time when the housing needs of low-income families are so great.

I would also point out that, over the past few years, the public housing program has demonstrated a greatly expanded capacity to produce housing. Beginning in 1968, public housing production began to increase at an accelerated rate—in fact, in this 1 year, it doubled its production from 37,000 units to 75,000 units. In the fiscal year ending June 30, 1969, over 82,500 public housing units were placed in occupancy. In the fiscal year just concluded on June 30, 1970, the final count of units completed is expected to reach 93,000. The pipeline of demand from local communities has now reached the point where the public housing program can achieve the goal for fiscal 1971 established in the 10-year housing goals adopted by the Congress in 1968 of 190,000 units. But, the pipeline must be kept moving. It requires an additional authorization for this fiscal year.

The additional authorization which I am proposing of $150,000,000 would permit the Federal Government to assist an additional 100,000 dwelling units in fiscal 1971. These units, combined with the 90,000 units estimated to be possible under the existing authorization, would permit the 1971 fiscal year's effort to reach 190,000 units— the target for this year under the 10-year housing goals established in 1968.

Mr. President, failure to provide this authorization would have a debilitating effect on public housing—the only program that is providing housing for truly low-income families. A stagnating period of nearly a year without authorization to proceed could set back all of the hard-won momentum achieved in this program since 1968. The pipeline would be halted, and the enthusiasm of local communities would be cooled.

It is also important to note that this new authority would not destabilize this year's already precarious budget. The new authorizations which I am seeking would simply allow HUD to enter into new contract agreements totaling this amount. The actual expenditure would come in the future and surely not in this fiscal year.

For all of these reasons, I introduce this bill, and ask for its support. Mr. President, I ask unanimous consent that my bill be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. SCHWEIKER) The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4079) to increase the authorization for annual contributions in aid of low-rent public housing, introduced by Mr. MONDALE, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

S. 4079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 10(e) of the United States Housing Act of 1937 is amended by striking out "$170,000,000 on July 1, 1970" and inserting in lieu thereof "$320,000,000 on July 1, 1970".

ADDITIONAL COSPONSORS OF BILLS

S. 3418

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that at the next printing the name of the Senator from California (Mr. MURPHY) be added as a cosponsor of S. 3418, to amend the Public Health Service Act to provide for the making of grants to medical schools and hospitals to assist them in establishing special departments and programs in the field of family practice, and otherwise to encourage and promote the training of medical and paramedical personnel in the field of family medicine.

The PRESIDING OFFICER (Mr. SCHWEIKER). Without objection, it is so ordered.

S. 3724

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Utah (Mr. BENNETT), the Senator from Oregon (Mr. HATFIELD), and the Senator from Kentucky (Mr. COOK) be added as cosponsors of S. 3724 with respect to ammunition recordkeeping. This measure is known as the McGee amendment.

The PRESIDING OFFICER (Mr. SCHWEIKER). Without objection, it is so ordered.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 13, 1970, he presented to the President of the United States the enrolled bill (S. 3430) to amend the Peace Corps Act to authorize additional appropriations, and for other purposes.

OPPORTUNITIES FOR EMPLOYMENT AND TRAINING TO UNEMPLOYED AND UNDERPRIVILEGED PERSONS—AMENDMENTS

AMENDMENTS NOS. 771 AND 772

Mr. CRANSTON. Mr. President, I am submitting for myself, the Senator from Iowa (Mr. HUGHES) and the Senator from Massachusetts (Mr. KENNEDY) two amendments intended to be proposed to S. 3867, a bill to assure opportunities for employment and training to unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes.

These two amendments are designed to provide a clear role for community action agencies in the conduct of manpower services programs. The second amendment also would provide recourse to the Secretary of Labor for a small governmental unit which felt that the manpower program being conducted in the area under its jurisdiction was not adequate. Mr. President, I ask unanimous consent that the text of these amendments be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. SCHWEIKER). The amendments will be received and printed, and appropriately referred; and, without objection, the amendments will be printed in the RECORD.

The amendments (Nos. 771 and 772) were referred to the Committee on Labor and Public Welfare, as follows:

AMENDMENT 771

On page 25, between lines 20 and 21, insert the following new paragraph:

"(4) appropriate arrangements with community action agencies, and, to the extent appropriate, with other community-based organizations serving the poverty community, for their participation in the conduct of programs for which financial assistance is provided under this title;"

On page 25, line 21, strike out "(4)" and insert in lieu thereof "(5)".

AMENDMENT 772

On page 27, between lines 2 and 3, insert the following new subsection:

"(c) An application submitted under section 205 shall not be approved unless an opportunity has been provided upon the request of any unit of general local government or any community action agency for a hearing, upon which basis an appeal may be taken to the Secretary as of right, on the ground that the services provided for in such application for the area served by such unit or by such community action agency are inadequate. If the Secretary, after conferring with the applicant, determines that the applicant will not provide adequate services, then he shall enter into direct arrangements with the appropriate unit of general local government or the appropriate community action agency or any other public or private agency, and funds which would otherwise be available to the applicant for providing such services shall be made available through such direct arrangements."

SETTLEMENT OF CERTAIN LAND CLAIMS OF ALASKA NATIVES—AMENDMENT

AMENDMENT NO. 773

Mr. **JACKSON** submitted an amendment, intended to be proposed by him, to the bill (S. 1830) to provide for the settlement of certain land claims of Alaska natives, and for other purposes, which was ordered to lie on the table and to be printed.

CREATION OF AN OFFICE OF DISASTER ASSISTANCE—AMENDMENTS

AMENDMENT NO. 774—SUBMISSION OF AN AMENDMENT TO AMEND S. 3619 SO AS TO PROVIDE SPECIAL LOANS TO DISASTER VICTIMS TO PREVENT THEM FROM LOSING THEIR HOMES

Mr. **YARBOROUGH**. Mr. President, I submit, for approriate reference, an amendment which would amend S. 3619, the Omnibus Disaster Assistance Act, so as to provide the Small Business Administration with authority to make loans to disaster victims for the purpose of preventing such individuals from losing their homes as the result of the foreclosure or cancellation of any mortgage, lien, contract of sale or lease. This special loan program would be available to those disaster victims who have become unemployed or otherwise so financially burdened as a result of a major disaster that they cannot meet the payments on their homes.

Mr. President, I originally included this provision in my bill, S. 3848, to provide emergency assistance to the victims of the Plainview and Lubbock tornadoes. My experience in working with the problems caused by such major disasters as these tornadoes and Hurricane Beulah has taught me that one of the most tragic aspects of any major disaster is the multitude of financial problems it imposes upon people in the lower income groups. Not only are their homes damaged or destroyed and their possessions ruined, but in many cases their income is either seriously reduced by unusual expenses attributable to the disaster or eliminated altogether. For example, many of the businesses that employed the Mexican American people in Lubbock were either destroyed completely or seriously damaged in the tornado. Consequently, these people were laid off from their jobs and lost what little income they had. Once these people lose their source of income or become overburdened with medical expenses and repair bills, a dreadful spiral begins which often results in eviction from their homes, repossession of their personal property and the ruination of their credit. Having lost everything, disaster victims, such as the Mexican Americans of Lubbock, are forced to leave the communities which have been their homes for many years and become wandering migrants.

The amendments that I am offering today will fill a gap that has existed for many years in our disaster assistance laws and provide the type of relief that will enable many disaster victims to retain their place in the community. As a cosponsor and strong supporter of S. 3619, I feel this amendment will strengthen the bill and broaden its coverage so that it deals with some of the other problems that are generated by a major disaster. A reconstruction or repair loan is of little value to a person who cannot make the payments on his home. I urge the Senate Public Works Committee to incorporate this special loan program as part of S. 3619.

Mr. President, I ask unanimous consent that the amendment which I am offering today be printed in the RECORD.

The **PRESIDING OFFICER** (Mr. SCHWEIKER). The amendment will be received and printed, and appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 774) was referred to the Committee on Public Works, as follows:

AMENDMENT NO. 774

On page 20, after line 24, insert the following new subsection:

"(b) (1) In the administration of the disaster loan program under section 7 (b) of the Small Business Act, as amended (15 U.S.C. 636 (b)), the Small Business Administration, if necessary to prevent the dispossession or eviction of any person from his residence as a result of the foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, oral or written, of the property which is such person's residence, and if such foreclosure, cancellation, or termination is related to circumstances arising out of the effects of a major disaster, shall make such loans for the refinancing of such mortgages or liens and for the payment of installments on such contracts and leases, under the terms and conditions set forth in such section of the Small Business Act as modified by subsection (a) of this section.

"(2) No application for a loan under this subsection which states that such loan is made necessary by circumstances arising out of the effects of a major disaster shall be denied for insufficiency of proof of such statement unless the Small Business Administration finds, and sets forth its findings in writing, that such loan is made necessary by circumstances not related to the effects of a major disaster."

On page 21, line 1, strike out "(b)" the first time it appears and insert in lieu thereof "(c)".

AMENDMENT OF THE TARIFF SCHEDULES—AMENDMENT

Mr. **YARBOROUGH**. Mr. President, I submit for appropriate reference an amendment to amend H.R. 9183 which would provide that upon the exportation of jet aircraft engines that have been overhauled or rebuilt in the United States with the use of imported merchandise, there shall be refunded the duties which have been paid on that merchandise.

According to title 19, United States Code, section 1313, the provision which forms the statutory basis for granting drawback of duties, exported articles manufactured or produced in the United States with the use of imported merchandise deserve a full drawback of the duties paid upon the merchandise.

Mr. President, I believe that the Bureau of Customs has wrongly interpreted this provision by excluding rebuilt aircraft engines from the classification of manufacture or production.

Among other cases, Hackendorf against United States holds that engine rebuilding constitutes manufacture or production under the Internal Revenue Code. So, I believe, should it hold under the tariff provisions.

Moreover, the addition of the subsection for which this amendment calls would place the U.S. aircraft engine overhaul industry at a competitive advantage with foreign companies, to the benefit of the U.S. balance of trade.

Mr. President, I ask unanimous consent that this amendment be printed in the RECORD.

The **PRESIDING OFFICER** (Mr. SCHWEIKER). The amendment will be received and printed, and will be appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 775) was referred to the Committee on Finance, as follows:

AMENDMENT NO. 775

At the end of the bill insert the following new section:

Sec. 3. (a) Section 303 of the Tariff Act of 1930 (19 U.S.C. § 1313) is amended by redesignating subsections (h), (i), and (j) as (i), (j), and (k), respectively, and by inserting after subsection (g) the following new subsection:

"(h) Upon the exportation of jet aircraft engines that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts, there shall be refunded, upon satisfactory proof that such imported merchandise has been so used, the duties which have been paid thereon, in amounts not less than $100."

(b) The amendments made by subsection (a) shall apply with respect to articles exported on or after the date of the enactment of this Act.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 711

Mr. **GRIFFIN**. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Pennsylvania (Mr. SCOTT) be added as a cosponsor of Amendment No. 711 to Senate Joint Resolution 1, to provide for the Direct Popular Election of the President and Vice President of the United States.

The **PRESIDING OFFICER** (Mr. SCHWEIKER). Without objection, it is so ordered.

NOTICE OF MIGRATORY LABOR SUBCOMMITTEE HEARINGS

Mr. **MONDALE**. Mr. President, on behalf of the Subcommittee on Migratory Labor of the Senate Committee on Labor and Public Welfare, announce that public hearings will be resumed on July 20 and 21, 1970, in Washington, D.C.

These hearings will be the eighth in a long series of investigations into migrant and seasonal farmworker powerlessness. In past hearings we heard migrants themselves tell of their own lives, as well as psychiatrists and sociologists analyze the effects of many years of desperation and hopelessness that characterize the farmworker existence.

In other hearings we have investigated the successes and failures of community and union organization efforts, the legal problems of migrants, the border commuter labor problem, the effects of pesticides on farmworkers, and in April 1970, the economic and manpower problems of migrant and seasonal farmworkers.

On July 20 and 21, the subcommittee will again consider the plight of the powerless migrant.

Our first witness will be a team of noted doctors who, under the auspices of the New York Field Foundation, traveled to Texas and Florida to study the health problems and living and working conditions of migrants.

I am shocked and outraged beyond belief by the preliminary reports of these doctors. We find the lives of hundreds of thousands of our fellow citizens manipulated and managed in such a way as to reduce them to sub-human status. We find isolation, anger, frustration and fear among people for whom lives lived on the land could be as rich and as fulfilling as the land itself.

The destitution and exploitation of men, women, and children, horrifying beyond imagination, will be documented in our hearings.

I have asked some of these doctors, among them members of the original team of doctors who in 1967 and 1968 made an inquiry into the extent of hunger and malnutrition in this country, to share their observations with the subcommittee. It is a public scandal to read from their preliminary reports that—

> The conditions they observed in Texas and Florida are worse than those that existed in Mississippi in 1967;
>
> That migrant camps could only be described as "slave quarters";
>
> That the conditions viewed by one doctor were worse than in South America;
>
> That an examination of over 1,000 migrants in Texas revealed that rickets, scurvey, pellagra, and diarrhea were rampant. Polio, for which we have a vaccine, is epidemic; and,
>
> That health services are almost non-existent—a boy going blind was given a urine test and sent home.

I believe that America has its own version of the "tiger cages" of South Vietnam in the migrant labor camps of Texas and Florida and in the stream States where migrants travel to harvest our abundance of food. No other conclusion can be drawn from these reports.

I further believe that it is time for this subcommittee to go further into the causes of this harvest of shame. And we intend to do so.

We will not only look at the deplorable state of health and welfare of the migrant farmworker and his family, but we will investigate who is consciously determined to maintain this condition.

If there are the powerless there are also the powerful. We will find out who is responsible for these conditions. We plan to call upon the doctors, upon Federal and local officials and others to find out which institutions and persons, public and private, Government and agribusiness, are responsible for these conditions. It is time for an explanation. It is time to find out who are the exploiters. Nothing will change until this rotten system is exposed and held accountable.

HUNTLEY CONFESSES

Mr. DOLE. Mr. President, the real Chet Huntley has finally revealed himself to the Nation, and he is nothing more and nothing less than many of us suspected—a part propagandist who has an antipathy for Republicans.

Mr. Huntley made one other thing clear—he is easily frightened by Republicans.

He was not frightened by President Johnson's decision to turn South Vietnam into a major American battleground, but he is frightened that President Nixon is getting us out of that battleground.

He was not frightened by the Johnson policies that led to the worst inflation in this century, but he is frightened because President Nixon is ending that inflation.

Mr. President, those who have held Republican or conservative views have felt over the years that the Huntley-Brinkley report was biased, prejudiced, and not objective.

I believe the confessions of Mr. Huntley indicates his dislike for President Nixon, Vice President AGNEW, and perhaps anyone else who might be associated with the Republican Party. His confessions unquestionably indicate the feelings held by many who report the news, and the fact that they do have anti-Nixon, anti-Republican, anti-conservative views.

In the name of objectivity, and fairness it is perhaps time, after 14 years, that Mr. Huntley has revealed his true colors to the American people. Perhaps his colleague, Mr. Brinkley, will follow his lead.

IS A COMMUNIST GOVERNMENT BENEFICIAL FOR SOUTH VIETNAM?

Mr. DOLE. Mr. President, yesterday the Senator from South Dakota (Mr. McGOVERN) was quoted as saying that President Nixon is determined to keep the Thieu-Ky government in power in South Vietnam because he believes any kind of government, no matter how tyrannical, would be better than a Communist government.

Is the Senator suggesting that a Communist government in South Vietnam would be better than the Thieu-Ky government?

If this is or is not the case, I wish he would say so, that we know where he stands instead of merely knowing where he thinks the President stands.

I would ask the junior Senator from South Dakota a few questions:

Does he think that the Thieu-Ky government is more tyrannical than that of North Vietnam, or North Korea, or Red China, or Albania, or Russia?

Does he prefer a totally anti-American, anti-Western government in South Vietnam to a pro-American pro-Western government?

Does he believe a North Vietnamese victory and a North Vietnamese Government imposed on South Vietnam would mean freedom and justice for the South Vietnamese?

Mr. President, have not we learned anything by watching the Communists over the years? We hear talk of repression in the United States today as riots and rioters go virtually unchecked and unpunished; as pornography invades our movies, our mails, and our homes, as use of dope is rampant, when in fact, repression is almost nonexistent.

The real repression, as always, is in the Communist countries, where to say or write what one thinks means prison or death. Where obedience to the state is mandatory.

Is this the kind of government we should inflict on South Vietnam just because they do not like Thieu?

Mr. President, the North Vietnamese murder and torture as part of their policies, if we can believe Douglas Pike and Stephen Hosmer, two experts in Communist repression.

Mr. President, the North Vietnamese daily torture the wives and families of Americans they hold captive by refusing to give any information about them and by refusing to let them communicate with their loved ones.

Mr. President, in North Korea a similar government tortured the men of the *Pueblo* and before that the men they captured in the Korean war.

In Czechoslovakia, the cruel hand of Red repression lays heavily on a people that had just begun to see the light of freedom. In Russia they are again deifying the cruelest butcher of them all—Stalin. One could go on and on, Mr. President.

For myself, I support the President of the United States. If the South Vietnamese voluntarily choose a Communist government, they are welcome to it. However, we must not be a part of any effort to inflict such a government on them.

ORDER OF BUSINESS

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MONTOYA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS OF SENATORS

ADMINISTRATION EASES IMPACT OF HIGHWAY CUTBACK—LEGISLATION CONSIDERED TO PROHIBIT SHORT-TERM REDUCTIONS

Mr. RANDOLPH. Mr. President, it is my understanding that Federal highway funds for the 1971 fiscal year will be released to the States today in the amount of $4.6 billion. This amount is less than the $4.9 billion in the 1970 budget recommendation.

The decision to authorize spending at this level was reached after considerable discussion with the White House and the Bureau of the Budget. I am informed that the Bureau of the Budget recommended that only $3.6 billion be apportioned, apparently as a device to help reduce overall Federal spending.

Last Wednesday I sent a telegram to President Nixon urgently recommending that there be no reduction in the apportionment below the level authorized by the Congress.

The development of the national transportation system is at a stage that we cannot tolerate any substantial reduction in the obligation of Federal highway funds. Each such reduction aggravates an already serious cost problem and only contributes to the eventual higher cost of completing highway projects previously authorized.

The investment in basic transportation facilities to underpin the economic and social growth of the United States is so important that we must have a continuous spending pattern insuring that minimum levels in the development of these facilities be met each year in an orderly fashion.

I will, therefore, recommend that Congress consider legislation exempting funds apportioned to the States under Federal highway legislation from short-term reductions for budgetary considerations.

VAL DECKER PACKING PLANT, PIQUA, OHIO, IS IN BUSINESS TO STAY

Mr. SAXBE. Mr. President, on June 18 I made some remarks before this body relative to the plight facing the small meatpackers in many of our Midwestern States. I noted that several firms were faced with closing their doors because of what I regarded as unnecessarily harsh Federal restrictions, primarily with regard to physical size and layout.

One of the businesses I said may shut down was the Val Decker Packing Plant, in Piqua, Ohio. Mr. President, I have learned that the information I received with regard to Val Decker was erroneous. The firm has easily been in compliance with all sanitary and architectural requirements and, I am delighted to say, has no intention of closing its doors. So while I continue to maintain that many small packers face unnecessary hardships and may be forced out of business, I am pleased to add that Val Decker appears to be in business to stay. I am sorry that my original information was incorrect, and I am happy to set the record straight.

NATIONAL COMMISSION ON PRODUCTIVITY—A DEBATING SOCIETY?

Mr. PROXMIRE. Mr. President, some commissions are useful, some are not. They are too often set up to avoid an issue or to postpone action. They are set up to give the appearance of action when there is no action at all.

When it was announced, the new Commission on Productivity seemed to have some reason for its existence. It seemed to be a partial answer to the need for an incomes policy and for wage and price guidelines.

But now even that small hope is not to happen.

At best the Commission will merely publish after the fact what has happened to wages or prices in some of the key areas of the economy. And apparently this is to be done with little or no comment. The fact is that we would be better served to give its statistical functions to some group such as the Bureau of Labor Statistics, whose reliability for factual information and the absence of "cooked" figures is noteworthy.

The New York Times editorializes about this matter in its lead editorial today. It states that in naming the members of the Commission, the President appears to have employed the commission device for one of its ancient and least worthy purposes; namely, to stimulate action while in fact delaying or preventing it.

That hits the nail on the head. That is exactly what has been done. Those of us who have been pressing for some small action on an incomes policy, and who initially welcomed this tepid and minor move, are almost entirely disenchanted.

It would be much better if the administrative costs of the National Commission on Productivity were donated to charity.

Mr. President, I ask unanimous consent that the New York Times editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Commission of Productivity

In naming the members of his new National Commission on Productivity, President Nixon appears to have employed the commission device for one of its most ancient and least worthy purposes: to simulate action while in fact delaying or preventing it.

With 23 members representing the Nixon Administration, business, labor, and the public, the body seems designed to function as nothing more than a high-level debating society. Presumably there will be someone to manage its activities, but the President did not even name a chairman for the commission; its chairmanship will rotate among the five Administration officials. However, any commission that hopes to produce significant results in this controversial field needs a strong, active, and dedicated chairman, such as the British found in Aubrey Jones as chairman of their National Board for Prices and Incomes.

The over-all cast of the commission is conservative and opposed to Government intervention in any particular wage or price decision. Mr. Nixon nevertheless hopes that it can help the nation achieve "a balance between costs and productivity that will lead to more stable prices." This may be mildly interesting to two of its most important members, James Roche, chairman of General Motors, and Leonard Woodcock, president of the United Auto Workers, but it is unrealistic to suppose that these two men would be willing to see general principles or platitudes related to the collective bargaining in which they soon will be locked and which will be so crucial to the future course of the United States economy.

Now that the Productivity Commission has been named, it is clearer than ever that the basic inflation problem in this country still demands a genuine national incomes policy not more truisms about the significance of rising productivity for price stability.

Even without getting involved in specific cases, however, the commission could do one useful job if it helped to scotch the idea that all the Government needs to do to keep prices stable is to slow the economy down and increase unemployment. The stagnation of productivity in the past year has been a consequence of the governmentally induced recession, not an unfortunate coincidence.

This lag in producticity, combined with a strong push by labor on the wage front, boosted unit costs of production steeply and fed inflation. Powerful corporations put through big price increases in the face of weak markets in order to protect their profit margins.

If the Nixon Administration can be helped by commission studies to see that a sluggish economy may aggravate, not solve, the inflation problem, it might make one important contribution to education on productivity. At this point, however, it appears more likely that the President is looking to the commission to give him some political protection rather than criticism of his Administration's fundamental economic policies.

ADDRESS BY STEVE BURKE, EUSTIS, NEBR., HIGH SCHOOL

Mr. CURTIS. Mr. President, there are those among us who deplore and abhor the lack of understanding which some young people are showing toward our Nation, its accomplishments, its challenges, and goals for the future.

I speak today for the opposite reason—to praise a young man and express my confidence that he speaks for the great mass of Americans in whose hands the future of the Nation rests.

I commend to you, Mr. President, and to all the Members of the Senate the perceptive, constructive views expressed by Steve Burke, 16, a senior at Eustis, Nebr., High School, who is one of two Nebraska winners in the National 4-H Oratorical Contest.

It is with deep respect for his oratorical and his writing ability as well as his perception that I ask unanimous consent to have printed in the Record the text of Steve's speech as reprinted by the Cozad, Nebr., Tri-City Tribune.

There being no objection, the address was ordered to be printed in the Record, as follows:

Eustis Boy's Winning 4-H Speech

(By Steve Berke)

Young people today want to change the world. This revolutionary desire is expressed in their discussions, writings, and music. A recent song by the Beatles says it this way:

"You say you want a revolution.

Well, you know, we all want to change the world.

You ask me for a contribution.

Well, you know, we all want to change the world."

The contribution which each of us makes will determine whether change is constructive or destructive. We have to decide what kind of revolution we want to be a part of.

One plan for revolution which confronts us today was devised over one hundred years ago—by a man named Karl Marx. He believed that employers in the capitalistic system of free enterprise oppressed the common laborers. Therefore he urged workers to unite and revolt. Today, the revolution that he envisioned has become a reality in parts of the world. Based on the economic principles and philosophies of Marx, the Communistic system which has evolved restricts and controls the personal freedom of the people it governs. Over one-third of the world's population, more than one billion human beings are ruled by Communism. And the revolutionary conquest is being conducted actively today in Southeast Asia, Korea, the Middle East, and Eastern Europe. Communists definitely have control of the world as their goal, a fact which they do not even try to hide.

But how would Communist revolutionaries try to overthrow a powerful democratic government like that of the United States, our own nation? The infiltration and guerrilla warfare methods used on small countries would probably not work. Nor would an all-out nuclear war, which would be disastrous to the Communists themselves. Nikolai Lenin, the founder of the Soviet Union, once stated the Communist plan. "First we will take Eastern Europe, then the masses of Asia, then we will encircle the United States, which will be the last bastion of capitalism. We will not have to attack. It will fall like an overripe fruit into our hands." The main Communist objective right now is to cause deterioration within our country, to make America an overripe fruit. This objective is to be accomplished through the implementation of a step-by-step plan, the Communist Rules for Revolution.

The Rules for Revolution were obtained from a known member of the Communist party in the United States, who acknowledged them as being the Communist program for overthrowing our government.

The very first rule on the list, indicating that its enactment is of prime importance to the Communist plan, deals with the youth. "Corrupt the young, get them away from religion. Get them interested in sex. Make them superficial, destroy their ruggedness."

Is this the standard of change we want for young people? Not if we care about our nation and the world of the future. And if we do care, we should show our concern through action. Each of us can make his contribution to world change by beginning a counterrevolution, to make a positive change for the better. 4-H Club work can be a key part of the counterrevolution for youth. Because, while the keynote of the Communist rule is corruption, the 4-H motto is "to make the best better," to build what is good rather than to tear it down. For example, Communists want superficial youth but 4-H teaches boys and girls to be independent workers, who can feel a sense of accomplishment upon the completion of a project. Communism also encourages immorality and an unhealthy attitude toward sex, but members of a 4-H Club learn to establish wholesome relationships with members of the opposite sex as they work and play together. The things which all 4-H'ers pledge—clear thinking, loyalty to country, service for others, and better living—are real constructive contributions to world change. As 4-H'ers, parents, and leaders, we can do our part by encouraging young people to join 4-H Clubs, and then to actively participate and make 4-H the building youth organization it can be.

There is another Communist Rule for Revolution which concerns us as individuals.

"By specious argument cause the breakdown of the old moral virtues: honesty, sobriety, continence, faith in the pledged word, ruggedness."

In other words, the goal of this rule is to replace personal ethics with perversion. Lenin, the late Soviet leader, tells us how to counteract this Communist guideline. He once said, "Marxism cannot be conceived without atheism." A strong faith in God is ruinous to Communist hopes of revolution, because faith gives each individual the power to resist the deteriorating changes which Communism wants. Faith enables us to preserve honesty and ruggedness, even in the face of pressure. If each person would reevaluate and practice his belief in God, downgrading Communist revolution could be defeated.

The challenge to rebel and revolt is clearly all around us today. Do we want change dictated by the Rules for Revolution, to make youth corrupt and destroy our personal morals? Or are we going to build a counterrevolution, in which each of us makes an effort to work with and guide young people through such worthwhile organizations as 4-H Clubs, and in which we let the strength of God guide us in whatever we do? These two things will help other people and make us better individuals. Let's start this counterrevolution. Then we can look to the future with assurance, knowing that our contribution to change will make our nation and the world a better place to live.

TURNAROUND IN THE ECONOMY

Mr. DOLE. Mr. President, in the "business roundup" of the July issue of Fortune magazine, the staff economists observe that the Nation is successfully turning from an economy based on defense and business investment to one directed more toward consumption, housing, and social welfare. In its forecast for the next 18 months, the article projects a trend toward an accelerating recovery and the retardation of inflation by increased productivity. This is further indication that under the Nixon administration we are working our way out of the problems of deficit spending during 8 years of Democratic administration.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GREAT TURNAROUND

The U.S. economy has turned the corner on its 1970 readjustment. National output began to expand again last quarter, after erosion of nearly - percent in real G.N.P. between last summer and last winter. Roundup forecasts that real economic growth will accelerate over the next eighteen months, to an annual rate of nearly 3 percent in the next half year and a little better than 4 percent during 1971. Expansion will continue to speed up in 1972, and indeed the 1971 rate may be pushed higher by a turn early next year to a more expansionary fiscal-1972 budget.

For 1970, G.N.P. still promises to total about $980 billion, as Roundup forecast in January, but with two or three billion less than forecast in real output and about as much more in extra inflation. G.N.P. in current prices promises to pass the trillion-dollar rate before year-end and to total $1,050 billion in 1971. While the 1970 rise in G.N.P. will be almost all attributable to inflation, half of next year's larger rise will represent an advance in real output.

It seems clear that—without either stumbling into a deep recession or renewing the inflationary boom—the nation is successfully negotiating a massive redeployment of priorities and resources, from an economy based on defense and business investment to one directed more toward consumption, housing, and social welfare. This grand reshuffle, netting out to a new balance rests on a series of major economic turns that have sometimes been obscured in recent weeks by more dramatic headlines. Despite Cambodia, defense production has declined at an accelerating pact, and so it will begin to level out next year. Despite outsized reports of spending plans, business has already begun trimming its investment purchases to fit its shrunken needs (and funds), and will continue to do so next year. Despite the stock market, consumers have increased their purchases of goods as millions of people benefited from fatter federal checks or thiner tax withholdings, and this too, will continue. And despite the congestion in financial markets, new housing funds have flowed into a sharp rise in building permits, which presages an immediate start on a long recovery in home building.

In reflection of these shifts, final sales of goods have leveled out, so inventory buying has for the present settled to a replacement basis, following a $10-billion cutback in the accumulation rate between last summer and last winter. This inventory cutback pared over-all G.N.P. then; and the ending of the cutback is what allowed the uptrend in services to lift G.N.P. last quarter. As sales strengthen, business will gradually increase its inventory buying.

The inventory swing, as usual, has been felt less heavily in G.N.P. than in the FRB index of industrial production, which went from a high of 174.6 last July to 169 in May. But the decline may well have stopped there. The index should move back up to 171 or so by the year-end, go on to a new high next spring; and be pushing 180 before the end of 1971.

PRODUCTIVITY COMES ALIVE

The signal economic fact of the spring, however, had to do not with the new strength in demand, but rather with the new strength in supply—which Roundup last January tagged as "fundamentally a larger concern for 1970." Productivity, or output per man-hour, rose sharply, for even as over-all output advanced, employment declined. On the basis of the preliminary May data, Roundup estimates that productivity in the private economy rose a full 1 percent last quarter alone. This follows nearly two whole years in which productivity failed to show any net advance at all, the longest such period of the postwar era. If events now follow the patterns of the past, productivity should resume its average annual advance of 3 percent.

Good news about productivity is of course good news for prices—though temporarily bad news for unemployment. Through last winter, with hourly wage compensation rising at a rate of some 7 percent a year but hourly productivity stagnant, labor costs inevitably went up 7 per cent a year and inflation accelerated to a rate of over 5 percent. But inflation has been slowing since then, most obviously in wholesale prices—down to a 1 percent rate between February and May. In cutting payrolls, business has been intent on getting costs down in order to get profit margins up, but the paring will also be reflected in a slower rate of increase in prices. If a productivity gain of 3 percent does occur, partly offsetting the rise in wages, the rise in labor costs will slow to a 4 percent rate. Roundup expects the inflation rate to drop below 4 percent before the end of the year and to abate further during 1971.

On the heels of the payroll cutting, unemployment has reached the 5 percent level months ahead of time. It would ordinally tend to rise fractionally over the rest of this year and into 1971, so long as economic growth remains below a 4 percent annual pace, and only begin to subside as the economy approaches 1972. True, unemployment is being held down to the extent that marginal workers are leaving the labor force as work gets hard to find. On the other hand, unemployment is being pushed up by extra productivity gains. Both factors may continue to operate for some time, working in opposite directions, and changes in the official unemployment figures will largely depend upon which of these two factors is stronger.

If unemployment does rise above 5.5 percent, say, it may well take over from price inflation as the bellwether index for the economy and economic policy. What President Nixon likes to call his "activist Administration" will have opportunity next winter to take advantage of any such extra slackening in the labor market and, presumably, in the inflation rate. He could give a more expansionary tone to the federal budget for fiscal 1972 than is in prospect right now on the basis of what he has so far announced.

The Federal Reserve, needless to say, will also be reappraising policy, in the light of trends not only in prices and unemployment but also in the budget and the U.S. official balance of payments, now in continuing deficit. Over the past six months the Fed has effected a transition in policy, which proved, as Roundup put the matter in January, "difficult to effect smoothly, for technical as well as psychological reasons." On several occasions this spring the Fed has been pressed to supply liquidity to thirsty and sometimes panicky markets (which indeed still have major Treasury financings to face in the weeks ahead). At times the money supply has run up—though not bank credit, to a proportionate extent—and then come part way back.

But when it can, the Fed seems likely to settle down to growth rates on the order of 5 percent for money and 8 percent for credit—rates that the January Roundup suggested might be normal under present circumstances. Short-term interest rates, already down a percentage point from peaks of six months ago, should head down again in 1971. Long-term rates, which have gone on up once more to new historic highs, should start a gentle decline before very long.

The malaise that hit financial markets in the spring, while not altogether unexpected, nonetheless proved unsettling to say the least, and had some effects in shaving business prospects. During a liquidity squeeze, there is always a risk of a chain reaction that could undercut business spending even further from the reduced levels projected here. But the worst seems to have passed, particularly as the Fed is supplying some liquidity.

There is no guarantee, of course, against a nasty surprise from some quarter—e.g., the Penn Central bankruptcy last month. But on balance, even if the pace won't be exciting for a while, the economy appears to have come through a spring of turbulent transition surprisingly well.

DEFENSE

The real volume of purchases of goods and services for national defense will decline about as much in the coming eighteen months as in the past eighteen—$20 billion in all over the three years, to the lowest levels since 1965. The sharpest part of the drop is under way now, indeed with virtually all the cutbacks in procurement to be completed this year. In current-dollar terms, owing to two pay increases and other inflation of costs, the spending rate has eased by only $2 billion over the past eighteen months; it could go off by $6 billion in the next eighteen, unless military pay is raised substantially in a move toward a volunteer army.

BUDGET

The federal budget moved into deficit over the past eighteen months, but it will move back toward surplus over the next eighteen. The past economic effect has tended to be stimulative, and the coming one will be somewhat restrictive.

Leaving aside the temporary outflow last quarter for retroactive pay and pension rises, spending went up some $19 billion in the past year and a half and will go up at least $17 billion in the next year and a half. Declining defense outlays would account for any difference. Nondefense spending, up by a rate of over $20 billion (or 20 percent) in the past period, will go up a bit more in the next—assuming passage of the new $5-billion welfare program.

On the revenue side, losses from the surtax termination and tax reform will be largely offset by increases in the social-security tax, in employment tax rates, and the payroll base on which these rates are assessed. With little or no net tax cutting and a modest economic recovery, the rate of revenues should rise $22 billion, twice as fast as in the past year and a half.

Recently the federal deficit was running over $10 billion a year, on the national-income basis (including the $5 billion in retroactive checks). The budget should be in rough balance for fiscal 1972, even though the economy (and so revenues) will probably be well below full-employment levels. This is not a likely context for new taxes next year unless the Administration or Congress comes up with spending increases far beyond anything so far indicated.

Capital goods

Spending for new plant and equipment, now running over $100 billion a year, turned down in real terms last winter, and the decline continued last quarter, with investment in machinery and commercial structures particularly weak. Roundup projects that the volume of investment will continue to recede over the next eighteen months, at an average annual rate of about 5 percent.

Recent spending has been running some $5 billion below the rates indicated by autumn surveys of business plans. A new survey last month turned up another set of goals that will prove to be too high by a similar amount. In current dollars—i.e., including the inflation of costs—spending this year will be up 4 percent from 1969. Next year spending will be off by 2 percent from 1970. With profits down and borrowing costs very high, many companies cannot finance new plant. Even more important is the burden imposed by rising excess capacity amid economic slowdown.

The picture is most dramatic in manufacturing, which accounts for more than a fourth of investment and will account for most of the retrenchment. Use of factory capacity last quarter was less than 79 percent, down 13 percent from the extraordinary peak of 1966, and the lowest since the 1961 recession, yet manufacturers were still adding 5 percent annually to their capacity. They will cut back to perhaps half that much by late next year, when utilization may still be no higher than now.

Electric and communication utilities, however, will be increasing outlays (now $20 billion). When they begin to level out spending, in a year or so, investment by stores and other commercial enterprises (now $17 billion) should be recovering.

By late 1971, on balance, growth in total capacity will be running at a rate of about 3.5 percent, down from 4.5 percent at present. A rate of 3.5 would be below the economy's potential long-term growth rate, and so an upturn in capital goods can be visualized for some time thereafter.

Inventories

After a $10-billion cutback between last summer and last winter, inventory buying appears to have stabilized at next-to-nothing levels. The liquidity squeeze *might* cause liquidation, but a shifting about of buying rates among a number of industries helps assure against a sudden turn toward general liquidation on any sizable scale. Car-dealer stocks fell in the first quarter but rose in the second, and will be up this summer. They may go down again in the autumn if there is an auto strike, but hedge buying of steel will start then in preparation for a possible steel strike in 1971. In the meantime the arms and capital-goods industries have already begun liquidation.

While inventories and sales are both stable now, the over-all stock-sales ratio is on the high side, about 3 percent above year-ago levels, and this will operate against any resurgence of heavy buying. Roundup projects that, as final sales gradually quicken during the next eighteen months, business will work off about half of this extra stock, even while gradually increasing inventory buying. Some industries such as construction will be needing more while others—e.g., aerospace—will still be working down surpluses. The over-all buying rate may be $5 billion better than now at the end of 1971, and still going up into 1972.

Credit

Credit conditions have begun to ease in recent months, and they will continue to ease over the next year and a half. Corporations will maintain on balance about the same rate of investment in plant and inventory together, while internal funds from profits and depreciation will increase substantially. These trends will reduce needs for external funds. Meanwhile, however, more funds will be going to finance Treasury borrowing, local government flotations, and a rising tempo of housing activity.

Funds are still in heavy demand to improve liquidity—e.g. to enable some corporations to shift from commercial paper to bank loans. The Fed has already been supplying more credit, of course. The various credit statistics have been rather mixed in their message over recent months and may well stay confused for a while until the trends sort themselves out. No serious questions of monetary policy are on the horizon, but the matter of pace may become more of an issue again by next winter.

Short-term interest rates will tend to stay firm through coming weeks of Treasury borrowing, and seasonally they tend to firm up at year-end, but there should be another decline by next spring. Long-term markets have obviously been under great pressure from demand, but this will gradually moderate, and so will inflationary expectations. And as they do, long-term rates will tend to come down again, not abruptly but perhaps soon.

Housing

Residential construction has already begun a long boom that will add well over $5 billion to the volume of building activity by the end of 1971, and more thereafter. After falling by some 600,000 from the peak in January, 1969, to below 1,100,000 this past January, the annual rate of private new housing starts recovered to 1,200,000 in May. Roundup projects a powerful surge, carrying before next year-end to new highs of over 1,800,000.

A giant springtime increase in the flow of savings to thrift institutions solved one industry problem, availability of money, and April–May housing permits already indicate that a 1,400,000 rate will be reached by autumn at the latest. In reporting to Fortune's semi-annual survey last spring, builders said that they expected to make a fast comeback—and Roundup thinks they should do nearly as well as in the 1966–68 recovery. A remaining question is whether they can expand their organizations in time for a record effort in 1971.

As for the market, demand for space is today more urgent than at any time since the end of World War II. Vacancy rates are low and household formations are at a record level. This demand is being undercut to some degree by housing costs—resulting from the pyramiding of high money rates atop soaring building costs. But Roundup expects that mortgage rates will gradually come down through 1971. And federal housing agencies are now rapidly expanding various programs to help subsidize interest costs, which will underwrite a major building upsurge well into 1971.

Prices and wages

Inflation ran to more than 5 percent in the over-all G.N.P. deflator during 1969, and the pace rose above 6 percent in the first quarter, pushed up by the retroactive federal pay raise. But that was the peak. Roundup estimates the rate of rise during the spring at 4.5 percent or less, and there are other signs of improvement. The rise in retail food has slowed a lot, and the Department of Agriculture looks for little change the rest of the year. And the lift in productivity last quarter should help slow inflation too. In manufacturing, the improvement in productivity since last December has actually kept unit labor costs steady in the face of rising wages.

Two opposing forces are tending to keep the 1970 rise in hourly labor compensation at or below the 7 percent annual rate of the past two years. More union workers this year are winning larger settlements than before, and deferred increases under contracts signed earlier are larger to. But the softening labor market is holding down other labor costs—overtime pay, nonunion wages etc. And the longer unemployment stays high, the larger this constraint tends to become, even in union settlements. Now that productivity seems to have resumed its winning ways, pressures on costs and prices will subside even if hourly wage rises do not. Last year there was no gain in productivity to provide an offset to wages, and prices soared even as profit margins shrank. As productivity resumes a 3 percent yearly rise, margins can widen and still price rises can moderate. For 1971, Roundup's guess now is that inflation will slow to less than 4 percent for the year, and possibly to a 3 percent rate before year-end.

Income and savings

With higher prices and taxes making inroads, real disposable income grew at a moderate rate during 1969—2.5 percent a year. But income has just risen by 2.5 percent or so in the first two quarters of 1970 alone, thanks to lower taxes and higher federal pay and pensions. Over the next eighteen months as a whole, the economic growth Roundup projects would by itself push up real income at an average annual rate of 3 percent. And there will be further federal largess, including the surtax cut now and the welfare program in late 1971.

Consumers at first put some of their income windfalls into savings, of course. The savings rate temporarily rose last quarter to 7.2 percent of disposable income, up from the 6.5 percent average of the three prior quarters—and, indeed, several prior years. In the coming period, savings will fluctuate, but the trend will be down—the rate will go below 6.5 percent—because of higher unemployment and an easing of credit availability.

Consumer spending

Purchases of consumers goods, a $225-billion item, held steady in real terms for three quarters ending last winter. This volume rebounded by 1.6 percent in just the spring quarter. Roundup projects a further rise of 1 percent a quarter for the rest of 1970, and an increase in the quarterly growth rate to 1.5 percent by late next year. This summers' car sales may be particularly strong if consumers decide to stock up in anticipation of a strike in early autumn. The car market has still to catch up with its longterm normal levels, and new 1971 small-car models should provide some lift. Home-goods sales, already rising again after a poor 1969, should do well in 1971.

The volume of food purchases, presently $126-billion a year, will go up. The Department of Agriculture's data suggest that supplies will be increasing, and they'll be needed, to the tune of 3 percent a year, in part to meet the expansion of food-stamp and welfare programs. The volume of consumer services purchased, now at the $262-billion rate, has lately shaded below its 4 percent annual uptrend, but should get back on trend during 1971.

The balance of payments

The U.S. trade balance has improved modestly over the past year, by a couple of billion in the annual rate, and is now in the black by about $2 billion. The trade balance usually benefits when a business slowdown here curbs imports while continued strength in business abroad helps exports (e.g., steel). With economic growth trends here and abroad likely to be more similar in the period ahead, the trade balance should be more stable.

Meanwhile, the over-all U.S. balance of payments is running in heavy deficit, both on the usual "liquidity" calculation and on official settlements. The gap may be $6 billion for 1970, on both accountings. Economists are tending increasingly to attribute this weak performance in the official balance of payments to the difference between government credit policies at home and those abroad. Governments abroad are leaning more to restraint of inflation, even as U.S. credit policy has loosened up somewhat; as a result. Unless the U.S. price performance improves greatly, the pile-up could prompt pressure on U.S. monetary authorities. This could be a check on credit policy in 1971.

A TRIBUTE TO FRANCES PARKINSON KEYES

Mr. McINTYRE. Mr. President, I was deeply grieved this week to learn of the death of the great American authoress, Frances Parkinson Keyes. Mrs. Keyes enriched our culture and her passing leaves a void in the American literary world.

Out of my personal respect for Mrs. Keyes, wife of the late Governor of New Hampshire and U.S. Senator, Henry Wilder Keyes, I would like to reflect for a few moments on some notable aspects of her life and career.

Born at the University of Virginia, where her Boston-bred father was a professor of Greek, Mrs. Keyes was tutored by a governess and later attended Miss Carroll's School and the Windsor School in Boston, Mass., and Miss Dardelle's School in Switzerland.

Frances Parkinson Keyes was an associate editor and travel columnist for Good Housekeeping from 1923–35 and edited the Daughters of the American Revolution National Historical magazine from 1937–39.

She wrote 16 books before Fielding's Folly—1940—made the best seller list. There were 28 more to follow on religious subjects, romance and adventure, cooking and travel, and several published diaries, especially Letters from a Senator's Wife—1924—and Capitol Kaleidoscope—1937. Her most famous novels were River Road—1945—Came a Cavalier—1947—Joy Street—1950—and Dinner at Antoine's—1948. All grew out of her great sensitivity to and awareness of people and places. When not writing at her New Hampshire home, Pine Grove Farm in North Haverhill, she traveled extensively each year to Europe or Latin America where she was able to communicate easily in any of her four languages.

Mrs. Keyes was active in the National Society of Colonial Wars, the National Society of Colonial Dames, the Fragment Society—Boston, Sulgrave Club—Washington, D.C., the Orleans Club—New Orleans, La., as well as the National Women's Press Club, National Society of Women Geographers, and the American Society of the French Legion of Honor.

This elegant, sophisticated favorite among Washington society cultivated her interests in the reconstruction of old houses and collecting costumes, fans, old maps, and veilleuses while always holding uppermost her roles in public life as an authoress and as the wife of a U.S. Senator. Of the latter role she wrote in "Letters From a Senator's Wife":

> Almost the first question asked about a man holding public office is naturally enough, "Well, what sort of man is he?" And the next question, nowadays, seems to follow quite naturally, "Well, what sort of wife has he?" The importance of a woman's place in her husband's career cannot be overestimated; this has always been known; now it is not only known, it is acknowledged. No woman in the country today has a greater opportunity than a Senator's wife. No woman shares a greater responsibility. p. 14.

A responsibility she embraced and fulfilled splendidly. From the same diary:

> I have been out on my balcony to get a little breath of air before I finish this letter and say goodnight. It is very hot, but there is a slight breeze from the South, the stars are out, and I can see the statue of Jeanne d'Arc that I love so shining in the moonlight in the park across the street. The Washington Monument with a searchlight falling full upon it, glistens like snow against the soft dark sky. The dome of the Capitol is illuminated, and at the very top of the special globe, which shows that the Senate is in Session, is still burning. And it is midnight! p. 239.

She spoke with understanding of the various roles of women, and, particularly, those who contribute without recognition. On Memorial Day, 1922, she wrote:

> And in doing the best we can, on this and every other day lies, I believe—and believe it more and more firmly the older I grow—the real test of success. It may not take a man, as it took Lincoln from a log cabin to the White House; it may not take a woman from a farmhouse to a palace; but it takes them somewhere. If they know in their hearts that they are doing their very best, I do not think that it particularly matters whether anyone else knows it or not. We are altogether too prone to forget the balm that comes from a clear conscience, and worry over 'What will people say?' The woman who sings a great song or writes a great poem receives more recognition, of course, than the one who cooks a good dinner, or makes a simple garmet well, or nurses a sick child back to health; but she does not deserve any more. I am sure that 'the end will be all right' for one as well as the other. p. 277.

Not so with Frances Parkinson Keyes. She was well recognized for her excellence. Her honorary degrees included a Litt. D.—doctor of letters—from George Washington University in 1921, another from Bates College in 1934, and an L.H.D.—doctor of humane letters—from the University of New Hampshire in 1951. She received the Siena Medal as outstanding Catholic woman in the United States—1946—and the Diploma of Amis de Samour—1948.

She was presented the Medal of Honor of the General Council of the Seine—1950—for work as a novelist and journalist and friendship for France, the Silver Medal of French Recognition—1951—in recognition of aid in the reconstruction of the Abbey of the Benedictines at Liseux, France, and the Legion of Honor—1962—for work in France.

For her book, "Bernardette of Lourdes," Mrs. Keyes received the Christopher Award—1953—and in recognition of work in Spain she was awarded the Order of Isabella the Catholic—1959.

Indeed, the most fitting remembrance of Frances Parkinson Keyes was left by the author herself, the great legacy of her work.

Her books, the profiles and portraits of our life and times which they created, reflect the image of their authoress; the perceptive, productive, adventurous great lady and fine American, Frances Parkinson Keyes.

CAPTIVE NATIONS WEEK

Mr. ALLOTT. Mr. President, this week, in accordance with a joint resolution passed by Congress in 1959, we are observing Captive Nations Week.

This is the week, each year, when those of us fortunate enough to have been born free, and determined enough to have remained free in a very dangerous century, paused to consider the fate of those less fortunate.

It is for us the fortunate to consider the fate of 100 million East and Central Europeans who today are suffering as they have suffered in the past under Communist despotism.

This is the week in which we should rededicate ourselves to improving the fate, and working for the final liberation of the brave peoples who did not receive liberty at the end of World War II, the people for whom the ending of one despotism signaled the advent of a new despotism. These are the people for whom this year, marking as it does the 25th anniversary of the end of the Second World War, has a specially bitter meaning. These are the people whose many sacrifices have been most poorly rewarded.

Mr. President, whenever we are told the cold war is over, and that continued concern for the peoples in the captive nations is dated and irrelevant, we should remember two things. We should remember the cold, hard number of 100 million. That is the number of men, women, and children who today still suffer from Communist domination in European nations which by all rights should be free.

Moreover, we should remember the vivid newsreel films of Communist tanks rumbling through the streets of Prague 2 short years ago.

If we remember these things we will not be tempted to doubt that, from the point of view of those 100 million human beings who still suffer so much, the active support and concern of free peoples is very much a source of hope in their dark night of tyranny.

For this reason I am proud to join with other Senators, and with all Americans, in expressing renewed dedication to the cause of freedom in the captive nations.

GROWING SUPPORT FOR GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in recent months there has been a groundswell of support for the ratification of the convention on genocide. Many groups throughout the United States have expressed their support for immediate ratification of the treaty. On April 27, the United Methodist Church presented testimony to the Special Subcommittee on Ratification of the Genocide Convention of the Committee on Foreign Relations and urged ratification of the treaty.

I ask unanimous consent that the statement be printed in the RECORD as a further indication of the need for speedy action on the genocide convention.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

The churches of the United States were deeply shocked and aroused by the terrible toll in suffering and death inflicted by the Nazis upon the Jewish people of Europe and upon other racial, ethnic, national and religious groups just prior to and during World War II. These actions were highly offensive to the religious conviction that, as creatures of God, all persons are possessed of essential human rights which are inherently theirs and which no government or group has the right to violate.

Therefore, The United Metholist Church and its predecessors (The Methodist Church and The Evangelical United Brethren Church) have consistently supported the protection of human rights internationally as well as nationally. The following statements are the position of The United Methodist Church as set forth by the General Conference, the highest authoritative organ of the denomination, The General Conference of The United Methodist Church is a representative body composed of some 1,000 delegates equally divided between laymen and clergy.

"We commend the United Nations for its success in reconciling differences, promoting human rights, lifting the levels of health, education, and welfare, and advancing self-government among the nations . . .

"We urge the early ratification by all nations of the fourteen conventions on human rights developed and approved by the United Nations or its specialized agencies . . ."

Adopted by the General Conference of the United Methodist Church, Dallas, Texas, May 9, 1968.

An earlier statement of the General Conference of one of the predecessor denominations, The Methodist Church, is even more specific:

"We urge the early ratification by all nations of the conventions on human rights developed and approved by the United Nations, including: The Genccide Convention, The Convention on the Abolition of Slavery, The Convention of the Political Rights of Women, The Convention on the Stateless Person, The Convention on the Abolition of Forced Labor."

Adopted by the General Conference of the Methodist Church, Pittsburgh, Pennsylvania, 1964.

In the light of the preceding statements, we join in urging the Senate Foreign Relations Committee and the Senate as a Whole to consent to the accession of the United States of America to the Convention on the Prevention and Punishment of the Crime of Genocide.

Bishop Charles F. Golden, President, A. Dudley Ward, General Secretary, Board of Christian Social Concerns of The United Methodist Church.

Bishop Lloyd C. Wicke, President, Tracey K. Jones, General Secretary, The Board of Missions of The United Methodist Church.

Transmitted by the Board of Christian Social Concerns, 100 Maryland Avenue, N.E., Washington, D.C. 20002.

THE ECONOMY

Mr. DOLE. Mr. President, for the past 18 months, President Nixon has been transforming the American economy to a stable peacetime equilibrium. He has attempted to bring fiscal responsibility to the economy he inherited after years of deficit financing and war under the Democratic administrations. He has reversed the trend to ever-increasing defense budgets. Thus allocating more funds for domestic programs.

Every day we see signs that the President's economic policies are paying off. One of the prime indications of any expanding economy is the rate of interest of loans. Already this monetary indicator has dropped. According to financial analysts, the decline should continue making more and cheaper money available to all Americans.

A perceptive article by Lee M. Cohn on this big turnaround in the economy was published yesterday in the Washington Sunday Star. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTEREST DIP HINTS TURN IN ECONOMY

(By Lee M. Cohn)

Interest rates have slipped below their record peaks and financial analysts predict the decline will continue.

Unless new international or domestic crises change the outlook drastically, they say, credit gradually will become cheaper and more easily available through this year and into 1971.

If the experts are right, the present trend is the start of one of the great turnarounds in the nation's financial history—and could blunt a key issue that has threatened to hurt Republican candidates in November's congressional elections.

Inflation, tight monetary policies, budget deficits and a collapse of confidence in financial markets raised interest rates generally to their highest levels in more than a century around mid-June.

RECENT DECLINE MODERATE

Rates have declined moderately since then and further reductions are expected, basically because the inflationary boom appears to be cooling off and the Federal Reserve has committed itself to easing money and credit.

If the economy recovers from its slump in the second half of this year, as the Nixon administration predicts, rates probably will decline further only slightly, according to experts.

They forecast substantial rate reductions if the economic slump persists or worsens.

In any case, they say, rates are not likely to climb back to their peaks.

Rates on some categories of high-quality corporate bonds have declined from about 9¼ to 8¾ percent so far. A standard index of tax-exempt state and local bonds has dropped from 7.12 to 6.59 percent. Rates on Treasury notes and bonds, which had climbed above 8 percent in some cases, are down to a range of about 7 to 7½ percent.

In forecasting lower rates, analysts are talking mainly about bond and money markets. Rates paid on mortgages, bank loans and savings deposits move more slowly, but eventually follow market rates.

Many experts predicted lower interest rates in March but the trend was abortive. There is broad agreement, however, that the current decline is more solidly based and signals a trend.

"This is the real thing," an expert said.

The glow of March turned into gloom partly because hopes for abatement of inflation were disappointed.

Now there is a growing consensus that, while inflation will continue, the rate of price increases gradually will slow down.

PRICE INDEX

Forecasters are especially encouraged by the slower rise of the wholesale price index in recent months. This index has risen no faster than 0.2 percent a month—an annual rate of 2.4 percent—since February.

As wholesale prices seep down to the retail level, analysts expect, increases in the consumer price index will slow to an annual rate of 4 or 4.5 percent, down from 6 percent or more earlier this year.

Confusion about Federal Reserve policy was another factor in the re-escalation of interest rates after March.

It became evident by March that the Federal Reserve had started easing the extremely tight monetary policies applied during 1969 to fight inflation. That is, the Federal Reserve was beginning to pump more money into the economy, permitting interest rates to decline.

But the Federal Reserve changed its techniques for carrying out policy, emphasizing the rate of growth of the money supply more than in the past, instead of concentrating almost solely on influencing interest rate and the market's "tone."

This shift of focus resulted in false signals from some traditional indicators of policy, leading some to suspect that the Federal Reserve was tightening money and credit again.

The money managers have clarified their intentions recently, so there no longer is any doubt that policy is easing.

With assurances about monetary policy and renewed hope for a slowing of the price spiral, the key to the outlook for interest rates is the pace of the economy.

When the economy booms, demand for credit rises as businesses invest heavily in expansion of plants and equipment and build up inventories. Strong borrowing demand bids interest rates up.

When the economy is sluggish business curtails spending and borrowing, pulling rates down.

That's what analysts believe is happening now.

Most notably, businesses are scaling down their plans for expenditures on new plants and equipment because profits are declining and sales prospects are weak.

SHIFT IN DEMANDS SEEN

A leading expert, Henry Kaufman of Salomon Brothers & Hutzler, a top Wall Street bond firm, predicted a big shift in credit demands when he testified before the Senate-House Economic Committee last week.

Net new issues of corporate bonds will decline to $6.6 billion in the second half of this year from $12 billion in the first half, he estimated.

"An abatement of this massive volume of business financing in the months ahead should gradually help to reduce the strains in the bond market, lower interest rates and redirect savings flows into other sectors," he said.

For example, he said, reduced bond sales by corporations will free enough money to permit a net increase in mortgage credit—a sector that has been starved for funds—from $6 billion in the first half to $11.6 billion in the second half.

DEFICIT A SOUR NOTE

One sour note in the outlook for rates is the deepening federal budget deficit. The budget's shift from surplus to deficit contributed to the rise of rates after March.

Treasury borrowing to finance deficits bids rates up. Furthermore, deficits can be inflationary and can discourage the Federal Reserve from easing monetary policy.

Even if this fiscal year's deficit exceeds the official forecast of $1.3 billion, as seems likely, however, most analysts believe the impact on interest rates will not be severe.

They reason that the markets and the Federal Reserve will not worry so much about a deficit when the economy is weak. Nevertheless, a big deficit—more than about $8 billion or $10 billion—could interfere with interest rate reductions.

If the economy pulls out of its decline and output rises at an annual rate of about 3 percent in the second half of this year, as the administration hopes, credit demand will be curtailed only slightly and the Federal Reserve probably will stick to its policy of "moderate" ease.

RATES WOULD EDGE DOWN

In that case, analysts predict, interest rates will edge down only slowly.

But if the economy remains stagnant or slides into a serious recession, demand for credit will shrink substantially and the Federal Reserve will pump money into the economy more aggressively.

The result could be fairly sharp interest rate declines, according to experts.

Hedging their forecasts, however, they say all bets are off if new crises—domestic turmoil, re-escalation of the war in Southeast Asia, hostilities in the Middle East—shatter the confidence of investors.

Aside from economic and financial factors, the sharp rise of interest rates in May and early June was attributed to an almost panicky feeling in the markets that the authorities were losing control of events.

THE HARD-HITTING KANSAS SENATOR

Mr. HANSEN. Mr. President, whatever will be the final assessment of history of the ability of a minority to fight back and to defend the Nixon administration, which is not represented by a majority in either the House or Senate, note will certainly be taken of the outstanding work of the Senator from Kansas (Mr. Dole).

Republicans, although outnumbered by Democrats in Congress, are not outmanned when it comes to countering the thrusts of the majority party.

No one in the newest class in the U.S. Senate has won the admiration—or gained the grudging respect—depending on which side of the issue one is on, as has Senator Bob Dole.

Mr. President, to that end, I ask unanimous consent that an article about Senator Dole, published in the Washington Sunday Star of July 12, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Star, July 12, 1970]

The Hard-Hitting Kansas Senator

(By Loye Miller Jr.)

Sen. Robert J. Dole has a crippled right arm and a Purple Heart ribbon in his left lapel, but there is nothing handicapped about his performance in the Senate these days.

Indeed, his slashing, combative style already has established the freshman senator from Kansas as one of the rough floor fighters in that normally august body.

A tall, lean plainsman with long dark sideburns and flashing brown eyes, Dole reminds some people of the old Dodge City gunslingers in his native state.

Even though he has been in the Senate barely 18 months, some of his colleagues are beginning to give him just as wide a berth.

"He's one of the toughest men I've ever met, the kind of guy I'd like to stand back-to-back with in a knife fight," says Sen. Robert Packwood, R-Ore.

A militant conservative, Dole has built his formidable reputation by emerging as a self-appointed sheriff, patrolling the Senate floor for the Nixon administration.

ON THE FLOOR

He began this about a year ago, out of frustration at hearing Democratic senators' criticisms of the President go unchallenged.

"I got tired of hearing people like (Edward M.) Kennedy and (Edmund S.) Muskie and (George S.) McGovern getting up and browbeating the President about Vietnam," Dole says. "I thought we Republicans ought to keep reminding them every day that the war was already there when Nixon was elected."

While most senators keep to their offices and committee meetings except when bills of special interest to them are being considered, Dole made it a point to stay on or near the floor so long as the Senate was in session. Even an offhand remark which seemed critical of the administration would bring him to his feet to do battle.

Before long, a key administration staffer noticed what the senator was doing. "I told the White House that Mr. Dole was turning out to be the President's man in the Senate, whether the President liked it or not," says this source, "so we might as well make use of him."

In the months since, the Kansas senator has zestfully fought for the administration day in and day out in both major battles and picayune skirmishes. He is sometimes the willing recipient of speeches and statements suggested by the White House, but most often makes war on his own.

Dole did yeoman service both on and off the floor in the bitter—and unsuccessful—battles to confirm Nixon Supreme Court appointees Clement Haynsworth and G. Harrold Carswell. He was the most evident administration wheelhorse in the grinding seven-week fight against the dovish Cooper-Church amendment which finally ended last week:

TRICKS FULBRIGHT

Indeed, it has become the subject of some comment in the Senate that Dole sometimes spends more time holding down the GOP leadership chair on the center aisle than either of the party's elected chieftains, minority leader Hugh Scott, R-Pa., and Minority Whip Robert Griffin, R-Mich.

And he reached the peak of his prominence recently when he successfully stole the Senate doves' thunder in a lightning maneuver that left Senate Foreign Relations Committee Chairman William Fulbright, D-Ark., sputtering with frustration.

Fulbright had planned to follow the Cooper-Church marathon debate with another drawn-out debate pegged to repeal of the 1964 Tonkin Gulf Resolution, which President Johnson cited as congressional approval of expansion of U.S. involvement in Vietnam.

But Dole snatched away that future plan by successfully sponsoring the Tonkin repeal as an amendment to the military sales bill during the Cooper-Church debate.

In doing so, he displayed the blunt force, cutting sarcasm and quick wit that characterize his floor maneuvering.

When Fulbright vehemently objected to

Dole's unorthodox rupture of normal Senate procedures, the Kansan shot back acidly: "Is it a rule of the Senate that one must clear everything with the Senator from Arkansas?"

Later, when the defeated Fulbright complained that Dole had "stolen my cow," Dole quipped, "No . . . we just milked it a little."

"Dole is always trying to find out what you can do to seize the initiative and make the other guys look bad," says a White House aide.

"The policy and the leadership remains with Scott and Griffin, of course, but when you want somebody to pick a fight, Dole's always ready and willing."

Dole insists that he has modified his conservation tendencies to accommodate the President, and notes that for the first time in eight years he has failed to win the annual plaque awarded true conservatives by the Americans for Constitutional Action.

He feels that on the "real gut issues" his moderate and liberal Republican colleagues also ought to swallow hard and stay loyal to the President. "There comes a time when you have to respond to the call of party responsibility."

Now 46, Dole was born in Russell, Kan., the son of a grain elevator operator. In the closing days of World War II he was leading his infantry platoon in a push through the mountains of northern Italy when his right shoulder was shattered by an explosive shell fragment, and cracked vertebrae left him totally paralyzed.

It was 15 months before he recovered enough use of his limbs to feed himself again, but gradually Army doctors restored everything except his crippled right arm and shoulder.

While hospitalized, he married an occupational therapist who had been treating him, and his wife then took notes for him and wrote the examination answers he dictated as he made his way through law school. Later, he taught himself to write with his left hand.

After serving in the Kansas legislature and as Russell County attorney, Dole was elected to the House in 1960 for the first of four terms. He won his Senate seat in 1968.

Despite his lack of seniority, Dole has come so far so fast in the Senate that there is already talk of making him Republican leader—an unprecedented move.

This idea has been kicked around by a group of conservative GOP senators who unsuccessfully backed Sen. Howard Baker, R-Tenn., when Scott won the leadership post last September.

"I was for Baker then, but Dole's my man now," says Sen. Barry Goldwater, R-Ariz-. "He's the first man we've had around here in a long time who will grab the other side by the hair and drag them down the hill."

SCARRED EGO

But there is ample evidence that Dole's cut-and-shoot style may have hurt him almost as much as it has helped him, for it already had left scars on many of the monumental senate egos.

Thus, some of his Republican colleagues regard him as "intemperate" and "too rough."

"To be a leader, you must be able to approach different types of people in different ways," says one GOP senator. "But Dole approaches everyone the same way with a sledge hammer."

But whatever his future in the Senate, it is clear that Dole is held in highest regard by the White House.

His toils in the Senate have brought him a stream of grateful notes and warm telephone calls from the President. He is included on the White House guest list for ceremonial dinners; he has fared well in recommending Kansans for administration jobs.

And there is a personal Nixon touch that has left Dole with a warm feeling over the years he has known the President.

"When he greets me, he always remembers to put out his left hand."

THE WASHINGTON STAR COVERAGE OF HONOR AMERICA DAY

Mr. DOLE. Mr. President, on July 4, hundreds of thousands of Americans gathered in Washington for Honor America Day. They came to pray, to wave the flag and to demonstrate peaceably that they were proud to be Americans.

On the same day, a few hundred other Americans also gathered in Washington. Their purpose was not to honor America, but to show disgust and disrespect for America. They desecrated the symbol of America, the flag, and attacked the Washington police.

The activities of both groups were news, but should the action of hundreds overshadow the presence of the hundreds of thousands? I think not. Apparently the Washington Star believes it should, for their coverage of honor America Day emphasized the disorderly hundreds nearly as much as it did the orderly hundreds of thousands.

This distorted emphasis of the day's coverage did not go unnoticed by the Star's readers. I ask unanimous consent that several letters to the editor from the July 12, 1970, Star be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The Star and July 4

Sir: After perusing The Sunday Star of July 5 and its report on "Honor America Day," I've had it! With hundreds of thousands of traditionally patriotic, well behaved American citizens participating in Saturday's program, your paper had only space for the putrid fringe.

One truthful sentence occurred in your entire coverage to the effect that people left that celebration more firmly convinced of what they believe than ever before. Whatever allowances some of us might have made previously for dissident youth was eradicated Saturday. The contrast between the unkempt bodies and minds of the dissidents and the truly beautiful members of YAF who contributed gracious manners, respect for all ages and general pleasantness to the affair, was so marked as to create a real polarization.

As a parent, a citizen, a taxpayer and a veteran, sir, I've had it. No allowances from now on, no doing business with the promoters of violence and dissent; no more putting up with permissiveness and propagandizing in my children's schools. I believe that you will, I hope to your financial distress, find many others whose minds are made up now. We are out to fight for our country, sir, and, as The Rev. Billy Graham said: "Never give in, never, never, never."

Virginia M. Berg.

Sirs: Having not attended the "Honor America" festivities personally, I was anxious to read the newspaper accounts in Sunday morning's Star. I was disappointed and disgusted to find the dissenters received almost equal coverage as "Honor America" news. There were three pictures of the troublemakers in the reflecting pool. One picture would have been too much! These dissenters got full coverage by your newspaper last November. July 4th was "our" day. "Honor America Day" made sufficient news in itself—it didn't need additional articles concerning the "bums."

Newspapers are in business to print news, not garbage! Your Sunday coverage was a disgrace.

Mrs. C. W. Lynam.

Sir: Three hundred thousand Americans standing three hours in the boiling sun listening to inspirational messages at the Honor America Day celebration . . . and The Star's front page presented filthy yippies in the Reflecting Pool.

What a perverted sense of presentation of the news!

How sad that you couldn't find one picture to take of the thousands of dedicated Americans parading down Constitution Avenue or the edifying scenes at the Lincoln Memorial, Washington Monument Grounds, and the Ellipse Flag Ceremonies.

Daily, the evidence mounts, how much America needs the voice and leadership of Vice President Agnew, to tell it like it is.

Josephine H. Maver.

Sir: I, as well as many other subscribers to The Star, was shocked to see the best you could do to cover the lovely festivities at the Lincoln Memorial on July 4 was the picture of the "dirty" Reflecting Pool. The Sunday Star did have a nice picture of Kate Smith, etc., but of course right below it another diatribe by your abusive Mary McGorry.

Mrs. E. L. Corry.

ADDRESS BY ELLIS L. ARMSTRONG AT WESTERN RESOURCES CONFERENCE

Mr. ALLOTT. Mr. President, on Wednesday, Ellis L. Armstrong, Commissioner of the Bureau of Reclamation, delivered an address at the Western Resources Conference meeting at the University of Denver.

His address dealt with "Modern Developments in Comprehensive River Basin, Interbasin, and Regional Planning." It examined, with clarity and skill, the many advances we have made in these fields, and the relevance of these advances to our fight for a better environment.

Commissioner Armstrong made an especially useful contribution to our understanding when he pointed out that our water policies have a crucial impact on our urban planning.

In addition, Senators will be interested in the Commissioner's timely remarks about the way technology developed in the space program has been useful in water resources management.

So that all Senators can profit from Commissioner Armstrong's thinking, I ask unanimous consent that his address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Modern Developments in Comprehensive River Basin, Interbasin, and Regional Planning

(Remarks by Ellis L. Armstrong)

The trend in water resources planning over the years has been to broader and broader concepts and to larger and larger geographic areas as the units for planning. Today water resource regions composed of a single large river basin or groups of smaller contiguous basins are generally accepted as the most suitable units for comprehensive planning. Certainly the need for water and the importance of environmental and ecological protection in development of new supplies requires a broader concept and, at the same time, more careful detailed planning than ever before.

The Water Resources Planning Act of 1965 has been instrumental in expanding the scope of comprehensive planning. It provided for the establishment of River Basin Commissions under the supervision of the Water Resources Council, to coordinate water resources planning. Four such commissions, all encompassing multiple river basins, have been established to date: the Great Lakes Basin Commission, New England River Basins Commission, Pacific Northwest River Basins Commission and Souris-Red-Rainy River Basins Commission.

For those areas of the Nation not covered by River Basin Commissions, comprehensive planning by water resources regions is being or will be coordinated by Federal-State interagency committees under the auspices of the Water Resources Council.

The Water Resources Planning Act also provided for grants to States to assist them in water resources planning. Many of the States are using such funds to develop State water plans which will, in effect, become incorporated into comprehensive regional water plans.

Congressional enactments during the past five years may well set the trend for even larger units of planning. The Appalachian Regional Development Act of 1965 directed the Secretary of the Army to prepare a comprehensive plan for the development and utilization of the water and related resources of the Appalachian region, an area encompassing all or parts of 13 Eastern States and numerous watersheds and river basins.

In 1968, the Colorado River Basin Project Act directed the Secretary of the Interior to conduct, under Reclamation law, full and complete reconnaissance investigations for the purpose of developing a general plan to meet the future water needs of the Western United States, defined in the Act as the eleven contiguous Westernmost States—those that lie wholly or partially west of the Continental Divide.

Another factor in this trend towards broader planning has been the torrent of proposals put forth in recent years by engineering firms, individuals, and others for long-distance interregional water transfers. A number of these schemes envision importing water from Canada and even Alaska to serve water-short areas throughout the United States and northern Mexico. While these proposals are mainly paper studies aimed at the long-range future, they do illustrate a trend in comprehensive water planning.

Today's multi-agency, multi-objective approach to water resources development has resulted in a new look in regional comprehensive planning. No longer is water resource planning the singular domain of the civil or hydraulic engineer and the design or construction engineer.

Today's comprehensive planning effort incorporates the multi-discipline efforts of biologists, sociologists, geographers, economists, landscape architects, recreation specialists, environmentalists, and ecologists as equal partners in the planning process. We are experiencing an accelerating shift in control from the basically construction oriented planner to planning teams able to examine and solve problems from a variety of perspectives. Agencies which were previously competitive, if not antagonistic, are now working together. They are finding that they are doing a better job than they were able to do separately.

Along with the accelerated attention to regional planning has been the development of new planning concepts and new tools. The comprehensive framework studies under the aegis of the Water Resources Council utilize for the first time regional and subregional projections of population and economic indicators that have been broken out and separated from national projections prepared jointly by the Office of Business Economics, Department of Commerce, and the Economic Research Service, Department of Agriculture.

For some 200 subregions of the Nation, projections have or will be made of the population, income, employment, and gross production that are expected to prevail for the target dates of 1980, 2000, and 2020.

Such projections previously have been used in planning but have been prepared on isolated area bases and by various entities, including universities, consulting firms, and Federal and State agencies. As such they lacked uniformity, one with another, and had little relationship or value to a national outlook.

The present projections used in the comprehensive framework plans, while not completely accepted by all State, regional, and local interests, do attempt to picture realistically and on a uniform basis the future growth and composition of the Nation's economy, area by area. Thus, they serve as guideposts for estimating future water and related land resource requirements and as a base against which the economic consequences of alternative plans for development can be measured.

This new tool is not perfect, but it will be refined with use and represents a major step in the right direction.

A new analytical tool that promises to shed further insight into economic evaluation and is fast coming into widespread use is the technique of input-output analysis. This method can trace the impact of a given area of activity in any economic sector such as a change in industrial production or development of a natural resource throughout the economy of any geographic area.

For example, in industrial use, the input-output analysis can immediately translate a projection of an increase of 1,000,000 automobile sales to the related specific impact on the steel industry, the textile industry, the glass industry, the tire industry, and so forth.

In natural resources development, the provision of irrigation can be translated into increases in gross production for an area such as a State, together with increases in job opportunities created and specific impacts on related industries such as processing plants, fertilizers, farm equipment, transportation, and any other type of business or activity you care to name.

As an aid in economic evaluation of resources planning, the input-output analysis has several advantages. It can be useful in measuring the so-called indirect or secondary benefits which in my opinion are just as important and valid as the direct benefits.

It can measure the impact of resource development on many sectors of an area's economy. It can assess the effectiveness of various types of resource development in curing or relieving economic distress.

Use of the input-output analysis requires grappling with an enormous quantity of empiracal data. Fortunately, modern computer technology now makes this type of analysis feasible. Watch for its expanding use.

As the scope of river basin planning grows, so grows the complexity of the analyses. As factors are added which determine the feasibility of future development, the possible relationships and trade-offs between these factors increase exponentially. Extremely complex problems then arise which must be solved.

Fortunately, some techniques for electronic computer analyses have been developed which make problems more manageable and solvable. Exploitation of computers is undergoing change. The early years of computer use concentrated on calculating such problems as backwater profiles, flood routing studies and repayment studies. These were time-consuming and uninteresting tasks when accomplished by manual means. Thus, these calculations were automated first.

Now that we have learned to live with computers and look upon them as tools, we are focusing on newer approaches to make our problems manageable. We are armed with computer technology on one hand, new analytical techniques on the other hand, and our goals ahead of us.

Just as there are analogies between hydraulics and electricity, so there are also analogies between industrial planning and water resources planning. There is not a great deal of difference between scheduling shipments of goods from warehouses to optimize profits and distributing water from reservoirs to optimize water quality and efficiency in a river system as far as mathematical models are concerned. New ways are being sought to apply operations research and systems analyses techniques to the solution of planning problems.

As important as mathematical and computer techniques are to the solution of complex problems, the ability to manage the capabilities is of equal or greater importance. The considerable management experience which the space program has gained should not be ignored, for many of the same problems are common to planning as far as scheduling work and coordinating team efforts are concerned.

A serious problem of duplicated effort may arise in large-scale planning if efficient management methods are not utilized. We have some powerful tools at our disposal and we should take full advantage of them.

Environmental protection and its role in resource planning and development occupy national attention and emphasis. I prefer to think positively about our environment and consider ways of enhancing the natural environment for the benefit of mankind. Man is here to stay and we must use the vital elements of the biosphere in such a way as to enhance life.

Long before the passage of the National Environmental Policy Act of 1970 (Public Law 91–190), water and land resource agencies of the State and Federal Governments recognized the need to incorporate environmental factors into the planning process. The major Federal and State resource development agencies have for many years worked closely with sister agencies concerned with environmental factors to assure that plans for resource development meshed with needs for resource protection and enhancement. In the main, water and related resource development has had a tremendously beneficial effort in enhancing the environment of man.

However, legislative authority to fully accommodate environmental factors in the resource development process has not kept pace with the flow of good intentions.

By its nature, the development of any single resource will have impacts upon other naural resources. To the extent that these impacts are adverse, adequate authority exists to mitigate, to the highest degree possible, the damage that might be done. But there is only limited authority to expend funds for environmental enhancement that could otherwise easily be accomplished as an integral part of multi-objective planning and development.

Some of the problem arises from the long-established tradition that the expenditure of public funds must pass the test of economic feasibility on the basis of hard dollar returns. How do you assign a dollar value to aesthetics? How do you conduct an economic test of the merits of preserving or enhancing a wild or scenic area, a unique wildlife habitat, a desert vista, a freeflowing stream, or a particular species of flora or fauna? These must be viewed in the light of social preference, and in light of the present and future effects on our environment.

In this respect, the Water Resources Council is developing new principles, standards, and procedures for evaluating water and related land resource developments. These new approaches are aimed at better identification and measurement of a wide range of social, regional, and environmental effects of resource development as well as the traditional economic indicators that have been so influential in the past. They hold out the hope for much broader and more effective evaluation of water resource developments.

One other development that will affect comprehensive planning is the national assessment prepared by the Water Resources Council. The first assessment, directed by the Water Resources Planning Act of 1965, was completed in 1968. It presented an inventory of water and related land resource availability and needs for the entire Nation, highlighted national water problems, and identified certain regional and subregional problems.

Future assessments can be expected to be more refined and should tie in closely with regional comprehensive planning endeavors.

The Bureau of Reclamation has been deeply involved in the comprehensive river basin studies that have been carried out in recent years in the West, by both the River Basins Commissions and by the Federal Interagency Committees. In addition, it is engaged in two other broad studies that I would like to describe briefly.

The first is the West Texas and Eastern New Mexico Import investigation. This investigation, started in 1967, examines in reconnaissance detail the potentials for importing surplus water from the Mississippi River system to satisfy requirements in west Teaxs and eastern New Mexico. These requirements are estimated to range from 600,000 acre-feet annually for basic municipal and industrial use to a total of some 18,000,000 acre-feet annually for irrigation and maximum municipal and industrial use by the year 2020.

The investigation is being conducted jointly with the Corps of Engineers and the Mississippi River Commission. The Corps and the Commission will determine the availability of surplus Mississippi River flows, the conditions under which such surplus could be diverted, and the best route and means of delivering it to some point west of the Louisiana-Texas line, presently contemplated as a locale near Dallas, Texas.

Reclamation studies are directed to planning for the transport of that water from near Dallas to the areas of need in the high plains of west Texas and eastern New Mexico. The total cost of the studies by all participants is estimated at over $5,000,000 and they are scheduled for completion in Fiscal Year 1972.

Not only will the results of the study be important to west Texas and eastern New Mexico, but their main value may well lie in the insight they will provide into the factors and problems related to the long distance conveyance of large quantities of water. Never before have studies of diversions of this magnitude been made in comparable detail.

Much is expected to be learned about costs, pumping power supplies, realistic buildup of water service schedules, repayment prospects, impacts upon the importing area, environmental and ecological effects, and similar items. Upon completion of this study we should be able to judge better the practicality of other long-range water transport proposals that have been advanced on the basis of paper study only.

The other broad study in which Reclamation is engaged is the Western United States Water Plan which I mentioned earlier. This study is just getting underway and must be completed by June 30, 1977. It will cover the eleven contiguous Western States and develop, to reconnaissance standards, a plan to meet future water needs of that entire area. Of special note is the provision of the Colorado River Basin Project Act, which authorized and directed the study, prohibiting study for ten years of any plan for importing water to the Colorado River Basin from any river basin lying outside of the Colorado River Basin States.

Comprehensive basin framework plans are now being developed for the river basins encompassing most of the area of the eleven Western States. Also most of the States are preparing individual State water plans. These studies will comprise foundation blocks for the Western States study and will not be duplicated.

The investigation will be carried out in cooperation with the affected States and other Federal agencies. A high degree of participation by all concerned is expected.

A detailed study plan is just now being developed. It will be a dynamic document, evolving as studies progress with provisions for continuing review and modification in response to study findings, coordination processes, and changing needs of the Western States.

This investigation presents both an opportunity and a challenge to plan water resources development on a geographic scale and in detail heretofore not attempted.

In keeping with the theme of this conference "Urban Demands on Natural Resources," I would like to close my remarks with observations on two urban considerations that are relatively new in comprehensive regional water resources planning.

Perhaps the most perplexing question concerns the possibility of using water planning to limit urban and metropolitan growth. Traditionally water planners have projected future water demands and then developed long-range plans to meet the needs.

Today, with the highly publicized problems of growing urban sprawl, smog, and other urban blights there are those who insist that placing limitations on water supply could halt urban growth where desirable and thus relieve some of the chronic and growing urban problems. This theme is heard particularly in reference to Southern California, although there are other urban centers where it could well apply.

While the goal of controlling the overcrowding urban sprawl is commendable and, in the long run, necessary, I foresee it as an evolutionary process which will be accomplished in decades. Certainly it is politically and socially infeasible in a free society for this to be forced overnight by simply shutting off the supply of water or not providing necessary new supplies. In the meantime the water planner must continue in his time-tested role of meeting water demands as they arise.

The more important urban consideration in comprehensive water planning that is receiving increasing attention is the potential of using water supply to stimulate the formation of new urban communities or to expand others where desirable. This, of course, will indirectly aid the objective of curbing further sprawl in existing metropolitan areas.

Water alone is not an adequate base for economic growth. But water combined with land, or with coal, or with oil shale, or with other natural resources can establish an economic base capable of stimulating new urban growth. The potentials for moving water over long distances to combine with other natural resources is the key in this consideration.

In comprehensive regional water planning, as in other fields, new developments are constantly changing outlooks and broadening goals. The past decade has been of particular significance in this respect.

Looking to the decade of the seventies I can foresee even greater progress. Promising research in desalting of sea water and in weather management forecast two new areas of water planning and management that will be of great importance in this decade and the remainder of this century.

These and other new improvements on the horizon will continue to make the job of the comprehensive regional water planner a challenging one indeed.

THE LAST OF THE GREAT CANALS

Mr. MATHIAS. Mr. President, the Chesapeake and Ohio Canal is one of the Nation's great historical and recreational assets. For almost a decade I have been sponsoring legislation to establish the canal as a national historical park, to expand its acreage, to restore its unique engineering features, and to enhance its recreational value. I am very pleased that the Department of the Interior recently endorsed my bill (S. 1859) and the comparable House legislation introduced by Representatives SAYLOR, GUDE, and BEALL of Maryland.

In his column, "The Naturalist," in the Washington Post of Sunday, July 12, Irston R. Barnes strongly endorsed the pending bills and urged the Congress to act promptly this year. As Mr. Barnes wrote:

> Nowhere in the East will so small an appropriation of public monies provide so much in historic preservation, in conserving natural values, and in providing varied recreation as in creating a C & O Canal National Historical Park. Washington and the entire Potomac Valley deserve this consideration from the present Congress.

Mr. Barnes' column is an excellent summary of the case for the canal. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NATURALIST: THE LAST OF THE GREAT CANALS

(By Irston R. Barnes)

Has the time at last come to establish the Chesapeake and Ohio Canal as a National Historical Park? This has been the objective of conservation and outdoors organizations for 20 years; indeed, the Park proposal was the subject of several of my earliest columns in The Washington Post.

In the judgement of Rep. Gilbert Gude of Maryland, the recent endorsement of the National Historical Park proposal by the Interior Department sets the stage for park supporters to press for hearings before the Committees on Interior and Insular Affairs of the Senate (Henry M. Jackson, chairman) and the House (Wayne N. Aspinall, chairman). Bills to establish a C&O Canal National Historical Park have been introduced by Reps. Saylor (H.R. 658), Gude (H.R. 11988) and Beall (H.R. 17950) and by Senator Mathias (S. 1859).

There are many reasons why the C&O Canal should be made a National Historical Park: As a historical monument, the C&O Canal Park offers the public a unique natural history museum, a profile of the geology and the ecological communities along 180 miles of the Potomac from tidewater to the mountains. A C&O Canal Park will provide unparalleled recreational opportunities for the Nation's Capital and for all communities throughout the Potomac Valley. Without National Park status, neither this outstanding historical monument nor the valued natural features of the Potomac Valley will be preserved.

The C and O Canal is the only remaining example, other than the Erie Canal, of the early 19th Century attempt to expand beyond the Alleghenies by cheap water transportation (rivers supplemented by canals). It was built to enable the Middle Atlantic region to participate in the development of the Middle West in competition with the northern region served by the Erie Canal. The development of the railroads brought the canal era to an early end, and the C and O Canal was used only to bring coal and other bulk products from the Western Potomac Valley.

As an historical monument, the C and O Canal structures should be preserved, and where possible, restored. The locks, the lock houses, and the taverns should be brought back to their original condition. Some units, such as the Monocacy aqueduct ("the biggest and most beautiful in the United States" according to William Davies of the U.S. Geological Survey) are in a fine state of preservation; others, such as the Catoctin Creek aqueduct and many lock houses are beyond repair and require rebuilding (it would be worth the cost) or replacement. The C and O Canal, with water restored wherever possible, with the towpath repaired and with the locks and other facilities in place, will recall more vividly than any museum exhibit the days of the first great westward expansion.

The C and O Canal as a nature museum offers superlative opportunities for field studies in all branches of natural history. To residents of the Valley and to visitors to the Nation's Capital, intepretative exhibits could effectively depict past and present patterns of land use, the impact of man on the environment, with cogent examples of environmental abuse and environmental harmonies, and the geological history and wildlife communities of the region.

As a National Historical Park, the C and O Canal would have the attention of competent park naturalists with a mandate to preserve its natural values. A first step should be a survey, preferably with the help of qualified specialists from regional organizations such as the Audubon Naturalist Society, which would permit effective planning.

All of these potentials for the C and O Canal will never be developed, the historic monument will be exposed to incompatible commercial encroachments unless the Congress acts promptly to confer National Park status and to provide funds to round out the tract and to undertake necessary restorations and preservation.

Nowhere in the East will so small an appropriation of public monies provide so much in historic preservation, in conserving natural values, and in providing varied recreation as in creating a C and O Canal National Historical Park. Washington and the entire Potomac Valley deserve this consideration from the present Congress.

CURRENT CONDITIONS AND TRENDS IN AMERICA TODAY

Mr. FULBRIGHT. Mr. President, one of our most distinguished historians, Mr. Henry Steele Commager, has written a most important article entitled "Is Freedom Dying in America?", published in Look magazine for July 14.

Mr. Commager, professor of American history at Amherst College, writes about current conditions and trends in this country and states:

> Not since the days when Sen. Joseph McCarthy bestrode the political stage, fomenting suspicion and hatred, betraying the Bill of Rights, bringing Congress and the State Department into disrepute, have we experienced anything like the current offensive against the exercise of freedom in America. If repression is not yet as blatant or as flamboyant as it was during the McCarthy years, it is in many respects more pervasive and formidable.

Mr. Commager's article is one that merits the serious consideration of all Americans. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Is Freedom Dying in America?

(By Henry Steele Commager)

(A distinguished historian warns we can lose our Bill of Rights)

"There are certain words,
Our own and others', we're used to—words we've used,
Heard, had to recite, forgotten,
Rubbed shiny in the pocket, left home for keepsakes,
Inherited, stuck away in the back-drawer,
In the locked trunk, at the back of the quiet mind.

Liberty, equality, fraternity,
To none will we sell, refuse or deny, right or justice.
We hold these truths to be self-evident.

I am merely saying—what if these words pass?
What if they pass and are gone and are no more . . .?
It took long to buy these words.
It took a long time to buy them and much pain."

—*Stephen Vincent Benét.*

From "Nightmare at Noon" in "selected works of Stephen Vincent Benét." Vol. 1, Holt, Rinehart & Winston, Inc. Used by premission of Brandt & Brandt.)

"Those, who would give up essential liberty to purchase a little temporary safety," said Benjamin Franklin, two centuries ago," deserve neither liberty nor safety."

Today we are busy doing what Franklin warned us against. Animated by impatience, anger and fear, we are giving up essential liberties, not for safety, but for the appearance of safety. We are corroding due process and the rule of law not for Order, but for the semblance of order. We will find that when we have given up liberty, we will not have safety, and that when we have given up justice, we will not have order.

"We in this nation appear headed for a new period of repression," Mayor John V. Lindsay of New York recently warned us. We are in fact already in it.

Not since the days when Sen. Joseph McCarthy bestrode the political stage, fomenting suspicion and hatred, betraying the Bill of Rights, bringing Congress and the State Department into disrepute, have we experienced anything like the current offensive against the exercise of freedom in America. If repression is not yet as blatant or as flamboyant as it was during the McCarthy years, it is in many respects more pervasive and more formidable. For it comes to us now with official sanction and is imposed upon us by officials sworn to uphold the law; the Attorney General, the FBI, state and local officials, the police, and even judges. In Georgia and California, in Lamar, S.C., and Jackson, Miss., and Kent, Ohio, the attacks are overt and dramatic; on the higher levels of the national administration, it is a process of erosion, the erosion of what Thomas Jefferson called "the sacred soil of liberty." Those in high office do not openly proclaim their disillusionment with the principles of freedom, but they confess it by their conduct, while the people acquiesce in their own disinheritance by abandoning the "eternal vigilance" that is the price of liberty.

There is nothing more ominous than this popular indifference toward the loss of liberty, unless it is the failure to understand what is at stake. Two centuries ago, Edmund Burke said of Americans that they "snuff the approach of tyranny in every tainted breeze." Now, their senses are blunted. The evidence of public-opinion polls is persuasive that a substantial part of the American people no longer know or cherish the Bill of Rights. They are, it appears, quite prepared to silence criticism of governmental policies if such criticism is thought—by the Government—damaging to the national interest. They are prepared to censor newspaper and television reporting if such reports are considered—by the Government—damaging to the national interest! As those in authority inevitably think whatever policies they pursue, whatever laws they enforce, whatever wars they fight, are in the national interest, this attitude is a formula for the ending of all criticism, which is another way of saying for the ending of democracy.

Corruption of language is often a first sign of a deeper malaise of mind and spirit, and it is ominous that invasions of liberty are carried on, today, in the name of constitutionalism, and the impairment of due process, in the name of Law and Order. Here it takes the form of a challenge to the great principle of the separation of powers, and there to the equally great principle of the superiority of the civil to the military authority. Here it is the intimidation of the press and television by threats both subtle and blatant, there of resort to the odious doctrine of "intent" to punish anti-war demonstrators. Here it is the use of the dangerous weapon of censorship, overt and covert, to silence troublesome criticism, there the abuse of the power of punishment by contempt of court. The thrust is everywhere the same, and so too the animus behind it: to equate dissent with lawlessness and nonconformity with treason. The purpose of those who are prepared to sweep aside our ancient guarantees of freedom is to blot out those great problems that glare upon us from every horizon, and pretend that if we refuse to acknowledge them, they will somehow go away. It is to argue that discontent is not an honest expression of genuine grievances but of willfulness, or perversity, or perhaps of the crime of being young, and that if it can only be stifled, we can restore harmony to our distracted society.

Men like Vice President Spiro T. Agnew simplistically equate opposition to official policies with effete intellectualism, and cater to the sullen suspicion of intellectuals, always latent in any society, to silence that opposition. Frightened people everywhere, alarmed by lawlessness and violence in their communities, and impatient with the notion that we cannot really end violence until we deal with its causes, call loudly for tougher laws, tougher cops and tougher courts or—as in big cities like New York or small towns like Lamar—simply take authority into their own hands and respond with vigilante tactics. Impatient people, persuaded that the law is too slow and too indulgent, and that order is imperiled by judicial insistence on due process, are prepared to sweep aside centuries of progress toward the rule of law in order to punish those they regard as enemies of society. Timid men who have no confidence in the processes of democracy or in the potentialities of education are ready to abandon for a police state the experiment that Lincoln called "the last best hope of earth."

The pattern of repression is, alas, all too familiar. Most ominous is the erosion of due process of law, perhaps the noblest concept in the long history of law and one so important that it can be equated with civilization, for it is the very synonym for justice. It is difficult to remember a period in our history in which due process has achieved more victories in the courts and suffered more setbacks in the arena of politics and public opinion than in the last decade. While the Warren Court steadily enlarged the scopes and strengthened the thrust of this historic concept, to make it an effective instrument for creating a more just society, the political and the law-enforcement agencies have displayed mounting antagonism to the principle itself and resistance to its application. The desegregation decision of 1954 has been sabotaged by both the Federal and local governments—a sabotage dramatized by the recent decision of the Justice Department to support tax exemption for private schools organized to frustrate desegregation.

There are many other examples. Pending legislation, including the Organized Crime Control Act of 1969, provides for "preventive detention" in seeming violation of the constitutional guarantee of presumption of innocence; limits the right of the accused to examine evidence illegally obtained; permits police to batter their way into a private house without notice (the no-knock provision); and provides sentences of up to 30 years for "dangerous special offenders." And the government itself, from local police to the Attorney General, persists in what Justice Holmes called the "dirty business" of wiretapping and bugging to obtain evidence for convictions, though this is a clear violation of the right of protection against self-incrimination.

Equally flagrant is the attack on First Amendment freedoms—freedom of speech, press, petition and assembly—an attack that takes the form of intimidation and harassment rather than of overt repudiation. The President and the Vice President have joined in a crusade designed to force great newspapers like the New York Times and the Washington Post to moderate their criticism of Administration policies, and to frighten the television networks into scaling down their coverage of events that the Government finds embarrassing; a position that rests on the curious principle that the real crime is not official misconduct but the portrayal of that misconduct. Mr. Agnew, indeed, has gone so far as to call on governors to drive the news purveyed by "bizarre extremists" from newspapers and television sets; it is an admonition that, if taken literally, would deny newspaper and TV coverage to Mr. Agnew himself. All this is coupled with widespread harassment of the young, directed superficially at little more than hairstyle, dress or manners—but directed in fact to their opinions, or perhaps to their youthfulness. And throughout the country, government officials are busy compiling dossiers on almost all citizens prominent enough to come to their attention.

Government itself is engaged increasingly in violating what President Dwight D. Eisenhower chose as the motto for the Columbia University bicentenary: "Man's right to knowledge and the free use thereof." The USIA proscribes books that criticize American foreign policy at the same time that it launches a positive program of celebrating the Nixon Administration and the conduct of the Vietnam war through films and a library of "safe" books selected by well-vetted experts. The Federal Government spends millions of dollars presenting its version of history and politics to the American people. The Pentagon alone spends $47 million a year on public relations and maintains hundreds of lobbyists to deal with Congress, and the Defense Department floods schools and clubs and veterans organizations with films designed to win support for the war.

Meantime, the growing arrogance of the military and its eager intervention in areas long supposed to be exclusively civilian gravely threaten the principle of the superiority of the civil to the military power. Military considerations are advanced to justify the revival of the shabby practices of the McCarthy era—security clearances for civilians working in all establishments that have contracts with Defense—a category that includes laboratories, educational institutions and research organizations. What the standards are that may be expected to dictate security "clearance" is suggested by Vice President Agnew's proposal to "separate the [protest leaders] from our society—with no more regret than we should feel over discarding rotten apples from a barrel." That is, of course, precisely the philosophy that animated the Nazis. Military considerations, too, are permitted to dictate policies of secrecy that extend even to censorship of the *Congressional Record,* thus denying to congressmen, as to the American people, information they need to make decisions on foreign policy. Secrecy embraces, not unnaturally, facts about the conduct of the war; Attorney General Mitchell, it was reported, hoped to keep the Cambodian caper secret from Congress and the people until it was a *fait accompli.* So, too, the CIA, in theory merely an information-gathering agency, covers its far-flung operations in some 60 countries with a cloak of secrecy so thick that even Congress cannot penetrate it. The Army itself, entering the civilian arena, further endangers freedom of assembly and of speech by employing something like a thousand agents to mingle in student and other assemblies and report to the Army what they see and hear. This is, however, merely a tiny part of the some $3 billion that our Government spends every year in various types of espionage—more every year than the total cost of the Federal Government from its foundation in 1789 to the beginning of the Civil War in 1861!

It would be an exaggeration to say that the United States is a garrison state, but none to say that it is in danger of becoming one.

The purpose of this broad attack on American freedoms is to silence criticism of Government and of the war, and to encourage the attitude that the Government knows best and must be allowed a free hand, an attitude Americans have thought odious ever since the days of George III. It is to brand the universities as a fountainhead of subversion and thus weaken them as a force in public life. It is to restore "balance" to the judiciary and thereby reverse some of the great achievements of the 16 years of the Warren Court and to reassure the Bourbons, North and South, who are alarmed at the spectacle of judicial liberalism. It is to return to a "strict" interpretation of the power of states over racial relations and civil liberties—a euphemism for the nullification of those liberties.

The philosophy behind all this, doubtless unconscious, is that government belongs to the President and Vice President; that they are the masters, and the people, the subjects. A century ago, Walt Whitman warned of "the never-ending audacity of elected persons;" what would he say if he were living today? Do we need to proclaim once more the most elementary principle of our constitutional system: that in the United States, the people are the masters and all officials are servants—officials in the White House, in the Cabinet, in the Congress, in the state executive and legislative chambers; officials, too, in uniform, whether of the national guard or of the police?

Those who are responsible for the campaign to restrict freedom and hamstring the Bill of Rights delude themselves that if they can but have their way, they will return the country to stability and order. They are mistaken. They are mistaken not merely because they are in fact hostile to freedom but because they don't understand the relation of freedom to the things they prize most—to security, to order, to law.

What is that relationship?

For 2,500 years, civilized men have yearned and struggled for freedom from tyranny—the tyranny of despotic government and superstition and ignorance. What explains this long devotion to the idea and practice of freedom? How does it happen that all Western societies so exalt freedom that they have come to equate it with civilization itself?

Freedom has won its exalted place in philosophy and policy quite simply because, over the centuries, we have come to see that it is a necessity; a necessity for justice, a necessity for progress, a necessity for survival.

How familiar the argument that we must learn to reconcile the rival claims of freedom and order. But they do not really need to be reconciled; they were never at odds. They are not alternatives, they are two sides to the same coin, indissolubly welded together. The community—society or nation—has an interest in the rights of the individual because without the exercise of those rights, the community itself will decay and collapse. The individual has an interest in the stability of the community of which he is a part because without security, his rights are useless. No community can long prosper without nourishing the exercise of individual liberties for, as John Stuart Mill wrote a century ago, "A State which dwarfs its men, in order that they may be more docile instruments in its hand . . . will find that with small men no great thing can really be accomplished." And no individual can fulfill his genius without supporting the just authority of the state, for in a condition of anarchy, neither dignity nor freedom can prosper.

The function of freedom is not merely to protect and exalt the individual, vital as that is to the health of society. Put quite simply, we foster freedom in order to avoid error and discover truth; so far, we have found no other way to achieve this objective. So, too, with dissent. We do not indulge dissent for sentimental reasons; we encourage it because we have learned that we cannot live without it. A nation that silences dissent, whether by force, intimidation, the withholding of information or a foggy intellectual climate, invites disaster. A nation that penalizes criticism is left with passive acquiescence in error. A nation that discourages originality is left with minds that are unimaginative and dull. And with stunted minds, as with stunted men, no great thing can be accomplished.

It is for this reason that history celebrates not the victors who successfully silenced dissent but their victims who fought to speak the truth as they saw it. It is the bust of Socrates that stands in the schoolroom, not the busts of those who condemned him to death for "corrupting the youth." It is Savonarola we honor, not the Pope who had him burned there in the great Piazza in Florence. It is Tom Paine we honor, not the English judge who outlawed him for writing the *Rights of Man.*

Our own history, too, is one of rebellion against authority. We remember Roger Williams, who championed toleration, not John Cotton, who drove him from the Bay Colony; we celebrate Thomas Jefferson, whose motto was "Rebellion to tyrants is obedience to God," not Lord North; we read Henry Thoreau on civil disobedience, rather than those messages of President Polk that earned him the title "Polk the Mendacious"; it is John Brown's soul that goes marching on, not that of the judge who condemned him to death at Charles Town.

Why is this? It is not merely because of the nobility of character of these martyrs. Some were not particularly noble. It is because we can see now that they gave their lives to defend the interests of humanity, and that they, not those who punished them, were the true benefactors of humanity.

But it is not just the past that needed freedom for critics, nonconformists and dissenters. We, too, are assailed by problems that seem insoluble; we, too, need new ideas. Happily, ours is not a closed system—not yet, anyway. We have a long history of experimentation in politics, social relations and science. We experiment in astrophysics because we want to land on the moon; we experiment in biology because we want to find the secret of life; we experiment in medicine because we want to cure cancer; and in all of these areas, and a hundred others, we make progress. If we are to survive and flourish, we must approach politics, law and social institutions in the same spirit that we approach science. We know that we have not found final truth in physics or biology. Why do we suppose that we have found final truth in politics or law? And just as scientists welcome new truth wherever they find it, even in the most disreputable places, so statesmen, jurists and educators must be prepared to welcome new ideas and new truths from whatever sources they come, however alien their appearance, however revolutionary their implications.

"There can be no difference anywhere," said the philosopher William James, "that doesn't make a difference elsewhere—no difference in abstract truth that doesn't express itself in a difference in concrete fact. . . ."

Let us turn then to practical and particular issues and ask, in each case, what are and will be the consequences of policies that repress freedom, discourage independence and impair justice in American society, and what are, and will be, the consequences of applying to politics and society those standards and habits of free inquiry that we apply as a matter of course to scientific inquiry?

Consider the erosion of due process of law—that complex of rules and safeguards built up over the centuries to make sure that every man will have a fair trial. Remember that it is designed not only for the protection of desperate characters charged with monstrous crimes; it is designed for every litigant. Nor is due process merely for the benefit of the accused. As Justice Robert H. Jackson said, "It is the best insurance for the Government itself against those blunders which leave lasting stains on a system of justice. . . ."

And why is it necessary to guarantee a fair trial for all—for those accused of treason, for those who champion unpopular causes in a disorderly fashion, for those who assert their social and political rights against community prejudices, as well as for corporations, labor unions and churches? It is, of course, necessary so that justice will be done. Justice is the end, the aim, of government. It is implicitly the end of all government; it is quite explicitly the end of the United States Government, for it was "in order to . . . establish justice" that the Constitution was ordained.

Trials are held not in order to obtain convictions; they learned by experience that unless we conduct trials by rule and suffuse them with the spirit of fair play, justice will not be done. The argument that the scrupulous observance of technicalities of due process slows up or frustrates speedy convictions is, of course, correct, if all you want is convictions. But why not go all the way and restore the use of torture? That got confessions and convictions! Every argument in favor of abating due process in order to get convictions applies with equal force to the use of the third degree and the restoration of torture. It is important to remember that nation after nation abandoned torture (the Americans never had it), not merely because it was barbarous, but because, though it wrung confessions from its victims, it did not get justice. It implicated the innocent with the guilty. It outraged the moral sense of the community. Due process proved both more humane and infinitely more efficient.

Or consider the problem of wiretapping. That in many cases wiretapping "works" is clear enough, but so do other things prohibited by civilized society, such as torture or the invasion of the home. But "electronic surveillance," said Justice William J. Brennan, Jr., "strikes deeper than at the ancient feeling that a man's home is his castle; it strikes at freedom of communication, a postulate of our kind of society. . . .Freedom of speech is undetermined where people fear to speak unconstrainedly in what they suppose to be the privacy of home or office."

Perhaps the most odious violation of justice is the maintenance of a double standard: one justice for blacks and another for whites, one for the rich and another for the poor, one for those who hold "radical" ideas, and another for those who are conservative and respectable. Yet we have daily before our eyes just such a double standard of justice. The "Chicago Seven," who crossed state lines with "intent" to stir up a riot, have received heavy jail sentences, but no convictions have been returned against the Chicago police who participated in that riot. Black Panthers are on trial for their lives for alleged murders, but policemen involved in wantonly attacking a Black Panther headquarters and killing two blacks have been punished by demotion.

Turn to the role and function of freedom in our society—freedom of speech and of the press—and the consequences of laying restrictions upon these freedoms. The consequence is, of course, that society will be deprived of the inestimable advantage of inquiry, criticism, exposure and dissent. If the press is not permitted to perform its traditional functions of presenting the whole news, the American people will go uninformed. If television is dissuaded from showing controversial films, the people will be denied the opportunity to know what is going on. If teachers and scholars are discouraged from inquiring into the truth of history or politics or anthropology, future generations may never acquire those habits of intellectual independence. An enlightened citizenry is necessary for self-government. If facts are withheld, or distorted, how can the people be enlightened, how can self-government work?

The real question in all this is what kind of society do we want? Do we want a police society where none are free of surveillance by their government? Or do we want a society where ordinary people can go about their business without the eye of Big Brother upon them?

The Founding Fathers feared secrecy in government not merely because it was a vote of no-confidence in the intelligence and virtue of the people but on the practical ground that all governments conceal their mistakes behind the shield of secrecy; that if they are permitted to get away with this in little things, they will do it in big things—like the Bay of Pigs or the invasion of Cambodia.

And if you interfere with academic freedom in order to silence criticism, or critics, you do not rid the university of subversion. It is not ideas that are subversive, it is the lack of ideas. What you do is to silence or get rid of those men who have ideas, leaving the institution to those who have no ideas, or have not the courage to express those that they have. Are such men as these what we want to direct the education of the young and advance the cause of learning?

The conclusive argument against secrecy in scientific research is that it will in the end give us bad science. First rate scientists will not so gravely violate their integrity as to confine their findings to one government or one society, for the first loyalty of science is to scientific truth. "The Sciences," said Edward Jenner of smallpox fame, "are never at war." We have only to consider the implications of secrecy in the realm of medicine: What would we think of doctors favoring secrecy in cancer research on the grounds of "national interest"?

The argument against proscribing books, which might normally be in our overseas libraries, because they are critical of Administration policies is not that it will hurt authors or publishers. No. It is quite simply that if the kind of people who believe in proscription are allowed to control our libraries, these will cease to be centers of learning and become the instruments of party. The argument against withholding visas from foreign scholars whose ideas may be considered subversive is not that this will inconvenience them. It is that we deny ourselves the benefit of what they have to say. Suppose President Andrew Jackson had denied entry to Alexis de Tocqueville on the ground that he was an aristocrat and might therefore be a subversive influence on our democracy? We would have lost the greatest book ever written about America.

There is one final consideration. Government, as Justice Louis D. Brandeis observed half a century ago, "is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example." If government tries to solve its problems by resort to large-scale violence, its citizens will assume that violence is the normal way to solve problems. If government itself violates the law, it brings the law into contempt, and breeds anarchy. If government masks its operations, foreign and domestic, in a cloak of secrecy, it encourages the creation of a closed, not an open, society. If government shows itself with due process, it must expect that its people will come to scorn the slow procedures of orderly debate and negotiation and turn to the easy solutions of force. If government embraces the principle that the end justifies the means, it radiates approval of a doctrine so odious that it will in the end destroy the whole of society. If government shows, by its habitual conduct, that it rejects the claims of freedom and of justice, freedom and justice will cease to be the ends of our society.

Eighty years ago, Lord Bryce wrote of the American people that "the masses of the people are wiser, fairer and more temperate? any matter to which they can be induced to bend their minds, than most European philosophers have believed possible for the masses of the people to be."

Is this still true? If the American people can indeed be persuaded to "bend their minds" to the great questions of the preservation of freedom, it may still prove true. If they cannot, we may be witnessing, even now, a dissolution of the fabric of freedom that may portend the dissolution of the Republic.

DISTRICT OF COLUMBIA CRIME

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to have printed in the RECORD a list of crimes committed within the District yesterday, as reported by the Washington Post. Whether the list grows longer or shorter depends on Congress.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

MARYLAND MAN, 78, FOUND BEATEN TO DEATH

A 78-year-old Maryland man was beaten to death Saturday in Northeast Washington, apparently during a robbery, police said.

Louis Cornelius Brown, of 791 58th Ave., Fairmount Heights, was pronounced dead at D.C. General Hospital early yesterday. He was found late last night in front of 618 56th St. NE, police said.

Dr. William James Brownlee, deputy D.C. coroner, ruled the death a homicide after an autopsy yesterday. The victim died of a "severely contused (bruised) brain and suffered a fractured cheekbone caused by beating," Dr. Brownlee said.

Brown, who was retired, had spent the evening visiting a friend and was on his way home when the incident occurred, police said.

ROBBED

Jessie's Restaurant, 238 Rhode Island Ave. NW, was robbed by a man carrying a revolver who entered at 3:30 p.m. Friday and told owner Jessie B. Lee, "This is a stickup." She opened the cash register and the man removed an undetermined amount of money.

Basham's Gulf Station, 22nd Street and Virginia Avenue NW, was robbed by two men in a car who pointed guns at employee Gaylord Frazer, of Washington, and demanded money at 1:10 a.m. Saturday.

James E. Hart, of Washington, was robbed by a man armed with a revolver who told him, "Give me your money or I'll blow out your brains," in the unit block of 8th Street SE at 11:15 p.m. Friday.

Ida V. Holley and her husband, were robbed in their home in the 1500 block of North Carolina Avenue NE when three men entered at 9:15 p.m. Saturday. Holley was on the telephone, and one man took it from him and said, "He will talk to you later," and hung it up. Then one man produced a revolver and told the Holleys to go upstairs. When they did, the men took money from Mrs. Holley's purse and ran out the rear door.

Highs Dairy products store, 5002 1st St. NW, was robbed of an undetermined amount of money by a man who entered at 8:25 p.m. Saturday and gave clerk Beverly C. Davis a note that read, "Put all the money in a bag and you will not get shot." She put an unknown amount of bills in the bag and gave it to the man, who told her to go to the rear of the store. There, the man removed more money in bills from a table and left.

Charles Washington, of Washington, an attendant at the Shell gas station at 3701 12th St. NE, was approached by two men at 10:45 Saturday. One man produced a handgun and said "Where's the money?" Washington pointed to his shirt pocket, and one of the men removed bills from the shirt. The pair then fled.

Johnny P. Sates, of Washington, was robbed while sitting in his car in the 300 block of Rhode Island Avenue NW at 9:35 p.m. Saturday. A man asked for a light, and when Sates complied, the man produced a handgun and asked for his watch.

Holt Thamps, of Washington, was knocked to the ground and robbed by four men in the 1300 block of 3rd Street NW at 4:30 p.m. Saturday.

Daualat Singh, of Washington, and Tuneja Tilak, of Silver Spring, were robbed and Singh was beaten by four men, one carrying a handgun, at Hopkins Place and P Street NW at 3:40 a.m. yesterday. The gunman said, "Keep your hands up," and when Singh refused he struck him about the head and face and knocked him down. Singh lost a wallet containing money and papers and Tilak lost his checkbook.

Bernard Gerald Lecnard, of Washington, was struck in the face by one man while another took his watch and a wallet containing money and papers in an incident at 2424 Pennsylvania Ave. NW at 4 a.m. yesterday.

Phillip Dibble and Jeffrey Parker, both of Washington, and Michael Jampson, of Alexandria, were robbed by five men, one carrying a revolver, while they were loading their auto at Vermont and N Street NW at 11:10 p.m. Saturday. The men took money and a watch from Dibble, money from Parker and money and a watch from Jampson.

Carol Hardnett, of Washington, was struck in the face and robbed of her purse containing money and papers by a man in the rear of the 2200 block of 12th Place NW at 10:05 p.m. Saturday.

James A. Hall, of Washington, was robbed by a man carrying a gun who took money from his pockets in the 200 block of S Street NW at 4:30 p.m. Saturday.

Larry Farrell, of Washington, was yoked by two men who removed money from his pocket in the 2800 block of Jasper St. SE at 1:30 a.m. yesterday.

Kenneth Elliott, of Washington, was playing behind Anacostia High School when a man grabbed him and took his watch at 12:50 a.m. yesterday.

Dan Johnson, of Washington, was driving an ice cream truck in the area of 50th Street and Call Place SE at 2:15 a.m. yesterday when two men entered the truck, pointed guns at him, forced the safe on the truck open and removed an undetermined amount of money.

Lewis Lazares, of Washington, was yoked by four men who dragged him into a vacant lot in the 1900 block of New Hampshire Avenue NW and took money from his wallet at 1:05 a.m. yesterday.

Robert Wilker, of Washington, was beaten and robbed by six men while walking in the 2600 block of Adams Mill Road NW at 12:30 a.m. yesterday. One man pushed him into a hedge and demanded money, and when Wilker refused, five others jumped and beat him.

Linch Williams Jr., of Washington, was robbed of his watch and wallet by a man with his hand in his pocket in an alley near 14th and T Streets NW at 3:30 a.m. yesterday.

Elwood I. Waers, of Washington, was robbed of $70 by two men, one armed with a pistol, and a woman at 8th and Jefferson Streets NW at 8:10 p.m. Saturday.

Tyria Lester Tweedy, of Washington, was robbed by a man who appeared to have a gun under his shirt at 7th and O Streets NW at 10 p.m. Saturday.

Tom Roudebush, of Washington and Carrie Ortega, of Arlington, were robbed by three men while walking in the 2000 block of New Hampshire Avenue NW at 11:15 p.m. Thursday. One man placed a hard object at Roudebush's back and demanded his money. He took a wallet and papers from Roudebush and money from the woman.

Joseph Back and his wife, Rivil, of Silver Spring, and Selma Levine, of Washington, were robbed by three men, one carrying a revolver, at 39th and Warren Streets NW early yesterday morning. The men told Back, "Give me your wallet and keys," and he complied. His wife was forced to turn over her purse and keys, and Selma Levine handed over a purse. The man then ran off.

Geraldo Laboy Lopez, of Washington, was attacked and robbed by three men in the 2700 block of Woodley Place NW at 2:15 a.m., Sunday. One man held a shotgun and said, "Give it all to me." When Lopez yelled, the man struck him on the head with the shotgun and took his keys and key case. When he yelled again the men fled to a waiting auto.

Wellington Nynagon and Carol Belk, of Washington, were held up while walking at 6th Street and Howard Place NW at about 9:40 p.m. Friday by two men who approached them carrying sawed-off shotguns. They took cash, then fled on foot.

Gustave Augusta Welk, of Washington, was robbed at about 9:30 p.m. Friday by two men who forced him into an alley while he was walking in the 1400 block of 17th Street NW, hit him on the head and took his wallet.

Andrew V. Leh, of Camp Hill, Pa., was robbed at about 11:20 p.m. Friday when a man approached him while he was standing in the 100 block of 9th Street SE and asked him where the nearest bus stop was. When Leh replied he couldn't hear him, the man drew a gun and said, "Don't yell. Just give me your wallet." The man took Leh's wallet and fled south on 9th Street.

Nello Hawkins, George R. Hudson, Charles Ingram, Charles McDonald and Bolder Junior Smith, all of Washington, were robbed at about 11 p.m. Friday while in a garage at 20 Decatur St. NE by five men who entered the garage.

One man, brandishing a shotgun, said, "This is a holdup," and told the men to put their money on the floor. As the other four bandits picked up the money, the man with the shotun fired one shot at Hawkins, who had moved his hands, hitting him on the right little finger. The robbers then fled west on Decatur Street. Hawkins was treated at Washington Hospital Center for his wounded finger.

ASSAULTED

A Washington woman, 27, was forced at gunpoint into the trunk of a car at Georgia and Iowa Avenues NW at 1 a.m. She was driven to an apartment development in the Seat Pleasant area, blindfolded, and taken into an apartment, where she was raped. The victim was then driven to Cabin Branch Road, Seat Pleasant, where she was let out.

A Pittsburgh, Pa., woman was raped Saturday night after she and a companion returned to a Washington apartment to find it burglarized and two men within. While one of the men guarded the woman's companion, the other intruder took her into another room and raped her. After the assault, the man returned to the first room, told the victim's companion not to move, and fled with the second intruder.

A Washington woman was raped by a man who entered her Northwest home through a kitchen window at 4:30 a.m. Saturday. The man ransacked a room, then entered the victim's room. When she asked, "Who is it?" the intruder said, "Shut up and keep this pillow over your face." He then slapped and raped her before fleeing.

Rosette McMillon, of Washington, was struck about the head and shoulders by a man while she was in the swimming pool at 4th and Van Buren Streets NW.

Gregory John Greer, of Washington, was cut during an altercation with a man in a hallway in 1326 Harvard St. NW at 8:47 p.m. Saturday.

Charles Green, of Washington, was struck several times on the head by a man who approached him from the rear in the 1200 block of Wylie Street NE at 11:45 p.m. Saturday.

Louise Brown, of Washington, was shot at by another woman after they began fighting at 1:12 a.m. yesterday.

James H. Ross, of Washington, was knocked to the ground by an unknown person while walking in the 100 block of H Street NE at about 7:15 p.m. Saturday.

Joseph T. Hampton, of Washington, was shot in the right side by a man during an altercation in the 1700 block of T Street NW at 2:05 p.m. Saturday.

Jessie Bell Thomas, of Washington, was struck on the head with a chair by a man while in the yard at his home at 8 p.m. Saturday.

STOLEN

A shotgun and $3,000 in assorted bills and change were reported stolen from the Square Deal Liquor Store, 701 8th St. SE, sometime between 12:30 and 2:30 p.m. yesterday.

DEEPENING FRUSTRATION OF MEXICAN AMERICANS STIRS FEARS OF VIOLENCE

Mr. MONDALE. Mr. President, a feature article in the Wall Street Journal of June 11, 1970, suggests that we all may have to pay a price for the many years of economic and political exploitation suffered by Mexican Americans in this Nation.

The article suggests that it may be "too late for the gringo," and that their poverty and despair may cause unrest throughout the Nation. The article vividly describes the plight of "vast numbers of Mexican Americans (who) remain mired in seemingly hopeless poverty. Cut off from the society at large by language and cultural barriers, poorly educated, lacking job skills, often discriminated against on an ethnic basis, these people cluster in the Mexican-American slums—or barrios—found in practically every Southwestern city."

As chairman of the Migratory Labor Subcommittee, I have on several occasions taken the floor of the Senate to urge my colleagues to more seriously consider the plight of migrant and seasonal farmworkers, many of whom are Mexican Americans. The systematic exclusion from, or at best only partial inclusion in, practically every major social and worker benefit program enacted into law at both the Federal and State level is well known, and the traumatic physical and psychological effects on human beings are well documented.

Yet we have yet to truly respond to these people. Our attentions remain preoccupied by an expanding war in Indochina, by SST's and space shuttles, and by fighting a war-fed inflation. Meanwhile, the dispossessed, the powerless, and the forgotten become more frustrated and alienated.

Must we ignore the cause of these people until the danger of violence awakens us? Must we force the Mexican American to ignore and reject a system which cannot be responsive?

Mr. President, so that my colleagues are aware of the growing crisis in the Mexican-American community, I ask unanimous consent that the article from the Wall Street Journal entitled, "Deepening Frustrations of Mexican Americans Stirs Fears of Violence," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ANGRY CHICANOS: DEEPENING FRUSTRATION OF MEXICAN AMERICANS STIRS FEARS OF VIOLENCE

(By Richard A. Shaffer)

SAN ANTONIO.—Every Texan remembers the Alamo, and Beto Martinez is no exception. But the man he admires is Santa Anna, the Mexican commander who massacred 187 defenders of the old mission here.

He had the right idea of what to do with white men," says Martinez, who predicts: "The day will come again when any gringo in this part of the county will be shot on sight."

Martinez, 32, is an unemployed high school dropout who wears a goatee and shabby clothes, and rarely takes off his sunglasses even in the darkest bars. He is minister of war for Mexican-American Nationalist Organization (MANO), a clandestine group that insists all "whites" are racist enemies who should be driven out of the Southwest, by force if necessary. Martinez, who has served time in Texas prisons for possession of marijuana and for sodomy, says most members of MANO are ex-convicts like himself and that others are Vietnam veterans with experience in demolition techniques and guerrilla warfare.

WE'LL BE READY

"Right now, we're strictly for self-defense. We're just waiting," he calmly tells an interviewer while rolling his own cigaret. "But when something starts, we'll be ready."

It's hard to say just how much of a threat MANO really poses to law and order in San Antonio Martinez claims his group has 300 members. But police in this seemingly tranquil city, where historical monument draw a constant stream of tourists, say MANO is "nothing to be afraid of—just Beto and a few crazy kids."

Whatever MANO's numerical strength, many knowledgeable observers say the belligerence displayed by Martinez is all too typical of a deepening undercurrent of anger and frustration among the nation's Mexican-Americans. To some, it seems inevitable that violence will result, and they believe it may well come this summer.

One Federal official responsible for gauging the mood of minority groups puts it this way: "There's an awful lot of ferment among the Mexican-Americans, a rising level of militancy among the young, with more demonstrations and more challenging of authority—all the preliminary stages of outright violence."

UNUSUALLY LARGE PROPORTION

If trouble comes, many experts believe, it could well occur here in South Texas. Many areas of the Southwest have large concentrations of Mexican-Americans, but the proportion is unusually large here. San Antonio counts 300,000 Mexican-Americans in its total population of 650,000, making it second only to Los Angeles in the number of Mexican-Americans.

Many Mexican-Americans, to be sure, have little cause for unhappiness. Throughout the Southwest, Mexican-Americans are prominent in business and various professions, including politics, and the number of well-educated Mexican-Americans moving into middle-class society is growing.

But vast numbers remain mired in seemingly hopeless poverty. Cut off from the society at large, by language and cultural barriers, poorly educated, lacking job skills, often discriminated against on an ethnic basis, these people cluster in the Mexican-American slums—or barrios—found in practically every Southwestern city.

In San Antonio the barrio is a sprawling collection of dilapiated wooden houses on the wrong side of town. Many of the barrio's streets remain unpaved, and many of the houses are jammed with big families—or sometimes several families. The yards are tiny, often surrounded by fences and decorated with birdbaths and plaster religious statues.

MANY MIGRANT WORKERS

Many of those who live in the San Antonio barrio and in other areas of South Texas are migrant farm workers, usually spending months in the Midwest during the growing and harvest seasons and returning here for the winter.

Those who fear violence here this summer say it could well be triggered by the impact of growing mechanization on the jobs of such migrant workers. In the Midwest alone, one Federal report estimates, 40,000 migrant farm laborers will be displaced this year—and a large percentage of these will be Texans. Luis De Leon, who works in the Laredo, Tex., office of an eight-state migrant-assistance group known as the Colorado Migrant Council, predicts: "There's going to be a lot of frustration and anger."

Jose Angel Gutierrez, a youthful activist who works with migrants and holds a master's degree in political science, says he is convinced that "after this summer, a farm laborer won't even have enough money to get drunk on. Things may not explode completely this summer. But that's when it's going to begin."

When he wrote his master's thesis two years ago, Mr. Gutierrez concluded that "the empirical conditions for revolution" exist in South Texas. Today, he says, "the chances for violence are better than ever."

There have, of course, been a number of manifestations of Mexican-American unrest already in various parts of the nation. The campaign led by Cesar Chavez to unionize the grape-field workers in Delano, Calif., has largely been a "chicano"—or Mexican-American—movement, and confrontations of various sorts have occurred with less publicity in Lansing, Mich., Kansas City, Denver, Chicago and other places where the Spanish-speaking have settled after fleeing the poverty along the Mexican border.

But much of the agitation has remained beneath the surface. Most Mexican-American groups in San Antonio, for example, publicly deplore even nonviolent demonstrations. During two boycotts of public schools by Chicano students and a strike by city garbage collectors (nearly all Mexican-Americans) there was not a single arrest. As a result, city leaders are confident things will remain calm.

"This has always been a liberal town," says Walter W. McAllister, the 81-year-old mayor, who has an autographed picture of Herbert Hoover in his office. "I don't expect trouble. Americans of Mexican descent here have made real progress in recent years."

But a Federal observer here warns, "There are 'brown power' militants who are as full of hate and violence as anything the black power movement ever saw. It wouldn't surprise me to see things really come to a head in San Antonio. Maybe here before anywhere else."

One reason for the peaceful facade, as MANO's Beto Martinez sees it, is that the radicals have learned a lesson from those who have gone before. For example, when a supposedly nonviolent group headed by Mr. Gutierrez and known as the Mexican-American Youth Organization (MAYO) began making such public statements as "We must eliminate the gringo. . . . We have to be revolutionary in our demands," it was widely accused of racism.

U.S. Rep. Henry B. Gonzalez of San Antonio, a Mexican-American with a consistently liberal voting record in Congress, blasted MAYO as drawing "fire from the deepest wellsprings of hate." The Ford Foundation refused to renew a grant to MAYO, and Mr. Gutierrez was fired from another Ford Foundation-sponsored project.

"We're not so stupid," says Martinez. "We went underground right after the cops murdered all those Black Panthers." Now, he says, no more than four or five members of MANO meet at one time. Membership lists have been destroyed.

Martinez tells his recruits: "Get guns wherever you can, preferably from addicts who steal them. Don't buy them if you can help it. And don't carry them. Stay off dope. Don't use the telephone. Don't make public speeches. Get a job, if you can, and try to look harmless. This is how the Minutemen have survived. We will, too." (The Minutemen is a secret paramilitary group on the extreme right.)

NO RAMPAGES EXPECTED

On the basis of detailed reports on MANO and the mood of the Mexican-American populace here, Federal observers don't expect a riot like those that occurred in the Watts section of Los Angeles and in some other cities, with rampages of looting and burning.

Instead, they fear a shootout between militants and police, a replay of the Cleveland battle between blacks and police that took 11 lives in the summer of 1968. In maintaining that the chances for such violence are high here, sources cite the conclusion by Cleveland Mayor Carl B. Stokes and a county grand jury that the outbreak there was not the result of a revolutionary plot or conspiracy but rather represented "spontaneous action taken by a group who were armed and emotionally prepared to do violence."

If there is such "emotional preparation" in Texas, it is not hard to trace its roots. Sen. Joseph M. Montoya (D., N.M.) told a Senate subcommittee last summer that Mexican-

American poverty is worse in Texas than in any other area for which statistics are available.

In Texas 46.5% of the Mexican-Americans live in housing regarded as overcrowded or dilapidated, while only 9.4% of the "white" population lives in such conditions. The median annual family income for Mexican-Americans is $2,914, compared with $4,884 for whites. The average educational level is 6.2 years for Mexican-Americans but 11.4 years for whites. Of the total population in Texas, 3.4% has no schooling at all. This compares with 5.3% among Negroes in Texas and 16% among Mexican-Americans.

The Mexican-American also suffers more severely at the hands of official justice in South Texas than in any other area in five Southeastern states, according to studies made by the U.S. Commission on Civil Rights, in 1968.

The commission said it found that "Mexican-American citizens are subject to unduly harsh treatment by law enforcement officers, that they are often arrested on insufficient grounds, receive physical and verbal abuse and penalties which are disproportionately severe. We have found them to be deprived of proper use of bail and of adequate representation by counsel. They are substantially underrepresented on grand and petit juries and excluded from full participation in law enforcement agencies, especially in supervisory positions."

Government efforts to improve the plight of Mexican-Americans have caused some disillusionment. "People are beginning to realize that these programs have promised more than they can deliver," says Richard Avena, field director for the Civil Rights Commission here.

HIGH JOBLESS RATE

Unemployment remains high—nearly 30% on the Mexican-American West Side of San Antonio—despite a Labor Department "concentrated employment program" that has been under way for three years, and the city Urban Renewal Authority is prevented by state law from using its land for badly needed public housing. The only two projects the authority has completed in 13 years were devoted to commercial interests and headquarters for local government.

There's some hope political successes will offset the forces for strife in the streets.

Mexican-Americans in some nearby rural communities have been fashioning their own political machine, the Raza Unida (United People) Party, which has either sponsored or supported more than a dozen candidates and not lost an election. Even in San Antonio, where city government has been controlled since the mid-1950s by the conservative Good Government League and where the Spanish-speaking vote is largely restricted to a single county commissioner district, candidates with militant support have won in at least five elections.

Even so, Mr. Gutierrez, chief strategist of the Raza Unida victories, says, "It's too late for the gringo to make amends. Violence has got to come."

OUTSTANDING SCIENTISTS FAVOR BIG THICKET NATIONAL PARK

Mr. YARBOROUGH. Mr. President, on June 12, 1970, field hearings were held on S. 4, my bill to establish a 100,000-acre Big Thicket National Park. The hearings were conducted in Beaumont, Tex., by the distinguished and able senior Senator from Nevada (Mr. BIBLE), chairman of the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs.

Some 35 witnesses appeared to testify at these hearings, and the overwhelming majority were in favor of the proposed legislation to preserve this unique area of Texas. Among the witnesses were distinguished botanists, biologists, ecologists, limnologists, and other knowledgeable and learned persons concerned with conserving this rich "biological crossroads of America," as it has been so aptly described.

A most distinguished witness at the hearings was Dr. Clarence Cottam, a nationally known biologist, who is presently director of the Welder Wildlife Foundation of Sinton, Tex. I wish to bring to the attention of my colleagues Dr. Cottam's testimony in favor of the Big Thicket National Park.

Another distinguished witness who testified in favor of the Big Thicket National Park was the eminent botanist, researcher, author of many works on botany, Dr. Donovan S. Correll of the Texas Research Institute at Renner, Tex.

Mr. President, I ask unanimous consent that the compelling testimony of these two outstanding scientists concerning the need to preserve the Big Thicket of Texas be printed in the RECORD.

There being no objection, the testimoney was ordered to be printed in the RECORD, as follows:

THE BIG THICKET NATIONAL PARK, TEX.

(By Clarence Cottam)

My name is Clarence Cottam of Sinton, Texas. I am Director of the Welder Wildlife Foundation of Sinton. I was formerly Senior or principal Biologist of the U.S. Fish and Wildlife Service and for eight years Assistant Director of that agency. I also served as Professor of Biology and Dean of the College of Biology and Agriculture at Brigham Young University in Utah. I speak here today as a professional biologist and conservationist, entirely and solely representing myself and not any agency with which I have been or am now associated.

I believe sincerely that it is in the best public interest to establish the Big Thicket National Park and recreation area. A major purpose for establishing a national park, recreation area or a National Monument is to preserve in perpetuity the natural history, scenic, historic and recreation or other public values for the people of this nation.

Studies of existing parks, monuments and national recreation areas in contrast to other great areas that should have been preserved, have shown convincingly that too often many of these public values have been lost when they are not placed under public trust and administration. Studies of existing parks and other outstanding national recreation areas have shown that these areas have effectively boosted the local and regional economy.

It is not surprising that communities in the vicinity of proposed national parks and recreation areas usually are, and should be, concerned about the possible loss of tax revenue, if lands and properties are taken off the tax rolls or if other sources of revenues should be lost.

When the issues of Padre Island National Seashore and Recreational Area were being considered Cape Hatteras Sea Shore in Dare County, North Carolina was studied to determine what its economic impact on the adjacent communities had been. A reporter from the Eugene, Oregon, *Register-Guard* visited this area and submitted his findings. He examined the tax records of Dare County where this National Seashore is largely located. He found that total assessed valuations within this sparcely settled rural county had more than doubled from 1950 to 1958, from $11 million to $25 million. Contemporary with this, the tax rates were reduced from $1.000 to $.80 per hundred. Tourism doubled within a six-year period in communities adjacent to the National seashore. Bank deposits doubled during the period. Land remaining on the tax rolls often increased from 50 to 100 times because the park stimulated economic growth and activity.

It is true that land usually is taken off the tax rolls when a park or other federal institution is created. When the Cape Hatteras (Pea Island) Seashore area became government property nearly one million dollars of taxible property was removed from the County books. This amount however now represents only about one percent of the County governments income. This is far out weighed by a much higher income resulting directly from the establishment of the recreational park.

Before the Seashore was established fishing represented the principle source of income. Today fish landings have significantly increased both by weight and volume; still, it represents only a little over 10% of the total income. The tourist industry new represents 57.5% of the basic income of the people while Federal and state governments comprise another 20%.

Attached hereto is a condensed report prepared in 1961 by the U.S. National Park Service on the economic history following the establishing of a number of our national parks.

Tourism is one of the major economic industries of this nation. It is either first or second in importance in a number of states and third in the nation. Because of her favorable geographic position, excellent climate, superior scenery, abundance of natural resources and unexcelled highways and other means of transportation and communication Texas is in a strategic and unique position to capitalize on this economic asset—providing the state has the necessary parks and recreation areas of caliber that will attract people. The potential and the demands are here and I believe the state leadership is aware that far too little has yet been done to meet our growing recreational and tourist needs or meet the potential that now exists.

Texas now does not have sufficient parks and recreation areas to meet the growing needs of its own people without considering the constantly expanding demands and needs of the nation as a whole. As the leisure time increases and our population expands the needs for parks and recreational areas will become increasingly more urgent, yet more costly to acquire and develop. The longer we postpone taking vigorous action the more difficult it will be to acquire the necessary areas.

The important Park Service Mission 66 showed clearly that the demand far exceeds national areas along this line. In estimating park attendance ten years hence (1956) this service later found that they were about 33% under actual park visitations in 1966.

Attendance at parks and other public areas—state and community parks, wildlife refuges, national and state forests, fishing lakes and streams and public domain land—all showed tremendous increased public use.

That there is an increasing public demand for parks and natural areas is shown from the fact that visitation to most areas are increasing from five to well over ten percent each year.

Some examples of these demands follow:

In 1966 there were 117 million visits to National Parks—an increase of about 8% a year since then.

In 1959 there were 96 million visits to National Forests.

In 1964 there were 137½ million visits to National Forests.

In 1959 there were 9⅓ million visits to National Wildlife Refuges.

In 1968 there were 14 million visits to National Wildlife Refuges.

In 1968 there were 296½ million visits to State Parks and State recreation areas—an 8.6% increase annually in 1969 & 1970.

In 1965 there were more than 50 million fishermen and hunters 12 years old or older in America and they spend some $4 billion pursuing that recreation each year.

It is obvious that visitation by many people have an exceedingly important economic impart on all adjacent communities and to a lesser degree to areas far removed from the park, forest or other natural history area. In a report prepared by William B. Beyers to the National Park Service in February of 1970 on the "Economic Impact of Mt. Rainier and Olympic National Park" in 1963 he showed that for Olympic National Park, visitors that year were estimated to have spent a total of $21.8 million in the U.S. on their park visits. Approximately $18.3 million of these expenditures were made in the state of Washington. Non-Washington residents spent a total of $10 million on their park visits, with $6.5 million of their expenditure being made in the state of Washington. "The $18.3 million in visitor expenditures made in Washington State, and the operations expenditure of the National Park Service created about $16.7 million in income in Washington State and supported the annual equivalent of approximately 2800 jobs. In the U.S. as a whole, income of $69.9 million was created by Olympic National Park visitors and operation expenditures. Thus, far every dollar of visitor and park operations expenditure, $3.02 in income was generated in the U.S. economy."

Mr. Ranier National Park visitors were estimated to have spent $14.9 million in 1968 on their visits of which $12.6 million was spent in the state of Washington. Out-of-state visitors spent . . . $4.7 million on trips to this park of which $2.9 million was spent in the state.

It is clear that our national parks and similar areas which were set aside to preserve units of our most magnificant natural environment have also become of great importance to both the local and national economy. If the Big Thicket in Texas becomes a National Park, as I hope it does, I have no doubt it too will add significantly to both the local, state, and national economy.

The Big Thicket area of East Texas is unique in many respects and originally comprised about 3½ million acres and represented parts of eleven Texas counties. The area is beautiful and of great scientific and cultural value. It has rather appropriately been described as the "biological crossroads" of North America. This is because its unique and unparralleled flora (and funa) are representative of characteristic floras of diverse belts such as the Appalachian highlands, the coastal plains, Piedmont forests, open woodlands and even the everglades.

The diversity of plants and animals in close proximity is the result of several factors: (a) a rather high rainfall of about 60 inches annually, (b) a warm humid gulf climate, and (c) a geographic location where there is an overlap between the north and south and also east and west. Botanists and ecologists have here described eight major plant communities: Upland, Savanna, beech-magnolia, baygall, palmetto-baldcypress-hardwood, bog, steam bank and flood-plain forests.

This area is unique because these diverse associations of plant communities live in surprisingly close proximity to each other. The animal communities are largely dependent upon the plant environments. Consequently, they too are amazingly diverse and complex in this unique area.

Several species of trees here seem to reach their finest and most luxurant development. A number of world record or near record sized trees and shrubs are, or were found here. These included giant specimens of the American holly, eastern red cedar, bald cypress, Chinese tallow, American sycamore, magnolia, giant palmetto palm, sparkleberry, sweetleaf, and 2-winged silverbell.

Because of diverse soil types from acid bogs to relatively dry sandy ridges and diverse and varied water relationships from bog, marsh, lake, flowing streams and fluctuating water levels to upland prairie sod, nature has developed a fantastically rich flora of both flowering and lower non-flowering plants. These are said to include some 25 species of ferns, many and probably some undescribed species of algae, moss, fungi and lichens. Four of America's five native insectivorous plants are found here including the attractive pitcher plant, bladderwort, sundew and bog violet. Hundreds of species and varieties of flowering plants abound.

Dr. D. S. Correll, eminent botanist, of the Texas Research Foundation has described this area as a "region of critical species change." He added that "the variations are often so great that the plant has to be segregated as a distinct species." This characteristic is somewhat typical of transition biotic zones where related species come together and there is an interchange of genes in the crossings. It is probably also an expression of the unique habitat variations and the efforts of the flora and fauna to adapt to the varied and changing environments.

Wherever one finds an abnormally rich and amazingly varied flora he may be sure of finding also a surprisingly rich and varied fauna associated with it as the flora, in large measure, limits or determines the bounds of the varied animal communities.

Well over 300 species of birds have been recorded from the Big Thicket and a surprisingly large number of mammals, reptiles and amphibians. It is a rich area for migrants and it also contains many resident and nesting species of birds. The endangered alligator and the rare eastern Black bear are uncommon but found here. The extinct Carolina Paraquet (Louisiana race) and the Passenger pigeon undoubtedly occurred here.

If recent reports are correct the most notable extant bird species making its home here is the Ivory-billed Woodpecker, America's largest bird of the woodpecker family. This area has been a favored haunt of this rare and gravely endangered bird. If reports of reputable scientists and ornithologists are correct some seven to ten individuals of this majestic bird are making their last stand here; primarily in the Neches River bottomlands.

The Ivory-bill is a bird of very restricted habitat requirements and it is quite unadaptable. It requires extensive virgin old timbered land to survive. It seems to me that this great nation of ours cannot afford to let any more of our endangered species become extinct. This should be an added inducement to save the Big Thicket from further destruction.

This remarkable and uniquely rich area, from the standpoint of American flora and fauna, is rich in early Texas history. We will lose an irreplaceable heritage if further delay is permitted to prevent acquisition of this area. Whatever land we can obtain and preserve there will not be enough for those who will come after us. We are told that selfish private interests—some lumbermen, pipeline companies, and real estate promoters—are exploiting this area so destructively that 50 acres per day are falling to the ax and bulldozer. Immediate action is called for to save any of the last 300,000 acres that have not been largely ruined. The area is so productive that even though much destruction has occurred in time Nature, under sound management, will heal most of the present scars.

I urge that in the interest of this great state and nation, of which we are all proud to be a part, as much land as possible in the Big Thicket area be declared a National Park. The problem is too big now for the state alone to handle. Our concern for those who come after us should stimulate immediate and affirmative action.

Testimony by Donovan S. Correll in Favor of the Creation of a Big Thicket National Park

I would like to go on record in support of a Big Thicket National Park that should be created in southeastern Texas, not only as an aesthetic region of great recreational value but also as an out-of-doors biological laboratory for the biologist and naturalist.

Although the boundaries of the Big Thicket, both Lower and Upper, are only roughly defined, most authorities agree that the region is centered in Hardin County with extensive areas in Polk, Tyler and other adjacent counties. The limitation of distribution of individual plant species are even more difficult to define than the boundaries of the Thicket, itself. For this reason it is essentially impossible to enumerate plant species that may be solely confined to the Big Thicket, since most plants may be generally distributed in southeast Texas, a floristically rich region.

Therefore, when I speak of plants of the Big Thicket I am referring to plants of southeast Texas.

The forests of east Texas represent the western extremity of the vast woodlands that cover southeastern United States. Practically all of the species that comprise the vegetation composition of this area have reached their westerly migration in the Big Thicket. Because of this, many of the species reveal variation in some of their characteristics from plants of the same species found farther east; for instance, those in Georgia and Alabama. The Big Thicket shows much evidence as being a region of speciation. This is supported by the fact that a number of plants have been described from this area that show distinct relationsihp with species that occur farther east. It can therefore be considered a haven where plants have become and are becoming adapted to a rather unique environment.

Although the composition of both the woody and the herbaceous elements is distinctly southeastern, there are some endemics that occur in the Big Thicket.

In my forays throughout most of southeastern United States from North Carolina to southern Florida and east Texas, I do not recall any other area that can be said to be identical to the Big Thicket. The Florida Everglades and the Okeefeenokee Swamp in Georgia are different from this region. The rolling Piedmont forests and the more open woodlands of the coastal plains of these more eastern regions are also different. In fact, in the Big Thicket we not only have ecologic representations of all of the above regions, but we have immense areas that resemble tropical jungles to be found in such areas as the states of Tamaulipas and Vera Cruz, Mexico.

A point that might escape the casual observer is the fact that although the Big Thicket is considered a southeastern woodland, and it connotes to the average individual a coastal plain flora, there are some species in the Big Thicket area that have not been reported from Louisiana eastward but are connected with the Appalachian flora from northeastern Arkansas northeastward. The occurrence of these species so far westward, in an almost direct line from the Appalachian area, is another puzzling factor in plant distribution. I do want to emphasize that the Big Thicket is not just another woodland that is so common to most of southeastern United States.

It is unthinkable to knowledgeable biologists that a good representation of this unique area may not be saved for future generations. The region is not only one of great aesthetic value to the naturalist and nature lover, but it is literally an out-of-doors laboratory for the biology student. More than 200 trees and shrubs are indigenous to southeast Texas, of which the Big Thicket forms a prominent part. Many of the trees attain their maximum size in the Big Thicket, especially along Pine Island Bayou and the Neches River. Among these are basket oak, gum and cypress. The beech, which in northeastern United States is to be found on north-facing slopes, grows along streams and on gently rolling lands in the Big Thicket to form forests of magnificent trees. Southern magnolia is known to be ancient and of enormous growth in the Big Thicket. Numerous unique herbaceous plants are to be found in the Big Thicket, including 34 species of ferns and fern allies and 30 species of native orchids. Many plants that are rare to other sections of the country are often common to the area.

My personal opinion is that in order to assure the utmost protection and perpetuation of the flora and fauna of this unique area, a block of at least 75,000 acres should be set aside and maintained as a National Park. If any part of the park is to be maintained as a nature preserve and haven for indigenous plants and animals it should be large enough to include a protective or buffer zone. Otherwise, the area will soon become contaminated by the introduction of weedy plants and domestic animals. Also, any watercourse that is to be a part of a natural preserve should have its headwaters protected from all outside interference and disturbance.

One argument used against the formation of a National Park, and one that I would like to refute most emphatically is based on the assumption that once a forest is disturbed or cut over it is forever lost as a park area possibility. This is a short-sighted and untrue argument that is often used by those who are against the formation of a Park preserve in the Big Thicket. This fallacy also has been the basis for apparent systematic, purposeful demolitions in some choice areas of the Big Thicket, after which opponents can proudly boast that "there is nothing worth saving in the Big Thicket". This selfish argument should never be accepted as a deterrent to the acquisition of lands for a park. For instance, there is little doubt that most of the present so-called "pristine" forest of the Big Thicket has been cut over at least once, if not more. Also, very little, if any, of what are now the Smoky Mt. Park and Shenandoah Parkway escaped logging in the early days. Yet, today, these National Parks, formed primarily of second-growth trees, are great aesthetic assets for not only the Americans along the eastern seaboard, but for all of our people. As long as the ecological phenomenon of "succession" remains a fact we can depend upon a cut-over forest to return eventually to its ultimate climax state if it is set aside and protected. For this reason, if need be, it would be well to include some cut-over forests within the Park area, not only for the above reason but also because such lands should be less costly to obtain. Studies have shown that quick recovery and rapid growth occur in most of the Big Thicket after logging. In any case, the creation of a park should never be colored by a desire for expediency and immediate results but rather it should be motivated by needs of the future and a desire to preserve something of our inheritance to be enjoyed by those who come after.

To reiterate, I would say that several of the most salient points, from a botanical standpoint, to support setting aside a portion of the Big Thicket for posterity are: 1) The area is the western extremity of the distribution of southeastern United States plants; 2) Critical speciation appears to be occurring there; 3) The region is a haven for a unique composition of plant species; 4) Some elements of the Big Thicket flora are directly related to the Appalachian flora; 5) Several species of trees, including the American holly, American beech and southern magnolia, attain their finest development and largest size in the Big Thicket.

ARMY SURVEILLANCE OF CIVILIAN POLITICAL ACTIVITIES

Mr. FULBRIGHT. Mr. President, on Monday last, I placed in the RECORD Mr. Christopher Pyle's most recent article concerning the Army's surveillance of civilian political activities.

Since bringing this article to the attention of the Senate, I have received in the mail a copy of an Air Force memorandum entitled "Reporting Subversive Activities," issued May 25 at Sheppard Air Force Base, Wichita Falls, Tex.

Although it is not clear whether this memorandum applies to military personnel only or whether it includes civilians as well, I think it makes little real difference, for the basic question at issue is to what extent any branch of the Armed Forces may infringe on basic rights guaranteed by the Constitution to each and every citizen, whether in military or civilian life.

Perhaps the most rudimentary of all our constitutional guarantees are those which seek to insure every individual's right to express openly his political beliefs and to participate actively in the political process itself.

The Air Force memorandum which I received clearly shows little regard for any of these constitutional guarantees; it directs the base's "organizational commanders" to instruct their personnel to report on a variety of attitudes and activities, including:

First. Personnel having indebtedness being approached with offers of financial aid.

Second. Personnel making statements which indicate disloyalty to the United States.

Third. Personnel making sympathetic statements in support of antiwar demonstrators.

Fourth. Congregation of unauthorized persons.

Fifth. Persons attempting to spread antiwar sentiments in public places on Sheppard Air Force Base.

Sixth. Persons making statements with racial overtones.

In the Air Force memorandum, all of these items are carried under the subject heading "Reporting Subversive Activities."

Mr. President, I consider this memorandum an outrage: at best it directs the military personnel on one Air Force base to maintain a semisurveillance on the political attitudes and activities of their colleagues; at worst, it indicates a program that may be going on throughout the military and one which is being applied to civilians as well.

At its worst or at its best, what is envisioned by this memorandum has no place in our society. And if it werre to go unquestioned, I think it would be an open invitation to the Pentagon to play as fast and as loose with basic individual freedoms as it sees fit.

Because this Air Force memorandum raises so many fundamental constitutional issues, I have sent a copy of it to the chairman of the Subcommittee on Constitutional Rights, Mr. ERVIN—who is probably the most distinguished constitutional lawyer in this body. I hope that the subcommittee will look into this matter.

Mr. President, I ask unanimous consent that the Air Force memorandum which I received and my letter to the distinguished senior Senator from North Carolina (Mr. ERVIN) be printed in the RECORD.

There being no objection the items were ordered to be printed in the RECORD as follows:

U.S. SENATE,
Washington, D.C., July 9, 1970.

Hon. SAM J. ERVIN, Jr.,
Chairman, Subcommittee on Constitutional Rights, U.S. Senate, Washington, D.C.

DEAR SENATOR: I am enclosing a copy of an Air Force memorandum entitled "Reporting Subversive Activities" issued May 25, Sheppard Air Force Base, Texas, which I received a few days ago. I have no reason to question its authenticity.

The person who sent it to me was, I think, understandably outraged by it and, in view of the fact that the memorandum raises a number of basic issues bearing directly on individual rights and freedoms, I thought that the matter should be brought to the attention of your Subcommittee.

While some may disagree on whether the Air Force or any branch of the Armed Forces should be actively engaged in reporting and collecting information on political attitudes and activities, the enclosed memorandum is, I think, particularly shocking because of the kinds of attitudes and activities it so casually labels as "subversive." In this regard, the memorandum directs that ". . . organizational commanders will brief their personnel to report any of the following activities . . ." including

1. "Personnel having indebtedness being approached with offers of financial aid."

2. "Personnel making statements which indicate disloyalty to the United States."

3. "Personnel making sympathetic statements/support of antiwar demonstrators."

4. "Congregation of unauthorized persons."

5. "Persons attempting to spread antiwar sentiment in public places on Sheppard Air Force Base."

6. "Persons making statements with racial overtones."

You will note that it is not clear whether the memorandum applies to reporting on military personnel only or whether it includes civilians as well. In either case, I view this situation with great concern and I wish to express the hope that you and the members of your Subcommittee may be able to look into this matter and determine, among other things, the extent to which such surveillance or semi-surveillance operations are being conducted throughout the military establishment; the military's authority for conducting such operations; the manner in which the information is collected, evaluated, and used; and the degree to which basic Constitutional rights are jeopardized by a continuation of these operations.

Sincerely yours,
J. W. FULBRIGHT,
Chairman.

Reply to atten of: XPO–DP/8 (MSgt Roten/6212).
Subject: Reporting Subversive Activities.
To: Distribution B Plus Tenent Organizations.

1. The possibility of civil demonstrators disrupting activities at Sheppard Air Force

Base is remote; however, to be prepared for such a possibility, directors of center staff agencies and organizational commanders will brief their personnel to report any of the following activities to their supervisor who should insure the information reaches an action agency; i.e., OSI, Security Police, Sheppard Command Post.

a. Personnel having indebtedness being approached with offers of financial aid.

b. Persons making conversation about "overthrow" of the United States Government.

c. Personnel being threatened with black mail.

d. Personnel making statements which indicate disloyalty to the United States.

e. Personnel making sympathetic statements/support of the antiwar demonstrators.

f. Acts of sabotage or suspected acts of sabotage.

g. Personnel making threats against the President of the United States or other high government officials or high ranking military personnel.

h. Congregation of unauthorized persons.

i. Persons attempting to spread antiwar sentiments in public places on Sheppard Air Force Base.

j. Persons making statements with racial overtones.

JACK JANUARY, Jr.,
Colonel, USAF, Acting Director, Plans/Operation.
(For the Commander).

FOLK LIFE FESTIVAL BRINGS US TOGETHER

Mr. YARBOROUGH. Mr. President, the Fourth Annual Folk Life Festival which was held in Washington on July 1 through July 5, 1970, was an outstanding success. The festival was sponsored by the Smithsonian Institution and organized by the Institution's Division of Performing Arts. It is estimated that more than 700,000 people visited and enjoyed the festival this year.

The Folk Life Festival and similar events satisfy a strong need on the part of the citizens of this Nation. We are searching for a common ground upon which we can unite. We have found this common ground in the celebration of our diverse cultural heritage.

Even as we learned to appreciate the unique customs, skills, and ways of life of the people who conducted the exhibits, those of us who attended the festival learned that we could enjoy and share this experience regardless of the length of our hair or the diversity of our political views.

We should do all that we can to foster an attitude of tolerance and respect for diversity. The study and appreciation of folk life is an excellent way in which to accomplish this.

Mr. President, on March 20, 1969, I introduced S. 1591, a bill to establish an American Folk Life Foundation. The Foundation will be an agency of the Smithsonian Institution and will seek to develop and encourage a great public awareness of American cultural diversity and the value of American traditional culture.

The prompt enactment of this legislation would provide a means through which the folklife of our Nation can be preserved, enjoyed, and celebrated for the benefit of all our citizens.

An interesting article about the Folk Life Festival and the need to continue and expand such activities appeared in the July 12, 1970, issue of the Washington Sunday Star, on page H–5. The article was written by Mr. Donald Smith and is entitled "Folklife Festival Helps To Bring Us All Together."

Mr. President, I recommend this article to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, July 12, 1970]

FOLK LIFE FESTIVAL HELPS TO BRING US ALL TOGETHER

(By Donald Smith)

Early in the morning on the second day of the Smithsonian Institution's Festival of American Folklife earlier this month, festival director Ralph Rinzler received a telephone call from a middle-management level government employe who had attended the children's concert on the Mall the day before. He praised the program and then added:

"One thing that really astounded me was that, as I was sitting there listening, a bunch of hippies with long hair and no shoes came marching through playing kazoos and beating drums. I thought they were going to start a riot. Then I saw that they were a garbage detail. I'd never seen such a joyous garbage collection. I was really impressed by them."

The young people, residents of a Vermont commune who had been hired to help keep the grounds clean, were by no means the only long-haired youths at the festival. One of the most remarkable aspects of that week was its attraction for people of all descriptions, from free-wheeling students to solid middle Americans.

"The kids and the older people and their families all sat down next to each other and chatted, and there was a nice feeling between them," Rinzler says.

EXTEND FESTIVAL

In view of the fragmentation and divisiveness that fills most of our days, one can hardly think of a better argument for extending the folklife festival beyond the five days it occupied this year. But there are several others.

From a purely practical standpoint, an extended program would enable more people—tourists and residents of the Washington area alike—to participate. Organizers estimated that more than 700,000 people passed through the festival this year. This is a healthy number, but it represents only a fraction of the tourists who visit Washington every year.

The festival has grown enormously since its beginnings in the fall of 1966, when S. Dillon Ripley, secretary of the Smithsonian, assigned James Morris, director of the Institution's newly-established Division of Performing Arts, to put together some treatment of ethnic cultural material, primarily music, in the manner of Ripley's "living museum."

Morris, who had produced a large festival in Ashville, N.C., in 1963, recruited Rinzler as the director. Rinzler at the time was doing field research for the Newport Folk Festival. The first edition of the Smithsonian festival was squeezed into the space of one weekend. It still attracted 350,000 people.

Plans for next year's festival already are underway. They include again featuring the folklore of one state and that of one Indian group, as well as the culture of some other ethnic minority. Italian, Irish and Jewish-American programs are being considered.

The possibility of extending the festival's time has been raised periodically since the first year. Rinzler is concerned that the aspect of comparing two or more folk cultures in juxtaposition be preserved, and the spacing out of "exhibits" might weaken this. There is no question but that the effect of being able to wander a few steps away from an Indian ceremonial dance and walk into a group listening to a string band from Arkansas is dramatic.

One alternative proposed by Morris is to retain the central festival, but to present smaller demonstrations over a longer period of time before and after.

The most intriguing possibility is to turn the Mall into a year-around festival area. Naturally, the major problem would be money. The budget for this year's festival was about $120,000, not counting the large numbers of volunteers who helped produce and administer the program.

Larger funding might be possible under a bill that has been introduced by Senators Ralph W. Yarborough, D-Tex., and J. William Fulbright, D-Ark., calling for the establishment of a foundation for the study and preservation of American folk culture. Hearings on this bill are expected to begin in the House in the next few weeks.

The idea of establishing a year-around festival area on the Mall, with pavilions and public accommodations, represents a significant departure in the historical concept of Washington as the city of grand vistas.

When Pierre Charles L'Enfant, the 37-year-old French engineer officer, Revolutionary War veteran and aristocrophile, laid out the federal city in the 1790s, he followed the precepts of the baroque style of landscape architecture, which was then at its zenith of popularity. In particular, he was fond of the plan of Louis XIV's Versailles, which contemplated monumental views at the expense of accommodating people. The vista was paramount: long, broad avenues rendered large extents of land visible. The avenues were made to intersect at equal angles to form *pattes d'oie,* producing the effect of visibility in multiple. One critic has said that the whole plan of Versailles was focused on Louis XIV's bedroom, where the vistas intersected and allowed him to imagine he controlled the whole natural world by seeing it through his vista-ways.

It also has been noted that L'Enfant designed Washington with a population of 800,000 in mind, all of them not only well-to-do, but patently rich.

As late as 1963, a secretary of the Interior was saying that the office of National Capital Parks' main task was to preserve L'Enfant's concept of the parks as places "to be used not primarily for 'pleasuring' but to heighten the visual impact of the federal buildings and national monuments."

For the Mall itself, L'Enfant planned the grandest vista of all, a 400-foot wide, mile-long, tree-lined promenade on the order of the Champs Elysees, occupied on either side by embassies.

George Washington dismissed the temperamental Frenchman before his work was completed, and his designs disappeared with him. The main elements of the city were laid out on the basis of a plan that was reconstructed by memory.

PLACE FOR PEOPLE

It remained for the McMillan Commission, named after the chairman of the Senate District Committee in 1902, to revive interest in completing the plan with some modifications. One of these was to grade the Mall and plant it with grass, thus preserving the grand view, but making it even more inaccessible than the public promenade L'Enfant had planned.

Only recently, under the guidance of former regional park director Nash Castro, have Washington Parklands come to be regarded as places for people to congregate—even at the expense of cluttering up the view.

Lewis Mumford several years ago remarked that the design L'Enfant made for the new capital "was in every respect what the architects and servants of despotism originally had conceived." Another critic noted: "One might ponder the relevance of baroque planning—conceived largely as an expression of absolutism—in a democratic society."

The presence of the Folklife Festival during this time of re-evaluation seems almost serendipitous. Its attraction for virtually all elements of American society, its ability to draw large numbers of people of diverse backgrounds together into a common meeting ground, is a unique recommendation for its full-time occupancy of L'Enfant's American vista.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. GRAVEL). Is there further morning business? If not, morning business is concluded.

LEGISLATIVE BRANCH APPROPRIATIONS, 1971

Mr. MONTOYA. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER (Mr. GRAVEL). The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 16915) making appropriations for the legislative branch for the fiscal year ending June 30, 1971, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Mexico?

There being no objection, the Senate proceeded to the consideration of the bill which had been reported from the Committee on Appropriations with amendments.

Mr. MONTOYA. Mr. President, the legislative branch appropriation bill for fiscal year 1971, which is now before the Senate, recommends appropriations for the current fiscal year in the amount of $413,874,653. This bill provides the funding to support the operations and functions of the Senate, the House of Representatives, the Architect of the Capitol, the Botanic Garden, the Library of Congress, the Government Printing Office, and the General Accounting Office. The sum recommended by the committee is $67,225,423 above the bill as it passed the House of Representatives. It has been the custom for many years for the House to exclude items in this bill relating strictly to the Senate. Of this increase over the House-passed bill, $65,510,390 represents items which were not considered by the House under this customary procedure. When these Senate items are eliminated from the increase, the bill is only $1,715,033 over the House bill and this sum relates to increases for the General Accounting Office, the Library of Congress, and some joint items.

I would like to point out to the Senate that the bill exceeds the appropriations for 1970 in the amount of $52,850,326. Since this is a considerable sum, I think it should be made clear to the Senate that most of this increase results from the inclusion in the bill of $15,610,000 to commence construction of the Library of Congress James Madison Memorial Building and $25 million for the Government Printing Office including a $22 million contribution to the GPO revolving fund. There is also a $6.1 million increase for the General Accounting Office. The report is before each Member, and at the conclusion of the report there are tabular pages which give complete comparisons for each item in the bill. Consequently, I will confine my remarks to some of the major matters which came before the committee this year.

First, the committee has seen fit to transfer the positions of comptroller and secretary to the comptroller to the Office of the President pro tempore of the Senate. You will recall that last year the comptroller position was created within the Office of the Secretary of the Senate. However, it was the feeling of the committee that the individual charged with the responsibility for audit of vouchers should not be under the individual responsible for making disbursements. This is true in any major operation that has come to my attention. It is true with respect to the executive branch of the Government. The Comptroller General of the United States is not responsible for the Treasury Department's Division of Disbursement. Under this transfer, the comptroller will be responsible to the most senior Member of the Senate and, consequently, will be directly responsible to the Senate.

Mr. CURTIS. Mr. President, will the Senator yield at that point?

Mr. MONTOYA. I am happy to yield.

Mr. CURTIS. Who is now performing the duties that will be performed by this comptroller?

Mr. MONTOYA. Mr. Brenkworth is now performing those duties.

Mr. CURTIS. All of them?

Mr. MONTOYA. Yes.

Mr. CURTIS. Are any of those duties performed by the chairman of the Committee on Rules and Administration or by the committee itself?

Mr. MONTOYA. The Committee on Rules and Administration actually makes policy and Mr. Brenkworth carries out those recommendations when it comes to fiscal policies.

Mr. CURTIS. Is it true or is it not true that the chairman of the Committee on Rules and Administration signs all vouchers in all of these matters?

Mr. MONTOYA. That is correct, and he still would.

Mr. CURTIS. He still would?

Mr. MONTOYA. Yes.

Mr. CURTIS. It does not change that?

Mr. MONTOYA. It does not change any powers of the Committee on Rules and Administration at all.

Mr. CURTIS. To what extent will there be a duplication?

Mr. MONTOYA. There will be no duplication at all. In substance, the duties of the comptroller would be to perform auditing functions over all disbursements of the Senate, and he would be an official separate and apart from the office of the Secretary of the Senate. The comptroller would be under this body for all intents and purposes and he would be appointed by the President pro tempore.

Mr. CURTIS. How large an office does the Senator anticipate this would be? What is this going to cost?

Mr. MONTOYA. We provide here for an appropriation for his salary and the salary of a secretary; two people altogether.

Mr. CURTIS. Two people. Does this proposal have the approval of this disbursing office?

Mr. MONTOYA. It has the unanimous approval of the committee and we were in consultation not only with the Secretary of the Senate, but also with the leadership of the Senate.

Mr. CURTIS. Would that include the chairman of the Committee on Rules and Administration?

Mr. MONTOYA. No, it did not.

Mr. CURTIS. I thank the Senator.

Mr. MONTOYA. Mr. President, in accordance with the request of the Secretary of the Senate, language has been included in the bill which will authorize the Secretary to fix salaries at not to exceed the rate of compensation authorized for the particular position. This will afford to the Secretary authority to reduce the position gross of any position which might fall vacant if in the judgment of the Secretary the position should be filled at a lower salary level. In addition, language has been included in the bill changing the name of the position "Custodian of Records" to "Assistant Legislative Analyst," and the position "Assistant Secretary" to "Receptionist." The purpose of this language is to redefine positions where the condition and needs have changed considerably. Should the Secretary desire any additional changes in the names of positions, the committee will be glad to consider any such recommendations next year.

Under the office of the Sergeant at Arms, the committee has recommended the creation of 27 new positions. Thirty-six Members of the U.S. Senate have addressed themselves to the Sergeant at Arms concerning the delays encountered in connection with the mailing of official documents and newsletters by the Service Department. On the recommendation of the Sergeant at Arms, the committee created 14 additional positions in the Service Department and the Sergeant at Arms intends to institute a double shift immediately. In view of the increase in the use of automatic typewriters, it has been found necessary to create two additional positions of "automatic typewriter repairmen." The Senate Recording Studio has now moved to its new quarters in the old subway tunnel and the necessary equipment to provide video tape recordings has been installed, which has created a requirement for a video tape recording engineer and an assistant video tape recording engineer, which two new positions the committee recommends. Based upon the recommendations of the Chief of the Capitol Police and the Sergeant at Arms, the committee has created five additional "sergeant" positions in the Capitol Police Force, and on the recommendation of the joint leadership and the Sergeant at Arms, four additional pages have been authorized. The salaries of the employees in the Daily Press Gallery, Radio-Television Gallery, Periodical Press Gallery, and Press Photographers' Gallery have been increased to comparable salaries in the House of Representatives—this, on the recommendation of the Correspondents' Committees of the four Senate news galleries, which was endorsed by the joint leadership.

For the Joint Economic Committee, the committee has recommended an appropriation of $577,900. This is an increase of $35,000 over the House allowance and over the 1971 budget estimate. This additional sum will provide for two positions to satisfy the need for additional evaluation of economic priorities in the public sector.

For the Joint Committee on Printing, the committee has increased the House bill by $36,133, and this additional amount will provide $17,000 for compiling the revised edition of the "Biographical Directory of the American Congress, 1774–1970", as provided by Senate Concurrent Resolution 70, approved in the Senate on June 18, 1970. It will also provide $19,133 for additional staff that the vice chairman of the committee pointed out was necessary in the light of the constantly growing use and importance of high-speed electronic photocomposition, with particular reference to congressional needs.

The committee concurs in the figure of $938,800 for the office of the Architect of the Capitol, which sum includes $16,000 for a "sanitarian." This latter position was requested by the Attending Physician so that the food service areas, and possibly other public service areas in the Capitol complex of buildings, might be given closer inspection and supervision.

The committee has included in the bill $510,000 for the extension of the additional Senate Office Building site. These funds will be used to purchase the Plaza Hotel property, and the authorization for this purchase was reported by the Committee on Public Works and approved by the Senate on May 21, 1970. The authorizing bill is now pending in the House of Representatives.

The committee has also concurred with the House and recommends an appropriation of $15,610,000 for the commencement of construction of the Library of Congress James Madison Memorial Building.

For the Library of Congress, the committee recommends an appropriation of $50,505,400, which is $1,340,600 under the budget estimate. However, it is $563,400 above the House allowance. These additional funds will authorize the Librarian to employ 55 additional employees over the number provided in the House bill and will provide a Library-wide total of 3,073 employees. Twenty-five of these additional employees will be financed under the appropriation, "Salaries and Expenses"; five under the appropriation, "Copyright Office"; and the balance of 25 positions will be for the Legislative Reference Service. The House provided 25 additional positions for the Legislative Reference Service, and with the recommendation of the Senate committee, the Service will have a total manpower complement of 378 employees. The committee believes this number should be sufficient to meet the most pressing areas of activity within the Service.

For the Government Printing Office, the committee concurs with the House and recommends a total appropriation of $65,382,000, which is $5,657,000 under the budget estimate. Most of the reduction herein relates to the approximately $4 million requested for selection of site, and general plans and designs of buildings. No consideration could be given to this request since the site for the new printing plant has not been acquired.

For the General Accounting Office, the committee recommends an appropriation of $74,750,000. This sum in $1,038,000 over the House allowance and is the full amount of the budget estimate. The Comptroller General requested 260 additional employees in view of the growing workload, which was well documented in the justifications and in the testimony before the committee. The House had provided 175 of these employees, and with the additional sum recommended by the committee, the Comptroller General will be in a position to employ 260 new personnel, to provide a total work force of 4,829.

Details of the savings attributable to the auditing and review work of the General Accounting Office can be found on pages 621–622 of the Senate hearings.

Mr. President, that concludes my prepared remarks with respect to this bill. I shall be glad to answer any questions which any of the Members may have.

I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and it is so ordered.

The amendments agreed to en bloc are as follows:

At the top of page 2, insert:

"SENATE"

On page 2, after line 1, insert:

"Compensation of the Vice President and Senators, Mileage of the President of the Senate and Senators, and Expense Allowances of the Vice President and Leaders of the Senate

"COMPENSATION OF THE VICE PRESIDENT AND SENATORS

"For compensation of the Vice President and Senators of the United States, $4,707,-200."

On page 2, after line 8, insert:

"MILEAGE OF THE PRESIDENT OF THE SENATE AND OF SENATORS

"For mileage of the President of the Senate and of Senators, $58,370."

On page 2, after line 12, insert:

"EXPENSE ALLOWANCES OF THE VICE PRESIDENT, AND MAJORITY AND MINORITY LEADERS

"For expense allowance of the Vice President, $10,000; Majority Leader of the Senate, $3,000; and Minority Leader of the Senate, $3,000; in all, $16,000."

On Page 2, After Line 17, Insert:

"Salaries, Officers and Employees

"For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions and longevity compensation as authorized, which shall be paid from this appropriation without regard to the below limitations, as follows:"

At the Top of Page 3, Insert:

"OFFICE OF THE VICE PRESIDENT

"For clerical assistance to the Vice President, $367,263."

On Page 3, After Line 2, Insert:

"OFFICE OF THE PRESIDENT PRO TEMPORE

"For office of the President Pro Tempore, $44,165: *Provided*, That, effective August 1, 1970, the President Pro Tempore is authorized to appoint a Comptroller of the Senate at a salary of $36,000 per annum, and the Comptroller may appoint a Secretary to the Comptroller at a salary of not to exceed $13,688 per annum, which appointments shall be in lieu of the two appointments authorized by the second proviso contained in the paragraph 'Office of the Secretary' under the heading 'SENATE' in the Legislative Branch Appropriation Act, 1970: *Provided further*, That the Comptroller of the Senate shall prepare budgets and amendments to the budgets of the Senate and shall audit all financial records of the Senate relating to the expenditure of appropriated funds. The Comptroller shall have complete access to all information he determines necessary to carry out his budget and auditing duties."

On Page 3, After Line 19, Insert:

"OFFICES OF THE MAJORITY AND MINORITY LEADERS

"For offices of the Majority and Minority Leaders, $176,514."

At the Top of Page 4, Insert:

"OFFICES OF THE MAJORITY AND MINORITY WHIPS

"For offices of the Majority and Minority Whips, $90,228."

On Page 4, After Line 3, Insert:

"OFFICE OF THE CHAPLAIN

"For office of the Chaplain, $18,615: *Provided*, That effective July 1, 1970, the compensation of the Chaplain shall be $10,208 per annum and the compensation of the secretary to the Chaplain may be fixed at not to exceed $8,584 per annum."

On page 4, after line 9, insert:

"OFFICE OF THE SECRETARY

"For Office of the Secretary, $1,816,240, including $68,145 required for the purpose specified and authorized by section 74b of title 2, United States Code: *Provided*, That effective August 1, 1970, the Secretary may employ and fix the compensation of an administrative assistant at not to exceed $22,040 per annum, an assistant legislative clerk at not to exceed $27,376 per annum a second assistant legislative clerk at not to exceed $20,648 per annum, a special assistant at not to exceed $16,704 per annum, a receptionist at not to exceed $11,826 per annum in lieu of an assistant secretary at not to exceed $11,826 per annum, and an assistant legislative analyst in the library at not to exceed $11,169 per annum in lieu of a custodian of records at $11,169 per annum: *Provided further*, That any specific rate of compensation established by law, as such rate has been increased or may hereafter be increased by or pursuant to law, for any position under the jurisdiction of the Secretary shall be considered as the maximum rate of compensation for that position, and the Secretary is authorized to adjust the rate of compensation of an individual occupying any such position to a rate not execeeding such maximum rate."

On page 5, after line 6, insert:

"COMMITTEE EMPLOYEES

"For professional and clerical assistance to standing committees and the Select Committee on Small Business, $4,420,734."

On page 5, after line 10, insert:

"CONFERENCE COMMITTEES

"For clerical assistance to the Conference of the Majority, at rates of compensation to be fixed by the chairman of said committee, $127,239."

On page 5, after line 14, insert:

"For clerical assistance to the Conference of the Minority, at rates of compensation to be fixed by the chairman of said committee, $127,239."

On page 5, after line 17, insert:

"ADMINISTRATIVE AND CLERICAL ASSISTANCE TO SENATORS

"For administrative and clerical assistants to Senators, $27,909,141."

On page 5, after line 21, insert:

"OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

"For Office of Sergeant at Arms and Doorkeeper, $5,713,520: *Provided,* That effective July 1, 1970, the Sergeant at Arms may employ a video engineer at $20,880 per annum, an assistant video engineer at $17,632 per annum, three automatic typewriter repairmen at $10,672 per annum each in lieu of one automatic typing repairman at $10,672 per annum, a driver-messenger for attending physician at $10,672 per annum, eight laborers in the service department, at $6,728 per annum each, five additional sergeants, police force at $10,904 per annum each if not qualified as provided by section 105 of the Legislative Branch Appropriation Act, 1969 or $11,600 per annum each if qualified as provided therein, four additional pages at $6,960 per annum each, a night foreman, duplicating department at $10,904 per annum, three additional offset press operators at $9,976 per annum each, one additional mimeograph operator at $7,424 per annum, one additional inserting machine operator at $7,656 per annum, and the per annum compensation of the following positions shall be increased as indicated: superintendent of press gallery $21,576 in lieu of $19,256; first assistant superintendent of press gallery $19,256 in lieu of $17,400; second assistant superintendent of press gallery $15,080 in lieu of $13,920; third assistant superintendent of press gallery $13,456 in lieu of $12,064; fourth assistant superintendent of press gallery $10,672 in lieu of $9,744; secretary, press gallery $9,744 in lieu of $8,120; superintendent of radio press gallery $21,576 in lieu of $19,024; first assistant superintendent in radio press gallery $19,256 in lieu of $14,848; second assistant superintendent in radio press gallery $15,080 in lieu of $12,992; third assistant superintendent in radio press gallery $13,456, in lieu of $11,136; superintendent, periodical press gallery $19,256 in lieu of $17,400; assistant superintendent, periodical press gallery $13,456 in lieu of $11,136; superintendent, press photographers gallery $19,256 in lieu of $14,848; and assistant superintendent, press photographers gallery $13,456 in lieu of $10,440."

On page 7, after line 9, insert:

"OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

"For offices of the Secretary for the Majority and the Secretary for the Minority, $216,372."

On page 7, after line 13 insert:

"OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

"For salaries and expenses of the office of the Legislative Counsel of the Senate, $415,130."

On page 7, after line 17, insert:

"CONTINGENT EXPENSES OF THE SENATE

"SENATE POLICY COMMITTEES

"For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $261,430 for each such Committee; in all, $522,860."

On page 7, after line 22, insert:

"AUTOMOBILES AND MAINTENANCE

"For purchase, exchange, driving, maintenance, and operation of four automobiles, one for the Vice President, one for the President Pro Tempore, one for the Majority Leader, and one for the Minority Leader, $55,220."

On page 8, after line 2, insert:

"FURNITURE

"For service and materials in cleaning and repairing furniture, and for the purchase of furniture, $31,190: *Provided,* That the furniture purchased is not available from other agencies of the Government."

On page 8, after line 7, insert:

"INQUIRIES AND INVESTIGATIONS

"For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, including $456,625 for the Committee on Appropriations, to be available also for the purposes mentioned in Senate Resolution Numbered 193, agreed to October 14, 1943, $7,341,580."

On page 8, after line 14, insert:

"FOLDING DOCUMENTS

"For the employment of personnel for folding speeches and pamphlets at a gross rate of not exceeding $2.99 per hour per person, $51,015."

On page 8, after line 18, insert:

"MAIL TRANSPORTATION

"For maintaining, exchanging, and equipping motor vehicles for carrying the mails and for official use of the offices of the Secretary and Sergeant at Arms, $16,560."

On page 8, after line 22, insert:

"MISCELLANEOUS ITEMS

"For miscellaneous items, exclusive of labor, $6,188,736, including $497,000 for payment to the Architect of the Capitol in accordance with section 4 of Public Law 87–82, approved July 6, 1961."

On page 9, after line 2, insert:

"POSTAGE STAMPS

"For postage stamps for the offices of the Secretaries for the Majority and Minority, $240; Comptroller, $100; and for air mail and special delivery stamps for the office of the Secretary, $350; office of the Sergeant at Arms, $215; Senators and the President of the Senate, as authorized by law, $119,328; in all, $120,233."

On page 9, after line 9, insert:

"STATIONERY (REVOLVING FUND)

"For stationery for Senators and the President of the Senate, $363,600; and for stationery for committees and officers of the Senate, $14,500; in all, $378,100."

On page 9, after line 13, insert:

"ADMINISTRATIVE PROVISIONS

"Effective July 1, 1970, and thereafter, the contingent fund of the Senate is made available, in accordance with rules and regulations prescribed by the Committee on Rules and Administration of the Senate, for the reimbursement to Senators and the President of the Senate of strictly official telephone and telegraph communications charges incurred by them or on their behalf, not exceeding $150 per annum each, to be in addition to reimbursement or payment authority contained in any other law."

On page 10, after line 7, insert:

"For payment to Dorothy H. St. Onge, widow of William L. St. Onge, late a Representative from the State of Connecticut, $42,500, to be immediately available."

On page 17, line 18, after the word "Committee", strike out "$542,900" and insert "$577,900".

One page 17, line 24, after the word "Printing", strike out "$236,110" and insert "$255,243"; and, in the same line, after the amendment just above stated, insert a semicolon and "and for salaries and expenses of compiling, preparing, and indexing material for the 1970 edition of the Biographical Congressional Directory, $17,000; in all, $272,243."

On page 24, line 18, after the word "Capitol", strike "$2,431,600" and insert "$2,442,526".

On page 24, after line 19, insert:

"Not to exceed $125,000 of the unobligated balance of the appropriation under this head for the fiscal year 1970 is hereby continued available until June 30, 1971."

On page 25, after line 9, insert:

"SENATE OFFICE BUILDINGS

"For maintenance, miscellaneous items and supplies, including furniture, furnishings, and equipment, and for labor and material incident thereto, and repairs thereof; for purchase of waterproof wearing apparel, and for personal and other services; including eight attendants at $1,800 each; for the care and operation of the Senate Office Buildings; including the subway and subway transportation systems connecting the Senate Office Buildings with the Capitol; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902), prevention and eradication of insect and other pests without regard to section 3709 of the Revised Statutes as amended; to be expended under the control and supervision of the Architect of the Capitol; in all, $3,855,000, of which $250,000 shall remain available until expended and of which $80,000 shall remain available until June 30, 1972."

On page 26, after line 3, insert:

"EXTENSION OF ADDITIONAL SENATE BUILDING SITE

"To enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, to acquire on behalf of the United States, in addition to the real property heretofore acquired under the provisions of the Second Deficiency Appropriation Act, 1948, approved June 25, 1948 (62 Stat. 1028) as a site for an additional office building for the United States Senate, and under Public Law 85–591, approved August 6, 1958 (72 Stat. 495–496) and Public Law 85–429, approved May 29, 1958 (72 Stat. 148–149), for purposes of extension of such site or for additions to the United States Capitol Grounds, and authorized to be acquired for such purposes by Public Law 91–145, approved December 12, 1969 (83 Stat. 352–353), by purchase, condemnation, transfer or otherwise, for purposes of further extension of such site or for addition to the United States Capitol Grounds, all privately owned property contained in lots 845 and 832 in square 724 in the District of Columbia, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided,* That any proceeding for condemnation brought under this Act shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further,* That for the purposes of this Act, square 724 shall be deemed to extend to the outer face of the curbs surrounding such square: *provided further,* That, notwithstanding any other provision of law, any parts of streets contained within the curblines surrounding square 724 shall, upon request of the Architect of the Capitol, made with the approval of the Senate Office Building Commission, be transferred to the jurisdiction and control of the Architect of the Capitol: *Provided further,* That, upon acquisition of any real property pursuant to this Act, the Architect of the Capitol, when directed by the Senate Office Building Commission to so act, is authorized to provide for the demolition and/or removal of any buildings or other structures on, or constituting a part of, such property and, pending demolition, to use the property for Government purposes or to lease any or all of such property for such periods and under such terms and conditions as he may deem most advantageous to the United States and to incur any necessary expenses in connection therewith: *Provided further,* That the jurisdiction of the Capitol Police shall extend over any real property acquired under this Act and such property shall become a part of the United States Capitol Grounds; and the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized to enter into contracts and to make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the purposes of this appropriation; $510,000, to remain available until expended."

On page 28, after line 5, insert:

"SENATE GARAGE

"For maintenance, repairs, alterations, personal and other services, and all other necessary expenses, $80,000."

On page 30, line 4, after "$350,000", insert a colon and "*Provided*, That these funds shall be transferred by the Architect of the Capitol to the Librarian of Congress for expenditure in accord with Public Law 91–280, approved June 12, 1970."

On page 31, at the beginning of line 17, strike out "$21,330,000" and insert "$21,573,000".

On page 31, line 25, after the word "copyrights", strike out "$3,548,000" and insert "$3,594,500".

On page 32, line 5, after "(2 U.S.C. 166)", strike out "$5,013,000" and insert "$5,286,800".

On page 39, line 5, strike out "$73,712,000" and insert "$74,750,000".

The PRESIDING OFFICER. The bill is open to amendment.

Mr. MONTOYA. Mr. President, I send to the desk an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. On page 3, line 18, strike out the language "he determines necessary" and insert in lieu thereof the words "as may be necessary."

Mr. MANSFIELD. Mr. President, will the clerk read that amendment again?

The ASSISTANT LEGISLATIVE CLERK. On page 3, line 18, strike out the words "he determines necessary" and insert in lieu thereof the words "as may be necessary."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MONTOYA. Mr. President, I would like to give an explanation of the amendment for the RECORD.

This amendment will make clear that while the Comptroller may have access to information pertinent to his duties, as they may be defined by the Senate, his authority will be discharged within the context of his overall responsibilities to the Senate as a whole. It seems to me desirable that the law shall not assign to any appointed staff employee an authority over the Senate's records which we would be loath to assign to a single Senator. This amendment will insure, therefore, that if questions of interpretation as to the nature and extent of the Comptroller's authority arise, they will be discussed by the President pro tempore and the joint leadership or, as necessary, decided by the Senate as a whole and not by a single staff employee, which would otherwise be the case if this bill were adopted without the amendment.

Mr. President, I send to the desk another amendment, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. On page 4, lines 20 and 21, change the figure to "$12,528", and on page 4, lines 22 and 23 strike the numeral and insert "$11,832."

Mr. MONTOYA. Mr. President, this is a technical correction and resulted from an error in including the rates of pay prior to the 6-percent pay increase. These positions are currently paying $12,528 and $11,832.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MONTOYA. Mr. President, I now call up the next amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MONTOYA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, immediately following the words "Administrative Provisions" on line 14 insert the following paragraph:

"Effective August 1, 1970, the last paragraph under the heading 'Senate' in the First Deficiency Act, fiscal year 1926 (2 U.S.C. 64a) is amended to read as follows:

"In the event of the death, resignation, or disability of the Secretary of the Senate, the Financial Clerk of the Senate shall be deemed his successor as a disbursing officer, under his bond as Financial Clerk, and he shall serve as such disbursing officer until the end of the quarterly period during which a new Secretary shall have been elected and qualified, or such disability shall have been ended."

Mr. MONTOYA. Mr. President, this is a technical amendment to retain within the office of the Secretary the emergency succession of the disbursing authority and is necessary since the position currently designated as successor is transferred to another office in this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk, and ask to have it stated.

The PRESIDING OFFICER. The amendment will be read.

The ASSISTANT LEGISLATIVE CLERK. On page 17, line 18, strike out the figure "$577,900" and insert in lieu thereof "$667,900."

Mr. PROXMIRE. Mr. President, this amendment would provide an additional $90,000 to the Joint Economic Committee. The committee provided $35,000. We would like to have $125,000 so we could have a beginning capability for making economic analyses of various programs.

In this bill the General Accounting Office is given something like 220 or 230 or 240 additional, I repeat additional employees. That is good, because they do a fine job. They determine whether or not laws are being enforced legally. They determine whether or not they are being enforced honestly. We all know how they have saved a great deal more money than they have cost.

So I am not objecting to the fact that they are getting more people. I think they can use them, and use them well. But I am asking for just three additional professionals, so that, in addition to knowing whether or not these laws we pass are being carried out honestly and legally, we will know whether or not we should appropriate funds at all, whether it makes economic sense to do so; and in order to do that, we have to have some kind of economic capability, a staff that is capable of determining what the benefits are and what the costs are, to give us some hard answers.

EVALUATION OF PRIORITIES—ECONOMIC ANALYSIS

Mr. President, I have the honor to serve as vice chairman of the Joint Economic Committee at the present time. It is a committee whose leadership alternates between House and Senate. In the previous Congress, I was the chairman.

In my 12 years as a member of the Joint Economic Committee, I have always been deeply impressed with the contribution that it makes to the economic knowledge of the Congress. Of course, that is what it should do, inasmuch as the committee was set up for the purpose of appraising the President's economic policies and advising the Congress on all matters of economic policy on a continuing basis. In the course of my work on the committee, I have become deeply concerned about the need for more attention, in the economic policy field, and to the economic impact of public expenditures. When we stop to consider the fact that $200 billion—20 percent of our national income—is collected and spent by the Federal Government, we realize how massive an effect on the economy Federal spending exercises.

But, that is not all. The Federal Government intervenes in the economy in many other ways besides direct spending. Congress provides extensive subsidies for a great variety of activities. Subsidies, by redirecting the stream of economic resources, greatly affect the economy. Moreover, regulatory policy has a pervasive effect on the way we use our national resources. At a recent hearing, it was mentioned that the Federal Communications Commission, for example, which spends about $20 million a year affects national production in the amount of approximately $20 billion. I do not think it is any exaggeration to say that well over half of our gross national product is affected either directly or indirectly by public policies.

Considering this massive effect, one might expect that the Congress would devote a good deal of attention to assessing the impact of these activities on our economy, on national production, on our wealth and its distribution, and on our price structure.

But that is not the case. The fact is that we have to make decisions on these matters without any analysis. Nowhere is there available to the Congress a body of program analysis that would show us some of the true costs and true benefits of public programs and of alternative approaches to public objectives. We operate in the dark.

It was for this reason that I called for the creation of a top flight, highly qualified staff unit in the House-Senate Joint Economic Committee to provide the Congress with detailed studies of the relative costs and priorities of administration proposals. More specifically, I proposed that the Joint Economic Committee set up a staff of economists skilled in program analysis to provide the Congress with the economic analysis it needs to make wise decisions and to evaluate properly the proposals of the executive branch.

We all know that Congress has ceded far too many decisions to the executive branch. As a matter of fact, with our very modest staff resources we are often at the mercy of executive departments who are aided by huge staffs. Moreover, as our society becomes ever more complex and the Federal budget edges upward, we are faced more and more with evaluating and probably approving policies for which we have much too little knowledge. It seems obvious that the Congress has urgent need for such a highly qualified group of analysts to provide us directly with the facts we need to determine spending priorities, and information as to the economic costs and benefits to be expected from new proposals.

The committee, in recent years, has undertaken a few case studies to explore the field of economic analysis and its relation to Government efficiency. As a matter of fact, a report filed in February of this year by the Subcommittee on Economy in Government—of the Joint Economic Committee—contains some insights on various programs which we undertook to appraise—admittedly in a sketchy way—to show how the task of program analysis might be handled. That report also sets forth a number of conclusions dealing with the need for more explicit statement of program objectives and more careful analysis of alternative means of attaining them. It expressly recommends that Congress achieve a capability to provide objective policy analysis and program evaluation studies on a continuing basis.

In line with our recommendations, the Joint Economic Committee in its budget request in April of this year asked for an additional $125,000 to permit extension of our work in the field of program analysis and evaluation of priorities. This amount was intended to give us a start—just a start, Mr. President—in furnishing the Congress with the aforementioned type of analysis that it so badly needs. The funds would have permitted us to add three qualified professional personnel to be assigned exclusively to evaluation of public programs and priority assessment—along with necessary clerical and secretarial help.

I do not pretend that this amount would permit us to do the job in any complete way but I do believe that it represents a manageable first-step which would certainly repay itself, I might say a hundredfold and I could say a thousandfold and easily mean it, when you consider the fact that $125,000 would give us a beginning economic analysis of $200 billion in Federal spending, and then, when you consider the impact on regulatory policy, and so forth, it seems to me the payoff could be very, very great indeed. I think it is significant that the Department of Defense, which the Joint Economic Committee has criticized on numerous occasions for wasteful spending practices has stated that the Joint Economic Committee should be equipped to do more work in evaluating spending priorities.

It was interesting, when we were having our C–5A debate last year, that one of the revelations our committee was able to obtain was that an analysis by the Office of Systems Analysis of the Defense Department had shown that it was unwise to proceed with what the administration was recommending we proceed with—an additional squadron of C–5A planes. That was what their own analysis showed.

Secretary Laird told me:

> You should have your own capability, because if you come to the Department of Defense to ask what our analysis shows, you are going to compromise our office. I cannot very well be expected to have a staff which makes an analysis of a program in which we are interested, and then feel bound by that staff report in making an official decision which may disagree with the staff findings.

So if we use their analysis, we can make it difficult for the Secretary to secure an objective analysis which may on occasion contradict his position. The result was that Secretary Laird indicated we would be far better served as a Nation, and Congress would be better served, if we had our own analysis capability.

Mr. President, this urgent need is not something that has revealed itself exclusively to the members of the Joint Economic Committee. Many Members of this body are acutely aware of how handicapped we are in the absence of the kind of analysis I am talking about. Indeed, there are alternative proposals to provide it. In my opinion, these alternative proposals would be far more costly and cumbersome than would my proposal to increase the staff of the Joint Economic Committee. I say this because the Joint Economic Committee already has a highly trained staff and has years of extensive analytical experience behind it. The three specialists I asked for would consequently fit into a very fine going concern which would surely produce the most productive environment for them and permit them to work closely with the committee members who have had the benefit of long-term exposure to economic policy problems.

Just one further example, Mr. President. In the coming months, we will be considering a transportation bill. We will be considering whether we should go ahead with an additional authorization of $8 billion required for the Interstate Highway System. Congress will probably decide to go ahead. Then, in the near future, there will be the consideration of whether we should proceed with tens of billions of dollars of highway expenditures, whether we should reduce or eliminate the Federal highway gasoline tax, or whether we should broaden this program in some way.

We are going to make those decisions without any economic analysis, really, at least without any comprehensive analysis. There are a number of fine committees that have responsibilities in these areas, but those committees include a committee that, in one case, has responsibility over mass transit; that is the Banking and Currency Committee, on which I serve. Another committee, the Public Works Committee, has a responsibility over the highway program to some extent. The Commerce Committee has its own responsibilities with regard to much of the rest of transportation policy. And none of these committees is in a position to take a comprehensive look. A joint committee, which can evaluate proposals and make recommendations to all the constituent committees, it seems to me, would be highly desirable.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. CURTIS. Is this in line with the present policy of the joint committee?

Mr. PROXMIRE. I understood the Senator to ask if this would increase the authority of the Joint Economic Committee. It would not.

Mr. CURTIS. How many economists are now on the staff?

Mr. PROXMIRE. We now have six professional economists, plus a staff director and a director of research. We have eight professional economists on the majority side, and I think we have two minority economists. That makes 10.

Mr. CURTIS. Are they not now performing what the Senator proposes here?

Mr. PROXMIRE. No. They are very helpful in giving us analyses in a number of fields. We have a tremendous overall responsibility. We take the President's Economic Report each year and try to make an analysis of it from our own standpoint and make congressional recommendations.

In addition, these economists are necessary to back up and provide the staff work necessary for the Fiscal Policy Subcommittee, for the Balance of Payments Subcommittee, the Subcommittee on Foreign Economic Policy, and many other areas of that kind. We do not have a capability now for making the kind of economic analysis I was talking about.

Mr. CURTIS. Why not?

Mr. PROXMIRE. Because we do not have enough people to do it. There are gifted people who are able and willing to come to the committee. We have a number of applications from people who are competent economists, Ph. D.'s who have had substantial experience in business or in Government, who would like to come to the committee. So we can get competent people, but we do not have them on the staff now because we do not have the funds for it; we do not have appropriations to move ahead.

Mr. CURTIS. Is it not true that the more people involved, the greater will be the disagreement?

Mr. PROXMIRE. Well, of course, the committee itself would make any policy decisions. The staff would be factfinding and would make an analysis as to whether or not a particular program had benefits that exceeded the cost and which program seemed to be preferable on an economic basis. But the decisions would have to be made by the Democrats and Republicans on the committee—the House and Senate Members. As the Senator knows, it is a joint committee. Then, in turn, the final decision would be made by the entire House and Senate; and, very important, along the way would be the decisions made by the particular committees recommending specific legislation to Congress.

Mr. CURTIS. Has the entire joint committee gone on record in favor of this amendment?

Mr. PROXMIRE. The committee is aware. I wrote members of the committee to inform them that I was doing this. We do have a report which was made earlier this year in which the committee recommended that we proceed in this area. No specific amount was recommended, but the $125,000 I am asking for would be a small first step, and it would be a modest accommodation to the recommendation of the committee.

Mr. CURTIS. Do the minority members of the Joint Economic Committee support this amendment?

Mr. PROXMIRE. I have not had an opportunity to consult with the members. So far as I know, there is no opposition to it. I have talked with some of them and told them I was putting it in. Those with whom I have talked have indicated support. I have not had an opportunity to discuss it with all of them. This is a 20-member committee—10 House Members and 10 Senate Members.

I feel confident, I tell the Senator from Nebraska, in saying that there would be no opposition from members of the committee. I cannot say that on the basis of having talked with every one and having given the particular amendment to them; but I am confident that there would not be any opposition.

Mr. CURTIS. How many staff members would this provide?

Mr. PROXMIRE. Three full-time professional experts plus the kind of stenographic and secreterial assistance which would be necessary to make them effective.

Mr. CURTIS. By whom would they be appointed?

Mr. PROXMIRE. In the first instance, the chairman of the committee. The way we operate now, the chairman of the committee would recommend to other members of the committee the staff personnel we would appoint. There have been occasions in the past when the chairman's recommendations have been questioned, and the chairman has withdrawn them and appointed others.

Mr. CURTIS. Who is the chairman?

Mr. PROXMIRE. The chairman now is Representative WRIGHT PATMAN, and the chairman next year if Republicans control the Senate would be Senator JAVITS, if he chose to be chairman. He is the ranking Republican member of the committee. If the Democrats continue to control the Senate next year, I would be chairman.

Mr. CURTIS. The $125,000 is for three positions?

Mr. PROXMIRE. For three positions, plus the secretarial support.

Mr. CURTIS. How many secretaries?

Mr. PROXMIRE. Two additional secretaries and some additional funds for a part-time clerk.

Mr. CURTIS. What would the pay of those economists be? It seems to me that it is a great deal of money.

Mr. PROXMIRE. It would be approximately $25,000. As the Senator knows, competent economists come high.

Mr. CURTIS. I know their advice is usually high.

Mr. PROXMIRE. That is correct.

Mr. CURTIS. If you follow it, it costs you a lot of money. If you follow their advice, it costs you quite a lot of money. I thank the Senator.

Mr. PROXMIRE. I thank the Senator from Nebraska. I think the Senator's questions are very constructive, and it is useful to have this kind of dialog, so that we can know just what we are doing.

Mr. President, I regret to report that the Appropriations Committee has seen fit to provide only $35,000 for this purpose. I am as outspoken as any in the interest of keeping down expenditures, but this token amount is not enough. It was with a good deal of soul searching that our committee came up with the original figure of $125,000. We felt that this was as minimal as could be and still permit us to get off the ground in providing Congress with a vital service. I urge my colleagues to reconsider this very small request and to give the Joint Economic Committee the $125,000 originally requested. I guarantee that it will be amply repaid to the Public Treasury.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to the Senator from New York, who is the ranking minority member of the committee.

Mr. JAVITS. I should like to support the Senator's plea to the Senate. As he has said, the amount is not large, but I think that the Joint Economic Committee very thoroughly earns its keep around here.

The President, for example, has adopted a recommendation of the minority with respect to how to make some move toward seeking to exercise a little control over wages and prices and unusual increases. Many other initiatives have started in the Joint Economic Committee, such as a review of the economy.

Aside from its strict statutory functions, I think it serves as a great forum for economic deliberation which is the key to the work of many other committees, including those of which I am a member—the Committee on Labor and Public Welfare, where we spend over $20 billion in Government operation, and even the Committee on Foreign Relations, where we have enormous trade problems.

Senator PROXMIRE has been one of the very hardworking and fine leaders of that committee. I express the hope that, as so often happens, we do not starve ourselves for small sums which disable us from giving consideration to the multibillion-dollar programs which are subject to scrutiny, and where we just do not have the staff or the factual background unless we have these rather marginal areas of support from the Senate.

I hope very much that the committee will listen sympathetically to the Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator from New York. He is a most remarkable Senator. I have had a considerable amount of graduate education in economics, but the Senator from New York knows as much about the subject as anybody else on that committee, or more, and as much or more than anybody on the staff. He has been a tremendous asset to the committee, and I think he fully understands how constructive this modest amount can be for the Senate, for Congress, and for the country.

Mr. MONTOYA. Mr. President, when the committee reduced the request or refused to grant all of the request, it did not have in mind the very able work that is being done on this committee by the Senator from Wisconsin. I think that the Senator from Wisconsin and his colleagues on the committee have established a great reputation in overseeing the expenditures of Government and also in overseeing the economy of this country and the recommendations which have emanated from this fine committee have certainly been great pieces of work which have guided the Senate and the House of Representatives in its deliberations on economic policy. The committee was mindful and expressed itself in no uncertain terms that truly the Senator from Wisconsin has done a fine job on the committee. The action we took in no way reflects any denigration on our part of his fine efforts or of his role as a fine leader on the committee.

However, it was unfortunate that the increase which was requested by the Senator from Wisconsin came in after the House had closed its hearings. It came to the Senate and the House did not have the opportunity to pass on the propriety of the requested increase. In spite of the late filing of the request with the committee, we gave an additional $35,000 over and above the House figure, and now the Senator from Wisconsin, through his amendment, is asking for an additional $90,000 which, if granted, would make it an increase of $125,000.

To place this matter in its proper context as further justification for the action of the committee, we should bear in mind that the money which the committee received during the past few years would clearly indicate that the increase is exorbitant against the background of what was allowed in previous years. That was a strong guiding factor in the committee's judgment.

In 1964, the Joint Economic Committee received an appropriation of $235,000. That is the starting point, for the purposes of this analysis.

In 1965, the committee received $265,080, an increase of $30,080.

In 1966, it received $369,000, an increase of $104,000.

In 1967, it received $383,000, an increase of $14,000.

In 1968, it received $401,620, an increase of $18,000.

In 1969, it received $430,650, an increase of $29,000.

In 1970, it received $468,165, an increase of approximately $38,000.

So that now, when the committee is asking for $125,000, it is way out of proportion with the allowed increase in previous years.

However, I have consulted with the ranking Republican member of the subcommittee and we would be willing to give the Senator the additional $15,000 over and above the $35,000, subject to the consent of the Senate, if the Senator from Wisconsin would be agreeable to that.

Mr. PROXMIRE. Let me say to the Senator from New Mexico that I very much appreciate his sympathy and help. This is the kind of increase the committee has allowed in the past. This, however, is for a brandnew function, a purpose which has not been tried before; so that we are trying for a new capability. As I say, the $125,000 was deliberately cut down to make it a modest first step.

However, under the circumstances, and in view of the fact that, as the Senator points out, this has not been considered by the House, I am willing to modify my amendment. Mr. President, I ask that I may do so now, and make the figure $592,900, and I think that would accomplish what the Senator from New Mexico is proposing.

Mr. MONTOYA. That is correct.

Mr. PROXMIRE. The increase will then be $50,000 altogether, $15,000 over the $35,000; is that correct?

Mr. MONTOYA. That is correct.

The PRESIDING OFFICER (Mr. Dole). The question is on agreeing to the amendment, as modified, of the Senator from Wisconsin.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. Dole). The bill is open to further amendment.

If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. SPONG. Mr. President, I had prepared an amendment to bring up at this time which would have required Members of the Congress and their key assistants, as well as nonincumbent candidates for congressional office, to make full public disclosure of their financial assets and liabilities, sources of income, and purchases of stocks and real estate.

Even though it is legislative in character, I believe the amendment would be germane given the fact that the legislative appropriations bill historically has been used to provide statutory authority for many congressional activities. This year's bill is no exception.

Nevertheless, after much thought and consultation with other concerned Senators—including the senior Senator from New Jersey (Mr. Case), who is the chief sponsor of a comprehensive financial disclosure bill, and some of the cosponsors of that bill, including the senior Senator from Michigan (Mr. Hart), and the distinguished majority leader, Senator Mansfield—I have elected not to offer the amendment at this time, but to press instead for early action on separate legislation. For many reasons, this seems to me a more desirable course.

First, an amendment to this bill necessarily would have to be restricted to Members of the Congress and their staffs. The need, however, is to promote public confidence in all branches of the Federal Government—executive, judicial, and legislative—and that can only be done through the kind of comprehensive bill which has been introduced by Senator Case and cosponsored by 20 other Senators, including myself.

It is desirable, too, that on legislation of this importance, there be an opportunity for full public hearings and debate before the matter comes to a vote. Obviously, a floor amendment does not permit that kind of careful deliberation.

I emphasize, however, that while I consider it more desirable to take up this legislation as a separate bill, I believe it is essential that the Senate consider some legislation. For that reason, I will reserve my right to offer this amendment at another time to another bill if that appears to be the only way of getting action.

Not long ago, the Senate rejected the nomination of Judge Clement Haynsworth to be Supreme Court Justice principally because he had not disclosed certain financial interests which had a bearing on cases before his court. I disagreed with the Senate's action but it was taken nevertheless.

As I said at that time—

> I would hope that there will not be many more instances of deliberation by this body when it will be called upon to sit in judgment upon others, when we have failed to apply similar standards to ourselves by adopting the principle of full, public financial disclosure.

Mr. President, the committee report on the bill before us notes that the Legislative Appropriations Act historically is used to provide for many congressional "housekeeping functions." I believe it is time we put our house in order with repect to financial disclosure as well. Nothing is more essential, in my judgment, than that Congress come to grips with this problem in a way that will restore sagging public confidence and respect in their elected and appointed leaders.

Mr. MANSFIELD. Mr. President, will the Senator from Virginia yield?

Mr. SPONG. I yield.

Mr. MANSFIELD. I was very much interested in what the distinguished Senator from Virginia had to say, and I agree with him wholeheartedly. Had the amendment been offered to the bill, I could have voted for it, just as he would have, but I would have done so with the thought in mind that we should include the judiciary and executive branches of the Government, because if we are going to set up a set of rules, we should follow the formula laid out by the distingushed Senator from New Jersey (Mr. Case) in the bill which he and the distinguished Senator from Virginia cosponsored which, as I recall, would be applicable to all members of the legislative, judicial, and executive branches earning $18,000 or more per year.

To me, that is a step in the right direction. I would hope that hearings would be held shortly. As the majority leader, I am prepared to dispatch a communication to the chairman of the Committee on Rules and Administration, the distinguished Senator from North Carolina (Mr. Jordan), and I am also prepared to join the distinguished minority leader, in sending a letter to the chairman and the ranking minority member, in the hope that legislation would be forthcoming shortly so that we could have the kind of bill which the Senator from Virginia envisaged, and arrive at some kind of conclusion.

I agree with him thoroughly when he says that we ought to apply the same standards to ourselves that we apply to others.

I have doubts, very grave doubts, about the methods used by the Senate in the matter of treating presidential nominees as we do and implying, as a matter of fact, that they are dishonest and that they have to prove their honesty.

If we are going to have something, let us have hearings right now, this week or next week, before the Rules Committee. Let us get a bill out and let us bring it to the floor of the Senate.

I want to assure the Senator from Virginia and the Senator from New Jersey that I will do everything I can to see that the matter is carried out, because their wishes are my wishes.

I happen also to be a cosponsor of the bill.

Mr. SPONG. I want to thank the distinguished majority leader for his support and to acknowledge his leading role in the effort to obtain a financial disclosure bill.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SPONG. I yield.

Mr. JAVITS. Mr. President, I too am a cosponsor of the bill. I rise only to express the hope that the committee which hears the bill will consider the whole question of the economics of being a Senator and will consider it not only from the point of view of Senators from States which have relatively small populations, but also from the point of view of Senators from States which have huge populations.

For example, to give one of the anomalies, I do not believe I have ever personally paid any income tax on my salary. Whatever the salary was, it was always absorbed by the necessary costs of being a Senator, in spite of the enormous allowances.

There was agitation by the bar association with regard to a limitation on the nature of practice of many of us who are lawyers and have some connection with the law in order to earn a living.

These are very critical questions. We try. I know that the Senators know I am very cautious about the kind of case undertaken by my firm, let alone by me. I keep them completely out of Washington.

It is not only true of people in the law practice, but it is also true of almost any kind of business, any kind of security ownership. The whole question is involved. We must consider when we should or should not vote on a matter or make a disclosure. For example, together with other Senators, I have filed for years a list of my investments—those of my own, and those in trust for my family so that everyone would know what securities we even have an interest in in connection with anything I do here.

The important thing is not just the disclosure. The Senator from New Jersey (Mr. Case) is himself a very skilled lawyer and represents very large interests because he was a member of a large law firm. The Senator from New Jersey understands the matter only too well.

I hope that the committee that considers this matter will consider the total economics of being a Senator and will give its judgment on the disclosure question—and there is no question that there should be disclosure—and will also consider the aggregate position of a man who is a Senator, and of course always bear in mind that one of the most fundamental guarantees of our freedom is that this great honor should not be denied to people because they cannot afford it. On the contrary, it should be made eminently available to everyone, no matter how little he can afford it.

Mr. SPONG. Mr. President, what I am seeking is early hearings. I should think the new ruling by the American Bar Association would be given full discussion in such a hearing.

Mr. President, I yield to the Senator from New Jersey who is one of the principal patrons of the legislation.

Mr. CASE. Mr. President, I thank the Senator from Virginia. I am enormously grateful to him, as I am sure all Members of the Senate and citizens far from this body must be for having raised the matter in this appropriate way.

I am grateful also to the majority leader for the assurance of his very important assistance in getting to hearings on the bill and in bringing it quickly to the Senate floor. I am sure that many others will support it. I firmly believe that we will have a majority ready to do so when the matter comes before the full Senate.

I am quite conscious of the importance of what the Senator from New York—who, by the way, is also a cosponsor of the bill—has said about the total economics of being a Senator. I would go a little further and include the total economics of getting elected to the Senate and maintaining himself in office as well as in doing the job when one is in office. It is all part of the same ball of wax.

We may or may not deal with it in its totality on every occasion. But certainly we should keep working on the entire problem.

I give my personal assurance to the Senator from New York that my interest in the aspect of the matter which he has so properly raised will be very comprehensive and continuing.

I have been interested in this matter for many years as the Senator has been good enough to point out. It was more than a decade ago that I introduced a bill to require annually full public disclosure by Members of Congress, as well as top officials in the executive branch, of their income—including gifts—assets and liabilities, transactions in real and personal property.

In the years since then a number of Senators have joined with me in sponsoring this bill which we amended last year to cover the judicial branch along with the executive and legislative branches. More than a fifth of the Senate, including both majority and minority leaders, are sponsors of S. 1993.

Last fall hearings were scheduled by the Subcommittee on Privileges and Elections to which the bill was referred. They were subsequently called off, however, because of a lack of affirmative responses to the subcommittee chairman's invitation to testify.

At that time the subcommittee chairman indicated his willingness to reschedule hearings if members and outside witnesses were interested in testifying.

Senator Hart, chief cosponsor, and I then wrote to other cosponsors. In all, 12 sponsors replied that they would welcome an opportunity to speak for the bill. I am sure others outside the Senate would also be glad to testify. I can understand that officials in the executive branch may hesitate to endorse a requirement that they feel might be taken as indicating a lack of confidence in their colleagues and subordinates. I could understand that feeling. It is a natural one that Members of Congress have also expressed with regard to their colleagues.

But they are wrong, I believe. To permit this feeling to determine the action on S. 1993 is not, in my view, a service to our colleagues, ourselves, or the executive and judicial branches. For a public financial disclosure requirement is by far the most efficacious and most direct way of protecting the good name of top officials in all three branches of Government. It avoids the necessity, to take the legislative branch for example, of Members sitting in judgment on their colleagues whose basic responsibility is to their own constituents.

Above all, it offers affirmative protection of the integrity of governmental processes by a method which most of us, I am sure, support, prevention rather than punishment. Our bill is not punitive. Rather it relies on the certainty of eventual public knowledge to deter wrongdoing, to make Government officials stop and think before they take actions that might be misinterpreted and to encourage public officials to be alert to the implications of their conduct.

In the last 2 years Members and officials in all three branches of Government have figured in headlines involving possible conflicts of interest or the use and misuse of official position for private purposes. So far in the Senate we have adopted a rather crablike approach in amending our own rules. But the problem, not just for the Congress but the executive and judicial branches as well, is not going to go away until we deal forthrightly with it. How much better to face up to it directly not only for us but for the executive and judicial branches, as S. 1993 would do.

I welcome, therefore, the assurances that hearings will be held on our bill and I appreciate the initiative of the Senator from Virginia (Mr. Spong).

Mr. SPONG. Mr. President, I thank the Senator from New Jersey. Mr. President, I might say that the Senator from New Jersey has been a pioneer in this field. I know that he joins all of us in pressing for early hearings.

Mr. PROXMIRE. Mr. President, I join in the general commendation of the Senator from Virginia for presenting this matter at this time.

I agree with what is stated implicitly in his remarks, that the Senate has dragged its feet and unless someone, such as the Senator from Virginia, calls up an amendment to a bill—which he indicates he will do if we do not have other action—the Senate will never act.

This is the kind of thing that the Senate does not like to do. I suggest that if we look at what has happened when there has been disclosure, we will see that there really has not been any significant sacrifice involved.

In the State of Wisconsin for 30 years from 1923 to 1953 we had open, public inspection of State income tax returns. Everyone's income tax returns were open free for public inspection. That practice was taken advantage of very freely by some of the newspapers. But I recall no real abuse and no serious embarrassment.

The Senator from Virginia has chosen a good way to stimulate action on disclosure.

I do think that what we are seeking here is an excellent objective in view of the point the Senator makes. One of the principal reasons why many of us voted against Clement Haynsworth to be a member of the Supreme Court is that we felt that the disclosures on his part had not been complete.

I feel that if we as Senators are not willing to make disclosures of this kind with the power we exercised, we are not being fair to the public. We are being hypocritical.

I congratulate the Senator from Virginia.

Mr. MONTOYA. Mr. President, will the Senator yield?

Mr. SPONG. I yield.

Mr. MONTOYA. Mr. President, I express my complete agreement with the Senator from Virginia, as well as with the Senator from New Jersey, on the need for a public disclosure law for Members of Congress as well as for other people in the legislative branch of our Government.

I personally, before I started my campaign, made a public disclosure to the people of New Mexico. I also stated that, being in the real estate business, my holdings were a matter of public record. I named the counties in which they were.

I also want to say that when I started my membership in the Senate, I made a public statement concerning all my connections with the practice of law. I have not practiced 1 day in court since then.

But I think that public disclosure makes a healthy contribution toward good government and confidence in good government. The voters are entitled to an accounting by each and every Member of Congress of all their financial interests so that they may be aware of areas of public policy in which his decision might be affected by such interests. Disclosure would provide the necessary evidence constituents must have to make an objective judgment in this matter. Disclosure would tend to bolster respect for the integrity of individual legislators, as well as for the legislative bodies of which they are members, and help curb the uneasy feeling of "shadow dealing."

Being a Member of Congress is a full-time job. Disclosure of private interests would help the electorate judge whether or not their Congressmen are devoting themselves to that job. Members of Congress are not ordinary citizens. They consider and vote on legislation affecting every segment of the economy. The state of their finances should not be considered as being in the same category as the state of the finances of a private citizen.

Disclosure is the most feasible method of attacking problems of conflict of interest. The public evidently favors disclosure. A Gallup poll published in the Washington Post on March 14, 1964, asked if the American people would approve requiring Congressmen to make public disclosure of their financial holdings and income every year. The results were 65 percent in favor, 23 percent opposed, and 12 percent no opinion. Disclosure would make clear to the public that Members of Congress do not condone the selfish actions of a few.

As former Senator Kenneth Keating of New York said at one time:

> One of the reasons the prestige of Congress has fallen in the eyes of the public is our refusal to come to grips with problems of conflict of interest. I know most Members of Congress are conscientious and dedicated public servants but a few bad cases can cause immense damage to a whole institution.

Many present and former Government officials support the principle of disclosure. Former President Harry S. Truman, for example, declared in 1951:

> Public office is a privilege, not a right, and people who accept the privilege of holding office in the government must of necessity expect their entire conduct should be open to inspection by the people they serve.

Disclosure of financial standing would not harm an honest and ethical legislator. It would, instead, help to protect him as well as the public interest against the individual whose aim is private gain. Public disclosure would discourage individuals and organizations from trying to tempt Members of Congress.

Mr. President, that is why I commend the Senator from Virginia and the Senator from New Jersey for offering this type leadership toward a very worthwhile objective—good, clean, unsuspicious, or unsuspected government.

Mr. SPONG. I thank the Senator.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. SPONG. I am pleased to yield to the Senator.

Mr. GRIFFIN. Mr. President, I wish to join in the commendations for the Senator from Virginia and the Senator from New Jersey for their leadership in this particular matter. I also wish to join in the hope of the distinguished majority leader that hearings will be held very soon on this important matter.

Mr. SPONG. I thank the Senator from Michigan.

I yield the floor.

The PRESIDING OFFICER (Mr. DOLE). The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 16915) was passed.

Mr. MONTOYA. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MONTOYA, Mr. PROXMIRE, Mr. YARBOROUGH, Mr. PEARSON, and Mr. COTTON conferees on the part of the Senate.

CONVEYANCE OF CERTAIN REAL PROPERTY TO THE BOARD OF PUBLIC INSTRUCTION, OKALOOSA COUNTY, FLA.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1007, H.R. 7618, a bill to provide for the conveyance of certain real property to the Board of Public Instruction, Okaloosa County, Fla.

The PRESIDING OFFICER (Mr. DOLE). The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 7618) to provide for the conveyance of certain real property to the Board of Public Instruction, Okaloosa County, Fla.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 7618.

Mr. PROXMIRE. Mr. President, in its present form I am deeply concerned about H.R. 7618. This bill would convey, without any monetary consideration, 135 acres of land which now form an integral part of Eglin Air Force Base in Florida. The land, which has a present fair market value of $350,000, would be conveyed to the Board of Public Instruction, Okaloosa County, Fla., for the construction of two elementary schools.

Mr. President, ever since the passage of the Federal Property and Administrative Services Act of 1949, the Federal Government has been governed by the Morse formula in disposing of its real property. In general, that formula provides that surplus Federal land may be conveyed at a 50-percent discount. And ministration to a willing buyer, provided he pays fair market value for it. Where the conveyance is to a State, a county, or a municipality, however, and the land is to be used for parks or recreation purposes, the law permits the land to be conveyed at a 50-percent discount. And where the land is to be used by a public body for a school, hospital, or historical monument, the land may be conveyed at a discount up to 100 percent—free of monetary consideration.

But, Mr. President, there is an important proviso to this—one which I just alluded to. Before any conveyance of Federal land can take place under the law, the land must first be declared "excess" to the needs of the agency having jurisdiction over it, and it must then be declared "surplus" to the needs of the Federal Government as a whole.

The reason for this provision is fairly obvious. Without an independent determination that the land is surplus to the needs of the Government as a whole, the Federal taxpayer has no assurance that his interests will be protected—he has no assurance that land which should otherwise be available for the common good will not be conveyed away for the benefit of a lucky few who happen to reside in a given area.

Mr. President, that is precisely my concern with this bill. Here we have a very valuable piece of property, with a current fair market appraisal of $350,000. We are asked to approve a gratis conveyance of this property to Okaloosa County, Fla., with no assurance that the land is either excess to the needs of the Air Force or surplus to the needs of the Federal Government as a whole.

In fact, Mr. President, the inference is just the opposite. The report from the Armed Services Committee notes that "the land involved is not excess to the Air Force requirements"; that the land is "an integral part of Eglin Air Force Base"; and that the land covered by this bill "would not normally be declared surplus" to the needs of the Federal Government. In other words, the Air Force, and if not the Air Force, the Federal Government, can use this land, and there is no reason for conveying it away—particularly without receiving a dime for it. Mr. President, the Federal taxpayer is receiving the short end of the stick on this deal.

It is hardly a surprise that both the Department of Health, Education, and Welfare, and the General Services Administration oppose this bill. Even the Air Force, when asked for its views on H.R. 7618, refrained from supporting the bill, deferring instead to the views of HEW and GSA.

Mr. President, there is one particular question that concerns me about this matter, and that is, it is understandable why, in a body of this kind, or in the House, we would like to help our good friends and the States of our good friends whom we see every day and like very much, but once we start a precedent to give away property of the Federal Government not declared surplus to the needs of the Federal Government, we could create situations which are very hard to resist, involving in the future, not merely $350,000, which is a lot of money, but perhaps property involving hundreds of millions of dollars.

For that reason, I am concerned with the precedent involved. In the event the bill is passed, I want to make sure precedents are already established so that this will not involve a new precedent that will suggest to other Members of Congress that all they have to do is press hard enough and they will secure for their congressional districts or their States property from the Federal Government which is desirable and an integral part of a Federal station such as this.

Mr. President, I yield the floor.

Mr. STENNIS. Mr. President, this bill was reported by the Committee on Armed Services. The committee went very carefully into this matter and held the bill up for some time, on the very points that the Senator from Wisconsin appropriately mentions. We did not want to start a precedent that would plague us in the future, and we did not want to just give away a valuable piece of property for the benefit of a few people who happened to reside in that area.

First, Mr. President, we found here an unusual situation. This involves the Eglin Air Force Base, and that is a base that includes a large land area, much of which is used for very extensive testing of weapons, and I think some testing of vehicles and other kinds of testing that requires a great deal of space.

We found that 51 percent of all of the land in Okaloosa County is owned by the Federal Government and, therefore, is not on the tax rolls. We also found another special consideration here, in that 75 percent of the student load of the schools in the area at the present time are dependents of persons assigned to or working on the Eglin Air Force Base.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. I repeat: 75 percent of the student load in the area in question in this bill at the present time are dependents of persons assigned to or working on the Eglin Air Force Base.

As to the third question here, about the surplus status—and that is certainly a splendid point the Senator has brought up—this has not been declared surplus, and I do not think it would have been very soon, apart from this question. But at the same time, it is land in four different locations for which there is no present or foreseeable urgent use. That is, there is no demanding use for the land for military needs or for the operations that are carried on there. Even though it is not what one would call surplus, at the same time it is excess and it is not presently in an active use in connection with military operation.

That was a big factor with the committee. The last large, controlling factor is that after all, this land is going to be used for educational purposes, which is about the best reason one can have, if one is seeking to make some concession concerning any property the Federal Government owns.

Accordingly, on the basis of these main considerations, although there were others as well, this bill was finally approved by our committee, after examination and reexamination, by a unanimous vote.

Additional matters that do have a relationship——

Mr. PROXMIRE. Mr. President, will the Senator yield on the point he has just made?

Mr. STENNIS. I am glad to yield.

Mr. PROXMIRE. I think that is a significant point, and one that, of course, finds all of us sympathetic, because we all favor education. We recognize that at Eglin Air Force Base, as well as at many of our bases around this country, we have this problem of providing adequate education.

Congress has enacted a law, the impacted aid bill, which provides rather generous support to defray the costs of education for the children of parents who either work for the Government or live on a base. It would seem to me that in this case, those funds would be available for school purposes so there would not be any special hardship if this land is not made available. The Federal Government would still provide money in lieu of property taxes, which should make it possible for these students to be taken care of adequately with good educational facilities.

So, from an educational standpoint, while this is certainly, as the Senator properly says, one of the finest purposes for which we could provide Federal property, we have already passed legislation in that direction and, of course, here is another case where I just wonder where we draw the line. If we provide it for Okaloosa County, Fla., are we going to provide it for Missisipi, Wisconsin, New York, and all over the country?

Mr. STENNIS. I think here is the answer to the Senator's very pertinent question: In the first place, the impacted area money to which he refers could have been made available for these buildings, under certain circumstances. As I understand, though, most of the impacted area money that goes into buildings goes into buildings along with some State funds. That may not always be true, but that is the general pattern, as I understand it.

The State of Florida has a law that does not permit spending money for school buildings unless the State has title to the land. So, under this circumstance, the law would preclude the State of Florida from even making a contribution, because they would not have title to the land.

The way it is going to be paid for now, it is not going to cost the Federal Government any money. The State of Florida—or its subsidiaries—assumes full responsibility for the entire cost of the buildings. They will not be constructed at the expense of the Federal Government. That appealed to me, and to other members of our committee as well, that they were not asking for anything in the way of funds.

Second, as to the value of the land, it is hard to say what this land would be worth, but we know how much the Federal Government paid for it: $1 per acre, on the average. This is a part of the old national forest lands that were bought up by the Federal Government, I think some of it for as little as 50 cents an acre. Anyway, it averaged out, the best that we could find, not more than $1 an acre. I know some of this as bought up in my State during the depression, when some of that land could be bought for taxes.

But anyway, whatever value is placed on it, there is an accretion there for which the Federal Government has not paid any money. That is the story relative to the money itself.

Furthermore, we have made exceptions to the rule in other cases, much as we are in this one. The Senator from Wisconsin very properly asks about the precedents here.

In 1962, when the late Senator Engle represented the State of California in this body, he submitted a bill which conveyed certain rights in the city of San Diego to the regents of the University of California. That land had not been declared surplus, and would not have been for at least several years. It would have been at least 5 years before it could have been declared surplus. When all the facts were brought out, that bill was passed, on a record rollcall vote.

We have another example here, in the State of Maine. A measure providing for the conveyance to the State of Maine, without consideration certain lands for educational purposes. This was passed in 1957. I find from the report that this occurred at a time when I was handling that kind of legislation.

The report on that measure stated:

> The purpose of this bill is to provide for the conveyance by the Secretary of the Navy to the State of Maine for vocational or other school purposes the property identified as Fort Gribble Military Reservation, South Portland, Maine.

Mr. PROXMIRE. May I ask the Senator a question in reference to that Maine precedent?

Mr. STENNIS. Yes.

Mr. PROXMIRE. In that case, as I understand it, the property involved was property which was not surplus, it was on a military base, and it was made available for educational purposes, so that would be a precisely similar precedent, very similar to the bill now before us?

Mr. STENNIS. That is the way the Senator from Mississippi understands it, and I think I do fully understand it.

The two cases I have already referred to are almost exact precedents for the bill that is before us now. There is another precedent here that has to do with a similar amount of property—200 acres of land—where the Secretary of the Air Force, in connection with this same institution, was authorized to convey a tract of land for the location of the Okaloosa-Walton Junior College. That is a junior college, I believe, over on the other side of that military reservation.

Then there is a fourth precedent here, wherein land was conveyed to the State of Texas. It was different only in that it was not for educational purposes. But for roads. The principle is the same.

There is another one here, for a right-of-way, involving part of a street in Hawaii. That too was for a public use, but not for educational purposes.

There is one other point about the matter, and the Senator from Wisconsin has been very considerate of this. It has gotten to the point where they must have these buildings to serve them for a major part of the next school session. They are badly needed, and this bill will help it to move along.

I thank the Senator for his special consideration of this matter, and I hope that this evidence and these precedents are so clearly established that he can feel justified in recognizing those additional facts.

Mr. PROXMIRE. As I understand it, there is a reversionary clause in this bill.

Mr. STENNIS. Yes.

Mr. PROXMIRE. So that in the event in time it ceases to be used for educational purposes, it would revert to the Federal Government ownership. Is that correct?

Mr. STENNIS. Absolutely. This is a conveyance to the State of Florida, for educational purposes only. Should they cease to use the property for educational purposes, the land will revert to the Federal Government.

I see the Senator from Florida in the Chamber. He is interested in this matter. Perhaps he has introduced a similar bill, although we have before us the House bill. I am glad to yield to the Senator.

Mr. HOLLAND. I thank the Senator. I believe that both Senators from Florida—I think I asked my junior colleague to join with me and he did—introduced similar legislation in the Senate. However, we have the House bill before us, because it passed the House a good long while ago.

Mr. President, I invite attention to several facts which I think make this situation unique. The Choctawhatchee National Forest was first located in this area, and it comprises 51 percent of the total area of Oscaloosa County. Later, when there became need for an air base for a particular specialized purpose, the Choctawhatchee National Forest was turned over to the Eglin Air Force Base.

The trouble is that the base and its people and the structures which house its people and the 300 additional residences which are about to be completed are all located in the southern end of this area, and the school population of the military dependents there vastly exceeds the population from ordinary civilian sources.

This is not just one tract but four tracts conveniently located so that it will not interfere with any present Air Force mission and so that it will serve the children conveniently—two of them to be elementary schools and one junior high school, one administrative unit, to be paid for entirely by local and State funds.

As soon as this bill is passed, I am advised that the contract is immediately available to be let for the construction of the first unit at the cost of $1.2 million, all to be spent out of local and State funds, for the junior high school.

I understand that the reason why it is impractical to go through the general surplus property rule is that, in the first place, some public agency might want it which would not be consistent with Air Force use; and, in the second place, it might be purchased, if sold on bids, by some kind of business that would not be consistent with the Air Force needs.

Mr. PROXMIRE. Would it or would it not be the case that once this land is conveyed to the State of Florida, once the school buildings are constructed, and so forth, the school district would receive impacted aid from the Federal Government?

Mr. HOLLAND. I would suppose they would, for the students who are from the Military Establishment. But I call attention to the fact that originally in this case, and in other cases I can cite, the other impacted school bill which provides help in constructing buildings would have been helpful in constructing buildings. This is out of the way now. The State and local communities have agreed to put up the entire cost of construction of these four buildings, and all with reversion clauses in them, so as to necessitate their continued uses for school purposes, or their reversion, with buildings on them, to the Federal Government.

Mr. PROXMIRE. Where do these children go to school now?

Mr. HOLLAND. Many of them are going to Niceville, which is a long distance away and which at the present time has over 1,600 children in a building which, according to the safety standards, can accommodate only 1,062, and others are going some distances away.

Mr. PROXMIRE. Is there a school on the base?

Mr. HOLLAND. Furthermore, there will be 300 additional military housing units in this immediate vicinity, occupied in the immediate future, because they are now approaching completion. So that the Senator from Florida feels that not only is this proposal fair, but also, it indicates protection of the very objectives in which I am sure the Air Force people are interested—namely, in the convenient education of their children close to where they live and in, the assurance of early construction of modern buildings, and in the assurance of those buildings, along with the property, reverting in the event they are not continuously used for school purposes.

I do not see how the matter could be fairer to the protection of the Federal personnel than this matter would be.

I appreciate the willingness of the senior Senator from Wisconsin to understand the difficulties of this matter and to understand that the construction of these 300 new housing units will add to the congestion that already exists there.

I have this statement in a letter from the county superintendent. Incidentally, he came to see me about it and repeated these facts. He says:

> There are some 20,375 students enrolled in Okaloosa County schools constructed for a maximum of 15,970 students.

That is the present situation.

> And of this total, 11,052 are military dependents and 3,792 are dependents of civil service and contractor personnel working at Eglin Air Force Base. In addition, 300 new housing units located on the base are scheduled for completion shortly, which will further add to the overcrowding of the school facilities.

I think that the State and local school authorities are not only offering, with complete generosity, to do all the construction—because that is the only way they can get these desirable sites—but also, I think they are showing a good spirit, and I think the Air Force also is showing a good spirit.

I invite the attention of the distinguished Senator to the fact that the acquisition of other sites anywhere close to where these military personnel live is impossible because of the great size of the former Choctawhatchee National Forest and the fact that it all belongs to the Eglin Air Force Base.

No Air Force base activity is going on or is planned on any of these four sites, or else, of course, we could not properly ask for the conveyance of the property.

I thank the Senator for his understanding. I especially thank the chairman of the committee. The State of Florida will be grateful for the favorable consideration of this bill.

Mr. STENNIS. Mr. President, if there are no further questions, I will be glad to yield the floor.

The PRESIDING OFFICER. If there is no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 7618) was read the third time, and passed.

Mr. HOLLAND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER (Mr. SCHWEIKER). Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GOLDWATER TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent, that following the disposition of the reading of the Journal on tomorrow, the distinguished Senator from Arizona (Mr. Goldwater) be recognized for not to exceed 45 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from Arizona (Mr. Goldwater) on tomorrow, there be a period for the transaction of routine morning business, with a time limitation of 3 minutes on statements made therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

POSTAL REORGANIZATION ACT

Mr. McGEE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 17070.

The PRESIDING OFFICER (Mr. Schweiker) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 17070) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McGEE. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McGee, Mr. Yarborough, Mr. Randolph, Mr. Fong, and Mr. Boggs conferees on the part of the Senate.

ORDER OF BUSINESS

Mr. McGEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW TO NOON, WEDNESDAY, JULY 15, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until 12 noon Wednesday next.

The PRESIDING OFFICER (Mr. Schweiker). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM WEDNESDAY, JULY 15, 1970, TO 11 A.M. THURSDAY, JULY 16, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business on Wednesday it stand in adjournment until 11 o'clock Thursday morning.

The PRESIDING OFFICER (Mr. Schweiker). Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR RANDOLPH ON THURSDAY FOR FUELS AND ENERGY SPEECH

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the approval of the Journal on next Thursday, the distinguished Senator from West Virginia (Mr. Randolph) be recognized for not to exceed 1 hour. Our colleague will speak on our fuels and energy problems.

The PRESIDING OFFICER. (Mr. Schweiker). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3215) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 17619) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1971, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mrs. Hansen of Washington, Mr. Kirwan, Mr. Marsh, Mr. Flynt, Mr. Obey, Mr. Mahon, Mr. Reifel, Mr. McDade, Mr. Wyatt, and Mr. Bow were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 17711) to amend the District of Columbia Cooperative Association Act; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. McMillan, Mr. Fuqua, Mr. Dowdy, Mr. Nelsen, and Mr. Broyhill of Virginia were appointed managers on the part of the House at the conference.

HEALTH TRAINING IMPROVEMENT ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1006, S. 3586.

The PRESIDING OFFICER (Mr. Schweiker). The bill will be stated by title.

The Assistant Legislative Clerk. A bill (S. 3586) to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. YARBOROUGH. Mr. President, the bill under consideration, S. 3586, is a bill called the Health Training Improvement Act of 1970. It is a bill to provide for the training of health professionals who require less training than medical doctors and dentists.

There are some 200 medical specialists who aid doctors and dentists, and they are in short supply throughout this country.

Section 101 of title I of this bill amends title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry.

Title II of S. 3586, cosponsored by a number of Senators, would extend the training of more allied health professionals.

S. 3586 would extend the law for five years, from fiscal year 1971 through fiscal year 1975, and it would provide for the construction of teaching facilities for training centers for allied health professions, for basic improvement grants for training centers for allied health professions, for advanced traineeships for allied health personnel, and allied health developmental grants.

The bill is designed to improve medical care in America. We have shortages in these fields across the board. The Hill-Burton bill recently passed over the President's veto provided for approximately $2,176 million in loans, grants, and guaranteed loans to build hospitals and extended care facilities and emergency operating rooms, to remodel old hospitals, to build wings, to modernize them and to bring them up to date. This bill is to help deal with the shortage of the allied health professionals who will serve in many of the facilities authorized under the Hill-Burton legislation.

The bill would add new authorities for aid to allied health students through loans, scholarships, and work-study programs, advanced study, and licensure provisions.

The matter was gone into very thoroughly in the subcommittee and the full committee. It had the cooperation of the ranking minority member of the committee, the Senator from New York (Mr. JAVITS), who made notable contributions to this bill.

Mr. JAVITS. Mr. President, I support S. 3586, the Health Training Improvement Act of 1970, which incorporates moving features of the administration's Allied Health Professions Training Amendments of 1970 (S. 3718), which I introduced on behalf of myself and all the Republican members of the Health Subcommittee and Senator SCOTT, to extend and improve programs of assistance for training in the allied health professions, and the Veterans in Allied Health Professions and Occupations Act of 1969 (S. 2753), which I authored and introduced with Senator PROUTY last July.

As we aspire to bring the full potential of modern medicine to every American—whatever his economic status—we must overcome the grave deficiencies in health manpower and I consider this legislation very, very urgently needed. Mr. President, we are talking a great deal about the improving of health care for all Americans. Our ability to do it, Mr. President, depends on the facilities, which have now been to some extent dealt with by the enactment—over the President's veto, I regret to state—of H.R. 11102, the so-called Hill-Burton Act amendments. That dealt, as it were, with the health care facilities. Now we deal with the people who deliver the health care.

The health professions are woefully short in almost every field, and in addition to being woefully short, Mr. President—and I shall give the figures in a moment—the health professions are also in grave danger of losing very important elements of the places in which they study. Mr. President, while I am not at liberty, on the Senator floor, to disclose the names of the medical and dental schools which are affected, there is the gravest danger, Mr. President, that in addition to the closings which have already taken place, of more medical schools closing, and we have only 100 in the country, and three happen to be in the city of New York, which is the seat of greatest density for medical study. There is also the danger of several dental schools closing.

Mr. President, this would really be a national catastrophe of the first order. It is for that reason, Mr. President, that section 102 of this bill which relates to immediate relief for medical and dental schools in danger of closing is probably as critical an element as we have in the bill.

It just does not make sense to have the sources of the best, the newest and the safest in health care and treatment—the medical and dental schools and their teaching hospitals and dental clinics—institutions traditionally committed to standards of excellence in the care of the sick, in the training of new physicians, dentists and other health professionals, and in the expansion of medical knowledge on the brink of financial disaster.

To meet this crisis we have in the bill a special authorization of $100 million for one year for grants to medical and dental schools in dire financial straits as a result of their affirmative response to aspects of national health policy. I invite Senators to examine it very carefully, and that is the reason why I did not want the vote to take place immediately. I felt that Senators should have a very real opportunity to examine the condition with which we are faced—the reasons for this emergency provision, Mr. President.

In the first place, not only must the medical or dental school show real need, but they must show that, by maintaining their status—in other words, being rescued—they will contribute materially to the national effort to deal with the grave shortages in health personnel.

I ask unanimous consent that, as a part of my remarks, I be permitted to have printed in the RECORD the provisions of section 799(k)(2), which specifies exactly what schools we are trying to reach, and also that there be printed in the RECORD section 799(n), specifying the purposes for which we are saving, if we are able to save them, these institutions, and also showing the grave financial distress, which alone will qualify them in order to get this emergency relief.

There being no objection, the portions of the bill referred to were ordered to be printed in the RECORD, as follows:

"SEC. 799 k. (a) . . .

"(2) the financial straits of these institutions, placing many on the brink of disaster, are in substantial measure the result of their affirmative response to national health policy (as established or approved by the Congress) that such institutions (A) extend their enrollment through major expansion of training capacity to increase the supply of adequately trained health professions personnel or to improve facilities for the conduct of research in the sciences related to health, (B) establish special facilities for, extend, or improve the quality and delivery of, health care and services to disadvantaged persons in urban or rural areas, (C) provide high quality health care and services to the massive number of individuals who are beneficiaries of programs established by or pursuant to titles XVIII and XIX of the Social Security Act, or (D) maintain present enrollments, and maintain or enhance the quality of training provided, despite costs that are increasing more rapidly than school income from all sources.

"(b) It is therefore the purpose of this part to provide these medical and dental schools with emergency financial assistance to enable them to continue and expand the services, programs, and activities which are in response to national health policy (as described in subsection (a)(2)).

"APPLICATION FOR GRANTS

"SEC. 799n. (a) The Secretary shall not approve any application for a grant unless the application is submitted by or on behalf of a public or nonprofit institution which is eligible (as prescribed by section 799m (b)) for a grant under this part, and the Secretary finds that—

"(1) such institution has made an affirmative response to one or more of the elements of national health policy (as described by section 799k(a)(2));

"(2) such institution is in financial distress;

"(3) the financial distress of such institution is attributable, in substantial degree, to such institution's having performed, engaged in, or undertaken, one or more of the functions, policies, programs, or activities referred to in paragraph (1);

"(4) the financial distress of such institution (if not relieved by a grant under this part) will oblige such institution either to discontinue or curtail its performance of, engagement in, or undertaking with respect to, one or more of the functions, policies, or activities referred to in paragraph (1); and

"(5) such institution has a plan (and submits such plan with or as a part of its application for grants) which provides a reasonable assurance that, if such grant is made, such institution will be able, during and after the period with respect to which the grant is made, to continue or expand its performance of, engagement in, or undertaking with respect to, any of the functions, policies, or activities (referred to in paragraph (1)) with respect to which a grant is sought in such application.

"(b) Grants under this part shall be in such amounts and subject to such limitations and conditions as the Secretary may determine to be proper to carry out the purposes of this part.

"(c) Amounts paid by the Secretary to an institution under this part shall be used for the purpose for which paid, may be paid in advance or by way of reimbursement, and in such installments as the Secretary may determine.

"(d) In the case of any medical school or dental school which owns or is affiliated with a hospital or dental clinic and such hospital or dental clinic is utilized by such school in connection with its major teaching programs, the facilities, activities, and programs of such hospital or dental clinic shall, insofar as they are a part of or are used in connection with such teaching programs, be deemed for purposes of this part to be facilities, activities, or programs of such school."

Mr. JAVITS. Mr. President, our shortages are very real—we are short over 50,000 doctors in the country—for even reasonable care of our population. We are short approximately 10,000 dentists and about 140,000 nurses. Everybody knows it. Every citizen who tries to make an appointment to see his doctor or his dentist, every family which cannot find a nurse, for love or money in a dire emergency, is very conscious of what we are up against and would be appalled by the prospect that the numbers of physicians and dentists would be even further diminished by virtue of the closing of any schools of medicine or dentistry.

Mr. President, I ask unanimous consent to have printed in the RECORD tables and commentary which show the number of physicians in practice and the amount of our shortages, the number studying, which does not approach the number we need, with relation to physicians, dentists, and nurses.

There being no objection, the tables and comments were ordered to be printed in the RECORD, as follows:

ESTIMATED SUPPLY OF PHYSICIANS: 1968–75

Year	Graduates of U.S. schools		Foreign medical graduates [1]	Deaths in year [2]	Physicians (M.D.+D.O.) Dec. 31		Population [3] Dec. 31 (thousands)	Physicians per 100,000 population	
	Medicine	Osteopathy			Total	Active		Total	Active
1968	7,973	427	5,000	4,360	331,080	311,000	205,791	161	151
1969	7,830	410	4,500	4,470	339,350	317,700	206,430	164	154
1970	8,040	430	4,000	4,580	347,240	325,100	209,077	166	155
1971	8,480	450	3,500	4,680	354,990	332,400	212,089	167	157
1972	8,680	470	3,000	4,770	362,370	339,300	215,753	168	157
1973	8,950	480	3,000	4,880	369,920	346,400	219,055	169	158
1974	9,320	500	3,000	4,970	377,770	353,800	222,492	170	159
1975	9,770	560	3,000	5,090	386,010	361,500	226,052	171	160

[1] Includes Canadian and other foreign graduates newly licensed in the United States each year and other foreign graduates providing medical services in programs for which licensure is not required.

[2] At 13 per 1,000 physicians annually.

[3] Includes the Armed Forces in the United States and abroad and civilians in 50 States and the District of Columbia.

Source: Bureau of Health Professions Education and Manpower Training, Division of Physician Manpower.

U.S. Bureau of the Census. Population Estimates. Current Population Reports P–25, No. 381.

By 1975, we should have, according to this table, 361,000 active physicians, making a ratio of 160 active physicians per 100,000 population. Of these, however, at most only 225,000 will be in private practice. Conservative estimates indicate that this will be something between 50,000 and 60,000 physicians short.

ESTIMATED SUPPLY OF DENTISTS: 1969–75

Year	Graduates of U.S. dental schools [1]	Losses from the profession due to deaths [2]	Dentists as of July 1 [3]		Population July 1 [4] (thousands)	Dentists per 100,000 population	
			Total	Active		Total	Active
1969	3,470	2,280	114,860	101,100	204,470	56	49
1970	3,530	2,220	116,050	102,200	207,330	56	49
1971	3,710	2,280	117,360	103,400	210,350	56	49
1972	3,720	2,330	118,790	104,800	213,510	56	49
1973	3,970	2,360	120,180	106,000	216,800	55	49
1974	4,130	2,400	121,790	107,600	220,230	55	49
1975	4,330	2,440	123,520	109,200	223,790	55	49

[1] Assuming that construction funds under the Health Professions Educational Assistance Act will continue at a level of over $35,000,000 annually for dental schools.

[2] Estimated by applying mortality rates for white males by single years to the 1968 dentist supply.

[3] Excludes graduates of the year concerned.

[4] Includes the Armed Forces in the United States and abroad and civilians in 50 States and the District of Columbia.

Source: Bureau of Health Professions Education and Manpower Training, Division of Dental Health.

U.S. Bureau of the Census. Population Estimates. Current Population Reports P–25, No. 381.

U.S. Department of Health, Education, and Welfare; Public Health Service; National Center for Health Statistics. Vital Statistics of the United States, 1966. Vol. II—sec. 5, Life Tables, Washington, U.S. Government Printing Office, 1968.

This table shows that by 1975 the ratio of dentists per 100,000 population will remain roughly what it is today, even though there will be 8,000 additional dentists practicing in 1975. However, individual demands for dental care are expected to increase greatly in the next few years as a result of rising income and educational levels and of new methods of financing dental services. There is universal agreement that the nation's future supply of dentists will be grossly inadequate to meet both population increases and average individual care demands.

ESTIMATED SUPPLY OF ACTIVE NURSES: 1969–75

Year	Graduates	Net losses from profession [1]	Active nurses as of Jan. 1		Resident population [2] (thousands)
			Number	Rate per 100,000 population	
1969	40,000	20,400	680,000	340	199,861
1970	40,800	21,000	699,600	344	203,447
1971	41,000	21,600	719,400	349	206,307
1972	41,800	22,200	738,800	353	209,330
1973	42,300	22,800	758,400	357	212,490
1974	43,000	23,300	777,900	360	215,785
1975	43,400	23,900	797,600	364	219,211

[1] Includes losses from deaths and retirements, less those returning from inactive status and foreign-trained nurses.

[2] Includes Armed Forces and civilians in 50 States and the District of Columbia.

Source: Bureau of Health Professions Education and Manpower Training, Division of Nursing.

It is estimated that there will be 797,000 active nurses in 1975. Depending on varying estimates, the need is calculated to be between 895,000 and one million. It should be noted, however, that over one third of all professional nurses are not currently employed in nursing.

Mr. JAVITS. Mr. President, in reviewing the pending legislation it is to be noted that one of our greatest concerns—in helping overcome the critical manpower shortages in the health field—is the need for conducting a comprehensive study of existing laws, regulations, customs, and practices governing the licensure, certification, or other means by which individuals are determined to be qualified to practice in the allied health professions. Every effort should be made to prevent artificial and unnecessary restrictions on the entry and advancement of skilled personnel. This Nation needs to make the best use of every available skill in the health field. Section 209 of the bill directs the Secretary of Health, Education, and Welfare to prepare and submit to the Congress, prior to July 1, 1971, a report identifying the major problems associated with licensure, certification, and other qualifications for practice or employment of health personnel, together with summaries of the activities—if any—of Federal agencies, professional organizations, or other instrumentalities directed toward the alleviation of such problems and toward maximizing the proper and efficient utilization of health personnel in meeting the health needs of the Nation.

Indeed, I would add it is hoped very much that this report may be made available long before July 1, 1971, as the information which is involved could be critically important to us all in dealing with the problems we have.

Mr. President, section 102 of the bill, the amendment for emergency aid to medical and dental schools is supported by the Association of American Medical Colleges, the American Dental Association, and the American Association of Dental Schools. This is very important, because it demonstrates their deep concern and long awareness of the situation they face in their desire to get help from the Government with respect to it.

Finally, the veterans educational assistance amendment which it is expected will be stricken from the bill—and I have agreed with the chairman to its being stricken—is one which I would like to speak about. I think it is very important to know why we are striking it and to express our hope that when this bill goes to the other body, that amendment or some variant of it may be written into a bill by the appropriate committee.

It is a fact that there may be a problem of jurisdiction, for in the Senate the jurisdiction over certain veterans' affairs is in our committee, the Committee on Labor and Public Welfare. It is well known that many of us, including myself, have for years tried to get a Veterans' Affairs Committee in the Senate. Many of our Members favor it, but it has never been successful.

But there is a Veterans' Affairs Committee in the House and, quite properly, it desires to deal with all veterans' matters. I hope very much that Representative TEAGUE's committee—he is its longstanding, very distinguished and very able chairman—will give sympathetic attention to what we are striking out here. It is not lost, by any means; but I agree that it would create difficulties if it went to the House in this form.

My reason for offering the amendment in committee is as follows:

There are approximately 30,000 medical corpsmen in the various armed services who leave those services every year. This is an absolutely irretrievable and indispensable source of effective manpower in the health field. Surely a medical corpsman who was qualified to treat the wounded on the field of battle can be quickly qualified to assist, in a very high level way, in the treatment of patients in hospital wards and emergency rooms.

The amendment we shall strike seeks to provide a special incentive for veterans undertaking allied health training. It would provide that educational allowances for veterans pursuing a course of study in one of the allied health professions are to be paid without charge to any period of entitlement the veteran may have earned by virtue of his service.

Our colleagues in the other body may feel that some other incentive may be better; but I would hope very much that they would see the force of the argument of trying very hard—and on incentive is a very good way to do it—to reclaim, as it were, for the allied health profession, a large part of the personnel which is now lost to us because it finds its way into other fields very often completely unrelated to the specialty which it has developed in the Armed Forces.

Mr. President, while I join with the chairman and agree with him that this particular provision be stricken—because we feel this bill is so important that we do not want it held up in any way and have people feel that they have to make a fight on it for reasons which have nothing to do with its substance or merits—I hope very much that the Members of the House will give it their sympathetic consideration and that some way may be found to reclaim for the allied health professions this indispensable and irreplaceable corps of medical corpsmen and veterans with experience in a health field who leave the armed services, to attract them into the profession which they have learned in the Armed Forces.

Other than that, I commend the bill most highly to my colleagues. I think it is a real tribute to the Senator from Texas (Mr. YARBOROUGH) and the Health Subcommittee that the bill seems to have no real opposition in the Senate.

Mr. YARBOROUGH. Mr. President, before proceeding further in explanation of the bill, in order to get the bill in the form in which we hope it will pass the Senate, I ask unanimous consent that the committee amendments, except the language on page 38, be agreed to en bloc.

The **PRESIDING OFFICER.** Is there objection?

Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 3, after line 5, insert a new section, as follows:

GRANTS TO MEDICAL AND DENTAL SCHOOLS IN FINANCIAL DISTRESS

SEC. 102. Title VII of the Public Health Service Act is amended by adding after section 799a thereof (as added by section 209 of this Act) the following new part:

"PART H—GRANTS TO MEDICAL AND DENTAL SCHOOLS IN FINANCIAL DISTRESS

"FINDINGS OF FACT AND DECLARATION OF POLICY

"SEC. 799k. (a) The Congress hereby finds and declares that—

"(1) the Nation's economy, welfare, and security are adversely affected by the acute financial crisis which threatens the survival of medical and dental schools which provide the highest quality of teaching, medical and dental research and the delivery of health care for the Nation; and

"(2) the financial straits of these institutions, placing many on the brink of disaster, are in substantial measure the result of their affirmative response to national health policy (as established or approved by the Congress) that such institutions (A) extend their enrollment through major expansion of training capacity to increase the supply of adequately trained health professions personnel or to improve facilities for the conduct of research in the sciences related to health, (B) establish special facilities for, extend, or improve the quality and delivery of, health care and services to disadvantaged persons in urban or rural areas, (C) provide high quality health care and services to the massive number of individuals who are beneficiaries of programs established by or pursuant to titles XVIII and XIX of the Social Security Act, or (4) maintain present enrollments, and maintain or enhance the quality of training provided, despite costs that are increasing more rapidly than school income from all sources.

"(b) It is therefore the purpose of this part to provide these medical and dental schools with emergency financial assistance to enable them to continue and expand the services, programs, and activities which are in response to national health policy (as described in subsection (a)(2)).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 7991. For the purpose of enabling the Secretary to make grants under this part, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1971. Sums so appropriated shall remain available until expended.

"GRANTS BY SECRETARY

"SEC. 799m. (a) Fom the sums appropriated pursuant to section 7991, the Secretary is authorized to make grants, in accordance with the provisions of this part.

"(b) In order to be eligible for a grant under this part, an institution must be a public or nonprofit school of medicine or dentistry (as defined in section 724(4) and which is accredited as provided in section 721(b)(1)(B) or section 773(b)(2)).

"(c) No grant shall be made to any institution under this part except pursuant to application therefor which is approved by the Secretary.

"APPLICATION FOR GRANTS

"SEC. 799n. (a) The Secretary shall not approve any application for a grant unless the application is submitted by or on behalf of a public or nonprofit institution which is eligible (as prescribed by section 799m(b)) for a grant under this part, and the Secretary finds that—

"(1) such institution has made an affirmative response to one or more of the elements of national health policy (as described by section 799k(a)(2));

"(2) such institution is in financial distress;

"(3) the financial distress of such institution is attributable, in substantial degree, to such institution's having performed, engaged in, or undertaken, one or more of the functions, policies, programs, or activities referred to in pargaraph (1):

"(4) the financial distress of such institution (if not relieved by a grant under this part) will oblige such institution either to discontinue or curtail its performance of, engagement in, or undertaking with respect to, one or more of the functions, policies, or activities referred to in paragraph (1); and

"(5) such institution has a plan (and submits such plan with or as a part of its application for grants) which provides a reasonable assurance that, if such grant is made, such institution will be able, during and after the period with respect to which the grant is made, to continue or expand its performance of, engagement in, or undertaking with respect to, any of the functions, policies, or activities (referred to in paragraph (1)) with respect to which a grant is sought in such application.

"(b) Grants under this part shall be in such amounts and subject to such limitations and conditions as the Secretary may determine to be proper to carry out the purposes of this part.

"(c) Amounts paid by the Secretary to an institution under this part shall be used only for the purpose for which paid, may be paid in advance or by way of reimbursement, and in such installments as the Secretary may determine.

"(d) In the case of any medical school or dental school which owns or is affiliated with a hospital or dental clinic and such hospital or dental clinic is utilized by such school in connection with its major teaching programs, the facilities, activities, and programs of such hospital or dental clinic shall, insofar as they are a part of or are used in connection with such teaching programs, be deemed for purposes of this part to be facilities, activities, or programs of such school."

On page 8, line 1, after the word "Training", strike out "Centers"; in line 9, after the word "for", strike out "grants for basic improvements", and insert "basic improvement grants"; on page 12, after line 3, strike out:

REDESIGNATION OF SECTIONS

SEC. 205. Sections 795, 796, 797, and 798 of such Act are hereby redesignated as sections 799, 799a, 799b, and 799c, respectively.

At the beginning of line 10, change the section number from "206" to "205"; at the beginning of line 16, change the section number from "795" to "794a"; in line 22, after "41 U.S.C." strike out "(5))" and insert "(5)),"; on page 13, at the beginning of line 20, strike out "796" and insert "794b."; on page 14, line 5, after the word "determines", insert the word "that"; on page 15, at the beginning of line 11, change the section number from "797" to "794c."; on page 18, line 13, after the word "therein", insert "an opportunity"; on page 20, at the beginning of line 19, change the section number from "798" to "794d"; at the beginning of line 20, insert "(in accordance with such regulations as he may prescribe)"; on page 21, line 10, after the word "the", where it appears the first time, strike out "school" and insert "agency, institution, or organization"; in line 15, after the word "to", strike out the word "section" and insert "subsection"; on page 22, at the beginning of line 3, insert "program of such"; in line 21, after the word "the" strike out "school" and insert "agency, institution, or organization"; on page 24, line 5, after the word "practitioner", insert "of medicine or dentistry"; in line 12, after the word "nonprofit", strike out "hospital or other" and insert "hospital, other"; in line 13, after the word "agency", strike out "in any area"; in line 15, after the word "to", strike out "be an area which has" and insert "have" on page 27, line 19, after the figure "1972,", strike out "and such sums as are necessary for the next three fiscal years," and insert "$8,000,000 for the fiscal year ending June 30, 1973, $12,000,000 for the fiscal year ending June 30, 1974, and $16,000,000 for the fiscal year ending June 30, 1975,"; on page 28, line 15, after the word "program", insert "or programs"; in line 19, after the word "such", insert "program or programs in such"; at the beginning of line 20, strike out "agencies, institutions, or organizations", and insert "agency, institution, or organization"; in line 22, after the word "in", insert "such programs in"; on page 35, after line 2, strike out:

EVALUATION

SEC. 207. (a) That section of the Public Health Service designated as section 799b by section 205 of this Act is amended (1) by striking out "or 794," and inserting in lieu thereof "794, 795, 796, 797, or 798".

(b) The amendments made by this section shall be effective only with respect to fiscal years ending after June 30, 1970.

At the beginning of line 13, change the section number from "208" to "206"; after the amendment just above stated, strike out "That section" and insert "Section 795"; in line 14, after the word "Act", strike out "which is redesignated as section 799 by section 205 of this Act"; after line 17, strike out:

STUDY

SEC. 209. That section of the Public Health Service Act redesignated as section 799c by section 205 of this Act is amended by adding at the end thereof the following new sentence: "In addition to the report provided for by the preceding sentence, the Secretary shall prepare, and submit to the President and the Congress prior to January 1, 1972, a report on the administration of this part, an appraisal of the programs under this part in light of their adequacy to meet the needs for allied health professions personnel, and his recommendations as a result thereof."

And, in lieu thereof, insert:

SEC. 207. Section 798 of the Public Health Service Act is amended to read as follows:

STUDY

"SEC. 798. (a) The Secretary shall conduct a study of the administration of—

"(1) the provisions of this part,

"(2) other provisions of this Act which relate to the allied health professions or the training of individuals to prepare them to engage in any of such professions; and

"(3) provisions of law which are administered by the Commissioner of Education and which relate to the allied health professions or the training of individuals to prepare them to engage in any of such professions;

with a view to determining the adequacy of such provisions and the programs established pursuant thereto to meet the needs of the Nation for allied health professions personnel."

On page 36, at the beginning of line 23, change the section number from "210" to "208"; in line 24, after the word "after", strike out "the section redesignated as section 799c by section 205 of this act" and insert "section 798 thereof"; on page 37, at the beginning of line 2, change the section number from "799d." to "799."; after line 5, insert a new section, as follows:

LICENSURE REPORT

SEC. 209. Part G of title VII of the Public Health Service Act is further amended by adding after section 799 (as added by section 208 of this Act) the following new section:

"LICENSURE REPORT

"SEC. 799a. The Secretary shall prepare and submit to the Congress, prior to July 1, 1971, a report identifying the major problems associated with licensure, certification, and other qualifications for practice or employment of health personnel (including group practice of health personnel), together with summaries of the activities (if any) of Federal agencies, professional organizations, or other instrumentalities directed toward the alleviation of such problems and toward maximizing the proper and efficient utilization of health personnel in meeting the health needs of the Nation. Such report shall include specific recommendations by the Secretary for steps to be taken toward the solution of the problems so identified in such report."

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment on page 38.

Mr. YARBOROUGH. Mr. President, I move now that title III on page 38, lines 1 through 20, be stricken from the bill.

The PRESIDING OFFICER. The question occurs on the adoption of the proposed committee amendment. That question will have to be voted down for the Senator to accomplish his end.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. The Senator from Texas still has the floor. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. We cannot vote until he has yielded the floor. Is that correct?

The PRESIDING OFFICER. The Senator would have to yield the floor in order to have a vote.

Mr. JAVITS. I understand. I am not ready for a vote yet, so I would like the Senator to hold the floor.

Mr. YARBOROUGH. That is satisfactory to the Senator from Texas, but I desire to have before the Senate the matter which will be offered after a brief explanation of the bill by me. At that time I will yield the floor.

Mr. President, S. 3586 provides for a 5-year extension and improvement of the Allied Health Professions Act. For the fiscal year 1971 the total amount would be $79,250,000; $97 million in 1972; $118,250,000 in 1973; $138.5 million in 1974; and $158,750,000 in 1975.

This is divided between construction grants, basic improvement grants, special project improvement grants, advanced traineeships of people in these categories, the development of new methods of training, the utilization of educational talents, scholarship grants, work-study programs, and student loans.

All across the board, we are attempting to enlarge this number of trained professionals, but who can take a lot of the load off the doctors and dentists.

The testimony before us developed that there are some 200 categories of medical specialists who help in some branch of medicine and dentistry. Their training, which is less time consuming than that of physicians or dentists, is nevertheless essential if we are to deal with this country's health care crisis. It is hoped that, with this stimulation of training in these medical specialties and the recruitment of more personnel, we will greatly alleviate some of the vast health shortages we have in this country.

Mr. President, people who need health care and services today are suffering unnecessarily and, in many cases, longer than they should, because there are not enough people trained to provide the health services that are needed. At this very moment, one of the major reasons that many citizens of the wealthiest Nation in the world are not receiving adequate health care is due to critical shortages of workers in all the health fields.

During the past several years, many of the needs for allied health manpower have been identified. The report submitted to the Congress last year by the Secretary of Health, Education, and Welfare on the Allied Health Professions Personnel Training Act documented these needs, as have a number of other public reports.

In 1966, the Congress enacted the Allied Health Professions Personnel Training Act. This was the first Federal legislation specifically designed to increase the number of allied health personnel to provide essential health services and to improve and expand programs for the education and training of such personnel. In 1968, that legislation was extended. We are now considering a further extension, which will substantially expand and improve this program.

Since the very beginning of this program, the funds appropriated for the allied health training programs have been only about one-third of the amounts the Congress authorized—authorizations that we knew even then were modest, especially in view of the magnitude of the job to be done. Unfortunately, appropriated funds have been so limited that only a small, initial effort has been possible.

I have a table which graphically documents the very real gap between what has been authorized and what has been appropriated for these programs.

I ask unanimous consent that the table be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it so ordered.

(See exhibit 1.)

Mr. YARBOROUGH. However, in the face of these limited appropriations, substantial accomplishments have been made. In that regard I would like to bring to your attention the progress which has been made in the five main elements which comprise the existing legislation.

First. Construction. Although construction moneys were appropriated in only 2 years of the program, six projects have been funded for the construction of teaching facilities with new spaces for nearly 1,000 students in more than 10 different allied health disciplines.

Second. Basic improvement—formula—grants. The largest proportion of total moneys available for the allied health programs was spent on the formula grants for basic improvement of allied health curricula in baccalaureate and associate degree programs in junior colleges, colleges, and universities. In fiscal year 1969, 577 allied health training programs in 258 institutions received formula grant assistance.

Third. Special improvement—formula—grants. Special improvement grants are presently authorized to be made to training centers having approved applications for basic improvement grants from sums remaining available after full funding of the formula grants. Because of this statutory interrelationship between the basic improvement and the special improvement grant authorities, it has never been possible to award a single special improvement grant.

Fourth. Advanced traineeships. In fiscal year 1969 awards were made to 77 programs for advanced traineeships for about 400 trainees preparing to be teachers, administrators, supervisors or specialists in the allied health professions. With the rapid increase in numbers of training programs, it is essential that faculty be prepared and that administrators and supervisory personnel be trained to make the optimum use of significantly expanding numbers of trained personnel.

Fifth. Developmental grants. Under the authority for development and evaluation of new types of health personnel, a beginning has been made in spite of the modest funds available. Under this authority 18 projects have been supported for the development of such new types of personnel as orthopedic assistant, child health associate, physical therapy assistant, and hospital pharmacy technician.

S. 3586, the bill that we are reporting to you today will provide the legislative framework which can build on the limited progress that has been made to date toward increasing the pool of qualified allied health workers.

We must begin at once to move rapidly to produce the numbers and kinds of allied health personnel this country needs. A 5-year program, with realistic funding, would provide a significant incentive to training institutions to accelerate their production and to make the changes that are needed in their training programs, so that qualified, trained allied health personnel will be available as rapidly as possible to provide health services.

If progress is to be made, continuity of this program is essential. Commitments must be planned for, and made, well in advance of actual training. It is our conviction that shorter extensions of this legislative authority, such as the administration's 1-year proposal, will seriously dilute the potential accomplishments of these training efforts.

The institutions need time to acquaint themselves with new programs and authorities, time to marshal local resources, and time to institute training efforts. There should be a reasonable period of certainty about the signals under which they can expect to operate. The 5-year extension in the bill we are reporting provides for an initial year for tooling up and one academic generation for many of the programs.

The bill will continue the program of grants for the construction of teaching facilities; this is absolutely essential if the allied health schools are going to be able to expand their student enrollments. The time required to develop plans, present proposals, award funds and, finally, build buildings is such that any delay will indeed be a contributing factor to the continuation of manpower shortages. Provisions of this new bill authorize $20 million in fiscal year 1971 for construction of teaching facilities for allied health professions personnel; over the next 5 fiscal years this sum will increase to $40 million.

The bill would authorize $15 million for each year through 1975 for the continuation of the basic improvement—formula—grant program. Through this program, junior colleges, colleges, and universities qualifying as training centers for allied health professions have been assisted in expanding and improving their allied health curriculums.

The bill also makes a provision for special project grants to public or nonprofit private agencies, institutions, and organizations for new training programs, improvement of curriculums, expansion of existing training programs, and the establishment of special training programs to meet the needs of special groups—for example, the disadvantaged and veterans who have had previous training and experience in health.

The original act authorized special improvement grants that are dependent on overflow funds from the basic improvement grant, and limits eligibility to schools that have been awarded a basic improvement grant. Accordingly, the special project program has never been implemented, because there have never been overflow funds from the basic grants. Provisions of S. 3586, by establishing a separate appropriation authorization and broadening the eligibility, will enable many training resources—training centers, agencies, organizations, and other institutions not previously eligible to apply for allied health training funds—to use their capabilities to plan and develop new programs and to expand their on-going efforts that meet special training and retraining needs. Such a project grant authority is needed to encourage a wide variety of activities directed toward high priority problems in the allied health field. Over the next 5 years this program would authorize appropriations beginning with $20 million in fiscal year 1971 and increasing at a rate of $5 million a year to $40 million in 1975.

S. 3586 would authorize a program of traineeships for advanced training and allied health personnel to prepare them to teach or to serve as administrators, supervisors, or specialists in the allied health field. In fiscal year 1967, this program provided traineeship support for only 64 students. However, in 1969, awards were made to support nearly 400 students preparing to become leaders in their fields. The shortages of competent faculty and other allied health leaders are great and probably constitute the greatest obstacle to the rapid expansion of allied health manpower. As educational programs enlarge and new programs are started, the present shortage of qualified teachers will become increasingly critical.

For advanced traineeships grants, this bill would authorize $8 million in fiscal year 1971 and increments of $1 million for each year thereafter to $12 million in fiscal year 1975.

This bill would also authorize grants and contracts for developmental projects. It would extend and broaden the developmental grants program authorized under the original law, which provides for grants to develop, demonstrate, or evaluate new types of health technologists and new methods and curriculums for training allied health personnel.

Under the authority for development and evaluation of new types of health personnel, a dramatic beginning has been made in spite of modest funding. Projects have supported the development of such new types of personnel as orthopedic assistant, child health associate, physical therapy assistant, and hospital pharmacy technician. These projects have a significant potential for alleviating manpower shortages and contributing to the improvement of health services.

The bill would provide new authority for support of projects to study and develop mechanisms for determining the equivalency and proficiency of previously acquired knowledge and skills in the allied health field and to develop, demonstrate, and evaluate new means of recruitment, retraining, or retention of allied health personnel. These new efforts are essential in order to remove conditions that now exist in the educational and employment sectors of the health field that are constricting the production and utilization of competent allied health manpower.

The bill would authorize for the developmental projects program $6 million in fiscal year 1971, increasing by $2 million each year to an authorization of $14 million in fiscal year 1975.

The proposed bill, S. 3586, would provide an authority for grants and contracts for the encouragement of educational talent in the allied health professions including returning veterans of the Armed Forces of the United States. This program would encourage and assist individuals of financial, educational, or cultural need with potential capacity for education or training in the allied health professions. This would, for example, provide opportunities to encourage and assist returning veterans who wish to qualify for civilian employment in the allied health professions. Proposed authorizations for these educational talent encouragement grants and contracts are $750,000 in fiscal year 1971 and $250,000 increments each year until fiscal year 1975 when $1.75 million would be authorized.

The bill also would authorize scholarships, loans, and a work-study program to assist students who are preparing for employment in the allied health professions. At the present time, undergraduate students preparing for allied health careers must compete for student aid through the general student assistance programs. Special financial aid resources are needed to attract able students to allied health training opportunities. It is especially important to have scholarship aid for needy students who could not otherwise consider undertaking such training, and for persons already working in allied health occupations in which retraining is necessary to keep pace with changing practices of technology. For these three student-aid programs—scholarships, work study, and student loans—the bill would authorize appropriations beginning in fiscal year 1971 of $9.5 million and increasing to $36 million in fiscal year 1975.

In addition to the grants and contracts provision of title II of S. 3586 there are two special provisions proposed. One is a requirement that the Secretary submit a report identifying the major problems associated with licensure, certification, and other qualifications for practice or employment of health personnel—including group practice of health personnel—together with summaries of the activities—if any—of Federal agencies, professional organizations, or other instrumentalities directed toward the alleviation of such problems and toward maximizing the proper and efficient utilization of health personnel in meeting the health needs of the Nation.

The second special provision relates to advance funding. The authority would permit grantee institutions to plan more effectively by providing the appropriation of funds in the fiscal year during which the funds may be awarded to the institutions. If we continue the 1-year rule, we will be getting the money appropriated for the past year about the time we are holding hearings for the next year's appropriations. This is disastrous to the training we are supporting. If schools are to get and retain competent faculty and qualified students, they must know at least a year in advance whether or not there will be available funds that they can commit.

Finally, Mr. President, the bill in title I includes two additional provisions which would—

First. Amend section 771 of the PHS Act so as to authorize special assistance to new schools of medicine and the like such that they could qualify for the institutional — formula — grant support under which existing medical schools now receive support. There is no reason why we should continue to discriminate against new medical schools, especially when the Nation is faced with an acute shortage of health professionals.

Second. Authorize the appropriation of $100 million to assist medical and dental schools—and their affiliated teaching institutions—which are in financial distress. As each of us knows, the medical and dental schools of this Nation are in serious financial difficulty. Several are on the brink of financial catastrophe. Others are now surviving only by expending their endowments. Mr. President, the committee's action in this regard, which will be described in greater detail by other Senators who will speak today, is essentially intended to deal with the paradox which is created by this Nation's great need for additional medical schools while at the same time being faced with the imminent closing of existing high quality institutions of medical education.

EXHIBIT 1, 1970

TABLE I.—AUTHORIZATIONS AND APPROPRIATIONS FOR ALLIED HEALTH PROFESSIONS GRANTS PROGRAMS, FISCAL YEARS 1967 THROUGH 1970

Year	Total grant program	Construction grants	Educational improvement grants	Advanced training grants	Development of new methods grants
Fiscal year 1967:					
Authorization	$14,250,000	$3,000,000	$9,000,000	$1,500,000	$750,000
Appropriation	3,735,000		3,285,000	250,000	200,000
Fiscal year 1968:					
Authorization	26,750,000	9,000,000	13,000,000	2,500,000	2,250,000
Appropriation	15,250,000	[1] 3,000,000	9,750,000	[2] 1,500,000	[3] 1,000,000
Fiscal year 1969:					
Authorization	37,000,000	13,500,000	17,000,000	3,500,000	3,000,000
Appropriation	14,325,000	1,800,000	9,750,000	1,550,000	1,225,000
Fiscal year 1970:					
Authorization	39,500,000	10,000,000	20,000,000	5,000,000	4,500,000
Appropriation	13,137,000		9,750,000	1,550,000	[4] 1,837,000
Total authorization, 1967–70	117,500,000	35,500,000	59,000,000	12,500,000	10,500,000
Total appropriation, 1967–70	46,447,000	4,800,000	32,535,000	4,850,000	4,262,000

[1] $1,000,000 was placed in reserve and carried over to 1969. This reduced the money available for construction grants in fiscal year 1968 to $2,000,000 and increased the amount available in fiscal year 1969 to $2,800,000.

[2] Reserves necessitated by the cost-reduction program reduced the funds available for obligation to $1,204,000.

[3] Reserves necessitated by the cost-reduction program reduced the funds available for obligation to $800,000.

[4] Reserves necessitated by the cost-reduction program reduced the funds available for obligation to $1,238,000.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, I shall be brief, but I wish to inform the chairman of the committee and the manager of the bill that I would hope that when I am through, which will be in a very few minutes, we can then vote on the amendments en bloc, and then deal with that part of the bill which it is proposed to strike separately. I agree with the chairman that that should be done.

The PRESIDING OFFICER (Mr. SCHWEIKER). The Chair would apprise the Senator from New York that we have already voted on the other amendments, except for page 38.

Mr. JAVITS. Mr. President, I did not hear the Chair put the question, and it was understood they would not be voted on until Senator YARBOROUGH had finished.

The PRESIDING OFFICER. The Chair answered the Senator's question on the basis of the committee amendment on page 38.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Was not the unanimous-consent request that the committee amendments be considered en bloc, except for one amendment, as original text?

The PRESIDING OFFICER. The Chair would state, to clear up the situation, that prior to the Senator from New York's raising his objection, the Senate had already agreed to the unanimous-consent request of the Senator from Texas to approve all committee amendments except as to page 38, and Senator YARBOROUGH had been recognized.

Then, when the Senator from New York raised his objection, the only point at issue was as to page 38 of the committee amendments.

Mr. JAVITS. The Senator from New York was not aware of that. As a matter of fact, he was not aware that that was the unanimous-consent request at all. He understood the Chair's ruling to be that no vote could be taken until such time as the Senator from Texas surrendered the floor, on any of the amendments, as the Senator from New York stated that he was not prepared to vote as yet on the amendments.

The PRESIDING OFFICER. The Chair did hear the Senator from New York say that he was not prepared to vote, but the chair assumed it was as to page 38, since that was the only committee amendment in dispute, the other having previously been agreed to.

Mr. JAVITS. Mr. President, I do not wish to move to reconsider, which I could do, because I did not accord with the request, but I shall not, because I do not think it matters.

Mr. YARBOROUGH. Mr. President, I commend the distinguished Senator from New York for his great contribution to this bill. His amendments are written into it. We have collaborated on it.

The $100 million emergency fund for medical schools we have agreed on thoroughly. We were looking for a vehicle, and he has added his proposal to this bill. I hope the House will accept the amendment.

As the Senator from New York has pointed out, we have medical schools which are in danger of closing. Sixty cents out of every dollar that goes to support the medical schools in this country comes from the Federal Government under the National Institutes of Health and other programs for research. Due to budget stringencies and the reduced purchasing power of the dollar, many medical schools which have received the same grants as in the past can no longer go on.

A few weeks ago, in a Dallas veterans' hospital, I held an informal conference with the director and the staff; and they told me of the many economies they are having to practice, especially cutting down on their staff. They could not cut down on money for supplies, because the price of an item such as blood plasma, for example, had gone up 100 percent over 12 months. So they had to cut their personnel so as not to cut on food, blood, and medicines for the veterans. That is what happened in 1 year.

We had testimony in the committee this week, while we were having hearings on other bills, to the effect that, in Russia, they have a medical assistant for every medical doctor—280 medical assistants per 100,000 personnel, where we have 160 medical doctors to every 100,000 personnel. We have the greatest medicine in the world. We have the greatest medical science in the world but we do not have enough personnel to get this medical science and knowledge out to the people of this land.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report entitled "Grants to Medical and Dental Schools in Financial Distress," which is printed on page 5 of the committee report on S. 3586.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Grants to Medical and Dental Schools in Financial Distress

The committee finds that the urgent need for emergency relief to our Nation's medical and dental schools has continued to grow. The committee believes that American medical and dental schools which provide the highest quality of teaching, medical and dental research and the delivery of health care for the Nation are in serious financial difficulties as a result, in substantial measure, of their affirmative response to national health policy established or approved by the Congress and that the situation is so critical that one must be concerned about their maintenance of quality and even about their ability to survive.

Accordingly, the committee has authorized the appropriation of $100 million for grants to assist those medical and dental schools which are in acute financial distress and which without such assistance will be forced to curtail their services.

Section 102 of the bill would authorize the Secretary of Health, Education, and Welfare to issue grants to medical and dental schools in dire financial straits as a result of their affirmative response to one or more of the following aspects of national health policy: (a) increasing enrollment of students for the purpose of augmenting the supply of trained health professions personnel; (b) improving the quality or delivery of health care and services to disadvantaged persons in urban or rural areas; (c) providing health care and services to a substantial number of patients who are beneficiaries of programs established by or pursuant to Titles XVIII or XIX of the Social Security Act; (d) maintaining present enrollments and maintaining or enhancing the quality of training, despite costs that increase more rapidly than school income from all sources.

In order to be eligible for a grant, an institution would be required to establish: (1) that its financial distress is attributable, in substantial degree, to seeking to fulfill any one of the stated national health policies; (2) that without the benefit of the financial assistance provided, the institution would be forced either to discontinue or curtail its performance in meeting this national health policy; (3) that the institution has submitted a plan providing reasonable assurance that if it receive the grant, it will continue or expand its fulfillment of the national health policies; (4) that any grant will be utilized in performing the stated national health policies pursuant to regulations of the Secretary of Health, Education and Welfare. When a medical or dental school owns or is affiliated with a hospital or dental clinic, which the school utilizes for its teaching program, the hospital's or dental clinic's activities shall be considered the same as the school's program in determining the school's participation in meeting the specified national health policies.

Mr. YARBOROUGH. Mr. President, this excerpt explains the need for this, and the rules and criteria under which aid will be granted to medical schools.

The amendment is a great amendment and I agree with much that the distinguished Senator from New York has said about it.

As to page 38, the amendment on page 38 of the reported bill, we have a communication from the chairman of the Veteran's Committee in the House pointing out that, if that part is put in the bill, there will be a jurisdictional problem involved.

However, we do not want to run any risk of endangering this emergency measure, which is a necessary measure to aid the schools, and the other to train the allied health professions, on my motion to strike that out, which is based not upon the intrinsic merits but because many of the people coming out of the armed services today who have had special medical training will be of great value if they can be merged into the civilian medical system.

There was a program on CBS last night called MEDEX regarding a medical school in the State of Washington, which the University of Washington was sponsoring, to train personnel for the medical beyond what is in the bill here—that is, a special assistant to every medical doctor, especially in the rural areas—CBS had a 30-minute program on national TV on the subject.

The names of many categories were brought out in the hearings. Let me cite just a few of them. Dieticians, medical technologists, medical record librarians, occupational therapists, optometric technologists, physical therapists, radiological technologists, sanitation technicians, and so forth.

Mr. President, the Senator from Wisconsin (Mr. Nelson) has written to me, raising the question with regard to the eligibility of teaching hospitals for grants under title VII of the Public Health Service Act. I include the letter in the Record at this point:

Hon. Ralph Yarborough,
Chairman, Senate Labor and Public Welfare Committee, Washington, D.C.

Dear Mr. Chairman: It is my understanding that the Department of Health, Education and Welfare has narrowed its interpretation of the term, "teaching facility," in Title VII of the Public Health Service Act so as to exclude teaching hospitals from receiving construction grants as teaching facilities for medical, dental and other health personnel.

The University of Wisconsin Medical School has been caught in a very serious financing squeeze due to this revised interpretation as have schools in other states. My staff is presently surveying the states to determine the extent of this problem.

In view of the fact that the Labor Committee has recently ordered reported the Health Training Improvement Act of 1970, I would appreciate it if you could explore the desirability of placing language in the Committee Report on this bill to indicate that Congress intended that these grants should be available for teaching hospitals.

Thank you for your consideration.

Sincerely yours,

Gaylord Nelson,
U.S. Senator.

I understand that the Association of American Medical Colleges has also expressed a similar concern about the Department's interpretation in this matter. I might point out that the committee has specifically designated teaching hospitals as eligible for aid under the section of this bill covering medical and dental schools in financial distress. It is my clear understanding from the legislative history and congressional intent of this statute that the teaching hospitals of all medical and dental schools should certainly be eligible to receive construction grants under section 720, title VII of the Public Health Service Act.

Mr. CRANSTON. Mr. President, I rise in support of S. 3586, as reported from the Committee on Labor and Public Welfare by the great chairman of that committee (Mr. Yarborough) who also so ably chairs the Health Subcommittee. Both Senator Yarborough and Senator Javits, the distinguished ranking minority member of the full committee, deserve great praise for the constructive changes they have made in the Allied Health Personnel Professions Training Act. It has been a great privilege for me to work under their leadership on the Health Subcommittee for the last 18 months. The legislative authorities contained in that act have been expanded in this bipartisan bill to make the program a much more effective mechanism for filling the health manpower needs of the Nation.

Among the new provisions this bill would add are those expanding the eligibility of recipients of grants under the programs—now limited to junior colleges, colleges, and universities—to publice or nonprofit private agencies, institutions, and organizations. This provision alone should increase considerably the Nation's resources for the training of allied health professionals. It is particularly noteworthy that this expanded eligibility will include approved training programs conducted by hospitals. Many hospitals are currently developing allied health training programs which are operated independent of academic institutions. For example, Marshfield Clinic in Wisconsin has a training program for specialized physician's assistants. The Washington Hospital Center in the District of Columbia is training the cardiovascular technician. The certified laboratory assistant recieves his entire training in a hospital. The contributions which such training programs can make in alleviating the shortage of health manpower are substantial.

As chairman of the Subcommittee on Veterans' Affairs, I would in particular like to emphasize that this eligibility for support of hospital-based training programs would apply as well to the hospitals of the Veterans' Administration. These hospitals have long been recognized as a source of health manpower. Their potential for providing leadership in the development of new types of allied health personnel as well, was singled out by the 1969 report of the Ad Hoc Committee on Allied Health Personnel, sponsored by the Division of Medical Sciences of the National Academy of Sciences, which stated:

> The Committee recommends that experiments be conducted in the training of new categories of supporting health personnel and their integration into health care teams, and in desirable changes in the skills of presently recognized personnel categories to meet changing requirements. The Veterans' Administration is suggested as a logical system in which such experiments might be tried.

The provisions of S. 3586 would make it possible for the Veterans' Administration to increase its activities in this area and to implement further this recommendation. And I am very pleased that the committee adopted language in its report—91–1002, pages 11–12—specifically spelling out this possibility. The report states:

BROADENED APPLICANT ELIGIBILITY

Applicant eligibility for grants, excluding formula grants and construction grants, has been broadened under the bill to include public or nonprofit private agencies, institutions, and organizations. This expanded eligibility includes among others, approved allied health training programs operated by public and nonprofit private hospitals. This broader eligibility applies to grants: To improve, plan, develop or establish new programs for training of allied health personnel; for traineeships for advanced training of allied health professions personnel; to encourage the full utilization of educational talent for the allied health professions, including outreach programs, scholarship grants, work-study programs, and loans.

The committee is impressed with the effectiveness of allied health training programs developed in many hospitals where the entire training is provided by the hospital. Among these are programs for specialized physicians assistants, cardiovascular technicians, and certified laboratory assistants. The contributions these hospital-based programs can make in alleviating the shortages of health manpower and in developing new types of allied health professions are substantial.

Included as eligible public hospitals under the bill are the hospitals of the Veterans' Administration and certain other Federal agencies. This eligibility results from section 507 of the Public Health Service Act which authorizes that "appropriations to the Public Health Service available for research, training, or demonstration project grants shall also be available, on the same terms and conditions as apply to non-Federal institutions, for grants for the same purpose to hospitals of the service, of the Veterans' Administration or of the Bureau of Prisons of the Department of Justice, and to Saint Elizabeths Hospital. Thus, the Veterans Administration hospitals could receive grants under sections 792(a)(2), 793, 794, 794(a), or 794(b).

The Veterans' Administration hospitals have long been recognized as a source of health manpower. Generally, most students in Veterans' Administration hospitals are associated with an academic institution and are eligible for scholarships and loans through that institution. However, the Veterans' Administration also has provided allied health training which is not academically affiliated. Thus, students in Veterans' Administration hospital-based approved programs could benefit from this new eligibility for allied health scholarships. It should be noted that because of the bill's requirement of non-Federal contributions to work-study programs, and because of its requirement that a training institution or agency provide no less than one-ninth of the capital contributions to a loan fund, these two programs would not be applicable to students receiving their total training in a Veterans' Administration or other Federal medical facility.

I also wish to emphasize that the outreach programs established by S. 3586 should increase substantially the numbers of veterans entering the health professions, and particularly those veterans who have received specialized training in health care during their military career. It has been estimated that approximately 30,000 veterans having some training in health fields, leave the Armed Forces annually. S. 3586 will authorize the establishment of programs which will encourage such veterans to seek advanced training in the allied health professions. The bill will also encourage studies to develop equivalency testing. Establishment of such systems will mean that the training veterans have already received in military medical facilities could be credited toward educational requirements for certification or licensure in an allied health profession. This provision should enable many veterans to enter certain of the allied health professions without undergoing lengthy periods of training duplicating that they received in military service.

When one considers the tremendous shortages of health manpower existing throughout the medical system and which have been graphically portrayed in the case of VA hospitals by witnesses before the Subcommittee on Veterans Affairs, the provisions of S. 3586 take on a special meaning and importance to all citizens. A big step toward alleviating this problem will be taken through enactment of this important legislation.

Finally, I wish to comment on one specific committee amendment to S. 3586. Section 301 of the reported bill contains an amendment to title 38 of the United States Code, which contains veterans legislation. That provision is explained on page 11 of the committee report 91–1002 as follows:

VETERANS EDUCATIONAL ALLOWANCE FOR STUDENTS OF ALLIED HEALTH PROFESSIONS

Section 4 of S. 3586 would add a new section 1679 to title 38 of the U.S. Code which would require the Administrator of the Veterans' Administration to pay educational assistance allowances to eligible veterans pursuing a course of study in one of the allied health professions (as determined by the Secretary of Health, Education, and Welfare for purposes of part G of title VII of the Public Health Service Act). Present law provides that veterans are eligible for educational allowances for a period of time varying with their length of service on active duty, but, with certain exceptions in the case of the educationally disadvantaged, for no period in excess of 36 months. The bill would afford a special incentive for veterans undertaking allied health training. It would provide that educational allowances for veterans pursuing a course of study in one of the allied health professions are to be paid without charge to any period of entitlement the veteran may have earned.

I very recently received a letter from my good friend, the chairman of the House Committee on Veterans Affairs, the Honorable OLIN E. TEAGUE, voicing strong jurisdictional and substantive objections to this proposed amendment. Similar objections were raised by the American Legion, the Veterans of Foreign Wars and the Disabled American Veterans in recent communications. These communications were received after the bill had been reported to the Senate. Mr. President, I ask unanimous consent that the communications from the three Veterans organizations be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, I am very pleased that Chairman YARBOROUGH and Senator JAVITS have agreed to deletion of the provision in question from the bill, and I endorse their action.

I would also like to draw attention to one vital aspect of the performance of duties by a paramedical professional. An important element of any training program in allied health where the trainee's duties will involve direct patient care is the inclusion in the training curriculum of special emphasis on the psychology of the patient and the importance to his recovery of individualized and compassionate care. This subject was covered in our committee discussions, and I am pleased that the committee report—page 11—affirms the committee's strong feeling that such training is essential in providing complete care to a patient.

A most vital and urgently needed provision contained in section 102 of the reported bill is the provision for emergency grants to medical and dental schools in financial distress. There are a number of medical schools in California who would be rescued from disaster by this new authorization of the appropriation of $100 million. This new provision is described in the committee report—page 5—as follows:

> Section 102 of the bill would authorize the Secretary of Health, Education, and Welfare to issue grants to medical and dental schools in dire financial straits as a result of their affirmative response to one or more of the following aspects of national health policy: (a) increasing enrollment of students for the purpose of augmenting the supply of trained health professions personnel; (b) improving the quality or delivery of health care and services to disadvantaged persons in urban or rural areas; (c) providing health care and services to a substantial number of patients who are beneficiaries of programs established by or pursuant to Titles XVIII or XIX of the Social Security Act; (d) maintaining present enrollments and maintaining or enhancing the quality of training, despite costs that increase more rapidly than school income from all sources.
>
> In order to be eligible for a grant an institution would be required to establish: (1) that its financial distress is attributable, in substantial degree, to seeking to fulfill any one of the stated national health policies; (2) that without the benefit of the financial assistance provided, the institution would be forced either to discontinue or curtail its performance in meeting this national health policy; (3) that the institution has submitted a plan providing reasonable assurance that if it receive the grant, it will continue or expand its fulfillment of the national health policies; (4) that any grant will be utilized in performing the stated national health policies pursuant to regulations of the Secretary of Health, Education and Welfare. When a medical or dental school owns or is affiliated with a hospital or dental clinic, which the school utilizes for its teaching program, the hospital's or dental clinic's activities shall be considered the same as the school's program in determining the school's participation in meeting the specified national health policies.

Mr. President, the bill under consideration today is another example of the constructive, innovative and far-reaching legislation produced by the dedicated bipartisan teamwork which has characterized so much of the outstanding work of our Health Subcommittee under the leadership of Senators YARBOROUGH and JAVITS and their excellent staff counsels. If any significant immediate improvements are to be made in the quality and reach of health care in this country, they will be made, I am convinced, by greater and more effective utilization of the allied health and paraprofessional personnel who will be trained under the provisions of this important bill.

EXHIBIT 1

THE AMERICAN LEGION,
Washington, D.C., July 8, 1970.
Hon. RALPH YARBOROUGH,
Chairman, Senate Committee on Labor and Public Welfare, Senate Office Building, Washington, D.C.

DEAR CHAIRMAN YARBOROUGH: Title III of S. 3586, the Health Training Improvement Act of 1970, would amend 38 U.S.C., chapter 34, by adding a new section 1679 to provide that the Administrator of Veterans Affairs shall pay to an eligible veteran pursuing a course of study in one of the allied health professions, as determined by the Secretary of Health, Education, and Welfare, an educational assistance allowance as provided in sections 1681 and 1682, and that the educational assistance allowance authorized and paid shall be without charge to the veteran's earned period of entitlement.

As a matter of policy The American Legion resists those legislative and executive measures which tend to dilute the centralization of authority in administration of the veterans benefits programs. Since the language of this Act would grant certain responsibility to the Secretary of HEW, we oppose the present provisions of Title III of this Act.

Recognizing the merits of the purpose of Title III, as an alternative we recommend a clean bill to encourage veteran training in those scarce category allied health professions as determined by the Administrator of Veterans Affairs, without charge to any period of entitlement earned by virtue of active duty in the Armed Forces, with the provision that the cost of such training be amortized by a period of obligated employment with the Veterans Administration Department of Medicine and Surgery. Considering the magnitude of the VA hospital and medical care program, there appears to be no justification to seek determinations from the Secretary of HEW as to shortages in allied health manpower. A clean bill in accordance with these precepts would assure study and discussion by both the administration and interested groups such as The American Legion.

Sincerely yours,
HERALD E. STRINGER,
Director.

WASHINGTON, D.C.,
July 7, 1970.
Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.:

Veterans of Foreign Wars vehemently opposes the transfer of veterans programs to other departments or agencies. Section 4 of Health Training Improvement Act of 1970, scheduled for consideration this week, would give jurisdiction of a veteran's educational program, to the Secretary of H.E.W.

Accordingly, it is strongly recommended that section 4 of S. 3586 be deleted.

FRANCIS W. STOVER,
Director, National Legislative Service VFW.

WASHINGTON, D.C.,
July 7, 1970.
Senator ALAN CRANSTON,
New Senate Office Building,
Washington, D.C.:

The Disabled American Veterans opposes the amendment to S. 3586 giving discretionary power to the Secretary of Health, Education, and Welfare to utilize veterans administration funds to an eligible veteran pursuing a course of study in one of the allied health professions. We believe programs affecting veterans or use of Veteran Administration funds should be administered by the Administrator of the Veterans Administration.

CHARLES L. HUBER,
National Director of Legislation.

The PRESIDING OFFICER (Mr. SCHWEIKER). The Chair would state that the question now recurs on agreeing to the proposed committee amendment on page 38.

The committee amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3586) was ordered to be engrossed for a third reading, and was read the third time, and passed, as follows:

S. 3586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Training Improvement Act of 1970".

DECLARATION OF POLICY

SEC. 2. It is the policy of the Congress to advance the public welfare by promoting the expansion and improvement of the health professions in order to meet the growing and critical health needs of our expanding population.

TITLE I—SCHOOLS OF MEDICINE, DENTISTRY, OSTEOPATHY, PHARMACY, OPTOMETRY, VETERINARY MEDICINE, AND PODIATRY

INSTITUTIONAL GRANTS

SEC. 101. (a) Section 771 of the Public Health Service Act (42 U.S.C. 295f–1) is amended by adding at the end thereof the following new subsection:

"(d) In the case of an application for a grant under this section for a new school of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, or podiatry, the provisions of subsection (b) (1) and subparagraphs (A) and (B) of subsection (a) (1) of this section shall not apply. In lieu of such provisions, the Secretary shall by regulations prescribe criteria (1) for enrollment increases to be met by the applicants for such grants, and (2) for determining the amounts of each such grant in excess of the $25,000 authorized by subsection (a) (1) of this section."

(b) The amendment made by subsection (a) of this section shall be effective only with respect to sums available for grants under section 771 of the Public Health Service Act from appropriations under section 770 of such Act for the fiscal years ending after June 30, 1970.

GRANTS TO MEDICAL AND DENTAL SCHOOLS IN FINANCIAL DISTRESS

SEC. 102. Title VII of the Public Health Service Act is amended by adding after section 799a thereof (as added by section 209 of this Act) the following new part:

"PART II—GRANTS TO MEDICAL AND DENTAL SCHOOLS IN FINANCIAL DISTRESS

"FINDINGS OF FACT AND DECLARATION OF POLICY

"SEC. 799k. (a) The Congress hereby finds and declares that—

"(1) the Nation's economy, welfare, and security are adversely affected by the acute financial crisis which threatens the survival of medical and dental schools which provide the highest quality of teaching, medical and dental research and the delivery of health care for the Nation; and

"(2) the financial straits of these institutions, placing many on the brink of disaster, are in substantial measure the result of their affirmative response to national health policy (as established or approved by the Congress) that such institutions (A) extend their enrollment through major expansion of training capacity to increase the supply of adequately trained health professions personnel or to improve facilities for the conduct of research in the sciences related to health, (B) establish special facilities for, extend, or improve the quality and delivery of, health care and services to disadvantaged persons in urban or rural areas, (C) provide high quality health care and services to the massive number of individuals who are beneficiaries of programs established by or pursuant to titles XVIII and XIX of the Social Security Act, or (D) maintain present enrollments, and maintain or enhance the quality of training provided, despite costs that are increasing more rapidly than school income from all sources.

"(b) It is therefore the purpose of this part to provide these medical and dental schools with emergency financial assistance to enable them to continue and expand the services, programs, and activities which are in response to national health policy (as described in subsection (a) (2)).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 7991. For the purpose of enabling the Secretary to make grants under this part, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1971. Sums so appropriated shall remain available until expended.

"GRANTS BY SECRETARY

"SEC. 799m. (a) From the sums appropriated pursuant to section 7991, the Secretary is authorized to make grants, in accordance with the provisions of this part.

"(b) In order to be eligible for a grant under this part, an institution must be a public or nonprofit school of medicine or dentistry (as defined in section 724(4) and which is accredited as provided in section 721(b) (1) (B) or section 773(b) (2)).

"(c) No grant shall be made to any institution under this part except pursuant to application therefor which is approved by the Secretary.

"APPLICATION FOR GRANTS

"SEC. 799n. (a) The Secretary shall not approve any application for a grant unless the application is submitted by or on behalf of a public or nonprofit institution which is eligible (as provided by section 799m (b)) for a grant under this part, and the Secretary finds that—

"(1) such institution has made an affirmative response to one or more of the elements of national health policy (as described by section 799k(a) (2));

"(2) such institution is in financial distress;

"(3) the financial distress of such institution is attributable, in substantial degree, to such institution's having performed, engaged in, or undertaken, one or more of the functions, policies, programs, or activities referred to in paragraph (1);

"(4) the financial distress of such institution (if not relieved by a grant under this part) will oblige such institution either to discontinue or curtail its performance of, engagement in, or undertaking with respect to, one or more of the functions, policies, or activities referred to in paragraph (1); and

"(5) such institution has a plan (and submits such plan with or as a part of its application for grants) which provides a reasonable assurance that, if such grant is made, such institution will be able, during and after the period with respect to which the grant is made, to continue or expand its performance of, engagement in, or undertaking with respect to, any of the functions, policies, or activities (referred to in paragraph (1)) with respect to which a grant is sought in such application.

"(b) Grants under this part shall be in such amounts and subject to such limitations and conditions as the Secretary may determine to be proper to carry out the purposes of this part.

"(c) Amounts paid by the Secretary to an institution under this part shall be used only for the purpose for which paid, may be paid in advance or by way of reimbursement, and in such installments as the Secretary may determine.

"(d) In the case of any medical school or dental school which owns or is affiliated with a hospital or dental clinic and such hospital or dental clinic is utilized by such school in connection with its major teching programs, the facilities, activities, and programs of such hospital or dental clinic shall, insofar as they are a part of or are used in connection with such teaching programs, be deemed for purposes of this part to be facilities, activities, or programs of such school."

TITLE II—ALLIED HEALTH PROFESSIONS

GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES FOR ALLIED HEALTH PROFESSIONS PERSONNEL

SEC. 201. (a) Section 791(a)(1) of the Public Health Service Act (42 U.S.C. 295h(a)(1)) is amended (1) by striking out the "and", and (2) by inserting immediately before the period at the end thereof the following: "; $20,000,000 for the fiscal year ending June 30, 1971; $25,000,000 for the fiscal year ending June 30, 1972; $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fical year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975".

(b) Section 791(b)(1) of such Act (42 U.S.C. 295h(b)(1)) is amended by striking out "July 1, 1969" and inserting in lieu thereof "July 1, 1974".

GRANTS TO IMPROVE THE QUALITY OF TRAINING FOR ALLIED HEALTH PROFESSIONS

SEC. 202. (a) Section 792(a) of the Public Health Service Act (42 U.S.C. 295h–1(a)) is amended by striking out "and $20,000,000" and all that follows down to but not including the period at the end thereof and inserting in lieu thereof the following: "$20,000,000 for the fiscal year ending June 30, 1970; and $15,000,000 for each of the next five fiscal years; for basic improvement grants under this section to assist training centers for the allied health professions to improve the quality of their educational programs".

(b) Section 792(a) of such Act is further amended (1) by inserting "(1)" immediately after "(a)", and (2) by adding at the end thereof a new paragraph (2) as follows:

"(2) There are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1971; $25,000,000 for the fiscal year ending June 30, 1972; $30,000,000 for the fiscal year ending June 30, 1973; $35,000,000 for the fiscal year ending June 30, 1974; and $40,000,000 for the fiscal year ending June 30, 1975; for special project grants under this section to assist public or nonprofit private agencies, institutions, and organizations in providing or maintaining existing programs or planning or establishing new programs for training or retraining of allied health personnel."

(c) Section 792(b) of such Act (42 U.S.C. 295h–1(b)) is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1975".

(d)(1) Section 792(c) of such Act (42 U.S.C. 295h–1(c)) is amended to read as follows:

"(c) From the sums appropriated under subsection (a)(2) of this section for any fiscal year, the Secretary is authorized to make special project grants under this section to public or nonprofit private agencies, institutions, and organizations to (A) plan, develop, or establish new programs for the training or retraining of allied health personnel, (B) effect significant improvements in the curriculums of programs for the training or retraining of such personnel, (C) expand training capacity in programs for the training or retraining of such personnel, or (D) establish special curriculums, in programs for the training or retraining of allied health personnel, designed to meet the needs of, and encourage and facilitate participation in such programs by individuals who are economically or culturally deprived, are returning veterans of the Armed Forces of the United States with training or experience in or related to the allied health fields, or are reentering or interested in reentering the allied health fields."

(2) The heading to such section 792(c) is amended by striking out "IMPROVEMENT" and inserting in lieu thereof "PROJECT".

(e) Section 792(d)(2)(A) of such Act (42 U.S.C. 295–1(d)(2)(A)) is amended by inserting "in the case of an application for a basic improvement grant," immediately after "(A)".

(f) The amendments made by this section shall be effective only with respect to grants made under section 792 of the Public Health Service Act from sums appropriated under such section for fiscal years ending after June 30, 1970.

TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PROFESSIONS PERSONNEL

SEC. 203. (a) Section 793(a) of the Public Health Service Act (42 U.S.C. 295h–2(a)) is amended (1) by striking out "and" after "June 30, 1969" and (2) by inserting after "June 30, 1970;" the following: "$8,000,000 for the fiscal year ending June 30, 1971; $9,000,000 for the fiscal year ending June 30, 1972; $10,000,000 for the fiscal year ending June 30, 1973; $11,000,000 for the fiscal year ending June 30, 1974; and $12,000,000 for the fiscal year ending June 30, 1975;".

(b) Section 793(b) of such Act (42 U.S.C. 295h–2(b)) is amended by striking out "training centers for allied health professions" and inserting in lieu thereof "agencies, institutions, and organizations".

(c) Section 793(c) of such Act (42 U.S.C. 285h–2(c)) is amended by striking out "centers" and inserting in lieu thereof "public and nonprofit private agencies, institutions, and organizations".

DEVELOPMENT OF NEW METHODS

SEC. 204. (a) Section 794 of the Public Health Service (42 U.S.C. 295h–3) is amended (1) by striking out "and" after "June 30, 1969;", (2) by inserting after "June 30, 1970;" the following: "$6,000,000 for the fiscal years ending June 30, 1971; $8,000,000 for the fiscal year ending June 30, 1972; $10,000,000 for the fiscal year ending June 30, 1973; $12,000,000 for the fiscal year ending June 30, 1974; and $14,000,000 for the fiscal year ending June 30, 1975;" and (3) by inserting "or contracts with" immediately after "grants to".

(b) Such section 794 is further amended (1) by inserting "(1)" after "projects", and (2) by inserting immediately before the period at the end thereof the following: ", (2) to study and develop mechanisms for determining the equivalency and proficiency of previously acquired knowledge and skills related to the allied health professions, (3) to develop, experiment with, and demonstrate new teaching methods and curriculums relating to the allied health professions, and (4) to develop, demonstrate, and evaluate new means of recruitment, retraining, or retention of allied health personnel".

ENCOURAGEMENT OF FULL UTILIZATION OF EDUCATIONAL TALENT FOR THE ALLIED HEALTH PROFESSIONS

SEC. 205. Part G of title VII of the Public Health Service Act is amended by adding immediately after section 794 thereof the following new sections:

"GRANTS AND CONTRACTS TO ENCOURAGE FULL UTILIZATION OF EDUCATIONAL TALENT FOR ALLIED HEALTH PROFESSIONS

"SEC. 794a. (a) To assist in meeting the need for additional trained personnel in the allied health professions, the Secretary is authorized to make grants to State or local educational agencies or other public or nonprofit private agencies, institutions, and organizations, or enter into contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. (5)), for the purpose of—

"(1) identifying individuals of financial, educational, or cultural need with a potential for education or training in the allied health professions, including returning veterans of the Armed Forces of the United States with training or experience in the health field, and encouraging and assisting them, whenever appropriate, to (A) complete secondary school, (B) undertake such postsecondary training as may be required to qualify them for training in the allied health professions, and (C) undertake postsecondary educational training in the allied health professions, or

"(2) publicizing existing sources of financial aid available to persons undertaking training or education in the allied health professions.

"(b) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $1,500,000 for the fiscal year ending June 30, 1974; and $1,750,000 for the fiscal year ending June 30, 1975.

"SCHOLARSHIP GRANTS

"SEC. 794b. (a) The Secretary is authorized to make (in accordance with such regulations as he may prescribe) grants to public or nonprofit private agencies, institutions, and organizations with an established program for training or retraining of personnel in the allied health professions or occupations for (1) scholarships to be awarded by such agency, institution, or organization to students thereof, and (2) scholarships in retraining programs of such agency, institution, or organization to be awarded to allied health professions personnel in occupations for which such agency, institution, or organization determines that there is a need for the development of, or the expansion of, training.

"(b) Scholarships awarded by any agency, institution, or organization from grants under subsection (a) shall be awarded for any year only to individuals of exceptional financial need who require such assistance for such year in order to pursue a course of study offered by such agency, institution, or organization.

"(c) Grants under subsection (a) may be paid in advance or by way of reimbursement and at such intervals as the Secretary may deem appropriate and with appropriate adjustments on account of overpayments or underpayments previously made.

"(d) Any scholarship awarded from grants under subsection (a) to any individual for any year shall cover such portion of the individual's tuition, fees, books, equipment, and living expenses as the agency, institution, or organization awarding the scholarship may determine to be needed by such individual for such year on the basis of his requirements and financial resources; except that the amount of any such scholarship shall not exceed $2,000, plus $600 for each dependent (not in excess of three) in the case of any individual who is awarded such a scholarship.

"(e) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1971; $7,000,000 for the fiscal year ending June 30, 1972; $8,000,000 for the fiscal year ending June 30, 1973; $9,000,000 for the fiscal year ending June 30, 1974; and $10,000,000 for the fiscal year ending June 30, 1975.

"WORK-STUDY PROGRAMS

"SEC. 794c. (a) The Secretary is authorized to enter into agreements with public or nonprofit private agencies, institutions, and organizations with established programs for the training or retraining of personnel in the allied health professions under which the Secretary will make grants to such agencies, institutions, and organizations to assist them in the operation of work-study programs for individuals undergoing training or retraining provided by such programs.

"(b) Any agreement entered into pursuant to this section with a public or nonprofit private agency, institution, or organization shall—

"(1) provide that such agency, institution, or organization, will operate a work-study program for the part-time employment of its students or trainees either (A) in work for such agency, institution, or organization or (B) pursuant to arrangements between such agency, institution, or organization and another public or private nonprofit agency, institution, or organization, in work which is in the public interest for such other agency, institution, or organization;

"(2) provide that any such work-study program shall be operated in such manner that its operation will not result in the displacement of employed workers or impair existing contracts for employment:

"(3) provide that any such work-study program will provide conditions of employment, for the students or trainees participating therein, which are appropriate and reasonable in light of such factors as type of work performed, prevailing wages in the area for similar work, and proficiency of the individual in the performance of the work involved;

"(4) provide that no Federal funds made available to such agency, institution, or organization pursuant to such agreement shall be used for the construction, operation, or maintenance of any facility or part thereof which is used or is to be used for sectarian instruction or as a place for religious worship;

"(5) provide that Federal funds made available to such agency, institution, or organization pursuant to such agreement shall be used only to make payments to its students or trainees performing work in the work-study program operated by such agency, institution, or organization; except that such agency, institution, or organization may use a portion of such funds to meet administrative expenses connected with the operation of such program, but the portion which may be so used shall not exceed 5 per centum of that part of such funds which is used for the puropse of making payments, to such students or trainees, for work performed for a public or private nonprofit agency, institution, or organization other than the agency, institution, or organization receiving such Federal funds pursuant to such agreement;

"(6) provide that such agency, institution, or organization, in selecting students or trainees for employment in such work-study program, will give preference to individuals from low-income families, and that no individual will be selected for employment in such program unless he (A) is in need of the earnings from such employment in order to pursue a course of study (whether on a full-time or part-time basis) for training or retraining of personnel in the allied health professions provided by such agency, institution, or organization, (B) is capable, in the opinion of such agency, institution, or organization, of maintaining good standing in such course of study while employed under such work-study program, and (C) in the case of any individual who at the time he applies for such employment is a new student or trainee, has been accepted for enrollment in such course of in the case of any other individual, is enrolled in such course of study on such a basis and is maintaining good standing in such course of study.

"(7) provide that such agency, institution, or organization shall, in the operation of such work-study program, provide all individuals desiring employment therein an opportunity to make application for such employment and that, to the extent that necessary funds are available, all eligible applicants will be employed in such program; and

"(8) include such other provisions as the Secretary may deem necessary or appropriate to carry out the purposes of this section.

"(c) The Secretary shall not approve any grant under this section unless the applicant therefor provides assurances satisfactory to the Secretary that funds made available through such grant will be so used as to supplement and, to the extent practical, increase the level of non-Federal funds which would, in the absence of such grant, be made available for the purpose for which such grant is requested.

"(d)(1) Funds provided through any grant made under this section shall not be used to pay more than—

"(A) 90 per centum, in the case of the three-year period commencing on the date of the enactment of this section,

"(B) 85 per centum, in the case of the one-year period which immediately succeeds the period referred to in clause (A),

"(C) 80 per centum, in the case of the one-year period which immediately succeeds the period referred to in clause (B), nor

"(D) 75 per centum, in the case of any period after the period referred to in clause (C),

of the costs attributable to the payment of compensation to students or trainees for employment in the work-study program with respect to which such grant is made.

"(2)(A) In determining (for purposes of paragraph (1)) the amounts attributable to the payment of compensation to students or trainees for employment in any work-study program, there shall be disregarded any Federal funds (other than such funds derived from a grant under this section) used for the payment of such compensation.

"(B) In determining (for purposes of paragraph (1)) the total amounts expended for the payment of compensation to students or trainees for employment in any work-study program operated by any agency, institution, or organization receiving a grant under this section, there shall be included the reasonable value of compensation provided by such agency, institution, or organization to such students or trainees in the form of services and supplies (including tuition, board, and books).

"(e) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971, $4,000,000 for the fiscal year ending June 30, 1972, $6,000,000 for the fiscal year ending June 30, 1973, $8,000,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975.

"LOANS FOR STUDENTS OF THE ALLIED HEALTH PROFESSIONS

"Sec. 794d. (a)(1) The Secretary is authorized (in accordance with such regulations as he may prescribe) to enter into an agreement for the establishment and operation of a student loan fund in accordance with this section with any public or private nonprofit agency, institution, or organization which has an established program for the training or retraining of personnel in the allied health professions.

"(2) Each agreement entered into under this subsection shall—

"(A) provide for establishment of a student loan fund by such agency, institution, or organization for students or trainees enrolled in such program;

"(B) provide for deposit in the fund of (i) the Federal capital contributions paid under this section to the agency, institution, or organization by the Secretary, (ii) an additional amount from other sources equal to not less than one-ninth of such Federal capital contributions, (iii) collections of principal and interest on loans made from the fund, (iv) collections pursuant to subsection (b)(6), and (v) any other earnings of the fund;

"(C) provide that the fund shall be used only for loans to students or trainees enrolled in such program of the agency, institution, or organization in accordance with the agreement and for costs of collection of such loans and interest thereon;

"(D) provide that loans may be made from such fund to students pursuing a course of study (whether full time or part time) in such program of such agency, institution, or organization and that while the agreement remains in effect no such student who has attended such program of such agency, institution, or organization before July 1, 1971, shall receive a loan from a loan fund established under section 204 of the National Defense Education Act of 1958; and

"(E) contain such other provisions as are necessary to protect the financial interests of the United States.

"(b)(1) The total of the loans for any academic year (or its equivalent, as determined under regulations of the Secretary) made by agencies, institutions or organizations from loan funds established pursuant to agreements under this section may not exceed $1,500 in the case of any student. The aggregate of the loans for all years from such funds may not exceed $6,000 in the case of any student.

"(2) Loans from any such student loan fund by any agency, institution or organization shall be made on such terms and conditions as it may determine; subject, however, to such conditions, limitations, and requirements as the Secretary may prescribe (by regulation or in the agreement with the agency, institution, or organization) with a view to preventing impairment of the capital of such fund to the maximum extent practicable in the light of the objective of enabling the student to complete his course of study; and except that—

"(A) such loan may be made only to a student who (i) is in need of the amount of the loan to pursue a part-time course of study at the agency, institution, or organization, and (ii) is capable, in the opinion of the agency, institution, or organization, of maintaining good standing in such course of study;

"(B) such loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins nine months after the student ceases to pursue a part-time or full-time course of study in a program for the training or retraining of personnel in the allied health professions at an agency, institution, or organization approved by the Secretary, excluding from such ten-year period all (i) periods (up to three years) of (I) active duty performed by the borrower as a member of a uniformed service, or (II) service as a volunteer under the Peace Corps Act, and (ii) periods (up to five years) during which the borrower is pursuing a full-time course of study at a school leading to a baccalaureate or associate degree or the equivalent of either or to a higher degree in one of the allied health professions;

"(C) not to exceed 50 per centum of any such loan (plus interest) shall be canceled for full-time employment in any of the allied health professions (including teaching any such profession or service as an administrator, supervisor, or specialist in any such profession) in any public or private nonprofit health professions (including teaching any agency, institution, or organization, or in a rural area with an individual practitioner of medicine or dentistry if such service is approved by a local county health department or its equivalent at the rate of 10 per centum of the amount of such loan plus interest thereon, which was unpaid on the first day of such service, for each complete year of such service, except that such rate shall be 15 per centum for each complete year of service in such a profession in a public or other nonprofit hospital, other health service facility or health agency which is determined, in accordance with regulations of the Secretary, to have a substantial shortage of persons rendering service in such profession, and for purposes of any cancellation at such higher rate, an amount equal to an additional 50 per centum of the total amount of such loans plus interest may be canceled;

"(D) the liability to repay the unpaid balance of such loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently and totally disabled;

"(E) such a loan shall bear interest on the unpaid balance of the loan, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum;

"(F) such a loan shall be made without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required; and

"(G) no note or other evidence of any such loan may be transferred or assigned by the agency, institution, or organization making the loan except that, if the borrower transfers to another agency, institution, or organization participating in the program under this section, such note or other evidence of a loan may be transferred to such other agency, institution, or organization.

"(3) When all or any part of a loan, or interest, is canceled under this subsection, the Secretary shall pay to the agency, institution, or organization an amount equal to its proportionate share of the canceled portion, as determined by the Secretary.

"(4) Any loan for any year by an agency, institution, or organization from a student loan fund established pursuant to an agreement under this section shall be made in such installments as may be provided in regulations of the Secretary or such agreement and, upon notice to the Secretary by the agency, institution, or organization that any recipient of a loan is failing to maintain satisfactory standing, any or all further installments of his loan shall be withheld, as may be appropriate.

"(5) An agreement under this section with any agency, institution, or organization shall include provisions designed to make loans from the student loan fund established thereunder reasonably available (to the extent of the available funds in such fund) to all eligible students in the agency, institution, or organization in need thereof.

"(6) Subject to regulations of the Secretary, an agency, institution, or organization may assess a charge with respect to a loan from the loan fund established pursuant to an agreement under this section for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under paragraph (2)(B) or cancellation of part or all of the loan under paragraph (2)(C), for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed $1 for the first month or part of a month by which such installment or evidence is late and $2 for each such month or part of a month thereafter. The agency, institution, or organization may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the agency, institution, or organization not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

"(7) An agency, institution, or organization may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this section payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

"(c) There are authorized to be appropriated to the Secretary for Federal capital contributions to student loan funds pursuant to subsection (a)(2)(B)(1) $1,500,000 for the fiscal year ending June 30, 1971, $3,000,000 for the fiscal year ending June 30, 1972, $8,000,000 for the fiscal year ending June 30, 1973, $12,000,000 for the fiscal year ending June 30, 1974, and $16,000,000 for the fiscal year ending June 30, 1975, and there are also authorized to be appropriated such sums for the fiscal year ending June 30, 1976, and each of the two succeeding fiscal years as may be necessary to enable students who have received a loan from any academic year ending before July 1, 1975, to continue or complete their education. Sums appropriated pursuant to this subsection for any fiscal year shall be available to the Secretary (1) for payments into the funds established by subsection (f)(4), and (2) in accordance with agreements under this section, for Federal capital contributions to schools with which such agreements have been made, to be used together with deposits in such funds pursuant to subsection (a)(2)(B)(ii), for establishment and maintenance of student loan funds.

"(d)(1) From the sums appropriated pursuant to subsection (c) for any fiscal year, the Secretary shall allot to each agency, institution, or organization, which has an established program or programs for the training or retraining of personnel in the allied health professions approved by the Secretary, an amount which bears the same ratio to the amount so appropriated as the number of persons enrolled on a full-time basis in such program or programs in such agency, institution, or organization approved by the Secretary bears to the total number of persons enrolled on a full-time basis in such programs in all such agencies, institutions, or organizations in all the States. The number of persons enrolled, in such a program, on a full-time basis in such agencies, institutions, or organizations for purposes of the subsection shall be determined by the Sectary for the most recent year for which satisfactory data are available to him. Funds available in any fiscal year for payment to agencies, institutions, or organizations under this section (whether as Federal capital contributions or as loans under subsection (f)) which are in excess of the amount appropriated pursuant to subsection (c) for that year shall be allotted among agencies, institutions, or organizations approved by the Secretary in such manner as the Secretary determines will best carry out the purposes of this section.

"(2) The Secretary shall from time to time set dates by which agencies, institutions, or organizations must file applications for Federal capital contributions and for loans pursuant to subsection (f).

"(3) The Federal capital contributions to a loan fund of an agency, institution, or organization approved by the Secretary under this section shall be paid from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in its loan fund.

"(e)(1) After June 30, 1979, and not later than September 30, 1979, there shall be a capital distribution of the balance of the loan fund established under an agreement pursuant to subsection (a)(2) by each agency, institution or organization approved by the Secretary as follows:

"(A) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund at the close of June 30, 1979, as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to subsection (a)(2)(B)(i) bears to the total amount in such fund derived from such Federal capital contributions from funds deposited therein pursuant to subsection (a)(2)(B)(ii).

"(B) The remainder of such balance shall be paid to the agency, institution, or organization approved by the Secretary.

"(2) After September 30, 1970, each agency, institution or organization approved by the Secretary with which the Secretary has made an agreement under this section shall pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by it after June 30, 1979, in payment of principal and interest on loans made from the loan fund established pursuant to such agreement (other than so much of such fund as relates to payments from the revolving fund established by subsection (f)(4)) as was determined for the Secretary under paragraph (1).

"(f)(1)(A) During the fiscal year ending June 30, 1971, and each of the next four fiscal years, the Secretary may make loans, from the revolving fund established by paragraph (4), to any public or private nonprofit agency, institution or organization approved by him, to provide all or part of the capital needed by any such agency, institution or organization for making loans to students under this subsection (other than capital needed to make the institutional contributions required of agencies, institutions or organizations by subsection (a)(2)(B)(ii)). Loans to students from such borrowed sums shall be subject to the terms, conditions, and limitations set forth in subsection (b). The requirement in subsection (a)(2)(B)(ii) with respect to institutional contributions by agencies, institutions, or organizations to student loan funds shall not apply to loans made to agencies, institutions, or organizations under this subsection.

"(B) A loan to an agency, institution, or organization approved by the Secretary under this subsection may be made upon such terms and conditions, consistent with applicable provisions of subsection (a), as the Secretary deems appropriate. If the Secretary deems it to be necessary to assure that the purposes of this subsection will be achieved, these terms and conditions may include provisions making the obligation of the agency, institution, or organization to the Secretary on such a loan payable solely from such revenues or other assets or security (including collections on loans to students) as the Secretary may approve. Such a loan shall bear interest at a rate which the Secretary determines to be adequate to cover (i) the cost of the funds to the Treasury as determined by the Secretary of the Treasury, taking into consideration the current average yields of outstanding marketable obligations of the United States having maturities comparable to the maturities of loans made by the Secretary under subsection, and (ii) probable losses.

"(2) If an agency, institution, or organization approved by the Secretary borrows any sums under this subsection, the Secretary shall agree to pay to it (A) an amount equal to 90 per centum of the loss to it from defaults on student loans made from such sums, (B) the amount by which the interest payable by it on such sums exceeds the interest received by it on student loans made from such sums, (C) an amount equal to the amount of collection expenses authorized by subsection (a) (2) (C) to be paid out of a student loan fund with respect to such sums, and (D) the amount of the principal which is canceled pursuant to subsection (b) (2) (C) or (D) with respect to student loans made from such sums. There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the purposes of this paragraph.

"(3) The total of the loans made in any fiscal year under this subsection shall not exceed the lesser of (1) such limitations as may be specified in appropriation Acts, and the difference between $35,000,000 and the amount of Federal capital contributions paid under this section for that year.

"(4) (A) There is hereby created within the Treasury an allied professions training fund (hereinafter in this paragraph referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of this subsection. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act, 31 U.S.C. 847–849) for wholly owned Government corporations.

"(B) The fund shall consist of appropriations paid into the fund pursuant to subsection (c), appropriations made pursuant to this paragraph, all amounts received by the Secretary as interest payments or repayment of principal on loans under this subsection, and any other moneys, property, or assets derived by him from his operations in connection with this subsection (other than paragraph (2)), including any moneys derived directly or indirectly from the sale of assets, or beneficial interest or participation in assets, of the fund.

"(C) All loans, expenses (other than normal administrative expenses), and payments pursuant to operations of the Secretary under this subsection other than paragraph (s)) shall be paid from the fund, including (but not limited to) expenses and payments of the Secretary in connection with the sale, under section 302 (c) of the Federal National Mortgage Association Charter Act, of participation in obligations acquired under this subsection. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this subsection, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the months preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonable prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

"(g) The Secretary may agree to modifications of agreements or loans made under this section, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this section."

DEFINITION OF NONPROFIT AGENCY, INSTITUTION, OR ORGANIZATION

SEC. 206. Section 795 of the Public Health Service Act is amended by inserting after "professions", in paragraph (3) thereof, the following: ", or any agency, institution, or organization,".

SEC. 207. Section 798 of the Public Health Service Act is amended to read as follows:

STUDY

"SEC. 798. (a) The Secretary shall conduct a study of the administration of—

"(1) the provisions of this part,

"(2) other provisions of this Act which relate to the allied health professions or the training of individuals to prepare them to engage in any of such professions; and

"(3) provisions of law which are administered by the Commissioner of Education and which relate to the allied health professions or the training of individuals to prepare them to engage in any of such professions;

with a view to determining the adequacy of such provisions and the programs established pursuant thereto to meet the needs of the Nation for allied health professions personnel."

ADVANCE FUNDING

SEC. 208. Part G of title VII of the Public Health Service Act is further amended by adding after section 798 thereof the following new section:

"ADVANCE FUNDING

"SEC. 799. Sums authorized to be appropriated for any fiscal year for grants, contracts, or other payments, under this part are hereby authorized to be included in the appropration Act for the fiscal year preceding such fiscal year."

LICENSURE REPORT

SEC. 209. Part G of title VII of the Public Health Service Act is further amended by adding after section 799 (as added by section 208 of this Act) the following new section:

"LICENSURE REPORT

"SEC. 799a. The Secretary shall prepare and submit to the Congress, prior to July 1, 1971, a report identifying the major problems associated with licensure, certification, and other qualifications for practice or employment of health personnel (including group practice of health personnel), together with summaries of the activities (if any) of Federal agencies, professional organizations, or other instrumentalities directed toward the alleviation of such problems and toward maximizing the proper and efficient utilization of health personnel in meeting the health needs of the Nation. Such report shall include specific recommendations by the Secretary for steps to be taken toward the solution of the problems so identified in such report."

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. YARBOROUGH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. YARBOROUGH. Mr. President, I again thank the Senator from New York and express my appreciation to him for his great contributions to the bill and for aiding in the expedition of the hearings and for making valuable contributions to the bill in the subcommittee, in the full committee, and on the floor.

Mr. JAVITS. Mr. President, the leadership of the Senator from Texas (Mr. YARBOROUGH) in health matters has been most enviable and a great credit to the people of Texas who sent him here. It is an indication of his high character and dedication. He needs no greater compliment than to say it was a splendid exercise of leadership in the finest traditions of our former committee chairman, former Senator Hill, of Alabama, who was probably the leading Senator in our history in terms of advances in the field of health care and research.

I am very honored and privileged to have been associated with the Senator from Texas in this endeavor.

Mr. YARBOROUGH. Mr. President, I again express my deep appreciation to the distinguished Senator from New York for his great contributions over the years in the field of health and health care.

SENATOR HATFIELD COMMENTS ON FUTURE FOREST NEEDS

Mr. ALLOTT. Mr. President, recently, our distinguished colleague from Oregon (Mr. HATFIELD) showed his concern for future generations of Americans in a speech before the East Portland Rotary in Portland, Oreg.

His speech dealt with how we will utilize our forests to meet the needs of our growing population for recreation and for lumber. Senator HATFIELD's remarks show an insight into the problems we will face, and evidence a fresh approach to the solutions.

Mr. President, the Senator from Oregon (Mr. HATFIELD) also has prepared a first draft of a bill to implement his ideas. He plans to introduce the bill early in the 1971 session of Congress.

I ask unanimous consent that the speech of the Senator from Oregon and his draft bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

FOREST ECONOMY AND ENVIRONMENT

(Remarks by Senator MARK O. HATFIELD, before the East Portland Rotary Club, Portland, Oreg., July 2, 1970)

Our timber, the backbone of Oregon's economy and Oregon's forest environment, is on the threshold of growth and use never before known to us.

In order to stimulate this growth and to provide one answer to the challenges which face us all, I wish to announce today the details of legislation which I will introduce and which will, I believe, stimulate that growth—growth in vitally needed recreational opportunities for our people, growth in timber supply and growth in work opportunities.

Legislation which I have been considering for some time would have as its primary thrust the intensive and improved management of our national forestlands while at the same time providing incentives to the small, private landowners of this country to put their fallow or uneconomic acreage into the production of trees.

I will go into more detail later, but as these remarks will demonstrate we are falling far short of the production of timber which we must have for our future population growth and the crying need for housing. We are not meeting the recreation demands of our citizens close to their homes; we are not adequately protecting our natural environment and we are allowing private land to sit idle when it could be put into productive use by planting trees we must have to provide for these housing and recreation demands.

My legislation is in harmony with that of the President who, on June 19th, directed the Departments of Agriculture and Interior to improve the quality of the federal forestlands in order to increase timber yield in a manner consistent with restoration, maintenance, preservation and enchancement of the environment.

The Presidential order to increase timber was predicated on the findings of a 15-month study conducted by the White House Cabinet Committee Task Force on Softwood Lumber and Plywood after the 1968–69 boom and bust of lumber and plywood prices.

Mr. Robert P. Mayo, then Director of the all-powerful Bureau of the Budget in the Executive Office of the President, was named Chairman of that Task Force.

On June 19th, almost simultaneously with the White House release, Mr. Mayo addressed the Forest Industries Marketing Conference in Eugene, at which he commented on the findings of the Task Force report. The following are excerpts from Mr. Mayo's remarks which deal directly with the forest economy and our environment:

"The Task Force, of which I am Chairman, has been studying the supply-demand situation in softwood lumber and plywood in terms of both the short and longer term implications.

"From 1972 to 1976, short supplies of softwood timber and/or substitutes could restrain housing construction unless effective programs are developed to expand timber availability. Our latest estimates indicate that softwood requirements in the period 1974 to 1976 may increase about 11 billion board feet over 1968 consumption.

"For purposes of estimating, we are projecting:

"A U.S. population of 300 million people by the year 2000, an increase of almost 50 percent over the present population.

"Residential construction—the nation's largest market for softwood timber products—rising from 1.8 million units in 1968 to about 3 million units by the mid-1970's, and 3.5 million units by the year 2000.

"We project roundwood demand to rise up to 95 billion board feet in the year 2000—nearly double the 48 billion board feet consumed in both 1968 and 1969. This is clearly a major national challenge—to government, to the forest products industry, and to small owners of commercial woodland."

In the quote which follows, Mr. Mayo pinpoints not only the interests of Oregonians, but the interest of all who are concerned with our environment in the following terms:

"We estimate that, with prudent and intensive management, the allowable cut in the national forests can be increased by 7 to 8 billion board feet over the next decade. I believe this can be done in ways fully consistent with environment considerations and with sustained yield and multiple use objectives."

The report of the White House's Timber Task Force makes it clear that the United States faces a serious timber shortage once home building resumes.

This means we have moved into the era where we must now secure full development and properly balanced use of Oregon's forest resources.

During the past two years, the Forest Service has gone on record on several occasions stating that substantial increases could be made in allowable cuts.

The Bureau of the Budget is now on record acknowledging the potential of the public forestlands, and the President of the United States has directed that timber production from federal lands be increased, and asks that ways be found to increase the production of softwood timber by small, non-industrial forestland owners.

On June 22, the Chief of the Forest Service said that the President approved the basic idea of a direct subsidy to aid small, non-industrial forestland owners.

On June 23, the long-awaited Public Land Law Review Commission report was issued. This year-long study of public land policy, costing over 7 million dollars, concluded, in part, as follows:

1. Federally owned timber is vital to the wood economy of the country;

2. Federally owned timber is vital to the economics of many communities;

3. Federal policies with respect to the sale of this timber can result in the life or death of firms that use it;

4. The federal government's dominance as a supplier of timber will continue in the future.

5. Lands should be classified for commercial timber production where that is the dominant use and federal programs on these lands be financed by appropriations from a "Revolving Fund," made up of receipts from timber sales from these lands.

The goals for the forestlands for this country have been established.

The American people are calling in a loud, clear and unmistakable voice for conservation leadership which will result in this nation's forestlands, both public and private, providing beauty and prosperity in increasing amounts which will be of benefit to present and future generations of Americans.

I have strong feelings about forestland conservation and an equally strong desire to get things moving. We need a way to get the job done.

I have drafted legislation which contains provisions necessary to implement President Nixon's call for environmental enhancement and increased production.

The American Forestry Act of 1971 is designed to do just this. It will achieve the following major objectives:

1. Increase productivity by:

A. Intensive management of publicly owned commercial forestlands.

B. Providing matching grants to state and private owners to rehabilitate and reforest presently non-productive lands.

2. Enhance the environment by:

A. Developing forestlands which will serve as recreational areas during growth periods.

B. Re-establishing the ecological balance through the improvement of the quality of the air, water and soil.

3. Improve awareness of forest values by:

A. Accelerated educational programs.

B. Accelerated research programs.

4. Provide a flexible program for log exports.

INCREASING FOREST PRODUCTIVITY

The White House Timber Task Force projections on timber supplies shows shortages requiring that mandatory action be taken now to provide the increased timber growth. Reforesting and rehabilitating the forestlands of the United States can be one of the quickest and most tangible ways to enhance this country's environment while at the same time growing timber for the future needs.

The forestlands of the United States, both public and private, are one of this nation's most extensive and valuable renewable natural resources. They must be managed to make the full contributions to the nation's welfare now and in the future.

THE NATURE OF THE NEED

With American people demanding more from their country's resources, the forestland is one which can, within limits, respond to increases in the public's needs and desires.

There can, and there must, be an accommodation for all uses of forest resources.

The lack of decent housing is one of the most serious sociological problems facing the United States today, and much of the unrest in this country can be tied directly to this problem.

Congress recognized housing as a top national priority in 1968 when it reaffirmed the national goal set forth in the Housing Act of 1949, of "a decent home and a suitable living environment for every American family."

In the 1968 Housing Act, Congress set a national goal of 26 million new and rehabilitated units by 1978, an average of 2.6 million units a year.

Unfortunately, however, the construction of housing for our people is staggering along at the undistinguished rate of about 1.2 million starts for the current year.

We won't reach the nation's housing goals until there is a substantial infusion of funds into the conventional mortgage market, a lowering and stabilization of interest rates and some brakes applied to the zooming cost of construction.

The Congress has passed the Emergency Housing Act of 1970 which provides a 250 million-dollar subsidy to the Federal Home Loan Bank. This should provide the stimulus to add approximately 300,000 new housing starts.

The failure of homebuilding to keep pace with demand forewarns that when home construction does resume, there will be an unprecedented demand for timber, and such demand may again skyrocket prices as it did two years ago. Loggers and lumbermen are tired of riding the boom and bust roller coaster.

THE KEY TO MEETING THE NEEDS

Our timber needs can be met by improving our management of public forest lands and by providing a means to stimulate private landowners to reforest their lands.

My American Forestry Act of 1971 will establish a "Forestland Management Fund" to deposit receipts from the sale of public timber. This will make available the funding necessary for intensive management of public forestlands to increase productivity, while insuring that funds to develop and protect the other uses of the forest resources, at the same time restoring, maintaining and enhancing the quality of the public forestland environment.

The proposed "Forestland Management Fund" is similar to the "revolving fund" recommended by the Public Land Law Review Commission just nine days ago.

This bill establishes an "American Advisory Board" appointed by the President which will counsel and assist the federal agencies in determining the allocation of uses of the nation's forestland resources.

Public timber sales generate $350 million annually. Funds are appropriated by Congress to manage and protect the national forest including timber, water, recreation, range, wildlife, and the building of roads.

My legislation anticipates that funds will continue to be used for these purposes.

Increased receipts will be generated by intensive management techniques.

These funds should continue to be applied for the enhancement of our public forestlands and to stimulate development of reforestation on privately owned lands.

The key to meeting the nation's long-term needs for wood is in developing the private forestlands.

Approximately one-third of the surface area of the United States is in forest cover, and over one-half of this area is in privately held small ownerships.

The June issue of *American Forests* indicates there are some 4 million private owners who own and control some 200 million acres of these small non-industrial tracts. I believe a way can be found to require a tree planted for every tree cut.

The cost of rehabilitating and reforesting this nation's non-producing forestland and its environment is going to be high. However, I have little doubt that the direct and indirect public benefits will far exceed the costs.

The principal single purpose of my "American Forestry Act of 1971" is to make it possible to grow as much wood on every acre of suitable forestland as each acre is capable of producing. In a single word, the purpose of this Act is Growth.

ENHANCING THE ENVIRONMENT

The National Environmental Policy Act of 1969 declares a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere, and stimulate the health and welfare of man, and enrich the understanding of the ecological systems and natural resources important to the nation.

Our public lands must receive a better quality of management to enhance the environment in terms of scenery, improved air and water quality, soil stabilization, outdoor recreational opportunities and spritual enrichment.

The "American Forestry Act of 1971" meets this challenge.

Not only will the public forests be managed with strong environmental consideration, my proposal calls for the development of a large number of small tracts of privately held land that will be made available for recreation purposes during the growth period of the forest.

This can be done through a leasing program administered at the state level which will provide sufficient inducement to the owner to permit public recreational use.

Funds for the administration of this program can come from several sources. Legislative deliberation should determine that which is most appropriate.

A national policy which permits vast expenditures of public funds to keep crops out of production should not preclude the use of those funds for forest development. No longer can we enjoy this luxury.

The most appropriate application of this program would be to develop forested tracts near our urban centers for the enjoyment of families who do not have the inclination, the time, or the money to backpack into the more remote areas.

IMPROVE OUR KNOWLEDGE OF FOREST VALUES

In consonance with other on-going educational programs, this proposal calls for expansion of our environmental educational effort.

Our programs recognize the role of enlightened forest management and the relationship and value of well-managed forests to our total environmental needs.

Strong emphasis on forestry research should continue at the state level. Land grant institutions have a far-reaching role to exert in the development of improved forestry techniques, genetics and practices.

Environmental implications of technical changes must be fully evaluated. We must apply the knowledge learned and make sure that it is taught in our elementary and secondary schools so that our younger citizens can become more intelligently aware of the reasons why the forests are managed as they are.

ADDITIONAL CONSIDERATIONS

1. The proposed legislation provides for a flexible log export policy. It will authorize our forest management agencies to reduce or halt altogether log exports as determined by our ability to meet domestic needs.

2. The "American Forestry Act of 1971" provides specifically for no alteration, amendment, repeal, modification or conflict with the O & C Act of 1937. The recent Public Land Law Review Commission report relating to payments in lieu of taxes on federal lands could have serious impact in Oregon. This should prompt each county to make an early in-depth analysis of its present receipts from timberlands administered by federal agencies compared to the receipts recommended or implied in the Public Land Law Review Commission report.

CONFLICTS

For some time I have been deeply troubled over what appears to be a steady drift into deadlock. The national efforts in forest conservation have been nullified by powerful groups of strongly spirited and highly motivated people. This has had a profound influence on forestry in Oregon.

The strong, united conservation surge which marked the first 50 years of this century has fractured and split. During the past decade conservation positions have increasingly become polarized and hardened. "Amenity conservation" is in a contest with "Wise Use Conservation." Yet in between the two there seems to be a large area of middle ground where both may attain some of their announced objectives, but perhaps not to the degree and magnitude which they might otherwise have hoped as the sole dominating force.

But we cannot permit this growing polarization to stop progress.

CONCLUSION

My bill is proposed legislation. I do not intend to introduce it for legislative action until I have had an opportunity to hear from all interested parties.

The bill which finally emerges should represent that which is needed to get forest conservation moving in a direction that best meets the needs of present and future generations of Americans.

My concern is that each state be in a position to play a dominant role in the management of its own resources and environment with the federal role being limited to technical and financial assistance.

Yes, this is a new approach. It is the type of program that can do much for Oregonians.

We have a great potential for adding to our nation's total timber supply, exceeded only by our potential to demonstrate our ability to merge these goals with our environmental needs.

I have faith in America and in the ability of all Americans, working together to solve these problems.

I believe that our people will respond favorably to this type of challenging program which should help lead the way to better housing, more and better recreational opportunities; and purer air and water.

But most important of all, it will provide a measure of hope for the future and restored faith in our ability to provide for not only the immediate housing and recreation needs but for the future of our children and our children's children.

[July 1, 1970, first working draft of bill to be introduced by Senator MARK O. HATFIELD, of Oregon.]

S. —

A bill to provide for the reforestration and rehabilitation of forestlands throughout the nation in order to improve forestland productivity and the environment; to provide for balanced management, development, protection and preservation of forestlands on public lands of the United States by the Secretary of Agriculture and Secretary of the Interior in order to meet the increasing national demand for timber, recreation, including wilderness, water of high quality, pure air, minerals, forage, and fish and wildlife habitat; and educational program in forest environment, technical guidance and assistance, and forestland research; establishment of suitable and special funding; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "American Forestry Act of 1971."

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. The Congress finds—

(a) that fulfillment of the Nation's increasing need for forest products, recreational opportunities, water of high quality, pure air, minerals, forage, and fish and wildlife habitat, plus restoration, maintenance, and enhancement of the forestland environment, are a shared responsibility of forestland owners and reponsive balanced forestland management is needed which promotes the national welfare by creating and maintaining harmonious conditions in terms of both beauty and prosperity in a manner which best fulfills the social, economic and other requirements for present and future generations of Americans.

(b) that there is a pressing and growing need for massive new efforts to reforest and rehabilitate deforested and partially stocked Federal and private forestlands which are not contributing to the national wood needs nor to a quality environment and often represent degradation of both;

(c) that there is a need to strengthen and broaden the base in forest environment education, and technical guidance and research which have fallen far behind national needs, and are responsible, in part, for this Nation's projected deficiency in timber supply and deterioration of the forestland environment;

(d) that except for Federal forestlands, the expenditure of funds authorized under the terms of this Act shall be directed through State Governments, due to the rural nature of the forestland resource and the predominance of small private non-industrial forestland ownerships;

(e) that nothing contained in this Act shall be construed to alter, amend, repeal, interpret, modify or be in conflict with the Multiple Use-Sustained Yield Act of 1960 (74 Stat. 215); O&C Act of 1937 (50 Stat. 874); Classification and Multiple Use Act of 1964 (78 Stat. 986); Wilderness Act of 1964 (78 Stat. 891) and the National Environment Policy Act of 1969 (83 Stat. 852), unless specifically provided under the provisions of this Act.

TITLE I. GENERAL FORESTLAND CONSERVATION MEASURES

NON-FEDERAL FORESTLANDS: REFORESTATION AND REHABILITATION

SEC. 101. (a) With general funding by the Congress, the Secretary of Agriculture is hereby authorized and directed, under conditions as he may determine to be fair and equitable in each State, to cooperate with the States and through them with private organizations or individuals therein, in the rehabilitation and reforestation of suitable State and small private non-industrial forestland ownerships, provided, however, such grants will be limited to that acreage currently in a non-stocked or poorly stocked condition at the time of enactment of this legislation, including the following:

(1) To provide matching grants to States for reforestation and rehabilitation of suitable State-owned forestlands;

(2) To provide matching grants to States for the leasing or purchase of suitable lands from private owners for rehabilitation or development of forestlands which can serve as recreational areas during timber growth;

(3) To provide grants through the States for matching private investments in the reforestation and rehabilitation of suitable small private nonindustrial forestland ownerships. In any one year the reforestation and rehabilitation provisions shall not apply to any tract or tracts of land which, when combined, are in excess of 1,000 acres, under the sole ownership of an individual, corporation, partnership, trust, association, or any other business unit, device or arrangement;

(4) To establish or expand and operate forest tree nurseries where private sources of forest trees are inadequate;

(5) To provide assistance for State developed and controlled expanded programs in forest environment education, technical forestland management guidance and forestland research.

(b) In no case other than for preliminary investigations, shall the amount expended by the Federal government in any State during any fiscal year, under this section, exceed the amount expended by the State and others for the same purpose during the same fiscal year, including the expenditures of forest owners or operators which are required by State law.

(c) As a condition for the expenditure of directly appropriated Federal funds for the reforestation and rehabilitation of forestlands upon private property, the fee owner will be required to sign a lien agreement, management contract, or similar device, with the State for a period of time determined and specified by the State, or until the State certifies the first cut of timber suitable for industrial use. This lien, contract or device is intended to assure restoration of timber productivity and its environment or obtain repayment of the grant, plus interest, if such lands are not maintained and protected for the purposes for which funds were granted, and in addition, to assure that timber harvest will be promptly matched by reforestation. For State and local government-owned lands, evidence of laws, ordinances, or public resolutions acceptable to the Secretary of Agriculture will be deemed necessary to satisfy this requirement. In either case, priority in treatment will be given to those lands yielding the greatest public benefits.

(d) Funds are authorized for use to aid in the establishment, development, and expansion of State and private forest tree nurseries; provided that only tree seed which is certified as to source and quality is used.

(e) On an availability basis, tree seedlings may be sold at cost from forest nurseries for private use in reforesting small privately owned tracts or non-industrial forestlands.

(f) Funds are authorized to accelerate and expand forest environment education, technical forestland guidance, and forestland research under direction of the appropriate officials in each State. An expansion in environmental studies, particularly those dealing with forestland resources and its associated environment, is needed at the lower grade levels throughout school systems; technical assistance through strengthened and expanded cooperative extension forestry is needed to provide the means of securing environmental improvements as well as increased production of forest products, particularly from small forestland ownerships; and, special forestland research grants are needed to accelerate studies in new ways and methods of improving environmental management, intensive forest production, and wood utilization.

(g) Each State receiving Federal funds for the purposes of this Act shall prepare a State reforestation and rehabilitation plan in cooperation with the Federal agencies administering Federal lands within the State which shall be approved by the American Forestry Board, hereinafter provided, prior to the expenditure or allocation of Federal funds for development of State or private forestlands.

TITLE II. FEDERAL FORESTLANDS

FORESTLAND MANAGEMENT FUND

SEC. 201. (a) There is hereby established in the Treasury of the United States a "Forestland Management Fund." Except as hereinafter provided, beginning —— there shall be credited to the fund all receipts from (1) the sale of timber and from any other source of revenue from the national forests and other lands administered by the Forest Service and (2) the sale of timber from public domain lands administered by the Bureau of Land Management.

(b) The provision of Section 3 of the Materials Act of 1947 (61 Stat. 681) as amended, which authorizes or directs deposits in connection with, or receipts from, the sale of timber from public domain lands, is hereby amended to direct that such deposits or receipts from the sale of timber from public domain lands will be deposited into the "Forestland Management Fund."

APPROPRIATIONS

SEC. 202. (a) Moneys credited to the "Forestland Management Fund" by the Forest Service and the Bureau of Land Management shall be available in like amounts for expenditure, for the purposes of this Act only when appropriated therefor. Such moneys as may be appropriated shall be available until expended. Any money credited to the fund and not subsequently authorized for expenditure by Congress within two fiscal years following the fiscal years in which such money was credited to the fund, shall be transferred to miscellaneous receipt of the United States Treasury.

USE OF FUNDS

SEC. 203. (a) Moneys appropriated from the fund shall be allocated in each fiscal year for expenditure as determined by the Secretary of Agriculture, the Secretary of the Interior or the appropriation Acts making them available. Moneys allocated to any unit of the national forest system administered by the Forest Service or to the public lands administered by the Bureau of Land Management, shall be used for the following purposes:

(1) Timber resource management including reforestation and development

(2) Environment management including restoration, maintenance and enhancement of its quality.

(3) Recreation management.

(4) Fish and wildlife habitat management.

(5) Range resource management.

(6) Soil, water and pure air management.

(7) Administration of mineral claims, leases, special uses, and research for the purposes enumerated in this subsection.

ENVIRONMENTAL IMPACTS ON FEDERAL FORESTLANDS

SEC. 204. (a) In connection with the sale of timber and other forest products, or the use of public lands of the United States, the Secretary of Agriculture and the Secretary of the Interior are authorized and directed to require contractors and permittees to install or take such measures as deemed desirable to minimize adverse environmental impacts that might result from the authorized activity. The costs of such measures shall be recognized in determining the appraised value of the product to be sold or the amount of the permit fee.

REPEAL

SEC. 205. (a) The Act of March 13, 1913 (37 Stat. 843. 843:16 USC 501) is hereby repealed.

TITLE III. GENERAL PROVISIONS

FORESTLAND MANAGEMENT PLAN

SEC. 301. (a) The Secretary of Agriculture shall submit to the Congress within one year from the date of enactment, a national plan including national forest and goals for the balanced development, management, preservation, and protection of all the Nation's forestlands for high resource yields and environmental restoration, maintenance and enhancement.

AMERICAN FORESTRY BOARD

SEC. 302. (a) The President shall appoint an advisory board known as the American Forestry Board consisting of not less than seven or more than eleven members, and name a chairman thereof, to serve at his pleasure, by and with the advice and consent of the Senate, to counsel and assist the Secretary of Agriculture and the Secretary of the Interior in determining the allocation between uses of the resources of the Federal forestlands and to direct a balanced expenditure program which will provide for the maximum and properly balanced use of the resources of the Federal forestlands. The Board will also advise on reforestation and rehabilitation of the non-federal forestlands, technical forestland assistance, environmental education and forestland research and other matters directly or indirectly related thereto.

(b) Members of the American Forestry Board shall, while serving in the business of the Board, be entitled to receive compensation at rates fixed by the Secretary, including travel time; and while serving away from their homes or regular places of business, they may be allotted travel expenses, including per diem in lieu of subsistence, as authorized by Sec. 5703 of Title 5 of the United States Code for persons in the Government Service intermittently.

(c) Funds are authorized for appropriation from the Federal Forestland Fund for the purposes of this Section.

EXPORT OF UNPROCESSED TIMBER

SEC. 303. (a) Effective January 1, 1972, the volume of unprocessed timber originating on Federal lands of the United States west of the 100th meridian to be sold annually into foreign export will be jointly determined by the Secretary of Agriculture and the Secretary of the Interior after public hearings and consultation with the American Forestry Board.

(b) The Secretaries of the Departments administering public forestlands shall issue rules and regulations to carry out the purposes of this section, including the prevention of direct substitution of non-Federal timber restricted from export by this section.

MISCELLANEOUS

SEC. 304. (a) In carrying out the provisions of this Act and those Acts cited herein, the Secretary of Agriculture and the Secretary of the Interior:

(1) Shall as soon as practicable, but not later than three years after the passage of this Act, and not later than every ten years thereafter, hold a public hearing or hearings at a suitable location on the prescribed Federal or State forestland plans. Hearings will be held by appropriate Federal agencies having 10 per centum or more of the public forestland in the State, or, by the State where Federal matching funds are used in a State in which less than 10 per centum of the public forestland in the State is in Federal ownership. Notice of such hearings shall be given through such means as the Secretary of Agriculture, the Secretary of the Interior or State officials deem appropriate, including publication in a newspaper or newspapers of general circulation in the area. Such notice shall include statements as to the time and place of the hearing and the place where the plan may be examined. In reaffirming or approving such plans, the Secretary or State official shall consider the views and comments presented by interested individuals, groups, and agencies. A summary and discussion of views and comments shall be included as a part of the record of plans. Such record and the reaffirmed or approved plan shall be available to the public in the office of the Forest Service, Bureau of Land Management, or appropriate State office in the area. Such plan will apply to each appropriate administrative unit. The appropriate Secretary or State official is authorized and directed to manage the area covered by the plan in conformity with such plan or any revisions thereof adopted in accordance with this subsection. Until such plans have been reviewed or developed and reaffirmed or approved in accordance with this subsection, a public hearing at a location convenient to the area involved shall be announced through such means as the Secretary or State official deems appropriate including publication in a newspaper of general circulation in the area, and shall be held before any sale of timber is made in any unroaded area which is a regionally significant geographical or physical entity;

(2) Shall from time to time consult with the Environmental Quality Council concern-

ing the establishment and administration of balanced forestland use and in carrying out the functions of this Act;

(3) Shall report annually to the Congress on the operation and effectiveness of this Act.

SEC. 305. Definition.

(a) As used in the Act, the term "forestland" means land which is producing, or is capable of producing, crops of industrial wood and not withdrawn from timber utilization by statute or administrative regulation.

SEC. 306. Authorization.

(a) There are hereby authorized to be appropriated such sums of money as may be necessary to carry out the provisions of this Act, but for fiscal year 1971 appropriations shall not exceed $—— from the Forestland Management Fund and $—— through general funding by the Congress. Such sums shall be in addition to allotments of grants that may be made available under other authorizations.

CIVIL RIGHTS COMMISSION APPROPRIATIONS AUTHORIZATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1010, S. 2455. I do this so that the bill will become the pending business.

The PRESIDING OFFICER (Mr. SCHWEIKER). The bill will be stated by title.

The BILL CLERK. A bill (S. 2455) to authorize appropriations for the Civil Rights Commission and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

SECTION 1. Subsection (a) of section 103 of the Civil Rights Act of 1957 (71 Stat. 635; 42 U.S.C. 1975b(a)), as amended, is further amended as follows: Strike "$75" and insert in lieu thereof "$100".

SEC. 2. Subsection (a) of section 105 of the Civil Rights Act of 1957 (71 Stat. 636; 42 U.S.C. 1975d(a)), as amended, is further amended as follows: Strike "$75" and insert in lieu thereof "$100".

SEC. 3. Section 106 of the Civil Rights Act of 1957 (71 Stat. 636; 42 U.S.C. 1975e), as amended, is further amended to read as follows:

"SEC. 106. For the purposes of carrying out this Act, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, the sum of $3,400,000, and for each fiscal year thereafter until January 31, 1973, the sum of $3,400,000."

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I send to the desk a unanimous-consent request, which has to the best of my knowledge been cleared all around. It has to do with this bill, which will not be considered before tomorrow.

The PRESIDING OFFICER (Mr. SCHWEIKER). The unanimous-consent request will be stated.

The legislative clerk read as follows:

Ordered, That, effective on Tuesday July 14, 1970, at the conclusion of routine morning business, during the further consideration of the bill S. 2455, a bill to authorize appropriations for the Civil Rights Commission and for other purposes, debate on the McClellan amendment No. 770 be limited to one hour and debate on any other amendment, motion, or appeal, except a motion to lay on the table, shall be limited to 20 minutes, to be equally divided and controlled by the mover of any such amendment or motion and the majority leader: Provided, That in the event the majority leader is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him: Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the majority and minority leaders: Provided, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

The PRESIDING OFFICER (Mr. SCHWEIKER). Is there objection to the unanimous-consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

ORDER FOR THE CONSIDERATION OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the completion of the debate on S. 2455 and the final vote thereon, the Senate turn to the consideration of Calendar No. 926, S. 1830, an act to provide for the settlement of certain land claims of Alaska natives, and for other purposes.

The PRESIDING OFFICER (Mr. SCHWEIKER). Without objection, it is so ordered.

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES AMENDMENTS OF 1970—CONFERENCE REPORT

Mr. PELL. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3215) to amend the National Foundation on the Arts and the Humanities Act of 1965.

The PRESIDING OFFICER (Mr. SCHWEIKER). The report will be read for the information of the Senate.

The bill clerk read the report.

(For conference report, see House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. PELL. Mr. President, the conferees appointed by the Senate and the House met in committee of conference on S. 3215, to amend the National Foundation on the Arts and Humanities Act of 1965, and for other purposes, and have resolved all differences between the two versions of the bill. Of the 12 differences, two were of major import while the other—though substantive—were resolved without difficulty. I shall confine my remarks to the two major areas of importance and submit for the RECORD a statement pertaining to the other points.

The House amendments amended section 5(h)(3) of the National Foundation on the Arts and the Humanities Act of 1965 to provide that no State should receive less than $75,000 for any fiscal year from funds allocated to carry out the purposes of that subsection. The Senate bill in authorizing separate appropriations for the purpose of paragraph (3) of subsection (h) of section 5 provided that $50,000 should be allotted to each State and that any funds remaining after such an allotment would be distributed among the States in equal amounts except that for the purpose of the additional allocation Guam and American Samoa would not be considered as States. The conference report provides that from the sums appropriated to carry out the purposes of section 5(h)(3) for any fiscal year not less than $65,000 shall be allotted to each State and adopts the remaining text of the Senate bill.

The Senate bill contains for fiscal year 1971 separate authorizations of appropriations to each endowment for the various activities under the act totaling $40,000,000. The House amendment consolidated the authorization of appropriations into a single sum of $40,000,000 to be appropriated to the Foundation for fiscal year 1971. In addition, the House amendment placed no limit on appropriations for fiscal years 1972 and 1973. The Senate bill placed overall limitations on appropriations of $60 million for fiscal year 1972 and $80 million for fiscal year 1973. The conference report adopts the provisions of the Senate bill.

Except for minor clarifying, conforming provisions this supplemental material reflects the resolution of the minor differences between the Senate- and House-passed bill.

First. The Senate bill provided that this act may be cited as "The National Foundation on the Arts and the Humanities Amendments of 1970." The House amendment contained no short title. The conference report adopts the provision of the Senate bill.

Two. The House amendment added additional language to clause 2 of the declaration of purpose contained in section 2 of the National Foundation on the Arts and the Humanities Act of 1965. The Senate bill had no comparable provision. The conference report adopts the provision of the House amendment.

Three. The House amendment amended the definition of the humanities to include "comparative religion" and "ethics" and by requiring that particular attention be paid to the relevance of the humanities to current conditions of national life. The Senate bill contained no comparable provision. The conference report adopts the provision of the House amendment.

Fourth. The Senate bill incorporated the substantive provisions of the National Arts and Cultural Development Act into section 6 of the National Foundation on the Arts and the Humanities Act of 1965 deleting the independent study authority of the National Council on the Arts. The House amendment contained no comparable provisions. The conference report adopts in substance the provisions of the Senate bill.

Fifth. The House amendment authorized the establishment of an Executive Committee of the National Council on the Arts. The Senate bill contained no comparable provision. The conference report does not contain such new authority.

Sixth. The Senate bill contained a technical amendment providing for a successor to the Recreation Board of the District of Columbia to carry out the functions of a State arts council under section 5(h) of the act. The House amendment did not contain a comparable provision. The conference report adopts the provision of the Senate bill.

Seventh. The House amendment but not the Senate bill authorized the National Council on the Humanities to initiate and support research and programs to strengthen teaching potential in the humanities. The conference report adopts the provision of the House amendment.

Eighth. The House amendment authorized the National Council on the Humanities to foster education in the humanities. The Senate amendment contained no comparable provision. The conference report adopts the provision of the House amendment.

Ninth. The House amendment authorized the establishment of an Executive Committee of the National Council on the Humanities. The Senate bill contained no comparable provision. The conference report does not contain such new authority.

Tenth. The Senate bill, unlike the House amendment, amended section 9 of the National Foundation on the Arts and the Humanities Act of 1965 to include the Archivist of the United States as a member of the Federal Council on the Arts and the Humanities. The conference report contains the provision of the Senate bill.

Mr. President, as chairman of the conferees on the part of the Senate, I am satisfied that the bill is the best that could be brought out of conference. It was an amicable session, with agreement being easily reached. I move that the Senate adopt the report of the committee of conferees on S. 3215.

The PRESIDING OFFICER (Mr. SCHWEIKER). The question is on agreeing to the motion of the Senator from Rhode Island.

The motion was agreed to.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 4 o'clock and 20 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, July 14, 1970, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 13, 1970:

CORPORATION FOR PUBLIC BROADCASTING

Saul Haas, of Washington, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1976, vice Roscoe C. Carroll, term expired.

INTERNATIONAL MONETARY FUND

Charles R. Harley, of Maryland, to be U.S. Alternate Executive Director of the International Monetary Fund for a term of 2 years, vice John S. Hooker.

DEPARTMENT OF JUSTICE

Juan C. San Agustin, of Guam, to be U.S. marshal for the district of Guam for the term of 4 years, vice Francisco R. Santos, resigning.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John MacNair Wright, Jr., 562-54-2446, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Edward Leon Rowny, 219-18-9284, U.S. Army.

The following-named officers to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Ferdinand Thomas Unger, 159-14-2648, Army of the United States (major general, U.S. Army).

Lt. Gen. Frank Joseph Sackton, 321-10-0686, Army of the United States (major general, U.S. Army).

The following-named persons for appointment in the Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Basom, Darrel W., 512-26-8308.
Floyd, John D., 411-46-7910.
Hatch, Richard A., 466-38-7535.
Lovett, John A., 296-28-0472.
Saltee, Lawrence T., 504-16-4960.
Strum, Major, 422-24-5940.
Walker, Wiley W., 411-38-3247.

HOUSE OF REPRESENTATIVES—*Monday, July 13, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Thou art my rock and my fortress: Therefore for Thy name's sake lead me and guide me. (Psalm 31: 3.)

Almighty and everlasting God, who art the Father of all mankind, we turn from the activities of the day to lift our spirits unto Thee from whom all blessings flow. Keep us ever mindful of Thy presence for without Thee all our labor is in vain.

We pray for guidance as we face the duties of these hours, as we make our decisions, and as we plan for the welfare of our beloved America. For courage and faith we pray that through these difficult days we may do justly, love mercy, and walk humbly with Thee.

Bless those who serve under the flag of our country, these Members of Congress, the men and women in our Armed Forces, our prisoners of war, and those in civilian offices. Keep us all united in the common cause of life, liberty, and the pursuit of happiness for all men.

In the Master's name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, July 9, 1970, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11766. An act to amend title II of the Marine Resources and Engineering Development Act of 1966.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 3430. An act to amend the Peace Corps Act to authorize additional appropriations, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to a bill of the Senate of the following title:

S. 1456. An act to amend section 8c(6)(I) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, so as to permit marketing orders applicable to apples to provide for paid advertising.

The message also announced that the Senate had passed bills, joint, and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 583. An act to provide for the flying of the American flag over the remains of the U.S. ship *Utah* in honor of the heroic men who were entombed in her hull on December 7, 1941;

S. 2565. An act to amend the act fixing the boundary of Everglades National Park, Fla., and authorizing the acquisition of land therein, in order to increase the authorization for such acquisitions;

S. 2808. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Minot extension of the Garrison diversion unit of the Missouri River Basin project in North Dakota, and for other purposes;

S. 3302. An act to amend the Defense Production Act of 1950, and for other purposes;

S. 3617. An act to amend the Marine Resources and Engineering Development Act of 1966 to continue the National Council on Marine Resources and Engineering Development;

S.J. Res. 173. Joint resolution authorizing a grant to defray a portion of the cost of expanding the United Nations headquarters in the United States; and

S. Con. Res. 64. Concurrent resolution to terminate the joint resolution commonly known as the Gulf of Tonkin resolution.

APPOINTMENT OF CONFEREES ON H.R. 17619, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1971

Mrs. HANSEN of Washington. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 17619) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1971, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentlewoman from Washington? The Chair hears none, and appoints the following conferees: Mrs. Hansen of Washington, Messrs. Kirwan, Marsh, Flynt, Obey, Mahon, Reifel, McDade, Wyatt, and Bow.

THE PLIGHT OF THE VETERANS' ADMINISTRATION HOSPITALS

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLFF. Mr. Speaker, the New York VA hospitals were underfunded by $10 million in fiscal 1970 for the operation of facilities for more than two and a half million men. This is but one example of a nationwide situation.

Americans used to think that the care given veterans in VA hospitals was "second to none." A closer look reveals that poor conditions make these hospitals "second to nothing."

Some of our VA hospitals have no intensive care units. An emergency call consequently becomes an effort to see how understaffed hospitals can beat death. Would you be willing to risk your life in such a situation? Yet, we place men who have risked their lives in battle in a living nightmare.

One hospital director indicated that his VA hospital windows leaked during rainy weather. This hospital was reduced to such a level for want of maintenance funds. The reason—these funds were diverted to pay inadequate staff salaries.

The Senate last week increased the VA hospital appropriations by $100 million. This is still a far cry from the real needs of VA hospitals. I ask that my colleagues join in efforts to realistically fund VA hospitals.

CARIBBEAN PEARL

(Mr. CÓRDOVA asked and was given permission to address the House for 1 minute.)

Mr. CÓRDOVA. Mr. Speaker, as they say, it is a mighty big world, and Puerto Rico is only a tiny part of it. But from our little place in the sun now comes the fairest maiden of them all.

She is Marysol Malaret, a 20-year-old Latin beauty from San Juan who was named Miss Universe in Miami Beach last Saturday.

A picture is worth a thousand words, of course, and our colleagues who have seen Marysol's photo in the national press, I am sure will agree that she deserves the golden title.

A Miss Universe is always a very busy young lady, but I hope to present her in Washington in the near future, and I want as many of our colleagues as possible to meet our Caribbean pearl.

CONFERENCE REPORT ON S. 3215, NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES AMENDMENTS OF 1970

Mr. PERKINS. Mr. Speaker, I call up the conference report on the bill (S. 3215) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. GROSS. Mr. Speaker, reserving the right to object, do I understand the gentleman is going to take a reasonable amount of time to explain?

Mr. PERKINS. If the distinguished gentleman has questions, I will be delighted to answer them.

However, I do want to state that the conference bill reflects those major provisions of the House-passed bill in which the Members have expressed their most positive and frequent interest.

It will be recalled that the House-passed bill provided no limit on appropriations for fiscal years 1972 and 1973.

The bill agreed upon in conference places ceilings on appropriations for both fiscal years.

The State grant program is given specific authorization and the conference report provides that each State shall be allotted at least $6,500 and that any excess amounts appropriated for this purpose shall be apportioned among the States equally.

If funds are not sufficient to supply the $6,500 for each State there will be a pro rata reduction for each State but each State shares equally.

The following are the resolution of the differences:

The Senate bill provided that this act may be cited as "The National Foundation on the Arts and the Humanities Amendments of 1970." The House amendment contained no short title. The conference report adopts the provision of the Senate bill.

The House amendment added additional language to clause 2 of the declaration of purpose contained in section 2 of the National Foundation of the Arts and the Humanities Act of 1965. The Senate bill had no comparable provision. The conference report adopts the provision of the House amendment.

The House amendment amended the definition of humanities to include "comparative religion" and "ethics" and by requiring that particular attention be paid to the relevance of the humanities to current conditions of national life. The Senate bill contained no comparable provision. The conference report adopts the provision of the House amendment.

The Senate bill incorporated the substantive provisions of the National Arts and Cultural Development Act into section 6 of the National Foundation on the Arts and the Humanities Act of 1965 deleting the independent study authority of the National Council on the Arts. The House amendment contained no comparable provisions. The conference report adopts in substance the provisions of the Senate bill.

The House amendment authorized the establishment of an executive council within the National Council on the Arts. The Senate bill contained no comparable provision. The conference report does not contain authority for such an executive council.

The Senate bill contained a technical amendment providing for a successor to the recreation board of the District of Columbia to carry out the functions of a State arts council under section 5(h) of the act. The House amendment did not contain a comparable provision. The conference report adopts the provision of the Senate bill.

The Senate bill limited the allotment of section 5(h) funds to Guam and American Samoa to $50,000. The House amendment did not contain such a limitation. The conference report adopts this provision of the Senate bill.

The House amendment amended section 5(h)(3) of the National Foundation on the Arts and the Humanities Act of 1965 to provide that no State should receive less than $75,000 for any fiscal year from funds allocated to carry out the purposes of that subsection. The Senate bill in authorizing separate appropriations for the purpose of paragraph (3) of subsection (h) of section 5 provided that $50,000 should be allotted to each State and that any funds remaining after such an allotment would be distributed among the States in equal amounts. The conference report provides that from the sums appropriated to carry out the purposes of the subsection for any fiscal year not less than $65,000 shall be allotted to each State.

The House amendment but not the Senate bill authorized the National Council on the Humanities to initiate and support research and programs to strengthen teaching potential in the humanities. The conference report contains the provision of the House amendment in this respect.

The House amendment authorized the National Council to foster education in the humanities. The Senate amendment contained no comparable provision. The conference report adopts the provision of the House amendment.

The House amendment authorized the establishment of an executive committee on the National Council of the Humanities. The Senate bill contained no comparable provision. The conference report does not contain this provision.

The Senate bill, unlike the House amendment, amended section 9 of the National Foundation on the Arts and the Humanities Act of 1965 to include the Archivist of the United States as a member of the Council. The conference report contains the provision of the Senate bill.

The Senate bill contains separate authorizations of appropriations to each endowment for the various activities under the Foundation while the House amendment consolidated the authorization of appropriations into a single sum to be appropriated to the Foundation. In addition, as I stated earlier, the House amendment placed no limit on appropriations for fiscal years 1972 and 1973. The Senate bill placed overall limitations on appropriations of $60 million for fiscal year 1972 and $80 million for fiscal year 1973. The conference report adopts the provisions of the Senate bill in these respects.

Mr. GROSS. But the gentleman is saying that now it has been doubled from $20 million last year to $40 million in this fiscal year. Is that correct?

Mr. PERKINS. The President's budget carried a figure of $35 million. The Senate Appropriations Committee appropriated $33.5 million and the House Appropriations Committee has not yet acted. However, last year the appropriation figure——

Mr. GROSS. But the House authorized $40 million, did it not?

Mr. PERKINS. That is correct.

Mr. GROSS. For all practical purposes, this would double it to $80 million in 2 years?

Mr. PERKINS. The bill that passed the House carried an open ended appropriation.

Mr. GROSS. I understand that.

Mr. PERKINS. But I would think that not only the legislative committee will take a look at it, but I know the Appropriations Committee will take a look at it as to how the funds this year are expended. However, the conference report authorizes $60 million for 1972 and $80 million for 1973. The House-passed bill authorized any amount for those years.

Mr. GROSS. This is too rich for my blood, I will say to the gentleman. It is a jump from an authorized figure of $40 million in this fiscal year, which is a 100-percent increase over the last fiscal year, if I remember the figures correctly.

Mr. PERKINS. The authorization under existing law for 1970 is $24,750,000. But, let me say to my distinguished friend that the big increase in the appropriation came this year on the recommendation of the present Bureau of the Budget downtown.

Mr. GROSS. That does not make it any more acceptable as far as I am concerned.

Can the gentleman tell me why only one member of the minority signed this conference report, or was there no more than one member of the minority on the conference committee?

Mr. PERKINS. No. The gentleman from Iowa (Mr. SCHERLE), your colleague from Iowa, was duly appointed. I am sure he can better explain why he did not wish to sign the report.

Mr. GROSS. Does the gentleman think this will provide enough money at $80 million in fiscal year 1973 so that the culturists can print all the copies they may want of, for instance, "Let's All Sing Like the Birdies Sing" and provide ample grants to belly dancers, ballet dancers, poets, painters, folk singers, and so on?

Mr. PERKINS. I can assure the distinguished gentleman that we will not be back in here until the authorizations for fiscal year 1973 are due to expire to ask for an increase or an authorization above $80 million.

Mr. GROSS. The gentleman is saying now that this $80 million has the endorsement of the Bureau of the Budget?

Mr. PERKINS. Mr. Speaker, if the gentleman will yield further, I am not saying the Bureau of the Budget. I am stating that the House passed a bill that was open ended but that we closed these ends in conference. These are the figures we arrived at. I should further state that the administration's bill did not provide any limit on appropriations for any of the 3 years' authorization.

Mr. GROSS. Yes; you really closed them in arriving at these preposterous figures. You closed the door on the taxpayers, who have to foot these outlandish bills.

How in all conscience, with this country wallowing in debt and forced to borrow billions of dollars at high interest rates, Congress can blithely authorize the spending of $40,000,000 for this purpose in the current fiscal year—doubling of the $20,000,000 authorized last year—and then triple it to $60,000,000 in fiscal 1972 and quadruple it to $80,000,000 in fiscal 1973, is beyond me.

This is not only incredible—it is fiscal insanity.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 10, 1970.)

Mr. PERKINS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 236, nays 70, not voting 125, as follows:

[Roll No. 213]

YEAS—236

Adams
Albert
Alexander
Anderson, Calif.
Annunzio
Arends
Ashley
Ayres
Bell, Calif.
Betts
Bevill
Biester
Bingham
Blanton
Blatnik
Boggs
Boland
Bolling
Bow
Brademas
Brinkley
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burke, Mass.
Burton, Calif.
Button
Byrne, Pa.
Byrnes, Wis.
Cabell
Cederberg
Celler
Chamberlain
Chappell
Cleveland
Cohelan
Conable
Conte
Corman
Coughlin
Cowger
Culver
Cunningham
Daniel, Va.
Daniels, N.J.
Davis, Ga.
de la Garza
Delaney
Dellenback
Dent
Donohue
Dorn
Duncan
Dwyer
Edmondson
Edwards, Calif.
Eilberg
Evins, Tenn.
Fascell
Feighan
Findley
Fisher
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Fraser
Friedel
Fulton, Pa.
Fulton, Tenn.
Fuqua
Galifianakis
Garmatz
Gaydos
Gettys
Gibbons
Gonzalez
Green, Oreg.
Griffiths
Gude
Hamilton
Hammerschmidt
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hathaway
Hawkins
Hays
Hébert
Hechler, W. Va.
Helstoski
Henderson
Hicks
Hogan
Horton
Howard
Hungate
Jacobs
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
King
Kleppe
Kluczynski
Koch
Kyl
Kyros
Langen
Latta
Long, Md.
Lowenstein
Lujan
Lukens
McCarthy
McClory
McCloskey
McCulloch
McDade
McEwen
McFall
MacGregor
Madden
Mahon
Mailliard
Marsh
Mathias
May
Mayne
Meeds
Miller, Calif.
Minish
Mink
Mize
Mizell
Mollohan
Monagan
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
Olsen
Patman
Patten
Pelly
Perkins
Pettis
Philbin
Pickle
Pike
Pirnie
Poff
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Pucinski
Purcell
Quie
Rees
Reid, Ill.
Reuss
Robison
Rodino
Rooney, Pa.
Roth
Roybal
Ruth
Schneebeli
Schwengel
Shipley
Shriver
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Springer
Stafford
Staggers
Stanton
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Waldie
Wampler
Watts
Whalen
White
Widnall
Williams
Wilson, Bob
Winn
Wold
Wright
Wyatt
Yates
Yatron
Young
Zablocki
Zwach

NAYS—70

Andrews, Ala.
Ashbrook
Belcher
Bennett
Bray
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Camp
Carter
Clawson, Del
Collier
Collins
Colmer
Crane
Davis, Wis.
Denney
Dennis
Derwinski
Devine
Dickinson
Dowdy
Edwards, Ala.
Eshleman
Evans, Colo.
Flynt
Foreman
Frey
Goodling
Griffin
Gross
Haley
Hall
Harsha
Hull
Hunt
Hutchinson
Jonas
Jones, N.C.
Landgrebe
Landrum
Lennon
McMillan
Martin
Michel
Miller, Ohio
Mills
Montgomery
Nichols
O'Neal, Ga.
Passman
Poage
Price, Tex.
Quillen
Rhodes
Rivers
Roberts
Rogers, Fla.
Satterfield
Scherle
Schmitz
Scott
Sebelius
Smith, Calif.
Snyder
Steiger, Ariz.
Thompson, Ga.
Wolff
Wylie
Zion

NOT VOTING—125

Abbitt
Abernethy
Adair
Addabbo
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Aspinall
Baring
Barrett
Beall, Md.
Berry
Biaggi
Blackburn
Brasco
Brock
Brooks
Broomfield
Brotzman
Buchanan
Burton, Utah
Bush
Caffery
Carey
Casey
Chisholm
Clancy
Clark
Clausen, Don H.
Clay
Conyers
Corbett
Cramer
Daddario
Dawson
Diggs
Dingell
Downing
Dulski
Eckhardt
Edwards, La.
Erlenborn
Esch
Fallon
Farbstein
Fish
Fountain
Frelinghuysen
Gallagher
Giaimo
Gilbert
Goldwater
Gray
Green, Pa.
Grover
Gubser
Hagan
Halpern
Hanley
Hastings
Heckler, Mass.
Holifield
Hosmer
Ichord
Jarman
Kee
Keith
Kirwan
Kuykendall
Leggett
Lloyd
Long, La.
McClure
McDonald, Mich.
McKneally
Macdonald, Mass.
Mann
Matsunaga
Melcher
Meskill
Mikva
Minshall
Morton
Murphy, N.Y.
O'Neill, Mass.
Ottinger
Pepper
Podell
Pollock
Powell
Railsback
Randall
Rarick
Reid, N.Y.
Reifel
Riegle
Roe
Rogers, Colo.
Rooney, N.Y.
Rosenthal
Rostenkowski
Roudebush
Rousselot
Ruppe
Ryan
St Germain
Sandman
Saylor
Schadeberg
Scheuer
Sikes
Stuckey
Taft
Tunney
Vigorito
Watkins
Watson
Weicker
Whalley
Whitehurst
Whitten
Wiggins
Wilson, Charles H.
Wydler
Wyman

So the conference report was agreed to.

The Clerk announced the following pairs.

On this vote:

Mr. O'Neill of Massachusetts for, with Mr. Abernethy against.

Mr. Addabbo for, with Mr. Casey against.

Mr. Fallon for, with Mr. Fountain against.

Mr. St Germain for, with Mr. Hagan against.

Mr. Brasco for, with Mr. Ichord against.

Mr. Rooney of New York for, with Mr. Jarman against.

Mr. Rostenkowski for, with Mr. Randall against.

Mr. Brooks for, with Mr. Rarick against.

Mr. Biaggi for, with Mr. Whitten against.

Mr. Reid of New York for, with Mr. Buchanan against.

Mr. Frelinghuysen for, with Mr. Bush against.

Mr. Schadeberg for, with Mr. Whalley against.

Mr. Anderson of Illinois for, with Mr. Wiggins against.

Until further notice:

Mr. Aspinall with Mr. Adair.

Mr. Barrett with Mr. Watkins.

Mr. Pepper with Mr. Clancy.

Mr. Rogers of Colorado with Mr. Andrews of North Dakota.

Mr. Charles H. Wilson with Mr. Goldwater.

Mr. Dingell with Mr. Broomfield.

Mr. Farbstein with Mr. Grover.

Mr. Gilbert with Mr. Erlenborn.

Mr. Murphy of New York with Mr. Esch.

Mr. Matsunaga with Mr. Gubser.

Mr. Macdonald of Massachusetts with Mr. Beall of Maryland.

Mr. Holifield with Mr. Hosmer.

Mr. Anderson of Tennessee with Mr. Brotzman.

Mr. Abbitt with Mr. Berry.

Mr. Carey with Mr. Don H. Clausen.

Mr. Caffery with Mr. Blackburn.

Mr. Clark with Mr. McKneally.

Mr. Daddario with Mr. Meskill.

Mr. Podell with Mr. Halpern.

Mr. Roe with Mr. Hastings.

Mr. Ryan with Mr. Riegle.

Mr. Sikes with Mr. Cramer.

Mr. Giaimo with Mrs. Heckler of Massachusetts.

Mr. Gray with Mr. Burton of Utah.

Mr. Hanley with Mr. Fish.

Mr. Stuckey with Mr. Brock.

Mr. Long of Louisiana with Mr. Kuykendall.

Mr. Leggett with Mr. Conyers.

Mr. Melcher with Mr Keith.

Mr. Mikva with Mr. Clay.

Mr. Ottinger with Mr. Dawson.

Mr. Edwards of Louisiana with Mr. Lloyd.

Mr. Dulski with Mr. Corbett.

Mr. Downing with Mr. Whitehurst.

Mr. Mann with Mr. McClure.

Mr. Kee with Mr. McDonald of Michigan.

Mr. Baring with Mr. Minshall.

Mr. Vigorito with Mr. Pollock.

Mr. Green of Pennsylvania with Mr. Railsback.

Mr. Saylor with Mr. Morton.

Mr. Taft with Mr. Reifel.

Mr. Watson with Mr. Roudebush.

Mr. Gallagher with Mr. Sandman.

Mr. Weicker with Mr. Rousselot.

Mr. Kirwan with Mrs. Chisholm.

Mr. Scheuer with Mr. Ruppe.

Mr. Rosenthal with Mr. Diggs.

Mr. Tunney with Mr. Wyman.

Mr. Wydler with Mr. Eckhardt.

Mr. McMILLAN changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

THE U.S. PRISONERS OF WAR

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FEIGHAN. Mr. Speaker, from time to time I have made statements for the record reflecting my concern for the welfare of our servicemen missing in action or held as prisoners of war. In this connection, I note the House Select Committee on U.S. Involvement in Southeast Asia made this subject a matter of utmost interest and concern during their recent field survey. For one thing, while in Vientiane, three members of the committee met with the Third Secretary of the North Vietnamese Embassy. They made a strong plea for North Vietnam to allow the sending of an international committee of Red Cross representatives to North Vietnam to investigate the condition of our servicemen being held prisoners there. The North Vietnamese Embassy Secretary denied that North Vietnam had any American prisoners of war. Rather he said the men they held were war criminals. The North Vietnamese Secretary ended the meeting after 15 minutes by storming out of the room.

The propaganda line the enemy takes in referring to our prisoners of war, and the general lack of information concerning their welfare, are some of the tragic aspects of this subject.

The administration is now making an effort to resume peace talks at Paris. In the event our Government is successful in this effort I believe it is most important that we make the prisoner-of-war issue the first item on the agenda. As we have learned it to be the case in previous instances, the road to a negotiated agreement on Vietnam is likely to be long and frustrating. In Korea, we left the POW issue to the last item on the agenda, after which it was 2 years before an agreement was reached. Let us not repeat that method.

WARNS AGAINST ANY WHITEWASH BY NATIONAL COMMISSION ON OBSCENITY AND PORNOGRAPHY

(Mr. PUCINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PUCINSKI. Mr. Speaker, I take this time to caution that any effort by the National Commission on Obscenity and Pornography to whitewash the rising menace of hardcore pornography in America will be roundly rejected by the Congress.

The Commission is now having its final session in New York and there are disquieting rumors that the Commission will attempt to justify the increase in pornography as a perfectly normal phenomenon and one that cannot be dealt with because of constitutional restrictions.

As one of the cosponsors of legislation which created this Commission, I not only expect the Commission to identify the enormous dimensions of this problem in America, but also to come forth with constitutional suggestions on how this Nation can deal with increasing pornography.

I do not intend to idly sit by and see this Commission make America another Denmark.

When the Congress established this Commission, it was clearly with the hope and intent that this Commission would identify the scope of the problem and then provide the leadership in finding solutions to eradicate the problem.

It is my sincere hope that this Commission will not attempt to be dominated by those sophisticates who feel that hardcore pornography must be accepted as a way of life in America. I reject that thesis and I am certain the overwhelming majority of Congress similarly will reject this thesis.

The Commission is now meeting in New York for its final session before its report is drafted for Congress. The report is expected to be sent to Congress sometime during the middle of August. I hope the report will meet the expectations of Congress.

THE LATE HONORABLE THOMAS B. STANLEY

(Mr. DANIEL of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL of Virginia. Mr. Speaker, I have the sad responsibility to call to the attention of the Members of the House the death of a former Member of this body, the Honorable Thomas B. Stanley, whose funeral is to be held today at Stanleytown, Va., and to request that a time be set aside at a later date for eulogies.

THE LATE HONORABLE THOMAS B. STANLEY

(Mr. McCORMACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCORMACK. Mr. Speaker, I was very sorry to read of the death of our former colleague, the late Governor of Virginia, Tom Stanley, which the gentleman from Virginia (Mr. DANIEL) just announced.

Mr. Speaker, Tom Stanley was one of the finest gentlemen that anyone could ever meet, broad, fine, noble, with an understanding mind, and one of the most public spirited officials I have ever served with during my many years of service in the legislative branch of the Government, the Federal Government, and the State government. His contributions while he was a Member of this body were deep and profound and constructive. His contributions as Governor of the great Commonwealth of Virginia will always be uppermost in the pages of the history of that great State.

I join with the Virginia delegation in extending to the loved ones of our late friend Tom Stanley my deep sympathy in their great loss and sorrow.

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER. This is District of Columbia Day. The Chair recognizes the gentleman from Florida (Mr. FUQUA).

SUPPLEMENTAL TO ACT OF FEBRUARY 9, 1821, INCORPORATING COLUMBIAN COLLEGE, AND SO FORTH

Mr. FUQUA. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 17146) supplemental to the act of February 9, 1821, incorporating the Columbian College, now known as the George Washington University, in the District of Columbia and the acts amendatory or supplemental thereof.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That The George Washington University shall have and is hereby given all of those powers conferred upon nonprofit corporations by section 5 of the District of Columbia Non-Profit Corporation Act (section 29–1005 of the District of Columbia Code) and, in addition, shall have the power to borrow money at such rates of interest as the corporation may determine, without regard to the restrictions of any usury law.

With the following committee amendment:

Page 2, line 1, strike out "law." and insert in lieu thereof the following: "law, and shall not plead any statutes against usury in any action."

The committee amendment was agreed to.

Mr. FUQUA. Mr. Speaker, the purpose of the bill H.R. 17146, as amended and reported by our committee, is to amend the charter of the George Washington University in order to confer upon the university the powers contained in section 5 of the District of Columbia Non-Profit Corporation Act, and to exempt the university from the operation of the local usury laws.

BACKGROUND

The George Washington University was incorporated by act of Congress in 1821. Since that time, this charter has been amended by supplemental legislation passed by the Congress on seven occasions . . . in 1871, 1873, 1878, 1893, 1898, 1904, and 1905. Starting in 1821 as Columbian College, with about 30 students, the university now has approximately 5,500 undergraduate students, 6,700 students in its various graduate schools, and some 2,700 unclassified part-time students.

1. POWERS CONFERRED BY SECTION 5 OF THE D.C. NONPROFIT CORPORATION ACT

In the course of administering its affairs, it is necessary for the George Washington University, from time to time, to exercise powers similar to those exercised by other corporate entities. For instance, it acquires and holds title to land, invests endowment funds, borrows money from banking institutions, mortgages real estate, employs approximately 400 members of its faculty and 6,000 administrative and maintenance personnel, and engages in bond issues for educational purposes.

While its present charter, as amended, generally empowers the university to "do and transact all and every business concerning or touching the premises" and to "manage all the estate and property now belonging to said college," it has become the practice in recent times, with respect to both profit and nonprofit corporations, to grant certain express powers which enable such corporations more easily to carry on their day-to-day functions.

The administration and operation of the George Washington University will be facilitated at this time by the provision in H.R. 17146 which will grant to the university all those powers conferred upon nonprofit corporations incorporated under the laws of the District of Columbia by section 29–1005 of the District of Columbia Code. These are simply the broad powers customarily given nonprofit corporations in all jurisdictions. For example, in the matter of the power to execute security instruments, whereas the university's charter contains only some very general and archaic language relative to managing the affairs of the university, section 5 of the District of Columbia Non-Profit Corporation Act includes very specific boilerplate powers. Thus, this provision in H.R. 17146 will be of benefit to the university by spelling out specific, standard powers which are not adequately treated in the language of its charter.

2. EXEMPTION FROM DISTRICT OF COLUMBIA USURY LAWS

Under existing law, whereas profit-making corporations do not come under the purview of the District of Columbia usury laws, nonprofit corporations in the District are so restricted. Thus, the George Washington University and other nonprofit corporations located in the District of Columbia are not permitted to pay interest on loans at rates in excess of the 8 percent maximum which, except for certain statutory exemptions, is the legal rate for borrowing in the District of Columbia at the present time. It is a well-known fact, however, that for a substantial period of time the prime rate of interest for borrowing has been in excess of this figure. As a result, the university now finds itself seriously inhibited in its ability to borrow money, both on an open line of credit and upon security of land and improvements.

This situation poses a very serious problem to the university at this time, as they have planned to begin construction this summer on several badly needed new facilities, one of which is a new medical school and medical school library. The Federal Government has granted to the university some $15 million toward the total $25 million cost of these projects. Before the university can actually obtain these grants, however, it must first have expended that amount of money on the projects. That is, under the interest subsidy program the institution must secure a private loan, and the Federal Government contributes toward the debt service thereon through an annual grant.

Hence, in order to qualify the university first must obtain a short-term construction loan, the interest rate on which currently runs anywhere from 10.5 to 12 percent, if indeed the university is fortunate enough to find a lender. Your committee is advised that it will not be necessary for the university to obtain a permanent loan on this medical building project, because with the Government grant and the funds they have solicited in the form of contributions and gifts, they will have sufficient funds without such a loan. The short-term loan, however, is imperative in order that the university may qualify for the Federal grant.

The objective of this planned new facility is to enable the university to increase the number of entering medical students from 110 to 150 per year, and thus to increase its output of physicians in response to the critical shortage which exists in the city today.

In addition, the university is presently negotiating with a major insurance company for a mortgage loan of some $5 million, which together with a Federal grant and loan already assured will enable them to build a badly needed new library building. However, such a loan simply cannot be obtained at the present legal rate of interest in the District of Columbia. Your committee is advised that this loan may probably be obtained at an interest rate of approximately 10.5 percent.

Actually, this undertaking has been delayed somewhat because for some time the university was unable to secure two city lots which were necessary to consolidate the site for the building. As an alternative solution, the university has now selected a new site, and has a commitment to HEW to begin the construction of this new building before the end of this year. Otherwise, they face the possibility of the loss of the Federal funding of the project.

Our committee is advised that the need for this new library facility is actually critical, because if the university does not proceed with its construction it will be faced with the loss of its accreditation by the Middle States Association.

COMMITTEE AMENDMENT

Acting upon the recommendation of the counsel for the George Washington University, your committee amended the bill by adding language which will assure that the university cannot bring action charging any lender of funds to the university with exceeding the legal rate of interest provided in the District of Columbia usury statutes.

This amending language is identical to an amendment which was added to the District of Columbia Business Corporation Act in 1963 (77 Stat. 136; D.C. Code, sec. 29–904(h)), and simply provides added protection to lending institutions which make loans to organizations which are exempted from the application of the usury laws.

HEARING

A public hearing on this proposed legislation was conducted on June 16, 1970, by Subcommittee No. 4. At that time spokesmen for the university testified in support of the bill, and no witnesses appeared in opposition to its enactment.

CONCLUSIONS

Since its modest inception more than a century ago, the George Washington University has grown into one of the finest metropolitan centers of learning in this country. Its contribution to the Washington metropolitan area and to the cultural and educational development of the United States is immeasurable. At this time, this institution faces a financial crisis which threatens not only its expansion to the performance of even broader service, but its very existence as well.

Our committee feels deeply that the Congress cannot and must not fail to meet its responsibility in this critical situation by providing the means by which this university can continue to fulfill its vital role in the Nation's Capital City, as a famous and respected seat of advanced learning.

The provisions of this proposed legislation are both practical and entirely justified, and we urge its enactment.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING DISPOSITION OF CERTAIN DISTRICT OF COLUMBIA PROPERTY IN PRINCE WILLIAM COUNTY, VA.

Mr. FUQUA. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 18086) to authorize the Commissioner of the District of Columbia to sell or exchange certain real property owned by the District in Prince William County, Va., and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The **SPEAKER.** Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the District of Columbia (hereinafter, "Commissioner" and "District") is authorized to convey to Prince William County, in the Commonwealth of Virginia, all right, title, and interest of the District in and to a portion, not in excess of thirty-seven acres, of certain real property owned by the District and located in that county, comprised of approximately three hundred fifty and four-tenths acres of land and more particularly described in a deed conveying such real property to the District and recorded on May 22, 1922, in liber 77, folio 55, in the clerk's office of the circuit court of Prince William County. Such conveyance to Prince William County shall be in consideration, among other considerations, of the issuance to the District by the county authorities of a permit or permits to establish and operate a sanitary landfill for the disposal of refuse in an area of the county determined by the District of Columbia to be suitable for such use.

SEC. 2. The Commissioner is further authorized to transfer to the Secretary of the Interior jurisdiction over all or any part of the balance of the property described in the first section, including such portions of the property as may be described as "wetlands", by which term is meant those low-lying portions of the property in the nature of a marsh, swamp, or bog. Such transfer to the Secretary of the Interior may be in consideration of the payment by him to the District of such sum or sums as may be agreed upon, or in exchange for land under the jurisdiction of the Department of the Interior which may be put to some municipal use by the District, approximately equal in value or area, or both value and area, to the land transferred by the District to the Secretary.

SEC. 3. Beginning one year after the effective date of this Act, the Commissioner is authorized to sell, or to exchange for other real property suitable for use by the District, all or any part of so much of the balance of the property described in the first section, not including the wetlands, as has not been transferred to the jurisdiction of the Department of the Interior, pursuant to section 2, within one year after enactment of this Act. Any such sale or exchange may either be on the basis of competitive bids or by negotiation, as the Commissioner determines is in the best interest of the District of Columbia. The Commissioner is further authorized to pay the reasonable and necessary expenses of the sale or exchange of such land, and shall deposit the net proceeds of any such sale in the Treasury of the United States to the credit of the District of Columbia.

Mr. FUQUA. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of H.R. 18086 is to authorize actions by the Commissioner for the District of Columbia which will enable the District government to deal effectively with an imminent emergency relating to the disposition of refuse in the District of Columbia. The authority given to the Commissioner would enable him to enter into suitable agreements which will permit the District of Columbia to operate for a long period of years a sanitary landfill in Prince William County, Va. As a reciprocal benefit to Prince William County, Va., the bill would enable the county government to acquire land from the District of Columbia for the construction of water pollution control facilities.

HISTORY OF THE PROPOSAL

Approximately 50 years ago the District of Columbia acquired two tracts of land in Prince William County, Va., for future use in disposing of refuse materials from the city of Washington. A 455-acre tract at Cherry Hill was acquired in 1918 and a 350 acre tract at Featherstone Point was acquired in 1922. Operation of a reduction plant, located at Cherry Hill, was discontinued in 1947 and was thereafter dismantled. The land at Cherry Hill was sold by the District of Columbia in 1962. The District of Columbia government continued to plan for the ultimate use of the Featherstone Point site as a major disposal area by utilization of modern landfill methods.

By 1965 it became apparent to District of Columbia officials that within a short-range future the District of Columbia would face a critical problem for garbage and trash disposal. Not only was the Kenilworth incinerator a major contributor to air pollution in the District, but the future life and utility of the Kenilworth dump was very limited. Plans were launched for a new, modern incinerator facility, and steps were taken to supplement the limited capacity of such incinerator by establishing a major landfill operation at some point in the metropolitan area.

Concurrently, Prince William County, Va., found itself with a developing sewage disposal problem resulting from the rather rapid growth of certain communities within the county. The county officials proposed to the District of Columbia government the purchase of 25 acres of the District of Columbia's Featherstone Point site for the location of a large filtration plant needed for the present and future development of the county and such communities as Occoquan, Woodbridge, and the Garfield area.

Legislation was introduced in the 90th Congress which would have authorized the Commissioner for the District of Columbia to sell the acreage desired by Prince William County and to arrange for the disposition of the balance of the acreage but reserving landfill operation rights for 167 acres which was essentially marshland.

The legislation was favorably reported to the House, but substantial objections were raised to the bill by conservation groups who feared that the dikeing and landfill operations would adversely affect the wildlife ecology of the wetland portion of the site. The legislation did not reach a final vote in the House of Representatives.

THE PRESENT PROPOSAL

Early in the present Congress, H.R. 664 was introduced proposing action similar to that in H.R. 18980 of the 90th Congress. Committee hearings were held and thereafter a number of meetings and discussions were held with District of Columbia and Prince William County officials. It was suggested that the District and the county officials join in an effort to find a solution to their mutual problems, which would avoid any possible pollution in the area and which would not require utilization of any marsh or wetland areas for sanitary landfill operations.

Under date of April 17, 1970, the District of Columbia government transmitted to the chairman of Subcommittee No. 4, a communication in reference to this problem explaining a modified and hopefully an acceptable alternative to the previous plans. The draft bill proposal which was submitted with this letter has become the text of the instant bill, H.R. 18068. A single modification of the suggested bill draft is in reference to the language concerning the issuance of a permit by Prince William County to the District of Columbia for the establishment and operation of a sanitary landfill. This modification contemplates that the Commissioner for the District of Columbia shall have the authority and will negotiate to secure more than one permit for locations for such landfill operations, in view of the considerations which are being reciprocally extended to Prince William County, Va., and the respective needs of the District and the county. Thus, Prince William County will receive 37 acres of the Featherstone Point site as a consideration for the granting of a landfill permit or permits for the conduct of sanitary landfill operations by the District of Columbia.

As to the remaining acreage, the bill authorizes the Commissioner of the District of Columbia to dispose of all or part to the Secretary of the Interior. Those parts of the land area which may be classified as "wetlands" may not be disposed of except to the Interior Department. Any part or all of the balance of the area may likewise be disposed of to the Department of the Interior. The Secretary of the Interior will make such land exchange or payment to the District of Columbia for the land transfer as may be agreed upon.

As to any land remaining within the ownership of the District of Columbia at the end of one year after the date of enactment, the Commissioner is authorized to exchange or to sell by competitive bid or negotiation the balance of any remaining acreage except any wetlands. The Commissioner is authorized to pay any necessary expenses in connection with the sale or exchange of the land. By reason of the understandings and agreements developed between the District of Columbia government and the officials of Prince William County, contingent commitments have been made to accomplish the landfill operation following the enactment of this legislation. Prince William County will issue such permits as may be necessary and agreed upon with the District of Columbia government.

THE SANITARY LANDFILL OPERATION

The landfill operation will be conducted on 175 acres of land in an area below the Featherstone Point site, which land is under the jurisdiction of the Cockpit Point Corporation, a nonprofit entity of the Prince William County government. The landfill is located where land elevations are about 40 feet to approximately 100 feet above the mean highwater mark of the Potomac River. The proposed area has an estimated capacity of 1500 tons per day for a period of 30 years. The District of Columbia will pay fees agreed upon to the Cockpit Point Corporation for the privilege of using the Corporation's land area.

It is contemplated that the refuse materials in the District of Columbia will be compressed into bales and prepared for shipment. Access may be had to the landfill site either by water or by a rail. If shipment is by water, the District will have to operate or rent the necessary barge equipment or service. In such event, construction of wharfage and highways will be necessary at the Virginia site. Otherwise, shipment may be made by the Richmond, Frederick and Potomac Railroad which passes immediately adjacent to the landfill area.

DISPOSAL EMERGENCY

Our committee has been informed that the government of the District of Columbia faces a serious emergency in connection with the disposal of local refuse. With the completion of the landfill operations at the Kenilworth dump site, the District of Columbia was pressed to find other locations for any kind of landfill operations. Surrounding jurisdictions in general object strenuously to such land use. At one time, a major railroad operating in the metropolitan area appeared to have a proposal to submit to the District of Columbia as a solution to a disposal problem. This involved the preparation of refuse, transportation from the District of Columbia to a site in Virginia, and the operation of a landfill at that point. The estimated cost to the District of Columbia would have been at the rate of $8.00 per ton. Upon investigation, it developed that there was no firm agreement which could be given to the District of Columbia. In view of the costs involved in handling such materials, and the large volume generated within the District of Columbia, your committee is of the opinion that the authority granted in the proposed bill and agreements contemplated in the carrying out of this authority, are highly desirable and in the long range interest of the Nation's Capital.

DISTRICT GOVERNMENT RECOMMENDATION

The government of the District of Columbia in the 90th Congress recommended legislation to accomplish the general purposes relating to the disposition of the land at the Featherstone Point site and the conduct of sanitary landfill operations. Similar recommendations were received at the time of the introduction of H.R. 664 of this Congress. The latest communication from the District of Columbia government recommended the elements of the pending bill.

Mr. SCOTT. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, the proposal is a bill I sponsored at the request of the Board of Supervisors of Prince William County, Va. In my opinion, it is a good bill and I urge its adoption by the House.

Before discussing the merits of the bill, however, Mr. Speaker, let me thank the distinguished chairman of the subcommittee, Mr. FUQUA, for the time and courtesy extended by him and the subcommittee in holding hearings and attempting to compromise the various points of view so that a measure could be favorably reported to the House.

It is my understanding that H.R. 18086, as presently written, has been approved by officials of Prince William County and District of Columbia governments.

The District of Columbia, for a period of many years has owned a 350-acre tract at Featherstone Point in Prince William County, and it is my understanding that under the authorization contained in this bill it can convey 37 acres of this land to Prince William County, Va., and in consideration for the conveyance, Prince William County will grant a permit to the District of Columbia government to operate a sanitary landfill in another section of the county.

A portion of the 350-acre parcel of land owned by the District of Columbia is low land, and the bill authorizes the District government to convey this low-lying portion of the property, further identified as a marsh, swamp, or bog to the Secretary of the Interior in exchange for land under the jurisdiction of the Department of the Interior which may be put to some municipal purpose by the District of Columbia.

The District of Columbia is further authorized to sell or exchange the remainder of the property, not including the wetlands, either by competitive bids or negotiation.

Mr. Speaker, before introducing this measure, I discussed the proposal with the then chairman of the Board of Supervisors of Prince William County and he told me of the need of his county for additional recreational facilities as well as property on which to locate a new sewage treatment plant which would combine several existing plants. It was at the unanimous request of the board that this proposal was introduced. Thereafter, the chairman of the subcommittee heard testimony of officials of Prince William County, the government of the District of Columbia, the Department of the Interior, and interested citizens. There were also conferences held between officials of the two governing bodies and the Department of the Interior and hearings were held by the Board of County Supervisors so that all interested parties could let their views be known. Based upon these hearings and negotiations, the present bill was arrived at which I believe has the support of the people who testified at the hearings or participated in the conferences. I am pleased that Prince William County will be able to obtain the land it needs for its sewage treatment plant and urge that this measure be adopted.

Attempting to satisfy the desires of the local governing bodies has resulted in a compromise which will be beneficial to all and again I thank the distinguished gentleman from Florida for his patience and support of this measure.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 17711, AMENDING DISTRICT OF COLUMBIA COOPERATIVE ASSOCIATION ACT

Mr. McMILLAN. Mr. Speaker, by direction of the Committee on the District of Columbia, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 17711) to amend the District of Columbia Cooperative Association Act, with Senate amendments thereto, disagree to the Senate amendments, and request a conference thereon.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina? The Chair hears none and appoints the following conferees: Messrs. McMillan, Dowdy, Fuqua, Nelsen, and Broyhill of Virginia.

LEGISLATIVE REORGANIZATION ACT, 1970

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1093, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1093

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the bill shall be read for amendment under the five-minute rule. No amendment to the bill shall be in order which would have the effect of changing the jurisdiction of any committee of the House listed in rule XI. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Mississippi (Mr. Colmer) is recognized for 1 hour.

Mr. COLMER. Mr. Speaker, I yield the usual 30 minutes to the gentleman from California (Mr. Smith), and pending that I yield myself such time as I may consume.

Mr. Speaker, this rule makes in order the long discussed, long considered and long heralded bill on the reorganization of the Congress. There have been several hundred bills introduced dealing with this subject matter in the current Congress. So some 15 months ago we set up in the Committee on Rules a subcommittee to study this problem and to come up with some kind of a reasonable and meaningful bill that could be submitted to the House.

Mr. Speaker, that subcommittee consisted of the very able and diligent gentleman from California (Mr. Sisk), the very studious and able gentleman from Missouri (Mr. Bolling), and the very knowledgeable gentleman from Texas (Mr. Young) on the democratic side.

On the minority side were the very dedicated gentleman from California (Mr. Smith), and his learned associate, the gentleman from Ohio (Mr. Latta).

That committee labored long, diligently, and arduously. In that effort they were assisted, as was the full committee later, by a very able staff, particularly Mr. Kravitz of the Legislative Reference Service and Mr. Carper of the Legislative Counsel's Office.

Mr. Speaker, after this committee had labored long and had heard many, many witnesses, they came up with the finished product which they submitted to the full committee. The full committee considered it and reported the bill to the House. It will not be my purpose in these few moments to go into the details of the proposed legislation. I am going to leave that largely to the gentlemen from the subcommittee. But I do wish to impress upon this House—and this is the main purpose of my addressing you here today—that this is a very complex and very complicated and very controversial subject matter and I predict now, as I am sure others who have studied the bill will also, that it will prove very controversial before it is over. It does not suit anyone in toto and, Mr. Speaker, I happen to be one of those.

I guess I am just old fashioned. I just do not believe that everything should be changed, that matters that have stood the test of time in this legislative body, as well as in other areas, should be changed because someone wants a change. But there are opportunities, there are places here where improvement in the existing system could be made.

This was a give-and-take proposition. Some of us had to do some giving as well as taking, and that goes for the committee. But we agreed in general upon this bill; not only that, but we agreed unanimously upon the bill.

I know that when we reach the amendment stage of consideration of the bill there will be some Members, even members of the Rules Committee, as I understand it, who will be running off on different tangents wanting to change what your committee, in its wisdom and after long and deliberate consideration, has provided.

I do not mean to say that any member of the full committee or of the subcommittee, much less any Member of this House, is bound by this action of the committee any more than in any other matter that is considered. But what I am trying to say, Mr. Speaker, is that those who have been crying the loudest for reorganization and reform, if they want it, I would suggest to them they stay pretty well within the lines of reason and not try to just revamp the whole Congress and the character of the legislative procedures now in existence.

I think it is a tribute, considering the various degrees of philosophy that exist in our Committee on Rules, that we could agree upon something on a unanimous basis. I think the House will agree with that statement. Therefore, it must be neither too radical nor too conservative. But as one member of the Committee on Rules, as far as I am concerned if there is a desire to take this bill over and rewrite it and reform everything and bring about an unworkable situation, I, too, will be found among the dissidents and those who want to go off at different angles. As a matter of fact, I may want to offer some changes myself.

One of the things I would like to point out in this connection, Mr. Speaker, is that this rule—and this was one of the places where there was some give as well as some take—provides among other things that the question of jurisdiction of the committees cannot be raised. Just to spell it out, there is one committee that has been spending a great deal of money that has two divergent subjects, and it wants to maintain its unity, and I find a very strong sentiment in this House for the division of that committee. Personally, I happen to think that there should be a division, because I do not think the two subjects are compatible, but if we are going to give, we should not have to do all the taking. So I hope that will be borne in mind by some of our reforming friends.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield to my friend, the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

I arise to point out that some of the most vocal of the reformers are conspicuous by their absence at this time. I supposed that when this debate began those who felt so badly in need of a change in the rules of conduct of the House would be available and ready to get into action.

I am one of those who has been critical at times about certain operations of the House, but more critical of the application of the present rules than of the fact that they existed at all. I am much of the same frame of mind as the distinguished gentleman from Mississippi, in that I am old-fashioned enough, I think the present rules of the House are by and large good rules and fair rules when properly applied.

I join with the gentleman from Mississippi, in that I do not want to see any tremendous upheaval, today, tomorrow or the next day as we get down to the amending stage of this bill. I do not want to see any great upheaval and so-called reform that would undoubtedly result in chaos rather than being beneficial.

I thank the gentleman for yielding.

Mr. COLMER. I thank my friend for his contribution. I usually find myself in accord with the gentleman, and I am honored to find myself in accord with him today.

Mr. Speaker, I might remind my friend that when this bill is read I believe he is going to find possibly more reformers here than today and each will be vying with the other for a place in the sun.

Mr. Speaker, I wish to reemphasize that this has been a rather thankless and arduous task. It affects not only the machinery of the operation of this institution, the House, and to a certain degree the other body, but also the entire country.

Some of the rules which now prevail under which this House has operated for years have proved to be very good rules, as the gentleman from Iowa has so well pointed out.

Finally, I wish to emphasize that the committee, and particularly these able gentlemen to which I have referred, comprising the subcommittee, together with the staff, have done a great job. I hope the membership, when it comes to reading the bill for amendment, will bear that in mind.

Mr. Speaker, I reserve the remainder of my time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1093 provides for 4 hours of general debate for the consideration of H.R. 17654, a bill to improve the operation of the legislative branch of the Federal Government. There will be 4 hours of debate.

This is a closed rule from the standpoint that no amendments to the bill will be permitted so far as changing the jurisdiction of any committee of the House as listed in rule XI is concerned. Other than that, it is an open rule.

I know of no objection to the rule. In view of the fact that I shall have 2 hours during general debate, I simply reserve the remainder of my time and urge the adoption of the rule, Mr. Speaker.

Mr. COLMER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SISK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 17654, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. SISK) will be recognized for 2 hours, and the gentleman from California (Mr. SMITH) will be recognized for 2 hours.

The Chair at this time recognizes the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, we begin a debate today that we have been looking forward to for quite a long while and, as indicated by the number of calls and urgent statements and so on by many, many Members of the House, a number of other people have also been looking forward to it. I would hope, Mr. Chairman—and I am reminded by the statement of my good friend from Iowa (Mr. GROSS) a little while ago about the fact that there are not too many Members on the floor—that the interest we have felt has been manifested in this subject during the past many months that the subcommittee has worked with it will be demonstrated by a good attendance on the floor. Now, of course, this is up to the individual Members as to their interest and concern.

Mr. Chairman, this day in the history of the U.S. Congress and more specifically in the House of Representatives has been, as I indicated, a long time coming. It is a day which many feel should have arrived 10 or 15 years ago. Many have felt it would never arrive. Now that it is here, I am certain there are some who fear the day will be a disappointment.

I confess that this bill is not all I would like, and I am sure many others feel the same way. There are certain changes which I would like to have seen proposed in this legislation, but the members of the subcommittee put our personal desires aside and took the pragmatic way out, because in the last analysis the noblest and finest ideas in the world for reorganizing the Congress of the United States are of no more lasting importance than yesterday's weather forecast if you cannot get the votes to pass them on the floor of the House.

Mr. Chairman, the bill before you, H.R. 17654, is a substantial bill. It is 141 pages in length, and it is accompanied by a report which is 182 pages in length.

Before proceeding to any discussion of the bill, I would like to pay tribute to the distinguished chairman of the Committee on Rules, the gentleman from Mississippi (Mr. COLMER), who, by the way, just handled the rule on this bill, for the patience he has demonstrated in giving our special subcommittee the time it has needed to work through the various bills which were before us and for taking the necessary time of the full committee to give this legislation the consideration that it needed.

At this time I would like also to extend my deepest thanks to my colleagues on the subcommittee, the gentleman from Missouri (Mr. BOLLING), the gentleman from Texas (Mr. YOUNG), the gentleman from California (Mr. SMITH), and the gentleman from Ohio (Mr. LATTA). I would particularly like to single out the gentleman from Missouri, who, as all of us know, has written extensively on the work of the House, and the gentleman from California. Mr. BOLLING and Mr. SMITH, with the help, of course, of our other colleagues on the committee, have contributed immensely to whatever success we have been able to achieve.

It is noteworthy, I believe, that all 15 members of the Committee on Rules have joined in the cosponsoring of this bill. This demonstrates a true determination to reach a consensus. I might say that this fact was cited by our distinguished chairman a few moments ago in his discussion on the rule to the effect that the entire membership on both sides of the aisle of the Committee on Rules were willing to attach their names to the bill pending before us today.

Mr. Chairman, in the interest of speeding up the consideration of this legislation, it is my intention to discuss only three broad sections and to leave the discussion of the other sections of the bill to other members of the subcommittee.

I would like to outline, briefly, the first of these proposals. First, the proposed expansion of the Legislative Reference Service as it now exists into the Congressional Research Service.

Second, the proposed creation of a Joint Committee on Data Processing. And, finally, the proposal to provide greater access to radio, television, and still photography.

These are the three items I would like to concentrate upon in this initial statement and, of course, as I have previously stated, the other members of the subcommittee will discuss in detail the other provisions of the bill, and they will be discussed, of course, all of them, later on in the amending stage.

In many of the congressional reorganization proposals introduced in the 91st Congress there was provision for each standing committee to hire what was called a review specialist whose job it would be to assist the committee in reviewing programs. In considering these proposals, our subcommittee came to the conclusion that one hired for each standing committee would be totally inadequate to do the job yet we realized here was a function which had to be performed. Congress needed, but did not have, the capacity to evaluate the policy results of its work and suggested various ways of accomplishing the objectives of its programs.

After exploring various approaches to this problem, we concluded that what was needed was a new research arm of the Congress.

We felt the new research arm of Congress must provide continuous liaison with any of the committees of the Congress which requested it and that the individual performing this liaison function for a particular committee must be prepared to assume a dual role—he must be responsible to the committee, and at the same time he must be responsible to the central research facility.

We considered assigning this research responsibility to the General Accounting Office, but the Comptroller General did not feel that this dual responsibility was consistent with the overall duties of his office. In addition, there were strong feelings on the part of some Members of Congress, most notably among them, the chairman of the distinguished Committee on Appropriations, that Congress should show some restraint in continually expanding the scope and demands made upon the GAO.

We considered the possibility of creating an entirely new research facility. But we concluded that the best way was to use the legislative reference service as the framework. There were a number of reasons for this.

First, it has established a most favorable reputation.

Second, it has a corps of analysts familiar with the needs of Congress and the idiosyncrasies of congressional procedure.

Third, it has at its disposal massive information resources of the entire Congress.

Let me explain briefly here how we on the special subcommittee envision the operation of this expanded research facility which we propose to rename the Congressional Research Service, or the CRS. Obviously, of course, the Congressional Research will have a problem in recruiting fully trained personnel to do the job that needs to be done. However, notwithstanding those problems we would anticipate that the research service would contact every committee of the Congress and offer to assign a man to provide permanent, continuing ongoing liaison between that committee and the research center.

He would attend committee meetings and hearings and be in constant touch with the staff.

He would have a counterpart who would be performing the same liaison function for the Senate committee having jurisdiction over the same areas.

These men would report to the Research Center and keep the Research Service advised of known and anticipated research needs. As the Research Service developed information, it would be made available to committees of both Houses. There would be common frames of reference and words would mean the same thing in a House report as they mean in a Senate report. There would be less tendency to engage in inter-House games because both Houses would be making judgments on the basis of substantially the same independently derived information.

I think all of us agree that what we need is not necessarily more information, but better information. We need information which is analyzed and evaluated and put in perspective when judged against all of the decisions that have to be made. The Congressional Research Service would make it possible for us to get this information.

In order to provide the necessary congressional backstopping for the Research Service, to defend it against pressures from individual Members and groups of Members who feel that it would be developing pertinent information adverse to their particular interests, we propose to enlarge the present Joint Committee on the Library and make it a bipartisan committee of 12 members and rename it the Joint Committee on the Library and Congressional Research. A strong committee, dedicated to the independence of congressional research endeavors, can do much to assure the integrity of data on which we must base our decisions.

Working in partnership with the Research Service would be a new congressional data processing effort under another strong bipartisan joint committee, the Joint Committee on Data Processing.

This committee would have a wide-ranging authority in the field of data processing and could spell out who among the various agencies and offices of the Congress could operate data processing facilities, and under what conditions.

Although there are a few among us who are technically knowledgeable in the field of computers, it is obvious to most of us that the marvels of modern electronic data processing offer enormous potential in the fields of information retrieval and in the analysis of complex problems of various kinds. And, obviously, computers can play a major role in the administrative work of the two Houses of Congress and their committees.

The special subcommittee devoted a great deal of its time and attention to the question of data processing for Congress. We considered whether computers should be under the Comptroller General or the Library of Congress, and whether the Congress should rely primarily on contract personnel and consultants for its professional expertise. We also considered the fact that a subcommittee of the House Committee on House Administration was independently proceeding on the assumption that the other body was not interested in utilizing computers and that the House should, therefore, go it alone.

After considering all of these facts, we decided that the Congress must proceed with a joint computer effort, and certainly this is one area in which this House, of course, will work its will. On the basis of lessons learned by private industry, we concluded that the director of the congressional computer effort must have access to the "top management" of Congress. To provide the kind of access to leadership levels that is essential, we provide for the creation of a bipartisan joint committee with a professional staff.

I would like to take a few minutes here to discuss the question of the use of professional staff by the joint committee. It is conceivable that the Congress of the United States could seek out consultants and contractors of various kinds—both software and hardware—and turn the whole of the computer package over to them. Even those who have only a casual acquaintance with the data processing field realize that a great many firms look upon the Congress as a lucrative sugar daddy who could pump literally millions of dollars in new contracts into their depressed treasuries.

However, it was the judgment of our subcommittee that if Congress is to be master of its own destiny in the data processing field, it must have trained, top-flight, well qualified professional data processing personnel of its own. Industry has learned to its dismay that all too often a consultant will design and install a system for a client who does have its own data processing personnel and then find that the system was either overdesigned—or underdesigned—or overpriced—and that furthermore, the system is so poorly described in company records that only the consultants can understand it and diagnose problems that arise in connection with its operation. Additionally, when it comes time to modify the system to meet changing needs, only the outside consultants know where to begin. As a result, the consultant in effect is permanently locked into the company. To make matters worse, if key personnel in the consultant firm should part company with the consultant, the problem is compounded.

It is our judgment that the Congress must maintain sufficient in-house capability across the entire spectrum of data processing so that we will never find ourselves in the position of being the handmaiden to private contractors.

Even under the proposal we have embodied in H.R. 17654, it is certain that the Congress will make extensive use of outside consultants, and the results of the studies now being undertaken by the firms under contract to the Waggoner subcommittee will be utilized to the fullest. But the Congress must have adequate independent information through its own professional staff, so that it can intelligently evaluate the work of the consultants and contractors and tell them what it wants, and not the reverse.

In conclusion, I should like to address myself briefly to the question of radio, television and still photography.

This is a question on which there has been about as much comment and controversy and question as almost any subject during the last 15 or 20 years. The bill before you would permit coverage by still photography, radio, and television, of any open committee hearing.

It would require that before such coverage, the committee must adopt written rules including as a minimum certain provisions spelled out in our bill.

These minimums include, first, that no more than four television cameras may be permitted in a hearing, and that the cameras must operate from a fixed position. How these four positions would be allocated is left to the radio and television correspondents to work out.

Another minimum is that no more than five still photographers would be permitted in a hearing. The photographers would have to work out how these five would be chosen and if more than five want pictures, arrangements must be worked out to make them available.

The restrictions provided in H.R. 17654 have been tried and used successfully over the years and the subcommittee felt that if we began permitting this additional coverage on this basis, it would be possible to exercise a degree of control over the hearings which would reduce the chances that the additional coverage would cause confusion and commotion in the hearing room.

Personally, I have come around about 180 degrees on the subject of television, radio and photographic coverage. Over the years, I have not felt that permitting additional coverage of committees would contribute anything to the orderly conduct of the business of the House. In addition, I have shared the feelings of many that the Congress is subject to a great deal of unfair, biased and slanted coverage.

But the more I thought about it, the

more I began to feel that despite whatever shortcomings there are in the present coverage, there is really no substitute for full, free, and extensive coverage of Congress.

In the final analysis, the public service rendered by one example of good reporting far outweighs the damage done to the public by 100 examples of bad reporting. The American people, as history clearly demonstrates, are a perceptive lot and are not likely to be long deceived by unprofessional conduct on the part of the press.

Although we are going through a period in our history when some of the sacred assumptions about the role of the press are being questioned, when the virtue of the press itself is being doubted, there is really nothing much new in all of this.

In 1920—50 years ago next month—the noted columnist Walter Lippmann and one of his colleagues teamed up to write an article titled "A Test of the News," in which they said their conclusions were that "the professional standards of journalism are not high enough, and the discipline by which standards are maintained not strong enough, "to sustain the press under a severe test".

They went on to say that the press must police itself, much as the bar associations and medical societies have done, and then they concluded—and remember this was 1920:

> As citizens they—the press—cannot escape that duty, and as members of a profession they are forced to it by the growing distrust which everywhere greets them. They know that today, they are feared but not intimately respected, and the sins of some are visited upon all.

Every generation of public officials, going back to the earliest days of the colonies, has questioned the motivation—and indeed the parentage—of its leading critics among the press. But the Republic has remained and grown strong, and I believe that if we as elective officials are willing to recognize our own foibles and shortcomings, we will have to admit that the press is a positive force for good in our country and that the presence of the press, with all its weaknesses, is one of the reasons why American democracy has survived for nearly 200 years. The press is one reason why the people of America—all of the people—have more freedom than is enjoyed by the people of any other nation on the face of the earth.

It may be argued by some that the question here is not whether we are or are not to have press coverage—that the press is very much with us. I submit, however, that insofar as the Members of this House are concerned, their own misadventures with the press are by and large confined to the print media. Under these circumstances it is manifestly unfair to continue to close the door to broadcasters just because we are dissatisfied with the print media.

If we are unhappy with print coverage of the House, we should shut the doors to the press entirely—a right which we unquestionably have. On the other hand, if we are prepared to continue to live with the press, and obviously we must, there is no reason why we should not welcome the broadcasters and the still photographers into our committee rooms, particularly under the limitations and regulations that we have provided in this bill.

The reason always has been in the past that radio, television, and still photography caused too much confusion because of the profusion of microphones, cables, floodlights and flashguns.

These arguments are no longer valid. Modern technology makes it possible to permit coverage without turning our committee rooms into circus arenas. The news media representatives with whom we worked out the provisions in this bill assure us that they can live with the restrictions we have built into this legislation. These controls will permit the coverage without destroying the institution.

I for one believe it is time to permit this additional access, and I hope the House goes along with our proposals.

I would like to conclude on the note, Mr. Chairman, that this is one area in which our committee was not unanimous, but rather was one of the most controversial of all the issues the subcommittee dealt with. There are differences of opinion in the subcommittee, and there were differences of opinion in the full committee. The first two subjects which I discussed, that of the establishment of a Congressional Research Service and the beefing-up of the Joint Committee on Library to have charge of that, as well as the Joint Committee on Computers and Data Processing, were unanimous decisions, both in the subcommittee and the full Committee on Rules.

With that, Mr. Chairman, I again would urge that the Members study the bill and study the report, as we proceed with this, to the extent that improvements can be made, certainly our committee is here and is desirous of cooperating.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. SMITH).

Mr. SMITH of California. Mr. Chairman, I yield myself 15 minutes.

Today is a historic day. Not since 1946 has an omnibus legislative reorganization bill been brought to the House floor. H.R. 17654, reported by your Committee on Rules, is indeed an omnibus bill dealing as it does with a number of questions, each of major importance to the Congress. Before discussing the provisions of the bill, however, I think a little background on the subject of congressional reorganization might be helpful.

H.R. 17654 covers changes in procedures of the Senate and the House. Inasmuch as the bill specifically contains the word "Senate" in many, many instances, I believe, Mr. Chairman, that during the debate the Members may rightfully refer to the other body as the "Senate" and still be in keeping with the rules and appropriate conduct.

In March 1965, the Congress created a Joint Committee on the Organization of the Congress. S. 355 in the Senate and H.R. 2594 introduced in the House by the joint committee cochairman, the gentleman from Indiana (Mr. MADDEN), were the results of 2 years of work. S. 355 passed the Senate but no action was taken by the House during the 90th Congress. Early in the first session of the 91st Congress, many Members, myself among them, introduced reorganization bills. As we debate this bill today, almost half of the membership of the House has sponsored one of the earlier versions of legislative reorganization. These reorganization bills were referred to the Committee on Rules.

In April 1969, a Special Subcommittee on Legislative Reorganization was created by the Rules Committee to study all pending bills and report its recommendations to the full committee. The subcommittee, chaired by the gentleman from California (Mr. SISK), and composed of Mr. BOLLING, Mr. YOUNG, Mr. LATTA, and myself, met and met. It seemed to be a never-ending proposition.

Mr. Chairman, I would like to pay special tribute to the members of the subcommittee and particularly to the chairman, the Senator from California (Mr. SISK). I would also like to express my deep commendation and special appreciation to a number of individuals who worked tirelessly in their efforts to assist the subcommittee. I refer particularly to Mr. Laurie C. Battle, counsel of the Rules Committee, Mr. Robert D. Hynes, Jr., minority counsel of the Rules Committee, Mr. Waller Batson and Miss Jonna Lynne Cullen, both staff members of the Rules Committee. Also, I would like to include Mr. David Carper of the Legislative Counsel's Office, and Mr. Walter Kravitz and Mr. Walter Oleszak of the Legislative Reference Service.

We studied each bill and evaluated each proposal. Our first committee print, produced early in November 1969, was the basis for our public hearings. When hearings were completed, the subcommittee reviewed every suggestion received and adopted many of them. Our final recommendations, in the form of a draft bill, were reported to the full committee in May of this year. After careful examination and the adoption of a number of amendments, the bill was reported to the House last month.

The distinguished chairman of the House Rules Committee, the gentleman from Mississippi (Mr. COLMER), as well as the other members of the committee, were very patient and attentive in listening to the presentation of the subcommittee. As a result thereof, Mr. COLMER agreed to be the principal author of the bill and all the remaining 14 members agreed to coauthor the bill.

Now, Mr. Chairman, what does H.R. 17654, the Legislative Reorganization Act of 1970, propose? First of all, with respect to changes in the rules of the House, we have not suggested any radical departures from current practice, but have recommended a number of changes which we believe will improve our committee and floor practices.

In title I, the committee system remains intact. A number of the proposed changes codify current practices of many committees, practices which are conducive to good legislative practice and should be adopted by all committees. Among such changes are ample advance notice of all hearings, opening committee hearings and meetings to the public, and the opportunity for minority committee members to call witnesses of their choice. Provisions are made for appropriate exceptions which are clearly detailed in the committee report.

The broadcasting and televising of commiittee hearings is also permitted if a majority of the committee members so authorize.

Mr. Chairman, as I previously mentioned, this is an omnibus reorganization bill. To know all of the changes proposed actually requires a detailed reading of the bill sentence by sentence. However, so far as title I is concerned, some of the important suggested changes in the rules include the following:

Section 102 covers the calling of meetings. Each standing committee shall fix regular meeting days—at least one per month. The chairman may call additional meetings. A majority of the committee may call a special meeting within 7 calendar days after filing a written request. This is a substantial change in the rules. It gives to the majority of the members of a standing committee the right to call and have hearings if the committee chairman refuses to do so.

Section 104 has to do with the public announcement of committee votes. On each record vote on a motion to report, the number of votes for and against shall be announced by the committee and included in its report. This change in the rules does not require announcing the vote of each individual. It only requires the announcement of the total votes for or against.

Section 105 requires that committee reports must be filed within 7 calendar days—exclusive of days when the House is not in session—after a majority of the committee files a written request. It exempts the Rules Committee with respect to House rules, order of business, and joint rules.

Section 106 prohibits proxy voting in committee except when a committee, by written rule, permits that practice, in which case each proxy must be in writing, designate the person who is to execute it, and be limited to a specific measure or matter and any amendments or motions pertaining thereto. The purpose of this change is to eliminate the practice of a chairman and ranking minority member from obtaining general proxies at the beginning of the session and then using them for each and every issue thereafter which the committee considers when a member is not present to personally vote.

Section 107 provides for the filing of supplemental, minority, and additional views. It gives the right to committee members, if notice is given at the time of a measure's approval, to not less than 3 calendar days in which to file supplemental, minority, or additional views, which views shall be printed in the same volume as the committee report. Because of the nature of the process of the Rules Committee, it is exempted from this requirement.

Section 108 applies to the availability of committee reports before House consideration. A measure or matter reported by any committee—except the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct—shall not be considered in the House unless the report has been available to the Members for at least 3 calendar days—excluding Saturdays, Sundays, and legal holidays—prior to the consideration in the House. This will not apply to the declaration of war, or the declaration of a national emergency, nor to legislative veto procedures. However, in addition no general appropriation bill shall be considered unless the report is available for at least 3 calendar days—excluding Saturdays, Sundays, and legal holidays.

Section III provides that each committee of the House—except the Committee on Rules—shall publicly announce the date, place, and subject matter of any hearing at least 1 week in advance of the hearing. In instances where the committee determines that there is good cause to hold a hearing at an earlier date, it may do so. However, the committee shall make such public announcement at the earliest possible date and publish it in the Daily Digest portion of the CONGRESSIONAL RECORD as soon as possible after such announcement is made.

Section 115 provides that points of order in the House against a measure with respect to violations of hearings procedure may be made only by a member of the committee reporting the measure, and only if such point was timely raised in the committee and improperly overruled or not properly considered.

Section 117 changes the Rules in connection with committee meetings during sessions of the House. It provides that committees may meet while the House is in session, without special leave, except while the House is reading a measure for amendment under the 5-minute rule. The exception will still remain from the standpoint that the Committee on Appropriations, the Committee on Government Operations, the Committee on Internal Security, the Committee on Rules, and the Committee on Standards of Official Conduct may meet at any time.

Section 118 revises the definition of the oversight functions for committees. It requires annual reports by committees of their review activities. The Committees on Appropriations, House Administration, Rules, and Standards of Official Conduct are exempt from this requirement.

Section 119 provides changes in the rules regarding conference reports. Each report shall be prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. The statement shall be sufficiently detailed and explicit to inform the House as to the effect which the amendments or propositions contained in such report will have upon the measure to which those amendments or provisions relate. The report shall be printed as a report of the House.

The time allotted for debate in the consideration of any such report shall be equally divided between the majority party and the minority party.

Section 122 clarifies certain provisions and eliminates some obsolete language in certain House rules. The rules of the House will apply to committees and subcommittees. Committees may adopt additional rules providing they are not inconsistent with House rules. Committee rules will apply to all of its subcommittees. Obsolete language in certain rules is eliminated, such as that which refers to Delegates from Alaska and Hawaii, inasmuch as they are, of course, now States.

Several floor procedures are modified by title I. The reading of the Journal would no longer be required upon demand of a single Member. If the chairman of the committee fails to call up a bill, the Speaker is authorized to recognize another member of a legislative committee to call up a bill on which the rule has already been adopted by the House. Nongermane amendments of the Senate to House-passed legislation could be subject, upon demand, to a separate debate and vote by the House. This is based on the rules of "suspension." The rules presently provide that two-thirds of the Members present and voting can suspend the rules and pass a bill. The same provision is made applicable to nongermane Senate amendments. In other words, if two-thirds of the Members present and voting want to consider a nongermane Senate amendment, they can do so.

Over the years, and particularly during this session of Congress, there have been many complaints against nongermane Senate amendments. A number of suggestions were made by various Members as to the procedure and what they thought should take place, such as referring the bill back to the standing committee. However, we believe that if any restriction is to be placed on nongermane Senate amendments, the procedure in this bill is best.

The subcommittee did not attempt to make any changes in the Senate rules with the possible exception of creating a joint committee. All language in the bill so far as Senate procedure is concerned was taken from S. 355, the bill which the Senate previously passed. So far as the House is concerned, the recommendations will change the Rules of the House. Thus, it is materially different from the 1946 reorganization bill which was a legislative bill and was not written into the rules. All of the procedures of H.R. 17654 will be written into the House rules. Accordingly, the same procedure in the future will follow from the standpoint that the majority of the Members of the House can change the House rules any time they have the votes. We proceeded in this manner so that the changes will be effective and not simply be words for a reorganization bill.

Mr. Chairman, it is in the areas of procurement and utilization of information within the legislative process that the bill strikes substantial new ground. The committee and many Members of the House believe that Congress, as an institution, does not have sufficient information available to it in order to deal effectively with the myriad of legislative problems we face every day. The subcommittee spent a great deal of time on this one issue and, I believe, H.R. 17654 provides a number of mechanisms to meet this evergrowing problem. Let me give several examples:

First, in title II, we require the executive branch to formally provide supplementary budgetary information to the Congress, subsequent to the January budget message and before June 1, which is 30 days prior to the beginning of the ensuing fiscal year. Such supplemental information should go a long way toward eliminating some of the more unpleasant fiscal surprises that we have received in years past.

Second, and very important, in title III we have expanded the Legislative Reference Service of the Library of Congress, without changing any of its existing services. The expanded service, renamed the Congressional Research Service, will be able to provide to committees of the Congress, upon request, supplemental staff in all fields of interest to the committees. These supplemental staff personnel will be available to each congressional committee to assist in gathering and analyzing information, examining executive proposals, preparing legislation, and undertaking any other responsibility assigned to it by a committee. This new Congressional Research Service can be of significant assistance to all congressional committees in better discharging their legislative duties.

Title IV creates a new joint committee whose sole responsibility and function will be to design, create, and operate an information storage and retrieval system for the Congress and to modify, enlarge, or change it as congressional needs grow and develop. The joint committee will be staffed by technical experts in the computer field.

Great strides are being made by industry and by the executive branch in computerizing their operations. Members are aware of the tremendous advantage the use of such a system gives any organization. The availability of factual source material and supportive information for a particular position or program is limited only by the breadth of the system and the previous planning of those operating it. All Members have had occasion to observe this.

All too often we do not have sufficient independent sources of information to fully evaluate testimony, particular factual data on a program's effectiveness, when it is presented by a Federal department or agency. The bill seeks to eliminate this imbalance of available resources in which the Congress today finds itself.

It is the belief of the Rules Committee that the creation of the joint committee, together with the enlarged Congressional Research Service in the Library of Congress, will enable Congress to greatly increase the quality of its legislative efforts and to obtain independent source information upon which to base its decisions.

The Committee on Rules is aware that Members and committee staffs are overloaded with current committee legislative responsibilities. To help insure that full advantage can be realized from the new and expanded information sources made available, the bill proposes to increase the permanent professional staff now authorized for each committee in the House. This increase from four to six professional staff personnel is long overdue. Each session brings greater committee responsibilities in addition to oversight and extension of existing programs, plus hearings on new legislative proposals. Competent professional staff work at the committee level is a necessity. The Committee on Rules further believes that committee staffs should be increased to insure that, as the new information sources and services become available, the committees will be able to utilize them to their fullest.

Along with increasing the permanent professional staff of each committee, the Committee on Rules also recommends that the minority members of the committees have the right to choose their own minority staff. To accomplish this result without damaging the existing committee system and the legislative process was most difficult. The points of view among House Members were quite numerous and varied.

Your committee recommends that the minority of a committee, upon request, have the right to nominate for employment two of the six professional staff and one of the six clerical staff allotted each committee. The full committee would retain the right it now has to hire or fire all committee employees by a majority vote. But it could not substitute another nominee for that put forward by the minority. Minority members would retain the exclusive right of nomination until all minority staff positions were filled.

Your committee believes that such a system of selection and appointment will assure, by rule, that the minority's right to staff is protected, while at the same time retaining for the full committee the final authority over the entire committee staff. Only one staff will serve each committee, not two competing ones, and each party will be served by professional staff of its own choice.

This change may well require two additional staff members for a period of time. No competent staff member will be terminated in order to make a position available for a minority staff member. It is hoped and believed that the changes can take place by attrition within a reasonable time.

Many suggestions were made by members of the minority in connection with this situation. Some felt that the minority should have an absolute right to hire and fire the minority staff members. Some felt that the staff should be based on a proportionate basis in accordance with the number of majority and minority members. I personally feel that the majority members of the Rules Committee were very fair to me in agreeing to the language in this bill. Further, I firmly believe that the majority of the Members should always have control. Otherwise, I think there could well be chaos and confusion.

The bill will create a new Capitol Guide Service. All guides will become congressional employees, with the attendant rights and benefits. All present employees will be transferred to the new Service. Additionally, public tours of the Capitol Building will be free to all visitors.

The bill also provides for the formal creation of the position of administrative assistant in the office of each Member, with an increase in salary equal to that paid Senate employees holding the same position. This section is permissive. Each Member may determine whether or not to so designate any employee and whether or not to increase his or her salary.

The page system is restricted by the bill. All pages will have to have completed their high school education and shall not have reached 22 years of age. While no such requirement is written into the bill, the committee expects most pages to be actively pursuing their college education at a local school, as are many other congressional employees. This change in the page system was undertaken because of current need to either change the present system as here proposed, or to construct an adequate dormitory for all pages to insure necessary off-hour supervision and safety of the young men.

Finally, the bill proposes the creation of a five-member commission to study ways of improving the visitor facilities now provided in the House galleries, and upon presentation of the Commission's recommendations to the House, implement its plan through the Architect of the Capitol, who shall have charge of the work.

Mr. Chairman, I realize that H.R. 17654 will not be completely acceptable to all Members. Information is that some Members do not feel that any reorganization is necessary. Some feel that this measure does not go far enough. The five-member subcommittee attempted to write a bill upon which they could unanimously agree with all the provisions therein. With few exceptions the bill presented to you is the unanimous agreement of the subcommittee. In the very few instances where we were not in unanimous agreement, the members knew the reservations of each of the other members.

As an example, I am not absolutely convinced that broadcasting and television committee hearings is the proper thing to do. I am not entirely convinced that the changes in the page system are advisable. I am not entirely convinced that this bill should be used for the purpose of creating the position of administrative assistant in the office of each Member. Possibly this should be done by the Committee on House Administration.

However, Mr. Chairman, I want to make my position crystal clear in that I intend to support the committee bill. If the vote on final passage were now occurring, I would wholeheartedly support the measure and urge my colleagues to do likewise.

A word of caution, Mr. Chairman. If efforts are made to defeat this measure by killing it with kindness, or if numerous amendments are offered and adopted which materially change the intent and purpose of this measure, then, in my opinion, the end result will be that no reorganization bill will be finally enacted into law.

And, in connection with any amendments which are to be offered, it should be kept in mind that the pending bill changes House rules. Accordingly, the amendment must be in accordance therewith. Some of the changes of the rules as proposed in H.R. 17654 actually took days to work out because many rules tie into many other rules. This may be a bit confusing, Mr. Chairman, but such is the situation.

In my opinion, this is a good bill and I repeat, Mr. Chairman, that I intend to support it and I hope that the vast majority of the Members will do likewise.

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Michigan.

Mr. HUTCHINSON. Mr. Chairman, I would ask the gentleman if he can give us the rationale for incorporating in a legislative bill changes to the rules of the House when the Constitution gives the House the power to adopt its own rules?

The bill incorporates these changes in the rules in a legislative bill to be submitted for review of the other body as well as to the President. Would the gentleman care to discuss that for a moment?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. SMITH of California. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, I would state to the gentleman from Michigan that it is very true that this measure will have to be passed by the other body, and have to be signed by the President. We figured that rather than just having a bill prepared that goes to the precedent of many kinds of things—and the details that I have given you here are very short compared to the length of the bill—but if we are going to make it effective we thought that we should do it in this manner, otherwise these changes maybe never would be effected because the rules can be changed any time. And the House is voting on these rules changes today.

Mr. HUTCHINSON. By the adoption of this bill in the House, does that accomplish a change in the House rules?

Mr. SMITH of California. No; it will not become effective until next January. It will have to be passed by the Senate and signed by the President before these changes become effective.

Mr. HUTCHINSON. So these changes that are now proposed do not become effective until after the other body has acted?

Mr. SMITH of California. No; the only way they can become effective would be if everything in the bill that relates to the House was taken out and introduced in another bill and brought up by a resolution from the Committee on Rules—and that was not our procedure.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman.

Mr. PUCINSKI. The gentleman mentions changes being suggested in the handling of conference reports. Has any consideration been given in the committee to make conference meetings open and to have a record vote on conference reports?

Mr. SMITH of California. I do not think we went into having conference meetings open and record votes taken. The only other provision we considered was on the time conference reports should be made available. We did change or offered a suggested change, of half to the majority and half to the minority Members, to discuss it. We went about as far as we felt we could go on conference reports and nothing was done on that.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman.

Mr. HOGAN. As to the provision which allows House Members to have an individual designated as an administrative assistant to be on a salary on a comparable basis with the Senate; do we perpetuate the limitation on the number of employees authorized?

Mr. SMITH of California. The number is not increased.

Mr. HOGAN. So this would give us one employee with a higher salary rather than an additional employee?

Mr. SMITH of California. He must be one of your present employees. We are not giving an additional employee. That is the House administration function. It is the same number and the increases are designated in your top base pay from $7,500 to $8,955; $1,455 would be added to take care of that one increase for one present employee, if you so desire to desigate him.

Mr. HOGAN. I thank the gentleman.

Mr. BROTZMAN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman.

Mr. BROTZMAN. Mr. Chairman, later this week, the House will be asked to vote on H.R. 17654, the Legislative Reorganization Act of 1970. This legislation represents a serious effort to make the Congress more responsive and responsible to the people of the United States.

Since I first came to Congress in 1963, I have been an advocate of legislative reform. I particularly congratulate the Rules Committee for including several provisions in H.R. 17654 which would make Congress more open to the public. Opening more committee meetings, recording for publication the votes taken in committee meetings, and allowing radio and television coverage of certain committee activities will help alleviate the charges that Congress acts secretly.

In fact, these were among the chief features of the legislative reform bill I introduced early in the 91st Congress.

Despite the many excellent provisions contained in H.R. 17654, Mr. Chairman, I do feel that one amendment which will be offered would substantially improve the bill's objective of achieving a more responsive Congress. I am referring to the amendment on teller votes to be offered by the distinguished gentleman from California (Mr. Gubser) and the distinguished gentleman from Massachusetts (Mr. O'Neill).

The amendment operates very simply. One-fifth of a quorum—20 Members—would be able to obtain a "record teller vote." This is the same number as may now demand a simple teller vote. Members would still file past the tellers to be counted, but clerks would check off how each Member votes. Votes would then be published in the Congressional Record on many important matters which currently go unrecorded. Sufficient time would be allowed for Members to reach the floor when a record teller vote is ordered.

Mr. Chairman, this amendment will go a long way toward assuring that the people of the United States are informed of the activities of their Congress and their individual Congressman. I encourage all of my distinguished colleagues to support it when H.R. 17654 is brought to the floor later in the week.

Mr. SISK. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. Bolling).

Mr. BOLLING. Mr. Chairman, the general debate has proceeded, as often was the case in the subcommittee, with the chairman and the ranking minority member having done a very excellent job of presenting the facts on the bill.

I join with them in their comments as to the efforts of the other members of the subcommittee and of the full committee, and also join with them in their comments with reference to the enormous amount of hard work done by the staff.

Mr. Chairman, this is a bill which probably satisfies no one—and which should please everyone. Because for the first time in 24 years, at least Members of the House of Representatives have an opportunity to work their will on the subject of congressional reorganization.

At any time, the House can, presumably, work its will on House reorganization. But this bill concerns itself with congressional reorganization.

I know of no member of the subcommittee or of the full committee who claims perfection for this legislation. I know that there are going to be many, many amendments. If all that are suggested are offered, I guess there will be several hundred amendments offered.

This bill represents a compromise in the true democratic—small "d"—sense of the word, and it gives to Members, with some limitation, Members who are not on the subcommittee or on the full committee an opportunity to offer for the consideration of the whole legislative body any improvements that they may have.

I am aware that a great deal of effort has been put into this matter by Members who did not serve either on the Joint Committee on Organization or on the Rules Committee. I am going to say very little more because I believe the truly fruitful time in this debate will come after the general debate when we go into amendments under the 5-minute rule. I think we should remember one thing: while this is the first time in 24 years that the House will have debated a reorganization bill, the debate of the House this week, or if it takes more than a week, in the next couple of weeks, will not in itself accomplish anything. As has been pointed out, it will require action by the Senate. I happen to believe, as I felt when we established the first Committee on Standards of Official Conduct in the history of this institution, that the thing that is important is the end result, and it seems to me very clear that the housekeeping provisions of this institution require modernization. I hope the end result of this debate and of the action of the other body will be that we will have taken a significant step in the direction of bringing this institution and its housekeeping endeavors into modern times.

There are clearly many areas in which we do not take advantage of technological advances, of advances in methods of organization on which we should be able to agree, so that this institution, a key element in the Federal Government, one-half of one of the three branches, may be fit in its organization, in its use of modern devices, to carry on the public business. I hope, and I know that the consideration which will be uppermost in the minds of all Members as we debate this bill in the days ahead will be, that this is not a subject exclusively for the House, exclusively for the Congress of the United States, or, indeed, exclusively for the other branches of Government—the executive branch and the judicial branch—but that this is the subject of seeing to it that the people's business, insofar as it is carried out by the House of Representatives and what we call the other body—the Senate of the United States—is carried out in the way most advantageous to the shortrun advantage and the longrun advantage of the people of the United States.

Mr. Chairman, I thank my chairman and I thank the other members of the subcommittee and the staff for the privilege of working with them on what may be an important step forward in the history of the United States.

Mr. SMITH of California. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, I agree with everything the gentleman from Missouri has just said. We are entering a period of debate covering the next couple of days, perhaps covering the next couple of weeks, which will be important not only to this session of Congress but to many sessions of Congress to come. I do not think we ought to take this debate lightly. The Members should be on the floor to listen to the debate, because some of the rules proposed to be amended should be amended and others should not as they are designed specifically to expedite the business of the House of Representatives.

I have read some of these proposed amendments. I might say they were all considered by the subcommittee. Some of them, in my opinion, should have been adopted by the subcommittee. However, should some of these proposed amendments be adopted, the House of Representatives will be unable to function with the necessary speed which some occasions demand.

So as we consider some of these amendments we should not lose sight of the fact that we are here to take care of the people's business and that we should do so in an expeditious and proper manner. We should not permit the people's business to become bogged down by the application of unnecessary and cumbersome rules of procedure.

During my service in the House, I have been concerned over the Senate to adopt a rule dealing with the germaneness of amendments. We have witnessed in this session of Congress the attachment of nongermane amendments by the other body to House-passed bills. For example, just recently, we passed the extension of the voting rights bill. The Senate attached a nongermane amendment dealing with the right of 18-year-olds to vote. Members of this House were deprived of the opportunity to cast a vote on the right of 18-year-olds to vote. We had to approve of the Senate amendments or vote to send the bill to a conference committee. I think this is absolutely wrong. I hope when this bill gets to conference our conferees will be able to prevail upon the conferees of the other body to forgo this practice and subject itself to a rule on germaneness. If only this one matter is accomplished, I think that this Congress will have performed an invaluable service for succeeding Congresses.

In conclusion let me say that working on this bill for many months with a diligent staff has been a pleasure. Without the help of these staff members, it would have been impossible to have this bill before the House today. As one member of the subcommittee, I want to extend my heartfelt thanks to all of these fine people.

Mr. SMITH of California. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Chairman, today ought to be called Sisk-Smith Day and ought to be declared a holiday for the fact that this bill is on the floor at all. I commend both the distinguished gentlemen from California (Mr. SISK), the chairman of the subcommittee, and Mr. SMITH, the able gentleman from California who is the ranking Republican on the subcommittee for what I know have been untold hours of labor and negotiations and compromise to achieve the result that is here today in the form of H.R. 17654. I am grateful to the gentleman from California (Mr. SMITH), for this time.

The bill is a good bill. It does much that needs to be done and it would not be well for any of us who are at all interested in the modernization and the updating of the procedures and practices of the House of Representatives in any way to take away from the work of the Committee on Rules.

That is not to say there are not features of that bill that some of us might like to see deleted or that there are not features that, in the judgment of myself and I know of others, ought to be added to improve and build upon the work of the Committee on Rules. That, it seems to me, is what the House can do in working its will today and tomorrow as we begin to undertake our work on this bill.

I call particular attention to section 121 on page 42 of the bill brought by the Committee on Rules, which I think ought to be called the Rumsfeld section. There will now be a change in the House rules relating to the reading of the Journal, which means we may no longer have that opportunity we did in the 90th Congress to have a 24-hour session by interrupting the reading of the Journal for the purpose of calling quorum calls. That feature—the old reading of the Journal—ought to have been done away with a long time ago. I commend the Committee on Rules, but I would not want the day to pass without paying tribute to our former colleague, Donald Rumsfeld, who undertook to lead the group on that day, called by some Rumsfeld's Raiders, in having called the attention of the House to an obsolete section that this bill takes care of, and it may have been the spark that led to this bill's coming to the floor today.

Mr. Chairman, there are at least two sections of the bill about which I have some serious questions. One is that provision described by the able gentleman from Ohio, a member of the subcommittee, which relates to the germaneness of Senate amendments. I would hope we might delete or at least modify the proposed rule regarding germaneness of amendments.

The other is to provide a method of working out the ability of the Committee on House Administration to continue to do its job on data processing and information retrieval systems.

I personally have some serious questions about the creation of a Joint Committee on Data Processing, if that means the work of the Committee on House Administration would in any way be slowed down.

On March 4, 1969, the House Republican Policy Committee quoted from a statement in the Republican platform of 1968 which said:

> Congress itself must be reorganized and modernized as a co-equal branch of government.

and then went on to quote from a May 10, 1967, Republican policy committee statement:

> The awesome problems of today and the challenges of the 70's demand an efficient and effective Congress. Unless Congress is strengthened and new procedures and techniques developed, there is grave danger that the historic role of Congress as an essential check on the massive power of the Executive may be dangerously diluted. Legislation is needed to update and modernize Congress.

This bill provides the vehicle for updating and modernizing the rules and practices of the House of Representatives.

There are in some ways amendments which will be offered which I believe will do more than the bill presently provides to fully implement the statements that have been made by so many about the needs of the Congress.

There will be an amendment offered, for example, by the distinguished gentleman from Massachusetts and the gentleman from California, the so-called O'Neill-Gubser amendment, to provide for record teller votes. For the first time at least that I can remember as one Member of the House for a very short time, and having studied the House before that, a serious effort will be made to attack the problem of secrecy on the floor of the House in the Committee of the Whole. I believe the record teller vote amendment, if it is adopted, and I hope it will be, can do as much as any other single amendment to improve the ability of the public to know the public's business in the House of Representatives. At this point, Mr. Chairman. I want to include a letter from the AFL-CIO which states well the need to adopt the O'Neill-Gubser amendment:

JULY 10, 1970.

The AFL-CIO urges you to support the O'Neill-Gubser amendment to H.R. 17654, the Legislative Reorganization Act of 1970, aimed at curbing secrecy in the House of Representatives.

Action on H.R. 17654 will represent the first major change in Congressional rules since the Reorganization Act of 1946—more than two decades ago.

The O'Neill-Gubser amendment, cosponsored by a bipartisan group of 54 other members, calls for the recording of teller votes and spells out a procedure that will increase participation in the Committee of the Whole while ending the secrecy of voting on crucial amendments.

Along with many others in this country, both inside and outside the Congress, the AFL-CIO has long called for such reform. At the AFL-CIO's Fifth the Constitutional Convention, in 1963, a resolution on "Congressional Reform" declared:

"Until Congressional reformation is achieved, America will be trying to resolve its vast automation and atomic age problems with a horse-and-buggy legislative mechanism."

The resolution called upon "all members of the Senate and House to give immediate and intensive consideration to Congressional rules and customs reform."

Another bipartisan reform effort deserving special attention deals with the early availability of conference and committee reports. The traditional secrecy of the Appropriations Committee, for example, makes it extremely difficult for members to consider intelligently—and act upon—the funding of all government programs and activities. There is no need for such secrecy except in instances of national security.

Ending secrecy in the House of Representatives is clearly in the public interest and will help to restore confidence in the legislative process.

The AFL-CIO urges you to be present, on the floor, when H.R. 17654 is before the House. It would be ironic, indeed, if the O'Neill-Gubser amendment to end the secrecy of teller votes failed because of poor attendance on a non-recorded teller vote.

Your support of these bipartisan reform efforts will help to bring about badly needed and long overdue changes in present House rules and procedures.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

An amendment will be offered to provide for a layover of conference reports of 3 days. This goes beyond the Committee on Rules bill and provides that there shall be at least 3 days in which the Members of the House can study conference reports. I must say that the Committee on Rules bill in giving time equally between the minority and the majority has taken a big step in the right direction to correct a weakness that has been present in the rules too long. I believe the Brademas-Erlenborn amendment will do much to help.

Third, BILL HATHAWAY of Maine and ORVAL HANSEN of Idaho will offer an amendment to provide for open committee sessions. The Committee on Rules bill goes to this problem, but in my judgment does not go far enough in terms of insuring that open committee sessions shall be the rule instead of the exception.

Fourth, there will be an amendment offered by DANTE FASCELL and HENRY REUSS, and BOB STAFFORD and WENDELL WYATT, to disclose record votes in committee. The Committee on Rules bill would be changed to provide that instead of simply announcing the vote for and against a particular motion, that vote be a recorded vote and that the names of Members be announced, and it be indicated whether they voted by proxy or in person. I believe this, too, will go a long way toward insuring that the public has a right to know what happens behind closed doors, if in fact the doors are closed.

Fifth, there will be an amendment offered by Members such as LLOYD MEEDS, ABNER MIKVA, SAM STEIGER, and JIM HARVEY on the debate on motions to recommit with instructions, so that we will not go through this process we go through today of perhaps having had 5 minutes to explain a motion to recommit with instructions, but to provide, to the extent we can, given the power of the Rules Committee, that there be 10 minutes available for motions to recommit with instructions.

OTIS PIKE and BILL FORD of Michigan, along with TOM RAILSBACK and JACK EDWARDS, will offer an amendment to provide for a guaranteed debate time on amendments that were printed in the RECORD.

I must say that this is an amendment which has some problems, but which is aimed at attempting to find a way to take care of that Member who has spent a considerable amount of time on amendments to bills and then gets cut off when a time limitation is imposed. And the Members vote in haste on amendments without explanation.

Seventh, DICK WHITE, MORRIS UDALL, BOB TAFT, and ED BIESTER will offer an amendment designed to shorten the time required for quorum calls. We now spend, it is estimated, 26 minutes on each quorum call. Frankly, I think that is too long. I would like to see the amendment they intend to offer adopted so that we can find a way to shorten the time required for calling the roll without shortening the time available for Members to be recorded.

The distinguished gentleman from Missouri, the remaining ranking member of the original commission on congressional organization in 1965 and 1966, Mr. HALL, and I will have an amendment to offer which will establish a Joint Committee on Congressional Operations. Of all of the recommendations made by that original joint committee, on which served Mr. HALL, Mr. CLEVELAND, Tom Curtis on our side, formerly a Member of this body, this is the one recommendation which is not in this bill of the Rules Committee and which I happen to think does belong in it if the House is not to go another 24 years before we have reform before us again.

At this point, Mr. Chairman, I want to include that section of the final report of the Joint Committee in the Organization of the Congress, Report No. 1414, which discusses the need for this joint committee:

JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

During the course of the Joint Committee's deliberations, it became apparent that a number of the recommendations will have to be implemented gradually and that further exploration and planning will be required. Also, a number of witnesses urged that provision be made for continuing examination of the organization and operations of the Congress, with a view to recommending changes that would help keep the Congress in step with modern and rapidly changing techniques. We do not believe, and do not recommend, that the life of this committee should be extended for these or any other purposes. However, in our judgment, it is essential that the Congress establish a centrally constituted agency under which certain existing functions can be consolidated, and which can be charged with new and important functions that significantly involve the Congress as an institution, as well as continuing scrutiny of its organization and operations, including implementation of the present recommendations. We therefore recommend as follows:

1. Congress shall establish a Joint Committee on Congressional Operations, consisting of 10 members, 5 of whom shall be appointed by the Speaker of the House of Representatives and 5 by the President pro tempore of the Senate. No fewer than two of the five appointed by the Speaker shall be members of the House Committee on Government Operations and one shall be from the majority and one from the minority, and no fewer than two of whom shall be members of the Committee on House Administration and one shall be from the majority and one from the minority. No fewer than two of the five appointed by the President pro tempore shall be members of the Senate Committee on Government Operations and one shall be from the majority and one from the minority, and no fewer than two of whom shall be members of the Senate Committee on Rules and Administration and one shall be from the majority and one from the minority.

It is fitting that members serving on these designated committees predominate the membership of the proposed joint committee because of their familiarity with issues of this nature. The foregoing language governing makeup of the committee is also sufficiently flexible to enable the Speaker and President pro tempore to appoint members to the joint committee who have both the interest and the time to devote to the work involved.

2. The Joint Committee on Congressional Operations shall make a continuing study of the organization and operation of the Congress and shall recommend improvements in such organization and operation with a view toward strengthening Congress, simplifying its operations, improving its relationships with other branches of the U.S. Government, and enabling it better to meet its responsibilities under the Constitution.

While this language is virtually identical to the charge given the present Committee under the terms of Senate Concurrent Resolution 2, it appears, nevertheless, to be appropriate for the proposed joint committee. Matters involving relationships between the Senate and the House would also come under the purview of the joint committee. The language is also intended to charge the joint committee with continuing the implementation of this Committee's recommendations as are adopted by the Congress.

3. The functions of the Joint Committee on Disposition of Executive Papers shall be transferred to the Joint Committee on Congressional Operations.

This joint committee meets infrequently, as it does not have a heavy workload. Its functions appropriately could be absorbed by the proposed joint committee.

4. The Joint Committee on Congressional Operations shall be authorized and directed to explore and evaluate automatic data processing and information retrieval systems with a view to determining the feasibility of

their use in congressional operations and recommending such installations as may be found appropriate.

We received a great deal of testimony encouraging the use of data processing techniques. Members and staff visited various computer installations and demonstrations. The study of the legislative workload, as indicated in Appendix A, made use of computers to process the data. We determined that any automatic data processing or information retrieval system of consequence must be developed step by step and be based on thorough planning and programing.

There are a myriad of potential applications of data processing techniques, such as (1) establishment of a central committee meeting scheduling service, with a view to minimizing meeting conflicts; (2) application to various business-type operations of the Congress; (3) bill drafting service, as an aid to the legislative counsel in both Houses; and (4) daily bill status service. The feasibility of these and various other applications should be explored in regard to ultimate adaptation to congressional operations.

Such exploration not only will require considerable inquiry but also involves determination of priorities as to which possible applications would be most beneficial. As a result, the committee felt that the responsibility, at least for overall direction and planning, should be lodged in a single agency that would represent the Congress as a whole. Once there is a determination of feasible applications, the joint committee must address itself to the question of the administrative organizational arrangement necessary to provide the data processing services as efficiently and economically as possible.

5. The Joint Committee on Congressional Operations shall be given continuing responsibility for identifying court proceedings and actions affecting the vital interests of the Congress as an institution and for determining, with the approval of the leadership of both Houses, whether the Congress should be appropriately represented in these actions.

The Congress, its committees and its Members are sometimes involved as parties litigant. Traditionally, representation in these cases has been by private counsel, sometimes not paid for by the Congress or by the Department of Justice.

In addition, the constitutional authority of the Congress, the will or intent of Congress, and even the application of parliamentary rules have been passed upon by the courts. In a few cases involving constitutional powers, the Congress has been represented through appearances by Senators, Representatives, or attorneys as amicus curiae. This representation has been on a sporadic basis and sometimes at no expense to the Congress. In contempt and perjury cases involving the powers of the Congress and its parliamentary procedures, Congress usually has been represented by the Department of Justice.

This legal representation of the Congress with respect to its vital interests is unsatisfactory and the effect upon Congress of court decisions should be a matter of continuous concern for which some agency of the Congress should take responsibility. This function appropriately can be vested in the proposed joint committee, acting with approval of the leadership of both Houses.

6. The Joint Committee on Congressional Operations shall be designated as the supervising agency for such functions as lend themselves to central supervision rather than separate direction in each House.

There are a number of functions, particularly in the Capitol housekeeping category, which might be centrally consolidated into a more effective operation. The Committee's recommendations regarding the establishment of an Office of Personnel and Office Management and the Capitol Guide Service should be centrally supervised. (See Capitol Housekeeping Functions.) The joint committee should also initiate studies of other functions that might be centralized.

The Committee's studies should include a review of existing salary differentials between the two Houses, with a view to recommending comparable pay levels for comparable positions of responsibility.

7. The Joint Committee on Congressional Operations shall be authorized to appoint staff members on a permanent basis, and to employ, on an intermittent basis, such expert consultants or legal counsel as it may need in the conduct of its duties.

At least in the beginning of its operations, the joint committee will require a small corps of professionals, numerically similar and not in excess of staff recommended for the standing committees of the House and Senate. They should be selected solely on the basis of qualifications and fitness to perform their duties. Particularly in connection with the joint committee's responsibility for exploration of automatic data processing techniques, however, the regular staff and the committee should be able to make use of the best expert opinion available outside the regular staff. The Committees on Government Operations have done considerable work in this field, particularly as it relates to the executive agencies, and the staff of the proposed joint committee would be expected to avail itself of this experience, as well as that of other committees. In fact, a great deal of expertise exists throughout the Government and should be made available to the joint committee. But where this help is not otherwise accessible, the committee should have authority to employ consultants.

8. The Joint Committee on Congressional Operations shall be required to report from time to time to Congress on its operations and the results of its studies, together with its recommendations.

The joint committee should be permitted to report, by bill or otherwise, its recommendations with respect to matters within its jurisdiction. All such reports and findings of the joint committee, when filed, should be referred to the appropriate committees of each House of Congress.

Last, there will be an amendment offered on minority staffing which the distinguished gentleman from California (Mr. SMITH), discussed and which does try to grapple with some of the problems that he brought forward in terms of guaranteeing that the minority would handle their own staffing without reference to the majority and vice versa and that there would be a split in the funds of the investigative staff to provide a one-third to two-thirds split.

In addition to that, Mr. Chairman, with all of the other amendments to be offered, I hope we do not lose sight of the fact that this bill is a good bill and it does do good things. We ought to keep in the radio and television time provision, for example, and the good things in title I, which need strengthening.

There are some things, two of which at least were left out, about which I might say a word.

One is to change the fiscal year to the calendar year. This poses lots of problems for different people in the executive branch as well as in Congress, but I hope an amendment will be offered to make a change in the fiscal year. It was in the original Sisk subcommittee bill, but it was dropped from the full committee bill. Perhaps the gentleman from California (Mr. SISK), will, at the time the amendment is offered, give us some reasons why that change was made.

The second area relates to purifying the CONGRESSIONAL RECORD. The present CONGRESSIONAL RECORD is not a true reflection of what happens on the floor and some steps to correct this problem should be made. I hope an amendment on this matter will be offered.

Reform of the House has been long in coming but H.R. 17654 is a sound foundation upon which major improvements can be made. I intend to work for those improvements.

Mr. SMITH of California. Mr. Chairman, I yield such time as he may require to the gentleman from Washington (Mr. PELLY).

Mr. PELLY. Mr. Chairman, I want to compliment the gentleman from California (Mr. SISK), and the other members of the committee, for bringing this reorganization bill up for consideration of the House.

Mr. Chairman, the experience of my many years in Congress has taught me one thing; namely, that the issue of congressional reform is something akin to Mark Twain's remark about the weather—everyone has talked about it, but little has been done about it.

But, I am happy to admit that, nevertheless, progress has been made in recent years as was the case in 1968 when the House of Representatives established a Committee on Standards of Official Conduct and required financial disclosure of Members' financial interests. This was not a giant step, perhaps, but it was a step in the right direction.

Actually, Mr. Chairman, I had begun a sort of crusade 10 years earlier in an endeavor to get Congress to review the entire subject of a code of conduct for public service and establishment of rules to strengthen the faith and confidence of the American people in their Government. I made many speeches in this Chamber on that subject.

Likewise, during my service in Congress I have constantly sought changes in procedures and other reforms to increase the efficiency and improve oversight and scrutiny by the press and by the public of the actions of Congress and individual Congressmen; especially in the House and in our committees.

At long last, the Legislative Reorganization Act of 1970 offers another remedial step to improve this aspect of the legislative branch of Government. Again, as reported from the Committee on Rules, it fails to completely satisfy many of us, but this time it is a giant step in several respects.

This new bill provides for new expanded sources of information and research and budgetary assistance by automatic data processing. It strengthens the House rules for better committee practices. And, it improves the rules covering floor procedure.

In 1965, a joint Senate-House Committee on the Organization of the Congress was established, and I testified in person before it. But, unfortunately when the committee reported a bill in 1967 making changes in jurisdiction of House committees, it aroused considerable controversy and, as a result, no action was taken by Congress. But, the new reorganization bill now reported by the Rules Committee benefited by that earlier attempt to reform the procedures of Congress.

Mr. Chairman, this reform legislation, of course, does not deal with the seniority system because the seniority system is not a procedure established by Rules of the House. Instead, it is an unwritten custom used by both political parties as a factor in selection of party leadership in each standing committee. Any party could change its method of ranking its members on the basis of length of service.

As it is now, members of the majority party on a committee can select any of the committee members as chairman. In other words, seniority does not have to be the basis of selecting a chairman and by majority vote of the majority members of a House committee, a chairman can be deposed, and it has happened. Personally, my view is that the criticism should be that the chairman of committees are too powerful, and any reform would be better to call for more democratic procedures.

In other words, I believe a downgrading of the powers of committee chairmen is more desirable than a change in the method of selecting a chairman, and the House should provide against capricious or obstructionist tactics by a chairman, but here even now a majority vote of the members of any committee can bypass and override a capricious chairman.

Mr. Chairman, I am awaiting with interest the report of a special task force on seniority of House Republicans which has been studying the issue. I came to Congress as a freshman with a desire to end the seniority system, but after observing this custom work, I think it has two points in its favor; it recognizes experience of Members, and it provides a simple way of stabilizing politics. No doubt it can be improved, and I would expect to support any such plan even though on the basis of my length of service I would be a committee chairman if Republicans gain control of the House. Frankly, on my committees, we are almost completely free of partisanship and we work in harmony.

As I have tried to indicate, Mr. Chairman, throughout the years of my service in Congress, one of my major interests has been congressional reform because nothing to me is more important than respect for this Congress by the people it represents.

I strongly support H.R. 17654, to improve the operation of the legislative branch of the Federal Government. As I said, this bill represents progress which has been all too slow in coming, but to those who criticize our system, I would remind them, with all its shortcomings, our Government is the best in the world, and I thank God I am fortunate enough to live under it.

Mr. SISK. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, a little over a month ago, on June 4, Congressman CHARLES VANIK and I proposed a four-point program for House reform. The most important reform issues, we suggested, were seniority, record voting, committee democracy, and secrecy. More specifically, we advocated open, democratic selection of committee chairmen in party caucus through record ballots, provision for recorded votes in Committee of the Whole, divesting committee chairmen of arbitrary powers, and an end to secret committee sessions.

To bring about these changes, we said then, the vigorous support of those who aspired to House leadership positions was needed. To a large extent this support has been forthcoming, and we stand now on the verge of accomplishing a significant part of that reform program.

SENIORITY

To many, the seniority system is not a matter that should be dealt with in the Legislative Reorganization Act.

The Rules Committee report says,

> Seniority relates to party practices and customs, and a joint reorganization measure is not an appropriate vehicle for dealing with party activities in Congress.

Furthermore, it is argued, both parties have appointed committees to study the problem of seniority and it would be premature to make changes before the committees have completed their work. Finally, the two parties appear to be moving toward different solutions to the seniority problem, the Republicans favoring selection of committee chairmen by vote of committee members, while Democrats lean toward selection of chairmen by the Democratic caucus. To try to embody either one of these selection procedures in the House Rules would mean courting the opposition of a large bloc of Members who might favor a change in seniority but who disagree over what should take its place.

Congressmen VANIK, REES, MACGREGOR, and I have settled on a seniority amendment which we hope will meet these objections. The amendment would simply add to the section of the House rules dealing with selection of committee chairmen a provision stating that the chairman of a committee need not be the Member with the longest consecutive service on the committee.

The amendment would not interfere with party practices and customs. Each party would still be free to select its committee chairmen in whatever way it saw fit. All the amendment says is that seniority does not have to be the sole determinant in that selection.

Nor does the amendment anticipate prematurely the recommendations of the Hansen and Conable committees on seniority. What it does is clear the way for some kind of change in the present system, leaving it to those committees to determine what that change should be.

Finally, the amendment walks a line between Republican and Democratic preferences for seniority reform, and represents, hopefully, a principle that both parties can agree on.

The amendment may indeed be simply symbolic or advisory, but it is something, and something is better than nothing. To a great many people in this country, congressional reform means changing the seniority system. If we spend a whole week on this bill and do nothing at all about seniority, it will do little to increase public confidence in this body. I think it is time for the House to say to the American people and to the two committees considering seniority reform that we are not tied to the principle of seniority, and that we are ready for change. The amendment we propose would do that.

RECORD TELLER VOTES

The present system of permitting unrecorded teller votes in the Committee of the Whole has an ancient lineage. During the reign of Charles I in England (1625–49), intense controversy grew up between the King and Parliament, and in 1641 Parliament began the practice of secret teller votes in Committee of the Whole to keep the King and the Speaker, who was the King's appointee, from learning how Members were voting.

Parliament took care of the immediate problem in 1649 by beheading the King, but secret teller votes persisted for nearly two centuries more until they were finally abolished in the 1830's.

When the American Congress was established, the Committee of the Whole procedure, along with secret teller votes, was taken over from the British Parliament. Attention to British practice seemed to lapse after that, however, because secret teller votes have continued in this country long after their abolition in England.

At long last, however, it appears that this anachronism will be ended. If the O'Neill-Gubser amendment to record teller votes passes, as I am confident it will, it will bring significant changes to the House. Much credit is due the Democratic study staff and the Members from both parties who have worked so hard on this amendment.

COMMITTEE DEMOCRACY

There is little in the Legislative Reorganization Act that puts any limits on the powers of committee chairmen. The existing provisions dealing with the calling of committee meetings are simply restated in somewhat clearer language, but, as the Rules Committee report says, "without appreciable change." The bill does contain a provision permitting the majority of a committee to get a bill approved by the committee reported promptly if the chairman fails to act, and another giving committee members more time to file minority or supplemental views. That is about it, however.

There is much more that could be done. The majority of a committee should have a much greater say in the scheduling of witnesses, hearings, and bills than they do on many committees, for example. Hopefully this problem can be dealt with by amendment on the floor.

COMMITTEE SECRECY

The two most important issues here are open committee meetings and recorded committee votes. The Legislative Reorganization Act is inadequate in both areas.

It continues the existing practice of allowing the majority of a committee to close any and all meetings for any reason, and it continues to permit secret committee votes, adding only the not very useful requirement that vote totals be announced.

However, amendments will be offered on the floor to deal with both of these problems. The open committee sessions amendment will require that all committee hearings and meetings be open to the public unless the committee, by rollcall majority vote in open session, decides otherwise. Furthermore, committees would not be allowed to vote to close more than one meeting at a time.

The amendment to require disclosure of record votes in committee will be offered by Congressmen Bingham, Fascell, Stafford, Wyatt, and myself. It provides that:

> The result of each rollcall vote in any meeting of any committee shall be made available by that committee for inspection by the public at reasonable times in the offices of that committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those Members present but not voting.

The proposed Senate rule on committee voting goes further than this, requiring that the committee report on all bills contain a tabulation of all record votes on that bill, including a listing of how each Senator present voted.

The House Rules Committee considered this Senate requirement to be an undue burden on the operations of the committee, and required only that vote totals be announced in the committee report. We do not feel that our amendment will be unduly burdensome. The present rule XI, clause 27(b), requires that each House committee keep a complete record of the votes on any question on which a record vote is demanded. All our amendment does is require that this record be available for public inspection in the committee office at reasonable times.

Mr. Chairman, I hope that when this week is out the agenda for House reform will be greatly shortened. We can do a good deal this week, but there will always be more to do. The House should not sit still while conditions change all around it. Reform and modernization should be a continuing process, not something which only happens every 20 years.

Mr. MacGREGOR. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman from Minnesota.

Mr. MacGREGOR. Would the seniority amendment which the gentleman has described and which is sponsored by him, the gentleman from Ohio, the gentleman from California (Mr. Rees) and myself, in any sense preclude the most senior Member in terms of continuous service from being chosen to be the chairman of the legislative committee involved?

Mr. REUSS. It certainly would not. It carefully preserves what to me is an important ingredient in the decisionmaking process by the majority party. Certainly, length of service on the committee does give the senior person a tremendous and deserved headstart, and far from diluting it, the amendment would clearly recognize it.

Mr. MacGREGOR. Mr. Chairman, if the gentleman will yield further, the adoption of this amendment would make it possible for the man ranking No. 2 or No. 3, or conceivably below that, to be chosen, but it is permissive; it is not mandatory that the man most senior be denied the opportunity to be the chairman of the committee?

Mr. REUSS. That is entirely correct. The idea at this stage is simply to have a referendum of the Members of the House of Representatives to see whether we do not want, as I believe we should want, to allow considerations other than pure, unadulterated seniority to enter into the selection process. Presumably we want to put forward to the Nation the most capable and competent people as chairmen of our committees.

Mr. SMITH of California. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Chairman, I want to join in commending the chairman of the Special Subcommittee of the House Rules Committee and the ranking member as well as all members of that special committee for producing this legislation.

I suppose that I voice and echo the views of many Members who have supported congressional reorganization for many years and, certainly, since the creation of the Joint Committee in 1965.

I recall today testifying before the joint committee and hoping that they would produce a reorganization bill. Such a bill was passed in the other body in 1967, and then languished here. But now the Special Subcommittee of the Committee on Rules has produced a measure which, it seems to me, is meaningful, and which certainly points us in the direction of updating the processes and procedures of this body and of the other body.

My principal interest, when I first came to the Congress in 1963, was with regard to the budget. During my first term, I sponsored a measure which others also had proposed, and which had the active support of the chairman of the Committee on Rules, the gentleman from Mississippi (Mr. Colmer). That proposal sought to establish a Joint Committee on the Budget, to try to get the Congress to establish top limits on spending, to provide a schedule of priorities, and to produce something comprehensive with regard to the fiscal management of the Government. In that regard, it seems to me that the fiscal information which is made compulsorily available to Members of the House in the measure before us today, is a partial and, indeed, a substantial answer to the subject of better fiscal management on the part of the legislative branch of the Government.

Then, Mr. Chairman, I am pleased too, with the way in which the Rules Committee dealt with the subject of automatic data processing. In my opinion it is absolutely essential that the Congress have the ability to take advantage of the revolution in the handling of information that has come about since the advent of computers.

I am proud to have introduced the first legislative proposal designed to establish an independent, automatic data processing facility exclusively for the Congress. It seems to me that with the authority which is granted by this legislation, the joint committee can fulfill the needs and requirements of this and the other body to the end that we can avail ourselves of the modern techniques and the best and most current sources of information available to us in our decisionmaking role.

I am pleased too that authority is granted for televising sessions of House committees. I would have liked to see that authority expanded so that we might have televised sessions in the House of Representatives itself. By that I do not mean that we should have the television cameras up there in the galleries all the time. I do not think all of our sessions merit the expense nor command the level of interest necessary for continual television. But we do have historic sessions and debates here, which, it seems to me, we should communicate to the American public.

The executive branch, of course, has advantages with regard to communicating by television. Also we know that we can leave this Chamber and be televised out in the hallway. But the American people are denied the opportunity to witness firsthand the debates that occur on the floor of the House. It is my hope and expectation that in the near future we should assure that that opportunity is made available to the public.

I am pleased, too, that we are giving some attention to the subjects of rollcalls and of rollcall votes. It is my understanding that an amendment may be offered with regard to the recording of teller votes, so that we can make an expeditious record for demonstrating the will of the House.

But it seems to me that in addition we should establish and have available to us an electronic rollcall facility on which we can electronically record our presence here, and electronically record our votes on different measures. It does not seem to me that this is too complicated or too advanced. Such a device would enable us, in the space of a few minutes, to record our votes here and avoid the time-consuming, laborious and painstaking task of calling the roll twice, and then recording the votes of those Members in the well. While the luxury of having 30 to 40 minutes to answer a quorum or a rollcall is pleasant, it is a time-consuming luxury we can ill afford today.

Such additional changes may be effected at an early date if we adopt an amendment to provide for the establishment of a continuing committee on legislative reorganization.

I just want to conclude by saying, I hope that such an amendment will be offered by the gentleman from Missouri (Mr. Hall), who served on the original special Joint Reorganization Committee. Several of the subjects to which I have made reference are the things which such a continuing joint committee might propose and which we might act upon on a continuing basis—without the necessity of waiting another 24 years to vote on constructive changes in the organization of the Congress.

Mr. SMITH of California. Mr. Chairman, I yield 10 minutes to the gentleman from Oregon (Mr. Dellenback).

Mr. DELLENBACK. Mr. Chairman, I join in the words that have been said by several of our colleagues earlier, and I would even broaden them a bit, in expressing appreciation to those members of the Committee on Rules who have made possible our being here today and made possible what is going to happen in these days that lie ahead.

We so frequently engage in House proceedings in paeans of praise for events or for people that sometimes we make everything sound like a mountain and the risk arises that we will make every word of praise sound equally loud and merited.

I think what has been done in connection with congressional reform by a group of dedicated people, particularly the gentlemen from California (Mr. Sisk and Mr. Smith), is really quite considerable. Both of these gentlemen stayed with their pledged word which was given some months ago that they were going to work hard in their subcommittee to see that a meaningful bill on congressional reform came forth from the subcommittee, and then hopefully from the full Committee on Rules. They promised they would give it their best effort, and they have done all that could be asked of them. We are grateful for their being largely the instrumentality behind our being here today working on this bill.

Earlier in the discussion this afternoon, in today's general debate, our colleague, the gentleman from Michigan (Mr. Hutchinson) raised the question as to why we were adopting a procedure of working by amendments of the House rules, which are within our power in this body acting alone to achieve, without any action by the Senate and without any action by the President. Yet, we are combining a change in the House rules with the legislative process, which calls for action by the House and action by the Senate and for the signature by the President.

This was the decision of the Committee on Rules—and I do not seek to challenge or raise a serious question about that procedure at this particular moment except to express a personal hope. Namely, that if we act this week as I fully expect the House to act, we will not then retire from the field thinking all is won. If we find that this House rises up and faces this matter of amendment of the reorganization of the legislative process squarely and comes out at the end of the week, having passed with strong bipartisan support this measure which is before us at the present time, it still may not result in any change. We can act unanimously or near unanimously in the House, and still that will not get the change which we seek unless the Senate acts. The hope which I express is that if we find that, after we have acted, for any reason the other body fails to act, the Rules Committee will not then let the matter drop and it will take such action as is within its power to take and proceed with amendment of the House rules—which we can do by ourselves even without action by the other body.

I can understand the thinking of the committee in moving the way it is moving. We get strong action by both bodies. We get action which, though identical, would be so similar that we would be improving reciprocally what we would do. We would help the Senate to improve and the Senate would help us to improve. So only if that effort does not succeed, if there is a failure on the part of the other body, I earnestly hope that we will not let the matter rest there.

I do not seek to repeat what was so eloquently said by the ranking Republican, Mr. Smith, as he went down the summary of what is in the Legislative Reorganization Act. In the report which every one of us has in his hand, which was delivered to our offices, and which we will have here as we engage in debate, we will observe there is much good in this bill. I earnestly hope that as we spend the 4 hours of general debate touching on the provisions of the bill before us, and then a number of days actually touching on the amendments, no Member of this body, and certainly no member of the public who listens to what is said on this floor, no member of the news media, will come up with the idea that this is not a good bill. It is a good bill. There is much good in it. It is our hope that we will be able to improve it still more before we cast our final vote thereon.

The amendments that will be before us will be many. There may be a series of individuals who have individual amendments that they will propose, debate, and push. If we get the full panoply of the proposed amendments discussed, we will be here many hours. We will be dealing with more than 100 proposed amendments. I think we should give them all careful attention, and I am sure that we will.

There has been a bipartisan group that has met now for a number of weeks and engaged in extensive discussion. It began with consideration of more than 30 proposed amendments, and it weeded them down for one reason or another until it came to the nine proposed areas of amendments which were touched on earlier by the gentleman from Wisconsin (Mr. Steiger). I shall not go over those again except to say that, as you listened to Mr. Steiger, you heard him talk in terms of the specific proposed amendments and you also culled from it the idea that these areas of change involving all these nine amendments were areas of change dealing with making certain that the Members of the House, before they cast their votes, had ample time to know and to digest what it was we were to be asked to vote on, that that action which we as Members took in committee and here on the floor of the House would be known to our constituents and to the public, that there would be a saving of the time of the body in every way that we possibly could, and there would be a continuation of careful attention beyond this week and in the months and years ahead to the question of what we needed in further areas of congressional reform.

It is in continuation of this bipartisan approach that we will be coming forward with these particular nine amendments.

I think this week's action is extremely important. It is extremely important for two reasons: First, because substantively in this body it is important that we have the best possible tool to accomplish the matter of legislating. No carpenter would want to work with archaic or rusty tools. No marksman would seek to hit a mark that he was striving to hit, that it was important for him to hit, with a gun that was archaic or rusty. We, charged with the task of legislating for the people of this Nation, have a real responsibility to make sure that the tools we use in the Congress are as sharp and up to date and as contributory to a good, final product as we possibly can get.

I close with saying it is my hope that this week we are going to find extraordinary House participation in this debate. Too many times there are occasions when motions pass in the Committee of the Whole House without the full participation by the House of Representatives. It is my earnest hope that the membership of this House will recognize the importance of what we do this week and will understand and remember that what we do this week will be with us for an indefinite period of time hereafter, and that we in large number will be on this floor to act.

Second, I hope we will be able to succeed in making some improving amendments to a good bill.

Third, I hope by what we do this week we will make clear to the people of this Nation—our constituents and those who are not our constituents—that we of the Congress take very seriously our responsibilities in this regard that we care, and that we want to do what we can do to make sure that this body acts in the most efficient and modern and effective way we possibly can.

I close finally by repeating what I said earlier. I hope and trust that, whatever we succeed in doing this week will not be considered the end of the road, and that we will act alone if the other body does not act with us on this measure. But hopefully it will act with us and we will succeed in passing this bill and having it signed by the President. It is important that this occur.

Mr. SISK. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana (Mr. Jacobs).

Mr. JACOBS. Mr. Chairman, I thank the gentleman from California (Mr. Sisk) for yielding me this time. I pay my compliments also to the subcommittee and to both the gentlemen from California.

There are obviously some points within the reported bill on which disagreements will occur. I myself disagree with the provision with respect to the administrative assistants of Members of the House of Representatives. As I understand it, the problem is to have the administrative assistants on the House side receive the same salaries as the administrative assistants in the other body. I realize that is a very serious problem facing the Nation. But I have another solution to the problem. Rather than raising the salaries on the House side, lower them in the other body. I shall be offering an amendment with respect to this subject when we reach the amendment stage.

Also I have a suggestion to the Congress on the subject of seniority. I believe if seniority is a good thing for the Congress, it is a good thing for the country, and, therefore, Members of Congress should be selected from the various districts of the United States on the basis of the longest living individual citizen in each congressional district, thus saving the cost of holding an election. Or, if there are some diehards who still believe it is a good idea to elect public officials, I suggest that we continue electing Members of Congress from their respective districts and then also elect the chairmen of the committees. Members would be surprised how many chairmen would remain right where they are by secret ballot. Quite a few of them would. But I think that it would be good to provide, in the alternative, either to have all Americans participate in the blessings of the seniority system, or have the American people and the Congress participate in the blessings of democracy, by abolishing the silly system of seniority here.

A third point I would like to mention—and it is something on which I especially commend the Committee on Rules for bringing to the floor—the suggestion for enclosing the galleries here with a transparent window.

Congressmen send hundreds of thousands of letters each month to constituents for the purpose of explaining what is going on in Congress.

Yet, when these constituents visit the House of Representatives in its gallery, they are subjected to the muffled sounds of unexplained proceedings carried on by unidentified Members of Congress.

Because of the shelflike construction of the House gallery in relation to the House floor, bad acoustics exist both in the gallery and on the floor.

If the two areas were separated by a transparent soundproof window system of the sort found in radio studios, the view back and forth would remain the same, but the acoustics of both areas would be refreshingly improved. And if designed well, long columnlike frames could add to the stateliness of the Chamber.

Members on the floor would be able to hear debate better, and so would visitors in the gallery through the medium of well-modulated speaker systems piping in sound from the floor.

Such an arrangement would permit visitors more freedom of conversation without fear of disturbing the floor business.

Moreover, during lulls in the proceedings an announcer could give brief explanations to the gallery listeners about what is taking place on the floor and who is taking part.

BYPRODUCTS

There are happy byproducts of this proposed arrangement. It would produce greater safety for those in the gallery and those on the floor—safety from falling down from the gallery and safety on the floor from objects accidentally or deliberately dropped from the gallery.

The steps in the gallery are steep. If a visitor should trip on the way to a front seat he could fall across the rail down into the Chamber, possibly to his death.

Whether on purpose, as in the case of the leaflets dropped in 1965 and the snipers in 1954, or by accident, as in the case of the news camera dropped to the serious head injury of a page in 1966, the possibility of serious and irreparable damage could be reduced to near zero by this simple and sensible arrangement.

Within the last few years science has produced a lightweight, shatterproof, transparent, and force-repellent material which makes possible installation of a virtually continuous window between the gallery rail and the Chamber ceiling—24 feet—all the way around the Chamber.

This transparent material weighs only a fraction as much as glass of equal strength.

Our best estimate is that sufficient material for the job could be purchased at a retail price of less than $25,000. The cost of installation would be greater, but the entire job could probably be done for less than $100,000.

SUMMARY

It is rare when Government can improve both popular participation and security at the same time by the same arrangement.

The gallery window idea would accomplish both goals.

The value of improving acoustics both on the floor and in the gallery is clear.

The value of better understanding of congressional business by visiting constituents is clear. So is the view through the new plastic material.

The value of improved security, not for Members as individuals, but for the people's Congress as a body is clear.

It would be tragic if this Nation were subjected to the trauma of a devastating physical blow to its Government. But it would be doubly tragic if by hindsight it were realized that, as in the death of President Kennedy, a simple and sensible arrangement could have prevented it.

One can anticipate suggestions that "if some deranged person is going to do violence to the House Chamber it is going to happen." The answer, of course, is that while it is true that detection of the deranged person beforehand is virtually impossible, it is possible to make his physical chances of delivering violence next to impossible.

Seatbelts are insignificant, sometimes funny, until the collision comes. Then they are solemn blessings.

If one were to say that it is inherently alien to think of government security in a democracy, then he should consider the stationing of armed guards about the Chamber unacceptable.

But we do not. Neither should we deny to the police the methods to accomplish their mission. "All the king's horses and all the king's men" cannot put life back together again. And it is most unlikely that "all the king's horses and all the king's men" could detect beforehand the few among millions willing to deliver violence by stealth and elusive methods.

Finally, there should be no talk of cowardice. Some Members of this Congress have faced death on the battlefield for their country and would do so still. Members of Congress go about as individual officials of the Government without protection, because as individuals they have less national importance. But, as a group and a place, the Congress is vital to our country.

Nor should anyone confuse the dignity of taking necessary chances for the foolhardiness of taking unnecessary chances.

In the matter of planner or accidental casualty in the House of Representatives to Members or constituents, a stitch in time saves nine—maybe more.

Mr. SMITH of California. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa (Mr. SCHWENGEL).

Mr. SCHWENGEL. Mr. Chairman, first of all I want to commend the committee, especially the subcommittee of the Committee on Rules, for giving us a chance to improve the operations of the House and to get started on some important work here so that we can do our important work more efficiently and more effectively.

While I commend the subcommittee for giving us this opportunity to present some suggestions for change, I cannot commend them in the same spirit for what they gave us, for I believe what they have given us so far is woefully inadequate. However, they are to be commended and the House is to be commended for giving us the opportunity to improve the bill that is before us.

I want to pay tribute, also, to the Members of Congress who have so eloquently and adequately presented arguments for many needed additions to the bill and improvements. I want to talk about some other additions and underscore what some others have said about them.

Mr. Chairman, as most Members of Congress know, I have long been interested in and active in working for congressional reform and congressional reorganization. It was my privilege to head a committee appointed by Minority Leader GERALD R. FORD to a Republican task force on minority staffing. That was early in my tenure of service here. From that experience with other Members of Congress I began to realize that there was a great need indeed to do something about minority staffing. However, there were also other great needs and improvements that we should consider. I have said many times that Congress has long been in need of updating and of improving its procedures and its rules. As has already been pointed out, our last reorganization and improvement, which was quite an improvement over a prior operation, was in 1946. Since that time the legislative workload here in the Congress has increased threefold. Our constituents have demanded more and more of our time. Working under the 1946 conditions has become more difficult as time went on. The efficiency and effectiveness of our operation has decreased to the point where many people consider us to be a rubberstamp for the Executive. This is unfortunate in view of the former stature and influence of the House. It is important that we attempt to recapture our former place in order better to serve the American people in our time. By streamlining our procedure and opening our proceedings we will be able to consider improving this link in the checks and balances of government.

Mr. Chairman, we are in a period of history which finds, tragically, our political institutions and policies in disfavor with far too many people in our country. This is especially true among our younger citizens. It is unquestionably true that you cannot satisfy all the people all of the time, but the situation which prevails in our time is not one to bring comfort or to give confidence to those who believe in our republican institutions and our system of representative government. Certainly, the displeasure abroad in the land is not without some foundation. It is then incumbent, I believe, upon those of us who have been elected to man our political institutions to take the necessary action and dispel public doubts as to the integrity and viability of those institutions.

I would like to interject here this observation and it is based upon my study of the Congress itself. I am here to testify and I believe I can prove to any reasonableminded person that in this House today there are more men and women of stature and capacity and capability than the House has ever seen before. However, we are not measuring up to our capabilities and to our capacity because we have the handicap of too many precedents that do not fit our time and too many traditions under which we cannot function effectively.

Now, along with the real need for congressional reform and improvement there is a compelling argument which has already been presented very effectively by very able men and that is that the Congress—and there will be presented as we consider many amendments; the gentleman has suggested, perhaps, 100 and I hope we give them very, very serious consideration for there is nothing we can do that would help the country more, help the capability of this body to measure up to its capability and its capacity and, yes, its dedication, than the bill under consideration, H.R. 17654. I say this bill is a small step in the right direction. There are flaws so serious that it will be hard put for some of us to support them without some major changes.

SENIORITY

Mr. Chairman, I could talk about a lot of them but I shall talk briefly now only about four areas. One is seniority.

I would be less than honest were I not to express my disappointment at the failure of the Rules Committee to include in the bill before us, an alternative to the present seniority system for selecting of our committee leaders. Someday the Congress is going to deal with this problem, and deal with it by abolishing the seniority system; why not today? With all of the talent that exists in this Congress why do we not say to the American people, "We recognize the fact that we are living in a new era, and need new rules to operate effectively in that new era."

The law of the jungle is survival of the fittest. The law of the House is survival of the eldest. That is a foolish law upon which to base the operation of an institution which must deal with the complex problems faced by our Nation today. The only telling argument offered in defense of selection by seniority is that it expedites the organization for committees. That is not good enough for me.

Seniority, as you know, is not a rule of the House but a custom. Rule 10 of the House provides that the "House shall elect as chairmen of each standing committee one of the members thereof" at the commencement of each Congress. Admittedly, the remaining language of that rule, in its provision for chairing of the committee by the ranking member in the absence of the chairman, implies seniority. Nevertheless, in the election of the chairman the rule permits the chosing of any member of the committee.

For almost six decades now, longevity has been the criterion for their selection. It has been said before, and I now say it again, that this use of seniority is, apparently, peculiar to the U.S. Congress. I would emphasize that it is not the method employed in any of our State legislatures or in any foreign legislative bodies for the selection of committee chairmen. I would say that this is a singularly interesting fact.

In both the 90th and in this Congress, I have introduced resolutions which would revise the method for selection of committee chairmen. For those who may not know the language of my proposal, it is contained in House Resolution 81 of this Congress. I will be using the identical language in an amendment which I will offer to this bill.

My alternative is quite simple. It provides that the members of the committee shall convene as soon as possible following the opening of Congress and by secret ballot the majority party members shall elect the chairman from among the three most senior majority members on the committee. In like fashion the minority party members shall elect the minority leader for the committee.

This alternative to the present method has the virtue of permitting the members of a committee a choice in the selection of the chairman and ranking minority members. Thus, if there are valid or seemingly valid reasons in their minds for not awarding the chairmanship to the senior majority member, they can withhold it from him and elect someone in whom they have greater confidence. I would expect that if such a system of election were instituted, it would be a rare occasion for the senior member to be denied the chairmanship. But, I think that option should remain open to the members of the committee, the men who are most knowledgeable about the workings of the committee and the ability and responsiveness of the chairman, if they desire to exercise it. Moreover, the very possibility of not maintaining or attaining the chairmanship by seniority alone, could act to curb any abuse of authority by chairman or prospective chairman.

To buttress my alternative permit me to quote from a former colleague. In "We Propose: A Modern Congress," John Lindsay has written:

> I am . . . inclined to favor selection of committee chairmen by secret ballot of the members of each committee. Each of the standing committees of the House is a semi-autonomous body with its own unique problems and special norms. Committee members, by observing each other at close range in the daily operations of the committee, would seem to me to be in the best position to judge the qualifications necessary for their chairmen and they certainly are aware of intelligence or personality traits which are often important to a smooth-working relationship. Committees are the workshops of Congress; their members should determine who should be seated at the head of the worktable.

I might add that Mr. Lindsay's article effectively devastates arguments offered in defense of selection by seniority by pointing out that the senior members of the majority and minority parties are not alone in having valuable experience on the committee and are not alone in having expertise in the committee's jurisdictional areas. Countering the argument that the seniority principle avoids internecine struggles and their bitter residue is the historically dismaying fact that longevity has too often put into the chairs of the House committees men unresponsive to the platforms and policies of their own party. I learned early in my career about the unresponsiveness of some chairmen by virtue of my service under a chairman who was absent from the Congress most of the time. Since the seniority system assured him the position, there was little incentive for him to be responsive to the other members of the committee or the public.

The notion that men from safe districts who live long enough to become chairmen are somehow more attentive than other Representatives to the "national interest" is dubious at best because it presupposes that such men operate from a rational basis in their consideration of legislation and their estimation of the role of a chairman. There is little, if any, empirical evidence to support that claim.

In matters of courtesy such as the assignment of room space, I think that reliance on seniority is probably as equitable and practical a system as could be devised. But on the question of choosing who shall be the chairman of each of the important standing and special committees of the House, it seems to me that we ought to be governed by a higher law of logic than that which says that the fellow who has been around the longest shall therefore exercise the greatest authority. This is not the way in which we choose the Speaker, or the party leaders on each side of the aisle. Why then should it be the way in which we select committee chairman who exercise equally enormous powers?

No point of order on the grounds that this amendment is nongermane, in my judgment, should be sustained. Two reasons form the basis for this view. First, the "rule" from the Rules Committee only prohibits amendments "which would have the effect of changing the jurisdiction of any committee of the House listed in rule XI." My amendment infringes on the jurisdiction of no committee and concerns rule X of the House, not rule XI. Furthermore, H.R. 17654 modifies many of the rules of the House. For example, section 103(b) of the bill amends clause 26 of House rule XI by adding a new paragraph relating to open business meetings of House standing committees. Surely, the amendment that I offer to the reorganization bill is germane when the bill itself authorizes numerous changes in the rules of the House.

Title I of the Legislative Reorganization Act of 1970 is entitled "The Committee System." Certainly, my amendment adding a new provision concerning the selection of committee chairmen falls within the purview of this title. In fact, scholars, journalists, and Members of this body have both criticized and defended the custom of seniority. Why, some ask, should we elect our party leaders on basis other than seniority yet allow men to become committee chairmen by the accident of long tenure? My proposed amendment would grant each committee the right to select its own chairmen. A democratic process is substituted for one that acts capriciously.

PROXY VOTING

The second matter on which I would like to elaborate concerns the provisions relative to proxy voting. I am completely opposed to proxy voting in the committees. The real workshop of Congress, where legislation is shaped and from which, most often, it emerges in final form, is the committee. Therefore, it is in the committee that the most important votes are cast. There is no provision for proxy voting on the floor of the House, in spite of the fact that absences are often unavoidable. It is, therefore, certainly the responsibility of the Member to his constituents to represent them personally in the committee: the most important link in the legislative chain.

Not only should the Member vote personally, he should be present for the debate in order to argue for his constituents' point of view. Also, in this regard, a proxy cannot be debated or reasoned with—an important consideration, particularly if a close vote is expected.

Though there is no provision for proxy voting in the rules of the House, this practice has developed, often giving committee chairmen inordinate power and releasing the Members from their responsibility to determine their own stand.

H.R. 17654 attempts to deal with the situation, but not broadly enough. It permits specific proxy votes when committee rules provide for proxy voting. This well-intentioned reform—one which could easily be abused—does not go far enough in correcting this situation. Mr. Speaker, I ask that we abolish all proxy voting in committee.

MINORITY STAFFING

The third area of concern on which I speak is that of minority staffing on committees, an area which is included in the current bill. As former chairman of a special subcommittee on increased minority staffing on the Republican conference and as a longstanding member of the minority party in the House—a situation, I can assure you, which I would like to see changed—I have been much intrigued by the whole problem.

I have been convinced for some time that a minority party is hampered in functioning as the loyal opposition by the failure to provide it with adequate staff representation on the committees of both the House and Senate. It is true that a number of committees do permit the minority to have members on the permanent staff but this is not a uniform practice.

A group of distinguished political scientists has said:

> To deny the Minority in Congress access to adequate representation on Committee staff eliminates the opportunity for a minority to act responsibly after a careful examination of the problems under consideration. Congressmen, in this difficult and complex period of our history, require access to date and evaluation in those subject areas to which they are given responsibility as Committee members. It is obvious that this work cannot be placed regularly with their own office staffs, which have functions very different from those of a Committee. It is obvious also, in light of policy formulation paterns at all levels of government, that the adversarial technique of law and politics in this country requires a personal relationship in which a congressman can develop confidence with the professional staff members. This is why, of course, the President has a high degree of control over his White House Staff, as well as at many policymaking levels in the Executive Departments.
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> Some have argued that an increase in minority staffing of congressional committees would jeopardize the recent "professionalization" of these staffs. We do not believe that this is true. There is no reason why such "professionalization" cannot take place in a bipartisan framework. What is needed are professional staff members separately responsible to the majority and the minority. The demand that a substantially larger portion of the professional staff be responsible to the minority members is wholly reasonable and within the best democratic traditions.

Their statement puts the case well.

Furthermore, as my colleague and fellow Republican, **James C. Cleveland**, has said:

> Even in the cases of committees which do list staff members as assigned specifically to assist the minority, those employees are ultimately responsible to the committee chairman, who is always a member of the majority party. By that I mean that they cannot be hired without the chairman's approval; their salaries are subject to the approval of the majority, and often their physical location is determined by the majority. Thus, nowhere in the House does the minority party have guaranteed to it an unobstructed conduit to information vital to the success of its adversary role under our two-party system.

As I have said on many occasions the minority on a committee ought to have exclusive right to hire and fire. As a matter of right, not privilege; it should have allotted to it probably in the neighborhood of 40 percent of both permanent and temporary staff. With such a staff it could offer constructive alternatives to the proposals of the majority party. With that staff assistance it could submit far more detailed and far better minority and supplementary opinions in committee reports. No matter of what party the minority must be granted staff on committees which will enable it to be a more adequate and constructive loyal opposition.

Regrettably, this has not been true in the past. Unfortunately, we Republicans have had to suffer from it for most of the past 35 years. I think that this situation has been more detrimental to the Nation and the Congress than it has to us House Republicans.

The subcommittee has seen fit to include provisions for minority staffing in its proposed bill. In all candor, I must take exception to the language as presently written. It is true that the language of the bill provides the minority with a maximum two of the six permanent, professional staff members and one of the six permanent, clerical staff The language further provides for equitable treatment for the minority staff in terms of pay, work facilities, and accessibility to committee records. It is also true that language in the bill stipulates in a general way that the minority be given fair consideration in the appointment of temporary committee employees.

In the latter regard, however, there are no guarantees that the majority of the committee, specifically the chairman, has to allot any of the temporary staff to the minority. There is no specific formula and no enforcement clause. In other words, the prescription in the bill can be ignored and minority members could be denied a fair share of temporary staff.

Even less palatable is the entire procedure for the hiring of minority staff. Sole right of hiring is not vested in the minority. Instead, it may only recommend a person whose appointment is subject to ratification by the full committee. The whole purpose of minority staffing is subverted by this method of appointing. Who knows what tests might be applied by the majority party, before it will agree to the recommendations of the minority? Why should the majority be given a veto power over the employment of minority staff? That, of course, is the precise effect of the present language. I submit that the majority would never tolerate the minority having such a veto power. This distresses me and I beseech you to alter the language of the bill to permit the minority sole hiring and firing power over the minority staff.

Mr. **Cleveland** and I will introduce an amendment, supported by a broad spectrum from both parties, which will correct the flaws in the bill being considered. This amendment stems from a bipartisan effort to make the entire bill acceptable.

TELLER VOTES

Finally, I turn to the problem of secrecy in the House. Secrecy now pervades the operation of the Congress in the form of closed committee meetings, secret committee votes, nonrecord votes in the Committee of the Whole and in the House, and these are merely the most obvious examples. I speak particularly to the need for more record voting as a means of giving the constituent a better understanding and to make the Congressman more responsive to his constituents, and for attempting to restore public confidence in the Congress. We are now faced with a situation in which a Congressman can say one thing and vote to the contrary with no fear of his duplicity being discovered.

This situation has led to a certain mistrust of the Congress, and this mistrust has dramatically shown to be valid when observers in the gallery discovered vote switching between the nonrecord teller votes and the record votes on the SST earlier this year. This caused a justifiable public outcry which has finally led this body to act. Several Members have taken action in the belief that the Congressman is accountable to his constituents, and they, therefore, should have the clearest possible information on his voting record, the most precise record of his real positions.

Since all major legislation is considered in the Committee of the Whole, a Member can vote anonymously in the most important stages of a bill's development, before it reaches the floor, where a record vote might be demanded. This problem is similar to that of secrecy of votes in committees, which is being attacked in the bill before us.

I speak for an "escalation," if you will, of the attack, to include the Committee of the Whole. The vehicle which I support in this effort is the amendment—to the Reorganization Act—which Representatives O'NEILL and GUBSER will be introducing. This amendment provides for a recorded teller vote on request of one-fifth of a quorum of the Committee on the Whole. This does not preclude other nonrecord teller votes or any other type of vote currently used. Voting in this manner would serve the same purpose as a rollcall but would take only 12 minutes, during which time the Members would be able to get to the floor from their offices and vote. This would alleviate to a substantial degree the problem of secrecy and is, along with the seniority amendment, one of the two most important improvements which are needed in H.R. 17654.

BIPARTISAN AMENDMENTS

The bipartisan group, of which I am a member, which is working to upgrade this bill, is also concerned with several other areas, most of which deal, again, with the problems of secrecy and efficiency. Two of these amendments are aimed at revising the committee procedure, one to provide for more open committee sessions by requiring a majority vote in public to close a session, and the other to require a disclosure of all rollcall votes in committee at public request. These features would place more pressure on the committee structure itself, forcing it to be more responsive to the public will.

Three of the amendments deal with the amount of time involved in considering and debating motions. The first would require that conference reports be printed in the RECORD at least 3 days before floor consideration and be available to Members, and the other two increase the time allotted to debate on a motion to recommit with instructions and on any amendment which has been published in the RECORD before consideration. These provisions would permit the Congressman more time to consider and make decisions, and more time to argue in his constituents' interest, both of which would be important factors in democratizing proceedings and gaining public trust.

The other two amendments provide basically for a streamlining of procedures and of the work of the Members. Quorum calls would be shortened by a sign-in process which would allow the call to be dispensed with when a quorum was reached and would speed up floor action. A Joint Committee on Congressional Operations would be set up to provide for continuing review of the workings of the Congress. This amendment is important, as it would allow a continuing improvement of our operation, a move clearly in order.

In conclusion, I want to make it quite clear that the amendments I plan to offer and those of the bipartisan group will serve only to make the bill acceptable. Even then, several badly needed features will be missing, including the professionalization of the Capitol Police Force, the formation of an Office of Placement and Office Management, and the strengthening of the laws controlling lobbying. As I have told my constituents in Iowa, if these amendments are adopted, we will have a reasonably good bill. However, if they are not adopted, I will find it difficult to support a bill which will be woefully inadequate, and one which cannot honestly be called reform when we address the American people. The last reorganization bill was passed 24 years ago. We must not pass a weak bill and be forced to wait another 24 years.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMITH of California. Mr. Chairman, I yield 1 additional minute to the gentleman from Iowa.

Mr. SCHWENGEL. Mr. Chairman, I shall revise my remarks at some length on this point, and they may be read in the RECORD.

Another point I want to deal with is proxy voting in committee. That should be abolished. We do not allow it on the floor, and we should not allow it in committee where oftentimes the vote is much more important than it is on the floor of the House. I will cover that more fully in my revision of remarks in the CONGRESSIONAL RECORD.

Mr. Chairman, I have deep feelings about secrecy, and I think we should record our teller votes. If we do that we will remove secrecy and restore public confidence in the House. This will make Congress more responsive to the needs of the Nation.

Mr. Chairman, in conclusion I want to make it clear that the amendments I plan to offer and those of the bipartisan group are offered only to make the bill acceptable.

Mr. Chairman, if we are to meet the needs of our time, if we are to measure up to our capability and to our capacity we must have this bill along with many of the proposed amendments.

The CHAIRMAN. The time of the gentleman has again expired.

REFORMING OUR NATIONAL ATTITUDE TOWARD SPENDING

Mr. SISK. Mr. Chairman, I yield 17 minutes to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I visualize that this is going to be an important week in the House of Representatives. I think we all would like to see our procedures improved, and I for one am glad to have an opportunity to give consideration to the various proposals which are contained in the committee bill. Of course, we will also have to give consideration to the proposals which will be presented by way of floor amendments.

It is easy to mistake the mood of the House. I had thought that, beginning at noon today, perhaps half, or more, of the Members of the House would be in the Chamber sitting on the edges of their seats, listening attentively to what might be said about this question of reform. It is fair to say that somewhat less interest is being shown.

I would anticipate that more Members will be present when we get under the 5-minute rule—and I would hope so.

I think it well to ask or to raise the question: For what purpose do we seek reform? What are the motivations? We say that we want to meet the needs of our times. Well, I am not so sure that the major plank in a proper reform platform is contained in the pending bill. I am not sure that an amendment has been submitted which meets our major reform requirements.

I am of the opinion that the greatest need for reform—and I would not discount other needs—but the greatest need for reform is reforming the will of the majority of the Members of the House, and perhaps the country.

I think we need to reexamine the problem which confronts us. We spend much time in considering our priorities. We talk about programs for clean water and clean air and better housing and all the rest. We all recognize that they cost money and we, as a House of Representatives, tend to say, well, we need money for housing, so let us authorize and appropriate it.

We tend to say, we need more money for the cities so let us authorize and appropriate more money for urban renewal.

We tend to say, we need more money for health so let us authorize and appropriate it.

We tend to say, How can you be against doing what is necessary to provide the people with the maximum opportunity for education and self-improvement?

This is generally the trend of thought that seems to dominate us.

We should not just ask ourselves—do we need a program for urban renewal or for health or for education? We should, of course, first ask ourselves that question—do we need the program? Then we should say, have we got the money to pay for the program? If we say, no, we do not have the money to pay for the program, then let us lock ourselves into this Chamber or into our committees and decide whether or not there is a way for us to get the money to pay for the programs. Short of a grave national emergency, we ought to find the way to pay for a program before we authorize and appropriate for it.

But this is what we are failing to do. This is an indefensible attitude and we must rectify it if our country's best interests are to be served.

We talk at great length and with much fervor and dedication about the need for various programs and about the consequences of failure to act quickly to approve programs.

We talk about the need. Yes, needs

exist. But few, if any, are beating their breasts and saying, yes, we need it but we do not have the money for it; we are determined to provide the money for it before we launch a program.

But, if we appropriate the money for this needed program without raising the revenue to pay for this needed program, the money is not going to produce the desired results. It is going to be worth less and less and we are not going to get a dollar in value for a dollar expended. The program will not be effective unless it proceeds on a firm fiscal basis.

So I would say the major reform that we need here is to change our attitude, our national attitude. While we continue to talk about the programs that we support, we should begin to talk more about whether or not we have the funds to provide for the programs and if we do not have the funds, then to ask, how are we going to get the money to pay the bill?

Now, if we talk like that—taking into account that the money must be raised for our programs—we will talk like mature legislators. But until we do that, we are not performing our full function as Members of the Congress.

It is plain to see, it is crystal clear, but it goes unnoticed, that he who does not know that democracy will fail unless it can practice sufficient restraint does not understand the facts of history. Democracy will work only as long as there is sufficient restraint. But if everybody grabs for everything and is unwilling to pay the price, democracy will eventually go down the drain. It might be supplanted by something else, but you cannot have the system we have in this country unless you have people who are willing to face up to the need for raising the revenue to pay our bills.

Not long ago I was in a meeting. We were talking about whether or not there should be $587 million in a bill above the President's budget for urban renewal. It was said: "Well, this has been authorized." The principal argument was: We have got to have this money The mayors have said that they need this money. The mayors say that they can use it. It is indispensable. The mayors say so. Therefore we should appropriate it.

Appropriating money on the basis of need alone is not practical. There is not enough money in the world to readily meet all our demands. Of course the mayors in cities, big and little, would like to get all the funds they can from Washington to help them with their problems and programs and I am not condemning our mayors. They have difficult jobs. It is understandable that mayors would like to see more and more Federal money channeled into their cities. But the argument that we ought to provide more money for the cities because the mayors want it is only one factor for consideration. The question is whether or not we have the money, whether or not we are willing to raise the money, and therein is the problem that deeply concerns me.

What does it mean when we say that we must meet the needs of our times? I am afraid that many of our citizens means simply that we have got to spend more money. What does it mean when we say we are against secrecy in the House—and I think all of us want to see objective action on this question under appropriate conditions. But what is the objective of many who desire some sort of plan to meet the needs of our time? Is it merely to get more money—to spend more money?

Do they want to increase appropriations? Is that the purpose? Well, we are appropriating all the money there is now. In fact, this year we will spend for Federal functions all the Federal revenue there is plus an additional amount of perhaps more than $10 billion.

Now, as chairman of the Committee on Appropriations, I would like to see us meet our needs, and if revenues can be found to meet those needs, then let us do more for education, more for health, more for the cities, more for rural areas. There are many Members here who vote against increases who would not be against those increases if we had the money to pay for them, to pay for the programs which we provide, which are recommended and advocated; but when we are spending about $10 to $12 billion more than we have got in Federal funds and borrow about $8½ billion from the trust funds—from social security and the highway fund, which makes the budget look smaller—it seems to me that this is about as far as we can go.

To me, one of the sad things is that we just do not have more funds to meet the requirements. I am not against spending money for needed programs if we have the money at hand.

If we go on and on and on, creating deficits and cheapening our money, it will buy less and less, and it will work a severe hardship on the rich and poor alike, and especially on the poor. I hope we do not mean by reform or by meeting the needs that we will appropriate more money that we do not have to meet our problems.

Mr. SCHWENGEL. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Iowa.

Mr. SCHWENGEL. Mr. Chairman, I listened with avid interest to the gentleman's remarks, but I feel compelled to say that those who are promoting reform are not looking for more money necessarily, but we are looking for more efficient and wise handling of our business.

Mr. MAHON. In that respect I think we should all join hands, and I think we should all join hands in spending more money if necessary when we have it, or when we have the opportunity to get it, for programs of the highest urgency. This is the point I want to make very clear. I sense there are those who feel that by changing certain techniques it will be possible to have larger and larger appropriations above the budget of any President for various laudable purposes when we do not have the revenue to provide for them.

Mr. SCHWENGEL. I would like the gentleman to know as one of the sponsors of reform and reorganization, that certainly is not what I have in mind.

Mr. MAHON. I am sure the gentleman is right.

Mr. Chairman, here on the first day of debate on this reform bill I thought it might not be out of order to make reference to this matter. I am not sure I have heard any speeches on the floor in the last few weeks about the need for raising the revenues to pay our bills. We are in the red. We have been in the red for years, and inflation is getting more and more difficult. In fiscal 1968, we had a budget deficit of $25 billion. There is nothing wrong with prudent spending and there is nothing inherently wrong with big spending provided we have the money and there is a clear need for such action. That is the matter I wished to bring at this time as forcibly as I can to the attention of the Members of the House.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. Mr. Chairman, I want to say to my distinguished chairman, the gentleman from Texas, that he has made one of the finest speeches I have heard in this Chamber in many, many years. The gentleman has hit the nail on the head. He has put his finger on the problem.

Of course, we need many of these programs, but can we afford them? Do we have the money? I hope every Member will read the speech made by the gentleman. In my opinion it is excellent. The people of this country must learn to live within the means that the people of this country have.

Mr. MAHON. Mr. Chairman, I thank the gentleman.

I want to say of the committee which has brought out this legislation that they have worked hard and long and they have toiled and they have been very selective, and they have done a distinct service. I commend the committee.

I support the bill, generally speaking. I would like to see it improved. I would like to see our body become a more effective body. I would like to see the House become more responsible.

In the future when our friends circulate a letter advocating an appropriation of a billion or so dollars above the budget for some worthy purpose, I would hope that they would say that of course we cannot make the additional appropriation until we raise the required additional revenue, bearing in mind that we are already in the red by billions of dollars.

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Ohio.

Mr. BOW. Mr. Chairman, I should like to congratulate my distinguished Chairman for this important contribution he has made today. It is an important subject the gentleman has brought up and he has done it in a clear and understandable and considered way. I think it is also a part of reform. I join the gentleman in his remarks, and I congratulate him for bringing this to the floor.

Mrs. HANSEN of Washington. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentlewoman from Washington.

Mrs. HANSEN of Washington. Mr. Chairman, I would like to ask the distinguished gentleman from Texas, our distinguished chairman, a question. Is it not true that in this country a few years ago, 70 percent of the people came from the rural areas. There was a different financial problem then. There are today 70 percent of the people who live in the cities and 30 percent who live in the rural areas. Therefore, Mr. Chairman, it seems to me we do have to change some of our thoughts.

The other day when I was in the West, I picked up a paper, the Oregonian, and I noticed in 17 States the water supply and the very lives of people were threatened because of mercury poisoning.

It seems to me, Mr. Chairman, we do have to consider some of the problems which are forced upon us because of our own activities, and we do have to provide some of the answers to the challenges that are present in the year 1970.

Mr. MAHON. I agree that we must meet the challenges which confront us.

Of course, every mayor, as I said, would probably like to have more Federal money, and most every community would like to have more Federal money, as would every Governor.

Does it surprise any Member when his Governor writes him and says: "We understand there is a bill pending for more money for the State. Please do your best to help"? The States are in fiscal trouble and understandably would like to have all Federal moneys that are available. This is not in any way said as criticism. We all agree that the requirements of the States and cities and rural areas must be appropriately considered. My plea is for full consideration not only of the need but the availability of money to pay the bill.

Mr. SMITH of California. Mr. Chairman, I yield 10 minutes to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, I was particularly interested in the remarks of my colleague from Iowa (Mr. SCHWENGEL). They suggest some points which I do not believe are as widely understood as they should be.

The gentleman and I have served together for some years now on the Committee on Public Works. Out of that service has arisen our joint interest in congressional reform. I took over as chairman of the Republican Task Force on Congressional Reform and Committee Staffing when the gentleman from Iowa (Mr. SCHWENGEL) enjoyed a brief sabbatical after 1964.

The fact which is not widely known is that many of the so-called reforms we are considering in this bill today, and many of the reform measures that will be proposed by way of amendment, are actually perfectly possible under the present rules of the House.

We will address ourselves in this bill to proxy voting. In the Committee on Public Works on several occasions we have voted as to whether or not we would permit proxy voting. I have been pleased in recent years to note that the committee vote permitting proxy voting has been increasingly close.

Again, there is a good deal of talk by the newly founded Bipartisan Committee on Congressional Reform about secrecy and the importance of having committee votes made public. Again, under the rules of most of our committees this is perfectly possible. In the Public Works Committee of the House we have voted on this subject several times. While we have not adopted the rulemaking our committee votes public, the votes have been closer and closer, when we have organized at the beginning of the session.

That is the first point I want to make, Mr. Chairman, the point that much of what we are considering today in this congressional reform legislation is perfectly possible under our existing rules.

The second point I should like to make is that there is a continuing need for congressional reform. It is too bad that we treat this as something we do once every 25 years and then forget about. This is why I hope the House will pay particular attention to the suggestions which will be made by the gentleman from Missouri (Mr. HALL), who I understand will reintroduce the proposal that we made in the Joint Committee on Congressional Organization on which we served together.

This was the committee composed of six Members of the House and six Senators who drafted the Legislative Reorganization Act of 1967, which passed the Senate by a very large vote of 75 to 9 in March of 1967.

Many people have been high in their praises of our powerful Committee on Rules today. Indeed I commend them too, but the RECORD should show that particular offering by the joint committee back in 1967 and passed by the Senate, remained clutched in the embrace of the Committee on Rules until it expired quietly at the end of that session. However, the Senate, I hope, will be kinder to this bill, if it passes now, than we were to the Senate bill when it passed in 1967.

In that bill we had a continuing committee that would consider all matters of congressional reorganization and reform on a continuing basis. I know that Mr. HALL is going to offer that amendment along with others including Mr. WILLIAM STEIGER's. I hope you will all consider how important this will be.

One of the more interesting amendments that will be offered by the so-called bipartisan committee is going to be the Gubser-O'Neill amendment. Let us consider this amendment for a moment.

This amendment is going to be the amendment that will permit a record of how you feel about a particular teller vote. This is something that a lot of people have felt needed for a long time, but nobody really talked seriously about this until the last few months. Nobody really started talking seriously about it until various organizations took to ascribing to procedural votes certain motives which might or might not be inherent in them. Mr. GUBSER circulated the membership of this body on that issue. It so happened that he was fortunate at the time he made his proposal that this bill was coming to the floor. This does not happen very often. The last time we had a crack at one was the one that passed the Senate and it died in the Rules Committee and it was never considered here. For that reason it is important to remember the need for congressional reform is continuing and we cannot act on it now and put it aside for another 20 or 25 years. That is what happened for too long and it has happened too often. That is the guts of the proposal which I understand Mr. HALL will offer an amendment on. This was an important proposal embedded in the Legislative Reorganization Act of 1967, and it should not be dismissed.

Mr. Chairman, many of us consider ourselves experts in congressional reform. In a sense every Member of this House is an expert, because we deal daily with the frustrations that we face as Members. My particular background is that I took over from Congressman SCHWENGEL the Republican Task Force on Congressional Reform and Committee Staffing. As chairman of that task force, with 21 of my Republican colleagues, we published a book entitled "We Propose a Modern Congress."

A mere recitation of the table of contents of the 21 essays indicates many of the propositions made in this book "We Propose: A Modern Congress," were as broad in scope and as timely now as they were when published. As I skim down the table of contents, I note first the foreword by Tom Curtis, for many years a leading Member of Congress and one respected for his great mind and wisdom, and then the introduction by our colleague, House Minority Leader GERRY FORD. Both statements are refreshingly timely.

The list of essays in the book includes a section on the committee structure, including my own chapter on the need for increased minority staffing. Proof that this is still a problem is recognized in the bill before us, which takes tentative steps in the direction of assuring the minority a staff of its own when required. The essay on the seniority system by John Lindsay, now mayor of New York, cuts to the root of one of our present problems, and is especially timely. BOB GRIFFIN's essay on rules and procedures of the standing committees is demonstrated to be relevant by the proposals included in the bill now before us, which includes a number of provisions to regularize and improve committee procedures. Although the overlapping jurisdiction of many of our committees described by our colleague BRAD MORSE was not dealt with by the bill before us, it remains a problem as the number and structure of Federal agencies and programs proliferates, yet the committees and their jurisdictions remain the same.

The problem of setting science policy described by JOHN ANDERSON has not been adequately dealt with, nor have we really faced the lack of congressional leadership in the field of foreign policy which was outlined by OGDEN REID. In fact, the lack of activity in this field is now catching up with Congress as an institution, as we all know from the headlines of recent months. But in 1966, the task force was a voice crying in the wilderness for action which never came.

Last year when we were treated to the

spectacle of the HEW appropriations bill being finally passed after more than 7 months of the fiscal year had gone by, Congressman McClory must surely have been thinking of his essay on the need for reforming the budgetary and fiscal machinery of Congress. As the new fiscal year is now in its second week, without one major appropriations bill yet sent to the President, it is appropriate that the bill now before us contains small steps toward solution of this problem so ably dealt with by Bob McClory.

The issues involved with the complex area of lobbying, both by organizations and individuals which was dealt with by Paul Findley, and by the administration which was dealt with by Ancher Nelsen, still remain valid and timely. The action by the House last week was a good step in the right direction. Recent newspaper stories have reinforced this recognition. Bob Michel outlined the continuing need for the minority in Congress to control at least one investigative committee, and suggested a proposal to do this, which I hope to offer as an amendment to the bill now under consideration.

Our colleage, Bill Springer, very ably discussed the current operation of our system of congressional pages. With the major reforms in this bill the suggestions and comments offered by Bill Springer at last get the action they deserved when they were made in 1966. Joel Broyhill made a convincing case for reform of House personnel procedures. His plea for sweeping away the existing jumble and replacing it with a logical and workable system is extremely timely.

John Rhodes called for reconsideration of our floor procedures, to reform them and bring them up to date. Clearly this was a call which should have been heeded, for these procedures are now under attack and are bringing derision upon Congress. Durward Hall explored the feasibility and prospects of electric voting in the House. One reason for this is so that there can be more record votes in much shorter time. Had this been given serious consideration at the time, the SST, the Leggett amendment, and the Cooper-Church amendment among many others would perhaps have been voted on for the record, and much of the recent harsh criticism of Congress as an institution been avoided.

We have been fortunate that there have been no contested elections to the House of Representatives, for Bob McEwen's suggestions and comments on this subject have not received the attention they deserve. Every one of us here in Congress can attest to the timeliness of our colleague Laurence Burton's discussion of the problems of the cost of campaigns and the length of stay in Congress. Bob Wilson's essay on congressional ethics was timely when it was written and fortunately we now have a Committee on Standards and Ethics.

The essay advocating television and radio coverage of House and committee activities, which was written by Bob Ellsworth, is partly adopted in the bill before us. Many wish that the bill went further in this regard, especially as more and more people rely on the electronic media for their news. Mac Mathias made an eloquent plea for home rule for the District of Columbia. Regrettably this is yet another field in which Congress has done little. Don Rumsfeld gave a good analysis of the operation of a congressional office—and surely all of us are aware of the need for reforms in this area, as we spend time in using outdated procedures which should be spent in committee or on the floor.

Perhaps the chapter of the book which has won most significant acceptance since it was written was the one by Fred Schwengel, my friend and colleague, on the problems and needs of Congress in the field of information handling. The Rules Committee and the House Administration Committee are to be commended for their action in this area—for truly Fred Schwengel was right in calling for action to bring Congress up to date in this field.

I just point this out to show on this side of the aisle there has been a very determined and scholarly effort in this area. On the other side of the aisle we know that the Democratic study group and other committees and task forces have been busy. We are in a sense all experts on congressional reform. That is one of the reasons why so many of the amendments that will be offered will be worthy of attention.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I am glad to yield to the gentleman from Iowa, a great expert on congressional reform.

Mr. GROSS. I am certainly no expert.

Mr. CLEVELAND. I consider the gentleman one of the greatest experts on congressional reform and the need for it. As I hear him speak constantly to some of the extravagances we indulge in I would put him high on the list of those who head the rollcall on congressional reform.

Mr. GROSS. I will still deny it, and for that reason I will ask the gentleman if there is anything in this bill that he knows of that will do anything about the T and T club—the in on Tuesday and out on Thursday club.

Mr. CLEVELAND. Just a second. I consider myself an important member of that club.

But I want to get the record straight. It is no longer a "Tuesday to Thursday club." This is Monday and I am here on Monday and 336 Members are here. So let us get away from the Tuesday to Thursday club and call it the Monday to Thursday club.

Mr. GROSS. If there were 336 Members here they were not recorded on the first and only vote today. The only vote taken reflected that there were only 306.

Mr. CLEVELAND. I am sorry if I was misinformed. I thought it was 336.

Mr. GROSS. I think the gentleman will find that there were "ayes" 237 and "noes" 69.

Mr. CLEVELAND. I thank the gentleman.

There is not anything in this bill that this gentleman knows of with respect to the "in on Tuesday and out on Thursday club." Does the gentleman expect me to stay in Washington if there is no legislative business scheduled?

Mr. GROSS. I would not expect anyone in the House to do anything in particular.

Mr. CLEVELAND. I would like to say that I returned to New Hampshire last Thursday night after the rainstorm. In New Hampshire air was clear and the sky was blue. I was glad to get out of Washington and be back in my district.

Mr. SCHWENGEL. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Iowa.

Mr. SCHWENGEL. I, first, want to thank the gentleman for his kind remarks and his reference to my effort in dealing with the minority staffing question. I wish to commend the gentleman for the work he has done. The gentleman was a member of that committee when its function began and then he took over as a chairman and did a very commendable job and in a large measure pioneered the development of the Joint Reform Committee that resulted.

The CHAIRMAN. The time of the gentleman from New Hampshire has expired.

Mr. SMITH of California. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. SCHWENGEL. Mr. Chairman, if the gentleman will yield further, I want to commend the gentleman for his great leadership and for his followthrough and for his work and particularly for his observations here.

Mr. CLEVELAND. I thank the gentleman.

Mr. SCHWENGEL. I want to ask the gentleman one question: Is it not true and have you not found in your study of minority staffing, that it is impossible for the minority to be an effective and articulate minority and be able to properly challenge the majority, without having adequate staffing?

Mr. CLEVELAND. I thank the gentleman for his question and I was just about to address myself to that subject, the subject of minority staffing.

As I said earlier, in a sense we are all experts in this field of congressional reform. However, I want to address myself now to two aspects of it. One is the question of minority staffing. It is quite true—and I treat it at some length in one of the chapters of the book I referred to—that it is impossible for the minority to fulfill its role unless it is properly staffed. For that reason, although I think the committee has taken a first step, I do not think they have gone far enough, and at an appropriate time I will introduce an amendment to insure that there is made available to the minority members of a committee if they want it at least one-third of committee staffing funds. There are some committees where this will not be necessary and there are other committees where it is necessary. There are some committees where this is being done.

The second amendment which I shall offer is one that is not widely known about; that is the problem involved with reference to the minority party which does not have control over any committee of the House. For this reason some people have proposed—and some have called it the Michel proposal, or the Ford proposal, that the minority be given control of at least one committee. There is precedent. The British Parliament has an oversight committee which they usually trust to the leadership of the minority. Further, there is some precedent in this country and in the Congress for following this procedure. During the Teapot Dome scandal, the investigation of the Teapot Dome scandal was turned over to a Democrat although the Republicans were in control. Senator Walsh of Montana. This proposal would not only strengthen the hand of the minority, also it would help the majority. It would help the majority to stay on the ball and give the minority an opportunity to put up or shut up when they criticize the majority.

Mr. Chairman, I hope to discuss these two proposals at great length under the 5-minute rule.

Mr. SISK. Mr. Chairman, I yield 10 minutes to the gentleman from California (Mr. Rees).

Mr. REES. Mr. Chairman and members of the Committee, my purpose today is to read into the Record the list of 10 amendments which were sent to the Members I believe last Friday, and I think all of the Members should have them in their offices.

My job the past couple of years has been to help try to coordinate some of the efforts in the area of congressional reform. I worked with our former colleague from Illinois, Mr. Rumsfeld, last year, and this year I have been working with the gentleman from New York (Mr. Conable) and the gentleman from Florida (Mr. Gibbons) in a bipartisan attempt to try to agree on a basic package of amendments.

Mr. Chairman, I want to compliment the Rules Subcommittee headed by my good friends, the gentleman from California (Mr. Sisk), and the gentleman from California (Mr. Smith). I think they have come up with a very excellent bill.

It is the purpose of these amendments to improve a very excellent bill so as to make it a little stronger.

I think there are three general areas in policy which concern us in a reform bill. One is that we believe that the public has a right to know this deals with secrecy in the House of Representatives. So we hope that a recorded teller vote might help so that our constitutents will know how we feel on important issues.

Also, we want to open up the committee meetings so that the news media and the public can attend our deliberations and observe how we are going to vote on various issues.

Another very important area is the right of the minority, to make sure that the minority rights are protected at all stages of our deliberations. Guaranteed minority staffing is one amendment. Another amendment would guarantee 10 minutes to debate a motion to recommit with instructions.

And the third area, which really has not been hit on in any of the amendments that have been sent around to the Members, is that we should spread the base of participation in the House of Representatives. This deals with something that is very controversial in this House, and that is the forbidden subject of seniority.

It is the custom in the House that everyone is appointed to a committee or appointed to a leadership position by the sole criteria of seniority. I suspect that there will be several efforts made to deal with the rules so that we do have other criteria other than seniority in appointing Members to positions of responsibility. I do think that there is a need to adopt some changes in this area so as to spread the base of participation and allow more Members of this House who wish to work in areas of legislative activities to engage in these legislative activities in a position of leadership.

At this time I would like to discuss the first 10 amendments that were made public last week. For about the past year an informal committee of Democrats, Republicans, conservatives, liberals, and middle-of-the-roaders have been discussing congressional reform, and last week we made tentative agreement on 10 amendments. There are other amendments, some of which we have agreed to, others of which we have not, but at this time I would like to have printed in the Record the amendments that have been agreed to.

The first has to do with the recording of teller votes. If 20 Members rise up and request a recorded vote on tellers, then there shall be a recorded vote, and those voting "yea" and those voting "nay" shall be printed in the Record.

Mr. Chairman, the proposed amendment is as follows:

On page 47, immediately below line 5, insert the following:

"RECORDING TELLER VOTES

"Sec. 123. Clause 5 of Rule I of the Rules of the House of Representatives is amended to read as follows:

" 'He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: "As many as are in favor (as the question may be), say Aye;" and after the affirmative voice is expressed, "As many as are opposed, say No;" if he doubts, or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative; if he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one *or more* from each side of the question to tell the Members in the affirmative and negative; which being reported, he shall rise and state the decision. If before tellers are named any Member requests tellers with clerks and that request is supported by at least one-fifth of a quorum, the names of those voting on each side of the question shall be entered in the Journal. Members shall have not less than twelve minutes from the naming of tellers with clerks to be counted.' "

And make the appropriate technical changes in section numbers and references.

The second amendment deals with conference committee reports, and it states that conference committee reports shall be made available to the membership 3 days before the conference committee report is taken up. Too many times we do not have sufficient information on a conference committee report, and little opportunity to debate what the conferees have decided upon.

Mr. Chairman, the proposed amendment is as follows:

On page 40, strike out lines 18 to 22, inclusive, and insert in lieu thereof the following:

"(2) Clause 2 of Rule XXVIII of the Rules of the House of Representatives is amended to read as follows:

" '2. It shall not be in order to consider the report of a committee of conference unless such report and the accompanying statement shall have been printed in the Record at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of such report by the House; but this provision does not apply during the last six days of the session. Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement are then available on the floor. The time allotted for debate in the consideration of any such report shall be equally divided between the majority party and the minority party.' "

And make the appropriate and necessary technical changes in the bill.

The third amendment deals with open committee business meetings. This is a double-jointed amendment, one dealing with business meetings and the other dealing with committee hearings.

It is felt that these meetings should be open to the public. If the committee feels the meeting is too controversial or perhaps deals with national security, then they can, by an open vote, vote to close that meeting.

Mr. Chairman, the amendments referred to above are as follows:

On page 9, strike out lines 9 to 11, inclusive, and insert in lieu thereof the following:

"(f) Each meeting for the transaction of business of each standing committee shall be open to the public unless the committee, in open session and with a quorum present, determines, by roll call vote, that all or part of the remainder of that meeting on that day shall be closed to the public."

And make the appropriate and necessary technical changes in the bill.

On page 26, strike out lines 13 to 15, inclusive, and insert in lieu thereof the following:

"(2) Each hearing conducted by each committee shall be open to the public unless the committee, in open session and with a quorum present, determines, by roll call vote, that all or part of the remainder of that hearing on that day shall be closed to the public."

And make the appropriate and necessary technical changes in the bill.

The fourth amendment deals with disclosure of rollcall votes on measures in the committee.

The bill provides that the chairman of the committee must make available the total vote on measures that was voted on in that committee, if those votes were taken in a closed meeting.

What this amendment does is to state that the committee chairmen will make available the rollcall vote on how each member voted and how each proxy was voted on issues before the committee.

Mr. Chairman, the amendment is as follows:

On page 10, strike out lines 3 to 10, inclusive, and insert in lieu thereof the following:

"(b) Clause 27(b) of Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: 'The result of each roll call vote in any meeting of any committee shall be made available by that committee for inspection by the public at reasonable times in the offices of that committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order or proposition, and whether by proxy or in person, and the names of those Members present but not voting.' "

And make the appropriate and necessary technical changes in the bill.

The fifth amendment deals with the time for debate on a motion to recommit with instructions.

I think we have had the situation many times in the House, where we have a motion to recommit with instructions, and only about two or three people on the floor know really what the instructions are.

This amendment provides that there will be 10 minutes set aside so that the person who will be offering the motion to recommit can explain exactly what the motion is and then half of the time can be used by one who is opposed to that motion, giving his viewpoints on the motion.

Mr. Chairman, this amendment is as follows:

On page 47, immediately below line 5, insert the following:

"DEBATE ON MOTION TO RECOMMIT WITH INSTRUCTIONS AFTER PREVIOUS QUESTION IS ORDERED

"SEC. 123. Clause 4 of Rule XVI of the Rules of the House of Representatives is amended by adding at the end thereof the following new sentence: 'However, with respect to any motion to recommit with instructions after the previous question shall have been ordered, it always shall be in order to debate such motion for ten minutes before the vote is taken on that motion.' "

And make the appropriate technical changes in section numbers and references, as necessary.

The sixth amendment deals with debate time on amendments previously printed in the CONGRESSIONAL RECORD.

How many times have Members been working on amendments for several weeks and then find themselves in a situation, where a time limit has been voted and they do not have time to bring up and explain their amendment.

Many times a Member who has been working on an amendment for several weeks finds that there is absolutely no time to bring the amendment up.

What this amendment provides is that on the day before that Member can give his amendment to the Clerk and it shall be printed in the CONGRESSIONAL RECORD and that Member will be guaranteed 10 minutes of debate time on the amendment, 5 minutes for and 5 minutes against.

Mr. Chairman, the amendment is as follows:

On page 39, immediately below line 4, insert the following:

"DEBATE TIME UNDER 5-MINUTE RULE FOR AMENDMENTS PREVIOUSLY PRINTED IN CONGRESSIONAL RECORD

"SEC. 119. Clause 6 of Rule XXIII of the Rules of the House of Representatives is amended by adding at the end thereof the following new sentence: 'However, in any case, if the exact text of any amendment offered by any Member shall have been printed, at his request, in the Congressional Record for the then current session of the Congress prior to the offering of that amendment by that Member, it always shall be in order to debate such amendment for ten minutes before the vote is taken on such amendment, one-half of such time to be given to the proponent, and one-half to debate in opposition to such amendment; and debate may not be closed under this clause with respect to such amendment; and any decision adopted to close debate under this clause shall be considered to include an additional ten minutes for debate on any such amendment.' "

And make the appropriate and necessary technical changes in the bill.

Mr. Chairman, the seventh amendment deals with quorum calls.

What we are trying to do is to cut down on the length of time for quorum calls. A quorum call takes approximately a half hour. With this amendment, the Clerk will call the roll and when he reaches a majority of those present, he can cease calling the roll. But the original roll will be open for a half hour from the time of the point of order, that there was no quorum, was made and Members can come in during that half hour and sign in.

So it is hoped that we can cut the length of the quorum call down to 15 minutes.

Mr. Chairman, this amendment is as follows:

On page 47, immediately below line 5, insert the following:

QUORUM CALLS

"SEC. 123: (a) Clause 2 of Rule XV of the Rules of the House of Representatives is amended to read as follows:

" '2. In the absence of a quorum, fifteen Members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent Members, and in all calls of the House the doors shall be closed, the names of the Members shall be called by the Clerk, and the absentees noted; Members shall be counted if in lieu of answering to their names Members affix their signatures to a Clerk's form; and those for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged. Members who voluntarily appear shall, unless the House otherwise direct, be immediately admitted to the Hall of the House, and they shall report their names to the Clerk to be entered on the Journal as present. When the presence of a quorum has been ascertained, the call may be interrupted to entertain a motion to dispense with further proceedings under the call, but the rolls shall be kept open for Members to record their presence until 30 minutes after commencement of the call.'

"(b) Clause 2 of Rule XXIII of the Rules of the House of Representatives is amended to read as follows:

" '2. Whenever a Committee of the Whole House or of the Whole House on the State of the Union finds itself without a quorum, which shall consist of one hundred Members, the Chairman shall cause the roll to be called until a quorum shall appear. Members shall be counted if in lieu of answering to their names Members affix their signatures to a Clerk's form. Thereupon the Committee shall rise, and the Chairman shall report the names of the absentees to the House, which shall be entered on the Journal, but the Clerk shall strike from the list of absentees the name of any Member who shall affix his signature to a Clerk's form within 30 minutes after the commencement of the call. If on such call a quorum shall appear, the Committee thereupon shall resume its sitting without further order of the House.'

"And make the appropriate technical changes in section numbers and references."

The eighth amendment deals with minority staffing.

Under the reform bill, the minority is guaranteed a staff, but under this amendment one-third of the total committee funds are guaranteed for the minority, to be spent in whatever the minority deems necessary for them to do their work.

The amendment as to minority staffing is as follows:

COMMITTEE INVESTIGATIVE FUNDS

"Amendment offered by Mr. ——— to H.R. 17654

"On page 23, line 15, strike out the words 'and shall receive fair consideration in', and insert in lieu thereof the following:

" 'not less than one-third of the funds provided for'.

"And make the appropriate and necessary technical changes in the bill."

Mr. Chairman, the ninth amendment deals with the Office of Legislative Counsel.

This is an attempt to try to upgrade Legislative Counsel Office so that it adequately serves the Members and this legislative body.

When I was a member of the California Senate, we had a legislative counsel's office in the California Legislature that had 46 attorneys. I think we have 14 attorneys in the Legislative Counsel Office for the House of Representatives.

These gentlemen do an excellent job. They are harassed, they are overworked and one of their problems is—first, their loyalty by statute is to the committees and not to the individual Member. So many times when we need legal help, we find that it is not forthcoming because the attorneys are tied up with work dealing with the committee.

This amendment would extend the scope of this Office and I think would give us the type of staff work in the legal field that is so necessary for us to effectively operate.

The amendment as to the Office of Legislative Counsel is as follows:

Amendment offered by Mr. ——— to H.R. 17654.

Page 141, after line 4, insert the following:

"TITLE VI—OFFICE OF LEGISLATIVE COUNSEL

"SUBTITLE A—HOUSE OF REPRESENTATIVES

"PART 1—PURPOSE, POLICY AND FUNCTION

"ESTABLISHMENT

"SEC. 601. There is established in the House of Representatives an office to be known as the Office of Legislative Counsel, referred to hereinafter in this subtitle as the Office.

"PURPOSE AND POLICY

"SEC. 602. The purpose of the Office shall be to advise and assist the House of Representatives, its officers, committees, and Members in the achievement of a clear, faithful, and coherent expression of legislative policies. The Office shall maintain impartiality as to issues of legislative policy to be determined by the House of Representatives, and shall not advocate the adoption or rejection of any legislation except when duly requested by the Speaker or a committee to comment on a proposal directly affecting its own functions. The Office shall maintain the attorney-client relationship with respect to all communications between it and any Member or committee of the House, subject to the requirements and procedures provided by this subtitle and to the extent consistent with the purpose and policy of the Office as set forth in this section, the resources of the Office may be employed in aid of any function of the Congress.

"FUNCTIONS

"SEC. 603. The functions of the Office shall be as follows:

"(1) Upon request of the managers on the part of the House at any conference on the disagreeing votes of the two Houses, to advise and assist the managers on the part of the House in the course of the conference, and to assist the committee of conference in the preparation of the conference report and any accompanying explanatory statement.

"(2) To have in attendance on the floor of the House not more than two members of the staff of the Office (and, in his discretion, the Director) during the consideration of any legislative business by the House, to advise and assist upon request any Member having control of time, and, to the extent feasible, any other Member, in the course of such consideration.

"(3) Upon request of any committee (including any joint committee) having authority to report legislation to the House, to advise and assist the committee in the consideration of any legislation before it, and to assist the committee in the preparation of drafts of any such legislation, amendments thereto, and reports thereon.

"(4) Upon request of any Member, subject to such reasonable restrictions as the Director may impose with the approval of the Speaker on the proportion of the resources of the Office which may be devoted to the requests of any one Member, to prepare drafts of legislative proposals and to furnish advice with respect to such drafts prepared by others.

"(5) To prepare and maintain for the use of the committees of the House current compilations of public laws other than those enacted as part of the United States Code. Compilations prepared pursuant to this paragraph may be annotated as to legislative history, cross-references, and any other information (other than digests of decisions) bearing upon the legal status, force, or effect of statutory provisions.

"(6) At the direction of the Speaker, to perform on behalf of any officer, component, or agency of the Congress any legal services which are within its capabilities and whose performance would not be inconsistent with the purpose and policy set forth in section 602.

"PART 2—ADMINISTRATION

"DIRECTOR

"SEC. 611. The management, supervision, and administration of the Office are vested in the Director of the Office, referred to in this subtitle as the Director, who shall be appointed by the Speaker of the House of Representatives without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person so appointed shall serve at the pleasure of the Speaker.

"STAFF

"SEC. 612. With the approval of the Speaker, or in accordance with policies and procedures approved by the Speaker, the Director shall appoint such attorneys and other employees as may be necessary for the prompt and efficient performance of the functions of the Office. Any such appointment shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person so appointed may be removed by the Director with the approval of the Speaker, or in accordance with policies and procedures approved by the Speaker.

"COMPENSATION

"SEC. 613. (a) The Director shall be paid at a per annum gross rate equal to the rate of basic pay, as in effect from time to time, for level III of the Executive Schedule of section 5314 of title 5, United States Code.

"(b) Members of the staff of the Office other than the Director shall be paid at per annum gross rates fixed by the Director with the approval of the Speaker or in accordance with policies approved by the Speaker within the limits otherwise provided by law for employees of the House of Representatives.

"SPECIALIZED TRAINING

"SEC. 614. (a) The Office is authorized, with the approval of the Committee on House Administration, and within the limits of funds made available from the contingent fund of the House of Representatives pursuant to resolutions which shall specify the maximum amounts which may be used for such purpose, to provide assistance for members of the staff of the Office in obtaining specialized training, whenever the Director determines that such training will aid the Office in the discharge of its responsibilities.

"(b) Such assistance may be in the form of continuance of pay during periods of training or grants of funds to pay tuition, fees, or such other expenses of training, or both, as may be approved by the Committee on House Administration.

"(c) When the Office provides assistance under this section, the Director shall obtain from any employee receiving such assistance such agreement with respect to continued employment with the United States Government as the Director may deem necessary to assure that the Government will receive the benefits of such employee's services upon completion of his training.

"(d) During any period for which an employee is separated from employment with the Office for the purpose of undergoing training under this section, such employee shall be considered to have performed service (in a nonpay status) as an employee of the Office at the rate of compensation received immediately prior to commencing such training (including any increases in compensation provided by law during the period of training) for the purpose of—

"(1) subchapter III (relating to civil service retirement) of chapter 83 of title 5, United States Code,

"(2) chapter 87 (relating to Federal employees group life insurance) of title 5, United States Code, and

"(3) chapter 89 (relating to Federal employees group health insurance) of title 5, United States Code.

"(e) The authority contained in this section does not impair the authority of the Director to grant administrative leaves with pay not exceeding one month's duration, and to pay tuition, registration, and other similar fees and expenses and travel expenses and per diem in connection with attendance by members of the staff of the Office at professional conferences, institutes, or other educational activities related to the work of the Office.

"FUNDING

"SEC. 615. (a) There are hereby authorized to be appropriated such sums as may be necessary to pay the expenses of the Office, other than expenses paid pursuant to section 614 or subsection (b) of this section.

"(b) Whenever the duties of the Office are increased by action of the House of Representatives or otherwise pursuant to this subtitle to a degree that cannot reasonably be accommodated within the resources of the Office available under the appropriations for the Office then current, additional funds may be made available for the expenses of the Office from the contingent fund of the House pursuant to a resolution approved by the House specifying the maximum amount which may be used for such purpose.

"PART 3—CONSTRUCTION AND EFFECT

"CONSTRUCTION AND EFFECT

"SEC. 621. Insofar as the provisions of section 1303 of the Revenue Act of 1918 (2 U.S.C., chapter 9) have applied to the appointment or functions of any officer or committee of the House of Representatives or to the appointment or functions of any officer or employee of the office of the legislative counsel established by that section who has been responsible to the House of Representatives or its Speaker and whose compensation has been disbursed by the Clerk of the House of Representatives, those provisions were enacted and have been in effect as an exercise of the rulemaking power of the House of Representatives, subject to the power of the House of Representatives to enact or change any rule of the House at any time in its exercise of its constitutional right to determine the rules of its proceedings. Insofar as the provisions of this subtitle apply to the appointment or functions of any officer or employee of the House of Representatives, these provisions are likewise enacted as an exercise of the rulemaking power of the House and are similarly subject to change at any time. Effective immediately upon the passage of this subtitle by the House of Representatives and regardless of when or whether this subtitle is enacted into law, any person expressly appointed by the Speaker as Director shall have the functions provided in this subtitle, and the provisions of this subtitle shall govern the functions of all persons in the office of the legislative counsel established under section 1303 of the Revenue Act of 1918 whose pay is disbursed by the Clerk of the House of Representatives. If this subtitle becomes law, then its provisions shall remain effective for the foregoing purposes and shall become effective for all other purposes on the date of enactment of this Act and shall thereafter remain in effect until amended or repealed, subject to modification under the constitutional rulemaking power of the House, and any person expressly appointed as Director by the Speaker prior to the enactment of this Act shall remain as Director after the enactment of this Act unless otherwise ordered by the Speaker. Notwithstanding any other provision of law, any individual who, on the date of passage of this subtitle by the House of Representatives, was serving under an appointment by the Speaker as legislative counsel shall, after that date and after the enactment of this Act, continue to be designated as legislative counsel of the House of Representatives as long as he remains in the employ of the House and shall be paid at a per annum gross rate of pay equal to the dollar amount of the per annum gross rate of pay in effect for his position immediately prior to the passage of this subtitle by the House of Representatives or at a rate determined under section 613(b), whichever is higher. Effective upon the date of enactment of this Act, the provisions of section 1303 of the Revenue Act of 1918 (2 U.S.C., chapter 9) shall have no further applicability of any kind to the Speaker or to any committee, officer, employee, or property of the House of Representatives, and all personnel, property, records, and unexpended balances of appropriations of or for that part of the office of the legislative counsel established under section 1303 of the Revenue Act of 1918 which was employed or held in or for the House of Representatives shall be transferred to the Office established under this subtitle.

"Amend the table of contents by adding at the end thereof the following:

"TITLE VI—OFFICE OF LEGISLATIVE COUNSEL

"SUBTITLE A—HOUSE OF REPRESENTATIVES

"PART 1—PURPOSE, POLICY AND FUNCTION

"Sec. 601. Establishment.
"Sec. 602. Purpose and policy.
"Sec. 603. Functions.

"PART 2—ADMINISTRATION

"Sec. 611. Director.
"Sec. 612. Staff.
"Sec. 613. Compensation.

"Sec. 614. Specialized training.
"Sec. 615. Funding.

"Part 3—Construction and Effect

"Sec. 621. Construction and effect."

Mr. Chairman, the last amendment would create a Joint Committee on Congressional Operations.

Tied in with this amendment is also another amendment that would do away with the proposed Joint Committee on Data Processing. This is still being negotiated. There is no positive agreement on it yet, but there will be by tomorrow.

Mr. Chairman, the amendment to create a Joint Committee on Congressional Operations is as follows:

At the proper place insert the following:

"TITLE IV—CONGRESS AS AN INSTITUTION

"Part 1—Joint Committee on Congressional Operations

"ESTABLISHMENT OF JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

"Sec. 401. (a) There is hereby created a Joint Committee on Congressional Operations (hereafter in this part referred to as the 'Joint Committee').

"(b) The Joint Committee shall be composed of twelve members as follows:

"(1) six Members of the Senate, appointed by the President pro tempore of the Senate; two from the Committee on Government Operations of the Senate, two from the Committee on Rules and Administration of the Senate, and two from among the remaining Members of the Senate (including but not limited to members of the committees referred to in this paragraph); and

"(2) six Members of the House of Representatives, appointed by the Speaker of the House of Representatives; two from the Committee on Government Operations of the House of Representatives, two from the Committee on House Administration of the House of Representatives, and two from among the remaining Members of the House of Representatives (including but not limited to members of the committees referred to in this paragraph).

"(c) Of each class of two members referred to in subsection (b), one shall be from the political party having the greatest number, and one shall be from the political party having the second greatest number, of Members of the Senate, or of the House of Representatives, as the case may be.

"(d) Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original appointment.

"(e) The Joint Committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship and the vice chairmanship shall alternate between the Senate and the House of Representatives with each Congress. The Chairman during each even-numbered Congress shall be selected by the Members of the House of Representatives on the Joint Committee from among their number and the chairman during each odd-numbered Congress shall be selected by the Members of the Senate on the Joint Committee from among their number. The vice chairman during each Congress shall be chosen in the same manner from the House of Congress other than the House of Congress of which the chairman is a Member. The vice chairman shall not be of the same political party as the chairman.

"DUTIES OF JOINT COMMITTEE

"Sec. 402. (a) The Joint Committee shall—

"(1) make a continuing study of the organization and operation of the Congress of the United States and shall recommend improvements in such organization and operation with a view toward strengthening Congress, simplifying its operations, improving its relationships with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution of the United States;

"(b) The Joint Committee shall exercise all functions vested in it by sections 406 and 407 of this part.

"(c) Except as provided in subsection (d) of this section, the Joint Committee shall report, from time to time to the Senate and the House of Representatives its recommendations with respect to matters within the jurisdiction of the Joint Committee.

"(d) In addition to the studies and activities of the Joint Committee under subsection (a) of this section, the Joint Committee shall—

"(1) conduct a study of each of the matters described in subparagraphs (A) to (E), inclusive, of this subsection; and

"(2) submit to the Senate and House of Representatives, within the time limit specified with respect to that study, a report of the results of that study, together with the recommendations of the Joint Committee, as follows:

"(A) a study of the procedure of both Houses in connection with citations for contempt of Congress;

"(B) a study of the facilites, including gallery facilities, available to the public in its visits to the United States Capitol and the means of improving such facilities in order to present to the public an informative view of the Congress;

"(C) a study of the role of the Congress, and the exercise, application, and effect of its authority, with respect to the engagement of the Armed Forces of the United States in armed conflict in overseas areas without a formal declaration of war by the Congress;

"(D) a study of the problems relating to the application, operation, and enforcement of the provisions of section 1913 of title 18, United States Code, relating to lobbying with appropriated funds;

"(E) a study of the procedures of the Senate and the House of Representatives in connection with contested elections in their respective Houses.

The report and recommendations of the Joint Committee with respect to each of the studies described in subparagraphs (A) to (E), inclusive, of this subsection shall be submitted to the Senate and House of Representatives within the time limit specified with respect to that subparagraph of this subsection in which that study is described, as follows:

"(i) subparagraphs (A) and (B)—not later than one year after the effective date of this section;

"(ii) subparagraphs (C), (D), and (E)—not later than two years after such effective date;

"POWERS OF JOINT COMMITTEE

"Sec. 403. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of Congress, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Joint Committee may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Joint Committee unless a majority of the Joint Committee assent. Subpenas may be issued over the signature of the chairman of the Joint Committee or of any member designated by him or by the Joint Committee, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the Joint Committee or any member thereof may administer oaths or affirmations to witnesses.

"STAFF OF JOINT COMMITTEE

"Sec. 404. (a) In carrying out its functions under subsections (a) and (c) of section 402 of this Part, the Joint Committee is authorized, by record vote of a majority of the members of the Joint Committee—

"(1) to appoint, on a permanent basis, without regard to political affiliation and solely on the basis of fitness to perform their duties, not more than six professional staff members and not more than six clerical staff members;

"(2) to prescribe their duties and responsibilities;

"(3) to fix their compensation at rates authorized by section 202(e) of the Legislative Reorganization Act of 1946; and

"(4) to terminate their employment as the Joint Committee may deem appropriate.

"(b) In carrying out its functions under section 406 of this Part, the Joint Committee is authorized, by record vote of a majority of the members of the Joint Committee—

"(1) to appoint, on a permanent basis, without regard to political affiliation, and solely on the basis of fitness to perform the duties concerned, such additional personnel as the Joint Committee deems necessary;

"(2) to prescribe their duties and responsibilities;

"(3) to fix their compensation at rates authorized by section 202(e) of the Legislative Reorganization Act of 1946; and

"(4) to terminate their employment, as the Joint Committee may deem appropriate.

"(c) In carrying out any of its functions under this Part, the Joint Committee is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government, and to procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract at rates of pay not in excess of the per diem equivalent of the highest rate of basic pay of the General Schedule of section 5332 of title 5, United States Code, including payment of such rates for necessary traveltime.

"RECORDS OF JOINT COMMITTEE

"Sec. 405. The Joint Committee shall keep a complete record of all Joint Committee actions, including a record of the votes on any question on which a record vote is demanded. All records, data, charts, and files of the Joint Committee shall be the property of the Joint Committee and shall be kept in the offices of the Joint Committee or such other places as the Joint Committee may direct.

"TRANSFER OF FUNCTIONS

"Sec. 406. There are transferred to the Joint Committee all of the functions, records, and property of the Joint Committee on Disposition of Executive Papers, created by the Act approved July 7, 1943 (57 Stat. 380), and such joint committee is hereby abolished.

"OFFICE OF PLACEMENT AND OFFICE MANAGEMENT

"Sec. 407. (a) There is hereby established for the Congress an Office of Placement and Office Management which shall be subject to the supervision and control of the Joint Committee. The Joint Committee is authorized, by record vote of a majority of the members of the Joint Committee—

"(1) to appoint, on a permanent basis, without regard to political affiliation, and solely on the basis of fitness to perform his duties, a Director of the Office of Placement and Office Management to serve as the head of the staff of the Office;

"(2) to prescribe his duties and responsibilities;

"(3) to fix his compensation at a rate authorized by section 202(e) of the Legislative Reorganization Act of 1946; and

"(4) to terminate his employment, as the Joint Committee may deem appropriate.

"Subject to the prior approval of the Joint Committee, the Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties of the Office under this section.

"(b) It shall be the duty of the Office, upon request, to assist Members, committees, and officers of the Senate and House of Representatives seeking competent personnel with specified qualifications and to furnish advice and information with respect to office management procedures. In carrying out the provisions of this section, the Office shall—

"(1) operate as a central clearinghouse for applications for employment with the Congress;

"(2) test the qualifications of individuals submitting such applications for employment;

"(3) furnish advice and information to Members, committees, and officers of the Senate and House of Representatives, on request, with respect to better office management practices and efficient utilization of office equipment; and

"(4) maintain, for the benefit of such Members, committees, and officers desiring detailed office studies to improve the efficiency of their operations, a list of private management concerns capable of rendering such service on request.

"(c) Nothing in this section shall be held or considered to require the use of the facilities of the Office by any Member, committee, or Officer of the Senate or House of Representatives, if, in the opinion of such Member, committee, or officer, the use of such facilities is inappropriate.

"EXPENSES

"SEC. 408. The expenses of the Joint Committee shall be paid from the contingent fund of the House of Representatives, from funds arpropriated for the Joint Committee, upon vouchers approved by the chairman."

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman.

Mr. GROSS. With reference to this matter of quorum calls, I trifled with the idea of putting a call on so the Members could hear this dissertation by the gentleman from California, particularly with reference to quorum calls and then I thought—well, after we got 218 Members here, there would still be some 217 Members who would not be available to listen to the gentleman. They would come in any time within 30 minutes and would be signed in and then they could go back to the gymnasium or whatever they wanted to do and they would not get the benefit of this.

Would the gentleman think that if we are going to amend the rules with respect to quorum calls, we ought to have some more effective means of getting Members here and keeping them here?

Mr. REES. In the legislative body to which I referred we were not allowed to have any deliberations unless we had a quorum present and on the floor. If we had a call of the house, the doors would be closed and the members would have to remain on the floor and deliberate on the issue.

Mr. GROSS. Did you lock the doors in California? Did you lock them in or how did you keep them there?

Mr. REES. They locked the doors. There was a sergeant at arms at each door and they would not allow any member to leave the chamber unless they had an OK from the speaker.

Mr. GROSS. In the case of fire what would happen?

Mr. REES. I suspect the Sergeant at Arms would be the first out.

We have a second series of amendments. These are still being negotiated.

No. 1 provides that a majority of each standing committee may call up and set for consideration any bill or matter within that committee's jurisdiction.

No. 2, that conference committee members, whenever practicable, shall be appointed from the subcommittee from which the legislation was reported. We would hope that this would spread the opportunities a little more to the younger Members.

No. 3 mandates that, at the beginning of the session, each committee shall adopt such rules.

No. 4 deals with a Resident Commissioner. It would have the Speaker, I believe, appoint the Resident Commissioner from Puerto Rico to specific committees, as we are appointed by our own Committee on Committees, and the Resident Commissioner would have the right to vote in that committee.

No. 5 mandates a rollcall vote on all general appropriation measures.

No. 6 changes the fiscal year from July 1 to January 1.

No. 7 deals with parliamentary precedents.

No. 8 is an extension of the Remseyer rule so it is used on all bills being considered by a committee or on the floor of the House.

No. 9 requires the printing of amendments over 25 words that are brought up on the floor of the House.

No. 10 deals with translating basic pay into gross pay, and easing restrictions on the pooling of the clerk-hire allowances.

There will be amendments that will deal with the seniority system. As there are committees on both sides of the House dealing with the problems of seniority, these amendments will be relatively minor. I do think that we need to consider seniority as these reform bills come around only every 20 or 30 years. What we will try to do in our informal committee is to have all of these amendments drafted and made available to the Members on both sides of the aisle.

Mr. SMITH of California. Mr. Chairman, I yield 10 minutes to the gentleman from Missouri (Mr. HALL).

Mr. HALL. Mr. Chairman, this situation would be ludicrous if, indeed, the subject matter were not so serious. A wag said a little while ago that there were 12 Members listening attentively on one side, 18 were present on the other, and two of the latter were asleep.

Obviously there have been many areas of concern by those present, there have been many expressions that have come in worldwide about the organization of the Congress and its related agencies, and some are real and others are simply by the "have-nots"—and this, like the worldwide situation, is always with us—and some are theoretical and some are real.

Basically, Mr. Chairman, Congress was and is intended to be a policymaking body, that agency of our Government making policy, with the executive or administrative branch carrying out that policy, and the judiciary or judicial branch interpreting and guarding the laws and the Constitution.

Until recently in our history this Founding Fathers intended-arrangement had proven out well and by and large had worked well. The burgeoning bureaucracy based on over-regimentation, conscription, too many wars, and perhaps too much security, has in the past four decades, however, gradually intruded into the will and stamina of our people and into the policymaking business of the legislative branch; and in the last two decades, the Supreme Court—our highest tribunal—has asserted wide powers of policymaking largely through interpretations of the equal protection and the due-process clauses of the 14th amendment, to say naught of the spreading of the so-called commerce and welfare clauses in the Constitution and its doctrine.

It is my conviction and I believe that of thinking students of congressional reorganization that:

First. The original distribution of Government powers and their checks and balances was basic and tried and true as well as correct.

Second. It is as workable today as it was then, notwithstanding our society and the fact that it has grown in complexity, if we simply work the plan and have good leadership—and we can work here all day and legislate until doomsday, and without leadership or good intent or "working the plan," it will come to naught.

Third. Proper balance can be restored if we ourselves overcome complacency.

Fourth. Only the Congress itself can restore that balance.

Fifth. Only by reorganizing and strengthening itself can Congress resume its position as a policymaking agency of the Government.

This then is the issue we now confront. There was a joint commission that studied for 3 years and had literally stacks of testimony by academicians and by Members of Congress, both those who represent the States of the Union and those who represent the people, and its findings have been reviewed here today, and I shall not repeat those and transgress on the time of the Committee of the Whole House on the State of the Union.

I would like to join those who have taken their hats off today to the Committee on Rules, which has sustained the "package" concept so that this House might work its will. I hope it will stay with this package concept on which the House in its Committee of the Whole can work its will and not rise in frustration with all these many-sided multifaceted amendments that have been suggested.

The original package which came from

that joint committee has been fragmented, and I want to stipulate here that many good things, such as the Standing Committee on Ethics and Standards of Conduct, the lobbying bill that we passed last week, a counterpart to our own Committee on Veterans' Affairs in the other body, and the elimination of at least two useless House or joint committees have been accomplished.

I think we are up against here today the basic question of whether Congress can continue to legislate—with or without leadership—based upon what we may or may not here adopt and exercise as representatives of the people.

It is because in fact we are a representative Government in a Republic under a limited Constitution whose uniquity is the fact that we can change that with ballots and due process, rather than with bullets.

But I fear today we come up against the problem of jurisdiction and prerogatives, and perhaps too much power on the one hand and too little on the other. We have, for example, at one end of the stick the question of joint congressional committees on data processing and of Congressional Library research. On the other we have the jurisdiction and functions of continuing committees of the House and of existing committees which naturally have their prerogatives and jurisdictions.

Over 5 years ago, on May 10, 1965, as a member of the Joint Committee on the Organization of the Congress, almost paradoxically in the glare of history's objectivity, Mr. Chairman, in the opening statement I asked the question:

> Can we contribute to the "shoring up" or revitalization of the Congress to withstand these powerful attacks from sister branches of the Government?
>
> I think we can. I think this is our duty.
>
> If our hearings, our study, our deliberations produce no more than superficial nitpicking modernizations; if we gullibly accept some suggested changes which at first glance "smack of efficiency," but in essence reduce the importance of Congress—we will have failed in our duty and I—as one Member—will regret and decry that failure.
>
> It should be our high purpose, Mr. Chairman and members, in these hearings to search for the means of restoring to the Congress its rightful function to the end that we may prove that self-government by free individual citizens, through agents they control, is possible, even in a complex, sophisticated, and rapidly changing society.

I believe that statement is still true. I believe it is what we are in fact considering here today.

Of all the recommendations of our joint committee created by Senate Concurrent Resolution 2, back in 1965, the one which gives the greatest promise of solving the basic problem of congressional weakness, if any, is the concept of a Joint Committee on Congressional Operations.

This is all produced in a bill under title V of H.R. 2187, submitted by the gentleman from California (Mr. SMITH). I believe it is most cogent.

The other reforms in S. 355 as passed by that body by a vote of 75 to 9 on March 7, 1967, and those contained in the bill presently before us, however salutary, do not begin to deal with the restoration of congressional power, with one exception.

The increasing involvement in policy making of the bureaucracy, Mr. Chairman, is founded on its abundance of manpower, expertise, and funds, but perhaps more importantly on its stability and continuity. It has tenure, by the laws we have passed and established. It is always there, while the Congress is turning over periodically and even within any given Congress may change its interests or direction. This happens frequently.

The Legislative Reorganization Act of 1946 began attacking the weaknesses of Congress by providing permanent professional staffs for committees and strengthening the Legislative Reference Service of the Library of Congress, the Congressman's library. The present bill before us further strengthens committee staffs, and strengthens still more a renamed Congressional Research Service.

Many of the provisions of the bill before us dealing with the House rules and precedents were not in S. 355 because our joint committee was excluded from dealing with those matters. On the other hand, many salutary congressional reforms contained in the Senate-passed bill, S. 355, are omitted in the bill before us.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. SMITH of California. Mr. Chairman, I yield the gentleman 5 additional minutes.

In my opinion, Mr. Chairman, the most important omission is the provision creating a Joint Committee on Congressional Operations. This would be a continuing committee. We cannot point to the provisions of the Rules Committee bill before us as beginning to meet the basic problem of congressional weaknesses, no matter how we try. After 3 years of wrestling with the problem of congressional weaknesses, after fragmenting the bill and adopting those portions which were good, our committee, with the assistance of an able staff, many of whom are still here, and some former Members who serve on the floor voluntarily and who are most able, was unable to come up with any complete blueprint. We did conclude, though—

First, that the problem of congressional weakness did exist;

Second, that it was important to attempt to solve it;

Third, only Congress could solve it; and

Fourth, that the problem was too complex and difficult for solution on an immediate or on an ad hoc basis.

Thus, Mr. Chairman, our final conclusion was that an agency of the Congress be created to concern itself constantly with Congress as an institution which would examine on this continuing basis, ways in which the Congress can be strengthened and constantly updated and/or improved.

Title IV, part 1, of the committee bill before us establishes a joint committee on data processing. One of the functions of the joint committee on congressional operations dealt with information retrieval systems for Congress. Our standing Committee on House Administration is all but ready to order hardware for same. I hope to draft an amendment, therefore, that will give the House the opportunity to pass on the wisdom of establishing a joint committee charged with not only data processing but with the broader mandates of coping with the problem of congressional weaknesses and providing, perhaps, a counsel for the Congress.

What a paradox it is, Mr. Chairman, that within a continuing Committee on Congressional Reorganization and with all of the lawyers here present we have to hire and retain, when we come up against subpenas or charges and are eyeball to eyeball with a difficult legal problem, outside help so that we may compete with the executive branch which has its Attorney General and Department of Justice with its courts, and many others.

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Mr. HALL. I am glad to yield to the gentleman from New Hampshire.

Mr. CLEVELAND. In support of the point that the gentleman is making I noticed the other day when they were speaking about the fact that there was going to be an early test case of the constitutionality of the 18-year-old vote, which recently was passed by the Congress. Due to the fact that the Executive expressed some doubts about the constitutionality of that law and he may be right, but because of that one of the Senators pointed out that perhaps we ought to have special counsel for the Congress in view of the fact that the executive department expressed some doubts about the constitutionality of the bill. In other words, this Senator was suggesting that the case might not be presented up through the court system quite as vigorously as it would be if the bodies that actually enacted this legislation were independently represented.

Mr. HALL. I think my colleague from New Hampshire is exactly correct. As a member of the joint commission, I am sure the reams of testimony he heard, to say nothing of the events that have transpired since, have convinced any thinking person that we do need our own counsel.

I am sure he agrees that we do need a continuing committee on the organization of the Congress and its relations with other agencies. We do hope to draft this amendment so that it will be broader in mandate and will be more capable of handling the problem of congressional weaknesses and will not be subject to any points of order or conflict with the jurisdiction of any standing committees of either body.

Mr. Chairman, in conclusion, our mandate is before us. In recent years we have successfully proved to our citizens the need for constant and continuing study for the updating of our own organization. The effort is worth it. We have the inherent capability. The representative process may well depend on it. I think it is time we got on with the job.

Mr. SMITH of California. Mr. Chairman, I have no further requests for time.

Mr. SISK. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles, parts, and sections according to the following table of contents, may be cited as the "Legislative Reorganization Act of 1970".

Mr. SISK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 16595—NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1971

Mr. MILLER of California submitted the following conference report and statement on the bill (H.R. 16595) to authorize appropriations for activities of the National Science Foundation, and for other purposes.

CONFERENCE REPORT (H. Doc. No. 91-1298)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16595) to authorize appropriations for activities of the National Science Foundation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That there is hereby authorized to be appropriated to the National Science Foundation for the fiscal year ending June 30, 1971, to enable it to carry out its powers and duties under the National Science Foundation Act of 1950, as amended, and under title IX of the National Defense Education Act of 1958, out of any money in the Treasury not otherwise appropriated, $537,730,000.

SEC. 2. Appropriations made pursuant to authority provided in section 1 shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

SEC. 3. Appropriations made pursuant to this Act may be used, but not to exceed $2,500, for official reception and representation expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

SEC. 4. In addition to such sums as are authorized by section 1 hereof, not to exceed $2,000,000 is authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 5. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c). If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

(c) The programs referred to in subsections (a) and (b) are as follows:

(1) The programs authorized by the National Science Foundation Act of 1950; and

(2) The programs authorized under title IX of the National Defense Education Act of 1958 relating to establishing the Science Information Service.

(d)(1) Nothing in this Act, or any Act amended by this Act, shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions.

SEC. 6. This Act may be cited as the "National Science Foundation Authorization Act of 1971".

And the Senate agrees to the same.

GEORGE P. MILLER,
EMILIO Q. DADDARIO,
JOHN W. DAVIS,
JAMES G. FULTON,
CHARLES A. MOSHER,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
THOMAS F. EAGLETON,
WINSTON L. PROUTY,
PETER H. DOMINICK,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16595) to authorize appropriations for fiscal year 1971 for activities of the National Science Foundation, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report.

The amendment of the Senate struck out all after the enacting clause in the House bill and substituted new language. The committee of conference agreed to accept the Senate amendment with certain amendments and stipulations proposed by the Managers on the part of the House.

The differences are explained as follows:

For fiscal year 1971, the National Science Foundation requested authorization in the amount of $498,000,000. (This figure is exclusive of the $13,000,000 Sea Grant program which is authorized independently and of $2,000,000 to be made available in excess foreign currencies.)

The House approved authorization in the amount of $525,630,000. The Senate increased this authorization to $548,000,000.

As a result of the conference, the total amount to be authorized was adjusted to $537,730,000. To this sum the Managers on the part of the House agreed. The amount agreed to by the Committee of Conference is $12,000,000 more than authorized by the House, and $10,270,000 less than authorized by the Senate.

The disagreeing votes of the two Houses on H.R. 16595 were resolved in conference with the following stipulations:

(1) For *Support of Scientific Research,* the administration budget for the National Science Foundation included $10,000,000 for support of academic science projects transferred to the NSF from mission agencies. The House authorized an additional $10 million for this purpose. The Senate approved $20 million more, for a total of $30 million above the administration request. The conferees agreed to provide only $20 million above the administration request. This will allow the Foundation to support approximately half of the high quality research projects that are being terminated by mission agencies in fiscal year 1971.

(2) For *Support of Science Education,* the Foundation requested $4 million for its College Science Improvement Program (COSIP). The House provided an additional $4 million. The Senate added another $500,000 for a total program level of $8.5 million. The conferees concurred with the Senate recommendation, bringing COSIP to a level which is still less than was obligated in fiscal year 1969. This will permit the Foundation to cope more adequately with the needs for quality science education which exists in our undergraduate colleges.

(3) For *Planning and Policy Studies,* the NSF requested $370,000 for its State and Local Intergovernmental Science Policy Planning Program. The House added $130,000 to permit a 67 percent expansion of this program over the fiscal year 1970 level. This is an outstanding program of the NSF, which is designed to assist State and Local governments in planning for better utilization of science and technology. The Senate provided $370,000 above the House figure, for a total fiscal year 1971 operating level of $870,000. Testimony was presented by the NSF to the House to the effect that the Foundation could utilize effectively between $500,000 and $600,000 in fiscal year 1971. This convinced the conferees that an addition of only $100,000 above that recommended by the House would be appropriate at this time, making the program total of $600,000 for fiscal year 1971, twice that of fiscal year 1970. The conferees agreed that this program has been productive and will continue to be increasingly valuable in providing the necessary capability for dealing with such problems as

environmental quality at the State and Local levels.

(4) For *Institutional Support for Science*, the NSF requested a total of $55.5 million, including $12 million for grants to develop individual university departments or areas of science. The House did not provide for any increase in this program. The Senate, expressing the belief that it is vitally important to strengthen the capabilities of our universities in the social sciences, provided for an increase of $1.5 million in institutional science support for this purpose. The conferees concurred with the Senate position with respect to this recommendation.

(5) The bill (H.R. 16595) as passed by the House contained a provision relating to restraints to be applied to persons attending or employed by institutions receiving funds thereunder who violate the law or the regulations of the institution. The Senate, in amending the House bill, deleted this section. Upon the insistence of the House conferees the committee of conference chose to retain the provision as passed by the House. The provision is similar to others enacted into law in connection with major Federal programs of higher education.

GEORGE P. MILLER,
EMILIO Q. DADDARIO,
JOHN W. DAVIS,
JAMES G. FULTON,
CHARLES A. MOSHER,
Managers on the Part of the House.

PERMISSION FOR HOUSE MANAGERS TO FILE CONFERENCE REPORT ON S. 2601, DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970 UNTIL MIDNIGHT TUESDAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight Tuesday, July 14, to file a conference report on S. 2601, the District of Columbia Court Reform and Criminal Procedure Act of 1970.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

[The conference report will be filed and printed as a numbered report and will appear in pamphlet form, but it will not be published in the CONGRESSIONAL RECORD due to its size and the likely demands on mechanical equipment.]

AMERICAN STUDENTS STRANDED IN EUROPE DUE TO BANKRUPTCY OF TOUR ORGANIZATION

(Mr. SLACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLACK. Mr. Speaker, many of us were distressed to read last week that more than 3,000 young American students who had gone to Europe to study this summer had become stranded there due to the bankruptcy of the organization that sponsored the tours. Many of my distinguished colleagues have had the same experience that I have had, phone calls, telegrams, and letters from anguished parents properly concerned about the safety and well-being of their children. The crisis is now over, thanks to the valiant efforts of many public officials here in the United States and in foreign countries, and to the public-spirited sense of responsibility demonstrated by the presidents and staffs of the American charter airlines that organized an emergency airlift. Because of the general interest in this problem, I am pleased to share with my colleagues the information that I have been able to gather thus far.

As we all know, an increasing number of serious-minded students have been using their vacation time for study abroad—in Europe, Latin America, Africa, and Asia. Thanks to the economics of low-cost charter flights, it has become possible for tens of thousands of young Americans to broaden their cultural horizons, to take intensive foreign language studies, and to learn more about the interrelationships of all peoples through these study tours. Many of our universities now sponsor such programs, and give college credit to the participants. Groups like the Institute for International Education, the Experiment in International Living, and Crossroads Africa have been in the forefront of student exchange programs since the end of World War II. The United Nations Educational, Cultural, and Scientific Organization's annual "Study Abroad" directory is well-thumbed by students in many countries who want to satisfy their personal quest for knowledge by having the experience of study and travel in another land.

A proprietary educational organization known as World Academy, headquartered in Cincinnati, Ohio, went into bankruptcy this past week. It has reportedly had a commendable program in the past. None of us can now say what led to this crisis in its financial affairs; we must wait until all evidence is presented in the courts. World Academy sponsored a number of 4-week study programs at educational institutions in Geneva, Paris, Rome, Athens, Cologne, Berlin, Madrid, Marseilles, and Vienna. Each was followed by a 2-week tour program. Because many students were of high school age, there was one chaperone assigned to every 10 students. Prominent American as well as foreign educators participated. Arrangements for medical care were made at every World Academy study center in Europe. The tuition price included round trip air fare by a charter airline, housing, food, tuition, and the windup sightseeing tour.

For this year's program, World Academy had contracted with Capitol International Airways, headquartered in Nashville, Tenn., for 23 round trip flights from various points in the United States to the nine European cities I mentioned. The flights were to have departed this country in June and early July; the students were to be returned home in late July and August. By July 3, Capitol International had operated 16 European-bound flights for 3,231 students. On that day, just 4 hours before the 17th takeoff, Capitol International, a U.S. certificated supplemental airline, received a telephone call from World Academy officials. These officials were notifying the airline that the Academy could not meet its contractual obligation to complete the program. They requested that the remaining seven flights be canceled. On the next day, July 4, World Academy officials went to Nashville and informed the airline that their organization could not meet its financial commitment to house and feed the 3,000-plus students in Europe. They asked Capitol International to try to bring them home.

As all of us know, this is the height of the North Atlantic travel season. U.S. scheduled and charter airlines have been booked for many months. Capitol International had no contractual obligation to return the students until the end of the summer. Nevertheless, it demonstrated the highest kind of responsible business leadership that we expect from American industry. By rearranging its complex schedules, and by appealing to other U.S. charter airlines, Capitol developed, within 36 hours, an emergency airlift out of Europe. Joining with Capitol International by making planes available were World Airways and Saturn Airways of Oakland and Overseas National Airlines of New York City.

The Civil Aeronautics Board, our embassies abroad, and the foreign air ministries responded immediately to the plight of these students by waiving all the restrictive rules governing charters. Uplift rights were granted from foreign airports without the usual bureaucratic redtape. Groups were even comingled; under existing rules every passenger on an affinity charter must return with his own group and not "comingle" with other travelers.

Within 48 hours—that is, by the 6th of July—two flights of standard students had already been airlifted home from Geneva and Paris. In the next 3 days, 1,628 had been returned home. I am further assured that every student who wishes to return at this time will be back in the United States by today, Monday July 13.

It has been most gratifying to the concerned parents that on its own initiative Capitol International told its European agents to make sure that no student went without food or lodging. Though it has no business relationship with the bankrupt World Academy other than to provide flights under contract, this airline was willing to dig into its own pocket to see that American boys and girls were helped in their time of need. It has even provided rooms, meals, and bus services to students arriving in the United States, until such time as domestic flights could be organized to return them to their original departure points across the country.

Capitol, World, Overseas National, and Saturn stand to lose revenue as a result of moving previously committed equipment into this emergency airlift. I know that my distinguished colleagues will join me in a salute to these truly American companies. Let me add that I was shocked to learn that major scheduled airlines would not participate in the airlift unless each stranded student dug down and paid the full, individually ticketed fare.

Mr. President, it is now incumbent on Congress to review this matter in more detail. The facts I have stated draw me to the conclusion that there is need for more protection of young people who travel abroad, without damaging the concept of foreign study. At the same time, the incident revealed the true nature of some of the archaic regulations that have been imposed on low-cost charter travel. Some might argue that the rules are in the public interest, since they can be waived when the public needs to be promptly served. It seems to me that we are faced with a situation in which the exception not only proves the rule—the exception is the only reason the rule exists. This kind of twisted logic was dealt an eloquent blow by President Nixon's recent statement on international air transportation policy. I commend that statement to every Member of this body, particularly since it was published only 11 days before this terrible situation involving 3,000 young people took place.

WHAT DID YOU EXPECT, MR. LAIRD?

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, last Thursday our former colleague, Secretary Laird, spoke darkly once again about continued Soviet deployment of ICBM's, including the huge SS9's. And he seemed to be saying that it was menacing and reckless of the Soviet to go ahead with this deployment while the SALT talks were going on.

Here is what Mr. Laird did not say:

First, from last August until June there were no new starts in the building of SS9 missile sites. There were continued new starts of the smaller ICBM missile sites, but it was the threat presented by the huge SS9's that Mr. Laird focused on in seeking to justify the Safeguard ABM system. In his statement last Thursday, Mr. Laird clearly lumped together the various types of Soviet ICBM's.

Second, during these 9 months the United States did not reciprocate in any way. The United States went right ahead with the deployment of MIRV, in spite of the pleas of many Americans in and out of Congress that deployment should be deferred and in spite of the indications that the Russians were very nervous about the U.S. MIRV.

Third, 3 weeks after the first Minutemen were armed with MIRV, new SS9 missile site starts were detected.

What else—in the name of the Almighty—did you expect, Mr. Laird? Did you suppose for one moment that the Soviets would not go ahead with the SS9's if the United States went ahead with MIRV?

Why did you never tell the American people about the long suspension of SS9 starts, which might well have been interpreted as a sign of restraint calling for some reciprocal action?

No doubt it is too much to expect the military men in your Department to weigh the dangers of an accelerated nuclear arms race against the danger of as yet uninvented Soviet weapons years down the road. But you as a civilian are obligated to weigh both kinds of danger and to give to the American people a balanced picture, instead of a distorted one.

Elsewhere in the Record, I include Mr. Neil Sheehan's account in the New York Times of Mr. Laird's Thursday press conference, and a subsequent article in the Washington Post by Mr. Chalmers Roberts.

ENVIRONMENTAL PROTECTION ACT OF 1970

(Mr. UDALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. UDALL. Mr. Speaker, in March I introduced H.R. 16436, the Environmental Protection Act of 1970, a bill designed to involve citizens and the courts in the fight to save the environment.

Today I am reintroducing this legislation along with 27 of my colleagues who share my concern over the lack of citizen access to the courts to do something about pollution. It is our feeling that the present approach to pollution control is inadequate and that the Federal Government's present reliance on administrative agencies to fight pollution must be supplemented by meaningful citizen participation in the battle through the vehicle of the court system.

We are not alone in our feeling. As of this date, legislation similar to the Environmental Protection Act is pending before the legislative bodies of seven States: Massachusetts, New York, Pennsylvania, Tennessee, Colorado, California, and Texas. In Michigan the signature of the Governor is all that is required for this bill to become law. The battle to secure a citizen's right to sue in this vital area is fast becoming a national movement.

The New York Times recently published an editorial on the act that sums up very well what we are trying to do. With your permission, Mr. Speaker, I ask that the editorial be printed in the Record:

[From the New York Times, June 29, 1970]

Environment's Day in Court

If three members of Congress are successful, the Federal courts will be drawn into saving the environment much as they have been involved in desegregating schools and reapportioning state legislatures. Senator Hart of Michigan, Senator McGovern of South Dakota and Representative Udall of Arizona are pushing a bill to affirm the legal standing of any citizen to appear before administrative agencies and courts to defend "a right to a pollution-free environment."

Such a law would, as laws often do, lag somewhat behind the practice. Many environmental suits are already in the courts, one of them on behalf of "all the people of the United States," including "generations yet unborn," against eight manufacturers of DDT. The question of standing always has to be argued, however, and most courts still require a showing of specific damage. Relief, if it comes, is in the form of a financial award rather than a judicial directive to the offender to modify or abandon his offensive practices. The Hart-McGovern-Udall approach requires no showing of economic damage and empowers the court to enjoin the offending activity.

Fundamentally this is a case of the legislature asking the judiciary to do what the executive ought to do but too often doesn't. Administrative agencies, it is almost a truism, are bombarded by highly organized special-interest groups and scarcely reached by an unorganized public opinion; not unnaturally they come in time to identify with the first and forget the second. The proposed law would tend to balance the pressures.

There is in all such legislation the danger of encouraging publicity-seeking, crank suits and harassment. But the Hart-McGovern-Udall proposal includes protections that make that risk minimal. Most suits will be in the form of claims for preliminary injunctive relief, and these could quickly be screened by the courts for substance or the lack of it.

This is a moderate bill that would make the administrative agencies of government more responsive to the public and more faithful to the spirit of the laws they administer.

CRIME INSURANCE REPORT DOES NOT SOLVE PROBLEM

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, last Thursday the Department of Housing and Urban Development published its report on "The Availability of Crime Insurance and Surety Bonds in Urban Areas." This report was established as a provision of the Urban Property Insurance Act of 1968 and was originally to have been submitted to the Congress on December 31, 1969. However, a 6-month legislative extension was granted setting a new date for the report of June 30, 1970.

Before even going into the merits of the report, it should be pointed out that if HUD and the Federal Insurance Administrator are so concerned about the availability of crime insurance in urban areas, this report would have been submitted on time or, in fact, well in advance of the deadline. Because the report was not submitted on time, it is my conclusion that the report serves only to meet a legislative requirement rather than seeking sensible solutions to the availability of urban crime insurance.

This then becomes even stronger when the text and recommendations of the report are considered. The report does not provide any meaningful solutions to helping businessmen and homeowners in urban areas obtain crime insurance but rather seeks to stall a much-needed Government program of crime insurance.

Mr. Speaker, on September 8 of last year, I introduced H.R. 13666, the Urban Property Protection and Reinsurance Amendments of 1969. Last month the Housing Subcommittee of the Banking and Currency Committee held a hearing on the legislation. My legislation has been endorsed by small businessmen from coast to coast and, in fact, the only groups that oppose the bill are the insurance companies and the Federal insurance administrator. Very shortly, an executive session within the subcommittee will be held on my bill and, hopefully, my legislation will be before this body by the end of the summer. My bill does provide a workable solution to the problem of crime insurance in our urban areas, while the plans put forth by the Federal insurance administrator represent nothing more than protracted delays in solving the problem.

For instance, the plan put forth by the Federal insurance administrator would require the States to make crime insurance available at reasonable rates in urban areas by August of 1971. If this was not done, the insurance administrator would withdraw the Federal riot reinsurance coverage in those States. I do not feel that this will solve the problem and, of course, it will not guarantee that crime insurance will be made available since States may be willing to do without riot reinsurance, particularly if we have gone through a long period without any major riots in our cities.

The insurance administrator suggests that following this, he could order that crime insurance be made available under the so-called FAIR plans, a suggestion that I made in 1968 as an amendment to the Urban Property Insurance Act. However, in an earlier part of his report, the Insurance Administrator suggests that the inclusion of crime insurance in FAIR plans is not the answer. If crime insurance can be offered within the FAIR plans in those States which do not comply with the 1-year edict of the Federal Insurance Administrator, why is it that such coverage cannot be made available immediately? In short, if such a method of providing coverage is a good idea at one time, it is a good idea at all times, or, if it is a bad idea at one time, it is always a bad idea.

Mr. Speaker, if I felt the suggestions made by the Federal Insurance Administrator would provide meaningful solutions to helping people obtain crime insurance, I would endorse the report wholeheartedly, but, in the language of our current younger generation, the report is "a cop out." It does nothing more than buy time for the insurance industry in the hope that those of us who want to provide solutions to the problem will back off and shift our attentions to some other area.

In conclusion, Mr. Speaker, let us not be fooled by this tactic and the follow-up tactic that will surface very shortly put forth by those who will state that since the report suggests a 1-year waiting period, the Congress should do nothing for at least another year.

We can no longer ask the small businessman and homeowner in our urban areas to wait. They are looking to Congress for help. If we do not give them that help, they cannot stay in business, and without them, the decay of our cities will continue.

I am including in my remarks an article from the Saturday, July 11, issue of the Washington Post that discusses the insurance report:

INSURANCE PLAN SET FOR CRIME AREAS

(By Robert J. Samuelson)

The federal government yesterday took its first steps to force insurance companies to provide burglary and theft coverage in high-crime areas of major cities.

Insurance Administrator George K. Bernstein told states (and the District of Columbia) with these insurance problems to establish special pools to write policies at "reasonable" rates for businesses that cannot find protection in the normal market.

Bernstein set a deadline for compliance of Aug. 1, 1971.

Under the plan, the insurance companies would not have to bear the high losses that the Insurance Administration contended would result from widespread issuance of crime insurance in large cities. To subsidize excessive losses, Bernstein suggested that the states levy a tax on the premiums of all property insurance written in the state.

A report from the Insurance Administration suggested that this levy "would range from 2/10ths of 1 per cent of (a) regular premium in a state like California . . . to 2 per cent in the District of Columbia, which presents the most serious crime insurance problems in the nation because of its total urban concentration and high crime rate."

Bernstein's program contrasted sharply with a Congressional proposal, introduced by Rep. Frank Annunzio (D-Ill.), that would authorize the government to provide direct insurance.

Aides to Annunzio indicated yesterday that he would press forward with his legislation, now pending in the Banking and Currency Committee. They expressed skepticism that Bernstein's plan would actually succeed in making crime insurance available in most cities.

Bernstein lacks direct authority to order creation of the new insurance pools. If the states fail to respond by Aug. 1971, he threatened to withdraw federal reinsurance for fire losses suffered by private firms during civil riots.

One problem with Bernstein's approach, Annunzio aides concluded, is probable opposition to the new insurance levy from suburbanites.

"Try to sell that to someone who's living in Scarsdale, New York, Alexandria, or Chevy Chase," one man said, "They're going to lobby against it in their state legislatures, and they'll say 'why should we pay for the sins of the inner city."

Bernstein's recommendations were contained in a 121-page report submitted to Congress yesetrday. The report was originally ordered by the Housing Act of 1968.

"Businessmen and residents in many major cities cannot obtain burglary and theft insurance at a price they can afford," the report declared.

In Washington, according to an appendix to the study, annual premiums on an open stock burglary insurance policy worth $7,500 more than doubled between 1962 to 1969—from $325 to $827. A $15,000 policy on a jewelry store rose from $581 to $1,481 in the same period.

Of five areas surveyed, Washington generally ranked second in high insurance premiums, according to the study. Bronx County, New York, generally ranked first; the $7,500 drug store policy, for example, cost $977 in premiums in the Bronx.

The other areas studied were Los Angeles County ($790 for the drug store policy), Cook County, Ill. ($429), and Essex County, New Jersey ($632).

Crime insurance, the report said, has generally been unprofitable. Between 1959 and 1968, stock insurance companies lost $40 million on premiums of $1.03 billion, the report said; mutual companies suffered about $6 million in losses on $115 million.

The losses have grown in the past two years, according to the report, which also added:

"It is as unrealistic to condemn insurance companies for not making crime insurance available below cost as it would be to expect urban businessmen and residents to continue to absorb crime losses in the vain hope that, if the situation sufficiently deteriorates, they will somehow find a way to end crime."

To qualify for insurance under Bernstein's plan, an applicant would have to meet "certain standards of insurability such as installing protective devices . . ." This recommendation, according to Congressional sources, should not prove controversial, because most insurance experts regard inspections and underwriting requirements as a way to deter additional crime.

FUNDS FOR RURAL ELECTRIFICATION ADMINISTRATION

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I rise to speak about a matter of great importance to millions of Americans who live in rural areas and who make use of electrical power provided by programs financed through the Rural Electrification Administration.

In particular, I wish to address myself to the funds for the Rural Electrification Administration contained in H.R. 17923, the agriculture appropriation bill for fiscal year 1971, now in conference committee.

The amount of money for REA loans in the bill passed by the Senate is $30,000,000 above the appropriation figure of $345,000,000 contained in the House passed bill.

Yet the amount in the Senate bill is well below the funds essential to meet the needs of rural electrification programs across the United States.

As the Senate Appropriation Committee noted in its report on the bill, the $30,000,000 figure for the coming fiscal year represents only a "modest increase."

Certainly, Mr. Speaker, this is a minimum figure. At the beginning of 1970, the backlog for filling telephone and electric applications was $407.7 million, the highest calendar year-end figure on record. In addition, REA estimates its 1971 loan needs will be close to $900 million—almost 2½ times the amount of either the House or the Senate appropriation figure for the coming fiscal year.

I might also here note, Mr. Speaker, that both the Senate and House appropriation bills contain $20,000,000 in carryover funds from the present fiscal year, funds that have been frozen by the Bureau of the Budget.

As we are all aware, rural electrification has had an extraordinarily wide and positive effect in the United States. Today 98.4 percent of our farms receive electric power as compared to only 10 percent in 1935.

Yet the task of rural electrification is not complete. Needs for rural electric and telephone cooperatives continue to grow along with spiraling demands for power.

Indeed, the report of the House Committee on Appropriations on this legislation observed:

> Energy consumption is presently increasing at the rate of 6 million kilowatt hours per year. Consumption of power is expected to increase to an estimated 135 billion kilowatt hours by 1980.

It must be obvious, Mr. Speaker, that rural America will suffer blackouts and brownouts if the financial needs of our agricultural areas are not met.

But I must stress that I do not speak of a problem confined to rural America. With a projected population increase of 100,000,000 in the next 35 years, our cities and rural areas must work together if we are to be able to establish a balanced population growth policy.

Recently a survey conducted by the National Rural Electrification Co-operatives Association of a cross-section of the population demonstrated that 70 percent of the responders preferred to live in small towns but that 55 percent of the same persons still looked to the city as the place to "get ahead."

What this means, Mr. Speaker, is that if the rural outmigration, which has been affecting our cities, adversely in a number of ways, is to be significantly reversed, rural America as well as urban America must be able to provide adequate job, industrial, educational, and recreational opportunities.

And what this further means is that there must be sufficient electric power. We must, therefore, be sure that we increase not decrease, the funds available to rural electric agencies.

Mr. Speaker, I should here, note that borrowers from REA are seeking new ways to meet the demands of their consumers. For example, there have been formed National Rural Utilities Cooperative Financial Corporations to supplement the insufficient supply of capital available from Federal sources.

Such efforts as these are greatly to be commended but Congress must still play a significant role in helping meet the continued growing power needs for rural America.

It is for this reason, Mr. Speaker, that I urge the House to support the figure of $375,000,000 contained in the Senate-passed appropriation bill for rural electric loan programs.

We are all aware, Mr. Speaker, of the importance of exercising restraint in Government spending. But we are also aware of our responsibility to make judgments among the competing claims on Federal revenues. When one considers the solid and essential contributions that the rural electric cooperatives are making to build a better life for all Americans, I believe that it must be clear that the Senate appropriations bill is a more prudent one than is ours with respect to rural electric programs.

REPORT OF THE INVESTIGATION OF SELECT COMMITTEE ON THE U.S. INVOLVEMENT IN SOUTHEAST ASIA

The SPEAKER. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 60 minutes.

Mr. MONTGOMERY. Mr. Speaker, before yielding the floor for questions and comments—and certainly we invite questions and comments concerning the investigation of the Select Committee on the U.S. Involvement in Southeast Asia—I would like to thank you, Mr. Speaker, and our distinguished minority leader (Mr. GERALD R. FORD) for your wisdom in selecting the committee members. May I say that as chairman I could not have asked for a more hardworking, conscientious group of colleagues. I am sure we all recognize that it would have been impossible to appoint a committee of 12 members without their having some opinions on our involvement in Southeast Asia, but I can quickly say without hesitation that each of the committee members approached their job with an open and objective mind.

They set about the task at hand with determination to get as much factual and up-to-date information as possible in the 2 weeks' time. One sometimes wonders how much work can be accomplished under the hot and humid conditions that exist in Indochina, but the committee members proved that quite a bit can be done by working long and hard each day trying to obtain proper information for this report.

It should also be noted that the members exposed themselves to some danger in gathering necessary data. I feel it is very fortunate that none of the committee members or staff members experienced any mishaps.

It would be remiss for me not to commend Lt. Col. William McCord, Lt. Col. Archie NeSmith of the Air Force Liaison, as well as Sgts. Smarr and Montgomery.

The Air Force was the action agency for our trip, they provided us with maximum cooperation while we gave them the very minimum of cooperation, as far as advance notice of itineraries is concerned.

Mr. Speaker, I would like to take this opportunity to publicly pay tribute to my 11 colleagues for their outstanding team effort, and say we have submitted a good, up-to-date report.

As is always the case with any worthwhile project, problems are bound to arise. As chairman, I take full responsibility for the problems and misunderstandings that have developed since our return.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman.

Mr. ALBERT. Mr. Speaker, I regret that it is necessary to ask the gentleman to yield just now, but I must leave the floor at this time.

I have read the report of the gentleman and some of the supplemental views and I think the gentleman and his committee have rendered a distinct service to the House of Representatives and to the country.

I congratulate the gentleman and the committee.

Mr. MONTGOMERY. I thank the distinguished majority leader.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman, a member of the committee.

Mr. SMITH of Iowa. Mr. Speaker, I think all Members without exception very much appreciate the way the gentleman from Mississippi handled the chairmanship of this select committee.

I know that I personally do and I say so frankly.

One of the first instructions that the chairman laid down, which was a very good one, was that this committee would avoid publicity at all times during the 2 weeks.

If each day, every time a team went somewhere, they put out a press release and tried to tell everybody, then, of course, everybody would have known what place we were going to and about the work that was being done.

But it would not have contributed to getting the results that we wanted and needed. So as the various teams went out in four or five different directions each morning and each afternoon, there was no advance publicity. As a matter of fact, we dropped in many times without any notice at all. I do want to say in this regard, we did have good cooperation because the word had gone out to all the U.S. personnel in the area that anything we wanted, we were to get without any exception whatsoever and quickly the most sensitive of information including the instructions they had from Washington.

So we did have cooperation in that regard.

I think the gentleman handled the committee as good as it could have been done and we did for this reason get as good a report as anybody could get in two weeks time and by fanning out in four or five different directions, of course, some people say—Why were not all of you at one particular place at a particular time because if that is the way it would have been handled, we would not have gotten one-fourth as much information.

So I think the gentleman did have a good plan outlined. I was not one of those who thought he really had the right kind of a plan to start with, but I do concur in that now. His plan was to go out in the field and see everybody a week before we saw the top people, and then you could ask those questions, instead of going first to them and getting a briefing. The gentleman had the right plan.

Mr. MONTGOMERY. I thank the gentleman for his comments.

Mr. ANDERSON of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Tennessee, a member of the select committee.

Mr. ANDERSON of Tennessee. Mr. Speaker, I appreciate the gentleman yielding.

I, too, want to express my appreciation to the Speaker for having had the privilege of making this trip, the first one I have made abroad as a Member of Congress, being a member of the Committee on Rules which normally cannot travel even to Alexandria, and it is likely to be my last.

I was impressed very much by the chairman of our select committee. According to the stories I have heard regarding previous congressional groups going abroad, I understand it is always very, very difficult to keep a group pointed in the right direction and diligently pursuing the task they are sent over to pursue.

I can certainly say that our chairman of the select committee performed this role in a way which I consider in the highest order of leadership, energy, and devotion to the job at hand.

The allegation has been made that we were given the snow-job treatment in certain instances and that we sat in on too many briefings.

I defy any human being making any trip to South Vietnam without being caught up in a briefing or two.

Several of us went to an advance fire base near the DMZ. A fire base that had been constructed only 3 days before and had been in operation for only 3 days. It was manned by ARVN forces with a handful of American advisers.

There was in action at the time this 105 millimeter battery. They had one company out in the bush. It was supporting with artillery fire. What happens first on our arrival there? We were taken to the bunker of the ARVN major who was in charge of the battalion involved, a bunker dug down into the earth, and what were we given while the 105's were going off against the VC and the NVA? We were given a briefing. He had a chart and was prepared to give us a briefing. You cannot escape all of these briefings, but certainly every effort was being made to set an independent course, to find out what we wanted to find out, and to look into the things we wanted to look into.

Any personal requests I had of the chairman, whether it be to personally interview a recent North Vietnamese defector or whether it was a request to join a party going to Con Son Island was supported, and it was supported not only to the extent of approval, but to the extent of backing up a request to the embassy that transportation facilities be provided.

So I want to express my appreciation to the gentleman in the well, who I considered handled this in a fashion that could well set a pattern for other congressional groups that go abroad.

Mr. MONTGOMERY. I thank the gentleman for his comments and for the support that he gave me as chairman of this committee and as the other 10 members did also.

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from California, a member of the committee.

Mr. HAWKINS. Mr. Speaker, I thank the gentleman for yielding. I use this opportunity first to thank the chairman of the committee for the very many courtesies extended to me. I have with great restraint averted any charges of any member of the committee being given a "snow job." Certainly I think the committee worked diligently enough to ascertain facts, and should not be labeled as having whitewashed anything. At all times I want to say the chairman of the committee cooperated with me, and I feel that I had full opportunity to do whatever I wanted to do, the same as did the other members of the committee.

I have, heretofore, sought to clarify the difference in my findings with those of the majority of the select committee in a substantial difference in the kind of witnesses we interviewed. Typical of those upon whom my findings are based were such groups as students, religious leaders, and political opponents of the Thieu-Ky regime as opposed to relying heavily on the military and the American Embassy.

I also found a vast resource of information and "leads" among the many Americans representing volunteer organizations, included among these were such groups as the American Friends Service Committee, the National Council of Churches, and the Mennonite Missionaries in Vietnam.

Two false impressions have been spread since our reports were made: one that prison reform at Con Son was our main concern; and second, that in exposing human torture in South Vietnam we endangered our American prisoners of war.

Actually Con Son was merely one fact in a series of findings which we reported as symptomatic of a government that remains in power by a system of political repressions, religious persecution, civil corruption, and military power. Improving conditions at this prison, while essential, will not in itself change a corrupt and evil system.

Also, it was natural that those who sought to suppress the facts would seize the American prisoner-of-war issue as their defense, especially since many people assumed that the prisoners at Con Son were Communist. Such misguided souls reasoned that it was all right to treat Communists in that way in retaliation.

The facts, however, are otherwise. The political prisoners we reported were almost without exception, not Communist but indigenous South Vietnamese imprisoned without trial for advocating peace and opposing a corrupt government.

Of even greater importance than prison conditions is the brutal treatment by the police of the native population most of whom happen to be non-Communist. Total repression of civil liberties in South Vietnam is Government policy. Those arrested on suspicion are beaten into confessing and sent to prison without trial.

Because of the limited time available to fully explore this aspect of our investigation, my report did not deal, as it properly might have, with the subject of Antri. This is the method created by an executive decree for holding without trial up to 2 years and renewable, anyone suspected of being a Communist, a Communist sympathizer, or what amounts to being publicly for peace.

In South Vietnam, the terms "Communist," "neutralist," and "pacifist" are interchangeable. A member of the National Assembly, Ho Ngoc Ceu, whom we interviewed, estimated that almost 50,000 such political prisoners are now in jails, over 7,000 of whom are at Con Son.

In the ferocity of the war itself, we seem to have overlooked the fact that what started in Vietnam as the struggle of its people for independence and self-determination somewhere along the way became an ideological war between the United States and the Peoples' Republic of China.

The shortcoming of U.S. policy in Southeast Asia lies not in opposing communism if that is what the people of these countries also desire, but in our involvement in the internal affairs of other nations without regard for what the people really want.

Thus, we are a party to suppressing the many nationalists groups that might create a popular government that would offer a non-Communist solution to South Vietnam's problems. But apparently we are committed to opposing all opposition, internal or external, to the military dictatorship of the present regime.

This policy is self-destructive. Our bombs, firepower, and rockets have devasted the landscape and created social disintegration.

The Saigon Government can only remain in power because of our military might but is unpopular because of it.

We are, therefore, troubled when we address ourselves to the individual components of an unpopular government such as the military dictatorship of Thieu-Ky. Will such programs as Vietnamization, pacification, and land reform work?

The answer was best given by Thieu Thien Hoa, Rector of the Buddhist Institute, whom I interviewed in Saigon, when he said the success of such programs depended on the government that administers them. In the hands of an evil regime the best of programs will fail. Only a government which is popular, one that is not corrupt, or controlled by an outside power can succeed in making government work in behalf of the people.

I am convinced the South Vietnamese people believe their only hope of achieving real independence and self-determination is the total withdrawal of the U.S. military at the earliest possible time. And, in this hope, I believe more and more Americans are in agreement. For Americans, the war has become a nightmare. Only now are many of us beginning to see what it is doing to our economy, the disunity being created among our people, and the effect it is having on our youth. Above all, we should be concerned with what our involvement in Asia is doing to human life and social justice.

As the world's most powerful military power we can with dignity become its most powerful force for peace.

Pertinent material follows:

U.S. Policies Destroying Indochina, Stanford Biologists Warn

United States military strategy in Southeast Asia is producing such devastating, long-term environmental damage in Vietnam that a crippled land will be the "legacy of our presence," a group of Stanford University biologists warned today.

The study team, which included graduate students, post-doctoral fellows and faculty members of Stanford's Department of Biological Sciences, made public its findings on the ecological effects of the Indochina war in a conference held at the Sheraton-Palace hotel. The report, entitled "The Destruction of Indochina—A Legacy of Our Presence," was published by California Tomorrow, statewide environmental organization.

"This study falls within the scope of our concerns," California Tomorrow noted, "for we will be unable, while pursuing the dirty business it portrays, to turn our wealth and creative energy to our massive domestic problems, prominent among which are those involving the environment—of California and the nation."

The report detailed the intensive defoliation and cropland-destruction programs employed by U.S. forces in Vietnam which claim to be justified in terms of saving lives of the U.S. and South Vietnamese troops fighting for the sake of the people of South Vietnam.

"However," the report adds, "in view of the permanence of the environmental damage being produced by U.S. military operations in Southeast Asia, it is impossible to identify the benefit to the people living there or to their descendants."

Noting that the report is primarily concerned with ecological damage, the authors also point to other damaging results of these warfare tactics.

It says: "The military is transforming a basically rural agrarian society into an urban nightmare which is economically dependent on the continued presence of the United States. America and its allies have forcibly transported people from hamlets into refugee camps located in and near cities, and have driven many more off their ancestral lands by bombing and defoliation.

"In the past ten years Saigon has grown from a city of 250,000 to become one of the world's largest.

"It now has 3,000,000 people and is the world's most densely populated city. The extremely rapid influx into the cities and surrounding camps has created massive problems in housing, feeding and providing medical care for the refugees."

In an introductory statement, co-author Donald Kennedy, professor and chairman of the Department of Biological Sciences at Stanford, comments that the "central question is now a simple one. 'How can we claim to be acting on behalf of people when our action itself is prohibiting a future for them?' "

The authors forecast that "when the fighting has finally ended, the suffering and hardship will have only begun, for our actions in Vietnam have severely upset the environment and greatly reduced the ability of the land to support its people.

"The defoliation of vast areas of forest and agricultural land by poisonous and teratogenic (fetus-deforming) herbicides, the saturation bombing and extensive burning, the deliberate destruction of crops with resulting starvation, malnutrition and disease—these we have introduced to Southeast Asia and to the list of available techniques for waging war."

The report concludes:

"The devastation we have already caused is a monstrous legacy for those we call our friends. The environment, the social organization, the very future of Vietnam have been so severely mortgaged by action supposedly on her behalf that an American policy of immediate and permanent cessation is clearly the most effective aid we can now give."

Note to Editors.—In addition to Professor Kennedy, other authors of the report are Professor Colin Pittendrigh, biology department; Howard Edenberg, graduate student in molecular biophysics; Patrice Morrow and Bruce Bartholomew, graduate students studying physiological ecology of plants; Lawrence Gilbert and Edward Merrell, graduate students in population biology and ecology; Peter Cohen, post-doctoral fellow in molecular genetics; Matthews Bradley, graduate student in developmental biology; and Patricia Caldarola and Paul Grobstein, graduate students in neurophysiology.

Congress of the United States,
House of Representatives,
Washington, D.C., July 13, 1970.

The President,
The White House,
Washington, D.C.

Dear Mr. President: As a member of the House Select Committee on United States Involvement in Southeast Asia, I have submitted supplemental views to the House on my findings including conditions we found at the South Vietnamese Correctional Center known as Con Son. Since the United States contributes financial aid, although modest, to this facility and because of the United States involvement as an ally with the government of Vietnam, this matter is of direct interest to me and to our position in world affairs. I wish, therefore, to respectfully report my findings to you for whatever executive action you think appropriate.

I believe the subject matter of this inquiry has been at times not seen in its full perspective. Prison reform per se, although desirable, was not our primary objective. Con Son is merely symptomatic of political oppression and suppression that in South Vietnam prevents freedom of expression and self-determination. Because of this, such programs as Vietnamization and Pacification receiving our direct assistance are jeopardized which in turn affects the withdrawal of American military forces.

To merely address ourselves to correcting prison conditions, although desirable, is not enough. The full range of governmental programs and policies that our government supports should be re-examined.

Also the issue of Con Son has become identified with the prisoner of war issue. In my report and personal statements, I have at no time sought to convey the idea that we had interviewed or found in this particular prison communist prisoners of war. Such prisoners, if in this Center, we were told would only be there because of subsequent criminal offenses. We had no way of verifying this as a fact.

Those persons we did interview indicated to us that they were South Vietnamese political prisoners and not prisoners of war. This I believe to be true since prison officials corroborated these statements.

I do believe, however, that our American prisoners of war may be somewhat affected by the fact that inhumane treatment of political prisoners on the part of South Vietnam weakens our side in its insistence on a moral code for the other side to which we ourselves do not subscribe in the conduct of a government which we support. And, I strongly condemn those who would emotionalize this issue in order to rationalize a continuation of war.

In making public the facts we found at Con Son and elsewhere, I did so in the strong belief that our government in assuming the leadership of exposing and moving to stamp out political oppression and torture no matter by whom committed can better insure improved treatment of Americans held by the enemy, and eventually achieve a more viable and stable government for the Vietnamese.

Personally, I found communist strength in South Vietnam very limited. In such a strong force as the Buddhist, for example, the dominant spirit was one of nationalism, self-determination, and independence of all outside forces, including both imperialism and communism.

But in the government's policy suppressing such voices of religious leaders, students, disabled war veterans, and political opponents . . . with United States support, we have given the people the hard choice of communism or war rather than an alternative of national patriotism with peace.

I urge you to take immediate executive action in support of a thorough inquiry in these matters by competent and judicious authorities. I enclose my full report to the House of Representatives for your consideration, and I assure you of my readiness to assist our government in whatever way I can to address the wrongs committed and to speed up both our military withdrawal as well as the safe return of Americans held by the enemy.

Respectfully yours,
Augustus F. Hawkins,
Member of Congress.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from California for his remarks. I might say I did receive full cooperation from the gentleman. As I said, we did have disagreement on certain parts of the report.

I would like to say concerning Con Son prison, it was the feeling of two members that it should probably have been stated in the summary report in detail, but it was the feeling of the majority of the committee members that discussion in great detail of conditions found in only one section of only one South Vietnamese prison might have dangerous implications as far as North Vietnamese treatment of prisoners of war were concerned. It was further felt the North Vietnamese might seize upon the treatment of South Vietnamese political prisoners as a propaganda tool. It was a deep and abiding concern for the plight of captive U.S. servicemen which pervaded the final decision of the committee, so this was a matter of opinion I might say.

When Congressman Anderson and Congressman Hawkins reported to me about what had been found at Con Son prison that Thursday afternoon, I immediately got in touch with Ambassador Berger, the assistant to Ambassador Bunker, and asked for an investigation. The next morning, before boarding the plane back to the States, I talked to Ambassador Bunker. I assured him of the committee's concern and he told me there would be an investigation.

After arriving back in the United States, I called, and also the gentleman from Indiana (Mr. Adair) of the committee, called Mr. Hannah's office. He directs U.S. aid. We talked with two people in Mr. Hannah's office. We were assured we would be given reports as to what had been done on this situation. The committee wants Con Son prison corrected. I have taken action to see that this is done. However, we were concerned by what might happen in making Con Son a strong issue in the report as far as American prisoners of war were concerned.

Mr. ROBISON. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New York, a member of the select committee.

Mr. ROBISON. Mr. Speaker, I appreciate the gentleman's yielding to me.

I notice there are other colleagues who were not on the committee who wish to take part in this colloquy, so I will try to be brief.

I should like to express, in behalf of the minority members on the special committee, our appreciation to Chairman Montgomery for the fact that he did permit those of us who went to Vietnam and to other parts of Southeast Asia with him, the opportunity to do, or to suggest, nearly anything we had in mind which might advance our mission.

I did not personally seek assignment to this particular committee. One of the reasons why I did not was that I had some reservations about whether or not such a committee could get a free, independent and objective look at the situation in Vietnam, and I believe if anyone looks back at the experiences of other factfinding groups one would have to have some reservations along those lines.

However, it does seem to me, in retrospect, I say to the gentleman in the well, that under his leadership and in the manner by which he let us go our ways—singly at times, in pairs sometimes or as members of teams—we got as good an overall view of the whole situation in

Vietnam as anyone could hope to have under all the circumstances.

There has been some criticism, and I suppose that criticism was inevitable, that we had too many military briefings. The fact of the matter is that we are deeply involved militarily, not only in Vietnam but in many parts of Southeast Asia, as well, so that certain military briefings were essential.

But I believe if one would count up the number of other contacts the committee made, or that individual members of the committee made, one would find those other contacts and other discussions whereby we obtained different points of view besides that of the military, would outnumber the military briefings we also had.

So, Mr. Speaker, speaking specifically for the gentleman from Indiana, Ross ADAIR, who was supposed to be here this afternoon and, so far as I know is still trying to get here but probably will miss the special order he had for later on, I should like to express our thanks to the chairman of our select committee, and I believe for all the minority members, for the manner in which he permitted us to get the best possible and most objective look we could at the situation in Vietnam.

Mr. MONTGOMERY. I thank the gentleman for his remarks.

Mr. HANSEN of Idaho. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to another member of the committee, the gentleman from Idaho (Mr. HANSEN).

Mr. HANSEN of Idaho. I thank the gentleman for yielding.

I should like to join my colleague in expressing my personal appreciation for the manner in which our distinguished chairman led the committee during the course of its inquiry in Southeast Asia.

I believe it is fair to note that this committee was unique. So far as anyone can recall, no committee has been created by the House of Representatives for a purpose such as that set forth in the resolution which established this committee. Therefore, in a large measure we were plowing new ground. There was no well defined format. There were no accepted rules of procedure.

I had many of the reservations that have been voiced here today. But, in looking back I believe the chairman in particular did an excellent job in developing the method of operation and the approach that was calculated to yield the kind of information which could be of greatest value to us in the discharge of our duties here in the House of Representatives.

I would also like to express my appreciation to the other members of the committee. The committee's work was characterized by a spirit of true bipartisanship and cooperation. There was never any attempt by anyone to force his own ideas or conclusions onto anyone else. There was a genuine determination to search for truth in the face of rather difficult circumstances. In my judgment, the primary role of the committee was not to make short run decisions, but rather to assist the House of Representatives in the long run in fulfilling its constitutional responsibility in the making of decisions and the shaping of policy in the area of foreign affairs.

We have become increasingly and painfully aware in the last few months and years of the very heavy commitments this country has made in Southeast Asia—commitments of both manpower and money. We have become heavily and deeply engaged in a remote part of the world. Many of these commitments were made without prior consultation with or approval by Congress. Unfortunately, in many respects, the role of the Congress has been a diminishing role in the conduct of foreign affairs whereas it should be a very important part of the work of the legislative branch of the Government. Within Congress itself the House of Representatives has been somewhat derelict in exercising its constitutional responsibilities in that area. Therefore, it makes sense for a committee such as this to be created and dispatched to a part of the world which has claimed so many American lives and so much of our treasure. It makes sense that we try to go there to gain first-hand information which can guide us in the future.

I believe there is often a tendency to dwell on mistakes made in the past. I could take several more hours here talking about some horrendous mistakes that have been made in Southeast Asia, but it does no good except to the extent that our knowledge of those mistakes can be a guide to future actions and help us avoid the same kinds of mistakes in the future. In this respect I felt that the work of the committee was useful and can be even more useful in the future.

Mr. Speaker, I might also make some personal observations about some of the things I saw. While we tried to avoid a large number of formal briefings, we did obtain most useful information during the course of some briefings. Military information is pertinent to the mission. The fact that we did not seek lengthy formal briefings, at least in my judgment, should carry with it no implication that we expected to receive inaccurate information in those briefings. In talking to some of the military people in the field I think the way we set about our mission created in some an impression that we felt any information that could come to us by way of briefings would be incorrect. From my point of view at least, I would like to correct the record on that. The cooperation which we received, at least in the areas I visited and the small groups that I took part in from our military and diplomatic officials and others was excellent. I will say that we are very fortunate with the high caliber of some of the military officers and diplomatic officials we have representing this country in the nations of Southeast Asia. I cannot pay high enough tribute to the men who are over there risking their lives every day for something that for the most part they think is worthwhile.

There are very few benefits that can come from a tragic involvement such as the war in Southeast Asia. However, I believe we can point to one benefit that will accrue to this country. That is the caliber of the young men who have been in that part of the world who will be coming back by the thousands and hundreds of thousands, to take their places as citizens of this country, to go back to the college campuses, to assume positions of leadership in the country and hopefully to come to Congress and bring to this body the benefit of some of the experience which they have gained in the course of their service in Southeast Asia.

Mr. Speaker, I think the primary purpose of our mission was to try to identify in some way the role that this country should play in Southeast Asia in the coming years.

I was impressed with the great potential of the countries of Southeast Asia. They have large human resources, they are rich in terms of natural resources, and they have a great deal in common; they have common opportunities and they have common problems. But insofar as the U.S. role in Southeast Asia is concerned, I think if I could use one word to describe it I would say it should be "limited" and it should be dependent upon the demonstrated ability and willingness of the countries of that part of the world to cooperate and to become masters of their own destiny; to make an effort for themselves otherwise no amount of help we can furnish will be of any lasting value. However, the main impetus and main thrust has to come from the countries themselves. This would be the central theme that ought to guide our future actions and involvement in Southeast Asia in the coming years.

Mr. MONTGOMERY. I thank the gentleman for his comments.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman from Mississippi for yielding.

First of all, I would like to say that I have read the committee report as well as the separate views. I am tremendously impressed with the fact that under the leadership of the chairman obviously this committee worked very hard and very efficiently. I think it is remarkable that the work was done so quickly and that this report was produced almost immediately upon the committee's return.

I would like to ask one or two questions, one a general question.

I notice that in the supplemental views submitted by the gentleman from Indiana (Mr. HAMILTON) the views which I read with great admiration, he starts out by saying:

> You find in Vietnam evidence to support the point of view you have when you arrive. The complexity and the variety of Vietnam is such that the hawk and the dove will each observe, investigate and leave assured of the wisdom of the view he had when he arrived.

I would like to know if the chairman of the committee would share that observation by the gentleman from Indiana (Mr. HAMILTON)?

Mr. MONTGOMERY. I would not exactly share those views and I thought Mr. HAMILTON—I have not closely read his report—went further to say that maybe some of his views had been changed somewhat and that he thought it was a worthwhile trip. I do not exactly interpret it to the effect that he said you could not change your views when you arrived and you would have the same views when you left.

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield further, that is the way he starts his comments.

Mr. MONTGOMERY. That is true, but I do not think he concludes his comments in that fashion.

Mr. BINGHAM. The gentleman from Indiana does have further remarks and that is true. I would like to ask a question about Cambodia. Certainly, I recall the chairman in his initiation of this resolution recognized the fact that the major emphasis of the mission should be the search and destroy missions into the sanctuaries in Cambodia by South Vietnamese and American troops. I was curious to look at the sections of the committee report dealing with Cambodia to find very little, really, in the way of evaluation of the Cambodian operations. For example, I find nothing in the committee report to sustain the contention of the President that these operations were necessary for the protection of American lives. There is nothing to indicate that they could not have been undertaken by the South Vietnamese Army. In fact, I notice in the separate views of the gentleman from Iowa (Mr. SMITH) he expressed the view that these operations in Cambodia while successful, could have been undertaken by the South Vietnamese Army alone without the participation of U.S. troops.

I wonder if the chairman would comment on that point?

I wonder if the chairman would comment on this?

Mr. MONTGOMERY. I think perhaps the gentleman is right, maybe we should have had more details on Cambodia. There was some information that was classified as far as air strikes, so that the committee did gain some information pertaining to the 7th Air Force operations in Cambodia that are not included in the report because it was classified.

We are flying a limited number of missions now in Cambodia, less than we flew up to June 30.

I might say that the general consensus of the committee as to Cambodia, was that the next 2 months are a critical time as far as Phnom Penh is concerned, whether the city falls to the Communists or not. That was the general consensus of the committee that there was no request for U.S. American ground troops by any of the officials of Cambodia. It was the feeling of the committee, that there was no need to send U.S. combat ground forces into Cambodia.

However, the committee did feel small arms, communications equipment, jeeps, trucks and some artillery support weapons, would help and this equipment was needed at once. We learned in the report that when the Cambodians received this equipment they distributed it in an orderly manner.

But perhaps the gentleman is right, that maybe we should have given more consideration to this subject.

Mr BINGHAM. I thank the gentleman.

Mr. SMITH of Iowa. If the gentleman will yield, I think one of the things about Cambodia that one must realize, speaking as one who spent at the most 4 days there, and the only reason I am rising at this time is that we cannot be definite at this time.

For instance, I found to my surprise, and I did not know this before I went there, that about 100 percent of the supplies in the sanctuary areas, that were supplying the forces in South Vietnam, came through the port of Sihanoukville. So I do not think we can be definite at this time as to whether this was a great success until some time has passed, until we find whether or not Sihanoukville is opened again to the Communists, and if they are able to again use the port and transport the supplies back into these areas, and that possibly the Cambodian action represents maybe only a few months' delay, but they still will be able to replenish the supplies. So I do not think you can be absolutely definite at this time as to whether this was a success.

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield further, as I understand it from the statement the committee concluded that the Cambodian operations could have been undertaken by South Vietnamese troops without active U.S. participation.

Mr. SMITH of Iowa. I think I made it very clear, as a matter of hindsight, which is always better than foresight, that I concluded after talking with our men who work with the ARVN, that they found the ARVN were in much better shape to undertake this operation than they had realized for undertaking this action, and I think that was so.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Speaker, first of all I want to compliment the gentleman in the well, the chairman of this committee, for taking the initiative to organize such a mission to Vietnam.

I was very much interested in the report, and especially the emphasis that the committee was placed upon the importance of the economy of South Vietnam, in the ultimate outcome of the struggle.

I wonder whether or not any members of the committee were briefed on the extent of our assistance program, the commercial import program, or inquired of AID about other aspects of our program—who might be able to answer a question or two about this aspect of our past efforts at economic stabilization.

Mr. MONTGOMERY. Yes, several of our members, the gentleman from New York (Mr. ROBISON) and also the gentleman from Idaho (Mr. HANSEN) wrote part of the report on the economy of South Vietnam.

Mr. WOLFF. I have been trying to get some answers from AID about certain nefarious dealings. Maybe these gentlemen have the answers. I have tried to find out from AID how many firms who generally do business with AID, who supply AID commodities, how many firms were guilty of any type of indiscretion in their dealings and the final disposition of these cases. I received a list from AID some months back, on which there were some 175 firms that had either been disbarred, debarred, or that were subject to prior review, some in amounts of up to $1 million in kickbacks, and for false certifications, another one for $194,000, another one for half a million dollars. No record of final disposition was forthcoming however. No record of how many dollars the U.S. taxpayer was cheated out of, or why these firms were not brought to account for their unscrupulous dealings. After questioning AID I find that I got a list back from them of only 14 of the 175 cases on which any adjudication had been made.

I was wondering whether we are still doing business with some of these firms? I have asked this question many times even to the Director of AID for Vietnam in hearings before the Far East Subcommittee of the Foreign Affairs Committee and to this day nobody seems to be able to give me the answers.

Mr. ROBISON. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman.

Mr. ROBISON. Mr. Speaker, this gentleman from New York cannot give the answer either, but I will say to my colleague with respect to the specific interest he has left that one thing the select committee did before leaving for Vietnam was to circularize all of our colleagues asking them if there was some specific item or special area of concern to them that they would like to have us make inquiry into.

I do regret that, insofar as what the gentleman from New York (Mr. WOLFF) now brings out, that this was not something that came to our prior attention.

Mr. WOLFF. We are continuing to give aid to South Vietnam. One of the recommendations made in the report and it is a fact that we will have to continue to bolster the South Vietnamese economy. Naturally, we will have to bolster the economy of South Vietnam in order to establish a viable state.

But if we permit wrongdoings like this to go unchallenged, I do not think we will be able to bolster their economy or their government. We will set as an example the continued reward for cheating the United States and perpetuate the rampant corruption.

One particular case in point is a pharmaceutical firm which back in 1967 was found guilty of kickbacks amounting to $1 million. The Vietnamese who received those kickbacks is still in Vietnam running around quite free because the Vietnamese Government failed to prosecute him. And we condone this—the cheating of our Government.

What are we doing in order to get the Vietnamese Government to live up to their obligations?

Mr. MONTGOMERY. I am not sure that I have the answer.

Does the gentleman from Iowa who has just returned desire to speak on this question?

Mr. SCHWENGEL. I do not have the answer I want for the gentleman.

Maybe I should identify myself in this connection. I headed a group of volunteers to Vietnam 2½ years ago composed of one other Congressman, myself, two political scientists, one of them who is very well known, Mr. Griffin formerly of the Library of Congress and more recently of American University where he headed the Foreign Language Service School. He has always had an avid interest in Asia.

There were two businessmen, an Iowa farmer and a distinguished lady from Iowa, and two ministers of the gospel. Also the Negro mayor of Springfield, Ohio, that made up our committee.

We were asked by the President of the United States to go back a second time on tour and make our observations on the operation as we saw it before and visit the places where we had been before and to make comparisons.

That we have done and returned and we are in the process of writing our report.

In regard to this specific question, regretfully almost nothing has been done in this regard. We had done a lot in the area of corrections. But it is pretty difficult to deal with this over there. However, it was not too impossible, and this is one of the shortcomings we do speak of in our report. At present this does not have this type of report now, but we will have something to that point when our report is made.

Mr. MONTGOMERY. May I say to the gentleman from New York to comment further on his question we were concerned that we saw too many American civilians in Vietnam, especially in Saigon. We saw no reason why we could not start reducing the number of American civilians even if it involved contractors.

This was of concern to the committee. We have taken most of the American soldiers out of Saigon, but we do have American civilians all over the place.

Mr. WOLFF. The point I am making is the fact that I do not think any amount of Vietnamization is going to help us unless and until we root out the corruption that exists in the government there.

If we are not going to do anything about it, and I have made several requests to Ambassador Bunker to no avail, and continue to condone outright thieving, we will never bring law or order to Vietnam or any place else for that matter of fact.

All the lives we have given—the money we have spent, will be to no avail because the image of America will continue that we condone leadership and individuals who are stealing us blind—who are in cahoots with a corrupt way of life that offers no alleviation to the depravity of communism.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. As one of the cosponsors of the resolution that launched your committee on its very interesting travels, I have been following your reports and comments with much interest. I want to commend you and the members of the committee for the rapid manner in which you carried out the duties assigned to you by the House.

There has been some criticism of your effort as you know. We are now debating a Congressional Reorganization Act. I think if some of our committees acted as promptly and responsively as did yours, the hue and cry for congressional reform might not be quite as loud as it is now across the land.

Speaking of congressional reform, I wondered if you had any opportunity during your travels to speak to some of the members of the Assembly in Vietnam, or members of the representative governing body in Cambodia.

Mr. MONTGOMERY. Yes, we met with the Speaker of the House of the General Assembly of South Vietnam, Congressman Robison, and Congressman Hansen and Congressman Anderson talked to South Vietnamese Senators and also Representatives, and we also met with members of the House Assembly in Cambodia.

Mr. CLEVELAND. I have not had an opportunity to read your final report. Are there references to those meetings in that final report?

Mr. MONTGOMERY. Yes, there are such references.

Mr. CLEVELAND. The reason I raise the point is I believe sometimes Members of this House and perhaps the American public fail to realize those countries do have representative bodies. During my last trip to Vietnam I spoke with several members and was impressed that after a very short period of time, that they had had with representative government, those members impressed me as anxious to fulfill their duty. They were not rubberstamps, and they were quite interested in the work and, indeed, needed guidance and reassurance from representatives such as ourselves.

To your knowledge, did the South Vietnam's Assembly have knowledge of these prison conditions, for example, that were referred to earlier in this discussion?

Mr. MONTGOMERY. I would like to ask the gentleman from Tennessee to answer that question. He talked to the chairman of the Interior Committee of the General Assembly of South Vietnam, who has jurisdiction over these prisons He could comment further.

Mr. ANDERSON of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Tennessee.

Mr. ANDERSON of Tennessee. Congressman Hawkins, I, and others did talk with the chairman of the Committee on Interior in the Lower House of the South Vietnamese Assembly. He was very much aware and concerned relative to the allegation of "tiger cages" and treatment of that nature. We met with him. We met the night of the day we visited Con Son, just prior to our early morning departure. I can relate to you that he was appreciative of the fact that finally these conditions can be confirmed, that they have been seen. He appealed to us to do all we possibly could to bring their existence and the conditions therein to the attention of the American people and to our own Congress, and he indicated that he would report the following morning to the members of his committee.

As I am reminded, there have been some hearings going on within his committee on this very subject, on the subject of prison reform.

Mr. CLEVELAND. Mr. Speaker, will the gentleman yield further?

Mr. MONTGOMERY. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. I am very interested in this subject, and I just want to confirm that the South Vietnamese Assembly was aware of these conditions and was holding hearings on them.

Mr. ANDERSON of Tennessee. They were aware of the allegations of these conditions. Apparently they had not yet been able to produce any direct, firsthand evidence of their existence. They were aware of the accusation.

Mr. MONTGOMERY. I might further answer the gentleman's question about the General Assembly by saying it might be a little different from our House of Representatives in that they have a more rapid turnover then we do of members of their Congress—about two or three of their members are killed by the Communists each year.

Mr. CLEVELAND. A good point and it fortifies my conviction that we in the House should be doing more to help them with their efforts and deliberations to make representative government work in South Vietnam. I have long urged this and feel it would be helpful to a successful Vietnamization program.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Speaker, I want to commend the distinguished gentleman from Mississippi for his leadership and outstanding work on this select committee. I also had the opportunity of visiting Southeast Asia at about the same time this committee did and would like to share a few of my own observations.

From fire base Mo less than a mile from the North Vietnamese sanctuary known as the fish hook, I saw elements of the 2d Battalion, 1st Air Cavalry Division, pulling back from Cambodia on June 30, the final day set by President Nixon. There was much evidence of success, and the officers and men seemed near unanimous in applauding the action. The weapons and materiel captured should bring more flexibility in Vietnamization, hopefully allowing a faster rate of withdrawal of American troops.

There is evidence of progress in many areas of the country since I was last there in August 1969. In the rich Mekong Delta area, for example, Government control has increased enormously and a relative degree of calm and prosperity has come to much of the countryside. Yet, in the vast mountainous areas and in the jungles, the Vietcong and North

Vietnamese roam in small units and bands at will. Seeing is believing—and you really do have to see the country to believe how this could possibly be with such a large number of United States, South Vietnamese, and other friendly forces there.

I observed local elections in several areas and was amazed at the amount and freedom of participation by the people. The nation has a tradition of local government that is very strong, but a national democratic republic is something entirely new to them. They have made some significant advances toward a truly representative and responsive government, but they have much further to go in this regard. We should continue to use our influence toward this end.

Let us not make the mistake of trying to relate completely their government processes to our democratic system and institutions. From the time of our independence, we have known no other way. America was born into a democratic tradition, but such is completely new to them and they are not yet ready.

However, I do feel that we are in the position to continue pressing the South Vietnamese Government for much needed reforms and responsiveness to the needs and wishes of all segments of their people. The military battle may be on the decline, but the economic and political war rages on. In my judgment, the ultimate survival of the Republic of Vietnam depends on successful action in all three of these areas.

As for Cambodia, there is one single thought uppermost in my mind after meeting with leading Government officials in Phnom Penh on July 3, and talking with U.S. Embassy people and others. That thought being—they want to do it for themselves.

These proud and fiercely independent people tucked away in a corner of the Asian Continent just want to remain neutral and independent in their own way.

In my judgment, we have an opportunity to help them do just that—at very little relative cost to us—and no further direct involvement of U.S. troops. In the meantime, we could reap the added bonus of greater stabilization of the situation in the southern half of the Republic of Vietnam.

Notwithstanding what you may have read or been led to believe, the Lon Nol government of Cambodia does not appear in danger of being toppled. Increased military pressures from the North Vietnamese and Vietcong could change this at any time, but the government gains strength each day as its army becomes better trained and equipped.

Another myth that should be exploded is that the government overthrew Prince Sihanouk through some hook or crook and that it is neither representative nor the legitimate government of this nation of 7 million. The fact of the matter is that the only change in leadership has been the removal of Sihanouk as chief of state by the duly elected and constituted National Assembly by a unanimous vote. Let us not forget that he had become chief of state by action of this same assembly.

Lon Nol was Prime Minister under Sihanouk and remained in the same position after the March 18 action. All other top government officials did likewise. But they came finally to the realization that the only way they could fully assert their independence against the North Vietnamese and Vietcong was to take the action they did.

A massive U.S. aid program is not desired or desirable, nor from all indications does it appear to be necessary. These people are not grabbing for all they can get from us, but honestly and sincerely seek economic and military aid to help them do the job in their own way for their own country.

They vitally need this help and I feel very strongly that they ought to get it.

Mr. MONTGOMERY. Mr. Speaker, we saw the gentleman from Alabama in Vietnam. This is the second time the gentleman has been to Southeast Asia and he has gained a very comprehensive knowledge on Indochina.

Mr. WALDIE. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from California.

Mr. WALDIE. Mr. Speaker, I congratulate the gentleman on his report and compliment the committee on the objectivity, particularly in comparison to the Presidential committee that preceded the gentleman's committee.

May I also make a personal comment. This appointment as a chairman of a committee of the gentleman from Mississippi was not only a reflection on the wisdom of the Speaker in selecting the gentleman, but it also strikes a blow for those of us who have maintained that the seniority system should not be an absolute around here. The gentleman has performed so well in this case that he is a prime example that the inflexibility of the seniority system on committees can stand some scrutiny.

However, I have only one question if the gentleman will permit me to phrase its context at some length. As I understood the President's theory in terms of the necessity of the incursion into Cambodia, it was to protect the flanks of the American Army as we withdrew from South Vietnam, to make possible our withdrawal without being jeopardized by flank attacks from the enemy. I have some problem in understanding that situation, given these facts. In the latest Pentagon figures I have seen there is indication that there are under arms in the South Vietnamese Army no less than 1,200,000 men with armor and with artillery and with air. I find opposing that 1,200,000 men is a force of not more than 240,000, which is the highest figure I ever have seen, comprised both of the VC and North Vietnamese, none of whom have armor or air or artillery.

I gather under the analysis of the President that is used to justify the incursion into Cambodia that the 1,200,000 South Vietnamese with armor, artillery, and air are insufficiently skilled, dedicated, or committed to protect a leisurely withdrawal of American forces against this 240,000 enemy without armor, air, and artillery. Was the gentleman's committee able to ascertain the correctness of those assumptions? Is the South Vietnamese Army 1,200,000 men, so inadequate that it is unable to protect our withdrawal over a period of a year's time or more from the enemy force of 240,000 Vietnamese and Vietcong?

Mr. MONTGOMERY. Can I answer that question in this way?

I would say it was the general consensus of the committee that the Cambodian operation on the sanctuaries was a military success, and it probably delayed the enemy for at least 6 months.

In my personal opinion I think the big gain out of the Cambodian operation was that it gave the South Vietnamese the confidence they needed.

I personally think we should continue to withdraw Americans from South Vietnam even though we might have some setbacks but the withdrawal should be orderly. I think the Vietnamese can handle the situation and it should be up to the South Vietnamese now. We should bring the Americans home.

In my opinion the South Vietnamese Army, Air Force, and Navy are capable of handling the situation.

We met with a third secretary at the North Vietnam Embassy in Vientiane, Laos. They are a mean, tough enemy which uses guerrilla tactics. This is the reason why we cannot completely annihilate them.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, it would have been difficult for me to have understood any other approach except for one thing. When one flies over and sees the millions of acres of unused land, it is possible to realize how the North Vietnamese can strike at their own will at a place of their own choosing and then run back into the forest and nobody can find them.

One cannot match one man for one man under those kinds of circumstances. They must have about 10 to 1 or more on the South Vietnamese side.

The object was to rob them of their arsenal in the sanctuaries.

Mr. WALDIE. May I ask the gentleman another question?

Mr. SMITH of Iowa. Yes.

Mr. WALDIE. Would, under the same rationale, it be a feasible action on our part to invade the Laotian sanctuaries?

Mr. SMITH of Iowa. I cannot answer that specifically. I say it is a different problem.

I will say it would be extremely difficult, if not almost impossible, to ever defend against the Laotian sanctuaries in the northern part of the country. Certainly that is where almost nobody lives. In that mountainous area it would take a huge army to defend that mountainous area. The South Vietnamese may be fighting up there for 20 or 30 years. But that does not mean the southern part of the country cannot be secured.

Mr. WALDIE. I have just one final question.

You mentioned earlier, Mr. Chairman, it was your belief it would not be desirable for American armies to be utilized to prevent a takeover of Cambodia by the Communists; did I understand you correctly?

Mr. MONTGOMERY. What I said was that I saw no reason for using American ground troops in Cambodia.

Mr. WALDIE. Is that because you believe the Cambodians can defend their own country?

Mr. MONTGOMERY. Yes; I believe in the future we should take a real, good, hard look at wherever we use American troops in Southeast Asia, because there are some problems which develop when we bring in American troops.

I do say in some cases we should give financial aid and we should give military supplies. That pertains to the other countries over there also.

When we send in U.S. troops, the Communists turn it around and use it against us. They say that this government we are supporting has become a puppet government, and in some cases they are right.

Mr. WALDIE. Do I correctly understand that, under your theory, your belief is that the Cambodian people are able to defend themselves against the Communists than are the South Vietnamese?

Mr. MONTGOMERY. I believe they need the South Vietnamese support. The South Vietnamese are there now. I do not believe they need American troops there. These two countries have common boundaries and common problems.

The Cambodians are known to have South Vietnamese help, and they are getting it now.

Mr. WALDIE. I have just a reservation. I will ask no more questions. I do have a reservation about the South Vietnamese who are not able to defend their own country without American troops, nor even able to protect American troops as we withdraw, going into Cambodia to defend Cambodia against Communist troops.

Mr. MONTGOMERY. I generally believe we can have an orderly withdrawal and they can defend their own country and help Cambodia. However, the South Vietnamese will need some air support from us and also logistic support.

Mr. ROBISON. Mr. Speaker, will the gentleman yield for an observation?

Mr. MONTGOMERY. I yield to the gentleman from New York.

Mr. ROBISON. I might remind our chairman, who has been discussing this subject of Cambodia with the gentleman, that I had reservations originally about the necessity for and the wisdom of the incursion into the Cambodian sanctuary areas. But the American soldiers who were taking part in that operation had no question about the need for it and the justification for it, as I discussed it with some of them. Their understanding was that every bullet which was captured or found in those hidden areas, and every mortar round which was captured or found, was one less bullet or one less mortar round to kill Americans and take American lives. For whatever this is worth, there was justification for it in their minds.

Mr. MONTGOMERY. Before I yield, I would like to say that we had a very capable staff. We had some problems with one of the staff members—these things do happen—but we did have eight staff members. Seven of them were dedicated, and they worked very, very hard.

I yield to the gentleman from New York.

Mr. LOWENSTEIN. I thank the gentleman.

I ask unanimous consent, Mr. Speaker, to extend the time of the special order for another 15 minutes because I want to ask the distinguished gentleman from Mississippi a number of questions.

The SPEAKER pro tempore. Under the rules of the House, a special order cannot be extended for more than 1 hour.

Mr. LOWENSTEIN. Is there any way that time may be obtained to extend it for another 15 minutes?

Mr. MONTGOMERY. I might say to the gentleman from New York that the gentleman from Indiana (Mr. ADAIR) had 1 hour, and he took that for the purpose of yielding time to other gentlemen like you who wish to ask questions. I do not know who has the next hour. Maybe the Chair could tell.

The SPEAKER pro tempore. If the gentleman would like to make a request after the other special orders have been completed, he can make the request for a special order.

Mr. LOWENSTEIN. How many additional special orders are there between now and then?

The SPEAKER pro tempore. Seven.

Mr. LOWENSTEIN. How much time is left on this special order? Is there sufficient time for two or three questions

Mr. SCHWENGEL. Mr. Speaker, I would like to ask unanimous consent for 15 minutes after all other special orders have been granted. Then maybe we can continue. I have some questions, also. Many of these special orders will not be taken, and perhaps the gentlemen will stay.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. MILLER of Ohio. Mr. Speaker, reserving the right to object, may I ask how much time there is in those seven special orders?

The SPEAKER pro tempore. Three hours and 55 minutes.

Mr. MONTGOMERY. I imagine the gentlemen who have time in those special orders will probably let us have 15 minutes.

Mr. MILLER of Ohio. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield to the gentleman from California (Mr. HANNA).

Mr. HANNA. Mr. Speaker, I make the point here I hope we can discuss some of the economic problems associated with this matter. As the gentleman knows, I was coauthor of the resolution that sent the committee over. What I am concerned about is that we have blown holes all over that country and we have created fantastic problems with regard to the farmland. It will take a tremendous amount of time and work and money to get these farmlands back into production. I have seen holes 30 feet in diameter out there. They are trying to repair the damage to hospitals also that are full of injured people. People are just being taken out of the country and placed in the cities. We have created tremendous problems there. It has been said, with friends like this, who needs enemies. I hope we can discuss some of that.

Mr. LOWENSTEIN. I wonder if I might direct a number of questions to the distinguished chairman of the committee. The gentleman from Mississippi knows that I respect him and consider him a friend, and it is in that spirit that I raise these questions.

The first is this: If it is true, as you suggest, that the South Vietnamese are now ready to take over the fighting themselves, then is it not desirable for the United States to withdraw its forces in an orderly fashion as quickly as possible? That is to say, should there not be a commitment to finish our withdrawal by a fixed date so it is settled that we are not going to go back in, even if there are what the gentleman has called setbacks? Or if these setbacks became serious would you favor our staying there longer or perhaps even sending more troops in? And if the latter is your position, just how bad do the setbacks have to be before you would suspend or reverse our withdrawals? In short, if ARVN is now able to take on the bulk of the fighting, is it not simple commonsense for us to announce a terminal date for our involvement in the combat, and if we do not do that, do we not seriously increase the risk of being sucked back in if things do not go as the Thieu-Ky government wants them to go?

Mr. MONTGOMERY. Well, I shall attempt to answer the question in this fashion: In our report we recommended that the withdrawals of American troops not be announced as to the date of such withdrawals, because the only one who really benefits is the enemy. We had off the record talks with correspondents over in Southeast Asia and they felt this is one thing that should not be done; they thought we should not have an advanced announced timetable. They said bring the Americans home and then announce how many you had brought home.

I would say to the second part of the gentleman's question, that there will be some setbacks in South Vietnam. But if they cannot make it now—the South Vietnamese—they might not be able to make it in 2 or 3 years from now. So I see no reason that we would have to rush troops back there from the United States. However, I will say to the gentleman from New York that we will have to continue to give the South Vietnamese some military equipment and some financial help. We are going to have to give them some air support—B–52 support. The committee felt that, really, the big problem facing the South Vietnamese was the economic situation; the pacification and Vietnamization programs were moving along but that the danger lies in the shaky ground on which the piaster rests. It is when the farmers find out that the piaster will not buy what they thought it would, that you will have the Thieu government in trouble.

Mr. LOWENSTEIN. Mr. Speaker, if the gentleman will yield further, I would like to ask if he found any evidence to confirm reports that many Cambodians are very worried and unhappy about the presence of any Vietnamese, including South Vietnamese, within their borders? As the gentleman knows, it has been widely reported that the Cambodians feel that they most need protection against the Vietnamese, and that the continued presence of the South Vietnamese Army in Cambodia may be viewed by Cambodians not as a protection but as a danger.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. Yes; I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I went into two of the villages and talked to the Cambodians in the villages. I found, without exception, this to be the case. They hate the North Vietnamese. They are not exactly in love with the South Vietnamese, but they are glad to have them there so long as they will help protect them from the North Vietnamese and then they want them out. That is the situation they are in.

Mr. LOWENSTEIN. Mr. Speaker, if the gentleman will yield further, what happens then when we leave and when the South Vietnamese leave and the North Vietnamese do not? Do we go back? I do not understand the scenario if that contingency arises, and it seems extremely likely that it will arise if our troops and the South Vietnamese troops are in fact going to withdraw and stay withdrawn sometime.

Mr. SMITH of Iowa. They want the South Vietnamese to stay only so long as necessary to keep the North Vietnamese from taking them over.

Mr. LOWENSTEIN. Mr. Speaker, if the gentleman will yield further, does he disbelieve reports of the incarceration of large numbers of Vietnamese in Cambodian prison camps, or does he agree that such camps exist and further complicate an already difficult situation?

Mr. SMITH of Iowa. I did not know any were in prison camps. The South Vietnamese were because their people that escaped when the North Vietnamese came into the towns and fled, they wanted to go anywhere to get out of it. They may have also just wanted to get out of an area where there is war going on. I do not know, but I think that was mainly the answer.

Mr. LOWENSTEIN. I am afraid I am imposing on the generosity of my friend the gentleman from Iowa, so I will be as brief as I can.

But I must say that I was horrified if not exactly surprised by these new disclosures of how this government that we have supported with 50,000 American lives treats people it does not like. I am ashamed to be allied to such a government—more accurately, to be yoked to such a government, not because our security demands it, as has been the case in other alliances with some brutal governments in the past but because, so we are told, this is a government defending "freedom."

I am deeply disturbed also by the almost casual reaction of our Government and in this body to the disclosure of these conditions. Has this war so dulled our national conscience that we can no longer cry out against horrors like these even—or maybe especially—when it is clear that we share responsibility for their perpetration?

But it is not only because I am appalled at conditions in Con Son that I am disturbed by this kind of reaction. I think halfhearted American protests about evils over which we have some control severely weakens our case against the mistreatment of American prisoners by North Vietnam. How can you demand humane treatment for American prisoners and at the same time all but yawn over inhumane treatment of Vietnamese prisoners—unless you assume that Americans are a sort of master race who must be treated according to different standards than Vietnamese, a double standard that many Asians already suspect we abide by?

Those of us who live in dread about how American POW's are being treated in North Vietnam—and I believe that includes all of us—should be grateful to our two very able and honorable colleagues, Mr. ANDERSON and Mr. HAWKINS, for bringing the situation at Con Son to light. It is not these courageous men who risk giving Hanoi an excuse to mistreat American prisoners; it is, on the contrary, those who fail to protest the conditions they have exposed, those who refuse to join in the demand that conditions like these be terminated, that give such an excuse to Hanoi. Everyone should demand that all brutality against all prisoners be terminated. I am sure the distinguished chairman of the committee agrees such brutality should be stopped. Is this not precisely the occasion for all of us, whatever our views about other matters to join in a worldwide effort to stop the mistreatment of war prisoners everywhere?

I cannot believe that any of us who have friends or relatives imprisoned in North Vietnam—or anyone else who cares about the fate of these gallant Americans will fail to see how urgent it is that conditions in Con Son be changed, that those responsible for those conditions be removed from positions of authority and punished appropriately, and that those who concealed those conditions be disciplined. I wonder if the distinguished gentleman from Mississippi agrees that we tamper with the well-being of the American prisoners in North Vietnam by failing to respond to these revelations in this way.

Mr. MONTGOMERY. I will briefly try to answer the question. I think it is really a matter of judgment how you approach the situation. We thought that the approach was to notify the proper authorities at once, and see if this bad situation could be corrected. And we were concerned that it could have some repercussions on the American prisoners of war. The majority of the committee felt that this situation at Con Son Prison should be corrected but we did not think Con Son should be the main focus of the report and we knew the Communists would use this bad condition at the prison to further mistreat American prisoners of war.

Mr. LOWENSTEIN. I thank the gentleman for his answer.

Mr. SMITH of Iowa. I do not want any intimation taken, and I hope the gentleman did not mean to make it that the members of the committee were condoning what was going on over there. There was not one member of the committee who condoned what was going on over there. And within hours after it the chairman of the committee talked to the Ambassador over there, and to other people over there, and said "We want something done about this." This is not something that just came up a few days ago. It was done while we were still over there. As soon as they got back they talked to the people there to get something done. There was no condoning of this anywhere along the line.

Mr. LOWENSTEIN. I would certainly not imply that any Member of this body—or anyone else who saw conditions like those reported at Con Son—would condone them. What I am saying is that there are degrees of noncondonation. There are levels of protest. I would hope that there would be a unanimous and angry outcry of protest about these conditions, that we would all agree to do whatever is necessary to correct this situation at once or to end our association with whoever makes it impossible to correct it.

Mr. SMITH of Iowa. I would point out that the gentleman from California and the gentleman from Tennessee (Mr. ANDERSON) who are two knowledgeable people were on nationwide TV on Monday before the report was filed, which was the proper way to do it and they were telling everybody.

Mr. LOWENSTEIN. And I am praising them.

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman.

Mr. HAWKINS. I merely want to echo what the gentleman from New York has said, and what our concern was in exposing these conditions and to point out one fact I think has not been clearly stated.

The American official U.S. aide who accompanied us to Con Son admitted to us that he knew of the existence of the tiger cages, and that is contained in the report which I made. Either it was incumbent upon him, if he did not know, or knowing, he was concealing the fact—and I think the letter is true because this was his admission.

It seems, therefore, that someone, some American officials were informed and had knowledge of these conditions and did not expose them.

I think while the members of this committee and certainly the Members of Congress are certainly clear on this issue, I think we must condemn those American officials including Frank Walton who had knowledge of these conditions.

Certainly, the members or someone at the Embassy should have had knowledge, and did not as such do something about these conditions before they were actually revealed.

GENERAL LEAVE TO EXTEND

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order today, the report of the investigation of the Select Committee on the U.S. Involvement in Southeast Asia and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

THE WHITE HOUSE CONFERENCE ON YOUTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, the Sixth Decennial White House Conference on Children and Youth, the first of which was convened during the closing days of the administration of President Theodore Roosevelt in 1909, will be conducted in December of this year and February of 1971. For the first time, this, the oldest of White House conferences, will be divided into two phases. First, there will be a White House Conference on Children dealing with the problems of the age bracket zero to the 13th birthday. This Conference will be held in December. The Conference on Youth through age 24 will be held over the Washington's birthday holiday in February of 1971.

These conferences will be conducted under the able leadership of the Honorable Stephen Hess, who President Nixon has appointed National Chairman of the White House Conference on Children and Youth.

While there are bound to be overlapping areas in the two conferences, I believe that it is significant to note that the Children's Conference will address itself to enhancing and cherishing the individuality and identity of each child, and to the recognition and encouragement of his or her own development, regardless of environmental conditions or circumstances of birth.

The goals are more specific examination through implementation. The Conference is then divided into seven clusters of forums, which will be concerned with the areas of individuality; learning; health; parents and families; communities and environment; laws, rights, and responsibilities; and child service institutions. Within each of the aforementioned, a total of 26 additional "subforums" will cover more specific topics, including the right to read; health protection and disease prevention; family planning and family economics; and child development in the mass media.

People will be brought from all of the various disciplines to make up these forums. Doctors will not be talking to doctors about health, and educators will not be talking to other educators about education. These forums will, in the true sense, be multidisciplinary.

When the final report is ready in early spring, regional implementation meetings will be held throughout the country.

In recognition of the changing needs of our society, for the first time a separate White House Conference on Youth will be held in February of 1971. And, as I stated earlier, while there will be a certain overlapping of problems because of the impossibility of stating that problems of children concern themselves only until the 13th birthday, after which they become problems of youth, there is the undeniable fact that entire sets of new problems beset youth through age 24.

Now, this Conference, Mr. Speaker, will not merely be a student's conference. There are some 40 million youths in the United States in this age group, 54 percent of whom are in school, 7 million in colleges and universities. The Conference, then, will involve all youth: in school and out of school; working youth; young people in the military; teenage housewives; the affluent; the poor; the black and the white; the red and the yellow; and from all over the Nation.

Five basic ground rules have been established for the Youth Conference. First, the Conference will convene in Washington in February of 1971. Second, it will be composed of two-thirds youth and one-third adults. The above ratio was decided upon as the result of many conversations with young people. They want the opportunity to relate to the adult leadership of the country. They do not want to talk to each other in a vacuum.

Third, the Youth Conference will be issue-oriented. It will revolve around another series of task forces, which will be created to deal with those areas that most concern the youth of America: foreign relations, the environment, drugs, racial relations, recreational problems, and so forth.

Fourth, a planning meeting of all the task forces will be held in late August of this year. Fifth, and most important, the Conference must not be an end in itself, but must lead to a process of implementation that will involve all of the major institutions and a large body of our citizenry.

Ideally, the end result of this conference will be the evolvement of a system which will give young people a greater voice in the actions that affect their lives and a greater "piece of the action" in our major social institutions.

Mr. Speaker, I earlier referred to the overlapping of issues. I am becoming increasing appalled, for example, when I pick up a newspaper, such as the Washington Sunday Star of July 12, and read an interview with Washington Metropolitan Police Officer Edward Gaskins, who stated:

> Youths as young as 9 are using narcotics—using this as a scapegoat to compensate for a lack of other things. Older persons talk them into it. They're not real, actual, bad kids, they're actually mischevous [sic]; they don't rob or seal, but they get caught up in narcotics and gambling. The ones who still have that little respect for law enforcement—these are the ones you can still channel back.

Mr. Speaker, Officer Gaskins is talking about children of age 9. It behooves both conferences to interrelate, the one with the other, on the problems that do not respect arbitrary age delineations. I have full confidence that Mr. Hess will see that this is accomplished.

The problems of the Youth Conference are further complicated by the on-rush of sophisticated communications, which, paradoxically, appears to have provided us with the greatest communications breakdown between the generations in the history of our Nation. Indeed, we have a communications crisis today. I quote, Mr. Speaker, from the results of the Louis Harris poll of July 13:

STUDENTS LACK FAITH IN U.S. LEADERS

(By Louis Harris)

Although the recent move of the United States into Cambodia triggered massive protests on college campuses, a comprehensive Harris Survey of a cross-section of college students reveals much wider disenchantment than merely over the war in Vietnam. Large numbers of today's student population have little faith in the leadership of the country and believe American society should be drastically reconstituted.

Between May 20 and 28, just before the end of the school year, a cross-section of 820 undergraduates in 50 four-year colleges were surveyed in depth in a study commissioned by the American Council on Education at the suggestion of Chancellor Alexander Heard, special adviser to the President on problems of campus unrest.

The cross section of students was asked a series of questions dealing with the state of America and asked first whether they agreed with the statement and then if they felt their parents would agree or disagree with the same criticism. The results point up why so many college students feel "turned off" today:

By 78-to-20 per cent, students believe "the real trouble with U.S. society is that it lacks a sense of values—it is conformist and materialistic." Yet by the 50-to-44 per cent, students believe their parents would disagree with the claim that America is lacking in values.

By 69-to-30 per cent, students disagree with the proposition that "America must maintain the policies it does, because communism is still our biggest threat." However, by 71-to-25 per cent, they think their parents back up that statement.

By 70-to-25 per cent, college students agree that "America will be in trouble as long as

> it continues its arrogant, imperialist policies." The same students think their parents disagree with this claim about "U.S. imperialism" by 58-22 per cent.
>
> By 65-to-32 per cent, students feel that "our troubles stem from making economic competition the basis of our way of life." But they also think that their parents go along with the idea of a competitive society by a 50-to-43 per cent margin.
>
> Finally, by a lopsided 81-to-17 per cent, students say that "until the older generation comes to understand the new priorities and lifestyle of the young, serious conflict is going to continue." Contrary to most other results, however, by 50-to-44 per cent, they think their parents agree with them.

The results of Mr. Harris' survey indicate a mutual lack of understanding between the generations of brobdingnagian proportions. Truly, Mr. Hess and his staff face a truly herculean task.

I earnestly trust that the leaders and planners of the Conferences will avail themselves of media that reach out to youth and elicit provocative response and a feeling of active participation in the attempts to provide solutions to the problems that beset our Nation.

Since President Theodore Roosevelt convened the first Conference in 1909, the problems have remained similar. As the French say, "plus ca change, plus c'est la meme chose," or, the more things change, the more they are the same. In 1909 the objectives were, basically, to evaluate the overall conditions of children and youth in order to develop the full potential of our greatest national resource. Today they are fundamentally the same.

As these groups move forward in their planning activities, they may find inspiration in the words of George Santayana:

> We must welcome the future, remembering that soon it will be the past and we must respect the past remembering that once it was all that was humanly possible.

CAPTIVE NATIONS WEEK TIME FOR A PSYCHOPOLITICAL OFFENSIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. PUCINSKI) is recognized for 60 minutes.

Mr. PUCINSKI. Mr. Speaker, as free citizens of the United States, we take this opportunity to mark the 11th anniversary of the Captive Nations Week resolution, passed in July 1959 and signed by the late President Eisenhower. This, the third week of July, is the time when all Americans manifest their repugnance to the continued domination of Eastern Europe and other parts of the world by the Soviet Union and their awareness of the paramount importance of freedom for the 100 million people in the Communist-dominated lands.

Thus, it is fitting today to renew the solemn pledge announced by the late President Eisenhower during his tenure of office, a pledge which clearly and succinctly indicates our attitude toward the Communist subjugation imposed on the freedom-enamored peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others:

> The peaceful liberation of captive peoples has been, is, and—until success is achieved—will continue to be a goal of U.S. foreign policy.

In this regard, it remains a matter of prime importance for the United States to keep alive the flame of resistance in the hearts of the oppressed citizens of these countries.

For them, our country remains the luminous citadel of human freedom, dedicated to their liberation from the Communist yoke, the restoration of their independence, and the concomitant enjoyment of their religious freedoms and their individual liberties.

Our warfare against an ideology that has enslaved over a third of the human race in less than 50 years can be effective only with what is called a "psychopolitical offensive," that is to say, a sustained endeavor to make known to the peoples under Communist tutelage that we will never accept their lamentable plight.

In the wake of such travesties of democracy as the ruthless suppression of the Hungarian revolution in 1956 and the coup de Prague in 1968, it is incumbent upon us that we, in the original words of the Captive Nations resolution:

> . . . manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence.

Needless to say, this constant refusal to accept the status quo in the captive nations constitutes a fitting response to Moscow's and Peking's worldwide propaganda campaigns in Asia, Africa, the Middle East, Latin America, and particularly in the newly independent and underdeveloped nations and states.

Furthermore, our pursuit of a diplomacy of truth provides the means by which we can effectively deter the recrudescence of a hot global war and at the same time advance the cause of world freedom.

We must recognize that the effects of this psychopolitical offensive are indeed in the interests of our national security, for it is only by opposing communism with a more vigorous and more dynamic challenge that we can hope to preserve our American hallmarks of individual liberty and the right to self-determination.

Already the sword of Communist imperialism has been blunted with the advent of the Sino-Soviet split, candidly recognized at the world conference of Communist parties convened in Moscow during June of this year, and accordingly it becomes imperative for us to persevere in our psychopolitical offensive so as to further shatter the Communist front.

Only in this way will the flame of resistance in the hearts of the peoples of the captive nations never be extinguished, for the repudiation of the status quo in these countries as advanced by our psychopolitical offensive has come to represent their raison d'être.

Their confidence in our resoluteness can and will inspire them to remove someday the shackles of Communist oppression, for, as the late John F. Kennedy declared:

> The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it—and the glow from that fire can truly light the world.

Mr. Speaker, as we begin today the observance of Captive Nations Week, let us again resolve that the conscience of the free world cannot rest until the captive nations are again free and their people can again rejoin the family of free nations.

DISTRICT OF COLUMBIA BAR ASSOCIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, after 3 months of thorough analysis and consideration, the District of Columbia crime bill was agreed to in conference committee today. In reaching agreement, the conferees were substantially aided by the work done by the District of Columbia Bar Association on this bill, and I wish to take this opportunity to express my appreciation to the association for its conscientious effort in objectively commenting on the bill.

In February 1970, the District of Columbia Bar Association held a referendum on the District of Columbia crime bill in which over 1,400 local lawyers participated. The results of that referendum clearly showed that the majority of the association favored providing the District of Columbia with sound law enforcement tools.

After the House of Representatives passed its version of the District of Columbia crime bill on March 19, 1970, and the Senate passed its version on March 24, 1970, the District of Columbia Bar Association undertook the task of reviewing the differences in the two bills and making recommendations. By letter dated April 22, 1970, George Monk, president of the District of Columbia Bar Association, wrote to the chairmen of the House and Senate District of Columbia Committees, stating the official position of the association on the differences in the two versions of the bill, including a significant number of recommendations. These recommendations were based on the February 1970 referendum, the April 1970 study, and the report of the criminal law committee, chaired by Robert X. Perry, Jr., and the final approval of the executive committee of the association.

The letter made recommendations on 18 criminal law issues in which differences appeared in the two versions of the bill. The letter was extremely helpful to the conferees and the conference report will incorporate a number of the association's recommendations, many of which required modification of the House version of the bill.

The District of Columbia Bar Association has served an important public function by diligently analyzing and commenting on this important piece of local District of Columbia legislation. I extend my thanks to the association for its timely and helpful effort in this matter.

SOME REFLECTIONS ON URBAN RENEWAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. COHELAN) is recognized for 10 minutes.

Mr. COHELAN. Mr. Speaker, 2 weeks ago, during the House consideration of the conference report on the supplemental appropriation bill for fiscal year 1970, I offered a motion to agree to the Senate's addition of $587.5 million for urban renewal funds. During the debate on this motion, a number of allegations were made by those opposed to additional funds. I would like to take this opportunity to discuss these allegations in an effort to clarify the record.

Allegation No. 1: Urban renewal is a "big city" program.

Mr. Speaker, in actuality, nothing could be farther from the truth. Urban renewal has been used by communities of all sizes since the program began 21 years ago. In fact, of 1,000-plus communities participating in renewal, over one-half have populations below 25,000. Urban renewal is just as important to these smaller communities as it is to San Francisco, New York City, or Chicago.

To Corinth, Miss.—population 15,000—for example, the completion of two urban renewal projects will mean 100 new housing units, 40 rehabilitated units, a new library, three new commercial buildings, and 40 new jobs.

To Franklin, Pa.—population 9,868—urban renewal will mean municipal taxes of over $100,000 from a neighborhood previously producing $7,500 in taxes. It will also mean $2 million in industrial expansion and 120 new jobs.

To Whitesboro, Tex.—population 3,600—urban renewal means 100 new housing units, 255 rehabilitated units, a new manufacturing plant, five new commercial bulidings, a new industrial plant, and a new park.

To Santa Fe Springs, Calif.—population 16,000—urban renewal means the transformation of a neighborhood producing $416,000 in tax revenue annually to one which will produce $1,700,000 a year.

These communities are evidence that the benefits of renewal accrue to cities of all sizes.

Allegation No. 2: Congress has appropriated vast sums for urban renewal, including $2 billion not yet spent and, therefore, it should not appropriate more than the $1 billion requested for fiscal year 1971.

It is true that Congress has provided more than $9 billion for urban renewal grants since the program was initiated in 1949. However, all these funds have been committed—reserved—to specific projects. While it is true that approximately $2 billion has not actually been disbursed, all this money is committed and none is available for obligation to any other project. Only the new amounts appropriated each year by Congress can be used for projects not yet funded.

It is a misrepresentation to say that the $2 billion could be used for new projects; those funds are committed and will be disbursed as quickly as the activity in the projects moves ahead. Because of the nature of urban renewal, much activity takes several years to complete, and the Federal grant is not completely paid out to the community until all activity is finished and the project is closed out.

The existing need for urban renewal funds in fiscal year 1971 is more than $3 billion, over three times the amount of the budget request. Only funds appropriated out of existing authorizations can be utilized to take care of this demand. In conclusion, there are no funds which have been previously appropriated which have not already been obligated.

Allegation No. 3: Any additional money "appropriated" for urban renewal will have an immediate budget impact.

This is a basic misunderstanding of the program. The amount appropriated for fiscal year 1971 will be reserved for or committed to a certain number of projects during the fiscal year. Unlike many other Federal programs, funds appropriated for urban renewal are not necessarily disbursed during that fiscal year. The actual budgetary impact for a given fiscal year in renewal equals the amount of funds actually distributed for projects. Often this money was approved in appropriation bills 3 or 4 years earlier. This result occurs because under traditional urban renewal projects there is often a 4- or 5-year period between the time an application receives a grant reservation and the actual Federal payment of money for that project.

For example, while the Congress has appropriated $1 billion in each of the past 3 fiscal years—1968, 1969, 1970—the actual budgetary impact in terms of disbursements has been much less. In fact, not until fiscal year 1970 did disbursements finally reach the $1 billion level. The point is that, regardless of how much is appropriated for fiscal year 1971, the budgetary impact for the fiscal year will be only the amount disbursed. HUD estimates that disbursement for fiscal year 1971 will be $1.082 billion. Of this total, the vast majority was appropriated in prior fiscal years.

The important fact, Mr. Speaker, is that under conventional urban renewal, communities cannot proceed with their local improvement plans until they receive a grant reservation, setting aside an amount of money to cover the Federal share of the project. Without a far greater appropriation for fiscal year 1971 than the $1 billion requested by the President, many communities will be forced to curtail, to postpone, or worse, to cancel needed projects.

Allegation No. 4: "Actual expenditures for urban renewal alone in fiscal year 1969 were $2.9 billion, and by fiscal year 1971 HUD estimates actual spending on urban renewal is going to be in excess of $5 billion."

This comment was taken out of context from HUD testimony during appropriation hearings and is inaccurate. In reality, these figures are cumulative totals for disbursements under urban renewal since the program began 21 years ago. The facts are that at the end of fiscal year 1969, a total of $2.9 billion had been disbursed, and that by the end of fiscal year 1971, HUD estimates that the total disbursed will have risen to $5 billion. As noted above, the disbursement level for fiscal year 1971 will be slightly over $1 billion.

Allegation No. 5: Urban renewal "will not build a single house. You tear down houses with urban renewal; you do not construct houses."

Mr. Speaker, the purpose of urban renewal, as the program has evolved over the past 21 years, is to assist localities transform slum neighborhoods into valuable segments of the community. It can be used to clear slums for new housing construction or to rehabilitate neighborhoods which if left unassisted would soon become slums. Renewal can also be used to revitalize downtown commercial areas, to attract new industry or to provide sites for new public buildings.

While urban renewal is not a housing construction program per se, it does provide sites for new construction and eliminates dilapidated slum housing. A city acquires land, clears and prepares it for redevelopment, usually selling it to a private developer who, for a variety of economic reasons, may have previously ignored the site.

Over a quarter of a million new or rehabilitated housing units have already been started or completed on urban renewal land—53 percent low- and moderate-income housing. When all redevelopment in programs approved through June 30, 1969 is completed, renewal will have generated nearly 1.3 million housing units—66 percent low and moderate income.

In the past, one of the most persistent criticisms made against the renewal program was that it removed low and moderate income housing from the market. However, amendments enacted in 1968 and 1969 have placed more emphasis on the use of renewal for residential construction. In fact, an amendment sponsored by our colleague from Connecticut (Mr. WEICKER), provides that each low or moderate income housing unit eliminated as a result of renewal must be replaced within the community by another such unit.

One of the points continually made about the problem of meeting the national housing goals set by Congress in 1968 is the lack of sufficient building sites. Urban renewal can play a key role in meeting the national goal by providing suitable sites.

Allegation No. 6: About $44 billion of Federal financial commitments are being provided to cities annually.

The source of this $44 billion figure is a study prepared by the Department of Housing and Urban Development which attempts to add together all Federal assistance which goes to "urban" areas. However, an analysis of its figures gives one the impression that it was commissioned to counter any arguments that the present administration is not doing enough to assist our cities. It lumps together just about all domestic programs and defines urban areas as those communities with a population of 2,500 or more.

The $44 billion consists of $25.6 billion in grants and $18.1 billion in loans, loan guarantees, and loan insurance. The loans, of course, which make up only a small portion of the total, are repayable to the Federal Government, but the study does not indicate how much money will be repaid from such loan programs during fiscal year 1971. Included are substantial amounts which go directly to individuals—such as public assistance and veterans' benefits—and would go to these individuals regardless of whether they resided in a city or a rural area of less than 2,500.

Nearly $15.5 billion of the $18.1 billion consists of mortgage insurance and loan guarantees for the Federal Housing Administration, Farmers Home Administration, and Veterans' Administration. These programs involve no appropriation of funds and, therefore, have no budgetary impact, and the beneficiaries of the insurance and guarantees are required to pay an insurance premium to cover any losses.

Mr. Speaker, with unanimous consent I place the study in the CONGRESSIONAL RECORD at this point so it can be examined by all Members of the House. I note particularly some examples of items included in the survey whose beneficial impact on urban areas is questionable:

1. $61 million for construction of defense facilities—(Army National Guard, Air National Guard, Army, Navy and Air Force Reserve installations).

2. $24 million for civil defense research, shelter surveys and marketing.

3. $5 billion for public assistance, for which families would be eligible regardless of place of residence.

4. $2.695 billion for federal highways, out of trust fund, not appropriated.

5. $98.9 million to the General Services Administration for the construction of federal buildings.

6. $2.173 billion of the Veterans Administration budget including compensation and pensions for those whose eligibility is dependent on being a veteran, not an urban resident.

7. $15.6 billion for FHA insurance, VA guaranteed loans and rural housing insurance loans.

8. $27.4 million for soil conservation.

9. $66 million for education for the handicapped, included because approximately 70% of all handicapped people live in areas above 2,500.

10. $26 million for geological surveys.

11. $20 million for saline water conversion.

12. $10 million for Department of Interior salaries.

13. $610 million in the Employment Security Trust Fund.

14. $420 million for the proposed family assistance program which has not yet passed the Senate.

15. $206 million for proposed revenue sharing which has not been enacted.

In conclusion, the $44 billion figure is a totally inaccurate reflection of the amount of annual appropriations for Federal programs which go to urban areas. This is readily apparent when it is recognized that the total budget request for HUD for fiscal year 1971 is only slightly over $3 billion, and HUD's programs provide more direct grant assistance to cities than those of any other Federal department.

To summarize, there is a backlog of over $3 billion in renewal applications pending at the Department of Housing and Urban Development. The House has approved a fiscal year 1971 appropriation of only $1 billion of the $2,287.5 million authorized for the programs. The Senate has increased this figure to $1.7 billion.

We in the House failed to add more urban renewal funds to the fiscal year 1970 supplemental appropriation bill. Many Members objected that it was inappropriate to add funds for renewal to the supplemental, since the fiscal year was due to end in 5 days. Now we have an opportunity to provide additional funds in the fiscal year 1971 bill. I urge each Member of the House to support the $1.7 billion approved by the Senate, and I particularly urge my colleagues on the Independent Offices Subcommittee of the Appropriations Committee to approve the full $1.7 billion in conference.

FEDERAL URBAN AIDS BASED ON THE BUDGET OF THE UNITED STATES GOVERNMENT, 1971

PURPOSE

Federal efforts to ameliorate adverse urban conditions are reflected in Federal activity. Such participation in improving urban conditions has become increasingly evident during this past decade. This report analyzes the vast array of Federal programs and measures the magnitude and scope of Federal involvement in urban areas, which is crucial to a national effort of urban development.

TYPES OF URBAN AID

The three major types of programs are: (1) Federal grants-in-aid to State and local governments, institutions, and the public to assist in improving housing, urban development, education, employment, health, welfare, transportation, commerce, etc.; (2) direct Federal expenditures having a significant impact on community development, such as construction of Federal hospitals, U.S. post offices, and other public buildings; and (3) Federal loans, loan guarantees, and insurance, such as residential mortgage insurance and small business loans. The first and second program types have been combined in this report.

PROCEDURE

This series of program activity is developed from the Appendix to the Budget of the United States Government, Fiscal Year 1971. The data used represent obligations and commitments for fiscal years 1961, 1966, and 1969, and budget estimates for fiscal years 1970 and 1971. Grants-in-aid amounts are "total program costs, funded," and loans, insurance, and guarantee amounts are "total capital outlays, funded." Where these are not appropriate, the entry used has been footnoted. Percentage approximations of the urban impact were applied to national totals as follows:

Eighty to 100 percent for programs which by their nature would be overwhelmingly directed toward cities;

Fifty to 75 percent for programs directly affecting individuals and therefore, likely to be distributed on the basis of population;

Twenty-five percent for programs directed at the smaller communities, wherein a minority of the population can be classified as urban.

(Urban, as defined by the Bureau of the Census, denotes all places containing a population of 2,500 or more persons.) Thus, the dollar amounts presented in this report are approximations rather than absolute measurements.

COMPARISON WITH BUREAU OF THE BUDGET CONCEPTS

This analysis of federal aid to urban areas differs from that reported by the Bureau of the Budget in its Special Analyses, Budget of the United States, in the section Federal Aid to State and Local Governments. Both presentations are tabulations based on material available in U.S. budget documents. The variations are due to differences in coverage of programs, of areas, and in timing. Specifically, (1) the Bureau of the Budget uses the Standard Metropolitan Statistical Area concept for "urban," while the Department of Housing and Urban Development uses the Bureau of the Census concept; (2) the Bureau of the Budget analysis includes only aids to State and local governments, while the Department of Housing and Urban Development also includes aids to private organizations and individuals, as well as direct Federal construction activities; and (3) the Bureau of the Budget uses program outlays, which frequently reflect the level of activity obligated in prior years, while the Department of Housing and Urban Development uses current obligations and commitments.

FEDERAL AIDS TO URBAN AREAS

TOTAL GRANTS AND LOANS

[In millions of dollars]

Program	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
Appropriated to the President	9. 1	826. 3	1, 439. 2	1, 643. 8	1, 199. 5
DEPARTMENTS					
Agriculture	341. 5	536. 2	994. 2	1, 548. 4	2, 062. 1
Commerce		206. 8	177. 9	176. 2	169. 0
Defense	608. 7	800. 4	691. 1	641. 0	868. 0
Health, Education, and Welfare	2, 130. 9	5. 937. 1	8, 882. 8	9, 553. 4	11, 003. 8
Housing and Urban Development	7, 036. 6	10, 989. 5	10, 150. 9	12, 566. 7	15, 311. 2
Interior	114. 1	256, 1	454. 2	424. 8	668. 3
Justice		1. 6	21. 9	108. 6	256. 1
Labor	321. 7	555. 4	856. 2	881. 6	1, 634. 1
Transportation	1, 569. 0	2, 233. 2	2, 431. 3	2, 491. 2	2, 695. 1
INDEPENDENT AGENCIES					
Atomic Energy Commission	61. 6	71. 9	100. 2	98. 2	104. 0
District of Columbia	50. 4	117. 8	200. 8	263. 0	271. 3
General Service Administration	75. 9	177. 3	69. 4	82. 0	98. 9
Veterans' Administration	3, 217. 1	4, 152. 4	5, 747. 2	6, 143. 2	6, 496. 0
Equal Employment Opportunity		2. 5	7. 0	10. 6	15. 2
Small Business Administration	167. 7	338. 5	319. 8	474. 7	493. 4
CONTINGENCY FUND					
Revenue sharing with States and local Governments					206. 2
Total	15, 704. 3	27, 203. 0	32, 544. 1	37, 087. 4	43, 822. 2

FEDERAL AIDS TO URBAN AREAS—Continued

TOTAL GRANTS

[In millions of dollars]

Program	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
Appropriated to the President	9.1	826.3	1,439.2	1,643.8	1,199.5
DEPARTMENTS					
Agriculture	323.9	483.9	820.1	1,243.5	1,658.8
Commerce		175.7	142.9	141.2	129.5
Defense	608.7	800.4	691.1	641.0	868.0
Health, Education, and Welfare	2,130.9	5,937.1	8,826.8	9,479.4	10,933.8
Housing and Urban Development	281.4	669.3	1,062.4	2,092.6	2,605.3
Interior	114.1	256.1	454.2	424.8	668.3
Justice		1.6	21.9	108.6	256.1
Labor	321.7	555.4	856.2	881.6	1,634.1
Transportation	1,569.0	2,233.2	2,431.3	2,491.2	2,965.1
INDEPENDENT AGENCIES					
Atomic Energy Commission	61.6	71.9	100.2	98.2	104.0
District of Columbia	27.5	47.4	92.6	113.9	108.9
General Service Administration	75.9	177.3	69.4	82.0	98.9
Veterans' Administration	1,465.7	1,830.6	2,003.1	2,163.1	2,173.3
Equal Employment Opportunity		2.5	7.0	10.6	15.2
CONTINGENCY FUND					
Revenue sharing with State and local governments					206.2
Total	6,989.5	14,068.7	19,018.4	21,615.5	25,625.0

[In millions of dollars]

Program	Percent urban impact	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
Funds appropriated to the President		9.1	826.3	1,439.2	1,643.8	1,199.5
Appalachian Regional Development [1]	25			53.5	77.4	73.6
Disaster Relief	70	9.1	101.6	17.2	149.4	49.8
Office of Economic Opportunity	75		724.7	1,368.5	1,417.0	1,076.1
Department of Agriculture		323.9	483.9	820.1	1,243.5	1,658.8
Extension Service	50	33.7	44.6	48.5	65.8	85.8
Soil Conservation Service	25	12.1	23.2	23.8	27.8	27.4
Consumer and Marketing Service	70	23.2	54.0	80.8	99.8	106.4
Food and Nutrition Service		254.9	356.2	658.3	1,040.8	1,428.4
Special milk	70		68.2	71.8	58.8	
Child nutrition	70	108.2	140.8	172.2	220.1	228.8
Food stamps program	70	.5	49.1	174.1	427.0	875.0
Surplus commodities	70	146.2	98.1	240.2	334.9	324.6
Farmers Home Administration			5.9	8.7	9.3	10.8
Water and waste disposal	25		5.0	7.0	8.5	7.7
Rural renewal	25		.3	.4	.2	
Domestic farm labor housing	25		.6	1.3	.6	.8
Mutual and self-help housing	25					1.0
Rural trainee housing	25					1.3
Department of Commerce [1]			175.7	142.9	141.2	129.5
Economic Development Administration			175.7	142.9	141.2	129.5
Development facilities	70		173.7	125.7	122.2	114.0
Planning, technical assistance, and research	70		2.0	17.2	19.0	15.5
Department of Defense [2]		608.7	800.4	691.1	641.0	868.0
Construction		55.7	21.2	49.9	31.0	61.0
Army National Guard	100	19.7		12.8	15.6	16.0
Air National Guard	100	11.4	10.0	14.5	5.5	14.0
Army Reserve	100	15.5		9.7	4.0	14.0
Naval Reserve	100	7.1	5.0	6.9	2.4	10.0
Air Force Reserve	100	2.0	6.2	6.0	3.5	7.0
Civil Defense			31.9	16.0	24.4	24.0
Research, shelter survey and marketing	100		31.9	16.0	24.4	24.0
Army Corps of Engineers		553.0	747.3	625.2	585.6	783.0
General construction	70	494.8	675.1	556.7	507.8	710.7
Flood control and coastal emergencies [3]	70	8.5	13.8	19.0	23.0	10.1
Flood control, Mississippi River [4]	70	49.7	58.4	49.5	54.8	62.2
Department of Health, Education, and Welfare		$2,130.9	$5,937.1	$8,826.8	$9,479.4	$10,933.8
Consumer protection and environmental health		23.9	45.4	75.7	104.2	113.3
Air pollution	70	4.9	17.8	47.3	65.8	77.7
Environmental control	70	19.0	27.6	28.4	38.4	35.6
Health Services and Mental Health		268.5	725.2	1,000.9	1,027.4	1,004.0
Mental health	70		200.6	241.1	250.9	256.9
Health services research and development	70	16.2	34.2	32.6	29.8	40.2
Comprehensive health planning	70		71.5	112.6	156.4	176.0
Regional health	100		2.6	76.7	96.6	96.5
Chronic diseases	70	1.0	9.0	(5)	(5)	(5)
Communicable diseases	70	6.0	36.8	39.9	31.9	29.0
Medical facilities	90	170.7	203.4	255.5	241.2	152.4
Patient care and special health	70	38.5	41.4	57.6	63.9	65.9
Maternal and child health [1]	70	36.1	125.7	184.9	156.7	178.7
Family planning services	70					8.4

Footnotes at end of table.

[In millions of dollars]

Program	Percent urban impact	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
National Institutes of Health			106.5	26.4	279.9	275.9
Environmental health services	70		5.3	13.1	12.3	13.9
Health manpower	70		61.9	130.7	163.1	173.7
Construction of health facilities	70		39.3	120.6	104.5	88.3
Office of Education [1]		277.3	2,472.5	2,766.2	2,384.4	2,641.4
Elementary and secondary education	70		893.6	1,525.9	1,205.6	1,444.8
Federally affected areas	90	241.2	387.3	(6)	(6)	(6)
Professions development and teacher corps	70		4.4	133.4	83.8	95.3
Higher education	90		937.6	785.2	772.7	741.8
Vocational and adult education	70	23.5	166.0	181.3	199.8	252.1
Community services	50	3.3	54.4	77.8	53.8	24.1
Education of the handicapped	70	0.7	18.6	55.1	58.9	66.5
Civil rights	70		3.8	7.5	9.8	16.8
Other	70	8.6	6.8			
Social and Rehabilitation Service		1,561.2	2,587.5	4,719.6	5,683.5	6,899.2
Public assistance	70	1,522.5	2,470.1	4,396.5	5,185.7	5,891.9
Work incentive	70			26.2	89.2	153.4
Rehabilitation service and facilities	70	38.7	113.3	277.4	379.7	400.1
Programs for the aged	70			16.1	18.4	23.3
Juvenile delinquency [1]	70		4.1	3.4	10.5	10.5
Family assistance	70					420.0
Department of Housing and Urban Development		281.4	669.3	1,062.4	2,092.6	2,605.3
Renewal and housing assistance		279.1	539.8	880.8	1,547.2	1,688.8
Neighborhood facilities [7]	100		2.3	10.6	26.0	38.0
Urban renewal [8]	98	139.6	314.0	523.1	1,028.0	1,014.3
Low rent public housing [9]	96	139.5	223.5	347.1	493.2	636.5
Metropolitan development		2.3	127.9	148.5	210.5	256.4
Comprehensive planning	75	2.3	15.1	25.3	33.0	33.8
Community development training and urban fellowship	75			.8	2.9	3.7
New community assistance	100				.5	2.0
New communities	100				.1	.2
Open space	100		7.9	43.3	55.0	71.3
Basic water and sewer	96		86.4	77.0	114.2	140.0
Advance acquisition of land	75			.1	.8	1.2
Mass transportation	100		18.5	2.0	4.0	4.5
Model Cities and Government Relations	90			13.9	270.0	477.0
Urban technology and research			1.6	11.2	17.3	27.0
Urban research and technology	100		.3	9.1	15.1	25.5
Low-income housing demonstration	100		1.3	2.1	1.4	1.5
Special studies	100				.8	
Federal Housing Administration				6.5	42.9	147.6
Rent supplement	100			5.7	21.5	46.6
Homeownership and rental housing assistance	90			.7	19.2	94.5
Low and moderate income sponsor fund	90			.1	2.2	6.5
Fair housing and equal opportunity	75			1.5	4.7	8.5
Department of Interior		114.1	256.1	454.2	424.8	668.3
Bureau of Outdoor Recreation			7.2	89.8	83.5	96.3
Land and water conservation	50		7.2	89.8	83.5	96.3
Geological Survey		17.8	28.1	23.4	25.0	26.5
Surveys: Investigation and research	25	17.8	28.1	23.4	25.0	26.5
Bureau of Reclamation		42.8	61.9	86.5	38.3	54.2
General investigation	25	1.4	3.6	41.2	4.5	4.8
Construction & rehabilitation	25	41.4	58.3	45.3	33.8	49.4
Water quality and research		53.5	154.6	245.5	269.0	480.7
Saline water conversion	80	3.0	11.8	22.0	20.7	20.5
Prototype desalting plant	80			0.2	0.4	
Pollution control: Building and maintenance	80		3.4	1.8	1.9	1.7
Pollution control: Operation and research	80	9.5	31.8	79.7	78.2	78.4
Construction for waste treatment	90	41.0	107.6	141.8	167.8	380.1
Office of Water Resources			4.3	9.0	9.0	10.6
Salaries and expenses	50		4.3	9.0	9.0	10.6
Department of Justice			1.6	21.9	108.6	256.1
Legal Activities and General Administration			.9	1.5	2.3	3.5
Community relations service [10]	70		.9	1.5	2.3	3.5
Law Enforcement and Assistance	70		.7	20.4	106.3	252.6
Department of Labor		321.7	555.4	856.2	881.6	1,634.1
Manpower Administration			172.5	349.7	324.2	1,024.1
Manpower development training	80		172.5	349.7	324.2	490.5
Manpower training	80					533.6
Bureau of Employment Security [11]	85	321.7	382.9	506.5	557.4	610.0

Footnotes at end of table.

FEDERAL AID TO URBAN AREAS—Continued

[In millions of dollars]

Program	Percent urban impact	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
Department of Transportation		1,569.0	2,233.2	2,431.3	2,491.2	2,965.1
Office of the Secretary				4.3	8.4	16.5
Transportation planning, research and development	75			4.3	8.4	16.5
Federal Highway Administration		1,502.6	2,163.0	2,170.1	2,314.8	2,792.4
Highway beautification	55		2.0	24.2	33.9	14.4
Federal-aid highways	55	1,502.6	2,159.9	2,213.3	2,208.8	2,695.0
Traffic and highway safety	75		1.1	16.5	22.6	32.8
State and community highway safety	75			16.1	49.5	50.2
Federal Railroad Administration			2.8	11.1	19.8	
High-speed ground transportation research and development	95		2.8	11.1	19.8	23.2
Urban mass transportation fund	100			145.8	148.2	323.0
Federal Aviation Administration	90	66.4	67.4	(12)	(12)	(12)
General Services Administration		75.9	177.2	69.4	82.0	98.9
Construction; public buildings	90	62.7	153.2	56.1	64.8	79.2
Sites and expenses; public buildings	90	13.2	24.0	13.3	17.2	19.7
Atomic Energy Commission		61.6	71.9	100.2	98.2	104.0
Civilian power reactor development	80	61.6	71.9	100.2	98.2	104.0
District of Columbia		27.5	47.4	92.6	113.9	108.9
Federal payment	100	27.5	47.4	92.6	113.9	108.9
Equal Employment Opportunity Commission	80		2.5	7.0	10.6	15.2
Veterans Administration		1,465.7	1,830.6	2,003.1	2,163.1	2,173.3
Compensation and pensions [13]	70	750.5	910.4	922.5	940.4	914.1
Medical care	70	669.9	842.9	1,035.4	1,151.6	1,199.9
Construction of hospitals and domiciliary facilities	90	45.3	75.2	43.7	67.5	52.5
Construction of State nursing homes	90		2.1	1.5	3.6	6.8
Revenue sharing with States and local governments	75					206.2

[1] Total obligations.

[2] All programs are total obligations except [3] and [4].

[3] Total program costs funded.

[4] Total construction.

[5] See comprehensive health.

[6] See elementary and secondary education.

[7] Grants to local public bodies or agencies.

[8] Capital outlay.

[9] Total operating costs.

[10] Salaries and expenses.

[11] Trust fund.

[12] Not considered on urban impacts.

[13] Total cost of pensions.

TOTAL LOANS

[Dollars in millions]

Program	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
DEPARTMENTS					
Agriculture	$17.6	$52.3	$174.1	$304.9	$403.3
Commerce		31.1	35.0	35.0	39.5
Health, Education, and Welfare			56.0	54.0	70.0
Housing and Urban Development	6,755.2	10,320.2	9,088.5	10,474.1	12,705.9

Program	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
INDEPENDENT AGENCIES					
District of Columbia	$22.9	$70.4	$108.2	$109.1	$162.4
Veterans Administration	1,751.4	2,321.8	3,744.1	3,980.1	4,322.7
Small Business Administration	167.7	338.5	319.8	474.7	493.4
Total	8,714.8	13,134.3	13,525.7	15,471.9	18,197.2

LOANS, LOAN INSURANCE, AND LOAN GUARANTEES

[Dollars in millions]

Program	Percent urban impact	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
Department of Agriculture		$17.6	$52.3	$174.1	$304.9	$403.3
Farmers Home Administration		17.6	52.3	174.1	304.9	403.3

Program	Percent urban impact	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
Housing direct loans	25	$17.6	$15.8	(1)	(1)	(1)
Housing insurance fund	25		36.5	$174.1	$304.6	$402.9
Self-help housing land development	25				.3	.4

[1] See housing insurance fund.

LOANS, LOAN INSURANCE, AND LOAN GUARANTEES

[Dollars in millions]

Program	Percent urban impact	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
Department of Housing and Urban Development		$6,755.2	$10,320.2	$9,088.5	$10,474.1	$12,705.9
Renewal and housing assistance		705.6	747.0	808.9	1,198.0	1,014.2

Program	Percent urban impact	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
Urban renewal	95	$107.5	$279.3	$330.3	$384.6	$454.2
Rehabilitation	100		0.5	27.1	44.2	41.6
Low rent public housing [1]	96	126.4	191.3	275.0	576.0	408.0
College housing	92	471.7	275.9	176.5	193.2	110.4

Footnotes at end of table.

[Dollars in millions]

Program	Percent urban impact	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
Metropolitan development		$9.6	$21.9	$18.1	$19.3	$17.6
Public works planning advance [1]	84	7.0	13.5	6.2	8.8	7.6
Public facilities	25	2.6	8.4	11.9	10.5	10.0
Federal Housing Administration		5,008.3	7,646.0	7,296.9	8,656.3	11,030.1
Housing for the elderly	94	14.9	78.8	77.1	109.0	63.9
FHA fund [3]	90	4,993.4	7,567.2	7,219.8	8,547.3	10,966.2
Government National Mortgage Association		248.4	294.4	709.0	595.7	627.8
Special assistance	90	$199.4	$181.4	$469.8	$543.1	$584.1
Management and liquidating	90	49.0	113.0	239.2	52.6	43.7
Federal National Mortgage Association	90	783.3	1,610.9	253.8		
Secondary market operation	90	783.3	1,610.9	253.8		
Federal Insurance Administration				2.1	4.8	16.2
National insurance development [4]	100			1.4	2.6	10.6
National flood insurance [5]	75			.7	2.2	5.6

[1] Loans to local housing authorities.
[2] Fund.
[3] Mortgage insurance written.
[4] Total obligation.
[5] Total operating costs.

LOANS, LOAN INSURANCE, AND LOAN GUARANTEES

[Dollars in millions]

Program	Percent urban impact	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
District of Columbia		$22.9	$70.4	$108.2	$149.1	$162.4
Loans to District of Columbia		14.9	28.4	68.2	109.1	122.4
General fund	100		19.0	51.2	88.6	105.5
Highway fund	100	8.0	5.5	13.8	10.2	
Water fund	100	$3.4	$1.6		$4.0	$5.2
Sewerage works fund	100	0.8	1.3	$1.4	4.8	11.7
Interceptor sewer line	100	2.7	1.0	1.8	0.2	
Rail rapid transit	100				1.3	
Repayable advances to District of Columbia general fund	100	8.0	42.0	40.0	40.0	40.0

LOANS, LOAN INSURANCE, AND LOAN GUARANTEES

[Dollars in millions]

Program	Percent urban impact	Actual, 1961	Actual, 1966	Actual, 1969	Estimate, 1970	Estimate, 1971
Department of Health, Education, and Welfare				$56.0	$54.0	$70.0
Higher educational facilities loan fund	70			56.0	54.0	70.0
Department of Commerce			$31.1	35.0	35.0	39.5
Planning, technical assistance, and research [1]	70		31.1	35.0	35.0	39.5
Veterans' Administration		$1,751.4	$2,321.8	$3,744.1	$3,980.1	$4,322.7
Loan guarantees [2]	90	1,531.6	2,262.8	3,614.9	3,839.0	4,291.2
Direct loan to veterans [2]	90	219.8	59.0	129.2	141.1	31.5
Small Business Administration		167.7	338.5	319.8	474.7	493.4
Disaster loan fund	70	17.3	138.2	21.2	131.6	48.9
Business loans and investments [3]	70	150.4	200.3	298.6	343.1	444.5

[1] Total obligations.
[2] Revolving fund.
[3] Total sec. 7(a).

MACOMB COUNTY COURTHOUSE DEDICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA), is recognized for 30 minutes.

Mr. O'HARA. Mr. Speaker, on Saturday, July 18, Macomb County, Mich., will observe another milestone in its more than a century and a half of recorded history.

In a ceremony culminating 5 years of planning and construction, the fifth Macomb County courthouse will be dedicated, in the very shadow of the spot where its four predecessor structures have been located.

The new $8 million courthouse was constructed under the direction of the Macomb County Building Authority, Martin, Smith, chairman, Roger Vercruysse and John Shore, members. Its 180,000 square feet of space will provide room for the seven existing Macomb County circuit judges, the staff of the courts, the Macomb County clerk, the Friend of the Court, the Probation Department, and the office of the prosecuting attorney. The nine circular courtrooms and the other office space provided will give Macomb County's people the most modern legal facilities available anywhere. In a time when "the law's delay is becoming increasingly unacceptable to the American people, this new courthouse is perhaps one of the best investments that could be made.

The other county buildings that have stood upon or near this same site have been symbolic of their time. The 1824 log cabin, the "sprawling, plantation-style building" of the 1840's; the Victorian-spired edifice of 1882, and the multistory building of the 1930's—which will continue to serve the county as an office building—were each very much in keeping with the times which they served. The new, contemporary building, will also, I believe, be symbolic of Macomb County in the 1970's—a growing community, infused with the spirit of these days, determined to continue to prosper and to meet with increased efficiency the demands placed upon all the institutions of local self-government.

Mr. Speaker, I congratulate the Macomb County Building Authority, the judges and county officials who will move into this new building in a few short weeks, and above all the people who will be better served by this new structure.

REPORT OF THE SPECIAL COMMITTEE ON VIETNAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. SCHWENGEL) is recognized for 15 minutes.

Mr. SCHWENGEL. Mr. Speaker, first I want to commend the chairman of the committee for this report, for having gone to Vietnam and having given us the advantage of their experience, their insights, their evaluations, and of their observations.

My committee of volunteers, made up of a group of citizens who went at no expense to the taxpayers a second time will be reporting. But our report is late because we did not have a staff as this committee did unfortunately.

Each member of the committee is his own writer of his aspect of the report and will report what he or she saw and then from a conference we will have general agreement hopefully. There will be separate views of those that have differences, of those on the committee having different views and different observations than some, but generally we will agree.

Our report will deal with a comparison of 2½ years ago when we visited there. It will point out some pluses—some improvements. But it will also point out some continuing mistakes.

On the matter of mistakes we will be able to report on what some have already suggested in this House, that there were grave mistakes made over there in our operation.

Our report, I think, will indicate mostly that those mistakes were military mistakes and matters of judgment in pursuing policies that were not in our interest nor in the interest of Vietnam.

Some of the mistakes that we think were most unforgivable which we will stress, for instance, operational—someone is going to give an estimate on it, but at this time we have noted that there are some 2 million holes in the ground which are the result of an operation that they called saturation bombing. To me, as a conservationist, I think that is almost an unforgivable maneuver—taking all the thousands of acres of land out of production. Imagine—if you will—putting 2 million holes in the ground some 30 feet deep and some 30 feet across in the State of Florida and then you will have some concept of what this means. That is of far greater damage to the country, I think, than defoliation was.

We also have some recommendations for the President to consider as he makes judgments on how to deal more effectively with that tragic situation.

The last time we went we made some recommendations to President Johnson and to Congress. This time we heard from our own civilian leaders that our report was read and used. These recommendations had to do with corruption and land reform, search and destroy, was a policy and now have a chance to clear and work on a matter that we recommended.

We recommended de-Americanization. We will report on pacification. We felt that that had a wrong name. It does not truly describe what is being done there. We think pacification is a program to bring security, stability and progress to those people over there. We are making progress in that area, incidentally, but we are kind of stumbling along. We shall make recommendations on education. You must have noted what we did in education, especially in the first to the fifth grades. When we went there and started to take over there were 400,000 students in that age group daily in school. We have now raised that number to 2,300,000, a magnificent contribution, a great plus.

We did not follow through, however. We did not have enough high school students.

They are wholly inadequate in the matter of agriculture training. Our report will indicate they had only 406 students in colleges taking agriculture courses. This is a trifle. We have some recommendations on that subject. We think we can help lead in this area.

We visited with people in Bangkok and Thailand. They are willing to help develop an agricultural school. I think this is greatly needed in this area where they have 17 million people, 70 percent of whom are farmers or in occupations related to farming. They most certainly need an agricultural school.

We saw great progress being made by our advisers in the countryside. Incidentally, we spent more time in the countryside than any place else. We literally went to the rice roots there and saw a lot of good things, but we saw a great opportunity as well.

Mr. Speaker, we are very fortunate that this group of Members of the Congress went to Vietnam, made this trip, and came back here and so quickly give us a report that we can use to better judge what we should do in this kind of situation from now on. It does little good to argue about whether we should have gone into Cambodia or not. We went in there. We are coming out now. It does little good to argue about whether we should be in Vietnam at all or not. What we must now do is to find the best way to get out of there. We may learn from this experience that when you deal with a situation like Vietnam, you cannot deal with it militarily. Vietnam was a political problem and a social condition, and if we are going to be successful—and I think we are; I think we have turned this thing around—we have to deal with the political problems and the social conditions, and one of those great social conditions has to do with economics.

Inflation is one of the very real problems there. We must help them to do something about it. We got them in this mess more or less, and we must help to get them out. It is possible for us to come out looking a lot better than we do now, and we need to do that.

On the matter of changing attitude in relation to the visit, I want to say and to confess, to confess publicly before this body, that back 2½ years ago I went over as a hawk, but I am not a hawk any more, nor am I a dove. I am a realist. So I believe this is what we have got to become. We have to deal with the situation as it is now, and if we make mistakes—and I think we have made mistakes—we ought to admit them, and then benefit from those mistakes.

Mr. Speaker, I am grateful to you. I think this colloquy and this report is a very worthwhile contribution to a better understanding of a very sad and very tragic situation that we helped to create, and have not done as much as we could or should do to resolve. We can, and I think we must.

AN ANSWER TO THE ABA ATTACK ON THE BANKING AND CURRENCY COMMITTEE

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, the American Bankers Association has today released another highly expensive study designed as an attempt to refute the findings of various banking studies undertaken by the Banking and Currency Committee.

I regard the ABA's efforts as a high compliment to the Banking and Currency Committee and its staff. The frenzied efforts of the ABA simply confirm the validity and the need for the studies that have been undertaken on the economic power of the commercial banking system.

The Banking and Currency Committee, if it is accomplishing nothing else, is obviously providing full employment for the public relations staff of the American Bankers Association. Every major study by the Banking and Currency Committee brings forth the public relations pitchmen—supplemented by so-called "independent researchers and consultants."

Back in 1964, I made a lengthy speech on the floor of the House of Representatives entitled "The ABC's of America's Money System," which detailed many of the problems and shortcomings of the banking system. This brought out all kinds of paranoia among the big banks and the American Bankers Association. A few months later there emerged another expensive booklet accompanied by a huge press conference to answer and attack WRIGHT PATMAN. The facts brought out in my speech still stand unrefuted despite the thousands and thousands of dollars spent in the ABA effort.

The booklet issued today by the American Bankers Association entitled, "The Economic Power of Commercial Banks," is another chapter in the never-ending public relations efforts of the ABA to hide the true facts about the banking system and to attack anything that the House Banking and Currency Committee might issue.

It is highly unfortunate that a big trade association—with unlimited funds—has only a knee jerk reaction to offer in answer to these most serious problems. The entire Nation—and this includes leading economic experts of all political persuasions—is deeply concerned about some of the trends in the banking system and the American Bankers Association only makes itself look foolish by urging a head-in-the-sand approach.

It is significant that the ABA has issued its report concerning the management of these trust funds by banks at a time when the Congress and the American people are asking vital questions concerning the role of various bank trust departments in the operation and bankruptcy of the Penn Central Transportation Co. The latest records at the Interstate Commerce Commission indicate that the banks control the voting rights to almost one-fourth of the stock of the Penn Central and the preliminary data gathered by the Banking and Currency Committee staff raises the most serious questions about the banks' involvement. This latest public relations booklet issued by the ABA will not make these questions go away.

It is also highly significant that the booklet is being issued just prior to the completion of a study by the Securities and Exchange Commission concerning the role of institutional investors. A major part of the study being conducted by the SEC concerns the trust departments of major commercial banks. The commercial banks know full well that this study will reinforce the work of the Banking and Currency Committee and will once again bring into sharp question the practices of the commercial banks in this area. The booklet issued by the American Bankers Association is an obvious attempt to diminish the findings of the SEC study.

It is interesting that the American Bankers Association and its member banks are now willing to voluntarily come forth with this booklet on the trust departments and related activities of the commercial banks. This is in sharp contrast to the footdragging that went on when the Banking and Currency Committee was attempting to collect information on these activities 3 years ago. The banks put on a great lobbying campaign to prevent the study and to handicap it at every turn. In the end it was necessary for the committee to issue more than 150 subpenas to obtain the necessary information from the banks.

I hope that the release of the study today is an indication that the commercial banking industry is now more willing to talk about its activities and that its members will agree to voluntarily present information to the appropriate congressional committees. It is one thing to present this information in a carefully prepared, expensively printed booklet, released in a press conference, and quite another to submit the findings and the opinions to analyze and cross-examination in an open congressional committee hearing.

The American Banking Association has every right to conduct any study it desires and to hold any number of press conferences and to print endless booklets. However, I deeply regret that a major trade association would attempt to mislead the public and the press by identifying its works as those of an "independent analyst." In a foreword to the booklet issued today, Nat S. Rogers, president of the Amreican Bankers Association, states:

> To obtain a thorough and independent analysis of the study, the Association engaged the firm, Carter H. Golembe Associates, Inc.

Mr. Golembe is not an independent analyst and Mr. Rogers is certainly in a position to know that. Mr. Golembe served for many years as deputy manager of the American Bankers Association, economic consultant to the director of the ABA's Washington office, and secretary of major ABA bank divisions. Recently, Mr. Golembe has left the immediate employment of the American Bankers Association to engage in "independent consulting." He writes a newsletter occasionally and his clients are almost exclusively the major banks—banks which operate the major trust departments which are the subject of the study released by the American Bankers Association today. I regret that the ABA did not more fully explain Mr. Golembe's ties to its industry.

Most importantly, I want to emphasize the questions raised in these various studies far transcend any argument between the American Bankers Association and WRIGHT PATMAN. That is not the issue. The studies and the questions raised by them stand by themselves.

The findings have been supported by dozens of legal, economic, and financial experts representing all shades of political philosophy. If the ABA questions the Banking and Currency Committee studies it is also questioning the great preponderance of professional opinion in this area.

Mr. Speaker, I place a copy of a staff critique of the booklet "The Economic Power of Commercial Banks," issued by the ABA today in the RECORD:

STAFF STATEMENT COMMENTING ON ABA CRITIQUE ON STAFF REPORTS OF THE DOMESTIC FINANCE SUBCOMMITTEE ON BANKING CONCENTRATION AND TRUST ACTIVITIES OF COMMERCIAL BANKS

The first thing that strikes one in examining the critique of recent staff studies on commercial banking done by the Domestic Finance Subcommittee of the House Banking and Currency Committee is that three times in the first four pages of the study the independent and objective nature of the study is emphasized. Sensitivity on this point is easily understandable, since virtually all of the income of the company that did the study is derived from banks and bank-related associations. Not long ago in a feature story in the *New York Times*, the head of this company was referred to as the banking industry's "philosopher".

As to the substance of the report itself, there are a number of highly questionable characterizations of what the Banking Committee's report actually presented. For example, the report criticizes the use of metropolitan areas as the relevant market for considering competition among commercial banks and other financial institutions. The position of the American Bankers Association report on this issue is at considerable variance with that of the Supreme Court of the United States and other courts. The courts have found in several cases that the market area is generally the local metropolitan area and not an entire state, a region of the country or the entire United States.

Surprisingly, at one point the ABA critique actually reinforces the conclusion drawn from the Committee report. The Committee report pointed out that perhaps new legislation was needed to protect the public's and trust beneficiaries' interests because of the growth of concentration of assets in a relative handful of commercial bank trust departments. The ABA report strengthens the view of the Subcommittee report by pointing out that the legal protection now provided "are governed and bound by a large body of existing state law, regulations and precedent, with traditions and local sanctions dating in many cases from before the time that banks became important in this field." (p.2). The now dominant role of corporate trustees, including commercial banks, in the trust field is precisely why a new look should be taken at the legal protections now afforded the public.

There is a particularly misleading statement in the ABA critique that should be pointed out. That statement is that "the [bank] examiner scrutinizes the investment of trust accounts, and any investments . . . involving concentrations in a particular company or industry is given special attention." (p.3). The implication is that bank examiners are concerned with concentrations of stockholdings in particular companies held by bank trust departments. This is simply not true. The only concentration that bank examiners are concerned with are those concentrations that exist in specific individual trusts. They are not concerned with concentrations that occur in trust departments because of the overall aggregate holdings of all trust accounts in a particular company. In short, the bank examiner is concerned about concentrations in individual accounts as a matter of sound investment practice, while the Committee report was concerned with concentrations of stock holdings as the result of the total operations of the trust department of a bank, particularly as it concerned the potential power to influence or control the management of another corporation. These are two entirely separate issues.

Another particularly misleading statement concerns the characterization of the position of Professor A. A. Berle, a leading scholar in the field of corporate control. It is surprising that economic experts conducting such a supposedly exhaustive critique would, intentionally or otherwise, discuss Professor Berle's views as expressed in his and Gardiner Means' study of "The Modern Corporation and Private Property," set forth over 35 years ago, but would give no consideration to Professor Berle's much more recent views as expressed in such writings as *Power Without Property*, published in 1959, and his introduction to *Commercial Banks and Their Trust Activities*, printed in a commercially published edition by Arno Press in 1969. It is clear that in recent years Professor Berle supports the thesis of the Subcommittee study that the power to control corporations has in recent years been moving away from management control and toward control by such legislation as banks, insurance companies and other financial institutions. Other scholars also support this thesis.

Another surprising implication in the ABA critique is the view that if commercial banks that are controlled by competing banks, insurance companies or savings banks are small, such a situation is unimportant and has little anti-competitive or other significant consequences. To the public who must rely on these institutions for financial services in a particular geographic area, this situation may be quite serious and important, although the implications to the national economy might be slight.

Another area of the ABA critique that is also misleading is the charge that certain data in the study dealing with interlocking relationships lacks real significance. This is done by counting all interlocks together and giving no qualitative weight to the size of the corporations involved. To count General Motors as one corporation and a relatively small local business as another corporation and, therefore, one has two corporations which are statistically treated alike, makes very little sense. Obviously a bank trust department holding and voting 8 percent of the stock of a large national corporation, thus being one of the major stockholders, has much more significance in terms of potential control than holding 8 percent of the stock of a much smaller local company where the managers of that company probably hold larger shares.

It is also interesting to note that, while attacking the Committee study in a fairly blanket fashion, the report quietly supports in whole or in part a number of its major recommendations. These include the limiting of stockholdings or voting of the stock of a corporation's securities that are held in its own employee benefit fund; the consideration of establishing uniform federal fiduciary standards; prohibiting insured banks from holding or voting their own stock held in their trust departments; and prohibiting interlocking officer and directorships among competing financial institutions.

On the other hand, it is surprising that the ABA study failed to support another important recommendation in the Subcommittee report: the annual disclosure of the contents of the portfolios of the pension funds. Similar recommendations have been made in proposed legislation to amend federal laws regulating pension funds under the Kennedy, Johnson and Nixon Administrations. Many agree that the disclosures provided under present law are completely inadequate.

THE NATIONAL CREDIT UNION BANK BILL

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, today I am introducing a bill which would create a National Credit Union Bank to serve the nearly 24,000 credit unions in the United States. The bill would encourage the flow of credit through those cooperative, member-owned and controlled financial institutions. Since credit unions primarily serve middle- and low-income people, both in urban and rural areas, this bill is designed to provide an institution which will give credit union members greater access to consumer credit for provident needs at reasonable interest rates—a rate which in the case of all of our 13,000 federally chartered credit unions and most State chartered credit unions is established by law at not to exceed 1 percent per month on the unpaid balance of a loan.

To improve and stimulate the capability of our Nation's credit unions to provide low-cost consumer loans and to facilitate the flow of credit, the National Credit Union Bank which would be established under the legislation would be empowered to: First, make loans to its member credit unions for liquidity purposes; second, discount notes of its member credit unions; third, provide a national interlending service for its members; fourth, sell its own certificates of indebtedness in the open market to secure additional funds for its operations; fifth, lend assistance in the rehabilitation and stabilization of credit unions needing such help; sixth, help in the orderly and expeditious liquidation of solvent credit unions; and, seventh, cooperate and assist, within its means and authority, credit unions, credit union organizations, the National Credit Union Administration, and various State supervisory and regulatory bodies in the operational improvement and financial stability of credit unions generally.

CREDIT UNIONS GET EQUALITY

Only recently—March 10, 1970, to be exact—the National Credit Union Administration was created as an independent agency in the executive branch by converting the former Bureau of Federal Credit Unions into that agency. This placed the supervisory agency for Federal credit unions on an organizational par with the supervisory agencies of our national banks and federally chartered savings and loan associations. The proposal for a National Credit Union Bank is an essential step to give our Nation's credit unions similar facilities such as the other major financial institutions have for providing liquidity and other vital services to their member institutions. It is a logical step—one which I thoroughly believe will be a material aid in further improving our Nation's credit facilities, and one which I know will materially help the people of this country served by credit unions.

Under the provisions of the bill I have introduced, a National Credit Union Bank would be established with a principal office in the District of Columbia and with such branch offices throughout the United States as the bank officials may deem necessary and appropriate. The bank would be governed initially by the National Credit Union Board of the National Credit Union Administration plus two ex-officio members—the Secretary of the Treasury and the Administrator of the National Credit Union Administration. This Board would elect a temporary president of the bank from among its members to serve until a permanent president is named by the President of the United States. The interim governing body would establish procedures for the election of a permanent Board of Governors—one from each of the six Federal credit union regions.

BOARD APPOINTED BY PRESIDENT

The permanent Board of Governors of the proposed National Credit Union Bank would consist of a President to be appointed by the President of the United States, by and with the advice and consent of the Senate for a 6-year term; one elected member from each of the six Federal credit union regions for a 6-year term on a staggered basis; with the Secretary of the Treasury and the Administrator of the National Credit Union Administration as ex officio members. The Board of Governors would select from its own membership a Chairman, a Vice Chairman and a secretary annually and would be required to meet at least six times a year.

The President of the National Credit Union Bank would be the chief administrator of the Bank and would perform all the duties and functions of the Bank in accordance with policies of the Board of Governors and subject to their general supervision. The President would have authority to establish a staff, fix compensation for staff members, and to take other administrative and implementing actions necessary for the Bank's operation.

INITIAL STOCK COSTS $100

Under terms of my bill, the National Credit Union Bank would be capitalized through sale of shares at par value of $100, with an initial stock subscription by a credit union eligible for membership equal to 1 percent of its assets. Newly chartered credit unions would pay $25 upon chartering, with a minimum requirement for purchase of one full $100 share by the end of its first year of operation.

Every credit union which would be insured by the National Credit Union share insurance fund would be required to subscribe to the Bank. Here permit me to explain that Federal share insurance for credit unions similar to that provided commercial banks under the FDIC is a matter of pending legislation in the Congress.

The bill provides that the Treasury would advance up to $500,000 for the initial organizational and operational expenses of the bank, to be repaid within 1 year from the date of the advance. The bank would also be authorized to borrow from the Treasury not to exceed $500,000,00 at any one time at interest rates determined by the Secretary of the Treasury for needs beyond its immediate capabilities.

The National Credit Union Bank would be given general powers, comparable to those authorized similar corporate institutions, to carry out its objectives under the terms of my bill. It would be authorized to loan to shareholder credit unions, to accept deposits from shareholder members, or to invest in a member credit union's shares to establish an interlending system among credit unions, to pay dividends, to purchase notes and other receivables from members, and to execute numerous other functions related to its objectives.

Other provisions of my bill provide for audits of the bank by independent accountants, a fiscal year audit report to the Comptroller General for transmission to Congress and the President; a full report to the President and Congress after the close of each fiscal year; exemption from taxation by Federal, State, or local governments except for real and tangible personal property. Obligations issued by the bank would be subject to taxation the same as obligations of private corporations. The bill also provides that stock subscriptions to the bank would constitute a part of the regular reserve of Federal credit unions.

One of the major benefits of the National Credit Union Bank, in my opinion, would be its ability to assist and expedite the liquidation of solvent credit unions—credit unions forced to liquidate because of plant or military base closings, loss of field membership, or similar situations beyond the control of the credit union itself. Through the bank's authority to purchase notes, et cetra, the delay in liquidation often encountered in converting assets into liquid form could be eliminated and the entire process expedited, with shareholders being paid off almost immediately. A Federal share insurance program would be unable to do this for a solvent credit union having to liquidate.

Thus, as a complement to the Federal share insurance legislation now pending, the National Credit Union Bank would serve a valuable function. Although, historically, losses of credit unions over the years have been relatively small. For example, during the period 1934–69, actual losses for Federal credit unions were $1,716,211. Net losses from scale-downs have amounted to $1,643,330 during this same period. Donations to liquidated Federal credit unions and Federal operating credit unions have totaled

$1,016,467 and $606,337, respectively. Thus, total losses for all Federal credit unions for the last 36 years have amounted to less than $5 million, while actual losses to members have amounted to only $3,359,541. For Federal credit unions, in 1969 actual losses resulting from liquidation were $95,547. Net scaledown losses were $3,562; donations to liquidated credit unions and operating credit unions were $164,576 and $85,755, respectively. Thus, total losses for Federal credit unions in 1969 were $349,440. Actual losses to members of these credit unions amount to $99,109.

A study by the National Credit Union Administration for the period 1964–68 reveals that 1,220 Federal credit unions completed liquidation, representing $50 million in share capital and a total membership of 213,000. As a group, the liquidations were completed at a net gain of 5.8 percent. Only 164 credit unions of the total group returned less than 100 cents on the dollar. Over 50 percent—91—of the 164 credit unions had less than $50,000 in share capital. One hundred thirty-three of these credit unions paying less than 100 cents on the dollar had share capital of less than $25,000. In addition, 23 percent—37—of these 164 liquidated credit unions were operative for less than 2 years. Also, 128 of the 164 had less than 200 members.

Mr. Speaker, I am convinced that the establishment of a National Credit Union Bank such as I have proposed in my bill will be a major stimulant to the credit unions of the Nation. It will give them a flexibility, a means of improving liquidity, and a stability which will be of direct benefit to the flow of credit in our Nation, especially in low-income areas which credit unions primarily serve.

The record of credit unions in encouraging thrift and in providing low-cost loans to members, based on the need and member's character is an outstanding one. After all, credit unions are simply people who are bound together by a common bond or interest to help one another. Surely for the good that they do, especially for the financially handicapped and deprived, they deserve every legitimate aid that our Federal Government can provide. In this bill, I merely set up and authorize machinery for the credit unions to help themselves. They will be paying the bill for a National Credit Union Bank just as they have paid the bill over the past 16 years for the National Credit Union Administration—formerly the Bureau of Federal Credit Unions—their Federal supervisory agency. And, I might add, they will be paying the bill for a Federal share insurance program when it is enacted. I emphasize that credit union legislation does not cost the taxpayer one cent to implement—the credit unions pay the bill themselves, whether it be their own supervisory agency, share insurance or a National Credit Union Bank.

This is vital legislation for credit unions. We should consider it, study it and improve it if possible by the expertise of credit unionists throughout the country—and then enact it into a law that will serve the interests of the people of this Nation.

AN ATROCITY BY COURT MARTIAL

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, the case of Marine Corps Pvt. Michael Schwarz and the Son Thang atrocity has attracted widespread attention. The Evening Star in focusing on the case in its lead editorial yesterday raised a fundamental question of the propriety of punishing a soldier who has followed an illegal order. As the editorial noted, the nature of military training where emphasis is placed on obeying orders and the brutalization of war are mutually reinforcing in their impact on the individual soldier.

Obviously, the killing of another human being under the reported circumstances of the Son Thang atrocity is a moral wrong. But as the Star observes those who issued the orders to commit such an atrocity should be the ones to stand trial; the privates who carry out the orders should not be the scapegoats of the military justice system. A judicial atrocity must not be committed in the name of moral retribution.

This case is similar to one involving a constituent of mine who was held responsible for shooting a Vietcong suspect because he did not question the legality of an order. The young man had a distinguished service record yet the military determined that he was the one who should pay the price. Today, he is a bitter man.

It is past time I think for the military justice system to be examined as to its accountability to the individual. As a starting point, I include at this point in the Record the cited editorial so that my colleagues may have the benefit of its provocative insight:

THE SCHWARZ AFFAIR: A JUDICIAL ATROCITY

When war begins, the morality and the logic on which civilization is structured must undergo wrenching alterations.

It is demanded of soldiers that they suspend most of the moral and religious training they have accumulated. The ultimate crime of a peacetime society, the taking of a human life, is transmuted by the fact of war into an achievement to be rewarded by medals and promotions.

The ethical barrier that man has erected to protect his civilization from the jungle that surrounds it is breached in time of war. But that barrier cannot be allowed to fall. Men at war must continue to act within set boundaries of permissible behavior. The brutalizing process of combat cannot be total.

The dividing line between duty and atrocity is not readily distinguishable. In a war such as that in Vietnam the division is particularly blurred. No front lines separate the combatants. The enemy cannot always be identified by uniform, sex or age. But the fact that the war in Vietnam is an unusually difficult, dangerous and dirty war does not cancel the obligation of the military to recognize an atrocity when it takes place and to punish those who are responsible.

Atrocities would appear to have been committed by American soldiers at My Lai in March of 1968, and the process of fixing responsibility, passing judgment and meting out punishment is under way in the military courts. Another atrocity, smaller in scope but not less horrifying, took place on February 19 of this year in the village of Son Thang. And in the Son Thang case, military authorities have moved with blinding speed.

Four of the five Marines involved have been accused of murder. The fifth has been granted immunity in return for his willingness to testify for the prosecution. One of the accused has been acquitted after testifying that his revulsion against the taking of life is such that he has never, during his entire tour of combat duty in Vietnam, fired at anyone but has always carefully aimed over the heads of the enemy. One of the defendants—Private Michael Schwarz, age 20—has been tried, convicted and sentenced to life imprisonment at hard labor.

That conviction compounds the battlezone atrocity with an atrocity by court-martial.

A detailed account of the incident at Son Thang and its aftermath, written by Miriam Ottenberg, The Star's Pulitizer prize-winning investigative reporter, was printed in last Tuesday's editions. From that account, it appears possible that Schwarz's rights were violated and that the appeal process may result in a reversal of the conviction or a reduction in the sentence. But more shocking than the questions raised by evidence that Schwarz was questioned by a Marine major before being informed of the suspected offense, of his right to remain silent or his right to legal counsel, is the clear implication that the military is embarked on a broad misapplication of its own system of laws.

The body of law that governs all United States servicemen—the Uniform Code of Military Justice—states that the orders of superiors must be obeyed. And then it qualifies this unambiguous statement with the observation that the order must be "lawful." What is an unlawful order? It is, in the words of the Code, one "that a man of ordinary sense would know to be illegal."

In the courtroom in Vietnam, well removed from the scene of battle, the illegality of the order to Pvt. Schwarz appeared clear enough. The five-man "search and destroy" mission, under the command of a 20-year-old lance corporal, walked into the quiet village at night. Some three minutes later, 16 civilians—five women and 11 children—had been shot to death. According to the testimony, the order given repeatedly by the platoon leader was: "Shoot them. Shoot them all."

The order was illegal. But does it therefore follow that Schwarz should be punished with a sentence of life imprisonment for premeditated murder? By any reasonable application of logic, he should not.

The Military Code, it is true, states that unlawful orders need not be obeyed. But this theoretical legalism is negated by the fundamental realities of military life.

A recruit in any branch of the service receives saturation training in one basic military requirement: Orders are to be obeyed. There is to be no hesitation, no questioning of the logic, no consideration of alternatives, no challenge to the legality. There must be—particularly in combat—instant obedience. Any other reaction, the trainee soon learns, is met with swift and severe punishment.

Such a system is dictated by the brutal logic of war. In battle, men may have to be ordered into a situation of danger so extreme that it amounts to almost certain death. They are expected to follow their orders. No superior can take the time to explain the logical necessity for an action that may seem unnecessarily dangerous or inhumanly brutal. The assumption must be that a leader is rational, is logically motivated and that—in the absence of overwhelming evidence to the contrary—any order given is a lawful order. The alternative is military chaos.

Does this mean that the Military Code's statement that the rule of obedience applies only to "lawful" orders is meaningless?

On the contrary, the qualifying adjective retains a very important meaning as the basis for a defense against the failure to obey an order that can be shown to be unlawful. A soldier who has the moral courage and the quickness of intellect to recognize an illegal order for what it is can use the language of the Code as a legal shield. But no soldier, sailor, airman or Marine can reasonably be obligated in a combat situation to pass instant judgment on the legality of an order.

The fact remains, however, that if an atrocity is committed, responsibility must be fixed. No Solomon-like judgment is required to determine where such responsibility rests. The man who gives an order to commit an atrocity—not the man who carries it out—is the one who should stand trial.

If that leader was given prior orders that prompted his illegal action, then the guilt must pass up the chain of command. But the leader on the scence cannot automatically be absolved. He has the opportunity to question orders given in non-combat situations. He has the time to reflect on the legality of the orders. And the responsibilities of command impose an obligation to do just that.

This is not to prejudge the case of the 20-year-old lance corporal who substituted for the regular patrol commander on the "killer" mission at Son Thang. But whatever the outcome of his trial, it is clear that the military must not make scapegoats of privates who do what they are trained to do: Obey orders. The services must in addition begin to temper the conditioned reflex of unquestioning obedience by providing noncommissioned and commissioned officers with some realistic guidelines to mark the indistinct border between necessity and atrocity.

High on the list of war's tragic by-products is the inevitable brutalizing influence it exerts on the society that sponsors it. This instruction in inhumanity must not be augumented by a demonstration of injustice in the military courts.

REDUCTION OF TAX OBLIGATION

(Mr. VANIK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VANIK. Mr. Speaker, at this time when inflation, high taxes, and rising unemployment are a matter of grave concern, I am shocked to hear that the Office of Naval Research has used taxpayer funds for research in the opportunities of Multi-National Companies to reduce tax obligations to America as well as other host governments.

Using Federal funds to develop a tax dodge is a cruel insult to the taxpayer who does his share.

This research has resulted in an article entitled "Manuevering Liquid Assets in a Multinational Company: Formulation and Deterministic Solution Procedures" and was published in the June edition of Management Science, volume 16, No. 10. According to a footnote, it was prepared as part of the activities of the Management Science Research Group, Carnegie-Mellon University, under contract NONR 760(24) NR 047–048 with the U.S. Office of Naval Research.

The article describes global manipulations in the tax dodge, to show companies how to avoid paying taxes in the United States by juggling prices, profits, and accounting systems. It describes the role of international banking in helping in the avoidance of taxation.

Reproduction of this article in whole or in part is permitted for any purpose of the U.S. Goverment. I will, therefore, request that it be printed in the CONGRESSIONAL RECORD where I hope it will result in affirmative congressional action to close these international tax loopholes which make a mockery out of the law.

After this statement was publicized, the Department of the Navy sent me the following fact sheet on contract NONR 760(24) NR 047–048 with the Graduate School of Industrial Administration, of Carnegie-Mellon University:

FACT SHEET

ONR has had a contract (NONR 760(24) NR 047–048) with the Graduate School of Industrial Administration, Carnegie-Mellon University, since 1963.

The objective of this contract is to develop computer-based mathematical methods for the planning, management and control of complex Navy systems such as Navy logistic systems and Navy industrial-type activities.

The ONR contract supports the research and several members of the Management Sciences Research Group within the Graduate School of Industrial Administration.

There are other members of the Management Sciences Research Group who receive no support from ONR. Professor David P. Rutenberg is such a member.

It has been the custom of the Management Sciences Research Group to publish their research findings initially as technical reports, numbered in a series known as the Management Sciences Research Report Series.

As a member of the Management Sciences Research Group, Professor Rutenberg published his paper, "Maneuvering Liquid-Assets into a Multi-National Company: Formulation and Deterministic Solution Procedures," as Management Sciences Research Report No. 154, dated February 1969.

Professor Rutenberg's research was actually done before he arrived at Carnegie-Mellon, and Professor Rutenberg has never received ONR support of any kind. The work was done as part of Professor Rutenberg's thesis at the University of California and was completed before coming to Carnegie-Mellon.

The title page of those reports issued in the MSR Report Series which were supported by ONR funds has in the past carried the following footnote:

"This report was prepared as part of the activities of the Management Sciences Research Group, Carnegie-Mellon University under Contract NONR 760(24) NR 047–048 with the U.S. Office of Naval Research. Reproduction in whole or in part is permitted for any purpose of the U.S. Government."

In the case of Rutenberg's paper this acknowledgement is in error. This error has been admitted formally in a telegram from Carnegie-Mellon University to the Chief of Naval Research dated 12 July 1970.

At this same time, I also received a copy of a telegram dated July 12, 1970, addressed to Rear Adm. C. O. Holmquist by Gerald L. Thompson, principal investigator of the management research group of Carnegie-Mellon University.

PITTSBURGH, PA.

Rear Adm. C. O. HOLMQUIST,
Mclean, Va.:

The paper maneuvering liquid assets in a multinational company by David P. Rutenberg was originally published in the Carnegie Mellon Management Sciences Research Report Series as a courtesy to Professor Rutenberg for the purpose of rapid distribution this work was part of Professor Rutenbergs thesis at the University of California completed before coming to the Carnegie Mellon University Professor Rutenberg has never received financial support under contract NONR 760(24) NR 047–048 the footnote in the above article implying Navy support for this research is in error.

GERALD L. THOMPSON,
Principal Investigator, Management Sciences, Research Group Carnegie Mellon University.

In response to this Navy Department fact sheet and the July 12 telegram of Gerald L. Thompson, principal investigator of the management research group of the Carnegie-Mellon University, I would appreciate the corrected number or identification of the contract under which Professor Rutenberg did his work. Neither of these documents adequately disclaim the issue which I have raised.

My immediate source of information was the June 1970 issue of Management Science magazine, a highly respected publication, preeminent in its field.

I am, therefore, referring this entire issue to the General Accounting Office to make a final determination as to whether the taxpayers' moneys have been used directly or indirectly to finance this study on tax avoidance.

The article in question follows:

[From Management Science, June 1970]

MANEUVERING LIQUID ASSETS IN A MULTI-NATIONAL COMPANY: FORMULATION AND DETERMINISTIC SOLUTION PROCEDURES*†

(By David P. Rutenberg, Carnegie-Mellon University)

Over a finite horizon each national subsidiary of a multi-national company can be forecast to be a net source or sink of funds. Each of these subsidiaries in each year is considered to be the node of a network; funds flow along the directed arcs connecting the nodes. Liquid assets carried by the subsidiaries on the arcs between time periods earn interest minus adjustments for expected devaluations. In each time period a flow of funds between each pair of subsidiaries can be achieved by manipulating transfer prices and managerial fees, by making short term intersubsidiary loans, and by paying dividends up the intersubsidiary ownership tree. The costs and constraints on these flows are outlined with particular attention given to the IRC Subpart F regulations of the U.S. 1962 Revenue Act, and to the 1968 regulations of the Office of Foreign Direct Investment. It is shown to be extremely important that subsidiary dollar accounts count toward the compensating balance requirements of a U.S. bank, and it is also shown that there are benefits to a global tax consolidation under Subpart F. The problem can be solved as a generalized network (weighted distribution problem). This avoids the need to guess at the average discount rate if it is to be solved as an ordinary network.

1. INTRODUCTION

The Revenue Act of 1962 changed the rules under which U.S. corporations could use tax havens. Before 1962 there were no U.S. taxes imposed directly on the earnings of subsidiaries incorporated abroad; only when these subsidiaries remitted dividends to their U.S. parent were taxes levied on these dividends. So it became quite common for U.S. based international companies to create a headquarters and a two-tier legal structure. On the top was the U.S. parent. In the first tier was a holding company, incorporated in a low tax nation which levied no taxes on dividends received from abroad. And in the second tier were all the national subsidiaries, legally owned by the first tier holding company. The holding company was used as a low (tax) cost reservoir and conduit for sending funds between national subsidiaries.

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* Received February 1969; revised July 1969, September 1969.

† This report was prepared as part of the activities of the Management Science Research Group, Carnegie-Mellon University, under Contract NONR 760(24) NR 047–048 with the U.S. Office of Naval Research. Reproduction in whole or in part is permitted for any purpose of the U.S. Government.

By the 1962 Act, the U.S.A. became the only nation in the world to tax profits of subsidiaries abroad before these profits are repatriated as dividends. Certain relief provisions, or loopholes, were created in the Act (supposedly to stave off concerted lobbying by corporations most affected). Nevertheless, not much cunning use has been made of these provisions. For example, a U.S. company need pay no tax on a subsidiary incorporated in Bermuda for the purpose of manufacturing in Ireland, and selling the products to the world. This lack of use is partly because the Act has not been subject to any judicial interpretation to clean up areas of ambiguity; it is also because there have been too many opportunities and problems requiring immediate resolution by capable management.

Seven years have now passed. Capable international managers are more numerous so some have time for tactical planning. The benefits of analyzing the world wide movement of liquid assets depend upon the cost of capital. Not only has there been a long run increase in interest rates over the last few years, but there was a jump in the opportunity cost of capital in foreign subsidiaries of U.S. corporations with the January 1, 1968 promulgation of capital controls administered by the Office of Foreign Direct Investment (OFDI). In a like manner, other nations erect emergency currency controls, and then dismantle them slowly.

Companies differ in the guidelines they impose on subsidiaries for handling liquid assets, but three patterns predominate each corresponding to the archetype [12] of headquarter-subsidiary relationships. Some companies used to insist that the entire profits of each subidiary be repatriated to the headquarters as dividends each year; this assured control though at a high cost in taxes. Some companies view each subsidiary as totally independent (which it legally is), and do not interfere in the management of liquid assets; this policy has the fewest bad behavioral consequences though the result is that the company's worldwide liquid asset inventory is quite high. Between these two extreme policies is a third, the subject of this paper, in which liquid assets are sent to subsidiaries when needed by manipulating transfer prices, managerial fees and royalties, dividends, and intersubsidiary loans so as to minimize taxes paid to the world minus interest received. Clearly, such headquarters intervention is destructive to incentive systems built upon profit centers. Whether maneuvering is worth the effort can be determined only by building a model; the difference between current costs and model optimal costs provides a benchmark against which to judge the behavioral costs of headquarters intervention.

If maneuvering liquid assets is deemed pruduent, one main use should be in reacting to anticipated devaluations, currency controls and other such risks and opportunities. Only a deterministic model is presented in this paper. Yet many cases can be run so as to explore a strategy for dealing with an anticipated risk. To formally plan for optimal flexibility in the face of risk had better wait until there is data and experience with a deterministic model. Using stochastic programming with recourse [16] one can plan for flexibility so long as updated information can be inputted at only one instant of time (though conceptually more stages can be added). In reality information is arriving continuously to change expectations about future events. The maximum principle and canonical equations of Pontryagin have been extended to stochastic control systems by Kushner and Schweppe [9], and though they provide a conceptual scheme for the control of continuously charging expectations work on computational procedures has barely started and appears extremely complicated.

2. THE MODEL

The subject of this study is the optimal use of tax havens, bilateral tax treaties, nonuniform treatments of income received from abroad, and national differences in income tax rates, import duties and border taxes. This is a partial analysis for tactical planning because it takes as given the planned operations of each national subsidiary, and hence whether in each year the subsidiary is to be a net source or recipient of funds.

There are N subsidiaries around the world, and the analysis will be done over T years. Each subsidiary in each year causes a net outflow of funds $bi(t)$ from the liquid assets in subsidiary i in year t (a net inflow would be represented as a negative $bi(t)$). For example, if subsidiary i intends to construct a new plant in four years' time, then for the next three years it will likely be a net source of funds ($bi(t)<0$) but on the fourth year (construction year) it will be a net sink for funds ($bi(4)>0$). Pro forma balance sheets and income forecasts have to be made for any kind of financial planning, so we assume that the net availability or requirements for funds are known. The transactions demand for cash in each subsidiary should also be estimated, for changes in this inventory affect the net availability for funds. Also associated with each subsidiary in each year is its profit πi, its subpart F income (as defined in the U.S. Internal Revenue Code), and the effective rate of foreign income tax. Liquid funds can be held by a subsidiary from one year to the next. This holding is represented as a flow through the arc connecting a subsidiary in one year to the same subsidiary in the succeeding year. If there is a significant term structure to the best interest rates obtainable by a subsidary, then two year arcs can be added to take advantage of the higher interest rates obtainable on longer term loans. However, to simplify exposition we shall use only one year arcs. A peculiar feature of U.S. banks must also be depicted: if any part of the company has obtained a loan from a U.S. bank, then the company will be required to keep on deposit in branches of that bank no less than a specified "compensating balance." If each subsidiary maintains a dollar account in the U.S. bank, then the sum of these accounts can be used to satisfy the compensating balance requirement (even though the individual accounts are members of different OFDI class nations). Thus an aggregated compensating balance is an effective way to make intersubsidiary loans. The compensating balance requirement is depicted by the bunched parallel y arcs in Figure 1 [not in RECORD]; the sum of flow through these arcs must be greater than or equal to the compensating balance requirement.

In Figure 1 [1], operations in country i drain the system of $b_i(t)$ and $b_i(t+1)$ in years t and $t+1$ respectively, whereas in country j the local subsidiary is forecast to be a net generator of funds $b_j(t) < 0$ in year t, but a net user or funds $b_j(t+1) > 0$ in years $t+1$. A feasible solution is one which gets funds to the subsidiaries that need them. For a given pattern of intersubsidiary ownerships, there are at least four ways to transmit liquid assets from one national subsidiary to another. These control variable are:

$p_{ij}(t)$: Adjust the transfer prices on shipments between subsidiaries i and j.

$f_{ij}(t)$: Charge legal and managerial fees and royalties on technical knowledge supplied to subsidiary i by subsidiary j.

$l_{ij}(t)$, $l_{ji}(t+1)$: Make new intersubsidiary loans, and repay old ones with interest. Delayed invoicing is a loan.

$d_{ij}(t)$: Remit dividends from subsidiary i to its legal stockholder subsidiary j.

There are N subsidiaries, and the analysis is done over time periods $O, \ldots, T$. The state of the system is specified by the amount of liquid assets held by each subsidiary:

$x_i\ (t,t+1)$: Amount of liquid assets employed in their most profitable manner by subsidiary i in the one year period from t to $t+1$.

$y_i(t,t+1)$: Amount of cash held by subsidiary i (usually in a dollar account in a U.S. bank) that can satisfy compensating balance requirements.

In order to simplify modelling, it will be assumed that fund flow is averaged over the year, and only this average flow will be depicted. Of course, the time periods can be made as short as desired to more accurately depict reality. In each year N compensating balances must be specified, as must $N-1$ dividend flows, $N(N-1)$ transfer price flows, and $N(N-1)$ loan flows. The number of managerial fee flows will be either $N(N-1)$ or $N—1$ depending on whether or not fees and royalties have to follow the ownership pattern. Thus at most $T(3N^2—N-1)$ flows will have to be calculated.

3. COSTS AND BOUNDS ON FLOW THROUGH THE ARCS

There is a cost on flow through an arc, say the arc $p_{ij}(t)$ from i to j in year t depicting manipulated transfer prices. This cost depends on the pair of nations i and j, and can be expected to vary with time. Hence it would be formally correct to let the cost function be $P_{ij}(t)[p_{ij}(t)]$. This notation would be very cumbersome, however, so $P[p_{ij}(t)]$ will be used instead; it must be understood that P is a function of i, j, and t. The four methods of transferring funds between nations will be discussed first.

3.1 Adjusted Transfer Prices $P[_{ij}(t)]$

Suppose subsidiary i manufactures subassemblies which are shipped to subsidiary j. If the transfer price is lower than "normal" then there occurs a net flow of funds from i to j. If the transfer price is set higher than "normal," then the flow of funds is from j to i.

There is a direct cost to flow through a pij arc. A lower transfer price reduces the revenue appearing in subsidiary i, and this usually reduces income tax and value added tax in country i. Any *ad valorum* export duty on subassemblies imposed by country i, or import duty imposed by country j will be reduced by the lower transfer price (so long as the invoices are believed). A lower transfer price will increase profits and value added appearing in country j. Hence the direct cost of sending funds through arc p_{ij} is:

Marginal rate of income and value added tax of subsidiary in country j, minus marginal rate of income and value added tax of subsidiary in country i minus *ad valorum* tariff on exports by country i and on imports by country j.

There are two internal indirect costs to flow through a p_{ij} arc. If each subsidiary is a semi-autonomous profit center, then there will be a bilateral monopoly relationship between i and j. An imposed transfer price will work so long as producing to demand remains in the self interest of subsidiary i. One indirect cost lies in the required efforts to persuade i to produce. Another indirect cost lies in the profits foregone by subsidiary j as it tailors its promotional efforts to its cost of goods, partly the manipulated transfer price. Clearly these costs of acrimony over negotiated and imposed transfer prices are greatly reduced if unit sales and production quotas are set centrally. The external indirect costs arise from government inquiries. If the price is too low both governments will intervene. The tax authorities of country i will see tax revenues foregone (in USA, I.R.S., Section 482; see the recent case of Eli Lilly [5]). The import tariff commission of country j. will see dumping. If the transfer price is too high, income tax will be foregone to country j. These external indirect costs have to be paid in bribes, time and effort at investigatory hearings, additional advertising to counter ill-will, and actual settlements. Section 482 of the U.S. Revenue Code confers great power to the Secretary of the Treasury. Its full text is:

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[1] Does not appear in RECORD.

"In any case of two or more organizations, trades or, business (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Secretary or his delegate may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades, or businesses."

In light of such regulatory power by the U.S. government, and similar power by most other governments, it appears to be current industrial practice to abide by standard transfer prices on standard items. However, the continual introduction of new products requires that new transfer prices be established, and this is done with an eye to the considerations of this paper. Nonstandard items such as rejects, returned goods, and contaminated scrap can have any transfer price between zero and the standard price of a good item, and can easily be manipulated. One final technique used in practice is to invoice the goods through a chain of subsidiaries, each of which adds its commission.

3.2. Fees and Royalties $F[f_{ij}(t-1), f(t)]$

Managerial advice, allocated headquarters overhead, and royalties on patents and trademarks are very elusive and difficult to price. Hence they appear to be very suitable conduits through which to move funds.

There is a direct cost. If these fees and royalties are a tax deductible business expense in country i, then a tax saving occurs. However, this need not be so, and there may be a withholding tax. If fees and royalties received from abroad are taxable as income in country j, then there is a tax cost.

There will likely be an indirect cost to any increase in fees and royalties. A treasury official in country i, struggling for foreign exchange, will be more likely to intervene the larger the increase. Hence the cost is a nonlinear (quadratic perhaps) function of $[(f_{ij}(t) - f_{ij}(t-1)]$. Many governments have become very severe about allocating foreign exchange for fees and royalties [18].

3.3. Intersubsidiary Loans $L_{ij}[l_{ij}(t)]$

The most prevalent form of intersubsidiary loan is a speed-up or delay in invoicing shipments between a pair of subsidiaries because normal terms of payment differ between regions of the world. In addition, actual shipping schedules can be accelerated in one direction and decelerated in the other so that one subsidiary carries inventory for both. Outright loans may also be possible. The danger in any intersubsidiary loan is that it will be deemed to constitute a dividened by the governments of the countries involved (especially the U.S. government). Hence, ritualistically, loans are made for 364½ days and are then repaid with interest; a new loan is regranted immediately if desired.

There are direct costs. Let the interest rate on the loan be r (presumably reasonable to both governments). The loan $l_{ij}(t)$ departed from country i and arrived (presumably intact) at country j. At the end of the $(1+r)l_{ij}(t)$ must be prepaid. If interest is a business expense in country j then the income tax payment will be reduced. Hence the net outflow from subsidiary j is $(1+r-rT_j)l_{ij}(t)$, where T_j is the marginal rate of taxation in country j (including withholding). If there is no withholding tax on interest leaving country j, then $(1+r)l_{ij}(t)$ will be repaid to subsidiary i. If interest received from abroad is taxtble income in country i, then the inflow to subsidiary i (net of tax) will be $(1+r-rT_i)l_{ij}(t)$. A constraint that the loan must be repaid (with interest) must be added to the formulation.

3.4. Dividends $D[d_{ij}(t)]$

There are N wholly owned subsidiaries. The intersubsidiary ownership pattern is fixed, hence the N—1 dividend arcs are known. The problem is to estimate the cost function $D[d_{ij}(t)]$ for each arc. The cost function (if nonlinear) and restrictions on dividend flow depend upon the tax base. It is presumed that aspects of the tax base internal to each country have been optimized, so that in this formulation we need consider only intersubsidiary allocations of the tax base, such as manipulations to transfer prices and fees, and the receipt of interest on intersubsidiary loans.

First we shall sketch a few foreign taxes on dividends, starting with the uncomplicated tax laws of Liechtenstein. Though they will not be examined here, local taxes imposed by states, counties and cantons are substantial enough that they should be included in the cost functions. Brief mention will be made of tax treaties between pairs of nations; their intimate details should be studied, especially when a company operates with a foreign corporate charter in a nation.

Secondly, we shall examine in detail the U.S. laws that pertain to dividends received from abroad. Due to the U.S. Revenue Act of 1962, all cost functions (even on dividends which do not flow to the U.S.A.) must be somewhat augmented. Due to the 1968 Office of Foreign Direct Investment, minimum bounds are imposed on certain groups of dividends.

3.41. $D[d_{ij}(t)]$ *When j is not USA.* Liechtenstein: Corporations pay income tax (Ertragssteuer). Dividends paid by resident corporations pay a 3 percent coupon tax. This is never refunded, or permitted to be credited as a cost of doing business. There is no tax on dividends received. No tax treaties are currently in force which change these provisions.

Belgium: Corporations pay income tax (impôt des sociétés) at the rate of 30 percent, but income going into retained earnings above 5,000,000 Belgian francs is taxed at the rate of 35 percent (model this as a 5 percent incentive for paying dividends until retained earnings drop to 5,000,000 Belgian franc). Dividends paid by a resident corporation are subject to a 18.2 percent withholding tax, which is never refunded nor permitted to be credited as a cost of doing business (deduct this from the incentive for paying dividends). Of dividends received into Belguim (after any withholding taxes by the government of the sending country) the tax imposed by the Belgian government is 18.7 percent (15 percent Belgian withholding tax plus 30 percent Belgian income tax on 15 percent of the 85 percent that survived Belgian withholding tax). By tax treaty, dividends received from an Italian corporation are exempt from Belgian withholding tax.

Germany: Income tax (Körperschaftsteuer) and business tax (Gewerbesteuer) are imposed on corporations doing business in Germany. A 25 percent withholding tax is made on dividends paid. Profits not distributed to shareholders are taxed at 51 percent, but profits distributed to shareholders are taxed at only 15 percent. Dividends received by a German corporation are given a credit against company income tax, but not business tax. The effective tax rate depends, as before, on whether or not these profits from abroad will be distributed to shareholders.

3.42. *U.S. Controls on* d_i, USA. While planning a base company in the popular tax haven countries of Surinam, Panama, Liechtenstein, Switzerland, Bermuda and the Barbados, usually the most applicable laws are the U.S. Revenue Act of 1962, the U.S. Foreign Investors Tax Act of 1966, and the U.S. Foreign Direct Investment Program administered by the Office of Foreign Direct Investments (OFDI). The combination of these three laws is so complicated, that it would not be trivial for a company to prepare a computer simulation for its tax position. Interestingly, however, (assuming all subsidiaries are 100% owned, and the subsidiaries in less developed countries are not legal parents to subsidiaries in advanced countries) U.S. law ignores patterns of legal intersubsidiary ownership so that subsidiaries can be regrouped annually at the discretion of the company. "Where there are many such foreign corporations and branches, this [regrouping] will provide ample opportunity for the exercise of ingenuity, alone or in connection with an electronic brain." [13, p. 15, 203]

The OFDI regulations impose *lower* bounds on four sums of dividends. The four sums are defined by the geographical schedules:

U.S.A. and Canada.

A. Underdeveloped, from Aden to Zambia.

B. Developed, from Abu Dhabi to United Kingdom.

C. Most of Europe plus South and South-West Africa, from Andorra to Switzerland. Let π be the annual profits (net transfer of capital plus reinvested earnings) in subsidiary i; this will be negative for subsidiaries which lost money. For a small company the applicable OFDI regulations (Section 503 allowables) impose four constraints on dividends, limiting the retained earnings to $200,000.

$$\sum_{i,j} d_{ij} - \sum_{i,j} d_{ji} + \sum_{i,j} p_{ij} - \sum_{i,j} p_{ji} + \sum_{i,j} f_{ij} - \sum_{i,j} f_{ji} + \sum_{i,j} l_{ij} r_{ij} - \sum_{i,j} l_{ij} r_{ji} \geq \sum_{i} \pi_i - 2000,000.$$

For *i E A, j E A*.

The other three constraints are for *i E B, j E B, for i E C, j E C,* and a worldwide formula *i E* U.S. or Canada, *j E* U.S., Canada. These section 503 allowables, if not used in any year, may not be carried forward for use in later years.

If the company so chooses, and it probably will unless it is a small company that is new abroad, it can replace the set of four equations (Section 503) with $200,000 annual limits by three equations (Section 504). One cannot have the benefit of both Sections. In the Section 504 allowables there is no single worldwide constraint. In the three geographical schedule constraints:

In A, $200,000 is replaced by 110% of average direct investment (net capital plus reinvested earnings) of company aggregated over all *A* countries during 1965 and 1966.

In B, $200,000 is replaced by 65% of average 1965, 1966 direct investment in all *B* subsidiaries.

In C, $200,000 is replaced by the smallest of (1) 35% of average 1965, 1966 direct investment in all *C* countries (2) average reinvested earnings in 1964, 1965, 1966 or all *C* subsidiaries. Use 0 if either (1) or (2) is negative.

3.43. *U.S. Revenue Act of 1962.* In attempting to calculate $D[d_{i,\text{USA}}(t)]$ it is convenient to categorize three sources of dividends, (a) less developed countries, (b) foreign subsidiaries which have been organized into Western Hemisphere Trade Corporations, China Trade Act Corporations, and special corporations which can operate only in Puerto Rico or U.S. possessions, (c) all other countries.

Subsidiaries in less developed countries (the list is not quite identical with Schedule A countries of the OFDI regulations) are exempt from U.S. taxation on their retained earnings, and are subject to a low tax on dividends received into the U.S.A. The low tax results from the fact that U.S. tax *credit* is granted on the base of before-foreign-tax-income, whereas U.S. tax is calculated on the dividend received, which is net of foreign taxes. If the subsidiary pays its *entire* earnings as dividends $d_{i,USA}$, then the total tax rate will be

$$D[d_{i,USA}(1969)] = [T_{USA} - T_i T_{USA} + T_i^2] d_{i,USA}.$$

If $T_{USA} = 48$ percent, then a 5.76% saving is the most that can be achieved by paying dividends from a subsidiary in a less developed country that has a 24 percent tax rate.

The incentive to use Western Hemisphere Trade Corporations, China Trade Act Corporations, and Section 931 Corporations operating in Puerto Rico and other U.S. possessions was greatly increased by the Revenue Act of 1962. For a company which has already planned its physical operations, these special U.S. laws operate much as tax treaties: they reduce $D[d_{i,USA}(1969)]$.

Most subsidiaries are not in less developed countries, nor are they qualified as Western Hemisphere Trade Corporations. Their U.S. parent is therefore liable to U.S. tax on the Subpart F income of such subsidiaries, even if it is retained abroad. Subpart F income consists of nonmanufacturing income (rents, royalties, licensing fees, dividends), income from services performed for related persons outside the nation, and income from the sale of property to related persons outside the nation.

Subpart F income is precisely defined in Internal Revenue Code Sections 951(a)(1)(A)(i) and 952. Legal counsel competent in this portion of the code should be consulted, for carefully reading the definitions of these sections is like trying to debug someone else's computer program that was written compactly with layers of nested DO loops. Nevertheless, a Subpart F income figure is required. Manipulations to transfer prices and fees will be magnified by a factor of 2.5 in their influence on Subpart F income because of the "70–30" rule of Section 954(b)(2)(B), but only within these 70–30 limits.

The 1962 Revenue Act offers significant tax relief under the "minimum distribution provisions" of Section 963. Section 963(b)(3) provides a table, associating with each effective foreign tax rate a required percentage minimum distribution of earnings and profits.

To avoid misunderstanding Figure 2 [not printed in RECORD] it would be helpful to examine the total tax to be paid as a function of the subsidiary dividend payout rate. For example, consider a subsidiary with an effective foreign tax rate of 35 percent. From Figure 2 (or IRC 963 (b) (3)), this effective foreign tax rate calls for a minimum distribution of earnings and profits of 63 percent. The U.S. government grants a tax credit for taxes paid abroad, so that the total tax does not exceed the U.S. rate of income tax of 48 percent (ignoring the current surtax).

Unless a minimum distribution is made, the *entire* Subpart F income of the subsidiary is taxed. Figure 3 [not printed in the RECORD] implies that for dividends in excess of the minimum distribution the per unit cost is the slope of the total tax line. The figure applies to each year; if liquidity must be built up in a subsidiary, a sensible strategy would be to alternate minimum distribution years with zero dividend years. Unfortunately this may run afoul of the OFDI minimum repatriation regulations, referred to in the previous section. In fact, most U.S. corporations are finding that the OFDI regulations are so stringent that the dividends they must pay exceed the Subpart F minimum distributions. The network model of this paper can be applied ignoring Subpart F taxation, then re-run constraining insufficient flows to equal or exceed their minimum distribution. Alternatively, a minimum distribution can be applied to a chain of subsidiaries (a different consolidation to that required by OFDI A, B, and C country schedules) that the *sum* of dividend flows exceed a prescribed minimum. Such a consolidation is permitted by the U.S. Internal Revenue Code:

963(c)(2) Amounts to which section applies—chain of controlled foreign corporations

Subsection (a)(2) shall apply to amounts which (but for the provisions of this section) would be included in the gross income of the United States shareholder under section 951 (a)(1)(A)(i)—

(A) by reason of its ownership, within the meaning of section 958(A)(1)(A) of stock of a controlled foreign corporation, and

(B) to the extent that the United States shareholder so elects, by reason of its ownership, within the meaning of section 958 (a)(2), of stock of any other controlled foreign corporation (an account of its ownership of the stock described in subparagraph (A) or of stock described in the subparagraph), but only if there is taken into account the earnings and profits of each foreign corporation, whether or not a controlled foreign corporation, by reason of which the United States shareholder owns, within the meaning of section 958(a)(2), stock of such controlled foreign corporation.

For a given pattern of intersubsidiary ownership there are numerous possible chains of subsidiaries. If a corporation has such generous OFDI constraints that it is liable for Subpart F taxation unless it increases dividends, it might consider searching for optimal chains of subsidiaries. Though this subject will not be explored in detail in this paper, the company could organize chains whose average effective foreign tax rate is *just* above each of the breaks in IRC 963(b)(c), so that the tax saving is greatest. Unfortunately, for most companies the OFDI regulations preclude such considerations, and furthermore IRC 1964(a) (a safety net provision) deems that no chain or group may pay less than 90 percent of the U.S. tax rate.

3.5. $X[x, (t, t+1)]$ *Liquid Assets held in Country i*

Section 203(c) of the OFDI regulations stipulates that a direct investor whose total liquid foreign balances exceeds $25,000 is required "to reduce the amount of liquid foreign balances (other than direct investment liquid foreign balances) held by such direct investor to an amount not in excess of the average end-of-month amounts of the same so held by such direct investor (whether or not a direct investor at that time) during 1965 and 1966". That is to say

$$\sum_{x=1}^{N} x_i \leq a$$

Where *a* is greater of $25,000 and average during 1965 and 1966.

If a company wants to hold liquid assets abroad totalling more than *a*, then it must confine them to less liquid or less desirable assets such as those specified in Section 203 (a)(2). Then $X[x_i(t, t-1)]$ is the effective interest rate earned by a less desirable asset such as OFDI Section 203(c)(ii)—

"bank deposits, negotiable instruments, nonnegotiable instruments, commercial paper and securities with a period of more than 1 year remaining to maturity when acquired by the direct investor and which are not redeemable in full at the option of the direct investor within a period of 1 year after such acquisition."

If the multi-national company has raised money abroad then the "direct investment liquid foreign balances" are exempt. Then marginal changes to liquid balances in country *i* would presumably be held in the unrestricted foreign funds, for which $X[x_i(t, t-1)]$ is higher.

3.6 $Y[yi(t,t+1)]$ *Cash Held in the U.S. Dollar Account of the Subsidiary*

Foreign banks commonly grant loans on an overdraft basis, so that the borrowing company pays interest only on the amount of the granted loan which it has in use, much as a U.S. bank grants a line of credit. Nevertheless, when a U.S. bank actually grants a loan the borrowing company pays interest on the entire amount of the granted loan (whether or not withdrawn from the bank) and furthermore must keep specified compensating balances on deposit in the bank. As the company has to keep transaction and precautionary cash, the compensating balance requirement is not as onerous as it would be in a deterministic world, though it should be reflected in a slight upwards adjustment in U.S. interest rates to make them comparable with foreign "overdraft" interest rates.

U.S. dollar accounts held in the bank by the many corporate subsidiaries around the world are generally considered to count towards the compensating balance requirement:

$$\sum_{i=1}^{N} y_i(t, t+1) \geq R_{t,t+1}$$

Loan officers generally refer only to the average balance through the preceding period, and would generally be unaware of the variance of the daily balance through the period. Furthermore, the fact that attention is focused on the sum of subsidiary balances permits the company to arrange a costless partial movement of funds between subsidiaries as the composition of the compensating balances is changed. Unless interest can be obtained for compensating balances $Y[y_i(t,t+1)] = \phi$.

Example

Most confusion appears to arise over dividend taxation, so this will be illustrated. Let the parent company in Liechtenstein own a subsidiary in Germany, which has a subsidiary of its own in Belgium.

Let us work up the ownership tree. The Belgian subsidiary declares a dividend of 100 to its German parent. The Belgian government withholds 18.20, so that 81.80 arrives in Germany. The German business tax (Gewerbesteuer), based on the *entire* dividend of 100, is 13.50 percent, so income net of business tax is 86.50. Company income tax (Körperschaftsteuer) is 51 percent of income net of business tax, so is 0.51 × 86.50 = 44.11 (this rate assumes income will be retained within the firm; income destined for dividends is taxed at only 15 percent). Only at this point is credit granted for the Belgian withholding tax, so that German company income tax due is 44.11 − 18.20 = 25.91. The Belgian withholding tax was 18.20 the German business tax was 13.50, and the German company income tax is 25.91; their total is 57.61. That is to say, only 42.39 percent of the dividend gets through from the Belgian subsidiary to its German parent. That is to say $D[d_{BG}(1970)] = 0.5761$.

The German company now declares a dividend of 100 units to its parent in Liechtenstein. In Germany, the company income tax is 51 percent for retained earnings, but is only 15 percent for earnings paid out as dividends. The simplest way to model this is that the company income tax is 51 percent on all earnings, but that the German government gives the German company an income tax rebate of 36 percent on dividends paid out. Thus 100 − 36 = 64 units leave the German company. However, the German government imposes a 25 percent (of 100) withholding tax on dividends leaving Germany, so that 75 units arrive in the Liechtensteinian subsidiary. Thus 117.18 percent of the dividend gets through from the German subsidiary to its parent in Liechtenstein. That is to say $D[d^{GL}(1970)] = -0.1718$. Naturally a constraint must be added that total dividends do not exceed earnings!

4. SOLUTION PROCEDURE AS A GENERALIZED NETWORK

Refer back to Figure 1 which presents the problem of maneuvering liquid assets in a multi-national company as a network problem. The costs on each arc are actually reductions in liquidity (even government chafing has to be paid for with legal fees and "political contributions"). Consider flow through one of the ij arcs. If liquidity at source node i is reduced by p_{ij} units, liquidity at node j will be increased by less than p_{ij} units; only p_{ij} $P[p_{ij}(t)]$ units will get through to subsidiary j. The factor of attenuation on the arc $p_{ij}(t)$ is $1-P[p_{ij}(t)]/p_{ij}(t)$.

If deductions from liquidity are handled automatically by factors of attenuation, then the objective of the problem becomes to maximize the sum of liquid assets remaining after period T (this could be a weighted sum if one can guess desirable countries in which to hold assets). Naturally, all requirements for funds must be satisfied. The problem is a generalized network (also called weighted distribution, or machine loading problem). Dantzig [2, Ch. 21] presents an excellent discussion of the generalized network problem, as does Eisemann [4]. The nonlinear aspects of the indirect costs can be charged as costs [11].

Computational procedures for the generalized network problem assume that all nodes could be connected, and that there are no constraints on arc flows other than node material balance equations. It appears sensible to decompose the problem. There are T subproblems, each an annual p, l, f, d maneuver around N nodes. The master problem consists of the material balance equations on the x and y arcs, the intertemporal constraints that loans must be repaid with interest, and that a cost of government chafing be imposed on any *change* in the f flow of fees.

5. SOLUTION AS AN ORDINARY NETWORK

There are the fewest conceptual problems if one solves the problem as a generalized network sketched in § 4 above. However, another approach would be to solve the problem as an ordinary network in which the costs are costs on flow through arcs. After all, the problem has $T(3N^2-N-1)$ arcs, and an ordinary network is quicker to solve than a generalized network.

Two conceptual problems arise if an ordinary network is used. Firstly, at what interest rate should future costs be discounted to get their present value? The interest rates in each country are different. Secondly, costs on all arcs flowing into a node must be deducted from the availability of funds of the subsidiary in that year. To do so is to presuppose the optimal flows. Both of these problems *might* be surmounted by an iterative procedure. Run the problem and study the flows that occur. Represent taxes by deducting liquidity from nodes with inflows. Discount all the costs according to the route of flows. Then rerun the problem.

6. SYSTEMS WITHIN SYSTEMS

Maneuvering liquid assets reallocates revenue from high tax rate nations to the multinational company and low tax rate nations. If this were all this model did, it would represent a somewhat dubious contribution to mankind's knowledge. Fortunately the model can be run to evaluate effects of people's ideas by simulating parts of a larger reality. Four areas of current interest to international managers will be mentioned:

1. Short term loan negotiations, both local and multi-national

The model presented in this paper is a linear program, and, therefore, has dual variables associated with each constraint. If the problem is formulated as a weighted distribution problem, the dual variable associated with the constraint that funds be available in a subsidiary in a certain year represent the value of taking a small loan and keeping it until the end of period T. All T of these dual variables for a given subsidiary can be translated into a term structure of interest rates from which the year to year value of additional money can be calculated. This data provides a very clear guideline for making short and medium term loans in that nation [1].

Some banks are themselves multi national. In one nation the bank may ration credit because of a high demand for loans within the permitted interest rate. In another part of the world the bank may be short of deposits as it strives to expand. In exchange for depositing money in one part of the bank, the multi-national company can achieve loan priority in another part of the bank. The rationale behind this is that most currencies are blocked and it may be easier for a company to move money than a foreign bank. The worthwhileness of such induced swap transactions can be evaluated with this model.

2. Raising long term capital

Long term capital can be raised in most nations of the world, usually after negotiations with the host government and promises that local investments will result. To support such negotiations worldwide manufacturing models must be supplemented by worldwide financial models such as this on which to simulate the consequences of different financing schemes. Similarly one can evaluate the benefits of mergers intended to qualify as a Western Hemisphere Trade Corporation, or to buy OFDI exemptions.

3. Restructuring the pattern of legal ownership

If the company has N subsidiaries, there are $(N-1)^2$ different patterns of intersubsidiary ownership possible even if each subsidiary is restrained to have just one legal parent. In theory one could use the theory of optimal spanning trees [3] to iterate to a worldwide tax minimizing legal structure a pattern of dividend conduits. If one removes the restriction that a subsidiary have one legal parent (but require that the percentage of ownership by each legal parent be constant once reorganization has occurred) then the problem is computationally much simpler and is much more difficult for tax authorities to unsnarl. Unfortunately, the tax data required for cases of partial ownership is appreciably more complicated and vague than for cases of complete ownership. In practice the model presented in this paper, by taking some drudgery out of creativity, should stimulate new patterns of intersubsidiary ownership. A subcalculation, about which tax lawyers are well informed, is the benefit of operating in nation i with a corporate charter granted in nation j.

4. Inserting high profit products

The Swiss pharmaceutical companies prefer to produce their high profit products in the nations where they incur their largest cash drains to research and dividends. This practice, a vivid example of Vernon's product cycle theory [15], reduces the need to flow funds between nations, though at a high production and transportation cost. Ideally, one would like to simulate the effect of inserting a high profit product into any subsidiary technically sophisticated enough to manufacture it.

In a multi-national company there are many opportunities for maneuvers that take advantage of the fact of being multi national. Most of these do not appear to be used for fear of causing confusion and computational chaos. Hopefully, mathematical models provide a rational framework within which analysis can take place, and it is with this hope that the article was written.

REFERENCES

1. Calman, Robert F., *Linear Programming and Cash Management: CASH ALPHA*, Cambridge; The MIT Press, 1968.

2. Dantzig, George B., *Linear Programming and Extensions*, Princeton; Princeton University Press, 1963.

3. Edmonds, Jack, "Optimum Branching," *Journal of Research, National Bureau of Standards B*, Vol. 71B, No. 4 (October-December 1967), pp. 233–240.

4. Eisemann, Kurt, "The Generalized Stepping Stone Method for the Machine Loading Problem," *Management Science*, Vol. 11, No. 1, (September 1964), pp. 154–176.

5. *Eli Lilly & Company* v. *The United States*, 372 F. 2d 990, 178 Court of Claims, [No. 293-61, Decided February 17, 1967], pp. 666–733.

6. Hellawell, Robert, "United States Income Taxation and Less Developed Countries: A Critical Appraisal," *Columbia Law Review*, Vol. 66, No. 8 (December 1966), pp. 1393–1427.

7. *Information Guide for U.S. Corporations Doing Business Abroad*, New York; Price Waterhouse & Co., July 1967.

8. *Information Guide for U.S. Direct Investors*, New York; Price Waterhouse & Co., November, 1968.

9. Kushner, Harold J. and F. C. Schweppe, "A Maximum Principle for Stochastic Control Systems," *Journal of Mathematical Analysis and Applications*, Vol. 8 (March 1964), pp. 287–302.

10. Lichtman, Paul B., "Taxation of Intercorporated Dividends Received in Europe," *European Taxation* (August 1964), pp. 135–156.

11. Rutenberg, David, "Generalized Networks, Generalized Upper Bounding, and Decomposition of the Convex Simplex Method," *Management Science*, Vol. 16, No. 5 (January 1970).

12. ———, "Organizational Archetypes of a Multi-National Company," *Management Science*, Vol. 16, No. 6 (February 1970).

13. Seghers, Paul D., "How to do Business Abroad at Least Tax Cost," *Transaction Tax Guide*, Englewood Cliffs; Prentice-Hall, 1964.

14. Shulman, James, "When the Price is Wrong—By Design," *Columbia Journal of World Business* (May-June 1967), pp. 69–76.

15. Vernon, Raymond, "International Investment and International Trade in the Product Cycle," *Quarterly Journal of Economics* (May 1966).

16. Walkup, D. W., and R. J. B. Wets, "Stochastic Programs with Recourse," *SIAM Journal of Applied Mathematics*, Vol. 15, No. 5 (September 1967), pp. 1299–1314.

17. Wentz, Roy A., "Corporate Transfers of Intangibles Abroad," *The Tax Executive* (April 1967), pp. 142–159.

18. Zenoff, David B., "Remitting Funds From Foreign Affiliates," *Financial Executive* (March 1968).

19. ——— and J. Zwick, *International Financial Management*, New York, Prentice-Hall, 1969.

NEW YORK TIMES ENDORSES NATIONAL SERVICE ACT

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, in an editorial appearing today, the New York Times endorses the National Service Act of 1970—H.R. 18025—which I introduced on June 10 with bipartisan cosponsorship.

Mr. Speaker, I have in circulation, now, a "Dear Colleague" letter to all Members soliciting additional cosponsors for this bill. The bipartisan support it has received to date is greatly encouraging and I am hopeful that this support will grow, especially in view of the widespread support the bill has received from across the country. This support has been most vividly demonstrated by last week's Gallup poll showing 71 percent of the national population in support of this bill—see page 22892, July 6, 1970, Record.

I include, at this point, the text of today's New York Times editorial:

CONSCIENCE AND THE DRAFT

Selective Service Director Curtis W. Tarr has made life somewhat easier for some potential draftees but not for their draft boards with his memorandum defining criteria for conscientious objection.

The memorandum is an attempt to help local boards apply a recent Supreme Court ruling that men who object to military service for purely moral and ethical reasons are entitled to draft exemption as conscientious objectors. Formerly, C.O. status was reserved for those who based their objections to war on more easily determined formal religious training and belief.

In his original public reaction to the Court's ruling, Mr. Tarr insisted that nonreligious objectors must have reached their beliefs through "some kind of rigorous training," a requirement that appeared to discriminate against young men with little formal education. The memorandum sets forth somewhat broader criteria, calling for evidence of activity "comparable in rigor and dedication" to traditional religious training.

The primary test Mr. Tarr establishes in his guidelines is "the test of sincerity." This is fair enough, but it places a heavy burden of subjective judgment on local board members. There inevitably will be a wide variation in interpretation as thousands of draft boards across the country attempt to weigh the "sincerity" of tens of thousands of objectors of disparate backgrounds and beliefs.

The problem of judging C.O. applications could be even further complicated next fall when the Supreme Court is expected to rule on another aspect of conscientious objection—objection to particular wars rather than to all wars, as presently required.

The difficulties inherent in the administration of any conscription law that attempts adequately to reflect the traditional American concern for individual conscience argue for some wholly new approach to the problem of selecting men for national service. One such approach has been proposed by Rep. Jonathan B. Bingham of New York, in a bill which offers all young men three choices: (1) volunteer for military service; (2) volunteer for civilian service in a designated area of social need for a period of time "equivalent" to two years in the armed forces; or (3) take their chances on the military draft lottery.

The merit of the Bingham plan is that in most cases it would relieve the draft boards of the need to judge the sincerity of a young man's beliefs. The C.O. could demonstrate his sincerity by forgoing the chance of escaping national service altogether and opting to undertake some useful civilian task, usually for a period longer than ordinary military service. The burden of proof would fall directly on the potential draftee, not on his board. This should not be too much to ask of young men of sincere convictions.

DR. BURNS SPEAKS IN KOREA

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, Dr. Arthur Burns has long been one of this Nation's best known and most widely respected economists. His reputation has grown during the months he has served as Chairman of the Federal Reserve Board.

Although we are not always in agreement, I regard Dr. Burns as one of the most forthright and able public servants in Washington. I am happy that Dr. Burns has had the opportunity in recent days to visit a number of foreign countries and discuss U.S. economic policy as it affects the world.

Friday, June 26, 1970, he addressed the Chungang University at Seoul, Korea, and I think my colleagues would be interested in reading Dr. Burns' remarks. I place a copy of the speech in the Record:

THE ECONOMIC CONTEST BETWEEN FREEDOM AND AUTHORITARIANISM

Dr. Yim, distinguished guests, and ladies and gentlemen. I am deeply moved by the honor that Chungang University has seen fit to bestow upon me today. I am also happy to have the opportunity to visit the Republic of Korea at this moment in history. It is just twenty years since the armies to the north swept across the 38th parallel in their effort to bring all the people of Korea under the yoke of tyranny.

Because of the valor of your own people and the support of the United States and the other countries that rallied to the aid of the Republic of Korea, you conquered adversity and succeeded in preserving the right to live in dignity as free men and women.

As we think back to those days of struggle, we can give thanks that there were men of indomitable will and courage who recognized the vital importance to Asia and the civilized world of the preservation of freedom for 20 million Koreans.

There were, to be sure, those in the West who described the desperate struggle for the survival of the free Republic of Korea as a quarrel in which other nations had no right to intervene. There were those who said that the Republic of Korea was not really a democratic country and that it made little difference whether it was ruled by Syngman Rhee or Kim Il Sung. There were even those who told us that poor people cared nothing about abstract concepts such as freedom and democracy, that the Koreans were mainly interested in material well-being, and that they could achieve this more quickly under communism than under the free market economy that prevailed in the Republic of Korea.

These voices were sometimes loud, and they tested the determination of the citizens of the Republic of Korea and their allies. Many people today have forgotten the pessimism that prevailed when our forces were clinging desperately to the narrow Pusan perimeter, but we hung on and fought back. Freedom, political and economic, was preserved in South Korea.

Exhausted by its long struggle, the Republic of Korea began the slow process of recuperation. What little appeal the political and economic system of communism may have had for South Koreans, it quickly vanished after the communist armies were finally driven back across the 38th parallel. Indeed, the Republic of Korea became one of the strongest bastions of opposition to totalitarianism.

But elsewhere in the world the debate between the advocates of freedom and the proponents of totalitarianism continued. The communists consolidated their position on mainland China, and much was said in the West about the economic progress they were making. They were supposed to be setting an example that the other poor countries in Asia—and even in Africa and Latin America—would be tempted to follow.

It was frequently said at the time that the great political contest in the world between the advocates of democracy and the advocates of dictatorship hinged on the ability of the democratic countries in Asia to perform as well economically as authoritarian China. The attention of all Asia was reported to be riveted on this contest to demonstrate which system was economically superior.

At the same time, Mr. Khruschev began to make the point that a similar contest was underway between the United States and the U.S.S.R. He boasted that the Soviet system was vastly superior and that the Soviet Union would surpass the United States in production per capita and in the standard of living by 1970. It may be worth recalling Khrushchev's words:

"The superiority of the U.S.S.R. in the speed of growth of production will create a real basis for insuring that within a period of, say, five years following 1965, the level of U.S. production per capita should be equalled and overtaken. Thus by that time, perhaps even sooner, the U.S.S.R. will have captured first place in the world both in absolute volume of production and per capita production, which will insure the world's highest standard of living."

Such claims were taken seriously by many people in the West and in the East. Some came to doubt that the free market system was the most efficient and equitable instrumentality for increasing the national wealth. They took the view that freedom was a luxury that poor nations could ill afford. They argued that the underdeveloped countries had to resort to authoritarian control of economic activity, if not also to outright governmental ownership of the productive resources in the economy. And, in fact, a number of countries in Asia did adopt in varying degrees the policy of turning over to the government the decision-making functions that are performed by private citizens in countries that practice free enterprise.

Those who adopted this approach overlooked the fact that Adam Smith, the father of the idea that freedom was more conducive to economic growth than governmental control, had addressed himself to the problems of a nation that was then very poor and very underdeveloped—that is, to the England of 1776. Two hundred years ago, English peasants, living at a subsistence level without any of the benefits of modern industry or science to ameliorate their condition, were probably worse off than their counterparts in most of free Asia today. And the French peasants lived in even greater poverty than the Englisn.

Adam Smith examined the results of governmental intervention into economic activity in 18th century England and France with a perceptive eye. He came to the conclusion that the inefficient use of resources that he observed could be remedied and that wealth could be augmented if individuals had greater freedom to manage their economic affairs as they saw fit, instead of being tied down by minute and exacting regulations prescribed by bureaucrats. Smith saw that detailed economic regulations, often laid down by authorities far removed from the actual operations or needs of industry and commerce, produced undesirable results even though they may have been or actually were well-intentioned. In time, as the force of Smith's logic and evidence won adherents among men of authority, his revolutionary ideas proved instrumental in sweeping away much of the regulatory complex that had retarded economic progress and in paving the way for the extraordinary increase in living standards that has occurred in the West during the past two centuries.

It has been said that those who will not learn from the errors of the past are doomed to repeat them. This has been the fate of much of Asia in the period following World War II. Fortunately, the Republic of Korea escaped falling under the control of the Marxists and chose to enter the economic contest on the side of freedom.

In addition to being the twentieth anniversary of the invasion of the Republic of Korea, 1970 was also to be the year when the U.S.S.R. would overtake the United States economically, according to Khrushchev's boast. It is fitting, therefore, that we look back over recent years and examine the results of that contest between economic freedom and authoritarianism.

THE CONTEST BETWEEN THE UNITED STATES AND THE SOVIET UNION

The economic contest between the U.S.S.R. and the United States enters the year 1970 with the United States holding a commanding lead. In 1969, the gross national product per person in our country was nearly $4,600. This was two-and-a-half times the corresponding Soviet figure. Measured in real terms, the gap between the per capita GNP of the United States and the Soviet Union was more than 25 per cent higher in 1969 than in 1960. While the Soviet growth rate was slightly higher than the American rate, the difference was so slight that if the same growth rates were maintained over the next 50 years, the per capita GNP of the United States would still be about twice that of the Soviet Union in the year 2020.

The persisting wide difference between the living standards of the Soviet Union and the United States is vividly portrayed by comparisons of the cost of goods and services and average wages in the two countries. If the prices of goods and services are expressed in terms of the number of working hours required to earn enough to buy them, the difference in living standards appears to be even larger than the crude comparison of per capita GNP figures suggests.

It turns out, for example, that the average worker in Moscow in April 1969 had to work nearly seven times as long as his counterpart in New York to earn enough to buy an identical supply of food sufficient to feed a family of four for one week. The difference for many non-food items was even larger. The following are the multiples by which the cost of certain goods in Moscow exceeded the cost in New York, when cost is measured in terms of working time: for bath soap—12.5 times, for nylon stockings—14 times, for a man's shirt—12 times, for a refrigerator—12 times.

These comparisons are based on official prices in Moscow, not black market prices, which are, in many cases, far higher. For example, a Volga sedan costing the equivalent of $7,700 reportedly sells for 2.5 times that amount on the Moscow black market.

The inability of the Soviet Union to approach the economic performance of the United States has not been as widely publicized as the dramatic earlier forecasts by the Soviet leaders. Nevertheless, this failure provides valuable economic lessons. The rather high rates of economic growth that were recorded for the Soviet Union in the early postwar years have not been sustained because of deficiencies inherent in the Soviet system, as their own economists have begun to realize. In a free economy, the relative strength of the demand for goods and services determines the allocation of productive resources. In the Soviet system, on the other hand, the path that production takes is basically determined by the decisions of economic planners in Moscow.

Important economic decisions in the Soviet Union have therefore not been guided by sensitive economic signals such as are constantly being transmitted by costs and prices in a free market economy. To make matters worse, until recently, they were not even subject to correction by public criticism. Thus, economic success in the Soviet system came to be measured, traditionally, in terms of meeting targets set by the government, rather than in meeting the wants of consumers. This sometimes led to production of

It is therefore desirable to check the equipment that failed to work or to the output of some consumer goods far in excess of demand while other goods continued to be in critically short supply. Such production might be expressed in a high rate of growth of GNP, but it did not bring progress in the elevation of living standards. In time the waste involved in this process became a matter of grave concern to Soviet officials, particularly to economists and engineers.

As early as 1959, a Soviet econometrician, L. V. Kantorovich, pointed out that it might be advantageous if prices were allowed to play a bigger role in guiding the allocation of resources in the Soviet economy. Another Soviet economist, Professor Y. Liberman proposed that profitability rather than achievement of planned targets be used as the measure of success or failure of productive enterprise.

Although the Soviet Union has tried some experiments with reforms along these lines, there has been no correction of the fundamental flaws of the communist economic system either in the Soviet Union or in its satellite countries. In Czechoslovakia the frustration with the results of centralized decision-making, which reached a climax during the industrial recession of the sixties, was an important factor in the reform movement in 1967–68, but the courageous effort to rationalize the economy by giving greater play to individual decision-making was brought to an abrupt end by Soviet troops and tanks in the summer of 1968.

This result was no great surprise to those who recognized that the reforms required to rationalize the Soviet-style economic system would weaken, if not totally destroy, the political control wielded by the Communist party. Two observers of the Eastern European scene pointed this out a year and a half before the Czech liberalization movement was crushed. They said:

"Some variations of a limited free-price system are being introduced requiring enterprises to pay some attention to what the market, i.e., the consumer, wants. But there is small sign that the central planners are ready to make these valid by yielding or reducing their arbitrary rule over production costs and profit. They cling to their power to fix prices of raw materials, semi-finished products, fuel and power, the size of total payroll and individual wages, the wholesale and retail prices of finished goods. . . . Surrender of production and investment controls deprives the party faithful of jobs and strips the party of influence. . . . Confronted by such a menace, the Red regimes are marking time with half-measures. . . ."

Faced with a choice between introducing economic rationality and the maintenance of their political power, the Russian rulers chose power. Unless and until they are willing to change their approach, it seems likely that their own economy and that of their satellites will continue to lag far behind the United States and other advanced countries of the free world.

THE FAILURE OF COMMUNIST CHINA'S GREAT LEAP FORWARD

Even before it appeared that the Soviet Union was not going to be successful in challenging the economic pre-eminence of the United States in the 1960's, it became clear that Communist China was not going to demonstrate to the free countries of Asia a better way to augment their wealth and income.

The year 1958 was hailed as Communist China's "great leap forward." It was claimed that food output had been doubled in a single year, and that final victory had been achieved over hunger. These claims were soon exposed as wild exaggerations, as it became evident in 1959 and 1960 that serious food shortages had begun to reappear. Far from developing self-sufficiency in food and eliminating hunger, Communist China experienced critical food shortages in the early 1960's and was compelled to import huge quantities of grain from abroad to meet her requirements. The agricultural communes which had been so widely acclaimed as the realization of true communism were quietly abandoned or radically modified. Agriculture in China appears to have remained virtually stagnant throughout the 1960's. Although production figures have been withheld, the available evidence suggests that output may not even have kept pace with the increase in population. In the early 1960's, the food shortages were attributed by government officials to bad weather, but this excuse was soon dropped as food imports continued to be required year after year.

The failures of agriculture had serious effects throughout the Communist Chinese economy. It soon became necessary to retrench drastically the plans for industry and transportation. Resources were simply not available to push forward the grandiose schemes that were supposed to show the rest of Asia how a country could rise from agricultural poverty to industrial affluence by pursuing the Communist path. Official statistics on economic performance of Communist China became very scarce as the boasted "great leap forward" failed to materialize. Talk of competition between Communist China and free Asia dropped to a whisper once it became evident that the free countries were well ahead in the contest.

ECONOMIC SUCCESS IN FREE ASIA

The countries of Asia that have relied basically on the free market system and have avoided centralization of economic decisions in the hands of the government have clearly been winning the economic contest. They are the countries that have been most successful in increasing the wealth of their people and in raising their standard of living. The countries that have done the least well have tended to be the ones that either rejected the free market or severely limited it by governmental controls.

North Korea, to be sure, has been claiming a high growth rate, as have other Communist countries in the earlier stages of their development. There is, however, good reason to believe that North Korea suffers from the same serious difficulty that the other Communist economies have encountered—namely, a tendency to sacrifice quality and serviceability in order to achieve quantitative production targets. Also, as one of the top North Korean leaders recently noted, there are serious deficiencies in the supply of consumer goods. Here is what he said: "The problem is that leading cadres are irresponsible and unconcerned about the working peoples' problems of food, clothing and housing."

The great economic success stories of Asia in the 1960's are found in countries like the Republic of Korea, Japan, Nationalist China, Thailand, Hong Kong, and Malaysia. These countries, in the 10 years ending in 1968, have all recorded average increases in real output of 6 per cent a year or more. Hong Kong and Japan led the way with average annual growth rates of 10 per cent or higher in this period. South Korea had a very respectable average rate of growth of 7.5 per cent for the entire decade; but for the last five years, after important economic reforms were implemented, Korea's average rate has also been in excess of 10 per cent a year.

Rates of growth of GNP can be misleading, especially in countries where the underlying statistical data are inadequate and of doubtful validity. There are also problems with the proper valuation of output in different countries. The over-valuation of goods of dubious serviceability undoubtedly tends to exaggerate the value of output in the Communist countries. For example, the inferior iron that was produced in the famous backyard blast furnaces of Communist China back in the late 1950's was included in the output totals even though it served no useful purpose.

It is therefore desirable to check the

growth figures of GNP against other records. One useful indicator of underlying growth is the trend of exports, since it measures the ability to compete abroad and thus tests a country's efficiency in keeping up with the standards being set elsewhere.

Professor Ota Sik, the architect of the short-lived economic reform in Czechoslovakia, called attention to the fact that Communist economies have great difficulty in meeting the test of economic efficiency posed by exports. As he put it: "On the foreign markets, Czechoslovak production is absolutely unable to adjust to changes in demand." This difficulty has in practice been compounded by production of shoddy quality, poor pricing, and ineffective marketing.

Applying the export test, we find that the countries in Asia that had high rates of overall economic growth in the 1958–68 period, also did very well in expanding their exports. The Republic of Korea recorded a phenomenal increase in exports, averaging 40 per cent a year over the decade. Next came Nationalist China, with an annual rate of export growth of nearly 19 per cent, followed by Japan with a rate of over 16 per cent and Hong Kong with 13 per cent.

There are fascinating stories behind these statistics. The amazing record of Korea in expanding exports from almost nothing a decade ago to over $600 million last year is a modern miracle. I am also impressed by the fact that tiny Hong Kong, with a population of only 4 million, exported about as much in 1969 as all of India.

The export experience of South Korea illustrates how difficult it is for any economist, no matter how farsighted he may be, to chart the future course of a nation's development. In 1969, two of the largest export earners of the Republic of Korea were plywood and wigs—items that were not even listed in the export statistics of 1958. It would have taken an inspired prophet to foresee a decade ago the role that these goods would come to play in providing foreign exchange resources to Korea.

One of the great virtues of a free economy is that it permits the development of the unexpected. Given proper incentives, the private entrepreneurs of South Korea found many new uses for labor, utilizing raw materials, such as wood, that had to be imported from distant lands. There were failures as well as successes, but the end result has been a rapid development of production and exports that had not been previously dreamed of, much less planned.

The lesson behind Korea's experience is an old one. Where men are given the opportunity and incentives to make and sell the products of their labor in free markets, they will tend to act in ways that increase productive efficiency and thereby raise the living standards of the country as a whole. To be sure, freedom of entrepreneurs, workers, and consumers to make their own decisions is by no means the sole determinant of how well a country will perform economically. A nation must also pursue sound monetary, fiscal, and trade policies in order to achieve the economic growth of which it is capable. But there cannot be the slightest doubt, in view of the experience accumulated over centuries, that free and competitive markets are a major determinant of economic growth and widespread prosperity.

It is no accident that the Asian countries that experienced the slowest rates of growth in 1958–68 were also the countries that leaned most heavily on centralized economic controls. The countries at the bottom of the scale in terms of growth of real GNP include Ceylon, Burma, India, and Indonesia. Each of these countries has experimented extensively with government ownership or control over economic activities.

Burma in particular has gone far toward economic authoritarianism. Its government has exercised far-reaching controls over production, trade, and finance, with the result that both production and distribution have been hampered. The output of Burma's main crop, rice, has been adversely affected by pricing policies that have denied producers adequate incentives. Over the past decade, neighboring Thailand has increased rice exports by 28 percent, while Burma's exports of rice have fallen nearly two-thirds. The result is that Burma's total exports are now running at less than half the 1963 level. The ability to import has fallen correspondingly, and the Burmese people have found it increasingly difficult to buy consumer goods that are found in abundance in neighboring countries.

Indonesia under President Sukarno followed economic policies that were in some respects more harmful than those of Burma. In addition to establishing stifling controls over production and trade, Sukarno's government borrowed heavily abroad, largely to build up a military machine, but partly also to finance ambitious projects that in the end yielded little or no economic return. The productive capital of the country was therefore badly eroded, exports fell sharply, living standards declined, and the country found itself saddled with huge foreign debts and with diminished ability to produce the exports needed to service the debt. Fortunately, Indonesia is now in process of liberalizing her economy and dismantling the pervasive regulations that were imposed on her economic structure. However, the country will require many years to recuperate from the damage wrought by the Sukarno policies.

The adverse impact of authoritarian economic policies has also been felt in India, though to a much lesser degree than in either Burma or Indonesia. India over the past decade and a half has emphasized strong centralized control over investment, backed by extensive restrictions on imports and foreign exchange expenditures. Fortunately, there is a growing recognition in India that mistakes large enough to retard significantly the rate of economic growth have been made. The earlier decision to emphasize heavy industry at the expense of light industry and agriculture are now being questioned. The low rates of return on many government industrial investments have also raised serious doubts both about the original decisions and the management of the resulting public enterprises. The failure to provide incentives to exports has left India lagging far behind many other countries, and has contributed to balance-of-payments difficulties which necessitated ever tighter import restrictions. As a result, India has passed through a difficult period during which many of her industrial enterprises were deprived of the supplies and equipment required to keep operating at reasonable rates.

Division of labor, territorial specialization, freedom of trade, and decentralization of economic decision-making—these were key elements in the thinking of the founder of classical economics, Adam Smith. It is gratifying to see that the practical statesmen of the world are gradually rediscovering these essential truths. In this rediscovery of truth, we owe a great deal to countries like the Republic of Korea, Japan, Nationalist China, Hong Kong, and Thailand that have most recently demonstrated how men operating in free markets can outperform authoritarianism in the economic contest.

I see in the economic experience of both the countries that have lately succeeded and those that have failed a basis for optimism about the future. What has gone wrong, after all, is not something immutable. As the case of South Korea shows, a country can change its future by changing its policies. The countries that have lagged in the economic contest have the opportunity to learn from experience and to alter their course.

The desire for economic development is a strong force in the modern world, and it deserves every encouragement. I have concentrated today on the economic framework that is conducive to rational economic growth and on the policies that are within the control of the developing countries themselves. These are of vital importance.

However, I am not unmindful of the responsibilities that fall on the large industrialized countries, including my own, to help the development process. We have, at times, overestimated our potential contribution. There has been a tendency at times to think that external technical assistance, or external capital, could of itself provide sufficient impetus to generate rapid growth all over the world. We now appreciate that the solutions are more complex. Nevertheless, technical assistance, capital flows, whether governmental or private, and liberal trade policies on the part of the industrialized countries can contribute significantly to the process of economic development. It is by no means clear that the rich industrial countries are doing all that they might along these lines.

And yet I think that the export of technology and management is by far the most important contribution that the industrialized countries can make to the developing nations. The world has never known a period in which the technical means for increasing man's productive capacity have been so readily available. The countries that will profit most from these favorable conditions are those that eschew authoritarianism, that base their economic policies on the moral concept that men can better themselves most effectively by practicing free and competitive enterprise, and at the same time pursue overall monetary and fiscal policies that guard the nation against possible ravages of both recession and inflation.

THE INCLUSION OF PUBLIC SAFETY OFFICERS IN THE FEDERAL EMPLOYEE COMPENSATION ACT

(Mr. QUILLEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. QUILLEN. Mr. Speaker, all law enforcement officers and firemen are entitled to be compensated by the Federal Government if they are injured in the line of duty, and their families are entitled to benefits if they are killed on the job.

I have a bill now pending in the House Judiciary Committee which would provide these benefits, without Government control, and I see it as an all-important piece of legislation.

Federal benefits are currently available to the survivors of public safety officers who are killed while seeking to apprehend a Federal felon or while enforcing a Federal statute.

However, in my opinion the present statute on this subject is not broad enough. My bill would solve this problem inasmuch as it would provide blanket coverage to law enforcement officers and firemen regardless of whether they were injured or killed in the line of duty while enforcing a Federal law.

The benefits which accrue to the survivors of individuals covered under the Federal Employee Compensation Act are as follows:

To a widow with no dependents, 45 percent of basic salary;

To a widow with dependents, 40 percent of basic salary with an additional 15 percent for each dependent up to a maximum of 75 percent; and

To a public safety officer fully disabled in the line of duty, two-thirds of his basic salary.

In the last 5 years, over 500 local law enforcement officers and over 300 firefighters have been killed in the line of duty.

We are a nation of travelers. The criminal who shoots a policeman or sets a fire that injures a fireman in Kingsport might have just arrived from Louisville. On the other hand, a victim who is protected by Johnson City police might just be passing through from Atlanta.

In short, when a public officer dies for law and order, he is dying for America; and I believe the American Government has a responsibiilty to help compensate, because no one can say where it might happen next.

With the passage of the Omnibus Crime Control and Safe Streets Act of 1968, Congress recognized that crime is a problem which is national in scope. With the passage of this legislation, Congress determined that it is a legitimate function of the Federal Government to aid State and local governments in the fight against crime. I find it most cruel, however, that the Federal Government should see fit to aid State and local governments in the fight against crime, but should a public safety officer fall in that fight, his widow and children are left to fend for themselves.

The Federal benefits paid are reduced by the amount of State and local benefits received.

I strongly urge that my bill be reported out of the Judiciary Committee, and enacted into law as quickly as possible.

IS THE HOUSE A RUBBERSTAMP?

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, last week, when the House refused debate on the Cooper-Church amendment, I said that, in so doing, "the House demeans itself and demeans the American system of government."

The New York Times, in an editorial published this past Saturday, agreed, saying that "This irresponsible performance throws into question the competence of the lower chamber, at least under its present rules and leadership, to assume the constitutional responsibilities that sponsors of Cooper-Church are trying to restore to Congress."

I would like at this point to include the full text of the Times editorial:

IS THE HOUSE A RUBBER STAMP?

Efforts to reassert the authority of Congress in vital decisions concerning war and peace have in the last few days received a double blow in the House of Representatives.

By rejecting, in a procedural vote, the Cooper-Church amendment restricting the President's authority to undertake unilateral military actions in Cambodia, the House has reduced the chances for inclusion of the amendment in the Foreign Military Sales Act.

Even more serious than this rejection, which at least is not final, is the method by which it was achieved. Through high-handed parliamentary tactics, the Old Guard conservative leadership of both parties was able to force this critical national issue to a vote without even a minimum of debate.

This irresponsible performance throws into question the competence of the lower chamber, at least under its present rules and leadership, to assume the constitutional responsibilities that the sponsors of Cooper-Church are trying to restore to Congress. The majority of House members and their leaders apparently would rather pass the buck to the President for hard decisions affecting the lives and fortunes of their constituents. By doing so, they help reduce one of the world's great legislative bodies to a rubber stamp, a role that certainly was not envisioned by the creators of the American system of checks and balances.

Fortunately the Senate, which deliberated for seven weeks before adopting the Cooper-Church proposal, is more mindful of its obligations and more jealous of its prerogatives. Senate champions of the amendment may yet prevail in conference where they are in a position to block the military sales act altogether if the Administration does not move to accommodate their legitimate demands.

The Senate again demonstrated its determination to revive eroded powers yesterday when it voted overwhelmingly for a second time to repeal the 1964 Tonkin Gulf Resolution. The House could enhance its own self-respect by proceeding now to eradicate this ill-advised delegation of Congressional authority.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a Nation. Although the United States has 7 percent of the world's land area and 6 percent of its population, it produces one-third of all the goods and services in the world.

FACTFINDING MISSION TO SOUTHEAST ASIA

(Mr. ANDERSON of Tennessee asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON of Tennessee. Mr. Speaker, I submit two documents resulting from my recent participation in the trip to Southeast Asia by the House Select Committee on U.S. Involvement in Southeast Asia.

The first is a concurrent resolution relating to the treatment and exchange of military and civilian prisoners in Vietnam. I introduced this resolution today with the distinguished gentleman from California, cosponsoring.

The second document is a letter to the President.

The resolution and document follows:

CONCURRENT RESOLUTION

RELATING TO TREATMENT AND EXCHANGE OF MILITARY AND CIVILIAN PRISONERS IN VIETNAM

Whereas members of the House Select Committee on United States Involvement in Southeast Asia have observed and reported cruel and inhumane treatment of civilian political prisoners in a tiger cage area at Con Son National Prison in South Vietnam and widespread malnutrition and disease throughout that prison; and

Whereas similar or more severe conditions of treatment may exist at other sections of Con Son National Prison and at other national prisons administered by the Government of South Vietnam; and

Whereas the United States through the United States Agency for International Development has become involved in the South Vietnamese National Prison System through the services of United States advisory personnel and the spending of several millions of dollars in an effort to improve that system; and

Whereas the United States Agency for International Development having negligently failed to take within its sphere of observation and attention areas such as the tiger cages where cruel and inhumane treatment of prisoners exists; and

Whereas the Chairman of the Interior Committee of the lower house of the South Vietnamese Assembly estimates that thousands of Vietnamese civilians are being held in prison without trial; and

Whereas a 1968 administrative decree of the Government of South Vietnam known as An Tri permits a citizen to be held for two years without trial and provides for renewals of periods of pre-trial confinement; and

Whereas such system of justice is certain to result in confinement of innocent non-communist persons and to otherwise be counterproductive of achieving self-determination of government in South Vietnam and peace throughout Vietnam; and

Whereas more than 385,000 Americans have been killed, maimed or otherwise wounded, and the United States has devoted a vast quantity of its material resources to help achieve and sustain self-determination of government in South Vietnam and peace throughout Vietnam; and

Whereas the United States has spent abundantly of its resources and has otherwise taken all requisite steps to assure with certainty that prisoners of war camps in South Vietnam are models of the conditions of treatment specified in the Geneva Convention of 1949 and has insisted that such camps be freely open to independent international inspection; and

Whereas the Government of North Vietnam and its allies have steadfastly refused to permit impartial inspections of prisoner of war facilities in which American prisoners of war are held: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress (1) condemns the cruel and inhumane treatment and conditions of confinement of large numbers of political prisoners held in South Vietnam; (2) urges the Government of South Vietnam immediately to (A) cease cruel and inhumane treatment of prisoners, (B) take all steps practical to adequately cope with widespread malnutrition and disease within its civilian prisons, (C) reexamine and reform its system and practice of justice, (D) bring all prisoners, political and otherwise, who have not been tried to a prompt and fair trial, and (E) release the innocent, including those whose only offenses have been to peaceably speak out against the current Government of South Vietnam and in behalf of peace in Vietnam; (3) characterizes the civilian prison assistance program carried out in South Vietnam by the United States Agency for International Development as (A) ineffectual, (B) counterproductive of the goals the United States seeks in Southeast Asia, and (C) in need of immediate investigation; (4) urges the President to initiate promptly and diligently through all available channels such action as may be necessary to (A) impress upon the Government of South Vietnam that the United States does not and will not condone cruel and inhumane treatment of prisoners nor the system of justice being carried out under the 1968 An Tri administrative decree and that satisfactory and early resolution of these matters will be a strong factor in the determination of future U.S. assistance to that government, (B) create emergency task forces to aid the Government of South Vietnam to meet the crucial need for better living facilities for large numbers of civilian prisoners, and the dietary and health care needs of thousands of civilian prisoners, (C) cause prisons containing political prisoners in South Vietnam to be open, no areas containing prisoners excluded, to impartial inspections by an appropriate independent international body, (D) emphasize to the Government of North Vietnam the foregoing action as additional clear proof of the concern of the United States for humane and fair treatment of all prisoners, (E) reiterate the demand that the Government of North Vietnam similarly demonstrate its concern by immediately conforming to all tenets of the Geneva Convention of 1949, which that government signed in 1958, relative to the treatment of American and allied prisoners of war, including provisions for immediate impartial international inspection of all prisoner of war facilities, humane care, attendance to dietary and health care needs, free exchange of mail and packages between families and prisoners, and the prompt exchange of American and allied prisoners of war held by North Vietnam and its allies with prisoners of war held in South Vietnam with priority of release given to sick or injured prisoners and those who have endured long periods of confinement.

JULY 13, 1970.

THE PRESIDENT,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: It is with urgent concern for the immediate and long range destiny of our nation, and with a compassionate understanding of the profound problems of our society, that I seek, with this communication, your personal, active interest in the report of the House of Representatives by the Select Committee on United States Involvement in Southeast Asia.

It is imperative that this report be analyzed in depth for what it does not say, as well as for what it does say. The report achieves less than its proper significance unless the supplementary points of view by members of the Select Committee are evaluated in the light of domestic dissent and the major issues in America circa 1970.

This Select Committee report must be understood in two dimensions: (a) it introduces an instant problem of the prison conditions exposed on the island of Con Son, and (b) it reexamines conditions in Southeast Asia and encourages new thinking about our military presence there.

Because the Con Son prison problem is so urgent, it is discussed first.

It will occur to you, Mr. President, that the prison conditions on the island of Con Son that have been well covered by local and national media, are conspicuously inhumane. The Tiger Cage imprisonment of human beings and the savage mistreatment of these prisoners are outrageous contradictions to the minimal standards of political decency we, as a free American people, should establish as a condition of our aid and friendship to any nation.

These several comments by my colleague on the Select Committee, The Honorable Augustus F. Hawkins, printed in the Congressional Record, are his attempt to describe the Tiger Cage compound at Con Son Prison:

"The Tiger Cages are cells approximately five feet wide and ten feet long. Five persons are crowded into this space surrounded by cement walls and floors on which inmates sleep. About a foot off the floor is an iron rod to which the legs of the inmates are shackled. Lying in this position for years causes a paralysis of the legs.

"Occupants are fed a small portion of rice and few dried fish, often molded, and always an inadequate amount of water which forces the prisoners through exhaustion to drink their urine.

"At the top of the cages are kept boxes of lime which is sprinkled into the cages to quiet any noise or disturbance. More often, however, those who protest against their treatment are beaten by trusties who thereby earn special privileges.

"In opposition to prison officials, we used the walkway atop the cages to interview various prisoners. Among them were several students, a Buddhist monk, and an elderly woman 60 years of age who was blinded from beatings. None we interviewed had criminal records but generally had been imprisoned, often without judicial trial, merely for participating in peace demonstrations. Although many were sick, medical care was practically non-existent. The only merciful thing observed was a separation of men and women."

Based on my own visual observations and conversations, through our interpreter, I feel Congressman Hawkin's observations do not deal with exaggerations. Indeed, to the contrary of exaggeration, the Congressman from California controlled his emotions admirably and related the conditions with restraint.

Your long dedication to American concepts of justice and charity, Mr. President, encourages me to make this urgent appeal for your immediate intercession in behalf of the prisoners and their families by dispatching within 48 hours appropriate teams of Americans who can prevent further degradation and death of these prisoners. My suggestion of 48 hours expediency is not casually submitted; it reflects my fear for the lives of some of the prisoners and the high potential for ruthless retaliation against the prisoners and their families.

These teams should be prepared to operate in these three areas:

A. Physical welfare of prisoners: Medical doctors and nutritional experts must deal with the instant problem of survival. It is necessary to establish a high priority system to supply medical and nutritional needs for this medical missionary force. It is my confident expectation that qualified volunteers for this mercy mission will come forth immediately from the ranks of the medical and public health community in the United States.

B. Prevention of retaliation: Five South Vietnamese youth, students or former prisoners in Con Son, who courageously brought this matter to the attention of the Select Committee in Saigon should be presumed to be in imminent danger of political retaliation in the form of beatings, imprisonment or death. Such reprisal action must be prevented. A special task force should be established to assure these Vietnamese youth, the prisoners and their families, that they will be protected from further political harassment or physical oppression. Indeed, once established, this group might concern itself with preventing any backlash against any of the South Vietnamese citizens who cooperated with the Select Committee. Their attention is specifically called to the prison guard on Con Son who, perhaps as a mistake, opened the door to the restricted passage into the Tiger Cage area.

C. Judicial committee: The prisoners in the Tiger Cages with whom Congressman Hawkins and I talked indicated to us that they are guilty of no greater social offense than participating in peace demonstrations not unlike those we've seen recently in America. That many are inhumanely imprisoned, without trial, or any semblance of due process, is to be deplored and corrected. A task force to examine their complaints is urgently needed if elementary justice is to prevail. I recall one young girl interviewed from the top of her Tiger Cage who had been imprisoned for many months, and has no idea of how long her imprisonment will continue (she has not been charged, nor tried, nor sentenced), who told me she merely stopped out of curiosity to watch a demonstration for peace and was arrested. If some hard core criminals are intermingled with the peace seeking political prisoners, this judicial task force should be concerned with their separation from the political prisoners but be sure that humane custodial conditions are provided even for the criminals.

With all the non-partisan loyalty that I can muster, Mr. President, I join you in seeking, worldwide, an environment of peace in which our heritage of liberty and justice, which we cherish so highly, can be a viable promise to deprived people everywhere. I make this personal appeal to you to apply all the power and prestige of your office of the Presidency of the United States—and with all the urgency that this outrageous prison requires—to see that these three task forces are dispatched forthwith.

The same powers that enable our military presence in South Vietnam will also enable our merciful and charitable presence in this relief of the Con Son prisoners. It is imperative that this nation, America, through your leadership, respond to the plight of the imprisoned Con Son civilians as did the allies in World War II who gave maximum medical and welfare priority to the civilian prisons of Hitler's Germany. You recall, as I do, the infamous names of Auschwitz, Dachau and Buchenwald. To this list, must we now add Con Son?

If Con Son is to be identified with the terror of these Godless prison camps of earlier shame, let the world know, Mr. President, that all the moral might, all the medical resources, all the righteous indignation of a concerned American citizenry has been directed to corrective action as soon as the abuse has come to our attention.

Every fair minded, moral man and woman all over the world should be outraged at the inability of our nation to acquire reliable information on the status and well-being of American POW's now in custody in North Vietnam. It might occur to the North Vietnamese that the maltreatment of civilian prisoners of the South Vietnamese Government by some warped thought process, justifies their continued silence about American POW's. Let the North take no comfort from the exposure of this scandal in Con Son because we did not see any POW's in this compound. I have reason to believe all the prisoners being discussed are South Vietnamese civilians.

Our concern for the welfare of our own men in POW custody in the North must be matched as nearly as practical by our concern for the welfare of abused prisoners anywhere. As we generate interest in the plight of the Con Son civilian prisoners, we must refortify our zeal to insist that the Geneva Treaty dealing with POW treatment be observed by the Government of North Vietnam as it is in South Vietnam.

So desperate is the plight of these prisoners on Con Son that nothing short of *extraordinary effort* is indicated—and must be exerted.

Although the presence of the three task forces suggested is urgently needed, you may elect to make one earlier response by instantly dispatching a hospital ship to give immediate attention to those prisoners suffering from disease, malnutrition, and inhumane treatment.

Yes, Mr. President, it is that urgent!

You might also consider dispatching a helicopter group to provide transportation of medical personnel and prisoners between ship and prison. Of course, Mr. President, if dispatching a hospital ship from active duty on the coast of South Vietnam inhibits in any way the medical welfare of American personnel or other civilian needs, your discretion must be applied. Other plans to serve the needs of Con Son prisoners are available from the vast medical resources of our military and governmental facilities.

Even as we discuss this deplorable condition, men and women are dying in Con Son Prison. Equally, prisoners and families are also endangered of political retribution which can and must be prevented by immediate action. Although we are a nation that is divided and polarized on many issues at home, one common bond draws all Americans together as a national characteristic: The relief of dismal suffering anywhere, and the pursuit of justice.

In the name of charity and justice, which I know are warm and deep personality traits of our President, I implore you to apply the full power of your office and the effective force of your personal instincts to correcting the evils on the diabolical island of Con Son.

As soon as the emergency action has been executed in the interest of the Con Son Tiger Cage prisoners, Mr. President, it is required that our government become diligently concerned with the overall civilian prison situation in Vietnam. These several additional facts are brought to your personal attention:

A. There may be as many as 1,000 prisoners in Tiger Cages on Con Son alone.

B. There may be several thousand other prisoners (of a reported 41,000 total South Vietnamese prison population) in "Cattle Cage" confinement which, we were informed, are similar to—or worse than—the Tiger Cage, excepting that a larger number of prisoners are enclosed. We are advised the treatment, beatings and starvation diet, are not dissimilar to the Tiger compound, excepting the "Cattle Cages" are more exposed to the raw elements.

C. The Select Committee visited only Con Son, but four other national prisons are in operation. The vulgarity of Con Son conditions makes mandatory a thorough examination of all South Vietnam civilian prisons.

D. The South Vietnamese National Police maintain interrogation centers in each major population center. The youth, who volunteered information at a great personal risk to their safety, also stated that these interrogation centers are the scene of unbelievable brutality wherein advocates of peace are beaten and robbed of all personal dignity.

Although the primary force of my request to you is to eliminate the unjust terror of this island's existence and to examine the entire South Vietnamese civilian prison system, one other effect will be noted here at home.

You are aware, as Congress is aware, of the anguished concern, which borders on despair, of our nation's youth who speak with eloquence and conviction that "the establishment" is not capable of effective response to injustice. Immediate action on Con Son Prison will inject hope in the spirit of our American youth. You can, as President, prove that the American Government is concerned, that we are capable of correcting evil, that America is sensitive to the plight of the oppressed—and we, as a nation, can respond with works of mercy, love and charity in a world so badly in need of these virtues.

Although the gross abuses of Con Son prisoners is a matter of grave public concern—and must be corrected—the presence of such intolerable, inhumane conditions in the government of a nation we seek to preserve in Southeast Asia requires us to examine collateral issues of our involvement.

We must ask again—*and again, and again, and again,* until we find an answer: What are we doing in South Vietnam?

We must ask again: What have we accomplished to date by the application of so much of our national and human resources in this war that has devastated our national prestige at home and abroad?

We must ask: What is our Ambassadorial staff doing in South Vietnam, if it will tolerate, even passively, or through malfeasance, misfeasance or nonfeasance, conditions exposed in this Con Son Prison scandal? Is not the Ambassadorial staff culpable for their unawareness of these conditions, or for their insensitivity to the rights of the peace seeking dissenters among the civilian population?

We must ask: Of what competency is the United States Agency for International Development (AID) if—under their very noses, and with American financial support which is administered by AID—we find prison conditions existing which recall to memory the terror of Dachau, Buchenwald and Auschwitz?

We must ask again the ultimate question: What price will we pay for this inglorious war to protect a government that arrogantly represses civil rights, and defies the minimal standards of human decency?

We have already paid this horrendous cost:

1. More than 40,000 lives of young American men . . . and
2. Hundreds of thousands of war wounded casualties . . . and
3. More than a hundred billion dollars . . . and
4. The risk of destroying our own national economy . . . and
5. A nation dangerously divided on the issue of war and peace.

Can we any longer support the government of Nguyen Van Thieu without some assurances that his government becomes responsive to the people he purports to represent?

It occurred to this member of the House Select Committee on United States Involvement in Southeast Asia, that there are many similarities in the prevailing environment in South Vietnam and the United States.

Among these similarities, these are significant:

A. A large mass—probably the majority—of the citizenry of South Vietnam and the United States—want peace desperately.

B. The plea for peace in both countries is abundant, sincere, and vocal, although in South Vietnam, political repression continues to stifle political dissent.

C. The classic pro forma devices of public demonstrations—sometimes with unplanned violence potential—are becoming as common and aggressive in South Vietnam as they are here at home.

D. The primary motivation for peace in the United States and South Vietnam is well founded in the religious culture of the Judea-Christian-Buddhist ideal and is not, per se, a communist organized movement.

Beyond the voice of the peace groups, still other conditions in Vietnam can be compared with conditions here at home.

For instance: One of the grave problems is inflation. The corrupt black market threatens the economy of their nation. It is no secret that the official rate of exchange is $1.00 for 118 piasters—but the black market yields 350 to 400 piasters for the same American dollar. But worse, no one can tell what percentage of American goods sent to South Vietnam by the tax weary American people for the people of South Vietnam is illegally diverted to the black market arena by corrupt forces at work there.

One of the alarming and always recurring themes disclosed by my interviews with American military personnel, native and American businessmen, editors and press representatives is that American aid never gets down to the people it is intended to serve—the average citizen of Vietnam.

You must be concerned, Mr. President, as Congress is concerned, with the overall implications of these conditions. If the present South Vietnamese Government:

1. Permits an intolerable black market which induces a grave threat to the economic welfare of its people.
2. Permits the divergency of American goods intended for civilian population welfare to the black market.
3. Suppresses political dissent.
4. Perpetuates a savage Tiger Case concentration compound.

Isn't it now time to make a master thrust for peace in the world by retrospectively balancing the cost of our involvement in Southeast Asia, with our accomplishments?

Even if we succeed in withdrawing our troops and complete the "Vietnamization" of the war, will we have created with our military might a government that is as oppressive to its people as it claims its enemy in the North is oppressive?

Therefore, Mr. President, exercising my citizens right to address your high office as a concerned veteran of earlier wars, and as a Representative in Congress I urgently request you to study these additional five proposals:

1. Call for an immediate investigation of the Ambassadorial staff in South Vietnam to determine how the conditions now existing in Con Son Prison could have escaped their attention and their demands for corrective action.
2. Call for an investigation of the United States Agency for International Development (AID) in South Vietnam to determine why and how U.S. dollars have been used to support a prison system that can produce conditions as revolting as those reported in Con Son, and which I witnessed.
3. Cause an examination to be made in South Vietnam as to what extent the civil rights, and the plea for peace by the people, are being suppressed.
4. Insist that the Government of South Vietnam take all effective measures to eliminate the black market in South Vietnam and thereby stabilize their local economy and prevent further suffering by a people who have known only suffering for decades of war.
5. Reexamine our tactics for peace at the Paris Peace Conference and replace our threat of superior military might for the greater, more virtuous, promise of constructive post war aid to North and South Vietnam alike.

This fifth point needs emphasis and elaboration.

The history of our Paris peace talks is a repetition of frustration in which such subjects as the size and shape of a conference table have been burlesque issues that confuse the two basic problems: (a) withdrawal of American troops and (b) national elections.

It seem these talks will be productive of peace if these conditions are offered:

A. Immediate cease fire.

B. Carefully planned, timed and announced complete withdrawal of American troops.

C. Concurrently replace American troops with a United Nations security force to maintain the integrity of the D. M. Zone and the 17th parallel and secure a fail-safe assurance by South and North Vietnamese military forces that they will respect this commitment of separation.

D. In lieu of bombers, bombs and bullets; in lieu of ground, air and sea military apparatus; in lieu of military personnel; let us supply a well trained cadre of television technicians, fully prepared to install public TV transmitters, antenna and receivers, to aid the dissemination of all political points of view from all existing ranges of political thought indiscriminately to all peoples in both the North and South Vietnamese cities and countryside. Let every village and hamlet, every town and city, every family and household be exposed to every facet of political information. Concurrently, the educational needs of every small village should be met by scheduled usage of these TV frequencies and facilities for the cultural advancement of this nation. If American industry can produce weapons of destruction on a war schedule, it can also produce instruments of peace (TV transmitters, antenna and receivers) on a crash schedule. Indeed because American TV has so recently been converted from black and white to color transmission, noncolor equipment may already exist in the United States in sufficient quantity and thereby eliminate the time lag of new production.

E. Conditions to assure free expression by all political elements through frequency allocation and the scheduling to time slots would be worked out by North and South Vietnamese in conference.

F. Arrangements for technical and creative training and experience of North and South Vietnamese personnel using American, French, or English facilities would be worked out in conference.

G. It is imperative that the U.S. Government adopt a complete "hands off" policy after the installation of equipment. We must make no attempt to edit or influence the aired programs.

H. Provide a total TV network system within 12 months. Call for national elections one year after installation of TV network which provides sufficient time for penetration of the entire population with political points of view from all sectors of the combined North and South population groups.

I. Although America must remain inert as a political influence, safeguards must be preestablished to be certain our investment in TV facilities is justified by a workable and mutually agreeable plan of operation by North and South Vietnamese.

J. As a measure of goodwill to replace the might of military force, the American Government could immediately institute a 1970 version of the Marshall Plan to aid the industrial and agricultural redevelopment of the South and the North and should encourage other nations to assist in the plan.

It is reported by the Select Committee on United States Involvement in Southeast Asia that a critical need of South Vietnam is a more favorable balance of export-import ratios. No better market exists than within the geographical confines of their cultural kinship.

As one homogenized nation, the North and South sections of Vietnam are natural suppliers and consumers of their own products. The North is industrial, the South agricultural. Certainly political ideologies separate these people at this time, but these internal political problems must not be, as such, a direct concern of the United States Government. If, after we have built the means to fully inform all the Vietnamese electorate in the form of a national TV network, and if we truly believe in a self-determination as a national political policy, we have no right to further influence elections in Vietnam than we do, let us say, in Belfast, Ireland—or Africa, or South America.

This suggestion for a new tact in our peace approach to North Vietnam, Mr. President, does not confront directly the often discussed domino theory that has been advanced as a justification for our military presence in Vietnam. The domino theory suggests that if communism dominates the Vietnamese people, it will, ipso facto, dominate the greater area including Cambodia, Laos and Thailand. It is submitted that if the domino theory has merit, it is just as logical to think that the domino effect of peace and prosperity will follow the same course.

Once shed of our military involvement in Southeast Asia, America can then go forth with a new national spirit, bred of peace, and face the critical issues that confront us at home—a better economy, higher employment, new schools, new cities, new hospitals, improved law enforcement, new adventures in space—and a direct application of all our inherent goodwill to solve our own minority and poverty problems.

In summation, Mr. President, these are the main two points of the communication:

A. Any government that can produce such conditions as exist in Con Son, and can deny its people minimal civil rights and condone a debilitating black market, is suspect. We must reexamine our involvement in South Vietnam.

B. By energizing the moral force of constructive goodwill and applying it to the entire Southeast Asia area, as a 1970 Marshall Plan concept, we can accomplish with peaceful thrusts that which has been elusive with military might.

The plan which I have tried to enunciate is at best rough cut. If it truly faces reality, which I believe it does, your own capable staff can polish and refine it.

As President, you have my assurance of personal loyalty to any plan that will bring peace to this world and unite the American people to our dream of justice and charity.

It is submitted, Mr. President, that every idea for terminating hostilities in Southeast Asia must be studied and evaluated by the American people at large. Our democracy, you will agree, works best in a glass house in which the electorate is fully informed of all ideas being discussed in Congress or at the Administration level.

For this reason, and so I can be informed of rebuttal argumentation from the electorate and my Congressional colleagues, I am submitting this letter as an additional report of one member of the Select Committee on United States Involvement in Southeast Asia. This communication therefore becomes a public document.

To satisfy many inquiries from members of the press, it is, as a public document, being made available to the press.

I remain convinced, Mr. President, that you and I are working toward a common objective: Peace in Vietnam and thence to the great challenge of reuniting our divided people at home.

Respectfully yours,

WILLIAM R. ANDERSON.

WE CAN SAVE MINNESOTA'S BOUNDARY WATERS CANOE AREA

(Mr. MACGREGOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MACGREGOR. Mr. Speaker, for more than 60 years the boundary waters canoe area in northeastern Minnesota has been planned and preserved in its primitive state. Following a Presidential proclamation in 1909, there began an impressive series of congressional enactments culminating with the Wilderness Act of 1964. Legislative history has amply demonstrated the sense of Congress to be that this area should remain in its primitive condition, protected as one of our most valued natural resources. Yet today when we seek to protect our natural resources, the boundary waters canoe area is facing the loss of its wilderness character due to proposed mining operations. Perhaps nothing poses a more serious threat to this natural resource than mining with its accompanying destruction of trees and pollution of water. Once lost, this resource can never be replaced.

I have therefore today introduced a bill which would authorize and direct the Secretary of the Interior to have the boundary waters canoe area surveyed for mineral values. He would rely on methods other than core drilling. My bill would also prohibit the issuance of permits by the Secretary of Agriculture authorizing mining and mineral exploration within the BWCA during the period of the mineral survey.

Should it be determined that private mineral rights exist within the area, knowledge of the mineral values would enable just compensation to be paid to the owners for governmental condemnation of those rights. In this way we will be able to foreclose the possibility of mining in the area, to deal fairly with private owners, and to protect permanently another of our great natural resources.

NOW IS THE TIME FOR MEANINGFUL REORGANIZATION OF THE CONGRESS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, for too long the most important issues coming before this body have been acted on with little or no debate and often without a recorded vote. Today, we are considering what in effect is one of the most important pieces of legislation before this Congress: The Legislative Reorganization Act of 1970. This bill is so important because it will determine the procedures under which we will vote and thereby shape this decade's legislation. The bill is good as far as it goes, but it does not go far enough. There are six amendments which I am cosponsoring and which I hope will be made part of the bill before it is finally passed by the House. They are commonly known as the "antisecrecy reform" amendments and include the recording of teller votes, the availability of conference reports 3 days in advance of floor consideration, disclosure of record votes in committee, debate time on motions to recommit, and guaranteed debate time on amendments. Surely, the American people have the right to know the positions taken by their representatives in Congress at the critical junctures in the legislative process.

Legislative reform scored an initial victory in obtaining an open rule; let us not lose this opportunity to add the amendments that can make a fundamental change in the legislative process.

Mr. Speaker, I would like to insert in the RECORD an excellent column by Tom Wicker that appeared in Sunday's New York Times which speaks of the much needed modernization of the House rules and in particular of the pathetically undemocratic procedure our anachronistic rules permitted last week when the Cooper-Church amendment was brought up on the floor, and no time was allowed for its discussion. A legislative travesty took place then and will occur time and time again unless some of the proposed amendments are accepted by the House.

Mr. Wicker's column follows:

IN THE NATION: DEMOCRACY IN ACTION

(By Tom Wicker)

WASHINGTON, July 10.—President Nixon had good reason to be "elated," as was reported, when he heard that the House had supported him in preliminary votes on the Cooper-Church amendment to restrict future military operations in Cambodia. But there may have been some side effects that will not be so welcome, to him or to those

Democratic leaders who apparently worked closely with him to achieve the victory.

In the first place, through a series of parliamentary situations apparently resulting from their own ineptitude in conjunction with the dictatorial rules of the House, its leaders managed to conduct the affair so that there was no debate. Even some opponents of the Cooper-Church amendment believe this blackout—even though debate itself would not have changed many votes, if any—may have created some additional support for the amendment among offended members.

If one of the procedural votes taken Thursday is considered to approximate a vote on Cooper-Church itself, the 153 votes for the amendment are the most that House doves have ever recorded in anything. There were also 21 votes for it "paired" and not counted. After the House-Senate conference that now impends, if there is a House roll call directly on the amendment, and if it gets even more than Thursday's total, that would be a rather substantial opposition to the President's position, and on the kind of national security question he can usually dominate in the House.

For another thing, the no-debate debacle in the House on Thursday may have coincidental impact on the most determined reform movement seen in that usually quiescent body in years. The basic reform issue is the undemocratic House rules, and they were seldom more nakedly on display than in the Cooper-Church matter.

Three different parliamentary devices, as well as leadership fumbling, prevented House debate on an issue which the Senate discussed for seven weeks. First, Chairman Thomas E. Morgan of the Foreign Affairs Committee moved routinely to send the military sales bill, to which the Cooper-Church amendment is appended, to a conference with representatives of the Senate; normally that motion is debatable but Mr. Morgan moved the "previous question" immediately and was upheld by the House. He says no one told him that anyone wanted to speak.

Cooper-Church supporters later moved that the House conferees be instructed to accept the amendment—normally a debatable motion. But Representative Wayne Hays of Ohio moved to table a motion that is not debatable, and that carried too. On two other occasions, "unanimous consent" was requested for an hour's debate; naturally, objections were shouted each time. The net result was no debate, although the Democratic leaders insist they had generously intended to permit an hour of talk but couldn't get things straight with Mr. Morgan and Mr. Hays.

Even so, as a recent report by the liberal Democratic study group put it, in the House of Representatives "arbitrary and undemocratic procedures are so much the rule that they are hardly noticed, let alone seriously challenged." But the House's traditional consent to the dictatorship of its rules and its leadership hierarchy has been breaking down in recent years, due to an infusion of impatient young members, to the increasing age and intransigence of the present Democratic leadership, to the dogged efforts of veteran reformers like Representative Richard Bolling of Missouri, and to the faint echoes of change and turbulance that sometimes manage to penetrate even the House chamber from the remote outside world.

STRUGGLE FOR SUCCESSION

When Speaker John W. McCormack announced that he would retire (finally, at the age of 78) after this session, the Democrats began a struggle for the succession—not for the Speakership, which Majority Leader Carl Albert immediately pre-empted, but for Mr. Albert's and lesser leadership posts. With so much reform sentiment in the House, the succession maneuvering is being actively influenced. In the coming week, a first major reform—backed by Mr. Albert, among others—may be effected. To a minor legislative reform bill, an amendment will be offered that would end the practice of nonrecorded voting on most of the major decisions taken on the floor of the House.

The specific issue of secret voting was not involved in the Cooper-Church fracas, but the outcome of the latter was certainly "arbitrary and undemocratic," and another longtime reformer, Representative Frank Thompson of New Jersey, already has sought to link the episode to the secret-vote issue. Expressing himself as "outraged" by the lid placed on the Cooper-Church debate, Mr. Thompson added:

"The antiquated rules of the House of Representatives must be reformed and radically revised. The members of the House must be allowed adequate time to debate and fully explore the vital national problems which face us. More importantly we must be able to vote on these vital substantive questions; and our individual votes should be clearly recorded for our constituents and all the American people to see."

The issue, in short, is rules reform. One form of arbitrary restraint by parliamentary device was on view in the House last week; an even more pernicious and undemocratic practice—secret voting, through the parliamentary anachronism of the committee of the whole—will be at issue this week. The reformers are losing no opportunity to point out that, naturally, the issue will be settled by secret vote.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Pepper (at the request of Mr. Boggs), for today, on account of official business.

Mr. Carey (at the request of Mr. Albert), for today, on account of family illness.

Mr. Fountain (at the request of Mr. Waggonner), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Evins of Tennessee, for 1 hour, on July 15.

Mr. Pucinski, for 60 minutes, today; to revise and extend his remarks and to include extraneous matter.

(The following Members (at the request of Mr. Miller of Ohio) to revise and extend their remarks and include therein extraneous matter:)

Mr. Kuykendall, for 60 minutes, on July 15.

Mr. Hogan, for 5 minutes, today.

(The following Members (at the request of Mr. Anderson of Tennessee), to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 10 minutes, today.

Mr. Cohelan, for 10 minutes, today.

Mr. O'Hara, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gross during the consideration of the conference report on S. 3215.

(The following Members (at the request of Mr. Miller of Ohio) and to include extraneous matter:)

Mr. Langen.

Mr. Scherle in five instances.

Mr. Steiger of Wisconsin in two instances.

Mr. Pettis.

Mr. Springer in two instances.

Mr. Duncan in two instances.

Mr. Rhodes in five instances.

Mr. Bray in two instances.

Mr. Zwach in two instances.

Mr. Widnall.

Mr. Collier in five instances.

Mr. McDade.

Mr. Ashbrook in two instances.

Mr. Ruth in five instances.

Mr. Meskill.

Mr. Conte.

Mr. Michel in two instances.

Mr. Price of Texas in two instances.

Mr. Coughlin.

Mr. Conable.

Mr. Dellenback.

Mr. Findley in two instances.

Mr. Robison.

Mr. Córdova.

(The following Members (at the request of Mr. Anderson of Tennessee) and to include extraneous material:)

Mr. Ryan in four instances.

Mr. Gonzalez in two instances.

Mr. Wolff.

Mr. Bingham in three instances.

Mr. Cohelan in five instances.

Mr. O'Neill of Massachusetts in two instances.

Mr. Rodino in three instances.

Mr. Fraser in two instances.

Mr. Mahon.

Mr. Hathaway.

Mr. Johnson of California in five instances.

Mr. Hungate in two instances.

Mr. O'Hara.

Mr. Boggs.

Mr. Olsen in two instances.

Mr. Hawkins in two instances.

Mr. Matsunaga.

Mr. Purcell.

Mr. Long of Maryland.

Mr. Pucinski in six instances.

Mr. Gaydos in five instances.

Mr. Rooney of New York.

SENATE BILLS, JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills, joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 583. An act to provide for the flying of the American flag over the remains of the U.S.S. *Utah* in honor of the heroic men who were entombed in her hull on December 7, 1941; to the Committee on Armed Services.

S. 2565. An act to amend the act fixing the boundary of Everglades National Park, Fla., and authorizing the acquisition of land therein, in order to increase the authorization for such acquisitions; to the Committee on Interior and Insular Affairs.

S. 2808. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Minot extension of the Garrison diversion unit of the Missouri River Basin project in North Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3302. An act to amend the Defense Production Act of 1950, and for other purposes; to the Committee on Banking and Currency.

S. 3617. An act to amend the Marine Resources and Engineering Development Act of 1966 to continue the National Council on Marine Resources and Engineering Development; to the Committee on Merchant Marine and Fisheries.

S.J. Res. 173. Joint resolution authorizing a grant to defray a portion of the cost of expanding the United Nations headquarters in the United States; to the Committee on Foreign Affairs.

S. Con. Res. 64. Concurrent resolution to terminate the joint resolution commonly known as the Gulf of Tonkin resolution; to the Committee on Foreign Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3430. An act to amend the Peace Corps Act to authorize additional appropriations, and for the other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on July 10, 1970 present to the President, for his approval, a bill of the House of the following title:

H.R. 2036. To remove a cloud on the titles of certain property located in Malin, Oreg.

ADJOURNMENT

Mr. SMITH of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 49 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 14, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2207. A letter from the Acting Secretary of the Army, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the Secretary of a military department to adjust the legislative jurisdiction exercised by the United States over lands or interests under his control; to the Committee on Armed Services.

2208. A letter from the Secretary of Housing and Urban Development, transmitting a report on the availability of crime insurance and surety bonds in urban areas, pursuant to section 1235 of the National Housing Act, as amended; to the Committee on Banking and Currency.

2209. A letter from the Administrator, Small Business Administration, transmitting the agency's 1969 annual report, pursuant to law; to the Committee on Banking and Currency.

2210. A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation to provide for the disposition of funds appropriated to pay judgments in favor of the Snohomish Tribe in Indian Claims Commission docket No. 125, the Upper Skagit Tribe in Indian Claims Commission docket No. 92, and the Snoqualmie and Skykomish Tribes in Indian Claims Commission docket No. 93, and for other purposes; to the Committee on Interior and Insular Affairs.

2211. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed amendment to a concession contract for the operation of golf courses and the provision of related facilities and services for the public within the Washington, D.C., metropolitan area for a term of 1 year from January 1 through December 31, 1970, pursuant to 67 Stat. 271; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on July 9, 1970, the following reports were filed on July 10, 1970*]

Mr. PERKINS: Committee of conference. Conference report on S. 3215 (Rept. No. 91–1292). Ordered to be printed.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 17146. A bill supplemental to the act of February 9, 1821, incorporating the Columbian College, now known as the George Washington University, in the District of Columbia and the acts amendatory or supplemental thereof; with an amendment (Rept. No. 91–1293). Referred to the Committee of the Whole House.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 18086. A bill to authorize the Commissioner of the District of Columbia to sell or exchange certain real property owned by the District in Prince William County, Va. without amendment (Rept. No. 91–1294). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted July 13, 1970*]

Mr. POAGE: Committee on Agriculture. H.R. 11953. A bill to amend section 205 of the act of September 21, 1944 (58 Stat. 736), as amended. (Rept. No. 91–1295). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. S. 2484. An act to amend the Agricultural Marketing Agreement Act of 1937 to authorize marketing agreements providing for the advertising of papayas. (Rept. No. 91–1296*). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 17570. A bill to amend title IX of the Public Health Service Act so as to extend and improve the existing program relating to education, research, training, and demonstrations in the fields of heart disease, cancer, stroke, and other major diseases and conditions, and for other purposes; with amendments (Rept. No. 91–1297). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on conference. Conference report on H.R. 16595. (Rept. No. 91–1298). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WILLIAM D. FORD (for himself, Mr. UDALL, Mr. BUTTON, Mr. CLAY, Mr. DENT, Mr. ESCH, Mr. HAWKINS, and Mr. OLSEN):

H.R. 18419. A bill to amend the Department of Defense Overseas Teachers Pay and Personnel Practices Act with respect to the giving of credit to new teachers for prior experience; to the Committee on Post Office and Civil Service.

By Mr. FULTON of Pennsylvania:

H.R. 18420. A bill to amend title 10 of the United States Code so as to permit members of the Reserves and the National Guard to receive retired pay at age 55 for nonregular service under chapter 67 of that title; to the Committee on Armed Services.

By Mr. KYROS:

H.R. 18421. A bill to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft; to the Committee on Merchant Marine and Fisheries.

H.R. 18422. A bill to amend the National Environmental Policy Act of 1969, to provide for a Coordinated National Environmental Data System; to the Committee on Merchant Marine and Fisheries.

H.R. 18423. A bill to amend section 4182 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. PATMAN:

H.R. 18424. A bill to create the National Credit Union Bank to encourage the flow of credit to urban and rural areas in order to provide the residents thereof with greater access to consumer credit at reasonable interest rates; to amend the Federal Credit Union Act, and for other purposes; to the Committee on Banking and Currency.

By Mr. RODINO (for himself, Mr. WYMAN, Mr. YATRON, Mr. ZION, Mr. BURKE of Massachusetts, Mr. EDWARDS of California, Mr. ICHORD, Mr. KYROS, and Mr. TUNNEY):

H.R. 18425. A bill to amend section 620 of the Foreign Assistance Act of 1961 to suspend, in whole or in part, economic and military assistance and certain sales to any country which fails to take appropriate steps to prevent narcotic drugs produced or processed, in whole or in part, in such country from entering the United States unlawfully, and for other purposes; to the Committee on Foreign Affairs.

By Mr. RYAN:

H.R. 18426. A bill to authorize special appropriations for training teachers for bilingual education programs; to the Committee on Education and Labor.

H.R. 18427. A bill to carry out the recommendations of the Presidential Task Force on Women's Rights and Responsibilities, and for other purposes; to the Committee on the Judiciary.

By Mr. SIKES:

H.R. 18428. A bill to amend the act of October 14, 1966, to extend the fisheries zone of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. UDALL (for himself, Mr. HARRINGTON, Mr. FRIEDEL, Mr. MIKVA, Mr. EDWARDS of California, Mr. FLOOD, Mr. KOCH, Mr. RYAN, Mr. FARBSTEIN, Mr. FISH, Mr. BRADEMAS, Mr. VANIK, Mr. BURTON of California, Mr. HUNGATE, and Mr. REES):

H.R. 18429. A bill to promote and protect the free flow of interstate commerce without unreasonable damage to the environment; to assure that activities which affect interstate commerce will not unreasonably injure environmental rights; to provide a right of action for relief for protection of the environment from unreasonable infringement by activities which affect interstate commerce and to establish the right of all citizens to the protection, preservation, and enhancement of the environment; to the Committee on the Judiciary.

By Mr. UDALL (for himself, Mr. HECHLER of West Virginia, Mr. LEGGETT, Mr. OTTINGER, Mr. CHARLES H. WILSON, Mr. TUNNEY, Mr. BROWN of California, Mr. PODELL, Mr. GALLAGHER, Mr. TIERNAN, Mr. SCHEUER, Mr. HOWARD, Mr. HALPERN, and Mr. BINGHAM):

H.R. 18430. A bill to promote and protect the free flow of interstate commerce without unreasonable damage to the environment; to assure that activities which affect interstate commerce will not unreasonably injure environmental rights; to provide a right of action for relief for protection of the environment from unreasonable infringement by activities which affect interstate commerce and to establish the right of all citizens to the protection, preservation, and enhancement of the environment; to the Committee on the Judiciary.

By Mr. CHARLES H. WILSON (for himself and Mr. CLAY):

H.R. 18431. A bill to provide for drug abuse and drug dependency prevention, treatment and rehabilitation; to the Committee on Interstate and Foreign Commerce.

By Mr. BURTON of UTAH:

H.R. 18432. A bill to preserve and stabilize the domestic gold mining industry on public, Indian, and other lands within the United States and to increase the domestic production of gold to meet the needs of industry and national defense; to the Committee on Interior and Insular Affairs.

By Mr. HOGAN:

H.R. 18433. A bill to provide for drug abuse and drug dependency prevention, treatment and rehabilitation; to the Committee on Interstate and Foreign Commerce.

By Mr. MACDONALD of Massachusetts (for himself, Mr. VAN DEERLIN, Mr. ROONEY of Pennsylvania, Mr. OTTINGER, Mr. TIERNAN, Mr. BROYHILL of North Carolina, Mr. HARVEY, Mr. BROTZMAN, and Mr. BROWN of Ohio):

H.R. 18434. A bill to revise the provisions of the Communications Act of 1934 which relate to political broadcasting; to the Committee on Interstate and Foreign Commerce.

By Mr. MACGREGOR:

H.R. 18435. A bill to require that a survey of the mineral values of the Boundary Waters Canoe Area, Minn., be undertaken within a certain time; and for other purposes; to the Committee on Interior and Insular Affairs.

the Committee on Interior and Insular

By Mr. MONTGOMERY:

H.R. 18436. A bill to provide that the Secretary of the Interior shall convey reserved mineral interests of the United States in certain land located in the State of Mississippi to the record owners of the surface rights; to the Committee on Interior and Insular Affairs.

By Mr. STEIGER of Arizona:

H.R. 18437. A bill to amend section 7275 of the Internal Revenue Code of 1954 to provide that airline tickets and advertising which are required to show or state the total cost shall also show or state the amount paid for transportation and the amount of tax; to the Committee on Ways and Means.

By Mr. ULLMAN:

H.R. 18438. A bill to authorize the Secretary of the Interior to engage in a feasibility investigation relative to the Upper John Day project, on the John Day River; to the Committee on Interior and Insular Affairs.

By Mr. ANDERSON of Tennessee (for himself and Mr. HAWKINS):

H. Con. Res. 677. Concurrent resolution relating to treatment and exchange of military and civilian prisoners in Vietnam; to the Committee on Foreign Affairs.

By Mr. POLLOCK:

H. Con. Res. 678. Concurrent resolution to request the President to take such steps as may be necessary to secure the agreement of the Republic of Korea that it will adhere to the abstention principle and related conservation provisions as embodied in The International Convention for the High Seas Fisheries of the North Pacific Ocean between the United States, Canada, and Japan, with respect to the north Pacific salmon fisheries; to the Committee on Foreign Affairs.

By Mr. BRADEMAS:

H. Con. Res. 679. Concurrent resolution authorizing the printing of additional copies of "Education in Israel" for use of the Select Subcommittee on Education; to the Committee on House Administration.

By Mr. DANIEL of Virginia:

H. Res. 1134. Resolution to express the sense of the House of Representatives that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

By Mr. HUTCHINSON:

H. Res. 1135. Resolution to express the sense of the House of Representatives that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

By Mr. McKNEALLY:

H. Res. 1136. A resolution to express the sense of the House of Representatives that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

By Mr. PURCELL:

H. Res. 1137. A resolution to create a Select Committee on the Utilization and Development of Rural America; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under Clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PURCELL:

H.R. 18439. A bill for the relief of S. Leon Levy; to the Committee on the Judiciary.

By Mr. O'NEILL of Massachusetts:

H. Res. 1138. A resolution to refer the bill (H.R. 17853) entitled "A bill for the relief of Carlo Bianchi and Company, Incorporated" to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code, as amended; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

420. By the SPEAKER: A memorial of the Senate of the State of California, relative to reevaluation of the Oakland bilingual educational proposal; to the Committee on Education and Labor.

421. Also, a memorial of the Legislature of the State of Louisiana, relative to the advertising of movies which are restricted from viewing by general audiences in conjunction with the showing of movies which are not so restricted; to the Committee on Interstate and Foreign Commerce.

422. Also, a memorial of the Legislature of the State of California, relative to the designation of "National Raisin Week"; to the Committee on the Judiciary.

423. Also, a memorial of the Legislature of the State of Louisiana, relative to amending the Constitution of the United States to provide for the return of a portion of Federal income tax revenues to the States from whose taxpayers they were collected; to the Committee on the Judiciary.

424. Also, a memorial of the Legislature of the State of Louisiana, relative to Federal-State revenue sharing; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

535. By the SPEAKER: Petition of the Tallahassee Women's Republican Club, Tallahassee, Fla., relative to support of the President's efforts in Southeast Asia; to the Committee on Foreign Affairs.

536. Also, petition of the annual convention of the Veterans of World War I of the U.S.A., Department of Massachusetts, relative to the control of subversion, sabotage, and rioting; to the Committee on the Judiciary.

537. Also, petition of Lou Hodger, Grimesland, N.C., relative to appointments to the U.S. Supreme Court and other Federal benches; to the Committee on the Judiciary.

538. Also, petition of Mrs. Roger Tripp, et al., Chocowinity, N.C., relative to appointments to the U.S. Supreme Court and other Federal benches; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

SECRECY IN THE HOUSE

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, this morning's New York Times carried an article by Robert Bendiner which discussed the effort to be made this week to strengthen H.R. 17654.

Because of the importance of the issues raised by Mr. Bendiner I insert his editorial at this point for the information of the House:

SECRET BALLOT MISPLACED

(By Robert Bendiner)

With most other American institutions being subjected to rebellious scrutiny, it was unlikely that certain venerable practices of Congress would long escape critical attention. The improbable vehicle for such examination is one of those Legislative Reorganization bills which periodically allow Congress to study itself in a mirror specially designed to reassure it that, in spite of a few minor flaws, it is still the fairest one of all.

Scheduled to reach the floor of the House this week, the bill is described by an ardent reform advocate as "broad consensus legislation," meaning that there is not much in it. But what sets it apart from other such efforts is that it comes to the floor with an "open rule," one that permits amendments of all sorts in any number. With literally scores of rebels, of both parties and varying degree, lying in wait for just this opportunity, the bill has a fair chance to go through with one or two strengthening amendments to give it real significance.

Since seniority, that classic complaint of reformers, is a party issue rather than a legislative one, the way is left open to deal with Congressional faults that are less often aired. Most serious of these—and just about as harmful as seniority—is the secrecy that is allowed to nibble away at the representative system.

To consider amendments to a bill that has emerged from committee, the House of Representatives generally converts itself into a mythical body called the Committee of the Whole House. The switch allows a smaller quorum and less formal debate—but it also dispenses with roll-call votes, which are the only record the public has of its representatives in action.

BACK TO OLD ENGLAND

The scheme goes back, as many Congressional practices do, to old England, where there was good reason for their origin. In this case fear of the king and his power to behead the Fulbrights of his realm encouraged Parliament to evolve a system of voting that might shield individual members from the royal wrath. When a delicate decision had to be made, the chamber simply became a committee, the Speaker was excluded as a likely royal spy, and votes were taken, without a possibly dangerous calling of the roll.

The English know how to keep outlived traditions in their place, which is to say, among the irrelevant trappings of life, cherished but not allowed to get in the way. As long ago as 1832, when kings had been rendered judicially null and legislatively void, Parliament scrapped its secret voting habits. But Americans, supposedly immune to tradition, go right along with one that keeps them in the dark as to how their Representatives vote on the most crucial aspects of the most crucial issues of their times.

It is perfectly true that the country knows how each Representative votes on the final roll-call, but long before that moment comes, the real nature of the bill has been fixed in the Committee of the Whole. And it has been fixed in comparative secrecy. Who knows whether a man has yelled Yea or Nay in a voice vote? How many of his constituents are present in the balcony to see on which side of a question he stands up when a division is called for? Even on a teller vote, when the members file rapidly down the aisle to be counted, who can identify more than a few from their receding backs?

THE UNRECORDED VOTE

Yet it is in this amending process that a Congressman votes his real inclinations. He may use his unrecorded vote in the Committee of the Whole to emasculate a pollution control bill and then pose as a fighting conservationist when he votes publicly for the final draft as "better than nothing." Or as an economizer, he may secretly support a spendthrift amendment that he favors and then vote publicly against the entire bill, knowing that it will pass anyway.

It is the aim of reform-minded Congressmen, a fair number of them politically conservative, to turn an almost innocuous bill—concerned mostly with better research facilities, the occasional broadcasting of committee hearings, and the like—into a vehicle for letting light into the shadowy corners of the legislative process. Most important of the potential amendments pressed by the liberal Democratic Study Group is one that would require the recording of names on a teller vote. Others would make public the votes taken in committee and reduce the number of executive sessions.

Given strong bipartisan feeling on the subject, there is at least a chance that something will come of the effort. But it must be remembered that anti-secrecy amendments, like others, will have to be considered in the Committee of the Whole, where they may be killed in comparative secrecy—a House rule that might properly be designated as Congressional Catch-22.

MAN'S RELATIONSHIP TO HIS ENVIRONMENT

HON. ALAN CRANSTON

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Monday, July 13, 1970

Mr. **CRANSTON**. Mr. President, although Earth Day occurred about 3 months ago, the questions about man's relationship to his environment which were discussed on that day are still highly relevant.

I would like to bring to the attention of Members of both bodies of Congress the remarks which I made on April 21, 1970.

I ask unanimous consent that my speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SENATOR ALAN CRANSTON'S EARTH DAY SPEECH

It was a great U.S. Senator, Gaylord Nelson of Wisconsin, who provided the first leadership toward Earth Day. He, I, and others are battling to insure that the Senate will provide strong, creative leadership, from inside the "power structure", for the steps needed to restore and save our environment.

There are many Senators who are responding to their own consciences, and to the cry of the country. But that cry must be loud and clear if, together, we are to muster the strength to do what needs doing. That's why you and I, and so many others, are engaging in Earth Day.

I want to make plain, at the outset, my absolute conviction that there is no greater threat to our environment than war. War in all forms—from war like Vietnam to the final catastrophe of nuclear, bacteriological World War III.

We must get out of Indochina. We must get out at once. We must get out far more swiftly than Richard Nixon suggests in his open-ended plan. And we must stay out of World War III.

The threat of environmental disaster to human health, and to the very survival of the human race, may well match the threat of war. And let us not forget that when we talk about the environment we are not talking only about filthy air, polluted water, poisoned food, deafening noise, and the population bomb. We are talking also about rats in the ghetto, slum housing, poor kids without food, shoes, and a decent education. And we are talking about blacks, browns, Indians, and whites too, who are denied opportunity and justice.

What I'm trying to say is this: We must not let the environmental issue become a cop-out on Vietnam, the arms race, and the many social and economic problems of this nation. We need action now on all these fronts—forceful, creative, constructive action. We need you, with your energy, your intelligence, your dedication, to help lead this fight. We don't need only your idealism, as so many people over thirty patronizingly tell you. We need that. But we also need your cold-blooded practicality. A practicality that sees through the hyprocrisy of half measures. A practicality that will not accept the impractical, plodding, mediocre way of doing things that has led our society and all mankind to its present plight.

I trust you are prepared to settle down for a sustained seige, to fight hard, to ring doorbells, to keep the pressure on: on yourselves first of all, then on your school, on the world of business, on the world of consumers and wasters, and finally on the world of politics and government. At City Hall, at the county seat, at Sacramento, and at Washington. The pressure must be on everybody, for the first law of ecology is that everything must be in balance. When one key element of man's society gets out of balance, the whole life cycle is threatened.

Now, at this moment, the nation and indeed much of the world seems awakened and aroused to the environmental threat. There are those, though, who say it is just a fad. And there are those who say, "Then it is the last fad."

I fear that we are destined to see history repeat itself in this way: The civil rights struggle was almost unanimously popular in the North, while it was fought in the South. When it came North it lost its steam. The environmental struggle is almost unanimously popular today, but when the price of purity becomes clear—when the struggle interferes with our life-long habits in business and in our personal lives—it will be another matter. If we then abandon the struggle, it will be lost; and so may we.

We know the basic goals: pure air, water and food—an environment of excellence capable of sustaining life, health, and happiness. We do not know the exact steps, standards, sums, regulations and laws required to achieve those goals. We do not know what it will cost. We do not know if society will be willing to pay the cost. We do not know how much time we have before the damage may become terminal—like a cancer that can't be cured.

I am engaging in a series of sessions with the outstanding experts in the country—scientists, doctors, psychiatrists, academicians—in an effort to find the answers to these questions, and to learn what I can do in the Senate to be most helpful. What I am learning, mostly, is how little even the greatest experts know.

On *air pollution*, for example, 70% of the particulates in the air—tiny, solid particles—have not even been identified. We do not know what they are doing to our health. One renowned, respected doctor says everyone who has lived in Los Angeles for 12 years suffers from lung damage, and may have at least a mild form of emphysema. It is known that as these particulates gather in the atmosphere, shutting off the sun, our climate will change. Scientists are not sure whether the world will turn cold, and head us toward a new ice age, or whether the world will turn into a hothouse, with the polar ice caps melting and the seas rising to flood Los Angeles, New York, and other coastal cities. A recent report by a Washington research group predicts no progress in reducing auto smog in the 1970's. No one really knows what condition we will be in, in that event, in the 1980's.

On *water*, we are aware of the pollutants flooding into our lakes, rivers, and streams, but no one knows how dire the danger. Scientists argue whether Lake Erie is dead. A major Ohio river is officially labeled a fire hazard. Ultimately, the poisons, garbage, and wastes reach the oceans, source of 60% of our oxygen. If they die, do we? No one knows. Will they die? No one is sure.

What about *noise?* One of the world's experts on this form of pollution told me yesterday that the noise energy we are exposed to in America is now doubling every three years. Excessive noise, he said, reduces ability to hear, and shortens life. But, I have been told, deafness can be good for you. It reduces the rising strain of noise on your system, because you simply do not hear it! Jets, all planes, trucks, autos are the worst offenders, but rock and roll bands rank high too. Virtually every policeman in Stockholm has a sound-level meter. The California Highway Patrol has three. Governor Reagan knocked a request for three more out of the budget. They cost $600 each. There is a total absence, today, of adequate research into the physical and psychological effects of noise on humans, let alone adequate planning or provision to get noise under control.

On *population*, there is no consensus in the scientific community on what population size would allow quality living in Los Angeles, California, America, or the world. There are those who believe that the quantity of the population is far less important than the use of space, living patterns, and the use of resources.

There are all these and a thousand more unknowns. Not only are experts uncertain within their own disciplines, but there is an appalling knowledge gap due to the fact that there is no adequate interdisciplinary study of the combined effects of all forms of pollution upon man.

All this leads me to two conclusions. One, we must launch an all-out fact-finding effort to learn everything we can about pollution and its effects, and how to repair environmental damage. But, too, we cannot wait for the answers. We must act now to place immediate controls on obvious sources of pollution: hard pesticides; raw sewage, chemicals, and hard waste dumped into lakes, rivers and oceans; air pollutants; oil drilling in fragile, beautiful places like Santa Barbara Channel. We must develop new ways of recycling waste, creating new fuels, and controlling the birth rate. We must recognize that the endless demand for higher and higher powered autos and faster and faster planes can do us in.

We must see that our emphasis upon gross national product causes a grossness in our national life. .005% of the gross national product was used for improvement of environmental pollution. Some of the things that have been done are: Council of Environmental Advisors; Nelson's Constitutional Amendment; Muskie's Water Pollution tough bill; and Alan Cranston's Santa Barbara oil sanctuary at Point Reyes.

We must face the fact that even internationally there are those who believe we cannot break the pattern of war after war, of poverty and ignorance amidst richness and brilliance, of problems ever vaster and ever more complicated when establishments are ever larger and ever more remote, when there is a steady withering away of the power, the right, the ability of individuals to control events, to master their own fates, to preserve their own liberties, and to save their own environment.

In moments of doubt, I like to think back to a moment of doubt when there were those who were ready to cast aside the vision and the dream of the yet unborn United States of America. There was a time at Philadelphia, at the convention of our founding fathers, when George Washington said, "It is too probable that no plan we propose will be adopted. Perhaps another dreadful conflict is to be sustained, but if to please the people we offer that which we, ourselves disapprove, how can we after defend our work? Let us raise a standard to which the wise and the honest can repair. The event is in the hand of God."

WHAT DOES CAPTIVE NATIONS WEEK REALLY MEAN?

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. GAYDOS. Mr. Speaker, for the past 10 years this Congress annually has set aside the third week in the month of July for the observance of Captive Nations Week. This year that observance is scheduled for July 12–18.

But what is Captive Nations Week? What does it really mean and what has it really accomplished over the past decade? Will it accomplish anything in 1970 or in the years to come?

Captive Nations Week, Mr. Speaker, is a formal announcement by the Government of the United States reaffirming its belief that all men should be free. It is their heritage. For the past 10 years this Nation's official proclamation on Captive Nations Week has been aimed principally at the hundreds of millions of peoples in east-central Europe who, while pinned beneath the heel of Communist rule, still yearn and strive for true liberty. However, there are millions more in other parts of the world who suffer the same fate.

Has 10 years of official proclamations accomplished anything? I believe so, Mr. Speaker. The declaration by the Congress and the President continues to express the solidarity of the American people with their captive brethren. Our citizens are urged to participate in the observance, thereby officially and unofficially publicly informing those people that we, here, have not forgotten their plight. I am convinced this united display is necessary if the leaders for progressive reforms within the Communist-dominated countries are to continue their efforts to win liberty and their basic human right to be free.

We have been told by some that conditions are improving under the Communist rule which exists today in certain nations. I wonder. Does it really make a difference if a man is 80-percent captive instead of 100-percent captive? Or is it merely a choice of the lesser of two evils?

Certainly the peoples of Poland, Hungary, Lithuania, Czechoslovakia, Latvia, Estonia, Rumania, East Germany, Bulgaria, Albania, and others do not want liberty on a percentage basis. We, here in America, have seen evidence of their deep rooted feelings.

We witnessed in 1956 the Polish and Hungarian uprisings and their crushing by armed force on the part of the Communist leaders. Two years ago the world watched the Czechs try to break free of Communist domination and the brutal retaliation by Soviet Russia still is fresh in our memory.

Will the 1970 proclamation on Captive Nations Week bring about any change in the attitude of the Communist leaders? I doubt it. Will there be any change in the next decade? I do not know. I do know this Nation, the United States, can never afford to relax its efforts to expose the Communist leaders and their ruthless suppression of human freedoms to the entire world. We must continue to express our desire that all men of all nations be made free. We can do this through our Captive Nations Week observance and proclamation.

On July 4 Americans observe their own day of freedom. Liberty and justice for all is our heritage. To work and pray for the freedom of all people is the obligation of all Americans and all free peoples.

DEATH OF JOE YARBROUGH CUTS SHORT CAREER OF HUMANITARIAN, EL PASO CIVIC LEADER

HON. RALPH YARBOROUGH

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Monday, July 13, 1970

Mr. YARBOROUGH. Mr. President, I am deeply bereaved to report the sudden death of Mr. Joe C. Yarbrough of El Paso, Tex.

The loss of Mr. Yarbrough was not only the loss of an individual known as a builder and a civic leader, but also the loss of a unique man who had dedicated his life to the philosophy of the primacy of human rights and human welfare. He was a man who lived but 49 years of life but encompassed a century of depth, understanding, and feeling for his fellow man.

Many men have moments of idealism; truly rare men channel their idealism from the ephemeral to the concrete. When theory becomes reality then reality has come to know a leader. It is indeed a rare man and a true leader who at the same time understands the tenderness of children and faces the challenges of directing a progressive university.

It is indeed a rare man and a true leader who at the same time takes on the role of business executive and champions the causes of the working man. Words of adulation are not necessary for this man, for a presentation of his record clearly reveals the multifarious facets of Mr. Yarborough. Allow me to submit his civic, political, and community activities to the RECORD.

In civic organizations, he was a 32d degree mason, a member of Ysletta Lodge 1333, and a member of El Maida Shrine—El Paso Elks Lodge 187.

In politics he has served as a Texas Democratic Committeeman, Democratic precinct chairman, and as a delegate on several occasions, to State and national Democratic conventions.

In the community he was past chairman of the public service board; a member of the hospital district board of directors; a director of Bassett National Bank; a member and past president of El Paso Home Builders Association; a member of the board of trustees of El Paso Junior College; advisory committee member of the University of Texas at El Paso; and served as a member of the board of El Paso Boys Clubs, Coaches of America Inc., El Paso United Fund, El Paso YMCA; and charter president of El Paso Lower Valley Rotary Club.

The loss of Joe C. Yarbrough will be felt by the many citizens he touched in El Paso County and the State of Texas but his loss will be most deeply felt by his exceptional family. Mr. Yarbrough is survived by his wife, Mrs. Louis Yarbrough of El Paso; four daughters, Miss Claudett Yarbrough and Mrs. William F. Brown, both of El Paso and Mrs. Robert Kelly and Mrs. Rodney Delly, both of Austin; two sisters, Mrs. S. C. McElrath, and Mrs. T. L. Hayes; three brothers, Wayne, Roy, and Wilson Yarbrough, and one grandson Joseph Brown, all of El Paso.

It is a loss to any community, any State, and any country when a man of noble causes dies. For those of us who mourn the memory of this man, let us not lose sight of the challenge of his vision.

Mr. President, I ask unanimous consent that the resolution passed by the County Commissioners' Court of El Paso County in tribute to Mr. Joe Yarbrough, an editorial which appeared in the Tuesday, July 7, 1970, issue of the El Paso Times entitled "Joe C. Yarbrough," an article which appeared in the Tuesday, July 7, 1970, issue of the El Paso Herald-Post entitled "Yarbrough Leaves Political Vacancy" by Jane Pemberton, an editorial in the Tuesday, July 7, 1970, issue of the El Paso Herald-Post, an article which appeared in the July 6, 1970, issue of the El Paso Times, and an article which appeared in the Monday, July 6, 1970, issue of the El Paso Herald-Post, be printed in the Remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Resolution by County Commissioners' Court of El Paso County in Tribute to Joe C. Yarbrough

On this day, on motion of Judge Coldwell, seconded by Commissioner Telles, it is the order of the Court that Tuesday, July 7, 1970, be designated "Joe C. Yarbrough Memorial Day" throughout the County of El Paso, and that the following Resolution be adopted and spread upon the Minutes of this Court:

JOE C. YARBROUGH

Joe Yarborough is irreplaceable. In going he has left a void that cannot be filled. No one ever had a better friend than Joe Yarbrough. He was a friend of all people. Condolences should be expressed not only to his family, but to the entire community. He served the City, the County, and the State well.

"He could walk with the crowd, yet keep his Virtue."

"He could talk with Kings, and not lose the common touch."

On motion of Commissioner Telles, seconded by Commissioner Sanchez, it is the further order of the Court that all County employees desiring to attend Mr. Yarbrough's funeral services at 3:00 P.M. on July 7, 1970, be permited to do so.

[From the El Paso (Tex.) Times, July 7, 1970]

Joe C. Yarbrough

In the unexpected death of Joe C. Yarbrough, contractor and builder, El Paso is the loser.

Mr. Yarbrough, a resident of El Paso since 1943, was active in business circles, community affairs and politics. His list of memberships in various organizations was most impressive but in all of these he was known as a worker.

Our deepest sympathy goes to the family of Mr. Yarbrough and to our City and County, where he will be sorely missed.

[From the El Paso (Tex.) Herald-Post, July 2, 1970]

Yarbrough Leaves Political Vacancy

(By Jane Pemberton)

The death of Joe C. Yarbrough not only grieved his many friends throughout the Southwest, but also left a vacant chair in the inner circle of the Democratic Party.

The chair might well be called a "seat of power" because Mr. Yarbrough was one of the most influential men in local political history. He seldom sought the limelight in political battles, but those he backed were frequently winners.

Not only had he served as campaign manager for U.S. Sen. Ralph Yarborough, but the two men were also close personal friends. Recent defeat of the senator in the Democratic primary was a hard blow to his El Paso friend.

Another close friend was County Judge Colbert Coldwell, who left the State Bar convention in San Antonio to fly back to El Paso when he heard Mr. Yarbrough had been stricken with a heart attack. At least three County commissioners could usually be counted on in the Yarbrough corner and anyone wishing entry into County circles often checked with Joe first.

His personal ties also reached into city hall, State government and to Washington, where he was invited to dine in the days of Democratic glory. But much of his power at the polls was in his ability to make friends with grass roots voters. He always had time to help a friend find a job; he loved sports and not infrequently entertained University of Texas at El Paso ball teams by personally cooking steaks on his own grill for them. In political season Mr. Yarbrough often arranged and hosted rallies for his candidates, and at Christmas he had a long gift list.

Despite a glittering list of office holders who called him friend, Mr. Yarbrough himself had held only one political job officially. He was elected Democratic district committeeman two years ago at the state convention, and was openly pleased to have been chosen.

The combination of a man who personally loved politics and was willing to back his choices with hard cash will be a hard man for the Democrats to replace. Most of those who were closest to him were too dispirited today to even think about it.

[From the El Paso (Tex.) Herald-Post, July 7, 1970]

Editor's Corner

(By R. W. Lee)

You don't hear the phrase "self-made man" much anymore, but it applied very well to Joe C. Yarbrough, who died suddenly this past weekend.

Joe came to El Paso 27 years ago and went to work as a laborer for the old Civil Aeronautics Administration. Those were, of course, the war years, and when Joe built himself a home and found he could sell it quickly at a profit he was launched in the building trade.

The postwar building boom came along and Joe rode its crest. He was smart enough to survive the later lag in the home building business and to remain one of the leading businessmen in El Paso.

Now he could have been content with success in his chosen field, but like so many others he went beyond that. The list of community activities in which he engaged was long and varied. He gave time, as well as money, to such things as the United Fund, the Boys Club, the YMCA, the University of Texas at El Paso, the Chamber of Commerce, and a host of other organizations. He got into politics, too, not as an elected public official, but as a mainstay of the Democratic Party locally.

He was a generous man, both in terms of financial support to worthwhile organizations, and in terms of time devoted to those causes in which he believed, and he'll be missed by many.

[From the El Paso (Tex.) Herald-Post, July 6, 1970]

Joe C. Yarbrough Services Are Set

Funeral services for Joe C. Yarbrough, prominent El Paso building contractor and civic leader, will be held at 3 p.m. tomorrow at Grace Methodist Church, with the Rev. Don Forsman officiating. Mr. Yarbrough died yesterday in a hospital following a brief illness. He was 49.

Mr. Yarbrough is survived by his wife, Mrs. Louise Yarbrough of El Paso; four daughters, Miss Claudette Yarbrough and Mrs. William F. Brown, both of El Paso, and Mrs. Robert Kelly and Mrs. Rodney Kelly, both of Austin, Texas; two sisters, Mrs. S. C. McElrath and Mrs. T. L. Hayes; three brothers, Wayne, Roy and Wilson Yarbrough, all of El Paso, and one grandson, Joseph Brown.

The family resides at 9540 Desert Ridge Drive. Mr. Yarbrough had lived in El Paso 27 years and was owner of Joe C. Yarbrough Contractors and Builders, Inc. He was a member of St. Luke's Methodist Church and was active in numerous political and civic organizations.

He was a 32nd Degree Mason and member of Ysleta Lodge No. 1333, and also a member of El Maida Shrine. He belonged to El Paso Elks Lodge No. 187 of El Paso.

In politics he had served as delegate to several Democratic conventions, Democratic precinct chairman, Texas district committeeman, and campaign manager for Sen. Ralph W. Yarborough.

In the community he was past chairman of the Public Service Board; a member of the Hospital District Board of Directors; a director of Bassett National Bank; member and past president of El Paso Home Builders Assn.; a member of the Board of Trustees of El Paso Junior College; advisory committee member for the University of Texas at El Paso, and served as a member of the Board of El Paso Boys Club, Coaches of America, Inc., El Paso United Fund, El Paso YMCA, Lower Valley Branch. He was also a member and charter president of El Paso Lower Valley Rotary Club.

The body will lie in state from 6 p.m. today until 1 p.m. tomorrow at Martin Funeral Home and from 1:30 p.m. until time of services at Grace Methodist Church.

Active pallbearers will be U.S. Sen. Ralph Yarborough, County Judge Colbert Coldwell, Harry O. Rearick, Jonathan Rogers, Patrick DeWitt, Stanley Duncan, T. E. Dreckman and George McAlmon.

Honorary pallbearers will be Mayor Pete de Wetter, Carlton C. Homan, Jr., Gene J. Guldemann, Arnold B. Peinado, Jr., Joel Chambers, Hector Arredondo, William E. Hall, R. H. Dwigans, Brooks Jones and Grover Stephens.

Memorial contributions may be made to the American Heart Fund and the Joe C. Yarbrough Memorial Fund at Thomason General Hospital. Burial will be in Restlawn Memorial Park, under direction of Martin Funeral Home.

[From the El Paso (Tex.) Times, July 6, 1970]

Joe Yarbrough, EP Builder, Dies; Funeral Tuesday

Joe C. Yarbrough, 49, of 9540 Desert Ridge, well known El Paso builder, died Sunday at a local hospital. Yarbrough had been an El Paso resident 27 years.

Funeral services will be conducted at Martin Chapel, 3839 Montana, at 3 p.m. Tuesday with the Rev. Don Forsman officiating. Burial will follow in Restlawn Memorial Park, 8700 Dyer.

Yarbrough originally came to El Paso from Tyler, Tex., in 1943 to work as a laborer for the then Civil Aeronautics Administration.

His only experience in the building field was his work as a carpenter for the CCC from 1937 to 1939. His business acumen and ability carried him the rest of the way to the top of the construction field.

He was responsible for the building of many private homes, apartments and commercial business complexes in El Paso since he completed his first home in 1943. The original house, located on North Loop, was built by Yarbrough to be his home, but he found he could sell it for a profit and build again which started his construction business.

Yarbrough was not only active in his business but also in community affairs and politics. In politics, Yarbrough served as delegate to several Democratic conventions, Democratic precinct chairman, Texas district committeeman and campaign manager for Sen. Ralph C. Yarborough. In the community he was past chairman of Public Service Board; member of the Hospital District Board of Directors; director of Bassett National Bank; member and past president of Home Builders Association; chairman of the board of directors of the Public Service Board; vice chairman of the board of directors of Thomason General Hospital; board of directors of Bassett National Bank; board of directors of El Paso Junior College; advisory committee member for University of Texas at El Paso; board of directors of El

Paso Chamber of Commerce; board of directors of El Paso Boys Club; board of directors of Coaches of America, Inc.; board of directors of El Paso United Fund; board of directors of El Paso YMCA, Lower Valley Branch; member and past-president of El Paso Home Builders Association; member and charter president of El Paso Lower Valley Rotary Club; member of Benevolent and Protective Order of Elks; member of the Ysleta Masonic Lodge 1333 and a member of William Tell Lodge 27, IOOF, Tyler, Tex.

He is survived by his widow, Mrs. Joe C. Yarbrough, El Paso; daughters, Miss Claudette Yarbrough and Mrs. William F. Brown both of El Paso; and Mrs. Robert Kelly and Mrs. Rodney Kelly both of Austin; one grandson, Joseph Brown, El Paso; sisters, Mrs. S. C. McElrath and Mrs. T. L. Haynes; 3 brothers, Wayne, Roy and Wilson Yarbrough, all of El Paso.

THIRD GRADE STUDENTS EXPRESS CONCERN FOR ENVIRONMENT

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. JOHNSON of California. Mr. Speaker, it is my pleasure to pay tribute and bring recognition to a teacher and her students in Nevada County, Calif., who expressed some fine thoughts recently on conservation and its role in preserving our environment, one of God's finest gifts to man.

The third grade class of Pleasant Ridge Union School, under the guidance of Mrs. Virginia D. Kingston, composed the following article in a class project as their expression of conservation as an important part of their lives.

In order to bring recognition to this class of third graders, only 8 and 9 years of age, I would like very much to list their names here: Mark Armerding, Mark Beyers, Carleen Charley, Scott Dyben, Bryan Easley, Douglas Fountain, Loretta Howe, Craig Kolb, Amy Kolb, Renee Lupcho, Kathy Martinez, Cindy McMahon, Mark Moran, Mark Grappi, Ted McLaughlin, Steve Maher, David Root, Lori Rutherford, Christie Skovgaard, Richard Smith, Bill Sweet, Susan Jose, Sally Wolter, Lisa Cowan, Shari Fletcher, Kelly Dunbar, Hans Hansen, and Susanne Springer.

These youngsters have been on this earth a little less than a decade, but already they display a wisdom and concern for their planet. I, for one, sincerely hope and pray that this concern will not diminish as they get older. Therefore, I submit for the RECORD the following article composed by the third grade class of Pleasant Ridge Union School:

LIVING CONSERVATION

C—Keep our Countryside clean.
O—Get the Oil Out of the Ocean.
N—Save our National Parks.
S—Take a Second thought about littering.
E—Let our Earth be beautiful.
R—Rubbish Ruins the Rivers.
V—Don't dig up our Valleys.
A—Air pollution kills.
T—Save our Trees from fires.
I—Insecticides can be harmful.
O—Others cannot do the job.
N—Nature belongs to all of us.

AGNEW DEMOLISHES THE ARGUMENTS OF THE "DOOMSAYERS"

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. MICHEL. Mr. Speaker, the prophets of gloom and doom who have so little faith in the future of our great country have had the spotlight for so long that a person who did not realize how distorted is the picture they paint would be inclined to run out and purchase his own "crying towel," join the wailing chorus and just resign himself to the proposition that there is no hope.

I have never subscribed to that line of thinking and while recognizing that we do have some serious problems in this country, I have always taken every opportunity, both publicly and privately, to emphasize the positive aspects of our country and our national life. In looking at the balance sheet of debits and credits, any reasonable person must come to the conclusion that ours is truly the greatest country in the world and that in spite of our difficulties, we will continue to grow and prosper and to provide the finest standard of living for the greatest number of people than any other country in the world.

Vice President AGNEW in a speech July 9, 1970, before the Education Commission of the States meeting in Denver, Colo., effectively demolished the arguments of the "doomsayers" and I commend him for using this positive approach as the topic of his speech so that it could receive the national exposure that it did and thus reveal a better perspective of conditions on a national basis.

I insert the text of his remarks in the RECORD at this point:

ADDRESS BY THE VICE PRESIDENT TO THE EDUCATION COMMISSION OF THE STATES

We live in an age of impression and image. The complexity of our national life makes it impossible to gain much of our knowledge by directly doing or directly observing. Except in the hard sciences—where we are often able to re-create in the laboratory conditions close to the natural ones which existed at the source of knowledge—we are heavily dependent upon the judgments and opinions of other people.

This is what makes "communication" such an important factor in the modern world. More and more—in making our own judgments about issues and people—we are deeply affected by the impressions and images and opinions conveyed to us by those we think are in a better position to know.

Educators are among the most important "communicators" in our society. And I believe that it is important that everyone involved in education realize how great an effect he can have on the morale of our country. If educators are positive in their approach to the problems our country faces—if they place our liabilities in proper perspective along with our assets—they will have a positive effect on the search for solutions. If they are constantly negative, they risk producing little except despair.

I believe that this matter of approach on the part of educators is of more importance than ever in these times when there is such an extreme concentration on the negative. We are constantly bombarded with strident cries of what's wrong with America—and this has led too many people to believe that this great country is in the grip of anarchy, panic, repression and despair.

Fortunately, you know and I know that it just isn't so. And let every American be assured that it is not going to be so.

First, let's look at just a few examples of the progress that this great country has made in the past 50 years—since 1920.

In 1920, the population of this country was 106 million—half what it is today.

Life expectancy in the United States was 54 years; now it is more than 70.

The Gross National Product was 89 billion dollars; today it is more than 900 billion dollars and within this decade it will rise to a trillion dollars.

Fifty years ago today women were not allowed to vote—the Nineteenth Amendment to the Constitution was not declared operative until later that summer.

Fifty years ago today there was no regularly scheduled radio broadcasting anywhere.

Let me dwell for a moment on the field that is of most interest to you—education.

In 1920 there were 311,266 young people graduated from high schools in the United States. This year the number—in a population that merely doubled—was ten times greater.

Ninety-four percent of young Americans who are of high school age are attending high school, nearly 20 percent more than in 1950.

Institutions of higher education in this country conferred 53,516 degrees in 1920; this year they conferred more than one million.

The percentage of college graduates among our people is more than twice as great as in any other country in the world.

In 1920 six percent of our population was illiterate. Today illiteracy has almost disappeared.

We have the greatest system of education the world has ever known and we intend to perserve it and improve it.

I want to stress that word improve, for here, too, perspective is most important. When I talk about the positive side of our system of education—when I say it is the greatest in the world—I am not saying that there is nothing wrong with it. We know that it is in need of reform and renewal, and that's why President Nixon last March sent to the Congress two historic messages on education reform. The President called for a new focus on educational research and experimentation, and a new approach to the problem of financing education; he called for expansion and redirection of student aid, for new emphasis on community colleges and vocational education, and for a general reassessment and reinforcement of our system of education.

One of the subjects the President discussed in these messages was the issue you have chosen as the general theme of your meeting this year—accountability. He said that it is in the interest of school administrators and school teachers as well as in the interest of their pupils that accountability be clarified. The President's position on this was consistent with the general view in this Administration that the best government can be delivered by the entity closest to the people. He said: "Success should be measured not by some fixed national norm, but rather by the results achieved in relation to the actual situation of the particular school and the particular set of pupils. . . . I am determined to see to it that the flow of power in education goes toward, and not away from, the local community. The diversity and freedom of education in this nation, founded on local administration and State responsibility, must prevail."

To give you a general sense of the priority this Administration places on education, I would like to quote just one further paragraph from the President's message to the Congress on higher education. He said:

"No element of our national life is more worthy of our attention, our support and our concern than higher education. For no element has greater impact on the careers, the personal growth and the happiness of so many of our citizens. And no element is of greater importance in providing the knowledge and leadership on which the vitality of our democracy and the strength of our economy depend."

I have two reasons for citing this Administration's concern about education. First, I know how interested you are in this field. And secondly, I want to make the point that when I say we should see the positive side of life in the United States, I do not mean that we should blind ourselves to the need for improvement in many fields. What I am saying is that our view should be balanced.

The examples that I have cited of progress in education and other fields—and there are many, many more—serve to remind us of how much has changed, of how much general improvement there has been in health, wealth, education, communication, social consciousness and in every aspect of life in this land in the last half century. That progress has made this the greatest nation on earth—and we should never allow ourselves to forget that basic truth.

Despite these fundamental long-term gains in life in these United States, there is a tendency abroad in the land to cry doom. This tendency emerges in different forms at different times—without the regularity but with the same rasping effect as the 17-year locust.

Take the case of the local government body in Massachusetts which deplored "the calamities of the present unjust and ruinous war" and foresaw "the dissolution of all free government and the establishment of a reign of terror." And consider the act of a State legislature which tried to rally the people to form a national "peace party." It called upon opponents of the Federal government's policy to "let the sound of your disapprobation of this war be loud and deep." While there was a move in the Congress to cut off funds for the war, the President was said to be "insidious," "devious," "prevaricating," and "Machiavellian." And a Congressional orator shouted that the President and his supporters were plunging over a precipice and drawing the country after them.

Does all that sound a bit familiar? Well, all of it was said during the Administration of James Madison early in the Nineteenth Century. And despite all of the alarms, all the protest, all the doubt, the United States of America survived and went on to greatness.

In 1842, Charles Dickens visited the United States and decided that "the nation is a body without a head and the arms and legs are occupied in quarrelling with the trunk and each other . . ." And if you think that some American writers sound the knells of despair today, listen to Walt Whitman one hundred years ago. He wrote: "Never was there, perhaps, more hollowness at heart than at present, and here in the United States. Genuine belief seems to have left us . . . The spectacle is appalling."

I cite these pieces of the past to make the point that today's outcry from the negativists should be heard in the perspective of history. They've said it before, and they will say it again. And—as in the past—the vast majority of Americans who want to see their country advance will continue their positive and constructive words and deeds, and will help the United States to go on to new greatness.

There was a difference in how that rhetoric of ruin was heard then. The orator in the Congress to whom I referred was Daniel Webster—and his speech was considered so inflammatory that the text wasn't published for nearly a hundred years. The words of Dickens and Whitman were read at the time by only a few. Today it's all there on the evening news in full color—and perhaps even in bulletins before that. But we can trust the American people to separate truth from advocacy and, if I may divert an expression, to go "right on."

We hear a constant clamor today over economic conditions in the United States. And let us admit, the economy is in a sensitive state. We are battling an inflation that has been burning for more than four years. And we are trying to bring about the rare combination of stable growth and high employment. Let me say to you today that we are winning that battle.

One of the reasons we are winning it is that the U.S. economy is the strongest and soundest and fairest that the world has ever known. Never in history has more wealth been more fully shared by more people than in the United States today. Let's look at a few basic facts:

After making full allowance for higher taxes and inflation, the average real income of Americans is higher this year than ever before.

The typical American family can buy nearly twice as much with its annual income as it could in 1950.

Unemployment has risen in recent months—and we must reduce it—but it is a full 25 percent less than it was in 1961.

The average income of the individual American is nearly twice that in any other country of the world, and many times the income in most countries.

While we worry about the poverty that still remains in this country—as we should—let us not overlook the progress that has been made in our attack on this problem. Since 1950—in an increasing population—the number of people living below the poverty line has decreased about 35 percent. Yet, some poverty still persists, but never has any nation done so much, so successfully, to reduce the ravages of poverty. And we are determined to reduce the ranks of the poor until they reach the irreducible.

I have no doubt about the strength and potential of the U.S. economy. Some say that too much affluence is at the base of many of our country's troubles. This is a theory that reaches back to John Adams' adage that "Human nature cannot bear prosperity." I say we will learn to bear it—and enjoy it, too.

Now, let's look at another issue before the country today—the issue of dissent. We should appreciate the fact that more than in any other country in the world peaceful dissent is recognized and protected in America. And let us keep our historical perspective about dissent. This country has weathered it before in a way that is largely forgotten. Who remembers that there were more than 300,000 draftees who refused to report for service in World War I—more than 10 percent of the total number inducted—and that more than 16,000 slackers, delinquents and evaders were arrested in one roundup in the New York City area in September of 1918? The United States survived that genuinely serious manifestation of dissent and went on to become a greater nation.

The status of minority groups is a matter of constant concern—and rightly so. But I can report to you that in every one of the categories that I have listed—real income, education, standard of living—the gains, which have been substantial for all our people, have proportionately been greater for blacks than for whites. For example, the proportion of Negroes earning middle incomes has more than doubled since 1950 and the proportion of black students in colleges has increased more than 50 percent.

There has been another kind of progress in America that we must not overlook. In recent years appreciation of the arts and interest in the humanities have broadened and deepened all across the United States. Attendance at and participation in the performing arts and the programs of the nation's museums have increased manyfold. This is a happy trend, because it carries with it both the reality and the prospect that more and more Americans have and will have a greater share in the full richness of the nation's cultural life. As in every field, a challenge is present here: there is a growing need for more help for the arts and humanities from both the public and private sectors, and I am confident that this help will be forthcoming.

This country's dramatic advances in science are known to all the world. The historic achievements of our space program are the most spectacular example, but there are many other achievements that are less widely hailed but nevertheless of the highest significance for the future of mankind.

There is a relatively new issue that is the center of intense interest among our people today: the environment. At base it must be said that our enormous success as a productive and affluent society has created much of the environmental problem. There was a time when smoke pouring from a smokestack was a welcome sight—it meant jobs for men who needed them and products for consumers who wanted them. Using the factory in a symbolic way, as it relates to the problems of the environment, it can be said that our challenge now is to upgrade the jobs, improve the products and eliminate the smoke. We accept that challenge. The same American ingenuity that helped to create the problem can lead the way to overcoming it.

No issue is of greater moment in 1970 than the war and the prospects for peace. The problems involved in foreign policy are perhaps the most complex and most difficult of all. But in recognizing the difficulties, let us not disregard achievement. We have completely reversed the flow of U.S. involvement in the war in Vietnam; we are helping the South Vietnamese to improve their capability to defend themselves; and we are bringing our fighting men home. We will end this war with honor.

World tensions remain—and will remain. The Middle East continues to be a powder keg. But these are challenges to be met, not causes for despair. In the midst of tensions we are as of right now in meaningful and serious negotiations with the Soviet Union on limitation of strategic arms.

We often hear today the assertion that we must change our national priorities. The fact is that we have changed our priorities. In the Federal budget for the next fiscal year, for the first time in 20 years, we will use more of our resources for social needs at home than we will for military and defense purposes.

While much of the progress I have been discussing is often measured in quantitative terms, there is a qualitative side to nearly all aspects of it. In no other country of the world at any time in history has there been so much respect for liberty, freedom of conscience, justice, human dignity and human fulfillment as there is in the United States today. The fact that we are still concerned about protecting these elements of freedom should not be taken as a sign that they have been diminished but rather as evidence of what a high value we place upon them. Yes, some injustice persists, but never has any people had so great a commitment to justice for all. More Americans today are doing more to help their neighbors than at any time in history.

In speaking of the progress we have made, I am by no means suggesting that we do not face serious problems in this country. It is good news that we recognize our problems and we are more senstive to them than any people in the history of mankind. It is good news that we are not satisfied with the progress we have made.

As we go forward in our attack against what's wrong with America, we should never forget what's right with America. Let us see and treat the blemishes, but never let them blind us to the beauty.

As we make progress on all these fronts, many will say this is not enough; we must have more now. Such impatience, when it gets out of control, produces only negative results. But when it runs in constructive channels, it can help to add that extra measure of spirit which will enable us to meet the challenges of our time.

Let us confront our shortcomings, not with anger, but with determination.

Let us commit our resources, not with reckless impatience, but with urgent care.

Working from the sound and solid base that is the American condition today, and recognizing the very real problems this nation faces, the Nixon Administration is moving forward on a course of reform, restoration and renewal. The goal of this policy is to make the America of the 70s and beyond a land in which we have assessed both our successes and our failures with sound judgment—and have moved to enhance the good and root out the bad.

This should—and will—continue to be a society of great expectations. As we go forward into the 70s, we must—and will—see more of those expectations become realities.

We will preserve and enlarge the American dream.

We will nourish and refresh the American spirit.

We will enhance the quality of life for all Americans.

We will prove—once again—that in America the voices of despair are ultimately stilled by the clear fact of progress.

CAPTIVE NATIONS WEEK JULY 12–18, 1970

HON. ODIN LANGEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. LANGEN. Mr. Speaker, the week of July 12th through July 18th, in this year 1970, designates the 11th anniversary of Captive Nations Week. In 1959, during the administration of the late Dwight D. Eisenhower, a congressional resolution empowered American Presidents to annually proclaim 1 week for us, as free Americans, to commemorate and to protest the enslavement of millions of people under Communist totalitarianism.

How fitting that this week closely follows our own celebration of independence. Those people behind the Iron Curtain are striving for priceless rights of democracy such as the freedoms of speech, press, and assembly which we in America attained nearly 200 years ago. We support these 27 captive nations in the intense fight for their freedom. With the help of free people everywhere these people will one day soon be able to shape their own destinies.

Mr. Speaker, let us loudly proclaim not only this week as Captive Nations Week, but every week thus so. We are free, we are strong, and we have attained tremendous respect from every nation of the world. Let us then continually be an example and an inspiration by letting these captive nations know that all Americans are wholeheartedly dedicated to the furtherance of world peace and freedom.

COOPER-CHURCH AMENDMENT

HON. ARNOLD OLSEN

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. OLSEN. Mr. Speaker, I am greatly disappointed that the House failed to assert itself last Thursday as a viable bearer of its constitutionality endowed powers. I know millions of Americans share my disappoinmtent that this body did not instruct its conferees to accept the Senate-passed Cooper-Church amendment because I am absolutely confident the vast majority of our citizens oppose further escalation of the unfortunate Vietnam war to Cambodia, Laos, Thailand, or any other Southeast Asian country.

If it is "tying the President's hands" to direct that the Congress and the American people be consulted before any decision which could lead this Nation more deeply into the mire, then it is time we take legislative cord in hand. No President should spurn or fear implementation of the Congress' constitutional powers. Rather, he should welcome it. After all, the making of war is one of the awesome aspects of the Presidency in which the Constitution explicitly directs that the Congress—the elected representatives of the people—should share. This is true, despite the apparent contradictions of recent history.

Mr. Speaker, there is much talk, and there has been much written in recent months, about the loss of public confidence in our Government and in the Congress. It is performances like we witnessed here in the House last week that brings such criticism down on our heads. If we are going to take a course which will appear a serious blunder to so many millions of those we represent cannot we at least discuss it? If we do blunder, cannot we at least do it gracefully? I include this morning's editorial from the Washington Post at this point in the RECORD:

RUNNING AWAY FROM THE WAR ISSUE

The House responded to the Cooper-Church amendment with all the grace of an elephant in a flower garden. In effect the House said that the vital issues of limiting the war in Southeast Asia and of restoring to Congress some measure of control over the war power are not worth an hour of its time. Without debate and in a confusion of procedural maneuvers, it voted down a motion to instruct its conferees to accept the Cooper-Church amendment, which the Senate had debated for seven weeks. That abrupt and cavalier brushoff is equivalent to a slap in the face for the uncounted millions of citizens who are gravely concerned about the war.

It is not clear who is most responsible for this snafu. The antiwar forces were certainly at fault for not taking advantage of the one-hour debating time which the rule provided. But Chairman Morgan of the Foreign Affairs Committee is also open to severe criticism for moving to send the bill to conference before any debate had taken place. On an issue of this kind the opposition should have been as eager as the proponents to allow debate so as to avoid the impression of steamrollering a highly volatile matter. And when the committee leadership failed to sense the impropriety of railroading a peace issue, where was the leadership of the House? Of course the White House too should have been alert to the unfortunate repercussions that will result from this legislative door-slamming on a widespread demand for limiting the war, but all we heard from that quarter was the President's elation over the outcome.

We can understand why a majority in the House has no enthusiasm for the amorphous amendment which the Senate attached to the bill extending the Foreign Military Sales Act. The Senate wrapped its original no-more-Cambodias mandate in so many foggy provisos that no one can be certain as to what it means. But its approval of Cooper-Church, warts and all, did have the effect of sounding a congressional alarm against further widening of the war and against loose executive assumptions that the war power belongs to the President. It is clear from the House vote that a majority at the south end of the Capitol does not want to be associated with that particular approach to these grave national problems. But what is the House going to do to manifest its concern? Or does it have any concern?

The House Subcommittee on National Security Policy is conducting hearings on a number of bills designed to curb presidential war-making. Whatever the outcome may be, it will have little bearing upon the immediate problem of exerting congressional influence for an early end of the present war. Is the House content to remain a cipher in the shaping of national policy in this No. 1 area of public anxiety? Its unfortunate vote on Thursday gives that impression along with the sorry demonstration that it is willing to stifle debate and to flunk its responsibility as a democratic legislature for the sake of avoiding a controversial issue on the eve of an election.

JUNE PARITY

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. ZWACH. Mr. Speaker, during the past 18 months, the parity level has been continually fluctuating. During 1969 the figure steadily went up reaching a high of 76 percent in December. Now 6 months later we are back to 72 percent. Certainly this is indicative of the financial situation the countryside faces today.

As is my custom, I hereby insert the June 1970 parity figures along with the January 1969 figures for comparison:

PARITY, JUNE 1970

[In percent]

	January 1969	June 1969	June 1970
Wheat	47	44	44
Corn	65	69	68
Cotton	41	44	45
Milk	83	85	85
Butterfat	74	74	74
Wool	44	45	39
Barley	71	73	65
Flax	67	66	60
Oats	69	66	64
Sorghum	70	65	62
Soybeans	70	69	69
Beef	78	94	86
Hogs	74	93	83
Lamb	85	91	84
Turkeys	65	64	71
Eggs	83	70	65
Total	72	75	72

NIXON RIGHT IN CAMBODIA

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. MICHEL. Mr. Speaker, now that the Cambodian operation is completed as far as participation by American ground forces is concerned, the returns and evaluations are coming in from all over the country.

One of the best analyses of the situation appears in an editorial from the Peoria Journal Star of July 5, 1970, and I insert the editorial entitled "Nixon Right in Cambodia" in the RECORD at this point:

NIXON RIGHT IN CAMBODIA

Some weeks ago, President Nixon announced to the nation an offensive action across the borders of Cambodia. He described the purposes, reasons, and intentions of the action, and the results calculated to flow from it.

These objectives were to overrun major base camps and supply dumps no farther from Saigon than from here to Bloomington or Lincoln and thus secure the flank of the U.S. withdrawal from Vietnam.

He said the operations were limited until July 1, and that they would not make the war more costly, but less costly. He said it would not delay U.S. withdrawal, but make it possible to facilitate and possibly accelerate it.

People reacted according to their feelings not according to the facts.

Many immedately charged him with invading a "neutral" country, and "enlarging the war," and compromising the withdrawal program. Many charged him with reversing his policy of getting out.

Others cheered him, said it should have been done years ago, that we ought to go after Vietnamese key points of genuine military importance wherever they might be, including in North Vietnam. They said this is the only way to effectively end the war, and that had we pursued such a policy years ago the war would have been over years ago.

PHYSICAL FACTS ARE KEY

The Peoria Journal Star said simply that the issue is a matter of physical facts and physical results if it is to be judged fairly and objectively.

If events develop as the President forecast, fairness would require that one admit the operation was reasonable, responsible, and well conceived. If they developed as the critics howled they would, one would be obliged to face the fact that the President had erred, that he was wrong, and that other calculations would have to be re-examined in the light of this misinformation from the present White House.

We said that we would view President Nixon and the conduct of the war on the basis of the honesty and effectiveness of this decision, facing up to the actual result as it unfolded.

Up to this date, the physical facts are that we did, indeed, overrun massive enemy base camps and supply dumps, that we did catch the enemy unprepared, that we did inflict very serious damage on him at costs to ourselves that were lesser, not greater, than in the "normal" operations in South Vietnam.

The facts are that it was a limited operation, exactly as originally described and terminated exactly as scheduled in the very first announcement.

The facts are that casualties to our forces during the operation were not abnormal, and that casualties as a result of it now are dropping to new lows. Last week's casualties had fallen to a figure less than one-fourth that which had become the weekly standard under Mr. Nixon's predecessor in the White House. (This achievement is the more remarkable in that the Viet Cong power has been clearly and drastically reduced in South Vietnam at the same time.)

The optimism of experienced and professional people on the scene is widely reported, and based on direct knowledge and the most educated judgment on such matters available, and tie in with specific plans for the continued large-scale removal of U.S. forces after the original experimental cut-backs.

Reports now indicate that even these figures will be increased and a speedier withdrawal with lower casualties will indeed be the result of those operations.

Argument to the contrary is clearly for argument's sake and based on argumentative ingenuity, not on an ability to make accurate military assessments or any intimacy with the details of actual conditions. For once, the knowledgeable reaction is universal.

In bad circumstances, the U.S. policy and the U.S. president deserve the benefit of a reasonable doubt from any fair-minded person. In these circumstances, it would seem that any honest—rather than determined partisan—approach would have to recognize the complete honesty, the frankness in making his forecasts in detail, and the fulfillment of them in detail by President Nixon.

His action and his very first report of that action have proven to be totally responsible in the hard test of physical reality.

The forecasts and actions and estimates of his chief critics, in contrast, have been demonstrably irresponsible, unfair, and possibly dishonest, on the other hand.

On the basis of the hard facts of performance, it is not President Nixon at this point who is revealed to be untrustworthy.

It is Senators Fulbright, McGovern and company whose words have proven to be false, whose "reasoning" has proven to be totally unreliable. This is what the physical facts proclaim.

For those who face facts, instead of twisting them to suit their political prejudices and passions, no event has been so clearcut in terms of the irrefutable physical facts than the Cambodian operation.

THEY AVOID FACTS

Had it been otherwise, we would be joining McGovern, Fulbright, and company today, as we made publicly clear when the events were launched. This commitment is not made after the fact, but was made before it. We have long since, however, learned that they do not submit themselves to the same commitment to surrender to facts and discipline their positions to face facts.

They simply rejuggle the "facts" and cook up new arguments to pursue their own strange ends.

One thing seems increasingly clear to skilled, professional, objective, and disinterested foreign observers—that great changes have been made and this is not "the same old was" in 1970.

It is, of course, not so apparent to those who developed a "mindset" frozed upon it, and have no mental flexibility, but the sadly traditional penalty of "conviction" and prejudice frozen outlook.

FORMER TROY MAN HONORED

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. HUNGATE. Mr. Speaker, I would like to call attention to an honor conveyed upon one of my constituents who has embarked upon a very successful career in public service.

The article follows:

FORMER TROY MAN HONORED

TROY.—A former Troy resident, Jim Turner, who now lives in Topeka, Kan., has been honored by being named "Man of the Year" by the "20–30" Club of Topeka. This is a Commercial Club composed of young business and professional men age 20 to 40.

The presentation was made last week at the regular meeting of the club. Turner was closing his final meeting after serving two years as president of the club, when the president of the Topeka Chamber of Commerce made the presentation. Turned also received a plaque.

The presentation was based on Turner's service to the community. He is executive assistant to Congressman Chester Mize of Kansas, and in that capacity, has charge of congressional business for the Congressman. He is presently serving as President of the area AAU Athletic Association, and teaches political science, in classes sponsored by the Topeka Chamber of Commerce.

Turner, who is 28, is the son of the Rev. and Mrs. Robert Turner. His father is pastor of the First Baptist Church of Troy.

Jim Turner is married to the former Miss Elsa Gourley, daughter of Mr. and Mrs. Wendell Gourley of Silex. They have two children, Kemberly, 6 and Kyle, 3.

He was graduated from High School in Nevada, Mo., in 1958, and received his BS degree from Sterling College, Sterling, Kan., in 1962. He received his Masters from Kansas State College in 1963. He lived in Troy with his parents, where he attended elementary and high school.

DICKEY-LINCOLN PROJECT AN ECOLOGICAL AND FINANCIAL PLUS

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. HATHAWAY. Mr. Speaker, the increasing possibility of electric power shortages this summer demonstrates the need to reinsert the $807,000 requested by the administration for continued preconstruction planning of the Dickey-Lincoln School hydroelectric project in northern Maine in the public works appropriation bill for fiscal 1917. Although the Senate Appropriations Committee is likely to reinclude the funds with full Senate approval, Dickey is expected to encounter the familiar echos of private power company opposition in conference.

Essentially, private power argues that, through nuclear power reactors and other types of powerplants it says it intends to build, it can produce more reliable and less expensive power than hydroelectric facilities. In previous statements, I have made my disagreement with the latter part of this contention clear, basing my opposition on extensive Army Corps of Engineers data describing Dickey's advantageous character. More recently, I have criticized the former part of the contention on the basis of a study conducted by Dr. Arthur R. Tamplin, a physicist at the University of California, concerning the potentially deleterious biological consequences of radiation. Today, I submit further substantiating evidence to the soundness of this contention.

It has become markedly evident through much scholarly research that nuclear power reactors threaten our ecological environment through excessive chemical and thermal pollution. Moreover, as is illustrated by a recent Newsweek article, private power sources, including nuclear generating plants, have proved inadequate in meeting the Northeast's power demands. I reiterate that hydroelectric plants, such as the proposed Dickey-Lincoln plant, can serve as stable and nonpolluting sources of electric power at a substantial financial reduction. Dickey-Lincoln is an ecological and financial plus and a necessity for the Northeast.

The Newsweek article follows:

CON ED AND THE GOOD LIFE: A QUESTION OF POWER

In many ways, Consolidated Edison Co. is like no other power company in the U.S. It is the nation's largest electric utility, serving 9 million customers in New York City and Westchester County. Its 8.1 million-kilowatt generating plants loaf along unprofitably in winter because of the city's light industrial load, yet capacity is chronically strained in summer because of the air-conditioning demands of apartment dwellers and office workers. And in an industry which has always taken its share of public abuse, Con Ed is uniquely vulnerable; it is the only company which has to contend with the personal irritations of television talkshow hosts. To Johnny Carson, Con Ed is the Looney Tunes Power Co.—and his colleagues are no more forbearing. "Janis Joplin is here tonight," Dick Cavett said not long ago. "She can generate more electricity than Con Ed. Of course, so can two size-D flashlight batteries."

In one major respect, however, Con Ed is distressingly typical of its industry. As utilities across the nation gird themselves for the summer's peak demands for electricity, Con Ed, like many others, can offer no assurance that it will be able to meet those demands. In much of the country, and particularly in the densely populated Northeast, generating capacity has barely kept pace with the growth of power use. While no one is predicting an imminent nationwide, power crisis or a catastrophic regional blackout, the government's Office of Emergency Preparedness has nonetheless warned of "insufficient" power-reserve capacity along the Eastern Seaboard, and of potentially "critical spots" in Chicago, St. Louis and Minneapolis. On the heels of this pessimistic forecast, Mrs. Virginia Knauer, President Nixon's consumer-affairs adviser, three weeks ago issued a list of tips for power conservation and urged users of electicity to keep flashlights and portable radios handy.

To be sure, the power industry's spokesmen take issue with this pessimistic view, contending that nationwide power reserves now amount to 18.2 percent of current peak loads—and that this is adequate. Still, not even such boosters as the Edison Electric Institute—the industry's trade association that urges everyone to "live better electrically"—are totally optimistic. Says EEI managing director W. Donham Crawford: "We have no doubt that some companies will have problems."

Hot Tips: The experience won't be new for Con Ed. There was the great Northeast blackout of 1965, of course, which caught the company woefully ill-prepared. Then there were four "brownouts"—or "voltage reductions" as Con Ed prefers to call them—during last year's hot summer, because of generator breakdowns. And this summer's problems have begun already. Last week, with temperatures in the 80's, the company announced that its Indian Point nuclear facility on the Hudson River—out of service since March for refueling, and scheduled to come back on line last week—would be closed down until September because of a mechanical breakdown. Like many another Eastern electric utility, Con Ed has already begun to prepare its customers for power shortages by suggesting ways to conserve power. In brochures mailed with bills, the company suggest keeping air conditioners turned down and saving such tasks as vacuum cleaning until the weekend.

Why can't the power company turn out enough power? In part, Con Ed has been a victim of decades of poor planning—a shortcoming that Charles Franklin Luce, 53, has been trying to cure since he was brought in three years ago as Con Ed's chairman and chief executive. Luce, a lawyer and a former public-power man who served as administrator of the Bonneville Power Administration, has earned the industry's respect for firming up Con Ed's plans a decade into the future, reorganizing the company's sick management, trimming executive deadweight and bringing a refreshing new candor to stuffy old Con Ed. Breaking a long tradition optimism, Luce himself warned, as far back as March, that there might be trouble this summer.

Luce's problems, however, are myriad. Currently, he is confronted with cash shortages and a state regulatory agency that is taking an unprecedentedly dim view of Con Ed's requests for rate increases. And Con Ed has more than the usual utility's need for large chunks of cash. By law, its Manhattan transmission lines must be underground, adding millions to its costs. And by nature, its customer constituency—made up largely of apartment dwellers—uses little electricity per capita; unlike the West, where Luce learned the power business, New York has no big aluminum companies to gobble up vast quantities of electricity throughout the year and pay handsomely for it.

Boxed In: At bottom, Luce's biggest problem is one that plagues the entire industry. Con Ed, like other power companies, is squarely up against the age of ecology—a time when power plants of any description seem to be as unwelcome as garbage dumps in any community. Con Ed would like nothing better, for instance, than to build another nuclear generating plant. But successive proposals to build on sites both in and out of New York City have been torpedoed by irate prospective neighbors. Even Indian Point, which has been in operation since 1962, is under fire; state officials are trying to shut it down permanently unless the company takes steps to end what the state calls excessive chemical and thermal pollution.

When the company tries to expand its conventional, fossil-fueled generating plants, it triggers outrage over air pollution—an issue that New Yorkers take seriously indeed these days. Justly or not, Con Ed has won the reputation of being one of the city's worst offenders with its highly visible plants in Manhattan and Queens. Accordingly, although the company has proposed an expansion of its plant in Queens, the Environmental Protection Administration is expected to recommend disapproval. "I issued twenty summonses for smoke violation against Con Ed just the other day," says Robert N. Rickles, commissioner of New York City's Department of Air Resources. "I could balance the city's budget just by driving up and down the East River Drive past the Con Ed plant and noting every smoke violation."

Plan: Con Ed has also proposed hydroelectric generation through an ingenious scheme that would use water from the Hudson River. In off-peak periods, power would be used to pump river water into a reservoir high on Storm King Mountain, 50 miles north of the city; then, when power use rises, the stored water would be used to spin generators as it flows back into the river. But this plan, too, has been stalled for years by conservationist forces, who are angry over what they fear will be desecration of an unspoiled wilderness area. The Federal Power Commission is expected to approve the plan, but another round of court battles looms this fall.

Failing all else, the company has installed a series of small, gas-turbine generators to help handle the peak loads. With their aid, the computer in Con Ed's humming energy-control center in mid-Manhattan last week showed power reserves of 14.5 percent over and above the anticipated peak demand of 7.7 million kilowatts. On the iffy assumption that everything in the system works almost perfectly, that should be enough to get through the summer. In the longer term, however, Con Ed says it will need a large block of new generating capacity by 1974—and with all the opposition on environmental grounds, no such capacity seems to be in the offing.

Doubts: But, there are those who question Con Ed's own statements about its needs. While no one doubts that the squeeze is on this summer, some conservationists view the massive planned 2,000-megawatt output of Storm King as overkill. "They say they need it," says Rod Vandivert, executive director of the Scenic Hudson Preservation Conference and a fighter against Storm King from the beginning in 1963, "but I don't believe it. All they want to do is go into the power-brokerage business." Untrue, replies a Con Ed official: "That's all part of Rod's conspiracy theory."

The environmental opposition has undoubtedly raised Con Ed's costs; the company says the Storm King battle has cost it $17 million so far, mainly for buying from other companies power that Con Ed had planned to produce for itself. But on at least one important matter, the power companies and the conservationists aren't too far apart. Both sides agree that heavy research is needed to find better and cheaper ways to make electricity. And Luce, for his part, argues that the $200 million to $250 million needed for the job should be raised by taxing users of electricity to support a research fund, just as motorists are taxed to support highways. "The cost of protecting the environment," Luce says, "should be borne by those who use the environment—and that's all of us."

To the environmentalists, that sounds suspiciously like an old-school industrialists defending his profits along with his right to pollute. But Luce in fact is a new breed in the boardroom—an executive who can actually contemplate the notion that America might have to ease up its insatiable pursuit of material goods in order to have another kind of good life. It may be necessary, he said last week, to do without some "frills"—including frills that use electricity—to avoid those "aspects of the good life that are threatening to engulf us."

THEODORE N. VAIL AWARD: GIVEN TO TWO MEN WHO CARED

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. JOHNSON of California. Mr. Speaker, too often we hear stories of people who were ignored in their hour of need, and I rise today to pay tribute to two fine men who risked their lives to save that of an elderly man from Nevada City, Calif. Because of this courageous act, the Theodore N. Vail Memorial Award is being bestowed upon them by the American Telephone & Telegraph Co. in special ceremonies to be held July 23 in the city of Grass Valley, Calif.

The Theodore N. Vail Memorial Award was established in 1920 as a lasting memorial to Mr. Vail, a former president of the American Telephone & Telegraph Co. These awards are given to perpetuate his ideals through the recognition of acts and services in emergencies which reflect his concepts of responsibility for service to the public. The recipients in this case are two modest men, both in their 30's, both with long records of service to the Pacific Telephone & Telegraph system, and both of whom were working as splicers in the Plant Department for Pacific Telephone & Telegraph operating out of Grass Valley. They are Darold S. Reynolds, age 33, with a record of nearly 13 years of service to the company, and Robert O. Sinnock, age 36, who has served nearly 16 years with the company.

On the afternoon of May 1, last year, Mr. Reynolds and Mr. Sinnock were returning to Grass Valley from a field job when they were flagged down by some women who had seen a car go out of control and plunge over an embankment into the raging Yuba River. The men quickly parked their truck, grabbed two nlyon ropes and immediately descended the steep embankment to the river. Midway in the river, about 30 feet from shore, was a car on its side in about 5 feet of water. An elderly man appeared to be sitting on the door with his feet still in the body of the car. Another man had already swum out to the car and was attempting to help him.

Mr. Reynolds threw a rope to the second man who caught it on the second try and tied it to the victim. Reynolds and Sinnock realized that the man would need help to bring the injured victim to the shore. In spite of icy water and raging current, they decided they could wade out to the car.

A P.G. & E. man had joined them and after handing him the rope, Reynolds and Sinnock went downstream, skirted a 10-foot deep section of the river, and, fighting the current, waded chest deep out to the car. The victim was elderly, and as they talked to him, he lapsed into unconsciousness from time to time. There was blood on his face from a number of lacerations.

The men pulled him over the side of the car and then half-floated and half-carried him back to shore. Several onlookers helped to lift him to the bank.

By this time, a Forest Service rescue unit had arrived and the victim was secured to a stretcher basket. To get the basket to the top of the embankment, about 18 men including Reynolds and Sinnock formed a chain link and lifted the victim, hand over hand, up the steep incline to the highway. From there he was taken to the Miners Hospital at Nevada City. He suffered from numerous cuts and bruises, and had fractures to the ribs, sternum, and nose.

The rescued man, 79-year-old Marion L. Lusk, not only survived the ordeal but has fully recovered and had this to say about this courageous act:

> On my recent accidental plunge into the middle Yuba River—I will say that the men who saved me from that violent ice water surely deserve a hero's badge—the water was deep, turbulent and ice cold—but they plunged in after a total stranger, without being urged or asked—there must have been no thought on their part of themselves or involvement—they just jumped in to save a drowning man—which surely takes something that most people don't have—courage and no thought of self—and I thank the Lord that there are still some of these people left on earth.

On behalf of Mr. Lusk's many friends and relatives and on behalf of people as a whole, including those of us in the House of Representatives, may I add my deep appreciation to those two brave men who took the time to care. Our Nation was built by people such as Messrs. Reynolds and Sinnock, people who worked together to help each other to survive the rigors of the wilderness and to survive all the difficult times which we have experienced in succeeding years.

This, to me, is the spirit of America, and I am pleased and proud that the Pacific Telephone & Telegraph Co. is bestowing the Theodore N. Vail Award on these two people, recognizing this spirit and encouraging it. Thank you.

CAPTIVE NATIONS WEEK, JULY 12–18, 1970

HON. R. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. COUGHLIN. Mr. Speaker, the 12th official observance of Captive Nations Week is taking place in the United States and in 17 other free nations during July 12–18, 1970.

I want to speak out in sympathy with the once independent people of approximately 27 nations which have come under Communist domination in the course of the past half century.

The United States came into existence because American colonists refused to tolerate tyranny. Americans have always been allied, in action or in spirit, with nations striving to avoid or overthrow oppressive regimes. Restoration of the national identity and independence of the captive nations is a goal supported by all who love liberty and believe in the right of individuals and nations to choose their own governments and exist in dignity.

Although we are separated from these captive peoples by walls, by barbed wire, and by curtains of iron and curtains of silence, we must not forget them. We must not resign ourselves to the status quo of Communist rule.

The enslaved may be forbidden to speak for themselves, but in behalf of the universal human longing for freedom, we must give their hopes a clear, firm voice which will be heard in every corner of the world.

URGES CONGRESS TO GIVE PUBLIC FULL VIEW OF COMMITTEE ACTIVITIES

HON. THOMAS J. MESKILL

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. MESKILL. Mr. Speaker, 24 years have elapsed since the last time Congress undertook reform of its rules and procedures. Therefore, I urge my colleagues to support passage of long overdue and urgently needed legislation, H.R. 17654, Legislative Reorganization Act of 1970.

In 1967 I, along with several of my colleagues, introduced legislation which embodied many of the reforms provided for in the bill presently before the House. At the time the House took no action. But the House can no longer delay in transforming itself into a democratic legislative body with the tools at its disposal to meet the challenges of the seventies.

In the American constitutional system, Congress is a vital and necessary instrument of free Government, performing the tremendously difficult job of harnessing the vast and often conflicting regional, economic, social, and political forces in our country. Congress serves as an important link between the people and their Government and it is essential that Congress become more responsive to the public will.

Moreover, there is an urgent and critical need that the legislative body be strengthened and its operations simplified if it is to once again become a coequal branch of Government with the executive, as the framers of the Constitution intended. Passage of H.R. 17654 would reverse the pattern of legislative decline. Congress must act if it is to avoid an executive takeover of legislative functions.

The restoration of faith in our institutions requires that they function as they were intended to function—in the light of day. Hence a major thrust of this reform bill would be the opening of committee activities to full public view, including the televising, broadcasting and photographing of committee hearings.

The House has long been criticized for barring the public from committee hearings, especially since the Senate in the mid-1940's began the practice of permitting broadcasts and telecasts of its hearings. The crucial role of committee hearings in the legislative process can hardly be overemphasized. Hearings provide Congress with extensive factual information and a broad spectrum of opinion. Hearings, moreover, are an effective means whereby citizens can make formal presentations of their views to the Congress on public policy questions. Live coverage of hearings would effectively contribute to the goal of educating the citizenry on the crucial issues facing the Nation.

I might add that provision has been made for the protection of the rights of witnesses who appear before committees under subpena. The committee must accede to the request of a subpenaed witness that he not participate in televised or broadcast coverage of the hearing and that he not be photographed while he is a witness.

In line with the aim of the proposed legislation to create a more responsive and responsible committee system, the committees are directed to adopt written rules fixing regular meeting days at least once a month. The bill lessens the power of committee chairmen by allowing a majority of the committee to call meetings—following a prescribed procedure—if the chairman refuses to call a meeting. Embodied in the rules of the House would be the right of minority party members to call witnesses. Presently, only custom dictates this privilege.

The 1970 Legislative Reform Act would change committee procedures to require the filing of committee reports at least 3 days before a bill reaches the floor and it would also require announcement of the record vote on motions to report a measure. I would like to see this latter provision extended to include public disclosure of each individual committee member's vote on any measure or amendment considered by the committee.

This proposed bill also would curtail the present system of proxy voting in committees by eliminating the general proxy whereby one committee member authorizes another to cast his vote in committee at any time and on any and all matters and questions. Proxy voting in committee would be permitted but only under carefully specified conditions: The proxy must be in writing; it must designate the person who is to execute it; and it must be limited to a specific measure or matter.

Whereas I favor complete elimination of the practice of proxy voting in committee, I believe the proposed legislation deals with the most serious element of this practice: the general abdication of personal responsibility. Certainly there will be occasions when a Member must be absent from committee votes, but it cannot be denied that the use of proxies discourages committee attendance. The present system of proxy voting permits the chairman or ranking minority member to control a bill in the face of major "live" opposition. You cannot argue with a proxy; a proxy cannot consider an offered amendment; a proxy cannot compromise. Proxy voting is not allowed on the floor of the House and I favor complete elimination of the practice in committee sessions.

Other sections of the reform bill would strengthen Congress role in fiscal control and oversight. For years political scientists and Members have warned that Congress was losing power because its sources of expert information could not compete with those of the executive branch. They argued that Congress was overwhelmed with masses of data it found incomprehensible and so ended up rubberstamping most of what the executive requested and then losing track of the programs after they were passed.

Potentially, Congress powers over the purse is its most powerful weapon for effecting and affecting public policy decisions. However, faced with the more complex and comprehensive legislation and an increased workload due to the social, economic, and technological advances, Congress has wielded this precious constitutional birthright in an increasingly haphazard and essentially ineffective manner. Today Congress faces the $200 billion budget of fiscal 1971 with the same inadequate facilities it had in 1948 when the budget was less than $33 billion. Without modern informational and analytical tools, the complex budgets of the present cannot be understood or controlled.

In view of the need to have a continuous flow of up-to-date and comprehensive fiscal data, H.R. 17654 provides Congress with new sources of information and research, including development of an automatic data processing system and expansion of the Legislative Reference Service, an arm of the Library of Congress, into a congressional research service. A bipartisan Joint Committee on Data Processing would be created to be the controlling agency and policymaking board for the use of computers in the legislative branch.

The administration would be required to give 5-year cost estimates of new programs rather than 1 year as now required. This would enable Congress to have a better picture of the expected expenditures in future years and the Comptroller General of the United States would be responsible for providing Congress with expert assistance to deal with cost-benefit studies.

Whereas more broad reforms have been broached, specifically dealing with seniority practices, I concur with the Rules Committee's conclusion that seniority is related to party practices and customs rather than with the formal rules, structure, and resources of Congress and that a joint reorganization measure is not an appropriate vehicle for dealing with party activities in Congress.

I believe that Congress, if it is to meet its critical obligations to the American people and the world in the coming generation, must develop reasonable mechanisms for organizing its intellectual resources and its political power in such a way that it can become, in partnership with the President, the great protector of our resources and our liberties, the great instrument of an enlightened majority rule, and the great educator of our political society. H.R. 17654, Legislative Reorganization Act of 1970, is an essential step in this direction.

SECRECY IN THE HOUSE

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. O'NEILL of Massachusetts. Mr. Speaker, tomorrow, July 14, I intend to offer an amendment to the Legislative Reorganization Act of 1970 in behalf of myself and many others.

This amendment will provide for a record teller vote, to be conducted in a way similar to the present teller vote, but to also provide that a record will be provided in the daily Journal of the way each Member has voted on amendments in the Committee of the Whole.

I think this is an extremely important and necessary change in the House rules. This change will restore congressional accountability and responsibility. The public has a right to know how each Member votes on amendments that cover all issues of Federal programs and legislation. And we have an obligation to them to make our positions known.

Some of the most important programs of the last few years have been cut, decimated, changed, or created in an atmosphere of secrecy shrouded by the teller vote. This must end. Often, less than a third of the membership of the House has voted on vital amendments that affected the entire Nation, because there would never be a record of who voted how, or if anyone voted. This must end.

I believe this amendment will accomplish these goals.

Robert Healy of the Boston Globe and Robert Bendiner of the New York Times have each written columns on the importance of this amendment. I would like to include them in the RECORD. Bob Healy mentions some of the important issues that have been decided by teller votes in the very recent past—the ABM, the SST. I commend these articles to all my colleagues and hope that the urgency expressed in these columns is felt by all:

HOUSE CHALLENGED TO RECORD MEMBERS ON ALL KEY ISSUES

(By Robert Healy)

WASHINGTON.—On May 6 during the debate on the military procurement bill in the House, there were three amendments offered that gave members a chance to make a stand on the Cambodian invasion. But in each case, there was a teller vote where the Congressmen file down the aisle and are counted for and against the amendment by tellers. There was no record of the vote.

The House was meeting as a committee of the whole. The committee is kind of a procedural fiction which allows the House to operate under less stringent rules. A quorum, for instance, in the committee of the whole is 100 rather than a majority of 218 under the regular rules. It allows for limitation of debate and it prohibits roll calls.

In the past the House has dealt with the anti-ballistic missile systems, the SST and key domestic amendments in the committee. And in every case where there was voting on these amendments, the public had no way of knowing how their Congressmen voted or whether in fact they had voted.

The committee of the whole procedure was taken from the British when Congress was established. British members of Parliament developed the procedure when they were rowing with the king. It had the effect of removing the king's man from the chair, and protected individual members of Parliament from the king's wrath. (The British abandoned the no-record vote system 140 years ago.)

But the Congress has used this as a neat device for ducking the wrath of the voters for all these years.

This week, the House will begin a major effort towards reform. It has little sex appeal for the public because it deals with procedural changes about which the general public knows little and cares less.

But the major effort of this reform is easy to understand and has broad implications for the voters in the nation. It is an amendment sponsored by Rep. Thomas P. O'Neill (D-Mass.) a liberal, and Rep. Charles Gubser (R-Calif.), a conservative. The amendment is to the overall reform bill. It would eliminate the secret vote in the committee of the whole.

Like many other processes which are made more responsive to the public, it does not make it more efficient. To the contrary, the House operates largely through its committee systems and in many cases this means through a strong committee chairman. Committee chairmen and a handful of members of the committee handle the processing of a bill on the floor and usually in the committee of the whole and pass an amendment. The chairmen of the individual committees are very persuasive in this process. This persuasiveness will be challenged in part when and if the new reform is accepted in the House this week.

The arguments for the passage of the amendment are obvious—people. The people's right to know how their Congressmen voted on key legislation. The secrecy of the teller vote erodes the credibility of the House itself at a time when institutions are under assault.

And while regular roll calls produce 85 to 90 percent attendance in the House, frequently less than one fourth of the House passes on the critical amendments in the committee of the whole.

Beyond that there are the less obvious arguments. Committee chairmen sometimes jam a special interest provision into a bill which would not stand the debate and roll call test and the procedure of the full House. But because of the very nature of the committee of the whole system it passes through easily.

And finally sometimes the votes on amendments are more meaningful to the record of a Congressman than the final record vote.

The O'Neill amendment has broad support, including Carl Albert, who is expected to be the next Speaker of the House.

But at this same time it is a very "in" thing and there is apt to be very little public interest or pressure on the Congressmen to vote for the amendment. And many of the committee chairmen will be opposed to it.

Yet it is a very simple proposition. As Congressman O'Neill put it at his press conference last week: "I believe this amendment is necessary to restore Congressional accountability and to involve more members in these important decisions." And that's about the best argument for it.

Secret Ballot Misplaced

(By Robert Bendiner)

With most other American institutions being subjected to rebellious scrutiny, it was unlikely that certain venerable practices of Congress would long escape critical attention. The improbable vehicle for such examination is one of those Legislative Reorganization bills which periodically allow Congress to study itself in a mirror specially designed to reassure it that, in spite of a few minor flaws, it is still the fairest one of all.

Scheduled to reach the floor of the House this week, the bill is described by an ardent reform advocate as "broad consensus legislation," meaning that there is not much in it. But what sets it apart from other such efforts is that it comes to the floor with an "open rule," one that permits amendments of all sorts in any number. With literally scores of rebels, of both parties and varying degree, lying in wait for just this opportunity, the bill has a fair chance to go through with one or two strengthening amendments to give it real significance.

Since seniority, that classic complaint of reformers, is a party issue rather than a legislative one, the way is left open to deal with Congressional faults that are less often aired. Most serious of these—and just about as harmful as seniority—is the secrecy that is allowed to nibble away at the representative system.

To consider amendments to a bill that has emerged from committee, the House of Representatives generally converts itself into a mythical body called the Committee of the Whole House. The switch allows a smaller quorum and less formal debate—but it also dispenses with roll-call votes, which are the only record the public has of its representatives in action.

BACK TO OLD ENGLAND

The scheme goes back, as many Congressional practices do, to old England, where there was good reason for their origin. In this case fear of the king and his power to behead the Fulbrights of his realm encouraged Parliament to evolve a system of voting that might shield individual members from the royal wrath. When a delicate decision had to be made, the chamber simply became a committee, the Speaker was excluded as a likely royal spy, and votes were taken, without a possibly dangerous calling of the roll.

The English know how to keep outlived traditions in their place, which is to say, among the irrelevant trappings of life, cherished but not allowed to get in the way. As long ago as 1832, when kings had been rendered judicially null and legislatively void, Parliament scrapped its secret voting habits. But Americans, supposely immune to tradition, go right along with one that keeps them in the dark as to how their Representatives vote on the most crucial aspects of the most crucial issues of their times.

It is perfectly true that the country knows how each Representative votes on the final roll-call, but long before that moment comes, the real nature of the bill has been fixed in the Committee of the Whole. And it has been fixed in comparative secrecy. Who knows whether a man has yelled Yea or Nay in a voice vote? How many of his constituents are present in the balcony to see on which side of a question he stands up when a division is called for? Even on a teller vote, when the members file rapidly down the aisle to be counted, who can identify more than a few from their receding backs?

THE UNRECORDED VOTE

Yet it is in this amending process that a Congressman votes his real inclinations. He may use his unrecorded vote in the Committee of the Whole to emasculate a pollution control bill and then pose as a fighting conservationist when he votes publicly for the final draft as "better than nothing." Or as an economizer, he may secretly support a spendthrift amendment that he favors and then vote publicly against the entire bill, knowing that it will pass anyway.

It is the aim of reform-minded Congressmen, a fair number of them politically conservative, to turn an almost innocuous bill—concerned mostly with better research facilities, the occasional broadcasting of committee hearings, and the like—into a vehicle for letting light into the shadowy corners of the legislative process. Most important of the potential amendments pressed by the liberal Democratic Study Group is one that would require the recording of names on a teller vote. Others would make public the votes taken in committee and reduce the number of executive sessions.

Given strong bipartisan feeling on the subject there is at least a chance that something will come of the effort. But it must be remembered that anti-secrecy amendments, like others, will have to be considered in the Committee of the Whole, where they may be killed in comparative secrecy—a House rule that might properly be designated as Congressional Catch-22.

ENEAS J. KANE OF NAHRO SPEAKS ON EVERY AMERICAN'S FUNDAMENTAL RIGHT TO DECENT HOUSING

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. MATSUNAGA. Mr. Speaker, almost daily we find that another "vital issue" has caught, and then lost, the imagination of America. Today's headline is a filler item tomorrow, and history the day after.

There is one area of public concern, however, that has remained a primary one year after year: the provision of a decent home and living environment for every American family.

As far back as the 1930's, the Federal Government undertook a program to construct livable, low-rent housing for those who needed it. We set forth a universal right to adequate housing in 1948. We established concrete numerical goals for new housing units in 1968.

Few groups or individuals have been as concerned about fulfilling these national commitments than the National Association of Housing and Redevelopment Officials—NAHRO—and their current president, Eneas J. Kane. In a recent meeting of the Southwest Regional Council of NAHRO, held in Honolulu, Mr. Kane appealed to "unity of purpose and singleness of mind to forge our disciplines into an instrument for the betterment of mankind."

I believe that the full text of Mr. Kane's remarks would be helpful and informative to my colleagues and other readers of the Congressional Record, and I therefore submit those remarks for inclusion in the Record at this point:

The Search for Unity Continued

(By Eneas J. Kane)

There is a man of God in Honolulu who has preached a gentle sermon to the effect that here, in these beautiful islands, no man says to another, "You do not belong."

I wish I had that good minister's thoughtful approach and mildness of manner at my command as I stand before you today. What I have to say might then be offered as a prayer.

Since I have none of these pastoral talents, my message usually emerges with the subtlety of a Gaelic war cry. Here goes:

God, give us the guts so that instead of sympathizing with the poor we will get off of our duffs and fight to abolish the poor by raising their standard in life.

Give us the unity of purpose and singleness of mind to forge our disciplines into an instrument for the betterment of mankind.

And, please, before we die, let us have the small satisfaction of knowing that our efforts produced some results. Do not let this era of confrontation pass without some milestone toward progress in humanitarian accomplishment.

We are here assembled to talk of rights, not of privileges or favors. We are here to rededicate ourselves to the rights of man to live with dignity in a decent home in a decent neighborhood.

Some 15 years ago a great humanitarian reviewed a lifetime of effort with these thoughts:

"The fundamental rights of man are, first, the right to habitation; secondly, the right to move freely; thirdly, the right to the soil and the subsoil, and to the use of it; fourthly, the right to freedom of labor and exchange; fifthly, the right to justice; sixthly, the right to live with a natural, national organization; and seventhly, the right to education."

Albert Schweitzer made that statement in his eightieth year.

How significant it is that Schweitzer recognized the right to habitation as the primary right—the first right to be asserted if the others are to be meaningful.

We, all of us here, are involved in the assertion of the right to habilitation. We are the experts who are able to plan and to build—to prune out blight and make a garden flourish in the ghetto.

Are we using our talents in the pursuance of this fundamental right of man? Are we being allowed to exert all of our efforts? Is it possible to accomplish our mission? I don't have the answers. I can only report to you on the indicators seen as we march around and around the maze through which our search for unity of purpose is leading us.

We have been told to keep our voices down as befits reasonable men. It has been indicated that, perhaps, a lower posture would help us accomplish our aims. We have proceeded with heads bowed under the hurdles instead of trying to leap them and, maybe tripping over a few.

And, what has happened while we lowered our silhouette? An entirely new set of hurdles has been set up before us. There is the "let's move the ghettos to the suburbs" nonsense; the "time for local responsibility" gimmick; the "Congress is looking at you" bugaboo; the "fun and games with numbers" racket; State House "me tooism" and, stretching out to the horizon, the accordion wire bramble of reorganization.

I bring to you, my fellow practitioners, the accumulated frustrations caused by the continuing, nonstop reorganization that has been the only permanent feature of this nation's efforts to provide a decent, safe, and sanitary home for every American family.

I am impelled at this time to enunciate Kane's law, which is: The only permanent ingredient in the field of housing renewal, model cities, code enforcement, and rehabilitation is nonstop reorganization.

Lest anyone conclude that I am being facetious, let me assure him that I am dead serious. Everyone of you in this room has been frustrated to the point of anger because you, too, have spent so much of your professional lives waiting out the reorganizations that are delaying the fulfillment of our glorious aims.

The search for unity goes on, but here is the rub: What is happening as the HUD programs undergo a still further reorganization of the reorganization? Who is coordinating the legislative intent, spirit, and letter of the laws we have worked so hard to have enacted?

We who have lived with the whole bag for more than 30 years are truly concerned. Our clients, the disadvantaged families, the senior citizens, the dismayed taxpayers of every town across the country are in our offices every day, asking questions, seeking answers. They want to know not only about the programs that have been promised but also what happened to the programs that have been started. Where, for example, did the reorganizations lead our rehabilitation program? In the past year, rehabilitation funds were cut off three times. Is it going to be the same story this year?

We hear a lot of words about how this present Administration is going to change things. But all of us know, or should know, that words are the politicians' tools—that by calling an old problem by a new name they can make it appear to be a brand new problem. Let me cite an example.

In 1970, at long last, we discover that our air is foul, that our water is dirty, and that our soil is contaminated. In 1970, we discover this! And so we are told that we need a program to clean up our environment. That's fine, but how are we going to clean the air, purify the water, and decontaminate the soil without spending any more money? Are we going to neglect the other aspects of the environment that we have been talking about for 30 years—a decent home and living environment for all Americans?

As members of NAHRO, we must constantly pursue our efforts to upgrade the environment, and that includes safe and sanitary housing and good neighborhoods. We want to make darned sure that nobody forgets that those are part of the environment, indeed, a basic part of our environmental problems.

We have also been told that federal programs are being redesigned, or reorganized, to return responsibility to the local community. What does that mean? Does it mean that we get the federal funds we need to do our jobs or does it mean that local communities are going to have to go it alone with their own severely limited resources?

We are warned that inflation has to be stopped. But how do we do it? The demand for urban renewal funds is approaching three billion dollars today, almost twice the amount Congress has authorized. Would it be inflationary, then, to ask Congress for at least the full amount it has authorized for this vital program? The amount would still be a good deal less than needed. Yet, we have the Administration asking Congress for only one billion dollars this year—about half the amount authorized and a third of what is really needed. We went through the same thing last year. Both we and the Administration, and the Congress, as well, know this sum is inadequate.

Worse than not asking for adequate funds is not using all the money that is available. Because of controls imposed by the Bureau of the Budget we may not have the one billion dollars that is available this fiscal year; we may have only 800 million. Where does that leave cities with ongoing renewal programs that were started in pre-inflationary times. We all know the recent story of the 50 or more cities requesting additional funds to complete projects. Some had their requests slashed by up to 75 percent.

Philadelphia needed between 40 million and 50 million dollars; it got seventeen and a half. Chicago asked for 39 million; it was told to make do with 15. Boston is seeking 76 million dollars; it will receive 15. All of these cutbacks have been made by HUD in spite of inflation, changing conditions, and increased needs of these cities.

We must ask ourselves, is it legally or morally justifiable to force cities to complete on their own a job the federal government helped and encouraged them to start? Is the so-called return of responsibility merely an excuse to force local taxpayers to carry the full burden for these projects or to have them abandoned?

Sometimes I wonder whether HUD is on the same wavelength as Congress and the rest of us in the field. Take a recent example. In the 1969 housing act, Congress gave both management and tenants in public housing a magnificent opportunity. The amendment sponsored by Senator Brooke was supposed to accomplish three things: first, to make sure that no tenant has to pay more than 25 percent of his income for rent; second, to help local housing authorities eliminate operating deficits and rebuild badly depleted reserve funds to an adequate level; and third, to help local housing authorities provide adequate operating and maintenance service while guaranteeing the low-rent character of the program.

As most of you know, March 24 was the legal deadline for putting into effect the Brooke Amendment rent adjustment. HUD didn't have to wait until March 24, of course. It could have put the adjustments into effect earlier, say by March 1. But it didn't. It waited until the last minute.

I wonder if people outside of public housing appreciate the monumental task that each housing authority has been stuck with making these adjustments? Requiring the pro-rating of rent adjustments for seven days in March means the recomputing of 25,000 rental payments in New York City, alone. It also means developing and sending a carefully worded notice to each tenant stating:

Reason for the adjustment

The amount of dollar credit for March and each subsequent month that it takes to put this last minute directive into effect

The amount of rent to be sent in for the next payment, following receipt of rent adjustment, and, finally

The new monthly rent and when to start paying it.

The new income determination—another bureaucratic branchild—throws an additional unnecessary administrative burden on the local housing authority—and tenants. Each new application and subsequent reexamination of tenant income will have to be calculated twice—once using HUD's new definition of income and once using the definition local housing authorities developed and have been using for years, with HUD approval.

What happens when the tenant who has an initial rent adjustment based on the 25 percent of income formula reports a decrease in income before the next regular reexamination? We will have to go through the whole laborious process again. And God knows what will happen if a tenant fails to report an increase in income before the regular re-examination. Will the housing authority have to repay HUD, retroactively, for the overpayment of Brooke Amendment subsidy?

And why has it taken so long after the 1969 housing act to implement the Brooke Amendment? They had some problems, I understand. It took weeks and weeks, for instance, for the finest legal talent in the Department to decide whether a tenant with annual income of two thousand one hundred and fourteen dollars and four cents should pay in rent forty-four dollars and four and a quarter cents per month or whether the local housing authority would be permitted to round off the rent to the nearest dollar or half dollar.

I'm not kidding. I'm telling you what I know.

The 1969 housing act also authorized HUD to set aside funds to pick up operating deficits of local housing authorities. That was Senator Brooke's intent. We, in NAHRO, know, because we sat with him and his staff and helped work out the details with him. There was also supposed to be an operating subsidy so that LHA's could maintain the low-rent character of their programs and provide adequate services. But what has HUD's position been? All of this can be taken care of through—and I quote—"economic and efficient administration." In short, not one thin dime for operating and maintenance services.

Hiding behind such terms as "economic and efficient administration" and "tenant responsibility" is an implied threat to our local housing authorities that we better make our tenants behave.

I say at this conference, and I'm going to say it at every conference across this country, that the ever increasing attempts by some people in high places to make local housing authorities and local renewal agencies, for that matter, scapegoats for the behavior of some tenants or community residents are cause for grave concern. And I am going to say that we at the local level will be eternally damned if we allow ourselves to accept total responsibility for the changing behavioral patterns of our entire society. Because of the very nature of the areas in which we work and the socioeconomic problems of our clients, we have become handy targets for those who would point the finger of blame away from the real causes of illness in our society.

While we will willingly accept our share of responsibility and will continue to do our part, let no one—either in HUD or at the state and local level, make support of our programs contingent on LPA's and LHA's changing the behavioral patterns of our clients. We need not stand for such nonsense.

I have said that there were some people who thought our search for unity was shot to hell. We, in NAHRO, still have hope. When the present Secretary of HUD took office, we offered him our full cooperation and know-how. We created task force upon task force; we met for hour upon hour, day after day after day, to help him and his staff develop plans, programs and procedures to achieve mutual aims and goals.

I guess everyone in the field of housing and urban development has heard something about the proclaimer process. It has been described in our *Journal of Housing* and *NAHRO Letter*. We have high hopes for this process. It is going to eliminate a lot of unnecessary paper work, red tape, and delays. It will help us move our programs.

But here we are today, almost a year since we began talking about proclaimer, more than a half year after we were told they were ready to go, and we are still waiting for the first proclaimers.

We are still searching for unity, but we can't wait much longer while we watch our programs strangle on red tape, reorganizations, and the rest. Some people have asked me if there is a credibility gap between NAHRO and HUD. What they really want to ask is whether I think HUD is lying to us about wanting our cooperation, about wanting to move programs. I personally don't think the people in HUD are. Nevertheless, there are some disturbing things going on. Let me cite an example with which I am personally familiar. I am sure there are others in other cities, in other parts of the country.

In San Francisco, we have read reams and reams of copy about what's going on in housing production. The truth is that nothing is happening. But in one of our papers we read how a HUD official is going to speed the production of new housing in the city. He tells a beautiful story about great increases in housing production. He also says something encouraging about how the production of new housing is not inflationary, is, in fact, anti-inflationary.

"With a tight housing market," he explains, "rents go up, increasing the cost of living. But if more units are built the pressure for raising rents decreases, costs go down, and inflation is checked. The principle was not understood by previous administrations, nor by the present one during its first few months."

In October 1969, the San Francisco Housing Authority submitted a proposal that was widely praised. We proposed 200 units of four-, five-, and six-bedroom family apartments on 27 sites scattered over a section of San Francisco. Each unit would have its own entrance, yard, the whole bit, so that the Housing Authority could pursue the great goal of home ownership for poor people. That's what the Administration wanted, or said it wanted.

The proposal sat and sat and sat, even though we hadn't built a stick of housing for families in San Francisco since 1963. A short time ago our application was returned. We were told to build more density into our projects. So after all this talk about doing away with monolithic, high rise structures and the evils of high density, what word do we get from HUD? "try for more density."

We were also told that our design was too expensive. To cut costs. We constructed such units back in 1963. And HUD expects us to build that same kind of housing for the poor in 1970. It will take us 40 years to pay off the bonds for that 1963 housing and it won't hold up another ten. Is that what HUD calls fiscal responsibility?

We could have cheated, of course, on our original application. We could have tied in two or three senior citizen operations and brought the price down. But I don't believe in that kind of stuff and I don't think that anybody in NAHRO should have to resort to that kind of trick.

But our price was too high, said the gentleman from HUD, the same gentleman, incidentally, who promised us a method whereby we could submit an application on Monday morning and walk out with a go-ahead to begin construction the following Friday. His people wouldn't believe the estimates of the San Francisco Housing Authority or, for that matter, their own regional office people from HAA. So they sent all the documentation to guess who? The FHA.

The FHA estimators took our material, made appraisals, analyzed, dissected, and compared. And what did they come up with? An estimate of about 130 dollars less per unit. On a three million dollar project!

They couldn't take that in Washington. So they came back and said to me, "Hold the design, take it back, fire the architect, pay him off, advertise it as a turnkey program and start all over".

Even a cursory check of the data that has been accumulated since January of 1963, when this project was first proposed, would have shown them that going Turnkey would mean writing off more than $76,000 already expended and would result in a per unit cost of over $2,000 more than that in the present program. Who makes these weird decisions?

An interesting sidelight came from an FHA inspector assigned to check our plans. He allegedly said to an HAA representative, "My God, those buildings are just as good as the one I live in. Public Housing is supposed to be for poor people."

This is the kind of thinking I and every LHA director I talk with has to put up with. But I say to you that these units in San Francisco are designed within the statutory cost limits and they are the only kind of units that I'm going to allow the commissioners of the San Francisco Housing Authority to sign off on, because it's the kind of housing to which the people of San Francisco and the people who pay federal taxes are entitled. We are not going to put up any housing that won't last the term of the bonds.

We received a document a few weeks ago while all this business with FHA and HUD was going on. It was a preliminary injunction against the United States Department of Housing and Urban Development and the San Francisco Redevelopment Agency. It stated, in part, that HUD should not have approved the city's workable program because the city was not building enough public housing.

It didn't make sense. The federal court says it won't let our local renewal program go until we build more public housing. And we have 1,039 units of public housing at various places pipeline—family housing, if you please. We couldn't build it until now because the statutory cost limit was too low and maybe we still won't build it because HUD seems to think that Congress had something else in mind when it raised the statutory room costs.

We need family housing. Assistant Secretary Sam Jackson screams for it. "Build more family housing", he says. The courts say, "You don't have relocation sources. You need more public housing". And the HUD production people say, "Go back to the drawing board".

Is somebody trying to tell us something? Is there a negative strategy against the central cities?

An assistant to the Attorney General of the United States says we are not going to build any more public housing in the central city; it's all going to be built in suburbia. A self-described apostle of the new emerging majority says public housing is needed not in the fading big cities but in suburbia and the boom corridors of Florida, Texas, Arizona, and California.

I, for one, am not opposed to public housing, in the suburbs, so long as someone provides the facilities and services and wherewithal that our clients, the people in public housing, need to live in those communities. But does our young apostle think his new emerging majority—white, middle class, and largely conservative—is going to provide those facilities and out of their own local property taxes?

This negative attitude toward the central cities on the part of some in the Administration places an increasing, overwhelming responsibility on everyone in NAHRO. We must become educators, not of each other but of our commissioners and everyone with whom they have contracts.

If our urban centers are to be abandoned, then let Washington tell us. And let us tell our commissioners and the people they represent—the churches, trade unions, business groups, and the rest—what has to be done.

Each member of NAHRO must become a dedicated, hardworking apostle of his programs and the need for unity if we are going to save our cities. And don't anyone think for a minute that he is safe because he is out there in a small town with a housing or renewal program. Anything that happens to the central city is going to affect those in the smaller communities.

We who know the facts must make them known to the people, the movers and shakers in each community. Representatives of citizen participation groups as well as of government, must receive a full report if we are to live up to our legal and moral obligations.

We have a shocking story to tell.

Nothing is happening in housing except a glut of unproven but highly publicized ideas brewed in the minds of public relations men.

Urban renewal is grinding to a halt because of fiscal policies based on political expediency.

Relocation in the central cities under present restrictions is a myth.

Code enforcement is threatened by a lack of funds just as the FACE program is finally being accepted by older communities that could be saved from the slum blight.

The Workable Programs submitted by most cities are lies hatched with the connivance of those who sit in judgment on their viability.

The Federal government is trying to get out from under commitments made to communities and is moving to shift the cost of these commitments to the local tax payers.

Alarming events are being shaped in Washington in the name of economy. We are all for honest economy in government. But, I say when we send a dollar to Washington it is not too much to ask that a few cents come back to the local community to be spent for the fundamental right to habitation.

Any Nation that can simultaneously fight a war and maintain an occupation force in Asia, send men to the moon and plan exploration beyond it, and bolster the economies of countries making up half the world can find some pennies in each dollar for decent, safe and sanitary housing for poor American people.

A TRIBUTE TO GOSHEN COLLEGE, IND., AND ITS RETIRED AND NEW PRESIDENTS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. BRADEMAS. Mr. Speaker, one of the outstanding liberal arts colleges in the United States is located in the congressional district which I have the honor to represent—Goshen College, in Goshen, Ind.

Goshen College, which is a 4-year, co-ed, liberal arts Mennonite college, now has nearly 1,200 full-time students.

It is for three reasons that I take this time, Mr. Speaker, to make these few comments about Goshen College.

First, I wish to pay tribute to Dr. Paul Mininger, who retired last month as president of Goshen College, a position in which he served with great ability and dedication over 16 years.

I believe the following editorial from the June 25, 1970, issue of the Elkhart Truth, is an excellent summary of Dr. Mininger's contributions to Goshen College:

WELL DONE, DR. PAUL MININGER

Dr. Paul Mininger, who retires next Tuesday as president of Goshen College, has contributed outstanding leadership during his 16-year tenure at that post.

Since Dr. Mininger became president in 1954, Goshen College has expanded greatly not only in physical size but also in service to many, including the whole Elkhart County community.

The number of full-time students has increased from 593 to 1,186, and part-time from 95 to 310, and eight buildings were added.

Innovations under Dr. Mininger have included the Goshen Plan and the trimester of study and service.

The Biblical Seminary was developed into a graduate-level institution. Dr. Mininger recently worked to separate the seminary from the college. A campus church also was set up in this time, as well as a community government, with representatives of students, faculty and administration participating.

The Goshen College Counselors and Pastors program was begun; this is a vital link between Mennonite congregations and Elkhart County business, industrial and community leaders and the school.

The success of Dr. Mininger's administration is reflected in his fine relations with faculty, students and the general community. Especially noteworthy in these troubled times on campuses generally, Dr. Mininger long has had a policy of meeting with students informally (at the campus snack shop) to talk over matters of concern to the students.

The future of Goshen College is bright not only because it has had Dr. Mininger as president but because it continues to have an excellent over-all caliber of leadership, faculty, student body and community supporters.

Goshen College has succeeded not only in keeping faith with its basic principles but also in responding to the swiftly changing needs of the times.

The second reason, Mr. Speaker, that I speak of Goshen College is to pay my respects to Dr. Mininger's distinguished successor, Dr. J. Lawrence Burkholder, presently professor at the Harvard Divinity School, but now to be the 10th president of Goshen College, by having been elected to that position by the Mennonite Board of Education.

The following article, which I insert at this point in the RECORD, from the May 1970, Goshen College Bulletin, is a fine summary of Dr. Burkholder's outstanding qualifications for this new responsibility:

BURKHOLDER NAMED PRESIDENT

Dr. J. Lawrence Burkholder, professor at Harvard Divinity School and former resident and professor at Goshen, has been elected by the Mennonite Board of Education to be Goshen College's tenth president.

Dr. Burkholder will assume responsibilties of the office July 1, 1971. During the interim year, Dr. Carl Kreider dean of the College, will be acting president. His election was also announced by the Mennonite Board of Education.

Dr. Henry D. Weaver, Jr., professor of chemistry and director of international education, will be acting dean during the interim year, according to action by the Goshen College Board of Overseers. Prof. Weaver is currently on sabbatical leave in Nepal.

Dr. Paul Mininger, whose resignation from the office of president is effective June 30, has served as chief executive of the school for 16 years.

GOSHEN GRADUATE

Dr. Burkholder is a 1939 Goshen College graduate. He received the bachelor of divinity degree from Gettysburg Theological Seminary in 1952, the master of theology degree from Princeton Theological Seminary in 1951, and the doctor of theology degree summa cum laude from Princeton in 1958. In 1965–66 on a sabbatical leave from Harvard he did research at Cambridge University in England.

Ordained by Bishop D. A. Yoder in 1942, he was pastor of the Croghan (N.Y.) Mennonite Church for two years, when he volunteered for relief work in China. After a year of service in India, he administered the China relief program of Mennonite Central Committee and Church World Service until December, 1948, when he and his family were evacuated from Shanghai. He returned to the Far East in 1954 as relief commissioner to Vietnam under Church World Service.

In 1949 he joined the faculty of Goshen College, where he taught Bible and philosophy courses for 12 years. Former students will remember him as teacher of such courses as introduction to Christianity, fundamentals of Christian faith, Christian discipleship, introduction to philosophy, logic and ethics.

In 1961 he accepted a post at Harvard Divinity School to develop a new program in the structure and mission of the church, a program which emerged as a new department of the church. In 1964 he was named by Harvard President Pusey to the chair of Victor S. Thomas Professor of Divinity. Also at Harvard he has organized an extensive field education program for the Divinity School plus a post-graduate program in continuing education for ministers. He is a member of the president's committee on Clinical Psychology and is helping to set up an interdisciplinary program in clinical psychology and public practice at Harvard.

PASTOR AND WRITER

When the Burkholders moved to Harvard in 1961, they immediately organized a Mennonite fellowship, which meets regularly in their home. Dr. Burkholder serves as one of its pastors.

An author, he has written numerous articles for theological and denominational publications, plus a variety of booklets, and contributed to a number of books. Currently in process are two articles and a book, "The Third Way."

In 1969 Dr. Burkholder was appointed by the denomination-wide board of education—the same board which elected him president—as the Conrad Grebel Lecturer. His lecture series in church renewal was delivered at a number of places, including Goshen College.

NATIVE OF PENNSYLVANIA

Dr. Burkholder, 52, is a native of Newville, Pa., the son of the late Prof. and Mrs. Henry L. Burkholder. Prof. Burkholder was a teacher of philosophy of education at Shippensburg State College.

Dr. Burkholder is married to the former Harriet Lapp, daughter of the late George J. Lapp, who served as interim president of Goshen College 1918–19 and was one of the denomination's early missionaries to India.

The Burkholders are parents of two sons and two daughters, Myrna, a 1963 Goshen College graduate, is a social worker in New York; Howard is a graduate of Harvard University and a candidate for the B.D. degree at Harvard Divinity School; Janet Louise is a junior at Goshen College; and Gerald is a high school freshman.

Dr. Burkholder plans to stay at Harvard until February 1, 1971, to carry forward work already begun. Between then and July 1 he will be preparing for his new assignment, and visiting colleges and the Study-Service Trimester units abroad operated by Goshen College.

The Burkholders live at 42 Frost Street, Arlington, Massachusetts.

And third, Mr. Speaker, as one who has long been interested in higher education and particularly in international education, I should like to make special note of the pioneering that Goshen College has done in the field of intercultural education and service.

Following, therefore, is an article from the January 1970, issue of the publication "Intercultural Education" published by the organization, Education and World Affairs, which describes the unique education and service program at Goshen College:

EDUCATION AND SERVICE

Intercultural education and service are required of all students at a small liberal arts college in Goshen, Indiana. Below is a description of Goshen College's new Study-Service Abroad program which sent 281 students to Costa Rica, Nicaragua, Haiti, Guadelupe, Honduras, and Jamaica at no extra cost to the student last year.

A year ago, Goshen College, a four-year, co-ed, liberal arts Mennonite college of 1,100 students, launched a new academic program that takes every student off the campus and throws him, largely on his own resources, into a developing country for a normal trimester of education.

Educators and community leaders who have watched the program in action believe it may be the leading edge of a major new movement in higher education. More important, perhaps, the students who have been through it endorse it strongly. Almost without exception, they say it has helped them to an important new sense of self-identity.

BACKGROUND AND OBJECTIVES OF PROGRAM

The new academic program was launched in the fall of 1968 following two years of study by a select college committee, formed in the belief that traditional education was becoming obsolete as a means of preparing students for a meaningful life—and that time was running out for the small, independent college unless it could demonstrate a useful and special function of its own. . . .

The result of the study was that Goshen decided to go beyond the boundaries of what other American colleges had done. It set up a trimester academic calendar, itself not unique, but crucial to a new concept of letting the student tailor his educational program to his own needs, aspirations, and financial circumstances. (70% of the students are Mennonite; 30% belong to other denominations. One third are from northern Indiana; the rest from other states and countries. There are 20 American blacks and 30 international students from 20 countries. Most Goshen students are from families of relatively modest means.)

Most important, one 14-week trimester of education could be earmarked as a mandatory term of study and service abroad. The idea was, and is, to give the student a shock-immersion in a foreign culture in order to:

1. Examine and experience another culture in order to understand and respect it and his own culture.
2. Live under a different government in order to sense the meaning of nationhood for a country other than the participant's native country.
3. Experience being part of a minority—racially, socially, linguistically, and religiously, to place his role in his own culture in a new perspective.
4. Develop a viewpoint and understanding necessary to live and work effectively in a world made smaller by transportation and communication facilities.
5. Understand through exposure to its causes the process of the revolutions of our time: technological, industrial, political, educational and the "revolution of rising expectations."
6. Confront desperate physical and spiritual need in a context where he can see possibilities of using his "culture for service."
7. Meet specific physical, intellectual, spiritual or other needs in another culture.
8. Experience an intensive relationship as a part of a small group with one or two faculty members before he has decided on his collegiate and vocational goals.
9. To contribute to a climate of international understanding and interest on the Goshen College campus.

POINTS OF DIFFERENCE

Only three colleges in the nation send all of their students abroad. They are Kalamazoo, Michigan; Lake Erie College, in Painesville, Ohio; and now Goshen. Kalamazoo and Lake Erie send their students, usually their juniors, to universities in Europe.

Goshen is the only college in the United States to send all of its students abroad—not to another college or university—but to a developing nation to spend a normal term of education in a program of study and service. The trimester abroad is integrated into the academic program and paid for out of normal enrollment costs.

THE FIRST YEAR

Latin-America and the Caribbean were chosen for the Goshen program for several reasons. Many of the countries are developing and offer the degree of cultural shock desired. They provide a rich opportunity for study in a variety of subject fields. Almost all demand communication in a foreign language. And, over the years, Mennonites in social work have built up helpful contacts in these countries. . . .

At each location, three groups of 15 to 25 students were taught during the school year. A regular faculty member of the college was, and will be, sent on location for at least a year to administer the program. He becomes, by necessity, far more than a conventional college professor—a guide, linguist, big brother, diplomat, expeditor. He arranges housing for his charges, finds each a "father" and a "mother" in the host nation, sets up study assignments, monitors them periodically, listens to the students' problems, acts as disciplinarian, provides a shoulder to cry on. He deals extensively with nationals of the country, who are asked to help administer parts of the program and—at various levels of the establishment—helps get things done at city hall.

Coordinator of the new program is Arlin Hunsberger, a member of the International Studies Division at Goshen College. He feels that a significant effect of the SST program is the chance it has afforded local people of the host countries to interact on a more normal basis with the average American, as opposed to the tourist, the missionary, or the government official, all of whom tend to be unapproachable. He relates further that a possible result of the program within the college has been the increased interest in education and teaching as a career among students who have returned.

According to the present plans for expansion, in 1970–71 Goshen College will go to Germany and to the Far East (at an extra cost because of travel expenses) as well as to the Central American and Caribbean countries.

DALLAS REPORTS BUSINESS GOOD AND OPTIMISTIC

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. COLLINS. Mr. Speaker, yesterday's Dallas Times Herald had an enthusiastic story about the Dallas Market Center. Trammell Crow's great marketing complex provides a showplace and trading center for the Nation.

Richard Curry, business editor of the Herald made an in-depth study of the gift and hardware show. Business was running ahead, setting new sales records. Thinking is positive and the outlook is optimistic. In a headline story of "What Recession?" read Curry's analysis of the big gift show:

"Recession? What recession? Business is just great. We're not in any recession."

This was the answer of one exhibitor at the Christmas Gift, Jewelry and Housewares Show last week at Dallas Market Center to the question of how current economic uncertainties are affecting buying at the retailer level.

A spot check with exhibitors, retail buyers and Market Centers executives as the market closed showed business at the market—which ranks second only to New York in national importance—has generally held up at least as well as the 1969 record and, in many individual cases, surpassed a year ago.

The number of buyers attending the show, held July 4–10, was up 22½ per cent toward the close of the market.

Buyer-seller sentiment at the market is considered important for several reasons. Attendance at the show is so large that it represents a good cross section of retailer opinion now as to how sales at the consumer level will hold up for the next six months, a period many are predicting will be characterized by further business softness.

Godcheaux Levi, president of Select Imports, a firm which operates nationally in the decorative accessory and better quality gift field, said his firm's sales level this year is running ahead of 1969, which was a record year. Business is up at all of Select Imports showrooms in major market centers except for New York.

Levi said retailers are not being influenced one way or the other by fears of inflation or recession today. "If the value is there and the design is there, the item will sell."

The importing firm executive pointed out a factor which was voiced by more than one wholesaler at the show last week. That is, high ticket items are selling very well today with little or no hesitancy on the part of retailers to buy the more expensive items for resale to the consumer.

Another factor at work today is that many retailers who had let inventories dwindle earlier in the year because of economic uncertainties and tight money are now being forced to restock. "If they let their inventories slip, they've got to have new merchandise."

Tod Riddell said he feels his showroom's business is a good barometer of current business conditions because it has the "most expensive non-essential" lines.

"This has been a spectacular market," Riddell said. "And I thought it would be a very tight money market. There has been a tremendous influx of out of state buyers from areas never represented here before."

Riddell said his shop had sold out of every one-of-a-kind luxury item in stock, including a group of antique music boxes which sold for up to $2,000 apiece.

Several wholesaler-exhibitors said they had been apprehensive about how business volume would materialize prior to the opening of the market because of the unsteady news background this year. But no exhibitor surveyed reported poor business volume, with most reporting business at least as good as last year.

Keith Smith with Crissman-Smith, a gifts and decorative accessories shop, said that buyer traffic had remained continuous, which he said was "most unusual." Buying has been strong with buyers "more positive in placing orders," according to Smith.

Joel McLendon, who operates a gifts-china-crystal showroom, said his shop's business had surpassed last July market's total orders by Tuesday. "We think we will go over last September show's sales," he said, adding that the September show is normally the biggest of the year.

CAPTIVE NATIONS WEEK

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. WOLFF. Mr. Speaker, each year we set aside a week in June to pay homage to the millions of people who still live midst the shadows of suppression. Each year, we acknowledge Captive Nations Week, and reaffirm our commitment to restoring freedom to all mankind.

The people who live within these captive nations have always demonstrated tremendous courage and dedication to the restoration of freedom to their land.

On this important occasion, I therefore urge all of us to publicly reaffirm our responsibility to bring peace and freedom to all lands.

Living in freedom, we often tend to forget that much of the world still languishes under Communist domination. The forthcoming week should provide us with an excellent opportunity to search our consciences for where we stand in freeing all captive nations. We must never cease to dedicate our efforts to bringing these captive peoples the freedom they deserve. Let this week signify ever increasing dedication toward the establishment of permanent peace throughout the world, and peaceful and free lives for all mankind.

ONE MAN FINDS HEAVEN ON EARTH

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. ROONEY of New York. Mr. Speaker, I have come across an interesting column by Bob Considine published in the San Francisco Examiner of Tuesday, May 26, 1970, which refers to a longtime friend of mine and his little granddaughter. It is entitled "One Man Finds Heaven on Earth," and it starts with Sam Pryor's question, "Where is Heaven?"

Under the permission heretofore granted me by unanimous consent of the House I am pleased to include with these remarks Considine's entire column:

ONE MAN FINDS HEAVEN ON EARTH

(By Bob Considine)

HANA MAUI.—Sam Pryor said to his visiting 8 year old grandchild Cynthia, "Where Is Heaven?"

The child pointed up at the washed blue sky over this, the loveliest of the Hawaiian Islands. The trim, perennially vigorous 72 year old former vice president of Pan American World Airways indicated that he was surprised by the child's answer.

"Really?" he asked. "Have you thought that this might be Heaven?" With a soft gesture he drew the girl's attention to the breathtaking colorful garden that has captured the Pryor home, to the great pastures that are more like golf courses than homes for Herefords, to the green mountains stitched with lacy waterfalls, to the whipped cream waves throwing themselves against the black rocks below and across the blue channel to the Big Island.

"What can Heaven possibly have beyond these hills, our birds, sunshine, our grass, little fish and big whales, our music, our books?"

"I sometimes think that God starts us out in Heaven and gives us a certain number of years for us to prove that we deserve it. If we don't, well, we don't get back to it."

This tirelessly hospitable man and his wonderful wife, Mary Tay (for Taylor), live here about six months of each year. Their household pets are four incredibly agile little apes—gibbons. Their favorite among these is Kippy, an astonishing microcosm of a human. Kippy goes wherever the Pryors go, always smartly dressed in diapers. He takes along his bottle of milk or his pacifier, or sometimes sucks on May Tay's little finger, his graceful right arm resting on her shoulder.

Sam doesn't have help, in the rich landholder sense of that patronizing word. The people who work around the ranch, the gardens and the house are all pure Hawaiian. He paid off the architect who drew up plans for a splendid mansion, then built his own kind of house. No larger or more prepossessing than the Hawaiian houses nearby.

They are good neighbors. Soon Sam and Mary Tay will have other neighbors, their old friends the Lindberghs. The house that Lindbergh and his wife Anne designed is nearing completion, in the leisurely manner of Hawaii. Should be ready for occupancy a couple of years hence, when the legendary Lindy is 70.

The nearest "shopping center" to the Pryors is 11 miles down a narrow twisting road through forests of eucalyptus, bamboo, orchids, plumeria, hibiscus, African tulip trees and other products of the Garden of Eden. Flights of Mynah birds took off from the road as we approached. And everywhere there was the sound of water falling, beautiful clean, cool drinking water finding its way to the sea.

The "shopping center" is the Hasegawa General Store. It must have been stocked by a Magpie.

Literally, the store is filled to the rafters with all of man's needs in life—food, clothing, medicines, tools, toys, TV sets, sewing machines, stoves, chinaware, needles, plain and fancy poi, postage stamps, parasols, flowers, seed, books, bumper stickers ("Fight smog—buy horses") and Mr. Hasegawa would be happy to sell you a Datsun station wagon to go with the sticker, and fill up the tank at the Hasegawa Service Station.

The best way to get to Sam's paradise from Honolulu is the slowest way, by air that is. Sam and his son Tap, who built the world famous Sea Life Park—recently the setting for an Arthur Godfrey TV special—took over Royal Hawaiian Airlines last year when that inter-island shuttle service was losing $20,000 a month. Now it's in the black and the reason is apparent. The pilots of the line's twin-engined Cessnas fly low and slow, and you see a thousand times more of these enchanted isles than the competitors can show you in their multi-million dollar jets.

Verily, Sam was telling Cynthia God's truth.

CAPTIVE NATIONS WEEK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. RODINO. Mr. Speaker, man's most basic quest is freedom, freedom from those forces which threaten both the individual and collective independence. In order to further the cause of freedom, the assembly of captive European nations was established 25 years ago. After all this time, a permanent and just solution has yet to be found for the problems which appeared in east central Europe as a result of World War II.

The traditional world order is rapidly changing. This is an era of greater mobility and great communication, when the world grows increasingly small with increasing evidences of breakthroughs toward a world community. Unfortunately there remains those who cannot benefit from this increased internationalism, since free exchange of ideas can only occur among free people. Censorship, repression, dictatorship, and restraint continue to stifle the intellectual and economic lives of many. Attempts have been made by states and individuals to undermine this oppression, but to no avail.

Living as we do in a country of limitless freedom, it is hard to comprehend the full scope of the incursions upon human liberties which we take for granted; yet such strangulation is a flagrant violation of man's natural rights.

Therefore, I urge all to reaffirm their efforts on behalf of all repressed people during Captive Nations Week of July 12–18. May we all work to achieve freedom and independence of all mankind; for no man is entirely free until all men are free.

CON SON ISLAND PRISON

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. RYAN. Mr. Speaker, the conditions at Con Son Island Prison—conditions which some might otherwise be unaware of but for the diligence and concern of our two distinguished colleagues, Mr. HAWKINS of California and Mr. ANDERSON of Tennessee—are an atrocity. They cannot be condoned. But while in no way wishing to pass over the inhumanity they present, I want to stress that we must not be misdirected as to the very essential meanings of these revelations.

Con Son Island Prison shows the irony of the argument used by President Nixon, and President Johnson before him, that we are fighting for the right of self-determination.

Were Con Son Island Prison an isolated aspect of the South Vietnam's governmental apparatus, some might be able to dismiss it after the ritualized rhetoric of condemnation. However, the prison is, in fact, not unique. The Thieu-Ky regime is an oppressive government, countenancing no dissent. It represses those South Vietnamese who seek a negotiated settlement to the conflict which has beset their land.

This is the government which the United States supports—by rhetoric, by arms and materiel, and by the blood of our young men. This is the government for which the United States fights a war supposedly to secure the right of self-determination.

An editorial which appeared in the July 9 edition of the Washington Post offers some very worthwhile insights about the "tiger cages" at Con Son Island Prison and the war. I commend it to my colleagues:

[From the Washington Post, July 9, 1970]

THE "TIGER CAGES" AT CONSON

The United States Mission has every good reason to disclaim responsibility for the operation of South Vietnam's prison system, in general, and for the shocking conditions under which prisoners are confined at Conson Island, in particular. For one thing, there isn't much we can do about the way Vietnamese have been treating each other for centuries; it was ever thus, you might say, and we are in no position to look down in self-righteous horror anyway—some of our own prisons, even today, are nothing to brag about. So we do not have to hit ourselves over the head for Conson Island and we should not; the North Vietnamese will be quick enough to try to exploit it as somehow relevant to our claims about *their* mistreatment of American POWs, in any case.

Nor do the "Tiger Cages" suddenly become a fresh argument for removing ourselves instantly from this war. Conson Island has been a human sump since French colonial days; first a penal colony, it was famous—or notorious—for its brutal conditions back in the days when the inmates were the political enemies of our great friend and ally Ngo Dinh Diem; horror stories about the island appeared in this newspaper as long ago as 1965.

In short, there is enough to blame ourselves for in Vietnam, and there are enough reasons for accelerating our extrication from Vietnam, without Conson; the real lessons to be learned from the initiative and persistence of Congressmen Anderson and Hawkins and of Mr. Thomas R. Harkin, the erstwhile committee staff member, lie elsewhere. What their adventure at Conson tells us, first, is something about the perils and pitfalls of official fact-finding tours, for what happened there is almost without precedent: the fact-finders uncovered a fact. They saw something that wasn't on the program, something they were not supposed to see. This may not sound like much until you consider the record. With the notable exception of Mr. George Romney, who discovered that he had been "brainwashed" and had the singular courage to admit it publicly, most VIP visitors don't even know they are getting the treatment; most of them come back burbling about progress and burgeoning democracy and pacification gains and soaring morale and, yes, victory.

Contrast the ingenuity and healthy skepticism and open-mindedness of Messrs. Anderson and Hawkins with the pitiful delegation of senators, representatives and governors who went out on President Nixon's invitation at the height of the Senate debate on the war powers and Cambodia. After a full four days, they returned to sign a report (Sen. McIntyre excepted, to his credit) which was actually drafted by a White House aide and which said, among other things: "We were at liberty to see and talk with anyone we wished in regard to any aspect of the war." Now they know of one corner of the war, one piece of the Big Picture, which they somehow missed.

So that's one lesson; beware of the fact-finder, the instant expert who observes the staged exercise and gets the white-tablecloth treatment with the maps and the pointers and the shaves and haircuts for the troops and the captured weapons, which have been removed and nicely cleaned, and replaced in the sanctuary bunkers for a first-hand look.

And the second lesson, more important, is that the United States government ought to stop talking in the rose-tinted way it talks about the war, and our Saigon ally and a "just peace" because all it does is set people up for a fall when the nasty facts seep out. We are not supporting Jeffersonian democracy in Saigon and never have been; we are not capable of changing the ways of another people with a radically different culture on a distant continent—a people who in one sense, and at a certain level, practice more representative government than we do, and in other ways do not and can't be made to, for all the men and money we pour in. We are supporting a rough, ruthless, military regime, "Tiger Cages" and all, and in the absence of some sort of patchwork political settlement which won't produce anything essentially more appealing in Jeffersonian terms, we are trying to whip it into shape so that it can support itself and we can come home. That is the administration's purpose, as best we can understand it, and we only set ourselves up for shattering disillusionment when we describe it otherwise or pretend that we are doing something else.

REVISION OF THE RULES OF THE HOUSE REGARDING TELLER VOTING

HON. HALE BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. BOGGS. Mr. Speaker, there is mounting public support for revision of the rules of the House regarding the procedures of teller voting as proposed by the gentleman from Massachusetts, Congressman O'NEILL, and the gentleman from California, Congressman GUBSER. This support is evidenced by a letter I have received from Mr. Tony T. Dechant, president of the National Farmers Union. I insert it in the RECORD for the benefit of my colleagues:

JULY 9, 1970.

Hon. HALE BOGGS,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BOGGS: I highly commend your unqualified support of the anti-secrecy amendments to the Legislative Reorganization Act of 1970 (H.R. 17654).

It is obvious that this kind of bipartisan reform is long overdue in the House of Representatives, and your leadership in working for the O'Neill-Gubser proposal will hopefully set the precedent for final passage.

There is no question that these amendments will strengthen the open, representative and democratic legislative process.

Sincerely,

TONY T. DECHANT.

FEDERAL GUIDELINES FOR POLITICAL ACTIVITY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. ASHBROOK. Mr. Speaker, recently the Civil Service Commission issued a revised listing of guidelines defining the extent of political activity for Federal employees and State and local employees who work in federally aided programs. In the political arena there is a number of activities of various types which are open to those in the private sector but which carry restrictions as far as Federal employees or those working in federally funded programs are concerned. For instance, Federal employees may assist in voter registration drives, but may not work to register voters for one party only. They may campaign for or against referendum questions, constitutional amendments, municipal ordinances, and so forth, but may not campaign for partisan candidates or political parties. There are a number of additional restrictions which should be at the fingerstips of Federal employees who wish to be active in political campaigns.

For additional information, employees should contact the Office of the General Counsel, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

Following are the CSC revised guidelines as they appeared in the Federal Times of July 15, 1970:

POLITICAL ACTIVITY GUIDELINES FOR FEDERAL EMPLOYEES

You may register and vote as you choose.

You may assist in voter registration drives.

You may express your opinion about candidates and issues.

You may participate in campaigns where none of the candidates represent a political party.

You may contribute money to a political organization or attend a political fund-raising function.

You may wear or display political badges, buttons or stickers.

You may attend political rallies and meetings.

You may join a political club or party.

You may sign nominating petitions.

You may campaign for or against referendum questions, constitutional amendments, municipal ordinances, etc.

You may not campaign for partisan candidates or political parties.

You may not work to register voters for one party only.

You may not make campaign speeches or engage in other activity to elect a partisan candidate.

You may not be a candidate or work in a campaign national or state political party.

You may not collect contributions or sell tickets to political fund-raising functions.

You may not distribute campaign material in a partisan election.

You may not organize or manage political rallies or meetings.

You may not hold office in a political club or party.

You may not circulate nominating petitions.

You may not campaign for or against a candidate or slate of candidates in a partisan election.

Caution: An employe's conduct is also subject to the regulations of his agency.

Political Activity Guidelines for State and Local Employes Who Work in Federally Aided Programs.

You may register and vote as you choose.

You may assist in voter registration drives.

You may express your opinion about candidates and issues.

You may participate in campaigns where none of the candidates represent a political party.

You may contribute money to a political organization or attend a political fund-raising function.

You may wear or display political badges, buttons or stickers.

You may attend political rallies and meetings.

You may join a political club or party.

You may sign nominating petitions.

You may campaign for or against referendum questions, constitutional amendments, municipal ordinances, etc.

You are permitted to engage in political activity if you are employed by an educational or research institution or system.

You may not campaign for partisan candidates or political parties.

You may not work to register voters for one party only.

You may not make campaign speeches or engage in other activity to elect a partisan candidate.

You may not be a candidate or work in a campaign if any candidate represents a national or state political party.

You may not collect contributions or sell tickets to political fund-raising functions.

You may not distribute campaign material in a partisan election.

You may not organize or manage political rallies or meetings.

You may not hold office in a political club or party.

You may not circulate nominating petitions.

You may not campaign for or against a candidate or slate of candidates in a partisan election.

Caution: Activity permitted by federal law may be restricted or prohibited by state or local law or regulation.

SERVICEMAN'S WIFE URGES CONGRESS TO ACT ON POW ISSUE

HON. GRAHAM PURCELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. PURCELL. Mr. Speaker, I would like to share a letter from the wife of an

American serviceman in Vietnam, which I thought would be of common interest.

All too often we are elated when we learn that one whom we love is safe from danger. I can well sympathize with the heartfelt joy which would come to the wife of a serviceman returning from a tour of duty in Vietnam. Mrs. John F. Sobke, however, is not and cannot be jubilant that her husband is safe at home. She is deeply concerned about the wives of other servicemen who live with the unceasing horror of knowing that their husbands and fathers of their children are being held prisoners behind enemy lines. I think that we should all pause to reflect upon the meaning, at the personal level, of having a loved one in an enemy prison camp. I, therefore, request that the letter I received from Mrs. Sobke be printed in the Record at this point. I would hope that we would all devote our energies to the suggestions which Mrs. Sobke has made, that we initiate a joint session of Congress to investigate and act upon the prisoner-of-war issue. The letter follows:

Denton, Tex., *July 5, 1970.*

Congressman Graham Purcell,
House Office Building,
Washington, D.C.

Dear Mr. Purcell: I urge you, through your position in the Congress of the United States, to work actively for the release of U.S. servicemen held prisoner in the Republic of North Vietnam.

My husband, an Army major, is currently completing his second tour of duty in Vietnam. We are looking forward to his return in early August, but the joy of our reunion will be diminished by the knowledge that many other wives, some personal friends, do not have this same hope of reunion with their husbands.

I strongly believe that it is the duty of elected officials like yourself to speak out on this issue for it is only through an organized effort by our leaders that sufficient pressure will be brought to bear on the leaders of North Vietnam. Whether one be hawk or dove, I cannot but think our congressmen are humanitarian enough to wish to relieve the suffering of thousands of prisoners and their families.

I, therefore, urge you personally to work for a joint session of Congress devoted to the investigation of the POW issue and to speak out on this issue at every opportunity. I would also ask that you urge your colleagues to mention the issue in every campaign speech during the coming months.

It is time that our national leaders become concerned with the release of our men held prisoner. Please do not shirk your responsibility in this area for, if you do, the suffering will continue.

Sincerely,

Marilyn H. Sobke
(Mrs. John F. Sobke).

VICE PRESIDENT VOWS TO HELP ACHIEVE EQUALITY FOR SPANISH-SPEAKING PEOPLE

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. PRICE of Texas. Mr. Speaker a few days ago Vice President Spiro Agnew, as part of the Nixon administration's continuing efforts to be responsive to the special needs of minority groups, met with a group of Spanish-speaking officials from a variety of Federal agencies.

In what was by all accounts a frank exchange of views, the Vice President told the gathering there are all too few policymaking officials in the Federal Government who have a Spanish-American heritage. He said he felt there were more policy-level officials from Spanish-Amercan backgrounds—a dozen—in the Nixon administration than had served in any previous administration, but that this number was still far too inadequate. At the conclusion of the meeting, the Vice President pledged to use his good offices to encourage the President's Cabinet and other Federal officials to help the Nation's 10 million Spanish-speaking Americans achieve equality of opportunity and equality of participation in the life of the country.

Mr. Speaker, Spiro Agnew's actions and words were most significant. They demonstrated the Nixon administration's very real concern that certain minority groups are isolated from the American mainstream. More importantly, they evidenced the administration's complete willingness to work to redress that imbalance.

THE RULE OF THE GREEK JUNTA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. FRASER. Mr. Speaker, in April 1967, democratic states of the world were saddened to learn of the coup in Greece, undertaken by a group which has come to be known as "the Colonels." The summer 1970, issue of the American Scholar magazine contains an in-depth, factual and objective account of the events leading to the coup and the activities of the military government since then. The two authors are Nicholas Gage and Elias Kulukundis, Greek-Americans with deep knowledge of their homeland.

The authors discuss some of the administrative and psychological ploys used by the government to limit criticism. Such methods are used in place of press censorship allowing the junta to maintain the facade of a democratic regime. This article effectively deals with this aspect of junta policy. Denial of rights in practice is reminiscent of other illiberal European regimes. That Greece has been reduced to this in the name of anti-communism is a sad commentary on our times.

I commend their article to all of my colleagues.

Report From Greece: Under the Junta

(Nicholas Gage and Elias Kulukundis)

(Editor's Note.—Nicholas Gage is a journalist whose work has appeared in the *New York Times Magazine,* the *Atlantic* and the *New Leader*. He was born in Greece, but he is an American citizen and was educated here. He is currently writing a book on Greece. Elias Kulukundis, an American citizen, currently resides in London. His father-in-law, George Mylonas, was minister of education in the Papandreou government. Mr. Kulukundis is the author of *The Feasts of Memory*.)

The hold of Greece's military dictatorship on the average Greek citizen might be compared to the effect of a choke collar on a the repression, the controls are there—but dog. The colonels hold the leash carefully—the leash is so long that it is not felt until someone forgets and steps too far, and is brought to the realization that the initiative for his actions is not his own.

The regime has an unusually good sense of when to pull and when to give rein. At the funeral of the late Premier George Papandreou, the junta did not use its full police power to scatter the huge crowd that had gathered. Had it done so, it probably would have caused further demonstrations that would have been hard to put down. But when some newspapers tried a little criticism of the regime after direct censorship was lifted recently, the colonels made sure the papers never reached the countryside.

The colonels have gone to great lengths to make it clear that they will not tolerate open opposition to their rule, but they have been careful not to make such lessons so painful or so dramatic that they incite even greater opposition. In a number of areas in the provinces, people have been arrested for insulting a representative of the regime, condemning the coup or other such offenses. But they have been held only briefly and then released. In one village in the northwest corner of the country, for example, a merchant was arrested for calling the new junta-appointed monarch of the province a thief, in the heat of a debate with fellow villagers. He was arrested, imprisoned for a month and then tried and acquitted. The purpose of such arrests is to cut off open criticism by making the threat of imprisonment real in every village. People are made an example of, and then freed to create the impression that the regime is not arbitrary and oppressive but capable of compassion and even justice. These arrests are also used by the colonels to dramatize the difference between them and the Communists.

In many of the same villages during the Greek civil war of 1946–49, Communist guerrillas executed as many as a dozen people for criticizing them or their methods. (All told 57,383 Greek civilians were killed by the guerrillas and 684,607 driven from their homes.) In the village where the merchant was arrested, the Communists in 1948 publicly executed five persons, including two women, and piled their bodies in a gully. In comparison, the junta's treatment of the merchant did not seem oppressive to his fellow villages, but rather restrained. One said, "I would rather have the junta for a hundred years than to have those bastards back for one day." Knowing the depth of such feelings, the colonels still maintain in the villages that their intervention on April 21, 1967, kept Greece from falling to the Communists, although in the cities they find it hard to justify such a line, and now say that they saved the country from political chaos.

It is in the villages of Greece that the junta enjoys its strongest public support, and for good reasons. The governments that ran Greece before the coup concentrated on developing and expanding the cities, neglecting the villages on the theory that most Greeks were leaving them for metropolitan areas anyway. The junta has gone to some pains to redress this imbalance. It increased pensions for agricultural workers, which were the lowest in Greece. It cancelled the outstanding loans of all farmers, a move highly criticized by economists but roundly applauded in the countryside. It accelerated programs of electrification and road construction. Plans are underway, for instance, to build the longest highway in Greece across the rural northern section of the country. The highway will stretch from Igoumenitsa on the Ionian Sea to the Turkish border in Thrace. Economists have argued that there is not enough movement in this area to justify the $150 million that will be spent on the road, but the junta seems determined to go ahead with the project.

There is another, perhaps equally significant, reason the colonels are strongly supported in the villages. They were born and brought up in isolated villages and the puritanical measures they have tried to enforce throughout Greece epitomize the values of such villages. The colonels may seem old-fashioned and foolish to urban Greeks when they are expounding on such evils as miniskirts and bears or such virtues as church attendance every Sunday, but they appear strong and wise to rural Greeks. "The closest analogy to the kind of people the colonels come from is the poor whites in American who support George Wallace," says an American educator who has lived in Greece for many years. Premier Papadopoulos, who grew up in a small Peloponnesian village which now has a population of 280 people. is considered upper-class by the other officers who staged the coup because his father was the village schoolteacher. Stylianos Patakos, the deputy premier, is from the tiny (population 154) Cretan village of Aghia Paraskevi, and Nikolaos Makarezos, the minister of coordination, comes from a village in the Peloponnesus called Gravia, which has a comparatively large population of 613 people. In such villages women do not smoke, wear makeup or speak to a man who is not a close relative except to say good morning or good evening. The colonels still hold tightly to many of the values they knew in such villages, and Greeks still living in the countryside admire them for it.

Despite attitudes in the rural areas, however, the regime is strongly opposed by large numbers of Greeks in the cities and on the islands. It is in the cities that the damage done by the colonels has been felt most. Greeks in Athens and other cities were moving rapidly toward a European life-style and standard of living. But the colonels have slowed the movement down and in some cases stopped it altogether. The slowdown of the economy and the drop in tourism that followed their arrival has lowered the incomes of many Greeks by as much as thirty percent. In addition, thousands of people have been dismissed from their jobs because they were considered unfriendly to the regime.

The regime's harassment of artists and writers has stunted cultural life in the country and aroused a great deal of controversy. Almost all of the plays produced in Athens last season were revivals or imports and there have not been any significant books published in Greece since the colonels seized power. Because of the reputation of the junta abroad, there has been little cultural communication with the rest of Europe. The Athens Festival, which has featured some of the best performers in the world in past summers, did not boast one major name last year. Aristotle Onassis tried to persuade Margot Fonteyn and Rudolf Nureyev to perform at the festival, and their appearance was widely publicized in advance, but they thought it over and declined.

Continued censorship of the press in Greece constantly frustrates this nation of insatiable newspaper readers. "The newspapers were hardly objective before the coup," says a hotel manager in Rhodes, "but at least you had the freedom to choose what lies you read. Now it is all one lie." Circulation of Greek newspapers is at sixty percent of the level before the coup. Six papers stopped publishing after the takeover; the cryto-Communist ones were banned and the publishers of the others refused to publish under censorship.

On October 3, 1969, the junta announced with great fanfare that it was lifting press censorship. At the same time, however, it handed editors a long list of forbidden subjects that in effect kept press control almost as tight as before. The regime has published a code of 101 articles designed to "cleanse" the press. Stories that the junta feels undermine public confidence in the economy could bring six months imprisonment under the code. Editors convicted of inciting sedition, as the junta sees it, could get life. When the code was announced, Mr. Patakos offered the junta's philosophical reasoning for making it so harsh. "Severity," he said, "is the mother of justice and freedom."

When censorship was in force, even papers supporting the regime had to follow the censor's commands, as we witnessed one night while visiting the offices of *Eleftheros Kosmos*. It was December 29, 1968, the day Israel retaliated to an Arab terrorists' attack on an El Al jet in Athens airport by launching a helicopter raid on an airport in Beirut. We were sitting with one of the paper's editors when his assistant came into the office carrying a piece of paper with a list of shorthand messages on it. "The Censor's office just called," he said. "You want to go through it now?"

"Yes, all right," said the editor. "What is it tonight?"

The assistant said the paper was instructed not to print in any form the New Year's message King Constantine had issued from exile in Rome, but to give prominent display on the front page to the regent's message, and it was not to mention the statement of former foreign minister Evangelos Averoff calling on the government to move toward parliamentary rule. Then he looked from his list and said: "The big thing is about the attack in Beirut. The censor said we must not mention that it was in retaliation for the attack at our airport."

"There must be some mistake," the editor said. "We can't run a story about an attack and not give the reason for it. He must mean they don't want us to emphasize the shooting at our airport. Call him back and ask him to repeat the instructions, please." The assistant left the room and returned a few minutes later. "I had it right the first time, and he wasn't too happy I called back," he said. "As far as we are concerned there has never been an attack of any kind at our airport. For tonight we should just forget we have an airport."

We asked the editor how he felt working under such conditions. "What can you do?" he said. "The only option you have is not to work at all. It is not much of an option."

Perhaps the most destructive intervention of the regime has been in education. The Greek educational system was anachronistic and inadequate to begin with, but the colonels have pushed it even further into the tunnel. "Young People of Greece, the Revolution Is for You" proclaim signs on highways leading out of Athens. But in its educational policy the regime seems primarily interested in making certain that the young people of Greece are for the revolution. Hundreds of teachers and professors considered unfriendly to the regime have been dismissed. All the others have been required to submit detailed histories, especially on what they were doing during the period of the civil war, and a statement of political beliefs. In public schools the indoctrination of students is a part of the curriculum. In the lower grades, for example, students are asked to rise and repeat slogans such as, "My mother is Greece. My father is the national government. And I am the Greek people." The climate of chauvinism in Greek schools, which has always been heavy, is now more intense than ever. "The children of this country are sick and tired of being taught that Greece is the navel of the world," says an American educator who teaches in a private school in Athens. "*Patrida* (fatherland) should never become a dirty word, but it is with students now."

In the universities the asphalia, the security police, has built up a network of informers to report on the activities and attitudes of fellow students. Early last summer the regime also appointed a government commissioner for every faculty. The job of the commissioners, mostly retired army officers, is to see that teaching programs are in line with the goals of the junta. To keep tight control of the teaching staffs at universities, the regime has not only dismissed numerous professors, it has also restricted the numbers of new appointments and lowered the retirement age of teachers so that older, respected professors of independent minds can be replaced with ambitious younger ones more to the regime's liking. All this naturally has created a shortage of qualified professors and a considerable drop in the quality of instruction.

The regime's intervention has not been limited to Greek schools. Private institutions such as the American-sponsored Athens College have also been affected. Professor Costas Kalokairinos, a Greek national on the college faculty, was dismissed in March, 1969, by the then minister of education, Theophylactos Papakonstantinou. (Greek instructors at Athens College are not considered civil servants, but they are pensioned off by the government and on this ground it holds the right to fire them.) The justication for the dismissal: Papakonstantinou said a book Professor Kalokairinos had once published on Byzantine history quoted directly from the Great Soviet Encyclopedia and contained "Communist reasoning" such as the claim that Macedonia was once a part of Bulgaria.

Many Europeans and Americans, who tend to think all Greeks are brothers to Alexis Zorba, find it hard to understand why so passionate a people have accepted dictatorship so passively. Greeks themselves give many answers. They point out that there have been some forms of resistance. Intellectuals and professionals have refused to collaborate with the regime and they continue their boycott even though many of them have suffered for it. More active resistance is developing fast, as a rash of bombings last summer in Athens demonstrated. But full and effective resistance takes leadership, and the colonels have been careful to exile to remote villages and islands military men and political figures who might provide it. Those still around don't want to take the personal risk involved in leading a rebellion against the junta. "They want the people to throw the colonels out first," says a truck driver from Larisa, "and then call them to take over. The people are not that dumb anymore."

There are, however, more subtle reasons why resistance to the junta has been minimal. One of them may be understood quickly by a visit to Athens. The city is punctuated with the skeletons of hundreds of buildings now under construction. Every morning crowded buses roar out of Athens for the nearby beaches at Glyfada, Vouliagmeni, Varkiza and Lagonisi. The better restaurants are almost full most nights, and the hawkers of lottery tickets at Omonia Square still do a good day's business. In other words, life under the colonels may be unpleasant—particularly for students, professors, politicians, journalists and artists—but it is not so unpleasant that it's worth risking imprisonment or death to change. Incomes have fallen, but not so much that a couple can't go to a taverna once in a while. Greek newspapers are disappointing, but there are *Le Monde,* the *International Herald Tribune* and *Le Figaro* at the kiosks for those who read other languages or the Greek programs on the BBC every night for those who don't. Uncles and friends are dismissed from jobs but at least they get part of their pensions when they go. "They have not really squeezed us," a tailor in Piraeus told us. "I wouldn't cast my vote for them if I had a choice. But things are not so bad that I'd throw myself in front of a tank to get them out."

The colonels have been careful not to display their power beyond that necessary to keep themselves in control. There are no more soldiers in the streets of Greek cities than anywhere else in Europe, and uniformed police seem less visible now than before the coup. Although arrests continue, Greeks don't seem to concern themselves unless their own families are affected, and most are not. Of the six thousand people who were sent to prisons following the coup, more than two-thirds have been released. Most significant, the colonels have not executed anybody. "Greeks are wonderful, but when they start to kill, they can be the most terrible people in the world," Mrs. Constantine Mitsotakis, wife of the Greek politician, told us in her home last year, a few months before she was allowed to join her husband in exile in Paris. "I remember during the war when you would walk into the street and find somebody's body riddled with bullets and you didn't know whether it was the Germans, the rightists, the leftists or a jealous husband who killed him. I am terribly frightened for Greece if the killing ever starts."

Students of Greek history see a good reason for the absence of strong resistance to the junta in the fact that the country has developed during the past twenty years a significant bourgeois class. For the first half of this century Greece was involved in five wars and numerous upheavals. The only period of stability and progress came after 1950. During this time most Greeks were able to acquire something—a house, a farm, a business—for the first time in their lives, and they want to be around to enjoy it, even if it's under the colonels.

Finally, Greeks feel it's not their responsibility to drive out the colonels. "The Americans brought them in," a high school teacher on Corfu told us, "and the Americans can get them out." If there is one belief about the colonels that most Greeks share above all others, it is that they are in power because the United States wants them there.

Over a period of ten months we talked to several members of the United States diplomatic mission to Greece both informally and officially. The comments of most of them are reflected in those stated in an interview we had with one of the senior men in the American embassy. The interview was held in his large, panelled office and began with a question we had asked every other member of the mission we talked with: Did the embassy know beforehand about the coup?

"We had no idea at all [he said]. We thought there might be a coup from royalist generals but not from populist colonels. When it happened, everyone here flopped around in complete confusion. We didn't know what to do. The colonels, whatever else may be said about them, are very skillful conspirators. Papadopoulos, Patakos, Makarezos all served in the Greek intelligence service at one time or another and are very good at keeping secrets."

We asked if conditions in Greece prior to the coup had deteriorated to such an extent that intervention by the army was necessary. Would the elections that had been scheduled for May 28, 1967, have led to a center-left coalition that would have resulted ultimately in a Communist takeover, as the colonels claim? He answered:

"The situation was bad but hardly as bad as it has been made out. The violence—demonstrations, student riots, strikes—took place mostly in 1965 when George Papandreou was pushed out as premier by King Constantine—not in the period immediately preceeding the coup. George Papandreou had promised that he would not have cooperated with the Communist-front party no matter how the elections turned out. I think he would have kept his promise.

"For two years before the coup you had a deteriorating political situation in Greece, but the palace is primarily responsible for that. In a parliamentary system, when you reach a political impasses as Greece did in 1965, you go to the people. The palace maneuvered for more than two years to prevent elections by promoting makeshift governments that had no basis of support. But even though the parliamentary system was not working well in Greence, there was no Communist danger. The Communist-front party, EDA, had actually declined in voting strength, and the Communists simply didn't command the means to cause any other kind of trouble. The idea that there was an imminent threat of a Communist takeover is for the birds as far as I'm concerned. In fact, the colonels themselves have backed away from their early statements that Greece would have fallen to the Communists. Many people believed these statements largely because of Andreas Papandreous. Andreas represented a new and somewhat dangerous force in Greek politics by questioning everything that Greeks felt secure about—NATO, the close ties with the United States, a strong stand against Russia. His statements made a lot of people afraid, made them think that Greece was heading toward Communism or chaos as long as he had any access to power."

We then asked what the attitude of the American mission was toward the colonels. He said:

"Well, there is a split in the mission. The military advisers think very well of them. As military allies they are as cooperative as one could wish. [Former Ambassador Phillips] Talbot leaned heavily on a wait-and-see policy, that we should give them time to show their intentions. I think they have done that. I think they have no intention at all of moving toward parliamentary government. Their slowness in implementing the constitution approved in a referendum in September, 1968, is a certain sign of that. I see no evidence whatsoever that they are preparing for elections. Even if Papadopoulous wanted to hold them, I don't think he would be allowed to do it.

"The Revolutionary Council, which is made up of some thirty key military officers and is the primary policy-making group in the government, has made known its opposition to elections. Elections, no matter what their outcome, would carry the seeds of the colonels' removal from power. Elections would lead to more criticism, more demands for change. And I don't think the colonels believe their own propaganda that the bulk of the Greek people are with them. They're too smart for that."

We asked if the United States could pressure the colonels to hold elections. He said:

"No, we could push them out if we tried hard enough, but we don't force them toward elections. They'll just say no and we'll either have to accept that or try to push them out. Let me hasten to add here that I don't see us pushing them out."

We asked why.

"It's hard to prove that the people of Greece are that unhappy over them or that oppressed by them [he said]. The colonels have not been that oppressive as far as dictators go. They have not executed anybody. The number of political prisoners is small and most of them come out if they sign a pledge that they won't engage in political activity. People are not exactly dropping dead on the streets from starvation or wasting away in concentration camps. A large number of Greeks, probably the majority, may not be happy about the junta, but they are not very active in showing their discomfort. So I don't see Washington taking any strong action against the junta until the problem becomes acute."

(What bothers opponents of the junta is not only that the United States is not doing anything against the junta but that it seems to be doing a lot for it. For example, Washington actively tried to persuade the members of the Council of Europe not to expel Greece. "The American government is always sending someone to decorate or to be decorated by the colonels," says Helen Vlachos, the exiled publisher, who refused to publish her papers under ditcatorship. "Ambassador Talbot was always trying to persuade me to start up my papers. 'Oh, come on now,' he would say, 'these guys are not so bad.' ")

We asked the American diplomat in Athens how the United States could bring down the colonels if it wanted to. He answered:

"There are several ways. If Washington decided that this regime is bad for Greece, bad for the NATO alliance, bad for this section of the world, and said so publicly, I think the junta would topple. Also if the Administration contacted Constantine Karamanlis, the former premier to whom most people hopeful of a return to parliamentary government are looking, invited him to Washington and indicated American support for him, elements in the armed forces would push the colonels out and invite Karamanlis back."

We asked if he saw any chance of that happening.

"Right now none at all [he said]. What I do see is the colonels going on for a long time, probably getting tougher as they go. There are some very hard-liners in the army making their influence felt right now. If the regime gets tougher, resistance will develop, pushing the colonels to harsher measures, which will in turn stimulate stronger and wider resistance. Then, I think, Washington might take some definite action."

If that is a possibility, we asked, why doesn't the United States do something now and save Greece from all that violence? He said:

"That would be nice, but it's unrealistic to expect any government to be that logical. Governments are geared to respond to crises, not to anticipate them. It is difficult for a government to take preventive action in an area that involves the internal affairs of another country unless its interests are clearly and directly threatened. This is particularly true now, after Vietnam."

If Washington won't take direct action, we asked, is it at least trying to let the colonels know that it wants to see them move toward elections?

"We are [he said], but they don't seem to believe us. They think we say we want elections only for public relations purposes, which is a view I find difficulty in avoiding myself at times. Patakos went to Washington for Eisenhower's funeral and Secretary of State Rogers asked him when the junta planned to go to the people. Patakos said it had done so already in the constitutional referendum of 1968. Rogers told him Washington would like to see the junta move toward direct elections as soon as possible. Patakos nodded and smiled. I'm sure he didn't believe him."

Before we left, we asked him what he thought about the reports of tortures. Did he have any knowledge that the junta was torturing political prisoners? "We don't know for certain," he said. "They seem to get a lot of information fast from people they arrest, which leads us to believe that prisoners are beaten. Greek police have a reputation for beating prisoners. But we are not absolutely sure of anything. We just don't know."

Torture has been the *bête noire* of the Greek government, and, although it was not on the agenda when the ministers of the Council of Europe met in December, the rash of unfavorable publicity probably enabled the plaintiff governments to rally the votes necessary for Greece's expulsion. (At the last moment, as a face-saving measure, Greece voluntarily withdrew.)

The government's troubles began in January, 1968, when two lawyers, James Becket and Anthony Marreco, went to Athens to conduct an investigation on behalf of Amnesty International, and returned to write two reports describing the practice of torture by the Greek security police. Later, as a result of charges brought by the three Scandinavian governments, the European Human Rights Commission took up the question and completed a report which found that the Greek government was practicing torture as a matter of policy.

The great majority of Commission witnesses said they were tortured by *falanga*, an ancient practice originated under the Ottoman Empire and employed by both sides in the Greek civil war. (In some instances, men and women reported sexual tortures, and some dozen witnesses said they were tortured by electric shocks.) The victim of *falanga* is usually strapped to a bench or a flat surface and beaten on the soles of his shoes with a club or an iron bar. "After a dozen blows you don't know where the pain is coming from," one person explained. "You think they are hitting you on the top of the head." After twenty or thirty blows, the victim usually loses consciousness, to be revived with cold water so that the beating can be carried on. At regular intervals, he is made to stand, walk, or even jump to revive the circulation in his feet and thus to maximize the pain. Since the victim has his shoes on, the beating leaves no scars, and although the pain may be unbearable at the time, he may be able to walk as early as ten days later. Some persons have said that they were subjected to *falanga* several times during interrogation periods that have lasted as long as forty days.

The Greek government rejected the charges of torture as lies and Communist propaganda, making much of the lack of physical evidence for such charges. In some cases it has employed the Soviet ploy of claiming that the witnesses are mentally deranged. In November, 1968, it brought three witnesses to Strasbourg to testify that they had been in the Security Police Headquarters and had not been tortured, but two of them defected to the opposition and testified that they had been, after all. (Then one of them disappeared under mysterious circumstances to reappear in the Greek Embassy in Stockholm where he repudiated his testimony a second time before returning to Greece.)

In addition, the government has made a more subtle attempt to defend itself by appealing to the authority of no less prestigious an organization than the International Red Cross. Since May, 1967, the Red Cross has made repeated visits to Greece, mostly to island detention camps, prisons and prison hospitals.

Under the terms of the Geneva Conventions, which apply not only to Greece but to any signatory, the Red Cross must make its reports available to the host government and may not publish them unless the government does so first. To date, the Greek government has chosen to publish only two of four general reports, both following Red Cross protests against its attempts to quote from the reports in a tendentious and misleading manner. In one case, Foreign Minister Panayiotis Pipinellis said that the Red Cross delegate had utterly repudiated the charges of torture, an allegation that was proved false when the published report revealed that the delegate had not mentioned the subject at all.

In fact, there are only six pages in one of the published reports that deal with torture. They concern the visit in March, 1968, of the Red Cross delegate, Laurent Marti, to the Security Police Headquarters in Bouboulina Street where much of the torture has allegedly taken place. Mr. Marti (who was recently replaced as the Red Cross representative in Athens) requested permission for this visit in advance, and since he does not speak Greek, he was accompanied by an interpreter who was a permanent employee of the Greek Red Cross. When he arrived, he found only two detainees in the Security Headquarters and, in the presence of the interpreter, both of them told him that they "did not know if torture was being carried on there." In addition, Mr. Marti says that the chief of police "was able to affirm that no ill-treatment or torture was inflicted on the prisoners." He also mentions that three detainees interviewed after they had been transferred from Bouboulina Street were able to show wounds "which they said they had suffered in the course of torture," but he does not say where these wounds were located or what they looked like. He says ten detainees said they had been given *falanga* once, twelve said they had been given it more than once, twenty-four said they had been punched with fists, and eighty-five said they had been well-treated. Finally, the conclusion he draws from this evidence is a syntactic and semantic labyrinth: "The I.C.R.C. limits itself to reporting these contradictory declarations from which it does not feel it has to draw conclusions about the reality of the alleged tortures."

Quotations from this report became the substance of a government pamphlet entitled "The Truth About Greece," hailed as a "smashing reply" to the allegations of torture. The pamphlet was withdrawn following vigorous Red Cross protests, but criticism of Mr. Marti's investigation did not subside.

"The Red Cross was under pressure to investigate the torture question," says Anthony Marreco, one of the authors of the Amnesty International Report, which asserted that the Greek government was practicing torture. "But they were determined to do it without being conclusive. In other words, Mr. Marti's main concern was not to say anything that would result in his being thrown out of Greece."

On this last point, Mr. Marti readily agrees: he believes he can be most useful to the Greek political prisoners if he is allowed to visit them, instead of being barred from the country as Marreco was. Like Mr. Marti, Red Cross officials define their role precisely as that of a relief organization, and they point with pride to their success in convincing the government to close the detention camp on the island of Yaros and to release some aged and infirm prisoners. Here too they have had their failures, for the government will not usually respond unless continually prodded. For example, in March, 1969, Mr. Marti complained to the government of the overcrowded condition of one of the detention camps on Leros, where people were reported to be sleeping in corridors, and the Red Cross later suggested that the government release the more aged and infirm prisoners to improve the general morale. Mr. Marti has made at least four visits to Greece since that time, but it was not until December that he was reported to have returned to Leros to see if these suggestions were carried out. Since the report on this visit will probably not be published, any further pressure on the government will again be up to Mr. Marti.

As for the torture issue, Mr. Marti explained his criteria in an interview during one of his recent trips. He is a well-tailored Swiss with an oval face and receding hair. He showed us to the terrace of his office, which offers a beautiful view of the Acropolis.

"You cannot imagine what we hear from former prisoners [he said]. But we cannot go by what we hear, only what we see. Journalists can print stories of former prisoners who say they have been tortured and let their readers judge if they are true. I cannot make judgments. I must say only what I see. I must see evidence in the prisons or on the prisoners. That is the only evidence I can accept."

We asked Mr. Marti if he had seen evidence of torture on the prisoners. He said:

"That's confidential. But I can tell you that you cannot get much evidence unless you have free access to every police station in the country, because it is at the stations where the beatings are likely to take place. By the time people get to the prisons, it is too late . . . Besides, the problem here is not a problem of torture. It is different and worse . . . When a government wants everyone in the country to think as it thinks, to believe what it believes, to follow to the letter what it commands, then you have pure Fascism. That is the problem here. It is not a problem of beatings. All the hue and cry about the tortures draws attention away from the real problems of Greece—press censorship, no elections, suspension of civil liberties. It would be much better if people on the outside stopped shouting 'Stop the tortures' and started shouting 'Start the elections.' "

But despite Mr. Marti's political indictment of the Greek government, many critics believe he has given it ample room for maneuver in the torture question. For example, one of his subordinates has seen the physical evidence of torture and reported it to his superiors. After a visit to a detention camp in the summer of 1968, a Red Cross doctor reported that in unusual instances "certain . . . detainees were able to show us the physical evidence of torture," and he suggested that the Red Cross urge the Greek government to stop all forms of torture. People who have seen both the published and the unpublished reports say that Mr. Marti has not included this mention of torture, a fact that would support his critics' most serious charge: that he has his evidence but is not using it.

"No one will show Mr. Marti a man in the process of being tortured," says Ole Espersen, the assistant Danish agent before the Human Rights Commission. "But he has seen prisoners with the marks of torture on them. Now why doesn't he put that in his reports? The Greek government could suppress the report if it wanted to, but the Red Cross has the responsibility to report the facts or not make any report at all."

Partly as a result of such criticism, the Red Cross has recently adopted a more activist interpretation of its powers. According to a source close to Red Cross circles, one official recently described it as an attempt "to obtain increased freedom and to use it . . . to make tests, see the response, and on the basis of those tests, either continue our work or discontinue it. In keeping with this policy, the Red Cross successfully pressured the government to sign an agreement providing for a degree of intervention usually unacceptable to a nation in peacetime. In June, 1969, a Red Cross official presented to Premier Papadopoulos and on November 3, with just over a month to go before the meeting of the Council of Europe Ministers, Papadopoulos signed.

Under the terms of the agreement, the Red Cross is granted the right to visit any detention center, whether civilian or military, and to demand to see any political prisoner. After every visit, the Red Cross will issue a communiqué announcing the dates, places and conditions of its visits. Lest anyone miss the point of this last provision, the agreement specifically prohibits the government from misrepresenting the reports in any way. As a result of these increased activities, the Red Cross announced that it is establishing a permanent mission to Greece, to be housed in quarters separate from the local Red Cross chapter.

The Red Cross clearly won the first round, and the victory belongs to those officials who have long been arguing that the Greek government would submit to a more activist policy. Even so, the Red Cross has still not attempted to assert the full measure of freedom that officials believe is necessary to make a thorough investigation of the torture question. According to informed sources, these officials believe the new agreement can be fully effective only if the delegate asserts his right to make his visits without serving notice ahead of time. Nothing is stipulated to require the delegate to announce his visits, but for some reason Mr. Marti has always done so.

"You may wonder why we let them know [we are coming]," he told us last July. "Because it gives them time to fix things up. I say fine to that: let them fix things up. That is our job, to improve conditions for political prisoners. If they improve them because they know we are coming, that's fine."

On this issue, Mr. Marti has found himself at odds with the new policy, which obviously presupposes a much wider conception of the way to improve conditions. Informed sources say that after the agreement was signed, Mr. Marti was instructed to conduct his visits without serving notice, but nevertheless he continued to submit written requests to the foreign ministry in his accustomed manner. In the words of one source, "there was a misunderstanding . . . there were delays," but finally a decision was taken by the Committee itself that makes it a matter of policy for the delegate to make his visits "on the shortest possible notice."

Greeks call the chauvinistic, puritanical and single-minded men who command power in Greece today *stenokephaloi*, narrow-heads. But in some ways, the king and the politicians who ruled before them could have used some of their ability to bury their differences and focus on priorities. In April, 1967, Greece had the highest per capita income of any country to have suffered a coup, well over double the average. Nevertheless, the intrigues of the palace as well as of the politicians had contributed to a state of uncertainty that left the country defenseless, ripe for a military takeover.

Constantine Karamanlis and several of his ministers believe that if King Paul had not pushed their government out of power in 1963, it would still be serving today and there would be no colonels. Andreas Papandreou and former ministers of the Center Union party claim that if King Paul's successor, Constantine, had not done the same thing to George Papandreou in 1965, the Center Union would still be in power and again there would be no colonels.

"From 1946 onwards, the king ruled with complete authority over the armed forces," says Constantine Mitsotakis. "And he intended to keep his powers. The first victim of this system was Karamanlis. The second was Papandreou."

The monarchy has never had solid roots in Greece. It dates from 1830 when Greece drove out the Turks after four hundred years of occupation only to become a protectorate of the European powers, which promptly installed an adolescent and ineffectual Bavarian prince named Otto as ruler. Since there is no hereditary aristocracy in Greece, the monarchy has no natural allies among the people and has used the armed forces to safeguard its position. With the support of the military behind them, Greek kings seldom paid much attention to public opinion.

In 1963, Karamanlis advised King Paul to cancel a state visit to London, because he anticipated demonstrations by the British Communists. King Paul ignored his advice, forcing the issue to a crisis which ended with Karamanlis' resignation. According to one of his former ministers, the king had been looking for a reason to push him out of power. "On one side he felt threatened by Karamanlis," the minister said, "because he had been making increasing demands on the palace to loosen its hold on the armed forces. And on the other he saw that public support for the monarchy was falling rapidly. Aware that the public had also grown disenchanted with Karamanlis, he used the London visit to force his resignation and bolster the monarchy."

A tough, able leader, Karamanlis had done much to build up the country since taking office in 1955. By 1960 the economy was growing annually at a rate of almost eight percent and some $100 million in foreign investments were pouring in annually. In his zeal to build up a strong economy, Karamanlis had neglected education and social services, and his government was repeatedly accused of strong-arm methods, particularly in the rural areas. But Karamanlis claims there was an overall strategy in his methods.

"You think I don't care about people?" Karamanlis asked a visitor to his home in Paris last year. "I care very much. But I knew that the most important thing for Greece after the wars and all the devastation was to build her up. To do that sacrifices had to be made. What good is it to turn out one thousand engineers a year if there are no jobs to put them in? I did what was best for Greece . . . During the eight years of my administration, we built a strong economic foundation that would have had Greece on the level of Italy by now if my policies had been followed."

In the elections of 1961, Karamanlis' party, the National Radical Union (ERE), had been strongly challenged by the Center Union, a coalition of splinter parties led by George Papandreou. In fact, the Center Union claimed that the winning margin had been the result of coercion and fraud in the rural areas, where the army gendarmerie had considerable arbitrary authority. (When the Center Union finally came to power in 1963, it discovered a so-called "Plan Pericles" which the ERE had left behind in army dossiers. It provided some evidence for the claim.)

Having learned a lesson from his narrow margin of victory, Karamanlis was apparently planning to embark on an enlarged social program to woo popular support when King Paul pushed him out. "Our government was well aware that its standing with the people had deteriorated," said a former member of Karamanlis' cabinet. "The reason was our heavy emphasis on capital investment at the expense of social services. But we had a plan to do something about it. If Karamanlis had not been pressured into resigning, he would have given himself a year's leeway and during that period he would have launched a series of programs to upgrade education, increase pensions, expand public services and all the rest. Enough voters would have been won back to ensure victory for Karamanlis. But we never had the chance to use the plan."

The intervention of the monarch undoubtedly cost Karamanlis the election. When the ballots were counted in November 1963, it became clear that Papandreou's Center Union had won by only three percent of the vote. Without a clear majority, Papandreou rejected a parliamentary coalition with the Communist-front party, the United Democratic Left (EDA), and called for new elections in February, 1964. Many Greeks tend to vote simply for the party they think is going to win, and this election was no exception: after the slim victory three months earlier, the Center Union in February won fifty-three percent of the vote—the largest plurality in postwar Greek history.

Nevertheless, according to George Papandreou's followers as well as his critics, he remained an opposition leader even after he became prime minister, and during his scant sixteen months in office, he failed to develop a clearly formulated policy.

Andreas Papandreou believes the downfall of his father's government was ensured in Washington in June, 1964, when George Papandreou refused President Johnson's request for a meeting with Turkish Premier Inonu to defuse the Cyprus crisis. But many people in the Center believe another cause of the party's downfall was Andreas himself.

Andreas Papandreou had left Greece in 1940 to study economics at Harvard University. A rapid rise in the academic world brought him to the University of California at Berkeley as a full professor in 1955. In 1961, he gave up teaching and returned to Athens at the invitation of the Karamanlis government to be director of the Center of Economic Research. Three years later, having given up his American citizenship, he ran in the election as a deputy in his father's party.

When his father became prime minister, Andreas became chief aide. During the same year, however, he resigned under a cloud of never-proved scandal, involving the awarding of a government contract. When his father brought him back in the powerful post of minister of coordination, a lot of people thought Papandreou was determined to make his son the future leader of the Center Union.

"Andreas wanted swift advancement," says Constantine Mitsotakis, his possible rival for the party leadership. "Twice he had to be rescued by his father from ministries where he had failed. Our party was a new party of many smaller groups with much less discipline than the ERE, and whatever balance existed between them was destroyed by Andreas. He had great influence over his father. Usually he would take one decision as a group and in the evening Andreas would go alone to his father's home at Kastri and convince him to do something else."

A number of men in the councils of the Center Union decided that the only way to prevent Andreas from taking power was to bring George Papandreou down as well. One of them was Panos Kokkas, the powerful publisher of the Athens daily *Eleftheria*, who favored replacing him with Mitsotakis. *Eleftheria* attacked Papandreou on the issue of the army, claiming that it was a party unto itself which should be made directly responsible to the elected government. But, according to Andreas Papandreou, these attacks were really a provocation, calculated to bring government into conflict with the monarchy and thus remove it from power.

Pressured by his own party and public opinion, George Papandreou started replacing rightist army officers with liberals, including those on Cyprus and other sensitive posts. General George Grivas, the rightist commander of Greek forces on Cyprus, was not happy at the influx of such officers, and after some digging, he claimed to have discovered a secret army group named ASPIDA, alledgedly headed by Andreas Papandreou. Grivas took his allegations to Defense Minister Petros Garoufalias, warning that the aim of ASPIDA was to overthrow the monarchy and pull Greece out of the Atlantic Alliance. (Some twenty-eight officers were ultimately convicted of conspiracy in the ASPIDA affair, but it was never proved that their intention was to overthrow the monarchy or that Andreas Papandreou was their leader. There had been in the army a secret rightist group called IDEA, whose members determined promotions and assignments, and thus it was not strange that an opposing group of liberal officers should form an organization to counteract it. Unnoticed at the time was a third secret organization in the army, made up of rightist officers who resented IDEA's power. This group, called EENA, was headed by a then unknown colonel named George Papadopoulos.)

According to Andreas Papandreou, his father's trusted friend Garoufalias actually contributed to the misunderstandings between Papandreou and the king, hoping to be called as prime minister of an interim service government.

Another man standing in the wings was Constantine Mitsotakis, who Andreas says had promised Queen Mother Frederika that in the event of Papandreou's fall he would break with the party and bring eighty Center Union deputies with him. (Mitsotakis denies the charge and says he continually urged George Papandreou not to force a confrontation.)

When Garoufalias brought the news of ASPIDA to Constantine, the king demanded a full investigation. "I regard it as your duty to proceed at once to do what I ask," the twenty-eight-year-old monarch wrote to the seventy-seven-year-old prime minister. "This is my very last warning."

When Papandreou refused the king's request, Garoufalias promptly launched the investigation on his own. Papandreou called for Garoufalias' resignation, and, as a temporary measure until another minister could be appointed, he announced that he was taking over the defense ministry himself.

But the king refused to accept Papandreou as defense minister in his own government. Even Mitsotakis now says the king's position was indefensible. "If Papandreou was good enough to be prime minister, he was good enough to be defense minister," he says. Papandreou clearly reached the same conclusion himself. On July 15, he declared that his resignation would be effective within twenty-four hours, obviously assuming that the king would then have to call for new elections in which he could take his case to the people. The king did no such thing. He simply accepted Papandreou's resignation, effective immediately. To the amazement of everyone who was not in on the plot from the beginning, several gentlemen in frock coats—including Mitsotakis—showed up at the palace, ready to be sworn in as the new government.

The king's high-handed dismissal of Papandreou triggered events that ultimately led to the coup. "Papandreou would have collapsed on his own in six months if the king had left him alone," says an ERE politician who has served in several governments in the past twenty years. "He was being undermined by members of his own party and his failures were beginning to catch up with him. But by dismissing him, the king made him a hero."

If Mitsotakis had counted on eighty deputies for a government to replace Papandreou, events were to show that he had seriously miscalculated. Many deputies were intimidated by the immediate pro-Papandreou popular reaction, and refused to defect. The Communist-front EDA party, which had been preparing to attack Papandreou before the crisis, now took the lead in organizing demonstrations in his support. Every evening, the city resounded with the rhythmic cadence: "Pa-pan-dre-ou." When a student was killed during a clash with the police, the left seized the opportunity of staging a dramatic public funeral. Hundreds of mourners marched with upraised fists behind the grieving mother and sister of the victim.

In the meantime, the Mitsotakis group, already stigmatized as the *Apostates*, jockeyed to put together a parliamentary majority. The first politician entrusted with this thankless task was the elderly speaker of the house, Ioannis Athanassiades-Novas. After an undistinguished but dignified political career, Novas found himself in a parliament where chairs were thrown in the course of debate.

The Novas government lasted a matter of days until it was overthrown by a vote of no confidence. The next patchwork coalition lasted a matter of weeks. Meanwhile, the crowds in the streets demanded that the king observe the constitution and appoint a caretaker government to prepare for elections, which would have amounted to a referendum on the monarch and which he was sure to lose. Instead, he played for time, drawing one prime minister after another from the ranks of the *Apostates*.

In opposition, the role he loved best, Papandreou showed his great talent as a campaigner. A consummate orator, he stumped the countryside, asking, "Who rules Greece? The king or the people?" Massive crowds roared the answer. At the same time, his son went even further, broadening the attack to include what he called the "ruling establishment," composed not only of the palace, but the armed forces and the American embassy as well. Despite the Papandreous' popularity, Andreas' suggestions that Greece review the relationship with the Atlantic Alliance invited the charge of Communist sympathies and aroused deep anxieties. The charge was not altogether mitigated by the fact that the Communists bitterly attacked him as a paid American agent whose aim was to draw away their votes.

For almost two years, the deadlock continued. Instability dried up foreign investments, and in all respects the country was at a standstill, paralyzed by unrest, insecurity and general disgust. In mid-April, 1967, when Panayiotis Kannellopoulos, ERE leader and head of the fourth coalition, announced that it was impossible to postpone elections any longer, Athens already abounded with rumors of an impending coup. Everyone believed that generals close to the palace, eager to save Constantine from the humiliation of a Papandreou victory, would intervene. But whether or not such a plan in fact existed, on the morning of April 21, a triumvirate of colonels stole the march.

The officers who staged the coup numbered about three hundred out of approximately ten thousand in the Greek army, and the tanks surrounding government buildings and power installations numbered thirty-eight. For the colonels it was a bold gamble, and they were well aware of the risk if they failed. A close friend of the family of Stylianos Patakos told us that, on the night of the coup, he gave his strong-willed older daughter a pistol and told her that if he did not get word to her by three o'clock the following morning, she was to shoot her mother and her younger sister and then take her own life.

But the colonels succeeded with incredible ease. Officers not in on the plot followed their orders, because they thought they were coming from the generals, and by implication from the king. For a while no one knew who had taken over the country. So deeply rooted is the fear of Communism in the Greek mind, that many people thought it was the Communists. In the space of several hours, six to seven thousand Greek citizens were arrested. George Papandreou and Panayiotis Kannellopoulos were confined to house arrest; Andreas Papandreou was taken to prison. At the same time, boats began to leave for the island concentration camps with suspected Communists and other leftists.

It is tantalizing to imagine what would have happened if the king had made some gesture of protest, or if some prestigious group such as the ambassadors had resigned in a bloc. One year later, the Czechoslovakian experience offered some suggestions as to how passive resistance can delay a takeover, and in the Greek case the element of time might have been decisive. But the king said nothing, even though the colonels had signed his name to their first governmental decree. Meanwhile, in all walks of life, Greeks resumed their daily affairs. For many of them, after almost two years of the most extreme political haggling and maneuvering, the coup actually came as a relief. The colonels had no trouble finding the words for their first message to the public:

"We have long witnessed a crime which had been committed against our society and nation. The unhesitant and shameful party dealing, the misconduct of a great part of the press, the methodical assault against all institutions, their corrosion, the debasement of Parliament, the slandering of everything, the paralyzing of the state machinery, the complete lack of understanding for the burning problems of our youth, the ill-treatment of our students, the moral decline, the confusion and the blurring, the secret and open cooperation with subversives, and finally, the continuous incendiary slogans of unscrupulous demagogues have destroyed the peace of the country, have created a climate of anarchy and chaos, have cultivated conditions of hatred and division and have led us to the brink of national disaster. There was no other way of salvation left than the intervention of our Army . . . "

The colonels said they had come to save the country from the Communists, but it soon became clear that they had come to save it from many other people as well. Through the summer and the autumn, they began to dismiss hundreds of royalist officers. The colonels themselves were all from poor villages, and had never been favorably treated by the upper-middle-class military establishment. (Patakos, for example, had languished for ten long years as a lieutenant colonel.) So they took their first opportunity to settle some old scores and put their own men in key posts.

By the end of 1967, the extent of the military purges alarmed King Constantine enough to move him to action. On December 13, King Constantine launched his famous countercoup, departing in a plane for northern Greece, accompanied by his queen, their child, and his mother Frederika.

"The time has come for you to hear the voice of your monarch," he said, but the recording of his message was broadcast on a weak radio in Larisa and not many of his subjects heard their monarch's voice. In Kavalla, where the king spent the afternoon, huge crowds demonstrated their solidarity, even though this capital of the tobacco country is traditionally leftist in orientation. The king's plan was to send a column from there to occupy Salonika, to establish this Macedonian city as a secessionist capital, just as Eleftherios Venizelos had in his dispute with Constantine's grandfather in 1917.

But he was having trouble getting the powerful army divisions in the area to come to his support. There were still many generals loyal to him, but by the time he decided to act, the colonels had put their own men in key posts and they were able to intercept the generals' orders before they reached the commanders in the field. One general caught two of his subordinates countermanding his orders and had them arrested. But they persuaded him that they were really working for the king after all, and he let them go. A few minutes later, they returned and placed the general under arrest.

"Constantine should have gone to Crete," says an American military attache. "His strongest support has always been the navy and the air force, both of which have extensive installations in Crete. With the support of the navy and the air force, which the colonels had not got around to purging yet, he would have quickly taken control of the island. Crete would have given him an unassailable base and divided Greece. The colonels would have had to bow to him or risk civil war, the very thing they said they had come to prevent. Washington would not have been able to tolerate the situation and would have used its influence against the colonels."

The Greek political world was put into a deepfreeze when the colonels took over on the morning of April 21, and if it were to be taken out tomorrow, it would emerge more or less in the same form. Except for George Papandreou who died in October, 1968 (leaving the party without a leader) the dominant personalities are the same, and the junta has not been able to make any inroads into their opposition. With the exception of the present foreign minister Panayictis Pipinellis, an extreme Royalist and frequent advocate of dictatorship in the past, no former politician has agreed to join a junta cabinet, occasional rumors that some would do so are probably only encouraged by the junta because it looks good to have someone talking about future political developments. In reality, a deadlock continues: the politicians have the experience to run the country, the colonels have the country to run.

Any list of the political opposition must include the king, a fact that says more about the traditional powers of the Greek monarchy than it does about this particular monarch. There are occasional suggestions that Constantine should appoint a government-in-exile to induce diplomatic pressure by its sheer nuisance value.

"The king is playing his last cards," Mrs. Helen Vlachos says. "The junta will soon set a date for a referendum on the monarchy which the king would lose now even if it were free."

But even Mrs. Vlachos concedes that the king is not likely to take the offensive. Like most kings, he faces the problem of being surrounded by courtiers who attempt to shelter him from advice that is likely "to upset him." Their own advice to him is that any overt act of opposition on his part will hasten the day of the dreaded referendum, and his best chance of survival is to assume a passive stance. One of them said he believed that "Constantine is gaining in popularity because he is not doing anything, and only lives on as a suffering symbol."

The Athens politicians have not done anything either, although they have a weaker claim to symbolic suffering, and except for a few on the left and center-left who are in prison or exile, most of them cannot claim to be suffering at all. They go to their offices regularly, stay up to date on the latest Athenian rumors, and generally behave as though something were about to happen. They are not unwilling to dwell on the junta's weaknesses or to castigate the United States for not overthrowing it, but in two and a half years they have not launched a single offensive against it on their own.

Instead they have allowed the initiative to pass almost entirely to the politicians in exile abroad, who naturally have greater difficulty remaining in touch with the political realities within the country. These include Constantine Karamanlis, Andreas Papandreou, Constantine Mitsotakis, the former finance minister who broke with the Papandreous' in 1965, and George Mylonas, former Center Union minister of education.

Prime minister of Greece for eight consecutive years (a record in twentieth-century history), Karamanlis has lived in Paris ever since he gave up the leadership of his party before the elections of 1963. Almost as soon as there was a junta to overthrow, he was mentioned as the man to head a successor government, and in this capacity he has important qualifications: 1) during his eight years as prime minister, he made a reputation for strong authoritarian rule; 2) having lived in exile for the last six years, he is not compromised by the events leading to the junta; 3) there is no one else.

Karamanlis does not give interviews but, in an informal conversation with a visitor to his apartment in the fashionable Montmorency section of Paris, Karamanlis viewed the recent events philosophically and with a touch of "I told you so."

"It is unfortunate what has happened in Greece [he said]. But I warned them in 1963 that they would be voting for chaos if they voted for the demagogues who opposed me. Greeks have always had a built-in destructive sense and whenever they start to move forward, they always do something to ruin it. Whenever someone comes along and tries to show them which way to go, they listen for a while and then they turn on him and try to destroy him. You see that throughout Greek history—Aristides, Themistocles, Pericles, Kolokotronis, Venizelos. The Greek people are a smart people but a difficult people to talk sense to. There comes a time when they will seek out the most foolish voices in a crowd and listen only to them."

Karamanlis is still a massive presence at sixty-one, although now he seems a little pale, and the gray in his hair is closer to white. He regards the colonels as insolent amateurs, but he is under no illusions about what will be required to overthrow them. He said:

"These colonels know nothing about governing a country. You would think that a military regime would be cautious economically. But the colonels are more foolish than even the demagogues who followed me. They have taken a whole series of short-term loans, three to five years, to pay for grandios projects that are not going to return an income for ten to fifteen years. What kind of regime would do a thing like that? A reckless regime. A foolish regime. But only the United States can change the situation in Greece. Until Washington decides to act, nobody else can do anything. You cannot fight a man with your fists when he has daggers in his hands. Someone stronger has to come along and take the daggers away from him first."

Should Washington decide to take action against the junta, Karamanlis has indicated that he is willing to supervise the country's return to democracy. In doing so, he has insisted he would not be acting as the leader of the conservative ERE party, but as a national figure, in the words of one confidant, "as a sort of referee, almost above politics."

Other politicians have tried to determine what is meant by a "referee, almost above politics." In particular, they have tried to get Karamanlis to commit himself on the question of what constitution would apply during the hypothetical transition period. If it were the 1968 Constitution with its authoritarian powers passed by the junta under martial law, many of them feel a new dictatorship would be in the making, this one under Karamanlis.

While such fears may seem farfetched, they have been encouraged by the fact that Karamanlis has done little to clarify his views, and has steadfastly refused to sign any sort of written agreement. In September, 1969, however, he made his long-awaited public statement, calling on the junta to retire or to be overthrown, and inviting the Greek army to overthrow it, if necessary.

"If . . . those who govern at present . . . fail to appreciate their duty [to resign]," he said, "it will have to be pointed out to them by those who joined them in good faith." At the same time, he was at pains to reassure anyone in Washington that the junta could be overthrown, if not without violence, at least without threatening Greece's membership in the NATO alliance.

"I must take the opportunity also of assuring those who are anxious about the future that I would not have broken my silence if I did not believe that the country can be restored without danger to conditions of normalcy, and if I were not prepared to make my contribution if need be toward that end."

Despite this statement, Karamanlis has frustrated even his staunchest supporters, many of whom have hoped that he would use his immense influence among the foreign-based Greek capitalists to raise badly needed money for the opposition. So far he has not been willing to do so. At the very least, they hoped he would add his voice to those of the other exiled politicians lobbying for Greece's expulsion from the Council of Europe. But when the Council invited Karamanlis to testify before its Political Committee in Paris (along with Mitsotakis, Mylonas and Papandreou), he declined on the ground that he had already said all he had to say.

At the opposite end of the political spectrum, Andreas Papandreou is a complete antithesis to Karamanlis. He loses no opportunity to make a public appearance, and outlines his prescriptions for the future in great detail. Not only is he making no effort to woo United States support, but his campaign seems predicated on the belief that such support is not forthcoming. In fact he may have good reason to believe that it is out of the question for him.

"I think Andreas Papandreou is a major obstacle to the restoration of democracy in Greece," said one official at the American embassy in Athens, who at the same time is highly critical of the junta. "The smartest thing the colonels did was to let him leave the country. Now they can use him as a bogey man. They can point to him and his statements and say 'That is what we saved you from.' "

This view is shared by some members of Papandreou's own party, and one of them in Athens told us in all seriousness that he thought Papandreou's staff was riddled with junta spies who are advising him to do and say just those things that will help the junta.

We visited Papandreou not long ago and asked him what he proposed as an alternative solution if the junta could be overthrown.

"This dicatorship can fall in any number of ways [he said] so that what one proposes depends a great deal on how one foresees its demise. Now I have two hats, and I'd be glad to make this clear to you. One hat is my resistance capacity, so to speak. I am in charge of the Panhellenic Liberation Movement, one of the organizations engaged in resistance against the regime. We of PAK have put out a statement on how the next few steps in case the resistance forces occupy the seat of power . . ."

Papandreou lit a cigarette and blew the smoke toward the ceiling.

"But this is not really what you are asking me [he said]. Rather you are asking if there is a political solution short of a takeover by the people. Naturally a possibility for this exists in principle . . . in principle. It can happen by a decision on the part of the sponsors of the regime, which means the Pentagon, that this thing is not working out, and in that case they would change the signals to the Greek military. Now in this case, I shall not speak anymore with the hat of the resistance movement but with the hat of the Center Union party of which I am the spokesman abroad. So far as the party is concerned, my stand is the following: there should be a get-together of the Greek parties elected in the last free elections in 1964, with one exception—the Progressive party of Mr. Markezinis which has been collaborating with the junta and has therefore become unacceptable to us. These parties should attempt to draw up a magna carta for the transitional government. For this purpose, I am prepared to sit around a table with the right and with the left. By left I do not mean the Communist party which was not elected, but the EDA party which was elected and represents a proportion of the Greek voters, a small one to be sure."

We asked Papandreou if he would support Karamanlis as prime minister of the interim government.

"If both the left and the right were agreed [he said] and if at the same time the program were acceptable. I would not consider any solution that is based on the concept of a führer, no matter who he is, even if it happens to be me, which is not at all likely. If the representatives of these parties choose someone to be prime minister—I don't care who—I will accept him on the provision that he commit himself to following the program—the magna carta—which has been jointly approved. I do not accept the procedure of finding a man first and saying, 'In you we trust, do what you can to get us out of this mess.' "

Papandreou supported Karamanlis' recent statement with the reservation that the policies of any interim government must express "the joint platform of the political parties and the resistance organizations.' These include the Communist-dominated EDA party and its resistance counterpart, the Patriotic Front, whose cooperation Papandreou knows is unacceptable not only to Karamanlis and the ERE but to most of the Center Union as well. ("I don't know what Andreas can be thinking," says George Mavros of the Center Union in Athens. "We have had to apologize for his leftist affiliations before, and now we have to apologize for them again.")

Papandreou must have known that Karamanlis could not accept Communist cooperation and hope to win the support of the staunchly anti-Communist Greek officer corps, nor for that matter the United States. But if he had had any doubts as to Karamanlis' reaction to his proposal, he had learned the answer exactly one year before.

In September, 1968, Papandreou made his only attempt to communicate with Karamanlis since before the coup. It was not by telephone or even by letter, but by a telegram that Papandreou simultaneously made available to the press in which he invited Karamanlis to sit down with him and Antonios Brillakiss of the EDA party to work out a joint program authorizing an interim prime minister to lead the country to democratic rule.

Even on strictly logical grounds, it is hard to see why a leader of the EDA party, which won twelve percent of the vote in the last Greek election in 1964, should have an equal vote in working out a joint program with the ERE party, which won thirty-five percent of the vote, or with Papandreou's own Center Union which won fifty-three percent. But the thought of Karamanlis sitting down at such a table is so inconceivable that it is difficult to believe that Papandreou was serious. Karamanlis' reply was terse and negative (Papandreou says he is not at liberty to disclose it), and the two men have not communicated since. One year later, in September, 1969, when Papandreou hailed Karamanlis' declaration with the same condition, he was simply repeating a proposal that he knew beforehand would be rejected.

Papandreou told us that his position was inspired by political logic.

"No matter what we do in the transition period, it will be the most difficult thing in the world to take this wreck of a society and turn it into a viable and free country. He who stays outside will have the great benefit of free criticism. In the elections afterward, the left will pick up thirty to thirty-five percent, the Center will pick up twenty-five percent. We will be the third party, not even second. My political acumen, such as it is—and I think I have a good sense for events—convinces me that this is the case. I do it as a matter of principle, but I do it also in the interest of Greece."

He may also be doing it because his personal influence would be greatly reduced if he were to be absorbed into a coalition supporting Karamanlis. If the Karamanlis solution were brought about in spite of his objections, he would probably want to remain outside, to have what he calls the benefit of free criticism, and to lay claim to the thirty to thirty-five percent leftist vote in the next election. For good measure, he stipulates that in order to lead the interim government, Karamanlis should disqualify himself from running in the next election.

"If I were in his role. I would not hesitate to accept this restriction," he said. "I will not be and I do not ask to be, but if I were, I would not hesitate."

We asked Papandreou if he would be willing to participate in a transitional government.

"Personally, I would not wish to," he said. "If I can possibly avoid it, I will. The more freedom I can have in such a period, the more I would like it."

Of course, the success of Papandreou's strategy depends on the next election being held at all. Papandreou admits he is looking to the distant future when the resistance organizations overthrow the junta, and despite the fact that he will spend that time in exile, he is confident that he will be able to keep the resistance movement under his control. In the meantime, he has outlined a detailed contingency plan.

"In case the resistance forces occupy the seat of power [he says], we are committed to a transition period of one year, during which neither the 1968 nor the 1952 Constitutions would be in effect, but instead we would employ the United Nations Bill of Human Rights as a guide. We would call for free genuine elections by the end of the first year. All parties—none excluded—would run for office . . . and the first parliament would be a constituent assembly to write a new constitution. In the meantime, on the basis of the law which existed in April 1967, we would try the junta on two counts, one on treason and high treason which under Greek law carries a maximum sentence of twenty years, and secondly on the basis of a common criminal law because all actions they have taken are considered by us to be illegal and shall be studied nakedly by the courts so that torture, imprisonment, and so forth, would be treated as common crimes."

Whatever his critics may say about him, Papandreou takes clearly defined positions on all issues, from the king, whose return he would make subject to a referendum, to Aristotle Onassis, whom he would banish from the land without appeal. His uncompromising attitude has probably alienated many people whose support he would need to carry out a program, but at the same time it has projected him among people in Greece as a symbol of the resistance, which is particularly vivid because it fills a void created by the absence of vigorous leadership. Here, many people believe Karamanlis is partly responsible. Karamanlis' own supporters believe Papandreou can say so much mainly because Karamanlis says so little himself.

"If we have free election in Greece," says Constantine Mitsotakis, "I think there will be three parties: Karamanlis, Andreas, and the EDA. The rest of the Center will have to make its choice."

Mitsotakis' choice is facilitated by the fact that he made it in 1965, when he broke with the Papandreous. He now maintains that in doing so he was attempting to avert the confrontation that led eventually to the coup, but he does not conceal the fact that he is carrying a heavy burden of shame for his past machinations. With pungent irony, he observes in effect that what he did was worse than a crime: it was a mistake. And perhaps since he has nothing to lose, Mitsotakis has thrown himself into the struggle with fewer pretensions than either Karamanlis or Papandreou. Unlike Karamanlis, he is willing to travel all over Europe and the United States to win support for the opposition, and unlike Papandreou he does not seek publicity. He is a tall imposing figure, with large eyes and a high forehead that makes him resemble, of all people, his old antagonist, Andreas Papandreou. Unlike many Greek politicians, he answers questions directly and with a few words, and he creates the impression of having decided ahead of time what he is going to say.

We asked Mitsotakis what would bring down the junta, and he said,

"The resistance of the Greek people. Then we Greeks must agree on a minimum political program. We cannot have elections right away. We must have an interim transitional government which will be made up of all political parties with the exception of the Communist party, by which I also mean the EDA. I know there are two communist parties, or maybe five, and we want to exclude all of them from the interim government. It won't be the sort of coalition in which different parties bargain for ministries. It should rule for a short time. Some people say a year, but I say six months, or even four, to hold elections."

At the same time, Mitsotakis does not hide his poor opinion of Andreas.

"I told Andreas he can expect one thing from us [he says]. Free elections in which he can return to Greece and take his case to the people. But he can expect nothing else. I think Karamanlis would certainly win an election against Andreas. Some people object to me. Others object to Andreas. But I think everybody would accept Karamanlis. After the junta, there will be such work to put everything back in order, and for this job we want the man who has the greatest influence and provokes the smallest adverse reaction. No one can deny that this man is Karamanlis. They can say they will not give him a blank check, but they cannot deny that he is the man."

George Mylonas has also declared his support of Karamanlis as interim prime minister, provided that elections are held within four to six months. In fact, there is probably greater unity in the Greek political world than at any time since the coup. In July 1969, a political officer in the American embassy in Athens told us that Karamanlis and the politicians had to come together before the United States could contemplate taking any action. To a large extent, those conditions have been satisfied, but the merry-go-round still goes on. Karamanlis keeps his own counsel, Washington vacillates, and time works in favor of the junta. The colonels are stronger today than they were two years ago and their strength is only likely to increase in time, along with the extremists among their opposition.

"They came from a void, and they are supported by a void," says Helen Vlachos. "They are like hover-crafts supported by a cushion of air."

One by one, the politicians take their turns at the podium, like the Greek chieftains in *Troilus and Cressida*, but the ill-conceived adventure does not come to and end. Karamanlis has retreated to his tent, and only peeks out occasionally to look one way to Washington and the other to the Greek politicians. The politicians in turn keep one eye on Karamanlis and the other on Papandreou. Finally, near land's end, on the promontory where he has placed himself. Andreas Papandreou looks stonily out to sea.

The colonels are well into their third year in power, but Greeks are an optimistic people and many of them spend long hours among themselves analyzing the pressures they believe are going to drive the junta out. There is little agreement as to what these pressures are, but a lot of Greeks are convinced that it won't be long. On the other hand, many foreign observers are more pessimistic. "There is a good chance that what you'll have here is another Spain," says a British diplomat. "They've dug in deep and it's going to be damn difficult to push them out." The colonels moreover are not showing any signs that they will move toward parliamentary government in the near future. As necessary requirements for elections. Premier Papadopoulos recently listed the reorganization of government machinery, the "cleansing of social institutions," and economic, social and political reforms.

The colonels may find, however, that they cannot run things on their own and have to invite broader participation in the government. "The colonels are not men of great intelligence and they have no experience or talent for government," says a representative of an international agency, who has had dealings with them. "Papadopoulos is intelligent, quite intelligent. But the others are not. And Papadopoulos has little imagination. His views are very narrow." The most conspicuous failure of the junta has been its inability to attract talented and experienced men to serve in the government. It cannot hope to achieve most of its ambitious goals with the men serving it now. "Most of the men running ministries are unbelievably incompetent," says a German businessman with extensive interests in Greece. Premier Papadopoulos has found it so difficult to get competent men that he has held as many as five ministries at one time himself. The situation is certain to get worse because military men now in secondary positions in the government are pressing for top jobs, and they are even less experienced than the civilians in the government.

The junta has had its most difficult time handling the economy. In the seven years before the coup the gross national product grew between seven and eight percent annually, but the first year the colonels were in power the increase dropped to less than half the rate. The colonels attributed the decline to the crisis in the Middle East in the summer of 1967 and other factors beyond their control. In 1968 they launched a five-year development program with a growth target of eight percent. Last year, the first year of the plan, the growth rate was only four and a half percent, according to the junta's figures, or less than three percent, according to American economic analysts.

To make up for the decline, the colonels have gone in for big dramatic projects. In 1967 they contracted with Litton Industries, the United States conglomerate, to have the company promote $840 million in foreign investments for Greece in the next twelve years. Fifty million of that was supposed to come the first two years, but the deadline passed in May last year and only two projects, worth less than $1 million, had reached the groundbreaking stage. Finally, both Litton and the junta gave up a few months ago and cancelled their agreement. The junta has also tried to persuade some of the more famous Greek industrialists to get involved in the economy of Greece, including Aristotle Onassis, Stavros Niarchos and Thomas A. Pappas.

Pappas came to Greece in 1961 and won the concession for an oil refinery in Salonika. He has been a controversial figure in Greece ever since, particularly after he told a Greek journalist that he had done some work for the Central Intelligence Agency on occasion while living in the country. It has been reported that he is close to the junta, which is supposed to admire his contacts with the Administration in Washington, but the enchantment between them is fading. In an interview in his office early last year, carefully supervised by public relations men, Pappas said the present regime is doing fine and his relations with it are excellent. But we ran into him a few months later at an Astir Palace Hotel overlooking a beautiful cove about fifteen miles from Athens, and he appeared much less pleased with the colonels. He was waiting for guests—relatives of the late President Eisenhower—to join him for dinner. We asked him how his plans for developing a meat industry in Greece were going. "I'm not optimistic about anything with these people," he said. "They just don't know how to act in a business way. But you know their biggest problem? They don't trust anybody. They keep stalling and shifting and stalling, and you never know what to expect from them. How can you deal with people like that?"

In 1969, Greece had its best year economically since the coup. The junta says the country's economy grew eight and a half percent during the year. Independent economists say the increase was around six percent, but even so it is not bad. The high growth rate was partly due to a good farm yield and partly to an increase in tourism, which rose thirty-one percent over 1968. But the country's big problem is its wide trade gap, which last year amounted to $700 million. It makes up for much of this with tourist income, remittances from Greeks abroad and other sources, but a gap still remains and capital from foreign investments is needed to fill it. The investments have not come since the junta took over and they do not appear to be on the horizon for the next few years. In 1967, 1968 and 1969 the regime made up for the lack of investments by borrowing extensively from banks in the United States and Europe, in some instances putting up gold as security. These have been short term loans—mostly three to five years—and they will start to come due by late 1970. Further borrowing will not be so easy after that; so unless Greece can get some big investments, and soon, it will face a serious balance of payments problem in 1971 and the whole economy could be affected. Touched in the pocketbook, the new class of bourgeois Greeks is not likely to be as complacent about the junta as it has been up to now. "If the colonels fall on any field," says Frank Butler, who was chief of the economic section in the American embassy in Athens until he retired from government service last July, "it will be in the balance of payments field."

They could fall in other ways as well. The chance, an outside one at best, exists that they will be pushed out by discord among their own men. The corps of officers in the army who are the backbone of the regime includes a strong element of hard-liners, many of whom are in key command posts in northern Greece. "They're a pretty puritanical bunch," says an officer in the United States mission in Greece. "If they become convinced that the boys in Athens have taken to the good life and are selling their concept of the revolution short, they won't hesitate to march on the capital. Some of the hard-liners are already suspicious."

Although the colonels have a reputation for honesty, having been poor for years makes them easily impressed by men with great wealth. Papadopoulos has developed a budding friendship with Aristotle Onassis that has already gotten him into trouble with the hard-liners. At the urging of the premier, the government last fall rushed to accept a $400 million investment proposal from Onassis for the concession to a seven-million-ton oil refinery. The international press and even one of the local newspapers, the conservative daily *Estia*, criticized the deal as much too generous in its terms to Onassis. The shipping magnate's longtime rival, Stavros Niarchos, then announced that he had submitted an even better deal but it was not given proper consideration. The hard-liners were so angry they forced the government to go back on the tentative agreement with Onassis and ask for new bids. Finally, the regime placated both Niarchos and Onassis by promising to give the former control of the state refinery and the latter the concession for a new refinery. (Papadopoulos' private ethics have long been held suspect by puritans in the army because he left his wife more than a decade ago for someone else's wife. Papadopoulos has been living with the woman, Mrs. Despina Gaspari, ever since but their spouses have refused to consent to divorce and they have not been able to legalize the relationship. Papadopoulos almost always appears in public alone.)

Papadopoulos is not the only one being carefully watched by the hard-liners. Stylianos Patakos, the deputy premier, is also suspect because of his association with shipowner I. S. Latsis. Patakos is frequently seen with Latsis and has accepted the use of one of the shipowner's houses in Kifisia, an exclusive suburb outside Athens, for members of his family. While nothing improper appears in the friendship thus far, a free press would probably raise questions of a conflict of interest since Latsis last year received part of the lucrative rights to ship crude oil to the state refinery in Athens.

If the colonels are not pushed from within, they could be pressured from without. Although most Greeks are still hopeful that change can come peacefully, a few have turned to drastic methods. During the past months bombs have been exploding throughout Athens with increasing regularity. Last July alone, opponents of the junta set off ten bombs. The Athens Hilton, the Bank of Greece, the foreign press and information office and numerous American cars, including one belonging to a U.S. Army attaché, have been hit by bombs. Some of the blasts are thought to be the work of the rightwing National Resistance Movement (KEA), and American property seems to be one of the primary targets. "You have become more hateful than the Athens regime," a leaflet addressed to Americans from the KEA declared. "You will be responsible for the civil war that will follow." The leaflet was signed by "General Akritas," the mysterious leader of the movement. (The name comes from Dighenis Akritas, a Byzantine hero. General Grivas used the first part, Dighenis, as his code name while leading the fight against British rule in Cyprus during the 1950s.) In its leaflets the group says it wants Constantine Karamanlis to be brought back to restore parliamentary government in Greece.

In addition to the KEA, there are more than two dozzen other resistance groups operating throughout Greece, including one called the Patriotic Front, which is directed by Communists. The strongest groups belong to the right and center, the left being weak and disorganized at the moment. The bombs that have exploded thus far have been timed to go off at night to avoid hitting people, although about half a dozen people have been injured as a result of the blasts. "You can tell the Communists are not behind the blasts," says a Greek journalist. "If they were, the bombs would have been set up to kill." The most seriously injured victim was apparently a member of a resistance group. Dionysos Karageorgas, a professor at the Pantios School of Political Sciences in Athens, was trying to fix the detonator on one of thirteen bombs in the basement of his house, according to Athens police, when it went off. As a result of injuries from the blast, he lost his right arm and the sight of his left eye. Karageorgas, who served in the Center of Economic Research, was among the professors who were dismissed when the junta seized power, but he was later reinstated. In April he was sentenced to life imprisonment after being convicted of sedition by a military court. Twenty-six other Greeks tried with him received long prison terms.

All the resistance groups have a long way to go before they are strong enough to threaten the regime, but many of them seem determined to try, particularly the right-wing groups that include former army officers with training and experience as fighters. The right-wing establishment is strongly opposed to the junta because it lost the most power and influence with the arrival of the nonestablishment colonels. The left has been out of power since the civil war. Although it is quite weak now, the left commands considerable support among students and certain groups of workers and can call on them when it decides to move.

"The right and the center may be behind much of the little resistance there is now to the junta [says a former minister in the Karamanlis government], but you can be sure that as it builds up, the left will get into it in full force. It did not take much for the Communists to seize control of the resistance movement during the occupation. I don't think there is ever going to be another civil war in Greece. I think Greeks learned their lesson the last time. But if things don't change, we're going to have a lot of violence in Greece, a lot of senseless killing and a lot of destruction. I don't say that as Andreas Papandreou says it—as a threat. I say it because I am afraid of what is going to happen here."

INTELLECTUALS AS AN "ETHNIC GROUP"

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. PUCINSKI. Mr. Speaker, the New York Times Magazine of July 12 contained an article by the Reverend Andrew M. Greeley, professor of higher education at the University of Illinois in Chicago.

Father Greeley dared to say in print what millions of Americans say openly without being heard. Because these millions of our fellow citizens have neither the forum nor the opportunity to state their case, Father Greeley has made a significant bridge across the troubled waters of misunderstanding.

We have a very large, very accomplished, very protected intellectual elite in these United States, free to study and to probe and to associate with scholars of equal rank in university communities and urban education centers that are renowned the world over.

Our Nation, thank God, has placed very high emphasis on development of the mind and the spirit. We have encouraged—even sought—the blandishments of academic achievement and most of us have prodded our youngsters from their first days in school to learn, learn, learn.

Never before has a nation had so many highly educated citizens in positions with enormous intellectual latitude and so little required of them by the society that supports them.

But we have perhaps misunderstood the purpose of education which is, surely, to make all men more aware of one another's distinctness, more tolerant of one another's diversity, more sensitive to one another's infinite complexity. Too many of our intellectuals today share only the tenuous bond of fashion. They interact and react with one another, having little real depth of understanding of the middle American—the man or woman who has not had the advantages of untold leisure hours in book-lined rooms.

In his article, Father Greeley gently but firmly points out some of the common myths about what constitutes today's fashionable American intellectual. The picture is not a pretty one. Worse, it offers so little that is worthy of emulation or decent respect.

An open letter signed by more than 100 psychiatrists and psychologists at a prominent American university was sent to my office last week. It decried the splitting and the divisions among the people of America and it pleaded for more rational discourse, for a lessening of the rhetoric that passes for communication in our society today. And it blamed the use of words like "bums" and "impudent snobs" that, the letter contended, were destroying the society. Yet no mention was made of words like "pigs," "hardhats," "fascists," which is surely the rhetoric of another point of view.

Mr. Speaker, we have to begin to come together again in this country. And we have to respect one another's basic humanity.

I bring Father Greeley's timely article to the attention of my colleagues with the hope that it will give them a significant insight into a problem that threatens to engulf the Nation if we are not aware of it, and if we do not take steps to solve it.

Mr. Speaker, the article follows:

INTELLECTUALS AS AN "ETHNIC GROUP"

(By Andrew M. Greeley)

America's intellectual élite, normally secure from criticism, has been taking some lumps lately—and not just from Spiro Agnew. Writing in The Nation, John McDermott has accused lower-level members of the élite of thinking of themselves as missionaries bringing culture to the heathens, and Michael Lerner, in The American Scholar, anticipated Agnew with the suggestion that the intellectual leaders may be snobs. Culture is indeed missionaried at some of the working-class institutions (state colleges are what I have in mind), at which exiled members of this élite are forced to teach to earn their daily bread, and snobbery is as present among this élite as among other groups of human beings.

I would like to suggest a way to understand the split which columnist Joseph Kraft has called "the most dangerous in American society—that between better-educated America and middle America." I propose that we can best judge the relationship between the intellectual elite and the rest of society if we perceive that the intelligentsia is, in fact, an ethnic group. Once we accept this, we begin to see the present tension between this ethnic group and other ethnic groups in its proper perspective.

There are six characteristics which delineate an ethnic group:

(1) A presumed consciousness of kind rooted in a sense of common origin.

(2) Sufficient territorial concentration to make it possible for members of the group to interact with each other most of the time and to reduce to a minimum interaction with members of other ethnic groups.

(3) A sharing of ideals and values by members of the ethnic group.

(4) Strong moralistic fervor for such ideals and values, combined with a sense of being persecuted by those who do not share them and hence are not members of the ethnic group.

(5) Distrust of those who are outside the ethnic group, combined with massive ignorance of them.

(6) Finally, a strong tendency in members of an ethnic group to view themselves and their circle as the whole of reality, or at least the whole of reality that matters. Thus, many primitive tribes use the same word for "human being" as they do for members of the tribe. Those who are outside the group, even if they are conceded some sort of human status, are, nonetheless, not considered terribly important.

Few probably will disagree that the first two characteristics apply to members of the American intellectual élite. Although the common origin of these élitists is not based on common biological ancestors, they are still united by a powerful "consciousness of kind." Their spiritual ancestors are the same, they have attended the same universities, and they know one another rather well—through personal contact at the upper levels of the group and through reading the approved journals at the lower levels. Further, they are highly concentrated in certain ethnic enclaves—in New York, Washington, Boston, Hyde Park in Chicago, the San Francisco area. The University of Chicago scholar, for example, who has attended the Laboratory School, the college, and a graduate department at the university and now serves on its faculty, is not likely to leave Hyde Park any more frequently than would a member of a Polish ethnic group leave the Northwest Side of Chicago. And when he does leave, it is to go to similar enclaves where he will be just as effectively isolated from other ethnic groups.

We will content ourselves, then, with discussing the application of the final four characteristics. First, however, it is necessary to try to define "intellectual elite." It is as hard to arrive at a definition of this élite as of any other ethnic group. Some men and women are clearly a part of it—the editorial staffs of the ethnic journals, the faculties of five or six major universities, the most influential commentators of the mass media—but the boundaries of the group are vague and permeable. Who is "in" and who is "out" of the group are matters for controversy. (One is reminded of the debate in Israel about how to define a Jew.) Perhaps one could say that a member of the intellectual ethnic group can be identified by the journals he reads. Subscriptions to any two of the following are sufficient to guarantee one membership at least on the margins of this ethnic group: The New York Times, Commentary, Partisan Review, Saturday Review, The New York Review of Books, The Atlantic (but not Harper's), Dissent, The New Republic and The Nation. In cases of doubt, a subscription to The New York Review of Books alone will suffice.[1]

Members of this ethnic group, like all ethnics, are conscious of great differences within their group and are astonished to discover that those on the outside seem quite unaware of these. Thus, the intellectual ethnics are horrified to be told that from the outside Rennie Davis, Irving Howe, Arthur Schlesinger and Joseph Alsop seem to have far more in common with one another than they do with anyone who is not an intellectual ethnic. All one can do in response to their astonishment is to ask whether they know about the deep and basic differences that separate the Polish National Alliance and the Polish Roman Catholic Union. Members of other ethnic groups will forever be convinced that a Harvard man, no matter how fierce his revolutionary rhetoric, how wild his beard, how bizarre his dress, is still at root a Harvard man. If it is legitimate to use Pole (or Irish or Italian or Jew or Swede or Chinese) as a general category without adverting to the differentiations within the group (of course, members of the intellectual ethnic group do this constantly), then there seems no real reason why those who speak of the intellectual elite (perhaps even calling it "intellectual Establishment") should be concerned with the differentiations that those inside the group consider so terribly important.[2]

First of all, we must investigate the values shared by the members of the intellectual ethnic group. The most basic value is the

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conviction that the articulation of ideas is the most dignified form of human activity; and closely related is the notion that those whose role it is in society to articulate ideas are not only the most superior members of that society, but also the only ones really qualified to run it. It is taken for granted that there are few problems facing society which intelligence and goodwill could not resolve and, therefore, if problems remain, it is because of the absence of either intelligence or goodwill on the part of those who are responsible for governing the society. It is taken as axiomatic, then, that the mistakes, the tragedies, the confusions, the animosities, the unresolved conflicts, the disasters which affect the society are to be attributed either to ignorance or to malice.[3]

From there, it is one further step to see, if not a conspiracy, at least some sort of implicitly organized plot to prevent social progress and to frustrate the accomplishment of those intelligent programs for social progress which the intellectual ethnic group has devised. Given the superiority of the members of the group and the unquestioned validity of their solutions, they do not need to be paranoid to sniff a plot. Quite the contrary, it seems to be the only logical explanation for the fact that they have not yet been given a chance to make society a better place by implementing all of their programs. Therefore, when they rail against "the system" or "the establishment" or "the power élites" or "the structure," they do so with perfect conviction and sincerity, even though to one who is not a member of their ethnic group it seems clear enough that if there is an establishment or a power élite or a structure or a system, then the intellectuals are the ones who run it.

So strong, indeed, is this conviction of the superiority of intelligence and the frustration of this superiority by dark forces, that many of these ethnics do not even see the occasional contradictions in their own behavior. Thus, Theodore Roszak can rail against "the technological establishment" and advocate his own "nontechnological counterculture" in a book mass-produced by a very technological printing press, published by a very establishment publishing house and marketed by the most sophisticated kinds of establishment advertising techniques.

Within the context of these twin basic convictions of the superiority of intelligence and the conspiracy against it, the precise positions this ethnic group takes on specific questions may change, though rarely is this change explicitly acknowledged. However, a number of the group's more generalized positions can usually be identified:

(1) Schools are the most appropriate place to accomplish social reform.

(2) Marxism, whatever its weaknesses may or may not be, is the most effective way of creating social progress—at least outside the United States.

(3) Youth is the hope of the future and thus the intellectual ethnic group must be profoundly concerned with what is happening among the young. Note the obsession, for example, in The New York Times Magazine with articles on youth culture. Note also the resolute refusal to face the fact that the youthful protest movement, in its political, psychedelic, communitarian and rock-music manifestations, represents only a small minority even of the college population, to say nothing of the total population under 30.[4]

(4) There exists somewhere a group called "the people." This group—be it noted, quite distinct from "the silent majority"—is not nearly so well-educated as the intellectuals but does share their values and can be counted on to supply the "muscle" for whatever fantasies about grass-root support the intellectual ethnic group finds itself in need of. The composition of "the people" changes; in the nineteen-thirties it was the working class, particularly trade-union members; more recently, this group has been "the blacks," "the poor" and "the Third World." The mythology of "the people" requires, of course, that all or most of the members of these particular categories be assumed to be part of "the people." However, those presently permitted into "the people" should be wary. Membership is not permanent and can be revoked whenever the evidence becomes irrefutable that substantial elements admitted to "the people" in fact do not share the values of the intellectual ethnic group. My own hunch is that the position of the blacks is quite precarious because at some time in the reasonably near future the intellectual ethnics are going to discover that the black militants and black radicals do not speak for the overwhelming majority of the new black middle classes—or upper black working class, either, for that matter.

Like all ethnic groups, the intellectual élite realizes that to some extent it is separated from and threatened by the rest of society. It therefore becomes necessary to invest its convictions with strong moral force, both to assure allegiance to the values by those inside the group and to provide a weapon for denouncing those who are outside of it. The 19th-century Irish-American's concern about freedom for Ireland and the 20th-century Slavic-American's commitment to the sanctity of the neighborhood are easily matched by the intellectual's conviction of the morality of his own tradition.

The strong moralism in the intellectual ethnic is reinforced by two other factors. For one, the intellectual's roots in the Puritan Protestant and Jewish messianic past would incline him toward moralism even if there were none so bold as to disagree with him. For another, convinced as he is of his superior intelligence, the intellectual has no trouble in concluding his superior moral rectitude: he is both right and righteous. One need only read through the editorials, the book reviews, and the letters columns of any of the ethnic group journals to discover the absolute and unshakable conviction of the typical intellectual ethnic about his own moral righteousness. The long and by now tiresome debate between Noam Chomsky and Arthur Schlesinger is a classic example of this righteousness. Rarely, if ever, does one encounter in any of the journals the slightest hint that anyone thinks that he might not have all the information or be mistaken in his judgments or that his opponents, either inside the group or outside of it, might possibly be men of intelligence and sincerity.[5]

A classic example of the assumption of moral superiority by the intellectual ethnic was demonstrated in Stanley Kauffmann's review of the film "Patton." He praises the producers of the film for capturing the spirit of the "age of Nixnew." According to Kauffmann, "It seems to say, 'All right, now, we've had enough of this bellyaching; war is in us and we might as well face it. The urge to kill—hell, the enjoyment of it—is in us, so let's not kid ourselves. And at the risk of sounding corny—what's so damn wrong with a lump in the throat at the sight of the American flag?' Perfect. I saw 'Patton' in a large theater with a large audience. The very first shot is an American flag in vivid color filling the wide, wide screen. Some defiant applause. Then out steps General Patton, minute against the immense banner, and I felt the audience lunge toward him with relief. Everything was all right again, the old values were safe. Before Patton had finished his address to his new soldiers (which is the prologue to the film), profane, soldierly, paternal, tough, before the picture had really begun, it was a solid unassailable hit."

How fortunate for Stanley Kauffmann! He alone in the whole audience was able to distance himself from the huge "lunging" immoral mass which wants to kill, and indeed wants to enjoy the killing. Kauffmann, the élite ethnic reviewer, from his pinnacle of superiority, can look with disdain on the rest of the audience. How does he know that their reactions were what he described? He knows, that's all. And if you're Stanley Kauffmann you are so morally superior that you don't have to advance proof.

The intellectual is quite capable of compassion—for the poor and the black, especially, but also for drug addicts, terrorists, arsonists, rioters, Russians, Chineses, Arabs and the Vietcong. All these compassions do him great credit, but he is singularly selective in his compassion and in his willingness to understand sympathetically and defend members of other ethnic groups. He finds it difficult, if not impossible, to experience compassion or sympathy, or even understanding, for the United States of America, and particularly for its middle-class and working-class citizens—especially if they are over 30. This is the "silent majority," the fascist mass, the white backlash and the white ethnic racist. These are the kinds of people whom Harper's (a journal that caters to those on the fringe of the intellectual ethnic group) has been examining with aloof and clinical wit in the quasi-anthropological reports of Marshall Frady and others. See how amusing these Texans or Californians or Gary Hoosiers are—how quaint, how droll, how boorish, how fascist!

One of the reasons for the contempt and disdain directed at the members of the other American ethnic groups is that they don't demonstrate the required amounts of guilt. They don't feel guilty for their white racism. They don't feel guilty for the massacres at Songmy. They don't feel guilty about being members of the American middle class. If they were the morally righteous people that the intellectual ethnics are, they would feel guilty when the intellectuals insist that they should feel guilty. After all, every American white person is, by definition, a white racist and, as an editorial writer in *Trans*-action recently observed, those Americans who voted for Richard Nixon are as bad as those Germans who voted for Adolf Hitler. And Judson Jerome, writing in Change, engages in an orgy of personal guilt feeling because he was shocked when one of his students admitted that he felt perfectly free to steal other people's property since he was no longer hung up on the "private property" bag. Heaven only knows how guilty Jerome would have felt if the student was also stealing his wife, since he was no longer hung up on the adultery bag.

It might be thought that such contempt for the middle class or the working class is a bit premature. The American electorate did resoundingly reject Barry Goldwater. American public opinion did force the de-escalation of the Vietnamese war, the first time in history that a major power has been forced by public opinion to settle for something less than victory in armed combat. Further, the American public also solidly supported most of the social reforms that the élite intellectual ethnic group has promoted over the last 40 years; it forced President Johnson out of office, it has paid, with only relatively minor protests, for the world commitments which previous generations of intellectual élites got it into, and it has even provided a broad consensus for racial integration (a concensus which may, despite the mythology of white backlash, persist even to the present time).[6] If the support of middle America for the intellectual ethnic group has waned in recent years, it may well be because the intellectual ethnics have tried to force down the throat of middle America social reforms (like school busing) whose effectiveness is questionable.

Footnotes at end of article.

The intellectuals enthusiastically embraced the militant minorities of the black and youthful populations and their deunciation of middle America on the grounds that the militant minorities were "morally superior." Historicans of the future may look on the nineteen-sixties as a time not when middle America deserted the intellectual ethnic group, but rather as a time when the intellectual ethnic group deliberately turned its back on its own mass population support and began a flirtation with radical groups whose ability to bring about social change was dubious, but whose moral rectitude—at least from the intellectual elite's viewpoint—was beyond question.

It must be emphasized that this is behavior that is perfectly understandable within the context of ethnic group analysis. It is almost inevitable that an ethnic group be unaware of what is happening in other ethnic groups and project into the other groups its own fears, frustrations and disappointments. American intellectuals are profoundly frustrated by the ambiguities, injustices and seemingly disastrous trends afflicting American society. Their superior intelligence and moral rectitude tell them what the correct answers to these difficulties are; the absence of a positive response from other ethnic groups leads them to a rigid and doctrinaire position not much different in style but considerably different in substance from that of Slavic homeowners who cannot understand why other Americans are offended by the fierce loyalty with which they try to protect their neighborhoods. The Slavic ethnic cannot understand the intellectual's assumption that he has the morally correct answer; and the intellectual is quite incapable of understanding the affection for social turf which is so powerful in the life of the Slavic ethnic. Neither side is able to have much compassion for the other though, to the credit of the Slav, it may be said that at least he doesn't pretend to be compassionate.

Of course there is, within the intellectual ethnic group, plenty of room for dissent so long as it is the approved kind of dissent. Radical Abby Hoffman's right to dissent will be vigorously defended, but not Nixon-aide Daniel Patrick Moynihan's (even though Moynihan's alleged dissent is, for the most part, made up of phrases snatched out of context). Drug-touter Timothy Leary is to be supported, but not race-I.Q. comparer Arthur Jensen.[7]

M.I.T.'s "new-politician" Noam Chomsky has the right to academic tenure, but ex-Johnson-aide W. W. Rostow has no right to return to M.I.T. Mayor Lindsay's mistakes are to be defended and sympathized with; Mayor Daley's mistakes are to be used to continue the myth that he is a monster—even though Lindsay was able to win the support of only 45 per cent of the city of New York, and Daley 75 per cent of the city of Chicago (including in excess of 85 per cent of the blacks of that city). Every possible attempt was made by the intellectual elite to justify the mistakes of Israeli political leadership,[8] but no possibility is seen for the moral behavior of Irish Catholic political leaders.

Like all ethnic groups, intellectuals have their own particular combat rhetoric, which may change more quickly than it does in other groups. It was only after long years that the Irish abandoned their hatred of "the dirty A.P.A.'s" (members of the American Protection Association), and Poles are probably still convinced that their biggest enemies in the United States are "Irish Catholic politicians and bishops." The currently favorite word of the intellectual ethnic group is "revolution." Even though the movements among the young and the black are in fact anything but revolutions in any sense that this word normally conveys, it is still absolutely necessary that the movements be described as "revolution"; never mind that for there to be a revolution the revolutionaries must have at least the passive support of the majority of the population; never mind that only a tiny minority of the nation supports either the student or the women's movements, and only a minority of the blacks supports the most militant kind of black protest.

Never mind that when the minority attempts to force its will on the majority, what one has is not revolution but fascism; never mind even that some of the young and more radical members of the intellectual ethnic group, confusing the slogan of revolution with tactics of revolution (logically enough from their viewpoint), hurl bombs, revolution is the word still to be used. And if other ethnic groups are offended by such rhetorical excess, it is merely proof of their moral inferiority.[9]

Finally, the members of the intellectual ethnic group, like all ethnics, are only vaguely aware of what goes on in other ethnic groups; they do not trust members of the out-groups and seldom, if ever, encounter them with any sort of serious conversation—save in taxicabs or in Stanley Kauffmann's threater. Normally speaking, it is not necessary to be concerned about what members of other ethnic groups think because "everybody" that matters is already part of one's own ethnic group.[10]

In his own way, Spiro Agnew was right when he suggested that a relatively small group of men in the mass media have immense control over the circulation of ideas in American society. Agnew was wrong on two counts, however. There is no conscious conspiracy in this control and, secondly, it has rather less impact than either the Vice President or the intellectual ethnics would like to think. There has been practically no room for dissent either in the leading ethnic journals or in the large-circulation media from the "official" account of the Chicago convention or the Chicago conspiracy trial. Most elite ethnics are convinced that "every one" was horrified by the behavior of the Chicago police and of Judge Hoffman because everyone they know was horrified and because all the right journals say that we ought to be horrified. It turns out that the overwhelming majority of the American public approved the behavior of the police at the convention and equally approved the conviction of the Chicago Seven. These data can be dismissed as a sign of the fascism of the masses.[11]

Because they are ignorant of and unconcerned about other ethnic groups, the intellectual ethnics are confused and frightened when they detect a change of behavior among the members of other groups. Just as they betrayed ignorance of other groups by assuming that every new scheme which was alleged to improve the conditions of the poor and the blacks would be accepted by the white majority because the scheme was sanctioned by the elite as the only moral one, so they display equal ignorance in overestimating the so-called white backlash. Despite the past record of the middle majority, the intellectual alternates between paying no attention at all to it and being terrified of it. The terror is real enough, but it does not necessarily correspond to some reality which ought to generate terror. The intellectual who shivers with delight at the fantasy of a Polish storm trooper kicking in his door at 4 o'clock in the morning has the same contact with reality as does the Polish homeowner on the Northwest Side of Chicago who thinks that Black Panthers are lurking in his corner drugstore. Both have created terrors for their own entertainment and delight; both are completely unaware of what really is going on in other ethnic groups; both present classic examples of frightened ethnic behavior.

All of this is unfortunate, of course, because in addition to being members of one particular ethnic group, the intellectual elite are, by definition, the idea-shaping segment of the leadership of American society. For them to be alienated from the rest of society for reasons of presumed moral superiority or ignorance of what is going on in the rest of the society is a tragedy both for them and for the whole country. Curiously enough, members of the other ethnic groups have a great deal of respect for the intellectuals, though the respect is mixed with negative feelings. It would, one suspects, take relatively little in the way of sympathetic understanding on the part of the intellectual ethnics to begin to re-establish some kind of communication with the rest of America.

FOOTNOTES

[1] Since I am on the staff of a large elite university and read most of the above journals I would, under normal circumstances, be accorded membership in the ethnic group. But I am a dubious case since, in addition to being Irish (a highly suspect quality at best), I am also of the clergy. I think both of these characteristics would be forgiven me if I should marry (which, by the way, I have no intention of doing). Currently an Irish clergyman can make it into the ethnic group by seeking a wife, just as an Irish politician can by being assassinated.

[2] Occasionally a member of the intellectual ethnic group ventures forth to a work situation where other ethnics are to be found, gets a job in such a situation for a rather brief period of time and then reports back to the members of his own group about the fascinating and bizarre behavior in which other ethnics engage—much as Marco Polo reported on China. Such reports are inevitably fascinating since they combine the joys of voyeurism with the pleasures of slumming. The writer feels that he is "telling it like it is" and the ethnic readers are reassured about their own moral and intellectual superiority. Elinor Langer's account in The New York Review of Books of her adventures at the New York Telephone Company is a classic example of this variety of literature. The other ethnics ("Polish, Jewish, Italian, Irish, black, Puerto Rican") are typical members of the consumer society. "Packaging is also important: the women will describe not only the thing, but also the box or wrapper it comes in" (how strange and fascinating of them!) . . . "they are especially fascinated by wigs" (just like Marco Polo's Chinese with their pigtails) . . . "the essence of wiggery is escapism" (what else?).

Miss Langer is more perceptive than most such amateur anthropologists. She realizes that she may have been dishonest with her subjects: "I have a strong feeling of bad faith to have written this at all." But, having thus candidly confessed her feelings, she frees herself and her readers from any awkward feelings of guilt and concludes with the marvelously ethnocentric message to her former coworkers: "Perhaps the intellectual and political values of my life by which I was judging yours make equally little sense. Perhaps the skills which give me leverage to do it allow me only to express alienation and not to overcome it; perhaps I should merely be thankful that I was raised an alpha and not a beta."

[3] In matters of "thou shalt not kill," "thou shalt not steal" and "thou shalt not bear false witness," intellectual ethnics are as stern as their Puritan ancestors. However, most of the traditional violations of "thou shalt not commit adultery" are considered, if not praiseworthy, at least understandable, in terms of the offender's childhood. No attempt to justify political corruption, for example, in terms of the politician's childhood experience is likely to be listened to.

[4] Rennie Davis will probably not dance on Judge Hoffman's grave, but there is a good chance that George Wallace will dance on

Davis'—and perhaps a lot of other people's, too.

[5] Chomsky is obviously at an advantage in his debate with Schlesinger, because Chomsky has never been part of the political administration as Schlesinger has, and hence, has never had his moral purity tainted by political decisionmaking. Yet one wonders about Chomsky's morality. If really convinced that American society is as imperialistic and demoralized as he claims, why would he continue to accept income from M.I.T., which is about as much a part of the American establishment as an institution possibly could be?

[6] One looks in vain in the history of the human race for a situation where a major power has been forced to withdraw from a war because a large segment of its people (and not simply a tiny minority of vocal demonstrators) would not support the war. One further looks in vain for a military establishment which would bring charges against senior officers (including generals) for an atrocity committed in a war, especially when that war was still going on. The intellectual ethnic group copes with this unexpected display of national morality by claiming credit for it. The other ethnics can't win: If they are immoral, the intellectual ethnics sit in judgment. If they are moral, the intellectual ethnics assume that they are the ones who are responsible for the morality.

[7] I am persuaded by the essay of Prof. Stinchocombe in the Harvard Educational Review that Jensen's research is inaccurate, but from inaccuracy it does not follow that he is a racist.

[8] One of the more interesting developments within the intellectual ethnic group is increasing sympathy for the Arabs. Such sympathy is particularly fashionable among young Jewish radicals who combine support for the Arabs with justification for black anti-Semitism in the belief that Jewish merchants do indeed victimize the black poor.

[9] In the last four years the rhetoric and the tactics of the New-Left wing of the intellectual ethnic group have suffered one of the most complete defeats in the history of American politics. Seventy per cent of those who favored immediate withdrawal from Vietnam approved the way the Chicago police responded to the convention protest. The Vietnam moratoriums strengthened rather than weakened President Nixon's policy (and sentiment in favor of withdrawal went up from 21 to 35 per cent after the New Left was driven into retreat by the silent-majority talk). At most, only 10 per cent of the country approves of the New Left (whose shouts of "Power to the People" indicate a very strong death urge; if the "people" had their way, most of the New Left would be behind bars), and New-Left tactics are the kiss of death for any program or candidate. Despite the abysmal failure of the New Left and its playing into the hands of those who oppose social progress, the intellectual ethnic group has not asked why the New Left failed, nor even really acknowledged that it has in fact failed, save by expressing fear of a "reaction," when a more appropriate fear would be that a New Right might use the New Left's tactics—and with far more effectiveness.

[10] A good way to define an intellectual ethnic is to say that he thought that Norman Podhoretz really "made it" when he became editor of Commentary.

[11] It is not my intention to side with the silent majority on either of these issues. The point I wish to make, however, is that if the intellectual ethnic group were a little less concerned with its own rectitude and moral purity and a little more concerned about understanding what was going on in the United States and providing broad consensus for social change, it might begin to ask itself whether the members of other ethnic groups are saying something very important, however inelegantly, by their reaction to both the demonstration and the trial. However, it is much easier to dismiss other people as fascists than to try to understand them.

FNMA DIRECTORS NOT SUBJECT TO FEDERAL CONFLICT OF INTEREST LAW

HON. WILLIAM B. WIDNALL

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. WIDNALL. Mr. Speaker, the question of a conflict of interest between the part time directors of the Federal National Mortgage Association and their fulltime commerical interests has been dealt with in a letter dated July 10, 1970, from the Assistant Attorney General in the Office of Legal Counsel at the Department of Justice, William H. Rehnquist, to the Under Secretary of the Department of Housing and Urban Development, Richard C. Van Dusen.

In the letter, Mr. Rehnquist notes that the conflict of interest statute and the Executive Order which implements it apply to a body which is part of the executive branch, an independent agency of the United States or a Government corporation.

From the language of statutes which have created FNMA and the legislative history of the institution, Mr. Rehnquist concludes that FNMA is neither in fact nor in law a part of the executive branch, an independent agency, or a Government corporation.

Therefore, in the opinion of the Department of Justice, the provisions of the Federal conflict of interest statute do not apply to the directors of FNMA. I include the letter referred to for a thorough explanation of the opinion:

DEPARTMENT OF JUSTICE,
Washington, D.C., July 10, 1970.

Hon. RICHARD C. VAN DUSEN,
Under Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. VAN DUSEN: Your letter to me of July 9 reiterated the earlier request of Sherman Unger, General Counsel of the Department of Housing and Urban Development, for the opinion of the Department of Justice as to whether the provisions of the federal confict of interest statute found in 18 U.S.C. 208 apply to the directors of the Federal National Mortgage Association. That section, in the cases in which it is applicable, makes criminally punishable the participation by an officer or employee of the Executive branch of the United States government or of an independent agency of the United States in any particular matter in which he has a financial interest. Mr. Carl Ruediger, Assistant General Counsel of the Civil Service Commission, on the basis of the facts outlined by Mr. Unger in a letter to him dated June 9, concluded that specified outside activity on the part of several of the directors of FNMA "establishes a conflict of interest" under Executive Order 11222,[1] and would violate 18 U.S.C. 208. After the most careful review of the facts submitted by Mr. Unger, additional factual information furnished by FNMA, and material bearing on the legislative history of the Housing Act of 1968, I find myself obliged to differ from Mr. Ruediger's conclusion. I am of the opinion that tne directors of FNMA are neither "officers or employees of the Executive branch of the United States Government" nor are they officers or employees of an "independent agency of the United States". This being the case, the necessary predicate for the application to them of 18 U.S.C. 208 is absent, and they are not subject to its provisions. Executive Order 11222 includes in its coverage "any officer or employee of any agency" and defines "agency" as "any Executive department or any independent agency or any government corporation"; I have likewise concluded that the directors of FNMA are neither officers nor employees of an "agency" within the terms of the Executive Order.

The basis for my conclusion, set forth in greater detail hereafter, is that by the Housing Act of 1968 Congress reconstituted the then existing FNMA, assigning certain of its functions to the GNMA, created by the Act and decsribed in the Act as a "wholly owned government corporation", and assigning other functions of the former FNMA to a reconstituted FNMA, created by the Act and described therein as "a government sponsored private corporation". Analyzed either in terms of statutory language or of function, the present FNMA is not a part of the Executive branch, it is not an independent agency of the United States, and it is not a government corporation. This conclusion is buttressed by the fact that the statutory provisions for the election of directors quite clearly contemplate, if they do not require, selection of directors who are bound to have nongovernmental interests which are affected by many of the actions which would be taken by the Board, and whose participation in Board activities could be seriously limited if the conflict of interest statute or Executive Order were held applicable to them.

Mr. Ruediger used the following language in reaching his conclusion that FNMA is within the language of both the statute and the order:

"FNMA is an entity in the Executive branch of the government which, although substantially controlled by private stockholders, is performing a federal function under significant governmental control so as to be a quasi-governmental organization."

"Section 705 of Executive Order 11222 which prescribes standards of ethical conduct for government officers, defines an 'officer' as an 'officer . . . of an agency' and 'agency' is defined in the same section to include a government corporation which FNMA basically is."

While it is perfectly clear that FNMA is subject to a number of government controls, and while it may for some purposes be described as a "quasi-governmental organization", I do not believe that these facts are determinative as to whether it is covered by either the statute or the Executive Order.

Under 18 U.S.C. 208, the inquiry is whether FNMA is a part of the "executive branch", or whether it is "an independent agency of the United States"; the Executive Order, in addition to substantially similar language respecting the Executive branch and independent agencies, adds to its coverage any "government corporation". I believe it is reasonably clear from both the language of the Housing Act of 1968, and the legislative history of that Act, that FNMA falls within none of these three categories.

The status of FNMA at present is determined by the provisions of its 1954 Charter

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[1] This Executive Order implements the provisions of this statute, and is designed to prohibit action by government employees which would either result in, or create the appearance of, impropriety—action such as using public office for private gain, giving preferential treatment to any person, or otherwise adversely affecting the confidence of the public in the integrity of the government.

Act, 58 Stat. 612, as amended by Title VIII of the Housing Act of 1968, 82 Stat. 536. Prior to the extensive amendments affected by the 1968 Act, which became fully effective on May 21, 1970, FNMA was defined by statute as a "body corporate" in the Department of Housing and Urban Development (12 U.S.C. 1964 ed. 1717(a)), and it was listed in 31 U.S.C. (1964 ed) 846 as a "wholly" owned government corporation." Prior to the 1968 revisions, FNMA performed three separate functions in connection with the federal housing assistance program: "Secondary market operations" in the mortgage industry (12 U.S.C. 1719), "special assistance" (12 U.S.C. 1720), and "management and liquidation" (12 U.S.C. 1721). The agency's Board of Directors consisted of the Secretary of Housing and Urban Development and four persons appointed by him, who were either officers or employees of FNMA, of the immediate office of the Secretary, or of some other department or agency of the federal government. 12 U.S.C. (Supp. III) 1723.

The 1968 amendments to the charter made sweeping and significant changes. The "special assistance" and "management and liquidation" functions were transferred to a newly created agency called Government National Mortgage Association (GNMA), while the "secondary market operations" were retained by FNMA. 12 U.S.C. (Supp. V) 1716(b). While the management of the newly created GNMA is completely under the control of the Secretary of Housing and Urban Development (12 U.S.C. (Supp. V) 1723), the management of FNMA was drastically altered. It now has fifteen directors, five of whom are appointed by the President, while the remaining ten are elected by the holders of the common stock of the corporation. The directors all hold office for a year, and all are subject to removal by the President for cause. Of the directors appointed by the President, at least one is to be from the home building industry, one from the mortgage lending industry, and one from the real estate industry. 12 U.S.C. (Supp. V) 1723(b).

The 1968 Act retained a substantial amount of control over FNMA in the Secretary of Housing and Urban Development. See, *e.g.*, 12 U.S.C. (Supp. V) 1723a(h). The general counsel of FNMA advises us, however, that the United States no longer has any financial investment in FNMA.

The legislative history of these provisions of the 1968 Act clearly show the intent of Congress to reconstitute FNMA as an entity quite different from the one which had previously borne the same name. Indeed, the 1954 Charter Act provided that as soon as practicable provision should be made to carry out the secondary market operations of FNMA "by a privately owned and privately financed corporation". 12 U.S.C. (1964 ed.) 1718(g). House Rep. 1429, 83d Cong., 2d Sess., p. 19, explained this subsection as envisaging legislation which would provide for the transfer of "control and management of the secondary operations to the private owners of the outstanding capital stock."

President Johnson's Housing Message of February 22, 1968, which provided a substantial part of the impetus for the 1968 legislation, stated:

"I propose legislation to transfer the secondary market operation of the Federal National Mortgage Association on an orderly basis to complete private ownership". *Public Papers of the Presidents: Lyndon B. Johnson, 1968–1969,* Book I, p. 248 at 260.

The House Committee Report on the Amendatory Act of August 1, 1968 (House Rep. 1585, 90th Cong. 2d Sess.) states that the "principal" change in the statutory provisions affecting FNMA "would be in fulfillment of the congressional intent expressed fourteen years ago in section 303(g) of the Federal National Mortgage Association Charter Act . . ." (At p. 68).

After explaining the functions and status of GNMA the report continues:

"The other corporation, which will become entirely privately owned and which will operate the secondary market operations, will be known as the Federal National Mortgage Association (FNMA). The new FNMA would be a government-sponsored private corporation, regulated by the Secretary and would have a status analagous to that of the Federal Land Banks and the Federal Home Loan Banks." (At p. 69).

The regulatory powers of the Secretary mentioned in the preceding quotation are explained in the report as follows:

"It is the intent of the Committee that the regulatory powers of the Secretary will not extend to FNMA's internal affairs, such as personnel, salary, and other usual corporate matters, except where the exercise of such powers is necessary to protect the financial interest of the federal government or is otherwise necessary to insure that the purposes of the FNMA Charter Act are carried out." (At p. 71.)

The Housing Act of 1968 provided that GNMA should "remain in the government" (12 U.S.C. (Supp. V) 1716b), and that it "shall be in the Department of Housing and Urban Development". GNMA is also listed as a "wholly owned government corporation" in 31 U.S.C. (Supp. V) 846.

Conversely, the Act of 1968 contains no provision retaining FNMA "in the government" nor specifying that it shall be in the Department of Housing and Urban Development. On the contrary, 12 U.S.C. (Supp. V) 1716b defines FNMA as "a government-sponsored private corporation", and it has been removed from the list of "wholly owned government corporations" embodied in 31 U.S.C. (Supp. V) 846. The 1968 Act expressly exempts FNMA from all of the provisions of Title V of the United States Code, dealing with government organization and employees, and specifically exempts it from Civil Service and Classification Laws except for purposes not here relevant.

On the basis of the foregoing statutory language and legislative history, it seems clear beyond argument that FNMA is neither a part of the "Executive branch" nor an "independent agency". On the issue of whether or not it is a "government corporation", so as to be within the terms of the Executive Order but not the statute, I have likewise concluded in the negative. The obvious difference in statutory treatment of GNMA (remaining in the government and the Department of Housing and Urban Development), on the one hand, and FNMA, on the other; the express reference to FNMA as a "government sponsored private corporation"; the removal by statute of FNMA from the list of "wholly owned government corporations"; the exemption of FNMA from all of the statutory provisions relating to government organizations and employees; and the fact that the majority of its directors are elected by stockholders, rather than appointed by the President, lead to the conclusion that FNMA is neither in fact nor in law a "government corporation".

The fact that the directors of FNMA are not full time public servants, but serve in much the same manner as outside directors of a private corporation so far as time is concerned, indicates that Congress might have significantly impaired the accomplishment of its intended purposes in the Housing Act of 1968 had it made FNMA a government corporation subject to federal conflict of interest statutes and Executive Orders. The provision for special representation on the Board of Directors from the home building industry, the mortgage lending industry, and the real estate industry suggests that these segments of the agency's clientele are intended to have special consideration in the deliberations of the Board of Directors. This notion is further implemented by the requirement of section 810(a)(3) of the Act, 12 U.S.C. (Supp. V) 1716, note, that the transition to the new privately owned FNMA would become effective only when not less than one-third of the corporation's common stock is owned by persons or institutions in those three industries. This is not to suggest that self-dealing by the directors is either invited or permitted, but it does indicate that at least three of the directors will be representatives of, and presumably financially interested in, industries inevitably affected by the actions of FNMA. Application of the stringent prophylactic provision of 18 U.S.C. 208 which Congress has applied to actual government officers could well be inconsistent with this form of representation on the Board of Directors of FNMA.

Needless to say, this conclusion does not in any way indicate that there are no ethical or legal restraints on the directors of FNMA. Both general corporate statutes and common law have traditionally imposed an obligation of fidelity and fair dealing on directors of nongovernmental corporations, and the directors of FNMA are undoubtedly subject to such obligations. They are not, however, subject to the provisions of either 18 U.S.C. 208 or of Executive Order 11222.

Yours very truly,

William H. Rehnquist,
Assistant Attorney General, Office of Legal Counsel.

CRIME CONTROL HEADS LIST OF CONCERN

HON. EARL B. RUTH

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. RUTH. Mr. Speaker, the Congressional Action Committee of the Salisbury-Rowan Chamber of Commerce of North Carolina, recently polled its members for their opinions of pending legislation and Federal programs.

The chamber points out that 23.5 percent of the questionnaries the committee mailed out were returned for a normal response.

The questionnaire contained 37 areas which the chamber members checked as being "of great concern to me," "of some concern to me" and "no opinion."

The effort expanded by the Congressional Action Committee of the Salisbury-Rowan Chamber of Commerce to find areas of concern to the community is to be commended. I include the results of the questionnaire in the Record.

[In percent]

	Great concern	Some concern	No opinion
Crime control	94	6	0
National emergency strikes	82	13	5
Postal reform	72	20	8
Pollution control	70	24	6
Construction-site picketing	68	21	11
Food stamps for strikers	61	21	18
Grant consolidation	56	28	16
Welfare	55	25	20
Social security	55	31	14
Transfer of National Labor Relations Board power to courts	54	28	18
Minimum wage	51	37	12
Electoral college reform	50	36	14

BURLINGTON POLICE DEPARTMENT PROVES VALUE OF GOOD PUBLIC RELATIONS

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. SCHWENGEL. Mr. Speaker, the Burlington, Iowa, Police Department has received recognition for the fine public relations program which they are carrying out. They certainly are to be commended for this fine effort. A story from the July 1970 FBI Law Enforcement Bulletin further explains the program. Chief Dunham, as well as Officers Jack Johnson and Ronald Mason are to be commended for their work on the program.

The article follows:

Good Public Relations Is Good Business

(By Lt. Jack W. Johnson, Police Department, Burlington, Iowa)

In February 1969, the possibility of establishing a police-community relations (PCR) unit in the Burlington Police Department was discussed at a staff meeting of the police command. After presentations of information showing a definite need for such a unit, a decision was made to proceed with the plans immediately. Police Chief R. E. Dunham outlined the goals and objectives of the unit, and officers interested in this area of service were asked to submit their names.

There was a feeling of frustration at first concerning the development of the unit. We realized a police-community relations unit would be exposed to a broad field of involvement, and that there was so much ground to cover it would be impossible to do this in a short time. We read and researched publications and gathered helpful information from other police departments who were fortunate enough to already have a PCR unit. A lot of time was used in planning.

On April 1, 1969, our police department officially formed a two-man police-community relations unit. I was appointed director of the special unit, and Officer Ronald E. Mason was selected as the other member.

With our first project, we wanted to reach a large number of young people and adults alike to attract their attention to this special unit.

Officer Mason and I decided that in order to do this we would open a citizen contact and information center. We also decided to coincide this venture with the first day of the annual Burlington, Iowa, Steamboat Days celebration. This would give us exposure to many people from our own city and those who were visiting for the event.

PROJECT SITE

We found a convenient place for such a project. This was the First National Bank Drive-In located on North Main Street. We explained our plan and purpose to the bank officials and they gave us their wholehearted support.

The drive-in facility was excellent for our specific objective. The roof gave us cover. The site was located close to the sidewalk, and only a block from the carnival location and the crowds. A real asset to us was the glass-enclosed partition or walkway leading into the main bank.

The newspaper and radio stations gave excellent coverage, both before and after the project, on what we were trying to do and what had been accomplished.

The real purpose of the project is to provide an opportunity for parents and children to become acquainted with police officers. Through such contact we hoped to encourage public support for law and order from the parents and the young people. On Saturday, June 7, 1969, we opened the booth. Our hours were after bank closing which was 12 p.m. on Saturday and from 2:30 p.m. to 9 p.m. on weekdays. This is how we set up the project:

1. We displayed one of the new patrol cars in the entrance-way parallel with the sidewalk. A shotgun (unloaded) was displayed in the electrically locked gunrack, and handcuffs were hung on the dash. Displayed in the rear-window deck were two of our riot helmets and a police baton.

2. The police radio was left on and channeled through the car's public address system.

3. Our miniature electric school stop sign with written instructions on its use in relation to the regular stop signs at school locations was displayed.

4. Two card tables were placed near the glass-partitioned walkway and stacked with informative handout pamphlets. These were:

(a) Our own narcotics pamphlet and a reprint from "Reader's Digest" entitled: "But, Mom Everybody Smokes Pot."

(b) Another "Reader's Digest" reprint, "Five Common Frauds and How to Avoid them."

(c) Prevention points on home burglary.

(d) FBI "Child Molester" color posters for young children.

(e) What to do about annoying telephone calls.

(f) A special message pamphlet from law officers to parents, teachers, citizens, and children on molestation prevention.

(g) "What Knowing All the Answers Can Mean to You," by the Iowa State Bar Association.

(h) Crime alert bumper stickers and AAA safety slogan litter bags.

(i) Summer Recreation Schedule: Burlington Department of Parks.

5. On the glass partition numerous items were posted and explained in an informative way. They were written with a typewriter have large letters for easy reading.

(a) Purpose of Child Alert. Poster and backside instructions shown.

(b) The 41 topics taught at the required 4-week course for recruits at the police academy.

(c) FBI NCIC (National Crime Information Center), where and how used.

(d) Our contact points and services rendered through our police teletype.

(e) Our radio and telephone contacts and services.

(f) Sample teletype messages.

(g) Color prints from Walt Disney used for explaining safety in the school classrooms.

(h) Enlarged 8" x 10" black and white official Burlington Police photos showing vehicle accidents (fatality, wrecked stolen auto, bicycle, etc.).

(i) 8" x 10" photos of police communication center.

6. We demonstrated the patrol-car radio and public address system. We explained the electric gun lock system and answered all the questions from adults and the young alike. Many of the young people had a great desire to get into the patrol car and we encouraged them to do this.

7. We had 2,000 plastic "Honorary Police" buttons which we gave to the young people as a memento of their visit. The buttons had plastic attachment pins so as not to cause injuries.

8. Also for the very young, we distributed plastic hand puppets on which were imprinted a school safety patrol boy. These were furnished by the AAA Motor Club.

9. On the outside drive, near the sidewalk and facing street traffic, we exhibited a 5' x 4' sign which read:

BURLINGTON, IOWA, POLICE-COMMUNITY
RELATIONS UNIT, WELCOME

The first day we opened, a Saturday, the response was very good. This was parade day and we had 800 visitors. In 2 days we had depleted our supply of 2,000 buttons. At the end of the third day we estimated that the total 3-day visitation was over the 3,000 mark. This included adults and children of grade school age, most of whom were with their parents. The teenage response was greater than we had anticipated. Officer Mason and I manned the booth for the 3 days. We did not mind the long hours each day as we felt the public response offset this. We wondered whether the parents were bringing in their children, or the youngsters were bringing in their parents.

Once our goals and objectives were set through meetings and planning, our unit gained momentum. Many special programs were put into effect. The Crime Alert system was instituted. More and more citizens are becoming aware of this, and it has been beneficial to our department. Great strides were made in alerting the public to drug abuse. We accomplished this by speeches to church groups, schools, PTA, youth groups, and by a series of special drug abuse programs. The seminars, staffed by our own unit and other members of our department, received a big assist from representatives of various professions, including the bar, schools, medical and pharmacy, and experts from other enforcement agencies.

The previously mentioned program, Child Alert, is a citywide PTA project for the prevention of child molesting. It received strong support from our unit through appropriate film showings and appearances throughout the entire school system. Other special programs are: A car theft campaign (our car theft total shows 20 less stolen in 1969), speeches to senior citizen groups on fraud and swindle, and wide publicity on the break-away car hazard.

Our accomplishments in a 9-month period have had good effects. The PCR unit has talked to approximately 7,000 people, not counting several thousand other contacts. Almost all officers recognize PCR and practice the concept of police-community relations during their tour of duty. Our police department has definitely concluded that every law enforcement agency should consider a police-community relations unit.

INTELLECTUALS AS AN ETHNIC GROUP

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. SPRINGER. Mr. Speaker, we can best understand the differences that have arisen between America's intellectual establishment and the rest of society if we realize that some of the intellectuals themselves perhaps comprise an ethnic group with all the characteristics that describe other ethnic groups in the United States.

This is the theory of Andrew Greeley, a Catholic priest and professor of higher education at the University of Illinois at Chicago Circle. Father Greeley, who is writing a book about ethnic groups entitled "Why Can't They Be Like Us?" expounded his theory about intellectuals in the following article from the New York Times Magazine of Sunday, July 12.

Intellectuals As an "Ethnic Group"

(By Andrew M. Greeley)

America's intellectual élite, normally secure from criticism, has been taking some lumps lately—and not just from Spiro Agnew. Writing in The Nation, John McDermott has accused lower-level members of the élite of thinking of themselves as missionaries bringing culture to the heathens, and Michael Lerner, in The American Scholar, anticipated Agnew with the suggestion that the intellectual leaders may be snobs. Culture is indeed missionaried at some of the working-class institutions (state colleges are what I have in mind) at which exiled members of this élite are forced to teach to earn their daily bread, and snobbery is as present among this élite as among other groups of human beings.

I would like to suggest a way to understand the split which columnist Joseph Kraft has called "the most dangerous in American society—that between better-educated America and middle America." I propose that we can best judge the relationship between the intellectual élite and the rest of society if we perceive that the intelligentsia is, in fact, an ethnic group. Once we accept this, we begin to see the present tension between this ethnic group and other ethnic groups in its proper perspective.

There are six characteristics which delineate an ethnic group:

(1) A presumed consciousness of kind rooted in a sense of common origin.

(2) Sufficient territorial concentration to make it possible for members of the group to interact with each other most of the time and to reduce to a minimum interaction with members of other ethnic groups.

(3) A sharing of ideals and values by members of the ethnic group.

(4) Strong moralistic fervor for such ideals and values, combined with a sense of being persecuted by those who do not share them and hence are not members of the ethnic group.

(5) Distrust of those who are outside the ethnic group, combined with massive ignorance of them.

(6) Finally, a strong tendency in members of an ethnic group to view themselves and their circle as the whole of reality, or at least the whole of reality that matters. Thus, many primitive tribes use the same word for "human being" as they do for members of the tribe. Those who are outside the group, even if they are conceded some sort of human status, are, nonetheless, not considered terribly important.

Few probably will disagree that the first two characteristics apply to members of the American intellectual élite. Although the common origin of these élitists is not based on common biological ancestors, they are still united by a powerful "consciousness of kind." Their spiritual ancestors are the same, they have attended the same universities, and they know one another rather well—through personal contact at the upper levels of the group and through reading the approved journals at the lower levels. Further, they are highly concentrated in certain ethnic enclaves—in New York, Washington, Boston, Hyde Park in Chicago, the San Francisco area. The University of Chicago scholar, for example, who has attended the Laboratory School, the college, and a graduate department at the university and now serves on its faculty, is not likely to leave Hyde Park any more frequently than would a member of a Polish ethnic group leave the Northwest Side of Chicago. And when he does leave, it is to go to similar enclaves where he will be just as effectively isolated from other ethnic groups.

We will content ourselves, then, with discussing the application of the final four characteristics. First, however, it is necessary to try to define "intellectual elite." It is as hard to arrive at a definition of this elite as of any other ethnic group. Some men and women are clearly a part of it—the editorial staffs of the ethnic journals, the faculties of five or six major universities, the most influential commentators of the mass media—but the boundaries of the group are vague and permeable. Who is "in" and who is "out" of the group are matters for controversy. (One is reminded of the debate in Israel about how to define a Jew.) Perhaps one could say that a member of the intellectual ethnic group can be identified by the journals he reads. Subscriptions to any two of the following are sufficient to guarantee one membership at least on the margins of this ethnic group: The New York Times, Commentary, Partisan Review, Saturday Review, The New York Review of Books, The Atlantic (but not Harper's), Dissent, The New Republic and The Nation. In cases of doubt, a subscription to The New York Review of Books alone will suffice.[1]

Members of this ethnic group, like all ethnics, are conscious of great differences within their group and are astonished to discover that those on the outside seem quite unaware of these. Thus, the intellectual ethnics are horrified to be told that from the outside Rennie Davis, Irving Howe, Arthur Schlesinger and Joseph Alsop seem to have far more in common with one another than they do with anyone who is not an intellectual ethnic. All one can do in response to their astonishment is to ask whether they know about the deep and basic differences that separate the Polish National Alliance and the Polish Roman Catholic Union. Members of other ethnic groups will forever be convinced that a Harvard man, no matter how fierce his revolutionary rhetoric, how wild his beard, how bizarre his dress, is still at root a Harvard man. If it is legitimate to use Pole (or Irish or Italian or Jew or Swede or Chinese) as a general category without adverting to the differentiations within the group (of course, members of the intellectual ethnic group do this constantly), then there seems no real reason why those who speak of the intellectual elite (perhaps even calling it "intellectual Establishment") should be concerned with the differentiations that those inside the group consider so terribly important.[2]

First of all, we must investigate the values shared by the members of the intellectual ethnic group. The most basic value is the conviction that the articulation of ideas is the most dignified form of human activity; and closely related is the notion that those whose role it is in society to articulate ideas are not only the most superior members of that society, but also the only ones really qualified to run it. It is taken for granted that there are few problems facing society which intelligence and goodwill could not resolve and, therefore, if problems remain, it is because of the absence of either intelligence or goodwill on the part of those who are responsible for governing the society. It is taken as axiomatic, then, that the mistakes, the tragedies, the confusions, the animosities, the unresolved conflicts, the disasters which affect the society are to be attributed either to ignorance or to malice.[3]

From there, it is one further step to see, if not a conspiracy, at least some sort of implicitly organized plot to prevent social progress and to frustrate the accomplishment of those intelligent programs for social progress which the intellectual ethnic group has devised. Given the superiority of the members of the group and the unquestioned validity of their solutions, they do not need to be paranoid to sniff a plot. Quite the contrary, it seems to be the only logical explanation for the fact that they have not yet been given a chance to make society a better place by implementing all of their programs. Therefore, when they rail against "the system" or "the establishment" or "the power elites" or "the structure," they do so with perfect conviction and sincerity, even though to one who is not a member of their ethnic group it seems clear enough that if there is an establishment or a power elite or a structure or a system, then the intellectuals are the ones who run it.

So strong, indeed, is this conviction of the superiority of intelligence and the frustration of this superiority by dark forces, that many of these ethnics do not even see the occasional contradictions in their own behavior. Thus, Theodore Roszak can rail against "the technological establishment" and advocate his own "nontechnical counterculture" in a book mass-produced by a very technological printing press, published by a very establishment publishing house and marketed by the most sophisticated kinds of establishment advertising techniques.

Within the context of these twin basic convictions of the superiority of intelligence and the conspiracy against it, the precise positions this ethnic group takes on specific questions may change, though rarely is this change explicitly acknowledged. However, a number of the group's more generalized positions can usually be identified:

(1) Schools are the most appropriate place to accomplish social reform.

(2) Marxism, whatever its weaknesses may or may not be, is the most effective way of creating social progress—at least outside the United States.

(3) Youth is the hope of the future and thus the intellectual ethnic group must be profoundly concerned with what is happening among the young. Note the obsession, for example, in The New York Times Magazine with articles on youth culture. Note also the resolute refusal to face the fact that the youthful protest movement in its political, psychedelic, communitarian and rock-music manifestations, represents only a small minority even of the college population, to say nothing of the total population under 30.

(4) There exists somewhere a group called "the people." This group—be it noted, quite distinct from "the silent majority"—is not nearly so well-educated as the intellectuals but does share their values and can be counted on to supply the "muscle" for whatever fantasies about grass-root support the intellectual ethnic group finds itself in need of. The composition of "the people" changes; in the nineteen-thirties it was the working class, particularly trade-union members; more recently, this group has been "the blacks," "the poor" and "the Third World." The mythology of "the people" requires, of course, that all or most of the members of these particular categories be assumed to be part of "the people." However, those presently permitted into "the people" should be wary. Membership is not permanent and can be revoked whenever the evidence becomes irrefutable that substantial elements admitted to "the people" in fact do not share the values of the intellectual ethnic black group. My own hunch is that the position of the blacks is quite precarious because at some time in the reasonably near future the intellectual ethnics are going to discover that the black militants and black radicals do not speak for the overwhelming majority of the new black middle classes—or upper black working class, either, for that matter.

Like all ethnic groups, the intellectual élite realizes that to some extent it is separated from and threatened by the rest of society. It therefore becomes necessary to invest its convictions with strong moral force, both to assure allegiance to the values by those inside the group and to provide a weapon for denouncing those who are outside of it. The 19th-century Irish-American's concern about freedom for Ireland and the 20th-century Slavic-American's commitment to the sanctity of the neighborhood are easily matched by the intellectual's conviction of the morality of his own tradition.

The strong moralism in the intellectual ethnic is reinforced by two other factors. For one, the intellectual's roots in the Puritan Protestant and Jewish messianic

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Footnotes at end of article.

past would incline him toward moralism even if there were none so bold as to disagree with him. For another, convinced as he is of his superior intelligence, the intellectual has no trouble in concluding his superior moral rectitude: he is both right and righteous. One need only read through the editorials, the book reviews, and the letters columns of any of the ethnic group journals to discover the absolute and unshakable conviction of the typical intellectual ethnic about his own moral righteousness. The long and by now tiresome debate between Noam Chomsky and Arthur Schlesinger is a classic example of this righteousness. Rarely, if ever, does one encounter in any of the journals the slightest hint that anyone thinks that he might not have all the information or be mistaken in his judgments or that his opponents, either inside the group or outside of it, might possibly be men of intelligence and sincerity.[5]

A classic example of the assumption of moral superiority by the intellectual ethnic was demonstrated in Stanley Kauffmann's review of the film "Patton." He praises the producers of the film for capturing the spirit of the "age of Nixnew." According to Kauffmann, "It seems to say, 'All right, now, we've had enough of this bellyaching; war is in us and we might as well face it. The urge to kill—hell, the enjoyment of it—is in us, so let's not kid ourselves. And at the risk of sounding corny—what's so damn wrong with a lump in the throat at the sight of the American flag?' Perfect. I saw 'Patton' in a large theater with a large audience. The very first shot is an American flag in vivid color filling the wide, wide screen. Some defiant applause. Then out steps General Patton, minute against the immense banner, and I felt the audience lunge toward him with relief. Everything was all right again, the old values were safe. Before Patton had finished his address to his new soldiers (which is the prologue to the film), profane, soldierly, paternal, tough, before the picture had really begun, it was a solid unassailable hit."

How fortunate for Stanley Kauffmann! He alone in the whole audience was able to distance himself from the huge "lunging immoral mass which wants to kill, and indeed wants to enjoy the killing. Kauffman, the élite ethnic reviewer, from his pinnacle of superiority, can look with disdain on the rest of the audience. How does he know that their reactions were what he described? He knows, that's all. And if you're Stanley Kauffmann you are so morally superior that you don't have to advance proof.

The intellectual is quite capable of compassion—for the poor and the black, especially, but also for drug addicts, terroists, arsonists, rioters, Russians, Chinese, Arabs and the Vietcong. All these compassions do him great credit, but he is singularly selective in his compassion and in his willingness to understand sympathetically and defend members of other ethnic groups. He finds it difficult, if not impossible, to experience compassion or sympathy, or even understanding, for the United States of America, and particularly for its middle-class and working-class citizens—especially if they are over 30. This is the "silent majority," the fascist mass, the white backlash and the white ethnic racist. These are the kinds of people whom Harper's (a journal that caters to those on the fringe of the intellectual ethnic group) has been examining with aloof and clinical wit in the quasi-anthropological reports of Marshall Frady and others. See how amusing these Texans or Californians or Gary Hoosiers are—how quaint, how droll, how boorish, how fascist!

One of the reasons for the contempt and disdain directed at the members of the other American ethnic groups is that they don't demonstrate the required amounts of guilt. They don't feel guilty for their white racism. They don't feel guilty for the massacres at Songmy. They don't feel guilty about being members of the American middle class. If they were the morally righteous people that the intellectual ethnics are, they would feel guilty when the intellectuals insist that they should feel guilty. After all, every American white person is, by definition, a white racist and, as an editorial writer in Transaction recently observed, those Americans who voted for Richard Nixon are as bad as those Germans who voted for Adolph Hitler. And Judson Jerome, writing in Change, engages in an orgy of personal guilt feeling because he was shocked when one of his students admitted that he felt perfectly free to steal other people's property since he was no longer hung up on the "private property" bag. Heaven only knows how guilty Jerome would have felt if the student was also stealing his wife, since he was no longer hung up on the adultery bag.

It might be thought that such contempt for the middle class or the working class is a bit premature. The American electorate did resoundingly reject Barry Goldwater. American public opinion did force the de-escalation of the Vietnamese war, the first time in history that a major power has been forced by public opinion to settle for something less than victory in armed combat. Further, the American public also solidly supported most of the social reforms that the élite intellectual ethnic group has promoted over the last 40 years; it forced President Johnson out of office, it has paid, with only relatively minor protests, for the world commitments which previous generations of intellectual élites got it into, and it has even provided a broad consensus for racial integration (a consensus which may, despite the mythology of white backlash, persist even to the present time).[6] If the support of middle America for the intellectual ethnic group has waned in recent years, it may well be because the intellectual ethnics have tried to force down the throat of middle America social reforms (like school busing) whose effectiveness is questionable.

The intellectuals enthusiastically embraced the militant minorities of the black and youthful populations and their denunciation of middle America on the grounds that the militant minorities were "morally superior." Historians of the future may look on the nineteen-sixties as a time not when middle America deserted the intellectual ethnic group, but rather as a time when the intellectual ethnic group deliberately turned its back on its own mass population support and began a flirtation with radical groups whose ability to bring about social change was dubious, but whose moral rectitude—at least from the intellectual élite's viewpoint—was beyond question.

It must be emphasized that this is behavior that is perfectly understandable within the context of ethnic group analysis. It is almost inevitable that an ethnic group be unaware of what is happening in other ethnic groups and project into the other groups its own fears, frustrations and disappointments. American intellectuals are profoundly frustrated by the ambiguities, injustices and seemingly disastrous trends afflicting American society. Their superior intelligence and moral rectitude tell them what the correct answers to these difficulties are; the absence of a positive response from other ethnic groups leads them to a rigid and doctrinaire position not much different in style but considerably different in substance from that of Slavic homeowners who cannot understand why other Americans are offended by the fierce loyalty with which they try to protect their neighborhoods. The Slavic ethnic cannot understand the intellectual's assumption that he has the morally correct answer; and the intellectual is quite incapable of understanding the affection for social turf which is so powerful in the life of the Slavic ethnic. Neither side is able to have much compassion for the other, though, to the credit of the Slav, it may be said that at least he doesn't pretend to be compassionate.

Of course there is, within the intellectual ethnic group, plenty of room for dissent so long as it is the approved kind of dissent. Radical Abby Hoffman's right to dissent will be vigorously defended, but not Nixon-aide Daniel Patrick Moynihan's (even though Moynihan's alleged dissent is, for the most part, made up of phrases snatched out of context). Drug-touter Timothy Leary is to be supported, but not race-I.Q. comparer Arthur Jensen.[7]

M. I. T.'s "new-politician" Noam Chomsky has the right to academic tenure, but ex-Johnson-aide W. W. Rostow has no right to return to M. I. T. Mayor Lindsay's mistakes are to be defended and sympathized with; Mayor Daley's mistakes are to be used to continue the myth that he is a monster—even though Lindsay was able to win the support of only 45 per cent of the city of New York, and Daley 75 per cent of the city of Chicago (including in excess of 85 per cent of the blacks of that city). Every possible attempt was made by the intellectual élite to justify the mistakes of Israeli political leadership,[8] but no possibility is seen for the moral behavior of Irish Catholic political leaders.

Like all ethnic groups, intellectuals have their own particular combat rhetoric, which may change more quickly than it does in other groups. It was only after long years that the Irish abandoned their hatred of "the dirty A.P.A.'s" (members of the American Protection Association), and Poles are probably still convinced that their biggest enemies in the United States are "Irish Catholic politicians and bishops." The currently favorite word of the intellectual ethnic group is "revolution." Even though the movements among the young and the black are in fact anything but revolutions in any sense that this word normally conveys, it is still absolutely necessary that the movements be described as "revolution"; never mind that for there to be a revolution the revolutionaries must have at least the passive support of the majority of the population; never mind that only a tiny minority of the nation supports either the student or the women's movements, and only a minority of the blacks supports the most militant kind of black protest.

Never mind that when the minority attempts to force its will on the majority, what one has is not revolution but fascism; never mind even that some of the young and more radical members of the intellectual ethnic group, confusing the slogan of revolution with tactics of revolution (logically enough from their viewpoint), hurl bombs, revolution is the word still to be used. And if other ethnic groups are offended by such rhetorical excess, it is merely proof of their moral inferiority.[9]

Finally, the members of the intellectual ethnic group, like all ethnics, are only vaguely aware of what goes on in other ethnic groups; they do not trust members of the out-groups and seldom, if ever, encounter them with any sort of serious conversation—save in taxicabs or in Stanley Kauffmann's theater. Normally speaking, it is not necessary to be concerned about what members of other ethnic groups think because "everybody" that matters is already part of one's own ethnic group.[10]

In his own way, Spiro Agnew was right when he suggested that a relatively small group of men in the mass media have immense control over the circulation of ideas in American society. Agnew was wrong on two counts, however. There is no conscious conspiracy in this control and, secondly, it

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has rather less impact than either the Vice President or the intellectual ethnics would like to think. There has been practically no room for dissent either in the leading ethnic journals or in the large-circulation media from the "official" account of the Chicago convention or the Chicago conspiracy trial. Most élite ethnics are convinced that "everyone" was horrified by the behavior of the Chicago police and of Judge Hoffman because *everyone they know* was horrified and because all the right journals say that we *ought* to be horrified. It turns out that the overwhelming majority of the American public approved the behavior of the police at the convention and equally approved the conviction of the Chicago Seven. These data can be dismissed as a sign of the fascism of the masses.[11]

Because they are ignorant of and unconcerned about other ethnic groups, the intellectual ethnics are confused and frightened when they detect a change of behavior among the members of other groups. Just as they betrayed ignorance of other groups by assuming that every new scheme which was alleged to improve the conditions of the poor and the blacks would be accepted by the white majority because the scheme was sanctioned by the elite as the only moral one, so they display equal ignorance in overestimating the so-called white backlash. Despite the past records of the middle majority, the intellectual alternates between paying no attention at all to it and being terrified of it. The terror is real enough, but it does not necessarily correspond to some reality which ought to generate terror. The intellectual who shivers with delight at the fantasy of a Polish storm trooper kicking in his door at 4 o'clock in the morning has the same contact with reality as does the Polish homeowner on the Northwest Side of Chicago who thinks that Black Panthers are lurking in his corner drugstore. Both have created terrors for their own entertainment and delight; both are completely unaware of what really is going on in other ethnic groups; both present classic examples of frightened ethnic behavior.

All of this is unfortunate, of course, because in addition to being members of one particular ethnic group, the intellectual elite are, by definition, the idea-shaping segment of the leadership of American society. For them to be alienated from the rest of society for reasons of presumed moral superiority or ignorance of what is going on in the rest of the society is a tragedy both for them and for the whole country. Curiously enough, members of the other ethnic groups have a great deal of respect for the intellectuals, though the respect is mixed with negative feelings. It would, one suspects, take relatively little in the way of sympathetic understanding on the part of the intellectual ethnics to begin to re-establish some kind of communication with the rest of America.

FOOTNOTES

[1] Since I am on the staff of a large elite university and read most of the above journals I would, under normal circumstances, be accorded membership in the ethnic group. But I am a dubious case since, in addition to being Irish (a highly suspect quality at best, I am also of the clergy. I think both of these characteristics would be forgiven me if I should marry (which, by the way, I have no intention of doing). Currently an Irish clergyman can make it into the ethnic group by seeking a wife, just as an Irish politician can by being assassinated.

[2] Occasionally a member of the intellectual ethnic group ventures forth to a work situation where other ethnics are to be found, gets a job in such a situation for a rather brief period of time and then reports back to the members of his own group about the fascinating and bizarre behavor in which other ethnics engage—much as Marco Polo reported on China. Such reports are inevitably fascinating since they combine the joys of voyeurism with the pleasures of slumming. The writer feels that he is "telling it like it is" and the ethnic readers are reassured about their own moral and intellectual superiority. Elinor Langer's account in The New York Review of Books of her adventures at the New York Telephone Company is a classic example of this variety of literature. The other ethnics ("Polish, Jewish, Italian, Irish, black, Puerto Rican") are typical members of the consumer society. "Packaging is also important: the women will describe not only the thing, but also the box or wrapper it comes in" (how strange and fascinating of them!) . . . "they are especially fascinated by wigs" (just like Marco Polo's Chinese with their pigtails) . . . "the essence of wiggery is escapism" (what else?).

Miss Langer is more perceptive than most such amateur anthropologists. She realizes that she may have been dishonest with her subjects: "I have a strong feeling of bad faith to have written this at all.' But, having thus candidly confessed her feelings, she frees herself and her readers from any awkward feelings of guilt and concludes with the marvelously ethnocentric message to her former coworkers: "Perhaps the intellectual and political values of my life by which I was judging yours make equally little sense. Perhaps the skills which give me leverage to do it allow me only to express alientation and not to overcome it; perhaps I should merely be thankful that I was raised an alpha and not a beta."

[3] In matters of "thou shalt not kill," "thou shalt not steal" and "thou shalt not bear false witness," intellectual ethnics are as stern as their Puritan ancestors. However, most of the traditional violations of "thou shalt not commit adultery" are considered, if not praiseworthy, at least understandable, in terms of the offender's childhood. No attempt to justify political corruption, for example, in terms of the politician's childhood experience is likely to be listened to.

[4] Rennie Davis will probably not dance on Judge Hoffman's grave, but there is a good chance that George Wallace will dance on Davis's—and perhaps a lot of other people's, too.

[5] Chomsky is obviously at an advantage in his debate with Schlesinger, because Chomsky has never been part of the political administration as Schlesinger has, and, hence, has never had his moral purity tainted by political decisionmaking. Yet one wonders about Chomsky's morality. If really convinced that American society is as imperialistic and demoralized as he claims, why would he continue to accept income from M.I.T., which is about as much a part of the American establishment as an institution possibly could be?

[6] One looks in vain in the history of the human race for a situation where a major power has been forced to withdraw from a war because a large segment of its people (and not simply a tiny minority of vocal demonstrators) would not support the war. One further looks in vain for a military establishment which would bring charges against senior officers (including generals) for an atrocity committed in a war, especially when that war was still going on. The intellectual ethnic group copes with this unexpected display of national morality by claiming credit for it. The other ethnics can't win: If they are immoral, the intellectual ethnics sit in judgment. If they are immoral, the intellectual ethnics assume that they are the ones who are responsible for the morality.

[7] I am persuaded by the essay of Prof. Stinchcombe in the Harvard Educational Review that Jensen's research is inaccurate, but from inaccuracy it does not follow that he is a racist.

[8] One of the more interesting developments within the intellectual ethnic group is increasing sympathy for the Arabs. Such sympathy is particularly fashionable among young Jewish radicals who combine support for the Arabs with justification for black anti-Semitism in the belief that Jewish merchants do indeed victimize the black poor.

[9] In the last four years the rhetoric and the tactics of the New-Left wing of the intellectual ethnic group have suffered one of the most complete defeats in the history of American politics. Seventy per cent of those who favored immediate withdrawal from Vietnam approved the way the Chicago police responded to the convention protest. The Vietnam moratoriums strengthened rather than weakened President Nixon's policy (and sentiment in favor of withdrawal went up from 21 to 35 per cent after the New Left was driven into retreat by the silent majority talk). At most, only 10 per cent of the country approves of the New Left (whose shouts of "Power to the People" indicate a very strong death urge; if the "people" had their way, most of the New Left would be behind bars), and New-Left tactics are the kiss of death for any program or candidate. Despite the abysmal failure of the New Left and its playing into the hands of those who oppose social progress, the intellectual ethnic group has not asked why the New Left failed, nor even really acknowledged that it has in fact failed, save by expressing fear of a "reaction," when a more appropriate fear would be that a New Right might use the New Left's tactics—and with far more effectiveness.

[10] A good way to define an intellectual ethnic is to say that he thought that Norman Podhoretz really "made it" when he became editor of Commentary.

[11] It is not my intention to side with the silent majority on either of these issues. The point I wish to make, however, is that if the intellectual ethnic group were a little less concerned with its own rectitude and moral purity and a little more concerned about understanding what was going on in the United States and providing broad consensus for social change, it might begin to ask itself whether the members of other ethnic groups are saying something very important, however inelegantly, by their reaction to both the demonstration and the trial. However, it is much easier to dismiss other people as fascists than to try to understand them.

ETHNIC-ORIENTED CHILDREN'S READERS

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. PUCINSKI. Mr. Speaker, I am impressed with the recent spate of articles and reports discussing the need for more emphasis on our cultural roots and heritage.

We are a nation of diverse peoples, all of whom bring special talents to this multifaceted country. We are not a melting pot. We are a mosaic, each of us specially suited to this unique experiment among nations we proudly call our own.

It is because we are beginning to value the distinctiveness of our multiethnic heritage that we are taking more of an interest today in what our national goals should be, and how responsive our Government is to the needs of all our people.

On November 20, 1969, I introduced H.R. 14910, a bill to provide a program to improve the opportunity of elementary and secondary school students to study the cultural heritages of the major ethnic groups in the Nation. This has come to be known as the Ethnic Heritage Studies Act.

The bill would establish various ethnic heritage studies projects throughout the country, each of which would be responsible for developing and disseminating curriculum materials about our major ethnic groups for use in America's classrooms and providing the training for teachers who would utilize these unique materials.

The General Subcommittee on Education has held extensive hearings on this bill. It has been widely acclaimed as presenting a workable, infinitely practical solution to the problem of understanding our ethnic diversity and accepting that diversity in our own lives.

The need for this bill is apparent. There are several firms and organizations and groups throughout the 50 States that are now attempting to cope with the problem of explaining ethnicity to American schoolchildren. Some are meeting with profound success. Too many are confusing and blunting the children's interest.

My bill would provide the training and the professional guidance, utilizing acknowledged scholars in history, geography, sociology, the arts, economics, and other major disciplines, to develop the materials we need in our classrooms and to train the teachers who will use these materials.

The Christian Science Monitor of July 10 described the efforts of a firm in New York that has set about trying to meet the demand for materials in ethnic studies for elementary schoolchildren. These efforts should be encouraged. With the professional help amply provided under the auspices of the Ethnic Heritage Studies Centers Act, firms such as this would not have to struggle alone and unassisted. They would have access to the finest minds in the fields they wish to study.

Mr. Speaker, we are on the eve of a great cultural reawakening in America and, perhaps, a genuine appreciation of our complexity and our uncommon heritage. With legislation such as the Ethnic Heritage Studies Centers Act, we can achieve these goals in the near future.

I call my colleagues' attention to the article about the new developments in curriculum materials based on an appreciation of ethnic diversity with the hope that they will join in supporting these efforts through enactment of this legislation.

Mr. Speaker, the article follows:

DEMAND GROWING FOR ETHNIC-ORIENTED CHILDREN'S READERS

(By Landt Dennis)

NEW YORK.—John Hines wrote, edited, and published the first children's reader in New York City to have a black face on the cover.

"I was four years ahead of the times," Mr. Hines explained at the headquarters of his new company, New Dimensions Publishing Company, Inc.

"In 1966, when I finished 'The Boyhood Adventures of Frederick Douglass,' no publisher was interested in it. The format I had used, that of a play, plus the use of colloquial language found in underprivileged black areas, was hard enough to put across. Add the use of black kids in text photographs and you know what I was up against."

Mr. Hines was prepared for his book's business-world reception. Eight years of elementary and high-school teaching in the New York City educational system had convinced him that publishing houses were out of step with minority audiences.

LACK OF INTEREST SEEN

"I was always curious why my students weren't interested in the books we offered them," Mr. Hines said, his gentle British accent reflecting his Jamaican heritage.

"Eventually, I recognized the students weren't able to identify with the texts, the characters, and the situations. The books were usually written by whites for whites. The vast black and Puerto Rican subcultures were completely forgotten."

A resident alien in the United States, Mr. Hines worked his way through New York University. It was during this period he read "My Freedom, My Bondage," three times. The biography of Frederick Douglass "brought the stateman's greatness to life for me," Mr. Hines now says.

"His intuition, his ability to articulate major issues, his heroic qualities clearly make him the father of the protest movement. Because practically every black child knows about him, I recognized Douglass would have to be the subject of my text. Its innovative approach is something he would have liked."

THREE JOBS HELD

Holding down three teaching jobs to save every penny against the day he would devote full time to writing, Mr. Hines knew in 1968 that the time was near. The reception his "theatrical text" on Douglass received from his own students, and those in other schools, convinced him he had judged correctly.

"I could see right away the book allowed them an opportunity to get right into the narrative," he said. "By reading the spoken word and by performing the episodes I'd selected in young Douglass's life—for instance, his escape as a 16-year-old from a slave plantation—students became really interested in the book. For many, it was their first real reading experience. No longer could they complain about a book being boring or irrelevant."

Two more texts, "The Genius of Benjamin Benneker," about a black scientist, and "The Celebration," a true story with a theme of mob violence, and Mr. Hines left the classroom to devote his full creative talents to writing. The books had met with such popularity (30,000 to date for "The Celebration") that Mr. Hines decided to expand his output to meet the demand, "by white teachers for white students, as well."

SALES CALLS MADE

Mr. Hines rented a small room in lower Manhattan near his home in the city's Chelsea section. Between sales calls on teachers, he began his business. "Crispus Attucks," "Martin Luther King, Jr.," "John F. Kennedy," and "Luis Muñoz Marin" are among the nine books presently on sale under the New Dimensions label. All deal with figures, events, and themes relevant to black and Puerto Rican history and urban life.

"Eventually, the success of my venture allowed me to buy my own printing outfit and to take on an expanded list of titles," the former educator tells visitors to his new headquarters on East 25th Street.

OTHER BOOKS PUBLISHED

"In addition to two core workbooks to go with the nine plays, one on language arts, the other on history and social studies, I publish books on Africa and Puerto Rico. This fall, we'll be out with a series on drug addiction, something I feel particularly strongly about since a former student of mine died from an overdose of heroin."

New Dimensions has a staff of 20, plus five writers. Mr. Hines lays his company's rapid success to the "positive, dignified approach we've taken with minority group issues." The sale of his books now is chiefly in Eastern states, but "the Southern and Midwestern states will come around next to seeing their values," Mr. Hines said.

"Competition is bound to come for the black and Puerto Rican markets," Mr. Hines said. "But we're way out ahead, and we intend to stay there."

THE CURRYS, PEOPLE WHO HELP PEOPLE

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. LONG of Maryland. Mr. Speaker, Mr. and Mrs. Alfred Curry of Aberdeen, Md., who have spent years helping those in trouble in the Aberdeen area, recently received recognition in the Harford Democrat for their outstanding efforts and achievements. I should like to commend them further by sharing the following article with my colleagues and by including it in the RECORD:

THE CURRYS, PEOPLE WHO HELP PEOPLE

If the names of Mr. and Mrs. Alfred Curry appeared as a headline in this newspaper, at least 1,000 people would recognize the names. But of this 1,000, estimates Mr. Curry, more than 900 would have an income less than $3,000 a year.

The Currys, residents of Maryland for 24 years, have acquired their friendships with the less fortunate in Aberdeen through their work with the Aberdeen Community Council. Mr. Curry has been with the Community Council, made up of representatives of businesses and service organizations, since 1954 and has served as vice-president for four years.

During those years, the Currys have offered assistance to low-income and misfortunate families. The assistance is usually a one-time thing, helping people out of their present bind. Also referral services are offered, directing people where to take their problem for any long-range aid. More than a few times, the Currys "have helped people better off" than themselves but who "were temporarily caught in a bind."

CHRISTMAS BASKETS

One of the Curry's "Pet Projects" is the annual Council Christmas baskets. With money received from the November Charity Ball and helpful merchant ("the merchants never turn us down," reports Curry), baskets, containing food, toys, and even dog food are prepared.

The names of those who receive these baskets and those who are helped by the Council are never disclosed. Only Mr. and Mrs. Curry know the names and are firm in their determination not to have "the names bandied around."

This past year, Mr. Curry reports with a wide grin, he "was walking on clouds" because of the participating of the High School Citizenship Committee in the Christmas basket project.

Only twice in his life has Mr. Curry been slowed down to the point of speechlessness. "The first time," says the former Master Sergeant, "was when I was called into a meeting of the Generals of the Pacific during the War." The second time was when he was called down to the high school to accept the toys and money collected for the project by the Citizenship Committee.

THE ESSENCE OF CHARITY

The Currys have been honored by the Lions, B'nai B'rith and some have even suggested that the Town officially thank them for their service. But the Currys do not help people for the sake of honor. They have spent a better part of their life in charity work because "you live only once and if you can't help your fellow-man you don't amount to much."

For just $1, over $2 worth of happiness is returned explains the couple. "So," concludes Mr. Curry, "any dinners or formal honors are really anti-climactic to the honor we get from the smiles of those we've helped."

And the Currys have seen many such smiles. A 12-year-old boy who "lit up an ordinary room" recalls Mrs. Curry's fondest memories.

Also, several years ago the Currys and their Sunday School class were helping a certain family housed in a little shack with no partitions. As a gift for the boy, Mrs. Curry chose a bright red wagon. Later she learned that it was the best possible gift for the little boy had cerebral palsy and used the wagon to gather water and wood for the family.

Often the Council learns of cases where little children want to go to school but cannot because they have no shoes. Then Mrs. Curry will take the girls, and Mr. Curry will take the boys and buy them shoes. Once, formal gowns were collected and given to the girls who could not afford to buy new ones for their high school Prom.

Their most unusual call demonstrates the wide gamut of their services. Mrs. Curry once received a call from a young mother whose baby was born dead. The woman didn't know what to do with the baby. Mrs. Curry contacted a funeral home and helped with the funeral arrangements, thus relieving part of the mother's burden.

The Currys are finding their present project the most frustrating ever. That is, working for a one-story home for the aged in Aberdeen.

One friend of the Curry's has stated that if you were to take all the people the Currys have helped and line them up side by side, that the line would reach for miles. The Currys help people because helping comes "natural" to them. They only wish more people would give it a chance. "There is no reason for anyone in this town to be bored, with so much to do!" concludes Mrs. Curry.

BLACK SILENT MAJORITY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. FINDLEY. Mr. Speaker, it is believed by some white persons that militant blacks are somehow representative of the black community generally, a piece of misinformation that only adds to the problems of both races. It is, therefore, reassuring to learn that the 99 percent of blacks who are decent, peace-loving people, are having their story told by a new organization, the National Black Silent Majority Committee. The situation is well explained in the Republican congressional committee's current newsletter which I submit for publication in the RECORD:

"BLACK SILENT MAJORITY" LISTS ITS BELIEFS

From the Statement of Beliefs of the National Black Silent Majority Committee: "There are millions of black Americans who work every day, keep their kids in schools, have never been in jail, pay their taxes, shop for bargains, have never participated in a riot—but are being shouted down by a handful of black militants. We have organized to raise the voice of patriotism and responsibility for the black silent majority and to demand the rightful share of national attention due us as a majority within the black minority."

A group of leading blacks from across America have banded together to prove the validity of their contention that the vast majority of America's 22 million blacks are not represented by the violent minority who advocate militant action against American institutions.

The name of the new group: The National Black Silent Majority Committee.

"We believe that black revolutionaries and militants, upon whom some segments of the news media seem to dote, are not dedicated to progress for our people," said Clay J. Claiborne, one of the organizers and spokesman for the group. A former consultant to the Republican Congressional Committee, Claiborne is serving as national director of the new organization.

"Blacks don't want to burn America down," he said. "We want to build America—and, like all patriotic Americans, earn enough money to own part of this great Nation."

The National Black Silent Majority Committee's executive committee consists of prominent blacks from 22 States.

In its efforts, Claiborne said, the group will urge blacks to participate in the electoral process and develop a strong two-party system within black voting districts, supporting candidates who adhere to the principles of constitutional government, law, order and justice.

The committee plans a conference in Washington next month to formalize its plans for participation in the 1970 election campaign. The group also plans to launch a monthly newsletter.

Claiborne said the majority of blacks refuse to "buy" what white radicals are selling. "They're irrelevant to blacks," he said. "We stand for America and, while no nation is perfect, America is by far the finest nation available to blacks."

Topics covered in the National Black Silent Majority Committee's statement of beliefs include:

Law and order—"Blacks place great value on life and property. Such values prohibit blacks from condoning crime because the perpetrator may be black."

Forced busing—"We are opposed to forced busing because it amounts to society's dumping the whole racial problem onto its school board. This is a problem for all citizens to wrestle with together."

Communism—"It has little appeal to blacks. Blacks dream of owning and enjoying the luxuries of life, which they couldn't do under Communism."

Commented the *Chicago Tribune* last week about the new organization: "It is gratifying news that there is now a group professing admirable principles which can give expression to what we have always believed to be the outlook of the great majority of blacks who understand that America is their country, too."

TRIES TO PASS THE BUCK

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. RHODES. Mr. Speaker, last week the Columbia Broadcasting System gave a half an hour of free time to the national chairman of the Democratic Party. That gentleman proved to be a master of the art of distortion and the science of buck-passing.

By omission and half-truth, Lawrence O'Brien sought to pass the blame for two generations of Democratic congressional and executive bungling, mismanagement and overspending on to the Republican Party.

Mr. Speaker, the time has come to call a spade a spade, and in truth we need one if we are to shovel out from under the stuff Mr. O'Brien threw on the Nation last night.

Mr. O'Brien seeks to pass the buck for the war in Vietnam, for inflation, for crime, and for anything else he can think up.

But let us look at the facts.

For 36 years out of the 40, Democrats have controlled the Congress. For 28 out of the 38 years, Democrats have controlled the White House.

And between Democrat Congresses and Democrat Presidents, we have been taken into three wars, including two that were undeclared. We have suffered through the worst inflation in our Nation's history.

We have been brought into an era of unbridled crime, increasing dope usage, nationwide air, land, and water pollution, rioting and racial strife. All of these things had their inception under Democrat Presidents. They continue only because a Democrat Congress drags its feet and refuses to give a Republican President the tools he needs to clean up the disastrous results of their political play with the Nation's people, purse, and property.

Mr. Speaker, Mr. O'Brien's party has much to answer for to the American people. His sorry performance of last night is only a small part of it.

APPROPRIATIONS HEARINGS VOLUMES RELEASED

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. MAHON. Mr. Speaker, the Committee on Appropriations has released the following committee hearings volumes in recent weeks:

Bill	Volume	Released
Labor-HEW	Pt. 3—National Institutes of Health.	Monday, June 22.
Do	Pt. 5—Department of Labor	Thursday, June 25.
Defense	Pt. 5—Procurement	Monday, June 29.
Labor-HEW	Pt. 4—Social Security, Social and Rehabilitation Service, department management and special institutions.	Tuesday, June 30.
Do	Pt. 6—Related agencies (OEO, etc.).	Tuesday, July 7.
Do	Pt. 7—Public witnesses (includes Members of Congress).	Saturday, July 11.

The Committee on Appropriations has 2 more regular hearings volumes to be released (Defense, pt. 6—Research, Development, Test, and Evaluation, and Defense, pt. 7—testimony of Admiral Rickover). These are expected to be released in the near future.

Copies are available to Members and others at the committee room, H–218, Capitol Building, extension 2771, as long as the supply lasts.

MERCURY CONTAMINATION IN THE WISCONSIN RIVER

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. OBEY. Mr. Speaker, for weeks now the confusion in government circles about mercury poisoning has been obvious. I am inserting in the RECORD a story from the Wausau Daily Record-Herald, my hometown newspaper, which indicates what can happen to an area when government regulation of pollution by components such as mercury is incoherent and confused.

The above-mentioned article follows:

TOURISM EFFECT UNCERTAIN—WISCONSIN RIVER FISHING NOW MOSTLY "FOR FUN ONLY"

Fishing on the Wisconsin River in Lincoln and Marathon counties is now virtually "for fun only."

Industrial and municipal pollution has given fish in some portions of the river a so-called "tainted taste" for years. Yet many anglers, particularly in the winter and spring, have continued to consume fish from the river.

Wednesday, however, the Department of Natural Resources reported that mercury was found in fish "at levels sufficient to constitute a potential public health hazard if eaten regularly."

Restricted consumption of fish taken from the Wisconsin River from Rhinelander to the Mississippi River was recommended by the DNR.

The department recommended a limit of one fish meal per week of fish taken from the river.

Restricted areas include Lake DuBay and Lake Wausau in Marathon County, and Lake Alice, Lake Alexander and Lake Mohawksin in Lincoln County. All are popular fishing areas formed as flowages on the Wisconsin River.

How much the DNR statement will curtail angling pressure on the affected waters is uncertain.

Concern for the recreation industry is being voiced.

Mrs. Leah DeLaire, secretary of the Tomahawk Area Chamber of Commerce, said the warning to limit fish consumption is bound to affect many resorts in the area.

Don Manthei, state conservation warden at Merrill, pointed out all flowages directly on the river are affected by the state's warning.

"It will have an impact on the tourist business," Manthei observed.

Mrs. DeLaire said a similar mercury pollution situation discovered early this spring in the Kenora area of Ontario, Canada, has sharply affected summer tourist and fishing business. "They're just dead," she related.

Conservation warden Harry Borner of Rothschild said he did not know how the DNR statement would affect local angling or the use of recreation areas on the river.

"DuBay Park was established and developed as a fishing ground," he pointed out.

"Lake Wausau has sustained a lot of fishing pressure in the past. All you have do is look at the people that fish at Radtke Point, Bluegill Bay Park and Pine Island.

"I have seen as high as 90 fishing shanties in the winter near the mouth of Rib River. And the walleye run in May has anglers lined up along the bank at Oak Island."

Some recreation officials, however, expressed optimism that the Wisconsin River situation would not seriously impair a tourist's desire to come to northern Wisconsin.

"The eight-county 'northwoods' area of northern Wisconsin has more than 4,000 lakes with excellent water quality, less polluted than any other area of the Midwest," Herman Smith, area recreation resources agent, remarked.

"And we have over 3,000 miles of streams that are relatively unpolluted."

Smith emphasized that vacationers are attracted to northern Wisconsin for many other reasons besides fishing.

Even the Wisconsin River has been cited as perfectly safe for swimming, water skiing and other water sports, he pointed out.

"Sailing is growing by leaps and bounds along with canoeing, water skiing and motorboating as people come north to enjoy the northwoods country."

But concern over mercury contamination has spread to other areas. Its final effects are not likely to be known immediately.

Local wardens have not been engaged in conducting tests for mercury pollution, Borner said. However DNR personnel are continuing to obtain samples of fish from other sources for chemical analysis.

Max Johnson, area fish manager, DNR, Antigo, said he would be sampling fish from the Eau Claire River downstream from potato farms in Langlade and Lincoln counties.

Pesticides containing mercury have been used on some potato crops.

Johnson said trout streams in southeastern Marathon County which flow in the vicinity of potato fields are likely to be examined for mercury content.

Mercury has also been used on grain seeds to prevent rotting before germination. Borner said his office would be collecting bird and animal samples for examination.

"We're sampling not only fish, but birds, deer and all kinds of wildlife," Johnson explained.

"In Canada, they found mercury in grouse so high the birds were unfit for human consumption."

BISHOPS DONEGAN, MOORE, WETMORE OPPOSE CAMBODIAN INVASION—SUPPORT THE RIGHT TO DISSENT

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. RYAN. Mr. Speaker, I would like to call to the attention of my colleagues a statement that was issued on May 8, 1970, by three bishops of the Episcopal Diocese of New York, the Right Reverends Horace W. B. Donegan, Paul Moore, Jr., and Stuart Wetmore. These three men voiced their opposition—as have millions of Americans—to the President's authorizing the invasion of Cambodia.

American troops have now been withdrawn from Cambodia, and the administration has proudly pointed to its invasion of a neutral nation as a success. This country can afford no more such successes.

In fact, the invasion of Cambodia was a piece in the larger tragedy of our misguided involvement in Southeast Asia. And, as Bishops Donegan, Moore, and Wetmore said, the Cambodian invasion "has already drastically undercut chances for serious negotiations on disarmament and the settlement of the Indochina war."

I commend the statement of Bishops Donegan, Moore, and Wetmore to my colleagues. The crises of which they speak—the crisis of the prerogatives of the President and the Congress, a deepening crisis between generations, and the crisis of freedom to dissent—are very real, very perilous. The statement follows:

We speak for great numbers of churchmen who are shocked and appalled by the tragic events at Kent State University and the ill-advised invasion of Cambodia. These actions have brought our country to the deepest crisis in our memory—the crisis of the prerogatives of the President and of the Congress, a deepening crisis between generations, and the crisis of freedom to dissent. While honest men and women may disagree over the issues at stake, there should be no disagreement over the right to disagree.

We, therefore, call on all churchmen to exert whatever influence they can upon the President and Congress to reaffirm and protect the right to dissent, and to halt the Cambodian invasion, which has already drastically undercut chances for serious negotiations on disarmament and the settlement of the Indo-China war, and has clouded the atmosphere for peaceful relations with all nations.

The Right Reverend HORACE W. B. DONEGAN.
The Right Reverend PAUL MOORE, Jr.
The Right Reverend STUART WETMORE.

May 8, 1970.

A NEW FUTURE FOR INDIANS

HON. ARNOLD OLSEN

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. OLSEN. Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD at this time an editorial that appeared in this morning's Washington Post concerning President Nixon's recent statement on Indian affairs.

I agree with the comments made in the editorial and feel that the President's message is a very forward-looking approach to a very old problem. I am hopeful that legislation will be enacted soon to implement his ideas, particularly in the areas of economic development, self-determination, and an independent legal staff to handle Indian legal problems.

The article follows:

A NEW FUTURE FOR INDIANS?

Because the world of the some 600,000 American Indians is filled with so much suffering and frustration, President Nixon's message to Congress could not and did not try to describe it. Instead, the President succinctly deplored a history of white "aggression, broken agreements, intermittent remorse and prolonged failure" in relations with Indians, and went on to make a series of broad and rectifying proposals.

The new policy would allow Indians, for once, to run their own lives free of outside paternalism and pressure. Specifically, the legislation would let any tribe or group of tribes vote to assume all or part of the federal programs that affect them locally. As more and more young Indians become impatient with the slow pace of social change, as prompted from Washington, local control has become a must. In line with this is the President's idea that Indian communities should run their own schools where possible. The Navajo Community College in Many Farms, Ariz., is the best example of Indian controlled education. Future federal funds for the college, which the President did not talk about, will be decided on shortly by a congressional appropriations conference committee.

Other recommendations that can only improve matters include more money for Indian social programs, a new post in the Interior Department that would put Indian affairs in the hands of an assistant secretary, a repudiation of the dreaded termination policy that lets the government, not the Indians, decide when the trustee relationship should end. To show that his words are accompanied by action, the President endorsed the controversial proposal—already passed by the House—that would return 48,000 acres of land near Blue Lake, New Mexico, to the Taos-Pueblo Indians, property the U.S. government now admits it stole in 1906. Land has perhaps more meaning to the Indians than anything else, and the current efforts of Sen. Clinton Anderson and other members of the Senate Interior Subcommittee on Indian Affairs to block this bill should be defeated.

The Indians know that too many white Americans still view them as a conquered people—prisoners of war, really—for a White House message to have an immediate effect on the nation's attitude toward them. Moreover, Indians have had their hopes raised over the years by top-level recommendations made one day—and forgotten the next. But Mr. Nixon's admirable message could make a difference this time around because the Indians themselves are now a little more vocal and active in demanding their rights and more and more white Americans have joined their struggle in a serious way.

HOUSE SECRECY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, this week the House of Representatives takes up one of the most important bills of this session or any other session: H.R. 17654, the legislative reorganization bill.

While the bill makes some improvements in House procedure, I feel that it can be substantially strengthened. One of the most important amendments to the bill is the proposal to be offered by Representatives GUBSER and O'NEILL of Massachusetts to create a procedure for a decent teller vote.

Carl Rowan, one of this Nation's leading columnists, wrote on the Gubser-O'Neill amendment in Saturday's Washington Star. In his column, Mr. Rowan details how the House copied the procedure of nonrecord teller votes from the English Parliament. He goes on to note that while the British eliminated the procedure more than a century ago, the House of Representatives continues to use this anachronism.

As we all know, nonrecord teller votes enable Representatives to take one position in public and another in the Committee of the Whole, without fear of their constituents finding out. I believe it is time that we established a method for record teller votes. The public has a right to know how we vote on major issues.

I insert Mr. Rowan's column in the RECORD and hope that my colleagues and the public will read it with care:

THE CHALLENGE TO HOUSE SECRECY

(By Carl T. Rowan)

A vote is coming up in the House of Representatives this month that ought to be carefully noted by every American concerned with the efficient operation of Congress and our democratic system. The trouble is, Americans won't be able to take note of it—at least not to the extent of knowing how their own congressman or any other voted.

And that, ironically, is what the vote is all about.

The House of Representatives has long operated under a procedure which allows many of the most vital matters to be decided behind a parliamentary curtain of non-record, non-roll call voting that is tantamount to secrecy.

So far this year, according to an analysis by Congressional Quarterly, the House has voted in anonymity on such major issues as school desegregation, attempts to cut funds for the supersonic transport plane, the anti-ballistic missile and MIRV, the multiheaded missile, and the funding of American forces in Cambodia, Laos, and Thailand.

It's an old practice which the House copied from a British system under which members of Parliament hid individual votes from the king. England wised up and tossed its version out 138 years ago; the U.S. House of Representatives is still hiding.

Non-record votes occur when the House sits as a "committee of the whole" to consider amendments to legislation. To speed up action, no roll calls (which take about 30 minutes with the House's antiquated tallying facilities) are allowed. Instead, amendments are acted on by voice votes (shouting aye and nay), "division" in which members stand and are counted, or "teller votes" in which Representatives march past tellers who count the votes for and against but do not record names.

No record is made of how individual members vote—or even whether they are present to vote. The only way to pin down individuals is to watch from the gallery and see whether they march forward in the aye or nay line. And that is an uncertain substitute, since members' backs are to the press gallery, and persons in the public galleries are not permitted to take notes.

Once an amendment is rejected in this way, it is practically impossible to get a record vote on it later.

The implications of this hocus-pocus are obvious and distressing. Congressmen can take a public position on one side of a sensitive issue, then vote the other way without fear of discovery. Or they can conveniently be absent for important votes.

Since only 100 members are needed to conduct business as a committee of the whole (as against 218 in the House itself), important decisions can be made by as few as one-fourth of the House's 435 members. Not long ago the vote on an amendment that would have deleted funds for the controversial supersonic transport plane was decided by 188 members.

A bipartisan challenge is being made against this system. About 50 congressmen, including liberals and conservatives, have proposed an amendment to the congressional reorganization bill. It would allow one-fifth of the full House to demand a record vote on measures that have been defeated on teller votes.

Unfortunately, that amendment itself will be decided in a non-record vote, which does not enhance its chances. As an alternative, the Democratic Study Group (DSG), a coalition of liberal House Democrats, is considering a prosposal that would allow clerks to record the names of members as they pass through the teller lines, if one-fifth of a quorum requests such a tally.

Non-record voting is only one manifestation of the secrecy which pervades the operation of the House. Others include:

Closed Committee sessions. Nearly half of the hearings of House committees are closed to the public and the press. Major culprits are key committees like Ways and Means, Armed Services, Foreign Affairs and Appropriations. According to the DSG, the House Appropriations Committee holds all its meetings in secret even as its counterpart in the Senate meets openly 75 percent of the time.

Unavailability of committee reports and hearings. These important reports are often filed too late to give Representatives adequate time to study them before voting.

Secret committee votes. With few exceptions, individual votes on legislation considered in committees are not made public.

Close House-Senate conferences.

Taken together, all these practices pull a cloak of secrecy around the operations of the House, secrecy which undermines public confidence in the legislative system and sabotages the Democratic process.

As Rep. Charles Gubser, R-Calif., noted on introducing his proposal for record votes: "The charge of secrecy is a valid one and we should move forthwith to correct what is wrong. Every citizen has the right to know how his congressman voted."

LEGISLATIVE REORGANIZATION ACT OF 1970

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. BRADEMAS. Mr. Speaker, today the House began consideration of the Legislative Reorganization Act of 1970.

In this regard, the Public Information Center, a nonprofit, nonpartisan organization devoted to reporting matters requiring change, has recently released a report.

In this report, the center's editorial service discusses in some detail the harmful influence of unwarranted secrecy upon the workings of Congress.

Mr. Speaker, because I feel this report contains information which will be valuable to the Members as we consider the Legislative Reorganization Act, I include the report in the RECORD at this point:

MAKING CONGRESSMEN ACCOUNTABLE

Secrecy, not seniority, is the key issue facing members of the U.S. House of Representatives when they vote this month on measures to reform their chamber.

Liberal Democratic and Republican legislators see the secrecy issue as potentially far more important than seniority, the focus during the past year in the movement to democratize the internal workings of the House. The issue reflects the essential right of the public to know how their elected representatives speak and vote.

When discussion of House reforms began last year, attention immediately turned to the rigid seniority system which awards committee chairmanships to those members who combine physical longevity with the ability to be re-elected again and again.

Those ancient representatives who hold the positions of greatest power in the House, it was argued, are increasingly losing touch with the mainstream of the American public. House committee chairmen average 68 years of age, spending an average of 25 of those years on Capitol Hill.

UNDEMOCRATIC PROCEDURES

But more crucial is the fact that public accountability has decreased significantly as a spate of undemocratic procedures have developed in committee rooms and on the House floor.

These procedures range from closed committee meetings and unrecorded votes to the stifling of minority opinion and the concealment of information necessary to decision making. Above all, anonymity has replaced accountability as the House rule of thumb.

Rep. Jerome Waldie, a young Democrat from California, puts it succinctly: "Arbitrary and undemocratic procedures flourish in the House where they are so much the rule that they are hardly noticed."

The reformers plan a floor fight on the Legislative Reorganization Act of 1970, in order to force debate on a number of issues which they feel the act purposefully fails to confront. In order to cope with what amounts to a legislative breakdown, House reformers say their most specific attack will be directed at often-complicated techniques by which controversial issues are disposed of on the House floor without publicly-recorded votes.

The major offender is the parliamentary procedure whereby unrecorded votes are taken on important amendments during Committee of the Whole sessions, under which quorum requirements are lowered and roll call votes prohibited in order to speed action by the large body. Controversial amendments to such 1970 issues as the ABM, supersonic transport, Cambodia, and school desegregation were voted on without members' votes being recorded for public scrutiny. Present rules bar a recorded vote during regular House session or amendments defeated by unrecorded vote in Committee of the Whole.

This form of voting allows congressmen to escape taking a stand on crucial matters. Since no official tally is kept on how members vote during these Committee of the Whole teller votes (in which members file up an aisle between tellers who count them as they pass but do not record their names), often only 30 per cent of the membership bothers to vote.

Liberals, led by the Democratic Study Group (DSG), are marshaling efforts to amend the Reorganization Act to curtail non-record voting. The amendment would provide that teller votes be recorded and made public upon the demand of one-fifth of a quorum (44 members in the full House; 20 members during a Committee of the Whole session).

A similar, but weaker measure has already been introduced into the House under separate resolutions by Rep. Charles S. Gubser (R-Calif.) and 50 cosponsors. DSG leaders have much of the support for Gubser's proposals to be transferred to their amendment when it is brought up.

Rep. Sam M. Gibbons (D-Fla.), chairman of a DSG committee on House reform, commented recently that the recording of teller votes "is a procedural difference of major consequence. We must require members to be involved."

Gibbons added that the measure would force representatives to become better informed and to confront issues rather than dodge them. A recorded teller vote would take about 12 minutes, he said, only a few minutes longer than at present.

The Congressman claimed passage of a record teller vote amendment would be "the most meaningful reform that can be made in the House." He added that such a measure would be even more effective than a direct attack on the seniority system in ending the pervasive power of aging committee chairmen in the House.

Major opposition is expected to come from these chairmen, who see such a move as an undercutting of their influence on the House's voting. To balance such opposition, backers of the amendment hope to receive genuine endorsements from the House Democratic leadership, as well as considerable Republican support.

AVAILABILITY OF INFORMATION

The second area upon which reform efforts will be focused is the question of availability of information. Frequently, voluminous committee reports and hearings are filed only a day or two before members must vote on the legislation.

The worst offender is the Appropriations Committee. Its reports are usually unavailable until a few days before the multi-billion dollar measures are voted upon by the House. In most instances, transcripts of the closed-door appropriation hearings average more than 4,000 pages per bill—a titan task for even the most conscientious Congressman to review in three days.

House-Senate Conference reports are handled similarly. After conferences have privately agreed to the final form of legislation passed in a different form by each body, the conference report is often inserted into the Congressional Record late one afternoon and called up for one hour of debate and a final vote at the opening of business the next day. Further, even when conference reports are not called up immediately after being reported, they can be called up for vote without notice.

Reformers hope to strengthen provisions in the Reorganization Act that would force committees to make their hearings and reports available at least three working days in advance of consideration by the full House. They hope to have all reports actually delivered to congressmen to have a seven-day layover between the time Appropriation bills are printed and when they are brought to the floor, and to extend the three-day layover requirement to conference reports, adding that advance notice be given when these conference reports are to be called up.

SECRECY IN COMMITTEE MEETINGS

Secrecy in committee meetings is the third target for reform. Rep. Gibbons says of the frequent trading of votes in closed House committee meetings: "Some of the most irresponsible actions I've seen have taken place behind closed doors."

Many House committees do almost all of their key business in private, allowing the public and the press to attend only the most innocuous hearings. Most of the closed sessions are held by major committees such as Ways and Means, Armed Services, Foreign Affairs, and Appropriations. The latter holds all of its more than 300 annual meetings and hearings in closed session, out of the public eye.

Except for the Education and Labor Committee, which has built an admirable record for legislating effectively through non-private meetings, committees do not reveal how members voted on key provisions. Critics argue that secret committee voting is perhaps the worst abuse of the democratic process in the House, since it opens legislators to undue influence from special interest lobbyists.

Amendments planned for the Reorganization Act are intended to compel committees to be more selective about closing their meetings to the public and to require committees to make public how members voted during committee sessions.

In a further example of House secretiveness, lengthy amendments are sometimes offered orally, with legislators unable to obtain a printed copy. The House occasionally votes on such amendments without ever seeing the bill in print, making study of the legislation quite difficult.

Twisting the Congressional Record is under fire. The Record, which should be an accurate chronicle of what transpires on the House floor, is at present a grab-bag of speeches which were never delivered and remarks which were never made, mixed in with what actually occurred. Members even have the right of censorship, with the permission to rewrite or expunge utterings on which they have second thoughts.

Were all of these secrecy reforms passed, the change would drastically alter the House of Representatives as an American institution. However, reform leaders readily admit that nowhere near all of their suggestions will be enacted this session of Congress. To concentrate on more than three or four major reforms might jeopardize the entire Congressional reform bill.

SENIORITY

This fear of sabotaging all Congressional reform by overloading the Reorganization Act is apparently the reason that the DSG has decided not to push the seniority issue by introducing numerous amendments. This year's members hope to attack seniority in party caucuses, where both parties currently have task forces studying the issue.

However, at least one representative, Thomas M. Rees of California, isn't listening to the DSG leadership. Rees plans to push ahead with amendments which would force committee chairmen over age 70 to step aside, would limit the number of chairmanships a member may held and the number of terms he could serve in that office, along with other reforms of the committee seniority system.

PROSPECT FOR REFORM

Ironically, the stumbling block for reform efforts may come from the very institution that the reformers hope to abolish—the unrecorded teller vote. The amendments to the Reorganization Act will almost certainly be debated and voted on during a Committee of the Whole session in which amendment voting is unrecorded.

A number of reform groups have promised to pack the House galleries with spotters during the crucial amendment votes. They hope to zero in on legislators who try one more time to escape public accountability by using the House's institutions of secrecy.

In assessing the chances for reform, Rep. Waldie placed the ultimate burden on the public for stimulating change in the House of Representatives:

"There's no reason to reform in the House. Everybody's got his comfortable little piece of this action and reform means his little comfortable piece of the action is going to be jeopardized. So the numbers aren't here to reform. It'll only happen when the public demands it and the public will only demand it when they get a look at it. When the public understands how absurd this institution is, they'll demand reform."

FEDERAL EMPLOYEES HEALTH INSURANCE BENEFITS

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. PRICE of Texas. Mr. Speaker, last week the House, in a self-serving action, voted to increase the Government's share in Federal employee health insurance programs. I say the action was self-serving because Members of Congress as well as Federal employees are covered by the benefits.

I voted against this increase because I thought the House action was fiscally irresponsible. I do not believe the American taxpayer, who is being increasingly burdened by larger taxes, greater Government expenditures, and spiraling inflation, can afford the luxury of paying an additional $314 million in tax dollars so Federal employees and Members of Congress can reduce the amounts they have to pay for health insurance.

I do not contest the fact that both groups are beset with growing medical costs; everyone is paying more for health care these days. I also do not contest the fact that the Government has fallen down on its responsibilities and is paying less than the legally established cost sharing rate of 38 percent of the health insurance premiums purchased under the program. I think, though, that the House would have been far more prudent to adopt the Nixon administration's proposal that the 38 percent Federal pay requirement be reaffirmed by legislation and that the Government adhere to that level of contributions.

Mr. Speaker, I object to the fact that the Democrat controlled House has once again thrown fiscal responsibility to the winds. I object most of all to the fact that the House, on the one hand, provides $314 million in increases to health insurance programs covering Federal employees and Members of Congress; and, on the other hand, decries a lack of funds to fight crime, clean up our air and water, provide quality education to our young, maintain a healthy farm economy, and meet other pressing national needs.

DANGER OF TRADE WAR

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. FINDLEY. Mr. Speaker, I have long held the view that nobody and no nation wants a trade war but that certain protectionist spokesmen may lead the United States into such a disastrous situation.

Passage of the Mills bill which provides import quotas on textiles and shoes would be a serious blunder greatly harming U.S. agricultural exports.

I base this conclusion on an extensive series of conferences I have had the past 10 days with government leaders in five Western European countries. Included were private discussions with Chancellor Willy Brandt of West Germany; Edmund P. Wellenstein of Belgium, Director General for Foreign Trade for the European Economic Community; Herve Alphand, Secretary General of the French Foreign Office; Milesi Feretti, Minister for Political Affairs in the Italian Foreign Office; Sir Michael Wright, Chairman of the Atlantic Trade Study, London; Paul Henri Spaak, a pioneer of European unity, former Prime Minister of Belgium, and the first Secretary General of NATO; as well as more than 30 Members of Parliaments of Western European nations.

In addition, I participated in week-long committee meetings of the North Atlantic Assembly in Brussels where I serve as a delegate from the United States.

Most European leaders view the Mills bill as a violation of GATT—General Agreement on Tariffs and Trade. If the import quotas the bill provides for shoes and textiles become effective, Europe, I am convinced, will immediately respond by adopting the same restrictive policies. This will hurt our exports of textiles to Europe. It is a little known fact that the United States sells as much textile materials to Europe as it buys.

Even worse, I am convinced enactment of the Mills bill will lead to even more serious consequences—an internal tax in Europe on vegetable oils, a tax which would sharply reduce currently expanding European purchases of U.S. soybeans. This internal tax was first mentioned as a possibility 18 months ago by the EEC. Heavy American protests have kept it on the back burner.

Clearly the Congress would be penny-wise but pound foolish to pass the Mills bill.

Before it votes, Congress must open its eyes to the full consequences. The bill is widely assumed to involve vitally only our trade relations with Japan. Our markets with Japan are highly important—involving one billion dollars annually of sales for American farmers alone. But the Mills bill imperils far more than just these Japanese markets. It gravely endangers expanding markets in Europe.

The short-term gains of the Mills bill, if any, would soon be more than offset by long-term damage to American markets overseas.

Farmers across the Nation as represented by their farm organizations are already alerted to the long-term consequences of the enactment of the Mills bill. Recent statements by the National Council of Farmers Cooperatives, the American Farm Bureau Federation, and the American Soybean Association all indicate broad and serious opposition on the part of the Nation's farmers to the import quota plan.

TODAY'S FARMER

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. ZWACH. Mr. Speaker, one of the most efficient workers in America is the farmer, yet he is just about on the bottom rung of the economic ladder.

He has been producing more and more food with less and less help and for lower and lower costs.

American consumers get the greatest food bargain the world has ever known. No other nation on the face of the earth has its people eat on a smaller percentage of their per-hour pay than America.

Mr. Speaker, I would like to insert into the CONGRESSIONAL RECORD at this time, an editorial from the Pierz Journal in our Minnesota Sixth Congressional District, relating to the efficiency of today's farmers:

TODAY'S FARMER

Today's farmer is a mighty efficient man. His productivity has been climbing more than five per cent per year, "roughly twice the rate of industry," as Secretary of Agriculture Clifford M. Hardin has pointed out. In 1969, U.S. farmers produced over 20 per cent more products on six per cent fewer acres than in 1957–59.

In terms of persons supplied by one farmworker, the man who produced enough for himself and six others at the turn of the century was producing enough for himself and 42 others by 1968—with the aid of supply and marketing industries.

Marketing farm food and fiber alone provides about five million non-farm jobs for which payroll and fringe benefits are $25 billion. Thirty per cent of jobs in private employment are agriculture-related.

Besides being a major supplier to the U.S. economy, agriculture is a $50 billion customer. Among the purchases: 6.5 million tons of steel in the form of tractors, other motor vehicles, machinery and equipment; more petroleum than any other single industry—and more electricity than Chicago, Detroit, Boston, Baltimore and Washington, D.C.!

WHAT DID YOU EXPECT, MR. LAIRD?

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. BINGHAM. Mr. Speaker, I referred earlier today, in a speech I gave on the floor, to two recent articles concerning Secretary of Defense Laird's warning on new SS–9 deployments. The first of these articles appeared in the New York Times on Friday, July 10. The second is from the Washington Post and appeared the following day.

I would like to include the full text of these articles at this point:

LAIRD SAYS SOVIET BUILDS UP ICBM'S AT INTENSIVE RATE

(By Neil Sheehan)

WASHINGTON, July 9.—Secretary of Defense Melvin R. Laird said today that the Soviet Union was continuing to deploy intercontinental ballistic missiles at a rate that would dramatically increase its offensive nuclear-striking force.

At a Pentagon news conference, Mr. Laird said the Russians had "gone forward with new starts" across the spectrum of their ICBM force, both after the opening of the talks on the limitation of strategic arms at Helsinki last November and after the transfer of the negotiations to Vienna in April.

NO TROOPS FOR MIDEAST

The increase, he said, has included the deployment of more SS–9 missiles, the largest in the Soviet arsenal, as well as smaller SS–11 and SS–13 missiles.

The Secretary also made these points:

The United States has no plans to send troops into the Middle East to counter the build-up of Soviet pilots and antiaircraft missile crews in the United Arab Republic.

The United States intends to begin important reductions in its 60,000-man military contingent in South Korea by mid-1971 and to offset the withdrawal by a substantial increase in military aid.

The Defense Department will beat the Oct. 15 deadline President Nixon set for reducing

American troop strength in Vietnam to 384,000 men. There are 410,000 there now.

A CONFLICT OF VIEW

During a trip to Europe last month Mr. Laird "made it very clear" to the defense ministers of the other North Atlantic Treaty Organization countries that their nations will have to assume a greater burden in the defense of Europe.

Mr. Laird's assertion about Soviet missile deployment directly contradicted reports from senior Administration officials to the effect that the Soviet Union had constructed no new sites for SS–9's since last August.

While those officials declined to interpret their information, they said the reported halt in construction was the first long hiatus in missile development since the Russians began markedly upgrading their offensive nuclear capability in 1967.

It could not be determined whether Mr. Laird's remarks were based on fresh information or whether he had drawn an opposite conclusions from the same data. The Secretary declined to state how many more missiles the Russians had deployed and how many more sites were under construction.

The discrepancy between his assertion and the information obtained from the other officials could reflect a continuing dispute in the Nixon Administration over Soviet intentions. Officials who have differed with Mr. Laird on Soviet nuclear planning and some scientists outside the Government have accused him of exaggerating the Soviet threat—an accusation he has denied.

APRIL ASSESSMENT RECALLED

Mr. Laird contended that the Russians were still on the same upward course he attributed to them in a speech last April. He said then that they had "moved into high gear in both deployment and development of strategic nuclear weapons" in order "to change the balance of power" with the United States.

Today he said in reply to a question: "That momentum has not slowed down, it has continued. The construction program, the new starts, is going forward as far as the intercontinental-ballistic-missile program is concerned. I would like not to confirm that, it would please me if I could report differently to you. But in all frankness, I must give you an honest answer."

The Secretary noted that he said in April that the Soviet Union had deployed 220 SS-9 missiles and were constructing 60 more sites for them. Since then, he went on, some of the 60 sites have "come into operational capability" and additional sites are under construction for SS-9's as well as SS-13's and SS-11's.

During the period to which Mr. Laird was referring, the United States has also dramatically increased its offensive nuclear strength by deploying the first flight of about 10 Minuteman missiles armed with multiple war heads. The MIRV's—multiple independently targeted re-entry vehicles—were installed in June at Minot Air Force Base in North Dakota.

Each Minuteman cluster contains three individual warheads of at least 200 kilotons—the equivalent in explosive power of 200,000 tons of TNT, 10 times the power of the bomb dropped at Hiroshima—which can be individually directed against three different targets.

The United States plans to place MIRV's on about half of its force of 1,000 Minuteman missiles.

The Soviet Union apparently does not yet have MIRV's ready for use and Mr. Laird has said it may not have them until 1972.

In what appears to be a continuing Administration effort to discount the strategic importance of MIRV's, both because of the significance of the matter in the Vienna talks and because of the opposition in Congress to deployment of the MIRV system, Mr. Laird noted today that the individual warheads were not accurate enough to knock out Soviet SS-9 missile silos.

NEW SS–9's HELD RECENT SOVIET STEP

(By Chalmers M. Roberts)

New intelligence, presumably from spy-in-the-sky satellites, has established that the Soviet Union began additional SS-9 missile deployments between June 24 and July 8, officials said yesterday.

This was the fact behind Defense Secretary Melvin R. Laird's response on Thursday to a press conference question about Soviet ICBM deployment.

Officials confirmed earlier reports that there had been no new SS-9 starts from prior to the start of the strategic arms limitation talks (SALT) in Helsinki last Nov. 17 until the new intelligence came in. Laird's statement seemed to contradict that fact, but a close reading shows that it did not do so.

As Pentagon officials noted yesterday, Laird had lumped the giant SS-9 missile with new starts for two other Soviet ICBMs, the SS-11 and SS-13. He said that the Soviets had developed "more SS-9 missile sites as well as SS-13 and SS-11s. They have proceeded with this program since the talks started in Helsinki and have gone forward with new starts since the talks opened in Vienna" on April 16.

Laird further said that "the construction program, the new starts, is going forward as far as the intercontinental ballistic missile program is concerned."

This left an impression that Laird meant new SS-9 deployment over the entire period since last fall, contradicting the earlier reports. But he did not say so specifically and officials said he did not mean to say so.

The SS-11 and SS-13 pack less nuclear punch than the mammoth SS-9, which Laird had often cited as a potential Soviet "first strike" weapon.

SATELLITE CAMERAS

Officials yesterday said that "several" new flights of SS-9s (a flight is six missiles with a single control center) had been discovered. The usual detection method is photography by satellites.

It was added that the U.S. would not be surprised to see the SS-9 total "possibly go through the 300 level." On May 12, Laird had given the SS-9 strength as about 220 operational plus 60 more under construction.

At a breakfast meeting with newsmen yesterday Senate Majority Leader Mike Mansfield (D-Mont.) said he understood the new deployments since Helsinki totaled between 30 and 40 SS–9s and SS–13s combined, but he added later he had no exact times for deployment or any breakdown between the two ICBM systems involved.

On June 24 Gerard C. Smith, the chief American negotiator at the Vienna SALT talks, met here with President Nixon. Sources said then, and it was confirmed yesterday, that at that point no new SS–9 starts had been discovered since prior to Helsinki.

President Nixon and his Cabinet yesterday discussed the SALT talks, the White House said, but no details were made public.

White House Press Secretary Ronald L. Ziegler was asked whether the Cabinet had discussed Mr. Nixon's decision, as reported in Thursday's editions of The Washington Post, to seek a limited rather than a comprehensive SALT agreement. Ziegler said SALT was discussed but that "any discussion on our part, it is felt, would be detrimental to the conduct and progress of the talks."

American and Soviet negotiators yesterday held their 23d Vienna meeting, a 75-minute session at the Soviet embassy followed by lunch. United Press International said the main dish was roast turkey. The next meeting will be held Tuesday.

Nothing was said about how long the Vienna phase will continue before a summer break and a previously agreed resumption of the talks in Helsinki. The American delegation is prepared to continue into August, but that is the normal Soviet vacation period.

What effect, if any, the new SS–9 deployment data will have on SALT is unclear. Some here guessed that Moscow wants to keep the pressure on Washington by continued deployment, which the U.S. wants halted, just as Washington tries to keep the heat on Moscow by going ahead with the Safeguard ABM program, which the Soviets want halted.

PROSPOSED AMENDMENTS TO H.R. 17654, CONGRESSIONAL REFORM BILL

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. CONABLE. Mr. Speaker, for the purpose of clarifying the amendment to H.R. 17654 which are being offered by a bipartisan group of Congressmen who have been meeting for some time in an effort to strengthen what we consider to be the constructive thrust of this Rules Committee's Reorganization bill, I am attaching hereto the text of the amendments. Each one is numbered for identification purposes. I hope my colleagues will refer to these amendments before and during the efforts that will be made to amend H.R. 17654 tomorrow, and afterward if the process has not been completed tomorrow. An amendment to title IV on establishment of a Joint Committee on Operations of the Congress has not yet been completed as to technical wording.

In Amendment No. 1 only the italicized portion is new material.

The amendments follow:

RECORD TELLER VOTES

[Amendment to be offered by O'NEILL and GUBSER]

On page 47, immediately below line 5, insert the following:

RECORDING TELLER VOTES

SEC. 123. Clause 5 of Rule I of the Rules of the House of Representatives is amended to read as follows:

"He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: 'As many as are in favor (as the question may be), say Aye;' and after the affirmative voice is expressed, 'As many as are opposed, say No;' if he doubts, or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative; if he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one *or more* from each side of the question to tell the Members in the affirmative and negative; which being reported, he shall rise and state the decision. *If before tellers are named any Member requests tellers with clerks and that request is supported by at least one-fifth of a quorum the names of those voting on each side of the question shall be entered in the Journal. Members shall have not less than twelve minutes from the naming of tellers with clerks to be counted.*" And make the appropriate technical changes in section numbers and references.

Recommit With Instructions

[Amendment to be offered by **Harvey, Meeds, Mikva, and Sam Steiger**]

On page 47, immediately below line 5, insert the following:

DEBATE TIME ON MOTIONS TO RECOMMIT WITH INSTRUCTIONS

Sec. 123. Clause 4 of Rule XVI of the Rules on the House of Representatives is amended by adding at the end thereof the following sentence: "It shall not be in order to close debate on any such motion to recommit with instructions for ten minutes, one-half of such time to be given to debate by the proponent, and one-half to debate in opposition to the motion."

And make the appropriate technical changes in section numbers and references.

Quorum Calls

[Amendment To be offered by White, Biester, Udall, and Taft]

On page 36, immediately below line 24, insert the following:

Expeditious conduct of calls of the House, (a) Clause 2, Rule XV of the Rules of the House of Representatives is amended by adding immediately after the numeral "2" and "(a)" and Clause 2 of Rule XV is amended by adding at the end thereof the following:

"(b) When a call of the House in the absence of a quorum is ordered, the Speaker of the House or the Chairman of the Committee of the Whole House, as the case may be, at his discretion may order the Clerk of the House to lay out tally sheets on which the presence of the members shall be recorded by the Clerk or the respective member. When a quorum has been recorded, which in the Committee of the Whole House shall be 100 Members, the Clerk shall advise the Speaker or Chairman of this fact, after which it shall be in order to entertain a motion to dispense with further proceedings under the call, and business of the House or the Committee of the Whole shall then resume; however, for a period of thirty minutes from the commencement of said quorum call members who are present before the expiration of said thirty minutes may have their presence recorded on said tally sheets. Absent members shall be recorded in the Journal of the House."

(b) Clause 2 of Rule XXIII of the Rules of the House of Representatives is amended as follows:

"2. *Unless the Chairman invokes the procedure for the call of the roll under Rule XV(b)*, whenever a Committee of the Whole House or of the Whole House on the state of the Union finds itself without a quorum, which shall consist of one hundred Members, the Chairman shall cause the roll to be called, and thereupon the committee shall rise, and the Chairman shall report the names of the absentees to the House, which shall be entered on the Journal; but if on such call a quorum shall appear, the committee shall thereupon resume its sitting without further order of the House."

And make the necessary conforming and technical changes in the table of contents, section numbers and references, and other technical changes in the bill.

Open Committee Business Meetings

[Amendment to be offered by Hansen, Harrington and Hathaway]

On page 9, strike out lines 9 to 11, inclusive, and insert in lieu thereof the following:

"(f) Each meeting for the transaction of business of each standing committee shall be open to the public unless the committee, in open session and with a quorum present, determines, by roll call vote, that all or part of the remainder of that meeting on that day shall be closed to the public."

And make the appropriate and necessary technical changes in the bill.

Disclosure of Roll Call Votes on Measures and Matters in Committees

[Amendment to be offered by Fascell, Stafford, Reuss and Wyatt]

On page 10, strike out lines 3 to 10, inclusive, and insert in lieu thereof the following:

(b) Clause 27(b) of Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: "The result of each roll call vote in any meeting of any committee shall be made available by that committee for inspection by the public at reasonable times in the offices of that committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order or proposition, and whether by proxy or in person, and the names of those Members present but not voting."

And make the appropriate and necessary technical changes in the bill.

Committee Investigative Funds

[Amendment to be offered by Cleveland, Thompson, Schwengel, and Waggonner]

On page 23, line 15, strike out the words "and shall receive fair consideration in", and insert in lieu thereof the following: "not less than one-third of the funds provided for".

And make the appropriate and necessary technical changes in the bill.

Open Committee Hearings

[Amendment to be offered by Hathaway, Hansen, and Harrington]

On page 26, strike out lines 13 to 15, inclusive, and insert in lieu thereof the following:

"(2) Each hearing conducted by each committee shall be open to the public unless the committee, in open session and with a quorum present, determines, by roll call vote, that all or part of the remainder of that hearing on that day shall be closed to the public."

And make the appropriate and necessary technical changes in the bill.

Debate Time on Printed Amendments

[Amendments to be offered by **Pike, Jack Edwards, Wm. Ford, Railsback, Lowenstein, and Rosenthal**]

On page 39, immediately below line 4, insert the following:

DEBATE TIME UNDER FIVE-MINUTE RULE FOR AMENDMENTS PREVIOUSLY PRINTED IN CONGRESSIONAL RECORD

Sec. 119. Clause 6 of Rule XXIII of the Rules of the House of Representatives is amended by adding at the end thereof the following new sentence: "However, in any case, if the exact text of any amendment offered by any Member shall have been printed, at his request, in the Congressional Record for the then current session of the Congress prior to the offering of that amendment by that Member, it always shall be in order to debate such amendment for ten minutes before the vote is taken on such amendment, one-half of such time to be given to the proponent, and one-half to debate in opposition to such amendment; and debate may not be closed under this clause with respect to such amendment; and any decision adopted to close debate under this clause shall be considered to include an additional ten minutes for debate on any such amendment."

And make the appropriate and necessary technical changes in the bill.

Conference Reports

[Amendment to be offered by **Brademas, Coughlin, Erlenborn, and Stokes**]

On page 40, strike out lines 18 to 22, inclusive, and insert in lieu thereof the following:

(2) Clause 2 of Rule XXVIII of the Rules of the House of Representatives is amended to read as follows:

"2. It shall not be in order to consider the report of a committee of conference unless such report and the accompanying statement shall have been printed in the Record at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of such report by the House; but this provision does not apply during the last six days of the session. Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement are then available on the floor. The time allotted for debate in the consideration of any such report shall be equally divided between the majority party and the minority party."

And make the appropriate and necessary technical changes in the bill.

Committee Professional and Clerical Staffing

[Amendment to be offered by Cleveland, Frank Thompson, Schwengel and Waggonner]

In title III strike out everything after the period in line 4, on page 74, through line 10, on page 77, and insert in lieu thereof the following:

"(a) (1) The majority party members of each standing committee may appoint, by majority vote of those members, not more than four professional staff members. Each professional staff member appointed under this subparagraph shall be assigned the chairman, or as the majority party members of the committee consider advisable.

"(2) The minority party members of each standing committee may appoint, by majority vote of those members, not more than two professional staff members. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.

"(3) The professional staff members of each standing committee—

"(A) shall be appointed on a permanent basis and solely based on their fitness to perform the duties of their respective positions;

"(B) shall not engage in any work other than committee business; and

"(C) shall not be assigned any duties other than those pertaining to committee business.

"(4) Services of the professional staff members of each standing committee may be terminated by majority vote of the party members of the party which appointed them.

"(5) The foregoing provisions of this paragraph do not apply to the Committee on Appropriations.

"(6) The provisions of subparagraphs (1), (2) and (4) of this paragraph do not apply to the Committee on Standards of Official Conduct, which may appoint, by majority vote of the committee, not more than six professional staff members to be assigned to the chairman and the ranking minority party member of such committee, as the committee considers advisable. Professional staff of the Committee on Standards of Official Conduct shall be appointed without regard to political affiliation. Services of the professional staff members of such committee may be terminated by majority vote of the Committee.

"(b) (1) The majority party members of each standing committee may appoint, by majority vote of those members, a clerical staff to consist of not more than five clerks, to be attached to the chairman and to the professional staff, as the majority party members of the committee consider advisable. The clerical staff shall handle committee correspondence and stenographic work for the professional staff appointed by the majority party and for the chairman.

"(2) The minority party members of each standing committee many appoint, by majority vote of those members, one clerical staff person, who shall handle committee correspondence and stenographic work for the minority party members of the committee and for the professional staff appointed by the minority party on matters related to committee work.

"(3) Services of the clerical staff members of each standing committee may be terminated by majority vote of the party members of the party which appointed them.

"(4) The foregoing provisions of this paragraph do not apply to the Committee on Appropriations or the Committee on Standards of Official Conduct, which latter committee may appoint, by majority vote of the committee, not more than six clerical staff members to handle committee correspondence and stenographic work both for the committee staff and for the chairman and the ranking minority party member of matters related to committee work. Services of the clerical staff members of such committee may be terminated by majority vote of the committee."

Section 302(c) is amended by striking on page 77, lines 15 to 21, inclusive, and up to and including the word "The" in line 22, and inserting in lieu thereof the following:

"(f) If there is no vacancy to which an appointment may be made for professional or clerical staff to serve the minority party members of a standing committee under paragraph (a) or (b) of this clause, such staff shall nevertheless be appointed by the minority party members of such committee. Each".

Section 302(c) is further amended by striking on page 78, in line 9, "pursuant to a request"; by striking in line 14, "fixing his rate of pay; the"; by striking in line 19, "request under either of"; and by striking in line 22, the number "(1)" in both instances where it appears, and inserting in lieu thereof the number "(2)".

RECORDING TELLER VOTES

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. DULSKI. Mr. Speaker, the House this week is considering the most comprehensive reorganization plan for its operations since the landmark reorganization plan of 1946.

One of the key issues sought to be resolved in the pending bill is the present system which forbids a record vote on amendments considered during general debate in the House.

The maximum action that Members can take now is to ask for a teller vote. What this means is that Members proceed up the middle aisle and are counted by tellers named by the incumbent Chairman of the Committee of the Whole House. No names are recorded.

It is now proposed that this teller vote be recorded if 20 percent of a committee quorum—that means at least 20 Members—demand a recorded vote.

I favor this procedure and it should not unduly delay the progress of legislation in the House. A teller vote usually takes about 6 minutes. A recorded teller vote, as proposed, would require at least 12 minutes. That will give all Members a chance to be recorded.

On amendments that are adopted in Committee of the Whole House, Members always can seek a recorded vote when the bill goes back for full House action. But defeated amendments have no standing in the House and there is no record as to how Members voted in Committee.

This is one of the several excellent reorganizational changes proposed in the legislation before us this week.

As for the recorded teller vote, I call attention of my colleagues to an editorial from last Saturday's Buffalo, N.Y., Courier-Express, as follows:

GOOD PLAN TO END SECRET VOTING IN CONGRESS

One of the proposed amendments to the congressional-reorganization bill which deserves favorable consideration is that which would, in most cases, end the public secrecy of the teller—or non-record—vote in both houses. This is the practice which permits members to walk down the aisle, vote for or against an item, but not to be recorded by name in the public record as to how they voted.

The "no-secrecy" plan is being pushed by a bipartisan group, including Rep. Barber B. Conable Jr., of Western New York's 37th District. Proponents of the change note that in the past year, amendments on such crucial issues as deployment of ABM missiles, use of American troops in Laos and the preventive-detention section of the anticrime bill were decided in the House without a public-record vote. The list of such decisions in past years is staggering.

So, although there are obviously conflicting judgments on what the proposed change will do to lobbying tactics or a congressman's daily schedule, still the over-all benefits in the form of public awareness and understanding of such maneuvers as occurred during the Cooper-Church amendment process, for example, should outweigh any potential drawbacks. The revision, therefore, is worthy of adoption.

This is particularly apparent when it is realized that it will not abolish the teller vote (or the voice or standing votes either) entirely, but instead will enable any group of 20 congressmen to request and receive a formal name-taking count, as if in an actual roll call, as members pass the clerk-tellers. Thus, the change is modest but in tune with other reforms in the main piece of legislation which is expected to reach the House floor on July 13 or shortly thereafter.

IS THE HOUSE A RUBBERSTAMP?

HON. ALLARD K. LOWENSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. LOWENSTEIN. Mr. Speaker, a recent special report by the Democratic Study Group on the appropriations process in the House noted that because of secrecy and other undemocratic procedures most Members of the House are "relegated to the role of rubber-stamping agreements and decisions made behind closed doors."

Last Saturday the New York Times published an editorial entitled "Is the House a Rubber Stamp?" The Times editorial was not about the House appropriations process, but about the handling of the Cooper-Church vote in the House last week. The "high-handed parliamentary tactics" deplored in the Times editorial, however, are similar to those documented by the Democratic Study Group report on the appropriations process.

The tactics employed in connection with the Cooper-Church vote were also the subject of an editorial in the New York Post on Friday.

It is such procedures as these, in a body which has always prided itself on the protection of minority rights, that have necessitated the reform proposals we will consider this week as amendments to H.R. 17654, the Legislative Reorganization bill. As the Post editorial noted, the way in which the Cooper-Church vote was handled provides "a clear demonstration of the need for congressional reform."

Mr. Speaker, these editorials in two of the Nation's leading newspapers, reflect the growing concern over secrecy and other undemocratic procedures in an institution which the Founding Fathers envisioned would be "the grand depository of democratic principles." I insert them in the RECORD and commend them to my colleagues:

IS THE HOUSE A RUBBER STAMP?

Efforts to reassert the authority of Congress in vital decisions concerning war and peace have in the last few days received a double blow in the House of Representatives.

By rejecting, in a procedural vote, the Cooper-Church amendment restricting the President's authority to undertake unilateral military actions in Cambodia, the House has reduced the chances for inclusion of the amendment in the Foreign Military Sales Act.

Even more serious than this rejection, which at least is not final, is the method by which it was achieved. Through high-handed parliamentary tactics, the Old Guard conservative leadership of both parties was able to force this critical national issue to a vote without even a minimum of debate.

This irresponsible performance throws into question the competence of the lower chamber, at least under its present rules and leadership, to assume the constitutional responsibilities that the sponsors of Cooper-Church are trying to restore to Congress. The majority of House members and their leaders apparently would rather pass the buck to the President for hard decisions affecting the lives and fortunes of their constituents. By doing so, they help reduce one of the world's great legislative bodies to a rubber stamp, a role that certainly was not envisioned by the creators of the American system of checks and balances.

Fortunately the Senate, which deliberated for seven weeks before adopting the Cooper-Church proposal, is more mindful of its obligations and more jealous of its prerogatives. Senate champions of the amendment may yet prevail in conference where they are in a position to block the military sales act altogether if the Administration does not move to accommodate their legitimate demands.

The Senate again demonstrated its determination to revive eroded powers yesterday when it voted overwhelmingly for a second time to repeal the 1964 Tonkin Gulf Resolution. The House could enhance its own self-respect by proceeding now to eradicate this ill-advised delegation of Congressional authority.

ENDING SECRECY IN THE HOUSE

The House yesterday inadvertently obliged a new coalition of Congressional reformers with a clear demonstration of the need for Congressional reform. Denying members an opportunity for debate and withholding advance word that the matter was scheduled, the leaders succeeded in forcing a precipitate vote on the first House test of the Senate's Cooper-Church amendment; opponents of the amendment won.

The sorry episode followed by a day an announcement that a bipartisan group plans next week to push for major alterations in current House procedures. Among their suggested reforms are advanced scheduling of votes and guarantees of ample debating time before the balloting. Had those provisions been policy, yesterday's demeaning spectacle would have been avoided—and the result perhaps different.

The recommendations, to be considered by the House next week, are primarily aimed at combating the secrecy which now shrouds so many important Congressional functions, particularly in the area of appropriations.

One key proposal would direct the House, at the request of one-fifth of a quorum, to maintain an official record of how members voted in teller votes. Under current practice, a teller vote is taken by having the lawmakers pass down the center aisle and be counted for or against. Each member's decision is not officially recorded, permitting him the luxury of keeping his stand on a sensitive issue from becoming publicly known. This provision will itself be voted on in an unrecorded teller vote next week. We hope it will be the last.

NEAL MAXWELL—CHURCH COMMISSIONER OF EDUCATION

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. BURTON of Utah. Mr. Speaker, the Mormon Church has long been noted for the importance it places on education. Its educational programs are growing rapidly, expanding into all parts of the world. To coordinate this challenging enterprise the church has appointed a very capable man. I commend to my colleagues an editorial in the Deseret News, commenting on the recent appointment of Neal Maxwell as church commissioner of education:

NEAL MAXWELL'S BIG JOB: WORLD IS HIS CAMPUS

The appointment of Neal A. Maxwell as Church Commissioner of Education brings together a man who's used to meeting challenges and a program that faces them.

For the most part, the challenges confronting the schools, seminaries, and institutes of religion of The Church of Jesus Christ of Latter-day Saints are the happy kind brought on by growth and progress.

In the past decade the institutes and seminaries have seen their enrollments mushroom from 67,408 to a total of 162,369 students. This growth reflects the growth of the Church and of the thirst for learning.

When enrollments in colleges and other Church schools are included, the Church education system encompasses some 300,000 students scattered throughout the United States and abroad.

But even the great number of lives he will influence doesn't reflect the full scope and complexity of the task Neal Maxwell is taking on as Church Commissioner of Education.

Here is an education system that ranges from grade schools through graduate school, from classes with only a handful of students to the largest privately owned school in the U.S. (Brigham Young University), from vocational education to education for the professions, from secular subjects to religion—and the world is its campus.

Just coordinating an education system this varied and farflung, together with making sure it keeps on growing, is a towering task in itself, but there's much more to the challenge.

BYU has absorbed just about all the students it can, and the Church education system has some basic decisions to make about where and how to allocate its resources in making sure young Mormons get a moral and spiritual education as well as a mental and physical education.

Moreover, while this generation of young people is exceptionally rich with promise, it also is exceptionally beset by unsettling tests of faith in an era of uncertainty and instability.

To this stimulating set of challenges, Neal Maxwell brings an outstanding record of leadership as a university administrator and educator, civic leader, and Church worker. Head of the Salt Lake Area United Fund the first year it raised more than $1 million, chairman of the Utah Constitutional Revision Commission, and a Regional Representative of the Council of Twelve Apostles, he rose to the post of executive vice president of the University of Utah. Here is a man who knows how to set lofty goals, work toward them, and enlist many minds and talents on behalf of community betterment.

The LDS Church has long been noted for the importance it places on education. As Neal Maxwell prepares to assume his new responsibilities, they seem bound to become even more important as the Church continues to grow along with the emphasis on education.

COMPARATIVE TABLES FOR HOUSE AND SENATE VERSIONS OF OFFICE OF EDUCATION APPROPRIATIONS BILL FOR FISCAL 1971

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. BRADEMAS. Mr. Speaker, on July 14, 1970, House and Senate conferees will begin to resolve differences between the House and Senate versions of the Office of Education appropriations bill for fiscal 1971—H.R. 16916.

I again would call attention to the comparative tables—which I placed in the RECORD of July 9 and which were printed in the July 10 RECORD—which provide State-by-State figures showing the amounts contained in the two bills passed by the House and the Senate for fiscal 1971 for each program administered by the Office of Education.

Mr. Speaker, the figures for the State of New Hampshire were omitted inadvertently last Thursday, and I insert them in the RECORD at this point:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES

OBLIGATIONS IN THE STATE OF NEW HAMPSHIRE

Program	1969 actual	1970 appropriation after 2-percent reduction	1971 amended request	House allowance	Senate allowance
OFFICE OF EDUCATION					
Elementary and secondary education:					
Aid to school districts:					
Educationally deprived children (ESEA I):					
Pt. A: Basic grants	$1,431,723	$1,627,712	$1,594,736	$1,839,186	$1,806,173
State administrative expenses	150,000	150,000	150,000	150,000	150,000
Pt. B: Special incentive grants					
Pt. C: Special grants for urban and rural schools					
Supplementary services (ESEA III)	815,216	665,545	682,108	737,109	778,917
Federally affected areas:					
Maintenance (Public Law 81-874)	2,065,756	2,059,000		1,785,000	2,765,000
Construction (Public Law 81-815)	-9,245	6,000			
Grants to States for school library materials (ESEA II)	168,878	146,053	274,924	274,924	274,924
Strengthening State departments of education (ESEA V):					
Grants to States	269,677	269,677	271,088	271,098	310,107
Grants for special projects					
Acquisition of equipment and minor remodeling (NDEA III):					
Grants to States	257,968	118,824		59,825	262,720
Loans to nonprofit private schools	2,970				
State administration	13,333	13,333		13,333	13,333
Guidance, counseling, and testing (NDEA V)	55,921	50,000			67,609
Planning and evaluation		100,000	100,000	100,000	100,000
Subtotal, elementary and secondary education	5,222,197	5,206,144	3,072,856	5,230,465	6,528,783
Education for the handicapped:					
Preschool and school programs for the handicapped (ESEA VI)	100,000	100,000	101,537	200,000	200,000
Teacher education and recruitment	73,850				
Research and innovation					
Subtotal, education for the handicapped	173,850	100,000	101,537	200,000	200,000

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—STATE TABLES OF 1971 BUDGET ESTIMATES—Continued

OBLIGATIONS IN THE STATE OF NEW HAMPSHIRE—Continued

Program	1969 actual	1970 appropriation after 2-percent reduction	1971 amended request	House allowance	Senate allowance
OFFICE OF EDUCATION					
Vocational and adult education:					
Grants to States (pt. B)	$975,353	$1,058,551	$1,058,551	$1,230,632	$1,097,643
State advisory councils		31,068	31,068	31,068	31,068
Programs for students with special needs (pt. B)		58,485	58,485	68,817	68,817
Research and special project activities (pt. C)	26,550	15,000	246,673	230,561	119,221
Innovation (pt. D)		208,006			217,672
Consumer and homemaking education (pt. F)		51,592	51,592	60,206	86,039
Cooperative education (pt. G)		211,228	243,450	225,728	25,728
Work-study (pt. H)		13,850		17,923	17,923
Adult basic education (Adult Education Act):					
Grants to States	153,033	160,283	168,945	168,945	168,945
Special projects and teacher education					
Subtotal, vocational and adult education	1,154,936	1,808,063	1,858,764	2,033,880	2,033,056
Higher education:					
Student assistance:					
Educational opportunity grants (HEA IV-A)	656,280	[1] 259,748	[1] 330,599	[1] 256,011	[1] 330,599
Work-study and cooperative education (HEA IV-C)	766,819	484,432	514,123	508,982	559,879
Loans:					
Direct (NDEA II)	804,338	785,378	731,887	955,522	1,015,645
Insured:					
Advances for reserve funds					
Interest payments	35,014				
Special programs for the disadvantaged: Talent search					
Institutional assistance:					
Aid to land-grant colleges:					
Annual	161,480	164,432		150,935	164,432
Permanent	50,000	50,000	50,000	50,000	50,000
Strengthening developing institutions (HEA III)	215,000				
Language training and area studies	50,731				
Construction:					
Public community colleges and technical institutes (HEFA I—Sec. 103)		168,618			169,813
Other undergraduate facilities (HEFA I—Sec. 104)	835,235	105,932			105,932
Graduate facilities (HEFA II)					
State administration and planning (HEFA I—Sec. 105)	44,491	—61,000	57,148	57,148	57,148
Undergraduate instructional equipment (HEA VI-A)	61,584				59,689
College personnel development (NDEA IV; EPDA pt. E)	366,300				
Subtotal, higher education	4,047,272	2,079,540	1,683,757	1,978,598	2,513,137
Education professions development:					
Grants to States (EPDA B-2)	147,716	135,038	133,287	133,287	133,287
Personnel development programs	281,745				
Teacher Corps					
Subtotal, education professions development	429,461	135,038	133,287	133,287	133,287
Community education:					
Public libraries:					
Services:					
Grants to States (LSCA I)	199,116	181,596	181,596	199,116	199,116
Interlibrary cooperation (LSCA III)	40,537	40,537	40,537	40,537	40,537
State institutional library services (LSCA IV-A)	39,509	39,509	39,509	39,509	39,509
Library services for physically handicapped (LSCA IV-B)	25,047	25,047	25,047	25,047	25,047
Construction (LSCA II)	152,108	91,905		82,536	96,503
College library resources (HEA II-A)	117,971				
Librarian training (HEA II-B)					
Educational broadcasting facilities					
University community service programs (HEA I)	114,625	114,625		114,912	114,912
Subtotal, community education	688,913	493,219	286,689	501,657	515,624
Research and development:					
Educational laboratories					
Research and development centers					
Subtotal, research and development					
Civil rights education					
Total, Office of Education	11,716,629	9,822,004	7,136,890	10,077,887	11,923,887
Total, Office of Education, comparable basis [2]	10,514,434	9,822,004	7,136,890	10,077,887	11,923,887

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[1] Initial year awards only.

[2] The 1969 actual column shows obligations for project type programs where the State-by-State distribution cannot be predicted in advance, and therefore, is not shown in the 1970 and 1971 column. For this reason the 1969 comparable figure excludes obligations for project type programs.

"RAILROAD MANIPULATIONS," AN EDITORIAL IN THE SOUTH BEND TRIBUNE

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. BRADEMAS. Mr. Speaker, an excellent editorial concerning the present difficulties of the Penn Central Railroad was published on July 1, 1970, in the South Bend, Ind. Tribune.

The editorial follows:

RAILROAD MANIPULATIONS

The more questions that come to light concerning the Penn Central R.R.'s bankruptcy, the uneasier we feel, both about the future of its rail service in this area and about the financial manipulations behind the bankruptcy.

A thorough congressional investigation is needed into the Penn Central in particular and the railroad industry as a whole.

An effort to bail out Penn Central and other ailing railroads with a federal loan program of $750 million is being proposed in Congress.

Since this money would come out of the pockets of us taxpayers, we deserve a full report on the companies that want to borrow it. There is a strong suspicion that some of it never would be repaid.

It was the railroad subsidiary of the overall Penn Central Co. that declared bankruptcy, not the master company. The latter has many lucrative investments in other fields, including ownership of several large office buildings in midtown Manhattan. Total assets of Penn Central are estimated around $7 billion.

The public should be told about the intricate bookkeeping and fund transfer operations involving relationships between the bankrupt railroad operation and the company's other possessions. Also, light should be shed on the complex financing arrangements between Penn Central and 77 of the country's large banks.

Penn Central isn't the only railroad that needs scrutiny. Others have been playing the conglomerate game, too. The Interstate Commerce Commission is investigating the Kansas City Southern Railway Co., which ICC staff documents assert is using assets from its transportation business to purchase unrelated companies.

On the level of passenger service, where operations are most visible to the public, more questions arise. Penn Central does everything it can to discourage passengers from riding its trains, then seeks to cancel the trains because they aren't patronized.

Yet Santa Fe trains between Chicago and Los Angeles are running so full in summer that at times every seat is sold out in advance. Trips are fast and service is as good as it was 20 years ago. How can these contrasts be explained?

An important issue of principle arises when Congress proposes to make huge loans of public money to assist floundering private companies. The problems of principle are complicated by grave doubts about the safety of the loans.

Before Congress agrees to underwrite any railroads, it should give their affairs a thorough airing. We may learn surprising things.

LET'S FINISH THE JOB

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. RHODES. Mr. Speaker, we have heard much of late from the National Democratic Chairman about the shortcomings of the Nixon administration. He even had the courage, if that is the right word, and I doubt it, to castigate the President for not dealing adequately with inflation. And this at a time when his own party members in Congress are adding new spending to the Nixon budget almost daily—thus adding fresh fuel to the inflationary fires. Aside from this, the majority Members seem to be suffering from a kind of legislative paralysis. This is pointed out clearly in an editorial from the current issue of the Republican Congressional Committee's weekly Newsletter, which I submit for inclusion in the RECORD.

LET'S FINISH THE JOB

In the Book of Common Prayer, a line goes: 'We have left undone those things which we ought to have done; and we have done those things which we ought not to have done."

These words are an apt description of the Democratic majority in this 91st Congress. And they are a reminder to the voters of this vast land that the elections in November are an opportunity to complete a task of changeover in Government that they began two years ago. In 1968, the American public voted for a change—for new directions, new leadership, new programs and new approaches. They're not getting it under the divided system in Washington. Congressional Democrats, in their efforts to undermine the President, are failing the people.

Even the mechanics of Government seem to be too much for the lackadaisical Democrats who are now running the dilatory 91st Congress. Federal funding last year was a mess. Localities dependent on Federal programs suffered delays and setbacks as Congress shirked its responsibility and failed to clear appropriations measures until the fiscal year was nearly half over. The record this year is a replay. The 1971 fiscal year started on July 1 without a single appropriations bill enacted.

There's a big job ahead for the Nixon Administration and the Congress working together. The 1970's must be the "work decade" for our Government, when mistakes of the past are corrected, present problems tackled with sound programs, and future ones warded off by corrective action and far-sighted legislation.

The Democrats obviously aren't up to the job. The public has the chance in November to replace the footdraggers in Congress with a hard-hitting, functioning team of Republicans who will work with the President—not against him.

The Nation needs responsive and responsible Government—both at the Executive and the legislative levels. The place to start is at the polls.

AT LEAST DON'T HELP THE BEAR!

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. COLLIER. Mr. Speaker, as we once again observe Captive Nations Week, one undeniable fact stares us in the face. Millions of people have come to the United States from countries behind the Iron Curtain, while hardly anyone has left America and started life anew in any part of the Soviet Empire.

The 1960 census of population revealed that 19 percent of our inhabitants were of foreign stock. Of the 179,323,175 people residing in the 50 States plus the District of Columbia, 34,050,354 were either foreign born or had at least one parent of foreign birth. The figures for 1970, which are now being compiled, will probably not show great percentage changes.

These figures do not include millions of other people who are the descendants of immigrants who came to this country to escape earlier tyrannies and such economic disasters as the potato famine in Ireland. Whether Americans of foreign descent arrived during the last half century or earlier, or whether they came from one side of the Iron Curtain or the other, they made the long journey to America in order to breathe the precious air of freedom, to enjoy our seemingly boundless God-given material resources, and to avail themselves of the opportunities offered under the free enterprise system.

Let us take a closer look at the census figures. We find that millions of our fellow-Americans came here from the captive nations—Poland, Czechoslovakia, Hungary, Yugoslavia, Lithuania, Romania, China, Latvia, Estonia, East Germany, Bulgaria, North Korea, Albania, North Vietnam, and Cuba. Millions of others came from the country that was the first victim of the Communist terror, Russia itself, including those who left Ukraine, White Ruthenia, Armenia, Azerbaijan, Georgia, Idel-Ural, Cossackia, and Turkestan. Still other millions left Fascist Italy and National Socialist Germany.

Mr. Speaker, I do not believe that the people who came here as refugees from communism, national socialism, and fascism are the ones who incessantly downgrade our nation by ignoring our successes and exaggerating our failures and shortcomings. They are not the ones who shout from the housetops that America is a poverty-stricken, crime-ridden, and polluted nation, saturated with hate, and that its leaders are oblivious to the sufferings and the needs of the hungry, the ill, and the aged.

They are too busy working to support their families, bring up their children to fear God and love America, and serve their communities in numerous constructive ways and they simply do not have time to waste on the denigration of America. Many of them fought for our Nation in wartime and they will continue to serve it in the days of peace that we hope and pray will soon be here.

Mr. Speaker, at the present time, when we are concentrating upon an honorable extrication from our entanglement in Southeast Asia, not much can be done in a positive way to remove the shackles of Communist enslavement from the billion or more people who dwell behind the Iron Curtain. There is, however, much that we can do in a negative way.

We can ignore the childish drivel that tells us that the Communists are mellowing. We can quit paying attention to those who advocate so-called cultural exchanges. We can stop shipping strategic materials to our enemies, bearing in mind that all useful materials are strategic when there is a war on.

Let us remember the old story about the clergyman who took refuge from a hungry bear by climbing a tree. In his petition for help, the preacher asked the Almighty that, if He could not help him, the preacher, "at least, don't help the bear!"

TESTS FOR DRUNKENNESS

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. ROBISON. Mr. Speaker, in the July 2, 1970 edition of the Christian Science Monitor there appears an article dealing with drunk drivers. This particular article tells of the efforts of States to implement drunk driving tests—commonly breathalyzers—and the success of those efforts. As one reads through the article he must be impressed with the variations in policy that are found from one State to another—both as to the requirement that tests be taken and the percentage of alcohol deemed to be intoxicating.

I offer this article for the consideration of my colleagues in the hope that a solution can be found to stop this senseless slaughter on our highways.

TESTS FOR DRUNKENNESS: THERE OUGHT TO BE A LAW—THAT WORKS!

(By Guy Halverson)

(NOTE.—The drunk driver—killer of 28,000 Americans a year—won't be curbed until state laws both enforce breath tests on drinking drivers and set stiff upper limits on the alcohol content in the blood, safety experts say. So far only about half of the states have adequate laws.)

NEW ORLEANS.—"I won't take it. Go away," he shouted angrily, thrusting a clenched fist toward the startled policewoman.

The tall, emaciated looking man, his shabby clothes caked with dirt and grease, reeked with the smell of alcohol—and he was in serious trouble. In front of him at the main lockup of the New Orleans Police Department was a breathalyzer machine, used by most law-enforcement agencies to measure a person's blood-alcohol level.

The man had been apprehended earlier in the evening careening at a high rate of speed the wrong direction down a one-way street.

But fortunately for the public, Louisiana has an "implied consent" statute. This means in effect that when a person takes out an operator's license, he consents to take a chemical test (blood, urine, or breath), if arrested for drunk driving. If he refuses, which is the suspect's choice, his license can be suspended. Louisiana also has a statute defining what constitutes a "presumptive blood level of intoxication"—in the case of this state, .10 percent.

The same kind of crusading zeal, safety experts say, that marked the federal government's routing of cigarette advertising from airwaves is needed to badger states into adopting the stiffest possible presumptive blood-level laws.

AMERICAN HODGEPODGE

Because this man, barely able to stand and obviously intoxicated, refused to take the breathalyzer test, he lost his driver's license. Theoretically, at least, that meant a major victory in the war against the drunk driver.

But such victories, one quickly learns after traveling throughout the United States, are neither common nor uniform. Indeed, the United States is a hodgepodge of laws and practices when it comes to the drunk driver, depending upon just which state you are in and which patrolman you happen to encounter.

Take what happened not so long ago in neighboring Mississippi. A police officer, looking in his rear-view mirror, notices a car apparently hurtling along behind him at a high rate of speed. As the officer slackens his speed, the approaching car does the same. After the vehicle is abreast, the officer pulls the vehicle to the side of the road and finds an attractive, articulate young woman behind the wheel. She is fully composed, although he notices that she seems a bit tired. Finding nothing technically wrong, he warns her against speeding and allows her to drive off.

Ten minutes later, away from the officer, the young woman, who in fact is intoxicated, as a breathalyzer test would have indicated, accelerates until she is whirling along at more than 90 miles an hour. She can barely see the highway or keep her eyes open.

She becomes a casualty in a major accident.

Unlike Louisiana, Mississippi has neither a "presumptive level of intoxication" nor an implied-consent statute. Because of this, the officer was reluctant to arrest the woman based on her appearance alone. Yet an arrest might have prevented the accident.

Though Louisiana and Mississippi each share a common border, they are in fact at two opposite ends of the pole when it comes to highway-safety legislation. On a time scale, Louisiana is in the present. Mississippi's approach, it must be reluctantly acknowledged, is still somewhere in the mid-1940's, as are too many other states.

There is no question but that implied-consent laws and statutory levels of intoxication are significant first steps in curtailing the mounting death rate on our nation's battle-scarred highways. That war is very real. Last year, drunk drivers killed more than 28,000 Americans, (more than all U.S. servicemen killed in Vietnam the same year), caused over 800,000 accidents, and rang up economic losses estimated at $8 billion.

STATES WITHOUT STATUTES

Highway-safety experts are in almost total agreement that if the death rate is to be significantly reduced, anti-drunk-driver legislation at the state level must be drastically tightened and upgraded—as well as standardized throughout the nation.

Four states—Illinois, Mississippi, Montana, Wyoming—and the District of Columbia still have no implied-consent statutes.

Three states—Texas, New Mexico, and Mississippi—still have no presumptive level of intoxication. In some 21 states and the District of Columbia, moreover, the presumptive level is set far too high—at .15 percent—equivalent to about eight shots of 80-proof whiskey or eight 12-ounce bottles of beer for the average adult male.

In a number of states with .10 percent presumptive levels, the law needs to be strengthened so that the .10 percent figure is an automatic, no-nonsense, cut-off point, punishable by fine and jail conviction. In Minnesota, for example, the current law says only that .10 *may* be prima facie evidence of being "under the influence."

At the same time, many safety authorities insist that the United States desperately needs to follow the European lead and adopt highway prearrest driver breath tests. Prearrest screening, however, has triggered a score of constitutional doubts.

For years the only way that a patrolman could identify a drunk driver was by some type of objective personal evaluation, such as observing erratic driving patterns, slurred speech or flushed face, or requiring the driver to "walk a straight line." But such tests, it is well known by policing agencies, are highly unreliable.

Ex-alcoholics, in fact, usually scoff outright at such objective criteria. One New York businessman, a recovered alcoholic, recollects that he escaped detection from a large cluster of patrolmen because they thought he was under shock from an accident, rather than drunk, as he was. "I had driven my car into the town pound, yet, still no police check for alcohol! Can you imagine that?" he says. "The water snapped me back to a facade of 'instant sobriety.' Had the police required a chemical test, they would have seen how drunk I was."

"A police officer on patrol may see a car weaving and it's obvious that something is wrong," says Dr. Robert F. Borkenstein, chairman of the Indiana University Department of Forensic Studies and a leading developer of the police breathalyzer. "But most courts demand clear-cut evidence of intoxication before they'll consider conviction.

"We know that many drinking drivers do not show evidence of drinking. They may only show aggressiveness, which, of course, can have other causes. So mere aggressive driving, plus mild personality changes in an individual whom an officer doesn't know, just usually are not enough to convey to a court the information needed to convict. The police, in effect, are saddled with using crude arrest criteria developed a generation back."

EUROPEAN LEVELS

In sharp contrast to the United States, most European nations have long held that a certain level of alcohol in the blood constituted a highway violation, no matter how correct one's driving habits. In East Europe the figure is very stiff, "satisfied by a mere sniff," laughs one North American police official. Poland, Norway and Sweden early set the level at .05 percent, Switzerland and Austria at .08 percent, Denmark at .10 percent. During Austria's first year at the .08 level, accidents plummeted 25 percent.

Canada, Great Britain, and Australia have also set the level at .08 percent.

In 1967 the British passed the landmark Road Safety Act, considered to be perhaps the most important single piece of highway safety legislation in the world. The act defined .08 percent as the presumptive level of intoxication and established fines and imprisonment, as well as possible license revocation, for offenders. More significantly, the act authorized prearrest chemical tests.

If a British policeman has reasonable cause to believe that a motorist is under the influence of liquor, has committed a moving violation, or if the driver is in some type of accident, the policeman considering arrest can request that the motorist take a breath test on the highway. The driver can refuse, subject to a possible fine. If the test registers positive the motorist is then arrested and taken to a station house where he is given the more formal breathalyzer test—the type administered in the United States only after arrest.

The British prearrest test cannot be used as court evidence.

Despite an initial outcry from civil libertarians and liquor interest (who feared a loss of business from the new law) public opinion quickly lined up behind the Road Act. Casualties dropped sharply, and some evidence suggests that the act has reduced the tendency to drink and then drive.

Chemical testing in the United States, though practiced for several decades, was given a great boost by the Highway Safety Act of 1966. The Safety Act authorized by the National Highway Safety Bureau to post federal standards for state highway programs. The federal standards call for passage of both implied-consent statutes and a .10 percent presumptive level of intoxication. The Uniform Vehicle Code, complied with by about two-thirds of all states, also calls for the .10 percent level.

While more than half the states have scrambled on the bandwagon to adopt implied-consent statutes during the past three years because of concerted federal pressures, most have poked, rather than gallopped into action, when it comes to the presumptive levels.

"Many legislatures just have no conception what these percent figures mean in lives lost," says a specialist from the Northwestern University Traffic Institute. "Tell them that you're 25 times more likely to have an accident at the .15 level than at the lower European limit and they just shrug their shoulders."

By early 1970, only one state, Utah, had adopted the .08 European level. Roughly half the states were above the federal standard of .10 or had no statutory level at all. Sensing a coming public revulsion against the drunk driver, nevertheless, a number of organizations, including the National Safety Council and its affiliated chapters, and private insurance companies, are hammering together expensive television and radio campaigns for more comprehensive legislation at the state level.

Intense lobbying is expected in a score of states in the upcoming 1971 legislative sessions. In Michigan, for example, a strong campaign is already being mounted through billboards and ads to slash the presumptive level from the present .15 to .10 percent, as well as enact legislation requiring mandatory blood tests on all victims of fatal accidents and all drivers who survive accidents.

ACCIDENT RATE DECLINED

A bill supported by Gov. William G. Milliken has passed the Senate but is jammed up in House committee partly because of backstage opposition of the liquor industry.

In addition, a number of legislatures, including Minnesota, Michigan, and California, are mulling some type of prearrest testing along the lines of the British Road Act. Such testing was enacted late last year in New York State and the city of Baton Rouge, La.

Under the Baton Rouge experiment, undertaken in cooperation with the Insurance Institute for Highway Safety, the city can levy a 60-day jail sentence and a $200 fine against any motorist believed drunk who refuses to take a road breathalizer test. More than 232 people have been evaluated as of this writing, and the largest chunk of them have registered positive. Though it is still too early to gauge results, local Baton Rouge police note that the December accident rate, traditionally high, scored a major decline.

In spite of the Baton Rouge and New York State experiments, however, a number of legal doubts persist about pretesting, including possible violations of Fourth Amendment protections against unreasonable search and seizure. Fifth Amendment guarantees against self-incrimination, and abridgement of the due-process clause of the 14th Amendment.

Advocates of testing before arrest argue the practice is merely a scientific replacement of the traditional roadside sobriety checks, such as picking up a coin, and shouldn't be viewed as "illegal searches."

PORTABLE UNITS URGED

To underscore this contention, advocates note that state courts have gradually liberalized many police powers on the highway until today an officer, among other things, can request a license check, use a roadblock for a license check, and even require that a vehicle be weighed to see if it meets legal road allowances. Thus, pretesting, they reason, is the next logical step in the arrest process.

Whatever the eventual legal outcome on pre-arrest testing, which will most likely be resolved only after a Supreme Court decision, a number of safety experts, including Indiana University's Dr. Borkenstein, believe that development of small, portable chemical testing units opens up one of the most important and unexplored new areas in the war against the drunk driver.

Dr. Borkenstein maintains that if self-testing devices can be universally distributed, such as in retail outlets or taverns, then not only can the drinking public be shown when they are approaching the "danger level," but at the same time, a new, massive coalition of social drinkers (most of whom seldom reach the statutory presumptive levels), plus abstainers will be created that would swing behind strong legislative sanctions.

"We could make deviant drivers a virtual outgroup, against which could be rallied tremendous social pressures. That's something that just isn't happening now," says Dr. Borkenstein.

LICENSE—TO DRINK?

All but four states and the District of Columbia have "implied consent laws," which in effect mean a person who takes out a license to drive also consents to take a chemical test if arrested for drunk driving. But unless the legal "presumptive level"—blood-alcohol level indicating intoxication—is down to .10 percent, the consent laws lose meaning. Research shows that probability of accidents multiplies rapidly above this level. Only 25 states have the .10 percent level. Utah has a more ideal low of .08 percent. Three states, however, have no presumptive level whatsoever.

IMPORT QUOTAS AND PRICES

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. DUNCAN. Mr. Speaker, on July 6 Mr. O. R. Strackbein, president of the Nation-Wide Committee on Import-Export Policy, delivered a good review on prices and import quotas. I would like very much to call attention to this timely report and include it at this point in the RECORD:

IMPORT QUOTAS AND PRICES

(A Review by O. R. Strackbein, president, the Nation-Wide Committee on Import-Export Policy, July 6, 1970)

A constant pattern of comment tells us that import quotas will raise domestic prices of the products that are the subject of such quotas.

It should be possible to test the soundness of this unsubstantiated theory. To do so we should trace the wholesale price trends of products that are "protected" by import quotas compared with this price trend in general and the price on particular products that are not so "protected."

PETROLEUM

A favorite whipping boy is oil, or petroleum. An import quota was established in 1958, first on a voluntary basis, followed by a mandatory quota, effective March 1959.

The wholesale price of refined petroleum products expressed in an index form, where 1957–59 equals 100 had risen to only 100.3 in 1968 and 101.8 in 1969. A very recent rise carried the level to 104.2 in May 1970.

This compared with an index for all commodities, where 1957–59 again is 100, of 108.8 in 1968, 113.0 in 1969 and 116.8 for May 1970.

"All commodities," of course, include those on which we have import quotas. Therefore it will be desirable to compare the refined petroleum price level with that of other products that are not subject to an import quota. If we select another fuel, namely, coal which has no import quota and should therefore not be free to move upward in price because it is not "protected," we find a sharp contrast. The wholesale price index had reached 107.1 in 1967, rose to 116.2 in 1969 and zoomed to 146.9 in May 1970.

Surely if there were an import quota on coal, the quota would be blamed for this runaway price. Obviously other factors were at work.

We find, in other words, that the wholesale price of refined petroleum increased distinctly less than wholesale prices of all commodities and very much less than the price of its competing energy fuel, namely, coal. (For confirmation, see Survey of Current Business, U.S. Department of Commerce, June 1970, p. S–8.)

COTTON TEXTILES

Another product that is the subject of an import quota or its equivalent is cotton textiles. An arrangement was made with Japan alone, effective January 1, 1957, whereby that country restricted its cotton textile exports to this country. This arrangement was superseded October 1, 1961, with the so-called Long-Term Arrangement negotiated under GATT. This arrangement covered some 30 countries and about 90% of our total cotton textile imports.

The wholesale price of cotton products (1957–59 equaling 100) was 105.2 in 1968. In 1969 it remained at 105.2 and in May 1970 stood at 105.8.

Once more we encounter a very moderate price rise compared with the general commodity wholesale price-level, which, as we saw, had risen to 116.8 in May 1970. (Reference: same, p. S–9.)

Wool products, which are *not* under quota restrictions, had an index level of 103.7 in 1968, compared with 105.2 for cotton products or only 1.5 below cotton products. The index rose to 104.6 in 1969 but fell to 103.8 by May 1970. It thus stood only 0.1 higher in May 1970 than in 1968. In the case of cotton products the increase from 1968 to May 1970 was only 0.6. Thus there was little to choose between the wholesale price movement in cotton and woolen products. Yet the one was under an import quota or its equivalent while the other was not.

In the case of man-made fiber textile products there was a decline in wholesale prices since 1957–59, accounted for by increased productivity. The index stood at 90.8 in 1968 and moved lower to 89.5 in May 1970.

The downward trend of man-made fiber textile products has been of longstanding. Measured on the 1947–59 base, as compared with the 1957–59 base as used here, the wholesale price in 1959 had already declined to 81.1. This was before imports reached a significant volume. Thus the further price decline on the 1957–59 base to 89.5 in 1970 merely represented a continuation of the cost reduction process that had already dropped prices in the decade of 1949–59 by nearly 20%. (Survey of Current Business, October 1961, p. S–8.)

There is nothing in this record to show that the price of cotton textiles rose as a result of the import limitation. In any event the price increase through May 1970 was comparatively modest, lagging distinctly behind the general commodity wholesale price index.

In a pamphlet recently issued by the United States-Japan Trade Council it is asserted (p. 10) that "Textile Quotas Would Have Slight Benefit but Very High Cost."

"In sum," it says, "proposed textile quotas would be enormously costly to the United States.

"Quotas would accelerate inflation, raising clothing prices to consumers.

"They would boomerang against U.S. export sales and harm the economies of port cities."

Against this cry of alarm, the wholesale price trend of cotton textiles of the past ten years while these products have been under import limitation, stands as a complete rebuttal.

SUGAR

Yet another product that is under import quota control is sugar. This quota has been in effect antedating World War II.

In 1955 the retail price of sugar was 10.4c per lb. Ten years later (1965) the price was 11.8c. In 1968 the price was 12.5c. In 1969 it was 12.7c and in April 1970 it was 13.4c. In 15 years the retail price increased only 28.8%. (Statistical Abstract of the U.S., 1969, Table 512, p. 350; and Survey of Current Business, June 1970, p. S–29.) Compare this increase in retail sugar prices since 1955 with the all-consumer price increase of 34.6% on the 1957–59 base, a period during which all food prices rose 32.4%—also a period during which public transportation cost rose 66.6%, medical care 63.6%. Keeping in mind that 1955, the base of our retail sugar price, antedated the index base of 1957–59 by several years, it is clear that the consumer paid distinctly less for sugar in terms of price increase than he paid for consumer goods in general, or for food in general, and much less than for transportation and medical care which were not pinched in point of supply by an import quota.

It follows that the sugar quota also cannot be used to demonstrate that import quotas raise prices unreasonably, or even as much as the rise in other prices.

WHEAT

Wheat is under a severe import restriction that permits less than 1% of domestic production to be imported, in pursuance of a limitation imposed under Sec. 22 of the Agricultural Adjustment Act in 1941.

The price of wheat (hard winter, No. 2, Kansas City) has fallen quite sharply in recent years. The price per bushel was $2.22 in 1950. In 1955 the price was $2.25. By 1960 the price had dropped to $2.00. In 1968 it had sunk to $1.46 per bushel, and in May 1970 it was $1.53.

Corn is not the subject of an import quota. The 1950 price, (yellow, No. 2, Chicago) was $1.50 per bushel. In 1955 the price was down to $1.41. The decline, as in the case of wheat, continued. In 1960 it stood at $1.15; in 1968 it was $1.14 and in May 1970 it was $1.30 (yellow, No. 3, Chicago. The difference from No. 2 is very slight, as note, that in 1968 the price of No. 2 in Chicago was $1.14 while that of No. 3 was $1.11). (See Statistical Abstract of the U.S., 1969, Table 504, p. 343; and Survey of Current Business, June 1970, p. S–27).

Comparing the price trend in wheat with that in corn we find that from 1950 to May 1970 the price of wheat dropped 31% while that of corn dropped only 13%. Yet it was wheat and not corn that was "protected" by an import quota. The wheat price dropped over twice as much in the 20 years as the price of corn.

Since 1960 the price of wheat dropped from $2.00 per bushel to $1.58 in May 1970, a decline of 23%. The price of corn, by contrast, rose from $1.15 per bushel in 1960 to $1.30 in May 1970. This was an increase of 13%. Thus while the price of the "protected" wheat dropped 23%, that of corn which was not under an import quota, rose 13%.

In comparison with other commodities the price of both wheat and corn has dropped while the other prices rose rather sharply, especially in recent years.

RAW COTTON

The price of raw cotton has also declined. The decline was greater than that of wheat and corn, dropping from some 36¢ per lb. to some 22¢, or by more than 38%. Yet raw cotton imports are limited under Sec. 22 of the Agricultural Adjustment Act to a quantity less than 5% of domestic production. (Statistical Abstract of the U.S., 1969, Table 505, p. 344.) (There is some difficulty in reconciling the Statistical Abstract prices with those in the Survey of Current Business, but the discrepancy is not sufficient to destroy the value of the comparisons).

DAIRY PRODUCTS

With a base of 1957–59 equaling 100, the wholesale price index of dairy products stood at 94.0 in 1955, at 105.0 in 1960. In recent years the price rose to 118.5 in 1966, to 127.7 in 1968 and on to 135.4 in May 1970. This was an increase of 29% since 1960, and compares with an increase since 1960 of 18.6% in wholesale price of "Farm Products, Foods and Feeds," which, of course, includes grains, on which the price, as we have seen, dropped considerably.

Dairy products enjoy an import limitation under Sec. 22 of the Agricultural Adjustment Act, and the price increase has outpaced that of other farm products, as mentioned, but did not outpace wholesale prices of many other products. Dairying has declined quite sharply per capita. Milk produced on farms was less than 1% higher in 1968 than in 1950, despite the considerable increase in population. The number of cows and heifers kept for milk declined by more than 40%. Unquestionably these factors have influenced the price of dairy products much more than the import quota.

The wholesale price of agricultural machinery and equipment on an index base of 100 for 1957–59 rose to 137.4 by May 1970. There is no import quota on this machinery and equipment. Moreover, agricultural implements are duty free! If imports exert such a salutary effect on prices the effect must have failed in this instance.

CONCLUSION

The foregoing recitation can leave little doubt that import quotas have not led to higher prices; indeed, quite the opposite. With the exception of dairy products, with respect to which other powerful factors, such as the public acceptance of oleomargarine, played a large part, the prices on products that are "protected" by import quotas have lagged distinctly behind average prices and far behind prices on some other products that were under no import quota limitation.

The cry that the imposition of import quotas would be costly to consumers is unfounded, and those who continue to raise the cry are guilty of misleading the public.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

FOURTH OF JULY ADDRESS BY DR. RAMÓN MELLADO, SECRETARY OF EDUCATION OF PUERTO RICO

HON. JORGE L. CÓRDOVA

RESIDENT COMMISSIONER FROM PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. CÓRDOVA. Mr. Speaker, as principal speaker during traditional Fourth of July celebrations in San Juan, Dr. Ramón Mellado, Secretary of Education of Puerto Rico, delivered a magnificent address. In his scholarly approach to one of the most coveted treasures of man, Dr. Mellado examines the freedoms which inspired the Founding Fathers to adopt them as a way of life and how these same freedoms have worked within the political institutions in Puerto Rico, and finally how these freedoms may be expanded in the future to better the lives of all concerned in our island community.

Because of the depth of Dr. Mellado's observations and because of the practicability of his message, I commend his address for reading by our colleagues.

The address follows:

ADDRESS BY DR. RAMÓN MELLADO

It is for me a high honor to address the people of Puerto Rico, on the occasion of commemorating the anniversary of the Declaration of Independence of the United States of America. Furthermore, it is for me a source of satisfaction and pride that the theme chosen for this anniversary has been Puerto Rican education. On behalf of all teachers and students of the public and private schools of our island, I thank the organizers of this act for the distinction bestowed upon us.

After all, the great goals for human life announced to the world in the Declaration of Independence can only be achieved through that marvellous process of formation of men and peoples, called education.

Today, as we remember the Founding Fathers of the North American Republic, their life ideals and their great and demonstrated interest in education, I will present to you the great responsibilities contracted by our government, especially through its education organs, in the realization of our historic destiny as a people.

One of the great goals of our collective effort and our education, should be social justice, which is nothing else but the establishment of the essential human dignity: that all Puerto Ricans may have a way open in life to make their hopes become a reality.

At the theoretical level, at the level of ideal norms of behavior, there are not dissident criteria concerning this fundamental right of man. All opinions seem to coincide in the appreciation and respect of the essential equality of the human being. However, that coincidence of criteria is not always revealed at the level of practical life, at the level of the actual standards of behavior. The constitutional provisions on human equality are often times only verbalisms which are not translated into reality, at least for a considerable part of the population.

In Puerto Rico, a small country of very limited natural resources, but inhabited by hard working, courageous people, we have been trying for some decades to make the dream of essential human equality and of social justice come true. With our own effort, and taking advantage of the favorable circumstances of our political union with the United States, we have already taken significant steps in that direction.

The government of the island, through an ambitious incentive program, has in large measure accomplished the industrialization of our economy, thus creating new sources of employment for the increasing population. For its part, the Federal Government annually pours into Puerto Rico large sums of money which significantly increase our income.

The open doors of the American market for our products, and the free movement to the mainland which we enjoy as American citizens, have been determining factors for the success of our program of social justice. Our per capita income and our family income have increased notably, and as a consequence our living standards are much higher. There is no doubt that we live now better than before and we have achieved a higher degree of social justice and human equality.

We have not achieved our goal, we are only half way there, but we are satisfied and proud of the success achieved. During the last year, in spite of the uncertainties which have prevailed in the American economy, the progress of Puerto Rico has been evident. Economic activity has maintained a growth rhythm analogous to that of previous years.

There is something we should have done, and did not, while transforming our economy from agricultural to industrial. I mean the reform of the educational system, to adapt it to the needs of this transformation. In Puerto Rico we have maintained an educational system with an exaggerated academic and verbalist slant, whereas the changes in our economy demand a diversified occupational orientation, with emphasis on science and technology: We have also maintained a public school system which has been very ineffective in the acquisition of knowledge. Both tendencies are, in the long run, contrary to the establishment of essential human equality. The exaggeration of the academic, with the consequent neglect of vocational and technical education, tends to overlook and disregard the less fortunate, and to establish irritating hierarchies in occupations. The weakening of the standards of proficiency in state schools, attended by the non-affluent students, is also disadvantageous for those who cannot pay for a better type of education in private schools.

Fortunately we have begun the transformation of our educational system, which was mainly organized to serve an agrarian and static society, with privileged socioeconomic groups, into a system more suited to our modern, industrialized and democratic society.

The Department of Public Education has established three priorities to adapt our school system to our times, and to provide social justice for all Puerto Ricans. These priorities are: the massive expansion of facilities for vocational and technical education; help for those youngsters who are out of school and of a job; and the improvement of the quality of teaching at all levels, to achieve the highest possible output.

During the current year new schools have been opened, new vocational and technical programs have been established. In four or six more years, if we can carry out our plans as designed, Puerto Rico will have a network of educational centers to take care of the occupational demands of our youngsters. The goal should be that each individual in the island have a decent way of earning a living, and that all decent ways of earning a living have the same prestige and recognition.

To take care of all youngsters from 16 to 21 years old, unemployed and out of school, the Department of Education has maintained during the current year six study and work centers, will inaugurate a seventh in August, and will build six or eight more in the next four years. It also offers short-term vocational courses to approximately 18,000 students. It is our objective to put an end to that indefensible paradox of having from 60 to 70 thousand unemployed youths, and having an equal number of positions, in fact or potentially vacant, due to a lack of trained personnel.

To achieve quality in education and to master knowledge, we are gradually eliminating in all schools the educational rationing which we have suffered in recent decades. Among the projects to be started in the new school term beginning this coming August, there is one to increase graduation requirements in all high schools. Those classes starting in 1970 will be offered an additional year of study in Spanish, English, and mathematics or natural sciences. We will demand from students in our high schools the same requirements as in the good private schools of Puerto Rico, and the good private and public schools in the United States. After all, students in our public schools should receive top quality education, as good as any to be offered in any public or private school. I assure all the people of Puerto Rico that this measure has been taken after careful analysis of the situation. It is necessary to duly prepare students so that they may succeed in their college and technological studies; it is necessary to train them well in the trades and short careers, so that they may succeed in their employment; it is necessary to train them well so that they can carry out all those tasks that they will have to perform in life. Studious and dedicated students will have no difficulty in graduating in three years, as they have been doing heretofore.

Social justice and essential human equality, which are the basis of democratic life, may be fully attained in Puerto Rico if we dedicate ourselves to the achievement of an educational system which provides for all the inhabitants of this island the broadest opportunities for the development of their capacities, and particularly of their minds. The program is already outlined, and we are developing it. I am sure that the government of Puerto Rico will provide all the funds needed to instrument it. If resources are lacking, we must not stop the program; we must make those who have more pay for the education of those who have less. The latter, through education, will be able to augment their income, and equality will be gradually achieved.

What is really implied in the concepts of social justice and human equality is that man is an end in himself, not an instrument; that the value of man is based on what he is, and not on what can be done with him. But before man ceases to be the instrument of other men, he must first be educated, and educated well, so that he may be able to establish his own worth.

Another goal of our collective effort and of education, must be freedom. The Declaration of Independence considers freedom one of the natural rights of man. The Constitution of the United States proclaims it and ordains the juridical structures that make it possible in the states of the Union and, in a limited sense, in Puerto Rico. The Constitution of the Commonwealth instruments it, to the limits permitted by Public Law 600, which furnished its legal foundation. The people of our island desire it, as do all human beings who know it.

Freedom is intimately related to education and to essential human equality. Within a constitutional structure making it possible, true freedom is arrived at by way of intelligence; and intelligence, or its promotion and improvement, is arrived at by way of education. In Puerto Rico, to fully achieve freedom, it is necessary to improve the constitutional structures of our government and the ways of education.

Freedom is no mere abstraction. It is a living reality. It is measured by its practical consequences in human experience. It supposes a certain degree of confidence in the capacity of man to orient himself in life; which confidence and capacity increase with the development of intelligence.

The problem of freedom in Puerto Rico must be examined within the context of our complete reality as a people. Political freedom is only one facet of the general problem of our freedom. There are also other aspects, such as economic and cultural freedom. To focus all our attention on only one aspect of freedom and forget the other two is, to say the least, a mistake. But it is a mistake that can be made, to the grievous damage of the future of Puerto Rico.

When one enjoys a favorable economic position and all the comforts of life, it is easy to think about political freedom and to forget about economic security, because it has been already achieved.

In the extreme poverty zones of our island, where the hard realities of life are experienced, our daily bread, clothing, lodging, health and schooling constitute the main concern. To some intellectuals of the communist world, who must necessarily follow the Marxist line in the order of thought or aesthetic creation, cultural freedom is the main need. Cultural freedom is also needed by those who have voluntarily imprisoned themselves in any particular ideology, and who refuse to consider any other points of view.

The problem of our freedom is linked with that of our relations with the United States. Because the people of Puerto Rico have resolved clearly and definitively to establish a permanent political union with the federation of American States, let us examine the problem of our freedom in the light of the implications of this union.

Puerto Rico is a community with its own culture and its own personality. Its vernacular is, and will continue to be Spanish. During all of the twentieth century our island has been the stage for an intense process of transculturation. During the first decades of the century there was an attempt, on the part of some Commissioners of Education, to Americanize the Puerto Ricans. Assimilation was unsuccessfully attempted. This attempt was possible because the Foraker and the Jones Acts placed our educational system in the hands of Commissioners of Education appointed by the President of the United States. As soon as the Constitution of the Commonwealth was approved, public instruction came to be a responsibility of the Puerto Ricans, just as it is in the Union the responsibility of each state. Since then there has been complete cultural freedom in our island; this means that we have complete freedom to adopt the decisions we believe most convenient in the process of transculturation which is taking place here. We adopt the patterns of behavior that are convenient, or that we believe convenient, and the criterion of convenience alone guides us in this process.

When decisions on cultural change are voluntary, as they are with us, the integration of new patterns in the personality structure is guaranteed, without harming it. On the contrary, a culture—ours in this case—is enriched with the influences and contributions of other cultures, when these are not imposed but are spontaneously received and accepted. This has always been so, historically, and will continue to be so. In Puerto Rico no one is Americanizing anybody and no one is assimilating anybody. What happens here is that our culture directs itself inevitably toward achieving a way of being different from that we had in 1900. That way of being, besides being different, will also be better and it will be Puerto Rican because it will be the product of our own decisions.

If Puerto Rico should continue to be a commonwealth it would have its cultural freedom assured. If it should join the Union as a state, the same would be true. The federation of states established by the Constitution has the objective of reaffirming the concept of individual freedom and at the same time extending it to broader social units. The purpose of the federation is to maintain the unity as well as the diversity of the stages, through a process of mutual adaptation. The federation maintains a national cohesion on the basis of loyalty to the ideals implicit in the Declaration of Independence and in the federal Constitution, which does not destroy the independent life of the parts that form it, but rather reaffirm it. If Puerto Rico were to be admitted to the federation, it would not only be one more state, but it would also be a different state. The federation guarantees the states their freedom for local action at the same time that it maintains national unity. To insure the integrity of each of the units composing the federation, the federal Constitution deposits total authority for the educational function in the states. Each state has thus the legal means to perpetuate its own culture; that is, its own way of being, insofar as a culture and a way of being can be perpetuated in our world of today, where cultural diffusion is the dominant note.

Contiguity and the movement of the population have produced in the American states of the mainland a similarity not required by the clauses of the Federation. Since in the case of Puerto Rico neither of these factors exists, and since our people have a clearly defined culture and personality, diversity will always be a dominant characteristic of our union with the United States, regardless of the type of relationship that is finally established.

The Puerto Rican people are called upon to play a historic role of extraordinary importance in their union with the United States as a representative of the Hispanic people. Puerto Rico by preserving its personality as a Hispanic and Latin American community, but enriching it by contact with the culture of North America, and by speaking both Spanish and English, will be, I do not doubt, the edifying example of what human comprehension can do to save a world divided by the narrow political and cultural nationalisms which no longer have a reason to exist.

Whether to be a good commonwealth or to be a good state, Puerto Rico needs a better command of the English language. This is so because it is necessary to keep open the avenues of thought and communication between all the states, federated or associated, and for this the command of a common language is required. If we work enthusiastically and dedicatedly, we can achieve this within a few years.

In the Department of Education we have been testing a very promising project. It aims to convert into special teachers of English the many young Puerto Ricans who are already bilingual, who know the culture of America as well as that of Puerto Rico, and who have a vocation for teaching. This coming month of August we will have 450 of these youngsters working, side by side with the other English teachers, in the task of converting Puerto Rico into a community with a command of two languages.

Economic freedom is essential to all the other freedoms. The satisfaction of the most pressing needs of life cannot be relegated to a subordinate position. To do so would be irresponsible. To date, all indications are that permanent union with the United States is the only guaranty for the economic freedom of the Puerto Ricans. Our island is small and overpopulated, our most valuable resource is the intelligence of our people. Our standards of life have notably improved, but they are not yet the most desirable. The United States is a country of immense natural resources, with the highest standard of living known to the world; and with great generosity. Let us find the way to integrate overselves fully into that great process of economic growth that is taking place there, so that all of our people may benefit from it.

What the political union with the United States has meant for the economy of Puerto Rico may be easily deduced from the uncontrovertible fact that the *per capita* income in our island is superior to the *per capita* income in all of the Latin American countries.

Political freedom is necessary. We Puerto Ricans should participate in all of the decisions affecting our destinies. That is the essence of democratic life. Commonwealth status allows us an autonomous government with full control of local matters. As a matter of fact, the Commonwealth was a great step forward over the government established by the Foraker and Jones Acts. I was one of the members of the Constitutional Convention of 1952, and I am proud of that.

However, Commonwealth status provides neither the structures nor the devices necessary for the Puerto Ricans to participate in the national decisions which affect our life. And therein lies its weakness. It is true that we are granted certain economic privileges in exchange for the natural rights which we are denied, but these two concepts are not commensurate. It is very difficult for us Puerto Rican teachers to explain that the American Congress may legislate on matters affecting our lives and yet our Resident Commissioner has no voting rights in that Congress. It is likewise difficult for us to explain our ineligibility to vote in presidential elections. The candid question asked by our students—why are we not duly represented in the federal legislative bodies and why do we not vote to elect the President of the United States, when these authorities adopt decisions which affect our lives—is one that we cannot honestly answer. If we put to the students the elaborate explanation of the politicians, they do not understand it, and they do not understand it because we do not understand it either; and we do not understand it because it is unintelligible.

The thesis proposed by some politicians that Puerto Rico should keep its present form of government, but at the same time pass judgment on those laws of Congress which might affect it; and thus accept the benefits and privileges, such as grants of funds, and reject the sacrifices and obligations, such as Selective Service, is simply a proposition alien to the traditional dignity of the Puerto Rican. We would all be ashamed if such a request were made in our behalf. We must share rights and obligations, good times and bad times, with our friends, with our allies, with our fellow citizens, and probably with all our brethren in the species. Anything else would be ungrateful and irresponsible.

Since the immense majority of Puerto Ricans favors a permanent union of our people with the people of the United States, this union must be definitive and must take place on the loftiest level of human dignity. We wish to enjoy cultural freedom, economic freedom and political freedom. Cultural freedom is insured with any formula of political union, whether as a state of the Union or as a commonwealth. Let us all search for a way of achieving the two other freedoms as well, by setting for ourselves goals of gradual progress. Supporters of the Commonwealth as a definitive political status, should look for avenues of participation in the decisions of the United States government which affect Puerto Rico. The right to vote for the President is one of them.

Participation is the only way to justify the democratic creed, basic to our state Constitution. We supporters of statehood should also move in the direction of a wider participation in all spheres of the Federal Government.

Another goal of education and of our collective effort should be to maintain and perfect our society as an open democratic society. By constitutional provisions, both federal and local, Puerto Rico is committed to maintain a society where the free exchange of ideas is guaranteed. The open democratic society is the only means to institutionalize the process of renovating change, which is the process of achieving revolution day by day, and not through coups d'etat.

There is not in the contemporary world a single country which keeps the channels of criticism open as does the United States, including of course Puerto Rico. To safeguard the principle of an open society, American citizens are permitted to offer not only constructive criticism, but all kinds of criticism, including the criticism made in bad faith. The President of the United States, the most powerful individual in the Nation, is also the most criticized of public officials. The same thing happens with the Governor of Puerto Rico.

No matter how much the citizens abuse their privileges in an open society, that is preferable to the restraint of freedoms of thought and expression. The open society has the mechanisms to decide controversies and resolve tensions. The free flow of thought and expression opens the doors to synthesis in the dialectic process. There is enough flexibility in the open society to produce institutional change without prejudice to the principles on which democratic life rests. Today, in Puerto Rico, our people are attentive to all surging controversies. They read the newspapers, they hear the radio, they watch television, and through all these media of communication they make their judgments. Our people know who are working for Puerto Rico and who are working for their own personal interests; they know who are honest and who are demagogues. All this is possible because we live in an open society which allows the free exchange of ideas.

The tensions created in Puerto Rico and in all the contemporary world by the demands of young people, must be solved through dialogue and the serene analysis of the problems presented. The truth is that we have not given to the new generations the attention they deserve. We have not helped them to solve many of their vital problems and we have sought, without justification, that they follow blindly our own norms of behavior. It is obvious that not all that the youngsters demand is satisfactory for our society but it is also obvious that not all that we deny them is prejudicial. On the contrary, many of their demands—such as greater participation—are fully justified.

But an open society will at times be subjected to internal pressures which threaten to destroy it. This happens when minority adult groups become convinced that they will not attain the success of their ideas through persuasion and voting, and resort to the indoctrination of youth, to use it as a blind, irrational instrument for their purposes. When this happens the State must use its authority to protect that same open society, without altering its democratic structure. The Puerto Rican people must be on the alert to protect our open society from those who now benefit from its privileges, only to close it later if they attain power.

The depressing spectacle of the recent commencement at the Rio Piedras campus of the University of Puerto Rico, where a sector of our Puerto Rican youth forgot for a few hours the lofty values of our culture, is a vivid example of how some adult politicians act through the young, thus avoiding for themselves the consequences of their behavior. All of the blame for what happened in Rio Piedras must not fall on the graduates. A good part of the blame, perhaps the largest, should fall on those who have instigated the youngsters, for years and years, without thought to the harm they were inflicting on them. One of the most serious problems faced by the Puerto Rican system of education is the growing number of political agitators who are active within educational institutions.

Another goal of our people should be the spirituality that complements wisdom. Against the materialistic thesis we should oppose our religious faith and our Judeo-Christian ethics. The allusions to God in the Preamble of our own Constitution, as well as the general feeling of our people, amply justify the inclusion of the spiritual note in Puerto Rican life and education. The human being is something more than a combination of particles of matter and forms of energy; the human being is something more than a transitory experience in the Universe. Education cannot and must not be limited to the control of instincts, to the development of conditioned reflexes or to the direction of the rational processes of man. Besides all this, there is a level of human behavior wherein man performs with his origin and his destiny in mind, thinking of disinterested service to his fellow beings, thinking of transcendent values, in sum thinking of God. The Puerto Rican educational system must explore—without any connotation of religious sectarianism—this level of human behavior, so that this spiritual note may sound in our life as a people.

Although a small, overpopulated country, Puerto Rico has progressed notably during the 20th Century. We should be proud of what has been accomplished. Problems remain to be solved, but they must be considered as a challenge to our intelligence and to our collective effort. The main difficulty was to transform the Puerto Rican economy to achieve an increase in production and income, and this transformation has already been achieved. Let us be optimistic; if we act with a sense of unity, putting the welfare of our people above all other considerations, the success of our efforts will be assured.

What we have thus far been able to accomplish has been possible because of the political and economic relations established with the United States. The perfecting of the relationship will expand our progress in the future. The severance of that relationship could sink us into an economic chaos that would take us back seventy years.

I call today especially on those sensible and wise individuals in Puerto Rico who believe in permanent union with the United States; on those who realize that such a union is indispensable to our progress as a people; on those who honor the American citizenship which they bear, and on those who are concerned for the welfare of their children and of future generations.

It is necessary to forget partisan interests and personal prejudices for a time, and to present a united front against those who would sever our relations with the Union of American states, thus risking all of the progress that we have heretofore achieved thanks to those relations, and the progress which we can still accomplish in the future.

In due time, we shall define the type of political union with the United States which will be the most convenient for Puerto Rico. I am sure that by analyzing this problem objectively and in good faith, we shall find the way leading to the enjoyment of the three great natural rights of man, proclaimed to the world in the Declaration of Independence of the United States: the right to freedom, the right to life, and the right to happiness.

I am also sure that we shall find that way together with the United States without ceasing to be what we have always been and what we want to continue being all our lives: good Puerto Ricans.

IS BIOLOGICAL AGING INEVITABLE?

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. DUNCAN. Mr. Speaker, under unanimous consent to extend my remarks in the RECORD, I include the following:

IS BIOLOGICAL AGING INEVITABLE? PART III

EARLY CONSIDERATION OF AGING

The foregoing has been realistically pessimistic about society's past support of aging research. Why has society taken such a negative attitude toward aging research? Well, in great part, this attitude has been formed by a subtle, insidious conditioning which developed as man progressed from Eden, through Athens and Rome, on his way to modern Megalopolis. This last statement is painfully verified by examination of a few pieces of historical data.

Over five thousand years ago a curious Sumerian legend was handed down from generation to generation, until the Babylonians finally inscribed on clay tablets their poetic version of this same legend—the epic of Gilgamesh, a man who vainly searched for eternal youth. Even though the hero, Gilgamesh, was able to perform many unbelievable superhuman feats during his adventures, the attainment of eternal youth remained forever beyond his reach. The moral of his epic is that "life or death" is a matter for the gods to decide; the decision does not rest with us mere mortals. Another example of man's futility against the power of the gods is Hesiod's tale of Prometheus. Prometheus's theft of fire for the benefit of mankind resulted in the creation of the first woman, Pandora, whose infamous box carried ills and evils, including aging, to man's world. Thus Hesiod traced old age and death to the will of the gods, and indicated the proper role of man as one of humility and submission.

Hesiod's five ages of man also implied that death was inevitable; he claimed that man had passed through a series of epochs and was presently in the fifth epoch, the bleak age of iron. The first period had been the happy age of gold in which man never grew old and in which death was gentle. Next came the age of silver when childhood lasted a thousand years. This was followed by the age of bronze when men were so strong and violent that they destroyed themselves. Fourth was an age of demigods who still live contentedly in the islands of the blessed at the ends of the earth. Last was the fearful age of iron in which man was faced with unending work and misery. The future of the iron age was even worse for it includes a constant increase in strife, injustice and deceit; people would grow old more and more rapidly until even newborn babies would show the marks of old age. Implicit in this story was the belief that man could not stop, or even delay, his aging.

These myths and legends reflect man's attempts to explain that which seemed inevitable . . . and, by explaining it, to enable man to endure more stoically his own decline and death. But myths and legends did not encompass all of the exhortations which stemmed from the very human desire to avoid unnecessary emotional strain—the strain which would result from struggling against the "inevitable." The story of Adam and Eve tells of how God punished the first two mortals for their original sin: "In the sweat of your brow you shall eat bread, till you return to the ground, since out of it you were taken; for dust you are and unto dust you shall return" (Genesis 3:19). Thus old age and death were considered to be partial punishment for a terrible crime. The Old Testament taught that man should give due recognition to the limitations of human power, and that he should walk in the path of divine law in order to avoid further punishment. The New Testament stresses a different theme: the things of this world are of little impotrance and death is actually desirable since it is the way to salvation of the soul. Philosophers, too, attempted to assuage man's concern over remorseless aging and death. Aristotle explained death as the result of the inevitable clash between the "elements" composing the human body—a primitive "waste product" theory. On the other hand, the Epicurean concept of "fullness of pleasure" led Lucretius to believe that there are only a fixed number of earthly gratifications; once these have been experienced, further life is futile. Cicero and Marcus Aurelius emphasized the importance of man and praised the virtues of patience and humility with respect to death.

The views discussed above form only a small portion of the history of man's subtle conditioning for submission to aging and death. When more of this history is examined, certain apologistic themes emerge:

(1) Prolongevity, the significant extension of the life span by human action, is impossible because of defects in human nature;

(2) Prolongevity is a violation of the natural order;

(3) Prolongevity is a violation of the divine order;

(4) Original sin prevents prolongevity;

(5) Prolongevity is undesirable in itself, and

(6) Old age and death are desirable.

An interesting point is the arguments supporting the above themes usually include a statement to the effect that prolongevity is impossible, and then give an apologistic reason for it being so. This has resulted in a considerable body of folklore and literature which predisposes succeeding generations toward believing prolongevity to be either impossible or highly undesirable. (One example of such is the story of Dr. Faustus.) This entire collection of apologistic reasoning forms an excellent example of a closed sociological cycle which tends both to provide peace of mind and to prevent progress—each theme is thus a self-fulfilling prophecy.

Fortunately there also are a few hopeful themes which appear in history. Man has often searched for that far distant place where humans have unusually long lives (Shangri-La), or for the remarkable substance with the ability to prolong life. The Greek legend of Hyper-Boreas ("beyond the north wind"—where people were free from all natural ills and lived a thousand years) was easily sustained as long as transportation and communication remained difficult. The same theme, which promises a veritable paradise of healthy longevity on Earth, appears in folklore from Japan, India, Persia, Greece, England and other countries. These legends about terrestrial paradises long served as stimuli to geographical exploration, as did the impassioned searches for the Holy Grail and the Fountain of Youth. The mystic golden Grail beckoned adventures with its promise of everlasting life to the finder—Hesiod's "age of gold" concept. Likewise, legend ascribes the discovery of Florida by the elderly Ponce de Leon to mere serendipity resulting from his search for magical waters that could transform the aged into youths. In many cultures other similar objects and substances are referred to, some with divine properties, some with magical qualities, and others with supposedly empirical characteristics that were thought to unexplainably suspend human aging.

The classic theories of Taoism stimulated a large proportion of the semi-scientific study in ancient China by propounding the concept of *hsien:* man could win eternal life on Earth by means of his mastery of the techniques of prolongevity. There were prescribed respiratory, dietary and spiritual techniques but the most interesting were sexual techniques—in particular the practice of coitus reservatus while one's partner was having a climax. It was thought that he who could carry out this act several tens of times in a single day and night could be cured of all maladies and have his life extended. If he changed his partner several times, the advantage was greater; if in one night he changed his partner ten times, that was supremely excellent. In perspective, Taoism and its concommitant emphasis on examining and controlling bodily functions took prolongevitism from the realm of magic and changed it into a protoscience.

Alchemy represents the first systematic prolongevitism to appear in Western civilization. The attempts of alchemists to transmute ordinary metals into gold—stimulated by Hesiod's first age of man as well as the economic benefits—and to prepare chemicals which would prolong life contributed techniques and materials to early chemistry. But more so, the suspected relation between long life and potable—safely drinkable—gold stimulated much of the alchemists research, and thus gave man a rational basis for hoping that something could be done to alleviate or avoid the undesirable effects of aging. This, with the other themes of man's rebellion against the creeping decays of age, has spurred men to search throughout the world for the mysterious land of the eternally young, or to drink noxious potions concoted by alchemists and witches, or to strive to attain a state of extreme penance akin to the ecstasy of Tibetan monks, or—through drinking blood—to steal youth in the best tradition of vampires. Present, less repulsive, efforts are being carried out in laboratories around the world.

FINAL COMMENTS

In the past, there was no advantage to a long life span; indeed, there was a definite advantage to a short life span and early production of offspring. (A short generation-reproduction cycle enables more rapid adaption of the species to a changed environment.) If that environmental situation still held true, prolongevity would be in direct conflict with the requirement for early reproduction. However, we now have the capability to control our individual environments—heat, cold, humidity and hopefully pollution—to suit our needs; thus, rapid adaptation of mankind to a changing environment is no longer necessary. This means that early production of offspring is no longer necessary, and prolongevity is no longer in conflict with hereditary needs. Furthermore, an increased life span offers mankind the twin hopes of social stability and more rapid economic advancement. If such a guaranteed increase is to occur, however, it must be consciously sought by man; we must theoretically and experimentally deduce the causes and corrections for biological aging. This could well involve development of numerous processes for: (1) removing various types of crosslinked material; (2) removing non-functioning body cells and intercellular material; (3) replacing missing nerve, muscle and other cells; (4) correcting mutated molecules; (5) chemical coding and/or re-coding of genetic material. It has even been suggested by Leonard Hayflick that biological death might be the result of cellular programming, implying that extension of life span would involve *extensive* cellular re-programming, but this "Programmed Death" theory is not in good agreement with the known facts. The basic point to be gained from the foregoing is that you can anticipate extension of life span to be achieved in a series of varying-sized steps . . . one step for each laboratory success. The more that research is encouraged, and the better organized the effort, the more rapidly those steps will be achieved.

Does this mean that eventually individuals can anticipate living forever? Absolutely not! Even if biological aging was completely eliminated, the average life span would be less than a thousand years; accident, disease and overt action—wars, et cetera—would still limit individual life spans. Would such an increase in life span conflict with religious teachings? Again the answer is no. It would not conflict with religion any more than has the medically-induced doubling which has occurred in the American and European average life span since the start of the last century.

Another supposed problem has been suggested but it bears the hidden touch of apologism. Wouldn't an increased life span be fraught with boredom, and wouldn't individuals long for release in death? Such suggestions fail to take account of the increasing rate of change in our world, and they bear the indelible imprint of Lucretius's concept that life holds only a fixed number of gratifications. Again, the apologistic themes in our culture have formed a trap.

There is a problem of greater concern though—one which is more stifling to aging research than the apologistic themes themselves. This is the proper concern, realistically motivated, that the world will shortly be over-populated. Many fear that research on biological aging will sharply decrease the death rate, thus drastically aggravating the over-population problem. The immediate confrontation between present attempts to solve the population problem and attempts to extend the human life span is merely illusory though. The present birth rate exceeds the death rate by such a great amount that the population problem will have to be solved long before prolongevity can contribute significantly to the population size. In other words, the population is growing at such an extreme rate that an acceptable birth control solution must be found and applied in the immediate future whereas, even if successful techniques of prolongevity were discovered this year, the additional population increase from this discovery would not be significant for some time to come.

Suggestions that prolongevity should be avoided in order not to aggravate the population problem are akin to that obnoxious nostrum which proposes to solve the problem by increasing the death rate (for instance, by ceasing all research on more efficient agricultural methods—last year 60 million people died, and over two-thirds of these deaths were associated with hunger). Related proposals, for postponing aging research until a "better life" can be provided for those now living, also demonstrates a superficial—and certainly ignorant—attitude.

Let us consider a more positive aspect of prolongevity. We all know that conservation is necessary if we wish to bequeath future man something other than a garbage-heap planet with exhausted resources. But it is difficult to convince people that conservation requires action by each and every individual. This message would be easier to sell if individuals anticipated being around to benefit in the future from their actions in the present. Another benefit which would result from prolongevity is the possibility of travel to other stars in our galaxy. Such travel is now believed to require centuries or millennia for other than the few nearby stars. With an increase in life span, these long trips would become possible without the crew being replaced by their descendants during the trip. Prolongevity will not only vastly improve life on Earth but it will also open the way to the stars and exciting new adventures.

In conclusion, then, the average human life span has been steadily increasing but the maximum life span has demonstrated a notable lack of change. However, the capability to alter this situation is now within our grasp. Will we have the foresight and courage to extend that grasp? The title question of this article was: "Is biological aging inevitable?" Perhaps the final answer is: "Only if you choose it to be."

REFERENCES

"Aging Life Processes," by Seymour Bakerman, editor. Charles C. Thomas, Publisher, 1969.

"Biological Mechanisms of Aging," by Howard Curtis. Charles C. Thomas, Publisher, 1966.

"Extended Youth," by Robert Prehoda. G. P. Putnam's Sons, 1968.

"A History of Ideas About the Prolongation of Life," by Gerald J. Gruman in *Transactions of the American Philosophical Society*, Vol. 56, Part 9; December, 1966.

"An Integrated Theory of Aging," by Donald G. Carpenter and James A. Loynd in *Journal of the American Geriatric Society*, December, 1968.

SCRANTON TIMES CELEBRATES 100TH ANNIVERSARY

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. McDADE. Mr. Speaker, on the 25th of this month, the Scranton Times will celebrate the 100th anniversary of its founding as a distinguished newspaper.

It was a very different world into which the new newspaper was born in 1870. Ulysses S. Grant sat in the White House as President of the United States. He had witnessed only recently the driving of the golden spike at Promonentery, Utah, which connected the Central Pacific and the Union Pacific Railroads, thus completing the first intercontinental rail service in America. France was becoming embroiled in the Franco-Prussian War. In Italy, the troops of Victor Emmanuel, under the leadership of General Cadorna, were moving on Rome, to proclaim the existence of the unified Kingdom of Italy. Africa was still the dark continent. Asia was a world unknown, its secrets to be unfolded later in the century.

In that very different world of a century ago, the first editions of this new newspaper were run off a hand-fed ancient press. In a field which many thought to be overcrowded, the Scranton Times struggled for existence. Over the period of 25 years, and through the hands of many publishers, the newspaper had achieved a circulation of some 3.200 paid customers when it was purchased in 1895 by Mr. Edward J. Lynett.

Mr. Lynett was a young man of 39 in that year, but he was old in the field of journalism. He had begun his journalistic career at the age of 22, and had 17 years of experience in this field when he purchased the paper.

On October 10, 1895, Publisher Lynett spelled out the challenge which he saw before him:

> It is our ambition to publish the best paper in Scranton and we will not be content until it is so bright, attractive, and readable that no Scrantonian will feel a day well spent unless he reads the Times, and no business man can afford to be unrepresented in its advertising columns.

In the years that followed, the old broken-down press and the few cases of handset type were replaced by the most modern press, and the newspaper grew in circulation and influence.

When E. J. Lynett passed away on January 1, 1943, the Scranton Times was published by a partnership composed of his two sons, William R. and Edward J., and his daughter, Elizabeth; with William the editor.

In 1946, on the death of William, Edward J. Lynett assumed the position of editor, with Elizabeth as the copublisher.

After the death of Elizabeth in 1959, and of Edward J. in 1966, the Scranton Times passed into the hands of Mrs. Edward J. Lynett, and her four children: Edward J., George V., William R., and Mrs. Celia Lynett Haggerty. Edward took over the post as editor.

Today the circulation of the Scranton Times is nearly 55,000. It is read not only in the city of Scranton, but also in many of the surrounding communities. Its reporters have been the recipients of many honors, and the Scranton Times itself was awarded the Pulitzer Prize in 1945 for "meritorious public service," the first such award to a newspaper in Pennsylvania.

Mr. Speaker, I am certain that the Scranton Times will continue to prosper under Mrs. Jean Lynett, Edward, George, William, and Celia Lynett Haggerty; with Frank J. Blewitt as general manager and Edward J. Donohue as its managing editor.

I know that all of my colleagues will join with me in wishing the Times a very happy first century birthday. From the very first days of the existence of this Republic, we have known clearly that the strongest guardian of our freedom is the existence of a press that was free to speak out boldly in defense of right, in an attack upon evil. So the 100th birthday of the Times is more than merely a birthday; it is part of our own birthright of freedom in America. I know all of my colleagues will join in the hope that the Times will see many hundreds of years of birthdays in the future.

CAPTIVE NATIONS WEEK

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. CONTE. Mr. Speaker, this is a most important week. It is Captive Nations Week—a rallying point for all who love freedom and defend fundamental human rights.

Captive Nations Week originated with Public Law 86–90 in 1959, 11 years ago.

It designates the third week in July as Captive Nations Week and "authorizes and requests" the President to issue a proclamation to that effect. Presidents Eisenhower, Kennedy, Johnson, and Nixon, as well as scores of Governors and Mayors, have over the years brought this event to public attention by calling on the citizenry to initiate, and join in, appropriate observations. We in this body have done likewise in our debates.

Captive Nations Week gains special significance in 1970, since this year marks the 25th anniversary of the conclusion of World War II in Europe. Yet, after all this time, no permanent just solution has been found for the problems of east-central Europe.

The brave peoples of all these countries—Albania, Bulgaria, Czechoslovakia, Hungary, Poland, Rumania, Estonia, Latvia, and Lithuania—remain strong and hopeful, and continue to look to us here in this body.

I think, Mr. Speaker, that it would be appropriate to include Public Law 86–90 in the RECORD at this time. It accurately summarizes the sentiment behind the establishment of Captive Nations Week. It follows:

PUBLIC LAW 86–90

Providing for the designation of the third week of July as "Captive Nations Week" adopted by the 86th Congress of the United States of America in July, 1959

Whereas the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial religious and ethnic backgrounds; and

Whereas this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples: and

Whereas since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a dire threat to the security of the United States and of all the free peoples of the world; and

Whereas the imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, and others; and

Whereas these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace; and

Whereas it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a Proclamation designating the third week of July, 1959 as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

MILITARY HOUSING PROJECT OFFERS POSSIBLE SOLUTION TO NATION'S HOME PROBLEM

HON. JERRY L. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. PETTIS. Mr. Speaker, because of the concern of our colleagues over the escalating costs of, and need for, suitable housing all over America, I am taking this opportunity to bring to their attention a project initiated by my friend, L. MENDEL RIVERS, the distinguished chairman of the Armed Services Committee.

Last Thursday morning, at George Air Force Base on the high desert of southern California, a groundbreaking ceremony was held, marking the start of an experimental modular housing system. The primary purpose of this particular project is to provide 200 new homes for military families at the Victorville Air Base, but it also is expected to yield some key technology for Operation Breakthrough. This, of course, is the demonstration program of the Department of Housing and Urban Development aimed at breaking through the major obstacles to volume production of adequate, low-cost housing so desperately needed across this Nation.

Our colleague, Chairman RIVERS, wisely saw the value of this concept in military housing and I am confident this pilot project at George Air Force Base will more than meet his expectations and those of the homebuilding industry.

I insert at this point in the RECORD a copy of the news release describing the George AFB project in greater detail:

Ground breaking ceremonies here today marked the start of a project that will provide 200 new homes for military families and a trial run for a new industrialized housing system.

General Electric and the Del E. Webb Corp., in a joint venture, will develop a complete neighborhood for the families of 200 enlisted personnel here.

General Electric developed the basic modular building concept including manufacturing and logistics.

The Architectural firm of Hugh Gibbs, FAIA, and Donald Gibbs, AIA, of Long Beach, California designed the George Air Force Base site. Gibbs and Gibbs has also been contracted by the Air Force to inspect the completed project.

Beyond the homes themselves is the goal of proving the feasibility of using a new factory method to produce housing that will: insure uniform quality in housing; improve its cost-effectiveness, its durability and maintenance; shorten production time; provide employment opportunity for lower skilled workers; and accomplish these objectives without sacrificing attractiveness and livability.

The Urban Systems Programs Office of General Electric's Re-entry and Environmental Systems Division and Del E. Webb Corp. are working under a 15 month, $5,393,000 Air Force contract.

Basic to the project is the development and operation of a prototype housing factory, major components of which may be used as the basis for a full-scale production facility for the fabrication of future military family housing. The prototype factory will be located in Apple Valley, California, approximately 15 miles from the building site.

General Electric will develop and operate the factory. It will produce finished modules and transport them to the building site where Del E. Webb Corp. construction crews will erect them. Del E. Webb is also responsible for all site developments such as landscaping, roadway paving and installation of utilities all of which will be underground.

The completed project will occupy 37 acres of land on the base. The units will be located along a winding central drive and in clusters around a variety of cul-de-sacs. The clusters will be arranged so as to surround and obscure driveways and carports.

There will be a variety of building exteriors. Five exterior finish treatments will be used on four different building types. The finish treatments will be: Redwood reverse board and batten and Tuf-tex, cedar board and batten and Tuf-tex, Redwood Texture 1–11 and Tedlar, Cedar Texture 1–11 and Tedlar, and Tuf-tex and Tedlar.

Additional variety will be gained through the use of setbacks between individual dwelling units in townhouse clusters.

The new project will consist of: 16 two bedroom units contained in two-story flats; 90 three bedroom units and 90 four bedroom units in two-story townhouses; and four single family single story houses.

Net usable living areas (excluding stairwells, utility and storage spaces) for the types of units are: 950 sq. ft. for the flats; 1080 sq. ft. for the three bedroom townhouse units; 1250 sq. ft. for both the four bedroom townhouses and single family houses.

The basic housing unit cosists of 11 modules. Construction features include:

One piece cast plaster walls and ceilings. These provide all of the advantages of hand plastered walls, but at less cost.

Honeycomb floor panels. Resin-impregnated honeycomb bonded between plywood sheets utilizes a stressed-skin effect to provide lightweight strength, compactness and rigidity.

Utility chase. All plumbing and heating pipes, vents, air conditioning and wiring are centralized into a virtual plug-in unit.

Steel wall framing.

The prototype housing factory will consist of four buildings with a total floor area of approximately 60,000 sq. ft. The buildings are:

A fabrication building where sections of steel wall framing are welded together, and electrical harnesses, plumbing and ducting trees are assembled.

A plaster preparation and wall casting

building where the walls are built up into completed sub-assemblies, the harnesses, plumbing and ducting trees are assembled into utility cores and staircases are assembled.

A final assembly building where the sub-assemblies are combined with floor panels to form complete modules. The floor panels are purchased from a sub-contractor. The modules leave this building ready for delivery to the building site.

A roof module building. These modules are assembled in a separate building for shipment to the building sites.

Throughout the factory overhead monorails and mobile materials-handling equipment are used to move the components and modules toward completion between special jigs and fixtures.

The completed modules are received by Del E. Webb Corp. construction crews which will erect them on foundations they have prepared as part of their overall site preparation.

The eleven modules make up a dwelling unit (in this case, a townhouse) as follows: nearly all of the first floor structure is divided between two large modules. A third module, a rectangular utility core, includes a powder room and interior wall surfaces for four rooms. This is located in the center of the first story. Two more modules, flat glazing panels, enclose the front and rear walls.

The second story also consists of two major modules which together complete the second story except for two glazing panel modules which enclose the front and rear walls. The roof is made up of two modules and with its emplacement the unit is completely erected.

TEACHERS' AIDES AND EDUCATIONAL NEEDS OF THE 1970'S

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. PUCINSKI. Mr. Speaker, the American public is beginning to learn more of the effectiveness of teaching assistants in America's classrooms.

These inspired men and women, boys and girls, are bringing a richness of experience and enthusiasm to our classrooms that is reflected in the widened horizons and achievements of the students they reach.

I have long advocated more freedom for the American schoolteacher—freedom from the administrative tasks that prevent her from devoting more time to teaching. Now, with the advent of paraprofessionals and teacher aides, our teachers can return again to guiding and exciting children to learn.

The effects of the teaching aides have been so marked that I believe their performances should be given the widest possible recognition. Two recent articles in the Christian Science Monitor described these particularly dedicated individuals—and how they are benefiting from this learning experience, as well as the children they seek to help.

I call these articles to the attention of my colleagues today with the hope that they will share with me an appreciation of the specific contributions being made by these gifted Americans to education in the decade of the seventies.

Mr. Speaker, these articles follow:

TEACHERS' AIDES SPUR YOUNGSTERS TO LEARN FASTER

(Heightened community concern fuels a powerful new thrust in education. Citizens are pitching in to help schoolchildren and upgrade the learning process.)

(By Kenneth G. Gehret)

It's no secret that American public schools are in trouble.

Behind the student activism, parent protests, teacher strikes, and taxpayer "revolt" is a crisis of confidence. Broad-based community backing, which the schools once took for granted, has eroded.

Education officials, in effect, sum up the problem this way: "We simply can't function without strong parent-citizen support. The question is, how do we get it?"

The answer, many schoolmen believe, lies in direct citizen involvement in the system—as classroom aides, tutors, library assistants, clerical helpers, advisory committee members, and in numerous other ways part-time volunteers can lend a hand.

"These people act as translators of what's happening in school to their friends on the block," says Dr. Paul A. Miller, superintendent of Cincinnati schools.

Seeing it the way it is and telling it that way obviously can help to build better understanding of the schools. But the gap between the community and its learning centers is greater than communication alone can bridge. In most areas, teaching and learning must improve before volunteers will have the kind of news their friends on the block want to hear.

INFLUENCE AFFIRMED

Can volunteers themselves help to bring about such improvements in the classroom?

Emphatically yes, reply Dr. Miller and other advocates of volunteerism.

A classroom aide or tutor not only reduces the number of pupils the teacher has to reach and help; he also provides special attention for youngsters who have the greatest need. Teachers and administrators say that concentrated assistance in reading or math drill often has a twofold effect: It gives pupils more practice in these skills; it motivates them to want to succeed, thus hastening the learning process.

Volunteers frequently bring a special quality that stimulates children to want to learn, administrators say.

"There's a lot of loving care around those kids" is the way Dr. Miller puts it. "Money can't buy a volunteer's concern; he gives a part of himself, and a youngster understands that."

Classroom assistance takes many forms.

In Providence, R.I., Mrs. Joyce Fairchild leaves her home at least one afternoon a week to tutor beginning readers at the inner-city King School.

In St. Louis, attorney Lee Carter leads a weekly discussion among fifth-graders in the Junior Great Books Program.

In Laguna Beach, Calif., Mrs. Patricia Clarke visits El Morro Elementary School regularly to introduce the children to music appreciation through recordings and rhythm band exercises.

In Bridgeport, Conn., Mrs. Jenny Sprinzen works daily with a nursery group in the local state center for retarded children.

In Minneapolis, the Rev. Louis Johnson shares his knowledge of African history with fourth-graders at the Penn School.

These are not isolated instances of volunteerism; all are part of well-organized, broadly supported, ongoing programs. In cities such as Philadelphia and St. Louis, as many as 5,000 volunteers serve regularly. Los Angeles numbers 4,600 adults and 2,000 students assisting in 400 schools, accounting for 570,000 hours a year.

The trend in volunteerism is sharply up, both in number of programs and in participation.

The United States Office of Education reports that school systems adopting programs increased 72 percent between 1967 and '69. Additional programs have been established in the past year.

The use of volunteers is expanding as administrators and teachers learn of successful experiences in other schools or classrooms, and as more community people offer their services. Increasingly important sources of volunteers—supplementing suburban housewives—are retired persons, business people on company time or their own, college and high-school students, inner-city mothers, and "resource persons" (individuals with particular skills or backgrounds who can occasionally supplement the teaching in a special way).

BEYOND THE CLASSROOM

Volunteer assistance extends beyond the classroom to school office, library, health clinic, cafeteria, and study hall. Corridor and bus monitoring, field-trip supervision, and open-house preparation are other responsibilities assigned to volunteers in some districts.

Further examples of school volunteerism: Businessmen help solve organizational and financial problems; company employees conduct career-preparation classes; citizens serve on curriculum and site-selection committees, canvass in support of bond issues, sit on decentralization advisory groups or neighborhood-district boards.

Serving without pay, often with tremendous demands on their time, these individuals are obviously lending strong support to educational efforts.

Not all who volunteer, however, necessarily give unqualified backing to the system as presently constituted. Some Americans participate in school affairs to help bring about change of one kind or another. Other citizens, particularly those in urban core neighborhoods, seek varying degrees of decentralization or even community control of the schools. Some volunteers now contribute their efforts to "free schools" that operate outside the established system, with or without school board blessing.

Whatever the individual motives, this tremendous ground swell of citizen involvement is directed toward improvement in the quality of instruction; the common denominator is the child and his preparation for life.

Significantly, volunteer programs almost invariably originate in the community, not in the schools; they spring from human rather than institutional concern.

At times, the need has been recognized and responded to by an established community organization such as the local chapter of the National Council of Jewish Women, the Junior League, or the Parent-Teacher Association. But often the initiating group consists of individuals who have come together expressly to solve a school problem.

INTEGRATION ANTICIPATED

In Denver, it was to help with remedial reading after a local woman had seen what volunteers in Boston and Cambridge, Mass., were doing.

In both Englewood, N.J., and Providence, R.I., projects developed when a few local people anticipated the academic difficulties black students would face when integrated into previously white schools. Crash tutoring efforts bloomed later into full-fledged, continuing programs in both cities.

In Memphis, 12 women decided to do something when they learned that only one-quarter of area children eligible for free school lunches actually got them. The reasons for this situation, according to a city newspaper, "ran the gamut from apathy to a very real hostility to the whole idea of free lunches."

After studying local conditions and the free-lunch program in other cities, the women took their case to the board of education, convincing the members that Memphis was meeting neither the letter nor the spirit of the federal program. They asked and received permission to work with poverty-level families in four school areas. Part of the year's effort consisted of helping families to file written requests that their children be included in the lunch program.

10 AREAS ADDED

During the next year (1964–65), the group extended its work to an additional 10 areas at the school board's request. New volunteers joined the original workers.

Home visits disclosed a need for children's clothing, since many pupils were being kept away from school by lack of adequate apparel. The PTA council undertook a clothing drive and set up a central distribution. A shortage of shoes was also met.

The group continued to expand its efforts as it perceived further needs—tutoring for fast learners and slower ones, sewing and nutrition classes for adults, after-school enrichment through dramatics and singing, cultural outings for youngsters, etc.

Soon several community organizations sponsored child-centered and school activities of their own. Progress was evident along a broad front into the spring of 1968, when the assassination of the Rev. Dr. Martin Luther King Jr. rocked the city. The tragedy served to draw enlarged support for the volunteer projects, including the "adoption" of specific schools by individual churches.

The original informal Memphis group continues to emphasize the lunch program, while also serving as an umbrella organization, at the school board's request, for the myriad other volunteer efforts under way throughout the area.

This operation, like numbers of others across the United States, is carried out independent of the school organization. The school system in such instances assumes no responsibility for staffing, facilities, or funding.

Some projects have managed to gain sufficient acceptance to receive office space and equipment; others have eventually been absorbed into the school structure.

Some districts adopt volunteerism—at least in part—because they are short on dollars and manpower. To such districts, community people represent available help that costs little.

Denver schools used more than 2,000 volunteers during the year just ended. Officials calculate that they gained the equivalent of $253,000 in services at a cost of approximately $27,275 in program expenses.

E. Michael Brick, superintendent of elementary schools in Fountain Valley, Calif., places a value of $20,000 on the services of 1,400 volunteers in his system last year. This, he says, comes to 10 cents in the tax rate.

But Mr. Brick is interested in more than dollar savings. His district has grown 4,000 percent in pupil enrollment in just seven years. Hence he is short of staff. Volunteers help fill the gap by taking on many incidental classroom chores, thus freeing teachers to devote full time to instruction.

School people with experience in volunteer programs warn against overemphasis on "cheap labor" when considering their use. Officials point out that volunteers require training, coordination, and supervision, and that these can prove expensive. Such authorities cite better reasons for drawing on volunteer help.

Sam Watts, the black principal of a black school in Philadelphia, underscores several of them when he says:

"With volunteers, the pupils are working with people instead of with paper. Then you have an educational process. Otherwise, you have a teacher and 30 youngsters confined within the four walls of a classroom, but the kids aren't necessarily learning. This is the way it was, but now it's changing.

"Volunteers provide a larger adult-teacher ratio to pupils, an opportunity for the children to be heard, a greater sensitivity to individual needs. The instructional program can be geared to them. I hope the day is past when we stamp out kids like Campbell soup cans.

"What is a volunteer worth? How can you measure the brightness in a child's eye? That's all that counts. When you see that, you know the child can learn. Volunteers help put it there."

New Jersey "Teacher of the Year" Guides Program—Volunteers Help Youngsters on One-to-One Basis

Montclair, N.J.—Mrs. Genevieve Collins is proud to be New Jersey's "teacher of the year," but she's even more proud of the schoolchildren who made it all possible.

Mrs. Collins is on the staff of the Glenfield elementary school here in Montclair, where she's taught for 11 of her 14 years in the profession.

A motherly type, Mrs. Collins takes a personal interest in the progress of her first graders. Some years ago she became concerned that her pupils weren't getting the best start in reading. She decided to do something about it.

Glenfield school is 99 percent black. Montclair has a reputation as an upper-class community, on the fringe of New York. But Mrs. Collins points out that actually the description fits the neighboring town of Upper Montclair. Montclair itself is "another world," she says.

"I saw that 180 days (the school year) weren't enough for black kids to get started in reading," she explains. "So I went to the principal (Dr. Roland Patterson, now administrator of the inner-city decentralized district in Seattle) and asked him to keep my room open for six weeks in the summer. That was in 1966. He agreed."

Mrs. Collins mailed a letter to the parents of all 25 children in her class. It was an invitation to send the youngsters back to school three mornings a week during half of the summer vacation. No pressure was applied, the teacher comments.

Sixteen of the 25 pupils came, and all stayed for the full six weeks.

Two high-school girls served as volunteer aides to Mrs. Collins that first summer.

So satisfied was the teacher with the result of this initial effort that she pressed for, and was granted, an expanded program the next summer. This time, pupils in all three first-grade classes at Glenfield were welcomed and a corps of unpaid helpers was recruited.

Twenty-eight children came to be taught, and a matching number of volunteers responded—26 from the National Council of Jewish Women, one from the National Council of Negro Women, and the wife of a school board member.

Before summer was out, the success of the tutorials caught the attention of Dr. Robert W. Blanchard, then superintendent of schools, who now holds the top post in the Portland, Oreg., school system.

Visiting the classrooms one day, Dr. Blanchard spoke with each child and volunteer. He then asked Mrs. Collins to develop the project into a regular feature of the year-round school program.

The one-to-one tutoring moved ahead rapidly under Mrs. Collins' direction. Teachers asked for help for their pupils, and available volunteers soon numbered 128. Now every teacher at Glenfield sends youngsters to the volunteers during class time, and the plan has spread to other local schools.

When each child reports to his tutor, he brings along materials from class and a notebook. The notebook is the communicator, Mrs. Collins says. In it the teacher suggests what she wants the volunteer to cover. And at the end of the session, the volunteer enters comments on the pupil's progress that day.

The fact that teachers and tutors don't have frequent face-to-face contact does not mean that volunteers function in a vacuum, Mrs. Collins emphasizes. There are training sessions and conferences, which she, as coordinator, arranges.

"We had a workshop last Tuesday, with a social worker, a psychologist, and other specialists talking to the volunteers," she declares. "A discussion period followed. The volunteers need to know about particular learning difficulties, both physical and social or cultural."

It was because of the one-to-one tutoring that Mrs. Collins was nominated for the teacher-of-the-year award.

She didn't really expect to win the title, she reports; there were 50 entrants.

But win she did, and incidental honors continued for several months. Her board of education presented her with a plaque. The local PTA declared a "day" in her honor. And, most touching of all to Mrs. Collins, the pupils at Glenfield also set aside a "day" for her, complete with a school assembly program.

But the state's teacher of the year feels a need to share the recognition.

"It's not a Mrs. Collins thing," she comments. "If one thing characterizes the program, it's enthusiasm—the enthusiasm of the tutors and the enthusiasm of the students. The volunteers and the students are here because they both want to be. That's why the program works," she adds.

An observer might wonder whether Mrs. Collins' own enthusiasm isn't also a contributing factor.

LEGISLATIVE REORGANIZATION ACT OF 1970

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. FRASER. Mr. Speaker, when H.R. 17654, the Legislative Reorganization Act of 1970, is read for amendment, a series of bipartisan reform amendments aimed at ending secrecy and other undemocratic procedures will be offered. The most important and far-reaching of these reforms is the O'Neill-Gubser proposal to record teller votes on major amendments considered in Committee of the Whole. The Democratic Study Group recently issued a special report on this proposal which, in the view of many Members of both parties, is the single most important step we can take toward making the House a more responsive and effective legislative body. The DSG report documents the background and the need for this important reform, explains how the new procedure would work, and answers the arguments which have been raised against it. I therefore insert the DSG report in the Record at this point and commend it to my colleagues.

The report follows:

The Proposal for Recording Teller Votes

H.R. 17654, the Legislative Reorganization Act of 1970, which is scheduled to reach the House floor the week of July 13, provides the first opportunity in over two decades to substantially reform the House rules and procedures. When the measure is considered by the House, Representatives O'NEILL (D-Mass.), and GUBSER (R-Calif.) will offer an amendment to authorize recording of teller votes on major issues in Committee of the Whole.

Because of the widespread bipartisan interest in this proposal to end secret voting on floor amendments and the overwhelmingly favorable response to it in the returns from the Democratic Study Group Congressional Reform Questionnaire, DSG has prepared this special report containing the following sections:

SECTION I. BACKGROUND

Present Procedure

The House of Representatives considers most amendments while it is meeting as a Committee of the Whole. The Committee is a procedural fiction which allows the House to funciton under less stringent requirements than otherwise would be necessary. For example, when the House meets as a Committee of the Whole, a quorum of 100 Members is required rather than a majority of the House—now 218 Members—which the Constitution requires for a quorum of the House. In addition, the Committee of the Whole allows for limitation of debate and other time-saving procedures, including a prohibition against roll call votes.

Instead, votes in Committee of the Whole are taken either by voice or division (in which Members stand to be counted) or by teller (in which Members file up an aisle between tellers who count them as they pass.) No record is kept of how—or even whether—any Member votes on any issue.

Upon completion of consideration in the Committee of the Whole, the bill is reported to the House. At that point, a roll call vote may be demanded on any amendments which were *accepted* in the Committee of the Whole. Defeated amendments, however, may not be brought before the House for a record vote. Since the vast majority of amendments offered are defeated in the Committee of the Whole, Members are rarely afforded an opportunity to have their positions on key issues recorded and made public.

History

The Committee of the Whole procedure is derived from the practices in effect in Britain when the Congress was established. At that time, the British Parliament did not record the votes of its Members on amendments taken in Committee of the Whole. The system was developed centuries ago when the Parliament was in serious disagreement with the King. It was considered necessary to protect the Members from the King's wrath by requiring that votes in the Committee be taken anonymously.

However, the British reformed their system about 140 years ago when they abandoned their prohibition against record votes in the Committee of the Whole. Parliament modified its procedures so as to preserve the Committee of the Whole with its reduced quorum requirements and speedier procedures while permitting non-roll-call record votes. Under the British system, which has proven successful since the 1830's, clerks record the Members as they file through two teller lines.

Alternative proposals

Several alternative proposals have been offered which would also provide record votes on amendments in the House of Representatives. The major proposals are those which would institute roll call votes in the Committee of the Whole, provide roll call votes in the House on amendments defeated in the Committee of the Whole, and the proposal to record teller votes, the subject of this report.

The proposal for roll call votes in Committee of the Whole was offered before the Rules Committee by Rep. Spark Matsunaga (D-Hawaii). The proposal was rejected by the Rules Committee on a six-six vote, primarily because a 30-to-45 minute roll call on amendments was considered too time-consuming.

The proposal to permit roll call votes in the House on amendments defeated in the committee was introduced in the House by Rep. Gubser and 50 cosponsors. While the proposal would accomplish the objective of ending secrecy on key votes, it would cause the same time-consuming delays as the Matsunaga proposal. In addition, it would present serious procedural difficulties since amendments could be accepted in the House which would affect many provisions of a bill and therefore require its reconsideration.

Rep. Gubser is now persuaded that the record teller vote amendment will meet the present problem without necessary delay and confusion. He has therefore agreed to be the chief Republican cosponsor of the bipartisan teller vote amendment.

SECTION II. THE NEED FOR A CHANGE

There are four main arguments in support of the record teller vote proposal:

It would meet the public's right to know;

It would strengthen the House as a representative legislative body by encouraging the participation of more members at the amendment stage of the legislative process;

It would improve the image and credibility of the House by eliminating one of the prime examples of unjustified secrecy;

It would make committees and committee chairmen more responsive to the will of the House and less inclined to go along with special interest provisions.

The more important argument for providing record votes on key amendments is the people's right to know the performance of their elected representatives in Congress. The public is now denied access to an essential portion of each Congressman's record—his vote on almost all major amendments. Yet an informed electorate is the cornerstone of the democratic process. Only when votes on major issues are a matter of public record can an elected representative be held accountable to his constituents.

The practice of determining the fate of key amendments in relative obscurity erodes the credibility of the institution itself. Secrecy on teller votes weakens public confidence in the House of Representatives. It provides an aura of wrongdoing—a feeling that there must be something to hide—even when such claims are ill-founded.

Poor attendance has been the inevitable result of non-record votes. While roll calls and perfunctory quorum calls bring 85% to 90% of the Members to the House floor to vote, less than one-fourth of the House often determines the outcome of a crucial amendment. Poor attendance is a major factor in the rejection of almost all amendments which would reorder national priorities by curbing expenditures for unnecessary and wasteful military and defense programs to provide more funds for essential social programs.

Committees and committee chairmen are often inclined to include special interest provisions as part of reported bills. Amendments to delete these provisions now have little chance of passage because of poor attendance and other factors. However, if committees and their chairmen were aware that the provisions could be put to a record vote, it is likely that they would be more responsive to the will of the House and less likely to include the provisions in the first place.

In addition, in the absence of record votes, procedural votes are transformed into tests of sentiment on key issues. Thus, the procedural motion ordering the previous question is used as a device to ascertain Members' views on substantive matters. The use of procedural votes for these purposes may subject a Member's record to misinterpretation. A more accurate view of his position could be determined from a record of his votes on amendments.

SECTION III. HOW TELLER VOTES WOULD BE RECORDED

The amendment to H.R. 17654 being introduced by Reps. O'Neill and Gubser would simply authorize recording of teller votes if sufficient Members so demanded. It would thus permit record votes on major issues while retaining the present non-record teller system for less important amendments.

The proposal would work as follows:

(1) One-fifth of a quorum (20 Members) would be required to obtain a *record* teller vote—the same number as is needed to obtain a *non-record* teller vote. A record teller could be demanded either immediately following a division vote or as an amendment to a demand for a non-record teller vote. A record teller vote would not be in order, however, as a non-record teller vote had already been taken.

(2) Two teller lines would operate simultaneously during a record teller vote, one line recording those in favor of the motion and one recording those opposed. Four tellers would be appointed so that each line would have two tellers, one on each side of the question.

(3) Members would simply state their name as they walked between the tellers and the clerk assigned to that line would repeat their name and check it off as they passed.

(4) The two teller lines would be open for at least 12 minutes from the time the bells sounded announcing the record teller vote. This would assure Members in their offices and elsewhere at least 12 minutes to reach the floor and have themselves recorded.

(5) Members would be permitted the same right as they are now accorded to check how they are recorded and change their vote before the results are announced.

(6) The names of those voting for and against the question, as well as those not voting, would be recorded in the Record just as with a roll call vote.

Recording teller votes in this manner would take from 12 to 15 minutes compared to 6 to 12 minutes for non-record teller votes and 30 to 45 minutes for roll call votes.

SECTION IV.—ARGUMENTS AGAINST RECORD TELLER VOTES AND THEIR ANSWERS

Only a few Members have taken issue with the record teller vote proposal. Their arguments, and the answers to them, where they exist, are as follows:

Constant attendance

Contention: Record tellers would "chain Members to the House floor" by requiring their attendance for record votes.

Answer: The record teller vote proposal would do just the opposite. It would permit Members 12 minutes in which to reach the floor from their offices for record votes on a key amendment. Thus, a Member who is interested in a particular amendment would not have to stay on the floor all afternoon to make sure he is able to vote.

Delaying tactics

Contention: Record teller votes could be used as a delaying tactic which would seriously slow the legislative process.

Answer: Under present procedures, Members who wish to use teller votes as a delaying tactic may do so. Any amendment, no matter how frivolous, can now be raised under the five minutes rule. All that the record teller vote proposal would do would be to substitute an option of a record teller vote for a nonrecord teller. It would not be possible to obtain both. (The additional time involved in a record teller would not exceed five minutes on an average since teller votes now take up to 10 minutes and recorded tellers would rarely take over 12 minutes. Further, Members would be unlikely to seek record teller votes solely for the purpose of delay since few of their colleagues would be likely to support frivolous amendments brought for this purpose on a record vote.

Trivial amendments

Contention: Some matters are trivial and should not require the attendance of all the Members for a record vote.

Answer: The proposed amendment would not require a record teller vote on all amendments. The Committee of the Whole could still vote by voice, division or nonrecord teller. The amendment simply provides an additional method of voting to be used where the circumstances warrant.

Create Problems for Some Members

Contention: Record teller votes would make it more difficult for some Members to vote the interests of the nation instead of regional interests. Civil rights votes are generally cited as the basis for this contention.

Answer: The number of Members who vote against the sentiment of their constituents on civil rights matters is minimal. Further, they are more than compensated for by the number of northern and western Members who lack the incentive to participate in these nonrecord votes. If the names of the absentees were to become a matter of public record, a greater number of Members would almost certainly be present to offset the loss of votes of any Members who would choose not to be recorded in favor of civil rights legislation. In addition, record teller votes would generally serve the public interest by making known the votes of those who support special interest amendments to the detriment of enlightened public policy.

Contention: Record teller votes would increase the possibility of demagogic amendments designed to embarrass Members publically.

Answer: There is a chance that there will be additional amendments of this nature if votes are recorded. However, at present there are generally enough votes in each session to provide an indication of the way in which each Member responds to this type of pressure. The harmful effect of the demagogic votes taken now might actually be offset if each Member is able to run on a more complete record of his total performance in office. Record votes can be used as effectively by an incumbent as by a demagogic opponent. In addition, the fact that such tactics can be used by either side would tend to reduce the likelihood that demagogic amendments will be offered.

GREAT JOB, PAT

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. BURTON of Utah. Mr. Speaker, Mrs. Richard Nixon has received widespread acclaim for the excellent way in which she represented the United States on her recent good-will trip to Peru. Representative of these favorable comments are editorials that appeared in the Washington Post and the St. Louis Globe-Democrat:

[From the Washington (D.C.) Post, July 3, 1970]

MRS. NIXON IN PERU

A stark and terrifying act of nature on May 31 brought countless deaths and vast destruction and suffering to the countryside of Peru. Almost from the moment the earthquake struck it was evident that (1) enormous quantities of relief supplies and funds would be required to assist the Peruvian people, (2) the United States would want (and have) to play a large part in any relief effort and (3) the way to doing so was likely to be fraught with political complications and difficulties. The latter included not just this country's own sensitive relationship with the Peruvian government, but also our relationship to the relationship, as it were, that exists between Peru and Cuba which has been putting on quite a Peruvian relief campaign of its own. Finally, there has been the usual confusion and competition among relief agencies and/or agents in this country.

It is our impression that Mrs. Richard Nixon has threaded her way among all these potential sources of trouble admirably and with skill, keeping paramount in her own mind and in her pronouncements and her activities the brutal fate that overtook the earthquake's victims and the simple human response that is required from others at such a time. A few days ago, Mrs. Nixon left for Peru with two planeloads of relief supplies and on her own initiative she undertook to tour the more rugged and desolate places where the earthquake had struck. She appears to have conveyed to the Peruvians she met a genuine desire to help and to have done so with great tact, for all of which she deserves much credit.

[From the St. Louis (Mo.) Globe-Democrat, July 3, 1970]

GREAT JOB, PAT

Mrs. Richard (Pat) Nixon probably earned more good will for the United States in Peru by her visit to earthquake-torn areas in that country than any representative of this country in memory.

Peruvian President Juan Velasco Alvarado and his wife hailed Mrs. Nixon for "her compassion, her identification with our pain and her generous help."

Mrs. Nixon arrived in Lima Sunday with two jet aircraft carrying nine tons of relief supplies and $30,000 in donations from American citizens to the stricken nation.

In her last hours of touring Peru, Pat took a dangerous flight into the high Peruvian mountains to walk through the scarred towns talking to survivors and rescue workers.

Peruvians now recognize that the United States has an outstanding First Lady, just as the people of the United States do. Thanks to Mrs. Nixon for a moving mission of mercy.

CASA RENACE, A CENTER FOR DRUG DEPENDENTS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. RODINO. Mr. Speaker, I wish to bring to the attention of my colleagues the establishment of "Casa Renace," a rehabilitation center for Spanish-speaking drug dependents. In the past, such addicts have been unable to fully adjust to community life because of language difficulties. However, this program has all signs of aiding these people in readjusting their lives to become constructive members of our community.

The article follows:

HISTORICAL DEVELOPMENT OF "CASA RENACE" (REBORN HOUSE)

Casa Renace was born out of a concern for Spanish drug dependents and their problems. Tony Roman, an ex-addict, in referring Spanish drug dependents to different rehabilitation centers, found that because of a language barrier, they were not able to be helped and turned to drugs once more. As the volume of drug dependents seeking assistance increased, Tony Roman appealed to civic and social leaders of Newark to join him in aiding them.

Casa Renace is officially sponsored by F.O.C.U.S., a social agency for the underpriviliged Spanish-speaking people of the community. At least one-third of the Board of Directors of Casa Renace will be taken from members of F.O.C.U.S.

Rev. Mario Muccitelli of Our Lady of Perpetual Help Church, Msgr. Richard M. McGuinness of the Mount Carmel Guild, Archdiocease of Newark, Ralph D'Ambola, Essex County Sheriff, Dominick Spina, Newark Police Director, Carmen Atanasio, Director of Adult Education of Newark School System and Ferdinand Biunno, City Administrator, Raul Davila, Program Director of Channel 47, Newark, New Jersey, Martha Pina of the Board of Education, Paterson, New Jersey and Richie Roselli, Director of D.A.R.E. (Drug, Addiction Rehabilitation Enterprise) and Tony Roman, New Jersey Regional Drug Abuse Agency, also joined other, various civic-minded leaders of the Community to make a reality of this badly needed service for underprivileged Spanish-speaking drug addicts.

Casa Renace is established to aid drug dependents, potential drug dependents and their families in the Newark area. Casa Renace is located within the community so that it can support Spanish drug dependents upon their return from prison or outside treatment facilities. While the major focus of the Program is upon residential treatment, Casa Renace will stimulate community education and involvement also.

The "Casa Renace Incorporated" (Reborn House, hereinafter referred to as R.C.) has been legally established as a non-profit, non-political membership corporation under the New Jersey State Laws.

Adult Education will be provided for the clients of Casa Renace through the use of the Adult Education Programs of the City of Newark. Other programs of education will be encouraged where clients are eligible for them. Rehabilitation services will be provided when indicated by the appropriate agencies.

A program of recreational activity will be conducted on a regular basis within Casa Renace for clients who are taking part in the program under the guidance direction of the Director of the Staff. Clients will be encouraged to take part in community recreational facilities where this is deemed beneficial.

The program will be in as of July 1, 1970.

RATIONALE

Point one The "Casa Renace" (Reborn House) is located in Newark in order to help the Spanish addicts of the Newark area. When there is room, Spanish drug dependents from other areas within the State will be allowed to participate in the Program. The majority of the Spanish-speaking population spend a large part of their lives in some type of Spanish community, if not Newark, then in a location similar to it. Because of this fact, the Spanish-speaking drug dependent must learn to deal with the problems of his community and must learn to rise above the environmental hazards that are a part of such communities with a large concentration of drug use. Slowly, the addict will be "reborn". He will regain his integrity, his confidence, his faith in the goodness of those who work with him and with his fellow men, and will be able to rejoin society as a productive, active and conscientous citizen.

Point two Casa Renace teaches the drug dependent to accept reality. What is reality? It is *what it is* and *not* what one thinks it should be. A few years ago, in all subways there was a sign which advertised a bank by showing a couple on a beach in Miami, Florida. The sign said: "Wishing won't make it so." The meaning was clear. One cannot wish oneself on that beach. No amount of wishing or thinking will change reality. When one withdraws into a world of fantasy and ignores the realities of life, his or her problems begin.

Point three "Casa Renace" teaches the addict to accept responsibilities for his own actions, instead of looking for rationalizations or excuses for shortcomings. The Program of "Casa Renace" is concerned about finding ways and means of identifying and correcting shortcomings. There must not be any acceptance or justification for negative thinking or negative behavior. Every member must learn to stand up and become responsible. One must think every situation out to its conclusion before taking action. Once one has adopted this guideline, he is prepared to accept responsibility for that action. He is not just "reacting".

CAPTIVE NATIONS WEEK

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. DULSKI. Mr. Speaker, this week our Nation once again observes Captive Nations Week, established by congressional resolution in 1959.

Annually for these past 11 years our Nation has rallied in many ways in support of these oppressed peoples. Four Presidents, many Governors, and numerous mayors have joined in the annual effort to call public attention to the plight of these peoples of eastern and central Europe.

This year's observance comes on the heels of another significant anniversary. It was just 25 years ago last May that the war in Europe came to an end. Yet today its legacy continues to pose a threat to European security and world peace.

The once independent countries of Albania, Bulgaria, Czechoslovakia, Hungary, Poland, and Rumania remain under Communist domination.

The sovereign Baltic States of Estonia, Latvia, and Lithuania have been incorporated forcibly into the Soviet Union.

TRUE SENTIMENTS

The true sentiments of these peoples have been dramatically brought forth in the 1956 "Polish October," the Hungarian revolution of the same year, and the "Czechoslovak Spring" in 1968. In each and every instance, only strong Soviet pressure—outright military aggression in the cases of Hungary and Czechoslovakia—prevented the Communist domination from being swept away by a people clamoring for self-determination.

It was not the free world or the captive people that had initiated the cold war. This ideological confrontation, which is part of the legacy of World War II, had its roots in the declared objective of communism to impose its system of government on other nations of the world.

In the Communist orbit, the regimes continue to wage a war of spiritual and moral attrition on the people over whom they rule. Abroad, Communist subversion and infiltration remain one of the instruments of Communist policy in general, and that of the U.S.S.R. in particular.

ABOUT THE COLD WAR

Expressing solidarity with the captive peoples during Captive Nations Week, therefore, is no artificial revival of yet another phase in the cold war, since the cold war was not of the captive peoples' making.

Captive Nations Week observance simply offers dramatic proof that the plight of the 100 million East and Central Europeans has not been forgotten by their more fortunate brethren in the free world.

This kind of uplift, symbolic though it may be, is of vital importance for the progressive and reformist forces inside the Communist orbit that are striving for a greater measure of freedom.

Mr. Speaker, as a part of my remarks, I include the text of the Captive Nations Week Manifesto 1970 signed by two supporting organizations:

CAPTIVE NATIONS WEEK MANIFESTO 1970

The undersigned organizations, dedicated to the restoration of freedom in the captive nations, call attention to Public Law 86–90, unanimously adopted in 1959 by the Congress of the United States, by which the third week of July each year is designated as Captive Nations Week.

Captive Nations Week will be observed this year a few months after one of the most poignant anniversaries of our time. Twenty-five years ago this May, the war in Europe came to an end. But the hopes and expectations that came in the wake of the hard-won victory over the Nazi military machine have yet to be realized. For 100 million people in East and Central Europe, Nazi domination has been replaced by harsh, unimaginative Communist rule and Soviet hegemony.

During the 25 years, the USSR has been the master of the destiny of each of the East and Central European countries seized by the Communists in wartime and the postwar years. The sole exception is Albania, which has exchanged Soviet overlordship for close ties with Communist China. True, the regimes installed by, or with the help of, Moscow have not remained unchallenged. In 1956, the Polish October and the Hungarian Revolution offered vivid proof of the true feelings of the people toward the ruling Communist elite. Two years ago, before the Soviet invasion, the "Czechoslovak Spring" generated demands that again confirmed the yearnings for freedom among the victims of Soviet imperialism and neo-colonialism.

The Soviet Union has met these challenges to its domination with brutal determination. Soviet troops arbitrarily invaded and occupied Czechoslovakia in 1968, and the subsequent enunciation of the so-called Brezhnev Doctrine of limited sovereignty has merely served to "justify" Soviet use of naked force—in the past, today, and in the future. The objective of the Brezhnev Doctrine and of Soviet policy in general is to seek worldwide acceptance of the concept of spheres of influence—thus hoping to "legitimize" the *status quo* and make permanent the present division of Europe.

This artificial division of Europe—a legacy of World War II—remains a potent deterrent to any initiative for a lasting peace in Europe. There can be no genuine trust in the peaceful intentions of those who will not hesitate to use any means available to perpetuate themselves in power and keep their own people in bondage.

Thus today, 25 years after the end of the war in Europe, the issue of freedom for the captive peoples should be raised with vigor and determination by the representatives of the free world. The people in East and Central Europe consider themselves part of Europe and ardently desire to join a Europe united in freedom. The *status quo* in East and Central Europe is intolerable—both to those who live there and to the free world.

The Assembly of Captive European Nations firmly believes that freedom and national independence for captive East and Central Europe are essential to a lasting peace in the area, and, therefore, to world peace as well.

While commemorating this year's Captive Nations Week:

We stress that the Soviet Union has violated its solemn promises of freedom and independence to the nine nations made captive during and after World War II—Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland and Rumania;

We also stress that the Communist regimes in the East-Central European nations continue to flaunt the will of the people by denying them the right to periodic and genuinely free elections.

We appeal to the free governments of the nations of the world:

1. To declare, in accordance with the principles of the Atlantic Charter, the Universal Declaration of Human Rights and the Declaration on the Granting of Independence to Colonial Countries, adopted by the United Nations on October 14, 1960, their support of the right to self-determination of all peoples held captive by the Communists and, consequently, to make this issue the permanent concern of the United Nations;
2. To reject the intent and implications of the Brezhnev Doctrine of limited sovereignty, since its acceptance by the West would lead to the recognition of the spheres of influence and of the *status quo* in East and Central Europe;
3. To create a world climate favorable to the quest of the captive peoples of East and Central Europe for the recovery of their right to self-determination and full national and individual freedom by bringing their plight to the attention of the free world, and thus help liquidate the legacy of World War II and make Europe whole once again.

We appeal to the People of the United States of America to manifest during Captive Nations Week, July 12–18, 1970, their awareness of the importance of freedom for 100 million peoples in the Communist-dominated lands to the establishment of a valid European settlement and world peace.

CHRISTOPHER EMMET,
Chairman, American Friends of the Captive Nations.

ALFRED BERZINS,
Chairman, Assembly of Captive European Nations.

SEEING THE "LIGHGHT"

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. BRADEMAS. Mr. Speaker, it is important to note that the bill to amend the National Foundation on the Arts and the Humanities Act of 1965 was cosponsored by over 50 Members on both sides of the aisle, was reported by a vote of 22 to 1 out of the Education and Labor Committee, and was passed by this body on June 30 by a vote of 262 to 78.

The legislation as agreed to in conference extends the authorization period for the National Foundation for 3 additional years and sets authorization ceilings of $40 million in fiscal year 1971, $60 million in fiscal 1972, and $80 million in fiscal 1973.

The conference also provided for an authorization ceiling on funds for State arts councils of $75,000 per State in fiscal 1971, $4,125,000; $100,000 per State in fiscal 1972, $5,500,000; and $125,000 per State in fiscal 1973, $6,875,000.

The bill approved by the conference committee further provides that not less than $65,000 shall be allotted to each State from the sums appropriated for the State arts councils. If the sums appropriated are insufficient to satisfy the $65,000 figure per State, the bill provides that the sums available shall be allotted among the States in equal amounts.

The original House-passed bill provided for a flat minimum allotment of $75,000 per State, regardless of the total appropriation. The conference agreed that such a provision might well damage the national programs of the Arts Endowment, in the event appropriations were cut to a level below that appropriated for the present fiscal year.

In addition, the conference provided for authorization ceilings to be placed on the Federal funds which may be matched by outside gifts—ceilings of $6,000,000 for fiscal 1971, $7,000,000 for fiscal 1972, and $9,000,000 for fiscal 1973. The original House-passed bill provided that the matching provision be funded at such levels as Congress may deem necessary.

Other amendments adopted by the conference committee were technical in nature.

Mr. Speaker, the arts and humanities bill received overwhelming bipartisan support when it passed this body on June 30.

I respectfully urge adoption of the conference report today.

Mr. Speaker, at this time I would like to insert in the RECORD an editorial from the Washington Post of July 12, 1970, hailing the vote of the House in passing the authorization bill for the arts and humanities:

SEEING THE LIGHGHT

Representing, no doubt, the sentiments of their constituents, a good many congressmen opposed even a minimal federal endowment of the arts and humanities when that program was first introduced five years ago. They feared that federal assistance would stifle private support and/or spell government control of the arts.

A week or so ago, again doubtlessly representing the sentiments of their constituents, a good many of these same congressmen voted to follow President Nixon's recommendation and double the authorized funding of the National Foundation on the Arts and Humanities.

As Rep. H. R. Gross (R.-Iowa) observed, after the 262-to-78 vote for a $40 million authorization was counted, the House hasn't seen so many "converts" in a long time.

What accounts for the conversion is that, as an hour of debate revealed, the initial skeptics have become persuaded that the national endowment programs, serving as "seed money," have established a remarkable record of stimulating rather than supplanting other sources of funding for the arts. They have generated about $3 for every $1 of federal support. What is more, grants to state arts councils have prompted the state legislatures to quadruple that money. As to federal control, the complaint before the House was only that there is none. Rep. William J. Scherle (R-Iowa) seemed upset that in a literary anthology, published some years ago with the help of federal rats funds, a poem appeared which consisted of the single word "Lighght". This poetic experiment—which, we admit we don't quite fathom, either—was unworthy of government support, Mr. Scherle argued. But efforts to blue pencil the program were overwhelmed by praise of it.

The House heard tale after touching tale of new sculpture, painting, music, dance, literary and other creative activities in even remote places throughout the land. Most of all it heard of a new enthusiasm for the arts—an impressive cultural flowering in the grass roots.

It is due in large measure, we believe, to the thoughtful, fair-minded and level-headed manner in which the scant federal seeds have been sown, the way Barnaby Keeney, Roger L. Stevens and, succeeding Stevens, Miss Nancy Hanks, have organized and run the program.

The Senate has also recognized all this. But it has authorized only $33 million. We hope the conference will see fit to agree on the full $40 million the House voted. It is hardly an exorbitant amount, considering the financial dilemma our orchestras, operas, theatres, dance companies, museums and other arts institutions are in precisely because they are doing such a good job of making, as the President put it, "the diversity and insight of America's cultural legacy more readily accessible to millions of people everywhere." But the $40 million would be a nice token that Congress, having seen the "lighght," won't doom this marvelously successful program to "darkrkness."

TOPICS: ON DIVIDING THE COUNTRY

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. SPRINGER. Mr. Speaker, I herewith attach an article by the Vice President of the United States which appeared in the New York Times editorial page on Saturday, July 11, 1970, titled, "On Dividing the Country."

I am sure that my colleagues will be interested in reading the opinions of the Vice President on this very important subject.

[From the New York Times,
Sat., July 11, 1970]

TOPICS: ON DIVIDING THE COUNTRY

(By SPIRO T. AGNEW)

More and more frequently, the charge is being made that, because of the actions and attitudes of the Vice President, the Nixon Administration is "dividing the country."

Is it possible for a country of over 205 million free individuals to be united on the issues of our time? Obviously not. Progress in our governmental system grows out of the clash of partisan positions.

Look at democracy objectively. How does an aspirant for office oust an incumbent? By selling himself and his ideas? To a degree, yes; but that is seldom enough. He must attack the policies of his opponent; as he does, people will side with one candidate or the other. Divisive? Of course—but by dividing, we conquer apathy.

Examine for a moment the free enterprise system. A better product or service is not sufficient to insure success. It must be marketed and, above all, advertised. Nearly all advertising is an implied rejection of the alternatives offered by the competition. In its way it divides the consumer community.

So we see that in government and in business we stimulate constructive division. And traditionally our educational and religious patterns also have been compatible with the partisanship of ideas.

Before leveling charges of "divisiveness" at one another, we would do well to differentiate between the kind of division that embitters and negates, and the division that encourages intelligent debate. A House divided against itself cannot stand, but a House that can agree to divide on ideas and issues stands secure and healthy.

It is my thesis that we can divide over ideas without the handwringing that some Americans express today over such disagreements. Ideas are flexible—they are malleable and readily modified under the hammer of new knowledge. They are not held forever like heirlooms. And as they change, the lines of division among us change—ally becomes antagonist, antagonist becomes ally. We, therefore, need not fear divisions born of different ideas.

In this sense, dissent is divisive—and there is nothing wrong about that. The dissent most under discussion these days separates the protesters from the establishment and is therefore divisive. I find it difficult to understand why those who properly defend the right to dissent at the same time condemn a strong defense by the establishment just because it criticizes the dissenters' position.

UNITY, NOT UNANIMITY

But if one is to accept my argument that a people divided over ideas is natural, and possibly stimulating to progress, in what sense should our people be brought together for the promotion of civil tranquility? The answer, as I see it, is this: We should seek to come together in a peaceful, rational forum. The object of this coming together is not unanimity. The object is progress. It is achieved by unity based on constructive compromise.

Unity should be based on the freedoms which permit the tough, impartial examination of ideas—ideas that can then be accepted on their merits or rejected. But unity is perverted into a divisive slogan when it is used to create artificial groupings such as "the young," "the poor," and "the black." These are stereotypes that do not exist.

STEREOTYPES OPINIONS

Do all young, or all poor, or all black people have a persisting identity of interest? I think not. Such an assumption demeans each group because it condescendingly overlooks variances of opinion among the individuals who comprise each group. It implies that the natural divisions which occur because all young people do not have the same ideas, or all black people do not reach the same conclusions, or all poor people do not see a common escape from poverty, are unimportant and must be subverted to a uniform set of standards for that particular group. The amazing thing is that these standards are promulgated by people outside the group who are often old, white and fairly well-to-do Those who stereotype the opinions of groups see America as a mosaic made up of hostile minorities, each of which they encourage to demand. "What's in it for me?" And I think you will agree that it never seems to be enough.

The divisions that are dangerous are divisions that set young against old, black against white, poor against rich. These are not divisions based on conviction and disagreement over ideas. These are divisions encouraging prejudice and rejecting the productive examination of ideas which are actually shared in many cases by the groups set against one another.

The encouragement of these coldly exclusive alignments does a disservice to our free system because it separates people on the basis of what they are rather than what they think. Tomorrow, the old cannot be young, the white cannot be black, and few of the rich will be poor. That leaves a rather dubious basis for compatibility. But tomorrow, the air can be pure, the slums can be gone, and the world can be at peace. It can happen only through the combined efforts of young and old, black and white, rich and poor.

We will never come together on our common purposes of equal opportunity, individual freedom and social justice by insisting that there is only one road to these goals—and smothering debate by falsely evoking an ideal of unity.

Division and dissent, even traveling under the pejorative label of "divisiveness," can be constructive forces for orderly change, and I for one intend to defend the principle as I take part in the process.

Spiro T. Agnew is Vice President of the United States.

FORTY MILLION AMERICANS AND A BROKEN ODYSSEY

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. PUCINSKI. Mr. Speaker, Colman McCarthy, a member of the editorial-page staff of the Washington Post, has written one of the most important articles of our time.

Mr. McCarthy has very warmly and persuasively captured the mood of the middle-class American, and he has spelled out what can be done to bring about a better understanding among Americans.

Mr. McCarthy deserves the highest commendation for this brilliant article which follows:

FORTY MILLION AMERICANS AND A BROKEN ODYSSEY

(By Colman McCarthy)

Hard hats. Super patriots. Flagwavers. Wallacites. Pigs. Supposedly included by these quick-mix brand names, mostly dreamed up or whispered along by far-off liberals, are some 40 million lower middle class white workers. They live mainly in the 58 major industrial cities of the Midwest and North, either direct immigrants or first, second and third generation descendants from the old—and what for some increasingly seems a better—world. Their roots are in Italy, Poland, Lithuania and other European countries. Because a few of them beat up antiwar marchers on Wall Street and St. Louis, or stone black civil rights workers—Cicero, Ill., 1966—or vote for George Wallace, the ethnic Americans are viewed by many non-members as war-fiends, racists and slobs.

They aren't. Before the sociologists, behaviorists and other missionaries set their compasses to search out the true meaning of this group, the ethnics are doing their own self-defining, free of catch-phrases and caricatures. At a recent meeting in Washington called by the Urban Task Force of the U.S. Catholic Conference, Barbara Mikulski of the Southeast Community Organization in Baltimore, spoke out: "The ethnic American is sick of being stereotyped as a racist and dullard by phony white liberals, pseudo black militants and patronizing bureaucrats. He pays the bill for every major government program and gets nothing or little in the way of return. Tricked by the political rhetoric or the illusionary funding for black-oriented social programs, he turns his anger to race—when he himself is the victim of class prejudice.

". . . the ethnic American is overtaxed and underserved at every level of government. He does not have fancy lawyers or expensive lobbyists getting him tax breaks on his income. Being a home owner, he shoulders the rising property taxes—the major revenue source for the municipalities in which he lives. Yet he enjoys very little from these unfair and burdensome levies."

Miss Mikulski went on to list other hurts and losses suffered by ethnics. At the conclusion, Miss Mikulski called for a new alliance of "white and black, white collar, blue collar and no collar" workers based on mutual need, respect and interdependence. At the end of the week-long meeting, it was clear that ethnic Americans see themselves as an alienated and threatened people, bypassed by the larger society and now blamed by this same society for much of what is dragging the country down.

Except for an occasional article—such as a recent piece in the The New Republic—and a government report on blue collar workers made public two weeks ago, few people, especially those farthest away in attitude, have gone beyond the jargon words to understand the ethnics—their culture, emotions, economics and future.

Culturally, many ethnics originally allowed themselves to be fertilized with the notion of the American dream, only to find parts of their European heritage ploughed under. From this buried necessity, it is common to find ethnic children named Rodney Raziano, Kimberly Grotowski, Kelly Walszak. "The parents of those kids are trying to blend in," says Monsignor Geno Baroni, "but it only increases the feelings of isolation more. Seeking acceptance in America shouldn't mean denying or disowning the culture of your ancestry, including ethnic names like Rocco and Stanislaus. There are other ways of being accepted, which ethnics already do—like paying taxes, community service, voting, obeying laws."

Baroni, who recently left a black inner-city parish in Washington to work at the U.S. Catholic Conference and organize ethnic strength, insists that man's cultural roots cannot be torn up arbitrarily. "I remember as a kid in a mining town in Pennsylvania. My teachers, white middle class Presbyterians and Methodists, taught me ways of becoming Americanized. Give up strong smelling salami, they said, and start eating homogenized cheese. So I gave it up. I thought that was how you became a real American.

"If a kid denies enough things from his culture and heritage, even something small like salami, soon he has little to hang onto that tells him he's different. The well educated and middle class have other securities available to tell them who they are. So they don't need things like music, art, literature, food, or legends in the way that an ethnic does."

As a partial remedy, Baroni believes the schools should teach ethnic culture. If this idea comes about, it will be an extension of what many schools are already doing—offering courses in African culture. "The blacks who study their heritage," said Baroni "aren't doing it to return to Africa. Neither are the ethnics planning on going back to Europe. Both groups just want to celebrate some of the same things their fathers did. This is cultural awareness, not cultural division. If all kids learned their own heritage, as well as learning others, you'd have a lot less groping for identity. A man who has cultural roots cannot be blown around by every breezy fad or idea or come-on."

Two bills, proposed by Rep. Roman Pucinski and Sen. Ralph Smith, have recently been introduced in Congress for the formation of ethnic heritage centers. "The bills have a good chance," said Pucinski. "I am amazed at the huge response we have gotten around the country. Not just from ethnics, but from all groups. People want to know about themselves and about each other."

The emotions of ethnics currently flash like electric sparks between poles of anger and fear. Since many have come from, and perhaps have relatives in, countries like Hungary, Poland, Czechoslovakia and others in East Europe where communism rules, ethnics rise with anger against liberal intellectuals and many of the young for whom anti-communism is now a bore. Because the Vietnam war was and is advertised as a free-world-against-communism struggle, ethnics know whose side they are on. The sight of students marching against the war, supported by universities and liberals, is enraging; moreover not only have the ethnics fought bravely in past wars with no questions asked, but today it is largely their sons and the blacks—not the affluent, often deferment-protected students—who have been disproportionately drafted first for Vietnam.

The fear of the ethnic is felt most in the potential of what is called the black revolution. Again, liberal and intellectual reformers are involved. For many of the latter, the black revolution is just a handy phrase, stronger than the old cause of civil rights, but essentially the same old things they have always been talking up: black capitalism, equal opportunity, social programs for the ghetto. Since many of those who most want to reform the inner city live safely and conveniently in the outer city, the ethnics see themselves locked in a box tied with pretty social-reform ribbons, plus a glued-on message from the liberals: you carry out in practice the ideas of brotherhood that we will keep on preaching in theory.

The ethnics see it differently. It is *their* jobs up for grabs as more blacks are trained, *their* neighborhoods where racial tension is worst, *their* families who will be victims of a high crime rate. None of this is an excuse for ethnic bursts of racism, of which there have been many. But it is reason to wonder whether the spontaneous and emotional racism of an ethnic in Gary, Indiana is more easily excused and cured than the calculated and rationalized racism of, say, a WASP in Montgomery County.

With the average industrial worker making $8,632 a year (in 1968), money is perhaps the main worry of the ethnics. According to HUD Secretary George Romney, $27,000 is now the going rate for a house; on the average, a family would need an income of nearly $14,000 to build and keep a house, a sum few in the working class can raise.

Living just above the poverty level, ethnics are ignored by federal assistance programs designed for the ladder-rung below. Few wives can work because baby-sitters are beyond the budget; adult education is not widely available; small irks like rising bus fares only increase the pinch. The ethnics are victimized by inflation—his money buys less—and by anti-inflation moves, because layoffs hit him first. "Manufacturers," said Barbara Mikulski, "with their price fixing, shoddy merchandise and exorbitant repair bills, are gouging him to death. When he complains about costs, he is told that it is the 'high cost of labor' that is to blame. Yet he knows he is the 'labor' and that in terms of real dollars, he is going backwards."

The recent report from the Labor Department on the working class says that economically the ethnic is squeezed in another way—his earning capacity levels off just when family expenses continue to rise because of costs like teen-age and college-bound children, car and home improvements, and medical expenses for aging parents. As a result the ethnic pressures for higher and higher wages, exactly what union after union is doing. Even here, as with the Cleveland bus drivers recently, the workers often strike not only management but also their own leaders, when the latter give in too soon.

The future of ethnic Americans, as with the blacks below and the middle-class above, is not their own to decide. Three sources of cooperation could begin to reach out; the intellectuals, the church and the government.

During the last decade, the intellectuals, social reformers and the men of wealth and power who back them were preoccupied with the problems of the blacks and the students in a coalition to end racism and the war. Aside from the question of whether this reaching out by the intellectuals was genuine concern or mere dabbling, the ethnics were seen as untouchables; they were both antiblack and pro-war. A dialogue between ethnics and intellectuals is urgently needed, but it can only happen on two conditions. First, that the intellectuals drop their arrogance toward people who earn their living by using their muscles, not their minds; and second, the intellectuals must realize that the ethnics are not lashing out from hate but from fear.

The ethnics' side of the dialogue must be based on the realization that the war is hurting them perhaps more than anyone; they should not need more inflation, unemployment or lack of community services to convince them that Vietnam has gone on too long. At home, the ethnics ought to begin seeing that the peace movement is more than Abbie Hoffman and Jerry Rubin; supporting peace doesn't mean supporting long hair or the Viet Cong flag or mouth-offs.

As for ethnics and racism, the intellectuals must explain that the blacks and white working class are actually in the same urban fix together. Instead of letting them fight each other for useless inner-city leftovers, the intellectuals could act as a referee, creating a black-white coalition based on hard, mutual needs, not any sentimental notions of integration.

The opportunity for the church to assist ethnics lies not in starting anything new but with continuing and strengthening old ties. The church was standing up for immigrants long before the government, through its social teachings and priests like Charles Owen Rice of Pittsburgh. If the seminaries can turn out more priests who care about social justice for ethnics, and not priests who want to play games with new liturgies or fight the bishops about birth control, the dynamics of the parish offer considerably more than symbolic hope.

The recent government report on ethnics is little more than a first puff of air into a trial balloon. Many are suspicious that the Nixon administration is only making the appearance of a move, with no substance. In fact, the confidential report reinforces this suspicion by saying candidly that the ethnics are "overripe for a political response." Realizing the report would cost impossible billions to carry out, the President is advised to do cheap things like making national awards for outstanding craftsmen, issue ethnic postage stamps and other items from a summer clearance sale.

It will take a little more than a report and public relations gimmicks to con votes from the ethnics, however. On July 1, two days after the report was leaked, Leonard Woodcock, the new president of the United Automobile Workers, said in Cincinnati that the Nixon administration seemed to be "dedicated to tearing the nation apart," that its policies had set "region against region and race against race." Many have been saying this all long, but predictably it came from chronic dissenters. It may even have surprised the White House that a spokesman for the working class would add his voice so vigorously to the disillusioned chorus.

The recent speeches and sayings of Spiro Agnew are seen by many ethnics, including Msgr. Baroni, as stirring the fears, not the hopes, of the working class. In taking the low road, the administration is no better than George Wallace, who is also using ethnics for his own political ends.

Which of these three groups—the intellectuals, the church or the government—steps forward first is not as crucial as the need for all to respond simultaneously. There is no doubt that the ethnics hold a great balance of power, and that it will be used one way or the other. What still needs to be made clear, is that ethnics have a strong culture, a deep commitment to country—this one—and a solid sense of fairness. These are also assets of great value.

DOMINO THEORY DEBUNKED

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. RYAN. Mr. Speaker, the domino theory has been a favorite reference in the rhetoric of justification for U.S. involvement in Indochina. Throughout the years, we have been told that if South Vietnam falls, then the rest of Southeast Asia will follow.

On July 2 the President reiterated this theory in a televised interview, when he said:

> Now I know there are those that say, well, the domino theory is obsolete. They haven't talked to the dominoes. They should talk to the Thais, Malaysians, to Singapore, to Indonesia, to the Philippines, to the Japanese and the rest. And if the United States leaves Vietnam in a way that we are humiliated or defeated, not simply speaking in what are called jingoistic terms but in very practical terms, this will be immensely discouraging to the 300 million people from Japan, clear around to Thailand in free Asia. And even more important, it will be ominously encouraging to the leaders of Communist China and the Soviet Union who are supporting the North Vietnamese. It will encourage them in their expansionist policies in other areas. The world will be much safer in which to live.

All this is in line with the President's conception of the United States, articulated in his press conference of May 8, when he warned against America being "finished in so far as the peacekeeper in the Asian world is concerned."

By the circuity of misguided rhetoric we are the peacekeeper of Asia because of the domino theory, and the domino theory is used as a justification for being the peacekeeper.

Joseph Kraft, in his column in the July 12 edition of the Washington Post, gives an incisive commentary on the domino theory. I commend this column to my colleagues as a trenchant debunking of this theory—a theory whose true purpose, as Mr. Kraft accurately assesses, "was not to describe the situation in Asia but to rationalize the Vietnamese war for American public opinion." Mr. Kraft's column follows:

DOMINO THEORY A DELUSION—WASHINGTON GETS MIRED IN INDOCHINA AS ASIAN ALLIES TURN TIN EAR

(By Joseph Kraft)

"People who don't believe in the domino theory haven't talked to the dominoes," goes one of the sacred texts of the Vietnam war lovers. But Secretary of State William Rogers has just been talking to the dominoes in the course of an Asian tour.

In country after country he has sought action that would make it easier for the United States to continue as protector of the Pacific. Not one government has even met him halfway. If his trip has succeeded in anything, it has been in exposing the domino theory once and for all as a pernicious self-delusion.

Consider first the case of South Vietnam. The Secretary's hope was to get some sign of support from President Nguyen Van Thieu for President Nixon's new emphasis on a negotiated settlement of the war. But the Thieu government uttered no public word in support of negotiations. Privately, Gen. Thieu's aides let it be known that their president had given Rogers the wet mitten when he broached the subject of new peace initiatives.

Indeed, far from obliging the secretary, the Thieu government used the occasion of his visit to jack up American aid commitments to South Vietnam.

The United States has agreed to increase aid to Saigon by another $100 million, with special provision for supplying more food and more housing to South Vietnamese troops. Anybody who knows anything about Vietnam knows that no small part of those funds will be going into the pockets of the generals who rule the country.

Then there is the case of Thailand. That country sits cheek-by-jowl with Cambodia; it is a member of the Southeast Asia Treaty Organization, and it has received billions in American military aid over the past two decades. So there was some responsibility to meet Rogers's plea for Thai military action to support the beleaguered Cambodian regime against Communist assault.

But when the call came, the Thais developed a tin ear. Their forces were required to meet local Communist insurgents—not to mention trouble expected as a result of a large rise in food prices. Bangkok would be willing to trade some Cambodian units and to form others among Thais of Cambodian extraction. But that, of course, would require more money from the United States.

Lastly, there's Japan. Rightly or wrongly, the Nixon administration has been pressing Tokyo to limit voluntarily sales of wool and synthetic textiles to the United States. The Japanese agreed to a year's limitation, but the talks broke down when the United States insisted on a long-term understanding.

In his Tokyo visit, Rogers reached agreement with Prime Minister Eisaku Sato on the principle that the trade talks should not get in the way of larger relations between Japan and the United States. That amounts to giving the case away on textiles. In effect, having asked Tokyo for concessions and been refused, Washington is now saying, "Let's kiss and make up."

The pattern that emerges from these encounters is not one of Asian countries concerned about an external danger to the point of making accommodations for the protecting power of the United States.

On the contrary, the Asian countries involved are looking after their own interests in the narrowest sense. Instead of making special efforts to help the United States shoulder the defense burden, they use each occasion to squeeze more out of Washington in the way of money and diplomatic concessions.

They can do this because, in fact, the domino theory is all wrong. The beleaguered countries of Southeast Asia are not hard objects that would push one against the other like a row of dominoes. They are much more like swamps. They are soft and porous. They have a great capacity, as this country and the French and Japanese have found out, for absorbing a foreign presence without going under. Left to themselves without foreign protection against the Communists, they would probably decompose into small pockets of rival tribal areas.

Of course, the true purpose of the domino theory was not to describe the situation in Asia but to rationalize the Vietnamese war for American public opinion. The idea was that the American presence could be justified as a kind of proxy action on behalf of the Japanese, the Thais, the Malaysians and Indonesians. It was a case of trying to mitigate our own guilt by implicating others.

The others, naturally, demand a price for easing the American conscience. That is why Secretary Rogers on his recent rounds found, not offers of help, but demands for more assistance. The fact is that it will be impossible for this country to deal straight with Asians as long as American officials continue to delude themselves with the domino theory.

HOUSE OF REPRESENTATIVES—*Tuesday, July 14, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is my strength and my shield: my heart trusts in Him and I am helped.—Psalm 28: 7.

Eternal God and Father of us all, in whose presence our restless spirits find peace, by whose guidance we are led in the paths of righteousness, and under whose banner we find our souls renewed, we turn from the tumult of a troubled world, not to evade it, but to be given insight to face our perplexing problems with a courageous faith, a confident hope, and a creative spirit.

Bestow upon us an abundance of good, sound commonsense, season it with understanding, flavor it with love, stir it with truth, that out of our efforts on behalf of our country may come a greater unity of free men living together in good will striving for peace in our world.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

EULOGIES TO THE LATE HONORABLE WILLIAM L. ST. ONGE, OF CONNECTICUT

Mr. FRIEDEL. Mr. Speaker, I am calling to the attention of the House membership that the closing date for eulogies to the late Representative William L. St. Onge, of Connecticut, has been set for Friday, July 24, 1970. This has been set as the cutoff date for all insertions that will make up the compendiums of eulogy for this Member of Congress who, but for his untimely passing, would now be serving in the 91st Congress.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 7618. An act to provide for the conveyance of certain real property of the Federal Government to the Board of Public Instruction, Okaloosa County, Fla.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 16915. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1971, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 16915) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1971, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MONTOYA, Mr. PROXMIRE, Mr. YARBOROUGH, Mr. PEARSON, and Mr. COTTON to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 17070) entitled "An act to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McGEE, Mr. YARBOROUGH, Mr. RANDOLPH, Mr. FONG, and Mr. BOGGS, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3215) entitled "An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3959. An act to amend title 5, United States Code, to provide additional civil service retirement and sick leave benefits for air traffic controllers.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON S. 2601, DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that it shall be in order on tomorrow, Wednesday, July 15, to consider the conference report on the bill S. 2601, the District of Columbia Court Reform and Criminal Procedure Act of 1970, notwithstanding rule 28, clause 2.

Mr. Speaker, I make this request because of the high cost of printing the voluminous conference report in the CONGRESSIONAL RECORD. I am informed that it might cover as many as 160 pages of the RECORD. I can assure the Members that printed copies of the report, in pamphlet form, will be available for their consideration before this report is called up.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEGISLATIVE PROGRAM FOR WEDNESDAY, JULY 15

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority leader whether he can inform the House when this conference report will be scheduled for consideration.

Mr. ALBERT. It is intended to schedule it and two other conference reports tomorrow.

Mr. GERALD R. FORD. And this would undoubtedly be the first one to be considered?

Mr. ALBERT. I am not able to answer the gentleman's question on that. We have one from the Committee on Science and Astronautics and one from the Committee on Ways and Means and this one. I think all three will be called up tomorrow.

Mr. GERALD R. FORD. I thank the gentleman.

A SIGN OF TRUE OUTRAGE

(Mr. SCHERLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHERLE. Mr. Speaker, I did not go to Vietnam. I have not seen the so-called tiger cages. If they are what they are touted to be, they are an outrage.

But that is beside the point. The point is that those who want communism to win in Southeast Asia and those who want the United States to lose have erected another strawman. Those who cry most loudly about the tiger cages have been the quiet ones when it comes to demanding redress against the North Vietnamese for keeping American soldiers in bamboo cages, pulling out their finger nails, and otherwise torturing them.

Where have their cries of outrage been over the Hue massacre, over the tens of thousands of South Vietnamese killed, kidnaped, and tortured by the Communists?

We cannot hear them. They are silent because none of these things serve their purpose—which is to bring on a U.S. retreat and defeat.

Yes, let them call for humane treatment of South Vietnam's prisoners. But let them also call for humane treatment for North Vietnam's prisoners and every other human being held against his will. That will be a sign of true outrage. That will be the time when we will know they are sincere.

CONFERENCE REPORT ON H.R. 14685, TO AMEND THE INTERNATIONAL TRAVEL ACT OF 1961

Mr. MOSS, on behalf of Mr. STAGGERS, filed the following conference report and statement on the bill (H.R. 14685) to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes:

CONFERENCE REPORT (H. Doc. No. 91–1299)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 14685) to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That section 3 of the International Travel Act of 1961 (75 Stat. 129; 22 U.S.C. 2121–2126) is amended by changing the period at the end of clause 4 of subsection (a) to a semicolon, and by inserting after such clause the following:

"(5) upon the application of any State or political subdivision or combination thereof, or private or public nonprofit organization or association, may make grants for projects designed to carry out the purposes of this Act if he finds that such projects will facilitate and encourage travel to any State or political subdivision or combination thereof by residents of foreign countries. No financial assistance will be made available under this clause unless the Secretary determines that matching funds will be available from State or other non-Federal sources and in no event will the amount of any grant under this clause for any project exceed 50 per centum of the cost of such project. The Secretary is authorized to establish such policies, standards, criteria, and procedures and to prescribe such rules and regulations as he may deem necessary or appropriate for the administration of this clause;

"(6) may enter into contracts with private profit- or non-profit making individuals, businesses, and organizations for projects designed to carry out the purposes of this Act whenever he determines that such projects cannot be accomplished under the authority of clause (5) of this subsection; and

"(7) may make awards of merchandise manufactured and purchased in the United States to travel agents and tour operators in foreign countries as an incentive for their promotion of travel to the United States by residents of foreign countries. The Secretary is authorized to establish such policies, standards, criteria, and procedures as he may deem necessary or appropriate for the administration of this clause."

SEC. 2. Section 3 of such Act (22 U.S.C. 2123) is amended by adding at the end thereof the following new subsections:

"(c) Each recipient of assistance under clause (5) of subsection (a) of this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(d) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the assistance received under clause (5) of subsection (a) of this section."

SEC. 3. (a) Section 4 of such Act (22 U.S.C. 2124) is amended to read as follows:

"SEC. 4. There is established in the Department of Commerce a United States Travel Service which shall be headed by an Assistant Secretary of Commerce for Tourism who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report directly to the Secretary. All the duties and responsibilities of the Secretary under this Act shall be exercised directly by the Secretary or by the Secretary through the Assistant Secretary of Commerce for Tourism. In addition, the Secretary shall designate at least one individual to serve as Deputy Assistant Secretary of Commerce for Tourism who shall be under the supervision of the Assistant Secretary of Commerce for Tourism."

(b) Paragraph (12) of section 5315 of title 5, United States Code (relating to level IV of the Executive Schedule), is amended by striking out "(5)" and inserting in lieu thereof "(6)".

SEC. 4. Section 6 of such Act is amended to read as follows:

"SEC. 6. For the purpose of carrying out the provisions of this Act, there is authorized to be appropriated not to exceed $15,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. Funds appropriated under this section shall be available without regard to the provisions of section 501 and 3702 of title 44 of the United States Code. Funds appropriated under this section for printing of travel promotion materials are authorized to be made available for two fiscal years."

SEC. 5. Section 7 of such Act is renumbered "SEC. 8." and a new section 7 is inserted to read as follows:

"SEC. 7. As used in this Act, the term 'United States' and the term 'State' are defined to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

SEC. 6. (a) There is established a commission to be known as the National Tourism Resources Review Commission (hereafter in this section referred to as the "Commission") composed of fifteen members as follows:

(1) One representative of the Department of Commerce designated by the Secretary of Commerce.

(2) One representative of the Department of the Interior designated by the Secretary of the Interior.

(3) One representative of the Department of State designated by the Secretary of State.

(4) One representative of the Department of Transportation designated by the Secretary of Transportation.

(5) Eleven individuals appointed by the President from private life who are informed about and concerned with the improvement, development, and promotion of United States tourism resources and opportunities or who are otherwise experienced in tourism research, promotion, or planning. The President shall designate one of the individuals appointed by him to serve as Chairman of the Commission.

(b) The Commission shall make a full and complete study and investigation for the purpose of—

(1) determining the domestic travel needs of the people of the United States and of visitors from other countries at the present time and to the year 1980;

(2) determining the travel resources of the United States available to satisfy such needs now and to the year 1980;

(3) determining policies and programs which will insure that the domestic travel needs of the present and the future are adequately and efficiently met;

(4) determining a recommended program of Federal assistance to the States in promoting domestic travel; and

(5) determining whether a separate agency of the Government should be established, or whether an existing department, agency, or instrumentality within the Government should be designated, to consolidate and coordinate tourism research, planning, and development activities presently performed by different existing agencies of the Government.

The Commission shall submit a comprehensive report of its activities and the results of such study and investigation, together with its recommendations with respect thereto, to the President and to the Congress not later than two years after the first meeting of the Commission. The Commission shall cease to exist sixty days after the date of the submission of its comprehensive report. The comprehensive report of the Commission shall propose such legislative enactments and administrative actions as in its judgment are necessary to carry out its recommendations.

(c) The Secretary of Commerce shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out its functions under this section. The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it deems necessary to carry out its functions under this section; and each such department, agency, and instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and assistance to the Commission upon request made by its Chairman.

(d) In order to carry out the provisions of this section, the Commission is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of the operations of the Commission;

(2) to appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this section and to prescribe their authority and duties; and

(3) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(e) (1) Members of the Commission from private life, while engaged in the performance of their duties as members of the Commission, shall receive compensation at a rate to be fixed by the President, not to exceed $100 each day, including traveltime, and shall, while so serving away from their homes or regular places of business, be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Commission who are officers or employees of the United States shall serve without additional compensation, but shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) There are authorized to be appropriated such sums, not to exceed $1,250,000, as may be necessary to carry out the provisions of this section.

And the Senate agree to the same.

Harley O. Staggers,
John E. Moss,
John M. Murphy,
William L. Springer,
Hastings Keith,
Managers on the Part of the House.

Warren G. Magnuson,
Daniel K. Inouye,
Howard W. Cannon,
Winston Prouty,
Chas. Goodell,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 14685) to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment struck out all after the enacting clause of the House bill and inserted a substitute text. The House receded from its disagreement to the amendment of the Senate and agreed to the same with an amendment which is a substitute for both the text of the Senate amendment and the text of the House bill.

Except for technical, clerical, and minor drafting changes made necessary by reason of the agreement reached by the committee of conference, the differences between the House bill and the substitute agreed to in conference are noted below.

CONTRACTS WITH PRIVATE CONCERNS

The House bill authorized the Secretary to enter into contracts with private profit-making individuals, businesses, and organizations engaged in the travel or travel-promotion business for projects to carry out the purposes of the Act whenever he determined that such projects could not be accomplished under the matching funds grant provisions of the Act.

The Senate amendment authorized the Secretary to enter into contracts with private profit- or non-profit-making individuals, businesses, and organizations for projects to carry out the purposes of the Act whenever he determined that such projects could not be accomplished under the matching funds grant provisions of the Act.

The conference agreement follows the Senate version.

DEFINITION OF STATE

The House bill defined the term "United States" and the term "State" to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

The Senate amendment contained a similar definition except that it also included the Trust Territory of the Pacific Islands.

The conference agreement follows the Senate version.

ASSISTANT SECRETARY OF COMMERCE FOR TOURISM

The Senate bill established in the Department of Commerce a United States Travel Service to be headed by an Assistant Secretary of Commerce for Tourism appointed by the President, by and with the advice and consent of the Senate, who is required to report directly to the Secretary. The duties and responsibilities of the Secretary under the Act were required to be exercised directly by the Secretary or by him through the Assistant Secretary of Commerce for Tourism. The Secretary was required to designate at least one individual to serve as Deputy Assistant Secretary of Commerce for Tourism to be under the supervision of the Assistant Secretary of Commerce for Tourism.

The House bill contained no comparable provision.

The conference agreement follows the Senate version.

NATIONAL TOURISM RESOURCES REVIEW COMMISSION

Creation of Commission

The House bill established a National Tourism Resources Review Commission composed of eight Government representatives and seven private individuals as follows:

(1) One representative of the Department of Agriculture designated by the Secretary of Agriculture.

(2) One representative of the Department of Commerce designated by the Secretary of Commerce.

(3) One representative of the Department of the Interior designated by the Secretary of the Interior.

(4) One representative of the Department of State designated by the Secretary of State.

(5) One representative of the Department of Transportation designated by the Secretary of Transportation.

(6) One representative of the Civil Aeronautics Board designated by the Chairman of the Board.

(7) One representative of the Federal Maritime Commission designated by the Chairman of the Commission.

(8) One representative of the Interstate Commerce Commission designated by the Chairman of the Commission.

(9) Seven individuals appointed by the President from private life, informed about and concerned with the improvement, development, and promotion of United States tourism, resources and opportunities or otherwise experienced in tourism, research, promotion, or planning. The President was required to designate one of the individuals appointed by him to serve as chairman.

The Senate amendment established a similar commission except that it was composed solely of 15 private individuals appointed by the President.

The conference agreement established the Commission along the lines of the House bill except that the number of private individuals appointed to the Commission was increased from seven to eleven and the number of Government representatives was reduced from eight to four as follows:

(1) One representative of the Department of Commerce designated by the Secretary of Commerce.

(2) One representative of the Department of the Interior designated by the Secretary of the Interior.

(3) One representative of the Department of State designated by the Secretary of State.

(4) One representative of the Department of Transportation designated by the Secretary of Transportation.

(5) Eleven individuals appointed by the President from private life, one of whom the President shall designate to serve as chairman.

Duties of the Commission

The House bill provided that one of the duties of the Commission would be to determine whether a separate agency of the Government should be established to consolidate and coordinate tourism research, planning, and development activities presently performed by different existing agencies of the Government.

The Senate amendment required the Commission to recommend an existing department, agency, or instrumentality within the Government to consolidate and coordinate such activities.

The conference agreement requires the Commission to determine, in the alternative, whether a separate agency should be established, or an existing department, agency, or instrumentality within the Government should be designated, to consolidate and coordinate such activities.

Report of Commission

The House bill required the Commission to submit a comprehensive report of its activities and results of its study and investigation, together with its recommendations with respect thereto, to the President and to the Congress not later than two years after the date of enactment of the section. The House bill also provided that the Commission would cease to exist 60 days after the date of submission of its report. The report of the Commission also required to propose such legislative enactments and administrative action necessary to carry out the recommendations of the Commission.

The Senate amendment required the Commission to report the results of its investigation and study to the President not later than two years after the first meeting of the Commission. The President was required to submit the report, together with his recommendations, to the Commission. The Senate amendment provided that the Commission would cease to exist 30 days after it had submitted its report to the President.

The conference agreement follows the House version except that it requires that the report be submitted not later than two years after the first meeting of the Commission rather than two years after the date of enactment of the section.

Authority of Commission

The Senate amendment gave the Commission authority (1) to issue regulations governing operations of the Commission, (2) to appoint and fix the compensation of officers and employees necessary to carry out the provisions of the section, and (3) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

The House bill contained no comparable provision.

The conference agreement follows the Senate version.

Compensation of Commission members

The House bill provided that Government members of the Commission would serve without additional compensation, but would be entitled to receive travel and subsistence expenses in connection with the performance of their duties. Members of the Commission from private life were to receive $100 per diem plus travel and subsistence expenses incurred in connection with the performance of their duties.

Under the Senate amendment there were no Government members of the Commission and the Senate amendment provided that all members of the Commission would receive compensation at a rate to be fixed by the President not to exceed $100 each day, including traveltime, and be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

The conference agreement follows the Senate version with respect to members of the Commission from private life. With respect to members of the Commission who are officers or employees of the United States, the conference agreement provides that they shall serve without additional compensation, but shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

Appropriation authorization

The House bill authorized an appropriation of not to exceed $250,000 to carry out the provisions of the section.

The Senate amendment authorized an appropriation of not to exceed $2,500,000.

The conference agreement authorizes an appropriation of not to exceed $1,250,000.

HARLEY O. STAGGERS,
JOHN E. MOSS,
JOHN M. MURPHY,
WILLIAM L. SPRINGER,
HASTINGS KEITH,
Managers on the Part of the House.

CALL OF THE HOUSE

Mr. CEDERBERG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 214]

Ashley
Baring
Berry
Blanton
Boggs
Bolling
Brock
Broomfield
Brown, Calif.
Burton, Utah
Caffrey
Chappell
Clancy
Clark
Clay
Conyers
Cramer
Crane
Daddario
Dawson
Diggs
Dingell
Dorn
Eckhardt
Edwards, La.
Fallon
Feighan
Fountain
Galifianakis
Giaimo
Gray
Green, Pa.
Hagan
Halpern
Hanna
Hébert
Jones, N.C.
King
Kirwan
Lennon
Lloyd
Long, La.
McDonald, Mich.
McKneally
Mann
May
Meskill
Moorhead
Morton
Ottinger
Pollock
Powell
Preyer, N.C.
Price, Tex.
Railsback
Rarick
Reifel
Rosenthal
Roudebush
Ryan
Scheuer
Stuckey
Taft
Taylor
Teague, Tex.
Thompson, N.J.
Vander Jagt
Waggonner
Watson
Weicker
Wilson, Charles H.
Wright

The SPEAKER. On this rollcall 359 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, considerable interest has been manifested in the availability of hearings and reports on bills out of the Appropriations Committee.

I would like to announce that on Thursday we will report the HEW bill, that part which does not deal with education, since we have already passed the education part of the bill.

The first volume of the hearings has been available to Members, the press and the public for more than a month and other parts of the hearings have been available for quite some time. The report will be available at noon on Thursday, as is customary, to all Members of the House, the press and to the public.

INSTITUTE FOR CONTINUING STUDIES OF JUVENILE JUSTICE

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, Subcommittee No. 3 of the Committee on the Judiciary, of which I am chairman, announces that it has scheduled public hearings on H.R. 14950 and related measures, to amend title 18 of the United States Code by adding a new chapter 404 to establish an Institute for Continuing Studies of Juvenile Justice. The bill provides that a short-term training program similar to that of the FBI Training Academy be created to give advanced training to law enforcement officers, juvenile judges, probation personnel, correctional personnel, welfare personnel and lay personnel working to combat juvenile delinquency.

Rather than simply provide for further study of juvenile delinquency, the bill would establish a clearinghouse or data bank for existing information. It would also provide continuing education and training for persons now working in the juvenile delinquency field.

This legislation has enjoyed extremely substantial support among Members of the House. A total of 11 bills introduced or cosponsored by approximately 100 Members has been introduced. The principal authors of these measures have been invited to testify at the hearing scheduled for Thursday, July 23. Cosponsors and others desiring to make their views known by submitting prepared statements should communicate with counsel to the subcommittee on extension 3927.

STATEMENT BY THE PRESIDENT OF THE UNITED MINE WORKERS OF AMERICA

(Mr. KEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEE. Mr. Speaker, I respectfully call to the attention of the Members of the House the statement issued by the President of the United Mine Workers of America today.

The United Mine Workers of America today called for immediate action to name and confirm a "fully qualified" director of the U.S. Bureau of Mines as an essential step to end the chaos now surrounding the Federal Coal Mine Health and Safety Act and its enforcement.

In urging speedy action, the union charged that the issue of a director has become a "political football" at the expense of mine health and safety conditions.

W. A. "Tony" Boyle, UMWA president, said:

> We do not seek to name the director. We simply want a director to end the buck passing. That has been our position all along. We know that while there is no director, it is almost impossible to win the fight for enforcement of the law.

Boyle charged that the claim that the UMW backed Prof. Richard Lucas, who has withdrawn as nominee for Bureau of Mines director, is an "outright calumny" against the union. Boyle said:

> We took the position that there must be a director and that every day without one imperils the lives of mine workers. We stated that we would not prejudge the performance of Professor Lucas for the post.
>
> Our sole interest is the health and safety of miners. There is far too much political maneuvering and footdragging on this whole issue, and the welfare of mine workers, unfortunately, is being reduced to a secondary consideration.
>
> We will not play politics with the health and safety of our membership. We want a director without further delay. We will be the first to protest laxity in enforcement no matter who heads the Bureau and we will then be in a position to center responsibility where it belongs.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, on behalf of the Committee on Rules, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. SISK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 17654, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday the Clerk had read through the first section, ending on page 1, line 4 of the bill.

The Chair desires to make a statement respecting the germaneness of amendments to title 1 of the bill.

Any amendment offered to the pending section 101, or to any subsequent section of the bill, is subject to the rule of germaneness. An amendment to a section must be germane to that section. An amendment adding a new section must be germane to the part of the bill to which offered.

Sections 102 through 118 of title I of the bill deal generally with the committee system, committee procedures and hearings, and related matters.

Section 119 brings in a new subject—the consideration of conference reports—and thus has the effect of broadening the scope of title I.

Following the consideration of section 118, amendments introducing new matter, not otherwise touched on in title I, but relating to the rules of the House, may be in order.

The Clerk will read.

The Clerk read as follows:

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Sec. 302. Increase in professional staffs of House standing committees; House minority professional and clerical staffs; fair treatment for House minority staffs.
Sec. 303. Procurement of temporary or intermittent services of consultants for Senate and House standing committees.
Sec. 304. Specialized training for professional staffs of Senate and House standing committees.
Sec. 305. Compensation of professional and clerical staffs of Senate standing committees.

PART 2—CONGRESSIONAL RESEARCH SERVICE

Sec. 321. Improvement of research facilities of Congress.
Sec. 322. Repeal of obsolete law relating to the abolished Office of Coordinator of Information.

PART 3—JOINT COMMITTEE ON THE LIBRARY AND CONGRESSIONAL RESEARCH

Sec. 331. Functions and operations of joint committee.
Sec. 332. Related changes in existing law.

PART 4—PARLIAMENTARY PRECEDENTS OF THE HOUSE OF REPRESENTATIVES

Sec. 341. Periodic compilation of parliamentary precedents of the House of Representatives.
Sec. 342. Periodic preparation by House Parliamentarian of condensed and simplified versions of House precedents.

TITLE IV—CONGRESS AS AN INSTITUTION

PART 1—JOINT COMMITTEE ON DATA PROCESSING

SEC. 401. Congressional findings and policy.
SEC. 402. Establishment of the Joint Committee on Data Processing.
SEC. 403. Functions, powers, and duties of the Joint Committee.
SEC. 404. Staff of the Joint Committee.
SEC. 405. Consultant and advisory services for the Joint Committee.
SEC. 406. Coordination with automatic data processing and information storage and retrieval facilities in the Executive Branch.
SEC. 407. Operational authority of the Joint Committee.
SEC. 408. Records of the Joint Committee.
SEC. 409. Procedures for consideration by the Joint Committee of suggestions regarding uses and applications of the automatic data processing and information storage and retrieval system.
SEC. 410. Contracts of the Joint Committee to be open to public inspection.
SEC. 411. Reports to the Congress by the Joint Committee.
SEC. 412. Expenses of the Joint Committee.

PART 2—ABOLISHMENT OF JOINT COMMITTEE ON IMMIGRATION AND NATIONALITY POLICY

SEC. 421. Abolishment of Joint Committee on Immigration and Nationality Policy.
SEC. 422. Conforming changes in existing law.

PART 3—AUTHORITY OF OFFICERS OF THE CONGRESS OVER CONGRESSIONAL EMPLOYEES

SEC. 431. Authority over congressional employees.

PART 4—THE CAPITOL GUIDE SERVICE

SEC. 441. Establishment and operation of the Capitol Guide Service.
SEC. 442. Coverage of employees of the Capitol Guide Service under the Federal civil service retirement program with resultant coverage under Federal life insurance and health benefits programs.
SEC. 443. Transitional provisions relating to the establishment of the Capitol Guide Service and the conclusion of the operations of the existing United States Capitol Guide organization.

PART 5—ADMINISTRATIVE ASSISTANTS FOR HOUSE MEMBERS

SEC. 451. Administrative assistants for Members of the House.

PART 6—SENATE AND HOUSE PAGES

SEC. 461. Senate and House pages.

PART 7—MODERNIZATION OF HOUSE GALLERIES

SEC. 471. Modernization and improvement of gallery facilities in the House chamber.

TITLE V—EFFECTIVE DATES

SEC. 501. Effective dates.

COMMITTEE AMENDMENTS

Mr. SISK. Mr. Chairman, I offer a technical amendment to the table of contents.

Mr. HALL. Mr. Chairman, would the gentleman yield for a parliamentary inquiry?

The CHAIRMAN. The Clerk will first report the committee amendment to the table of contents.

The Clerk read as follows:

Committee amendment: On page 3, in the item relating to section 242 in the table of contents, strike out "budget" and insert in lieu thereof "Budget".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 3, in the item relating to section 331, strike out "joint committee" and insert "Joint Committee."

The committee amendment was agreed to.

Mr. SISK. Mr. Chairman, I move to strike out the last word.

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. SISK. I yield to the gentleman from Missouri for a parliamentary inquiry.

Mr. HALL. Mr. Chairman, I appreciate the gentleman yielding for the purpose of a parliamentary inquiry.

My inquiry, Mr. Chairman, pertains to the statement of the Chair as to germaneness.

Bearing full well in mind the rule which make the consideration of the bill, H.R. 17654 in order, from the Committee on Rules, and having listened with diligence to the statement of the Chair as to germaneness of any amendments suggested under title I of H.R. 17654, particularly from section 101 through section 118; and bearing full well in mind and having listened diligently to the Chair's statement as to section 119 through section 122, the reminder of title I, could the Chair cite precedents for his statement as to germaneness of amendments to these sections?

The CHAIRMAN. The gentleman's inquiry pertains to section 119 and from there on until the end of the bill; is that correct?

Mr. HALL. No, Mr. Chairman; that was the portion—section 119 on through the end of title I.

But as I understood the Chair's statement as to germaneness, it had to do particularly with section 101 through section 118 and stipulated that amendments must be germane to that particular section, if introduced.

The CHAIRMAN. The Chair would again read the last two paragraphs of the statement previously made by the Chair:

> Sections 102 through 118 of title I of the bill deal generally with the committee system, committee procedures and hearings, and related matters.
>
> Section 119 brings in a new subject—the consideration of conference reports—and thus has the effect of broadening the scope of title I.
>
> Following the consideration of section 118, amendments introducing new matter, not otherwise touched on in title I, but relating to the rules of the House, may be in order.

Mr. HALL. Mr. Chairman, I appreciate that and my request is for the citation of precedents on which the Chair finds that germaneness is required by sections therein, over and above that of the rule which we adopted.

The CHAIRMAN. In volume VIII, on page 496 of the Precedents of the House of Representatives, under section 2931, appears the procedure as to the statement that the Chair just read:

> 2931. An amendment should be germane to that portion of the bill to which offered.
>
> To a portion of a bill dealing with one class of Indian schools and amendment relating to an Indian school of another class was ruled not germane.

That is the precedent. The Chair would like to state to the distinguished gentleman from Missouri that there are other precedents along the same line.

Mr. HALL. Mr. Chairman, a further parliamentary inquiry, if the distinguished gentleman will yield further.

Mr. SISK. I yield to the gentleman from Missouri.

Mr. HALL. In the opinion of the Chair, would that precedent preclude an amendment that was germane—and one must define "germaneness" and determine the date of the precedent, and who determines germaneness in the opinion of the Chair—but with this background, and assuming the Chair properly interprets it and communicates it to the House and it is well grounded in precedent, would an amendment that did simply enlarge the scope of that section be considered germane in the opinion of the Chair?

The CHAIRMAN. The Chair informs the gentleman that if it relates to the rules of the House, it would be germane as to title I.

Mr. HALL. I thank the Chair. Would the Chairman give the Members the date of the precedent on page 496 of the Precedents of the House of Representatives, 2931?

The CHAIRMAN. The Chair will inform the gentleman that the date was March 21, 1930.

Mr. HALL. I thank the Chairman.

PARLIAMENTARY INQUIRY

Mr. REUSS. Mr. Chairman, will the gentleman from California yield for a parliamentary inquiry?

Mr. SISK. Mr. Chairman, I yield to the gentleman from Wisconsin for a parliamentary inquiry.

Mr. REUSS. It is very brief. Mr. Chairman, the Chair has stated in its exposé of a moment ago that amendments which are not specific amendments to sections 102 through 108, inclusive, should be deferred until we have reached section 119. My question is this: Though the amendment be one that relates to the committee system, and though section 119 and that which follows relates to matters broader than the committee system, narrowly defined, it nevertheless would be in order, would it not, for an amendment to be proposed as we get to section 119, which does relate to the committee system, though is not specifically tied to the rules referred to in sections 102 through 118?

The CHAIRMAN. The Chair informs the gentleman that an amendment to rule XI could be offered before we reach section 119 of title I.

Mr. REUSS. But if it is an amendment to rule X, then section 119 is a proper place in which to bring that up?

The CHAIRMAN. The gentleman is correct.

Mr. SISK. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. If there are no amendments to be offered, the Clerk will read.

The Clerk read as follows:

TITLE I—THE COMMITTEE SYSTEM

RULEMAKING POWER OF SENATE AND HOUSE

Sec. 101. The following sections of this title are enacted by the Congress—

(1) insofar as applicable to the Senate, as an exercise of the rulemaking power of the Senate and, to the extent so applicable, those sections are deemed a part of the Standing Rules of the Senate, superseding other individual rules of the Senate only to the extent that those sections are inconsistent with those other individual Senate rules, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings; and

(2) insofar as applicable to the House of Representatives, as an exercise of the rulemaking power of the House of Representatives, subject to and with full recognition of the power of the House of Representatives to enact or change any rule of the House at any time in its exercise of its constitutional right to determine the rules of its proceedings.

CALLING OF COMMITTEE MEETINGS

Sec. 102. (a) Section 133(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190a(a)) is amended to read as follows:

"(a) Each standing committee of the Senate (except the Committee on Appropriations) shall fix regular weekly, biweekly, or monthly meeting days for the transaction of business before the committee and additional meetings may be called by the chairman as he may deem necessary. If at least three members of any such committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour. If the chairman of any such committee is not present at any regular, additional, or special meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting.".

(b) Clause 26 of Rule XI of the Rules of the House of Representatives is amended to read as follows:

"26. (a) Each standing committee of the House shall fix, by written rule adopted by the committee, regular meeting days of the committee, not less frequent than monthly, for the conduct of its business. Each such committee shall meet, for the consideration of any bill or resolution pending before the committee or for the transaction of other committee business, on all regular meeting days fixed by the committee, unless otherwise provided by written rule adopted by the committee.

"(b) The chairman of each standing committee may call and convene, as he considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purpose pursuant to that call of the chairman.

"(c) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour.

"(d) If the chairman of any standing committee is not present at any regular, additional, or special meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting.

"(e) For the purposes of this clause, 'chairman' includes a Member acting as chairman under clause 3 of Rule X.".

Mr. FASCELL. Mr. Chairman, the offered amendment deals with a gray area in the rules, one which is very sensitive, and one which I am sure all of us as

Members would rather we did not have to deal with, but, as a practical matter, one which we have experienced in this body from time to time. It seems only proper, therefore, that notwithstanding the sensitivities which may be involved, and perhaps the inability to articulate specifics in all cases of this kind, that we ought to deal with the problem.

I refer specifically now to rule X, clause 3, in order to get the perspective of the pending amendment. Clause 3 of rule X reads as follows:

> At the commencement of each Congress, the House shall elect as chairman of each standing committee one of the Members thereof; in the temporary absence of the chairman the Member next in rank in the order named in the election of the committee, and so on, as often as the case shall happen, shall act as chairman; and in case of permanent vacancy in the chairmanship of any such committee the House shall elect another chairman.

So we see, Mr. Chairman, we have made provision in the rules for cases of temporary absence. As a matter of fact, the pending legislation even carries the proposal one step further, in the case of an acting chairman, allowing him to appoint someone to sit in his place while he is temporarily absent.

The existing rule itself takes care of temporary absence, and takes care of a permanent vacancy, but it does not provide a mechanism in the cases where the chairman, for whatever reason, is unable to discharge his duties as a committee chairman.

We have dealt with the same matter in the executive branch with the Presidential and Vice Presidential Disability Act.

This amendment is offered in that same spirit. It would allow the committee to use its sound judgment to designate a member to act as chairman in those cases where the committee determines that the chairman is unable to discharge his responsibility.

That is the amendment pure and simple. It adds another framework within the present rule for the conduct of the committees.

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FASCELL. Mr. Chairman, I have an amendment at the desk which occurs on page 8 after line 19, which is an amendment to section 102. My inquiry is whether or not it is germaine pursuant to the ruling of the Chair.

The CHAIRMAN. The Chair would like to inquire as to whether the amendment relates to rule XI of the House. Does it relate to this rule?

Mr. FASCELL. It relates to matters which are covered in the pending legislation, Mr. Chairman, because it deals with the chairman of a standing committee and the powers and rules of the committee.

The CHAIRMAN. The Chair would like to inform the gentleman that his amendment may be offered.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. FASCELL: Section 102 of title 1 is amended by adding a new subsection on page 8 after line 19:
>
> "(f) Whenever the chairman of any standing committee is unable to discharge his responsibilities, the committee by majority vote shall designate a member with full authority to act as chairman until such time as the chairman is able to resume his responsibilities."

Mr. BOLLING. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Missouri.

Mr. BOLLING. I asked the gentleman to yield so that I may clarify what he proposes to do. The gentleman has read clause 3 of rule X. Clause 3 of rule X provides, among other things:

> In the temporary absence of the chairman the Member next in rank in the order named in the election of the committee, and so on, as often as the case shall happen, shall act as chairman;

The problem with the gentleman's amendment, to someone who has spent a considerable time in examining the rules, is that the House has a number of creatures. The creatures are the committees of the House. The House reserves to itself the right to elect chairmen, and it so does. The rules of the House provide for the succession to the chairmanship in a temporary fashion or otherwise, to the chairman elected by the House.

I am aware of the problem which the gentleman and others have confronted for quite some time. It is not a unique problem. It is a problem which has been faced through these rules before.

I have no particular objection to the gentleman's amendment if the Members understand what they are doing.

What they are doing is taking away from the House the right which the rules provide for the House to elect its chairmen and to designate through this rule successors——

Mr. FASCELL. Mr. Chairman.

Mr. BOLLING. I will get the gentleman more time. I am not trying to filibuster.

Mr. FASCELL. I know you are not.

Mr. BOLLING (continuing). And moving the process of election from the House to the committee. That is a very, very fundamental change. I have no objection to the House doing it. If it desires to do so, it has the right to. But we are making a very fundamental change in approach if we provide for the election of chairmen by the House and the filling of vacancies in chairmanships by the committee.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, at the request of Mr. BOLLING, Mr. FASCELL was allowed to proceed for 5 additional minutes.)

Mr. FASCELL. Mr. Chairman, of course, one could make the interpretation that my distinguished colleague, a member of the Rules Committee, has made with respect to this amendment, but I respectfully submit that this amendment does not shift the whole question of the election of chairmen out of the House to the committees. It does not do that. The rules now provide the manner for the election of chairmen.

If this amendment were adopted, the rules would continue to provide for the election of chairmen by the House. The present rule also requires or provides that in the case of temporary absence the next ranking member may be designated to act. The rule also provides in the case of permanent vacancy a new chairman shall be elected, by the House.

What the proposed amendment does is to provide a mechanism within the committee so when the majority of the committee knows full well that the chairman is unable to discharge his responsibilities because of ill health or otherwise, then the committee has a way to designate a new chairman with full authority. It does not change any prerogatives of the House or any rules of the House with respect to temporary absences or filling permanent vacancies but simply deals with the question of a chairman of a committee where there is a disability of the elected chairman of a standing committee.

I submit that this is necessary under the rules, Mr. Chairman.

I want to add very carefully now that this amendment says "until such time as the chairman is able to resume his duties." Therefore a designation under the pending amendment is not a permanent election and it is not a temporary absence. It is in between. It is a vehicle whereby the committee can carry out its business.

Furthermore, Mr. Chairman, and equally as important, it is vital that we clothe the chairman who acts in those kinds of cases with full authority under the rules and eliminate any questions that arise with respect to staffing, signing of vouchers, and payments of bills. The authority of a temporary chairman for these purposes now are in a gray area. Even they may be ultimately approved by the Committee on House Administration. However, that is no consolation to the chairman who must carry out the wishes, desires, and responsibilities of his committee when he does not have the legal authority to act because there is no permanent vacancy and no election can be held.

Mr. PODELL. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from New York.

Mr. PODELL. Will the gentleman tell me whether or not he will accept an amendment to the present rules which would provide for the election of chairmen by the members of the committee?

Mr. FASCELL. At this point I am not prepared to discuss that subject. That is an entirely different matter going into the whole question of the election of chairmen of standing committees under the rules. I do not deal with that subject in this amendment.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Missouri.

Mr. HUNGATE. In my opinion this is somewhat analogous to the Presidential Disability Act with which we dealt some time ago?

Mr. FASCELL. That is correct.

Mr. HUNGATE. Is there any provision in the gentleman's amendment for a medical certificate looking toward ill health?

Mr. FASCELL. Actually, we considered that—some of us who worked on this particular amendment—and we discarded that approach because with respect to committee operations medical determination was not necessary. I will admit it is serious but it is not as serious as in the case of the President or the Vice President. So, frankly, we devised the method which would leave it to the best judgment of the members of the committee.

Mr. HUNGATE. Mr. Chairman, if the gentleman will yield further, as I understand it a majority vote would be sufficient to remove the chairman of the committee?

Mr. FASCELL. No; they could not remove the chairman. The gentleman makes a very good point. Under this provision the committee could not remove the chairman. The committee could designate a member to act as chairman until such time as a duly elected chairman of the standing committee could resume his full duties.

Mr. HUNGATE. In other words, they could determine——

The CHAIRMAN. The time of the gentleman from Florida has again expired.

(By unanimous consent Mr. FASCELL (at the request of Mr. HUNGATE) was allowed to proceed for 5 additional minutes.)

Mr. HUNGATE. Mr. Chairman, if the gentleman will yield further, could not, then, a majority of the committee under this proposed amendment determine that the chairman was disabled, whether he thought so or not, and act without medical advice?

Mr. FASCELL. That is absolutely correct. Of course, they could.

Mr. HUNGATE. That part of the amendment would concern me. We all act, of course, with the highest of motives, but sometimes we get at odds with perhaps one chairman and the committee by simple majority vote could declare the chairman disabled without medical advice and he would be disabled according to that determination.

Mr. FASCELL. That is a fear which the gentleman from Missouri may have, but I do not share his fear. In fact, I would be willing to place my judgment on him, his intelligence to carry out his responsibilities as a Member of Congress. I am willing to permit him to make that decision, awkward as it may be and sensitive as it may be.

Mr. HUNGATE. The disability determination that would be provided for could it be amended to require two-thirds of the committee to make some such judgment as that, analogous to presidential disability procedure?

Mr. FASCELL. I would make this distinction. I recognize the difficulty involved. I say the duties of a chairman of this body are onerous and this can only be dealt with in the most serious vein. I will also say that all we are trying to do is exactly what the gentleman is talking about in following the Presidential Disability Act. But I, frankly, felt it would be better to leave the specifics within the judgment and discretion of the committee.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Would it be within the purview or the meaning of your amendment that such things as excessive absenteeism on the part of a committee chairman, let us say, would be construed as an inability to carry out his duties so that he can thereby be removed, in effect, by the committee and the committee could designate a temporary chairman?

Mr. FASCELL. My distinguished colleague from Illinois is a most persuasive man. I am sure if the gentleman were on a committee and was faced with that situation, and he determined because of long, continuous absence or other reason he wanted to make a change and that in the opinion of the majority of the committee the chairman was unable to act and perform his responsibilities under the rules of the House he probably would make a good decision.

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman will yield further, in making the legislative history on this amendment, you are not speaking solely in terms of a physical or medical disability when you speak of this disability of the chairman to carry out his duties?

Mr. FASCELL. Insofar as the gentleman who is the sponsor of the amendment is concerned, my own feeling is that the whole question of electing a chairman of a standing committee is most important and the question of the full and proper discharge of his responsibilities would be an equally important matter for the committee to decide.

But it is obviously the principal purpose of this amendment to deal with physical and mental ailments which prevent a chairman from carrying out his responsibilities, but is not limited to only those disabilities. There are others.

Mr. CELLER. Mr. Chairman, would the gentleman yield?

Mr. FASCELL. I yield to the distinguished dean of the House.

Mr. CELLER. Mr. Chairman, according to the last statement made by the gentleman, wherein he says that it is therefore entirely at the discretion of the members of the committee to determine whether the chairman is able or unable to carry out his responsibilities, would not that give complete power to the committee seriously or cavalierly to discharge or dispose of the chairman, and elect some other chairman. Thus, you give complete power?

Mr. FASCELL. Mr. Chairman, that is not quite the case, because the proposed amendment does not change the rule with respect to the election of permanent chairmen of standing committees, so that the committee would not have the authority to depose the duly elected chairman.

They could, however, if they so determined—and the chairman is quite correct—if in their judgment they determine that the duly elected chairman of the standing committee was unable to fully and properly discharge his duties, then they could designate a member to be chairman until such time as the permanent chairman, duly elected, was able to resume his duties.

Mr. CELLER. In other words, the committee then could determine how long the duly elected chairman would continue in office?

Mr. FASCELL. Mr. Chairman, the committee could determine how long any duly designated chairman could act in lieu of the duly elected chairman of the standing committee, and he would serve only as long as the duly elected chairman of the standing committee was unable to discharge his responsibilities.

The CHAIRMAN. The time of the gentleman has again expired.

SUBSTITUTE AMENDMENT OFFERED BY MR. PODELL FOR THE AMENDMENT OFFERED BY MR. FASCELL

Mr. PODELL. Mr. Chairman, I offer a substitute amendment for the amendment offered by the gentleman from Florida (Mr. FASCELL).

The Clerk read as follows:

Substitute amendment offered by Mr. PODELL for the amendment offered by Mr. FASCELL: On page 8, after line 19, insert the following:

"(c) Clause 3 of Rule X of the Rules of the House of Representatives is amended to read:

" '(3) At the commencement of each Congress, each standing committee shall elect a chairman and a vice-chairman from among its members; in the temporary absence of the chairman, the vice-chairman shall act as chairman; and in case of a permanent vacancy in the chairmanship of any such committee the committee shall elect another chairman and another vice-chairman.' "

On page 8, delete lines 14 through 17 and insert the following:

"(d) If the chairman of any standing committee is not present at any regular, additional, or special meeting of the committee, the vice-chairman shall preside at that meeting. If neither the chairman nor the vice-chairman is present, the committee shall then designate a Member of the committee to serve as chairman temporarily for the duration of that meeting."

On page 6, delete line 25, and on page 7, delete lines 1 through 3 and insert the following:

"If the chairman of any such committee is not present at any regular, additional, or special meeting of the committee, the vice-chairman shall preside at that meeting. If neither the chairman nor the vice-chairman is present, the committee shall then designate a Member of the committee to serve as chairman temporarily for the duration of that meeting.

The CHAIRMAN. For what purpose does the gentleman from California (Mr. SISK) rise?

POINT OF ORDER

Mr. SISK. A point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state the point of order.

Mr. SISK. Mr. Chairman, I might put it in the form of a parliamentary inquiry.

Under the provision read by the Chair in the beginning, it would seem this definitely would not be germane—the amendment here being proposed as a substitute.

We make a point of order and ask for a ruling by the Chair in connection with this amendment.

The CHAIRMAN. Does the gentleman from New York desire to be heard on the point of order?

Mr. PODELL. Yes, Mr. Chairman.

Mr. Chairman, for the past 10 or 15 minutes we have been discussing at length the question on the amendment introduced by the gentleman from Florida with regard to the appointment of an acting chairman in the absence of the existing chairman of a committee.

I think this goes to the entire basis of the concept of the appointments of committee chairmen.

By this amendment I attempt to provide that the chairman of a committee be elected by the members of that committee, because it is the members of that committee who are certainly more familiar with the activities of the chairman and with the activities of that committee.

Of course, this will require a complete change in the system we have existed under for so many years. But I submit that a complete change, gentlemen, is the only answer we can give to the people who are demanding such a change.

So I think you have to reevaluate a system which is presently based strictly on seniority and sort of bring in the question of merit, rather than age and seniority alone. After all, if a man has served on a committee for a number of years, basically it is the individuals who are members of that committee who can truly judge the merit, the intent and the dedication and purpose of the chairman.

In enacting such a change, you would not have to be confronted with the problem of just how, when, and where a subcommittee or second man on that committee be appointed.

This amendment also provides for the election by members of the committee of a vice chairman of that committee to act in the place of the chairman of the committee.

The CHAIRMAN. Does the gentleman from California (Mr. SMITH) desire to be heard on the point of order?

Mr. SMITH of California. I would like to ask the gentleman from California (Mr. SISK) if he intends to make a point of order, because, if not, I do. I did not quite get the gentleman's statement.

Mr. SISK. I did make the point of order.

Mr. SMITH of California. Mr. Chairman, I would like to be heard on the point of order.

Mr. Chairman, this amendment in my opinion is definitely subject to a point of order under the provisions which the Chair first announced inasmuch as it applies to chairmen and the election of chairmen of committees, and we are now considering a section of the bill which has to do only with committee meetings.

Mr. PODELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman.

Mr. PODELL. Mr. Chairman, insofar as an amendment to a bill which requires the amendment of three different parts, part of which is on page 6, which is the page under discussion now, and part of which is on page 23, which is a part that we have not gotten to yet, but which are dependent upon each other, how would the gentleman feel about the germaneness of such an amendment.

Mr. SMITH of California. I would think that you would have to ask unanimous consent at the proper time to offer it at that place.

But we are talking about committee meetings now and the only thing under consideration is the meetings of committees and how they are to be called. If, later on, after section 118 of the bill you ask unanimous consent and when we get to that—I do not know—but I would think that is the only way you can offer it because it definitely, in my opinion, is not germane at this point.

Mr. PODELL. Mr. Chairman, will the gentleman yield further?

Mr. SMITH of California. I yield to the gentleman.

Mr. PODELL. My amendment requires the striking out of lines 14 through 17 on the appropriate page. In the event that any amendment is made to this section, then this section would then become law at the time of final passage. How would you then be able to amend retroactively a section which has been adopted?

Mr. SMITH of California. Of course, the Chair will have to rule on the question. I would suggest, if at the appropriate time you would ask unanimous consent to go back to that, that probably would be in accordance with the rules. Of course, I am not the one to determine that, but I think at this time the amendment is not germane.

The CHAIRMAN. The Chair is prepared to rule. The amendment offered by the gentleman from New York goes beyond the amendment offered by the gentleman from Florida. It is not germane to the amendment offered. But the Chair would like to inform the gentleman from New York that a portion of the amendment could be germane following section 118, as a new section. It could be germane at that point. The Chair sustains the point of order.

Mr. PODELL. I thank the Chair.

Mr. BOLLING. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Florida.

(By unanimous consent, Mr. BOLLING was allowed to proceed for an additional 5 minutes.)

Mr. BOLLING. Mr. Chairman, I spoke only briefly during the general debate. I had no idea when I would feel impelled to speak at greater length on this subject, but it happens that the amendment of the gentleman from Florida (Mr. FASCELL) which I understand perfectly and I deeply sympathize with the problem that has been confronted by the gentleman and others, illustrates a problem which, it seems to me, the House should bear in mind throughout the consideration of this bill.

I do not believe I need to submit my credentials for early advocacy of the need for change in this institution. If anybody has missed the fact that I have favored change, I am sorry. I have been trying for 10 years to make it clear.

But, in addition, I have taken the trouble over time, along with many other Members, to actually understand the rules of the institution, and it is extraordinarily important to be aware of how dangerous the task on which we are embarked is. I doubt that there are very many Members in this institution who know that technically no Member can read a speech on the floor of the House, even though he wrote every word of it. There is a rule of the House that makes that out of order.

I would like to cite, merely to caution the Members—and, incidentally, I am in favor of some of the amendments that will be offered, and which are the most profound of the amendments, and I oppose some of the provisions which are in the bill—but I would like to give you an illustration of just how difficult it is to think through the significance of the change of even a word, much less a major provision.

There is a rule, I believe it is clause 26 of rule XI, which has very profound significance. There are very few people who have ever had a real experience with that particular clause. It is the clause that provides for a majority of a committee forcing action in a committee when the chairman of the committee is bitterly opposed to any action. That rule has been used very seldom in the modern history of the House—perhaps on two occasions. It was used first in modern times on the civil rights bill of 1957, and it turned out to be effective. But the staff of the committee, the Subcommittee on Organization, and the members of the Subcommittee on Organization chose to rewrite that rule, and a draft was submitted and tentatively approved by most of the members of the committee.

Three months later the staff which worked hard and the members of the committee which worked hard were still trying to see whether that change was going to be as effective as the original rule which was provided and sought to be improved.

It is extraordinarily dangerous to attempt to make changes, no matter how well intentioned, unless they have been thought through. I repeat, I am not for this bill going through without change. I think there are changes that need to be made. But this innocent amendment fundamentally changes the nature of the way the institution works.

For better or worse, the rules of the House provide for the election by the House of committee members. The rules of the House provide for the election by the House of committee chairmen. I repeat the rule that the gentleman from Florida (Mr. FASCELL) himself read:

> At the commencement of each Congress, the House shall elect as chairman of each standing committee one of the members thereof . . .

We know perfectly well that is a pro forma proceeding. The Democrats come up with their slate, and if they are in the majority, the man first named is going to be elected chairman, and the Republicans come up with their slate, and if they are in the majority, the man first named on their slate is going to be the chairman. The parties choose the chairman, the caucuses and the conferences choose the chairman, the committee on committees chooses the chairman, but it is left in the pro forma state of being ratified by the House as a whole.

Now we want to add as a temporary measure an election by the committees. I deeply sympathize with the dilemma confronted, but I submit that there is not necessary an amendment to accomplish the purpose desired. Clause 3 of rule X says:

> In the temporary absence of the chairman the member next in rank in the order named in the election of the committee, and so on, as often as the case shall happen, shall act as chairman;

The House in its rules, by the list it elects, provides not only for a chairman but for acting chairmen in the number necessary.

While I do not think it really makes a great deal of difference in theory whether the amendment is adopted or not, it seemed to me that this was an excellent time to point out the kind of complication that will exist as we propose very casually amendments to a bill that has been worked on for 15 months. I repeat for the third time, I still favor some changes in that bill, but I favor changes that have been very carefully considered for a very long period of time. I would urge on my colleagues that while change is important, there is something that must go with change to make it wise—and that is judicious consideration. I believe we should be very careful in what we adopt and what we even offer in the interest of not finding that we have made ourselves rather silly.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Minnesota.

Mr. FRASER. Mr. Chairman, is it the case that under the pending amendment there would be a substantial change in the way in which the temporary or acting chairman was selected, in that it would involve the participation of members of both the majority and minority parties on the committee and that it would be a departure from past practice?

Mr. BOLLING. That would be for all practical purposes a major departure from relatively recent past practice. Once upon a time the House of Representatives had many parties and different methods were used to select chairmen.

For years in this institution, since the overthrow of Cannon in 1910, the technique which has been used has been basically the party caucus or conference; sometimes overtly, as in the case of the Congresses in the Wilson days, and sometimes less overtly by the pro forma ratification of party action in the House as a whole.

I believe it is very important to understand what we are doing.

Mr. FRASER. I appreciate what the gentleman has said. I should like to indicate while I am in sympathy with the problem the gentleman who offered the amendment addresses himself to, it does seem to me it would be wiser to leave to the caucuses of the respective parties the responsibility for naming chairmen. I would think we would want to hesitate before we shifted away from that basic practice.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from New York.

Mr. CELLER. This state of facts might be possible under the amendment offered by the gentleman from Florida. Say, for example, that quite a number of the Democrats on my committee, of which I am chairman, are not in the Chamber. I might be deemed disabled. I am not present. There might be a full complement of Republicans present. If that committee, composed of a majority of Republicans at that particular meeting, wanted to elect a chairman, they could elect a Republican chairman of the Judiciary Committee. That would be possible and, vice versa, there could be elected a Democrat.

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PODELL. Mr. Chairman, the time has come for Congress to practice what it preaches. We sit here in the greatest democratic deliberative body in the world, and above our head lay cobwebs of outworn and old-fashioned practices. We preach that we are legislating for a free and open society, yet many of our practices are shrouded in secrecy. We proudly claim that our Nation is the model of new technology and new science, yet we in the Congress conduct many of our practices as if we still were living in the Dark Ages. And we justifiably boast that we are at the helm of the world's greatest democracy, but gentlemen, many or our practices are simply not democratic. The time to end this hypocrisy has come; it has come now.

In the next few days, Congress will have the opportunity to update and reform itself. This opportunity must not be wasted; the issue of congressional reform is a vital one. What we do in the next few days will influence the course of every bill and proposal that comes before this body for years to come. When we legislate congressional reform, we are not merely legislating one issue, but we are legislating every issue. Therefore, I urge each Member to think carefully about the upcoming bill and each amendment; to automatically categorize each bill or amendment as too liberal or too drastic would be foolish.

I plead for dramatic revision of congressional organization on grounds of honesty, on grounds of efficiency, and on grounds of democracy. But, I plead for another reason also. Today, millions of our youth are in a quandary. They are wondering if they should accept the present system of government, and they are considering rejecting it. When they look to what they are told is the pinnacle of American democracy, the U.S. Congress, they see a choice of high position made by age rather than merit, they see votes cast in secret ballot, and they see only a handful of Members on the floor listening to debate of the issues. How, I ask, can we tell these young Americans to wholeheartedly embrace their Government, when that very Government refuses to reform itself?

Mr. Chairman, the Congress should reform itself, and can do so by eliminating a number of old and outdated practices. One of these is the teller vote, which allows the Members of the House to vote in secret. It is a procedure dating from medieval England—in those days, the king would arrest any Member of Parliament who voted against him, and secret votes were necessary. But, in modern day government, there is no need for such an archaic law. England abolished teller votes in 1832. But, somehow we have persisted in retaining this practice. I challenge any Member of this body to give one good reason why the American people should be denied the right to know how their elected Representative voted. And I urge all Members to vote for the amendment that provides for teller votes to be recorded, an amendment I have cosponsored.

There are other ways that we may make this House more democratic, efficient, and open. We can hold open committee sessions, we can record rollcall votes in committee, we can require a guaranteed debate time on amendments, we can require a 3-day layover on conference reports, and we can shorten quorum calls. There exist amendments for each of these ideas; I urge passage of all of them.

But, none of the above amendments, crucial as they are, alter the procedure that places age before merit, the seniority system. It is this procedure that has aroused the greatest criticism across the Nation, yet this is the system we are most hesitant to alter. In fact, the word "seniority" is rarely mentioned in these hallowed halls, though admittedly, the House is run on such a system.

Let me say that I have nothing at all against old age. In fact, I have a great respect for the experience and wisdom that years of legislating in this House brings. But I object to the practice that says, prima facie, old age takes precedence.

The amendment I have introduced would take wisdom that age brings into account, without providing for automatic obeisance to those who have spent the most years in the House. It does this simply. It calls for the election of committee chairman, by the committee, at the beginning of each Congress. Who, better than the members of each committee, should know who has the greatest expertise on each committee? Who, better than the members of each committee, should know and respect the knowledge that years of experience on that committee bring? Who, better than the members of the committee, should know who has the greatest qualities of leadership and personality necessary to lead them? In the name of fair expertise, in the name of democracy, in the name of the greatness of this Nation, I ask the House to enact this amendment.

Mr. Chairman, the next few days are of vital importance to this body, this Government, and this Nation. We must reject the old and outdated ways of the past, and together, as one Nation, go forward.

SUBSTITUTE AMENDMENT OFFERED BY MR. O'HARA FOR THE AMENDMENT OFFERED BY MR. FASCELL

Mr. O'HARA. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Florida (Mr. FASCELL).

The Clerk read as follows:

Amendment offered by Mr. O'HARA as a substitute for the amendment offered by Mr. FASCELL: On page 8, line 17, strike out the period and insert: "and is authorized, with the approval of the committee, to sign vouchers and to perform such other ministerial acts as are necessary and appropriate."

Mr. O'HARA. Mr. Chairman, I tried to follow the explanation of the gentleman from Florida, and also the objections to his amendment that were offered on the floor.

It seems to me that the purpose of the gentleman from Florida is to provide a method by which the committee business could move ahead in the absence of the chairman; that is, that vouchers could be signed and that people could be retained to perform the staff work of the committee and that they could be paid, and that all the necessary housekeeping details could be taken care of.

The objections of those who objected to the amendment seemed to go not to that point but rather to the method by which he chose to select someone to perform these tasks in the absence of the chairman.

What my substitute tries to do, without getting into the question of how the temporary chairman is to be chosen, is simply to authorize a temporary chairman in the absence of the chairman, but only with the approval of the committee, to sign vouchers or take such other ministerial actions as may be necessary and appropriate. We thereby avoid the question of how to choose the man who is going to be authorized to do this and leave it as it is presently provided under the House rules.

I would hope, Mr. Chairman, that the substitute might take care of the problem. If it does not, I hope that the gentleman from Florida will say so. But, in any event, I share the concern that has been expressed here about having the full committee get into the business of electing a temporary chairman when they feel they ought to.

Mr. SISK. Mr. Chairman, I rise in opposition to the substitute offered by the gentleman from Michigan.

Mr. Chairman, I would like to have a brief colloquy with the gentleman from Michigan. I recognize the problem that he is trying to assist the gentleman from Florida with. I well understand it. However, I wanted to get clear that, as I understand it, the gentleman's amendment goes at the end of the language on line 17 of page 8, where he strikes the period and adds the provision—and unfortunately I do not have a copy of the gentleman's amendment—where it says that he would be authorized to perform certain official duties. Is that basically what the gentleman is attempting to do in connection with (d) of this section?

Mr. O'HARA. That is right.

Mr. SISK. I thank the gentleman very much for clarifying that.

I would say in opposition to the gentleman's amendment, of course, that a reading of (d) on page 8 shows as follows:

If the chairman of any standing committee is not present at any regular, additional, or special meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting.

Then it goes on with a list of additional duties. Of course, basically this is dealing with the temporary absence of a chairman at the time that a meeting is taking place. It seems to me that we would be placing certain authority on the acting chairman which might be, on this one occasion, giving responsibility and authority far above and beyond what should be considered. It seems to me that could become a problem and could be used to effectuate even policy changes possibly in connection with the committee.

Though I sympathize with and appreciate the fact that the gentleman was attempting to resolve the difficulty which the gentleman from Florida is seeking to get at, and which many of us sympathize with, I also oppose the amendment offered by the gentleman from Florida because it creates a whole new method of selecting chairmen. Therefore I believe it goes far beyond what I think the House would be prepared to do today, or at least I hope so. It seems to me in this case it adds additional duties that should not be added in the case of merely a temporary chairman.

Mr. O'HARA. Will the gentleman yield?

Mr. SISK. Yes. I am glad to yield to the gentleman.

Mr. O'HARA. I wish to thank the gentleman for his remarks.

My substitute was prompted by the same feeling that the gentleman from California just expressed; namely, that the amendment offered by the gentleman from Florida goes beyond what may be required. I was simply trying to find a way of accomplishing this objective with less disturbance to the regular procedures.

Mr. SISK. I well understand my friend, and I do appreciate it. I might say that clause 3 of rule X adequately covers the matter of the acting chairman.

It seems to me, Mr. Chairman, this is an area in which the House would be well advised to go along with the existing language.

There is no question but what the language of the proposed amendment which has been offered by the gentleman from Florida would definitely change the method of selecting a chairman where a situation has developed and he is absent, contrary to the rules under which the House itself elects chairmen of committees.

Therefore, Mr. Chairman, I oppose the substitute as well as the amendment which has been offered by the gentleman from Florida and would urge that it be voted down.

PARLIAMENTARY INQUIRY

Mr. SNYDER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SNYDER. Mr. Chairman, is an amendment to the Fascell amendment in order while the substitute amendment is still pending?

The CHAIRMAN. The Chair would like to inform the gentleman from Kentucky that an amendment to the amendment would be in order.

AMENDMENT OFFERED BY MR. SNYDER TO THE AMENDMENT OFFERED BY MR. FASCELL

Mr. SNYDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SNYDER to the amendment offered by Mr. FASCELL: and the following language to the Fascell amendment, after the period:—"Proxy voting shall not be permitted under this section and three (3) days notice of any proposal under this section shall be given in writing to all committee members."

POINT OF ORDER

Mr. SMITH of California. Mr. Chairman, I rise to make a point of order against this amendment on the same basis as before. We are not talking about proxies in this particular section. I do not think the amendment is germane to the amendment as offered by the gentleman from Florida.

The CHAIRMAN. Does the gentleman from Kentucky desire to be heard in behalf of his amendment?

Mr. SNYDER. Yes, Mr. Chairman, but only briefly, and that is to say while we are not talking about proxy voting in this section, we are talking about the method by which you might de-designate the chairman of the committee and in that regard and when you do that by a vote, then, I think it should be germane. We could say within that section that you shall not be able to do it by proxy voting and that you should give 3 days' notice to all of the committee members in writing as to what you propose to do.

The CHAIRMAN (Mr. NATCHER). The Chair is prepared to rule.

The Chair rules that the amendment is not germane to the pending amendment.

The question is on the substitute amendment offered by the gentleman from Michigan (Mr. O'HARA) for the amendment offered by the gentleman from Florida (Mr. FASCELL).

The substitute amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was rejected.

The CHAIRMAN. Are there additional amendments to this section?

AMENDMENT OFFERED BY MR. REES

Mr. REES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REES: On page 7 at the end of line 20 insert the following:

"(c) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting which request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the

> chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date, hour, and measure or matter to be considered at that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date, hour, and measure or matter to be considered."

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to my colleague from California.

Mr. SISK. Mr. Chairman, I appreciate the gentleman yielding, and I thought maybe with a couple of questions perhaps we might clarify this and save some time here.

As I understand the purpose of this particular amendment, it has to do with the situation in the event of a request for a meeting being called by three Members.

Mr. REES. That is correct.

Mr. SISK. That in addition to the written request that they specify the measure to be heard by this special meeting. Is that the only purpose?

Mr. REES. The measure or matter.

Mr. SISK. The measure or matter to be considered?

Mr. REES. Yes.

Mr. SISK. Is that the only purpose?

Mr. REES. That is correct.

Mr. SISK. Mr. Chairman, I have discussed this with my colleagues, and if we can firmly clarify here as a matter of legislative history what this seeks to do, then I really do not see a great deal wrong with that particular provision, providing that is all it does.

Mr. REES. That is all it does.

Under the rules of the House, as it now stands, if three Members give written request to the committee chairman for a special meeting, within 7 days, and if the committee chairman does not act on that request within 3 days, the majority of the committee by a written notice can call a special meeting of that committee.

Mr. SISK. That is correct.

Mr. REES. The rules of the House state they can merely call a meeting. What we are trying to clarify is that if they call a meeting that they then specify the matter or measure to be considered by that special meeting.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, I ask this question to also further clarify the legislative intent. If the request is made, and the subject matter is listed, and the meeting of the committee is held, is that meeting of that committee restricted to that subject matter, and nothing else?

Mr. REES. The assumption of this amendment is that that meeting will be restricted to the specific matter or bill referred to in the request to the chairman.

MR. GERALD R. FORD. In other words, the committee in that meeting could not go beyond that subject matter, or that bill?

Mr. REES. No; they would be restricted. In fact, I would be willing to put in more restrictive language to say the committee can only deal with those matters that are in the notice. Under the way that the rule is now is they might come up with any number of matters, and I believe it is better to restrict this and state that only those matters can be taken up in that special meeting.

Mr. GERALD R. FORD. I thank the gentleman.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from North Carolina.

Mr. JONAS. I understand that that is the interpretation of the amendment made by the gentleman from California, but the amendment does not make it clear.

Would it not be better to make it clear in the amendment that the committee would be restricted to the consideration of the matter listed?

Mr. REES. I would be very willing to add, for example, following the period in the last sentence, "and the only matters on measures to be considered in that meeting shall be the matters specified in the committee notice."

Mr. JONAS. I think that would be better.

Mr. REES. Mr. Chairman, I would ask unanimous consent that that language be added to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. GERALD R. FORD. Mr. Chairman, I do not object, but I believe it would be helpful if those words, or whatever the addition is, could be reread in context, if we could, without rereading the whole thing.

The CHAIRMAN. The Chair would like to inquire of the gentleman from California as to the exact words that make the modification in his particular amendment.

Will the gentleman from California please restate those words?

Mr. REES. Mr. Chairman, I will read the last sentence of the amendment as it is written and then add the new sentence which has been agreed to.

It would read as follows:

> Immediately upon the filing of the notice, the Clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date, hour and measure or matter to be considered, and only the matter or measure specified in that notice may be considered at that special meeting.

Mr. SCHWENGEL. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman.

Mr. SCHWENGEL. You speak here only of the committee. Does it apply only to the committee or does it apply to subcommittees as well?

Mr. REES. This applies only to the full committee. I would expect that problems of the subcommittee would probably be brought up at the full committee hearing.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman from New York.

Mr. CELLER. In order to get a clarification of this matter, under the amendment three members of the committee may request a meeting of the committee; am I correct?

Mr. REES. Under the rules of the House, that is correct.

Mr. CELLER. And under your amendment likewise?

Mr. REES. Under my amendment likewise.

Mr. CELLER. Then it requires a majority of the members of the committee to designate some special matter that they want the committee to consider, and on that day that special matter must be considered.

Mr. REES. The original notice by three Members must state the matter or the bill that the meeting is requested for. If then the chairman refused to have that meeting, then the majority of the committee members sign a notice, which again specifies the matter or the bill to be heard before that special committee meeting, then that would be what is required.

Mr. CELLER. In other words, the thrust, however, lies in the requirement of a majority of the members?

Mr. REES. The present rules of the House, three members of the committee are required, and if not receiving favorable action from the chairman, then a majority of the committee could call a meeting.

The CHAIRMAN. Is there objection to the modification requested by the gentleman from California (Mr. REES) to the amendment?

Mr. O'HARA. Mr. Chairman, reserving the right to object, would the gentleman repeat the modification?

Mr. REES. The language is, "and only the matter or measure specified in that notice may be considered at that special meeting."

Mr. O'HARA. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The time of the gentleman from California (Mr. REES) has expired.

Mr. COLMER. Mr. Chairman, I ask unanimous consent that the gentleman from California may proceed for 2 additional minutes.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. COLMER. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman.

Mr. COLMER. I want to inquire for further clarification if it is not a fact that your amendment is now in the rules of the House, with the exception that the present rules do not specify the measure or matter to be considered—and that is the only amendment?

Mr. REES. The gentleman is correct.

Mr. COLMER. Personally, I see no objection to it.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman.

Mr. VANIK. Mr. Chairman, the Congress of the United States, the world's greatest showcase of representative government, has developed into an institution at least 1½ generations behind the times it is intended to serve. The House of Representatives, as it now operates under the cloak of secrecy and the threadbare old principle of seniority, cannot deal effectively and responsibly with the problems of the 1970's, a conclusion shared by an increasingly large number of Americans.

Mr. Chairman, at a time when public confidence in the House as a responsive legislative body is so badly needed, we cannot afford to weaken that confidence by denying the public information to which it is entitled in a democratic society. Indeed, Mr. Chairman, all Members—regardless of party or ideology—have a common interest in assuring open and fair procedures.

H.R. 17654, the Legislative Reorganization Act of 1970, offers an opportunity to transform the archaic rules of the Congress into true democratic procedures as envisioned by the Founding Fathers.

A new Member gets elected to this Congress with high hopes, with great expectations, with idealism, with dedication, and high purpose. Very suddenly after his arrival, he is appalled for he receives the prerequisites of his office and gradually begins to learn that he is not an equal Member of Congress. He is subordinate, he is less than others, he is junior.

Mr. Chairman, one of the amendments of the Legislative Reorganization Act that I strongly support is one that Congressman Reuss and I intend to offer which would put the House on record in favor of a change in the seniority system—a system which prevents every Member of Congress from receiving and participating in the full measure of his rightful share of responsibility and authority. The Constitution and the laws of the land contemplate each Congress as a new and separate entity. Legislation does not carry over from one Congress to the next—neither should one Congress commit another on the seniority system or outdated rulemaking authority. Under the Constitution and laws of the land, the most junior Congressman is presumed to be equal to the most senior. The rights of seniority are arbitrary and are usurped at the expense of other Members. It is a custom which dates from 1910. It is only 60 years old—and the time has come to change the principle. It is not a sacred custom. It is not part of the Constitution or Bill of Rights. We have the authority, the ability—and the duty to change this system. Mr. Chairman, whichever party controls Congress owes it to the Nation to present committee chairmen who effectively represent the views of that majority party, and of whom that party can be proud. Length of service on the committee is surely an important consideration, but it should no longer be the sole consideration.

Accordingly, the gentleman from Wisconsin (Mr. Reuss), and I will offer the following amendment to the present rule X of the House of Representatives:

> At the commencement of each Congress, the House shall elect as chairman of each standing committee one of the Members thereof, *who need not be the Member with the longest consecutive service on the Committee*; . . ." (Rule X, Section 3, Rules of the House of Representatives)

Mr. Chairman, some of our great congressional leaders have been developed through service and seniority but we can never calculate how many men of outstanding caliber we have lost or suppressed through this system which promotes ability to be elected rather than ability to lead.

Not only has the seniority system served to suppress effective, vigorous, and dynamic leadership, but it has given tremendous power to a few chairmen—elected from small regional districts—who totally control vital national legislation.

The problem of independent committee chairmen, accountable to no one, was well described by professor—later President—Woodrow Wilson over 80 years ago. What Wilson said then is still true today:

> The Chairmen of the standing committees do not constitute a cooperative body like a ministry. They do not consult and concur in the adoption of homogeneous and mutually helpful measures; there is no thought of acting in concert. Each Committee goes its own way at its own pace. It is impossible to discover any unity or method in the disconnected and therefore unsystematic, confused and desultory action of the House, or any common purpose in the measures which its committees from time to time recomend.

Still another item of extreme importance is that of committee chairmanships. The President serves for a term of 4 years, a Senator serves for a term of 6 years, a Representative serves for a term of 2 years, but a committee chairman who answers to no one can have a never-ending term. The average chairman holds power for at least a full decade and often longer. Many Members of the House of Representatives who serve for only a short time are brief in service not because they are not qualified, enterprising, or lack good judgment. It may be that they lacked only the ability to compromise for survival. A new Member sees the awesome power of committee chairmen who decide what bills shall be considered and when they shall be considered, and how they will be considered. He is in the constant shadow of seniority which demeans his capacity and his responsibility to serve.

The Nation cannot afford to allow the power of Congress to drift and accrue in the hands of a few—the decisionmaking and leadership process belongs to all the elected representatives.

This is the first time in 24 years that the House has had such an opportunity to make major changes in House rules and procedures.

Many other changes, in addition to the abolition of seniority, are vital to the democratic functions of Congress.

For example, the problem of secrecy in congressional proceedings is a major abuse in this Congress. Secrecy unrelated to the national security threatens democracy and the workings of free institutions. Unfortunately the House has come to be characterized by closed committee meetings, off-the-record voting, and other procedures that ignore the principle of representative government.

Perhaps the greatest fault in our legislative process is that the public often cannot find out how their Congressman voted in committee and on the floor of the House. Votes in Committee of the Whole are taken by voice votes, division, or teller votes—all of which are nonrecord votes. No record is made of how individual Members vote—or even whether they are present to vote. Although teller votes are taken in public, it is virtually impossible, even for observers who recognize every Member, to make an accurate list of names. Members being counted have their backs to the press gallery, and persons in the public galleries are not permitted to take notes. And to make matters worse, amendments defeated in the Committee of the Whole may not be brought before the House for a record vote. Since most amendments offered are defeated in the Committee of the Whole, Members rarely can make their positions on key issues public. This year votes on vital issues like the ABM, the SST, water pollution, the nuclear carrier, or American troops in Cambodia have been conducted under the nonrecord, teller vote system.

Only 124 Members, little more than one-fourth of the membership, were on the floor to vote for or against $360 million funds for expanded deployment of the Safeguard antiballistic missile. The House has never had a record vote on the ABM or on money for the supersonic transport plane.

Mr. Chairman, I strongly urge the adoption of the amendment to H.R. 17654 that would permit recording teller votes on major amendments, while retaining the present nonrecord teller system for less important amendments. Record tellers would take less than 15 minutes, with two teller lines operating simultaneously, and would finally take voting procedures out of unjustified obscurity and into public view.

Mr. Chairman, the Committee of the Whole is not the only area where secrecy is eroding the democratic process. Nearly half of the hearings of House committees are closed to the public and the press. The legislative reorganization bill contains provisions stating that committee hearings and business meetings "shall be open to the public except when the committee, by majority vote, determines otherwise." This language would still permit committees to close any hearings or meetings by majority vote without explanation. Mr. Chairman, I believe all committee meetings and hearings must be open to the public unless they concern cases clearly involving national security.

Over the past decade, Congress has appropriated an average of more than $130 billion a year to run the Federal Government under an appropriation process dominated by secrecy. Each subcommittee of the Appropriations Committee holds hearings on budgetary matters within its jurisdiction—about 300 meetings each year. All of these hearings are held behind closed doors. The Committee on Agriculture held closed sessions in 35 percent of their meetings in 1969 and the Committee on Public Works debated in private meetings 35 percent of the time, in 1969. The Rules Committee, which is of great concern to anyone following a particular bill, increased its number of executive sessions in the past 4 years from only 3 percent in 1966 to 36 percent in 1969. It is argued that privacy is needed for the free give-and-take that produces compromise and agreement. Yet the House Education and Labor Committee which deals with some of the most controversial legislation in the House, conducts all its work in open session without inhibition. Mr. Chairman, all secret committee sessions should be abolished except when national security is clearly involved. The secrecy which follows legislation from initial committee deliberations even through the closed House-Senate conferences, is unconscionable in a representative democracy.

Mr. Chairman, not only are hearings closed but voting in committee takes place under the same obscure conditions. Each Member's vote on key provisions of legislation is withheld from their constituents. A Member's constituents have a right to know how he votes in committee as well as on the floor. Complete disclosure of committee votes is now Senate practice and is long overdue in the House of Representatives. I strongly support the amendment which would require that a record of all rollcall votes in committees be available to the public.

I hope that we take full advantage of this opportunity to truly reform the House of Representatives through this important bill. So far I have only mentioned a few of the reforms that are so drastically needed in order to make our branch of Government more effective and representative. Other reforms necessary range from the unavailability of committee reports to a change in the fiscal year to coincide with the calendar year.

As soon as the full House Appropriations Committee approves an appropriations bill, it is scheduled for floor action—even though the committee report may not yet be available. Over the past 5 years the House has considered a total of 63 annual appropriations bills. More than two-thirds of these bills were reported on either Thursday or Friday and considered on the following Monday, Tuesday, or Wednesday. During the period from 1965–69, there was an average of only 2½ legislative days between the day an appropriation bill was reported and the day it was considered by the full House. The Legislative Reorganization Act requires that hearings and committee reports on general appropriation bills be available at least 3 days, excluding weekends and holidays, prior to floor action. Under the present system there seldom is enough time to examine a report involving the expenditure of billions of dollars and hearings containing thousands of pages of testimony. Thus, I urge the adoption of an amendment which would require that committee reports on any appropriation bill be delivered to each Member's office at least 7 days before House action.

Reports on appropriation bills are not the only ones that are not made available sufficiently in advance of floor consideration. Other committee reports are often unavailable until the very day the measure is scheduled for consideration. The legislative reorganization bill would require that committee reports be made available at the House document room or committee, at least 3 days, excluding weekends and holidays, before floor consideration. However, the bill exempts reports from the Committees on Rules, House Administration, and Standards of Official Conduct from this provision.

I, therefore, support an amendment requiring that the committee report on any nonappropriations measure be delivered to each Member's office at least 3 days, excluding weekends and holidays, before floor action.

Mr. Chairman, the pattern of secrecy does not end in the early stages of the legislative process. All House-Senate conference meetings—where differences in language and dollar appropriations are ironed out between the two Chambers—are held in executive session and record votes are unavailable. In addition, conference reports now may be called up in each Chamber without notice providing they have been printed in the Record. Mr. Chairman, a report filed for the Record at 6 p.m. this evening may be voted on when the House convenes again tomorrow. Under such procedures how can any Member, under tremendous pressure with his own committee duties and the special needs of his own half-million constituents, vote with any real confidence or assurance? It, therefore, is essential that an amendment be added to H.R. 17654 which requires that House-Senate conference reports be available to Members at least 3 days before House action and that advance notice be given when such reports are to be called up.

Mr. Chairman, there are still many other needed reforms that I sincerely hope will be incorporated into this bill. I strongly support an amendment changing the fiscal year to coincide with the calendar year. Presently, appropriations bills often have not cleared Congress by the start of the fiscal year. During the last 6 years only six appropriation bills have passed Congress by July 1, out of a total of 73 regular appropriation bills for those years. The late enactment of appropriations is greatly disruptive of programing and management processes, and often results in hasty and imprudent expenditures of Federal funds in a short period before the end of the fiscal year. Therefore, changing the fiscal year to coincide with the calendar year could give Congress sufficient time for passing appropriations bills before the start of the new fiscal year.

Mr. Chairman, I also urge adoption of an amendment which would guarantee time for two speakers on each side on any amendment that has been printed in the Record in advance of floor consideration of the actual bill. A Member should be allowed adequate time to present his case. In recent years, under the present rules of the House, important amendments to the defense appropriations bill have been allowed as little as 45 seconds debate.

H.R. 17654, the Legislative Reorganization Act of 1970, is a step in the proper direction. It increases the availability of information on the Federal budget, expands the Legislative Reference Service, establishes a Joint Committee on Data Processing, and establishes a long overdue Free Capitol Guide Service—a service that all citizens will have the opportunity of using without paying any charge. The bill does, indeed, also make modest changes in House procedures but those changes are both insufficient and few. Only if the amendments that I so strongly support, are adopted, will we be able to restore public confidence in the House as an effective and responsive legislative body. The Congress must keep pace with the times it is intended to serve. Congress must establish modern procedures geared to solve the awesome problems of the decades ahead if Government by elected representatives is to survive.

The patience of the American people has been sorely tried. They have come to feel that the processes of Government must be made efficient and responsive. Secrecy, delay, and excuses will not substitute for sound legislative action. Legislative action delayed is social justice denied.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. REES. I yield to the gentleman.

Mr. SISK. Mr. Chairman, we see no objection to the amendment, and so far as this Member is concerned, we accept the amendment

I would still like to clarify one thing further. As I attempt to read this, it seems to this Member that in including the new matter here, there should be a striking of the present section (c) and the insertion of this section (c). Does the heading of the amendment so state, and was that the way it was offered?

Mr. REES. The form of the amendment is that of a Ramseyer amendment. All the amendment would do would be to add new language to the present section (c) in the bill.

PARLIAMENTARY INQUIRY

Mr. SISK. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. REES. I yield for a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SISK. Mr. Chairman, for the purpose of getting the record straight, is it understood that the language submitted by the gentleman from California takes the place of the existing language in section (c), or is it an addition thereto or is it inserted as a separate part within the section?

The CHAIRMAN. The Chair would like to inform the gentleman that it is unclear to the Chair as to whether the proposed language would be additional language or language to supplant (c). Will the gentleman from California clarify that point?

Mr. REES. Mr. Chairman, I think the easiest way to clarify it is merely to offer the amendment as a substitute to section (c) of the bill.

The CHAIRMAN. Without objection, the Clerk will report the amendment striking out that portion of section (c) on page 7.

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Rees: On page 7, strike out line 21 and all that follows down through page 8, line 13, and insert the following:

"(c) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting which request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date, hour, and measure or matter to be considered at that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date, hour, and measure or matter to be considered and only the matter specified in that notice may be considered at the special meeting.

Mr. SMITH of California. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from California is recognized.

Mr. SMITH of California. Mr. Chairman, I see no objection to the amendment. I am willing to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California, Mr. Rees.

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to be offered under this section? If not, the Clerk will read.

The Clerk read as follows:

OPEN COMMITTEE BUSINESS MEETINGS

Sec. 103. (a) Section 133(b) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190a(b)) is amended by inserting immediately after "(b)" the following: "Meetings for the transaction of business of each standing committee of the Senate (except the Committee on Appropriations), other than for the conduct of hearings, shall be open to the public except during executive sessions for marking up bills or for voting or when the committee by majority vote orders an executive session.".

(b) Clause 26 of Rule XI of the Rules of the House of Representatives, as amended by section 102(b) of this Act, is further amended by adding at the end thereof the following new paragraph:

"(f) Meetings for the transaction of business of each standing committee shall be open to the public except when the committee, by majority vote, determines otherwise. This paragraph does not apply to open committee hearings which are provided for by paragraphs (f)(2) and (g)(3) of clause 27 of this Rule.".

AMENDMENTS OFFERED BY MR. HATHAWAY

Mr. HATHAWAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hathaway: On page 9, strike out lines 9 to 11, inclusive, and insert in lieu thereof the following:

"(f) Each meeting for the transaction of business of each standing committee shall be open to the public unless the committee, in open session and with a quorum present, determines, by roll call vote, that all or part of the remainder of that meeting on that day shall be closed to the public."

And make the appropriate and necessary technical changes in the bill.

Mr. HATHAWAY. Mr. Chairman, I have an amendment to section 112 also at the desk which pertains to the same subject matter that is the open committee hearings. It is almost identical in language with the pending amendment. I ask unanimous consent that the two amendments be considered en bloc.

The CHAIRMAN is there objection to the request of the gentleman from Maine?

Mr. SISK. Mr. Chairman, reserving the right to object, do I understand that the gentleman is seeking to offer an amendment on page 26 which would require the same revision so far as determination of open hearings as he has in connection with the transaction of business meetings?

Mr. HATHAWAY. That is correct.

Mr. SISK. That is what the gentleman seeks to do, and he seeks to have these two considered en bloc?

Mr. HATHAWAY. Yes.

Mr. SISK. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

There was no objection.

The CHAIRMAN. The Clerk will report the other amendment.

The Clerk read as follows:

Amendment offered by Mr. Hathaway: On page 26, strike out lines 13 to 15, inclusive, and insert in lieu thereof the following:

"(2) Each hearing conducted by each committee shall be open to the public unless the committee, in open session and with a quorum present, determines, by rollcall vote, that all or part of the remainder of that hearing on that day shall be closed to the public."

And make the appropriate and necessary technical changes in the bill.

Mr. HATHAWAY. Mr. Chairman, let me say at the outset I am not the only sponsor of this amendment. I am joined by 42 other Members of the House on both sides of the aisle, as follows:

Messrs. Hansen of Idaho, Anderson of California, Brotzman, Clay, Cleveland, Conyers, Coughlin, Culver, Daddario, Daniels of New Jersey, Dellenback, Eckhardt, Eilberg, Erlenborn, Fascell, William D. Ford, Fraser, Harrington, Long of Maryland, Kastenmeier, Koch, Lowenstein, Matsunaga, Meeds, Obey, O'Hara, O'Neill, Ottinger, Patten, Reid of New York, Riegle, Roth, Ryan, Scheuer, Schwengel, Steiger of Wisconsin, Stokes, Tiernan, Thompson of New Jersey, Van Deerlin, Waldie, Wolff, Rooney of Pennsylvania, Reuss, Helstoski, and Moss.

Let me say also at the outset I would like to compliment the Rules Committee for bringing forth a bill which I consider for the most part to be an excellent one.

The purpose of this particular amendment is to open committee meetings to the public unless the committee by rollcall vote in open session with a quorum present decides otherwise. The amendment would also prohibit committees from voting to close more than one meeting day at a time.

Woodrow Wilson once wrote that Congress in its committee rooms is really the Congress at work. The committee system is still the crux of the legislative process and is still the basis for congressional action. Laws are not really made here on the floor of the House or on the floor of the other body. They are only revised here. Ninety percent of all legislation that has been passed was passed in the form reported by the committee to the floor. Yet it is estimated that in recent years 30 to 40 percent of all congressional committee meetings have been closed.

This means most legislative battles have been fought and have been resolved in secret, away from public scrutiny. This seems incompatible with our democratic philosophy and democratic system, for openness is really the essence of democracy. A representative type of government which legislates in secret is not a truly representative type of government, because we as representatives holding public trust are responsible to the public. If we allow the public to sit here in the gallery and watch us legislate today and on other days, the public should also have the privilege of seeing us legislate in our committee sessions. So the principle flaw of the bill before us today is that it still allows committees to take one vote that could close the committee sessions for an entire Congress.

Really all that both amendments before us now do is to shift the burden to those who want a closed session, requiring them to get a majority of the committee vote with a quorum present in order to close the meeting.

We are thereby emphasizing openness and the democratic process in the transaction of the most important of the public business, the making of law.

Mr. ARENDS. Mr. Chairman, will the gentleman yield?

Mr. HATHAWAY. I yield to the gentleman from Illinois.

Mr. ARENDS. If I interpret correctly the amendment which the gentleman proposes, it would mean that on each and every day the determination would have to be made as to whether it was an open or a closed hearing, and only when a majority of the committee was present. The gentleman knows that all committees have a difficult time, time and time again, getting a quorum present at 10 o'clock, or whatever the time for the committee meeting may be. It sometimes runs to 11 o'clock. I can see some difficulty arising in respect to this proposal, unless we can do it the day before or some other time, because we would have to sit there until 11 o'clock to make a determination of whether the committee had a closed hearing or not.

Mr. HATHAWAY. Let me say to the distinguished gentleman, it would mean only that the meeting would be presumed to be open, unless the committee each day voted for it to be closed. If the committee met every day at 10 o'clock it could go ahead with the hearing, but it would be open. If some member wanted to close the hearing he would have to get a majority to close the hearing.

Mr. ARENDS. This is why I make the point. The Committee on Armed Services, having the Secretary before it for a witness, it is vital so many times to have a closed hearing. I wonder if we would have to sit there waiting until we got a quorum present. We could not proceed, because we would have to have a closed hearing. I see some difficulty arising. Perhaps the determination should be made the day before.

Mr. HATHAWAY. I can see some difficulty, but I believe it is worth the difficulty to allow public scrutiny of the legislative process.

The same difficulty would be experienced by those who wanted to have an open meeting, if the committee at the beginning of a Congress, for example, voted to have all closed sessions. Then the difficulty expressed by the gentleman from Illinois, would be placed upon the shoulders of those who wanted to have open meetings. I do not believe they should have the burden of having to get a quorum to have an open meeting.

Mr. ARENDS. I am willing to abide by the decision of the majority.

Mr. MIZE. Mr. Chairman, will the gentleman yield for a question?

Mr. HATHAWAY. I yield to the gentleman from Kansas.

Mr. MIZE. Does the gentleman's amendment apply to full committee meetings, or to subcommittee meetings, or both?

Mr. HATHAWAY. Yes; to both.

Mr. MIZE. Suppose a subcommittee decided it wanted to have a closed meeting. Would they have to go back to the full committee to get permission?

Mr. HATHAWAY. This amendment would apply to the subcommittee. A majority of the subcommittee could close the meeting if they desired to.

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. HATHAWAY. I yield to the gentleman from Washington.

Mr. ADAMS. I wanted to inquire if the amendment would establish the practice that, for example, as I read the rules, the Appropriations Committee hearings should be open? In other words, they should be open meetings but they are often closed. They would have to specifically close the ones they wanted to close? Is that what the amendment would do to this? As I read the rules, the present rule provides for open meetings.

Mr. HATHAWAY. Yes; but under the present rule a committee could vote at the beginning of a Congress to have all closed meetings for the ensuing 2 years, whereas under the amendment they would have to vote every day to have that day closed.

Mr. ADAMS. That is what I wanted to know. That is the difference. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Maine has expired.

(By unanimous consent, Mr. HATHAWAY was allowed to proceed for 5 additional minutes.)

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. HATHAWAY. I yield to the distinguished gentleman from New York.

Mr. CELLER. Does the amendment provide for "hearings" or for "meetings?" How does it read?

Mr. HATHAWAY. Under the unanimous consent request, I will say to the gentleman, it applies to both. There are two amendments pending. One applies to meetings, page 9 of the bill, and the other amendment applies to hearings, which is on page 26 of the bill.

Mr. CELLER. In clarification, I should like to get an answer to the following: A committee, for example, is in the process of marking up a bill. That meeting could not be closed unless there was a majority or a quorum present?

Mr. HATHAWAY. That is correct. And a majority would have to vote to close the meeting.

Mr. RIVERS. Will the gentleman yield?

Mr. HATHAWAY. I yield to the gentleman from South Carolina.

Mr. RIVERS. Mr. Chairman, is the gentleman familiar with the military posture hearings of the Committee on Armed Services?

Mr. HATHAWAY. I am somewhat familiar with the nature of them.

Mr. RIVERS. Does the gentleman know that we have the whole heart of the military laid out before our committee and the posture of the military in executive session and the war plans and what the Department of Defense conjectures will be the situation in 5 or 10 years or in decades from now? As a consequence of that we have days on end of closed hearings, and one is subsequent to the other. Does the amendment offered by the gentleman from Maine say that each day our committee would have to get together to decide whether or not on that day we would have closed hearings?

Mr. HATHAWAY. Yes. That is correct. I would say to the gentleman if these hearings are that important, he would not have any difficulty in getting a quorum present to have his vote on each day.

Mr. RIVERS. Of course, you would not have any difficulty, but what if you have contention within a committee, where a certain group would not be there for a quorum. A lot of committees cannot start out without a quorum.

Mr. HATHAWAY. The gentleman is stating a problem that is common to all committee meetings. I do not know of any way that we have effectively to force people to go to meetings that they do not want to go to.

Mr. RIVERS. Somebody could move then that the committee should adjourn and the whole business of the day would be out the window. We have hearings for days on end without a quorum.

Mr. HATHAWAY. That is true. But I think most members are conscientious enough to attend meetings and conscientious enough to vote on whether they should be closed or open.

Mr. RIVERS. You cannot conjecture on that. They may be sick or there may be many reasons why they do not come. If you have no quorum, under those conditions you just go home. This could throw a monkey wrench into the entire hearing situation of our committee, and I want to say that we have more hearings than any committee other than the Committee on Appropriations.

Mr. HATHAWAY. Of course, I have not been here as long as the gentleman from South Carolina has, but I have never heard of a committee not being able to get a quorum because of illness and especially on matters which are as important as those which the gentleman has just recited.

Mr. RIVERS. Of course, I have been here for 30 years, and I am sure you know more about it than I do.

Mr. HATHAWAY. No; I said I did not.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. HATHAWAY. I yield to the gentleman from California.

Mr. WALDIE. I think the gentleman's amendment is a good one. I think it is most interesting with regard to the problems and difficulties that will be caused the Members—not the public—which I believe will be considerable, but I do think they can be resolved. It will be up to the Members of the House of Representatives to adjust to a course of action they have not been used to, namely, revealing the public's business to the public as it is being conducted. It seems to me that is a problem we ought to address ourselves to and which I think your amendment does.

Mr. HATHAWAY. I thank the gentleman for making an excellent point.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. HATHAWAY. I am glad to yield to the gentleman.

Mr. FRASER. Is it not a fact that under the rules a quorum for the purpose of holding hearings need be only two members? If the committee decides to accept that minimum figure prescribed in the rules, that is all they need. It can set a higher requirement for a quorum, but under the rules they can say that only two members are needed to make a quorum. In fact, these fears are unfounded; are they not?

Mr. HATHAWAY. It is my intention in offering this amendment that a quorum for this purpose would be a majority of the committee or the subcommittee. I do not intend that two members, which is the number required for taking testimony, could vote to close the hearing.

Mr. FRASER. My understanding is it would require a quorum to be present, and I assume you would prefer that a quorum be present, and it is required under the rules for the purposes of meetings.

The CHAIRMAN. The time of the gentleman from Maine has again expired.

(By unanimous consent, at the request of Mr. ARENDS, Mr. HATHAWAY was allowed to proceed for 1 additional minute.)

Mr. ARENDS. Mr. Chairman, will the gentleman yield?

Mr. HATHAWAY. I yield to the gentleman.

Mr. ARENDS. I wish to ask a question of the gentleman. In the Committee on Armed Services we have a subcommittee on the Central Intelligence Agency. What situation do we face there? Are we going to be precluded from hearing anything from the CIA in order better to perform our duties in the full committee?

Mr. HATHAWAY. If a majority of the subcommittee votes to have a closed session of that committee, then there is no problem.

Mr. ARENDS. Provided, you do not have a majority of the members there, which happens on a small committee or subcommittee. Are we going to be precluded?

Mr. HATHAWAY. You would be precluded under this amendment if you cannot get a majority there. But I think this amendment means that the committees will have to be better disciplined. We are not protecting the interest of the Members by this amendment but the interest of the general public which we are representing. For that reason, I think the amendment should carry.

The CHAIRMAN. The time of the gentleman from Maine has again expired.

Mr. SISK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this again I think illustrates what the distinguished gentleman from Missouri (Mr. Bolling) so eloquently spoke about a little bit earlier today. I recognize that this subcommittee does not have all of the wisdom and, certainly, the Rules Committee does not have. We think, however, that we are a fair committee although we do not have all of the expertise in dealing with all facets of the legislative process. However, this is a change that was discussed and on which hearings were held and a great deal of time and effort was given to this whole subject of committee meetings, committee hearings, and business meetings, with the idea of giving the public every possible right to know what goes on.

We all recognize that these committees operate for the benefit of the American public and not just for those of us who are Members of Congress. They are creatures of the House for the purpose of dealing with the public's business.

Mr. Chairman, this proposal by the distinguished gentleman from Maine (Mr. Hathaway)—and I respect the gentleman for his ideas—would tend to make it impossible in my opinion to conduct the normal business of many of the committees in an orderly fashion.

There is no question but what it would substantially delay the business of the House, and the business of the House is the business of the people as the gentleman from Maine said earlier.

So, I believe that to go to the lengths which the gentleman seeks is going to delay the conduct of the public's business.

Now, we felt it was necessary to make positive the business of the House in connection with open meetings. Frankly, the new language which is contained in the committee bill with reference to business meetings and hearings provides that the decision whether meetings and hearings shall be open or closed will be determined by majority vote of the committee. In other words, it is going to be essential for some committees to take action from time to time to set up a rule of procedure which might mean that it would close some meetings for a period of time.

I do not wish to try to cover up anything that the committee had in mind when we discussed this subject as I said over a period of time of many weeks. However, committees are urged to adopt rules, and many committees do adopt rules at the beginning of the Congress and they abide by those rules, and if a committee should desire to make a determination that certain meetings dealing with certain categories be closed, then we feel it is only orderly that such a thing be made possible and that is exactly what this language provides. To do otherwise is, as I stated earlier, certainly going to delay the business of the House.

It would seem to me to be a matter that we should consider long and hard before we force this procedure upon every committee. It may be possible that there would be those who would seek to be dilatory, who would seek to stall—and we hope there would be few, if any, who would do so, but it gives them opportunity to stall the business of the Congress, and simply impede progress.

Mr. ADAMS. Mr. Chairman, if the gentleman will yield, as I understand they could not be dilatory except in trying to establish secrecy. In other words, any committee could meet at any time without this majority vote, as long as they met in open fashion. But as I read the present rules of the House, this amendment is not changing anything in its original form because what happens now is the rules require that the meetings be open, but certain committees adopt a rule at the beginning of the year that all meetings shall be closed, and, therefore, they in fact do away with the rules of the House by a vote of the committee.

I think at some place in time——

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. Adams, and by unanimous consent, Mr. Sisk was allowed to proceed for 1 additional minute.)

Mr. ADAMS. If the gentleman will yield further, am I incorrect as to what we are trying to do, as I understand the amendment offered by the gentleman from Maine (Mr. Hathaway) is simply trying to make the committees follow the rules of the House. Is not what is in the bill now nothing more than the rules of the House?

Mr. SISK. It is assumed, of course, that they will follow the rules of the House, and will proceed along that line. Certainly, no vote taken by a majority of those present and voting in the committee could not be undone at a later time by a majority vote of the committee. You might adopt a motion to close the meeting at a certain time, and this could be undone at a later time, or to deal specifically with the markup of a bill, but the amendment offered by the gentleman from Maine would make this impossible.

Mr. ADAMS. Would not the gentleman agree to an amendment that would permit closed sessions for a week or 10 days, so that a committee would not close their proceedings for a whole year at a time?

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. O'NEILL of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will take just a brief moment to say that I am in agreement with the amendment offered by the gentleman from Maine. For 18 years I have been a Member of the Congress of the United States, and only the other day out of curiosity I wanted to go into the hearings of the Committee on Appropriations. I have not the right to go in and hear testimony of a witness unless I am invited in there, I either have to be a witness or one of the members of the committee.

A Member of the Congress here does not have the right to go into the Committee on Appropriations and listen to testimony. Did you ever hear anything so ridiculous in your life? Of course we need legislation like this, and I am for the amendment offered by the gentleman from Maine (Mr. Hathaway).

AMENDMENT OFFERED BY MR. BINGHAM TO THE AMENDMENTS OFFERED BY MR. HATHAWAY

Mr. BINGHAM. Mr. Chairman, I offer an amendment to the amendments offered by the gentleman from Maine.

The Clerk read as follows:

> Amendment offered by Mr. Bingham to the amendments offered by Mr. Hathaway: In each amendment, delete the words "and with a quorum present" and the words "by rollcall vote".

Mr. BINGHAM. Mr. Chairman, this amendment to the amendment offered by the gentleman from Maine (Mr. Hathaway) is offered in the thought that it will permit the carrying out of the purpose of the amendment offered by the gentleman from Maine, and at the same time obviate some of the difficulties that have been raised about the procedure.

What I have proposed is that there be eliminated from the amendments offered by the gentleman from Maine (Mr. Hathaway) the words "and with a quorum present", and the words "by rollcall vote".

Obviously, the committee cannot do business, or cannot make a decision, unless a quorum is present, if an objection is made.

Obviously also, if someone calls for a rollcall vote on a decision to be made by the committee, that can be had.

So by eliminating these words, the effect would be that any member of that committee or of the subcommittee could raise at the opening of the meeting the question as to whether the meeting should be closed or not. The normal procedure would presumably be that the chairman would open the meeting and would say that, unless there was objection, the meeting will proceed in closed session. Then any member of the committee or of the subcommittee would be free to make the objection that that decision had not been made by vote and the vote would be taken. If he chose to raise the point, the vote could then be taken by a rollcall vote.

Therefore, I think the protections

would all be there without the necessity of the committee going through the form each time of having a rollcall vote with a majority present.

I would hope that the gentleman from Maine would have no objection to these eliminations from his excellent amendment which I think have a very important purpose and a real function as the gentleman from Massachusetts pointed out.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. STEIGER of Wisconsin. It was my understanding as the amendment to the amendments was read that the deletion of the language to which the amendment referred was proposed in both parts of the amendment offered by the gentleman from Maine (Mr. HATHAWAY); am I correct?

Mr. BINGHAM. That is correct.

Mr. STEIGER of Wisconsin. May I ask the gentleman from New York as to whether or not that really is what he intends to do?

The gentleman from South Carolina and the gentleman from Illinois have made the point of those cases in which the Committee on Armed Services, in this instance, are holding hearings—not business meetings and not committee markup sessions—but hearings whether they be of the committee or of a subcommittee and is the gentleman from New York really trying to make it possible, as I understood he was, that committee hearings could be conducted and could be closed on something less than a quorum or a majority of the committee? Does he want that same issue to lie at the question of the transaction of business at page 9?

Mr. BINGHAM. I would agree with the gentleman that the issues presented by the two amendments are really quite different. But in both cases, I think the protection that any member of the committee or subcommittee can raise the point as to whether a meeting should be closed or open is adequate if he can make the point at the opening of the session. So my amendment was deliberately offered to both parts of the Hathaway amendment.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. EVANS of Colorado. Would the gentleman be kind enough to read the amendment, as amended by his amendment?

Mr. BINGHAM. If my amendment is accepted, the Hathaway amendment to page 9 which deals with meetings would read:

> (f) Each meeting for the transaction of business of each standing committee shall be open to the public unless the committee, in open session determines that all or part of the remainder of that meeting on that day shall be closed to the public.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. HAYS. The gentleman's amendment really gives a minority of one person the right to make a decision about whether or not a quorum is present, which he has at the present time; is that correct?

Mr. BINGHAM. Yes; he has that at the present time.

Mr. HAYS. If a quorum is not present and the vote goes against the person who raises it, the minority person, he can then make a point of order that a quorum is not present; is that correct?

Mr. BINGHAM. That is correct.

The purpose of the gentleman from Maine is to see that the committee at each session decides that the session is going to be closed and that is the purpose of his amendment, as I understand it.

I do not think this would change or eliminate the protections that the gentleman from Maine had in mind. But it would avoid some of the routine that might have to take place if there was no need for it.

Mr. HAYS. I think the gentleman's amendment, leaving aside the merits of the amendment of the gentleman from Maine, is an improvement to the proposal of the gentleman from Maine because it takes some of the cumbersomeness out of it and it still protects the right of the minority right down to a minority of one.

Mr. BINGHAM. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from New York has expired.

(Mr. BINGHAM asked and was given permission to proceed for 5 additional minutes).

Mr. HATHAWAY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. HATHAWAY. Under the gentleman's amendment, would it not be possible for only two members to show up at a hearing, both in favor of a closed hearing and neither one is going to raise a point of order of a quorum not being present and they will have a closed hearing. That is the difficulty I want to avoid, by requiring, regardless of whether anyone raises the point or not, that a quorum had to be present in order to have a secret meeting.

Mr. BINGHAM. I really do not see that would be a problem because, after all, under my proposal if any member of the committee wants to see that a particular meeting stays open and wants to raise the question, he can be there at the opening of the session.

As the gentleman from Iowa pointed out, he can make the objection that a quorum is not present and can ask for a vote on the motion to close the meeting and can insist that a quorum be present for that vote. I think anyone who wants the meeting to be open can be fully protected by that language.

Mr. HATHAWAY. If the gentleman will yield further, as a practical matter, as I understand the gentleman's amendment, you would really put the burden on those who would want to have open meetings, and the burden really should be on those who want to have the meetings closed. They should have the burden of getting the quorum there and getting the majority vote to close it. We are really operating in the public interest, and it should be the exception to have a closed meeting.

Mr. BINGHAM. I think that is true with respect to most meetings, but there are a series of meetings, as pointed out today, which are closed, and if any member of the committee wants to raise an objection to that procedure, he can raise the point. I do not think it is asking too much for any member of a committee who wants to have the meeting open to be there at the opening of the session and raise the question. Otherwise they would proceed routinely. I think the gentleman's amendment in its present form really does not solve the practical problems that would be presented in, for example, the Armed Services Committee, when it is considering classified presentations.

To require a quorum to be present on all such occasions, regardless of whether any member of the committee wants it or not, seems to me unrealistic.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. HAYS. I think the gentleman has made a very clear and important statement. It seems to me that the basis of the gentleman's argument is that we want the rights of the minority, so-called, to be protected, even though the minority is too lazy, too tired, or for some reason or other does not even bother to go to a meeting. I want to protect the rights of the minority. But I think any member who is interested enough to want to protect his own rights ought to be interested enough to show up at a meeting and make his point of order.

If the gentleman will yield further, I would like to point out that the member would not even have to be present at the beginning of the meeting. He could come in any time, and if a quorum is not present, he could make the point of order that a quorum is not present.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield for one final question?

Mr. BINGHAM. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Would the combination of the amendment of the gentleman from Maine and your amendment to it result in a rule which would provide for a Chairman to state at the beginning of a meeting that, "We shall have a closed meeting," but at some time later on, or at that time, if someone objects to it, he can so object, and that when he does so, a quorum must be present, and a majority must vote in favor of a closed meeting before the meeting is closed?

Mr. BINGHAM. I would presume so. Yes; I would presume that is correct.

Mr. EVANS of Colorado. Are you striking the entire amendment of the gentleman from Maine?

Mr. BINGHAM. No, I agree with the Hathaway amendment that the decision to close the meeting must be made by the committee at every meeting; I am simply suggesting that at least one member of the committee should be there to request that to be done. He can be there and if there is not a quorum present, he can make his request for a vote and then he can make his point of order that a quorum is not present.

Mr. EVANS of Colorado. I understand the gentleman's point. I approve the amendment and support it.

Mr. BINGHAM. I thank the gentleman.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Michigan.

Mr. WILLIAM D. FORD. I understood the gentleman to say that those present at the constituted meeting would make that decision and it would stand unless someone raised an objection. If there are only two members present at a hearing, that is enough to hold a hearing, and even if two members want to object, they cannot require a quorum because a quorum for the purpose of holding the meeting is at that time present. Under the language the gentleman proposes as an amendment to the amendment of the gentleman from Maine (Mr. HATHAWAY) the effect would be that those two members could decide to close the hearings.

Mr. BINGHAM. I do not believe that is correct. The point is that any member of the subcommittee or the committee in question who is present at the opening of the meeting could ask that the decision be made by rollcall vote. I think that would give adequate protection to any member of the committee to raise the issue, and I think that is all that is needed.

AMENDMENT OFFERED BY MR. BROWN OF MICHIGAN AS A SUBSTITUTE FOR THE AMENDMENTS OFFERED BY MR. HATHAWAY

Mr. BROWN of Michigan. Mr. Chairman, I offer an amendment as a substitute for the amendments offered by the gentleman from Maine (Mr. HATHAWAY).

The Clerk read as follows:

> Amendment offered by Mr. BROWN of Michigan as a substitute for the amendments offered by Mr. HATHAWAY: Amend page 9, line 11 as follows: Strike the period after "otherwise" and insert: "with respect to any scheduled meeting, specific and separate action being required as to each such meeting."
>
> Amend page 26, line 15, in the same way.

Mr. BROWN of Michigan. Mr. Chairman, the purpose of this substitute is to incorporate the thinking, I believe, of both the gentleman from Maine (Mr. HATHAWAY) and the gentleman from New York (Mr. BINGHAM) as well as the committee.

I think all of us are concerned about a committee taking general action with respect to open meetings and adopting a rule, for instance, that says all meetings shall be closed despite the fact that this language is in the Reorganization Act. My substitute would say that the committee must take separate and specific action on each meeting that will be closed if it is to be closed.

This means if, for instance, the Armed Services Committee is taking up testimony of a critical nature, it may say that the hearings of April 1, 2, and 3 shall be closed, but the committee must take separate action with respect to each meeting.

I think I share the concern of the gentleman from Maine and others that the committee should not generally close hearings and close meetings, but rather that there must be separate action by a majority of the committee to close any meeting or any hearing.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Texas.

Mr. WHITE. Mr. Chairman, speaking of the prior two amendments, since the normal practice is to announce to the public that there is going to be an open hearing, and people from various groups come from all over the country to attend these hearings it is possible under these proposals that people will come to Washington expecting to attend an open meeting, and then when they come here they suddenly find that the hearing has been closed and their trip is wasted.

Mr. BROWN of Michigan. I agree with the gentleman from Texas that the previous proposals would permit that to happen. The effect of the amendment offered by the gentleman from Maine is that the committees will schedule an open meeting, and the public and the media expect to be there and to hear and they suddenly find themselves unable to hear because commitee action has been taken to close the meeting. That puts the committee in a difficult spot because oftentimes it would be in the public interest that the meeting be closed.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I want to clarify the answer of the gentleman from Michigan (Mr. BROWN) to the question of the gentleman from Texas (Mr. WHITE) in reference to his allusion to Members traveling some distance to a meeting and then finding it closed. It is my understanding that the proposed language would still require individual action day by day? It would, would it not?

Mr. Chairman, I would like to have a rereading of the amendment. It was my understanding that the gentleman just gave an illustration, for example, that if the Armed Services Committee were holding a series of meetings which might go on for a week in connection with a given subject dealing with, let us say, national security, they would still before each meeting have to vote to determine whether it would be open or closed. Did I misunderstand the gentleman?

Mr. BROWN of Michigan. The amendment says that separate and specific action must be taken with respect to each scheduled meeting. This does not mean, however, that where meetings are scheduled for the first and second and third day of the month, or dates such as that, that the committee could not take one action and specifically deal with each of those meetings, so that we would know the meetings of the first and second and third of the month would be closed. And, when the notice went out scheduling those meetings, I would assume that it would then be committee practice or by committee rule notice would be given that these meetings would be closed.

Mr. SISK. I see what the gentleman undertakes to do in respect to closing meetings for a committee, that the meeting—and when I use the word "meeting," I refer to it as the gentleman, I think, means—for a specific subject might go on for several meetings or for several days.

Is that the meaning of the gentleman's terminology?

Mr. BROWN of Michigan. Yes. The committee in one resolution could determine that the meetings or the hearings, as I recited in the example before, on April 1, April 2, April 3, April 4, and April 5, should be closed. The committee could determine that those meetings be closed.

Mr. SISK. I appreciate the explanation of my colleague from Michigan, because this does clarify that it would not have to vote upon each day for each separate meeting, to go through the procedure.

Mr. BROWN of Michigan. Absolutely not.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members of the Committee, it seems to me that the crucial decision here is whether or not we make it impossible to have a closed meeting on certain subjects on which we simply cannot have open meetings.

We have never had any trouble in the Committee on Foreign Affairs, and we deal with fairly sensitive subjects sometimes. I cannot ever remember a time—and I have been on that committee a lot of years—when anybody wanted to have an open meeting when he was overruled.

What are you trying to do here? Are you trying to make it so that the minority can run a committee even in absentia?

I sometimes disagree with the gentleman from New York (Mr. BINGHAM) on some things, but it seems to me that Mr. BINGHAM'S amendment makes a great deal of sense, because what it really says and what it really boils down to is if some dissatisfied minority member wants to vote on procedure in the committee he has at least got to show up to have it.

If I am wrong I will yield to the gentleman to correct me. As I understand the Hathaway amendment, they are going to have their day in court every day whether there or not, and you are going to force them to vote every day.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Michigan.

Mr. WILLIAM D. FORD. I believe the problem the gentleman in the well has is that he views the object of the amendment of the gentleman from Maine from a different point of view from that of most of the rest of us sitting over here.

Mr. HAYS. Do not say "most of the rest of us," because we have not voted yet. I do not know whether the most support the gentleman or not. I do view it from a different objective, apparently.

Mr. WILLIAM D. FORD. The interest we seek in support of the Hathaway amendment is not in the interest of any Member of Congress or any number of

Members of the Congress, whether majority Members or minority Members, but the public interest. Even if a majority of the committee shows up and would rather have the public not know what they are doing in the committee, all we are asking is that in order to enjoy the privilege of insulating themselves from the public view while they are conducting the public business they must on the record say, "We want to hide this from the public." If they are protecting the national security, the public will let them get away with it, but if they are pulling a fast one and trying to hide the business of the public, the public will not let them.

Mr. HAYS. That is the gentleman's point of view. The point of view I have is that we can have that now if any minority Member is satisfied to show up and ask for it.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. I appreciate the gentleman from Ohio yielding. If I interpret his statement correctly, he is just as much interested in the public interest as the others are.

Mr. HAYS. That is exactly right.

Mr. ANNUNZIO. From his point of view.

Mr. HAYS. I appreciate what the gentleman says.

The only thing I am interested in is that we protect majority rule. There are some people who would like the minority on anything to prevail. I have found out in my experience that if one wants to be on the prevailing side he has to persuade enough people to vote with him to make a majority.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Pennsylvania.

Mr. DENT. It might be good for us to look at the experience of a committee which has operated under a rule similar to this, a committee attended by the gentleman who is sponsoring this, putting into effect the act provision, so-called; the Committee on Education and Labor. In our deliberations we are condemned to public meetings, with an audience at our executive meetings on a writeup of Federal legislation. It so happens that I tried at five separate meetings to get some kind of action on a mine safety bill.

However, without going into personalities, because the newspapermen were in on the executive committee meeting, we had a few members who were writing a bill they had never seen and knew nothing about what had gone into the bill prior to that, but so far as they could possibly do so they achieved the job of crippling the committee's ability to operate in any kind of reasonable fashion.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(By unanimous consent, Mr. Hays was allowed to proceed for 3 additional minutes.)

Mr. DENT. Will the gentleman yield further?

Mr. HAYS. I yield.

Mr. DENT. Now, no one in my committee that I know of was trying to delude the people or fool them, because it all comes out in the end. However, let me say that if you tried to put this kind of a ruling through in this House, you may as well come down to the next basic move you have to make, which is to restrict every Member of Congress to one committee and one committee only.

Mr. HAYS. Will the gentleman let me point out something else? I have only a limited amount of time here.

What the gentleman is saying in effect is that you cannot write legislation with a lobbyist sitting at every Member's elbow, and that is exactly what would happen here.

Mr. HATHAWAY. On the contrary, that is just the situation that prevails when you have a secret meeting, because only the lobbyists can have access to the Members.

Mr. HAYS. Now just 1 minute. There has not been a secret committee meeting and there has not been since I have been here of the Committee on Foreign Affairs that somebody in the committee has not immediately leaked his version of what went on to his favorite newspaperman.

Now, you were all here on the floor last week—or presumably most of you were—when I made a motion to lay the motion of the gentleman from Michigan (Mr. Riegle) on the table. There was a version that came out in Time magazine that I rose to the bait of the minority leader. Well, the minority leader and some of us planned this for 2 days. But that is what happened. And I did not rise to any bait. I was just operating according to plan. As far as resenting the gentleman from Michigan (Mr. Riegle) having his day in the sun, it was planned that he have his 30 seconds in the sun, and it was planned that his motion be laid on the table. He did and it was. But Time magazine did not get it right. Whoever leaked it leaked the wrong version. Every one of you was sitting here and saw what happened. You can read Time and see if it has any remote relationship to the facts in the case.

I am saying to you again, gentlemen, if you want to write up a bill with a lobbyist sitting at every Member's elbow, some of you who like to proclaim yourselves as ultra-liberals—I like to proclaim myself as a liberal—are going to have a rude awakening in store for you. Believe me, I know what I am talking about.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, apparently the object of the amendment of the gentleman from Maine (Mr. Hathaway) is to compel open committee hearings and to compel open committee mark-ups of bills. It is true that his amendments contain escape provisions whereby this can be avoided.

However, I rise to support the position of the gentleman from California (Mr. Sisk) and the Committee on Rules in opposition to the pending amendments to the bill.

In several of the committees, such as the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations, weeks and months of hearings are held on sensitive national security matters.

Those hearings, of necessity, must be in executive sessions.

Mr. Chairman, the rules ought to provide a practical, easy way to follow a commonsense procedure with respect to this matter.

In the Committee on Appropriations, we ought to have more open hearings. I would like for us to have more open hearings. We do not necessarily have a passion for anonymity. The people who get the headlines have open hearings. We not infrequently have as many as eight or 10 of our 13 subcommittees sitting at one time. Our meeting rooms here in the Capitol Building itself are quite small. There absolutely is no satisfactory way to have open hearings under existing conditions. When subcommittees meet, the rooms are crowded and stuffy. With committee members and witnesses in the room, there are generally no seats left for others. If we extend the west front of the Capitol—and I do not wish to inject another controversial question—where we hopefully will have more rooms, and more adequate rooms, we can then open up more hearings to the public.

Last January, we planned to have an open hearing with the Secretary of the Treasury and the Budget Bureau on the overall budget for 1971 but we had difficulty trying to arrange for a suitable room in which to hold such a hearing and had to give up the idea.

We do have some open hearings on public works matters and on certain other occasions. It is my recollection that we had over 400 witnesses appear before the Public Works Subcommittee in open hearings this year. We had some open hearings on the District of Columbia bill. Any Members who wish to testify on the public works bill or any other bill are at liberty to do so.

Now, Mr. Chairman, it seems to me that we ought to consider whether or not the pending amendments, if adopted, would contribute to good government.

I was struck by the statement of the gentleman from Ohio (Mr. Hays)—and in a sense he stole my thunder, because as you know, the silent majority is not going to be present at the open markups of the bills; they are going to be too busy and too occupied otherwise. But if you have open markups on bills—let us say, for example, on the appropriation for the SST—do you not think that the special interests will be there? The silent majority will not be there, but the special interests will be well represented. That is just an example of the situation you would unquestionably have if you have open markups and abandoned executive meetings.

Incidentally, I do not like to call them secret meetings or hearings. "Secret" has an undesirable and unjustified connotation.

Executive committee sessions are for the purpose of transacting the business of the people. The hearings are printed, the parts that are not subject to national security screenings, and the information is made public to one and all.

It seems to me that the Committee on Rules should be supported—that the gentleman from California (Mr. Sisk) and his committee ought to be supported—and we ought to vote the pending amendments down. The pending bill prescribes the more convenient and practical way to conduct this part of the business of the House.

Mr. Chairman, I urge the defeat of the pending amendments.

Mr. RIVERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is very easy to get in this well or get in the columns of some newspapers and impugn certain committees for some insidious motive for holding secret hearings. I have no doubt at all about the sincerity of the gentleman from Maine and I certainly would not depreciate his patriotism or his absolute positive sincerity in offering this amendment. However, there are certain things over which we have no control.

Mr. Chairman, the distinguished gentleman from New York (Mr. Celler), chairman of the Committee on the Judiciary, has jurisdiction over title XVIII of the United States Code and that is the section of the Code which gives to the Department of Defense and other agencies of the Government the right to classify certain information.

We do not write the statutes, and there are penalties attached for anyone who violates the penal sections of those statutes.

When the Department of Defense comes to us and says "these are secret," we cannot declassify it without taking a chance for some violation of law. If they mark it "Top Secret," we cannot declassify it. One does so only on his own responsibility.

In our committee, we have what are called posture hearings, with the Army, the Navy, the Air Force, and the CIA. They go on day in and day out, and they are classified, and they are secret. If one had to vote every day on a continuing group of witnesses, the people who come to give you information on the status of our military, our inventories, our strength, the conjectural strength of the enemy, or the conjectured enemy, or whomever it may be, these cannot be open to the public.

If every day you had to have a quorum, and you had to have a vote on something where, say, a witness like Mr. McNamara, who used to come in with books this thick, three or four volumes, always at least three volumes, each one the size of a Sears, Roebuck catalog, if you stopped him one day and then started again the next, and you have to have a vote, you would never be finished. It would be interminable, and it is interminable as it is, because those are the most undramatic kinds of hearings that we sit on on posture, and they go on day in and day out, and week in and week out—and my goodness, there is no glamor about them.

This amendment, as honorable as it may be, cannot help the machinery of your Congress. It will tie up your military committee. We would not be able to handle our matters—we would never know when to finish. You just cannot do it.

This is one of the objections. And you just cannot stop and ask everybody every day how he is on every subject—it would take us up to Kingdom Come. Further, the Members do not come in on time.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. RIVERS. Of course, I will yield to the gentleman from Michigan if he can contribute to what I am trying to say.

Mr. BROWN of Michigan. I thank the gentleman for yielding, Mr. Chairman, and I am not sure whether the gentleman will think I have contributed, but I will try.

Mr. RIVERS. I am not sure either, but take a whack at it.

Mr. BROWN of Michigan. I will do my best.

Does the gentleman think that it would be essential for him to have his committee adopt a rule saying that all meetings of the Committee on Armed Services should be closed?

Mr. RIVERS. No, and we do not do it, we adopt our rules—and I am glad and delighted with the gentleman from Michigan because he has made a great contribution. At the beginning of the sessions of our committee we adopt the rules, and we stick precisely to the letter of every rule which we adopt.

Mr. BROWN of Michigan. Would the gentleman yield further——

Mr. RIVERS. And whenever anybody wants a rollcall he gets it. There is the gentleman from New York (Mr. Pike) standing there, and whenever he wants a rollcall he gets it. And the only time he disagrees is when he disagrees with the result.

Mr. BROWN of Michigan. Mr. Chairman, if the gentleman will yield further, would not the gentleman agree that there are many times when his committee has a week of hearings that need to be closed, but that at other times the meetings can be open?

Mr. RIVERS. Oh, we have open hearings all the time.

Mr. BROWN of Michigan. And would not the gentleman agree that the practice of his committee is not in opposition to the substitute I have proposed, which says that the committee can determine in advance that certain meetings of the committee shall be closed?

Mr. RIVERS. I am not sure about what this amendment does, because the gentleman read it one way and explained it another way, and I do not know just what to say.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. RIVERS. I yield to the gentleman from New York.

Mr. PIKE. The amendment offered by the gentleman from Maine (Mr. Hathaway) as amended by the amendment offered by the gentleman from New York (Mr. Bingham) would not require a quorum to be present, and would not require a recorded vote.

Does not the chairman of the Committee on Armed Services think that under those circumstances the committee could proceed with its business under very reasonable conditions?

After all, I have been on the committee for 10 years and I do not think anyone ever made a point that a quorum was not present. We do operate on good faith, because all parliamentary procedure has to proceed under good faith.

But under the provisions of the amendment, as amended by the gentleman from New York (Mr. Bingham), I do not really think that it would delay any legislative process.

Mr. RIVERS. I will say this to the gentleman. In our committee if anybody wants a rollcall, and the gentleman from New York (Mr. Pike) knows it, he gets it. We have no trouble at all conducting the business of our Members. The adoption of any of these things will disturb the relationship which exists in the committee the size of ours, with 40 members, because necessity being the mother of invention, as soon as you have a way to use dilatory tactics and practices, that way will be found.

Mr. Chairman, I say that this is not necessary and it is not needed. We get along well and to change this thing now is fraught with all kinds of dangers. I am sure that the adoption of this amendment will prove to be disastrous to the orderly processes and the business of this House.

Mr. ESCH. Mr. Chairman, I move to strike out the last word and rise in support of the substitute amendment.

Mr. Chairman, I think it is essential that we reexamine the substitute in light of the previous discussion by the two previous speakers.

I have great respect for the work of the chairmen of the Committee on Armed Services and the Committee on Appropriations who preceded me in the well.

I was an original advocate of the Hathaway amendment. But during the discussion that has ensued in the last hour, I think it is clear that the substitute is preferable.

I would like to outline to you exactly what the substitute does.

First, it places the responsibility and the burden of proof on the committee itself as to whether or not sessions will be closed as does the Hathaway amendment. However, it may do so in one vote rather than each individual day. So the Committee on Appropriations or the Committee on Armed Services and other committees, who wish to have closed sessions or executive or markup hearings on a particular subject matter, may do so with one vote. However, it would not give blanket authority at the beginning of a session for total closing of all committee hearings or sessions.

I think this is essential. First of all, the public has a right to know. Later today, we will be voting for an amendment to indicate that the public has a right to know what we vote for here in the Committee of the Whole. The public also has the right to listen in on the sessions of committees where so much of our legislative work is done, except when the committee, on an individual subject matter, makes a determination that it is not in the best interests of the country that this particular subject matter be discussed in the open.

So I commend to you very careful consideration of the substitute amendment offered by the gentleman from Michigan

(Mr. Brown). It does one more thing. I think there has been some discussion about lobbying and lobbyists sitting in or sitting out. I think we should recognize that lobbying is an inherent part of our democratic structure. If there are evils in lobbying or lobbyists, then they are evils which this body itself should attempt to control. But to condemn lobbyists by saying they may not sit in a session, is to suggest that lobbyists in and of themselves, be they for any group or any collection of individuals, is not an inherent part of the democratic process, which indeed they are.

So I would suggest the intent of the Hathaway amendment—that is to open up the meetings to the general public—is contained in the substitute. However, the technical procedures which are especially needed by committees such as the Committee on Appropriations and the Committee on Armed Services can be met also by the Brown substitute.

On that basis I would commend to you careful consideration accepting the substitute amendment.

Mr. CELLER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. CELLER. Mr. Chairman and members of the committee, I was first elected chairman of the Judiciary Committee for a great many years. Indeed my appointment goes back to 1948. It only seems like yesterday.

I therefore do not speak from a wealth of ignorance. I speak from great experience on that committee. As a result of that experience I have come to the conclusion that the wording of the Sisk amendment, the amendment before us that came to us out of the Rules Committee, is adequate for all purposes:

> (f) Meetings for the transaction of business of each standing committee shall be open to the public except when the committee, by majority vote, determines otherwise.

Sometimes it is well, probably, to operate in a sort of gold fish globe. At other times it is not in the public interest to so operate. On many occasions it would be deleterious to the public interest for the Judiciary Committee to operate publicly.

For example, we come to a situation where we write up a bill. There is nothing more serious, nothing more difficult than writing up many of the bills that emanate from our committee. But if you are going to write up those bills with the members having the fearless light of publicity focused on them, there are all manner and kinds of inhibitions affecting the members. There will be all manner and kinds of motives that actuate members when they express themselves in executive session. If you have open hearings, those feelings will be exacerbated. They will speak for back home. They will imagine how their remarks will appear in the next morning's local newspapers. There would be no flexibility, and you know as well as I do that when you mark up a bill, there must be flexibility. You must give and you must take. There must be compromise. But if the members are going to be inflexible—and they will be if the public is admitted to sessions where you are writing up a bill—they will not yield or compromise. If the members will not yield, you will get no bill. I speak from experience in that regard. Members would remain unyielding even if sincere. Keen insistence upon their individual point of view makes agreement most arduous.

We on the Judiciary Committee—and I am sure my colleagues will bear me out—have been fairly successful. That might be deemed by some even an understatement because we get a general consensus in our committee only because we do not have public hearings when marking up the bill. But under the pending amendments and substitute there is a danger that there will be a demand for public hearings when we even write up a bill, and that is what worries me. It gives me grave concern.

Beyond that, when the demand is made for a quorum, we often have difficulty getting a quorum.

I tell the clerks "to beat the bushes" to get the Members present. I am unusually prompt, but sometimes the Members are not prompt. Sometimes I have to say that "punctuality is the thief of time." All the Members are not as punctual as I am, and I have to scurry around to get the Members in. By the time I have a quorum it is half-past 10 or a quarter to 11, and the period during which we must operate is shortened. So if we are going to insist upon a quorum all the time, we are going to immeasurably delay the work and pile delay upon delay like Pelion on the top of Ossa.

Therefore, I must oppose the pending amendments that have been offered.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from North Carolina.

Mr. JONAS. I thank the chairman for yielding. Mr. Chairman, I would not have any objection to open committee hearings but have reservations about the desirability of opening up markup sessions. I do not approve "secret" sessions, and would not object to making a public record of how members vote on markups. Certainly I have never hesitated to disclose how I have voted in markup sessions, but I frankly fear that to open up markup sessions would raise more problems than it would solve.

I ask the distinguished Chairman of the Judiciary is it not true that the work of the mark-up session is somewhat akin to the work a Member does in his office, as opposed to the work he does on the floor of the House?

Here is where the publicity should focus. But in a mark-up session of the committee—and I am thinking of our own sessions in the Appropriations Committee—we labor over the mark-ups and to do it in an intimate, relaxed and informal way. I do not think it would be argued that the public ought to be admitted to our private offices when we are working on bills. Is not the public interest fully served by opening up the proceedings to the floodlight of publicity on the floor of the House and in committee hearings?

Mr. CELLER. I should think that should be ample publicity. I do not think the public should have to be admitted to and should know every detail and have the light of publicity focused on every "nook and cranny" of the debate when the bill is being written up. I am worried about the inflexibility that will develop.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. Kyl and by unanimous consent, Mr. Celler was allowed to proceed for 2 additional minutes.)

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Iowa.

Mr. KYL. Mr. Chairman, I thank the gentleman from New York for his statement. I would ask the gentleman if he agrees with this further consideration, that man, not because he is evil or because he is secretive, but because he is human, will demand some time for making some private decisions out of the public spotlight, and if we do not provide that opportunity through regular committee action, then he will seek some other off-the-record outside-the-committee meeting to make the little agreements and so on which are necessary in the legislative process?

Mr. CELLER. I thoroughly agree.

Mr. KYL. Mr. Chairman, I thank the gentleman from New York.

Mr. SMITH of California. Mr. Chairman, I rise in opposition to the substitute amendment and to the amendment and to the amendment to the amendment.

Mr. Chairman, the discussion here today on this first important amendment gives you an idea of the problems that the subcommittee faced in going over this particular matter. We went through almost all of this argument that has been presented today. As the distinguished gentleman from California (Mr. Sisk), and the distinguished gentleman from Missouri (Mr. Bolling), so ably stated, those were the problems we faced up to.

This amendment is written in a positive basis that the committees will be open unless they are closed. We thought that was a good suggestion to make, and we came to the conclusion, after a tremendous amount of discussion and hearing.

Mr. Chairman, reading the substitute offered by the gentleman from Michigan, in all honesty I do not understand what it will do. The gentleman has explained what he thinks it will do, but the staff on both sides of the aisle and Members have read it and I do not think we can definitely determine from this language what it will accomplish. In other words, after the word "otherwise" it states:

> With respect to any scheduled meeting specific and separate action being required as to each such meeting.

I do not know whether we are going to have a meeting for the beginning of the session or whether we have to have a quorum there or not. Let me refer to one of the rules of the House here, section (h) of rule XI.

It states that each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence, which shall not be less than two.

We have subcommittee meetings and other meetings. If they want to have a closed meeting of the Internal Security Committee, for example, they could not do it if any one of these amendments, or the substitute is approved.

I do not oppose your principle, Mr. Brown, only I do not understand your language. If you will write it in a different form, so that I can understand it and so that we can make a record on it, we can make sure, because that is what we are going to be interpreting.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield briefly to the gentleman from Michigan.

Mr. BROWN of Michigan. If the gentleman will look at the amendment in the context of what the committee has already written, I think he will understand. First, we must remember it is a substitute. It strikes all of the Hathaway and Bingham proposals. As an addition to the language of H.R. 17654, it says that every scheduled meeting shall be open unless the committee at some time has taken action to say that such meeting or such group of meetings will be closed. That is what it says. It is that simple.

It does not require the committee to take the action on the day of the meeting. But it does mean a committee cannot, at the start of the session, adopt a rule saying that all meetings will be closed, which they can do under the rule as it is presently in the bill. It says they must take action as to every scheduled meeting, if they want to close it.

Mr. SMITH of California. That is what it says, each such meeting. I do not believe it will help. They will have to have a quorum present. They will have to vote. If one person is against it, he can object. And considering it the other way, one person can do it, in my opinion, and it will simply cause confusion and complications.

The Committees on Appropriations, Armed Services, Foreign Affairs, and Internal Security have to have some of the rights we give to them in the committee bill. If we do not we are going to mess this whole thing up.

Mr. Chairman, I am opposed to the amendments.

Mr. DENT. Mr. Chairman, I move to strike the necessary number of words.

In the few remarks I made a while ago, I touched upon a subject matter that has not been touched upon; that is, if we pass this type of restriction and these criteria for our committee meetings it means we must then pass another basic change as to the construction of House membership and its relationship to committee meetings and committee membership. We will definitely have to cut down the membership of every Member to one single committee. It is impossible to supply the number of bodies, out of this group, to attend in force as prescribed by the maneuvers that can be put into effect by these amendments, for every committee meeting being held.

I want the Members to pick up the Washington Post for this morning and to read the list of the committees. Get the number of members on those committees. I defy anybody to muster the membership necessary to be in attendance at a quorum at those meetings. It is impossible to do.

I as a witness can say from experience it is impossible to write up a bill if you have the public attending. It is absolutely impossible to do so, because we have had to go through this type of restrictive meeting.

We have to have a closed meeting to write up the bills in our committee, on the subcommittee, and unless a majority of the committee by a majority vote allows an open meeting. I admit that I took the bold and probably unconstitutional action of just declaring that the meetings were going to be closed. And they were closed.

The fellows who have so much ambition about being there at the opening meetings, and have so much to say about what is going into the bill, offering amendments when they did not know what they meant or what they intended to do, when we had a closed meeting never attended. I have to coax them to come to make up a quorum to vote the bill out. We just cannot get them there.

We are human beings. Some of us are motivated by different principles. Some of us are motivated by a desire to do what we think is right, and some are motivated by what they have to do to get back to Congress again.

It appears at times to be their only motivation.

They have no idea of what they are trying to do or care to do. I say this without any fear of contradiction, because I served for 39 years in legislative bodies and I have seen them come and go.

Yes, the best meetings in the world are open meetings. We never have a closed hearing in my committee at any time. The public is invited. Thus a vast difference between hearings and markup executive sessions.

Look around you. How many times do you have more than one person above and beyond the witness who is even attending the meeting that you are holding open? But just as sure as you are alive, the minute you go into the markup session on a bill that had no one in attendance during the public hearings, the minute you go into the meetings to mark that bill up, you get a full complement of Members and a full complement of witnesses, good and otherwise. Why, at one of our meetings this year they were passing question slips from men who had never attended a public meeting, to members of my committee. They were asking questions on technicalities, some of which were not germane to the bill. I was born and reared in the coal field that we were legislating and the questions were so technical it required experienced mine engineers to answer.

This is a very serious question, because all lobbyists are not the kind and gentle people that have been described here, although many of them may be. I will tell you the good lobbyists are a great aid to the legislative processes of this Government. Those who know their business and give you a straight story cannot be done without, because they are a help to the legislative process. But there are those who know nothing of the subject matter but only know what they are supposed to know, which is somebody who is interested in the subject matter. These are the kinds who destroy the writeup sessions on legislation.

Mr. Chairman, I repeat the warning. There are not enough bodies in this Congress to comply with some of the changes that you want to be made here. We have found in our committee that dilatory tactics have caused it to be the most cumbersome committee on the Hill. We go week after week and day after day, with those of us trying to be faithful sitting there and working on the bill while others go out of the room. Only when they find that we have a quorum—and this goes for the other side even more that for our side—when we do get a quorum with all kinds of gentle hints and sometimes a little more than gentle prodding, then they come in and sit there and start making motions to keep the committee from acting.

Mr. Chairman, we are now in the month of July. All of the work we have done to date could have been finished in the month of March. There is not a person in this room who has had any experience in a legislative body that will deny that. There is absolutely no reason in the world to do what we are doing here except for reasons that are other than those for which we were elected; namely, attending to the business and the affairs of the people of the United States and the House of Representatives rather than attending to the affairs of those who do not want legislative enactment, they only want an issue.

Mr. SISK. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Chairman, I would like to say this: I have been asked by several about seeing if we could not agree to some time limitation. I am not going to seek any time limitation, because I know that many Members have waited for many years to have an opportunity to come here on the floor and discuss this issue. Our committee is unanimous in wishing to give Members an opportunity to discuss these various proposals. So we are not seeking to cut off debate and we will not. It may be that as times goes on we will seek some kind of unanimous consent agreement, but I want to say today that I think the membership that is here on the floor of the House and their attendance indicates there is truly interest in the subject matter which we brought before you.

Now, I was concerned yesterday about the lack of attendance on the floor of the House but it indicates that there is never too much interest in general debate, until you get down to the meat of the coconut, and apparently we are getting down to the meat of the coconut today.

Mr. Chairman, there has been a great deal said on this particular amendment. Of course, we would hope that before too long we might vote on this and move along to the next section.

I would simply like to again reiterate the fact that this was a subject that the committee gave a great deal of attention to. We examined various ideas and proposals. We explored a lot of language. We went up and down a lot of hills. It seems to me that to some extent the amendment which has been offered may have been instigated by some of our friends in the news media. I note particularly in recent days a great campaign by the news media, including the press and the radio and the television, to the effect, that there is some great secrecy in the House of Representatives in the congressional transactions.

Frankly, Mr. Chairman, I think all of us who have lived with this for some years recognize that this so-called charge of secrecy—and I say "secrecy" in quotation marks—is basically a figment of the imagination of the news media.

Mr. Chairman, I am curious, and I would challenge anyone to cite instances to me with reference to the many things that go on in committees on which there is not available some general information.

As I said to a news man yesterday, perhaps some of our friends of the press are getting a little bit lazy and they would like to have everything written out and submitted to them, because some of the amendments we have seen here would indicate that that is the case and that that is the kind of thing they are pushing for.

Now, Mr. Chairman, I have great respect for the gentleman from Maine (Mr. HATHAWAY) and other Members who are interested in this particular amendment. But I, for one, and I believe it very firmly, believe if the amendment or if even the substitutes were selected or were approved and became law, we would see all kinds of dilatory tactics used. I think we would see a complete slow down of committee action. I think it would be detrimental to the business of the people and that is what we are all concerned with. We are here as representatives of the people.

Mr. Chairman, I would urge that the various substitutes be voted down and, of course, that this amendment be voted down and that we proceed to work on other portions of this bill.

Mr. FRASER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that we have had a good discussion of this problem of closed meetings. I think that there is merit to the contention that the proposal originally offered could become cumbersome and unworkable in some instances. For this reason, I would hope that the Bingham substitute to the amendment would be accepted, because I think that would remove much of the cumbersome requirements that could create problems for committees. I am sure no one wants to create problems for the committees, but simply to make sure that a fair and orderly procedure is observed.

Mr. HATHAWAY. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Maine.

Mr. HATHAWAY. As the author of the amendment, I would be glad, after listening to the debate, to accept the Bingham amendment to my amendment.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like to say that I concur with the concerns that have been expressed with reference to possible dilatory tactics. I think it is necessary to shift the burden of proof from advocates of the open meeting to advocates of the closed meeting. Therefore, it seems to me that the Bingham amendment does offer a good opportunity in this respect in that it would not require the presence of a quorum, and it would not require a rollcall vote.

And yet of course these devices are always available to people who are present, and who object to proceeding without a quorum. I am sure that nothing that anybody has said here today would indicate that we were in favor of proceeding without the existence of a quorum. The amendment offered by the gentleman from New York (Mr. BINGHAM), does streamline the procedure while leaving the burden where it should be, and I intend to support it.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, as a member of the Committee on Education and Labor, I would like to correct the RECORD in one respect. We have been operating under the so-called open rule procedure, both for our open meetings and for our markup sessions. I think one thing that many of us agree on, and I have talked to many of the Members in the last half hour, is that we have had a much easier time getting a quorum when the markup session is going to be open than we had before the change in the rules, when the markup sessions were closed.

There is something very effective, apparently, about the presence of the media out there in front of us that seems to stimulate large-scale, effective member attendance at the markup sessions. So I do not think any Member of the House ought to fear that there is necessarily any correlation between open markup sessions and lack of attendance at those sessions. In fact, the correlation is quite to the contrary.

Mr. FRASER. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I would urge that the amendment offered by the gentleman from New York (Mr. BINGHAM), be adopted, because I believe it makes the entire amendment acceptable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM), to the amendments offered by the gentleman from Maine (Mr. HATHAWAY).

The question was taken; and on a division (demanded by Mr. BINGHAM) there were—ayes 85, noes 72.

Mr. BOW. Mr. Chairman, I demand tellers.

PARLIAMENTARY INQUIRY

Mr. SISK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SISK. Mr. Chairman, is it correct that the vote we have just had has been on the amendment offered by the gentleman from New York (Mr. BINGHAM), to the original amendments offered by the gentleman from Maine (Mr. HATHAWAY?)

The CHAIRMAN. The Chair will state that the gentleman is correct.

Mr. SISK. And that the next vote will occur on the substitute amendment offered by the gentleman from Michigan (Mr. BROWN), for the amendments offered by the gentleman from Maine (Mr. HATHAWAY), as amended?

The CHAIRMAN. The Chair will state that the gentleman is correct.

Mr. SISK. And then the final vote will be upon the amendments offered by the gentleman from Maine (Mr. HATHAWAY), in whatever status they are in; is that correct?

The CHAIRMAN. The Chair will state that that is correct.

Mr. BOW. Mr. Chairman, I withdraw my demand for tellers.

So the amendment to the amendments was agreed to.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Michigan (Mr. BROWN), for the amendments offered by the gentleman from Maine (Mr. HATHAWAY), as amended.

The substitute amendment was rejected.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Maine (Mr. HATHAWAY), as amended.

Mr. SMITH of California. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. HATHAWAY and Mr. SISK.

The Committee divided, and the tellers reported that there were—ayes 102, noes 132.

So the amendments were rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PUBLIC ANNOUNCEMENT OF COMMITTEE VOTES

SEC. 104. (a) Section 133(b) of the Legislative Reorganization Act of 1946 (2 U.S.C. 109a(b)), as amended by section 103(a) of this Act, is further amended by adding at the end thereof the following: "The results of rollcall votes taken in any meeting of any such standing committee shall be announced in the committee report on that measure unless previously announced by the committee, and such announcement shall include a tabulation of the vote cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee who was present at that meeting.".

(b) Clause 27(b) of Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: "With respect to each record vote by any committee on each motion to report any bill or resolution of a public character, the total number of votes cast for, and the total number of votes cast against, the reporting of such bill or resolution shall be announced by the committee and included in the committee report.".

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: On page 10, strike out lines 3 to 10, inclusive, and insert in lieu thereof the following:

(b) Clause 27(b) of Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: "The result of each roll call vote in any meeting of any committee shall be made available by that committee for inspection by the public at reasonable times in the offices of that committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order or proposition, and whether by proxy or in person, and the names of those Members present but not voting."

And make the appropriate and necessary technical changes in the bill.

Mr. FASCELL. Mr. Chairman, this amendment making available to the public committee action is an important and vital reform. I offer the amendment for myself and for the distinguished gentleman from Vermont (Mr. Stafford) and for 58 other cosponsors. They are: Messrs. Adams, Anderson of California, Beall of Maryland, Button, Clay, Cleveland, Cohelan, Conyers, Coughlin, Culver, Daddario, Daniels of New Jersey, Dellenback, Dennis, Eckhardt, Eilberg, Erlenborn, William D. Ford, Fraser, Harrington, Hathaway, Kastenmeir, Koch, Long of Maryland, Lowenstein, MacGregor, Matsunaga, Mayne, Meeds, Moorhead, Morse, O'Hara, O'Neill of Massachusetts, Ottinger, Patten, Pike, Podell, Pryor of Arkansas, Reid of New York, Riegle, Roth, Ryan, Scheuer, Schwengel, Steiger of Wisconsin, Stokes, Thompson of New Jersey, Tiernan, Van Deerlin, Waldie, Winn, Wolff, Wright, Rooney of Pennsylvania, Reuss, Helstoski, Moss, and Rodino.

Mr. Chairman, the present rule on the subject, which is clause 26(b) of rule XI, reads:

> Each committee shall keep a complete record of all committee action. Such record shall include a record of the votes on any question on which a record vote is demanded.

The pending legislation, Mr. Chairman, has language which would be stricken by pending amendment, simply provides that—

> With respect to each record vote by any committee on each motion to report any bill . . . the total number of votes cast for, and the total number of votes cast against, . . . shall be announced by the committee and included in the committee report.

I respectfully submit, Mr. Chairman, that what is at issue, and although as far as the language in the bill goes, it is desirable, is not so much printing in the report how the committee votes. Obviously if a bill comes out, the majority of the committee will have had to support it, dissenting, minority and supplemental views are included in the report, and we have a pretty fair and accurate reading of what transpired in the report. What really is at issue, is public availability of information on committee action.

Therefore, the proffered amendment simply provides that the roll-call records which the committee is now keeping would be made available for inspection by the public, at reasonable times in the offices of the committee.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I thank the gentleman for yielding.

I just want to say very briefly I support the gentleman's amendment, because there is no such thing as a secret vote in committee now.

Mr. FASCELL. I agree with the distinguished and able gentleman from Ohio. I thank him for his support.

Mr. HAYS. And this will simply make available to the cub reporters and all those what only the favored reporters can get now. I want all the press to have an equal shot at it.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I want to clarify that the committee on a markup of an appropriations bill—and let us take the Labor and Education Committee—this last year there were 126 separate items to be voted on in the markup. Would this require that there be a rollcall vote and record made and kept on each of the 126 items?

Mr. FASCELL. The proposed language would not. That would depend on whether a rollcall is asked. Each rollcall vote would be made available.

Mr. SMITH of Iowa. If a rollcall were requested, then that would be the only one that would have to be made a matter of record.

Mr. FASCELL. Yes.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, this does not provide then all the rollcall votes would necessarily be published in the report accompanying the bill or that any rollcall vote would be? That is stricken.

Mr. FASCELL. The gentleman is correct. The language in the bill is stricken, and this is substituted. If a report comes out on the bill, it is obvious a majortiy was in favor of the bill.

Mr. GROSS. So it would be discretionary in the committee whether those rollcall votes in the committee would be published or not?

Mr. FASCELL. Personally I think it would be useful practice to report in the report how everybody voted, on the final motion to report out the bill. But I do not think that is the issue here. The issue I raise is simply the availability, public availability of rollcall votes in committee.

Mr. GROSS. I support the amendment offered by the gentleman. I think it is a good amendment.

Mr. SMITH of California. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California, and I thank the distinguished gentleman from Iowa (Mr. Gross) for his support.

Mr. SMITH of California. In the amendment which the committee offered we thought there should be, on rollcall votes, the number, and that should be in the report. In the Rules Committee we do not care. We vote any way up there.

Every time we come up with a bill, we have a hard time determining whether the bill came out of a standing committee by one vote, or by a vote of 10 to 4. We always have to get that information, and eventually make a statement on the floor. Members like to know that.

Why was that not included, as to reporting the number of votes when the committee votes, so that the Members will know when it comes out of the committee? All the other information does not have to be in the report, but the total number of Members voting should be included in the report.

Mr. FASCELL. I have no objection to that procedure. Generally the Rules Committee asks either the chairman or the Member who appears on behalf of the committee to make that designation for the record. As I say, I have no objection to providing that the committee report accompanying a bill must contain a record of the total vote on the passage of the bill by the committee.

But more importantly, we must by adopting my amendment open to the public the votes and actions of our committees which heretofore have been kept closed under the rules.

Mr. Chairman, this is an important and vital reform in the rules of this House and will instill knowledge and confidence in the American people whom we serve and further a great democratic tradition of an open society.

Mr. SISK. Mr. Chairman, I move to strike the requisite number of words.

I do this briefly to discuss this amendment, to be clear exactly what we are doing.

Again, I have no objection to being recorded. I believe that most Members have no objection to being recorded. I actually do not see a great deal wrong with the amendment.

Let me say this, however: This is another area in which the committee did a great deal of soul searching in an attempt to try to provide a reasonable amount of information and, second, to leave these determinations up to each committee.

Actually, what the language which the subcommittee is bringing to the Members does is to provide that the committee shall make the determination as to what will be made available, as to what kinds of votes. The section is intended to inform the House and the public about the support for and the opposition to the measure in the committee reporting it. That is of necessity required.

At present there is no House rule about announcement of committee votes. This section, therefore, of course is a beginning in that area. Nothing would prevent the individual Members from making their votes public at any time, as exists today. Nothing in the section would prevent the committee from announcing who voted for and against reporting a measure, if the committee so wishes. Certainly nothing in the section would prohibit announcing a vote on any matter before the committee if the committee wishes to do so.

In essence what I am saying is that the position the subcommittee and the Committee on Rules took in this instance was to require certain additional reporting not heretofore required by the rules and, second, to leave rather broad authority to the committee to make additional information available to the public.

As I understand the language of the gentleman from Florida, I see little or no reason to object to it. The problem, of course, is that we would hope again that we would not require so much information, so much material, so many records that it would tend to bog down the work of the committee.

As I believe the gentleman from Iowa (Mr. SMITH) noted a while ago, there are times when there are many, many votes taken; some by division, some by voice, some by record vote on some of the very large bills, and particularly in connection with appropriation bills where many items are considered. To the extent this would become onerous it could be detrimental to the work of the committee.

As I say, I have no objection to the reporting of the vote and who voted how.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. SISK. I am glad to yield to the gentleman from Ohio.

Mr. LATTA. I thank the gentleman for yielding.

I think before the gentleman accepts the amendment we should keep in mind the fact that the Rules Committee often does inquire as to how the Committee voted on reporting a bill and the chairman is often embarrassed in not having that vote readily available. This is one of the reasons we included a provision that this vote be in the committee report. So I hope the gentleman offering the amendment and the gentleman from California would accept an amendment which would state that the vote on reporting the bill must be included in the committee report.

Mr. STAFFORD. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Florida.

Mr. Chairman, I am very pleased to cosponsor this amendment with the distinguished gentleman from Florida (Mr. FASCELL) and the 58 others who have joined in bringing this amendment to the floor of the House. I shall not take the 5 minutes which are available to me in the light of what appears to be the temper of the House at this time.

I want to make clear, however, my appreciation of the work of the Rules Committee in bringing this bill to the floor of the House. It provides for the first major reformation of the legislative process in Congress since the Legislative Reorganization Act of 1946. It is a good bill and all Members from both sides of the political aisle who have worked long and hard to produce it are to be congratulated. This amendment, offered by my colleagues and myself, strikes out lines 3 through 10 on page 10 of the committee bill and provides that there be added to rule XI, clause 27b, the following:

> On page 10, strike out lines 3 to 10, inclusive, and insert in lieu thereof the following:
>
> (b) Clause 27(b) of Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: "The result of each roll call vote in any meeting of any committee shall be made available by that committee for inspection by the public at reasonable times in the offices of that committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order or proposition, and whether by proxy or in person, and the names of those Members present but not voting."

Rule II–27B presently reads:

> Each committee shall keep a complete record of all committee action. Such record shall include a record of the votes on any question on which a record vote is demanded.

Very simply, this amendment makes the record of rollcall votes in the standing committees of the House, available for public inspection at reasonable times, in committee offices.

There is no requirement for new records to be kept. No additional administrative duty is imposed upon committees since, as I have noted, the records of rollcall votes in committees are already required to be kept.

I believe it is in the national interest for Congress to operate as openly as possible. Secrecy, where it is unnecessary, unnecessarily alienates the public.

In Congress where enormous numbers of bills are introduced each year, the work of the standing committees of the House are of paramount importance.

Any American voter and taxpayer, who wants to understand how bills have been passed, how money has been authorized for programs—and spent, how his representatives have voted in the first truly important instance, needs to know what the rollcall votes have been in committee.

Each voter has a stake in this amendment.

The better informed our Nation's electorate is about the operations of Congress which can properly be disclosed, the greater faith the public will have in Congress. I urge adoption of the amendment.

Mr. WYATT. Mr. Chairman, will the gentleman yield to me?

Mr. STAFFORD. I yield to the gentleman from Oregon.

Mr. WYATT. Mr. Chairman, the bipartisan amendment to require the disclosure of rollcall votes on measures and matters in House committees is both of singular importance in creating a more efficient and democratic House procedure, and of general importance in reestablishing the high level of credibility so necessary in a truly representative Congress. The bipartisan support of the amendment speaks well for the fact that both parties recognize and are willing to act upon the need to improve the image of the House; an image which has directly resulted from the antithesis of representative government—secrecy.

The evils of congressional secrecy have not gone unnoticed by the public, and the pressures for maximum openness, and credibility are manifested in the media, in our correspondence, and in the mood of our society.

There have been many ideas put forth, both in the past and in this reorganization bill, which propose to reduce the dangerous level of secrecy, however the effectiveness of many of these leave much to be desired. The provision in the bill requiring that only vote totals be made public by committees is meaningless. It will be of little benefit in instilling increased responsibility in committee members, nor will it serve any purpose in eliminating the aura of secrecy so greatly feared in our society. It is a halfway measure which continues to deprive our constituents of their right to know of their Representative's opinions and decisions. It is not enough to say that voting on the floor of the House is made public since recorded floor votes comprise such a small portion of legislative decisions. We must open our doors and afford the public the full measure of their right to see how, and if, they are being represented.

This amendment is specifically designed not only for the benefit of the public, but also for each individual Representative. Our knowledge of the climate of committee opinion on a report is of value to all of us, and that value can only be enhanced by granting access to the public of the voting record of our committees. This amendment will make the record of committee votes available to all. Our constituents would have a greater opportunity to determine the degree of consideration given to particular matters in commitee. The thrust of H.R. 17654 is to give the public a better opportunity to observe the operations of Congress at a time in history when such operations are being questioned and critized, and this amendment is entirely consistent with this admirable motivation.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield to me?

Mr. STAFFORD. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I would like to say that I am also one of the cosponsors of this amendment and hope it will be overwhelmingly adopted.

I would like to make the one further point that this amendment will not add to the committee work, because the records that are required are already required to be kept by the committee.

Mr. DENNIS. Mr. Chairman, will the gentleman yield to me?

Mr. STAFFORD. I yield to the gentleman from Indiana.

Mr. DENNIS. Will the gentleman agree with me that a significant difference between this amendment and the Hathaway amendment lies in the fact that in the Hathaway amendment you were dealing with the working process and you were up against the difficulty of actually working and legislating and drafting a bill with lobbyists in your lap and the press beating down your neck, whereas here we are dealing with the question of making public the results when that process is finished, which is quite a different thing, and a thing of which the public is definitely entitled to have knowledge? Will the gentleman agree with me it is a significant difference?

Mr. STAFFORD. I agree completely with the gentleman, who is also a cosponsor of this amendment.

Mr. MOSS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I derive a great deal of personal pleasure from the fact that I have the opportunity of supporting the amendment offered here today by the gentleman from Florida (Mr. FASCELL) because about 16 years ago the two of us launched an effort under a special subcommittee on information, and we bore down upon the executive departments and agencies of this Government for fuller disclosure.

Now, finally, we are going to give the public access to information about some of the most important actions which Members of this body are called upon to take, the votes cast in committee, the votes cast where they really count.

Mr. Chairman, we are supposed to keep the records anyway. All this proposes to do is to provide that they will be publicly available. It seems to me that that is the bare minimum we should disclose, if we are responsible to the people who send us here to exercise their power and to speak on their behalf.

Mr. Chairman, I strongly urge the adoption of this amendment and the opening of these important records to public inspection.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I shall be glad to yield to my colleague from California.

Mr. WALDIE. I join with the gentleman in support of the amendment. However, I want to address myself to one of the remarks that has been made in terms of the problems involved in the deliberations in committee and the horrors that would then result if such disclosure is made as has been suggested by some Members here today.

I can understand and sympathize with the chairman of the Armed Services Committee in his desire that information that may be deleterious to the Nation if it is understood by people who are not in sympathy with the aims of this Nation, ought to be taken in closed session. But it seems to me that we close the other committee meetings because of information that might become available to the people when we are not seeking to protect the Nation's interest, but the individual Member of Congress from the public knowing what he is saying, knowing what he is talking about and knowing how he arrived at that decision.

Mr. Chairman, I particularly find it hard to believe that we have to be protected from lobbyists; that if lobbyists know how we vote and discuss matters in closed hearings, that they might use that information against us. I am sure that the Member who made that suggestion did not direct it at his own inability to face such a disclosure but directed it to all Members—an implication I personally find demeaning.

Mr. MOSS. Let me interrupt the gentleman and observe that the lobbyists know more about what goes on in the committees than any other group on the Hill, in my judgment. I am not afraid of them knowing about it because I served as did the gentleman from California (Mr. WALDIE) in the Legislature of California where we had no closed meetings, neither for markups or otherwise.

Mr. WALDIE. Mr. Chairman, if the gentleman will yield further, just in closing, I wanted to make that point also and what seems so peculiar to California Members who came from the California Legislature is that there was never a closed committee hearing in that body and it did not bring about the terrible results that have been suggested on the floor here today if we followed this procedure.

Mr. MOSS. On the contrary, I think it created a model legislature.

AMENDMENT OFFERED BY MR. SMITH OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. FASCELL

Mr. SMITH of California. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Florida (Mr. FASCELL).

The Clerk read as follows:

Amendment offered by Mr. SMITH of California to the amendment offered by Mr. FASCELL: At the end thereof, insert the following: "With respect to each record vote by any committee on each motion to report any bill or resolution of a public character, the total number of votes cast for and the total number of votes cast against the reporting of such bill or resolution should be included in the committee report."

Mr. SMITH of California. Mr. Chairman, this is the identical language on page 10 of the committee amendment with the exception of the five words at the end; those are scratched out, but the other language is in there, so that the total number of votes for and against will be put in the committee report so that the Members reading the committee report will know how this particular bill was reported out by vote.

If the gentleman from Florida (Mr. FASCELL) had added his to ours, I would not have to do it, but he has stricken out lines 3 to 10, so the whole committee amendment is out, and this is the only way I can get it back in.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, as I said in the earlier colloquy, I certainly have no objection to what the gentleman is trying to do.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I will be glad to yield to the gentleman from Vermont.

Mr. STAFFORD. Mr. Chairman, I would be glad to say that I would approve of the amendment offered by the gentleman from California to the amendment offered by the gentleman from Florida, also.

Mr. SMITH of California. I thank the gentleman.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, I am glad to concur with the gentleman from California, and concur in his language.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I thank the gentleman for yielding, and I would just like to say that any number of times I will vote to report out a bill from our Appropriation Committees on which I have reservation on several items, but in order not to delay the legislative process I vote to report out the bill, but I do not want it to be considered that in voting out a bill that I am in favor of every particular item in that legislative measure.

Would the gentleman comment on that?

Mr. SMITH of California. There would be no names listed. This would be just the total number for and against, so that we will know whether it came out by one vote, three votes, or how many were for it.

Mr. MICHEL. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. SMITH) to the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL), as amended.

PARLIAMENTARY INQUIRY

Mr. REES. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. REES. Mr. Chairman, what we are voting on now is the language in the amendment offered by the gentleman from Florida (Mr. FASCELL) to which has been added another phrase in the amendment offered by the gentleman from California (Mr. SMITH), dealing with the printing of the results in the reports?

The CHAIRMAN. The Chair would advise the gentleman from California that the Committee now will vote on the amendment offered by the gentleman from Florida (Mr. FASCELL), as amended by the amendment offered by the gentleman from California (Mr. SMITH).

Mr. REES. I thank the Chairman.

The amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FILING OF COMMITTEE REPORTS

SEC. 105. (a) Section 133(c) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190a(c)) is amended—

(1) by striking out "each such committee" and inserting in lieu thereof "each standing committee of the Senate (except the Committee on Appropriations)";

(2) by striking out "or House of Representatives as the case may be,"; and

(3) by adding at the end thereof the following:

"In any event, the report of any such committee upon a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the Senate is not in session) after the day on which there has been filed with the clerk of the committee a written and signed request of a majority of the committee for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request.".

(b) Clause 27(d) of Rule XI of the Rules of the House of Representatives is amended—

(1) by inserting "(1)" immediately after "(d)"; and

(2) by adding at the end thereof the following subparagraph:

"(2) In any event, the report of any committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subparagraph does not apply to a report of the Committee on Rules with respect to the rules, joint rules, or order of business of the House or to the reporting of a resolution of inquiry addressed to the head of an executive department.".

PROXY VOTING

SEC. 106. (a) Section 133(d) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190a(d)) is amended—

(1) by striking out "any such committee" and inserting in lieu thereof "any standing committee of the Senate (except the Committee on Appropriations)"; and

(2) by adding at the end thereof the following: "The vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are present. No vote of any member of any such committee to report a measure or matter may be cast by proxy if rules adopted by such committee forbid the casting of votes for that purpose by proxy; however, proxies shall not be voted for such purpose except when the absent committee member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. Action by any such committee in reporting any measure or matter in accordance with the requirements of this subsection shall constitute the ratification by the committee of all action theretofore taken by the committee with respect to that measure or matter, including votes taken upon the measure or matter or any amendment thereto, and no point of order shall lie with respect to that measure or matter on the ground that such previous action with respect thereto by such committee was not taken in compliance with such requirements. Whenever any such committee by rollcall vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the committee. Nothing contained in this subsection shall abrogate the power of any committee of the Senate to adopt rules—

"(1) providing for proxy voting on all matters other than the reporting of a measure or matter, or

"(2) providing in accordance with the rules of the Senate for a lesser number as a quorum for any action other than the reporting of a measure or matter.".

(b) Clause 27(e) of Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: "No vote by any member of any committee with respect to any measure or matter may be cast by proxy unless such committee, by written rule adopted by the committee, permits voting by proxy and requires that the proxy authorization shall be in writing, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto.".

AMENDMENT OFFERED BY MR. SCHWENGEL

Mr. SCHWENGEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHWENGEL: On page 13, strike out lines 15 to 24, inclusive, and insert in lieu thereof the following:

"(b) Clause 27(e) of rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: 'No vote of any member of any committee with respect to any measure or matter may be cast by proxy.'."

Mr. SCHWENGEL. Mr. Chairman, another area that the Committee on Rules has not sufficiently considered in my view has to do with the matter of proxy voting.

The Rules Committee proposal would basically "legalize" the present custom and usage with respect to proxy voting, and arguably it does limit somewhat the scope of proxies which may be issued.

This is a step—and a step in the right direction. However, we live in an age which calls not for timid steps but rather for bold strides.

The bold stride which I am proposing in my amendment is to eliminate all proxy voting in the committees. Without question, the bulk of the truly significant legislative decisions made by the House are made in the committees. With 435 Members, it would be impossible to operate with any other arrangements. We simply must rely to a large degree on the judgments of our colleagues who serve on the various committees. However, it follows logically that if we are to place such heavy reliance on the committee members, they should be present in person to listen, to debate, discuss, and vote on the various legislation being considered by the committee.

There are no provisions, nor should there be, for voting by proxy on the House floor. It seems to me that the votes cast in committee are often far more important than those cast on the floor. This is especially true here on the House side. In order to assure full debate and consideration of legislation, all Members should be present in person when the committee meets.

While it would be impossible to force Members to attend all sessions of the committees, including hearings, it is not too great burden to require their presence when legislation is being voted on. I refer, of course, to all votes on the legislation and other matters before the committee, not just the vote reporting out a bill. If necessary, committee assignments and scheduling of hearings could be reorganized to avoid conflicts.

Proxy voting tends to add to the cloud of suspicion hanging over the Congress. Use of proxy voting on important bills effectively gives up a Member's voice in many instances and adds to the appearance of secrecy that we are accused of too often—and I think falsely—even though there may be no basis in fact for such an attitude.

In conclusion, I urge my colleagues to join me in this bold stride toward a better and more effective Congress by elimination of proxy voting.

Mr. GIBBONS. Mr. Chairman, I rise in opposition to the amendment and move to strike the requisite number of words.

Mr. Chairman, I know what the gentleman from Iowa (Mr. SCHWENGEL) is aiming at. It is a problem sometimes. When I came to Congress a few years ago—and I had not been here as long as Mr. SCHWENGEL had—I had the same opinion he has, but experience has taught me that sometimes proxies are necessary, and I would hope that we would sustain the committee position at this time on this particular committee amendment. I think the committee has done a very responsible job in tieing down the proxies so they would be more specific and so there would be no abuse of the proxy system.

I do have a question for the committee to help interpret the committee language, and I would like to have the attention of the subcommittee chairman (Mr. SISK) if I may at this time, the author of this legislation. In interpreting the words "measure or matter" on line 18, and the words "measure or matter" on line 23, I would assume that the word "matter" would include such procedural matters as motions to adjourn, motions to recess, and things of that sort. Am I correct in that interpretation?

Mr. SISK. Basically that would be correct. In other words, for example, motions to table. The gentleman knows and understands what "measures" refers to. A matter would be other procedural questions involved in connection with the same subject.

Mr. GIBBONS. That is the question I had, and the answer confirms my belief in the intended meaning of those words. I respectfully ask the committee to sustain the Rules Committee and to vote against the Schwengel amendment.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Iowa.

Mr. KYL. Mr. Chairman, the gentleman says his experience leads him to vote against this amendment, saying it is so because it is so. I would like to have the gentleman elucidate some of the reasons for opposing this amendment.

Mr. GIBBONS. There is a committee meeting going on right now, and I am on the floor. I found it necessary to empower a member of that committee with a proxy this afternoon, and it is a very specific proxy. Sometimes that does occur. There are times when a Member is temporarily ill, and he has heard the debate on the matter, and he handles it very properly.

I think in the Fascell amendment we adopted just a while ago, we would go a long way toward removing any abuse in this matter, because the Fascell amendment required that in those record votes in the committee it should show whether the person voted in person or by proxy, so if someone begins to abuse the proxy, it is going to show up in the record of the committee.

Mr. KYL. The gentleman speaks of a committee that is in session at this time. If the committee is in session, the proxy is not recorded unless the committee does vote, unless anybody does object.

Mr. GIBBONS. That is correct.

Mr. KYL. Does this not minimize the gentleman's argument considerably?

Mr. GIBBONS. Oh, no. I would like to be recorded in this committee right now, and I am being recorded as present, I understand, but it is physically impossible to be in two places at one time.

Mr. KYL. If it is simply a desire to be recorded, could it not be done such as is done on the floor when we have a pairing?

Mr. GIBBONS. That would not be possible. My vote would not count. There are other committees. The Appropriations Committee is required to meet while the House is in session. Then people are temporarily ill or temporarily away from Washington, away from the Capitol. As I said, in the Fascell amendment adopted just a few minutes ago, whether a person voted in person or by proxy is going to show in the minutes of the committee meetings, which will now be public record, and any abuse can be cured in that way.

Mr. KYL. Mr. Chairman, if the gentleman will yield further, I would say to the gentleman I do not think his argument carries equal weight with that of the gentleman from Iowa, who offered the amendment.

Mr. GIBBONS. It is a matter of opinion. I think any abuses in proxies have been cured by amendments previously adopted. I think the Rules Committee has done a very fine job.

Mr. SISK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the committee of which I am a member, the Committee on Rules, which brought this bill to the floor, does not permit proxies. It has never permitted proxies. I might say we get along pretty well.

However, the matter of proxies and the practice of using them in legislative committees has long been with us. The committee gave a great deal of thought and consideration to this. After a considerable amount of effort we brought in the language now before us, which, if adopted, will no longer permit the general proxies. They will have to be specific. We feel that pretty well finishes any abuse of the use of proxies.

As the gentleman from Florida just indicated, the matter of reporting the procedures of the committees would tend to stop the so-called violations by members who are, let us say, dilatory about being in attendance.

Let me say to my friends who are now raising some question about this—and I would hope that they would correct me if this statement is not entirely correct—that our committee received not one single word of testimony over a period of the last 17 months or thereabouts in support of such an amendment as that offered by the gentleman from Iowa. In this matter I am sure Members of the House know we received a great deal of testimony, both in writing and in hearing many witnesses, and generally it was our understanding that the Members of the House supported control and restriction and limitation on proxies. That is what, of course, the committee has attempted to do, but we have not attempted to outlaw proxies in their entirety, which I think unfortunately would create some real problems.

I hope that the gentleman's amendment will be voted down.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. SISK. I am glad to yield to the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. I suspect my own personal views are based on or predicated on my own experience as a member of the Committee on Appropriations, where proxy voting is never authorized. That committee, in my opinion, operates effectively and does its job without proxies.

On the other hand, I feel that this provision in the bill is a great improvement over the existing situation. You have tightened up. You have limited the utilization of proxies in a committee.

There is one further restriction which I believe could have been included, although the other restrictions do tend to enforce a great improvement. I believe you could have limited a proxy to a single meeting of the committee. That would have voided the specific proxy beyond one single meeting of the committee.

You have made a number of improvements, but a proxy can be carried over under the committee recommendation so long as it relates to the same subject matter or the same issue.

I do believe that every committee, if it gets into the habit or custom of operating without proxies, can do its work without the proxy privilege. The Committee on Rules, on which the gentleman from California serves, operates without any proxy authority. So two of the 19 or 20 committees of the House currently operate without any proxy privileges whatsoever, and I believe both of those committees operate very effectively.

I commend the committee bill. I believe it is a great improvement, but I believe in the long run the House of Representatives and its committees would be a lot better off if we had no proxy voting, period.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, first I should like to ask the gentleman from California (Mr. SISK), why the Rules Committee does not vote proxies?

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from California.

Mr. SISK. Of course, the procedures of the Committee on Rules were adopted a long time before I arrived. I accepted the rules of the game when I arrived there.

Mr. GROSS. I believe this is the best recommendation the House could have for the nonvoting of proxies; but go right ahead.

Mr. BOLLING. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. BOLLING. I believe I might shed some light on this.

On the occasion of the adoption by the Committee on Rules of its first set of rules, which was not very many years ago, when it brought itself into compliance with the House rule that requires a regular meeting day—which was a very few years ago—the question of proxy voting came up. As I remember, by quite a narrow vote the Committee on Rules decided not to have any proxies. It was a controversial matter. It was decided by a narrow vote.

Mr. GROSS. I am one of those who is convinced that the use of proxies is badly abused. It contributes to nonattendance in committees, and detracts from the proper care in the formulation and approval by committees of good legislation.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from California.

Mr. SISK. I well recognize the fact that our committee gets along pretty well, as indicated here, without the use of proxies. As the distinguished minority leader indicated, the Appropriations Committee proceeds without proxies.

However, as we understand it, the majority of the legislative committees of the House do use proxies and they find them to be advantageous. It was felt by the subcommittee that this needed tightening up. As the gentleman knows, we do tighten it up. We feel this will cure any abuse that has occurred in the past with respect to the use of proxies.

Mr. GROSS. I must say to my friend from California that I fail to see where he has done a really good job of tightening up on the use of proxies in the bill which has been submitted.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes. I yield to the gentleman.

Mr. GIBBONS. May I explain that in the Fascell amendment that was just adopted about 10 minutes go——

Mr. GROSS. All right. I was here when the Fascell amendment was adopted and voted for it. There is some relationship between the voting of proxies and the amendment offered by the gentleman from Florida (Mr. FASCELL), but it is a distant relationship. They are not even kissing cousins when you compare the purport of the Fascell amendment and the voting of proxies. Let us not mix bananas and walnuts and expect to get the proper comparison.

Mr. HARVEY. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. HARVEY. I want to say to the gentleman from Iowa that I wholeheartedly agree with him and the other gentleman from Iowa (Mr. SCHWENGEL). Instead of tightening up the rules on proxies, what the committee has done is to simply turn the job over to the staff to go ahead and prepare a little different form of proxy. That is all it means. What we should do is get rid of the proxy.

Mr. GROSS. That is exactly right.

Mr. SCHWENGEL. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. SCHWENGEL. I thank the gentleman for yielding.

First I want to get the chairman's attention and remind him that I did appear before the committee and testified on a number of things. Among them was proxy voting. I think, if you will check the RECORD, you will see that that is so. I did appear on the proxy question before the committee.

I also want to say those opposing it are presenting some of the best arguments for the proxy. It will be significantly improving the operation of the Congress. As the gentleman from Iowa said, the present rule incurs inattendance in committees. I think the effect will be improved.

Mr. CLEVELAND. Mr. Chairman, I support the motion of my colleague from Iowa (Mr. SCHWENGEL), which would prohibit voting by proxy. As I pointed out in my remarks yesterday during general debate, in the Committee on Public Works we have for the past 8 years voted on whether or not we would permit proxy voting. I pointed out with pleasure that in recent years the committee vote permitting proxy voting has become increasingly close.

My colleague, Mr. SCHWENGEL, has been a leader in those efforts in the Committee on Public Works.

In the Legislative Reorganization Act of 1967 as reported to this House by the Joint Committee on the Organization of Congress proxy voting was not permitted. I served as a member of that joint committee and in the report we noted that although proxies may serve a useful purpose in permitting Members to go on record when conflicting demands make it difficult for them to be in committee, the evils of the practice outweigh that advantage. The use of proxies discourages committee attendance. It frequently permits the chairman or ranking minority member to control a bill in the face of major "live" opposition.

Our committee report pointed out that you cannot argue with a proxy, a proxy cannot consider an offered amendment, and a proxy cannot compromise. In our report, we pointed out that we cannot vote by proxy on the floor of the House. Yet, a vote in a closely divided committee may be of more significance than the vote of a Member on the floor on the same bill.

I would also like to point out, Mr. Chairman, that under the common law, the voting by a director or trustee by proxy is forbidden. In a sense, we serve as trustees of the political power of the people we represent. Insofar as we are trustees in many respects, I believe that we actually are and should be trustees the voting by proxy is manifestly a breach of such trust.

Mr. Chairman, I urge that today we take advantage of the opportunity before us to rid the House of Representatives of this insidious practice which has so long served to stifle democracy in our committees. We all know the extent to which we rely on our committees. Yet in practice our committees do not always operate by majority rule, "one man, one vote," or even by the will of those present and voting. I have always resented having my votes in committees overridden by ghost votes. If the House in its wisdom today sees fit to abolish the use of proxies, it will truly strike a vote for good government. It will give the vote to an important group now disenfranchised by our outdated rules—committee members who go to meetings and participate.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. SCHWENGEL).

The question was taken; and on a division (demanded by Mr. SCHWENGEL), there were—ayes 71, noes 54.

So the amendment was agreed to.

Mr. RODINO. Mr. Chairman, I rise in support of H.R. 17654, the Legislative Reorganization Act of 1970, and I commend the Rules Committee bringing this bill before the House for timely action.

During my years of service it has become apparent that changes in certain areas are necessary to keep the procedures of the House responsive to the views of all. While the debate over how far to go in the direction of change will never cease, the key to my support lies in the provisions to update and modernize certain archaic procedures, and to improve the information-gathering resources of the Congress.

I also support, and will cosponsor, amendments to provide for record teller votes, disclosure of record votes in committee, and 3-day conference report layovers. Of particular importance is the amendment to be offered by my distinguished colleague from Massachusetts, the Honorable THOMAS O'NEILL, to record teller votes in the Committee of the Whole. This amendment alone will add great strength to this legislation as it will make sure that our constituents, and indeed our colleagues, will know the true position of Members. This assurance should produce decisions that render a more faithful reflection of the House than the previous situation. Only approximately one-third of the House membership consistently participates in nonrecord votes, while 85 to 90 percent appears for rollcall and quorum call record votes. Furthermore, the amount of time needed for recording teller votes under the O'Neill amendment will be minimal.

Mr. Chairman, the Legislative Reorganization Act is before the House at a very important time. In an age of instantaneous communication, of fast developing critical events at home and abroad, and of serious public questions concerning the ability of the Congress to cope with new and intense pressures, our determination to improve and modernize the functioning of the House takes on great meaning. Especially to our youth, some of whom we enfranchised just 2 weeks ago, and some of whom deeply question the system, we can say, with the passage of this bill, that we have strengthened representative democracy, and that we have brought about orderly and progressive change at the highest level of the legislative branch of Government.

Mr. MINISH. Mr. Chairman, the measure before the House today, the Legislature Reorganization Act of 1970, is the first major congressional reform bill to be scheduled for floor consideration in 25 years. Considering the long period of time between reforms, and the sweeping changes which have occurred in this Nation during the past quarter century, this legislation falls short of providing the kind of comprehensive and far-reaching reform necessary if the Congress is to be a truly democratic and responsive institution in the second half of the 20th century.

The legislation, as reported by the Rules Committee, including numerous, albeit modest, changes in House rules and procedures. Almost without exception, these limited provisions do merit support. For example, the bill liberalizes many House committee procedures, increases the availability of information on the Federal budget, expands the Legislative Reference Service, increases staffing for the minority party, and establishes a Joint Committee on Data Processing.

More specifically on the question of committee procedures, the legislation would allow Members 3 days after a bill is ordered reported to file additional or minority views provided they give notice of an intention to do so. It would require notice to the public of committee hearings at least 1 week in advance and permit the minority party at least part of 1 hearing day to present witnesses of its own choosing. Committee reports would be required at least 3 days before floor consideration. In the case of appropriations bills, hearings would also have to be available. The ranking members would be permitted to preside over committee meetings in the absence of the chairman and the chairman would be required to file reports on bills after a request by the committee majority to do so.

A wide range of amendments will be offered in order to strengthen the Legislative Reorganization Act. Many of these proposals, most of which enjoy bipartisan backing, are designed to accomplish the meritorious goal of opening House procedures and activities to public scrutiny.

Among the most important amendments, to which I will give strong support, are the proposal to establish record teller votes, permitting the Clerk to record the names of Members as they pass through teller lines, and the amendments opening committees to fuller public view. The latter includes amendments to open committee business meetings and hearings, and to require the disclosure of all record votes in committees.

Mr. Chairman, we have the rare opportunity this week to provide for meaningful reform of much of the House's activity. Overwhelming support by this body for the above amendments will constitute an important step toward making Congress a more democratic institution.

Mr. RAILSBACK. Mr. Chairman, there is much beauty in the Capitol Building. And there is much beauty in the institution of Congress which is housed therein. But just as decay and deterioration have forced periodic repairs and renovations to the building, we must make repairs and improvements to the Institution of

Congress itself. The last significant reorganization of Congress was in 1946—more than 20 years ago.

My interest in the subject of reorganizing and modernizing the Congress began in earnest with my election to the House of Representatives. I have studied, as have all Members, many of the varied proposals on the subject of reorganization. I have not claimed ultimate wisdom on the subject and I shall be thankful for whatever progress we are able to make in modernizing the Congress. However, I am concerned lest we permit this opportunity to escape without having each done his very best in attempting to make the most meaningful and stimulating reforms in the procedures and operation of the Congress. I think it fair to say that the public at large has been familiarized with the operation of the seniority system and other procedures of the Congress and I believe there would be a hue and cry of "whitewash" over any bill on reorganization which does not deal with the most publicized issues of congressional reform.

Whether it be a rule or a custom, seniority is an issue. A former Member of the House has said:

> Even the "law of the jungle" operates on a higher level than the "law" of seniority; the first at least works to assure survival of the fittest; the latter operates only to assure survival of the oldest.

While I do not wish to apply those words to any individual Members, I do think that a valid point is made; and that is that there is no allowance for selection on bases or criteria other than seniority under the system as practiced. There should be a choice which would retain the benefits of experience and length of service, but which would also permit the taking into consideration of other attributes and qualifications. The choice, furthermore, should be made by those individuals who are most familiar with the candidates for committee leadership.

Obviously, the incumbent members of a committee who have observed one another at close range are best able to determine for themselves which of their colleagues on the committee is best qualified to serve as chairman or ranking minority member. One other essential ingredient in selection of committee leaders is the necessity for those leaders to work closely with the party leadership on the floor. Unquestionably, the party leadership should have available to it committee leaders with whom they can work in harmony and cooperation. Thus it is my opinion that we should either in party caucus or by rule change, provide for a modified procedure of selecting committee leaders. I believe that the nominees should be limited to the top three in seniority by party on each committee; that the incumbent committee members should by secret ballot after general debate, elect their own committee leader by party; and that the party leadership be given an affirmative or positive vote and voice in the selection process for each committee.

I also regard the regulation of lobbying as a prime source for attention and I regret that the present bill does not deal with the subject directly. There should be broadened coverage of those required to register, a more complete disclosure of expenditures, and a transfer of maintenance and publication of registration records to the General Accounting Office. This is an issue that must be met head on. Until meaningful procedures and reforms are imposed, lobbying will remain one of those words which our constituents use with disdain or disrepute. I believe that we can professionalize and legitimatize the lobbying function, but this will never come without requiring a more open and public treatment of the subject.

I also regard the existence of unnecessary secrecy as a prime source of concern. It undermines the credibility of Congress in the minds of the public, and in an age of quick and thorough transfer of information by the various media, it is an anomaly. Secrecy undermines the democratic process and saps public confidence in the House as a responsive and effective legislative body. I think the public has a right to know what is happening in Congress and how Members vote on major national issues. I have, therefore, joined in sponsoring a series of antisecrecy amendments designed to record how Members vote on major issues both in committee and on the House floor, to open committee hearings and meetings to the press and public, and to require the availability of committee reports and printed hearings before the final House action on legislation.

I think that the subject of fair and adequate minority staffing of committees was treated inadequately by the Special Subcommittee on Legislative Reorganization. That subcommittee labored long and hard and the hearing record is 453 printed pages and they are to be applauded for their efforts, but the principle of fair minority representation is rendered meaningless by the language making prospective minority staffers subject to being determined to be acceptable to a majority—and I emphasize majority—of the committee. It is not in keeping with the principle of minority representation to permit a veto power by permitting majority vote dismissal of a minority employee. If such protection is felt to be necessary, I would suggest it be in the form of a two-thirds or a three-fourths vote, not a majority vote.

As I remarked earlier this year in a presentation to the Special Subcommittee on Legislative Reorganization, I am hopeful that their efforts will lead to a prompt and effective reorganization in 1970. I said that I certainly hoped that spring House cleaning would have an added meaning this year. I want the House of Representatives, of which I am proud to be a Member, to be respected for its fairness, its representative nature, its openness, and its performance, not just for its bean soup.

Mr. BINGHAM. Mr. Chairman, I wish to join in commending the gentleman from California (Mr. Sisk) and the other members of the subcommittee which produced the bill before us. The Legislative Reorganization Act of 1970 contains any needed reforms, and thus deserves passage. Unfortunately, however, the bill leaves to amendment or future sessions of Congress the most vital areas of congressional reorganization and reform.

The changes this bill does make will, with few exceptions, enhance the efficiency of Congress and encourage the development of more democratic legislative procedures.

The most notable exceptions is section 120, which adds a third clause to rule XX. The proposed new clause would provide that nongermane amendments to a House bill adopted by the Senate could be knocked out on a point of order, unless approved by a two-thirds vote under a suspension-of-the-rules type of debate of 40 minutes.

This procedure would often make it impossible for the House by majority vote to accept an important bill exactly as it was passed by the Senate. Thus, if it had been in effect, it would have prevented swift passage of the vital Voting Rights Act of 1965 and of this year's extension of that act, including the 18-year-old-vote provision.

There is no good reason why the House should thus shackle itself—should prevent itself from working its will on Senate-passed legislation by majority vote.

The main shortcomings of the proposed Legislative Reorganization Act, however, lie in the areas it fails to cover, rather than on the changes it would institute. Notably absent from the many provisions of the bill, for example, is any provision affecting the election of committee chairmen. I will introduce an amendment that would limit the chairmanships of standing committees of the House to 4 years, unless two-thirds of the Members of the House vote to suspend the rules.

The problem of secrecy in the House of Representatives clearly illustrates both the strengths and omissions of the draft bill. Closed committee sessions are a major source of public mistrust of their elected officials. Although more than half of the hearings and meetings of the House committees are open to the press and public, most of the closed sessions are held by major committees. Indeed, the Appropriations Committee holds all of its more than 300 annual meetings and hearings behind closed doors, out of sight of the taxpayers who foot the bill for its actions. The draft bill does provide that committee hearings shall be open unless otherwise determined by the membership, but requires only a majority vote to hold a closed session.

The bill provides that the total number of votes cast in committee for and against reporting a measure by record vote must be announced and included in the report on the bill. Although a useful reform, the lack of requirement that the vote of individual Members be disclosed and the fact that the change applies only to the vote on reporting the bill and not to rollcall votes on amendments vitiates most of the potential effect of the provision. I intend to join with others in proposing an amendment to correct these weaknesses.

Since the House considers most amendments to legislation while meeting as a Committee of the Whole, constituents have no way of knowing how their representatives vote on most amendments. The Gubser-O'Neill amendment to the reorganization bill to authorize the recording of teller votes if one-fifth of a quorum of Members so demanded is probably the amendment most badly needed to pierce the veil of secrecy that now surrounds so much that this House does.

House-Senate conferences are always closed to the public, press, and other Members of Congress. This bill does not alter the closed-door policy of House-Senate conferences. Whether conferences should be open to the press and public is a difficult and controversial issue, but some reform is clearly needed. Provisions to insure that conference reports will be available for some time before their consideration and disposed of at the prearranged time would help dispel the elements of mystery and surprise that currently envelop the conference committee process.

Although the availability of committee reports and printed hearings of measures before floor consideration is improved by the bill, further reform will still be necessary. The provision that no measure or matter can be taken up in the House unless the report of the committee has been available for 3 calendar days—excluding Saturdays, Sundays, and holidays—is beneficial, but it has too many exceptions and may, in the instance of appropriations measures, prove inadequate.

Other useful provisions in the bill include some provisions for the broadcast in and telecasting of committee hearings, allowing committees to sit while the House is in session without special leave, the institution of a budgetary and fiscal data processing system, the increase in professional staff of House standing committees and fair treatment for House minority staffs, the expansion and upgrading of the Legislative Reference Service into a Congressional Research Service, and provision for a regular annual summer recess.

Mr. HANNA. Mr. Chairman, in the almost 200 years since the Constitution was ratified, the executive branch of the Government and the court system have undergone radical changes, adapting themselves to the changing society in which they operate. Unfortunately, very little has been done in this regard in the third coequal branch of our Government, the Congress. More and more Members of Congress are being frustrated by the antiquated system under which we operate. We must immediately begin to take advantage of the technological advances now available for our use.

As the size of our great Nation has rapidly increased, so has the volume and complexity of the legislator's job. One of the most vital parts of the Legislative Reorganization Act of 1970, presently before this body for consideration, establishes the Joint Committee on Data Processing. This section of the bill will permit committees, the Congressional Research Service, and individual Members to utilize computer technology. I believe this to be a much needed and long overdue development. I commend the authors of this measure for this clear-sighted perception of the vital need of Congress for such assistance.

There are several other reforms I deem to be extremely necessary. The measure before us deals with some of them.

First, I believe firmly in the need for committee hearings being opened to the public. H.R. 17654 allows for this. It also requires, by amendment, that a record of all rollcall votes in committees be available to the public. The committee record would include how each member voted. Also, proxy voting in committees would be barred by this measure.

Second, the measure permits televising, radio broadcasting, and still photographing of House committee hearings, when authorized by majority vote of the committee. This provision will play a major role in increasing public understanding of the legislative process.

Third, the bill provides each officer of Congress the authority to determine whether prospective employees possess the qualifications required for the positions they are to fill and the authority to remove or otherwise discipline any employee under his supervision. While not abolishing patronage, it establishes long-needed restraints on the system.

Fourth, I have long believed that the Congress should make the General Accounting Office a more effective agent in its overseeing of the operations and expenditures of the executive branch. This measure establishes a budgetary and fiscal data processing system, budget standard classification, and makes the above information readily available to Congress.

Fifth, I have advocated in the past a curtailment of the committee chairman's life-or-death power over bills. The measure presently before us does not deal with this much-needed reform. It was amended to allow three members of a committee to file a written request with the committee chairman, requesting a committee meeting, and specifying the business to be considered. If the chairman does not schedule the meeting within 3 days, the meeting may be scheduled by a majority vote of the committee. In my opinion, however, this is one area in which the bill before us is sadly lacking.

Sixth, the Reorganization Act of 1970 does not deal with committee jurisdiction and amendments to that effect are not being permitted. One further reform I deem of some importance, which would have a significant effect on increasing the efficiency of House operations, would require the House Rules Committee to make its recommendation on a bill on or before 21 days after the bill was reported to it.

There are many other needed reforms that must be adopted by Congress before we can again become the vital and sensitive branch of Government intended by the Constitution.

Uppermost in my mind in this regard is the seniority system. We must learn to utilize more effectively the vigor and enthusiasm of the younger Members of the House. This body must become more receptive to creative ideas from all its Members. It must develop a mechanism and leadership mentality which encourages, instead of stifles, initiative, innovation, and constructive dissent. Failure to realize these reforms will—most certainly—lead to a broadening of the gulf between the leadership of the Congress and the mainstream of American opinion, represented by the legislators from dynamic districts.

It is indeed ironic and may well be a fundamental fault of our system that those who lead under the seniority system are bound to represent districts which are—by reason of their stability and polarity—slow to reflect the cross currents of American society; while the dynamic areas of America, with their changing attitudes and orientations are unlikely to return the same official to office time after time. The demand for change originates in the dynamic areas whose representatives have little seniority, while the bastions of the status quo seem to be represented by those whose seniority insures them of roles of leadership. Some way must be found to resolve this dilemma. Continued failure to do so will give greater force to charges that the House of Representatives is not representative of the mainstream of American opinion.

I do not believe that the measure presently before us will cure all the ills of the present congressional system of operation. I do believe, however, that the Legislative Reorganization Act of 1970 is a necessary first step toward what I hope will follow: a total and comprehensive modernization of the legislative process. It is in this spirit that I support the Legislative Reorganization Act of 1970.

Mr. SISK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE TO EXTEND

Mr. DANIEL of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and include extraneous material on the bill H.R. 17654, the Legislative Reorganization Act of 1970.

The SPEAKER pro tempore (Mr. ADAMS). Is there objection to the request of the gentleman from Virginia?

There was no objection.

LEAD-BASED PAINT HEARINGS

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, I wish to announce that the Subcommittee on Housing will hold a 2-day hearing on July 21–22 on my bill, H.R. 17260, and those of other Members of the House, dealing with a Federal program for eliminating the causes of lead-based paint poisoning. Through these hearings the subcommittee expects to ascertain the scope and extent of this problem and to begin devising methods of helping local officials remedy lead-based paint hazards and, in addition, take steps to prevent the poisoning of thousands of children.

From all reports, the problem of lead-based paint poisoning is extremely widespread. According to an October 21, 1969, article in Look magazine:

> About 200 kids die from lead every year. Between 12,000 and 16,000 are treated and survive. Half of these are left mentally retarded. Only about one case in 25 is treated. This means that every year, as many as 400,000 kids may be poisoned, half of them ending up with a permanent handicap, like behavior problems or impaired intellectual ability.

And, as the American Public Health Association has pointed out, lead poisoning is basically a side effect of dilapidated housing. In most cases, such poisoning would not have occurred if the Nation had ever achieved its 1949 goal of eliminating slum and blighted housing.

Many cities are taking steps to deal with the problem. Chicago, for example, conducts a mass screening program to identify children who have taken into their system an extensive amount of lead. Baltimore forces landlords to remove all peeling paint and any tight lead paint from chewable surfaces below a height of 4 feet. However, the overwhelming evidence is that a large-scale program, backed by Federal funds, must be mounted in order to prevent thousands of cases of brain damage, which directly results from eating lead-based paint.

The subcommittee expects to hear from the principal governmental agencies involved in the problem, public health officials and medical experts, and the National Committee on Product Safety, which, I understand, has done useful work in this area.

CATHOLIC MINORITY IN NORTHERN IRELAND

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, the plight of the Irish Catholic minority in Northern Ireland has caused tremendous international concern. Although the problem would appear to be a matter for internal regulation, the current situation has reached such terrible proportions that the United Nations should rightly investigate the matter.

I have urged that the U.N.'s Commission on Human Rights conduct just such an investigation. It is my understanding that that body's Subcommission on Prevention of Discrimination and Protection of Minorities has been considering such action.

The conditions under which the Catholic minority in Northern Ireland are forced to live, amounts to little more than slavery. Basic human needs in terms of housing and job opportunities are denied. Civil rights for this minority are hardly notable. Their lives are almost completely under the domination and direction of the English Protestant majority.

The British Government, in exercising its national control over the area, has done little more than attempt to keep the peace, and that effort has not been very successful. They have done nothing to correct the basic problems or even to find out what the Irish Catholic minority are demonstrating against.

I strongly urge my colleagues to acquaint themselves with this horrible situation. Regardless of one's ancestry, he should rightly be concerned with the cause of human rights everywhere. Surely, the need to guarantee every human being the right to life, liberty, and the pursuit of happiness is basic to our country's commitment to world peace and freedom.

Mr. Speaker, I include a letter on this subject at this point:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 13, 1970.

Her Imperial Highness
PRINCESS ASHRAF PAHLAVI,
Chairman, United Nations Commission on Human Rights, United Nations, New York, N.Y.

YOUR IMPERIAL HIGHNESS: The plight of the Irish Catholic minority in Northern Ireland has caused tremendous international concern. Although the problem would appear to be a matter for internal regulation, the current situation has reached such terrible proportions that the United Nations should rightly investigate the matter.

The conditions under which the Catholic minority in Northern Ireland are forced to live amounts to little more than slavery. Basic human needs in terms of housing and job opportunities are denied. Civil rights for this minority are hardly notable. Their lives are almost completely under the domination and direction of the English Protestant majority.

The British government, in exercising its national control over the area, has done little more than attempt to keep the peace, and that effort has not been very successful. They have done nothing to correct the basic problems or even to find out what the Irish Catholic minority are demonstrating against.

I strongly urge an immediate investigation of the matter. It is my understanding that your Subcommission on Prevention of Discrimination and Protection of Minorities which has jurisdiction in this area is considering such an investigation. In my mind such action should be undertaken immediately.

Please be so kind as to keep me informed of your activity in this matter and of any action your commission or subcommission should take.

Sincerely yours,

MARIO BIAGGI,
Member of Congress.

DISTRICT OF COLUMBIA CRIME BILL CONDEMNED BY MORE THAN 50 WASHINGTON LEGAL PRACTITIONERS

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous material.)

Mr. EDWARDS of California. Mr. Speaker, on June 23, 1970, more than 50 Washington legal practitioners, including some of the city's leading experts on juvenile law and the juvenile court, condemned provisions of the House-passed version of the District of Columbia crime bill relating to juveniles.

The group said:

> "The proposed code does not do the job that is needed to improve the processing of juvenile cases in the courts of the District of Columbia and to deal with the serious problem of offenses committed by juveniles." It does not provide "even minimum procedural safeguards"; it does not deal with the major problem of the staggering delays in the juvenile process; and it "codifies many outmoded procedures.

The provisions of the House bill "are insufficient to assure the community of prompt processing of cases."

The lawyers singled out for criticism the absence of statutory time limits for the completion of juvenile court proceedings; the provisions transferring larger numbers of juveniles for trial in adult court; abolition of the existing right to trial by jury; and the provisions for confinement of juveniles in adult penal institutions.

They suggest that the proper remedy for the failures of the juvenile system is to "strengthen and improve the courts and correctional institutions" rather than "to label juveniles as adults and assume that this is a solution to juvenile crime."

Signers include Charles T. Duncan, former Corporation Counsel; Mrs. Patricia M. Wald, a member of the President's Commission on Crime in the District of Columbia; Prof. Samuel Dash, director of the Georgetown Institute on Criminal Law and Procedure and chairman-elect of the section of criminal law of the American Bar Association; and some of the city's most prominent juvenile court practitioners.

The following is the complete text of the statement, which I urge my colleagues to peruse carefully before voting on the conference report to be considered shortly by both bodies:

STATEMENT OF LAWYERS CONCERNED WITH THE JUVENILE COURT ON THE JUVENILE CODE PROVISIONS OF THE DISTRICT OF COLUMBIA CRIME BILL

We are practitioners knowledgeable in the field of juvenile law. We have either practiced in or studied the problems of the Juvenile Court of the District of Columbia, and are acquainted with the needs of that court. Most of us are familiar with developments in juvenile law both in the District of Columbia and in other jurisdictions.

We are united in our opposition to certain of the Juvenile Code provisions of the House bill presently pending before this Conference Committee. It is our opinion that the proposed code does not do the job that is needed to improve the processing of juvenile cases in the courts of the District of Columbia and to deal with the serious problem of offenses committed by juveniles. Many of the House provisions for a proposed juvenile code can only be considered a step backward to an earlier age. The bill does not provide even minimum procedural safeguards for juveniles coming before the court; it does not recognize or deal with the major problems facing the court; and it codifies many outmoded procedures.

The House bill is directly inconsistent in several key areas with the Model Family and Juvenile Court Act proposed by the Children's Bureau of the Department of Health, Education and Welfare in 1969, and with the Uniform Juvenile Court Act adopted by the National Conference of Commissioners on Uniform State Laws in 1968.

We would specifically like to address our comments to the following issues, which we consider of primary importance:

1. THE ABSENCE OF STATUTORY TIME LIMITS

It is impossible to overstate the need for speedy processing of cases in a juvenile court

We are faced with a drastic rise in juvenile crime, yet there are delays of many months before children come to court for their initial appearance before a judge, and even longer delays before those children are ever brought to trial. Disposition months or years after the crime means that the legal process has little if any deterrent or rehabilitative effect.

The House bill does nothing to alleviate this situation. It requires only that a petition be filed within 10 days of a complaint and that a detention hearing be held the next court day after taking a child into custody. These are insufficient to assure the community of prompt processing of cases and effectuate the right to a speedy trial.

The Senate bill contains reasonable and workable time limits throughout the various stages of a juvenile case. These would establish standards of performance to which the court must adhere. Similar time limitations have proven effective in speeding case processing in other jurisdictions, such as New York, Illinois, and California. They have been recommended by the HEW Model Family and Juvenile Court Act; the ABA Project on Standards for Criminal Justice; the Mayor's Committee on the New Juvenile Facility; the D.C. Court Management Study of the Committee on the Administration of Justice; and the D.C. Crime Commission. We urge you to enact them for the District of Columbia.

2. RIGHT TO COUNSEL

Probably the single most important right for any juvenile is the right to counsel. All other rights depend on counsel to assert them. It is doubtful whether a child should ever be considered legally competent to waive counsel.

The right to counsel section in both the House and Senate bills is both unclear and too restricted.

These sections both provide that a child is "entitled to be represented by counsel" at "all critical stages", but do not provide for mandatory appointment of counsel; nor do they define what constitutes a "critical stage." Thus, the present uncertainty and resulting delay in the appointment of counsel would be perpetuated under statutory sanction.

A well drafted code could go far toward eliminating present administrative delays in the appointment of counsel process as well as unnecessary litigation over, the meaning of "critical stage" by articulating a mandatory, non-waivable right to counsel at the outset of the case, prior to the intake officer's first interview with the child. Such a solution has been endorsed by the National Crime Commission and the Judicial Council's Committee on the Administration of Justice.

3. TRIAL OF JUVENILES IN ADULT COURTS

The House bill provides for automatic transfer of all juveniles 16 or over accused of certain serious felonies to the adult courts, without a hearing on probable cause as to whether the juvenile committed the alleged offense, and without any hearing on his potential for rehabilitation. In addition, for juveniles accused of other felonies, the waiver age is lowered to 15. The bill puts the burden on a juvenile at a waiver hearing to prove he should not be transferred. No juvenile waived to adult court would ever again come within the juvenile court's jurisdiction, even if acquitted of the charge.

The Senate bill provides that a 16 or 17 year old shall be automatically tried in adult court only if he has once been adjudicated a delinquent and is charged with a second serious offense. It permits waiver of 15 year olds, but it leaves the burden on the prosecutor to establish the need for waiver.

There has been no showing that the adult courts and adult court judges will be better equipped than the juvenile court and judges to handle these cases; that adult correctional institutions are better equipped than juvenile institutions; or that juveniles of this age will be more amenable to ultimate rehabilitation by being incarcerated with adult criminals in adult penal institutions.

On the contrary, the adult courts are backlogged and the adult penal facilities at D.C. Jail and Lorton are overcrowded, while the District of Columbia now has an effective and secure facility for serious juvenile offenders.

In contrast to both the House and Senate bills, the HEW model act is essentially the same as present District law—16 and 17 year olds shall be tried by the juvenile court unless waived after hearing, 15 year olds cannot be waived, and waiver is only permitted when the court finds no reasonable basis to believe that the child can be rehabilitated before he becomes 21. While the HEW model act is preferable to both the House and Senate versions, the Senate bill is far superior to the House version.

The Juvenile Court is supposed to be primarily concerned with supervision, care and rehabilitation of juveniles. While juvenile court and juvenile correctional agencies have not succeeded in adequately carrying out these purposes, the proper remedy for these failures is to strengthen and improve the courts and correctional institutions. This will have to be done eventually if we ever hope to rehabilitate offenders; and we should concentrate our efforts and our resources toward these ends, rather than to label juveniles as adults and assume that this is a solution to juvenile crime.

4. RIGHT TO TRIAL BY JURY

Both bills abolish the existing right to a trial by jury in the Juvenile Court. Jury trial may not be infallible, but the jury is the best fact-finding mechanism our system of justice has been able to devise. In factual disputes as to whether or not a child actually committed an alleged offense he, like an adult, should be entitled to its safeguards.

Retaining the jury right would be consistent with the basic philosophy of juvenile law by giving as much flexibility as possible in juvenile court procedures. The jury right would not always be exercised, even as it is not always exercised now. But at least this option should remain open so that the child, his family, and his lawyer can decide the best procedure for the child in the individual case.

Numerous other aspects of the House bill are also objectionable. Among these are the provisions authorizing the transfer of a delinquent from a juvenile to an adult penal institution without first providing him with the full procedural rights accorded adults; and those provisions authorizing the comingling of juveniles "in need of supervision" with juveniles found to have committed criminal acts.

We therefore urge this conference committee to reject these backward-looking provisions, which are no substitute for dealing realistically with the serious problems of juvenile crime.

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THE DOGPATCH OLYMPICS

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. STAGGERS. Mr. Speaker, a news article in the June 28, 1970, issue of the Sunday News, published in Lancaster, Pa., may have more to do with curbing dissension and violence than any legislation we can enact here in Washington. What may seem strange to some people, the article deals with athletics. For athletics implies violence, and just how athletics could curb violence may not be apparent at first thought.

The event described by the Lancaster Sunday News was one of 12 summer conferences sponsored by an organization known as the Fellowship of Christian Athletes. The program is variously designated as a Weekend of Champions, or The Dogpatch Olympics. Let extracts from the Lancaster Sunday News relate the story:

> The second annual Summer Conference of the Fellowship of Christian Athletes, held at Franklin and Marshall College this past week, was more of a success than even last year's event, Captain Bill Lewis, Middle Atlantic Regional director announced before he left Lancaster Friday. The FCA staff kept the schoolboys on their toes throughout the four days in scenes such as those (not in RECORD) above where young men get ready for a session on Williamson Field in the Dogpatch Olympics; below they get a demonstration of golf shots from Jim Hiskey, a former pro tour golfer who now devotes much of his time to the FCA, and a good old-fashioned tug of war typical of the competition that went on all week. Breaks were held during the day for "huddles" in which the boys discussed their attitudes and feelings to God and Faith, and the nights were taken up with inspirational meetings in Hensel Hall which was packed four straight nights by the boys and the staff and towns people. An estimated attendance of 500 was present for the Conference from a six-state area.
>
> The purpose of the Fellowship of Christian Athletes is: "To confront athletes and coaches, and through them the youth of the nation, with the challenge and adventure of following Christ and serving him through the fellowship of the church and in their vocations."
>
> The Conference is over. And the memories will linger. For some of the 400 boys there may be no memories at all except the fun and the association they had with the athletes. Many of these kids might never have had that except for the FCA.
>
> "Others, many of them, we suggest, got more than just fun and associations out of the Conference. . . . For some it may well have been the start of manhood. And the words they spoke and heard here will be on their hearts forever.

Bill Lewis, the leader of the conference, is a Naval Academy graduate, 1944. He was a No. 1 golfer, No. 1 squash player. He carries five battle stars from World War II. In 1968, after 24 years service, he resigned as a captain in the Navy to become Middle Atlantic Regional Director for the FCA.

Another Naval Academy graduate, now an officer in the FCA, is Bruce Bickel, class of 1966. He was varsity quarterback in 1965; awarded the Thompson Trophy, 1966, given to graduating senior who has done most to promote Naval Academy athletics; "Midshipman of the Year 1966," chosen by Annapolis Jaycees; president Naval Academy Christian Association 1965–66; battalion commander during his senior year; two tours in Vietnam, five air medals, bronze star, Army commendation, Purple Heart. He resigned from the Navy in 1968 to take up FCA work.

Another report outlines briefly an athletic conference at the Naval Academy:

> Enthusiastically supported by the Superintendent, Admiral James F. Calvert, the midshipmen FCAers hosted 68 athletes and coaches from FCA groups in Washington and Baltimore 14–15 March 1970.
>
> LCDR Tom Lynch, officer representative of the Naval Academy FCA, fullback and captain of the great Navy team under Roger Staubach (himself an FCAer down in the Dallas region) worked with the midshipmen leadership to bring this moveable feast together.
>
> Bobby Mitchell, ex-Washington Redskin, Tom Matte, Jim Ward of the Baltimore Colts, Don Shinnick, new defensive coach Chicago Bears, and Alan Pastrana, Denver Broncos, freely gave their time to make it a success.
>
> Inspiration mixed with perspiration provided a tremendous time of moral growth and mutual understanding for the inner city youth and the midshipmen. Tomorrow's leadership was immeasurably strengthened with those winning qualities which will insure that the last best hope of earth will never die.

Mr. Speaker, I consider this news of the highest importance in fighting the evils which presently beset us. It ought to be broadcast universally.

CAPTIVE NATIONS WEEK—1970

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, July 12 through July 18 this year marks the 11th annual observance of Captive Nations Week.

In Chicago the week-long observance will end on Saturday, July 18, with a huge parade on State Street in which many thousands will march in order to express their empathy and support for the unfortunate men and women still enslaved in the captive nations of the world.

I want to commend Mr. Viktors Viksnins, able chairman of the Captive Nations Friends Committee, which is coordinating the events scheduled in observance of Captive Nations Week in Chicago. My congratulations go also to all of the hard-working members of this Committee, as well as to our city officials, to our civic and business leaders, and to all those who are participating in this observance for their meaningful contribution to this annual commemoration of Captive Nations Week.

It is certainly appropriate that we in the free world, who have enjoyed the precious rights of freedom and self-determination, do all that we can to give hope and support to those captive nations that aspire to national independence. By so doing we give tangible evidence of our unrelenting opposition to oppression of those nations still enslaved by the dismal tyranny of communism.

The list of captive nations is long indeed and today includes: Armenia; Azerbaijan; Byelorussia; Cossackia; Georgia; Idel-Ural; North Caucasia; Ukraine; Far Eastern Republic; Turkestan; Mongolian People's Republic; Estonia; Latvia; Lithuania; Albania; Bulgaria; Siberia; Croatia; Slovenia; and so forth; in Yugoslavia; Poland; Rumania; Czechoslovakia; North Korea; Hungary; East Germany; Mainland China; Tibet; North Vietnam; Cuba.

Millions of Americans who trace their origin to the captive nations, and to other lands, join each year during this special week to express support for policies which will hopefully lead to freedom for the captive nations. I am pleased to have the opportunity to join in this observance for I feel our commitment to human rights and national self-determination compels us to dedicate ourselves to the cause of freedom wherever it is denied and to support efforts to liberate the captive nations of the world.

At this point in the CONGRESSIONAL RECORD, I want to include the text of House Resolution 393, marking the 11th anniversary of Captive Nations Week, which was adopted in the 66th General Assembly of the Illinois House of Representatives, as well as the text of Mayor Richard J. Daley's proclamation on the commemoration of Captive Nations Week in Chicago. The text of the resolution and proclamation follow:

HOUSE RESOLUTION NO. 393

> Whereas, Since 1918 the forces of communism have, through direct and indirect aggression, subjugated the national independence of Hungary, Poland, Ukraine, Slovakia, Czechslovakia, Lithuania, Latvia, Estonia, Rumania, White Ruthenia, Bulgaria, East Germany, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Viet-Nam, Serbia, Slovenia, Croatia and others; and
>
> Whereas, These captive nations have been forcibly deprived of the right of self determination which is a basic right of all free men; and
>
> Whereas, In 1959 the United States Congress and President Dwight D. Eisenhower recognizing the importance of keeping world attention focused on the plight of these peoples, designated the third week in July as Captive Nations Week; and
>
> Whereas, 1970 marks the 11th anniversary of Captive Nations Week; therefore, be it
>
> Resolved, by the House of Representatives of the seventy-sixth General Assembly of the State of Illinois, that we support those people of the captive nations in their unending quest for liberation; that we commend those in the free world who are striving so that others may also enjoy the blessing of freedom and democracy; and that this resolution be spread upon the journal of this House as a reminder that no man is free until all men are free; and be it further
>
> Resolved, That a suitable copy of this preamble and resolution be forwarded to the Captive Nations Committee.

PROCLAMATION

(By Mayor Richard J. Daley)

> Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia,

Slovenia, Tibet, Cossackia, Turkestan, Slovakia, North Viet Nam, Cuba and others; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 36–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities expressing their sympathy with support for the just aspirations of captive peoples for freedom and Independence; and

Whereas, the City of Chicago is linked to these captive nations through the bonds of family, since numbered among the people of Chicago are hundreds of thousands of our citizens who through nativity or ancestry treasure the heritage which endowed them with the culture and industry which are theirs; and

Whereas, these nations have been made captive by the imperialistic, aggressive and heartless policies of communism; and

Whereas, the peoples of these communist-dominated nations have been deprived of their national independence and their individual liberties; and

Whereas, it is appropriate and proper to demonstrate to the peoples of the captive nations the support of the people of the City of Chicago for their just aspirations for freedom and national independence; and

Whereas, the people of Chicago, as do all the people of the United States, want for the peoples of the world the same freedom and justice which is theirs:

Now, therefore, I, Richard J. Daley, Mayor of the City of Chicago, do hereby designate the week beginning July 13, 1970 to be Captive Nations Week.

I urge the people of Chicago to join in the programs arranged for observance of the occasion and I urge all of our churches, our educational institutions and all media of communication to observe the plight of the communist-dominated nations and to join in support of the just aspirations of the people of the captive nations.

I especially encourage everyone to concretely demonstrate his interest in the people imprisoned and in the captive nations by their attendance at or participation in the parade to be held on State Street on Saturday afternoon, July 18 at 12:00 Noon.

Dated this twelfth day of June, A.D., 1970.

RICHARD J. DALEY,
Mayor.

STOP CHARGING THE AMERICAN TAXPAYER TO SUBSIDIZE OPPRESSION IN SPAIN

(Mr. LOWENSTEIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LOWENSTEIN. Mr. Speaker, the two most talked about gaps of our day—the generation gap and the credibility gap—open over the same breach of faith.

It is obvious in talking to college students on campuses around the country that their estrangement from their elders and their alienation from the political system are due, more than anything else, to the failure of our actions, at home and abroad, to square with our professed ideals.

It is of course in our foreign policy that these gaps yawn the widest, and in fairness to those who make it it must be said that this is largely due to the fact that Machiavelli's Prince is still the essential handbook on how to play the game of international politics.

Ideals and idealists have fared badly in a system of competing Nation States in which the ultima ratio regum is not a court of law but the field of battle. Indeed, it has been argued by the school of foreign-policy realists in America—Reinhold Niebuhr, Hans Morgenthau, George Kennan, Walter Lippmann, and Kenneth Thompson—that the moralistic and idealistic strain in our foreign policy has been responsible for many of our failures, both politically and, paradoxically, morally.

The Vietnam war is a tragic case in point, where a moralistic, crusading opposition to an indiscriminately defined communism has resulted in the greatest political and moral debacle in American diplomatic history. As John Kenneth Galbraith wrote recently:

> In the past there has been genius of a sort in our foreign policy. It has arranged defeats in circumstances where victory was not possible and was not needed.

So we acknowledge the tragic and ironical nature of international politics and recognize that a wise and effective foreign policy cannot be conducted on the basis of abstract moral principles.

We have learned that we cannot make the world safe for democracy, but it is something more than a paradox of politics that, having set out to do so, we wind up as the patron for some of the most undemocratic and reactionary regimes in the world. It is the fact that we have freely chosen this role, that there is no compelling reason of national security that forces us to do so that disillusions young, and not so young, Americans about their country's foreign policy.

Politics make strange bedfellows, and international politics makes the strangest of all; but it is hard to conceive of any reason, short of political nymphomania, to explain why we are so anxious to jump into bed with regimes as disreputable as the Spanish, Greek, or Brazilian dictatorships, for example.

It is, of course, a different obsession that accounts for our affection for right-wing dictators: the almost pathological fear of what might follow their fall, the incredible notion that somehow the defense of democracy at home depends on the survival of dictatorship abroad.

These thoughts come to mind as the Nixon administration prepares to flout our democratic ideals as well as our national interest by renewing the agreement with the Franco dictatorship through which we have operated air and naval bases on Spanish soil for the last 17 years.

All such decisions are weighed in terms of costs and benefits, and we should be grateful to General Franco for weighing the scales so heavily in favor of costs that it will be extremely difficult for the Pentagon and its allies in the civilian bureaucracy and in Congress to obscure the fact that the benefits are not anywhere near commensurate.

According to some reports, he is angling for a security commitment that would obligate the United States to defend Spain in the event of an attack. Failing this, he reportedly is demanding massive military assistance.

It is difficult to believe that the diplomatic reporting of the Spanish Embassy here is so bad that General Franco could believe that two-thirds of a Senate almost fully recovered from an earlier case of "pactomania" could be brought to approve a security pact with Spain.

It is also hard to believe that the Franco government would want to risk running the senatorial gantlet with a formal treaty when through the present executive agreement and the nature of the relationship that has grown up around it they have us propping them up anyway. In the words of an American military spokesman in a momorandum to the Spanish Government:

> The presence of American armed forces in Spain constitutes a more significant security guarantee to Spain than would a written agreement.

Since the only threat to the security of the Franco dictatorship comes from its own people, one can only wonder what such a guarantee obligates us to do. Newspaper reports in June 1969 of joint United States-Spanish war games designed to put down internal rebellion provide a pretty good hint.

Former Spanish Foreign Minister Castiella was seeking an explicit treaty commitment that would have obligated the United States to defend the Franco regime against both external and internal attack. He was also asking for a large increase in military and economic aid—estimated at $1 billion over a 5-year period—at a time when we were facing balance-of-payments problems and cutting back on foreign expenditures.

Since the negotiations were deadlocked when Sr. Lopez Bravo replaced Sr. Castiella at the foreign office last October, it is hard to believe the Spaniards are still asking for something that no administration would think of submitting to the U.S. Senate in the wake of Vietnam.

More reliable, because more plausible, are reports that Spain is now pegging its price much lower and putting the emphasis on scientific, educational, social, and economic aid.

Whatever the price, it is too high for the benefits received from the bases and the liabilities incurred from our association with the Franco regime.

The benefits, even on the narrowest calculation of strategic necessity, are minimal at best. They certainly do not argue for adding to the $1.3 billion we have provided in military and economic aid since 1953.

The airbases, primarily at Torrejon and Zaragoza, and the naval base at Rota are simply not essential to our security. They are, if anything, marginally useful militarily and seriously damaging otherwise. Only those with a bureaucratic vested interest in the operation of these bases and the relationship between the Franco dictatorship and our Government that results from it could fail to acknowledge this fact.

Changes in weapons technology have rendered bases that were designed for B-47's in 1953 obsolete in an era of U.S.-based and submarine-based missiles. Surely the C-5A transport—if it has any utility—has made the bases less of a logistical necessity for deploying troops in Europe. Surveillance satellites have reduced the need for foreign electronic spy stations.

Moreover, since the 1966 Palomares incident, which to date has cost us 232,791 man-days of effort and over $10 million, the Air Force has removed from Spain its stockpile of nuclear warheads; and bombers armed with nuclear weapons are barred from flying over Spanish territory.

The Strategic Air Command has long been gone from the base at Torrejon, and the other three leased Spanish airbases are being phased down to a standby basis. There has been a temporary increase in activity at the Zaragoza base in connection with the evacuation of Wheelus Air Force Base in Libya, but military spokesmen have said that will taper off when that evacuation is completed.

Of the 4,500 American sailors and civilians stationed at the Rota naval base, the 1,000 who are involved in supporting Polaris submarine squadron 16 do so from a tender ship that is not tied to Rota. They could be stationed elsewhere, Turkey for example.

The Rota base is defended as essential to the maintenance of Polaris subs, but the operation neither depends on a Spanish base nor is it saving enough money to justify its retention.

That the Spanish bases are not vital to European security is suggested by the fact that our European allies are unwilling to have Spain become a member of NATO. As the Washington Post put it:

> If the use of Spanish soil should become necessary for the defense of Europe, let the European countries take the lead in adjusting their relations to Spain. The United States should not be trying, even in an indirect way, to sneak Spain into NATO under our wing by a private bilateral deal.

As if the strategic irrelevancy were not enough, there is the further question of why we should have to pay for something that is more important to Spain's defense interests than it is to our own. We are a "helpless giant," in the President's phrase, but the reason is because we have let dictatorial Lilliputians like Franco, Thieu and Ky in Vietnam, and the Greek and Brazilian juntas tether us to their unpopular regimes and make us pay heavily in money and national prestige, not to mention moral capital, for the dubious benefit of having the connection.

The argument is sometimes made that the bases are a useful device to keep Spain in the Western camp, that ideologically amorphous grouping called, with increasing reliance on misleading euphemism, the "free world."

Sr. Lopez Bravo himself was quoted in the Christian Science Monitor last January 6 as threatening that Spanish neutrality might result from the failure to renew the bases agreement. A Monitor editorial called this blackmail, and said:

> It indicates how low an opinion Spain has gained over the years since Washington has been propping up the Franco regime.

The editorial concluded:

> It is hard to see why, if Spain threatens to go neutral unless briefed, Washington should not let it do just that. We doubt if, with the present development of weapons, the Spanish bases are of much worth anymore. But more important, Foreign Minister Lopez Bravo's threat is too blatant to put up with.

In any case, the Spanish Foreign Minister has already called for a Mediterranean for the Mediterraneans and has asked for a withdrawal of both the American and Soviet fleets. One wonders if what he wants is for the United States to pay for the privilege of maintaining a naval base so none can use it.

Meanwhile, the Spanish Government has established consular and commercial relations with Poland, Rumania, and Hungary, entered into maritime and commercial agreements with the Soviet Union, and in 1968 and 1969 imported more Soviet goods than she exported to the U.S.S.R. In 1969 she opened Las Palmas harbor in the Canary Islands to Soviet fishing trawlers for provisioning and fueling. Sr. Lopez Bravo's recent "stopover" in Moscow probably presages even better relations in the future.

All of this should be welcomed as providing the occasion for what the Monitor editorial called Saying good-bye to Franco. We have borne the Spanish albatross throughout the postwar years at great cost to our reputation as well as our pocketbook. If it now chooses to fly away, we might wisely breathe a sigh of relief.

Instead, we seem almost eager to find some way, some excuse to continue to support the Franco government against our own best interests and against the best interests of the Spanish people. The guns and planes that we have provided General Franco have been used and will be used not to fight Russians or Chinese, but to intimidate Spaniards. His grip on power is reinforced by armored personnel carriers, machine guns, ammunition, and helicopters paid for by American taxpayers who watch their own social needs go begging for want of money.

This body passed a resolution not long ago that proclaimed our devotion to free elections in Vietnam even at a price of uncounted American lives and dollars. If we care so deeply about free elections, why is our devotion so totally hidden where we might help bring about free elections by withdrawing our troops and saving our money?

We continue to infuriate and aid in the repression of the democratic elements in Spain that are the best hope for her future. What conceivable consideration could justify Secretary Rogers' snub of the moderate democratic opposition during his recent Madrid visit? Their request to meet with Mr. Rogers was rebuffed in a curt note that contrasted dismally with German Foreign Minister Scheel's reception of these same men on his visit not long before.

Many of these democratic leaders are extraordinary men like Professor Enrique Tierno Galvan and Carlos de Zayas, men known throughout the western world for their courage and compassion, talented men dedicated to their country and to freedom through decades when it has not been easy to sustain such dedications. They represent a broad spectrum of views on economic and political questions, but they united to draft a memorandum for Mr. Rogers that warned that agreements about the future of Spain cannot be viewed as valid if they are not accepted by the Spanish people, acting through a democratically elected government.

The memo pointed out that NATO membership, the proper way to assure Spain's defense, is impossible unless Spain scraps its authoritarian institutions, and institutes free elections, political parties, and free trade unions. I am inserting this statement in the RECORD.

The 114 signers of this memorandum have been rounded up for questioning and fined from $357 to $1,428.

One of the leaders of this group, the brilliant and distinguished Count of Motrico, Jose Maria de Areilza, has had his passport confiscated and cannot leave the country. What a summary it is of the policies of the Spanish Government that a conservative monarchist who served that Government as its Ambassador in Washington, Buenos Aires, and Paris cannot now be allowed to leave Spain. Will we next be told that the Count of Motrico is also part of the international Communist conspiracy?

The U.S. Government has not been so hostile to Spanish democracy in at least 15 years, says a letter I have just received from one of the brave men who signed the memorandum.

> It is in fact the U.S. Government that is responsible for the increased repression against the moderate opposition here.

If this policy of our Government is designed to facilitate the renewal of the bases agreement, it makes no sense at all. What do we get for the terrible price we are paying? And if it is not designed to facilitate the renewal of the agreement, it makes even less sense. For then we must assume we are doing these terrible things because we prefer oppression to freedom in Spain.

It remains to be noted that the administration has not discussed the question of the Spanish bases with the Senate Foreign Relations Committee for more than 2 months. The State and Defense Departments have doubtless concluded that it would be a tactical error to bring a new agreement to the Senate, where at least the elected representatives of the American people could vote on it.

So instead we see the same procedure employed in dealing with Spain as is being used in dealing with Greece, where we are similarly determined to continue aiding a dictatorship against its people. The administration has been quietly sending jet planes, medium tanks, and 155 millimeter howitzers to the Greek junta despite the embargo on heavy arms shipments to Greece.

So again, the constitutional prerogatives of the Congress are eroded and eroded, and by this dangerous procedure, stupid and damaging policies are pursued. I want to serve notice today that many of us in Congress, of both parties, are determined to change the whole appalling strategy of putting the hand of the United States in the glove of ugly dictatorships, of spending tax dollars badly needed at home to prop up repressive regimes abroad.

This strategy has borne rotten fruit all over the world, most disastrously in Vietnam, and those capable of learning from the past, to paraphrase George Santayana, will not permit their country to be condemned to repeating it.

The conscience of this country must cry out in anguish against our continuing to subsidize this tired dictatorship even as it deepens the oppression of its own people. Why do we pay foreign governments to damage our national interests? Can even the richest nation in the world afford such a policy forever?

(NOTE.—Given to Mr. William C. Rogers, Secretary of State of the United States of America, and to Mr. Gregorio Lopez Bravo, Minister of Spanish Foreign Office)

MADRID, MAY 1970.

(1) Highly qualified and representative sectors of Spanish public opinion cannot agree, assuming that U.S. bases in Spain are indispensable for western defense, that the Pacts concerning them, should be renewed in whatever manner, without the consent of the Spanish people.

The consent of the Spanish people is an indispensable condition, in our opinion, for any bases agreement to be legitimate, and to remain a legal act for the future. Nor can we agree to a renewal, unless the U.S. obligates itself effectively, and with the approval of its Senate, to repel automatically any aggression undertaken against us, by any country or bloc, because of the existence of the bases in Spanish territory.

(2) If Spain were part of NATO, as are other countries in Europe with American bases, there would be no doubt about the obligation of defense on the part of the U.S. and the armies of NATO, into which the Spanish armed forces would be integrated at all levels. But the obstacle to joining NATO, as with the Common Market, is that our political institutions would have to meet the following requirements:

(a) The adoption of effective guaranties of individual and group rights, including those of different regions; and the granting of a broad amnesty for political prisoners.

(b) The establishment of universal suffrage—free, secret, and direct—on the municipal, regional, and national level.

(c) The recognition of political parties to act as a channel for ideological differences, within legal limits.

(d) The existence of a freely elected Parliament which legislates in accord with public opinion, and which controls the work of the government.

(e) Free trade unions so that employees and workers can defend their respective interests.

(3) The present rulers have repeatedly and publicly recognized that conditions in the world and in Spain, as well as the strategy of the great powers, have changed substantially since 1953. Before such evidence, the democratic opposition, identifying itself with the country's wishes that Spain cease to be in a position of inferiority with respect to her national security, finds no excuse to justify delay in democratic evolution. Such an evolution, aside from its intrinsic benefits, would, by putting us on a level with the political institutions of the West, provide us with the fundamental benefit of being able not to participate in pacts or agreements which, by their nature, could becloud our prestige and which would, in any event, increase the risk of attack without at the same time covering adequately our national defense needs.

VA HOSPITALS

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WOLFF. Mr. Speaker, the Director of the Brooklyn VA hospital noted a 1970 funding deficit of $3.1 million. Over $143,000 was badly needed for food and medical supplies. The hospital was lucky to survive. Many patients may not be so lucky.

What are our national priorities and where do we place the value of human lives? People talk about bailing out Lockheed Co., to the tune of $350 million because it is a sick company. But there are sick veterans and we are not adequately funding hospitals to take care of them.

The Department of Agriculture provides $135,000 to study bee genetics in Louisiana. And we should be mature enough to really know about the birds and the bees. Yet, every veteran in our VA hospitals feels the sting of inadequate hospital funds.

We can waste more than $600 million on a defense project to train birds, yet ignore patients' needs. It is about time we set ourselves straight. We must realize we are offering nothing to men who have given this Nation everything.

FORT SNELLING SESQUICENTENNIAL

(Mr. MACGREGOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MACGREGOR. Mr. Speaker, this is the year of the sesquicentennial of Fort Snelling, Minn. A summer-long celebration is to be held at this beautiful site which commands the confluence of the Mississippi and Minnesota Rivers. The fort has been under restoration for the last few years by the State of Minnesota Historical Society and an imposing edifice has resulted.

The presence of the fort and its garrison of regular soldiers from 1820 to approximately 1850 contributed substantially to the early development of our country. Yet it was a peaceful fort. Historian Marcus Hansen records:

> Its history was not made by the rifles and sabers of soldiers; the axe and plow of the pioneer who worked in safety beneath its potential protection have left their history upon the landscape of the great Northwest.

From the Civil War until World War II, Fort Snelling served as an Army Training Post and Induction Station. Then, after housing the Veterans' Administration for several years, it reverted to the Army again. Now it is home for almost 5,000 members of the U.S. Army Reserve.

The fort is in my congressional district; the other day I participated in ceremonies to signal the beginning of the sesquicentennial celebration. Over 2,000 U.S. Army Reserve troops conducted a most impressive review. Additionally, one Army Reserve Unit, the 329th Base Post Office of the 88th U.S. Army Reserve Command, by virtue of special authority granted by the Post Office Department, hand-entered in one day, a commemorative cancel and cachet on over 10,500 letters which have now been delivered to addresses around the world. Soon, to mark the exact date of the laying of the fort's cornerstone, there will be issued a special U.S. postage stamp.

These events are worthy of the attention of all Americans. They show effective cooperation by several government echelons and agencies in a commendable effort to preserve for generations an important historical monument. They show tender respect and love for our heritage. And they provide one more example in history of peace resulting from strength.

HEARINGS ON PLYMOUTH-PROVINCETOWN CELEBRATION COMMISSION

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, I would like to announce that Subcommittee No. 4 of the Committee on the Judiciary has scheduled public hearings to be held July 22, 1970 at 9:45 a.m. in room 2237, Rayburn House Office Building, on the following proposal:

S. 2916, and related measures, to establish the Plymouth-Provincetown Celebration Commission.

Those wishing to testify or to submit statements for the RECORD should address their requests to the Committee on the Judiciary, House of Representatives, room 2137, Rayburn House Office Building.

CHARGE THAT SOVIET RUSSIA HAS INITIATED NEW SS-9 SITE CONSTRUCTION AS DIRECT RESPONSE TO OUR DECISION TO DEPLOY MIRV'S

(Mr. ARENDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARENDS. Mr. Speaker, it has been my privilege to serve on the Armed Services Committee since its inception. While I am by no means an expert on our national defense, I do have some knowledge of our defense plans and posture and some knowledge of the defense plans and posture of Soviet Russia.

It has been charged, Mr. Speaker, that Soviet Russia has initiated new SS-9 site construction as a direct response to our decision to deploy MIRV's. That is not true. It could not possibly be true.

In the first place, our decision to develop and deploy MIRV's was made several years ago. It was not made this year, nor last year. It was made by the previous administrations.

I am not critical of the decision. I personally think it was a sound one. But let us not mislead the American people and try to make it appear that a recent decision with respect to MIRV's stimulated the reported SS-9 ICBM site construction by Russia.

On April 20 at the annual luncheon of the Associated Press Secretary of Defense Laird said:

> In the 1965-67 time period, the United States decided on a level of nuclear forces, *including MIRV's*, which was deemed adequate to preserve our deterrent posture for the threat of the 1970's which was projected then. No basic change has been made in the force level decisions established in the mid-1960's.
>
> In continuing the MIRV and ABM programs, we are simply going ahead with programs on which our deterrent policy was formulated by previous Administrations even before the current momentum of Soviet strategic programs became clear.

In the second place, Mr. Speaker, in order for us to detect the SS-9's of Soviet Russia as early as we did, the Soviet decision to develop and deploy the SS-9 would have to have been made long before our MIRV deployment.

There is another point which I think should be made clear. In contrast to the Soviet MIRV, the U.S. MIRV program poses no threat to hardened ICBM's. It does not have the combination of accuracy and warhead yield necessary to give us a first-strike capability or counterforce capability against hardened missile sites. Secretary Laird made that point emphatically clear in his testimony before our committees.

Let us not mislead the American people. It is grossly misleading to associate the Soviet SS–9 program with our MIRV program. Our program, on the one hand, is not provocative and presents no threat to the credibility of the Soviet deterrent force. On the other hand, the Soviet SS–9 program poses an obvious threat to our Minuteman force because of its very large yield.

One can be critical of our defense program if he wishes. But I would hope that the criticism would be based on facts, and I would hope that it is not politically motivated.

THE MILITARY'S PUBLIC INFORMATION SERVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Williams) is recognized for 25 minutes.

Mr. WILLIAMS. Mr. Speaker, on Monday, July 6, 1970, the distinguished gentleman from Wisconsin (Mr. Reuss) told this body that "some of the public affairs activities" within the Department of Defense appeared to him "to violate the ban on propaganda in the Defense Appropriations Act."

He charged that within "the Defense Department's $40 million-a-year public affairs juggernaut—propaganda and huckstering continues unabated."

He criticized annual joint civilian orientation conferences in which "leading representatives of the educational, business, labor, religious, professional and industrial communities" are given an "8-day cross-country tour of military installations" and ships at sea with "briefings and demonstrations all along the way." Yet, the closest he came to substantiation was to speculate thusly:

> Somewhere in the course of all this activity there surely must have been something which fits into Webster's definition of "propaganda."

Mr. Reuss moved to punctuate his slanted sarcasm and innuendo by quoting Senator William Fulbright as saying "Popular spots to visit were Las Vegas, Hawaii and Florida" during what Mr. Reuss described as "2-day free tours for 'civic leaders'" under the Air Force civilian distinguished visitor program; a program designed to acquaint these "civic leaders" with the Air Force "mission and capabilities."

What was left unsaid, obviously because it would defeat the innuendo of sunshine, fun and games at plush vacation spas, were such critical facts as these: At Las Vegas, is Nellis Air Force Base, which includes the Tactical Air Command Training Base, the hub of the F–111 training program, and one of the biggest tactical gunnery ranges in the American defense system. In Florida are Eglin Air Force Base with its weapons research and development center, and Patrick Air Force Base with its eastern missile launch test base and support facility for Cape Kennedy. Hawaii, of course, is the major control point for all U.S. defense activities in the Pacific, including the headquarters for the U.S. commander in chief for the Pacific, and those for the Pacific commander of each of the services.

The gentleman from Wisconsin was similarly unhappy about the Navy's guest cruise program and against what he lumped together as, "films, speakers, radio and TV programs, and miscellaneous effluvia" which he said emanated "from the Defense Department and the various services."

By implication, he criticized the fact that "anticommunism is a frequent theme of these public affairs films," and that "films of the Vietnam war have become popular." He said that "high-ranking military officers apparently spend a lot of time making speeches," and implied concern that the Army, Navy, and Air Force supplied radio and television stations with programs and spot announcements which told the public of their missions.

To these things, I would offer the following thoughts:

The reason for films relating to anticommunism and the Vietnam war would seem quite obvious in view of the fact that communism is the enemy that we are struggling to keep from gaining control of Southeast Asia and the Middle East.

It is quite understandable that when a group of taxpayers wants to learn about the Military Establishment it seeks to do so by listening to high-ranking military officers, even as a group of corporate stockholders seeking to learn about its corporation seeks to listen to high-ranking corporate officers.

It is not only understandable that the Department of Defense and its various services turn to the broad popular public media of radio and television to help disseminate their stories to the taxpaying public, it is essential and it is proper. In this pursuit, the taxpaying public gains in several ways: It gains vital information on a mass basis, the broadcast time costs the taxpayers nothing; it constitutes the most economical manner in which the public can be informed by the military about the military. In accordance with the Federal Communications Act, administered by the Federal Communications Commission as provided by the will of the Congress, radio and television stations present these programs and announcements within the allocation of "public service time" and, therefore, at no charge to the military services which, in turn, means no charge to the taxpayers.

In such pursuit, therefore, the Public Affairs Office of the Department of Defense is acting in the same proper and necessary vein as its counterparts in other departments of the executive branch. For example: HUD Public Service announcements advise citizens of their rights to fair housing and equal opportunity and how to get Government insured loans; HEW announcements advise citizens of their rights, their benefits under social security, medicaid, and welfare programs; Agricultural Department announcements give advice on nutrition and how to qualify for food stamps, and OEO announcements recruit VISTA volunteers and welfare recipients. Significantly, Mr. Reuss mentioned none of these activities on the part of these other departments and agencies. After expounding on his undocumented theme of Defense Department "propaganda, hucksterism, and flackery conducted at public expense," Mr. Reuss presumed to offer what he defined as "a workable guideline." It was this:

> If the information is made available to the public only in response to an unsolicited request, the activity is legitimate. But if films, speakers, radio and TV programs, and the like are actively promoted, the requests from the public are actively solicited, then the activity constitutes propaganda and the prohibition in 601 (of Public Law 91–171, December 29, 1969) is being violated.

I sharply disagree with the gentleman from Wisconsin, not only upon his premise, which I consider detrimental to the public interest, not only to his gratuitous "guideline" of what is "legitimate" information, which I consider unrealistic; but I sharply disagree with the manner and approach of his unsubstantiated accusations which I consider grossly unfair and misleading.

I believe, in all respect, that all of us in the Congress should be gratified that, under the present administration of the Department of Defense, "managed news" is no longer the cynical, pragmatic order of things that it was under the two previous administrations. I believe that all of us should be gratified that, under President Richard Nixon, Secretary of Defense Melvin Laird has gone to great lengths to end the policy of "managed news"; to declassify what never should have been classified and withheld from the general public and, as Mr. Laird has made clear, to serve the objective of providing the public with accurate, timely information on major Department of Defense programs while honoring the first concern that is the security of the United States and the safety of our Armed Forces.

It has been in pursuit of this dedication to honoring the people's right to know that we have seen great expedition of the flow of information of great substance to the public; yet, contrary to Mr. Reuss' implications, the office of Mr. Daniel Henkin, Assistant Secretary of Defense for Public Affairs, has undergone a staff reduction of some 14 percent during the first 18 months' tenure of this administration; and further, deeper reductions, and resultant economies are planned in accordance with the Nixon-Laird thesis of giving the American people greater security and service at lesser cost.

Any suggestion that Mr. Reuss restrict his constituent and media contacts to mere response to inquiries as to his views, votes, activities, and record, would be unrealistic, unfair, and disregarding of the public interest and trust; so is Mr. Reuss' suggestion of a self-restrictive code of conduct for the Department of Defense. Among several factors which his so-called guideline would ignore is the massive campaign of purposeful antimilitary propaganda waged by enemies of this country who seek victory over the United States via immobilization of our Armed Forces.

Finally, I wish to assure my distinguished colleague from the great State of Wisconsin that not even the most extreme liberal nor pacifist has anything to fear from a Military Establishment which maintains a constant free flow of honest information to the public with regard to the manner in which it serves its mandate to defend this Nation while remaining responsive to civilian authority and control.

Unlike my colleague from Wisconsin, I neither fear, nor resent, nor criticize the Department of Defense for such laudable operation; nor, indeed, would I attempt to discourage nor stifle the Department in pursuit of its mission of public information, quite the contrary, I thank and congratulate Secretary Laird, Assistant Secretary Henkin, and all of the civilian and military personnel who, each day, labor hard, all over the world, to carry out their public information directives which, as Mr. Laird has put it, must adhere to provisions of the Freedom of Information Act which, as he has insisted, must be supported in both letter and spirit.

Thank you.

OUR SPECIALTY STEEL INDUSTRY MUST NOT BE TAKEN OVER BY OTHER FREE-TRADING NATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 60 minutes.

Mr. DENT. Mr. Speaker, I take this time to straighten out what I think is a serious misunderstanding of the differences between producers of specialty steel and other steel and their relationship to the so-called voluntary import quotas established 2 years ago. May I say that I predicted that voluntary quotas would not work and never will.

The situation compels me at this time to make a report partly contained in a presentation by Colt Industries and the first part of a letter from Mr. Ahlbrandt, president of Allegheny Ludlum Industries, which was sent to my office.

If at this time, Members of Congress will not act on this serious, threatening situation, there is not much I or anyone else can say to help save our economy.

If there is any question as to what is wrong with the steel market in the national industrial complex, let us take a look at at least one of the causes for the stock market debacle that has taken place so far this year. No economy can successfully maintain a proper industrial complex in peacetime nor project a war successfully, either as an expeditionary force or a defensive unit on our own land, without a tool or specialty steel industry. The steady decrease of this industry because of imports is just as great a catastrophe as if they were bombed out by enemy planes or sabotaged by enemy saboteurs or guerrillas. In this day, as well as any other day, past or future, the main objective of opposing armies is the destruction of the production forces of their opponents. This same objective holds true in an economic war such as we are now participating in through an unbelievable free trade philosophy that acts as a roadmap to direct our economic enemies to their targets.

All other industries affected by trade, especially those less advertised than textiles and shoes are important to the economy of this country, but even those industries cannot survive in time of war if we allow our specialty steel industry to be taken over by other free trading nations.

Colt Industries, Inc.,
Washington, D.C., June 14, 1970.

Hon. John H. Dent,
U.S. House of Representatives,
House Office Building,
Washington, D.C.

Dear Congressman Dent: I am sorry I was unable to attend your debate with Mr. Stitt in Pittsburgh yesterday, but I was pleased with the publicity that it got. It is a real pleasure to see one of our elected representatives explaining the cold hard facts of life to the Chamber of Commerce, which has not been very alert to the growing dangers of imports.

As a major producer of Specialty Steels, we are becoming increasingly alarmed about what is happening to our industry, which includes Latrobe Steel Company and Vasco. We have analyzed the Commerce Department figures and have prepared a report, a copy of which I am enclosing, with a copy of the covering letter from our Mr. E. A. March to Congressman Mills.

I call your particular attention to the charts in the report and to Charts 4 and 5. Much of the high speed steel and tool steel is produced in Latrobe, Pennsylvania. If the imports keep growing, these plants will surely be hard-pressed to survive, as will our own.

Colt Industries, Inc.,
Pittsburgh, Pa., June 10, 1970.

Wilbur Mills,
Chairman, Ways and Means Committee,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Chairman: Mr. Blair Bolles has provided me with a copy of his letter of May 28 to you relative to our concern about the serious situation confronting the producers of specialty steels. In this connection we have prepared a report which details the critical nature of this matter and I am pleased to enclose herewith copies of that report for your consideration.

Colt Industries, through its Crucible Materials Group, is one of America's largest producers of these important steels and alloys, and we are deeply concerned over the inroads being made by imports of these steels and products made from them, such as tools, cutlery, utensils and a myriad of other articles. As the charts in the report show, some products such as standard stainless steel sheet, rod and wire have lost from 30 to 50 per cent of the domestic market to imports. At the current rate of market loss, it is difficult to envision how the industry can long survive.

In the past, I was confident that our company and our industry could successfully compete with foreign producers, at least in the U.S. market place. Recently, my assurance has been shaken by two new conditions.

First, the U.S. cost and price stability has given way to serious inflation. Without exception, all elements of the cost of our products are increasing at an accelerating rate. Raw materials, services, labor, supplies, taxes, utilities and money are all more expensive than a year ago. We have no assurance that this trend has been halted or even tempered.

Secondly, the GATT negotiations did not result in fair and equal treatment for U.S. firms vis-a-vis foreign competitors. A U.S. producer must pay full U.S. income taxes, receives no export rebate, does not benefit from loans to cover the cost of extending credit, does not receive low-cost capital equipment loans nor rapid depreciation allowances. In some foreign nations, the steel industry even receives a direct subsidy.

Recognizing that correcting these basic ills and inequities will provide the only long-term solution, we must nevertheless take the position that there is as yet no evidence that we have won the battle of inflation or in any way eased the pressure on the U.S. steel industry. We therefore must address ourselves to the temporary measures of restricting imports. Any measures, whether negotiated or enacted into law, must insure equitable treatment for the specialty steel industry. If the restrictions are based only upon tons of steel, importers will naturally import the highest priced tons possible, thus insuring the greatest dollars of sales and therefore the greatest dollars of imports. To be effective for us, restrictions must be by product form and limited to dollar amounts rather than tons.

As a matter of policy, our company is in favor of free and fair trade. But in a situation such as this, and considering the importance of the specialty steel mills to the national security, we are forced to re-examine our position. We have expended much effort and money to win this battle on our own. But the great effect of labor cost in these products just cannot be overcome through belt-tightening and capital investment. Therefore, we regretfully must ask for help and I hope you will give serious consideration to rolling back imports of tool and stainless steels to more reasonable levels, such as 10 per cent of the domestic market in each product form.

We would be more than pleased to discuss this with you further at your convenience.

Thanking you for your interest and attention, I am,

Sincerely,

E. A. March,
Vice President/Group Executive.

The Specialty Steel Problem

INTRODUCTION

It has been the practice to think of Steel as "steel." One discusses the "Steel Industry"; the millions of tons of steel produced per month or per year; voluntary quotas of steel imports based on tons. Only in recent months has there begun to be a gradual recognition by those outside the industry that Specialty Steels are different—and in serious trouble.

Specialty Steels are stainless steels, tool steels, alloy steels produced in small quantities for special applications and a host of particular alloys for uses in jet engines, electronic equipment and the like. Some contain little or no iron at all.

Mr. George Stinson, Chairman of the American Iron and Steel Institute, devoted considerable attention to the approaching crisis in the Specialty Steel Industry in his testimony on June 1, 1970, before the Committee on Ways and Means of the House of Representatives. It is the purpose of this report to expand on Mr. Stinson's remarks and, as a major producer of Specialty Steels, to present additional data which illustrate the need for action on the part of Congress to undo the damage which has been done.

EFFECTS OF SO-CALLED VOLUNTARY QUOTAS ON STEEL IMPORTS

Chart 1 shows the imports of all steel mill products during the period 1964–69 and the first three months of 1970 extrapolated to a full year. If the remaining nine months follow the pattern of the first quarter, imports of all steel mill products will have dropped—in tons—to the level of 1964–65. But the dollar value will be $1.4 billion, the level of 1967–68. In other words, the mix of products has shifted to the side of the high dollar-per-ton items.

Whether the drop in tons is due to a true desire on the part of those nations who agreed to the Voluntary Restraint Program to hold down shipments to this country, or whether it was the natural result of an increase in demand elsewhere for carbon steel products, is subject to question. But the effect of neglecting to recognize in the Voluntary Program the basic nature of the Specialty Steel business is clearly demonstrated in Chart 2. It shows that imports have grown from 60,000 tons ($47 million) in 1964 to a rate of over 180,000 tons (over $160 million) in the first quarter of 1970.

Contrary to the decline starting after 1968 for imports of "all steel products," imports of tool and stainless steels show a steady rise in dollar value and at a most alarming rate. The leveling off of tons in 1969 presumably was due to the world-wide shortage of nickel, used in stainless steel, during that year. As soon as the strikes in the nickel mines were over, the curve resumed its sharp climb.

PENETRATION OF U.S. MARKETS

It is appropriate to examine to what extent imports have captured segments of the Specialty Steel markets. Chart 3 shows imports of stainless steel bars, in tons and declared value, and the domestic shipments reported to AISI by its member companies. Since little if any of the products covered by this and subsequent charts can be exported from the United States (prices abroad frequently are below U.S. costs), domestic shipments plus imports essentially represent the U.S. market. Chart 3 shows that in stainless steel bars, imports have moved from two percent in 1964 to 11 percent of the U.S. market in the first quarter of 1970. Imports have jumped from a modest 2,000 tons per year to a rate of 17,000 tons, while domestic producers' shipments have dropped from 160,000 tons in 1966 to a rate of 140,000 tons so far this year. Thus, the market is about constant but with imports pushing out domestic production.

The bar business is not an easy one for importers, due to the wide variety of sizes, shapes and special requirements, plus small volume per item. Chart 4 illustrates this in tool steels and shows a drop in imports from 1967 to 1968. But in spite of the complications in serving the bar market, and the softness of the tool steel business in general, imports of tool steel have resumed their climb, and have more than doubled over the past five years. Imports of high speed steel wire rod, used in the manufacture of twist drills have shot up from 200 tons in 1964 to a rate of 3500 tons yer year in the first quarter of 1970 (Chart 5).

Chart 6 shows what is possibly the most serious situation—in stainless steel sheets. Imports have grown from $17 million in 1964 to a rate of almost $70 million. And from 12 percent of the market to 32 percent. In the first three months of this year, U.S. shipments are off substantially, while imports are back up to the rate of increase they were showing before the nickel shortage.

If action is not taken to halt and indeed reverse this trend, it is reasonable to anticipate what is illustrated by Chart 7. This shows that imports have captured over 70 percent of the U.S. market for stainless steel wire rods and have forced a drop in domestic shipments from 15,000 tons in 1966 to a present rate of less than 6,000 tons. It is reasonable to assume that before long it will not be practical to continue production of stainless rods in this country.

It has been said that this is no problem, as independent wire redrawers would rather have the cheaper imported rods. But Chart 8 illustrates that it isn't just rod that is coming in. The imports of cold drawn stainless wire have jumped from 5,000 tons in 1964 to a rate of 19,000 tons in 1970.

CAUSE OF THE PROBLEM

Stainless and tool steels are abnormally vulnerable to import competition because of the very high number of man-hours per ton required to produce them as compared with basic steel. This ratio may be as high as ten to one or more, and therefore the portion of the cost of producing Specialty Steels represented by labor is far higher than for carbon steel. Thus the U.S. Specialty steelmakers cannot hope to compete with countries where labor costs are much lower, no matter how much is spent in modernization. Since a healthy specialty steel industry is essential to the country's welfare and defense, it cannot be allowed to deteriorate further.

EFFECT ON OTHER INDUSTRY

The relationship of stainless rods and wire (Charts 7 and 8) are symptomatic of the broad scope of the problem. Just as imports do not stop with rods but continue into the wire made from the rods, the same thing happens with other product forms. Cheap foreign tool steel does not help the toolmaker, because right on its heels come the tools themselves.

Makers of stainless steel utensils thought cheap imported stainless sheets were great, until they were hit with imports of their own products at prices below their costs.

Thus the specialty steelmaker gets his two ways—through direct competition of imports of sheet, bar, rod, wire and other mill product forms; and from loss of additional business because his customers, who fabricate these products, are losing business because of imported finished articles.

WHAT MUST BE DONE

The problem of imported specialty steels, and articles made therefrom, is of comparatively recent origin—brought about by the construction of modern specialty steel mills abroad. Prior to that time, we could afford the luxury of not needing protection for the U.S. industry. In fact, exports of stainless and tool steels were fairly substantial as our quality could not be duplicated abroad on the antiquated mills then in use. This condition no longer exists.

The time has come when we must swallow our pride and accept the fact that until foreign labor costs more nearly approach our own, the domestic specialty mills are fighting a losing battle in a free market.

It has been said that increased tariffs or imposition of quotas will result in retaliatory action by the affected countries. On the contrary, countries—like people—are inclined to buy where they can get the best deal. And since much of the imports of specialty steels are from countries such as Japan, who already have broad barriers against imports into their own countries, the argument hardly seems germaine.

At any rate, it is believed that the charts speak for themselves. Action already is overdue if the American Specialty Steel Industry and its thousands of employees—and its customers and their hundreds of thousands of employees—scattered throughout many states, are to prosper.

ALLEGHENY LUDLUM INDUSTRIES, INC.,
Pittsburgh, Pa., June 22, 1970.

Hon. JOHN H. DENT,
House Office Building,
Washington, D.C.

DEAR MR. DENT: In a recent appearance before the House Ways and Means Committee, George A. Stinson, Chairman of the American Iron and Steel Institute, called the import situation in stainless and other specialty steels "particularly critical."

In the event you may not have noted these points made by Mr. Stinson, I wish to take this opportunity to underscore them.

"As far as the high performance steels are concerned," Mr. Stinson said, "the Voluntary Restraint Program (negotiated with Japanese and German producers) has been *almost totally ineffective.* If foreign producers had adhered to the provisions of the Voluntary Restraint Program regarding product mix, imports of stainless and tool steels would have *decreased* by 24% from 1968 to 1969. Instead, they *rose* nearly 7%, and imports of these key grades of steel exceeded the level implied in the Voluntary Program by 41%. Furthermore, *this situation is continuing in 1970.* If imports keep on at the same rate as in the first three months, they *will exceed* the Voluntary Restraint *level by 50% for the year 1970 as a whole."*

Mr. Stinson's import statistics relate to the overall market. In certain product lines and geographic areas, the effect of imports has been completely devastating of our markets. Here are some examples: imports of stainless steel wire rod in the first quarter of 1970 captured 70% of the domestic market; imports of cold rolled stainless sheet took 33% of our markets in the same period; and for stainless steel totally, the annualized trend indicates an 11% increase for 1970 over 1969. The accompanying charts show the heavy inroads which imported specialty steels have made in our markets through 1969 and continuing through the first quarter of 1970.

There are still other factors in the world trade picture which raise questions as to how American producers can plan for the needed improvement and expansion of their plants, keep skilled American workmen on their jobs and maintain a viable industry capable of producing specialty steels critical to the nation's defense.

Government policies relating to stockpiles of critical materials have caused artificial shortages, inflationary price increases, and chaotic market conditions for some materials. A government embargo against Rhodesian sources of chrome ore and unwise overseas sales of government-stockpiled tungsten have resulted in shortages and skyrocketing prices for these commodities. Excessive foreign purchases of nickel-bearing scrap have had the same effect on supplies of this vital material.

Needless to say, these are materials critical to the defense of this country, and our national resources are weakened not only by their diminished supply, but by the disruption of normal market patterns and the inflationary price spirals which they feed.

In short, we believe there are fundamental defects in our nation's foreign trade policies and in the administration of foreign trade affairs, and that this poses a continuing threat not only to American manufacturers and their employees but to the very security of the nation as well. We believe it is absolutely essential to develop a better understanding between industry and government of the critical nature of these problems.

We feel that it is important for you to know how serious the foreign trade situation is with respect to specialty steel producers. We are also concerned about the growing flood of fabricated products coming from Japan and Europe, which also has the effect of cutting into our markets for specialty steels.

Although the basic steel industry is asking only for extension and improvements to the Voluntary Restraint Program, I believe the time has come when we in the specialty steel industry must seek some kind of legislated relief and/or tariff protection.

We earnestly solicit your support of our contention that the United States must completely reevaluate and update its foreign trade policies if it is to reverse the declining position of American industry in its own and world markets.

Sincerely,

ROGER S. AHLBRANDT.

TABLE 1.—STAINLESS IMPORTS

[In tons]

	3 months 1969	3 months 1970	3 months 1979 vs 3 months 1969 (percent)	1969	Estimated 1970 (3 months at annual rate)	Estimated increase AR 1970 vs 1969 (percent)
Strip:						
HR						
CR	2, 220	3, 119	+40	11, 908	12, 476	+5
Total strip	2, 220	3, 119	+40	11, 908	12, 476	+5
Sheet:						
HR	332	595	+79	1, 993	2, 380	+19
CR	13, 388	20, 462	+53	62, 739	81, 848	+30
Total sheet	13, 720	21, 057	+53	64, 732	84, 228	+30
Plates	1, 174	2, 775	+136	7, 153	11, 100	+55
Bars:						
HR	899	2, 266	+152	6, 507	9, 064	+39
CF	898	1, 857	+107	6, 121	7, 428	+21
Total bars	1, 797	4, 123	+129	12, 628	16, 492	+31
Tubes	1, 406	1, 672	+19	7, 929	6, 688	−16
Wire	2, 201	4, 780	+117	13, 966	19, 120	+37
wire rod	1, 935	3, 478	+80	14, 864	13, 912	−6
Total Wire	4, 136	8, 258	+200	28, 830	33, 032	+15
Semifinish	14, 870	9,543	−36	49, 044	39, 172	−22
Total stainless	39, 323	50, 547	+29	182, 224	202, 188	+11

TABLE 2.—STAINLESS STEEL IMPORTS, COUNTRY OF ORIGIN COMPARISON

Country	Total		
	1Q 1970		Year 1969, percent of total
	Tons	Percent of total	
Japan	29, 097	57.6	47.3
European economic community:			
Belgium-Luxembourg	436	.8	1.1
France	4, 533	9.0	7.8
Italy	289	.6	.8
Netherlands			
West Germany	390	.8	.8
Total EEC	5, 648	11.2	10.5
Austria	98	0.2	0.2
Canada	10, 850	21.5	30.1
Sweden	3, 374	6.8	8.6
United Kingdom	1, 105	2.2	2.8
All other	275	.5	.5
Total	50, 547	100.0	100.0

TABLE 3.—STAINLESS IMPORTS AS A PERCENT OF THE DOMESTIC MARKET

	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1Q 1970
Strip:													
HR													
CR	0.1	0.1	0.4	0.1	0.2	1.1	2.1	2.1	3.2	3.0	4.4	4.1	5.5
Total strip	.1	.1	.3	.1	.2	1.0	1.9	1.8	2.9	2.8	4.1	3.7	4.8
Sheets:													
HR							5.5	6.1	7.5	4.0	3.8	6.6	11.5
CR	.3	.6	1.6	1.7	8.1	15.3	14.2	17.7	20.1	23.6	28.0	22.7	33.1
Total sheets	.2	.4	1.0	1.3	6.8	12.8	12.9	16.6	19.2	22.1	26.0	21.0	31.4
Plates						.2	1.3	1.2	2.4	5.9	8.4	9.6	15.9
Bars:													
HR							2.4	2.3	4.7	7.4	10.9	11.8	16.5
CF							1.9	2.8	2.7	5.4	4.7	5.7	7.4
Total bars	.4	.7	1.2	1.0	.9	1.7	2.1	2.8	3.4	6.2	6.9	7.8	10.6
Tubes	6.2	4.9	9.0	9.6	11.1	10.5	6.0	7.8	8.0	16.6	20.4	22.0	17.9
Wire	.5	2.2	3.3	4.1	5.2	8.0	16.6	19.3	21.6	29.1	31.6	35.4	50.6
Wire rod	.1	2.1	6.4	15.9	19.9	28.8	40.3	36.9	42.0	53.2	63.7	59.2	70.5
Total wire	.4	2.2	4.3	8.5	10.9	16.8	26.0	26.6	20.5	38.2	44.8	44.7	57.4
Semifinish	3.2	4.9	8.8	6.3	13.1	26.7	33.2	32.4	37.6	41.0	40.1	44.1	36.5
Total stainless	.8	1.1	2.6	2.3	4.4	8.5	10.2	12.0	13.4	16.2	18.3	17.3	21.0

TABLE 4.—TOOL STEEL IMPORTS AS A PERCENT OF THE DOMESTIC MARKET

[In net tons]

Year	Net industry shipments	Imports	Exports	Domestic market	Imports as a percent of domestic market
1970[1]	27, 985	4, 507	400	32, 092	14.0
1969	113, 921	15, 253	2, 725	126, 449	12.1
1968	106, 366	15, 162	1, 606	119, 922	12.6
1967	109, 929	18, 859	1, 639	127, 149	14.8
1966	121, 345	17, 614	1, 775	137, 184	12.8
1965	118, 242	12, 954	1, 652	129, 544	10.0
1964	102, 379	9, 081	2, 275	109, 185	8.3

[1] First quarter.

EMERGENCY IN HEALTH MANPOWER EDUCATION IN THE NATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BOLAND) is recognized for 10 minutes.

Mr. BOLAND. Mr. Speaker, there is no question about it—we have an emergency in health manpower education in the Nation. The Public Health Service, in the 1971 appropriations hearings, tells us that we have now a shortage of 48,000 doctors, 17,800 dentists, 150,000 nurses, and 266,000 allied health workers, of which 45,000 are environmental health specialists. The projections for 1980 are even more bleak, if we continue at the present levels of funding.

For the information of my colleagues, I insert into the RECORD the following information from the Public Health Service:

First. Health manpower needs, projected by the Public Health Service, 1970 and 1980;

Second. A chart showing the decline

in health student loan support, so that now we assist only 14 percent of the students, compared with over 30 percent in 1968, a decline occurring when the health manpower schools are being urged to increase manpower, especially from among the poor.

Third. Construction grant applications approved but unfunded as of June 1970, showing a total of $465 million in backlogs for schools of the health professions, and $24 million for schools of nursing.

Fourth. Approved but unfunded special project grants for schools of the health professions and nursing.

HEALTH MANPOWER NEEDS, 1970-80

(Submitted by Bureau of Health Manpower, National Institutes of Health to Subcommittee on Appropriations on Wednesday, Apr. 29, 1970)

	Supply	Need	Estimated shortage
Physicians:			
1970	325,000	373,000	48,000
1980	412,000	438,000	26,000
Dentists:			
1970	102,200	120,000	17,800
1980	119,400	176,000	56,600
Nurses:			
1970	700,000	850,000	150,000
1980	890,000	1,100,000	210,000
Allied health manpower: 1970	925,000	1,191,000	266,000
Total, 1980	1,344,000	1,776,000	432,000
Allied health manpower—at least baccalaureate:			
Medical allied manpower:			
1970	210,000	271,000	61,000
1980	320,000	413,000	93,000
Environmental health manpower:			
1970	64,000	124,000	60,000
1980	90,000	155,000	65,000
Allied health manpower—less than baccalaureate:			
Medical allied manpower:			
1970	325,000	396,000	71,000
1980	475,000	580,000	105,000
Dental allied manpower:			
1970	138,000	167,000	29,000
1980	151,000	246,000	95,000
Environmental health manpower:			
1970	188,000	233,000	45,000
1980	308,000	382,000	74,000

NUMBER OF STUDENTS ASSISTED

	Fiscal year—						
	1965	1966	1967	1968	1969	1970	1971
Medical	7,186	9,475	11,303	12,484	12,808	6,980	5,191
Dental	3,367	4,472	5,530	5,944	6,375	2,910	2,163
Osteopathy	614	726	937	977	1,050	425	287
Optometry	387	564	656	745	853	480	359
Pharmacy			1,584	2,105	2,541	2,325	1,789
Podiatry			158	211	303	150	133
Veterinary medicine				797	1,075	785	600
Total	11,554	15,237	20,168	23,263	25,005	14,055	10,502

PERCENT OF STUDENTS ASSISTED

	Fiscal year—						
	1965	1966	1967	1968	1969	1970	1971
Medical	23	30	34	37	36	19	14
Dental	26	33	40	42	43	19	14
Osteopathy	37	42	53	54	56	22	14
Optometry	27	38	33	37	38	19	14
Pharmacy			19	21	23	18	12
Podiatry			47	50	47	21	12
Veterinary medicine				31	28	16	12
Total	24	31	34	36	36	19	13

CONSTRUCTION GRANT APPLICATIONS APPROVED BUT UNFUNDED AS OF JUNE 1970—SCHOOLS OF HEALTH PROFESSIONS

Institution and location, Health professions:	*Federal share*
Medical:	
California, University of, Davis (new)	$18,166,392
California, University of, San Diego (new)	9,417,887
California, University of, San Diego	4,263,547
California, University of, San Diego	6,140,307
California, University of, Irvine	14,743,349
Confederate Memorial Hospital, Shreveport, La	900,045
Dartmouth College, Hanover, N.H. (new)	5,424,817
Iowa, University of, Iowa City	27,135,943
Iowa, University of, Iowa City	1,941,986
Kansas City General Hospital, Kansas City, Mo. (new)	9,988,000
Louisiana State University, New Orleans (new)	20,288,242
Maryland, University of, Baltimore	9,102,060
Massachusetts, University of, Worcester (new)	16,547,917
Meharry Medical College, Nashville, Tenn	2,015,681
Michigan State University, East Lansing (new)	10,052,711
Michigan State University, East Lansing (new)	17,319,866
Minnesota, University of, Minneapolis	5,480,956
College of Osteopathy, Des Moines, Iowa	8,548,460
Missouri, University of, Columbia	2,634,374
Missouri, University of, Kansas City (new)	8,856,643
Nebraska, University of, Lincoln	1,482,448
Nevada, University of, Reno	687,064
New England Medical Center, Boston, Mass	3,511,023
New Jersey College of Medicine and Dentistry, Newark	6,597,797
New Jersey College of Medicine and Dentistry, Newark	1,356,730
New York Medical College, New York	447,322
New York Medical College, New York	6,260,813
New York, State University of, Stony Brook (new)	21,876,506
Ohio, Medical College of, Toledo (new)	7,231,028
Ohio, Medical College of, Toledo (new)	1,997,163
Ohio, Medical College of, Toledo (new)	3,238,251
Ohio State University, Columbus	22,441,649
Presbyterian Hospital, Oklahoma City, Okla	2,862,257
Saint Louis, University, St. Louis, Mo	9,758,821
Temple University, Philadelphia, Pa	11,156,967
Texas, University of, Dallas	1,439,312
Texas, University of, Dallas	1,249,310
Texas, University of, Dallas	2,924,976
Tufts University, Boston, Mass	1,572,529
Washington, University of, Seattle	8,148,645
Dental:	
Creighton University, Omaha, Nebr	$6,549,661
Iowa, University of, Iowa City	393,769
Meharry Medical College, Nashville, Tenn	898,010
Minnesota, University of, Minneapolis	16,913,071
New Jersey College of Medicine and Dentistry, Newark	1,619,347
New Jersey College of Medicine and Dentistry, Newark	402,779
New York, State University of, Stony Brook	4,194,054
New York University, New York	16,248,229
Other:	
Alabama, University of, Birmingham (opt)	1,998,425
California, University of, Davis (vet med)	14,316,049
California, University of, Davis (vet med)	2,016,617
Colorado State University, Fort Collins (vet med)	1,018,544
Colorado State University, Fort Collins (vet med)	4,113,971
Illinois College of Podiatry, Chicago (pod)	3,771,666
Illinois, University of, Urbana (vet med)	4,380,534
Iowa State University, Ames (vet med)	12,760,111
Kansas State University, Manhattan (vet med)	2,345,707
Long Island University, Greenvale, N.Y. (pharmacy)	4,193,719
Los Angeles College of Optometry, Los Angeles, Calif. (opt)	1,988,503
Louisiana State University, Baton Rouge (vet med)	10,615,889
Mississippi, University of, University (pharmacy)	168,574
Missouri, University of, Columbia (vet med)	10,796,819
Minnesota, University of, Minneapolis (PH)	2,027,968
M. J. Lewi College of Podiatry, New York, N.Y. (pod)	1,788,263
Oklahoma, University of, Stillwater (PH)	7,028,296
Pennsylvania College of Podiatry, Philadelphia (pod)	4,249,138
Southern California, University of, Los Angeles (pharmacy)	3,083,311
Texas, University of, Houston (PH)	8,542,297
Wisconsin, University of, Madison (pharmacy)	1,785,300
Subtotal, (21).	
Total, (69).	
Total as of June 30, 1970	465,418,415

CONSTRUCTION GRANT APPLICATIONS APPROVED BUT UNFUNDED AS OF JUNE 1970—SCHOOLS OF NURSING

Institution and location, nursing:	*Federal share*
Baccalaureate and graduate degree programs:	
Alderson-Broaddus College, Philippi, W. Va	$696, 392
Jacksonville State University, Jacksonville, Ala	921, 717
Marycrest College, Davenport, Iowa	1, 195, 864
Missouri, University of, Columbia	1, 271, 166
Ohio State University, Columbus	37, 500
Seton Hall University, South Orange, N.J	1, 166, 863
Skidmore College, Saratoga Springs, N.Y	188, 763
State University of New York at Stony Brook	1, 534, 108
Texas, University of, Austin	1, 278, 124
Trenton State College, Trenton, N.J	1, 163, 858
Pacific Lutheran University, Tacoma, Wash	271, 000
Pittsburgh, University of, Pittsburgh, Pa	4, 222, 280
Wayne State University, Detroit, Mich	611, 524
	14, 559, 159
Associate degree program:	
Angelina College, Lufkin, Tex	288, 614
Jefferson State Junior College, Birmingham, Ala	719, 587
Kilgore College, Kilgore, Tex	331, 831
Lakeland Community College, Mentor, Ohio	462, 294
McLennan Community College, Waco, Tex	$400, 020
Olympic College, Bremerton, Wash	353, 143
Pasadena City College, Pasadena, Calif	1, 201, 550
Puerto Rico, University of, Arecibo Regional College	669, 360
San Antonio College, San Antonio, Tex	452, 475
Santa Barbara City College, Santa Barbara, Calif	512, 230
Shoreline Community College, Seattle, Wash	315, 608
Southern State College, Magnolia, Ark	301, 906
	6, 008, 618
Diploma programs:	
Boston City Hospital, Boston, Mass	1, 511, 872
Elliott Community Hospital, Keene, N. H	347, 777
Missouri Baptist Hospital, St. Louis, Mo	340, 910
Mounds-Midway School of Nursing, St. Paul, Minn	643, 161
Rochester General Hospital, Rochester, Pa	871, 146
Samaritan Hospital, Troy, N.Y	430, 034
	4, 144, 900
Total nursing	24, 712, 677

HEALTH PROFESSIONS EDUCATIONAL IMPROVEMENT PROGRAM—SPECIAL PROJECT GRANTS, FISCAL YEAR 1970 APPROVED BUT UNFUNDED APPLICATIONS

APPROVED, UNFUNDED 1970 SPECIAL PROJECT GRANTS SCHOOLS OF THE HEALTH PROFESSIONS

[Dollars in millions]

Discipline	Number of schools	Dollars
Medicine	31	$6.1
Dentistry	13	1.9
Optometry	6	1.0
Podiatry	2	.1
Osteopathy	1	.1
Pharmacy	37	2.1
Veterinary medicine	10	2.4
Total	100	13.7

Schools and colleges of medicine

[Amounts in dollars]

CALIFORNIA	
University of California, Davis	138, 450
University of California, Los Angeles	210, 643
University of California, San Diego	127, 566
University of California, San Francisco	200, 000
University of Southern California	146, 681
CONNECTICUT	
University of Connecticut	122, 600
DISTRICT OF COLUMBIA	
Georgetown University	170, 773
Howard University	75, 000
GEORGIA	
Medical College of Georgia	109, 768
ILLINOIS	
University of Chicago, Division of Biological Sciences	50, 355
University of Illinois	239, 444
KENTUCKY	
University of Kentucky	178, 968
MICHIGAN	
Michigan State University, College of Human Medicine	100, 000
University of Michigan	324, 560
Wayne State University	206, 010
MINNESOTA	
University of Minnesota, College of Medical Sciences	257, 684
NEW YORK	
Columbia University, College of Physicians and Surgeons	260, 800
Cornell University, Medical College	244, 201
State University of New York, Brooklyn Downstate Medical Center	59, 852
State University of New York, Syracuse Upstate Medical Center	229, 076
University of Rochester	127, 325
NORTH CAROLINA	
Duke University	312, 105
NORTH DAKOTA	
University of North Dakota	30, 000
PENNSYLVANIA	
Pennsylvania State University, College of Medicine	327, 000
University of Pennsylvania	232, 902
RHODE ISLAND	
Brown University, Division of Biological and Medical Sciences	147, 168
TENNESSEE	
Vanderbilt University	100, 692
TEXAS	
Baylor University, College of Medicine	550, 578
University of Texas, Galveston, Medical Branch	374, 941
VIRGINIA	
Medical College of Virginia	194, 425
WISCONSIN	
University of Wisconsin	215, 250
Total	6, 073, 815

Osteopathy

[Amounts in dollars]

MISSOURI	
Kansas City College of Osteopathy	73, 000

Schools and colleges of dentistry

[amounts in dollars]

CALIFORNIA	
Loma Linda University	44, 750
DISTRICT OF COLUMBIA	
Georgetown University	17, 312
FLORIDA	
University of Florida	395, 661
IOWA	
University of Iowa	62, 803
LOUISIANA	
Louisiana State University	53, 248
MARYLAND	
University of Maryland	58, 893
MISSOURI	
University of Missouri, Kansas City	17, 526
NEW YORK	
State University of New York, Buffalo	206, 861
NORTH CAROLINA	
University of North Carolina	284, 970
OREGON	
University of Oregon	428, 025
PENNSYLVANIA	
University of Pennsylvania	99, 709
University of Pittsburgh	61, 668
TENNESSEE	
University of Tennessee	154, 203
Total	1, 885, 629

Schools and colleges of optometry

[Amounts in dollars]

ALABAMA	
University of Alabama	79, 712
INDIANA	
Indiana University, Division of Optometry	73, 087
MASSACHUSETTS	
Massachusetts	159, 990
OHIO	
Ohio State University	68, 226
PENNSYLVANIA	
Pennsylvania	230, 789
TEXAS	
University of Houston	297, 714
Total	909, 518

Colleges of podiatry

[Amounts in dollars]

ILLINOIS	
Illinois College of Podiatric Medicine	86, 925
OHIO	
Ohio College of Podiatry	44, 770
Total	131, 695

Schools and colleges of pharmacy

[Amounts in dollars]

ALABAMA	
Auburn University	80, 000
CALIFORNIA	
University of California, San Francisco	249, 546
University of Southern California	170, 332
CONNECTICUT	
University of Connecticut	180, 488
FLORIDA	
University of Florida	1, 950
GEORGIA	
University of Georgia	20, 000
INDIANA	
Butler University	31, 900
Purdue University, School of Pharmacy and Pharmacal Sciences	56, 656

IOWA	
Drake University	86,469
University of Iowa	81,869
KENTUCKY	
University of Kentucky	120,329
LOUISIANA	
Xavier University of Louisiana	19,560
MARYLAND	
University of Maryland	77,928
MICHIGAN	
Wayne State University	28,840
MINNESOTA	
University of Minnesota	95,820
MISSISSIPPI	
University of Mississippi	13,300
MONTANA	
University of Montana	12,225
NEW JERSEY	
Rutgers University	23,725
NEW YORK	
Albany College of Pharmacy	30,680
Brooklyn College of Pharmacy, Long Island University	82,979
St. John's University	55,890
OHIO	
Ohio Northern University	16,125
Ohio State University	109,169
University of Cincinnati	37,244
OKLAHOMA	
Southwestern State College	71,755
OREGON	
Oregon State University	23,931
PENNSYLVANIA	
Duquesne University	14,150
Philadelphia College of Pharmacy and Science	39,500
Temple University	56,630
University of Pittsburgh	19,281
SOUTH DAKOTA	
South Dakota State University	2,300
TEXAS	
University of Houston	43,000
UTAH	
University of Utah	9,255
VIRGINIA	
Medical College of Virginia	31,329
WASHINGTON	
Washington State University	62,290
WEST VIRGINIA	
West Virginia University	48,391
WYOMING	
University of Wyoming	19,427
Total	2,124,263

Veterinary medicine

[Amount in dollars]

COLORADO	
Colorado State University	328,984
ILLINOIS	
University of Illinois	161,810
INDIANA	
Purdue University	165,646
IOWA	
Iowa State University	398,002
KANSAS	
Kansas State University	286,025
LOUISIANA	
Louisiana State University	102,523
MICHIGAN	
Michigan State University	91,300
MISSOURI	
University of Missouri	286,347
OHIO	
Ohio State University	360,187
PENNSYLVANIA	
University of Pennsylvania	273,987
Total	2,436,811

DIVISION OF NURSING

SPECIAL PROJECT GRANTS FOR IMPROVEMENT IN NURSE TRAINING, APPROVED BUT NOT FUNDED AS OF JUNE 22, 1970

Grant No.	Applicant	Title	1st year
9535	University of Wisconsin, Madison, Wis., beginning Sept. 1, 1970—May 1970 council.	Identification of different approaches to clinical specialization in graduate education in nursing.	$46,708
9589	Maine State Nurses' Association, Augusta, Maine, beginning Aug. 1, 1970—May 1970 council.	Statewide planning for nursing education in Maine.	49,284
9600	Mankato State College, Mankato, Minn., beginning Sept. 1, 1970—May 1970 council.	Planning grant for a project to prepare American indians for professional nursing in a baccalaureate program.	30,195
9605	North Park College, Chicago, Ill., beginning Aug. 17, 1970—May 1970 council.	Department of nursing self-study and evaluation.	6,360
9582	Community Maternity Institute, Santa Fe, N. Mex., beginning Aug. 1, 1970—May 1970 council.	A study to determine the need and scope for educational programs in nurse midwifery and/or continuing education for maternity nursing in in New Mexico and the direction each should take.	48,241
539	Herbert H. Lehman College, Bronx, N.Y., beginning Sept. 1, 1970—May 1970 council.	Planning, development and establishment of new nursing program.	49,503
567	Kirkwood Community College, Cedar Rapids, Iowa, beginning Aug. 1, 1970—May 1970 council.	Title II nurse training, establish new associate degree nursing program.	32,371
599	Georgia Southwestern College, Americus, Ga., beginning July 1, 1970—May 1970 council.	Study of an existing associate degree program with emphasis on curriculum development and teaching methods.	23,600
540	University of Pennsylvania, Philadelphia, Pa., beginning Sept. 1, 1970—May 1970 council.	Exploration and development of new community facilities through which the objectives of the community health aspects of the curriculum can be more creatively achieved.	17,840
581	Arizona State University, Tempe, Ariz., beginning Aug. 1, 1970—May 1970 council.	Graduate program in medical-surgical nursing.	29,509
562	Wenonah State Junior College, Birmingham, Ala., beginning Aug. 1, 1970—May 1970 council.	Curriculum implementation in an ADN program that admits students who need compensatory education.	49,800
615	Imperial Valley College, Imperial, Calif., beginning Aug. 1, 1970—May 1970 council.	To plan, develop, and establish an associate degree registered nursing training program.	18,150
9610	Oregon Technical Institute Klamath Falls, Oreg., beginning Sept. 1, 1970—May 1970 council.	Development of an associate in arts nursing program at OTI.	21,347
573	Kent State University, Kent, Ohio, beginning Aug. 1, 1970—May 1970 council.	Financial assistance to meet cost of operation.	123,193
432	University of Nevada, Reno, Nev., beginning July 1, 1970—May 1970 council.	Intercampus cooperation in the development and implementation of innovative programs of graduate education in nursing.	119,205
597	Marymount College, Salina, Kans., beginning August 1, 1970—May 1970 council.	Improvement, expansion and strengthening of the community nursing educational component.	22,300
959	Children's Orthopedic Hospital and Medical Center, Seattle, Wash., beginning September 1, 1970—May 1970 council.	A change of ward environment to give the staff nurse more involvement in patient care.	22,845
626	University of Oregon, Portland, Oreg., beginning Aug. 1, 1970—May 1970 council.	Development of continuous program instruction in medical surgical nursing.	$136,731
9564	The Ohio State University, Columbus, Ohio, beginning Aug. 1, 1970—May 1970 council.	Area planning meetings for continuing education.	25,851
617	Yale University, New Haven, Conn., beginning Aug. 1, 1970—May 1970 council.	Project proposal for pediatric nurse specialists training program.	28,058
550	University of Washington, Seattle, Wash., beginning Aug. 1, 1970—May 1970 council.	Analysis and revision of the baccalaureate program in nursing at the University of Washington School of Nursing.	74,058
542	Catholic University of Puerto Rico, Ponce, beginning Aug. 1, 1970—May 1970 council.	Establishment of a new associate degree nursing program.	96,039
9575	The University of Tennessee, Memphis, Tenn., beginning Aug. 1, 1970—May 1970 council.	A project to assist faculty in identifying and planning feasible approaches to improvement of the teaching-learning process and to better utilization of faculty in this process.	40,561
596	Seattle University, Seattle Wash., beginning Sept. 1, 1970— May 1970 council.	A project to develop a baccalaureate curriculum that integrates family and community health, capitalizes on liberal arts resources of the institution through multi-disciplinary studies, is more efficient in time, money and faculty utilization and is adaptable.	50,504
603	Jamestown College, Jamestown, N. Dak., beginning Sept. 1, 1970—May 1970 council.	Curriculum improvement and clinical resources utilization improvement to obtain NLN accreditation as a school of nursing and to permit enrollment expansion and increased quality of training provided.	43,226
613	University of Guam, Agana, Guam U.S.A., beginning Aug. 1, 1970—May 1970 council.	The development of multi-media systems of instruction to improve and individualize nursing education at the University of Guam, U.S.A.	157,116
577	West Liberty State College, West Liberty, W. Va., beginning Sept. 1, 1970—May 1970 council.	Development of the clinical component of the curriculum for the 2d year of the associate degree program, emphasis on nursing of children and adults.	58,710
556	St. Mary's Memorial Hospital, Knoxville, Tenn., beginning Aug. 1, 1970—May 1970 council.	A remedial program for "high risk students" in nursing.	7,860
587	Children's Hospital of Los Angeles, Calif., beginning Aug. 1, 1970—May 1970 council.	Mutual expectations for the neophyte staff nurse—a cooperative effort of nursing education and service.	49,860
537	Lake Superior State College, Sault Ste. Marie, Mich., beginning Sept. 1, 1970—May 1970 council.	Application for special project grant for a new associate degree program at Lake Superior State College.	62,017
524	Nazareth College, Kalamazoo, Mich., beginning Sept. 1, 1970—May 1970 council.	Baccalaureate degree program of nursing in serious financial straits to meet costs of operation.	66,512

DIVISION OF NURSING—Continued

SPECIAL PROJECT GRANTS FOR IMPROVEMENT IN NURSE TRAINING, APPROVED BUT NOT FUNDED AS OF JUNE 22, 1970—Continued

Grant No.	Applicant	Title	1st year
561	University of Puerto Rico, Mayaguez, P.R., beginning Aug. 1, 1970—May 1970 council.	Plan to establish a baccalaureate nursing program at the University of Puerto Rico at Mayaguez.	$60,400
569	Helene Fuld School of Nrusing, New York, N.Y., beginning Sept. 1, 1970—May 1970 council.	Study of the admission standards of a 15-month upward-mobility nursing program: LPN and RN.	32,506
536	Kilgore College, Kilgore, Tex., beginning Aug. 1, 1970—May 1970 council.	Developing and improving the curriculum in a new associate degree nursing program.	48,396
9521	Allied Health Manpower Council of Santa Clara County, San Jose, Calif.—May 1970 council.	Management information study of nursing education, Santa Clara County.	20,050
570	West Chester State College, West Chester, Pa., beginning Aug. 1, 1970—May 1970 council.	Plan, develop and establish a bachelor of science degree program in nursing at West Chester State College, West Chester, Pa.	27,700
578	Mercy College of Detroit, Detroit, Mich., beginning Aug. 1, 1970—May 1970 council.	To improve the teaching of nursing through provision of adequate teaching facilities in a college which is in serious financial need.	55,591
9518	University of Albuquerque, Albuquerque, N. Mex., beginning Sept. 1, 1970—March 1970 council (has received departmental approval).	Development of a cooperative plan to meet nursing education needs in New Mexico.	35,509
9585	Video Nursing, Inc., Evanston, Ill., beginning Sept. 1, 1970—May 1970 council.	Planning for production and distribution of multimedia software for continuation education and independent learning opportunities in nursing.	47,628
541	University of Puerto Rico, Mayaguez, P.R., beginning Aug. 1, 1970—May 1970 council.	A plan for preentrance orientation to nursing and for remedial work for potential dropouts at the University of Puerto Rico at Mayaguez campus.	40,110
622	University of Alabama at Birmingham, beginning Sept. 1, 1970—May 1970 council.	A program of remediation for the academically disadvantaged nursing student at the University of Alabama School of Nursing.	28,657
9618	Columbia University, New York, N.Y., beginning Aug. 1, 1970—May 1970 council.	Planning for reorganization and extension of the undergraduate program in nursing.	36,250
244-03S	Indiana University, Bloomington, Ind., beginning Sept. 1, 1970—May 1970 council.	Development and evaluation of a system for improving the teaching-learning process in nursing.	----------
332-013	University of Missouri, Columbia, Mo., beginning Sept. 1, 1970—March 1970 council (has received departmental approval).	Multi-media self-instruction in maternal-child nursing at the baccalaureate level.	85,815
522	Indiana University, Bloomington, Ind., beginning Aug. 1, 1970—May 1970 council.	Improving student achievement in nursing education through prediction and remediation of low achievement and failure in specific freshman courses.	24,614
184-04S	St. Louis University, St. Louis, Mo., beginning Sept. 1, 1970—May 1970 council.	Improvement and expansion of a graduate program for the preparation of cardiovascular nursing specialists.	----------
604	Antelope Valley Joint Junior College, Lancaster, Calif., beginning Sept. 1, 1970—May 1970 council.	Associate degree (2 years) registered nursing training program (new program).	79,985
523	Southeastern Massachusetts University, North Dartmouth, Mass., beginning Sept. 1, 1970—May 1970 council.	Development of a curriculum for a college of nursing at Southeastern Massachusetts University.	69,099
609	Albright College, Reading, Pa., beginning Sept. 1, 1970—May 1970 council.	Further development and implementation of a baccalaureate nursing program in a liberal arts college.	57,427
9574	St. Mary's Dominican College, College, New Orleans, La., beginning Aug. 1, 1970—May 1970 council.	Planning grant for a new baccalaureate degree program in nursing education planning grant for new program of nursing education.	$20,461
9461	Arkansas State Nurses' Association, Little Rock, Ark., beginning Jan. 1, 1970—November 1969 council (has received departmental approval).	Planning for delivery of optimal nursing services in Arkansas.	26,886
534	University of Arizona, Tucson, Ariz., beginning Sept. 1, 1970—May 1970 council.	Continuing education program for registered nurses.	22,840
580	State University of New York at Canton, NY., beginning Sept. 1, 1970—May 1970 council.	Curriculum improvement through the use of new media in the development and reinforcement of manual and technical skills in nursing.	19,639
475	State College of Arkansas, Conway, Ark., beginning Jan. 1, 1970—November 1969 council (has received departmental approval).	An alternative public health experience for the undergraduate registered nurse student.	48,431
384	Amarillo Hospital District, Amarillo, Tex., beginning June 1, 1969—March 1969 council (has received departmental approval).	A project to improve and expand student personnel services due to increased enrollment.	46,796
558	College of St. Mary, Omaha, Nebr., beginning Aug. 1, 1970—May 1970 council.	The establishment of an associate degree nursing program College of Saint Mary, Omaha, Nebr.	179,808
592	Mount Mercy College, Cedar Rapids, Iowa, beginning Aug. 1, 1970—May 1970 council.	Establishment, development, and implementation of a professional nursing core curriculum, based on man's behavior in health and illness.	162,519
619	College of St. Benedict, St. Joseph, Minn., beginning Aug. 1, 1970—May 1970 council.	Development of a new baccalaureate degree program in nursing.	142,170
9408	Boston University, Boston, Mass., beginning June 1, 1970—June 1969 council.	Preliminary exploration and planning for the establishment of a program of continuing education.	15,552
9456	Johns Hopkins University, Baltimore, Md., beginning June 1, 1970—November 1969 council.	A plan for university participation in continuing education of public health nurses supervision.	23,695
584	Mobile General Hospital, Mobile, Ala., beginning Oct. 1, 1970—May 1970 council.	Mastin School of Nursing assistance program.	276,198
9525	Medical College of Georgia, Augusta, Ga., beginning Aug. 1, 1970—May 1970 council.	Planning for a statewide continuing education program in nursing for Georgia.	54,115
440	Manatee Junior College, Bradenton, Fla., beginning June 1, 1970—June 1969 council.	A study visit program to improve teaching in associate degree nursing education.	26,595
621	University of Alabama at Birmingham, beginning Sept. 1, 1970—May 1970 council.	Development of a mjaor in cardiovascular nursing in the graduate program in nursing at the University of Alabama in Birmingham.	26,764
241-03S	Catherine Laboure School of Nursing, Boston, Mass., beginning Sept. 1, 1970—May 1970 council.	An independent diploma program assesses its effectiveness and its future in nursing education.	----------
9433	Ball State University, Muncie, Ind., beginning Sept. 1, 1969—June 1969 council.	Planning for educational media for the enhancement of the teaching-learning processes in a baccalaureate program.	51,804
129-05	University of North Dakota, Grand Forks, N. Dak., beginning Jan. 1, 1970—March 1969 council.	Project grant for improvement in nurse training: A program for improved utilization of curriculum and clinical learning experience.	23,299
447	University of Colorado Medical Center Denver, Colo., beginning Jan. 1, 1970—November 1969 council.	A learning resource laboratory: An innovative approach to teaching and learning.	16,000
	Grand total		3,811,377

THE MIDDLE EAST IS THE REAL PROBLEM AREA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SIKES. Mr. Speaker, sometimes it is difficult to keep track of the number and gravity of the problem areas which beset the world. The big problem for years and years has been Southeast Asia and it is obvious this one is not over. Nevertheless, it is equally obvious that we are making significant progress there. American troops are being withdrawn at a steady pace and the South Vietnamese are showing a growing ability to cope with the requirements of war even though the Communists now are trying to take over Cambodia as well as Laos and South Vietnam. Russia wants the war in Southeast Asia ended but Red China does not, and both are continuing to provide supplies for Communist forces in Indochina.

There is another problem area where the threat to world peace is growing. It is the Middle East where the Israeli-Arab confrontation is being aggravated by increasing Russian involvement. At stake is control of the oil and the people of the Middle East and the Western approaches to the Indian Ocean which would be available through a reopened Suez Canal. Russia has made sophisticated weapons available to the Arab states and these have been accompanied by Russian technicians. Now the Israelis have charged Russian pilots with piloting Egyptian aircraft and Russian personnel with manning surface-to-air missile sites inside Egypt. Such a policy, if pursued and extended, would mean the end of the Jewish state. The odds in personnel are about 100 to 1 in favor of the Arabs. The Israelis have been successful by dint of hard work in their domestic economy and by lightning strikes against their larger neighbors in war. But they cannot defeat both Arabs and Russians.

The United States is heavily committed to Israel and is unlikely to stand by while the extermination of the Jewish state is taking place. Thus, for the first time since the Cuban missile confrontation, we have Russia and the

United States approaching a showdown. Unfortunately—for a settlement—the Russians have a great deal more at stake in the Middle East than they had in Cuba and they are in much better position to defend their position in the Middle East.

By contrast the United States is neither militarily nor mentally prepared for a war in the Middle East.

If the United Nations were an effective agency, it could have contributed immeasurably to the solution of the problems in the Middle East, but to expect results from the U.N. became wishful thinking long ago.

Here is a problem which calls for the coolest and most careful handling within American capability. What is taking place is equally important to all of the nations of the free world. I question that the full gravity of the problem has been presented to the rest of the world or that we are giving the problem as much attention as it deserves. Recent newspaper accounts indicate there may be some fumbling at top levels on our side. We cannot afford this. We should have a task force of our most capable experts actively working for a solution. The obvious course is a settlement in the Middle East, but it is not going to be possible to get a settlement that is satisfactory to either side. That means some give and take by both is necessary. The responsible nations of the world must attempt to avoid a war in the Middle East which could expand into world conflagration. It should be possible to accomplish this by joint action. The United States needs to convince the Western Powers of the gravity of the situation and the essentiality for action. The Russians have a similar responsibility among the Iron Curtain nations.

Time is running. There may not be much left. The United States may now be confronted with its greatest peacetime problem in history—the problem of keeping peace in the Middle East without surrendering the area to the Russians. We must work harder at the task than we now are doing.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. Of the 52,000 credit unions in the world, 23,210 were in the United States in 1967. Of the 30,800,000 world members over 19,000,000 were Americans.

REPORT ON DRUG ABUSE IN FLORIDA

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, a specially created Task Force on Narcotics, Dangerous Drugs, and Alcohol Abuse in Florida recently reported its findings and recommendations after a 12-month, interdisciplinary study of that challenging problem.

Because it represents the first comprehensive statewide analysis of Florida's problem of narcotics, dangerous drugs, and alcohol abuse, I insert, for the benefit of my colleagues, salient portions of the report along with a listing of the Task Force members. I call attention to findings 4 and 5 dealing with the effects and classification of marihuana.

DRUG ABUSE IN FLORIDA

(A report by the Governor's Task Force on Narcotics, Dangerous Drugs, and Alcohol Abuse, May 1970)

THE TASK FORCE

Richard L. Rachin, Chairman, Chief, Bureau of Group Treatment, Florida Division of Youth Services.

Charles R. Reusing, Task Force Planner.

Alexander Bassin, Ph.D., Professor of Criminology, Florida State University.

Rose Bell, Executive Director, Mental Health Association of Orange County.

Colleen Bevis, President, The Florida Congress of Parents and Teachers.

H. F. Bevis, Secretary Florida Board of Pharmacy.

John D. Buchanan, Jr., Assistant Public Defender, Second Judicial Circuit Court.

L. P. Carmichael, M.D., Director, The Division of Family Medicine, University of Miami.

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James Doyle, Associate Professor, Urban and Regional Planning, Florida State University.

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James Jones, Lieutenant, Volusia County Sheriff's Office.

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Francis Millett, L.L.B., Associate Professor of Law, Florida State University.

Frank A. Orlando, Judge, Juvenile Court of Broward County.

Father Sean O'Sullivan, President, Operation Self-Help, Inc., Hialeah, Florida.

Irving H. Propper, Judge, City of Cape Canaveral, Cape Canaveral, Florida.

William L. Reed, Commissioner, Florida Department of Law Enforcement, Tallahassee, Florida.

Phillip Rond, M.D., Director, Student Health Services, Florida State University.

Vaughn J. Rudnick, Judge, Criminal Court of Record, Palm Beach County.

Carl Stauffer, Executive Director, Florida Sheriff's Association, Tallahassee, Florida.

The Task Force on Narcotics, Dangerous Drugs and Alcohol Abuse has given its attention to bringing into focus a drug scene which in many cases has been blurry, distorted, and poorly developed. The issues faced were complex, and emotionally charged. While obvious difficulties of time and resources did not permit an adequate evaluation of all the data collected, nevertheless, it seemed that some important preliminary statements and judgments could be made. This report is then not an in-depth evaluation of the drug scene, but we believe it does offer the first comprehensive statewide analysis of Florida's problem of narcotics, dangerous drugs and alcohol abuse.

Many authorities were consulted and helped us probe behind the myths and half-truths that so often shroud the issues of drugs and alcohol abuse. No one knew all the facts nor pretended to have the answers. This added to—rather than detracted from—the thrust and impact of the Task Force Report. All looked at the problem of narcotics, dangerous drugs and alcohol abuse objectively and with little emotion. While there was much divergence of opinion, all agreed that the problems were complex and difficult.

No starting solutions were discovered. No cure-alls were announced. Nor were any expected. But a solid beginning was made. A pattern has begun to emerge as a result of this groundwork by the Task Force—a pattern we believe which could lead to better understanding, and positive constructive action.

The Task Force study underlined several important facts:

1. That time available to us to avoid the problems which other states now face is fast running out.

2. We have a major, long-existing, and relatively negelected problem of alcohol abuse.

3. We have a mounting problem of narcotic and dangerous drug abuse.

4. There are inconsistencies in our laws which require examination and revision.

5. The majority of our "narcotic" arrests (Chapter 398, Florida Statutes) are of young people who are probably one time or casual marihuana experimenters who do not progress to abuse of the more potent drugs.

6. Various modes of drug behavior both appear and run their course later in Florida than is true nationally. For example, LSD use, which has fallen off elsewhere, in Florida accounts for approximately the same number of confiscated submission to crime laboratories as marihuana.

7. Our drug laws may have a more disabling than constructive effect.

8. Narcotic drug addicts and alcoholics are sick people in a physical and socio-psychological sense and as such, require treatment and not punishment.

9. A disproportionate amount of energy is spent investigating and arresting youthful

experimenters and small time users rather than the big time hoods and money merchants.

10. Few professionals whose work puts them on the firing line seem adequately trained or knowledgeable about drug identification, use, symptomatology, treatment, or other aspects of the drug scene for which their professional services are required.

11. Existing drug prevention, control, and treatment programs are woefully inadequate and largely ineffective.

While adequate funds must be provided for serious efforts to prevent, control, and treat these haunting problems, the Task Force believes that money itself will provide no solution. Traditional calls for more funds, more legislative support—as important as they are—will not resolve our problems. Drug and alcohol abuse affect the very fiber of our society: its youth, its manhood, its lifeblood, its economy, and culture. This is a problem that reaches into the classroom, the neighborhood, the penthouse, the ghetto, and the entire family unit without regard to race, creed, or national origin. Ours is a drug dependent, drug immersed society.

What are some of the specific findings of the Task Force? They are many, and varied. Some demand immediate attention. Above all, the Task Force found voids. Such as:

1. The void between fact and what the public suspects, believes and often hears about narcotics, dangerous drugs and alcoholism.

2. A critical lack of substantive data regarding the distribution, forms, and incidence of both licit and illicit drug abuse.

3. An insufficiency of scientific research and understanding on the short and especially long term effects of dangerous drugs and narcotics. The Task Force believes that it is playing blind man's bluff to make decisions without having the facts.

4. Poorly organized, factually lacking, and largely uncoordinated preventive-educational resources.

5. A dearth of treatment services for both those who are dependent on drugs and those who appear vulnerable to such involvement.

6. A sometimes awkward gap, or communications breakdown, between educators and their students. Many officials appear unaware of, deny the existence of, or seem immobilized by drug abuse problems in their own schools. This gap quickly surfaced when the Task Force polled educators about the problems of drugs and alcoholism in their respective areas. Many officials, unable to respond, passed the Task Force's queries on to law enforcement officials for an assessment of the problem. The Task Force found that many of the school officials admitted that no one in the school system had any idea whatsoever of the extent of alcohol and drug abuse among the teenagers in their county.

FINDING 2

The Task Force found a need for perspective in looking at an understanding the problems of drug use and abuse. Much attention and publicity has been focused on a somewhat myopic obsession with certain drugs, while other substances of abuse remain largely ignored. The issues sometimes have become distorted and put out of balance. Putting things in perspective, the Task Force Report showed that:

1. The abuse of alcohol and nicotine is unrivalled by any other drug.

2. The alcoholic is often the head of a family, a well respected business man, a factory worker, a government executive, a physician, an office employee, a troubled mother. The overwhelming percentage of alcoholics appear to lead respectable-conventional lives.

3. The drug abuse problem is much more prevalent than that shown by statistics on arrests, adjudications, or commitments.

4. In most cases, the source in America today of abused drugs is not a slick, heartless so-called "pusher" on a dark street corner or secluded alley. Most abused drugs in America are freely and/or legally available.

5. Scientific evidence indicates that all drugs are potentially dangerous and that distinguishing between licit and illicit drug abuse is a mistaken, unfortunate, but popular cul de sac. Sensationalism, half-truths, and plain old myths often distort the facts about drug misuse and abuse.

6. Overwhelming data reveals that imprisonment and harsh punishment of drug experimenters and drug addicts accomplishes little and deters precious few.

7. Importers, wholesalers, and others who traffic in illicit drugs are rarely arrested, infrequently convicted, and the least likely of all those involved in the drug world to end up in prison.

8. The law must shatter or make so precarious the profit motive for illicit drug entrepreneurs that professional criminals become convinced that the risks far outweigh the rewards.

FINDING 3

The Task Force found that the problem of alcoholism seems largely ignored. The public is preoccupied with the mystique surrounding the issue of youthfully popularized drugs. The alarming, hard core facts about alcoholism are not widely known.

1. Taken in the context of magnitude of abuse and resulting health damage, economic loss and adverse social effects, alcohol still ranks above all chemicals that are harmful to man. Florida is estimated to have 160–170 thousand alcoholics compared to 2–3 thousand heroin addicts.

2. Alcoholic impairment of judgment is considered the greatest single causative factor behind fatal automobile accidents, and a large percentage of homicides occur in an alcoholic environment. Alcohol is also known to have played a part in a large percentage of suicide cases.

3. Blame for public apathy and ignorance about alcoholism can be pointed in many directions. Vested interests and the widespread respectable use of alcohol masks its characterization as the nation's most prevalently and dangerously abused drug.

4. Statistics have shown that the employed problem drinker represents a $72 million annual loss to Florida's non-agricultural industry.

5. A crucial need exists for both in and out-patient facilities to handle alcoholism.

FINDING 4

So much has been sensationalized and speculated about narcotics and dangerous drugs that it has become difficult to see the fire because of the smoke. The public, as a result of this, has tended to mythologize drugs, the drug scene, and drug use. A sharper and less emotionalized focus would help bring about a better understanding of the problem of narcotics and dangerous drugs in Florida. Beneath the smoke screen, the Task Force found that:

1. The use of heroin and the other so-called hard narcotics in Florida seems both insignificant and blown out of proportion when compared to the abuse of other drugs.

2. It is important to distinguish between the terms narcotic and non-narcotic drugs. In the public mind drugs and narcotics are too often used interchangeably. Narcotic drugs are depressants that produce drowsiness, sleep, dullness, or an insensible condition and lessen pain by dulling nerves. Narcotics are both physically and psychologically addictive. Examples are morphine, heroin, codeine, and methadone.

3. A physically addictive drug results in tolerance in which greater amounts of the drug are needed to experience the same effects and withdrawal symptoms are experienced when the drug is eliminated.

4. Next to alcohol, barbiturates are the most widely used and abused of the depressant drugs, and when taken in large uncontrolled amounts they become extremely dangerous. Combined with alcohol they are potentially lethal. They are dangerous for other reasons. The user may become confused about how many pills he has swallowed and take a fatal overdose; abrupt withdrawal can result in convulsions and in certain cases death.

5. Aside from their use in treating narcolepsy and hyperkinesis, amphetamines have little legitimate medical use. Acute or chronic abuse can result in a parnoid psychosis with delusions and hallucinations and sometimes aggressive-assaultive behavior.

6. LSD, one of the best known hallucinogenic drugs, is odorless, colorless, and tasteless. Its use is reported to sharply accentuate or distort the senses. LSD users on bad trips may be serious suicide risks. LSD is recognized to be an extremely powerful and dangerous drug. While its use appears to have fallen off nationally, such does not yet appear to be the case in Florida.

7. Heroin is the most commonly used illicit dangerous drug of addiction in the nation today. It has been estimated that 90% of the persons convicted of felonious "hard drug" use in the United States are heroin users.

8. Although classified legally as a narcotic (pharamacologically marihuana is an hallucinogen) marihuana usage in and of itself does not lead to physical dependence and the body does not develop a tolerence for the drug.

9. Marihuana users and non-users need to realize that even though marihuana is not physically addictive, chronic use does result in the development of a psychic dependency which may be difficult to overcome. In addition, a false sense of well being and space distortions may propel some individuals into activities injurious to their own well being.

FINDING 5

The most commonly used illicit drug in Florida is marihuana. Its use is widespread on college campuses and in many high schools and junior highs. Educators in some sections feel that marihuana usage has spread into the elementary school level. The Task Force Report revealed a thirst for factual information about marihuana. It showed that a reasoned look is being taken at present laws dealing with marihuana which generally are recognized as being harsh and unworkable. Despite the beliefs of some, no evidence was uncovered establishing a link between the use of marihuana and later involvement with the so-called "hard drugs".

1. The Task Force believes that it is vital to distinguish between marihuana and the addicting drugs. Marihuana is not addicting. There have been no known lasting physical effects reported from the use of marihuana and no documented fatalities have been reported from the use of marihuana alone. However, research has not yet answered the many questions about the potential hazards of this drug which remain yet to be addressed.

2. The Task Force, based on its own review of the Florida Statutes, and its survey of various authorities found that Florida needs to reevaluate its laws governing the possession and use of marihuana. It feels a change is needed in the legal classification of marihuana. Both state and Federal laws treat marihuana as a narcotic even though there is no scientific evidence to warrant such a classification.

3. The Task Force found, in its poll of juvenile court judges, for example, that a recommendation which was mentioned on several occasions suggested the passage of more realistic drug laws, especially in relation to marihuana. Many juvenile court judges do not look upon youths referred to their courts for marihuana possession as hard-core delinquents and are hesitant to apply the full force of existing state law. The Task Force believes that Florida's drug laws have several glaring deficiencies that need to be corrected. Despite an abundance

of evidence, for example, showing that LSD, methamphetamine, and other illicitly used drugs are vastly more dangerous, the penalties for possession and sale of marihuana remain far more severe than they are for these more powerful drugs.

The Task Force thus would recommend:

1. A thorough review of the law dealing with the classification of marihuana, with an eye towards bringing the Statutes up to date and in accord with current scientific knowledge.

2. A review of the penalties for possession and use of marihuana, as compared to the law for other more potent hallucinogens as well as other drugs, with the goal of making the law more uniform, equitable, and workable.

FINDING 6

Examination of the problem of narcotics, dangerous drugs and alcohol abuse immediately points up the value of educational-preventive programs accurately informing adults and young people of the facts about drug abuse. Careful study of our drug problems, such as that conducted by the Task Force, spells out in capital letters the importance of this. The Task Force firmly believes that educators must become more deeply concerned and involved in promoting programs to inform youths and adults of the pitfalls of drug and alcohol abuse.

The Task Force believes that effective preventive-educational programs are needed in the public schools. Our elementary and secondary schools in Florida are in a strategic position to offer preventive programs in the area of drug and alcohol abuse. Much more must also be done in our colleges and universities. A look at the drug and alcohol abuse problem on the educational front showed that:

1. Educators are not deeply involved as yet with the problems of drug and alcohol abuse in all areas of the state.

2. Most drug prevention programs and efforts in the State of Florida were initiated by law enforcement agencies, with the major share of this responsibility residing with the local police.

3. Almost all law enforcement agencies presented with a drug problem have developed or used some type of printed material for public distribution, but some of the material is neither well prepared nor presented and in some cases is inaccurate.

4. Educators must encourage the active participation and involvement of the academic community in developing plans and programs to reinvolve rather than repel young people with drug problems.

5. The problems of drug abuse and alcoholism appear concentrated in urban areas, presenting a major challenge to officials in the larger public schools.

6. Better communication between young people and adults is vitally needed.

7. Lecturing, entreating or moralizing has not worked. Drug abuse remains symptomatic of other more basic problems. It behooves us to recognize this and plan to do something about it.

CONCLUSION

The Task Force has found that much more work is needed to tackle the problem of narcotics, dangerous drugs and alcohol abuse. Many people have participated unselfishly and with dedication in programs on drugs and alcohol abuse, some of them imaginative, innovative, and attuned to present day challenges. But greater effort is needed. Many persons have delved deeply into researching the problems of drug and alcohol abuse. But again, much more is needed and the Task Force believes that, whatever the results, accuracy and honesty must be guides. The value of scare tactics with today's well informed young people is senseless and self-defeating. Truth is the key.

State and local agencies, most often through no fault of their own, have been found lacking in programs and plans to care for people with drug problems. A full spectrum of services is needed where people with drug and alcohol problems could be referred. Coordination, communication, and cooperation are needed at all levels. Scores of organizations and groups are studying the problems of drugs and alcohol abuse and in some cases implementing programs, but few are pooling their resources, findings, or efforts.

Above all, the Task Force believes that Floridians must realize that the problem of narcotics, dangerous drugs and alcohol abuse is not going to go away if it's ignored or blindly assaulted. It is here to stay until effectively combated. And we are not going to do that by concentrating on symptoms and ignoring causes. The problem effects us all—and it may be a lot closer to home than we think.

THE NATIONAL COUNCIL ON ORGANIZED CRIME—NO STATE, LOCAL OR PRIVATE REPRESENTATION

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, on June 4, 1970, the President established the National Council on Organized Crime whose purpose it will be "to formulate a national strategy for the elimination of organized crime." The Executive order, which appears after my remarks, designates 18 officials of the Federal Government to serve as members of the Council. The Attorney General will serve as Chairman.

I applaud the President for demonstrating the need for a coordinated national strategy against organized crime.

As established by the President, the National Council on Organized Crime is composed of 18 members, eight of whom represent various units of the Department of Justice and seven of whom represent units of the Treasury Department. The three remaining members are the Secretaries of the Departments of Labor and the Post Office and the Chairman of the Securities and Exchange Commission.

It is no longer subject to question that organized crime touches on nearly every aspect of American life, that it respects neither geographic boundaries nor agency jurisdictions, and that unless Government becomes as organized as syndicated crime is an expansion of organized crime influence looms ahead.

For these and other reasons I am dismayed by the composition of the Council and by the absence of any specific directives which would clarify and institutionalize procedures for the Government-wide effort against organized crime.

No representatives of any regulatory agency, other than the SEC, sit on the Council although the evidence is clear that organized crime infiltration of legitimate business presents a growing anticompetitive influence on the American marketplace, a clear danger that the American consumer will pay higher prices for inferior goods and services, and an increasing likelihood that Federal licenses, charters and privileges will be extended to persons and firms linked to syndicated crime. All of these factors are or should be of vital concern to all Federal regulatory agencies. The Legal and Monetary Affairs Subcommittee in its continuing study of the Federal effort against organized crime has only too often found an unawareness on the part of Federal departments and agencies of the true impact that organized crime has on their area of jurisdiction.

Nor are the rest of the Cabinet-level departments represented on the Council. This in spite of the fact that multimillion dollar programs, vulnerable to organized crime incursion, are administered by the Departments of Commerce, Agriculture, and Housing and Urban Development to name just three.

But probably the most glaring deficiency of the National Council on Organized Crime, as announced by the President, is the omission of any representatives of State and local governments and of the private sector.

As the President stated on June 4, organized crime "can be felt in every level of American society." In other words, a national problem requiring intergovernmental and interdisciplinary attack. To achieve the "effective, coordinated national strategy for the elimination of organized crime," which is the Council's goal as stated by the President, State, and local contributions and cooperation are indispensable. And so are those of the private sector. The U.S. Chamber of Commerce, for example, would be an ideal representative on the Council in view of the nationwide programs it has commenced in this field.

A national strategy to deal with a national problem can only be devised by a representative national body. As structured, the Council does not meet that standard.

With respect to the responsibilities of the Council, it should also be pointed out that it appears to be merely advisory, and it has neither an operational nor a coordinating function. The establishment of the Council does not fully address the total problem. There are a number of longstanding Presidential directives concerning the Federal effort against organized crime.

On May 5, 1966, President Johnson directed a memorandum to the heads of all Federal departments and agencies. This memorandum, which also follows my remarks, directed the Attorney General to "act as a focal point of the Federal Government's attack on organized crime." In addition, the memorandum directed each investigative unit of all Federal departments and agencies to: First, review current organized crime programs and report thereon to the Attorney General; second, periodically report to the Attorney General on the progress of organized crime investigations, including data on personnel assigned to those investigations and evaluations of the prosecutive potential; and, third, establish "direct lines of liaison with the Department of Justice to enable the Attorney General to carry out his responsibility for directing this program."

On February 7, 1968, President Johnson issued Executive Order 11396 "providing for the coordination by the Attorney General of Federal law enforcement and crime prevention programs." Under that order the Attorney General was directed to coordinate the law-enforcement activities and programs of all Federal departments and agencies including those which are designed to assist State and local law-enforcement agencies. Importantly, the Attorney General was given authority to promulgate "such rules and regulations and take such actions as he shall deem necessary" to carry out his stated responsibilities. Moreover, each Federal department and agency was directed to cooperate with the Attorney General in the performance of his functions under that order. The order follows.

In addition, a number of congressional committees have examined the Federal effort and reported on what is needed. In June 1968 the House Committee on Government Operations after a series of hearings by the Legal and Monetary Affairs Subcommittee, which I chair, issued a report which, in general, found the Federal effort against organized crime to be inconstant, uncoordinated, and, at times, very ineffective. The report expressed concern that, despite existing authority, the Attorney General had not promulgated "any rules or regulations for the coordination of agency operations against organized crime"—Federal Effort Against Organized Crime; Report of Agency Operations, June 20, 1968, House Report No. 1574.

As the focal point of the Federal effort against organized crime the Attorney General needs the active assistance of all Federal agencies. There already exists ample authority under the previously mentioned Presidential order and memorandum to achieve a fully coordinated, constant, and effective Federal effort. In the alternative, the President's Executive order of June 4, 1970, should have been accompanied by a clear directive to the Attorney General regarding the issuance of guidelines for coordination and cooperation among all of the Federal departments and agencies.

I urge the President to amend the composition of the Council to give it balance and to expand on his directive so as to better enable the Council to meet the goal he has set for it.

The materials follow:

ESTABLISHING THE NATIONAL COUNCIL ON ORGANIZED CRIME

Whereas organized crime is a problem of national scope affecting numerous cities and states;

Whereas the problem of organized crime presents the Nation with a major challenge calling for coordinated Federal law enforcement efforts of maximum effectiveness;

Whereas it is necessary to formulate a national strategy for the elimination of organized crime:

Now, therefore, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

There is hereby created a National Council on Organized Crime which shall be composed of the Attorney General, who shall be Chairman; the Secretary of the Treasury; the Secretary of Labor; the Postmaster General; the Chairman of the Securities and Exchange Commission; the Assistant Attorney General, Criminal Division; the Assistant Attorney General, Tax Division; the Assistant Secretary of the Treasury for Enforcement and Operations; the Assistant Secretary of the Treasury for Tax Policy; the Administrator of the Law Enforcement Assistance Administration; the Director of the Federal Bureau of Investigation; the Director of the Bureau of Narcotics and Dangerous Drugs; the Director of the United States Secret Service; the Commissioner of Customs; the Commissioner of Immigration and Naturalization; the Commissioner of Internal Revenue; the Chief Counsel of the Internal Revenue Service; and the Chief of the Organized Crime and Racketeering Section, Criminal Division, Department of Justice. It shall be the responsibility of the Council to formulate a national strategy for the elimination of organized crime. The Council shall meet at the call of the Attorney General.

RICHARD NIXON.

THE WHITE HOUSE, *June 4, 1970.*

PRESIDENTIAL DOCUMENTS: TITLE 3—THE PRESIDENT—EXECUTIVE ORDER 11396

PROVIDING FOR THE COORDINATION BY THE ATTORNEY GENERAL OF FEDERAL LAW ENFORCEMENT AND CRIME PREVENTION PROGRAMS

Whereas the problem of crime in America today presents the Nation with a major challenge calling for maximum law enforcement efforts at every level of Government;

Whereas coordination of all Federal criminal law enforcement activities and crime prevention programs is desirable in order to achieve more effective results;

Whereas the Federal Government has acknowledged the need to provide assistance to State and local law enforcement agencies in the development and administration of programs directed to the prevention and control of crime;

Whereas to provide such assistance the Congress has authorized various departments and agencies of the Federal Government to develop programs which may benefit State and local efforts directed at the prevention and control of crime, and the coordination of such programs is desirable to develop and administer them most effectively; and

Whereas the Attorney General, as the chief law officer of the Federal Government, is charged with the responsibility for all prosecutions for violations of the Federal criminal statutes and is authorized under the Law Enforcement Assistance Act of 1965 (79 Stat. 828) to cooperate with and assist State, local, or other public or private agencies in matters relating to law enforcement organization, techniques and practices, and the prevention and control of crime:

Now, therefore, by virtue of the authority vested in the President by the Constitution and laws of the United States, it is ordered as follows:

SECTION 1. The Attorney General is hereby designated to facilitate and coordinate (1) the criminal law enforcement activities and crime prevention programs of all Federal departments and agencies, and (2) the activities of such departments and agencies relating to the development and implementation of Federal programs which are designed, in whole or in substantial part, to assist State and local law enforcement agencies and crime prevention activities. The Attorney General may promulgate such rules and regulations and take such actions as he shall deem necessary or appropriate to carry out his functions under this Order.

SEC. 2. Each Federal department and agency is directed to cooperate with the Attorney General in the performance of his functions under this Order and shall, to the extent permitted by law and within the limits of available funds, furnish him such reports, information, and assistance as he may request.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *February 7, 1968.*

THE WHITE HOUSE—MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES, MAY 5, 1966

Organized crime constitutes one of the most serious threats to a peaceful and prosperous society. It drains untold millions of dollars yearly from our national wealth. It carries corruption and violence in its wake. It erodes respect for the law.

The Federal investigative agencies can be proud of their accomplishments during the past several years in identifying and amassing evidence against the leaders of organized crime in this country. The success of the Department of Justice in securing indictments and convictions in organized crime cases is due to the ability of your many separate investigative units to work closely together toward a common goal. You have demonstrated that this unified coordinated program of action can be effective in combating organized crime.

I have today stated my determination to continue and accelerate this priority program.

To add further strength to our efforts, I have asked the Attorney General, as the Nation's chief law enforcement officer, to act as a focal point of the Federal Government's attack on organized crime.

I want each of you to give him your help and support.

To accomplish our purposes, each investigative unit in your department or agency participating in the drive against organized crime should:

Carefully review its current organized crime programs and present detailed status reports to the Attorney General, with emphasis upon allocation of personnel and upon suggested areas of new and additional investigation.

Report periodically in detail to the Attorney General on the progress of its organized crime investigations, showing for each current or proposed investigation the planned area of inquiry, the number and type of personnel assigned, and the expected prosecutive potential.

Establish direct lines of liaison with the Department of Justice to enable the Attorney General to carry out his responsibility for directing this program.

To uproot the menace of organized crime from our society, we must work closely together, attain new levels of cooperation and match our will with effective action.

LYNDON B. JOHNSON.

ORGANIZED CRIME—YOUR SILENT PARTNER

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, one of the indispensable elements in an effective and overall effort against organized crime is the need to make the general public aware of the great harm caused by organized crime through its many nefarious activities. Over the past couple of years the National Chamber of Commerce has compiled a record of disseminating vital information on this threat, which record few if any private groups in the country can match.

Recently, the national chamber produced a speaker's packet on this subject. The packet contains a copy of a speech given by Mr. Louis Scalzo of the Law Enforcement Assistance Administration, four slides depicting the structure, associations, and activities of organized crime, and instructions on the use of the slides including statements accompanying their showing.

Because of their great value in increasing public awareness about this menace, I insert the aforementioned papers for the benefit of my colleagues:

ORGANIZED CRIME—YOUR SILENT PARTNER

The following pages of copy can be used with the four slides entitled, "Organized Crime—Your Silent Partner."

It is recommended that the person making the presentation use as his notes the wording on the slides. If the outline is read, be sure to read it slowly and point out on the screen where the various areas of operation are located.

After you have finished making the points concerning the fourth slide, put the third slide back on the screen so that it can be seen by the audience during the discussion.

The slides can be seen even though the normal house lights are on.

Normally, the slide presentation will take from 15–20 minutes which allows time for a few questions or additional remarks.

Pass out the sheet entitled, "Organized Crime—Your Silent Partner," following the presentation and before the discussion.

For those who want additional information, the "Deskbook on Organized Crime" is available through the Local Chamber or the Chamber of Commerce of the United States. Hold up a copy for everyone to see.

For additional information for the individual showing the slides, a copy of a speech made by Louis Scalzo of the Organized Crime Programs Division of the Justice Department is enclosed.

ORGANIZED CRIME—YOUR SILENT PARTNER

(By Louis Scalzo)

Distinguished guests, ladies and gentlemen, it is indeed a pleasure to be here with you today. I would like to thank you for giving me the opportunity to share some ideas regarding the subject of organized crime.

Recently, in a discussion a key law enforcement official in a Western state was asked to comment on the subject of organized crime. He responded to the request by noting for the record that organized crime did not exist in his state. The truth of the matter, verified by a number of experienced police officials and the President's Task Force Report on Organized Crime, was that the state in question had a very serious organized crime problem. Perhaps you have talked to key officials who have expressed the same viewpoint relative to areas wherein there are indications of organized crime.

The negative attitude which I have described has been observed on many other occasions. It tends to indicate that perhaps it would be appropriate at the onset to ask this question: What is organized crime?

The answer of the police officer in the Western state referred to did not emanate from corruption or criminality. Strangely enough, it stemmed, in large measure, from the police officer's failure to obtain all of the facts concerning organized crime.

It seems to me that you here are concerned with formulating a definition of organized crime. As businessmen, you are undoubtedly worried about the penetration of legitimate business organizations by hoodlums through the use of criminal techniques and the investment of money gained through illegal businesses operated by organized criminal groups. You have been informed concerning this danger by your trade associations and your local Chambers of Commerce. But what is organized crime exactly? What is it that is penetrating businesses like your own? What is it that is forcing many honest businessmen to the wall?

There is a danger of oversimplifying a definition of organized crime. It is much more than one small group controlling a form of criminal conduct. As a point of departure, I would like to invite your attention to what I consider a very helpful definition of organized crime. It is contained in the Safe Streets Act of 1968. As you know, the Safe Streets Act is the legislative framework for the massive Federal aid program to States and local governments.

The definition is brief and to the point.

"Organized crime" means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loansharking, narcotics, labor racketeering, and other unlawful activities of the members of such organizations.

Note that the definition refers to certain criminal activities; primarily gambling, prostitution, loansharking, narcotics, and labor racketeering. In this regard, two key elements appear. (1) These forms of crime are usually intricately organized, and (2) they operate in secret with a large measure of protection.

The definition seems clear enough; however, a failure to fully appreciate this definition seems to persist.

The failure to fully understand organized crime and the nature of the threat posed stems from a number of reasons. Perhaps the main reason is that organized crime operates over long periods of time in an atmosphere of relative secrecy. For the most part, organized crime continues without complainants. Crimes are committed, but they are victimless in one sense. If there is a victim, he is usually a willing victim. Many police officials conclude that the absence of complainants means the absence of organized crime, when nothing could be further from the truth.

GAMBLING

An illustration of this is found in gambling situations. A sports bettor, for example, does not report his bookie. In fact, he does not complain at all as a general rule. The only exceptions to this rule are those situations where the bettor is threatened or is otherwise endangered. In some situations, he will report these threats to the police, but as a rule, the relationship of bettor and bookie continues without disclosure.

In the fall of 1968, a young family man in a midwestern city decided to make wagers on certain sporting events. He has accumulated several thousand dollars in savings over the years. He was doing well in business. However, he decided to establish a credit betting relationship with a La Cosa Nostra bookie introduced to him by an associate. His pattern of betting increased. He also began to lose. He lost all of his savings. Then he began to borrow large sums from loan companies to pay off his losses. Finally he reached the end of his financial resources. At this point, the bookie extended loanshark credit to the bettor. The interest rate for one loan amounted to 520% per annum. He managed to pay a few of these loans before being overwhelmed by the heavy interest payments. But then he failed financially and was unable to pay the bookie or his other creditors. It was at this point that threats and extortion were used to indicate that the organization would take extreme measures in an effort to collect from this bettor. Because of the fear and apprehension generated by the threats, and this bettor's inability to pay the bookie, the bettor turned to Federal authorities for assistance. A successful case based upon extortion and interstate wagering activity was developed against the bookie. The story which I have related is the exception rather than the rule. For the most part, bettors cooperate with their bookies in every way possible. They usually find the wherewithal to pay their gambling debts when their lives are threatened.

In many cases businessmen who have lost heavily to organization bookies have found that they have acquired undesirable silent partners telling them who they must buy their supplies and equipment from. Hotel and restaurant owners have found an organization representative telling them where to purchase meat and produce—where to obtain their linen supplies. In many cases such victims have found that they have new partners to share the profits of their businesses.

Of course, running along here we have the element of fear which also permits organized crime to operate in an atmosphere of secrecy. It is extremely difficult to locate witnesses who will testify against organization bookies. In many cases, it is the fear of violent death as the penalty for cooperating with law enforcement authorities. I have never been an advocate of capital punishment as a deterrent to crime; however, it is a well-established fact that the fear of death keeps many witnesses from testifying.

At this point you may ask whether sports bookmaking is a facet of organized crime even though the definition which I have referred to includes gambling as one element of organized crime.

In order for a bookmaking organization to operate, it must be intricately organized. A bookie who takes a bet in New York City on a race in Kentucky must have fast results to service his bettors. You should ask, "How does a bookie in New York City obtain the results of a race immediately after the race is completed in Kentucky?" He necessarily has to use interstate wire communication facilities in violation of Federal law. This takes personnel—personnel in different parts of the nation because the bookie is taking bets on tracks all over the country and on sporting events occurring in various parts of the country.

Another element relates to the receipt of odds information. Where does a bookie obtain the latest odds information? The answer is that dissemination of this data is carried on by a complex process involving large numbers of people. Bookies have access to the latest odds information. This data is supplied by an efficient organizational setup.

In order to continue in business, a bookie must have the capacity to lay off some of his bets to balance his book. When he receives a large number of bets on a particular team or horse race, he, in turn, bets with large-scale gamblers to offset the heavy emphasis on the particular team or race. In a sense, it is a form of reinsurance against gambling losses. These financial arrangements involve careful organization and credit relationships between individuals in many locations.

Illegal gambling debts are not collectible through legal process. The State of Nevada does not even permit the collection of legal gambling debts. Nevertheless, most gambling relationships are based on credit. *To be successful, a wagering business must collect. Bookies play for keeps*. This fact was brought out in the experience of the bettor I described who lost his life savings.

The collection of gambling winnings is a matter of prime concern to the bookie. He is engaged in his business for a profit. To make certain that these profits are realized, the gambling organization has established machinery to coerce payment. It is merely a case of utilizing or threatening to use an existing segment of their wagering business—the enforcer. In place of legal process and legal means, we find extortion. It is a classic pattern found often in gambling cases.

Other disputes in the world of gambling are very often solved in the same way—through the use of force and fear. There have been many murders based on gambling disputes. It would be a mistake to conclude that a gambling operation does not employ strongarm enforcers or call upon this type of criminal to maintain this form of organized crime.

Conservative estimates by experts place the gross take from illegal gambling at the $20 billion mark with net profits amounting to about $6 or $7 billion. A raid on just twelve gambling locations in a major city turned up records indicating an annual $285 million gross. Taking into consideration that the twelve locations represented only ⅓ of this city's known gambling spots, officials estimate a yearly take of close to $1 billion in that city alone. It is estimated that at least $2 billion yearly is used to corrupt the criminal justice system to permit this form of organized crime activity.

LOANSHARKING

The loansharking racket, or the loaning of sums of money at illegal interest rates in situations where the health of the borrower is offered as security for the loan, is another manifestation of organized crime. This is a multi-billion dollar business, second only to the gambling racket. As I have stated, the borrower understands that his health is security for his loan. The understanding of the borrower is clear enough to remove the need for any legal evidence of the debt. The oral promise alone is all that is necessary. Here again we find that intricate organization is essential to operate the business. Large sums of money are involved. We must ask, "How are these large sums made available?" "Where do they come from?" The answer is that these large sums are the fruits of organized crime. They are distributed to those who do the lending. The rate of interest on these loans runs from five to twenty percent weekly. To operate the loanshark rackets, collectors are necessary. They are usually the most vicious of criminals who will stop at nothing to collect for their masters. Numerous extortion cases have told the story of their work.

Loansharking has been used extensively to penetrate legitimate business. It is not always linked to gambling losers. Often the acute financial need to meet a payroll, or to tide a business over a slump season entices a businessman to seek what appears to be the easy way out.

The shark does not want the principal back. He wants the high interest payment of five to twenty percent weekly. When payments stop, the borrower's business is endangered or lost to the lenders.

Frequently, a person in debt to a shark is told he can settle his obligations by stealing from his employer, by setting up a burglary or hijacking, by adding a racketeer to his payroll, or by shipping stolen goods. These are just some of the forms of penetration of legitimate business by loansharks. Here again the borrower is not usually one who complains, and as a result, the loanshark racket operates in relative secrecy.

NARCOTICS

In the area of narcotics, it is well-established that the importation and distribution of heroin requires an intricate organizational pattern. The business involves importation of the drug, wholesaling, and retailing. Large amounts of cash and international connections are necessary. Conservative estimates place the heroin trade at $350 million annually with a profit of about $21 million going to the importers and distributors.

Here again we have serious crimes, but we do not have complainants as we do in assault and mugging cases. A narcotics user does not report his pusher. Like gambling and loansharking, this form of crime is hidden and is rooted out only if the mask is removed and the real nature of the operation is exposed to the view of the public.

PROSTITUTION

The prostitution racket is another illustration of a criminal activity which produces few complainants. Those engaged in this racket operate with a cloak of secrecy and protection.

LABOR RACKETEERING

Union locals in a number of sectors of business and industry are under the effective control of the underworld. Some companies have succumbed to the lure of a sweetheart contract whereby workers obtain far less than they could have through legitimate bargaining. In return, the employer pays a fee to the racketeers. In some cases, employers cooperating with labor racketeers have permitted gambling activity, loansharking, or other crimes on company property. This is another form of penetration. We find very few complainants from those cooperating with labor racketeers or from those who succumb to the extortionate practices of corrupt unions.

ROLE OF LA COSA NOSTRA

A logical question to ask at this point is, "Where does La Cosa Nostra fit into this scheme?" Law enforcement officials have verified that it has a key role.

It is helpful to think of organized crime as a large circle. The core of the circle is comprised of La Cosa Nostra. This organization engages in the unlawful activities which I have described. It meets all of the criteria of the definition of organized crime. The group is intricately organized, well-disciplined, and is engaged in supplying the illegal goods and services we have described. The tentacles of La Cosa Nostra have been identified in many areas of the nation. The organization has built extensive insulation for its leaders to protect themselves from prosecution. Each La Cosa Nostra group, or family as they are called, has enforcers which are used to instill fear and discipline into organization members and in the victims of the organization.

If there are elements of La Cosa Nostra in a community, that community has a serious organized crime problem. However, the absence of La Cosa Nostra should not lull a community into a false sense of security nor should it be used as a basis for concluding that there is no organized crime in that community. If you erased the core segment of the circle of organized crime, you would still have all of the rest. You would still have murders, extortion, bribery, corruption, and all that necessarily go along with the various manifestations of organized crime which we have discussed. There is a grave danger of misunderstanding the complexity of organized crime and the forces that permit it to exist. It is not the property of any nationality or race. It is true that La Cosa Nostra is Italian. However, it is not the totality of organized crime. Organized crime may be compared to an iceberg. We tend to see a segment of it; that segment above the surface, but an immense danger to our society is posed by the identified manifestations of organized crime—the corrosive elements hidden below the surface.

I think that you will see that oftentimes it is possible for you to determine whether organized crime is a threat in your community or a threat to your business. You can answer basic questions about organized crime and its relationship to your own community. Do you have a heroin problem in your community? Hard narcotics is the domain of organized crime. Are bookies operating freely at sporting events and on the premises of business property? Then we can reasonably be sure that large-scale criminal operations are involved. The bookie is merely the outward manifestation of a complex criminal organization operating unseen. Do we have loansharking operators in our communities? If we do, a little probing may reveal a serious organized crime problem. How widespread is the prostitution racket in your city? To what extent have unions been exploited by hoodlums?

SOME EFFECTS OF ORGANIZED CRIME

Are you affected by organized crime? This question must be answered with a loud affirmative. Most professional gamblers will admit that a bettor is a sucker, that is the odds are overwhelmingly against the bettor. Professional gamblers are taking billions from citizens willing to be suckers—from people who are eager to part with their money in gambling transactions. Consider the value of these dollars in terms of use in the fields of education, retraining of employees, housing, research, and social services generally.

Organized crime and corruption of public officials go hand in hand. Consider the insidious effect of such corruption on our criminal justice system and upon the attitudes of our young as they form their views of our system of justice. At a time when we are endeavoring to support and elevate law enforcement generally, corruption generated by organized crime is tearing away at it. It is like a bird whose right wing flutters to soar while its left beats its way downward.

Consider the fact that these criminals do not pay income taxes on their illegal profits. This means that each of us must pay that much more to pay their way in our society.

Consider the increased cost of services generated in industries wherein hoodlums have obtained a measure of monopoly control, such as in the garbage and trash hauling business, the vending machine business, and the nightclub business.

We do not realize it, but we are paying more when a corrupt union official drives prices up as a result of sabotage and extortion.

Consider the human loss as well as the loss of dollars generated by organized crime. When large numbers of individuals are engaged in organized crime activities, they are inflicting damage upon society while at the same time depriving society of the benefit of more constructive endeavors.

We must conclude that organized crime affects each of us directly and indirectly.

ROLE OF SAFE STREETS ACT

But how are we to penetrate the many disguises of organized crime? What can we do? For the very first time in our history, answers to these questions are coming.

I have mentioned the Safe Streets Act in connection with our definition of organized crime. This legislation was passed on June 19, 1968. Title I of the Act created the Law Enforcement Assistance Administration and set into motion the most meaningful program in the nation's history to assist states and local governments in their efforts to deal with the grave problems of crime.

A section of the Safe Streets Act provides that the Law Enforcement Assistance Administration and each of the State Planning Agencies created to receive Federal aid funds under the Act shall give special emphasis, where appropriate or feasible, to programs and projects dealing with the prevention, detection, and control of organized crime.

In brief, comprehensive state law enforcement plans required under the Act must address the problem of organized crime.

It is clear from the words of the Act that Congress saw law enforcement as primarily a state and local responsibility and that is how the Law Enforcement Assistance Administration program is being administered.

As a result of the seed money appropriated by Congress, states are beginning to look closely at the manifestations of organized crime within their borders. Oversimplifications of the problem are being rejected in favor of careful analysis and with firm efforts to root out the evil. States are recruiting and training specialized personnel, statewide and interstate intelligence systems are being formed, specialized law enforcement units or task forces similar to those now effectively employed by federal authorities are being formed on the state level, and many states have created organized crime prevention councils comprised of individuals knowledgeable in the prevention and control of organized crime.

In combating this menace, it has become necessary to initiate unique countermeasures. Law enforçement capabilities on all levels are being put to the test in this area.

Since we do not have complainants in this type of crime, it has become necessary to investigate and probe deeply to build cases. Organized crime prosecutions can be developed only after careful and painstaking investigative and prosecutive efforts. Where success has been realized, it has been brought about by honest law enforcement and citizen awareness, from pulling away the mask of organized crime with both hands. In the context of this meeting today, consider the numerous possibilities for action. What would happen if every business and professional organization made a determined effort to recognize and combat the various phases of organized crime? That is, consider what would happen if each business or trade association assumed the responsibility for:

(1) establishing a firm working relationship with law enforcement agencies and acted as an intermediary between member companies and law enforcement groups;

(2) what results would follow if each trade association made a concrete effort to act as a clearinghouse for organized crime intelligence information?

(3) if each business and trade association served as a prime mover in initiating complaints against those involved in organized crime;

(4) consider the effect if business groups took active and helpful stands on proposed legislation designed to fight organized crime or if these important groups made a determined effort to educate the business community concerning the real nature of organized crime and its threat to the community and the nation;

(5) what type of impact would be made if each business and trade association adequately policed their own membership and imposed moral sanctions on hoodlum-controlled elements in an industry?

(6) what would happen if businessmen probed deeper to ascertain the actual sources of capital being used to buy franchises or business interests?

Some of these steps are being taken by business, but much has to be done. In some instances, business interests are unwittingly tolerating the penetrations of organized crime. This attitude betrays business and our society into the hands of organized crime as effectively as a subtle conspirator would.

The big need is to cultivate an awareness of the real nature of the various manifestations of organized crime. Instead of plucking twigs from the limbs of this evil, we must root it out by realizing that it is much more than just a handful of Hollywood type hoodlums that must be locked up. We must recognize the many signs of organized crime in our midst, brand them as such, and insist that they be eradicated. Limited and narrow views of this threat must be enlarged to embrace a more accurate definition of organized crime. When this initial step is accomplished, we will be in a position to address the problem effectively.

Organized Crime—Your Silent Partner

SLIDE 1

In order to understand organized crime, it is necessary to become familiar with its many areas of activity. There are a number of criminal groups engaged in such activity.

La Cosa Nostra or the Mafia is one criminal group engaged in what is known as organized crime. It consists of 3,000-5,000 family members in an estimated 24 families. Original family members were of Sicilian descent.

The La Cosa Nostra family organization is headed by a Boss whose position is analogous to a corporation president. His authority in the family is virtually absolute. However, he may be overruled by a Commission which is comprised of the Bosses from the more powerful families.

The Commission is the ultimate authority to members of La Cosa Nostra. It serves as a combination legislature, supreme court, and board of directors. Each Boss has a *Consigliere* or counselor. The position of the Consigliere is held by a trusted advisor. On the same level as the Consigliere is the *Underboss* who acts as a buffer or insulator between the Boss and the rest of the family. The position of Underboss may be compared to that of an executive vice president.

Next in line are the *Caporegimes* or Lieutenants. These positions might be compared to those held by sales managers or plant supervisors. They also serve as buffers between top and lower level personnel. Each lieutenant has one or two trusted associates called "*button men*" who deal with the "*soldiers*" on the lowest level. Soldiers in turn may employ other street-level personnel who are not family members.

There are other organized crime groups who operate in a similar fashion.

SLIDE 2

Organized crime "business" enterprises are often directed by individuals who are well educated and highly qualified through training and experience. They are accustomed to huge profits. It is estimated that hundreds of thousands of individuals directly and indirectly are employed by the La Cosa Nostra and other organized crime groups. The main areas of organized crime activities include gambling, loansharking, labor-business racketeering, narcotics, hi-jacking, arson, fencing stolen property, bankruptcy fraud.

Each element of organized crime requires a high degree of organization. Like legitimate business entities, organized criminal groups are designed to continue over long periods of time without interruption. Individuals are removed but the illegal business entity usually continues.

We must recognize that organized crime operates in an atmosphere of relative secrecy because this form of crime does not usually produce complaints. As a general rule, a bettor does not report his bookie. Those borrowing from loansharks do not ordinarily volunteer testimony relating to their dealings with loansharks, the users of hard narcotics do not willingly cooperate with law enforcement authorities, and those cooperating with labor racketeers usually conceal the facts relating to such cooperation. These patterns of non-cooperation, coupled with the fear of testifying, are usually found in each segment of organized crime.

The men who head these various segments of organized crime are insulated from prosecution. Layers of subordinates protect the Boss. This is one of the reasons why it is difficult for law enforcement officials to eliminate organized crime. The leaders of the major organized crime activities might be considered jobbers or wholesalers in terms of legitimate business. They in turn market their services through others who might be compared to retailers.

SLIDE 3

The "retailers" may be your "friendly" bookie, dope peddlers, number writers, collectors, fences, dishonest officials, oddsmakers, corruptors, dishonest businessmen, dishonest lawyers and accountants, labor and business racketeers, arsonists, fences, pimps, embezzlers, shake-down artists, prostitutes, and others marketing illegal goods and services which people buy.

SLIDE 4

Organized crime affects everyone. Most professional gamblers will admit that a bettor is a sucker, that is, the odds are overwhelmingly against the bettor. Professional gamblers are taking billions from citizens willing to be suckers—from people who are eager to part with their money in gambling transactions. These billions could be used constructively on behalf of society instead of supporting those engaged in criminal activities.

Organized crime and corruption of public officials go hand in hand. This corruption has an insidious effect on our criminal justice system and upon the attitudes of our young as they form their views of or system of justice.

Organized crime figures do not pay income taxes on their illegal profits. This means that each of us must pay that much more to permit their participation in our society.

It affects the housewife who must pay a few cents extra each day to have her trash hauled by a company controlled by criminals.

It affects the teenager who pays a few cents more for a hamburger and a glass of milk because the vendor must buy his supplies from companies controlled by criminals.

It affects the college student and lawyer who pay a few cents more for their books, because the books have at some stage been hauled by a truck operator who must, in order to maintain labor peace, buy his tires from a company controlled by criminals.

It affects all the others who are required to spend a quarter here and a dollar there because a businessman, somewhere in the chain from raw materials to finished product, must pay a tribute to criminals.

DESKBOOK AVAILABLE

A Deskbook on Organized Crime has been compiled and published by the National Chamber. The Deskbook leads off with a description of the severity of the challenge that the organized underworld presents to the business community. This is followed by tab sections delineating the major organized crime threats or points of penetration that should be anticipated by business, the symptoms that often will tip off an alert management to on-coming trouble, and the phone numbers of agencies that could be expected to help firms beat back underworld incursion. The last section of the 75-page booklet offers a program for action—a plan that maps out sound defensive or preventive measures every company can implement to minimize exposure to the previously mentioned threats.

The Deskbook is available at $2 per copy or bulk rates through your Local Chamber of Commerce or the Chamber of Commerce of the United States, 1615 H Street, N.W., Washington, D.C. 20006.

PROTECTION FOR THE INVESTOR

(Mr. MOSS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MOSS. Mr. Speaker, I am today introducing a bill that is designed to protect the customers of registered securities brokers against possible loss arising from the insolvency of brokerage houses. Six of my colleagues on the Subcommittee on Commerce and Finance have joined me in introducing this legislation.

The bill that my colleagues and I are introducing today is the result of considerable work on the part of both the Securities and Exchange Commission and the securities industry task force on investor protection and I want to compliment the SEC and the industry on their efforts. This is a complex piece of legislation and it is, in my opinion, probably the most important securities measure to come before the Congress in 30 years.

In testimony before the Subcommittee on Commerce and Finance last week, the Chairman of the Securities and Exchange Commission and the chairman of the industry task force both supported the bill and we are introducing it substantially as they recommended. The only three changes of substance are as follows:

First, our bill would not permit loans to be made to brokers from the insurance fund when Treasury borrowings are outstanding.

Second, the authority to institute a transaction fee would be vested solely in the Securities and Exchange Commission.

Third, the availability of information and reports to the Congress and the public has been clarified.

I want to make it clear that my introduction of the bill does not in any way imply my personal commitment to any of its provisions. I am introducing it just as, several weeks ago, I introduced the separate industry and SEC proposals, because it embodies the best thinking of both the SEC and the securities industry on this subject at this time. While I do believe that insurance protection for individual investors is a matter of some urgency that should be dealt with in this Congress, I specifically reserve my right to offer amendments to the present bill as we proceed with our consideration of this legislation.

LEGISLATIVE REORGANIZATION ACT OF 1970

(Mrs. DWYER asked and was given permission to extend her remarks at this point in the RECORD.)

Mrs. DWYER. Mr. Speaker, the Congress of the United States, in common with its sister legislative assemblies throughout the world, is faced with the continuing need to preserve and enhance the understanding and respect of the people it represents both for the quality of its work and the adequacy of its procedures.

To the extent that the particular legislative body exists in a free society and is freely chosen by the people, the need is even more compelling. For the health and well-being of free societies is determined in large measure by the degree to which its people readily accept as just and equitable and binding the decisions of their lawmaking institutions.

It is within this frame of reference, I believe, that we should approach the pending legislation, H.R. 17654, the Legislative Reorganization Act of 1970. For it should be a matter of considerable concern to us, as citizens of the greatest free nation on earth and Members of what is often termed "the greatest lawmaking body in the world," that Congress is not always held in the highest regard by the people we represent.

No law, of course, can perfect the characters or enhance the wisdom of Senators and Congressmen. But laws can and must be designed to assure that, whatever our personal limitations, our resources of staff and information are adequate, our rules fair, our activities open to public scrutiny, and our procedures efficient and responsible.

As far as it goes, I believe H.R. 17654 moves in the direction of these objectives. It would:

First, provide Congress with new sources of information and research in the never-ending struggle to keep abreast of the increasingly complex world we live in, notably through the development of an automatic data processing system and expansion of the Legislative Reference Service into a Congressional Research Service;

Second, assure more democratic and equitable committee practices through appropriate changes in the rules of the House;

Third, encourage greater public awareness and understanding of congressional activities by providing for more open meetings of committees and for broadcasting, televising and photographing of committee hearings; and

Fourth, improve certain procedures in effect during House consideration of legislation, specifically with regard to readier availability of the language of proposed amendments and to consideration of nongermane amendments added by the Senate, so as to improve the capacity of the House to make reasoned judgments about legislative proposals.

Nevertheless, Mr. Speaker, I do not believe the pending bill goes far enough in the direction of the objectives we seek. Together with many of our colleagues, therefore, I look forward to the opportunity to consider and vote on the many amendments which are expected to be offered as debate on the bill progresses. I feel certain we can improve the legislation substantially, especially since the subject matter of most of the amendments are matters of daily concern to us and have been under formal consideration since the Joint Committee on the Organization of the Congress was established in 1965.

Four of the proposed amendments are of special interest to me, two of them dealing with House floor procedures, and I support them wholeheartedly. I shall judge the others on their merits as they are offered.

Of first importance is the proposal to record the names of Members as they pass through teller lines during Committee of the Whole House proceedings when a record vote is demanded by one-fifth of a quorum.

We are all, to be sure, all too familiar with the disturbing number of occasions when major public policy issues are decided in the House, for all practical purposes, by a handful of Members acting under a cloak of anonymity. I have never in my own mind been able to justify this practice. While nonrecord teller votes have ostensibly served the useful objective of speeding up House action, they have also discouraged greater participation in floor debate, denied to the people their right to know how their Representatives voted, and permitted the easy abdication of our responsibilities as Members of Congress.

The proposed amendment, while a compromise, appears to be a very workable and effective one. It will encourage greater attendance at times when decisions are made. It will make those decisions more broadly representative of the House. It will provide information our people have a right to expect. And it will encourage the acceptance of a responsibility we have no right to evade.

A second important amendment would require that conference committee reports be printed in the CONGRESSIONAL RECORD at least 3 days before floor consideration and that those reports be available on the House floor.

Here, too, the issue is one of the accepting responsibility. Few, if any, of our colleagues, Mr. Speaker, are so well-equipped that they can make informed judgments about complicated legislation without having adequate time to digest what is being proposed. Conference reports represent the last occasion on which the House can work its will on legislation. It is a time of crucial importance in the legislative process. And it is an opportunity we sacrifice when conference reports are brought to the floor under circumstances—especially during the final days of a session—which often make it difficult or impossible to know what we are doing.

The rightness and importance of a third amendment is, in my judgment, equally obvious and necessary. The disclosure of record votes in committee can be justified on the same basis as record votes in the House: the right of the people to know and the obligation of elected Representatives to hold themselves accountable for their actions. Committee decisions, while the first formal step in the legislative process, are often the most decisive, and I can imagine no justification for making those decisions secret.

Finally, Mr. Speaker, I shall support the amendment to guarantee adequate staff resources for minority members of committees. While custom and practice may differ as between committees, the needs of Members for information and reliable guidance do not. Moreover, the Congress of the United States is preeminently a political institution in the full sense of that often abused word. Almost every major decision we make is political in the sense that it results from the conflict of differing views and interests. Those views and interests must be fully expressed and considered if our decisions are to be fully rational. It makes sense, therefore, to equip ourselves with staff arrangements and resources adequate to the development of differing positions. And despite the best intentions and most generous cooperation of committee and subcommittee chairmen, it is a fact of congressional life that staff members responsible to the majority can seldom serve with equal effectiveness the special and differing needs of minority members.

It has been 24 years, Mr. Speaker, since the House considered so comprehensive a list of proposals dealing with its own inner life as those before us today. The Legislative Reorganization Act of 1970 completes, in some respects, the work of the act of 1946 which brought congressional operations into the postwar world and in that sense it is long overdue. But in other respects this bill can launch us successfully into a space age of problems so complex we can only now begin to grasp their outlines.

I hope our experience with this bill

will convince us that we canont afford to wait another 24 years before paying serious attention to the way we govern ourselves and our people.

CURTAIN OF SILENCE

(Mr. SCHERLE asked and was given permission to extend his remarks at this point in the Record.)

Mr. SCHERLE. Mr. Speaker, a curtain of silence and secrecy has been drawn across the public stage by OEO Director Donald Rumsfeld concerning the background of Richard Blumenthal, a 24-year-old White House aide whom Rumsfeld intended to appoint Director of the Volunteers in Service to America—VISTA.

Repeated calls were made to the offices of top White House aides, John Ehrlichman, Daniel Moynihan, Blumenthal's former employer and to the White House Congressional Liaison Office—to no avail. They all maintained their inability to provide even minimal information about Blumenthal with the same refrain:

> You will have to talk to Don Rumsfeld if you want any information on him.

The Office of Economic Opportunity, however, was unwilling to make any facts available concerning Blumenthal.

This is a blatant breach of President Nixon's avowed support of the public's right to know. This clandestine caper is just the latest chapter in a history of similar incidents. Numerous candidates for top positions in the administration have secretly harbored a desire to sabotage the goals of the Nixon administration.

I strongly believe in the right of all Americans to dissent honestly from Government policy, but it should be repugnant to anyone's ideals, liberal or conservative, to accept a responsible position in the administration with a fat paycheck, and then to play the role of a spoiler.

Intensive investigation into Blumenthal's background revealed that he was formerly a reporter for the Washington Post, then taught English in a Washington, D.C., high school where he produced for his adolescent students a highly controversial play which many found repulsive.

While at the White House, Blumenthal told a Life magazine reporter that, if he were not there, at least part of his "considerable intelligence probably would be employed protesting the political system which now keeps so many so distant." He also bragged that among his chief responsibilities at the White House was making sure that a Bible was prepared for the swearing in of District of Columbia Commissioner Walter Washington.

The saboteur's true feelings about the Nixon administration surfaced publicly only after word got out that over 120 Members of Congress had sharply criticized his appointment. Now that Blumenthal has been flushed and his true position revealed, he is sourly repudiating the hand that fed him. He says:

> He would be unable to defend such actions as the U.S. incursion into Cambodia and would find it uncomfortable taking the Administration's side on several policy questions.

Now that Blumenthal has "rejected" the offer to be VISTA chief, those White House aides including Rumsfeld should abandon any thoughts of reappointing him to the White House staff or any other job in the Nixon administration.

There are plenty of qualified, capable people who can and will be loyal to the President. The soft-headed liberals in the administration should not compromise with arrogant antagonists whose known record is opposed to the administration. The morale of dedicated people, both Republicans and Democrats, who voted for the Nixon philosophy should not suffer for those who seek to impose their own brand of Government.

Numerous situations of this type shows once again the need for the appointment of concerned people who have the will to support the administration.

WORDS DO NOT EFFECTIVELY FIGHT CRIME

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, as chairman of this body's Select Committee on Crime, I have long been concerned with the role the Federal Government can and must play in helping local jurisdictions fight crime. In the hearings we have held across the country, we have heard over and over again the same plea from local officials: Give us the help we need to fight our problems.

When the Congress passed the Omnibus Crime Control and Safe Streets Act of 1968, we made a major commitment to help these financially pressed officials fight crime. Yet the funds provided the Law Enforcement Assistance Administration were never enough to supply the many worthy programs of local officials. When we began deliberations on fiscal year 1971 authorizations for LEAA, I urged a $1 billion authorization to clearly demonstrate that our concern for the problem of crime is more than mere rhetoric.

Although the House has already acted on the LEAA authorization, I would like to include in the Record at this point an article by me which appeared in the American County, the publication of the National Association of Counties, which details my reasons for the $1 billion appropriation request.

The article follows:

Rhetoric Versus Cash for Crime Control

(By Representative Claude Pepper)

In the fight against crime in America, there is more rhetoric than cash flowing to the cities and counties of the country.

If the problem were not so urgent, if an effective solution were not so necessary, it would be trite to say that what most local governments need to fight crime is more financial assistance.

Mrs. Gladys Spellman, a county commissioner in Prince George's County, Md., emphasized the problem in even more understandable terms during a hearing the House Select Committee on Crime held some months ago.

"We have quite a few ideas," she said. "But unfortunately, you can't fight crime with ideas. There is that other factor that enters into it, M-O-N-E-Y, you know."

We do know.

It is this conviction which leads me to urge the Congress of the United States to more than double the Administration's request of $480 million for the fiscal year 1971 budget of the Law Enforcement Assistance Administration (LEAA). The $1 billion is the *minimum* amount we should spend on what we all acknowledge to be one of the nation's most important priorities.

This is not to say that I equate the simple allotment of more money to LEAA as some sort of wonder cure. We must also consider the changes in the disbursement of LEAA funds, changes which can be accomplished within the basic framework of the agency, as defined by Congress.

These changes were implied by Attorney General John N. Mitchell when he addressed our committee last year. Quoting from a few brief paragraphs of that testimony:

"Rep. Pepper. Mr. Attorney General, some of the witnesses who have appeared here from municipalities, mayors of some of our large cities, have indicated their belief that the cities under the LEAA program are not getting quite as large a share of the LEAA money as they should.

"Attorney General Mitchell. All this, of course, is a directive of Congress as to how we siphon the money from the federal government through the states. It involves primarily the block-grant concept, based on plans submitted by the state planning agencies.

"There are other funds in LEAA which provide the Administration with more discretion, and, as you probably know, we have, to the extent that those monies are available, made them available to the larger metropolitan cities, where the need was greater."

The Attorney General was alluding to the discretionary funds held by the LEAA for direct grant applications—a route that bypasses regional and state planning boards and awards grants directly to the applying governmental body.

Unfortunately, the money in this fund is and continues to be too little to meet current needs and demands. Last year's fund totaled a mere $40 million in a budget of some $268 million for LEAA.

This is why I recommend that of the proposed $1 billion appropriation for LEAA, $650 million be disbursed through existing procedures—alone a significant increase over the agency budget request of $480 million—and that an additional $350 million be added to LEAA's discretionary funds, to be spent for direct grants to country and city governments which take the initiative to develop programs on their own.

This would allow us to spend more money for crime control and prevention measures of regional and state impact through the existing planning boards, and also permit funds to be channeled for innovative projects affecting police, courts, corrections, and other areas on a more specialized basis.

LOOKING TO NEW URBAN NEEDS

It is important to consider here that the characteristics of many counties across the country have changed dramatically through urbanization.

As Mayor Carl Stokes of Cleveland, Ohio pointed out in testimony before our committee:

"We have taken the correctional institutions, the courts, the juvenile courts, the trial courts, and the appellate courts, our federal prosecutors, the probation departments, the parole departments . . . representatives of the private sector . . . and have put all these people together to do what was indicated earlier—to develop an action program.

"We have had some very small successes. We don't know just how effective it is going to be over the long run, but we intend to stay with it as long as we can."

What the officials in Cleveland and in all of surrounding Cuyahoga County have banded together to do is to make application for crime funds for a wide range of programs and services which, in concert, will have a significant impact on the crime problem in that county.

Mayor Stokes and the other leaders in Cuyahoga County took these steps after a mere $40,000 in LEAA funds was awarded to Cleveland from a total allocation to the state of Ohio of more than $1.5 million!

We also found signs of countywide cooperation and pooling of effort in cities the committee visited—Boston and Miami, particularly.

TESTIMONY FROM ACROSS THE NATION

Another argument in favor of an expanded discretionary fund within LEAA came when the committee traveled to Boston and heard from Mayor Kevin White. Massachusetts is recognized to have one of the ablest state administrators of LEAA funds in Sheldon Krantz; but as Mayor White pointed out:

"In Massachusetts alone, the Governor's Committee on Law Enforcement has approximately 50 employees and consultants; the whole program in Washington has just under 100. So I hope two things will come from this committee—broader knowledge and a more immediate, direct response to the problem of public safety in the American city."

These same thoughts were expressed by Professor James Vorenberg of Harvard Law School who served as Director of the President's Commission on Law Enforcement and Administration of Justice, the Commission which originally suggested the creation of the agency which became LEAA.

"I think it is nothing less than a disaster in the crime control area that Congress funneled the great bulk of these funds through the states rather than making grants directly to the cities. I think that is turning out to be so in a number of large cities, that all the problems I talked about of a bureaucracy at the local level are being repeated twice: first the state is hiring people and scraping off some of the funds at that level for administration, and then the funds are filtering through the state level down to the city level."

Bills have been introduced to Congress to cut drastically the percentage of LEAA funds available to states in block-grants. But any concerted effort to change the LEAA funding system is likely to cause the kind of political debate, and ensuing bitterness and delay, that the immediate concern of improving the criminal justice system can ill-afford.

This is what my recommendation seeks to avoid. In this time of great public concern over crime, it would be a mistake, I believe, to channel all LEAA funds into today's high-crime areas. It would be both unwise and dangerous to neglect fighting crime in areas where the problem has not yet become epidemic.

To accomplish this, the term "law enforcement" should be broadened to include the courts, corrections, probation, rehabilitation, and related social services.

I further recommend removing the prohibition against funding programs which ask for more than one-third of the LEAA grant for personnel costs.

There is no disagreement, that, ideally, a police or sheriff's department should attract the highest caliber personnel, preferably persons with college training and backgrounds in criminology. Yet there is a city in my home state of Florida which is planning to upgrade materially its police force by providing for lateral entry from other departments and by seeking college-trained personnel. The department would, of course, offer these men significantly higher salaries than those normally paid police officers.

Yet is is just this type of program, which should be encouraged, that may not receive LEAA funds because such a progressive change may require more than one-third of the grant to be spent for personnel.

It is time that we encourage, rather than impede, such far-sighted goals.

I don't need to tell you that the most overlooked governmental unit in the attempt to secure federal funds is the *county*. Many believe—and act on this belief—that the courts, corrections, and probation services are generally state functions. In innumerable instances, this is simply not the case.

In my own district, for example, the Metro-Dade County, Fla. government administers an 11-story jail which is presently well over capacity, a county home for delinquents, a dilapidated youth home for detaining juveniles, a barracks-like stockade and a metropolitan court with an ever-increasing backlog problem.

Municipalities in the Miami metropolitan area experience financial difficulties maintaining, let alone upgrading, their police forces and courts.

There are many fledgling programs on a county scale in need of financing. A group of senior citizen volunteers, for example, saved Metro-Dade County an estimated $500,000 through a "release on recognizance program" which removes prisoners from the crowded jail and checks on their progress prior to trial. Yet the volunteers receive no funds, not even for transportation. There is the very real possibility that without funds, which the county is unable to provide, this volunteer-action effort may have to be disbanded.

We heard, to, in Miami from State Attorney Richard Gerstein, past president of the National District Attorney's Association, who said the Association's executive board considered ". . . LEAA a total failure insofar as prosecutors are concerned."

Statements such as Mr. Gerstein's clearly place in focus the piece-meal approach that is being taken toward a task which must involve a massive infusion of funds.

The county prosecutor's office, state and county correctional programs, the public defender's office, the improvement of court administration—these are areas where LEAA has yet to make any real impact.

A $1 billion commitment on the part of the federal government to be spent on programs affecting all elements of the criminal justice system is more than necessary, *it is imperative*.

Such is the scope of the challenge before us.

IMPORT CONTROLS A NECESSITY

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, I represent one of the Nation's manufacturing centers; it is not the largest of such districts in the country nor is it the smallest. My western Pennsylvania congressional district has a mix of heavy and light, big and small, old and new, labor-intensive and highly-automated industries. We are, in short, what might be called a typical American manufacturing community.

Across-the-board and to a man, the people of the 22d Congressional District of Pennsylvania are justifiably concerned with their position in the economic scheme of things due to the growing influx of manufactured goods into the United States. That influx is not restricted to textiles and leather goods—it crosses the gamut of American industrial production.

Reflecting this concern and the broader, national concern of protecting the American workingman's livelihood, I have introduced 15 bills in this Congress which have been forwarded to the Ways and Means Committee. Those bills are:

H.R. 3—To provide for orderly trade in iron and steel mill products;

H.R. 2124—To amend the Antidumping Act of 1921;

H.R. 2508—To impose quota limitations on imports of foreign residual oil;

H.R. 2509—To encourage the growth of international trade on a fair and equitable basis;

H.R. 2510—To amend the definition of "metal-bearing ores" in the Tariff Schedules of the United States;

H.R. 2511—To provide for orderly marketing of flat glass imported into the United States by affording foreign supplying nations a fair share of the growth or change in the U.S. flat-glass market;

H.R. 2512—To regulate imports of milk and dairy products;

H.R. 2513—To amend the Tariff Schedules with respect to the rate of duty on whole skins of mink, whether or not dressed;

H.R. 2514—To provide for orderly trade in textile articles;

H.R. 2521—To amend the Tariff Schedules with respect to the rate of duty on paper industries machinery;

H.R. 3330—To provide for orderly trade in iron ore, iron and steel mill products;

H.R. 7174—To provide for orderly trade in footwear;

H.R. 13766—To provide for the orderly expansion of trade in manufactured products;

H.R. 14102—To encourage the growth of international trade on a fair and equitable basis; and

H.R. 17498—To provide for orderly trade in textile articles and articles of leather footwear.

The thrust of the bills, Mr. Speaker, is to do mainly one thing: Insure that the American workingman and American industry is not driven to the wall because of the theoretical and textbook understanding of the real world of commerce, manufacturing and employment by a group of free traders masquerading as diplomats in the U.S. Department of State.

The bills I have introduced, and particularly, H.R. 17498 which is a companion bill to H.R. 16920, introduced by the distinguished chairman of the Ways and Means Committee, Mr. Mills, take a giant step forward in recapturing Congress' role in the area of international trade.

For more than a quarter of a century

Congress has surrendered more and more authority to the executive branch of the Government. Regarding trade matters, this capitulation to the Executive has been nearly total and close to irrreversible. The State Department, heir and/or pretender to Congress' power to legislate in matters concerning international commerce, has used the power not to influence the economic and social improvement of our country, but rather for ephemeral diplomatic purposes. In effect, the diplomats have traded American jobs, fiscal stability, and national defense for what is alleged or assumed to have been an advantage in the field of international politics, rather than the well-being of the citizens of their own country.

That the State Department has obviously failed in these objectives is a painful matter of record. Even had the so-called strategy succeeded, there would have been no justification in exchanging economic sacrifice for an elusive international friendship. One brief example should make the point:

Today, while Soviet weapons hammer at our men in South Vietnam, while Soviet weapons are used in an attempt to destroy one Middle Eastern country and subjugate the others, while Soviet weapons are blockading all movements toward political liberalization in Eastern Europe, the State Department stubbornly refuses to recommend a program designed to curtail our growing commercial associations with the U.S.S.R. It even fosters imports of commodities produced behind the Iron Curtain. It fails to recognize that Communist Russia is our enemy and that we must make every possible move in the direction of reinforcing our defense posture in preparation for the always threatening showdown with the Soviet Union. Mr. Chairman, we do not improve our military and industrial strength by trade policies that tend to destroy or impede production here at home.

Turning now to the matter at hand—textiles and leather goods—we are faced with a different kind of enemy and a different kind of warfare than we face vis-a-vis the Soviet Union.

In the spirit of competition which built this country, our domestic industries attempt to compete on an equal footing with free-world industries for markets. The big problem, gentlemen, is that the officials who have butchered the job of containing the expansionist policies of the Soviet Union, who illogically encourage the Soviets to undercut our various international policies, are the same ones who have botched the job of expanding American markets overseas and/or protecting American industries from unfair foreign competition.

It appears that the State Department is systematically and with malice aforethought, attempting to weaken rather than strengthen the domestic industries of the United States. The Department has allowed the United States to become the dumping ground for foreign products. Nowhere is this better illustrated than in our trade position with the Japanese.

Of all the world's nations, Japan is the most active and aggressive exporter and the most carefully protective importer. At the same time she floods American markets with her goods, she has the most restrictive trade regulations to protect her own markets. Japan's restrictions on U.S. goods are tighter than on the goods from any other nation or group of nations in the world. In 1969, we received $540 million worth of textiles from Japan, while we sold only $15 million to her. By comparison, Japan bought far more from the less developed countries, the European Economic Community and the European Free Trade Association than from the United States.

The major reason why import competition from Japan is so damaging to the American economic system is the drastic wage gap between U.S. and Japanese wages. The typical American textile worker earns $2.43 an hour; his counterpart in Japan gets 53 cents per hour and in Korea and Tiawan the figure is 11 cents per hour. Mr. Speaker, after all is said and done, what we are facing is competition from the sweatshops of the Far East. I will not advocate that the American textile worker lower his standard of living to keep his job—but that is exactly what the free traders are advocating.

The committee is under extremely heavy pressure by the free traders and most of the press to reject H.R. 16920 because it is termed "protectionist." The bill is not protectionist. The bill would not provoke retaliation from other nations—in fact, it gives both American and foreign producers an opportunity to see more goods as the American textile market grows. The bill would not cause a rise in textile prices for the consumer. It does not eliminate import competition—it does regulate such competition to keep pace with the market in this country.

The most important part of the bill, in my opinion, is the provision for a "floating quota" on textile imports. During 1970, the bill would limit the imports of all textile articles and leather footwear to the average annual quantity that entered the United States in 1967–68. After 1970, the import level would be adjusted upward or downward depending on the size of the American market. This is the unique and sensible way to handle the problem of rising and industry-damaging imports.

In fact, I have strongly urged the committee to look into other areas of import-damaged industries in the United States with a view toward easing their burden with legislation similar to H.R. 16920.

Without making a case for every industry currently under unfair import attack, I would like to mention the problem of steel imports. Irrespective of the press reports and columnists, I believe the committee has every right to believe that the administration is getting behind its efforts to protect the jobs of the American steel workers.

Two years ago, the Republican candidate for, and now President, spoke in my hometown on the subject of foreign trade, imports and the effect of imports—particularly steel imports—on domestic employment. Since that time the words of President Nixon tended to contradict the words of Candidate Nixon, however, I am pleased to note that recent statements of the President and his advisers are beginning to take on a more defensible point of view with respect to the protection of American jobs in the steel industry and other industries.

Speaking in Johnstown, Pa., on October 17, 1968, Mr. Nixon noted that every million tons of new steel imported into this country represented a loss of almost 8,000 job opportunities. Mr. Nixon said, and I heartily agreed then as now, that—

> America's status as the greatest producer of wealth and eradicator of poverty the world has ever known could not have occurred without steel—especially Pennsylvania steel.

Mr. Nixon also told the audience that he recognized the desirability of foreign producers participating in America's expanding economy but that it would be unrealistic not to recognize that our international trade and financial positions had been thrown out of balance. He also noted:

> It would be unjust to allow the consequences of these actions to irretrievably injure American industry and labor.

During the past year and a half the administration has carried out the domestic industry damaging policies laid down by Congress in the multitude of free trade acts. However, the reality of the domestic employment situation is finally beginning to make its weight felt on the administration and there are good indications that the position stated by Candidate Nixon in 1968 regarding imports will determine the direction of future policies.

Unfortunately, we cannot throw over the free trade traces all at once but I urged the committee to closely examine my bills designed specifically to protect American jobs. Those bills, if enacted, would make a giant leap in the direction of Congress reasserting its constitutional right to regulate the flow of international commerce.

Mr. Speaker, I do not care in which form protection for our American industries and the employees represented therein may come. I do not believe it is necessary for the United States to resort to deception or circumvention in the formation of policies to prevent foreign products from overwhelming our markets. I look to the Ways and Means Committee and Congress for conclusive legislation that will give Congress an opportunity to create barriers against economic destruction of many American industries.

I would prefer that Congress devise a blueprint for a single piece of legislation that will safeguard every industry on the list of victims of excessive imports. While I would support legislation accomplishing the same purpose on an industry-by-industry basis, I would prefer a bill that contains general coverage so that we can avoid controversies that might arise because of segmented and parochial interests. But most important, however, the Congress approaches the problem of excessive imports, I plead for a reassertion of our congressional responsibility in these matters.

There is no question in my mind about the need for the bill on textiles and leather footwear pending before the committee. There is no question about the need for a comprehensive bill restricting the flow of steel imports into this country. There is no question about the need for legislation to protect numerous industries like glass, milk, and dairy products now faced with foreign competition that is demonstrably unfair. The only question is whether or not the Congress will act in time to preserve the jobs and livelihoods of the families represented by our import-damaged industries. I believe we will.

American industry and labor look to the Congress for the answer to their problems. The Congress represents the only hope for these industries and the people represented therein.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Frey) to revise and extend their remarks and include extraneous matter:)

Mr. Halpern, for 5 minutes, today.

Mr. Williams, for 25 minutes, today.

(The following Members (at the request of Mr. Daniel of Virginia) to revise and extend their remarks and include extraneous material:)

Mr. Dent, for 60 minutes, today.

Mr. Boland, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Sikes in five instances and to include extraneous matter.

Mr. Cleveland during the colloquy on the Schwengel amendment while in Committee of the Whole on H.R. 17654.

(The following Members (at the request of Mr. Frey) and to include extraneous matter:)

Mr. Railsback.

Mr. Steiger of Wisconsin in four instances.

Mr. Burton of Utah in five instances.

Mr. Halpern.

Mr. Schmitz.

Mr. Ruppe.

Mr. Wyman in two instances.

Mr. Minshall in two instances.

Mr. Bob Wilson in two instances.

Mr. Beall of Maryland.

Mr. Bush.

Mr. Brotzman.

Mr. Fish.

The following Members (at the request of Mr. Daniel of Virginia) and to include extraneous material:

Mr. Burke of Massachusetts.

Mr. Pepper in five instances.

Mr. Hicks in two instances.

Mr. Edwards of California in three instances.

Mr. Nichols.

Mr. Boland in two instances.

Mr. Bingham in two instances.

Mr. Abbitt in two instances.

Mr. Dorn in two instances.

Mr. Mikva in six instances.

Mr. Brademas in eight instances.

Mr. Fascell in two instances.

Mr. Hathaway in two instances.

Mr. Yates.

Mr. Rodino in three instances.

Mr. Dingell in three instances.

Mr. Kluczynski in two instances.

Mr. Fountain in three instances.

Mr. de la Garza in six instances.

Mr. Ottinger in two instances.

Mr. Ryan in three instances.

Mr. Fraser.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3959. An act to amend title 5, United States Code, to provide additional civil service retirement and sick leave benefits for air traffic controllers; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 7618. An act to provide for the conveyance of certain real property of the Federal Government to the board of public instruction, Okaloosa County, Fla.

SENATE ENROLLED BILL SIGNED

The Speaker announced his signature to an enrolled bill of the Senate of the following title:

S. 3215. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

ADJOURNMENT

Mr. DANIEL of Virginia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 57 minutes p.m.), the House adjourned until tomorrow, July 15, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2212. A letter from the General Sales Manager, Export Marketing Service, U.S. Department of Agriculture, transmitting a report of agreements signed for foreign currencies under Public Law 480 during May and June 1970, pursuant to Public Law 85-128; to the Committee on Agriculture.

2213. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notification of the location, nature, and estimated cost of certain facilities projects proposed to be undertaken for the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2214. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report on Department of Defense procurement from small and other business firms for July 1969, through April 1970, pursuant to section 10(d), of the Small Business Act, as amended; to the Committee on Banking and Currency.

2215. A letter from the Secretary of the Interior, transmitting the eighth annual and final report on operations under the act to stabilize the mining of lead and zinc by small producers on public, Indian, and other lands, and for other purposes, pursuant to section 8 of the act; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee of Conference. Conference report on H.R. 14685 (Rept. No. 91-1299). Ordered to be printed.

Mr. PATMAN: Committee on Banking and Currency. H.R. 18306. A bill to authorize U.S. participation in increases in the resources of certain international financial institutions, to provide for an annual audit of the Exchange Stabilization Fund by the General Accounting Office, and for other purposes; with amendments (Rept. No. 91-1300). Referred to the Committee of the Whole House on the state of the Union.

Mr. ANDERSON of Tennessee: Committee on Rules. House Resolution 1139. Resolution for consideration of S. 1933, an act to provide for Federal railroad safety, hazardous materials control and for other purposes (Rept. No. 91-1301). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1140. Resolution for consideration of H.R. 11157, a bill to amend title 18, United States Code, to prescribe the manner in which a witness in a Federal proceeding may be ordered to provide information after asserting his privilege against self-incrimination and to define the scope of the immunity to be provided such witness with respect to information provided under an order (Rept. No. 91-1302). Referred to the House Calendar.

Mr. McMILLAN: Committee of Conference. Conference report on S. 2601 (Rept. No. 91-1303). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 18440. A bill to provide a program to improve the opportunity of students in elementary and secondary schools to study cultural heritages of the major ethnic groups in the Nation; to the Committee on Education and Labor.

By Mr. BROYHILL of Virginia:

H.R. 18441. A bill to amend title 5, United States Code, to include as creditable service for purposes of the civil service retirement system certain periods of service of civilian employees of nonappropriated fund instrumentalities under the Armed Forces, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BUSH:

H.R. 18442. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

By Mr. CLANCY:

H.R. 18443. A bill to exempt from certain deep-draft safety statutes passenger vessels operating solely on the inland rivers and waterways; to the Committee on Merchant Marine and Fisheries.

By Mr. COLLIER:

H.R. 18444. A bill to amend section 7275 of the Internal Revenue Code of 1954 (as added by the Airport and Airway Revenue Act of 1970) to require that airline tickets, with respect to the transportation of persons by air which is subject to Federal tax, show the amount of such tax separately from the cost of the transportation involved; to the Committee on Ways and Means.

By Mr. KING:

H.R. 18445. A bill to amend section 7275 of the Internal Revenue Code of 1954 (as added by the Airport and Airway Revenue Act of 1970) to permit airline tickets, with respect to the transportation of persons by air which is subject to Federal tax, as well as the advertising related thereto, to show the amount of such tax separately from the cost of the transportation involved; to the Committee on Ways and Means.

By Mr. MESKILL (for himself and Mr. Weicker):

H.R. 18446. A bill to adjust agricultural production, to provide a transitional program for farmers, and for other purposes; to the Committee on Agriculture.

By Mr. MINISH:

H.R. 18447. A bill to treat service by members of the Armed Forces in Cambodia or Laos as service in a combat zone for purposes of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. MONTGOMERY (for himself, Mr Teague of Texas, Mr. Ayres, Mr. Brown of California, Mrs. Chisholm, Mr. Dorn, Mr. Duncan, Mr. Dulski, Mr. Haley, Mr. Halpern, Mr. Hammerschmidt, Mrs. Heckler of Massachusetts, Mr. Helstoski, Mr. Pucinski, and Mr. Satterfield):

H.R. 18448. A bill to provide mortgage protection life insurance for service-connected disabled veterans who have received grants for specially adapted housing; to the Committee on Veterans' Affairs.

By Mr. PELLY:

H.R. 18449. A bill to amend section 7275 of the Internal Revenue Code of 1954 (as added by the Airport and Airway Revenue Act of 1970) to require that airline tickets, with respect to the transportation of persons by air which is subject to Federal tax, show the amount of such tax separately from the cost of the transportation involved; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself, Mr. Corman, Mr. Pettis, and Mr. Goldwater):

H.R. 18450. A bill to amend the Tariff Act of 1930 respecting licensing of customs brokers; to the Committee on Ways and Means.

By Mr. RYAN (for himself, Mr. Ashley, Mr. Brown of Michigan, Mr. Brown of California, Mr. Burton of California, Mr. Conyers, Mr. Daddario, Mr. Dellenback, Mr. Esch, Mr. Farbstein, Mr. Feighan, Mr. Fish, Mr. Fraser, Mr. Halpern, Mr. Harrington, Mr. Hawkins, Mr. Howard, and Mr. Hungate):

H.R. 18451. A bill to amend the Truth in Lending Act to require that statements under open end credit plans be mailed in time to permit payment prior to the imposition of finance charges; to the Committee on Banking and Currency.

By Mr. RYAN (for himself, Mr. Koch, Mr. Lowenstein, Mr. Lukens, Mr. Mikva, Mrs. Mink, Mr. Moorhead, Mr. Morse, Mr. Murphy of New York, Mr. Ottinger, Mr. Podell, Mr. Rosenthal, Mr. Ruppe, Mr. St Germain, Mr. Tiernan, Mr. Tunney, and Mr. Charles H. Wilson):

H.R. 18452. A bill to amend the Truth in Lending Act to require that statements under open end credit plans be mailed in time to permit payment prior to the imposition of finance charges; to the Committee on Banking and Currency.

By Mr. SEBELIUS (for himself, Mr. Shriver, Mr. Skubitz, Mr. Mize, and Mr. Winn):

H.R. 18453. A bill to provide for thorough health and sanitation inspection of all livestock products imported into the United States, and for other purposes; to the Committee on Agriculture.

By Mr. HARRINGTON:

H.R. 18454. A bill to amend the Fish and Wildlife Coordination Act to provide additional protection to marine and wildlife ecology by providing for the orderly regulation of dumping in the coastal waters of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. JOHNSON of Pennsylvania:

H.R. 18455. A bill to authorize the Interstate Commerce Commission to prescribe minimum standards for railroad passenger service, and for other purposes to the Committee on Interstate and Foreign Commerce.

By Mr. MILLER of Ohio:

H.R. 18456. A bill to amend section 620 of the Foreign Assistance Act of 1961 to suspend, in whole or in part, economic and military assistance and certain sales to any country which fails to take appropriate steps to prevent narcotic drugs produced or processed, in whole or in part, in such country from entering the United States unlawfully, and for other purposes; to the Committee on Foreign Affairs.

By Mr. MIZELL:

H.R. 18457. A bill to provide for orderly trade in electronic articles; to the Committee on Ways and Means.

By Mr. MOSS (for himself, Mr. Murphy of New York, Mr. Blanton, Mr. Stuckey, Mr. Eckhardt, Mr. Keith, and Mr. Thompson of Georgia):

H.R. 18458. A bill to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges; to the Committee on Interstate and Foreign Commerce.

By Mr. PATTEN:

H.R. 18459. A bill to protect consumers against unreasonable risk or injury from hazardous products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself, Mr. Brademas, Mr. Daniels of New Jersey, Mr. Dent, Mr. Esch, Mr. Fascell, Mr. Flood, Mr. Gaydos, Mr. Gude, Mr. Hansen of Idaho, Mr. Harsha, Mr. Hathaway, Mr. McCloskey, Mrs. Mink, Mr. O'Hara, Mr. Pelly, Mr. Pucinski, Mr. Reid of New York, Mr. Rosenthal, Mr. Scheuer, Mr. Stokes, and Mr. Thompson of New Jersey):

H.R. 18460. A bill to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal programs, nutrition training and education programs, opportunity for social contacts, and for other purposes; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. Daddario, Mr. Halpern, Mr. Helstoski, Mr. McCloskey, Mr. Mikva, Mr. Moorhead, Mr. Morse, Mr. Ottinger, Mr. Rees, Mr. Rodino, Mr. St Germain, Mr. Sisk, Mr. Symington, and Mr. Tunney):

H.R. 18461. A bill to promote the public welfare; to the Committee on Rules.

By Mr. ROSTENKOWSKI:

H.R. 18462. A bill to amend section 620 of the Foreign Assistance Act of 1961 to suspend, in whole or in part, economic and military assistance and certain sales to any country which fails to take appropriate steps to prevent narcotic drugs, produced or processed, in whole or in part, in such country from entering the United States unlawfully, and for other purposes; to the Committee on Foreign Affairs.

By Mr. TIERNAN:

H.R. 18463. A bill to repeal certain provisions of the Airport and Airway Development Act of 1970; to the Committee on Ways and Means.

By Mr. BOB WILSON:

H.R. 18464. A bill to amend title 38 of the United States Code to provide an alternative method for computing dependency and indemnity compensation in order to insure that in certain instances the survivors of deceased veterans receive an amount of compensation equal to that to which they would have been entitled if such veterans had been civil service employees killed while performing job-related functions; to the Committee on Veterans' Affairs.

H.R. 18465. A bill to amend title 38 of the United States Code to provide for automatic cost-of-living increases in dependency and indemnity compensation payable thereunder, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MURPHY of New York:

H.R. 18466. A bill to amend titles 39 and 18, United States Code, to prevent a seller or publisher from mailing goods, materials, or publications (or a bill therefor) to any individual pursuant to a purchase order or subscription bearing such individual's name without first confirming that such individual in fact sent the order or subscription; to the Committee on the Judiciary.

By Mr. HALEY (for himself and Mr. Aspinall):

H. Con. Res. 680. Concurrent resolution relating to a national Indian policy; to the Committee on Interior and Insular Affairs.

By Mr. FRIEDEL:

H. Res. 1141. Resolution to express the sense of the House of Representatives that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

By Mr. WYMAN:

H. Res. 1142. Resolution to express the sense of the House of Representatives that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXI,

Mr. BROTZMAN introduced a bill (H.R. 18467) for the relief of Dominic Solntseff, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

539. By the SPEAKER: Petition of Henry Stoner, York, Pa., relative to a ceiling on broadcast advertising in general elections by candidates for Federal office; to the Committee on Interstate and Foreign Commerce.

540. Also, petition of Mr. Lillian McRay, Chocowinity, N.C., relative to appointments to the U.S. Supreme Court and other Federal benches; to the Committee on the Judiciary.

SENATE—*Tuesday, July 14, 1970*

The Senate met at 11 a.m. and was called to order by Hon. CLAIBORNE PELL, a Senator from the State of Rhode Island.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, who has taught us that "the effectual fervent prayer of a righteous man availeth much," direct us in our praying as in our working. Work in and through us, consciously or unconsciously, hour by hour Thy divine intention for our Nation and the world.

Make us so aware of Thy presence that out of confusion may come simplicity of plan, out of fear may come confidence, out of division a spiritual union, and out of frustration perseverance until the fulfillment of a new and better world.

In Thy holy name we pray. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 14, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. CLAIBORNE PELL, a Senator from the State of Rhode Island, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. PELL thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, July 13, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. KENNEDY. Mr. President, will the distinguished Senator from Arizona (Mr. GOLDWATER) yield, so that I may make a unanimous-consent request, with the understanding that he will not lose his right to the floor?

Mr. GOLDWATER. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, if the distinguished Senator from Arizona (Mr. GOLDWATER) will yield for a few moments, I would like to call up a few bills.

Mr. GOLDWATER. I am happy to yield.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1008, 1017, and 1018.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered; and the clerk will state the first measure.

EXPANDING, IMPROVING, AND BETTER COORDINATING THE FAMILY PLANNING SERVICES AND POPULATION RESEARCH ACTIVITIES OF THE FEDERAL GOVERNMENT

The Senate proceeded to consider the bill (S. 2108) to promote public health and welfare by expanding, improving, and better coordinating the family planning services and population research activities of the Federal Government, and for other purposes, which had been reported from the Committee on Labor and Public Welfare with amendments, on page 2, line 7, after the word "States", insert "and the areas specified in subparagraph (c) of section 6 of of this Act"; on page 3, after line 9, insert:

(e) to develop and make readily available information (including educational materials) on family planning and population growth to all persons desiring such information;

At the beginning of line 14, strike out "(e)" and insert "(f)"; at the beginning of line 17, strike out "(f)" and insert "(g)"; at the beginning of line 20, strike out "(g)" and insert "(h)"; in the same line after the word "establish", strike out "a National Center for Population and Family Planning" and insert "an Office of Population Affairs in the Department of Health, Education, and Welfare"; on page 4, after line 3, strike out:

ESTABLISHMENT OF NATIONAL CENTER FOR POPULATION AND FAMILY PLANNING

SEC. 2. (a) There is hereby established, within the Department of Health, Education, and Welfare, a National Center for Population and Family Planning (hereinafter in this Act referred to as the "Center"). The Center shall, for administrative purposes within such Department, be placed under the direct supervision of the Assistant Secretary for Health and Scientific Affairs.

(b) The Center shall have a Director and a Deputy Director and such regional population and family planning advisers of the Center as the Director, with the approval of the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), may determine.

(c) The Center shall establish identifiable units to carry out, at a minimum, the following functions: Public information, program planning and development, manpower development and training, supervision of field services, reproductive physiology research, contraceptive development, operational and evaluation research, behavioral research, and grants management (research and services).

And, in lieu thereof, insert:

OFFICE OF DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 2. (a) There is hereby established within the Department of Health, Education, and Welfare and Office of Pouplation Affairs to be directed by a Deputy Assistant Secretary for Population Affairs under the direct supervision of the Assistant Secretary for Health and Scientific Affairs. The Deputy Assistant Secretary for Population Affairs shall be appointed by the Secretary.

On page 5, at the beginning of line 10, strike out "(d)" and insert "(b)"; in the same line, after the word "the", where it appears the second time, strike out "Center" and insert "Office of Population Affairs"; in line 13, after the word "for", strike out "the Center" and insert "it"; after line 14, strike out:

FUNCTIONS OF THE CENTER

SEC. 3. (a) The Secretary of Health, Education, and Welfare shall utilize the Center—

And, in lieu thereof, insert:

FUNCTIONS OF THE DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 3. (a) The Secretary for Health, Education, and Welfare shall utilize the Deputy Assistant Secretary for Population Affairs—

On page 6, line 1, after the word "of", insert "formula or"; in line 10, after the word "planning", strike out "programs;" and insert "programs for use by all interested persons and public and private groups;"; in line 24, after the word "through", strike out "(f)" and insert "(h)"; on page 7, line 5, after the word "the", where it appears the second time, strike out "Center." and insert "Office of Population Affairs."; in line 8, after the word "after", strike out "the passage" and insert "enactment"; in line 9, after the word "this", strike out "bill" and insert "Act"; in line 13, after the word "programs," strike "and"; in the same line, after the word "necessary", strike out "manpower" and insert "manpower, and for carrying out the other purposes set forth in this Act."; in line 17, after the word "served," insert "the types of family planning and population growth information and educational materials to be developed and how they will be made available,"; on page 8, line 8, after the word "year", strike out "for provision of services"; in line 18, after the word "to", strike out "make, through the Center," and insert "make"; on page 10, line 18, after the word "Islands,", strike out "and"; in the same line, after the word "of", strike out "Columbia." and insert "Columbia, and the Trust Territory of the Pacific Islands."; on page 11, line 18, after the word "the", where it appears the second time, strike out the word "Center" and insert "Office of Population Affairs"; on page 16, line 4, after the word "the", strike out "Center." and insert "Office of Population Affairs."; and after line 5, insert a new section, as follows:

SPECIAL PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING AND POPULATION GROWTH INFORMATION DISTRIBUTION AND EDUCATIONAL MATERIALS DEVELOPMENT

SEC. 10. (a) The Secretary is authorized to make project grants and enter into contracts with public agencies and nonprofit organizations and institutions to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making grants or entering into contracts under this section there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $1,500,000 for the fiscal year ending June 30, 1974; and $1,750,000 for the fiscal year ending June 30, 1975.

(c) The acceptance of family planning and population growth information (including educational materials) provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance.

So as to make the bill read:

Be it enacted by the Senate and House of Represenatives of the United States of America in Congress assembled,

DECLARATION OF PURPOSE

SECTION 1. It is the purpose of this Act—

(a) to make comprehensive voluntary family planning services readily available to all persons in the United States and the areas specified in subparagraph (c) of section 6 of this Act desiring such services;

(b) to coordinate domestic population and family planning research with the present and future needs of population and family planning programs;

(c) to improve administrative and operational supervision of domestic family planning services and of population research programs related to such services;

(d) to enable public and voluntary agencies to plan and develop comprehensive programs of family planning services;

(e) to develop and make readily available information (including educational materials) on family planning and population growth to all persons desiring such information;

(f) to evaluate and improve the effectiveness of family planning service programs and of population research;

(g) to provide the trained manpower needed to effectively carry out programs of population research and family planning services; and

(h) to establish an Office of Population Affairs in the Department of Health, Education, and Welfare as a primary focus within the Federal Government on matters pertaining to population and family planning, through which the Secretary of Health, Education, and Welfare shall carry out the purposes of this Act.

OFFICE OF DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 2. (a) There is hereby established within the Department of Health, Education, and Welfare an Office of Population Affairs to be directed by a Deputy Assistant Secretary for Population Affairs under the direct supervision of the Assistant Secretary for Health and Scientific Affairs. The Deputy Assistant Secretary for Population Affairs shall be appointed by the Secretary.

(b) The Secretary is authorized to provide the Office of Population Affairs with such full-time professional and clerical staff and with the services of such consultants as may be necessary for it to carry out its duties and functions.

FUNCTIONS OF THE DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 3. (a) The Secretary of Health, Education, and Welfare shall utilize the Deputy Assistant Secretary for Population Affairs—

(1) to administer all Federal laws, over which the Secretary has administrative responsibility, which provide for or authorize the making of formula or special project grants related to population and family planning;

(2) to administer and be responsible for all population and family planning research carried on directly by the Department of Health, Education, and Welfare or supported through grants to or contracts with agencies, institutions, and individuals;

(3) to act as a clearinghouse for information pertaining to domestic and international population and family planning programs for use by all interested persons and public and private groups;

(4) to provide a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to population and family planning;

(5) to provide or support training for necessary manpower for domestic and foreign population and family planning programs of service and research;

(6) to coordinate and be responsible for the evaluation of the other Department of Health, Education, and Welfare programs related to family planning and population and to make periodic recommendations to the Secretary as set forth in section 4;

(7) to carry out the purposes set forth in subsections (a) through (h) of section 1 of this Act; and

(8) to carry out the programs established by the succeeding provisions of this Act.

(b) There are hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to meet the administrative expenses of the Office of Population Affairs.

PLANS AND REPORTS

SEC. 4. (a) Not later than six months after enactment of this Act the Secretary shall make a report to the Congress setting forth a plan, to be carried out over a period of five years, for extension of family planning services to all persons desiring such services, for research programs, for training of necessary manpower, and for carrying out the other purposes set forth in this Act.

(b) Such a plan shall, at a minimum, indicate on a phased basis:

(1) the number of individuals to be served, the types of family planning and population growth information and educational materials to be developed and how they will be made available, the research goals to be reached, and the manpower to be trained;

(2) an estimate of the costs and personnel requirements needed to meet these objectives; and

(3) the steps to be taken to establish a systematic reporting system capable of yielding comprehensive data on which service figures and program evaluations for the Department of Health, Education, and Welfare shall be based.

(c) On January 1 following submission of the plan and on each January 1 thereafter for a period of five years, the Secretary shall submit to the Congress a report which shall;

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan;

(2) indicate steps being taken to achieve the objective during the remaining fiscal years of the plan and any revisions necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan.

SPECIAL PROJECT GRANTS FOR FAMILY PLANNING SERVICES

SEC. 5. (a) The Secretary is authorized to make grants to public agencies and nonprofit organizations and institutions to assist in the establishment and operation of voluntary family planning projects.

(b) Grants under this section shall be made according to regulations promulgated by the Secretary. Funds shall be allocated after taking into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant and its capacity to make rapid and effective use of such assistance.

(c) Any grant under this section shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grant will be effectively utilized for the purpose for which it is made.

(d) For the purpose of making grants under this section, there is authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, $90,000,000 for the fiscal year ending June 30, 1973, $120,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975.

(e) The acceptance of family planning services provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance.

FORMULA GRANTS FOR FAMILY PLANNING, PUBLIC HEALTH SERVICES

SEC. 6. (a) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, $20,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the fiscal year ending June 30, 1975, to enable the Secretary to make grants to State health agencies to assist the States in planning, establishing, maintaining, coordinating, and evaluating family planning services. The sum so appropriated shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for a coordinated and comprehensive program of family planning services.

(b) From the sums appropriated to carry out the provisions of this section, the several States shall be entitled for each year to allotments determined by the Secretary on the basis of the population and financial need of the respective States.

(c) For the purposes of this section the term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(d) The acceptance of family planning services provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance.

TRAINING GRANTS

SEC. 7. For the purpose of training the necessary manpower required to fulfill the purposes of sections 4 and 5, the following sums shall be authorized and appropriated: $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; $4,000,000 for the fiscal year ending June 30, 1973; $5,000,000 for the fiscal year ending June 30, 1974; and $6,000,000 for the fiscal year ending June 30, 1975.

RESEARCH GRANTS

SEC. 8. (a) In order to promote research in the biomedical, contraceptive development, behavioral and program implementation fields related to population and family planning, the Secretary is authorized to make grants to public agencies and nonprofit organizations and institutions, and to enter into contracts with groups, associations, institutions, individuals, or corporations for the conduct of such research.

The Secretary shall utilitze the Office of Population Affairs in administering the provisions of this section.

(b) For the purpose of making grants and entering into contracts under this section, there is hereby authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1971, $50,000,000 for the fiscal year ending June 30, 1972, $65,000,000 for the fiscal year ending June 30, 1973, $85,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

GRANTS FOR CONSTRUCTION OF POPULATION RESEARCH CENTERS

SEC. 9. (a) There is authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1971, $14,000,000 for the fiscal year ending June 30, 1972, $16,000,000 for the fiscal year ending June 30, 1973, $18,000,000 for the fiscal year ending June 30, 1974, and $20,000,000 for the fiscal year ending June 30, 1975, for project grants to assist in meeting the cost of construction and operation of centers for research (or research and related activities) relating to human reproduction, sterility, contraception, effectiveness of service delivery, population trends, and other aspects of, or factors which affect population dynamics. Sums so appropriated shall be available until expended for payments with respect to projects for which applications have been filed under this part before July 1, 1976, and approved by the Secretary before July 1, 1977.

(b) Applications for grants under this section with respect to any center may be approved by the Secretary only if—

(1) the applicant is an institution of higher education or other public or private nonprofit institution which the Secretary determines is competent to engage in the type of research (or research and related activities) for which the center is to be constructed; and

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the facility will be used for the purposes for which it was constructed; (B) sufficient funds will be available for meeting the non-Federal share of the cost of constructing the facility; (C) sufficient funds will be available, when the construction is completed, for effective use of the facility for the purposes for which it was constructed; and (D) all laborers and mechanics employed by contractors or subcontractors in the performance of construction of the Center will be paid wages at rates not less than those prevailing for similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and function set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) In acting on applications for grants, the Secretary shall take into consideration the relative effectiveness of the proposed facilities in expanding the Nation's capacity for research (or research and related activities) in the field of population dynamics and such other factors as he may prescribe by regulations in order to assure that the facilities constructed with such grants, severally and together, will best serve the purpose of advancing scientific knowledge related to population dynamics.

(d)(1) The total of the grants with respect to any project under this section may not exceed 75 per centum of the necessary cost of the project as determined by the Secretary.

(2) Payment of grants under this section shall be made in advance or by way of reimbursement, and in such installments (consistent with construction progress) and on such conditions, as the Secretary may determine.

(e) If, within twenty years after completion of any construction for which funds have been paid under this section—

(1) the applicant or other owner of the facility shall cease to be a public or private nonprofit institution, or

(2) the facility shall cease to be used for the purposes for which it was constructed, unless the Secretary determines, in accordance with the regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreements of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of the construction of the facility.

(f) Except as otherwise specifically provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research or related activities conducted by, or the personnel or administration of, any institution.

(g) Within six months after the enactment of this section, the Secretary, after consultation with the appropriate advisory council or councils, shall prescribe general regulations covering the eligibility of institutions, and the terms and conditions for approving applications.

(h) As used in this section the term "construction" and "cost of construction" include (A) the construction of new buildings and the expansion, remodeling, and alteration of existing buildings, including architects' fees and the cost of acquisition of land, but not including the cost of offsite improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled or altered.

(i) The Secretary shall administer the provisions of this section by and through the Office of Population Affairs.

SPECIAL PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING AND POPULATION GROWTH INFORMATION DISTRIBUTION AND EDUCATIONAL MATERIALS DEVELOPMENT

SEC. 10. (a) The Secretary is authorized to make project grants and enter into contracts with public agencies and nonprofit organizations and institutions to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making grants or entering into contracts under this section there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $1,500,000 for the fiscal year ending June 30, 1974; and $1,750,000 for the fiscal year ending June 30, 1975.

(c) The acceptance of family planning and population growth information (including educational materials) provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance.

Mr. CRANSTON. Mr. President, I rise to express my strong support of S. 2108, a bill to make long overdue improvements in the domestic family planning services and population research activities of the Federal Government. As a cosponsor of this legislation, I have been deeply involved in deliberations on it in the Health Subcommittee and the full Labor and Public Welfare Committee and have cooperated closely with the distinguished Senator from Maryland (Mr. TYDINGS) in developing my own amendments to the bill.

On December 9, 1969, I testified before the Health Subcommittee on the important contributions this bill would make to meeting the needs we face as a nation in the area of population and family planning. I am delighted that the bill as reported from the Labor and Public Welfare Committee addresses itself so well to the needs I outlined in my testimony, particularly to the critical needs for improved availability of family planning services and for a program of population information and education.

S. 2108 would provide the resources for an expanded effort to make voluntary family planning services available to all Americans, especially to those now denied access to effective, safe family planning services because of financial need. Our present delivery system has failed to provide family planning services to at least 5 million medically indigent women.

S. 2108 would meet this need by authorizing increased appropriations for family planning services, as well as by better coordinating all Federal family planning and population activities to improve the efficiency of our delivery system. The bill also provides important authority for an expansion of research in reproduction, development of new safe, and more effective contraceptive methods, grants for the training of manpower to conduct family planning programs, and grants for population research and for construction of population research centers. All these provisions are absolutely necessary to a concerted attack on the inadequacies of present family planning programs and activities.

Finally, incorporated into the bill are seven amendments I introduced in committee which I believe are very significant. My amendments were designed to insure that population growth information, including educational materials, are developed and made available to the American people.

Many in the United States, including some of the most eminent population and environmental experts, believe we have now reached, or will soon reach, our optimum population size and that further unrestrained population growth poses a serious threat to our physical and social environments. Even at our present low rate of growth, the population of the United States will increase by almost one-third to 300 million in the next 30 years. And, as pointed out in the committee report on S. 2108, "the poor contribute only a small proportion of this overall increase, with most growth resulting from the fertility of middle-class families." I believe it is vital, therefore, that the results of present and future research into the nature and components of population growth be widely available in order that all Americans may become aware of and informed about the effects of population growth on our physical and social environments.

We must have a broad and informed national dialog before we will be able to define and choose among long-range policy alternatives by which we as a nation can attain realistic population goals.

The bill, therefore, includes, as section 10, an amendment I proposed in committee authorizing special project grants and contracts to assist in developing and making available family planning and population growth information, including educational materials.

Also contained in the bill are a number of amendments I proposed, the purposes of which are to reflect the population information function in sections 1, 3, and 4 of the bill and to add a brief phrase to the "Whereas" clauses at the beginning of the bill recognizing the important interrelationship between population and environment.

I believe the issue of population growth and the need for more adequate and widely available information on population growth are of the most central concern for all of us today. As we learn more about the determinants and consequences of sharing our world, our air and all our environmental resources with more and more people, we may or may not find that we agree with those who predict serious and even dire consequences from continued population increases. We will almost certainly find that we will have to modify some of our personal and social habits and attitudes with regard to family size, population distribution and other factors relating to population growth if we are to maximize the quality of life for our children and grandchildren.

But whatever conclusions we finally reach, we can encourage the necessary dialog through the information and education programs authorized in the pending legislation.

Voluntary family planning services represent one of the best methods of achieving changes in population growth. Increased knowledge and awareness by all citizens of population growth issues will further encourage participation in these important family planning programs.

At this time there are two bills—S. 3687 and S. 3151—pending in Labor and Public Welfare Committee which contain provisions which would complement and strengthen certain programs authorized in S. 2108.

I have introduced an amendment to S. 3867, the proposed "Employment and Training Opportunities Act of 1970," a bill which I cosponsored, to provide for the training of much-needed paraprofessional family planning manpower. My amendment would further provide that voluntary family planning services would be among the supportive services offered to participants in public service employment and general manpower programs. This provision is especially important since unplanned pregnancy ranks high as a factor preventing manpower program participants from completing training or attaining jobs.

In addition, I have introduced an amendment to S. 3151, a bill I cosponsored entitled the "Environmental Quality Education Act," to insure that in carrying out the purposes of the act to enhance environmental quality and maintain ecological balance, full consideration shall be afforded to the relationship of population to environmental deterioration and ecological imbalance.

Mr. President, I believe we can begin to make significant progress toward what I believe are our two most important objectives in this area—improved access to family planning services and greater public awareness of the problems associated with unrestrained population growth—through the programs authorized under the pending legislation. And I urge all my colleagues to support this urgently needed bill.

Finally, I wish to congratulate the chairman of the Labor and Public Welfare Committee and of the Health Subcommittee as well (Mr. YARBOROUGH) and the ranking minority member of the subcommittee (Mr. JAVITS) and their excellent staffs for the bipartisan cooperation and leadership on this bill. Special tribute is also owed to my fellow freshman Senator, the Senator from Missouri (Mr. EAGLETON), and his subcommittee counsel for their outstanding work in organizing and chairing the hearings on this bill and managing it through the committee.

Mr. EAGLETON. Mr. President, it is gratifying to be able to cast a very positive vote for S. 2108 which encompasses a most positive legislative program. Universal availability of family planning services is a necessity if all individuals are to have the opportunity, within the dictates of their conscience, to exert control over their own life destinies and enhance that of their children. In a time of great controversy over important social and political issues, unanimity has been reached in recognition of the desirability and need for noncoercive family planning services. President Johnson expressed the Nation's concern with fostering "the integrity of the family, and the opportunity for each child." President Nixon in an unprecedented message established as a national goal that all individuals in need of and desiring family planning services have access to them within the next 5 years.

It is important that the Congress honor that goal and see to it that it is achieved. The present level of activity and funding in service programs, reproductive and social research, manpower training, and education is totally inadequate; it would be even if the President's goal of 5 years were 25 years. In chairing the hearings on S. 2108 in the first and second sessions of this Congress it was made evident to me by many of the witnesses that there presently exists little coordination or integration of family planning and population research programs in HEW. Although in October, Secretary Finch announced creation of the National Center for Family Planning Services to administer family planning project grants, this Center has no authority to coordinate or evaluate the title IV family planning services, the purchase of family planning services under medicaid or the provision of these services through other specialized programs. The Center has no connection with population research activities carried out by the Center for Population Research in NIH, nor does it have any authority to act as liaison with other governmental agencies involved in activities relating to population and family planning.

S. 2108 addresses itself to the inadequacies of the present, and will, upon passage, initiate a cohesive and sensible approach to getting the job done in the future. The establishment by S. 2108 of an Office of Population Affairs, headed by a Deputy Assistant Secretary for Population Affairs, within HEW, which will carry primary responsibility for the administration of HEW service and research programs, and with the additional mandate to coordinate, review, and evaluate all HEW family planning related programs and act as liaison with other Federal agencies, will instill a focus and accountability for the program that has been seriously lacking in HEW's administration of these programs.

S. 2108 authorizes new project and formula grants in addition to those authorized under title V of the Social Security Act at levels of funding which are realistically designed to reach now established goals. There were witnesses at the hearings on this bill who were of the opinion that larger amounts of funds than those proposed would be necessary to reach the national goal. Our committee was hopeful, however, that the complementary efforts of OEO and increased priorities for family planning services in general health programs will supplement these new HEW funds as well as those currently committed and raise the total amount available to an adequate level.

S. 2108 will permit for the first time sufficient funds to begin a meaningful program of basic research in all areas of reproductive biology and also behavioral studies in a significant way. Despite the awareness within the government of the need for improved contraceptive techniques—which has been immeasurably heightened by conflicting testimony in regard to oral contraceptives—research funds have been pitifully small, and very little of that has gone to building—as Dr. Andre E. Hellegers has said—the basic scientific knowledge which is necessary before we can start making the applied solution. By greatly expanding research support as authorized by S. 2108, efforts to devise new methods of fertility control will be greatly accelerated and, by achieving a greater knowledge of the fundamental processes of fertility and reproduction, assistance will be available for those whose problem is infertility, and for those individuals who desire to control their fertility by means of the rhythm method.

I want to emphasize at this point that in S. 2108, as in all other Federal legislation relating to fertility control, there are explicit safeguards to insure that an individual's acceptance of family planning services and information is on a purely voluntary basis, and that acceptance of such services is not under any circumstances a prerequisite to eligibility for the receipt of other benefits or participation in any other assistance programs.

There are many complex and profound problems that face this country, and particularly its poor and needy. S. 2108 is not intended to solve all those problems. However, as Martin Luther King once observed the availability of voluntary family planning services can facilitate the poor and needy person, "or at least not be an obstacle to the solution of the many profound problems that plague him."

Let us then begin.

Mr. YARBOROUGH. Mr. President, the Subcommittee on Health of the Labor and Public Welfare Committee held hearings on S. 2108 in December of last year and again in February of this year. The bill, which I cosponsored along with 29 other Senators, was introduced by the Senator from Maryland, Mr. TYDINGS. It provides much needed Federal support for family planning research and additional funds above those presently available in HEW and OEO family planning service programs. In addition, it provides for the reorganization of HEW's family planning and population research structure.

Under the extremely able chairmanship of the very distinguished junior Senator from Missouri, the committee heard expert and professional testimony from 21 separate witnesses and received statements from 41 interested organizations and individuals. These witnesses, from both the private and governmental sectors, were an impressive national representation of the very best minds and experience in all facets of medical and social concerns. They forcefully demonstrated the crying need for expanded contraceptive research, improved and enlarged medical family planning services for the poor and a better organization of the Federal Government's overall family planning administrative structure. Although there was nearly unanimous support for the objectives of S. 2108, many witnesses clearly indicated that the dollar amounts for research and service programs were insufficient to meet the Nation's long neglected family planning needs.

The bill, which the Labor and Public Welfare Committee reported in May, is in my opinion a landmark in this Nation's health and welfare history. It is the embodiment of an idea whose time has come and I am frankly most pleased to have had a part in its legislative history. The committee is justifiably proud of this legislation. As is obvious from the list of cosponsors, this bill has broad support and is a real example of bipartisan legislation. This bill, I might say, is bipartisan in still another sense, for it will give substance to President Nixon's words of last July when he stated that—

> No American women should be denied access to family planning assistance because of her economic condition.

When it is realized that less than 800,000 of the 5.4 million low-income women which the President described in his message are now receiving family planning services from all known private and public service sources, there can be no argument that the Nation's poor urgently need the voluntary family planning assistance that is contained in this bill. I know that my State, which has been striving to meet the demand for voluntary family planning services among the poor, has not found the existing HEW and OEO service programs adequate to the tremendous and growing need. The States and the poor of this country need this legislation and while it probably is not sufficient to meet all of the Nation's low-income family planning needs, it will be a large and very important step in that direction.

The provision for expanded Federal support of population research has significance for every American family regardless of economic condition. As Senator NELSON's hearings of last winter so vividly demonstrated, the Nation and, indeed, the world must have safer, cheaper, and more effective means of family planning. Our hearings on S. 2108 made it very clear that the necessary advancement in family planning methods are not going to be achieved without a meaningful and substantial Federal research commitment. Reproductive biology and population research are complex, expensive and long-range efforts that have had very low priority in our total national medical research program. With the assistance provided in this bill we can begin the correct this deficiency in our research efforts and with some real hope look to the day when a perfect means of voluntary individual control will be available to all.

Mr. HART. Mr. President, I am gratified to give my support to the first major effort that our Government will give to the crucial area of family planning and population research. S. 2108 is the kind of legislation that this body can be proud to support. It is a measure that moves toward providing much needed medical family planning services to millions of women who cannot afford them, and it provides for the research that will help us better to understand the phenomena of population growth and enable all couples to regulate fertility according to their individual consciences.

This legislation has been a long time in coming. In 1965, I had the opportunity to cosponsor S. 1676, which was introduced by the distinguished former Senator from Alaska, Mr. Gruening. That bill was not acted upon, nor were any of the others that I have supported in the population field. Our consideration of this comprehensive bill which provides the basis for immediate action and study in this field is a landmark event.

S. 2108 proposes to make comprehensive voluntary family planning services readily available to all persons in the United States who desire them; increase population and family planning research; improve the administration and operation of domestic family planning services; and establish an Office of Population Affairs in the Department of Health, Education, and Welfare. The Office will be headed by a Deputy Assistant Secretary for Population Affairs who will coordinate all HEW efforts in this field. Moreover, the Deputy Assistant Secretary's Office will serve as a clearinghouse for information and will serve as liaison with other Federal programs related to family planning and population.

It is estimated that 4.5 million medically indigent women in the United States are still without family planning services due primarily to their poor economic status. The funds authorized for family planning services in S. 2108 will be made available through special project grants and formula grants whereby both private and public organizations can be stimulated to provide new and expanded service throughout the country.

I am especially pleased with sections 7 and 8 of the legislation which deal with funds to train personnel to enter the field of family planning service delivery programs. The emphasis in the training programs will be put on the preparation of the neighborhood resident to serve in a paramedical capacity and to have the opportunity for upward job mobility. This emphasis will attempt to guarantee the program's relevance to the people it expects to serve.

Section 8 establishes a program of grants to promote research in biomedical contraceptive development, behavioral and program implementation fields related to population and family planning. This section is undoubtedly one of the most important in the bill since, despite the advances made in family planning, methods, today there is still no foolproof method and failure rates of the commonly used methods run extremely high. Research into biomedical contraceptive development has received very little attention and funds compared to other fields of medical research and yet there are few areas of medical research that are more relevant.

Mr. President, I urge that this body pass the S. 2108 that will allow us to make headway in providing voluntary family planning services and in-depth studies into the field.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble, as amended, was agreed to as follows:

> Whereas unwanted births impair the stability and well-being of the individual family and severely limit the opportunity for each child within the family;
>
> Whereas over five million American women are denied access to modern, effective, medically safe family planning services due to financial need;
>
> Whereas significant benefits for the family and the community may be derived from family planning including the alleviation of poverty, the reduction of maternal and infant mortality rates, the reduction of crippling the number of premature births and of crippling and mental diseases in infants, and the easing of the pressure of population growth on the environment;
>
> Whereas research efforts to develop more effective, medically safe methods of family planning are inadequate to meet the need and urgency of the problem;
>
> Whereas family planning has been recognized nationally and internationally as a universal human right;
>
> Whereas it is the policy of Congress to foster the integrity of the family and the opportunity for each child; to guarantee the right

of the family to freely determine the number and spacing of its children with the dictates of its individual conscience; to extend family planning services, on a voluntary basis, to all who desire such services: Now, therefore,

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1004), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

This legislation is designed to make comprehensive, voluntary family planning services, and information relating thereto, readily available to all persons in the United States desiring such services; to provide greatly increased support for biomedical, behavioral, and operational research relevant to family planning and population; to develop and disseminate information on population growth; and to coordinate and centralize the administration of family planning and population research programs conducted by the Department of Health, Education, and Welfare.

The bill authorizes a new 5-year program of grants and contracts administered by HEW in the following areas:

Project grants to public agencies and nonprofit organizations to assist in establishing and conducting family planning projects. Funding is for $30 million in fiscal year 1971, rising in increments of $30 million to $150 million in 1975.

Formula grants to State health agencies for planning, establishing, and conducting family planning services programs. Funding is for $10 million in fiscal year 1971, rising in increments of $5 million per year, to $30 million in fiscal year 1975.

Training grants for the manpower needed to conduct family planning programs. Funding is for $2 million in fiscal year 1971 rising in increments of $1 million per year, to $6 million in fiscal year 1975.

Population research grants to public agencies and nonprofit organizations and for research contracts with groups, associations, institutions, individuals, or corporations. Funding is for $35 million in fiscal year 1971 rising, in increments of $15 million per year, to $100 million in fiscal year 1975.

Construction grants to universities or other public or private nonprofit institutions for the construction of population research centers. Funding for $12 million in fiscal year 1971 rising, in increments of $2 million per year, to $20 million in fiscal year 1975.

Grants to, and contracts with, public agencies and private, nonprofit organizations and institutions for the purpose of developing and making available family planning and population growth information. Funding is for $750,000 in fiscal year 1971 rising, in increments of $250,000 per year, to $1.75 million in fiscal year 1975.

An Office of Population Affairs in the Department of Health, Education, and Welfare, headed by Deputy Assistant Secretary for Population Affairs, is established to exercise direct authority and control over family planning grant and population research programs operated by HEW, to coordinate and evaluate other HEW family planning and population-related programs, and to provide the liaison with other Federal agencies carrying out programs in this field. HEW is required to submit to Congress a 5-year plan for extension of services to all persons having need of them, for research programs, and for training programs. Annual reports to Congress on progress under the plan are also required.

BACKGROUND

Basis of Federal interest

The interests of the Federal Government in family planning and population research arise from several sources. From the standpoint of public health, the benefits of family planning appear to have been firmly established by the evidence. Studies show significant decreases in the incidence of mental retardation, in infant mortality and morbidity, and in maternal mortality and morbidity as a result of child spacing. For instance, one study shows that for every 500,000 women with three or more children who might receive family planning services, 2,173 infant deaths could be prevented. There is a demonstrable relationship between infant mortality in the first month of life and the interval between births—the shorter the interval, the higher the mortality rate. The health hazards of childbirth are aggravated with poverty. A recent study in the city of New Orleans found that although only 26 percent of the female population of reproductive age is poor, this group accounted for 72 percent of stillbirths, 80 percent of maternal deaths and 68 percent of infant deaths.

The economic and social aspects are significant as well. There is a definite relationship between poverty and family size. Twenty percent of America's children live in families whose income places them below the poverty level, but a disproportionate number of them—49 percent—come from families of five or more children. One-third of all families with five or more children live in poverty.

The Social Security Administration's determination of poverty status is based, in part, upon the amount of money a family has to spend for food per person per day. Unless a family's income increases as the family grows, successive, often unwanted births must necessarily drive the poor further into poverty and will push low-income families into poverty.

Demographic projections show that, at the present rate of growth, the population of the United States will increase by about one-third, to 300 million, in the next 30 years. It is expected that the greater part of this growth will be concentrated in urban areas, with a predicted urban population of 200 million by the year 2000. The poor contribute only a small proportion of this overall increase, with most growth resulting from the fertility of middle-class families. Such growth will have a profound impact on the needs for public services of all kinds, on the demand for natural resources, and on environmental quality—all proper subjects for governmental action.

The interest and concern of the Federal Government in problems relating to population have been expressed by our last four Presidents.

President Kennedy was the first Chief Executive to go on record in behalf of Government activity in this field. He stated in 1963 that research on human reproduction is:

"Very useful and should be continued * * * If your question is, 'Can we do more, about the whole reproduction cycle and should this information be made more available to the world so that everyone can make their own judgment?' I would think it would be a matter which we could certainly support."

Former President Eisenhower, in 1965, reversed his former stand on the proper role of the Federal Government in the area of family planning and said:

"If we now ignore the plight of those unborn generations which, because of our unreadiness to take corrective action in controlling population growth, will be denied any expectation beyond abject poverty and suffering, then history will rightly condemn us.

"I devoutly hope that necessary measures will be enacted into law to authorize the Federal Government, as well as appropriate private and semipublic organizations, so to cooperate among themselves that the necessary human and material resources can be promptly mobilized and employed to cope effectively with the great need of slowing down and finally stabilizing the growth in the world's population."

In his inaugural address President Lyndon B. Johnson stated:

I will seek new ways to use our knowledge to help deal with the explosion in world population and the growing scarcity in world resources.

His concern with this problem continued to grow throughout his administration. In his Message on Domestic Health and Education in 1966, he stated:

We have a growing concern to foster the integrity of the family, and the opportunity for each child. It is essential that all families have access to information and services that will allow freedom to choose the number and spacing of their children within the dictates of individual conscience.

This concern culminated in the appointment in 1968 of a President's Committee on Population and Family Planning.

President Nixon has emphasized the importance of population problems. Last July he sent a message to Congress on population and American future stating:

It is my view that no American should be denied access to family planning assistance because of her economic condition. I believe, therefore, that we should establish as a national goal the provision of adequate family planning services within the next 5 years to all those who want them but cannot afford them. This we have the capacity to do.

* * * * *

In order to achieve this national goal, we will have to increase the amount we are spending on population and family planning. But success in this endeavor will not result from higher expenditures alone. Because the life circumstances and family planning wishes of those who receive services vary considerably, an effective program must be more flexible in its design than are many present efforts. In addition, programs should be better coordinated and more effectively administered. Under current legislation, a comprehensive State or local project must assemble a patchwork of funds from many different sources—a time-consuming and confusing process. Moreover, under existing legislation, requests for funds for family planning services must often compete with requests for other deserving health endeavors.

But these problems can be overcome. The Secretary of Health, Education, and Welfare—whose Department is responsible for the largest part of our domestic family planning services—has developing plans to reorganize the major family planning service activities of this agency. A separate unit for these services will be established within the Health Services and Mental Health Administration. The Secretary will send to Congress in the near future legislation which will help the Department implement this important program by providing broader and more precise legislative authority and a clearer source of financial support.

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I today propose the creation by Congress of a Commission on Population Growth and the American Future.

Congress responded to the President's proposal by enacting legislation authorizing the creation of a Commission on Population Growth and the American Future. On March 16, the President appointed Mr. John D. Rockefeller III as Chairman of the 24-member Commission.

The first and largest program of Federal assistance for family planning services is authorized under title V of the Social Security Act which provides for formula grants to the States for maternal and child health care and which, since 1963, has also included a program of project grants for maternity and infant care in low-income areas with a high incidence of maternal and infant mortality, birth defects, premature births, and mental retardation. Prior to 1967, the provision of family planning services as a part of the health programs funded under title V was purely permissive, although HEW had come to regard family planning as an essential ingredient of comprehensive maternal and infant health care.

The Social Security Amendments of 1967 required that State plans for title V formula grants develop demonstration projects with special attention to providing family planning services. Not less than 6 percent of all funds appropriated for all maternal and child health programs under title V must be reserved for family planning services.

This legislation also amended title IV of the Social Security Act to mandate that family planning services be offered and provided to all appropriate public assistance recipients.

Under title XIX of the Social Security Act (medicaid), the Secretary of Health, Education, and Welfare has specified family planning services as approved medical services for eligible recipients.

Family planning programs had been funded under title II of the Economic Opportunity Act of 1964 since the inception of the poverty program. In 1967, Congress amended the act to make family planning a special emphasis program, giving it increased priority and earmarked funding.

There are other general-purpose health programs such as those directed to migrants, Indians, and Federal beneficiaries, which can contribute to the provision of family planning services to these special groups. Other programs, such as the partnership for health (comprehensive health planning), could also include these services but, in fact, have generally failed to do so. Limited funds and competition among well-established programs have made it difficult to develop new services through these channels. Despite a seeming proliferation of programs, only the title V and OEO project grants have provided significant funds and served a substantial number of women.

Research

The principal source of support for research and research training relevant to population problems has been the National Institute of Child Health and Human Development (NICHD), one of the newer Institutes of the National Institutes of Health. NICHD has awarded grants and contracts to support research in three principal areas:

(1) Reproductive biology—fundamental studies of human and animal reproduction relevant to fertility control;

(2) Development and evaluation of new contraceptives and studies of the medical effects of existing methods of fertility control; and

(3) Social and behavioral aspects of population problems.

There is at the present time no specific legislative authorization for population research. Work in this field is limited to a small portion of funds allocated within the relatively small budget of NICHD. Although population research funds have increased substantially in the past few years, the Government entered this field late and with a very small commitment. This major area of need still receives only insignificant Federal support. It was budgeted at only $16.5 million in fiscal year 1970.

Some limited activities are conducted in this area by other Federal agencies. The Food and Drug Administration is conducting preliminary studies leading to the approval of new contraceptives. The National Center for Health Statistics is assigned the responsibility for collecting data regarding family planning services and conducts studies of population growth and composition in connection with HEW family planning programs. The Census Bureau also provides demographic information.

Administrative Organization

There is no coordination or integration of family planning and population research programs in HEW. From inception of the title V program until October 1969 family planning project grants were administered by the Children's Bureau of the Social and Rehabilitation Service. No full-time personnel were assigned to work on these grants, either in Washington or the regional offices. In September 1969, the Children's Bureau medical functions, including family planning, were moved to the Health Services and Mental Health Administration (HSMHA). In October, the Secretary announced creation of a National Center for Family Planning Services in the HSMHA to administer family planning project grants.

This Center has no authority to coordinate or evaluate the title IV family planning services, the purchase of family planning services under medicaid, or the provision of these services through other specialized programs. It has no connection with population research activities carried out by the Center for Population Research in NIH. It has no authority to act as liaison with other Federal agencies such as the Census Bureau, Department of Defense, or Department of the Interior.

In 1968, the Center for Population Research was established within the National Institute for Child Health and Human Development to provide a central focus for support of research in population problems. However, NICDD is primarily concerned with mental retardation, cognitive development, and problems of the aging. Population problems have not occupied a priority status in the past within the Institute. Further, it is basically unequipped to pursue research in the behavioral sciences, an essential area of population-related research.

In 1967, an Office of Population and Family Planning, headed by a Deputy Assistant Secretary, was established to advise on matters in this field and to coordinate HEW programs in population and family planning. This Office, however, has had no line authority over any program within the Department. It has had only a small staff, a minimal budget, and, before the appointment of Dr. Louis Hellman in December 1969, had been without a head for almost 1 year.

A consultants' report commissioned by HEW and prepared by three eminent authorities on family planning made a thorough study of activities in the population and family planning field.[1] The report (commonly referred to as the Harkavy report) found that HEW had failed to exercise leadership in this area, that the Department's programs were fragmented and diffused, and that the level of Federal activities with respect to provision of family planning services and support for population research fell far short of meeting the Nation's needs. The Harkavy report aptly summarized the condition of family planning and population programs by stating that "What is everybody's business is nobody's business." In testimony before the committee, Dr. Harkavy asserted that a detailed review of his recommendations would show that few of them had been adopted by the Department, HEW claims to the contrary notwithstanding. He strongly recommended the formation of a single focus for research and services.

NEED FOR EXPANDED FAMILY PLANNING SERVICES AND POPULATION RESEARCH

Problems of unwanted children do not occur only in low income and less educated families in this country, but the consequences are greater in this group because of the accumulation of difficulties this condition imposes upon the poor. The available evidence indicates that most couples in the United States want about three children, regardless of the family's income level. Thus the desires of the family with less than $3,000 in annual income in terms of the preferred number of children vary little from the desires of the family with an income greater than $10,000 annually.

The degree to which these desires are realized vary widely. Medically indigent families (defined according to poverty levels established by the Social Security Administration) have an average annual fertility rate 55 percent higher than the nonpoor. The couple with funds to purchase health care has relatively easy access to family planning services. The medically indigent couple—usually dependent on public and voluntary agencies for health care—is forced to do without, or to rely heavily on the least effective nonmedical techniques for fertility control unless they happen to reside in an area where family planning services are made readily available by public health services or voluntary agencies.

A number of studies have established the existence of a group totaling about 5 million medically indigent women in the United States of childbearing age having a need for subsidized family planning services. The extreme shortage of such services for these women was documented in a county-by-county study conducted in 1968 for the Office of Economic Opportunity and published by OEO.[2]

The OEO study determined that some family planning services provided either by hospitals, public health departments, or voluntary agencies can be found in 1,200 of the Nation's 3,072 counties. In over 80 percent of these counties, the number of patients served is minimal. Just 130 counties—4 percent of all U.S. counties—accounted for 80 percent of all patients served. In the remaining 1,872 counties—more than 60 percent of all U.S. counties—there were no identifiable family planning programs of any kind.

Estimates of the number of patients served vary considerably according to the source.

The OEO report found that 773,000 women were reported as patients in fiscal 1968 in all nonpublic and private-sector health agencies which offered family planning. A report also prepared in 1968 by HEW consultants (the Harkavy report) found that 700,000 needy women were receiving family planning assistance. The Bureau of the Budget, however, estimated that 1 million women were receiving services in fiscal 1968, the same figure arrived at by President Johnson's Committee on Population and Family Planning.

The availability of services has probably increased since 1968, but evidence of the amount of increase is difficult to obtain. Both the record of hearings held on this legislation and the record of the extensive hearings held by a Government Operations Subcommittee chaired by Senator Ernest Gruening during the period 1965–68 are replete with optimistic assessments of the effectiveness of existing family planning programs and rosy forecasts of greatly expanded activities by the Department of Health, Education, and Welfare in the future. Invariably, subsequent data has shown departmental estimates of the number of persons served by these programs to be substantially overstated, and the promises for the future too often went unfulfilled.

Nor does data on the number of persons receiving family planning services accurately reflect the *quality* of these services. The committee does not view family planning as merely a euphemism for birth control. It is properly a part of comprehensive health care and should consist of much more than the dispensation of contraceptive devices. In the view of Dr. Joseph Beasley, director of a statewide family planning service in Louisiana that is considered one of the best such programs in the Nation, a successful family planning program must contain the following components:

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[1] Implementing DHEW Policy on Family Planning and Population, a consultants' report by Oscar Harkavy, Ph. D., program officer in charge, population office, etc.

[2] "Need for Subsidized Family Planning Services: United States, Each State and County, 1968." Produced by the Center for Family Planning Program Development, for the Family Planning Program Office of Health Affairs, Office of Economic Opportunity.

(1) Medical services, including consultation, examination, prescription, and continuing supervision, supplies, instruction, and referral to other medical services as needed.

(2) Outreach/followup system, including patient identification, contact, recruitment, appointment support, followup, and continuing education.

(3) Planning, evaluation, development, and coordination, including application of modern management technology to a goal-oriented program.

(4) Financial management to assure a cost effective, efficiently run program.

(5) Research, both of an operational and a clinical nature, to be built into the medical and evaluation systems.

(6) Social and ancillary services, including such necessary supportive services as gonorrhea screening and social as well as medical services for teenagers.

(7) Community education, to bring to the various parts of the community an understanding of the goals and importance of the program.

Dr. Beasley testified that funding levels proposed in S. 2108 would be a great improvement over what is available under present law. He was critical of required matching contributions under present law. "I am certain," he said, "that the unavailability of local funds of the level needed for a mass program will be a major obstacle in all States."

Adequate funds to serve the women in need cannot be provided under existing legislation. The proposed project grant budget for fiscal year 1971 is $29.5 million. It is unrealistic to expect much larger sums to become available under existing authorizations. S. 2108 would provide a new source of project and formula grant funds. These new authorizations, when added to funds currently committed under title V, would make it possible to reach President Nixon's goal of serving all 5.4 million women in need within the next 5 years. To insure the development of services in both rural and urban areas, committee witnesses emphasized the need for both project and formula grants. This dual approach was best advanced by Hon. Willie Brown, a member of the California State Assembly, who said:

> In order to extend family planning services to all parts of my State, the Federal family planning project grant program must receive adequate funds to enable it to respond to community initiative. In these less urbanized and rural areas, State and county agencies can and must play a significant role in the development of family planning services.

The general health formula grants—maternal and child health and comprehensive health—available to State health agencies are entirely inadequate to support State health department activity in family planning at the present time. The $3.5 million estimated MCH expenditure for family planning in fiscal 1970, when distributed across the Nation, could hardly support a concerted effort in any single State health agency.

S. 2108's authorization of $10 million for formula grants in fiscal year 1971 is mandatory if State health agencies are to begin to plan a significant role in providing family planning services.

Although other witnesses expressed the opinion that larger amounts than those proposed would be necessary to reach the national goal, the committee is hopeful that the complementary efforts of OEO and increased priorities for family planning services in general health programs will supplement these new and current committed HEW funds and raise the total amount available to an adequate level.

The record of Federal neglect in this area is as evident in population research as in providing family planning services. John Rock, M.D., clinical professor emeritus at the Harvard Medical School, and one of the most distinguished research scientists in the field, testified that the two major innovations in contraceptive methods of the last decade—the oral contraceptive and the intrauterine device—were both developed completely through private funds without the aid of any Federal funds.

Dr. Rock was a member of a group of NIH consultants that conducted a survey in 1961 of the research work being carried on in this country to meet the worldwide need for more information to deal with population problems. This group reported an appalling shortage of scientific talent working in the population field and made a series of recommendations involving greatly increased Federal financial support for population research. They recommended more funding for basic studies in physiology, biochemistry, and pharmacology of conception, including a major effort to improve the rhythm method of fertility control, and more studies in screening and synthesis of new antifertility compounds. They also recommended funds for field and clinical trials of fertility control measures, funds for social research into acceptance and motivation in terms of use of family planning services, and funds for operating support for eight new research centers.

The thrust of these recommendations has been endorsed in ensuing years by the National Academy of Sciences, by the Advisory Council of the National Institute of Child Health and Human Development, by the Harkavy report, and by President Johnson's Committee on Population and Family Planning. The last four Presidents have urged far greater efforts in this field. Thus there has been no lack of political or professional support for the expansion of population research, yet, in the words of Dr. Rock, "* * * there does not yet exist any program in the Federal Government commensurate with the urgency of the population problem."

S. 2108 would provide the great infusion of funds necessary to begin a meaningful research program. To the $28.4 million budgeted for the Center for Population Research by NICHD, it would add an additional authorization of $35 million in fiscal year 1971. New authorizations would rise to $100 million in fiscal year 1975. The committee believes this amount to be a conservative one in view of the recommendations of several witnesses that higher sums would be desirable. However, the figures recommended by the committee for population research, as well as the sums authorized by other sections of the bill, conform very closely to recommendations made to the Assistant Secretary of HEW for Health and Scientific Affairs by HEW program officials directly concerned with the operation of family planning and population programs.

Mr. **TYDINGS.** Mr. President, the Senate of the United States today has taken a historic step toward making possible an effective national program to cope with the problems of unrestrained population growth and to assist our own families, as well as families throughout the world, to prevent unwanted pregnancies. The unanimous adoption of S. 2108 is very heartening to those of us who have worked for more than 5 years to provide the mandate and the resources for a truly comprehensive national effort toward solving one of the most critical problems facing mankind. On behalf of my 29 colleagues who joined with me in sponsoring this legislation, I want to express our gratitude at the action of the full Senate in endorsing the prints of our work.

The bill we have adopted represents a distillation of various views put forward by the administration, my colleagues, the Senate, and others. It will centralize line authority over HEW's service and research programs in family planning and population in the Office of Population Affairs, headed by Deputy Assistant Secretary Louis Hellman. It will provide 5-year authorizations for massively expanded programs to deliver modern family planning services to those Americans who need and want them, and to harness the genius of America's scientific community behind research for improved contraceptive methods and better understanding of population problems.

S. 2108, in its original form, proposed the establishment of a Population and Family Planning Agency within HEW to encompass its current service and research programs, at much expanded levels. I and others were, and are, convinced that, to grapple with a problem as urgent as the population crisis, a single agency must be created which is made responsible for all Federal activities in this area. The administration objected to this feature of the bill, not on the principled grounds of opposition to a single population agency, but because they felt that creation of a new agency would delay expansion of the program for more than 18 months.

We had many misgivings about their alternative approach but the Subcommittee decided to accept it in order to move the program ahead this year. It insisted, however, that the Office of Population Affairs be given the maximum legislative mandate to exercise full line authority over the service and research programs. It also insisted—and the administration agreed—that the subcommittee keep a close watch on the way the program is developed. If the administrative arrangements prove inadequate, the Department has assured the subcommittee that the Deputy, the Assistant Secretary for Population Affairs, and the Assistant Secretary for Health and Scientific Affairs will work closely with the committee to develop a more effective administrative setup.

Under these assurances, the subcommittee accepted the administration's proposed revisions and the administration has agreed to support the revised bill.

Mr. President, I believe we have made a great contribution today toward solution of one of the world's most urgent problems. I hope we will all join in urging speedy action on the part of our colleagues in the House to move this vital and long overdue program forward.

Mr. **PACKWOOD** subsequently said: Mr. President, the family planning bill that we passed earlier today is a good bill. It is not adequate, but it is a good bill. It does provide for some research, some extension of health care and planning services, and makes reasonable advances in the field of contraceptive information and distribution.

There are, however, two things lacking in the bill, which I hope the Senate will be willing to face up to in the not-too-distant future. One involves the subject of legalized abortion, and the other involves limiting tax deductions for children to two.

Over the past 2 or 3 years, a number of organizations, well respected in this country, have passed resolutions endorsing legalized abortion, in essence saying that if a woman wants an abortion, she may have one as a matter of right.

Those organizations include the Medical Committee for Human Rights, the American Civil Liberties Union, the Citizens' Advisory Council on the Status of Women, the Unitarian Universalist Association, the American Baptist Convention, the Planned Parenthood Association, the American Public Health Association, the American Ethical Union, the American Psychological Association, the Board of Christian Social Concerns of United Methodist Church, the National Council of Women of the United States, the American Medical Women's Association, the American Psychiatric Association, the New York Academy of Medicine, the Chicago Child Care Society, and the American Protestant Hospital Association.

I ask unanimous consent, Mr. President, that the resolutions of the organizations I have just listed be printed in the Record at this point.

There being no objection, the resolutions were ordered to be printed in the Record, as follows:

American Public Health Association, Resolution on Abortion

It is generally accepted that individual women and couples should have the means to decide, without compulsion, the number and spacing of their children. This personal right has been supported and enhanced through governmental action at all levels. The APHA and many other groups have joined with public agencies to secure this right, and to make widely available those services that will provide a range of choice of contraceptive methods consistent with personal beliefs and desires. However, contraceptive methods among users vary in effectiveness and suitability. Pregnancies sometimes occur due to rape, incest, and difficulties in obtaining contraceptives or because of contraceptive failures.

In order to assure the accepted right to determine freely the number and spacing of their children, safe legal abortion should be available to all women. Further, the provision of abortion within the usual channels of medical care will reduce the well-known adverse health effects of illegal abortion.

The American Public Health Association urges that access to abortion be accepted as an important means of securing the right to space and choose the number of wanted children. To this end, restrictive laws should be repealed, so that pregnant women may have abortions performed by qualified practitioners of medicine and osteopathy.

Resolutions Adopted by the American Baptist Convention

ABORTION

Because Christ calls us to affirm the freedom of persons and the sanctity of life, we recognize that abortion should be a matter of responsible personal decision. To this end we as American Baptists urge that legislation be enacted to provide:

1. That the termination of a pregnancy prior to the end of the 12th week (first trimester) be at the request of the individual(s) concerned and be regarded as an elective medical procedure governed by the laws regulating medical practice and licensure.

2. After that period the termination of a pregnancy shall be performed only by a duly licensed physician at the request of the individual(s) concerned, in a regularly licensed hospital, for one of the following reasons as suggested by the Model Penal Code of the American Law Institute:

(a) When documented evidence exists that this is a danger to the physical or mental health of the woman;

(b) When there is documented evidence that the conceptus has a physical or mental defect;

(c) When there is documented evidence that the pregnancy was the result of rape, incest or other felonious acts.

Further we encourage our churches to provide sympathetic and realistic counseling on family planning and abortion.

We commend study, research and development of understanding on the part of the populace led by the people of our churches toward an enlightened view of this provocative problem.

Planned Parenthood—World Population

STATEMENT OF POLICY ON ABORTION

Planned Parenthood-World Population reaffirms its position that the optimum method of conception control is the consistent employment of effective contraception but it realizes that in practice this goal is frequently not achieved. It, therefore, recognizes that safe, legal abortion must be available in some situations as a back-up medical technique to omitted or failed contraception. In light of this, Planned Parenthood-World Population confirms the policy statement on abortion of its National Medical Advisory Committee, to wit:

(1) The National Medical Advisory Committee of Planned Parenthood-World Population believes that it is the right and responsibility of every woman to decide whether and when to have a child.

(2) The Committee re-affirms that abortion is a medical procedure, the decision for which must rest with the woman and her physician.

(3) This decision should be made with full knowledge of the woman's personal situation, with consideration of her social, economic, and cultural environment, and with reasonable medical safeguards.

(4) The Committee therefore recommends the abolition of existing statutes and criminal laws regarding abortion, and the recognition that advice, counseling, and referral with regard to abortion is an integral part of medical care.

RESOLUTION ON ABORTION ADOPTED BY PLANNED PARENTHOOD-WORLD POPULATION AT ITS ANNUAL MEETING 1969

Planned Parenthood believes that no one should be forced to use contraception or undergo abortion and that we must be especially vigilant to preserve freedom of choice about family size for those who are dependent on public or voluntary agencies. The optimum method of birth control is the consistent employment of effective contraception but in practice this goal is sometimes not achieved. Planned Parenthood believes that since abortion is a medical procedure, it should be governed by the same rules as apply to other medical procedures in general when performed by properly qualified physicians with reasonable medical safeguards.

Recognizing that advice, counseling and referral with regard to abortion are integral parts of medical care, Planned Parenthood recommends that women inquiring at Planned Parenthood centers about abortion be referred to a center physician for counseling. In appropriate cases, Planned Parenthood recommends that referral be made to a medical facility where the patient may request such service. In the event such service is found not to be legally obtainable from such a facility, it should be the intent of Planned Parenthood involvement to protect the woman's health by providing counseling and referral services.

American Psychological Association—Resolution

Whereas, in many state legislatures, bills have recently been introduced for the purpose of repealing or drastically modifying the existing criminal codes with respect to the termination of unwanted pregnancies; and whereas, termination of unwanted pregnancies is clearly a mental health and child welfare issue, and a legitimate concern of APA; be it resolved, that termination of pregnancy be considered a civil right of the pregnant woman, to be handled as other medical and surgical procedures in consultation with her physician, and to be considered legal if performed by a licensed physician in a licensed medical facility.

American Medical Women's Association, Inc.—Resolution

Whereas, repressive laws encourage criminal abortions, and these in turn continue to be one of the important causes of maternal morbidity and mortality;

Whereas, there has been an increasing demand for abortion and voluntary sterilization; be it

Resolved, that the AMWA approve removing restrictions on abortion and voluntary sterilization for those who, for family planning or health reasons, wish it, and that this be done with the approval of their physicians.

Resolved, that the AMWA encourage counseling with regards to abortion both in group and individual medical practice.

American Psychiatric Association

A decision to perform an abortion should be regarded as strictly a medical decision and a medical responsibility. It should be removed entirely from the jurisdiction of criminal law. Criminal penalties should be reserved for persons who perform abortions without medical license or qualification to do so. A medical decision to perform an abortion is based on the careful and informed judgments of the physician and the patient. Among other factors to be considered in arriving at a decision is the motivation of the patient. Often psychiatric consultation can help clarify motivational problems and thereby contribute to the patient's welfare.

National Council of Women of the United States

RESOLUTION ON ABORTION

Whereas we believe it is every woman's right to control her own body and determine her own reproductive life;

And whereas we believe it is the right of a child to be wanted;

Whereas the present restrictive laws lead to needless death and suffering as a result of illegal abortions;

And whereas liberalization of existing laws have failed to reach those women most in need of medical services;

Therefore, be it resolved that the only remedy for this discriminatory legislation is outright repeal of laws restricting abortion, and that the decision regarding abortion should be a private matter between the patient and her physician, governed only by the laws of ethical medical practice.

Medical Committee for Human Rights

"The Medical Committee for Human Rights strongly urges the immediate reform of archaic laws concerning induced abortion and further, that these reforms must be based upon consideration of health in the broadest definition, rather than upon political or religious factors."

Unitarian Universalist Association

Be It Resolved: That the 1968 General Assembly of the Unitarian Universalist Association urges that efforts be made to abolish existing abortion laws except to prohibit performance of an abortion by a person who is not a duly licensed physician, leaving the decision as to an abortion to the doctor and his patient.

Reasons: Prolonged and needless suffering, even death, has resulted from prohibitions placed by the laws of many states on the performance of abortions by qualified physicians.

It is estimated that at least 650,000 illegal abortions are performed in the United States each year.

Physicians who perform illegal abortion in the best interest of their patients must live in fear of punishment by criminal law.

Existing abortion laws discriminate particularly against the poor.

The right of a woman to decide whether she will bear a child is one with which the laws of government should not interfere. A child has a right to a mother who cherishes him—an unwanted child may suffer grave psychological, mental, and even physical handicaps.

Statement on Responsible Parenthood Adopted, October 8, 1969 by the Board of Christian Social Concerns of the United Methodist Church

We as United Methodists affirm the sacredness of persons. Personhood develops as one is loved, responds to love, and in that relationship comes to fullness as a child of God. The family, constituting the primary vehicle of love, acceptance, and nurture, brings fulfillment to parents and child. Sexual relations between the married partners serve as one expression of love and oneness, a source of joy and strength.

Because life is distorted without the qualities of being wanted and loved, parents seriously violate their responsibility when they bring into the world children for whom they cannot provide love. Since personhood is more than physical being, we affirm that the fetus is not a person, but rather tissue with the potentiality, in most cases, for becoming a person, also recognizing that personhood is not possible without physical form. To support the sacred dimensions of personhood, all possible efforts should be made to insure that the infant enters the world with a healthy body and is born into an environment conducive to realization of his full potential. However, this affirmed dignity of persons, as well as their existence, is threatened in today's world by over-population which manifests itself in the crises of insufficient food, diminishing space, and pollution of the environment.

In this framework, The United Methodist Church calls its members, and challenges society to responsible parenthood. This responsibility necessitates the constructive use of sexuality, creativity, and the technologies which make possible the achievement of conception control and regulation of population levels. Acquisition of new knowledge and skills in these areas moves conception and reproduction out of the category of a chance happening into the realm of responsible choice. As the decision is made to give birth to children, the responsibility for their nurture and growth is also assumed.

We call upon The United Methodist Church, its Boards and Agencies, and our common society to assist the States in removing the regulation of abortion from the criminal code, thereby placing it under regulations relating to other procedures of standard medical practice. The decision, then, would be solely in the hands of the patient and her licensed doctor. Control of abortions by nonlicensed physicians would be dealt with in the framework of the law—"practicing medicine without a license."

Citizens' Advisory Council on the Status of Women, Task Force Report on Family Law

PERSONAL RIGHTS RELATING TO PREGNANCY

A. Laws penalizing abortion

1. Problem definition and context.

The world's population explosion is one of mankind's most crucial problems.

It took from the beginning of man to 1830 to produce the first billion people on earth. It took only 100 years (1830–1930) to produce the second billion; the third billion took only 30 years, from 1930 to 1960; and it is now estimated by demographers that it will take only 15 years, from 1960 to 1975, to reach a world population of 4 billion. Some demographers estimate that even if all people had only the number of children they wanted, the population growth rate would be in excess of the needs or the capability of economic resources to sustain life in an increasingly industrialized world urban world. From this perspective, long range population policy becomes a critical need in all countries in the world, yet few have done anything toward developing such a national population policy.

We must face the problem of how to stabilize the world population growth rate. This necessarily involves the question of what women do with their lives. Motherhood should not be the exclusive goal of women, for this encourages the view that the more children, the better the mother, as well as the view that no marriage is complete without a child. Praise and social approval for women with large numbers of children are no longer functionally appropriate to an urban crowded society. This applies to economically well-to-do women as well as to poor women, to women in the United States as well as to Latin American and Asian women, to white women as well as to black women.

Abortion as an alternative to other contraceptive methods is now primarily the pattern in Catholic countries in which chemical and mechanical contraceptive devices have not been available, and in underdeveloped countries which have not yet had widespread exposure to the ideas of birth control. In France, the annual number of abortions equals the number of live births. In Latin American countries, there is an average of one abortion for every two live births. In some countries, like Uruguay, the ratio is as high as three abortions for every live birth. Recent support for family planning has only begun to affect this high rate of abortion, and for many years to come, will serve only a minimal role in stemming the fantastic population growth of the South American continent.

The majority of the women who have been helped with contraceptive advice and devices in Asian countries are women who have already borne five or more children, and hence already have contributed dangerously to the growth rate of their countries.

While it is extremely difficult to assess the incidence of illegal abortions in the United States, estimates range from 250,000 to over a million annually. The vast majority of these cases are married women who have attained the number of children they wish or can afford to care for.

The development of more efficient contraceptives may gradually reduce the incidence of unwanted pregnancies, but we are a long way from this situation, for several reasons.

1. Not all women can use chemical or mechanical contraceptives for a variety of physical and medical reasons.

2. Not all women have access to contraceptive information and devices.

3. Even the pill, the most efficient contraceptive known to date, has a one percent failure rate. There are 25 million women in the United States between the ages of 15 and 44; only about 3 million of these women want to conceive in any given year, leaving 22 million women exposed to the risk of an unwanted pregancy. Even if all these women could use the pill the failure rate of one percent could still yield as many as 220,000 pregnancies that were not wanted by the women. Research underway now toward the development of "morning after" pills is still a long way from realization.

The central ideology of the family planning movement over the past half-century has been the human right of a woman to determine the number of children she will have. This is also an important foundation for the ability of women to plan their lives to include active and meaningful participation in the world outside the family. In the United States, the family planning ideology has gained widespread acceptance, and most people would state as a corollary of this principle of human rights that every child should be born into a loving environment, a wanted child eagerly awaited by its parents. This is the most fundamental, best "head-start" a child can have, which no ameliorative head-start program, no adoption system for unwed mothers, no community mental health center, can begin to match. We must take the next step to the realization that no woman should be forced to be the unwilling parent of an unwanted child. The task force believes that it is from this perspective that any recommendation for abortion law reform should be viewed.

2. State law reform

Forty-two States prohibit the performance of an abortion unless it is necessary to save the life of the pregnant woman (or, in the case of Connecticut, the life of the woman or the unborn child). In the remaining eight States (Alabama, California, Colorado, Maryland, Mississippi, New Mexico, North Carolina and Oregon) and the District of Columbia, abortions are permitted in certain other circumstances in addition to cases where abortion is necessary to save the woman's life. For example, Mississippi permits abortions where the pregnancy is the result of rape; California permits abortions where the physical or mental health of the woman is endangered, or in cases of statutory rape of a girl under 15 or where pregnancy is the result of forcible rape or incest. Colorado and North Carolina have recently enacted laws patterned after the American Law Institute's Model Penal Code, which would permit abortions in the following circumstances: continuance of the pregnancy would gravely impair the physical or mental health of the woman; the child would be born with grave physical or mental defect; the pregnancy resulted from rape, incest or other felonious intercourse, including illicit intercourse with a girl below the age of 16.

Bills to make abortion laws less restrictive were introduced in 30 States and were enacted in three (Calif., Colo., N.C.) in 1967, Mississippi amended its law in 1966. In 1968, Maryland amended its law to permit termination of pregnancies by licensed physicians in accredited hospitals, upon written authorization of a hospital abortion review authority, in situations where (1) continuation of the pregnancy is likely to result in the death of the mother, (2) continuation of the pregnancy would gravely impair the physical or mental health of the mother, (3) there is a substantial risk of birth of a child with grave and permanent physical deformity or mental retardation, and (4) the pregnancy resulted from rape. Under the new Maryland law, a licensed physician who performs an abortion in an accredited hospital is not subject to criminal penalty, but if he performs an abortion in violation of the new law, his license may be revoked or suspended under the same procedures for revocation or suspension or licenses provided for unprofessional or dishonorable conduct. (H.B. 88, approved May 7, 1968).

Even if all States enacted the provisions of the Model Penal Code, it is estimated that only about 15% of the illegal abortions would fall within the permitted classes of abortions and the remaining 85% of abortions (170,000 to 850,000 per year) would continue to be subject to criminal sanctions under State abortion laws.

The Task Force on Administration of Justice of the President's Commission on Law Enforcement and Administration of Justice stated in its report (*The Courts,* page 105):

"Abortion laws are another instance in which the criminal law, by its failure to define prohibited conduct carefully, has created high costs for society and has placed obstacles in the path of effective enforcement. The demand for abortions, both by married and unmarried women, is widespread. It is often produced by motives and inclinations that manifest no serious dangerousness or deviation from the normal on the part of the people who seek it. These factors produce the spectacle of pervasive violations but few prosecutions."

That task force concluded that "the time is overdue for realistic reexamination of the abortion laws."

From the experience of other countries it seems clear that what the law permits or does not permit in this area has little effect upon the incidence of abortion. When most abortions are illegal, women either resort to devious, exaggerated claims to obtain a legal abortion or seek illegal abortions in secret and, for poor women especially, in medically unsafe conditions, or worst of all try to induce the abortion themselves. When abortions are legal, the incidence is about the same, the only difference being the greater health precautions followed in a hospital setting. Criminal abortion laws are generally not enforced and are indeed unenforceable, and when this is the case, it is wise "for the law to withdraw rather than have the majesty of the law brought into disrespect by open disobedience and unpunished defiance." (Robert Drinan, Dean of Boston College Law School, Washington Conference on Abortion, 1967).

Revision of State laws along the lines of the American Law Institute proposal would continue criminal penalties for some abortions while sanctioning others. The repeal of laws penalizing abortion may be more acceptable than the A.L.I. proposal to those who believe that all abortions are doctrinally immoral. As Dean Drinan stated:

"A system of permitting abortion on request has the undeniable virtue of neutralizing the law, so that, while the law does not forbid abortion, it does not on the other hand sanction it, even on a presumably restricted basis."

It may be noted that there is very little difference between Catholics and Protestants on attitudes toward abortion law reform and there is increasing support for liberalizing abortion laws.[1]

Proposals which permit abortions under certain circumstances while penalizing all others deny the right of a woman to control her own reproductive life in light of her own circumstances, intelligence, and conscience. Although governmental agencies and the medical profession may offer service and counsel, they should not exercise the power of decision over the woman's personal right to limit the number of children she will have, and her right to decide whether to terminate a particular pregnancy she does not wish to carry to term.

Convinced that the right of a woman to determine her own reproductive life is a basic human right, the task force recommends that laws penalizing abortion be repealed and urges the Council to encourage the State Commissions on the Status of Women to assume responsibility for educating the public on this issue and in getting State legislatures to repeal criminal abortion laws.[2]

The repeal of criminal abortion laws would mean that abortion would be treated in the same way as other medical procedures. It would mean that abortions could be performed by physicians without penalty and it would virtually eliminate abortions by unauthorized practitioners.

American Protestant Hospital Association

POLICY STATEMENT ON PREGNANCY INTERRUPTION

The following shall be the policy position of the American Protestant Hospital Association:

Believing that the integrity of the family unit and the institution of marriage is jeopardized, if not destroyed, by unwanted children, and believing that the condition of pregnancy and the bearing of children may cause physical suffering and mental anguish, and believing that social maladjustment may be related to or result from unwanted children, and those conceived out of wedlock and until such time as totally effective and acceptable contraceptive material and techniques have been developed, pregnancy may be interrupted at the request of and with the informed consent of a woman, her legal guardian or nearest relative if she is under the age of consent. No woman should be compelled to undergo, or a physician to perform a procedure that would interrupt pregnancy if either has ethical, religious, or any other objection to such a procedure. All reasonable efforts should be made to remove economical barriers that would prohibit the exercise of the option provided by this statement.

It is also the position of this Association that all procedures performed in conformity with this policy should be by licensed practitioners of medicine and in a facility which in all respects conforms to the then current acceptable standards of organized medicine and hospitals.

Approved by the Council on Governmental Relations 1–1970.

Approved by the Board of Trustees 1–27–70.

Approved by the House of Delegates 3–2–70.

Chicago Child Care Society

STATEMENT ON ABORTION—1970

It is estimated that well over one million abortions are performed in the United States each year! Abortion laws are obviously forcing women to secure termination of pregnancy outside of the law, irrespective of the dangers that may be involved for them.

Abortion laws have been based upon the premise that the fetus is fully human and that to perform an abortion is to terminate a human life. Such a view is presently challenged by medical, legal and religious opinion that holds that the fetus is a potential life and that it is not viable until it is sufficiently developed to live should it be born. Society should recognize differing views and no longer try to inflict one view on all its members. Abortion should move into the sphere of private decision-making and be treated as a medical decision to be made by a woman in consultation with a physician.

As a child welfare agency interested in the welfare of children and their families, we believe that all children have the right to be wanted. Children may very well have to suffer, not alone from being unwanted by their own mothers, but also in the case of unmarried mothers being rejected by the society that forced their mothers to bear them.

Legal abortions in this country are performed on economically privileged patients. The same group has access to legal abortions in other countries. The poor, on the other hand, turn to any abortionist they can find or resort to self-imposed methods known to be harmful.

According to a recently published item, gambling, narcotics and abortions are the three most profitable criminal enterprises in this country. Abortion laws are unenforceable and highly discriminatory.

Chicago Child Care Society, therefore, takes the position that:

"The termination of a pregnancy is a medical procedure to be decided upon by a woman and her physician and, therefore, provisions of law making such termination a crime should be amended so as to make them inapplicable in the case where the termination is effected by a licensed physician as a medical procedure."

American Ethical Union

RESOLUTION ON ABORTION

Whereas: we believe it is every woman's right to control her own body and determine her own reproductive life;

And whereas: we believe it is the right of a child to be wanted;

Whereas: the present restrictive laws lead to needless death and suffering as a result of illegal abortions;

And whereas: liberalization of existing laws have failed to reach those women most in need of medical services;

Therefore be it resolved: that the only remedy for this discriminatory legislation is outright repeal of laws restricting abortion, and that the decision regarding abortion should be a private matter between the patient and her physician, governed only by the laws of general medical practice.

American Civil Liberties Union

In the last few years legislatures all over the country have taken note of one of the most persistent but emotionally charged issues of our time, that of the reform of laws forbidding abortion. Lawmakers have gradually become aware of the tremendous social and medical problems and of the gross violations of individual rights perpetuated by the present abortion laws. A rapidly growing public sentiment is demanding that something be done to bring the old laws into line with the sweeping legal, medical, moral and social changes of the last half century, and in many states the first steps toward this end have already been taken.

The American Civil Liberties Union has watched these developments with keen interest. We have studied and debated the issue intensively for more than a year. Our discussion has touched on all aspects of the subject, including the various social, medical, moral and theological approaches, but our final conclusions rest solely on our desire to protect and advance civil liberties—in particular, the rights of privacy and equality and the freedom of each individual to decide for what purposes her body should be used.

The Union appreciates the depth of the emotions generated by the prospect that prohibitions on abortion will be removed. Many people believe profoundly that to destroy a fetus at any stage of its development is no less than outright murder. Others fear that when abortion is freely available youthful promiscuity will be encouraged and the moral fabric of society will be seriously weakened. We believe, however, that the civil liberties concerns that arise from the abortion question can be satisfied by means other than the grossly repressive legal prohibitions against abortion which prevail today. Our study has led us to the conviction that there is an answer consistent both with the demands of the spirit and principle of civil liberties and with the need for an amelioration of the social and medical problems created by today's laws.

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[1] Alice S. Rossi, "Abortion Laws and Their Victims," *Trans-action,* Sept.-Oct., 1966; Association for the Study of Abortion, 1967 survey in New York State.

[2] The Citizens' Advisory Council on the Status of Women adopted this recommendation in the following form:

The Council recommends that laws making abortion a criminal offense be repealed and urges State commissions on the status of women to assume responsibility for educating the public on this issue.

The American Civil Liberties Union asserts that a woman has a right to have an abortion—that is, a termination of pregnancy prior to the viability of the fetus—and that a licensed physician has a right to perform an abortion, without the threat of criminal sanctions. In pursuit of this right the Union asks that state legislatures abolish all laws imposing criminal penalties for abortions performed, for whatever reason, by a licensed physician. The effect of this step would be that any woman could ask a doctor to terminate a pregnancy up to the time that the fetus becomes viable. (The exact moment at which this happens is not known, but the medical profession does agree that a fetus could not possibly live apart from the mother until sometime after the twentieth week, and as a practical matter, even with the best medical care now available, not until several weeks later.) In his turn, a doctor could accede to the woman's request in accordance with his professional judgment without fear of criminal prosecution. Thus, the decision whether or not to continue a pregnancy would become one of the woman's personal discretion and the doctor's medical opinion. Both would be free to follow their private consciences in determining whether their religious or moral standards were being violated. No fear of criminal punishment would enter into the decision.

The ACLU holds that every woman, as a matter of her right to the enjoyment of life, liberty and privacy, should be free to determine whether and when to bear children. It is not a matter for the state to control. As long as criminal sanctions are attached to the performance of abortions, however, this freedom will not be realized. Even the recognition of special "hardship cases"—danger to the life and mental or physical health of the mother, probable fetal deformity, pregnancy resulting from rape or incest—falls short of satisfying the rights of life, liberty and privacy. Although it is true that a number of well-established religious and moral doctrines forbid abortion, we do not believe that the state has the power to force these particular religious and moral standards upon the entire community. The Union itself offers no comment on the wisdom or the moral implications of abortion, believing that such judgments belong solely in the province of individual conscience and religion. We maintain that the penal sanctions of the state have no proper application to such matters.

The discriminatory effect of this prohibition of abortion involves another area of civil liberties interest, that of equality. At a time when our nation is ever more deeply intent upon narrowing the gap between the rich and poor and removing the obstacles which prevent the poor from exercising their fundamental rights as citizens, we should not perpetuate the kind of inequality that the abortion laws have produced. The rich can violate the law with impunity, but the poor are at the law's mercy. Any sanction which operates in this manner is not acceptable under civil liberties standards of equal protection of the laws. Moreover, the very fact that a law is so arbitrarily applied and enforced and so universally ignored itself weakens the principle of the rule of law which is the backbone of civil liberties.

The violation of civil liberties inherent in the present abortion laws are sharply accentuated by the immense medical and social problems to which these laws have given rise. It is no secret that innumerable women secure abortions every year despite the prohibitions of the law. These women must either find doctors who are willing to stretch the technicalities of the law, or resort to frankly criminal abortions, most often at the hands of untrained incompetents. The physical, psychological and social costs of backstreet abortions are too well known to require enumeration. No less tragic are the consequences to the woman who does not have the price of a quasi-legal or illegal abortion, to the unwanted child she later brings into the world, and to the rest of her family.

The current debate over abortion law reform has revived the oft-heard contention that removal of criminal sanctions on abortion will undermine the morality of our youth and open the door to promiscuity. This is an understandable concern, but the experience of several European countries which have freely available or easily available abortion has not borne out this fear. Moreover, the statistics of abortions now performed show that the great majority of both legal and illegal abortions in this country are now sought by and performed upon married women who already have several children and who are pregnant by their own husbands. The primary impact of the laws would seem to fall not on the unmarried and potentially promiscuous teenager but on the married woman with an established family.

Although the social and medical problems created by prohibition of abortion are without doubt extremely serious, in pressing for legislative abolition of the abortion laws the Union bases its arguments solely on its desire to protect and promote the civil liberties of all citizens. We believe that the abortion laws violate civil liberties in the following specific ways:

(1) They deprive women of the liberty to decide whether and when their bodies are to be used for procreation, without due process of law.

(2) They are unconstitutionally vague.

(3) They deny to women in the lower economic groups the equal protection of the laws guaranteed by the Fourteenth Amendment, since abortions are now freely available to the rich but unobtainable by the poor.

(4) They infringe upon the right to decide whether and when to have a child, as well as the marital right of privacy.

(5) They impair the right of physicians to practice in accordance with their professional obligations in that they require doctors not to perform a necessary medical procedure. In many cases their failure to perform this medical procedure because of the statutory prohibitions on abortion, would amount to malpractice.

THE PRESENT STATUS OF ABORTION LAWS

A STATEMENT BY THE NEW YORK ACADEMY OF MEDICINE PREPARED BY THE COMMITTEE ON PUBLIC HEALTH

"A small and temporary improvement may really be the worst enemy of great and permanent improvement, unless the first is made on the lines and in the direction of the second."—Morley, J. *On Compromise*, vol. 3., p. 129. London, MacMillan, 1921.

The New York Academy of Medicine has issued three opinions on therapeutic abortion since 1943. In that year, after a grand jury investigation of so-called "abortion specialists," the Committee on Public Health of the Academy recommended that the state penal law should be amended to legalize therapeutic abortions in order to preserve the health of a pregnant woman. By way of implementing its recommendation, the Committee drafted the proposed amendment in appropriate phraseology:

Definition of abortion and therapeutic abortion and punishment of one who performs a non-therapeutic abortion.

(1) an abortion is an interruption of an intrauterine pregnancy before the period of viability (up to 28 weeks gestation) is reached.

(2) a therapeutic abortion is the artificial interruption of an intrauterine pregnancy before the period of viability (up to 28 weeks of gestation) is reached where the continuance of such pregnancy would jeopardize the life of the woman or so aggravate the physical or mental disease from which she suffers as seriously to impair her health or threaten her life.

(3) may be performed only by a physician duly licensed in the State of New York, and only in a hospital recognized by the Department of Social Welfare of New York State, or the Department of Health of New York State, or approved by the American College of Surgeons and/or the American Medical Association. After written opinions of its necessity have been obtained from competent qualified and recognized consultants in the respective specialties involved, which said written opinions shall be incorporated in the records of the hospital.

In 1953 the Committee on Public Health recommended that its previously proposed amendment be broadened to include the likelihood of impaired health or disability of a child as an indication for therapeutic abortion.

In 1959 the American Law Institute suggested a Model Penal Code governing abortion. This code would authorize therapeutic abortion when a licensed physician believes there is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother, or that the child would be born with grave physical or mental defects, or that the pregnancy resulted from rape by force or incest. The physicians must certify in writing their belief in the justifying circumstance.

INDICATIONS FOR THERAPEUTIC ABORTION—STATUTES ENACTED 1967–69

	Life	Health	Mental health	Fetal defects	Rape	Incest	Limit (weeks)
Arkansas	X	X		X	X	X	12
California		X	X		X	X	20
Colorado	X	X	X	X	X	X	[1] 16
Delaware	X	X	X	X	X	X	[2] 20
Georgia	X	X		X	X		
Kansas	X	X	X	X	X	X	
Maryland	X	X	X	X	X		[2] 26
Mississippi	X				X		
New Mexico	X	X	X	X	X	X	
North Carolina	X	X		X	X	X	
Oregon	X	X	X	X	X	X	[3] 21

[1] Applies only to cases of rape or incest.
[2] Exceptions in the case of serious threat to the mother's life or in cases of fetal death.
[3] Time limit does not apply in cases of danger to life.

In a statement issued in 1965 the New York Academy of Medicine reaffirmed its previously expressed opinions that changes in the abortion law were necessary. This statement contained the following recommendation:

The New York Academy of Medicine therefore strongly recommends that the Penal Law of the State of New York be amended to legalize therapeutic abortion where there is substantial risk that the continuance of pregnancy would gravely impair the physical or mental health of the mother, or that the child would be born with grave physical or mental defects. Safeguards should also be included in the legalization of the procedure on these grounds: therapeutic abortion should be permitted only in officially recognized or accredited hospitals after review and approval in each instance by a competent committee established by the hospital; and the operation should be performed only by a physician licensed in the State of New York.

In the intervening years many resolutions from diverse authoritative bodies and changes of statutes here and abroad have called attention to the appalling inadequacy of the New York law.

In 1967 the House of Delegates of the American Medical Association went on record as supporting reform of the abortion laws to conform with the general guidelines set forth in the Model Penal Code. The American College of Obstetricians and Gynecologists recommended, in addition to the provisions of the Model Penal Code, that social and total economic environment—actual or reasonably foreseeable—be considered as having a bearing on the health of the mother.

For more than two years the Medical Society of the State of New York has formally approved reform of the present "inadequate" abortion law.

The American Public Health Association at its 1968 annual meeting took the final step; it formally advocated repeal of the existing statutes regulating therapeutic abortion.

Between 1967 and 1969 eleven states have amended their abortion laws by extending the indications for therapeutic termination of pregnancy as indicated in the accompanying table.

The new abortion act in Great Britain (1967) is potentially the most permissive of all recently enacted statutes. It contains two significant clauses in respect to the ascertainment of health of the mother.

(a) Account be taken of the pregnant woman's actual or reasonably foreseeable environment.

(b) Account be taken not only of the effect of pregnancy on the mother but on any existing children of her family.

If liberally construed, the current British abortion law could amount to virtual unrestricted abortion.

The report of Governor Nelson A. Rockefeller's special commission to review the New York State abortion law was published in March 1968. The recommendations follow the Model Penal Code, but add two additional indications for abortion as follows:

(a) The pregnancy commenced while the female was unmarried and under 16 years of age, and is still unmarried.

(b) When the female already has four living children.

The principal arguments in favor of a more permissive abortion statute have been summarized by the governor's special commission as follows:

(1) The deaths, sterility and harmed physical and mental health, resulting from the large number of illegal abortions each year, could largely be prevented if such abortions were performed by competent physicians in proper hospital surroundings, within the framework of reasonable legislation.

(2) The wide disparity between the statutory law and actual practice encourages disrespect for the law and places upon the conscientious physician an intolerable conflict between his medical duty to his patients and his duty as a citizen to uphold the law.

(3) The present law places an unfair discrimination on the poor. Persons with money may obtain safe abortions either by travelling to other jurisdictions, by going to high-priced, competent though illegal abortionists, or by obtaining legal abortions here based on "sophisticated" psychiatric indications.

The divergence between the literal interpretation of the law and current medical practice has led today's physician into an area of grave legal risk. There are indications that the courts may take action when reputable medical practice in accredited hospitals does not conform to strict interpretation of rigid abortion laws.

In 1969 there were two court decisions of major importance in this field. On September 5 the California Supreme Court in the case of People v. Belous declared the pre-1967 California abortion law unconstitutional on the following grounds:

(1) The phrase "necessary to preserve life" is vague;

(2) "The fundamental right of the woman to choose whether to bear children" is a right of privacy which the statute abridges;

(3) The statute violates the Fourteenth Amendment because of the "delegation of decision making power to a directly involved individual," (i.e., the doctor might be penalized for approving a request for abortion but not for denying a request).

In November a decision in the United States District Court for the District of Columbia declared unconstitutional that part of the statute that outlawed abortions other than those done "for the preservation of the mother's life or health." The reasoning was similar to and in part relied upon that in the Belous decision.

At present the New York law is being challenged in the Federal Court for the Southern District of New York. The complaint in the case alleges that the abortion law is unconstitutional on ground approximately similar to those cited in the California case.

In view of these circumstances, the New York Academy of Medicine recommends repeal of those sections of the criminal code referable to the performance of abortion by qualified physicians and further supports the legal changes that would place abortion under the general provisions of the medical-practices act of the various states.

Mr. PACKWOOD. Then, Mr. President, I might very briefly comment about limiting child deductions to two. I have such a bill, which would not permit more than two child deductions after 1973, except for children already in being or adopted children, or in the event of a multiple birth, if a woman did not have two children at the time of the multiple birth.

There is an organization called Zero Population Growth, whose basic postulate is to attempt to limit the population of this country to its present size, and they encourage people not to have more than two children.

In April of this year, six of the eight members of the Eugene, Ore., city council—Eugene is our second largest city, and was the winner of the Look magazine All American award recently—and the mayor have signed a personal pledge that none of them would have more than two natural children, or, if they already exceeded two natural children, they would have no more.

I ask unanimous consent to have printed in the RECORD a copy of their resolution, with the names of the mayor and the six councilmen who signed it.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

As a further commitment to our resolved support of Earth Day, we, of the City Council of Eugene, proud to be among the first in our city to do so, pledge that we will produce, as biological parents, no more than two children, or that if we now exceed this limit to have no more at all. We urge our children not to exceed this limit, but that they look to the needs of a humanity already living among us, and as an alternative for larger families adopt as many children as they can support.

We sign our names to this Two Pledge, sponsored by the Zero Population Growth Chapter of Lane County, in order that the qualities that made Eugene an All-American City will neither disappear nor diminish, due to a continuation of our already exceptionally high population growth rate.

Lester E. Anderson, Mayor, Fred J. Mohr, Wickes Beal, Ivan J. Gribskov, Tom Williams, Nancy Hayward, Glen Purdy.

VOLUNTEERS IN THE PARK PROGRAM

The bill (H.R. 12758) to authorize the Secretary of the Interior to establish a volunteers in the park program, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD, an excerpt from the report (No. 91–1013), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 12758 is to authorize the Secretary of the Interior to enlist the services of volunteers in programs directly related to the public service mission of the National Park Service.

NEED

At the present time there are more than 275 units in the national park system. These areas are found in every region of the country and they represent some of the Nation's popular natural, historic, and recreation resources. All of these areas are administered by the National Park Service in a manner to conserve their outdoor values for the enjoyment of all Americans for all time.

The task of optimizing the public benefit from these outstanding natural, historic, scientific, and recreational areas is enormous. It is a tribute to the dedicated employees of the National Park Service that millions of Americans seek out these areas to enrich their lives and highlight their vacations and holidays. Undoubtedly, these men and women will continue to carry out their responsibilities as effectively and efficiently as possible. H.R. 12758 is not intended to detract from the contributions which they have made in the past nor which they are expected to make in the future. H.R. 12758 seeks to add a new dimension to the park experience for both the volunteer and the visitor. It seeks to enlarge and supplement the opportunities to make our national park areas useful, interesting, enjoyable, and educational. Through the authority it provides, it is hoped that all participants will find their national park visit a more meaningful and memorable experience.

Presently, the National Park Service utilizes the voluntary services of interested persons only under severely restricted circumstances. At relatively few locations, where certain organizations have a keen interest in the unit, cooperative arrangements permit public-spirited citizens to serve on a nonappointed basis. To do so, however, they are required to agree, in writing, that they are not employees of the United States and that the United States is not liable for any injuries which they might sustain as a consequence of their voluntary activities. In addition, to the extent required, any expense connected with their service (e.g., uniforms, period costumes, transportation, etc.) is their own or must be paid for from donated funds. Taken together, these restrictions limit the voluntary participation of many people who have the time and the desire to help.

H.R. 12758 removes the inhibitions which naturally arise when a volunteer is required to waive his rights to compensation for accidental injuries sustained while providing these services. While the legislation neither authorizes nor contemplates any compensation for the services rendered in the form of wages or salaries, it does enable the National Park Service to assure the volunteers that they may be afforded the remedies available to Federal employees under the Tort Claims Act and statutes relating to job-connected injuries in the event some misfortune occurs in connection with their services. While these remedies are to be available, it should be clearly understood that no volunteers are to serve in any hazardous or dangerous occupation where the risks of injury are foreseeable. This legislation is not intended to provide any authority to utilize volunteers to operate potentially dangerous machinery nor should it be interpreted as authority to utilize volunteers to do the jobs normally assigned to regular career employees.

The volunteer which this legislation comprehends is a private citizen who accepts an appointment, subject to prescribed requirements, to perform a specific function for a limited period of time without compensation. Under the terms of the program planned, each volunteer will be recruited on an individual basis and will be assigned to functions which complement and supplement the work of regular and seasonal park personnel. While they are not to be substituted for maintenance labor or other regular or seasonal personnel, they may, among other things, help to provide special information, services to visitors, assist in archeological digs, conduct special research, or help in the interpretation of historical events.

Undoubtedly, this program could prove to be a valuable contribution to the park program. Not only will it provide stimulating opportunities for young people, but it will open new opportunities for interested retired people. For the young, it will teach an appreciation for the effort which made the national park system what it is and it may provide them with guidance and experience which will help them in choosing their career goals. In short, as a recent article in "The Government Standard," a publication of the American Federation of Government Employees indicated: "[The program] sounds like a golden opportunity, if Congress approves, for those who enjoy the outdoors to get their fresh air, while donating their most valuable asset, their time, to our Nation's fine parks."

COMMITTEE OVERSIGHT

The Committee on Interior and Insular Affairs intends to maintain vigilant oversight over this program as it develops. It recognizes the valuable contributions which it can make to the overall park program, but it is also aware of the delicate balance which must be maintained between the career personnel and the volunteers. The committee expects the National Park Service to make the volunteers fully aware of the responsibilities which they are assuming and to give them adequate guidance and supervision. The Director of the National Park Service has assured the committee that he recognizes the interest of the Congress in this program and that he will keep it fully informed at periodic intervals.

Under the bill, appropriations for this program will be limited to $100,000 annually. At the outset, appropriations for this purpose are not expected to reach that level. In the years ahead, however, upon reviewing our experience with the program, it may be that a larger authorization would be appropriate. At that time, the Congress can assess the need and determine the amount of funds it might effectively employ.

To facilitate the review of this program, it should be, as it was in the 1971 budget, a separate line item in the general management and protection appropriation request. Records should be available showing the number of volunteers, their average length of service (in terms of numbers of working days), and the average expenses incurred in training, uniforms and costumes, transportation, etc.

While normally the general operating funds of an agency are not subject to authorization ceilings because they are carefully scrutinized by the Appropriations Committees, in this instance the committee considers this program to be experimental. If it is as successful as predicted, it may be that the Congress will want to raise the ceiling or remove it, but until it is a proven program the limitation imposed is reasonable and adequate to meet the needs in the foreseeable future.

THE NATIONAL PARK SYSTEM

The Senate proceeded to consider the bill (S. 2985) to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 2, line 11, after the word "words", insert "'and miscellaneous areas administered in connection therewith' and"; and on page 3, line 7, after the word "money," strike out "sections 1 and 4–6", insert "sections 1, 4, 5, and 6"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their interrelated purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the system and to clarify the authorities applicable to the system.

Sec. 2. (a) Section 1 of the Act of August 8, 1953 (67 Stat. 496; 16 U.S.C. 1b), is amended by deleting the words *"and miscellaneous areas administered in connection therewith" and* "and miscellaneous areas" wherever they appear.

(b) Section 2 of the Act of August 8, 1953 (67 Stat. 496; 16 U.S.C. 1c), is amended to read as follows:

"Sec. 2. (a) The national park system shall include any area of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monuments, historic, parkway, recreational, or other purposes.

"(b) Each area within the national park system shall be administered in accordance with the provisions of any statute made specifically applicable to that area. In addition, the provisions of this Act, and the various authorities relating to the administration and protection of areas under the administration of the Secretary of the Interior through the National Park Service including but not limited to the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2–4), the Act of March 4, 1911 (36 Stat. 1253), as amended (16 U.S.C. 5) relating to rights-of-way, the Act of June 5, 1920 (41 Stat. 917), as amended (16 U.S.C. 6), relating to donation of land and money, sections 1, 4, 5 and 6 of the Act of April 9, 1924 (43 Stat. 90), as amended (16 U.S.C. 8 and 8a–8c), relating to roads and trails, the Act of March 4, 1931 (46 Stat. 1570; 16 U.S.C. 8d) relating to approach roads to national monuments, the Act of June 3, 1948 (62 Stat. 334), as amended (16 U.S.C. 8e–8f), relating to conveyance of roads to States, the Act of August 31, 1954 (68 Stat. 1037), as amended (16 U.S.C. 452a), relating to acquisitions of inholdings, section 1 of the Act of July 3, 1926 (44 Stat. 900), as amended (16 U.S.C. 12), relating to aid to visitors in emergencies, the Act of March 3, 1905 (33 Stat. 873; 16 U.S.C. 10), relating to arrests, sections 3, 4, 5, and 6 of the Act of May 26, 1930 (46 Stat. 381), as amended (16 U.S.C. 17b, 17c, 17d, and 17e), relating to services or other accommodations for the public, emergency supplies and services to concessioners, acceptability of travelers checks, care and removal of indigents, the Act of October 9, 1965 (79 Stat. 696; 16 U.S.C. 20–20g), relating to concessions, the Land and Water Conservation Fund Act of 1965, as amended, and the Act of July 15, 1968 (82 Stat. 355), shall, to the extent such provisions are not in conflict with any such specific provision, be applicable to all areas within the national park system and any reference in such Acts to national parks, monuments, recreation areas, historic monuments, or parkways shall hereinafter not be construed as limiting such Acts to those areas."

Sec. 3. In order to facilitate the administration of the national park system, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to carry out the following activities:

(a) provide transportation of employees located at isolated areas of the national park system and to members of their families, where (1) such areas are not adequately served by commercial transportation, and (2) such transportation is incidental to official transportation services;

(b) provide recreation facilities, equipment, and services for use by employees and their families located at isolated areas of the national park system;

(c) appoint and establish such advisory committees in regard to the functions of the National Park Service as he may deem advisable, members of which shall receive no compensation for their services as such but who shall be allowed necessary travel expenses as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 5703);

(d) purchase field and special purpose equipment required by employees for the performance of assigned functions which shall be regarded and listed as park equipment;

(e) enter into contracts which provide for the sale or lease to persons, States, or their political subdivisions, of services, resources, or water available within an area of the national park system, if such person, State, or its political subdivision—

(1) provides accommodations or services within the immediate vicinity of an area of the national park system to persons visiting the area; and

(2) has demonstrated to the Secretary that there are no reasonable alternatives by which to acquire or perform the necessary services, resources, or water;

(f) acquire, and have installed, air-conditioning units for any Government-owned passenger motor vehicle used by the National Park Service;

(g) sell at fair market value without regard to the requirements of the Federal Property and Administrative Services Act of 1949, as amended, products and services produced in the conduct of living exhibits and interpretive demonstrations in areas of the national park system, and to credit the proceeds therefrom to the appropriation bearing the cost of such exhibits and demonstrations; and

(h) provide transportation for children in nearby communities to and from any unit of the national park system in connection with organized recreation and interpretive programs of the National Park Service.

Sec. 4. The Act of March 17, 1948 (62 Stat. 81), is amended by deleting from section 1 thereof the words "over which the United States has, or hereafter acquires, exclusive or concurrent criminal jurisdiction," and changing section 3 to read as follows:

"Sec. 3. For the purposes of this Act, the environs of the District of Columbia are hereby defined as embracing Arlington, Fairfax, Loudoun, Prince William, and Stafford Counties and the city of Alexandria in Virginia, and Prince Georges, Charles, Anne Arundel, and Montgomery Counties in Maryland."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THE FEDERAL GOVERNMENT ESTABLISHMENT

Mr. GOLDWATER. Mr. President, the tremendous size of the Federal Government was a major concern of mine when I was first elected to the Senate over 18 years ago. As some of you will recall, it was a time when we heard much discussion about big government; about the interrelationship of government agencies on the Federal, State, and local level; about need for an equitable distribution of revenue sources among these divisions of government. It was also a time when the Hoover Commission was making a determined attempt to catalog the various activities and functions of the Federal Government and making recommendations to end some of the almost unbelievable examples of duplicating programs, overlapping functions and inefficient and wasteful administrative practices it found. I do not plan here today to go into the sound and constructive recommendations of the Hoover Commission which never were acted upon or placed into operation. It is enough to recall that enormous dividends were realized in terms of money and efficiency from the recommendations which were activated and to take note that some important recommendations were never even considered.

But all that was many years ago and since that time—especially over the last decade—the size of the Federal Establishment has grown tremendously. In fact, the bureaucracy which the Federal Government maintains today has actually become a problem of man's ability to govern himself in time of massive technological change and population growth. It is so massive that it literally feeds on itself. It is so large that no one in or out of government can accurately define its power and scope. It is so intricate that it lends itself to a large range of abuses, some criminal and deliberate, others unwitting and inept. The government is so large that institutions doing business with it, or attempting to do business with it, are forced to hire trained experts just to show them around through the labyrinthine maze made up of hundreds of departments, bureaus, commissions, offices, and agencies. Some colleges and universities, for example, employ specialists called "grant finders," whose job it is to tell these schools what is available to them under the various laws and multitudinous regulations of the Federal Establishment.

Mr. President, every now and then we catch a frieghtening glimpse of this enormous structure and what it means in terms of accountability and manageability. For example, a young Member of the House of Representatives several years ago set out to determine how many assistance programs were available and maintained in the Federal Government. It took him 2 years to find out that there were over 1,300 such programs, many of which were unknown to each other and unknown to the people they were established to help. It was discovered, for example, that no one in the Federal Government had an idea how many assistance programs existed, where they were located, and how they were designed to help American citizens.

Then we have the spectacle of the House of Representatives engaging in a tense, prolonged, and emotional battle over the appropriation of funds for rat control in our major cities. After all the shouting had died down, it was discovered that there existed already eight programs in various Government departments to do the same thing. So, Mr. President, the size of the Federal bureaucracy—which just keeps growing like Topsy year after year despite the unfair and growing burden which it places on the taxpayer—is compounding the difficulty and confusion which the average American encounters as he attempts to function in today's society. If this continues, the day will come when not only business will choke to death on Government redtape but the average American wage earner and property holder will suffocate as well.

Amazingly enough, this problem for all its size, complexity, and importance, does not seem to be receiving the kind of study and attention that it should be accorded by today's leaders. Occasionally a former member of that bureaucracy sits down and attempts to find words sufficient to explain what is happening. One of these is Mr. Lee Loevinger, a Washington attorney and former member of the Federal Communications Commission. In an article which he wrote for the magazine "The Business Lawyer," Mr. Loevinger warns that the biggest danger stemming from the problem of bureaucracy is not that of error but of ignorance. He explained:

> If man is to have any hope of finding a path to a livable future, he must first take a clear-eyed look at this present situation and the institutions of his creation which surround and influence him.
>
> The most persuasive social institution of the modern age, the most characteristic social problem of the exponential growth of recent years is bureaucracy. It is like a passionless mob which can capture and conquer man unless he is wise enough to subdue it and shape it to his own purposes. This can be done, but first we must study its nature and its laws, and recognize that, for the contemporary world, bureaucracy is not an answer to our problems but it is itself one of the principal problems that is both a part and a product of expotential growth that modern society must learn to understand and control.

I agree 100 percent with Mr. Loevinger's conclusion. The problem is that before we understand and control the Federal bureaucracy, we will have to get an adequate look at it. We have not had anything like an overall view of this enormous entity since the Hoover Commission reports. And very frankly, I am beginning to have some doubt as to how such a story could be conducted in time to yield maximum benefit. The job of ascertaining just what assistance programs exist in the Government took Representative William Roth and his investigators several years to come anywhere close to an accurate picture. It would not surprise me that the job of listing, explaining, and cataloging the many, varied functions and services of a department like the Department of Health, Education, and Welfare would take a sizable staff of highly skilled experts 5 to 10 years to do the job well. When we consider the vast, sprawling reach which the Federal bureaucracy now maintains into every facet of American life and into every political and governmental subdivision of the 50 States, we begin to understand what I am talking about.

I mentioned the evils inherent in this gargantuan monstrosity. Anything as large as the Federal Government and as loosely administered as the Federal Government lends itself to every kind of abuse by its very nature. I have mentioned how the intricacies play into the hands of people skilled in manipulation of such matters. Now I want to emphasize how this bureaucracy problem thwarts the work that we here in the Senate and the Members of the House are engaging in. It should not, but probably would, astound most Members of the Senate to find out what actually happens to the intent which we write into major legislation when it gets into the hands of the bureaucrats in the Federal Government. Much of our purpose in enacting laws has been either contradicted, overruled, diluted, or denied in many instances by quasi-judicial rulings by Government regulatory agencies or by Government regulation or by the courts. We seem almost complacent in our belief that the people who handle the provisions of the laws we pass will understand the motivation and the intent of the Congress which passed them. Further, we seem almost secure in the belief that where this intent is known that it will be followed without question. I think we all have seen enough examples to realize how far from the actual intent of Congress Government bureaucrats have been known to stray in the administration of the laws—either by intention, design, or mistake.

It would be downright laughable if it were not so serious to consider how many of our people actually believe that a national administration firmly controls the Federal Government. It is true that broad overall policy is determined at the White House level or at the cabinet level in the Government bureaucracy. But its implementation is too often left to the tender mercies of a long-entrenched bureaucracy. Right here, Mr. President, let me say that I am not suggesting a return to that system which we once called the "spoils system" in which an incoming national administration would clean house of all Government workers who were not alined with the new regime's political party. I recognize that this cannot be done, nor should it be done. I admit that a strong case can be made for the career employee in Government and for his protection under the civil service system. But I do not agree that a person who is making Government his career and is blanketed under civil service has an automatic, providential right to permanent employment. Nor do I believe that civil service status should empower a civil servant in the Government with the right to make his own policy. I believe Government employees have a responsibility to the people who are taxed to pay their salaries to support and implement the policies that come down to them from the elected representatives of Government. I think we have all seen enough of Washington and heard enough testimony from Government officials to understand that some of them have held their jobs so long that they feel their opinion should dominate any policy which may come to them for implementation.

Let me give an example. What do you think would happen in a private corporation if 300 of its employees held a mass meeting to protest the kind of product their employer was manufacturing? You guessed it. In private industry this kind of effrontery from people whose job is not product design would be rewarded with dismissal notices. Yet several hundred employees of the Department of HEW—none of whom was elected by the people who pay them—could hold a mass meeting to protest policy decisions reached by the White House and by the Secretary of HEW and by others whose job it is to formulate policy in accordance with the wishes of the people who elected the administration they serve. As I say, this could and was done without anything happening except the disruption of the administrative processes of the Department of HEW and the annoyance of the man chosen by the President to run that department. No action was taken at the executive level, nor was a word said.

Understand, I have no objections to any Government worker expressing in the proper forum his feeling or belief about any policy. I object most strenuously, however, to the practice of a Government official using his position as a Government employee to oppose or undermine or refuse to work for the policy of that Government.

But, I do not want to be unfair to the career employees in the Federal Government. The feeling of "ownership" which I detect in their attitudes has come about through long years of bureaucratic possessiveness. It is both a help and a hindrance to the efficient administration of Government. In considering this problem it must be understood that Government workers are motivated by much the same consideration as workers in private industry. They are interested in comfortable compensation, proper working conditions, and security in both. They oppose change because it might constitute a threat to their jobs. Their individual and collective efforts, therefore, are understandably devoted to perpetuating or enlarging their own areas of responsibility. At the same time they try to run things to suit their own policy ideas. This has to do with personal ambition on the part of the Government worker and bears very little relationship to efficiency and prudence in the conduct of Government business. It is true that bureaucrats and career employees have a great facility for cloaking their actions and their projects in terms that sound as though they would improve the efficiency or the output of the agencies where they are employed. But this is very rarely the case.

So the whole problem of Government employees working their own will on the intent of Congress and actually on the policy of their own administrators results from long years of permissiveness at the "middle management" level of Government work.

As I have tried to point out, this interaction of bureaucracy results from personal ambition and, although it is often derided and criticized as bureaucratic "empire building," it is completely understandable. What is more, it will continue so long as the present approach to management of the Federal Government is maintained.

But, Mr. President, this rigid bureaucratic system is long entrenched and deeply dedicated to its own concept of what is right and what is wrong in the realm of Government policymaking. And I want to point out right here that this rigidity, this refusal of the bureaucratic middle management to accept innovations and changes in the conduct and method of Government business is a denial of the democratic process. I have already mentioned that the system nullifies very often the expressed intent of Congress. Now I am going to declare that it also thwarts the will of the people.

Mr. President, ask yourself why do governments change? Why do we have such things as new administrations? Why do we occasionally see a switch in political affiliations of national administrations? I will tell you why. Governments change, new administrations take office, political complexions of Presidents change to reflect the will of the qualified voters of the United States.

When the people of this country become dissatisfied with the kind of government they are receiving, they go to the polls and vote to oust the officials responsible. In the old days in American politics, they had a battle cry which reformers used to defeat entrenched and unpopular officials and administrations—"throw the rascals out." And this, Mr. President, is pretty much the history of American politics. When governments change and there is massive turnover in administrations, it results from the action of people voting against the "ins" rather than for those attempting to replace them. There have been exceptions—most notably when the political party opposing the incumbent President fields a national war hero as a candidate. Perhaps 1952 and the election of Gen. Dwight Eisenhower over the nominee of the long-entrenched Democratic Party is a case in point.

So we have the will of the people being expressed in the election of new administrations. We have the concern of the people reflected in the elections of new officeholders, new policymakers.

But, Mr. President, the question is whether this will of the people, whether this concern of the people, whether this officially stamped request for a change in direction can ever be completely realized under the present system of bureaucratic management. I do not think that it can. I do not think that the will of the people and the intent of Congress goes deep enough into the places where the policies are made that most directly affect the people. Given the intricacies of the system, the attitude of those in permanent positions and the general confusion surrounding any change of command in an enterprise as vast as the Federal Government, I do not think it is possible for this job to be done with any degree of success. The officials oriented to the philosophies promoted by the Democratic Party have been in control too long, their numbers are too great and their influence too strong to quickly bring about any substantial change in the things that cause concern among the people.

Mr. President, I can assure you that the concern among our people about governmental matters has grown tremendously in the past few years. I believe this can be attested to by any Member of this Chamber who keeps an accurate count of the mail he receives from his constituents from week to week.

My office mail was extremely light when I first came to the Senate in 1953. It was about average for a State the size of Arizona. Of course, it increased tremendously prior to 1964 and much of this had to do with my nomination as the Republican presidential candidate. But even allowing for the increased population of Arizona and allowing for my questionable status as a one-time candidate for President, my office mail today reflects a greatly increased concern on the part of the people in my State.

As the Members all know, Mr. President, my State is some 2,500 miles away and, consequently, my office does not receive the volume of visiting constituents as would the office of a Member from nearby New York, Ohio, Pennsylvania, or Virginia. But I am enormously impressed at the number of people from Arizona who now visit my Washington office to clear up problems that have to do with the Federal Government and its relation to the communities, the land, the schools, and the hospitals in my State. It is fair to say that each month I get perhaps 10 times as many Arizona visitors as I did back in the middle and late 1950's. The number of Arizonans who come to my office today are perhaps twice the number that came in the early 1960's even though that earlier period covered a time when my name was being mentioned in speculation over the presidential nomination.

Mr. President, Arizona is certainly not unique in this respect. The concern of the American people about the problems of Government has increased tremendously and visibly. Therefore, the need for reasonable control of the Federal bureaucracy is growing more imperative.

This must be thoroughly and completely understood by the Nixon administration or it will never succeed in the multifaceted program of governmental reform upon which it has embarked. In private conversations with President Nixon and others associated with the present administration I have repeatedly observed that the President must establish some kind of administrative control over this sprawling Federal bureaucracy or it will control his administration. The magazine Business Week, back on August 3, 1968, reported on this aspect of the civilian work force in Government and commented:

> To get these hundreds of thousands of accountants, plumbers, lawyers, clerks, and engineers swinging the way he wants them to, the new President will be at the mercy of his middle managers.

The point I raise today is whether the Nixon administration has actually understood the problem and come to grips with the need for controlling the so-called middle-management level of the Federal Government. I seriously doubt it, or we would not see the freedom with which Government employees come together in mass meetings designed to oppose a major policy of the new administration.

What is more, Mr. President, I am not completely sure that the President and his advisers understand the necessity for placing at the middle management level men and women firmly devoted to the Nixon administration's philosophy of government and its attitude toward the burning public issues of the day.

It is not only "waste motion," it is "Negative motion" for the administration to place in positions of middle management responsibility individuals who either oppose the President's programs outright or who are lukewarm in their support of administration policies generally. I see no cause here to equivocate with the facts. I believe President Nixon makes a mistake in administration every time he names a Democrat or a leftist Republican affiliated or not with the so-called Ripon Society. Here is an organization which opposed Mr. Nixon's nomination for the presidency. It is an organization which has taken public positions on most important questions diametrically opposed to those being pursued by the President. It is an organization which maintains a steady drum fire of criticism in opposition to many of the programs and policies developed by Republicans in the House and Senate.

Very frankly, I believe that the administration is asking for trouble every day that it retains Republican appointees who disagree fundamentally with the President and his programs.

Without making any specific charges, I should like to point out that the situation which I have just described lends itself very easily to the kind of news "leaks" which are continually cropping up to embarrass the Nixon administration. I find it interesting, for example, that so many inner-office memorandums which reflect disagreement within the ranks of the administration find their way into print in the Washington Post or the New York Times or some other publication which has always rabidly opposed President Nixon and his policies.

I believe that President Nixon or any President who may succeed him and who is interested in programs of revision and reform will have serious trouble unless they come to grips with the problem of middle management.

And I say that because the entrenched bureaucrats resist change. They have little or nothing to gain by reform, revision, or innovation. They, of course, live in fear that such action on the part of a new incoming administration might involve a risk to their own security. The management level of Government, of course, is manned by career executives who have learned through long experience to lean and shift with policy changes coming down from the top. They have learned to do this by making absolutely minimum concessions to policy pronouncements by new Cabinet members and bureau chiefs. They realize that changes of a fundamental nature in policy take a long time to implement and consequently may not have to be completed before a new change at the top occurs.

Their attitude, I am convinced, is much the same when it is directed toward policy changes decreed by an act of Congress.

What we have here, Mr. President, is an administrative maze so complex that many newly appointed policymaking officials spend almost their entire term of office trying to find out what their duties, responsibilities, and functions are all about. The system lends itself to all kinds of abuse but its major drawback is its enormous, unfathomable size. New Cabinet members are often criticized for not having a firmer grasp of the problems relating to their agencies. Very seldom do the critics stop to realize that a mere Presidential appointment does not make an administrative expert. For example, some members of President Nixon's Cabinet come up very short in this department—through no lack of intelligence, but through a complete lack of experience in political bureaucratic administration.

These situations are always confused and complicated by political considerations. For example, a man can be a lousy administrator, but if he happens to be a liberal who does not see eye to eye with everything the national administration stands for, his dismissal is always attributed in the public press to philosophical differences. For example, when the former head of the U.S. Office of Education, Dr. James Allen, was dismissed recently, many administration critics claimed the action resulted from differences with the White House over desegregation policies. It will be recalled that Dr. Allen was a strong supporter of the practice of busing students for purposes of establishing better racial balance in the public schools. It will also be recalled that busing was a feature of school desegregation which President Nixon opposed during his campaign in 1968. While this difference of opinion may have had some bearing on the situation, the fact remains that Dr. Allen was discharged primarily because he did not possess the administrative ability to handle the job.

This should serve as an object lesson for any top officials of the Nixon administration who have run headlong into "Peter's Principle" and find that, despite their experience and interest, the job to which they have been appointed is beyond their administrative capacity. Any such official who might want to hide his administrative deficiency would be smart to begin taking issue with the President, the Vice President, the Attorney General, and the top echelon at the White House on questions of policy and ideology. This way they can rest assured that the liberal segments of the communications media will jump to the wrong conclusion when they are replaced.

Mr. President, the problem of this enormous and unwieldy bureaucracy is one to which I have devoted considerable time and study. As the presidential nominee of the Republican Party in 1964, I could not afford to run the risk of assuming that Dr. Gallup and his cohorts might not be as wrong as their counterparts were in Britain several weeks ago. I do not want to appear facetious, because this is a serious matter. But any man who finds himself running for the top office in this Nation on a major party ticket is forced to give some thought and some study to the whole question of how you go about staffing the National Government.

This whole problem is so vast that no man with even an outside chance of becoming President can do any less than to devote long hours of very concentrated study to the structuring and functioning of the Federal Government.

When you come up against such a possibility, you begin to understand that just the problem of finding qualified people to man the very highest eschelon of Government requires much searching and much investigating. I doubt if the average American has any idea what a tremendous undertaking this becomes. New Presidents literally have to organize teams of trusted friends and associates to conduct wide-ranging talent hunts. Almost every appointment requires unusual talent if it is to be successful. A man, for example, who is named to head the Department of Health, Education, and Welfare needs much more than just a warm-hearted concern for the needy, the sick, and the undereducated. He needs to be an expert in many fields because he will be called upon to act in many primary and related fields of social welfare and education and to justify that action before the committees of Congress.

Too often it is believed that all you need to head the Department of Commerce is a good businessman and that all you need to head the Department of Labor is someone who has had experience with labor contracts and employee disputes. Of course, over the years these departments have grown beyond the confines of their names, and the old, easy assumption no longer holds. I sometimes think that many politicians and commentators are so uninformed about the complexities of Government today that they actually believe aspirants for the job of Postmaster General should be rated on the amount of mail they have received.

Mr. President, this subject is so vast that it would take many hours, even days, of speaking time to do it justice. What I have tried to do here today is detail some of the facts involved in the problem of the Federal bureaucracy and to suggest that it is time to consider new approaches and fresh attitudes in our consideration of how to make it more responsive to the desires of the American people.

Candor compels me, however, to acknowledge that a large—perhaps the largest—part of this responsibility lies with the executive branch of the Government, at least in the initial phase. In fact, in the area of what Government experts refer to as "the principle of accountability," the Congress has simply lost control over most of the money expended by the Treasury each year. For example, last year President Nixon proposed a fiscal 1970 budget of $193.3 billion. According to the original budget, relatively uncontrollable civilian outlays under existing law amounted to $98.8 billion. When you subtract spending for military defense which was budgeted as $81.5 billion, make bookkeeping adjustments, the congressional appropriation committees ended up having actual jurisdiction over only about $20 billion. And $20 billion was roughly the size of the entire Federal budget of 1919.

Mr. President, I think we must admit the Congress has simply lost its accountability for most of the money spent by the Government. Originally, the Constitution gave Congress control of the purse strings, and Congress designated the appropriation committees as their agents. But new means of funding have been established which do not simply remove control of the appropriations process from the appropriation committees, but remove it from the Congress itself.

Congress, I am sorry to report, has lost this control to men who were not elected and who are not directly responsible to the people. They cannot be voted out of office if they make costly mistakes, yet they control the offices in thousands of Government buildings and buy, sell, lend, borrow the assets, the credit, the pools, the funds, the contracts, the obligations, the debts, the accounts, the authorization to spend from debt receipts, the payments, the rates, and so on.

Mr. President, this is quite a lot of words to use to support the simple statement that we in the Congress have lost control over the purse strings to the "Gnomes" of Washington. For those among us who are unacquainted with the word, let me explain that in economic conversation it is often remarked that the assets of our international financial dealings are controlled by the "Gnomes of Zurich." The reference is to the enormous amounts of secret money which have been deposited in numbered accounts with Swiss banks.

Let me give you a few examples of how the Congress has lost its control in the area of Government spending:

First. As of January 1, 1969, the U.S. Government was authorized under law to maintain 812 trust funds, 139 revolving funds, 86 special accounts, 381 no-year accounts, and 510 deposit accounts, none of which are subject to normal year-by-year scrutiny of the appropriation process.

Second. The rent supplement program uses contract authorizations in lieu of direct appropriations. Since each contract is made on a 40-year basis, Congress already has effectively removed control over approximately $2½ billion from the Senators and Representatives who will sit in Congress in the 21st century.

Third. Three-quarters of the $11.6 billion nondefense budget increase between 1969–70 reflected, in the words of former President Johnson, "relatively uncontrollable charges which must be met under present laws." They included $2.9 billion for automatic increases in social security, medicare, and social insurance programs financed through trust funds; $2.8 billion for automatic pay raises; $1.6 billion for automatic increases in veterans' benefits, medicaid, and interest on the national debt; and $1.3 billion for increases arising out of prior-year contracts then reaching the payment stage—a half-built bridge, an almost-completed highway, et cetera.

But the purse strings by themselves are not the entire story. Take the problem of inflation. There can be no question that the American people who have gone to the polls in recent years have voted their dissatisfaction over the steadily rising cost of living and steadily increasing prices in all consumer areas. This dissatisfaction is one of the principal reasons for the election of President Nixon in 1968 and, to his credit, he is striving mightily with this problem. But it is well for us to consider that the expansionist monetary policy of the Federal Reserve Board during the period of 1961–68 is at least partly responsible for the inflationary tendencies in the late 1960's. Yet there is no way to hold those responsible accountable. Members of the independent Federal Reserve Board serve 14-year terms, regardless of whether their policies lead to inflation, recession, or depression. In other words, they are not accountable for the economic effects of their actions.

Mr. President, I suspect that study and investigation and reorganization all have their parts to play in coming to grips with the problem of overpowering bureaucracy at the Federal Government level. Indeed, action must be taken in all of these areas if we are to cope with our own governmental "Frankenstein." Yet, I believe that much of the problem lies with people. By this I mean in the selection of the right kind of people for the right kind of jobs. Further, it means better utilization of the people and their capabilities and skills who do function in the Government departments. There can be no doubt that people are the key to the success of any enterprise, Government or otherwise, especially those chosen to serve in position of top management, but I believe we have placed too much emphasis on the selection of people who have become recognized and established as experts in a particular field of endeavor. In other words, we too often select a successful builder to head up a housing project. We too often turn to western States with their water, their reclamation projects, their Federal lands and related problems to find a man to head up important branches of the Interior Department. And so it goes. Successful farmers and farm theorists are drawn into the Department of Agriculture, and so on and on.

It never seems to occur to the people running the government that one way to obtain an overbalanced policy in a department of Government is to populate it with people who are highly experienced in the general subject but who have always been alined with one of several competing viewpoints. This is no way to effect change or innovation. To obtain change or identify or promote innovation, it requires people with imagination who are not committed by past experience to the established way of doing business. Strangely enough, the greatest obstacle to fresh ideas and innovations and change in governmental policy and approaches has been the tendency always to select people for various posts who have extensive past experience and extensive past associations in the fields concerned. Such appointments work automatically against experimentation or the exploration of new ways and different methods. It stands to reason that man who has succeeded in doing things in a given field in a particular, classic way is not going to advocate a new approach. Even if he does—say on the orders of his immediate superior—he will have no heart for the endeavor and he will not push it with the kind of force and determination required.

By the same token, it is impossible to man specialized Government departments with people who are so inexperienced that they cannot make sound proposals for change or propose valid innovations in the particular field to which they have been assigned.

Mr. President, I am well aware of the

fact that it is easy to criticize and to find fault. It is too easy for those of us who do not have direct responsibility to assign verbal blame and to hand out rhetorical prescriptions as to what should be done. I am fully aware that this is a mammoth problem which is not going to be corrected overnight. Nor is it one which easily lends itself to any pat solution. I do, however, believe there is great need at the present time for the enlistment of men and women with experience in overall planning techniques. Sometimes they are called "generalists" and described as people who understand "something about everything" but not "everything about something." As a class, these are people who not only have imagination and general planning and analysis experience, but who also are more interested in innovation and problem solving than in the perpetuation of their jobs or in the impact of their views on the formulation of policy.

As I have attempted to point out here, this problem is growing larger all the time. Very soon it may be necessary for the executive branch to attempt some almost revolutionary new ideas to reduce the erosion of responsibility for carrying out the will of the people. One proposal suggests that a certain number of middle management employees above a certain government classification be rotated every few years to comparable jobs at the same pay in other Government agencies. Now, I realize, Mr. President, it sounds easy to say we will just take so many persons grade GS-15 and above from one department and exchange them for a like number from some other department. As I say, it sounds easy, but it certainly is not. In fact, it could turn out to be an administrative impossibility. However, I believe the idea is sound even if the method has yet to be devised. The idea I am talking about is one aimed at giving the career Government employee, especially the one in the middle management classification, a broader point of view. If he is allowed to spend his entire career in one agency, he is unlikely ever to have the proper appreciation for problems arising in other parts of the Government—even problems related to his own field of activity. As I see it, we need more capable, well-informed generalists and fewer specialists who are so dedicated to one point of view that they are afflicted with what Government officials call "tunnel vision."

Mr. President, there are many ways in which this enormous problem can be attacked. I am not wedded to any particular strategem or method. However, I believe very strongly that the time is long past since we should have come to grips with this enormous challenge. A concerted program of study and recommendation must be undertaken at a very early date or the will of the people and the intent of Congress will continue to disappear in the giant maw of Federal bureaucracy. The danger is to our democratic form of government in its most fundamental sense. I only hope that what I have had to say here today will underscore the importance of understanding what we are up against and encourage those in positions of responsibility to take some courageous and drastic action to meet it effectively.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, will the Senator yield to me before he yields the floor?

Mr. GOLDWATER. I am happy to yield.

Mr. PROXMIRE. First, I commend the Senator on what I think is a very interesting and helpful speech. I think its stress on innovation, particularly by appointing persons to positions of responsibility who are not wedded to a particular viewpoint or have not been identified with a particular industry or interest group, is most thoughtful and helpful. It is characteristic of the Senator from Arizona that he demonstrates this kind of ingenuity and imagination, and I think it belies the false charges that have often been made against him that he is simply a conservative who stands still and is not interested in progress. He certainly is interested.

I should like to ask the Senator from Arizona about a statement which he made on July 7, and which I discussed yesterday, which I think he can clarify very quickly.

On July 7, the Senator from Arizona said:

> One of the reasons, I think, that we can go to a volunteer force, is that the Army, which is the great user of men, is depending upon what our friend from Wisconsin (Mr. Proxmire) discussed as the "electronic battlefield" yesterday. He did it in a very critical way, and I might say it is so highly classified that even the Armed Services Committee has not been able to hold hearings on it; but as long as he has sprung it, so to speak, I can mention it.

This was interpreted by the press as indicating that I had violated security, that I had used classified information, and I should like to ask the Senator from Arizona if his remarks, or his interpretation of his remarks, would imply that I had in any way disclosed classified information or violated security.

Mr. GOLDWATER. No. As I pointed out in the communication I sent to the Senator this morning, it is the press that "chided Senator William Proxmire for lowering the wall of secrecy." I never mentioned anything like that.

I mentioned that the Senator discussed the "electronic battlefield," which he did, and that he did it in a very critical way, which he did. The Senator read further from my remarks the statement, "It is so highly classified that even the Armed Services Committee has not been able to hold hearings on it," which is true. Then I used a remark which, to a westerner, is simply saying, "You said it," that you "sprung it." The Senator did say it, and I do not read any evil connotations into that at all. In fact, I think I told the Senator——

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that we may proceed with the colloquy for another 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. I think I told the Senator that had I been in the Chamber when he made the speech—I did not know he was going to make it—I would probably have engaged him in colloquy, but I would have had to be very, very careful, because, despite the voluminous material which the Senator from Wisconsin put in the Record, all of which is known to me—in fact, I have it all—I cannot get the Air Force, even this morning, to downgrade the classification on some items that I would like to discuss. I think it should be made public, and I am hoping——

Mr. PROXMIRE. I wanted to find out from the Senator from Arizona precisely what he is saying, because again I seem to detect in the Senator's remarks now the implication—perhaps I am mistaken—that somehow I have violated classified information. Everything I used—everything—was from public sources. Part of it was from the remarks of the Senator himself in October 1969, when he put into the Record a very exhaustive discussion of this subject by General Westmoreland.

Mr. GOLDWATER. I put two of them in.

Mr. PROXMIRE. I ask the Senator again—as I stated, what I used was from public sources, and the Senator says he knows it. Therefore, it was not classified information; is that correct?

Mr. GOLDWATER. The material which the Senator has put into the Record certainly is not classified information, because it is public property. But this whole subject is still classified. I do not agree with it, and, as I told the Senator this morning, I intend to either make a speech or put one into the Record with the comment I would like to make, and I am now trying to get the Air Force to downgrade the classification so that I can do it. The Senator has mentioned certain areas which I see no reason to get into at this point.

I have suggested again this morning to the chairman of the Committee on Armed Services, as I suggested last December, when I last returned from Vietnam and saw this material in action, that we hold hearings on this. I have found out that prior to my returning to the Senate there had been a number of briefings before House groups and Senate groups, but I did not know that until last night.

Mr. PROXMIRE. It is a fact, however, that everything I used was from published sources, that I used nothing classified. In fact, I have made a policy of rejecting any classified information, whether secret or confidential. So nothing in my remarks was classified.

Mr. GOLDWATER. I cannot doubt that. In fact, I have not charged the Senator with using anything of a secret nature. I have said that if we had gotten into debate about it, I would have been worried. As is the Senator, I am very "spooky" about classified material. In fact, I do not look at a lot of it myself, because I am always afraid that in speaking extemporaneously or in the heat of debate, something might be thrown out that the enemy would like to have.

I made no reference in my comments at all that the Senator used anything except reported, published material.

Mr. PROXMIRE. I have written to the Secretary of Defense and asked him to give me as much unclassified information about this new electronics developments as he can. I understand that the Senator from Arizona is also trying to persuade the Department of Defense to give us information we can use in the discussion, so that Congressmen can know what they are voting on and the taxpayers will understand.

Mr. GOLDWATER. I had remarks last night approved by the Air Force, and I was ready to send the Senator a set of them, but I was told not to do it because they have to work on them a little more. I hope this afternoon to have an Air Force version. The Army is also engaged in this and so is the Navy to a much lesser and different extent, but in the same general field.

As I indicated when I first put the material in the RECORD as to General Westmoreland's speech—I later put another one in, because I think that in these speeches he is developing the Army of the 1980's—I think this constitutes probably the greatest step forward in warfare since the invention of gunpowder.

Mr. PROXMIRE. It may be the greatest step forward in warfare since the invention of gunpowder. On the otherhand it may be a mistake, a waste of money, as Senator SYMINGTON said yesterday. The Senator from Missouri said it was characterized—and he seemed to agree with that characterization as a Rube Goldberg operation, an exercise in futility, $2 billion down the drain.

In any event, the Senator from Arizona is a respected expert in this field, and so is the Senator from Missouri. This is something we ought to discuss and understand and have hearings on, so that we can make a decision rationally, without going ahead with it until we have full, clear, open justification for it.

Mr. GOLDWATER. I think the Senator will find in the paper I will give him this afternoon that there has been authority for it. It is not $2 billion. I spoke to the Senator from Missouri about it yesterday, and he told me that he has not seen it since it was called the McNamara line, and I would have to say that at that time most of the things that the Senator has charged against this system were true.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. PROXMIRE. I ask unanimous consent that I may proceed for 3 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GOLDWATER. But since that time, the increase in the sophistication of this equipment has been nothing short of fabulous. Again, I am not allowed to say some of the things I have seen it do, some of the ways it is helping our men in Laos, particularly—our airmen and our ground forces.

I hope that before we complete the discussion on the authorization bill, we will be allowed to talk about this question. I assure the Senator that it is extremely thrilling, and it is not a waste of money. There is not an overrun. In fact, the cost per item has tremendously decreased from what it was when the first pieces were manufactured for the McNamara line.

I might say that if the Senator is ever in southern Arizona, at Fort Huachuca, he can see these sensors in operation.

Mr. PROXMIRE. On June 4 this year, before the Subcommittee on Arms Control of the Committee on Foreign Relations, there was testimony by Dr. John Foster on this subject. Senator AIKEN asked him whether there had been improvement in our ability to combat guerrilla warfare, and Dr. Foster said this:

> Well, Senator, as a matter of fact, I believe we have made considerable progress. I believe that the equipment that we have developed, for example, for the situation in Vietnam, has enormously increased the effectiveness of our fighting forces there. They have increased the effectiveness of the South Vietnamese forces. What is more, I believe that a number of these have very general application. For example, we have, as you know, developed a number of techniques for sensing on the battlefield, trying to uncover the camouflage, trying to see at night, trying to detect people as they move at great distances, trying to coordinate all of this intelligence, whether it is by some local sensors, by radars, by aerial systems, coordinate so we have a real time picture of what is going on.

Here was Dr. Foster discussing the very matter that the Senator from Arizona and I were discussing, in public session, before the Foreign Relations Committee. Yet, somehow, the Defense Department seems to be holding this under wraps and is unwilling to give us the kind of information we need in order to make the kind of informal judgment that duty as Senators requires us to make on this huge cost and revolutionary change in warfare.

Mr. GOLDWATER. I think that by this afternoon I will be able to present the Senator with a paper.

I hope that we have these hearings and that the Senator will take advantage of them and come and listen, because we have made tremendous advances. We have now, for example, an infrared device that can tell the pilot of an airplane what the fuel level is in gasoline or petroleum tanks that he is attacking. In other words, you can see through things.

It is to me, as I have said often, the biggest step forward we have made, and I think it is going to herald a greatly reduced standing army and that we can perform as well as if not better than the large forces we have had in the field up to now.

Mr. PROXMIRE. In conclusion, I might say to the Senator, with respect to the $2 billion of expenditures, that we delineated that very carefully in the RECORD yesterday and specified precisely what the spending was, and the total amount involved is on page 23827 of the RECORD, both in procurement and R.D.T. and E. It is $1.7 billion. This was the information we had up to a certain date. As of now, it could be as much as $2 billion.

Mr. GOLDWATER. $1.7 billion is the figure I would use. It will be close to that. Less was spent on it last year than had been planned. It is a program that is well in hand. There are no cost overrun problems. Research and development is practically ended on it, and we are in business, and it is the kind of program that I think even the Senator from Wisconsin will approve of when he knows all about it.

Mr. PROXMIRE. I am saying that they are spending it in other areas. Furthermore, electronic weapons systems have a way of getting out of control in terms of cost. Performance has been bad. For this reason, I am anxious to watch this carefully. I am skeptical as to whether or not it is proceeding without a cost overrun. It would be most surprising if there were no large overrun; if it works even at 80 percent efficiency, it would be one of the rare electronic weapons to do so.

Mr. GOLDWATER. This is not a weapons system. This system can kill no one. The only killing it could do is to kill itself, if the operator desires to do so. There is nothing in them that can cause casualties. It is a sensor system. It is not an electronic battlefield, although that name has been given to it by some people. It is a sensor system and that only. There is no weaponry connected with it.

Having spent a good part of my life in electronics, there is nothing particularly new about this except the miniaturized circuitry, miniaturized power sources; and it would be normal in the production of any electronic device such as this to have it reduced in cost.

I agree with the Senator that, when we talk about the advanced avionics of a B-1 or a Z-111, we talk about $1,200 a pound. This is frightening, but in these sensors we are talking about there is nothing to compare with that at all.

Again, I wish I could say more, but I do not know what I could say right now.

Mr. PROXMIRE. I thank the Senator.

I think that the one conclusion we must come to from this discussion with the Senator from Arizona and myself is that we certainly need a great deal more information, more intelligence, more discussion, and more understanding before we go ahead with something that already has cost more than $1.7 billion and may cost billions more.

Mr. President, I yield the floor.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to transact routine morning business, with statements therein limited to 3 minutes.

GOOD ADVICE

Mr. DOLE. Mr. President, reports from the anti-administration Washington Post and New York Times indicate that Richard D. Blumenthal has rejected the top job with Volunteers in Service to America, VISTA. Mr. Blumenthal is reported as saying that President Nixon should find a Republican "who can defend with real loyalty what the President is doing." I understand Mr. Blumenthal is a liberal

Democrat, but I certainly share his view and would hope that those in positions of responsibility in the White House would heed his advice.

I commend Donald Rumsfeld, Director of OEO, for his efforts to reorganize VISTA and for his statement concerning Mr. Blumenthal. In essence, it appears there was never any firm job offer made, but only discussions with reference thereto.

It is obvious that Mr. Blumenthal has no loyalty to the Republican Party or the President and his acceptance of a position of responsibility would not serve his or the administration's interests. Like most discontented liberals, Mr. Blumenthal seems to feel that President Nixon's policies must be in full accord with his before he can serve the administration. He apparently disagrees with the President on Southeast Asia, on school desegregation, domestic priorities, and other matters. He indicates a complete disagreement with the President's policies in Southeast Asia, and the fact that this would in no way be related to his duties as Director of VISTA appears to be of little consequence to him, but it should underscore the folly of attempting to placate those who seek to undermine this administration and the President.

Again, I would hope those in authority in the White House will accept the advice offered by Mr. Blumenthal. There are undoubtedly hundreds of Republicans, independents, or Nixon Democrats who could not only defend, but advocate, what the President is attempting to do for all Americans.

AN EXAMPLE OF INHUMANITY

Mr. BAKER. Mr. President, I address myself once again to the question of the American prisoners of war held by North Vietnam.

Those most cruelly affected by the refusal of this Communist government to reveal the prisoners' names, or to permit their letters to be delivered, are their wives, children, and parents here in the United States. Yet these families have not given up hope that the North Vietnamese will live up to the Geneva Convention on Prisoners of War. They have banded together to do what they can to find out what has happened to their men, and to help speed their release.

If those most poignantly affected by this example of inhumanity have not given up hope, neither can we.

SENATORS ARE GUESTS ON ABC'S ISSUES AND ANSWERS TELEVISION PROGRAM, JUNE 21, 1970

Mr. ALLEN. Mr. President, on June 21, 1970, the ABC Television Network presented a most interesting and informative television program having to do with the war in Southeast Asia.

The guests on that program were the distinguished Senators from West Virginia (Mr. Byrd), from Arizona (Mr. Goldwater), from New York (Mr. Javits), and from South Dakota (Mr. McGovern).

I ask unanimous consent to have the transcript of the program printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

[Credit any quotes or excerpts from this ABC radio and television program to "ABC's Issues and Answers," June 12, 1970]

Issues and Answers

Guests: Senator Robert C. Byrd (D. West Virginia), Senator Barry M. Goldwater (R. Arizona), Senator Jacob Javits (R. New York), Senator George McGovern (D. South Dakota).

Moderators: Bob Clark, ABC Capitol Hill Correspondent; John Scali, ABC News Diplomatic Correspondent.

Mr. Scali. Gentlemen, welcome to ISSUES AND ANSWERS.

This will not be a formal debate, but more or less an informal discussion with each of you being encouraged to speak up on various subjects whenever you feel you have something to say.

Bob Clark and I will serve more or less as those who throw up the questions and make sure that all of you have an ample opportunity to make your views known.

Let's start off by talking about topic number one, Cambodia.

In nine days, President Nixon has promised that all American troops will be out of Cambodia as per promise. From all signs they will be pulled out at a time when the government of Cambodia, the Lon Nol government, is under increasing pressure from Communist forces which are threatening to encircle the capital and perhaps even overthrow that government. In view of this, will we have to send more American troops into Cambodia at some later date?

Senator Goldwater. No, I don't think we will have to. I think the Cambodian army, together with the South Vietnamese Army, with help from Thailand, can cope with the problem. I think the President has made it abundantly clear that we will not send additional American forces in there.

I think the decision to go in was a wise one. I think it should have been made years ago, because, in effect, we have been harassed more from Cambodia than we have from South Vietnam, and I wouldn't expect that we would have to send any more forces. We might have to give some tactical air support, and I would not oppose that; but it just might be that the South Vietnamese air force could supply this. But that remains to be seen.

Senator Javits. Well, I think that the whole concept that we are under in Vietnam is that we are on our way out, not on our way in. And the President agrees with that. Congress seems generally to agree with that. We are not underwriting Cambodia or any other place in South Vietnam, now. We are withdrawing at the earliest time, even taking the President's word that Vietnamization will permit, to wit, reasonable readiness by South Vietnamese forces and the fact that the North Vietnamese will not unduly press us any more than they have. So I think that rules out Cambodia, no matter what happens to these amendments that are pending. And I hope very much that the Congress will, generally speaking, let the President know that that is what they want by adopting the Cooper-Church Amendment.

Mr. Scali. Senator Byrd, do you feel the same way?

Senator Byrd. I do. The United States has no commitments to Cambodia. The President and the Secretary of State have made this clear. I am sure the President understands the feeling of the Congress and the feeling of the American people, and I am confident that the President joins with members of Congress and the people of the United States in their determination to stay out of any war for Cambodia. And with no commitments having been made to Cambodia, I see no reason why we would have to get involved.

Senator McGovern. I don't think we should have gone in the first place, Mr. Scali. I think it was a great mistake. I hope we don't go back in. But that is not to imply that I think we have won any great victory by what we have done in Cambodia. As I look at the situation, at the time we went in there there were Communist forces scattered along the border of Cambodia but the rest of the country was largely free from military operations. Today, virtually half the country has fallen to Communist control. I think what we did was to go in there and dump over a beehive, and the bees have spread out all over the country, and we now have an area almost the size of South Vietnam in Cambodia that is now part of the war effort. So I think the whole thing was a mistake. I hope we won't repeat it.

Mr. Clark. Senator Goldwater, you endorse the idea of using South Vietnamese and Thai forces in Cambodia.

Senator Goldwater. Yes.

Mr. Clark. And possibly using American tactical air support. All of these things would be barred by the Cooper-Church amendment, be prohibited by that amendment in its present form, would they not?

Senator Goldwater. That is why I am opposed to the Cooper-Church amendment idea. I don't think the Congress should, by legislative means, try to tamper with the Constitutional powers of the President as Commander in Chief.

Now, if we want to do this—and there may be a desire on the part of the American people to do this—I would suggest doing it by Constitutional amendment. I think it is wrong to try and legislate on the floor of the Senate as we are trying, today, to put a fence around what the President, as Commander in Chief, can do. And there has never been any question about his powers. It has never been questioned in the courts, it has never been questioned except occasionally by the Congress. And I think we are making a very, very serious mistake by trying to do what the Cooper-Church amendment hopes to accomplish.

Senator Javits. I would like to try to make a comment on that, if I may, Barry.

I do think we have a right to deal with what the President should do, that it is long overdue, and that this war showed it up. We have been there now since 1965 in a combat role on a Congressional resolution passed at the end of 1964 which nobody, not its sponsors, not anything that was said about it, thought would mean anything more than the rebuff of forces which were imperiling—and there is a lot of argument about it; let's forget the argument—our naval forces in the Gulf of Tonkin. Under that we have had 40,000 deaths, 250,000 wounded, oceans of treasure, about $100 billion.

Now, the American people never contemplated giving one man, even if he was President, that kind of power, and that is why the Constitution gives Congress the right to declare war, to make rules for the army and navy and air force and so on. It only uses one word as to the President: He is "Commander in Chief," quote. And I think it is high time that we screened that out and decided whether we have any control over this at all, or whether any President, defining his own powers as he will, because he has the physical command of the armed forces, can put us in war and keep us in war. And if that is right, if what you say is right, then it can be five years or ten years or fifty years, and I don't think that was ever contemplated or that the people want it.

Senator Goldwater. Let me say in answer to that that I find myself in agreement. But the Constitution gives the power of Commander in Chief to the President. He can go to war, as we have done—we have been in

137 different military engagements. Only five of them have been declared wars. Now, this may be right or it may be wrong, but the fact that the Congress has the right to declare war is one thing. The fact that the President is the only body that can go to war is another thing. We can't go to war as a Congress. We can declare it. Only the President can engage in war. And as I say, this may be wrong, and I have a strong feeling that there is a question about it amongst the people of our country, but we should decide it by a Constitutional amendment, not by trying to pass legislation on the Floor of the Senate as we are trying to do today.

I think that there is great ambiguity between the statement of the Constitution on the powers of the Congress to raise armies, to pay for the armies, to provide this, that and the other thing, and that Constitutional powers of the President as Commander in Chief. There is nothing in the Constitution that says that he even has to consult with us. This is why I think we are working in a very dangerous way.

Senator McGovern. The Constitution, though, makes it perfectly clear that the Congress of the United States controls the appropriation of funds for military purposes, and it can describe what those military purposes should be. The Constitution requires that the Congress at least every two years review military appropriations to see whether the purposes for which that money is being funded meets the will of the Congress. There is nothing in the Constitution that gives the President a free hand to commit American forces abroad indefinitely. By precedent he can act in emergency situations, but the Congress has some responsibility, and I don't think we need any Constitutional amendment to make that clear. Our power comes as——

Senator Goldwater. Just one point there. I agree with you. When you are talking about the Constitutional powers of the purse, we do have that power, and if we want to stop the President in any war, all we have to do is deny him appropriations.

Senator McGovern. That is what we are trying to do, Senator.

Senator Goldwater. It is not that way. This is not the exact language of the Cooper-Church amendment. If we want to do that all we have to do in the forthcoming authorization bill and appropriations bill for armed services is say, "We are sorry, no money." I won't argue with that.

Senator McGovern. That is my amendment.

Senator Goldwater. There is nothing in the Constitution that prevents the President from going to war when he wants to or there is nothing in the Constitution that says the President shall confer with the Congress. I think he would be very very wise to do that, and I would like to see a Constitutional amendment suggested along these lines.

(Announcements.)

Mr. Scali. Senator Byrd, as part of the great debate on Cambodia, the Senate is scheduled to vote tomorrow on your latest amendment, which would affirm the President's Constitutional authority to protect American troops wherever they are deployed. Does your amendment give the President the right to send American troops back into the Cambodian sanctuaries to clean them out again without advance approval of the Congress?

Senator Byrd. John, may I comment on something that my good colleague from South Dakota said, first?

In response to my colleague's statement with respect to a victory in Cambodia, I don't think the President has ever intended to go into Cambodia to win a victory, and I don't think we need look at Cambodia to determine the success of the operation there. I think if we do that we would find that it has been a great military, tactical success. I think that what we have to do to determine the success of the operation in Cambodia is to see what happens in South Vietnam, whether or not we have enhanced the withdrawal of American forces from South Vietnam, whether or not the Vietnamization program is going to be enhanced, and so on. And I feel if we look here we will find that the operation in Cambodia will have been very beneficial. Furthermore, I don't think that the President committed us to a new war. I think it was the same war, with the same enemy. I think we merely went into a different part of the war zone which the men had established, itself, by setting up an arsenal into Cambodian sanctuaries.

Senator McGovern. Before the Senator leaves that to go on to another point, could I just say, it is my fear that at least half of Cambodia and maybe the entire country may be taken over by the Communists. Now, I think that is a serious matter.

Senator Byrd. It is.

Senator McGovern. The President described the move into Cambodia as the greatest victory of the war. That was his phrase, not mine. He described it as a great military victory. I don't think it was. I think it was a military and political disaster that is going to complicate shortening the war in Vietnam. We have already committed tens of thousands of South Vietnamese forces that are in Cambodia. We don't know whether they are coming out, we don't know how many American resources will be diverted trying to help them. We know that several hundred young Americans died in Cambodia, that our casualties are at the highest rate in Southeast Asia that they have been in the last eleven months. I don't regard that as a sign of victory.

Senator Byrd. Well, that is the Senator's judgment, and he has a right to it. But I think it has been indicated that the third and fourth corps areas, which were subject to attacks from the Cambodian sanctuaries, have experienced a diminishing degree of attacks upon those areas since the Cambodian incursion began. Now, I don't think that it was a mistake. I think the President acted within his Constitutional authority to do this. I think he had a duty to protect American lives in South Vietnam. He indicated that this is why he went in. I think he had the responsibility to fulfill this duty. I think he did the right thing, and he indicated that he was going to withdraw our troops from South Vietnam by July 1. I think he is going to do this. We only have 10,000 in now, whereas we had 31,000 at one point. So I think that the President is going to show that he is going to keep his promise, and I think that in the long run he will have saved American lives. That was his duty to do that, and that is what he hopes to accomplish.

Mr. Scali. Could we get to your amendment. Under your amendment, would American troops be allowed back into Cambodia if the President decides it is necessary in order to protect Vietnamization or anything else?

Senator Byrd. No, not to protect Vietnamization or "anything else," to quote you, John. My amendment, the thrust of this goes to paragraph 11 of the Cooper-Church amendment, and may I say in this respect I favor paragraph 2, 3, and 4 of the Cooper-Church language because I think they are calculated to keep us from getting involved in a new war and from making a new commitment in a war for Cambodia or against Cambodia or to prop up Cambodia. I am against that, and therefore, I am for paragraphs 2, 3 and 4.

Mr. Clark. That would mean that you would disagree with Senator Goldwater about financing the operations of Thais or South Vietnamese——

Senator Goldwater. I did not say finances. I said the Thais might offer support as they have given us support in South Vietnam. I was in Bangkok the night the decision was made back in 1965, I believe it was, to send a battalion of Thai troops, and it was done under the wishes of the Thai government. We had nothing to do with it.

Mr. Clark. But you would concede, Senator, that most of the military operations of the Thai government as well as the South Vietnamese, are heavily financed by the United States, and this would apparently be banned by Cooper-Church?

Senator Goldwater. I won't admit that, because I am not sure. But even if they are, this is not unusual, for the United States to help an ally.

Senator Byrd. I understood my able colleague from Arizona to indicate that we might give air support to the Cambodian government. I am against giving anything to the Cambodian government. Any kind of support. Air support, troop support, any kind of personnel support from the United States to the Cambodian government. We don't have any commitments to that government, and I don't think we ought to get involved.

Mr. Clark. How about military supplies?

Senator Byrd. The President has indicated that Asians should take on the burden of fighting for Asia, and in accordance with his doctrine, which was promulgated at Guam, we would supply. We would supply equipment, small arms, et cetera, but no men.

Senator Javits. The real thing it seems to me, Bob—and please correct me if I am wrong—is that we are really skirting around the issue. Whatever the President was thinking about when he made his speech, whether he had half an idea that we help this Cambodian government, that is over; that is out. It almost ruined this country. Let alone what happened over there—there is some argument over that between Senator Goldwater and Senator McGovern.

I think the important thing, now, is that we must now pursue a policy of getting out. We have made that decision. We are over that bridge.

Senator Byrd. I agree with that.

Senator Javits. What your amendment now seeks to do, as I understand it—and I am speaking now in a sense as a Constitutional lawyer—is that we are not taking away any of the President's power as Commander in Chief to protect American troops when they are committed to hostilities, lawfully in accordance with the procedures and laws of the nation. Now, it seems to me that circumscribes his activity tremendously. And if we don't like what he is doing, as everybody agrees, we can cut off the money.

I think we can do more than that, and I would like to quote from the Constitution. The Constitution says, in Article I, section 8, that the Congress has not only the power to declare war, but "to make rules for the government and regulation of the land and naval forces," and we have done it. We did it in the reformation of the whole Defense Department, when we eliminated the separate chiefs of services and made them subordinate to the Secretary of Defense. We did it in the Selective Service Act in 1940, when we said our troops who were drafted couldn't go to certain places in the world. We can do it if we want to. The only answer, Barry, to what you said a while ago is, sure, it is true the President can make war, but we can stop it. We can stop him by money, and we can stop him by direct order. And I don't think you need any amendment to the Constitution for that.

Senator Goldwater. If he would yield on that point, I think you do, Jack. I don't believe that the words you just read of the Constitution gives us the right in the Congress to make strategic and tactical determinations. I think we can get at it by controlling the purse, but only that way. I don't think that we can go around the President's power to go to war and say that you can do this or you can do that and you can't do this. I think, frankly, he could tell us to go to hell.

(Announcements.)

Mr. CLARK. Senator Byrd, because this does appear to be a critical issue in the Cooper amendment, and the question of how it will finally emerge in the Senate, would your amendment which will be voted on tomorrow permit the President to send American forces back into Cambodia to clear out the sanctuaries, again, if there was some emergency, and could he do this without going back to Congress for further approval?

Senator BYRD. Only if he deemed it to be a very critical emergency and absolutely necessary to protect the lives of American servicemen in South Vietnam. That is the intent of the Byrd amendment. To have a clear understanding, if I might hope to get a clear understanding of this amendment, let me say this: Paragraph 1 of the Cooper-Church language says that, in essence, no funds will be spent to retain United States forces in Cambodia after July 1, and the key word is "retaining," "for retaining the United States forces in Cambodia after July 1." And as the two authors of that amendment have explained time and time again on the Senate floor, they mean for that word to be the key word. That it is meant to cut off funds if any forces remain in Cambodia after July 1. But they themselves agree that in an emergency situation, where the lives of U.S. servicemen are in danger, where there might be a concentration of the enemy in the sanctuaries, and there is an impending attack about to occur upon U.S. servicemen in South Vietnam, that the President might not have time to come back to the Congress, and in this event, his constitutional authority and power as Commander in Chief would authorize him to make a quick strike of short duration and withdraw, without coming back to the Congress.

Mr. SCALI. This doesn't restrict him one whit more than previous restrictions, does it?

Senator JAVITS. I think you are right about that, and I think Bob's explanation is right, that it doesn't restrict him, that he can go back. It does restrict, however, the size of his operation if he does go back, and resolve the doubt that he will not go back for two purposes: (1) to aid the new Cambodian government in some kind of an operation to assist them, and (2) to assist others who might be assisting them.

If Cooper-Church passes, with Senator Byrd's amendment, that, in my judgment, is what is accomplished. And I believe that is a real and substantial accomplishment, because right now—and I think Senator Goldwater is very right about this—all these questions are very much up in the air. That is why I have felt it necessary to introduce a bill, myself, to try to define the powers of the Congress at long last, historically. But right now they are up for grabs. We can put the pressure on him for money which comes after the fact. We can write a bill which he may not choose to sign unless we pass it over his veto to specify his powers according to law by the regulation of the armed forces, which I am trying to do.

Senator Byrd can try to define what he means to say that he is Commander in Chief, but we are in that armorphous state now where the Commander in Chief, the Executive, has tremendous authority, except that the Congress can hold him to account as a matter of good faith, and so can the people.

Mr. CLARK. Senator McGovern, are you willing to grant the President the emergency authority under the Byrd amendment to go back in and clean out the sanctuaries again without Congressional approval?

Senator MCGOVERN. I am not, Mr. Clark. I will probably vote against Senator Byrd's amendment. I don't think the amendment is necessary, but what I object to in the language of that amendment is that it seems to imply that our principal concern, now, is to reinforce the power of the President as Commander in Chief, and I think the great need is to reassert the power of the Congress. That is what has been eroded. That is what has been neglected. It is probably not the President's fault. It is probably the fault of the Congress. That for the last 20 years we have permitted military decisions to be made almost exclusively by the President of the United States. Not just this President, but by Republican and Democrats alike. And what I am interested in is not language that underscore again the power of the President of the United States in committing American forces. I want language that reasserts the responsibility and the power of the Congress in areas of war and peace. I don't know how else to end this war. I regard the war as a disasterous mistake. I think most Americans feel that way. I want to see their elected representatives in the House and the Senate asserting their responsibility and their powers to try to bring this war to an end as quickly as possible. If I were President of the United States I would welcome that, to share these decisions of war and peace with the Congress. This is going to be a very difficult series of decisions. Let's share it between the Executive and the Congress.

Senator JAVITS. This is one of the most important things of all, because if we get out of Vietnam—and we are getting out—things may go very wrong there, and you may have a deep resentment in this country and a great body of opinion which is very angry. And unless the President and the Congress have shared the responsibility, we may be in for infinitely more trouble than we have had up to date.

(Announcements.)

Mr. SCALI. Gentlemen, last night, as most of you know, Vice President Agnew assailed half a dozen Democrats who have been critical of the Vietnam War, including Senator McGovern, who he said is "among those who apparently have developed a psychological addiction to American defeat because they have called for retreat so often."

Senator McGovern, I am going to ask you about that in just a second, but first I would like to ask Senator Javits if he shares that view?

Senator JAVITS. No, I do not. I think that Senator McGovern and his colleagues, though I am not a co-sponsor of the McGovern amendment, and though I shall probably vote for it in due course, as I deeply believe that they are in the process of revising it the way it ought to be. Change is, I think, urgently needed. But I do not agree. I think the assertion of the power of the Congress and the raising of that question by Senators McGovern, Goodell, Hatfield, Hughes and Cranston, was very desirable, and I think this only shows that the Congress can and must find a way to get out once we get in. We cannot be irrevocably committed to this war. And it raises one other point which I think is critically important, and that is this illusion about winning and losing, or this illusion about honor or about defeat. We went into Vietnam to help a small nation get self-determination. It has self-determination. That is what everybody argues about. They say the government is good, bad, indifferent, but it actually had an election and this is their elected government. They have an elected assembly functioning, et cetera. Now, do you have to stay in forever and be their guardian? Is there any national honor or national victory or defeat in that, or is it only a disguised way to destroy yourself in your own country, which is what we are doing, economically, incidentally, beyond anything else, and to paralyze ourselves from being able to conduct a policy of vigor, which will bring peace—we are in terrible trouble in the Middle East right now—in the world.

Mr. SCALI. Senator McGovern, since you have been singled out by the Vice President, what do you have to say in reply?

Senator MCGOVERN. The first thing I have to say is that I regard the Vice President's conduct ever since he has been in office as disgraceful. I think he has done more to divide and weaken the country, perhaps, than our enemies in Hanoi have done. He is undercutting the whole possibility for a unified American people. He is a divisive, damaging influence on the people of this country.

Now what is he talking about on being addicted to defeat? Does that mean he thinks we are going to score some kind of victory in Vietnam? The President does not hold to that view. He is not talking about military victory. He is talking about getting out. He is talking about withdrawing forces. That is not the way to victory. We wouldn't be withdrawing if we didn't know we had made a mistake in going, and I suspect 90 percent of the Congress wishes we weren't involved in Vietnam. What I am addicted to is peace and to ending this war.

The President talks about us being a pitiful giant. Well, we are pitiful in the sense that we are a gigantic country with one foot in a trap, and that trap is the jungle of Southeast Asia. We are not even in the main arena there. We are tied down by a fourth-rate power, and it is weakening this country, and that is the situation I want to end. I am not advocating defeat.

Mr. CLARK. Is there someone on this side who would like to say a kind word about the Vice President?

Senator GOLDWATER. Yes, I will defend the Vice President in this case.

I really think that not intentionally but inadvertently men like Senator Fulbright and others have been doing damage to our country. Now, let's look beyond South Vietnam. I think we are all agreed the country doesn't like the war, we don't like the war, we would like to get out of it.

I disagree that the Congress can create peace. We can't. We have no power to do it. The President can do that. But what about our commitments in Europe? Seventeen countries. We are committed to go to war to defend if they are in trouble. I have yet to hear Senator Fulbright say anything about this, although I have tried time after time on the Floor of the Senate to get him to set some time when the American people might hear before the Foreign Relations Committee how far that committee feels we are committed. I think we are committed to 17 wars if they care to call us to those. We have 40 or 41 other treaties around this world, and these are the things that bother me. Not South Vietnam. Getting out of there—I think we are going to be out of there within a year or maybe 14 or 16 months, following the President's program.

To answer Senator Javits' suggestion about what is honor, well what happens to the opinion of some other countries who might be enemy to us, or enemy to one of our friends when they say, "Oh, well, the United States is not going to commit its forces to the protection of that country. It is obvious by the statements made by the Chairman of the Foreign Policy Committee of the Senate and by others." And I think Vice President Agnew is doing a service—not necessarily to individuals, but I think he is doing a service in calling attenton to the fact that we in the Senate can say too much. We can say things that hurt our country.

Senator MCGOVERN. Do you think Vice Presidents can say too much, Senator?

Senator GOLDWATER. Yes, I think Vice Presidents can say too much. I can think of some that have.

Senator JAVITS. I think that this kind of a broad scale calling of the roll as it were as to who is more patriotic than somebody else——

Senator GOLDWATER. I didn't use the word "patriotic."

Senator JAVITS. No, you didn't but that is the implication in Vice President Agnew's speech.

Senator Goldwater. I don't see that at all.

Senator Javits. Well, I do, and I think that is the way to suffocate rather than develop discussion, which is essential to the country and the hearts of people like Senator McGovern. Just as essential as Vice President Agnew. And frankly, Barry—and I would like to answer your other point—about this matter of national honor: It is inconceivable to me. What is your quotient as to how many lives have to be lost and how many people have to be dead and how much treasure has to be spent and how deeply this country has to be divided to prove to our allies in Europe, who haven't lifted a finger in this fight, that we will defend them? It seems to me we have proved that every year for the last five or six years since we have been in there, in a way which no other nation on earth would dream of doing. I don't think we need to prove it any more. If we haven't proved it to them now, they will never believe us.

Senator Goldwater. Well, I happen to be one who had arguments five years ago about getting out of this war and never getting into it, and had people listened to me then, I don't think we would be in war in South Vietnam, and we would have maintained the position that we have to maintain as world leader. Whether you or I like it or not, we are either going to be the world leader or we are not, and this requires strength. You asked the question about how many lives. I say not a one; but we have committed ourselves, and that is something we have to remember. We are in war. We don't like it. Our job is to get out of that war. I think the President is doing it. I don't think we need ever have gone into that war. It was not started by your party and mine, it was started by the opposite party.

Senator Javits. One of the most improvident commitments we have ever made in the history of our country.

Senator Goldwater. I couldn't agree with you more.

Senator McGovern. I think one of the most encouraging things I have heard is people trying to figure out who to blame this war on, because it means all of us are ashamed of it, we all know it has been a disaster. It is robbing the economy of this country right now. We talk about the young American life that is lost and that, of course, is the principal cost. But I don't know how we can go on month after month with this wartime inflation eating up the purchasing power of the American people, preventing people from buying homes, slowing down our whole economy. We have raised interest rates in an effort to deal with this wartime inflation to the point where it is almost prohibitive to start a business or buy a home. Every housewife when she buys those groceries pays another 25 percent, because of this wartime inflation. And all of this says nothing about the divisive impact of the war on our whole body politic.

I think the question we have to ask now is not so much whether we can save South Vietnam: Can we save our own country?

Senator Goldwater. I think we are committed to getting out of this war. I don't think this is any longer a question. But I would like to make one comment about your statement on this wartime inflation. It is true that wars can and generally do precede inflation, but our inflation, today, has been caused by an unusually high rate of federal spending. Our military spending is going to be down this year nine percent. It is the lowest it has ever been in comparison to the gross national product. Yet other spending is up nearly 1,000 percent as we go across the board.

Senator Javits. The answer, Barry, is that the other spending was absolutely indispensable to the health of this country.

Senator Goldwater. Oh, I wouldn't say that, Jack.

Senator Javits. Well, I think so.

Senator Goldwater. Do you think that our high cost of agriculture programs is needed to keep this country going?

Senator Javits. No. I don't want to say 100 percent, but when you deal with the problems of health, education, welfare, hunger, I think added expenditures from this country were essential, and they should not have been jeopardized by this $30-billion that we have been spending for the Vietnam war. We made them anyhow, and we weren't ready to face the reality of taxation which goes with war, or of controls which go with war. That was all swept under the rug by the previous Administration. It is true. But it was. And when we didn't face it, we have now reaped the whirlwind.

(Announcements.)

Mr. Clark. Senator McGovern, if the Senate ever finishes debating the Cooper-Church amendment it will eventually get on to the McGovern-Hatfield amendment. Perhaps we should ask you at this point to explain it more fully to us. Just how would it end the war?

Senator McGovern. Well, of course it is a much more far-reaching amendment than the Cooper-Church amendment. It does basically three things. It would end American involvement in Camodia 30 days after passage. Now that is now a moot point. That part of the amendment I assume we don't have to debate.

The second part of it would terminate American military operations, including American military advisors, if any, in Laos, by the end of this year, by December 30.

The most important part of this amendment, though, goes to the central war in Vietnam. As Senator Byrd said a while ago, that is the central conflict. And what this amendment does is to say that, beginning the first of next year, January 1st, no funds can be spent in South Vietnam for any purpose other than arranging the safe and systematic withdrawal of U.S. forces, and that that process should be completed by June 30 of 1971, just about a year from this date.

Now, it provides that funds in addition to the withdrawal of our forces can be used to pay any costs involved in arranging the exchange of prisoners, or to provide asylum in friendly countries for those Vietnamese who might feel endangered by our withdrawal.

Mr. Clark. Senator Byrd, you are probably the only member of the Democratic leadership in the Senate who will not vote for the McGovern-Hatfield amendment. Would you like to offer your comments on it?

Senator Byrd. Yes.

First of all, I accord to Senator McGovern every degree of sincerity and good faith. I think he wants—he thinks he is doing the right thing. He wants peace. I want peace just as much as he does. He has no monopoly on this desire for peace. I respect him for his efforts, although I disagree with the thrust of his efforts, sometimes.

Now, I do not support this amendment, because I think, first of all, it would be unworkable. I think it would be a real booby trap for American forces in South Vietnam. Why do I say that?

First of all, it sets a date for the withdrawal of all American forces from South Vietnam. I want to see those forces out of South Vietnam. I hope they can be out by July 1 of 1971. But I think we would make a very grave mistake if we stated the timetable—I think it is all right for us to have one, but for us to publicly state a timetable, I think that we play into the hands of the enemy. I think we undermine the efforts of our people at the peace table to negotiate. And secondly, I think all the enemy would have to do is just sit and wait until that date has passed and then move in.

Now, why do I say it is unworkable? In the first place, your amendment would say that after December 31st of this year, no money could be spent, no money could be spent for any purpose, quote: "any purpose," involving military conflict.

Well, this would mean, in my judgment, that our troops, who would have six months beyond December 31 of this year under your amendment, to stay in South Vietnam, would be sitting there defenseless, because we couldn't spent one dollar for any purpose connected with military conflict, I believe your amendment says.

And secondly, your amendment provides that after December 31st of this year we could not spend any funds for aerial interdiction of movement of enemy men and supplies in Laos, because it says "no funds for military operations by United States forces in or over Laos." Therefore, we couldn't interdict the movement of enemy manpower and supplies.

And the worst feature is, George, in my judgment, it says that 30 days after the passage of your amendment we would be unable to spend any money whatsoever for military operations by United States forces in or over Cambodia, which means that 30 days after the passage of your amendment we could not spend one dollar for the aerial interdiction of the movement of enemy manpower and supplies in Cambodia. This to me would render our troops defenseless, it would enable the North Vietnamese and Viet Cong to move back into the Cambodian sanctuaries. We would virtually be saying, "All right boys, come on back in within 30 days and we won't lay a hand on you."

I don't think the Senate is going to pass this. I don't think it is practicable to think that the Senate or the House will enact this into law. And I think when we speak of it, with all due respect to my colleague, when we refer to this amendment as an amendment to end the war, this amendment is not going to end the war, and nobody should know this better than the senators themselves. Because in the first place, it is not going to be enacted into law, and in the second place, it would tie down our troops rather than making it possible for them to be withdrawn.

Senator McGovern. Part of what the Senator has said is an accurate description of the amendment, but it makes perfectly clear that our commanders are authorized under this amendment to take what steps are necessary to arrange the safe and systematic withdrawal of our forces. This is spelled out very clearly. I have discussed the language with some of our most respected military men, and they say that there is no problem in arranging for the withdrawal of American forces, with a minimum danger to those forces within the context of that amendment. Now, you can't carry on offensive operations, but you can carry on what defensive methods are needed to provide a cover for our forces during the withdrawal. And I think the other side would welcome that kind of a staged withdrawal.

What would be the interest on their part in intervening with it? Because the amendment states that if as we approach the end of this withdrawal period the President finds that in order to stay on that schedule our troops would be jeopardized, he can come back to the Congress and ask for verification of his findings, and then an additional extension can be given.

Senator Byrd. I think, George, you know how difficult it would be for the President to come back to the Congress and get that additional time that he might need.

Senator McGovern. I don't think it would be difficult. If we get back to the Constitution, when Presidents used to confer with the Congress once in a while—

Senator Javits. As a practical matter, this amendment is not going to be passed in this form, anyhow.

Senator Byrd. Exactly. Absolutely.

Senator Javits. We know that. But it is very important that Congress assert its right to tell the President: "Look, Mr. President, we have had it in Vietnam. You have given us a very uncertain time table. Our time table is the first of July 1971. Now, what can you do about it?"

Now, I think the Administration has to be forthcoming on that. Senator McGovern doesn't have to concede a thing. I am not the author of it. I am not a sponsor of it.

If the President came to the Congress and gave them reasonable assurance that he is getting out of Vietnam on or about July 1, 1971, you wouldn't need the amendment, and they wouldn't push the amendment. Everybody knows that. But somehow or other we have to solve this Constitutional dilemma.

Now I say—I have got a law in which tries to deal with it in terms of the future. Leave out the Vietnam war. Because Nixon found the Vietnam war. He says he is getting out of it.

Senator Byrd. He inherited it.

Senator Javits. The only question now is one of time-table. You can deal with my law for permanent policy, or any variant of it, but you can only settle this way: The Congress somehow must find a way to tell the President, "Look, Mr. President, after all these years, this is our idea." Unless the Administration is forthcoming, if this country gets sick enough of this war they may tie this around his neck. It might not be very good, but he leaves them no alternative.

Senator Byrd. I would hope the President would have a time table, but I think it would be a mistake to announce it. He said last June I believe it was he was going to withdraw 25,000 men; in September, 35,000 men; in December 50,000 men, and he has kept his promises. I hope he has a time table, but I think it would be a mistake to announce it.

(Announcements.)

Mr. Scali. Senator McGovern, what do you say in answer to Senator Byrd's view that it would be a mistake to announce a time table for withdrawal?

Senator McGovern. Well, Mr. Scali, I think you have to evaluate that against the alternative, which is the President's so-called Vietnamization policy. Vietnamization, as I understand it, if it works, will have another 150,000 troops out of Vietnam a year from now. But that still leaves 284,000 American troops stuck in Vietnam a year from this date, with no indication of when they are coming out. Now, I think if Vietnamization is to work—and what I understand that to mean is to turn the war over to the Vietnamese—we have to give them a definite notice that we are coming out at such and such a time. I don't think that government in Saigon is going to begin taking the steps either to win the support of its own people or to assume the major burden for directing their own country until they know they can't depend on American help indefinitely.

The President is saying in effect now, as I understand it: We are going to stay for whatever time is necessary to permit the government in Saigon to assume the burden of this war.

Well, I think as long as we give them that assurance they are going to let us carry the burden indefinitely.

Senator Byrd. Well, George, let me concede that I think it would be a good idea for us to do something more than we have already done, to indicate to the South Vietnamese that we are definitely going to get out of there at some point in time, without announcing the exact date.

I should think that in view of the fact that the President indicated on April 20 that he expected to withdraw 150,000 men by next Spring, that now in the light of the tactical success of the Cambodian operation and the cleaning out of those sanctuaries that he might be able to accelerate this movement and have 150,000 out before next spring. If he indicated this, it seems to me this would stimulate the South Vietnamese to put forth the greater effort to take over the burden.

Senator Goldwater. May I point out something? When he removes another 150,000 combat troops—and this is what he is aiming at; we are not talking about support troops—in effect all we will have left in South Vietnam with rifles will be those people needed to guard what installations we will have left, air bases, communications and so forth. So I think the time table has been set. South Vietnam has been told that they are not going to have any more ground support from our ground forces. Now, we haven't said that about air, and the great bulk of the 250 to 280 thousand who will be left will be Air Force air, Army air, Navy air, and communications. So in effect, unless we say: No more air, then we can't say that we have a time table to bring the air forces home, and we haven't said that.

Senator Javits. I would like to make a practical suggestion. You don't like the date. Senator McGovern feels you have to have a date. The real nubbin of the thing is if the President sticks to the idea that we are getting out, conditioned on Vietnamization by the Vietnamese forces, that is their ability to take over, and conditioned by the amount of pressure or lack of it which the North Vietnamese put on us, he is giving both Hanoi and Saigon a veto over any time table. If the President will strip his policy of those conditions, the United States is getting out on a time table—I have communicated that time table to the most trusted people in the Congress—or even if he hasn't, just that there are no conditions, that we are getting out according to what we need, not according to what they have, then you may have a solution. Otherwise, you constantly run up against the proposition that he won't do it because his own conditions are going to keep him from doing it, himself.

Mr. Scali. What do you think of that, Senator Goldwater?

Senator Goldwater. I think he has already done it, frankly. I think he has put the victory monkey, if there is such a thing, on the backs of the South Vietnamese. He has told them, We are pulling out our ground forces—we have already pulled the ground Marines out. 150,000 more infantry men out of that war; we will have only people left to perform guard duty. Now, whether or not he has some plan for the air forces, I don't know. He has never talked to me about it. I don't think he has talked to anybody else about it. But I think as long as the North Vietnamese are allowed to bring supplies in through Laos and Cambodia to harass the South Vietnamese, I think we are probably going to have to provide tactical and strategic air support. They just don't have the equipment nor the training to do it.

Mr. Scali. For how long, Senator?

Senator Goldwater. Well, that is up to him. I don't know. I wouldn't want to hazard a guess.

Senator Javits. Barry, you will never know what they are able to do or what they will do, politically or militarily, unless you tell them, We are getting out, ready or not.

Senator Goldwater. We have a pretty good idea of what their air forces can and can't do. I have been in the midde of that, been over there to see it. I have watched them train. There are some things, Jack, they cannot do. They cannot handle our heavy tactical aircraft.

Mr. Clark. Senator Byrd, we are about out of time. Are you convinced everybody here is certain just what the Senate will be saying if it approves your amendment as expected tomorrow?

Senator Byrd. My amendment simply states clearly that the President has the Constitutional power and may exercise it to protect the lives of American servicemen in South Vietnam. And I want this written into the law. We have over 400,000 men in South Vietnam there now. They didn't ask to go there. Our government sent them there, it has a duty to protect them. And I think that is what my amendment does. It writes it into the law so the enemy as well as everybody else gets the message that the President is not going to be prohibited or precluded from using his Constitutional power to protect our men.

Mr. Clark. I believe I count the vote here as three to one for your amendment tomorrow, Senator Byrd.

Thank you very much, gentlemen, all of you, for being with us on Issues and Answers.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Hollings). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO FILE REPORTS UNTIL 6 P.M. TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees of the Senate have until 6 p.m. this evening to file their reports, and that any report filed today during or after the completion of business may be filed together with any minority, supplemental, or individual views, if desired, and that they be printed as part of the reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. Hollings). The nomination on the Executive Calendar will be stated.

INTERSTATE COMMERCE COMMISSION

The legislative clerk read the nomination of W. Donald Brewer, of Colorado, to be an Interstate Commerce Commissioner.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified immediately of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. PELL) laid before the Senate the following letters, which were referred as indicated:

REPORT ON FOREIGN CURRENCY AGREEMENTS

A letter from the General Sales Manager, Export Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of agreements signed for foreign currencies under Public Law 480 for May and June 1970 (with accompanying report); to the Committee on Agriculture and Forestry.

ANNUAL REPORT OF THE SMALL BUSINESS ADMINISTRATION

A letter from the Administrator, Small Business Administration, transmitting, pursuant to law, the 1969 annual report of the Small Business Administration (with an accompanying report); to the Committee on Banking and Currency.

PROPOSED AMENDMENT TO THE CONCESSION CONTRACT UNDER WHICH THE S. G. LOEFFLER CO. WILL BE AUTHORIZED TO CONTINUE TO OPERATE GOLF COURSES

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to the concession contract under which the S. G. Loeffler Co. will be authorized to continue to operate golf courses and provide related facilities and services for the public within the Washington, D.C., metropolitan area for a term of 1 year, from January 1, 1970, through December 31, 1970, when executed by the Director of the National Park Service (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORTS ON NATIONAL VISITOR CENTER AND OTHER FACILITIES

A letter from the Secretary of the Interior, transmitting, pursuant to law, the annual report to the Congress on the National Visitor Center and all other visitor facilities (with accompanying reports); to the Committee on Public Works.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 17146. An act supplemental to the act of February 9, 1821, incorporating the Columbian College, now known as the George Washington University, in the District of Columbia and the acts amendatory or supplemental thereof; and

H.R. 18086. An act to authorize the Commissioner of the District of Columbia to sell or exchange certain real property owned by the District in Prince William County, Va.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 3215) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, and it was signed by the Acting President pro tempore (Mr. PELL).

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 17146. An act supplemental to the act of February 9, 1821, incorporating the Columbian College, now known as the George Washington University, in the District of Columbia and the acts amendatory or supplemental thereof; and

H.R. 18086. An act to authorize the Commissioner of the District of Columbia to sell or exchange certain real property owned by the District in Prince William County, Va.; to the Committee on the District of Columbia.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. PELL):

A joint resolution adopted by the Legislature of the State of California, which was referred to the Committee on Public Works, as follows:

"ASSEMBLY JOINT RESOLUTION 47

"Relative to the allocation of federal research and development funds for environmental protection

"Whereas, There has been a rapidly increasing use and application of technology in the development of the United States; and

"Whereas, Many applications of technology have been made without sufficient consideration of the environmental impact of these developments and environmental damage has resulted; and

"Whereas, A renewed effort should be made to ensure that technological advances are utilized to protect and enhance the quality of the environment; and

"Whereas, In 1969 United States industries spent nineteen billion two hundred million dollars ($19,200,000,000) for research and development, one-half of which came from the federal government; and

"Whereas, Of the total federal government industrial research and development expenditures, 83 percent was used for aerospace, communications, and electrical machinery industries; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President of the United States to take the necessary steps to ensure that the impact of technology on the environment is considered before decisions are made to expend federal research and development moneys; and be it further

"*Resolved,* That the Legislature of the State of California respectfully memorializes the President of the United States to allocate a greater proportion of federal research and development funds to environmental problems, including, but not limited to, all of the following:

"(a) Broadening our understanding of the impact of new technologies on ecological systems and environmental quality.

"(b) Development of environmental monitoring systems to continuously assess environmental conditions and trends.

"(c) Development of cost-benefit systems which give adequate consideration to all environmental quality factors.

"(d) Development of methods and procedures to assist in the preparation of environmental impact reports on major public and private projects; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the President's Science Adviser, to the Chairman of the Federal Council on Environmental Quality, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution adopted by the Legislature of the State of California, which was referred to the Committee on the Judiciary, as follows:

"Relative to National Raisin Week

"Whereas, National Raisin Week is the nation's oldest food festival, celebrating its 61st observation from April 26th through May 2nd in 1970; and

"Whereas, The California raisin industry, the largest in the world, provides one-half of the world's supply of raisins; and

"Whereas, The great San Joaquin Valley of California, and more particularly Fresno County, is the very heart of the raisin industry; and

"Whereas, Since raisins are a wonderfully delicious and nutritious food, packed with energy and the health giving qualities of captured sunshine, it is most fitting that during this special observance week their praise be sung throughout the land, that even more people may come to know and enjoy the raisin and take pride in this unique industry; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to proclaim the week of April 26th through May 2nd, 1970, as "National Raisin Week"; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution adopted by the Veterans of World War I of the U.S.A., Department of Massachusetts, at their 16th annual convention, petitioning the Congress to pass legislation for control and suppression of subversion, sabotage, and rioting and for rigid control of and the severest punishment of illicit drug purveyors and for the penal restraint of drug addicts; to the Committee on the Judiciary.

MILITARY PROCUREMENT AUTHORIZATIONS, 1971—REPORT OF A COMMITTEE—INDIVIDUAL VIEWS (S. REPT. NO. 91-1016)

Mr. STENNIS, from the Committee on Armed Services, reported with amendments, the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, and submitted a report (No. 91-1016) thereon; together with the individual views of Mr. SCHWEIKER, which by previous unanimous consent, were ordered to be printed.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GOODELL (for himself, Mr. ERVIN, Mr. MATHIAS, Mr. BAYH, Mr. HART, Mr. KENNEDY, Mr. COOK, Mr. EAGLETON, Mr. MUSKIE, and Mr. BROOKE):

S. 4080. A bill to reorganize the courts of the District of Columbia, improve the District of Columbia Bail Agency, authorize a District of Columbia Public Defender Agency, allow the District of Columbia to participate in the Interstate Compact on Juveniles, and for other purposes; to the Committee on the Judiciary.

S. 4081. A bill to revise the laws of the District of Columbia relating to juvenile proceedings, to revise the laws of the District of Columbia relating to criminal law and procedure, and to extend the life of the Commission on Revision of Criminal laws, and for other purposes; to the Committee on the District of Columbia.

By Mr. TYDINGS:

S. 4082. A bill for the relief of Emiliano M. Mesina; to the Committee on the Judiciary.

By Mr. YARBOROUGH (for himself, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. SCHWEIKER, Mr. SMITH of Illinois, and Mr. PROUTY):

S. 4083. A bill to modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes; to the Committee on Labor and Public Welfare.

(The remarks of Mr. YARBOROUGH when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. JACKSON:

S. 4084. A bill for the relief of Comdr. Howard A. Weltner, U.S. Naval Reserve; to the Committee on the Judiciary.

S. 4083—INTRODUCTION OF A BILL TO PROVIDE FOR A MODEL PRESCHOOL AND ELEMENTARY SCHOOL FOR THE DEAF

Mr. YARBOROUGH. Mr. President, I am introducing legislation intended to modify and enlarge the authority of Gallaudet College, the only college for the deaf in the world, to maintain and operate the Kendall School, on the Gallaudet campus, as a demonstration preschool and elementary school for the deaf.

The interest and commitment of the Congress in the Kendall School and Gallaudet College dates back to February 16, 1857, when the Congress approved an act to incorporate the Columbia Institution for the Deaf, Dumb, and Blind—renamed the Kendall School for the Deaf in 1885. In succeeding acts and in its annual appropriation, Congress has continued its support of and interest in the operations of Gallaudet College and the Kendall School.

As an integral part of Gallaudet College, the Kendall School has grown with the college and has gained prominence for its service and special projects. Many faculty members of the Kendall School hold academic rank on the college faculty and a close relationship exists between the Kendall School and the college.

The Board of Directors of Gallaudet College requested a committee of nationally prominent persons to study the complete role and function of Gallaudet College and all its programs. This committee has recommended that consultants be employed to assist the college in revising and redeveloping the Kendall School as a demonstration center for the education of deaf preschool and elementary schoolchildren. The proposed bill would provide the legal framework which is necessary to operate the Kendall School in this fashion.

In its continuing efforts to serve deaf children from the National Capital region, the Kendall School must become a national demonstration preschool and elementary school for the deaf. There are a number of reasons why this is so:

First. The evolution of the Kendall School into a demonstration elementary school represents a natural progression in its development;

Second. The establishment and operation of the Model Secondary School for the Deaf—Public Law 89-694—has created a new perspective on the education of the deaf; and

Third. The rubella epidemic of 1963–65 and the predicted epidemic in 1972–73 are creating a need for a more appropriate learning environment. Professionals agree that unless major efforts are directed to the elementary level many deaf students will not be able to benefit from federally supported programs such as the Model Secondary School for the Deaf and the National Technical Institute for the Deaf—Public Law 89-36—because it is too late to bridge the educational gap. Focus must be on the establishment of a demonstration school for preschool and elementary age deaf children.

The Kendall School is an established school of quality with a competent staff and physical facilities. Therefore, a demonstration elementary program for deaf children can be established with minimum additional expenditures of Federal funds.

The full resources of Gallaudet College and the area could be utilized with comparative ease in developing and testing superior elementary programs. Visiting educators would have ready access to this demonstration center.

The current program at the Kendall School is ready to be operated as a demonstration preschool and elementary school. For the past 10 years, the Kendall School has acquired a great amount of knowledge and expertise through pilot projects, funded from Federal grants, in several critical areas. Some of these projects were piloted for the Model Secondary School for the Deaf. The data show that innovative educational approaches are of significant benefit to the elementary student as well.

The Kendall School has conducted the following pilot projects, with special one-time project grants:

First. Individualized instructional approaches:

First, computer-assisted instruction in mathematics and English, and second, individual study units; these are highly promising mediums through which deaf children can learn and to which they can relate;

Second. Media and materials production to assist teachers with the creation and production of innovative classroom materials;

Third. Integration of deaf students with hearing students on a classroom exchange basis, in areas where the children are relatively equivalent in background and interest;

Fourth. Introduction of optimal acoustic classroom conditions in order to assist deaf children in making consistent utilization of amplification equipment;

Fifth. Combined academic-recreational summer session to prevent academic regression over the summer months;

Sixth. Intensive home training and in-school parent education for families with young deaf children; and

Seventh. Social work and counseling, providing social workers with an orientation to deafness in preparation for consultation with classroom teachers, home visits, parent education, and counseling of students.

As indicated above, over the past decade an extensive body of knowledge has been accumulated for new approaches to improve the education of young deaf children. The Kendall School for the Deaf must obtain the resources to enable it to disseminate this knowledge to other schools. Demonstration of the success of these programs would facilitate the development of other area centers throughout the United States.

A demonstration elementary school for the deaf with similar resources and programs at lower age levels, will augment the needed continuity for the child's optimal educational growth. Such continuity is imperative if programs in the education of the deaf are to meet the educational needs of tomorrow's deaf children.

I ask unanimous consent to have the bill printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. CASE). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4083) to modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes; introduced by Mr. YARBOROUGH, for himself and other Senators, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 4083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of providing day and residential facilities for elementary education for persons who are deaf in order to prepare them for high school and other secondary study, and to provide an exemplary educational program to stimulate the development of similar excellent programs throughout the Nation, the directors of Gallaudet College are authorized to maintain and operate Kendall School as a demonstration elementary school for the deaf, to serve primarily residents of the National Capital region.

SEC. 2. As used in this Act—

(a) The term "elementary school" means a school which provides education for deaf children from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent.

(b) The term "construction" includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment thereof, including architect's services, but excluding off-site improvements.

AUTHORIZATION OF APPROPRIATIONS

Sec. 3. (a) There are authorized to be appropriated for each fiscal year such sums as may be necessary for the estabilshment and operation, including construction and equipment, of the demonstration elementary school provided for in section 1.

(b) Federal funds appropriated for the benefit of the school shall be used only for the purposes for which paid and in accordance with the applicable provisions of this Act.

Sec. 4. In the design and construction of any facilities, maximum attention shall be given to excellence of architecture and design works of art, and innovative auditory and visual devices and installations appropriate for educational functions of such facilities.

REPEAL OF EXISTING STATUTES

Sec. 5. The following statutes or parts of statutes are hereby repealed:

(a) Section 1 of the Act of March 1, 1901, 31 Stat. 844, as amended,

(b) Section 1 of the Act of March 2, 1889, 25 Stat. 962, as amended,

(c) Act of November 7, 1966, 80 Stat. 1399,

(d) Section 1 of the Act of March 1, 1905, 33 Stat. 901, as amended.

ADDITIONAL COSPONSORS OF BILL

S. 3723

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New Hampshire (Mr. MCINTYRE), I ask unanimous consent that at the next printing, the names of the Senator from Missouri (Mr. EAGLETON), the Senator from South Dakota (Mr. MUNDT), and the Senator from Colorado (Mr. ALLOTT) be added as cosponsors of S. 3723, a bill to provide for orderly trade in textile articles of leather footwear, and for other purposes.

The PRESIDING OFFICER (Mr. CASE). Without objection, it is so ordered.

S. 3875

Mr. PEARSON. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Iowa (Mr. HUGHES), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. MANSFIELD), the junior Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Texas (Mr. TOWER) be added as cosponsors of S. 3875, to amend the Interstate Commerce Act in order to provide for the rail transportation of freight for the Department of Defense in general purpose boxcars owned by the United States.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

S. 4002

Mr. DOLE. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. PERCY), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oregon (Mr. HATFIELD), and the Senator from Wyoming (Mr. HANSEN) be added as cosponsors of S. 4002, to establish a National Information and Resource Center for the Handicapped.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 74—SUBMISSION OF A CONCURRENT RESOLUTION TO AFFECT THE TREATMENT OF PRISONERS IN VIETNAM

Mr. MUSKIE. Mr. President, the recent report by Congressmen ANDERSON and HAWKINS on the apparently savage treatment of political prisoners in South Vietnam's Con Son prison is most disturbing.

I recognize that prison conditions in another country are not, by themselves, our usual concern—especially since our own penal system is itself in substantial need of reform.

However, the situation in South Vietnam must concern us. Supposedly, we have been fighting there in an attempt to insure freedom of political choice for the people of South Vietnam, whatever that choice may be.

Yet, the Thieu-Ky regime, which we have been supporting, continues to hound and jail its political opponents, whether Communists or non-Communists. And the hundreds of millions of dollars of direct economic aid, which we have been furnishing to the present government, has apparently been used in part to keep political prisoners in long and brutal confinement.

If the Thieu-Ky regime continues to deal with domestic political opposition in such ugly terms, the prospects for a peaceful resolution of the conflict in Vietnam are very remote. Indeed, no negotiated settlement could provide any real assurance against an eventual bloodbath between warring political factions in South Vietnam, for the simple fact that repression begets violence is as true in Southeast Asia as anywhere else.

Certainly, no amount of economic or military aid to the Thieu-Ky regime, without its own clear and demonstrated commitment to political and economic reform, can make it any more worthy of our confidence or our respect. It may well be that the greater our support—whether in the form of troops, military hardware, or dollars—the less incentive South Vietnamese Government officials have to set their own house in order.

That is why it is imperative that the United States not continue to allow our commitment to be measured in inverse proportion to the performance of the South Vietnamese themselves. We must not allow our initiatives for peace in Paris to be prematurely stunted by the wishes of the present South Vietnamese Government. And we cannot, in good conscience, let the pace of our withdrawals from Indochina be dictated by anyone but ourselves.

Mr. President, yesterday Congressmen WILLIAM ANDERSON and AUGUSTUS HAWKINS submitted House Concurrent Resolution 677, which addresses itself to the cruel and inhumane treatment of prisoners in South Vietnam and calls upon the Governments of the United States, South Vietnam, and North Vietnam to take immediate steps to provide humane and fair treatment of all prisoners. I commend the efforts of these two Congressmen and am pleased to submit this resolution in the Senate today on behalf of myself and Senators MANSFIELD, SYMINGTON, COOK, EAGLETON, GOODELL, HART, HOLLINGS, JACKSON, KENNEDY, MCGOVERN, MCINTYRE, MONDALE, RIBICOFF, WILLIAMS of New Jersey, and YOUNG of Ohio. I hope that other Senators will be interested in cosponsoring the resolution with me.

Mr. President, I ask unanimous consent that the text of this resolution appear in the RECORD at this point.

The PRESIDING OFFICER (Mr. CASE). The concurrent resolution will be received and appropriately referred; and, without objection, the concurrent resolution will be printed in the RECORD.

The concurrent resolution (S. Con. Res. 74) to affect the treatment of prisoners in Vietnam, was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

S. CON. RES. 74

Whereas members of the House Select Committee on United States Involvement in Southeast Asia have observed and reported cruel and inhumane treatment of civilian political prisoners in a tiger cage area at Con Son National Prison in South Vietnam and widespread malnutrition and disease throughout that prison; and

Whereas similar or more severe conditions of treatment may exist at other sections of Con Son National Prison and at other national prisons administered by the Government of South Vietnam; and

Whereas the United States through the United States Agency for International Development has become involved in the South Vietnamese National Prison System through the services of United States advisory personnel and the spending of several millions of dollars in an effort to improve that system; and

Whereas the United States Agency for International Development having negligently failed to take within its sphere of observation and attention areas such as the tiger cages where cruel and inhumane treatment of prisoners exists; and

Whereas the chairman of the Interior Committee of the lower house of the South Vietnamese Assembly estimates that thousands of Vietnamese civilians are being held in prison without trial; and

Whereas a 1968 administrative decree of the Government of South Vietnam known as An Tri permits a citizen to be held for two years without trial and provides for renewals of periods of pretrail confinement; and

Whereas such system of justice is certain to result in confinement of innocent non-Communist persons and to otherwise be counterproductive of achieving self-determination of government in South Vietnam and peace throughout Vietnam; and

Whereas more than three hundred eighty-five thousand Americans have been killed, maimed, or otherwise wounded, and the United States has devoted a vast quantity of its material resources to help achieve and sustain self-determination of government in South Vietnam and peace throughout Vietnam; and

Whereas the United States has spent abundantly of its resources and has otherwise taken all requisite steps to assure with certainty that prisoners of war camps in South Vietnam are models of the conditions of treatment specified in the Geneva Convention of 1949 and has insisted that such camps be freely open to independent internation inspection; and

Whereas the Government of North Vietnam and its allies have steadfastly refused to permit impartial inspections of prisoner of war facilities in which American prisoners of war are held: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress (1) condemns the cruel and inhumane treatment and conditions of confinement of large numbers of political prisoners held in South Vietnam; (2) urges the Government of South Vietnam immediately to (A) cease cruel and inhumane treatment of prisoners, (B) take all steps practical to adequately cope with widespread malnutrition and disease within its civilian prisons, (C) reexamine and reform its system and practice of justice, (D) bring all prisoners, political and otherwise, who have not been tried to a prompt and fair trial, and (E) release the innocent, including those whose only offenses have been to peaceably speak out against the current Government of South Vietnam and in behalf of peace in Vietnam; (3) characterizes the civilian prison assistance program carried out in South Vietnam by the United States Agency for International Development as (A) ineffectual, (B) counterproductive of the goals the United States seeks in Southeast Asia, and (C) in need of immediate investigation; (4) urges inspection of all prisoner of war facilities, humane care, attendance to dietary and health care needs, free exchange of mail and packages between families and prisoners, and the prompt exchange of American and allied prisoners of war held by North Vietnam and its allies with prisoners of war held in South Vietnam with priority of release given to sick or injured prisoners and those who have endured long periods of confinement.

SENATE RESOLUTION NO. 429—SUBMISSION OF A RESOLUTION RELATING TO BRUTALITY AT THE OHIO STATE PENITENTIARY

Mr. YOUNG of Ohio. Mr. President, in recent months from time to time word has come to me from Columbus, Ohio, that the old Ohio penitentiary located in the capital city of my State has been overcrowded in recent years. It was common knowledge that in the treatment of inmates, or prisoners, in our penitentiary, Ohio deserved a low rating compared with many other States.

Now information has come that under Warden Cardwell and Maury Koblentz, who was appointed head of the Ohio Board of Corrections, cruelty and brutality toward penitentiary inmates have markedly increased.

Today in the Washington Merry-Go-Round, written and published by Jack Anderson, he reports in detail, shocking brutality and horror recently perpetrated on penitentiary inmates.

I am submitting a resolution calling for the appointment of a Senate investigating committee to make an on-the-spot investigation of the Ohio penitentiary and its present operation.

Mr. President, it is evident to me that Maury Koblentz, head of the Ohio Board of Corrections, is blamable and must be held responsible for the mistreatment of inmates of the Ohio State Penitentiary. This fellow Koblentz, when a reporter representing Jack Anderson requested permission to talk with certain inmates in order to check out complaints that they also had been tortured and treated with great brutality, absolutely refused this requested permission. Also, I denounce Warden Cardwell for permitting cruelty to penitentiary inmates.

This fellow Koblentz, along with Warden Cardwell, should—and no doubt will—be summoned to appear and face the large number of witness who will testify to the horrible mistreatment of different inmates. It is very simple for them to deny brutality. It will be different when they are confronted with these witnesses and then placed on oath, should they choose to deny the charges.

Mr. President, the recent disclosure of a "Devil's Island" prison camp at Con Son, 60 miles from Saigon, where political opponents of the brutal Thieu-Ky regime, including two young girls, have been incarcerated for months in "tiger cages" 8 by 5 feet in size, with four or more prisoners, is shocking. Those "tiger cages" were of stone, dark, damp, and well nigh airless. When prisoners begged for food or water, lime was frequently thrown at them.

While this story rightfully continues to make angry headlines in our Nation's major newspapers, most Americans are unaware that similar atrocities occur daily in some of our American prisons.

In his column this morning, Jack Anderson has documented some examples of the sickening bestiality that has become, part and parcel, a daily routine in the Ohio State Penitentiary at Columbus, Ohio, our State capital.

These include a horrible report of chemical mace sprayed into the rectum of an epileptic black prisoner, Douglas Clark, No. 121486, by seven brutal guards.

Another disclosure describes the beating of Elbert Hawkins, No. 127536, by a group of 45 guards. Prisoner Hawkins had his head split open, and it was later necessary to take him to the Lima State Hospital for the Criminally Insane, where the unfortunate man is now confined.

In yet another case, it was charged that a prisoner, Noah Jackson, was stripped and beaten by a captain, two lieutenants, and two guards while his hands were handcuffed behind his back. One brutal lieutenant pulled on his testicles while Jackson screamed in pain from all this beating.

One of our Nation's most pressing and neglected needs is for genuine and effective prison reform. We should not permit the gestapo-like brutality reported in the Washington Merry-Go-Round of Jack Anderson, which I have narrated, to continue, and we should immediately take steps to rectify the abuse of inmates currently confined in the Ohio State Penitentiary or in any other of our penal institutions.

I ask unanimous consent that Jack Anderson's column be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 14, 1970]

THE WASHINGTON MERRY-GO-ROUND: UNITED STATES HAS PRISON OUTRAGES AT HOME

(By Jack Anderson)

Outraged congressmen have raised an almighty howl about prison atrocities in South Vietnam. Their charges have been printed in angry headlines on the front pages of American newspapers. The State Department has sternly ordered the U.S. Embassy in Saigon to investigate the charges and report its findings to Washington.

Yet the same congressmen, who are so indignant over the maltreatment of Vietcong prisoners, have been strangely silent about the abuse of American convicts at home. Only the mildest protest has been made over the documented charges this column has published about atrocities in U.S. prisons.

Our stories have given tongue, however, to the victims who have deluged us with letters, long-distance calls and smuggled documents attesting to Gestapo-like horrors in our prisons and jails. They are suddenly breaking a hopeless, helpless silence like some mute giant chained in the dark whose anguished cries no longer will be quieted.

Admittedly, the stories come from men convicted of crimes, men whose veracity, therefore, can be challenged. But the same sickening details have come from too many unrelated sources to be ignored. Some inmates have also offered to show the scars of their mistreatment at a public hearing.

Here are just a few more reports from our bulging files:

HORROR STORIES

One statement, regarded by Senate investigators as reliable, tells of an epileptic Negro, Douglas Clark, Ohio Penitentiary No. 121486, who had chemical Mace "sprayed in his rectum by seven guards."

Another report charges that Kelly Chapman, Ohio Penitentiary No. 122531, a convicted rioter, was handcuffed and thrown downstairs. "When his mother complained to Warden (Harold) Cardwell, he was surrounded by guards with shotguns who threatened to kill him . . . A guard punched him in the mouth and knocked him down. A lieutenant grabbed him by the throat and began choking him and beating him. (Chapman) was returned to the visiting room with his head smashed and blood dribbling from his mouth."

We have a report that Elbert Hawkins, Ohio Penitentiary No. 127536, "received a massive beating from a group of guards numbering 45. His head was split open." He was sent later to a state Hospital for the criminally insane.

One of the guards who participated in the beating reportedly "went home afterwards covered with blood, went into the bathroom and vomited." There is actually a rule that guards with bloodstained uniforms must remove them for cleaning before leaving the prison.

The report on the guard, taken from an official Senate document, states: "One month last year he had to leave his uniform at the gate eight times for dry cleaning because he had blood on it from beating prisoners."

A prisoner named Noah Jackson, number unknown, was allegedly "stripped, handcuffed behind his back and beaten by a captain, two lieutenants and two guards. One lieutenant pulled on his testicles while Jackson screamed with pain."

Ohio Corrections head Maury Koblentz has refused to let us talk to prisoners, thus we cannot personally check out the reports. Both Koblenz and Warden Cardwell categorically deny brutality at Ohio Penitentiary. The warden, asked whether there were beatings at the prison, said: "No. Certainly not.

I've heard some of these stories so long it's getting rather sickening."

The ACTING PRESIDENT pro tempore (Mr. Pell). The resolution will be received and appropriately referred.

The resolution (S. Res. 429) was referred to the Committee on the Judiciary, as follows:

S. Res. 429

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 34 (a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by Rule XXV of the Standing Rules of the Senate, to make a full and complete study and investigation of alleged acts of brutality committed against prisoners by prison personnel at prisons in the State of Ohio.

Sec. 2. The Committee shall report the results of the study and investigation authorized by this resolution, together with such recommendations for legislation or other action as it deems appropriate, to the Senate at the earliest practicable date.

RELIEF OF HOOD RIVER COUNTY, OREGON—AMENDMENTS

AMENDMENTS NOS. 776 AND 777

Mr. ERVIN, for himself, Mr. Mathias, Mr. Goodell, Mr. Bayh, Mr. Hart, Mr. Kennedy, Mr. Cook, Mr. Eagleton, Mr. Muskie, and Mr. Brooke, submitted amendments intended to be proposed by him to the bill (H.R. 914) for the relief of Hood County, Oreg., which were ordered to lie on the table and to be printed.

CANYONLANDS NATIONAL PARK IN THE STATE OF UTAH

AMENDMENT NO. 778

Mr. BENNETT submitted an amendment, intended to be proposed by him, to the bill (S. 26) to revise the boundaries of the Canyonlands National Park in the State of Utah, which was ordered to lie on the table and to be printed.

GLEN CANYON NATIONAL RECREATION AREA IN THE STATES OF ARIZONA AND UTAH

AMENDMENT NO. 779

Mr. BENNETT submitted an amendment, intended to be proposed by him, to the bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah, which was ordered to lie on the table and to be printed.

SOCIAL SECURITY ACT—AMENDMENT

AMENDMENT NO. 780

Mr. SAXBE. Mr. President, it has come to my attention that there exists an inequity in our present social security law that forthwith needs correcting. Under the current act a surviving divorced wife may only collect benefits from her husband's wage record if she has been married to the individual for 20 years immediately prior to the date when the divorce became effective. Additionally, she also must have been receiving one-half of her support from her divorced husband or have been receiving substantial contributions from such an individual pursuant to a written agreement or court order. Now I understand that H.R. 17550 seeks to eliminate these support requirements and I believe that this is a step in the right direction. Yet, whether or not coupled with a support requirement, the 20-year rule still imposes too harsh a burden, especially where benefits may be desperately needed by the surviving divorced wife in order to live.

I submit, therefore, that the 20-year requirement be lowered to 10. Perhaps it would be wise to retain some support requirement if the time requirement is reduced in order to prevent many divorced wives from claiming on the same account and to prevent other unwarranted incursions into the social security fund. In any case, if some restrictions are required, I believe it would be preferable to retain support requirements and reduce the time requirement rather than the reverse. Such a policy would reduce the arbitrary time limit now working hardships on so many of our elderly citizens who so richly deserve a better break.

So, Mr. President, I submit an amendment to H.R. 17550 and ask unanimous consent that the text of this amendment be printed in the Record following my remarks.

The PRESIDING OFFICER (Mr. Hollings). The amendment will be received, appropriately referred and printed; and, without objection, the amendment will be printed in the Record.

The amendment (No. 780) was referred to the Committee on Finance, and ordered to be printed in the Record, as follows:

Amendment No. 780

On page 48, between line 13 and 14, insert the following:

"(d) (1) Section 216(d) of the Social Security Act is amended by striking out '20 years' in paragraphs (1) and (2) and inserting in lieu thereof in each instance '10 years'.

"(2) Section 202(b) (H) of the Social Security Act is amended by striking out '20 years' and inserting in lieu thereof '10 years'.

"(e) Section 111(d) of H.R. 17550 shall be struck and reinserted in lieu thereof as subsection (e) under section 111 of H.R. 17550."

EMERGENCY LEGAL SERVICES TO DISASTER VICTIMS—AMENDMENT

AMENDMENT NO. 781

Mr. YARBOROUGH. Mr. President, I submit an amendment, intended to be proposed by me, to S. 3619, the Omnibus Disaster Assistance Act which would authorize the Director of the Office of Economic Opportunity to assign a team of lawyers to an area designated by the President as a major disaster area for the purpose of providing legal counseling and representation to disaster victims on matters arising out of or related to such a disaster. These legal teams would be trained in the law of the jurisdiction to which they are assigned and would work closely with the local bar association and other legal assistance groups that are working in the area.

A problem that is often overlooked when disaster assistance legislation is under consideration is the need for legal assistance to the victims of a major disaster. In the wake of a major disaster, there are a multitude of legal problems that develop which require immediate attention. All too often legal help from local sources is not available to meet the immediate needs of disaster victims. This is particularly true with regard to people in the low-income bracket. These people are not accustomed to seeking out an attorney and, therefore, when they are confronted with a serious legal problem they do not know where to turn for help. Very few communities have a legal assistance program that is designed to meet the urgent needs of disaster victims. Such programs must depend on volunteer participation by local lawyers and bar associations and all too often such volunteer programs are too slow in being started to provided the immediate aid disaster victims need. My amendment would solve this problem by providing for emergency legal teams, composed of lawyers from OEO, which would be immediately deployed to any area declared a major disaster by the President. These legal teams would be trained in the laws of the jurisdiction in which they are assigned and would set up legal assistance offices in the disaster area to provide the victims immediate legal aid.

The need for this type of service has been dramatized by the events that occurred in Lubbock, Tex., after the tragic tornado that struck that city in May of this year. One of the most seriously damaged parts of the city of Lubbock was the Mexican American barrio. For years land titles in this part of Lubbock have been clouded because in many cases, the Mexican Americans who have paid on their homes for years never have received a deed to their property. In many situations, all these people have as evidence of the money they had paid is an instrument referred to as a "contract of sale." Naturally, these people were reluctant to move out of their homes into temporary housing because they fear that their property would be taken while they are away.

Another problem that these people encountered was insurance settlements. Many of these people are not proficient in English and were not able to read their home insurance policies. In other cases, the people who were buying these homes had paid the insurance premiums for years only to find that the policies were issued in the names of the original landowners.

Needless to say, these people, many of whom had never talked with a lawyer in their lives, needed legal assistance. The local bar association of Lubbock responded to the call for legal assistance and 40 local lawyers donated their time and services to assist these unfortunate people. During a 2-month period approximately 135 legal assistance cases were processed. The bar association of Lubbock should be commended for their fine efforts in this time of disaster.

However, volunteer help in major disasters cannot be relied on exclusively to solve the multitude of legal problems that arise. Often a local bar association simply does not have enough members to meet the demands for legal aid. In some situations, local lawyers may have conflicts of interest that would prevent them from representing some disaster victims. In other cases, such as in Lubbock, not enough of the local lawyers speak the language of the people who need their help to really be of much aid. Above all else, very few volunteer lawyers can continue to devote time to these cases which often drag on for months.

My amendment seeks to lift this burden from local lawyers who have many problems of their own in times of major disaster and furnish people in these areas with the legal assistance they need.

As a cosponsor of S. 3619, I offer this amendment in the belief that it will strengthen the bill and broaden its coverage. I urge the Senate Public Works Committee to incorporate this amendment into S. 3619.

Mr. President, I ask unanimous consent that the amendment I am submitting be printed.

The PRESIDING OFFICER (Mr. Case). The amendment will be received and printed, and will be appropriately referred.

The amendment was referred to the Committee on Public Works.

NEIGHBORHOOD YOUTH CORPS—AMENDMENT

AMENDMENT NO. 782

Mr. TYDINGS. Mr. President, the Secretary of Labor's announced plans to reduce the wages of participants in the Neighborhood Youth Corps threatens the very existence of that vital program and undercuts our efforts in the war against crime.

At a time when the Congress is appropriating hundreds of millions of dollars for law-enforcement assistance, it is essential that we do not cut back in our efforts to eradicate the joblessness and idleness that breed crime.

Yet the administration has decided to embark on a plan that will slash the wages of the NYC participants so severely that it will certainly drive many poor youngsters out of the program.

Under the administration's scheme, high school dropouts participating in the out-of-school Neighborhood Youth Corps program in Baltimore, for example, will find their wages sliced to less than 90 cents an hour for a 40-hour week. Currently, these same NYC participants receive $1.45 an hour for a 32-hour workweek. The administration's plan will go into effect July 20.

Despite the protests of Neighborhood Youth Corps directors across the country and against the express desires of the Nation's big city mayors, the administration has persisted with its plans.

A month ago, the National Conference of Mayors passed a resolution presented by Mayor Thomas D'Alesandro, of Baltimore, requesting the Department of Labor to halt its plans to tamper with the NYC program.

The NYC directors in Baltimore and across the Nation are concerned that the administration's new ill-conceived wage scheme will drive out of the program the youngsters who need it the most.

Their concerns are not idle fears. Since the changes were announced in Baltimore, the number of applicants for NYC out-of-school slots has shrunk from 20 a day to five a day. Enrollee absenteeism on the job has increased 50 percent. It is clear that the enrollees do not see much incentive to work for substantially less than our minimum wages.

The consequences of having NYC participants in cities across the country leaving the program discouraged and embittered are grave. I shudder to think of the consequences of turning 600 hostile youngsters out on to the streets of Baltimore in just 6 days.

More than 16,000 youngsters between the ages of 16 and 21—the ages of NYC participants—were arrested for crimes in Baltimore during 1969. These crimes included murder, robbery, rape, burglary, and other serious offenses. Police officials have indicated that a major cause of these youngsters turning to crime is idleness—the fact that these youngsters have nothing to do.

Tampering with the Neighborhood Youth Corps can only contribute to their idleness and crime. Half of the participants in the Baltimore program had criminal records before they enrolled. Returning them to the street more embittered would be a devastating blow to the war against crime.

The administration is apparently unconcerned about that consequence of its action. Recently, a Labor Department official was quoted in an article by Naomi S. Rovner in the Baltimore Sun as saying:

> If the lower take-home pay drives a youth out of the program, I say to hell with him. Maybe that shocks you, but it is a matter of motivation and if one doesn't want to go back to school, then another one will take his place.

I believe that attitude on the part of the top Labor Department official reveals again how far out of touch this administration is with the happenings on the streets of our great cities. It is one thing to sit behind a desk in the Department of Labor building in Washington and say "to hell" with a youngster who refuses to participate in a program paying scarcely half the minimum wage. But it is another to have to deal with that same youngster on the street after he has become even more embittered at being driven away from the NYC program because it does not pay enough money for him to live on.

The administration promises that it will offset the wage reduction by providing improved supportive services—such as vocational education classes—for the Neighborhood Youth Corps participants. While I agree that it is desirable to improve supportive services, I believe it should not be done in a manner that torpedoes the program's effectiveness by discouraging needy youngsters from joining. Nor do I believe the thrust of the program should be changed from that of a work and on-the-job training program.

For that reason, I am submitting on behalf of myself, Mr. Cranston, and Mr. Goodell an amendment to S. 3867, the Employment and Training Opportunities Act of 1970, to prohibit the Secretary of Labor from paying NYC out-of-school enrollees less than the minimum wage for the time they spend on the job. In addition, my amendment will protect the current thrust of the program by providing that 80 percent of the enrollees' time will be spent working or in on-the-job training.

That vital legislation is now in markup before the Subcommittee on Employment, Manpower, and Poverty. I plan to carry this amendment to the subcommittee and ask the chairman, the distinguished Senator from Wisconsin (Mr. Nelson) to consider it before the bill is reported to the floor.

I ask unanimous consent that my amendment be printed in the Record at this point.

The PRESIDING OFFICER (Mr. Saxbe). The amendment will be received, appropriately referred, and printed; and, without objection, the amendment will be printed in the Record.

The amendment (No. 782) was referred to the Committee on Labor and Public Welfare as follows:

Amendment No. 782

On page 65, on line 11, insert a semicolon before the word "and", and on line 13, after the period, insert a comma and the following: "and the Secretary shall not limit the number of hours which participants may spend in work and on-the-job training to less than 80 per centum of the number of hours per week spent in the program, and allowances for such work and on-the-job training shall not be less than the minimum wage specified in section 6 of the Fair Labor Standards Act of 1938".

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. SCOTT. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary: Charles W. Koval, of Pennsylvania, to be U.S. marshal for the western district of Pennsylvania for the term of 4 years, vice Anthony J. Furka, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, July 21, 1970, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARINGS ON OMNIBUS RIVERS AND HARBORS LEGISLATION

Mr. YOUNG of Ohio. Mr. President, I wish to announce that the Subcommittee on Flood Control-Rivers and Harbors, of the Committee on Public Works, will continue its hearings on an omnibus rivers and harbor bill, which were initiated in April of this year.

The additional hearings will be held on July 28, 29, and 30, and September 15, 16, and 17. On these dates, the subcommittee will receive testimony on river and harbor, flood control, and other water resources proposed projects, that have been investigated and recommended by the Chief of Engineers, U.S. Army. The subcommittee will also consider other related river and harbor and flood control matters.

The hearings will begin at 10 a.m. in room 4200, New Senate Office Building. Persons desiring to testify on pending river and harbor matters are requested to contact Mr. Joseph F. Van Vladricken, professional staff member, Committee on Public Works, Washington, D.C., telephone No. 225-6176.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 14, 1970, he presented to the President of the United States the enrolled bill (S. 3215) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 11 a.m. tomorrow.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(Subsequently, this order was modified to provide for the Senate to adjourn until 10 a.m. tomorrow.)

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that, after the disposition of the reading of the Journal tomorrow, the Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 20 minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **MANSFIELD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **MANSFIELD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

BIPARTISAN GROUP IS EVIDENCE THAT REAL LEADERSHIP EXISTS

Mr. **MANSFIELD** Mr. President, I was intrigued by an article in this morning's Washington Post by David S. Broder, one of the fairest and most impartial commentators I know. The title of the article is "Bipartisan Group Is Evidence That Real Leadership Exists."

The article refers to a group in the House. The names of Members of both the House and Senate are mentioned, by the way, but the names referred to in the commentary are Representatives BARBER B. CONABLE, JR., SAM M. GIBBONS, and F. BRADFORD MORSE, respectively from the States of New York, Florida, and Massachusetts.

They are carrying on an activity which indicates that there is leadership in the Congress, and especially in the House, which should be given consideration—may I say leadership outside the leadership in the Senate as well, because this is a bipartisan group.

What this group does, under the leadership of these three outstanding Members of Congress, is to meet together from time to time to discuss various matters of interest, and try to establish an initiative and a program which should be considered by Congress as a whole. The group itself is taking up the slack in a period, to use Mr. Broder's words, of "apathy, divisiveness, buckpassing, and leadership failures."

He says further:

> What these men are doing is big news—and good news.

Mr. President, my reason for asking that this column be printed in the RECORD is because I have felt, for all too many years, that too much attention has been focused on the Senate and not enough attention on the House of Representatives. I think too much publicity has been accorded the Members of the Senate, and not enough publicity to the Members of the House.

There are individuals over there who are just as smart, just as intelligent, just as forward looking, and just as statesmanlike as we are, and I daresay a good many of them who are better in these departments. I deplore the fact that the Senate seems to be the fulcrum for publicity when we have so many capable Members in the House of Representatives who should be given their just due.

So I ask unanimous consent, Mr. President, to have printed in the RECORD this commentary entitled "Bipartisan Group Is Evidence that Real Leadership Exists," written by David S. Broder and published in today's Washington Post. I hope that from now on the House will be given the attention it deserves, and that recognition will be accorded to its many Members who are outstanding in every respect.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIPARTISAN GROUP IS EVIDENCE THAT REAL LEADERSHIP EXISTS

(By David S. Broder)

Barber B. Conable, Jr., Sam M. Gibbons and F. Bradford Morse are not, as the sayings goes, household names. They are among the many "faceless men" in the House of Representatives, known to their constituents their colleagues in Congress and a few dozen Capitol Hill reporters—and to virtually no one else.

But Conable, Gibbons and Morse were the central figures at two occasions last week that were certainly the most hopeful and perhaps, the most significant on the Washington scene.

Conable, an upstate New York Republican, and Gibbons, a Florida Democrat, were the main spokesmen at the press conference introducing the package of congressional reform proposals backed by a bipartisan bloc of 58 representatives. Morse, a Republican from Lowell, Mass., chaired the Capitol Hill luncheon for United Nations Secretary General U Thant, sponsored by the 98-member, bipartisan group called Members of Congress for Peace Through Law (MCPL).

Press conferences and celebrity luncheons are, of course, a dime a dozen on Capitol Hill. And a cynic could easily argue that neither the congressional group nor MCPL has much in the way of concrete accomplishments so far.

The Conable-Gibbons rules reform group is brand new and its first test will come when it tries to strengthen the congressional reorganization bill on the floor of the House this week. While the omens of success are present, there is no guarantee that the standpatters will not succeed again, as they have in the past, in defeating or delaying the reform effort.

As for Morse's MCPL, it has been functioning so quietly for its almost four years of existence that even close observers of Congress were unaware of it until last week, when it drew attention by playing host to U Thant.

Financed mainly by outside contributions, its five-man professional staff and nine working committees have helped research and coordinate efforts by many individual senators and representatives to shorten the war and reduce the military budget. While it has certainly helped improve both the quality and quantity of congressional debate in these fields, it is still far from achieving the redirection of foreign and military policies it seeks.

But specific accomplishments aside, the emergence of these efforts within the Congress is of significance to those who are inclined to depair of the system's capacity to respond to the many crises of our times.

They offer evidence that real leadership is available in both parties, despite the faltering performance of so many national figures. Conable, Gibbons and Morse are all in their late 40s, with less than a decade of congressional service behind them. Many of their colleagues in these organizations are even younger in years and seniority.

Like many others, they have chafed at the reluctance of the congressional elders to make needed internal reforms or to raise for serious debate the vital issues of peace, war and national priorities.

But unlike so many of the other critics of the system, they have organized to produce change on their own initiative, instead of satisfying themselves with complaints. Also, when so many national figures seem addicted to demagoguery that divides an already-divided nation, these men are working effectively to find areas of agreement among diverse political factions.

Both efforts are genuinely bipartisan—and not in the bland, negative sense too often found in Congress of avoiding real public issues in favor of comfortable private accommodations.

The Conable-Gibbons congressional reform group includes everything from far-left Democrats to far-right Republicans, with a healthy smattering of Southern conservatives as well.

Morse's MCPL is not only bipartisan but bicameral, including 28 senators as well as 70 representatives.

In a period of apathy, divisiveness, buckpassing and leadership failures, what these men are doing is big news—and good news.

Mr. **ALLEN**. Mr. President, I ask unanimous consent that I be permitted to proceed for 10 minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

IRS AND THE PRIVATE SCHOOLS

Mr. **ALLEN**. Mr. President, there are many profound constitutional and ethical questions raised by the recent announcement by the Commissioner of the Internal Revenue Service on the subject of disallowing the exemption from taxation of donations made to certain private schools. It is my intention to deal with this subject in greater detail at a later date. In the meantime, one aspect of this matter has been touched upon in a highly perspective and persuasive column by the eminent national columnist, David Lawrence, in his article appearing in the Washington Star of July 13, 1970.

Mr. President, I ask unanimous consent that the news release on this subject by the Internal Revenue Service of July 10, 1970 be printed in the Record together with the column by David Lawrence to which I have referred.

There being no objection, the articles were ordered to be printed in the Record, as follows:

IRS Announces Position on Private Schools

Washington, D.C.—The Internal Revenue Service announced today that it has been concluded it can no longer legally justify allowing tax-exempt status to private schools which practice racial discrimination nor can it treat gifts to such schools as charitable deductions for income tax purposes.

The Internal Revenue Service will proceed without delay to make favorable rulings of exemption immediately available to private schools announcing racially nondiscriminatory admissions policies and to deny the benefit of tax-exempt status and deductibility of contributions to racially discriminatory private schools.

The Service said that favorable rulings given to private schools in the past will remain outstanding where the school is able to show that is has racially nondiscriminatory admissions policies.

All private schools with favorable rulings outstanding will receive a written inquiry from the District Director of Internal Revenue and it is anticipated that in most instances evidence of a nondiscriminatory policy can be supplied by reference to published statements of policy or to the racial constituency of the student body.

Where a school fails to establish that it has a racially nondiscriminatory admissions policy, an outstanding ruling of exemption will be withdrawn. However, a school seeking to clarify or change its policies and practices will be given a reasonable opportunity to do so in order to retain its ruling of federal tax exemption. In any event, full opportunity to present evidence and be heard will be provided in accordance with usual revenue procedures and the right to appeal to the courts will be available. Similar principles will be followed in acting upon requests made by new schools for rulings.

[From the Washington Star, July 13, 1970]

Politics and the Private Schools

(By David Lawrence)

Government by law and the Constitution or government by political expediency—that's the choice which the Nixon administration faced, and it took the latter course when it ordered white private schools to open their doors to all, regardless of race, or lose their tax exemptions.

The hypocrisy of this action was revealed when it was announced that private schools which admit persons of only one religion and other tax-exempt organizations—such as fraternal clubs which limit their membership to one race—would not be affected.

It might be asked how tax deductions can be justified for gifts to an organization known as the "National Association for the Advancement of Colored People" and yet be denied when made to organizations which seek to advance the education of white people.

In one of the cases filed in May, the Department of Justice submitted a brief supporting the tax-exempt status of private schools of all kinds and the deductibility of contributions as well. But in recent days an internal squabble in the administration resulted in a change of heart. One White House aide told the press last Friday that the President "believes that ultimately the tax status of racially discriminatory private schools will be determined by the courts and that this is desirable."

This is, in effect, passing the buck to the courts. But, in the meantime, the administration presumably is to escape criticism from the Negro groups because it has changed position.

The Supreme Court of the United States has rendered many decisions on segregation since its historic opinion in 1954 declaring that the "equal protection" clause of the Fourteenth Amendment bars racial discrimination in public schools. But no opinion of the court has said that the federal government may penalize citizens in one group while citizens in other groups are given privileges in their financing of educational projects.

Parochial schools, for example, teach religion and attract students of certain religions. This has long been recognized by the courts and by the American people as a legitimate practice and not a violation of any part of the Constitution. But now the present administration is arguing that a group of citizens who wish to exercise their freedom of association and help to maintain schools where whites can enjoy their own educational environment cannot have the same tax-exempt status or tax deductibility for contributions as is granted to citizens who contribute to religious schools. Tuition fees, incidentally, are not involved, as they are not deductible.

"Private schools" are, of course, private institutions. Each school has its own admission policy, and the government heretofore has never interfered. If anybody wished to challenge the tax exemption, the proper way would have been to file suit in the courts, and the administration need not have taken any part in the controversy. Also, dissenting citizens could have had a bill introduced in Congress with the hope of getting a law passed setting forth specifically the conditions under which the federal government could withhold tax exemption or tax deductibility.

But the chances are that no such legislation would be enacted because the proposal encroaches on the rights of privacy of American citizens. If these privileges can arbitrarily be withdrawn at the whim of any administration, irrespective of the constitutional principles that are involved, it can mean that individual rights can be suddenly curtailed by the government for almost any reason by imposing a penalty through income-tax regulations.

If the government now is to step in and pass judgment on the whole system of charitable giving in America and raise doubts as to whether particular organizations which receive aid are satisfactory politically to the administration in power, the whole edifice of philanthropic operation in America will be weakened. Contributors will be scared off, and there will be a slowdown in the growth of the rather sizable private-welfare program that exists. Politics can go too far, and the government's intrusion into the charitable help given private schools is a flagrant example of mistaken judgment.

Mr. ALLEN. Mr. President, I also ask unanimous consent to have printed in the Record at this point a bill (S. 3335) introduced by the Senator from Mississippi (Mr. Eastland) and myself, touching on this same issue.

There being no objection, the bill (S. 3335) was ordered to be printed in the Record, as follows:

S. 3335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 501 of the Internal Revenue Code of 1954 (relating to exemption from tax) is amended by redesignating subsection (f) as (g) and by inserting after subsection (e) the following new subsection:

"(f) Private Schools.—

"(1) Private school defined.—For purposes of this subsection, the term 'private school' means an educational institution which—

"(A) is an organization described in subsection (c)(3),

"(B) normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and

"(C) does not have a degree of involvement with a State or a political subdivision of a State so that action of such organization constitutes action of such State or political subdivision within the meaning of the Constitution and laws of the United States.

"(2) Exempt status.—Exemption under subsection (a) shall not be denied to a private school on account of the admission policies, requirements for admission, or composition of the student body or faculty of such school.

"(3) Effect of court decisions.—If a court of the United States holds, in a judgment which has become final, that the Constitution or laws of the United States prohibit the granting of exemption under subsection (a) to a private school on account of the admission policies, the requirements of admission, or the composition of the student body or faculty of such school, then, for the period during which such judgment is in effect, no organization described in subsection (c)(3) shall be exempt from taxation under subsection (a)."

Sec. 2. Section 170 of the Internal Revenue Code of 1954 (relating to charitable contributions) is amended by redesignating subsections (i) and (j) as (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) Private Schools.—

"(1) Private school defined.—For purposes of this subsection, the term 'private school' means an educational institution which—

"(A) is described in paragraph (2) of subsection (c),

"(B) normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and

"(C) does not have a degree of involvement with a State or a political subdivision of a State so that action of such organization constitutes action of such State or political subdivision within the meaning of the Constitution and laws of the United States.

"(2) Deductibility of contributions.—Subject to the limitations provided in subsection (b), the allowance of a deduction under subsection (a) for a contribution or gift to or for the use of a private school shall not be denied on account of the admission policies, requirements for admission, or composition of the student body or faculty of such school.

"(3) Effect of court decisions.—If a court of the United States holds, in a judgment which has become final, that the Constitution or laws of the United States prohibit the allowance of a deduction under subsection (a) for a contribution or gift to a private school on account of the admission policies, the requirements of admission, or the composition of the student body or faculty of such school, then, for the period during which such judgment is in effect, no contribution or gift to or for the use of any organization described in paragraph (2) of subsection (c) shall be allowed as a deduction."

SEC. 3. The amendments made by this Act shall apply to taxable years ending on or after January 12, 1970.

Mr. ALLEN. Mr. President, I am distressed and outraged at the recent ruling by the Internal Revenue Service that would seek to take from private schools in the South the longtime and traditional tax-exempt status that they enjoy. Mr. President, there are more than 30,000 tax-free foundations in this country, formed for every conceivable "do-good" or, for that matter, "do-bad" purpose. Those foundations are exempt from taxes, and contributions to those foundations are deductible for income-tax purposes. Yet the Internal Revenue Service seeks to say that private schools in the South shall be disallowed the tax-exempt status that they have enjoyed through the years.

Mr. President, this is a cruel and heartless attempt to destroy the private schools which exist in the South; and it is ironic that this ruling by the Internal Revenue Service would carry over into the treatment by the Federal Government of private schools the same dual policy that exists with respect to the public schools—the same dual Federal policy regarding the desegregation of public schools.

Mr. President, the Senator from Mississippi (Mr. EASTLAND) and I some weeks ago introduced S. 3335, which would hit at this very point, and would prevent the Internal Revenue Service or the Federal bureaucracy from denying the right of an individual to make a contribution to a private school in the South and to be allowed to claim that contribution as a deduction from his income for income-tax purposes.

Mr. President, patrons of private schools are under a double burden, because they support, or with their taxes they help support, the public school system of the country. They help support the private schools with the high tuition fees which they are required to pay. To hold that contributions which they make to the private schools are not deductible would make it absolutely impossible to have private schools in the South. But yet at the same time, the rulings of the Internal Revenue Service, in effect, would allow the existence of such private schools outside of the South, and for contributions to them to continue to be deductible.

Mr. President, S. 3335 has not made a great deal of progress since it was introduced by the distinguished Senator from Mississippi and the junior Senator from Alabama. So it is my purpose—and I trust the purpose of the Senator from Mississippi as well—at the first opportunity we have in the Senate to consider a revenue measure from the House of Representatives, to seek to add the provisions of S. 3335 to that bill. While I am a great supporter of the public school system in Alabama and throughout the country, we have been trying to preserve the public school system in our State and in our section against the onslaughts of the Federal bureaucracy and the Federal courts. This is a most unfair and a most heartless ruling by the Internal Revenue Service because it threatens the very existence of private schools in the South.

Actually, it goes against the efforts of the Justice Department itself. Up until a very few days ago, they were asserting that private schools in the South were entitled to have contributions made to them deductible from income for income tax purposes. Why the sudden change? It is for the purpose of destroying the private schools of the South. It is politically inspired.

Mr. President, I have heard a great deal about the southern strategy of the administration. I want to say that this move by the administration certainly is not going to sell in the State of Alabama or in any portion of the South. If it is part of the southern strategy, it is a mighty poor part.

At the proper time, when a legislative vehicle is afforded for the addition of the provisions of S. 3335, the junior Senator from Alabama serves notice that that rider will be offered. It will be discussed at considerable length, because all we are asking is fair play. We are asking for the preservation of the public school system in Alabama and the South, and we are asking for the preservation of the private schools of the South. Both serve their purpose and deserve our support.

It is estimated that in Alabama approximately 25 percent of our white boys and girls are now attending private schools, and if this ruling of the Internal Revenue Service is allowed to be implemented, it will completely destroy the private schools of Alabama. That certainly is not fair to the children of my State. It is not fair to the patrons of those private schools. It is not the fair play that the Senate will want to see accorded to the people of Alabama and the South.

I yield the floor.

ADDITIONAL STATEMENTS OF SENATORS

TRIBUTE TO SENATOR HOLLAND

Mr. RUSSELL. Mr. President, it is a matter of personal regret that I was not on the floor of the Senate last week to join the encomiums expressing respect and affection for our beloved colleague, the senior Senator from Florida.

Even if I dealt with this subject at filibuster length, which would be easy enough to do in view of his long and distinguished record of public service, I do not believe I could adequately express my admiration for SPESSARD HOLLAND.

Mr. President, there are many reasons why I regret that he will be leaving this body at the conclusion of this session, and not the least of them is the realization that his wisdom, diligence, and profound knowledge of agriculture will no longer be applied in the management of the agriculture appropriations bill.

Senator HOLLAND comes from a farming family and is basically a man of the soil. As a result of this background, he has acquired a natural interest in farming and farm problems.

Daniel Webster said that the cultivation of the earth is the most important labor of man, and there is no segment of our economy that is more vital to the welfare of our Nation than the agricultural community. The Nation has incalcuably benefitted because SPESSARD HOLLAND, with his amazing capacity for work and outstanding ability has been concerned with farm problems.

He and I have shared a common interest in this subject through the years, and were it not for the fact that someone of his ability and interest was in line to assume the chairmanship of the Agriculture Appropriations Subcommittee, I daresay I would have been far more reluctant to relinquish it for defense appropriations several years ago.

If his service were measured only in terms of his contributions to agriculture, he would be considered one of the great Senators of the past three decades. Important as this subject is, his service, however, should be considered in far broader terms.

As an outstanding attorney and jurist, he has a depth of understanding of constitutional government and has been a fierce defender of our basic system against the assaults of those who would capriciously change it. He likewise understands the unique role of this body in our form of government and has been a guardian of its position and power.

He has never failed to fight for the things in which he believes, and never at any time has this man departed from his honest opinions under pressure from any source.

He brought to the floor of the U.S. Senate the strength of character and courage which won for him the Distinguished Service Cross in France during World War I. He received this award from "Black Jack" Pershing for action as an aerial observer when the use of aircraft in warfare was far more dangerous than it is today.

Mr. President, I believe I can state without fear of successful contradiction that few Senators of this era have been accorded greater trust and confidence by their constituencies than SPESSARD HOLLAND.

They have called on him to serve them throughout the past three decades—first as Governor during the early 1940's, and for the past 24 years as a U.S. Senator.

Their trust and confidence has been well placed because the State of Florida has reaped manifold benefit from his service and even his enemies would deny he has ever misused his public office. I have no doubt that if he stood for reelection in November they would overwhelmingly return him to this body, and I was interested to note in the statements of last week that the junior Senator from Florida—a Republican—shares this opinion.

We Georgians feel justified in sharing in large measure the feeling of pride that the people of Florida have for Senator HOLLAND, because his roots are deep in our State. His family moved to Florida from Carroll County, Ga., and he received his college education at Emory University near Atlanta. Prior to entering law school at the University of Florida in Gainesville, he taught school for a couple of years at Warrenton, Ga., and today he continues to serve as a member of the board of trustees at Emory.

Senator HOLLAND and I have many things in common. We come from the same region; we have similar convictions; and we have shared an unusually warm friendship throughout the years. He has manifested this friendship in many ways, and I have tried to reciprocate in full measure.

Mr. President, I know his decision not to seek reelection next fall was difficult to make because he shared with me many of his thoughts during the period in which he was trying to reach this conclusion. But he can enter retirement with the knowledge that no one is more entitled to enjoy the pleasure and contentment that is in store for him in the years ahead.

When he takes leave of this body, he carries with him the deep affection and respect of his colleagues and the profound gratitude of people throughout the Nation, as well as Florida.

PADRE ISLAND NATIONAL SEASHORE: A VICTORY TO PRESERVE A GREAT NATURAL AREA

Mr. YARBOROUGH. Mr. President, one of the great seashore areas of the Nation is Padre Island which lies along the gulf coast of Texas, stretching from Corpus Christi south to Port Isabel.

A good portion of this long, thin stretch of sandy island remains as an unspoiled wilderness thanks to the foresight of Congress in 1962 when it passed my bill creating the Padre Island National Seashore. The 74-mile long Padre Island National Seashore is the longest stretch of uncluttered and undeveloped Nationial seashore beach in the Nation.

It took over 4 years of work to get my bill to create the Padre Island National Seashore through Congress. Then there was the struggle to get all the appropriations necessary to buy the land. Last year, while I served as a member of the Senate Appropriations Committee, that task was finished and the great beauty of Padre sland has been saved. The May issue of Texas Co-op Power gave a full report on Padre Island National Seashore, the fight to establish it, and what must be done to save it from polluters.

Mr. President, I ask unanimous consent that the article entitled "A Lasting Alliance With Nature," published in the May Texas Co-op Power, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A LASTING ALLIANCE WITH NATURE

An untamed, immaculate place to wed man to nature. This is delightfully rugged Padre Island National Seashore, and let no man tear it asunder.

Through the efforts of the National Park Service, Senator Ralph Yarborough of Texas, and nature itself, this 74-mile-long island paradise remains the longest stretch of uncluttered and undeveloped beach in the nation.

Last year more than 711,000 visitors found a wilderness area to mystify the imagination.

Rural residents accustomed to open spaces came for the greatest selection of water sports available in one location. City dwellers came merely to escape the urban crush.

Since 1969, more than $1-million has been spent on a large recreation complex and road improvements. But the new facilities are built with the desire to maintain the delicate balance between preservation and development.

A 400-foot concrete boardwalk and observation deck connect the restrooms with the recreation and first-aid building which opened in January. A small shop rents umbrellas, surfboards, and chairs. A restaurant sells sandwiches and drinks. A gift shop sells souveniors of that trip to the Gulf of Mexico.

Amazingly, the prices are reasonable. The Park Service controls concession prices to eliminate the tourist trap atmosphere of many scenic areas.

The Park Service is a division of the US Department of Interior committed to keeping the National Seashore from becoming a Coney Island of the South and remaining a showcase for nature's wonders.

The Federally-owned area known as the National Seashore is the undeveloped midsection of Padre Island, which skirts the Texas Gulf coast from Corpus Christi on the north almost to Mexico on the south.

Before establishment of the National Seashore, one of just four in the country, real estate developers were eyeing the island as a huge resort.

Senator Yarborough fought from 1958 to 1962 for his Seashore Bill, and seven more years for funds to buy land privately owned on the island.

In June, 1969, $4,129,829 was allocated to pay for land not donated by the state of Texas. The jubilant senator said, "The 56–5 vote in the Senate today is the final victory in that long, 11-year fight. This means that the full Seashore is assured down to the Mansfield Cut (two-thirds of the island's length). It will include 100,000 acres of dry land in addition to tidal lands and tidal flats. Until this authorization passed, the final length of the park was in doubt."

Reaffirming the people's right to the beaches, Yarborough noted, "We are becoming a landlocked people, fenced away from our own beautiful shores . . . This tragic encroachment on the right to use our beaches has so shackled the public that today 95 percent of our recrational shorelines are barricaded to keep people out."

The National Seashore is open to any activity that can be enjoyed in or near the water.

Swimming, surfing, sun-bathing, and scuba-diving are the most conventional pleasures. Boating and water-skiing are permitted with a concern for safety standards. Surf fishing can bag drum and redfish up to 40 pounds and other fish in season.

Horses and dune buggies are available for rent, and football and other sports can be played in the soft sand. For the mild at heart, hiking, shell hunting, and bird-watching are the best sports.

Senator Yarborough also fought for the Seashore to provide a place were species of birds and other wildlife in danger of extermination can live and be observed. Three hundred-fifty species of birds can be seen on the Seashore, and many others use the island as a migratory guidepost.

"We must not be the exterminators of additional species of nature's heritage to the earth," the senator said. "Man has shown an infinite capacity for destruction. This is one effort we can make to show he is also capable of preservation."

The trip from Corpus Christi out to the Seashore is a journey out of civilization. Quaint swing bridges on the Kennedy Memorial Causeway halt traffic for the passage of vessels traveling the Intracoastal Canal.

The island itself looks like an extension of the Texas coastal plains it protects. Padre Island is the classic example of a barrier island built by the fierce action of waves and constantly reformed by winds. From the roadway, wet lands caused by heavy rainfall contain marsh plants and grasses.

Cows roam free, part of the vanishing Dunn Ranch herd which preceded the tourists to Padre Island. Then, a collection of mud flats with occasional sand dunes give way to a line of larger dunes paralleling the shoreline.

These natural hillocks are a mixture of white sand and shrubbery. Then a wide, clean expanse of white sand beach reaches beyond the range of the human eye.

Except for necessary camp sites and water connections, the Seashore will remain in its present condition. The extent of development is determined by the Seashore's master plan, which is now being revised.

Jim Arnott, acting superintendent of the Seashore, says a team of Park Service experts will come next fall to study future development.

"There are no plans to allow motels or gas stations in the Seashore," Arnott says. People can get these services nearby in Corpus Christi or Port Aransas. Availability is what determines these things.

Development and maintenance are the responsibilities of the full-time park rangers. "Seven full-time maintenance men keep the beaches and roadways clean," Arnott says, "and we hire more in season. But the people who visit are good about helping us.

"After a big weekend, there is more trash in our cans and in sacks beside the cans than we can ever find on the beach."

Arnott's men also handle law enforcement within the Seashore, although the people who come there are so occupied with having fun that traffic violators and lost children are the greatest problems.

Also working with Arnott is Derek Hambly, park naturalist. He provides instruction to groups on conservation matters.

"Derek tries more than ever to weave in an awareness of the environment," says the acting superintendent. "He didn't used to get much response, but now people are more interested. We may in the summer hold some evening campfire talks and organize walks around the adjacent area."

There is no charge to enter the Seashore, and even the 36,500 people who camped on the beach last year paid no fee.

"There is no camping fee now," explains Arnott, "because there is nothing to pay for yet. When we enlarge our camping facilities, we will charge a small fee."

One area the Park Service does not affect is water pollution. This would be a duplication of effort, according to Arnott, who says an agency in Corpus Christi, the Texas Water Quality Board, and the U.S. Coast Guard constantly monitor pollution rates.

The bubbling surf on the Gulf side is much less contaminated than most estuarine waters along the Texas coast. And while Padre Island National Seashore remains subject to contamination, even to destruction, this rugged land has a head start on survival.

Senator Yarborough did all within his power. (He has since concentrated on other conservation matters. He helped establish the Guadalupe Mountains National Park and is still fighting for an endangered species bill, an open beaches act, and national park status for East Texas' Big Thicket.)

The National Park Service is continuing its conservation program. And nature has not surrendered to man and his machines.

Several years ago, a shipping channel was cut through a two-mile width about 20 miles into the Seashore.

But nature objected to this tampering with the island's shape. Within a few months, the shifting sands of the island began to fill the cut, which is now just part of the beach.

Nature gave no consideration to its friend when it covered Yarborough Pass, the one landmark to the man who fought to preserve its natural state.

DOUBLE STANDARDS ON INHUMANITY

Mr. DOLE. Mr. President, this past week we have heard considerable outcry at the atrocities which the South Vietnamese Government is supposed to have committed in its Con Son Island Prison.

While no one can condone inhumane treatment of prisoners, it seems that much of the current volume of concern and criticism might well be aimed at North Vietnam and the Vietcong, who have maimed, slaughtered, and tortured prisoners on a wholesale scale throughout the course of the Vietnam war.

The National Observer, in an editorial published July 13, pointed out some of the double standards which are applied by some critics and crusaders against incidents of inhumanity.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CON SON—AND WHY NOT HUE?

Con Son—that's the big name this week and probably next week and the one after that for those who are determined to get the government of Thieu and Ky, at whatever cost, and to increasingly and compulsively prove the "immorality" of United States involvement in Vietnam.

The spectacle of prisoners being mistreated is not a pleasant one. Not a very new one, either. But that the outrage was mostly political was quickly evident. There was the remark, for example, of Rep. Augustus F. Hawkins, Democrat of California, that Con Son is "a symbol of how some American officials will cooperate in corruption and torture because they want to see the war continued and the government they put in power protected." Getting Thieu and Ky is a long-standing game—in which there has been far more weeping and gnashing of teeth over what they have allegedly done than hard evidence of ill doing—of which Con Son, though not really dramatic, is rather heaven-sent.

As we say, the spectacle of prisoners being mistreated is not a pleasant one. Atrocities never are. But how much outcry have we had over some other atrocities—Hue, for example, where thousands of South Vietnamese were murdered by Viet Cong.

Hue is not publicized, of course, because it would harm the image of benign Viet Cong, more sinned against than sinning. Smith Hempstone, writing in the Evening Star of Washington, D.C., recalled some other atrocities—the South Korean "spy" mangled in a North Korean prison, the Belgian nun beaten to the bone by bicycle chains in the Congo. Somehow these incidents never caused the outcry that Con Son, for example, does.

Do the young people going from here to cut sugar cane for Castro recall how he abolished elections and sent his foes before kangaroo courts and on to the firing squads? Or do they condone it? And how about their parents who continually push for closer relations with Cuba? How about the mass murders perpetrated on the China mainland by the Chinese Communists? Are they likewise condoned by those who so ardently seek to embrace that land? Why all the outcry over Con Son and so little over the treatment of U.S. prisoners in the hands of the Viet Cong?

Well, the difference isn't hard to find. If the atrocity is perpetrated by a right-wing government, it is built into a major event. If it comes from a left-wing government, it is ignored, or swept under the rug.

We would be more impressed by all the concern over atrocity if it were applied more to atrocities themselves and less to political targets.

FAILING NEWSPAPERS?

Mr. McINTYRE. Mr. President, I do not always agree with the views expressed by Washington Post columnist Nicholas von Hoffman, but his July 13 commentary entitled "Newspaper Monopolies" is as perceptive as it is colorful and most certainly deserves widespread dissemination.

Mr. von Hoffman charges Congress with making it legal for 44 newspapers in 22 cities to "rig prices, divide markets, and pool profits." He makes a convincing case, I am sorry to say.

The measure in question, the so-called Newspaper Preservation Act, would allow the 44 newspaper giants to engage in those practices, forbidden by antitrust laws, on the flimsy premise that the newspaper industry is in dire financial straits and needs this antitrust immunity in order to save individual papers from going under.

This argument is shot through with fallacies. Von Hoffman points out that the newspaper industry—including some of the very papers whose dying voices the measure purportedly is designed to save—is enjoying unprecedented prosperity.

He also provides some evidence that the joint operating agreements countenanced by the measure will in the long run kill far more independent media voices than they could possibly save.

Mr. von Hoffman could have made two more valid points in the case against the bill.

Once newspapers are granted antitrust exemptions we can expect book and magazine publishers, the broadcast industry and motion picture producers to argue for the same exemption.

And, the very fact that the newspapers' role is to disseminate information is the strongest reason to withhold antitrust exemptions from them. Other industries which have been granted antitrust immunity—transportation and insurance, for example—in time have been subjected to the kind of detailed Government regulation that a free press could not survive.

With all this going against it, it seems incredible that the Newspaper Preservation Act could have prevailed in both Houses of the Congress. Yet, it did and by overwhelming majorities.

Last week in the House only 87 Members bucked the tide and voted against it. Earlier this year, only 13 Senators cast nay votes.

At a time when it appears certain that all of the daily newspapers in the country could be chain-owned in less than 20 years, it seems incredible that legislation to accelerate that trend would find such lopsided support in the Congress.

The sorry lesson in those votes is that the monopoly press is fully capable of exerting inexorable political pressure in its own behalf.

What we need is not legislation to make rich publishers richer and monopoly situations stronger but legislation to encourage diversification of ownership and editorial opinion.

In my opinion—and in the opinion of the responsible and independent press, I might add—further concentration of media ownership would constitute one of the gravest dangers to our democratic society.

To counter that threat, I introduced earlier this year an Independent Media Preservation Act which would encourage a multiplicity of media voices by:

First. Prohibiting any owner of five or more daily newspapers from henceforth acquiring any additional such papers, thus halting further growth of larger newspaper chains, and

Second. Barring joint ownership of press and broadcast facilities in the same metropolitan area. My bill would give any existing combination in a given area 3 years in which to sell off one property.

If the Nixon administration is truly as concerned as it says it is about newspaper concentration and unanimity of press opinion, it could most convincingly demonstrate that concern by vetoing the misbegotten Newspaper Preservation Act and throwing its support to legislation such as mine, which would, indeed, promote a multiplicity of independent editorial voices.

A veto would give Congress an opportunity to rectify its mistake and would save the monopoly press from its own ill-considered desires.

For as von Hoffman makes clear, if Congress should hang its head for passing the Newspaper Preservation Act, so too should the newspaper giants who bullied and pressured it through in a mockery of their alleged adherence to the principles of independence and free enterprise and, in von Hoffman's words, have shown themselves to be just as scurvy as the special interests they love to denounce.

Mr. President, I ask unanimous consent that Mr. von Hoffman's commentary be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEWSPAPER MONOPOLIES

(By Nicholas von Hoffman)

Last Wednesday, the day the House of Representatives voted to exempt the newspaper industry from the antitrust laws, you could see Secretary of Defense Melvin Laird out on the floor throwing handshakes and athlete's hugs at his old congressional buddies. It may have been a social call he was paying, or he may have been lobbying for a spare aircraft carrier, but whatever the reason for his presence this busy man had found time to talk to congressmen.

Spiro T. ("Ted") Agnew was not present, was not shaking legislative hands, was not lobbying against this bill which furthers the media concentration that our esteemed Vice President would have people think he objects to. The bill will make it legal for 44 newspapers in 22 cities to rig prices, divide markets and pool profits in the grand tradition of John D. Rockefeller the first. It will also permit any and all other newspapers to apply to the Justice Department for permission to do the same in the future.

The 44 newspapers which receive immediate permission to ignore the law that others must obey have been granted this privilege on the grounds that without it they will fail. The precedent is set; if business is bad, ask Congress to exempt you from free enterprise competition so you can enter into an agreement with your erstwhile commercial rivals to screw the consumer.

If the precedent holds you won't have to be going into bankruptcy, you'll only have to poor mouth and make it seem that you are. That's what these newspaper scalawags have done: made a loud noise about how poor they and their industry are.

Newspapers are not going out of business. There were, according to the testimony on this bill, 1,749 newspapers in America at the close of World War II. Twenty years later there were 1,754. During that time daily newspaper sales have grown by more than 10 million. And the advertising revenues? Up more than 400 per cent in the last generation so that last year they went over the $5 billion mark. New dailies are being started quite regularly, 33 in the past three years. This is not a moribund industry deserving special favors.

The case for the 44 newspapers which wanted this law because they've been operating with price fixing agreements is even shakier. Three of the beneficiaries of this legislative gratuity are The Birmingham Post-Herald, the Pittsburgh Press and the Evansville Press, owned by the Scripps-Howard organization which also owns 15 other newspapers, United Press International, United Features Syndicate, the Newspaper Enterprise Association (NEA), the World Almanac, five television stations and heavy investments in cable TV.

Another outfit that will directly profit from this law is the Newhouse newspaper chain which, according to testimony before the Senate's Antitrust Subcommittee, owns or has a heavy interest in at least eight newspapers and seven television stations. It's sometimes hard to be sure; the skein of corporate control can be so complex. In any event, Newhouse also has seven cable television companies, as well as Vogue, Mademoiselle, House & Garden, Glamour and Bride's magazines.

Other winners under this law are Hearst's many enterprises and John Knight's communication chain which reported first quarter revenues of over $60 million. If these are deserving candidates for exemption from the antimonopoly laws then what about dear, little DuPont and frail, fading General Electric?

Witnesses before the House committee which reported this monstrosity out onto the floor demonstrated that these collusive agreements cost us consumers not only in dollars but in a lower quality product. After the San Francisco Examiner and Chronicle got together to fix prices, advertising costs in the Chronicle nearly doubled. Beyond that, the newspapers were able to offer two-for-the-price-of-one advertising deals that drove a new, competitive daily out of town.

Although the bill's purpose is to save financially dying newspapers and promote news and editorial diversity, the truth is the Chronicle had $7 million in the bank when it signed its agreement with its competitor. Moreover, the quality of local news coverage in both papers has become so bad that the best and most reliable periodical in the city is The Bay Guardian, a monthly put out by one man and a bunch of volunteer helpers.

The greatest shame here isn't Agnew's or Congress's but the newspapers'. In their rectitude, they denounce everybody else's circumvention of the give and take of the free market. By forcing this piece of tacky legislation through, they've shown they're just as scurvy as the special interests they love to denounce.

There are some noble, ironic exceptions to this, the most conspicuous being The New York Times which, unlike the Vice President, has spoken out against this new development in media concentration. (The Washington Post also editorialized against the Act.) Even the Justice Department, which doesn't do much right, fought it. But many newspapers have backed it or been silent. That will put them in a strange position when the printers' unions demand they be paid for the work machines do better and faster. If the publishers can violate the principles of free enterprise and live by legalized monopoly, why shouldn't the unions be just as economically irrational?

The papers will not only regret what they've done at the labor bargaining table but also in their dealings with the government. How free are they going to be when they are beholden to these same politicians for their abnormal profits? What they have done to themselves is far worse and far more worrisome than anything Agnew can do to them. Now they must live under the threat that this privilege may be taken away from them.

Perhaps the people in the newspaper industry can take some comfort in the fact that this vote showed that for a dying business they have awesome power. Members of the House of Representatives fought each other for a chance to vote for this bill, which wars against both liberal and conservative principles.

Reactionaries like the Republican Majority Leader Gerald Ford and his assistant, Les Arends, voted for it. The Baby Goldwater, Barry Jr., did also; the same for the Baby Taft, Robert Jr.

Some of the heroic liberals were just as courageous. Allard Lowenstein, the fighting Long Island peacenik, voted for it; Wisconsin's Robert Kastenmeier who's supposed to be so good, made the principal apology for it, and the fair and golden Tunney, the man California Democrats hope will beat George Murphy for the Senate, cast his vote for it, too.

Only 87 congressmen had the guts to vote no. One of them was the black lady, liberal-radical from Bedford Stuyvesant, Shirley Chisholm, and another was John Rousselot, the John Birch Society man from Orange County, California. So who says the extremes can't unite in America? The problem is what do we do about the soggy middle?

DISTRICT OF COLUMBIA CRIME

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to have printed in the RECORD a list of crimes committed within the District yesterday as reported by the Washington Post. Whether the list grows longer or shorter depends on Congress.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

BURGLARS TAKE GROCERIES, CIGARETTES FROM SAFEWAY

An assortment of groceries and 30 cases of cigarettes with a total value of $3,000, were stolen Sunday night from a Safeway food store, police reported.

The burglars entered the store at 801 17th St. NE by breaking through a front door. The merchandise was taken from the refrigeration and storage area at the rear, according to Safeway employees.

The burglary was the fourth theft from the store during the past five weeks, store officials said.

In other serious crimes reported by area police up to 6 p.m. yesterday:

ROBBED

Sylvester Harris, of Washington, was treated at Washington Hospital Center for face and body injuries he suffered during a holdup in the 1300 block of R Street NW. Three men attacked Harris from behind about 4 a.m., knocked him to the ground and escaped with the money from his pocket.

Alma Cheryl Ross, of Washington, was beaten and robbed shortly after 11 p.m. Sunday while she was standing at the bus stop at Stanton Road and Alabama Avenue SE. Six youths surrounded her, pushed her to the ground and forced her to give them her wallet, then fled.

James Feggins, of Washington, was held up about 2 a.m. Sunday by two men with guns in their pockets who approached him while he was sitting in his car in the 700 block of Lamont Street NW. "Give me your wallet and money," demanded one of the gunmen. After taking Feggin's wallet, the pair ran into an alley.

Evelyn V. Sweeney, of Bladensburg, was robbed about 5:40 p.m. at New York Avenue and Kirby Street NW. The driver of the car Miss Sweeney was riding in stopped for a traffic light at the intersection and two youths approached the auto. One of them reached through an open window, grabbed Miss Sweeney's purse and fled.

Wilma Gregory, of Washington, was treated at Rogers Memorial Hospital for face and throat wounds she suffered during a holdup about 11:05 p.m. Saturday. A man confronted her in the 1000 block of Massachusetts Avenue NE and demanded her money. When she refused, the man struck her in the face several times and began choking her. He then took the wallet from her pocketbook, removed the money and returned the billfold. After the robbery, the assailant fled on foot.

Cleveland Nickerson, Washington, was robbed of a large amount of money about 11:50 p.m., Sunday near his home at Holmead and Monroe Streets NW. Four men yoked Nickerson, grabbed his wallet and escaped.

Stephen Collins, of Washington, was beaten and robbed about 10:30 p.m. Sunday by two women and a man who attacked him in the 800 block of 19th Street NE. After assaulting Collins, the trio took his wallet and escaped into an alley in the middle of the block.

Ronald Christopher Urbina, a member of the Air Force stationed at Hurlburt Air Force Base in Florida, was held up about 2:30 a.m. while he was walking south in the 1300 block of 17th Street NW. Two young men approached him from behind and one of them, pointing a handgun at Urbina, said, "This is a stickup." While the gunman held him at bay, the other man took his money, a money order and watch.

James Morning, of Washington, was beaten and robbed shortly after 8 p.m. Sunday by two women who attacked him at 8th and F Streets NE, removed his wallet and escaped south in the 500 block of 8th Street NE.

Emma C. Davenport, of 2604 Monroe St. NE, was robbed about 5:45 p.m. Saturday by two youths who knocked on her door and told her they were collecting for her newspaper delivery. She invited the youths inside while she got her money. When she left her money pouch on the table and went into another for additional change, the youths grabbed the cash and fled out of the front door.

John L. Mullens, of washington, was beaten and robbed about 2 a.m. Sunday by two men who approached him near his home at 8th Street and Massachusetts Avenue NE and asked for a cigarette. After Mullens gave it to them, they knocked him to the ground and took bills from his pockets.

Aristo Cleaners, 1500 H St. NE, was held up about 8:40 a.m. by a youth wielding a gun who forced the clerk to hand him the money.

ASSAULTED

John Dillard, of 1305 Clifton St. NW, was admitted to Washington Hospital Center with a gunshot wound in his chin that he suffered during a fight with a woman wielding a .22-caliber revolver at his home about 2:30 p.m. Sunday.

Danny Davis, of 1424 Park Rd. NW, was admitted to Washington Hospital Center after he was shot in the chest. Davis told police he was investigating some noises behind his apartment building when an unseen gunman fired at him.

Gwendolyn Tolson, of 113 58th St. SE, was treated at D.C. General Hospital for a gunshot wound on her wrist that she received about 11 a.m. Sunday by an unknown assailant who shot her at the rear of her home.

Elston Trammell, of Washington, was treated at George Washington University Hospital for injuries he suffered when he resisted an attempted holdup about 11:30 p.m. Sunday. Two young men approached Trammell as he was getting out of his car at the corner of 13th and U Streets NW and said, "This is it. Give me your money." Trammell then struck one of the men with his fist and knocked him to the ground. The other man then pulled out a knife, stabbed Trammell on his wrist and fled with his companion.

Harry Elmer Pierce, of Washington, was treated at Washington Hospital Center for injuries he suffered about 3:05 a.m. Saturday. Pierce was removing newspapers from the trunk of his car near his home in the 1900 block of 4th Street NE when he heard someone run up behind him. As he turned to see who was approaching, a youth warned, "Don't turn around," and fired two shots at Pierce. One of the shots missed Pierce but the other one riccocheted off his belt and wounded him slightly in the abdomen.

STOLEN

A lensometer and two electric typewriters, with a total value of $535, were stolen sometime between 3 p.m. Saturday and 9:20 a.m. yesterday from Associated Opticians Inc., 7327 Georgia Ave. NW.

A check and $672 in cash were stolen between 12:30 a.m. and midnight Saturday from David Stroy when his home at 4627 Georgia Ave. NW was burglarized.

Electronic equipment, a camera, a tape deck and $25 in cash, with a total value of $740, were stolen between 3 and 9 p.m. Sunday from the home of Eugene Rubel, 288 M St. SW.

F. W. Scott and Elizabeth Green, both of 1421 Belmont St. NW, were held up about 7:10 a.m. by two men, one with a pistol and one with a shotgun, who approached them at the rear of their apartment building. The gunmen forced their victims inside the building, robbed them and fled on foot.

Two typewriters and an air-conditioner, with a total value of $1,071, were stolen between 4:10 p.m. Sunday and 7:54 a.m. yesterday from the D.C. General Hospital.

A check writing machine and an undetermined amount of checks, a calculator, an electric typewriter, a revolver, an adding machine, a radio, two hammers, four grinders, three drills and a set of sockets, with an estimated value of approximately $1,600, were stolen between 1 p.m. Saturday and 3:30 p.m. Sunday from Superior Iron Works, 1353 E St. SE.

An electric portable typewriter was stolen sometime between 8 and 9 p.m. Thursday from an office at D.C. Teachers' college, 1100 Harvard St. NW.

STABBED

Johnnie J. Leach, of 648 E St. NE, was treated at Rogers Memorial Hospital for shoulder injuries he suffered during a fight about midnight Sunday with a man wielding a knife inside his home.

FORTY MILLION AMERICANS AND A BROKEN ODYSSEY

Mr. MUSKIE. Mr. President, at a time when politicians are beginning to focus on America's white ethnic minorities, when the Labor Department files a report on the problems of blue collar workers, and when civil rights leaders like Father Geno Baroni speak up for millions of Americans rich in their cultural heritage but uncertain about their prospects, the article by Colman McCarthy in this morning's Washington Post takes on special significance.

I commend this article, which is entitled "Forty Million Americans and a Broken Odyssey," to the attention of the Senate and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Forty Million Americans and a Broken Odyssey

(By Colman McCarthy)

Hard hats. Super patriots. Flag wavers. Wallacites. Pigs. Supposedly included by these quick-mix brand names, mostly dreamed up or whispered along by far-off liberals, are some 40 million lower middle class white workers. They live mainly in the 58 major industrial cities of the Midwest and North, either direct immigrants or first, second and third generation descendants from the old—and what for some increasingly seems a better—world. Their roots are in Italy, Poland, Lithuania and other European countries. Because a few of them beat up antiwar marchers on Wall Street and St. Louis, or stone black civil rights workers—Cicero, Ill., 1966—or vote for George Wallace, the ethnic Americans are viewed by many non-members as war-fiends, racists and slobs.

They aren't. Before the sociologists, behaviorists and other missionaries set their compasses to search out the true meaning of this group, the ethnics are doing their own self-defining, free of catch-phrases and caricatures. At a recent meeting in Washington called by the Urban Task Force of the U.S. Catholic Conference, Barbara Mikulski of the Southeast Community Organization in Baltimore, spoke out: "The ethnic American is sick of being stereotyped as a racist and dullard by phony white liberals, pseudo black militants and patronizing bureaucrats. He pays the bill for every major government program and gets nothing or little in the way of return. Tricked by the political rhetoric or the illusionary funding for black-oriented social programs, he turns his anger to race—when he himself is the victim of class prejudice.

"The ethnic American is overtaxed and underserved at every level of government. He does not have fancy lawyers or expensive lobbyists getting him tax breaks on his income. Being a home owner, he shoulders the rising property taxes—the major revenue source for the municipalities in which he lives. Yet he enjoys very little from these unfair and burdensome levies."

Miss Mikulski went on to list other hurts and losses suffered by ethnics. At the conclusion, Miss Mikulski called for a new alliance of "white and black, white collar, blue collar and no collar" workers based on mutual need, respect and interdependence. At the end of the week-long meeting, it was clear that ethnic Americans see themselves as an alienated and threatened people, bypassed by the larger society and now blamed by this same society for much of what is dragging the country down.

Except for an occasional article—such as a recent piece in the The New Republic—and a government report on blue collar workers made public two weeks ago, few people, especially those farthest away in attitude, have gone beyond the jargon words to understand the ethnics—their culture, emotions, economics and future.

Culturally, many ethnics originally allowed themselves to be fertilized with the notion of the American dream, only to find parts of their European heritage ploughed under. From this buried necessity, it is common to find ethnic children named Rodney Raziano, Kimberly Grotowski, Kelly Walszak. "The parents of those kids are trying to blend in," says Monsignor Geno Baroni, "but it only increases the feelings of isolation more. Seeking acceptance in America shouldn't mean denying or disowning the culture of your ancestry, including ethnic names like Rocco or Stanislaus. There are other ways of being accepted, which ethnics already do—like paying taxes, community service, voting, obeying laws."

Baroni, who recently left a black inner-city parish in Washington to work at the U.S. Catholic Conference and organize ethnic strength, insists that man's cultural roots cannot be torn up arbitrarily. "I remember as a kid in a mining town in Pennsylvania. My teachers, white middle class Presbyterians and Methodists, taught me ways of becoming Americanized. Give up strong smelling salami, they said, and start eating homogenized cheese. So I gave up. I thought that was how you became a real American.

"If a kid denies enough things from his culture and heritage, even something small like salami, soon he has little to hang onto that tells him he's different. The well educated and middle class have other securities available to tell them who they are. So they don't need things like music, art, literature, food, or legends in the way that an ethnic does."

As a partial remedy, Baroni believes the schools should teach ethnic culture. If this idea comes about, it will be an extension of what many schools are already doing—offering courses in African culture. "The blacks who study their heritage," said Baroni, "aren't doing it to return to Africa. Neither are the ethnics planning on going back to Europe. Both groups just want to celebrate some of the same things their fathers did. This is cultural awareness, not cultural division. If all kids learned their own heritage, as well as learning others, you'd have a lot less groping for identity. A man who has cultural roots cannot be blown around by every breezy fad or idea or come-on."

Two bills, proposed by Rep. Roman Pucinski and Sen. Ralph Smith, have recently been introduced in Congress for the formation of ethnic heritage centers. "The bills have a good chance," said Pucinski. "I am amazed at the huge response we have gotten around the country. Not just from ethnics, but from all groups. People want to know about themselves and about each other."

The emotions of ethnics currently flash like electric sparks between poles of anger and fear. Since many have come from, and perhaps have relatives in, countries like Hungary, Poland, Czechoslovakia and others in East Europe where communism rules, ethnics rise with anger against liberal intellectuals and many of the young for whom anticommunism is now a bore. Because the Vietnam war was and is advertised as a free-world-against-communism struggle, ethnics know whose side they are on. The sight of students marching against the war, supported by universities and liberals, is enraging; moreover, not only have the ethnics fought bravely in past wars with no questions asked, but today it is largely their sons and the blacks—not the affluent, often deferment-protected students—who have been disproportionately drafted first for Vietnam.

The fear of the ethnic is felt most in the potential of what is called the black revolution. Again, liberal and intellectual reformers are involved. For many of the latter, the black revolution is just a handy phrase, stronger than the old cause of civil rights, but essentially the same old things they have always been talking up: black capitalism, equal opportunity, social programs for the ghetto. Since many of those who most want to reform the inner city live safely and conveniently in the outer city, the ethnics see themselves locked in a box tied with pretty social-reform ribbons, plus a glued-on message from the liberals: you carry out in practice the ideas of brotherhood that we will keep on preaching in theory.

The ethnics see it differently. It is *their* jobs up for grabs as more blacks are trained, their neighborhoods where racial tension is worst, *their* families who will be victims of a high crime rate. None of this is an excuse for ethnic bursts of racism, of which there have been many. But it is reason to wonder whether the spontaneous and emotional racism of an ethnic in Gary, Indiana, is more easily excused and cured than the calculated and rationalized racism of, say, a WASP in Montgomery County.

With the average industrial worker making $8,632 a year (in 1968), money is perhaps the main worry of the ethnics. According to HUD Secretary George Romney, $27,000 is now the going rate for a house; on the average, a family would need an income of nearly $14,000 to build and keep a house, a sum few in the working class can raise.

Living just above the poverty level, ethnics are ignored by federal assistance programs designed for the ladder-rung below. Few wives can work because baby-sitters are beyond the budget; adult education is not widely available; small irks like rising bus fares only increase the pinch. The ethnics are victimized by inflation—his money buys less—and by anti-inflation moves, because layoffs hit him first. "Manufacturers," said Barbara Mikulski, "with their price fixing, shoddy merchandise and exorbitant repair bills, are gouging him to death. When he complains about costs, he is told that it is the 'high cost of labor' that is to blame. Yet he knows he is the 'labor' and that in terms of real dollars, he is going backwards."

The recent report from the Labor Department on the working class says that economically the ethnic is squeezed in another way—his earning capacity levels off just when family expenses continue to rise because of costs like teen-age and college-bound children, car and home improvements, and medical expenses for aging parents. As a result the ethnic pressures for higher and higher wages, exactly what union after union is doing. Even here, as with the Cleveland bus drivers recently, the workers often strike not only management but also their own leaders, when the latter give in too soon.

The future of ethnic Americans, as with the blacks below and the middle-class above, is not their own to decide. Three sources of cooperation could begin to reach out; the intellectuals, the church and the government.

During the last decade, the intellectuals social reformers and the men of wealth and power who back them were preoccupied with the problems of the blacks and the students in a coalition to end racism and the war. Aside from the question of whether this reaching out by the intellectuals was genuine concern or mere dabbling, the ethnics were seen as untouchables; they were both antiblack and pro-war. A dialogue between ethnics and intellectuals is urgently needed, but it can only happen on two conditions. First, that the intellectuals drop their arrogance toward people who earn their living by using their muscles, not their minds; and second, the intellectuals must realize that the ethnics are not lashing out from hate but from fear.

The ethnics' side of the dialogue must be based on the realization that the war is hurting them perhaps more than anyone: they should not need more inflation, unemployment or lack of community services to convince them that Vietnam has gone on too long. At home, the ethnics ought to begin seeing that the peace movement is more than Abbie Hoffman and Jerry Rubin; supporting peace doesn't mean supporting long hair or the Viet Cong flag or mouth-offs.

As for ethnics and racism, the intellectuals must explain that the blacks and white working class are actually in the same urban fix together. Instead of letting them fight each other for useless inner-city leftovers, the intellectuals could act as a referee, creating a black-white coalition based on hard, mutual needs, not any sentimental notions of integration.

The opportunity for the church to assist ethnics lies not in starting anything new but with continuing and strengthening old ties. The church was standing up for immigrants long before the government, through its social teachings and priests like Charles Owen Rice of Pittsburgh. If the seminaries can turn out more priests who care about social justice for ethnics, and not priests who want to play games with new liturgies or fight the bishops about birth control, the dynamics of the parish offer considerably more than symbolic hope.

The recent government report on ethnics is little more than a first puff of air into a trial balloon. Many are suspicious that the Nixon administration is only making the appearance of a move, with no substance. In fact, the confidential report reinforces this suspicion by saying candidly that the ethnics are "overripe for a political response." Realizing the report would cost impossible billions to carry out, the President is advised to do cheap things like making national awards for outstanding craftsmen, issue ethnic postage stamps and other items from a summer clearance sale.

It will take a little more than a report and public relations gimmicks to con votes from the ethnics, however. On July 1, two days after the report was leaked, Leonard Woodcock, the new president of the United Automobile Workers, said in Cincinnati that the Nixon administration seemed to be "dedicated to tearing the nation apart," that its policies had set "region against region and race against race." Many have been saying this all along, but predictably it came from chronic dissenters. It may even have surprised the White House that a spokesman for the working class would add his voice so vigorously to the disillusioned chorus.

The recent speeches and sayings of Spiro Agnew are seen by many ethnics, including Msgr. Baroni, as stirring the fears, not the hopes, of the working class. In taking the low road, the administration is no better than George Wallace, who is also using ethnics for his own political ends.

Which of these three groups—the intellectuals, the church or the government—steps forward first is not as crucial as the need for all to respond simultaneously. There is no doubt that the ethnics hold a great balance of power, and that it will be used one way or the other. What still needs to be made clear, is that ethnics have a strong culture, a deep commitment to country—this one—and a solid sense of fairness. These are also assets of great value.

NETWORK CONTROL

Mr. DOLE. Mr. President, one of the points at which the internal confusion, bias, and liberal slant of the network news media has caused the most friction in the industry is in the relationships between the networks and their local affiliates. Local stations are forced to take what the networks offer in news coverage or leave it. Local news budgets are too small to support coverage of events outside the station's regions, and if the network chooses not to cover an event in another city or country, the locals have to make do with wire service stories and pictures.

The network coverage of the July 4 Honor America Day festivities provided a striking example of this difficulty, and it was the subject of a commentary by Edwin Diamond on WTOP–TV on July 9, 1970.

Mr. President, I ask unanimous consent that the editorial comment be printed in the RECORD.

There being no objection, the editorial comment was ordered to be printed in the RECORD, as follows:

HONOR AMERICA

During his address at Honor America Day, Billy Graham paid tribute to the media. Instead of an Iron Curtain around our faults, he said, America has a picture window.

An apt phrase. But in the coverage of the Day itself, the picture has a big crack. The Honor America sponsors said the day was non-partisan. But it is no secret that the event was carried out as a pro-Administration answer to past anti-war marches. The networks limited their coverage of anti-war dissent in recent months—a victory, I believe, for Mr. Agnew. Honor America Day presented a challenge: should it be given the same non-treatment that the dissenters got?

NET said it would not cover either the morning ceremonies or the evening entertainment. CBS said it would carry the speeches but not the show. Pressures were applied: in this battle for attention, TV coverage counts. CBS backed down and ended up covering some of the Bob Hope show business as well. NBC offered delayed tape coverage featuring those well-known news analysts, Barbara Walters and Joe Garagiola.

It was chintz curtain coverage. The networks allowed themselves to get pushed into a corner by failing to cover the anti-war demonstrations as the news events they were.

The networks were ready to shrug off Honor America Day too until the establishment opened fire. Television's job is to show the news. And news it is when 350,000 gather, no matter how saccharine much of the program may have been. Those who recognized the news—Washington area stations WTOP and WETA—reaped the rewards that media men understand. WTOP won 73 per cent of the audience for its live full coverage. Somebody out there was interested.

ADDRESS BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE RICHARDSON BEFORE INDIANA UNIVERSITY BICENTENNIAL CONVOCATION

Mr. FANNIN. Mr. President, the growth of Government and programs sometimes tends to make a nightmare of our huge departments, such as the Department of Health, Education, and Welfare.

I find it highly commendable that the Department, under the leadership, first, of Mr. Robert Finch and now, Secretary Elliot L. Richardson, is seeking to streamline procedures, consolidate programs, and speed action.

Secretary Richardson has pointedly brought these factors to public attention in his first speech since assuming office.

He notes the frustrations of a border State neighborhood health center that reported in dismay its grant application expenses exceeded $51,000. The cost in time and money was hardly worth it.

Congressionally mandated programs now administered by HEW total 260—double the figure of a decade ago.

The diversity of grant periods, the multiplicity of grants within the same local agency, undermine comprehensive planning efforts and create uncertainty of cash flow. Chaos easily can follow. In other words, bureaucratic redtape can drive you crazy.

Some idea of the need for grant consolidation is noted by Secretary Richardson in reporting that public library grants are available in five separate programs, medical library grants in seven, health service grants in six, and vocational education in nine separate formula grant programs and six separate project grant authorizations.

Simplified processing already has been started, with new procedures cutting regional review time from 6 months to 8 weeks.

Line authority has been shifted to regional directors to reduce the lines of reporting from 38 to 9.

Secretary Richardson noted that State and city officials had had to travel to offices in as many as four different cities, hundreds of miles apart, in order sometimes to discuss a single program in which several agencies had a share. Mr. President, I find Secretary Richardson's report heartening. I ask unanimous consent that his speech before the Indiana University Bicentennial Convocation on July 8, 1970, be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks by Hon. Elliot L. Richardson

A historian looking back on our epoch might record something totally unique in human experience. He would see that within the working lifespan of a generation we have reached the moon, conquered and eradicated age-old crippling diseases, and provided a vast majority of our citizens with a previously unimaginable standard of material welfare.

That incredible flowering of our abilities has also created the expectation that our social problems can be solved by application of the same visionary dynamism. We have learned to hope, for the first time in human experience, that a society can be constructed which is at once free of poverty, abundant in educational opportunity, tolerant of racial and ethnic diversity, and liberating for the human spirit.

The full potential for achieving the objectives of social and human renewal never existed before. At the same time, the very existence of that potential has created the expectation that these objectives can be quickly reached. de Tocqueville noted the correlation between rising expectations and social disaffection in 18th century France. His words are instructive for our own time:

"The evil which was suffered patiently as inevitable seems unendurable as soon as the idea of escaping from it crosses men's minds. All the abuses then removed call attention to those that remain and they now appear more galling. The evil, it is true, has become less, but sensibility to it has become more acute."

I speak for my whole Department when I say we are imbued with a sense of excitement, urgency, and mission in our own determination to confront these problems. And HEW, in its interdisciplinary approach, represents the cutting edge of the Federal thrust.

Yet we who are among those Mencken once called the "chronic hopers of the world" have also learned to temper optimism with caution. We have or should have learned that it is easier to articulate problem dimensions than problem solutions. It's toc easy to fall prey to the "Washington syndrome"—the simple-minded theory that social problems will just disappear if the Federal government throws enough dollars and statute books at them. And we should also have learned that the cruel and exaggerated rhetoric of unkept promises can threaten the very credibility of government itself.

But with these high hopes—with all of our resources and dedication—what is the problem? What are we waiting for? Why hasn't the war on our social problems been won? Some would say the problem is more money, and they would be correct insofar as the spending possibilities for improving mankind's lot are literally limitless. Some would say manpower is the problem, and they would be right to the extent that skilled manpower distributed in depth over the whole spectrum of human service professions is always a scarce commodity.

But there is another obstacle, less visible, but no less important, both in itself, and because it constitutes an incredibly wasteful diversion both of money and manpower. I am speaking now of the virtual strangulation of Federal efforts as grant programs proliferate and as more resources are continually forced into narrow constricting funnels long since inadequate to the task.

This subject has been of concern to me since my earlier tenure in HEW more than a decade ago.

Without attempting to bolster my status as a prophet, I want to recall my prediction of four years ago as a Massachusetts State official explaining the purposes of my proposed Community Services Act. I quote:

"Our society is today girding itself for an unprecedented attack on age-old causes of suffering and deprivation. We are beginning to forge a whole new arsenal of weapons for the conquest of educational, emotional, and economic and physical handicaps. And in the process, we are discovering that the most serious barriers to the effective use of these weapons are barriers of communication, of jurisdictional jealousy, and of structural rigidity.

"The needs of people are seldom adequately met by any single one of the narrow categorical programs through which help has traditionally been channeled. The existing sources of help, moreover, are too numerous, too scattered, and too much isolated from each other. Their administration tends to be both cumbersome and impersonal. The result is greatly to impair the effectiveness as well as the efficiency with which we are able to bring to bear on human needs our available resources of funds and manpower.

"The inevitable result will be overlap, discontinuity, confusion, and—in consequence—disappointment of the very expectations to which (these programs) gave rise."

I can only report that in the four years since that statement, the situation has gotten worse.

A Border State neighborhood health center recently reported to us in dismay that its most serious operational mistake was to apply to numerous Federal agencies for funding. Grant application expenses exceeded $51,000. Expert staff time diverted from productive work was irreparably lost. Federal agency guidelines were inconsistent, application procedures varied widely, and review levels were multilayered and complex. I quote from the Project Director's letter to the Department:

"I see now that I made a gross mistake to encourage my staff to make approaches to a broad spectrum of Federal agencies to fund different aspects of our program. None of the agencies seem to understand that we do not run categorical programs at the Health Center, but that we conduct integrated, family-oriented team delivery of service, and the task of educating all our reviewers to this is really too much. The other Neighborhood Health Centers . . . who receive the large bulk of their funds . . . from a single agency have certainly been wiser and more productive. It would be so much easier to deal with one agency which would be completely familiar with our program and we in turn knowledgeable of their procedures and requirements."

Most of the phenomenal growth of Federal programs in recent years has occurred within the Department of Health, Education, and Welfare. When asked recently what it was like to return to HEW, I thought a minute and replied that it was a bit like meeting an old long lost friend who had grown very fat. The Congressionally mandated programs administered by the Department now number 260, well over double the figure of a decade ago, and more in number than all of the other domestic agencies combined. Almost $19 billion of the HEW budget is allocated by Congress to categorical grant programs. In turn, about 90 percent of this $19 billion is spent through some 40,000 institutions and agencies.

The ability of these State and local agencies to secure funds and spend them effectively is, therefore, crucial to the success of HEW's central mission. But countless examples of the experiences of Federal grant recipients similar to the story of the border State health center strongly suggest that all is not well. Their stories remind me a little of Bob Benchley's treatise, "Fishing from the Viewpoint of the Fish."

A Neighborhood Health Program in Denver which utilized twelve different governmental funding sources encountered almost insuperable difficulties in grant administration. Diverse grant periods undermined comprehensive planning efforts. Legislative authority and program regulations varied to the point of inconsistency. Cash flow was uncertain because of varying payment methods. In no case were reporting requirements the same from program to program. At one point, chaos ensued because all funding agencies conducted separate audits within a 45-day period. As a final insult, some agencies cut back funds based upon more generous allocations by others.

The problem is by no means limited to the field of health care.

Approximately 30 HEW grant programs can and do support some portions of social work training in universities. These include training grant programs in support of such specialities as aging, juvenile delinquency, mental retardation, crippled children, mental health, alcoholism, and family welfare.

Yet the Dean of a major university's School of Social Work recently bemoaned the fact that his school has had to apply for and administer as many as nine training grants from DHEW to assist in the provision of undergraduate and graduate social work training.

The Dean has pointed out the administrative impossibility of confirming the use of each of these separate grants only for the categorical purpose for which awarded. In addition, the relative availability of the various grant categories in any year has a necessary influence in shaping the training program emphasis in ways unrelated to the goals of the school or the students.

These anomalies do not result from the actions of venal, obstructionist or unintelligent men. The professionals in my Department and throughout the government are as dedicated, industrious, and competent as any professionals anywhere.

Nor does the solution lie in a vast dismantling operation. We cannot retreat, even if we wanted to, to a mythical golden age of self-help in which the government—out of despair, incapacity, or indifference—abandons the attempt to conquer the age-old problems of poverty, disease, and suffering. In that sense, to paraphrase the title of Thomas Wolfe's novel, we can't go home again. And we should not want to.

We have experienced some false starts and some promising ones in the last decade. But I believe we are now at or near the point where our ability to reform and renew the Federal grant effort could determine the fate of our entire governmental system.

I have been deeply gratified to discover just how much was already underway in HEW to initiate reforms. Administration officials have identified the problem and elaborated a corrective approach which recognizes how serious the situation really is. In a message to the Congress on April 30 of last year, President Nixon described the existing grant system in the following terms:

"The number of separate Federal assistance programs has grown enormously over the years. When the Office of Economic Opportunity set out to catalogue Federal assistance programs, it required a book of more than 600 pages just to set forth brief descriptions. It is an almost universal complaint of local government officials that the web of programs has grown so tangled that it often becomes impermeable. However laudable each may be individually, the total effect can be one of Government paralysis."

In short, the most serious impediment to the accomplishment of a program's objectives may be the very existence of other programs with the same humane objectives. Seen as such, the question of organization and procedure is not peripheral, but central; it is not a mere housekeeping function, but the most important task we confront.

President Nixon's message has set in motion a concerted effort to reform the system by means of a whole series of interrelated measures.

In the time remaining, I would like to describe, necessarily by way of thumbnail sketch, four of the most important efforts under way. These four efforts—Grant Consolidation, Fund Transfers, Grant Streamlining, and Decentralization—are interdependent and mutually reinforcing in their approaches. They attempt consciously to reverse the top-heavy trend of governmental programs. They proceed from the premise that further proliferation of programs without comprehensive structural reform will be counterproductive—counterproductive in the worst sense because Federal dollars will not alleviate the human needs for which they were targeted.

The first, and perhaps the most important of these reform proposals, is *Grant Consolidation*. The President has sought authority to consolidate existing grant-in-aid categories if Congress, within 60 days, does not overrule his proposals. If the all-too-typical examples I spelled out at the beginning demonstrate anything at all, they demonstrate a crying need for coordination of the Federal effort and a comprehensive view at the community level.

At the present time, just to give you a sense of the spectrum, public library grants are available in five separate programs, medical library grants in seven, health services grants in three separate formula grants and six project grant programs, and vocational education in nine separate formula grant programs and six separate project grant authorizations.

Categorical programs by themselves too often encourage a narrow view; they focus on a specific product to the detriment of the needs of the group to be served. We have no objection to a diversity of programs and approaches; pluralism is high in the hierarchy of American values. But as the recent McNerney Task Force on Medicaid aptly put it, "One man's pluralism is another man's incoherence." In the design and execution of public programs, we must have a coordinated strategy; and a pluralism of approaches can never be as important as a coherence of outcome.

Apart from relatively minor administrative steps which are now underway, Grant Consolidation as we have formulated it will require Congressional legislation. Unfortunately, it may be as difficult to persuade Congress to pass the legislation as it sometimes is to get Indiana to the Rose Bowl. "Difficult", you would say, "but obviously not impossible." We hope to follow your example.

Each program has an interest group constituency; some legislators are reluctant to see national program mandates altered, even in the face of local needs. But we believe this is the direction in which responsible and responsive government must move. The task is formidable, and the time to confront it short.

The second major effort is our proposal for *Fund Transfers*. The Administration's Social Services Reform Amendments to the Family Assistance Act embody just such an approach. It is frequently and correctly argued that over-centralization of decision-making at the Federal level has served to sap State and local initiative in identifying and addressing major social problems.

Under our legislative proposal, States and localities will be given incentives to coordinate and integrate their service programs in return for submission of a consolidated HEW Plan.

A Governor could include any HEW-funded program he administers, and Plan approval would allow him to transfer up to 20 percent of his Federal grant funds from any one included categorical program to another of higher priority. This critical reform allows Governors and local officials to utilize the leverage of Federal funds more flexibly to meet local needs. And we hope it would minimize the chain reaction of disaffection when last minute Federal budget alterations create major dislocations in high priority Federally-assisted State programs.

The third of our interrelated thrusts toward reform is *grant streamlining*. The Federal Assistance Streamline Task Force, appointed by Secretary Finch, mounted a major effort to analyze each step of every one of the 260 separate HEW grant-in-aid programs. Grant processing under each of these programs involves an average of 28 steps, and each of these steps might contain as many as 50 separate actions.

The results obtained in our first 50 program reviews have been startling and clearly demonstrate the value of reform.

A simplified grant processing system was developed at the regional level, resulting in a decrease of total review time from six months to eight weeks.

We reduced, simplified, and eliminated nonproductive documentation in 22 State Plan programs, with the result that 6,800 fewer pages have to be prepared and submitted annually by each State. We thus saved over $8 million and 867 man years of State and Federal effort.

We eliminated 182 of the 516 steps in the review process for project grants.

We freed 351 man-years of State and Federal manpower by eliminating or reducing reports required from grantees.

The final major reform effort underway is *decentralization*. It is an axiom of our operations that to the greatest extent possible, consistent with overall national policy objectives, we should bring the decision-making process of the Federal Government close to the State and local areas in which the problems lie. We believe that our domestic programs must support and strengthen local leadership. In the first months of his Administration, President Nixon restructured the regional boundaries of the major domestic agencies in the field so that now their headquarter cities are the same, and the regions which they cover are uniform in their boundaries.

Previously, State or city officials and grant applicants had to travel to offices in as many as four different cities, hundreds of miles apart, sometimes to discuss a single program in which several agencies had a share.

Taking this reform as a point of departure, HEW has moved to strengthen its 60,000 man regional organization. Traditionally, HEW Regional Offices had little authority. We have now shifted line authority to Regional Directors and Regional Agency Heads, and reduced the lines of reporting from 38 to 9. We have made the basic policy decision that headquarters staff will concentrate on policy development, program direction, and evaluation.

Field personnel will be responsible for detailed planning and implementation of programs, as well as technical and individual grant awards and compliance review.

Throughout this brief inventory of new departures emerge certain common themes. These are, first of all, structural reforms designed to make governmental action responsive more quickly, more effectively, and more visibly to the areas of greatest human need. In tandem they rationalize and integrate numerous programs and funding sources and target them comprehensively. At the same time, they upgrade State and local leadership in its effort to identify and articulate human needs.

And finally, because the new system of decentralization delegates decision making, it avoids diffusion of responsibility and confusion in lines of responsibility.

All of these steps, I would reiterate, are products of bitter experience, and major components of an absolutely critical task of governmental reform.

It is probably no coincidence that the writer, Franz Kafka, was also a civil servant and a bureaucrat. His novels decry the alienation of an individual who confronts an impersonal and impenetrable organization. To a great extent, the outcry besetting our society today reflects a similar protest against the dehumanizing experience of modern institutions.

I think Kafka's bureaucratic nightmare can be avoided. I believe that government service can be consistent with efficiency and with human dignity. But to achieve this balance, we must recapture a sense of urgency about reform.

This same kind of concern—this sense of urgency and mutual interdependence was expressed recently by an author writing on the problem of mental retardation. Why, the author asked, after as long a history of neglect, has a grassroots movement to combat this handicapping condition at last developed such momentum? Answering her own question, in words I would like to appropriate as my own, she replied:

"It is because the world is very much with us today. We know (many of us perhaps only subconsciously) that if our way of life is to survive, every individual, be he handicapped or whole, be he a privileged American or an under-privileged peasant in India, every individual must be counted an individual and accorded his place in the sun."

In the last analysis, it is to that end—the cause of individual self-realization . . . each man's place in the sun—that we bend our efforts at reform. No task is more challenging, and no cause more worthy of our concern.

BILINGUAL AIR FORCE RESERVE UNIT TO REMAIN ACTIVE IN SAN ANTONIO

Mr. YARBOROUGH. Mr. President, in March of this year, the Air Force announced plans for the deactivation of the 922d Tactical Airlift Group, U.S. Air Force Reserve, which is stationed at Kelly Air Force Base in San Antonio, Tex. Upon the receipt of this information, I immediately dispatched a letter to Secretary of Defense Melvin Laird in which I vigorously protested the proposed deactivation of this outstanding bilingual unit, the only such bilingual unit in the Tactical Airlift Service. A letter from the Office of the Secretary of the Department of the Air Force informs me that the 922d Tactical Airlift Group is no longer destined for deactivation.

On behalf of this fine unit and the people of San Antonio, I want to commend the Secretary of the Air Force for exercising the good judgment to continue the active status of the 922d.

Mr. President, I ask unanimous consent that my March 25, 1970, letter to Secretary Laird; the July 13, 1970, letter to me from the Department of the Air Force; and my July 14, 1970, letter commending the Secretary of the Air Force be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 25, 1970.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: It has come to my attention that the 922nd Tactical Airlift Group, U.S. Air Force Reserves, which is stationed at Kelly Air Force Base, San Antonio, Texas, is scheduled for deactivation sometime this year. In view of this organization's outstanding record and its unique capabilities, such action would be ill-advised, and not in the best interest of the Air Force.

The 922nd Tactical Airlift Group is the only group of its kind in the Air Force that has a bilingual capability. Out of the group's 641 enlisted men, 450 have Spanish surnames. Furthermore, a large number of the men in the unit who are not Mexican-Americans can also speak Spanish. This group is capable of performing invaluable service should the need arise for it to be deployed in a Spanish speaking area.

In addition to its bilingual capability, the 922nd Tactical Airlift Group has a distinguished record of service. In 1969, it received the Loening Trophy as an outstanding group in the Air Force Reserves. In addition to this honor, the 922nd Tactical Airlift Group has received the Air Force outstanding unit citation for developing the "Alamo Sling Shot" aerial delivery system which is now used throughout the Air Force.

For these reasons, I urge that this unit not be deactivated but be allowed to continue its outstanding service to this nation.

With best wishes,
Sincerely,
RALPH W. YARBOROUGH.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., July 13, 1970.

Hon. RALPH YARBOROUGH,
U.S. Senate.

DEAR SENATOR YARBOROUGH: Knowing of your interest in Air Force matters, the Secretary has asked me to inform you of our decisions regarding several Reserve units.

We had previously announced that due to the obsolescence of the assigned C–119 aircraft several Air Force Reserve units would either be deactivated or relocated and assigned new missions. The units affected were: the 928th Tactical Airlift Group (TAG), Chicago-O'Hare International Airport, Illinois; the 913th TAG, Willow Grove Naval Air Station, Pennsylvania; the 914th TAG, Niagara Falls International Airport, New York; the 922nd TAG, Kelly Air Force Base, Texas; and the 933rd TAG, General Billy Mitchell Field, Wisconsin. At the time of the previous announcements, we did not have follow-on airlift aircraft as replacements for the C–119s assigned to these units.

Subsequent program changes have now made C–130 aircraft available so that all five TAGs can remain at their present locations, convert to the C–130 Hercules, and continue to perform the tactical airlift role. Each unit will be authorized six aircraft, which will be made available from Fiscal Year 1971 reductions in the active inventory. Our decision to retain these units is based on a need to reduce the active force and still maintain tactical airlift capability.

The assignment of C–130 aircraft will provide a meaningful mission for our Reserve units. In addition, the retention of this highly trained manpower resource will assist the Air Force Reserve in achieving the average drill pay strength authorized by the Congress.

Shortly after this letter is delivered to your office we plan to notify the news media.

Sincerely,
JOHN J. SHAUGHNESSY,
Colonel, USAF, Chief, Plans Group, Legislative Liaison.

JULY 14, 1970.

Hon. ROBERT C. SEAMANS, Jr.,
Secretary of the Air Force, Department of the Air Force, The Pentagon, Washington, D.C.

DEAR MR. SECRETARY: Thank you for the July 13, 1970 letter from your Department notifying me that the Air Force has reversed its earlier plans to deactivate the 922nd Tactical Airlift Group, U.S. Air Force Reserve, which is stationed at Kelly Air Force Base in San Antonio, Texas. I commend you and your Department for exercising the good judgment to continue the active status of this fine unit.

As I pointed out in my March letter to Secretary of Defense Melvin Laird, protesting the planned deactivation, the 922nd Tactical Airlift Group is the only group of its kind in the nation with a bilingual capacity. The vast majority of the unit's 641 men have a command of the Spanish language. Their knowledge in this regard would certainly enhance our country's ability to deal with any emergency that might arise in a Spanish-speaking area.

In addition, your decision not to deactivate the 922nd Tactical Airlift Group will allow a continuation of the long-standing tradition of military excellence which has come to be identified with Kelly Air Force Base. The 922nd Tactical Airlift Group has a distinguished record of exceptional performance and service. San Antonio, founded as a military presidio, has a military tradition going back over 250 years. The people are proud of this unit. Morale there is high.

For the reasons outlined above, I strongly opposed the deactivation of the 922nd Tactical Airlift Group, and I believe that your decision to allow the unit to continue its record of outstanding service to the nation is indeed wise and commendable.

On behalf of this Unit and the people of that area, I thank you.

Sincerely,
RALPH W. YARBOROUGH.

THE BASTILLE: A NEW REMEMBRANCE

Mr. THURMOND. Mr. President, the editorial page of the Washington Post this morning carries an interesting article commemorating the fall of the Bastille on July 14, 1789. The article, written by J. M. Lalley, summarizes many of the facts of the true history of the Bastille as have been developed by reputable historians both of the present time and at an earlier age.

The basic situation as correctly outlined by Mr. Lalley is this:

The Bastille was a trumped-up symbol of the so-called oppression of the French monarch, a rallying cry which was used to stir up the mobs of Paris and has ever since been used as a symbol justifying every sort of revolution and anarchy. Mr. Lalley points out that the Bastille had long since ceased to be used as a real prison. The angry Paris mob found only seven prisoners inside. The tales of horror were strictly legendary. For example, the story of the so-called "iron mask" turns out to have been fabricated on the basis of a silk or velvet mask which concealed the identity of a mysterious prisoner when he was exercising. The rooms in the Bastille were better than those used by the courtiers at Versailles. So-called prisoners were fed luxurious repasts and fine wines. The inmates admitted into the Bastille at that period were mainly wealthy reprobates such as the notorious Marquis de Sade. Even the Bastille's cannons, a supposed threat which was used by the mob as an excuse to storm the Bastille, had been long since decommissioned.

These facts are not newly discovered even though they run contrary to the popular myth about the Bastille, they were widely known in the 18th century, and have been confirmed today. What I find most interesting about the article is that the Washington Post should decide to print the truth nearly 200 years after the events. The incident of the Bastille is typical of the kind of distortion which has been practiced by the opinionmakers of the left from the time of the Bastille down to the present. It is typical of the same kind of distortion which the modern media are practicing every day. I find it very magnanimous of the Post to print the truth after 200 years. The only question which remains unanswered is this: Will we have to wait 200 years for the Washington Post to correct the distortions and half-truths which are daily printed on its front pages and editorial columns? Will the Post be good enough to print the truth about Vietnam in the year 2189? Or the truth about the American South? Or even the truth about the distortions of the media today?

Mr. President, I congratulate the Washington Post for having the courage to print the truth 200 years after the event. I ask unanimous consent that the article entitled "The Bastille: A New Remembrance," written by J. M. Lalley, and published in the Washington Post of July 14, 1970, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BASTILLE: A NEW REMEMBRANCE

(By J. M. Lalley)

(NOTE.—*The writer, now retired, is a former member of the editorial page staff of The Washington Post.*)

In a century such as ours, which has known of Auschwitz, Belzec, Dachau and Buchenwald, of Vorkuta, the Kolyma and the other slave camps of Stalinist Russia, the name Bastille can no longer evoke even a shudder. Time was, however, when legend, rumor and the romantic imagination combined to produce a vision of the helpless victims of monarchical tyranny chained in lightless dungeons, rotting in their filth and slowly dying of torment and despair. "The wide world," so the learned Lord Acton assured his students, "knew the horrors of its history, the blighted lives, the ruined families, the three thousand dishonored graves." The eighteenth century English poet Cowper lived to see fulfilled his wish for the destruction of "those horrid towers, the abode of broken hearts." Yet for a good ten years before those words were written, the Bastille had been all but emptied of its prisoners by Malesherbes, the liberal minister of interior to Louis XVI, partly no doubt as a gesture befitting the humanitarian ethos of the reign, but also perhaps as a measure of economy; for whatever else the Bastille may have been, it was an extravagant drain on the royal purse. When the ancient fortress surrendered to the angry Paris mob and mutinous Gardes Francaises on the fourteenth of July, 1789, only seven prisoners were found inside, and these seem to have been deemed either too helpless or too dangerous to have been set at large.

More recent investigation, discovery and historical revision has relieved the Bastille of much of its legendary horror; even the "iron mask" which concealed the identity of its most mysterious and closely guarded prisoners turns out to have been one of silk or velvet, worn perhaps only during his periods of exercise when there was danger he might be recognized. Apart from this, about all that remains to shock our Anglo-Saxon notions of justice is the fact that almost any person anywhere in the realm could be confined, without trial or even formal accusation, for as long as suited the royal pleasure, merely on the authority of a lettre de cachet issued by the king or one of his ministers. At one period the ministers granted them rather freely to persons of influence who made use of them to punish runaway or recalcitrant children, or to rid themselves of troublesome relatives, or of personal enemies, as in the case of Voltaire after his audacious challenge to the Chevalier de Rohan. Sometimes it was a means of rescuing evil-doing nobles from the vengeances of the law, as in the case of the notorious Marquis de Sade, that present-day hero of the Sartrean New Left. He had been sentenced to death at Aix, but it was in the security of the Bastille that the mad marquis wrote his pornographic novels. There were also those who had themselves committed by cajoling or bribing a minister and as a device for evading importunate creditors or merely for living high for a while at the royal expense; for if we can trust the researches of Mr. W. H. Lewis, the Bastille was much more like a well-appointed hotel than a prison, and its accommodations were vastly superior to the lodgings of most courtiers at Versailles.

There were some dungeons, he admits, in the towers of the Bastille, but in the seventeenth and eighteenth centuries at least they were unoccupied save in brief and very rare instances when a prisoner who had become violent or otherwise obstreperous might be isolated for a day or two of sobering up or cooling off; but since no one could be sent to a dungeon without the written approval of a minister, it involved a degree of paperwork that the governors, wherever possible, were eager to avoid. The rooms in which prisoners were normally lodged were comfortable and well ventilated and furnished according to the personal tastes of their inmates; or if a prisoner's tastes were too fastidious for the resources of the castle, he could have his own furniture brought in. He could have books, writing materials, musical instruments, and if he wished, animal pets; he could even bring in a servant or two to look after his intimate needs and to be lodged and fed out of the royal largesse.

It is perhaps no great wonder that in her Memoires, the Baroness de Staal de Launay, a poor dependent of the Duchesse du Maine and arrested with others in the Sceaux conspiracy, should have looked back on her days in the Bastille as the happiest, of her otherwise rather drab and difficult life. Her memory of them was sweetened by the friendships she enjoyed there, the solicitous concern for her well-being shown by a young lieutenant of the guard, her love affair with another prisoner that she describes at some length, and also by the fact that she seems to have been at the time the only woman in the place. Anyway, she tells us that she felt herself to have been more free in prison than she had ever been afterward or before.

The cuisine of the Bastille is said to have been one of the best in Paris, though the diet was hardly one that many of our present day doctors would recommend. Mr. Lewis says there is extant a petition from some plebeian prisoners, complaining that their digestions were being ruined by the richness of the food. The midday dinners and evening suppers ran to several courses each. Every morning the prisoner was given a bottle of wine to sustain him between meals, and at dinner he had his choice of two bottles of champagne or two of burgundy, or if he preferred, one of each. If even this were not enough to satisfy his appetite and thirst he could have more sent in at his own charge. Sometimes, though, as a punishment for some serious infraction of the house rules, a prisoner might be deprived for a few days of his regular fare and obliged to subsist on nothing but soup meat, bread and a pitiful half-bottle of wine.

From the outside of course the Bastille was a grim and menacing pile, and passersby are said to have made a sign of the cross at the sight of it. It was a medieval fortress, built sometime in the fourteenth century, and the guns that glowered from its ramparts seemed to threaten the surrounding Faubourg Saint-Antoine and even the capital itself, though not a shot had been fired from them since the days of the Fronde. At the time of the attack they had been dismantled, as the governor, M. de Launey, permitted the emissaries from the Paris Electors to observe for themselves. Nor was the Bastille then in any condition to have resisted a protracted siege for it was dependent on the outside for its provisions and apparently even for water. The garrison consisted of 82 Invalides, or partly disabled pensioners, lately reinforced by 32 Swiss. Only the loyalty of the Swiss was certain; the governor's main hope lay in the anticipated arrival of other Swiss and German troops, supposed to be advancing on the capital under the command of the Baron de Besenval; but Besenval was already in retreat, wishing, as he explained afterward, to avoid bloodshed and civil war. When the assault had continued for about four hours and more than a hundred of the assailants but only one of the garrison slain, de Launey's officers urged him to capitulate. It was then that the despairing governor sought to ignite the powder magazine, and so blow up himself, the Bastille and its garrison, the attacking mob and perhaps half of the Faubourg. He was prevented by a fusilier named Becard, who then persuaded him to surrender on the promise of safe conduct from the leaders of the mob. Not long afterward the bloody head of de Launey was being paraded through the streets on the point of a pike and the corpse of Becard was dangling from a lamp post.

In the French Revolutionary tradition the fall of the Bastille signals the triumph of liberty over oppression, of equality over oppression, of equality over privilege, of the popular will over autocracy. What it signified to some contemporaries, however, was the death of liberty in the triumph of anarchy over authority, a view taken also by certain historians, among them Taine and Madelin. What followed the Bastille was not Utopia but the historical phenomenon known as the Great Panic (Grande Peur), affecting all classes of society in that long hot summer of 1789, when suddenly it was realized that the thirteen-century-old monarch had fallen like the Bastille itself. There was no longer an administration; there were no longer any laws, courts, police, army or revenues—only a kind of universal and all-pervasive terror. Thus was begun that long revolutionary cycle of which we have not yet and may never see the end.

At the time of Adolf Hitler's early victories, the Italian historian Ferrero wrote from his place of exile that instead of an occasion for festivity and dancing in the streets, the fourteenth of July should have been made a time for somber meditation on the paradoxes of politics, and on that "revolutionary apocalypse . . . which has lasted for a century and a half and now, after having devastated Europe, threatens to spread all over the world and destroy everything."

WE MUST MAKE OUR ECOLOGY SERVE OUR DAILY NEEDS

Mr. McINTYRE. Mr. President, at a time when the environmental crisis is on the minds of all Americans, there is a manifest need for deep thought about its implications and meaning in the everyday lives of our citizens.

As has often happened, however, the sounds of crisis have not yet been followed by the comprehensive philosophical and moral commitments necessary to change the ways of the past.

Business as usual will continue until certain basic recognitions are made. Our political system, which is basically sound and sufficiently adaptable to accommodate needed changes, must adjust to the new demands of ecosystematic realities. Scientific discoveries must be evaluated according to new considerations which weight the benefits to be derived against possible ecological side-effects.

Most important, however, will be the readiness of the average citizen to participate fully in a reevaluation of the ecological impact of his daily activities. This will be the most complex hurdle; for any proper adjustment will involve changing deeply ingrained habits of consumption, basic desires, and fundamental philosophical beliefs.

A process of education, spread throughout the population, young and old alike, is absolutely necessary to this reevaluation. And this educational effort must be backed by deep and comprehensive thought on the part of those who would educate. This is a job for our philosophers, political scientists, and other elements of the academic community. This process will be long—but it is essential.

I am most happy to see, therefore, that this process is now beginning. An article published recently in University, a quarterly published by Princeton University, provides a cogent example of needed political thought. I commend the author, Prof. Harold Sprout, for his past and present contributions to better ecological understanding and ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HARD POLITICAL TRUTHS ABOUT ENVIRONMENTAL REFORM

(By Harold Sprout)

Major changes in priorities accompanied by massive changes in the allocation of resources are needed to arrest and reverse the current ruinous trend toward environmental deterioration in America.

First, there is need for a stronger and more widespread sense of urgency in order to sustain environmental programs that, in order to be effective, will inevitably be severely restrictive and very expensive.

Second, environmental imperatives are competing with a multiplicity of rising demands for scarce resources, with the outcome far from certain.

(I shall use *environment and environmental* with reference to nonhuman physical surroundings. When referring to urban squalor, poverty, inequality, and the like, I shall use the adjective *social* even though such things are part of environment broadly defined.)

I take off from the truism that what matters in the making of policies is not how conditions actually are, but how these are perceived by those who participate in the process. Applied to the environmental crisis, this distinction is between conditions as professional *ecologists and other relevant experts declare these to be,* and as *non-expert-law-makers and citizens believe them to be.*

This distinction becomes especially important when the ultimate effects of a current situation are not immediately obvious. Such is notably the case with environmental pollutions. For example, adverse effects of poisoned air on health may not become fully evident for ten or twenty years, or more.

Plainly, 99-plus percent of the American people (including most elected law-makers) have little or no expert knowledge of ecological cycles eco-systems, or the ramifying consequences of environmental changes. They are about as ill-equipped to assess the longer-range effects of foul air as they would be to describe the mechanisms of a space-rocket. But however limited their ecological knowledge, citizens have votes. And their elected representatives determine priorities, levy taxes, and allocate scarce resources.

There is a well-known tendency to dismiss expert predictions as unproved conjectures. This tendency is especially strong if the policy implications threaten vested interests and cherished freedoms and amenities. Thus, the first question to ask about the political context of our environmental crises is: *How is this crisis perceived by politicians and citizens generally?* If so, is it sufficient to sustain restrictive and very costly courses of action?

I think we may take it for granted that most Americans are at least intermittently and unpleasantly aware of smog, polluted water, excessive noise, rising mountains of debris, and other evidence of our deteriorating environment. Opinion polls indicate that a majority favor doing something about it One notes, in particular, that environmental quality is becoming a serious concern of students all over the country. Some observers assert that public opinion is "forcing the pace" for environmental improvement.

But we have little basis as yet for predicting how much Americans are willing to pay for a cleaner and more salubrious environment. How will they react when they begin to feel the pinch in their accustomed style of life? How will they respond to higher taxes and higher prices that will certainly accompany significant environmental programs? My impression is that most people are reluctant even to talk about such an unpalatable prospect.

Put another way, it is doubtful if any but the tiniest minority—chiefly professional ecologists and dedicated lay conservationists—believe as yet that conditions are sufficiently menacing to justify drastic remedies. It is still more doubtful if any substantial number of Americans believe the experts who insist that continuation of present trends could render the earth uninhabitable within two or three generations. Such a possibility is simply beyond the comprehension of most people. And it is notorious that important agencies of government, strongly supported by influential bodies of citizens, cling tenaciously to ongoing programs and new projects—for example in agriculture, and in air transport, among others—even those that promise to make environmental conditions worse rather than better.

This assessment may be too pessimistic. I hope—but I do not really believe—it is.

The fact is, *environmental imperatives are competing with other massive demands on scarce resources.* Available goods and services are never sufficient to cover demands in any society. But I can think of no time (except possibly the final months of World War II) when the gap between demands and disposable resources in America has been so wide as it is today. For this reason, we need to examine environmental programs within the context of a larger American crisis—one that has been aptly called the *crisis of priorities.*

This crisis has many roots. But three are chiefly responsible for its intractability as well as centrality in American politics today. (1) The *size and inflexibility of the military budget.* (2) The *rising demand for action to arrest environmental deterioration.* (3) A concomitant *massive rise in demands for a cluster of social needs,* associated with poverty, education, the cities, and other urgent social problems.

The size of the military budget is notorious. In 1960 the military departments received 50 percent of all monies disbursed through the Federal government. By 1969, total dollar expenditures by those departments had risen from $38 billion, to $77 billion. Much of this increase was for the war in Vietnam. Some of it was inflation of prices largely attributable to the war.

During the 1960s, the percentage of Federal expenditures allocated to the military establishment declined slightly. But at the end of the decade it still amounted to 45 percent of the Federal budget. Recent decisions promise some further reduction—but how much remains to be seen.

It has been repeatedly asserted that Federal spending for military purposes could be reduced by as much as 50 percent without real loss of security. This is, of course, debatable. *But it is not debatable that the Federal government lacks adequate procedures for weighing rationally the demands of the military against those of the civil society.* Hitherto, the absence of rational allocation procedures has worked mainly to the advantage of the military establishment. In the changing climate of American politics, it may work increasingly in the opposite direction. In any case, given a taxing system as rigid as ours, the huge military budget is an obvious and attractive alternative source of large funds needed for domestic civilian purposes.

There is some tendency on the part of ecologists and conservationists generally to assume that a cleaner and quieter environment is a universal value. This may be so from a physiological perspective. But it is by no means so from a political perspective. Environmental values are strongly identified with the higher income classes—notably those in the top 20 percent who receive over 40 percent of all distributed income; and perhaps most of the next 20 percent who receive nearly a quarter of all distributed income.

From the standpoint of the less affluent, environmental values rank lower; tend to be regarded as luxuries until more elemental needs are satisfied. This is repeatedly asserted by those who speak for the poor and near-poor: for example, for the bottom 20 percent who receive less than 5 percent of distributed income; and more broadly the lowest 40 percent whose total take is only 16 percent.

When exhorted about the virtues of clean air, pure water, noise abatement, unlittered landscape and the rest, they are generally unimpressed. Their perspective is summed up tersely by Whitney Young.

"People live in blighted housing, can't find decent jobs, send their kids to second-rate schools, die too soon because they can't afford doctors, and the cities they live in are sinking under the weight of countless unresolved problems and poverty and discrimination.

"That's where our national attention should be focused. The war on pollution is one that should be waged after the war on poverty is won. Common sense calls for reasonable national priorities and not for inventing new causes whose main appeal seems to be in their potential for copping out and ignoring the most dangerous and most pressing of our problems.—(*Trenton Evening Times,* Feb. 16, 1970)

There was a time—not so long ago—when the millions whose cause Whitney Young and others are defending, constituted the "invisible poor." They were invisible in the sense that those who ruled knew little about their condition, and did next to nothing to alleviate it. The poor were ignorant and unorganized. They had little or no effective access to the government that ruled ostensibly on their behalf. They were, in effect, aliens in the society of which they were nominal members.

It is not news that times have changed. Those who speak for the poor and near-poor can make their demands heard, and oftener heeded than formerly—thanks in part to leadership and organization. But their rising political potential springs also from another source. That is their tightening grip on essential services in our easily disrupted urban society. What this might portend was fleetingly revealed in the sanitation workers' strike of 1967 in New York City. It was revealed again in the more recent firemen's strike in Gary, and the postal unions strike spreading from New York City. It was starkly evident in the chaos produced in a single day by the police strike in Montreal.

In short, demands on behalf of the less affluent parts of our society are acquiring a muscle that makes them increasingly formidable claimants in the competition for scarce resources. And most of their spokesmen, I repeat, do not put environmental values first. Specifically, I am suggesting that any program for spending large sums for cleaner air, water and the rest will run into grave political trouble, if those values are put ahead of comparable outlays to eradicate poverty and the consequences of poverty.

So far as I am aware, no one has yet offered a carefully researched estimate of the overall cost of repairing a century and more of environmental exploitation and neglect. Or how much it will cost to prevent further serious deterioration. One conservative guess is "tens of billions of dollars annually." Furthermore, estimates of cost are escalating as more is learned about the magnitude and technical complexities of the problems that confront us.

A salient feature of the present situation is the simultaneous peaking of demands for social and for environmental reform. These combined demands present a picture of needed future outlays for the domestic society that are more nearly comparable to the cost of World War II than to the war in Vietnam. Demands of this magnitude would present formidable difficulties in any circumstances. They appear even more formidable when viewed in the light of further facets of the crisis of priorities.

I have said something about the size and inflexibility of the military budget. There are other, if lesser, claimants for scarce resources.

The modernizing countries which have come to depend upon us for economic and technical assistance—and in whose political future we profess to have a vital interest.

Further research and sorties into outer space, for supersonic air transports, and other expensive projects on the scientific and engineering frontiers.

More police and stronger law enforcement generally, and for many other things deemed essential by politically influential segments of our national community.

This peaking of demands and costs in nearly every sector of public expenditure bedevils of policy-making at all levels of government. Plainly, we are in for radical changes of priorities. But what changes?

Some, though perhaps a diminishing number, continue to give highest priority to military power on a scale sufficient to sustain all or most of the vast and scattered commitments built up around the world during the past generation. From any standpoint, military defense is a vital concern. Whether fighting wars in Asia or other distant places is essential to defense is hotly debated. One thing seems certain however. *Barring drastic changes in the international climate, such questions will no longer be decided without regard for the impact of military commitments on our domestic society and habitat.*

Specifically, the environmental and social crises present major challenges to previous modes of determining the size of military budgets. The strength of these challenges is a new factor in American politics.

Respected voices in our midst are even insisting that continued neglect of the environment will leave us nothing worth defending. George Stewart (eminent Princeton graduate and dedicated conservationist) asks starkly: ". . . who dares his death willingly to defend a garbage dump?" (*Not So Rich As You Think,* Houghton Mifflin, 1967)

Spokesmen for the poor and for our cities level on the military budget even more savagely. In the words of Robert Heilbroner: "demilitarization of the nation's budget" is "necessary to restore American society to life. . . . This budget . . . has sucked into the service of fear and death the energies and resources desperately needed for hope and life." ("Priorities for the Seventies," *Saturday Review,* Jan. 3, 1970)

Obviously, there can be no quick or clean solution to this dispute over priorities. Massive changes in the allocation of resources could not be carried out overnight, or even in a year or two, within a political system so bureaucratized and rigid as ours has become. Equally obvious, the domestic crisis is not going to subside, simply by being ignored. Nor will palliative remedies cure our environmental malaise.

Reduced to elementals, there appear to be three ways to mobilize resources on the scale needed to check environmental deterioration and provide for future protection and maintenance. One way is to reduce further the allocation to military-related purposes. A second is to provide more revenue by raising taxes. A third is to push much of the cost onto private business with the expectation that most or all will be passed along to consumers in higher prices for automobiles, power, food, newspapers, and nearly everything else.

The strategy in Washington seems to favor the third, reject the second, and resort to the first as little as possible. This strategy is accompanied by apparently sincere efforts to liquidate the Vietnam war, reduce other commitments overseas, and reach a more comprehensive detente with the Russians. But it is also accompanied by severe curtailment of ongoing and promised social programs.

This strategy has obvious limitations. It can free only a small fraction of the resources required to check the worsening environmental crisis. Cutbacks of social programs and prospect of higher consumer prices are likely to intensify the opposition of those who give first priority to poverty, the cities, and social services in general. Financing environmental programs through the market place is as inequitable to citizens of low income as are the regressive sales taxes upon which most of our states depend so heavily. For reasons previously discussed, stiffened opposition from the social sector could seriously blunt the thrust of any environmental program.

Other strategies may be lurking in the wings. What might happen, for instance, if a legislative coalition should take form between those who are carrying torches for social and for environmental reform? Would not the obvious basis for such a coalition be to mobilize support for a more drastic assault on the military budget?

It would be easy to close on a note of pessimism. To do so would be to ignore much in the picture that is more encouraging. Not since the Japanese attack on Pearl Harbor has any public issue received such massive support in all the news media, local as well as national. Restoration of environmental quality has become a concern of students that may approach in scale and intensity their opposition to the war in Vietnam. More and more politicians are finding it a congenial issue. The President and numerous Governors have spoken out strongly, as have leading members of Congress and State legislatures. Larger sums have already been allocated than one could reasonably have anticipated ten years ago. Civic organizations of many kinds are supporting the cause in scores if not hundreds of communities across the country. Increasingly, some of the most influential leaders of industry are identifying with the demand for a cleaner and more healthful environment.

A few, chiefly some of the more gross polluters, speak bitterly, as if the environmental crisis were a snythetic fad manufactured by fanatics. But it is notable how relatively few such vocal dissenters there are, and how mildly they complain—at least in public.

One can cast up the account to date, and demur that all this is far from enough. And this is clearly so. But considering the rigidity and inertia of our political system, the diversity and magnitude of demands on disposable resources, and traditional American attitudes toward the earth and its subhuman inhabitants, one might conclude that what has been accomplished thus far represents a stronger beginning than might have been expected even three or four years ago.

JUSTICE DEPARTMENT FINDING ON FNMA CONFLICT-OF-INTEREST CHARGES

Mr. BENNETT. Mr. President, recently Carl Ruediger, Assistant General Counsel of the Civil Service Commission, on the basis of statements made to him by Mr. Sherman Unger, General Counsel of the Department of Housing and Urban Development, in a letter dated June 9 concluded that specified outside activities on the part of several directors of the newly established Government-sponsored private FNMA "establishes a conflict of interests" under Executive Order 11222 and would thus violate 18 U.S.C. 208.

The premises on which Mr. Ruediger made his decision were challenged and the whole matter was reviewed by Hon. William H. Rehnquist, Assistant Attorney General in the Department of Justice.

In a letter addressed to Hon. Richard C. Van Dusen, Under Secretary of the Department of Housing and Urban Development, Mr. Rehnquist reexamined the premises and found that they did not apply and, therefore, in effect, reversed the finding contained earlier in the decision of Mr. Ruediger.

I ask unanimous consent that the text of Mr. Rehnquist's letter to Under Secretary Van Dusen be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., July 10, 1970.

Hon. RICHARD C. VAN DUSEN,
Under Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. VAN DUSEN: Your letter to me of July 9 reiterated the earlier request of Sherman Unger, General Counsel of the Department of Housing and Urban Development, for the opinion of the Department of Justice as to whether the provisions of the federal conflict of interest statute found in 18 U.S.C. 208 apply to the directors of the Federal National Mortgage Association. That section, in the cases in which it is applicable, makes criminally punishable the participation by an officer or employee of the Executive branch of the United States government or of an independent agency of the United States in any particular matter in which he has a financial interest.

Mr. Carl Ruediger, Assistant General Counsel of the Civil Service Commission, on the basis of the facts outlined by Mr. Unger in a letter to him dated June 9, concluded that specified outside activity on the part of several of the directors of FNMA "establishes a conflict of interest" under Executive Order 11222,* and would violate 18 U.S.C. 208. After the most careful review of the facts submitted by Mr. Unger, additional factual information furnished by FNMA, and material bearing on the legislative history of the Housing Act of 1968, I find myself obliged to differ from Mr. Ruediger's conclusion.

I am of the opinion that the directors of FNMA are neither "officers or employees of the Executive branch of the United States Government" nor are they officers or employees of an "independent agency of the United States". This being the case, the necessary predicate for the application to them of 18 U.S.C. 208 is absent, and they are not subject to its provisions. Executive Order 11222 includes in its coverage "any officer or employee of any agency", and defines "agency" as "any Executive department or any independent agency or any government corporation"; I have likewise concluded that the directors of FNMA are neither officers nor employees of an "agency" within the terms of the Executive Order.

The basis for my conclusion, set forth in greater detail hereafter, is that by the Housing Act of 1968 Congress reconstituted the then existing FNMA, assigning certain of its functions to the GNMA, created by the Act and described in the Act as a "wholly owned government corporation", and assigning other functions of the former FNMA to a reconstituted FNMA, created by the Act and described therein as "a government sponsored private corporation". Analyzed either in terms of statutory language or of function, the present FNMA is not a part of the Executive branch, it is not an independent agency of the United States, and it is not a government corporation. This conclusion is buttressed by the fact that the statutory provisions for the election of directors quite clearly contemplate, if they do not require, selection of directors who are bound to have nongovernmental interests which are affected by many of the actions which would be taken by the Board, and whose participation in Board activities could be seriously limited if the conflict of interest statute or Executive Order were held applicable to them.

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*This Executive Order implements the provisions of this statute, and is designed to prohibit action by government employees which would either result in, or create the appearance of, impropriety—action such as using public office for private gain, giving preferential treatment to any person, or otherwise adversely affecting the confidence of the public in the integrity of the government.

Mr. Ruediger used the following language in reaching his conclusion that FNMA is within the language of both the statute and the order:

". . . FNMA is an entity in the Executive branch of the government which, although substantially controlled by private stockholders, is performing a federal function under significant governmental control so as to be a quasi-governmental organization."

". . . Section 705 of Executive Order 11222 which prescribes standards of ethical conduct for government officers, defines an "officer" as an "officer . . . of an agency" and "agency" is defined in the same section to include a government corporation which FNMA basically is."

While it is perfectly clear that FNMA is subject to a number of government controls, and while it may for some purposes be described as a "quasi-governmental organization", I do not believe that these facts are determinative as to whether it is covered by either the statute or the Executive Order.

Under 18 U.S.C. 208, the inquiry is whether FNMA is a part of the "executive branch", or whether it is "an independent agency of the United States"; the Executive Order, in addition to substantially similar language respecting the Executive branch and independent agencies, adds to its coverage any "government corporation". I believe it is reasonably clear from both the language of the Housing Act of 1968, and the legislative history of that Act, that FNMA falls within none of these three categories.

The status of FNMA at present is determined by the provisions of its 1954 Charter Act, 58 Stat. 612, as amended by Title VIII of the Housing Act of 1968, 82 Stat. 536. Prior to the extensive amendments affected by the 1968 Act, which became fully effective on May 21, 1970, FNMA was defined by statute as a "body corporate" in the Department of Housing and Urban Development (12 U.S.C. 1964 ed. 1717(a)), and it was listed in 31 U.S.C. (1964 ed.) 846 as a "wholly" owned government corporation". Prior to the 1968 revisions, FNMA performed three separate functions in connection with the federal housing assistance program: "Secondary market operations" in the mortgage industry (12 U.S.C. 1719), "special assistance" (12 U.S.C. 1720), and "management and liquidation" (12 U.S.C. 1721). The agency's Board of Directors consisted of the Secretary of Housing and Urban Development and four persons appointed by him, who were either officers or employees of FNMA, of the immediate office of the Secretary, or of some other department or agency of the federal government. 12 U.S.C. (Supp. III) 1723.

The 1968 amendments to the charter made sweeping and significant changes. The "special assistance" and "management and liquidation" functions were transferred to a newly created agency called Government National Mortgage Association (GNMA), while the "secondary market operations" were retained by FNMA. 12 U.S.C. (Supp. V) 1716(b). While the management of the newly created GNMA is completely under the control of the Secretary of Housing and Urban Development (12 U.S.C. (Supp. V) 1723), the management of FNMA was drastically altered. It now has fifteen directors, five of whom are appointed by the President, while the remaining ten are elected by the holders of the common stock of the corporation. The directors all hold office for a year, and all are subject to removal by the President for cause. Of the directors appointed by the President, at least one is to be from the home building industry, one from the mortgage lending industry, and one from the real estate industry. 12 U.S.C. (Supp. V) 1723(b).

The 1968 Act retained a substantial amount of control over FNMA in the Secretary of Housing and Urban Development. See, *e.g.*, 12 U.S.C. (Supp. V) 1723a(h). The general counsel of FNMA advises us, however, that the United States no longer has any financial investment in FNMA.

The legislative history of these provisions of the 1968 Act clearly show the intent of Congress to reconstitute FNMA as an entity quite different from the one which had previously borne the same name. Indeed, the 1954 Charter Act provided that as soon as practicable provision should be made to carry out the secondary market operations of FNMA "by a privately owned and privately financed corporation." 12 U.S.C. (1964 ed.) 1718(g). House Rep. 1429, 83d Cong., 2d Sess., p. 19, explained this subsection as envisaging legislation which would provide for the transfer of "control and management of the secondary operations to the private owners of the outstanding capital stock."

President Johnson's Housing Message of February 22, 1968, which provided a substantial part of the impetus for the 1968 legislation, stated:

"I propose legislation to transfer the secondary market operation of the Federal National Mortgage Association on an orderly basis to complete private ownership." *Public Papers of the Presidents: Lyndon B. Johnson, 1968–1969,* Book I, p. 248 at 260.

The House Committee Report on the Amendatory Act of August 1, 1968 (House Rep. 1585, 90th Cong. 2d Sess.) states that the "principal" change in the statutory provisions affecting FNMA "would be in fulfillment of the congressional intent expressed fourteen years ago in section 303(g) of the Federal National Mortgage Association Charter Act . . ." (At p. 68).

After explaining the functions and status of FNMA the report continues:

"The other corporation, which will become entirely privately owned and which will operate the secondary market operations, will be known as the Federal National Mortgage Association (FNMA). The new FNMA would be a government-sponsored private corporation, regulated by the Secretary and would have a status analagous to that of the Federal Land Banks and the Federal Home Loan Banks." (At p. 69).

The regulatory powers of the Secretary mentioned in the preceding quotation are explained in the report as follows:

"It is the intent of the Committee that the regulatory powers of the Secretary will not extend to FNMA's internal affairs, such as personnel, salary, and other usual corporate matters, except where the exercise of such power is necessary to protect the financial interest of the federal government or is otherwise necessary to insure that the purposes of the FNMA Charter Act are carried out." (At p. 71.)

The Housing Act of 1968 provided that GNMA should "remain in the government" (12 U.S.C. (Supp. V) 1716b), and that it "shall be in the Department of Housing and Urban Development." GNMA is also listed as a "wholly owned government corporation" in 31 U.S.C. (Supp. V) 846.

Conversely, the Act of 1968 contains no provision retaining FNMA "in the government" nor specifying that it shall be in the Department of Housing and Urban Development. On the contrary, 12 U.S.C. (Supp. V) 1716b defines FNMA as "a government-sponsored private corporation," and it has been removed from the list of "wholly owned government corporations" embodied in 31 U.S.C. (Supp. V) 846. The 1968 Act expressly exempts FNMA from all of the provisions of Title V of the United States Code, dealing with government organization and employees, and specifically exempts it from Civil Service and Classification Laws except for purposes not here relevant.

On the basis of the foregoing statutory language and legislative history, it seems clear beyond argument that FNMA is neither a part of the "Executive branch" nor an "independent agency." On the issue of whether or not it is a "government corporation," so as to be within the terms of the Executive Order but not the statute, I have likewise concluded in the negative. The obvious difference in statutory treatment of GNMA (remaining in the government and the Department of Housing and Urban Development), on the one hand, and FNMA, on the other; the express reference to FNMA as a "government sponsored private corporation;" the removal by statute of FNMA from the list of "wholly owned government corporations"; the exemption of FNMA from all of the statutory provisions relating to government organizations and employees; and the fact that the majority of its directors are elected by stockholders, rather than appointed by the President, lead to the conclusion that FNMA is neither in fact nor in law a "government corporation."

The fact that the directors of FNMA are not full time public servants, but serve in much the same manner as outside directors of a private corporation so far as time is concerned, indicates that Congress might have significantly impaired the accomplishment of its intended purposes in the Housing Act of 1968 had it made FNMA a government corporation subject to federal conflict of interest statutes and Executive Orders. The provision for special representation on the Board of Directors from the home building industry, the mortgage lending industry, and the real estate industry suggests that these segments of the agency's clientele are intended to have special consideration in the deliberations of the Board of Directors. This notion is further implemented by the requirement of section 810(a)(3) of the Act, 12 U.S.C. (Supp. V) 1716, note, that transition to the new privately owned FNMA would become effective only when not less than one-third of the corporation's common stock is owned by persons or institutions in those three industries. This is not to suggest that self-dealing by the directors is either invited or permitted, but it does indicate that at least three of the directors will be representatives of, and presumably financially interested in, industries inevitably affected by the actions of FNMA. Application of the stringent prophylactic provision of 18 U.S.C. 208 which Congress has applied to actual government officers could well be inconsistent with this form of representation on the Board of Directors of FNMA.

Needless to say, this conclusion does not in any way indicate that there are no ethical or legal restraints on the directors of FNMA. Both general corporate statutes and common law have traditionally imposed an obligation of fidelity and fair dealing on directors of non-governmental corporations, and the directors of FNMA are undoubtedly subject to such obligations. They are not, however, subject to the provisions of either 18 U.S.C. 208 or of Executive Order 11222.

Yours very truly,

WILLIAM H. REHNQUIST,
Assistant Attorney General,
Office of Legal Counsel.

INGREDIENTS OF FREE AND EFFECTIVE NEWS MEDIA

Mr. CRANSTON. Mr. President, free and effective news media have two fundamental ingredients: Newsmen must be able to collect information freely. And the media must be free to disseminate the information once it is collected.

In Washington, and in other cities, law enforcement officers—in their quite understandable zeal in seeming to overcome the dangerous, alarming rise in crime—are damaging the first of those two ingredients. Officers are posing as newsmen and, as a result, are hampering the legitimate reporters' efforts to gather facts.

Sources—especially sources outside the mainstream of American life—are reluctant to talk candidly with newsmen when they have reason to believe the reporters may, in fact, be undercover police officers. And, unfortunately, reporters are turning out to be undercover officers with disturbing frequency lately.

I doubt that the police get much valuable evidence by pretending to be reporters.

I doubt that the public is any safer because a policeman masqueraded as a reporter.

I doubt that the cause of justice has been advanced because an undercover officer was able to pose as a newsman.

In short, I doubt that police posing as reporters does much good.

But I am convinced that it does a great deal of harm.

It harms newsmen and cameramen and broadcasters—the thousands of legitimate American reporters who base their jobs, and often their safety, on the thin edge of public trust.

But, most of all, it harms the American public—the millions of readers and viewers who will not get a complete and accurate story because news sources no longer believe they can level with newsmen.

Last Friday, in the most recent example of this unfortunate practice, two Washington Metropolitan Police intelligence officers posed as newsmen to attend a news conference called by the National Welfare Rights Organization.

The Post and the Star both reported that the officers had attended the press conference. Now, a group of newsmen in the city are circulating a pledge that they hope will prevent a recurrence of Friday's incident.

This is a serious and growing national problem—one that merits Senate attention. I ask unanimous consent to place in the RECORD the two news stories and the reporters' statement.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

PLEDGE BY WASHINGTON STAR REPORTERS, JULY 11, 1970

As news professionals we are distressed by confirmed reports that at least two Metropolitan Police Department agents posed as representatives of news media at a press conference July 10.

Many of us, in the course of gathering information, have been suspected of being police informers or undercover agents. In such situations it is only with great difficulty, and under the protection of legitimate press credentials, that we can assure our sources that this is not so.

We believe the only way to protect our individual and collective reputations is to be constantly on guard against infiltration of our ranks by undercover agents. Past complaints have had apparently no effect. A police spokesman, questioned by a Post reporter after the July 10 incident, said intelligence officers may pose "as anything" as long as they break no law. Chief Jerry Wilson told a Star reporter that "they can do anything that isn't illegal, immoral or fattening."

We believe our only protection is exposure. We pledge, and we urge our colleagues to follow, that we will announce the presence of any police agent we recognize masquerading as a newsman or newswoman. If it is necessary to stop a news conference long enough to verify credentials, we will do so.

We will leave it to the sponsors of news conferences to decide whether exposed police may remain and listen; our purpose will be served merely by the exposure.

A news conference presents a fairly simple situation. On the street, however, when an agent mingles with reporters it is less clear how we should react. Is he simply standing around, or does he tell someone he is a reporter? Does he ask questions, or does he simply listen in on a reporter's interview? Is he posing as a news photographer? We have no authority to clear a public area, and circumstances may not allow exposure immediately.

When we sense an infringement, we will try to identify the agent, get photos of him if possible, and complain to the department.

It should be understood that we do not intend to interfere with police undercover work. We believe, however, that policemen posing as newsmen jeopardize our effectiveness. We hope that Chief Wilson will recognize the issues raised by such police policy and will issue orders forbidding it.

(Signed by Harvey M. Kabaker and 27 other Washington Star reporters.)

[From the Washington Evening Star, July 11, 1970]

WELFARE PROTEST GROUP TO MEET MAYOR'S JET

(By Michael Anders)

The National Welfare Rights Organization, declaring it cannot hold serious negotiations with lesser city officials on furniture demands by welfare mothers, plans to appeal directly to Mayor Walter E. Washington this weekend.

NWRO executive director George A. Wiley said yesterday that a delegation of welfare mothers woud meet the mayor at Dulles Airport tomorrow when he returns from a three-week world tour.

"We are going to be appealing to Mayor Walter Washington to take charge of the city and start making responsible government (decisions) which will deal with the needs of the people," Wiley said during a news conference.

AIDES, COUNCIL BLAMED

He blamed Philip J. Rutledge who is the mayor's human resources director, the city council and Deputy Mayor Graham W. Watt for making an apparent "political decision" to be unresponsive toward the furniture demands.

The Mayor, Wiley said, can do the job if he is willing. "But it means he's got to have backbone and he's got to have guts and he's got to be prepared to stand up against the Congress and the Nixon administration, if necessary."

Wiley said NWRO will hold other demonstrations, including one today at 8:30 p.m. in Lincoln Square, 12th and East Capitol Streets.

Wiley's news conference was attended by an undercover policewoman posing as a news writer. The woman, who has been seen on several occasions at news conferences, claims either that she is working for a small college newspaper or is freelancing.

Welfare mothers in the past month have held a series of demonstrating to demand furniture assistance from the city. Two turned into violent police confrontations and scores were arrested, including Wiley who was charged with inciting to riot.

CHARGE IS REPLACED

The U.S. attorney's office yesterday replaced the inciting to riot charge with a charge of interfering with a police officer in the performance of his duty.

Wiley, who has come under personal attack from city officials because of the violence connected with welfare demonstrations, defended the need to petition the government.

[From the Washington Post, July 14, 1970]

NIXON, D.C., CRITICIZED ON WELFARE

National Welfare Rights Organization Director George A. Wiley yesterday denounced the Nixon administration as "anti-poor" and the District government as a "puppet government" that victimizes families on welfare.

At a news conference attended by Washington reporters and two plain-clothes police officers posing as members of the press, Wiley criticized the city for what he said was its lack of serious response to welfare mothers' demands for furniture grants.

He announced that his organization would hold a rally tonight at Lincoln Park "to build our support in the black community."

Wiley also said that a delegation of welfare mothers would be at Dulles Airport Sunday to greet returning Mayor Walter E. Washington and seek his help in their furniture campaign.

Welfare demonstrators clashed with police June 23 and July 2 in their month-old drive to obtain special furniture grants.

Wiley, arrested July 2 for inciting to riot, appeared for a hearing yesterday at the D.C. Court of General Sessions, where the charge was changed to interfering with a police officer. The maximum penalty for the offense, a felony, is five years imprisonment and a $5,000 fine. Another hearing in his case was set for July 16.

City officials promised June 25 they would ask Congress for money to provide furniture grants, and a City Council committee is considering a new regulation authorizing the welfare department to pay such allotments.

The news conference at NWRO headquarters at 1419 H St. NW was attended by two metropolitan police plain-clothes intelligence officers, one a policewoman.

The policewoman, Dixie Gildon, identified herself to a reporter as Ditty Ayers and said she was a free lance writer.

Police headquarters refused to identify the male officer, whom reporters also recognized as a plain-clothes policeman.

Police spokesman Paul Fuqua said intelligence officers are not issued police press passes and may pose "as anything" as long as it is not illegal, as impersonating a federal officer would be.

CONTINUED CAMPUS UNREST

Mr. FANNIN. Mr. President, it will indeed be a sad day for education and for freedom and democracy if any of our institutions of higher learning fail to open this fall because of continued campus unrest.

Educators from Arizona have expressed strong concern to me because of news reports that two members of the President's Commission on Campus Unrest plan to submit written reports to that effect.

It is encouraging that an increasing number of educators, including respected liberal spokesmen, are taking a firm stand against those who would close our institutions of learning by yielding to disorder pressures.

Mr. President, I ask unanimous consent to have printed in the RECORD the column of James J. Kilpatrick, published in the Arizona Republic of July 8, 1970, and an Associated Press dispatch from the same edition concerning the Commission on Campus Unrest.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

A CONSERVATIVE VIEW: THREE RESPECTED LIBERAL SPOKESMEN CHIDE THEIR IRRESPONSIBLE COLLEAGUES

(By James Kilpatrick)

It seems too good to be true—it may yet prove too good to be true—but signs keep appearing of a changing wind in academic groves.

For the first time since the dark night of campus destruction began three years ago, respected liberals openly are denouncing their irresponsible colleagues and demanding a return to reason.

Let me single out three such voices:

Nathan M. Pusey, president of Harvard; Philip B. Kurland, professor of law at the University of Chicago; and Gardner Ackley, professor of economics at the University of Michigan.

Each of them is a certified intellectual; each of them comes to the forum with impeccable credentials in higher education.

Pusey's eloquent address at a recent Harvard baccalaureate service has been widely quoted, but it will do no harm to underscore his charge of latter-day McCarthyism against the New Leftists. Among their number are "some faculty who for reasons not quite clear to me would like to see our colleges and universities denigrated, maligned, and even shut down."

"It is a shameful state of affairs," Pusey said.

And he went on to speak of these militants and their techniques in words that cracked like whips: Hateful, cunning, deceitful, ignorant, intolerant, sickening. He closed with his own confession of error. The inroads into academic life could not have grown so deep, he said, "had all of us to whom they are deeply repulsive been more ready to oppose them."

Kurland spoke on June 4 to the Women's Bar Association of Illinois. His theme was the politicization of the academy—the growing movement by which students and professors involve themselves actively in public affairs in the fashion of "Coxey's army and the oil lobby." Kurland denounced the process:

"The essence of the academy is disinterestedness. Its justification is disinterestedness. A university cannot be both a political force and an institution dedicated to the search for knowledge and its dissemination.

"As a university makes a political commitment it destroys its claim to academic freedom. And without academic freedom, the search for and dissemination of knowledge becomes more shadow than substance."

Kurland is bitter. He sees ahead nothing but the destruction of universities as America traditionally has known them. In the "caretaker institutions" of the future, "answers will be substituted for questions, and indoctrination will replace education." This is the price, he said, "that America will pay for the cowardice of its university faculties."

Ackley, at Michigan, is no coward.

In a recent address, he spoke scathingly of the weakness and permissiveness of Michigan's "own faculty and administration." The past academic year has taught the lesson, he said, "that violence and disruption either cannot or will not be punished by the university." Striking teachers are not punished; they are reappointed. Student vandals are not expelled; they are retained.

"Last Wednesday," said Ackley, "I watched the faculty of my own department, assembled in the chairman's office, discuss a demand that all classes in our building be shut down, or else. We discussed this while the entrances to the building were sealed, and while the halls outside the rooms in which we were meeting were patrolled by men carrying pipes and clubs.

"We sought guidance from the college, and were told 'Do what you think best; you will have no protection.' And so we cravenly capitulated, in fear—if not for our own safety—for that of our students and employees. That day the truth lay in those clubs."

Pusey, Kurland and Ackley are not alone. One of the most powerful voices for reason in academia is being raised by Yale's Professor Alexander M. Bickel in the New Republic. Doubtless there are others; and in them lies the only hope for recovery of our tormented institutions.

It may be too late, as Kurland fears, to undo the damage.

If so, the pusillanimous faculties must bear much of the blame. But if it is not too late, a rescue operation must be mounted swiftly by great teachers speaking to a great tradition, clearly, and unafraid.

DIM VIEW ON CAMPUS?

NEW YORK.—As President Nixon met in Washington yesterday with advisers on campus unrest, there were reports they will advise him that numerous colleges and universities might not even be able to open this fall.

The President's Commission on Campus Unrest, created June 13 to study campus disorder and make recommendations by Oct. 1, is expected to hold hearings starting within two weeks.

Nixon's meeting was with Dr. Alexander Heard, chancellor of Vanderbilt University, and Dr. James Cheek, president of Howard University, together with Robert Finch, counselor to the President.

Two television networks, NBC and ABC, have reported that Cheek and Heard will submit a written report saying extreme anger and discord among students might prevent numerous campuses from opening in the fall.

ADDITIONAL SUPPORT FOR THE RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, yesterday I reported that the United Methodist Church favors immediate ratification of the Genocide Convention. Today I would like to have printed in the RECORD statements made by the Roman Catholic hierarchy concerning genocide and the ratification of the United Nations Treaty which would outlaw it. The fact that both Protestants and Catholics, despite their differences, unanimously condemn genocide and support ratification of the Genocide Convention should provide the strongest possible evidence that the time is right for the ratification of this important treaty. As a further indication of support for the ratification of the Genocide Convention, I ask unanimous consent that these statements be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM STATEMENTS BY THE ROMAN CATHOLIC HIERARCHY CONCERNING THE CATHOLIC VIEW OF GENOCIDE

Apart from the question of war itself, *we deem it opportune here to reiterate the Council's condemnation of genocide,* the methodical extermination of an entire people, nation or ethnic minority for reasons connected with race, religion or status such as that undertaken by the Nazis against the Jews among their own citizens and later against all the Jewish people, as well as so-called "gypsies." *We would urge United States ratification of the United Nations Convention on this subject,* and of every other sound implementing instruments by which the United Nations Declaration of Human Rights can be translated from the level of ideals to that of actuality. (American Hierarchy. *Human Life in Our Day,* cf. Chapter 2.)

Whatever is opposed to life itself, such as any type of murder, *genocide,* abortion, euthanasia or willful self-destruction, whatever violates the integrity of the human person, such as mutilation, torments inflicted on body or mind, attempts to coerce the will itself; whatever insults human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children; as well as disgraceful working conditions, where men are treated as mere tools for profit, rather than as free and responsible persons; *all these things and others of their like are infamies indeed.* (Vatican II. *Constitution on the Church in the Modern World,* n. 27.)

Contemplating this melancholy state of humanity, the Council wishes, above all things else, to recall the permanent binding force of universal natural law and its all-embracing principles. Man's conscience itself gives ever more emphatic voice to these principles. Therefore, actions which deliberately conflict with these same principles, as well as orders commanding such actions are criminal, and blind obedience cannot excuse those who yield to them. *The most infamous among these are actions designed for the methodical extermination of an entire people, nation or ethnic minority. Such actions must be vehemently condemned as horrendous crimes.* (Vatican II. *Constitution on the Church in the Modern World,* n. 79.)

TEXTILE IMPORTS

Mr. THURMOND. Mr. President, an important speech on the crisis facing the American textile industry as a result of low-wage imports from Japan and other countries was given June 16, 1970, by Mr. R. Phinizy Timmerman, president of the Graniteville Co., one of the Nation's oldest and best operated textile firms.

Mr. Timmerman, speaking before the Traffic and Transportation Club in Augusta, Ga., presented facts which clearly picture the plight of this industry. He noted that 65,000 textile jobs have been lost since January of 1969, and the trend is continuing at an alarming rate.

Mr. President, I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the address

was ordered to be printed in the RECORD, as follows:

ACT NOW TO SOLVE THE IMPORT PROBLEM

(By R. P. Timmerman)

America's textile-apparel industry is a national asset far too valuable to be traded off to foreign producers. Yet plagued for years by low-wage imports, now pouring into the United States at unprecedented rates, the industry faces an uncertain future unless some workable way is found to limit the inflow.

The serious extent of the problem is reflected in the tripling of imports since 1965 to a current all-time record level of nearly 4 billion square yards a year. Industry employment has declined by 65,000 jobs since January of 1969. Government efforts to gain the cooperation of foreign countries in exercising reasonable restraints on their shipments to America have been ignored. Members of Congress are calling for corrective action. The time has come for decisive, effective action to curb what has become a major problem with nation-wide ramifications.

PARALYZING IMPACT

Whatever way you measure it, the textile-apparel industry forms a cornerstone of America's economy. It directly employs some 2.4 million people with a payroll of $11 billion a year and provides indirect jobs for another 2 million men and women. It is a huge buyer of products and services from other industries. It has manufacturing operations in all 50 states.

Here in South Carolina and Georgia the textile industry is of particular importance. This past year, the textile industry provided employment for 274,000 with a payroll of $1,300,000,000. In this period of unemployment and underemployment of many less-skilled workers, we can ill afford to sacrifice this type of payroll, which offers job opportunities with a large variety of skill requirements.

The American textile industry leads the world in technical progress; its employees are the most efficient and best paid among the world's textile industries. Why, then, should such a large and important industry fear imports from countries thousands of miles away? How can imports of foreign-made goods cause serious repercussions? Why is legislation needed now? Let's look at the answers.

Unlike its competitors in Asia and Europe, the United States industry is geared to the American economy and American rules for doing business. What it pays and earns are part and parcel of an American system that has created the world's best standard of living. The very fact that this industry operates within the framework of American law with taxes, wages, antitrust regulations and the like—enables foreign producers to undercut it with low-wage imports. I am not suggesting that this should be changed, merely citing the situation as it exists.

It is a matter of irrefutable record, also, that the United States has done far more than any other nation on earth to reduce obstructions to trade and open her market to the world. But what have we received in return? Instead of following this example, many countries manipulate trade mechanisms to push their goods into the American market while sheltering their own markets. As a result, by and large, world commerce is not the two-way interchange sought by reasonable people. In many cases, international textile trade is a one-way funneling of products into the United States from abroad.

LOSSES BEYOND RECKONING

Concentrations of imports in unchecked amounts on the American market create special problems for large-employment industries that turn out products in mass volume, like textiles, apparel and footwear. These industries cannot avoid being particularly hard hit by penetration tactics of foreign producers whose methods and production costs are un-American by any standard.

Low-wage imports cause both immediate harm and long-range attrition. It is impossible to calculate the full extent of damage resulting from the constant flood in terms of plants closed, jobs eliminated, payrolls and tax revenues lost. But the record of the relentless upsurge of textile-apparel imports is clear for all to see.

The tide started to rise after World War II as soon as the textile industries of many countries had been built, often with substantial technical and financial assistance from the United States. It reached a danger point as far back as 1957 when, for the first time, imports exceeded the amounts of American textile exports. Since that year, the textile trade deficit has grown six-fold and in 1969 it reached the record size of $1.4 billion. It is worth noting that more than a third of that deficit—some $540 million—consists of textile-apparel imports from Japan alone.

In just the past 10 years, the inflow of low-wage foreign textiles and apparel made of cotton, wool and man-made fibers has gone up alarmingly: from 976 million square yards in 1959, which was then a record high, to 3.6 billion in 1969 and now at a rate of close to 4 billion yards a year.

The cumulative effect of massive imports, year after year, can only build up a heavy toll in job displacement. It is estimated that the 1969 import volume is equivalent to 250,000 jobs.

ATTACKS ARE PINPOINTED

Within the broad, general onslaught of imports, attacks from abroad are pinpointed at specific sectors of the American market. The Japanese, in particular, are adept at "zeroing in" tactics. Through what they, themselves, call "penetration pricing" they are able to seriously cripple one segment of the American market after another, as they choose. They succeed because in addition to their low-wage cost advantage, they are backed up by special financing, export subsidies, collusive schemes and similar maneuvers that would be illegal if American manufacturers resorted to such practices.

Time after time, American home market for a product is "cracked" or undermined without warning when an importer unloads a "loss leader" in the form of thousands of yards of material below the American cost. Continuous targeting, at prices below those at which American manufacturers can break even, inevitably causes the loss of an important part of the market involved. This has happened over the years with many specific items—velveteens, ginghams, canvas duck, sheetings, flannel, sweaters, to name only a few. It is happening with worsted cloth today. Tomorrow, who knows?

In many instances the import prices, though low enough to capture the business, are not reflected on retail counters. Frequently, the price advantages that might otherwise benefit consumers are absorbed by retailers' mark-ups. This explains why those who pocket the difference invariably cry out against suggestions that imports be restrained, with protests that limitations would deny low-cost foreign products to consumers.

PRICES KEPT LOW

Some people say low-wage imports should be encouraged in order to reduce prices. This, simply, is not the case where textiles are concerned. Throughout its long history, the textile industry has demonstrated that healthy competition among its many independent centers of initiative is the best way to assure reasonable prices. No few big companies dominate the textile industry. The aggregate sales of the industry's 10 largest firms would represent only a small portion of the total textile business. The textile industry is one of the remaining major manufacturing industries in this country that encourage hundreds of small concerns to vie with one another and keep prices at reasonable levels. While wholesale prices of all industrial commodities have gone up 13 per cent from the average 1957–59 base period, those of textiles have increased only 1 per cent.

It is quite true, of course, that you can find cheap foreign-made garments in discount stores and bargain basements. But who can count on such prices? Once all or a major part of a product line has been taken over by foreign producers, the provisions of U.S. law to protect consumers and employees—antitrust rules, prohibitions against conspiracy to fix prices, minimum wages, and all the rest—no longer prevail. A foreign producer has no obligation whatsoever to feel any legal or moral responsibility toward American consumers.

Silk is an example of a textile product under total foreign control. Since the 1957–59 base period, its price has leaped 69 per cent, in contrast with the 1 per cent rise of domestically produced textiles mentioned a moment ago.

NO END IN SIGHT

With markets and manufacturing operations constantly being chipped away, with the import tide swelling steadily, and with nobody able to predict where it will all end, the textile-apparel industry faces an uncertain future. Yet any business hoping to move forward needs to have clear future goals. This is especially true of the textile-apparel business, which works on a futures basis requiring long lead time. Plants are busy on orders that were contracted months ago and will be delivered months from now. Product lines and styles have to be decided in advance; raw materials are bought months ahead of time.

Textile management must make crucial, long-range decisions. Money decisions: what they can afford to spend and whether they can earn it back. Questions such as: How much should be invested in research to develop new products, in better equipment, in recruiting and training employees? How reasonable are the risks?

Sound judgments on questions like these are impossible to reach when executives do not know when and where to expect the next attack from abroad. Their plans are side-tracked when they see big pieces of the American home market vanishing in ever greater amounts—and for one reason only: Foreign textile-apparel products sell here because they are made by armies of people paid far below the legal minimum in the United States.

Only until and unless this industry gains some measure of assurance that imports will not definitely keep gaining a larger share of the American market's growth, can American manufacturers look to the future in confidence. The whole nation stands to gain, in terms of broadening job opportunities for America's labor force, if the import problem can be solved.

WHERE THE FAULT LIES

As the import situation worsened, foreign producers were entreated repeatedly in the name of common sense and good international relations to curb their rush for American textile-apparel dollars. They chose instead to build their trade walls higher and continue exploiting the American market. Japan, for example, has made a sham of free trade and a shambles of reciprocity.

ABNORMAL TRADE PATTERN

Japan's protective policies are so strict that only 2 per cent of her imports consist of manufactured products for people's use. Some 87 per cent of her purchases from the outside world are non-competitive raw materials she does not have, owing to her island location, or food she cannot grow.

The raw materials that Japan wants—minerals, cotton, wood, tobacco, wheat, soybeans, crude oil and similar commodities—she buys wherever she can at the price and credit terms most favorable to her. Whether she buys these materials from the United States or any other country in the world is a decision dictated only by cost advantage, necessity, and hard-nosed trade policy.

Japan and her Asian neighbors transform raw materials acquired in this manner into manufactured items of high labor content, which when sold in the United States displace American production and American jobs. They make their heaviest impact on textile mills, apparel plants and shoe factories in hundreds of communities that depend on industrial payrolls to stay alive economically.

The endless continuation of this kind of trade pattern can only spell trouble. One aspect of that trouble is the burgeoning overall trade deficit between the United States and Japan. The United States holds the short end of the stick to the tune of $1.4 billion. Just as in the case of the textile trade deficit, fully one-third of America's general trade deficit with Japan consists of textiles and apparel imported from that country. At least 25 per cent of Japan's textile exports are sold in the United States, according to the United States-Japan Trade Council. That percentage would be considerably higher if it included indirect shipments from Korea, Taiwan and Hong Kong. Japanese industry and government have combined in arrangements to send fiber, yarn and cloth to those countries, where wages are only 25 cents an hour or less, to be made into apparel for sale in the American market.

DIFFICULTIES FORESEEN

The potential dangers posed by a lopsided trade situation in textiles were recognized as the U.S. textile trade deficit grew. Early in the 1960's the United States, Japan and 29 other textile nations joined in the so-called Long-Term Arrangement for Trade in Cotton Textiles (known as the LTA). This was an agreement seeking an evenly distributed flow of textiles throughout the world's trade channels in the best interests of all participants.

The LTA has proven to be antiquated and inadequate, however. It was not geared to dramatic textile developments that followed, particularly in fabrics and apparel manufactured from man-made fibers and blends.

During the time of the LTA, floods of man-made fiber and woolen products, most of them from Asia, swept into the United States. The jump in man-made fiber articles was an amazing 1080 per cent. Wool textile imports, which as recently as 1961 stood at the exceedingly high level of 13 per cent of domestic consumption, have more than doubled since that time.

While this latest deluge was creating fresh alarm among American textile and apparel manufacturers, Japan made deals with the European Economic Community, Canada and other nations to limit her shipments of wool and man-made fiber textiles to their markets. Not so with the United States, however, even though President Nixon pointed to textiles as a "special case" and the U. S. government began efforts early in 1969 to negotiate an agreement among all textile nations to cope with the problem. Why should the United States be so different from the rest of the textile-importing nations?

EFFORTS STALEMATED

Today Japan ranks as the leader among the world's textile exporting countries—leader in volume, that is. She could take the lead in putting textile trade among nations on an even, equitable footing. But she has shown no inclination to do so.

Months of negotiations, started early in 1969, were stalled by Japanese counter-proposals, demands for "more information," requests for time-consuming investigations. At one point the Japanese resorted to the extraordinary tactic of having a member of their Diet (parliament) write to members of the U.S. Congress, commenting on the subject.

The Japanese flatly turned down a number of proposals made in good faith by the U.S. government. The final rejection was an "aide-memoire" that reached the State Department in March, 1970, described by Secretary of Commerce Stans as "entirely negative" and a "major disappointment".

SOLUTION OF THE PROBLEM

The agreement sought so painstakingly by the United States was eminently fair and reasonable. It centered on a plan for flexible but comprehensive limitations on imports of all textiles and apparel from major exporting countries. While placing the volume of foreign-made products under reasonable restraint, it would guarantee each nation access to compete in the American market—and to increase that access each year in accordance with the market's growth. Anything less than a comprehensive agreement will only shift the thrust of imports from one sector of the American industry to another.

Bills providing for a comprehensive plan have now been introduced in Congress. The sooner favorable action is taken, the better. The proposed legislation will provide a framework for a long-range solution not only of America's import problem but also of the present imbalance of textile trade throughout the world.

WHAT THE MEASURE PROVIDES

The textile-apparel-footwear trade bill, sponsored by Chairman Mills of the House Ways and Means Committee with widespread bipartisan support of scores of House members from Maine to California, calls only for reasonable restraints on imports so that foreign producers and domestic industries alike may have equitable access to the United States market. It permits exporting nations to compete for a fair share of the U.S. textile market.

The legislation places emphasis on encouraging negotiated agreements, by not imposing specific limitations on those nations that enter into agreements with the United States. Present agreements and any negotiated before or after the bill is enacted will be honored.

Only those countries which refuse to negotiate agreements would be subject to specific limitations. These limitations would during 1970, equal the average amounts of textiles, apparel and footwear that entered the United States in 1967–68; after 1970, the permissible level of imports would be adjusted up or down annually to reflect increases or decreases in domestic consumption.

No one is asking that imports be completely shut off or sharply reduced. What we are seeking is a moderation of the rate of growth of textile imports.

NEEDED: GROWING COMMERCE, NOT TRADE WAR

It is high time to end the present insanity of exposing the American home market to indefinite, no-end-in-sight floods of foreign imports from countries that have no obligation whatsoever to feel any legal or moral responsibility toward American employees, consumers or communities. This the present bill can do, while providing foreign producers the opportunity to compete for larger amounts of the market as it is expanded by research, developmental and promotional efforts of American industries.

NEW ERA FOR PROGRESS

Above all, the measure that Congress is now considering holds out the promise of a dynamic new era for large-employment industries of this country, the bedrock industries such as textiles, apparel and footwear.

Most people are concerned today about hunger and poverty in many parts of America—the movement of population from rural communities to crowded cities—the problems of jobless minorities in rural and urban areas. Many see an answer in the potential role of the large-employment industries. With rightful access to America's market and with confidence in the future, these industries can sustain if not expand job opportunities for thousands of people in cities, small towns and rural regions such as Appalachia.

Few other countries in the world depend as much as the United States does on manufacturing activities for employment of their labor force; and as time goes on, our nation will need more—not fewer—industrial occupations of many kinds to sustain the great numbers of people involved.

The textile industry's employment of black people has been growing rapidly. Since 1960, it has moved ahead four times faster than the national average. Negroes now comprise 12 per cent of total textile employment, compared with a national industrial average of 10 per cent; in some textile communities the proportion of black employees runs much higher. Because its operations involve large numbers of people at all levels of skills, it is hard to think of any major industry better situated than textiles to open the way for minorities to good job opportunities.

Consider also that one of every four jobs in Appalachia is in textiles, apparel or footwear. Or if you look in another direction, you find that the textile-apparel industry ranks as New York City's largest employer, with 224,000 garment workers in that metropolis. Women comprise 80 per cent of apparel employees and 45 per cent of the textile labor force, against an all-manufacturing average of 27 per cent.

Such numbers suffice to prove that given a fair chance to grow, the textile-apparel and footwear industries have a vital future role as major employers of people. With an end to sky's-the-limit imports, that chance will come.

THE ABC OF POLITICS

Mr. **FANNIN**. Mr. President, it is my pleasure to invite the attention of Senators to a refreshing booklet entitled "The ABC of Politics."

It tells how to bring about change, but not by "mobocracy." It is not a book on how to build Molotov cocktails, or how to burn down a library, or how to organize a riot.

It explains that everything that this country stands for is the "establishment" and that through the years changes have been wrought.

It points to the challenge of the 1970's—which will mark the 200th anniversary of our great Nation—to keep our free institutions and to maintain them as responsive to public needs as they have been in the past periods of challenge and change.

This 64-page booklet is published jointly by the National Small Business Association and the U.S. Jaycees.

Its commendable purpose is very well summarized in the foreword:

> You are the system that brings about change. You and your fellow Americans, men and women of all races, ages, creeds and political affilation. And if the system breaks down in any area, one reason might be because YOU aren't doing your part of the job to make it work.

Fittingly, the foreword quotes Edmund Burke, who wrote:

> All that is necessary for the triumph of evil is for good men to do nothing.

The book is a good reminder that politics and government should be in the mainstream of every American's life, young and old alike.

We cannot be proud of the number of our citizens who do not exercise their right to vote. Only about 25 percent of all eligible voters bother to participate in primary elections.

The value of this right, unfortunately, is best known to those who have lost it.

ATTORNEY GENERAL MITCHELL ON THE FIRST AMENDMENT

Mr. MATHIAS. Mr. President, during the week of the 100th anniversary of the Department of Justice and the 194th anniversary of the signing of the Declaration of Independence, Attorney General John N. Mitchell addressed himself to the amendment that many commentators have said is our most treasured, the first amendment and the protection it provides for freedom of speech and assembly. In a period in which many call for increased restrictions to preserve order, the Attorney General aptly reminded his audience that freedom of expression must be a living concept.

As anxieties in our society magnify, it is heartening to note the commitment of the legal arm of the Government to "spend a great deal of time and effort protecting human rights, protecting those incorporeal values that are so necessary for human dignity that must accompany a free society."

His address was a well-reasoned and a well-documented delineation of the meaning, the right, and the limits of dissent. Through his efforts to encourage peaceful dissent, perhaps our Nation may realize President Nixon's hope for—

> Order in America—not the order that suppresses dissent and discourages change, but the order that guarantees the right to dissent and provides the basis for peaceful change.

I ask unanimous consent that the address by Attorney General Mitchell before the State Junior Bar of Texas and the State Bar of Texas be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY HON. JOHN N. MITCHELL, ATTORNEY GENERAL OF THE UNITED STATES

I. INTRODUCTION

It is a great pleasure for me to be here in San Antonio to address this combined annual meeting of the Texas State Bar Association and the Junior Bar.

The topic I would like to discuss today is the First Amendment protection for freedom of speech and assembly which many commentators have said is the most treasured amendment in our Bill of Rights.

I have chosen to speak on the First Amendment for a number of reasons.

Only yesterday in Washington, we celebrated the 100th anniversary of the Department of Justice. As you know, most of our first century was dedicated to the problems of federalism and economic rights.

It was not until 1919 that the Supreme Court decided a First Amendment case involving the Federal government; and not until 1927 that the First Amendment was made applicable to the states.

The Civil Rights Division in the Department of Justice was only founded 14 years ago but it has become one of our most active divisions.

Our Community Relations Service, which is devoted to maintaining racial harmony, was only founded six years ago.

The pattern seems clear: in our second century the Department of Justice will spend a great deal of time and effort protecting human rights, protecting those incorporeal values that are so necessary for the human dignity that must accompany a free society.

The Department of Justice is proud of its reputation as the institutional commitment of the Executive Branch to "equal justice under law" in order "to secure the blessings of liberty to ourselves and our posterity."

And you may be sure that the President and this Administration are firmly committed to making human dignity a reality for all of our citizens.

These values have come to us in the words of the Declaration of Independence, whose signing we celebrate this weekend.

The Declaration is basically a legal document—a list of juridical complaints against the English King.

When these complaints are all put together, they become a moral indictment of despotism whose first rule is to stop free speech and association.

Your own great State of Texas has a similar tradition of independence which is symbolized by the Alamo here in San Antonio.

Your State suffered at the hands of three separate despotic governments—the French, the Spanish and the Mexican—before asserting the rights of free men.

But perhaps the most compelling reason for discussing the First Amendment today is that I am addressing a number of younger lawyers from the Junior Bar.

It is today's young men and women who will be the custodians of our Constitutional system in the future.

It is today's young people who are becoming increasingly active in social and political affairs and who—at the same time—are questioning some of the fundamental institutions of the nation.

Some are asking, for example, if our tradition of freedom of speech is really working and whether the First Amendment guarantees—as we know them—have any relevance in today's society.

What I propose to do in this short address is to discuss the legal and practical problems that face all of us in making freedom of expression a living concept.

And let me remind you that there is no nation in the world today which offers the average citizen more opportunity to speak his mind without fear or intimidation than the United States of America.

II. A NEW AGE OF DISSENT

The necessity to reexamine and reaffirm the principles of the First Amendment comes about because we are in a new age of dissent.

Thirty years ago, our young people came out of colleges and law schools anxious to make a living in an era of economic depression. Later, they went off to war and then to the relatively quiet domestic situation of the Eisenhower Administration.

It was not until the early 1960's that the young people in our country began to believe that they had a significant role to play.

Some joined the civil rights movement. Others joined the Peace Corps, the Job Corps, Neighborhood Legal Services and other projects, without much thought of financial remuneration.

The "generation gap" had started, although neither generation was prepared for the intensity of the chasm.

This intensity developed because of two trends which were not entirely obvious at the time.

First: The older generation did not fully recognize that the activists among the younger generation were indirectly attacking fundamental values of the Establishment. They were sacrificing the accepted values of financial security in favor of the human values of working with the poor and underprivileged.

But, at the same time, they were becoming disillusioned with their own efforts. Being young, they were not prepared for the years of hard work that is necessary to implement reform programs.

And so, having given their best efforts to reform society overnight within the system, they started criticizing the system itself on the grounds that it is not responsive to the needs of the nation.

Frequently, I might add, they rely on rhetoric and not facts. They throw around catch-word phrases like "repression" and "relevance" without any serious inquiry into the particular cases they cite as examples of government misfeasance.

Basically, their dissent and activism has taken two forms.

A small minority chose violence. But the great majority of the young dissenters have chosen to highlight their cause by exercising freedom of expression as it is protected by the First Amendment.

They march and sing. They walk silently with candles past the White House. They produce songs and books and newspapers and plays. They have developed their own motion picture and art techniques. They have evolved their own dress and language styles.

As they become more impatient, their message becomes more militant; their marches larger; and their platforms more radical; and they have gained some adherents of all ages.

They are a whole new culture: parading in the streets, striking against schools, crowding the halls of Congress, and organizing political campaigns.

In general, they are activist but also peaceful young men and women who—in our best traditions—are working within the system in order to change it.

Therefore, I must reject the claim that our established Constitutional methods of dissent are not working effectively for the dissemination of minority views.

If there is any greater proof that the First Amendment is alive and well and that it is working in today's society, we need only look at the recent growth and vitality of citizen action programs—most of them depending upon young people for their strongest support.

What this proves beyond a reasonable doubt is that there is more freedom of speech and more freedom of assembly today than at any time in our nation's history; and so long as I am Attorney General I will do everything within my power to see that these rights continue to flourish.

III. THE CONSTITUTIONAL RIGHT TO DISSENT

The First Amendment is based on the premise, as Mr. Justice Holmes said, that "the best test of truth is the power of the thought to get itself accepted in the competition of the market . . ."

Why we should permit this market of ideas is perhaps well explained by Mr. Justice Brandeis in his dissent in *Whitney* v. *California*. He said:

"We must bear in mind why a state is, ordinarily, denied the power to prohibit dissemination of social, economic and political doctrine which a vast majority of its citizens believes to be false and fraught with evil consequence.

"Those who won our independence . . . believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth . . .

"They knew that . . . fear breeds repression; that repression breeds hate; that hate menaces stable government; (and) that the path of safety lies in the opportunity to discuss freely supposed grievances."

In line with this reasoning, the Supreme Court has vigilantly guarded First Amendment rights and has reserved some of its most caustic comments for those who attempt to infringe on free speech and assembly.

The court has insisted that, ordinarily, citizens have the right to speak, to write and to disseminate even the most unpopular ideas by peaceful methods.

They have the right to use the streets and other public grounds to conduct peaceful demonstrations, to distribute handbills, to quietly picket; to broadcast on radio and television; to produce controversial motion pictures, and to ignore ex parte injunctions.

As evidence of our high regard for the First Amendment we have even evolved special procedural rules. These permit attacks on prospective government action limiting freedom of speech on the grounds that we must discourage any "chilling effect" on such a vital right.

IV. THE LIMITS OF DISSENT

However, there are limits beyond which the First Amendment may not be carried.

The most famous, of course, is that laid down by Mr. Justice Holmes in *Schenck*.

"The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater, and causing a panic.

"It does not even protect a man from an injunction against uttering words that may have all the effect of force.

"The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree."

V. FREEDOM OF ASSEMBLY

Nowhere are the questions of "proximity and degree" more difficult than under the right of assembly provision of the First Amendment, as opposed to the right of free speech.

While today we tend to speak of assembly and speech in the same breath, they are two different rights. During the Constitutional Convention, there was a heated debate over the freedom of assembly clause, with its detractors claiming it was "minutiae."

The Supreme Court has pointed out the two different standards. It said in *Cox* v. *Louisiana*:

"We emphatically reject the notion . . . that the First and Fourteenth Amendments afford the same kind of freedom to those who would communicate ideas by conduct such as patrolling, marching, and picketing on streets and highways, as these amendments afford to those who communicate ideas by pure speech."

The Court added:

"We also reaffirm the repeated decisions of this Court that there is no place for violence in a democratic society dedicated to liberty under law . . . There is a proper time and place for even the most peaceful protest and a plain duty and responsibility on the part of all citizens to obey all valid laws and regulations."

Thus, the Supreme Court has ruled that demonstrators do not have a constitutional right to cordon off a street or to use a loud amplification system or to block the entrance of a building, or to insist that passers-by listen to speeches, or even to peacefully demonstrate on public property, such as a county jail, which is set aside for specific governmental purposes.

In that case, the Court noted:

"The United States Constitution does not forbid a State to control the use of its own property for its own nondiscriminatory purpose."

VI. THE APPLICATION OF THE FIRST AMENDMENT

Here, we come to the most difficult question: How do we, as lawyers and public officials, insure a maximum range for free speech while, at the same time, attempting to insure a minimum opportunity for violation of the rights of those who are not involved in a demonstration?

Here are some of the guidelines that we in the Federal government follow in Washington and which I believe should be considered by local and state officials.

1. Encourage the peaceful exercise of First Amendment rights, regardless of how unpopular the cause. Merely to tolerate freedom of expression is not good enough.

We believe it is appropriate to establish an atmosphere in which citizens want to express themselves on the issues of the day.

And to make sure that persons wishing to conduct a demonstration be given the benefit of the doubt; that in questionable situations it is always wiser to offer a little more freedom than a little less.

2. Realize that most large political demonstrations may entail a certain amount of inconvenience to local residents, may impose additional expenses on local taxpayers, and may engender widespread community hostility to demonstrators.

Traffic may have to be rerouted. Sidewalks may become crowded. Police and health officials may have to leave their normal routine. Additional manpower may have to be employed.

Because the police have the primary government obligation of insuring an orderly demonstration, perhaps a few words of guidance are in order.

Police should remember that they are professional law enforcement personnel who should not be swayed by their approval or disapproval of the views expressed by the demonstrators.

They should be sensitive to and understanding of the fact that persons emotionally involved in a demonstration do not always behave in a normal fashion.

If arrests must be made, they should be accomplished with a minimum of force needed to restore order.

We have found in Washington that the key to a successful demonstration is careful preparation and extended negotiations with the demonstrators.

When both the local government and the demonstrators attempt to understand the problems that each side faces, the problems tend to be solved quickly in an atmosphere of compromise.

Of course, there may be a sizeable cost in terms of manpower and money. But we think that this should be a cost that a local community is more than willing to absorb as the price of being part of a free republic.

Given our times, we cannot expect political demonstrations to be conducted like prayer meetings. We must expect language which may incite hostility or may be obscene.

This is because the First Amendment protects all of us, including men and women who choose to be unruly, unreasonable, and impolite.

On the other hand, residents of local communities have rights, rights which should not be seriously impaired.

Businessmen must be able to conduct their affairs. Schools and municipal services must be provided. The ordinary life and commerce of a city must be allowed to function effectively.

I reject the notion that persons exercising freedom of speech have a right to shut down a community any more than a community has a right to keep out demonstrators.

But this leaves several difficult problem areas still unresolved. Generally, these are cases where public officials have good reason to believe there may be violence perpetrated by the demonstrators or against them.

Because local officials have the obligation of protecting the demonstrators and the community, certain limitations may be in order on how and where the demonstration is conducted.

Most of these problems come down to case-by-case decisions, frequently made under extreme pressures of time. I do not think there are any hard and fast rules. Local officials should be familiar enough with their own communities to work out acceptable compromises.

Of course, there are always the courts as a last recourse for either side. But judges are hardly in a better position to make law enforcement decisions than are reasonable and responsible city officials.

VI. CONCLUSION

In recent months hundreds of thousands of American citizens have come to Washington, D.C., to exercise their rights of free speech and peaceable assembly.

The Department of Justice has now furnished to the Senate a voluminous report on the lessons we have learned and the steps we have taken to protect and confirm the First Amendment rights.

I think you will find the report encouraging and I believe you will agree that it matches performance to the promise offered by President Nixon when he said:

"Peaceful protest is part of the American tradition. The right to dissent is a force for change, but it is the right to disagree, not the right to disobey laws.

"So let us have order in America—not the order that suppresses dissent and discourages change, but the order that guarantees the right to dissent and provides the basis for peaceful change."

ECONOMY BOOST

Mr. DOLE. Mr. President, in today's Washington Post, Joseph Kraft indicates that the economy is showing healthy signs of a turnaround. For an observer with Mr. Kraft's record of critical regard for Republican efforts in both domestic and foreign affairs, this is a rather remarkable recognition. It is, however, yet another statement of something the President has been saying for some time; namely, that this administration is successfully engineering a wartime-inflationary base to one of peace and stability.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Wide Range of Signs Suggest Worst Is Over for the Economy

President Nixon may be in trouble with blacks, students, blue collar workers, the Near East, the Far East, the House, the Senate, and Chet Huntley. But some semi-good news is coming to the administration on one front.

A wide range of signs suggest that the worst is over in the economy. The bad times are bottoming out; and the interesting question now is whether the turn-around can come fast enough to help the Republicans in the fall elections.

The most important signal of what has been happening comes from an esoteric blinker—the bond market. According to a technical lingo that seems to come out of early P. G. Wodehouse, there has been for the past month "a rally in bonds".

What that means is that private investors are coming forward eagerly to buy corporate offerings. The buying surge reflects a confidence that inflation is finally in hand. No one would be purchasing good corporate bonds at 8.9 percent this week—which is the current yield—if they felt they might be able to get, say 9.5 percent next month.

This confidence that rates are leveling off, and indeed may be coming down, seems to express a basic fact of economic life. The great boom in corporate spending for new plant and equipment is evidently coming to a close. According to the National Industrial Conference Board, the thousand largest corporations cut back spending on expansion by 15 percent between the last quarter of 1969 and the first quarter of 1970.

That downward trend seems to be continuing. And if so, the inflationary surge of the past few years is plainly tapering off. For the big spenders of the past few years—the true villain of the most recent inflationary surge—has not been government, or the consumer or even the unions. The big push has come from inflation-minded businessmen, doling it out like water for new plant and equipment.

Decline in business pending, to be sure, is going to have adverse effects on production and employment. And in some areas the pinch may be severe. Industries and regions that depend on defense or space spending are apt to suffer badly. Companies in difficult financial straits are not suddenly going to get better. But two big sources of demand are standing by ready to take up the slack.

Most important of all there is consumer spending. Since consumers receive about $800 billion a year in income, they are—by far—the biggest component in the total economy. A slight change in their buying habits can have tremendous impact.

Traditionally consumers spend about 94 to 95 per cent of disposable income. But recently there has been an increased propensity to save. For reasons not clear to anybody, the amount of disposable income being spent has dropped to 93 percent.

Recently, however, there has been a drop in federal taxes and action to increase Social Security payments. The guess is that these developments will combine with the slowing of inflation to bring consumers back to the market in their usual force.

Additionally, there is the matter of housing. High interest payments offered by banks have drained funds away from the savings and loan institutions, which finance much of the private housing market. In consequence, housing has been down, and in states and industries dependent, upon housing, for example, lumber in Oregon—there has been severe economic difficulty.

But with more investors prepared to buy bonds, interest rates will be declining at least slightly. That will make money more easily available to savings and loan institutions. And that should stimulate a modest recovery in housing.

What this means is that the Nixon Administration's basic plan for the economy seems to be working. Inflation has been gradually slowed. While unemployment has gone up to nearly 5 per cent, the chances are that there will not be a severe recession. And that, of course, is good news for the administration.

But not all that good. For even though a severe recession is averted, the recovery looks to be very sluggish. There is only slight lift—not a robust thrust forward—in sight for consumer spending and housing. When the election comes around, there will probably be considerable unemployment—perhaps at 5.5 per cent.

In these circumstances, the Republicans will be able to claim a performance that licked inflation without recession. But the Democrats will have the high ground. They will be able to point once again to men without jobs in a time of Republican rule.

INTEGRATION LAWSUITS

Mr. THURMOND. Mr. President, the current integration lawsuits, including 10 against public school districts in South Carolina, are hailed by many as a triumph for the liberal ideology.

Those who view the destruction of the public school system with satisfaction must be completely unaware of the practical problems which "technical compliance" brings. They are not aware of the real hardships which are being forced upon the local areas.

It is, therefore, important to become aware of responsible public opinion such as that published by our leading newspapers. The Charleston News and Courier, Saturday, July 11, 1970, in commenting on the integration suits, says as follows:

> The cause of public education will continue to suffer, until common sense and willingness to view the realities without prejudice are restored to our country. We have likened the emotional aspects of the integration issue to national Prohibition, which came and went in the space of about 14 years. Nobody can forecast how long it will be before some semblance of reason returns to management of public education. Perhaps complete wreckage of the schools in some neighborhoods will be necessary to demonstrate the futility of current policies. Meanwhile, a generation or two will be growing up without benefit of proper teaching.

Charleston, of course, is not one of the school districts under litigation, but the editorial clearly points out why.

Mr. President, I think it is important that Senators be informed of such responsible local opinion. I ask unanimous consent that the editorial from the News and Courier, entitled "More of the Same," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MORE OF THE SAME

> Announcement that 10 public school districts in South Carolina are among the targets of law suits by the U.S. Dept. of Justice is more of the same kind of dismal news that for 16 years now has been coming out of Washington on the subject of race relations. The misunderstanding and blindness that afflicted the federal government under both Democrats and Republicans have not yet run their course.
>
> The cause of public education will continue to suffer, until common sense and willingness to view the realities without prejudice are restored to our country. We have likened the emotional aspects of the integration issue to national Prohibition, which came and went in the space of about 14 years. Nobody can forecast how long it will be before some semblance of reason returns to management of public education. Perhaps complete wreckage of the schools in some neighborhoods will be necessary to demonstrate the futility of current policies. Meanwhile, a generation or two will be growing up without benefit of proper teaching.
>
> Misconception about the progress of integration in schools is fairly general. In an Associated Press report about racial disorders in Macon, Ga., the Associated Press—without attribution of any source—listed Southern cities which have approached integration on a "gradual but improving basis." Among them is Charleston.
>
> In some areas "improvement" would be accurate, notably in the area of public assemblies, as in the audiences that enjoyed "Porgy and Bess" at the Civic Auditorium. In public schools, however, something like "resegregation" has taken place in the city school district. Most of the schools are either totally or predominantly black. The proportion of Negro pupils in the city schools long ago passed 90 per cent.
>
> Genuine integration is impossible in these circumstances. The same factors will apply in other regions where the population pattern is not adaptable to total integration.
>
> The efforts of public school administrators to carry on under pressure for "compliance" are commendable. We sympathize with their dedication to the cause of teaching children, irrespective of race and other considerations. They should not be harassed constantly by a government that refuses to weigh human and educational qualities along with politics.

CHIEF JUSTICE WARREN E. BURGER

Mr. MATHIAS. Mr. President, this past June marked the end of the first year in office of a great Chief Justice, Warren E. Burger. In the past year it has become apparent that President Nixon's selection of Chief Justice Burger was indeed an outstanding choice for this most important post. In his first year, he has displayed commendable leadership for the American justice system. Throughout the year he addressed himself to the important issues of court reorganization, the responsibility of the legal profession, and penology. It already appears that Chief Justice Burger will rank among the most noteworthy of the 15 Chief Justices to date.

Within a month of the Chief Justice's first anniversary with the Court, he delivered an address to the American Law Institute indicative of the philosophy that has guided him throughout his career. His remarks reflect an understanding of the tensions of our age as well as a basic faith in the responsiveness of a system created by our Founding Fathers.

He states:

> It would be foolhardy indeed not to be concerned about the turmoil and strife and violence we witness, most of it mindless and devoid of constructive ends. But concern must not give way to panic.

The Chief Justice does not doubt that our system has the durability to respond through reexamination and revision.

I commend his brief remarks to the Senate and ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF REMARKS OF CHIEF JUSTICE WARREN E. BURGER, AMERICAN LAW INSTITUTE

> To accept your invitation here today has elements of both nostalgia and novelty for me. The novelty is that during nearly 20 years of ALI membership I never availed myself of the privileges of the floor and never had occasion to occupy the podium. This was not due to any general reticence on my part, but rather because I always had a feeling that those who sought the floor had more important things to say than I did on the particular subject at hand. I found it more profitable to listen, as I have found that true on the Bench listening to arguments from many here this morning. One occasion which might have tempted me to enter the fray was on a subject which, by a unique application

of the preemption doctrine, the Supreme Court managed to render your debate somewhat academic. That was when you were "preempted" by *Miranda,* even though I must say I thought the Court probably had to burn the Midnight Oil to get the opinion out before ALI could get its word in!

The nostalgia I mentioned is of only recent origin and purely personal. All meetings of ALI in Washington in May will bring stirring recollections to me and to my family, for it was during last year's meeting that the President announced my nomination to the Court. There is no reason any of you should recall it, but two newspapers had predicted the identity of Chief Justice Warren's successor with considerable accuracy some time in advance. However, the two major sources were so utterly polarized that they were given little credence. One story was by Mr. Walter Trohan in the Chicago Tribune; the other was by Mr. Reston in the New York Times.

I suspect the reason the others paid little attention to these predictions was that anything agreed upon by the *Times* and the *Tribune* was so inherently improbable as not to merit the attention of reasonable men.

Parenthetically I should add that I am still a bit put out that on the night of the announcement at the White House I had to make a difficult decision but I did so manfully. The day before my nomination I had belatedly paid $15 to go to the Annual Reception and on that night, even though I knew there was no prospect of a refund, I had to decide whether to go to the ALI or the White House. I decided that, on balance, I would be well advised to go to the White House before the President changed his mind. Happily the President did not charge admission for the event so I suffered no net loss. I therefore waive all claims to a refund on last year's unused Reception tickets.

The burdens of a first year in office, complicated by the matter of being somewhat shorthanded until recently, do not allow me very much time for formal speech preparation. There are, however, a few observations I wish to make which will neither detain you long nor tax you unduly.

Systems of justice are being attacked throughout the world. These attacks reflect the uneasy temper of the time. They stir and shake the mind and spirit and erode confidence. This is an era which we will not fully understand until it is over, but meanwhile we must cope with events, with a seeming weakening of some institutions, challenges to all institutions, and the inability of even our great centers of learning to maintain the confidence of many students or to preserve that order without which no progress or development is possible. Students and some adults seem to have missed the relevance of *order* as the foundation of all things in life which have meaning.

Of more immediate relevance to us as lawyers is that gnawing doubt whether our system of justice, especially criminal justice, is sturdy enough to withstand the assaults which are leveled at it, in and out of courtrooms. Some say that we must "crack down," that we must "smash" the challengers and restore tight discipline. In periods of stress there are always some voices raised urging that we suspend fundamental guarantees and take shortcuts as a matter of self-protection. But this is not the American way of doing things short of great national emergencies.

Clare Booth Luce, when she was a Member of the House from Connecticut, said in a speech during the dark days of World War II, "There are no hopeless situations; there are only people who have grown hopeless about them."

You have not grown hopeless. That you are here today conducting your affairs as always in the month of May is proof of that.

Our system of justice is indeed in need of study and reexamination and revision to make it work. The entire history of the ALI bears witness that you have worked and fought for changes and improvements in the mechanisms of our legal system. The recent history of the organized bar, and especially the ABA, shows the power of the legal profession to bring about needed changes. If we have the long view—which the ALI surely represents—we can see that we have never been a tightly disciplined people, and, reflecting this, our legal structure has been somewhat more relaxed than those of many other societies. If this has negative aspects it also gives us a resiliency to tide us over and enable us to meet any crisis as it arises. We will respond slowly but that is the nature of a democratic society. In those few periods of our history when we suspended basic guarantees of the individual in times of great national stress we often found, in retrospect, that we had overreacted.

That courtrooms or trials are disrupted or sought to be used as stages for demonstrations or as a forum for propaganda is not entirely a "new thing" (and I deliberately put this in quotes) but it has been uncommon because Americans in the long run have trusted the legal system—the bar and the courts. We judges, like generals who have no wars for a generation, and are out of practice, have perhaps been sluggish in responding to the new ways of trying legal and factual issues. But in time we do respond as when, without dissent, the Court put its stamp of approval on the splendid qualities of patience and judicial professionalism shown by the state trial judge whose actions we affirmed in *Illinois* v. *Allen*. It would be foolhardy indeed not to be concerned about the turmoil and strife and violence we witness, most of it mindless and devoid of constructive ends. But concern must not give way to panic.

This melancholy recital and some recent and tragic events might seem to give any expression of optimism a note of rashness or insensitivity and yet I am optimistic. I believe our institutions are durable. They will surmount any attack. This is so partly because no week passes in this country without meetings of men and women, dedicated as you are dedicated, to revise, improve and reshape our institutions to serve people. There is another dimension to our task. We need urgently to find ways to convince the young that progress is not made in great leaps and that the methods of the American Law Institute and others like it are the only road to durable progress. This is the American way to progress.

The work and the formulations of the American Law Institute have always reflected this quality of studied and restrained response, of careful innovation, of progress without haste or hysteria. The influence of your work reflects the contribution of the leading figures I have heard on this floor in years past—Augustus and Learned Hand, Pepper, Goodrich, Parker, Vanderbilt, Frankfurter and Jackson—to mention only some of those now gone.

Let me conclude this brief greeting by saying in this one year of new responsibility and new overview of the legal system, I have come to value more than ever the privilege of being even a mildly participating member of this great body. I will look to the work of the ALI as one of the great resources for progress and improvement in our legal institutions. For all that you have done and are doing I salute you and assure you of my keen interest in all your efforts to improve justice.

NAVY TARGET PRACTICE ON CULEBRA

Mr. MUSKIE. Mr. President, Culebra is a small island off Puerto Rico with a population of 743 American citizens. Like many of our other possessions, Culebra is a fishing community largely untouched by mainland America. But Culebra does have a distinction—it is a target for the U.S. Navy.

I ask unanimous consent that articles from the Wall Street Journal, the Washington Post, and the Armed Forces Journal be printed in the Record at the end of my remarks. These articles describe the kind of life Culebrans must live under the constant threat of Navy bombardment of their small island.

I have sent a wire to the Secretary of the Navy asking for a report on the Navy's justification for this activity. I cannot imagine a less questionable manner for the Armed Forces to show its respect for the people of an American territory.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Wall Street Journal, June 10, 1970]

Culebrans Fire Back: Islanders Seek To End Role as a Navy Target—Shells Fall Close to Governor of Puerto Rico; Residents To Get Hearing in Congress

(By Jerry Landauer)

Washington.—For more years than they care to remember, 743 American citizens living on tiny, sun-washed Culebra in the Caribbean have endured all that the U.S. Navy can dish out.

Their island and nearby uninhabited cays between Puerto Rico and St. Thomas are being bombed, strafed, shelled and torpedoed almost every day. Houses shake, women sometimes huddle in fear to pray, and children shout: "Las bombas—vamanos!" (Bombs—let's get out of here!)

Ships and planes batter Culebra—a municipality of the Commonwealth of Puerto Rico—because part of the seven-mile-long island is a target range that the Navy deems indispensable. Officials acknowledge that probably no other civilian community bears so disproportionate a share of the defense burden, but they can't promise the Culebrans relief; the Navy says no other equally suitable spot can be found to provide "realistic" training for Atlantic fleet gunners.

For years, fishermen and farmers accepted the Navy's contention. Having sent 12 young men to war in Vietnam, the islanders patriotically endured 228 days of aerial rocket firing practice last year, 123 days of naval gunfire and 114 days of strafing by jets. Target practice lasted an average of three and a half hours, even on Sundays, and it seems to be intensifying. Through May 22, naval aircraft recorded 17,860 runs to the target this year; that's a faster pace than last year's total of 37,500.

What's more, Culebra is so inviting that the Navy lets ships of friendly nations join in the shooting. In the past year the target area was raked by warships flying the flags of such countries as Venezuela, Great Britain, Brazil, West Germany, the Netherlands and even Trinidad-Tobago.

LIVING IN TERROR

All this action, according to Culebra's municipal assembly, requires islanders to live in a "psychological state of confusion, anxiety, insecurity and terror, and we are in constant danger of losing our lives."

Indeed, the islanders are in revolt, and today they're finally getting a hearing in Congress. The mayor, World War II veteran Ramon Feliciano, intends to tell a House Armed Services subcommittee that abuse of his people is making the Navy unwelcome. "The Navy must leave Culebra in peace," he insists.

What irks the islanders most right now is a Navy plan to convert 2,300 precious acres—nearly a third of the island—into a residence-free "safety zone." This land is needed, the Navy says, so that Walleye and Bulldog missiles can be fired at nearby cays with minimum danger to the population. But if this plan is executed the Culebrans will be hemmed in; a peninsula to the northeast is already an "impact area" for shells.

"They now have us, the fishermen, corralled like animals," says 56-year-old Juan Rosano.

Still, Culebrans might have accepted this further infringement on their freedom if the Navy had been more sensitive to citizen complaints. (Some officers think land speculators and left-wingers are chiefly responsible for the embarrassing agitation.) Instead, the service often appears to treat the people in a high-handed manner.

A minor but revealing example: On April 11, 1968, Anastacio Soto filed a claim for $197 to cover the loss of nine lobster traps he said were destroyed by ships on maneuver. The Navy countered on July 16 with a compromise offer of $67.50, which the poor but proud fisherman rejected; his claim for the full sum is still pending.

IGNORING THE SCHEDULE

To satisfy such small claims in full would cost far less than the ammunition poured in Culebra in a few minutes. Besides, fishermen haven't received a cent for the loss of catch caused by naval maneuvers. (Fish killed by shells or ships sometimes pile up on shore.)

In the past, moreover, aggrieved islanders rarely filed damage claims, in part because Mayor Feliciano's predecessor, who served from 1944 to 1960, seemed more friendly toward the Navy than toward them; he was, in fact, a retired Navy man. "I didn't know where to go or that I have any rights," storekeeper Justino Quinone recalls. "The Navy officials were important and they did not speak Spanish."

Yet the handling of claims is a relatively minor factor in Culebra's discontent. Far more important is the Navy's apparent inability to observe the firing schedule it tacks up at the post office and at the air strip.

As recently as May 22 the Navy pulled what could have been a ghastly blunder. No gunfire was scheduled that day, and no warning flag was hoisted from the Navy observation post, so six children went swimming in Flamingo Bay. But at 3:30 p.m. mortar shells started falling, close not only to the swimmers but to a yacht occupied by Luis Ferre, governor of Puerto Rico. The governor had just visited Culebra to find out why the Culebrans were clamoring—and to receive Navy assurances that unscheduled firings rarely occur.

"This incident changed the thinking of all of us," Gov. Ferre now says. "Every step must be taken to protect the life and tranquility of the people of Culebra."

Statements collected for the House subcommittee hearing by attorneys Richard D. Copaken and Thomas C. Jones Jr. of Covington & Burling, a Washington law firm giving free legal advice to the Culebrans, suggest that Gov. Ferre's experience isn't unique.

Fisherman Francisco Blancera says low-flying planes fired close to his boat last February, causing him to jettison fishing gear. Tomas Rivera was swimming when he sighted a warning from the Navy's observation post; "Without giving us time to leave they began shooting mortars," he complains. Oncio Cibera says four jets dived at his fishing vessel last fall; "When the first one fired I started the motor to leave, but all four of them fired, one after the other."

Angered by such incidents, Mayor Feliciano composed an "ultimatum to the United States Navy" from "we, the people of the island of Culebra." Among other things, it charges the Navy with hurling "live missiles and napalm on our birds and their nests," allegedly in violation of an order issued in 1909 by President Teddy Roosevelt, a conservationist.

Such prose is, of course, intended to tug at the sympathies of mainland Americans, in hopes of compelling the Navy to search anew for alternative firing ranges. And to make sure his message isn't being missed, Mr. Feliciano even demands "space for interment of our dead," besides a hospital, home-building sites and recreation facilities. The Navy notes that no islander has ever been killed by gunnery exercises.

[From the Armed Forces Journal, May 1970]

Culebra: Navy Focus on Cinclant's Bull's Eye Is Way Off Target, but May Be Coming Into Range

(Note.—What matters is . . .

(The Journal sometimes gets stories that we'd rather not print. In many ways, this is one of them.

(But we don't make the news: We report it.

(Sometimes our reporting isn't as accurate, we find out, as our readers rightfully expect. (For a good example, see this week's Defense Forum.) Our research isn't always as thorough as it should be for a journal which readers expect to lay out both sides of an important issue. From time to time, we realize too late that we've really not been as fair or as objective as an independent Spokesman for the Services ought to be.

(But "Spokesman for the Services" doesn't mean "mouthpiece for the brass."

(Our hearts are with the United States Navy, but not about Culebra. Not now. Our biases, our opinions have shifted from the Navy's side to the Culebrans' as we tracked down and checked out the story on these pages. In this case, we think our facts, our research, our candor will check out better than the Navy's—at least until RAdm Norvell Ward, new Commander of the Caribbean Sea Frontier, finishes an analysis he seems quickly to have set in motion when the Culebran problem was brought personally to his attention last week.

(We have spent more money, more hours, more interviews checking out this story than any news the "new" Journal has printed in 2½ years. Because we were sort of hoping there really wasn't anything of substance to report. That's why this issue went to press three days late: The substance we had hoped would evaporate, didn't. Its flavor, however, showed some prospect for improvement after The Journal visited Culebra last Friday and Saturday.

(This is not a news report. It's a commentary, with our opinions. It's candid, but we think it's fair. We hope the Navy—in time—can think so, too.

(We chose, in many instances, not to print the names of Navymen who are quoted here, but whom we now believe to be wrong, or misinformed, or poorly advised. What bothers us is that they were the Navy "experts" on Culebra. But they were sincere and, we believe, wanted to be honest—if sometimes less than candid.

(What matters is not who said what, but what now should be done. With the Culebrans. By the Navy. For the country which both of them love.—The Editors.)

(By Ben Schemmer, Clare Lewis, and the Journal Staff)

Culebra Island, May 22.—Like the mouse that roared, the tiny island of Culebra—owned in part by 743 Spanish-speaking, patriotic U.S. citizens who have representation but no vote in Congress—has appealed to the Governor of Puerto Rico and the House Armed Services Committee to help it win a battle with the United States Navy it has tried hard to avoid.

The Navy wants to expand gunnery and bombing operations on this docile, 7,000-acre Caribbean municipality used as CINCLANT's bull's-eye. Culebrans have accepted their odd destiny with quiet humility for over 35 years, in some respects for almost 70. Now, they want the Navy to shoot at something else.

The Navy says that it has no choice: that it needs more targets and larger safety zones on Culebra for new air-to-ground missiles like Walleye, Standard ARM, Bulldog, and Hobo glide bombs. But some of the very experts who stress this now admit they haven't even read the studies telling what's wrong with a host of other, uninhabited nearby island alternatives.

You probably read about Culebra in *Life* on 10 April. But *Life* cut into the onion no deeper than the peel, and facts available to The Journal suggest that the Navy—even though it sliced a lot longer—hasn't gone much deeper. Hopefully, the Governor of Puerto Rico and the House Armed Services Committee will cut through to the middle.

Hearings on the Culebran issue will be held this week before a HASC Real Estate Subcommittee headed by Representative Charles Bennett (D-Fla). Since 1954 the Navy has wanted to buy the entire island, on which it already owns at least 2,683 acres. But on 31 December, Culebrans wrote to President Nixon objecting to Navy plans—never explained to them—to resettle Culebra's 450 families on the nearby island of Vieques, which in part is another Navy bombardment target.

The quiet islanders began making noise when bombardment operations peaked, early this year—led by the Navy, but with ships of at least six (and some say over 20) other nations peppering away, too.

Since, the mouse that roared has lost a major court battle, won a partial but ironic victory from the Navy (see page 39), and today could be calibrated on a political/social bull's-eye which the Navy apparently doesn't see.

After stabbing at the onion for the last ten days, our impressions of the "Culebra problem" could fill a book. The Navy wouldn't like it. Nor does The Journal. Here, in brief, is why:

INNUENDOS

We've heard more innuendos from the Navy than facts from either side. Navy spokesmen suggested, in The Journal's preliminary inquiries, that the Culebra problem stemmed—to a large degree—from "confusion stimulated by greedy guys." What apparently were innuendos about Culebran landowners and other U.S. citizens hoping to develop small parcels of land or exercise development options jeopardized by the Navy's Culebran plan just didn't check out.

In the case, for example, of a St. Louis Washington University professor who has a limited option on property near the harbor of Dewey, but who has been outspoken on behalf of the Culebrans—and whose interests were subtly questioned by the Navy—The Journal has a sworn affidavit that he would give up his option, *at cost*, "to the end that goals of the people of Culebra may be realized."

Suspicions that expenses incurred by Culebra's Mayor Ramon Feliciano, traveling on his islanders' behalf, were paid by land promoters just aren't true.

Slurs against a retired Methodist minister on Culebra who's added his voice to the mouse's roar aren't worth the paper they're printed on—except to put the Navy's problem in perspective.

A group of so-called "squatters" turned out to be Culebrans who have built houses on land the Navy moved them to, but for which they can't get deeds.

SINCERITY ON BOTH SIDES

The Navy is sincere, but readers who talk with the Culebrans would probably find them even more so. The Culebran problem isn't targets: it's people—patriotic, warm, gracious, honest, candid Americans who aren't accustomed to dealing with bureaucratic subtleties. They are not at war with the Navy. The only enemy the Culebrans have is indifference. But when you're sitting on the bull's-eye, it doesn't matter whether it's friend or foe who pulls the trigger.

The Culebrans earn their living from the land, and from the sea. They have only limited access to both, and the Navy proposes to make the limits even tighter. There is no school on the island; there is, as yet, no hospital. For both, the Culebrans must go to the Puerto Rican mainland. Denial of that access becomes a major infringement on their very lives.

What the Culebrans have asked for—and for 35 years didn't get, until about two weeks ago—was a "dialogue" with the Navy.

ILL-ADVISED EXPERTS

Some Navy Culebran "experts" are, in large part, ill-advised, misinformed, or blind. Asked "How do the Culebrans really feel?" on OpNav action officer, referred to The Journal by a higher authority, said bluntly: "The Culebrans want the Navy to stay." Asked about a very recent poll in which 304 out of 313 Culebran families voted to have the Navy *leave*, this officer said he had not heard of any such vote, but got his dope from a Culebran who "really had his pulse on the people." When The Journal later got the source's name, he turned out to be custodian of the Navy's Culebran range. Culebrans said they love this man, but that he is 70-some years old, and perhaps not attuned to his people today.

Navy spokesmen—guys on the front line on the Culebran issue—had few details on and little perception of alleged serious safety problems and near tragedies that vitally concern these U.S. citizens just miles away from CINCLANT's bull's-eye—even though most have at least been mentioned by the press. Notwithstanding Navy disclaimers on civilian accidents, it is reasonably clear that at least four serious injuries have resulted from Navy/Marine Corps operations on and near Culebra since the island first "joined" the Navy in 1901.

In 1914, Isaac Espinosa lost his right arm from a grenade or detonator he picked up on Culebra's shore. In 1935, Alberto Peña Garcia, a 15-year-old schoolboy, was killed when he playfully banged a USMC grenade with a hammer. That same year, in a different accident, Vincento Romero lost his right arm.

These accidents don't quite track with carefully structured Navy statements that "no one has been killed or injured as a result of this training." Because the Navy statement technically refers to ships' gunfire practice since 1936, after Marine Corps maneuvers were moved to Vieques. But no one The Journal was referred to had ever heard of young Sixto Colon, who lost his right eye in 1964 playing catch with an explosive toy which Culebrans say the Navy left on the island. And the Navy spokesmen didn't mention the nine Navy men killed in April 1946 when an aircraft dropped its ordnance on an observation post painted the same color as the target.

Navy spokesmen mention near accidents, such as the time the battleship *New Jersey*, late in the '40s or early in the '50s, lobbed shells on a cistern between the town of Dewey and the impact area. Or when the *Missouri*, about the same time, scored on the safety zone instead of the impact area. Or when "destroyers fired over the island." But no one The Journal has been referred to by the Navy seemed remotely aware of even more recent incidents in which:

The San Juan yacht *La Vagabunda* had smokepots dropped athwartships during five passes by an aircraft on a clear day while the vessel cruised amidst a flotilla of 14 others.

A bomb "or something" landed in Dewey Harbor just months ago, 400 yards from the house of Culebra's only doctor.

"1,000-lb bombs" landed intact in six to 10 feet of water just off Culebra's eastern shore.

(Each of these allegations was verified by The Journal through recorded eyewitness reports and/or on-the-ground surveys.)

ALTERNATIVES

There may not be any alternative to expanded operation on and near Culebra. CINCLANT *does* need targets, especially for new missiles with bigger "footprints." What bothers us is that the "experts" who rejected the alternatives apparently haven't read the studies about them—that's what two of the experts conceded.

The Journal doesn't want to second-guess the Navy, but Puerto Rican Governor Luis Ferre told us on 22 May that "There is so much area nearby that has not been exhaustively studied." He mentioned such possibilities as:

Vieques—The Navy and Marine Corps already use the island's eastern 2¾ miles for naval gunfire support/aerial close support targets, the next three miles inland for a Marine landing/maneuver area, and Vieques' western end for an "inert" naval ammunition depot. *Question:* Why not move the "ammunition depot" to Culebra, the Marine maneuver area to the western end of Vieques, and the new targets and expanded safety zones for Walleye, etc., to the freed area on Vieques' eastern coasts? CINCLANT's "expert" conceded he had "never thought about it." Yet SecNav's office repeatedly deferred to this very officer on questions on the alternatives so "exhaustively studied." A CINCLANT spokesman later explained, however, that "it's really not [this officer's] job to answer these kind of questions," and referred The Journal back to Navy headquarters in Washington. Governor Ferre told The Journal Friday that the Culebra/Vieques switch could have substantial merit and that he'd probably discuss it with his "good friend Mel Laird."

Isla Palominos—At the very closest, by nautical charts The Journal looked at on the scene, this 165-foot-high island is at least 2¾ miles east of Puerto Rico, 1¾ miles from the nearest (and uninhabited) island—and it's close (10 nm) to CINCLANT's gunnery operations center at Roosevelt Roads.

Caya Lobos—A 40-foot-high island 2½ miles from the northeastern tip of Puerto Rico, which boasts of a luxurious hotel. The hotel has been empty for the past four to five years. (If the Navy needs more varied terrain than this "flat" island provides, barges of dirt could change it, we think, and dirt costs less than the rental on Culebra—even under the Navy's 30 April $70,000-a-year easement.)

We don't question Navy statements that, from a strictly military viewpoint, Culebra is "the most suitable" target complex. What's at issue is whether or not others, more "suitable" from a political/social viewpoint, still could be militarily "acceptable."

WHAT IT BOILS DOWN TO

Navy spokesmen have been less than candid. What sounded like "substantial investments" turns out to be acquisition costs of $501 for Culebran land Culebrans can't use. Injuries, incidents, and accidents alleged apparently haven't been checked out.

The irony of the "Culebra problem" merits thought. A Supreme Court ruling of 1958—won by the *American Communist Party*—held that the right to travel "across frontiers in either direction and *inside the frontiers as well*" is a right guaranteed by the fifth amendment (emphasis added). It is incongruous that Culebrans don't benefit from this ruling, while the American Communist Party does.

Culebra's new "custodian," Admiral Ward, is the Navy's former (and first) Safety Director—another irony, but perhaps a hopeful sign as well. An attorney writing Culebra's appeal to the Supreme Court is a Director of the San Juan Navy League.

And the final irony may prove to be this: The whole Culebra problem hinges on the five-mile safety zone needed for Walleye and other new guided missiles. But Walleye apparently isn't funded for production next year. And all the follow-on missiles (Condor, etc.), a Navy expert let slip, have safety-zone footprints so much larger that they "could not be tested at all on the Culebrita targets" about which the Navy has been so adamant.

The Navy may have legal as well as political and social problems with Congress over the Culebra issue. For one thing, the statute under which the new leasehold is being requested apparently requires the Navy to specify payment costs. The 30 April request says only that the new easement "exceeds $50,000." Second, a key CINCLANTFLT official told Washington attorneys representing the Culebrans—on a no-fee, "pro bono publico" (for the public good) basis—that Culebra is a "range." He said the area is not a "training camp." But Title 10 USC 2663(a)(1), from which the Navy request derives, provides condemnation power *only* for fortifications, coastal defenses, or military training camps. A fine point, perhaps—but it could be a crucial one for the Culebrans. And for the Navy as well.

As Governor Ferre told the Journal, "This is an issue *everyone* can still win," given time for the dialogue Culebrans have sought—given time for a really good whack at the onion. But if *anyone* loses, no one wins. And the Culebrans lose if the Navy wins too soon. Congress should give the Culebrans time for the Navy to catch up on its reading.

Presidential Executive orders signed in 1901 and 1902, and reaffirmed on 26 June 1903, reserved all public lands on Culebra and adjacent cays for use of the U.S. Government, under Navy jurisdiction. Air space over the island and water three miles around it were restricted to exclusive use of the military by Presidential Executive Order 8684, signed 14 February 1941.

One effect of these Executive Orders is that private planes and ships must arrange for special Navy permission to approach or leave the island—one of 76 municipalities of the Commonwealth of Puerto Rico. *Life* magazine wrote on 10 April: "To all intents and purposes, the 700 [*sic*] islanders are prisoners on their own land."

On 5 December of last year, RAdm Alfred R. Matter, then Commander Caribbean Sea Frontier, wrote a Puerto Rican land developer—who wanted to build vacation condominiums on 225 acres on Culebra's eastern tip—an unfortunate letter which described vividly what the Executive Orders mean to U.S. citizens on the island:

"Culebra Island is a keystone in the Atlantic Fleet weapons range, which encompasses Naval Station, Roosevelt Roads, nearby Vieques Island, and thousands of square miles of ocean area. This large complex is expanding and operations are becoming increasingly intensive, frequently being conducted through seven days of the week. As such use increases, inhabitants of nearby areas such as your property will be subjected to the noise of supersonic booms, gunfire, rocket fire, and heavy air traffic."

Culebrans since have lost two legal battles to replace the "supersonic booms, gunfire, rocket fire, and heavy air traffic" with the more tranquil environment for which their neighbors on the U.S. Virgin Islands just 10 miles to the east are envied. On 11 March, the U.S. Court of Appeals in Boston upheld an earlier District Court decision and reaffirmed the Navy's legal Culebra and its nearby cays and rocks.

Two days later, on 13 March, Culebrans

voted in a town meeting to ask the Navy to withdraw from their island. What turned these docile custodians of CINCLANT's bull's-eye into the mouse that roared, one citizen told The JOURNAL, was the "new generation." "We have been peaceful and tolerant, but our lives have been in danger. I am the father of two sons and a daughter. Airplanes loaded with bombs pass over. It's as simple as that."

In past years, three Puerto Rican governors have resisted DOD overtures to buy the island outright, citing a provision of the Commonwealth's Constitution that no municipality could be dissolved without approval by its own people in a referendum. On 26 March, the Puerto Rican Senate passed a unanimous resolution asking President Nixon to "re-examine the Navy's activities in Culebra for the purpose of assuring the residents . . . peace, order, free movement, and development of economic interests." Since, the Culebran issue has been widely publicized. Feature articles have appeared in the *Miami Herald* (2 April), the *San Juan Star* (4 April, 17 May), *Life* (10 April), and the *New York Times* (15 April).

President Nixon on 14 April directed staff assistant Hugh W. Sloan, Jr., to write Mayor Feliciano, informing him that the Defense Department "is reviewing restrictions imposed."

On 24 April, Culebrans won a partial victory, but a questionable destiny. RAdm Alfred R. Matter announced an alternative Navy plan at a press conference in San Juan. (The Navy never consulted with Mayor Feliciano or the citizens of Culebra in developing the plan, nor were they invited to the press conference at which it was announced.)

Instead of outright purchase of the entire island, the plan would return to the Culebrans 10 miles of beach and coastline, along with 680 acres of land near the town of Dewey (named for the naval hero) for use as homesites, recreational areas, and a medical dispensary. (Earlier, the Navy had refused to turn over two acres of unused land so that Culebrans could build a hospital for which the people—only half of whom have jobs—had already raised the money.)

But the Navy still proposed to lease, and later to buy by right of eminent domain, a new parcel of 2,350 acres covering the eastern one-third of Culebra. Since the western third of the island is an impact area and safety zone for naval ship-to-shore gunnery training, Culebran families centered in the town of Dewey felt they would be "strangled." Shells would still explode 2½ miles to their west, and bombing/missile runs would intensify 3½ miles to their east. The Navy told The JOURNAL that the bombardment operations would climb from about 5,000 sorties in FY 69 to over 9,000 sorties this year.

Governor Luis Ferre—who reportedly hadn't set foot on Culebra since 1943—greeted the revised Navy plan with enthusiasm. He said it would pave the way for the turnover to his Commonwealth of other Navy-owned land in Puerto Rico, at Ft. Buchanan and Isla Grande. (He did not say, but The JOURNAL learned, that other Navy lands on the north central coast of Vieques might also be freed.) Governor Ferre said that the Navy's new Culebran plan would "substantially improve the living conditions of residents on this island" and that it revealed a "new attitude" on the Navy's part which would probably lead to better relations in the future between the Navy and residents of Culebra.

But on 15 May, the Puerto Rican Senate voted, with only one dissenting vote, to back the Culebran islanders in opposition to the Navy plan. In the Puerto Rican Senate, Governor Ferre's party is in the minority.) On 21 May, the Senate's minority leader indicated that he would go to Washington to testify on behalf of the Culebrans. Although Governor Ferre has been careful not to take a strong public position, it is now clear that bipartisan support is coming together throughout the Commonwealth of Puerto Rico for the Culebrans. Governor Ferre made it clear to The JOURNAL on 22 May that he would give serious study to other alternatives and would get the Navy to work with him so that peace and calm could return to Culebra.

At JOURNAL presstime, however, the Navy proposal still stood. It was submitted to Congress 30 April as a routine, 1¾-page FY 70 real estate acquisition request. But the House Armed Services Committee will give the islanders a chance to make their feelings known early next week.

Their feelings are clear. Earlier this month, 304 families of 313 polled voted to back Mayor Feliciano's request that the Navy leave Culebra. Unless the House Armed Services Committee specifically disapproves the Navy request, they could still lose: condemnation proceedings could begin the day after the mouse makes its roar heard in Congress.

"Box to the Dead" an Alternative to Culebra?

One alternative to an expanded bombing range on Culebra which CINCLANTFLT may not have explored was mentioned to The Journal by Governor Luis Ferre and to others last week by Headquarters Caribbean Sea Frontier. It's an uninhabited island just two miles off Puerto Rico's south central coast.

It's called Isle Caja de Muertos, Translated, that means Box of the Dead, Or, literally, Coffin.

The View From the Admiral's Bridge

A fast fuse now burning close to the powder may have a dim chance of turning instead into a candle of hope, if the Navy's former Safety Director and new Commander Caribbean Sea Frontier, R. Adm. Norvell G. Ward, serves as an accurate "switch-board" to Washington. We hope he'll tell the Navy that what's really at stake on Culebra is people, not targets, Navy people, as well as Culebrans.

At an early breakfast in San Juan on 23 May, Admiral Ward told The Journal that:

The Navy had no record, so far as he knew, of many of the recent civilian casualties and near-miss incidents alleged (and, in The Journal's opinion, too casually dismissed by the Department of the Navy). Admiral Ward said, "Since becoming aware of the large number of alleged incidents wherein people of Culebra may have become endangered, I have asked the Missile Range Facility to report to me on all incidents they have recorded of misfires or wild shots on the bombing and gunfire support ranges."

He had not asked his staff to take a look at other possible target choices, but one senior officer there had indicated that there were other islands in the vicinity of Puerto Rico that might be alternatives. He told The Journal, "We have not studied them and do not have the necessary capability or expertise to make a meaningful study. It is the Fleet Commander who is knowledgeable of all the requirements both operationally and logistically and the needs for instrumentation. . . . I could conduct the study if provided the technical expertise, but would anticipate that CINCLANFLT would call upon those with the expertise to make any additional study, as I assume they did in the prior studies. . . ."

He had "been in conversations both with Mr. Grimes [on Friday morning, 22 May] and with CINCLANTFLT headquarters and apprised them of the latest developments," suggesting that when they appear before the House Armed Services Subcommittee, "they should have all of the substantive facts at their fingertips, and be prepared to answer many probing [and, in The Journal's opinion, embarrassing] questions. Otherwise, the results might not be as desired."

He would check out alleged near misses involving commercial and general aviation aircraft—for his personal information.

He felt that "Mayor Feliciano is very sincere in his efforts to prevent the Navy from acquiring the land deemed necessary for safety purposes if we are to continue using the range."

Allegations of "deals" between the Navy and the Commonwealth of Puerto Rico for reacquisition of land benefiting the mainlanders, at the expense of the Culebrans, could be put in a more constructive light. "The Navy does have a plan for land reverting to the Commonwealth of Puerto Rico as it is no longer required, in accordance with agreements made when it was turned over to the Navy after the Army withdrew from the island of Puerto Rico. The Navy has excessed parcels in the past two or three years which have reverted to the Commonwealth. Specifically, yes, the Navy has plans for changing the boundaries of its land on Vieques."

Asked how his command referred to the Culebran "problem," "issue," or watever, Admiral Ward said: "People around here call it 'the Culebra problem.' I assess it as a very serious issue, the outcome of which is uncertain, and one which is uncertain, and one which, if resolved by Congress in the Navy's favor, will result in an intensification of the efforts by Mayor Feliciano to marshall public opinion behind his cause. I see it as a continuing and very difficult problem for us." How serious, in our view, depends on the kind of "switchboard" Admiral Ward turns out to be.

Call to "Big Mary"—Anything To Avoid Arrest

If you want to go swimming off Culebra, call "Big Mary" first. Big Mary is the Navy observation post on the island's northwest peninsula. Call on 122.8mc if you want to dive into the water from an airplane, or fly over or land on the island.

It's illegal—a federal offense—if you don't, and the fine literally could be "$5,000 and/or imprisonment for a term not to exceed five years."

Luckily, The Journal found this out and got permission from Big Mary before going snorkeling with Culebran citizens to verify reports (which Navy first doubted) that "1,000-lb bombs" or big shells lie 10 or so feet down on the harbor bottom, near the island's best beaches—next to the Navy "safety zone," as well as in impact areas where Culebran fishermen drop anchor, with Big Mary's permission.

The ordnance was indeed there, big and ominous. Maybe a 1,000-lb bomb, maybe not—but too big to carry back to the Navy.

By virtue of the 1941 Executive Order creating "Culebra Island Defensive Area" and the "Culebra Island Naval Air Space Reservation," the 10-mile-long island is totally enveloped by an artificial legal barrier comprising its entire territorial waters three miles from the island's high-water mark, as well as the "air space over" it. Entry into these zones without prior okay from the military is prohibited.

The Journal asked RAdm Norvell G. Ward if it literally would be illegal to go bomb-snorkeling off Culebra without the prior okay of Big Mary. Admiral Ward affirmed the technical effect of the 1941 Executive Order. Asked for HIS permission to snorkel for bombs, Admiral Ward explained the Navy chain of command and asked The Journal to call Big Mary.

Culebra/San Juan, 24 May.—The resident Navy seaman in charge of firing operations on Culebra admitted in writing today that he and three other Navymen fired six mortar rounds into a bay on Flamingo Beach where "bathers were . . . earlier"—but that "when we fired the mortar rounds, we did not look at the beach." By his description, "Three rounds were fired long and three were fired short." The shells landed within 200 yards of seven children and at least one adult, interviewed and photographed on the spot today by The Journal.

The Navyman also admitted that, at the time of the near tragedy, "The red flag was not raised" (over their observation post, which has a commanding view of the beach). The flag is a standard range signal to warn those in the area that firing operations are about to begin or are underway.

Two of the children and a 30-year-old Culebran woman signed a separate statement that:

They had checked firing schedules posted throughout the town of Dewey before going swimming; "No firing was scheduled." (The Journal has the schedules: No firing was scheduled.)

Before swimming, and moments after seeing the rounds land, they had checked for the red flag on the OP above the beach; "We looked for a red flag—but saw only the United States flag."

Just one hour earlier, Journal publisher Ben Schemmer—flying into Culebra for a meeting there with Governor Luis Ferre—listened to the Navy OP, call sign "Big Mary," advise his aircraft that "We have no operations today." Schemmer had requested permission to photograph Navy targets on Culebrita Island. Big Mary inquired, "Request why you want to take pictures of Culebrita." Told that Schemmer was an editor, Big Mary responded, "HMMMMmmm," "Wait," and then advised, "Request you remain clear of area near Twin Rocks." Targets on Twin Rocks, a federal bird sanctuary, are at least seven miles east of the beach toward which the mortar rounds were aimed.

RAdm N. G. Ward told The Journal in San Juan late today: "The incident reached my attention today and it is under active investigation to understand why it happened. There is no denial the incident occurred. The info I have is not clear and garbled."

The senior man on the island in charge of "Big Mary"—a Navy petty officer first class—said in his written statement, "I asked [the Navy range officer at Roosevelt Roads] if we could make these [mortar] firings. . . . He said go ahead." The same officer had been asked on Friday or Saturday, by Washington attorneys representing the Culebrans without fee, about the then-alleged mortar firings at Flamingo Beach last Friday, and reportedly said: "No, it's impossible, it never happened. Every mortar round was under lock and key. There were no operations scheduled and none were carried out."

The Journal was told by several Culebrans that the Navy Seaman in charge of the Friday firings said at a town meeting on 14 March (the day before the Culebrans delivered their "ultimatum" for the Navy to leave their island): "Culebra could demonstrate as much as it wants, but with one shot the Navy could blow everybody off the island."

[From the Washington Post]

U.S. NAVY ALWAYS WINS

(By Nicholas von Hoffman)

Since Sixto Colon Robinson was a young boy and sure of anything, he always knew one fact for certain: The United States Navy always wins.

Sixto Colon Robinson lives on an islet in the sun off Puerto Rico named Culebra. Somewhat less than a thousand other people live on Culebra which would be as uneventful as its permanent summer climate if it were not for the American Navy, which has kept the place under almost remitting bombardment for 10 years. Part of Culebra, the water around it and the air above it is included in the Atlantic Fleet Weapons Range.

When Sixto Colon Robinson was 13 years old and walking with playmates on their islet something happened that taught him the Navy always wins: "We found a long, black object along with five pounds of gunpowder. We playfully started setting fire to small amounts of the gunpowder. When the last gunpowder was being burnt, the long, black object fell into the flames. The object exploded violently and fragments flew in every direction injuring all my friends . . . My entire body was covered with flying fragments. One of these fragments cut into the retina of my eye . . . My mother never filed a claim against the Navy because she was told the Navy always won . . . many Culebrans with potential suits against the Navy never file because there is a belief that the Navy never loses."

Culebra loses all the time. Things are so bad there that Ramon Feliciano, the island's mayor, sent the following ultimatum, as he called it, to the Navy a couple of months ago: "You have mined, bombed and torpedoed our fish and fishing areas. You have fire-rocketed and bombed napalm over our birds and their nests. Human and computer errors have misguided your missiles to our harbors and private lands, exposing us to death. Knowing of the presence of a civilian population in the center of the area where you carry on your maneuvers, you continue and plan the increase and intensification of these activities on and around the island of Culebra.

'The intensity, the frequency, and the type of maneuvers carried out by the Navy of the United States have created a situation that passes the limits of our human tolerance."

If the alcalde seems a bit overwrought read what John Kenneth, the Culebra school principal, says:

"We conduct our school classes daily in an environment wherein at any moment we can be the victims of a tragedy. Low flying aircraft, often at supersonic speeds, conduct mining maneuvers one mile southwest of the school; bombing and rocket practice 1½ miles west of the school; and heavy bombing with live bombs as heavy as 1,000 pounds 3¾ miles east of the school. Naval gunnery is practiced year round on target two miles north of the school. Navy torpedoing is carried out 4½ miles east of the school. The resulting noise is so intense that on many occasions it is impossible for the teachers to maintain the attention of the students in classes. We conduct classes in a constant atmosphere of fear for our lives, in school buildings tremble. You can see fear in the dangerously cracked by the vibrations caused by the explosions of ordnance."

Carmelo Feliciano, a teacher in the school, also testified before the House Armed Services Real Estate Subcommittee that, "When bombs and shells are exploding the school buildings tremble. You can see fear in the children's eyes. They sit in a peculiar way as if ready to run at a moment's notice. During periods of heavy night bombing, students fall asleep in class. Bombing is carried out far past midnight every day and these kids are kept awake until early morning hours."

Senor Gonzalez, the island's grocer, told the subcommittee, "For some time now, it has been increasingly difficult to get any kind of goods to Culebra. Navy restrictions on sea transportation allow only one boat through from mainland Puerto Rico. The space on this boat is limited, and the costs are high so that the people must pay more for what they buy. Eggs, milk, bread, meat and other basic foods are frequently out of stock.

The operator of the air taxi serving the island says that Navy regulations require him to make an approach in adverse winds that is often so dangerous he can't land.

The economy of Culebra is ruined, according to Claro Feliciano who tries to make a living raising livestock:

"In our farm we raise almost exclusively Brahma cattle for beef. It is a very nervous breed of cattle but especially suited for the hot and dry climate of Culebra. The noise of the jets, the bombing and shelling continually provoke stampedes, and the cattle break fences and go for days without eating or watering properly. Because of this our cattle do not put on enough weight and we lose money. The Navy does not compensate us for this.

"Navy personnel in Culebra are very rough on private landowners. They trespass on private property and build roads on private land without permission. The landowners are afraid of Navy officers because they threaten the landowners with taking them to court if they do not allow them to use their land. They are afraid of being dispossessed if they do not allow Navy men to do as they please.

"During the drought season the cattle owners suffer a great deal. The pastures dry up and the star shells fired by naval vessels set fire to dry pastures, reducing considerably the available forage for cattle. Again no compensation is paid. We live in constant danger of being killed while working in our farms. There are many unexploded bombs and shells. A few bombs exploded in Francisco Feliciano's farm about 30 feet from a house occupied by Diego Boano and his wife. The bombs killed a steer and damaged Bonano's home. No compensation was paid."

The Navy's response to the killing of Diego Bonano's steer was a letter to the mayor from Capt. W. D. Dietz which said, "It has been determined that the shells which fell near the residence of Mr. Diego Bonano did so as the result of either a mechanical error, a personnel error or possibly both, during the gunnery exercise which was being conducted at the time. I am very sorry that this incident occurred and you can rest assured that every precaution will be taken to prevent such incidents from recurring."

The fisherman, Anastasio Soto, said that, "The Navy ships destroy lobster traps and fishing nets which take a year to come apart and meanwhile they trap fish and lobsters. When this trapped and wasted catch dies and rots, the sea is contaminated, which further depletes the area of its sea life. The use of explosive kills off fish, lobsters and birds so that on one occasion approximately 15 tons of fish washed up on the beaches and were taken away by the truckload. Just last week, seven large lobsters and a giant green turtle crawled out on the beach to die. The full damage done is immensely greater since most of the wildlife killed would sink to the bottom or be carried away by strong currents."

The people of Culebra wouldn't have any chance except that their case has been taken up free of charge by the powerful Washington law firm of Covington and Burling. They began poking around and discovered that in the opinion of competent naval officers Culebra was a highly unsatisfactory target range because real battlefield conditions couldn't be simulated there; more astonishing, they learned it was being used for out-of-date rockets in order as one of them submitted to the subcommittee "merely to permit the Navy to reduce its inventory of an obsolete weapon."

The best, however, came from a conversation with Joseph A. Grimes Jr., special civilian assistant to the Secretary of the Navy. According to Covington and Burling's representatives, Mr. Grimes vouchsafed that the vast silent majority of Culebrans were content to be blown to smithereens and that only a few land speculators were making a fuss.

It is the peculiar weakness of so many of our statesmen to believe that the people we bomb enjoy it. When we do it in Southeast Asia it is always said that Hindus, Buddhists and other such pagan rifraff simply don't share our vaunted American regard for human life. Since the inhabitants of Culebra *are* American citizens that observation isn't directly transferrable, but still Culebrans are Puerto Ricans and Puerto Ricans, you know, aren't really exactly white. They jabber a strange lingo and, although they do make acceptable messboys to serve our so pasty white admirals, there is no undeniable resemblance to the slopes, zipperheads, and gookygeeks who really don't care if we kill them off or not.

Yet the ugliest aspect of this affair is the niggling over a few bucks to pay for dead cows and broken lobster traps. An admiral or a special civilian assistant can honestly, though mistakenly, believe bombing Culebra serves that infinitely vanishing will o' the whisp called national security, but what's the rationalization for not paying Anastasio Soto for destroying the tools of his livelihood? Maybe there's nothing left in the till after paying out hundreds of millions on cost overruns.

Sixto Colon Robinson is right. The United States Navy always wins.

[From the Armed Forces Journal, June 3, 1970]

CULEBRA, INTERMISSION: THE TARGET SHOOTS BACK: CULEBRANS TESTIFY AT HASC REAL ESTATE SUBCOMMITTEE HEARINGS

(By Clare Lewis and Bruce Cossaboom)

Hearings on the Navy's plans for Culebra were scheduled to begin on Wednesday, 10 June—just as this issue went to press.

In a statement prepared for presentation before the House Armed Services Committee's Real Estate Subcommittee, attorney Richard D. Copaken, counsel for the Municipality of Culebra, said his focus would be twofold:

"1. Is there an acceptable alternative for the Navy training mission now carried out on the Island of Culebra and its neighboring cays?

"2. To whom is the Navy proposal a matter of grave concern? . . ."

In describing his early conversations with Joseph A. Grimes, jr, Special Civilian Assistant to SecNav John Chafee, Copaken says: "I learned that the Navy assumed that only land speculators were dissatisfied with the present level and proposed level of Navy training operations on Culebra and its neighboring cays. Mr. Grimes conceded that his assumption that the vast majority of Culebrans were content with the Navy's present operations and proposal was based on questionable sources of information that are second-hand at best. I explained to Mr. Grimes that Covington & Burling [Copaken's law firm] had an identity of interest with the Navy in ascertaining whether the Navy assumptions were accurate because if they were, Covington & Burling would be obliged to withdraw."

Copaken says, in his statement, that he urged Grimes to check out the situation for himself—to go to Culebra and talk with the islanders, adding that "Mr. Grimes refused to undertake this inquiry."

In an effort to determine the true sentiments of the majority of Culebrans, Copaken says, his firm sent Thomas C. Jones, jr, another attorney, to the island.

Jones, in his statement, details the thoroughness with which he attempted to objectify his survey, beginning with his announcement to the crowd gathered at the airport upon his arrival that he "wanted to interview anyone interested in expressing his opinion about the general subject of the relationship between the United States Navy and the Island of Culebra."

In response to his invitation, Jones says, "A large crowd gathered outside the Town Hall and people lined up patiently to be interviewed."

Not satisfied with this approach, and fearing that he might be seeing "only the vocal persons," he extended his interviews to stopping persons at random on the street and interviewing them "in the nearest shady place," and began going house-to-house.

SEARCH FOR OBJECTIVITY

Jones' surveying practices seem to present a model of objectivity: "I attempted in every manner I could conceive of to guarantee that the results of the survey would reflect an accurate and impartial impression of the attitudes of the people of Culebra. Indeed, because the results that I was obtaining showed virtually unanimous opposition to the Navy proposal, I searched out four of the Navy's five, six, or seven employees (the number of Navy employees seems to vary between five and seven and even Admiral Ward was unable to give us the precise number) in order to see whether there was some hidden reservoir of support of the Navy that I had been unable to uncover myself. However, even the Navy employees admitted to me that there was virtually no one in Culebra who supported or would benefit from the Navy plan. Thus, I am personally convinced that if there is any error in the results of my survey it is an error which would tend to exaggerate the support for the Navy proposal rather than the opposition to it."

As a check on his findings, Jones says, he announced the results of his survey to an open town meeting of "approximately 150 Culebrans," explaining how the results had been obtained, and inviting comment and/or criticism. "Not a single complaint was voiced," he adds.

The lopsided results are, in Jones' words, "clear and unequivocal statistics." Of the Culebrans he interviewed, 95% opposed the Navy plan, and approximately 75% wanted the Navy to leave the island altogether.

"Thus," he concluded, "Mr. Grimes' assertion was completely erroneous, as is any decision which relies on such an assumption."

Having established the Culebrans' attitudes toward the Navy, Jones' statement goes on to detail the effect on the islanders of the Navy's attitudes toward the Culebrans.

"The sketch of the life of a Culebran shows a people who have been abused by the Navy is a particularly devastating and to me unexplainable sense," Jones says. "I refer to the fact that the Navy's warning system with regard to its bombardment and shelling schedules has been absolutely unreliable. Every single fisherman with whom I spoke on this subject said that he had had to flee or turn back as a result of unannounced weapons activity. This inexcusable neglect has clearly added greatly to the anxiety and outright fear which is so apparent."

Culebra's Mayor Ramon Feliciano has come to Washington to testify at the hearings, as the next step in his efforts to improve the quality of life for the Culebrans. According to a statement prepared in conjunction with his testimony before the Subcommittee, "The constant shelling and the occurrence of accidents which the Navy has denied instilled fear and desperation in the citizens to the extent of fearing for their lives and demanding that the Navy abandon Culebra and leave the Culebrans to live in peace."

WHITE HOUSE DISINTEREST?

Mayor Feliciano has been working toward that end for some time, now. His private letter campaign to enlist Executive Branch support—if not direct intervention—on behalf of Culebra did not meet with much success, although he apparently escalated it from SecNav to the White House itself.

On 19 February, Frank P. Sanders, Assistant SecNav (I&L), replied to Feliciano "on behalf of President Nixon" that the position of the U.S. Government is that Executive Order No. 8684 "must remain in force" and that the pending court action made it "inappropriate to comment further at this time."

"Thank you for expressing your feelings on this subject to the President," Sanders told Feliciano.

Apparently Feliciano had the feeling he hadn't gotten through. On 26 March, the White House received both a telegram and a letter.

On 14 April, another letter to Feliciano "on behalf of the President" arrived but this time from Hugh W. Sloan, Jr., Staff Assistant to the President.

Sloan reiterated the Navy position, essentially, and advised Feliciano that DoD "is reviewing the restrictions imposed by the naval operations to ensure that the civilian inhabitants are allowed a maximum freedom of movement, consistent with safety."

Sloan expressed regret that a personal appointment with the President requested by the Mayor could not be granted, but added "thank you for corresponding with the President."

BIRDLIFE THREATENED?

As the Culebrans' protests reached the U.S. mainland, the Department of Interior apparently began to wonder what effect all this Navy activity was having on its sanctuaries in the area.

Concerned by possible damage to nesting birds at national wildlife refuges on Culebra Island (but mainly on the adjacent small cays) the Department of Interior (Bureau of Sport Fisheries and Wildlife) sent the Chief of its Division of Wildlife Refuges, Robert Scott, and other staff members to Culebra last month to make an on-the-spot reconnaissance of Culebra Island and adjacent cays to determine means for providing greater protection for migratory birds.

Scott told The JOURNAL that his trip produced no "specifics" about injuries or deaths that may have been suffered by birdlife on the island as a result of naval bombardments.

A Navy official indicated, however, that these small islands—never before considered to be prime targets—now face an uncertain future on this score.

They have had an uncertain past as well, according to Culebrans: In may 1968 the Navy launched a massive coordinated air strike against Twin Rocks, one of the bird refuges. "It sounded as if the world were coming to an end," said one of the Culebrans. Thousands of nesting marine birds were killed, said islanders who visited the refuge the next day.

Scott said no one had told him of this incident.

Scott explained that, as a result of his trip and Interior Department concern over the refuges—a concern not previously evidenced, apparently engendered by the current publicity—Interior and Navy have set about working out a "memo of agreement," a joint understanding for modifying and improving present wildlife management practices there.

Scott said nothing had been formalized on this, but it would probably involve having the Navy avoid using the refuges as targets during certain crucial nesting periods or targeting parts of the refuge which Interior had determined to be free of the nests.

Scott cites as a precedent for establishing peaceful Navy Interior coexistence between bull's-eye and nest eggs on the same island a joint management agreement that now prevails on "No Man's Island" off the coast of Massachusetts.

This agreement maintains the goals of both agencies, Scott said, and he sees nothing "mutually exclusive" about having birds and bombs on the same islands.

Scott explained that in 1909 Theodore Roosevelt dedicated the cays off Culebra and other small outlying islands as national wildlife refuges "superimposed on a prior right" of Naval use.

The only concern on Culebra itself, Scott told The Journal, is for a colony of nesting sooty terms in the northwest impact area.

Scott said the refuges themselves are located on the offshore islands, but that the "exact status of the ownership of the offshore islands is not clear to us."

Scott said the Department's realty people have been instructed to answer the question: "Who owns what?"

Scott said some of the islands are known not to be public property at all, but leased. North Cay, for example, one of the larger offshore islands, was reportedly leased by the Navy from a single individual owner.

There are no wildlife refuges on it, the Navy said, "just someone running some goats."

LAND VALUES VS. HUMAN VALUES

Attorney Thomas Jones apparently has no doubt that at least a portion of the problem is land value. But his investigations have led him to conclude that it is not the "speculators" the Navy points its finger at who are the culprits, but rather the Navy itself. As he says in his statement:

"There is no mystery in the strong opposition of the people of Culebra to the Navy plan. The plan is widely believed to be the penultimate step in the Navy's desire to obtain the entire island; a high-ranking Puerto Rican government official told us that the Navy has wanted to resettle the Culebrans at least since 1960.

"This date corresponds to the time when the Navy began slowly to intensify its military training maneuvers. This intensification reached the point where last year—1969—the Culebra target system was in use day and night for an average of 9½ hours per day from Monday through Saturday and 3½ hours on Sunday. An even greater intensification is planned for this year. The effect of this intensification, naturally enough, has been to decrease the value of the land which the Navy will have to pay for if it acquires additional land. . . .

"Thus, the sketch of a Culebran is the portrait of a man who feels that his present way of life is imminently threatened, a man who feels forced by his sense of self-preservation to cry out."

THE STAGE IS SET

The stage is set for the third—but possibly not the final—act in the Culebra story.

Senator Edward M. Brooke (R-Mass)—who has expressed concern over the Navy's proposal for Culebra—told The Journal that Senate Armed Services Committee Chairman John C. Stennis (D-Miss) has agreed to place a 30-day "hold" on any further Navy plan.

"There is a possibility that hearings may also be held in the Senate at a later date," Brooke told The Journal. The law requires a report to both committees on any proposed real estate action. How thoroughly the background of a given transaction should be explored is at the discretion of each committee. Sources close to SASC told The Journal there are no present plans to hold a Culebra hearing.

MORE HILL CONCERN?

Aside from the Armed Services Committee itself, at least one other member of the House has become involved in the Culebra matter: Representative James Symington (D-Mo) received questions on Culebra from one of his constituents, a Mr. Daniel Kohl, relative to property interests there, but also expressing concern, Symington's office told The Journal, about "a small group of people being exploited."

Feeling that "some important issues are involved," Symington requested—and received—information (based on plans as of 11 May) on the Navy's plans for use of the Atlantic Fleet Weapons Range (see map, not printed in the RECORD).

Important issues *are* involved, and important questions being asked. Once again, Congress is faced with a matter of priorities—and it's up to the Navy to explain why its priorities should come first. All the Culebrans want is their own island back.

IS CULEBRA STEVENSON'S "TREASURE ISLAND"?

"The Navy should have learned its lesson with Bikini," observed RAdm Colby G. Rucker to The Journal in an exclusive interview.

Admiral Rucker, who retired in 1949, should know: He observed Culebran affairs at first hand throughout his 30-year naval career, beginning with a landing there as a midshipman. And when he was in the Pentagon as planner for all overseas bases just after WWII, he handled both Culebran land claims (even then a problem) and the transfer of the Bikini islanders from their Pacific atoll to clear the way for the 1946 atomic bomb tests.

Admiral Rucker's reference in linking the lesson of Bikini with Culebra was to the dissatisfaction of the Bikini islanders with any other islands but home—Bikini. "Every island we moved them to was objectively better than Bikini," said Rucker. "They had more coconut palms, more pigs, better fishing reefs, more taro patches . . . but they still weren't home to them and they were unhappy."

The Navy, when it proposed to move the Culebrans to another island, was preparing to make the same mistake, concluded Admiral Rucker.

Admiral Rucker, who spent many years of his career in the Caribbean (and who taught history and English at the Naval Academy), is steeped in the history, literature, and lore of that area.

He was amused that The Journal (23/26 May) had suggested that one alternative target for Navy use instead of Culebra might be Isla Caja de Muertos—Box of the Dead, or Coffin Island. This can also be translated as "Dead Men's Chest," Rucker pointed out. He said this is the very island referred to in the old pirate song: "Fifteen men on dead men's chest, yo-ho-ho and a bottle of rum!" The pirates evidently had marooned 15 captives on Isla Caja de Muertos.

But of greater literary interest is Admiral Rucker's well documented thesis that Culebra is Robert Louis Stevenson's "Treasure Island." The topography, hydrography, and sailing directions for entering the harbor all jibe perfectly, says Rucker.

When asked how he had connected Stevenson with Culebra, Rucker said the literary detective work wasn't too difficult. To earn a living between books, Stevenson had worked for the *Coastal Pilot*, a publication of the Royal Navy's Hydrographer. Stevenson had never been to Culebra, but he consulted *Coastal Pilot* for details to add realism to the seafaring portion of his books. "You could sail into many a Pacific harbor just by following the directions in the right Stevenson book," added Rucker.

Admiral Rucker stressed his conviction that the Navy hasn't always been as heavy-handed and unfeeling in its dealings with the Culebrans as more recent events appear to indicate. In fact, as he describes them, earlier Navy dealings with the Culebrans could have been taken as a model for the positive aspects of what has come to be known as "Civic Action" and "winning the hearts and minds" of the people.

Bluejackets from the fleet dug the first canal across the narrow neck of the peninsula which shelters the town of Dewey. This saved a five-mile trip for ships' boats and also for Culebran craft sailing to the fishing grounds or to mainland Puerto Rico.

Well water on Culebra is brackish (Culebrans save rainwater for drinking), and the resulting forage is a high, tough wiregrass. The Navy introduced a special breed of brahma cattle capable of subsisting on brackish water and wiregrass.

Mail from ships anchored off Culebra for gunnery practice was routed through the Dewey post office. The increase in volume was so great that Dewey qualified as a first class post office—which meant a larger salary for the postmaster and additional employment for Culebrans.

Doctors and corpsmen from the ships in the area went ashore to hold sick call for Culebrans and more serious cases were brought back to the ships for treatment.

Shortly after WWII the dynamic lady mayor of Dewey had a dispensary built—but, as it turned out, it was on Navy land. Rucker, in Washington, obtained an easement which enabled the dispensary to remain where it was.

—BROOKE NIHART.

CULEBRA—ACT II: HOUSE PANEL RESCHEDULES HEARINGS—NAVY STILL ADAMANT ON NEED FOR TARGETS

(By Ben Schemmer and Bruce Cossaboom)

The Navy apparently intends to turn a deaf ear to the mouse that roared—the tiny Puerto Rican island of Culebra.

Navy officials this week told Puerto Rico's Resident Commissioner in Washington, Jorge Cordova, they have no intention of abandoning their missile target range activities on the island, despite recent shore-shelling incidents and misfires on the island.

Cordova, who sits as a non-voting member of the House Armed Services Committee, met this week with Assistant Secretary of the Navy (I&L) Frank Sanders and SecNav Civilian Special Assistant (on Culebra) Joseph A. Grimes, Jr.

Cordova told Sanders of his conviction (and that of the island's political leaders) that the Navy should cease use of Culebra as a target area—much less expand it, as the Navy now proposes in an action pending before the House Armed Services Real Estate Subcommittee.

Cordova told The Journal he was informed the Navy "could not accede" to this request.

The Navy is now investigating the firing incidents (Journal, 23/26 May) and told Cordova that, after studying its findings, it would try to insure that there would be no repetition of the near misses.

Cordova had suggested to the Navy that it extend its investigation beyond the shelling incidents to the whole question of the use of the island. He said the Navy should find other uses for its property on the island, and consider abandoning it altogether as a target area.

The Navy says it needs Culebra as a target range and that the "incidents don't change the picture," Cordova told The Journal.

Meanwhile, a Real Estate Subcommittee hearing on the Navy's proposal to expand bombardment activities on the island—originally scheduled for 1 June but postponed after a public furor broke over the island—has been rescheduled for 10 June.

Two days after a 23/26 May Journal Commentary suggested that "Congress should give the Culebrans time for the Navy to catch up on its reading," Representative Charles E. Bennett (D-Fla) announced on 28 May that his panel would postpone hearings on the Navy's 30 April request to lease—and later to buy—a new, 2,350-acre safety zone on the 7,000-acre island for Walleye and other guided missiles.

Bennett's original postponement action apparently stemmed in part from news that mortar rounds fired without warning on 22 May toward a beach on which Culebran children were swimming—on a day when no firing operations were scheduled—caused the yacht on which Governor Luis Ferre was leaving the island to change course after its pilot heard the rounds.

Ironically, Ferre's visit to Culebra was his first there since 1962—and he had just been briefed by the Navy on ship-to-shore bombardment and aerial bombing exercises on and near the island. The incident happened within an hour or so after The Journal interviewed the governor on Culebra.

Ferre got his briefing from the Navy at the very observation post from which the mortar rounds were later fired. A Navy officer at Roosevelt Roads called them "marking rounds" without much explosive.

Bennett said, "Before conducting hearings on any new plans for the island, I want to first get a report from the Navy Inspector General, who has been asked to look into this most recent incident. I then plan to ask my Subcommittee to conduct its own investigation."

The Subcommittee staff declined to state whether Congressman Bennett or the Navy initiated action to postpone the hearings.

Governor Ferre told The Journal in Washington earlier this week that he does not expect to testify personally at the hearings. But he said, "Every measure must be taken to protect the lives and tranquillity of the Culebrans" and that he supports Jorge Cordova's efforts. He said the Navy may be reexamining an alternative target area, the island of Desecheo, about 20 n.m. from Ramey AFB on Puerto Rico's northwest corner.

(The Journal was in error last week when we said that Governor Ferre had suggested, when interviewed on Culebra 22 May, another possible alternative, an island called "Box of the Dead," only six miles from his home town. That alternative was mentioned by a Navy official in the area. Governor Ferre did cite the other island target alternatives mentioned in the 23/26 May issue.)

Ferre has been cautious in recent weeks, commending the Navy for its revised 24 April proposal to return to the Culebrans about 680 acres of land in and around the harbor of Dewey, but not endorsing Navy plans for a new 3,250-acre easement on the island's eastern tip.

Bi-partisan support on behalf of the Culebrans, who now want the Navy to quit shooting at their island altogether, has been mounting.

Cordova announced on 28 May in San Juan that he would testify against Navy plans to continue, much less expand, range activities on the island. Heretofore, he has been relatively non-committal on the issue.

Also in Puerto Rico, the Commonwealth's Senate minority leader, number two man in Governor Ferre's own party, on 26 May made public his position that the Navy should stop using Culebra as a target. The next day, the Senate's majority leader announced that he, too, opposed the Navy's continued use of the island.

DOT, WHITE HOUSE INTEREST?

The Journal also learned that at least three senior members of the White House staff have begun looking into the Culebran issue. So, apparently, has Senator Edward Brooke (R-Mass). Brooke's interest reportedly stems from a conversation he had with Transportation Secretary (and former Massachusetts governor) John Volpe, shortly after Volpe read page proofs of The Journal's 23/26 May Culebra Commentary while he was flying back to the U.S. on 25 May from a brief weekend respite on St. Thomas, 10 miles east of Culebra.

Governor Volpe told The Journal that he was unaware of but would look into allegations of near misses between commercial and general aviation aircraft flying into Culebra and St. Thomas and Navy aircraft engaged in bombing and gunnery operations on the range near Culebra (see photo caption, page 20 (not printed in Record)).

Senator Sam Ervin's Subcommittee on Constitutional Rights may also look into the Culebran problem. (Ervin is also a member of the Senate Armed Services Committee.) Previous Supreme Court rulings indicate that restrictions imposed on the islanders' free access to and from their island may violate their rights under the Fifth Amendment. The restrictions stem from a 1941 Executive Order (No. 8684) which prohibits anyone from entering or leaving the island, or the airspace above it, without explicit prior Navy permission. One such Supreme Court ruling cited similar restrictions imposed on U.S. Japanese citizens impounded on the west coast during WWII and said: "We allowed the government in time of war to exclude citizens from their homes and restrict their freedom of movement only on a showing of the greatest imminent danger to the public safety—[But] the nation was then at war. No such condition presently exists."

A related report (Number 940) filed by the Committee on Naval Affairs, 2nd Session, 64th Congress, said that powers which Congress gave to the President under 18 U.S.C. 96—the authority cited for the 1941 Executive Order on Culebra—to establish defensive sea areas for purposes of national defense "is valid only in times of actual or threatened war."

The President has exercised the expropriation powers under 18 U.S.C. 96 on some 26 different occasions, designating defensive sea areas in Chesapeake Bay (Executive Order #2898), in the Los Angeles-Long Beach Harbor area (#8970), and in New York Harbor (#8978). But all of these designations have since been expressly revoked. Currently, there are only about 10 such defensive sea areas still in effect: besides, Culebra, the areas affected include Pearl Harbor, Guam, Honolulu, and Whittier, Alaska.

Some of the Constitutional issues in question include:

Whether the unusual restrictions imposed on the Culebrans—who are U.S. citizens with representation but no vote in Congress—represent a curtailment of their liberty of movement to such an extent as to be prohibited under the Fifth Amendment;

Whether enforcement of the 1941 Executive Order represents a taking of property without prior compensation and without the due process of law also spelled out in the Fifth Amendment; and

Whether Congress specifically intended under 18 U.S.C. 96 for the President to create *permanent* defensive sea frontiers which would remain in force even when a state of actual or threatened war no longer existed.

Culebrans have said they decided to ask the Navy to withdraw entirely from the island after bombardment operations were intensified earlier this year. But CINCLANTFLT spokesmen told The Journal that there has been negligible, if any, change in the pattern or intensity of operations over 1969. On Friday, 22 May, a blackboard in the Navy's observation post on Culebra showed that to date this year, 17,680 target runs had been carried out, compared with a total of 37,500 in all of 1969. The same blackboard showed that in 1969 rockets were fired on 228 days, strafing was conducted 114 days, air-to-ground missiles were fired on 13 days, aerial mines were emplaced on 42 days, and naval gunfire practice was conducted on 123 days. The Navy states that it needs additional land on Culebra because operations will intensify in the future.

When asked by The Journal why they remained quiet for so long about Navy bombardment operations on their island, several Culebrans stated that their previous mayors just "weren't interested" in the issue.

Cordova, in Washington before his meeting with Navy officials, told The Journal that the Navy's investigation came about as a result of the incidents, his request and those of others, and the Journal Commentary.

Cordova called The Journal publicity "more helpful" than anything else he could cite.

THE PRESIDENT'S CRIME LEGISLATION FOR THE DISTRICT OF COLUMBIA

THE PRESIDENT'S BILL

Mr. TYDINGS. Mr. President, 12 months ago, President Nixon submitted his long-awaited proposals to Congress to reduce crime in the District of Columbia. Favorable Senate action now on the conference version of this legislation will send it to the President for his signature into law.

The Senate amended and passed all the President's proposals within a few months after they were submitted to Congress last year. Each of the Senate bills passed unanimously, without a dissenting vote either in committee or on the Senate floor.

The House passed a different version of these same Presidential proposals on March 14 of this year. The House bill contained a number of highly controversial proposals, like pretrial detention, which the President had not requested in the bill he sent the Senate. The House also included a number of provisions, such as mandatory minimum sentences and dismemberment of the District of Columbia corrections system, which the President had not sought in either House.

THE CONFERENCE ON THE BILLS

The House-Senate conference on this legislation has met 24 times during the last 3 months to resolve the more than 174 major differences between the two bills. The product of that conference—the bill which will become law—incorporates the most effective features of both the Senate and the House bills.

Its main and dominant feature, as in the President's proposal, is a total and complete overhaul of the archaic and hopelessly inadequate court system in the National Capital.

The bill also includes a constitutional, effective, and closely safeguarded form of pretrial detention for dangerous criminal defendants. It excludes first offense minimum mandatory sentences and leaves the District of Columbia corrections system intact.

The conference bill adopts most of the reforms which the Senate added to the President's legislation, especially in the court reorganization, juvenile procedure, and public defender provisions. The conference bill also contains the wiretap provisions of the Senate bill which are more thoroughly refined and safeguarded than those in either the House bill or present District of Columbia law. Particularly important, the conference bill adopts the Senate version of so-called no-knock warrant authority—a provision which not only does not expand existing law, but actually adds additional safeguards for our rights of privacy.

THE CONTROVERSY

Born in the havoc of a city being torn apart by crime and violence, this bill has had a tumultuous course through Congress. Massive misunderstanding of the bill's purposes and provisions has alarmed responsible critics at both ends of the political spectrum. The administration's exaggerated claims for the significance of some of its proposals have compounded this confusion. And a number of misinformed spokesmen have simply flatly misstated many features of the legislation.

Sometimes the news media have failed to accurately report the legislation so as to make it at all clear that each House of Congress had passed separate bills, dramatically different from one another, which would have to be further refined and amended in conference. For some reason, no degree of pleading seemed to make some reports reflect that there was more than one "D.C. crime bill," and that, whereas the Senate bill had passed unanimously, the House bill had been the target of the bitter controversy.

Some—friends and critics alike—have actually suggested that we should not pass this bill at all—at least not now—because the division about it goes so deep among law-abiding citizens.

But I reject this course. For, while I fully recognize the insensitivity of many administration policies, I believe this conference bill is a constitutional, sound, and urgently needed measure. While I understand the concern of citizens who do not understand this bill, I also recognize another kind of fear—the fear of unchecked crime which is ravaging the National Capital every day and night; ripping its social and economic structure to shreds; and viciously crippling and smashing lives, families and businesses, every hour of every day of the year.

To those who know this bill is sound, but say that we should not pass it, I say look to the morass of despair, terror, and fear into which the people of this city are sinking. Look at the barred windows of private homes, the deserted nighttime streets, the empty stores, the broken lives of crime's victims.

To those who say this bill is anti-black, I say crime in this 70 percent black city is anti-black. President Johnson's District of Columbia Crime Commission tells us that 86 percent of all District of Columbia murder victims are black; 86 percent of all aggravated assult victims are black; 80 percent of all rape victims are black; 66 percent of all auto theft victims are black; and 60 percent of all burglary victims are black. In fact, the only crime of violence which afflicts blacks and whites equally in this city is robbery.

To those who say the bill is repressive, I say study the conference version of the bill.

See that its court reform provisions will cut pretrial delays by 75 percent.

See that updating half-century-old criminal statutes to conform to Supreme Court decisions in no way unwisely increases police powers.

See that the juvenile procedure sections will radically improve the treatment of juveniles caught up in the judicial system.

See that the wiretap section does not expand the present wiretap law in the District beyond the additional offenses Congress explicitly authorized local governments to cover in the 1968 Federal wiretap law now in force in the District.

Examine the "no knock" warrant provision. See that it meets the standards of the unanimously passed Senate bill; that it does not expand on the existing law of the land as declared by the Supreme Court; and that it adds a new safeguard for privacy; prior judicial review of police intentions in every case possible.

The conference bill simply conforms the District of Columbia law on search and arrest with Supreme Court decisions which have been rendered since the statutes were last revised half a century ago. It simply states the conditions which the Supreme Court has already held permit a police officer to dispense with the standard notice of his identity and purpose when he serves a search or arrest warrant.

Nothing in the conference bill in any way enlarges the authority of officers to search a place without a warrant. The conference bill merely codifies the Supreme Court decision in Ker against California which specified that a police officer may enter premises without knocking, when an announcement of his presence and purpose would endanger his life or result in destruction of the evidence for which the court has authorized him to search.

In addition, the conference bill, like the Senate bill, adds a protection for privacy which does not exist under the Supreme Court decisions or even in the law of Maryland. The bill requires prior judicial review of so-called "no knock" entries whenever the officer knows in advance he may have difficulty in executing a search or arrest warrant. The bill provides that when an officer knows beforehand that his life may be in danger or that evidence may be destroyed, he must seek a specific authorization from a judge before he can enter the premises to be searched without knocking.

What we are talking about are the conditions under which a warrant can be served. I do not believe that anyone would suggest a police officer must absorb a bullet in his stomach as the price for announcing his presence at the door of a known dangerous criminal, perhaps fleeing from a murder or robbery. Nor do I think anyone would suggest a policeman should have to stand helplessly by outside the door while he listens to heroin being flushed down the sink.

The conference provision is an essential protection for the safety of police officers and a necessary measure to prevent the destruction of evidence in criminal cases.

PRETRIAL DETENTION

Study the pretrial detention section. Examine its restriction to a specific, limited number of grave crimes; its guarantee of due process hearing procedures; right to counsel; cross-examination; quick appeal from a pretrial custody order; and its expedited trial within 60 days for affected defendants.

Compare these provisions with the present situation, in which, according to the Bureau of Standards, 40 percent of all felony suspects are detained under subterfuge of high money bond; without a full due process hearing; without a guarantee of counsel; with a trial delay of 8 to 12 months while the defendant rots in jail.

Compare the 60-day trial guarantee in this bill with the so-called speedy trial bills, which contain enough loopholes for a guilty defendant to delay his trial and remain at large for an indefinite period.

The pretrial detention provision of this legislation is not a new, unique, or original idea. It was recommended by President Johnson's District of Columbia Crime Commission in 1965. It has been endorsed by the Judicial Council Committee of the District of Columbia. I have advocated pretrial detention since I had the opportunity of studying its operation in considerable detail in Great Britain in 1967.

The British success with pretrial detention over hundreds of years demonstrates that a carefully safeguarded system can be consistent with the concept of the Bill of Rights and still meet the public safety needs of a modern society.

As the Right Honorable Lord Denning, Master of the Rolls—third-ranking member of the judicial system in England—has said:

> Be it murder, rape, bank raid, or the like, in England we do not allow that man out on bail; we keep him imprisoned pending his trial. It isn't necessary to show that he may abscond. If there is reason to think that he may make another offense, we do not let him out so that he may do it pending trial. We keep him in prison until he is tried.
>
> But I believe here, and I have heard the controversy, that it is an unfair procedure; you are imprisoning him without trial; he has not been convicted; what right have you to imprison him like this pending trial?
>
> In England we do. I think it is right, myself, but this is important: We make sure that he is tried speedily. In England, every man, after his arrest, we arrange for him to be tried within 8 weeks, the greatest length between arrest and trial.
>
> I have been most interested to hear of the bill now before Congress in which proposals are made for preventive detention in this country providing always that the man is tried within 60 days. To my mind, our experience in England, we would have thought that very desirable. It is a matter of controversy for you, but I let out that thought because in our experience in England it is better for society that criminals or potential criminals should not be let loose pending trial. We do not let them out on bail, although we have in our bill of rights, like you, the prohibition against excessive bail being demanded.

The concept of protecting the public against persons who might reasonably be believed or presumed to be dangerous is common in our country and perfectly consistent with our notions of individual liberty. There is no strong objection today to the detention of narcotics addicts for their own protection and that of the public. Who would suggest that persons believed to be mentally defective or dangerously unbalanced ought to be released rather than committed to an appropriate institution?

And, in fact, criminal suspects judges believe to be dangerous are detained with trial in every State in the Union through the subterfuge of high money bond which the defendant cannot pay.

I believe dangerous defendants should be held in custody before trial. But I do not think we should use the hypocritical high money bond system to achieve pretrial detention. Use of money bond unfairly penalizes the poor and does not deter the affluent. We should instead have the kind of carefully safeguarded pretrial detention system this conference bill proposes.

The conference bill's pretrial detention provision is fully constitutional. The eighth amendment to our Constitution, which originated in the First Congress in the history of our Republic, provides a guarantee that excessive bail shall not be required in criminal cases. But that same Congress made it abundantly clear that it never intended the eighth amendment to keep a judge from jailing a defendant prior to trial. That First Congress, in the first Federal bail law, provided that a judge could refuse bail and jail any suspects accused of most serious crimes.

Indeed, the eighth amendment language on bail is taken directly from the British Bill of Rights, which has always been interpreted in that country to authorize pretrial detention.

The law has been changed since our early colonial days. Since enactment of the Bail Reform Act in 1966, the only ground for detaining criminal suspects in the District of Columbia is the possibility that they might not appear at trial. This concept incorporated in the Bail Reform Act of 1966 is the one I support in general.

I was proud to be a cosponsor of that legislation. I believe that our bail laws should make no distinction between the rich and the poor. But the bail law should make a clear distinction between the ordinary defendant and the defendant whose case and record demonstrates a high probability that if released he may very well commit a crime before trial on the original charge.

When a judge has before him a man whose record supports a reasonable belief that he will commit a crime if released, the judge ought to be able to take more into account than merely whether the defendant will show up for trial after his further crimes have been committed.

The law in the National Capital presently provides that defendants must be released even if it is clear they are likely to commit further crime. The law ought to be changed.

Some have suggested that the amount of serious crime committed by those released under the present law is so statistically insignificant as to make new legislation providing for pretrial detention unnecessary.

I disagree.

Whatever the percentage of crime committed by suspects released awaiting trial, it is no consolation to the dead store owner or his family, or to the victim of rape, or to the robbed, wounded, maimed, and terrorized citizens against whom these crimes have been committed, that their experience is part of what some people would call a statistically insignificant number of crimes.

Ask yourself if you would change places with the District of Columbia busdriver who, on the night of March 12, 1968, was threatened with having his throat slashed by a robber who, only 10 days before, had been released without bail after he had robbed another busdriver only a few blocks away. Subsequently, the culprit was convicted of both offenses.

Would you change places with the downtown bank teller who, on the morning of May 4, 1968, faced down the barrel of a pistol held by a thug who had robbed a Safeway store 4 months earlier, but had been released without bond? He was subsequently convicted of both crimes.

Would you change places with the young woman who was choked and raped in her own apartment near Capitol Hill on June 11, 1968, by an assailant who, 3 weeks later, after he was released without bond on the rape case, appeared at his victim's place of work, fired five shots at her, and struck her down with a bullet in the shoulder?

The blistering, demoralizing record of crime in the National Capital area presents too devastating a picture for us to blind ourselves to the reality that a very large portion of all that serious crime is committed by a small, hard group of criminals, many of whom have been accused of one crime, but released pending trial of that charge.

CONCLUSION

The Capital and much of its surrounding suburban area have become a virtual ghost city by night. Law-abiding residents fear for their lives and property both on the streets and in their homes. Robbery and commercial crime are so out of control that many businesses have either curtailed their operations or left the city altogether.

The perpetration of major felonies is increasing at a rate of 22 percent a year. The number of felonies reported in the National Capital annually has doubled during the last 5 years. Yet, felony convictions in the District of Columbia courts in 1969 represented only 2½ percent of the 56,419 felonies reported here last year.

The need for action is urgent. The time for action is now. Consider this bill on the basis of its merits, not on the basis of the misunderstanding and emotionalism which surrounds it.

Nearly 2 years of hard legislative work has produced a vital, constitutional, effective bill to help answer the National Capital crime crisis.

Study the bill. Look at this city riddled by the fear and destruction of crime. Then, I believe, you too will support this legislation.

THE 1970'S—DECADE OF THE ENVIRONMENT AND THE OCEANS

Mr. MURPHY. Mr. President, on June 27, I had the pleasure of addressing the Marine Technology Society in Los Angeles. In this speech I discussed the oceans and the environment and the opportunities and problems they present for marine technology and the country. As I have done before, I called for the creation of a national agency to consolidate the country's efforts in the pollution fight, and exploration of the ocean.

I had previously introduced S. 2204 which would establish a National Oceanic Agency. Also, I joined Senator SCOTT in introducing this year S. 3388 to establish a national agency to coordinate our environmental efforts. I was pleased that the President, on July 9, announced the creation of an Environmental Protection Agency and a National Oceanic and Atmospheric Administration.

I ask unanimous consent that my speech and the White House fact sheet of July 9 be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

SPEECH OF SENATOR GEORGE MURPHY BEFORE THE MARINE TECHNOLOGY SOCIETY

It's a pleasure to be with you this evening and discuss with you the country's ocean program, the environment, and the opportunity both of these present for marine technology.

The Stratton Commission in its report, "Our Nation and the Sea," said "the nation's stake in the uses of the sea is synonymous with the promises and the threat of tomorrow."

The promise is presented by the great economic potential of the oceans. The dangers are represented by our own pollution of this resource and the national security implication.

World population is much in the news these days. The world's population is expected to double by the year 2000. Particularly alarming is the projected population growth for less developed countries, where two-thirds of the world's population lives. If projected growth rates prove accurate, less developed nations by the year 2000 will have four times as many people as the developed nations. These are sober statistics for a world already beset with problems of starvation and malnutrition. To merely keep up with population growth over the next 20 years, we must increase food production by 50 per cent. One possible answer—the oceans. The Department of Interior says that the oceans can provide the needed food and protein for double the world's current population. Despite the need and the great potential of the ocean as a food source, only one half of the world's food is presently derived from the sea. We must better utilize the sea's resources for food and must put them in forms easily marketable and easily consumed. Here is a task for industry and a place where your services will be particularly required.

Notwithstanding the need, the United States lags in the harvesting of marine food products. Fish are the most important harvested resource of the ocean. Although the world fishing industry is growing at a rate of 6 per cent annually, the United States' fishing industry has not participated in this growth.

Our catch over the past thirty years has stayed approximately the same. Our fishermen today had only four per cent of the world's catch, which is about one-third of the fish consumed by American citizens. With the exception of our tuna and shrimp fisheries, the United States fishing industry for the most part is technically outmoded. Not only, it is important that we regain prominence in the fishing industry, because we have been traditionally a nation that reealizes the importance of the seas, but the importation of fish and fish products into the United States in 1968 added over one-half billion dollars to our critical balance-of-payments problem.

One also must be concerned with the rate at which the world's mineral resources are being used. Consumption of metals in the next 35 years is expected to exceed that of the last 2000 years. Energy used in the next 20 years is estimated at three times that of the last 100 years. Finding adequate minerals will challenge industry's and the nation's ingenuity. Minerals abound in the ocean. In fact, scientists say that the ocean contains more minerals than those that have been mined by man in all past history.

As a member of the Health Subcommittee, I am naturally interested in the use of animal and plant life for medicinal raw materials. We are desperately searching for a cure of cancer. We know that for some strange reason, invertebrate marine animals have not acquired cancer. Why not? Some scientists also feel that compounds in vertebrates may hold a clue to the biochemistry in sanity and insanity. Yet, despite these intriguing medical possibilities, the Stratton Commission report tells us that only one per cent of marine and animal life known to contain biologically active materials have been studied. They is why I have joined Senator Magnuson in introducing S. 1588, which would establish a National Institute of Marine Medicine and Pharmacology in the National Institutes of Health.

While the economic potentials of ocean development are important, there are even higher stakes, perhaps even the survival of our nation, that compel us to move ahead in the field of oceanology. Last year the Chief of the Soviet Navy proclaimed: "The flag of the Soviet Navy now flies proudly over the oceans of the world. Sooner or later the United States will have to understand that it no longer has mastery of the seas." Russia already is ahead of the United States among the world's shipbuilding nations, and expects a 50 per cent increase in the size of its merchant fleet.

President Nixon has sent to the Congress a far-reaching proposal. Specifically, he proposes that we build 300 ships over the next 10 years. As one who has frequently voiced concern over the sorry state of our merchant fleet, I support the President's efforts to revitalize our Merchant Marine fleet. The recently reported stories with respect to Soviet submarine activities off our shores should remove any doubts about the defense implication.

I have been long concerned about this nation's total ocean effort. In 1966, the Senate was considering the Sea Grant legislation which I cosponsored and strongly supported, I said then of our lagging ocean efforts: "For some time I have felt this nation's efforts in the exploration of the oceans have been inadequate and moving at a snail's pace . . . The Johnson Administration, however, has treated oceanology as a stepchild. It has failed to provide the leadership and the vision necessary to insure that the United States will be the leader in this endeavor."

I am pleased that the period of drifting and indecision is coming to a halt. The Nixon Administration will soon officially unveil its idea for the establishment of a new National Oceanic and Atmospheric Administration within the Department of Commerce. This move is a welcomed one by me and I am sure by you in the marine science community. The present proliferation of Departments and Agencies involved in the oceanographic program simply does not provide the leadership and coordination needed if America is going to be first in oceanology. The establishment of this centralized agency will bring into being what I have long advocated. As you probably know, I am the author in the Senate of legislation, S. 2204, which proposed a National Oceanic Agency.

As the unfortunate experience at Santa Barbara illustrates, of all the ocean issues before us these days, perhaps none is more important than those involving the quality of the marine environment and the absolute need for wise management of our coastal resources.

The ocean shores are usually the sites of urban centers and industry, also a place of refuge from industrial civilization for the commercial and sports fisherman, swimmer, boatsman, surfer and sunbather. We humans are only one of the ocean's users, the most recent. Yet we have hurriedly acquired and employed the means to greatly alter the ocean environment, and measured in the time of evolutionary change, the living creatures in that environment do not have the time to adjust. Chemical wastes from factories, heat from power plants, domestic wastes and sewage from cities and towns, insecticides and fertilizers from land runoff, atmospheric fallout of gasoline vapors, are all flowing into the ocean. The sheer bulk of the material disposed in and the presence of new types of non-degradable waste products are now beginning to affect our waters at an increasing rate; the wastes can no longer so readily be diluted, dispersed or degraded.

If there is ever any doubt about it, the tragedy at Santa Barbara has demonstrated that environmental considerations must be as important as exploration goals. I welcome the public concern voiced with respect to the fouling of our environment. I might add that my voice had been raised in this matter long before the pollution voices became a national chorus. Since coming to the Senate, I have co-authored or supported every single piece of air and water pollution legislation that has been enacted into law.

You will recall that it was my amendment to the Air Quality Act of 1967 that has enabled California to set emission standards for automobiles higher than any state in the nation. I believe that industry has not been as concerned with and has not done as much with respect to the protection of the environment as they could and should have done. I think it is equally true that all of us as individuals have not been as concerned with and have not done enough to enhance our environment as could and should have been done. Many lose sight of this latter fact and often those who condemn industry are the very ones who throw and leave beer cans on our beaches. I do not think that any purpose is served in placing past blame. There is enough blame for all of us—both individuals and industry to share. The important thing is that we clean up, and that we clean up now, and that a conservation movement and concern over the quality of our environment sweep the country similar to that led years ago by Teddy Roosevelt. We must remember, however, that Teddy Roosevelt also said: "The Nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased and not impaired in value." We must also remember, however, that same Teddy Roosevelt at the same time pointed out the equally important fact that "conservation means development as much as it does protection."

I would like to share with you for a moment some of my activities in connection with Santa Barbara. Following the disastrous blowout, I testified before the House Public Works Committee and made five recommendations. First, I urged that all drilling stop. Secondly, I urged the upgrading of the 15-year-old federal drilling regulations. This has been done. Thirdly, I urged an accelerated research, development, and testing program to increase and improve the capabilities for preventing, controlling, and cleaning up oil spills. Fourth, I urged the establishment of contingency plans at the federal, state and local levels so that an immediate response to oil spills and disasters might result. And fifth, I urged the passage of legislation to clearly spell out the fiscal and clean-up responsibility when a spill occurred. I might add that S. 7, the Water Quality Improvement Act of 1969, which I co-authored, now spells out the liability question. Also, the White House on June 1 announced the establishment of a national contingency plan to coordinate the oil for regional plans covering all coasts and waterways of the United States. Later in the Congress, I took legislative steps that would terminate operations in the channel and would use the oil in the Elk Hills Petroleum Reserve as a possible source of repayment. I have also been urging the Administration to join with me to find a workable and practical solution. I am glad that the President and the Secretary of the Interior have faced up to this problem, and have developed a legislative package which I introduced in the Senate on Wednesday of this week.

This plan would create a national energy reserve off the existing state-created Santa Barbara oil sanctuary in which there would be no oil production. In doing so, twenty existing leases would be terminated, the leaseholders being reimbursed in cash from the sale of the oil produced from the Elk Hills Naval Petroleum Reserve. A federal court will determine the value of the leases so terminated.

The *Los Angeles Times* headlined the story that some lease holders under this bill would be given "something for nothing." I can assure this audience and the nation that this is not my intent nor is it the intention of the Administration. On the other hand, both our constitution, as well as our sense of fair play preclude us from giving leaseholders "nothing for something".

The Senate Subcommittee on Minerals, Materials and Fuels has scheduled hearings on all the bills relating to the Santa Barbara Channel for July 21. I believe these hearings will be most significant in determining the future use of this beautful part of our California coastline. I hope as many of you as possible will provide your candid views to the Subcommittee. Certainly you in industry could do no bigger sevice to the protection of our coastal environment as well as to the development of our natural energy reserves than to join the Congress and the Executive Branch in finding an equitable and practical solution to the problems presented by Santa Barbara.

When I was a member of the Subcommittee on Air and Water Pollution, the fact that the Federal Government was a major polluter bothered me. I feel that the Government, if it is going to prod private industry and the public into cleaning up, and it should do this, should see to it that its own house is in environmental order. President Nixon agrees and has issued an Executive Order which should help to force the Federal Government practice what it preaches with respect to pollution.

Simply stated, if we are to continue to enjoy coastal pleasures, such as those offered by California, we are going to have to work hard, clean up our waters, and learn how to manage better this priceless resource—and it would seem to me that this area is one of great potential for those of you in marine technology.

Just as a single agency is needed to give focus, coordination and momentum to our ocean program, we urgently need a national agency to coordinate and accelerate our national battle against pollution. A recent study identified 43 federal agencies spending over five billion dollars on pollution. I have joined the distinguished Minority Leader, Senator Scott, in introducing S. 3388, which would establish such a national agency. I am also pleased that the Administration will also soon unveil its proposal to create a new Environmental Protection Agency to coordinate and improve our environmental effort similar to that proposed in the Scott-Murphy bill.

This important organizational issue resulted from a study by the President's Advisory Council on Executive Organization chaired by Mr. Roy Ash of Litton Industries. It is expected that the National Oceanic and Atmospheric Agency as a part of the Department of Commerce will bring together the Environmental Science Services Administration (Department of Commerce); the National Oceanographic Data Center and Instrumentation Center; the National Data

Buoy Project (Department of Transportation)— Coast Guard; the Sea Grant Program (National Science Foundation); the Lake Survey Functions of the Corps of Engineers (Army); the Bureau of Commercial Fisheries and other fisheries elements of the Department of the Interior, as well as the Department's Marine Mining Program.

In my judgment, the past years on the Washington scene have witnessed a lot of "happenings" but not enough "happening" in the environmental and ocean development areas. Last fall the President announced a priority marine science program for management of a lake restoration program, improvement of the merchant fleet and the U.S. participation in the international decade of ocean bills, which I have cosponsored, which would tighten national pollution controls on automobiles, make surplus federal land available for recreational uses at discount prices to local governments, problems, provide for federal financing of much needed waste treatment plants and assure that adequate financing will be available to state and local governments.

The reorganization plans I have will make certain that much "happens" and will make the seventies the decade of environmental and oceanic development. That this does happen is important for the stakes are high. This the Stratton Commission pointed out when it said: "How fully and wisely the United States uses the sea in the decades ahead will affect profoundly our national security, our economy, food and raw materials, would influence and leadership and the quality of our environment—they are high stakes indeed.

Government through the new proposed national oceanic and atmospheric agency will provide much of the leadership and support for ocean research and development. The university community will also have an important part to play. In the final analysis, I am sure the Ash counsel, and the President himself agree with me that the development and exploration of marine resources is the responsibility of private industry. Our success then will largely depend on the leadership, the imagination and the energies of American, and particularly California, industries.

I note that this coming Monday, the Marine Technology Society will kick off its sixth annual conference and exposition in Washington; Based on the scope of that Washington agenda and the industry's track record, I am certain that the country can count on you to meet the exciting and difficult challenges posed by ocean development and the environment.

Fact Sheet

The President is submitting to the Congress today Reorganization Plans Nos. 3 and 4 of 1970, establishing the Environmental Protection Agency (EPA) as a new, independent agency within the Executive Branch, and the National Oceanic and Atmospheric Administration (NOAA) in the Department of Commerce.

ENVIRONMENTAL PROTECTION AGENCY

The EPA brings together in a single organization the major Federal pollution control programs now existing in four separate agencies and one interagency council. The creation of the EPA fulfills the President's pledge of February 10, 1970, to recommend improved administrative machinery to meet the current pollution crisis.

The mission of the EPA will be to organize the fight against environmental pollution on an integrated basis which acknowledges the critical relationships between pollutants, forms of pollution, and control techniques. Under the present organization, pollution control activities are conducted by many departments and agencies. Each is typically concerned with a single pollutant or source (radiation, pesticides), a single environmental medium (air, water, food), or a limited aspect of the total problem (health or economic effects, aesthetics). This fragmentation of effort has resulted in confusion and overlap, some delay in the recognition of new problems, and the continuance of inefficient management techniques. It has effectively inhibited any comprehensive examination of the total effects of pollutants by man, plants, animals, and ecological systems.

The creation of EPA will have the following advantages:

It will upgrade the effectiveness of the Federal Government's major pollution control programs.

It will provide a central focus for an evaluation of all pollution-related activities of the Federal Government.

It will serve to upgrade the importance of environmental considerations and pollution programs within the Federal Government, and over a period of time tend to have a similar effect on program priorities within state and local governments.

It will clarify industry responsibility by providing consistent standards and a single enforcement agency.

State and local pollution control agencies will be able to look to one Federal agency for all their financial support and technical assistance.

It will insulate pollution abatement standard-setting from the promotional interests of other departments.

The EPA will have an estimated FY 1971 budget of $1.4 billion and 5650 personnel, and consist of the following:

The Federal Water Quality Administration (FWQA), now in the Department of the Interior;

The National Air Pollution Control Administration (NAPCA), now in the Department of Health, Education, and Welfare;

Parts of the Environmental Control Administration (Bureaus of Solid Waste Management, Water Hygiene and a portion of the Bureau of Radiological Health), also from HEW;

The pesticides research and standard-setting program of the Food and Drug Administration, HEW;

The pesticides registration authority of the Department of Agriculture;

Authority to perform general ecological research, from the Council on Environmental Quality (CEQ);

Certain pesticide research authorities of the Department of Interior;

The environmental radiation protection standard-setting function of the Atomic Energy Commission;

The functions of the Federal Radiation Council (FRC).

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NOAA brings together in a single administration the major Federal programs dealing with the seas and atmosphere. These programs presently exist in four departments and one agency. The creation of NOAA will improve the overall management of programs dealing with the three-fourths of the earth covered by the oceans.

The mission of NOAA is to organize a unified approach to the problems of the ocean and the atmosphere and to create a center of strength within the civilian sector of the Federal Government for this purpose. Although each of the units which will comprise NOAA presently carries out oceanic functions according to its particular mission, the lack of overall planning and systems approach has resulted in an impetus towards oceanic affairs which has been much less than it should be.

The NOAA will have an estimated 1971 budget of about $270 million and over 12,000 personnel and will consist of the following:

The Environmental Science Services Administration, already a part of the Department of Commerce; most of the Bureau of Commercial Fisheries, now in the Department of the Interior; the Marine Minerals Technology Program of the Bureau of Mines in the Department of the Interior; the marine sports fishing program of the Bureau of Sports Fisheries and Wildlife in the Department of the Interior; the Office of Sea Grant Programs of the National Science Foundation; elements of the United States Lake Survey of the Department of the Army.

Upon the establishment of NOAA, the following programs will be transferred to it by executive action. (No legislative authority is required to effect these transfers):

The National Oceanographic Data and Instrumentation Centers of the Department of the Navy; the National Data Buoy Program of the Department of Transportation.

The President will request, upon approval of the plan, that the Secretary of Commerce establish a National Advisory Committee for the Oceans and Atmosphere to advise him on the progress of governmental and private programs in achieving the nation's oceanic and atmospheric objectives.

CRITICISM OF THE ASSOCIATED PRESS

Mr. ALLEN. Mr. President, an Associated Press dispatch, correspondence from Alabama concerning it, and my remarks relating to it were printed in the Congressional Record on June 22, 1970, Mr. Harry T. Montgomery, deputy general manager of the Associated Press, has taken exception to some of these remarks by way of letter and requests that his letter be printed in the Congressional Record. Mr. President, I am pleased to comply with this request and ask unanimous consent that Mr. Montgomery's letter and my reply be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The Associated Press,
New York, N.Y., July 7, 1970.

Hon. James B. Allen,
U.S. Senate,
Washington, D.C.

Dear Senator Allen: Our attention has been called to your remarks as reported in the Congressional Record of June 22, 1970, and to a press release from your office of the same date, both critical of The Associated Press.

These attacks upon The Associated Press were based on a two-paragraph news item which you alleged to be a complete Associated Press dispatch. In fact, these two paragraphs were only the first of five paragraphs contained in the Associated Press dispatch, which was transmitted nationally as follows:

Birmingham, Ala.—An all-white jury has decreed the death penalty for a Negro convicted of robbing a white girl of $30 and a wrist watch.

The seven women and five men of the Circuit Court jury deliberated less than three hours Thursday night before returning the verdict against John Henry Jones, Jr., 23.

The 18-year girl testified Jones forced his way into her car at gunpoint last Sept. 13.

The maximum penalty for armed robbery under Alabama law is death. All death sentences are appealed automatically to the state Supreme Court.

Jones still faces two counts of criminal assault, one of abduction and one of assault with intent to murder the girl.

You will note that the story as transmitted by The Associated Press reported the facts which you alleged were withheld from the public. Further, the dispatch which you entered in the Congressional Record carried the headline "$30 Robbery Brings Negro Death Penalty". It should be noted that The Associated Press does not write or transmit headlines, and did not in this case.

Since you concluded that The Associated Press in reporting this conviction had "deliberately slanted" the news, we request that you place this letter in the Congressional Record as a matter of fairness.

Sincerely yours,

HARRY T. MONTGOMERY.

U.S. SENATE,
Washington, D.C., July 14, 1970.

Mr. HARRY T. MONTGOMERY,
Deputy General Manager,
The Associated Press,
New York, N.Y.

DEAR MR. MONTGOMERY: I am glad to comply with your request that your letter of July 7, 1970, be printed in the *Congressional Record*. I will ask unanimous consent of the Senate that your letter, together with this reply be printed in the *Record*.

You are aware, of course, that only the first two paragraphs of the complete AP dispatch were used, according to the District Attorney," . . . in papers throughout this country and foreign countries . . . as a result . . . the Governor of Alabama. the Attorney General of Alabama, other officials and I have received many letters critical of our judicial system in the State."

As to your statement that I alleged the two paragraphs contained in the news item to be a complete Associated Press dispatch may refer, of course, to my reference to the item as it appeared in your member newspapers. This was the dispatch so far as any reader would be concerned. A reader naturally does not know what you send out on the wire. All he would know about the item is the way it appears in the publication of your member newspapers.

For your information I am sending you a resume of this dastardly crime and I would like for you to judge for yourself as to whether the dispatch, whether in two paragraphs or in five paragraphs, gives any idea whatsoever of the horrible nature of the multiple crimes committed against this girl.

From reading the resume and then reading the dispatch a reader would be hard put to gather from the news account that it has reference to the same horrible crimes.

Come now, Mr. Montgomery, do you think the AP dispatch was up to the high standards that you would like to have your Association meet.

Sincerely yours,

JAMES B. ALLEN.

EXHIBIT A

On a Saturday afternoon last fall, a seventeen year old girl named Rose Marie Campisi was reported missing and was last seen at a local hospital where she had taken her brother for emergency treatment. Late that afternoon search parties were organized and throughout the following day search continued for this young girl. On Sunday morning, the members of her church, mostly young teenagers, organized a search party under the direction of the church priest and approximately 4 o'clock that afternoon, while searching an isolated and remote rural area, found a charred envelope with the young lady's name on it. An intensive search of the area revealed her automobile at the bottom of a 100 foot ravine over which it had been driven. Upon searching the automobile this young girl was found locked in the trunk compartment, disrobed, beaten and very seriously injured. She was taken to a hospital where she remained for several weeks and suffered permanent injuries from internal infections which developed in her body. Law enforcement agencies of state, county and several municipalities spent days and weeks searching out every possible lead in an attempt to find the culprit. In addition to having been beaten and run over by an automobile, there was every indication that she had been raped.

For months the case went unsolved until on January 1, 1970, a young Negro woman made a complaint to the Birmingham Police Department that she had been raped on the previous night. Similarities of description and mannerisms of the culprit in that case resulted in the arrest of John Henry Jones, Jr., and charges being placed against him arising out of offenses committed against both women. Rose Marie Campisi's wrist watch, which had been forcibly taken from her at or about the time of the rape, was recovered from a local pawn shop and John Henry Jones was identified by the operator as being the person who pawned the watch. When arrested, John Henry Jones had the pawn ticket for the watch on his person. Rose Campisi made a positive identification of this defendant from photographs and from personally viewing him among a large group of persons. Additionally, with full constitutional guarantees and the Miranda procedure followed, Jones made and signed a written statement admitting having forced the young girl into her automobile and leaving the hospital area with her but claimed not to remember subsequent events partly because of a high degree of intoxication.

Rose Marie Campisi testified that after the defendant abducted her at the hospital, he drove her to an isolated area in a rural community, where he stopped the car, drug her from it, beat her with his fists, kicked her, stomped her, dragged her seventy feet into the woods, stripped her clothing from her and shot over her head as she struggled to try to prevent him from removing her panties. She further testified that he raped her, drug her back on to the roadway where he tied her hands and feet together, placed her in front of the car and ran the car over her arm and leg, she having succeeded in squirming out of the path of the wheels as they passed over a part of her body. She further testified that the defendant then put her in the trunk of the car in this bound condition, laughed at her, slammed the trunk door on her and she then knew the car was being driven into the ravine because of the crashing and bumping. She remained in the trunk of this automobile for approximately twenty-four hours, being conscious most of the time.

When the car was found it was substantiated that the defendant had obtained all available paper material in the car and set it on fire prior to running the car into the ravine.

John Henry Jones, Jr. was indicted in four separate cases for the offenses of Kidnapping, Assault With Intent To Murder, Rape and Robbery. Under Alabama law the offenses of Rape and Robbery are capital offenses, either one of which carry a penalty from ten years to a maximum penalty of death. Only one case can be tried at a time and the state elected to go to trial on the Robbery case first. Upon a trial of this case on the Robbery charge, the state was permitted to show all the acts of the defendant as set out herein.

POW SURVIVAL

Mr. DOLE. Mr. President, an unfortunate fact in the lives of American servicemen who are involved in combat operations in Vietnam is the possibility of their being captured by the enemy. The North Vietnamese and Vietcong have compiled a terrifying record of prisoner abuses in the course of this war. Escaped American officers and enlisted men have recounted violations of the 1949 Geneva Convention and fundamental humanitarian principles, through psychological and physical abuse, propagandization, and humiliation at the hands of their captors.

That captive men would be so shamefully treated is deplorable and contemptible, but it is something with which our men must be prepared to contend if they are to survive such captivity without being broken mentally or physically. Writing in the April 1970, issue of the Marine Corps Gazette, Lt. Col. Paul E. Wilson, USMC, discusses what might be done to better prepare combat servicemen for survival at the hands of merciless and cruel captors.

Mr. President, I ask unanimous consent that Colonel Wilson's article, entitled "Three C's: The Code, the Convention, the Conflict," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THREE C'S: THE CODE, THE CONVENTION, THE CONFLICT

(By Lt. Col. Paul E. Wilson)

The lot of prisoners of war has never been a very happy one. They generally became slaves and served at the pleasure, or displeasure, of the winner-master. Examples such as the human propulsion systems for the matinee are all too familiar.

Despite occasional periods of more charitable treatment, in general such conditions stretched well into the 17th century. Fortunately, however, both nations and individuals began to realize a need for rules governing the fate of POWs. The European view generally was that prisoners should not be placed in abject slavery or subjected to revengeful treatment nor should they be allowed to rejoin the enemy force to fight again. By the time of the American Revolution such ideas were still fairly vague and of little comfort to the POWs of that conflict. An alleged 12,000 or more Americans died in British custody during the war. One of the most notorious places of confinement was a prison ship, *New Jersey*, anchored off of Brooklyn. Not quite 100 years later when the Americans waged their own Civil War other names, such as Andersonville, give clear evidence that not much progress had been made in obtaining firm agreements between conflicting powers concerning conditions of confinement and care of POWs.

Hard on the heels of that war, however, there was some substantial progress. The International Red Cross appeared in 1864, the Brussels Conference in 1874, the Hague Conferences of 1899 and 1907, and some prodigious efforts by various individuals had produced a written set of rules concerning POWs. Very basic to this was mere recognition of the POW as a prisoner of the state or nation rather than any individual captor and his right to humane treatment. These ideas had an almost immediate test in the bloody conflict of World I and generally proved extremely successful by comparison to any other major conflict. As anticipated, there were individual instances of cruel and inhuman treatment but they were very rare. Due to late entry into the war, the United States had fairly limited experience regarding POWs but that experience was on the whole quite satisfactory in the broad sense. The death rate of prisoners was about 3½%, many of whom had been captured while seriously wounded and may well have died regardless. The survivors felt they had been well treated and had acquitted themselves well. It should be noted that all of the major powers engaged in WWI had affirmed the principles laid down at the Hague.

Following the war there was general agreement that a formal document was needed concerning the matter of POWs. This led to the Geneva Convention of 1929. A formal code was drawn up, and a sincere effort made to anticipate all possible situations confronting the nations in conflict dealing with POWs. While this was a remarkable document it should be noted that several major powers did not participate in nor subsequently sign the Convention. A prime absentee was the USSR. As events were to prove however, the act of signing didn't assure compliance.

FACED SHOCKING BRUTALITY

Despite what had appeared to be solid evidence that mankind had taken giant strides in compassion, World War II unleashed some examples of barbarianism comparable to any in history. Names like the "Bataan Death March" and Buchenwald are representative of the infamous list. From an American point of view, the WWII serviceman matched his Revolutionary, Civil War, and WWI predecessors for standing up well as POWs. Nearly 130,000 become POWs of which nearly 11% died. They generally helped one another, faced shocking brutality in some cases, and managed to remain steadfastly loyal to their country.

The experience of WWII and some of the innovations of war; i.e., paratroopers, made it obvious that many questions relating to POWs were as yet unanswered. After lengthy and often acrimonious conferences, a total of 61 nations signed the "Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949." There were some reservations on specific parts of the Convention by individual nations, but on the whole this document assured any future POW the most equitable treatment possible if two or more signators engaged in conflict—regardless of the designation as a "war" or not.

It should be noted that each signatory nation did not become automatically bound by the provisions. It was necessary to complete the ratification in accordance with the Constitutional processes of each nation. (As a matter of fact the United States did not complete such action until 2 February 1956). Despite this technicality, provisions had been made to cover situations which might take place before the final ratification. Individual nations could notify the International Red Cross that it was their intention to observe the provisions of the Convention.

Less than a year later the Korean conflict was to provide a test case in which the Communists flagrantly disregarded commitments to the International Red Cross regarding the treatment of prisoners.

On 17 August 1950, North Korean soldiers stripped 26 American soldiers of their possessions, tied their hands behind their backs, and shot 22 of them to death at a place called "Hill 303." On 30 October 1950, after having mistreated 180 American prisoners for several days, North Korean soldiers directly slaughtered or subsequently caused the death of 138 of those Americans at or near the "Sunchon Tunnel." These were but the first indications of what the next three years would bring. By the end of the Korean War some 7,190 U.S. fighting men had been taken prisoners by the Communist forces. When the exchange of POWs was completed less than 4,500 of these returned. That represents a death rate of almost 37%.

The death rate was only part of the story. Following exchange there were ugly stories of treason, collaboration with the enemy, mistreatment of fellow prisoners, etc. When the stories were unfolded and investigated, much of the air was cleared but the thought persisted that the POW of Korea had not matched the Americans in prior experience of war. This led to an exhaustive study of the POW situation and all of its aspects by a blue ribbon group entitled, "The Defense Advisory Committee on Prisoners of War."

Reduced to basic results the Committee did the following: first, gave public exoneration to the vast majority of the Korean POWs; noted a need for both educational and spiritual assistance to possible future POWs; identified the responsibility of the United States Government to POWs; and finally, proposed a "Code of Conduct for Members of the Armed Forces of the United States," which became effective by Executive Order in 1955.

What clearly appears in the hearings of the Committee was that the average American serviceman taken prisoner was ill-equipped to withstand high powered Communist propaganda which was coupled with poor physical conditions and a "carrot and stick" mode of operation.

Broadly speaking, the new Code was to provide the serviceman with a set of guidelines if he should be taken prisoner. Copies of the Code and posters on individual parts of it were posted throughout every military facility, and the services incorporated periods of instruction about it into their required subjects list. In some instances, prior to deployment outside the United States, servicemen were required to sign a document attesting to the fact that they had read and been instructed on the Code. Despite all such measures however, it is fair to say that emphasis on the Code and the Korean experiences which brought it into being faded. When the events in Vietnam began to heat up and troop deployments began in earnest, knowledge of the Code became important again, but there were too many other things that needed doing to spend much time on the Code.

All Marines receive instruction during their early training and at the end of the first six months. Upon reenlistment, the regulations call for additional instruction on the Code. Generally speaking, however, limited emphasis was given to the subject by the military services.

There appear to be a variety of reasons why the Code has not gained a strong and sincere foothold on the military. Much of this can be seen from the very testimony which brought it into being. Most of the blame for the alleged poor showing of POW's in Korea could be laid at the doorstep of those institutions which had preceded the military services in the care and feeding of the individuals. Many POW's had little or no background of knowledge about the government or political history of the United States. Many of the worst offenders and the "turncoats" were a product of troubled lives before entering the services and few POWs had any well-developed religious convictions or ties.

The Committee itself made the point quite clear that a great deal had to be done *before* the individual reached the services to provide a basis on which to build.

There is another point which placed an important role in the attitude toward the Code as such. This relates to what appears to be the set of double standards which the government exhibited. Soon after the Code had been incorporated into the military training systems, a rather well-known incident took place which made this difference all too clear. It involved a civilian pilot who was flying under contract for the United States Government and was shot down over Russia. He reportedly had the means to take his own life to avoid possible interrogation, but he apparently failed to use them. Subsequently, of course, he was the subject of a show trial in the USSR and revealed a great deal about his mission, the objectives of it and apparently any other information he was asked about. He was later returned to U.S. custody in a prisoner exchange. He has never been subject to trial or any form of punishment for his actions.

MORE STRINGENT RESPONSIBILITIES

A fair question to raise seems to be if there can and should be such a marked difference in the responsibilities expected? When one considers that he had made a voluntary agreement with the government to do such flying, received a great deal of money for doing so, had the right to withdraw at any time, and was well aware of the sensitive nature of the task and possible repercussions if taken prisoner, then it would appear that much more stringent responsibilities should have been imposed. It is probable that much of the information concerning this case has never been revealed, but there remain a great many questions which a young serviceman taken prisoner might well raise.

What about the Code itself and its relationship to reality? From the very beginning there have been many well recognized authorities who have disagreed with the whole idea of a Code. They suggest that quite the contrary would be more effective an approach. They would permit the POW to admit to almost anything, sign almost anything, and tell whatever he knows. The single restriction would be that his actions not cause adversity to a fellow prisoner.

Such a policy, given wide publicity, they say would completely destroy any value the enemy might gain from so-called "confessions." This group points to the fact that in order to obtain the release of the *Pueblo* crew, a general officer was directed to sign such a "confession." The fact that he refuted it before, during, and after most surely must have severely degraded what ever value it could have to the other side. It is a rather weighty point for those favoring abolishing the Code.

Following that line of reasoning one should also consider the general intelligence value of the average POW. Most of them have little or nothing to offer to an enemy. What information they do have is quickly degraded under normal combat conditions. On the other side of the coin, we find that intelligence pictures are a mosaic of small bits of information. The Germans managed to gain remarkable dossiers of data during WW II, particularly on the air picture, with a minimum of force or threat of force. They based it on highly skilled interrogation. The question in this area then seems to center around how much the average POW could reveal if given absolute freedom against the strict rule for him to refuse to tell anything beyond name, rank, and service number when he may not in fact know much more of any value.

Countering this argument for complete freedom to speak is the group which wants strict adherence to the provisions of the Code. They base this on the need for establishing high ideals and standards of resistance so that when the challenge comes the individual can meet it. They say that failure to do so provides a perfect defense for those who lack the stamina or guts, or whatever other term one might use, to withstand great pressure. In the final analysis, then, they feel any lessening will provide the slight tear in the entire fabric of patriotism and esprit which must be an essential part of serving one's country under such adverse conditions.

Prior to attempting to judge between these arguments it seems important to relate the Code to the Geneva Conventions. Such a relationship seems essential since the one would seem to stem from the other. It is incredible for us to expect an individual to comply with a Code when he has no idea what his conditions would be in captivity. Unfortunately, there is an immediate stumbling block when we discuss the Vietnam situation. Although the Government of North Vietnam affirmed the Conventions in 1957, it has repeatedly refused to agree that it has application to the present conflict. The National Liberation Front has announced the same position. Regardless of this, however, since the wording of the Convention clearly covers such a situation by the following, ". . . any other armed conflict which may arise between two or more of the High Contracting Parties *even if the state of war is* *not recognized by one of them,"* (italics provided), we should note what is called for in prisoner care.

Sorting through all the "officialese" the basic provisions provide for the major points shown here:

The POW is to be free from bodily harm, humiliating or degrading treatment.

The prisoner will be provided adequate medical and dental care.

He will be provided with adequate food and clothing.

There shall be a canteen where one can buy tobacco, soap, and other such articles.

The POW will have a medical checkup every month and have his weight recorded.

There shall be facilities and equipment for games and sports and time to use them.

Each POW will receive monthly pay (equivalent to 8 Swiss francs for those below sergeant and up to 75 Swiss francs for general or flag officers and the equivalent—Author's Note).

The POW shall be provided dentures and spectacles when such items are needed.

Now, although those are just brief glimpses of what is contained in a rather lengthy document, the average person will find them totally unrealistic when viewed in the present conflict. The enemy in Vietnam refuses to acknowledge them. If the *Pueblo* case is any evidence, the North Koreans have not changed much; and the information from escapees or returnees out of other Communist hands in Laos and Cambodia doesn't credit them with the milk of human kindness either.

But if the other side did suddenly say they would play the game, could they really meet all the needs? Just on the matter of sufficient food, we reach an impasse. What is "sufficient and adequate" for a Viet Cong is a far cry from the usual U.S. Armed Forces fare. Where would all the medical personnel and material come from? In view of their complete dependence upon outside sources for almost everything, would they really pay the American POWs money and provide facilities at which to spend it?

TELL HIM "LIKE IT IS"

To advise a potential POW of such possibilities would not only be inadvisable—it would be inexcusable. Therefore, I would say that our first responsibility to the individual is to tell him "like it is" (or probably will be). The vast majority of our efforts along this line have been to stress "escape and evasion" survival techniques. While this is intended to teach how to eat the inedible, make traps and shelters, and make your way to friendly forces while fending for yourself it doesn't do much if you are held prisoner. What we need are some really good first-hand reports by those who have been there to provide guidance. Only those who have been in captivity for protracted periods can truly provide an insight into what the prisoner's lot will be.

Troops being deployed to areas of conflict should be given this kind of information; *and* if at all possible they should have some period in training when they must subsist on what they would probably get to eat and at least be shown the probable facilities they would have to live with and in. They often say that "You don't have to practice to be miserable," but I for one totally disagree with that. Even a vague glimmer in the darkness makes a lot of difference and even a little idea of what is in the unknown helps one cope with it.

At the same time the inference of the Code and the Convention is that everyone is created equal, mentally and physically. This just isn't fact. Our enemy has demonstrated that they can and do have the capability and the willingness to probe at each prisoner until they find the point or points which are most vulnerable. To counter this we must prepare the potential prisoner physically as well as psychologically. There is overwhelming evidence that just simple isolation is used as a common practice to break down a prisoner. The Russians have given us sufficient evidence of this, in accounts by POWs and political prisoners prior to, during, and after WW II. From the testimony of Commander Bucher and his crew it appears that isolation as well as both physical and mental torture were used. From conversations with medical personnel, it seems that there is enough knowledge and technique to provide such material to the average individual to assist him if and when he is subjected to such situations. Again, that edge of basic knowledge may well be sufficient to face the unknown more securely.

If we refer to the words of the Code, we find there is a great deal of "I" in it and not a great deal of "We." In general, the Code levies a great deal on the individual prisoner in a very personal way, but does not define the responsibilities of the other confinees. Experience has proven that few of us can grasp such a large entity as "The United States." But the majority of individuals respond to very restricted groupings or numbers of individuals within a group. The fire team, squad, platoon, and company have a great deal of meaning to the average rifleman. The airman may have extremely close feelings about his airplane, his crew, or the squadron. A sailor responds to his division, department, or when small enough to the whole ship. Only when you go well up the rank structure, do you get real comprehension of such things as the largest description of any organization.

The point is that we can be most successful if we appeal in training for adherence and belief in the smaller unit. Men have done incredible acts of bravery in combat and out because "a buddy" or "my outfit" or some similar entity could only be served through such a brave act. At the same time we could never teach the individual to do the same thing on behalf of some unknown or generally unidentifiable nonentity. During training then, instruction concerning the possibilities of becoming a prisoner of war should be directed along the same lines. Build the ideas of facing hardships and possible physical and/or mental abuse for the recognizable close things that the average individual can identify with. Then, even if isolated, one can be psychologically able to handle things more easily. He is doing it so as not to "let so and so down."

In some ways, the Code is a great deal like the Ten Commandments. While almost everyone agrees that the Commandments have a lot of merit, the same people find it very hard to avoid breaking one or more of them frequently. Our religious teachings are that despite minor infractions, we need something to guide us over the long haul. Any approach to instruction about being a prisoner of war should be similar to that approach to the Ten Commandments. The individual must also be assured that his country, his service, his unit, and his buddy will be all doing all they can to get him back as soon as possible. It is a fact the longer he is a POW, the harder it is to resist.

NO LEGAL STATUS

It should be noted that the Code has no legal status as such. There are provisions in the Uniform Code of Military Justice (UCMJ) to cover any foreseeable situation. There is a great deal of misunderstanding on this, however. In the *Pueblo* case, it was carefully explained that the individuals involved were not "prisoners" as intended by the Code. Much less pointed explanation was given that if punishment were meted out, it would be under the UCMJ in any event.

It is impossible for most of us who have not been prisoners to make the same judgment on this matter as one who has been. On the other hand, a good doctor doesn't have to have cancer in order to be able to cure or curb it. Not all the possible solutions have been provided. There is, however, a need to probe and discuss this matter. We are in combat and we do have people in the POW status in many places. Most of the reports indicate that things haven't changed too much in that part of the world as relates to the care and feeding of POWs. In a book entitled "Reported To Be Alive," the author, a civilian cameraman, who was a prisoner of the Pathet Lao for 15 months dedicated his account thus: "To. . . . all captives. To those at the mercy of the unmerciful, and especially those who with me survived this ordeal; and to those who did not."

We must always remember that we do have Americans in the hands of the "unmerciful" right now—and more are exposed to that possibility every day. Have we done and are doing all that we can to provide them a maximum chance to survive that ordeal? I suggest that we have not and are not. The fact is that the Geneva Convention is being ignored and the Code has not, and probably never will be, invoked. *But* the Conflict goes on.

If we hope to face the return of the POWs at the end of this conflict with any degree of confidence that we did all we can to help them through their ordeal, perhaps we have one additional responsibility—let's resolve the Confusion. That appears to be a fourth "C" which now exists as strongly as the first three.

THE ENDANGERED SPECIES ARE IN TROUBLE; CHRISTIAN SCIENCE MONITOR AND SCIENCE WRITE OF DANGERS

Mr. YARBOROUGH. Mr. President, once again I would like to express the grave concern that I have for the endangered species of animals in this country and around the world.

Currently, approximately 275 mammals and more than 300 species of birds face immediate danger of extinction. These animals will soon meet the sad fate of the passenger pigeon and the Carolina parakeet unless responsible Federal and international action is taken now.

Last December, Congress made an initial and major step in providing protection for the endangered species by enactment of the Endangered Species Act. In addition to a growing National Wildlife Refuge System and continued experimentation in breeding and propagation programs designed to preserve these species, the Endangered Species Act outlaws the pet and fur market for native and forign endangered species in the United States, where the animals are taken contrary to the law of the United States.

Mr. President, I sponsored and fought hard for the passage of this bill last year. It empowers the Secretary of the Interior to maintain a list of fish and wildlife threatened with extinction. This list, according to the law, is to be employed by Federal inspectors at warehouses and ports of entry to confiscate imported coats, skins, or manufactured pieces, or imported live animals whose names have been placed on that list.

Furthermore, the interstate commerce of birds, mammals, or fish poached in any State is now prohibited by Federal law. The Endangered Species Act also extends this protection to amphibians, reptiles, mollusks, and crustaceans taken in violation of State, Federal, or foreign laws.

The bill was passed after many years of work. But still the endangered species are in trouble. The sperm whale, for instance, has been killed and diminished in number by 25,000 in the past 3 years, despite international laws on whale hunting and despite the efforts of the International Whaling Commission. The blue and humpback whales, too, stand on the brink of extinction while our law does little to prevent the countries of the world from hunting in the whale breeding grounds.

In 1965, I called for a worldwide convention that would bring all the nations together in order to devise proposals that could and would put an end to the dangerous disappearance of many of our fine animals.

Now I ask again that the Secretary of the Interior, in compliance with the law, seek the convening of an international meeting on fish and wildlife, for the purpose of holding a binding international convention for the protection of the endangered species. On March 13, 1969, I introduced Senate Concurrent Resolution No. 11 calling for an international convention on conservation of wildlife. This convention, I propose, must also look into alternative multilateral methods of control and enforcement for behavior in local animal and hunting markets that are not subject to the direct jurisdiction of the convention. For it is there that the wildlife population suffers its first and major depletion.

This gradual and ugly slide into extinction of such animals as the Asiatic cheetah, the wooly spider monkey, the snow leopard, and the Himalayan giant panda must be halted. For naturalistic as well as economic reasons, we, as members of the world community of nations, must conserve and defend our great wildlife heritage.

Mr. President, I ask unanimous consent to have printed in the RECORD two excellent articles that have called to public attention the danger of extermination of the whale and other animals. The first is entitled "Drop That Harpoon, Captain Ahab!" written by George H. Favre, and published in the Christian Science Monitor of July 11, 1970. The second is entitled "Endangered Species: Congress Curbs International Trade in Rare Animals," written by Mark W. Oberle, and published in Science, January 9, 1970.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, July 11, 1970]

DROP THAT HARPOON, CAPTAIN AHAB!

(By George H. Favre)

NEW YORK.—Moby Dick's fate is no longer decided by Captain Ahab's harpoon, but by a bureaucrat's pen.

A conference table in the United States Department of Interior replaces the sturdy whaleboat, and the brine-drenched battle between man and leviathan is reduced to the dry rustle of legal briefs.

These are the components of a 20th century battle between American importers of whale products and conservationists who warn that overhunting threatens to make earth's largest mammals extinct.

Biologist Roger S. Payne and a few of his colleagues may be the whales' best friends. They want to keep intact a United States ban on all whale-product imports. The ban was published June 2. It is part of the Endangered Species Act passed by Congress last December, and it takes effect next year.

Dr. Payne is connected with both Rockefeller University and the New York Zoological Society.

EXCEPTIONS ASKED

Importers of whale oil are fighting the ban. One of the largest, Werner G. Smith, Inc., of Cleveland, insists that the ban is illegal because it was published without public hearings. The importers are petitioning the Interior Department to remove fin, sei, and sperm whales from the endangered-species list.

The Smith company is a major importer of sperm whale oil, which has unique properties as a high-pressure lubricant. Reportedly it is used in submarines. Sperm oil is on the strategic stockpile lists of the Department of Defense, which according to one source has accumulated 23 million pounds of it.

Dr. Payne says that in the last three years between 20,000 and 25,000 sperm whales have been killed. He charges that kills are being made in the whales' breeding grounds, close to the equator.

"Now you know that you don't hunt any animal on its breeding grounds," said the biologist. "Furthermore, there is an international ban on hunting whales between 40 degrees north and 40 degrees south of the equator." However, Japan, Russia, and Norway have all dissociated themselves from this ban, he said, and are hunting on the breeding grounds.

Dr. Payne, who has degrees from Harvard and Cornell, is no dilettante in whaling matters. With two colleagues, Scott McVay of Princeton and Frank Watlington of Columbia University, he has done considerable firsthand research on the huge marine mammals.

The trio discovered that whales utter "songs," much in the manner of birds. Whale songs are as long as the singers are large, lasting from 7 to 30 minutes. Also as loud. They can be heard over areas up to hundreds and perhaps thousands of square miles.

Dr. Payne fears that the larger species of whale are in danger despite efforts of the International Whaling Commission (IWC), which he considers well-intentioned but impotent.

Citing the case of the blue and the humpback whales (blues were hunted almost to extinction in the 1960's, leaving perhaps 1 percent of the original 100,000), he charges that the whaling commission has "a lethal lag in its ability to keep abreast of the needs of those animals it was convened to protect."

Dr. John L. McHugh, U.S. commissioner to the commission, disagrees.

"At a conservative estimate, there are over half a million sperm whales in the world oceans today," he says. "That doesn't sound like extinction to me."

UNILATERAL ACTION OPPOSED

Granting that the IWC has not solved all the problems, Dr. McHugh warns that "it's the only mechanism that exists for regulating world whaling right now."

He himself has protested the recent ban on all whale-product imports, on grounds that "unilateral action by the U.S. is contrary to our international agreements under the whaling convention. . . . If we persist in trying to do it on a unilateral basis, we will weaken rather than strengthen the IWC."

As the legal and technical battle rages in bureaucratic and corporate offices, the whale slaughter goes on. Japan and Russia, using whaling factory ships that weigh up to 44,000 tons and using helicopters to spot herds, can flense and melt down the largest whale in 30 minutes. On old-time sailing ships it took several days for whales half the size.

ENDANGERED SPECIES: CONGRESS CURBS INTERNATIONAL TRADE IN RARE ANIMALS

(By Mark W. Oberle)

The Himalayan giant panda and the Nubian wild ass were granted a reprieve early in December when the President signed into law a bill (PL 91–935) to eradicate U.S. trade in endangered species of wildlife. Instead of relying on game wardens here and abroad to halt poachers at the production end of the rare animal trade, the law would eliminate the market for such rare animals as the Asiatic cheetah, woolly spider monkey, bush baby, and snow leopard.

Conservationists have long stressed the importance of preserving individual species of wildlife, both for possible genetic, behavioral, or medical research and for esthetic reasons. "The prospective picture of man, living alone on his planet except for domesticated food animals or pets, seems a rather dreary one," observed one Congressional subcommittee.

But with human expansion into former wildlife habitat, many wild animals populations have been reduced to the point where hunting pressure or climatic quirks could push them over the brink. Since the turn of the century, an average of one species a year has quietly made its exit somewhere in the world, and one endangered species list currently popular in government circles includes 275 mammals and over 300 species of birds. The U.S. Department of the Interior fears that some North American animals, including the Southern bald eagle, the whooping crane, and the peregrine falcon might soon follow the passenger pigeon and Carolina parakeet to extinction if no action were taken to save them.

Over the last few years, a three-point federal welfare policy has emerged for endangered species, regardless of their economic worth:

Since 1966, the Bureau of Sports Fisheries and Wildlife has maintained a captive propagation program at its Patuxent Research Refuge in Maryland. The Bureau is experimenting with breeding stocks of the Hawaiian nene goose, the Aleutian Canada goose, the Southern bald eagle, the whooping crane, and the masked bobwhite. The National Zoological Park and other zoos in the United States are emphasizing captive propagation rather than further collection of endangered foreign species.

Rare animals have been traditionally protected by regulating hunting and by including critical habitat types in the 28-million-acre National Wildlife Refuge System. The bill authorizes an extra $1.75 million for land acquisition in the endangered species program, plus $1 million annually for fiscal 1970–1972 for purchase of privately owned lands within the boundaries of areas administered by the Interior Secretary to preserve or protect endangered species.

Under the new legislation, the pet and fur market for both native and foreign endangered species will be outlawed in the United States. The Secretary of the Interior will maintain a list of fish and wildlife threatened with worldwide extinction. Federal inspectors at ports of entry, warehouses, or retail stores could confiscate imported live specimens or any imported skins, coats, or manufactured items made from a species on the list. Federal law now prohibits the interstate commerce of birds, fish, or mammals poached in any state, whether or not they are rare. The new law extends this protection to reptiles, amphibians, mollusks, and crustaceans taken in violation of federal, state, or foreign laws, and to fish taken illegally in a foreign country.

The law provides an exception to the prohibition on importation of endangered species for zoological, educational, scientific, or propagation purposes.

In the past, the idea of preserving a species indirectly by restricting the consumption end of the trade has worked well with some native animals. In the early 1900's, the Audubon Society found that its game wardens were fighting a losing battle to save the American egret, a bird, common in the South, whose large white feathers were prized for ladies' hats. But once the federal government exercised its authority under the interstate commerce laws to outlaw the trade (after a warden had been murdered), egret poaching came to a halt.

Without the protection of an interstate commerce law, an animal such as the alligator could be poached in its home territory and then transported to a hide market in New York. A New York City ordinance recently signed by Mayor John Lindsay appears to end this situation. The alligator population in the United States has dropped to 200,000 and is declining rapidly in the face of heavy poaching and marsh drainage. The soft belly skin of the reptiles (the only part that poachers use) sells for as much as $10 a linear foot, and reptile poaching is reportedly a $1 million industry in southern Florida alone.

Last March Secretary of the Interior Walter J. Hickel publicized the alligators' plight with a visit to Everglades National Park. "A million alligators once abounded in the Park, and now only about 20,000 remain," Hickel said at the time. "Because of the limited manpower and equipment available to the National Park Service, poachers have been able to butcher the alligators by the thousands and sell the illicit hides at fancy prices." Hickel assigned seven extra rangers and a "conservation posse" of local residents to control poaching over the park's vast area. Interior officials expect the anti-poaching drive to cost nearly $100,000 this year; yet it will still offer incomplete protection.

The developing nations have experienced comparable problems in protecting endangered species in the field. For example, prior to 1966, orangutans were effectively protected only in their native Indonesia and Malaysia, and the wild orangutan population dropped to an estimated 4000 individuals under pressure from human settlements and zoo collectors. Once a collector reached Bangkok, Singapore, or Hong Kong with a contraband orangutan, the local game laws would not apply to his cargo.

Zoo directors in the United States watched the price of the wild apes climb to $3000 apiece as the supply dwindled, and in 1966 they deicded to preserve the wild population by cutting off the trade and relying on captive propagation for future zoo display. British, Japanese, and German zoo directors eventually joined the orangutan embargo, and the international market has been virtually eliminated. "We chose the orangutan because it is a very conspicuous animal," said John Perry, Assistant Director of the National Zoological Park in Washington, D.C., but the zoo directors have since extended their embargo to the Galapagos tortoise, the golden marmoset, and the woolly tapir.

However, women's fashion crazes and the demand for exotic pets pose a much greater threat to rare wildlife than zoo collectors do. Last year, U.S. fur brokers imported the skins of 1,283 cheetahs, 13,516 jaguars, and 9,556 leopards—a small harvest when compared with the total volume of the U.S. fur trade, but a number far larger than some subspecies of these big cats can sustain.

Some fur industry spokesmen, recalling the loss of jobs after a 1952 embargo on Russian and Communist Chinese furs, have not been overjoyed at the prospect of import restrictions. New York, they claim, is the world's middleman for furs much as London is for gold, and unilateral U.S. legislation would simply eliminate this broker role. Unless the endangered species bill "is accompanied by some form of joint international action, it would have the effect of simply diverting these skins from our country to some other, while not one single endangered species would be benefited," said Herman Ringelheim, a New York fur dresser.

Supporters of the legislation argue that, if a species is rare enough to be put on the endangered list, it can be of little permanent economic importance. The new law's impact on any business, said John Perry of the National Zoological Park, would be "well under 1 percent of its existing volume." The International Union for Conservation of Nature and Natural Resources (IUCN), a semigovernmental group that keeps track of rare wildlife, has proposed an international convention to protect endangered species. The IUCN members expect the major consumer and producer nations to sign the pact by the end of next year. U.S. legislation "will give considerable impetus to the convention on a worldwide basis," S. Dillon Ripley, secretary of the Smithsonian Intsitution, told a Congressional subcommittee.

The new law directs the Interior Secretary, through the Secretary of State, to seek the convening of an international meeting on fish and wildlife prior to 30 June 1971, for the purpose of drawing up a binding international convention for the conservation of endangered species. Congress has authorized $200,000 for this purpose.

For any one species, this international convention and the new U.S. law would come into play only at the last minute, if then. The rules would not curb the excesses that deplete a wildlife population in the first place. In East Africa, for example, much of the poaching is done for the domestic meat market and not for the international fashion trade. In northern South America, the new regulations would not affect local live animal markets that supply the U.S. laboratory and pet supply industry. Some ecologists estimate that only 1 out of 50 birds survives the trip from the jungle to the U.S. market, and the Amazon River Basin, despite its lushness and size, stands in danger of losing even its common fauna to satisfy U.S. demand for reptiles, monkeys, and parrots. For some animal populations, the endangered species bill may offer little hope for survival.

CUBA TODAY AS A SOVIET COLONY

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD a speech given to the Miami Kiwanis Club by Dr. Manalo Reyes on April 10, 1970.

Dr. Reyes is a well-known Cuban patriot and journalist. I know Dr. Reyes personally, and he is, in my judgment, a man of integrity, honor, and great commonsense. Since his exile from his homeland, he has become the Latin American news editor of WTVJ, Wometco's Miami outlet.

Dr. Reyes is neither an alarmist nor a pessimist. But, in his view, Castro's Cuba is a Soviet colony which represents a clear and present danger to the security of the American Continent. He makes a strong case that the presence of missile boats in Cuba—now numbering 60 or 70 equipped with missiles capable of receiving nuclear warheads—pose an immediate threat to several countries in Central and South America.

In our dealings with Fidel Castro, it seems to me, it is a mistake to dismiss him as, on the one hand, a puppet of Moscow, or as yet another petty tyrant and dictator on the other. He has proven to be a most mercurial and unruly ally for the Russians. He is not, in my judgment, a stable man mentally. It seems to me that we have to recognize that we are dealing with a fanatic, who because he is so impulsive and so lacking in caution and restraint, is capable of doing great harm, harm far out of proportion to the size of his army or his arsenal. Castro, in my judgment, is very capable of precipitating a crisis of extremely wide dimensions, nothwithstanding the physical limitations he operates under.

Things have not been going well for Castro domestically: this year again the sugar crop has not come up to expectations. His brutal and tryannical treatment of his own people, coupled with the decade-long deprivation of consumer goods, austerity, and economic hardship has made the Cuban people restive and dispirited. There is, I think we all recognize, a pattern in situations of this sort. When the times become difficult at home, the despot frequently seeks to divert attention from those troubles by stirring up the pot abroad. As things become more and more tense at home, I think we can expect attempts by Castro to spread his revolution to nearby countries of Central and South America—to distract the attention of the Cuban people from their hardships and privations at home.

While I cannot confirm Dr. Reyes' figures, I agree with his analysis. We should never ignore the threat that Castro poses in this hemisphere—a threat made all the more acute because he is a fanatic. We cannot expect him to behave rationally. On the contrary, we must expect that he will behave irrationally, impulsively, and irratically.

I think we are all indebted to Dr. Reyes for his levelheaded and sober analysis in this case and throughout the years. I think it is fair to say that when the Castro depotism is finally overthrown, Dr. Reyes will have a place of honor in the new, free Cuban Government.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

CUBA TODAY AS A SOVIET COLONY

(By Dr. Manolo Reyes)

I want to express my most sincere thanks for this invitation extended to me by the Greater Miami Kiwanis Club, the biggest Kiwanis Club in the United States.

Today, April 10, Pan American Week begins in Dade County. I wish I could bring a better picture of the situation in the American continent. A climax of aggression, kidnappings, terror and death in the continent has been witnessed only a few days ago with the murder of the ambassador of West Germany in Guatemala.

And even before his body was given burial, the Communist regime of Fidel Castro has publicly brought out a "mini-manual" for urban guerrillas in the American continent, teaching them and instructing them on how to kidnap prominent persons to propagate its hideous doctrine.

This is just one of the many forms that Fidel Castro uses to export his so called revolution. Today, just a few hours ago, the use of Cuba's embassy in Paris to support revolutionary activities in Latin American countries was revealed in a closed session testimony released by Chairman James O. Eastland, of the Senate Internal Security Subcommittee. A Cuban defector from that embassy in Paris, Orlando Castro Hidalgo, told the committee that his main tasks were to provide lodging, money, communication with Havana and visas to Czechoslovakia for Latin American trainees in their way to Havana.

All of this is the direct influence on the topic of our speech: "Cuba Today". And I would dare to add: "Cuba today is a Soviet colony."

In the words which follow we will reveal new elements of the Soviet domination in Cuba, and the threat that Castro's communism means to the countries in the continent today.

In a recent interview I identified the sources of my information as follows: First: The Cubans inside the island of Cuba. Second: Cubans arriving to exile. Third: Sources that cannot be revealed at this time.

Let us say at this moment, according to the information I have received, that there are indications that there are—and it is a conservative figure—approximately ten thousand Soviet soldiers in Cuba. They may be posing as technicians, agriculturists, etc., but they are, in the end, Russian soldiers that are in Cuba against the sovereign will of the Cuban people. At present, Raul Castro, so called minister of the armed forces of Cuba, is in Russia, by invitation of the Soviet minister of defense.

And it is peculiar that Raul Castro visited Russia in the company of another Cuban, Emilio Aragones, on January of 1962, a few months before the missile crisis of October of the same year.

It seems that when Raul Castro goes to the Kremlin, the military supplies in Cuba are increased.

A year before the missile crisis, Castro's soldiers began making tunnels and using the numerous caves in the different sections of Cuba. A year ago this month, we began receiving reports of a Soviet military increase in Cuba. We made the denunciation on channel four.

On this first slide, we see a headline in the Miami News of April 29, 1969, pointing out our denunciation, where we stated that a great part of that military increase was centered on the northern side of the Province of Matanzas where there are many nearby caves.

Ten months later, the 13th of February of 1970, officials in Washington admitted that there had been an increase of Soviet weapons in Cuba. This is the headline that appeared in the Miami Herald of that day concerning that fact.

As the months went by, the truth became apparent and we were backed in our statement that there had been a considerable increase of Soviet weapons in Cuba, but that the same did not pose a threat to the United States.

The great problem was that the Soviet arms sent to Fidel Castro are considered by technicians of the free world as defensive weapons. Not as weapons that could be used offensively, or to attack the U.S. Our concept is that this is a problem in semantics and that both kinds of weapons are made to kill.

In addition, we have received reports that state that Fidel Castro is preparing to attack, in the coming months, several countries of the continent, in support of the guerrillas now operating inside those countries, or to attack openly those same nations in case of a world wide war in the Middle East, or due to a direct confrontation with the United States.

Now you will see the means that, according to the information we have received, Castro plans on using, essentially, on those attacks:

As general information, let us say that it is the first time that the Communist regime of Castro publishes pictures of missile boats. They were published only a few weeks ago on Castro's Army magazine called Verde Olivo.

Observers believe that Castro has published those pictures to gain the confidence of his followers in Latin America.

This launching took place, apparently, only a few weeks ago. About twenty of these boats arrived at Cuba, together with the ICBM intercontinental missiles, on July of 1962, some time before the missile crisis of that year.

According to the reports we received, the regime of Fidel Castro has, in the last six months tripled this number, adding 40 or 50 very modern Soviet missile boats.

The boats are about 80 feet in length and can operate in a range of 100 miles.

These are the missile boats that, according to the reports, Castro would preferably use in his attacks anywhere on the continent. For military operations outside the range of 100 miles, these boats could very easily be operated from a mother ship.

The missiles used by those boats are of the torpedo type, 20 to 25 feet in length. Those missiles go up 80 to 100 feet in the air.

The missiles used on these boats are of the snark type, which the United States used to operate, and seem to have a jet motor in the rear.

These missiles are of surface to surface and guided by radar, and even though they are generally used on attacks from ship to ship, experts on the matter state that they can be also used from ship to land. The range of those missiles is of 40 to 50 miles. And *there* is where the "defensive" missile becomes "offensive".

Any of those missile boats of Castro could launch a missile from open sea near the Florida coast, and hit, for example, the heart of Homestead Airforse Base. Each of these boats is equipped with two of those missiles.

The reports that have reached us, which after a careful evaluation, indicate that Castro has in his arsenal, at present, some 300 missiles of this type for his fleet of 60 to 70 missile boats.

Observers from the underground on the island of Cuba believe that Castro has received nuclear heads that can be attached to the front of those missiles as war heads.

It is indisputable, according to the experts of the free world, that there are in existence, projectiles that use such nuclear heads. So they believe it is possible that in Cuba they already have such nuclear war heads, but they affirm that those nuclear war heads are in the hands of the Soviets, and not under the control of Castro.

We have tried to push our contacts inside and outside the island, to obtain a confirmation of this matter of such a great importance to the security of the American continent, without results so far.

The summary of this presentation is that the regime of Fidel Castro is a real and present threat to peace and security in the American continent, and the countries which are the immediate object of Castro's aggression are: Guatemala, Panama, Venezuela, the Dominican Republic, Haiti, Brazil, and Nicaragua.

AGRICULTURAL CONSERVATION SERVICE SUBSIDY PAYMENT LIMITATIONS

Mr. HATFIELD. Mr. President, during the recent debate on the 1971 agricultural appropriations bill, I gave my full support to an amendment by the Senator from Illinois (Mr. SMITH) to limit subsidy payments to $20,000 for all payees. The amendment was agreed to, 40 to 35.

Under the present system, over one-third of all subsidy recipients receive less than $500 in payments. Only one-half of 1 percent receive over $20,000, but this group receives $508,602,613—14 percent of all payments. That means only 13,000 of the 2½ million farmers in America receive the payments over $20,000. In the cotton business, 28 percent would be affected by the $20,000 limitation; 2 percent of the feed growers; and between 3 and 4 percent of the wheat growers.

At present, a large portion of the payees receiving over $20,000 are corporations such as Southern National Bank, subsidized over $224,000 in 1969; Standard Oil, $127,000 in 1969; and Reynolds Aluminum. Many of the rest are large "agribusinesses." In short, corporations and agribusinesses are receiving large sums of money from programs originally intended to strengthen the rural family farmer. I am aware of the positions taken by the opponents of this amendment; but the current program is making the rich richer and the poor poorer, because it is widening the monetary gap between the small farmer and the corporate farmer.

In Oregon, only 86 of our thousands of farmers would be affected by the $20,000 limitation, 69 of which are in wheat farming. The Oregon payees receiving over $20,000 receive a total of $2.3 million—a small percentage of the same group on the national scale, which receives $374,000,000. Thus only six-tenths of 1 percent of the over-$20,000 payments received nationally are received by Oregonians. Only 44 Oregon payments are over $25,000; the other 57 are between $20,000 and $25,000.

This amendment will save American taxpayers from $350 to $400 million annually.

I ask unanimous consent that a table of statistics relating to Oregonians, outlining in detail how this limitation would affect our State, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

1969 OREGON ASCS PROGRAM PAYMENTS EXCLUDING PRICE-SUPPORT LOANS ON WOOL AND SUGAR

Payments between the following	Number of payees	Percent of payees	Total amount paid over $5,000	Percent of total amount paid over $5,000
$5,000 to $7,499	455	41.5	$2,776,560	25
$7,500 to $9,999	277	25.5	1,960,440	18
$10,000 to $14,999	203	18.5	2,434,253	22
$15,000 to $19,999	68	6.2	1,370,770	12
$20,000 to $24,999	47	4.3	959,547	9
$25,000 to $49,999	39	3.5	1,210,819	11
$50,000 to $100,000	5	.5	323,352	3

U.S. DEPARTMENT OF AGRICULTURE ASCS PAYMENTS TO PRODUCERS IN OREGON BY PROGRAM DURING CALENDAR YEAR 1969

Feed grains acreage diversion and price-support payments	$1,986,092
Wheat acreage diversion and price-support payments	16,993,254
Sugar Act program	1,123,526
National Wood Act payments	1,392,119
Agricultural conservation program	2,393,464
Emergency conservation measures	46,357
Cropland conversion program	11,055
Soil bank conservation reserve	298,579
Cropland adjustment program	98,981
Total payments	24,343,427

PHYSICIANS IN FAMILY PRACTICE

Mr. YARBOROUGH. Mr. President, last February I introduced a bill, S. 3418, which, if enacted, would substantially assist in meeting the growing need for physicians engaged in family practice. Last week, the Health Subcommittee of the Labor and Public Welfare Committee conducted intensive hearings on my bill. S. 3418, into the substantial need for a specialty in family practice.

Today, I invite the attention of Senators to an article prepared by Mrs. Mary Overpeck which presents a statistical analysis of the great and growing need for family practitioners. Her well documented study makes clear that, while the number of physicians in the country has continued to grow, physician potential in family practice has shown a reverse trend.

Advances in the generation of new biomedical knowledge have, of course, contributed to the growing specialization of the physician's education. However, if this trend is not complemented with an increasing number of practitioners who are principally engaged in family medicine, this country's health care delivery crisis will continue to worsen.

Mr. President, I ask unanimous consent that Mrs. Overpeck's article, "Physicians in Family Practice 1931–67," contained in the June 1970 issue of Public Health Reports, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PHYSICIANS IN FAMILY PRACTICE 1931–67

(By Mary D. Overpeck, M.P.H.)

A specialty in family practice was established in 1969 in response to growing concern about the need for increasing the availability of comprehensive and continuous patient care. The great consideration given to the breadth and depth of residency training by those establishing this new specialty reflects the intention to improve the scope of responsibility and the quality of care provided by the traditional family physician.

Another major consideration in establishing the residency program for the specialty was to make the new "family practice" more attractive to the student whose major exposure in medical school had been to specialties rather than to general practice. An approved residency in general practice with no recognized specialty board has existed for a number of years. Only a small number of physicians have been taking advantage of this residency.

Although many educators and planners have felt that specialists in internal medicine, pediatrics, obstetrics, and gynecology would serve the functions of the family practitioners, these specialists have not replaced the losses occurring in the field of general practice, either in numbers or geographic distribution. This article documents the national numerical trends in those fields of practice of most physicians engaged in family practice in the last few decades.

In 1959 the Surgeon General's Consultant Group on Medical Education reported the trend toward specialization as it had affected the gross potential of family physicians.[1] They stated that the 1957 count of physicians (doctors of medicine and doctors of osteopathy) showed that less than half of the physicians in private practice limited themselves to specialty practice (table 1) compared with one in four in 1940 and one in six in 1931. For the 1931–57 time period, detailed information available for doctors of medicine only was used in the report to obtain physician-population ratios. Specialists in private practice per 100,000 population increased from 17.9 in 1931 to 25.5 in 1940, 36.8 in 1949, and 43.5 in 1957.

For purposes of estimating the potential number of physicians performing the functions of the family practitioner, the report[1] combined specialists who limited their practice to internal medicine and pediatrics and physicians who were in general practice or part-time specialties. Information available only for doctors of medicine in private practice from 1931 to 1957 showed that 75 percent were part of this pool of potential family physicians in 1931 compared with 67 percent in 1940, 55 percent in 1949, and 45 percent in 1957. Specialty information for the doctors of osteopathy during this period was not available. The family physician potential, based on the number in private practice per 100,000 civilian population, dropped from 94 in 1931 to 89 in 1940, 75 in 1949, and 60 in 1957 (fig. 1 and table 2).

(NOTE.—Mrs. Overpeck is a statistician in the Professional Activities Branch, Division of Physician Manpower, Bureau of Health Professions Education and Manpower Training, Public Health Service. Members of the Physician Resources Branch of the Bureau assisted in preparation of the data.)

Since the Surgeon General's report was published, a number of changes have been made in counting methods and classification systems for physicians.[2, 3] Although the information improved, the changes affected the comparability of data published for the periods before and after 1963. Estimates and adjustments were made for several major categories in the earlier period, but comparisons between these periods for the specialties and private practice classification are difficult.[2]

Interest in this grouping of physicians is still pertinent, particularly since the new specialty in family practice was formed. The data used to compare time periods from December 31, 1963, to December 31, 1967, were taken from detailed tabulations[4–7] published by the American Medical Association (AMA) and the American Osteopathic Association (AOA). The report of the Surgeon General[1] and later Public Health Service publications used similar tabulations.

The data for my article are presented in the usual Public Health Service format, with minor modifications and with definitions inherent to the tabulations used. The category of general practitioner includes those physicians who did not specify a specialty (about two-thirds of whom are in internship programs) and those specifying a part-time specialty. This grouping is consistent with the earlier general practice category in which all active physicians who did not specify a full-time specialty were assumed to be general practitioners.

In the AMA tabulations, physicians specifying a specialty practice were not necessarily trained or certified in that specialty. The American Medical Association formally recognized the family practice specialty on January 1, 1970. When the data are tabulated for 1970, it will be interesting to see how many general practitioners, pediatricians, and internists have designated family practice as their specialty.

The difficulties of trying to describe numerically the changes in the pool of physicians serving the public have been discussed frequently. Changes in the methods of applying our rapidly expanding knowledge and the productivity of physicians, as well as quality changes, cannot be measured easily. Changes in population composition and demand also are not reflected. The increasing proportions of persons in the old and very young age ranges affect the incidence of certain types of diseases that must be treated. Changing expectations for health care created by economics, education, and mobility magnify the effects of the age factor on the services sought by the public. The physician-population ratio, although an insensitive index, is still the primary means of relating the number of physicians to the population served.

The number of total active physicians increased about 12 percent from 1963 to 1967, while the gross potential of family physicians, adjusted for activity, increase only about 4 percent (table 3). Although the ratio of total active physicians to population continued to increase in the 1963–67 period, from 140 to 150 per 100,000 population, the ratio of the gross potential for family physicians (all active in family practice specialties) remained about the same.

TABLE 1.—PHYSICIANS (M.D.'S AND D.O.'S) IN THE UNITED STATES, BY TYPE OF PRACTICE, MIDYEAR 1957

Type of practice	Doctors of medicine		Doctors of osteopathy	
	Number	Rate per 100,000 population	Number	Rate per 100,000 population
Total	226,625	132.4	13,692	8.0
Private practice	155,827	91.1	9,501	5.6
General practice and part-time specialty	81,443	47.6	8,656	5.1
Full-time specialty	74,384	43.5	845	.5
Not in private practice	60,137	35.1	1,205	0.7
Hospital service except Federal	36,371	21.2	872	.5
Teaching, research, public health, other	7,168	4.2	321	.2
Federal Government	16,598	9.7	12	[1]
Retired, not in practice	10,661	6.2	[2] 2,986	1.7

[1] Less than 0.05.

[2] Includes 2,006 D.O.'s who did not report type of practice.

GROSS POTENTIAL OF FAMILY PHYSICIANS

The gross potential numbers of family physicians among total active physicians, without considering the possible activities, increased from 142,901 in 1963 to 149,426 in 1967 (table 3). Despite the increased numbers, the gross potential percentage of family physicians among total active physicians dropped from 52.4 to 48.9 in the 5-year period. Most of the decrease occurred in the general practice and unspecified physician category, from 34.4 to 29.2 percent. The proportion of specialists limited to pediatrics increased slightly from 5.2 to 5.8 percent, while the proportion in internal medicine increased from 12.8 to 13.9 percent.

The ratio of the gross potential of family physicians per 100,000 population stayed about the same for 5 years: 73.6 in 1963 and

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Footnotes at end of article.

73.4 in 1967. Specialists in internal medicine, whose ratio increased from 18.0 to 20.9 per 100,000 population, maintained the balance. (This balance does not hold for only those physicians in patient care, as explained in the next section.) The proportion of specialists in pediatrics also increased from 7.3 to 8.7 per 100,000 population. The increases in these specialties offset the decrease in the general practitioner and unspecified categorey from 48.3 to 43.8 per 100,000 population. The gross potential of family physicians does not tell the whole story of access by the civilian population or of physicians' activities.

Comparisons of total active physicians are inadequate for these purposes. The figures include non-Federal physicians (M.D.'s and D.O.'s) in the United States, Puerto Rico, American Samoa, the Canal Zone, Guam, Pacific Islands, and Virgin Islands; those with addresses temporarily unknown to the American Medical Association; and Federal physicians in the United States and abroad. The corresponding population data include resident civilian and military personnel in the United States, Puerto Rico, and the outlying areas, military personnel and their dependents abroad, and civilians abroad employed by the U.S. Government.[29] Categories that make the data more definitive are discussed in the next section.

TYPE OF PRACTICE AND ACTIVITY

The old AMA classifications accorded to private practice are no longer used or available. The American Medical Association changed the classification system (see following list) to reflect patient care activities.

Old classification

Private practice.

Training programs: Interns, residents and fellows.

Full-time hospital staff.

Preventive medicine.

Research.

Medical school faculty.

Administration.

Laboratory medicine.

Inactive, address unknown.

New classification

Patient care: Solo, partnership, group, or other practice. Hospital-based practice: Interns, residents and fellows, full-time physician staff.

Other professional activity: Medical school faculty, administration, research.

Inactive, address unknown.

The categories of preventive medicine and laboratory medicine were eliminated. Physicians in these two categories were reclassified according to principal employer. Physicians in the specialty of administrative medicine were reclassified according to their secondary specialty, and those who did not report a secondary specialty were reclassified as "not recognized."

TABLE 2.—FAMILY PHYSICIAN (M.D.) POTENTIAL AND RATIOS TO POPULATION, UNITED STATES, MIDYEAR 1931–57

NUMBER OF PHYSICIANS

Type of practice	1931	1940	1959	1957
Total physicians	156, 406	175, 163	201, 277	226, 625
Family physician potential [1]	117, 079	117, 386	110, 236	101, 973
Pediatrics [2]	1, 396	2, 222	3, 787	5, 876
Internal medicine [2]	3, 567	5, 892	10, 923	14, 654
General practice and part-time specialty	112, 116	109, 272	95, 526	81, 443
All others	39, 327	57, 777	91, 041	124, 652

PHYSICIANS PER 100,000 CIVILIAN POPULATION

Type of practice	1931	1940	1949	1957
Family physician potential	94	89	75	60
Pediatrics	1	2	3	3
Internal medicine	3	4	7	9
General practice and part-time specialty	90	83	65	48
PERCENT OF TOTAL PHYSICIANS				
Family physician potential	75	67	55	45
Pediatrics	1	1	2	3
Internal medicine	2	3	5	6
General practice and part-time specialty	72	63	48	36

[1] Includes only physicians in private practice.

[2] Estimated from total number of physicians limited to a specialty.

TABLE 3.—GROSS FAMILY PHYSICIAN POTENTIAL, UNITED STATES, PUERTO RICO, AND OUTLYING AREAS, DEC. 31, 1963 AND 1967

	All physicians		Doctors of medicine		Doctors of osteopathy	
Specialty category	1963	1967	1963	1967	1963	1967
NUMBER						
Total active physicians [1]	272, 500	305, 453	261, 728	294, 072	10, 772	11, 381
Gross family physician potential	142, 901	149, 426	133, 001	139, 131	9, 900	10, 295
General practice and unspecified	93, 705	89, 157	84, 052	79, 192	9, 653	9, 965
Pediatrics [2]	14, 253	17, 678	14, 207	17, 614	[3] 46	[3] 64
Internal medicine	34, 943	42, 591	34, 742	42, 325	[3] 201	[3] 266
PERCENT [4]						
Total active physicians	100. 0	100. 0	100. 0	100. 0	100. 0	100. 0
Gross family physician potential	52. 4	48. 9	50. 8	47. 3	91. 9	90. 4
General practice and unspecified	34. 4	29. 2	32. 1	26. 9	89. 6	87. 6
Pediatrics [2]	5. 2	5. 8	5. 3	6. 0	. 4	. 6
Internal medicine	12. 8	13. 9	13. 3	14. 4	1. 9	2. 3
PHYSICIANS PER 100,000 POPULATION [4]						
Total population (thousands) [5]	194, 169	203, 708	194, 169	203, 708	194, 169	203, 708
Total active physicians	140. 3	149. 9	134. 8	144. 4	5. 5	5. 6
Gross family physician potential	73. 6	73. 4	68. 5	68. 3	5. 1	5. 0
General practice and unspecified	48. 3	43. 8	43. 3	38. 9	5. 0	4. 9
Pediatrics	7. 3	8. 7	7. 3	8. 6	([3] [6])	([3] [6])
Internal medicine	18. 0	20. 9	17. 9	20. 8	. 1	. 1

[1] Includes non-Federal physicians in the 50 States, District of Columbia, Puerto Rico, American Samoa, Canal Zone, Guam, Pacific Islands, and Virgin Islands; those with addresses temporarily unknown to the AMA; and Federal physicians in the United States and abroad.

[2] Includes pediatrics, pediatric allergy, and pediatric cardiology.

[3] Private practice only.

[4] Totals of percents and ratios may not add because of rounding.

[5] Includes civilians in the United States, Puerto Rico, and outlying areas; the Armed Forces in the United States and abroad; dependents of the Armed Forces abroad; and U.S. civilians working for the U.S. Government abroad.

[6] Less than 0.05 per 100,000 population.

In the new classification system, physicians providing patient care are grouped by hospital and nonhospital-based pratices. Hospital-based patient care is delivered by interns, residents, and fellows, and a full-time physician staff. Nonhospital-based patient care includes only non-Federal physicians in the category of solo, partnership, group, or other practice.

Nonhospital-based patient care is somewhat similar to the old private practice group but is larger and includes all physicians in patient care not otherwise classified. Besides physicians providing patient care in office settings, this category includes physicians in clinical laboratories or institutional settings other than hospitals, those providing patient care in industrial plants and as State and local health officers, and those in other settings. Many physicians in "other" settings are in administration or research and are not included in patient care; therefore, they are not included in the category of patient care. Descriptions of this sort are not clean-cut.

The American Osteopathic Association still uses a private practice classification. Adjustments in the AOA data have been made wherever possible to make the two systems comparable.

During the 5-year period 1963–67, the activity categories showed great change (table 4). The total number of physicians, active and inactive, increased from 289,188 to 322,045, or 11 percent; those active in solo partnership, group, or other practice increased from 189,267 to 200,146, or 6 percent. Of the physcians in solo, partnership, group, or other practice, those limiting themselves to a specialty practice increased from 59 to 64 percent. The number of hospital-based physicians increased from 68,341 to 85,239, or 25 percent. While the number of all physicians

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Footnotes at end of article.

in patient care increased from 257,608 to 285,385 (11 percent), the number of physicians in nonpatiant care increased from 14,892 to 20,068 (35 percent); therefore, the fastest growth was in nonpatient care activities. The number of physicians in hospital-based patient care also increased at a fast rate.

The ratio of physicians per 100,000 population increased as follows: total physicians from 148.9 to 158.1, physicians in patient care from 132.7 to 140.1, and those in solo, partnership, group, or other practice from 97.5 to 98.3. The large increase in hospital-based physicians, from 35.2 to 41.8 per 100,000 population, should be viewed with some reservation since more than half of these physicians were in the Federal service. Although a large increase occurred in the non-Federal segment, part of the increase may have reflected a temporary buildup in the Federal service for the Vietnam conflict.

In 1967, the doctors of osteopathy represented about 4 percent of all active physicians, 7 percent of those in the gross family physician potential, 11 percent of those in general practice (table 3), 4 percent of all physicians in patient care, and 5 percent of those in solo, partnership, group, or other practice—acutally private practice for the doctors of osteopathy. Within the category of solo, partnership, group, or other practice, they comprised 11 percent of general practioners (table 4).

FAMILY PRACTICE FOR CIVILIANS

The civilian population had most access to the group of family practice physicians in solo, partnership, group, or other practice (table 5).

TABLE 4.—PHYSICIANS (M.D.'s AND D.O.'s) BY TYPE OF PRACTICE, UNITED STATES, PUERTO RICO, AND OUTLYING AREAS, DECEMBER 31, 1963 AND 1967

Type of practice	All physicians		Doctors of medicine		Doctors of osteopathy	
	1963	1967	1963	1967	1963	1967
NUMBER						
Total physicians	289,188	322,045	276,475	308,630	12,713	13,415
Patient care	257,608	285,385	246,951	274,190	10,657	11,195
Solo, partnership, group, or other practice[1]	189,267	200,146	179,449	190,079	9,818	10,067
General practice and unspecified	77,427	71,495	68,728	62,844	8,699	8,651
Limited to specialty practice	111,840	128,651	110,721	127,235	1,119	1,416
Hospital-based physicians[2]	68,341	85,239	67,502	84,111	839	1,128
Not in patient care[3]	14,892	20,068	14,777	19,882	115	186
Inactive, address unknown	16,688	16,592	14,747	14,558	1,941	2,034
PHYSICIANS PER 100,000 POPULATION[4]						
Total population (1,000's)[3]	194,169	203,708	194,169	203,708	194,169	203,708
Total physicians	148.9	158.1	142.4	151.5	6.5	6.6
Patient care	132.7	140.1	127.2	134.6	5.5	5.5
Solo, partnership, group, or other practice[1]	97.5	98.3	92.4	93.3	5.1	4.9
General practice and unspecified	39.9	35.1	35.4	30.8	4.5	4.2
Limited to a specialty practice	57.6	63.2	57.0	62.5	.6	.7
Hospital-based physicians[2]	35.2	41.8	34.8	41.3	.4	.5
Not in patient care[3]	7.7	9.9	7.6	9.8	.1	.1
Inactive, address unknown	8.6	8.1	7.6	7.1	1.0	1.0

[1] D.O.'s in private practice only.

[2] Includes interns, residents, fellows, and full-time physician staff.

[3] Includes medical and osteopathic school faculties and those in administration and research. Also includes 7 D.O.'s in 1963 and 34 in 1967 in miscellaneous categories that were not private practice, hospital staff, osteopathic school faculty, administration, or research.

[4] Totals may not add because of rounding.

TABLE 5.—PHYSICIANS IN SOLO, PARTNERSHIP, GROUP, OR OTHER PRACTICE, UNITED STATES, PUERTO RICO, AND OUTLYING AREAS, DEC. 31, 1963 AND 1967

Type of practice	All physicians		Doctors of medicine		Doctors of osteopathy	
	1963	1967	1963	1967	1963	1967
NUMBER						
Physicians in solo, partnership, group, or other practice	189,267	200,146	179,449	190,079	9,818	10,067
Family physician potential	108,324	106,243	99,378	97,262	8,946	8,981
General practice and unspecified	77,427	71,495	68,728	62,844	8,699	8,651
Pediatrics[2]	9,458	10,530	9,412	10,466	46	64
Internal medicine	21,439	24,218	21,238	23,952	201	266
PERCENT[3]						
Physicians in solo, partnership, group, or other practice	100.0	100.0	100.0	100.0	100.0	100.0
Family physician potential	57.2	53.1	55.4	51.2	91.1	89.2
General practice and unspecified	40.9	35.7	38.3	33.1	88.6	85.9
Pediatrics[2]	5.0	5.3	5.2	5.5	.5	.6
Internal medicine	11.3	12.1	11.8	12.6	2.0	2.6
PHYSICIANS PER 100,000 CIVILIAN RESIDENT POPULATION[3]						
Civilian resident population (thousands)	190,892	199,783	190,892	199,783	190,892	199,783
Physicians in solo, partnership, group, or other practice	99.2	100.2	94.0	95.1	5.1	5.0
Family physician potential	56.8	53.2	52.1	48.7	4.7	4.5
General practice and unspecified	40.6	35.8	36.0	31.4	4.6	4.3
Pediatrics[2]	5.0	5.3	4.9	5.2	(4)	(4)
Internal medicine	11.2	12.1	11.1	12.0	.1	.1

[1] D.O.'s in private practice only.

[2] Includes pediatrics, pediatric allergy, and pediatric cardiology.

[3] Totals may not add because of rounding.

[4] Less than 0.05 per 100,000 population.

Other physicians providing patient care were the hospital-based interns, residents, and fellows, and full-time hospital staff. The hospital staff generally are not considered to be available as family physicians.

Nonhospital-based physicians in solo, partnership, group, or other practice increased from 189,267 in 1963 to 200,146 in 1967, slightly increasing the physician-population ratio from 99.2 to 100.2 per 100,000 civilian resident population. The physician potential in family practice, however, declined. The total total number decreased from 108,324 in 1963 to 106,243 in 1967, and the physician-population ratio, from 56.8 to 53.2 per 100,000 civilian resident population. This decrease reinforces current discussions concerning national shortages of family or primary physicians although it does not reflect the many variations in numbers and characteristics of physicians in geographic areas.

The component changes demonstrate that the increase in the number of specialists in pediatrics and internal medicine was not enough to balance the decrease in the general practitioner and unspecified category. (The number of physicians in unspecified activities was only about 100 each year. The following references to general practice include the unspecified although they may not be mentioned.) The decrease of 5,932 general practitioners (77,427 to 71,495) for the 5-year period was not offset by the increase of 1,072 limited-specialty pediatricians and 2,779 limited-specialty internists. In ratios of physicians per 100,00 civilian residents, general practitioners decreased from 40.6 to 35.8, pediatricians increased from 5.0 to 5.3, and internists increased from 11.2 to 12.1 (fig. 2).

Osteopathic physicians represented such a small segment of the national total of physicians that their main effect was only as general practitioners. About 12 percent of general practitioners in nonhospital-based patient care were doctors of osteopathy; the percentage varied significantly in certain States and counties. Within the osteopathic profession, the proportion of specialists in pediatrics increased from 0.5 to 0.6 percent of all doctors of osteopathy in private practice, and the proportion of internists increased from 2.0 to 2.6 percent.

OBSTETRICS AND GYNECOLOGY

Although general practitioners historically have functioned as all-round family physicians many of the more technical and sophisticated applications of our vast medical knowledge have been referred to specialists as they have become available. Many pediatricians and internists provide the more comprehensive functions of the family physician, according to the age of the patient. Sample surveying by the Health Information Foundation and the National Opinion Research Foundation in 1963 indicated the primary specialty of doctors of medicine used as regular sources of care. Fifty-six percent of the sampled population obtained care

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Footnotes at end of article.

from general practitioners, 12 percent from general surgeons, 10 percent from internists, 8 percent from pediatricians, 7 percent from obstetrician-gynecologists, and 7 percent from other specialists.[10]

A great, continuing need exists for obstetrician-gynecologist care, particularly; the limited numbers of specialists in this field have not been able to meet the demand for these specialized services. General practitioners and some internists still treat a number of such patients in order to cover the shortage.

Despite comparability difficulties, the data indicate that both the number and percentage of specialists limited to obstetrics and gynecology in the total of all active physicians have increased steadily in the last few decades. These increases, from less than 1 percent of total active doctors of medicine in 1931 to almost 6 percent of all active physicians in 1967, show the growing contribution to one segment of family practice.

The Surgeon General's report[1] did not include obstetrician-gynecologists in the discussion of family practice. Midyear data concerning all active doctors of medicine who limited their practice to a specialty,[11] 1931 through 1962, showed less than 1 percent in 1931 and almost 5 percent in 1962; there were 1,418 in 1931, 2,551 in 1940, 5,074 in 1949, 8,147 in 1957, and 11,680 in 1962. Obstetrician-gynecologists represented about 6 percent of all doctors of medicine who limited their practice to a specialty in 1931, and about 9 percent in 1962. This increase indicates that the growth of the specialty more than matched the growth of all specialties during the 30-year period.

During 1963–67, the number of specialists limited to obstetrics and gynecology increased from 15,789 to 18,044, increasing the physician-population ratio from 8.1 to 8.8 per 100,000 population (table 6). The number of physicians serving the civilian resident population in solo, partnership, group, or other practice, increased from 11,874 to 13,205 and their ratio from 6.2 to 6.6. With a decrease in potential family practice in solo, partnership, group, or other practice from 56.8 to 53.2 per 100,000 civilian resident population, the slight increase in the ratio of obstetrician-gynecologists did not have much impact on family practice.

TABLE 6.—SPECIALISTS IN OBSTETRICS AND GYNECOLOGY, UNITED STATES, PUERTO RICO, AND OUTLYING AREAS, DEC. 31, 1963 AND 1967

Specialty category	Total active physicians		Physicians in solo, partnership, group, or other practice	
	1963	1967	1963	1967
NUMBER				
Total active physicians	272, 500	305, 453	189, 267	200, 146
Obstetrics-gynecology specialists [1]	15, 789	18, 044	11, 874	13, 205
M.D.'s	15, 720	17, 964	11, 805	13, 125
D.O.'s [2]	69	80	69	80
PERCENT [3]				
Total active physicians	100. 0	100. 0	100. 0	100. 0
Obstetrics-gynecology specialists	5. 8	5. 9	6. 3	6. 6
M.D.'s	5. 8	5. 9	6. 2	6. 6
D.O.'s [2]	(4)	(4)	(4)	(4)

Specialty category	Total active physicians		Physicians in solo, partnership, group, or other practice	
	1963	1967	1963	1967
PHYSICIANS PER 100,000 POPULATION [3]				
Population (1,000's) [5]	194, 169	203, 708	190, 892	199, 783
Obstetrics-gynecology specialists	8. 1	8. 8	6. 2	6. 6
M.D.'s	8. 1	8. 8	6. 2	6. 6
D.O.'s [2]	(4)	(4)	(4)	(4)

[1] Physicians limiting their practice to a specialty.

[2] D.O.'s in private practice only.

[3] Totals may not add because of rounding.

[4] Less than 0.05.

[5] Ratios based on total population for total active physicians, civilian resident population for physicians in obstetrics and gynecology in solo, partnership, group, or other practice.

SUMMARY

A continuing increase in the total number of physicians in the United States has resulted in a rising physician-population ratio in the last few decades. Physician potential in family practice, on the other hand, consistently has shown a reverse trend, both in numbers and in relation to population. The pool of potential family physicians, defined as general practitioners, internists, and pediatricians, in solo, partnership, group, or other practice, decreased from 56.8 in 1963 to 53.2 in 1967 per 100,000 civilian resident population. Increases in the internal medicine and pediatrics categories were not enough to make up for the decrease in the general practice category. The slight increases in the number of obstetrician-gynecologists did not have much impact on the decreasing trend in family practice.

REFERENCES

[1] Surgeon General's Consultant group on Medical Education: Physicians for a growing America, PHS Publication No. 709. U.S. Government Printing Office, Washington, D.C., 1959.

[2] Pennell, M. Y.: Statistics on physicians, 1950–63. Public Health Rep 79: 905–910, October 1964.

[3] Department of Survey Research: Distribution of physicians, hospitals, and hospital beds in the U.S., 1966. Vol. I. American Medical Association, Chicago, 1967.

[4] Department of Survey Research: Distribution of physicians, hospitals, and hospital beds in the U.S., 1963. American Medical Association, Chicago, 1967.

[5] Department of Survey Research: Distribution of physicians, hospitals, and hospital beds in the U.S., 1967. American Medical Association, Chicago, 1968.

[6] Membership and Statistics Department: A statistical study of the osteopathic profession, December 31, 1963. American Osteopathic Association, Chicago, June 1964.

[7] Membership and Statistics Department: A statistical study of the osteopathic profession, December 31, 1967. American Osteopathic Association, Chicago, June 1968.

[8] U.S. Bureau of the Census: Current population reports. Population Estimates Series P-25, (*a*) No. 327, Feb. 16, 1966; (*b*) No. 386, Feb. 15, 1968.

[9] Department of State: Annual report on U.S. citizen personnel and their dependents abroad. (*a*) Mar. 31, 1963; (*b*) Mar. 31, 1967. Mimeographed.

[10] Andersen, R., and Anderson, O. W.: A decade of health services, University of Chicago Press, 1967, p. 16.

[11] Peterson, P. Q., and Pennell, M. Y.: Medical specialists. *In* Health manpower source book. PHS Publication No. 263, Sec. 14. U.S. Government Printing Office, Washington, D.C., 1962, p. 9.

ARTICLE BY SENATOR THOMAS F. EAGLETON ON ELECTORAL COLLEGE REFORM

Mr. ERVIN. Mr. President, one of the thoughtful voices of concern which has recently been raised over the dangers of the direct election proposal is that of the Senator from Missouri (Mr. EAGLETON). In an article in the June issue of the American Bar Association Journal, Senator EAGLETON frankly admits that the deceptively simple appeal of the direct election proposal prompted him to cosponsor the proposed legislation when he first entered the Senate. Now, however, the Senator indicates that he has had "serious second thoughts" about the proposal and in his article he expressed the conclusion that:

> ". . . (Direct election) would be an invitation to political extremism and that it would institutionalize an antimajoritarian system which would virtually assure that we would have minority Presidents. Moreover, I believe it would be all but workable.

Because of his concern, Senator EAGLETON has introduced his own plan for electoral college reform called the federal system plan, and he commented on this plan in detail in the article. While I would prefer Senate Joint Resolution 191, the so-called Katzenbach plan, which I have introduced, I certainly agree with Senator EAGLETON on the dangers of direct election, and I feel that his proposal makes immeasurably more sense than direct election.

In his article, Senator EAGLETON mentions many of the weaknesses of direct election, including the possibility that Presidents would be elected by large population areas concentrated in only a few States while the rest of the Nation would lose its voice in presidential politics. Senator EAGLETON also realizes that the passage of direct election would bring about a proliferation of splinter Presidential candidates which could result in the destruction of our two-party system and the end of the political stability which this Nation has enjoyed for almost 200 years.

Senator Eagleton takes a very incisive look at the problems of recounts and fraud under the direct election proposal, and he concludes that these problems are infinitely greater under direct election than the present system. As the Senator says:

> Under a simple direct election system, it would not be possible—as it is today—to isolate the States in which vote count problems had arisen.

In other words, fraud and recount problems under the present system are localized within certain States, and thus more easily avoided. The Senator illustrated the dangers of fraud under direct election by pointing out that just one miscounted vote in one-half of this Nation's polling places in 1960 could have changed the results in that Presidential election. This "invitation to fraud," as one national commentator has called it, is a dangerous consequence of direct election and is just not possible under the present system.

On the subject of increased fraud under direct election, Senator Eagleton asks the following questions which I believe must be fully considered before the Senate casts an intelligent vote on the direct election proposal:

> How would one deal with cases of election fraud in a direct election system, particularly when margins were slim? Would an entire election be invalid because ballot boxes had disappeared in some precincts or been stuffed in others? In what courts would the matter be justiciable, if any? Who would be the parties to such an action? Would aggrieved candidates sue local or state election officials—or the United States government—or each other?
>
> One needs little imagination to conjure up visions of elections in which the country anxiously awaited word of who its new President would be while recounters puzzled over discarded or poorly marked ballots in rural and urban precincts throughout the entire United States and candidates sought injunctions against declaration of a winner.

For a very thoughtful analysis of the electoral reform issue, I wholeheartedly recommend Senator Tom Eagleton's article entitled "Direct Election Versus Vox Populi," published in the June, 1970, issue of the American Bar Association Journal. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Direct Election Versus Vox Populi

(By Thomas F. Eagleton)

Direct election is not the way to ensure the election of a President who is favored by a majority of the voters. The reason for this is the "antimajoritarian paradox": Direct elections will encourage a great number of candidates to run, and support for middle-of-the-road men will wither as factions unite behind their own parochial leaders. A runoff election will be necessary, and the two leading candidates may well be men too extreme to satisfy a majority of the electorate. The Federal System Plan would avoid this danger and, at the same time, eliminate the problems inherent in the archaic electoral college.

The idea that legitimate political authority flows from the voice of the people has a long and respectable history in Western culture—from Hesiod to Charlemagne to Jefferson, from Ivan the Terrible to Gene McCarthy. And for as many centuries constitutional myths (like vox populi, vox dei) or the mechanisms (like our electoral procedures) that will make this formula work in practice.

Today we face an urgent and widely accepted need to reform our Presidential electoral process in the United States—to make it fairer, more representative and less likely to produce Presidents who do *not* have a clear popular mandate.

ASSOCIATION CLEARLY FAVORS DIRECT ELECTION

The American Bar Association has taken a position firmly in favor of the direct nationwide election of Presidents—one man, one vote, with a runoff election if no candidate receives at least 40 per cent of the vote. A constitutional amendment to this effect has passed the House of Representatives by a vote of 339 to 70, has cleared the Senate Judiciary Committee and is on the Senate floor. A full exposition of the evils of the present system and a case for the proposed direct election system is presented by William T. Gossett, a former President of the American Bar Association and Chairman of the Association's Special Committee on Electoral College Reform, in the March issue of this *Journal* (56 A.B.A.J. 225).

Direct election of the President—what could be simpler and fairer than that? I think this is the kind of ready reasoning that accounts for the lopsided vote in the House and for polls that show that state legislators and citizens alike, from large states and small, favor the direct election idea. This is the simple reasoning, I frankly admit, which prompted me to cosponsor Senator Birch Bayh's direct election proposal more than a year ago when I first entered the Senate.

RUNOFFS WOULD ASSURE ELECTION OF MINORITY PRESIDENTS

I have recently had serious second thoughts about the direct election proposal and particularly about its runoff provision. I now believe this formula would be an invitation to political extremism and that it would institutionalize an antimajoritarian system which would virtually assure that we would have minority Presidents. Moreover, I believe it would be all but unworkable.

The more important flaws, it seems to me, are these:

The runoff and special interest splinter parties. The Special Committee on Electoral College Reform found no risk that direct election with a runoff would splinter the two-party system. As Mr. Gossett states, "Analytically there are three distinct types of third party efforts—local, regional and national. The first two would undoubtedly be weakened by direct election [in comparison with their potential strength under the present electoral college]". As for the third possibility—national third parties—Mr. Gossett adduces expert opinion to the effect that inertia will perpetuate the two-party system, but nevertheless states that he and the Committee were "sufficiently concerned about the possibility of weakening the two party system" that they insisted on the 40 percent runoff rule. A 50 percent runoff provision, they felt, "would make runoffs the rule rather than the exception and positively encourage splinter candidacies", while no runoff at all would permit the election of Presidents with an unacceptably small plurality.[1]

Would a 40 per cent runoff rule offer significantly less encouragement to splinter parties than a 50 per cent runoff rule? I doubt it. In the absence of electoral votes, many racial, ethnic and other special interest groups would feel that they had lost all power in the election process since their ability to influence the outcome in key states with large blocs of electoral votes would be gone. Their only hope for regaining leverage under a direct election system would be through the creation of New Presidential parties. These parties would then solicit votes to promote their parochial causes—the National Gun Party, the National Dairy Farmers' Protective Party, the National Students' Party, the Black Welfare Rights Party, the Anti-War Party, the Antischool Busing Party. They would seek enough votes to create an opportunity for bargaining, either in a runoff election or immediately before the initial election when surveys indicated the closeness of the vote between the two major party candidates or the uncertainty that either of these candidates would obtain 40 per cent of the popular vote.

To quote Richard Scammon of the Elections Research Center, who is an advocate of direct election:

> If you really want to stop proliferating candidates under any system you give people one vote. This is really why we have two parties operating in this country in November. You only get one shot at voting. Once you allow people a second shot under any conditions you give the opportunity, for example, for Mr. Wallace to in effect say to his electorate, "Now, on the first ballot vote your convictions. Stand up for what you really believe in. You will get another chance on the second ballot if you have to. Besides, we might make second place." . . . [The direct election with a runoff] is why in some parts of the South in primaries you get the first ballot loaded up with candidates, sometimes enormous numbers . . . because everybody knows, though, they are going to have a second shot at this.[2]

At one time, the difficulties of having one's name placed on the ballot in enough states to make a national campaign feasible would have prevented a proliferation of national candidacies. The Supreme Court's decision in *William* v. *Rhodes*, 393 U.S. 23 (1968), however, eliminated this impediment by ruling out unreasonably restrictive state requirements for third party participation.

The antimajoritarian paradox. While a multiple-candidacy election may give people a chance to vote for the man they most favor, it works against the election of Presidents favored by most of the people—majority Presidents.

Even a candidate who won the first heat by winning slightly over 40 per cent of the vote would have only a minority mandate. A runoff winner, even though he received a majority of the votes in the runoff, might well be a distant second choice of a majority of the voters who initially voted for someone else.

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[1] Gossett, *Direct Popular Election of the President*, 56 A.B.A.J. 229–231 (1970). See also Professor Ernest Brown's Comment on the Association's position: "The ABA Commission seems oblivious of the effect of a runoff system upon party structure, even in the face of evidence that its own report cites, but appears to misunderstand. In connection with assertions concerning the basis of the two-party system, its report refers to works of Key, Schattschneider, and Sindler. Yet if one checks those references, particularly the first two, they point strongly to the conclusion that a plurality system of election tends to bring into being and support a two-party organization, whereas the requirement for a runoff encourages the formation of multiple parties, and multiple candidacies. Perhaps even more instructive, though not referred to by the ABA Commission, is the late V. O. Key's notable study, *Southern Politics;* references to the operation and effects of a runoff system appear throughout the book. On more broadly based evidence, Duverger's *Political Parties* reach even firmer conclusions on the effects of a runoff, or second-election, system." Brown, Review of Bickel, The New Age of Political Reform, 118 U. Pa. L. Rev. 314–315 (1969).

[2] *Hearings on Electoral College Reform before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary*, 91st Cong., 1st Sess., at 341 (1969).

Indeed the runoff might tend to keep consensus candidates out of the running altogether. As each faction united behind the person who best expressed its parochial views, the potential support for middle-of-the-roaders on the first ballot would tend to shrivel. The constituencies of two special interest candidates might be large enough to assure them places in a runoff, but too extreme to enable either candidate to satisfy a majority of the voters. For example, the voters could easily be confronted with a runoff choice between a Ronald Reagan and a Eugene McCarthy, neither of whom could serve as a consensus President.

TWO-PARTY SYSTEM ENCOURAGES CANDIDATES WITH WIDE APPEAL

Majority Presidents are a natural byproduct of a two-party system—both mathematically and in terms of voter appeal. (Despite its disorderly compromises and uncomfortable contradictions, a two-party system at least promotes the election of Presidents whose sole objective from the moment they decide to run is to appeal to and represent the broadest possible spectrum of our pluralistic electorate.)

Geographical distribution. It is easy to argue that a vote is a vote, no matter where it is counted, and that in a united nation each vote should count the same.

Under a direct election plan with a 40 per cent runoff, however, a Presidential candidate could be elected even though he failed to receive a plurality of the popular votes in most—or conceivably in any—of the states. In 1968 Hubert Humphrey was the popular choice of only thirteen states plus the District of Columbia. Had he simply carried New York state by half the popular vote margin by which Lyndon Johnson carried it in 1964, he could have lost the seven states that he won by relatively close margins and still have been elected President by approximately 250,000 votes. He would, however, have been the preferred choice of the voters of just six out of fifty states and the District of Columbia.

Those who argue that the fatal flaw in the electoral college is that it can permit the election of a President who receives fewer popular votes than his rival point to the Harrison-Cleveland race of 1888. Cleveland had a popular vote margin of 95,000 gained by overwhelming victories in the solid South, but Harrison was elected by an electoral vote of 233 to 168. Under a direct election system, Cleveland's overwhelming victory among Alabama's 174,000 voters would have offset the popular preference of 2.9 million voters in New York, Ohio and Illinois.

In a federal system such as ours, it seems no more acceptable that a man should be President when he is the popular vote winner but the choice of people in only a small geographical area than when he is the winner in the electoral college but the loser in the popular vote.

Mechanics of direct election and runoff. In the computer age, it should be possible to count and, if need be, recount, a hundred million votes with accuracy and speed. As Mr. Gossett states, "“The trend toward better regulated and more scientific vote counting has reduced and will continue to reduce the possibilities of irregularities while expediting the final outcome." Unfortunately, the direct election proposal now before the Senate has no provisions for actually executing the direct election formula. This responsibility is assigned to the states individually, with reserve power in Congress to override state regulations.

RECOUNT PROBLEM COULD BE STAGGERING

Potential vote count and fraud problems, however, would have to be dealt with completely and in detail before the first direct election. If it were a close election, like those of 1960 and 1968, the recount problem could be staggering. There are more than 150,000 polling places in the United States. Under a direct election system, two miscounted votes in each polling place would have shifted the 1968 election from Richard Nixon to Hubert Humphrey. The miscount of only one vote in *half* of this country's polling places in 1960 could have changed the result in that Presidential election. Under a simple direct election system, it would not be possible—as it is today—to isolate the states in which vote-count problems had arisen.

The possible incidence of recounts would be higher under a system requiring a runoff than under any other system. Not only might the two leading candidates run very close together, necessitating a recount; they might run so close to 40 percent as to make it difficult to determine whether a runoff were necessary. Even if a runoff were obviously required, proximity between the vote totals of second and third candidates might necessitate a recount to determine which would participate in the runoff.

How would one deal with cases of election fraud in a direct election system, particularly when margins were slim? Would an entire election be invalid because ballot boxes had disappeared in some precincts or been stuffed in others? In what courts would the matter be justiciable, if any? Who would be the parties to such an action? Would aggrieved candidates sue local or state election officials—or the United States Government—or each other?

One needs little imagination to conjure up visions of elections to which the country anxiously awaited word of what its new President would be while recounters puzzled over discarded or poorly marked ballots in rural and urban precincts throughout the entire United States and candidates sought injunctions against declaration of a winner.

"VOX POPULI, VOX HUMBUG"?

Let me hasten to state at this point that I do not share the view of General Sherman, a champion of liberty, who wrote home to his wife in 1863, "Vox populi, vox humbug." On the contrary, I think the need for electoral reform is urgent today if the confidence of the electorate in our system of government is to be maintained. Equally urgent, however, is the need to devise a new electoral process that will produce candidates satisfactory to most of the people, most of the time.

An alternative—the Federal System Plan. In an effort to perpetuate the essential rightness of the one-man, one-vote concept, but to do so within a stable institutional framework, I have introduced what I call the "Federal System Plan", S.J. Res. 181, which is cosponsored by Senator Dolc, Republican from Kansas, and Senator Stevens, Republican from Alaska.

WHAT THE FEDERAL SYSTEM PLAN WOULD PROVIDE

This system would provide that any candidate who was the popular vote victor under circumstances that demonstrated that this victory was based upon support throughout the nation would be elected President. It would substitute for the runoff an instant and automatic legitimating procedure in case no candidate had a broad popular mandate. And it would induce ideological groups to work within a two-party context by denying them the ability to paralyze the electoral process.

The Federal System Plan would work as follows:

1. A President would be elected if he (1) won a plurality of the national vote *and* (2) won *either* pluralities in more than 50 per cent of the states and the District of Columbia, *or* pluralities in states with 50 per cent of the voters in the election. The latter would be called the "50 per cent rule."

2. If no candidate qualified, the election would be decided by electoral votes with each state having the number it has today. Each candidate would automatically receive the electoral votes of the states he won, thus avoiding the faithless elector. A candidate who won a majority of the electoral votes would be elected President.

3. In the unlikely event that no candidate received a majority of the electoral votes, the electoral votes of states that went for third party candidates would be divided between the two leading national candidates in proportion to their share of the votes in those states. This automatic redistribution, should it ever occur, would avoid the dangers of horse-trading—and the concomitant danger to the balance of power—that would occur if Congress were the court of last resort, as it is now.

"FIFTY PERCENT RULE" INDICATES AMOUNT OF SUPPORT

The "50 per cent rule" is designed to buttress the principle of popular sovereignty with an additional legitimating factor that stems from our federal tradition. It would award the Presidency to the national popular vote winner *if* he had been able to demonstrate that he had a broad base of support across the country. In my judgment, the "50 per cent rule" would provide a better indication of whether a popular vote winner had the national support needed to govern this country effectively than would the 40 per cent minimum popular vote formula contained in the present direct election proposal.

As for the third-party problem, the real key to eliminating third-party fragmentation in a Presidential election system is to persuade the voter that he is wasting his power to choose the next President if he votes for the candidate of a special interest party. The Federal System Plan achieves this result by providing that if the popular vote winner has not satisfied the "50 per cent rule", then the President will be selected on the basis of the vote outcome broken down on a state-by-state basis, where the votes of splinter candidates lose their effect. Virtually all third parties that did not have a broad national base—such as the Bull Moose Party had in 1912—would be discouraged from entering candidates.

Because this plan would perpetuate the two-party system, the vast majority of elections would be decided on the basis of the popular vote without resort to the fallback electoral votes; the redistribution of third party votes would be even rarer.

It is conceivable, under the Federal System Plan, that a President who did not have a popular plurality could be elected on the basis of electoral votes if the top vote getter failed to meet the established criteria for broadly based support. The plan would not have changed the outcome of any past Presidential election, including the Cleveland-Harrison election of 1888. But the incidence of close calls, when the will of a plurality of voters might have been overridden by electoral votes, would have been substantially reduced had the Federal System Plan been in force.

In 1916, for example, Wilson won by a margin of 580,000 in the popular vote. He won in thirty-one states—mostly small ones—with 277 electoral votes. A change of only 1,904 votes in California would have given that state's thirteen electoral votes—and the election—to Hughes, although Wilson still would have been the choice of most of the voters in most of the states. Under the Federal System Plan, Wilson would have won a clear victory with his popular plurality and with victories in over half of the states.

In 1948 a shift of 24,294 votes from Truman to Dewey in California, Illinois and Ohio could have given Dewey a victory in the electoral college, while Truman still held a plurality of the popular vote. If Dewey had won

California and Illinois, but not Ohio, Truman's electoral votes would have thrown the election into the House. Under the Federal System Plan, the election would not even have gone as far as the electoral vote stage, because Truman would still have won a popular plurality as well as victories in over 50 per cent of the states.

The Kennedy-Nixon race of 1960 could have been thrown into the House if Kennedy had lost three very close states: Illinois (margin: 8,000 votes), South Carolina (margin: 9,600 votes) and Hawaii (margin: 115 votes). Under the Federal System Plan, Kennedy's popular vote victory would have been confirmed by his victory in states with over 50 per cent of the voters in the 1960 election, with no resort to electoral votes.

By melding the direct election plan with a concept that takes this nation's federal design into account, I think we reduce the difficulties inherent in a simple one-man, one-vote proposal without abandoning the basic idea that a majority should pick the President.

MAJOR PARTIES MUST WIN NATIONAL AND STATE VOTE

Under the Federal System Plan, the objective of each of the major parties would not only be to win in the national popular vote, but also to win in each state.

Candidates could be persuaded to pay attention to the needs of all parts of the country.

The power of swing states and the compensatory power of minority groups who live in them would be retained and the prospect of flourishing splinter parties negated.

The problem of voter fraud could be localized, and the complexities relating to vote recounts could be more easily avoided.

Finally, by increasing the potential importance of any state in proportion to the total vote cast by its citizens, we would create a new incentive to get out the vote.

THE MERCHANT MARINE AND SEAPOWER

Mr. MURPHY. Mr. President, Mr. A. E. Gibson, Maritime Administrator of the U.S. Department of Commerce, on May 22 spoke before the Propellor Club in San Diego, Calif.

The title of his speech, "The Merchant Marine and Seapower," in itself indicates the importance of the speech. For some time, I have been concerned with the sorry state of our merchant fleet, and have been urging United States action in this area. Certainly President Nixon's appreciation of the importance of seapower in its broadest sense and the new maritime program he has sent to the Congress calling for some 300 ships over the next decade is indeed long overdue and welcome.

Mr. President, I ask unanimous consent that Mr. Gibson's speech be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

The Merchant Marine and Seapower

The great nations of the world, for many centuries, have clearly recognized two principal reasons for fostering and maintaining a strong merchant fleet—their nation's defense and economic welfare. Sometimes one has predominated, sometimes the other. Frequently one or the other has been neglected, to the ultimate cost of both.

Here in San Diego, with your long association with our Pacific fleet, I believe you probably have a better understanding that most of the importance of seapower as an element of national strength. But I doubt that even here is there a full awareness of the close relationship of the merchant marine to seapower.

President Nixon, in an often quoted speech, defined seapower as:

> The ability of a nation to project into the oceans, in times of peace, its economic strength; in times of emergency, its defense mobility.
>
> "Seapower is composed of all those elements enabling a nation to use the world ocean advantageously for either trade or defense—its navy, its merchant shipping, its shipbuilding, its fishing, its oceanographic research, and its port facilities."

Admiral Mahan included the merchant marine in his classic definition of seapower, but many of our latter day arm-chair strategists seem to have overlooked it, even with the lessons of Korea and Vietnam fresh in mind.

For Korea we were fortunate in having large numbers of serviceable World War II built ships in our fleet. For Vietnam we spent 100 million dollars to reactivate 160 ships from our reserve fleet and over 600 million to operate them, because 15 years later, our privately owned fleet was insufficient to meet the requirements of what had been termed a limited war.

We have in fact permitted a serious deterioration of every element of our seapower. Over half of our Navy is composed of ships 20 years old or more. Obviously, such ships are deficient in the speed, flexibility, and sophisticated devices which are now being incorporated in ships of the latest design.

More than two-thirds of our merchant fleet likewise is of World War II vintage. Only about 200 ships in our merchant fleet are less than 10 years old. At the peak of the Vietnam effort, the Navy had to charter one-fourth of its total tanker fleet from foreign countries to meet the demands for fuel to keep our planes and trucks in operation. Serviceable American flag tankers for this purpose just did not exist.

Vice Admiral Arthur R. Gralla, Commander of the Military Sea Transportation Service, in commenting on this unhappy circumstance, said, "When more than one-fourth of our tanker force is composed of foreign flag ships, far too substantial a portion of U.S. defense posture is dependent on foreign shipping, and that's a rather frightening picture for even the most optimistic among us."

In terms of shipbuilding, the relatively small production runs and uncertainties as to future procurement policies have had a detrimental effect on American shipyards. While foreign yards have achieved an enormous expansion and upgrading of their facilities during the past two decades, it has only been in the last few years that the American shipbuilding industry has allocated substantial funds for capital improvements.

Our ports, too, in many instances have failed to provide the modern facilities required to keep up with new developments in shipping—such as efficient interchange procedures between ships and other transportation modes, and new bulk facilities for super tankers and huge ore carriers.

But the picture is not all black. In the last 15 years our merchant fleet has been expanded by over 150 of the most modern cargo ships in the world. In recent years we have witnessed a technical revolution, and some of our new containerships have proved to be so productive that they have captured more than 50% of the container trade in the principal North Atlantic and Pacific routes. Some are operating without government help in competition with the best that other countries can put to sea.

We have designed new types of ships, such as the barge-carrying LASH and Seabees, that promise to extend the container revolution directly into midcontinent through the inland waterways.

Two completely new shipyards, using the latest automated techniques, are under construction, and a former naval shipyard is being modernized for the building of supertankers. In recent years, the American yards have expended some half billion dollars for capital improvements, and present indications are that heavy expenditures will continue well into the 1970's as a result of the President's maritime program. As a consequence, we believe that substantial reductions in delivery times and major gains in productivity will be achieved by American shipyards in the years immediately ahead.

Many of our ports are undertaking heavy investments in new facilities, and serious consideration is being given to the possibility of offshore terminals capable of handling giant tankers and bulk carriers.

We could afford to be complacent about such progress as we have made, were it not for the chilling realization that the Russians are rapidly overtaking us in almost every category of seapower.

The specter of a Russian behemoth about to swallow us has been vividly described on the maritime banquet circuits for many years. The fact that the Russians are aggressively developing their maritime might does not unduly concern me, for it is the logical, deliberate act of a major world power. What does concern me is the alarming failure on the part of past Administrations to realize that if we are to maintain world leadership, we can do no less.

We have been accustomed to categorize the USSR as a land power only, with little interest in or understanding of the uses of seapower. This is no longer true. The Cuban confrontation taught the Russians a lesson which they took very much to heart. As Dr. John J. Clark, Dean at St. John's University, points out in an excellent article in the *Naval Institute Proceedings:* "The single most ominous episode of contemporary history, largely underrated by West European states, is the gradual shift of emphasis by the Soviets to a maritime strategy. The Russian Bear senses that in any struggle of global dimensions, control of the sea constitutes the center of gravity. . . . A maritime strategy will permit its possessor to intervene at a time and place of his choosing and to define the area of conflict in the most favorable terms."

Let me repeat for emphasis the last few words of that quotation and think for a moment of our Vietnam problems. ". . . intervene at a time and place of his choosing and define the area of conflict in the most favorable terms." This is what we are now doing in Cambodia. We have defined the area of conflict to suit our own objectives—not to seize Cambodian territory or support the Cambodian government, but to clean out the sanctuaries from which the enemy has attacked our men in South Vietnam. The President's objective is to shorten the war and to bring men home, and this deserves our wholehearted support.

In 1960, though the Russian Navy was second in number of vessels, most of its ships were old and out-of-date. Its merchant fleet ranked 13th in deadweight tonnage among world fleets. In 1969 the Russian merchant marine ranked third in number of ships and seventh in deadweight tonnage in the world. Less than one percent of her surface combatant ships and submarines are now over 20 years old. To quote Admiral Thomas H. Moorer, the Chief of Naval Operations and soon to be chairman of the Joint Chiefs of Staff, "By any measuring stick, they are today the second largest seapower in the world. In a mere 10 years, the Soviet Union with dedication of purpose, huge outlays of funds, and with priorities equivalent to or even surpassing their space program, has transformed itself from a maritime nonentity to a major seapower."

As the British have withdrawn from their historic naval positions, the USSR has moved in. The strength of her naval power was clearly demonstrated in the recent Okean exercise, when all four fleets were simultaneously in operation in the North Atlantic, the Baltic, the Black Sea, and the Pacific. The Mediterranean and the Sea of Japan were also included in the operations. Nearly 200 ships, from heavy rocket carriers with maximum speed of 34 knots to nuclear subs, were included in the exercise. Her fishing fleet and oceanographic ships are among the most modern afloat and are actively supporting this Navy.

According to Soviet Navy Chief Adm. Gorshkov, "The flags of Soviet ships now fly in the farthest corners of the seas and oceans. Our Navy has become a real power and can successfully protect the state interests of the Soviet Union and of the whole socialist camp." It seems evident that the USSR is not just playing games. In 1963 Adm. Gorshkov established his objective for the Soviet fleet—" . . . we must be ready to engage in comprehensive offensive operations and to level annihilating blows against the sea and land strongholds of the imperialists everywhere in the world's oceans and in the hinterland." "America sooner or later will have to understand that she no longer has the mastery of the seas," he wrote recently.

That this is not an idle boast is confirmed by one of our leading naval strategists, Rear Adm. George H. Miller. Testifying before the Special Subcommittee on Sea Power last year, Adm. Miller said, "The thing that impresses me the most in looking at the overall Soviet maritime set-up is the modernity and vigor of the maritime industrial base. I think they recognize, and it is historically so, that a modern, vigorous maritime industrial base is the very foundation of a nation's effective seapower . . . I am struck by the degree of government-level coordination that they seem to have in the Soviet Government, a coordination of all maritime assets in the furtherance of national objectives . . . this support is continuous through so-called war, peace, crisis, and so forth. I might even say that the merchant marine, together with the Communist political arm, are spearheading their drive for world supremacy."

The prick of this spearhead was very sharp when it was announced early this month that a Russian flag line has applied to institute a merchant shipping service from various Japanese ports to ports on the West Coast of the United States, and is offering rates far below conference rates in direct competition with U.S. steamship lines.

This was only the latest in a series of Soviet moves to enter the competition for world trade. They are participating in Canadian, South American, Mediterranean, North European, Eastern and Far Eastern routes, in some instances offering cut rates or rebates of up to 70 percent from the published conference rates.

The purpose of such attacks on trade patterns is not one of mere commercial competition. A Soviet publication recently stated that "The Russian maritime fleet is to be considered as a weapon in the competition with the capitalist countries, and it must contribute toward breaking the expansion of certain capitalist countries in the framework of world merchant shipping in order to support the developing countries." There should be no doubt that the USSR has an understanding of strategic geography and recognizes the economic assets to be gained from building ships, carrying world cargo, and reaping the revenues.

If the Russians have read history correctly in their determination to establish their claims to world power, and I believe they have, our own record is all the more dismal.

More than 95 percent of our trade is at the present time carried by foreign-flag ships. If these vessels are driven from the tradelanes by Russian predatory rate-cutting, the USSR can clamp a vise on our trade arteries.

The Russians have been adding to their fleet at a net rate of about 1,000,000 tons a year. They plan to have 20,000,000 deadweight tons of merchant shipping by 1980. Our plans for the next decade are to have a fleet whose total deadweight tonnage will be about the same as at present, about 15,000,000 tons. Our competitive advantage, however, will result from the increased productivity of our fleet, which is projected to increase by at least 25% in carrying capacity over today's fleet.

The size and speed of Russian merchant ships is much less than those of most modern fleets. Under these circumstances they would seem to constitute little threat to us in capturing the high value liner trade or even the huge tonnages of bulk cargo which constitute a large part of U.S. foreign trade in any type of fair competition.

It seems evident, however, that the Soviet Union has deliberately designed its fleet with other purposes in mind—principally the control of the trade of developing nations, whose ports and inland transport will not for some time accommodate large, highly sophisticated and productive containerships and bulk carriers.

The Russian can plan their fleet in every aspect to carry out their national political objectives. If their need is for small ships to capture the trade of underdeveloped nations, they order small ships. While not unmindful of the need to obtain income from the use of their resources, or to obtain foreign exchange, they can subordinate these objectives to their overall political objectives.

In the United States our Merchant Marine is a private business endowed with a public interest. In peacetime we expect our companies to base their decisions as to what kinds and how many ships and services to provide on the probability of profits. Government aid to private companies is designed to enable them to compete on an equal footing in foreign markets with lower cost competitors, but it does not guarantee a profit or even guarantee against loss. Yet we expect at the same time that the ships so designed and operated will be available and suitable for any emergency that may demand their use.

The wonder is not that we do not always have the exact types of ships we need for military purposes, considering the lack of past planning, but that we have been able to do so well. I am thinking not just of the 160 government-owned ships broken out of the reserve fleets, which have carried 9 million tons of cargo to Vietnam from mid-1965 to the present. Privately owned ships, either on time or berth charter, were made available to MSTS and carried 27 million tons, or over 70 percent of the total cargo. More than half of the available cargo space on ships on berth service to the Southeast Asia area was given over to carrying military cargo. Some of the converted privately owned containerships proved so efficient that many of the government-owned ships could be returned to layup.

Given the growing awareness of the need, at long last, to aggressively develop our seapower, we are now developing a coordinated effort between our merchant and naval fleets. In the future I see the possibility that containerships may be equipped with the capability of transferring containers at sea via heavy-lift helicopters. I also see the possibilities of barge-carrying ships providing the instant response capability so desired by the Department of Defense. Barges loaded with the latest in military equipment, including wheeled and tracked vehicles, can be prepositioned at strategic locations. In an emergency the nearest commercial barge carrier can pick up the loaded military barges and be on its way immediately. Loaded and unloaded in open water, the barges can be dropped off at any desired point, regardless of lack of port facilities, deep water channels, or cargo handling equipment.

Aside from their adaptability for specific military uses, however, the most important task performed by merchant ships in wartime is the one they perform in peacetime—carrying the raw materials and manufactured products needed by our factories and our citizens to keep up our productive capacity. It is this industrial base which Adm. Miller referred to that is vital to the success of any sustained effort in wartime.

The trade that makes our nation strong and prosperous in peace gives it the power to carry out its military commitments. The merchant ships that are needed to support our armed forces are the same ships that carry goods for our civilian economy. In a sense, therefore, it is the U.S. shippers using U.S. ships to carry their goods who are providing the capacity to protect our country's security in an emergency. This is the other side of the coin—the trade which our merchant marine also supports. If we have the ships adequate to carry our trade, we also will have the ships to supply our military requirements in time of emergency.

President Nixon has clearly understood this dual role of the merchant fleet and has taken decisive action to assure that it will be adequate to fill both its roles. In his new maritime program he has provided not only for the building of some 300 ships in the next decade, but has also provided incentives for a balanced fleet. It will have bulk carriers as well as liners, so that we shall be able to protect our access to strategic ores and petroleum as well as to manufactured and semi-manufactured goods. An increase in our Federal Ship Mortgage Insurance ceiling will benefit not only builders of cargo ships but of fishing and oceanographic vessels as well. The new cargo ships to be built will be fast enough and flexible enough to carry out whatever emergency services may be required of them. As in the past, they will be available to carry military supplies at the call of the Department of Defense, but their capacity and capabilities will be much greater than those of most of the commercial ships on which the armed services have had to rely in the past.

By providing incentives to build highly productive ships at lower cost through standardized multi-ship, multi-year procurement methods, the President is not only reestablishing our shipbuilding capability, but is providing shippers with modern, fast ships that can provide efficient service for their goods. These ships will operate at rates competitive with foreign vessels, whether in liner or bulk trades. There will be every reason for U.S. shippers to use U.S. ships and we are undertaking an intensive campaign to urge them to do just that.

You have seen the Maritime Day posters on U.S. mail trucks that remind us that shipping is a partner in progress. I hope you are displaying on your own car one of the bumper stickers that calls the attention of all Americans and all shippers to the fact that U.S. ships will serve us and the nation if we will in turn use them to carry our goods. These are only the opening salvos in our campaign to sell the use of U.S. ships to U.S. shippers. Part of the effort will be devoted to finding ways in which our ships can serve you better. It will seek to find out where the cargoes are and where they are going so that U.S. shipping lines will know where to look for business.

Under the President's new program we shall have for the first time in many years a fleet truly adequate to its dual role as servant of trade and defense. Unlike the Soviet Union, our government does not coerce shippers or assign the cargoes to our own ships. We must rely on U.S. businessmen to appreciate the value of having U.S. ships ready at all times to serve them, and by serving them, serve us all. Thank you.

RARE TREASURES OF BIG THICKET BEING DESTROYED; AN APPEAL TO SECRETARY HICKEL

Mr. YARBOROUGH. Mr. President, yesterday I received alarming news of increased destruction of the Big Thicket. In a letter from Dr. Peter Gunter, a well-known conservationist and chairman of the department of philosophy of North Texas State University at Denton, Tex., I learned that very destructive cutting is being carried on the Big Thicket Profile Unit, the largest of the so-called pearls selected by the U.S. Park Service in their 1967 recommendation for preservation of the Big Thicket.

This destructive cutting has been going on despite the highly publicized moratorium on cutting in these designated units declared by the large lumber interests. This is just more evidence that the interests opposed to the Big Thicket National Park are trying to destroy all the most beautiful tree treasures of this rare wilderness area before Congress can pass my bill which would save a part of the Big Thicket.

In view of the need to act quickly if we are to save the Big Thicket, I have urged the Department of the Interior to state its position on my Big Thicket National Park bill as soon as possible to the Subcommittee on Parks and Recreation. The subcommittee held hearings on S. 4, my bill to create a 100,000 acre Big Thicket National Park in Beaumont, Tex., on June 12, 1970. The subcommittee, chaired by Senator ALAN BIBLE of Nevada, gave the Department of the Interior until August 1, 1970, to submit its report.

When the news of this increased destruction of one of the rarest gems in the Big Thicket reached me, I notified the Secretary of the Interior and the Director of the National Parks Service by letter.

Mr. President, I ask unanimous consent that my letter of July 13, 1970, to Hon. Walter J. Hickel, Secretary of the Interior, and to Hon. George B. Hartzog, Jr., Director of the National Park Service, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 13, 1970.

HON. WALTER J. HICKEL,
Secretary of the Interior,
Department of the Interior,
Washington, D.C.
HON. GEORGE B. HARTZOG, JR.,
Director, National Park Service,
Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY AND DIRECTOR HARTZOG: When Senator Alan Bible, Chairman of the Subcommittee on Parks and Recreation of the United States Senate, finished the hearing in Beaumont, Texas, on the Big Thicket National Park bill (S. 4) on June 12, 1970, he left the record open for additional statements by proponents and opponents of the park until June 28, 1970. He then gave the Department of the Interior until August 1, 1970, to state its position on the Big Thicket National Park.

I am today in receipt of a letter from Dr. Peter Gunter, Chairman, Department of Philosophy, North Texas State University, Denton, Texas, who is a naturalist and who has often visited the proposed site of the Big Thicket National Park. Dr. Gunter has written many magazine articles about the Big Thicket and was a witness at the Senate hearings.

His letter to me of July 9, 1970, received today, July 13, 1970, states: "I have been hiking in the Big Thicket recently along the Profile Unit along Pine Island Bayou. I managed to get lost in there, and in the process found out that someone has done a lot of very destructive cutting along the Bayou in the Profile Unit. It makes one furious, yet I am convinced that a hiking trail along the Bayou would be beautiful in 15 or 20 years when it all grows back, even if every blade of grass were cut now." The Profile Unit is one of the so-called string of pearl units. The opponents of the park are systematically trying to destroy every ecologically advantageous unit there.

It is imperative that we move at once if we are to save the Big Thicket.

I beseech you to file your report. I beseech you to file your recommendations with Senator Bible before August 1, 1970, and give us working time at this session of Congress.

The need is desperate and time is of the essence. The time for action is here and almost passed.

With appreciation for the genuine interest each of you has expressed in a national park in the Big Thicket area and with my appreciation for that interest, I am

Very sincerely,
RALPH W. YARBOROUGH.

SOCIAL SECURITY DISCOURAGES SENIOR CITIZENS FROM WORKING

Mr. MURPHY. Mr. President, the present social security law discriminates against persons over 65 who wish to continue working. The retirement test in the present law will allow a person over 65 to earn only $1,680 a year without affecting his retirement benefits. If his earnings fall between $1,680 and $2,880, his benefits are reduced $1 for every $2 he earns above $1,680. On earnings above $2,880, the reduction is $1 of benefits for every $1 earned.

The House of Representatives has moved part way toward removing this disincentive for retirees to continue working. It has passed a social security bill, H.R. 17550, which would raise the ceiling on fully exempt earnings to $2,000, and would cut benefits by $1 for every $2 of earnings above $2,000. This is a step in the right direction, but clearly not far enough.

Many persons over 65 believe that even with the easing voted by the House the retirement test still would stifle the initiative of thousands of individuals. One such person is Mr. Truman D. Weller. He is the author of a thoughtful article in the June 8 issue of Barron's, which puts forward a strong argument for complete elimination of the retirement test. In the article as printed, tables II and III were incorrect. Mr. Weller has furnished corrected tables to accompany his article. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DISINCENTIVE PLAN—THE SOCIAL SECURITY LAW DISCOURAGES RETIRED FOLK FROM WORKING

(By Truman D. Weller)

If the House of Representatives has its way, retired citizens soon will have more money to jingle in their pockets. On top of a 15% boost in social security benefits voted late last year, the Congressmen last week passed and sent along to the Senate a measure that would up their checks another 5% (and also boost to $9,000 the wage base on which social security taxes are paid). However, what set the bill apart were some new departures. One, particularly controversial, was an amendment which would for the first time tie retirement benefits to increases in the cost of living. Its fate remains uncertain.

Less likely to offend anyone is the proposal to lift to $2,000 from $1,680 at present, the amount an individual receiving benefits can earn before his payments are affected. Yet it is this aspect of the law which probably most frustrates people over 65. For the fact is that anyone on social security earning $3,600 under present law enjoys more spendable income than a retired individual who manages to gross $4,800.

TABLE I

$3,600 earned income:			
Salary or profit from self-employment		$3,600	
Social security benefits		1,560	
Total income		5,160	
Less taxes:			
Federal income	170		
Social security at 4.8 percent	172.80	342.80	
Net income with salary			$4,817.20
Or in self-employment:			
Federal income	170		
Social security at 6.9 percent	248.40	418.40	
Net income from self-employment			4,741.60
$4,800 earned income:			
Salary or profit from self-employment		4,800	
Social security benefits		360	
Total income		5,160	
Less taxes:			
Federal income	354.00		
Social security at 4.8 percent	230.40	584.40	
Net income with salary			4,575.60
Or in self-employment:			
Federal income	354.00		
Social security at 6.9 percent	331.20	685.20	
Net income from self-employment			4,474.80

Note: Figures based upon social security benefits to husband and wife totaling $240 monthly, income tax on amount indicated at the 1969 tax rate schedule, with exemption of $2,400 for the couple.

TABLE II.—COMPARABLE SPENDABLE INCOME OF 2 INDIVIDUALS IN 1970—1 COLLECTING SOCIAL SECURITY BENEFITS AND THE OTHER FORFEITING BENEFITS THROUGH SELF-EMPLOYMENT

	Mr. "A"	Mr. "B"
Earned income (self-employment)	0	$6,000.00
Company pension	$6,000.00	6,000.00
Dividends and interest	1,000.00	1,000.00
Total	7,000.00	13,000.00
Less standard deduction	700.00	1,000.00
Total	6,300.00	12,000.00
Less 4 exemptions	2,500.00	2,500.00
Taxable income base	3,800.00	9,500.00
Normal tax	586.00	1,710.00
Surtax	14.65	42.75
Social security tax	0.00	414.00
Total taxes	600.65	2,166.75
After tax income	(1)	(2)
Total	6,399.65	10,833.75
Tax-free social security (14 percent increase of 1970 included)	2,875.00	0.00
Spendable income	9,274.35	10,833.75

[1] $7,000 less $600.65.
[2] $13,000 less $2,166.75.

Note: Both individuals considered to have the same private pension, returns from interest and dividends and social security benefits. Latter assumed to be $2,500 per year as of 1969.

In truth, social security actually is killing the initiative and incentive of thousands of people. An elderly Indiana farm couple, for example, found themselves hard pressed because their interest in a small sorghum crop pushed their income over the prescribed limit, cutting social security payments. Then there is the 67-year-old man from Philadelphia. Offered a clerical position at $70 a week, he declined, saying: "If I took the job I would have to sacrifice my social security payments, which add up to $1,380 a year. I would have to pay more than three times my present federal income tax, which is now slightly over $400. I would also be subject to three taxes I am not now paying—social security, unemployment and a local wage tax. I would also pay an increase in the state personal property tax as well as a local school tax."

UNJUST RULES

Much of the unfairness is caused by the stringent, unjust rules governing the social security program. Basically five points cause these difficulties.

(1) Limiting earnings to $1,680 during a calendar year, so as not to affect benefits. As a result, when a social security recipient approaches the ceiling, he is inclined to quit working for the remainder of the year.

One person concerned with the trend is Lewis Wald, president of Industrial Experience Inc., a Worcester, Mass., firm organized to furnish retired executives, experts and specialists to industry on a temporary basis. He says a large number of enrollees will only work until they have earned $1,680. Moreover, he points out, men with exceptional backgrounds in advertising, engineering and finance tend to forgo additional income over the exempt amount.

(2) The inconsistency of a worker obtaining greater total spendable income by earning less. Robert M. Ball, Commissioner of the Social Security Administration, explained this clearly last spring to the Special Committee on Aging: "An individual who has the opportunity to take a job paying somewhat over $2,880—because earnings are taxable and social security benefits are not—with a dollar-for-dollar reduction may actually be worse off than if he earned less." The analysis in Table I illustrates this point.

$150 PER MONTH

(3) The inequities which arise from the narrow monetary advantage gained by the person who works and forfeits all or part of social security benefits, compared with the individual who only collects the benefits. In a typical example, an individual earning $6,000 a year, as indicated in Table II, will enjoy an advantage of just $150 a month more than someone with comparable retirement benefits but not working.

In 1971, with a 5% benefit increase and a raise in the social security tax, the disparity will be even greater. Thus, Mr. A will be receiving $143.75 more in benefits, while Mr. B, not eligible for benefits, will be paying $36 additional tax.

(4) The test which limits earnings by salary or wages in a single month unless benefits are forfeited. The test says those earning over $140 in a month must forfeit benefits for that month. In many instances, total benefits of husband and wife are greater than $140. Consequently, any earnings between $140 and up to the amount of the total benefits, would represent a loss for the couple.

The problem is underscored by a retiree who takes a part-time job prior to Christmas. If employment is at the minimum wage of $1.60 an hour, he can work 87 hours that month before reaching the monetary limit. If the work is in a retail store, business invariably gets heavier as Christmas approaches. So if he doesn't quit work after 87 hours, benefits will be forfeited. Again, the retiree has to choose whether to risk losing his benefits or disappointing his employer at the peak of the buying season. The practice has brought disfavor among employers using retirees for part-time work.

(5) Restrictions of the retirement test or the self-employed retiree and the handicaps to the operation of his own business. This part of the guideline deals in terms of the amount of time a person over 65 may engage in his business and still collect benefits. It is termed as performing "substantial service." A person who spends more than 45 hours a month in his business is considered as rendering "substantial service," according to the interpretation made by the Social Security Administration. If less than 45 hours, then the service would not be substantial unless one is "performing highly valuable services, such as management of a sizeable business, highly skilled work, etc. Less than 15 hours of service in a month is never considered substantial."

Here, the amount of profit is not a restricting factor. One can make $2,000 or $20,000 from his business. Instead, time is the criterion and anyone spending more than 45 hours a month in his business is as a rule deemed to be rendering "substantial service" and thus prone to forfeiture of benefits.

Back in March 1968, the Senate's Committee on Aging observed that "the complexities of these (retirement test) limitations have perplexed many older persons. Some even decide that the intent of the law is to discourage them from seeking employment." This is an understatement, to say the least. The Task Force questioned if some "liberalization" of the retirement test wasn't in order or if the retirement test shouldn't be eliminated entirely.

NOT SATISFACTORY

Commissioner Ball says: "The present retirement test is not satisfactory. Under the present test it is possible for people at certain earnings levels to actually have less income—that is, social security benefits plus earnings after taxes—than if their earnings were lower. It is not right that people who do additional work or take a job at a higher pay are disadvantaged. The test should be revised so that people would have an incentive to earn more and so that the more they earn the more income they will have."

Supporters of the retirement test point to the fact that in 1966 "only 1.6 million of the 17 million eligible for retirement benefits appear to have been affected by the retirement test." However, their figure includes 8.7 million in the age 72-and-over group who are not affected by the test, and another 5.7 million who are wives of retired workers collecting benefits on that basis.

TABLE III

Earnings	Current plan benefits	Nixon plan benefits	Proposed H.R. plan benefits	Taxes	Spendable income		
					Current plan	Nixon plan	Proposed H.R. plan
$1,679	$2,880			$80.59	$4,478.41		
$1,799		$2,880		86.35		$4,592.65	
$1,999			$2,880	95.95			$4,783.05
$2,400	2,040	2,100	2,200	115.20	4,324.80	4,384.80	4,484.80
$3,600	1,560	2,100	2,200	342.80	4,817.20	5,357.20	5,457.20
$4,800	360	1,500	1,000	584.40	4,575.60	5,715.60	5,215.60
$6,000		900		840.00	5,160.00	6,060.00	5,160.00
$7,200		300		1,117.60	6,082.40	6,382.40	6,082.40

Note: Husband and wife with total benefits of $2,880. Annual exemption amount of benefits: $1,680 present plan; $1,800 Nixon plan; $2,000 plan passed by House of Representatives.

Social security was adopted in this country during the Depression of the 'Thirties. At the time the legislation was being considered, unemployment varied between seven and 11 million, and the great hue and cry was to remove those over 65 from the labor market in order to provide jobs for the younger workers. Unfortunately, that philosophy still remains with the social security program. It does not square with the relative economic affluence of our present age, nor with a shortage of technical manpower predicted by the National Industrial Conference Board.

WORKERS ARE HAPPIER

Moreover, retired people who work for pay are happier. So says Frances M. Carp, director of the Human Development Research Program at the American Institute of Research. This study shows that they have a higher self-esteem, their relations with people are better and they tend to complain less of having too much spare time.

Every working retiree pays at least two taxes on earnings—the federal income and the social security levies. In some states, he also pays a state income tax and many metropolitan cities now levy a city wage tax as well.

According to the latest Internal Revenue Service figures available, there were more than eight million individuals over 65 who filed returns for 1967. Retirees with private pensions are required to pay income tax on their benefits, once the contributory part has been exhausted. Today, one out of five retirees pays such a tax and in another 10 years the number is expected to double. This serves to put earnings of retirees in a higher bracket, since they already are liable for the income from their pension. And the necessity of paying tax on earnings in a higher range serves as another repressive measure to discourage earnings by retirees.

NIXON'S PROPOSALS

Last September, President Nixon, noting that "the present retirement test actually penalizes social security beneficiaries from doing additional work or taking jobs at higher pay," made a number of proposals. He suggested that the minimum earnings be raised to $1,800 from the present $1,680, that the present $2,880 ceiling be abandoned, and that one-half benefits be given over the first $1,800 earned.

With a single exception none of the President's proposals is incorporated into the present House-passed bill. The exception: a more liberal exemption of earnings to $2,000. In addition, the limit it could be upped as of January 1973 if certain economic indexes rose sufficiently over the next two years. Just how a retiree might fare under the Nixon plan and the House revision, which are compared with the present plan, is detailed in Table III.

Under each plan, it is evident the beneficiary receives more spendable income at the point just before he goes over the exempt amount than at the $2,400 earnings figure. However, the Nixon plan provides an added incentive—it escalates steadily from $3,600 and gives the beneficiary the reward of additional income with added earnings.

Furthermore, increasing the social security tax base heaps new injustice on the person over 65 currently earning $7,800 or more. Compared with 1969, in the years ahead and until reaching 72, he must fork up the following extras: (1) In 1971, he will be paying at least $46.80 more social security tax on his earnings with no return in benefits; (2) starting in July he will be paying $2.60 more monthly towards Medicare for his wife and himself; and (3) if he is hospitalized, he will have to pay $8 more (an 18% increase) as his share of the expense; since January, Medicare beneficiaries were compelled to pay $52 of the first part of their hospital bill, rather than $44.

Thus, the oldster, caught in the squeeze of inflation and trying to offset it by working, this year and next—even if his earnings remain the same—will find himself with less spendable income than in 1969. The optimism engendered by President Nixon's recommendations towards encouraging retirees to earn additional income has been sidetracked. The House measure, as regards changes in the retirement test, is merely an extension of the present program. It has done nothing in the way of encouraging initiative and creating incentive.

The choice of whether a person over 65 wants to live a quiet life of leisure or continue working should be an individual decision. But those who choose to work should be free to do so. Senior citizens should not be hampered by arbitrary rules and regulations.

A THOUGHTFUL ANNIVERSARY OF THE OLDER AMERICANS ACT

Mr. KENNEDY. Mr. President, today marks the fifth anniversary of the enactment of the Older Americans Act. It is a time to celebrate the accomplishments of the programs and activities under the Administration on Aging for, and by, older Americans throughout the Nation. For the Older Americans Act, passed in 1965, has opened up opportunities for companionship, employment, improved nutrition and health care, housing and educational services, and other benefits for a great many older individuals.

In my own State of Massachusetts, Older Americans Act programs have been extremely successful.

The State grant program under title III has developed and strengthened local councils on aging throughout the Commonwealth. And operation of the program has succeeded in making councils and projects self-sufficient, preparing grantees and elderly participants for the time when Federal funding will end. From the outset of a project, everyone involved actively works to make the community aware of their efforts and of the needs of the elderly. Throughout the life of the project, progress reports are sent to municipalities, foundations, federated funds, and other charitable organizations. As a result of this concentrated effort, all seven of the Massachusetts title III grant programs which have been terminated have been picked up by a community source and are continuing in operation.

In the title III program run out of Boston State Hospital, elderly patients about to be discharged are provided with counseling and placement opportunities. The project, Patient Rehabilitation Program, Inc., helps older persons, who may have been in the hospital for many years, find and strengthen family ties which have been lost. The project may soon be expanded to include day care services for the elderly and for potential older State hospital patients, in the hopes of preventing unnecessary hospitalization.

Roxbury's Council of Elders established a family aid program under title III to hire older persons and old age assistance recipients as outreach workers. The program proved so successful that after only 2 years the State Department of Welfare has absorbed the financing.

The statewide school hot-lunch program for elders is perhaps the most far-reaching activity aided by title III funds. The program now operates in approximately 30 communities and is expanding as local councils are strengthened. About a third of the ongoing programs are continuing throughout the summer.

Local councils on aging and school boards cooperate in organizing the hot lunches. Elderly recipients pay 50 cents per meal and title III funds make up the difference. But the program has been administered so well that it is practically self-supporting.

The hot-lunch program has proved to be a possible bridge over the so-called "generation gap." The elderly have their meals as soon after the last school lunch period as possible. High school and junior high school students serve meals, act as escort to the more feeble elderly, and help carry trays.

So there has been much friendly interreaction between the two generations in all of the programs. In fact, in two vocational high schools, the Boston Trade School and the Greater Lawrence Vocational and Technical Regional High School in West Andover, the students run the entire program: they prepare and serve the meals, as well as decorating the tables in the lunchroom with flowers grown in their horticulture classes.

At the Deane Junior College in Franklin, Mass., title III funds have been used to train older people as teacher aides. All of the elderly participants in this project have been hired as aides in Franklin, Wrentham, and Foxborough. School administrators, students, and seniors are pleased with the relationship between young and old.

A number of research and demonstration projects under title IV of the Older Americans Act are also proving their worth throughout the State. The Ecumenical Center in Roxbury, for example, has shown that older people in the model cities neighborhood can effectively serve as outreach workers—helping elderly isolated ghetto residents to participate in community activities and services.

Another excellent project developed by the Roxbury Center is a coordinated nutrition program for the elderly. Older people in the area are trained and employed to provide the nutrition services—which include meals, education, and health screening.

The Massachusetts State Agency on Aging, working in cooperation with the Massachusetts State Employees Association, has shown a great interest in preretirement counseling and presently serves about 1,700 State employees on the verge of retirement. The State is also training a cadre of older employees to work as resource personnel within various State service agencies. The statewide activities are an outgrowth of a title IV research and development project granted to the University of Massachusetts in 1968 and terminating this September. The success of the project, whose purpose was to demonstrate the impact of preretirement educational programs on selected retirees, is underscored by the State's subsequent interest and involvement.

Earlier title IV research and development projects also made an important impact on the State Agency on Aging and on overall awareness of the needs of older people. The Community Services for the Aging project, developed by the Combined Jewish Philanthropies of Greater Boston, determined the amount and scope of services available to older individuals living in a large urban area, interrelationships between agencies, patterns of delivery of service to older people, and factors associated with lack of use of existing services. The Oliver Wendell Holmes Association "Demonstration Institutes for Older Americans" illustrated that older persons could put their knowledge and experience to work in many community service and related activities.

Under title V of the Older Americans Act, a number of educational institutions in the State have developed important training programs. The Age Center of New England, Inc., trains teachers to work specifically with older students.

Brandeis University has offered a seminar course in gerontology to train executives and personnel working in the State agencies on aging. They are preparing a textbook based on the papers presented at the seminars. Brandeis also has developed a doctoral program to train professional personnel in the field of aging.

As a result of a grant made to the Boston University School of Social Work, in conjunction with the United Community Services of Boston, two training manuals have been designed to provide help to professionals, technical experts and lay personnel in understanding and working with the elderly. One manual will be used by trainers and the other by students or trainees.

The experience has been the same in many other States as well. And the ultimate beneficiaries are those who both need and richly deserve our support—the senior citizens of our great Nation.

That is why today is an appropriate moment to pause and consider our accomplishments under the Older Americans Act. As chairman of the Special Subcommittee on Aging, of the Committee on Labor and Public Welfare, I am particularly proud to have worked both on the original act and on subsequent amendments.

However, Mr. President, we must also recognize today that many of the needs and problems of our older citizens have been unmet or aggravated over the last few years.

Inflation has soared, unemployment is threatening the jobs of many older people and the high crime rate has virtually driven many older urban dwellers into isolation.

Recent Federal budgetary policies have done little to help such conditions. Indeed, administration cutbacks have rendered a number of excellent demonstration programs under the Older Americans Act almost useless. And the administration has requested no money at all to begin the Retired Senior Volunteer

Program (RSVP) enacted as part of the amendments to the Older Americans Act of 1969.

We now spend only an average of about $5.41 a year for each older person under the Older Americans Act. The administration has requested only 37 percent of authorizations under the act for fiscal 1971, compared to 45 percent in fiscal 1970.

Eighty-five million dollars is authorized for fiscal 1971 under the Older Americans Act. But the administration has requested only $31 million, or less than half of what Congress views as necessary.

The Older Americans Act authorizes $40 million for title III—grants for community planning and services, model projects, and State planning and evaluation. The administration seeks only $15.2 million.

The act authorizes $15 million for titles IV and V—research and demonstration projects and training grants. The administration seeks only $5.8 million.

The act authorizes $30 million for title VI—the foster grandparent program and RSVP. The administration seeks only $10 million, none of it for RSVP.

Fewer than 10 to 20 percent of approximately 300,000 professional workers in programs for the elderly have had formal preparation for work with older persons. Yet the administration's budget request for training is less than what we spent last year.

In addition, I am deeply distressed at the slow pace and low priority which the 1971 White House Conference on Aging is receiving from the administration. When we consider that the earlier 1961 White House Conference on Aging resulted in development and passage of the Older Americans Act we pay tribute to today—as well as medicare and other programs for the elderly—the potential of the 1971 conference is great indeed.

Yet of $1.9 million authorized for the conference, the administration has requested only $1.0 million—compared to $2.1 million for the 1961 event. Although 40 percent of the elderly are poor or near poor, the administration presently has no plans to provide Federal funds to enable low income elderly persons to attend as delegates.

Mr. President, the Older Americans Act has accomplished much, but nowhere near as much as it would have if adequately funded. Our senior citizens have hope, but we still must vigorously work for responsive Federal programs and a thorough White House Conference if those hopes are to be realized.

On this fifth anniversary of the Older Americans Act let us not only look back, but look ahead. And let us dedicate ourselves anew to the principle that every senior citizen shall have a genuine opportunity to live his or her later years in dignity and comfort and respect.

POLLUTION PREVENTION

Mr. PERCY. Mr. President, while a great number of words have been spoken and written concerning what we should do to solve our problems of pollution, unfortunately, there is frequently more smoke than fire.

However, small but important steps have been taken. Many of the laws passed by this body, and many of the bills still pending before this body, are of great value.

In the private sector too, new initiatives have emerged. I refer in particular to two articles published in the June 1, 1970, edition of Forbes.

The First National Bank of Miami is offering 2-year, 5¾-percent bonds to the public in denominations as low as $25. Funds generated by these bonds will be loaned to those organizations which will use the money in the fight to save our environment, and at rates one-half percent below the borrower's normal rate.

In the second article, the Insurance Company of North America has announced that those companies that knowingly pollute are not insurable.

Mr. President, I believe that these two instances well document the type of individual initiative and responsibility that the business community has demonstrated in the past, and that it must demonstrate in the future. I believe that this is the way that the private sector should cooperate with the Government in solving our common problems.

Mr. President, I ask unanimous consent that the two articles from Forbes be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

POLLUTION BONDS

Seeking to capitalize on the current antipollution sentiment (FORBES, *Mar.* 1), the First National Bank of Miami is offering two-year, 5¾% bonds to the public in denominations as low as $25. Funds generated by this campaign will be loaned only to pollution fighters, at rates ½% below the borrowers' normal rate. Borrowers could include airlines for noise abatement, industries for waste recycling, even individuals for extending municipal sewage lines. The bonds reportedly sold well the first week, suggesting that antipollution sentiment is strong in Miami.

SOME BITE BEHIND THE HOWLING

In the midst of all the hopeful hoopla against pollution, two businesses are making moves that will have immediate, meaningful and widespread impact.

The Insurance Co. of North America, a sharp, sound old Philly-based giant, has announced as "not insurable" firms that knowingly pollute. Its liability policies now state: "this insurance does not apply to bodily injury, personal injury or property damage arising out of pollution or contamination 1) caused by oil, or 2) caused by the discharge or escape of any other pollutants or contaminants, unless such discharge results from a sudden happening . . . neither expected nor intended."

California banks are considering, and Maine banks are adopting a code that would require the assessment of all loan requests by new or existing "industrial, commercial, or housing development, to satisfy themselves that by virtue of granting such credit, no significant pollution of air, land, or water will result."

This bank loan proviso is motivated by economic as well as logical concern. Companies that now pollute, sooner rather than later, are going to be required by law to curb it or cease it, and the processes to accomplish this will cost money. Loans to companies that cannot handle or are not making provision to eliminate at least their most blatant polluting are not good loan risks.

Again, it's a Pennsylvania outfit pointing the way. The First Pennsylvania Banking & Trust Co. has earmarked $25 million for antipollution loans at an interest rate one-half percent below the borrowing company's going rate.

As more banks adopt the antipollution clause to loans—as perforce they must in and for their own interest—and as more insurance companies shuck pollution liability in their corporate coverage—as perforce they must in and for their own interest—the result will be real results in the fight to preserve a livable environment.

SAFETY OF THE CITIZENS OF CULEBRA

Mr. KENNEDY. Mr. President, I am becoming increasingly concerned about the failure of the U.S. Navy to take the most basic precautionary measures to insure the safety of the citizens of the island of Culebra. Testimony at the hearing before the House Armed Forces Subcommittee on Real Estate showed the absence of adequate regulations and procedures to prohibit indiscriminate firing and to insure that the target area was unoccupied.

At the same time, testimony from the citizens showed the absolute incompatibility of conducting normal life on an island, 11 square miles in size, while bombs and artillery shells are bursting nearby.

Carmen Feliciano, a schoolteacher on the island testified:

> When bombs and shells are exploding, the school buildings tremble with every explosion. You can see fear in the children's eyes. They sit in school in a peculiar way as if ready to run at a moment's notice. During the periods of heavy night bombing, students fall asleep in class. . . . bombing is carried out far past midnight every day and these kids are kept awake by the noise and tremor caused by the bombs until early morning hours.

Now the Navy intends to increase the intensity of the weapons practice even beyond what it has been. Last year, 6,101 Navy planes made between 35,000 and 40,000 target runs alone.

The safety of the citizens also is called into question when the Navy's record of accuracy by U.S. allied naval forces shows artillery misses of up to 2,000 yards. Now, with the introduction of an even more intensive firing schedule and the inclusion of more powerful missiles, it appears quite inconsistent for the Navy to anticipate an accommodation with the desires of the 700 persons on the island of Culebra to live out their lives in peace.

The Navy's plan to acquire an additional 2,350 acres for safety zones in keeping with its plan to test the Walleye missile on the nearby island of Culebrita appears to be the first step of a Navy plan to acquire the entire island. This, however, is impossible without the affirmative action of a plebiscite of the people of Culebra. The people already have spoken. They want to remain where they are and they want the Navy to cease its target practice. Thus, the Navy decision to add even more land conflicts directly with the expressed will of the people of the island.

The Navy action also has drawn sharp and continued criticism from every political force on the Commonwealth of Puerto Rico. In so doing, the Navy and the administration, in actions that are simply not understandable, appear to be risking the $300 million installation at Roosevelt Roads, our second largest Caribbean naval base, for the tiny island of Culebra. I say this because already Puerto Rican groups have used the Navy's disregard for Puerto Rican desires concerning Culebra to arouse feelings against all U.S. military bases in the Commonwealth. The political consequences of the Navy's continued opposition to Puerto Rican opinion will be serious and far reaching.

All Puerto Rican political parties have taken a united stand against the Navy's plan to expand its use of Culebra. Party spokesmen representing the full spectrum of Puerto Rican political opinion appeared before the House hearing last month. I would ask unanimous consent that the testimony of Hernandez Colon, President of the Puerto Rican Senate, and of the Resident Commissioner of Puerto Rico, Jorge Córdova, be printed at the conclusion of my remarks. These gentlemen represent the two largest parties in the Commonwealth, yet their views on this question are nearly identical.

I also am concerned that the Navy never examined all other alternatives to the use of the island. There are uninhabited islands in the Caribbean. All of them should be examined as alternatives to Culebra. Although the Navy has asserted that they recently have studied "every conceivable" site, at no time have any of these studies been made public. Also, the Navy has admitted that it has not considered the possibility of manmade islands or contoured floating platforms, both having already been used by the Navy in the Pacific for other purposes.

I hope that the Navy will reconsider its current stand and undertake an immediate review of the alternatives to the continued use of the island of Culebra. As the Washington Post stated in an eloquent editorial today, July 14, 1970:

> We simply cannot afford as a nation to get into the posture of putting bombs ahead of people.

If the Navy does not act in this matter, I believe that the U.S. Congress must.

I ask unanimous consent that the Washington Post editorial, and also my correspondence with the Navy be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[Washington (D.C.) Post, July 14, 1970]

WHY BOMB AN INHABITED ISLAND?

It is time that high-level attention be paid to the controversy over Culebra. The Navy, which already owns about one third of this 7,000-acre island in the Commonwealth of Puerto Rico, is trying to obtain another third of it so as to expand its training operations there, with the installation of a Walleye missile target on the immediately adjacent small island of Culebrita. The move is bitterly resisted by most of the 726 inhabitants and many other Puerto Ricans on the ground that the use of the island as a target has already made life there almost intolerable.

The Puerto Rican Civil Rights Commission has described the military training operations on Culebra as "excessively intense, continuous, irregular and dangerous." The cattle business on the island is said to have been virtually ruined. Fishing has been gravely impaired, and since these two industries have been the chief source of income for the families living on the island, the economic impact of the shelling and bombardment has been severe. Equally troublesome is the effect on education. One teacher reports that the school buildings "tremble with every explosion" and that the children are too frightened, distracted by noise and plagued by loss of sleep (from the night bombing) to give serious attention to their studies.

Repercussions from this use of an inhabited island as a target have spread far beyond Culebra itself. Many Puerto Ricans see in it evidence of a general lack of sensitivity in Washington to commonwealth problems. Tensions on the island have risen notably since the shelling and bombing on Culebra have been stepped up. A columnist for the San Juan Star recently suggested that if Congress should grant the Navy's request to take over more of the island it "could swing popular sentiment toward independence or at least away from statehood more effectively than anything else."

Aside from the injustice of inflicting conditions akin to warfare on the people of Culebra, therefore, the Navy's policy threatens to complicate the relations between the United States and the commonwealth. Just now those relations are in a delicate state. Sentiment in favor of independence has been growing along with sentiment for statehood, although a substantial percentage of the people still seem to favor the existing common-wealth status. It would be most unfortunate if the government in Washington should unduly influence the outcome of the debate now going on in regard to Puerto Rico's future by continuing a shortsighted and inhumane policy in Culebra.

The need for good relations between Puerto Rico and the United States will remain an imperative of the future whether the commonwealth is retained or statehood is requested. For one thing, the Roosevelt Roads Naval Base is the second most important naval installation in the Caribbean. For another, the relations between Washington and San Juan are enormously influential in our dealings with the rest of Latin America. Even though the Navy finds Culebra a convenient area for its training operations, we simply cannot afford as a nation to get into the posture of putting bombs ahead of people.

TESTIMONY OF HERNANDEZ COLON, PRESIDENT OF THE PUERTO RICAN SENATE

Mr. COLON. Honorable Chairman of the House Real Estate Subcommittee, honorable members of the Subcommittee:

My name is Rafael Hernandez Colon, President of the Senate of the Commonwealth of Puerto Rico. I address you in my official function as spokesman for the Commonwealth's Upper House and to bring to your attention the opinion of that House on the Culebra problem as made clear in two resolutions directed to the President of the United States and approved by the Senate of Puerto Rico.

Senate Resolution No. 165 was approved on March 25, 1970. A reply on behalf of the President of the United States was made to this resolution by Frank Sanders, Assistant Secretary of the Navy, on April 29, 1970. Mr. Sanders stated in his letter that a plan announced by Rear Admiral Alfred R. Matter, United States Navy, Commander, Caribbean Sea Frontier, on April 24, 1970 would resolve the Culebra problem as elucidated in Senate Resolution 165, to which I referred.

The plan elucidated by Rear Admiral Matter most emphatically did not solve the problem faced by the American citizens of Culebra; on the contrary the plan offered by the Admiral worsened the conditions of each of the 743 citizens of Culebra.

As a direct result of Admiral Matter's plan and Mr. Sanders' letter, the Senate issued its Resolution No. 188 on May 13, 1970, requesting that the President of the United States "urgently provide an exhaustive study of the plan for the disposal and acquisition of lands in Culebra which the United States Navy intends to put into effect; to reject, as inadequate the proposed plan, until reviewed in accordance with the legitimate rights claimed by the municipality of Culebra; to entreat from the Committees of the Congress of the United States with jurisdiction, to detain all action in connection with said plan and to carry out an investigation of the situation prevailing in the island of Culebra, giving the residents of said island the opportunity to be heard; and to emphatically reassert the formal declaration of the Senate of the Commonwealth of Puerto Rico that the Navy must guarantee the residents of Culebra the peaceful and orderly enjoyment of their lives and in due time relocate its activities in other appropriate places."

Since the date that that resolution was passed, nothing has been done by the Navy to change for the better the conditions of the citizens of Culebra and no facts have been uncovered that would justify a modification of Senate Resolution 188.

On the contrary, events since May 13, 1970, make it clear that at present the only alternative left for the Navy is to drastically curtail all its activities on Culebra so that the residents of that island can enjoy those benefits guaranteed to them by the United States and Commonwealth Constitutions and upheld by the United States Supreme Court.

Since May 13, it has become clear that the objectives of the Navy and the residents of the island are incompatible and that the island must either be ceded to the Navy in full or returned to its proper owners.

Morally, it is inconceivable that the U.S. Navy would deprive the residents of Culebra of their homes and destroy a municipality of the Commonwealth of Puerto Rico in the process. For 35 years, Culebrans have had their lives restricted and limited by the Navy's presence in Culebra. The length of time that that injustice has endured has not guaranteed its permanency. The Culebrans are only asking for what is their due, and this committee can begin the process of returning to the Culebrans what is the birthright of every American and Puerto Rican citizen.

In 1958, the United States Supreme Court held that the right to travel "across frontiers in either direction and inside frontiers as well" is a right guaranteed by the Fifth Amendment. This right is daily denied to every citizen of Culebra. The Constitution of the United States and the Constitution of the Commonwealth of Puerto Rico guarantee the inalienable right of every citizen to enjoy his property, his life and the pursuit of happiness. These are rights daily denied to the citizens of Culebra by the Navy of the United States.

The original purpose of this subcommittee, I believe, has become broadened from the simple approval or disapproval of the Department of the Navy's Acquisition Report No. 102 and Disposal Report No. 300, which together comprised the Navy's "plan" to solve the Culebra problem. What these two documents achieve is to return to Culebrans 680 acres which the Culebrans now have access to and to allow the Navy to acquire 2,350 acres of land from which the Culebrans would be barred from using for residential and commercial purposes. It is palpably clear that this "plan" would not solve the Culebra problem, unless the Navy's definition of the Culebran problem implies that its solution is to make the island unlivable for its citizens.

Today, the House Real Estate Subcommittee has heard the many anguished pleas from Culebrans and those who are aiding them in claiming what is their birthright. Many of the arguments you have heard have legal, constitutional bases. However, sight must never be lost of the fact that the basic issue involved is a moral one. The most recent arguments used by the Navy over Culebra have been financial. Rear Admiral Norwell G. Ward was quoted by the Puerto Rican Press as saying on Thursday, June 4, 1970, that the Navy has over $300 million invested in the Atlantic Fleet Weapons Range and for that reason would not consider giving up Culebra. On closer questioning, he did admit that only a small percentage of this total investment has been made on Culebra. But no matter what the amount of money invested in Culebra has been, if in the final analysis this is the best argument that the Navy can make, then it seems clear that the Navy's case is a doomed one since questions of money do not deserve to be considered in the same breath as questions of morality that directly affect the lives of exemplary United States citizens who have made innumerable sacrifices over 35 years.

The citizens of Culebra, the citizens of Puerto Rico and the Senate which represents them await justice at the hands of this subcommittee. They not only expect that Acquisition Report No. 102 and Disposal Report No. 300 will not receive approval, they expect that this Subcommittee will begin the investigations and studies that will once and for all end the problems posed by the Navy's use of Culebra as a bulls-eye for gunnery and bombing operations.

It is up to the Navy to show that its interests transcend those of Culebra's citizens. So far, it has not begun to make a headway towards achieving that end. The Navy has for 35 years ignored the pleas and requests of Culebra's citizens as regards the protection of their inalienable rights. In passing, I would like to state that this conclusion is the same one reached by the Armed Forces Journal of May 23, 1970. This prestigious journal made the comment, "Our hearts are with the United States Navy, but not about Culebra." This is the basic position of almost everyone who will address this Subcommittee.

Knowing the history of the United States and the history of this Subcommittee, I am confident that the Culebrans will here receive the justice they have waited so long for. I am confident that this Subcommittee will come to the same conclusion that Puerto Ricans have come to after much soul-searching and study: The Navy must return to the Culebrans what is theirs and must begin the process of retrenchment in Culebra that will once and for all return that island to the mainstream of Puerto Rican life.

Back in the early 1800's, Daniel Webster argued the Dartmouth College case before the Supreme Court in what was to become a landmark decision with an import far beyond the borders of that campus. On that occasion, he said, "It is, sir, as I have said, a small college—and yet there are those who love it."

There are many who love Culebra. And there will be more once this problem is ended.

Thank you.

Statement of Jorge L. Córdova, Resident Commissioner From Puerto Rico

Mr. Chairman, My Colleagues:

The Navy proposes to release 680 acres of land in Culebra, and to substantially restrict 2,350 acres more.

When this proposal was first announced less than two months ago, it was hailed as an important step in the right direction by Governor Ferré of Puerto Rico and by me. It was a significant retreat from the position which the Navy had taken over ten years—that it was necessary to remove all civilians from Culebra and to turn the entire island over to the Navy for the target practice without which the crews of the ships and planes of the Atlantic Fleet could not be properly trained.

It is true that for a year or so sounds had been emanating from Culebra which seemed to indicate that some of its citizens were not happy with the Navy's operations in and around Culebra. And it was clear that the Navy had paid little attention to the complaints of the citizens of Culebra. But the Navy assured us that its operations in and around Culebra were, and would continue to be, perfectly safe, and were being conducted, and would continue to be conducted with due consideration for the interests of the Culebrans. As to the complaints, there was reason to believe that they were being encouraged, if not inspired, by outsiders interested in Culebran real estate.

Recent events, however, have caused me to reconsider my position.

Shortly after the announcement of the Navy proposal, Mayor Feliciano, of Culebra, visited Washington to express his objections. He showed me a sworn statement made by citizens of Culebra who claimed that on April 19, 1970, a Sunday when no firing was scheduled, mortar shells were dropped near the spot on Flamingo Beach where they were bathing. They felt the shelling was for the deliberate purpose of driving them from the beach. They lost no time in leaving.

Meantime, on May 22, 1970, a day when the Governor of Puerto Rico, as well as two attorneys from Washington, were visiting Culebra to see for themselves something of what was going on, and to talk to the citizens about their complaints, six mortar shells were again dropped without warning on Flamingo Beach, where children were bathing at the time. The man in command of the mortar crew has signed a statement stating, among other things, that "Three were fired long and three short into Flamingo Beach. The red flag was not raised. Bathers were on the beach earlier but when we fired the mortar rounds we did not look at the beach. We did see a blue fishing boat about a mile to the north of the bay."

I cannot help but wonder whether these shells would have been fired if the children on the beach had been the children of naval officers. I cannot help but wonder whether these shells would have been fired if the mortar crew had known that the Governor of Puerto Rico was aboard the fishing boat they thought they saw about a mile away.

A few days later, I read in the *Armed Forces Journal* issue of May 23 an amazingly revealing letter addressed by Admiral Alfred R. Matter on December 5, 1969 to a developer who planned to build dwellings to attract vacationers to Culebra:

"Culebra Island is a keystone in the Atlantic Fleet weapons range, which encompasses Naval Station, Roosevelt Roads, nearby Vieques Island and thousands of square miles of ocean area. This large complex is expanding and operations are becoming increasingly intensive, frequently being conducted through seven days of the week. As such use increases, inhabitants of nearby areas such as your property will be subjected to the noise of supersonic booms, gunfire, rocket fire, and heavy air traffic."

Now I can understand, and must believe, the complaints of the citizens of Culebra. One has told me of an extraordinary explosion just off shore, which shook his dwelling. Another saw a robot plane flying low over a building on the island. One tells me of machine-gun strafing just off shore, and of machine-gun shells found on the beach after the strafing.

Now I can understand why the citizens of Culebra, who had patiently tolerated the Navy's activities in and around their island for over thirty years, have been complaining with an ever louder voice. Admiral Matter's letter of last December is illuminating in this respect. He tells us that the weapons range is expanding, that operations are becoming increasingly intensive, and that the inhabitants of Culebra are being subjected to an increasing level of explosive noise and terror.

It must be borne in mind that, at the time Admiral Matter wrote his letter, the Navy was insisting that all inhabitants must be removed from Culebra. It would seem that he, and the Navy, were right: the Navy's increasingly noisy and dangerous use of Culebra as a target area is not compatible with the use of Culebra as a place to live, to work, or to raise children.

The alternatives have been made very clear to me by Admiral Matter's letter and by the incidents of April 19 and May 22: either Culebra's inhabitants are evacuated so that the Navy can use it for its weapons range, or the Navy foregoes using Culebra as a target area, or as an area subjected to supersonic booms. And even the Navy has now been convinced that it should not insist on the evacuation of Culebra.

It is true that no civilians have as yet been killed in Culebra by the Navy. But we know that servicemen have died in Culebra as a result of an error by the crew of a plane in dropping its bombs. And we know that the mortar crew on the observation post overlooking Flamingo Beach will deliberately and repeatedly ignore all of the Navy's safety regulations when they are dealing with citizens of Culebra.

I submit to this Subcommittee that the interests of the Navy, and of the nation, will be best served by withholding approval of the Navy proposal. This Subcommittee should not sanction a proposal which at best would submit a community to the intense noise and concussions which Admiral Matter correctly suggests are not lightly to be endured by human beings, and at worst holds the ever-present threat of dressing that community in mourning.

The Atlantic Fleet needs a target. It needs some place where intensive firing can be conducted seven days a week, a place which can be subjected to the noise of supersonic booms, gunfire, rocket fire and heavy air traffic, a place where mortar crews can drop their shells at random and without warning. This place is clearly not Martha's Vineyard, nor Nantucket, nor Sea Island. It is equally clear to me that it must not be Culebra.

June 9, 1970.

Hon. John H. Chafee,
Secretary, Department of the Navy.

Dear Mr. Secretary: I have read recent accounts of an incident in which the Governor of the Commonwealth of Puerto Rico and bathers on the shore of the island of Culebra were nearly struck by mortar or artillery shells.

This incident raised additional questions of the feasibility of the Navy continuing its use of the island of Culebra as a target and training area. It particularly brings into question the current application by the Department to acquire some 2300 acres of the island for the same purposes.

I would appreciate your comments on this question and also like to know whether there has been an investigation of the recent incident in which shells apparently fell in an unrestricted area.

Moreover, I would appreciate knowing what alternatives have been explored by the Navy to the continued use of the island of Culebra.

I look forward to your response on this matter.

Sincerely,

——— ———.

Department of the Navy,
Office of the Secretary,
Washington, D.C., June 29, 1970.

Hon. Edward M. Kennedy,
U.S. Senate,
Washington, D.C.

Dear Senator Kennedy: Thank you very much for your letter of June 9, 1970 to Secretary Chafee regarding the Island of Culebra.

The U.S. Atlantic Fleet Inspector General thoroughly investigated the incident involving the mortar firing in the Flamingo Bay area while the beach was in use and a civilian craft was present. The investigation concluded that neither the bathers on the beach nor the craft were in any danger. Six white phosphorous mortar rounds were fired for test purposes. Contrary to some of the information that has been circulated regarding the incident, the rounds impacted in the bay about one mile from the beach and equally as far from the civilian craft anchored some 60 degrees to the right of the line of fire. At the time of the incident, range regulations prescribed that the red warning flag was to be hoisted only when the range was "activated," that is when aircraft or ships were scheduled to use the ranges. The firing of the six rounds was out of the ordinary in that it was designed to test a new concrete footing and did not occur during a period when the range was otherwise activated. We sincerely regret that the bathers were frightened, and let me assure you that the Navy has taken action to ensure that the warning flag is hoisted in all future firings of this kind.

As far as potential alternatives to the use of the Culebra complex is concerned, the Navy has conducted, in recent years, a continuing investigation of possible alternatives to both the Atlantic Fleet Weapons Range as well as the use of Culebra itself. Every conceivable site, including all of those that were raised before and during the recent House Armed Services Subcommittee hearing, has been extensively examined. Without exception, the Navy has concluded that Culebra is an irreplaceable part of the Atlantic Fleet Weapons Range. If, in fact, Culebra were not available, the training of the Atlantic Fleet would suffer significantly because there are no real alternatives for the kind of training conducted there.

I am hopeful that this information will answer the questions you have posed and adequately clarifies the Navy's position regarding Culebra.

Sincerely yours,

FRANK SANDERS,
Assistant Secretary of the Navy, Installations and Logistics.

PROPOSED REVENUE-SHARING ACT

Mr. BAKER. Mr. President, on September 23, 1969, I introduced the proposed Revenue-Sharing Act sent to Congress by President Nixon. I have been joined in cosponsorship by 33 other Senators who recognize the fiscal pressures and unmet needs confronting our State and local governments.

This measure, if enacted, will require the regular distribution of a specified portion of the Federal individual income tax to each State primarily on the basis of population with no strings attached. A portion of the money allocated to each State will be required to be distributed to all general purpose local governments—cities, towns, and counties.

When fully implemented the legislation will provide a total annual national distribution of $5 billion. At my request the Treasury Department has supplied a breakdown as to the amount of money that will be received by each general government in Tennessee.

Based on 1968 population and 1967 revenue and income data, the total annual amount distributed to Tennessee will be over $92,000,000 with $52,000,000 going to the State government and $40,000,000 to local governments.

I ask unanimous consent that the complete table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Total U.S. distribution: $5 billion.

Total Tennessee State and local government distribution: $92,354,520.

Percentage that must flow through to local governments: 43.49 percent.

State government share: $52,188,077.

Local government share: $40,166,443.

Total to cities	$20,972,162
Clinton	39,487
Oak Ridge	218,717
Shelbyville	95,332
Camden	7,651
Alcoa	68,245
Maryville	60,330
Cleveland	65,167
LaFollette	81,524
McKenzie	9,410
Elizabethton	135,610
Henderson	7,651
Newport	64,199
Manchester	23,745
Tullahoma	82,140
Crossville	15,742
Belle Meade	3,606
Metro Nashville-Davidson County	6,168,676
Oak Hill	791
Goodlettsville	2,550
Dickson	13,368
Dyersburg	78,358
Winchester	39,487
Humboldt	60,154
Milan	46,786
Trenton	10,817
Pulaski	45,027
Greeneville	111,601
Morristown	175,625
Chattanooga	1,916,922
East Ridge	46,435
Redbank-Whiteoak	15,566
Signal Mountain	18,029
Bolivar	11,697
Savannah	12,400
Rogersville	12,576
Brownsville	25,064
Lexington	16,358
Paris	37,200
Waverly	10,114
Jefferson City	8,091
Knoxville	1,668,655
Ripley	9,410
Lawrenceburg	27,263
Fayetteville	39,575
Lenoir City	39,487
Loudon	8,355
Athens	47,754
Etowah	11,697
Jackson	609,454
South Pittsburg	10,817
Lewisburg	39,047
Columbia	140,271
Mount Pleasant	10,026
Sweetwater	32,715
Clarksville	150,297
South Fulton	9,410
Union City	72,026
Livingston	7,651
Cookeville	126,816
Dayton	17,765
Harriman	120,484
Rockwood	29,110
Springfield	42,477
Murfreesboro	97,970
Smyrna	13,543
Sevierville	10,114
Memphis	5,819,801
Millington	20,579
Bristol	282,213
Kingsport	344,830
Gallatin	52,767
Covington	33,595
Erwin	57,428
McMinnville	72,026
Johnson City	269,022
Martin	26,647
Sparta	791
Franklin	78,007
Lebanon	62,528
All other cities with less than 2,500 population	$597,493
Total to counties	19,194,281
Anderson County	219,069
Bedford County	193,038
Benton County	28,934
Bledsoe County	20,227
Blount County	232,085
Bradley County	446,141
Campbell County	121,803
Cannon County	30,165
Carroll County	102,719
Carter County	123,474
Cheatham County	64,815
Chester County	38,168
Claiborne County	104,830
Clay County	21,986
Cocke County	99,729
Coffee County	152,671
Crockett County	73,258
Cumberland County	72,906
Decatur County	56,021
De Kalb County	24,800
Dickson County	78,446
Dyer County	212,122
Fayette County	60,770
Fentress County	90,231
Franklin County	149,769
Gibson County	142,118
Giles County	157,332
Grainger County	48,545
Greene County	137,193
Grundy County	30,693
Hamblen County	119,868
Hamilton County	1,904,961
Hancock County	15,126
Hardeman County	96,827
Hardin County	139,831
Hawkins County	115,207
Haywood County	94,716
Henderson County	108,523
Henry County	205,702
Hickman County	49,073
Houston County	20,227
Humphreys County	69,740
Jackson County	33,243
Jefferson County	78,886
Johnson County	35,002
Knox County	1,553,360
Lake County	44,588
Lauderdale County	141,854
Lawrence County	157,948
Lewis County	63,232
Lincoln County	178,703
Loudon County	116,702
McMinn County	221,883
McNairy County	129,014
Macon County	48,545
Madison County	263,481
Marion County	85,746
Marshall County	70,004
Maury County	361,715
Meigs County	19,172
Monroe County	91,726
Montgomery County	433,302
Moore County	10,289
Morgan County	52,855
Obion County	270,253
Overton County	39,751
Perry County	50,304
Pickett County	11,960
Polk County	80,997
Putnam County	128,750
Rhea County	91,728
Roane County	122,946
Robertson County	205,702
Rutherford County	183,979
Scott County	64,287
Sequatchie County	26,207
Sevier County	117,494
Shelby County	4,924,616
Smith County	46,698
Stewart County	23,041
Sullivan County	758,783
Sumner County	325,218
Tipton County	148,450
Trousdale County	26,911
Unicot County	46,523
Union County	19,700

Van Buren County	89, 146
Warren County	104, 918
Washington County	232, 173
Wayne County	107, 292
Weakley County	99, 729
White County	95, 244
Williamson County	231, 645
Wilson County	134, 731

BASTILLE DAY

Mr. KENNEDY. Mr. President, today, the 14th of July, is a great national holiday for one of the oldest nations of the Western world and for free people the world over. This day holds a hallowed place in the national heritage of France. For on July 14, 181 years ago, the Bastille fell to the people of Paris. For the people of France, the 14th of July is symbolic of a fight for human freedom, a fight that was successful and whose effect is felt today by the people of France. To Americans of French descent, today is a day of great pride.

While this holiday is cause for great celebration, I take the time to add a sober reflection. The fall of the Bastille created a unifying call for freedom, among the French people, but the struggle continued. As J. M. Lalley noted in the Washington Post this morning, what followed the Bastille was not utopia but the historical phenomenon known as the Great Panic, affecting all classes of society in that long hot summer of 1789. Realization that the monarchy had fallen with the Bastille itself, brought with it the realization that there was no longer a national administration; there were no longer any laws, courts, police, army, or revenues—only the universal and all pervasive terror that is engendered by mob rule. It seems to me that while order without justice is counterfeit, so too, justice without order carries a hollow ring.

This is a time for us to renew our commitment to the principle of freedom. We are all bound in an inexplicable web of history, so that where there is one man without freedom, we are all in danger. Freedom creates freedom. But more, being free, we must strive for the freedom of all men. Now, like our French comrades before us, we are bogged down in a senseless war in Vietnam, a war that continues to claim numbers of lives every day. How long must the path to freedom be paved in gravestones?

It was our forefathers who fired the "shot heard around the world" which in a sense began the revolution for human rights and the dignity of man. The citizens who took the Bastille were surely following in the same path. I am pleased to join the people of France and all Americans of French descent on this day which is so significant not only for their great nation, but for all free men and all freedom-loving people.

COLLEGES IN CRISIS

Mr. PERCY. Mr. President, polarized conditions on campus at Stanford University brought about the recent resignation announcement of President Pitzer after a relatively brief term of office.

Dr. Malcolm Moos, president of the University of Minnesota, recently stated that a major danger facing us is the "joint clout that elements of the new left and the far right have in trying to tear our universities apart."

An article entitled "Colleges in Crisis," written by Richard Starnes, of the Scripps-Howard staff, who has initiated a series of articles on this vital subject, appears on the first page of today's Washington Daily News. The article points out the dangerous road ahead for higher education in America.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Daily News, July 14, 1970]

COLLEGES IN CRISIS

(By Richard Starnes)

American colleges and universities are reeling under the impact of a deepening crisis that may well destroy some of them and that inevitably will impose profound changes on all that survive.

Campus violence, largely the result of assaults from the New Left, is the most dramatic symptom of the malaise that has overtaken the nation's institutions of higher learning. But it is by no means the sole cause.

Based on interviews with more than a score of leading educators across the country, a team of Scripps-Howard reporters has drawn these conclusions:

Colleges and universities are facing a financial emergency so severe that some may not survive. While it may have been exacerbated by the student rebellion, the money squeeze is principally a product of inflation, shrinkage of stock values (and hence endowments), growing taxpayer resistance to any new spending programs, and drying up of key federal support.

The days of timid temporizing by college administrators faced with campus disorders have ended. Altho many educators still shy away from open endorsement of hard-line reaction to violence, pressure from legislators, regents and outraged public opinion makes it clear that this will be the prevailing campus climate when the fall term opens this year.

In the whole subtle range of changes affecting colleges and universities an important one is the sharply critical look that is being taken at the life-and-work styles of tenured faculty. Administrator after administrator told interviewers that means must be found to increase teachers' productivity," which is a euphemism for saying that hours are going to be longer, classes larger, and professors' performance more closely monitored.

When the gathering storm was heralded by the Berkeley uprisings of 1966, many university presidents assumed they were watching a temporary phenomenon. This is no longer true. Almost universally college administrators now glumly anticipate a generation of turmoil, trouble and far-reaching change. "The tipoff," said one, "is that the high schools right now are experiencing mini-rebellions of their own."

A great deal more student participation in policy-making decisions is in the cards, and parental-type guidance by schools (dormitory rules, curfews, etc.) is fast vanishing.

Altho the men who run our colleges are chary of asserting that the student rebellion is a product of conspiracy, a number of them pointed out that the New Left has contrived a "fantastically efficient" communications network linking campuses all over the country.

Barring unforeseen expansion of the Vietnam war or other unpredictable factors the next subdivision of the crisis seems certain to occur in the fall when schools come to grips with a chorus of student demands for time off to participate in political campaigns. Few large institutions are willing or able to meet this demand, and many expect trouble as a consequence.

Hardest to define, but perhaps most important of all, there has been a widespread loss of public confidence in colleges and universities. "Ten years ago," mused one administrator, "people believed universities could do anything. Now they are convinced we can't do anything." Implicit in this new mood of skepticism is the possibility of shrinking public support in the future, a reversal of the nation's traditional bias that deeply worries college presidents.

TROUBLED MINNESOTA

Altho wedded to calculated optimism ("when you are treed by a bear you might as well try to enjoy the view") Malcolm C. Moos, president of the gigantic University of Minnesota (50,500 students), in many ways epitomizes the nation's troubled college administrators. As a craft their professional longevity is beginning to resemble that of baseball managers, and they are hag-ridden by the dual specters of rebellion from the left and repression from the right.

In an unusually frank discussion in his office on the university's Minneapolis campus recently, Mr. Moos spoke of his bedrock fear: "the great danger of politicizing the university." He warned that faculty and student attempts to use their schools as "political megaphones" would compromise, weaken and possibly overwhelm the nation's institutions of higher learning.

"The other major danger facing us," he said, "is the joint clout that elements of the New Left and the far right have in trying to tear our universities apart. They don't like to admit it, but that is their aim."

Mr. Moos, who first won national attention as the speechwriter who drafted the farewell address in which the late President Eisenhower warned of the growing power of the "military-industrial complex," declared that "much of the attack on our schools is based on misinformation—people wanting to believe the worst, and never for a moment dwelling on the great and grand accomplishments by both students and faculty that are going on in universities all over the country."

INTERMALE MARRIAGE CONFLICT

But as an illustration of the nightmare confronting many university presidents, Mr. Moos ruefully related the current issue that is stirring unrest on the Minnesota campus. The school recently hired a young man as an assistant librarian, and was promptly shaken to its respectable Middlewestern shoetops when he and another Minneapolis male applied for a marriage license.

The University of Minnesota's ponderous machinery for un-hiring the librarian was fired up, a hearing is in prospect and students (of whom some 20,000 are currently attending the summer session) sense an issue of personal freedom. Mr. Moos is moodily wondering if the dispute will turn out to be the spark that will light the fuse that curls beneath the chair of every university president in the land.

"The New Left, supported by a militant group of students and a small cadre of faculty, believe that the university has failed," Mr. Moos said as he surveyed the broad problems of higher education. They're going to try to tear it down, and they've announced that the fight is going to be long and hard and dirty."

Mr. Moos agrees with numerous of his colleagues that the war in Vietnam, while still the most visible issue besetting universities, is not the sole cause of campus travail and turmoil.

WAR NOT ONLY ISSUE

"The thought that these things would fade out if you ended the was is wrong," he said. "Other issues would remain; one that is a very real one is the feeling among students that they are being shortchanged."

For all its size, Minnesota has escaped the chronic agonies that have lacerated other big schools, including neighboring Wisconsin. Its only major outbreak occurred when black students, aided by militants from the Minneapolis ghetto, seized the administration building two years ago. Altho the episode was handled with no violence and a minimum of damage, it made a lasting impression on Minnesota's proud, paternalistic regents, and on Mr. Moos.

It is significant that as relatively mild as the happening was, Mr. Moos now thinks he was wrong in not "ringing the building with police" to keep trouble-making outsiders away. Mr. Moos, however, disclaims any affinity for repression.

"If you use repressive measures it is like a kite against the wind—the stronger the wind blows the higher the kite flies," he noted.

But he quickly underlined the new mood of no-nonsense that is apparent in university administration buildings all over the country when he continued: "I've always said that if classes are disrupted I'll move and move fast."

Altho small- to medium-sized private schools are feeling the economic pinch most, huge institutions like Minnesota are by no means immune.

"We're caught in a bind when it comes to the economics of it," Mr. Moos declared. "The federal government has pulled back sharply and this particularly hurts in the graduate schools. Graduate teaching is very expensive and graduate enrollment has increased tremendously. Then, too, we're caught in a big crunch with the growth of junior colleges, two-year colleges. They all fulfill a very important educational function, but they are all claimants to public funds."

Mr. Moos does not see any "drastic new grand design" in the future of universities, but he concedes that "bold and adventurous" new departures are in prospect. Like other educators he welcomes the growing involvement of universities in the communities around them ("maybe we can help solve urban problems as we once did farm problems") and he refuses to panic at the growing clamor for special treatment of underqualified ghetto students.

But in the troubled world of universities all visions of the future are seen as thru a glass darkly. For the reality is that universities have emerged as an ideological battleground and there is no way of telling what the ultimate effect of this will be.

Mr. Moos, among others, inclines toward a dim view of this development.

"More difficult than the activism of violence," he said, "is the activism that seeks to convert universities, as institutions, into political partisans thumping for this or that ideological position. Yet the threat of this form of activism is great, in that it carries with it a threat to the unique relationship between the university and external social and political institutions."

GREEN REVOLUTION IN ASIA

Mr. KENNEDY. Mr. President, considerable attention has been paid recently to the phenomena called the "green revolution"—the revolution that has developed during the last year or so in agriculture with the introduction in Asia of special high-yield seeds. The first word of this green revolution was, of course, good news to all of us who have heard the Malthusian timeclock tick as population continued to outdistance food production.

Inevitably, the first glow of success and optimism created by the thought of a green revolution has given way to the realization that it is only a first step toward meeting the growing crisis in world food production. Besides the unexpected social forces unleashed by the disparate pattern of prosperity caused in some areas by the green revolution, an awareness has also developed that high yield seeds are only one way—obviously an important way—to increase the nutritional level of developing nations.

One other approach has recently been successfully tried in India—a nation facing massive food problems, but also a nation which has successfully undertaken massive efforts to meet the crisis. This new attack against malnutrition is a program of protein supplements to existing foods and is described by Alan Berg in a thoughtful article for the Washington Post of July 12. Formerly chief of the food and nutrition section of the Agency for International Development in New Delhi, Mr. Berg describes the successful experience India has had with protein supplements in combating malnutrition. The implications for other nations in Asia and Africa is clear, and I believe such programs should receive the greatest support.

So that Senators may share this important article, I ask unanimous consent that Mr. Berg's essay be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 12, 1970]

INDIA FORTIFIES ITS CHILDREN

(By Alan D. Berg)

At a time when American politicians are groping for solutions to domestic malnutrition, experience from an unlikely source may offer some helpful insights. The source is India, where Indira Gandhi's wing of the Congress Party recently adopted a Children's Charter as a major plank of its platform.

The act was another indication of a growing public concern for nutrition as an important aspect of national policy. If fully met, the charter will provide for nearly half a billion dollars a year to guarantee a minimum diet to 80 million preschool-age children.

Though it is too early to judge the effect of this political commitment, India already has taken substantial steps to build a national nutrition policy, to launch a national program and to establish projects. This is not to suggest that India's nutrition problems have been solved or are even well on their way to solution, but an encouraging and probably irrevocable beginning has been made.

Nutrition as a profession is no stanger to India. For the past half century, India's laboratory and clinical work has ranked with the finest in Asia. As in most nations, however, the linkages between the scientific community and the government and political policy-makers were few. Laboratory findings often remained in the laboratory. Meanwhile, the policymaker saw malnutrition as a welfare problem and addressed it accordingly.

A REVELATORY FAMINE

It took the Bihar famine of 1966–7 to dramatize the magnitude and implications of malnutrition. Ninety million people in eastern India were trapped in the worst drought in post-independence India. Pictures of bloated bellies appeared in the world press, and millions of starvation deaths were predicted.

Fortunately, the forecasts proved to be wrong. The Indian government mobilized a massive relief program and, aided by substantial quantities of food from the international community, was able to hold the line until the next monsoon. The experience, however, made a deep impression on Indian officials.

This concern was intensified by findings reaching India during the same period which suggested a link between malnutrition and mental development. Government officials already knew that malnutrition was the major cause of childhood deaths and that poor food affected bodily growth and thus physical performance. Now they realized that there was a connection between protein deprivation in early life and the sluggishness commonly observed among the extremely poor.

When the head of the national laboratory reported that 80 per cent of Indian children suffered from "malnutritional dwarfism," some Indian political leaders expressed fears that India could be raising a generation of substandard citizens. Moreover, the problem seems to be getting worse. The average Indian today receives 8 per cent less protein than in 1960.

The Bihar crisis accelerated the government's effort to produce more grain. Introduction of high yield varieties, combined with rapidly increasing inputs of fertilizer and other accouterments of modern agriculture, has been highly successful. The production of wheat, the major beneficiary, has increased 67 per cent over 1960–5 averages.

Although of obvious benefit to the well-being of the population, the cereals emphasis is an insufficient answer to India's nutrition dilemma. In fact, a composite examination of 220 Indian diet surveys coupled with national economic projections, suggests that unless a new nutrition strategy is implemented, at least a generation will pass before many Indians will afford an adequate diet.

The data suggest that per capita disposable income must reach $4 to $5 a month to achieve an acceptable diet. Between 60 and 70 per cent of India's urban dwellers fall below this line, and the percentage is higher in the rural population. One-third of India's families would need at least twice their current incomes to attain adequate diets on the basis of rising earnings alone. Even on the optimistic assumption of a 3 per cent annual per capita real income rise, it would take 30 years for one-third of India's families to reach the required level.

Although the new Five-Year Plan projects food grain self-sufficiency by 1972, broad distribution of the additional income generated is not assured. Indeed, it seems likely that if the agricultural revolution continues along the current path, the income distribution problem will be further aggravated.

Policymakers have begun to recognize that national development cannot take place unless hundreds of millions of the poor begin to experience some betterment of their welfare and believe they are participating in that development. A Home Ministry report warned last December that failure to improve the lot of India's masses "may lead to a situation where the discontneted elements are compelled to organize themselves and the extreme tensions building up within the 'complex molecule' that is the Indian village end in an explosion." It was against this backdrop that the Home Minister suggested, "Unless the green revolution is based on social justice . . . the green revolution may not remain green."

No one factor alone will meet the minimum aspirations of the very poor, but better nutrition could play an important and relatively fast-acting role. It has a direct and visible relationship to well-being and is within the means of India to provide.

It was soon apparent to Indian policymakers that many of the highly nutritious foods were priced out of reach for all but the very affluent. This was especially true of those foods needed for very young children. Experience had further demonstrated the difficulty of altering established food habits.

If diets could be improved inexpensively without requiring conscious decisions by consumers to buy, cook or eat differently, the likelihood of success was greater. They therefore began to give attention to the use of established foods as carriers of the additional nutrients.

Besides its obvious value of improving nutrition inexpensively, fortification has other interesting development implications. It is a conceded form of income supplementation—for specific purposes. It achieves this without the massive organizational apparatus required for welfare services or even child feeding programs.

India's first venture into fortification of cereal foods came with the introduction of Modern Bread in January, 1968. During the drought years of the mid '60s, the Food Ministry made a concerted effort to increase bread consumption, wheat, unlike rice, being available in large quantities from abroad. With help from Australia and Canada, nine Indian government Modern Bakery plants, capable of producing 100 million loaves of bread a year, were established in major cities. To each loaf baked in these plants, the government added the synthetic form of the amino acid lysine to increase the protein value, plus vitamins and minerals tailored to India's major nutritional maladies, viz., vitamin A deficiency and iron deficiency.

POOR LIKE IT, TOO

There had been some skepticism that only the urban wealthy were bread eaters and would benefit. Recent studies report otherwise. In Bombay, 40.6 per cent of those with family incomes under $26 a month are daily bread consumers.

Also, bread increasingly is reaching into nonurban areas. Three-quarters of the large bread producers report that from 10 to 30 per cent of their sales are rural.

Although bread is not a major factor yet in the general Indian diet, commercial bread production is expanding rapidly—a 250 per cent increase in the 1960s—and an annual compound 13.2 per cent growth rate is projected for the next five years.

More importantly, the success of Modern Bread dramatized the possibilities of fortification to the government. Last year, the Secretary of Food announced a policy of fortification and the government approved a large-scale project designed to fortify a more traditional Indian food, atta—the ground wheat product used to make Indian chapattis, the round, flat, breadlike staple of the North Indian diet.

People who buy the premilled atta, the least expensive form, are often from the lowest economic group. Beginning in February, Bombay residents purchasing atta also received sizable doses of vitamins, minerals and protein (in the form of peanut flour, an oilseed product seldom used for human consumption in India). The program is scheduled for introduction in other major cities.

Although reaching the bottom of the income ladder, fortified atta benefits only the urban population. Because nearly 80 per cent of Indians live in rural areas and each of India's hundreds of thousands of villages has its own wheat grinding equipment (chaki), it is logistically impossible to undertake a rural wheat fortification program. As a result, a search was made to identify low-cost, centrally processed foods which already reached all elements of the population.

The most attractive item meeting these criteria was salt. Everyone uses salt. Those not participating in the monetized economy barter for it. Produced in relatively few places, salt is consumer year round in nearly equal quantities at all income levels. Those in need of greatest nutrition help, in fact, may be the heaviest consumers; it is often the only flavoring agent they can afford.

The vast majority of Indian women and small children suffer from anemia. Salt with iron added could reduce this condition significantly at a cost of only about $4 million a year. Calcium also could be added without increasing the cost of the salt. Laboratory and clinical tests on iron and calcium fortified salt have been completed and field tests are scheduled to begin this summer. Laboratory experiments to incorporate also vitamin A and synthetic amino acids are at an earlier stage.

Research is also taking place on the fortification of tea. Unlike nearly all other food products, tea is consumed in quantity by rich and poor in both rural and urban areas. A recent study in the state of Gujarat revealed that 87 per cent of villagers give tea to their children, including 84 per cent of the lowest income group (family incomes of under $13 a month).

The interest in tea fortification stems in part from discouraging findings of an investigation into the possibility of fortifying rice. A study last year reported that the vast majority of Indian rice eaters cook it in large quantities of water which is then discarded. In the case of tea, it is the residue itself which is consumed.

FOOD HABITS STUDIED

A second feature of the Indian experiment is the role of private enterprise. In contrast with most other developing countries, India has sizable and sophisticated food processing and pharmaceutical industries. Yet until the recent stage of nutrition activity, these industries were little involved in addressing the country's nutrition needs.

In mid-1967, a group of business leaders met to evaluate the responsibility and the commercial opportunity. What emerged has grown to a 32-firm organization—known as the Protein Foods Associations of India—designed to do collectively what few firms can afford to do alone.

The group's priority project is a series of regional food habits surveys. Little was known of what people ate (by income, cultural group and community size) and how it was prepared. The western regional study pinpointed several foods popular in the lowest economic classes which might qualify for fortification or improved genetic seed development. Similarly, specific widely consumed condiments emerge as potential carriers of better nutrition to the lower classes.

The industry group has just inaugurated an institutional advertising campaign to create greater public awareness of the nutrition problem and receptivity to new foods being developed by individual firms. Twenty-seven new beneficial products are under development, being market tested or are being sold.

The government's response to the initiatives of industry has in general been positive, if belated. Throughout 1969, a joint government-industry committee conducted hearings into problems of the food processing companies with an eye toward meeting industry needs for food standards, more flexible licensing procedures and possible incentives.

A third element of India's nutrition effort is the school and preschool child feeding program. Sizable numbers of children were reached for the first time during the Bihar famine, and the visible effect of the feeding on the youngsters was dramatic.

Today, 17 million Indian children receive a regular meal. This often includes Bal Ahar (child's food), a lowcost, locally produced, nutritious blend of donated American wheat and inexpensive Indian oilseed protein. After a stumbling start, production of 100 million pounds of Bal Ahar is scheduled this year.

A lately added dimension to the Indian experiment is nutrition education. Mass media are employed, with commercial advertising agencies assisting. Efforts are made to avoid the earnest "four food groups" cliches of the standard nutrition posters and to use appeals playing on universal values. (One theme proposed for mass media transmission: "Mother, love is not enough.") Adventure comic books with a nutrition message have been distributed to millions of children who never before had been exposed to this medium.

Special efforts are being made to reach people where they regularly congregate. The government for example, is producing 10 movie shorts on nutrition to reach the millions of ardent Indian filmgoers. The Food Ministry is organizing a new information division which will carry the nutrition message to towns and villages via the mass media. To reach the unlettered, instruction for dietary improvement is being transmitted by All-India Radio through both community and private receivers.

Giving unified direction to these and other activities is an interministerial committee at cabinet secretary-level. This group last year developed an approach to nutrition which formed the basis of a chapter in India's fourth Five-Year Plan. Eighty million dollars has been budgeted for a nutrition program in the plan.

This catalogue of new starts is not intended to suggest that India's nutrition problems are under control. Massive logistical and cultural barriers stand in the way of reaching the neediest elements in the society. Obviously, one of the greatest constraints is sheer poverty. For all the growth accomplishments, it is easy to lose sight of the enormous shortage of resources of all kinds in countries afflicted with severe underdevelopment.

The possibility of reaching the targets of need is, however, greatly strengthened as a result of the experience to date. Of special significance is the matter of scale.

The necessity of working within the confines of overstrained health ministry budgets has inhibited nutrition experts in many countries from taking the kind of quantum jump now planned in India. Today, there are officials in New Delhi who are working on the premise that a massive attack on malnutrition could virtually eradicate major nutritional diseases, just as smallpox and malaria have been overcome in India and in much of the world. This is a scale of thinking perhaps never before envisioned.

SOCIOLOGICAL TERMS

Also of interest is the recognition in India that further expansion of the nutrition program hinges not so much on answers to medical problems as on answers to social science problems. Nutrition need has raised basic questions about income distribution, resource allocation and the nutritional implications of agricultural policy.

A few government leaders are beginning to think of nutrition in terms of the increased productivity of the properly nourished man; the added contribution of a child with full mental and physical capacities; the costs of malnutrition through waste in bearing and rearing children destined for early death or through relief for those whose productive years are curtailed; the implications of better nutrition for family planning.

The relationship between nutrition and population growth is particularly intriguing. It is now being suggested that better nutrition can increase the survival rate of children and in the process induce parents in traditional societies to accept the idea of conceiving fewer children.

The Indian experience is significant for its scientific achievements and applications of technology. Perhaps more important are the underlying reasons these programs have been taken up and the innovative approaches employed in implementing them.

Their adoption reflects serious thought for the first time to the developmental ramifications of malnutrition, to the economic dimensions of the problem, to the vote-getting appeal of nutrition in a democracy, to national planning implications and to evaluating alternate cost solutions.

TOCQUEVILLE'S AMERICA

Mr. KENNEDY. Mr. President, in 1831, America was visited by a Frenchman of extraordinary perception, Alexis de Tocqueville, whose travels in what was then our new Nation formed the background and experience for the lasting insights in his classic work "Democracy in America." Although he wrote more than a century ago, many of Tocqueville's perceptions about our Nation are entirely relevant today.

Last week, in an excellent documentary television program produced by the Canadian Broadcasting Corp., Tocqueville's words were portrayed against the settings of the America of 1970. In the course of the broadcast, some of Tocqueville's most celebrated observations about America—observations on issues like war, the frontier spirit, and race—were considered, and discussed by a number of distinguished contemporary Americans, including three of our colleagues, Senator HUGH SCOTT, Senator EUGENE MCCARTHY, Senator VANCE HARTKE, and Floyd McKissick as well as taped comments by the late Senator Everett Dirksen.

I believe that this remarkable discussion of America will be of interest to all of us, and I ask unanimous consent that a transcript of the broadcast be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

CANADIAN BROADCASTING CORPORATION CHANNEL 26—TOCQUEVILLE'S AMERICA

(Liberty Bell.)

(Sailing ship in New York Harbour.)

NARRATOR. This is America. In 1831, a young French aristocrat named Alexis de Tocqueville crossed the Atlantic to visit America. He wanted to see the future of a changing world.

(Ship's figurehead.)

TOCQUEVILLE. I confess that in America I saw more than America. I looked for the image of democracy itself, with its inclinations, its character, its prejudices and its passions, in order to learn what we have to fear or to hope from the progress of democracy.

(Two figures on deck.)

(Portrait of Tocqueville.)

NARRATOR. Tocqueville wanted to see the future of his world.

(Sailing ship against skyscrapers in New York Harbour—New York Skyline.)

NARRATOR. For America was once the scene of a great new experiment in equality. But that was many years ago. The land where democracy was once new is now the oldest democracy in the world. But if Tocqueville returned to America today, he might still see the future of the world, for better or for worse, here in America.

(New York Harbour in 19th century.)

The month of May, 1831. This growing town is New York City. Two-hundred-thousand people live here. Across the clear, fresh water of the East River we are looking at Manhattan, and beyond, the green hills of New Jersey. New York is a city of churches, newspapers and banks. But of all the buildings which Tocqueville saw, only three still stand.

(Modern New York Harbour—New York Skyline.)

NARRATOR. These modern skyscrapers are built on a political framework almost two centuries old.

The United States of America is the newest country in the world in science and technology, and the oldest country in the world constitutionally.

That is why Tocquaville's great book on *Democracy in America* still has the power to astonish and instruct, to make us humble, to make us hope: to call on a new world to make the old world new.

TOCQUEVILLE. New York is a city of bustel and business. The profound passion of all Americans is to get rich. There are a thousand ways of acquiring money, and any kind of trade is regarded as honourable.

Sometimes, however, Americans try to get rich too quickly, and so in America you don't say anything offensive about bankrupts, because nearly all the rich people I met have been bankrupt themselves at one time or another.

(Old New York Street—Church steeple.)

And, of course, you can never tell how much money a man has by the way he dresses.

(Old New York City Hall.)

Above all, in America I am struck by the general appearance of outward equality.

(Crowds in Wall Street.)

NARRATOR. The crowds in Wall Street are sober, ambitious, anxious, and competitive.

(New York hamburger stand.)

An American is always on the lookout for fear his neighbours get the better of him.

Everyone agrees that if a hundred Americans were going to be shot, they would argue about who's going to be first, so strong is the habit of competition.

(Embracing couple.)

TOCQUEVILLE. Manners are open, free and easy.

(Black face.)

But the presence of the blacks on American soil will, in my opinion, prove disastrous.

(Accusing white girl's face.)

(Paddle steamer and sailboat in harbour.)

NARRATOR. By sailboat and by steamboat—by stage coach and on horseback—Tocqueville journeyed eight-thousand miles through the America of the 1830's. From free-New England, to the slave-owning South. From the Indian territories of the frontier, to the plantations of Louisiana.

(19th century Albany Harbour.)

When Tocqueville visited Albany, the political capital of the State of New York, it was a thriving town of twenty-five-hundred people.

(19th century Albany skyline.)

(Albany family by river.)

TOCQUEVILLE. There, on the morning of July the Fourth, 1831, I joined in the Fourth of July celebrations.

(Cannon fires.)

(Chatham, Mass., 4th July Parade.)

Voice over (Declaration of Independence): When, in the course of human events, it becomes necessary for one people to dissolve the political bonds which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent . . . .

(Eugene McCarthy in crowd.)

TOCQUEVILLE. In this return of an entire people toward the memories of its birth, there is something deeply felt and truly great.

(Parade.)

MCCARTHY voice over: When I was young, there was much more emphasis simply on patriotism, and stories and so on. We'd have a patriotic float.

MCCARTHY on camera: Thirty years ago, everyone pretty much stayed at home, and we didn't have as many other distracting celebrations as we have now. And I think probably World War II was kind of a watershed, too, because from that time on, our problems became so much more complicated, and reached so much farther around the world, that the simple question of Independence began to be much less important.

(McCarthy at ball game.)

NARRATOR. The question of Independence is no longer simple, but the annual celebration of Independence is the celebration of the birth of equality as a national ideal.

(McCarthy shakes hands with ball player.)

TOCQUEVILLE. The rich must sacrifice their pride and shake hands with the poor to gain political power.

They must be polite to everybody, for every body has political rights. Extreme quality in social relationships is what strikes me most in America.

(P.A. introduces McCarthy.)

(McCarthy throws ball.)

People all seem to wear the same clothes. All the classes seem to be intermingled. The most important protection for American liberty lies in the manners of democracy—the customs—the habits of the heart.

(McCarthy hands ball to boy—freeze.)

(Lantern-decorated boats on lake.)

NARRATOR. The belief that equality, democracy and brotherhood will make everybody happy: this belief is the basis of the American dream.

(Room in Independence Hall, Philadelphia.)

Independence Hall in Philadelphia. Tocqueville visited this room, where the continuing revolution was set in motion: the room where Thomas Jefferson set forth the words of the American dream: inspiring . . . disturbing . . . accusing.

VOICE over: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men deriving their just powers from the consent of the governed. . . .

TOCQUEVILLE. The sovereignty of the people became the law of laws.

(Book on table.)

The people reign in America as God does in the Universe. The people are the cause and the aim of all things—everything comes from, and everything is absorbed in, the people.

(Independence Hall.)

I could not help thinking how different from France.

(Gardens at Fontainebleau, France.)

The French Revolution led to Napoleon Bonaparte, who ruled as Emperor until he was finally forced to abdicate.

(Statue George Washington.)

The American Revolution led to George Washington, who peacefully retired to his farm at Mount Vernon, and was followed by an orderly succession of constitutional Presidents.

(George Washington's farm at Mount Vernon.)

(Erie Canal.)

TOCQUEVILLE. In July 1831, I started west on the Erie Canal, through the wilderness and on to the territory of Michigan.

(Tow rope over canal.)

(Mules towing barge.)

I wished to see the great fact of America, which is the presence of the frontier, which has helped to shape the American character.

(Farmer clearing land.)

The pioneer intends to civilize the wilderness. He clears the land.

(Log cabin.)

He puts up buildings.

(Fence.)

He makes fences. He has no intention of living on the frontier like an ignorant peasant.

(Pig foraging around cabin.)

His log cabin is an ark of civilization.

(Interior of log cabin.)

(Bible.)

In it are an axe, a Bible, Milton, Shakespeare and some newspapers.

(Oil lamp.)

(Newspaper on chair.)

(Canal.)

DIRKSEN voice over: In his day, of course, people began to go through the Allegheny and the Appalachian passes.

DIRKSEN on camera: They went out across the Prairies of Ohio and Indiana, and Illinois. And they built themselves with their hard hands into the roads, into the bridges. I can think of my mother coming from overseas as a girl.

(New York in winter.)

DIRKSEN voice over: But with her own hands going out to help build a church . . . first thing they wanted to do out in the town where the taproot of my family is still in existence, and where that church that she helped to build is still there.

DIRKSEN on camera: But you see, life was rugged, and they worked a good deal harder.

Now, life has become simpler. It's become somewhat mechanized, it has become very pleasant indeed. So it's not identified with the disappearance of the land as such. But frankly, there is an essential character in the American people that fully understands. So even though we get away from the pristine ruggedness of the frontier life, we have other fields to conquer. Well let me give you an example that is so very current. Who could have worked harder, who could have endured more, who could exhibit greater courage and daring, than the three men who got in that capsule and finally landed on the moon two-hundred and forty-eight thousand miles away?

If that isn't an exemplification of character and courage, then of course I've never seen it.

(Spacemen drifting into van.)

DIRKSEN voice over: Their families had to be willing to surrender them. And they had to be willing to undertake this project. Otherwise it couldn't have been done.

They knew the hazards. They knew the risks that were involved. So that's another way of saying why there are new frontiers.

(Herons.)

You see the frontier is up. Heretofore the frontier was horizontal. It was in a single plane—going east and going west; going north up to the Hudson Bay country; going south. But now the frontier closed on itself when the explorers got to the Pacific.

DIRKSEN on camera: Then you had two strange forces. You had, first, what I call a centrifugal force, that hurls things away from a common center. That's the force that picked up families and individuals, and spewed them out through these mountainous passes, until they got to the Pacific.

And then came the other force. The physicist calls that a centripetal force. It doesn't hurl things away from a common center . . .

(Industrial Philadelphia.)

DIRKSEN voice over: It hurls things into a common center. And it begins to pick up these families and individuals and gradually threw them into beehives. And out of that you get the strange geographic development of great megalopolitan centers: New York, Chicago, Philadelphia, Toronto, Montreal, San Francisco, Los Angeles.

DIRKSEN on camera: You see, we developed a balanced civilization out of those two forces. And so, all that at the end of the pioneer stage.

(Heron; vertical space craft.)

DIRKSEN voice over: So what fields to conquer now? And on what horizons to hold the eye? Well, it's up, and it's down, in addition to some other frontiers in the horizontal plane.

(Industrial Philadelphia.)

DIRKSEN on camera: And those, of course, will tax the courage, and the competence, and the understanding, and the ability, and the persistence . . . that's a great quality . . . the *persistence*, of the human race.

(Barges on Erie Canal.)

NARRATOR. In 1831, the line of the Frontier was moving westward at the rate of about seventeen miles a year.

TOCQUEVILLE.—The American frontier is the guarantee of order, for men who feel themselves ill at ease can always move to the West.

(Detroit Harbour.)

NARRATOR. When Tocqueville passed through the frontier town of Detroit, it had less than three-thousand inhabitants.

(Mini-Chicago.)

And Chicago was only a few log cabins in the middle of the prairie wilderness.

(Travel up canal.)

TOCQUEVILLE. In my judgment, the existence of the frontier is essential to the spirit of Democracy.

Senator MCCARTHY voice over. I think one would probably have concurred in de Tocqueville's judgment back in 1830 or 35.

MCCARTHY on camera. But I don't think it really marks the character of democracy necessarily, I don't think his judgment would have to prevail at all times.

The challenge I think within the cities, or the movement from the rural areas to the cities, tends to contradict his position, and the fact is that much of that movement was really a movement away from democracy to the kind of isolation, the kind of independence. What those people did, in fact, was to set up kind of baronies as they moved into the west, and I don't see it as essential to democracy. I don't know whether we are adjusting very well to the complications and congestions of urban society, but I don't see the need of open space and farms and so on, as a condition to the working of democracy . . . This is probably one of the judgments about democracy de Tocqueville made which I think has least real validity, and not just with reference to this country, but in the historical test of democracy.

(Wilderness.)

MCCARTHY voice over: It's a somewhat more sophisticated kind of democracy than that which simply says, we'll go westward, or we'll cross the ocean. It has to be an opening up . . . there has to be, I think, a frontier, and the people wanting to improve their economic condition, or their social position, or their culture, whatever it may be. You can't have a static democracy.

(NASA construction building.)

(Herons.)

But I don't think it means it has to be physical; it doesn't have to be new space and new land. And it doesn't have to be a scientific achievement that has no real consequence for most people.

(Vertical spacecraft.)

I don't think it can be vicarious, principally, as I think the moon shot is.

Senator HUGH SCOTT voice over: I believe the frontier spirit still exists in the United States.

SCOTT on camera: I believe that we still have some overlap of the ancient method of acquiring things, by force and violence. An active, aggressive people always has to remember the components of discipline, and we are still fighting that battle within ourselves. I think by and large we are succeeding. We have subdued the atom, only to find that it is both enemy and friend.

SCOTT voice over: We have achieved great wonders in putting together what we proudly call a civilization, but we have some shameful spots upon it. There is an old saying that unless above himself he can erect himself, how mean a thing is man!

(Industrial Philadelphia.)

NARRATOR. The moving frontier has stopped at last, and men who feel themselves ill at ease can no longer move to the west.

(Urban sprawl.)

The frontier as Tocqueville's guarantee of order is no longer the great fact of America. *This* is the great fact of today's America.

(Suspension bridge.)

(Philadelphia slum.)

But the frontier helped to make the American character, and that character is still with us . . . marked by the frontier . . . marked by violence . . . marked by waste . . . marked by a sense that things need not be made to last, for after all, there are always fresh fields over the horizon.

(Sourly man under tree.)

(Moving train.)

(Philadelphia slum street.)

(Sourly man under tree.)

Now the horizons are closed—and the courage and initiative of the pioneers are needed now much closer to home.

(Train passing—ancient street.)

(Pioneer woman spinning.)

TOCQUEVILLE. To understand American society, you must understand American woman.

(Pioneer woman.)

(Pioneer woman weaving.)

(Old street.)

She has scarcely ceased to be a child when she already thinks for herself, speaks with freedom, and acts on her own impulse.

(Pioneer woman candle dipping.)

She makes her own home with her own hands.

She is full of reliance on her own strength, and her confidence seems to be shared by all around her.

(Old street.)

(Young pioneer women.)

I have nowhere seen women occupying a loftier position. I attribute the prosperity and growing strength of the Americans mainly to the superiority of their women.

(Modern girl reclining on grass with boyfriend and flags.)

(19th Century Washington.)

This is Washington—as I saw it. A town of twenty-thousand people.

(White House.)

(Blue Room in White House.)

I was taken directly to the White House and shown into this room.

The White House is a modest residence, in keeping with a democratic society.

There were no guards, no footmen. I found that anyone could receive an invitation to a White House party simply by leaving a card.

(Portrait Andrew Jackson.)

I was then introduced to General Andrew Jackson, the seventh President of the United States, and the first President to come from the Frontier.

(Battle of New Orleans—several battle scenes.)

General Jackson's great fame is to have won the Battle of New Orleans against the English. He is an energetic man, prone by nature and habit to the use of force.

(Portrait young Jackson.)

NARRATOR. Yes, Old Hickory rewarded his friends and punished his enemies. He had just fired his entire Cabinet, and was about to destroy the nation's greatest bank.

He was the first President to exercise the full powers of the Office.

But eight years as President left their mark.

(Weary-looking Jackson.)

The man in the White House now holds the toughest job in the world. The President of the United States is not only leader of his party, but leader of the Nation.

(American soliders on beach.)

He is also the real Commander in Chief of the armed forces—the actual head of the armies when the democracy is at war.

And he is responsible with the advice of the Senate, for trying to devise a sensible foreign policy.

(White House.)

TOCQUEVILLE. But good sense is not always enough in dealing with foreign nations.

Foreign policy needs the perfect use of two qualities in which democracy is deficient: secrecy, and patience.

(Equestrian statue.)

(American soldiers on beach.)

I foresee there are two things that a democratic people will always find very difficult—to begin a war, and to end a war.

(McCarthy on camera.)

I think he's wrong about war; certainly he's half right. It's hard for us to get out of wars. But not hard for us to get in.

We've been able to get into wars pretty quickly in this country really throughout our history: 1812, and the Mexican War, and the Civil War, and the Spanish-American War. And in the case of World War I we didn't get into it very quickly, but it was largely because we couldn't get there I think.

And World War II, we would have gotten into it, but we weren't ready for it. Once we've been ready, we've been ready for war since the end of World War II. And since Korea; we get into it before we know it.

We got into Cuba, the Dominican Republic, and into Viet Nam.

(American soldiers in field.)

(McCarthy on camera.)

The problem of getting out, whether it's part of democracy or the condition of the kinds of wars we now fight, I couldn't quite determine, but I'd say he's right in saying we have trouble getting out, but not much trouble getting in.

Senator SCOTT (tanks) voice over. Well here of course, de Tocqueville was right.

(Scott on camera.)

In a democratic society the consequences when one enters into a war, usually for motives of the highest idealism, are never fully apparent and have never been adequately debated. We either enter by surprise attack, as at Pearl Harbour, or we enter to support and uphold what we feel are our principles of freedom. And we often find that we have bitten off more than we can chew.

You remember that Lord Macaulay also commented on our Constitution, that it was all sail and no anchor. I think he had in mind the same principle, that a democracy finds it hard to conduct foreign policy because of our division of powers, executive, legislative, judicial—because of the contest between Congress and the Executive, the fear that the Executive may move too fast, too far.

(Khrushchev meets Eisenhower.)

TOCQUEVILLE. There are at the present time two great nations in the world which started from different points, but seem to tend towards the same end . . . the Americans, and the Russians.

Their courses are not the same, yet each of them seems marked out by the will of heaven to sway the destinies of half the globe.

(Khrushchev meets Kennedy.)

(Senator SCOTT voice over.) Yes, de Tocqueville said in time the Russians and the Americans will become the two great powers in the world.

And he said, one is built upon the plowshare, and the other upon the sword—one upon freedom, the other upon servitude; that both, when they finally reach their natural frontiers will remain as the last two great powers in opposition to each other. He was right. He was startlingly right.

(White House.)

NARRATOR. But Tocqueville saw that even in America, whose ideal is freedom, there may be servitude.

(New York City Hall.)

To the Tyranny of the Majority. The man in the street says: You can't fight City Hall! And Americans know that even an *elected* master can be a tyrant.

TOCQUEVILLE. The people shake off their state of dependence just long enough to select their masters, and then fall back into it again. It is the majority that holds the end of the chain.

(Row of parked cars.)

NARRATOR. It is the majority that decrees that it's un-American to be different.

(Bobby Kennedy shakes hands.)

TOCQUEVILLE. In America, politicans praise and appeal to the people so that they can exercise the rights of the majority to their own advantage.

(Humphrey shakes hands.)

(Nixon shakes hands.)

In America, faith in public opinion becomes a kind of religion, and the majority is its ministering prophet.

(Capitol building.)

NARRATOR. The President quotes public opinion polls to prove that he is supported by the majority, and therefore right.

The issue can be raised that the losing minority has the moral obligation, not only to go along but to go quietly.

Senator MCCARTHY on camera. It's been raised with reference to the opposition to the war in Viet Nam. Some of the students who supported me, within the last month or two, went to the White House to talk to one of the Presidential advisors, and he said, "Well, you shouldn't be protesting this war. You lost the election!"

(Riots.)

NARRATOR. "You lost the election." The majority feels that the decision has been made, and the losers should say no more.

But the losers often have a lot to say, about the decision and about the attitude of the majority.

Senator DIRKSEN on camera. I often thought of it as the arrogance of the majority. And I remember even now in the debates on the Floor of the House of Representatives, with this great host of New Deal people on one side of the aisle, and us handful of Republicans on the other. And they used to look across and gloat and taunt us, and say, "It's our inning now. Just lie down and behave. Subside. We're running the show."

You see, we thought there would be a safeguard in two terms, as exemplified by George Washington. But there were three terms, and there were four terms. And you see, that way, a party finally feels when it's in the majority, that it owns the country, and it wants to do as it pleases. Therein is where you can find the tyranny.

(Demonstrations and riots.)

NARRATOR. You can also find the tyranny in the attitude of a minority, so sure that it is morally right, that it acts to prevent the will of the majority from prevailing.

(Demonstrations.)

(Crowds on Wall Street.)

TOCQUEVILLE. The public among a democratic people has a singular power, for it does not persuade others to its beliefs, but it imposes them and makes them permeate the thinking of everyone by a sort of enormous pressure of the mind of all upon the mind of each.

That's the tyranny of the majority.

NARRATOR. But even the enormous pressure of the majority only goes so far. Eventually another pressure rises—the wish to be free.

(Liberty Bell.)

Senator DIRKSEN. You see, that man was born to be free.

That is innate. That is instinctive. And government goes just so far, and the minute it poaches upon that delicate fabric of freedom, then watch out, because they are going to be pushed back. And that's been the history of the country.

(Statue John Marshall.)

TOCQUEVILLE. While in Washington, I also visited the Supreme Court, then led by its great Chief Justice, John Marshall, who, for the first time, established the power of the Court as the great check upon the power of the President and of the Congress. The peace, the prosperity, and the very existence of the Union are placed in the hands of those Federal Judges.

(John Marshall.)

(Supreme Court Judges.)

Senator MCCARTHY VOICE OVER. It is the critical point, I think, the ultimate testing of the whole structure of American Government. My feeling has been that those who are in more active areas of politics, the Executive Branch, the Congress, have to be very careful not to put too great a burden on the Court for difficult and hard decisions.

MCCARTHY on camera. I think we were remiss and slow on acting on civil rights in the Congress, the Executive Branch of the government, to the point where the court finally made the hard decisions when there was really no administrative machinery and very little in the way of procedure whereby their determinations would have to be carried out.

(Supreme Court courtroom.)

TOCQUEVILLE. If the Supreme Court is ever composed of imprudent or bad men, the Union may be plunged into anarchy or civil war.

NARRATOR. In this room, just over a hundred years ago, the Supreme Court ruled in the Dred Scott case that Congress had acted unconstitutionally in prohibiting slavery in the Western Territories. Many felt this decision was either imprudent or bad, so the great question was whether it could be changed.

(Eagle.)

Senator DIRKSEN. There was a fear in the country, and perchance there may have been a fear in the Congress, that you could not quarrel with a Supreme Court decision. But Abraham Lincoln quarreled with it because in the Dred Scott decision, you may remember, he said, "I do not concur in the decision of the Court, but I do respect it." And it can be changed. It took a war to change it. It took a lot of blood to change some decisions.

(Abraham Lincoln portrait.)

(Photos Gettysburg battlefield.)

(Gettysburg battlefield today.)

And so we see today, a hundred years later, some of the fruits of what happened at that time.

TOCQUEVILLE. If ever America undergoes great revolutions, they will be brought about by the presence of the black race. That is, they will be due, not to equality, but to inequality.

(Mississippi River, barge, fishing boat.)

NARRATOR. Now Tocqueville sailed down the Mississippi to see the slave-owning South.

In this land of democracy, the Southern slave owners thought of themselves as aristocrats and gentlemen of culture and civilization. Slavery was a crime and a calamity, but Tocqueville, who saw it, did not particularly blame the South for it.

(Rosedown plantation house gardens.)

(Slave quarters.)

TOCQUEVILLE. My indignation is not directed to the men of our time who are the instruments of these outrages. I reserve my execration for those slave traders who brought back slavery into the world after a thousand years of freedom.

(Interior slave cabin.)

The Southerners who do not believe that the Negroes can ever be co-mingled with themselves have forbidden them to be taught to read or write under penalty of death.

(Black boy and man.)

Since they will not raise them to their own level, they sink them as nearly as possible to that of brutes.

(Black man.)

(Black boy.)

Slavery not only degrades the blacks, but also the whites.

There are but two chances for the future: the Negroes and the whites must either wholly part, or wholly mingle.

(Rosedown drive.)

(Interior dining room rosedown.)

A dictator might subject Southerners and their former slaves to the same yoke, and succeed in co-mingling them. But so long as American democracy remains, no one will undertake so difficult a task. So that the freer the black population becomes, the more isolated it will remain.

(Black boy pulling punka.)

(Rosedown drive.)

(Mississippi River.)

When I look at the South, I see only two possibilities: either to emancipate the Negroes and to intermingle with them, or to remain isolated from them to keep them in slavery as long as possible. All intermediate measures seem to me to end, perhaps soon, in the most horrible of Civil Wars, and perhaps in the extermination of one or the other of the two races.

(Cajun Cemetery.)

(Mississippi paddle steamer.)

NARRATOR. At the mouth of the Mississippi lay the busy semi-tropical port of New Orleans, part of the territory which the United States had recently purchased from Napoleon.

Here, in this cosmopolitan city of mixed cultures, mixed languages, and mixed people, Tocqueville attended the celebrated quadroon ball, where white gentlemen gave formal entertainments for their beautiful coffee-colored concubines.

(19th Century New Orleans Harbor.)

(Cathedral of New Orleans.)

(Carriage wheels pass along cobbled street.,

(Black profile.)

(Smiling black girl.)

(New Orleans ballroom.)

TOCQUEVILLE. Immorality has created the single tie between the two races. Everywhere else slavery develops those deep-seated prejudices that outlive slavery itself.

FLOYD MCKISSICK. De Tocqueville perceived the system of slavery as having developed new kinds of prejudice not heretofore known in European society. And he described them as these prejudices which grow out of slavery which will always be with us because this form of slavery existed. And they were, one; prejudice against the individual; prejudice against a race; and prejudice because of color. And that a black man would always suffer, be the victim of these prejudices and be tormented by them, even though so-called freedom, liberation, would come.

George Washington Statue; dancing black man.

NARRATOR. In New York City, a so-called free black man dances at the foot of George Washington's statue for coins that passers-by throw to him.

(Watching crowd.) (Dancing black.)

TOCQUEVILLE. The tradition of slavery dishonours the race, and the peculiarity of the race perpetuates the tradition of slavery. Thus, the Negro transmits the eternal mark of his humiliation to all his descendants, and although the law may abolish slavery, God alone can obliterate the traces of its existence. The danger of a conflict between black and white haunts the imagination of Americans like a painful dream, especially in the south.

FLOYD MCKISSICK. The Southerner had a tremendous amount of fear, and his fear was with the fact that sooner or later he would have to deal with the problem of the black man.

Either he would have to continue to keep him in slavery, or else he would have to comingle. And the South had primarily made up its mind that they would never co-mingle. And by co-mingling, he also used the word inter-mixture.

(Black ghetto.)

And he said the North had already decided that there would be no inter-mixture. And even in the North where people were free to marry and do anything they wanted to, even whites ostracised other whites who even showed an affinity toward black people. And he could not see where intermarriage would become a wholesale thing or acceptable. And, of course, I think that today the situation has changed merely by degrees, and the basic general assumption of de Tocqueville still applies.

Then he attempted to dissect the problem. He said, as I look at the Northern part of the United States, there's far more prejudice, in the Northern part of the United States than in the Southern part of the United States. He said, I say this because of the attitude of the North, is that we shall not associate with the blacks in any respect whatsoever.

NELKE EMANON. You know that here in New York, for instance, you know that you can go anywhere, but they have here what is known as the invisible prejudice and segregation. You go there, they don't say that you can't come in, but once you go there you can feel the vibrations that you aren't really wanted.

Now in the South, I've found you know where to go, and I'm not going to say some of my best friends are white, because I have . . . like a friend of mine, he's a white fellow I was raised with. Now I knew where to go there. I respected my brother, my white brother there, because he told me, in this way, we don't want you here, but you find more black millionaires in the South than you do in the North East.

(Black Ghetto.)

TOCQUEVILLE. The inhabitants of the North constantly talk about the dangers of a black and white conflict. They devise means of averting the misfortunes which they foresee. In those parts of the United States where Negroes are not slaves, they are no nearer whites. On the contrary, the prejudice of race appears to be stronger in states that have abolished slavery than in those where it exists. And nowhere is it so intolerant as in the states that never had slavery.

(Black boy on statue; black boys playing in fountain.)

The lower ranks which inhabit these great cities constitute a rabble even more formidable than the population of European towns. They consist in the first place of free black who are condemned by the laws and by public opinion to a hereditary state of misery and degradation. I venture to predict that the cities will perish unless the government succeeds in creating an armed force which, though it remains under the control of the majority, will be independent of the city population and able to suppress its excesses.

(Ghetto slum.)

(Imperiale force car patrol.)

Narrator. Tocqueville says 'armed force' under the majority should control the cities, but some say private armed forces are needed.

(Councilman Antony Imperiale.) After the riots of 1967 we just about had the nonsense we've been plagued with throughout our country, especially here in the City of Newark. We had the loss of a policeman, and the loss of a fireman killed in the line of duty . . . made a lot of us mad.

We didn't like what was going on in our City Hall—radicals tearing it apart. So we formed the North Ward Citizens' Committee of which I was the founder. We got the community involved in knowing what is going on around us.

(Citizens' patrol.)

Since we were 260 policemen at that time short, we organized a Citizens' Patrol which consists of radio-equipped cars, three to four men to a car, with our base unit here, which will patrol the entire area here.

We wanted to look out for those who may contemplate coming in to loot or burn, mug our women, children, harass old people—shoplifters, pocketbook-snatchers.

It got to be that our community of people couldn't go to church no more, and we were tired of it. So we formed the organization with Karate instructions, judo instructions for men, women and children.

We formed rifle squads, and as you are well aware, if there was a breakdown of law and order, under the Constitution we have the right to bear arms to protect our property, life and limb. I make no bones about it, and I told our people, that if anyone came to our community to burn our homes, hurt our families, shoot and shoot to kill.

(Force enter headquarters.)

TOCQUEVILLE. I am obliged to confess that I do not regard abolition of slavery as a means of warding off the struggle of the two races. The Negroes may long remain slaves without complaining; but if they are once raised to the level of freemen, they will soon revolt at being deprived of almost all their civil rights, and as they cannot become equals of the whites, they will speedily show themselves enemies.

(Armoured tanks.)

(Riots.)

Senator SCOTT. De Tocqueville had a major premise that the blacks might revolt, because they would become aware of the fact that they could never become equal to the white race. There was the fault, or the crevice, in his reasoning. Our obligation, our duty, our long delayed responsibility, has been to bring about the promised equality.

In Mr. Jefferson's statements, and in our Constitution and Bill of Rights, between all our people, black and white, this is what is in progress now. And someone has said that no condition is so unstable as when it is improving.

And while it is improving here, as indeed it is, and while the opportunities of black men and women are immensely advancing, nevertheless they are bound to see that there are mountains ahead. They have not reached a plateau of equality, and therefore the revolution of rising aspirations that Adlai Stevenson referred to is very much going on apace.

These are difficult times, and these times are accompanied by threats, by violence, by student unrest, by all of these things. But they are so because things are better, and not because things are worse.

(Black and white youth.)

College student JUDY BRUCE. I think we are moving toward integration, but really in convulsive leaps. The white and black people of this nation haven't had a common heritage at all. The black culture has often been one of default. The black man's food, or soul food, is what the white man wouldn't eat, and he has always been portrayed as what the white man isn't.

Now in our youth culture, popular culture and music, there is a merging of heritages. There is a common experience. You can't have a common heritage without a common experience.

In the final analysis, I think intermarriage is the only way to really solve the problem of racial conflict, because people must make a common heritage between black and white within their families. Now I think this will come about very slowly. In any social revolution, when the horizon is in view, change takes place exponentially.

But until that point, I don't really have great faith. I have no patience with people who find this violence ugly. It's ugly, but it also exciting, and it's very American. We have public convulsions, and we are being honest and direct, and it's raw and basically it has a kind of beauty for me.

(Jazz hall.)

TOCQUEVILLE. At any rate, the destiny of the American blacks is certainly interwoven with that of the whites. These two races are fastened to each other without intermingling, and they are alike unable to combine or entirely to separate.

(Punch Miller playing trumpet.)

Senator DIRKSEN. It's only, let us say, in the last twenty years that we have become definitely race-conscious all over the country.

Heretofore, there was a certain docility among the black people, and there was a certain tolerance, up to a point, a rather paternal tolerance, on the part of the white people. Now obviously, living side by side, that couldn't last too long. Something had to give a little.

(Black ghetto.)

To be sure, I'm not arguing for a moment that we don't have ghettos, and we don't have slums, because we do.

(Blacks swimming in surf.)

But those can be cured in due time, and it takes a little while for that kind of adjustment, because when two separate races come together, so that they live together, that requires a tremendous amount of adjustment.

So you see, you have to live some generations before you ever get around to a solution to that problem.

But it will be solved in proportion as our tolerance develops. And that is developing, and that also comes out of an understanding heart. So perhaps that's a thing that Tocqueville did not foresee. Give it time, and it will heal itself.

NARRATOR. (Ploughman.) Perhaps Tocqueville did not foresee that there might be some hope of solving the dilemma of the blacks and the whites insolubly bound together on American soil. He tried to see America with a vision untouched by hopes or fears, and he tried to see the future of democracy as far as he could reasonably predict it. Perhaps if he returned today he would see something different, and perhaps he would be less pessimistic—and perhaps not.

(Canoe in American wilderness.)

(Crowds.)

Senator VANCE HARTKE. I think that if he were alive today he probably would be equally pessimistic, because a lot of people in the United States are pessimistic. A problem which we thought we had solved a hundred years ago has re-emerged in a new guise, and it's probably more dangerous than ever before, and the polarization of the races has been accelerating rather than decelerating.

But here again, the great challenge of America is the fact that we are attempting to meet a problem of this nature, and I suppose for all the world this question is going to be settled on the basis of what happens in the United States of America.

If we solve the race problem, then we will be the leaders in this field and lead the way for the rest of the world to solve it.

If we fail, and we may, but if we fail, then the rest of the world has much less to look forward to.

(Black family in surf; crowds; black boy and man; young crowds; ship's rigging against New York skyline.)

NARRATOR. Tocqueville originally came to America to see the future of his world. For better or for worse, Tocqueville might still today see the world's future in America.

(Girl in boat decorated with lanterns.)

TOCQUEVILLE. In my journey through America, I saw that human societies, like people, become worthwhile only through their use of liberty. It would seem as if the rulers of our time sought only to use men in order to make things great. I wish they would try a little more to make great men.

But I cling with a firmer hold to the belief that, for democratic nations to be virtuous and prosperous, they require but to will it.

(Water at night; vertical spacecraft.)

(Young couple in grass.)

(Young crowds.)

(Lantern-decorated boats on lake.)

The nations of our time cannot prevent the conditions of men from becoming equal, but it depends upon themselves whether the principle of equality is to lead them to wretchedness or to prosperity, to barbarism or to knowledge, to servitude or to freedom.

(Philadelphia; Independence Hall.)

(Liberty bell—closing door.)

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CIVIL RIGHTS COMMISSION APPROPRIATIONS AUTHORIZATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The BILL CLERK. A bill (S. 2455) to authorize appropriations for the Civil Rights Commission, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield the time under my control to the distinguished Senator from Michigan, so that he can control the time on his side.

I suggest the absence of a quorum, and I ask unanimous consent that no time be taken out of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Mr. President, is there a unanimous-consent agreement on the bill?

The PRESIDING OFFICER. There is a unanimous-consent agreement providing 1 hour on the bill, 1 hour debate on the McClellan amendment, and 20 minutes on all other amendments.

Mr. HART. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

PRIVILEGE OF THE FLOOR

Mr. HART. Mr. President, I ask unanimous consent that staff members of the Committee on the Judiciary be permitted on the floor in excess of the usual number.

Mr. TYDINGS. Mr. President, would the Senator extend his request to include my legislative assistant?

Mr. HART. Mr. President, I ask unanimous consent that the legislative assistant of the Senator from Maryland, Mr. Daniel Lewis, be permitted to be on the floor during the discussion of the bill.

The PRESIDING OFFICER (Mr. McINTYRE). Without objection, it is so ordered.

Mr. HART. Mr. President, the purpose of S. 2455 is to authorize appropriations for the Commission on Civil Rights not to exceed $3,400,000 for each fiscal year until expiration of the Commission on January 31, 1973. The bill also amends the Commission's statute to raise the per diem salary of Commission members from $75 to $100 a day and to enable the agency to pay consultants and experts up to $100 a day.

BACKGROUND

The Commission on Civil Rights was established in the Civil Rights Act of 1957. The present Chairman is Father Theodore M. Hesburgh, president of Notre Dame University, who has been a member of the Commission since his appointment by President Eisenhower in 1957. The Commission has issued over 40 major reports and studies with recommendations for legislative and executive action in the field of civil rights. Since 1967 the Commission has operated under an authorization of $2,650,000. As a result of this limitation, the Commission has had to absorb Federal pay increases and other cost increases from its operating budget. The proposed authorization increase of $750,000 is intended to restore the Commission to its 1968 operating level.

COMMITTEE ACTION

S. 2455 was reported favorably by the Subcommittee on Constitutional Rights. The Committee on the Judiciary raised the authorization by an additional $200,000 and ordered it reported by a vote of 12 to 5.

Mr. President, the role that has been played by the Commission on Civil Rights has been constructive and has been enormously helpful to the public in terms of understanding the nature of the problem of civil rights, a problem that is, perhaps, more basic in terms of our survival as a nation than any other.

It has been enormously helpful in permitting Congress to develop legislative responses, prudent responses, responses which, as exemplified in the 1965 Civil Rights Act, have increased enormously the confidence which minority groups in this country, black Americans, can take in the functioning of our Government.

There are many beneficial results that can be cited as flowing from the reports of this Commission over the years.

Mr. President, I hope that the Senate will approve the authorization which the committee recommends. I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, will the Senator yield me 5 minutes on the bill?

Mr. HRUSKA. Mr. President, I yield 5

minutes on the bill to the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, we have a situation in which I want to work out a parliamentary problem.

I have an amendment at the desk that I had intended to call up, but there has been an agreement on a time limitation. I am sorry that it is partly my fault. I did not have time to read a message that was handed to me yesterday. I was told that the majority leader only wanted to know if I was ready and willing for the bill to be made the pending business today. I answered in the affirmative. I did not know then that it contained a time limitation of 1 hour on the amendment which I have at the desk.

I should now like, however, to call up my amendment but, in view of discussions I have had about it, I think that the amendment needs further study and refinement. In addition, I do not have time to present it. I should like to call up the amendment but substitute for it another amendment which would include only part of what is covered by the amendment that is now at the desk. However, if I do that, I understand that I would have only 20 minutes, 10 minutes on each side.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLELLAN. Mr. President, for that reason I want to undertake to bring about a parliamentary situation in which the limitation of time of 1 hour that has already been agreed to would apply to the substitute, and not call up the amendment, but present what would be a substitute for it and have an hour's limitation of time on the substitute.

I am trying to preserve an hour's time for debate. If I can get a unanimous-consent agreement to that effect, then I will not call up the amendment.

I am trying to lay the cards on the table, so to speak. If I can get a unanimous-consent agreement to that effect, I will not call up the amendment at the desk, but will offer an amendment to it as a substitute for it and let the hour's time limitation apply to that amendment.

Mr. HART. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HART. The Senator from Nebraska and I are anxious to accommodate the Senator.

Do I understand that an amendment which had been filed will not be called up; and rather another amendment, not yet offered, will be called up, provided the 1-hour limitation is attached to the not-yet-offered and not-yet-filed amendment? Is that right?

Mr. McCLELLAN. That is what I am seeking to do. I am seeking to have that 1-hour limitation applied to this amendment which I would offer as a substitute. If I had offered it as a substitute, I would have 20 minutes.

I did not understand that I apparently agreed to the 1-hour time limitation. Apparently I did not understand the question presented to me. I thought it was only a question of whether it was all right to bring up the bill today. I think they are correct that in the memorandum or note sent to me they suggested the 1-hour time limitation, but I was presiding over an appropriation hearing, and I was in the process of interrogating witnesses before the hearing. I thought the substance of the note was whether it was all right with me to bring up the bill today, and I said that it was.

Now, we have this unanimous-consent agreement. I want to shift that unanimous-consent agreement to another amendment which, in effect, could be a substitute amendment for the amendment at the desk.

Mr. President, I ask unanimous consent that on the McClellan amendment the 1-hour time limitation, as agreed to by unanimous consent yesterday, now be applied to an amendment which I shall offer in lieu of the amendment that is now at the desk. I ask unanimous consent to that effect.

The PRESIDING OFFICER (Mr. McINTYRE). Is there objection?

Mr. HART. Mr. President, reserving the right to object, and I think I shall not object, it is my understanding that by entering into this agreement the Senator from Arkansas would be in the same position he would be in if, under the existing unanimous-consent agreement, we proceeded to the amendment already filed.

Mr. McCLELLAN. That is right. I want to use the 1-hour time limitation on this amendment.

Mr. HART. I would have no objection.

Mr. HRUSKA. No objection.

The PRESIDING OFFICER. Without objection, the request is agreed to. The Senator from Arkansas is recognized for 1 hour.

Mr. McCLELLAN. Mr. President, I thank my distinguished colleagues. We could work it out by different tactics, but I do not want to employ those tactics. I appreciate the unanimous-consent agreement.

Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Insert the following new section 4:

"Sec. 4. Subsection (e) of section 102 of the Civil Rights Act of 1957 (71 Stat. 634, as amended, 78 Stat. 249) is amended by inserting the following after the last period: 'If a report of the Commission tends to defame, degrade or incriminate any person, then the report shall be delivered to such person 30 days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing a good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudicially or unnecessarily.' "

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Mr. President, does the 1-hour agreement on time begin now?

The PRESIDING OFFICER. As of now.

Mr. McCLELLAN. I thank the Presiding Officer. I yield myself 19 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 10 minutes.

Mr. McCLELLAN. Mr. President, the amendment just reported merely assures that an individual defamed, degraded, or incriminated in a report of the Civil Rights Commission will have the right to "plainly and concisely state the facts and law" constituting his defense to the charges or allegations contained in a Commission report.

Under present law, such an individual has no right to have his side of the story included in the report made by the Commission. In short, my amendment would give the individual who has been defamed, degraded, or incriminated in the Commission's report the opportunity to be heard and nothing more—by having his answer—what he says in reply to it—what his answer is to the charges against him—annexed in the Commission report.

Mr. President, adoption of the amendment is the minimal step that the Senate should take to protect those named in Commission reports. I note that the Commission's recent Mexican-American report had included in it accusations of brutality against several police officers, among whom were two named Texas State Highway Patrol officers (Report at pp. 3–4, 24, 25–26, 29–30). Grand juries refused to indict either of these officers, but both of their names have now been published in a report of the Commission while neither officer has had an adequate opportunity to explain or to answer the criminal charges made against him, and to have it printed in the report itself. They may have made an answer in the Commission's hearings, but the report that goes to the public need not include it.

Where is the justice in this situation?

Is there not some more just way for the Commission to issue its reports?

There is, and the adoption of this amendment would provide at least the minimal protection for the individual by assuring him that at least his answers to charges or allegations contained in a Commission's report would be printed as an annex to that report.

It seems to me that we can do no less than agree to this amendment if we are to claim that consideration for the individual rights and civil liberties of our people is our paramount objective in establishing and supporting the Civil Rights Commission.

Mr. President, my amendment would not require a review by the courts as we did in title 1, the reporting provision of S. 30, recently passed by this body. It will be remembered that we had in that bill a provision that the grand jury could not make a report on public officers except where the report was reviewed by a court and the officer degraded by the report had an opportunity to reply and have that reply published along with the report of the grand jury.

We give them that degree of protection in that act. Nevertheless, it will be remembered that a motion was made here on the floor of the Senate to strike those reporting provisions from title I of S. 30, passed here in January. Some felt that these reports were unfair even with these limitations. That motion to strike, however, was defeated by a rollcall of 59 to 13.

We provided safeguards for officers against whom a grand jury may report. We provided safeguards to protect officers or employees of the Government to give them an opportunity to have their side go before the public and to have it reviewed by a court to determine that there was a preponderance of the evidence supporting the charges or allegations made in the report.

Can a Civil Rights Commission that wants to deal with civil rights, or emphasize civil rights or civil liberties, equitably or conscientiously deny to individuals the right to protect their rights against the Civil Rights Commission itself?

Should we not allow them to have the right to speak in their own defense?

This proposal does not keep the Commission from reporting that officers are engaged in police brutality or that they are corrupt, or whatever the Commission wants to report, but it does compel the Commission to allow the accused to file with the Commission answers to the allegation made against them and have their defense published along with the report.

Are we setting the Commission up on a pedestal, where it can violate the civil liberties of others, in the process of its proceedings, supposedly designed to protect civil rights? I do not think we should do that, and here is an opportunity to make but a small correction in the law as it is today.

I hope my colleagues will see the wisdom of it. I hope the distinguished Senator managing the bill would find the amendment acceptable to him, because I know of his great interest in protecting the civil rights of the people in this country. I do not think that that interest should be limited or restricted or that there should be excluded from it and an exception made to it for the acts of the Civil Rights Commission when it sets out to make a report containing charges against an officer of malfeasance or with neglecting their office or with police brutality, while not giving that officer or individual, the right to have his answer, his defense, published right along with the report. This is necessary so that it will not be one sided, so that the public will get both sides and then it can be the judge of whether the officer was telling the truth or whether the report should be given the impact that the Commission would like to see it have had his answer not been there.

I do not see how a civil rights advocate can conscientiously oppose this amendment. It embraces every principle of equity, justice, right, civil liberty, and due process that all civil rights advocates should support.

Mr. HART. Mr. President, I yield myself 5 minutes.

Perhaps to a degree greater than that which attaches to any commission that the Congress has established, the Civil Rights Commission is under obligation to permit anyone who is defamed by testimony taken before it to come in and make a case in his defense on the record. It is true that that defense is not printed as a part of the published series of reports of the Commission, as the amendment of the Senator from Arkansas would require. However, as we begin this discussion, let us be clear on the fact that under existing law this Commission, unlike many others—indeed, it may be the only one—is required to offer the defamed person the opportunity in the hearing record to state his case. Counsel is permitted to have questions addressed to his client, the one allegedly defamed. All of that is a part of the hearing record.

The question before us, I think, is whether, in addition, it shall be required that in the reports from the Commission there be contained the statement of the person alleged to have been defamed.

Remember, these reports, unlike the hearing records, are, generally speaking, volumes which are developed for the guidance of Congress in developing legislation or the public in developing an understanding of the problems that the Commission, in its series of hearings, has identified.

I suggest, Mr. President, that Congress has already undertaken, in the case of the Civil Rights Commission's proceedings, to insure a greater degree of protection for individuals alleged to have been defamed than we have as to any other commission. The Civil Rights Commission is, in a sense, comparable to one of our own legislative committees. We have yet to suggest that the legislative committees give to an individual the degree of protection that we have already established shall be available to the individual in the case of the Civil Rights Commission.

The Civil Rights Commission is comparable, in many respects—certainly not all—to other agencies and commissions. I am sure that the Securities and Exchange Commission takes testimony in which individuals are subject to criticism, and who might be defamed. There is no requirement that the Commission in its reports shall publish separately the position of defense by the person alleged to be defamed. Indeed, I am not sure that, in the case of this and many other commissions, there is a requirement which attaches to the Civil Rights Commission that the Commission shall advise the individual of the alleged defamatory statement and give him the opportunity to present his case in the hearing record.

So my suggestion to the Senate would be that, while it may be desirable that all agencies of the Federal Government, and perhaps all committees of the Congress, consider the inclusion of the statement of a person alleged to have been defamed in its report, we not at this time, and without hearings, extend further the already substantial obligation that we have imposed on the Civil Rights Commission to give an allegedly defamed person an opportunity to be heard.

We have already said to the commission that certain safeguards shall be extended. Those safeguards go beyond the directive we have given, as far as I am aware, to any other agency or any other commission.

The Supreme Court, in two cases, has said that the commission was similar to other agencies and commissions.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HART. I yield myself 2 additional minutes.

In one sense the court was not correct, because, unlike the other agencies and commissions, the Civil Rights Commission is required to extend an opportunity to an allegedly defamed individual far beyond the requirements respecting any other commission, or at least any of which I am aware. If I am wrong, I shall be glad to be corrected.

I would suggest that, under existing practice, the obligations and burdens imposed on the Civil Rights Commission, extending as it does a degree of protection to an individual greater than we have provided as to any other agency or commission, now is adequate to safeguard the rights the Senator from Arkansas is concerned about. If it is thought prudent, that the printing of an individual statement be contained in the report, as distinguished from the transcript record of commission and agency hearings, then let us do it across the board.

I would suggest that we ought to do that only after a careful hearing, to see whether it is indeed a constructive, worthwhile, and prudent course of action. For this reason, Mr. President, I would suggest that the amendment not be agreed to, taking the position that the commission which it affects already carries a heavier burden and a clearer responsibility to protect the rights of an individual than any other commission or agency that we have ever established.

I reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield myself 3 minutes.

My colleague speaks of the legislative process and notes that these hearings are out in public. They go out all over the country and hold them.

This is not just my complaint.

Let me read from a reaction of one member of a minority group.

I ask unanimous consent to have printed in the Record at this point the remarks of Representative Gonzalez on May 26, which appear at pages 17003–4 of the Congressional Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Questions for the Commission on Civil Rights

The Speaker pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 10 minutes.

Mr. Gonzalez. Mr. Speaker, it is the duty and the obligation of Government to inform itself of injustice, and to seek ways and means of redressing just grievances. Because it is a fact that large numbers of our citizens are denied full and free access to the liberties most citizens take for granted, simply because these luckless ones are poor or ignorant or members of some ethnic minority, this Congress established the U.S. Commission on Civil Rights to investigate these grievances and assist in resolving them.

But the high expectations that I had for the Commission on Civil Rights reached a sad decline when I observed the operation of the Commission at close range. I do not know if the performance of the Commission in its San Antonio hearings in December 1968 is typical of that body's operations. I hope not, because if that performance is typical, the value of the whole operation is very much open to question.

I remember that the Committee on Un-American Activities used to be pilloried because it paid witnesses. But the same can be said of the Commission on Civil Rights, and I do not believe that if there is guilt on the one hand the same facts would lead to a conclusion of innocence on the other.

It is a fact that the Commission on Civil Rights hired a number of experts and consultants to help it prepare for its San Antonio hearings. A number of those same people who helped set up the hearings later appeared as witnesses before that hearing, but the Commission never identified these people as employees or former employees of the Commission. The hearings also heard from paid expert witnesses, who were paid consulting fees for their work in testifying, but these were not identified as paid witnesses at the hearing.

Mr. Speaker, there is a difference between a person who testifies out of his own motivation and a person who is paid to prepare testimony. There is a difference between being an employee one week and a witness the next. That difference is the same difference between an honest deal and a stacked deck.

I do not believe that the Commission on Civil Rights has any more right to stack the deck at its hearings, by direction or by indirection, than does any other agency of this Government.

I will make available to the House full details of this matter at a later date. For the moment, however. I ask you to read the account of this odd Commission practice as it appeared in the San Antonio Express and News last Saturday.

I stated at the time of the hearings that the Commission on Civil Rights had stacked the hearings, and that its report could have been written without having gone to the trouble of conducting hearings. I did not know at the time how right I was.

["From the San Antonio (Tex.) Express and News, May 23, 1970]

"WITNESSES WERE PAID

("By Kemper Diehl)

"A group of key witnesses who appeared at the U.S. Commission on Civil Rights hearings in San Antonio on Dec. 9–14, 1968, performed extensive services for the commission prior to the hearings for which they were paid amounts ranging from $50 to $75 a day, U.S. Rep. Henry B. Gonzalez disclosed Friday.

"Among those who received substantial payments for services were Rev. Ralph H. Ruiz, who gained nationwide headlines with an attack on FBI agents in his testimony, and Rev. Ed Krueger, formerly in the Valley Ministry of the Texas Council of Churches, who charged Texas Rangers with brutal treatment of striking farm workers there.

"Ruiz was paid $525 for seven days work, according to a commission report, and Krueger received $350 for a similar number of days.

"Largest sum paid to a South Texas witness for services prior to the hearings went to Mike V. Gonzales, Del Rio attorney, who criticized the administration of justice in cases involving Mexican-Americans. He received $1,575 for 21 days work.

"Others receiving fees as consultants or experts included Erasmo Andrade, recently defeated in a Democratic primary race against State Sen. Wayne Connally. He was paid $350 for seven days work.

"Andrade was not a witness.

"Raul Valdez, director of the Guadalupe Community Center, was paid $250 for five days work, but was not a witness. He was reported by the commission to have provided the commission with contacts with young people in San Antonio.

"A more recent recipient of Civil Rights Commission funds was Edward L. Holmes, recently defeated in a Democratic primary race for the legislature. He was paid $625 for 12½ days work during the 1970 fiscal year.

"Rep. Gonzalez took note of the explanation by the U.S. Commission on Civil Rights that it is not permitted under the law to 'utilize the resources of voluntary or uncompensated personnel . . .'

"But he took issue with the failure of the Commission to identify witnesses who had been employed prior to the hearing.

" 'This bears out what I said at the time,' declared Gonzalez, who had been critical of the selection of witnesses by commission staffers. I knew it was a hand-picked and predirected affair.'

"Gonzalez noted that the commission had engaged two witnesses in the role of paid, expert witnesses. These were Jack Forbes, Berkeley, Calif., who described Mexican-Americans as a 'conquered' population, and Alex Mercure of Albuquerque, N.M. The congressman observed:

" 'There is, of course, nothing wrong with hiring consultants and expert witnesses. But it seems a startling oversight that these persons were not identified as paid experts at the hearings.'

"Gonzalez released a report by the commission which described duties performed by various consultants in fiscal 1969.

"Of Ruiz, it related:

" 'Assisted in the preparation of the San Antonio hearing. Through his work as a priest in the Mexican-American area of San Antonio, he provided commission staff members with many contacts with potential witnesses.'

"Krueger was described as having assisted in preparations for the hearings. The report related: 'His intimate knowledge and widespread connections in the Lower Rio Grande Valley were helpful to commission attorneys in their investigations and interviews of appropriate witnesses.'

"Mike Gonzalez was said to have helped in hearing preparations with 'a great deal of information and a number of contacts knowledgeable in the areas of education and the administration of justice.'

"Of Andrade's services, the commission reported:

" 'Provided consultant services to the Office of General Counsel in connection with preparation for the San Antonio hearings. Through his familiarity with many community groups in San Antonio he introduced commission attorneys to persons knowledgeable with respect to hearing issues.'

"Edwin Gaida of San Antonio was listed as receiving $1,275 for 17 days of work as a photographer for the commission. Several other San Antonians were listed as working either in Fiscal 1969 or Fiscal 1970 as consultants, but their duties were not described. These included Peter F. Nabekov, four days for $240; Edwin J. Stanfield, 10 days for $500; Jose V. Uriegas, seven days for $350; and Richard J. Bela, 49 days in Fiscal '70, for $3,675."

Mr. McCLELLAN. Mr. President, this is what he says about the Commission hearings in San Antonio—his hometown—in relation to the Mexican minority groups:

> Mr. Speaker, it is the duty and the obligation of Government to inform itself of injustice.

And so forth. Then he goes on:

> But the high expectations that I had for the Commission on Civil Rights reached a sad decline when I observed the operation of the Commission at close range. I do not know if the performance of the Commission in its San Antonio hearings in December 1968 is typical of that body's operations.

Mr. President, I interject that this is the hearing in which they were investigating the treatment of Mexican Americans by the police in that section of the country, and here is what one Mexican American leader says about it. He does not know if it is typical of that body's operations, but he says:

> I hope not, because if that performance is typical, the value of the whole operation is very much open to question.
>
> I remember that the Committee on Un-American Activities used to be pilloried because it paid witnesses. But the same can be said of the Commission on Civil Rights, and I do not believe that if there is guilt on the one hand the same facts would lead to a conclusion of innocence on the other.
>
> It is a fact that the Commission on Civil Rights hired a number of experts and consultants to help it prepare for its San Antonio hearings. A number of those same people who helped set up the hearings later appeared as witnesses before that hearing, but the Commission never identified these people as employees or former employees of the Commission. The hearings also heard from paid expert witnesses, who were paid consulting fees for their work in testifying, but these were not identified as paid witnesses at the hearing.
>
> Mr. Speaker, there is a difference between a person who testifies out of his own motivation and a person who is paid to prepare testimony.

He further said:

> I do not believe that the Commission on Civil Rights has any more right to stack the deck at its hearings, by direction or by indirection, than does any other agency of this Government.

Mr. President, I am simply asking that if they publish a report degrading and defaming someone, the Civil Rights Commission, who ought to set the example on the observance of civil rights and the observance of due process, should be willing—and we should require it—to give the man who is being charged the right to have his statement published as a part of the report itself.

In this instance these police officers were charged, in effect, with a crime. The grand jury had refused to indict them. But the commission published these reports defaming their character, and holding them up to public ridicule, without making public the defense of the persons accused.

I say that if we are going to have a civil rights commission in this country, supported by law, established and sustained by law, that commission ought to set the highest example of observance of civil rights and due process, and Congress should require no less a standard of them.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I am about to suggest the absence of a quorum, without it being taken out of anyone's time. I want to make a brief statement before the vote. Then I will ask for a rollcall vote.

If I may make this observation, one side of this body is off in a conference. It is the time for the minority Members of this body to have their weekly conference, and they are not present.

I suggest the absence of a quorum, they should have the opportunity to be here with the time not to be taken out of either side.

The **PRESIDING OFFICER.** Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TYDINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. McINTYRE). Without objection, it is so ordered.

JURISDICTION OVER CERTAIN CONTRACT CLAIMS BY U.S. COURTS

Mr. TYDINGS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 980.

The **PRESIDING OFFICER** (Mr. CASE) laid before the Senate the amendments of the House of Representatives to the bill (S. 980) to provide courts of the United States with jurisdiction over contract claims against nonappropriated fund activities of the United States, and for other purposes, which were, on page 1, line 6, strike out all after "with" down to and including "States" in line 8, and insert "the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration."

On page 2, line 3, strike out all after "with" down to and including "States" in line 5, and insert" the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration."

Mr. TYDINGS. Mr. President, S. 980 was passed by the Senate on June 30, 1969. When enacted it will remove a loophole from the Tucker Act, which provides for the waving of the sovereign immunity of the United States with respect to contract claims. Under the Tucker Act, the United States is liable in the Court of Claims of the United States and in appropriate cases in the district courts of the United States, to suit "upon any express or implied contract with the United States" 28 U.S.C. 1491; 28 U.S.C. 1346 (a)2. The courts have repeatedly held, however, that the Federal Government liability to suit under these sessions only exists with respect to contract obligations to be paid out of appropriate funds.

The injustice and inequity worked by this Tucker Act loophole have been recognized often. Indeed, a judge in the Court of Claims has declared "this is a matter which strongly needs congressional correction."

Under the provisions of S. 980 as passed by the Senate, the sovereign immunity of the United States would be completely removed with respect to all nonappropriated fund activities. Judgments against the United States would be paid by the Comptroller General of the United States and the nonappropriate fund activity would be required to reimburse the United States only "to the extent that the Comptroller General of the United States determines that a reimbursement may be made without unduly jeopardizing the operation of such activity."

As amended by the House of Representatives, S. 980 would provide for the waiver of the sovereign immunity of the United States only with respect to post-exchange type of operations which are conducted within the Defense Department and the National Aeronautics Space Administration. Moreover, the House version of the bill would require the exchanges to reimburse the United States in the event of any judgment incurred by them which is paid by the United States.

The amendments added by the House of Representatives do not diminish the value of S. 980 in any appreciable degree.

Mr. President, I have cleared the amendments with the distinguished ranking member of the Committee on the Judiciary, the Senator from Nebraska (Mr. HRUSKA), who held the hearings with me in 1969.

I move that the Senate concur in the amendments of the House to the Senate bill.

The motion was agreed to.

CIVIL RIGHTS COMMISSION APPROPRIATIONS AUTHORIZATION

The Senate resumed the consideration of the bill (S. 2455) to authorize appropriations for the Civil Rights Commission, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time not to be taken out of either side.

The **PRESIDING OFFICER** (Mr. CASE). Without objection, it is so ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I yield myself 5 minutes.

The **PRESIDING OFFICER** (Mr. CASE). The Senator is recognized for 5 minutes.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. Mr. President, for the information of the Senators, there will be a vote shortly. I think that Senators ought to be on notice to that effect.

Mr. McCLELLAN. Mr. President, I say to the Senators who have just come in that we began this debate under adverse circumstances. The minority Members were engaged in a weekly conference. Nevertheless, we have substantially covered the issue before us.

But I want to state briefly again what the pending amendment would do. The amendment deals with reports of the Civil Rights Commission.

I read the present law:

> If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses.

Mr. HANSEN. Mr. President, may we have order?

The **PRESIDING OFFICER.** There will be order in the Senate.

Mr. McCLELLAN. Mr. President, my amendment would add one requirement to the provisions of present law. Now witnesses can appear and they can testify. But there is no requirement that, in the report, in the Commission's report, there appear the defense of an accused individual or what the defendant or the accused himself says.

The Commission may take such parts of the hearings and write the report in anyway it wants.

My amendment simply gives the one who is defamed the right to file a statement of his own, which would go in the report itself and say what happened and what did not happen in the accused's own words.

Bear in mind that this Commission can report on individuals and on officers for not performing their duties. The Commission does do that. They did it in Texas, in San Antonio, where they held hearings and reported on two police officers, charging them, in effect, with police brutality, after the officers had been investigated by a grand jury and the grand jury had refused to indict them.

Mr. President, we gave to the subjects of critical reports more protections in S. 30, the "Organized Crime Control Act of 1969." We provided for grand jury reporting. But we put far greater protections for the individual than is provided here in the Civil Rights Act.

There we gave the court the duty to supervise the exercise of the reporting power, and provided that, before reports went out, the court had to determine whether there was a preponderance of the evidence to support it.

Here we only require that if the commission is going to publish a report that defames someone or charges him with crime—even after a grand jury has refused to indict him—it should permit that person to file a statement to be printed with the report that is published all over the Nation.

What is wrong with that?

Is that too high a standard for a Civil Rights Commission to observe?

What is wrong with it?

I say that if we reject this amendment we will have adopted a double standard. We have a double standard, one applicable to a grand jury report, and another applicable to the Civil Rights Commission.

We have imposed on the grand jury a limitation that it cannot make a report without court review or without the accused being given an opportunity to file a statement of his own, to be published right along with the report.

Cannot the Civil Rights Commission, should not the Civil Rights Commission, be required to meet just as high a standard as a grand jury?

Why not?

Do we want to lower the standards?

What about the image of the Civil Rights Commission?

I had printed in the Record earlier in the debate here—and Senators should read it—what Representative Gonzalez had to say about how the Commission acted in San Antonio, Tex., where it published reports airing charges of police brutality about police officers that a grand jury had refused to indict. The Commission was investigating brutality. The Congressmen suggested that the Commission was playing with a stacked deck.

I now point out one way to unstack the deck. We should permit a man that is charged to make his statement and require the Civil Rights Commission to publish it—line for line and word for word—in the Commission's own report.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. **HART.** Mr. President, how much time do I have remaining?

The **PRESIDING OFFICER** (Mr. Case). The Senator from Michigan has 23 minutes remaining.

Mr. **HART.** Mr. President, prior to the quorum call the Senator from Arkansas and I exchanged our differing opinions about the amendment.

I would like, very briefly, to summarize the reasons that we suggest the amendment is not desirable.

First of all, the existing law imposes on the Civil Rights Commission a broader and fuller responsibility to assure an opportunity to anyone defamed to have a right to state publicly in the hearing record his position than any other commission or agency that Congress has ever established. It is far broader than any other agency or commission that Congress has established.

Mr. President, I ask unanimous consent to have printed at this point in the Record section 102(e) of the Civil Rights Act of 1957, as amended.

There being no objection, the material was ordered to be printed in the Record, as follows:

> If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses.

Mr. **HART.** Mr. President, I shall read one excerpt:

> In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses.

What we are being asked to do in the amendment is to impose a still further burden, which is not onerous, I think. But I suggest that it is unwise unless we want to extend it to every agency and commission. In addition to the statutory mandated right of the witness to have a transcript of the hearing record, we would go still further and say that when the Commission issues an annual report or a summary of its hearings, there shall be contained in that record additionally the repeated statement that is already in the hearings record. I think that that goes beyond any sense of due process.

Mr. **MANSFIELD.** Mr. President, will the Senator yield?

Mr. **HART.** I yield.

Mr. **MANSFIELD.** Mr. President, if the amendment is agreed to, could this procedure then be applicable to other commissions and agencies on the same basis?

Mr. **HART.** Mr. President, this was one of the points that had occurred to those of us who opposed the amendment. The answer to the question of the Senator from Montana is "No." The requirement is limited solely to the Civil Rights Commission.

Mr. **MANSFIELD.** Yes, but a precedent will have been laid down.

Clearly we sometimes invoke precedent when it serves our purpose and we reject it when it does not serve our purpose. As a practical matter, if we allow this opportunity in proceedings before the Civil Rights Commission, then the precedent would be laid for extending the same opportunities in proceedings before the Securities and Exchange Commission, the Interstate Commerce Commission, the Federal Trade Commission, the Subversive Activities Control Board and the entire sweep of executive agencies and independent offices. Indeed, such protections as are here urged by the Senator from Arkansas could well apply to our own congressional investigative committees. Why not have the same requirement?

Mr. **McCLELLAN.** Mr. President, this is why. Here people are named and they are charged with a wrong, possibly a crime. In this case, they certainly should have a right to reply.

But the Senator says they have already replied when they testified. I suggest that they have not, and that it is somewhat like the trial of a lawsuit. A man is accused of something, he is brought in and testifies, and he gets to sum up his case to the jury. But here when you go to the jury of public opinion there is no one to sum up for him. This is not fair.

Maybe a similar rule should be adopted by some of the other commissions. I do not know. We have to take up things one at a time. But if it is done anywhere, it should be done in connection with a Commission which has as a part of its name the phrase "civil rights."

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mr. **HART.** Mr. President, I was going to yield to the Senator from Maryland.

Mr. **ERVIN.** Mr. President, will the Senator yield to me for 3 minutes so I may answer?

Mr. **McCLELLAN.** I yield.

Mr. **ERVIN.** Mr. President, the distinguished Senator from Michigan asked why this amendment should not be extended to the Interstate Commerce Commission and other agencies. The difference is that the Interstate Commerce Commission deals with commercial transactions and questions relating to whether or not certain railroad rates or transportation rates should be charged or whether franchises should be given to operate bus lines, and things of that nature. The investigations by the Civil Rights Commission are essentially investigations in which derogatory statements are elicited concerning individuals who are, in effect, charged with violations of the law; and they are charged, in essence, with criminal offenses. When these investigations are made public, these persons are injured, in their reputations, while that is not true with respect to such things as the administration of the pure food and drug laws, the administration of the regulations of the Interstate Commerce Commission, and things of that nature. That is the reason why the amendment should be agreed to. It gives a man the opportunity to protect his character and reputation against defamatory statements elicited and published by the Commission.

Mr. **TYDINGS.** Mr. President, will the

Senator from Michigan yield to me for 5 minutes?

Mr. HART. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Michigan has 18 minutes remaining.

Mr. HART. I yield 5 minutes to the Senator from Maryland.

Mr. TYDINGS. Mr. President, I rise to oppose the amendment offered by the distinguished Senator from Arkansas.

First, I would like to comment on the arguments made by the Senator from North Carolina. He drew the analogy between the reports issued by the Securities and Exchange Commission and the Interstate Commerce Commission and those made by the Civil Rights Commission. The Senator seemed to think it would not be a precedent for these other Commissions if we adopted such a position for the Civil Rights Commission.

I might ask Senators if we should urge the SEC to provide an opportunity for every person charged in a report to Congress to have a special rebuttal in the report? Should we apply the same thing to the Federal Trade Commission, the Commission on Student Disorders, or the Subversive Activities Control Board? All these agencies involve reports concerning individuals and possible illegal behavior.

I might point out there are rather unusual stringent procedures now in effect under the Civil Rights Commission Act which provide great protections to persons adversely mentioned in the hearings on which the Civil Rights Commission bases its final report. Incidentally, the final report of the Civil Rights Commission is a report designed to be provided to Congress on which Congress is to base legislative action; it is the evaluation of all the evidence which Congress requested when creating the Commission.

In the proceedings which come before the actual adoption of a report by the Civil Rights Commission, a person who might be defamed has a right to an executive hearing before the Commission. If he is the subject of a public hearing he also has the right to appear publicly and be accompanied by counsel; this counsel has the right to examine his client, to make any objections on the record, and to argue for those objections. If testimony in the hearings before the Civil Rights Commission defames, the rules provide that counsel for the defamed individual can submit questions to those witnesses appearing with adverse testimony. The person before the Commission can subpena other witnesses. Section 102(a) of the Civil Rights Commission Act requires 30 days' notice be given prior to public hearings, and the notice must include the subject of the hearings. If there is an executive hearing to be held, the person mentioned must be given 10 days' notice and furnished a summary of the anticipated testimony before his testimony is actually received.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HART. Mr. President, I yield 2 additional minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. TYDINGS. Mr. President, more protections are provided for the procedures referred to by the Senator from Arkansas under the Civil Rights Commission Act than any other administrative commission in the Federal Government.

To open the door to such drastic change of the system of independent agencies reporting to Congress in this instance, I think, would be to open a veritable Pandora's box. People are criticized in reports of the Securities and Exchange Commission; great railroads and business leaders are criticized in reports of the Interstate Commerce Commission; great companies and individuals are criticized in reports of the Federal Trade Commission. This would be a precedent that if a person is criticized in the final report, he would be able to respond to a report, and the thrust of the report as a recommendation to Congress would be forfeited.

I hope the amendment is rejected.

Mr. ERVIN. Mr. President, will the Senator yield to me for 1 minute?

Mr. McCLELLAN. I yield 1 minute to the Senator from North Carolina.

Mr. ERVIN. I would say that proceedings before the Federal Trade Commission and the Securities and Exchange Commission are adversary proceedings where parties are charged with misdeeds and given an opportunity to be heard in full as parties to the proceedings. The same thing applies to the other instances mentioned by the distinguished Senator from Maryland. Those are adversary proceedings where charges are filed against parties and they are given the opportunity to testify at length. The same thing is true with respect to the Securities and Exchange Commission. However, in connection with the Civil Rights Commission, people are summoned, not in adversary proceedings, but they are merely to give such testimony as may be sought by the Commission.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. McCLELLAN. Mr. President, I have previously read to the Senate the statute to which the Senator from Maryland has referred and he is correct. However, what he refers to is the transcript. All of that is a part of the transcript, but when the Commission makes a report, it only takes from the transcript what it wants to and it expresses its own concept of what the accused may have said. They place their interpretation on it in the report. They may take it out of the transcript, but the transcript itself is not published along with the report.

My amendment simply gives a man who is defamed the opportunity to make his own summation in the court of public opinion. It makes certain that those who read the report see what he had to say about the matter. The Commission is, of course, free to reject it. It could still add to his answer any rebuttal they wanted to make. But the only fair thing to do is to let him state his own case. Mr. President, this Commission is out to air and to make charges, and it does air and make charges. In the Texas case to which I referred, the Commission published its report. It published, in effect, the charge that the police officers had committed a crime, even after grand juries had refused to indict them, and that report is in circulation all over the country. A Member of Congress from that district, who is of the same national ancestry as the people who made the accusations, denounced the whole proceeding.

It is in the CONGRESSIONAL RECORD. I inserted it as a part of my remarks earlier today.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLELLAN. I yield myself 1 minute.

Here is an opportunity for the Senate to say there is not going to be a double standard in making accusations against people. This body set up high standards in the area of grand jury reports. This is the high standard against which accusatory-type bodies should be judged.

Should the Civil Rights Commission have a lower standard, or should it be required to meet some measure of fair dealing with those whom it accuses?

Mr. President, I am ready to vote.

Mr. KENNEDY. Mr. President, as cosponsor of S. 2455, legislation to increase the authorization for appropriations for the Commission on Civil Rights, I am pleased that the Senate today will vote a long overdue increase in that agency's authorization.

In 1967, the Senate, for the first time since the creation of the Commission in the Civil Rights Act of 1957, voted a limit on the authorization of the Commission. This limit, set at $2,650,000, was equal to the agency's appropriation for fiscal year 1968. Since that time, the Commission has had to absorb a number of salary increases voted by Congress as well as other costs which have risen over the years. As a result the vital work of the agency has been cut back.

Last fall, when it appeared uncertain that the Subcommittee on Constitutional Rights would totally remove the limitation on the Commission's authorization, as provided in S. 2455, as introduced, I sponsored a substitute amendment, which restored the Commission to its 1968 operating level. This amounted to a $750,000 increase in the agency's authorization, or an increase of about 22 percent. While I would like to see that agency spending much more on its vital work, I offered my amendment to expedite favorable action. The Subcommittee on Constitutional Rights approved the substitute amendment and reported it favorably to the committee in time for the Commission to request $3,200,000 for its fiscal year 1971 appropriation—the maximum allowed to the Commission by the Bureau of the Budget.

The amount of the new authorization, I believe, will enable the Commission to continue to diversify its work in the field of civil rights. I am most interested that the Commission complete its landmark study of Mexican American education and undertake new programs in Puerto Rican studies. I also hope the Commission will give attention to the relation between the aspirations of blacks, Mexican Americans, Puerto Ricans, other Spanish-surnamed citizens, American Indians, and those of ethnic groups of European and Mideastern descent.

The Commission on Civil Rights throughout its 13 years has proven to be an effective and honest critic of the performance of the Federal Government in the field of civil rights. Its reports and studies have been reliable and informative, and has led to the passage of landmark legislation vital to our democracy.

There continues to be a need for reliable information on civil rights. As Father Theodore Hesburgh, Chairman of the Commission and president of Notre Dame University, has said:

> I believe that if the American people know the facts about civil rights that they will do what is right.

The Commission on Civil Rights operates in this spirit and I firmly believe it deserves our continued support.

Mr. HART. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Arkansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Connecticut (Mr. Dodd), the Senator from Mississippi (Mr. Eastland), the Senator from Tennessee (Mr. Gore), the Senator from Iowa (Mr. Hughes), the Senator from Hawaii (Mr. Inouye), the Senator from North Carolina (Mr. Jordan), the Senator from Utah (Mr. Moss), the Senator from Minnesota Mr. Mondale), and the Senator from West Virginia (Mr. Randolph), are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon) and the Senator from Iowa (Mr. Hughes), would each vote "nay."

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) and the Senator from North Carolina (Mr. Jordan) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon) and the Senator from Colorado (Mr. Dominick) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) and the Senator from Maine (Mrs. Smith) are absent because of illness.

The Senator from New York (Mr. Javits) is detained on official business.

If present and voting, the Senator from Maine (Mrs. Smith) would vote "yea."

On this vote, the Senator from South Dakota (Mr. Mundt) is paired with the Senator from New York (Mr. Javits). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 44, nays 40, as follows:

[No. 239 Leg.]

YEAS—44

Allen
Allott
Anderson
Baker
Bennett
Burdick
Byrd, Va.
Byrd, W. Va.
Cook
Cooper
Cotton
Curtis
Dole
Ellender
Ervin
Fannin
Fong
Fulbright
Goldwater
Gurney
Hansen
Holland
Hollings
Hruska
Jordan, Idaho
Long
Mansfield
McClellan
McIntyre
Miller
Murphy
Packwood
Pearson
Russell
Saxbe
Smith, Ill.
Sparkman
Spong
Stennis
Talmadge
Thurmond
Tower
Williams, Del.
Young, N. Dak.

NAYS—40

Aiken
Bayh
Bible
Boggs
Brooke
Case
Cranston
Eagleton
Goodell
Gravel
Griffin
Harris
Hart
Hartke
Hatfield
Jackson
Kennedy
Magnuson
Mathias
McCarthy
McGee
McGovern
Metcalf
Montoya
Muskie
Nelson
Pastore
Pell
Percy
Prouty
Proxmire
Ribicoff
Schweiker
Scott
Stevens
Symington
Tydings
Williams, N.J.
Yarborough
Young, Ohio

NOT VOTING—16

Bellmon
Cannon
Church
Dodd
Dominick
Eastland
Gore
Hughes
Inouye
Javits
Jordan, N.C.
Mondale
Moss
Mundt
Randolph
Smith, Maine

So Mr. McClellan's amendment was agreed to.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD of West Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HART. Mr. President, as far as I am aware, there are no further amendments.

Mr. McCLELLAN. Mr. President, I yield back whatever time I may have, on amendments or on the bill.

THE PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2455) was ordered to be engrossed for third reading, read the third time, and passed, as follows:

S. 2455

A bill to authorize appropriations for the Civil Rights Commission, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Subsection (a) of section 103 of the Civil Rights Act of 1957 (71 Stat. 635; 42 U.S.C. 1975b(a)), as amended, is further amended as follows: Strike "$75" and insert in lieu thereof "$100".

Sec. 2. Subsection (a)of section 105 of the Civil Rights Act of 1957 (71 Stat. 636; 42 U.S.C. 1975d(a)), as amended, is further amended as follows: Strike "$75" and insert in lieu thereof "$100".

Sec. 3. Section 106 of the Civil Rights Act of 1957 (71 Stat. 636; 42 U.S.C. 1975e), as amended, is further amended to read as follows:

"Sec. 106. For the purposes of carrying out this Act, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, the sum of $3,400,000, and for each fiscal year thereafter until January 31, 1973, the sum of $3,400,000."

Sec. 4. Subsection (e) of section 102 of the Civil Rights Act of 1957 (71 Stat. 634), as amended, 78 Stat. 249) is amended by inserting the following after the last period: "If a report of the Commission tends to defame, degrade, or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded, or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously, or unnecessarily."

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 7618) to provide for the conveyance of certain real property of the Federal Government to the Board of Public Instruction, Okaloosa County, Fla., and it was signed by the President pro tempore (Mr. Russell).

ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1970

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate S. 1830, which the clerk will state.

The Legislative Clerk. Calendar No. 926, a bill (S. 1830) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

Thereupon, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Alaska Native Claims Settlement Act of 1970".

DECLARATION OF POLICY

Sec. 2. (a) Congress hereby finds and declares that there is an immediate need for a fair, just, and final settlement of all land claims of Alaska Natives, Native Villages and groups; that the claims of Alaska Natives to the lands of Alaska, because they have not been judicially or legislatively determined, constitute a cloud on the title to lands in Alaska; that the best interests of the Alaska Native people, the State of Alaska, and the Federal government are served by a prompt and final legislative settlement; and that the purpose of this Act is to effect such a settlement by providing—

(1) a grant to each Native Village which qualifies under the requirements and procedures set forth in this Act of title to the village site and additional lands adjacent thereto for community use and expansion;

(2) for the organization of Native corporations and, in order to promote economic self-sufficiency as well as enhance the Natives' present and future welfare, for a transfer of lands, rights, and revenues to such corporations;

(3) a payment of $500,000,000 over a period of twelve years as compensation for lands taken in the past for Federal purposes or conveyed by patent or otherwise to the State of Alaska or to other third parties and for the extinguishment by this Act of all remaining aboriginal rights;

(4) a right to receive a portion of the revenues from the leasing and sale of minerals on certain lands in Alaska, subject to the limitations of this Act, as compensation for lands taken in the past and for the extinguishment by this Act of all remaining aboriginal rights;

(5) authority for individual Natives to acquire ownership of the lands which they use and occupy for homes, businesses, fishing, hunting and trapping camps, and for reindeer husbandry;

(6) a grant to the Alaska Native Services and Development Corporation of the right to select certain lands for their economic potential and to avoid cases of undue hardship; and,

(7) protection of Native subsistence hunting, fishing, trapping and gathering rights and, where it is within the power of the Federal Government, measures for the conservation of subsistence biotic resources.

(b) The Congress further finds and declares that the legal settlement provided in this Act constitutes compensation for the extinguishment of claims to land and does not and will not constitute a precedent for reopening, renegotiating or legislating upon any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

(c) It is the intent of Congress to carry out the terms of this settlement promptly, with certainty, and in conformity to the real economic and social needs of Alaska Natives by avoiding litigation, by maximizing the participation by Natives in decisions affecting their rights and property and by vesting in them as rapidly as prudent and feasible control over the land set aside and the corporations organized pursuant to this Act, without (1) establishing any permanent racially defined institutions, rights, privileges, or obligations; (2) creating a reservation system or lengthy trusteeship; or (3) ultimately adding to the categories of property and organizations enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska.

(d) No provision of this Act shall be construed to replace, diminish or otherwise modify any right, privilege, or obligation of Alaska Natives as citizens of the United States and the State of Alaska, nor to relieve, replace, or diminish any obligation of the United States or the State to protect and promote the rights and welfare of Alaska Natives as citizens of the United States and the State of Alaska. The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed a substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska, nor to effect a change or changes in the petroleum reserve policy reflected in sections 7421 through 7438 of title 10 of the United States Code except as specifically provided in this Act.

(e) No provision of this Act shall be construed to constitute a jurisdictional Act, to confer jurisdiction to sue, nor to grant implied consent to Natives to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Commission" means the Alaska Native Commission established by this Act;

(b) "Fund" means the Alaska Native Compensation Fund in the Treasury of the United States established under the terms of this Act;

(c) "Investment Corporation" means the Alaska Native Investment Corporation authorized to be established pursuant to this Act under the laws of the United States;

(d) "Municipal Corporation" means any Native Village incorporated as a general unit of municipal government under the laws of the State of Alaska;

(e) "National Corporation" means the Alaska Native National Corporation established pursuant to this Act;

(f) "Native" means a citizen of the United States who is an Alaska Indian, Eskimo, or Aleut of one-fourth degree or more Alaska Indian, Eskimo, or Aleut blood, or a combination thereof, including any Native as so defined whose adoptive parents is not a Native, and, in the absence of proof of a minimum blood quantum, also any citizen of the United States who is regarded as an Alaska Native by the Native Village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by such village or group: *Provided, however,* That "Native" as defined in this Act does not include any Tsimshian Indian blood, or the blood of any other Native tribe, band, clan, or group which came to reside upon or occupy lands in Alaska after June 30, 1867;

(g) "Native group" means any tribe, band, clan, village, community, or village association of Natives in Alaska;

(h) "Native Village" means any Native group which is composed of at least twenty-five or more Natives and which meets the requirements set forth in section 13 or 22 of this Act;

(i) "public lands" means all Federal lands and interests therein situated in Alaska as of the effective date of this Act, except: (1) the smallest practicable tract (but not less than forty acres), as determined by the Secretary, enclosing improved land actually used in connection with the administration of any Federal installation, and (2) land selections of the State of Alaska which have been patented or tentatively approved under section 6(g) of the Alaska Statehood Act as amended (72 Stat. 341, 77 Stat. 223);

(j) "Secretary" means the Secretary of the Interior;

(k) "Services Corporation" means the Alaska Native Services and Development Corporation established pursuant to this Act under the laws of the United States;

(l) "State" means the State of Alaska;

(m) "Village Corporation" means an Alaska Native Village Corporation organized under the laws of the State of Alaska to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native Village in accordance with the terms of this Act; and

(n) "Urban Corporation" means the Alaska Native Urban Corporation established pursuant to this Act.

DECLARATION OF SETTLEMENT

SEC. 4. (a) The provisions of this Act shall constitute a full and final settlement and extinguishment of any and all claims against the United States, the States and all other persons which are based upon aboriginal right, title, use, or occupancy of land in Alaska (including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist) by any Native, Native Village, or Native group or claims arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321), or any other statute or treaty of the United States relating to Native use or occupancy of land, including all land claims (but not claims based on grounds other than loss of original Indian title land) pending before any court or the Indian Claims Commission on the effective date of this Act.

(b)(1) The Secretary is authorized and directed, together with other appropriate agencies of the United States Government, promptly to initiate a study and to develop programs for the orderly transition of educational, health, welfare, and other responsibilities for the Alaska Native people from the United States to the State of Alaska. Within five years from the date of enactment of this Act, the United States shall cease to provide services to any citizen of Alaska solely on the basis of his racial or ethnic background: *Provided,* That nothing in this subsection shall affect services furnished the Natives through the Department of Health, Education, and Welfare, or diminish the applicability of the Act of April 16, 1934, as amended (48 Stat. 596), or the Acts of September 23, 1950, as amended (64 Stat. 967), and September 30, 1950, as amended (64 Stat. 1100).

(2) The Secretary shall report annually to the Congress on the implementation of this subsection, on the need for any additional legislative authority, and on the availability of State and general Federal assistance programs to provide any necessary and needed services to Alaska Natives as Citizens of the State of Alaska and the United States. Within four years of the dates of enactment of this Act the Secretary shall present a plan to the Congress for the transition of programs referred to in subsection (b)(1) hereof. The plan presented by the Secretary shall take effect within five years from the effective date of this Act: *Provided,* That the plan presented by the Secretary shall be subject to the provisions and the procedures set out in section 906, title 5 of the United States Code.

(3) None of the provisions of this subsection 4(b) shall apply to the services and programs furnished the Tsimshian Indians on the Annette Islands Reserve.

ALASKA NATIVE COMPENSATION FUND

SEC. 5. (a) There is hereby authorized to be appropriated $500,000,000 as compensation to the Natives for lands and interests in lands taken in the past or to which their rights and claims are extinguished by this Act, such compensation to be paid into the Alaska Native Compensation Fund in accordance with the following twelve-year payout schedule:

(1) $20,000,000 during the fiscal year in which this Act becomes effective, of which $1,500,000 shall be set aside in the Fund for the purpose of paying attorneys' fees pursuant to section 25 of this Act, and $350,000 shall be set aside in the Fund for the purposes set out in subsection 5(g) hereof;

(2) $50,000,000 during the second fiscal year;

(3) $70,000,000 during the third, fourth, and fifth fiscal years;

(4) $40,000,000 during the sixth fiscal year; and

(5) $30,000,000 during each of the next six fiscal years.

(b) As additional compensation to the Natives for lands and interests in lands taken in the past or to which their rights and claims are extinguished by this Act, there shall be paid into the Fund all revenues derived from revenue sharing pursuant to section 17 of this Act and the limitations therein.

(c) No interest shall be paid on the unappropriated or unaccrued balance of the compensation under subsections 5(a) and

(b) of this section: *Provided,* That annual payments or portions of annual payments which are due under the schedule set out in subsection 5(a), but which have not been appropriated within six months after the end of the fiscal year in which payable, shall draw interest at the then current rate on short term treasury obligations.

(d) All moneys paid into the Fund shall bear interest from the date of deposit at the rate of 4 per centum per annum until paid to the Services Corporation or its successor and the Investment Corporation or its successor. Until incorporation and formal organization of the corporations pursuant to sections 8 and 10 of this Act, the Secretary may temporarily withdraw moneys from the Fund for investment in short-term obligations of the United States or for deposit with financial institutions qualified to receive and hold public funds of the United States: *Provided,* That any such investment or deposit made by the Secretary shall be at the highest current rate obtainable.

(e)(1) Moneys paid or deposited into the Fund shall be paid or distributed for the benefit of the Natives in accordance with the provisions of this Act. The Secretary of the Treasury shall make such payments and distributions pursuant to the following payment schedule to the Services Corporation and to the Investment Corporation:

[In percent]

Fiscal year (commencing in the fiscal year of enactment)	Alaska Native Investment Corp.	Alaska Native Services and Development Corp.
1st	20	80
2d	25	75
3d	30	70
4th	35	65
5th	40	60
6th	45	55
7th	50	50
8th	50	50
9th	55	45
10th	55	45
11th	60	40
12th	60	40

(2) For the first five fiscal years from the date of enactment of this Act, prior to making the payments and distributions required by subsection (e)(1) hereof, the Secretary of the Treasury shall pay from the Fund to the Investment Corporation the difference between the Investment Corporation's current earnings on its investments and $4,000,000. Moneys paid to the Investment Corporation pursuant to this subsection shall be used to pay shareholders a minimum quarterly dividend pursuant to the provisions of subsection 10(h)(1).

(f) All moneys paid or deposited into the Fund after the twelfth fiscal year from the date of enactment of this Act shall be distributed to the Services Corporation and the Investment Corporation or their successors on the same basis as in the twelfth year in the payment schedule set out in subsection (e)(1) hereof.

(g) Up to $350,000 of the moneys paid or deposited into the Fund in the first fiscal year shall be paid by the Secretary of the Treasury upon certification by the Commission to recognized Associations of Alaska Natives to reimburse them for actual costs incurred in filing protests, preserving land claims, advancing land claim settlement legislation, and presenting testimony to the Congress on the Alaska Native land claims. Moneys paid pursuant to this subsection shall be paid first to the recognized Statewide association, and then, to the extent funds are available, to regional Native Associations as determined by the Commission. The determination of the Commission shall be final without regard to subsection 6(j) of this Act. Such moneys shall not be used to pay any attorney's fees or expenses.

(h) None of the funds paid or distributed pursuant to this section to any of the Corporations established pursuant to this Act shall be expended, donated, or otherwise used for the purpose of carrying on propaganda, or intervening in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office. Any person who willfully violates the foregoing provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than twelve months, or both.

ALASKA NATIVE COMMISSION

SEC. 6. (a) The Alaska Native Commission is hereby established. The Commission shall be in existence for seven years from the date of its first meeting, or for less than seven years if its duties under this Act are completed. The Commission shall be composed of five members to be appointed by the President with the advice and consent of the Senate. Not more than three members of the Commisison shall be members of the same political party, and at least two of the members appointed by the President shall be Natives who are residents of the State. Upon assuming office, each member of the Commission shall become a full-time Federal employee. The Federal laws and regulations on conflicts of interest applicable to other Federal employees shall be applicable to the members of the Commission, but this provision shall not be deemed to preclude a Native from serving as a member: Provided, That such Native Commissioner shall not participate in any proceeding before the Commission in which his participation would be in conflict with section 208 of title 18, United States Code.

(b) The term of office of members of the Commisison shall be for four years for the first three members appointed, and three years for the remaining two members. Thereafter the terms shall be until the Commission expires: Provided, That any member appointed to fill a vacancy on the Commission occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office, a member of the Commission shall continue to serve until his successor has been appointed and has qualified to take office. The President shall choose a Chairman from the Commission's membership, and the Commission may elect by a majority vote of its membership other officers, such as a Vice Chairman, as it may find necessary to perform its functions. A member of the Commisison may be removed by the President only if inefficiency, neglect of duty, or malfeasance in office.

(c) The Chairman shall initially receive compensation at the rate of $32,500 per year. The other four Commissioners shall receive compensation at the rate of $30,000 per year. The salaries of the Commission members and the Chairman may increase at the same rate as general increases for classified Federal employees. No member of the Commission's staff shall be compensated at a rate in excess of that paid to members of the Commission.

(d) The principal office of the Commission shall be in Alaska. Whenever the Commission deems that the convenience of the public or the parties may be promoted, or delay or expense may be minimized, or at the request of any party, it may establish other offices, hold hearings or conduct other proceedings at any other place, including other states, for the convenience of the parties involved, that a majority of the Commission shall direct. The Commission shall have an official seal which shall be judicially noticed, and which shall be preserved in the custody of the secretary of the Commission.

(e) The Commission shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Commission and such legal counsel as it deems necessary. Subject to the civil service laws, the Commission shall appoint such other employees as it deems necessary in exercising its power and duties. The compensation of all employees appointed by the Commission shall be fixed in accordance with chapter 53 of title 5, United States Code, subject to the provisions of subsection 6(c) hereof.

(f)(1) For the purpose of carrying out its functions under this Act, three members of the Commission shall constitute a quorum and official action may be taken only on the affirmative vote of at least three members, but a special panel composed of one or more members upon order of the Commission may conduct any hearing or other proceeding provided for in this Act and submit the record of such hearing or proceeding to the entire Commission for its action thereon. Such record shall be made available to the parties, and they shall be afforded an opportunity to comment thereon, before any final action of the Commission.

(2) The Commission shall give reasonable notice to the interested parties and an opportunity for them to appear and be heard, and shall afford the parties an opportunity to present evidence before making a final determination upon any protest, claim, or other contested matter.

(3) A party to any proceeding before the Commission may appear on his own behalf or be represented by counsel of his own choice.

(g) The Commission shall have power to establish its own rules of procedure to carry out its duties under this Act. Except where inconsistent with this Act the Federal Administrative Procedure Act (5 U.S.C. 500 et seq.) will apply. Each official action of the Commission shall be entered in writing, and its hearings and records thereof shall be open to the public.

(h)(1) Any member of the Commission may sign and issue subpoenas for the attendance and testimony of witnesses and production of relevant papers, books, and documents, and may administer oaths. Witnesses, other than direct parties in interest, summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Any person who fails to comply with a Commission subpoena shall be subject to punishment in accordance with section 104 of title 43, United States Code. The Commission may order testimony to be taken by deposition in any proceeding before it and in any stage of such proceeding after reasonable notice is first given in writing by the party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition.

(2) The Commission shall have the power to call upon any of the departments or agencies of the United States for any information it may deem necessary for carrying out its functions under this Act.

(3) In any hearing or other proceeding before the Commission, letters, papers, documents, maps, transcripts, or records of any executive agency or court of the United States (or a certified copy thereof) may be used in evidence insofar as relevant and material. Every executive agency of the United States having possession thereof shall make available for copying and inspection such letters, papers, documents, maps, transcripts, and records bearing upon matters before the Commission to any interested Natives, Native group, Native Villages, or Native corporations, or their representatives as provided by section 552 of title 5, United States Code.

(i) Each decision made by the Commission shall show the date on which it was made, and shall bear the signatures of the members of the Commission who concur therein and, upon issuance of a decision under this

Act, the Commission shall cause a true copy thereof to be sent by certified mail to all parties and their attorneys of record. When appropriate, each decision also shall include the findings of fact upon which the Commission's conclusions are based, and a statement of its reasons for such findings and conclusions. The Commission shall cause each decision to be entered on its official record together with any written opinion prepared by any members in support of, or dissenting from, any decision.

(j) Except where otherwise provided, decisions issued by the Commission shall be subject to judicial review by the United States District Courts upon the filing in such court within sixty days from the date of such decision of a petition by any person aggrieved by the decision praying that the action of the Commission be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to any other party to the proceeding and to the Commission, and thereupon the Commission shall certify and file in such court the record upon which the decision complained of was based. The court shall hear such appeal on the record made before the Commission. The findings of the Commission, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any decision or may remand the proceeding to the Commission for such further action as it directs. The judgment of the court shall be subject to review by the United States Court of Appeals for the Ninth Circuit, and by the Supreme Court of the United States upon certiorari or certification as provided in section 1254, title 28, United States Code.

(k) The duties and responsibilities of the Commission shall include during the period of its existence—

(1) the issuance of rules and regulations for preparing a final membership roll of Natives and a roster of Native Villages qualified for benefits under this Act;

(2) the determination of eligibility for inclusion on such roll and roster, respectively, and of protests with respect thereto;

(3) the hearing of, and decision upon, any appeal from a refusal of the Services Corporation to approve a village plan for the management and expenditure of funds, as provided in section 11(e);

(4) the determination of Village land entitlement, the determination of regional boundaries under section 9(a), the determination of land disputes between Native Villages, the determination of disputes relating to land patents, and the certification of eligibility for patents under this Act;

(5) the approval of land transactions as provided under this Act; and

(6) such other duties and responsibilities as are provided under this Act.

(l) During the same period of time no person may serve in more than any one of the following capacities:

(1) as a member of the Commission;

(2) on the board of directors or as an officer of the Services Corporation;

(3) on the board of directors or as an officer of the Investment Corporation.

(m) Upon termination of the Commission's existence or upon completion of its duties under this Act pursuant to subsection 6(a) hereof, any pending business, any uncompleted matters, or any duties required to be performed by the Commission shall be performed by the Secretary in accordance with the provisions of this Act insofar as is practicable, and the Secretary, in consultation with the Commission and the General Services Administration, shall provide for the disposition and preservation of the Commission records: *Provided,* such records shall remain available for public inspection, copying, and other appropriate use.

ENROLLMENT

SEC. 7. (a)(1) In order to facilitate the selection and management of lands, the use of funds and the organization of corporations in furtherance of this Act, the Secretary shall prepare within six months after the effective date of this Act, pursuant to such rules and regulations as may prescribe, a temporary census roll of all Natives born on or before April 15, 1969, and living on the date of enactment of this Act. Such roll shall show with respect to each Native, insofar as is practicable, his name, date and place of birth, date and place of parents' birth, degree of Native blood and the Native Village or Native group of which he is a member. The decision of the Secretary regarding the eligibility of any person for inclusion on the temporary census roll shall be final: *Provided,* That any person listed on an existing membership roll of any Native Village or group pursuant to requirements similar to those set out in subsection 3(f) shall be presumed to be eligible for enrollment.

(2) Any person listed on the temporary census roll who is nineteen years of age or over at the time of voting shall be entitled to vote in the election of directors for the Corporations, as provided in this Act, and in the election for the Land Selection Committee of the village, if any, of which he is a member, as provided in sections 11, 14, and 22. The population of each Native Village which meets the requirements set out in, as is appropriate, section 13 or 22 of this Act, as shown on the temporary census roll and as corrected at the time of determination, shall be the basis for determining the number of acres of land to which the Native Village Corporation is entitled pursuant to this Act. Except as provided in this subsection, however, the temporary census roll shall not be used as a basis for determining the right of any Native, any Native Village Corporation, or any other corporation to receive funds and property or otherwise to share in the benefits accorded the Native people of Alaska under this Act.

(b)(1) The Commission shall prepare, in accordance with such rules and regulations as it may prescribe: (A) within five years after the effective date of this Act a final membership roll of all Natives born on or before April 15, 1969, and living on the effective date of this Act, including a separate listing and designation of the membership of each Native Village Corporation, the Urban Corporation and the National Corporation; and (B) a roster of all Native Villages which meet the requirements of section 13 or 22 and are eligible for benefits hereunder, within three years after the effective date of this Act. Before any such roll or roster is finally approved by the Commission, it shall be published in the Federal Register and in such other manner as the Commission shall find practicable and effective (including posting in each Native Village listed in the roster and in each village which was denied inclusion in the roster). Any applicant denied enrollment or any village omitted from the roster shall be notified by the Commission in writing of the Commission's action and of his or their right to protest such action.

(2) Within three months after notice of the Commission's action, any person denied enrollment or any Native group whose village is omitted from the village roster, as the case may be, shall have the right to protest such denial or omission to the Commission, and within three months after publication in the Federal Register, the Secretary or any Native Village eligible under section 13 or 22 or the Urban and National Corporations shall have the right to protest to the Commission the inclusion of any individual on the membership roll or any village on the roster of Native Villages. Any Native Village shall have the right, for three months after publication of the membership roll in the Federal Register, to protest a designation of membership therein by a Native on behalf of himself or his children below the age of nineteen under subsection (c) hereof. Such protests shall be the subject of a hearing by the Commission and judicial review as provided in section 6(j) of this Act. The membership rolls and village roster prepared by the Commission, as modified after any hearing or judicial review, shall be final and shall be promulgated by publication in the Federal Register.

(c) Each Native shall have the right to designate the Native Village in which he and his children under the age of nineteen years are to be listed as members and, in the absence of a protest by the named village pursuant to subsection (b)(2) hereof, such designation shall be final. In the event a Native Village does protest a designation of membership, the Commission shall determine the Native Village or villages, if any, of which the Native and his children under the age of nineteen are members, and the burden of proof of membership shall be upon the individual. In making its determination, and subject to the provisions of subsections (d) and (e) hereof, the Commission shall give priority to villages in the following order: (1) to the Native Village where the Native resides on the effective date of this Act, if such residence has continued without substantial interruption for a period of more than two years; (2) to the Native Village where the Native previously resided for a period or periods which aggregate ten years or more; (3) to the Native Village where the Native was born; (4) to the Native Village where either parent of such Native was born; (5) to the Native Village where the Native resides on the effective date of this Act; and (6) to a Native Village from which an ancestor of the Native came: *Provided,* That the Commission, upon the request of any Native, shall have discretion to deviate from the foregoing priorities and declare such person and/or his child under the age of nineteen to be a member of a Native Village from which he otherwise would be excluded in order to avoid hardship (such as the division of a family) or any other unreasonable classification.

(d) Nations who do not meet the requirements to qualify as members of a Native Village set out in this section or Native residents of urban areas who do not indicate or state their intention to return to a Native Village shall be enrolled as members of the Urban Alaska Native roll and shall be entitled to receive benefits under this Act through the Urban Corporation established pursuant to section 12.

(e) Natives living outside the State and who do not meet the requirements to qualify as members of a Native Village or who do not indicate or state their intention to return to a Native Village shall be listed as members of the Alaska Native National roll and shall be entitled to receive benefits under this Act through the National Corporation established pursuant to section 12.

(f) In preparing the final membership roll the Commission shall insure that each Alaska Native is designated a member of an eligible Native Village or a member of either the Urban or the National Corporations established pursuant to section 12.

(g) Any person who gives false information to qualify himself or any other person for inclusion on the temporary census roll or upon a Native membership roll, willfully and with knowledge that such information is false, shall be guilty of perjury and, upon conviction, shall be fined not more than $1,000 or imprisoned not more than a year, or both.

ALASKA NATIVE SERVICES AND DEVELOPMENT CORPORATION

SEC. 8. (a)(1) There is hereby established the Alaska Native Services and Development Corporation as a nonprofit membership corporation which shall have the powers hereinafter granted. The Services Corporation shall be a federally chartered corporation but shall not be an agency or establishment of the United States Government and shall cease to be in existence after twelve fiscal years from the date of enactment of this Act.

(2) The members of the board of directors appointed by the President shall serve as the incorporators and shall prepare the original articles of incorporation for the Services Corporation in a form consistent with the provisions of this section, and shall serve as the initial board of directors until the Native members of the board are elected. The incorporators shall file the articles of incorporation with the Secretary within six months after their appointment as members of the board of directors, and the Services Corporation shall be deemed to be incorporated and formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State. The Secretary of the Treasury is authorized and directed to advance from the Services Corporation's share of moneys in the Fund such sums as may be reasonably necessary for the organization of the Services Corporation.

(b)(1) The management of the Services Corporation shall be vested in a board of directors, which shall consist of eighteen members:

(A) four members of which shall be appointed by the President of the United States and each member shall serve a term of one, two, three or four years. Members so appointed shall serve until their successor has been appointed; and

(B) fourteen members of which shall be elected by the voting members of the Services Corporation on the following basis:

(i) one member representing and elected by each of the twelve regions of Alaska as determined by section 9 of this Act;

(ii) one member representing and elected by the members of the Urban-Alaska Native roll; and

(iii) one member representing and elected by the members of the Alaska Native National roll.

Members of the board so elected shall serve for terms of four years or until their successors have been elected and qualified; *Provided,* That among the directors first elected, two shall serve for terms of one year, four shall serve for terms of two years, four shall serve for terms of three years, and four shall serve for terms of four years: *And provided further,* That the directors who serve the shorter terms shall be determined by a drawing of lots conducted by the initial board. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Elections for membership on the board of directors shall be conducted in accordance with procedures set forth in the articles of incorporation or bylaws of the Services Corporation: *Provided,* That the first such election shall be held not less than six months nor more than one year after the effective date of incorporation of the Services Corporation.

(2) The board of directors shall elect a chairman annually from among its own membership. The board also may appoint a member of the Services Corporation to fill a vacancy within its membership, but such appointed director shall serve only until the next regular election of directors.

(3) Notwithstanding any other provision of this Act or the articles of incorporation to the contrary, the initial board of directors of the Services Corporation appointed by the President shall exercise only the following corporate powers: (A) completion of the organization of the Corporation and qualifying it to do business, including, but not limited to, the adoption of a corporate seal, the opening of bank accounts, the establishment of a place or places of business and the rental or acquisition of all necessary offices, furnishings, equipment and supplies related thereto, subject to the condition that no lease shall be for a period in excess of one year; (B) approval of amendments to the articles of incorporation; (C) the appointment of officers of the Corporation, the hiring of other employees and the employment of consultants, accountants, and other professional or financial advisers, subject to the condition that no contract of employment shall be for a period in excess of one year; (D) the receipt, investment, and distribution of moneys from the Fund in accordance with subsections 8(e) and (f) thereof; (E) the expenditure of corporate funds to pay for or carry out the activities authorized under this section; (F) the conduct of the first election for membership on the board of directors; and (G) take any actions necessary to organize the Urban and National Corporations.

(c) The Services Corporation shall have a president, and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board and serving at the pleasure of the board. The president and other officers of the Services Corporation may, but need not, be members of the board. No officer of the Services Corporation shall receive any salary from any source other than the Services Corporation during the period of his employment by the Corporation. The president shall be responsible for conducting the business and affairs of the Services Corporation in a manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board of directors, and shall appoint such other employees as the board deems appropriate.

(d)(1) Until publication of the membership roll in accordance with subsection 7(b)(1) of this Act, the members of the Services Corporation shall consist of all Natives shown on the temporary census roll prepared pursuant to section 7(a). After publication of the membership roll in accordance with subsection 7(b)(1) and before such roll becomes final in accordance with subsection 7(b)(2), the members of the Services Corporation shall consist of all Natives shown on the temporary census roll, and any other Native whose name is listed on the membership roll except an individual whose inclusion thereon is the subject of a pending protest. After promulgation of the final membership roll in accordance with subsection 7(b)(2), the members of the Services Corporation shall consist of all Natives listed upon such roll, as amended to reflect the death of any individuals so listed.

(2) The right to vote for directors and on such other matters as properly may be placed before the membership for decision shall be limited to members of the Services Corporation nineteen years of age or over at the time of voting.

(e) As soon as the Services Corporation is incorporated and formally organized in accordance with subsection (a) hereof, the Secretary of the Treasury shall pay to the Services Corporation all moneys deposited in the Fund to which the Services Corporation is entitled up to the date of such incorporation, together with any accrued interest. Thereafter, on January 1, April 1, July 1, and October 1 of each calendar year, the Secretary of the Treasury shall pay to the Corporation additional moneys deposited in the Fund to which the Services Corporation is entitled up to the date of payment, together with any accrued interest. The Secretary of the Treasury shall also furnish to the Services Corporation each month a statement showing the amount and source of moneys on deposit in the Fund.

(f)(1) Except as otherwise provided in this section, and pursuant to the provisions of subsection 11(e), the Services Corporation shall distribute moneys paid to it out of the Fund after the receipt thereof to the Native Village Corporations, and to the Urban and National Corporations in accordance with the provisions of this Act. The amount of money distributed shall, except as provided in section 9(d)(1), be apportioned in direct proportion to the membership of each of the Village Corporations, the Urban Corporation and the National Corporation as shown on the final membership rolls promulgated in accordance with section 7. Moneys received from the Fund which the Services Corporation must distribute in accordance with this subsection shall not constitute income to the Services Corporation for any purpose.

(2) Until the membership roll becomes final in accordance with subsection 7(b)(2) of this Act, the Services Corporation shall distribute only eighty per centum of all moneys paid to it out of the Fund. The amount of money distributed to each Native Village Corporation and to the Urban Corporation and the National Corporation shall be apportioned in direct proportion to the Native population before publication of the membership roll in accordance with subsection 7(b)(1) as shown on the temporary census roll prepared in accordance with section 7(a), and after publication of the membership roll in accordance with subsection 7(b)(1) as shown thereon. Appropriate adjustments shall be made in actual distributions to reflect any prior advances, and the relative rights of the beneficiaries under this paragraph: *Provided,* That all distributions made pursuant to this paragraph shall be deemed advances of moneys to which the beneficiaries will become entitled upon promulgation of the final membership roll in accordance with section 7(b) and shall not constitute a determination of their relative rights to receive funds or property under this Act. Moneys paid to the Services Corporation out of the Fund, which are withheld by it pursuant to this paragraph, shall be invested by the Services Corporation for the benefit of the beneficiaries as their interests therein ultimately are determined.

(3) After promulgation of the final membership roll in accordance with subsection 7(b)(2) the Services Corporation shall distribute all moneys withheld under subsection (f)(2) hereof (adjusted to reflect earnings or losses from investment), after appropriate adjustments in the amounts of actual distributions also to reflect prior distributions and their respective rights in moneys derived from the Fund, to the beneficiaries as provided in subsection (f)(1) hereof.

(4) The Services Corporation shall withhold and invest any moneys due a Native Village Corporation or the Urban or National Corporations until such corporations are organized and qualified. The Services Corporation may withhold and invest in trust any moneys due a Native Village Corporation or the Urban or National Corporations if it is found that a corporation is violating any provision of this Act or of its articles of incorporation. All moneys so withheld (adjusted to reflect earnings or losses from investment) shall be paid over to the affected corporation upon a determination that the violations have been corrected or upon termination of the Services Corporation.

(5) The Services Corporation shall prepare and distribute to the Native Villages proposed articles of incorporation and other appropriate forms necessary to their organization and shall provide funds to the Native Villages for organization of the Village Corporations.

(g) The Services Corporation shall retain out of moneys paid to it out of the Fund: (1) such amounts as are necessary, but not in excess of 5 per centum for carrying on the business and affairs of the Services Corporation; and (2) 5 per centum as a contingency fund to be used for purposes specified in the articles of incorporation: *Provided,* That payments to the contingency fund shall not exceed a total unused balance of $5,000,000 and moneys in the contingency fund shall be prudently invested.

(h) (1) The Services Corporation shall be considered a public instrumentality eligible for grants and contracts for planning and development programs under any Federal law which will assist Natives, Native Villages, and Native Village Corporations. For a period of twelve fiscal years after the date of its formal organization, the Services Corporation shall be subject to audit by the General Accounting Office. Copies of such audits together with a report of the Administrator shall be filed with the appropriate committees of Congress. At the end of twelve fiscal years, and after a final audit by the General Accounting Office and the filing of a final financial report with the Congress, the limitations established, and the powers granted under this Act for the Services Corporation shall terminate.

(2) Upon expiration of the Charter of the Services Corporation, the assets and liabilities of the Services Corporation may, at the option of its membership:

(A) be transferred to the Investment Corporation or the Successor to the Investment Corporation;

(B) be transferred to a new corporation organized pursuant to subsection 8(h) (3) hereof; or

(C) be liquidated and distributed among the members in any form permitted by law.

(3) In the event that the members of the Services Corporation, pursuant to subsection 8(h) (2) (B) hereof, elect to establish a new corporation to succeed the Services Corporation, the Directors of the Services Corporation shall appoint the incorporators of a new business for profit corporation (hereinafter called the successor to the Services Corporation), to which the assets and liabilities of the Services Corporation shall be transferred. Ten per centum of the total number of shares issued and outstanding shall be reserved for the Foundation established pursuant to section 24 of this Act. The remaining number of shares issued shall be distributed equally among Natives on the final roll and to those who have succeeded to their interest by request or pursuant to the statutes of descent or distribution. The successor to the Services Corporation will not be an agency or establishment of the United States and shall be governed entirely by the Federal and State laws ordinarily governing business corporations of the same type, and shall not be governed by the terms of this Act, except as follows:

(A) payments from the Fund to the Services Corporation or its successor as provided in subsection 5(f); and

(B) shares of stock in the successor to the Services Corporation shall not be alienable for fifteen years from the date of enactment of this Act, and shall be subject to the provisions of subsection (h) (4) hereof.

(4) Any shares of stock held by Alaska Natives under any successor corporation established pursuant to this section for the benefit of Alaska Natives shall be inalienable for a period of fifteen years from the date of enactment of this Act. No contract to sell, pledge, or otherwise alienate such stock during this period of time shall be of any validity or enforceable in any court of law. Any person who knowingly seeks to acquire from an Alaska Native such stock in violation of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(i) The Services Corporation shall have and may exercise all rights and powers vested in a nonprofit membership corporation under the laws of the State. In addition, and without limitation upon any of the powers so conferred, or the powers conferred elsewhere in this Act, the Services Corporation shall have the following powers—

(1) to maintain an appropriate staff to provide professional, technical, engineering, social services, and financial assistance and advice to Natives, Native villages, and Native Village Corporations: (A) in the selection, use, management, leasing, and disposition of lands or interests therein; (B) in the development of comprehensive land use plans; (C) in the use, investment, and expenditure of funds; and (D) in the acquisition, use, and disposition of other property;

(2) to assist Native villages and Native Village Corporations in the planning and execution of programs for community development, including, but not limited to, housing, the establishment of local industry and the construction of public works;

(3) to enter into contracts with Natives, Native villages and Native Village Corporations, where appropriate, for the use, management, investment, economic development or disposition of lands, interests in lands, funds and other property for the benefit of such Natives and Native organizations;

(4) to provide loans and grants for the education and relief of distress of individual Natives, or their descendants and subject to the provisions of this Act, make distributions of funds to Native Village Corporations, and to municipal corporations in predominantly Native areas;

(5) to exercise authority to conduct the business and affairs of any Native Village Corporation shown to be violating any provision of this Act or of its articles of incorporation;

(6) to carry out any and all activities directed toward promoting the health, welfare, education and social and economic development of Natives and their descendants; and

(7) to provide any advice or assistance requested by the Urban and National Corporations.

(j) The internal affairs of the Services Corporation shall be governed in accordance with the laws of the State relating to nonprofit membership corporations, except to the extent inconsistent with the provisions of this Act; and except that—

(1) amendments to the articles of incorporation and annual reports shall be filed with the Secretary and certified copies thereof shall be transmitted to the State Commissioner of Commerce;

(2) the Services Corporation shall not be subject to any State licensing requirements, incorporation fees or other corporate charges, except the designation of a registered office and registered agent, and nominal fees for the filing of corporate papers, or to the imposition of State taxes as provided in this Act; and

(3) the Services Corporation shall not be subject to any State law which places a burden or duty upon it greater than is placed upon any other nonprofit membership corporation, or, unless the Corporation so consents, to any State corporate law which is in effect applicable only to the Services Corporation.

REGIONAL ADVISORY BOARDS

SEC. 9. (a) For purposes of this Act, the State shall be divided by the Commission within one year after the effective date of this Act into twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by the operations of the following existing Native associations:

(1) Arctic Slope Native Association (Barrow, Point Hope);

(2) Bering Strait Association (Seward Peninsula, Unalakleet, St. Lawrence Island);

(3) Northwest Alaska Native Association (Kotzebue);

(4) Association of Village Council Presidents (southwest coast, all villages in the Bethel area, including all villages on the Lower Yukon River and the Lower Kuskokwim River);

(5) Tanana Chief's Conference (Koyukuk, Middle and Upper Yukon Rivers, Upper Kuskokwim, Tanana River);

(6) Cook Inlet Assocation (Kenai, Tyonek, Ekutna, Iliamma);

(7) Bristol Bay Native Association (Dillingham, Upper Alaska Pensinsula);

(8) Aleut League (Aleutian Islands, Pribilof Islands, and that part of the Alaska Peninsula which is in the Aleut League);

(9) Chugach Native Association (Cordova, Tatitlek, Port Graham, English Bay, Valdez, and Seward);

(10) Tlingit-Haida Central Council (southeastern Alaska);

(11) Kodiak Area Native Association (all villages on and around Kodiak Island); and

(12) Copper River Native Association (Copper Center, Glennallen, Chitina, Mentasta).

Any dispute over the boundaries of any region or regions shall be determined by the Commission and, without regard to subsection 6(j), shall be final.

(b) (1) There are hereby authorized to be established, at the option of the Natives within each region, pursuant to such procedures as the Commission may prescribe, a Regional Advisory Board for each of the regions defined under subsection (a) of this section. The Services Corporation, the Investment Corporation and the Village Corporations shall establish procedures for consultation from time to time with the appropriate Regional Advisory Boards on matters affecting the region represented thereby.

(2) There is hereby authorized to be established under the laws of the State by the Natives of the region described in section 9(a) (1) a North Slope Native Corporation which may carry out the duties of a Regional Advisory Board as specified in section 9, and shall in addition hold title to lands patented to it pursuant to section 18(f) (1). The North Slope Native Corporation shall be so organized that it may manage such lands, distribute to its members or shareholders revenue therefrom, and carry on such other activities as its members or shareholders may decide.

(3) The Regional Advisory Boards established pursuant to this subsection shall not be agencies or establishments of the United States Government. The Regional Boards shall be considered political subdivisions of the State solely for the purpose of being eligible for grants, loans, and contracts for regional planning, housing assistance, economic development, public works, construction, transportation and other programs under any Federal law which will assist Natives, Native Villages, and Native Village Corporations. Village corporations located within each region may allocate funds for that Regional Board.

(c) For purposes of electing the regional members to the board of directors of the Services Corporation as provided in section 8(b) (1) of this Act, the regional boundaries determined by the Commission under this section shall be used as the boundaries for the election.

(d) (1) In the distribution of funds the Services Corporation shall segregate, on a regional basis, revenues derived from the sale, lease, permit, development, use or other disposition of the leasable mineral estate of the Village lands to which the Services Corporation acquires a patent under section 15(c) and 22(m) (3) of this Act. The Native Village Corporations within each region as defined in subsection (a) of this subsection shall be entitled, on a direct proportion of membership basis, to 50 per centum of the net proceeds derived from the disposition of the mineral estate to Village lands located within that region's boundaries. The remaining 50 per centum of such net proceeds shall be distributed among all the other Native Village Corporations and the Urban and National Corporations in direct proportion to their membership. For purposes of this subsection, membership shall be as shown on the final membership roll promulgated in accordance with subsection 7(b)(2).

(2) Moneys distributed pursuant to paragraph (1) hereof shall not constitute income of the Services Corporation, but shall constitute income of the receiving Native Village Corporations and the Urban and National Corporations and shall be subject to taxation on the same basis as like income is taxed when received by any other nonprofit membership corporation.

ALASKA NATIVE INVESTMENT CORPORATION

SEC. 10. (a) (1) There is hereby established the Alaska Native Investment Corporation (hereinafter referred to as the "Investment Corporation") as a business for profit corporation, which shall have the powers and duties hereinafter granted. The Investment Corporation shall be subject to the provisions of this Act and, to the extent consistent with subsection (i), to the Investment Company Act of 1940, as amended (11 U.S.C. 72a, 107f; 15 U.S.C. 80a–1 to 80a–52 et seq.). The Investment Corporation shall be a Federally chartered corporation, but shall not be an agency or establishment of the United States Government.

(2) The directors appointed by the President pursuant to subsection (b)(1)(A) hereof shall serve as the incorporators and as the initial board of directors, and shall take whatever actions are necessary to formally establish the Investment Corporation, including the preparation of the original articles of incorporation in a form consistent with the provisions of this Act. The incorporators shall file the articles of incorporation with the Secretary within six months after their appointment, and the Investment Corporation shall be deemed to be incorporated and formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State of Alaska and to the appropriate office of the State designated pursuant to subsection (e) hereof. The Secretary of the Treasury is authorized and directed to advance to the incorporators from the Investment Corporation's share of moneys in the Fund such sums as are reasonably necessary for the organization of the Investment Corporation.

(b)(1) The management of the Investment Corporation shall be vested in a board of directors, which shall consist of twelve members:

(A) five members of which shall be appointed by the President of the United States, within six months of the date of enactment of this Act: *Provided,* That no more than three members of the initial board shall be members of the same political party;

(B) four members of which shall be elected by Alaska Natives as provided in subsection (b)(6) hereof; and

(C) three members of which shall be elected by the nine directors named in subsections (b)(1) (A) and (B) hereof.

(2) Directors appointed by the President pursuant to subsection (b)(1)(A) hereof, and directors elected pursuant to subsection (b)(1)(C) hereof, shall, insofar as is possible, be persons who have demonstrated business ability and who have displayed a high degree of expertise in national and international investments or corporate enterprise.

(3) Members of the board of directors shall serve for terms of six years or until their successors have been elected and qualified: *Provided,* That among the directors first appointed and elected, two shall serve for terms of six years; two for terms of five years; two for terms of four years; two for terms of three years; two for terms of two years; and two for terms of one year. The directors who serve the shorter terms shall be determined by a drawing of lots conducted by the initial board, except that the member appointed by the President to serve as the initial Chairman of the board of directors pursuant to subsection (b)(4) hereof shall serve for a full six-year term. Elections for membership on the board of directors shall be conducted in accordance with procedures set forth in the articles of incorporation or the bylaws of the Investment Corporation. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Upon the expiration of each director's term of office the shareholders of the Investment Corporation shall elect a new director to serve a term of six years, or until reorganization of the Investment Corporation as required in subsection (i) hereof.

(4) The President of the United States shall appoint one of the members of the initial board of directors to serve as Chairman of the board. The member appointed shall serve as Chairman for a three-year term. Thereafter, the board of directors shall elect a Chairman annually from among its own membership. The board also may appoint persons to fill vacancies within its membership, but such appointed directors shall serve only until the next regular election of directors.

(5) Notwithstanding any other provision of this Act or the articles of incorporation to the contrary, the initial board of directors appointed pursuant to subsection (b)(1)(A) hereof shall exercise only the following corporate powers: (A) completion of the organization of the Corporation and qualifying it to do business, including, but not limited to, the adoption of a corporate seal, the opening of bank accounts, the establishment of a place or places of business and the rental or acquisition of necessary offices, furnishings, equipment and supplies related thereto, subject to the condition that no lease shall be for a period in excess of one year; (B) approval of amendments to the articles of incorporation; (C) the appointment of officers of the Corporation, the hiring of other employees and the employment of consultants, accountants, and other professional or financial advisers, subject to the condition that no contract of employment shall be for a period in excess of one year; (D) the receipt, investment and distribution of moneys from the Fund in accordance with the provisions of this Act; and (E) the expenditure of corporate funds to pay for or carry out the activities authorized under this paragraph.

(6) Within ninety days after the filing of the articles of incorporation of the Investment Corporation, the initial board of directors shall organize and conduct an election for the four directors named in subsection (b)(1)(B) hereof.

(c) The Investment Corporation may establish such executive committees as are necessary for the conduct of business and may have a president and such other officers as may be named and appointed by the board, at rates of compensation to be fixed by the board and serving at the pleasure of the board. The president and other officers of the Investment Corporation may, but need not, be members of the board. No officers of the Investment Corporation shall receive any salary from any source other than the Investment Corporation during the period of his employment by the Corporation. The executive committee or committees or the president, as determined by the board, shall be responsible for conducting the business and affairs of the Investment Corporation in a manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board of directors, and shall appoint such other employees as the board deems appropriate.

(d)(1) The board of directors of the Investment Corporation shall contract with a Business Management Group or groups to manage and advise upon the conduct of the affairs of the Investment Corporation, subject to the terms of this Act and the policies established by the board. The Business Management Group or groups shall be an "investment adviser" as defined in the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 to 80b–21 et seq.), as amended, but need not be registered under the Act, and to the extent consistent with this section and subsection (i) hereof shall be subject to the terms of the Investment Advisers Act. The Business Management Group or groups may, if the board of directors so decides, have a power of attorney for the sale, purchase, exchange, and transfer of securities of the Investment Corporation. The terms of the original contract between the Investment Corporation and the Business Management Group or groups shall be no longer than a renewable term of one year, and the contract shall be subject to review and comment by the Securities and Exchange Commission as provided in subsection (i) hereof.

(2) At the end of any year or upon cancellation of a contract the Investment Corporation may:

(A) award new contracts to the Business Management Group or groups;

(B) award contracts to another Business Management Group or groups; or

(C) at the end of three years establish an in-house management and investment capacity and staff to manage the affairs of the Investment Corporation.

The Investment Corporation through the board of directors and the Business Management Group or groups shall, to the extent consistent with sound management practices and the provisions of this section and the policies of the board, train and employ Alaska Natives in executive, management, and staff positions.

(3) The board of the Investment Corporation and the Business Management Group or groups shall manage the Investment Corporation's assets in such a manner as to maximize the financial interests of the shareholders, by investing in a balanced and diversified portfolio of:

(A) national and international public and private securities ("securities" as used in this section shall have the same meaning as defined in the Investment Company Act of 1940, as amended) (11 U.S.C. 72a, 107f; 15 U.S.C. 80a–1 to 80a–52);

(B) enterprises based in, or doing business in Alaska;

(C) enterprises having an impact on sectors of the economy especially important to Natives; and

(D) enterprises wholly or partially owned by Natives.

Neither (B), (C), nor (D) of this subsection shall be construed as obligating or authorizing the board of the Investment Corporation or the Business Management Group to make any investment which does not meet prudent investment standards and which is not in the best financial interests of the shareholders.

(e) The Investment Corporation shall have and may exercise, in addition to the powers and rights granted by this Act, all rights and powers vested in a business for profit corporation under the laws of any State which the board of directors designate in the articles of incorporation as the state whose law is to be applied in resolving legal questions arising from the corporate activities of the Investment Corporation. In addition, and without limitation upon any of the powers so conferred, the Investment Corporation may—

(1) make any lawful investments in local, national, and international business enterprises and securities which the board of directors determines would yield an acceptable return; and

(2) make loans and investments in such a manner as to maintain a creditor's protected interest which may, at the option of the board of directors, be converted into an

equity interest: *Provided*, That notwithstanding any other provision of this Act, no more than twenty percent of the assets of the Investment Corporation may at any time be invested in venture capital situations.

(f) (1) As soon as the Investment Corporation is incorporated and formally organized in accordance with subsection (a) (2) hereof, the Secretary of the Treasury shall pay to the Investment Corporation all moneys deposited in the Fund to which the Investment Corporation is entitled up to the date of such incorporation and formal organization, together with any accrued interest. Thereafter, on January 1, April 1, July 1, and October 1 of each calendar year, the Secretary of the Treasury shall pay to the Investment Corporation or its successor additional moneys deposited in the Fund to which the Investment Corporation is entitled up to the date of payment, together with any accrued interest. The Secretary of the Treasury also shall furnish to the Investment Corporation or its successor each month a statement showing the amount and source of moneys on deposit in the Fund.

(2) The board of directors may retain out of moneys paid to the Investment Corporation such funds as are necessary for contingency funds, for the payment of dividends and for the administrative costs and the business expenses of the Corporation: *Provided*, That the compensation to be paid to the Business Management Group or groups during any year shall not exceed $250,000 or not more than one-half of 1 per centum of the invested assets of the Investment Corporation.

(3) The Investment Corporation and the Business Management Group shall be subject to periodic audits by a qualified group of certified public accounts to be selected by the board of directors. Such audits as are in accord with standard business practice shall be made at least once a year.

(g) (1) The Investment Corporation shall issue and have outstanding not more than one hundred shares of no par common stock for each Native.

(2) Until publication of the membership roll in accordance with section 7(b), the stockholders of the Corporation shall consist of all Natives shown on the temporary census roll prepared pursuant to section 7(a). After publication of the membership roll in accordance with section 7(b) (1) and before such roll becomes final in accordance with section 7(b) (2), the stockholders of the Corporation shall consist of all Natives shown on the temporary census roll, except an individual whose inclusion thereon is the subject of a pending protest. Stock held pursuant to this paragraph shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, and the right to file a stockholder's derivative suit, but shall not vest in the holder any right to dividends or other distribution from the Corporation, except as provided in subsection (h) hereof.

(3) Upon promulgation of the final membership roll in accordance with section 7(b) (2), all stock issued pursuant to section 10(g) (2) shall be deemed canceled, new shares shall be issued and thereafter the stockholders of the Corporation shall consist of all Natives shown on the final membership roll. Stock held pursuant to this paragraph shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, shall permit the holder to receive dividends or other distributions from the Corporation, and shall vest in the holder all rights of a stockholder in a business corporation organized under the laws of the State designated pursuant to subsection (e) of this section.

(4) Upon the death of any stockholder holding stock in the Corporation pursuant to section 10(g) (2) or (3), ownership of such stock shall be transferred to natural persons in accordance with his last will and testament or under the laws of intestacy: *Provided*, That such stock shall carry voting rights only if the holder thereof through inheritance also is a Native: *And provided further*, That in the event the deceased stockholder fails to dispose of his stock in the Corporation by will and has no heirs under the laws of intestacy, such stock shall escheat to the Corporation.

(5) (A) In the event that a Native under the age of nineteen shall become entitled to shares of stock in the Investment Corporation pursuant to section 10(g), such shares shall be issued to that member of such Native's family who is highest in the order of priority set forth in section 10(g) (5) (B) who shall agree, within thirty days of his receipt of notice of eligibility, to accept such shares as custodian for such Native. If a person designated as custodian or successor custodian under this section dies, resigns, is removed, or becomes legally incapacitated before such Native attains the age of nineteen, there shall be designated as successor custodian that member of such Native's family who is next highest in the order of priority set forth in section 10(g) (5) (B) who shall agree, within thirty days of his receipt of notice of eligibility, to accept such shares as successor custodian for such Native. In the event that no member of the Native's family accepts such shares as custodian (or successor custodian) pursuant to this section, such shares shall be held by the Secretary as custodian for such Native.

(B) The order of priority in which members of the family of a Native under the age of nineteen shall be eligible to receive shares of stock in such business corporation as custodian for such Native is the following:

(i) the father;
(ii) the mother;
(iii) a brother;
(iv) a sister;
(v) an uncle;
(vi) an aunt;
(vii) a grandparent.

If more than one individual shall occupy any of the foregoing priority categories, the individuals within such category shall have priority in accordance with date of birth, with the individual having the earliest date of birth being assigned the highest priority.

(C) The custodian or successor custodian for a Native under the age of nineteen appointed pursuant to subsection(5) (A) hereof shall have the rights and obligations of, and be subject to the terms and conditions applicable to, custodians under the Alaska Gifts of Securities to Minors Act (Alaska Stat. Ann. § 45.60.010 et seq.), or corresponding provisions of subsequent law, except where inconsistent with the foregoing provisions of this subsection.

(6) The stock issued pursuant to this section and the right to any dividends paid pursuant to section 10(h) may not be sold, pledged, subjected to a lien or judgment execution, assigned in present or future, or otherwise alienated. Any person who knowingly seeks to acquire from a Native such stock in violation of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000. or imprisoned not more than twelve months, or both.

(7) Contemporaneous with any issuance of stock pursuant to this Act, each stockholder shall receive a report which shall contain the type of information similar to that normally contained in a prospectus of a corporation subject to the provisions of the Investment Company Act of 1940. Such additional information shall be included as the board of directors may require.

(h) (1) Commencing no later than eighteen months from the date of its incorporation, the Investment Corporation shall pay to its shareholders a quarterly dividend. Regardless of the current or cumulative earnings on the investments of the Investment Corporation, the total cash dividends paid in any quarter shall not be less than $1,000,000 for the first five fiscal years after enactment of this Act: *Provided, however*, That dividend payments prior to the first distribution of stock shall be made only subject to the provisions of subsection (g) hereof.

(2) The Investment Corporation shall pay out in dividends to holders of stock issued pursuant to section 10(g) (2) no more than 80 per centum of the moneys available in any quarter for payment of dividends. The Investment Corporation shall retain in a reserve account sufficient moneys to pay dividends, plus interest at 4 per centum, to persons not listed on the temporary census roll who are later determined to be eligible for benefits under this Act and enrollment on the final membership roll.

(3) The Investment Corporation may withhold any dividends due to a person eligible to receive stock pursuant to section 10(g) (2) whose eligibility for inclusion on the final membership roll is subject to a pending protest or is subject to substantial doubt, until such time as the stockholder's eligibility for benefits under this Act has been determined. Any stockholder who receives dividends and who is later determined to be ineligible for enrollment on the final membership roll shall repay the amount of those dividends, plus interest at 4 per centum to the Investment Corporation.

(i) (1) The provisions of the Investment Company Act of August 22, 1940 (54 Stat. 789), as amended; the Investment Advisers Act of August 22, 1940 (54 Stat. 847), as amended; the Securities Act of May 27, 1933 (48 Stat. 74), as amended; and the Securities Exchange Act of June 6, 1934 (48 Stat. 881), as amended, relating to public disclosure, reporting, and protection of the interests of stockholders shall, to the extent consistent with the purposes of this Act, be applicable to the activities of the Investment Corporation for a period of thirteen years.

(2) The Investment Corporation and its duly authorized representatives may, by application to the Securities and Exchange Commission, in accord with the procedures of section 6(c) of the Investment Company Act of 1940, request appropriate waivers and exemptions from any of the provisions of the Acts referred to in subsection (1) hereof if necessary to accomplish the purposes of this Act or to avoid hardship. This provision shall apply only to the Investment Corporation and only during its period of existence as a federally chartered corporation under this Act.

(3) The Securities and Exchange Commission is authorized, should it prove necessary to provide business certainty, to prepare rules and regulations which identify those provisions of applicable law or existing regulations of the securities law which, consistent with the purposes and provisions of this Act, may be applied to the Investment Corporation. Rules and regulations prepared pursuant to this subsection may be waived or exemptions made thereto in accord with subsection (2) hereof. Such rules shall be prepared and issued according to the procedures set forth in section 4 of the Administrative Procedure Act, section 553 of title 5, United States Code, and shall be subject to judicial review only as rules issued in such manner are normally reviewed.

(j) The Directors shall annually prepare and cause to be deposited with the Securities and Exchange Commission a report or reports which shall include information and data required under the provisions of the Investment Company Act of 1940 and such additional information and reports as the Securities and Exchange Commission and the Investment Company Act of 1940 may require. Copies of the report or reports herein required shall be made available for public inspection at the chief offices of the Investment Corporation and a summary shall be furnished upon request to any shareholder of the Investment Corporation. The report herein required shall be in addition to, and not in lieu of, any other report or disclosure required by law.

(k) The internal affairs of the Investment Corporation shall be governed in accordance with the laws of the state designated by the board of directors pursuant to subsection (e) hereof, except to the extent inconsistent with the provisions of this Act, and except that—

(1) amendments to the articles of incorporation and annual reports shall be filed with the Securities and Exchange Commission and certified copies thereof shall be transmitted to the appropriate office of the state referred to in subsection (e) hereof; and

(2) the Investment Corporation shall not be subject to any State law which places a burden or duty upon it greater than is placed upon any other similar corporation, or, unless the Corporation so consents, to any State corporate law which is in effect applicable only to the Investment Corporation.

(l) (1) At the end of the twelfth fiscal year commencing with the fiscal year in which this Act becomes effective, by operation of law all of the assets of the Investment Corporation shall be transferred to and all of its liabilities assumed by a new business for profit corporation (hereinafter called the Successor Corporation) established pursuant to this subsection, and the Investment Corporation shall terminate.

(2) During the fiscal year preceding the date specified in section 10(l) (1), the directors of the Investment Corporation shall draft the articles of incorporation for the Successor Corporation, appoint incorporators, and take all other steps necessary to create the Successor Corporation under the laws of any State selected by the directors. The Successor Corporation will not be an agency or establishment of the United States, and shall not be governed by the terms of this Act, except as follows:

(A) payments from the Fund to the Investment Corporation provided in section 5(f);

(B) limitations on disposition of shares within fifteen years of incorporation of the Investment Corporation in section 10(g); and

(C) merger of the Services Corporation with the Successor Corporation to the Investment Corporation as allowed pursuant to subsection 8(h).

(3) The stock in the Investment Corporation issued pursuant to section 10(g) (3) shall be deemed canceled on the date specified in section 10(l) (1), and shares of stock in the Successor Corporation shall be issued in replacement to all stockholders in the Investment Corporation on that date.

(4) The Successor Corporation shall also issue shares of stock to the Foundation established pursuant to section 24 in such number that the Foundation shall hold 10 per centum of stock issued and outstanding under this section.

NATIVE VILLAGE CORPORATIONS

SEC. 11. (a) The Native members of each Native Village entitled to receive lands and benefits under this Act shall organize as a nonprofit membership corporation under the laws of the State before the Village Corporation may receive patent to lands or benefits under this Act except as otherwise provided. The initial articles of incorporation for each Village Corporation shall be subject to the approval of the Services Corporation. Amendments to the articles of incorporation and the annual budget of the Village Corporations shall, for a period of five years, be subject to review by the Services Corporation. The Services Corporation shall assist and advise Native Villages in the preparation of articles of incorporation and other documents necessary to meet the requirements of this subsection.

(b) Native Villages which are qualified under Alaska State law to organize as Municipal Corporations are encouraged to do so to be eligible for Federal grant-in-aid programs. In Native Villages which do not meet the population and other requirements of the State to organize as Municipal Corporations, and only for so long as they do not meet these requirements, the Village Corporations required to be established pursuant to this section shall be considered political subdivisions of the State solely for the purpose of being eligible for grants, loans, and contracts for planning, housing assistance, economic development, public works, construction, and other programs under Federal law which will assist Natives and Native Villages.

(c) Each Village Corporation shall have five incorporators. The incorporators shall be the Village Land Selection Committee as elected by the Native Village members pursuant to subsection 14(c) of this Act. After promulgation of the final membership roll in accordance with subsection 7(b) (2) the board of directors shall be elected by the Natives shown on the final membership roll in accordance with the articles of incorporation and the bylaws of the Village Corporation.

(d) Each Village Corporation shall be devoted to promoting the health, welfare, education, and economic and social well-being of its members and their descendants, and shall be authorized by its articles of incorporation, among other purposes, to construct, operate and maintain public works and community facilities, to engage in medical, educational, housing and charitable programs, to make loans and grants consistent with its corporate purposes, to foster industrial and economic development, to lease, sell, and manage real property and to distribute funds to its members and their descendants in furtherance of family plans.

(e) The Services Corporation shall not distribute more than the reasonable sums required for planning and administrative purposes and to deal with any pressing health and social problems to a Village Corporation until the Village Corporation has developed an initial program for the management, investment, and expenditure of such funds, and such program has been approved by the Services Corporation: *Provided*, That a failure or refusal of the Services Corporation to approve a Village program within ninety days after its receipt may be appealed to the Commission, and the Commission's decision thereon shall, without regard to subsection 6(j), be final. After approval of its initial program, each Village Corporation shall be entitled to distributions from the Services Corporation in accordance with this Act. The Services Corporation may invest for the benefit of a Village Corporation all moneys withheld under this paragraph until the Village program is approved.

(f) The articles of incorporation for each Village Corporation shall include the following provisions—

(1) all persons shown as members of the Native Village on the final membership roll prepared in accordance with section 7(b) of this Act shall be entitled to membership in the Village Corporation;

(2) for a period of at least thirteen years after the effective date of this Act, membership in a Village Corporation shall be limited to Natives and their descendants.

(g) (1) In any Native Village which is now organized or which becomes organized as a Municipal Corporation under State law within five years from the effective date of this Act, the Municipal Corporation shall be entitled to receive title to the surface estate of the land on which the village is located and as much additional land as is necessary for community expansion. Prior to the transfer of lands from a Village Corporation to a Municipal Corporation, lands shall be granted to occupants pursuant to section 15(b) (2) (A), (B), and (D) and section 22(m) (2) (B) (i), (ii) and (iv). The acreage limitations in section 15(b) (2) (C) and section 22(m) (2) (b) (iii) shall apply to the transfer.

(2) In addition to the land grants referred to in subsection (1) hereof, Village Corporations shall also grant to Municipal Corporations or, where appropriate, to the State, title to existing rights-of-way necessary for public use, airport sites, and such other interests in land as are reasonably necessary for public use and benefit: *Provided*, That this subsection does not require the creation of floating easements or rights-of-way unless the Village Corporation decides to grant such rights-of-way for future use and expansion

(3) The Alaska Native Commission shall settle any disputes with respect to the land transfers required under subsections (1) and (2) hereof and the Commission's decision shall, without regard to subsection 6(j), be final.

URBAN AND NATIONAL CORPORATIONS

SEC. 12. (a) (1) There shall be established two nonprofit, membership corporations as follows:

(A) Alaska Native Urban Corporation; and

(B) Alaska Native National Corporation.

(2) The Urban Corporation shall be incorporated under the laws of Alaska. The Natives listed on the temporary census roll under section 7(a) (1) who are listed as residents in Alaska but not as members of any Native Village shall be its temporary members and the Natives listed as members of the Urban Alaska Native roll under subsection 7(d) of this Act shall be its permanent members.

(3) The National Corporation shall be incorporated under the laws of any State other than Alaska determined by the incorporators and approved by the board of the Services Corporation to be the most appropriate. The Natives listed on the temporary census roll under section 7(a) (1) who are listed as not resident in Alaska and not members of any Native Village shall be its temporary members, and the Natives listed as members of the Alaska Native National roll under subsection 7(e) of this Act shall be its permanent members.

(4) The board of directors of the Services Corporation shall, within thirty days after their appointment, appoint five incorporators for each of the corporations established under this section and shall select as such incorporators persons whom the board deems to be knowledgeable in the needs of, and benefits desired by, the respective members of each corporation. The incorporators of each corporation shall, within sixty days after their appointment, prepare and submit to the Services Corporation, articles of incorporation and bylaws for the government of their respective corporations not inconsistent with the provisions of this Act. When the articles of incorporation and bylaws of either of such corporations are approved by the board of the Services Corporation, or if they shall not have been disapproved by the board within thirty days after they shall have been received, the articles of incorporation shall be filed with appropriate authorities in the state of incorporation and all other actions necessary to establish corporate existence shall be performed.

(5) The Urban and National Corporations shall be managed by their respective boards of directors, each of which boards shall be comprised of not less than five members.

(A) The incorporators shall constitute the initial board of directors to hold office until their successors are elected. They may engage such legal counsel, advisers and employees and perform such further acts as may be required to carry out the purposes of this Act. Any contract or other obligation of the corporation existing upon the date of the first election of directors shall be terminable at will by the corporation at any time within ninety days thereafter.

(B) All directors other than the initial board of directors shall be elected by the members of the respective corporations who are nineteen years of age or over at the time of voting. The first election shall be held within four months following:

(i) completion of the temporary census roll under subsection 7(a) of this Act, or

(ii) commencement of the existence of the corporation under the laws of its state of incorporation, whichever occurs later.

(6) The article of incorporation and the bylaws of the Urban Corporation and the National Corporation may be amended from time to time. Such amendments made during the first five years after the effective date of this Act shall be filed with the Secretary and the Services Corporation.

(7) The Urban Corporation and the National Corporation shall manage and use the funds distributed to them in accordance with this Act to serve the needs of their members and members' descendants. They shall have all of the powers granted to nonprofit corporations under the laws of their respective states of incorporation, except as such powers may be limited by their articles of incorporation and bylaws; and they shall carry out activities, either directly or through other instrumentalities, directed toward promoting the health, welfare, education, and cultural, social and economic development of their members and members' descendants.

(8) The National Corporation shall maintain an office or offices in its state of incorporation and in such other location or locations as will best serve the needs of its members.

(b) The provisions of subsection 11(e) of this Act relating to the distribution, withholding and investment of sums to, and for the benefit of, Village Corporations shall apply also with regard to sums received by the Services Corporation for distribution to the Urban and National Corporations.

(c) The Urban and National Corporations shall be entitled in proportion of their memberships to the total final membership roll to receive distributions from the Services Corporation on the same basis as Village Corporations, including, prior to completion of the final membership roll, advances for organizational, planning, and administrative purposes and to deal with pressing health and social problems.

(d) The Urban Corporation and the National Corporation shall be entitled to a share, in proportion of their respective memberships to the total final membership roll, of the funds, retained pursuant to subsection 8(g), for administrative expenses and for contingency purposes.

(e) The Urban Corporation and the National Corporation shall be considered public instrumentalities eligible for grants, loans, and contracts for planning, housing assistance, economic development, and other programs under Federal law which will assist their members and members' descendants.

(f) Upon termination of the Services Corporation pursuant to subsection 8(h) the limitations established and the powers granted under this Act for each of the corporations established under this section 12 shall terminate, and by vote of not less than a majority of its members casting votes in accordance with its articles of incorporation and bylaws, the members of the Urban and National Corporations shall elect to reincorporate either as a nonprofit corporation or a business corporation for profit, or to merge or consolidate with other corporations or otherwise reorganize or liquidate as the members deem appropriate. If either such corporation fails for any reason to make such election and carry it into effect within one year after the Services Corporation shall have gone out of existence, it shall be dissolved and liquidated in accordance with the provisions of its articles of incorporation and bylaws and applicable State law.

WITHDRAWAL OF PUBLIC LANDS

SEC. 13. (a) Public Land Order Numbered 4582, 34 Federal Register 1025, is hereby revoked.

(b)(1) There are hereby withdrawn, subject to valid existing rights, from the selection by the State under the Statehood Act (72 Stat. 341, 77 Stat. 223) and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands in each township, which encloses all or part of any Native Village listed in subsection (c) hereof, and any Native Village not listed, but which is approved for benefits under this Act by the Alaska Native Commission pursuant to subsection (e) hereof, plus all public lands in each township which is contiguous to or corners upon the townships in which such Native Villages are located, except lands withdrawn or otherwise reserved for national defense purposes other than Naval Petroleum Reserve No. 4, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State where protraction diagrams of the Bureau of Land Management are not available.

(2) At the time any Native Village not listed in section 13(c) is approved for benefits under this Act by the Commission pursuant to section 13(e), there shall be withdrawn, subject to valid existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands in each township which encloses all or part of the Native Village, plus all public lands in each township which is contiguous to or corners upon the township in which the Native Village is located, except lands excepted from withdrawal under section 13(b)(1).

(3)(A) In the event that any Native Village referred to in subsections (b) (1) and (2) hereof is located on lands which are not available for selection under this Act, there shall be withdrawn, subject to valid and existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, from among the available public lands, except lands excepted from withdrawal under section 13(b)(1), in order of their proximity to the center of the village, as much land of at least an equal character and value as the land upon which such Village is located as may be necessary for a withdrawal of nine townships of public lands for such Native Villages.

(B) The land exchange authority granted pursuant to section 16(a) of this Act may be exercised to make land exchanges with the State or other parties for the purposes of making lands on which villages referred to in subsection (b)(3)(A) hereof are located available for selection: *Provided*, That the Secretary shall classify those public lands suitable for exchange under this section before any exchanges are made.

(c) The following Native villages are qualified for land withdrawals under the provisions of subsection (b) (1) hereof:

NAME AND PLACE AND REGION

Akiachak, Southwest Coastal Lowland.
Akiak, Southwest Coastal Lowland.
Akutan, Aleutian.
Alakanuk, Southwest Coastal Lowland.
Aleknagik, Bristol Bay.
Alatna, Koyukuk-Lower Yukon.
Allakaket, Koyukuk-Lower Yukon.
Ambler, Bering Strait.
Anaktuvuk Pass, Arctic Slope.
Andreafsey, Southwest Coastal Lowland.
Aniak, Southwest Coastal Lowland.
Anvik, Koyukuk-Lower Yukon.
Arctic Village, Upper Yukon-Porcupine.
Atka, Aleutian.
Atkasook, Arctic Slope.
Barrow, Arctic Slope.
Beaver, Upper Yukon-Porcupine.
Belkofsky, Aleutian.
Bethel, Southwest Coastal Lowland.
Bill Moore's, Southwest Coastal Lowland.
Biorka, Aleutian.
Birch Creek, Upper Yukon-Porcupine.
Brevig Mission, Bering Strait.
Buckland, Bering Strait.
Candle, Bering Strait.
Cantwell, Cook Inlet.
Canyon Village, Upper Yukon-Porcupine.
Chalkyitsik, Upper Yukon-Porcupine.
Chanilut, Southwest Coastal Lowland.
Chefornak, Southwest Coastal Lowland.
Chevak, Southwest Coastal Lowland.
Chignik, Kodiak.
Chignik Lagoon, Kodiak.
Chignik Lake, Kodiak.
Chistochina, Copper River.
Chukwuktoligamute, Southwest Coastal Lowland.
Circle, Upper Yukon-Porcupine.
Clark's Point, Bristol Bay.
Copper Center, Copper River.
Crooked Creek, Upper Kuskokwim.
Deering, Bering Strait.
Dillingham, Bristol Bay.
Eagle, Upper Yukon-Porcupine.
Dot Lake, Tanana.
Eek, Southwest Coastal Lowland.
Egegik, Bristol Bay.
Eklutna, Cook Inlet.
Ekwok, Bristol Bay.
Elim, Bering Strait.
Emmonak, Southwest Coastal Lowland.
English Bay, Cook Inlet.
False Pass, Aleutian.
Fort Yukon, Upper Yukon-Porcupine.
Gakona, Copper River.
Galena, Koyukuk-Lower Yukon.
Gambell, Bering Sea.
Georgetown, Upper Kuskokwim.
Golovin, Bering Strait.
Goodnews Bay, Southwest Coastal Lowland.
Grayling, Koyukuk-Lower Yukon.
Gulkana, Copper River.
Hamilton, Southwest Coastal Lowland.
Holy Cross, Koyukuk-Lower Yukon.
Hooper Bay, Southwest Coastal Lowland.
Hughes, Koyukuk-Lower Yukon.
Huslia, Koyukuk-Lower Yukon.
Igiugig, Bristol Bay.
Iliamna, Cook Inlet.
Inalik, Bering Strait.
Ivanof Bay, Aleutian.
Kaktovik, Arctic Slope.
Kalskag, Souhwest Coastal Lowland.
Kaltag, Koyukuk-Lower Yukon.
Karluk, Kodiak.
Kasigluk, Southwest Coastal Lowland.
Kiana, Bering Strait.
King Cove, Aleutian.
Kipnuk, Southeast Coastal Lowland.
Kivalina, Bering Strait.
Kobuk, Bering Strait.
Koliganek, Bristol Bay.
Kokhanok, Bristol Bay.
Kongiganak, Southwest Coastal Lowland.
Kotlik, Southwest Coastal Lowland.
Kotzebue, Bering Strait.
Koyuk, Bering Strait.
Koyukuk, Koyukuk-Lower Yukon.
Kwethluk, Southwest Coastal Lowland.
Kwigilingok, Southwest Coastal Lowland.
Larsen Bay, Kodiak.
Levelock, Bristol Bay.
Lime Village, Upper Kuskokwim.
Lower Kalskag, Southwest Coastal Lowland.
McGrath, Upper Kuskokwim.
Makok, Koyukuk-Lower Yukon.
Manokotak, Bristol Bay.
Marshall, Southwest Coastal Lowland.
Mary's Igloo, Bering Strait.
Medfra, Upper Kuskokwim.
Mekroyuk, Southwest Coastal Lowland.
Mentasta Lake, Copper River.
Minchumina Lake, Upper Kuskokwim.

Minto, Tanana.

Mountain Village, Southwest Coastal Lowland.

Nabesna Village, Tanana.

Naknek, Bristol Bay.

Napaimute, Upper Kuskokwim.

Napakiak, Southwest Coastal Lowland.

Napaskiak, Southwest Coastal Lowland.

Nelson Lagoon, Aleutian.

Newhalen, Cook Inlet.

Nenana, Tanana.

New Stuyahok, Bristol Bay.

Newtok, Southwest Coastal Lowland.

Nightmute, Southwest Coastal Lowland.

Nikolai, Upper Kuskokwim.

Nikolsi, Aleutian.

Ninilchik, Cook Inlet.

Noatak, Bering Strait.

Nome, Bering Strait.

Nondalton, Cook Inlet.

Nooiksut, Arctic Slope.

Noorvik, Bering Strait.

Northeast Cape, Bering Sea.

Northway, Tanana.

Nulato, Koyukuk-Lower Yukon.

Nunapitchuk, Southwest Coastal Lowland.

Ohogamiut, Southwest Coastal Lowland.

Old Harbor, Kodiak.

Oscarsville, Southwest Coastal Lowland.

Ouzinkie, Kodiak.

Paradise, Koyukuk-Lower Yukon.

Paulof Harbor, Aleutian.

Pedro Bay, Cook Inlet.

Perryville, Kodiak.

Pilot Point, Bristol Bay.

Pilot Station, Southwest Coastal Lowland.

Pitkas Point, Southwest Coastal Lowland.

Platinum, Southwest Coastal Lowland.

Point Hope, Arctic Slope.

Point Lay, Arctic Slope.

Portage Creek (Ohgsenakale), Bristol Bay.

Port Graham, Cook Inlet.

Port Lions, Kodiak.

Port Heiden (Meshick), Aleutian.

Quinhagak, Southwest Coastal Lowland.

Rampart, Upper Yukon-Porcupine.

Red Devil, Upper Kushkowim.

Ruby, Koyukuk-Lower Yukon.

Russian Mission (Kuskokwim) (or Chauthalue), Upper Kuskokwim.

Russian Mission (Yukon), Southwest Coastal Lowland.

St. George, Aleutians.

St. Mary's, Southwest Coastal Lowland.

St. Michael, Bering Strait.

St. Paul, Aleutians.

Salamatof, Cook Inlet.

Sand Point, Aleutians.

Savonoski, Bristol Bay.

Savoonga, Bering Sea.

Scammon Bay, Southwest Coastal Lowland.

Selawik, Bering Strait.

Shageluk, Koyukuk-Lower Yukon.

Shaktoolik, Bering Strait.

Sheldon's Point, Southwest Coastal Lowland.

Shishmaref, Bering Strait

Shungnak, Bering Strait.

Slana, Copper River.

Sleetmute, Upper Kuskokwin.

South Naknek, Bristol Bay.

Squaw Harbor, Aleutians.

Stebbins, Bering Strait.

Stevens Village, Upper Yukon-Porcupine.

Stony River, Upper Kuskokwim.

Tanacross, Tanana.

Tanana, Koyukuk-Lower Yukon.

Telida, Upper Kuskokwim.

Teller, Bering Strait.

Tetlin, Tanana.

Togiak, Bristol Bay.

Toksook Bay, Southwest Coastal Lowland.

Tuluksak, Southwest Coastal Lowland.

Tuntutuliak, Southwest Coastal Lowland.

Tununak, Southwest Coastal Lowland.

Twin Hills, Bristol Bay.

Tyonek, Cook Inlet.

Ugashik, Bristol Bay.

Unalakleet, Bering Strait.

Unalaska, Aleutian.

Unga, Aleutian.

Uyak, Kodiak.

Venetie, Upper Yukon-Porcupine.

Wainwright, Arctic Slope.

Wales, Bering Strait.

White Mountain, Bering Strait.

(d) Any of the villages listed in subsection (c) hereof shall not be eligible for land or benefits under this Act if the Commission determines within three years from the effective date of this Act that—

(1) less than twenty-five Natives are residents of the village; or

(2) the village is of a modern and urban character, that the majority of the residents are non-Native, and that the best interests of the Native residents would be served if they derived benefits through the Urban Corporation and other land provisions of this Act rather than as a Native Village; or

(3) the village was not in existence of the date of enactment of this Act: *Provided*, That this provision shall not be used to exclude any Native Village otherwise eligible which has been required to move to a new location because of a natural disaster or the actions of any governmental agency.

(e) Native Villages not listed in subsection (c) hereof shall be eligible for land and benefits under this Act and added to the village roster if the Commission determines that—

(1) twenty five or more Alaska Natives are residents of an established village; and

(2) the best interests of the Native residents would be served if they derived benefits under the Act as a Village Corporation; and

(3) the village would not be disqualified by the provisions of subsection (d) hereof.

(f) In making the determinations required pursuant to subsections (d) and (e) hereof, the Commission shall review all relevant evidence offered by the members of the concerned Native group or their representatives and shall review any recommendations of the State and the Secretary. The Commission's determination shall, without regard to section 6(j), be final.

(g) In addition to determining which villages are entitled to land and other benefits under the terms of this Act, the Commission shall determine the total land acreage which eligible Village Corporations shall be entitled to select. The maximum grant of land which the Commission may award to an eligible Village Corporation shall be twenty-three thousand and forty acres for those Villages having an enrollment of less than four hundred Natives and an additional twenty-three thousand and forty acres for each additional four hundred Natives enrolled as members of the Village as follows: four hundred to eight hundred enrolled Natives, forty-six thousand and eighty acres; eight hundred to one thousand and two hundred enrolled Natives, sixty-nine thousand and one hundred twenty acres; one thousand and two hundred to one thousand and six hundred enrolled Natives, ninety-two thousand and one hundred sixty acres; one thousand and six hundred to two thousand enrolled Natives, one hundred and fifteen thousand two hundred acres; and two thousand to two thousand four hundred enrolled Natives, one hundred and thirty-eight thousand two hundred forty acres. In making determinations pursuant to this subsection the Commission shall consider the following factors:

(1) the Native population of the Village;

(2) the nature of the use, both historic and present, of the lands surrounding the Native Village including the carrying capacity of the surrounding lands and biological community in relationship to the village population and subsistence use patterns of the Native residents therein;

(3) the amount of land needed for prospective community expansion, the area to be granted to Municipal Corporations or to the State, and the area to be granted for access, rights-of-way, and other public services and facilities;

(4) the nature and economic value of the lands surrounding the village (without regard to the mineral estate) for the purpose of insuring some degree of comparability in value as between Native Villages; and

(5) the comprehensive land use plan prepared by the Village Corporation with the assistance of the Services Corporation staff pursuant to subsection (8) (i) hereof.

In making the determinations required by this subsection the Commission shall consider the geographical relationship of individual villages to the lands in question and should avoid determinations which result in land grants that are separated by large bodies of water unless one of the above factors or the operation of section 13(b) (3) makes such a determination reasonably necessary. The Commission's determinations under this subsection shall, without regard to section 6(j), be final.

(h) (1) The Secretary, after consultation with the Commission and, where appropriate, with the Secretary of Agriculture or the Secretary of Defense, is authorized to withdraw from all forms of appropriation under the public land laws any public lands reasonably necessary to protect: (A) any settlement of a Native group established as of April 15, 1969, and not otherwise eligible for lands under this Act; (B) any historic Native village from which the population has been required to move, because of either direct or indirect actions of the Federal, State, or local government, and to which twenty-five or more adult Natives wish to return and reside; (C) any place which constitutes a new Native village location to which by virtue of natural phenomenon, or direct or indirect governmental actions, twenty-five or more adult Natives wish to relocate; or (D) any land occupied by a Native as a primary place of residence on May 1, 1970, and continuing on the effective date of this Act: *Provided, however,* That any withdrawal made pursuant to this subsection shall not exceed one township.

(2) The Commission shall determine the amount of land to which any Native group or individual is entitled under paragraph (1) hereof. The decision of the Commission shall, without regard to subsection 6(j), be final. Lands granted to Native groups or individuals pursuant to this subsection shall not exceed five thousand seven hundred and sixty acres under subsections (1) (A), (B), and (C) hereof nor more than one hundred and sixty acres under subsection (1) (D) hereof. Any lands granted under this subsection shall be patented by the Secretary on the basis of the Commission's decision and shall be deducted from the one million-acre "miscellaneous" selection right created by subsection 18(b) (2). Patents issued pursuant to this subsection shall not include the leasable or locatable mineral estate.

(3) Where the lands referred to in subsection (h) (1) hereof are located within the national park system, the national forest system or the national wildlife refuge system the Secretary in withdrawing lands, and the Commission in granting lands pursuant to this subsection, may reduce the amount of lands withdrawn and granted to insure that the purposes for which these lands were reserved by the United States may be achieved with a minimum of interference.

(i) If the Secretary determines that a substantial dispute is involved or that the best interests of justice would be served he may direct that a public hearing be held in accordance with such rules as he shall prescribe prior to making any of the withdrawals permitted by subsection (h) hereof. Any hearings held pursuant to this subsection shall be held within five years of the date of enactment of this Act. The Commission shall consider, in any contested case, the hearing record prepared by the Secretary as well as his recommendations in making its determinations. The actions of the Commission under this subsection shall, without regard to section 6(j), be final.

(j) Pending the disposition of any lands withdrawn under this section, the Secretary is authorized to take such actions as may be necessary to administer, manage, and protect the withdrawn public lands for the benefit of the potential beneficiaries and the United States in accord with section 16 of this Act.

SELECTION OF PUBLIC LANDS

SEC. 14. (a) Upon application of any Native Village found eligible for land selections pursuant to section 13 of this Act, and upon certification thereof by the Commission, and after survey of the area selected pursuant to section 15(a), the Secretary shall issue a patent, without payment therefor, to the Village Corporation, or, if not yet incorporated, in trust to the Services Corporation for the benefit of the Native Village pending its incorporation as provided in section 11, for that amount of land to which the Native Village is found entitled by the Commission pursuant to the procedures set out in subsection 13(g). Lands to be patented may be selected, subject to all valid existing rights, from any public land within areas withdrawn for each Native Village under the provisions of section 13 of this Act.

(b) In exercising selection rights pursuant to subsection (a) hereof, Native Village Corporations shall select from among the public lands withdrawn pursuant to section 13, and all such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than one thousand two hundred and eighty acres. In the event the public lands withdrawn pursuant to section 13 are not sufficient in amount to satisfy the entitlement of any Village Corporation, as determined by the Commission, such Corporation may select noncontiguous tracts from among the vacant and unappropriated public lands, without regard to section 23, in order of their proximity to the center of the village until the Village Corporation's selection rights are exhausted.

(c) Within 2 months after a determination by the Commission that a Native Village is eligible for a grant of land pursuant to subsections 13 (d) and (e), the Secretary shall conduct an election for the village, under such rules and regulations as he may prescribe, to choose a five-member Village Land Selection Committee. The committee so elected is hereby authorized to exercise the land selection rights of the village pending organization of the Village Corporation. The persons entitled to vote in the election or serve on the Land Selection Committee shall be the members of each Native Village nineteen years of age or over, as shown on the temporary census roll prepared pursuant to section 7(a).

(d)(1) Where two or more Native Villages, because of proximity in location, are entitled to select lands in the same townships and actually select the same lands, their Village Corporations, or if not yet organized, their Land Selection Committees, shall be authorized to settle the overlap by negotiation and, in furtherance of any such settlement, to release selected lands to each other. If Native Villages making overlapping selections do not reach agreement within six months after the date such conflict arises, the controversy may be referred to the Commission by the Village Corporation or the Land Selection Committee for decision in accordance with section 6 of this Act. The Commission shall award the land, or portions thereof, to the Native Village or Villages shown historically by a preponderance of the evidence to have made greater use and occupancy thereof, or in such manner as will do substantial justice. The decision of the Commission shall, without regard to subsection 6(j), be final.

(2) A Native Village which releases selected lands in order to settle an overlap, or which loses selected lands under a Commission award in accordance with subsection (d)(1) hereof, shall be entitled to select additional public lands pursuant to subsection (b) hereof, until its selection rights are exhausted, and, notwithstanding the provisions of subsection (e) hereof, all townships withdrawn under section 13 around a Native Village which is a party to a selection overlap shall remain in withdrawn status until three months after final settlement of the overlap or a final decision of the Commission concerning the overlap.

(e) Except as otherwise provided in subsection (d)(2) hereof, all public lands withdrawn pursuant to section 13, which have not been selected by a Village Corporation under this section, shall eighteen months after the effective date of this Act, or six months after the election required under subsection (c) hereof, whichever later occurs, be placed in the status provided for by section 23 of this Act: *Provided*, That lands withdrawn around a Village whose eligibility for land selection has not been finally determined by the Commission within eighteen months after the effective date of this Act shall remain withdrawn until six months after the Commission makes the determinations required pursuant to subsection 13 (d) through (g).

SURVEY AND CONVEYANCE OF LANDS

SEC. 15. (a) The Secretary shall promptly survey the townships withdrawn under section 13 and the areas selected for conveyance to Village Corporations pursuant to section 14 of this Act, but need monument only the exterior boundaries of these townships or areas. He also shall promptly survey (1) within the townships withdrawn or areas selected all lands occupied as a primary place of residence, a primary place of business, subsistence campsites, reindeer grazing grounds, and for other purposes as required under subsection (b)(2) hereof, and (2) any other land to be patented under this Act.

(b)(1) Upon completion of the survey of lands selected by a Village Corporation, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to the Village Corporation to the land and all interests therein, except minerals covered by the Federal mineral leasing laws, subject to valid existing rights, and subject to the provisions of paragraph (2) hereof, and the provisions of section 14(a).

(2) Upon receipt of a patent or patents to selected lands, Village Corporations or the Services Corporation on their behalf—

(A) shall issue deeds to the occupants, without payment of any consideration, to the surface estate for any tracts occupied by Natives as a primary place of residence, as a primary place of business, or used for subsistence campsites or for reindeer husbandry, subject to valid existing rights;

(B) shall issue deeds to the occupants, either without consideration or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate for any tracts occupied by non-Natives as a primary place of residence or a primary place of business, subject to valid existing rights: *Provided*, That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(C) shall issue deeds pursuant to subsection 11(g), without payment of any consideration, to any Municipal Corporation in the Native Village or to any Municipal Corporation established in the Native Village within five years of the date of enactment of this Act, to the surface estate of the improved land on which the village is located and of as much additional land as is necessary for community expansion, for appropriate rights-of-way for public use, airport sites, and such other interests in land as are reasonably necessary for public use and for foreseeable community needs: *Provided*, That prior to the transfer of lands from a Village Corporation to a Municipal Corporation, individuals shall receive patent to any lands used for residences and businesses: *And provided further*, That the amount of lands to be transferred to the Municipal Corporation shall be no less than one hundred and sixty acres;

(D) shall issue deeds to the occupants, either without consideration or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate for any tracts occupied by nonprofit organizations for the purposes for which such organizations were established, subject to valid existing rights: *Provided*, That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(E) may issue deeds, subject to valid existing rights, to all others.

Any dispute over the boundaries, use, occupancy or value of any tract which is covered by this paragraph may be submitted by any party to the dispute to the Commission for decision. The decision of the Commission, without regard to subsection 6(j), shall be final.

(c) Upon completion of the survey of lands selected by any Village Corporation, as provided in subsection (a) hereof, and contemporaneous with the issuance of patents to Village Corporations as provided in subsection (b) hereof, the Secretary shall issue a patent or patents to all minerals in such village lands covered by the Federal mineral easing laws, subject to valid existing rights, to the Services Corporation. At the time of such conveyance, the Services Corporation shall succeed and become entitled to any and all interests of the United States, as lessor, contractor, or permitter, in any mineral leases, contracts or permits covering lands selected by any Village Corporation as provided in subsection (j) of this section.

(d) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years from the effective date of this Act, issue a patent, without payment thereof, to any adult Native or Native group, subject to all valid existing rights, to the surface estate of any public land located in Alaska, outside of areas selected pursuant to this Act, except land within the national park system, national wildlife refuge system, national forest system, or land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4, which has been used by such adult Native or Native group for a period of more than three years immediately prior to the effective date of this Act as a campsite for the harvesting of fish, wildlife, berries, fuel, or other products of the land. Such patents shall be issued—

(1) for five-acre tracts for each subsistence use campsite separate from the campsite of any other applicant;

(2) for forty-acre tracts where the campsites of several applicants are in such proximity to each other as to make it not feasible to patent individual five-acre campsites; or

(3) for larger tracts, not to exceed sixty acres, where individuals can establish, under such rules and regulations as the Commission may prescribe, historic occupancy and use of the larger tracts.

Applications for patents under this subsection must be filed with the Commission within five years after the effective date of this Act. Pending the issuance of a patent for campsites under this subsection the Secretary is authorized to permit the use of such lands, upon which applications have been filed, as campsites. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(e) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent, without payment therefor, for the surface estate of up to two thousand five hundred and sixty acres to each bona fide reindeer husbandryman, family, or Native group who on the effective date of this Act was practicing reindeer management. Patents issued under this subsection may cover any public lands in Alaska outside the areas selected pursuant to this Act, subject to all valid existing rights, that on the effective date of this Act are leased, permitted, or used for reindeer management purposes, including summer and winter range facilities and intervening line camps. Lands granted pursuant to this subsection shall not include any lands selected pursuant to section 14 and shall not include lands within the national park system, national wildlife refuge system, national forest system or land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(f) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent without payment therefor, for up to, but not to exceed, one hundred and sixty acres of land and interests therein, except the minerals covered by the Federal mineral leasing laws, and subject to all valid existing rights, from any public lands within the areas withdrawn for Natives under section 13, but not selected pursuant to section 14 of this Act to any Native occupying land within such one hundred and sixty acres on the effective date of this Act as a primary place of residence. The Secretary is authorized to apply the rule of approximation with respect to the acreage limitations set forth in this subsection.

(g) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent without payment therefor, of up to, but not to exceed, one hundred and sixty acres to the surface estate of any public land located in Alaska, subject to all valid existing rights, except land within the national park system, national wildlife refuge system, and national forest system, and land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4, to any Native nineteen years of age or older occupying such lands as a primary place of residence on the effective date of this Act and whose residence is outside the areas withdrawn for the benefit of Native Villages by section 13 of this Act. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(h) Notwithstanding the provisions of subsections (d) and (e) hereof any adult Native or Native group may apply for and shall receive special use permits for lands within any national wildlife refuge for the purposes set out in subsections (d) and (e) hereof: *Provided further,* That notwithstanding the provisions of subsection (g) hereof any Native nineteen years of age or older whose primary place of residence or business is outside the areas withdrawn by section 13 of this Act, but within the national wildlife refuge system, shall be entitled to a patent of up to eighty acres of land. Such patent shall be issued pursuant to the procedures set forth in subsection (g) hereof.

(i) In carrying out the provisions of this section, patents shall be issued by the Secretary in accordance with the following priorities:

(1) Within the areas withdrawn pursuant to section 13 of this Act—

(A) lands selected by Native Village Corporations;

(B) land for individual places of residence; and

(C) land for subsistence campsites and reindeer management areas.

(2) Outside the areas withdrawn pursuant to section 13 of this Act—

(A) land for individual places of residence;

(B) land for subsistence campsites; and

(C) lands for reindeer husbandry.

(j) Where, prior to patent of any land or minerals under this section, a lease, contract, or permit has been issued for the utilization of surface or mineral resources covered under such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the estate patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that the patent does not cover all of the land embraced within any such lease, contract, or permit, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.

(k) The Secretary shall require as a condition to the granting of each permit to prospect, or to the granting of each lease to mine or drill for minerals covered by the Federal mineral leasing laws, on lands patented pursuant to subsections (d) through (h) of this section, and are not covered by such patent, that the permittee or lessee shall provide a bond, satisfactory to the Secretary, to indemnify the surface patentee for any damages which such permittee or lessee may cause in connection with the development of such permit or lease, and further the Secretary shall include provisions in such lease or permit which will protect the surface patentee against unreasonable interference in the use of his land.

ADMINISTRATION OF LANDS

SEC. 16. (a) Natives, Village Corporations and the Services Corporation may exchange lands and interests in lands with each other, or with the State or the United States and the Secretary, the Secretary of Agriculture, and the Secretary of Defense, under such rules and regulations as they respectively may prescribe, may exchange land and interests in lands under their jurisdiction and classified as suitable for exchange with Village Corporations, the Services Corporation, and Natives, for the purpose of effecting land consolidations or to facilitate the management or development of land. Exchanges of land and interests in lands hereunder shall be made on the basis of equal value, and the value of improvements on lands shall be given due consideration and allowance made therefor in any valuation: *Provided,* That either party to an exchange under this subsection may pay or accept cash in order to equalize the values of the properties exchanged.

(b) Pending the patenting to a Village Corporation pursuant to section 15 of public lands withdrawn pursuant to section 13, or the restoration of such lands to the status in which they had been placed pursuant to section 23, the Secretary may take such actions as shall be necessary to administer, manage, and protect such withdrawn public lands: *Provided,* That the Secretary shall not sell or otherwise permanently dispose of lands or interests therein, except as provided in this subsection: *And provided further,* That the Secretary shall not, without the consent of the Services Corporation, issue or enter into any lease, contract, or permit covering lands withdrawn pursuant to this Act which will be in effect more than eighteen months after the effective date of this Act. The Secretary may renew existing leases which would be in effect more than eighteen months after the effective date of this Act only if the basic lease provides for a right of renewal and then only on the terms provided in the basic lease. The Secretary, with the approval of the Commission, and in accordance with such rules and regulations as he shall prescribe, may grant an easement or right-of-way for a public purpose over, across, under, or through withdrawn public lands on condition that the grantee of such easement or right-of-way (1) shall provide a bond, satisfactory to the Secretary, in an amount sufficient to pay the fair market value of any interest the grantee acquires in lands which may be subsequently selected by a Village Corporation, issue or enter into any lease, contract, or permit resources of the land and the environment, including fish and wildlife, and to protect the surface owner from unreasonable interference in the enjoyment of his land. All payments or revenues attributable to the use or other disposition of withdrawn lands later selected by a Village Corporation, after deducting the cost of administration thereof, shall be paid to the Village Corporation, or to the Services Corporation, as appropriate: *Provided,* That if the selected land does not include all of the land covered by a particular lease, contract, or permit, the amount of the revenues therefrom to be paid to such Village Corporation, or to the Services Corporation, as appropriate, shall be the proportion which results from multiplying the revenues attributable to such lease, contract, or permit (after deducting the cost of administration thereof) by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the selected land and the denominator is the total acreage contained in such lease, contract, or permit.

(c) After lands are patented pursuant to sections 15 and 22 of this Act, Village Corporations and the Services Corporation may hold, manage, lease, or dispose of such lands and interests therein in accordance with the laws of the State: *Provided,* That for a period of twelve fiscal years after the effective date of this Act, any sale (other than a sale or grant under section 15(b)(2)), mortgage, surface lease for a term (including renewals) of more than twenty years, grant of a permanent easement or right-of-way, or gift of such lands, or interests in lands by a Village Corporation shall require the approval of the Services Corporation in order to be valid: *Provided further,* That easements or rights-of-way for public purposes may be acquired within such lands by condemnation in accordance with the laws of the State without any necessity for approval of the Services Corporation.

REVENUE SHARING

SEC. 17. (a) (1) Disposition of all deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in public lands in Alaska and of all deposits of any other minerals located in such lands which the Congress may hereafter authorize to be disposed of by sale or lease, after the effective date of this Act shall be made only pursuant to the terms of this Act and shall be subject to the provisions on revenue sharing as provided in this section. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 et seq.), and the Mineral

Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) shall apply to the extent that such provisions are not inconsistent with this Act.

(2) All revenues derived by the United States from rentals and bonuses upon disposition of such minerals during the period beginning January 1, 1969, and ending on the effective date of this Act, shall be distributed as provided in the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), except that, prior to calculating the shares of the State and the United States as set forth in such Act, 2 per centum of such proceeds shall be deducted and paid into the Fund. From the royalty derived by the United States from the disposition of such minerals during the same period, an amount equal to 2 per centum of the gross value of the minerals (as the gross value thereof is determined for royalty purposes under the lease involved) shall be deducted and paid into the Fund, and the respective shares of the State and the United States in such royalty shall be calculated on the remaining balance.

(3) All leases or other dispositions of such minerals made after the effective date of this Act shall provide that prior to calculating the respective shares of the State and the United States in such proceeds under the Statehood Act: (A) a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid into the Fund; and (B) 2 per centum of all revenue derived from rentals and bonuses shall be deducted and paid into the Fund.

(b) Should the United States ever dispose of deposits of minerals referred to in subsection (a)(1) of this section located within Naval Petroleum Reserve No. 4, such disposition shall be made only under such competitive bidding procedures as the Secretary shall prescribe by regulation. The provisions of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), as amended and supplemented, shall apply to the extent that such provisions are not inconsistent with this Act. Any leases or other dispositions of such minerals shall be made in accordance with this subsection and shall provide: (1) that a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid into the Fund from the royalties derived by the United States; (2) that 2 per centum of all revenues derived from rentals and bonuses upon disposition of such minerals shall be deposited in the Fund; and (3) that the remaining proceeds from the disposition of such minerals shall be deposited as miscellaneous receipts to the Treasury of the United States.

(c) The royalties provided under this section shall not operate to exclude lands subject thereto from selection by the State under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), if such lands otherwise are available for selection. Every patent of public lands issued to the State under the Statehood Act after the effective date of this Act, however, shall expressly reserve for the benefit of the Natives: (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under any lease or other disposition by the State) of the minerals referred to in subsection (a) hereof produced on or removed from such lands from the royalties payable to the State; (2) a right to receive 2 per centum of all revenues derived by the State from rentals and bonuses upon disposition of such minerals. There are also reserved for the benefit of the Natives from and after January 1, 1969, an amount equal to a like royalty and other revenues from rentals, royalties and bonuses payable to the State under (i) leases of the United States which are or may be assumed by the State under section 6(h) of the Alaska Statehood Act, and (ii) under conditional leases and sales made pursuant to section 6(g) of the Alaska Statehood Act in the case of lands heretofore or hereafter selected by the State, the selection of which is or was tentatively approved by the Secretary, but as to which patents had not issued to the State by January 1, 1969: *Provided, however,* That the bonus revenues received by the State at the September 1969, sale of lands tentatively approved under the Statehood Act shall not be subject to the 2 per centum revenue sharing provisions of this section, nor shall rentals received pursuant to such sale to the date of April 15, 1970. Any royalty, and rentals received to such sale after April 15, 1970, shall be subject to the revenue sharing provisions of this section.

(d) Revenues received by the United States or the State as compensation for estimated drainage of oil and gas shall, for purposes of this section, be deemed to be revenues from the disposition of oil and gas and the appropriate payments shall be paid into the Fund on account thereof. All royalty and other revenues required to be paid under this section shall be paid into the Fund promptly after the expiration of the fiscal year in which they accrue by the Secretary of the Treasury or the State, as the case may be, and shall be distributed or withdrawn therefrom only in accordance with this Act. In the event the United States or the State elects to take royalties in kind, there shall be paid into the Fund on account thereof an amount equal to the royalties that would have been paid into the Fund under the provisions of this section had the royalty been taken in cash.

(e) The payments required pursuant to this section shall continue only until $500,000,000 has been paid into the Fund. Thereafter the provisions of this section shall not apply and the reservation required in patents under subsection (c) of this section shall be of no further force and effect.

(f) The provisions of this section requiring revenue sharing by the State shall be enforceable by the United States on behalf of the Natives but this shall not preclude the Services Corporation, or its successor, from pursuing any remedies available to it in the event of default by the State. In the event of default by the State in making any payments due under this section, and in addition to any other remedies provided by law, there shall be deducted annually and deposited in the Fund the amount of any underpayment, to be taken first from the share of mineral revenues from public lands in Alaska which would otherwise be paid to the State pursuant to Federal law and, if such share is insufficient, from any other funds otherwise payable to the State as grants-in-aid by the United States which the President of the United States, at his discretion, deems appropriate.

(g)(1) The provisions of this section requiring revenue sharing by the State and the United States are enacted pursuant to the authority reserved by the United States in section 4 of the Alaska Statehood Act to determine the disposition of lands used and claimed by Natives and as to which the State was, by the Alaska Statehood Act, required to and did disclaim all right and title. Therefore:

(A) in the event that the State initiates litigation or becomes a party to litigation to contest in any manner the operation of this section 17 all rights of land selection granted to the State by the Alaska Statehood Act shall be suspended as to any public lands which are determined by the Secretary as potentially valuable for mineral development, timber or other commercial purposes, and no selections shall be made, no tentative approvals shall be granted, and no patents shall be issued for such lands during the pendency of such litigation; and

(B) in the event that the State or any other party initiates litigation to contest in any manner the operation of this section and any of the provisions of this section are judicially determined to be inapplicable to the State, such suspension and prohibition on the granting of tentative approvals and issuance of patents shall continue for as long as may be necessary, but not in excess of two years, to allow the Services Corporation or its successor an opportunity to select, out of lands described in section 18(a), in addition to the selection rights provided for in that section, the mineral estate of one million acres of land in noncontiguous blocks of our townships, half of which must be south of the Brooks Range. The Secretary upon application therefor filed by the Services Corporation or its successor shall issue to the Services Corporation or its successor, without payment, a patent to the mineral estate in the lands selected, subject to all valid and existing rights. Where, prior to such patent, a lease, contract, or permit has been issued for the utilization of the mineral resources covered under such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of such patent, the Services Corporation shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the minerals patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that the patent does not cover all of the land embraced within any such lease, contract, or permit, the Services Corporation shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.

(2) Any civil action commenced by the State or by any other parties to contest in any manner the purpose and the substantive operation of this section 17 shall be barred unless the complaint is filed within one year of the date of enactment of this Act. The purpose of this limitation on suits is to insure that, after the expiration of a reasonable period of time, the right, title and interest of the United States, the Natives and the State to share in revenues will vest with certainty and finality and may be relied upon by all other parties in their dealings with the State, the Natives and the United States.

(3) In the event that rights of land selection granted to the State by the Alaska Statehood Act should ever be suspended pursuant to the provisions of subsection (g)(1)(A) hereof, the State's right of land selection pursuant to section 6 of the Alaska Statehood Act, Act of 1958 (72 Stat. 341, 77 Stat. 223) shall be extended for a period of time equal to the period of time as the selection right was suspended pursuant to the provisions of subsection (g)(1)(A).

(h) The respective shares of the United States and the State with respect to payments to the Fund required by this section shall be determined pursuant to this subsection and in the following order:

(1) first, from sources identified under subsection (c) hereof;

(2) then, from sources identified under subsection (a) hereof; and

(3) then, subject to the provisions of subsection (b), from sources identified in subsection (b) hereof.

(i) The provisions of this section do not apply to mineral revenues received from the Outer Continental Shelf.

LAND SELECTION FOR ECONOMIC POTENTIAL

SEC. 18. (a) Upon application filed by the Services Corporation with the Commission and upon certification thereof, the Secretary shall issue a patent, without payment therefor, to the Services Corporation, subject to all valid and existing rights, to the appropiate interest in any public lands located in the State as provided in subsection (b) hereof. Any lands within the national park system, national wildlife refuge system, and national forest system, and lands withdrawn or reserved for national defense purposes including Naval Petroleum Reserve No. 4, shall be excluded from the selection rights granted to the Services Corporation by this section.

(b) The Services Corporation is granted the right to select, subject to subsection (a) hereof, lands in the amounts set out below and subject to the limitations of this section:

(1) the surface estate of two million acres of public land for timber and forest products potential, to be selected in noncontiguous tracts of two to four townships; and

(2) the surface estate of one million acres of public land which the Services Corporation will select, administer, and grant to Natives and Native groups to avoid undue hardship; to provide protection for cemeteries, abandoned villages, and areas of historical and cultural significance to Natives; and for such other equitable purposes as the Services Corporation deems appropriate: *Provided*, That tracts selected pursuant to this paragraph shall, insofar as possible, conform to township survey designations and shall be no larger than eight sections nor smaller than one hundred and sixty acres.

Patents issued to the Services Corporation by the Secretary pursuant to this section shall cover only the interests in land designated in subsection (b) (1) and (2) hereof. The remaining estate shall be held by the United States and shall be subject to the applicable public land laws of the United States.

(c) Lands granted pursuant to this section are granted to provide the Services Corporation with a diversified land resource base, to avoid hardship, and to create opportunities for Natives to enter commercial enterprises not otherwise readily open to them. The Secretary and the State may submit comments upon the Services Corporation's applications for proposed land selections. The decision of the Commission in certifying applications shall, without regard to section 6(j), be final.

(d) (1) Lands selected and granted pursuant to subsection (b) (1) must be at least ten miles outside the boundaries of any city organized as a municipal corporation under State law. Lands granted pursuant to subsection (b) (1) shall be managed in accordance with sustained yield principles of forest management.

(2) "Noncontiguous" for the purposes of this section means that any tract selected under subsection (b) (1) hereof must be separated from any other tract selected by an area at least twice as large as the largest of the areas selected.

(3) All selections made pursuant to this section shall be surveyed by the Secretary and shall conform to township survey designations.

(e) (1) Lands granted pursuant to subsection (b) (1) hereof shall be selected within two years of the date of enactment of this Act. In the event that the Services Corporation, the State, and the Secretary are unable to agree upon a mutual plan for the selection of these lands, the Services Corporation shall select four townships, then the State may identify four townships to be reserved for State selection under the Statehood Act (72 Stat. 341, 77 Stat. 223). The Services Corporation then shall select four more townships and the State shall identify until the Service Corporation's selection rights are exhausted. State identification acts only as a withdrawal for purposes of subsection (b) (1) hereof and does not grant any rights nor does it interfere with any other selection rights granted by this Act. In the event of any overlap or conflict with the selection rights granted to Village Corporations, the village selection right shall have priority.

(2) Lands granted pursuant to subsection (b) (2) hereof shall be selected within ten years of the date of enactment of this Act. In the event of conflict, lands selected pursuant to subsection (b) (2) shall have priority over selections by the State pursuant to the Statehood Act (72 Stat. 341, 77 Stat. 223). At the end of ten years the right of selection shall terminate and any remaining right of the Services Corporation to select additional lands shall revert to the United States.

(f) (1) Upon application filed by the North Slope Native Corporation with the Commission and upon certification thereof by the Commission, the Secretary shall issue a patent, without payment therefor, to the North Slope Native Corporation, subject to all valid and existing rights, to the surface estate of any public lands located in the State of Alaska as provided in subsection (2) hereof. Any lands within the National Wildlife Refuge system and lands withdrawn or otherwise reserved for national defense purposes other than Naval Petroleum Reserve No. 4, shall be excluded from the selection rights granted to the North Slope Native Corporation by this subsection (f).

(2) The North Slope Native Corporation is granted the right to select, subject to subsection (f) (1) hereof, the surface estate of five hundred thousand acres of land, subject to all valid and existing rights. Lands granted by this subsection shall be selected from the geographic region designated by the Commission pursuant to subsection 9(a) (1). All selections made pursuant to this section shall be surveyed by the Secretary, conform to township survey designations, and shall be in tracts of two to four townships.

(3) Lands granted pursuant to this subsection shall be selected within two years of the date of enactment of this Act. In the event of any overlap or conflict the priority of land selections shall be as follows:

(A) The Village Corporations;

(B) The North Slope Native Corporation; and

(C) The State of Alaska.

(4) Prior to certifying applications under subsection (f) (1) hereof, the North Slope Native Corporation shall prepare and submit to the Commission a comprehensive land-use plan for the lands designated in the application.

REVOCATION OF INDIAN ALLOTMENTS IN ALASKA

SEC. 19. (a) No Native covered by the provisions of this Act may hereafter avail himself of an allotment under the provisions of any Indian allotment Act including the Act of February 8, 1887, as amended and supplemented (24 Stat. 389; 25 U.S.C. 334, 336), or the Act of June 25, 1910 (36 Stat. 363; 25 U.S.C. 337). Further, the Act of May 17, 1906, as amended (34 Stat. 197), is hereby repealed.

(b) Native persons who have deeds to lands granted by the United States pursuant to the Acts referred to in subsection (a) hereof or any other public land laws which have restrictions upon the sale, use, or disposal of such lands shall, upon application to the Secretary, be granted unrestricted deeds.

PROTECTION OF SUBSISTENCE RESOURCES

SEC. 20. (a) The Secretary is authorized and directed to classify, in accordance with appropriate ecological criteria, varying environmental circumstances and varying subsistence needs, public lands surrounding any or all of the Native Villages and groups for which lands are withdrawn under sections 13 through 15 and under section 22 as Subsistence Use Units.

(b) The Secretary in preparing such classifications shall hold public hearings concerning the proposed classifications units and shall consult with the State and other appropriate departments of the Federal Government and invite the comments of all parties concerned. Upon determining the lands and resources required for subsistence use in each area, the Secretary shall publish notice in the Federal Register of a proposed classification. Classification of an area as a Subsistence Use Unit shall not prevent disposal of such lands under the public land laws in conformity with subsection (a) hereof.

(c) After an area has been classified as a Subsistence Use Unit and final notice thereof has been published, the Secretary may, upon petition by residents of, or request by a local governing body within the unit, and upon the concurrence of the State, determine that the health, welfare, or livelihood of residents of the unit are threatened by the depletion of subsistence resources. Upon such a determination, the Secretary may close the area to entry by persons for the purpose of fishing, hunting, and/or trapping other than by residents of the unit for subsistence purposes.

(d) The maximum duration of such emergency closure shall be two years unless, after a public hearing, the Secretary determines the closure should be extended for an additional two-year term.

(e) Any person who knowingly enters upon lands within a subsistence-use classification unit closed under the provisions of this section, for the purpose of hunting, fishing, or trapping in violation of said closure, shall be guilty of a trespass aaginst the United States and shall be subject to a fine of $1,000 or one year imprisonment or both. Complaints may be issued and arrests may be made under this subsection by Department of the Interior personnel designated by the Secretary to enforce this section.

REVOCATION OF RESERVATIONS; EXCEPTIONS

SEC. 21 (a) Notwithstanding any other provisions of law, and except where inconsistent with the provisions of this Act, the various reserves set aside by legislation or by Executive or Secretarial Order for Native use or for the administration of Native affairs, including reserves created under the Act of May 31, 1938 (52 Stat. 593), in Alaska and hereby revoked, subject to any valid existing rights.

(b) Notwithstanding any other provision of law, lands within the various reserves described in subsection (a) hereof are hereby withdrawn from selection by the State and all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, until the Native groups that are the beneficiaries of such reserves have selected lands to which they are entitled under section 14 and until the Secretary issues a patent pursuant to section 15. The requirements set forth in subsections 13(d) through (f) shall not apply to any Native group settled as a village or community within the various reserves described in subsection (a) hereof, and lands shall be patented to the Village Corporation representing any Native group whose reserve was revoked pursuant to this section without regard to subsections 13(d) through (f).

(c) Notwithstanding any other provision of law, the Tanina Indians, the beneficiaries of the Moquawkie Reservation (hereinafter referred to as the Tyonek Indians), shall vote, within one year of the date of enactment of this Act, under procedures established by the Secretary, whether their tribe:

(1) shall accept abolition of the existing reservation and a grant to an appropriate entity of which they are the members, stockholders or owners, of twenty-six thousand nine hundred and eighteen acres of such reservation lands, subject to the condition that

the mineral estate underlying such lands may not be sold by the Tyonek Indians to anyone other than the United States or the State: Provided, That the Tyonek Indians may lease such lands; or

(2) shall accept abolition of the existing reservation and be entitled to full benefits under the terms of this Act.

In the event the Tyonek Indians decide to acquire title to the Moquawkie Reserve set aside by Executive order of February 27, 1915, in accordance with this subsection (1) hereof, the Secretary shall issue a patent to the appropriate entity referred to in subsection (1) hereof to all lands and interests in lands (including oil, gas, and other minerals) within such Reserve, subject to valid existing rights, and the Tyonek Indians shall not be eligible for benefits under this Act. Where, prior to such patent, a lease, contract, or permit has been issued for the utilization of surface or mineral resources covered by such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of such patent, the appropriate entity referred to in subsection (1) hereof shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the surface or minerals patented. The administration of such lease, contract, or permit shall continue to be by the United States.

(d) The Annette Islands Reserve established by the Act of March 3, 1891 (26 Stat. 1101), is hereby excluded from and shall not be affected by the terms of this section and the terms of this Act.

(e) Nothing in this Act shall repeal, modify, or otherwise affect the right of the Secretary to establish a townsite on Saint Paul Island or the right of Natives of the Pribilof Islands to acquire title to tracts therein pursuant to the Act of November 2, 1966 (80 Stat. 1094), and to participate in the benefits under this Act.

TLINGIT-HAIDA SETTLEMENT

SEC. 22. (a)(1)(A) There are hereby withdrawn, subject to valid existing rights, from selection by the State under the Alaska Statehood Act (72 Stat. 341, 77 Stat. 223) and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands, including lands in the Tongass and Chugach National Forests, in each township, which encloses all or part of any Native Villages listed in subsection (b) hereof, and any Native Villages not listed, but which are located in southeast Alaska and which are approved by the Commission pursuant to this section, plus all public lands in each one-quarter township which is contiguous to or corners upon the townships in which such Native Villages are located, except lands withdrawn or otherwise reserved for national defense purposes, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State where protraction diagrams of the Bureau of Land Management are not available.

(B) At the time any Native Village not listed in subsection (b) hereof is approved for benefits under this Act by the Commission pursuant to this section, there shall be withdrawn, subject to valid existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands, including lands in the Tongass and Chugach National Forests, in each township which encloses all or part of the Native Village, plus all lands in each one quarter township which is contiguous to or corners upon the township in which the Native Village is located, except lands excepted from withdrawal under subsection (a)(1)(A) hereof.

(2) Any and all claims of the Tlingit and Haida Indians to the two and six-tenths million acres of land in southeast Alaska referred to in the Court of Claims case of "Tlingit and Haida Indians of Alaska against United States," jacket number 47900, are hereby extinguished.

(3) The benefits provided for in this Act and the lands granted pursuant to this section are in addition to the judgment award received by the Tlingit and Haida Indians of Alaska in the Court of Claims and constitute full and final compensation for the extinguishment of title made in subsection (a)(2) hereof, and are in lieu of the additional land selection rights granted Village Corporations outside of southeast Alaska by sections 13 to 15.

(b) The following Native Villages are qualified for withdrawals under the provisions of subsection (a) hereof:

Angoon, Southeast.
Craig, Southeast.
Hoonah, Southeast.
Hydaburg, Southeast.
Kake, Southeast.
Kasaan, Southeast.
Klawock, Southeast.
Klukwan, Southeast.
Saxman, Southeast.
Tatitlek, Gulf of Alaska.
Yakutat, Southeast.

(c) Any of the villages listed in subsection (b) hereof shall not be eligible for land or benefits under this Act if the Commission determines within three years from the effective date of this Act, that—

(1) less than twenty-five Alaska Natives are residents of the village;

(2) the village is of a modern and urban character, that the majority of the residents are non-Native, and that the best interests of the Native residents would be served if they derived benefits through the Urban Corporation and other land provisions of this Act rather than as a Native Village; or

(3) the village was not in existence as of the date of enactment of this Act: Provided, That this provision shall not be used to exclude any Native Village otherwise eligible which has been required to move to a new location because of a natural disaster or the actions of any governmental agency.

(d) Native Villages located within southeast Alaska and not listed in subsection (b) hereof shall be eligible for land and benefits under this Act and added to the village roster if the Commission determines that—

(1) twenty-five or more Alaska Natives are residents of an established village; and

(2) the best interests of the Native residents would be served if they derived benefits under the Act as a Village Corporation; and

(3) the village would not be disqualified by the provisions of subsection (c) hereof.

(e) In making the determinations required pursuant to subsections (c) and (d) hereof, the Commission shall review all relevant evidence offered by the members of the concerned Native group or their representatives and shall review any recommendations of the State, the Secretary or the Secretary of Agriculture. The Commission's determination shall, without regard to subsection 6(j), be final.

(f) In addition to determining which villages are entitled to land and other benefits under the terms of this section and this Act, the Commission shall determine the total land acreage to which eligible Village Corporations shall be entitled to select pursuant to this section. In no event shall any Village Corporation be awarded a grant of more than twenty-three thousand and forty acres. In making determinations pursuant to this subsection the Commission shall consider the following factors:

(1) the Native population of the Village;

(2) the nature of the use, both historic and present, of the lands surrounding the Native Village including the carrying capacity of the surrounding lands and biological community in relationship to the village population and subsistence use patterns of the Native residents therein;

(3) the amount of land needed for prospective community expansion, the area to be granted to Municipal Corporations or the State, and the area to be granted for access, rights-of-way, and other public services and facilities;

(4) the nature and economic value of the lands surrounding the village (without regard to the mineral estate) for the purpose of insuring some degree of comparability in value as between Native Villages; and

(5) the comprehensive land use plan prepared by the Village Corporation with the assistance of the Services Corporation staff pursuant to subsection (8) (i) hereof.

In making the determinations required by this subsection the Commission shall consider the geographical relationship of individual villages to the land in question and should avoid determinations which result in land grants that are separated by large bodies of water unless one of the above factors make such a determination reasonably necessary. The Commission's determination under this subsection shall, without regard to section 6(j), be final.

(g) If the Secretary determines that a substantial dispute is involved or that the best interests of justice would be served he may direct that a public hearing be held in accordance with such rules as he shall prescribe prior to making any of the withdrawals he is required to make by this section. Any hearings pursuant to this subsection shall be held within one year of the date of enactment of this Act. The Commission shall consider, in any contested case, the hearing record prepared by the Secretary as well as his recommendations and the recommendations of the Secretary of Agriculture in making its determination. The actions of the Commission under this subsection shall, without regard to subsection 6(j), be final.

(h) Pending the disposition of any national forest lands withdrawn under this section, the Secretary of Agriculture is authorized to take such actions, subject to existing rights, as may be necessary to administer, manage and protect such lands for the benefit of the potential beneficiaries and, in so far as is consistent with this section, in accordance with the laws, rules, and regulations applicable to the national forests and to permit access or grant easements, rights-of-way, or other interests in lands for the purpose of administration, use, or development of contiguous or adjacent national forest lands not withdrawn.

(i) Upon application of any Native Village found eligible for land selections pursuant to this section and upon certification thereof by the Commission, and after survey of the area selected pursuant to subsection (m) (1) of the Secretary shall issue a patent, without payment therefor, to the Village Corporation, or, if not yet incorporated, in trust to the Services Corporation for the benefit of the Native Village pending its incorporation as provided in section 11, for that amount of land to which the Native Village is found entitled by the Commission pursuant to the procedures set out in this section. Lands to be patented may be selected, subject to all valid existing rights, from any public land within areas withdrawn from each Native Village under the provisions of this section.

(j) In exercising selection rights pursuant to this section, Village Corporations shall select from among the public lands withdrawn pursuant to this section and all such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than six hundred and forty acres. In the event the public lands withdrawn pursuant to this section are not sufficient in amount to satisfy the entitlement of any Native Village Corporation, as determined by the Commission, such Corporation may select noncontiguous tracts from the Tongass National Forest in order of their proximity to the center of the village until the Native Village Corporation's selection rights are exhausted.

(k) Within two months after a determination by the Commission that a Native Village is eligible for a grant of land pursuant to this section, the Secretary shall conduct an election for the village, under such rules and regulations as he may prescribe, to choose a five-member Village Land Selection Committee. The committee so elected is hereby authorized to exercise the land selection rights of the village pending organization of the Village Corporation. The persons entitled to vote in the election or serve on the Land Selection Committee shall be the members of each Native Village nineteen years of age or over, as shown on the temporary census roll prepared pursuant to section 7(a).

(l) All public lands withdrawn pursuant to this section, which have not been selected by a Village Corporation, shall be restored eighteen months after the effective date of this Act, or six months after the election required under subsection (k) hereof, whichever later occurs, to the status in which such lands have been placed pursuant to section 23 of this Act: Provided, That lands withdrawn around a village whose eligibility for land selection has not been finally determined by the Commission within eighteen months after the effective date of this Act shall remain withdrawn until six months after the Commission makes the determinations required pursuant to this section.

(m)(1) The Secretary shall promptly survey the townships withdrawn under this section and the areas selected for conveyance to Native Villages pursuant to subsections (i) to (l) of this section, but need monument only the exterior boundaries of such townships or areas. He also shall promptly survey within the townships withdrawn or areas selected all lands occupied as a primary place of residence, a primary place of business, subsistence campsites, and for other purposes as required under subsection (2)(A) hereof, and any other land to be patented under this section.

(m)(2)(A) Upon completion of the survey of lands selected by a Village Corporation, as provided in subsection (m)(1) hereof, the Secretary promptly shall issue a patent or patents to the Village Corporation to the land and all interests therein, except minerals covered by the Federal mineral leasing laws, subject to valid existing rights, and subject to the provisions of subsection (m)(2)(B) hereof, and the provisions of subsection (i) hereof: *Provided*, That any conveyance of national forest lands under the provisions of this section shall be subject to reservations in the United States of easements, rights-of-way, or other interests in land necessary for access to or for administration, use, or development of contiguous or adjacent national forest lands not conveyed. Such easements, rights-of-way, and interests shall be based upon existing and planned roads and trails as depicted on national forest transportation system plans and related resource plans available for public inspection at the office of the Regional Forester and at the office of the Forest Service in Washington, D.C.: *Provided further*, That in any conveyance of national forest lands under this section the Secretary shall consult with the Secretary of Agriculture and, where possible without working a hardship on a Native or Native Village, shall exclude areas now used or planned to be used for the following purposes:

(i) national forest administrative sites;

(ii) airfields;

(iii) recreation sites necessary to serve visitors to national forest lands not conveyed; and

(iv) public service or other sites necessary to facilitate administration of national forest resources.

The Secretary shall, where he deems appropriate, reserve interests in land recommended by the Secretary of Agriculture as necessary for continued access to such areas. Such excluded areas shall be administered by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to the national forests.

(B) Upon receipt of a patent or patents to selected lands, Village Corporations or the Services Corporation on their behalf—

(i) shall issue deeds to the occupants, without payment of any consideration, to the surface estate for any tracts occupied by Natives on September 1, 1969, as a primary place of residence, as a primary place of business, or used for subsistence campsites, subject to valid existing rights;

(ii) shall issue deeds to the occupants, either without consideration or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy, and without regard to any improvements thereon, to the surface estate for any tracts occupied by non-Natives on September 1, 1969, as a primary place of residence or a primary place of business, subject to valid existing rights: Provided, That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(iii) shall issue deeds, pursuant to subsection 11(g), without payment of any consideration, to any Municipal Corporation in the Native Village or to any Municipal Corporation established in the Native Village within five years of the date of the enactment of this Act, to the surface estate of the improved land on which the village is located and of as much additional land as is necessary for community expansion, for appropriate rights-of-way for public use, airport sites, and such other interests in land as are reasonably necessary for public use and for foreseeable community needs: *Provided*, That prior to the transfer of lands from a Village Corporation to a Municipal Corporation, individuals shall receive deeds to any lands used for residences and businesses: *And provided further*, That the amount of lands to be transferred to the Municipal Corporation shall be no less than one hundred and sixty acres;

(iv) shall issue deeds to the occupants, either without consideration or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate of any tracts occupied on September 1, 1969, by nonprofit organizations for the purposes for which such organizations were established, subject to valid existing rights: *Provided*, That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(v) may issue deeds to all others subject to valid existing rights.

Any dispute over the boundaries, use, occupancy, or value of any tract under this subsection may be submitted by any party to the dispute to the Commission for decision. The decision of the Commission, without regard to subsection 6(j), shall be final.

(m)(3) Upon completion of the survey of lands selected by any Village Corporation, as provided in subsection (m)(1) hereof, and contemporaneous with the issuance of patents to Village Corporations as provided in subsection (m)(2)(A) hereof, the Secretary shall issue a patent or patents to all minerals in such village lands covered by the Federal mineral leasing laws, subject to valid existing rights, to the Services Corporation. At the time of such conveyance, the Services Corporation shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter in any mineral leases, contracts, or permits covering lands selected by any Village Corporation as provided in subsection (r) of this section.

(n) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years from the effective date of this Act, issue special use permits, without payment therefor, to any Native or Native group, subject to all valid existing rights, to the surface estate of any public land located in the Chugach or Tongass National Forest, but which has been used by such Native or Native group for a period of more than three years prior to the effective date of this Act as a campsite for the harvesting of fish, wildlife, berries, fuel, or other products of the land. Such permits shall be issued—

(1) for five-acre tracts for each subsistence use campsite separate from the campsite of any other applicant;

(2) for forty-acre tracts where the campsites of several applicants are in such proximity to each other as to make it not feasible to patent individual five-acre campsites; or

(3) for larger tracts, not to exceed sixty acres, where individuals can establish, under such rules and regulations as the Commission may prescribe, historic occupancy and use of the larger tracts.

Applications for permits under the subsection must be filed with the Commission within five years after the effective date of this Act. Pending the issuance of a permit for campsites under this subsection the Secretary is authorized to permit the use of such lands, upon which applications have been filed, as campsites. After five years after the effective date of this Act permits may be issued pursuant to the laws and regulations on the administration of the national forests.

(o) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent of up to, but not to exceed eighty acres of land and interests therein, except the minerals covered by the Federal mineral leasing laws, and subject to all valid existing rights, from any public lands within the areas withdrawn for Natives under this section, but not selected pursuant to subsections (i) to (l) of this section without payment therefor, to any Native occupying land within such eighty acres on the effective date of this Act as a primary place of residence.

(p) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent of up to, but not to exceed, forty acres to the surface estate of any public land, in Southeast Alaska including the Chugach and the Tongass National Forest, subject to all valid existing rights, without payment therefor, to Natives nineteen years of age or older occupying such land whose primary place of residence, on January 1, 1970 and continuing to the date of enactment of this Act is outside the area withdrawn for the benefit of Native Villages by this section.

(q) In carrying out the provisions of this section, patents shall be issued by the Secretary in accordance with the following priorities:

(1) Within the areas withdrawn pursuant to this section—

(A) lands selected by Native Village Corporations;

(B) land for individual places of residence; and

(C) land for subsistence campsites.

(2) Outside the areas withdrawn pursuant to this section—

(A) land for individual places of residence; and

(B) land for subsistence campsites.

(r) Where, prior to patent of any land or minerals under this section, a lease, contract, or permit has been entered into or issued for the utilization of surface or mineral resources on land covered under such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all income from the patented land and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the estate patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that the patent does not cover all of the land embraced within any such lease, contract, or permit, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.

(s) The Secretary shall provide as a condition to the granting of each permit to prospect, or to the granting of each lease to mine or drill for minerals covered by the Federal mineral leasing laws, which minerals are situated in lands patented pursuant to subsections (o) and (p) of this section, and are not covered by such patent, that the permittee or lessee shall provide a bond, satisfactory to the Secretary, to indemnify the surface patentee for any damages which such permittee or lessee may cause in connection with the development of such permit or lease, and further the Secretary shall include provisions in such lease or permit which will protect the surface patentee against unreasonable interference in the enjoyment of his land.

(t) Notwithstanding the provisions of existing national forest timber sale contracts extending for a period more than three years from the date of this Act and directly affected by conveyances authorized by this Act, the Secretary of Agriculture is authorized to modify any such contracts with consent of the contractor to adjust the areas to which it or they apply for the purpose of avoiding hardship to Natives, unnecessary conflicts, and of offsetting the impacts of conveyances or special use permit authorized by this Act on national forest lands which are subject to any such contracts. Wherever possible such contracts shall be modified to avoid any overlap or conflict with lands withdrawn and lands selected and patented pursuant to this section.

TRANSITIONAL OPERATION OF PUBLIC LAND LAWS

SEC. 23. (a) (1) Except as otherwise provided in this Act, all unreserved public lands in Alaska which have not been previously classified by the Secretary are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, for not to exceed five years. The Secretary of the Interior is hereby authorized, at his discretion, and after consulting with the State, to classify any lands withdrawn by this section and to open to entry, selection, or location for disposal in accordance with applicable public land laws, such lands as he determines are chiefly valuable for the purposes provided for by such laws.

(2) Nothing in this section shall restrict the land selection rights of the State under the Statehood Act (72 Stat. 341), or restrict the acquisition, granting, or use of leases, permits, or rights-of-way under existing law, except that rights-of-way under Revised Statutes section 2477 shall take effect only under such terms and conditions as the Secretary may establish.

(3) In making the classifications required by subsection (a) (1) hereof the Secretary shall conduct detailed studies and investigations of all unreserved public lands in Alaska, and of Naval Petroleum Reserve No. 4 and the Rampart Power Site Withdrawal, which are suitable for inclusion as recreation, wilderness or wildlife management areas within the National Park System and the National Wildlife Refuge System, and shall advise the Congress within three years of the date of passage of this Act of the location, size and values of such areas, and shall simultaneously with notification to the Congress withdraw these areas from any appropriation under the public land laws, including application of the mining and mineral leasing laws, until such time as the Congress acts upon the Secretary's recommendations, but not to exceed the five year period during which all unreserved public lands are hereby withdrawn from appropriation.

(b) Upon the application of any applicant qualified to make entry, selection or location, under the public land laws, on lands not classified for entry under subsection (a) hereof, the Secretary shall examine the lands described in the application and if he classifies them as suitable for the purpose described in the application and opens them to entry, said applicant shall be entitled to enter, select or locate, such lands.

ALASKA NATIVE FOUNDATION

SEC. 24. (a) (1) There shall be created an Alaska Native Foundation during the ninety-day period prior to the dissolution of the Services Corporation as provided in subsection 8(h) of this Act. The Foundation shall be a nonprofit membership corporation with the powers hereinafter granted.

(2) The Foundation shall not be an agency or establishment of the United States Government.

(b) (1) The board of directors of the Services Corporation on the date specified in subsection (a) hereof shall act as the incorporators of the Foundation.

(2) The incorporators shall prepare the original articles of incorporation and bylaws for the Foundation, subject to the approval of the Secretary of the Treasury, in a form consistent with the provisions of this section and in a form that shall qualify the Foundation for tax exemption under section 501(c) (3) of title 26, United States Code or any successor provisions thereto.

(3) The incorporators shall serve as the initial board of directors until permanent directors are appointed as provided in subsections (c) and (e). The incorporators shall file the articles of incorporation with the Secretary within thirty days, and the Foundation shall be deemed to be formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State.

(c) (1) The management of the Foundation shall be vested in a board of directors which, with the exception of the initial board, shall consist of the members of the Foundation as selected in accordance with subsection (e).

(2) The board of directors shall elect a chairman annually from among its own membership.

(d) The Foundation shall have a president, and such other officers as may be named and and appointed by the board, at rates of compensation fixed by the board and serving at the pleasure of the board. The president and other officers of the Foundation may, but need not, be members of the Foundation.

(e) (1) There shall be seventeen members of the Foundation, fourteen of whom shall be initially elected by the voting members of the Services Corporation on the following basis:

(A) one member representing each of the twelve regions as determined by section 9 of this Act;

(B) one member representing the members of the Urban Alaska Native roll;

(C) one member representing the members of the Alaska Native National roll; and

(D) three members shall be appointed by the Governor of the State.

(2) Members of the Foundation shall be entitled to reasonable fees and shall serve until their death, resignation, retirement, or removal for cause. A member may be removed only by a two-thirds vote of the members of the Foundation (without the participation of the affected member) upon a showing of physical disability or mental impairment preventing the reasonable performance of his duties, or upon a showing of a willful failure to perform his duties in a reasonable manner.

(3) Upon the death, resignation, retirement, or removal of a member, the remaining members shall elect a new member by a majority vote.

(f) (1) The purposes of the Foundation shall be to engage exclusively in charitable, educational, and scientific activities for the benefit of individuals of Native background.

(2) In furtherance of the purposes set forth in subparagraph (1), the Foundation may carry out such charitable, educational or scientific projects as may be consistent with its status as an organization exempt under section 501(c) (3) of title 26, United States Code, or any successor provisions thereto.

(g) (1) The Foundation shall have and may exercise all rights and powers vested in a nonprofit membership corporation under the laws of the State.

(2) The Services Corporation, before its dissolution pursuant to section 8(h) of this Act, shall distribute to the Foundation and its incorporators sufficient funds to meet the necessary costs of the Foundation's organization and initial operation.

ATTORNEY FEES AND EXPENSES

SEC. 25. (a) The chief commissioner of the Court of Claims is authorized to receive, consider, and settle, in accordance with the provisions of this section, any unreimbursed claim submitted to him for attorneys' fees, and out-of-pocket expenses by any person in connection with services rendered, on or before the date of enactment of this Act, on behalf of any Native, Native Village, statewide or Regional Native Associations or other Native tribe, band, or group (1) in the actual prosecution pursuant to any contract, of a claim pending before any court or the Indian Claims Commission which is dismissed pursuant to this Act, or (2) for legal representation with respect to the scope and preparation of this Act and previously proposed legislation to settle claims against the United States or the State based upon aboriginal right, title, use, or occupancy of lands by Natives, or with respect to litigation (other than litigation covered under clause (1)) involving the validity of or otherwise affecting such claims.

(b) Any claim made pursuant to subsection (a) of this section shall be filed with the chief commissioner of the Court of Claims within six months following the date of the enactment of this Act, and shall be in such form and contain such information as the chief commissioner shall prescribe. The chief commissioner shall give reasonable notice to the interested parties and an opportunity for them to be heard and to present evidence before making a final determination upon any such claim. The amount of attorney fees payable pursuant to any claim filed in accordance with this section shall be determined by the chief commissioner on a quantum meruit basis. Out-of-pocket expenses shall be approved for payment pursuant to this section only if the chief commissioner has first determined that such expenses were unreimbursed and were necessary, reasonable, and actually incurred.

(c) (1) No more than $100,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered prior to January 1, 1964. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered prior to such date exceeds in the aggregate $100,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $100,000.

(2) No more than $400,000 in aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered during the period commencing January 1, 1964, and ending on December 31, 1967. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered prior to such date exceeds in the aggregate $400,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $400,000.

(3) No more than $1,000,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered during the period commencing January 1, 1968 and ending on the date of the enactment of this Act. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered during such period exceeds in the aggregate $1,000,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $1,000,000.

(d) The chief commissioner of the Court of Claims shall certify to the Secretary of the Treasury, with respect to each such claim, the name and address of the claimant and the amount determined by the chief commissioner, pursuant to subsection (c), to be payable to such claimant under this section for attorneys' fees and out-of-pocket expenses. The Secretary of the Treasury, upon receipt of such certification, shall pay to each such person named therein the amounts so certified. Any amounts so certified as attorneys' fees shall be payable from moneys in the Fund set aside pursuant to section 5(a) (1) of this Act. Such amounts so certified as out-of-pocket expenses shall be payable from other moneys in such Fund.

(e) No remuneration on account of any such services referred to in subsection (a) of this section and for which a claim is made pursuant to this section shall be received by any person for such services in addition to the amount paid in accordance with this section, and any contract or other agreement to the contrary shall be void. Whoever receives, on account of such services, any remuneration in addition to the amount paid in accordance with this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

TAXATION

SEC. 26. (a) The compensation paid to Natives pursuant to section 5(a) of this Act, and any interest earned with respect thereto while such funds are deposited in the Fund or are invested by the Secretary pursuant to section 5, shall not be subject to any form of Federal or State taxation either (1) at the time of receipt, or (2) upon distribution to any Native corporation or individual Native, whether directly by a per capita payment or indirectly through such corporation or corporations. For purposes of this subsection, the first dividend payments or other cash distributions made by any Native corporation shall be deemed to be distributions out of its share of funds derived from section 5(a), including interest, until such share has been fully distributed.

(b) The compensation paid to the Natives pursuant to section 5(b) of this Act, and any interest earned with respect thereto while such funds are deposited in the Fund, shall not be subject to any form of Federal or State taxation either (1) at the time of receipt, or (2) upon distribution to any Native corporation or individual Native, whether directly or by a per capita payment or indirectly through such corporation or corporations, for a period of twelve fiscal years commencing with the fiscal year during which this Act becomes effective. For purposes of this subsection, the first dividend payment or other cash distributions made by any Native corporation, after the distribution of compensation paid pursuant to section 5 (a) in accordance with subsection (a) hereof, shall be deemed to be distributions out of its share of funds derived from section 5(b), including interest. After the expiration of the foregoing twelve fiscal years period, the compensation paid to the Natives pursuant to section 5(b) and any interest with respect thereto while such funds are deposited in the Fund, shall not be subject to Federal or State income taxation at the time of receipt, but shall be subject to taxation upon distribution to any Native or Native corporation on the same basis as like income is taxed when received by a non-Native individual or corporation.

(c) The receipt of shares of stock in the Investment Corporation or its successor by or on behalf of any Native pursuant to section 10 (g) or (l) or pursuant to section 8(h) by a successor to the Services Corporation shall not be subject to any form of Federal, State or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of any shares in the successor to the Investment Corporation issued pursuant to section 10(l) or in any successor to the Services Corporation issued pursuant to section 8(h) shall be the fair market value of such shares at the time of receipt.

(d) The receipt of money or other property pursuant to section 8(h) or 10(l) by the successor to the Investment Corporation or pursuant to section 8(h) by a successor to the Services Corporation shall not be subject to any form of Federal, State or local taxation. No money or property so received shall be treated as a contribution to capital for purposes of section 362(c) of the Internal Revenue Code, title 26, United States Code. The basis for computing gain or loss on subsequent sale or other disposition of any property so received by the successor to the Investment Corporation, for purposes of any Federal, State or local tax, shall be the fair market value of such property at the time of receipt.

(e) The receipt of land or any interest therein pursuant to sections 13, 14, 15, 16, 18 or 22 or of cash in order to equalize the values of properties exchanged pursuant to section 16(a), shall not be subject to any form of Federal, State or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of such land or interest in land for purposes of any Federal, State or local tax imposed on or measured by income shall be the fair market value of such land or interest in land at the time of receipt.

(f) Real property interests conveyed, pursuant to this Act, to a Native individual, group, village, corporation, or any other Native organization, shall be exempt from State real property taxes for a period of twelve fiscal years after the effective date of this Act: *Provided,* That municipal taxes, real property taxes, or assessments may be imposed upon individually owned real property within its jurisdiction by any Native village incorporated as a governmental unit under the laws of the State: *And provided further,* That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds, derived from such real property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

(g) Real property interests conveyed, pursuant to this Act, to a Native individual, group, village, corporation, or any other Native organization, shall, so long as the fee therein remains not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23 of the United States Code, as amended and supplemented, and so long as there are also no substantial revenues from such lands, continue to receive forest fire protection services from the United States at no cost.

(h) The Foundation established pursuant to section 24 shall be treated as a private foundation for purposes of applying the taxes and restrictions on self-dealing provided for in section 4941 of the Internal Revenue Code, title 26, United States Code, and on expenditures for political purposes described in section 4945(d) (1) and (2) of the Internal Revenue Code, title 26, United States Code, or corresponding provisions of subsequent law, but otherwise shall not be treated as a private foundation.

REVIEW BY CONGRESS

SEC. 27. On or before March 1 of each year during the thirteen years following the effective date of this Act, the Commission, until its termination, and the Secretary, respectively, shall submit reports to Congress concerning the operation and implementation of this Act during the previous calendar year. Within ninety days after the end of each five-year period following enactment of this Act, the Commission and the Secretary also shall submit to Congress, through the President, a joint report on the status of the Natives and their organizations, a summary of actions taken under this Act, and their respective recommendations as may be appropriate for extension, amendment, or clarification of any provisions of this Act. This joint report and the Commission's annual report shall include as an appendix all statements, memorandums, reports, and other written comments presented to the Commission for forwarding to Congress by any Native Village, corporation, or association.

APPROPRIATIONS

SEC. 28. (a) There is authorized to be appropriated to the Alaska Native Commission such sums as are necessary to carry out the functions and responsibilities it is required to perform under the provisions of this Act.

(b) There is authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to prepare the temporary roll, to survey lands to be granted pursuant to this Act, to classify lands and to carry out other functions and responsibilities required to be performed under the provisions of this Act.

(c) The President of the United States is requested to advance from the contingency fund established for his office such sums as the Director of the Bureau of the Budget determines to be necessary to defray the initial organizational and administrative expenses of the corporations to be established pursuant to this Act, pending the availability of moneys in the Fund. Such advances shall be reimbursed to the President's contingency fund from the Fund when sufficient moneys become available therein.

PUBLICATIONS

SEC. 29. The Secretary of the Interior and the Commission are authorized to issue and publish in the Federal Register, pursuant to the Administrative Procedures Act (5 U.S.C. 500 and following) such regulations as may be necessary to carry out the purposes of this title.

SAVING CLAUSE

SEC. 30. Except as specifically provided for in this Act, nothing in this Act shall be construed as repealing any other provision of Federal law applicable to Alaska. To the extent that there is a conflict between any provision of this Act and any other Federal laws applicable to Alaska, the provisions of this Act shall govern.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, the purpose of S. 1830, the Alaska Native Claims Settlement Act of 1970, is to provide for a just and final legislative settlement of the longstanding land claims of the Alaska Native people to the lands which now comprise the State of Alaska.

The bill as reported by the committee is very long and very complex. This measure is the product of 3 years of hearings and countless executive sessions which were dedicated to the preparation and drafting of a settlement package which provides legal justice to all of the parties involved—the Native people, the State of Alaska, the Federal Government—and opens the door of opportunity to the Native people of Alaska.

BACKGROUND

The legal history of the Alaska Native land claims is a history of inaction, postponement, and preservation of the controversy for resolution at a later point in time. In part, this history of delay is due to the fact that no treaties were ever made between Alaska Natives and the Federal Government. In larger measure, however, the delay has been due to the complex social, legal, and institutional problems which are involved in a settlement.

The essential points in the history are as follows:

First. Since the acquisition of Alaska from Russia in 1867 the Federal Government has consistently recognized that the Alaska Natives should not be disturbed in the possession of lands actually being used by them, and that Congress has reserved to itself the determination of their title. This recognition is expressed as early as 1884 in the Organic Act and as recently as 1958 in the Alaska Statehood Act.

Second. The Alaska Native people have no clear legal remedy or recourse to advance their claims except as is specifically provided by Congress.

Following passage of the Alaska Statehood Act the State of Alaska began to select land from the generous 103-million-acre land grant that had been accorded by the Congress. These State land selections together with private development under the public land laws brought increased pressures on the Native people. Beginning in 1961 a series of Native protests based upon the doctrine of aboriginal rights were filed with the Bureau of Land Management protesting the granting away of lands claimed by Native groups to the State and to others. In November of 1966 the Secretary of the Interior announced that no further mineral leases would be issued or lands granted until the Native protests had been resolved. By April of 1968, 296 million acres were subject to Native protest.

Following a period of time during which the Department of the Interior imposed an administrative land freeze, on January 17, 1969, the land freeze was formalized with the issuance of Public Land Order No. 4582. This order withdrew all unreserved public lands in Alaska until the Native land claims were resolved or until December 31, 1970.

The legal issues involved in the land claims controversy are complex. The unresolved status of the claims creates difficult problems concerning Native livelihoods and opportunity, the fiscal and economic vitality of the State, and the proper conservation and development of Alaska's resources. The urgency and complexity of these issues require the certainty, the flexibility, and the detail of a legislative settlement.

MAJOR PROVISIONS OF NO. 1830

A major purpose of the legislative settlement proposed by S. 1830 is the final extinguishment of all Native claims to lands in Alaska. As compensation for the extinguishment of these claims the bill provides for substantial land grants to both individuals and to Native Village Corporations; the organization of modern and democratic corporate enterprises to administer funds granted by the bill; a Federal appropriation of $500 million to be paid over a 12-year period; a right to share in revenues derived from the mineral resources of Alaska until $500 million has been received; and protection of subsistence resources used by Native people.

A. Persons eligible.

Persons eligible for benefits under the acts are Alaska Indians, Eskimos, and Aleuts of one-fourth degree or more blood who are citizens of the United States. Native people living in urban areas of Alaska or living in other States are entitled to benefits under the act and special provisions have been made in the bill for them.

B. Monetary compensation.

First. Appropriated funds.

An authorization for $500 million of Federal funds to be paid over a 12-year period is provided. These funds are paid to the Alaska Native Investment Corp. and to the Alaska Native Services and Development Corp. These corporations receive and distribute moneys to the Native people in the form of shares of corporate stock, dividend payments, to individuals and cash distributions to village corporations and the urban and national corporations.

Second. Revenue sharing.

In addition to the federally appropriated funds the Native people of Alaska are granted the right to receive 2 percent of the revenues derived from the disposition of leasable minerals on the public lands in Alaska until a total of $500 million has been paid. The bulk of these revenues—99.5 percent—will come from funds which would otherwise go to the State of Alaska.

C. Compensation by land grants.

First. Individual land grants.

The bill provides that individual Natives who have a residence, business or a hunting, fishing or trapping campsite will receive title to the land occupied or used by them for these purposes.

Second. Village land grants.

Villages which are believed to be entitled to select lands are listed in the bill. The bill also provides a procedure for adding villages not listed in the bill if they meet certain requirements.

Third. Land selection for economic potential.

The Services Corp. is granted the right to select two million acres of public lands for their timber potential. The Services Corp. also may select an additional 1 million acres to be used to avoid hardship to Native groups and individuals and to protect areas of unique cultural and historical significance.

Five hundred thousand acres of surface estate land is granted to the North Slope Native Corp. in recognition of the fact that on the north slope larger areas of land are needed for subsistence.

The maximum amount of land granted under the bill is a little over 10 million acres. The lands granted are broken down as follows:

	[In acres]
Grants to village corporations	5,884,200
Grants to individuals	635,000
Grants to services and North Slope Native corporations	3,500,000
Total	10,019,200

D. Institutions established.

First. Alaska Native Commission.

An Alaska Native Commission is established to perform a number of quasi-judicial functions in the administration and implementation of the provisions of the bill. These duties include the preparation of a final membership roll of all eligible Native people, preparation of a final village roster, the determination of boundary questions and disputes, and the review and approval of certain land transactions.

The Commission will consist of five members, at least two of whom must be Alaska Natives. Commission members will be appointed by the President, subject to Senate confirmation, and will be compensated by the Federal Government. The Commission will terminate at the end of 7 years or earlier if its duties under the bill have been completed.

Second. Alaska Native Corp.

The bill would establish two statewide corporations. The first, the Alaska Native Investment Corp., will engage exclusively in investments and business for profit activities. The second, the Alaska Native Services Corp., will perform needed social services and distribute funds made available under the bill. Eligible Native Villages are required to establish nonprofit membership corporations under Alaska State law to hold title to lands granted by the bill and to distribute benefits to individuals. An urban corporation and a national corporation will be established to perform similar functions for Natives living in urban areas of Alaska and for Natives living outside the State of Alaska.

Third. Alaska Native Foundation.

At the end of 12 years a charitable foundation, the Alaska Native Foundation, will be established. The foundation's purposes will be educational and charitable, and it will carry on the social betterment functions previously performed by the Services Corp.

E. General provisions.

First. Protection of subsistence resources.

The Secretary of Interior is directed to classify public lands surrounding all Native villages as subsistence use units. These units will be much larger than the areas of land granted to the villages and will provide a means of closing these areas for a limited period of time to nonresident hunters, fishermen, and trappers, when necessary to protect subsistence resources.

Second. Transitional operation of public land laws.

The bill legislatively withdraws, for a period of 5 years, all unreserved public lands in Alaska and sets up a system for opening these lands to entry after they have been appropriately classified as chiefly valuable for the specific purposes provided for under the public land laws.

The bill also directs the Secretary of the Interior to make a detailed study of all unreserved public lands in Alaska which are suitable for inclusion in the National Park or Wildlife Refuge Systems. The Secretary is to make recommendations to the Congress on these areas within 3 years.

Third. Transfer of education and welfare responsibilities to the State of Alaska.

The bill requires the Secretary to initiate a study to develop a program for ending the Bureau of Indian Affairs control over the affairs of the Native people of Alaska within 5 years. The basic responsibility for the welfare of Native people in Alaska would, as it is for all Alaska citizens, be vested with the State of Alaska. Federal programs which are excepted from this transfer are the Native public health service programs and certain educational programs.

Fourth. Attorneys' fees and expenses.

Compensation of attorneys for fees and expenses incurred in connection with the Alaska Native land claims legislation, or in connection with claims pending before the Indian Claims Commission which would be terminated by the terms of the bill, would be set by the Chief Commissioner of the Court of Claims. The bill provides that the fees shall be paid on a quantum meruit basis for services actually performed. A total limitation of $1.5 million for attorneys' fees is established by the bill.

NEED FOR SETTLEMENT

S. 1830 as reported by the committee will go far toward providing the Alaska Native people the means for correcting and improving many of the conditions under which they live. The measure is not, however, in any sense to be considered as social welfare legislation. The bill provides compensation for the taking and extinguishment of claims to land which—though they have not been litigated—in the judgment of many competent Government and private attorneys raise substantial issues of both law and fact.

First. Social need.

The Alaska Native people as a group are among the most disadvantaged citizens of the United States in terms of income, employment, educational attainment, life expectancy, health, nutrition, housing, and every important indicator of social welfare.

Statistics on the condition of the Alaska Native are appalling. His average age at death is less than 35 years; the infant mortality rate is more than twice the national average. Tuberculosis preys on him at 20 times the rate for the rest of the United States. Other diseases run rampant in his communities, particularly those caused by environmental conditions. Alaska Native Villages contain the worst housing in America. Of some 7,500 dwellings, 7,100 need replacement.

Out of 2,014 Native households recently surveyed, 1,561 have no water supply or waste disposal and 393 have well water only. Only 60 households have well water and sanitary waste disposal.

The Alaska Village Native has an average formal education of less than 8 years—after which he must leave his community and family and often this State for grades 9 through 12.

The Alaska Native has an unemployment rate of 60 percent and an annual per capita income of less than $1,000—much less than the official poverty level of the U.S. Government.

These conditions did not result only or even mainly from the lack of clear title to the lands occupied by the Natives. They will not be resolved alone by the opportunities which would be made available by certainty in land tenure. The unresolved status of those lands has, however, subverted both traditional livelihoods and the possibility of social and economic progress on a modern footing. Without title to the lands they use and occupy, Alaska Natives are defenseless against commercial development which changes the character of and sometimes depletes subsistence resources, and against the population influx which disorganizes indigenous ways of life. At the same time, the Native people have no usable property rights in the commercial resources of the lands they have historically used and occupied. As a consequence, they have lacked real property assets to develop or to use as security for loans for home improvement or entry into commercial enterprise.

The bill approved by the committee will correct many of these conditions and will provide the resources and the institutional framework for dealing with other problems.

Second. Need for certainty.

Intelligent, planned development as well as the preservation of scarce resources—and attaining the optimum balance between them—requires sophisticated land-use planning and land management by both the Federal Government and the State. Neither government can plan or manage effectively so long as the Native claims issue is unresolved.

The fact that unresolved Native claims have been made to most of the lands in Alaska has halted both Federal mineral leasing and the transfer of lands selected by the State under the Statehood Act. Some contend that the Native land claims may also cast a cloud over the State's title to mineral revenues it has already received. If continued indefinitely into the future, the present impasse will seriously limit the possibilities of human development as well as resource and economic development in Alaska and compromise both the State's fiscal viability and its capacity to provide opportunity for all of its citizens—first as well as last.

The alternative to a prompt legislative disposition of the Alaska Native claims is a myriad of lawsuits which cannot provide justice to any of the parties involved but which may be expected to increase the existing antagonisms between Native people and other Alaskans.

The legislative settlement recommended by the committee reflects an exceptional degree of unity and agreement among the parties involved on the goals and principles to be achieved by its enactment. There is concurrence on the relevant history and on the main facts; there is general agreement on the principles of law and on the limits within which the formulation of public policies must be conducted; there is consensus on the structural elements which constitute the settlement; and there is a common recognition that the institutions and machinery of settlement are in large measure dictated by the nature of the problem and the elements of the settlement.

To the Federal Government, S. 1830, if enacted by the Congress as recommended by the committee, can mean that the last chapter in the history of the U.S. relations with the Alaska Indian, Eskimo, and Aleut people will have a just, generous, and honorable closing.

To the State of Alaska, the bill provides the means for lifting of the land freeze and for going forward with proper and planned economic development of the State. It means that the cloud which the Native claims cast on all land titles in Alaska will have been removed. It means that State selections under the Statehood Act may proceed, free from the threat of litigation and conflicting claims.

To the Alaska Native people, the bill provides opportunity for a better life for themselves and for their children.

The bill approved by the committee presents the Congress with the chance to provide the Native people of Alaska with justice, hope, and opportunity and to end 100 years of less than benevolent wardship.

If Congress does not provide for the settlement of the land claims of the Natives of Alaska in this session, it is reasonably certain that many consequences, all of them undesirable from the viewpoint of the Native people, the State of Alaska, and the United States, will follow. These include additional years of delay in doing justice to the Native people;

the probable initiation of litigation by the parties involved as part of an effort to protect their position; probable continued delay in State selections under the Statehood Act; the expiration of Public Land Order No. 4582 and the possibility that through the operation of the public land laws, increased conflicts between the claims of the Native people, the State, and others will develop.

To date, all of the parties involved have supported and worked toward a legislative settlement in which all stand to benefit. The time to enact that legislation is now. In virtually every major piece of legislation dealing with Alaska from the time of its purchase from Russia, Congress has stated that it was reserving the settlement of the claims of the Natives for future legislation. S. 1830 provides a carefully considered, carefully drafted legislative settlement through which the Nation may honorably settle the longstanding claims of the Alaska Native people.

Mr. President, I ask unanimous consent that selected portions of the committee report on S. 1830 be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

I. INTRODUCTION

1. GENERAL

The Committee on Interior and Insular Affairs has, over a period of four years, heard many witnesses and compiled a voluminous hearing record concerning the long standing claims of the Indian, Eskimo, and Aleut people of Alaska to the lands which now comprise the State of Alaska. Some of this testimony was conflicting on important legal, social, and economic issues that are involved in bringing about a just resolution and settlement of this issue.

In spite of the differences in point of view on some of the particular issues involved there has been a remarkable unity of purpose on the goals sought and the principles to be advanced by this settlement. The goals and principles sought to be achieved by the Committee in this legislation are stated as well as they can be stated in the preamble of the *Official Constitutions and Bylaws* of the Alaska Federation of Natives, the Statewide Association of the Native people of Alaska:

We, the Native People of Alaska, in order to secure to ourselves and our descendants the rights and benefits to which we are entitled under the laws of the United States, and the state of Alaska; to enlighten the public toward a better understanding of the Native people; to preserve the Native cultural values; *to seek an equitable adjustment of Native affairs and Native claims;* to seek, to secure, and to preserve our rights under existing laws of the United States; to promote the common welfare of the Natives of Alaska and to foster the continued loyalty and allegiance of the Natives of Alaska to the flag of the United States and the state of Alaska, . . . (emphasis supplied)[1]

The land claims of the Native people of Alaska are the main remaining body of unresolved claims by aboriginal peoples in the United States. They are not encumbered with a history of conquest or of treaties between tribal groups and the United States, and with minor exceptions no wardship or reservation system has been imposed either on the Natives or on the lands they use and occupy.[2] The Congress has an opportunity in this last major settlement between the United States and the Native peoples of America to arrive at a more just and wiser resolution than has been typical of our country's history in dealing with Native people in other times and in other states.

This Committee believes that doing justice to Alaska's Native people and acting in the larger national interest both demand a prompt settlement of these claims. Their unresolved status threatens Native livelihoods and opportunity, the fiscal and economic viability of the State of Alaska,[3] and the proper conservation and development of Alaska's resources. Moreover, the Committee is convinced that the urgency and the complexity of these issues—especially the urgency of the Natives' need for better living conditions—requires the certainty, the flexibility and the detail of a legislative settlement rather than a judicial settlement. This is a position shared by all of the parties involved.

The measure reported by the Committee reflects an exceptional degree of agreement among the representatives of the Alaska Native people, the responsible agencies of the United States government, and the State of Alaska. All three parties concur in the main facts, principles of law, justice, and public policy involved, and in the main structural elements of the settlement proposed. The presentations of the parties have, of course, differed in emphasis and detail and this legislation is not based preponderantly upon the recommendations of any one of them, but draws selectively from each and contains many new major innovations and refinements. Like any "out of court" settlement, this bill is in many respects a compromise, and it will not be wholly satisfactory to any of the major concerned groups. Nevertheless, the areas of agreement are outstanding and provide the background for this measure and for a final settlement of this long standing, long neglected issue.

2. OUTLINE OF THE MAJOR PROVISIONS OF THE ALASKA NATIVE LAND CLAIMS BILL

Outlined below are the major provisions of the Alaska Native Claims Settlement Act of 1970 as ordered reported by the Committee.

Title

"Alaska Native Claims Settlement Act of 1970"

Declaration of policy

This bill provides for a final legislative settlement to the long standing and long ignored claims of the Alaska Native people to the lands which now comprise the State of Alaska.

The bill extinguishes all Native claims to lands in Alaska. As compensation for the extinguishment of these claims the measure provides for substantial land grants to both individuals and to Native Village Corporations; the organization of modern and democratic corporate enterprises to administer funds granted by the bill; a Federal appropriation of $500 million to be paid over a twelve year period; a right to share in revenues derived from the mineral resources of Alaska until $500 million has been received; and for protection of subsistence resources used by Native people.

Persons eligible

Persons eligible for benefits under the Act are Alaska Indians, Eskimos and Aleuts of one fourth degree or more blood who are citizens of the United States. Native people living in urban areas of Alaska or living in other States are entitled to benefits under the Act and special provisions have been made in the bill for them.

Monetary compensation

1. Appropriated Funds

An authorization for $500 million of Federal funds to be paid over a twelve year period is provided. These funds are paid to the Alaska Native Investment Corporation and to the Alaska Native Services and Development Corporation. These Corporations receive and distribute moneys to the Native people in the form of shares of corporate stock, dividend payments to individuals and cash distributions to Village Corporations and the Urban and National Corporations.

Funds are paid pursuant to the following schedule:

Year:	*Millions*
1	$20
2	50
3	70
4	70
5	70
6	40
7 to 12 ($30 million annually)	180
Total	500

2. Revenue Sharing

In addition to the Federally appropriated funds the Native people of Alaska are granted the right to receive two percent of the revenues derived from the disposition of leasable minerals on the public lands in Alaska until a total of $500 million has been paid. Lands patented to the State under the Statehood Act are excluded, but lands tentatively approved to the State and lands selected by the State are included to insure that the State makes a contribution to the settlement.[4]

3. Division of Revenues

The Services Corporation receives 80 percent of the funds made available in the first year and the Investment Corporation receives 20 percent. These figures change yearly, and by the end of twelve years, the Service Corporation receives 40 percent and the Investment Corporation receives 60 percent of the funds available from Federal appropriations and revenue sharing. This formula will insure that in early years the larger share of available funds will be devoted to dealing with the pressing social and economic problems facing individual Natives and Villages. In later years a larger share of the funds are dedicated to long term investments which will result in larger dividend payments and a substantial increase in the value of the stock held by each Alaska Native.

Compensation by land grants

1. Individual Land Grants

The bill provides that individual Natives who have a residence, business or a hunting, fishing or trapping campsite will receive title to the land occupied or used by them for these purposes.

2. Village Land Grants

Villages which are believed to be entitled to select lands are listed in the bill. The bill also provides a procedure for adding Villages not listed in the bill if they meet certain requirements.[5]

Villages with a population of less than four hundred eligible Natives will be entitled to select up to twenty three thousand and forty acres of land or one full township. Villages having a population of more than four hundred would be entitled to receive up to an additional township of land for each additional four hundred Native residents. The exact amount of land granted to each eligible Village will be based upon the population of the Village, the historic and present uses of the land, foreseeable needs, and the value of the lands. The acreage determinations will be made by the Commission following a review of the recommendations of the members of the Village, the Secretary of the Interior, and the State of Alaska.

To prevent major changes in management, in recognition of the previous judgment awarded the Tlingit-Haida Indians by the Court of Claims, and primarily in view of the higher value of forest lands when compared with most other land areas in Alaska, Villages located in the Tongass and Chugach National Forests would be entitled to receive up to one township only regardless of their eligible Native population.

Footnotes at end of article.

3. Land Selection for Economic Potential

The Services Corporation is granted the right to select two million acres of public lands for their timber potential. The Services Corporation also may select an additional one million acres to be used to avoid hardship to Native groups and individuals and to protect areas of unique cultural and historical significance.

500,000 acres of surface estate land is granted to the North Slope Native Corporation in recognition of the fact that on the North Slope larger areas of land are needed for subsistence.

Alaska Native Commission

An Alaska Native Commission is established to perform a number of quasi-judicial functions in the administration and implementation of the provisions of the bill. These duties include the preparation of a final membership roll of all eligible Native people, preparation of a final village roster, the determination of boundary questions and disputes, and the review and approval of certain land transactions.

The Commission will consist of five members, at least two of whom must be Alaska Natives, Commission members will be appointed by the President, subject to Senate confirmation, and will be compensated by the Federal government. The Commission is authorized to have a small legal staff, hearing examiners if necessary, and a clerical staff. The Commission will terminate at the end of seven years or earlier if its duties under the bill have been completed.

Alaska Native Corporations

The proposed bill would establish two Statewide Corporations. The first, the Alaska Native Investment Corporation, will engage exclusively in investments and business for profit activities. The second, the Alaska Native Services Corporation, will perform needed social services and distribute funds made available under the bill. Eligible Native Villages are required to establish non-profit membership corporations under Alaska State law to hold title to lands granted by the bill and to distribute benefits to individuals. An Urban Corporation and a National Corporation will be established to perform similar functions for Natives living in urban areas of Alaska and for Natives living outside the State of Alaska.[6]

1. Alaska Native Services and Development Corporation

The Alaska Native Services and Development Corporation would be established as a nonprofit membership Corporation to administer and disburse appropriated funds and funds received from revenue sharing to Native Village Corporations and to the Urban and National Corporations.

The Services Corporation will have an eighteen member board of directors, fourteen of whom will be elected on a regional basis by Alaska Natives. The Corporation will have an appropriate staff with the necessary legal, financial, social and public works expertise to provide any needed advice and assistance to the Village Corporations and to the Alaska Native people.

The Services Corporation would be in existence for twelve fiscal years. At the end of twelve years the Services Corporation's Federal charter would expire and, at the option of the Native members, the Services Corporation would be merged into the Investment Corporation, liquidated or reorganized as an ordinary business for profit corporation under State law.

2. Alaska Native Investment Corporation

The bill authorize the establishment of an Alaska Native Investment Corporation. The Investment Corporation is to be organized as a regulated business investment corporation and in many respects is similar in corporate organization to a modern mutual fund.

The Investment Corporation will have a twelve member board of directors and will handle investments and engage in business for profit activities. The Committee has purposely kept the business for profit activities and social services activities separate. While this has required the creation of two statewide corporations rather than one it avoids any confusion of activities, guidelines and personnel. Without this separation it would be difficult if not impossible to evaluate the performance of the investment and business for profit functions.

The board of directors in the early years of its operation will award a contract to a "Business Management Group" which would be responsible for managing the Investment Corporation's assets, subject to the terms of the bill, the Investment Company Act of 1940, and the policies established by the board. At the end of three years the board, at its option, may develop an in-house management and investment capacity and terminate any existing management contracts.

The board is charged with the responsibility of making balanced and prudent investments in:

(i) a portfolio of sound national and international investments;

(ii) business activities having an impact on sectors of the economy especially important to the State of Alaska and Alaska Natives; and

(iii) enterprises wholly or partially owned by Alaska Natives.

The Investment Corporation would issue shares of stock to all Alaska Natives on the final membership roll. The stock would be inalienable for a period of 15 years. Dividends would be paid quarterly to the stockholders.

3. Village Corporations

Each Native Village eligible for benefits under the bill is required to organize as a non-profit membership corporation to hold title to lands granted under the Act and to distribute moneys granted by the Act.[7]

Parallel corporations, the Alaska Native Urban Corporation and the Alaska Native National Corporation, are established under the bill to perform similar functions for Natives in urban areas of Alaska and for Natives living outside the State of Alaska.[8]

Alaska Native Foundation

At the end of twelve years a charitable foundation, the Alaska Native Foundation, will be established. The Foundation will receive 10 percent of the stock of the successor or successors to the Investment Corporation and the Services Corporation. The Foundation's purposes will be educational and charitable, and it will carry on the social betterment functions previously performed by the Services Corporation.

Attorney's fees and expenses

Compensation of attorneys for fees and expenses incurred in connection with the Alaska Native land claims legislation, or in connection with claims pending before the Indian Claims Commission which have been dismissed by the terms of the Act, would be set by the Chief Commissioner of the Court of Claims. The bills provides that the fees shall be paid on a quantum meruit basis for services actually performed. A total limitation of $1.5 million for attorney's fees is established by the bill.

General provisions

1. Protection of Subsistence Resources

The Secretary of Interior is directed to classify public lands surrounding all Native Villages as Subsistence Use Units. These units will be much larger than the areas of land granted to the Villages and will provide a means of closing these areas for a limited period of time to nonresident hunters, fishermen and trappers, when necessary to protect subsistence resources.[9]

2. Transitional Operation of Public Land Laws

The bill legislatively withdraws, for a period of five years, all unreserved public lands in Aalska and sets up a system for opening these lands to entry after they have been appropriately classified as chiefly valuable for the specific purposes provided for under the public land laws.

The bill also directs the Secretary of the Interior to make a detailed study of all unreserved public lands in Alaska which are suitable for inclusion in the National Park or Wildlife Refuge Systems. The Secretary is to make recommendations to the Congress on these areas within three years.

3. Transfer of Education and Welfare Responsibilities to the State of Alaska

The bill requires the Secretary to initiate a study and to develop a program for ending the Bureau of Indian Affairs control over the affairs of the Native people of Alaska within five years. The basic responsibility for the welfare of Native people in Alaska would, as it is for all Alaska citizens, be vested with the State of Alaska. Federal programs which are excepted from this transfer are the Native Public Health Service programs and certain educational programs.[10]

3. LAND TO BE GRANTED TO INDIVIDUALS, VILLAGES, AND CORPORATIONS

S. 1830 as reported by the Committee contains a number of provisions granting land to the Native people and to corporations established under the bill. It is not possible to give an exact figure on the total amount of land which would be granted to the Alaska Native people under the provisions of the bill because the total will depend upon specific decisions of the Commission, the total enrolled Native population and a number of other variable factors.

Taking account of these variable factors and making certain assumptions with respect to Native population and other matters it is possible to project the probable amounts of land which will be granted under the bill as reported by the Committee.

The maximum amount of land which could be granted is slightly more than 10 million acres. This total consist of the following:

Grants to Village Corporations:	
(a) less than 400 Natives	4, 354, 560
(b) over 400 Natives	1, 276, 200
(c) Villages in national forests	253, 440
Total	5, 884, 200
Grants to Individuals:	
(a) hunting, fishing, and trapping campsites	270, 000
(b) homesites outside the areas selected by Villages	365, 000
Total	635, 000
Grants to Corporations:	
(a) Services Corporation:	
(i) timber lands	2, 000, 000
(ii) miscellaneous lands	1, 000, 000
(b) North Slope Native Corporation	500, 000
Total	3, 500, 000
Total	10, 019, 200

There are 179 villages with more than 25 but less than 400 Natives listed in the bill for which withdrawals will be made and which may be eligible for land grants. It is assumed that ten more villages will be found eligible for land grants under the bill. Thus, these 189 villages could be granted a total of 4,354,560 acres. The leasable mineral estate for these lands is granted to the Services Corporation to assure full-time specialized management. Benefits from the mineral estate are divided equally between the region of origin and all eligible Natives.

Footnotes at end of article.

In the list of Native Villages in the bill 16 presently have populations greater than 400. These Villages are entitled to additional lands. The total given assumes that an additional five Villages will grow to a population of 400 or more by date of enactment. Thus, these 21 Villages could be granted a total of 1,276,200 acres as a result of the bill's provision for Villages of larger populations.

There are eleven Villages located on National Forest lands, which are entitled to receive land under the bill. To minimize interference with the purposes for which these lands were set aside these Villages are limited to a grant of 23,040 acres or one township regardless of size. Thus, these villages could be granted a total of 253,440 acres.

Recognized within the bill are the traditional uses of land made by the Alaskan Native people. Provision is made for the granting of various size tracts of land for their use as hunting, fishing, and trapping campsites, as reindeer grazing areas, and as traditional food gathering camps. Based on rather arbitrary assumptions the Committee assumes that approximately 270,000 acres would be granted for these purposes, although this figure could be substantially higher. In addition provision is made for special protection of subsistence use units.

Approximately five percent of the Natives live in areas outside of the Native Villages or urban areas. To provide them with title to the lands on which they presently reside, provision is made for the granting of residence units in areas outside of lands selected by the Village Corporations. Again based upon rather arbitrary assumptions the Committee assumes that approximately 365,000 acres would be granted for these purposes, although the figure could be substantially higher. (Individuals living within areas selected by a Village Corporation would receive title to homesites, business and camps directly from the Village Corporation. Consequently, totals for this purpose are included in the Village land grants and are not separately stated).

The other major land granting features of the bill involves lands patented to Native corporations. The Services Corporation receives 3,000,000 acres to serve as a "land bank" to provide a resource base for future Native economic development, and to protect certain areas of the State which have cultural or historical significance to the Natives. The North Slope Native Corporation is granted the right to select 500,000 acres because of the need for more extensive land for subsistence use for the North Slope region.

II. BACKGROUND OF THE ALASKA NATIVE LAND CLAIMS

The following is a summary of the background of the "Alaska Native Land Claims Act of 1970," the major issues raised by the Act and the policy considerations which the Committee feels are of special importance in the recommended settlement.

3. THE COMMON LEGAL THREAD: A CLAIM OF ABORIGINAL USE OF OCCUPANCY

An early problem this Committee had to face in considering any settlement of Alaska Native land claims was the bewildering diversity among the claims and claimants. Claimants include individuals as well as traditional and corporate tribal and regional associations. Many are of different language and cultural groups and differ in the patterns of their historic use of the land and in their present location with respect to it; they vary widely in their levels of acculturation and in their economic condition. The claims differ in the type of relief sought, in the apparent ownership and status of the lands claimed, and in the length of time over which they have been formally asserted.[11]

The common legal thread which runs through the diversity indicated above is the assertion of rights or claims based upon *aboriginal use or occupancy*. The crux of the legal issue raised by Native land claims in Alaska was set out first and most definitively in Section 8 of the Alaska Organic Act of 1884 (Act of May 17, 1884, 23 Stat. 24):

> That the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress.

The same issue has been posed sharply in recent years by the implementation of the Alaska Statehood Act (72 Stat. 339) which in section 6 authorizes the State to select for itself public lands within Alaska, but which in section 4 (as amended by the Alaska Omnibus Act, 73 Stat. 141) provides that "* * * the State and its people * * * forever disclaim all rights and title * * * to any lands or other property (including fishing rights), the right and title to which may be held by any Indians, Eskimos, or Aleuts." Such lands, "* * * remain under the absolute jurisdiction of the United States until disposed of under its authority * * *"

The ultimate implications of these respective provisions of the 1884 and 1958 Acts and of similar and related provisions of other laws are subject to a variety of legal interpretations. However, the intention of Congress is beyond dispute with respect to two issues:

(1) Congress refused in each instance to determine substantively what lands were in fact used or occupied by the Natives, or what was the nature of the title that the Natives held by virtue of that use or occupancy; and that

(2) Congress intended in each instance that the *status quo* be maintained with respect to Native use, occupancy, and title to lands in Alaska until Congress should act upon these questions.

These intentions are explicitly reinforced in further language of section 4 of the Alaska Statehood Act. ". . . that nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States . . ."

Congress has, therefore, given Native claims precedence over other claims on the public lands of Alaska, but it has reserved to itself the power to define, confirm, deny, or extinguish Native title, and, with minor exceptions, Congress has so declined to do so. As a result:

(1) There is serious doubt about the authority of the Department of the Interior to grant to the State or other parties rights in, or patent to, public lands in Alaska claimed by Natives; consequently, almost all mineral leasing on and state selection of such lands have been brought to a halt;[12]

(2) The title to public lands or other property in Alaska transferred to the State or to private persons in the face of a Native protest is seriously compromised; yet[13]

(3) Congress to date has granted no agency or court the jurisdiction to make a determination on their merits concerning Native claims in Alaska.

4. THE ISSUE OF FACT: THE NATIVE LAND CLAIMS HAVE SUBSTANTIAL VALIDITY

The question of fact in each of the Alaska Native land claims is whether the claimants or their ancestors have used or occupied the lands or other property claimed. The testimony, exhibits, and materials examined by the Committee show a wide variety of patterns of land use and occupation in different parts of Alaska, but they demonstrate beyond any doubt that the Alaska Native land claims in general do have substance in fact. Substantial portions of land and water in Alaska, with the exception of the ruggedest mountain and glacier areas, historically were or presently are being used or occupied by some group of Eskimos, Indians, or Aleuts. However, this does not exhaust the issues of fact involved in settlement of these claims. There are great differences in the intensity and in the continuity of land use by the Native people of Alaska. Several hundred Native "places" have been continuously or regularly occupied as villages, camps, etc., since long before 1884; together these places may not total more than a million acres. On the other hand, there are millions of acres of land used by, and indispensable to, Natives as wildlife habitat and hunting ranges. In many of these areas, however, the intensity and frequency of use have been very low because of the nature of the use. Between these extremes there are other millions of acres which have received varying degrees of intensity in land use and occupation for subsistance and other purposes.[14]

The Committee found no principle in law or history, or in simple fairness, which provides clear guidance as to where the line should be drawn for the purpose of confirming or denying title to public lands to Alaska Natives. Some of the factors which the Committee considered in arriving at the present land grant provisions of S. 1830 are as follows: (1) the need to confirm in all Native people the title to lands they occupy for home sites or businesses and lands they use as campsites for hunting, fishing and trapping; (2) the need to grant each eligible village lands for community expansion and to provide protection and a buffer from the intrusions of others; (3) the desire to avoid the granting of huge land enclaves which in most cases would involve expensive administration and which could result in remote, land locked reservations rather than viable open communities; (4) the desire to grant lands which can provide new economic opportunities to the corporations established under the Act; and (5) the need to provide protection for subsistence uses of the land.

The Committee, after careful consideration, recommends confirming title to every eligible Native person of the land occupied and used by him as a primary place of residence or business. The Committee recommends granting to each Village Corporation the lands in and around the Village for community use and expansion. This grant is to be made after considering population, use and other factors and for small villages may be up to one township (23,040 acres) and for larger villages up to an additional township for each additional four hundred Native people. In addition, the Committee recommends that certain lands be granted for economic development, to avoid unintended hardships and to protect hunting, fishing, and trapping camp sites as well as other historic subsistence uses.

Depending upon the determination of the Alaska Native Commission established by this measure, the lands granted may total up to slightly more than ten million acres. This is more than the Federal Field Committee for Development Planning recommended. It is less than the Alaska Federation of Natives proposed. It is approximately the same as could be provided under the bill submitted by the Department of the Interior.

5. JUSTICE AND PUBLIC POLICY REQUIRE A LEGISLATIVE, RATHER THAN A JUDICIAL SETTLEMENT

There have been witnesses before this Committee who maintain that the Natives are entitled by virtue of aboriginal use and occupancy to, if anything, nothing more than the residential lots on which their cabins stand. Others have maintained that the Natives rightfully own all of Alaska, that they should receive a patent in fee to all the unreserved lands in the State, and compensation at full market value for all lands which have been withdrawn from the public domain or transferred to other parties including the State.

Each of these positions is to some extent logically defensible, and the law itself does

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Footnotes at end of article.

not provide clear answers or sufficient ground to reject either of them out of hand. Yet neither extreme is acceptable from the standpoint of justice or from the standpoint of public policy. The claims of the Natives of Alaska are far more substantial, and their needs in either a traditional or a modern way of life are far greater, than for residential lots alone. By the same token, however, their needs and a just settlement of their claims do not require a grant to the whole of the State of Alaska and the consequent frustration and defeat of the reasonable expectations of all who have since made Alaska their home and invested in its future.

This Committee is not persuaded that the rights and welfare of the Natives would be sufficiently served to justify the additional inequities and the legal and administrative complications involved in revoking existing land reserves which have been made for public purposes or in overturning patents or otherwise threatening valid rights in land previously granted to the State or private parties. Nor does this Committee believe it is necessary or wise to confirm tens or hundreds of millions of acres of public lands in private ownership by virtue of historical utilization at very low levels of intensity.

Yet these are the extreme alternatives which could follow from committing the resolution of the Native land claims issue to the Federal Courts for a decision based strictly on the legal merits of the Natives' claim. The Committee considered and rejected this course of action as did the Department of the Interior, the State of Alaska and the representatives of the Alaska Native people. No one in a position of responsibility has seriously suggested or endorsed it in this session of Congress.

The reasons are obvious. Justice to the Native people and the wise allocation and disposition of the lands and resources of Alaska both require a surer, more complex and imaginative resolution than simply confirming or denying title to specific tracts and awarding cash compensation. The Committee is also convinced that fairness and wisdom require a far more prompt and timely resolution of the claims and protests than can reasonably be expected from the Courts. In addition, questions of certainty, of wide latitude in the adoption of the elements of settlement, and the ability to create exceptions to treat special cases make it clear that the legislative settlement proposed in S. 1830 is in the best interest of all the parties involved.[9]

It is imperative to reach a settlement, but, in the words of the bill (Subsection 2(c)), the public interest demands that—

> The terms of this settlement [be carried out] promptly, with certainty, and in conformity to the real economic and social needs of Alaska Natives by avoiding litigation, by maximizing the participation by Natives in decisions affecting their rights and property . . . without (1) establishing any permanently racially defined institutions, rights, privileges, or obligations; (2) creating a reservation system or lengthy trusteeship; or (3) ultimately adding to the categories of property or organizations enpoying special tax privileges or to the legislation establishing special relationships between the United States and the State of Alaska.

VII. Costs and Benefits of Monetary Compensation

SUMMARY

S. 1830 as recommended by the Committee authorizes the payment of total monetary compensation of $1 billion to the Alaska Native people for the claims which will be extinguished by the enactment of the Alaska Native Claims Settlement Act of 1970.

The monetary compensation would be derived from two sources. First, $500 million is authorized for appropriation from the United States Treasury over a period of twelve years. Second, provision is made for the Alaska Native people to receive a total of $500 million by sharing at the rate of 2 percent in the revenues derived from mineral leasing on the public lands and on lands which will be patented to the State of Alaska under the terms of the Statehood Act.

The nine tables set out below have been prepared to show the cost of this settlement to the United States and to the State of Alaska; the per capita value to each Native of the benefits to be received; the funds available for social services and investment; sample cash flows in the Investment Corporation; and a projection of anticipated benefits to a typical Native family of five persons and a typical Native Village with a population of two hundred.

In summary the tables disclose the following with respect to the cost and benefits of S. 1830:

COST TO THE FEDERAL GOVERNMENT

Funds to be appropriated from the United States Treasury total $500 million to be paid on a variable payment schedule over twelve years. The Federal contribution to the moneys received from 2 percent revenue sharing totals $2,621,000 to be paid by 1998. The total cost to the United States is $502,621,000.

At an 8 percent discount rate the present value of the Federal share of the monetary compensation to be paid under the bill is $356 million.

COST TO THE STATE OF ALASKA

Funds to be paid from the 2 percent revenue sharing provisions of S. 1830 total $500 million. 99.5 percent of this total, or $497.3 million, will be paid from funds which would otherwise go to the State of Alaska. The Federal share is 0.5 percent and amounts to $2.6 million.

At an 8 percent discount the present value of the State contribution is $160.8 million.

PER CAPITA COST TO THE UNITED STATES TREASURY

Assuming a total final enrollment of 75,000 eligible Natives the cost to the Treasury would be $6,704 per person. At an 8 percent discount rate the present value per person is $4,749.

DIVISION OF FUNDS BETWEEN INVESTMENTS AND SOCIAL SERVICES

S. 1830 provides for a division of the funds made available under the Act ($1 billion) between the Native Investment Corporation and the Native Services Corporation. At the end of twelve years the Alaska Native Foundation is established and receives 10 percent of the stock in the successor corporations.

Funds made available for investment to the Investment Corporation (sources are revenue sharing and Federal appropriations) total $641 million. Their present value at an 8 percent discount rate is $259 million.

Funds made available for social services to the Services Corporation total $357 million ($393 million if the assets of the Foundation are included). Their present value at an 8 percent discount rate is $256 million.

TOTAL PER CAPITA BENEFITS TO ALASKA NATIVES

The gross value of the settlement proposed in S. 1830 per Native person is $12,727 ($6,526). Of this total, funds for social services are $4,177 ($3,062), and funds for investment are $8,550 ($3,454). The figures in parenthesis represent value per Native person at an 8 percent discount rate.

CASH FLOW OF THE NATIVE INVESTMENT CORPORATION

It is projected that the Native Investment Corporation will receive $641 million between 1971 and 1998. Management expenses are projected at $46 million for the same time period. Dividends paid to the shareholders are projected at a total of $691.4 million. The value of the stock in the Corporation in 1998 is projected at $1,220 million. At an 8 percent discount rate the present value of the Corporation's prospective earnings and asset value is $328 million.

DIVIDENDS PAYMENTS PER SHAREHOLDER

Dividends paid to each shareholder by the Investment Corporation begin at $53 per year and reach $729 per year by 1998. In 1986 stock held by Native people will become alienable and its value per share for that year is projected at $8,221. By 1998, the value per share in projected at $15,368. At a discount rate of 8 percent, however, present value per share is $3,786.

BENEFITS TO A TYPICAL NATIVE FAMILY OF FIVE PERSONS

The total benefits made available by the monetary compensation provisions of S. 1830 to a typical Native family of five persons (parents and three children) between 1971 and 1998 total $63,130.

$21,070 of this total is in the form of social services. 89 percent of these funds are made available in the first twelve years through the Services Corporation's payments to Village Corporations and Urban and National Corporations. The remainder are made available after 1983 by the Alaska Native Foundation.

$42,060 of the total is received in the form of dividends paid to the family's five shareholders by the Investment Corporation and the successor corporation(s). 86 percent of these funds are not made available until the period 1983 to 1998. The present worth of all benefits to this family of five persons when discounted at 8 percent is $32,678.

BENEFITS TO A TYPICAL NATIVE VILLAGE OF 200 NATIVES

A typical Native Village with a population of 200 eligible Native people would receive payments from the Services Corporation totalling $886,000 between 1971 and 1982. Payments would be made to the Village Corporation and would be distributed in accordance with a plan prepared by all of the members and approved by the Services Corporation.

Funds received by the Village Corporation could be used for cash distributions; housing subsidies; community health programs; investment in community facilities such as sanitation or water systems; loans; productive enterprise; or a combination of these and other purposes. The typical Alaska Native Village presently consists of a cluster of shacks and a few stores. There are no paved streets, sidewalks or plumbing. Most public services which Americans take for granted are nonexistent. Funds made available to Village Corporations and to the Native people will enable them to establish their own priorities and to improve the quality of their communities and their lives.

CONCLUSION

Whatever the form in which funds provided through the Services and development Corporation are disbursed, they may be expected to raise the real incomes of a typical Native family of five persons by an average of $1537 per year during the first twelve years. These benefits will be supplemented by average cash dividends during the same period of approximately $500 per year with substantial increases in later years. The total increase in family income of over two thousand dollars per year will amount to a doubling of the real incomes of more than one-fifth of such families, and to a fifty percent increase for about half of them.

While this settlement is not intended either as public assistance legislation nor as a substitute for existing public assistance, health, education, or community development programs, its possibilities for reducing future Federal and State costs for these programs are obvious.

FOOTNOTES

[1] Portions of the *Official Constitution and Bylaws* together with a history of the Alaska Federation of Natives and other Native organizations are found in *Alaska Natives and the Land* at page 27.

[2] See chapter 5 of *Alaska Natives and the Land*, page 429 for a discussion of the Native land claims and their background.

[3] For a discussion of the impact of the Native claims on Alaskan development see *Alaska Natives and the Land*, pages 519–528.

[4] The legal issues posed by revenue sharing are discussed in the section of this report on "History of the Problem," and briefs and rebuttals on the questions involved are printed in the Committee hearing record.

[5] Information on the number of villages in Alaska and their population is found in the Committee hearing record at page 555.

[6] The need for management organizations is discussed in *Alaska Natives and the Land* at pages 545–546.

[7] Present forms of village government are described in *Alaska Natives and the Land*, page 47. The importance of villages to Native people is discussed in *Alaska Natives and the Land*, page 83.

[8] The need for Urban and National Corporations for Natives not residing in Villages is discussed in *Alaska Natives and the Land*, page 543.

[9] Regional occupation and livelihood patterns for the regions of Alaska are discussed in *Alaska Natives and the Land*, pages 129–284. For a map of village locations, see page 41.

[10] The cost of Federal programs is discussed in *Alaska Natives and the Land*, pages 14–31.

[11] A discussion of the lands effected by the Native claims is found in *Alaska Natives and the Land*, 442–453.

[12] See December 19, 1969 decision of the U.S. Court of Appeals for the Ninth Circuit in *State of Alaska* v. *Udall*, 420 F. (2nd) 938, *cert. den.* This decision is discussed under Part 2 of the section of this report on "History of the Problem."

[13] A list of the lands patented by year when the patent was issued in Alaska is found in *Alaska Natives and the Land*, page 449.

[14] A careful study of the varying land usage patterns for the various regions can be found in *Alaska Natives and the Land*, pages 129–286.

Mr. STEVENS. Mr. President, I want to begin by commending the chairman of the Interior and Insular Affairs Committee, the distinguished Senator from Washington, for the tremendous amount of time and dedication he has given to this subject which is so vital to the people of the State of Alaska.

As he has said, over a period of several years the committee has conducted hearings both in Alaska and the Nation's Capital. The pending bill is one which will resolve many of the conflicts which were presented to the committee.

Mr. President, the measure now before the Senate is of tremendous importance to my State of Alaska. Not since the Alaska statehood bill was before this body over a decade ago has a measure of such importance to Alaska been presented for the Senate's consideration.

The measure is a complex one. It is carefully tailored to accomplish a specific goal. It will convey to the Native villages sufficient land for homes and business; it will guarantee that sufficient land to maintain their subsistence way of life will remain available for as long as they choose that way of life; and it will provide a sufficient capital base in both land and money to permit them to develop the basic services they need to move into the 20th century at a pace of their own choosing.

The Alaska Native Land Claims Settlement Act is the most innovative settlement ever developed. It is designed to make available the machinery and the resources to allow Alaska's Natives to become self-sufficient and in control of their own destiny. It does not perpetuate Federal paternalism; it does not create additional enduring Federal bureaucracies. It does provide necessary land and money to allow the Natives to build a society of their design; it does provide the necessary administrative machinery to facilitate the attainment of this goal.

The point I would most like everyone to keep in mind is that the bill is a package. It strikes a careful balance among the alternatives of land in fee, land for restricted use, compensation in cash and a share of the future revenues from Alaskan lands. It is a compromise; but it is a fair one. It is fair to the Natives of Alaska; it is fair to the people of Alaska; and it is fair to the people of America.

Simple justice requires passage of S. 1830.

Again I commend our chairman for his consideration of this measure and for the work that he and his staff have done on it.

Mr. President, I ask unanimous consent to have printed in the RECORD three memoranda prepared by the Alaska Federation of Natives.

There being no objection, the memoranda were ordered to be printed in the RECORD, as follows:

THE $500 MILLION CASH PAYMENT

The following considerations demonstrate the appropriateness of a cash settlement of $500 million over a period of 12 years:

$500 million is not an exorbitant sum when viewed against the claims surrendered by the Natives. The Natives have substantial claims to the vast bulk of Alaska—more than 350 million acres. Every serious student of Alaska has recognized the substantial nature of these claims. While it cannot be said with certainty that the Natives could establish the required use and occupancy for all of these lands, it is abundantly clear that they would be found to hold aboriginal title to vast areas of Alaska. The traditional legal standard for Native claims is the value of lands at the time of taking. For most of Alaska, the taking has occurred very recently or is taking place today. And by today's standards, the value of land in Alaska is enormous.

The present value of $500 million paid over 12 years is less than $355 million if a discount rate of 8% is utilized. See Committee Report p. 102. If an allowance for inflation at an anticipated rate of 6% is also included, the present value of this cash payment is less than $288 million. The total cash payment at present value is thus less than $1 an acre for land claims surrendered.

This settlement is not exorbitant on a per capita basis when compared with other recent Native claims settlements, several of which have exceeded this settlement on a per capita basis. See Committee Report pp. 103–4. There are, by the best estimates available, in the neighborhood of 60,000 Natives who would benefit from the bill. Their present per capita income is only one-fourth of non-Native Alaskans.

The cash payment will allow the Natives to help themselves, alleviating their crying social needs for housing and other necessities, and permitting them to become meaningful participants in the Alaskan economy. The average age of death for Alaskan Natives is less than 35 years. Much more than 95% of their housing needs to be replaced completely. Less than 1% of the rural housing has adequate sanitation facilities. Alaska Natives lack the dollar capital to seize attractive business opportunities. The cash payment, together with the revenue sharing plan, will allow Native corporations to remedy these problems.

REVENUE SHARING PLAN

The following considerations demonstrate the justification for and wisdom of the Revenue Sharing Plan provided for in Section 17 of S. 1830:

The State of Alaska, which should participate in a Native claims settlement, will bear 99.5% of the total cost. The Revenue Sharing Plan will impose a cost upon the federal treasury only where federal lands are involved. Because revenues are divided 90–10 between the State and federal governments on those lands, the cost to the federal government will be minimal. Overall, the federal share will be only 0.5%; an amount of $2.6 million. See Committee Report pp. 99, 104–5.

The present actual value of the Revenue Sharing Plan is much less than the $500 million ceiling specified in the bill. Because revenues will be received only over a substantial period in the future, the total value of the plan should be discounted to reflect its present value. Using a discount rate of 8%, the present value is only $160 million.

In addition, the likely effect of inflation should be recognized. If an inflationary trend of 6% a year is used, the present value of the settlement in today's dollars is reduced to less than $88 million.

Finally, the value of those dollars should be viewed in light of the generally higher price levels in Alaska. Using an index which uses food prices in Seattle as 100, prices in Alaska range from a low of 124 in Ketchikan to a high of 186 in Bethel.

The Revenue Sharing Plan offers the Natives a continuing interest in the progress and prosperity of the State.

The Revenue Sharing Plan allows the Natives to participate as partners with the State rather than in competition with it (as would be the case if the Natives were forced to compete with the State for land selections for mineral potential).

The Revenue Sharing Plan eliminates the cost and risk which would be imposed upon the Natives by an alternative provision allowing them to select lands for mineral potential.

The Revenue Sharing Plan will tie Native prosperity to the prosperity of the State; revenues will vary directly and proportionately with the mineral income received by the State.

A LAND SETTLEMENT OF AT LEAST 10 MILLION ACRES

The Natives of Alaska are entitled to retain a minimum of 10 million acres of the lands they claim, for the following reasons:

They hold historic Native title to the vast bulk of a truly vast State. The State of Alaska has more than 380 million acres. The Natives have substantial claims to virtually all of this land. A settlement allowing them to retain ownership of 10 million acres would thus represent less than 3% of the lands they have historically used and occupied.

Almost all of Alaska is presently unoccupied except for Native villages and will remain so in the future. A recognition of Indian title in and surrounding these villages will deprive no one else of these lands.

There is no danger of racial enclaves or reservations. Native villages are and will continue to be open communities, which Natives may leave and which non-Natives may enter to settle. Many of these communities have been or will be incorporated as municipalities. Natives and non-Natives will be able to acquire town real property in all communities.

The Natives of Alaska are deeply attached to what they justly regard as their land. To deny them confirmation of title to a fair proportion of these lands would be a needless cruelty that would promote no useful goal.

Mr. JACKSON. Mr. President, I take this opportunity to commend the able Senator from Alaska for his help in connection with the pending measure. It has been a real pleasure for the chairman to work with the two Senators from Alaska (Mr. STEVENS and Mr. GRAVEL). They have been extremely helpful to the committee and made our task a great deal easier in trying to get a good bill, which I believe we now present to the Senate today.

Mr. GRAVEL. Mr. President, the Senator from Washington (Mr. JACKSON) is very humble when he talks in terms of the good work of the committee and his own efforts.

It was stated in committee, by members a good deal senior to me and my colleague, Mr. STEVENS, that there has been no bill in the history of the Committee on Interior and Insular Affairs which has demanded more in time, more in attention, and more in effort on the part of a chairman and on the part of the committee itself than this one.

The Alaskan community, both Native and Caucasian, will owe a debt of gratitude to the distinguished Senator from Washington that will last for time immemorial.

I can only compliment him on the leadership he has displayed, the sincerity of his efforts and, really, the depth of the empathy he demonstrated toward this problem, as well as the accommodation in leadership that was worked out between the Senator from Colorado and the Senator from Washington in effecting compromises on difficult issues.

I also wish to commend the distinguished Senator from Montana (Mr. METCALF) who went to Alaska and held hearings and who demonstrated creative leadership in this effort, and in the individual efforts of others on the knotty problems that came up.

The claims legislation we take up today is probably the second most significant piece of legislation in the history of Alaska, the first being, of course, the Statehood Act.

In the Statehood Act, it was recognized that we left one vital issue unresolved, the issue of the indigenous people of the land to a claim they had which went directly to their heritage.

Today, we tidy up that legislation, realizing, first, that the Natives of Alaska have a legal and just claim, so ably laid out in the Senate report; second, that they have a strong and undeniable moral claim; and, third, that it is in the enlightened self-interest of all the residents of Alaska and all the residents of this Nation to effect a fair result so that all parties are satisfied.

In comparing this claim to claims from other parts of the United States and settlements and sums of money given to other Indian tribes, our claim stands monetarily no higher or no lower. In fact, it is very much on an average.

If there is a new area that is plowed, a new concept that is developed in this claim, it is certainly in the approach and in the utilization of funds rendered within the Alaskan community.

Natives and Indians in other parts of the Nation have been given per capita settlements. In Alaska what has been required has been a planned, effective, and intelligent utilization of the moneys so that they are not dissipated and so that there is a legacy which will go beyond the immediate generation. Children many years hence can look back and say that a trust was handed down and was handed down intelligently.

That is the new ground we are breaking with this legislation. For many reasons this legislation is good. It is not perfect because it is impossible to draw a piece of legislation that would attack so many facets and be a perfect document.

I think it is one that the chairman and members of the Committee on Interior and Insular Affairs can be proud of, and it is also one that the entire Senate can be proud of.

I certainly urge Senators to vote for its approval.

Mr. JACKSON. Mr. President, I take this opportunity to express my appreciation, as I did a moment ago to the Senator from Alaska (Mr. STEVENS), for the cooperation afforded the committee by the Senator from Alaska (Mr. GRAVEL). The help of the two distinguished Senators from Alaska has been extremely useful to the chairman and the members of the committee. It has made possible a bill which will make possible a unanimous vote.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. MANSFIELD. Mr. President, I am in receipt of a letter from a constituent, who is living in Anchorage, Alaska.

The letter is addressed to me under date of July 6, 1970.

The letter reads:

> DEAR SENATOR: This letter is written as an allottee and enrolled member of the Confederated Salish and Kootenai Tribes of Montana who is quite concerned with the proposed Alaska Native Land Claims Settlement Act of 1970. It has been my understanding that the Nixon administration has gone on record as being opposed to the termination of American Indians and their lands.
>
> This proposed bill is in reality the biggest termination bill ever written. It provides for a full and final settlement and extinguishment of all claims against the United States based on the Natives' aboriginal right, title, or ocupancy of land in Alaska as well as any hunting and fishing rights that they may have. It further provides for the transition of education, health and welfare from the United States to the State of Alaska within five years from the date of the enactment of the bill.

The writer of the letter then proceeds to ask some questions. The first one I would like to call to the attention of the chairman of the committee. She asks: "What impact will this have on the Flathead Reservation and its tribal rights?"

Mr. JACKSON. Mr. President, may I answer the questions one at a time?

Mr. MANSFIELD. Yes, indeed.

Mr. JACKSON. Mr. President, the bill is confined in particular to the Natives' situation in Alaska. It has no applicability to any other State in the Union.

Mr. MANSFIELD. The second question is: "Will the enactment of this termination bill be used as a wedge for opening the door to termination of Indians in the lower 48?"

Mr. JACKSON. The answer is, "No."

Mr. MANSFIELD. The third question is: "Will we be forced to follow in the footsteps of the Klamath and Memoninee Tribes by the disposition of all our tribal resources?"

Mr. JACKSON. This question, of course, can only be answered by getting at the proper time the views of the Indian tribes involved.

The Committee on Interior and Insular Affairs has followed a policy of insisting that there be a referendum among the Indians themselves before any act of termination is undertaken.

What we have tried to follow is a policy of self-determination. This has been the policy of the committee ever since I have served as chairman.

Mr. MANSFIELD. In other words, no force of any kind, shape or form would be used and does not come within the confines of the bill.

Mr. JACKSON. Mr. President, I want to be emphatic in saying that—and I think I speak for all committee members—that the committee does not intend by anything it has done in this legislation to establish a precedent for legislation or a policy in any other State of the Union as it pertains to Natives.

Mr. MANSFIELD. Mr. President, I thank the distinguished chairman for answering the questions from a constituent. I am appreciative of the answers in the RECORD.

Mr. JACKSON. Mr. President, I have some minor amendments. Some of them are technical. I think this would be the appropriate time to offer them.

Mr. HARRIS. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. HARRIS. Mr. President, I join with the other Senators in complimenting the outstanding efforts of the distinguished Senator from Washington (Mr. JACKSON), chairman of the Interior and Insular Affairs Committee, and the members of that committee for reporting out S. 1830. They have spent many long hours working on a most difficult matter and they should be congratulated for the results of their efforts.

Some have indicated they felt that the U.S. Senate is being too generous to the American Indian, Eskimo, and Aleut is somewhat unusual. I know of no time in the past history of this country that we have been too generous toward the American Indian; the opposite has been true. Today, as we consider S. 1830, we are not being too generous to the Alaskan Natives, and I doubt seriously if at any time in the future we will be too generous to the American Indian.

I think the overall significance of this bill and the moral need to treat the Native peoples of Alaska with fairness and equity is a sufficient answer to any charge of being overly generous.

All of us are aware that this legislation is of critical importance to the Native peoples and to all Alaskans. But its significance extends far beyond Alaska's borders.

Each day our deliberations here reflect and focus an agonizing process in which all Americans are engaged—that of reexamining, redefining, and rediscovering the moral standards on which our national policies and priorities at home and abroad are based. This process of self-examination is the fundamental need of national social and political life.

It is in this context that the broad significance of Alaskan Native claims legislation becomes apparent and in this context that any claim of excessive generosity on the part of the U.S. Senate should be considered.

In the rush toward manifest destiny in the lower 48 States, by treaties and statutes—and, indeed, by force of arms—we took Indian lands. We extinguished their titles to land and confined Indians in ways which were designed to destroy their cultures and patterns of life. In return, we paid them a bit of money, always too little, and encumbered their lives and spirits with the white man's paternalism and control.

In the pending bill we have an opportunity to begin to redress some of those wrongs in regard to the Native peoples of Alaska.

I again compliment the chairman of the committee and the members of the committee for bringing before the Senate the pending legislation. I believe that improvements can be made on the floor of the Senate in the provisions of the bill—and I hope they will be—in the form of amendments. Amendments will be offered, some by me and some by other Senators.

Basically this will be good legislation with the improvements that I hope will be agreed to by the Senate.

If the Senator would yield to me for a question—Does the bill contain any termination of the Bureau of Indian Affairs services to, or the trust status of, the Indians, Eskimos, and Aleuts who would receive land or payments now or in the future under this legislation?

Mr. JACKSON. Mr. President, I can best answer the Senator's question by reading from page 3 of the report, section 4 (b) (1) as follows:

> (b) (1) The Secretary is authorized and directed, together with other appropriate agencies of the United States Government, promptly to initiate a study and to develop programs for the orderly transition of educational, health, welfare and other responsibilities for the Alaska Native people from the United States to the State of Alaska. Within five years from the date of enactment of this Act, the United States shall cease to provide services to any citizen of Alaska solely on the basis of racial or ethnic background: *Provided*, That nothing in this subsection shall affect services furnished the Natives through the Department of Health, Education and Welfare, or diminish the applicability of the Act of April 16, 1934, as amended (48 Stat. 596), or the Acts of September 23, 1950, as amended, (64 Stat. 967), and September 30, 1950, as amended, (64 Stat. 1100).

In other words, simply stated, there would be, which is the request of the Natives themselves, a termination of BIA activities other than to take care of health needs, which the Senator knows is handled by the Public Health Service, and the provisions of the Johnson-O'Malley Act which pertain to educational requirements.

The Natives, as the Senator is aware, were concerned over the years with the problems involved in connection with the operation of the Bureau of Indian Affairs. They have felt very strongly it is too bureaucratic. We excluded, of course, the need for an ongoing health program and an ongoing educational program. We did this primarily because of the remoteness of the villages where the Natives lived. We endeavored to carry out their wishes with regard to the role of the BIA by providing for termination as it pertains to supervision by BIA.

Mr. HARRIS. Mr. President, will the Senator yield further?

Mr. JACKSON. I yield.

Mr. HARRIS. Would the act terminate the trust status of land owned by individual Indians, Eskimos, and Aleuts, and/or their tribal organizations?

Mr. JACKSON. The act gives those Natives a full fee title and it does terminate any such trust arrangement.

Mr. HARRIS. Their lands, then, would be on the tax rolls and would be fully alienable as with land of any other citizen of Alaska, after the effective date in this provision?

Mr. JACKSON. The Senator is correct. We do have a trust arrangement which prohibits any alienation for 12 years in connection with awards they will receive under this legislation. This is done, as a matter of fact, to protect the Natives themselves from any earlier alienations of the judgments and awards they will receive.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. STEVENS. For the information of the Senator from Oklahoma there is no statewide property tax in Alaska. If these lands go on any tax rolls it will be the municipality, which is the village to which we are granting the land, and it will make the determination if the residents will have tax on their lands. That could be within a borough, which is equivalent to a county, but it would be a local determination as to whether there will be a property tax applied to these lands after 12 years.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. GRAVEL. What happens with respect to that situation could be illustrated by the situation at Point Barrow. If a Native owns a lot which is 50 feet by 150 feet, the Native cannot sell that land without going to the Bureau of Indian Affairs and getting the signature of some official. A person will now have a deed or he could go to a bank and get a mortgage, if he so desires. He cannot do this now.

Mr. HARRIS. Mr. President, will the Senator yield further so that I may ask a question of the Senator from Alaska?

Mr. JACKSON. I yield.

Mr. HARRIS. Does the Senator from Alaska intend to offer an amendment which would further terminate the authority of the Bureau of Indian Affairs for services to Alaska Natives?

Mr. GRAVEL. No; my views are encompassed in the legislation as it is now drawn.

Mr. JACKSON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

> On page 108, line 19, strike all of lines 19 through 25 and on page 109 strike all of lines 1 through 22 and insert the following new language:
>
> "(3) The National Corporation shall be incorporated under the laws of any State other than Alaska determined by the Secretary to be the most appropriate. The Natives listed on the temporary census roll under section 7(a) (1) who are listed as not resident in Alaska and not members of any Native Village shall be its temporary members, and the Natives listed as members of the Alaska Native National roll under subsection 7(e) of this Act shall be its permanent members.
>
> "(4) The Secretary shall, within sixty days after the effective date of this Act, appoint five incorporators for each of the corporations established under this section and shall select as such incorporators persons whom the Secretary deems to be knowledgeable in the needs of, and benefits desired by, the respective members of each corporation. The incorporators of each corporation shall, within sixty days after their appointment, prepare and submit to the Secretary, articles of incorporation and bylaws for the government of their respective corporations not inconsistent with the provisions of this Act. When the articles of incorporation and bylaws of either of such corporations are approved by the Secretary, or if they shall not have been disapproved by the Secretary within thirty days after they have been received, the articles of incorporation shall be filed with appropriate authorities in the state of incorporation and all other actions necessary to establish corporate existence shall be performed."

Mr. JACKSON. Mr. President, this amendment is in the nature of a substitute to subsections 12(a) (3) and (4) of the pending measure. This amendment is technical in nature. Its purpose is to correct printing errors and to provide that incorporators of the Urban and National Corporations will be appointed by the Secretary of the Interior rather than by the board of directors of the Services Corporation.

Concern has been expressed that under the present language of these two subsections a delay of a year or more in preincorporation organization could result, because the organization of the Services Corporation will require both Presidential appointments and elections in each of the 12 regions of Alaska. Vesting appointment powers in the Secretary of the Interior will enable the Urban and National Corporations to organize at an earlier date.

Mr. President, I have checked this matter with the minority side and, as I understand it, there is no objection to the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington (Mr. JACKSON).

The amendment was agreed to.

Mr. JACKSON. Mr. President, I send

to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 90, line 22, delete the words "shall be an 'invest-' ", and delete all of lines 23, 24, and the words "need not be registered under the Act and" in line 25.

Mr. JACKSON. Mr. President, the pending amendment, which is to section 10(d)(1), the pending measure, is to delete language requiring that the business management group or groups which provide financial advice to the Services Corporation be an "investment advisor" as that term is defined in the Investment Advisers Act. The effect of the present language of the bill is to exclude bank trust departments from serving as an investment advisor. This was not the intent of the committee.

The amendment I have proposed will continue the protection afforded by the Investment Advisers Act, but will not operate to exclude banks from providing the investment corporation with financial advice and services.

I have cleared this matter with the minority side and I understand there is no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I yield the floor.

Mr. HARRIS. I yield to the Senator from Alaska.

Mr. GRAVEL. Mr. President, I send to the desk an amendment on behalf of myself and my colleague (Mr. STEVENS).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRAVEL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Delete "surface estate" from line 18, page 157, and substitute in lieu thereof "land and all interests therein."

After "subsection (2) hereof", line 19, page 157, *insert* new language as follows:

"The North Slope Native Corporation shall be entitled to retain fifty per centum of revenues derived from the sale, lease, permit, development, use or other disposition of the mineral estate of the land to which it acquires a patent under section 18(f)(1). The remaining fifty per centum of such net proceeds shall be paid to the Services Corporation for distribution in accordance with the formula set forth in section 9(d)(1) of this Act."

Delete "the surface estate of" in lines 1–2, page 158, and insert after "land" in line 2, page 158, the following: "and all interests therein."

Delete the period after "subsection 9(a)(1)" and insert thereafter the following:

"and shall be within or contiguous to the areas withdrawn pursuant to section 13(b)(1) respecting any of the Native Villages named in section 13(c) that are located in such region."

Mr. GRAVEL. Mr. President, what we are seeking here is a minor change in the land proposal as it was originally contemplated; that is, that the 500,000 acres that was to go to the North Slope area be changed from a surface type of title to a fee type of title, and that the villages in that part of the State be able to acquire that land on a basis of contiguity to their existing allotments.

I think the chairman and my colleague the senior Senator from Alaska (Mr. STEVENS) have discussed it. We discussed it with the Senator from Oklahoma. Apparently there are no objections from the minority on it.

If the chairman will signify his views, we could probably get the amendment accepted, without having any objection to it.

Mr. JACKSON. Mr. President, as I understand it, the amendment would require that the land—and I quote from the amendment—"shall be within or contiguous to the areas withdrawn pursuant to section 13(b)(1) respecting any of the Native Villages named in section 13(c) that are located in such region."

Is that correct?

Mr. GRAVEL. That is correct.

Mr. STEVENS. Mr. President, I am happy to be a cosponsor of the amendment. We have just returned from a visit to Point Barrow. The people there wish these 500,000 acres of land, to which they would have had surface title only, be associated with the villages and not to be a grant of land independent of the villages.

As I understand the amendment which we have offered, it will mean that the land granted under the 500,000 acre provision will be within the nine sections of village lands reserved under the bill or contiguous to it, and it will be in fee title, to be associated with land granted to the villages under the formula applying to all other villages in the State.

Mr. JACKSON. Mr. President, I support the amendment offered by the two distinguished Senators from Alaska. This matter was discussed in the committee. Many of us felt that the title should have been in fee instead of just a surface title.

Therefore, I strongly support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senators from Alaska.

The amendment was agreed to.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER (Mr. EAGLETON). Without objection, it is so ordered.

ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1970

The Senate continued with the consideration of the bill (S. 1830) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

Mr. HARRIS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 55, line 11, insert the following: "and at least three of the members appointed by the President shall be Natives", and delete the language "and at least two of the members appointed by the President shall be Natives."

Mr. HARRIS. Mr. President, section 6 of the bill establishes a Commission of five members to be appointed by the President with the advice and consent of the Senate. The bill provides that at least two of the Committee members shall be Natives who are residents of Alaska.

The duties of the Commission include supervising preparation of the final membership roll of the Alaskan Natives and the roster of Native villages; determining eligibility of those seeking to be placed on the rolls; determining how much land each village shall be entitled to and determining land boundary disputes; approving other land transactions provided in the act; and making determination of any appeal from refusal of the Service Corps to approve village plans. These duties are all sensitive ones. They involve issues with which only the Native peoples will be familiar.

Deciding those issues may affect the future lives of individual Natives and their descendants and the future development of Native villages.

The amendment I propose would modify section 6 to require three, rather than two, members of the five-man Commission, appointed by the President, to be Natives.

The spirit of this amendment is in keeping with the objectives of this bill, to vest in the Native people the power to determine and control their own destiny and affairs.

Indeed, Mr. President, this amendment recognizes the importance of Native self-determination in implementing the provisions of the act and is in keeping with the worthy objectives for Indians and Natives which were expressed by the President in his July 8 message on Indian affairs.

Mr. JACKSON. Mr. President, I rise in opposition to the amendment. I supported in committee the concept of representation on the Commission by Natives of Alaska.

When one gets into the question of ethnic participation in an impartial body, it is fraught with all kinds of difficulties and perhaps some bad precedent.

I would like to point out to the Senator that there is a large number of disparate Native groups in Alaska. We have the three fundamental ethnic groups—the Eskimos, the Aleuts, and the Indians—and then there are differences within all three categories. I submit that there is a real danger of a conflict of interest developing if a majority of the Commissioners are to be Natives.

I would point out the additional problem that thousands of Natives of Alaska—Aleuts, Eskimos, and Indians—are no longer living in Alaska. They are living all over the United States. We then get into the question of whether or not there should be a representative on the Commission who is a nonresident participant.

I fully understand the objective of my good friend from Oklahoma, and I believe in Native participation. My concern here runs to the fundamental question as whether or not there might not develop a conflict of interest among the Natives themselves such that the work of the Commission could be hampered.

It is for those reasons that I must oppose the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRIS. Mr. President, the President of the United States treated at some length the other day in a written statement with the affairs of American Indians. One of the things the President spoke about was self-determination—the right of the American Indians, Eskimos, and Aleuts to have greater control over the decisions which govern their own lives.

The instant amendment, now pending before the Senate, is in line with that philosophy which the President—in my judgment rightly—expressed in his Indian message.

I have already indicated to the Senate, in the statement I made in explanation of this amendment, how important the decisions that are made by this five-member Commission appointed by the President will be for the Native Alaskans.

The argument is made that if a majority of that five-member Commission—that is, three members of the five-member Commission, rather than two members of the five-member Commission—are Natives, they are likely to be capricious and arbitrary and unfair in their decisions. I ask the Senate: why would three Native Alaskans, who would know more about and be more sensitive to these problems than any other people who might be appointed, be more likely to be arbitrary and capricious and unfair than would non-Natives?

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HARRIS. I am glad to yield.

Mr. STEVENS. That is not quite the argument.

Mr. HARRIS. Will the Senator state it for me, then?

Mr. STEVENS. I will state the argument. The bill provides for a five-member Commission which is a quasi-judicial body. The basic job it has to do is to determine the roll of those who will be the beneficiaries of this act. If a majority of the Commission is made up of Alaskan Native people, that means that those people will have to make the decision as to who becomes eligible for benefits under the act.

Every time someone appeals to the commission from a determination of the village or a determination of the group that is authorized under the act to make the initial determination of membership in this group of beneficiaries, those three Native people, if they are majority, will have to make a decision which in effect will reduce their own participation under this act. There is an automatic conflict of interest built in this act under the Senator from Oklahoma's amendment if a majority of these people control the commission.

I invite the attention of the Senator from Oklahoma to the fact that this is a temporary commission. In every other Act with which I am familiar, the Secretary of the Interior has made this determination. In the past, we have asked the Secretary of the Interior to determine who is the beneficiary of each one of these judgment funds. In this instance, at the special request of the Alaska Native people—and I commend the chairman again for his wisdom in this—he yielded to the request of the Alaska Native people that a special commission be created to determine eligibility under this act, and that special commission takes away from the Secretary of the Interior the power to make up the final roll.

In the past, if one made an appeal, it was to a Federal officer, and his determination was final—subject, of course, to the appeal to the courts in the event it was arbitrary or capricious. In this case, we have substituted an Alaska Commission for the judgment of the Secretary of the Interior in the vital role of making up the final roll of beneficiaries.

I would urge the Senator to consider the problem that the chairman of the committee has mentioned. There are Alaska Native people who are residents of California and Oregon. I am informed that the largest single collection of Alaska Native people lives in Tacoma, Wash. If this is correct, there will be a number of conflicts between those people who claim they are Alaska Natives—that is, that they have one quarter quantum blood by descent—and those who the village people or the people in Alaska say are not Natives.

We have tried to set up an impartial group with representation from the Native group—two of the five members. In my opinion, if the Alaska Native people have a majority, one might as well argue that we should require that a majority of the FTC be members of the power industry, or that a majority of the FTC should come from the tobacco industry, because what we would be saying is that the people who are most affected should control the quasi-judicial agency.

It involves much more than just determining the boundaries of the villages. This group will have the complete power of the Secretary of the Interior over the area. The outlines of these villages were never known before, and we are creating these areas under this act. Therefore, the relationship between Native and non-Native is going to be determined by this Alaskan Commission. I feel that the majority of this commission should not have any benefit coming from this act. If they do, an automatic conflict of interest situation would be created, and I would urge the Senator from Oklahoma to reconsider this.

I have discussed this matter with the leaders of the ANF and their attorneys. They know our feelings about this amendment and the feelings expressed in the committee about it. Those of us who have studied this problem for years believe that this is the best mechanism to resolve these controversies without a conflict of interest, and no potential conflict of interest is involved in the section to which the Senator's amendment applies.

I believe that every time a person who claims he is an Alaskan Native is turned down, he will go to court and say that was an unfair decision because the majority were biased against him to start with. He will say, "They could not decide my case and let me in without diminishing their own share from that bill."

I know the Senator is fair-minded, and he will see the position. Every case decided by the commission will be appealed to the courts if that conflict of interest exists.

Mr. HARRIS. I think the Senator from Alaska has restated my argument very strongly, although that was not his intention.

I might say, further, that it seems to me that the Senator's argument fails on his own last statement. I think the likelihood of appeals by those aggrieved by decisions of this Commission is far greater if the decisions are going to be made primarily by non-Natives, rather than by Natives.

How does the Senator from Alaska feel that people who live outside of Alaska, whose claims are being considered by the Commission, will somehow have a better chance to fairness if a majority of the Commission is non-Native than Native? The Senator has indicated that he thinks that the Commission will be less fair and more arbitrary and more capricious if a majority of the Commission is Native than if it is non-Native. I think the Senator's argument is totally unproved, and he may want to state it again. It seems to me that what he is saying is that those who know most about it, those who are most involved, are not going to be fair about this matter, when, at the same time, the Senator has indicated that if the Commission's judgment is arbitrary or capricious, anybody would have a right of appeal to the courts, anyway.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. STEVENS. The Senator has confused my statement. I did not have anything to say about fairness. I was talking about conflict of interest.

Mr. HARRIS. Well, what is conflict of interest, I ask the Senator?

Mr. STEVENS. There is not a court in the land, if you go before a judge of a Federal court or a State court, where you cannot disqualify the judge if he has a personal interest in the subject matter before the court. This is the mater I am raising. There is not an Alaskan Native, who could satisfy the category of being an Alaskan Native, who would not automatically have an interest under this act and, therefore, be subject to challenge on the basis of conflict of interest. It has nothing to do with fairness.

Mr. HARRIS. In what way is the Senator's position different from a statement such as this: that we who are non-Natives are best able to determine these issues for the Natives? In what way does it differ?

Mr. STEVENS. Mr. President, that has nothing to do with it. As a matter of fact, the chairman of General Motors would probably be in a position to know more about the corporation and sit as a Federal judge on a case affecting General Motors, but that does not have anything to do with conflict of interest in the matter. The question is whether one has a conflict of interest, whether his decision in the matter automatically affects his own interest in the matter. Solomon, himself, could not be the third Alaska Native on this commission without affecting his own rights under the bill, and as such, there is a basic conflict of interest that ought not be permitted.

Mr. HARRIS. If there is a conflict of interest for a Native majority on the commission, why would it not be a conflict of interest to have any Natives whatsoever—two or whatever number—on the commission? If the Senator wants to respond to that, I will be glad for him to do so.

If not, now, I will go further and say this: The Senator indicated that the Natives who appeared before the committee did not feel satisfied that the Secretary of the Interior should, alone, make the decisions. They asked that a commission be set up, rather than leaving the decisions to the Secretary alone. They felt that that was not a satisfactory situation. If they felt that this was not a satisfactory situation, why are they any better off, from their viewpoint, since the Secretary of the Interior is an Alaskan and was appointed by the President by and with the advice of the Senate, with a separate commission, the majority of which is non-Native, appointed by the President by and with the advice of the Senate, than they would be if there were no commission at all?

Mr. GRAVEL. Will the Senator from Oklahoma yield at that point?

Mr. HARRIS. I yield.

Mr. GRAVEL. I think the Senator is confusing one facet of it. The law provides a guarantee to these people so that there is some representation of the Native community, so that some of their views are guaranteed to be heard. If the President desires, he can name five Natives. So that that can be accomplished.

What has to be distinguished is that there are two facets to the bill. One is the adjudicatory facet where someone sits there and, implementing the bill, acts as judge and jury. They should have some hope of objectivity and should not have anything built in that really goes to areas like self-interest. In the operation of their own corporations within 5 years, they will have charge of their own destinies and their own enlightened self-interest. So that they call the shots there. But we need a group to decide who will be on the rolls. I submit, from the Native's position, when sitting on the commission, the smaller the roll, the more their own interest is satisfied. It is just human nature. I think that is where there is a built-in conflict of interest. The people may be fair and all of that, but their interest is to have a small roll, since they share proportionately higher.

Second, the person sitting on the Commission, the Native part of the Alaskan community would be constantly between a rock and a hard place when talking about the setting of boundaries, say, that might have an effect on the Alaskan Native community and he would be subjected to unusual pressure. If the President desires to appoint three people who are not Natives, because they want the Natives who are there to guarantee that the Native position will be heard, they can go ahead and vote for the Native position. But they surely have no license to act adversely to the Native community in the decisionmaking powers. That is of vital concern. We share the Senator's concern that, as much as possible, the Natives determine their own livelihoods. We have built this into the bill, but when it comes to adjudication, I think it serves the purpose both of the Native community and the remainder of the community which is not Native.

Mr. HARRIS. May I just respond. I respect the Senators who oppose this amendment, the two Senators from Alaska, who spoke earlier, and the distinguished chairman of the committee, but, Mr. President, I think that we are inconsistent if we say that the Natives are capable of directing the affairs of their own tribal governments and their own corporations but are not competent to have three, rather than two, members of the Commission which will make such basic decisions, including decisions concerning those who are to be considered to be Natives who are to be entitled to the benefits under this act. That is a basic kind of question. This is a fundamental matter. The Alaskan Federation of Natives feels that way too. I have a statement signed by their leaders.

Mr. President, I ask unanimous consent that the entire statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

> At the meeting of the Board of Directors of the Alaska Federation of Natives held last month in Juneau, the Board adopted a resolution directing its leaders and representatives to seek an amendment of the Committee bill increasing Native representation on the Commission from 2 of 5 members to 3 of 5 members.
>
> JOHN BORBRIDGE, Jr.,
> *First Vice President, A.F.N.*
> E. HYSSON,
> *Executive Director, A.F.N.*

Mr. HARRIS. Mr. President, I am pleased to yield now to the distinguished chairman of the committee.

Mr. JACKSON. Mr. President, I should like to make two points. One is that the first point has been made, but I should like to reemphasize it: That there are conflicts within Alaska so far as the Native groups are concerned but this is not the case in dealing with an Indian community. There are Indians plus Eskimos plus Aleuts in Alaska. I want to make that very clear.

The Commission, in the course of its operations, would have to make decisions that could impinge on the rights of any of the three Native groups. Therefore, a member of the Commission, who is a member of any one of those three Native groups, could find himself in conflict among one or more of the other Native groups. That is the very point——

Mr. HARRIS. May I respond to that? Does not the Senator think that those——

Mr. JACKSON. Bear in mind——

Mr. HARRIS. That the various factions within the Alaskan Natives themselves would have a better chance of all views being represented if there were three members rather than two?

Mr. JACKSON. They could have five, if the President wanted it, but I was interested in what the Senator was reading. I wonder whether he has any statement on the several thousand Natives—10,000, I believe—that do not even live in Alaska who, under the Senator's amendment, are not represented.

Mr. HARRIS. How would their views be better represented under the position of the distinguished chairman?

Mr. JACKSON. Under the bill as it is now before the Senate, the President would select a majority from anywhere in the United States so that there will be impartiality. They are not required to be residents of Alaska.

Mr. HARRIS. Does the Senator think that two members from outside Alaska or another place and those people for whom he speaks be less fair than allowing only two representatives for the Alaskan Natives?

Mr. JACKSON. I think, certainly, there should be representation if he is going to go that route from the thousands of Natives that do not even live in Alaska in making up the rolls. There is a definite conflict of interest if they decide to exclude Natives not living in Alaska.

Mr. HARRIS. Does not the Senator feel——

Mr. JACKSON. The effect would be to limit their participation in the bill——

Mr. HARRIS. Does not the Senator feel——

Mr. JACKSON. If that is not a conflict of interest, I do not know what is.

Mr. HARRIS. Does the Senator feel that decisions could be arbitrarily and capriciously made concerning nonresidents and their legal rights could be cut off without redress in the courts?

Mr. JACKSON. I am not arguing for one moment that anyone, whether Native or non-Native, would act in an arbitrary or capricious manner.

Mr. HARRIS. If they did—let us just get to that point—if they did, there would be resort to the courts, would there not?

Mr. JACKSON. We know that this is the extent of the language which we have in the bill. It is a condition precedent to going to court, and the court has to find that the Commission acted in an arbitrary and capricious manner. That is hard to prove. It is difficult to prove, especially when it is on appeal from the findings of a board.

I want to point out that under the bill as brought to the Senate and now before the Senate, the President can appoint all five Natives. We have not insisted that each one be a Native and a resident of Alaska. This is what the Native groups up there would really like to have. There are those Natives that are not living in Alaska who are worried about what the Natives in Alaska might do so far as their property rights are concerned. I want to make sure that those Natives are protected. The whole purpose of this legislation is to provide compensation based on blood, rather than on the location where the Natives happen to be.

Mr. HARRIS. Would the Senator be satisfied, then, with joining with me in some kind of amendment which will assure what it seems to me is obviously the law, anyway: that anyone entitled to benefit from this bill, as a matter of blood, cannot be denied his rights, however the Commission is made up? Would that not be the law, anyway? Could this not be taken care of by such assurance in the law?

Mr. JACKSON. I just want to say to my good friend that I think that, having stipulated here, in the present bill, that not less than two shall be Natives and residents of Alaska, we have taken an unprecedented step. We still leave to the President, as we should, discretion as to the backgrounds of the other three.

It is important that there be the highest level of impartiality in the adjudication and administration of the program.

I cannot be too emphatic about the built-in conflicts within the State of Alaska itself. This is not the traditional Indian-type claim. We have never before had this kind of problem presented to us in which we deal with three separate, indigenous Native groups.

We worked on an agreement to take care of disagreements on the north slope. They disagreed with their own indigenous group, the Eskimos. We have conflict within conflict.

This is a difficult program to administer. I think that it is important that we leave some discretion here and not lay down arbitrary rules.

Mr. HARRIS. Mr. President, I recognize what the Senator says. It happens that I strongly disagree with it. First of all, I believe that it is clearly unsupported that there is a need to leave the bill as it is.

Is the fear that if three of the five members of the Commission are Natives somehow they will cut off the rights of any Natives who live outside of Alaska? If that is the fear, that can be answered by making our position more clear in the law. I am quite willing to do that. However, I do not really think that is necessary.

I think that any person could go into court and maintain his legal rights against any arbitrary or capricious action, which would clearly be the result of any decision to make eligibility a matter of location of a person's residence, rather than, as the law should require, the degree of blood. I do not think the Senator makes a proper argument.

Mr. President, I come back to what I said a while ago. There seems to be general agreement among those who oppose my amendment that it is not satisfactory to leave to the Secretary of the Interior alone the decision of these questions as to who will be eligible for benefits under the act.

It is felt that the Natives had a good case. It is said decisions to be made here are too momentous to be left to the Secretary of the Interior alone, despite the fact that appeals might be taken from his actions if they are arbitrary and capricious.

It is argued, here, that the bill does something better than that by having the President appoint a commission, only two of which are required to be Natives.

I do not think that that is any different.

Who appoints the Commission? The President of the United States. Who appoints the Secretary of the Interior? The President of the United States.

Who confirms the Commission? The Senate of the United States. Who confirms the Secretary of the Interior? The Senate of the United States.

In what way will we satisfy what I believe everyone agrees is a just complaint of the Natives, that they did not want this decision to be made by the Secretary alone? I think the way to do it is to recognize that the Natives are the most concerned with the decision. They are the most sensitive to the divisions about which the Senator from Washington has spoken.

I think it is well that we have other members of the Commission that the President may appoint who are not required to be Natives. I think that is up to the President. But we should recognize that what we are doing is not something out of the goodness of our hearts; we are not giving away something that the people involved are not entitled to.

If we recognize that we are trying to do justice and not just express our generosity, it seems to me that we ought to do the right thing and allow the basic decisions to be made by the people who primarily know the most about them.

That is the import of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HARRIS. Mr. President, if someone else desires to speak, I would be glad to yield the floor. Otherwise, I would like to say something further.

The PRESIDING OFFICER. The question is agreeing to the amendment.

Mr. HARRIS. Mr. President, I feel that this is the kind of decision that ought not to be made hastily. I think that this question is involved also with another amendment that I intend to offer that has to do with termination.

We spoke a while ago about the provisions in this bill that would terminate certain of the services of the Bureau of Indian Affairs for Alaskan Natives after the passage of a certain time.

Mr. MANSFIELD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. HARRIS. I yield with that understanding.

Mr. MANSFIELD. Mr. President, I understand that someone desires the yeas and nays.

The yeas and nays were not ordered.

Mr. HARRIS. Mr. President, as I was just pointing out, there is another amendment which I intend to offer, that we discussed a little earlier, which has to do with the termination of services.

I had a colloquy a while ago with the chairman of the committee concerning a portion of the bill contained on page 49 of the bill, in subsection 4(b).

That subsection would provide for the phasing out of certain Bureau of Indian Affairs services and also a phasing out or termination of certain rights which the Natives of Alaska and other Indians are entitled to under the present law.

I think that these two matters are tied together. President Nixon, quite rightly, in his recent statement in regard to American Indians also tied them together. In his message, he particularly called attention to what in a subhead of the message is called, "Self-determination Without Termination."

Mr. BYRD of West Virginia. Mr. President, will the Senator yield so that we may get the yeas and nays?

Mr. HARRIS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. GRAVEL. Mr. President, will the Senator outline for me the services that will be done away with because the Bureau of Indian Affairs will cease activities after 5 years? Will the Senator tell me what services would be denied to the Natives of Alaska?

Mr. HARRIS. Mr. President, I trust that the Senator actually knows the answer. If he does not, I suggest that he look at the report of the committee. I will mention one factor. As I recall from a reading of the report and the bill a while ago, certain exceptions were made. I do not believe that an exception is made in regard to education funds, except as programs might be provided Natives, the same as to other citizens.

My own judgment is that Alaskan Natives and American Indians are entitled not just to ordinary attention, but to compensatory attention to their needs.

Mr. GRAVEL. Mr. President, I would like to correct one statement of the Senator. To my knowledge the Natives of Alaska would lose no education funds. As the situation presently exists, the State of Alaska has an agreement with the Bureau of Indian Affairs that annually the State takes over the operation of additional schools. If that plan continues, all of the schools in Alaska will be operated by the State and they will be funded by Federal moneys.

As far as I am concerned, the activities that have been performed by the Bureau of Indian Affairs will now be performed by the State and funded by the Federal Government.

Mr. HARRIS. Mr. President, that decision would be left to the State apparently.

Mr. GRAVEL. The decision has already been arrived at. Schools have been taken over every single year since 1962.

And the report clearly excludes the moneys under Johnson-O'Malley, moneys which, of course, fund the education program.

Mr. HARRIS. Well, of course——

Mr. GRAVEL. In impacted areas.

Mr. HARRIS. I did not refer to the Johnson-O'Malley funds, as the Senator from Alaska knows. I call attention to a statement by the first vice president of the Alaskan Federation of Natives and the executive director of the Alaskan Federation of Natives in which it is stated that the board of directors of the Alaskan Federation of Natives in Juneau instructed their leaders to seek an amendment striking the termination provision from the committee draft.

Mr. President, I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

> The Bd. of Directors of the Alaska Federation of Natives meeting in Juneau last month instructed their leaders and representatives to seek an amendment striking the termination provision from the Committee draft.
>
> JOHN BORBRIDGE, Jr.,
> *First Vice President, Alaska Federation of Natives.*
> EBEN HOPSON,
> *Executive Director, Alaska Federation of Natives.*

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. HARRIS. I yield for a question.

Mr. GRAVEL. If the Senator would go back to the point he originally made, we put the item aside. What other areas are going to be denied the Natives of Alaska if this plan is effected?

Mr. HARRIS. Why does the Senator want to make such a big fight of it and why do the Natives want to make such a big fight of it if it makes no difference? Why does the Senator not agree with what I think was a very reasonable statement by the President of the United States when he said:

> This policy of forced termination is wrong, in my judgment, for a number of reasons.

Mr. GRAVEL. I would like to answer the Senator's question.

Mr. HARRIS. I believe I have the floor. I would like to finish my statement and then I shall yield to the Senator.

First, the President of the United States said:

> This policy of forced termination is wrong, in my judgment, for a number of reasons. First, the premises on which it rests are wrong. Termination implies that the Federal government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on a unilateral basis whenever it sees fit. But the unique status of Indian tribes does not rest on any premise such as this. The special relationship between Indians and the Federal government is the result instead of solemn obligations which have been entered into by the United States Government.

We cannot come to the Senate as if we are somehow doing more than justice by this bill, that we have decided to be overly generous and give the Indians and the Alaskans relief that is not rightfully theirs and use this bill as a vehicle to terminate over a phased-in period the services of the Bureau of Indian Affairs, which we have not provided out of the goodness of our hearts——

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. HARRIS. But because they are due.

I would be glad to yield to the Senator from Alaska.

Mr. GRAVEL. I appreciate the Senator's generosity. It may warm the cockles of some hearts that my colleague takes the statement of the President of the United States as oracle on Indian affairs. I do not know of any distinguishing areas of his career that merit that. I would like to respond to the Senator.

Mr. HARRIS. Mr. President, I have the floor. I would like to respond.

Mr. GRAVEL. The Senator yielded to me. May I be recognized, or is the Senator taking back his yielding to me?

Mr. HARRIS. I did not yield for a long dissertation.

Mr. GRAVEL. Mr. President, I ask the Senator if he did not address himself——

Mr. HARRIS. Mr. President, I refuse to yield further.

The PRESIDING OFFICER. The Senator from Oklahoma yielded to the Senator from Alaska.

Mr. GRAVEL. I thank the Presiding Officer.

Mr. HARRIS. Mr. President, I believe I yielded for a question.

I would like to say this.

Mr. GRAVEL. I want to bring up this question. What is the next item?

Mr. HARRIS. Mr. President, I refuse to yield further.

The PRESIDING OFFICER. The Senator from Oklahoma refuses to yield further. The Senator from Oklahoma may continue.

Mr. HARRIS. Mr. President, I refuse to yield further. I wish to finish my statement and then I will yield so that the Senator from Alaska can say whatever he pleases.

Mr. GRAVEL. I thank the Senator.

Mr. HARRIS. Mr. President, it is not a question of whether President Nixon is a Republican or a Democrat. The Senator knows that I was formerly chairman of the Democratic National Committee and, therefore, there is no reason for me to praise President Nixon on what is a very good statement on Indian affairs. I have said it before the Subcommittee on Indian Affairs and I have said it publicly in my own State on the day the President issued the message. It is a good message and it is a sound message. We are involved here in exactly that kind of "bugaboo," the policy of termination, which the President rightly said should be repudiated once and for all.

Every time the Indians come up here for an improvement in what has been a miserable policy in regard to them——

Mr. GRAVEL. Mr. President, will the Senator yield on the point of termination?

Mr. HARRIS. It is said, "We will do these good things for you."

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. HARRIS. It is said, "We will terminate your services." That is a separate question; why bring it up in regard to this matter and why involve it in this bill?

I commend the President's statement where he referred to self-help without termination.

Mr. YARBOROUGH. Mr. President, will the Senator yield?

Mr. HARRIS. I yield for a question.

Mr. YARBOROUGH. As a prelude to the question, I wish to state that in the hearings I held in the State of Oregon and the State of Washington on Indian education, this matter came to our attention. We had testimony in the committee of termination 10 years later; that the educational level declined by several years per member of the tribe, drunkenness increased, suicide was rampant, crime was rampant, they were thrown out of schools where they did not fit, and the results were disastrous.

Is that the kind of fate the Senator is fearful of if there is a sudden termination?

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. HARRIS. I feel this way about it. I think that if we are going to try to do the fair thing after 100 or so years in regard to these Natives of Alaska, we should not be coming in here with termination at a time like this.

Mr. GRAVEL. Mr. President, will the Senator yield on the statement regarding our ability to be fair to the Natives?

Mr. HARRIS. If the Senator from Alaska and others could bring this matter up in connection with all matters pertaining to American Indians and not just in this instance, it would be a different story. It is greatly inconsistent to say, on the one hand, we want to turn all this over to the Indians as this bill would do in certain respects, and at the same time say, however, on momentous decisions such as who will be eligible to benefit under this bill, we should have only two, rather than three, of the five-member Commission appointed by the President required to be Natives.

I yield the floor.

Mr. GRAVEL. I thank my colleague. I move to table the Senator's amendment.

Mr. HARRIS. Mr. President, the Senator from Alaska——

The PRESIDING OFFICER (Mr. SAXBE). A motion to table is not debatable.

The question is on agreeing to the motion to table (putting the question).

Mr. HARRIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas appear to have it.

Mr. HARRIS. Mr. President, I had asked for the yeas and nays. I personally asked for the yeas and nays before the Chair put the question on the motion to table.

Mr. JACKSON. Mr. President, let us have the yeas and nays.

The PRESIDING OFFICER. There is a sufficient second.

The question is on agreeing to the motion to table the amendment of the Senator from Oklahoma (Mr. Harris). On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Connecticut (Mr. Dodd), the Senator from Mississippi (Mr. Eastland), the Senator from Tennessee (Mr. Gore), the Senator from Iowa (Mr. Hughes), the Senator from Hawaii (Mr. Inouye), the Senator from North Carolina (Mr. Jordan), the Senator from Minnesota (Mr. McCarthy), the Senator from Minnesota (Mr. Mondale), the Senator from Utah (Mr. Moss), the Senator from West Virginia (Mr. Randolph), and the Senator from Georgia (Mr. Russell) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. Bellmon) and the Senator from Colorado (Mr. Dominick) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) and the Senator from Maine (Mrs. Smith) are absent because of illness.

If present and voting, the Senator from Oklahoma (Mr. Bellmon), the Senator from South Dakota (Mr. Mundt), and the Senator from Maine (Mrs. Smith) would each vote "yea."

The result was announced—yeas 64, nays 18, as follows:

[No. 240 Leg.]

YEAS—64

Allen
Allott
Anderson
Baker
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Case
Cook
Cooper
Cotton
Curtis
Dole
Ellender
Ervin
Fannin
Fong
Goldwater
Goodell
Gravel
Griffin
Gurney
Hansen
Hartke
Hatfield
Holland
Hollings
Hruska
Jackson
Jordan, Idaho
Long
Magnuson
Mathias
McClellan
McGee
McIntyre
Miller
Murphy
Nelson
Packwood
Pastore
Pearson
Percy
Prouty
Ribicoff
Saxbe
Schweiker
Scott
Smith, Ill.
Sparkman
Spong
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Tydings
Williams, Del.
Young, N. Dak.

NAYS—18

Aiken
Cranston
Eagleton
Fulbright
Harris
Hart
Javits
Kennedy
Mansfield
McGovern
Metcalf
Montoya
Muskie
Pell
Proxmire
Williams, N.J.
Yarborough
Young, Ohio

NOT VOTING—18

Bayh
Bellmon
Cannon
Church
Dodd
Dominick
Eastland
Gore
Hughes
Inouye
Jordan, N.C.
McCarthy
Mondale
Moss
Mundt
Randolph
Russell
Smith, Maine

So Mr. Gravel's motion to lay Mr. Harris' amendment on the table was agreed to.

Mr. HOLLAND. Mr. President, I customarily dislike voting for a motion to lay on the table. I did so in this case for three reasons, which I want to appear in the Record.

First, I have very great confidence in the committee and its actions. I think that the report made—which I have read very carefully, and then listened to very carefully also—by the chairman of the committee, the Senator from Washington (Mr. Jackson), shows a very great desire to be fair to these people, and shows the results of a very careful study extending over a period of nearly 3 years.

Second, we have no precedent for this kind of thing in any other nation. This is the only nation where we take care of what, in effect, are conquered peoples—and that is what these people are. It seems to me this is an extremely fair way to take care of these three scattered aboriginal peoples, the Eskimos, the Aleuts, and the Indians.

I am impressed also with the fact that many of them have come to this country—meaning the contiguous States—and can hardly participate in any active way in what goes on there.

I think this is a good program, a good example of how a great democratic nation seeks to do fairly by underprivileged people whom it acquired so many years ago, and who are, in effect, a conquered people.

My third point is this, Mr. President: I had, just a short time ago, this experience. The Commission on Indian Land Claims—which, by the way, is all-American, meaning constituted entirely of people of typical American background and not of Indians, in the sense of distinguishing between Indians and Americans—those that fix the judgment in most such cases, recently came up with a judgment in the case of the Seminole Indians for a settlement of about $13 million, in addition to other settlements that had already been made by way of giving them certain reservations and certain other rights.

Mr. President, I am sorry to have to report that immediate dissension broke out among those Indians, most of whom are my own friends and who have, in effect, honored me in very significant ways which I shall not go into here.

The problem was further complicated by the fact that some of them live now in Florida and some of them live now in Oklahoma. I think this is a job that ought to be done, in the great majority, by the people of traditional, longtime American background from the standpoint of being American citizens for a long time, just as the Indian Land Commission is so constituted; and, while I have no objection to there being native Alaskans on this Commission, I suspect that it would have been a wiser thing to have five, just exactly as we have in the case of the Indian Lands Commission, coming from learned people of demonstrated fair, just, and fine character from our own body of people here in the old United States, meaning that part in existence before the acquisition of Alaska, to determine it.

But I certainly approve of the action of the committee. They undoubtedly had good reason for putting two of the Natives on this Commission. I think that this is a splendid demonstration of what a great and generous people are willing to do for unfortunate, underprivileged, uneducated tribes widely scattered over an area more than twice as big as Texas; and besides that, many of them have come to the older United States as well.

I hope this bill will pass speedily, and will give acclaim and approval to the action of the committee, which, by the way, included not only the present able chairman, but a former able chairman who sits beside me, the Senator from New Mexico (Mr. Anderson), and a former college professor from out in Montana (Mr. Metcalf), which itself is Indian country, who, I understand, conducted a large part of the hearings himself, and who is in thorough accord with the fairness of this proceeding.

I hope that we may act quickly and do something which could not be done anywhere else on earth—show what America can do under this kind of situation.

Mr. President, I yield the floor.

Mr. JACKSON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. Does the Senator ask that his amendments be considered en bloc?

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Jackson's amendments are as follows:

On page 114, delete lines 17 and 18 and substitute: "to in subsections (b)(1) and (2) hereof is so located that less than nine townships of public lands are available for withdrawal as therein provided,".

Delete line 3, page 115 and substitute "an acreage equivalent to nine townships of public lands for such Native Village."

Delete lines 7 and 8, page 115 and substitute "of making lands in the townships on which villages referred to in subsection (b)(3)(A) hereof are located, or in the contiguous and cornering townships, available for selection:".

Redesignate subsection 13(g), page 124, as 13(g)(1).

Change the designations "1, 2, 3, 4, and 5, pages 125–126, to "A, B, C, D and E" and add a new subsection 13(g)(2) reading as follows:

"(2) Land acreages equal to the difference between the maximum grants of land which the Commission may award pursuant to subsection (g)(1) and the actual amounts awarded to eligible Village Corporations, together with land in the amount of 1,500,000 acres, shall be granted by the Commission upon application, as follows:

"(a) to any Village Corporation which received the maximum grant the Commission may award, but which needs additional lands to maintain historic subsistence use patterns, but not to exceed the balance of the acreage withdrawn for that Village Corporation;

"(b) to any Village Corporation which demonstrates that the nature, amount and economic value (without respect to the mineral estate) of the lands granted pursuant to subsection (g)(1) do not result in comparable values with the lands granted to other Village Corporations, but not to exceed the balance of the acreage withdrawn for that Village Corporation; and "(c) any remaining lands shall be granted to the Services Corporation."

Change the comma after the word "exhausted" in line 1, page 132 to a period and delete the balance of the subparagraph.

Redesignate subsection 14(e), page 132, as 14(f) and insert a new subsection 14(e) to read as follows:

"(e) Upon application of the Services Corporation, and upon certification thereof by the Commission, and after survey of the areas involved, the Secretary shall issue patents, without payment therefor, to the Services Corporation for lands to which it is entitled pursuant to subsection 13(g)(2)(c). The Services Corporation shall select such lands from among the lands withdrawn for Native Villages pursuant to section 13 which remains after Native Village selection rights are exercised as provided in this section. All such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection and shall be in whole sections and, wherever feasible, in units of not less than one thousand two hundred and eighty acres."

Revise the redesignated subsection 14(f):

(a) by inserting in line 10, page 132, the phrase "or by the Services Corporation" preceding the word "under"; and

(b) by substituting for the word "six" in line 11, page 132, the word "nine".

Insert "and to the Services Corporation" in subsection 15(a), line 23, page 132, after the word "Corporations."

Redesignate subsection 15(d), page 136, as 15(e), and redesignate all internal references to subsections (See note, below) and the subsequent subsections of section 15 accordingly, and insert a new subsection (d) reading as follows:

"(d) Upon completion of the survey of lands selected by the Services Corporation, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to the Services Corporation to the land and all interests therein, subject to valid existing rights."

Change "(B)" and "(C)" and "(D)" on page 140, lines 10 and 11, and insert new (B) as follows:

(B) lands for the Services Corporation pursuant to subsection 13(g)(2)(C).

Insert the phrase "of the lands to which the Services Corporation acquires a patent under section 15(d) of this Act and of" on page 84, line 22, after the word "estate."

Delete the word "'two" in subsection 18(b)(1) on page 154, line 18, and substitute the word "one".

Delete the phrase "one million" in subsection 18(b)(2), on page 154, line 22, and substitute "five hundred thousand".

Delete "one million acre" in subsection 13(h)(2) on page 128, lines 4 and 5, and substitute "five hundred thousand".

(NOTE.—Change internal references in section 15 as follows: page 136, line 6, "(j)" becomes "(k)"; page 139, lines 17 and 18, "(d)" and "(e)" become "(e) and (f)"; page 139, line 22, "(g)" becomes "(h)"; page 140, line 3, "(g)" becomes "(h)"; page 141, line 19, "(d) through (h)" becomes "(e) through (i)".)

Mr. JACKSON. Mr. President, the amendment at the desk would change the land provisions of S. 1830 in three respects:

First, to insure that the Commission would award the total amount of village lands presently permitted by the bill;

Second, to require the Commission to distribute certain lands—including 15 million acres of land formerly designated for timber potential and individual hardship cases—so as to equalize the value of land received by different Native villages;

Third, to insure that nine townships would be withdrawn for each Native village eligible to receive land.

The first phase of the amendment is intended to guarantee that the Natives' expectation of 10 million acres of land become a reality. The present bill places no floor upon the amount of village lands that the Commission might award. The Commission could award up to approximately 5.9 million acres of village lands, but there is no guarantee of this. Congress should not take the chance that the Commission might dash the Natives' hopes. This amendment would insure that the Commission will in fact award the full amount of village lands.

The second phase of the amendment is intended to insure land of equal value to different Native villages insofar as that is possible. The Commission, after making its initial grants to villages, would distribute the land left over within the total of 5.9 million acres to Native villages that could show that they required more land for historic uses or in order to receive land equal in value to that awarded other Native villages. The Commission at this point would also distribute 1.5 million acres which the amendment would convert from land to be awarded for timber potential and hardship cases under section 18 to village lands to be awarded under section 13. This represents the Natives' desire to receive a greater amount of village lands under the equalization formula, in place of part of the timberland and part of the hardship land presently available in section 18 of the bill.

The third phase of the amendment solves a technical problem that would prevent the withdrawal of nine townships for land selection by Native villages surrounded by tentatively approved State land. It does so by minor changes in language that would allow the withdrawal of the nearest available public land for selection by these villages. In doing so, the amendment does no more than place these villages on an equal footing with other Native villages.

I hope that the amendment will be agreed to.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the ranking minority member of the committee, the distinguished Senator from Colorado.

Mr. ALLOTT. Mr. President, I have at hand the amendment, which I have just seen for the first time this afternoon. I am not particularly concerned about the first part of it, but I want to make some legislative record on the other parts.

The committee has set a 10-million-acre maximum. I have always surmised, knowing human beings and knowing commissions, that a commission would always find a way of granting the maximum and the maximum would in fact become a minimum, anyway. But, with the assurance that this amendment will not permit anything over the maximum of 10 million acres, I have no objection to it.

However, although I understand that this amendment was worked upon by both Senators from Alaska, I must say for the record that I am a little concerned about the change of the other acreages. Among the things that the committee provided was 2 million acres of forest lands for the Alaska Natives, to be set aside for the Alaska Natives. This was not arrived at easily. As a matter of fact, the committee had many, many sessions upon these land set-asides. It was my understanding that the 2 million acres set aside for forest lands was an absolute minimum, and we have nothing in the record that I know of to justify the reduction of that to 1 million. The 1 million is now placed over into redesignation of section 2 and raises that to 1,500,000 and, in addition, the 1 million acres of hardship land has been reduced to 500,000.

I just want to say this, particularly with respect to the hardship land: There was a great deal of testimony, and we did the best job we could on it. Nobody can be certain what is actually necessary for hardship land, but I do not think there is any testimony in the record, either, to justify the reduction of the 1 million acres of hardship land to the 500,000 figure, nor the shifting of those acreages over to other sections.

I just want to make this record. I do not oppose the amendment, because the chairman of the committee did work on it with the two Senators from Alaska; but I think this record should be made, so that when the House of Representatives looks at the bill, it will keep these two shifts in mind.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARRIS. Mr. President, I send to the desk an amendment and ask that it be stated.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

On page 49, beginning on line 19, delete subsection 4(b) in its entirety.

Mr. HARRIS. Mr. President, on page 49 of the bill, section 4(b) contains a provision as follows:

The Secretary—

Meaning the Secretary of the Interior—

is authorized and directed, together with other appropriate agencies of the United States Government, promptly to initiate a study and to develop programs for the orderly transition of educational, health, welfare, and other responsibilities for the Alaska Native people from the United States to the State of Alaska. Within five years from the date of enactment of this Act, the United States shall cease to provide services to any citizen of Alaska solely on the basis of his racial or ethnic background: *Provided*, That nothing in this subsection shall affect services furnished the Natives through the Department of Health, Education, and Welfare, or diminish the applicability of the Act of April 16, 1934,

Subsections 2 and 3 of the same subsection relate to the same general subject, providing for a report by the Secretary of the Interior on transition of programs and exempting services and programs furnished to the Tsimshian Indians on the Annette Islands Reserve.

The amendment I have offered would strike subsection 4(b) from this act.

As I said earlier, Mr. President, this amendment is in line with the statement of the President of the United States putting his administration firmly on the side of self-determination for American Indians without the bugaboo of termination. I think this amendment is just and should be adopted, for several reasons.

First of all, I take it, the recommendation of the Committee on Interior and Insular Affairs is that the Senate do justice to the Natives of Alaska, but not that we are doing something other than justice, but that we are attempting only to do justice in regard to their Native claims to the Alaskan area. Therefore, since we are only suggesting that the Senate and the Congress and, therefore, the Government, do justice in regard to these Native claims, it is not proper, it seems to me, for us to couple with our offer to do justice a condition that with the other rights of these Natives under present law they will, in connection with this claim, be terminated.

Second, I think, as I have indicated earlier, that the President of the United States is right in indicating in his statement that the special services to which American Indians, Eskimos, and Aleuts are entitled, and particularly the services of the Bureau of Indian Affairs, are not theirs as a matter of generosity but as a matter of solemn obligation to them on the part of the United States of America.

Therefore, as President Nixon has, himself, recently said, since the services for the Alaskan Natives are theirs as a matter of right, under solemn obligation of the United States of America, the United States of America on its part, unilaterally, should not withdraw such services, except with the consent and approval of the Natives themselves.

I have applauded President Nixon for his statement repudiating the old policy of termination. For too long, over the past years, whenever a meeting has been convened to discuss Indian matters, a great deal of time seems always to have been taken up with the very real fear that Indian people have, that, if they ask for anything other than what they have had always at the hands of the Federal Government in the way of services or programs or whatever, they will be met with the threat of terminating services to which they have been entitled under present law. Every time a claim comes up in regard to lands, or any other wrongful taking of property rights from some Indians or certain tribes, there is always the fear on the part of the Indians involved—and rightly so—that if that just claim, as adjudicated by an arm of the Congress, is paid, or approved by the Congress, they will face the threat that, at the same time, or in connection with the payment of any claim, their rights to services performed for them by the Bureau of Indian Affairs, as Indians, will be terminated.

Mr. President, it is long past the time when we should repudiate that termination policy, initially laid down, I believe, by a resolution adopted in 1953, that we should allow the tribal leaders and the tribal members and the Bureau of Indian Affairs and relevant committees of Congress, and others interested in these matters, to quit wasting their time worrying about termination, and allow them to use that valuable time, that energy, and those concerns, in other ways to improve opportunities for American Indians, Eskimos, and Aleuts.

So, therefore, Mr. President, first of all, I suggest to the Senate that it give full consideration to the pending amendment because I believe that the old termination policy should be repudiated altogether.

Mr. STEVENS. Mr. President, will the Senator from Oklahoma yield?

Mr. HARRIS. I yield.

Mr. STEVENS. Mr. President, in the section that the Senator's amendment pertains to, on page 49 in subsection (b) (1), I call attention to the fact that the committee has already provided that a study will be made to initiate programs to provide for orderly transition. There is also a requirement that within 5 years assistance should no longer be based on ethnic distinction. That study will give us the basis to determine whether, in fact, the State can assume the role of providing services for the Native people of Alaska who cannot provide for themselves, after the passage of this act.

I am sure that my colleague will have some comments to make about this provision, but I would urge the Senator to take into account the fact that we have responded already to the request of the leaders of the Alaskan Federation of Natives in providing for the study. The committee did that and it was considered in the report of their views. I attended one of the meetings of the Alaska Native people in Anchorage, and they expressed concern about this.

I do not view this as an automatic termination. I would hope that the Senator from Oklahoma would view it that way, and that we would recognize there are many compromises that went into the bill. This is one of them. I am sure that the Senator has been a party to compromises in which he has agreed to support a bill that necessarily did not represent his total point of view but represented a collective point of view. That is the situation we are faced with on the floor today. We have modified the provision. It still reflects the desire of my colleague (Mr. GRAVEL), and, at the same time, reflects the necessity to study the proposition.

I think the length of time within which Congress directs the Secretary to present the report could be shortened. I am sure the chairman of the committee and my colleague from Alaska would accept an amendment which would say that the report would have to be presented within 3 years, which would then give us 2 years to study the program and still have the right to continue other services if it was deemed necessary. I do not think that the Senator from Oklahoma realizes the extent to which Alaska is already taking on the responsibilities provided by the Bureau of Indian Affairs in other places. I would call the Senator's attention to the fact that we may have the financial ability to provide a great many more services than other States in the future. I believe that the people of Alaska are more than willing to accept the responsibilities.

I would urge the Senator to consider my suggestion, before changing this, so that the study is required within 3 years, and make cessation of services contingent upon approval of the study, if the Senator desires. I leave that up to my colleague from Alaska because it is basically his amendment.

I will keep my commitment to support the bill as reported to the Senate, unless the chairman agrees to the amendment; but it seems to me that there is a way to accomplish this objective and, at the same time, accomplish the objective of my colleague from Alaska. I hope that the Senator would consider some way to do this, so that we can reach an accord here and move on with the rest of the bill.

Mr. HARRIS. I thank the Senator for his statement which, obviously, I cannot agree with. If this provision in the bill just called for a study, as the Senator starts out to say, that would be one thing, but this provision, as I have read it aloud to the Senate, and as the Senator knows very well, says, "terminates the service within 5 years." In regard to this bill's required study concerning how that should be done, I testified this very morning before the Senate Subcommittee on Indian Affairs in support of a bill which would repeal an old law in respect to the termination of the Choctaw Tribe. The necessity of that legislation, I think, indicates why it would not be good to go ahead and enact this provision, providing for the termination of certain services to these people, and then see how it turns out, so that we could extend or repeal it at the end of the time.

What we have done in regard to the Choctaw Tribe was to come here continually and ask the Senate and the House of Representatives to put off the effective date of an old termination act. Finally, we are coming in now and asking that that law be repealed altogether, as I think it should be.

So, while I would not have any objection to some kind of study, I do not think we ought to pass this rigid termination law in connection with this claim. There are two or three reasons why we ought not to do this at this time.

First, I do not believe it is right to terminate the services that this bill would end for these tribes. I call attention to a portion of President Nixon's message of July 8 on this matter. It reads in part:

> Because termination is morally and legally unacceptable, because it produces bad practical results, and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups, I am asking the Congress to pass a new concurrent resolution which would expressly renounce, repudiate, and repeal the termination policy as expressed in House Concurrent Resolution 108.

I support that recommendation of President Nixon.

Second, I do not believe that we ought to adopt any definite termination date in this bill. I do not believe it is right to tie this kind of condition to a bill which seeks to give what these people are themselves entitled to under justice.

If Congress wants to respect President Nixon's recommendation about repudiation of the old termination policy, that is a matter still within the control of Congress. But I do not believe we ought to do it piecemeal here in this one bill and, in effect, hold justice for these people hostage to this termination provision.

Mr. President, I would suggest that the chairman of the committee see if he can accept this amendment, because I think it really is a terribly important amendment insofar as the rights of these people are concerned. This provision ought not to be made a condition to the final passage of justice, at long last, for the people who are involved in the pending bill.

The PRESIDING OFFICER (Mr. EAGLETON). The Senator from Alaska is recognized.

Mr. GRAVEL. Mr. President, I think it is clearly an historical argument. I think it is fudamental at this time.

We might really go to the core of a problem that has plagued this country for over a hundred years. That problem must be solved—not the problem of termination, which is a hangup and nothing more than that, but the problem of determination as to how people act for themselves.

Three points have been made with reference to the argument that has been advanced here.

The first was that the bill would terminate services. I asked the Senator from Oklahoma what services would be terminated. In rebuttal all I got was a reference to some pontification by this administration as to what its policy should be toward the Indians. That pontification was given this year, was given by the last administration, and has been given ever since we have had the problem. All we have had has been a lot of pontification but no legislative action.

Mr. President, I was present in Utah at a luncheon with the tribal leaders. These tribal leaders were operating a ranch. At the top of the valley was a beautiful concrete building. That was the BIA building. At the bottom of the valley where the ranch was operated there were a couple of quonset huts.

We as officials did not go to the concrete building. We went to the quonset huts. We did not want to talk with the BIA officials. We wanted to talk with the Indians.

I was sitting next to the chief of the tribe.

I said, "You have a nice ranch here. You have cattle and are making money."

I asked him, "Who runs the ranch?"

He said, "We do."

I asked, "Do you deal with the BIA?"

He said, "No, we do not deal with them. We run our own ranch."

I asked, "Why do you have the BIA?"

He said, "Because they are there."

I asked, "Why don't we do away with them?"

He said, "Because it might not be a good idea."

I asked, "Why would it not be a good idea?"

He said, "Because they are there."

That was the sum and substance of that argument, that they are there.

What we are doing in this bill is providing for solving this situation in one particular case—Alaska. There are three functions of the BIA. They are education, welfare, and economic development.

Education under the 1962 act is being taken over by the State of Alaska and funded by the Federal Government.

We are not decreasing our efforts. We are trying to say, "Joe Uglapuk's kid is just like MIKE GRAVEL's kid. He receives the same kind of education. There is no social distinction."

It is said that more money is needed because it costs more money to educate the children. The pending bill provides for that and increases it considerably.

The second function of BIA is welfare. Welfare in Harlem is handled through the State of New York with Federal funds. There is no reason why welfare in Alaska cannot be handled through Alaska and by Federal funds.

Why should we make an ethnic distinction?

The third function of BIA concerns economic welfare.

Mr. President, we have reindeer herds. There are some caribou in Alaska. One herd was brought to a little valley outside of Nome, Alaska. I flew out there in a BIA aircraft and landed on the tundra with a BIA official. We talked with the Eskimos who were doing the herding. The BIA officials were not doing it. It was not the BIA that was doing the accounting. It was the Eskimos.

My approach is very simple. All we have to do is to provide the money to permit them to do that. We do not need the Federal Government to spoon feed the people. The people can be like any other people from Harlem, Watts, or any other community. If they are equal, the way to prove they are equal is to treat them equally.

If that is actually the problem, we ought to address ourselves to the economic issues and not to the racial issues. We should provide sufficient funds to provide economic aid to the Natives. They will do it for themselves.

Education will be provided by the State. Welfare will be provided by the State, where it properly belongs. Economic development will be provided by the Indians themselves. There is nothing left. Why should we have a bureaucracy that is organized and exists to soak up the money and push the problems aside? That is what we are doing. We say that we want a plan for 5 years and that after a study it will be submitted to Congress. We say that we have to do away with that system and this may create more equality.

What happens, to the contrary, is that we get a bureaucracy that feeds upon itself and that panders to them.

This is a chance that exists in Alaska today that has nothing to do with termination.

It has nothing to do with that hangup. These are people with a just claim; we are satisfying that just claim so they can walk down the street like anybody else, whether white, black, green or yellow. That is all this does.

We should not get hung up about chopping off services. I ask anyone making that argument to honestly stand on the floor of the Senate and tell us what is being chopped off. I think there is confusion here.

Mr. President, I yield the floor.

Mr. HARRIS. Mr. President, American Indians are entitled to something other than just the plain treatment that other American citizens receive, for several reasons, and this goes to the heart of the argument of the distinguished Senator from Alaska, and I know he has made his argument with all sincerity.

First of all, American Indians, Eskimos and Aleuts are different from other American citizens in that they are the only people in the United States who were conquered by the U.S. Government.

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. HARRIS. And they are the only people toward whom the policies of this Government have consciously——

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. STEVENS. Mr. President, we would like to clear the RECORD on this matter. The Alaskan Natives were never conquered. I want the Senator to understand that these people were never conquered in the Indian wars. The United States bought Alaska from Russia and when we bought Alaska from Russia we promised the Alaskan Native people they would receive justice, or compensation, or be fairly treated. We are trying to treat them fairly now. But I did not want the RECORD to show that Alaskan Natives ever lost any wars. They are sincere about this and I hope the Senator agrees so we can clear up the RECORD. Sovereignty over them was acquired by the United States in a way that obligates us today to fulfill the obligation under the treaty of purchase.

But let us not have the Indian war problem creep in on Alaskan Natives because they never had that problem and do not want it.

Mr. HARRIS. The Senator has made a too narrow interpretation of the word "conquer." Perhaps I should have said that the Eskimos and Aleuts are the only people who were conquered or bought. They passed from Russian jurisdiction to that of the United States. But, that is not so much the question here.

The question is the present situation. The Indians, Eskimos, and Aleuts are the only people in our history toward whom the policy of the U.S. Government has been, either consciously or unconsciously, and, mostly, consciously—to destroy their own culture, heritage, language, and pride in group. That has been the long history of this country and it still is, however, well intentioned we may be or may have been.

Chilocco Indian School is an Indian school in my State. It is a long way from Alaska and, yet, the majority of students in that school, up until this year have been, overwhelmingly, students brought all those hundreds of miles away from family, away from tribe, and away from their own native areas, down to that Indian boarding school.

It seems to me, however well intentioned that is, it is not the kind of policy which will instill rightful pride in self, pride in history, pride in culture, and pride in group. That is the first thing different about the Government policy in the past in regard to the American Indian, Eskimo, and Aleut from other Americans. It is a different policy, unique for that group of our fellow American citizens.

The second difference in regard to these types of Americans is that ours has been a policy of effective dependency for American Indians, Eskimos, and Aleuts. It has been a feeling that American Indians, Eskimos, and Aleuts are not able fully to decide a great many vital things about their own lives and the lives of their children which other people in our society can decide.

We have begun to make some changes and I am pleased that that is so, as, for example, in the action by Congress last year requiring that Indian school boards be established so that Indian parents will have the same right to control schools and to participate in decisions about their schools that other citizens in our society have.

I daresay a great many people were quite surprised to find, after all these years, that that was not the case anyway; and the Government has been dilatory in carrying out that clear directive of Congress last year. I have spoken about that on the floor of the Senate in the past.

I think we have to recognize the right of these Americans to make vital decisions about their own lives. That is what the amendment was about awhile ago. I offered an amendment which would have provided that three of the five members of the Commission to be established under the bill to make such vital decisions as the decision concerning eligibility for benefits under this bill, would be Natives. That amendment was tabled. I think that was a mistake both in procedure and in substance.

I am sorry that was so, and I hope, somehow, along the way, that may yet be corrected in conference or elsewhere. I believe that we have not considered fully the implications of the judgment the Senate made that the Natives themselves should not have a majority in those very sensitive and serious decisions involved here.

So, once again, the Senate acted by an overwhelming majority, and I think without having understood fully the issue. That is why it seems to me it was not a good thing to cut off debate by a motion to table. As I have said, I think the Senate has made a decision on an important question about which Senators were not fully informed. However, that has now been done. But just as mistaken is our age-old policy that would deny the American Indian, Eskimo, and Aleut control over their lives.

The third difference is that as we began to move ahead on a broad range of social questions, such as improved health, improved housing, and improved education in this country for most citizens, but we did not give the same kind of attention, in my opinion, to those social concerns as they applied to the American Indian, Eskimo, and Aleut. Rather, there has been a feeling in some places in the country that American Indians are not truly American citizens. There has been a feeling they are not entitled, in addition to the services rendered to them by the Bureau of Indian Affairs, to all other services furnished to all of the citizens of our country.

So, in too many instances where an American Indian goes into a city or county health clinic, for example, as an American citizen entitled to those services, it has been said to him, "Why don't you go to an Indian hospital, where you are supposed to go?" rather than recognizing that that citizen is entitled to those services, just as any other citizen.

So, for too long, for too many Native Americans—Aleuts, Eskimos, and Indians—it has been too true with respect to Federal services. We have said services for housing, education, health, and so forth, should be primarily furnished by the Bureau of Indian Affairs. Nevertheless, we have not put sufficient money into those programs so that that could be done. Therefore, we have not, I think, provided the same kind of equal treatment in the past with regard to those programs.

All this adds up, it seems to me, to some things that need to be done. The action required follows from the three statements I have made about the differences in the way we have treated this group of Americans.

No. 1, instead of helping to tear down pride in culture, in heritage, in language and in difference, we ought to be helping to emphasize such things. America is not a "melting pot" in the sense that every person must be just like everybody else in order to be a true American. To be a true American, one does not have to look like every other American, or speak like them, or have the same cultural heritage or pride in history. What America is about is the right to be different—I repeat, the right to be different, not as a matter of tolerance, but as a matter of pride. We ought, most of all, to exemplify that people can be different in many ways, in culture, in religion, in history, in language, in color, and still be entitled to the full promise of America.

That is why I and other Senators have stood on the floor of the Senate seeking to change the Indian education program of the country, both in the public schools and in the Federal Indian schools, by providing additional money for special materials and textbooks and teaching aids, so that a little Indian child in this country will not continue to be humiliated, as is often now the case, by imperfect and often terribly discriminatory materials and teaching aids in our public schools and Federal Indian schools.

I have stood on this floor advocating the increase of funds available for special training for teachers in public schools where there are high numbers of Indian young people and in the Federal Indian schools, so that a teacher is not suddenly thrown into this kind of situation of special background and special needs of students with whom she or he is not familiar, as is, over and over and over again, the case today.

Second, the problem in regard to the patronizing kind of dependency which has been involved here in the past. We must have Indian school boards and Indian hospital boards. I think American Indians must be allowed to control their own destiny more.

Third, the statement I made in regard to bringing Indians up to the starting line, on an equal basis, is what is involved in this amendment—and that is, they must have compensatory attention, not just equal attention, as was stated a while ago, but compensatory attention, to bring them up to the starting line on an even basis; and nothing else will do.

That is why we, the Senate of the United States, ought not to unilaterally, against the wishes of the Alaskan Natives, play God once more, making vital decisions about other people's lives, deciding that certain of their services ought to be terminated, which, as I understand it involve education—despite what was said a while ago—Indian schools, technical assistance in a great many important areas that the Bureau of Indian Affairs now furnishes these Americans—not out of the goodness of our hearts, but because of our solemn obligation to do so.

So I hope this amendment will be adopted.

Mr. President, I suggest the absence of a quorum.

Mr. HOLLAND. Mr. President, will the Senator withhold that?

Mr. GRAVEL. Mr. President, will the Senator withhold that?

Mr. HARRIS. Yes, I withhold it. I shall be glad to yield for a question.

Mr. GRAVEL. Not for a question. I would like to debate the issue.

Mr. HARRIS. I was being urged to conclude my remarks so we can have a quorum call, but if this should be debated, I will have something more to say.

Mr. President, I ask unanimous consent that I may yield to the Senator from Florida (Mr. HOLLAND) without losing my right to the floor.

Mr. MANSFIELD. Mr. President, before the Senator yields to the Senator from Florida, would the Senator consider the possibility of a time limitation on the pending amendment so Senators can be aware of when there may be a vote, if there is to be a vote, this evening?

Mr. HARRIS. I would rather not right now, until perhaps we could talk about the amendment, agree. Perhaps there is some way to work it out.

Mr. JACKSON. Mr. President, will the Senator yield briefly?

Mr. HARRIS. I yield.

Mr. JACKSON. I may say to the majority leader that, as soon as the Senator from Alaska has had an opportunity to respond, if we could have a quorum call, there is a possibility that we may work out a compromise and try to get a settlement of this matter.

Mr. HARRIS. Mr. President, I ask

unanimous consent that I may yield to the distinguished Senator from Florida without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLAND. Mr. President, my interest in Alaska goes a long way back. I had read about Baranov, the Russian captain and governor who settled Alaska and sent a great wealth of sea otter furs and other products of that kind and who believed so greatly in the future of Alaska and of the great northwest and western coasts of this Nation that he came down as far as San Francisco Bay to establish a settlement there and that he was heartbroken when recalled because his effort had been so expensive.

It was because of that interest and knowledge I had of Baranov that I referred to some of the tribes there as conquered tribes. If one reads the story of Baranov, he will read that some of the tribes were conquered and some of them almost destroyed back in the old Baranov-Russian days. We, of course, acquired them when we purchased Alaska.

My own feeling is that the Alaskan Natives—Indians, Aleuts, and Eskimos—are in no different situation from other American Indians. Some of our American Indian tribes were not conquered in the sense that they were conquered in battle, because they had been our friends. All we did was to take their land away from them and move them to a more remote location which they did not like so well. That is what has happened to some of the tribes in Alaska, but some of them were truly conquered and some were almost destroyed.

My feeling is that this is a fine settlement for this country to make.

I close by saying only this one additional thing, if I may to the Senator from Oklahoma, whose interest in Indian welfare I so thoroughly respect: I think for us to get ahead with the complete development of Alaska itself, it is necessary for this settlement to be made and speedily worked out, because with the award to Alaska of that tremendous amount of acreage which it is permitted to have under the statehood bill—which I was privileged to support, and I believe I was the first Senator from my section of the country who did support that bill—before that total acreage can be claimed, many of the claims by local tribes have to be definitized as to how much area they cover and exactly what area they cover.

I think this is a very definite step in the permanent development of Alaska, which now we are beginning to realize is going to be a very great State, not only because of what we knew was there before—its mineral resources, its fishery resources, and its great timber resources—but now because of the discovery of immense quantities of oil up there.

I think this is an additional step towards the true and full development of Alaska, and that the taking of this step will greatly speed that development, because one of the things that has been most wrong in Alaska up to now is the fact that so much of the land has been publicly owned by the United States, either in the Department of the Interior or in the Department of Agriculture, as national forests, and because it has been impossible to have full selection of that very large area which will go to Alaska under statehood, under the terms of the statehood bill.

I think this is but one of the very definite steps that leads to that conclusion.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Florida may yield briefly to me so that I may respond.

Mr. HARRIS. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I just wanted to take this opportunity to say that the senior Senator from Florida has been most generous, that he contributed greatly to statehood for Alaska and Hawaii as well, and I commend him for his most effective work in connection with those two statehood bills.

I also wish to express to him my appreciation for his understanding comments about what we are trying to do in settling these long outstanding claims that really have been and continue to be a serious problem in Alaska and for our Government as a whole. I think his comments here have been most helpful.

Mr. HOLLAND. I thank my distinguished friend. I, as always, am interested in the development of Alaska, including the Natives there, because I think it is going to be a very great star in the firmament of our own country.

Mr. HARRIS. Mr. President, I return to the statement that I made earlier in regard to the fact that there are three major differences which I have spoken of in the way we have treated this group of Americans, as compared with all other Americans, and how those differences, themselves, suggest the directions in which we must now go.

I last spoke, Mr. President, about the need for compensatory attention to the needs of this group of Americans, not just equal attention. That brings us, Mr. President, then, finally, to this question of termination. What we want is self-determination without termination.

Mr. President, I ask the question: If this is such a good deal for the Alaskan Natives, and if they are not going to lose anything by this provision, why does their association, then, oppose this provision in the bill?

That, it seems to me, is a very important question. Furthermore, it is a very important question in regard to self-determination. Will we, Mr. President, make the decision about what is good for this group of Americans, or will they have some participation in that decisionmaking process?

It has been stated here that this termination of certain services to these people—services to which, under the present law, without this part of the bill, they will continue to be entitled—will not occur until 5 years from now. I take it that it is admitted that one reason why that will be so is that we are not now able to say to the Senate what the effect of that termination will be; because in this amendment we require detailed studies for carrying out this provision, and we require detailed reports by the Secretary of the Interior on how it will be done, and on transition plans. Manifestly, Mr. President, such plans do not now exist.

I simply say to the Senate: why not wait until such plans do exist, and then, decide whether or not we want to make these decisions?

Furthermore, Mr. President, I say that no such plans should come into existence without full participation in the making of such plans by the people who are most directly involved. I think that they ought not to give up concerning any of these matters, under the law, unless they are directly involved in making the decision.

That is not the situation here. I have already put in the RECORD the association's statement in regard to this termination provision.

Mr. President, I call to the attention of Senators a matter of which they may not be completely aware.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HARRIS. May I just say this? Then I shall be happy to yield.

That is, that American Indians, Eskimos, and Aleuts do not necessarily stay in their traditional areas. As is true of other American citizens, many of them have left their traditional areas, rural and otherwise, and have gone into the cities. About half, we think, of all American Indians, Eskimos, and Aleuts now live in urban areas.

Under the present law, Mr. President, despite the fact that such a person does not continue to live in the traditional area, he is not thereby automatically cut off from the services he is entitled to as an American Indian, Eskimo, or Aleut, whereas, under this bill with this provision in it, the U.S. Government would cease to provide services to any citizen of Alaska solely on the basis of his racial or ethnic background.

What if he is in Oklahoma, working? He would then no longer, I take it, be entitled to Indian services? Or, if he is down there, as many Alaskan children are, in Chilocco Indian School, would he be entitled to all of his present rights?

We have made provision here in regard to health and other things. I think we ought to put all of this off until there can be full consultation with the people involved, and they can be involved in the planning itself, before we take final action.

I am glad to yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I think the Senator from Oklahoma is making a contribution to the bill by raising this problem, but I would urge him to consider this: We are providing, under the bill, for a means for the Alaskan Native people to take over for themselves a tremendous part of the services heretofore provided by the Federal Government. We are also providing for the State to take over rapidly the educational function and the welfare function.

I would suggest to the Senator from Oklahoma that his point could be met if we would add to this provision—and I would hope that my colleague from Alaska would listen to this—a statement that the Federal Government would cease providing the services if they are provided by the State of Alaska, by a Native corporation created under this bill, or by a Native village.

The items the Senator has mentioned, of an Alaskan Native being in Oklahoma and needing services, would be covered by that, because he obviously would not be getting services from the State of Alaska, a village, or a corporation.

I think the Senator has raised a very good point, one that we probably overlooked.

Mr. HARRIS. Mr. President, I appreciate what the Senator has said. Now, American Indians are entitled to have, as they should have, some compensatory attention to their needs. I think that is only fitting. I do not think there is enough compensatory attention.

I give the Senator this example: President Nixon has recommended, I think rightly, that we should have additional Indian urban centers around the country——

Mr. STEVENS. Two are set up by this bill.

Mr. HARRIS. I think we ought to have more. In my own State, for example, in Oklahoma City and Tulsa, a private, non-Federal agency, with OEO funding, has set up referral centers in regard to getting American Indian people directed into programs for training, getting them jobs, and so forth, to assist them as they come into an urban situation.

That has proved to be a highly useful, highly needed service; and I trust that the Federal Government, under the President's recommendation, is going to move more and more into that. That is not a service which is excluded from those that would be terminated to people purely upon the basis of the fact that they are Indians. I take it, therefore, that if Alaskan Natives go into a city away from their traditional area and they have not been members of the groups that are treated by this bill, they would be terminated. Is that true or not?

Mr. STEVENS. I am suggesting to the Senator that we change this provision so that it would say that these services would cease if they are provided by the State or by a village corporation or by an Alaskan Native corporation. In other words, any of the services that are today provided would continue, but we would not have a redundant service situation. If the village takes over the service of providing sewers for its village, then health service would not come in and build a sewer. If the State takes over the BIA school, obviously the BIA would not come in and build a school.

What I am trying to work out is a compromise which says that any service that is needed which is not provided by the State or by the village itself or by an Alaskan Native corporation—two are created under this bill and there is authorization to create more—those services would continue to be provided by the Federal Government on an ethnic or racial background. But if the services are provided by the State or by a corporation or by the village, they would cease. There would not be redundant services. I think that would meet the objective of my colleague from Alaska and of the Senator from Oklahoma. The Senator from Oklahoma will agree with me, I assume, that we should not have redundant services.

Mr. HARRIS. No, I would not. That is the point.

Mr. STEVENS. The Senator believes that the Federal Government should provide welfare service even if the State is providing an adequate one? Does the Senator know that ours is much better than that of the Federal Government?

Mr. HARRIS. That is exactly what I said earlier. I think American Indians are entitled to compensatory attention. For example, in the urban centers that exist around the country, it is precisely because the American Indians involved, who move into these cities, and the services otherwise provided citizens, are not getting together and special attention to their employment and training and other needs is required, that those programs exist.

Mr. STEVENS. My suggestion is that we leave those services available.

Mr. HARRIS. I would not think that what the Senator suggests would be adequate, for two reasons. First, it would leave open the question of whether the services are being provided by some other agency or State or local government. That is the question that is not answered by the amendment, and I do not know who would make that decision.

Second, what this amendment would do—and that is what I object to so strongly—is to say that if a person moves to some other area or to some other State, except in regard to the health and so forth that are mentioned here, he is no longer an American Indian under the law and entitled to the services of the Government.

Mr. STEVENS. I do not think the Senator has understood my suggestion.

Mr. HARRIS. That has been a mistaken idea in the past. I think American Indians are American Indians, whether they live in urban areas or rural areas. Often, they have extra problems, in moving into urban areas, than other rural-to-urban migrants have because of the differences which apply to them, that I have otherwise discussed.

So I would suggest this: I do not know whether we can agree on this, and I do not know that it is the thing to do, exactly. But we might, for example, replace the present section 4(b) with this language:

> The Secretary is authorized and directed, together with other appropriate agencies of the United States Government, promptly to initiate a study and to develop programs for the orderly transition of educational, health, welfare, and other responsibilities for the Alaska Native people from the United States to the State of Alaska. Within five years from the date of enactment of this Act, the Secretary shall present to Congress a report of this study, and Congress may consider at that time the feasibility and desirability of ceasing to provide some or all services at that time provided to Natives of Alaska on the basis of racial or ethnic background.

Those are words that I am willing to consider. I am not willing to agree to them as yet, because I would want to be sure that we all understood what that language means, that it would not cut off the rights of those who migrated elsewhere to all the rights of American citizens, wherever they live. I would want to be sure that we would not have decided in advance this matter in connection with this bill, which I think would be wrong, and I would want to be sure that any plan we come up with would be consistent with the idea of self-determination—that is, the people themselves asking to take on more responsibility, that I think they are more and more willing to do.

Mr. JACKSON. Mr. President, I suggest that after the able Senator from Alaska (Mr. GRAVEL) has had an opportunity to respond briefly, we adjourn at 6 p.m. or shortly thereafter. This will give us an opportunity to get the staffs together and see whether we can work out a satisfactory amendment which can be brought up tomorrow, when the Senate convenes at 10 a.m.

I have one major amendment that I should like to offer. There are a couple of minor amendments, and then I think we can be in a position to complete the bill, unless there are other amendments.

The chairman of the committee makes that suggestion to the able Senator from Oklahoma, in a desire, of course, to try to see whether we can come to a proper resolution of the problem. I think that possibly overnight something can be worked out.

Mr. HARRIS. Mr. President, I appreciate that very much, as I also appreciate the cooperative attitude that the distinguished Senator from Washington and the Senators from Alaska have shown in an effort to work out this matter.

It may be that we are just hopelessly in conflict in this matter. I feel rather strongly about it, as do some others. On the other hand, it may be that we can work out something that is consistent with self-determination without termination—and those, I think, are rather magic words of art.

I would be willing to adjourn relatively soon. I want to respond to what is said later tonight, before we adjourn, so that my views will be in the RECORD for tomorrow.

I yield the floor.

AMENDMENT TO AUTHORIZE COMPETITIVE LEASING OF MINERALS ON PUBLIC LANDS IN ALASKA

Mr. JACKSON. Mr. President, I shall offer an amendment tomorrow to S. 1830, the Alaska Native Claims Settlement Act of 1970, to authorize the Secretary of the Interior to dispose of oil and gas and other leasable minerals on the public lands in Alaska by competitive bid where there is competitive interest in the lands to be leased. This amendment is proposed in connection with S. 1830 rather than as general legislation because section 13 of S. 1830 terminates Public Land Order No. 4582, the existing land withdrawal order covering public lands in Alaska and, therefore, has the effect of opening all unreserved public lands in Alaska to noncompetitive mineral lease offers.

If this amendment is not adopted, the minerals of the Nation's richest oil and gas area may be given away to speculators at a tiny fraction of their commercial value or true market value.

The provisions of the Mineral Leasing Act of 1920 do provide for a very limited form of competitive leasing. If the geological survey determines that the public lands in question are on a known geological structure the lands are leased competitively on a cash bonus bid basis. This term—"known geological structure"—is not defined in the act, but has been administratively defined to mean that there must be a producing well on a known geological structure, and the structure must extend to the public lands in question. As a result of this restriction on the use of competitive leasing procedures the great bulk of Federal mineral leases are issued noncompetitively to the first applicant.

The Mineral Leasing Act authorizes the issuance of noncompetitive leases on public lands for a mere $10 filing fee and a 50-cent-an-acre rental payment. In my view, it is not in the public interest to allow these lands, which are owned by all of the people, to be leased noncompetitively at a fraction of their fair market value, when there are willing buyers anxious to bid on the leases.

The amendment I have proposed would apply only to public lands in the State of Alaska and would adopt language which was recommended to the Congress by the Federal Field Committee for Development Planning in Alaska, by the Department of the Interior with the endorsement of the Bureau of the Budget, and by the Comptroller General of the United States. In addition, the Public Land Law Review Commission in its recent report to the President and the Congress recommended that the Mineral Leasing Act be amended in the manner which I have proposed for Alaska.

In my view a strong and convincing case can be made for extending the amendment I have proposed to all public lands. Hearings on this have not, however, been held and I have therefore limited the amendment's application to the public lands in the State of Alaska.

There are several reasons for urgency with respect to writing a competitive leasing provision into the present bill. The first, of course, is the enormous value of the resources in question and the enormous pressures within the oil and gas industry to obtain oil leases in Alaska. There may be hundreds of millions, or even billions, of dollars at stake in the manner by which these minerals are leased. Congress provided in the Mineral Leasing Act of 1920 for noncompetitive leasing of oil and gas except in the immediate vicinity of a producing well. At that time the intention was to allow independent operators to prospect for leasable minerals with a minimum of redtape and expense on raw wildcat lands on which there was little competition for leases. The interest of the Government as landowner was protected by collecting a royalty on production wherever a commercial discovery was actually made.

The situation in Alaska today, however, is very different from the one Congress had in mind in 1920. Drilling is still the final test whether or not oil and gas deposits are actually present, but modern geology and geophysical techniques provide powerful evidence about the probability of their occurrence before any exploratory drilling takes place. For this reason, exploration rights on some undrilled tracts in Alaska have had a market value of thousands and tens of thousands of dollars per acre.

The right to explore 179 tracts offered by the State of Alaska in September 1969, for example, brought in over $900 million. If the same acreage had been open to leasing under Federal laws in the spring of 1968, this acreage would have passed to speculators for a $10 filing fee—and an annual rental of only 50 cents per acre. On the basis of a November 1969 field rules hearing, the State division of oil and gas defined three formations in the Prudhoe Bay field, the Sadlerochit, the Kuparik, and the Lisburne. These formations are roughly analogous to the U.S. Geological Survey's narrow definition of "the known geological structure of a producing well" and contained 43 of the 179 tracts offered in September. These 43 tracts received total high bids of $470.3 million.

Accordingly, if the area offered by the State in its competitive sale had been available for leasing under Federal laws, the $900 million in bonuses actually received would have been diminished by $429.7 million.

There is no reason whatever to convey such valuable rights in the public domain except at their fair market value as determined in a competitive sale.

The second reason this amendment should be incorporated into S. 1830 is related to the purposes of the Native claims settlement bill. Alaska Natives have a substantial, though unlitigated claim against much of the public lands of Alaska, including lands which hold rich deposits of oil and gas. A principal objective of this legislation is to extinquish these claims by purchase, by adopting the legislative settlement proposed by S. 1830. This has the effect of clearing title to those lands and their minerals, in part by an appropriation from the Federal Treasury, and in part by the commercial revenues received from oil and gas production on the lands claimed by the Natives. The logic and the financing of this settlement both assume that the potential mineral revenues from the public lands of Alaska will not be dissipated by the disposal of mineral rights at a fraction of their true value. A fair price for the disposition of these resources cannot be assured without allowing competitive leasing wherever there is competitive interest in the lands to be leased.

The GAO report referred to earlier notes that in one small oilfield, the Bell Creek Field discovery in Montana, 2½ million acres of Federal lands were leased noncompetitively. The GAO estimates that these leases resulted in $24 million less revenue than their fair market value. This estimate represented the difference between the average price per acre for leases on these Federal lands and the average price per acre for competitively awarded leases on State lands in the same area. The disproportion in value on the rich mineral lands in Alaska could be much greater than this if provision is not made to lease public lands pursuant to competitive procedures where there is a competitive interest.

A third reason for this amendment flows from the interests of the State of Alaska. The combined provisions of the Mineral Leasing Act and the Statehood Act grant Alaska 90 percent of the revenues from mineral leasing on public lands within its boundaries. The State of Alaska, therefore, has a big stake in the Federal Government's choice of leasing practices. The State does, however, have a line of defense against the dissipation of potential mineral revenues by noncompetitive leasing: the State can select the lands in question under the provision of the Statehood Act which allows Alaska to select over 100 million acres from the unreserved public domain. The State is, therefore, impelled to select lands immediately which it might not otherwise want, only to prevent their leasing under the noncompetitive provisions of Federal law. Representatives of the Governor of Alaska have told the Public Law Review Commission that the State intended to station agents in each of the Federal land offices in Alaska, in order that the State could select each tract on which someone was about to file a noncompetitive lease offer. Certainly this procedure does not lead to a sound pattern of land ownership or land management. Its necessity can be eliminated by authorizing the Secretary of the Interior to lease minerals on the same competitive basis as does the State of Alaska and almost all other States.

A final reason for this amendment is to eliminate a powerful source of confusion and possible corruption with regard to certain outstanding lease offers on Federal lands in Alaska. In 1966 the Department of the Interior began suspending the processing of mineral lease offers on lands where there was a Native protest. This so-called land freeze was superseded in January 1969 by the Secretary's public land order withdrawing all public lands in Alaska from mineral leasing in order to preserve the status quo for a congressional settlement of the Native claims. Meanwhile, however, various individuals tried to file offers to lease valuable oil and gas properties in the State under the noncompetitive provisions of the Mineral Leasing Act. These offers to lease lands which were not available for leasing cost the applicants only a $10 filing fee, and imposed no legal obligation on the Government to grant a lease. Yet some of these offers, or interests in them, were sold by the applicants to other individuals and even to substantial oil companies for many thousands of dollars. There is still reputed to be an active market for such lease offers in Fairbanks.

The State of Alaska has filed a selection of the most valuable of these lands and the State commissioner of natural resources has ruled that under Alaska law they must be leased competitively.

His ruling led the lease applicants to place great pressure on the Alaska Legislature to compel the State to grant leases to them. The legislation to this end, dubbed the "Dirty Oil Bill" by the Alaska newspapers never came to a vote in either house of the legislature, but it led to bitter charges of corruption and malfeasance within the State. A group of Canadian oil companies and others who bought some of the lease offers on lands subject to the "land freeze" have made an effort to get oil and gas rights granted to them as part of S. 1830. The amendment proposed here will end any confusion about the status of the lease offers made during the Alaska land freeze, and should put an end to the trade in lease offers.

It should be made clear that this amendment will not end all noncompetitive leasing in Alaska, nor will it frustrate the intentions of the Mineral Leasing Act in providing for noncompetitive leasing. If there are indeed independent operators in Alaska who want to explore raw wildcat lands in which the major oil companies are not interested, there will surely be acreage which can be obtained either competitively or noncompetitively without the payment of huge bonuses. It is instructive that Tom Miklautsch, the Fairbanks druggist who became a millionaire from a small investment in a Prudhoe Bay oil lease, obtained his exploration rights in a competitive lease sale.

There is no justice, and no justification whatever, for the transfer of obviously valuable rights in the public domain to one party for a small filing fee, when there is another party who is willing to pay fair market value. The oil independent who actually explores apparently unpromising lands should not be used to justify the sacrifice of public revenues to middlemen who have no intention to drill and who would get windfall fortunes by peddling their cheaply obtained leases competitively to the big oil companies.

The detailed study of "Federal Land Laws and Policies in Alaska" which the University of Wisconsin School of Natural Resources made for the Public Land Law Review Commission summarized its views on noncompetitive leasing as follows:

"NON-COMPETITIVE LEASING

"Under the Mineral Leasing Act, leasing for gas and oil is not competitive until a 'known geological structure' is defined. *This procedure results in many persons taking noncompetitive leases who have no competence or financial capacity to explore and develop oil but only intend to sell their lease rights to an operating oil company. Under a competitive leasing system, such as is employed on the outer continental shelf, the amounts now paid by the oil companies to the lease speculators would be paid to the public treasury*. Thus the non-competitive leasing system is a distribution of public funds to those speculators who are sufficiently familiar with the law to play this lottery. *The only reasonable alternative is to make all oil and gas leasing competitive, as is now the policy under the more modern law which applies to offshore leasing.*" (Emphasis added.)

Mr. President, I strongly urge the Senate's adoption of this amendment.

I ask unanimous consent to have printed in the RECORD the amendment I intend to offer tomorrow.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

On page 145, after line 5, insert a new section 17 as follows and renumber as appropriate the following sections:

"MINERAL LEASING ACT

"SEC. 17. Disposition of all minerals included under the Federal Mineral Leasing Laws including but not limited to deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in public lands in Alaska and of all deposits of any other minerals located in such lands, which the Congress may hereafter authorize to be disposed of by sale or lease, after the effective date of this Act may, where there is competitive interest shown in a particular tract of land, be under such competitive bidding procedures, as the Secretary may prescribe by regulation. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437, 30 U.S.C. 181 and following), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) shall apply to the extent that such provisions are not inconsistent with this Act. Where such competitive interest has not been displayed the provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437, 30 U.S.C. 181 and following), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) shall apply."

Mr. ALLOTT. Mr. President, I should like to inquire whether the amendment of the Senator has been printed.

Mr. JACKSON. I say to the able Senator from Colorado that the amendment has been printed, and it is amendment No. 773.

Mr. ALLOTT. It has not been modified?

Mr. JACKSON. It has not been modified.

Mr. President, I ask unanimous consent that in connection with the amendment that is at the desk, No. 773, the name of the senior Senator from Delaware be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that extracts from various reports urging that the Mineral Leasing Act be amended to require wider use of competitive leasing be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GAO REPORT

On March 17, 1970, following a review of Federal law and policy concerning the award of mineral leases the Comptroller General of the United States formally recommended in a report transmitted to the Congress:

(1) "That the Department of the Interior, in leasing Federal lands for the development of oil and gas resources, should use competitive bidding to a greater extent to ensure that the lands are leased at prices that more nearly approximate their fair market value."

(2) "That the Mineral Leasing Act of 1920 be amended to (1) require that oil and gas leases of all Federal lands be awarded competitively unless otherwise justified . . ."

The GAO report also noted in its findings and conclusions that:

"Many oil and gas leases of Federal lands outside a known geologic structure of a producing oil or gas field were awarded noncompetitively at prices that appeared to have been less than fair market value." (See p. 6).

"For example, GAO estimates that 2.5 million acres of Federal lands in the general vicinity of the Bell Creek Field discovery in Montana were leased noncompetitively for about $24 million less than their indicated fair market value. This estimate represents the difference between the average price per acre for leases on these Federal lands and the average price per acre for competitively awarded leases on State lands in the same area." (See chap. 2 for this and other examples.)

"GAO believes that the substantial public interest in acquiring noncompetitive leases indicates that effective price competition could have been obtained if the leases had been awarded competitively. However, the leases could not have been awarded competitively because, under the governing statute the first qualified applicant is entitled to lease, without competitive bidding, lands of the United States that are not within any known geologic structure of a producing oil or gas field. Generally, the geologic data needed to determine whether lands offered for leasing are within such a structure are not available to the Department before leasing and drilling." (See p. 7).

"On the basis of its review, GAO believes that the Department, in leasing Federal lands for the development of oil and gas resources, should use competitive bidding to a greater extent to ensure that the lands are leased at prices that more nearly approximate their fair market value." (See p. 38).

"GAO believes, also, that the increased use of competitive bidding would tend to reduce or eliminate certain undesirable aspect of awarding leases to applicants on the basis of simultaneously filed lease applications, such as the multiple filing of applications to increase the chances of getting a lease, and the acquisition of leases for speculation rather than for the development of the resources."

PUBLIC LAND LAW REVIEW COMMISSION

One of the major recommendations of the Public Land Law Review Commission's report to Congress and to the President is to amend the present provisions of the Mineral Leasing Act of 1920 to enlarge the scope of the competitive leasing provisions.

The Commission noted with respect to the limited competitive sale requirements of present law: "We have concluded that these competitive sale requirements are too narrow in scope, particularly in the case of oil and gas." The Commission's recommendation number 49 provides that:

"Recommendation 49: Competitive sale of exploration permits or leases should be held whenever competitive interest can reasonably be expected. (p. 132, chapter 7, One Third of the Nation's Land)."

The contractor's study of "Federal Land Laws and Policies in Alaska" by the University of Wisconsin, School of Natural Resources stated as follows:

"NON-COMPETITIVE LEASING

"Under the Mineral Leasing Act, leasing for gas and oil is not competitive until a 'known geological structure' is defined. This procedure results in many persons taking noncompetitive leases who have no competence or financial capacity to explore and develop oil but only intend to sell their lease rights to an operating oil company. Under a competitive leasing system, such as is employed on the outer continental shelf, the amounts now paid by the oil companies to the lease speculators would be paid to the public treasury. Thus the non-competitive leasing system is a distribution of public funds to those speculators who are sufficiently familiar with the law to play this lottery. The only reasonable alternative is to make all oil and gas leasing competitive, as is now the policy under the more modern law which applies to offshore leasing."

The "Legal Study of the Federal Competitive and Noncompetitive Oil and Gas Leasing Systems" which was prepared for the Public Land Law Review Commission by The Rocky Mountain Mineral Law Foundation set forth a number of alternatives to the present noncompetitive leasing procedure of the Mineral Leasing Act of 1920. Alternative No. 11 of the contractor's study report is basically the same as the amendment proposed to S. 1830. The Foundation's discussion of the alternative is set out below:

"Alternative No. 11:

"Modify the existing leasing system to authorize the Secretary of the Interior to extend competitive bidding to lands designated as being subject to competitive interest."

"1. Problems to be solved."

"As a landowner it may be said that the United States does not receive a fair market value for leases issued under the simultaneous drawing system. A lucky winner is placed in the position of being able to receive this value. The administration of such a leasing system is a significant burden. If areas in which 'competitive interest' exits were to be designated as being subject to competitive bidding, the number of applicants would be reduced and limited more to persons with a greater interest in development. The United States would realize the fair market value of leases upon such lands."

"2. Key Features."

"Upon receipt of more than a stated number of applications the land office would post the lands as being subject to competitive bidding. The number of offers would have to be arbitrary. It could range from more than one offer to such number as is deemed to establish a competitive interest. Upon receipt of the requisite number of offers filed in the existing open filing system within a certain time period, the lands would be posted as available only for competitive bids. The bidding could be restricted to only those who had filed applications within the time period, or it could be open to any bidder. A deposit of a stated sum should be required of applicants which would be forfeited if the applicant failed to make a bid."

"3. Probable advantages."

"The United States would receive a higher return for lands made subject to competitive leasing. The prospect of having to engage in a bidding process to obtain a lease should discourage the submission of applications by complete strangers to the oil and gas industry in anticipation of striking it rich, and the simultaneous drawing could be eliminated. No significant change should occur in the total amount of acreage leased under this system in comparison to the present one. This alternative would not require the initiation of any new procedures for 'designation' of competitive lands as would be true under other suggested expansion of competitive bidding, thus saving the imposition of additional administrative burdens and costs. No change should occur in development and exploration rates as present day operators are forced to acquire lands from those who are the lucky winners in the lottery. If bidding were limited to those persons who had filed applications within a certain number of days (assume 10 days), they would have some reward for their initiative in taking steps to apply for the lands and they are not acting solely in response to an advertisement to try their luck in a lottery. If the bidding were made open to any persons, it might be that a higher bid might be secured, but presumably the competition has been indicated only by those who applied and it would appear consistent to restrict the bidding. However, all interested persons could still file applications and obtain the right to bid."

"4. Probable disadvantages."

"While some incentive would be returned to constant examination of BLM records to determine the expiration of leases, the suggested alternate should not produce the 'scrambles' and indications of inside information as to lease expirations that led to the simultaneous drawing. This should be offset by establishing a period of days during which competitive interest is ascertained. It is probable that some of the disadvantages noted with regard to an all competitive bidding alternative would arise, as would be true with any extension of competitive bidding to additional lands."

DEPARTMENT OF THE INTERIOR

In commenting on the provisions of S. 1830 in a report to the Committee of April 28, 1969 the Department of the Interior endorsed the principle that public lands in Alaska should be subject to competitive leasing. The Department stated that:

"Section 12(a)(1) provides that deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in all public lands in Alaska shall be subject to disposition by the Secretary upon application therefor or upon his own motion under such competitive bidding procedures as he may prescribe by regulations.

"The Department believes that it is important for the Secretary to have specific authority to dispose of all minerals under the mineral leasing laws by competitive bidding. We are carefully reviewing this language to be sure that this objective will be adequately accomplished. We recommend, however, that the section be amended to insure that it covers all minerals included under the mineral leasing laws."

A similar recommendation was made by the Bureau of the Budget in its April 29 report on S. 1830:

"We note that Sec. 12 of S. 1830 provides for competitive leasing of enumerated minerals subject to the Mineral Leasing Act. Competitive leasing would be a major step forward in assuring that the Federal Government obtains a fair market value return when it disposes of minerals. It is particularly important that this authority be enacted before the present 'freeze' is ended since without this authority extremely valuable deposits will have to be disposed of noncompetitively unless they are determined to be in areas where competitive leasing is legally required."

Mr. JACKSON. Mr. President, I ask unanimous consent that editorials and newspaper articles from the Seattle Times and the Anchorage Daily News on competitive leasing be inserted at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Seattle (Wash.) Times, May 14, 1970]

THE 10-CENT MILLIONAIRES

One aspect of the many-sided federal-land issue in Alaska concerns proposed changes in leasing practices. The issue is approaching a showdown in Congress and could have wide application to federal land-leasing practices outside as well as inside the 49th state.

It is well that the highly controversial situation in oil-rich Alaska has brought the land-leasing issue to a head. A full-scale review of noncompetitive federal leasing practices is overdue.

Alaska long has been a land of colorful expressions, and one with considerable application to the present situation is "10-cent millionaire." A "10-cent millionaire" is a land-resource speculator who risks a small amount of capital on acreage that may contain vast oil or other mineral wealth.

Existing land-leasing practices have produced a bumper crop of speculators. Federal lands in Alaska and in much of the rest of the country usually are leased noncompetitively through drawings or to lone applicants. Leaseholders under the noncompetitive system pay annual rental charges of 50 cents an acre and any production royalties to the government are fixed at 12.5 per cent.

A proposal backed by Senator Jackson, chairman of the Senate Interior Committee, would allow the Interior Department to lease out more federal lands in Alaska on a competitive basis. The proposal could be a forerunner of similar changes nation-wide.

In Alaska it would lead to cancellation of pending applications for new mineral-exploitation leases covering more than 18 million acres of public lands. Some 6.9 million acres are already under lease.

It is not hard to see why intense economic pressures are building up on all sides of this complex issue. There even is considerable disagreement on it within the oil industry. Competitive leasing unquestionably would increase public revenues, including those to the Alaska native groups that are pressing for what they consider to be their fair share of the oil bananza.

The measure backed by Jackson represents a compromise between interests that want a continuation of present noncompetitive leasing practices and the administration, which wants all leasing on federal lands to be handled on a competitive basis. A Budget Bureau official, in a recent letter to Jackson, stated:

"Competitive leasing would be a major step forward in assuring that the federal government obtains a fair-market-value return when it disposes of minerals. It is particularly important that this authority be enacted before the present freeze is ended, since without this authority extremely valuable deposits will have to be disposed of noncompetitively . . ."

According to The National Journal, there is considerable opposition in the House of Representatives to competitive leasing.

As we say, though, it is well that land-leasing practices will be given a thorough airing in the coming weeks on Capitol Hill. We suspect that neither the interests of Alaska's poverty-stricken natives nor those of the general taxpayer are best advanced under existing leasing policies.

[From the Anchorage (Alaska) Daily News, June 5, 1970]

A SECRET IN CLAIMS BILL

(By A. Robert Smith)

WASHINGTON.—The Senate Interior Committee has made a slight change in its final version of the Alaska Native land claims bill—hardly worth mentioning to the public perhaps—but worth millions of dollars to a number of oil companies and individuals who hope to make their fortune in new Alaskan oil discoveries.

The change was made in secret, in a meeting of the committee May 13. No mention of this alteration was mentioned after the meeting or in newspaper reports that followed.

The change consisted of deleting Section 17, which would have authorized the Interior Department to issue oil leases on the basis of competitive bids throughout the public land area of Alaska wherever there might be competitive interests seeking leases.

Deletion of this section means that:

The Interior Department, under the old mineral leasing act of 1920, must continue to issue oil leases noncompetitively except in the immediate area of known geological field in which there is a producing well. There are only two such fields at present in Alaska—Prudhoe Bay and Kenai.

Those persons who file first for such leases will continue to be entitled to lease 2,560 acres by paying a $10 filing fee and 25 cents per acre rent per year to the federal government for the 10-year life of the lease. If they strike oil, they pay a production royalty of 12½ per cent to the federal government. The remaining 87½ per cent is all theirs.

The financial implications of this deletion of 20 lines from the 144-page bill can best be understood by this concise analysis: If the state's big Prudhoe Bay oil lease sale of last September had been handled in this manner, under the terms of the old mineral leasing act of 1920, the state could have demanded competitive bids on only a third of the acreage put up for sale—and its take would have been only $420 million in bonus bids.

The state of Alaska, however, did collect $900 million because it could demand competitive bids wherever there was a competitive interets in obtaining leases.

The Senate Interior Committee has seen to it that the federal government won't be able to make the same demands, much to the delight of certain companies and individual oil fortune hunters.

The Nixon administration is on record in favor of competitive federal oil leasing in Alaska. The Interior Department, in its report to the committee, said it considered it "important for the secretary to have specific authority to dispose of all minerals under the mineral leasing laws by competitive bidding."

The Federal Field Committee for Development Planning in Alaska, in the so-called Fitzgerald report of March, 1969, recommended competitive leasing by the federal government. The original legislation introduced by Sen. Henry M. Jackson, D-Wash., the committee chairman, provided for competitive leasing. And after a year of committee hearings and closed door discussion within the committee, tentative agreement reached by the committee in April provided for competitive leasing.

During the last week in April and the first week of May the committee and its individual members received a barrage of telegrams and letters objecting to this provision. The objections came from oil interests.

On May 13 the committee met once more. Sen. Clifford Hansen, R-Wyo., reportedly moved to delete Section 17. Chairman Jackson, who had dominated the long struggle to draft a generous, equitable land claims settlement bill, opposed Hansen's motion.

Hansen won by a vote of 10 to 7.

Sen. Ted Stevens, R-Alaska, voted for the Hansen motion to kill the competitive leasing section.

Sen. Mike Gravel, D-Alaska, voted with Jackson in the unsuccessful effort to retain it.

Stevens argues that noncompetitive leasing will result in more exploration and thereafter offers a greater prospect for more oil discoveries in other sections of the state. In the long run, he contends, this would be more beneficial to the government in production royalties.

Stevens defended the prevailing procedure whereby individuals obtain leases non-competitively, put together a large block and offer to sell them to oil companies at a later date.

"If we had all competitive leases, only the large monied interests would hold leases in Alaska," Stevens maintained.

[From the Anchorage (Alaska) Daily News, June 8, 1970]

A Secret Change in the Claims Bill

(By A. Robert Smith)

(Editor's Note.—Our Washington correspondent reported in the first article last Friday that the Senate Interior Committee made a slight change in its final version of the Alaska Native land claims bill worth millions of dollars to a number of oil companies. The change consisted of deleting a section of the bill which would have authorized Interior to issue oil leases on the basis of competitive bids on public land areas. If the North Slope lease sale had been handled that way, the state would have reaped only $420 million—not $920 million.)

Washington.—Ten Canadian oil companies have at least $3 million at stake in whether Congress permits widespread competitive oil leasing on federal oil lands in Alaska.

These companies have engaged a Washington attorney, Max Barash, to do his best to persuade Congress to delete any provision in the pending Alaska Native land claims settlement bill allowing competitive bidding for leases.

At the moment Barash and his clients—and countless other interests—are sitting pretty because on May 13 the Senate Interior Committee killed a competitive lease section, against the wishes of the Nixon administration and the chairman of the committee, Sen. Henry M. Jackson, D-Wash.

The situation confronting the Canadian oil interests help explain the issue of competitive vs. non-competitive leasing in Alaska.

No one has been able to secure oil leases on federal lands in Alaska since December, 1966, when then Secretary of the Interior Stewart Udall imposed a freeze on all public land transactions pending settlement of the Native land claims. The land freeze is still on under an agreement between Secretary of the Interior Walter J. Hickel and the Senate Interior Committee to give Congress until the end of this year's session to enact a bill to settle the land claims of Alaska's Eskimos, Indians and Aleuts.

During this uncertain period, numerous persons and oil companies made 12,000 oil lease offerings to the Bureau of Land Management covering 20 billion acres. From 13 to 15 million acres of this is on the North Slope. BLM accepted their $10 filing fees but was powerless to issue leases because of the freeze.

After the Prudhoe Bay oil discovery in 1968, these lease offerings became attractive to oil companies. That year Ranger Oil Co. of Calgary, Alberta, purchased an inteerst in about 46,000 acres of prior filings for "substantial consideration," according to J. M. Pierce, president of Ranger.

National Nickel Ltd. of Calgary was another company that "entered into commitments on federal lease applications at considerable expense," according to its president, S. M. Paulson. "We had no reason to doubt the security of our tenure."

Home Oil Co. of Calgary not only acquired lease offerings on the North Slope but "conducted an extensive seismic survey, drilled one deep test well costing over $5 million and is currently drilling a second deep test estimated to cost $5 million," reported P. W. Campbell, executive vice president of Home Oil.

These are but three of attorney Barash's clients The others are Husky, Scurry-Rainbow, Asamera, Banff, Sunlite oil companies and Ulster Petroleums and Western Decalta Petroleum, Ltd.

Together they own rights to about 750,000 acres for which leases were never issued because of the land freeze. About a third of it is on the North Slope, Barash estimates. Barash says his clients paid over $3 million for these lease offerings, for the most part acquired from individuals.

"None is in close proximity to Prudhoe Bay," Barash said in an interview. "The closest is may 30 to 40 miles south of Prudhoe Bay. It's all rank wildcat acreage."

These and other oil companies acquired lease offerings in the belief that once the land freeze is lifted they would obtain the leases and keep them for 10 years by simply paying 25 cents per acre annual rental while they explored for oil.

But Section 17, recently deleted from the Alaska Native land claims bill, would have authorized the Interior Department to offer these leases at competitive bids if others were interested in acquiring them. That would have inevitably jacked up the purchase price well beyond what they have already paid, even allowing others to outbid them.

Consequently, they consider the competitive leasing proposal "unfair discrimination," according to C. S. Lee, president of Western Decalta Petroleum.

Husky Oil Co. President Gene E. Roark said if a competitive lease sale is held for the acreage on which his company holds applications, "Husky most probably would not submit bids."

Among other opponents of competitive leasing are Seacrest Oil Co. of Calgary, Shenandoah Oil Corp. of Ft. Worth, Tex., Consolidated Oil and Gas Co. of Denver, and Marathon.

Defenders of the non-competitive lease system claim it gives the small companies a chance. These Canadian oil firms consider themselves to be small compared with the major oil companies.

"A number of these Canadian companies have subsidiaries operating in the United States," noted their attorney. "They have literally tens of thousands of American stockholders who would be affected."

If Congress enacts the Native land claims bill without a competitive leasing section, it might still be possible that some of this acreage, if not all of it, will be leased competitively. That could occur if the state of Alaska, after the federal land freeze is lifted, should select most of this likely looking acreage and turn around and offer to lease it to the highest bidder as it did last fall on the North Slope.

Defenders of competitive leasing say it would be better to do it on the federal level to avoid the risk of fraud or payoffs to state officials to induce them to skip over certain areas to the benefit of persons or companies holding federal lease offerings.

This issue could turn out to be one of the most controversial and politically sensitive when the Alaska Native land claims bill comes up for a vote in both Senate and House later this session.

Mr. GRAVEL. Mr. President, I should like to address myself to some of the points raised by my colleague and good friend the Senator from Oklahoma.

First, I should like to clear up the parliamentary procedure, the device I used in tabling his amendment. We are no longer discussing that amendment; we are discussing this amendment; and since that seemed to have exhausted itself, I felt that in the interest of time, we could move on. I hope that has not occasioned any ill will, because certainly none was meant. It was meant in the interest of time.

I think my colleague has gone to the heart of the matter, and I think his statement is very good. I only disagree slightly. When he talks about "compensatory attention," I think that is the whole issue. The Indians and the natives of this country have been wronged. They have been deprived, intentionally, circumstantially, and accidentally. So how do we rectify that wrong? My colleague feels that there should be compensatory attention. That is right. The only difference is, mark you, Mr. President, and this is really the nub of the argument, the only difference is that the basis of the compensatory attention is race, and mine is need. It makes no difference whether a person is black, or a native, if he is without food, if he is without education, we have a responsibility to help provide it.

But the Senator sets up racial barriers

for this responsibility and builds into the system a most diabolical consideration. That is exactly what my colleague is advocating.

Mr. President, let me give you some examples of how it works in practice.

We heard that there were three points of difference, the first being culture. That is true. There is a difference in culture. Neither this bill nor any other bill would destroy the Indian's native culture. The ability for them to retain their culture depends upon two things: one, personal desire, personal pride, that their culture means something to them and that they want to keep it, and the second is simply money. If they have the economic wherewithal to implement the cultural aspects and appurtances of their lives, they can do it. Thus, the bill does not touch that one iota.

The second point is the policy my colleague mentioned of effective dependency. Let me say to him that that is what we have had for over 100 years now. That is the way it is. The policy has been effective dependency. They have been spoon-fed by the Federal Government as to what they can and cannot do. That is what we are trying to strike down.

We talk about the Chilocco school. I went to that school and made an investigation myself. How would you like it, Mr. President, if you had a 13-year-old daughter who had to travel 3,000 miles away from her family, not be seen for a year hence?

I went to that school and interviewed the little children and asked them whether they liked the school and did they want to come back, and to a pupil they said that they wanted to come back. They had been there for 3 years and they liked the school. It was like going to a prep school. They liked their teachers.

Well, there is nothing wrong in that, of course. But the principle is wrong, to send Alaskan school children 3,000 or 4,000 miles away to go to a school in a foreign environment. We in Alaska have operated the public school system to try to educate children as close to their homes as possible, so that that same principle should apply to the Natives.

The Bureau of Indian Affairs could operate the schools. It is the Bureau of Indian Affairs policy. It is only the efforts of the State government to provide education for every child in Alaska that a program has been developed, signed by the Governor and agreed to wherein the State of Alaska takes over and operates the schools so that the schoolchildren, even though they like going to the Chilocco school, will now go to a high school in Barrow. We secured extra classrooms so that some of the students in Chilocco and elsewhere will now go to Barrow. I submit that they will be truly happier going to school closer to home.

The third point my colleague makes is moving ahead on social questions. That is totally irrelevant to the point, because there are other people in this country who have been deprived socially besides Indians. The Indians are conspicuous by their deprivations. When we talk about housing, let me give the Senate an example which is fantastically clear as to how diabolical the Bureau of Indian Affairs Federal paternalism works.

In the city of Sitka, a thriving Alaskan community, in the center, not its periphery, lives the Native community. This particular community does not have any sewers. The remainder of the community around the Native section all have sewers and running water. But this little island of poverty is under the control of the Bureau of Indian Affairs.

The Native community in Sitka cannot get any sewers. Mr. President, do you know why? Because their deed is restricted. Because of that restriction, they are not entitled to HUD funds. While the remainder of the city of Sitka can get funds from HUD for water and sewage, the Native community cannot, because its people are not qualified, because we cannot tax the land there, according to HUD, and that is why they cannot build sewers there. One has to go to the Bureau of Indian Affairs for that, which has a program for sewers. It gets money from Congress for that. But the thing is that the people in that Native community find their claims for water facilities low in program priorities because when Congress gets around to addressing itself to community sewer programs up there, it funds HUD programs, so that by the time money is available for it, 10 years have elapsed for Sitka to get its portion from the Bureau of Indians Affairs to meet their needs. They are taken care of by the Federal Government but in such a diabolical way that they cannot get a proper sewer system or drinking water that is unpolluted.

Mr. President, it takes a real mind to figure out these devious, concocted ways, so that the Federal Establishment can thwart what the people in the Native community of Sitka want to do.

Much has been said about the fact that the Native leadership in Alaska assembled in Juneau passed the resolution saying that they were for this amendment.

I am from Alaska, and many of my constituents are Natives. If it had not been for the Natives of Alaska, I would not have been elected to the Senate. The biggest campaign issue I had in Alaska was to dissolve the Bureau of Indian Affairs. I would stand on any stump, any place in Alaska, before any Native community there, and debate, as I am now, that the people of Alaska do not need to be spoon fed to be equal. What makes the people of Alaska equal is that they can stand up and have money jingling in their pockets.

When we talk about the ability to get programs for the Natives up there, and that is what this bill will be doing, at that same time it will be saying to them, this will be for their communities and this is one way to make them equal. If that is not enough and the bill does not do that, I hope that we will come back here and give them more. I have voted for every single program in education, and I will continue to do so.

If this bill does not help them, or bring them out of poverty, then we should have more programs to do so.

But, we should do it on the basis of need, not race—need, not race.

We should make that distinction, and that is what I think the amendment is being addressed to, when we talk about termination, we are talking about a racial situation when the situation is really one of need, not race.

Therefore, I would hope that this bill would be seen in that light, and realize that when we are talking about having school boards run by the Natives, we know how that happens. If we can elect school board members, then they can go run the school board. Like you and I running the school board, Mr. President, the ability to be free is inextricably tied to economic considerations.

When we say "compensatory attention," I agree with the Senator, but compensatory because the need is there as human beings not because they are Indians, or blacks, or whites, or for any other reason, but because of that need.

That is our moral obligation, to provide it.

Mr. HARRIS. Mr. President, the distinguished Senator from Alaska says that we should not make decisions on the basis of the fact that people are American Indians, Eskimos, and Aleuts but on the basis of need.

I very strongly disagree with that. The little Indian children sent from Alaska to Chilocco in Oklahoma were not sent there except for the reason that they were American Indians. That is why they were sent there. They have, thereby, not received the kind of attention they should have been given. They have not had the advantages of being in their own home country, despite the early decisions made concerning them and their future as to education in their own homeland, among their own people.

They have not had the full effect of learning about their own history or their own language and background. I think we should make up for that. There may not be any way to make up for it in regard to those particular little schoolchildren, but it seems to me that we have an obligation to try. I think that is the obligation we have to American Indians, Eskimos, and Aleuts because they are American Indians, Eskimos, and Aleuts.

Mr. President, this is not a matter that affects Alaska alone. Save, in the past, it is not just a matter, for example, of a certain State. If it applied to the children in Oklahoma and if Oklahoma did not have a very good education system for all of its citizens—not just talking about Indians—there were those who once said that that is the problem of Oklahoma, that it is not America's problem.

If Indiana does not want to provide a very good educational system for the children of Indiana, some have said that that is the problem of Indiana, that it is not America's problem.

We were wrong about that. We were always wrong. We were wrong morally because children are human beings. They are entitled to the right to a decent education wherever they live, whether in Oklahoma or Indiana.

Furthermore, we have learned that we were wrong for another reason. The little child who grows up in Oklahoma may not stay in Oklahoma. The little child who grows up in Indiana may not remain in Indiana. They have been moving to Los Angeles, Detroit, New York City, and to other places. If they come to those places without the right kind of background, a decent education, and decent training, that is an obligation which we will wish we had fulfilled earlier, not only because we could thereby—and this is most basic—do a great deal more to fulfill our moral responsibility to those young people, but also because it will cost us more in the long run in other ways for not having done it to start with.

Mr. President, while this bill ostensibly deals only with Alaska, it deals with American citizens that may move to Seattle or to Los Angeles. A great many of them have done so. They may move to New York or Baltimore. Some of them have. Some of them may move to Oklahoma. Some of them are there now, perhaps not of their own free will, but because of the Indian school system.

Whether one is a Senator from Alaska or a Senator from Oklahoma, he has an obligation to the people. He has, first of all, a moral obligation to do what he thinks is right.

Some think differently—and quite sincerely.

Second, one has a right to do what he thinks is best from the standpoint of this country. Senators differ sincerely about that matter, as well.

I happen to believe that we ought not to make such a decision and thereby talk self-determination out of one side of our mouth and termination out of the other. We are talking about the destiny of people, and we are, then, making the decision for them.

I think this is not the place for such a provision in this bill. This is a matter that ought to be taken up later.

No man knows the effect of the provision yet. No man knows how it will affect the migrant Indians who moves from one area to another, as the Eskimos and Aleuts have done up to this time.

What does this mean? I think President Nixon was right when he said that we ought now to be willing, if we have not been willing to do so in the past, to allow our citizens to take on more of their own responsibilities and to contract for the services that have been performed by the BIA when they feel they can take on these additional responsibilities.

I believe we have not had the kind of support in the government for that kind of self-determination in the past that we should have had.

I hope that we are moving in that direction. But we will move in the wrong direction if we make a vital decision like this, in the Senate of the United States, over the objection of the Alaskan Federation of Natives, whose statement I have read into the RECORD.

I think we should study the matter. We should not hold justice for these people hostage to this kind of threat.

The provision is not to be effective for 5 years. We could have plenty of time to come back here. If this is a good thing, if the decision is to be made, the Alaskan Natives are smart enough and intelligent enough to know that. They will join in the decision and not have it forced upon them. That is the American way. It seems to me to be the very least we can do.

So, Mr. President, I will not have anything else to say tonight in regard to the amendment. But I hope Senators will study the RECORD. I hope that, somehow, we can work out this provision of the bill and move the bill along.

Mr. President, I do not have any desire to hold the bill up. However, I do not want the Senate, in haste, to do what it has done in the past, in regard to the Menominee and other tribes of Indians, and make decisions that we will later regret.

I do not want the roll to be called without having personally spoken out on this matter. I would not want to have people say to me years from now, "We wish you had not made that decision against our will."

Each Senator will do what he feels is right, and he will be quite sincere in doing so. Each Senator has his problems, and he must respond to his problems as he deems proper.

Mr. GRAVEL. Mr. President, man can err just as much by not doing as by doing.

I think we would be derelict in our duty if we chose not to act for fear of making an error.

I think that omission is a greater sin. We have an opportunity here to do something in Alaska that has not been done in any other State.

Perhaps some of our colleagues will stand up and say that we have failed with the Indians. We do not want to fail in Alaska. There is no question that what we do here will have an impact on all of the other States if we succeed.

If we infuse this much money into the Native economy of Alaska, money that is not to be used by the BIA, 10 years from now we can look back and see what we did in Alaska. We can ask, "What about Oklahoma, Idaho, and the other States? We did it in Alaska."

Mr. President, we have a great opportunity to do this in Alaska at this time.

Mr. HARRIS. May I say, first of all, by way of conclusion to tonight's debate on this amendment, Mr. President, that we no more need a Bureau of Indian Affairs than we need a Bureau of Italian Affairs or a Bureau of Irish Affairs, except for the special needs and special problems which we have caused for the American Indians, Eskimos, and Aleuts, as I have previously stated. Therefore, Mr. President, I feel quite strongly that at least until those wrongs have more nearly been righted, we certainly should not do away with the Bureau of Indian Affairs against the wishes of those whom it specially serves.

Now, Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRIS. Earlier today, a motion to lay on the table an amendment was agreed to. It is my understanding that no motion to reconsider that motion to lay on the table has yet been made.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRIS. Would such a motion to reconsider that motion to lay on the table be in order tomorrow, as well as today?

The PRESIDING OFFICER. It would be in order to enter such a motion either now or tomorrow.

Mr. HARRIS. I thank the Chair.

Mr. GRAVEL. Mr. President, may I make just one point to my colleague, the Senator from Oklahoma?

I would not be averse to, and would even encourage, any parliamentary maneuver that might bring that issue back to a vote on the merits, and not on the tabling action.

My intent was not to cut out further debate on that issue. My impression was that we were talking about the Bureau of Indian Affairs. We had moved on from that issue.

I would certainly encourage my colleague, and walk with him in these tactics to bring that issue back up for a vote on the merits, up or down.

Mr. KENNEDY. Mr. President, I have just been listening to the debate. One of the points that I find very persuasive in the observations of the Senator from Oklahoma—and perhaps the Senator from Alaska might be able to address himself to it—is the feeling that he expressed that before Congress acts, it ought to have a very clear determination as to what the Native people themselves want.

The most extraordinary difficulty, I think, in all of these programs has been that we have always been deciding what is in the best interest of the Native Americans, the Indians, and the Eskimos.

As I remember, in the final markup session of our Indian Education Subcommittee, the final committee report had very strong bipartisan support.

We were attempting to wrestle with the ultimate determination whether we ought to abolish BIA control of Indian education by taking it out of the BIA and put it as a separate program in the Office of Education, or whether there should be established a special independent office that would concern itself with Indian education. This idea had been suggested by different Indian groups, by Indian leaders, and by non-Indian experts in the field of education.

But the one most persuasive fact that convinced all of us to hold off on conclusions was before we moved or made a recommendation or tried to propose any changes or alternatives, was that the Indian people within their organizations and communities should respond to this question themselves. I am aware there are as many different Indian views as there are tribes. But we should give them this challenge, and hopefully they would come to the Congress with an answer arrived at within their own tribal structure. In the final analysis, I do not think there is any fundamental difference between the Senator from Alaska and the Senator from Oklahoma in trying to insure quality education and adequate services to the Indian and other Native peoples.

But how is that done and what role are the Natives themselves to play? How great is their ability to influence those decisions on issues affecting them? These are the great questions with which we in Congress must concern ourselves.

I wonder if the Senator could review with us briefly what the views of the Natives that appeared before his committee were and how these views were solicited. If this information is contained in the hearings, I would welcome the references to it.

Mr. GRAVEL. Probably the way the Federal Government would make that determination as to whether or not the Natives of Alaska would want to retain the Bureau of Indian Affairs would be to ask the Bureau of Indian Affairs to hold an election. They would be dealing with a body that works with the Natives. But the Senator can see the basic fallacy, and that is that they would be asking the people to make a decision upon those who were guiding them in the decisionmaking process. Therefore, we have a chicken-egg situation. Where does it stop?

If I were from the State of Massachusetts, I would go to the people of Massachusetts and say, "I want to have a referendum. We are going to cut out aid to education, and food stamps. Let us have a referendum whether we are going to cut it out." No one would want to cut it out.

If I went to the village of Tuntutuliak to determine whether to cut out the Bureau of Indian Affairs, the first thing the teacher at the Bureau of Indian Affairs is going to say is, "Children, we are going to have an election on Tuesday. What it will do will be to take away education." The child goes home and says, "Mother, we will have no education if you vote against the BIA."

Therefore, there is a built-in paternalism that is in existence. I am sure the Senator recognizes what is involved. The Senator has performed yeoman service in connection with the problems facing Alaska and the people are grateful to the Senator for focusing attention on these problems.

But until we get to the period when a person can pay for his education, his determination of his education will always be clouded. I am saying that when I can pay my taxes and send my child to school and elect someone to the school board I will have the decision power, but until then, as long as someone is feeding money into the school system, the man feeding it in will have the determination over decisons.

We would funnel the money into the State and the State would implement the educational process. Every other State does this except when it comes to the Natives. If a decision to be made in a community of 400 people in Galena or Tuntutuliak, it takes a decision in Washington, D.C., if it involves several hundred dollars. It is unbelieveable. How far can we be excused?

How do we ask the Natives? I do not think the Senator was present when I gave the situation when I was sitting at a dinner in Utah. I asked the chief, "Do you need these BIA schools?" He said, "No." I said, "Why don't you do away with them?" He said, "We might need them."

I do not know the answer. If we had a truthful election, of course, they would vote "yes."

Mr. KENNEDY. I am very much aware of the problems that are suggested with the Bureau of Indian Affairs going out and holding any kind of election. That was not really my question. As we saw in the course of the Indian Education Subcommittee hearings, there were instances in the Midwest where the BIA actually discouraged the election of local school boards by harassing many of the Indians themselves from participating in the development of a local school board. We recorded those instances.

I am aware of the enormous complexity of the challenge that is involved. I am fully convinced, however, that we should challenge the Natives themselves to evaluate the basic question: Do they want the abolition of the Bureau of Indian Affairs? If they do, we can hope that they would make recommendations regarding the type of organization to bring Federal services to them. An issue might be whether a special department in the Office of Education should be responsible for bringing educational services to the tribes, and so on. I would hope that these issues could be resolved without the prejudice to their relationship with the Bureau of Indian Affairs. I do not believe, however, that American Indians and Alaska Natives feel that is possible today.

I am in sympathy with the observations of the Senator from Alaska, but I do not think this bill reflects what is recognized by the Senator from Alaska and the Senator from Oklahoma and all of those who have given thought and study to this whole question of the dilemma of the American Indian. The worst aspect is not the programs directed toward native Americans, but the paternalistic attitude forced on them by the Federal Government today and in the past.

There is a real question that comes to my mind about altering and changing the relationship between Alaska Natives and the BIA as dramatically as this bill would do. I know the Senator from Alaska has given this matter the greatest concern and study and has probably a greater knowledge of it than other Members of the Senate. But while we are trying to say to the Natives that we want them to decide their destiny and future, actually what we are doing in the Senate is to change this important relationship and, once again, to change it without the kind of thoughtful, deliberate, and careful consideration of the views of these groups who are going to be most dramatically affected by it.

Mr. GRAVEL. We have a right to vote on that. We make decisions all the time that affect them. If the Senator is saying we should give the Natives self-determination, then let us tell them, "Go do your thing." That is not what is happening. What is happening is we are making a decision here of what will be their legacy. We feel we are justified to make it. We can turn around and say, "You do not need any preferential treatment based on race." That is what this says. It says that at the end of 5 years there will be no Federal effort in Alaska based on race. That is all it says.

Mr. KENNEDY. I think the Senator has put it correctly when he says we are deciding their future rather than having them decide their future themselves. I know this concept lends itself to the kind of expression which the Senator from Alaska has made: Why not just say they have to run all the programs by themselves? At least a partial response to that suggestion would be that on most occasions we are talking about special Federal obligations to native Americans. We are not going to be able to arrive at a simple, magical formula providing immediate and total self-determination.

What I found most persuasive about the argument of the Senator from Oklahoma is that at a time when everyone in the country—and certainly everyone in the Senate—is aware that the worst indictment of our attitude toward the American Indians is our paternalistic attitude in always deciding what is best for them, we are suddenly altering the whole relationship which exists between the Alaskan Natives and the resources through which, hopefully, they can really develop. And with this we are changing, unilaterally, the relationship between the Natives and the Government.

I am not arguing that termination of BIA services is under all circumstances inherently wrong; I am merely saying that the consent of the affected people is in every case necessary. And here we really do not have any clear indication of what the Alaska Natives feel the timing should be. All we have is an Alaska Federation of Natives proposed amendment to delete the termination provision of the bill.

Mr. GRAVEL. What I cannot understand is that we all talk against paternalism, but the major point I am making is that I have a way to do away with paternalism. What the Senator from Massachusetts is saying is, "Let us hang onto it. We are not sure. We need more study." Study is an excuse for inaction. I have laid down a program for 5 years. We have had a chance to study, and now let us implement it.

The difference between the suggestion of the Senator from Oklahoma and mine is that he says, "Let us not put any triggering mechanism in; let us just study it."

What happens is that if we do not force this issue, it will never happen. It is not the nature of people to do it. It is not the nature of government to recede unless you calculatingly say, "This is right and this is wrong." What I calculatingly say is, The attitude of the policy of paternalism expressed by the Bureau of Indian Affairs—I am not talking about other agencies of Government; the BIA is what the Senator is defending—is wrong. The BIA is not in

HEW, where it should be. The answer is in our resources and in our Natives. That is where we do it best, not in the Department of the Interior, where this function used to be, not in the War Department, where that jurisdiction used to be. I am suggesting we do away with the BIA and implement programs for these people with money, as we do for everybody else.

Mr. KENNEDY. I agree with the Senator that we do not need any further study. What I feel strongly about is that we ought to have expression by the various Native groups and villages as to how they want these resources and programs to reach them, and that ought to be given the highest degree of priority.

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. KENNEDY. Just this final thought: There are a number of different alternatives which this matter presents. One suggestion is to transport the Human Resources Department of the BIA into the Department of Health, Education, and Welfare. This idea includes moving the education programs to the Department of Education. Another suggestion is to establish a special agency or national corporation in which the Natives can participate directly. Four or five major alternatives have been suggested.

I am interested in the Senator's addressing himself to the question of whether or not the best way would be to pose the different alternatives to the Native people who are going to be affected by this matter. This would be a challenge to them to work out a way in which they want to organize and be able to express themselves and return with an answer. Their answer would suggest how they are going to organize the resources that are going to be made available through the Congress. This method is an alternative to our saying that the BIA has not worked—which I do not think it has and I find little sympathy for what it has basically been doing—and, therefore, we are going to abolish it.

Mr. GRAVEL. What I am proposing, first, is to say it is going to be abolished. Then, obviously, the Native population will have an input in that matter, so they will necessarily participate in everything.

When one talks about participating in Alaska, I am reminded that when I was elected to the State legislature the first president of the Senate was a Native. He participated in the Native community as well as the larger Alaskan community.

I submit that the only difference between doing it and postponing it is that when we postpone it we do nothing.

I do not think the situation in Alaska is any different from what it is in Oklahoma. I am sure that if they had had the wherewithal, they would have had the answer to the problem. I think the Indians in Idaho would have. They have been given a great deal of money. They have had their claims satisfied. It has not brought about a diminution of Federal paternalism.

When we talk about trust funds, I think that is how we infuse money from the State to the local governments handling education problems. How would the local government handle problems of education? Obviously, Natives in a community made up of 98 percent Natives are going to be elected to the school boards. The money would not come from the Federal Government, so we do not need a bureaucracy foisted upon them to pack the money down to them. All we have to do is set up a trust fund and let them govern the money as everybody else does. Why should we have a bureaucracy to spoon feed them?

The school board in Anchorage, which is 98 percent white, gets 90 percent of its money from the Federal Government. Yet, they make their own determination. Why do we insist on involving the Bureau of Indian Affairs in the Native community? I say participate. They will do it if we give them the tools to do it with. The 5-year period will give the community time to get the resources and wealth and move toward economic well-being. As it does, the Bureau of Indian Affairs will begin to pull out totally.

There are three duties of the Bureau of Indian Affairs in Alaska: Education, which has been taken over by the State; welfare, which is performed by the State; and economic development, which will now be done by the Natives themselves with their own money, not on handouts. If we take those duties away from the Bureau of Indian Affairs, the BIA will have lost their raison d'être. The bureaucracy will have no reason for being there. Why should it be there? If we ask the people in that bureaucracy if we want the people to do their job, they will say, "no," and they will use their position to impose their views on other people.

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, upon the completion of the remarks of the able Senator from Ohio (Mr. Young), the distinguished Senator from New York (Mr. Javits) be recognized for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO FILE REPORT

Mr. BYRD of West Virginia. Mr. President, at the request of my colleague (Mr. Randolph), I ask unanimous consent that the Committee on Public Works have until midnight, July 17, to file its report on Senate Joint Resolution 207 and the companion joint resolution, House Joint Resolution 1117.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1970

The Senate continued with the consideration of the bill (S. 1830) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

Mr. HANSEN. Mr. President, the amendment proposed by Senator Jackson to S. 1830, the Alaska Native claims bill, would impose a system of competitive bidding for oil and gas leases on public lands throughout Alaska.

This would have a decidedly detrimental effect on oil and gas exploration and it is my hope that the Senate will vote to oppose this effort.

Existing law allows for noncompetitive bidding on all oil and gas leases outside a known geologic structure. A known geologic structure is generally identified as a geologic formation in which there is an existing producing oil or gas well.

Adopting competitive leasing would have a decided adverse effect on mineral development in Alaska because:

First. There is no justification for adopting a separate mineral leasing law for Alaska. Any revision which is to take place in the Mineral Leasing Act should apply on a nationwide basis. Sixty-two percent of all the Federal lands in the United States are presently located in Alaska.

Second. By restricting oil leasing in Alaska to competitive bidding, there are many small oil and exploration companies that will be discouraged from taking part in discovery operations in Alaska. Small, independent companies simply do not have the means to bid against the economic resources of the larger oil companies.

Ecological and environmental conditions in Alaska make it extremely difficult for the small independents to operate without having to compete with the larger oil companies in order to acquire their leases.

An onshore wildcat well in the Cook Inlet Basin or the Copper River Basin in southern Alaska could cost from $500,000 to $1.5 million. Geologic field parties will average $35,000 to $40,000 per month. Seismic crews on the Arctic Slope will cost approximately $25,000 to $300,000 per month.

Wells on the Alaska Peninsula cost an average $18,000 per day. Mobilization and demobilization costs can run as high as $750,000 per well.

Third. In all likelihood, competitive bidding would hamper the development of oil and gas resources in Alaska.

Historically, the small independent has been responsible for 75 to 80 percent of the oil and gas discoveries.

Under the noncompetitive leasing system, the small oil company has been able to amass sufficient land so that it could get financial backing to make basic seismic and geologic checks which have resulted in many of the major oil and gas discoveries.

Competitive leasing discourages the aggressive, creative explorationist by removing those incentives which have led the independent to take great risks.

As promising as Prudhoe Bay is, it would likely never have been discovered had not the industry been able to go upon the Artic slope and to control large blocks of land so as to engage in the most expensive exploratory effort in one of the most inhospitable areas in the world.

The public fails to realize that 131 of the 174 parcels offered for bid at the September 1969 sale were previously offered at sales in 1964 and 1965 and received no bids at all. A majority of the lands that were acquired by Mobil-Phillips in the 1964 and 1965 sales were acquired for $1.55 per acre as compared with the high of $28,233.25 per acre at the September sale in Alaska.

Prudhoe Bay represents but a very small part of Alaska and is largely State-owned land. Past experience indicates it is going to be the small, independent oilman who will develop the remainder of Alaska.

Increased expropriation of U.S. investment, power plays reflecting alien influences inimical to stable channels of commerce, along with our diminishing domestic energy reserves, underscore the need for greater, not less, exploration and developmental activity in the United States.

Enactment of competitive leasing provisions in Alaska at this time is not in the public interest.

DISTRICT OF COLUMBIA COOPERATIVE ASSOCIATION ACT

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Missouri (Mr. EAGLETON), I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 17711.

The **PRESIDING OFFICER** laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 17711) to amend the District of Columbia Cooperative Association Act.

Mr. GRIFFIN. Mr. President, I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. EAGLETON) appointed Mr. EAGLETON, Mr. MATHIAS, Mr. SPONG, and Mr. TYDINGS conferees on the part of the Senate.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1971—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a conference report on H.R. 16595, the National Science Foundation Authorization Act of 1971, and ask for its immediate consideration.

The **PRESIDING OFFICER** (Mr. EAGLETON). The report will be read for the information of the Senate.

The bill clerk read the report, as follows:

CONFERENCE REPORT (H. REPT. NO. 91-1298)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16595) to authorize appropriations for activities of the National Science Foundation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"That there is hereby authorized to be appropriated to the National Science Foundation for the fiscal year ending June 30, 1971, to enable it to carry out its powers and duties under the National Science Foundation Act of 1950, as amended, and under title IX of the National Defense Education Act of 1958, out of any money in the Treasury not otherwise appropriated, $537,730,000.

"Sec. 2. Appropriations made pursuant to authority provided in section 1 shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

"Sec. 3. Appropriations made pursuant to this Act may be used, but not to exceed $2,500 for official reception and representation expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

"Sec. 4. In addition to such sums as are authorized by section 1 hereof, not to exceed $2,000,000 is authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

"Sec. 5. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c). If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(c) The programs referred to in subsections (a) and (b) are as follows:

"(1) The programs authorized by the National Science Foundation Act of 1950; and

"(2) The programs authorized under title IX of the National Defense Education Act of 1958 relating to establishing the Science Information Service.

"(d)(1) Nothing in this Act, or any Act amended by this Act, shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

"(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

"(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions.

"Sec. 6. This Act may be cited as the 'National Science Foundation Authorization Act of 1971'."

And the Senate agrees to the same.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
THOMAS F. EAGLETON,
WINSTON L. PROUTY,
PETER H. DOMINICK,
Managers on the Part of the Senate.

GEORGE P. MILLER,
EMILIO Q. DADDARIO,
JOHN W. DAVIS,
JAMES G. FULTON,
CHARLES A. MOSHER,
Managers on the Part of the House.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. KENNEDY. Mr. President, I urge that the conference report be agreed to.

The **PRESIDING OFFICER.** The question is on agreeing to the conference report.

The report was agreed to.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 51 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, July 15, 1970, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 14, 1970:

INTERSTATE COMMERCE COMMISSION

W. Donald Brewer, of Colorado, to be an Interstate Commerce Commissioner for the term of 7 years expiring December 31, 1976.

EXTENSIONS OF REMARKS

TRIBUTE TO HUBERT L. MILLS; HOUSTON AND TEXAS SCHOOL MAN

HON. RALPH YARBOROUGH

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Tuesday, July 14, 1970

Mr. YARBOROUGH. Mr. President, on Thursday, July 2, 1970, the people of Texas lost a great educational administrator with the death of Hubert L. Mills, longtime business manager for the Houston Independent School District. I knew him well, having worked with him during the time that I served as assistant attorney general of Texas under Attorney General Jimmy Allred, 1931–34, who later became Governor of Texas. As assistant attorney general, I represented the school interest of Texas. Through his dedicated determination great strides were made in Texas public education. His efforts were particuarly effective in improving teachers' benefits. I would like to share his accomplishments with Senators.

Mr. President, I ask unanimous consent that the following extracts of articles in the Houston Chronicle be printed in the Extensions of Remarks.

There being no objection, the extracts were ordered to be printed in the RECORD, as follows:

MILLS SERVICES TODAY; FORMER SCHOOL MANAGER

Services for Hubert L. Mills, 80, longtime business manager for the Houston Independent School District, were scheduled for 3 p.m. today in Settegast-Kopf Kirby Dr. Chapel, 3320 Kirby Dr.

Mills, 2145 Brentwood, died Thursday in a local hospital.

He came to Houston school district in 1910 as a teacher at a salary of $75 a month.

When he left Aug. 31, 1959, his year's pay, including $10,250 accumulated sick leave allowance, was $30,750. He had not missed a day of work because of illness since 1940, when he was out a week.

SHARP DIFFERENCES

His career in the late years was marked by sharp differences with some school board members. But Mills, wrinkled and nearing 70, had a quick mind and step when he left office.

Mills never married. He liked to refer to himself as "an old East Texas boy and an old bachelor."

He was born on a farm at Bush Creek, near Palestine. He attended Sam Houston State Teachers College in Huntsville and the University of Texas in Austin and went to Tarkington's Prairie in Liberty County as a mathematics teacher in 1909.

"I was mighty glad to get away from the farm," he often said. But over the years he found himself going more and more to his 400-acre farm near Fairbanks, where he raised Black Angus cattle and Tennessee Walking horses.

GOT LAW DEGREE

In 1911, a year after coming here, he was made superintendent of Houston's Common School District No. 1, which included Fullerton, Cage and Magnolia Park schools.

In 1915 Mills got his law degree from Houston Law School and practiced law briefly. He later received an honorary doctor of law degree from Southwestern University.

He fought constantly for more money for teachers, was a prime organizer of the Texas Teacher Retirement system and served as a regent of the old State Teachers Colleges.

"Good teachers will never be overpaid," he said often.

MANAGER IN 1922

When Mills became school business manager in 1922, the school budget was $503,999 and the school census was 24,500.

Mills was a member of the Houston and Texas Bar Assns., past president of the Downtown Kiwanis Club, National Assn. of School Business Managers and the Board of Regents of State Teachers Colleges of Texas. He was a member of Holland Lodge No. 1, AF&FM, and First Methodist Church and was a Shriner.

He leaves a sister, Mrs. Annie Lee Worsham, and three brothers, Judge J. W. Mills, Dr. Sam E. Mills and Coy W. Mills, all of Houston.

Burial was to be in Forest Park Lawndale Cemetery.

RESULTS OF FEDERAL SPENDING SURVEY

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. HATHAWAY. Mr. Speaker, Second District, Maine, respondents to a recent opinion poll which I conducted show strong support for decreased Federal spending in the areas of foreign aid, space exploration, and defense, and for increases in pollution control, crime prevention, and health care.

A congressional newsletter sent earlier this year to all the residents of my district included a list of a dozen areas in which Federal funding plays an important role. Respondents were asked to indicate whether they felt Government spending in each area should be increased, decreased, or held at present levels.

Of the more than 10,000 forms returned, 90 percent called for increases in Federal outlays for antipollution programs. Increased spending for crime control was favored by 79 percent of all respondents, for improved health care by 59 percent, for antipoverty programs by 51 percent, and for education by 42 percent.

Reduced funding in the areas of foreign aid, space, and defense were recommended by 80, 68, and 47 percent, respectively. Thirty-nine percent of Second District respondents called for holding defense spending at present levels, and only 14 percent favored increases in defense areas.

Majorities indicated spending in the areas of cities, rural areas, and transportation should be held at current levels. Responses regarding welfare spending were evenly divided.

Results of the survey have been sent to the White House and are included below for the general information of my colleagues:

Percentage of total respondents advising increased spending by the Federal Government in the following areas: Cities, 25 percent; Crime, 79 percent; Defense, 14 percent; Education, 42 percent; Foreign Aid, 3 percent; Health, 59 percent; Pollution, 90 percent; Poverty, 51 percent; Rural Areas, 35 percent; Space, 4 percent; Transportation, 28 percent Welfare, 32 percent.

Percentage calling for decreased spending in following areas: Cities, 17 percent; Crime, 4 percent; Defense, 47 percent; Education, 18 percent; Foreign Aid, 80 percent; Health, 8 percent; Pollution, 2 percent; Poverty, 16 percent; Rural Areas, 18 percent; Space, 68 percent; Transportation, 23 percent; Welfare, 34 percent.

Percentage recommending holding spending at present levels: Cities, 58 percent; Crime, 17 percent; Defense, 39 percent; Education, 40 percent; Foreign Aid, 17 percent; Health, 33 percent; Pollution, 8 percent; Poverty, 33 percent; Rural Areas, 47 percent; Space 28 percent; Transportation, 49 percent; Welfare, 34 percent.

INTERNATIONAL AIR TRANSPORTATION POLICY OF THE UNITED STATES

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. BROTZMAN. Mr. Speaker, the Members of Congress were privileged recently to have been presented with a new statement of international air transportation policy by President Richard Nixon. I say we were privileged, because it has been 7 years since this country's world air policy has been really looked over. Now it has been given a thorough study by experts in and out of Government, in the air industry itself, and by representatives of shippers and the traveling public.

The review of this Nation's international aviation policy was undertaken by an interagency steering committee which was chaired by the Department of Transportation. Members included representatives of the Civil Aeronautics Board, the Council of Economic Advisers, the Bureau of the Budget, and the Departments of State, Justice, Treasury, Commerce, and Defense.

I have every reason to believe that the various departments and agencies of the executive branch will move to fully implement this new policy. President Nixon, in approving the panel's recommendations, directed "that this new statement of policy guidance be used henceforth by responsible officials of the Government in dealing with international aviation problems."

Such a statement, Mr. Speaker, could have come at no better time in the calendar year. Hundreds of thousands of Americans are flying to vacation spots this summer all over the world. I have been informed by the U.S. Passport Office that about 455,000 Americans traveled to Europe in June. Most of these Americans chose to travel by airplane, utilizing both scheduled and charter carriers. We must make every effort, therefore, to support and encourage these two types of air transportation facilities for the Nation's traveling public.

In this connection, I would like to note what the statement has to say regarding the actions of some foreign governments in restricting and even turning back American planes carrying American citizens:

> Attempts to restrict U.S. Carrier operations abroad should be vigorously opposed, and where required, the United States should take appropriate measures against the carriers of foreign countries restricting U.S. carrier operations in violation of the terms of bilateral agreements or of the principle of reciprocity.

In specifically discussing charger flights, the statement recommends that—

> Foreign landing rights be regularized, as free as possible from substantial restriction.

Mr. Speaker, I believe it is also worth noting the general tenor of the new policy which can be found near the outset of the statement:

> The economic and technological benefits we seek can best be achieved by encouraging competition (the extent of competition to be determined on a case-by-case basis) and by relative freedom from governmental restrictions.

Finally, the statement recognizes concern about the quality of the environment. It expresses determination that adequate efforts be made to preserve and enhance the environment as we continue to develop the technology of air transportation.

I earnestly recommend that every Member of Congress will read this important document and indicate his support for the President in its implementation.

CAPTIVE NATIONS WEEK

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. HALPERN. Mr. Speaker, in 1959, Congress designated the third week of July as Captive Nations Week as a tribute and a remembrance to those peoples in many countries behind the Iron Curtain who continue to live under totalitarian governments. The 12th observance of Captive Nations Week will be held throughout the country and in 17 other free nations during July 12–18, 1970. It behooves us all to remind ourselves of the fate of those who have fallen under Communist totalitarianism lest the free world crumble bit by bit and be engulfed in the same way as those nations whose fate we now mourn.

Captive Nations Week gains special significance in 1970 since this year is the 25th anniversary of the conclusion of World War II in Europe. After all this time, no permanent just solution has yet been found for the problems which appeared in East-Central Europe as a result of the war. The Soviet Union has proposed the calling of a pan-European security conference to eliminate the use of force or its threat from the continent of Europe. Yet this conference, as constituted in present Soviet proposals, would in essence serve only in placing a stamp of approval on postwar Soviet actions and give formal recognition to the present status quo in Europe. The Brezhnev doctrine serves as a blatant proof of Soviet intentions. A reiteration of the U.S. support of the universal application of human rights and national self-determination during Captive Nations Week would serve as an effective answer to all those governments which, by the use of force, limit or deny these rights to the people under their rule.

During 1968, several nonruling Communist parties had varying success in national elections. In May, the Italian Communist Party showed surprising strength by gaining about 800,000 votes, reaching thereby an alltime high of 26.9 percent of the vote. Although this impressive result reflected the continuing ability of the Italian Communists to attract a still sizable group of discontented Italian voters, it brought the party no closer to its longstanding goal of translating power at the polls into national governmental power. On the other hand, the important French Communist Party suffered a sharp electoral setback in June because the May-June student riots and the prolonged strikes awakened fears of a possible Communist victory among the bulk of the more conservative French voters. At the same time, the party's refusal to push for an open confrontation with the De Gaulle government alienated disaffected radicals. As a result, the French Communists lost over half a million votes as compared to March 1967 and dropped half their seats in the French National Assembly.

In the world Communist movement, 1968 will long be remembered as the year of the Czech crisis. The invasion of Czechoslovakia by five of the eight Warsaw Pact nations—U.S.S.R., East Germany, Poland, Hungary, and Bulgaria—on August 21 both widened the existing breaches in the Communist world and opened new ones. The effects of this development dominated Communist interparty relations for the remainder of the year and prevented the already scheduled world Communist movement, notably the French Communist Party, and provided additional fuel for the perennial Sino-Soviet dispute.

Hope, courage, and love of freedom still live within the hearts of the people of the satellite nations. Deprivation of liberty does not destroy the desire for it. We have but to recall the Hungarian uprising of 1956 to become dramatically aware of this fact. The freedom-loving people of Hungary fought valiantly, but vainly, to shed their totalitarian yoke. There are perhaps millions of people who would work and struggle just as bravely for their own liberation if they were aware our sympathy were forthcoming. In the face of such courage, we must feel duty-bound to rededicate ourselves to achieving liberty for all nations of the world. We cannot permit ourselves to continue to neglect the plight of those helpless people whose aspirations for the recovery of their liberty and independence have gone unfulfilled. The conscience of the world must not be permitted to sleep; it must be awakened and fired to meet the challenge presented by the yearning of the captive nations for their liberty.

In 1959, President Eisenhower proclaimed the first Captive Nations Week, stating:

> I invite the people of the United States of America to observe such week with appropriate ceremonies and activities, and I urge them to study the plight of the Soviet-dominated nations and to recommit themselves to the support of the just aspirations of the peoples of those captive nations.

Captive Nations Week is a noble, humanitarian cause. I am privileged to recognize and participate in this week of national observance.

A MESSAGE FOR THE FOURTH OF JULY

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. SCHMITZ. Mr. Speaker, under consent to extend my remarks in the RECORD, I would like to include the editorial written by Mr. Arvo E. Haapa, owner and publisher of the Newport Harbor Ensign, Newport Beach, Calif., entitled "A Message for the Fourth of July." I believe this deserves wide attention.

The editorial follows:

A MESSAGE FOR THE FOURTH OF JULY

The revolutionaries are saying, "America, change it or lose it." Loyal Americans say, "Love and defend our country, or leave it." If there is any change to be made, it should be a turning back to the mighty faith in God that provided the firm foundation upon which our republic was established.

On this occasion of celebrating the 4th of July signing of the Declaration of Independence 204 years ago, let us read with appreciation these words of a Wisconsin pastor, Norman Ream, quoted from the publication, Christian Economics:

"The principles of the Christian faith were built into the very fabric and structure of the American empire. One literally feels this as he reads the concluding words of the Declaration of Independence, which sound almost reminiscent of a church covenant:

"With firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes and our sacred honor."

Listen to those words of a Frenchman who visited the United States in its infancy and witnessed for himself how inseparable were faith and freedom. His name was Alexis de Tocqueville, and this is what he said:

"I sought for the greatness and genius of America in fertile fields and boundless forests; it was not there. I sought for it in her free schools and her institutions of learning; it was not there. I sought for it in her matchless constitution and democratic congress; it was not there. Not until I went to the churches of America and found them aflame with righteousness did I understand the greatness and genius of America. America is great because America is good. When

America ceases to be good, America will cease to be great."

Faith and freedom. They belong together. There can be no freedom without faith, and since freedom is one of man's most cherished possessions, how carefully he ought to nurture that upon which so much depends!

CON SON PRISON STORY FIRST REPORTED IN JULY 1969

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

[*This insertion is made jointly with the Honorable John W. Byrnes of Wisconsin.*]

Mr. STEIGER of Wisconsin. Mr. Speaker, a detailed news report of the prison conditions at Con Son Island in Vietnam appeared in the Appleton, Wis., Post-Crescent a year ago, on July 27, 1969.

The fact that this disturbing report was overlooked by other news media may be understandable when it is noted that the story appeared the week when Americans were preoccupied with the historic event of Eagle's landing on the moon.

The report, by Mark Oliva, has come to our attention this week. We wish to share it with our colleagues in the hope of shedding light on this unsettling situation. Mark Oliva is now a reporter for the Riverside, Calif., Press Enterprise.

The report follows:

DETENTION BASED ON SUSPICION: VIETNAM CONCENTRATION CAMP OPERATES WITH U.S. APPROVAL

(By Mark Oliva[1])

CON SON ISLAND, VIETNAM—History again is witnessing the horrors of the concentration camp, this time with a helping hand from the United States.

Con Son, the French "Devil's Island of Indochina," now is South Vietnam's barbed-wire home for more than 7,000 Vietnamese who "had to be removed" but couldn't be convicted in a trial.

Log beds, malarial mosquitoes and a host of diseases with no effective medical program, no shelter from the tropical monsoon rains and a diet not much better than silage greet the unfortunates interned in the concentration camps here.

The United States provides both financial and advisory assistance to the Con Son island prison.

On March 1, Con Son housed in excess of 9,000 prisoners. Of these, more than 7,000 were detainees. A detainee is an individual suspected of being a Viet Con sympathizer or supporter who never has been convicted or tried.

KING OF CON SON

Vietnamese Lt. Col. Nguyen Van Ve, a brash man who illustrates his every point with a swing or sway of his swagger stick, is the commander here. He calls himself the "King of Con Son," and the title fits his power. He has total rule over the island and its prison population.

Lt. Col. Ve explains the "detainee" system simply.

He says his government needs a means to remove the potential or possible enemy from causing or contributing to trouble. When a man is suspected of giving food, shelter or information to the Viet Cong, he cannot be convicted without evidence, according to Lt. Col. Ve.

Instead, he says, these Viet Cong suspects are brought before district security committees. The committee, according to Lt. Col. Ve, does not require evidence, only grounds to believe the individual may be aiding the Viet Cong. The Committee then has the power to order the suspect sent to Con Son or one of several other detention centers for a period of six months.

Lt. Col. Ve says this dispenses with the need for a trial, conviction and evidence. He also admits that almost all of the detainees would be acquitted for lack of evidence if they were to be tried.

When questioned, Lt. Col. Ve said that he has the authority to detain these prisoners beyond the six-month period based upon his observations, and that very few actually are released after their initial six months' detention.

Our study group's tour of the prison included Camps Six and Seven, the camps that house all but 200 of the detainees.

BARBED WIRE

Each of these camps is surrounded by double fences strung heavily with barbed wire. Within, the camps are divided into many small sections, each also ringed with double fences of heavily-barbed wire. The main sections consist of two 60-foot rows of rough logs, each log five feet long, with the entire row elevated two feet off the ground. Canvas, perforated with holes is stretched about six feet overhead.

These rows of logs serve as bed, home and recreation area for the detainees. They are not allowed to leave the compound at any time. There is no shelter from malarial mosquitoes or monsoons.

At the end of each camp is a small dispensary stocked only with aspirins, salt tablets and anti-malaria pills that are ineffective against the fatal strains of malaria found on the island, according to the U.S. Army doctor accompanying our study. These dispensaries are staffed with untrained personnel.

In the side of each dispensary is a disciplinary area used for detainees found guilty of even the smallest infraction of prison rules. It, too, is encircled with a double barbed wire fence. Barbed wire also is strung the length and width of the ground, with the strands about six inches apart.

Detainees being disciplined are forced to crawl under this layer of barbed wire and lie on their backs for the duration of their sentences, often several days. They are allowed only bread and water.

We were permitted to interview individual prisoners, but Lt. Col. Ve insisted the detainees be interviewed only in the presence of a guard. Detainees interviewed refused to answer questions, apparently in fear that a "wrong" answer, after being reported by the guard, would lead to days and nights under the barbed wire.

Lt. Col. Ve stated that the detainees come from all walks of life but mainly are farmers from the provinces. He listed the three main ways in which these prisoners come before the security committees:

They are reported by a neighbor as aiding or being sympathetic to the Viet Cong.

All persons in an area are held when an Army commander in the area states someone has been aiding the Viet Cong.

When a village is being force-evacuated and relocated prior to being destroyed to eliminate Viet Cong havens, all persons in the village who resist in any way are brought before the committees.

As with most of the other prisoners on Con Son, according to Lt. Col. Ve, the majority of the detainees continue to be held there.

Basic living conditions in the Con Son concentration camps are extremely bad, but the island's prisoners also are faced with even worse medical problems.

Malaria is the major disease. The island's mosquitoes carry two strains, one which usually is fatal and the other which the victim usually survives, but with his strength sapped. The prison dispensaries are stocked, though inadequately, with chloroquine-primaquine anti-malarial pills. These combat only the nonfatal strain. No preventative for the usually-fatal strain is available to the prisoners.

Con Son's prison population also has severe problems with beriberi and tuberculosis, as well as year-round epidemic levels of diarrhea and dysentery. Almost non-existent latrine and sewage facilities contribute to this.

All the prison dispensaries are staffed by prisoners, mostly captured Viet Cong medics. None has been trained beyond the level attained by a student nurse in the U.S..

ONE DOCTOR

The island has one doctor, a first lieutenant in the Vietnamese Regional and Popular Forces (roughly equivalent to our National Guard). However he treats only the civil servants, national police and military.

A Vietnamese public health nurse also is assigned to Con Son, mainly to treat the non-prisoner population. The nurse makes a monthly visit to each of the seven prison dispensaries.

The government provides air evacuation for members of the non-prisoner population requiring mainland treatment, but prisoners requiring such treatment must wait for the monthly supply boat.

The public health nurse admits that several prisoners have died due to lack of proper medical attention.

In addition to the detainees, Con Son also houses about 2,000 other prisoners including Viet Cong, political religious and criminal prisoners and military prisoners from the South Vietnamese forces. All these categories have been tried and convicted.

Convicted Viet Cong are considered civil prisoners and are held at Con Son. North Vietnamese prisoners of war are held at another island prison, Phu Quoc. The U.S. is not involved in the operation of Phu Quoc because the South Vietnamese government does not abide by the Geneva prisoner-of-war conventions.

With the exception of 200 detainees, the regular prisoners only are confined in Camps One through Five. Strangely, the convicted prisoners fare much better than the detainees. Camps One through Five consist of the old French prison buildings, and provide adequate though unpleasant shelter.

These prisoners leave the camps each day to go out in work parties. Although some of the prisoners still split rocks, the majority work on fishing teams or on the farms which produce most of the food other than rice which is consumed on the island. The prisoners raise mainly papaya, coconuts, pigs and chickens.

A large number of the sentenced prisoners have attained trustee status and are allowed to live outside the camps. All the prisoners except the detainees are allowed monthly three-day visits with their families, who are taken to the island on the supply boat. A beach home has been set up to house these families.

PRISONER DIET

All the prisoners, detainees included, are on the same diet. The catch of the fishing teams is laid out and salted on tin sheets placed on the streets daily. After a day in the sun, the fish, well-dried, are fed to the prisoners. Prisoners cook the fruits, vegetables and meats raised on the island as well as rice brought in from the mainland. The cooking is done in extremely unsanitary and antiquated outdoor kitchens surviving from French days.

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[1] *The author of this article, Mark E. Oliva, Kaukauna, recently returned to the Post-Crescent staff after more than four years' service with the U.S. Army. He spent his last two years assigned to the Military Assistance Command-Vietnam (MACV) as an advisor to South Vietnam's General Political Warfare Department. During this time, Oliva was sent twice to Con Son Island as part of MACV psychological operations study groups.*

Many of Con Son's political prisoners were sentenced several Vietnamese regimes ago but never were released by succeeding governments, including the current Thieu government.

One prisoner interviewed on death row had been there for 13 years, sentenced for political opposition to the late President Ngo Dinh Diem in the early days of his rule.

Another death row prisoner interviewed stated he has been confined seven years for the same reason, since the latter days of Diem.

A Buddhist monk stated he has served 11 years of a 15-year political sentence, also a Diem victim still on Con Son.

A student monk said he came here three years ago on a one-year sentence, for giving sanctuary to a Viet Cong in a pagoda. He too has been forgotten.

Prisoner interviews also produced some surprising opinions. Many of the regular prisoners from rural Vietnam stated they were not too dissatisfied with their confinement because the prison living conditions were better than those they had experienced in the countryside. Other prisoners said they felt relieved to be at Con Son and away from the war.

But no prisoner was willing to say he is happy.

ELIMINATE SECRECY IN THE HOUSE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. FRASER. Mr. Speaker, the effort to abolish secrecy in the proceedings of the House of Representatives has attracted nationwide attention—and well it might, for how we conduct the public's business can have a significant impact on the lives of the American people and the well-being of the Nation.

A sample survey of newspaper and radio-TV editorials reflects unanimous feeling that secrecy has no place in a democracy and that it should be eliminated from congressional proceedings. Many editorials, columns, and articles expressing this point of view have already been inserted in the Record over the past week. At this point, I insert in the Record some additional editorials which I recommend to my colleagues:

End Secrecy in the House

The U.S. House of Representatives puts its very soul on display next week.

The issue is whether the House will call a halt to some of the widespread secrecy in which it conducts the public's business. For the first time in a generation, there is a chance that some of the secrecy rules will fall.

Every single member of the House needs to be watched closely on his positions and his votes as events unfold.

Dozens of open-door measures will be debated on the floor beginning Monday. The key proposals would require that the votes of individual Congressmen be recorded by name and made public on all significant actions both in committee and on the floor. Another would make it much more difficult to close committee hearings to the public. Another would permit the televising of hearings, as the Senate already does.

These reforms and others like them obviously make good sense, but they won't come easily next week. The truth is that a great many House members value and exploit secrecy, which allows them to maneuver and manipulate and make lavish promises back home without the necessity of going on the record in the House itself.

A WTOP check with Maryland Congressmen Hogan and Gude turned up enthusiastic promises of support for the anti-secrecy proposals. Virginia Congressmen Scott and Broyhill were non-committal.

Clear-cut choices are involved between government in the shadows and government in the sunshine. As various people have noted, Congress, as an institution, is on trial.

The House must not muff this chance to open its business to public view.

This was a WTOP Editorial . . . Norman Davis speaking for WTOP.

[From the Washington Post, July 10, 1970]

Striking at Secrecy in the House

The House will have an opportunity next week to transform itself into a democratic legislative body. It falls short of that category now because of the secrecy in its hearings deliberations, the denial of adequate information to its members and the avoidance of record votes on many vital issues. A stranger or even a curious citizen viewing its operations today might well conclude that one of its chief preoccupations is to prevent the people from knowing what it does, and why, and where its members stand on anything that counts.

As reported out by the Rules Committee, the congressional reorganization bill was a rather humdrum affair. But Majority Leader Carl Albert and various other influential members are lending their support to an amendment that would make it possible to identify congressmen when they vote. Under the present system of debating highly controversial bills in the Committee of the Whole, members pass on amendments of great importance without a record vote. The arrangement is tailor-made for the protection of special interests against the public interest and for denial to the people of the information they need to pass judgment on their congressmen at the polls. Responsible government is under a serious handicap.

David S. Broder noted in his column on this page yesterday that this reform, if adopted, may bring some profound changes in the nature of the House. It would doubtless compel members to spend more time on the floor considering legislation and less time running errands for constituents. Under the present setup fewer than one third of all House members participate in non-record votes. With this proposed reform in effect important legislative decisions should be made by a visible majority instead of a small group wielding the powers of the House under the cloak of secrecy.

The impact of the public on the outcome should be greater because Members who have to stand behind their votes are more inclined to give heed to what their constituents are thinking.

The Democratic Study Group in the House sees the recording of votes on legislative amendments as "the single most important reform which could be made in House procedures—more important in fact than abolishing the seniority system," which is saying a good deal. If the House is really in a reforming mood, however, it ought to go further than requiring record votes on the floor. Leading reformers are also demanding open committee sessions, the disclosure of committee and subcommittee votes on every roll call and the delivery of all committee reports to every member well in advance of record votes on the floor.

How can the House pretend to be a democratic body when it permits its powerful Appropriations Committee to hold all of its more than 300 annual hearings and meetings behind closed doors? Such vital committees as Ways and Means, Armed Services and Foreign Affairs are also heavily addicted to the same practice, and nearly half of all the sessions by all House committees are cloaked in secrecy. Only the Education and Labor Committee functions as if it had nothing to hide.

With new leadership emerging in the House, there is a rare opportunity to make that body more responsive to the popular will. The restoration of faith in our institutions requires that they operate as they were intended to operate—in the light of day. It will be interesting to see how each legislator responds to this challenge. But, unfortunately, the question of whether record votes will be permitted on legislative amendments in the future will be decided, under the present procedure, by a non-record vote.

[From the Washington Daily News, July 13, 1970]

Opening Up the House

Members of the U.S. House of Representatives this week will be offered the opportunity to render service to our Republic by voting to end the secrecy in which they cloak a good deal of the nation's business.

Reports from Capitol Hill indicate substantial bipartisan support for such reform legislation on grounds it would help restore public confidence in the Congress.

It would indeed. As matters stand today major bills can be killed behind the closed doors of a House committee with no public record of who voted pro or con, except as it is "leaked" to reporters. One amendment to the proposed reorganization bill would attach names to the "ayes" and "nays."

And when bills reach the House floor, members often can avoid identification with the position they took on politically risky issues thru the "teller" vote—a head count that does not identify by name the heads counted. The reorganization bill would require that a name be attached to every head.

Secret tactics over the short haul are, no doubt, to the individual Congressman's immediate political advantage. But over the longer term they erode public faith in the House as an institution where a man's principles can be measured against his voting record.

If our Republic is to persevere, our Representatives must be known for each and every stand they take and submit the complete record of their performance to a fully informed electorate.

That's what the upcoming vote on the House reorganization bill is all about. And that's why the House should adopt it. Overwhelmingly.

[From the Washington Evening Star, July 13, 1970]

On the Record

One of the cherished traditions of the House of Representatives is the secrecy that cloaks many of that body's most important operations. Approximately half the committee hearings and meetings are closed to the press and the public. Committee votes are closed to the press and the public Committee votes are, for the most part, never made public. Committee reports are customarily kept from the view of everyone—including members of Congress—until hours before a floor vote. And votes on vital amendments are hidden from the prying eyes of newsmen and constituents by the parliamentary maneuver of the non-record vote.

Observers of Congress and handfuls of

idealistic congressmen have long viewed this passion for secrecy as an odd manifestation of democracy in action. And now, as the Legislative Reorganization bill heads for the floor of Congress, there are strong indications that at least a part of the veil will be lifted.

The bill—the first congressional reorganization measure in 24 years—provides that most committee hearings will be open and that some will be televised. Some 50 planned amendments will, for the most part, attempt to open more of the operations of the House to public inspection. The secret vote has drawn the particular attention of the reformers.

The Democratic Study Group, a collection of some 100 House liberals, has launched an all-out attack on the practice of non-record voting. They have, somewhat surprisingly, picked up significant support from the conservative outposts of both parties.

There is no real question as to why the secret vote originated and why it has been continued to this day. The purpose is to keep the voters back home from knowing for certain how their man in Congress voted on a particular bill.

That is, to be sure, not the reason usually cited by the defenders of congressional secrecy. They argue that roll-call votes take too much time. Or they claim that keeping constituents in the dark permits a representative to vote according to the dictates of his conscience rather than the dictates of political expedience. Some defenders, in desperation, have been known to cite the historical precedent of the British Parliament and the Continental Congress.

Taking these one at a time:

The reform-pushers point out that the time-consuming roll call is not the only alternative to secrecy. A teller vote, which is one of the methods now favored by the secrecy lobby, could be employed. The only change required would be the recording—and the publication—of the individual votes, instead of the counting of numbers of ayes and nays and letting it go at that. Or, should the House decide to enter the 20th Century completely, electronic voting devices could be installed that would provide a record vote in a matter of seconds.

As for the contention that consciences are freer if the voters are kept in the dark, it is necessary only to note that a representative's first duty is to represent the collective conscience and the will of his district.

Finally, the historical argument falls apart with the realization that the secrecy of Parliament and the Continental Congress arose out of a wholesome respect for the wrath of the King of England.

Today, the Congress of the United States has scant cause to fear the wrath of the British monarch. As for the M.P.s, they decided 138 years ago that there wasn't too much a threat from the throne, and they dropped the unrecorded teller vote from their rules of order.

It's time for the House to go fully on the record, too.

[From the Hartford Courant, July 12, 1970]

Legislative Reform Needs Public Support

A bipartisan group of Congressmen, including both liberals and conservatives, are now joined in an effort to remove unnecessary secrecy in the legislative process.

In specific, they propose to offer a series of amendments to a Congressional reform bill that is scheduled for House action beginning next week. The most important of these amendments, they say, is a measure that would put House members on record on significant issues coming before that chamber. At present these isues are generally decided by a simple counting of the members, with no names recorded before or against. The proponents of the amendments want it recorded how House members vote on major issues both in committees and on the House floor. They want committee hearings and meetings open to the public and the press, and committee reports to be available before final House action on legislation.

It could be argued, of course, that the teller vote method is not exactly secret. Individual members can be identified and their votes observed under this process, though no overall record is made.

Nevertheless, proponents of the new legislation are certainly correct in principle. There must be no more secrecy in the legislative process than necessary, however one argues the definition of "necessary." As the group says, secrecy, or obfuscation of any kind, undermines the democratic process and saps the public confidence in Congress as a responsible and effective legislative body. It is not alone that "secrecy is a comfortable thing," as one House member wryly put it. It's that the public in a democracy must be informed, there must be a free flow of information, or else the democratic process has small chance of functioning. More concisely, the members of Congress are intended to be the people's instruments for shaping the nation, and the people have a right to know how their representatives are discharging the trust and responsibility placed in them.

This is not to say one way or another that Congress is or isn't leveling with the public as it goes about its work. It would be equally undemocratic to make insinuations. But just on principle secrecy is to be avoided, and to have this written into the ground-rules is as urgent as it is desirable. It is a form of public protection and public enlightenment. Reform of rules and procedures is not just a matter of Congressional internal "housekeeping," but of public concern. It will be of great help to the citizen himself if he gets behind such reform when the House considers legislative reorganization next week.

[From the New York Post, July 10, 1970]

Ending Secrecy in the House

The House yesterday inadvertently obliged a new coalition of Congressional reformers with a clear demonstration of the need for Congressional reform. Denying members an opportunity for debate and withholding advance word that the matter was scheduled, the leaders succeeded in forcing a precipitate vote on the first House test of the Senate's Cooper-Church amendment; opponents of the amendment won.

The sorry episode followed by a day an announcement that a bipartisan group plans next week to push for major alterations in current House procedures. Among their suggested reforms are advanced scheduling of votes and guarantees of ample debating time before the balloting. Had those provisions been policy, yesterday's demeaning spectacle would have been avoided—and the result perhaps different.

The recomendations, to be considered by the House next week, are primarily aimed at combating the secrecy which now shrouds so many important Congressional functions, particularly in the area of appropriations.

One key proposal would direct the House, at the request of one fifth of a quorum, to maintain an official record of how members voted in teller votes. Under crurent practice, a teller vote is taken by having the lawmakers pass down the center aisle and be counted for or against. Each member's decision is not officially recorded, permitting him the luxury of keeping his stand on a sensitive issue from becoming publicly known. This provision will itself be voted on in an unrecorded teller vote next week. We hope it will be the last.

The Right To Know Where Your Congressman Stands

Public business should be conducted in the open, with public officials fully accountable to the people for their decisions.

This is not always the case in the U.S. House of Representatives, where votes are often taken on important issues—the Cambodian operation, for example, or the 18-year-old vote—with no record of individual positions.

Votes are recorded by name in the House on final passage of bills and on motions to return them to committee. There is not always a record vote, however, when the House votes on amendments to bills—amendments which can alter and even reverse the original purpose of proposed legislation.

The House considers amendments under an ancient committee-of-the-whole procedure with no roll calls and, at most, a teller vote where members are counted, but not recorded, as they file down an aisle. Roll calls can be forced on successful amendments, but not on those that fail.

Fifty-seven Congressmen—Republicans and Democrats, liberals and conservatives—hope to end the practice of secret voting by amending a legislative reorganization bill scheduled for House debate in the near future. Their proposal would retain the teller vote, but provide that it be recorded by name if 20 percent of the members present demand it.

TV2 believes the American people are entitled to know exactly where their Congressmen stand when important votes are taken. We hope the U.S. House of Representatives will adopt proposed changes in the rules to make it more difficult for its members to conceal their voting records in a cloak of anonymity.

[From the Charleston Gazette, June 8, 1970]

Will Our Representatives Stand Up and Be Counted?

From the public interest standpoint, nothing is of greater importance in the current session of Congress than the Legislative Reorganization Act of 1970, which is scheduled for consideration in the House of Representatives in mid-July. This will provide the first opportunity in more than two decades to make major changes in House rules and procedures.

What makes this legislation so vital is that it opens the way for ending secrecy in the legislative process, an element that keeps members of Congress as well as the public in the dark on legislation affecting everyone, and serves at the same time to block desirable legislation and to aid special interests whose purposes cannot stand public scrutiny.

For example, the House Appropriations Committee, which deals in billions of taxpayers' dollars, holds all of its more than 300 annual meetings and hearings behind closed doors. Moreover, reports of this committee—of which Rep. John M. Slack of Charleston is a member—generally are unavailable until just before the multibillion dollar measures are approved by the House.

Under such procedure, the people and most members of Congress are unaware of what's going on until after it has been done—and this is hardly conducive to sound legislation in the public interest.

So important is the issue that the Democratic Study Group (DSG), headed by Rep. Donald M. Fraser of Minnesota, is making a major bipartisan effort to abolish secrecy in the House. The DSG has prepared a special report on secrecy which the Gazette is reprinting in a three-part series on the opposite page, starting today, in the hope that people will inform themselves on the seriousness of the situation and make their wishes known to their representatives.

The DSG sums up the problem of secrecy in these words:

"Secrecy pervades the legislative process in the House of Representatives. Arbitrary and undemocratic procedures are so much the rule that they are hardly noticed let alone seriously challenged. Yet secrecy has a more debilitating impact on the House than its well-publicized companion, the seniority system.

"Secrecy in the House is corrosive. It undermines the democratic process by denying members information they need to make intelligent legislative decisions and by denying voters information they need to make informed electoral decisions.

"It destroys public confidence in the House as a responsive legislative body. It makes the House incomprehensible to the average citizen and contributes to the growing distrust of elected officials."

In pursuing its objectives, the DSG will push for a number of strengthening amendments, concentrating primarily on ending the practice of making secret or non-record votes on major national issues.

* * * members have had an opportunity to analyze it, and to provide for record votes.

Ironically, under present procedures, these important questions will be decided by non-record votes—meaning that members who want to keep their secret play-houses can hide behind the system that is so destructive to the Democratic process.

The people, however, are entitled to know the position of their representatives. We particularly challenge West Virginia's representatives to make their votes public. How about it, Mr. Slack? How about it, Mr. Mollohan, Mr. Staggers, Mr. Hechler, and Mr. Kee? Will you stand up and be counted—or will you invoke secrecy to protect secrecy?

[From the Pittsburgh Press, July 13, 1970]

OPENING UP THE HOUSE

Members of the U.S. House of Representatives this week will be offered the opportunity to render service to our republic by voting to end the secrecy in which they cloak a good deal of the nation's business.

Reports from Capitol Hill indicate substantial bipartisan support for such reform legislation on grounds it would help restore public confidence in the Congress.

It would indeed. As matters stand today major bills can be killed behind the closed doors of a House committee with no public record of who voted pro or con, except as it is "leaked" to reporters.

One amendment to the proposed reorganization bill would attach names to the "ayes" and "nays."

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If our republic is to persevere, our representatives must be known for each and every stand they take and submit the complete record of their performance to a fully informed electorate.

That's what the upcoming vote on the House reorganization bill is all about.

And that's why the House should adopt it. Overwhelmingly.

[From the Des Moines Register, June 21, 1970]

SECRET CONGRESSIONAL VOTING

Members of the House of Representatives too often hide their votes on important issues. The secret voting was inherited from British parliamentary procedure where it once served to protect members from the wrath of the king. Parliament got over being afraid of the king in 1832, but Congress appears to be still afraid of someone.

The Constitution requires a recorded vote on any issue when one-fifth of the members so request, but this provision often is evaded by taking the decisive action as a committee of the whole, or by making the record vote the vote on formal passage after the issue actually has been decided on an earlier, and often quite different, non-recorded vote on a procedural question.

A bipartisan group of 45 congressmen is working for an amendment to the pending congressional reorganiaztion act to make roll-call votes possible on any issue. The House may not accept the amendment—and, ironically, the voters may not be able to find out how their representatives voted on it.

The reluctance of House members to stand up and be counted by name is usually explained as a practical necessity. A roll-call takes about 30 minutes, compared to 10 minutes for the much more usual teller vote in which members march past one of two clerks to be counted (as bodies, not by name) for or against. One of the proposed reforms would have the clerks write down names as members filed past.

A number of state legislatures (including Iowa's) for years have used electronic voting scoreboards on which a roll-call vote can be taken and recorded in a couple of minutes. There is no reason why the House could not do the same.

If city council members are required to cast recorded votes on such minor question as curb-and-gutter projects, is it reasonable that members of Congress, deciding issues of national importance, cast their votes anonymously under the shield of a parliamentary gimmick?

FOOD AND DRUG ADMINISTRATION QUESTIONED ON SATURATED FATS

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. YATES. Mr. Speaker, on June 25, 1969, I wrote the following letter to the Honorable Herbert L. Ley, Jr. Commissioner of the Food and Drug Administration, asking why manufacturers of food products were not required to show the amount of saturated fats in their products.

The letter follows:

JUNE 25, 1969.

Hon. HERBERT L. LEY, Jr.,
Commissioner, Food and Drug Administration, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. COMMISSIONER: I am enclosing a copy of Rodale's Health Bulletin for June 7, 1969. As one who has a high cholesterol count, I look for fat free foods and substitutes, and I must say that the statements contained in this health bulletin relative to cream substitutes are amazing and shocking.

Can you tell me why manufacturers of these products and of all products are not required to show the amount of saturated fat their product contains?

Sincerely yours,

SIDNEY R. YATES,
Member of Congress.

WHAT THEY DO NOT SAY

It's what those ads touting low-calorie substitutes don't say that's significant. Many nondairy creams have higher percentages of possibly harmful saturated fats than the real thing, but that information is strangely absent from their promotional materials.

However, a Harvard School of Public Health investigator concerned about the use of those products among patients who want to avoid saturated fats "for health reasons" has questioned their desirability. Elaine R. Monsen, Ph.D., found ersatz creams have 20 percent more saturated fatty acids than natural cream. Saturated fatty acids raise the cholesterol level of the blood, and many authorities believe that high cholesterol levels are directly related to heart disase.

In addition, Dr. Monsen, who presented her findings in the *American Journal of Clinical Nutrition*, found that the products are "made primarily from coconut oil. They represent themselves as vegetable oil products, but coconut oil is a saturated vegetable oil—not typical of the vegetable oils." Other vegetable oils, such as corn, safflower and peanut oils, have polyunsaturated fats, which do not raise cholesterol levels, she said.

Another researcher, working independently of Dr. Monsen, confirmed that the products are mostly coconut oil. Dr. Ancel Keys, of the University of Minnesota, said, "Coconut oil is the worst oil that they could have chosen." The only advantage it has is commercial—it doesn't spoil rapidly. Keys said he would prefer "the real thing" to any of the 14 products studied by Dr. Monsen, although he objects "to overindulgence in butterfat."

Monsen's samples, which were picked up in retail outlets, ranged in fat content from about 10 percent for Coffee-Rich to about 55 percent for D'Zerta Low Calorie Whipped Topping. In all the products but Reddi Whip saturated fatty acids were at least 94 percent of the total fat content—26 percent of the product's bulk. Milk contains just over 3 percent milk fat, half and half creams have about 10 or 12 percent fat, and other creams contain from 10 to 38 percent milk fat. Keys said his research indicated coconut oil was "two times as bad as butter oil on the cholesterol level of the blood." Safflower oil, he said, had one-tenth of the effect of cream.

The two researchers were concerned because, in Dr. Monsen's words, "A wide interest in these products is seen among people who wish to restrict or control their dietary fats, e.g., to decrease saturated fat consumption."

The following chart of the 14 brands of substitute creams studied by Dr. Monsen shows the percentage of the total fat content composed of saturated fatty acids.

[Product]	*Total saturated fats in percentage*
(1) Unsweetened: (a) Dry powders:	
Coffee-mate	98.1
Cremora	98.6
N-Rich	95.7
Pream	98.0
(b) Liquid: Coffee-rich	98.2
(2) Soured: (a) Semi-solid:	
IMO	96.4
Zevo	96.7
(3) Sweetened: (a) Dry powders:	
Dream Whip	98.2
Lucky Whip	94.8
(b) Semi-solid: Cool Whip	98.9
(c) Whipped: aerosol can:	
Ditto	99.3
Reddi Wip	74.5
Rich's whip topping	95.5
(d) Artificially sweetened (dry powder): D'Zerta low calorie whipped topping	98.6

In correspondence over the year, I finally simplified my question by asking why food which used coconut oil should not state on their labels that coconut oil is being used rather than permitting it to be designated as a vegetable oil.

After a year I still have no answer. I am in receipt of the following letter signed by the Director of the Office of Legislative Services saying in substance that FDA is still looking into the matter:

PUBLIC HEALTH SERVICE,
FOOD AND DRUG ADMINISTRATION,
Rockville, Md., July 9, 1970.

Hon. SIDNEY R. YATES,
House of Representatives,
Washington, D.C.

DEAR MR. YATES: This is in reply to your letters of April 22, 1970, and June 22, 1970, concerning the labeling of products with information about the type of fat they contain.

As we stated in our letter to you of January 15, 1970, we believe there is authority under section 403 (i) of the Federal Food, Drug, and Cosmetic Act to require manufacturers to declare the specific types of fats and oils in a given food. We also mentioned that there was a policy adopted in 1940 by the Food and Drug Administration which permitted the food industry to declare individual fats and oils as "shortening," "vegetable oil," or "hardened (or hydrogenated) vegetable oil" and that that policy was being reevaluated.

Closely aligned with that issue is the matter of labeling of oils, fats, and fatty foods used for regulating the intake of fatty acids in dietary management with respect to disease. While we had promised to keep you advised of developments, we have delayed writing you in the belief that a formal policy regarding these issues would have been formulated by this time. We are still not in a position to announce a formal policy. However, this is not an indication that we are not working on the matter. Just recently principal members of our staff met with a representative of the National Heart and Lung Institute and on another occasion with representatives from the Federal Trade Commission to discuss the problems. We do expect that a statement of policy will issue shortly and will keep you advised.

If we can be of further assistance, please let us know.

Sincerely yours,

M. J. RYAN,
Director, Office of Legislative Services.

I have dispatched the following letter to Dr. Charles C. Edwards, Commissioner of Food and Drug Administration, asking the very simple question: Why cannot the label of foods which contain coconut oil be so labeled?

The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 13, 1970.

Dr. CHARLES C. EDWARDS,
Commissioner, Food and Drug Administration, Department of Health, Education, and Welfare, Public Health Service, Washington, D.C.

DEAR DR. EDWARDS: Receipt is acknowledged of the letter of July 9 signed by M. J. Ryan, Director of the Office of Legislative Services, which is in reply to my letters of April 22 and June 22. I specifically asked the question as to why coconut oil could not be labeled as coconut oil rather than as vegetable oil and that the matter was of importance to people who are on an anti-cholesterol diet.

Looking at my file, I note that I first wrote on the subject a year ago on June 25 when I asked the same question. A year has gone by and still there is no answer to the question. I wish someone in your office would tell me why if coconut oil is used in a food, it should not be labeled as coconut oil.

Sincerely yours,

SIDNEY R. YATES,
Member of Congress.

QUINCY-SOUTH SHORE, MASS., CHAMBER OF COMMERCE PAYS TRIBUTE TO SPEAKER McCORMACK

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. BURKE of Massachusetts. I have been given the pleasure and privilege to bring to the attention of the Members, the unanimously voted resolution of the Quincy-South Shore Chamber of Commerce in tribute to a great legislator and leader, our beloved Speaker, JOHN W. McCORMACK.

Never have I known a leader so responsive to the needs of people. One who is always patient and courteous and who never fails to give serious consideration to their problems.

Too often men achieve outstanding success as lawyers, engineers, doctors, bankers, politicians, merchants, and in all other fields of endeavor, but have no heritage worthy of being lovingly remembered. Surely JOHN W. McCORMACK's good heartedness, extraordinary devotion to his country, service with compassion, initiativeness, and individual endeavorness has prompted the realization that when the record of the history of this great Nation is written the name JOHN W. McCORMACK will rank among the greatest men in our Nation's history.

Through the request of Mr. William A. O'Connell, executive vice-president of Quincy-South Shore Chamber of Commerce and its members, I submit the following:

A TRIBUTE OF REGARD AND SINCERE APPRECIATION

The Quincy-South Shore Chamber of Commerce at a meeting of its Board of Directors, held on May 27, 1970, unanimously voted to record this tribute to the Honorable John W. McCormack, Member of Congress and Speaker of the House of Representatives. His recent announcement that he will voluntarily retire following forty-two years of dedicated public service culminates a most distinguished record in the nation's capital representing the Ninth Congressional District of Massachusetts.

Speaker McCormack's outstanding leadership, his understanding of human nature, and his helpful interest in governmental programs have not only reflected an intense desire to faithfully represent those in his particular district but his fellow citizens throughout the entire Commonwealth as well.

In matters of importance within the area served by the Quincy-South Shore Chamber of Commerce his wise counsel and co-operative efforts have been most beneficial. His personal interest in the growth and progress of the shipbuilding industry, the development of harbors and waterways, as well as other federally financed projects, have been of great benefit to the entire community. He has been most generous in giving of his time and effort in the nation's capital whenever called upon, either as Speaker of the House of Representatives or as a co-operating Member of Congress with the Massachusetts Delegation.

Through this tribute of sincere appreciation, the Quincy-South Shore Chamber of Commerce, therefore, cites a native son of Massachusetts, Speaker John W. McCormack of Boston, for his outstanding leadership and co-operative efforts in governmental service. It is the wish of the entire Board of Directors that in his retirement he may be blessed with good health and happiness for many years to come.

TACOMA NEWS TRIBUNE DISCUSSES "SEEDS OF ANARCHY" IN ROCK FESTIVAL

HON. FLOYD V. HICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. HICKS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

On the Fourth of July weekend 10,000 people converged on the small mountain town of Eatonville in Washington State for a "rock festival."

This is nothing new in our country. What is different about this one is that the law enforcement authorities of Pierce County, where Eatonville is located, had taken steps to prevent the festival and had obtained a superior court order forbidding the festival.

Thus the festival was not merely in defiance of custom and convention, as have been previous ones. This one was specifically and deliberately—and insistently—in defiance of the law.

Law enforcement officers were unable to prevent the horde of people from going to the festival grounds. So, with commendable and probably uncommon good judgment, they devoted their efforts instead to containing the festival. This policy brought about no confrontations, but it did result in the arrest of 58 individuals on various charges, mostly for alleged narcotics violations.

This situation has understandably caused considerable concern throughout our area, Mr. Speaker. I believe this was best expressed in an editorial in the Tacoma News Tribune on July 11. The problem and at least one approach to its solution, are outlined in the editorial; Federal legislation as suggested here might indeed be helpful when people cross State lines to attend such festivals. I commend the editorial to the attention of my colleagues:

EDITORIAL

SEEDS OF ANARCHY

Only two good things can be said about the Fourth of July weekend rock festival held at Eatonville: (1) a potentially explosive situation was defused by the intelligent policy of Sheriff Carl Petersen and (2) those who violated the law and court order banning the event will be brought to justice.

Sheriff Petersen must be commended for deciding to contain rather than stop the festival by force. When a mob takes over control of events, past experience elsewhere has shown that nightsticks, gas and guns only aggravate the situation. Inevitably, the violence that follows ends in tragedy.

Thanks to the experience and wise judgment of Sheriff Petersen, what might have developed into a riotous confrontation resulting in a possible bloodbath was avoided. Instead of clubs at the scene, those who flouted the court order, and the law respecting narcotics and behavior, will face their fate before the bar of justice. Whether and what they did wrong will be decided by the courts and the penalties invoked will be according to law.

After what happened at Eatonville, and the year before at Tenino, it is patently clear that society must find a way to cope with the phenomena of rock festivals. Prosecutor Ron Hendry feels, in view of the outright challenge to law and order these festivals present, the answer may lie in federal law. Pointing to the seriousness of this matter, Hendry said:

"There is no doubt in my mind that events such as the one at Eatonville, the riots on campus, the violence in the streets and the growing philosophy of anarchy is bringing our entire system of law and order and justice to a 'high noon'," he said.

Rock festivals like this are shocking spectacles. They are characterized by unrestrained use of drugs and alcohol, nudity and sex and behavior that is totally lacking in taste and discipline. The tragedy is that young children are exposed to drug-induced activities that border on the psychotic.

Not only were there a sizable number of small children present, many were subjected to neglect and exposed to health and sanitation hazards which were so flagrant that the parents, were it possible for the sheriff's deputies to do so, could have been arrested and charged with felonies.

It is most difficult to understand how parents could permit children under the age of 14 to use narcotics, or allowed behavior that results in venereal disease. Hendry reported one baby suffered second-degree sunburn.

Hendry put his finger on the nub of the problem when, commenting on the broader implications of these mob events, he observed:

"This is the first rock festival held in which there was a binding court order prohibiting it. Yet, because of a system of mob rule, the event took place, contributing to a breakdown of law and order.

"This could lead to total anarchy. In fact, I think the seeds of anarchy were sown here."

DR. HOMER S. SWINGLE: LEADERSHIP IN FISH CULTURE

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. NICHOLS. Mr. Speaker, a very important work is taking place at Auburn University in the newly created Department of Fisheries and Allied Aquacultures. This new department, under the able leadership of Dr. Homer S. Swingle, will be responsible for developing the entire program of fish culture under a new 5 year, $800,000 grant recently made from aid to establish an International Center for Aquaculture at Auburn University.

As a former student of Auburn University and as a member of the present board of trustees of that university, we are extremely proud of the accomplishments made under Dr. Swingle's leadership in fish culture during the past 35 years. I would wish to call the attention of my colleague's recent article appearing in the Selma Times-Journal, outlining this important work.

40-YEAR FISHING TRIP FEEDING HUNGRY WORLD

(By J. D. Harwood)

Not many fishermen start on a fishing trip in the morning and end up trying to feed millions of hungry people around the world. But Dr. Homer S. Swingle did exactly that.

In the early morning of his career at Auburn University, Dr. Swingle started searching for a good fishing spot. Now, much later in the day, he is internationally known, is head of the newly created Department of Fisheries and Allied Aquacultures, Auburn University School of Agriculture and Agricultural Experiment Station and is director of the new International Center for Agriculture.

Dr. Swingle came to Auburn as an entomologist who liked to fish. Mill pond fishing was very popular in his native Ohio, but good pond fishing in the South was almost nonexistent. There weren't many ponds in Alabama and no one knew how to manage those that were here. Dr. Swingle decided to do what he could to correct that situation. He unknowingly launched a new career and set in motion a program that now girdles the globe.

An early innovation of Dr. Swingle's proved to be the key that unlocked the door to huge successes in fisheries research. He was familiar with the value and efficiency of the small plot technique used by agricultural researchers. He reasoned that if small soil plots would work for crop research, small water plots—small ponds—would work just as effectively for fisheries research. Time has proved the soundness of his reasoning.

"Small plots" used in Auburn fisheries research now include 210 earthen ponds, 100 concrete ponds, and 300 plastic ponds. Facilities also include modern laboratories, hatcheries, holding buildings and service buildings.

Early research at Auburn was directed toward successfully managing farm ponds for water storage for irrigation, for fish production, and for livestock. Dr. Swingle still wanted a place to fish, but he did not overlook the importance of the farm pond to the total farm enterprise.

Interest in water conservation stemmed from the fact that low soil fertility in the South was the result of high temperatures and heavy rainfall. Runoff, both surface and underground, carried away large amounts of plant nutrients—as much as 50 per cent by some estimates. Stopping this runoff would automatically stop much of this nutrient loss. Holding the water was not the primary objective of the research, however. The water had to be used, profitably if possible, after it was impounded. So research into dam construction, watershed management, kinds of fish for stocking pond management for sport fishing, aquatic weed control, and commercial fish production was started.

Results obtained in this research have been widely used by farmers, state and federal hatcherymen, fisherymen, sportsmen, fisheries biologists, conservationists, and many others both in the United States and in foreign countries. This research showed that impounded water can be managed, just as farm land is managed, and people around the world were quick to take advantage of this discovery.

The Auburn station was the first to develop a program of commercial minnow production and commercial fish production. Methods of managing public fishing lakes were devised at Auburn—methods that proved so successful that they are now being used in whole or in part by many state departments of conservation.

Just as did the proverbial rings from the stone tossed into the water, interest in the fisheries research at Auburn spread in ever widening circles. One of these rings reached the Rockefeller Foundation, and that organization awarded a $500,000 grant to Alabama for research on fish production in impounded waters: to improve existing ponds and construct 100 new ponds, to hire new professional and technical staff members, and for expenses of actual research. With an eye to the undernourished and starving in many areas of the world, the Rockefeller Foundation supplied the funds for Auburn University to expand research efforts on food fish production.

The fishing trip had turned into an exploration of unfished waters, and Dr. Swingle, like any true fisherman, was delighted at the prospect.

Dr. Swingle and other members of the fisheries staff have conducted research projects in far corners of the world and have served on many national committees.

During the years the Auburn research program was developing the staff was also building an equally famous teaching program for bachelor's, master's, and doctoral degrees in fisheries. Non-degree-granting instruction programs were also developed so that professional fisheries biologists from around the world could come to Auburn and take advantage of knowledge gained through research.

As early as 1941 informal courses were available. Formal courses leading to degrees were first offered in 1947. Since that time many students have come through the program. Through 1969, 55 foreign students representing 17 countries had received degrees from Auburn in these fields. Many more, from more countries, had participated in the non-degree-granting program. This does not take into account the students from the United States who are now working throughout the world.

The program has attracted grants from the Rockefeller Foundation, fish and game divisions of Southeastern states, U.S. Public Health Service, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Alabama Department of Conservation, Water Resources Research Institute (Auburn), the U.S. Department of the Interior, the U.S. Department of Agriculture and the Agency for International Development. These institutional grants are awarded "to research and educational institutions in the United States for the purpose of strengthening their capability to develop and carry out programs concerned with the economic and social development of less developed countries."

Evidence of the success of these projects is the recent award of a five-year, $800,000 grant from AID to establish an International Center for Aquaculture here.

The impact of this program will be felt for years to come, it is hoped that many children yet unborn will avoid starvation because many years ago a man in Alabama wanted to go fishing.

If only all fishing trips were that successful.

THE KILLERS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. BOB WILSON. Mr. Speaker, an informative article, "The Killers!" appeared in the July 1970 issue of Naval Aviation News. The article concerns itself with the Navy's efforts to institute a mandatory drug education program for preventing and eliminating drug abuse among its personnel. I am sure my colleagues in the House realize the severe problems of drug abuse today, and I hope they find the following story enlightening and thought-provoking.

THE KILLERS!

(By PH1 Robert E. Woods)

I don't really know how to go abough wrighing this letter, but I said I would so I will hope it is done right. I first starded smokeing weed with a gril who was four years older than me. The first time i smoked it was realy far out. I went home stoned on it and no one knew anythink and at the time that was great for me. A few weeks went by and one of my good friend was just getting stared by one of his biger borthers and in no time we were geting it by the pownds and selling it by the lids. Beside we could smoke as much as we could, after a wile we were smokeing 3 times a day every day. Then all of a sudden weed when dry and it wasent as cheap as it used to be. When we raised our price on it no one could aford to buy it and we whent out of bussiniss and that was guit a blow on us and we started robing womens hand bags to get the money for weed.

Some people say that weed doesent hooked people. Bull! after a while you get hooked in your mind like I mean I used to live untill the next day only to smoke more weed. After a while my mother found out I used the stuff and I starded useing vizine in my eyes and the took out all the redness. And I was able to tell her I quit.

Then one day she found a lid in my pillow and I told here it was a fake to get off the hook. That night I ran away and went to big sir and spent the night. The next day I went to San D. on my way to Mexico. When I was hitchhiking I got to thinking that I was going to be a nobody if I dont go thow high school and there anit no way so I called home and stared on my way when I meet you.

(The above letter, received by a San Diego, Calif., school teacher, was written by a 14-year-old marijuana user. The teacher put the boy on an airplane for his home in San Francisco. The letter appears as it was written.)

The average drug user in the Navy is on his first enlistment, usually nonrated, unmarried, a high school dropout and 20 years old. However, the age group ranges between 18 and 23. Some of the brighter ones had three to nine months of college before they dropped out. Further, they are almost invariably service school dropouts. Sixty percent of Navy drug users began using drugs prior to enlistment and are, therefore, fraudulent enlistees, having concealed the fact upon enlistment. The Navy has recognized the problem. The Secretary of the Navy has directed (SecNav Directive 6710.1A) commanding officers to institute a mandatory drug education program for preventing and eliminating drug abuse within their commands and to report the results to the Secretary of the Navy and the Chief of Naval Operations by letter. Additionally, Chaplains have established workshops to deal with the problem.

In 1963, 30 men were discharged for drug abuse. The figures for subsequent years have continued to rise. Last year, 3,808 men were discharged for illegal drug use.

Drug abuse is a tragic and growing problem. We can think of nothing more potentially dangerous than a man on drugs working around airplanes. *NANews'* purpose in preventing these articles is twofold. We are concerned about the young man who may be contemplating drug experimentation. We urge him not to. And we are concerned about what could happen on a flight deck, flight line or in an aircraft where a drug user might be working. It is a chilling thought.

If we can reach one individual and stop him from drug experimentation, then it will have been worthwhile.

If you don't know how to smoke 'pot,' shoot 'speed,' or 'smash' or 'smack,' and if you don't know how to pop pills, I'm going to show you," EMC Donald F. Methlie told a group of Navy enlisted men. "I'm going to show you what it looks like, how much to pay for it, and where to get it. I want you to be informed."

Chief Methlie is not a drug pusher. He's a member of Cruiser-Destroyer Force, Pacific Fleet investigation team. Among his duties is the job of educating Navy personnel on the effects of drugs. The presentation is called, simply, *Drug Awareness*.

"We want to make the men aware of the narcotics problem, It's like sex: everybody knows about, but no one wants to talk about it," he said.

Society is experiencing a crisis with young people and the drug problem. The CruDesPac team is attemping to tell Navy men—the young 18–23-year-old non-rated, single men—how narcotics affect people.

"This problem doesn't have any social, economic, geographic or ethnic boundaries. It affects the rich as well as the poor; the Negro as well as the Caucasian," Methlie says.

In his presentation, Methlie holds a captive audience. His voice is strong, often to the yelling point, and the audience can't do anything but pay attention. Chief Methlie becomes very angry over drugs. He has seen what happens to young people who experiment with them. Periodically, he and other members of the team visit the Los Angeles Police Department Narcotics Division.

Methlie emphasizes he does not deal in fiction or philosophy, only facts.

"In 1967, the Naval Investigative Service Office (NIS) investigated 3,949 individuals for illegal drug use. In 1968, NIS investigated 7,771 men for drug abuse—a 98 percent increase over 1967. In the first eight months of 1969, we investigated 7,741 drug cases. We had another 100 percent increase last year," he said.

Marijuana, the most popular drug for beginners, can be both a depressant and a stimulant. Methlie calls it a "mood' narcotic.

"It depends on what mood the person is in when he uses it. If the user is happy, he becomes happier, and frequently forgets normal caution. If he is depressed, he will become more depressed, even to the point of suicide. An angry person will become angrier.

"A marijuana user normally is a gregarious individual; he likes company. A real user would 'blow grass' with his head in a plastic bag—if he could do it and still breathe."

Although marijuana is not physically addictive, a user may develop a psychological dependence on it. Users' behavior patterns, vision, timing and judgment are affected while under the influence of marijuana. Law enforcement agencies insist there is a definite relationship between marijuana use and violence.

The marijuana plant normally grows 12 to 15 feet high and looks like a tree. It will grow anywhere and, under optimum conditions, it may reach 20 to 25 feet.

The most characteristic thing about a marijuana plant is its leaf. It always has an odd number of leaflets and the bottom two point down. The leaflets are long and slender, pointed at the ends, with serrated edges. The buds and sticky residue from under the leaflets of the female plant are used to make hashish, the purest form of marijuana. Normally, when marijuana is purchased, it is made up of both the male and female plant parts and any other vegetable substance to make volume for sale. The user never knows what he is really getting.

Marijuana is one of the few plants not pollinated by insects—only by the wind. "A grasshopper won't attack this plant, a bug won't go after it, a bee won't pollinate it, but a sailor will smoke it!" Methlie exclaims.

Chief Methlie explains where marijuana comes from, how to manicure it, roll it into "joints" or "sticks," and how to ingest it by eating, drinking or, the most popular method, smoking. He compares marijuana with the use and abuse of alcohol and discusses how users use the comparison in their attempt to legalize marijuana.

"The important thing to note about marijuana is that it does have a mild hallucinogenic effect and it is the perfect vehicle for introducing someone to LSD or heroin," Methlie says.

The U.S. government and the military look upon the use and possession of marijuana as a felony. Military men stand the chance of general court-martial and a dishonorable discharge when they use illegal drugs.

The House Select Committee on Crime recently made public a report estimating six million Americans used marijuana in 1969, netting illegal traffickers $850 million. The committee figures are based on conservative estimates and the assumption that not all of the six million are habitual users. Some were "experimenters" and "social users." The report suggests that the sale of marijuana has become big business.

More important, and extremely more dangerous than marijuana, are stimulants and barbiturates. Of the two, barbiturates are the most potent and dangerous.

"We have a pill to take if you're not nervous—it will make you nervous. We are a nation of hypochondriacs," Methlie continues.

There are five or six million people in the United States on pills. The federal drug people say that last year alone there were four billion pills made illegally in this country.

Stimulants are nothing more than pick-me-ups, commonly called "co-pilots," "truck drivers" and "uppers"; they work on the central nervous system. They are subdivided into amphetamines and methamphetamines. The latter, and most potent, normally is called methadrine or "meth," "crystals" and "speed." It can be injected, eaten or sniffed. According to Methlie, most young users prefer to inject it. The current trend is to get a tattoo into which they can inject without leaving telltale marks.

"If the kid doesn't have a tattoo he will shoot between his toes, under his tongue or in his armpit. A girl will often shoot herself in the breast. Parents don't check these areas," Methlie says. "A person who shoots speed is about a quarter-inch from heroin."

Barbiturates or "barbs" are nothing more than sleeping pills or "downers." Users get "high" on downers by fighting sleep.

Chief Methlie cautions that just because a pill is a certain color, doesn't indicate what's in it.

"You don't know what's in the pill—so don't take it! I find it inconceivable that any American citizen with half a day's education would go anywhere in the world, take a pill and actually ingest it, not knowing what it is. Because it's red doesn't mean it's sodium seconal. Because it's yellow doesn't mean it's nembutal. Because it's blue doesn't mean it's ambutal. And because it's blue and red doesn't necessarily mean it is tuanaul (or rainbows). *So don't take it!*

"The guy I'm worried about is the 'ding-dong' who comes up with what they call the 'giddyap' and 'whoa.' That's when you mix an amphetamine with a barbiturate. And, buster, I'm telling you it's like jumping on a horse and saying giddyap and pulling on the reins and telling him to stop at the same time."

In explaining how popping pills becomes

habit forming, Methlie says, "More people in this country are killed by barbiturate poisoning than all the other poisons put together, with the exception of carbon monoxide. It is not unusual for a person to die coming through a withdrawal from barbiturates. It takes 7 to 21 days. The first thing affected is the respiratory system. Normally, on the seventh day, the user gets pneumonia."

Most users get started on drugs through association. Surprisingly, many children learn from their parents. They see mother pop a pill when she gets up in the morning to get started, during the day to keep going, and at bedtime to put her to sleep.

Marijuana and pills usually lead to heroin. White heroin, the most potent, comes from the Orient; brownish, from Central and South America; and grey from Europe. The heroin user always has a special kit, the same kit used to shoot speed. He has a tourniquet, a razor blade, an eye dropper with a needle, a bent spoon, matches, a piece of cotton and heroin. The razor blade is used instead of the needle when the addict is too shaky to get the needle into a vein—he simply cuts the vein and pours the heroin in. When shooting heroin, the "mainliner" has to inject into a main vein. He must get it into his blood stream.

"Can't you just see a guy, he just shot 70 bucks worth of 'smack' into his arm," Methlie lectures. "His arm feels great. His head is caving in, but his arm feels great."

Like the user who shoots "speed," heroin addicts will also get a tattoo in an attempt to conceal "track" marks.

Drug addicts think they are a closeknit group. Their kits are interchangeable. If one addict in the crowd has syphilis or hepatitis, everyone in the crowd will have it.

A heroin addict in New York City told a state legislative committee hearing on drug addiction how he stole pocketbooks, sold drugs in school and broke into apartments to support his habit. He had seen most of his friends on drugs and didn't want to be left out. He is 12 years old.

One of the most dangerous and exotic drugs on the market is the hallucinagent LSD, or d-lysergic acid diethylamide.

"LSD is a very, very potent and dangerous drug," Methlie says. "On LSD you can re-trip, or re-flash, up to two years after use. The Navy can't afford this. We also know that it causes users to become mentally deranged and remain so indefinitely. There is strong likelihood that chromosomal breakdown in the user's body can be passed from one generation to another."

LSD (acid) is a synthetic chemical compound derived from a rye culture which has no smell or taste and can't be seen. It normally is mixed with charcoal, milk, sugar or even a barbiturate. It frequently is sold in sugar cubes, chewing gum, mouthwash, or even on the back of postage stamps.

"One drop of blood contains approximately one million cells. All we need to take a trip on LSD is the equivalent weight of one of these cells. According to government estimates, a regular two-suit suitcase would contain enough LSD to trip the entire continents of North and South America," Methlie continues. "No one should use LSD without a 'travel agent' or 'guide' to make sure the user doesn't do any window jumping. We can almost guarantee you that if you have any suicidal tendencies and take LSD under a depressed state of mind, you'll try to take your life." Chief Methlie cites a recent case in which a girl, under an LSD re-flesh, killed herself by jumping from a window.

His presentation is strong. He wants to scare young people out of drug experimentation. He shows them what drugs look like and explains what they can do to a person.

"Now we want to enlist the aid of the young man in fighting this problem," Methlie concludes. "Without his help, we can't fight it. We must have the troops on our side."

TROOP WITHDRAWAL

HON. ELIGIO de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. DE LA GARZA. Mr. Speaker, at this time when the question of troop withdrawal from the Republic of Korea is so vital to all concerned, I feel that the following article from the Washington Post of July 11 should be of interest to all who are interested in the security and welfare of both our countries:

KOREA: A TEST OF THE NIXON DOCTRINE

At Guam a year ago President Nixon put Asian allies on notice that the United States meant to reduce its Pacific military posture, and since then informal talks on troop reductions have been going on with the Asian country which is, apart from South Vietnam, under the heaviest external threat—South Korea. It is no surprise in Seoul that the United States has decided to cut its two-division 60,000-man force down toward one division and 35,000 men next year. It surely is a surprise, however, to the many people in this country and elsewhere who had believed that South Korea's uniquely exposed position—facing a powerful and openly menacing North Korea—would make it about the last place in Asia that American troops might depart.

For any reduction to go safely forward, three things will be required; it would be best if the President himself were to make them clear. First, to reduce North Korea's temptation to prepare another attack, it must be demonstrated that Seoul is fit to carry the extra load. Second, to bolster the South Koreans' self-confidence as well as to compensate for a partial American withdrawal, their army must be adequately strengthened or "modernized," as the Pentagon likes to put it. Third, the United States must show—by disposition of its tactical air units elsewhere, by airlift exercises, by preparation of the division remaining in Korea, and so on—that it retains the will and capacity to make good on its treaty pledge to aid Korea in the event of an "armed attack." Careful retrenchment should be exactly that, not a guise for avoidance of responsibility or an inadvertent invitation to trouble.

Senator Tydings called on the President three months ago to implement in Korea the promise of troop extrication inherent in the Nixon Doctrine. He raised some interesting questions whose answering becomes topical now. Will the units removed from Korea be disbanded or simply stationed somewhere else? What will happen to the tactical nuclear weapons reportedly emplaced on the Korean peninsula as part of the local American deterrent? Is the particular division to be withdrawn the "tripwire" one on the front line or the one set farther back in reserve? The key difference, Mr. Tydings noted, is that troops in a location to be a "tripwire" make American battle involvement more certain but, for that very reason, deprive Congress (and even the President) of the option of deciding whether the country should go to war.

Americans paid dearly to turn back North Korea's invasion in the early 1950s and they have a special interest in seeing the South enjoy progress and peace. At the same time, the desire to adjust to new realities, both in foreign strategy and in home priorities, is very strong. This is why the administration's Korean plans have a particular sensitivity. Troop reduction there will provide the most important test so far of just how the Nixon Doctrine is to be translated from theory into practice. The manner in which a limited troop withdrawal is worked out with Korea and presented to the American people will be as important as the act itself.

DESPITE 12-YEAR ORDEAL, BISHOP WALSH IS IN GOOD CONDITION

HON. J. GLENN BEALL, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. BEALL of Maryland. Mr. Speaker, we were all pleased to learn recently that the Government of Communist China has released Bishop James Edward Walsh after a 12-year imprisonment in that country.

Bishop Walsh is a native of my home county in Maryland and I have known the Walsh family all of my life. I share with them their joy and thankfulness for Bishop Walsh's release. I know that this turn of events is particularly gratifying to the bishop's brothers and sisters.

Bishop Walsh's brother, the Honorable William C. Walsh, a former member of the Maryland Court of Appeals, traveled to China in the early 1960's to visit with his brother and I know that he is especially happy to be able to look forward to his brother's return to this country.

Because of the universal concern for Bishop Walsh's health, I am including in the RECORD information furnished me by the State Department on his condition. This information is in the form of a release from my office:

BEALL SAYS BISHOP WALSH'S HEALTH IS GOOD

WASHINGTON.—Congressman J. Glenn Beall, Jr. (R-6th-Md.) reported Friday that a State Department spokesman has assured him that Bishop James Edward Walsh is "in reasonably good health and is very lucid" following his release from 12 years of imprisonment in Red China.

"As a close friend and neighbor of the Bishop's family," Representative Beall said, "I have shared their profound concern for his well-being for many years. I am today delighted to report to the citizens of our state that despite his long ordeal, Bishop Walsh is in good health and should rejoin his family soon."

Congressman Beall said that the Roman Catholic prelate, a native of Cumberland, Maryland, is now undergoing a physical examination at the Maryknoll Hospital in Hong Kong, where he was freed yesterday.

According to the Sixth District Representative, American Consulate officials there report that Bishop Walsh has complained of a slight backache, a condition which his doctors feel will improve with rest, and that during 12 years in Communist prisons, he has lost only 10 pounds.

"Bishop Walsh is now awaiting instructions from Church officials," Congressman Beall said, "and he does plan to return to the United States in the near future."

The State Department spokesman informed Representative Beall that the Bishop was given a physical examination on July 8 and then, to his surprise, told to prepare to leave within 30 minutes. Taken to a railroad bridge which links the China mainland with British-held Hong Kong Island, Bishop Walsh walked unaided to freedom.

Representative Beall said that he was told that during his imprisonment, Bishop Walsh was not subjected to intensive interrogation or brutal treatment, and that he was not required to sign a confession or make a formal statement prior to his release.

CONSUMERS AND CHARTER FLIGHTS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. OTTINGER. Mr. Speaker, the CAB recently published a set of proposed new rules regarding charter flight organizing. On June 12, I filed my objection to this proposal, and since that time I have heard from numerous groups which would be adversely affected should these rules go into effect. One of the more interesting responses I have received is an analysis of the effect of the rules on consumers by Mr. Shelby Edward Southard of the Cooperative League of the U.S.A., and I insert Mr. Southard's background paper in full at this point in the RECORD.

A LOOK AT THE CONSUMER'S STAKE IN LOWER AIR FARES THROUGH GROUP CHARTER FLIGHTS

(By Shelby Edward Southard)

Many consumer organizations have brought the advantages of low-cost charter flights to their members by arranging for group travel at about one-half of the cost of an individual ticket on a scheduled flight. On June 2, a number of groups attending the Consumers Travel Conference in Columbus, Ohio, learned how these tour bargains could be made available to more organizations.

On the plus side, the President recently announced a new International Air Transport Policy, which calls for uniformity and simplification of charter rules, and states that "charter services have been useful in holding down fare and rate levels . . . they can provide low-cost transportation of a sort fitted to the needs of a significant portion of the traveling public."

On the minus side, and seemingly to fly in the face of the President's policy, the Civil Aeronautics Board is pushing for restrictions on low-cost travel which, if adopted, would sharply curtail inexpensive study and vacation charters.

At this point, Congressional action would seem to be the only hope consumers have for breaking this impasse between Administration policy and the rules of an independent regulatory agency.

Given this situation, it behooves all of us to let Congress know where we stand on this issue.

The Federal Aviation Act calls for "the promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices."

Despite this, one segment of the aviation industry—the charter specialists who offer low cost transportation—is threatened with proposed CAB rules and regulations that would sharply curtail the popular low-cost charter concept that was authorized by an Act of Congress. Many well-known American voluntary organizations—such as cooperatives, fraternal groups, trade unions, senior citizens, study groups of students and teachers, etc.—that now provide inexpensive travel programs for their members, would also be severely restricted under the proposed CAB rules.

The right to travel is a strongly-held American belief. And charter airlines—known as "supplementals"—have brought transportation to Americans at lower costs than have ever before been available.

America's airline industry has two classes of travel—individually-ticketed, regularly-scheduled service over set routes, and group charters. Under the charter rules, each flight operates under a separate agreement in which a group hires the plane for a trip to destination of its own choosing. Thousands of fraternal groups, employee organizations, professional societies, consumer organizations unions, and social clubs have enabled their members to enjoy such vacation wonders as Europe, the Caribbean, Hawaii and the Far East because charter travel brought the cost within range of modest budgets.

CONGRESS RECOGNIZED THE NEED

Charter specialist airlines were granted permanent operating authority by Congress in 1962. Ever since, these airlines—flying the same planes as scheduled airlines under the same federal safety regulations—have offered a new dimension in air transportation, bringing such trips within reach of moderate-income Americans.

In 1968, Congress recognized that the supplemental airlines had "become solid, responsible, safe and profitable business entities." It extended their authority to include a completely new type of charter, the inclusive tour (ITC). At that time the Assistant Secretary of Transportation said: "The supplemental carriers have provided the benefits and experience of air transportation to people who otherwise might not have traveled by air. The supplementals have provided a new degress of competitive endeavor which the scheduled airlines have been unwilling or unable to initiate despite encouragement by the (Civil Aeronautics) Board."

Here are some of different kinds of charter services:

Single Entity: A contracting party pays the entire cost of a planeload charter. Examples include athletic teams, "incentive" travel for company sales personnel, etc.

Affinity: An organization charters the plane and the cost is prorated among the members making the trip. This type of charter is governed by numerous regulations that limit eligibility to individuals (and their immediate families) who are bona fide members of social, religious, fraternal, education or employee associations, not organized primarily for the purpose of travel.

Inclusive Tour (ITC): Full or split-load charters to a tour operator who organizes and promotes the tour and arrange the charter. Clients pay the tour operator. CAB must approve the tour, which must have three stopping points and last at least seven days. The cost to the client must include all hotel accomodations and surface transportation and be at least 110 percent of the lowest available individually-ticketed scheduled fare over the route.

WHAT CONSUMER GROUPS SAID

In 1968 during Congressional hearings many consumer, trade union, agricultural, fraternal, cooperative and senior citizen groups filed statements or testified in favor of having the Civil Aeronautics Board revise and update its charter regulations. They proposed to broaden low cost jet air travel and bring it within reach of many more Americans who cannot now afford to fly.

In this they were supported by testimony from the President's Consumer Advisor, Miss Betty Furness, who pointed to the need for preserving competition. Her successor, Mrs. Virginia Knauer, also spoke up for the consumer interest in a letter earlier this year to the inter-agency task force working on a new international air travel policy—with what effect is not yet clear.

Charter fares average 50 percent lower than individually-ticketed coach fares on scheduled airlines. This proposal would make it possible for many more people to plan vacations and study tours to different parts of the world by giving them access to charter travel.

In its desire to simplify the rules and to make low cost travel available to even more Americans, the supplemental airlines suggested a number of changes in the now 11-year-old affinity group rules. Key points are summarized here:

Expand the definition of "immediate family" of a charter passenger to include all his dependents, all members of his household, and close relatives.

Permit "special event" charters for groups, such as to the annual Rose Bowl.

Allow charters to members of automobile associations, who are already knowledgeable about safe, insured, and low-cost land travel.

Permit the sale of up to 20 percent of the seats on a charter flight to friends of members of the chartering group.

Permit married students on a charter study tour to take members of their immediate families along with them.

RESPONSE OF CIVIL AERONAUTICS BOARD

But the Civil Aeronautics Board, rather than clarifying and simplifying its rules to broaden the opportunities for low cost charter air travel, now proposes to restrict it even further. Its proposal would eliminate many presently eligible groups from chartering trips for their members.

If the proposed rules are adopted, many clubs and organizations will find that they have taken their last modestly-priced vacation tour. And once the travel market has been given entirely over to the scheduled airlines it would not be long before their international price-fixing cartel—the International Air Transport Association (IATA)—would push international air fares upward. It has been demonstrated that only the availability of low cost fares through the charter airlines brings IATA-set fares down.

The public has long demanded low cost travel. But only when charter flights helped answer this demand did IATA come up with new group fares of its own. Some of these fares were designed only to deter groups from flying the charter airlines. Last year, at the very time they were announcing new lower-priced group fares, the IATA airlines also raised individual ticket prices by eliminating the traditional five percent discount on round-trip tickets. A CAB examiner recommended rejection. He was over-ruled by the Board.

Instead of clarifying its rules, CAB has proposed arbitrary standards to determine who may use affinity group charters. A large percentage of chartering organizations would automatically be ineligible for charter travel. Such long-established groups as the American Bar Association, the National Education Association, the Knights of Columbus, and B'nai B'rith would not be allowed to plan vacation charter trips for their members.

ORGANIZATIONS WITH MORE THAN 20,000 MEMBERS EXCLUDED

They would be denied this right because they have more than 20,000 members. In trying to screen out groups whose only purpose is to offer low cost travel (and which already are ineligible), the CAB has selected an arbitrary size to determine whether or not an organization is a bona fide "affinity group." A large organization that accepts a few too many members—no matter how well qualified—would find itself disqualified. Thus the government wishes to regulate voluntary organizations rather than airlines.

IATA, which never has encouraged low cost group travel tried to limit group sizes back in 1963. At that time the CAB refused to accept an identical membership size restriction on the grounds that it was adverse to the public interest.

In its stated desire to assure that only bona fide groups take advantage of charter travel, the CAB now proposes a number of other rule changes that would curtail the public's right to low cost travel. These changes are couched in phrases that suggest a belief that many persons who "should be" traveling as individuals are members of large organizations for the sole purpose of obtaining cheap fares.

Chartering organizations, under the planned rules, would also be limited to a total of 2,000 seats in a calendar year. This is equal to eight charters on a modern plane such as a stretch DC–8, and fewer on the new jumbo jets. It would not matter whether the trips were for college students planning to study abroad, for football fans with tickets to a Bowl game, or for vacationers wishing to attend EXPO '70. A large group simply could not charter more than 2,000 seats in any one year.

It should be noted that waivers may be sought for any of the charter rules. But since there are no clear-cut, objective standards covering such requests, members of charter groups would be allowing CAB staff members—who are elected by no one—to determine which of them may exercise their Constitutional right to travel.

Some of the other ways in which the CAB proposes to identify those groups which are qualified to charter seem equally strange, if not capricious. Groups which have more than one class of member with different dues rates would automatically be disqualified. Thus, the National Press Club would no longer be allowed to plan its annual members' charter to Europe. Organizations that elect officers and directors every three or four years instead of every two years, or whose officers are elected by the directors rather than directly by the members, would also be barred, no matter how reputable these groups might be. Agricultural and marketing cooperatives would no longer be allowed to schedule charter trips for their members because of the nature of their business.

RULES THREATEN TO MAKE CHARTER TRAVEL DIFFICULT

Most intelligent persons, before embarking on a major trip, would expect to know not only where the airplane was going, but also where they would stay and what they would see and do while on their vacation. One of the proposed new rules would bar an assisting travel agent from sending descriptions of available land tours to organization members until after they have signed up for the charter flight. The consumer would have to put his money on the line for the flight without knowing what the full costs would be for the tour.

Nor would travel agents be allowed to help small and inexperienced groups in preparing their required passenger lists. Organizing a charter trip would be made much more difficult, even when a group is clearly qualified. In the face of rising costs of printing, postage and office work, the CAB intends to place a limit of $4.00 per passenger on the amount of administrative expense allowed for organizing a trip. Present rules do not limit these expenses, but do require that receipts be filed if they are over $750 per planeload.

Under another planned rule, financial risk for acceptable groups would be greatly increased because they would not be allowed to solicit their own members until after a charter contract has been signed. Making it more difficult for organizations to provide charters for their members, another rule would ban solicitation across chapter lines. This would eliminate many small chapters of "charterworthy" organizations now able to fill a plane with their own chapter's members and those of the same organization in nearby chapters. Thus, CAB would restrict the very small as well as the very large groups.

With larger jets already in service, it is more difficult for chartering groups to fill a plane. When jets replaced smaller piston planes, the CAB recognized the problem and allowed up to three separate affinity groups—with at least 40 passengers each—to charter a single plane. The three group limit in a 400-seat jumbo jet would require the average group to have more than 125 members traveling together. In its proposed regulations, the CAB indicates it is willing to consider a relaxation of the three group limit, but does not clearly say it will.

During the heavy tourist season, one out of every five transatlantic travelers flies by charter. The present rules invite evasion, and are virtually impossible to police effectively because of the legitimate desire of people with modest means to seek the lowest fare.

COMPETITION HELPS HOLD DOWN FARES

The acceptance of charter travel has clearly established the public demand for additional low cost air transportation.

Where foreign airlines once dominated the transatlantic charter market, U.S. supplementals have contributed to a dramatic reversal in the trend. Their share of the charter market has climbed from 17 percent in 1963 to 50 percent last year, part of America's successful attempt to stop the gold flow from leaving our shores. During the same period, the total U.S. airlines' share of this market rose from 20 percent to 65 percent. The scheduled airlines have benefited from the growth of chartering, increasing their share from 5 percent in 1962 to 15 percent in 1969, a three-fold increase.

Secretary of Transportation John A. Volpe last year cited competition by the supplementals as being "largely responsible" for transatlantic air fare reductions which were announced in November, 1969 by IATA member airlines.

Secretary Volpe said: "It seems certain that they (the supplementals) have demonstrated a clear public need for their services. In the past they have accomodated a lower income market of people who would not otherwise be traveling abroad. And now, threatened with more widespread supplemental operations, the scheduled IATA carriers have been compelled to lower their group fares to a competitive level."

The Senate Commerce Committee, in a 1968 report, said the supplementals are "a permanent and integral part of the national air transportation system. They have actively promoted the airline charter business to the point where it is a growing means of travel for American citizens who otherwise would have been denied the opportunity to take low cost vacations by air."

HOW COMPETITION IS BEING STIFLED

Only six percent of Americans have ever been abroad and only 50 percent have ever traveled by air. Despite the vast untapped millions of potential passengers anxious to travel, the world's scheduled airlines and the foreign governments who control them have not been content to compete openly in the marketplace. They have consistently tried to eliminate low cost charter travel through restriction of landing rights at foreign airports, predatory and often discriminatory pricing, and archaic rules governing who may charter a plane.

Scheduled airlines are now using new low group rates (subsidized by increased regular fares) in a concerted effort to drive U. S. charter airlines from the skies. If they are allowed to succeed, they will have eliminated the only challenge to their monopolistic rate-setting system.

The president of one foreign scheduled airline said of the supplementals: "They cater to the cheapest possible traveler and thus lower the yields of the domestic tourist industry." There is a strong suspicion that if IATA succeeds in eliminating the supplementals, scheduled carriers would find it "necessary" to considerably increase their excursion and group fares and turn up their noses at the "cheapest possible traveler."

With most members of IATA government-owned, it has been easy to make the drive political as well as economic. Some European carriers have been successful in pressuring their governments to restrict landing rights for supplementals.

But who really suffers by this economic warfare? First, of course, the traveling public, which either pays more or is limited in its choice of destination.

CONGRESSIONAL ACTION ON AVIATION POLICY

The consumer clearly has a stake in low-cost air travel. This right must be assured by Congressional enactment of a national aviation policy. This policy must recognize the concept of a total U.S. air transportation system that includes both the scheduled airlines, which specialize in individually-ticketed service, and supplemental carriers, which specialize in group transportation—charter flights at low fares. Such a policy, backed by U.S. government support for charter airline rights abroad, would broaden the base of the market to include millions of moderate income travelers who fly infrequently or not at all.

At the same time, what is urgently needed is a simplified, easily understood set of rules which would make low cost charter travel available to as many Americans as possible. Simplified, fair and easily enforceable rules would discourage cheating by the public. Group travel is in itself a restriction that is clearly distinguishable from individually-ticketed fares. This simple criteria would preserve the distinction between charter or group services, on the one hand, and individually-ticketed scheduled services, on the other.

Instead of proposing rules that deprive millions of Americans of charter flight opportunities, the government should adopt a policy and rules that make charter transportation more widely available, and on a more equitable basis for all Americans. In a nation where equality of opportunity is a national goal, the right to travel should not be abridged by arbitrary and irrelevant standards such as the size of an organization, or the date on which it elects its officers.

The entire U.S. aviation industry will be better served if our regulatory agencies adopt rules that keep air travel from becoming the exclusive preserve of the rich, the expense-account business traveler, and the jet-setter.

GALLUP POLL RESULTS FOR NATIONAL SERVICE ACT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. BINGHAM. Mr. Speaker. On Monday, July 6, I placed an article from the Washington Post in the RECORD which reported a Gallup poll that showed 71 percent of the national population supports the National Service Act of 1970, which I introduced on June 10, with bi-partisan support.

I have now received a detailed breakdown of this poll from Mr. Gallup, Jr. This breakdown shows that this bill (H.R. 18025) has strong support in all parts of the country and among all groups of people.

The Gallup poll breakdown follows:

RESULTS OF GALLUP POLL

Question: Congress is now considering a proposal to replace the Selective Service System—that is, the draft—with a National Service System. Under this system a young man of 18 could choose to do any one of these three things: (1) He could volunteer for military service, (2) he could volunteer for civilian service—for example, helping in hospitals, teaching school, working in programs like VISTA, or (3) he could take his chances on being drafted.

How does this plan sound to you? Would you like your Congressman to vote for or against this proposal?

[In percent]

	Vote for	Against	Do not know/no answer
National	71	20	9
Sex:			
Men	68	25	7
Women	74	15	11
Age:			
21 to 29 years	80	18	2
30 to 49 years	69	23	8
50 years and older	68	19	13
Region:			
East	72	19	9
Midwest	74	19	7
South	69	21	10
West	68	23	9
Religion:			
Protestant	70	21	9
Roman Catholic	73	18	9
Jewish	86	9	5
Occupation:			
Professional and business	75	18	7
Clerical and sales	82	16	2
Manual labor	70	24	6
Farmers	59	26	15
Political party:			
Republicans	75	17	8
Democrats	71	19	10
Independents	69	24	7

WISE RULING ON BONDS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. EDWARDS of California. Mr. Speaker, I would like to call attention to the recent California Supreme Court ruling voiding the State requirement for two-thirds approval of all bond issues by the voters of California. I would like to recommend an editorial in the News Register of Fremont, Calif., published by Abe Kofman, which has an excellent discussion of the ruling, to my colleagues and request that this essay be inserted in the RECORD because it is such a fine piece and deserves our recognition and attention:

"THE PEOPLE NEVER SURRENDER THEIR RIGHT TO KNOW"

(By Abe Kofman)

A JUST DECISION

In voiding the clause in the state constitution requiring a two-thirds affirmative vote for passage of local bond issues, the California Supreme Court has brought that particular part of the constitution into the 20th century.

For nearly 100 years in this state it has been the rule that approval of local bond issues is dependent on a two-thirds vote.

This requirement may have served a useful purpose when it was written into the constitution. Communication was slow, the educational level of the population was considerably lower.

But the provision long since has been an anachronism—California is one of only four states in the nation with that archaic provision.

The decision on the high court was unanimous to strike down the two-thirds rule—which means that among the jurists there was absolutely no doubt about the validity of the decision. The court observed that in states with a simple majority rule, there is no evidence of more frequent bond defaults, lower credit ratings, or "extravagant public projects."

The court found that the two-thirds requirement in fact amounted to special privilege for negative voters—giving them twice the voting power of affirmative voters. This violates the voter's right of equal protection under the law, the judges ruled.

It was paradoxical that the court declined to make the ruling retroactive to Nov. 1969, as sought by San Franciscans desirous of validating the majority approval of two bond propositions for financing schools and parks.

The ruling is being hailed with satisfaction by individuals and groups within communities who know the need for greater financing for schools, and who have lost out in recent years to self-styled "taxpayers rebellion" minority.

In terms of equity and maturity, the ruling cannot be faulted. In a sense, it becomes an extension of the one-man one-vote ruling which has served to make the franchise more meaningful to large segments of the population.

A GREAT UNDERSECRETARY OF STATE

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. WYMAN. Mr. Speaker, we have in the diplomatic service right now a distinguished gentleman from New Hampshire who would make an admirable successor to Secretary Richardson as Under Secretary of State. I refer to the Honorable Robert Hill of Littleton, N.H., our present Ambassador to Spain.

A former Ambassador to Mexico and prior to that to Costa Rica, Ambassador Hill is experienced in the requirements of the Department of State, yet hard-nosed enough to be able to contribute materially to the important responsibilities of the Under Secretaryship of a huge Government department that has baffled virtually all who have sought to restore it to the dignity, efficiency, and responsiveness so essential in affairs of State. The Ambassador is also of unimpeachable loyalty to President Nixon and his administration.

In this connection a recent column by the distinguished veteran reporter Ralph de Toledano, appearing last week in the Manchester, N.H., Union-Leader, is of interest:

VETERAN REPORTER FEELS ROBERT HILL BEST FOR UNDERSECRETARY: LITTLETON MAN PRIME STATE DEPARTMENT PROSPECT

(By Ralph de Toledano)

The White House is searching for a new undersecretary of state.

In some ways, this job is more important than head of the department. For while the Secretary occupies himself with high policy, it is the undersecretary who must keep the wheels of state rolling.

The President, of course, must be receiving advice from every friend, hanger-on, and political operator as to whom he should appoint—and to be quite candid about it, he does not need my suggestion as to who his nominee should be.

But for whatever it is worth, let me drop one name into the hopper. Having been for many years a State Department watcher, my choice may ring a few bells and open a few eyes.

He is Robert Hill of Littleton, N.H., now our Ambassador to Madrid, and one of the outstanding men in government service.

Never having met Ambassador Hill, I can lay claim to objectivity in proposing him. I have, however, observed Ambassador Hill from a distance and I earnestly believe that he would fit the job to a T.

Over the years, Mr. Hill has been one of those experts closest to Mr. Nixon on foreign policy. He was, in fact, one of the President's most trusted foreign policy advisers during the 1968 campaign. And before this, he had been one of those who rallied 'round the flag during the years of Mr. Nixon's incredible political comeback.

Bob Hill's life and background underscore his suitability for the important post of undersecretary of state. In the true-grit tradition, he worked his way through Dartmouth, first as a football star and then, when he was badly injured, digging ditches and playing poker.

This, in itself, was a good introduction to diplomacy.

To this, he can add such experience as a corporate stint with Grace Lines in Washington and as a staff member of the Senate Banking Committee, both of which taught him how to navigate the treacherous shoals of Capitol Hill.

His contacts with the intelligence community are also outstanding. He not only served the super-secret Office of Strategic Services, the precursor of the Central Intelligence Agency, but he also worked closely with other agencies in the years that followed.

As ambassador to Costa Rica, in the days of the great Communist push on Central America, he was one of those who gave significant backing to the late Ambassador Jack Peurifoy, who carried the burden in Guatemala of restoring democratic government to the embattled little republic.

As ambassador to Mexico, he was one of the few who understood precisely where Fidel Castro was heading—to the extent that the Castro underground put a price on his head.

Perhaps more important than Ambassador Hill's diplomatic attainments is his ability to work with people. During his days on the Hill, he shared the confidence of the late Senator Charles W. Tobey, of Sherman Adams, and of Senator Styles Bridges—all of whom were at sword's point with one another.

In a department as full of prima donnas as State, Bob Hill would bring order and system as well as the kind of political savvy so sadly lacking nowadays at Foggy Bottom.

As an outsider looking in, I am perhaps more interested in what Ambassador Hill could do to bring about the reorganization of the State Department which President Nixon promised but which he has so far been unable to attain.

A recent secret report prepared for the White House shows that there are 40 important jobs still held at the State Department by holdovers from the Kennedy Administration.

Those 40 men are completely out of step with the Nixon Administration, and, to date, they have sought to frustrate what the President and his advisers are trying to do—in the creation of a viable foreign policy for this country.

Under an Undersecretary like Bob Hill, they would either shape up or leave—and the country would benefit vastly from this.

Since he was posted to Madrid, Ambassador Hill has been doing an excellent job representing America's interest in a crucial geopolitical area.

But what Mr. Nixon needs far more than a first-class diplomat in Spain is a man of unquestioned loyalty to the Administration to bring about the changes in the State Department which, political observers agree, are long overdue.

SURVEY SHOWS THAT PEOPLE SUPPORT THEIR PRESIDENT

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. FISH. Mr. Speaker, as of mid-June, from the nearly twenty-four thousand residents of the 28th Congressional District of New York responding to my annual questionnaire, 58.82 percent of the women, and 66.51 percent of the men feel President Nixon is doing a satisfactory job.

I believe it is interesting to note, that by coincidence my annual questionnaire to the residents of the 28th District, was sent out just 2 days following the April 30, 1970 announcement by President Nixon of the move of our Armed Forces into Cambodia, with the bulk of the responses reaching my office during the hectic weeks immediately following that Cambodian thrust.

Considering the timing of the arrival of the questionnaire in the hands of the voters, I believe it is interesting to note that although, like most of my colleagues, at a time when my mail was running overwhelmingly against Cambodia, on a multiple choice question which allowed five alternatives 37.23 percent of the men, and 35.98 percent of the women indicate they favor the President's withdrawal and Vietnamization policy. Only 13.40 percent of the men and 12.91 percent of the women indicated they want immediate and unilateral withdrawal.

Mr. Speaker, under leave to extend my remarks in the CONGRESSIONAL RECORD, I would like to include the results of my annual questionnaire which was sent to all the postal patrons in the 28th Congressional District. In my opinion, the heavy response I received to the poll reflects a high level of interest from the people in my area on national affairs.

Complete results of this year's 28th District survey are as follows:

PART I (RESPONDENTS CHECKED 1 OF THE ALTERNATIVES)

[In percent]

	His	Hers
1. To combat inflation the President should—		
(a) Cut Federal spending	30.28	25.07
(b) Establish wage and price controls	21.84	17.62
(c) Cut Federal spending, establish wage and price controls and continue tight money policy	17.13	18.61
(d) Cut Federal spending and establish wage and price controls only	14.15	15.88
(e) Continue tight money policy only	6.46	6.46
(f) No response	9.93	16.13
2. To fight pollution the Congress should—		
(a) Enact the President's $10,000,000,000 clean-water program, plus national air quality standards	34.74	30.53
(b) Spend even more and pass stricter laws	35.49	34.25
(c) Leave the problems to the States	19.61	18.61
(d) No response	10.18	16.38
3. To end the war in Vietnam I favor—		
(a) President Nixon's phased withdrawal and Vietnamization	37.23	35.98
(b) Military escalation to win	20.10	14.15
(c) Total withdrawal by Dec. 30, 1970	16.38	16.88
Immediate unilateral withdrawal	13.40	12.91
(d) Unilateral cease fire and continued Vietnamization	4.22	4.77
(e) No response	8.69	15.39
4. The histroic American moon landings have sparked new debate on our space priorities. Should our space program be—		
(a) Reduced	36.48	43.43
(b) Continued at present rate	35.74	29.53
(c) Funded so this country retains space lead	19.36	12.41
(d) No response	8.44	14.64
5. To date the Nixon administration's performance has been—		
(d) Good	41.69	35.24
(b) Unsatisfactory	25.56	26.80
(c) Fair	24.82	23.58
(d) No response	7.94	14.40

PART II (RESPONDENTS CHECKED 3 OUT OF 8 ALTERNATIVES)

	His	Hers
1. We should spend more of the Federal tax dollar on—		
(a) Crime prevention	26.80	21.84
(b) Education	25.07	26.06
(c) Preservation of environment	15.39	14.40
(d) Other	32.74	37.70
2. We should spend less of the Federal tax dollar on—		
(a) Welfare and poverty	27.80	27.30
(b) Defense	27.30	25.81
(c) Education	16.63	12.66
(d) Other	28.27	34.23
3. To fight crime we need—		
(a) Harsher penalties	25.31	23.08
(b) More and better trained police	25.07	22.83
(c) Crackdown on organized crime	18.37	18.12
(d) Other	61.25	35.97
4. To meet increased postal costs we should—		
(a) First raise all junk mail to 1st class	73.45	72.46
(b) Raise 1st class mail to 8 cents	10.43	7.20
(c) Other	16.12	20.34

PART III

[In percent]

	Yes	No	No response
Do you favor—			
1. The Nixon welfare reform plan with work incentives and an income floor?			
His	68.74	15.64	15.64
Hers	63.78	11.67	24.57
2. The goal of draft abolition and development of an all-volunteer service?			
His	59.06	29.04	15.64
Hers	53.85	27.05	19.11
3. Continuation of present Federal farm-price support programs?			
His	20.85	62.54	16.63
Hers	18.86	56.58	24.57
4. Lowering the voting age to 18?			
His	39.56	51.75	8.71
Hers	38.71	45.41	15.88
5. A national health insurance program?			
His	50.13	36.73	13.15
Hers	47.40	33.26	19.36
6. Legislative prohibition against use of U.S. combat forces in Laos, Thailand, and Cambodia?			
His	35.24	52.61	12.16
Hers	38.22	40.95	20.85
7. Easing Federal minimum penalties for possession and use of marihuana?			
His	32.51	57.82	9.68
Hers	27.30	55.84	16.88
8. Legalizing abortion?			
His	66.00	23.09	10.92
Hers	59.06	22.83	18.12
9. The sale by the United States of airplanes and arms to Israel?			
His	48.89	34.50	16.63
Hers	39.95	37.47	22.58
10. Making bombing and bomb threats a Federal offense?			
His	82.39	5.46	12.16
Hers	75.93	4.72	19.36
11. The second stage ABM deployment?			
His	42.93	35.98	21.10
Hers	33.50	33.50	33.01
12. Legislation to liberalize controls of U.S. trade with Communist nations?			
His	44.28	39.80	15.92
Hers	38.81	37.81	23.39
13. Congressional inquiry into conduct of Justice Douglas?			
His	49.63	33.75	16.63
Hers	43.68	31.52	24.82

CONSUMER PROTECTION—LEGISLATION TO END THE SHRINKING BILLING PERIOD PROBLEM

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 13, 1970

Mr. RYAN. Mr. Speaker, I am today reintroducing, with 33 cosponsors, legislation to end the shrinking billing period problem—a problem which thousands of consumers experience daily.

Whether by inadvertence or by intention, creditors often send out their periodic billing statements at too late a date for their debtors to pay in time to avoid the imposition of finance charges. This practice—the shrinking billing period problem—is remedied by the legislation today being reintroduced.

My colleagues who have joined me in this bill are:

Mr. ASHLEY, of Ohio.
Mr. BROWN of Michigan.
Mr. BROWN of California.
Mr. BURTON of California.
Mr. CONYERS, of Michigan.
Mr. DADDARIO, of Connecticut.
Mr. DELLENBACK, of Oregon.
Mr. ESCH, of Michigan.
Mr. FARBSTEIN, of New York.
Mr. FEIGHAN, of Ohio.
Mr. FISH, of New York.
Mr. FRASER, of Minnesota.
Mr. HALPERN, of New York.
Mr. HARRINGTON, of Massachusetts.
Mr. HAWKINS, of California.
Mr. HOWARD, of New Jersey.
Mr. HUNGATE, of Missouri.
Mr. KOCH, of New York.
Mr. LOWENSTEIN, of New York.
Mr. LUKENS, of Ohio.
Mr. MIKVA, of Illinois.
Mr. MINK, of Hawaii.
Mr. MOORHEAD, of Pennsylvania.
Mr. MORSE, of Massachusetts.
Mr. MURPHY, of New York.
Mr. OTTINGER, of New York.
Mr. PODELL, of New York.
Mr. ROSENTHAL, of New York.
Mr. RUPPE, of Michigan.
Mr. ST GERMAIN, of Rhode Island.
Mr. TIERNAN, of Rhode Island.
Mr. TUNNEY, of California.
Mr. CHARLES WILSON of California.

The legislation which I and my 33 colleagues are introducing amends the Truth in Lending Act to prohibit finance charges under an open end credit plan from being imposed unless the outstanding balance upon which the finance charge is based is mailed at least 21 days prior to the date by which payment must be made in order to avoid imposition of that finance charge. Thereby, debtors are given a reasonable period of time within which to pay their bills.

At present, billing statements are often sent out just barely before, the payment due date. And, in fact, they are often sent out even after that date, as reported by the Federal Trade Commission, which, in its Consumer Credit Policy Statement Number 3, issued on April 30, 1970, and concerning the "shrinking billing period" problem, has stated:

> "The Federal Trade Commission has received many complaints from the public concerning the practice of some retailers who, in connection with revolving or "open end" credit accounts, send periodic billing statements several days or weeks after the billing date indicated on the statement.

Obviously, consumers who are perfectly willing to pay their bills are being penalized by this practice. If given sufficient notice of the amount they owe, they would readily pay promptly. Because they are not given this notice, they are forced—through no fault of their own—to experience the imposition of finance charges.

The Truth in Lending Act and implementing Regulation Z do not now set forth any specific time within which creditors are required to send billing statements to their customer. The legislation which I and my colleagues have today introduced closes this unwarranted gap, thereby ending an unjustifiable victimization of consumers.

QUESTIONNAIRE TO CONSTITUENTS

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. RUPPE. Mr. Speaker, each year, through a questionnaire I seek the views of my constituents in the 11th Congressional District of Michigan on a wide variety of problems facing northern Michigan and the Nation. Following are the results of my 1970 poll:

[In percent]

	Yes	No	Undecided
I. Domestic policy:			
1. If the present rate of inflation continues through the summer should the Government impose wage and price controls?	72	22	6
2. Should the Government reduce the severity of the penalty for personal use and possession of marihuana?	27	70	3
3. If an impeachment resolution to remove Justice William O. Douglas from the Supreme Court is reported to the House of Representatives, should I vote in favor of that resolution?	43	45	12
4. Do you support the new lottery system for drafting young men?	62	28	10
5. Do you favor eliminating deferments, including occupational and educational, from the draft system?	53	42	5
6. As a part of his antipollution program to clean America's waters, President Nixon proposed that $10,000,000,000 ($4,000,000,000 Federal share) be spent over the next 4 years for construction of waste treatment plants. Do you consider the amount of money recommended:			
Too much, 10 percent; about right, 46 percent; not enough, 43 percent; undecided, 1 percent.			
7. How would you rate the job President Nixon is doing on domestic affairs?			
Excellent, 9 percent; good, 34 percent; fair, 32 percent; poor, 24 percent; undecided, 1 percent.			
II. Northern Michigan highways:			
Our Federal and State Governments are considering a northern Michigan highway program. 2 major proposals have been suggested. The first is to build a high-speed, limited-access east-west interstate through the upper peninsula. The estimated cos t is about $350,000,000. The 2d is to use all available resources to upgrade existing roads and highways, and to create major trunklines from existing highways such as M-28, U.S. 41, and U.S. 2 in the upper peninsula and highways U.S. 23 and U.S. 131 in the lower peninsula. Which alternative would your prefer:			
1. An interstate highway through the upper peninsula? (25 percent).			
2. Upgrading present roads and highways and developing trunklines from existing highways? (73 percent). Undecided, 2 percent.			
III. Russia, China, and national defense:			
1. Do you approve of an ABM (antiballistic missile) defense system for the United States?	69	24	7
2. Do you believe the Red Chinese will represent a serious military threat to the United States?	61	33	6
3. Should the United States extend diplomatic recognition to Red China?	55	41	4
4. Do you support the current SALT (strategic arms limitations talks) negotiations with the Soviet Union?	74	20	6
IV. World trouble spots:			
1. Vietnam. To resolve the conflict in Vietnam should President Nixon:			
(a) Continue his course of gradual withdrawal, forcing the South Vietnamese to assume a larger role in the war? (59 percent).			
(b) Immediately withdraw all U.S. forces from Vietnam? (23 percent).			
(c) Turn the war over to the military Joint Chiefs of Staff—giving them the manpower and bombing authority they feel necessary? (17 percent). Undecided, 1 percent.			
2. Cambodia:			
(a) Do you support President Nixon's decision to commit ground troops against Communist sanctuaries and supply lines in Cambodia?	63	29	8
(b) Do you feel a firm time limit (that is, 6 to 8 weeks) should be placed on U.S. ground combat operations in Cambodia?	45	37	18
3. Middle East. Should the United States:			
(a) Give support to Israel—including military equipment?	32	53	15
(b) Give support to the Arab nations—including military equipment?	2	80	18
(c) Provide no arms, but have the 4 powers, (United States, France, Russia, Britain) work to achieve a settlement of the Arab/Israeli dispute?	63	22	15
(d) Adopt a strict hands-off policy?	25	40	35
4. President Nixon. How would you rate the President on his handling of foreign affairs?			
Excellent, 11 percent; good, 39 percent; fair, 29 percent; poor, 20 percent, undecided, 1 percent.			

RESEARCH AT CLEMSON UNIVERSITY

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. DORN. Mr. Speaker, a research team from Clemson University, located in my district in South Carolina, is presently exploring exciting new possibilities based on the idea of using okra gum as a friction-reducer. Applications of this procedure offer new hope for people suffering from high blood pressure and other circulatory disorders. The following article from the current issue of Clemson World details some aspects of experiments undertaken at Clemson with okra gum, and I commend this excellent summary to the attention of Members of Congress and the American public:

RESEARCH AT CLEMSON UNIVERSITY

CLEMSON, S.C.—People suffering from certain types of high blood pressure may soon get relief from the lowly okra plant—not by eating it, but by having okra gum injected into their bloodstreams.

The possibility is being explored by a Clemson University research team which has discovered that tiny quantities of okra gum, a slimy fluid derived from crushed okra stems, can make water and other liquids flow faster in pipes.

The gum acts as a friction-reducer by cutting down on the turbulence, or agitation in a fast flowing liquid, the researchers say.

Their experiments have already shown that okra gum, which is compatible with human blood, greatly reduces the pressure required to pump beef blood through a tube.

The team is planning further experiments with equipment that simulates the human circulatory system.

"A suitable friction-reducer could prove extremely useful in treating high blood pressure, atherosclerosis and helping prevent hemolysis, the destruction of blood cells by blood turbulence," says Dr. Walter E. Castro, fluid mechanics engineer in charge of the research.

Many substances have this unique friction-reducing characteristic, including many synthetics and natural materials like locust bean gum and Irish moss (a form of seaweed), says Castro.

"Using concentrations of okra gum in water of about 25 weight parts per million (wppm), we have gotten friction reduction of up to 80 per cent, which is comparable to the best friction-reducing additives in use today," he says.

A concentration of 25 wppm is approximately equal to the amount of soluble okra gum that can be piled on one side of a nickel, then poured into 200 gallons of water.

Friction-reducing additives already have a wide variety of important applications other than possible medical use as blood flow controllers.

They can be used to get great bursts of speed out of ships like ice breakers and rescue boats, to put out fires quickly by getting more water faster through fire hoses, and to greatly expand the capacity of irrigation and sewage piping systems.

At at least one other institution, engineers are attempting to ease blood flow with friction-reducing chemicals, but their experiments are with synthetic materials, says Castro.

"All such additives will eventually break down in the bloodstream, but when okra gum breaks down, it has the advantage of serving a useful purpose as a natural food substance, like glucose," he says.

The idea of using okra gum as a friction-reducer occurred four year ago when Castro and an associate were discussing friction-reducers, most of which are high molecular weight polymers composed of long chains of tightly linked molecules.

"We noted that these polymers are very sticky when slightly wet," says Castro. "We suddenly realized that okra has this same thickness, so we bought some okra, boiled it and filtered the mash, and made initial tests to see how the gum would affect water flow in a pipe."

They found that small amounts of the okra gum produced tremendous friction-reduction. A grant from the Water Resources Research Institute at Clemson funded their study of okra gum during the next three years.

The jump from water pipes to blood vessels was a logical step after they discovered that a Marquette University medical researcher had used okra gum as a blood plasma substitute, proving its compatibility with human blood.

The next phase of the research will be conducted by a multidisciplinary task force composed of Dr. Castro, whose specialty is fluid mechanics; a veterinarian, Dr. Barry W. Sauer; and a polymer chemist, Dr. Michael J. Eitel.

They will investigate the effects of the additive on blood flow in a simulated human blood system. They also will try to develop a way to stabilize okra gum's molecular structure to prolong its effectiveness in the blood stream.

ATTITUDE CHANGE IN CORRECTIONS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. PEPPER. Mr. Speaker, I returned yesterday from a 5-day tour of seven juvenile corrections facilities in five States as part of the work of the Select Committee on Crime in the area of street crime and juvenile justice. The situation generally in our correctional institutions is deplorable, but there are rays of hope. There are institutions which are seeking to change the attitudes of the inmates through guided group interaction and other imaginative programs.

Somewhat later I hope to make a report on general conditions in juvenile corrections, based upon the observations of the Crime Committee members who participated in the tour and on the work of our staff in this vital area. It is my hope that we will also be able to make meaningful recommendations for action by the House of Representatives and by States and local governments.

I was reminded, however, during the tour of an experience which I had earlier this year in a visit to an adult correctional facility—the Shelby County Penal Farm in Memphis, Tenn. It was my privilege to witness there the results of a very imaginative attitude-changing program and to speak to the first graduating class of inmates who have undergone this training. I believe my remarks on that occasion which indicate something of the nature of the correctional problem we face and also my belief, strengthened now by my latest tour, that it is possible to change attitude and produce correctional institutions that really correct. I request permission to insert my remarks at this point:

INMATES OF SHELBY COUNTY PENAL FARM

Mr. Chairman, the honorable executives, distinguished commissioners, and other officials guests; ladies and gentlemen—all:

I have attended many commencement exercises in my life, and I've made many commencement speeches. But, heretofore, I've usually been speaking to a group of young people who are going off into the experience of life. This evening, I'm speaking to a group of gentlemen—I observe that they are mostly young—who are not only going out into the experience of life, but going out soon into the enjoyment of freedom, and you are engaged in preparing yourselves for that challenge and opportunity.

I am Chairman, as has been indicated, of the Select Committee on Crime in the House of Representatives of our Congress. Our Committee is trying to find ways and means by which we may propose legislation to the Congress, or advocate policies for our federal government, which will reduce the terrifying volume of crime which is inflicted upon our fellow citizens in this country, the rate of which is generally rising all over our land. And the people are concerned about it. Only yesterday afternoon, we passed in the House of Representatives a very stern severe bill governing the administrative procedures for the prosecution of crime in the District of Columbia, where crime has been increasing over the last few years. We are all concerned about how we can reduce the numbers of those who commit crimes; who take the lives of our fellow citizens' deprive them of their property; invade their rights; take away from them their freedom.

And one of the areas in which our Committee is principally interested is that of the correctional institutions of our country.

The Chief Justice of the United States, speaking only a little while ago before the Association of the Bar of New York City, said that 75 percent of the people who have been incarcerated in our correctional institutions—once the doors are open—once they walk out into the thrill of freedom—stay out only a short time before they are returned to the halls of the institutions from which they so recently departed.

Now the Shelby program which we are here this evening to observe and which is so interesting to me and to my Committee, is a program, as I understand it, which tries to do something to the heart of the man who is in a correctional institution—in this institution. It tries to do something to build the determination of a man who has been deprived of his liberties for some offense that he committed. It tries to do something for the will of the individual, and to bring into that man's mind and heart an unrelenting, unfaltering, unfailing effort to enjoy the freedom which he will soon come to have; to become a useful and constructive citizen; and to enjoy some of the great blessings that this wonderful land of ours offers to those who are willing and disposed to take advantage of them. The frustrations that people feel can be overcome by confidence; in your case, by the knowledge of skills acquired here, if you didn't possess them previously; the determination to succeed, the unwillingness to accept failure.

This afternoon, I was holding hearings with my Committee Members in the City of Baltimore, and we had three witnesses whom a lot of our people in this country would like to have seen and heard. One of them was Jim Parker, the great offensive lineman of the Baltimore Colts for eleven years. Another was Lenny Moore, another great player on the Colts team, and the third man was Ordell Brasse. They were giving their testimony, because our subject was youth crime, to a panel of young people we had brought together to get their points of view, to give us their attitudes, and to come up with any suggestions they might offer as to how crime, which is so prevalent among young people, could be reduced in our country today. And one of the things that one of these nationally recognized and honored football players said was, "Never give up; never get discouraged; never lose faith."

This fellow said, "When I first started to play football, I stayed on the bench, and the coach would send in one man after another until he got down to me; then he'd go back and start at the top again. And the next time we were in trouble and the coach was sending in players and replacements, I'd see one after another down the line go into the game, and I'd just be sitting there, so tense, waiting for the man moving down the line to come to me—when he'd get down to me—he'd start back over the head of the line again." He said, "I was very much discouraged, but I got hold of myself, and I said —well, there will be a day when he'll get down to me if I just keep playing my heart out every time I get a chance to go out on that field."

He became, of course, an All-American, and is now on one of the great teams of this country, the Baltimore Colts.

On the other hand, some of these young people there today said: "Is there any reason why a black boy in Baltimore should get a high school education? What reason is there? What hope is there for him?" And another witness told us that over 40 percent of the young people in the ninth grade in one of those Baltimore schools dropped out this year.

What a tragedy—for them and for their cities, and for their states, and for their country.

In this competitive world in which we live—when skill is so much in demand; when you have to compete wtih so many people who have been trained, have gotten an education—how serious and grievous is the handicap of the boy or the girl who doesn't have an education.

Another one of these young people said, "Well, I graduated from high school, but I haven't been able to get a job, although I made good grades—I made a B while I was in high school. A lot of these boys are dropouts and get just as good jobs as I can get now; why should I graduate from high school?"

I said, "I'll tell you why. You have told me that you didn't try in a great many places to get a job; but just suppose that you started off on the same level with one of these dropouts.

"Do you think you could get ahead of him in a little while—with better education than he has? If you really set your head to it? If you're really determined to do so?"

I said, "When the people are promoted—you and that other man who got the same job and started in at the same time, and worked for that same employer—as they start to make promotions they'll generally begin to pick the ones who are the best qualified; the ones who can learn to do the job the better way—and there's where your education would come in as a benefit to you."

And I want to say to you men, who are here, for the time being, in this institution; "Don't be one of those in the 75 percent—one of the three out of every four who are finally separated from the institution who come back."

Those are the statistics. There may be some of you here now who fall in this group. I understand from some of the gentlemen who drove me out, that the rate of recidivism here is 70 percent—70 percent, gentlemen. It means that three out of every four of you who are here now have already been out and come back. You'd hardly believe it possible, would you?

Just think of it. Don't you enjoy the free air? The beauty of your city—or your state—or your country? Don't you desire the association of family and home and friendship of your own choosing? Don't you love the right to go where you want to go—when you want to go? Don't you like to be able to choose your own recreation? Don't you like to have the privilege of doing what you like to do and not what has to be a part of a program? Aren't you really capable of making your way in that world out there—and becoming one of the people who would be regarded as a successful person—holding a good job—making a good salary—driving a good automobile—wearing good clothes—living in an attractive home—providing well for your family and those you love? Aren't those things enough to make a man want to try to take advantage of the opportunity of freedom and liberty—and become a good, constructive, happy and satisfied—citizen of this country?

That's what this program is designed to do—to arouse and renew this determination: *"I will not come back*—because I like it out there."

Now, you could make a good living—everyone of you men here I can see this. I was very much impressed by the intelligence—the personality—of the gentlemen I have seen and met here this evening. There's not a man here this evening within the sound of my voice who isn't capable of doing a good job, of being a respected citizen, or earning a good salary, and of living well, on the outside. There's just one thing he needs, and that is to want to do it.

Success, you know, just doesn't come and jump on your back and put its arms around your neck and hold onto you in spite of your efforts to get away from it or run out from under it. That isn't the way success operates. You have to chase it a little, you know. You have to run after it. You have to want it. You have to appreciate it. You have to value it enough in order to bring it within your grasp and within your enjoyment. Some of these young people who are coming along today—well, it seems to me, sometimes, that they don't really want to enjoy life.

I was born a poor boy on a farm in East Alabama, and I dare say a lot of these prominent citizens who are here this evening had humble beginnings in life. But, somehow, somebody lighted a spark in our minds and our hearts. We wanted to get out of the little communities in which we were born. We wanted to move into a larger circle of friends, to more satisfying and challenging activity—and, fortunately, we were able to get an education. I said in that Committee meeting this afternoon, "I often shudder to think of what would have happened to me, how empty my life would have been, if the Lord, and my good mother and father, and some good friends, had not helped me to get a good education that helped me to have a stimulating and happy life."

If you've been given good help, there's no reason why everybody in this country can't live a good life. Jobs can be found—and I'm advised that there's a group of private citizens who are publicly interested and concerned about your welfare—that is working with each one of you gentleman not only to help you while you're here, but to help you when you get out.

Go out and say, "Yes, I made a mistake once, but I'm not going to make that mistake again. I learned a lot up there. Somehow or another, I got hold of myself, up there, better than I ever have. For the first time in my life I've come to have purpose in my heart, purpose in my life. I want to do certain things. I want to accomplish something. I want to be somebody. I'm a new man because something has got hold of me that I haven't felt before. And I'm going on now—towards those stars out there. I think they're leading me into a happier experience than I've had before now."

And that's the best answer I know of to what we call recidivism—repeaters. I'm interested in this as a government official and as a citizen. I want to help the individual. At the same time I want to help the victims on whom they might inflict crime to be free of that potential injury if they went out and committed another offense.

I want to help my fellow citizen too. Let me tell you something, you younger men. These years are slipping away from you very fast. You don't realize it until you begin to get up into a higher age bracket. I'm 69 years old. And while I can cut a caper here if you want me to, I know that you live a lifetime before you realize it. I just want *you* to know that these years are important. And so are those years that you are going to start living when you get out of here, they're *important* years. Just make the best of them.

"I've known Allen Cherry for a long time—he's a fine, able gentleman. I've had a very happy experience with Mr. Kindig. I've known Paul Myers, who is the head of this company, for a long time. He's a genius in promoting—a genius in stirring people up and making them want to do things, trying to give them the keys to unlock the doors and the treasures of success. They are very capable people. This is the first institution, they tell me, that has tried this program. And they tell me that the reports that they are getting are very stimulating, that you can tell a difference in the attitude of these gentlemen who are taking this program. They, too, are beginning to find themselves awakened to new understanding and new determination, and to a new will to succeed. If you can do that with a program like this—if you can do it here in this institution—in Shelby County in Tennessee—you can do it in every institution in this country where men are confined. And if we can just cut down by 50 percent the number of repeaters, then think of the contribution we will have made to the country, not to speak of the happiness that would be in every one of those lives which wouldn't be there if they didn't have that successful experience when they go on the outside.

Now, gentlemen of this institution, you graduates whom I'm proud to see here this evening, and proud to see you receive these certificates.

Back in the days in Scandinavia when those brave and stout-hearted people went out in their little ships to ply the rough seas of the world—before they left their little home port, the story is—their minister would go aboard their vessel and he would call all those sailors around nearby and then he would give them what they called the "fisherman's benediction." As he stretched out his hand upon them—those rugged, strong men—he gave them this blessing: "May the Lord keep thee and bless thee; grant thee favoring winds, a safe voyage, and stout hearts for the storm." And I want to say to you graduates here this evening, "May the Lord bless thee and keep thee when you go out of this institution. May He grant you favoring winds of happiness and success. May He grant you safe harbors of security and may He give you stout hearts for the temptations and the struggles and the problems which will confront you, and with those stout hearts you can overcome."

Thank you and good luck to you all.

DAY OF PATRIOTISM

HON. WATKINS M. ABBITT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. ABBITT. Mr. Speaker, on July 4 this year, I had occasion to participate in the "Day of Patriotism" at Kenbridge, Va. This occasion was sponsored by the Jaycettes of Kenbridge. One year ago, the same group sponsored the first "Day of Patriotism" for Kenbridge. It was a wonderful event but this year the Jaycettes in conjunction with the Jaycees and other interested parties put on a great demonstration of patriotism second to none ever held in Southside Virginia.

I commend the sponsoring group for the great work it has done in the kindling of patriotism in the hearts and minds of our people and for bringing about a realization that America has a great heritage that we must protect and that we have a great Nation second to none. I feel that the entire Nation owes this group a debt of gratitude for sponsoring such a worthwhile undertaking and for sparking and renewing our faith in America and the great heritage we have.

The speaker of the occasion was an outstanding American, a native son who was born and raised in Kenbridge, educated at its high school and graduated from the Military Academy, Maj. Gen. S. E. Gee, U.S. Army, Commanding General, U.S. Army Physical Disability Agency, Washington, D.C. General Gee has served America in the Army in practically every capacity available. He has been a great soldier, a great patriot and a distinguished American. He brought a great message to those of us present at Kenbridge on the night of July 4th and because of the splendid message and my desire to make it available to others throughout America, I include it with my remarks to be published in the CONGRESSIONAL RECORD. Mr. Speaker, the address of General Gee is as follows:

NATIONAL WILL

(By Maj. Gen. S. E. Gee)

I thank you for inviting me to join with you in the celebration of this anniversary of our Day of Independence, proclaimed at Philadelphia on July 4, 1776. Especially, I desire to commend those who have planned, organized and participated in this day of patriotism in Kenbridge.

My topic this evening is inspired by our heritage and its relation to national will. National will is an intangible. It is the morale of a nation—the esprit de corps of a great people. It is a vital ingredient in national success. It is indispensable to national survival.

In just a few years, our country will observe the 200th anniversary of its birth. America is the first of the emerging nations. Ours has been the product of a determined national will.

Examples of this national will are found in each and every decade of our history since the first landings at Jamestown. An outstanding example was Valley Forge—a name that will live forever in our history. One historical description of Washington's Continental Army, 11,000 strong, moving into Valley Forge on December 19, 1777, is as follows:

"Toward this plateau the main army of the United States headed in December, as the air sharpened and powdery snow began to sift through pine and oak limbs . . . snow thickened, became stinging sleet, softened into pelting rain. The freeze came swiftly and the wretched, boggy roads stiffened into knife-ruts that slashed at rag-bound feet. Washington said, 'You might have tracked the army . . . to Valley Forge by the blood of their feet.'

"The main column reached the plateau on the afternoon of December 19, and exhausted, chilled men lurched to their camp sites and lighted fires.

"For rations they had only what they might scrape out of their haversacks; and soon even the fires became a menace, for all their cheerful glow. Broken boots dried too quickly, cracked and split. Foot-wrappings charred and fell away from bruised, bleeding soles. Nothing very much happened in the Valley Forge lines. Men simply set their teeth and stayed alive, and thus kept alive the army that was the active expression of their cause, quite unaware of the deep glory of what they did."

When spring came, more than 4,000 of these men were dead. Among those who survived were Captains John Marshall and James Monroe. Later to become Chief Justice and President, respectively. Our own Lunenburg County had four companies at Valley Forge. Out of about forty men in each company, one had only seven survivors. Another had only five. The roster of those companies read much as ours from Lunenburg would read today.

Listen to the names of but a few:

William Winn, John Thompson, Charles Maddox, William Slaughter, Thomas Wilkinson, James Johnson, Hugh Wallace, Dudley Terrell.

John Ragsdale, Isaac Allen, John Bailey, William Snead, William Gill, John Bell, Joseph Bishop, John Stokes, William Parrish.

Another example of national will was at Yorktown.

The army now had been seasoned by six bitter years of war. They, with the help of the French fleet, closed a circle around Cornwallis.

Under cover of darkness on the night of October 14, 1781, a unit of the Continental line quietly moved into position for an assault on the strongest point along the line, designated as Redoubt Ten. In order to achieve surprise, the commanding officer ordered that no muskets would be loaded and that the force storm the redoubt in a coordinated and carefully timed bayonet attack. After a fierce assault, the redoubt fell. Cornwallis' line then folded like an accordion. He had to surrender. The commander and leader of that assault was Lieutenant Colonel Alexander Hamilton. He later helped write our Constitution and became our first Secretary of the Treasury.

A company from Lunenburg and troops from other neighboring counties were most instrumental in driving Cornwallis into that trap.

It is a misnomer to refer to our war of independence as a revolution when compared to many other wars of revolution throughout the world. The others have been used for the purpose of establishing one person or group of persons in power. Then, by maintaining complete control over the military forces, they have stayed in power. Once this control was lost, then the heads would fall. The French Revolution ended in rule by Napoleon. The Russian Revolution supported the Bolsheviks—the Cuban supported Castro.

In contrast, our forefathers, wisely, directed that our military establishment ". . . support and defend the Constitution of the United States against *all* enemies, foreign and domestic . . ." The President is the commander-in-chief of the military forces. The Congress is charged with raising the forces and appropriating the necessary money. In short, the military in the United States supports not one individual or specific group but the Constitution of all the people of the United States.

Each generation has met the challenges of their time and has left our country a better place for their efforts.

I make no apologies for my own or that of my father's generation. I share in a sense of pride and accomplishment for the remarkable progress in my own lifetime.

Within five decades life expectancy has been increased by approximately fifty percent. The work day has been cut by a third, while the per capita output has more than doubled. We no longer fear epidemics of flu, typhus, diphtheria, smallpox, scarlet fever, mumps, polio, or tuberculosis.

During this time our people have lived through history's greatest depression. Many of them know what it is to be poor, cold and hungry. Because of this they were determined that following generations would have a better life, better schools, greater opportunities to succeed and follow one's life's ambition than they themselves had. Also, these people fought man's grisliest war and delivered mankind from the likes of the tyrant Hitler. They built thousands of schools, trained and hired tens of thousands of better teachers. Higher education has been made a real possibility for millions of youngsters—instead of the more prosperous few. A head start has been made in conservation, anti-pollution, and many other fields.

Of course, as always, there have been failures and there are jobs to complete and many yet to begin by those who follow. There are changes to be made, as always. Change just for the sake of change is false and dangerous. Change for the sake of progress and to enhance our heritage is proper. Sound procedures are established for such changes. But I pray to God Almighty that those who seek to bring about change will not destroy our country in the process.

It is one of the ironies of history that the times exact from each generation a special measure. This is true, especially today. There is great dissent and unrest in the land. But in our pursuit of dissent, let us not neglect our duty to those who protect the right of dissent or who serve our country in the field, nor abandon those who have fallen into enemy hands.

Our military forces are not in Vietnam by their own choosing. They are there because our duly constituted authorities have ordered them there. They face the most difficult task that is imposed on man—war on the battlefield. They are doing their duty to you and our Nation and will defend and die for us if need be. They are no less brave or determined than were those men at Valley Forge, Yorktown, Verdun, Guadalcanal, Normandy, or Heartbreak Ridge.

General Douglas MacArthur once told of a visit to his unit by the German Field Marshal Von Hindenberg shortly after World War I. Von Hindenberg said, "I predict that ultimately victory in war may depend largely upon the ability of civil populations to withstand attack. It will be a question of nerves. That nation will lose whose nerves will snap first."

May our nerves stay firm, and our courage never falter.

As part of our legacy from Philadelphia, we frequently quote the lines from the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness."

This is the part of the Declaration we like—"Pursuit of Happines." However, we often overlook the last line of that same declaration: "And for the support of this declaration, with a firm reliance on the protection of divine providence, we mutually pledge to each other our lives, our fortunes and our sacred honor."

Thank you.

NATIONAL SOJOURNERS, INC.

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. SIKES. Mr. Speaker, it is with pleasure that I submit for reprinting in the CONGRESSIONAL RECORD a resolution adopted at the 50th Golden Annual Convention of the National Sojourners, Inc., on June 24–27, 1970, in Columbus, Ohio, in support of the President of the United States by that patriotic organization in his Southeast Asia military and diplomatic actions and extending the appreciation of the National Sojourners to the National Guard and civil police of the various States for their work to protect life and property during recent civil disturbances.

The National Sojourners is a Masonically oriented fraternity composed of commissioned officers and warrant officers (past and present) of the uniformed forces of the United States of America. We perform an outstanding service for God and country:

Resolution Adopted By National Sojourners, Inc. Support of the President of the United States In His Southeast Asian Military and Diplomatic Actions

Whereas, National Sojourners, Inc., is a Masonically oriented fraternity composed of commissioned officers and warrant officers (past and present) of the uniformed forces of the United States of America, organized into chapters for, among other important things, the purpose of supporting all patriotic aims and activities in Mansonry, for developing true patriotism and Americanism throughout the Nation, for bringing together representatives of the uniformed forces of the United States (past and present) in a united effort to further the military need of National Defense, and for opposing any influence whatsoever calculated to weaken the national security; and

Whereas, the time is at hand when undue and unlawful pressures are being applied by radical elements of our society, through unlawful assemblies and demonstrations, riots and other violent disturbances, including the wanton destruction of private and public property, in a concerted effort to compel the President of the United States to withdraw our armed forces from Southeast Asia under circumstances and conditions constituting ignominious defeat for the United States; and

Whereas, the vast majority of National Sojourners by training and experience are knowledgeable in the strategic and tactical requirements for successful military operations, especially those pertaining to the safety of our own troops in the hazards of a withdrawal operation;

Therefore be it resolved that we, the delegates of the various chapters, at the annual convention of National Sojourners, Inc., assembled in Columbus, Ohio, this 26th day of June, 1970, again pledge ourselves and the members of our fraternity, individually and collectively, to the whole-hearted support of the President of the United States in his decision to seek out and destroy the sanctuaries of the Communist enemy in Cambodia; and

Be it further resolved that National Sojourners, individually and collectively, pledge that we shall continue to heartily support the President of the United States in whatever diplomatic, political and military actions he deems appropriate to bring the present conflict in Southeast Asia to a successful conclusion and to secure for ourselves and the peoples of the affected free countries, a just and lasting peace with honor; and

Be it further resolved that the original of this resolution shall be forwarded to the President of the United States, The Honorable Richard M. Nixon, The White House, Washington, D.C., and that copies hereof be sent to each of the Chairmen of the Armed Services Committees and the Foreign Relations Committees of both the Senate and the House, and to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, through our Congressional Liaison.

Adopted this 26th day of June, 1970, at Columbus, Ohio, in National Convention.

EXPRESSION OF APPRECIATION

Whereas, little or no recognition has been given to the National Guard and civil police of the several states for their honorable and selfless service when called upon by duly constituted authority to support and defend the Constitution of the United States and to protect life and property by upholding the laws of the land during recent civil disturbances;

Be it therefore resolved that National Sojourners, Incorporated, in National Convention assembled, express grateful appreciation and commendation to those devoted citizen-soldiers and law-enforcement officers for their devotion to the high ideals which have made this country great.

Be it further resolved that this resolution be forwarded to the President of the United States, The Honorable Richard M. Nixon, The White House, Washington, D.C., and to each of the Chairmen of the Armed Services Committees of both the Senate and the House of Representatives through our Congressional Liaison Officers, and to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Governors of the several states and to the Mayor of the District of Columbia.

Adopted this 27th day of June, 1970, at Columbus, Ohio, in National Convention.

HALF WAY—DUCKING ROLLCALLS NOT ONLY ESCAPE VALVE FOR GUN-SHY LAWMAKER

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. MOLLOHAN. Mr. Speaker, an end to secrecy in House proceedings is a necessity if we are to retain the public's trust.

An editorial in the Wheeling Intelligencer, one of West Virginia's most influential newspapers, offers a good background on the situation and possible solutions.

I urge my colleagues to read this editorial and search their own newspapers for similar pieces. The public is demanding change and we must not ignore it:

Half Way—Ducking Rollcalls Not Only Escape Valve of Gun-Shy Lawmaker

Under the rules of procedure in the House of Representatives rollcall votes are required when a bill is up for passage or on a motion to return to a Committee. Otherwise action, in most cases, is by voice vote.

Pointing out that important amendments, which in many instances change the character of a proposition altogether, thus are anonymously decided, a number of Congressmen are pressing for reform.

The Democratic Study Group, for example, which includes more than 100 Liberals, is promising an "all-out effort" to revise the voting system to the end that members be required to stand up and be counted.

Nor is the movement confined to Democratic Liberals. A group of 40 Democrats and Republicans, a Wall Street Journal account notes, has proposed that after defeat of an amendment on a voice vote 44 members could compel a roll call.

"Other reformers," the account related, "would simply adopt the British system of having clerks record names of members, rather than merely count 'yeas' and 'nays', as they pass through teller lines. This proposal would save some of the time consumed by roll calls which take up to 45 minutes each.

Anything designed to take the secrecy out of legislative procedure would be a step in the right direction. While they are about revising the rules to this end, however, the reformers would do well to give some heed to the cover-up aspects of the Committee system, which permits troublesome proposals to remain buried indefinitely. This fault could be corrected by requiring every Committee to release to the floor, with or without recommendation, every proposition referred to it, after reasonable opportunity to study the matter, with hearings if necessary, had been afforded. This—giving the whole membership the benefit of research otherwise impossible—is the function of a Committee. It is not, or should not be, a committee's purpose to decide the fate of proposals entrusted to it for study.

BASTILLE DAY

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. DADDARIO. Mr. Speaker, today, across the Nation, people of French extraction and all freedom loving Americans, are observing Bastille Day, the French national holiday commemorating the triumph of the French Revolution. I would like to take this opportunity to remember that event as well as the great contributions that France and her people have made toward the development of democracy throughout the world.

On this date, in 1789, the people of Paris assaulted the Bastille, the city's royal prison. Although few political prisoners were actually being held there at the time, the liberation of this traditional symbol of the monarchy's oppression of the people served as a great impetus to the revolution, and proved that it could in fact succeed against the hitherto impregnable monarchy.

Bastille Day, then, is remembered as a symbol of the spirit of the French Revolution, and of the democratic principles of liberty, equality, and fraternity which have guided the French Republic throughout its long history.

On Bastille Day, we celebrate a victory of the French people, but also of all those free peoples of the world who have evolved so many of their democratic ideals from the example of the French experience.

I am sure that all Americans join with me in commemoration of the achievements of French democracy, and in recognition of the accomplishments of the French people throughout history. Our two nations share a heritage of democratic traditions and mutual friendship in which both can take great pride.

FIFTH ANNIVERSARY OF THE OLDER AMERICANS ACT

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, today we observe the fifth anniversary of the signing of the Older Americans Act into law.

The administration on aging set up by the act has in these 5 years started to mobilize one of our great resources—older Americans—to serve themselves and their country with a longer and more active life.

To commemorate the progress that has made, I submit the following article from the June-July 1970, edition of Aging for the attention of my colleagues:

JULY 14 IS FIFTH ANNIVERSARY OF THE OLDER AMERICANS ACT

Five years ago on July 14 the Older Americans Act was signed into law.

The Act established the Administration on Aging within the Federal Government and authorized funds for research, demonstration, and training and for allotments to States for programs for older people.

Today 53 States and Territories have had their State plans approved and are operating such programs. State plan approval is expected for two additional States before July 14, 1970.

PRIORITIES FOR 1970

AoA priorities include:

Strengthened State agencies.

Development of more comprehensive coordinated local and State programs.

Use of talents, skills, and experience of older Americans in volunteer service and employment activities.

Inclusion of services for the elderly in the Model Cities program.

Improved nutrition and transportation.

Development of truly multipurpose senior centers as vehicles for delivery services and opportunities.

An all-out attack on isolation.

Development of a national policy on aging.

OPPORTUNITIES FOR OLDER PEOPLE

Everywhere possible AOA is working to encourage the use of the talents and experience of older people.

Through demonstration programs, AOA has shown the effectiveness of older people both as employees and volunteers in school programs, in library services, in community programs of many kinds. The foster grandparent successes testify eloquently to their abilities—to the truth of the assertion that people are a national resource.

The Foster Grandparent Program has possibly had a greater effect on the "image" of aging than any other single thing and it is now funded and operated by AOA as an on-going activity. The oldest foster grandparent is now 90 and working regularly 4 hours a day.

Recently, Commissioner on Aging John B. Martin and Robert D. Moran, Administrator of the Wage and Hour Division, Department of Labor, signed a Memorandum of Understanding agreeing to pool the resources of their agencies in Washington, the regions, and the States to fight discrimination in employment based on age.

SERVICES FOR OLDER PEOPLE

AOA has been working with the Department of Housing and Urban Development in its Model Cities program under a joint agreement to make certain that older people's needs and older people's abilities are considered in services planned and opportunities offered in every Model City.

With the U.S. Department of Agriculture and the Office of Economic Opportunity, AOA is working on ideas to improve the nutrition of older people and to extend the opportunity for them to use food stamps in a more meaningful way.

AOA was one of three agencies—the others from the Department of Housing and Urban Development and the Department of Transportation—funding a workshop on the transportation problems of older people late in May. The meeting is expected to result in greater knowledge and activity in this area and in recommendations for legislation.

Thirty-two projects have been funded under title IV of the Older Americans Act to test various methods for providing coordinated comprehensive community services for older people. Other title IV projects are concentrating on development of specific services.

For a fuller report on research, demonstration, and training during the first 5 years of the Older Americans Act, see page 10 of the May issue of *Aging*.

1971 WHITE HOUSE CONFERENCE

As America moves into the decade of the 70's, the President has called a White House Conference on Aging with the goal of bringing into being a more realistic and comprehensive national policy for older Americans.

The Conference will build on the results of the first White House Conference on Aging a decade ago which led to enactment of the Older Americans Act.

HON. THOMAS E. MORGAN

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. GAYDOS. Mr. Speaker, it is always a pleasure to commend an organization or an individual for an accomplishment which brings pride, enjoyment or has proven beneficial to other people in this Nation. It is doubly so when the recipient of such a commendation is not only a colleague in the House, but also a warm, personal friend, the Honorable THOMAS E. MORGAN.

"Doc" MORGAN, as we know him, has been cited by the Sokol U.S.A. one of the foremost gymnastic and physical education organizations in the United States. Delegates at the 23d national convention, held in Monessen, Pa., adopted a warm resolution praising Congressman MORGAN for his work as chairman of the House Committee on Foreign Affairs, particularly in regard to providing compassionate legislation for immigration to America for thousands of refugees and escapees from the captive nations of Europe. The principal speaker at that convention, incidentally, was another colleague of ours and close friend of mine, the Honorable JOHN H. DENT of Westmoreland County.

Mr. Speaker, I am proud of the Sokol, which was founded in the United States more than 100 years ago, for singling out "Doc" MORGAN for this special tribute and I take great pleasure in calling the attention of other colleagues in the House to the following Sokol resolution:

HON. THOMAS E. MORGAN

Be it resolved that the convening body of this 1970 National Convention of the SOKOL-USA unanimously recognize and pay tribute to the Honorable Dr. Thomas E. Morgan, Member of the U.S. House of Representatives from the 26th Congressional District of Pennsylvania.

During the post war years Congressman Morgan personally and unrelentlessly used the powers of his office to locate and establish communication with American Slovak families and their relatives in Czechoslovakia.

It was the leadership and the thoughtfulness of our friend Congressman Thomas E. Morgan that pressed the free world to be concerned for the welfare of the proud people of Czechoslovakia and other war torn nations of Europe.

It has been through the efforts of Congressman Morgan that much of the progress in visa and passport legislation has been made possible.

Congressman Morgan for more than a quarter of a century in the U.S. Congress has given his leadership and tireless efforts to providing compassionate legislation for immigration to America for thousands of refugees and escapees from the captive nations of Europe.

As Chairman of the powerful and prestigious House Committee on Foreign Affairs, Congressman Thomas E. Morgan continues to represent the true image of America—the image that brought so many of us and so many of our families to America and the privileges of freedom and democracy.

Therefore, let it be known that this convening body of the SOKOL expresses its deep appreciation for the guidance and affection given to our people by the Honorable Dr. Thomas E. Morgan.

DR. ALBERT TOMASULO

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. PEPPER. Mr. Speaker, there has been a great deal of concern among those who are dedicated to the best possible hospital services for the veterans of our country about the transfer by the Veterans' Administration of Dr. Albert Tomasulo, who has been head of the veterans hospital in Miami. The Honorable JAMES A. HALEY, chairman of the Subcommittee on Hospitals of the House Veterans Committee has called upon the Veterans' Administration for a report on the transfer of Dr. Tomasulo.

Many citizens have written me about the splendid service Dr. Tomasulo rendered to the veterans when he headed the hospital in Miami. He is a man of deep dedication to the cause of the veterans and strove in every way possible to see to it that the veterans got the best possible care. I do not want to pass judgment on the cause for Dr. Tomasulo's transfer until the able House Veterans Subcommittee on Hospitals has a report or findings about the matter. Of course, Congress could not and would not tolerate any member of a veterans hospital staff being transferred because he gave factual information about the quality of care rendered in a veterans hospital.

Mr. Hal Bergida, one of those concerned about Dr. Tomasulo's transfer, wrote about it in his column in the Miami Review of June 24, 1970. Mr. Speaker, I request that Mr. Bergida's remarks be inserted in the Record immediately following my remarks:

Dr. Albert Tomasulo

(By Hal Bergida)

Dr. Albert Tomasulo has been transferred to a beat in the far distant suburbs for telling the truth about the Veterans Administration and its hospital here. In typical immature, vicious and childish action the administrators of the VA have ordered the outspoken Tomasulo to the small installation at Bath, N.Y. You can be sure that when they replace him here it will be with a new director of the stripe that they like—formally official, close-mouthed, and more concerned about his job than the patients under his care. There aren't many 24-year veterans of the VA system with the courage Dr. Tomasulo showed in appearing before the House Veterans Affairs Hospital Subcommittee and telling them what the VA hospital system is really like.

The time is long overdue for a complete shakeup of the care given our veterans. Their broken bodies and minds do not belong in the hands of mean little bureaucrats and penny-pinching budget department scrooges. They have given of themselves and they now deserve the best that this nation can give them in return. Instead of pushing Dr. Tomasulo off to a small-town Siberia he should be kept here as a shining example of one decent administrator who had the courage to speak out for the benefit of the patients entrusted to him.

While the Congress is busy with wars in Asia, the many problems here at home and a possible summer adjournment, you would think that it still could find time to look after the Tomasulo's, not just for his problem in being transferred but in defense of what he has come to stand for in this matter of caring for those who cared enough to sacrifice for us. The time is long past due for the members of the Congress to step into the running of the VA system and give it a good housecleaning.

THE SQUEAKY WHEEL GETS THE GREASE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. ASHBROOK. Mr. Speaker, last week the House passed H.R. 279, the so-called Newspaper Preservation Act. In so doing they demonstrated once again that if an industry screams "wolf" loud enough, there are plenty who will rush to its rescue without first checking the validity of these cries.

Nicholas von Hoffman's July 13 column in the Washington Post effectively outlines that it is indeed the squeaky wheel that gets the grease. At this point I include excerpts from Mr. von Hoffman's article in the Record:

Newspaper Monopolies

(By Nicholas von Hoffman)

Last Wednesday, the day the House of Representatives voted to exempt the newspaper industry from the antitrust laws, you could see Secretary of Defense Melvin Laird out on the floor throwing handshakes and athlete's hugs at his old congressional buddies. It may have been a social call he was paying, or he may have been lobbying for a spare aircraft carrier, but whatever the reason for his presence this busy man had found time to talk to congressmen.

Spiro T. ("Ted") Agnew was not present, was not shaking legislative hands, was not lobbying against this bill which furthers the media concentration that our esteemed Vice President would have people think he objects to. The bill will make it legal for 44 newspapers in 22 cities to rig prices, divide markets and pool profits in the grand tradition of John D. Rockefeller the first. It will also permit any and all other newspapers to apply to the Justice Department for permission to do the same in the future.

The 44 newspapers which receive immediate permission to ignore the law that others must obey have been granted this privilege on the grounds that without it they will fail. The precedent is set; if business is bad, ask Congress to exempt you from free enterprise competition so you can enter into an agreement with your erstwhile commercial rivals to screw the consumer.

If the precedent holds you won't have to be going into bankruptcy, you'll only have to poor mouth and make it seem that you are. That's what these newspaper scalawags have done: made a loud noise about how poor they and their industry are.

Newspapers are not going out of business. There were, according to the testimony on this bill, 1,749 newspapers in America at the close of World War II. Twenty years later there were 1,754. During that time daily newspaper sales have grown by more than 10 million. And the advertising revenues? Up more than 400 per cent in the last generation so that last year they went over the $5 billion mark. New dailies are being started quite regularly, 33 in the past three years. This is not a moribund industry deserving special favors.

The case for the 44 newspapers which wanted this law because they've been operating with price fixing agreements is even shakier. Three of the beneficiaries of this legislative gratuity are The Birmingham Post-Herald, the Pittsburgh Press and the Evansville Press, owned by the Scripps-Howard organization which also owns 15 other newspapers, United Press International, United Features Syndicate, the Newspaper Enterprise Association (NEA), the World Almanac, five television stations and heavy investments in cable TV.

Another outfit that will directly profit from this law is the Newhouse newspaper chain which, according to testimony before the Senate's Antitrust Subcommittee, owns or has a heavy interest in at least eight newspapers and seven television stations. It's sometimes hard to be sure; the skein of corporate control can be so complex. In any event, Newhouse also has seven cable television companies, as well as Vogue, Mademoiselle, House & Garden, Glamour and Bride's magazines.

Other winners under this law are Hearst's many enterprises and John Knight's communications chain which reported first quarter revenues of over $60 million. If these are deserving candidates for exemption from the antimonopoly laws then what about dear, little DuPont and frail, fading General Electric?

Witnesses before the House committee which reported this monstrosity out onto the floor demonstrated that these collusive agreements cost us consumers not only in dollars but in a lower quality product. After the San Francisco Examiner and Chronicle got together to fix prices, advertising costs in the Chronicle nearly doubled. Beyond that, the newspapers were able to offer two-for-the-price-of-one advertising deals that drove a new, competitive daily out of town.

Although the bill's purpose is to save financially dying newspapers and promote news and editorial diversity, the truth is the Chronicle had $7 million in the bank when it signed its agreement with its competitor. Moreover, the quality of local news coverage in both papers has become so bad that the best and most reliable periodical in the city is The Bay Guardian, a monthly put out by one man and a bunch of volunteer helpers.

The greatest shame here isn't Agnew's or Congress's but the newspapers'. In their rectitude, they denounce everybody else's circumvention of the give and take of the free market. By forcing this piece of tacky legislation through, they've shown they're just as scurvy as the special interests they love to denounce.

There are some noble, ironic exceptions to this, the most conspicuous being The New Times which, unlike the Vice President, has spoken out against this new development in media concentration. (The Washington Post also editorialized against the Act.) Even the Justice Department, which doesn't do much right, fought it. But many newspapers have backed it or been silent. That will put them in a strange position when the printers' unions demand they be paid for the work machines do better and faster. If the publishers can violate the principles of free enterprise and live by legalized monopoly, why shouldn't the unions be just as economically irrational?

The papers will not only regret what they've done at the labor bargaining table but also in their dealings with the government. How free are they going to be when they are beholden to these same politicians for their abnormal profits? What they have done to themselves is far worse and far more worrisome than anything Agnew can do to them. Now they must live under the threat that this privilege may be taken away from them.

Perhaps the people in the newspaper industry can take some comfort in the fact that this vote showed that for a dying business they have awesome power. Members of the House of Representatives fought each other for a chance to vote for this bill, which wars against both liberal and conservative principles.

Only 87 congressmen had the guts to vote no. One of them was the black lady, liberal-radical from Bedford Stuyvesant, Shirley Chisholm, and another was John Rousselot, the John Birch Society man from Orange County, California. So who says the extremes can't unite in America? The problem is what do we do about the soggy middle?

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

WHAT'S RIGHT ABOUT AMERICA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. EDWARDS of California. Mr. Speaker, Rev. Karl E. Olson, minister of the Fremont Congregational Church, sent me a copy of his July 5 sermon on "What's Right About America." It is one of the finest statements on the meaning of America that I have read in many months. There being no objection, I am entering it in the RECORD so that Reverend Olson's message may have the widest possible audience:

"WHAT'S RIGHT ABOUT AMERICA"

An Independence Day sermon on July 5, 1970 at the Fremont Congregational Church (United Church of Christ), Fremont, California by the Reverend Karl E. Olson.

"Proclaim liberty throughout the land, to all the inhabitants thereof!"—Lev. 25:10

I love America! And because this Independence Sunday falls in a year when patriotism is being so hotly debated, it may be appropriate to share with you some personal thoughts on why I love my country. During the Talk-Back you may wish to share some of your own ideas on the same subject. And I am particularly happy this morning to declare some of my very affirmative and constructive feelings about America for I fear there may be some in America and even in this community who question the patriotism of persons who oppose certain governmental policies, and heaven knows that some of us have been cast into a seemingly negative role in recent years, much to our own dismay. Be that as it may, this morning I want to say a good word, many good words, about our nation.

I

Undoubtedly the first reason I, and surely many of you, love our country is the simple fact that it *is* our own. Most folks have a certain basic patriotism that holds regardless of the country's geography, economy, or type of government. They love it because it is familiar turf. Millions of Germans, for instance, fought for the Third Reich not because they were Nazis, agreed with Hitler, or hated the Jews or the Allies, but simply because Germany was their country, and they loved the Fatherland. Perhaps it is akin to the love many of us retain for the states from which we have come. These are places of memory and association. I still love the State of Michigan. Other things being equal I prefer to stay in California, but I still root for the Tigers! Last week when thousands of Italian-Americans staged a huge rally in New York City, one of the demonstrators carried a sign which read: "Italy—Love it and Left it!" I hope the time never comes when any of us will feel we have to leave America; but if we ever should, I'm sure we will still love it.

II

In addition to this rather accidental reason (the accident of birth) for being patriotic, I'd like to share some fundamental convictions about *what is right* about America. The first thing that's right is a long story, but I'll try to keep it brief. 194 years ago yesterday they rang a bell in Philadelphia, and on it you can still see the words boldly inscribed: "Proclaim liberty throughout the land, unto all the inhabitants!" That quotation wasn't from Thomas Jefferson or Benjamin Franklin, but from the Biblical book of Leviticus. And what an appropriate quotation it was, for it implied a certain parallel between ancient Israel and Eighteenth Century America.

Freedom-loving Israelites, perhaps as much as 18 centuries before Christ, left their homeland during a devastating drought and took temporary refuge in the fertile and prosperous Nile Valley. Egypt welcomed these industrious foreigners, so they stayed on for many generations. But with the passing of the years their lot became progressively more difficult. Many of them were reduced to the status of slaves. Freedom lost, they were forced to do the bidding of their masters and of the Pharaoh. But there still burned in their hearts the conviction that God called them to be free. They bided their time until at last there arose a great leader, Moses, who sparked a revolt and led his people in an exodus to freedom. This event remains to this day the central fact of all Jewish history and faith.

On reaching the Promised Land they settled down and began to prosper, at least many of them did. Their flocks multiplied, vineyards and trees bore good fruit, and fields yielded plentiful harvests. But there were always some upon whom fortune did not smile. When such were hard up they would borrow from the more prosperous. But the custom developed that if a man could not repay his debt he became the slave of his creditor, having mortgaged his freedom. And not only the debtor, but his wife and children as well. Once he became a slave there was virtually no way to regain his freedom, either for him or his descendants.

And so, according to the Leviticus account, the righteous and just God of Israel declared every 50 years to be a time of Jubilee. Trumpets were to be blown in every city and hamlet; debts were to be forgiven, land was to be restored, and all slaves were to be set free. "Proclaim liberty throughout the land," saith the Lord. He declared that slavery and subjugation were alien to His holy ways. That as He had given the nation freedom from bondage in Egypt, so was He now giving freedom to individuals.

This message was not lost on the architects of American independence. As they read their Bibles and used the good minds God had given them, they were convinced that God still desired man to be free. Indeed, that God had created man a free creature with such fundamental and inalienable rights (not privileges to be given or taken away) as life, liberty, and the quest for happiness. Further, that the sole excuse for the existence of government was to aid men in securing these rights. And, finally, if any particular government should prove a hindrance rather than a help in securing these blessings, it was both the right and duty of people to revolt and institute such new rule as would more nearly assist them in securing what God intended them to have. And that the legitimacy of a new government would rest not on any divine right of rulers, but upon the consent of the governed.

Such a conviction, spelled out in the Declaration of Independence, was the most radical doctrine of government in the history of mankind when it was written, and still is. If any of us were to attempt to spell out the fundamental basis for government, the chances are we couldn't come within a country mile of anything so inspired as that which Jefferson wrote and the Founding Fathers adopted back in 1776. From that basic document, and the convictions which underlay it, there has ensued the Constitution, Bill of Rights, and the whole American tradition of democratic and representative government. I wouldn't trade it for all the tea in China or gold in South Africa! This is the first and most fundamental thing that is right about America. To be true to the spirit of those original patriots we must everlastingly struggle to improve our democracy and enlarge the area of man's freedom.

III

Another thing that's right about America, to my mind, is really an accident to history. It just so happens that the United States is about as beautiful, varied, and interesting a country as exists on the face of the globe. Katherine Lee Bates, a Congregational Sunday School teacher, really described it, didn't she, when she wrote "Oh beautiful for spacious skies, for amber waves of grain, for purple mountain majesties above the fruited plain . . ."? Not only from "the redwood forests to the gulfstream waters", but from the rockbound coast of Maine to the coral shores of Guam, the tropic climes of the Caribbean to the arctic tundra of Alaska—what an immense and incomparable country! Its lakes and streams, forests and fields, mountains and meadows, deserts and valleys and cities and hamlets, truly a place that's right. And if we've so smogged the air that at times we can't even see our own Mission Peak, then that's our fault, not God's, and He's depending on us to put it right.

A third thing we appreciate about America is the opportunity it has afforded many of us to live "the good life," with material abundance and prosperity. Indeed, it was this very fact that originally brought many settlers to our shores. And, again, much of our prosperity is really due to a couple of accidents of history to which we have fortunately fallen heir. First of course was the unrivalled natural wealth of this particular piece of real estate between the Atlantic and Pacific Oceans. When the Pilgrims landed on Plymouth Rock they were entering a land of such fertile soil, bountiful game, and endless forests as they could scarcely imagine. An earth that would yield such gold and silver and iron and copper and coal and gas and oil as Europe had never known. And, second, those who first came to these shores, and by and large those who have followed them in the 3½ centuries since, have been intelligent, industrious, and courageous folk. The ones with gumption enough to sacrifice today for the sake of a better tomorrow. Given these kinds of folk, and this kind of natural resource, America could hardly have missed developing into a rich and prosperous country, whatever her form of government or economics. We still have a long way to go before our material prosperity is available equally to all, but given the incentive to do so, we have the means available to accomplish this purpose.

V

Still another important thing that's right about our country is our capacity for correction, progress, and improvement. We are not a nation which worships the status quo; rather, we have the ability and often the inclination constantly to seek improvement. Today, for instance, race is literally a burning issue. Things are not right for the black man, or the brown or yellow or red. But we must also bear in mind that they were once much worse. A time, for instance, when black men were lynched: literally taken away by mobs without a hearing or trial, and hanged from the nearest tree. Not just occasionally, but as often as once a week, somewhere in America. When? During the whole 70-year period of American history from the end of Reconstruction until 1950! 3,500 black Americans lynched in cold blood! We *have* progressed. Or, again, in the securing of political rights: as late as 1940 only 250,000 black citizens in the southern states were enfranchised to vote; in 30 years that number has increased twelve-fold. And with the greater franchise has come an immeasurable improvement in the opportunities for employment, education, and justice. We've come a long way. But we also have to remember, like the '49ers in the Nevada desert bound for California, if we stop now all is lost! They had the capacity to keep going 'til they reached their goal, and so do we; that's another of the "right things" about America. And not only in race relations but in every facet of our national life. What progress we have made in education, health, and concern for human welfare! The moral sensitivities of our people, combined with the democratic form of our government, have given us a natural penchant for progress and continual correction.

VI

The final "right thing" about America I have time to touch on today, and one of fundamental importance, is the fact that we are basically a peace-loving, a pacifistic people. Our nation, at least during much of its history, has been singularly free from the curse of militarism. We have had our lapses, of course: witness our subjugation of the Indians, our conquest of the Southwest, our involvement in the lands to the south of us. Yet by and large we have stood unique among the powers of the earth for our lack of militarism, for our peaceful relations with other peoples. This, too, was a powerful incentive for immigration to America. Peace-loving folks were naturally drawn to a land where military service was voluntary, not compulsory. In the whole history of our nation not a single man was ever drafted into peacetime military service until I was in theological seminary! This is the peace-loving America I love, and which I think still exists in the hearts of the silent majority of Americans. The free land to which men came who would not be subjugated to the conscription of a Bismarck or Czar, or even of democratic rulers. The policy of peace has historically been one of our proudest boasts. And it is right. Today it is both ironic and tragic that those who would practice this time-honored American virtue find their patriotism impugned, their loyalty questioned.

Rather might we question this recent change in direction which says we must maintain armed forces around the world, be prepared to pulverize any nation on earth, should use our armed strength to intimidate others into following our policies, that only by increasing our "defense" spending will we maintain prosperity, that top military brass should effectively control our foreign policy, that reversion to voluntary recruitment would somehow lay us open to dictatorship, and that three-quarters of all our federal spending should go for war.

This latter is the only America our youth have ever known. And if many of them don't like it, are struggling against it, we should recognize that at least they are in basic accord with the time-honored traditions of the peaceful America others of us still remember; that they are basically in revolt not against the nation, but against some of its policies. The America I love, which I hope you love, and which I think our youth dream of loving, is the America of compassion, not coercion; of friendship, not force; of peace, not pugnacity.

This, too, is one of the great things about America and her people. We will not let the militarist-minded hardhats claim our flag as their sole monopoly. For the flag, rightly understood, stands for all that's right in the American system and tradition. It denotes not the practice of lynching, but the Proclamation of Emancipation. It symbolizes the memory of the best that has been, the dream of the best that yet may be. There is much that is right about our nation, that makes us proud to be Americans. Let us ever "proclaim liberty throughout the land, unto all the inhabitants thereof"!

A JUDGE AND THE ESTABLISHMENT

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. WYMAN. Mr. Speaker, Judge Elwin L. Page of Concord, for many years an outstanding member of the supreme court of the Granite State, is famous for many accomplishments not the least of which is an extremely talented son, Robertson Page. Besides being an outstanding musician, banker, and financial counselor, he is also a writer of no mean repute.

Recently there appeared in the Boston Sunday Herald of June 14, 1970, an article by Robertson Page entitled "My Father and the Establishment." Within the context of these remarks is the core of much of the difficulty our Nation has been experiencing of late. Society must have an established order. It is of course subject to change and to improvement. The amendatory process is part of the genius of the Constitution. It is sad that many who deplore and denounce the establishment offer nothing in its place. Society without order is anarchy, no matter how desperately some of the modern protestors long for a condition of untrammeled license.

I believe readers of the RECORD would benefit from the opportunity to review Mr. Page's remarks which follow:

MY FATHER AND THE ESTABLISHMENT

(By Robertson Page)

WILLIAMSTOWN.—Yesterday my father celebrated his 79th reunion at Williams College.

Frail in body, but sturdy in spirit, he returned to the college he has loved for so many years. At the age of 94 he paid his own personal tribute to a past that one is tempted to equate with what is happening in America today.

There was no affluence for Elwin L. Page when he was an undergraduate. He waited on tables, serving the wealthier students in order to secure an education.

There was no time for protest. My father was too busy improving his mind. Moreover, he carried at all times a faith in America.

There was no urge for disruption or violence. He was, and is, a gentle man.

A poor boy who desperately wanted an education, he went on to graduate with honors and a Phi Beta Kappa key and received further distinctions at Harvard Law School.

Seventy years ago he voiced belief in "ecology," long before "S.D.S." discovered the word. As a very young man he was actively engaged in the conservation of our forestlands, a dedicated supporter of Theodore Roosevelt and John Muir in establishing the National Park Service.

In 1912 he backed the Bull Moose Party, a liberal cause close to his heart as a budding attorney in Concord, N.H.

A belief in what he calls "true liberalism" was a guiding light over the years. As a circuit judge on the Superior Court of New Hampshire he constantly upheld the rights of the voiceless. Later, on the state's Supreme Court, he wrote his proudest opinion, defending members of a religious sect who refused to salute the American Flag.

Yet that flag always waved at our home on each national holiday. In his quiet way, my father taught me respect and affection for our country that always will remain.

Perhaps his firm belief in America arises from a deep knowledge of its history. He is a Lincoln scholar of note and a life-long friend of the late and distinguished F. Lauriston Bullard of the Boston Herald. His written works on Mr. Lincoln, Mr. Washington and New Hampshire's Josiah Bartlett are known in college libraries—those that haven't been burned. He is a well-known member of the Boston "Lincoln Group."

My father has a self-effacing modesty, difficult to find in today's strident pretention. The idea of demanding a voice in running Williams would not have occurred to him, then or now.

At 94, he still practices law at 77 North Main Street in Concord, an address he has maintained since 1910. Stooped over his desk, he devotes pains-taking hours to his clients, inevitably undercharging them. He has always believed in honest work, of giving more than received.

There was always a magic to that number "1900," shared with such pride by members of his class. Like so many others, my father comes to the verdant campus on this June week-end, looks to his favorite mountain—Greylock—and feels, I am sure, a welling nostalgia for days locked in memory.

And what of his life? What inference can be drawn from these 94 years?

Chiefly, that the much maligned "establishment" consists of untold people like him who spent immeasurable personal effort in a search for change. For generations they moulded a nation. Fought and bled for it. Sought to improve it. Revered it.

In their own way, these men and women provided building blocks for future generations. They demonstrated that those with respect for the past—instead of contempt for it—will find a constructive foundation for rebuilding the present.

A soft June twilight settles upon Williamstown this evening. A fading sun penetrates the dusk, glinting briefly on tall and stately oaks.

SMALL PUSH HELPS A SELF-STARTER

HON. ALLARD K. LOWENSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. LOWENSTEIN. Mr. Speaker, many programs have been initiated in recent years to promote the cause of equal educational opportunities for disadvantaged youth. In contrast, the adult poor—the group that has suffered longest—has been shamefully neglected. This neglect in at least one instance is now being redressed.

College Fellowships for Mature Adults—CFMA—an organization in the town of North Hempstead, N.Y., has begun an experiment in adult self-help. The organization offers aid to adults who have been forced into futureless jobs by economic necessity and discrimination. CFMA provides both guidance and partial scholarship aid, thus encouraging high school graduates, usually over the age of 25, to seek further education.

During the 1968–69 school year, the organization helped 52 students attend four Long Island colleges on either a full- or part-time basis. CFMA also sponsored a summer course in English for those who needed to perfect their basic language skills. The group raised $7,000 in private gifts to supply scholarships for the students, many of whom have families.

To continue to expand this project, more funds—both public and private—are required. I believe all of us are anxious to encourage a program in which professional volunteers, educational institutions, and ambitious, hard-working adults are cooperating enthusiastically to improve our human resources.

College Fellowships for Mature Adults is an excellent example of the social benefit that can result from the combination of private initiative and a genuine concern for the development of individual capabilities. It should serve as a model for the rest of the country, and it is my hope that this experiment is copied across the Nation.

I am inserting in the RECORD an article by Mr. Brad O'Hearn that appeared in Newsday about this program:

SMALL PUSH HELPS A SELF-STARTER

(By Brad O'Hearn)

WESTBURY.—Almost everyone knows someone like George Jackson—somebody who is bright, intelligent and quick to learn but who is stuck in a dead-end job because he does not have enough education.

Now there is a group trying to do something about the George Jacksons. The group known as College Fellowships for Mature Adults, is trying to give an educational boost to persons who have not given up the hope of continuing their education.

The group, made up of North Hempstead Town residents, is simple in design but large in purpose. It seeks out mature adults (generally age 25 or over), encourages them to continue their education and helps them pay for it. Because of fund limitations, the group supplies mainly tuition funds, but it hopes to be able eventually to offer a stipend so that students, most of them married and with families, will not have to work while attending college.

Although the program is not restricted, most of the students are blacks. "We thought the need there was greatest," said Mrs. Mary T. Egginton, a vice president of the group. In seeking its students, the group tries to find persons with an extra bit of humanity, an extra bit of wit—persons like George Jackson.

Jackson, who lives at 21 Second Ave., Westbury, is black, 42, and the father of 11 children. When he was graduated from high school, his family could not afford college. So he went to work. Until two years ago, he commuted every day to Westchester County, where he was a $165-a-week worker in a film processing plant. He was well-liked, but his prospects for advancement were slim. And then he heard about the college fellowships group.

"I heard about it from a friend of mine," he said, "and I didn't believe it. I don't know why, but I just didn't think it was possible." A short while later, he took a competitive examination with 189 other applicants at Nassau Community College. He placed in the top four.

"College was a wonderful opportunity. I felt that I was capable of college work, and it was a logical step for me to take. I talked with my boss at the time and he wanted me to stay, but he said it was a good opportunity for me. Besides I have 11 kids and one on the way that I have to take care of, and my wife was firmly behind me," Jackson said.

A short while later, Jackson entered Hofstra University's night sessions to study marketing. He has maintained a B average and hopes to finish in about five years. Once there, he met good fortune again. During a conference, an adviser noticed a camera Jackson was carrying and asked if he was interested in photography. Jackson said that he was, and the adviser promptly got an appointment for him with an executive at Ehrenreich Photo-Optical Industries Inc. in Garden City. Shortly afterward, Jackson was hired as a customer liaison man in the company's instrument division.

Since then, Jackson's academic and business associates have had little but praise for him. Dean Hyman Lichtenstein of Hofstra's evening college said of Jackson, "I'm terribly impressed with him, not only as a student but as a human being. He's an intelligent and sensitive person. He's one of the people I'm putting my money on to make it."

Saul Bernstein, sales manager of Ehrenreich's instrument division, said, "George is the best-liked person among his peers. He'd win any popularity contest around here. And he's got great ability, too. It would be a shame if he didn't have the opportunity to further his education." Oscar G. Heinemann, a vice president in the firm, said, "It's simple. We love success stories. It's a hangup of this firm."

Jackson is one of 52 adults being helped in varying financial degrees by the North Shore group. He receives $300 each semester for tuition from the organization. Other participants attend Hofstra, C. W. Post, Nassau Community College, Adelphi and the State Agricultural and Technical College at Farmingdale. The group has obtained a small grant from a foundation and has supplemented that with donations. It hopes to obtain more foundation support to enable it to grant fellowships.

The change in outlook that such a group can bring about can be seen in Jackson. "I had always thought of sending my (five) boys to college, but now I hope to be able to send the girls too. Who knows? Maybe some of them will be going to college with me," he said.

BILINGUAL SOIL CONSERVATION PLAN

HON. ELIGIO de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. DE LA GARZA. Mr. Speaker, a few weeks ago I had the honor to participate in the presentation of the first soil conservation plan in English and Spanish to Horacio Salinas, of La Joya, Tex. For the benefit of my colleagues and all those interested, I will respectfully submit my remarks.

My friends, I am very happy to be here today for many reasons. When I was first invited to participate in this program I accepted immediately because of my interest in agriculture, because of my position on the House Agriculture Committee of the House of Representatives, because of my interest in conservation and the Soil Conservation Service, but the main reason I accepted was because of Horacio Salinas.

You see, when you invited me, you did not know of my association with Horacio. He was a friend of my grandfather, he is a friend of my father, and I am proud to say he is my friend. Since I was very young I remember him; he is what many people fear is a disappearing type.

You see, Horacio is not a highly educated man, but he is an honest man; to this day his word is his bond and a handshake will seal any contract he makes. He loves this land and he cares for it. He might not be able to give you the scientific reasons, but he knows when the land is tired, he can tell when it thirsts; oh, he knows this land like he knows his own body and its needs and its wants.

That is why I was so happy that this first conservation plan in English and Spanish was made for Horacio Salinas. He is typical of so many of our farmers, and I am happy that the Soil Conservation Service—let me say our Government, through the Soil Conservation Service—saw a need and moved to fill this need.

There is some question though as to who did not understand whom, because I said Horacio did not understand the soil conservation people, but Horacio tells me it is the other way around. They did not understand him. But now we have our plan in English and Spanish and everyone now understands everyone else.

You know there is a lot of talk these days about improving our environment and we have seen here today how a farmer can take his land and improve it for a better living for himself and to produce good food, clothing, and shelter for others.

Horacio represents one of 1.4 million people in this great State whose main language is Spanish. Many of them own farms, and many others make their livelihood by working in the State's agricultural industry.

The influence of these people on the culture and economy of Texas is tremendous—reaching far beyond their numbers. Nearly all housewives prize our recipes. The houses reflect our architecture in subdivisions everywhere, and some of the most popular music has a definite Latin beat. So it is a satisfaction to me to know that farmers like Horacio, here, have a real influence on our natural resources.

I wonder if the average person realizes how much progress has been made by conservation farmers like Horacio over the years—progress made by free people voluntarily participating in a democratic program? Horacio is one of about 190,000 Texas landowners who have made conservation plans through their soil and water conservation districts.

These farmers have installed conservation work on 2.5 million acres of cropland to conserve and stretch our water supply. They have converted nearly 3 million acres of cropland, much of it the kind that causes erosion problems, into good grassland. Last year alone, Texas conservation district cooperators built 42 million feet of terraces to conserve soil, water, and fertilizer on sloping cropland.

Benefits of all this work are not just for the farmer. When Horacio returns the stalks, stems, and leaves of his crops to the soil, the land is protected, more water soaks in, less erosion takes place. Flooding and stream pollution are reduced. Dust is not blown from his fields to mess up living room furniture in homes far away. His wise use of soil and water helps assure us of food for ourselves and our children. The improved grazing land means meat on the table for people who never heard of Horacio Salinas.

This plan of Horacio's is a good example of how democratic action helps us all.

Texas soil and water conservation districts were made possible by State law. Three of the Willacy-Hidalgo directors were elected and two were appointed as the law provided.

These five men, I. B. Ridling, D. V. Guerra, who has served on the Secretary of Agriculture's Public Advisory Committee on Soil and Water Conservation for the past 2 years, Jesse A. Krueger, Thomas H. Rains, and D. B. Shields, Jr., contribute their time and efforts to give overall guidance to the conservation program.

The district and the Soil Conservation Service have an agreement under which the SCS furnishes trained people to help with the district's conservation program.

Chuck Whittle, Jose Gonzalez, and Marian Johnson of SCS are a hard-working bunch. These men get out with their feet in the dirt to help our people—they have visited Horacio's farm many times to survey conservation work and to counsel with him on his range management. They have been a great service to the farmers of my district.

Today the Willacy-Hidalgo soil and water conservation district and the Soil Conservation Service once again prove that they mean to be of the most possible service to the people they work with.

For some time, district and SCS folks have been working on ways to better serve the Spanish-speaking people of the State. You have heard conservation radio messages over Spanish-language stations in Weslaco, Mission, Laredo, and Harlingen. Throughout Texas, there are 32 radio stations and four television stations that are donating time to conservation messages in Spanish.

The SCS carries out a program of training to help its employees explain conservation work and its benefits in Spanish. This has already been of great help in this area. Meetings and tours are sometimes held in Spanish.

All of this is leading up to a first for the Willacy-Hidalgo district—Horacio's conservation plan is the first in Texas to be prepared in Spanish. This has been a lengthy project, because of the need to translate technical terms. But with the hard part over now, Ed Thomas, from the State CSC office, assures me that there will be many more plans in Spanish.

These conservation plans mean more jobs, better income, cleaner water, and more opportunity for our children. I recommend to those who have not availed themselves of the opportunity to prepare a conservation plan to get in touch with the district office without delay. And, Mr. Thomas, please take this message to Mr. Clyde Graham, my good friend, the State conservationist—I think the efforts of the SCS to overcome language difficulties show a dedication to helping all the citizens of Texas. I extend to you the appreciation of the Spanish-speaking people of the 15th Congressional District, and I hope that the spirit of helpful cooperation will always rule between us.

HEALTH MANPOWER EDUCATION

HON. JEFFERY COHELAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. COHELAN. Mr. Speaker, the funding crisis in health manpower education deepens every day.

For the information of my colleagues, I insert into the RECORD a series of press and journal accounts relating to the financial problems of medical schools. These include:

A story in the Washington Post, Saturday, June 20, 1970, entitled "Disaster Aid Given Schools of Medicine." This story identifies the following institutions as having been awarded special project grants from NIH on the basis of financial distress: St. Louis, New York Medical College, Loyola/Stritch, Arizona, Arkansas, Boston, California/Irvine, Howard, Loma Linda, Miami, Missouri, Nebraska, New Mexico, North Dakota, Northwestern, Puerto Rico, Temple, Tennessee, Tulane, Utah, Vermont, West Virginia, Wayne State, Albany, Chicago, Georgia, Hahnemann, Jefferson, Meharry, Mount Sinai, and the four osteopathic colleges in Chicago, Kansas City, Kirksville, and Ohio.

Two stories from the Baltimore Sun: "Federal Aid Cuts Threaten Nation's Medical Schools" and "Some Medical Schools Facing Closure." The latter story reports on the problems at St. Louis University, George Washington, and Case Western Reserve University in detail and identified Albert Einstein, New York Medical College, Loyola, Tulane, Bowman Gray, Cornell, Tufts, and Johns Hopkins as other schools in serious financial distress.

New York Times story of Sunday, June 21, 1970, entitled "Medical Schools Are in Deep Trouble." This story notes, among other things, the failure of voters in California to support a multimillion-dollar bond issue, in support of expansion of State medical facilities.

Wall Street Journal story of March 16, 1970, entitled "Money Problems Force Med School Cutbacks." This story is more descriptive of the basis of the financial problems facing medical schools.

Extensive article from the Medical News section of the Journal of American Medical Association for June 8, 1970, entitled "101 Medical Schools/Pressures Grow While the Foundations Crumble." This story provides an extensive review of the problems of specific schools.

The articles follow:

[From the Washington Post, June 20, 1970]

"DISASTER" AID GIVEN SCHOOLS OF MEDICINE

(By Victor Cohn)

Forty-three of the country's 107 medical schools are in such severe economic danger that they are getting "financial distress" grants from the government.

The funds currently total $15 million, an average of nearly $349,000 per school.

"What we're giving them are disaster grants," explained Dr. Robert Q. Marston, director of the National Institutes of Health.

Deans of Loyola University's Stritch Medical College outside Chicago and St. Louis University Medical School say they may not be able to stay open "more than another year" without substantial new help.

"St. Louis University is eating endowments which have been its life blood for years," Dr. Robert Felix, medical dean, reported. "You get down to where you're eating your own flesh."

Among other medical schools in severe trouble (some authorities give them "three to five years") are those at Tufts University in Boston; New York Medical College; Bowman-Gray (Winston-Salem, N.C.), Creighton University (Omaha) and Women's (Philadelphia) Medical Colleges.

Georgetown and George Washington University's schools are in the same group. They are planning a joint appeal to Congress for an annual subsidy for each student, on the lines of subsidies recently voted by Illinois, Texas, Ohio, Pennsylvania, Florida and New York legislatures for even private schools in their states.

These subsidies have rescued Case-Western Reserve University Medical School in Cleveland and Marquette University's in Milwaukee from imminent closing, though both are still on the NIH "distress" list.

Not on this list but still in "poor straits," it is reported, are Cornell University and Albert Einstein Medical Colleges in New York and Johns Hopkins in Baltimore.

Many schools have been running annual deficits for about three years. But now the situation is far worse, states Dr. John Cooper, president of the Association of American Medical Colleges.

He has just told both Senate and House Appropriations subcommittees that "the whole financial structure of our medical schools is now gravely threatened," especially that of private, non-state schools.

He attributes the trouble to "our utter failure as a nation to make the M.D. shortage a high priority item."

But, specifically, medical schools and their teaching hospitals—a large part of their financial problem—have been hit by simultaneous inflation, cuts in federal research and training funds (50 per cent of their entire income in many cases) and cuts in Medicaid payments to some hospitals. And all came during expensive attempts to expand to meet national demands for more doctors and more poor and black students.

"We've just raised our tuition to $2,250 a year, and that's still only 20 to 25 percent of our cost," said Felix. "We're pricing the poor boy out."

St. Louis University will still have a $750,000 deficit. Also, Felix said: "We have a crushing need for updated plant. We've been approved for a $9.5 million federal grant—it's still unfunded. If we don't get it, I believe I must recommend that we not admit another class beyond fall."

His university has already abandoned its school of dentistry (now graduating its last class), engineering and earth sciences and aviation technology.

To met their deficits—$1,998,000 this year at George Washington University Medical Center here, some $500,000 at Georgetown—the medical colleges and their parent schools resort to bank loans, mortgages, land sales and use of precious endowments.

Dean Frederick Eagle at New York Medical College said: "Our budget this year will balance. It has to! We're down to $200,000 of what was $2 to $3 million in unrestricted endowment."

Dr. John Masterson at Loyola's Stritch Medical College is using bank loans to help meet a $4,981,000 medical center deficit for the 10 months through April 30.

But many states have laws forbidding such debts. "Any institution that would lend me money, I wouldn't want to have my money in," said Dr. Felix.

"Our capital reserves were completely depleted in 1968-69," reported Dean John Parks at George Washington. "This and next year we'll be going into endowments."

The current $15 million in federal disaster aid (available either to keep schools from closing or deteriorating, or to maintain class size) comes from $101.4 million in all what NIH calls "total institutional support." For fiscal 1971, President Nixon's budget asks for $113.6 million—"appropriate in view of the needs," said one official, "far from enough" in the view of the deans.

Other medical schools getting distress grants are those of Alabama, Arizona, Arkansas, Boston, California (Irvine), Howard, Loma Linda (Calif.), Miami, Missouri, Nebraska, New Mexico, North Dakota, Northwestern, Puerto Rico, Temple, Tennessee, Tulane, Utah, Vermont, Wayne State (Detroit) and West Virginia universities.

Also, Albany, Chicago, Georgia, Hahnemann and Jefferson (both of Philadelphia), Meharry (Nashville) and Mount Sinai (New York City) Medical Colleges. Also four osteopathic colleges: Chicago, Kansas City, Kirksville (Mo.) and Ohio.

[From the Baltimore Sun, June 21, 1970]

CRISIS IN HEALTH—I: FEDERAL AID CUTS THREATEN NATION'S MEDICAL SCHOOLS

(By Frederick P. McGehan)

America's medical schools are in serious financial trouble.

At a time when the schools are being pressured to enroll more students and expand community services, they find their income bases shrinking.

CLOSINGS HINTED

As a result of this "crunch," at least one medical school dean has threatened to close his school. Several other deans have hinted at this—if their sources of financial support continue to dwindle.

Some schools have taken stringent economy measures, such as putting freezes on hiring, salary increases and overtime payments—as well as deferring much-needed capital improvements.

And, perhaps most vexing to medical school officials, no one seems to be taking their plight seriously. It may take the closing of one or more schools to make the nation's policy-makers take note of the grave situation, these officials believe.

The Association of American Medical Colleges reports that 61 medical schools—of a total of 107 in the nation—have been awarded special federal grants "on the basis of some condition of financial distress."

HAPHAZARD SUPPORT

The current situation has come about largely as the result of federal cutbacks in research and training funds. It has dramatically exposed the haphazard way in which the nation's medical schools have been supported.

After World War II, as the nation's medical and scientific programs began to take quantum jumps, medical schools hopped aboard the gravy train.

The schools' primary goals of teaching medical students and training health professionals became clouded as they fought for federal funds to build research facilities and put together top-flight research teams. In some schools, it has been estimated, as much as 80 percent of faculty salaries were paid out of federal research funds.

Many medical school deans now feel this heavy reliance on "back door" financing was a mistake.

Most observers agree that the 1967-1968 fiscal year was the turning point. Heavy drains on the economy caused by the Vietnam war and the spiraling costs of such programs as Medicare and Medicaid forced a retrenchment in other domestic spending.

The National Institutes of Health—the chief funnel through which research funds flow—was one of the first to feel the budget squeeze.

Despite increasing demands on its resources, the National Institutes of Health has been held to a research budget of just about $1 billion. To compensate, it has ordered across-the-board cuts—averaging between 4 and 20 percent—in many programs relating to medical schools.

As the flow from the federal spigot was being reduced, the schools were struggling to meet the costs of inflation—which in the medical area are often two and three times the national average of 6 percent a year. And, as in many areas of higher education, the influx of private endowment funds also was on the wane.

Against this onslaught, the medical schools had little defense.

The American Medical Association, the epitome of organized medicine in this country, had opposed for years the direct federal subsidy of medical education. Only in 1968 did it join with the Association of American Medical Colleges to request increased federal support for medical education.

The association of medical colleges also has had trouble in the past marshaling unified support among its constituent public and private schools. Until last year the association was headquartered in Evanston, Ill., far from the halls of Congress and the federal bureaucracy.

With a new Washington office under the direction of Dr. John A. D. Cooper, former dean of the Northwestern University Medical School, the association has begun a vigorous lobbying effort.

In recent testimony before a House appropriations subcommittee, Dr. Cooper outlined clearly the dilemma facing current medical education.

Faced with a cry for 50,000 more physicians in this country, Dr. Cooper said, medical schools have increased their enrollment capacities by 32 percent since 1964.

NOT ENOUGH FUNDS

But, he charged: ". . . the Executive Branch has never requested sufficient funds nor has the Congress appropriated the amounts required to enable medical schools to launch the kind of swift, head-on and concerted attack that would effectively close the widening gap between supply and demand."

The National Institutes of Health, he noted, has tentatively approved requests for construction of new teaching facilities totaling $600 million; against this it has only $118 million to spend in the current fiscal year. This spending is expected to be constant in the next fiscal year, despite an authorized ceiling of $225 million, he said.

Dr. Cooper found that institutional and special project grants—the only direct federal support of medical school operating costs—have fallen short of the mark. A total of $264 million has been appropriated since the grants were introduced in 1966, but the authorized ceiling was $317 million, he said.

"The funds provided to date, of which only 45.7 percent on the average goes to the medical schools, are so inadequate as to thwart completely the chief purposes for which the program was brought into being," he testified.

Federal loan programs for medical students have been sharply reduced, Dr. Cooper told the congressmen. The President's 1971 fiscal budget proposes $12 million for student loans, less than half the $26.5 million appropriated in 1969, he said.

"In the past, medical schools have been able to admit the most qualified applicants regardless of socio-economic backgrounds. Now, schools are being increasingly forced to use another admissions criterion—the ability to pay for one's own education," he said.

[From the Baltimore Sun, June 22, 1970]

CRISIS IN HEALTH—II: SOME MEDICAL SCHOOLS FACING CLOSURE

(By Frederick P. McGehan)

St. Louis University School of Medicine is a respectable, 140-year-old institution that may have to close its doors.

The Jesuit-affiliated school has a student enrollment of 540, including about 70 postdoctoral students, and is the hub of a medical center that includes a 300-bed hospital, a mental health center, and schools of nursing and allied health professions.

Like many other medical schools it is straining to increase its enrollment (440 freshmen next year) and to offer opportunities for minority groups (10 black students will be admitted this fall).

It is also attempting to replace its outdated classrooms and laboratories with more modern facilities.

According to Dr. Robert H. Felix, the school's dean, the school was "carrying on fairly well" until it applied for a $10 million federal construction grant.

In the vicious competition for the dwindling federal dollar, the school was denied the grant, Dr. Felix said.

About the same time, Dr. Felix related in a telephone interview, the university's board of trustees changed from a religious to a lay board.

Faced with severe economic problems throughout the university, the new board decided to close the schools of dentistry, engineering and aviation technology in order to conserve resources for the remaining schools. The medical school will soon begin to occupy space in the former dental school.

ANNUAL DEFICIT

Despite this juggling, Dr. Felix said his school continues to run a $750,000 annual deficit. "It comes right out of the guts of the treasury of the university," he said.

Dr. Felix said his school has been "hit badly" by reductions in federal research and training grants.

Thirty per cent of some faculty salaries is paid out of these funds, he said. With this source reduced it becomes necessary to take salary money from the school's operating expenses. "If you shift money to salaries, you have to let equipment and supplies go," he noted.

NO ALTERNATIVE

"If they want to cut back on research, give us the funds to keep teaching," the dean lamented. "When you cut funds off on one side and don't replace them, then we're dead," he said.

At this point, Dr. Felix stated, he sees "no alternative" but to recommend to the board of trustees that no freshman class be admitted in the fall of 1971.

"If the medical school closes, then the medical center will close too," Dr. Felix warned.

St. Louis University is perhaps the extreme case. Concerned observers, however, list between 10 and 12 other medical schools that are in serious difficulties.

These include Albert Einstein College of Medicine in New York, New York Medical College, Georgetown and George Washington Universities, both in Washington, Loyola University of Chicago, Tulane University in New Orleans, Bowman-Gray Medical College in Winston-Salem, N.C., Cornell University Medical School, and Tufts University Medical School in Boston.

The Johns Hopkins School of Medicine has also appeared on several lists of ailing schools.

New York Medical College, one of the country's largest medical schools with 511 students, has placed a freeze on new hiring and has placed controls on overtime and wage increases.

It has used up its unrestricted endowment to meet deficits which currently amount to $2.5 million a year. The school's bank credit has also been limited.

CURTAILMENT CONSIDERED

A spokesman for the school said last week that it is considering curtailing some of its community medical programs to meet the financial crisis.

"It's taking everything we can get . . . and we've got just so much baling wire and gum," said the spokesman.

Dr. John Parks, dean of the George Washington University Medical School, said last week that his school's deficit has grown from $291,000 in 1963–1964 to almost $2 million for the current fiscal year.

A $2 million reserve fund the school had built up was spent by the 1967–1968 fiscal year and the school has begun to dip into its endowment. "We haven't gotten to the stage of borrowing against the endowment, but we may," said Dr. Parks.

TREMENDOUS HANDICAP

The dean said that government funds only fill about one-fourth of student scholarship requests. In the past school year, he said, the school was able to provide only $200,000 out of $450,000 in aid requested by students.

Dr. Parks said that, because of cutbacks in federal training grants, the school will have to eliminate six postdoctoral fellowships in pharmacology. He termed it a "tremendous handicap" because some of the students had been working for as many as three years.

Most observers agree that private medical schools are in worse shape than state-supported ones. State schools, they argue, are assured of a certain amount of stable support through their state legislatures.

SEEK STATE AID

With their backs to the wall, the private schools have also been calling upon state legislatures for aid.

Legislatures in at least six states—Florida, North Carolina, Pennsylvania, New York, Ohio and Wisconsin—have responded by voting aid to private medical schools. Often it takes the form of per capita grants for each medical student.

Case-Western Reserve Medical School in Cleveland was in bad financial shape earlier this year before the Ohio Legislature came through with a two-year, $3 million direct-support grant.

To keep construction projects going the school had to divert $12 million from its endowment. It was taking 10 to 15 per cent cuts in federal research and training grants and student scholarship funds were dwindling.

HAD TO LOBBY

Seeing no hope of federal aid, the school went to the state legislature. "We had to lobby the state legislature, which was not the easiest thing to do," said Sam Whitman, the school's associate dean for administration.

Mr. Whitman, in a telephone interview, had some tart comments on the lack of federal assistance.

"Medical schools can't sustain a steady erosion year after year in general support, someone in Washington has to sit up and take notice," he said.

"So far I haven't seen any indication that the government is taking this matter seriously," he said in bitter tones.

[From the New York Times, June 21, 1970]

MEDICAL SCHOOLS ARE IN DEEP TROUBLE

(By Harry Schwartz)

In New Jersey early this month legislative action snuffed out Rutgers University's hope that it might soon have a full four-year medical school. In California a few days earlier, voters defeated a proposed multi-million-dollar bond issue designed to increase substantially the state's medical education facilities. Meanwhile, all over the United States existing medical schools are caught in a deepening financial crisis which has brought some to the edge of bankruptcy.

Ironically these difficulties have appeared at a time when there is almost unanimous agreement that the country needs many more physicians. Complaints of a doctor shortage come from virtually all parts of the nation as the population expands and as Medicare, Medicaid and various forms of private health insurance provide more Americans than ever before with the financial capability to pay for first-class care.

Yet if present trends continue, the possibility arises that the number of M.D. degrees granted annually in this country—almost 8,500 this year—may stabilize or even decline because some medical schools may be forced to shut their doors while others are forced to curtail their expansion plans.

There are now 300,000 active doctors in the United States, a record high. But they are concentrated mainly in the more affluent sections of the nation's metropolitan regions. The doctor shortage is felt most acutely in rural areas and small towns, and in the black, Puerto Rican and Mexican ghettos of the nation's major cities.

A recent report by Dr. John S. Millis of the National Fund for Medical Education spells out the origins of the tightening financial squeeze in which the nation's medical schools, numbering almost 100, and their associated teaching hospitals are now caught.

On the one hand these facilities are under extreme pressure to treat more patients, to take the lead in creating community health centers and other innovative devices for extending good medical care into the ghettos, and to train more health personnel—physicians, nurses, medical technicians, biochemists and other professionals.

But this pressure is coming at a time of rampant inflation when some of the key sources of financial support—notably Federal research funds—are actually declining or at best are not increasing at the rate of rising prices and wages. The impact of the cuts in research funds is particularly severe because about half of all medical school faculty members are supported in part by research grants. The salaries of one-sixth of these faculty members come entirely from such grants.

Both medical educators and politicians are searching frantically for ways out of the present medical school crisis. Ideally, the educators would like to see the problem solved by government and private sources supplying the needed increased funds. Some medical educators speak bitterly about elected government officials who are profligate with their promises of first-class medical care for everyone, but who are extremely niggardly when it comes to providing the needed funds and facilities.

Many medical educators are increasingly depressed by signs of public indifference and of public opposition to giving them the money they feel they need. "I suppose we'll have to wait until a major medical school goes bankrupt and closes its doors before the public wakes up to the realities," one medical educator said last week. It could happen, and not necessarily to only one school.

[From the Wall Street Journal, Mar. 16, 1970]

HEALTH CARE CRISIS: MONEY PROBLEMS FORCE MED SCHOOL CUTBACKS OF PROGRAMS, FACULTY

(By James MacGregor)

CLEVELAND.—The medical school at Case Western Reserve University here has a lot of ambitious projects going. It's pioneering a community health care curriculum, digging into the causes of disease, admitting more blacks, and expanding facilities to double its enrollment by 1972.

But another project is getting top priority these days: An urgent search for money to keep the school going. For—at a time when the nation is seriously short of doctors—Case Western's med school, along with many others across the country, has acute financial problems, and the prognosis is far from encouraging.

Already the school has been forced to close its highly regarded research and treatment center for children's diseases. Dwindling loan and scholarship funds are crippling the black admissions program, and the school has had to divert $12 million from its endowment fund to keep new construction going. Only an unprecedented $3 million subsidy from the state of Ohio, says the dean of the school, arrested a crisis that "could have led to closing down altogether within two or three years."

As grim as that sounds, other medical schools have problems as bad or worse. Two prestigious schools, Marquette School of Medicine in Milwaukee and New York Medical College, came perilously close to shutting down this academic year before finding the funds to go on. Officials say 10 to 15 more medical schools are in danger of closing within the next three years. Additional schools are caught in a money squeeze so severe that expansion, of program or physical plant, is out of the question.

HOLDING THE LINE

The squeeze is on, in large measure, because the Federal Government—which had funneled increasing amounts of money to medical schools during most of the 1960s—is leveling off now. Meanwhile, inflation means the schools must pay more and more for faculty, construction and equipment.

In the academic years from 1958–59 to 1967–68, Federal research grants to medical schools rose 436% and other kinds of Federal aid, for example, training grants and operating subsidiaries rose 643%. In the 1967–68 academic year, Federal aid contributed 53% of the total income for all medical schools; at some schools, the Federal contribution was as much as 80%. The schools become dependent on such help—perhaps too dependent, some feel.

Most schools agree that the latter part of the 1967–68 academic year was when the money squeeze hit. That's partly because by then the Federal Government was having money problems of its own. The Vietnam war was draining away money that might have gone to domestic needs, and the Medicare and Medicaid programs were costing more than originally anticipated. So the Government started tightening up on such things as grants for medical research—a trend that intensified when the Nixon Administration clamped a dollar ceiling on total expenditures in the fiscal 1970 budget.

MAKING THE BEST OF IT

"As long as you have an expenditure ceiling and mandatory activities (which must be financed automatically), there aren't many places you can cut the money from," says Dr. Robert Q. Marston, director of the National Institutes of Health, which administers research grants and some other kinds of aid to medical schools. Dr. Marston agrees that "one could hope for much more" in the current budget, but maintains that "under the circumstances" it still represents "a serious attempt to cope with the problems of the medical schools."

Dr. Marston says he expects most categories of Federal aid to medical schools to increase in the fiscal 1971 budget. But right now, most med school deans seem more concerned about the Health, Education, and Welfare Department bill for the current fiscal year, which President Nixon signed this month after vetoing an earlier version as "inflationary."

School officials say the bill falls short of both their needs and what they had been led to believe would be forthcoming. "Health apparently has a low priority with this Administration," asserts Dr. John A. D. Cooper, president of the American Association of Medical Colleges.

Declares Dr. Joseph Merrill, assistant dean of Baylor University College of Medicine in Houston: "We simply cannot respond to the health needs of the nation without any money."

CONSTRUCTION CUTBACKS

HEW officials put the national doctor shortage at 50,000. Even if all the presently planned construction projects were funded and begun at once, the time required to build facilities and train doctors means it would take six to 10 years before the shortage would start easing. But the appropriations bill finally signed by the President allocates $95 million for construction this year, down from $100 million last year and considerably short of the $19 million backlog of projects that HEW has approved.

Funds to aid medical students are also shrinking. Under the fund appropriations bill, loan and scholarship funds for medical students drop to $17 million this year from $21 million last year. Dr. Cooper of the American Association of Medical Colleges says the $17 million is about half the amount needed; he fears the present trend "could eventually preclude medical education for all but the relatively wealthy."

Medical school deans say that no matter how they try to cut costs, the results will be painful. They're reluctant to cut back faculty because they say they're already shorthanded. Some are letting researchers and technicians go, well aware of the rule of thumb that it takes 10 years to rebuild a research team once it has been broken up. And the schools often are locked into long-term research contracts that can't be broken, even if Federal money dries up.

Many school officials are reluctant to jeopardize faculty morale by detailing their plight. But Dr. Cooper says at least 10 schools currently are meeting operating expenses by spending their endowments, thus depriving themselves of future endowment income and security for loans and mortgages.

New York Medical College officials have declared a freeze on new hiring and have instituted controls on overtime, wage hikes and repairs, but they don't see how they can cut back on operating hospital or instructional programs. "There's no such thing as leaving off the spare tire in health care or education," says Jackson E. Spears, college chairman. "It's insane to even think of giving anything but the best."

The school's plight is extreme. To meet current obligations, it already has sold all its unrestricted endowment and exhausted its bank credit. This year it has sometimes had trouble meeting its payroll. With 513 medical students, it's one of the nation's larger medical schools, and its 400-bed Flower and Fifth Avenue Hospital provides excellent medical care in New York's Spanish Harlem ghetto. With an operating budget of $50 million, the school and hospital are running a yearly deficit of $2.5 million, due largely to mortgage interest costs and incomplete Medicare and Medicaid reimbursement.

It has been suggested the school eliminate its widely praised community affairs department. The department sponsors work on such problems as lead poisoning, malnutrition and drug addiction. It also runs a storefront center in Harlem where people can get references to health care facilities or help in applying for Medicaid. Mr. Spears says this is precisely what medical schools must do more of and adds, "I'd almost rather see the whole school closed than lose these projects."

The full effects of most school economy moves won't be felt for several years, but a few could have immediate repercussions. The highly regarded burn and shock research and treatment center of New York's Albert Einstein College of Medicine will run out of money at the end of the month, and no help has yet been found. A Government agency last year agreed to continue financing the center for three years, then abruptly canceled the commitment.

The center's director, Dr. Louis Del Guercio, is worried. "If the center closes, desperately injured people will be forced into open hospital wards where they can't always get care as good as we provide," he says.

State-run schools don't face the same financial problems as private schools, but they're feeling the pinch. Says the dean of one Midwest school: "Every year the legislature gives us 5% more than the year before. But we want to start a department of anesthesiology, and we can't get a cent for it. We have a building that's literally falling down, and we can't get a cent to renovate it, either." In Texas, Gov. Preston Smith recently diverted to Medicaid and Welfare payments $13 million in state funds originally earmarked for medical school construction.

Both public and private schools are turning to fund-raising drives and philanthropists, with mixed results. New York Medical College has sought help from a number of philanthropists, but "no one in the private sector wants to finance deficits," says Thomas Bannon, financial vice president of the college. It's much harder to raise operating funds than money for buildings or endowed professorships, which have some permanency, he says.

But Mt. Sinai School of Medicine, also in New York, has raised $62 million from private sources (and $33 million from government sources) in a continuing fund drive. And Marquette School of Medicine kept itself alive through a fund drive in Milwaukee last year. Subsequently, the Wisconsin state legislature approved financial help for the school, whose officials say its operation is now assured through the 1971 academic year if Federal aid continues at present levels.

Some medical schools have eased their plight by enlisting the support of major corporations and foundations. The most spectacular case may be that of little Meharry Medical College in Nashville, Tenn. Four years ago it was on the verge of bankruptcy. Today, it's not only back on its feet but has begun an expansion program it hopes will boost enrollment from the present 450 medical, dental and technical students to 1,500 by 1975.

Meharry, one of two predominantly black medical schools in the nation, achieved its turnaround by pioneering a novel curriculum based on community health programs for Nashville's poor. Dr. Roger Egeberg, Assistant HEW Secretary for Health and Scientific Affairs, says the program "could bring health care for the poor out of the Dark Ages into the twentieth century." The program drew major grants from a variety of foundations and corporations and landed George Russell, vice chairman of General Motors Corp., as head of its $88 million fund-raising campaign.

[From the Journal of the American Medical Association, June 8, 1970]

101 Medical Schools: Pressures Grow While the Foundations Crumble

"Riches-to-rags" rumors are becoming almost as much a part of commencement day as congratulations and the Hippocratic Oath.

As memories of the past school year lead to musings about the next, more and more people are beginning to ask which medical schools may not open in the fall, which prestigious "have" institutions are now revealed as financial "have nots."

At a time when medical schools are being pressed to produce MDs at a faster rate, many institutions apparently have troubles making ends meet. No schools have as yet closed—and none may—but many administrators are sounding the alarm.

The situation has become so serious at some places that the physician's annual donation will no longer be enough. His alma mater may need active support in trying to effect basic changes in the mechanisms of financing medical education.

Efforts to recruit the physician may appeal to his idealism. "The physician should feel responsible for the machinery which replicates him," said one dean.

Another administrator put things on a more practical level. "The presence of other good physicians in the community increases the satisfaction that a practitioner gets from his practice of medicine. If he does not become concerned with the problems of the medical schools, he may find himself spending more time correcting the mistakes of others."

In order to unravel the complexities of these fiscal problems, Medical News talked to administrators and faculty members, government officials, and medical school analysts. The following stories and photographs by associate editor Steve Murata describe the tightness of the current crunch, reveal some of the underlying reasons, and discuss a few of the possible solutions of the plight of the schools.

SCHOOL YEAR ENDS AMID WORRIES OVER FUTURE

It's difficult to get an exact picture of the tightness of the funding squeeze being felt by the country' 101 medical schools. Many school officials as well as outside experts are close-mouthed when it comes to discussing details.

"There is a natural reluctance for medical schools to reveal their troubles," says Joseph Murtaugh, director of the Department of Planning and Policy Development in the Association of American Medical Colleges (AAMC). Former director of program planning and evaluation for the National Institutes of Health, Mr. Murtaugh also emphasized that many schools are apprehensive of being forced into detrimental actions by boards of trustees, state governments, or other controlling agencies implementing "simplistic solutions."

Moreover, many medical schools have only recently begun to develop administrative staffs and business offices separate from their parent universities. "Some medical schools have difficulty distributing their costs among the educational, research, and service functions" said Mr. Murtaugh.

"Above all, you don't want to get a losing image," noted one school's financial advisor. "Such a reputation makes it difficult to recruit faculty and drives away funds," he said. "Alumni and foundations are happy to endow chairs or new buildings, but they don't like the idea that their donations will be going to support a deficit."

William G. Anlyan, M.D., vice-president for health affairs at Duke University and 1970–1971 chairman of the AAMC's executive council, told Medical News that one-third and possibly one-half of the medical schools in the nation are experiencing severe financial shortages.

AAMC's Mr. Murtaugh also pointed out that more than 30 schools have formally applied for financial assistance from the government.

In a nationally televised news program, Dean Robert H. Felix, M.D., estimated that a dozen medical schools including his own St. Louis University School of Medicine may have to close their doors.

Senator Jacob Javits (Rep, NY) proclaimed that the New York Medical College, New York University's School of Medicine, and the Albert Einstein College of Medicine of Yeshiva University were "facing an acute financial crisis which is threatening their very survival."

Such medical schools as Johns Hopkins, Marquette, Baylor, Temple, Case Western Reserve, and the University of Chicago have also been identified in news stories as having financial woes.

Tulane University's School of Medicine is not in danger of closing, according to Dean Robert D. Sparks, M.D. "The University is committed to keeping the doors open," he said.

However, Dr. Sparks is battling a deficit that reached about $1.5 million last year. When combined with the School of Public Health and Tropical Medicine, the medical school deficit is expected to reach $2 million for the 1969–1970 academic year.

Tulane has maintained a reputation as having a strong but balanced program in both education and research. Although placing in the top 20% of the country's medical schools for the number of students graduated each year, Tulane's annual budget remains close to the national median operating expenditure of $11.6 million (*JAMA* 210:1488 [Nov. 24] 1969).

Some of Tulane's problems are unique. However, many of its difficulties are the same as those troubling other medical schools, particularly the other private institutions which constitute roughly half of the medical education system.

Although these problems are highly complicated, a visit to Tulane leaves one over-riding impression—the medical school in New Orleans is deeply involved in reassessment and evaluation of current operations and future courses.

"Medical education today is undergoing more constructive self-examination than it has since the Flexner report of 1910 and more than is going on in any other field of higher education," said the Carnegie Commission on Higher Education in its 1968 report.

FISCAL PROBLEMS THREATEN MEDICAL SCHOOLS

When Abraham Flexner visited Tulane in 1910, he found an institution already organized along the scientific lines he championed. "The medical department of Tulane University is one of a very few existing southern schools that deserves development," reported Mr. Flexner in his famous report. "Its recent reorganization has put imported men of modern training and ideals in charge of the most important departments, laboratory and clinical. There is no question that if properly supported, they will quickly bring the institution to a position of commanding influence."

In his report, Mr. Flexner also noted that the annual expenses have now soared 120 times.

Medical education at Tulane as well as at other schools across the country has become big business, so big that the grand total expended by medical schools in 1967–1968 exceeded $1.1 billion, according to the AAMC report.

In part, the expenses have risen because of inflation and a small increase in the number of undergraduate medical students. Despite rising fees, tuition has never been able to pay the costs of keeping a medical school open.

Even in 1910, Mr. Flexner complained that "institutions which have always, or long, operated on a high standard, and thus command an established public, find that expense tends to increase more rapidly than fee income."

While earnings from university endowments used to cover the losses in many private schools, the income from this source has not kept pace with inflation. The turndown in business profits and a 300-point slide in the Dow-Jones Industrial averages during the last year and a half have further diminished endowment earnings.

Although most of Tulane University's 51 million endowment is invested in stocks, bonds, and real estate, the income from this source is decreasing in relation to the school's total budget, according to Mr. Lawrence Guichard, business manager for the school of medicine.

"Ten years ago, the endowment provided 25% to 30% of the operating funds for the medical school," he said. "Today, earnings from the endowment furnish only 7% to 10% of our income, and we are now having to spend some of the principal to cover the deficit.

Medical schools have added to their own expenses by taking on increased responsibilities, especially in the training of interns and residents, Roughly half of the "student body" now in the nation's medical schools consists of interns, residents and other postgraduate trainees, according to a survey conducted by the NIH. Just recently, more than half of the internships offered were in hospitals affiliated with medical schools according to the AAMC.

"During the last 20 years, the training of interns and residents has become a major portion of the effort of the medical school," says Hayden C. Nicholson, M.D., director of the Department of Undergraduate Medical Education for the American Medical Association.

'While this trend is probably good in terms of the quality of training, you must remember that house staffs do not pay tuition," said Dr. Nicholson in an interview. "Although they are not paid any princely sums for their work, the fact that interns and residents are simply no longer contributing money to support their teachers places additional strain on the schools' financial structures."

More faculty members have been hired in order to provide the close supervision needed by these graduate students and the additional salaries can run into big money. The same NIH survey revealed that twice as many clinical faculty members were needed for residents as for undergraduate medical students. The faculty-to-intern ratio stood at three teachers to every "student."

About 260 resident and 50 interns are training in Tulane services at Charity Hospital or in 10 other New Orleans hospitals loosely associated with the school. "The greatest cost in these programs is the time of the faculty members needed to supervise the work," said Dean Sparks. "While affiliated internships and residencies are a good idea from the training standpoint, they are not so good from the standpoint of money."

Another factor contributing to fiscal problems has been a lack of financial planning as the schools ballooned in size. Profit-and-loss accounting techniques common in manufacturing or sales sometimes prove difficult to apply to the commodity called "education." However, more and more institutions are finally increasing their administrative staffs and setting up their own fiscal books.

Until four years ago, the Tulane medical school deficit was included in the overall university deficit, said Mr. Guichard. The medical school simply received an annual budget identifying the levels of expenditure but failing to detail any shortfall in income.

Finally in 1966, Mr. Guichard moved from his former position in the business office of Tulane University to set up a separate accounting department for the medical center, including not only the medical school but also the School of Public Health and Tropical Medicine and other medical activities.

Inflation, increasing graduate enrollments, decreasing endowment earnings, and less-than-ideal business practices have all added to the fiscal instability of many medical schools.

Probably the most important single factor in the current money crunch, however, is the dependence of the schools on federal funds.

More than half of the $1.1 billion expended by the medical schools in 1967–1968 were government funds, with one-third of the total provided under federal research and training grants.

Moreover, a large proportion of the available dollars were for "sponsored programs" in the form of contracts, restricted grants, or restricted gifts.

According to the AAMC, 58% of the total budgets of all the medical schools in 1967–1968 was derived from such sponsored support. The problem with funds for sponsored programs is that they must be used "according to terms and restrictions specified by the sponsors and agreed to by the school," said the association's report.

"In many schools the expenditures for sponsored programs comprise between 70% and 80% of total expenditures. This means that outside organizations are in a position to influence or dictate operating policies regarding the activities supported by these funds. . . . In those institutions in which sponsored program plays such a predominant role, unexpected changes in the policies of granting agencies for sponsored program funds have an unfavorable effect on total medical school operations and produce instability in faculty and institutional policies. Long-term planning becomes difficult when the sources of support are unpredictable."

Today, this inherent possibility that federal funds might be drastically reduced has come to pass. The war in Indochina, a decrease of congressional support for research, the burgeoning costs of Medicare and Medicaid, and the now forlorn hope by the administration for a balanced budget have sharply cut the funds available to the medical schools.

Speaking recently at the University of Illinois College of Medicine, Robert Q. Marston, M.D., director of the National Institutes of Health, estimated that the budget cuts have combined with inflation to produce a 25% reduction in biomedical research since the funding peak of 1966–1967.

This fall-off in research also dealt a severe blow to medical education because much of the financial spin-off from the research effort was used to support teaching.

NIH officials insist there have been few cases where money was willfully siphoned out of a research grant and slipped directly into medical education. "Indeed, the utilization of research funds for nonresearch purposes, despite much loose talk to the contrary, has in fact been controlled by rather rigid monitoring," said Dr. Marston. "Failure to show research productivity at the time of competing renewal applications has almost certainly jeopardized future support, despite pleas of salutary influences on teaching or service activities."

However, the faculties at many medical schools have grown or been strengthened because the institutions were able to offer the time and facilities to conduct research along with the possibility of collaboration with well-known investigators.

The schools, particularly the private institutions, were forced to develop their teaching capabilities through research simply because government funds were not available to support medical education directly, according to James A. Shannon, M.D., who was director of the NIH from 1955 to 1969, and is now affiliated with the Rockefeller University.

In a presentation at the University of Chicago Division of Biological Sciences and Pritzker School of Medicine, Dr. Shannon noted there has been strong opposition particularly from Congress, to direct federal involvement in higher education in general, and medical education in particular. Funding support for medical instruction itself was not possible until the passage of the Health Professions Education Assistance Act in 1963 and the Health Manpower Act of 1968.

From 1956 to 1966, the NIH budget and the research effort increased about 30% each year. These increases were accompanied, however, by "inadequate provision for the stabilization of the institutions which contained the research activities," said Dr. Shannon.

Money was available to build research laboratories, to buy research equipment, and to pay the salaries of the researchers themselves. Medical school faculty members and administrators responded by adopting what Robert J. Glaser, M.D., called the Willie Sutton Principle. Speaking at the 80th Annual Meeting of the AAMC last fall, the former dean of the Stanford University School of Medicine said that when Willie Sutton was asked why he always chose to rob banks, he answered, "That's where the money is!"

"Inevitably scientists responded to the availability of funds for work in certain fields by directing their efforts to those fields," said Dr. Glaser. Despite efforts to maintain a balance, the structure of many schools lost any semblance of symmetry. This asymmetry could have been kept in check had there been a reasonable amount of institutional funds concomitantly available to the dean for general support of this institution."

The practice of awarding most research and training grants to individual investigators has had a major influence on the salary structures at many medical schools. During the 1968–1969 school year, approximately one-fourth of the full-time faculty received 50% or more of their salaries from grants, and 3,466 of the nation's medical academicians were paid entirely out of research or training awards. In general, the AAMC report stated, "federal sources were paying about one-third of the total faculty salaries in medical schools."

At Tulane, the federal government provides roughly two-thirds of the annual $12 million medical school budget, including some $4 million in salaries. Since paying for the services of the faculty and the technical staff accounts for more than 85% of Tulane's expenditures, "inflation in salaries or cutbacks in support really hurt," said Dean Sparks.

Grant money that took care of faculty salaries has relieved the schools of the same salary burdens in the past, but it has also created other definite problems.

"It is no secret that some faculty members feel that their primary allegiance belongs to the granting agency that supports their work," said Dr. Glaser in his Cincinnati speech. "It is, I suppose, understandable that an individual whose activities are financed in large part from extra-university sources might question the rights of the dean or other university officers to inject themselves into the management of finances he has attracted. But in some schools, such faculty members constitute what may be described as independent enclaves, relating only in a superficial way to the parent enterprise."

Another problem has been persuading some researchers to leave the laboratory work for which they are being paid and conduct more class hours needed to meet the demands of increased enrollments.

And that is not the whole story. For now that the funding cuts have begun to strike deeply, medical school administrators find that many researchers have been faculty members long enough to have built up tenure. More and more institutions now find themselves saddled with increasing salary costs that they hardly anticipated.

"I am afraid that many young people are becoming more interested in security rather than research and teaching," said Paul C. Beaver, Ph. D., chairman of the Department of Parasitology at Tulane School of Public Health and Tropical Medicine.

The sudden reduction in grants has generated widespread morale problems, especially among youthful scientists, he explained. "Many of them are disillusioned and have lost their spirit of aggressiveness. The insecurity has also made them doubt the significance of their own work, and this is bound to reflect in their teaching," said Dr. Beaver.

Few faculty vacancies at leading schools of medicine are being filled when they occur, "and the salary money saved is used to try to cover routine pay increases," said Dr. Anlyan. The overall effect of the reductions in federal funding amounts to a "gradual atrophy" in the nation's research effort, the physician said.

Although the NIH cuts in research grants took place across-the-board last year, their impact varied widely among the nation's medical schools according to the amount of research on each campus and even in each department.

A look at Tulane will serve to illustrate this:

George E. Burch, M.D., chairman of Tulane's Department of Medicine since 1947 and editor of the *American Heart Journal*, said his department had never become overly dependent on large federal training grants and that the teaching and research activities in medicine were not greatly affected.

The Department of Surgery, in contrast, has suffered heavily according to Theodore Drapanas, M.D., the department chairman. "More than $250,000 in grants, including one cardiovascular training grant started 15 years ago will end on June 30," said Dr. Drapanas. A renal transplantation center sponsored by Tulane and funded by the NIH for six years has had its funds slashed. The work was salvaged only by assimilating the project on a much smaller scale in Charity Hospital's dialysis program.

The department now has 26 full-time faculty members augmented by part-time instructors who donate their time. "We lost two faculty members in just the last year, and these additional vacancies will also remain unfilled." said Dr. Drapanas.

Both Dr. Burch and Dr. Drapanas agree that the reductions in federal funds will harm the development of faculty members for the future. "By cutting off funds, the government is cutting out the teachers needed to produce more physicians," said Dr. Burch. "I'm afraid that we've already lost a generation of young, future faculty members as well as losing many good people from the current faculty to private practice," said Dr. Drapanas. "They can always go out and triple their income when they leave."

"Contrary to what you may have heard recently, there has been no decision to abandon the training grant business," NIH's Dr. Marston recently told the faculty at the University of Illinois College of Medicine.

"For the last five years, serious questions have been raised that more people would be trained than could be supported by the money available for research," he said. The years 1969 and 1970 saw an $18 million drop in funding for research fellowships and training grants, but Dr. Marston thinks that the NIH will be able to hold that line in the 1971 budget. Although NIH grants would remain level, cuts might appear in the National Science Foundation training program, he said.

When asked where he would look for funds if he were once more the dean of the University of Mississippi Medical School, Dr. Marston said he would turn to patient care because of the large amounts of money available. "The schools that can solve the current problems in this area will probably be in the best financial shape," he said.

Tulane has already chosen a version of this approach to help solve some of the school's financial problems, according to John J. Walsh, M.D., vice-president for health affairs at Tulane University, and director of the university's medical center.

"The third largest source of support for medical education financially in this country today, is the clinical income of the medical faculty," Dr. Walsh told Medical News. On a national basis, the money earned by the clinical faculty amounts to slightly more than 20% of the earnings of all medical schools, he explained. At the present time, only about 10% of Tulane's income is derived from this source, with most of the money coming from Medicare and Medicaid services provided at Charity Hospital, the school's major teaching hospital.

Most of the 259 full-time faculty members are employed as "geographic full-time faculty," said Dr. Walsh. Under this type of an arrangement, the academicians are allowed up to 15% of their time for private practice and they keep all the money earned this way.

Over the next five years, however, the faculty will convert to a different structure known as "strict full-time." Under the new setup, all the income earned by the faculty will go into departmental accounts. The money left after generous salaries will be used to support the school.

Two smaller departments—psychiatry and neurology—and the section of urology, have already converted to the new arrangement. They involve 38 physicians in all. "Our entire faculty is committed to becoming 'strict full-time' by 1975," said Dr. Walsh.

This new approach involves a certain number of problems. New beds must be found, facilities built, and reimbursement agreements have to be worked out with third-party payers. The school's plans have to be explained to practitioners in the community to avoid competition for patients, and the medical school must learn how to walk the fine line between too much practice and too much teaching, added Dr. Walsh. "Our eventual goal is to have our services break even after paying the salaries to the faculty members."

This approach has been tried successfully by other schools and seems to be a growing trend around the country. Some medical schools have operated clinics for paying patients for many years.

Some of the other financial solutions being tried by other medical schools are not available to Tulane. Direct subsidies from state governments, for instance, have helped some private medical schools to stay solvent. However, neither the current political climate nor the tax revenue situation in Louisiana seem to favor a similar solution for Tulane.

In Wisconsin, the Marquette School of Medicine skillfully engineered a separation from its Jesuit parent school. Having resolved the church-state issue, Marquette successfully appealed to the state legislature for funds and last October received a $3.2 million grant which will keep its doors open for two years.

The Wisconsin supreme court which ruled that a state legislature could provide funds to a private school had plenty of precedents, said the AMA's Dr. Nicholson.

As former dean of the University of Miami School of Medicine, Dr. Nicholson knows about state subsidies. Miami (a private school) has received a subsidy since 1952. The subsidy provides the school each year with about $4,500 for every Florida student enrolled.

Three of the seven medical schools in Pennsylvania are also considered to be "state-operated," said Dr. Nicholson. Although none of the institutions is owned by the state, the government pays the deficit incurred by medical schools at Temple University, the University of Pittsburgh, and the Pennsylvania State University at Hershey.

The other four medical schools are considered "state-aided" and receive a state subsidy based on a sliding scale tied to the number of students enrolled. Similar subsidies on a per-student basis have been passed in North Carolina, Ohio, and New York.

"Partial state subsidization of private medical schools is a wise and growing trend," said Dr. Nicholson. "By supporting these institutions the citizens of the states not only help provide a place for their children to study medicine, but also make their communities more attractive to physicians who are looking for the best care available for his patients.

"Pennsylvania is particularly forward-looking by providing money for every student enrolled regardless of his State of residence. Most of the other legislatures have limited aid to students from the home state."

State aid is not without certain pitfalls. Its extent can be unpredictable, due to demands on public funds for transportation, housing renewal, hunger, crime prevention, and other social problems.

Moreover, student unrest has generated pressures for greater accountability to state legislators.

"The penetration of state government into the universities is an important new facet," said Herbert E. Carter, Ph. D., vice-chancellor for academic affairs for the University of Illinois. "The state government and bureau of the budget have increased their control over funds that were previously much more flexible," Dr. Carter told MEDICAL NEWS. "At the same time that federal support is declining, the states are applying pressure to increase teaching loads and to divert funds to areas with social relevance."

Curriculum changes have also been proposed as a means of relieving the financial problems of the medical schools. Although most suggestions deal with speeding up or modifying the undergraduate medical years, a few would reduce the intern and resident load.

Some authorities would have the young MDs train with experienced physicians in a preceptorship status rather than being trained on various services. Tulane's faculty claim they are pleased with several fourth-year medical students who are performing as "junior interns" in an experimental elective program.

In the past, private foundations have sometimes provided at least temporary help for a medical school's financial problems. However, several changes have taken place in recent years to make these givers more uncertain sources.

The tax reform bill has spurred some foundations to distribute funds faster in order to comply with the law. However, the incomes of other groups are now taxed more heavily and as a result their donations have dropped.

The foundations have also developed new and different interests over the years, particularly in the area of social and racial problems, according to Alan Pifer, president of the Carnegie Corporation. Mr. Pifer told a recent symposium audience that the Carnegie Corporation maintains an interest in the plight of the medical schools. However, he indicated that the competition for the foundation's funds had increased dramatically with the fall-off in government support. "There is little hope that the foundations can pick up the slack," he said.

Finding someone to pick up the slack has become a more and more desperate matter for many medical school deans, especially as pressures increase for greater community involvement and the production of more MDs. "A lot of people would be happy to shift from research to the delivery of health care and education of students," said Tulane medical school's Dean Sparks "if someone would give us the wherewithal to make the shift."

LACK OF FIRM DATA ABOUT NEW NIH BUDGET COMPLICATES PLANNING

There is not much in the 1971 fiscal year budget to gladden the heart of a dean.

Although next year's NIH request to Congress exceeds the 1970 budget by more than $93 million, little of the money will be directly available to help the schools out of their financial quagmires.

In the research area, for instance, NIH's regular grant program was increased by 3% in accordance with the administration's desire to "reverse the downward trend in the support of research and maintain the program level—that is, current dollars plus inflation—at a constant level, even during these times of difficult constraints."

The biggest increases in the research area arise among the collaborative research and development programs. Forty million additional dollars will be spent next year to investigate the possible viral etiology of cancer, arteriosclerosis, family planning, maternal and child health, and dental caries.

However, only half of the research contracts have ended up in academic laboratories in the past. The rest of the funds have gone to private research institutions, industrial firms, or various non-profit research organizations.

Even if a contract went to someone in his medical school, the dean would probably derive little more than the researcher's presence and possibly a few hours of teaching time.

One reduction in the research portion of NIH's budget will put additional pressure on school administrators. General Research Support Grants, one of the few research awards given on an institutional basis, are being cut by 20%.

Deans have wide latitude on how they can spend these monies in supporting research. Some administrators were able to stabilize their faculties by using the funds for salaries. Other schools channeled the funds into machine shops or central laboratories needed to support their research effort. The only limitation is that the money cannot be used for new buildings or renovation.

"When I was a dean, these funds were manna from heaven," Roger O. Egeberg, M.D., said in an interview. The assistant secretary for health and scientific affairs in Health, Education and Welfare explained to Medical News that the $10 million reduction in General Research Support Grants had been used to balance some of the other increases.

Just about the only other places where an administrator can hope to find some general support funds lie within the funding categories established by the Health Professions Education Assistance Act in 1963 (Public Law 89–290) and the Health Manpower Act of 1968 (Public Law 90–490).

Under these provisions, the dean can apply for three types of grants:

Construction Grants;
Institutional or Formula Grants; and
Special Projects Grants.

A dean can use construction grant money to build new teaching facilities or renovate old classrooms. He can even include some research and administrative spaces as long as teaching remains the main purpose of the building. The 1971 fiscal year construction grant requests for NIH amount to $126 million, about the same as in 1970.

Institutional grants, sometimes called formula grants or basic improvement grants, have been slashed by $2.4 million. These funds are distributed to all accredited medical schools and other health training institutions according to a formula based on the number of students enrolled.

These funds are prized. Just about the only restrictions on how they may be spent involve building or research support. The $250,000 to $270,000 received annually at Tulane, for example, has been used primarily for faculty salaries.

Two years ago, Tulane also won a $1,500,000 Special Project Grant (otherwise known as a Special Improvement Grant). Funds in this program are granted to selected schools for specific projects, rather than going to all training institutions. At Tulane, the $300,000 annual installment has been used to add faculty members in the basic sciences and to attract new department chairmen.

An increase of more than $14 million has been requested for next year's NIH budget, raising the funds available for special project grants to $69.5 million. Part of the increase came from the cut in institutional grants, Dr. Egeberg said. In this way, the planners hope to help specific schools faster.

Included in the special project grant area is a new, highly visible program that will take effect in the fall. The Physicians Augmentation Program had an original goal of increasing the size of the 1970–1971 freshman class in medical schools by 1,000 students. But the $10 million set aside for the program sufficed to create only 443 new first-year slots in 29 schools of medicine and osteopathy. (JAMA Medical News 212:1291 [May 25] 1970.)

The institutions competed for the funds on the basis of need as well as the capability to expand their enrollments. Plans for money from the Physician's Augmentation Program span the spectrum from construction to salaries.

All these programs don't add up to many sources of general support for the medical school dean, however. And there is still some doubt as to how much money will ultimately be available. Dr. Egeberg told MEDICAL NEWS that he is waiting to see what Congress does about the NIH budget—and when. The former dean of the University of Southern California Medical School remains also hopeful that he will be able to secure some sort of supplemental funds to support the medical education effort.

"One of the reasons the schools are having such problems is that they haven't heard any clear signals from Washington," said Dr. Egeberg.

"Personally, if I were a dean again, I would be waiting to see what kinds of new directions are forthcoming from government before pushing ahead too far with some of my programs."

However, it seems that the prerequisite for large-scale government aid to medical education would be a major change in public philosophy.

Congress, state legislatures, and the taxpayers all will need to be convinced that the teaching side of medical education deserves no less support than research. This support could be accomplished by modifying—or totally changing—the existing machinery for supporting research, but such changes can come about only after the change in philosophy.

The impetus for such a change may come from the medical profession. A joint AMA-AAMC statement two years ago called for a national policy which would assure a place in medical school for "every young person interested in and qualified for entry to the study of medicine."

During his tenure as the elected leader of the AAMC, Dr. Anlyan hopes to persuade his constituency to develop a health strategy program for 1985 by "working the domino-theory backwards."

"We should try to decide which highly visible health goals the nation would like to have by that time; goals such as the lowest infant mortality rate. Then we can show what medical resources will be needed in 1980, 1975, and backward to tomorrow," Dr. Anlyan said in an interview. "Academia and all the practicing health professionals should develop the blueprint and let the government react to it rather than vice versa."

An opportunity for a national examination of medical school support may be at hand. In a speech last fall to a group of physicians, NIH's Dr. Marston noted that the Health Manpower Act of 1968 provided for only three years' support and comes up for congressional renewal early in 1971.

"Hopefully, consolidation of this legislation will stimulate appropriate debate on how best to arrange for this aspect of NIH and the academic life," Dr. Marston told the physicians. "You have an opportunity as individuals and as an organization to contribute to the discussions."

LEGAL PROFITS AND ILLEGAL DRUGS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. PEPPER. Mr. Speaker, this body's Select Committee on Crime, which I have the honor of serving as chairman, recently completed 5 days on hearings in New York City on the heroin traffic. We heard testimony that traced the flow of this deadly drug from the poppy fields of Turkey to the clandestine laboratories of France to the shores of this country.

As the result of an investigation by committee staff members, we also brought before the committee several drugstore owners and other merchants who, it appears, sold large quantities of drugstore owners and other merchants the paraphernalia used to dilute and package heroin. We were shocked at the huge potential for profit for those who engage in selling what are, at face, perfectly legal items that end up in the illicit drug traffic. The editors of Time magazine shared our concern about these merchants on the periphery of the heroin traffic and wrote an excellent article on the problem, which appears in the July 20 issue. I would like to include that article in the RECORD at this point:

DRUGS, PARAPHERNALIA, INC.

In the argot of the drug world, it is "paraphernalia": the necessary accouterments to merchandising heroin. The small glassine envelopes, or "bags," used to package heroin are paraphernalia. So, too, are the legal, harmless powders used to dilute the drug, usually quinine, dextrose, lactose or mannite. According to a House Select Committee on Crime investigation in New York City, peddling paraphernalia has grown into a $5,000,000-a-year business.

One outlet, the Harlem Stationery Co., sold 52,000,000 glassine bags in 1969 alone, accounting for nearly 20% of the store's $500,000 sales. A Harlem drugstore, the Co-Op Pharmacy, peddled 47 million bags over a two-year period for an estimated $100,00[illegible] profit. There are, of course, other users of the envelopes, such as watch repairmen and stamp collectors, but the committee concluded that most bags sold in Harlem were used to package heroin.

The Co-Op Pharmacy also sold 40,000 ounces of quinine, worth $60,000, in the same two-year period. Estimated revenues from the sales were between $1,000,000 and $1,400,000. The committee was told that regular sales of quinine and the other heroin additives would only total a few hundred thousand dollars a year for all of New York City.

Last week a 14-year-old Harlem youth died from an overdose of heroin. He was the 102nd teen-ager to die from drug-related causes so far this year in New York City; 322 adults have also been killed by drugs in the same period. To slow one aspect of this lethal trade the committee members are studying the possibility of new legislation to control the sale of paraphernalia, including quota systems for the sale of heroin additives. In an attempt to help, the United States Envelope Co. of Springfield, Mass., which manufactures glassine envelopes, last week announced that it will sharply limit production and distribution of its bag-sized envelopes.

THE PERIL OF IGNORANCE

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. BRAY. Mr. Speaker, I wish to insert at this time the revised and expanded version of a speech I made in Indianapolis in May 1970:

THE PERIL OF IGNORANCE

(By WILLIAM G. BRAY)

(Prepared for delivery for Armed Forces Day at Stouffer's Inn, Indianapolis, Indiana, May, 1970—Later revised and extended.)

Know the enemy and know yourself; in a hundred battles you will never be in peril. . . . When you are ignorant of the enemy but know yourself, your chances of winning or losing are equal. If ignorant both of your enemy and of yourself, you are certain in every battle to be in peril.

Those ageless words spoken 25 centuries ago are a clear warning to us today. The bleaching bones of a hundred countries that either failed to heed them or failed then to act in their national interest and safety, stand as silent reminders of the truth Plato grimly wrote 300 years before Christ: "Only the dead have seen the end of war."

A glance at history's chronicles will show very, very few periods in the span of written human history where there was not in some patch of the sky above the globe that "harry of midnight cavalry, riding the wind."

So, like it or not, any country that hopes to remain externally secure in a world in which the unprincipled and aggressive will prey upon the weak must keep itself spiritually, economically and militarily strong.

Just over a year ago I visited Tunis and spent a day searching for the ancient battlefield of Zama where in 200 BC the Roman forces under Scorpio Africanus eliminated Cathage from the world. Carthage was so interested in her wealth, had become so greedy, so selfish that she forgot that the price of freedom is eternal vigilance. The Cathiginian became so intent upon the clicking of gold pouring into his tills, so enchanted with the roar of the growing commerce, so careless of his personal responsibility to serve his country that he could not hear Cato daily shouting in the Roman Senate: "Delenda est Carthgo" (Carthage must be destroyed).

We do not need to go back 20 centuries to realize the danger and evil that can result from allowing blind trust, stupidity, and selfishness to wreck a civilization. It was less than 40 years ago that Chamberlain tucked his umbrella under his arm and went to Munich to appease Hitler and give him what Chamberlain did not have to give: the freedom of Czechoslovakia. Many of us still remember the wild cheering that followed Chamberlain's proud announcement: "We have attained peace in our time."

The sacrifice was so unnecessary. Hitler did not have the strength at that time to overrun Europe. All he needed was Chamberlain's surrender and this he received.

Now as then we have the "doom-shouters" who at the top of their lungs scream that we are drifting into a militaristic society and shriek incessantly of what this is doing to us as individuals and to use as a nation. During these last few weeks we have heard their hysterical shrieks of outrage that our President took the measures he had to take to protect our soldiers from an enemy who had taken sanctuary in a country that is trying to be neutral. These shouters, like Chamberlain, seem to have forgotten that freedom and liberty are expensive luxuries, but their alternative—slavery, can be even more expensive.

I recently read a book most complimentary to the great productive "know-how" of America. This book, the American Challenge, was written by J. J. Servan-Schreiber, a Frenchmen. It clearly recognizes that the American inventiveness, engineering and productive capacity exceeds the wildest dreams of man. However, this story of our country's industrial, economic and financial strength also brought to me an awesome fear for the future of our civilization if we ever allow America and Americans to deteriorate physically, mentally and spiritually to the point where we can no longer capably control and utilize the tremendous material strength which we are able to produce.

HATRED, THE ORDER OF THE DAY

While reading this tribute to America's greatness, I was also reading in every paper of the violence of American youth. Not violence by the poor, the underprivileged, the working youth, but by our college youth who are the beneficiaries of the greatest freedom, the greatest opportunity, the highest degree of living and luxury ever enjoyed by any youth in history. The overwhelming majority of American youth today are fine, dedicated young people; but many of them do not realize the growing problem posed by the small but violent group of activists. Many tolerantly view these activists as just another group "doing their thing." In every paper in America we read of a segment of these youth spewing hatred on America and all that America stands for. At the same time they revel in praise of America's enemies. These youths are joined and defended, and in many instances directed, by leftist professors who are being paid their salaries by American taxpayers.

We need to be informed as to the cause and purpose of these anti-American acts. In the words of Sun Tsu, let's dispel our "ignorance of the enemy." Only the naive doubt that much of the impetus and planning for the "hate America" campaign comes from our enemies abroad, but the real danger is from the enemy within our country.

There is a vast difference between dissent, which is the very essence of a democracy, and attempts to destroy our country by violence. To those violent ones, America is always wrong, our enemy is always right; peace is the surrender of the United States; and disarmament means disarmament by the United States. Let us face the issue squarely: the only act that our country could perform today that would bring this small but vicious and violent band of anti-American leftists back into the national structure would be the act of total surrender to Hanoi. And yet even this yielding would bring only a temporary calm while another anti-American "cause" was being established.

By the philosophy of the violent activist throwing a rock or a golf ball spiked with nails calculated to blind or maim a policeman is "legal dissent," but reaction by the police or other law enforcement officials to protect themselves or other innocent victims is "repression" by "Fascist pigs."

One of the goals of this violence is to destroy the ROTC (Reserve Officers Training

Corps). Scores of ROTC buildings on college campuses have been bombed or burned. The ROTC is not a part of so-called "militarism." No students are required to be members of ROTC. The ROTC is an adjunct of the concept of the citizen soldier (a soldier in war and a citizen in peace) which has enabled the United States to remain strong and yet unmilitaristic through its 194 years of existence. Why should these youthful, activists attempt to destroy the ROTC, which they in no way are forced to join or work with?

Back of all this violence is the goal of destruction of this country, for to maintain an adequate armed force to protect America, the ROTC is necessary. Violent students never protest the enormous armed forces of Russia and Red China or any other enemy of the United States. No acts of aggression by Russia, Mao's China, North Vietnam or North Korea can rate a word of criticism in the "hate-America" campaign.

Another target of this destruction has been the CIA (Central Intelligence Agency), the foreign intelligence arm of the United States. Why is New Left violence directed against the CIA? Without knowledge of enemy activities America would be helpless to defend herself against foreign aggression. Without knowledge of the enemy, our country would be in the position of the magnificent Samson, about whom the blind English genius, John Milton, wrote so feelingly and agonizingly:

Eyeless in Gaza, at the mill with slaves,
O loss of light, of thee I most complain!
What boots it at one gate to make defense,
And another to let in the foe? . . .

What, then, is the principal goal of the New Left? The goal is clear: The only end that they will accept is the defeat of this country by Hanoi.

HATRED OF THEIR COUNTRY—PRAISE OF ITS ENEMIES

Student rioters do not express a word of criticism of the vicious Secret Police of the Soviet Union, the KGB, but they express nothing but hate and vituperation for the CIA. The murder of millions and the indescribable brutality of the Soviet Secret Police, the Cheka of Lenin, the NKVD of Stalin that directed the purges of the 1930's and the Katyn Forest Massacre, and the KGB of today are ignored.

There is no criticism of murder and starvation by the Soviets, or of the denial of freedom to millions in Russia and her satellite countries. The brutal enslavement of Hungary and Czechoslovakia do not rate a word of rebuke.

These proponents of violence among our youth are dedicated to hatred—hatred of fathers, schools, fellowmen and their country. The flags they carry are the red flag of Communism, the black flag of anarchy and the Viet Cong flag. The flag they defile is the Stars and Stripes, the flag of their own country.

Violent students do not raise a word of protest against Viet Cong invasion of neutral Cambodia to use as a sanctuary to launch attacks against South Vietnamese and Americans. Yet these same activists scream against the "establishment" when American troops, at the request of the Cambodian government, entered that country to drive out the Viet Cong invaders and save the lives of their fellow Americans. The New Left is not only bitterly opposed to the United States assisting the South Vietnamese in maintaining their freedom; they oppose with equal hate any plan whereby the local South Vietnamese can retain this freedom by their own effort. Difficult though it is to understand, the goal of this violence, not realized, however by many of those participating, is a Communist takeover and victory.

These youths who plan to destroy the "establishment" feign friendship with Black youths. In actual fact, they have proved by word and deed that they have only contempt for the Blacks and desire from them only their assistance against the "establishment."

In 1968 violent student riots brought Columbia University, which had formerly been one of our great universities, to her knees, all in the alleged interest of civil rights. The excuse used was that the Morningside Gym was being constructed at a location that should be used for the Blacks of Harlem. In a speech later before the Harvard Chapter of the Students for a Democratic Society (SDS), Mark Rudd, President of SDS and now a fugitive from justice, said that he "didn't even know where the Morningside Gym was" yet he led that riot. Later in the same speech Rudd said that there was only one issue in the confrontation: "whether or not American universities should be destroyed." In the May 19, 1968, issue of the New York Times, Rudd admitted:

"I was never really attached to civil rights. There was too much idealization of Negroes. I have always felt a tremendous barrier between me and Blacks."

Mike Klonsky, secretary of the Students for a Democratic Society (SDS), has stated:

"The civil rights movement was finally buried with Martin Luther King's assassination."

Although the Blacks, individually and through organizations such as the Black Panthers, have at times worked with the New Left in acts of violence, they have a different motivation: while the violent white students would destroy the government and society, the Blacks want a greater share in that government and society. Violent methods which they pursue are wrong and self-defeating, but their goals are at least more understandable

The New Left in the United States and the New Left of every other free country attack embassies and desecrate flags of all countries that are free. What do these violent youth want? It is not a democracy. The "gods" they worship—Che Guevara, Mao Tse-tung, Fidel Castro—all dedicated their lives to destruction of democracy.

The "free speech movement" (1964–1965) was launched at the University of California at Berkeley, the university at that time with perhaps the highest degree of freedom of speech and action of any university in any country in the world. The real purpose was to wreck the school and to deny freedom of speech to all who disagreed with the organizers of the "movement."

Violent students would change that great declaration of Voltaire to Helvetius:

"I disapprove of what you say, but will defend to the death your right to say it.

"I disapprove of what you say and I will fight to your death to destroy your right to say it."

The New Left has nothing but contempt for labor and the betterment of labor conditions. This summer the youthful activists are renewing their efforts to take over organized labor, as they temporarily cease their campus violence during vacation and join summer labor forces while the schools are closed.

Another of the "gods" of the New Left is Professor Herbert Marcuse, who has only hostility for organized labor. As Professor Marcuse states it, American labor has provided our economy with the products needed and desired to such a degree that it dulls the "lust for revolution." The New Left is dedicated to the destruction of free labor in America and is proceeding toward that goal. To realize his goals, Professor Marcuse would restrict free assembly and free speech to those who espouse causes which he determines to be right.

Those who would destroy America are few in number, but it should be remembered that Mark Rudd stated initially he had fewer than 150 followers when he wrecked Columbia University in 1968; Lenin had fewer than 14,000 followers, when he took over Russia, and a relative handful goose-stepped Hitler into power.

ORGANIZED HATRED

Where and when was this hatred of school, society and government spawned? It is always present in some segments of society, including youth. In years past this feeling has been referred to as the "sons who hate their fathers." However, the current hate campaign received a great and organized boost in the violence planned and engendered by the misnamed "freedom of speech movement" at Berkeley in 1964 and 1965. This violence was organized and directed by various leftist groups, including Communists, leftist faculty members and non-students.

This philosophy, however, received its greatest single impetus at the Labor Day weekend convention of the National Conference for New Politics held at the Palmer House in Chicago in 1967.

Present at this meeting were representatives of approximately 300 leftist organizations: Communists of many breeds—Marxists, Soviet and Chinese. There were Trotskyites and Castro and Che Guevara Communists. Also present were anarchists, sexual perverts, arsonists, thieves, hippies and drug addicts. The meeting was one of disorder, hatred and violence. The theme was hatred—hatred of America, hatred of America's heritage, hatred of fathers, hatred of schools, hatred of everything for which America stands.

Columnist Victor Riesel described the meeting:

"It was like entering the Gates of Hell and finally coming out on the other side."

Baltimore Sun columnist Gerald Griffin said:

"This political mess attempted at Chicago is as ugly as it is poisonous."

There was no united organization formed at the Palmer House meeting, but out of this inferno did emerge a clear understanding of what these people are against: they are against America and want destruction of her institutions, especially her educational system. Their ruling passion is "hate America."

From this meeting the Students for a Democratic Society (SDS) emerged as the leading organization for the hate America conclave. At a later convention the SDS was split by a disagreement and the ultra-violent Weatherman branch of the SDS came into being. The Weatherman branch, in meetings in Cuba and later in Flint, Michigan, concentrated on plans for launching increased violence—plans which have since been carried out. A variety of mobilization committees have added their part to the "hate America" theme.

What part is Russia, Red China, Cuba, North Vietnam, North Korea, and other Communist countries, as well as the Communist Party in the United States, playing in this planned hatred of America in the directing of the organized violence on the campus and in the streets of America? Activists of the anti-American New Left do make visits to these Communist countries where they receive encouragement and issue statements through the news media—statements filled with hatred for America and preaching its overthrow and destruction. Both these visiting anti-Americans and the Communist leaders desire the overthrow of America. However, these anti-American activists envision a type of government far different from that which presently exists in Communist countries.

The violent student is against all government and law and controls or direction—the Communist type of government is exactly the opposite. Not only is the individual regimented as to government, but to his economics, political and personal life. These Communist countries and the Communist Party in America do make use of the New Left to destroy our democracy, so that in the ensuing chaos and anarchy they will be able to seize control and establish Communist control.

After Lenin and Trotsky seized control in Russia in December 1917, Trotsky turned his artillery on the anarchist headquarters in Moscow and quickly destroyed not only the anarchists but all Russians who demanded the freedom they had been promised by the Communists before they seized control.

The strongest and most bitter criticism expressed against the Communists, destroying the freedom and liberty that they espoused before seizing control, have been written by ex-Communists themselves, such as: Emma Goldman, 1869–1940; Alexander Berkman, 1870–1936; Peter Kropotkin 1842–1921.

It is interesting that Lenin before gaining control in Russia, used the college youth to promote anarchy and destroy government in Russia similar to the same actions being taken by the leaders of the New Left in the United States today. A letter written by Lenin from Paris on October 16, 1905 (this was twelve years before he finally seized control) instructed:

". . . Go to the youth, gentlemen! That is the only remedy! . . . Go to the youth. Form fighting squads at once everywhere, among the students and especially among the workers. Let groups be at once organized of three, ten, thirty persons. Let them arm themselves at once as best they can, be it with a revolver, a knife, a rag soaked in kerosene for starting fires . . . Do not make membership in the party an absolute condition—that would be an absurd demand for an armed uprising.

"The propagandists must supply each group with brief and simple recipes for making bombs . . . some may at once undertake to kill a spy or blow up a police station, others to raid a bank . . . Let every group learn, if it be only by beating up policemen . . ."

Why should the enemies of America at home and abroad wish to destroy this country, its heritage and all its potential? Is it that America is in error in building freedom and dignity, or is it that these enemies would destroy our country because of America's success and greatness? To obtain a true answer to these questions is most important to America and Americans in the coming battle. As in the ageless words of Sun Tzu:

"Know the enemy and know yourself."

A CHALLENGE TO AMERICA

It sickens the patriotic American to see our country blasphemied by every filthy beatnik, by the "hate America conclave," and by every country in the world that would destroy freedom. The great majority of people in every country and race want what we have in America, but there is a grave danger, however, that constant accusations and bitter tirades against our country may so erode our will, our confidence and faith in our heritage and greatness, that we may lose confidence in the freedom and dignity of man.

Our country in its infancy suffered problems similar to those we have on the home front today. Just as at Valley Forge the battle is for the minds of men, rather than in a glamorous battlefield where all can be risked in one dramatic act.

Washington at Valley Forge was faced on all sides with those who would surrender their freedom and dignity because they felt it was not worth the battle. He was continually attacked by the press and dissident elements. Even his chaplain, his pastor, turned on freedom and preached surrender. Many turned their backs on freedom and deserted to the comforts of Philadelphia.

In spite of these people, who would desert freedom and all other reverses, Washington and that small but brave and loyal band of patriots finally won the battle for the minds of man and went on to build the finest nation that has ever existed.

Today, those of the violent left on the campuses and in the streets, like their counterparts at Valley Forge, have turned their backs on freedom and the dignity of man—if they ever believed in this freedom and dignity at all.

No country that ever existed has given its citizens such freedom and opportunity, such a high standard of living as has the United States. No country has so unselfishly assisted other countries and peoples.

Four times in this century American youth have gone abroad to fight for the freedom of other peoples. Each time our goal was altruistic: we assisted friends and enemies alike and we have never asked for or accepted anything in return. We may have been in error at times in helping others so freely, we may have trusted those who were untrustworthy, but our errors have been on the part of trust, love and altruism instead of hate and selfishness.

Why should the New Left attack America? The answer is simple. The United States is the last great and powerful bastion of freedom capable of stopping an aggressor from riding over the world.

THE GENERATION GAP AND YOUTHFUL VIOLENCE

The number of American youth who are dedicated to violence, who wreck their schools and country is very small, but we must not ignore the potential seriousness of the growing threat of violence today. When the psychology of the mob takes over, and that is what is happening in many localities today, it is imposible to determine the extent to which other people, especially the young will be swept into mob action. Their lack of experience, coupled with youthful emotion and enthusiasm makes them more prone to be followers of the mob.

Youthful movements are never moderate. Young people are more volatile than their elders and more prone to radical actions, one way or the other. Youth through the ages have never trusted their elders. In all movements of youthful violence we hear the refrain, "One must never trust anyone over 30," Peter N. Tkachev (1844–1885), a youthful Russian revolutionary in the last century, even proposed killing everyone over 30.

In order to better understand the thinking of youth, various business and professional groups have requested leaders who have been active in youth violence to address them. They have been astonished to hear these leaders, clearly and lucidly, in effect, state:

"We have education and knowledge, and we are not encumbered by experience; so we are better able to run the country and your business than you."

They proudly state their minds are not confused—polluted, they call it—by experience as are the leaders of our business, political, economic, and industrial world—and, therefore, they must run it. In recent visits college youth have also astonished Members of Congress by expressing this same philosophy: that experience must be disregarded and youth must lead because their knowledge is far more important than the experience gained in later life.

The adult world should not be shocked at these expressions as it has been inherently the thinking of youth through the ages. They resent the importance attached to experience. This resentment of the knowledge gained by experience is one of the reasons that today's violent youth are often followers of the philosophy of Mao Tse-tung, who has expressed the most bitter denunciation of experience gained from the past. Communist papers of Red China, following Mao's philosophy, have called Western scientific and book knowledge "a pot of garbage" and have stated that, because of the teachings of Mao, "the technical practices applied all over the world have become obsolete."

The violent youth of today, however, apparently cannot see the chaos into which Mao's philosophy of ignoring the knowledge and experience of the past has dumped China's industry, government and economy.

History has recorded many instances of the university youth of a country taking a violent stand against and to the detriment of their country in favor of a foreign enemy. Quoting Winston Churchill:

"The students of the Oxford Union, under the inspiration of a Mr. Joad, passed their evershameful resolution. 'That this House refuses to fight for King and country.' It was easy to laugh off such an episode in England, but in Germany, in Russia, in Italy, in Japan, the idea of a decadent, degenerate Britain took deep root and swayed many calculations. Little did the foolish boys who passed the resolution dream that they were destined quite soon to conquer or fall gloriously in the ensuing war, and prove themselves the finest generation ever bred in Britain. Less excuse can be found for their elders, who had no chance of self-repudiation in action."

Among many similar actions by students was the vote by students at Princeton in 1940, acclaiming Adolph Hitler the "Man of the Year" because he got things done!

A humorous and often-told story expresses youth questioning the knowledge and experience of their fathers: A son twenty years his father's junior, remarked when his father reached sixty:

"Dad, when you were forty and I was twenty, you were ignorant. It's remarkable how much you have learned in the last twenty years."

The public has been generally confused as to what the young really want and baffled by the recurring chorus: "You are not listening to the youth." This is certainly erroneous. Perhaps there has never been a time in history when parents, faculty and public officials have listened to youth as they do today. What the radical youth means is: "You are not doing what we tell you to do."

The normal resentment of youth against the importance their elders attach to experience, which is what we really mean by the "generation gap," does not often manifest itself with violence when there are close family ties or when the youth has the responsibility to assist his family or others. The resentment of the normal young person in a normal setting usually works itself off as a part of growing up. Neither does "generation gap" result in contempt and violence when the youth has some definite objective in life or an objective in his school work. It seldom produces violence among those who are working either to support a family or to obtain money with which to gain an education.

We need to examine this problem carefully to try to find where we, the older generation, have permitted a "generation gap" to grow to such proportions that senseless violence has resulted.

One factor that has encouraged violence today is that too many view all youthful movements as something fine and wholesome. The rosy-hued glasses through which many are inclined to view youth tend to make us forget the truism that all movements of violence, whether motivated by good or evil, are sparked by youth. Youthful enthusiasm has, by violence, backed movements of love and hate, of war and peace, of building and destroying, of brilliance and stupidity.

The Children's Crusade of 1212 was one of the most useless, futile, and stupid events of history. The youth of that age were enthused, goaded, and directed into this tragic venture by their elders. When this Children's Crusade met its tragic end, those elder activists and leaders were not present. This is analogous to the conditions today where those who inspire and direct violence and mob action, whether among the youth on the campus and streets, or the lynch mob, are in places of safety when violence repels the mob.

Lewis S. Feuer, in his monumental and well-documented work, The Conflict of Generations, states:

"With a few changes, the characters of the Parisian student movement of the 1830's are identical with those of the Russian movement of the 1890's, the Chinese movement of 1917, the Berkeley movement of 1964. The psychological types in history are universal; in diverse eras the same cast of characters acts out eternal human drives."

Feuer, in discussing the student activists in the literature of yesterday, points out:

"There was the everlasting student nonstudent, prolonging his adolescence and reenacting each semester his revolt against his elders, Balorel, a student of law, 'a student in his eleventh year,' who 'liked nothing as much as a quarrel unless it was a riot, and nothing so much as a riot except a revolution.' He was ever ready to break a pane of glass, tear up the paving stones, and demolish a government, in order to see the effect . . . There was the believer in the rule of the intellectual elite."

He later stated:

"The student movement is almost like a secret society of sons and daughters banded against the father."

Apparently the generation gap existed quite early in history. One of the earliest works on "right conduct" was The Maxims of Ptahhotep, written in the twenty-seventh century B.C. In his admonitions to youth (probably the king's son), the aged vizier wrote:

"Be not proud because of their learning. Take counsel with the unlearned as with the learned, for the limit of a craft is not fixed and there is no craftsman whose worth is perfect . . . How worthy it is when a son hearkens to his father . . . How many mishaps befell him who hearkened not! . . . As for the fool who hearkens not there is none who has done anything for him. He regards wisdom as ignorance, and what is profitable as useless."

Twenty-four centuries later this generation gap, apparently, still existed. Aristotle, the great philosopher and teacher, (Alexander the Great was one of his pupils) wrote at some length and in detail on youth.

"Youth does not especially love money, not having yet learnt what it means to be without it . . . They trust others readily, because they have not yet often been cheated. They are sanguine . . . and besides that, they have met as yet with few disappointments."

They think of themselves, he declared, as an elite which can accomplish what others have not and continued:

"They have exalted notions, because they have not yet been humbled by life or learnt its necessary limitations; moreover, their hopeful disposition makes them think themselves equal to great things—and that means having exalted notions . . . their lives are regulated more by moral feeling than by reasoning . . . They think they know everything, and are always quite sure about it; this, in fact, is why they overdo everything."

Approximately twenty-three centuries later, Walter Laqueur in a comprehensive study entitled "Reflections of Youth Movements," appearing in Commentary, June, 1969, pointed out:

"Youth movements have always been extreme, emotional, enthusiastic; they have never been moderate or rational . . . the established order is corrupt to the bones and beyond redemption of parliamentary means of reform. The ideologies of democracy and liberalism have always been seen as an irretrievable part of the whole rotten system."

Laqueur further commented that violent activism by youth has been a recurring incident in history but that,

"Youth movements have come and gone, but never before has one been taken so seriously. Never in the past has an older generation been so disconcerted by the onslaught of the young."

The mature leaders of youth were given great blame by Laqueur:

"The doctors of the American youth movement are in fact a part of its disease. They have helped to generate a great deal of passion . . . but they have failed to produce a single new idea . . . the historical memory of a generation does not usually extend back very far . . . but their mentors do remember, and their betrayal of memory cannot be forgiven."

The participants in youth movements have always had a divine belief in their own infallibility and an equal mistrust of the will of the majority, as exemplified by their elders. This unbalanced thinking of youth movements creates a philosophy opposed to democracy or legal procedures, and when aided and abetted by conniving, vicious, and selfish leaders, has often led youth to the belief that they must rely on violence to reach their objectives.

What are these objectives? What are the yearnings that so trouble these violent young people that to obtain them all loyalties to family, friends, school and country must be forgotten? Obscenity, vulgarity, and immorality become a way of life, and destruction of everything that has been considered good and decent becomes a compulsion. What are the objectives for which these young violent radicals are willing to give so much?

Apologists for the student protests are inclined to believe that all of them are youths' way of crying out against the Vietnamese War. This is not true. Of all the student protest demonstrations at U.S. institutions of learning reported in 1967 and 1968, there were 27 different issues, only 38% of which were concerned with U.S. policy in Vietnam. One of the first of the recent violent student protests took place in 1964–1965 at Berkeley under the so-called "Freedom of Speech Movement." Perhaps the most violent of all occurred at Columbia University in April and May, 1968, at a time when the U.S. was suffering severe casualties and was rapidly escalating our military forces in Vietnam and bombing the North Vietnamese. However, the alleged reason for the anti-Columbia riots was not the war but to stop construction of a gymnasium at Morningside Heights.

Other principles which were of such overriding importance that a number of students felt they could be settled only by violence and destruction and therefore became the focal point of at least one riot were:

1. Dormitory and other living-group relations, including womens' hours and bedroom visitation rights.
2. Civil rights in several explicit as well as vague areas.
3. The draft.
4. On-campus recruiting by the armed forces.
5. On-campus recruiting by various industrial and commercial concerns.
6. Classified defense and related research on campus.
7. Basis for grades (students were demanding that grades be given without exams being taken, University of Maryland 1970).
8. Type of observance to be held in relation to the death of Martin Luther King, Princeton, 1968.
9. An autonomous College of Afro-American Studies at Cornell University; when this was turned down, students armed with rifles and shotguns seized Willard Hall (1969).
10. Elimination of ROTC and ROTC scholarships, 1968–69.
11. Reduction of rent of Harvard-owned apartments, 1968–69.
12. Demolition of Harvard-owned buildings and homes for expansion of university physical plant, 1968–69.
13. Pending Black Panther trial, particularly violent at Yale University, 1970.
14. Altercation between part-time coach and black athlete, San Fernando Valley State College, 1969.
15. Behavior of coaches, San Jose State and Oregon State, 1968.
16. Fifteen separate demands, all hinging on problems related to open admission for black students, black teachers, black studies, San Francisco State College, 1968–69.

It is especially significant that of the most violent demonstrations purporting to be over the Vietnamese War have taken place in 1970 at a time when the U.S. is rapidly pulling our troops out of the War. Only the naive would doubt that a force dedicated to the destruction—not the remoulding—of the United States as a country of free men is behind these riots. But students have always been naive, haven't they?

Many of the violent youth, when confronted with responsibility in later life, will become worthy members of society. I recall an incident in a law suit many years ago when a famous old trial lawyer, in attempting to explain the actions of certain youth, quoted the following poem:

King Solomon and King David led merry, merry lives,
They had many, many concubines and many, many wives.
But when old age o'er took them with its many qualms,
King Solomon wrote the Proverbs and King David wrote the Psalms.

We can only hope that when those who have joined today's campus riots just to be in the "in" group, as many of them have, reach the age of writing proverbs and psalms, they will have a free press in which to publish them.

DISSENT AND THE MOB

To dissent, to disagree, is and always must be the right of free men. The reconciling of disagreement is one of the fundamental purposes of government. To be able to reconcile these differences properly and fairly demands from government the best, the most capable and fairest of leadership. In discussing dissent, it is important that legal dissent in no way be confused with violence. The conflict in government between protecting the lives, rights, and property of the citizens and also protecting the citizen against the regimentation and repression of the state always presents a problem. In the United States we have a government that protects the individual both against the violence of his fellowman, and from the tyranny of the majority. The battle to obtain for men the freedom and protection he has in America today has been bloody and has taken centuries to accomplish. Among the milestones in that progressive battle we find the Assize of Clarendon of 1166; the Magna Charta of 1215; the Mayflower Compact of 1620; the Habeas Corpus Act of 1679; the American Declaration of Independence of 1775; and the Constitution (and the Bill of Rights) of 1787 and 1791. Gladstone, the great British Prime Minister, said that the United States' Constitution was the greatest work ever produced by the mind of man.

A mob throwing rocks at policemen, smashing windows, burning and looting, all in the name of dissent does not prove that these dissenters are right or just. "There is no tyranny more vicious than the tyranny of the mob." Such a mob is usually an infinitesimal minority attempting to overcome the will of the majority.

The greatest and most important method of dissent is one than can be resorted to only in free countries: the free and secret ballot. No Communist country or other country ruled by a dictator has the ballot as a weapon of dissent. If the citizens of Communist countries had this weapon then Communist tyranny of today would be at an end. It is this method of dissent—the ballot—that has allowed mankind to grow in knowledge, to achieve his progress and greatness. This secret ballot, as long as he can retain it, keeps government responsive to his will.

It is interesting that the mobs on the campuses and in the streets, the promoters of violence, have never demonstrated an interest in the use of their right of the secret ballot. They repudiate the ballot and encourage its demise.

Mob action is an acknowledgment that the members of the mob are in the minority and that they are espousing a cause that is contrary to the law or is opposed by the majority. Otherwise, they would not have resorted to mob action; they wolud be resorting to recognized procedures. The action of the mob is an attempt to destroy legal procedures, and any yielding to that mob is yielding to blackmail; the experience of the ages has proven that such yielding brings only more vicious blackmail. Mob action in a democracy is never justified.

A mob has no reason. It is usually instigated by vicious, conniving and evil persons. Such has been the making of "lynch-law," which at times has disgraced most of the countries of the world. In the whirlwind action of the mob, many innocent people are swept forward by the unreasoning waves of passion. Untold numbers of emotional, naive and easily led people, both youth and adults, have become participants of the mob, and as a result, they have been maimed or killed, often unaware of the vicious goals motivating the instigators of the mob. Many unthinkingly have gone along with the mob, and consequently have become criminals, and others have spent much of their lives in remorse for having been a participant of mob action.

Today, as in the past, the mobs on the campus and in the streets are directed by the enemies of our country and society, who, when seeing their goal of a takeover or of destruction thwarted, have directed and goaded a mob to do their will. They, however, are well in the background when the hour of confrontation comes between the mob and the reality of lawful force. Only the naive doubt that Communists and others of the "hate America" breed are active in "turning on the hate" and promoting their anti-American mobs.

The real enemies of the youth of today are those in authority who either encourage or permit the violence, rock throwing, burning and disruption of classes and of law and order.

HISTORY OF CAMPUS VIOLENCE

Campus violence has occurred throughout the ages. History gives us many student movements of violence. We have the filthy, bearded Cynics and the Sophists of the Third and Fourth Centuries of Rome, both decaying versions of their earlier Greek counterparts. They were anti-government and anti-society. These Cynics and Sophists, by working as termites within the social, economic, and political structure of Rome, contributed greatly to Rome's fall to the barbarians. Today's Weathermen (splinter group of the Students for a Democratic Society) at their "War Council" in Flint, Michigan, December 27–30, 1969, placed themselves with pride in a role similar to the barbarian tribes who invaded and destroyed Rome.

Will Durant's description of the Cynics of that time and place:

"Their tattered cloak, their unkempt hair and beard, their wallet and staff, their reduction of life to simplicities, sometimes obscenities. They lived like mendicant friars, had a hierarchical organization with novices and superiors, avoided marriage and work, scorned the conventions and artificialities of civilization, denounced all governments as thieves and superfluities, laughed at all oracles, 'mysteries,' and gods."

Sounds familiar, doesn't it? The ancestors of Haight-Ashbury inhabitants in San Francisco, or any of the gamier stews in the cities where they congregate today; yes, Greece and Rome had them too, this incipient SDS.

The Dark Ages lightened somewhat; cultural life in Europe picked up and improved; universities were established, and what do we find? A writer complained about students at Oxford, England, during the 13th and 14th centuries "atrociously wounding and slaying many, carrying off women, ravishing virgins, committing robberies and many other enormities hateful to God."

These students and their nonstudent "vagabonds" openly ridiculed the police just as the students of the New Left do today.

The students at Oxford of that day were from wealthy homes, and on the campus they enjoyed privileged sanctuaries immune from arrest for lawlessness. These students could not be tried for crimes they committed in the courts where the common people were tried.

And, as today, faculty often joined in, lending a spurious air of legitimacy to the whole mess. Governor Reagan of California was lately castigated sharply for speaking of student violence and inferring that if they wanted a bloodbath, then let it come. Governor Reagan was anticipated by almost 600 years. Oxford, in 1354, got sick of it all, and an outraged citizenry (the "town") took up arms, quite literally, against Oxford (the "gown"). What has gone into the history books as the Battle of Saint Scholastica's Day, in 1354, ended with outright slaughter of trouble-making Oxford students:

"For today the mob rioted and pillaged and slew . . . when the pillage was over, the university had vanished, seemingly never to return."

Today, in some Latin American countries, student violence has practically destroyed some of the larger universities. Many have allowed the university campus to become a privileged sanctuary for criminals, similar to the objectives demanded by the SDS and the other New Left professors and students in the U.S. As some of the South American universities have become ineffective as learning centers because of crime and violence, the government has at times resorted to the use of police and the army to restore them to their legitimate function.

All free countries today are suffering student riots and protests. France, who has had her share of revolutionary youths, received a strong dose in May, 1968, when Daniel Cohn-Bendit, better known as Red Danny, manned the barricades, wrecked some of the universities, and for a time paralyzed the government. He, as his "allies" in the U.S. such as the SDS, had an especially deep hatred of the trade unions as they couldn't help him to totally wreck France. Rudi Dutschke (Red Rudi) attempted the same violence in Germany with somewhat less success. Both were closely associated with our violence students in America and their elder activists such as Marcuse.

Our problems of campus violence in America are similar to those which exist in most countries of the free world. Our problems in America are increased and further compounded by our much greater wealth and opportunities which allow a segment of youth to envision a lifetime ahead without the necessity of any useful or remunerative endeavor. All are enjoying a higher degree of prosperity and freedom than ever existed before. The universities today contain many students who should never have gone to a university because they lack the mental, emotional, and moral fiber to profit from higher learning. Allowed to run wild by our affluent and permissive society, these youths have developed a life in which motivation or sense of responsibility have been replaced by a hatred of country, school, society, father, and themselves. Adolescence, that period between childhood and maturity, should always be a vital period of life, but it has become lusterless to many of the young people because of their lack of challenges, goals and responsibility; as a result, many extend that normally brief period of adolescence many years, at times into middle age, still searching vaguely for what they missed.

This extended adolescence has developed a queer breed of juvenile delinquents. The heroes they worship are Che Guevara, Castro, and Mao Tse-tung, each of whom dedicated his life to the destruction of democracy.

This "artificial" adolescent too often today comes under the guidance of an incompetent or vicious type of college professor totally lacking in dedication to learning. Such a professor hides his inferiority in teaching by surrendering to or encouraging campus violence and often imitates the beatnik youth in dress, manners and filth of mind and body. This alliance of mentally immature students and unsavory educators produces a small but loud and dangerous swarm of termites sowing the seeds of anarchy in our schools.

Violence and riots are not new on the campuses or in the universities either in Europe or the United States. Scores of such incidents have been recorded such as in 1834 when President Quincy of Harvard banished the entire sophomore class for a year. One of the great difficulties we have today in solving such problems is a lack of courage and decision by the administration and faculty when faced with campus violence.

VIOLENT RUSSIAN STUDENT MOVEMENTS

While student movements of violence have been a recurring pattern in history, the so-called "Russian Student Movement" bears such a close resemblance to our student violence in America that it deserves a closer study by our schools and government.

The "Russian Student Movement" generally covers a half century period from 1856, just after the Crimean War, to 1905. This movement, in common with most student movements of violence, actually was an aid to reaction and failed to develop the slightest trend toward democracy. It was an impassioned movement with an almost religious zeal; yet it was above, not of the people. It was a self-styled elite movement and never demonstrated any confidence in either the worker or the peasant. A half century of Russian student activism certainly was revolutionary, but it lacked any overtones of liberalism or democracy.

The violence of this movement extended to the assassination of many government officials, even to Tsar Alexander II in 1881. Suicides became prevalent among the youth of Russia, and motiveless terror became a symbol of the movement. The students threatened and planned to blow up entire cities, and the bomb became the weapon of the violent student groups who circulated instruction sheets on the construction of "home-made" bombs.

The parallel here is particularly pertinent: the violent student activists in the United States also are distributing to high school and university students a pamphlet (a copy of which I have in my possession) containing a "short course" in making bombs and in destroying buildings and people. This copy was distributed within the cover of the New Left Notes, the national magazine of the SDS.

The pamphlet lists chemicals to purchase that will not arouse suspicion, and gives detailed instructions, complete with photographs and diagrams, for the manufacture of both concussion and incendiary bombs of varying sizes, small enough to be carried in the pocket or large enough to destroy buildings and designed to explode after the arsonist or bomber has left the premises. Final instructions are "remain out of jail in order to be able to strike again, and again, and again."

Russian historians unanimously agree that the student violence, bombing and killing of that day greatly retarded much meaningful progress toward reforms and set back for many years the obtaining of a constitution for the Russian people. Karl Marx (1818–1883) and Friedrich Engels (1825–1895), as well as the great Russian radical leader, anarchist and freedom fighter, Peter Kropotkin (1842–1921), also agree with that conclusion. Kropotkin also added that acceptance of a constitution was extremely near when, by a student plot, a bomb ended the life of Alexander II on March 1, 1881.

Lewis S. Feuer, in The Conflict of Generations, states:

"Perhaps the deepest failure of the Russian student movement was that characteristic of almost all student movements—it failed to develop a devotion to liberal values and liberal democracy. The immense forces of idealism which it released were combined with all the marks of generational politics—arrogance, the conviction that the generational perspective alone grasped the truth, physical rejection of the elders, impatience, the propensity for violence . . . The student movement had no more regard for academic freedom than did the Czar's government; it was determined to enforce its will as far as it could against critics, conservatives and reactionaries alike.

"When the Bolshevik Revolution, however, finally took place, the students stood back perturbed and bewildered. They seemed at the least to realize that the contempt for rational liberal values brought with it inevitable consequences—contempt for individual rights, a party and personal dictatorship, mass terrorism, anti-intellectualism. The next Russian student movement born in a Soviet world would have to grope for its return to liberalism."

THE CATECHISM OF THE REVOLUTIONARY

"The Catechism of the Revolutionary," written in the spring of 1869 by Bakunin and Nechayev, which became the "Bible" of the Russian youthful activists, bears a startling resemblance to the philosophy of the violent student New Left in the United States today as can be seen in the following:

"There is only one science for the revolutionary, the science of destruction.

"He (the revolutionary) scorns all doctrines and renounces culture and learning . . . He despises and hates the prevailing moral code in all its manifestations. Anything assisting the triumph of the revolution is for him moral, anything hindering it is immoral and criminal . . . All the gentle and enfeebling sentiments of kinship, love, gratitude and even honor must be suppressed . . . The true revolutionary is, by his very nature, immune from romanticism, exaltation, rapture."

The Catechism also goes into detail as to how the whole evil society is to be disposed of. One category is to be condemned to immediate death. Another category of high ranking persons is to be "inveigled into positions where they become embroiled in dirty affairs. Then they can be harnessed to our cause, and their power, influence and capital will become an inexhaustible treasurehouse for all our undertakings."

Another category consists of liberals of all shades.

"The revolutionary must join them and pretend to collaborate with them in their programs until he gets hold of all their secrets and they are completely in our hands."

Nechayev declared that it would be the worst thing that could happen if the government lowered taxes and lightened the burden of the peasants. Their lot should not be improved, the Catechism declared, and explained why:

"We are convinced that the toiling masses can achieve complete freedom and happiness only through an all-embracing destructive popular revolution, and therefore we will work with all our power and all our means to foster the spread of oppression and evil, until they break the patience of the people and force them to a general revolt."

The "Patron Saint" of the New Left, Dr. Herbert Marcuse of the University of California, San Diego branch, expressed the same philosophy one hundred years later. He strongly condemned the American free enterprise system because, in his own words, "It delivers the goods." In his book, One Dimensional Man, he attacked the American system, especially organized labor as a part of that system because it has produced man's natural needs in abundance, enabling man to rise from poverty, thus causing him to "abandon the revolution."

Nechayev and his disciples were not against the State order; they were only against the authority of others. They were autocrats aiming at establishing their own autocracy under the slogan of freedom, since this was the only battle-cry by which they could hope to achieve their aim. The dictatorship they would establish would be justified, they felt because with their decrees they would bring happiness to the people, a fair exchange for freedom.

Nechayev declared it an impossibility that the masses themselves could find their own way to happiness and justice by their own efforts. "The people cannot deliver themselves," he said. "Left to themselves, they would never be able to shape their fate according to their real needs." They had to be led to their happiness, and this was the task of the revolutionary intellectuals. The masses should therefore not be instructed and educated, he declared, because the more primitive they were, the more readily would they follow and obey.

AGING ACTIVISTS AND STUDENT ANARCHY, UNITED STATES AND RUSSIA

The Russian student violence of yesterday, as the student violence of the United States today, had its aging activists and would-be philosophers who encouraged youth to violence. An excellent example is the Russian anarchist Mikhail Bakunin (1814–1876) who stated:

"The road to revolution should be paved by the revolt of the great mass . . . and in the dedicated community of irreconcilable youth."

And Professor Herbert Marcuse, of the University of California, San Diego Branch, in the 1960's:

"The Marxist idea of socialism is not radical enough . . . we must develop the moral, sexual rebellion of the youth."

These aging activists, interestingly enough, are often involved in homosexuality. The sexually impotent Bakunin, long a world hero among revolutionaries, became a simple fool in the hands of the vicious, blackmailing and unscrupulous revolutionary Russian student leader, Sergi Nechayev (1847–1882).

Bakunin allowed his attraction to student activist movements to become his political downfall. At 55 he was still a "homeless, wandering student, a pitiful figure."

Apparently Professor Herbert Marcuse, the idol of student anarchists of today is in his declining years, stumbling and tottering toward the same end of other aging would-be leaders of student activists. The New Republic of March 29, 1969, carried a review by Kenneth Boulding of Marcuse's recent book, An Essay on Liberation:

"It would be easy to make fun of Marcuse's liberation, for it seems to be liberation from soap, from fathers, from work, from the beastly world of productivity, and exchange; and indeed it is hard to avoid visualizing Marcusian man as the remittance man of the cartoons, lounging away his life in idol fantasies on a Tahitian beach.

"I am afraid my verdict on this essay is that it is nonsense, not even attractive nonsense. The 'great refusal' which Marcuse talks about in the rebelling young is, one fears, almost identical with the great refusal of Peter Pan."

Paul Goodman, the middle-aged gadfly, today travels from campus to campus in the United States encouraging the student juvenile delinquents to violence and seeming intent on publicity displaying his flagging intellectual powers. In a television program with Stokely Carmichael in 1967, when racial problems were being discussed, Goodman's contribution to this discussion was on the "humiliation and resentment of the homosexual."

These aging ex-students, both of Russia of the last century and of the United States today, are a serious problem on campus; they never grew up. They never utilized the knowledge gained as students to assume their place and responsibility in society.

HISTORY OF VIOLENCE—ANARCHY

We find in the experience of the past a clear description of the problems of today. However, in our national egotism, we tend to believe the problems we have are unique. Carved in granite on the front of the great National Archives Building on Constitution Avenue in Washington are these words: "Study the past. What is past is prologue." So let us study the past in order to understand the violent youth of today.

The waves of violence sweeping the free world, the violence threatening our country and society, is anarchy. Anarchy is not new. We find a vivid description of anarchy given 24 centuries ago by the Greek playwright Sophocles:

There lives no greater fiend than Anarchy;
She ruins states, turns houses out of doors.

Anarchy is as old as men's experiences in living together. The word anarchy is derived from the Greek "anarchia" which literally means "without a leader; complete absence of government or law; political disorder and violence."

Anarchy is the absence of government, a state of society where there is no direction of the activities of the people therein.

To the immature and the naive, the idea of no government might, at first glance, be said to have certain attractions since the necessity of living under a ruling government has always meant repression to one degree or another. No one within a community has the absolute right to do whatever he pleases, whenever he pleases. This would seem to be self-evident to all thinking persons. Yet reams of paper have been covered with the scribblings of political philosophers who railed against any and all authority and constantly maintained that man could realize his destiny only in a totally free and unfettered atmosphere. But they made one very grave error that has ever since compounded, confused, and contradicted the issue. They have confused liberty with license. The gulf between the two yawns wide as the pit itself and has also swallowed up those who failed to see the difference. Total abolition of authority and government also means total loss of protection for rights, safety, or property of the individual.

Every civilization, society or culture has lurking within itself a force which, if allowed to develop and grow unrestrained, would ultimately destroy it. That force is the small but devastating germ of anarchy, the termite that if allowed to grow would destroy law and order, government and civilization itself. The law of the jungle would prevail. Hatred would replace love. Violence would replace peace. Fear would replace confidence. Chaos would replace order, and anarchy would become the order of the day.

LACK OF DISCIPLINE—ROOT OF ANARCHY

Every parent knows that a child has no inborn respect for the rights of others. It is only by example and training that a child grows into a respectful, useful and worthy citizen having a wholesome respect for the rights of others. It is unfortunate, however that in our society we have and will always have members who observe the rights of others only under fear of punishment. To permit these persons to violate the rights of their fellowmen with impunity encourages others to follow that same path, causing a breakdown of law and order.

Discipline of body and mind has been a directing force in man's movement forward and upward from the Stone Age. It is discipline that changes chaos into order—whether it is chaos and confusion in mind, body or society.

No one ever achieved real success as a teacher or athlete, scholar or humanitarian, in business or in the professions, as a technician or scientist, as a homemaker or citizen until he achieved some discipline of mind and body. It is unfortunate that the violent students and others of the New Left of today have so bitterly and persistently attacked the word "discipline" that this word has among many parents, teachers, and officials achieved an evil connotation. Too many fail to realize that discipline involves the respecting of the rights of others.

It is the paramount duty of parents, teachers and all public officials to assist society and especially youth in acquiring both mental and physical discipline that permits the greatest development. No one, even the lawless, respects the individual, the organization, the government or society that does not demand order, the order that results from mental, moral and physical discipline. Such is a base of respect. Any government or social order that permits each individual to do as he pleases without regard for the rights of others loses respect and eventually the power to maintain order. Such permissiveness by the individual, the home, the school or the state will bring on disorder, then chaos and finally anarchy. The defense against anarchy is discipline—voluntary discipline through the respect and concern for the rights of others—involuntary discipline enforced by law and force when voluntary discipline is refused. If the only discipline a youth or adult will get is through force, then society must use the only medium he can understand—that is force. The violent student, despite his bravado and world threats and pretended great courage, dislikes going to jail as much as others do. This force may teach him discipline, but if not, the force can at least protect decent society from him and maintain order.

Mohandas K. Gandhi the Indian apostle of peaceful revolution in behalf of the majority, gave the world a clear charge concerning the use of force for self protection:

"He who cannot protect himself or his nearest and dearest or their honor by nonviolently facing death; may and ought to do so by violently dealing with the oppressor. He who can do neither of the two is a burden. He has no business to be head of a family. He must either hide himself, or must rest content to live forever in helplessness and be prepared to crawl like a worm at the bidding of a bully."

AFTER ANARCHY, WHAT?

History presents us with a recurring pattern of violence replacing law and order, of anarchy then becoming the order of the day, then of despair when a frantic people fearful of the destruction of themselves and family, finally turn to a tyrant who promises to restore law and order but himself becomes a dictator.

After the French Revolution, the French people confused license with liberty. A reign of terror became the order of the day, violence replaced law and order, anarchy reigned. To provide order, a new government came into being. Napoleon, the man on the white horse, gained control, and man had law and order, but not liberty and freedom. The man on horseback founded a dictatorship more ruthless than that of Louis XVI.

There was an analogous situation in Russia. In April, 1917, taking advantage of the failure of the new Provincial Government to bring law and order, Lenin, making great promises of freedom, with an initial force of less than 15,000 followers aided by the mob, overthrew the government by armed force.

Tyranny has replaced violence and that tyranny is still in control. Millions have been killed, imprisoned and banished in Russia and her satellite nations to keep that iron control of mind and body by the Kremlin. The most bitter attacks on the Communist government have been written by those who were the greatest proponents of Sovietism when it first came into power, such as Peter Kropotkin, Emma Goldman, and Andrew Berkman.

We have a later example in Germany of violence by several groups endangering law and order, of that violence growing into anarchy, and of that anarchy being replaced by a dictatorial tyranny. In Germany after World War I, the Neue Schar was organized, consisting of members with long hair and filthy dress, advocating free love and distributing great masses of flowers. By 1932, the young German Republic was attacked by wild-eyed young revolutionaries very similar to the hippies and far left youths in the United States today. They were going to "man the barricades." They terrorized the public and generally brought chaos to government.

There was another group of youth in Germany who, to gain acceptance and control, promised law and order, a government to protect the citizens from the violent and anti-government forces, the "New Left" of Germany of that day. This new government burned the books, and terrorized professors in "goosestepping" Hitler into power. So Nazi Germany was born from the anarchy of violent youth.

Both of these violent youth organizations—both the left and the right—were against democracy. Both believed government must be of the elite and that they were the elite. Soon the leftist, the hippie-type, had been killed or were in concentration camps, and the tyranny of Hitler did not end until VE Day in 1945.

The replacement of violence and anarchy by dictatorial tyranny has repeated itself in a monotonous pattern throughout history. After tyranny replaces anarchy, the whims of the dictator become the law and order of the day. If and when history repeats itself, if and when an outraged and fearful citizenry takes violent action to protect itself from violence, then in remembrance, the stern college dean, the tough cop, and the Judge Julius Hoffmans of the Federal District Court in Chicago, will appear as kind guardian angels.

We must never allow violence and anarchy to get such a foothold in America that an outraged citizenry will allow retaliation by the vigilantes. Yes, it can happen here and it will happen here, unless we recognize that men can be free only in a society of law and order and then maintain that law and order.

After anarchy replaces law, and the tyrant replaces anarchy, then man begins his long walk back to the freedom and dignity he knew before he allowed anarchy to take over. The road to freedom and liberty is always a long and rugged road, fraught with blood, sweat and tears. When violence and chaos took over after the fall of Rome, it was a thousand years before man began to regain the freedom and dignity that was his before he allowed anarchy to replace law and order.

TODAY'S DEPRAVITY AND STUDENT VIOLENCE IS BOILING

When the pot boils, the scum rises to the top. The pot certainly is boiling on our campuses and the streets. The scum is coming to the top. Violence and arson would replace tolerance, reason, and scholastic endeavor.

To the New Left student activists, literature would be expressed in obscene and lecherous pictures and writings where the four-letter word "Work" is evil and to be avoided. The promotion of the use of drugs to degrade others as well as themselves is encouraged.

These people use art and music to record the filth of the gutters; pornography, crude and repulsive, is a tool in the planned program of degrading love and sex. All officials, government and school, who would protect the rights and freedom of the people, are "fascist pigs."

Similar debasement was viewed with pride by the violent students of Russia in the last century. The reasoning and philosophy leading to active campaigns by the "New Left" to degrade society is difficult for the normal person to comprehend. A possible explanation has been given in Russian literature.

The Russian novelist, Fedor Dostoyevsky (1821–1881) writing about the philosophy of the youthful student anarchists in his novel, The Possessed. Quoting one of the characters, Peter Berkhovensky:

"We don't want education. We have had enough science . . . The thing we want is obedience . . . The desire for education is an aristocratic desire. The moment a man falls in love or has the desire for a family, he gets the desire for private property. We will destroy that desire; we'll resort to unheard of depravity; we shall smother every genius in infancy."

The Russian student violence of the last century made a cult of self-destruction and terrorism. Politics to them became parricide, regicide, and suicide. They formed a terroristic band which they called HELL.

To secure money, one member of the organization was to poison his father. Another was to steal from the mail, while another was to rob a merchant. One rational student, Nikolai Nozhin, a brilliant young scientist, attempted to dissuade the circle from violence; he was found murdered in his room the night before Karakozov, according to plan, made his attempt on the life of the Tsar.

The Russian novelist, Maxim Gorki, observing a student terrorist who had assassinated a governor, commented:

"His person gives forth the strong and suffocating odor of an imbecile . . . That ass feels himself satisfied as if he had accomplished something which everybody in the world would recognize as important and useful."

Many sincere people in America, while disapproving of the violence of the "freedom of speech" movement at Berkeley, had the belief that there was some worthy motive behind the violence. They were surprised when it was found later that common crime, such as larceny, rape, embezzlement, and purse snatching, went hand-in-hand with the Berkeley violence.

When the "bomb factory" operated by the Weathermen faction of the SDS blew up in Greenwich Village on March 7, 1970, killing Theodore Gold and two of his cohorts, stolen women's purses were found in the ruins of the building. These anarchists were also common thieves. Many of the New Left promote the use of drugs among the high schools and university students today because drugs contribute greatly to depravity, and depravity is one of their ablest recruiters.

PROFESSORS OF ANARCHY

Those responsible for the tyranny of youth who encourage revolutionary changes, who neglect or refuse to enforce discipline are deserving of the title "Professor of Anarchy."

Those not of the "gown," but who condone or encourage violence of youth and attack schools, public officials, judges and police who attempt to bring order out of the chaos in the campus and the streets are equally deserving of the dubious honor of "Accessories to Anarchy." It is these Professors, Accessories to Anarchy, who are primarily to blame for the growing violence among American youth.

Abolition of authority on a national scale is but a larger extension of rebellion against discipline in the home and the school. It is unsettling in the extreme to read of this, and it is worse yet to read of its encouragement as well. A recent glaring example that has to date been denounced on virtually every newspaper editorial page, ranging from the New York Times and the Washington Post to the Wall Street Journal and the Chicago Tribune, is the height of irresponsibility reached by the President of Yale University, and also that university's chaplain.

The President of Yale, Kingman Brewster, pouring gasoline on the smoldering fires already started by his students over the forthcoming Black Panther trial, observed that he was skeptical of the ability of black revolutionaries to achieve a fair trial anywhere in the United States." The Chaplain of Yale, William Sloan Coffin, said that the trial was "legally right but morally wrong." However, Connecticut Superior Court Judge Herbert S. MacDonald observed, quite correctly, that any impediments to a fair trial for the Black Panthers come in large measure from their champions. "They are the ones who have created the atmosphere of which they now complain," he said, "and I include Kingman Brewster in that category."

President Brewster's earlier actions raise a question as to his motives. While a student at Yale in February, 1941, he testified before a Congressional committee against the Defense Act of 1941, whose purpose was to supply arms and supplies to Britain and the rest of Europe to help stall the Nazi plan to rule the world. If Brewster's confidence in our ability to get along with Hitler had prevailed, Hitler's Third Reich would probably extend today from Spain to Siberia, and from Norway to the Near East, with all of its resulting terror.

The Administration at Harvard University has displayed a special ability for encouraging campus anarchy. Secretary of Defense Robert McNamara was invited to speak at Harvard. As he was leaving, violent students attacked his car, beating him over the head with a club. He was saved by the arrival of the Cambridge Police. Dean Munro of Harvard refused to, as he termed it, "punish students for what was purely a political activity."

Al Capp later commented on Dean Munro's actions:

"Now if depriving a man of his freedom to speak, if depriving him of his freedom to move, if damn near depriving him of his life—if that's political activity, then rape is a social event and sticking up a gas station is a financial transaction."

Dr. James A. Perkins, ex-president of Cornell University, should receive an award of "A" in excellence for encouraging campus anarchy; as told by The National Observer:

"For about 30 minutes . . . Cornell's President, Dr. James A. Perkins . . . denied even the courtesy of a chair by militant students, sat on the floor of the stage in Barton Hall, the University Field House, red-faced, humiliated, and sipping a can of root beer."

That really shocking, unbelievable part of the act took place, however, after the 30-minute lecture by the militants to the President, when Dr. Perkins got to his feet and discussed the event at Cornell as "the most constructive move that the University has ever taken."

Yes, we have many Professors of Anarchy in America. Some wear the "cap and gown" in our schools, but many others, some of whom are fugitives, deserve this rank. Among them are the Jerry Rubins, Mark Rudds, Tom Haydens, and Bernadine Dohrns, and some scores of others who have carved a record of infamy on our campuses. Also deserving of this dubious "honor" are the purveyors of hate and destruction among our New Left and in our communications media who attack the courageous public servants, policemen, and judges who are attempting to stem this growing violence.

Perhaps the saddest cases are those college professors, deans, administrators, and presidents who can see nothing wrong with violence as long as it is committed by students.

Theodore Gold, age 21, was active in the violent disruption at Columbia University in April and May, 1968, violence which was tolerated by a weak and cowardly faculty and administration. In the early morning hours of May 21, 1968, Gold led the singing in barricaded Hamilton Hall at Columbia, chanting: "There will be no New York Times where I am bound," and the prophetic line, "Che (Guevara) will be waiting for me where I am bound."

It was but a few steps from Gold's violence at Columbia to his flaming demise at age 23 when his "bomb factory" blew up in Greenwich Village on March 7, 1970. Every step of this road to anarchy was made easier and encouraged by the permissiveness, tolerance, and even encouragement of the "bleeding hearts," the "worshipers of puberty," and the "leftist establishment" in America. In his earlier life, Gold displayed a kindness and compassion to his fellowman. There is reason to believe that with proper discipline and restraint, Theodore Gold would have been a useful member of society instead of suffering an anarchistic death—killed by his own bomb.

WHO ARE THESE ANARCHISTS?

Let us name a few of the leaders of this anarchy whose names are already household words in America. The following ten are outstanding in anarchy and in the public eye: Tom Hayden, 29; Jerry Rubin, 31; Rennie Davis, 29; Abbie Hoffman, 31; Mark Rudd, 22; Bernadine Dohrn, 28; William Ayers, 29; Kathy Boudin, 26; Howard Machtinger, 23; and John Jacobs, 22.

There are many other such students and ex-students of violence, but the record of the above ten will suffice to clarify this permissiveness on the part of the school and public officials. These students, or generally ex-students, have not only committed and encouraged anarchy in the schools and streets, but their names have become a symbol of violence throughout our country.

These youthful leaders of violence have been involved in "hate America" campaigns throughout the country, and although young in years, they have made a lurid career of violence.

Hayden, Davis, Rubin and Hoffman, members of the "Chicago Seven," were convicted and sentenced to long terms in prison on February 20, 1970, after a five month trial in the court of Judge Julius Hoffman in Chicago. That trial was punctuated by violence to a degree heretofore unknown by the defendants and their friends in, and outside the courtroom. They are each now free under bond, daily making incendiary speeches throughout America, often at institutions supported by public tax money, encouraging the destruction of our schools, government, and society. They tell you what they are going to do.

Tom Hayden, one of the founders of the Students for a Democratic Society, was an activist in the violence at Berkeley (1964-65) and helped bring Columbia University to its knees in April and May of 1968. Hayden laid a pattern for campus violence and revolution in two widely quoted statements. He said the only university they would accept is:

"A university committed against the value of American society or no university at all."

When asked the purpose of the revolution, Hayden responded:

"We haven't any. First we will make the revolution; then we will find out what for."

Every act of these leaders of student violence has been compatible with that statement.

Jerry Rubin, a notorious anti-American zealot and organizer of the Youth International Party (Yippies) and also one of those convicted in "Chicago 7," clearly expressed the hatred for the United States by the New Left and its plan to destroy it. The plan is blunt and leaves little to the imagination.

"While it (the U.S.) is overextended defending American influence overseas, we are chipping away here. Yippies are chipping away, blacks are chipping away, the enemy overseas is chipping away. If you keep on hitting The Man from every side, punching him, laughing at him, ridiculing him, he will eventually collapse. That's what is going to happen to America."

Mark Rudd, who was a leader of the April-May, 1968, violence that wrecked Columbia University, in one of the most violent and obscene letters ever written to a university president, wrote to Grayson Kirk:

"We will take control of your world . . . your university . . . your power is directly threatened since we will have to destroy that power before we take over . . . There is only one thing left to say, up against the wall, m— f—., this is a stickup."

Rudd has been arrested many times, and had fled and failed to appear in Criminal Court in Chicago on April 6, 1970, the date his case was set for trial. He was ordered arrested and could not be found, but the $2,500 bond was returned to his father. As a result of an indictment returned in a Federal District Court in Chicago on April 1, 1970, (other than the scheduled appearance on April 6 on another charge) Rudd is now a fugitive from justice, along with Bernadine Dohrn, William Ayers, Kathy Boudin, Howard Machtinger and John Jacobs, most of whom are members of the "Weatherman" faction of the SDS.

What did these youthful ex-students do in Chicago to cause this indictment. Their own press stated it as follows:

"Five hundred of us moved through the richest sections of Chicago, with VC flags in front, smashing luxury apartment windows and store fronts, ripping apart the Loop, and injuring scores of pigs (extremist term for police). It was war—we knew it and the pigs knew it."

Bernadine Dohrn and Kathy Boudin were with Theodore Gold and two others on March 7, 1970, when their "bomb factory" in a Greenwich Village townhouse exploded. Dohrn and Boudin escaped. Much of the violence in Chicago that resulted in the April 1 indictment was planned by Bernadine Dohrn, Gold and others when they had met in Cuba with Communist leaders from North Vietnam, Cuba and Red China.

Later at a meeting in Flint, Michigan, December 27–30 1969, referred to as the Weatherman "Council of War," a large supply of dynamite was obtained. This was a meeting of hatred. They glorified Sirhan Sirhan, assassin of Robert Kennedy, as they did Charles Manson, the accused murderer of actress Sharon Tate and her friends. To glorify these murderers they would chant, "Sirhan Sirhan Power" and "Charlie Manson Power." Bernadine Dohrn, formerly national secretary of the SDS, in glorifying the Tate murder at the Flint meeting said:

"Dig it, first they killed those pigs (Sharon Tate and her friends), then they ate dinner in the same room with them, then they even shoved a fork into a victim's stomach! Wild!"

At the "Council of War" in Flint, John Jacobs proudly announced:

"We are against everything that is good and decent."

MASSIVE PERMISSIVENESS

Never in history has a country shown such permissiveness to violence and destruction as has the United States today to our anarchistic students. It is also academic that nothing could so encourage increased violence as does this permissiveness.

Hundreds of schools of higher learning within the last two years have been damaged to the extent of millions of dollars, and hundreds are temporarily closed. At times these schools have been paralyzed from this violence. Insurance rates for school buildings have been increased often by more than 200%. Faculty and students have been terrorized. The hatred and venom of these students and ex-students of the New Left have been especially centered on "so-called" liberal schools which display tolerance to this violence such as Berkeley, Harvard, Yale, Cornell and Columbia. The National Convention of the Democratic Party was the victim of violent and repeated terrorist activities. The last Presidential Inaugural Parade was the scene for violent leftist student attacks. Great sections of the campuses and the streets throughout our country have been reduced to shambles. Molotov cocktails have become standard equipment for the New Left students who are distributing *how-to-make-bombs* kits to high schools and university students. Scores of buildings have been burned and bombed. Banks have been burned. Bomb factories have been built by these dissident youth. Courts have been mobbed and terrorized. Policemen have been maimed and murdered.

What has been done to stop and punish this anarchy? Practically nothing!

This massive permissiveness on the part of officials of schools and government has placed a halo of tolerance and sanctity over the acts of violence committed by these college youth.

It all resembles, as stated by Shakespeare:

"A tale told by an idiot, full of sound and fury, signifying nothing."

Sadly, however, this sound and fury does signify something. It signifies to us that if our schools, government, and society, continue this permissiveness toward student violence, anarchy will reign, and our schools, society, and government will be destroyed.

Who are these student anarchists? What are their goals? All America knows the answer to each question. The activists do not attempt to hide their identity. They proudly tell the world who they are and that their objective is to destroy America. Hitler also explained his goals for world conquest with equal clarity. When he published his book, Mein Kampf, that small segment of the free world that took time to read it laughed. However, the free world ceased laughing at Hitler during 1939–1945.

The violent New Left of today cannot be classified under any one political philosophy. If anarchy can be classified as a political philosophy, that would probably be the best term. Although at times the New Left glorifies Communism and vilifies Nazism and Fascism, their actions fit these latter categories as well as they do Communism.

Theodore Gold, (who on March 7, 1970, was destroyed when his bomb factory blew up in Greenwich Village), on expressing his goal of having Africans and Asians rule America, stated that if necessary they would resort to Fascism to accomplish their desired results.

TOLERANCE OF VIOLENCE A WEAKNESS

This permissiveness, this tolerance of violence by faculty, administration, or government officials only encourages these youthful anarchists to greater destruction and arrogance. The milktoast philosophy of the officials in excusing crime because it is committed by a student merely adds fuel to the mounting blaze ignited by a vicious minority.

The warning made many centuries ago by the great Roman poet, Catullus, is eternally true: "Tolerance is the weakness of the strong."

Tolerance of the right of others is a virtue, but tolerance of mugging, of vile depravity, of looting, of kidnapping professors, of arson, of stealing, of destruction, of throwing rocks at policemen, of desecrating the flag, of aiding our enemies, ceases to be a virtue and becomes oppression and tyranny.

To the enemies of our Country any tolerance of their illegal acts is not only considered a weakness; it is considered a surrender. Any show of weakness by the university administrators, any yielding to nonnegotiable demands, only encourages the youthful anarchists to escalate their demands and the tempo and extent of their anarchy, and encourages others to join the pack.

The New Left terrorists reserve their greatest violence, their most unreasonable demands, and their greatest destruction to those schools who yield to them. Schools such as the University of California at Berkeley, San Francisco State College (before Hayakawa), Cornell, Columbia, Harvard, and Yale.

The disrespect to those schools which show the greatest tolerance for their illegal acts should not be a surprise to educators or anyone who is acquainted with youth. Youth has never respected those in authority, whether parent, teacher, or society, who do not command respect and lay out certain guidelines of behavior.

We hear on every hand that youth is attempting to tell us something. That is true. Youth is attempting to tell us the same message they have made plain through the ages: youth will never respect parents, teachers, or a society that has not demanded respect and discipline and guidance from them. Our present-day tolerance of their violence is the cause of continued violence.

The meek submission of the lawful majority to the insults and foul-mouthed threats of the "filthy punks" of the minority only encourages development of a future Hitler.

STILL OUT OF JAIL—STILL PROMOTING ANARCHY

Have these anarchists stopped their actions against society and their country since they were let out on bond awaiting the results of their appeals from conviction? Certainly not!

Abbie Hoffman and Jerry Rubin addressed a gathering at Columbia University just after their release. Thirty seconds of silence was observed at this meeting to "honor two martyrs to the cause, accidentally killed two weeks ago, who will be hard to replace." This referred to the death of two of Rap Brown's friends, "Che" Payne, 26, and Ralph Featherstone, 30, who died when a large bomb in their car exploded near Bel Air, Maryland, on the night of March 9 just before Brown was to go on trial. (Rap Brown, 26, "jumped bond" and as of this writing is a fugitive and on the FBI list of the 10 most wanted men.)

At this meeting at Columbia University, Rubin and his cohorts demanded that the University furnish $1,300,000 to pay bond for the release of Black Panthers who are facing trial for murdering one of their own members. This meeting at Columbia broke up in a wild melee of violence during which bricks were thrown through university windows and amounted to several thousand dollars worth of damage.

Newsweek contained a copyrighted story that the bombs being made in the Greenwich Village bomb factory that blew up in early March were being produced to blow up Columbia University in order to blackmail the University into giving this $1,300,000 bond money.

Has any one been punished for this damage and this violent attempt to cripple Columbia University again? The answer is no.

To gain a better understanding of this growing anarchy, it might be well to look at one of many meetings being held by these convicted ex-student advocates of violence. On April 16, 1970, The Saratogian of Saratoga Springs, New York, reported a meeting addressed by Abbie Hoffman at Skidmore College, Hoffman was quoted as follows:

"Burning down a bank does more to fight pollution in this country than any goddam teach-in next week will ever do . . . The only courts we have left in this country are the streets . . . The hippies have to get guns and defend their communes . . ."

Hoffman also announced that there would be a mass demonstration in Washington on July 4 called a "smoke-in" to dramatize support for marijuana.

Rennie Davis, also one of those convicted in the Chicago trial, later spoke at Columbia stating that:

"The sixties was a time of sit-in—the seventies will be a time to burn the banks."

Students at Santa Barbara did burn a branch of the Bank of America and later attempted to burn the same bank in a temporary building. Many police were injured by the student mob, and a student attempting to protect the bank was killed. Davis also spoke at Purdue University where he displayed a Viet Cong flag. Hoffman spoke at Yale to promote the violence there. Every day they promote more and more anarchy. Although convicted, they are still out of jail.

During demonstrations at Kent State University which later resulted in the death of four students on May 4, Jerry Rubin addressed about 1,000 students on the University's front lawn. He cried:

"We have to disrupt every institution, break every law, we've got to all become criminals . . . Kill your parents."

Rubin called for a revolution to overthrow the government and change the system:

"Work is a dirty word. I don't work."

A few days later at the University of Alabama, Rubin told the students:

"Tear down the school systems. We're going to destroy private property. Nobody will own a factory and have other people work for him."

Few have shown the diligence of Jerry Rubin in his concerted efforts to show his contempt for and to destroy the United States. He has written a new book, Do It! (published by Simon and Schuster, 1970.) This book contains 256 pages of lewd, vicious, vile four-letter words. Sprinkled with pornographic pictures and seething with hate for our country and society, it would be shocking even to an off-color men's smoker.

Just a few statements from this book will follow. In commenting about the attack on the Pentagon in October, 1967, by the New Left:

"Victory! Flags of the Viet Cong, that beautiful yellow star on a red and blue field, waved high in front of the Pentagon.

"Bonnie Parker and Clyde Barrow are the leaders of the new youth.

"To steal from the rich is a sacred and religious act.

"Kids should steal money from their parents.

"Walk on red lights.

"Don't walk on green lights.

"Sirhan Sirhan is a yippie."

Rubin, the founder of the Yippie Party, indicated pride in Sirhan Sirhan, who assassinated Senator Robert Kennedy, as did the Weathermen "Council of War" at Flint, Michigan, in December 1969.

In this same book, Rubin described the violence that he and others committed at the Democratic Convention in Chicago in 1968 and made "recommendations":

"Yipples set fires in garbage cans, knocked them into the streets, set off fire alarms, disrupted traffic, broke windows with rocks, created chaos in a hundred different directions . . . police cars caught alone were ripped apart with rocks.

"Burn down the schools.

"Two hundred psychological terrorists could destroy any major university—without firing a shot.

"Drop out! Why stay in school? To get a

degree? Print your own! Can you smoke a diploma?

"Universities are feudal autocracies. Professors are house niggers and students are field niggers. Demonstrations on campuses aren't "demonstrations"—they're jail breaks. Slave revolts.

"We're using the campus as a launching pad to foment revolution everywhere.

"The Youth International Revolution will begin with mass breakdown of authority, mass rebellion, total anarchy in every institution in the Western world. Tribes of longhairs, blacks, armed women, workers, peasants and students will take over.

Jerry Rubin's wife Nancy stopped in Moscow on her way to Hanoi and stated:

"We have been invited by the North Vietnamese Government. We are a new nation, not the nation of President Nixon. We hope to establish our own diplomatic relations and gain recognition."

And where is Rubin today? What is he doing. He and his convicted cohorts are speaking at educational institutions throughout the country, demanding the overthrow and the destruction of schools, society, and country. In many instances he is being paid for making these speeches by the educational institutions, paid by taxpayers' money.

Rubin today is free on bond and free to continue to prey on other campuses and in the streets to incite others to violence.

A STAR OF HOPE

Through the smoke of bombs and arson, over the vituperations of hate and bitterness engendered by the riots on the campuses and in the streets, there is seen a faint star of hope. There is being heard the voice of the old-time American strength, intelligence, and courage.

Parents, students and concerned faculty are attempting to break the dominance of campus trouble-makers and irresponsible faculty members and to keep the universities open.

The responsible Black leadership is becoming increasingly aware that many of their people are being used as tools by violent activists.

Those honestly concerned with the betterment of education are being brought to realize that the continuance of violence and the irresponsibility on the part of students and faculty is "drying up" the money needed for higher education. The donors to our educational institutions are becoming increasingly reluctant to contribute until sanity returns to the campuses.

Legislators are becoming increasingly reluctant to tax their constituents to provide money to be used for irresponsible violence. Needed grants and funds for higher education are being curtailed.

In Joseph Alsop's column, "The High Cost of Chomsky," which appeared in the June 5, 1970, issue of the Pacific Stars and Stripes, stated the following:

"Just about a year ago Professor Chomsky and his New Left allies among the students and faculty began a violent assault upon all defense-linked research at MIT (Massachusetts Institute of Technology)."

According to Alsop:

"With a lot of help from friends and followers, Professor Noam Chomsky now appears to have cost the Massachusetts Institute of Technology around $5 million a year. It seems a high price to pay for a linguistic theorist, however brilliant."

The great working people of America, both young and old, are demonstrating a growing phalanx of strength for order against violence, for Americanism as against alien "isms," for education as against "campus hooliganism."

Courts and juries, both State and Federal, are demonstrating an increasing willingness to convict and sentence youthful law violators even though they are students.

Deans and other University administrators are beginning to accept their responsibilities in the suspension and expulsion of the more notorious, illegal and violent student activists. They still carry out these responsibilities slowly and with great reluctance, but progress is being made.

At the graduation exercises at Cornell on June 8 a 77-year-old Professor, Morris Bishop, courageously swung the "Mace" (a symbol of authority) striking a young demonstrator who was interfering with the commencement. This was certainly a great advance since some previously disruptive action at this same school.

There is some slow, quite slow progress being made in ridding the universities of the incompetent and unsavory faculty members.

Even though the word "liberal" has been greatly misused in recent years, it is still proper to say that the great liberals (not the synthetic phonies) and educators, who through the ages have fought for freedom of mind, freedom of speech, and freedom of action, and who are dedicated pioneers of real education are today taking the lead on the campus and in the press in demanding the end of campus violence in the name of dissent. It is becoming evident that no one has a greater contempt for the violent leftists then do the sincere liberals and dedicated professors.

Let's name a few of these great liberals—Sidney Hook, Lewis S. Feurer, John P. Roche, Max Lerner. Many of us at times believed that they had gone too far in their liberal philosophy, but today they are courageously demonstrating their dedication to the principles they stand for.

These sincere liberals are aware, as are all capable and dedicated educators, that we have serious problems today, serious problems pertaining to our environment, violence, race relations, housing, education, national security, health, our economy and international good will. The solutions to these problems are dependent on improving education—education in its broadest truest, and greatest sense.

Many great Americans are today in the vanguard fighting against the phonies of the New Left and fighting to return sanity and real education to the campus. They are aware that violence begets violence and that unless sanity returns to the campus our great freedoms and opportunities through education will disappear. Perhaps no failure can so damage America as allowing violence to downgrade and destroy our educational institutions. The crisis we are facing today was vividly expressed in the column written by John P. Roche, former President of the ADA:

"A minority of students and a minority of faculty are wallowing in anti-intellectualism—and in the process intimidating the rest of the academic community.... The tragic implications should be emphasized: Those in America who desperately want an education—not a worthless certificate from a progressive kindergarten—are being deprived of their rights as institution after institution goes into intellectual bankruptcy."

The Washington Post, whose credentials of liberalism cannot be challenged, in an editorial of May 19, 1970, entitled "Education on Ice," criticized the closing of 381 colleges and universities:

"As though education were a sort of pablum which would be set aside in a freezer until students regained an appetite for it."

In this same newspaper, on May 20, 1970, there appeared the following statement in the Evans and Novak column entitled, "Only State Government can Save Liberal Education at Berkeley":

"With the students insurgent, the faculty largely permissive, and the administration relatively unconcerned about academic freedom, only the state government is left to preserve liberal education at state universities such as this one."

Walter Reuther, in one of his last public statements to the United Auto Workers at Atlantic City, said:

"The ultra-left extremists with their revolutionary slogans and their reckless behavior can sow the seeds of a unique form of American fascism. These young people who, in their revolutionary zeal, are afflicted with what Lenin called "infantile leftism" do not understand the essential dynamics of social change . . . They think what they need is to bring down in total ruins and then out of the ashes of the old they will build the new . . . When you are in favor of destroying the system, the worst enemy is anyone who is trying to make it responsive to human needs."

Sidney Hook who for decades has been outstanding as a liberal philosopher, liberal teacher, and liberal writer—wrote in his "The Perverse Ideology of Violence":

"Some faculty apologists for the student rebels have sought to play down the enormity of the offenses against intellectual and academic freedom by dismissing them as inconsequential. "Just a few buildings burned," they say. This is as if one were to extenuate the corruption of justice by the numbers of magistrates not bribed, or lynchings by their infrequency. Sober fact is that violence has reached such proportions on the campuses today that the whole atmosphere of American—and many European and Japanese—universities has been transformed. The appeal to reason is no longer sufficient to resolve problems or even to keep the peace. In order to make itself heard in some of our most prestigious institutions, the appeal to reason must appeal to the police."

Hook, later speaking on May 19, 1970, before 2,500 educators in New York, expressed a great worry about the weakness displayed among university administrators: "Moral courage is in a very short supply."

A cry to return to reason is sounded by Steven Kelman of the 1970 class at Harvard, in Push Comes to Shove, published by Houghton Mifflin in 1970. He clearly describes the rapid disintegration of Harvard. This clear and lucid narrative of what has been going on at Harvard for the last few years should be read by every educator:

"Joseph Goebbels used to say that if you repeat a lie often enough, it becomes the truth. This is especially true for those, like students, who can't test lies and truth against the daily confrontation with the hard and real world . . . Destroying the university was seen as the way to save it. Irrationality was praised as a higher form of rationalism. A Harvard scientist's development of an improved strain of rice was viewed as complicity with American imperialism.

"The paradox was that the effect of this burst of active idealism was so different from that which most who undertook it had in mind. They loved Harvard, yet they shook it and almost destroyed it. They respected scholarship, yet they replaced it with slogans. The nightmare is that it can be the most idealistic who introduce the most terrible systems of degradation and unfreedom we can imagine."

"Does sanity have a future at Harvard?" Kelman asks and in the last sentence of his book says:

"If we do not labor with all we have within us to give sanity a future at Harvard, then the answer to the question will surely be no."

There are other signs of hope. President Nathan Pusey of Harvard University, wrote James Reston of the New York TIMES, "who has been a modest and hesitant public figure in the past . . . condemned the Harvard faculty members who sided with the leftists in last year's attack on the university administration."

And, most hopeful of all, Steven Kelman

who was mentioned earlier as the author of PUSH COMES TO SHOVE, was permitted to address his own graduation exercises at Harvard. He said:

"Our biggest mistake has been to let the so called 'new' left emerge as our spokesman . . . can we wonder why the American people will continue to be hostile toward students as long as we allow the rock-throwers, the burners, the totalitarians to represent us? Do we have a right to expect anything else?

"There is only one way we can gain the respect and overcome the hostility of the American people. And that is by addressing ourselves to the unromantic and unexciting problems which just happen to be the problems which affect the ordinary American in his day-to-day life . . . for in the final analysis it can only be the American people, not a student elite pledged to one-part dictatorship, that can bring about change."

May that "Star of Hope" that we see through the smoke of violence and hate be in reality the dawning of the "light of reason" displacing the fog and clouds of growing hate and anarchy.

CONGRESSIONAL REPORT TO NINTH DISTRICT RESIDENTS—JULY 6, 1970

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

CAMBODIA

(NOTE.—Congressman Lee H. Hamilton has just returned from a fact-finding mission in Southeast Asia. He was one of 12 selected by the Speaker of the House to make a report to Congress on the U.S. involvement in Southeast Asia. This report, which will deal with U.S. policy, will be covered in future releases.

(The following is an account of a visit with American units in Cambodia, prior to the U.S. pull-out on June 30. With Congressman Hamilton on the Cambodian inspection tour was Congressmen C. V. Montgomery (D-Miss.) and Howard W. Robison (R-N.Y.).)

The helicopter which carried us into Cambodian territory flew at about 5,000 feet, well above its normal flying altitude, to keep out of the range of small arms fire from the enemy. Lower, and at each side of the craft, gunship helicopters cruised with us, watching for signs of the enemy.

When we reached an American base camp in the Cambodian jungle, the helicopter made a swift, vertical descent into the clearing of some 400 yards in diameter. While the gunships circled overhead, we landed just outside two barbed-wire defense rings and we were escorted into the camp area, which was ringed with sandbag and earthen defense works.

The fortified clearing was the center of operations for several American companies, and most of the men had spent the last month or more in the jungle, serving on patrols and enduring mortar attacks on the base.

Among those with whom I talked at the base camp was Lt. Ray B. Hersman, son of Mr. and Mrs. Ernest R. Hersman, New Albany. All with whom I talked appeared tired, but proud of the work they had done. They had been carrying the brunt of the Cambodian operations, searching out hidden stores of enemy supplies and equipment and making almost daily contact with the enemy during the patrols.

Found in their search was food, ammunition, bicycle and bicycle parts, medical equipment, and weapons. Bicycles, I was told, were the primary carriers of supplies in the jungle area, laden with as much as 600 pounds of supplies, and wheeled along jungle trails by the enemy. An American medical officer told me the medical supplies which had been unearthed were as sophisticated as his own.

After lunch with the men—beef stew, mashed potatoes, peas and grape drink—we departed for a clearing in the jungle some 20 to 30 miles to visit the site of recently discovered caches of ammunition. There, we visited an American company which had been exposed to consistent enemy attacks in recent weeks. Nearly half the men had been killed or wounded.

I noticed immediately the tension and fatigue in their faces. Most were shirtless in the 100-degree, airless jungle heat. Most were bearded and grimy since baths were not available in this forward area. The commander, a Negro captain of about 25, said the unit had been under nightly attacks and had been skirmishing with the enemy almost daily on patrols. Despite the fatigue and the tension, however, they were genuinely pleased to see somebody from the "outside."

The Captain escorted us to the site of a cache which had been found just a few hours earlier. This one consisted of three bunkers, each about 15 by 15 feet, which were filled with ammunition. They had been found by an alert soldier, who, after sensing how spongy the ground was underfoot, probed down about two feet and found one of the storage areas. As we inspected the caches, they were being charged with explosives, to be detonated before the American pull-out.

We left the area, where the temperatures are stifling, where the enemy can conceal himself within a few feet, where any movement in the foliage is cause for alarm, with a deep sense of appreciation for what these young men are called upon to do. Most of those with whom I talked were 19 to 22 years of age.

EXPERT IN OCEANOGRAPHIC MATTERS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. BOB WILSON. Mr. Speaker, recently a very gifted and wonderful friend passed away. Wilbert Chapman was an expert in oceanographic matters and he aided us on many occasions to preserve and protect the fishing industry of this Nation. Not only did he teach a great deal about the ocean and its inhabitants; he taught hundreds of others in colleges, Government and industry, in nearly every country of the world. He was a man of boundless energy and he leaves a legacy of fine writings; phenomenal in quality, scope, and distribution.

Mr. Speaker and colleagues, I ask unanimous consent to insert the following eulogy into the CONGRESSIONAL RECORD. It was written by one of Wib's very close friends, Mr. Harold F. Cary of San Diego, Calif. I think it succeeds beautifully in capturing the essence of Wib's greatness:

WILBERT MCLEOD CHAPMAN

About six years ago some of us were asked to designate successors to the key men in a company where Wib Chapman and I were employed. After his name, for his replacement, I wrote—"No one"—It was true then; it is true now.

He would regard such a statement, in such a context, as sentimental. He did not consider himself a sentimental man. Yet, in the deepest sense of the term, he was. The depth and power of his devotion to important causes made him so. He was a passionate man in his devotion to the truth. He had a towering contempt for untruth.

In his work he was exactly what he wanted to be—a teacher. He was invariably described as a leader of science and fisheries movements in government, industry and education, and he was all these things; but it was as a thinker, expositor and teacher that he made his greatest mark. He did not want followers—he wanted to develop and encourage equals or superiors. He avidly sought information from everyone to improve his work, broaden his knowledge, and refine his point of view.

His pupils were legion. They were found not only on college campuses, as in his earlier years but, increasingly, over the years, throughout science, government and industry, and in nearly every country of our world. They included all of us.

One simple story illustrates how he was regarded. On leaving India on one occasion, we had to be at the airport at 4:00 A.M. Despite the hour and difficulty of travel, there waiting was a young Indian student-scientist, his wife and 3 small children, dressed in their best. He told me he simply wanted his young family to see and to remember his friend and teacher, Dr. Chapman.

His courage, drive and energy were enormous. His was the greatest voice American fisheries have ever had—and what a voice it was! In a way he was larger than life. His writings were phenomenal in quality, scope and distribution. Nothing like them has been seen in science, government and industry—certainly in our field of activity, before—nor is it likely to be seen again. We have all read and profited from them and have built on them. Many of us have felt wounded by something we did not agree with. But a great teacher does not provide copy book exercises—he challenges the thinking process—that made Wib Chapman a great teacher and a leader of thought in his field. It resulted in transfer of thought into action. If he thought there was not enough action, he took it himself—

What does a man leave behind? Was the prodigious effort of this man only valuable in its time and, otherwise, was it like writing on water?

The clear, absolute reality is that he made and left an impact on so many people in so many places. The tangibility and lasting qualities of it can be attested to by each of us in his own way, and so by all of us in many ways. He shaped thinking that will still be carried on to accomplishment by others.

He leaves a strong, fine and talented family, who have contributed and will contribute much to the quality of life around them.

In many ways he was a great man.

In every way he was our good, and altogether wonderful, friend.

SOUTH CAROLINA AMERICAN LEGION ENDORSES CAMBODIAN CAMPAIGN

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. DORN. Mr. Speaker, at their department convention on June 27 the South Carolina American Legion adopted a splendid resolution supporting the President in his actions in Cambodia. I commend this resolution adopted by an outstanding loyal and patriotic organization of my home State to the attention of my colleagues in the Congress and the citizens of our country:

THE AMERICAN LEGION DEPARTMENT OF SOUTH CAROLINA

A RESOLUTION ADOPTED BY THE AMERICAN LEGION, DEPARTMENT OF SOUTH CAROLINA AT THEIR DEPARTMENT CONVENTION ON JUNE 27, 1970:

Whereas the President of the United States of America has been severely criticized for his action in ordering troops into Cambodia; and

Whereas the purpose for ordering such troops into Cambodia was to prevent further loss of American lives: now therefore be it

Resolved, by The American Legion, Department of South Carolina in regular Convention assembled in Charleston, S.C. this 27th day of June 1970 does wholeheartedly endorse and support the action of the President of the United States and its Military Commanders in sending American Forces into Cambodia to destroy enemy sanctuaries and supplies which threatened the safety of American Forces in Viet Nam; and be it further

Resolved, that copies of this Resolution be forwarded to the President of the United States, Members of the South Carolina delegation to the Congress of the United States and to the members of the Joint Chiefs of Staff.

Certified to be a true copy of a resolution adopted at the S.C. Department Convention on June 27, 1970.

PAGE N. KEESEE,
Department Adjutant.

THE GUN CONTROL ACT—HOW MUCH LONGER?

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. SIKES. Mr. Speaker, The American Rifleman for July 1970 carries a highly interesting editorial entitled "The Gun Control Act—How Much Longer?" It portrays clearly the steps that are underway by Federal bureaucracy to make the 1968 Federal Gun Control Act more restrictive than Congress intended and to further hamper the rights of law-abiding citizens to own weapons. My own mail shows many cases of overzealous actions by law enforcement officials and, in some instances, extreme measures to restrict the legitimate activities of dealers and weapons owners. The editorial should be carefully read by every Member of Congress. It is time to take a second look at the Gun Control Act. It is time to set the stage for repeal:

THE GUN CONTROL ACT—HOW MUCH LONGER?

For more than a year and a half now, millions of U.S. gun owners have tried conscientiously to live with and under the 1968 Federal Gun Control Act. They have signed forms to purchase guns, to buy ammunition, and for much else. Their compliance has been a marvel of patience and exemplary citizenship.

During that time, these good citizens have seen things go from bad to worse in ways apparently never contemplated by the sponsors of the Act.

They have seen crime, under this supposed anti-crime law, spread rather than decrease.

They have seen foes of firearms openly avow for the first time they intend to disarm all citizens and eventually all police.

They have seen anti-handgun bills piled on top of registration and licensing bills in a relentless anti-gun campaign.

They have seen Federal investigators knock at the doors of law-abiding gun buyers, "Just checking up."

And they have seen Federal bureaucrats, holdovers from past administrations, campaign for more gun laws in what sometimes resembles an all-out attack on gun ownership.

So most have come to recognize the main issue and to realize that there can be no compromising on it.

The main issue is whether individual Americans may own firearms for sport and protection, or whether private ownership shall be gradually gnawed away by more new anti-gun laws and regulations.

Evidence of a show-down battle on gun control have been growing.

The Alcohol, Tobacco and Firearms Division of Internal Revenue Services, the agency responsible for administering the Act, recently admitted (American Rifleman, June, 1970, p. 59) that a sampling of gun buyers selected at random from dealer records are "subjected to a criminal record check through local or State criminal identification bureaus . . . to identify criminals who have unlawfully purchased such firearms." It does not say how many innocent Americans are subjected to unnecessary criminal investigation in the process—simply because, in buying a gun, they complied with the law.

The ATF insists that it does not really suspect wrongdoing on the part of those investigated individuals but must make the checks under its obligation to enforce the Act. The Act, by the way, does not specifically require or authorize this.

The curious performance is suspecting the best and searching for the worst came to light by chance through an NRA Member in a small town in Pennsylvania. Small towns being what they are, word quickly got back to this citizen that he and his wife were being investigated by police. What had they done? They had bought two shotguns in a nearby town to go hunting, and had signed the dealer register as required by the Act.

Learning that ATF agents had made four copies of the purchase record and had sent two to the parttime local policeman and to State police, Robert C. DeReamus, 433 Main St., Tatamy, Pa., wrote to the White House Feb. 20, 1970, asking:

"1. What are my rights as a citizen when the IRS, Alcohol, Tobacco and Firearms Division agent knocks on my door to check out my firearms purchase?

"2. What was done with the four (4) copies of my firearms transaction made by the ATF agents? Who has them and why?

"3. What assurance do I have as a law-abiding citizen that those records will not be used to steal (unofficially) or confiscate (officially) my firearms?"

On April 1, 1970, K. Martin Worthy, Chief Counsel for the IRS, replied on behalf of the White House—but, DeReamus says, did not answer his three questions.

". . . At times, a person who is listed as the purchaser of a firearm might be contacted in order to verify the dealer's records," Worthy wrote. "I can assure you, however, that the purpose of such interview is not to determine whether or not the purchaser is a 'dope addict' or a 'mental case'; it is simply to ensure that the name of the real purchaser is recorded by the dealer."

A different response, however, was made to U.S. Sen. Richard S. Schweiker, of Pennsylvania, who had interested himself in the DeReamus case, by Harold A. Serr, AFT Director. Serr wrote that the purpose was "to detect violators where firearms purchasers furnish false information or give fictitious names," and said "this procedure has identified 962 persons with criminal records" in seven months.

DeReamus offered his own comment on it all. "I cannot shake the feeling," he said, "that the IRS considered everyone dealing with or owning guns as a suspect."

Any such feelings of gun owners have been heightened by several actions of ATF officials.

The ATF produced last year at taxpayers' expense a so-called enforcement movie in which viewers found "bloodcurdling" violence and anti-gun propaganda. This controversial film was withdrawn at the insistence of Congressman John Dingell (16th Dist., Mich.), and others. Whereupon Sen. Thomas J. Dodd (Conn.) and other anti-gun spokesmen in Congress screamed to high heaven—thus confirming that the anti-gun people wanted the film.

Then at a national conference of liquor law administrators this spring, an ATF official devoted one-fifth of his speech to liquor laws and four-fifths to argument for more gun controls. His position included the following:

Individuals have no constitutional right to firearms whatsoever.

The United States is the only country in the world to allow almost unlimited and unrestricted sale of firearms.

Handguns are rarely for sporting purposes and are basically "anti-person" weapons.

The criticism of handguns, of course, dovetails neatly with the falsehood popularized by the National Commission on the Causes and Prevention of Violence and Rep. Abner Mikva of Chicago, author of two handgun control bills, that handguns are made "only to kill."

The ATF has doubled the number of its field investigators, from 290 to approximately 600, since the Act took effect. It has investigated the huge guns on a deactivated battleship, informed an antiques dealer that he needed an "implements of war" license to import flints for flintlock guns, and performed other prodigies of enforcement under Act ostensibly intended to curb crime. (How often are battleships used in crime?)

On the other hand, it also informed some of its investigators in an official publication in May that "ATF does not file Federal charges against every felon to whom they trace a gun. Many criminals are small-time and can be successfully discouraged from carrying guns by small fines or a few days in jail."

Quite clearly, the 1968 Gun Control Act has become the basis for arbitrary bureaucratic activity and a degree of "regulation" never specified by the Act. It has also become the basis for more proposed anti-gun legislation.

As long as the Act exists, it is like a noose that can be tightened around the throat of legitimate gun ownership at any time to strangle off private ownership of firearms in America.

If Americans wish to keep their guns, it appears that they will have to get rid of the 1968 Gun Control Act.

THE ECONOMY

HON. JEFFERY COHELAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. COHELAN. Mr. Speaker, the economy of this Nation is a source of continual concern to everyone. Some of us are conversant with the various economic doctrines, theoretical, and ecometric models, that are being used to analyze our current situation. Yet for all this technical discourse, tangible manifestations of our economic condition are displayed: Housewives legitimately complain of increased food prices; citizens on fixed incomes are often unable to afford basic necessities; growing unemployment and underemployment is increasing; and wages are seldom adjusted to cover increased prices.

In the face of these conditions, the Nixon administration has not taken timely or effective economic actions. Early last year Treasury officials hinted that if conditions did not improve, controls might be considered. Many urged the adoption of selected controls at that time. This advice went unheeded. The Nixon administration put full faith in monetary controls and the result has been continued inflation, lower production, and increased unemployment. Our housing industry is immobilized; the stock market has plummeted; and one of our major corporations is in deep financial trouble. The administration has belatedly and reluctantly adopted a modest version of voluntary wage price control which will have little economic effect. These voluntary wage price controls seem designed more for public relations than economic impact.

All of these actions bespeak a considerable amount of administration uncertainty. For example, the administration unveiled its new budget, claiming a $1.3 billion surplus which was created by drawing from various trust funds. Now we are told that there will be a deficit of $1.8 billion. While I do not feel that a deficit or a surplus of a few billion dollars will affect the economy substantially, mere juggling of figures reflects a lack of understanding of the dynamics of the economy on the part of the administration. The uncertainty in the economic area has not been aided by the "victory around the corner" speeches that have been offered by the administration.

The lack of postwar economic planning suggests that the administration will be caught reacting to economic circumstances in the future as in the past.

Mr. Speaker, Herbert Rowan's recent article, "Nixon Economists Under Fire," analyzes some of the aspects of our current economic situation. I recommend the reading of this article to my colleagues and insert this article in the RECORD at this point:

NIXON ECONOMISTS COME UNDER FIRE

(By Hobart Rowen)

These are tough days for Nixon administration economists. Their hopeful predictions a year ago that we now would have inflation under control haven't panned out, and even their rhetoric has been assailed by friendly critics such as Prof. Milton Friedman and Democratic sharpshooters like Walter Heller.

Friedman said on "Meet the Press" last Sunday that ". . . too many statements (have) given the public the impression that the administration has been following a wavering policy. It hasn't . . . I think it is wise to make few promises until the results are in."

But Dr. Friedman to the contrary notwithstanding, the administration has been wavering, and for a simple reason: it has lost confidence in its own assumption that the economy would turn up by the end of the year.

"The things which should be going up—home building, take-home pay, and real economic growth—are coming down," says Senate Majority Leader Mike Mansfield. "At the same time, the things that should be coming down—such as interest rates, the cost of living, and unemployment are going up."

Allow for Mansfield's milking the situation of political benefit, and it's still not a bad summary of the current economic situation.

Real Gross National Product (which is the sum of all the goods and services) declined at an annual rate of 3 per cent in the first quarter of the year, and—although White House spokesmen two months ago were talking of an upturn in the second quarter—Treasury Secretary David Kennedy has questioned whether this will happen.

"Recession," as a word, is banned from the Nixon dictionary; but if the second quarter GNP slips further, as Secretary Kennedy now hints, it will be clear that we have been in a mild recession since about last September or October.

The question then becomes: will it be a serious recession? There is no doubt that officials here are jittery, not only because of the real slump in the economy. The feeling is accentuated by the spectacular slide in the stock market and the bankruptcy of the Penn Central railroad.

So far, the recession hasn't cut very deep. Unemployment is at 5 per cent and industrial production has dropped only 2.5 per cent from the peak last July. By contrast, unemployment rose to over 7 per cent in the 1957–58 recession, and the drop in industrial output was 12.5 per cent.

But there are two factors which raise at least a question about the strength of the economy over the next several months:

The long-sustained capital goods boom has run out of steam. High interest rates, a shortage of cash and credit, and the softer economy itself finally appear to be depressing corporate intentions to add to or modernize industrial capacity. This was to have been a cushion against a deep economic slide.

The winding down of defense spending is contributing to a squeeze on corporate profits and adding to the jobless totals. President Nixon reported in his speech on the economy that a reduction of less than $2 billion in defense spending within a year has been translated into a loss of 300,000 defense jobs. And for next year, the defense budget calls for further reductions of $5 billion.

Federal Reserve Gov. Andrew F. Brimmer makes the interesting observation that by the final quarter of this year, defense spending will have dropped from a peak of 9.2 percent of GNP in the second quarter of 1967 to only 7.5 percent, which will be back to the same level that prevailed when President Johnson escalated the Vietnam war in the summer of 1965.

Despite the now-substantial evidence that the defense sector is a "waning influence on the economy," postwar economic planning doesn't appear to have advanced very far at 1600 Pennsylvania Avenue.

On the more cheerful side of the ledger is the prospect that consumer pocketbooks generally will be fatter: as of today, the remaining surtax (5 percent) will have expired, adding some $2 billion to the spending potential in the last six months of 1970.

In addition, recent increases in Social Security benefits and in government pay levels will pump more than $7 billion at annual rates, into the economy.

But the big question is: will consumers spend their extra money? There are bitter lessons from the past that an increase in consumer incomes is not always immediately translated into purchases at the stores. Because of the long-sustained inflation, and worries about financial markets, consumers may well decide to save, rather than spend, an unusually large chunk of their increased income.

For all of these reasons, the administration is not so sure about the future. It shows increasing concern (although it is not likely to say so directly) that the current downturn will gather too much momentum. There is a discussion going on right now within the administration on how far a new expansionist policy should be pushed.

The worry, or the wavering, cautiously surfaced in President Nixon's own speech on the economy: . . ."we're heading for the dock of price stability: We have to ease up on the power of our restraint and let our momentum carry us safely into port.

"That's why our independent central banking system has seen fit to ease up on the money supply. That is why I relaxed the cutback on federally-assisted construction projects and why I have not asked for a new surtax." The President did not say so, but he also knew that Congress would not extend the surtax, even if he had asked for it.

If the picture being painted is grimmer than last year's, at least it is more realistic. The administration may stop, as Heller urged, "optimistically, euphemistically, and just plain mystically assuring us that everything is nicely under control . . ."

EDITORIAL SUPPORT FOR THE ANTISECRECY AMENDMENTS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, this week the House is considering H.R. 17654, the Legislative Reorganization Act of 1970. While I applaud the efforts of the Rules Committee and its special subcommittee in reporting out this measure, I feel that it can be improved, particularly in the area of removing the cloak of secrecy from the proceedings of the House. Three recent editorials, from the Fond du Lac, Wis., Commonwealth Reporter, the Paper of Oshkosh, Wis., and Monday's Washington Star, detail why the House should approve the antisecrecy amendments. I insert these editorials for the information of the House:

[From the Fond du Lac Commonwealth Reporter, July 10, 1970]

IMPORTANT ANTI-SECRECY AMENDMENTS

A group of 22 "Members of Congress, Republican and Democratic, liberal and conservative," are sponsoring a series of important anti-secrecy amendments to H.R. 17654, the Legislative Reorganization Act of 1970, which is scheduled for House action the week of July 13.

"These amendments include recording how members vote on major issues both in committee and on the House floor, opening committee hearings and meetings to the press and the public, and requiring the availability of committee reports and hearings before final House action on legislation," the congressman said in a letter to a number of editors.

"These are important reforms," they added. "But their acceptance will depend, at least in part, on the amount of public visability they receive and the extent to which the public—and the press—demands them.

"Unfortunately, in this regard, there is a tendency in many quarters to look upon reform of House rules and procedures as an internal 'housekeeping' matter of little concern to the public. We are sure you will agree that nothing could be further from the truth; that how the House conducts its affairs can have a significant impact on the lives of the American people and the wellbeing of the nation."

Standing behind the amendments are Republicans Edward B. Biester Jr. (R-Pa.), James C. Cleveland (R-N.H.), Barber B. Conable Jr. (R-N.Y.), John Dellenback (R-Ore.), John N. Erlenborn (R-Ill.), Charles S. Gubser (R-Calif.), Paul N. McCloskey Jr. (R-Calif.), Thomas F. Railsback (R-Ill.), Donald W. Riegle Jr. (R–Mich.), William A. Steiger (R-Wis.), and Robert Taft Jr. (R-Ohio).

Members of the Democratic Party supporting the amendments are Jonathan B. Bingham (D-N.Y.), John Brademas (D-Ind.), James C. Corman (D-Calif.), Donald M. Fraser (D-Minn.), Sam M. Gibbons (D-Fla.), Ken Hechler (D-W. Va.), Abner J. Mikva (D-Ill.), James G. O'Hara (D-Mich.), Thomas M. Rees (D-Calif.), Henry S. Reuss (D-Wis.), and Morris K. Udall (D-Ariz.).

We can think of nothing more important to the American public than a free flow of accurate information by which Members of Congress can be judged accordingly.

As it is today, the House rules and procedures allow a system which is confusing, unnecessarily secret and, therefore, in violation of the time-honored principle, "The public has a right to know what its government is doing."

We believe the amendments offered by the 22 bi-partisan Members of Congress, if accepted, will add teeth to the Legislative Reorganization Act of 1970.

The public should waste no time in urging their congressmen to support the series of anti-secrecy amendments. Write your representatives today and tell them you back an open government in a democratic society.

[From the Evening Star, July 13, 1970]

On the Record

One of the cherished traditions of the House of Representatives is the secrecy that cloaks many of that body's most important operations. Approximately half the committee hearings and meetings are closed to the press and the public. Committee votes are, for the most part, never made public. Committee reports are customarily kept from the view of everyone—including members of Congress—until hours before a floor vote. And votes on vital amendments are hidden from the prying eyes of newsmen and constituents by the parliamentary maneuver of the non-record vote.

Observers of Congress and handfuls of idealistic congressmen have long viewed this passion for secrecy as an odd manifestation of democracy in action. And now, as the Legislative Reorganization bill heads for the floor of Congress, there are strong indications that at least a part of the veil will be lifted.

The bill—the first congressional reorganization measure in 24 years—provides that most committee hearings will be open and that some will be televised. Some 50 planned amendments will, for the most part, attempt to open more of the operations of the House to public inspection. The secret vote has drawn the particular attention of the reformers.

The Democratic Study Group, a collection of some 100 House liberals, has launched an all-out attack on the practice of non-record voting. They have, somewhat surprisingly, picked up significant support from the conservative outposts of both parties.

There is no real question as to why the secret vote originated and why it has been continued to this day. The purpose is to keep the voters back home from knowing for certain how their man in Congress voted on a particular bill.

That is, to be sure, not the reason usually cited by the defenders of congressional secrecy. They argue that roll-call votes take too much time. Or they claim that keeping constituents in the dark permits a representative to vote according to the dictates of his conscience rather than the dictates of political expedience. Some defenders, in desperation, have been known to cite the historical precedent of the British Parliament and the Continental Congress.

Taking these one at a time:

The reform-pushers point out that the time-consuming roll call is not the only alternative to secrecy. A teller vote, which is one of the methods now favored by the secrecy lobby, could be employed. The only change required would be the recording—and the publication—of the individual votes, instead of the counting of numbers of ayes and nays and letting it go at that. Or, should the House decide to enter the 20th Century completely, electronic voting devices could be installed that would provide a record vote in a matter of seconds.

As for the contention that consciences are freer if the voters are kept in the dark, it is necessary only to note that a representative's first duty is to represent the collective conscience and the will of his district.

Finally, the historical argument falls apart with the realization that the secrecy of Parliament and the Continental Congress arose out of a wholesome respect for the wrath of the King of England.

Today, the Congress of the United States has scant cause to fear the wrath of the British monarch. As for the M.P.'s, they decided 138 years ago that there wasn't too much a threat from the throne, and they dropped the unrecorded teller vote from their rules of order.

It's time for the House to go fully on the record, too.

[From the Oshkosh (Wis.) the Paper, July 14, 1970]

House Should End Its Secrecy

A bipartisan group of Congressmen is leading a reform movement to do away with much of the secrecy in the House of Representatives.

The group includes two Wisconsin Congressmen, William A. Steiger, an Oshkosh Republican and Henry Reuss, a Milwaukee Democrat.

In a statement, the group said, "We believe secrecy undermines the democratic process and saps public confidence in the House as a responsive and legislative body. We think the public has a right to know what is happening in Congress and how Members vote on major national issues. Indeed, the democratic process cannot function without the free flow of such information."

This reform is long overdue.

Due to archaic House Rules, many which have been in effect since the First Congress, recorded votes are not taken on many major issues. By meeting as a Committee of the Whole, for example, the House can and does avoid a recorded vote on issues that may be of vital concern to the voters back home.

Many issues are decided by voice or standing votes, counted by Representatives acting as tellers. No printed record is kept.

Votes were taken with no records kept, for example, on such issues as funds for American forces in Cambodia, Laos and Thailand, the supersonic transport, and the safeguard missile system.

Through the use of teller votes, Congressmen can avoid taking a public stand on controversial issues. They also can talk one way and vote another. There have been cases where votes are known to have changed when the matter happened to come up again on a roll call vote.

To change things, Steiger and the other reformers are proposing that the teller votes be recorded and made public. Certainly, the Members of the House should be willing to let the people back home know how they voted. After all, a Congressman's voting record should be the main criterion by which the voter judges his Congressman.

Steiger, who has been a leading advocate of House reform, is willing to stand on his record. He is to be complimented for this position. On the same note, other Congressmen also should be willing to be judged.

In its simplest form, it's known as being honest with the voters.

There also is another major part to the reform proposal. This would limit the common practice of secret committee and subcommittee meetings. About half of this business is done in secret by the House, including the powerful House Appropriations Committee which does all of its business behind closed doors.

This is in contrast to the Senate, which does most of its work in session open to the public.

Of main concern in these matters is the public's right to know what their Representatives are doing or not doing, as the case may be.

Another bad part about the House's secrecy is that it increases absenteeism. Not only don't people know how their Representative voted, they also don't know if he was present. Many times, where no record is kept, Representatives don't make it a point to be present for a vital vote.

These matters and others are scheduled for action this week. Let us hope that enough Congressmen follow the lead of Steiger, Reuss, and other reformers. Unfortunately, we will learn only the outcome. The vote on reform, also, will be taken secretly.

SENATE—*Wednesday, July 15, 1970*

The Senate met at 10 a.m. and was called to order by the Vice President.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers and our God, who hast made and preserved us a nation, make us a people mindful of Thy favor, obedient to Thy laws and glad to do Thy will.

Create in us clean hearts and pure minds, that we may be, in this age, heroes of the spirit, as our fathers were in days past.

Make us great enough and good enough and strong enough for the times in which we live.

As we undertake our tasks this day, may goodness and mercy follow us. May we be the beneficiaries of Thy higher wisdom, to the end that Thy kingdom may come and Thy will may be done on earth.

In the Redeemer's name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, July 14, 1970, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from Ohio (Mr. Young) and the distinguished Senator from New York (Mr. Javits), there be a period for the transaction of routine morning business, with a time limitation of 3 minutes therein.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

AMENDMENT OF THE CANAL ZONE CODE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1019, H.R. 7517.

The VICE PRESIDENT. The bill will be stated by title.

The Legislative Clerk. H.R. 7517, to amend the Canal Zone Code to provide cost-of-living adjustments in cash relief payments to certain former employees of the Canal Zone Government, and for other purposes.

The VICE PRESIDENT. Is there objection to consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91-1015), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The bill which will result at no cost to the Government and to be paid from Canal tolls is designed to adjust cash relief payments to noncitizen former employees of the Canal Zone Government whose services terminated prior to 1958 by providing for adjustment of future payments on the basis of cost-of-living under the provisions of section 8340(b) of title 5, United States Code, pertaining to civil service retirement annuities.

The bill would also extend the eligibility for cash relief payments to surviving widows of such former employees.

JUSTIFICATION

The origin of cash relief payments stems from legislation enacted in 1937 to provide annuities mainly for West Indian laborers who were employed in the construction of the original canal in Panama and who remained as aliens in the Republic of Panama. Cash relief payments have been adjusted over the years to the current average rate of $58 per month.

Having assumed the responsibility for these aging former employees periodic legislation has become necessary to adjust the cash relief payments upward to keep pace with continuously rising prices in Panama. To avoid recurring legislation, the committee agrees with the House that relating the cash relief payments to civil service retirement annuity cost-of-living adjustments is the more desirable solution. At the same time those entitled to cash relief payments are better enabled to defray expenses as the cost-of-living index rises.

The bill as proposed would also include the widows of these former employees and the committee agrees that this be done. Having displaced these families initially we should accept the responsibility of providing for their welfare to the extent proposed in the bill. Payment to the widows would be in the amount of not greater than 50 percent of the cash relief their spouses would receive if they were still living.

The term "widows" is defined in the bill and is designed to conform with local matrimonial customs. The bill further excludes those widows who have remarried or assumed a common-law relationship with another person since the death of the former employee.

ORDER OF BUSINESS

The VICE PRESIDENT. Under the previous order, the distinguished Senator from Ohio (Mr. Young) is now recognized for 20 minutes.

LET US CORRECT A COLOSSAL MISTAKE—LET US RECOGNIZE COMMUNIST CHINA—AMERICAN PRODUCERS AND CONSUMERS WOULD BENEFIT

Mr. YOUNG of Ohio. Mr. President, during the past months on a number of occasions in the Senate I have urged that our Government open diplomatic relations with Communist China and that we offer to reopen the U.S. Embassy in Peking fully staffed and invite the government of mainland China or Communist China to be represented in Washington by an ambassador and an embassy staff.

Very definitely, Mr. President, we Americans should engage in commercial relations with Communist China. Our neighbor, Canada, has been selling hundreds of millions of bushels of wheat over recent years to Communist China. Not only Canada but the United Kingdom, West Germany, and other European nations have maintained commercial and diplomatic relations with Communist China.

American people should know that in 1968 Canada sold and shipped to Communist China 78,893,000 bushels of wheat for which Canadian wheatgrowers received nearly $158 million in gold—cash on the barrelhead. In 1969 Canada exported 61,586,000 bushels of wheat for which Canadian wheatgrowers received $119,776,000 in cash. During this same period—1968 and 1969—West German Republic had freighters going back and forth to ports in Communist China exporting $335 million of West German products receiving payment in gold and during this same period the exports to West Germany from Communist China were but a small fraction of this amount so the West Germans profited while a shortsighted policy denied profitable trade to Americans. Other nations who are our friends and allies likewise profited. For example, during this same 2-year period the United Kingdom exported to Communist China products for which the Chinese Government paid in gold more than $200 million.

Over the years since the end of World War II we Americans have been at a disadvantage in every respect due to the shortsighted policy of withholding diplomatic relations with Communist China. Furthermore, we have deprived ourselves of a listening post at Peking. We have been forced to observe what is going on in Communist China through our consul at Hong Kong. There is no valid reason we should continue this shortsighted policy while those lunatic fringe extremists who desire to return to the witch-hunting, Communist fearing days of Joe McCarthy still send out utterly false propaganda of a monolithic international communist conspiracy on the part of the two great Communist nations, China and the Soviet Union. Time and events have proven how wrong these witchhunters have been and are.

The rulers of the Kremlin and the rulers at Peking have been denouncing one another for many months now. With those two huge Communist nations on the outs we have much to gain and nothing to lose by maintaining regular diplomatic and commercial relations with China. The wheat growers of rural America in the Midwest and in the wheatlands of the West would greatly profit by selling and shipping millions of bushels of wheat to Chinese ports and in return all Americans would profit as the handicraft products from China would be shipped into this country. It has been apparent to officials in all of the capitals of the world that for many months now there have been warlike confrontations between the armed forces of the Soviet Union and Communist China along that 6,500-mile common border separating these two great Communist nations. It is well known that sporadic fighting has occurred along the common border in many places and that the Soviet Union has in recent months withdrawn from Eastern Europe many divisions of its armed forces and presently 45 divisions of Soviet soldiers have been brought to the east and are deployed along the Chinese border. That is a total of nine armies of Soviet soldiers—infantry, cavalry, artillery, and air forces—on the borders of Communist China, running for 6,500 miles, where fighting has been going on for months and many Chinese and Russians have been killed and wounded.

Mr. President, there can be no valid argument against opening regular diplomatic relations with Communist China and initiating commercial relations which will bring in hundreds of millions of dollars in gold for American wheat and other products of our farmers and factories and further enriching our country with the import of handicraft, furs, and other products from the Chinese. Doing all this would also be another small step forward toward permanent peace.

Mr. President, the establishment of a workable relationship with the government of mainland China is one of the most important problems facing our Nation today. The facts are that from late 1965 to this good hour I have advocated that the United States follow the example of Mexico, the United Kingdom, France, and other nations, and recognize the Government of Communist China, instead of relying on Hong Kong as a listening post and observatory into the vast area of mainland China with its population of one-quarter of the inhabitants of the entire world. Following recognition, we should invite that nation to open an embassy in Washington and we then open and maintain an embassy in Peking. The time for such diplomatic exchange is long past due.

Nations, like individuals, should not ignore the facts of life. Recognition of one Nation by another never means approval of the ruling regime of that country. For example, early in the first term of the administration of Franklin D. Roosevelt the United States recognized the Government of the Soviet Union. It was stated at that time and well understood that our recognition of the Soviet Government would not imply any approval of the political structure of that nation. Our acknowledgment by official action that the Peking government exists and has been for many years the government of China is only a matter of stating the obvious. It does not imply our approval of that regime any more than our recognition of the Soviet Union, Spain, Greece, or any one of a number of nations ruled by Communist or Fascist dictatorships or military juntas indicates our approval of these regimes or their ideological bases.

Our Embassy in the Soviet Union provided a valuable listening post and furnished us with much information during the Stalin regime when Russia was a closed society. Yet there were, and are, stupid right-wing extremists including members of the John Birch Society or "Birchsaps," who all along denounced our recognition of the Soviet Union.

With Red China exploding crude nuclear weapons and engaging in serious border fighting with the Soviet Union along their 6,500-mile common border, a U.S. Embassy in Red China would undoubtedly be of great value to us. If the administration is seriously interested in normalizing relations with China—and I believe the administration is seriously interested—it should take steps toward entering into meaningful diplomatic and economic relations with the Peking government. Should the arrogant Communist dictators of China rebuff that effort, their refusal would result in a propaganda victory for the United States.

The Peking government has been the duly constituted and permanent government of mainland China for more than 20 years—in fact at least 25 years. It has governing authority over some 750 million men, women, and children—nearly one-fourth of the world's population. Red China unquestionably exists and just as unquestionably it will exist, immensely more powerful, 5 years from now. In spite of this fact, we continue to pretend that Red China is not there and that perchance some miracle will happen to solve this perplexing problem.

Furthermore, it is folly to believe that mainland China is ever going to be conquered by Chiang Kai-shek's little army of many generals and no combat experience, in virtual exile on Formosa, protected by our airpower and 7th Fleet. I have been in Taiwan, and I know the facts there. We have for 19 years been supporting that corrupt and boastful old warlord, Chiang Kai-shek. When he was driven from the Chinese mainland in the civil war, he sought a haven in Formosa for himself and his beaten army. Almost immediately his army massacred some 17,000 unarmed people. With our help he then established himself in power. His government is a puppet government of the United States.

Despite the boasts in the mid-1950's of Secretary of State John Foster Dulles and those in the China lobby about unleashing Chiang Kai-shek to reconquer the mainland, it has been and is our 7th Fleet and airpower and more than $20 billion of American taxpayers' money that has maintained this Nationalist Chinese government, so-called, on the island of Taiwan. Ardent supporters of Chiang Kai-shek remind one of Mississippi extremists who are still waving the Confederate flag a century after the Civil War ended.

Chiang is a tiger without any teeth. He has an over-age army of 600,000 at Taiwan. Over the years he has boasted of invading the Chinese mainland. This, of course, with the proviso, and he does not mention this, that the United States furnish all-out support from our Air Force and 7th Fleet, and that our warships and warplanes protect the convoy of American transports necessary to transport this invasion force. The time is long past due that we should withdraw all support from Chiang Kai-shek and cease pretending that the small island he dominates is a nation deserving of our support and of any prominence whatsoever in the United Nations. It is true that he has an army of 600,000 which is capable of parading in competition with the Shriners and would probably be about as good in combat.

Leaders of Communist China have in the past expressed disinterest in joining the United Nations. However, the United States should urge the chiefs of state of those nations which have heretofore recognized Red China and are presently enjoying lucrative trade with that huge nation to join with us in offering a place in the United Nations to this huge nation which we have been so myopic as to disregard altogether or treat as an outlaw.

Ambassador Edwin Reischauer, former Ambassador to Japan and one of our great Asiatic experts, has been proposing for some years that our Government accord recognition to Communist China and sponsor its admission to the United Nations.

American producers and consumers suffer due to failure to trade with Communist China. Why stand alone in refusing to recognize a stable government in existence a quarter of a century ruling one quarter of the people of the world?

KEY ISSUES IN UNITED STATES-EUROPEAN RELATIONS

Mr. JAVITS. Mr. President, in Brussels on July 2–3, I chaired the spring meeting of the Political Committee of the North Atlantic Assembly—the organization of the parliamentarians of the 15 NATO nations. I also met with NATO Secretary General Brosio. Thereafter, during a visit to four western European countries in the period July 3–8, I discussed the key issues in U.S.-European relations with a wide spectrum of European leaders.

In Rome, I met with Gov. Guido Carli, of the Bank of Italy and a leading figure in international monetary and financial matters. In London, I spoke with Home Secretary Maudling of the new conservative government, as well as with Opposition leader Harold Wilson and other members of the Labor and Conservative parties. In Bonn, I had extensive discussions with Defense Minister Schmidt, Foreign Minister Scheele, Minister of the Chancellor's Office Emkhe, and former Chancellor and Opposition leader Dr. Kiesinger.

There are four key issues now under active negotiation which will, in my judgment, determine the basis for U.S. relations with Western Europe in the decades ahead. The issues of overriding importance are: First, Chancellor Brandt's Ostpolitik and the search for East-West detente in Europe; second, the challenge to western security from the Soviet Union's expansionist moves in the Mediterranean and Mideast; third, the United States military deployment in Europe, especially as this involves U.S. troop levels in West Germany and includes the problem of balance-of-payments offsets; and fourth, the expansion of the European Economic Community to include Britain and the other applicant nations and the relationship of an expanded EEC to the United States.

Chancellor Brandt's Ostpolitik—or, eastern policy—is a diplomatic initiative of potentially far-reaching consequences which seeks a normalization of West Germany's relations with its East European neighbors and the Soviet Union. Through a series of four simultaneous negotiations—between Bonn and Moscow, Bonn and Prague, Bonn and Warsaw, Bonn and East Germany, and including also Four Power negotiations over Berlin in which the U.S. is engaged—Ostpolitik, in essence, seeks to achieve a comprehensive, postwar "German settlement" through means other than a German Peace Treaty which has been stalled and refused by the Soviet Union.

There appears to be broad support for the concept of Ostpolitik, as explained by the Council of Ministers of NATO, throughout Western Europe, and the desire for "detente" is widespread. Strong criticism of Ostpolitik, contained in a draft Rapporteur's report considered by the Political Committee meeting, was rejected overwhelmingly by the committee in favor of the NATO Minister's formulation endorsing Ostpolitik, and this is reflected by the attached resolution of the Political Committee.

Within the Federal Republic of Germany itself, I found opinion to be more closely divided on the question of Ostpolitik. The opposition CDU/CSU is mounting a forceful challenge to certain important aspects of Ostpolitik, which its leaders charge could compromise basic German and Western interests in Berlin and the GDR. The proponents of Ostpolitik on the other hand, believe that the fruits of "normalization," if achieved through the Ostpolitik, would be of major, long-term benefit to Western interest and to the evolution of Eastern Europe out of its present Soviet "satellite" posture.

The issues are subtle but of vast importance. Whether a normalization—or legitimization—of the present division of Europe—between the FRG, the GDR, Poland and Czechoslovakia—would redound to the greater advantage of the non-Communist or the Communist worlds is a matter which is debatable. I believe that the ingenuity and determination of the free people of Western Europe, in partnership with North America, are sufficient to protect and enhance Western interests in the new form of competition with the Soviet system which could ensue from normalization based on the Ostpolitik initiative. It is neither vital nor necessary, that the right peacefully to bring East and West Germany together ultimately be sacrificed, for the cost in German irridentism could be high indeed.

The issue still lies in the balance, however, for it is apparent to me that Western Europe has yet to find its bearings. Despite its enormous economic growth over the past two decades, Western Europe continues to be psychologically and politically unable to find its place. It has not yet psychologically "grown into" the great political and economic power potentiality of an expanded EEC and a politically united Western Europe. The leadership of Western Europe still thinks and feels "small." It has yet to grasp the potentiality of its own strength in geopolitical and economic terms.

This psychological reality is of direct importance to U.S. security interests which are closely tied to the question of U.S. troops in Germany. Our NATO allies, particularly West Germany, are haunted by a fear of a U.S. troop pull-out which they believe would leave them naked before the coercive power of the Soviet Union. There is a strong current of opinion in high positions in Western Europe which believes there would be swift and silent unravelling of NATO if the United States made significant substantive cuts in the level of troops it maintains in West Germany. The next stage, according to this view, would be the imposition of a Finnish-type relationship by the U.S.S.R. on Western Europe.

This is a situation which may not be congenial to the desires of the United States, but I am convinced that it is a reality which must be accepted in considering U.S. policy. Its implications, in the bluntest terms, mean that the maintenance of substantially current U.S. troop levels in Europe is necessary to protect U.S. security interests in Europe. The United States could deal itself out of a major role in shaping a comprehensive European settlement by a premature draw down of our troops. The threat to our security interests in Europe today are not that of direct military attack. Rather, they are rooted in the psychology and history of Western Europe.

While I can fully understand the reasoning—as seen from the American vantage point—behind the resolution pending, which calls for substantial reductions in U.S. troops in Europe, I deeply believe that such a move at this time could gravely compromise vital U.S. security interests, by precipitating a disintegration of NATO. The effect of substantial U.S. troop reductions at this time would be determined by the current psychological realities of Western Europe, which are characterized by a pervasive sense of weakness in relation to the U.S.S.R. Whether this psychological reality is justified from an objective American perspective, is not the question. In my judgment, we must base our policy on the political and psychological realities as we find them, rather than as we might wish them to be.

I could see no greater irony than for the United States to prejudice its vital security interests in Europe through an impatient withdrawal from Europe now, especially as our withdrawal from the peripheral fringes of the Asian mainland continues to be slow, so divisive, and so indecisive. Our security interests in Europe are paramount. They demand first priority. It is a price we must be prepared to continue to pay.

This, of course, does not mean that the United States should not insist on a more equitable distribution of the burden sharing as respects the military posture of NATO and the cost of maintaining over 300,000 troops in Europe. I believe that the United States must continue to take a firm line in negotiations on this question of offsets and I wish to commend the able work done by my colleague Senator PERCY in focusing attention in Europe on many facets of this important issue. I am guardedly optimistic that a new arrangement will emerge, which is much more satisfactory to the United States. The new concept of budget support payments—as distinct from purchase and loans—as a means of ameliorating balance-of-payments costs to the United States appears to be gaining acceptance in Europe. It probably must be multilateral to be acceptable to Bonn but I believe that at least token participation by other NATO members is possible and should be persistently sought by the United States through negotiation.

In my judgment, the stage has now been reached when overt pressures on West Germany could be counterproductive. I would like to suggest a Senate moratorium on this matter, while the United States and the FRG wrestle with the issue through appropriate diplomatic channels.

The third issue preoccupying the attention of Europe—and which directly affects U.S. interests—is the negotiations to expand the EEC to include Britain, Denmark, Norway, and Ireland. In discussions with European leaders I expressed my view that the interest of the United States continues to be strongly in favor of an expanded EEC but that the ultimate attitude of the United States would be molded by the implications of terms offered to Britain, and by the kind of trade, monetary and fiscal posture, vis-a-vis the United States of a larger EEC. In my judgment, the balance between cupidity and statesmanship, as regards the terms set for British entry into the EEC, has not yet been decided. Nor, in my judgment, has Europe yet reached the moment of truth within its own councils as to its trade posture. If the EEC expands, and chooses to pursue a protectionist course, it could set in motion a major and debilitating trade war which could weaken Europe and North America. Such a development undoubtedly would also stimulate protectionist tendencies in the United States and, with respect to the issue of U.S. troop levels, it could be a major factor in bringing about what Europeans profess to fear the most—a rapid U.S. withdrawal from Western Europe which would leave the Soviet Union in a dominant psychological and geopolitical position.

I am nonetheless optimistic that statesmanship will prevail. My conversations in Europe indicated a new sense of realism and determination—as well as optimism—on the fundamental issues of EEC expansion and renewed progress toward European political unity. As Europe grows psychologically into the full dimensions of its new potentiality I believe that a more statesmanlike attitude will prevail on the broad issues of political and economic partnership and interdependence.

The fourth key issue which will shape United States-European relations in the coming decade—and which is closely interrelated with the other issues including U.S. troop strength in Europe—is the challenge of Soviet expansion in the Mideast and the Eastern Mediterranean. I found acceptance—though in given cases, grudging—of the fact that Soviet activities in the Mideast, and especially recent ominous assumption of a combat role by Soviet military personnel in Egypt, represents a direct challenge to Western Europe's security. There is an awareness that NATO could be effectively outflanked by the consolidation of Soviet power in the eastern and southern Mediterranean littoral areas. There is also an awareness of European industrial dependence upon Mideast oil.

My suggestion that the Mideast ought to be an important agenda item of any European Security Conference also was received with general agreement.

However, Western Europe's awareness of the stakes in the Middle East appear to be of a theoretical nature, not actively involving Western Europe—in its view—in any of the diplomatic and security measures now required to protect Western interests. There seems to be a widespread feeling that there is little Europe can or needs to do, and that the fate of the Mideast will be decided by the Soviet Union and the United States and Western Europe can really do little about it.

During my discussions in Western Europe I expressed the strong view that U.S. attitudes on other issues of great interest to Europe—troop levels, trade and monetary questions—will be deeply influenced by Western Europe's policy and attitude with respect to the Mideast. If the United States is accorded the same conspicuous lack of aid and comfort in the Mideast—where it is confronting the Soviet Union in an area of vital and direct economic and security interest to Europe—that has been accorded to U.S. policy in Vietnam, there must inevitably be a psychological backlash in the United States against Western Europe.

Western Europe simply cannot stand aloof from the Mideast.

In concluding, I wish to emphasize that issues of the highest importance to the United States are now being negotiated in Europe. The issues now under negotiation are of transcendent importance as they could determine the fate of Europe for the remainder of the century. The massive ice pack which has frozen Western and Eastern European affairs for the past 25 years is cracking and a glacial flow has commenced. In my judgment, it is essential that the United States be alert to the possibilities as well as the dangers inherent in the present situation of flux and that we be prepared to invest the energy, attention and resources necessary to enable us to join effectively in the shape of the future of Europe now beginning to emerge.

I ask unanimous consent to have printed in the Record a communique issued by the Political Committee.

There being no objection, the communique was ordered to be printed in the Record, as follows:

North Atlantic Assembly, July 3, 1970

The officers of the Committee are: Senator Javits, Chairman; Mr. van der Stool, Vice-Chairman; and, Mr. Blumenfeld, General Rapporteur.

At the meeting in Brussels on 2 July 1970, the Political Committee of the North Atlantic Assembly considered an interim report on Atlantic Political Problems prepared by Mr. Erik Blumenfeld (Federal Republic of Germany) its general Rapporteur, and directed its Chairman to issue the following statements agreed by the Political Committee at this meeting.

The Committee requested its Chairman to express the views of its members concerning the chapter of Mr. Blumenfeld's report dealing with East-West relations. It was the sense of the Committee that they wished to emphasize that their views concerning the attempts of the Government of the Federal Republic of Germany to establish better relations with the GDR, Poland and the USSR differ from those of the General Rapporteur and that they did not share the fears expressed in the report, and they further wished to underline their support of the policy implied in the following extract from the Communiqué published by the North Atlantic Council following its Ministerial meeting in Rome on 26 and 27 May 1970:

"With the support and understanding of its Allies, the Federal Republic of Germany has initiated talks with the Soviet Union, Poland and GDR in order to improve the situation in Central Europe. The Allies consider this to be encouraging. They express the hope that these talks will yield results and will not be compromised by the presentation of unacceptable demands. The efforts being made to solve outstanding problems and to achieve a modus vivendi in Germany which would take account of the special features of the German situation, represent an important contribution to security and co-operation in Europe. The Ministers express the hope that all governments desiring to contribute to a policy of relaxation of tension in Europe will, to the extent possible, facilitate a negotiated settlement of the relationship between the two parts of Germany and the development of communications between the populations."

The Committee instructed its General Rapporteur to revise his report to be submitted to its next meeting in November in the light of those views expressed by its members. The Committee also instructed its General Rapporteur to comment, in his revised report, on the need to strengthen the South-Eastern flank of NATO and to facilitate a NATO presence in that area.

Members of the Committee also emphasized that their views on the section concerned with possible U.S. force withdrawals from Europe in the Rapporteur's interim report were not necessarily those of the Rapporteur, and that, as a Committee, they generally looked forward to continued and effective co-operation and arrangements between the U.S. and the other NATO countries and would deal with the whole question definitively at their meeting in November in preparation for submission of an appropriate resolution to the plenary session.

TRANSACTION OF ROUTINE MORNING BUSINESS

The VICE PRESIDENT. Under the previous order, the Senate will now transact routine morning business, under a 3-minute limitation.

MORE PRISON ATROCITIES REVEALED

Mr. YOUNG of Ohio. Mr. President, yesterday in this Chamber I reported sadly that horrible incidents of brutality toward inmates were taking place in the old Ohio penitentiary located in Columbus, the capital city of my State. At that time I introduced Senate Resolution 429, to authorize an investigation by the Senate Judiciary Committee of alleged acts of brutality committed against prisoners by prison personnel at prisons in the State of Ohio.

Further reason for an intensive investigation of Ohio penal institutions are the sadistic and brutal atrocities at the Chillicothe Correctional Institute in Chillicothe, Ohio, recently exposed in the Washington Merry-Go-Round, written and published by Jack Anderson. In his column printed July 8 in the Washington Post and other newspapers, there were reported killings, beatings, and tortures. The victims of these atrocities included inmates of the Chillicothe Reformatory. The column also related the horrible sadistic killing of 21 small cats and recently born kittens whose heads were bashed in by prison guards and officials of this institution solely because these small cats were pets of inmates.

Mr. President, Jack Anderson is absolutely correct when he states that "a number of prison officials are on the wrong side of the bars."

Maury Koblentz who is the head of the Ohio Division of Corrections, and William Salisbury who is the warden at Chillicothe, are blamable and must be held responsible for the mistreatment of inmates at Chillicothe. These men should—and no doubt will—be summoned to appear before some congressional investigating subcommittee and face witnesses who will testify to the horrible mistreatment of inmates. Furthermore, I hope and believe that the next Governor of Ohio and the General Assembly of Ohio, which convenes next January, will deal in a forthright and adequate manner with all officials and employees guilty of such cruel and unlawful acts and misconduct.

Mr. President, I ask unanimous consent that the column by Jack Anderson entitled "More Prison Atrocities Revealed," published in the Washington Post of Wednesday, July 8, 1970, be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

More Prison Atrocities Revealed

(By Jack Anderson)

If half the stories are true that have been smuggled to this column from inside America's prisons, a number of prison officials are on the wrong side of the bars.

A horrifying nightmare of prison sadism and brutality is taking form from the official documents, letters, and telephone calls we have received since our recent column on prison atrocities in Florida.

Not only have helpless prisoners been killed, beaten, tortured, and seduced, but at the Chillicothe Correctional Institute in Ohio, 21 small cats had their heads bashed in by prison officials in front of convicts as a lesson, apparently, that convicts weren't supposed to keep cats as pets. Canaries are permitted, but not cats.

Warden William Salisbury denied the kitten massacre to this column. He said only one cat was killed because it was suspected of rabies, though the tests showed no trace of the disease. A different story is told, however, in an official statement for the Senate Juvenile Delinquency Subcommittee of Sen. Tom Dodd (D-Conn.).

Declares the document: "Between the hours of 6 and 7 p.m., two security officers—one a captain and one a sergeant—went about the compound collecting the cats and putting them into a white laundry bag.

"These they took to the ramp in front of the chapel where, one at a time, the captain held up the cats, and the sergeant beat their skulls in with a broomstick. Just to make a clean sweep, they killed six 4-day-old kittens, leaving one to whine on its dead mother. One hundred and fifty grieving convicts witnessed this slaughter."

The statement goes on: "James Bray had absolutely no history of heart trouble. He was 26 and . . . a very healthy specimen. He had for some time been the object of midnight sexual attacks by an inmate/nurse. . . .

THREAT TO KILL

"Although he was kept heavily tranquilized with doses of Thorazine, he complained of this (sexual) abuse so loudly that the inmate/nurse threatened to kill him. Alarmed, Bray sent a letter to a friend saying he was to be killed that night. Unfortunately, his friend did not read the message until 6:30 the next morning when he rushed to Bray's cell and found him dead.

"Those who were present the night he died said it was a beating, followed by a massive injection of (pharmaceuticals) administered by the man who said he was going to kill him . . . nor was this the nurse's first victim. He once had to be blackjacked off a patient he was sexually assaulting. . . . Less than a week before he killed Bray, the same inmate/nurse, together with several others, beat a patient so badly he had to be hospitalized."

Both Warden Salisbury and the autopsy report claim Bray died of coronary thrombosis. There are no beatings at Chillicothe, said the warden.

But there is more testimony: "David Warfield was sent to the Criminal Psychiatric Unit at Chillicothe. There, because he had become so disturbed, he was strapped hand and foot to the bed. While he was thus helpless, he was sexually assaulted by a guard.

"His mother found him so altered when she went to visit that she did not recognize him. He was in a wheelchair . . . On her next visit, he appeared to be dying." Yet authorities said he only "feigned illness."

Warfield wound up on intravenous feedings and was subsequently sent to the Lima State Hospital for the Criminally Insane.

57 VICTIMS

This column has the names of 57 Ohio prisoners, dead and alive, whose mistreatments have been reported in official documents. In addition, 41 prison guards, ranging in rank up to major, are listed as having "participated in attacks on inmates."

We asked Ohio Division of Corrections head Maury Koblentz for permission to question individual prisoners at Ohio Penitentiary and Chillicothe who allegedly have been mistreated from 1968 to 1970. Koblentz refused our request, saying it was against prison policy.

Footnote: Florida's Health and Rehabilitative head, Dr. James Bax, has attacked our column on prison atrocities, though acknowledging that "we've got some problems." As the man at the top, Bax also concedes, he may not know everything that is going on. He invited this column to visit any inmate in the Florida system with any guide we chose, provided only that we give accused guards and officials a chance to respond. He vowed he would "summarily fire" any guards who have abused inmates. This column will accept Bax's invitation.

SUPPRESSED RECORDS

The federal government is refusing to give a missile scientist it drummed out of his job for "mental disability" his own medical records so he can fight the retirement in court.

This column has obtained a copy of one of the suppressed records on the scientist, Kenneth Cook, and it is small wonder the government does not want them to get out in the open.

In it, Lt. Col. Paul Grissom, as the Air Force's top psychiatrist, said that the 56-year-old civilian Air Force weapons analyst's files give no "sound medical basis" for his retirement.

BLUEPRINT FOR YOUTH

Mr. YOUNG of Ohio. Mr. President, America's restless youth, the most aware, aroused generation in our history, needs a set of blueprints if they are to reform the ills of our society. Fiercely idealistic, some of our young people seem to believe we can end the war and eliminate social problems with talk of love, but many escape by copping out, taking drugs and living in a psychedelic dreamworld. All our young people would do well to follow the example of Mormon teenagers in Salt Lake City who recently mowed lawns, washed cars, and did other chores to raise more than $35,000 to help build a Negro church. This college generation should understand there are no simple solutions and that tearing down our society as urged by a minority without an idea of how to reconstruct it would bring anarchy and chaos. Adults should advise our youth to exchange rhetoric for practical solutions. Why not roll up their sleeves, pitch in and do something worthwhile? Most encouraging has been the youth lobby crusading against our deepening involvement in Indochina by making their views known to Congress. Our youth should know they cannot expect to enjoy the blessings of our Republic without active involvement and serious efforts to substitute deeds for dreams and words.

The VICE PRESIDENT. Is there further morning business?

CAMBODIA: RIGHT OR WRONG

Mr. GRIFFIN. Mr. President, last week on July 9, the Senator from Colorado (Mr. DOMINICK), the Senator from Iowa (Mr. HUGHES), and the Senator from Missouri (Mr. EAGLETON) appeared with Gen. Maxwell Taylor and news correspondent Bill Monroe on an ABC News special program entitled "Cambodia: Right or Wrong." I ask unanimous consent that the full text of the transcript of the program be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

[From an NBC News Special, July 9, 1970]

CAMBODIA: RIGHT OR WRONG

Announcer: NBC News presents "Cambodia: Right or Wrong," a discussion on the merits and the legality of the U.S. incursion into Cambodia.

Here is NBC News correspondent, Bill Monroe.

Bill Monroe: Exactly ten weeks ago tonight President Nixon announced on television that American troops were going into Cambodia to clean out communist sanctuaries. In this hour three United States senators and a distinguished soldier-diplomat will discuss the results of that decision.

Did the President abide by the Constitution in not consulting Congress? Has the Cambodian operation improved our military position in Vietnam?

Our guest tonight to lead discussion on the military results, General Maxwell Taylor, former Chairman of the Joint Chiefs of Staff and former Ambassador to Vietnam.

General Maxwell Taylor: Well based on the facts as I know them, I would say that the military operation against the sanctuaries has been an important military success. And, furthermore, it has carried with it important political and psychological effects also of considerable value to us.

In combination, I would think it's reasonable to hope that the operations will have contributed to the shortening of the war.

Monroe: Also discussing the military results, Senator Harold Hughes, Democrat, former governor of Iowa.

Senator Harold Hughes: I believe the overall invasion of Cambodia has been probably a tragedy to the United States. And the policy in the long run will be felt in this country as one of the great mistakes of this war.

Monroe: Now just to argue the Constitutional issue, Senator Peter Dominick, Republican of Colorado, member of the Armed Services Committee.

Senator Peter Dominick: I think that the President had every right under both international law and also under our Constitution to attack and destroy the North Vietnamese bases within Cambodia.

Monroe: And Senator Thomas Eagleton, Democrat, former Attorney General and former Lieutenant Governor of Missouri.

Senator Thomas Eagleton: Bill, in my judgment the invasion into Cambodia by President Nixon was unconstitutional because is was designed to buttress the Lon Nol government, and not designed to meet any new threat to American forces in South Vietnam.

My judgment is that it has expanded the war.

Monroe: Thank you, gentlemen.

The last American troops got out of Cambodia early last week. But as we can see from the opening statements of our guests, the debate continues. Cambodia touched off a new convulsion on the campus: student strikes, four deaths at Kent State.

Two congressional delegations visited Indochina. They came back saying that Cambodia made sense. The Senate talked for seven weeks; then passed a measure aiming at requiring congressional consultation before another Cambodia. President Nixon delcared the operation an important success. But critics said the Vietnam War had been widened into another country with no end in sight.

First, tonight, we'll ask General Taylor and Senator Hughes to discuss the military-political results of Cambodia. Then we'll ask Senators Dominick and Eagleton for their comments on that issue. In the second part of the hour, Senators Dominick and Eagleton will open discussion on the constitutional problem.

So to start off, has the Cambodian operation improved our overall position in Vietnam?

General Maxwell Taylor.

General Taylor: Yes, I would say that it has. Because the results in a strictly military sense have been the destruction of very large supply dumps, depots, in Cambodia. It represents most of the war reserves for the continuation and support of the war in South Vietnam.

There have been thousands of enemy soldiers who have lost their lives in this. So clearly, this is a reduction in the aggregate of power available to the other side to conduct the war in the South.

Now, those are the direct advantages, I would say. There are others. The question, the point that the logistic system, which has been put together so painfully, with such effort over many years, has now been disrupted to the point that the other side must commit enormous reserves of manpower and of effort to replace them clearly is a military asset. The fact that the offensive plans which have been put together based on the availability of these supplies and this manpower—these plans cannot be carried out under the present conditions—I would say clearly is an advantage to us.

Then the fact that the other side is faced with a dispersion of strength—how to face the fact they have a third front opened for this little country in the north in a twenty-six war, I believe is the correct time: these facts certainly present serious problems to the enemy and, conversely, important advantages to us.

They're the points that I'd like to pass to my colleague.

Monroe: Senator Hughes.

Senator Hughes: Well, I would agree with General Taylor that certainly the invasion of Cambodia was a limited tactical success with the destruction of the materials and supplies of the enemy.

I think as I listened to the President describe the reasons we were going into Cambodia the night of the invasion that he said that within the last ten days there had been an important change along the Cambodia border in the Parrot's Beak and the Fish Hook area, and that tonight American boys were attacking to destroy the COSVN, the enemy headquarters, and the major troops commitments in that area. It was well evident in the aftermath that the Vietnamese, the North Vietnamese and the Viet Cong, had been well aware of our tactics and that the withdrawal had already begun.

I think the enemy also, as I followed the writers, had adopted a rather low profile in the several months preceding that to the extent that most of the generals that I had read comments of in Vietnam had said that the enemy was actually going back to guerrilla tactical warfare in South Vietnam, and that there had not been major threat to Saigon or attack, I believe, in over two years.

So the immediate statement of why we were going into Cambodia seems to have dissipated in the aftermath of that strike.

I would also point out in the beginning that contrary to the fact that we now have two vital sanctuaries, which the President pointed out, over half of Cambodia is in the hands of the enemy; that they actually seem to be in control of the border all the way from the Parrot's Beak to Laos.

And as a result of that, though the supply lines have been disrupted, we have also another front, a very wide front, which our allies, the ARVN or the South Vietnamese, are continually going to be faced with policing an area almost twice as large as they previously had in South Vietnam alone.

Monroe: General Taylor, I notice you've taken a note or two. Would you like to respond?

General Taylor: Yes, some of these points I think I would like to comment on.

First, I think the (word unintelligible) should be what we've actually done, not what we might have done.

Personally, I never had any feeling we had any chance of catching COSVN. We'd been talking about this operation so long in advance—we have a great way of talking about everything we're going to do and hence alerting the enemy. Hence a mobile headquarters, such as COSVN, could never have been caught.

But the main thing is that supply bases can't be moved. They weren't moved. And my only concern, frankly, is that we didn't stay long enough to do a complete job. Whether that's the case or not, I'm not positive.

I wouldn't agree that the other side controls a half of Cambodia. I don't see any evidence that any serious fighting yet has occurred inside of Cambodia except in the actual sanctuaries. The evidences from the press are very, very uncertain. The difficulties in the collection of information is very, very difficult. And certainly, there's nothing that suggests that the capital of Phnom Penh has really been threatened thus far.

Monroe: Senator.

Senator Hughes: I think, General, as we review this over the course of years when you were Chief of Staff, certainly the consideration of the invasion of these sanctuaries must have come up repeatedly over that course of years, and must have been tabled over that course of years.

When we were actively engaged in some of the heaviest fighting of the war, we decided not to make that invasion for one reason or another. And the President did imply, contrary, I believe, to the implications afterwards, that we were going to strike COSVN, that we were going to find the headquarters; and that we were going to destroy the enemy's structure of command in that strike.

Now, contrary to what happened, this was the reason stated that he gave to the nation. And as a result of that, I concede large amounts of enemy supplies were captured and destroyed; Sihanoukville was disrupted, and supply lines were disrupted.

But I still maintain that although the enemy faces a widening front, we also face a widening front. And I think also we face a tragedy of what our allies in Cambodia have been doing: the fact that they have been destroying villages, looting villages, raping the women—the South Vietnamese.

And though sometimes we say we're not responsible for that, they are our allies. We pay and supply their troops. And I think when we cry out against American troops in cases of atrocities, that certainly we must demand of our allies that they not be guilty of similar things.

General Taylor: First, let me get back to the point of why didn't we do this before.

I would have opposed it had I had the authority to take a position on the invasion of the sanctuaries, say, two or three years ago simply because we didn't have the strength. The situation in South Vietnam was too precarious.

Now thanks to the enormous defeat we imposed upon the North Vietnamese in 1968 and '69, points that many of our American citizens still are not aware of, we do have this excess of strength which allows us to go into these sanctuaries, and furthermore allows us the luxury of our allies staying there and cleaning up a job which we left, I'm afraid, not entirely finished. So that's one point I would like to make.

The other is the question of the conduct of our allies. I don't know if they are any worse than troops in ordinary operations. I can't feel too sympathetic for the Cambodians who have lent their soil to the enemy, provided the bases upon which troops and weapons and munitions have come to fight the war in South Vietnam, to kill our soldiers and also the people in South Vietnam. Don't expect under those circumstances that soldiers are going to be too sympathetic with the Cambodians.

Senator Hughes: Well, I think these bitter hatreds of many, many years, General, between the Cambodians and the Vietnamese have certainly surfaced again and that we have aroused old antagonisms. And certainly women and children have been victims in all wars, but not as openly apparently as the reporters are reporting in this particular situation and these particular series of incidents.

And I think it behooves us, particularly those in command and those in places of responsibility, to be concerned about the ravaging of women, the destruction of villages and the leaving of homes senselessly, regardless of what the circumstances are or what people may feel. I also descry the fact that there has been no rseponse, you know, in trying to deny sanctuary to the enemy on those borders.

But that does not mean that we condone savagery on our own in response to it, most certainly. And I'm sure that you would agree with that.

Monroe: Continuing this. . . .

General Taylor: I will indeed. But the point is, what is our national interest in this incident? Is this, indeed, not an action to our national interest, apart from the humanitarian considerations which you have very properly raised?

Monroe: Continuing with discussion on the military aspects of the Cambodian situation, could I ask each of you gentlemen to address yourselves to whether the Cambodian operation will enhance the possibilities of Vietnamization working and an eventual takeover of combat operations by the South Vietnamese? And will it enhance the possibility of peace through the Paris Peace Talks?

General.

General Taylor: I would certainly think that it's bound to assist the Vietnamization program simply because it has reduced the offensive capability of the enemy. They can't come in with the same strength they could have had this not occurred since the pressure is off Vietnamization, the pressure is off pacification, the pressure is off the nation building operation which takes place behind the barrier of military security.

It's bound to have a favorable effect in that way. How much, one can't weigh. This is not a tangible thing that you can get ten percent or fifty percent.

With regard to the Paris Peace Talks, I have no idea. We'll never get anything from the Paris Peace Talks until the other side is convinced that it's to their interest to negotiate on a reciprocal basis. They're not convinced yet. And I'm afraid that our American attitude at home contributes to that resistance to honest negotiations.

Monroe: Senator Hughes.

Senator Hughes: Well, I think quite contrary to what the General says that the invasion of Cambodia actually increased the difficulties of Vietnamization, if you accept Vietnamization as a policy at all.

I happen to believe that Vietnamization will be a perpetuation of the war rather than an end to the war in Vietnam.

As a result of that, I think the use of many thousands of South Vietnamese troops in Cambodia and the continuing going back and forth of these troops to keep the highways open, to make sure that supply lines are not reinstated, to take care of some of the outlying territories, if necessary, where enemy buildups come up, the continuing involvement of our support planes in bombing missions and perhaps in close support of fighting troops means that it is going to slow down the Vietnamization program in South Vietnam, which we had not been ready to agree had reached the point where they were able to do it anyway.

And as a result of that, I think it's going to lengthen the war. It's going to increase the problems and make it far more difficult for us to continue this program, if that is to be our national policy.

Monroe: What about possible effects at Paris, Senator?

Senator Hughes: Well in Paris I think that we have been at a stalemate certainly since January of 1969. I'm encouraged to see that the President has appointed a new ambassador to those peace talks. I thought it should have been done long ago.

Now that it has been done, though I think the hazards are greater as a result of the invasion of Cambodia, I think at least there has been a national indication that we do want to pick up the peace talks, that we do want to negotiate, and that we do want to find a way of resolving that conflict.

So I'm encouraged by the appointment of Ambassador Bruce. But I don't see in sight—I would agree with the General—I don't see in sight at the present time any improvement in the talks. And I think the Cambodian situation probably made it more difficult.

Monroe: General.

General Taylor: Well, I would not agree to the latter.

I think it may be that the disarray into which the Cambodian operation has thrown the Hanoi high command, the tremendous problems they're faced with in the III Corps that you mentioned before, the problem with the protection of their communications in the Panhandle of Laos; the danger that this kind of surprise attack might take place elsewhere: this could, indeed, be a factor to bring them to the table because I'm sure they'll never negotiate except from self-interest; not for a love of peace, not for any other consideration except the fact that the table offers them their only hope for an outlet.

Until we get there we won't get negotiations.

Monroe: In going into Cambodia have we incurred an obligation, moral or military, to the Lon Nol government? And if we have, is that good or bad?

Senator Hughes.

Senator Hughes: Well, it seems to me that the Lon Nol government was really the precipitant factor in our going into the so-called sanctuaries.

Until the Lon Nol government had taken over in Cambodia, we had displayed no interest whatsoever in going into these sanctuaries in Cambodia. But suddenly we were told by the President of the United States that strange things were happening in these sanctuaries that threatened our troops in the area of Saigon and our Vietnamization program totally; and we had to take this action.

Obviously, it was the weakness, in my opinion, of the Lon Nol government which precipitated this factor.

I think we did assume a moral obligation. We, in fact, in the Senate were discussing, if not debating, the fact of what sort of support we should give the Lon Nol regime. I think it was quite evident that the President gave no notice whatsoever to any member of the Senate that I'm aware of—certainly not to the Senate Foreign Relations Committee—this imminent proceeding. Though the enemy obviously, as the General pointed out, had some advance notice of it, the United States Senate did not.

And I think that as we have done this we've now incurred a liability there that publicly will mean that we're going to feel some responsibility for continuing, at the very least, an extensive military support and supplies to the Lon Nol government.

Monroe: You believe we have incurred an obligation and that it's a disadvantage?

Senator Hughes: Well, I'm not in favor of the obligation except on the basis of limited supplies to the Lon Nol government to support and fight for themselves.

But I am afraid that that liability may arise after this particular response we have made.

Monroe: General Taylor.

General Taylor: It certainly was a favorable development when Sihanouk was thrown out and Lon Nol came in. For the first time, we had a friendly head of state, weak though he may be, weak though his government is. Hence, I would say there's no question to what it was to our advantage to have this take place.

Now what occurs from here on out would have happened whether we had gone into the sanctuaries or not. The Lon Nol issue is entirely independent, as I see it, of the sanctuary question. You would still have the question which is being debated: should we help Lon Nol or not?

I don't have enough information myself to say. I would say we have no obligations, no moral obligation, no military obligation. But we have an obligation to our national interest. And we should sit down very coolly and coldly and analyze this, and conduct ourselves accordingly.

Monroe: General Taylor, one of the factors in the whole Vietnam situation is the matter of U.S. credibility; whether other parts of the world believe that the U.S. would be firm in maintaining its commitments.

Do you believe that this has been enhanced by the Cambodian operation?

General Taylor: I think it's been terribly damaged by behavior in Vietnam. I don't think that Cambodia has had any effect on this in relation to the tremendous damage that has been taking place to our standing in the world, the credibility of (word unintelligible) because of our conduct here in the United States.

Monroe: What part of our policy in Vietnam do you believe has damaged our credibility?

General Taylor: The fact that we are showing signs of willingness to accept defeat in a situation where victory is in our hands: victory not in the military success, as is always being thrown around; but in a sense of achieving our objective of leaving a country which is viable, which has a government of its own choice, with a military threat which has been reduced to a point where it can be controlled by the people within its own borders.

Monroe: Strictly through Vietnamization, turning the war over to the South Vietnamese?

General Taylor: That's an important part of it. That's not the whole story.

The end product is that you do what five presidents said we set out to do: an independent South Vietnam with a government of its own choosing and no military threat from the outside.

Monroe: Senator Hughes, what about U.S. credibility, and what about the possiblity of victory in Vietnam?

Senator Hughes: Well, I think we've kept our promises in spades to the South Vietnamese people and to the people of the world. And I think we need not be ashamed of being called a pitiful giant that is unable to meet its commitments. We have met our commitments, totally.

I think when the General talks about a victory, he talks about one of the great problems that we have; that we're talking about a negotiated peace settlement. And when we negotiate, certainly we're not talking about a victory. And the General pointed out that he was not talking about a military victory, but he was talking about a victory at the peace table under our circumstances and totally under our terms.

I believe that as we view what now has happened in South Vietnam totally, over the course of the last seven years particularly, since combat has picked up and large devastation has been wrought to the people—and the General made the statement that we now have a government in South Vietnam that's a choice of the people— I'd like to point that in that election in 1967 the Thieu-Ky regime got a little over thirty-five percent of the total vote. And about sixty percent of that total vote was for peace candidates.

I think the Vietnamese people did express their opinions. And their opinion was for peace at that particular time. We have not been able to get a determination even by that government to agree in the beginning to negotiate or to settle their differences at the peace table.

When we went into Cambodia they said to the United States that only foolish people talk about coming out of Cambodia after our President had indicated that they were coming out at the same time we were coming out.

I think continuously the Thieu-Ky regime has displayed contempt really toward the United States of America and toward its own people. I think that it does not represent the people of South Vietnam fairly. I think the most recent expose of the political prisoners in South Vietnam in the last three days is an indication. The indications are, according to reports, upwards of fifty thousand political prisoners being held without trial.

When the State Department briefed me and Senator Eagleton some two months ago they indicated to us that to their knowledge there were only two political prisoners being held by the government of South Vietnam. And I think the indications of torture and damage there are certainly ones that we should not condone in a government that we support.

I agree that the enemy uses those tactics. We deplore it; we cry out against it in the treatment of our own prisoners of war. And we hope for their negotiated early return, and certainly humane treatment for them as soon as possible.

But for us to support a government that adopts and uses the same tactics I think is deplorable.

Monroe: Senators Dominick and Eagleton, you gentlemen will lead off the discussion on the constitutional issues in a few minutes. But you have been listening to what General Taylor and Senator Hughes have had to say about the military-political aspects. And we would like to bring you into this part of the discussion on that subject.

Senator Dominick.

Senator Dominick: Well, I'll be fairly brief. But I think I should make some comment on some of the things that Senator Hughes said. He's talking in a humanitarian way for all mankind. This is great. If everything was fair, as President Kennedy said, in a fair world, it would be wonderful. But this isn't a fair world. Maybe we can try and make it so.

But I think it's important to point out to the viewing audience here that it is not the United States which has been invading these countries: it's the North Vietnamese. They're the ones who have put the troops into South Vietnam. They're the ones who have over sixty thousand troops in Laos. They're the ones that have forty thousand troops in Cambodia and who are desirous of taking over all of Indochina.

Now faced with that kind of a situation, I think you have to balance the equities and decide whether other people have the right to live. I think this is extremely important because where the North Vietnamese have (sic) the other people have not been given the right to live.

Monroe: Senator Eagleton.

Senator Thomas Eagleton: Well, like Senator Dominick, I'll try to be a bit brief and respond to some of the points that I think were made by General Taylor. I think two or three of them deserve some specific comment.

I think implicit in the General's remarks was the fact that this war has been widened. He says on the plus side that the North Vietnamese now are further dispersing their troops; they're getting more thinly scattered.

To me to use that as a justification for widening the war is reminiscent of the major who in referring to a village, you know, in South Vietnam said we had to destroy it in order to preserve it, or in order to save it.

It's a non sequitur. If the North Vietnamese are further dispersed, how about the ARVN. And Senator Hughes has mentioned, of course, that Thieu and Ky are going to stay there as long as they darn well please. They told us they were going to do that even though President Nixon in his April 30th announcement said that they would be coming out when we came out. President Thieu, or was it Vice President Ky, their great outspoken spokesman, who said anybody who says that is silly.

Secondly, General Taylor talks about the supplies that have been destroyed. Well, I think the total aggregate market value of it is about 30 million dollars, which is about the cost of half a day in terms of what we invest in the war now in Indochina. Most of these supplies, I think, could be brought back on one boat load.

And very importantly, General, I'd point to you that since this action has been taken both the Soviet Union and Red China have escalated their commitments in terms of materiel, supplies and weaponry, to North Vietnam. And I think that we're in deeper than ever.

Finally, I find this statement very curious in the General. He says they now have, and I'm quoting him directly—I wrote it down—an excess of strength in South Vietnam. And we now have, quote, "the luxury of going into new places."

Well, I ask, if we've got that excess of strength, and if the Nixon policy is to bring our boys back home as soon as the ARVN is ready to take over, then why didn't we bring that excess strength back home in conformance with the Nixon policies? Why are we going into new areas with this excess of strength that gives us this luxury of reckless abandonment in terms of going wherever we please in Southeast Asia.

Bear in mind, Cambodia is a neutral state. Was. We've now (word unintelligible) into a total war. It was a neutral state. And we decided to go in, not even at the request of the Cambodian government.

And lastly, but by no means leastly, he said it's a great plus to have Lon Nol over there; a friendly, he says, but weak head of state. Since when is it an asset to have a friendly but weak head of state? Then you asked whether it was a liability. I think Lon Nol and Cambodia is a millstone.

Monroe: General Taylor.

General Taylor: Yes, I'd like to answer many of those questions, Senator, because I don't follow you, frankly.

You've said that the war has widened. I would say that the war has three dimensions. It has a geographical dimension. It has an intensity dimension. And it has an objective dimension.

I would say, yes, indeed, the military operation is going on in more square miles than before. That has been done in order to reduce the intensity of action where our troops are, where our interests are. And that's what we accomplished.

Secondly, it was also reducing the time

factor, the prolongation of this war. I would think everyone of us—we all differ somewhat—we ought to join together in saying we're united on the following statement. We would like to end this war honorably and as rapidly as possible. Do we all agree on that? Does anyone disagree?

I would say Cambodia is doing exactly that. It's contributing to that factor. And I can't understand how anyone could say otherwise. And that being the case I would think we should get together.

And this question of the head of state. I would certainly rather have a weak, friendly head of state in Cambodia than a hostile, either weak or strong, head of state. Certainly that man Sihanouk turned his country over to the enemy. He brought the war into Cambodia. We didn't. And he's paying the price—his poor people are paying the price for the kind of leadership that they accepted.

Monroe: Senator Hughes.

Senator Hughes. I'd like to point out, Mr. Monroe, a fact that we haven't discussed here at all that I think is a byproduct of this invasion of Cambodia, one of the most devastating that happened.

And that's what happened internally in America as a result of this so-called strike, the surgical instrument use that we were taking into Cambodia (sic). We saw almost five hundred colleges and universities closed in America at one time, not by totally radical students and bearded, drug injected individuals. We saw hundreds of thousands of young people who immediately reacted to this type of thing.

I think the length of this war, the totality of it, and now the adoption by our own nation of similar tactics in many instances to that used by our enemy has resulted in the scaring of the souls of millions of Americans. It has forced us to a point with many young Americans to where they have been forced to make decisions that—and I do not doubt that they would defend their country in an instance where they felt that their country was endangered—but we know that thousands of them have fled the country; thousands of them have taken other avenues to try and avoid the draft into the armed services.

I think when we see fifteen hundred attorneys in New York City coming down, thousands of representatives from the medical profession; when we see other business interests organizing and campaigning against the war in this country that we must realize the internal political effects on this country of this invasion of Cambodia also.

I won't go into the years of neglect, the programs that have been diminished by our economic ability that also is striking at the very fiber of this country. But I think it's all a part of the discussion that we're involved in.

Monroe: Thank you, Senator, and gentlemen. Our time is up for this part of the discussion. Next we'll talk about: did the President enter Cambodia legally and constitutionally?

We'll resume our discussion in a moment after this message.

Monroe: We have heard General Maxwell Taylor and Senator Harold Hughes of Iowa open up our discussion on the military-political results of Cambodia. At this point, we'll ask Senators Peter Dominick of Colorado and Thomas Eagleton of Missouri to lead off discussion of the constitutional issue.

There has been a debate going on in this country about the President's war-making powers and the Congress' war-making powers. It's been going on, and promises to continue going on. And it started with the question: did President Nixon abide by, or did he flaunt, the Constitution when he sent American troops into Cambodia?

Senator Dominick.

Senator Dominick: I can say frankly that this is the point that bothered I think most of the people in the United States when it was first raised. The question, coming by surprise, as to what he could do in Cambodia, what he shouldn't do, not only bothered a lot of people who are civilians; it also bothered a lot of lawyers. And we've done quite a lot of work on it.

And I gave a speech that lasted about an hour and a half on comparable instances which had happened in the United States in the use by the President of our armed forces to take action which had not previously been authorized by the President—not by Congress, I should say.

There isn't any doubt in my mind after having done this review and studied it carefully and written (sic) the opinions of prominent lawyers and professors from all over the country that the President had every right to do what he did, both constitutionally and under international law.

I suppose that the first thing that you have to remember is that he came faced with a situation where we had over five hundred thousand troops already in Vietnam. He has been trying to decrease this American force level in Vietnam. And by so doing, he is trying to get our country out of the actual engagement as rapidly as he can and still leave a viable country with its own government.

Now in that position, he is in command of troops over there where they have the right, of he has the responsibility really to determine how best to use them to accomplish the goals and to preserve their safety.

Let me just give you a brief quote here. And this is from Chief Justice Tanney in 1850. It goes way back beyond that, but this is a good one. "As Commander-in-Chief, the President is authorized to direct the movements of the naval and military forces placed by law at his command and to employ them in a manner he may deem most effectual to harass and conquer and subdue the enemy.

"He may invade the hostile country and subject it to the sovereignty and authority of the United States." So obviously he could have gone even further than he went.

Now, what he did, in fact, was simply to go into the areas where the same enemy was using the bases on so-called neutral soil to kill our people and to kill the South Vietnamese. And what he did was to extend the battlelines by about twenty-one miles in order to eliminate this threat so that he could then withdraw our people more rapidly than he has already declared he is going to do.

Practically, it's being highly successful. And it seems to me that the next question is, did he have a right under international law to cross over that borderline. Now, we all know that the borderline is there. It isn't readily distinguishable in the II Corps area, but it is most of the way in the IV Corps area in the Delta.

And the answer to that from everybody I can find in the State Department is very clear. Where the neutrality of a country has already been destroyed by an enemy force, and that enemy force is attacking our own troops, that you have the right to make a limited incision into that country and eliminate that threat to your forces.

It's happened over and over and over again. I think the most recent thing that we could say is that's what would have happened if we'd had hostilities in Cuba under President Kennedy. Would he, or would he not, have been accused of using troops unconstitutionally to eliminate that threat. And I think you can use the same thing with the Dominican Republic. Fortunately, we didn't have hostilities in '62, but we came very close to it.

Monroe: Senator Eagleton.

Senator Eagleton: Well, Bill, lawyers can disagree. And in this instance, Senator Dominick and I, both lawyers, do disagree.

Monroe: Even judges disagree.

Senator Eagleton: Even judges disagree. Many opinions of the Supreme Court are five to four opinions, only decided by a margin of one.

I don't agree with Senator Dominick's analysis of either constitutional or international law as it applies to this situation. I would say this. If there were North Vietnamese troops, or VC troops, poised on that border, on the Cambodian side, posing a clear and present danger of imminent peril by reason of potential attack on American troops, the doctrine of rescue or the doctrine of the preservation of American troops would permit a sharp, brief wiping out of that operation.

But those weren't the facts. And that's what's obscured. The facts are that these alleged sanctuaries, this alleged locale of COSVN, had been there, by General Taylor's own statements earlier, at least five years. There was no clear and present danger of imminent attack. It had been well known. Bombing raids had already been done for many years along the Ho Chi Minh. There was nothing new about the presence of the Vietnamese over the Cambodian border.

I don't know what happened between April 20th when the President told the nation that a hundred and fifty thousand troops were going to be withdrawn and April 30th when he announced his quiet invasion of Cambodia without consultation of Congress. I would suspect—I would suspect that reports came in, intelligence reports, that Lon Nol was about to crumble. And a decision was then made to go in to rescue Lon Nol. That is moving into a sovereign, neutral nation without their request that violates international law, that violates the U.S. Constitution, which gives Congress the right and the opportunity and the duty to declare war.

I would like to quote you just what the President said on the night of April 30th with respect to the operation.

He said, "let's look at the map." Remember, he had a big map with those tiny little sanctuaries along the border, four or five of them. Now of course about fifty percent of the country—I still dispute the General's statement—is now under communist hands. He said, "let's look at the map. Here's South Vietnam." He pointed it out. And he said, "here's North Vietnam." And he said, "North Vietnam"—I'm quoting—"already occupies this part of Laos."

Then he goes on to say: "If North Vietnam also occupied this whole band in Cambodia"—and he pointed his finger down the six hundred mile border—"or the entire country, it would mean that South Vietnam was completely outflanked and the forces of Americans in this area, as well as the South Vietnamese, would be in an untenable military position."

That points out to me that the reason he went in was to save Lon Nol, and no other. Vice Admiral Smedburg said in an interview—he had been at the White House two days before—and the President told him, quote, "I'm not going to let Cambodia go down the drain as some of my advisors want me to do." End of quote.

This window dressing about COSVN, which never was found—you know, they play hide and go seek with COSVN; this window dressing about how many army rifles they captured (sic). I noticed the other day four thousand of them they captured happened to be Cambodian army rifles of 1920 vintage. And they found no use for them and had to burn them. This is part of the great loot that they captured.

All of this window dressing was subterfuge. It covers up the fact that they went into Cambodia to rescue Lon Nol. And when you go into a sovereign nation with American military men you must go to Congress either for an official declaration of war or congressional authorization by statute. You can do it in any of two ways.

Monroe: Senator, are you saying that the constitutionality of our entry into Cambodia depended on the motivation of the President, whether he was going in there for the purpose of rescuing Lon Nol, or whether he was going in to wipe out communist sanctuaries?

Senator Eagleton: It depends on the actual facts and what triggered him to go in there.

Of course, it is well established that under given facts when the enemy is poised on foot beyond the border ready to attack your fighting men and to come in at them, you can, as Senator Hughes used the pharse, trigger a surgical strike. That is a doctrine, an accepted doctrine; and there is precedent for it.

I'm trying to point out that those weren't the facts. COSVN, or the sanctuaries, had been there five years at least—well known that they were there. So well known that they were there that they could draw maps about where they were, and where COSVN might be, etc. This was not a question of any clear and present danger of imminent peril to American fighting men. It was used as an excuse, a handy excuse.

Because something happened between April 20th and April 30th. I think it was the intelligence reports that we better get Americans in here quick or Lon Nol is down the drain.

Monroe: Senator Dominick.

Senator Dominick: Well. I find some of the statements made by my colleague really quite amazing.

First of all, he says that if the whole of South Vietnam—the southern half of it anyhow—were totally outflanked so that the North could come in through Sihanoukville at any time, that our efforts to try to prevent that was a defense of Lon Nol and not a defense of South Vietnam and America.

I don't understand that at all because the whole purpose of the North Vietnamese in going around that way would be to be able to invade South Vietnam, free of having the interdiction attacks and the difficulty of getting it down through the Ho Chi Minh Trail.

So it seems to me perfectly obvious that if they're going to be outflanked to that degree that you're going to have to take some action about it. Now that's one thing that I think ought to be pointed out.

The other thing that I think should be pointed out is that these sanctuaries have provided the base structure for the Tet offensive, for most of the major attacks that have gone on in South Vietnam since the Tet offensive in February '68.

Now, I've only been in Vietnam twice. But I was there in May of '67; I was there in January of this year. The degree of security within South Vietnam now compared to what it was then is really quite extraordinary. That doesn't mean that the danger is all over. But the point that I'm trying to make here is that that degree of security is still dependent upon how much weaponry, material, men and arms there are in the Cambodian sanctuaries which can pour in at the triggering of the North Vietnamese.

So if we are trying to complete our Vietnamization program and to get our men out—and I might point out that this President is bringing them out whereas we haven't been doing that before—if we're trying to continue that program, which I personally think is a good one, then it is important for us to excise those areas. I think it's not only important, but I think the President really almost has a duty to do it.

Senator Eagleton: And is it important to do it without consulting Congress, etc.?

Now, let me pose this question. . . .

Senator Dominick: Oh, it would have been very nice if he could have come up and said something without having (confusion of voices) . . .

Senator Eagleton: It's not a question of being nicey-nice or goody-goody. It's a question of doing that which the United States Constitution requires.

The basic reason for the constitutional separation of powers insofar as war is concerned dates back for a very good reason. We were struggling for our freedom against George the Third. And the founding fathers, as we call them—Hamilton, Madison and others—did not want to repose into any one person's hands and judgment the decision as to when this country went to war.

So the war making power, the war declaring power was given to Congress. After the war was declared, then the commander-in-chief, the president, can wage it.

Senator Dominick: But we were at war. We were at war. This is the point that you're not dealing with (confusion of voices). . . .

Senator Eagleton: We were at war in South Vietnam. No one had ever said we were at war with Cambodia. We maintained a delegation in Pnompenh . . .

Senator Dominick: No.

Senator Eagleton: . . . We have a minister in Pnompenh. We did.

Senator Dominick: Sihanouk threw us out in case you've forgotten that.

Senator Eagleton: Well, but we had relations indirectly with Cambodia. No one ever claimed that we were at war with Cambodia.

Senator Dominick: We're not at war with Cambodia now. We weren't at war with Cambodia then. We were attacking the North Vietnamese. . . .

Senator Eagleton: That's the very point.

Senator Dominick: . . . who had invaded the Cambodian neutrality. And that's all we have done.

(Confusion of voices.)

Senator Eagleton: We're not at war with Cambodia. We're mightily at war within Cambodia to their self-detriment and ours.

What the Senator is really saying is that in this day and age the President has the right of preemptive strike. That's what it boils down to, what he's saying. The Constitution is a little outmoded, and it's nice to consult Congress but you don't have to. The President has the right to preemptive strike.

I'd like to ask this question of Senator Dominick.

Senator Dominick: Well, I haven't said that. I'm glad to have you put words in my mouth. But I didn't say that.

(Confusion of voices.)

Senator Eagleton: But that's the sum and substance of what you're saying. You said we had the right to make this preemptive strike.

Senator Dominick: No, because the preemptive—and you know it as well as I do—is a catch phrase that everybody thinks of in terms of a massive nuclear attack by an enemy force.

Senator Eagleton: Well, the preemptive strike can be . . .

Senator Dominick: . . . and I'm not talking about that. I'm talking about twenty-one miles of ground where you eliminate sanctuaries which have been used as bases to attack our people.

Senator Eagleton: All right. Well . . .

Senator Dominick: I don't want to be caught in that . . .

Senator Eagleton: . . . twenty-one miles is like being a little pregnant under an unconstitutional operation.

Let me ask this question of Senator Dominick, because he raised this by indirection. He referred to President Kennedy in Cuba.

The COSVN of Saigon here was Miami. It was COSVN insofar as Cuban refugees were concerned. That's where they were being supplied; that's where they had their launching operation, etc. Under the Dominick theory, I take it, then Castro would have had every right for a surgical strike at Miami to knock out the Cuban refugees who had their materiel, weaponry and manpower in the Miami area before they went into the Bay of Pigs.

Would that have been permissible and understandable and legitimate, as you've . . .

Senator Dominick: That depends upon whether you think that Castro was the legitimate government of Cuba.

(Confusion of voices.)

Monroe: Before we get too far . . .

Senator Dominick: (Words unintelligible) . . . that it was. And I don't think we want to get into that.

Monroe: Before we get too far . . .

Senator Eagleton: You raised Cuba.

Monroe: Before we get too far into the constitutionality of a strike at Miami, let me see if I could widen the polite hostilities at this table a little bit by asking whether there's a question about the constitutionality of some of the "end the war" amendments that are now pending in the Senate, such as the Hatfield-McGovern Amendment, which I believe would cut off funds for the President's use in Vietnam at the end of December, except for the withdrawal of troops.

What about the proprieties, the legality, of the constitutionality of that if the Congress wants to assert its power to try to end the war?

Senator Dominick.

Senator Dominick: Well, I have a letter from the former dean of the Yale Law School and now the Sterling professor of law there, Mr. Rostow, Gene Rostow, who I've known for many years and for whom I have great respect.

And he doesn't say that it's unconstitutional. What he does say is that it raises serious constitutional questions; that the problem is the question whether or not Congress can stop a conflict completely.

Obviously, I think that he feels that they can. The problem is not that. The question is can you put the President, who has responsibility to these troops, in a position at any time where he is unable to provide the mechanism by which he can preserve their safety.

And if you do that, it seems to me that you're exercising a degree of responsibility in Congress which infringes directly upon the responsibility of the President as is spelled out in the Constitution.

So I've thought for a long period of time that this has very doubtful validity as a practical maneuver. And I've been concerned about the psychological effects around the world.

But over and beyond that, there is pretty good evidence that there are strong constitutional questions about it.

Monroe: Senator Eagleton.

Senator Eagleton: Well, I think it is unquestionably constitutional. Senator Dominick cited the dean of Yale Law School, Mr. Rostow. The dean of Harvard and the dean of Columbia (sic). So that makes it two to one disagree (sic).

But that doesn't determine it. Congress can end the war. It can end it by the appropriation process insofar as the refusal to grant other funds. And it would specifically do this (sic)—would do it if the McGovern-Hatfield-Hughes Resolution were to become law, as I hope it does.

I don't think we have to get caught up in worrying about the mechanism to preserve the troop safety—words used by Senator Dominick—because if you'll take the statement of General Taylor earlier in the program, we have, in the General's words, an excess of strength in South Vietnam and we now have the luxury of going into new areas.

So that I don't think that apparently the safety of American troops is at all involved if the Congress decides . . .

General Taylor: (Remark unintelligible.)

Senator Eagleton: . . . if the Congress decides . . .

General Taylor: The Senator used this twice. I'd like to come up at him.

Senator Eagleton: No. We quoted it. The Congress decides to terminate the war by the funding process, giving ample notice

I think our troops are well protected under the so-called excess of strength doctrine.

Monroe: General Taylor, I think it's time to ask you and Senator Hughes for your comments any way.

General Taylor: Yes, I'm sorry. Do you want my rebuttal . . .

Monroe: Go ahead.

General Taylor: . . . or my surrebuttal?

Monroe: Well, one or both.

General Taylor: Look, Senator, my statement was very clear. Several years ago—this has always been a desirable thing to do. But up until the present time we never had enough strength that was not tied down to the day-to-day battle in the South that we could afford to go across and do this job which would make a major contribution to the suppression of the war in South Vietnam. It's as simple as that.

The obvious thing to do when you have a little extra strength to hurt the enemy—use it. And we did.

Monroe: What would you like to say about the matter of constitutionality, which we've been listening to Senator Dominick and Senator Eagleton discuss.

General Taylor: This is out of my field, Mr. Chairman, as you know. I would wonder, though, why this didn't come up when we invaved France on D-Day. No one objected to our going in there under those circumstances. What are the differences there, if that's pertinent to the discussion?

Monroe: Senator Hughes, would you like to answer that and comment on the previous discussion on constitutionality?

Senator Hughes: Well, I think I'd like to comment on the previous discussion of constitutionality. I'm not interested in discussing France any more than Senator Dominick is in discussing Cuba in that light. Then I assume Cuba is pertinent, and Miami also . . .

General Taylor: But they didn't form up in Miami. He's wrong about his information.

Senator Hughes: But the constitutionality question of Amendment 609, of the Hatfield-McGovern Amendment, as it might be, I think there is a clear indication in the Constitution, in the formation of the Constitution, the discussion and everything else, that the Congress of the United States through the funding process has a right to bring the war to an end if the people of the United States determine that they want to.

I think that's one of the reasons that it was determined to elect a House of Representatives every two years for an immediate reflection of public sentiment so that there could be change. It was also a reason to elect senators every six years to maintain some stability so that the pendulum swinging back and forth, the public emotion couldn't clearly unstabilize the total government (words unintelligible).

I think in this instance we've seen a war—a rather small war geographically; a large war in the measures and tons of weapons used and lives lost—that has really split not only our country asunder internally, but certainly has raised many questions that must be brought out in public debate.

I rather resented, though I'm sure that the General did not mean it that way, his statement that the discussion in this country had lent much comfort to the enemy. And I'm sure that the General believes in the freedom of speech rights of Americans, the right to disagree with the governmental processes, the right to question and the right to go on, just as we're doing here tonight, and participating openly and freely.

But the constitutional question—I'm not an attorney either. Certainly I'm not in a position to argue the constitutional question with the President. I believe that the Constitution gives the President certain unique powers. I don't think any act of law of the Congress can take that away from him. I think no senator would want to take that away from him. And I doubt that that's the question that we're talking about here.

Monroe: General Taylor, unless you want to say a word for freedom of speech, we'll go back to these gentlemen for some comments.

General Taylor: I don't think I have to record my position on freedom of speech.

Monroe: Senator Dominick.

Senator Dominick: I think what Senator Hughes said at the end there was extremely important.

What we're doing at the moment is to try and decrease the involvement of the United States in Southeast Asia. This has been the statement made by the President; it is the fact that he has carried out. He's been withdrawing American troops, and he has promised to withdraw even more. And he has fulfilled every commitment he's made to the American people about what he's going to do.

Now, with that kind of a situation where you're involved in hostilities and where you're trying to disengage, every military man, I would think General—excuse me—would also indicate that conducting a withdrawal of this kind is difficult, whether you're looking at Dunkirk or whether you're looking at Napoleon getting out of Moscow, or whatever you are. And you better protect your rear.

And in that process, it seems to me, the President had every right to excise the danger which threatened from the rear.

Monroe: Senator Eagleton.

Senator Eagleton: Well, if it were just as simple as all that with no collateral consequences, perhaps in terms of logistics, not constitutionality, we might agree. But it isn't that simple.

The inevitable consequences that is flowing from this incursion, as the President calls it—invasion, as Senator Hughes and I call it—is the fact that the war has been widened. There is now a total war in Indochina. It's no longer just a war in South Vietnam. It's a war in Cambodia, and the subject of another show, it's also the war in Laos. The consequences of what's happened is that we're in a wider involvement. And I just don't see the logic of widening an involvement, of expanding an involvement, using that and paying lip service then to withdrawal.

In my judgment, this present policy pursued to its ultimate will mean that we'll be in Indochina for untold years to come, with thousands of lives yet to be given.

Monroe: We haven't said much here tonight about the power of Congress to declare war. Is that not a factor in this matter of constitutionality?

Senator Dominick: Yes, of course it is.

But the fact of the matter is that practically no one in any country in the world has declared war until after they're actually at war, and certainly not since World War II. And even then we'd already been attacked when war was declared.

So as a practical method of exercising Congress's right to determine what we're going to do, I don't think that the war declaring power, as such, is as important as is the appropriation process, which is what Senator Hughes and Senator Eagleton and others are trying to use.

Now, I have no doubt that the Congress should exercise some voice in determining where men are going to be put into hostile action. I've said this for years. But it doesn't seem to me that it is up to us to be tacticians when we're already in. And where the United States through Congress has already by authorization, by the Tonkin Gulf Resolution and by the appropriations that we've made, recognized the fact of the war over and over and over again, it would seem to me at this point that there's not much point to try to say that we ought to declare or shouldn't declare war.

Monroe: Senator, I have to interrupt at this point.

We would appreciate, gentlemen, having a brief summary from each of you on these issues stemming from the Cambodian operation in just a moment after this message.

Monroe: General Taylor, would you sum up please the military results of Cambodia?

General Taylor: Well, I think I've probably said all I should on the military subject. I've heard no—I don't believe any response to suggest that it's not generally accepted but that it's a desirable thing to take weapons from the enemy, to impose losses on him that prevent him from conducting offensive operations against our own troops, against the South Vietnamese, and so on.

I should like to revert, though, to a very important point. I've listened to these arguments. I can't understand why the four of us can leave the table really divided because We still want the same things. We're arguing somewhat about history, what the constitutional historians will say. But what should the President do tomorrow?

Monroe: Thank you, General.

Senator Hughes.

Senator Hughes: I'd like to point out somewhat in the same vein as General Taylor has that I'm not in any way blaming the military establishment for our involvement in Vietnam and as so many people in the country attempted to blame the generals for that.

We got into Vietnam by diplomatic and political decisions. We'll get out the same way. And I'm encouraging that type of activity.

Monroe: Senator Dominick, may we have a final say from you on the constitutional issue?

Senator Dominick: Yes. I think that the President as Commander-in-chief in a war from which he's trying to disengage has the right to use his troops under the Constitution and under international law to protect his rear and to make sure that he can get the men out on time and in accordance with his schedule.

It doesn't seem to me to make sense to say that he can't do it when Congress has already had authorizations and appropriations in support of his moves.

Monroe: Senator Eagleton.

Senator Eagleton: The invasion of a neutral country—in this instance, Cambodia—by the President without the request of that government and without authorization of Congress is, per se, unconstitutional, the result of which is, I think, disastrous, both politically, constitutionally, and economically.

The war has been expanded and the cost of which we can't even estimate in terms of loss of lives and dollars.

Monroe: Thank you very much, gentlemen, Senator Dominick of Colorado, Senator Eagleton of Missouri, Senator Hughes of Iowa, and General Maxwell Taylor for your presence tonight to discuss the U. S. entry into Cambodia and its implications, legal and military.

This is Bill Monroe. Good night for NBC News.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

THAT COED TERRORIST?

Mr. YOUNG of Ohio. Mr. President, at Lexington, Ky., somebody burned down the ROTC building.

I want it known that I despise anyone—any student or any other person—who burns down an ROTC building. It is my belief that such persons should be not only expelled from any university, but they should also be prosecuted. I know a number of lawyers in Cleveland who could not have made it except for the ROTC. So I do not defend anyone who burns an ROTC building.

But when this ROTC building in Kentucky was burned, National Guardsmen and local police swarmed all over the place arresting suspicious persons. One overzealous officer learned that a young coed had been seen approaching the ROTC building with a bottle of liquid in her hand. This was in the late afternoon some hours before the fire. This "Sherlock Holmes" a few hours later traced the girl to her room, arrested her and took her to jail. In jail she was searched for weapons, not by a matron, but by a policeman. He refused to permit her to telephone her parents or a lawyer.

Her father, a physician, the next day secured her release on bail and employed a lawyer. This young girl was placed on trial. Fortunately, in fact, almost providentially, on that late afternoon just before the ROTC building was burned she was short of cash. Due to that, the proprietor of the store remembered he trusted her to the extent of a dime when she purchased a bottle of ginger ale. That was the Molotov cocktail in her hand when she walked past the ROTC building.

Mr. President, I suggest the absence of a quorum.

The **VICE PRESIDENT**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **BYRD** of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on July 10, 1970, the President had approved and signed the act (S. 4012) to extend the Clean Air Act, as amended, and the Solid Waste Disposal Act, as amended, for a period of 60 days.

REPORT ON A STUDY OF THE EXTENT TO WHICH PORTIONS OF UPPER NEW YORK STATE SHOULD BE INCLUDED IN EITHER THE NEW ENGLAND OR THE APPALACHIAN REGION—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91-367)

The **VICE PRESIDENT** laid before the Senate the following message from the President of the United States, which, with the accompanying papers, was referred to the Committee on Public Works:

To the Congress of the United States:

Enclosed is a report to the Congress: A Study, with Recommendations, of the Extent to which Portions of Upper New York State Should be Included in either the New England or the Appalachian Region. This report is submitted in accordance with section 110 of Public Law 91-123, amending section 403 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 403).

RICHARD M. NIXON.

THE WHITE HOUSE, *July 15, 1970.*

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. ALLEN) laid before the Senate a message from the President of the United States submitting the nomination of Emory C. Swank, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Cambodia, which was referred to the Committee on Foreign Relations.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The **VICE PRESIDENT** laid before the Senate the following letters, which were referred as indicated:

FEDERAL NATIONAL MORTGAGE ASSOCIATION OFFICERS ARE NOT FEDERAL OFFICERS

A letter from the President, Federal National Mortgage Association, transmitting, for the information of the Senate, an opinion from the Department of Justice which affirms that the directors and officers of FNMA are not Federal officers (with an accompanying opinion); to the Committee on Banking and Currency.

REPORT ON THE WORK INCENTIVE PLAN

A letter from the Secretary of Labor, transmitting, pursuant to law, a report on the work incentive program dated June, 1970 (with an accompanying report); to the Committee on Finance.

REPORT ON THE LEAD AND ZINC STABILIZATION PROGRAM

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report on the lead and zinc stabilization program for the year ended December 31, 1969 (with an accompanying report); to the Committee on Interior and Insular Affairs.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the **VICE PRESIDENT**:

A resolution adopted by the Reynoldsville Grante No. 1825, Inc., of Reynoldsville, Pa., praying for a review of the general agricultural situation; to the Committee on Agriculture and Forestry.

The petition of Gordon B. Dickinson, Sr., of Silsbee, Tex., praying for a redress of grievances; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. **BURDICK**, from the Committee on the Judiciary, without amendment:

S. 878. A bill for the relief of James E. Miller (Rept. No. 91-1017);

S. 1422. A bill for the relief of Donal E. McGonegal (Rept. No. 91-1018);

S. 1804. A bill for the relief of William H. Morning (Rept. No. 91-1019);

S. 2104. A bill for the relief of Milton Kyhos (Rept. No. 91-1020); and

S. 3138. A bill for the relief of Ruthe E. Calvert (Rept. No. 91-1021).

By Mr. **BURDICK**, from the Committee on the Judiciary, with an amendment:

S. 2755. A bill for the relief of Donal N. O'Callaghan (Rept. No. 91-1022); and

S. 2834. A bill for the relief of John Borbridge, Jr. (Rept. No. 91-1023).

By MR. **BURDICK**, for the Committee on the Judiciary, with amendments:

S. 311. A bill for the relief of James Glen Ramsay (Rept. No. 91-1024).

By Mr. **JORDAN** of North Carolina, from the Committee on Rules and Administration, without amendment:

H.R. 14452. An act to provide for the designation of special policemen at the Government Printing Office, and for other purposes (Rept. No. 91-1026);

H.R. 14453. An act to authorize the Public Printer to grant time off as compensation for overtime worked by certain employees of the Government Printing Office, and for other purposes (Rept. No. 91-1027);

S. Res. 421. Resolution to print as a Senate document the report of the Secretary of Health, Education, and Welfare, entitled, "Air Pollution Abatement by Federal Facilities" (Rept. No. 91-1028); and

S. Res. 427. Resolution to print as a Senate document the report of the Secretary of Transportation, "The 1970 Annual Report on Urban Area Traffic Operations Improvement Programs" (Rept. No. 91-1029).

By Mr. **JORDAN** of North Carolina, from the Committee on Rules and Administration, with amendments:

S. 734. A bill to revise the Federal election laws, and for other purposes (Rept. No. 91-1025).

By Mr. **PELL**, from the Committee on Rules and Administration, with an amendment:

S. 209. A bill to amend the act of August 22, 1949 (63 Stat. 623), so as to authorize the Board of Regents of the Smithsonian Institution to plan and construct museum support and depository facilities (Rept. No. 91-1030).

By Mr. **PELL**, from the Committee on Rules and Administration, with amendments:

H.R. 14213. An act to amend section 5580 and 5581 of the Revised Statutes to provide for additional members of the Board of Regents of the Smithsonian Institution (Rept. No. 91-1031).

BILLS AND A JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. **ALLOTT** (for himself, Mr. PROUTY, Mr. HATFIELD, Mr. PASTORE, Mr. KENNEDY, and Mr. NELSON):

S. 4085. A bill to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes; to the Committee on Rules and Administration.

(The remarks of Mr. ALLOTT when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. **BROOKE** (for himself, Mr. GOODELL, and Mr. CRANSTON):

S. 4086. A bill to provide decent and suitable living accommodations for low-income families;

S. 4087. A bill to address the growing problem of abandoned properties and neighborhoods; and

S. 4088. A bill to provide on an experimental basis, a housing allowance program; to the Committee on Banking and Currency.

(The remarks of Mr. Brooke when he introduced the bills appear later in the Record under the appropriate heading.)

By Mr. MOSS:

S. 4089. A bill to amend the Internal Revenue Code of 1954 to clarify the status of certain oil well service equipment under subchapter D of chapter 36 of such Code (relating to tax on the use of certain vehicles); to the Committee on Finance.

By Mr. TOWER:

S.J. Res. 220. A joint resolution to establish a commission on labor law reform; to the Committee on Labor and Public Welfare.

(The remarks of Mr. Tower when he introduced the joint resolution appear later in the Record under the appropriate heading.)

S. 4085—INTRODUCTION OF TECHNOLOGY ASSESSMENT ACT OF 1970

Mr. ALLOTT. Mr. President, on behalf of Senators Pastore, Kennedy, Nelson, Hatfield, Prouty, and myself, I introduce for appropriate reference a bill to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impact of technological application.

The bill I am introducing today is identical in form and substance to the provisions of proposed legislation introduced by Congressmen Daddario and Mosher on April 16. This companion Senate bill is intended to lend credence to the sense of urgency which many of us feel exists with regard to providing Congress with increased capability for evaluating scientific technology and its uses. Each of the cosponsors of this measure has either authorizing or appropriations responsibilities for making judgments and evaluating the impact of existing, new, and developing scientific technology upon society.

The underlying feature of this bill, entitled "The Technology Assessment Act of 1970," is to equip the Congress with a new office in the Library of Congress to assist in formulating judgments on matters relating to scientific developments. I must say, Mr. President, that not in the 170 years since the Library of Congress was founded has the Congress created a significant new entity to provide up-to-date information—other than the fiscal information provided by GAO—and no significant innovations have been made within the Library itself to provide this kind of information since the founding of the Legislative Reference Service in 1915.

Mr. President, this bill basically outlines certain fundamental duties which would be the responsibility of the Office of Technology Assessment within and responsible to the legislative branch of the Government. These are:

The identification of existing or probable impacts of technology or technological programs.

The determination of alternative technological methods of implementing specific programs.

The determination of alternative programs for achieving important technological goals.

The presentation of findings of completed analyses to appropriate legislative committees within the Congress.

The preparation of additional research whenever requested by appropriate congressional authorities.

The basic structure of the organization required for the Office of Technology Assessment is spelled out clearly in the bill, and $5 million is authorized for the initial establishment of the OTA for the fiscal year ending June 30, 1971.

Mr. President, as one who has consistently advocated reasonable Federal support of this Nation's scientific effort, I believe this measure will help strengthen the capacity of Congress to make intelligent decisions relating to priorities of scientific endeavor. Adoption of the procedures provided in this bill will also help dispel the suspicion, within Congress and without, that the Government is operating blindly in an area demanding special knowledge.

This is a point I developed in a letter which appeared in Science magazine some time ago. I stated at that time, in part:

> For some time, I have been warning members of the scientific community that unless some adequate means is developed so that the taxpayers and their elected representatives know what they are buying with their research dollars, a reaction would set in one day which would cause a severe cutback in funds allocated for research. Congress and the taxpayer have a right to expect that their research program has some strong overall direction and control. Now that it is evident there are not sufficient dollars to fund every research program regardless of merit or priority, our government-financed research program is left without any machinery or method of allocating available funds to the best advantage. Consequently, across-the-board cuts were almost inevitable. With so many other problems facing us today which require immediate attention and the expenditure of huge sums of money, it is a bit unrealistic to ask the taxpayer to continue to finance and support an annual $17 billion or more R & D budget almost on faith alone. It was in anticipation of these developments that I have introduced legislation to establish a Joint Congressional Committee on Science and Technology. Unfortunately, with very few exceptions, my proposals have been received rather cooly by the scientific community. That cool reception has been reflected in Congress, and it is my belief that it has come about as a result of a misunderstanding as to what was really intended by the legislation. Perhaps this present situation will serve as an illustration of the need for the establishment of an appropriate organ of Congress to deal with overall objectives and directions of Federally-financed research.

The problem of anticipating the direction of the growth of knowledge is one of the problems discussed in an important new book that has aroused considerable interest in Government circles and in the scientific community, "The Age of Discontinuities," by Professor Peter Drucker. One of his interesting observations about the nature of modern science is this:

> It is fashionable today to assert that knowledge is being converted into technology much faster than in the past. The evidence, however, fails to support this assertion. On the contrary, the lead time for the conversion of knowledge into technology seems to have lengthened. There is nothing today that is compared to the speed with which, for instance, Heinrich Hertz's scientific discoveries in wave physics were translated into Marconi's new wireless telegraphy is less than two decades. The lead time between new knowledge and new technology today is much more likely to be thirty to forty years. In addition, the time it takes to develop new technology into marketable products and processes seems to have lengthened, too.

If Professor Drucker is right—and many informed people think he is—then he is stating one reason why it is becoming increasingly important for us to refine our methods of reviewing our national science effort, and the processes whereby that effort is translated into technological advances. Technology assessment is an important part of rational long-range planning for the long-range benefits of our current science effort.

Professor Drucker makes another interesting—but perhaps less accurate—observation about science. He says:

> We face an unprecedented situation in which we will have to set priorities in the search for new knowledge.

I do not think our situation is quite as unprecedented as Drucker suggests. In 1862, long before the space program, and long before the Manhattan project, the Morrill Act was passed to launch land-grant colleges. A primary purpose of this act was to encourage the growth of scientific agriculture. The result was so spectacular that, as Drucker himself writes:

> Agriculture in the developed countries has become the most productive, the most capital-intensive, the most highly mechanized, and altogether the most "industrial" of all modern industries. It is an "industry" with a very high input of scientific knowledge per unit of production.

There is a lesson to be drawn from this. We are not strangers to the task of setting national priorities for the organized pursuit of knowledge. Technology assessment will be a new tool for a traditional task.

Of course, it is important to realize that, although this is a traditional task, the dimensions and complexity of the task are growing. They are growing because of our Government policies that have made our science community so robust. And they are growing because, here as elsewhere, the complexity of the Government complicates the task of dealing with complex issues. This is a point I discussed when, on March 6, 1967, I proposed in the Senate the establishment of a Joint Committee on Science and Technology. At that time I said this:

> Concomitant with the growth of Federal support has been a great expansion on the body of related knowledge and information. However, because of our highly compartmentalized Congressional committee structure, with its dispersed legislative authorities and jurisdiction, I find it difficult to obtain the comprehensive information de-

scribing the total Federal scientific and technical effort. And, although the Appropriations Committees of both Houses review all Federal spending, I have found it impossible, even as a member of the Senate Appropriations Committee, to gain an overall picture of our research and development programs because the enormity of the Federal budget necessitates its apportionment among the various appropriations subcommittees.

In the Congress as a whole, scientific and technical programs are reviewed in a fragmented manner by various committees and subcommittees, according to their judisdiction over specific departments or agencies. As revealed in a survey made in 1965 by the Science Policy Research Division of the Legislative Reference Service, there are in the House and Senate combined a total of 32 committees and 109 subcommittees having jurisdictional interest in scientific and technological activities. These include a number of subcommittees in each House which exercise oversight of the government's research and development activities. The problem is not, therefore, one of a lack of review, but a lack of coordination of reviews.

In that speech in 1967 I emphasized that the desire to strengthen the congressional review process did not reflect any desire to hinder the science community. I said this:

> Certainly we of the Congress do not wish to hamper our national scientific progress in any way, but I consider it our duty to see to it that our Federal scientific programs are more thoroughly coordinated, systematically prosecuted, and economically administered; to help formulate national goals and objectives; and to clarify the scope of government involvement in scientific activities.
>
> More specifically, we shall have to consider such problems as the establishment of priorities in terms of our national goals for support of programs in space, agriculture, health services, education, oceanography, and so forth. We shall have to determine how best to allocate our resources in terms of scientific manpower, money, facilities, and natural resources. These are not unlimited and choices will have to be made as to how best they are to be utilized for maximum public benefit.

In that same speech in the first session of the 90th Congress I raised another point that is essentially relevant today. I suggested that the Congress must equip itself with a science evaluation capacity in order to meet the executive branch on a level of equal knowledge. This is what I said:

> It is frequently said in the Congress that too much power has shifted to the executive branch of our government. I believe that we have been somewhat at fault, because in the past we have been prone to accept programs which are conceived in and proposed by the executive branch with too little question, and this is especially true of programs having major scientific and technical content. Furthermore, we must realize that the executive branch perhaps responded to the challenge of modern science and technology with more foresight than we. Within the Executive Office of the President, there is a Special Assistant for Science and Technology, the President's Science Advisory Committee, the Office of Science and Technology, and the Federal Council for Science and Technology. Through these bodies the Executive has immeasurably strengthened its hand both with respect to shaping national science policy and to drafting legislation designed to implement that policy.

Mr. President, if the Congress is going to provide rational support of science, it must be fully equipped to comprehend and justify its generosity.

The Office of Technology Assessment will enable us to spend wisely on behalf of science, and to convince the public, whose money we are spending, that our spending is done intelligently and conscientiously.

It may be that, in a sense, Herbert Spencer was correct in defining science as "organized knowledge." The only trouble is that there are many sciences, and many forms of knowledge relevant to the social impact of the various sciences, and all these forms of knowledge do not organize themselves. Technology assessment will help those of us in Government and those in the science community to organize our science knowledge better. Technology assessment will be a sensible response to an immutable condition. That is, it will enable us to understand the complex connections between the various facets of our science effort. As Professor Drucker writes:

> All through history, human knowledge, no matter how much the "experts" might departmentalize it, has been like fluid in a set of communicating vessels: an advance in one of them will result in a higher level in other areas.

Mr. President, so that we may cope more intelligently with the conditions of modern research, I urge prompt and favorable action on the proposal to establish an Office of Technology Assessment for the Congress.

Mr. President, I ask unanimous consent to have printed at this point in the Record a copy of this bill.

The PRESIDING OFFICER (Mr. Goldwater). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the Record.

The bill (S. 4085) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purpose, introduced by Mr. Allott (for himself and other Senators), was received, read twice by its title, referred to the Committee on Rules and Administration and ordered to be printed in the Record, as follows:

S. 4085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Technology Assessment Act of 1970".

DECLARATION OF PURPOSE

Sec. 2. The Congress hereby finds and declare that:

(a) Emergent national problems, physical, biological, and social, are of such a nature and are developing at such an unprecedented rate as to constitue a major threat to the security and general welfare of the United States.

(b) Such problems are largely the result of and are allied to—

(1) the increasing pressures of population;

(2) the rapid consumption of natural resources; and

(3) the deterioration of the human environment, natural and social, though not necessarily limited to or by these factors.

(c) The growth in scale and extent of technological application is a crucial element in such problems and either is or can be a pivotal influence with respect both to their cause and to their solution.

(d) The present mechanisms of the Congress do not provide the legislative branch with adequate independent and timely information concerning the potential application or impact of such technology, particularly in those instances where the Federal Government may be called upon to consider support, management, or regulation of technological applications.

(c) It is therefore, imperative that the Congress equip itself with new and effective means for securing competent unbiased information concerning the effects, physical, economic, social, and political, of the applications of technology, and that such information be utilized whenever appropriate as one element in the legislative assessment of matters pending before the Congress.

ESTABLISHMENT OF THE OFFICE OF TECHNOLOGY ASSESSMENT

Sec. 3. (a) In accordance with the rational enunciated in section 2, there is hereby created the Office of Technology Assessment (hereinafter referred to as the "Office") which shall be within and responsible to the legislative branch of the Government.

(b) The Office shall consist of a Technology Assessment Board (hereinafter referred to as the "Board") which shall formulate and promulgate the policies of the Office, and a Director who shall carry out such policies and administer the operations of the Office.

(c) The basic responsibilities and duties of the Office shall be to provide an early warning of the probable impacts, positive and negative, of the applications of technology and to develop other coordinate information which may assist the Congress in determining the relative priorities of programs before it. In carrying out such function, the Office shall—

(1) identify existing or probable impacts of technology or technological programs;

(2) where possible establish cause and effect relationships;

(3) determine alternative technological methods of implementing specific programs;

(4) determine alternative programs for achieving requisite goals;

(5) make estimates and comparisons of the impacts of alternative methods and programs;

(6) present findings of completed analyses to the appropriate legislative authorities;

(7) identify areas where additional research or data collection is required to provide adequate support for the assessments and estimates described in paragraphs (1) through (5); and

(8) undertake such additional associated tasks as the appropriate authorities specified under subsection (d) may direct.

(d) Activities undertaken by the Office may be initiated by—

(1) the chairman of any standing, special, select, or joint committee of the Congress;

(2) the Board; or

(3) the Director.

(c) Information, surveys, studies, reports, and findings produced by the Office shall be made freely available to the public except where (1) to do so would violate security statutes, or (2) the information or other matter involved could be withheld from the public, notwithstanding subsection (a) of section 552 of title 5, United States Code, under one or more of the numbered paragraphs in subsection (b) of such section.

(f) In undertaking the duties set out in subsection (c), full use shall be made of competent personnel and organizations outside the Office, public or private; and special ad hoc task forces or other arrangements may be formed by the Director when appropriate.

TECHNOLOGY ASSESSMENT BOARD

SEC. 4 (a) The Board shall consist of thirteen members as follows:

(1) two Members of the Senate who shall not be members of the same political party, to be appointed by the President of the Senate;

(2) two Members of the House of Representatives who shall not be members of the same political party, to be appointed by the Speaker of the House of Representatives;

(3) the Comptroller General of the United States;

(4) the Director of the Legislative Reference Service of the Library of Congress;

(5) six members from the public, appointed by the President, by and with the advice and consent of the Senate, who shall be persons eminent in one or more fields of science or engineering or experienced in the administration of technological activities, or who may be judged qualified on the basis of contributions made to educational or public activities; and

(6) the Director (except that he shall not be considered a voting member for purposes of appointment or removal under the first sentence of section 5(a)).

(b) The Board, by majority vote, shall elect from among its members appointed under subsection (a)(5) a Chairman and a Vice Chairman, who shall serve for such time and under such conditions as the Board may prescribe. In the absence of the Chairman, or in the event of his incapacity, the Vice Chairman shall fulfill the duties and functions of the Chairman.

(c) The Board shall meet upon the call of the Chairman or upon the petition of five or more of its members, but it shall meet not less than twice each year.

(d) Seven members of the Board shall constitute a quorum.

(e) Any vacancy in the Board shall not affect its powers, but shall be filled in the manner in which the vacant position was originally filled.

(f) The term of office of each member of the Board appointed under subsection (a)(5) shall be six years, except that (1) any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of office of such members first taking office after the enactment of this Act shall expire, as designated by the President at the time of appointment, two at the end of two years, two at the end of four years, and two at the end of six years, after the date of the enactment of this Act. No person shall be appointed a member of the Board under subsection (a)(5) more than twice.

(g)(1) The members of the Board other than those appointed under subsection (a)(5) shall receive no compensation for their services as members of the Board, but shall be allowed necessary travel expenses (or, in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence not to exceed the rates prescribed in sections 5702 and 5704 of title 5, United States Code), and other necessary expenses incurred by them in the performance of duties vested in the Board, without regard to the provisions of subchapter I of chapter 57 of title 5, United States Code, the Standardized Government Travel Regulations, or section 5731 of title 5, United States Code.

(2) The members of the Board appointed under subsection (a)(5) shall each receive compensation at the rate of $100 for each day engaged in the actual performance of duties vested in the Board, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses in the manner provided in paragraph (1) of this subsection.

DIRECTOR AND DEPUTY DIRECTOR

SEC. 5. (a) The Director of the Office of Technology Assessment shall be appointed by the Board and shall serve for a term of six years unless sooner removed by the Board. He shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(b) In addition to the powers and duties vested in him by this Act, the Director shall exercise such powers and duties as may be delegated to him by the Board.

(c) The Director may appoint, with the approval of the Board, a Deputy Director who shall perform such functions as the Director may prescribe and who shall be Acting Director during the absence or incapacity of the Director or in the event of a vacancy in the office of Director. The Deputy Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(d) Neither the Director nor the Deputy Director shall engage in any other business, vocation, or employment than that of serving as such Director or Deputy Director, as the case may be; nor shall the Director or Deputy Director, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement under this Act.

AUTHORITY OF THE OFFICE

SEC. 6. (a) The Office shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this Act, including, but without being limited to, the authority to—

(1) prescribe such rules and regulations as it deems necessary governing the manner of its operation and its organization and personnel;

(2) make such expenditures as may be necessary for administering the provisions of this Act;

(3) enter into contracts or other arrangements as may be necessary for the conduct of its work with any agency or instrumentality of the United States, with any foreign country or international agency, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(4) make advance, progress, and other payments which relate to technology assessment without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

(5) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by this Act; and

(6) accept and utilize the services of voluntary and uncompensated personnel and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation.

(b) The Director shall, in accordance with such policies as the Board shall prescribe, appoint and fix the compensations of such personnel as may be necessary to carry out the provisions of this Act. Such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; except that the Director may, in accordance with such policies as the Board shall prescribe, employ such technical and professional personnel and fix their compensation without regard to such provisions as he may deem necessary for the discharge of the responsibilities of the Office under this Act.

(c) The Office shall not, itself, operate any laboratories, pilot plants, or test facilities in the pursuit of its mission.

(d)(1) The Office or (on the authorization of the Office) any of its duly constituted officers may, for the purpose of carrying out the provisions of this Act, hold such hearings, take such testimony, and sit and act at such times and places as the Office deems advisable. For this purpose the Office is authorized to require the attendance of such persons and the production of such books, records, documents, or data, by subpena or otherwise, and to take such testimony and records, as it deems necessary. Subpenas may be issued by the Director or by any person designated by him. If compliance with such a subpena by the person to whom it is issued or upon whom it is served would (in such person's judgment) require the disclosure of trade secrets or other commercial, financial, or proprietary information which is privileged or confidential, or constitute a clearly unwarranted invasion of privacy, such person may petition the United States district court for the district in which he resides or has his principal place of business, or in which the books, records, documents, or data involved are situated, and such court (after inspecting such books, records, documents, or data in camera) may excise and release from the subpena any portion thereof which it determines would require such disclosure or constitute such invasion. Where the subpena or such portion thereof would require such disclosure or constitute such invasion but the books, records, documents, or data involved are shown to be germane to the matters under consideration and necessary for the effective conduct by the Office of its proceedings or deliberations with respect thereto, the court may require that such books, records, documents, or data be produced or made available to the Office in accordance with the subpena but subject to such conditions and limitations of access as will prevent their public disclosure and protect their confidentiality.

(2) In case of contumacy or disobedience to a subpena issued under paragraph (1) the Attorney General, at the request of the Office, shall invoke the aid of the United States district court for the district in which the person to whom the subpena was issued or upon whom it was served resides or has his principal place of business, or in which the books, records, documents, or data involved are situated, or the aid of any other United States district court within the jurisdiction of which the Office's proceedings are being carried on, in requiring the production of such books, records, documents, or data or the attendance and testimony of such person in accordance with the subpena (subject to any conditions or limitations of access which may have been imposed by such court or any other court under the last sentence of paragraph (1)). Such court may issue an order requiring the person to whom the subpena was issued or upon whom it was served to produce the books, records, documents, or data involved, or to appear and testify, or both, in accordance with the subpena (subject to any such conditions or limitations of access); and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(e) Each department, agency, or instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Office, upon request by the Director, such information as the Office deems necessary to carry out its functions under this Act.

(f) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit in such detail and in such manner as shall be prescribed by the Director, and such books and records (and related documents and papers) shall be available to the Director and the Comptroller General or any of their duly authorized representatives for the purpose of audit and examination.

UTILIZATION OF THE LIBRARY OF CONGRESS

Sec. 7. (a) Pursuant to the objectives of this Act the Librarian of Congress is authorized to make available to the Office such services and assistance by the Legislative Reference Service as may be appropriate and feasible.

(b) The foregoing services and assistance to the Office shall include all of the services and assistance which the Legislative Reference Service is presently authorized to provide to the Congress, and shall particularly include, without being limited to, the following:

(1) maintaining a monitoring indicator system with respect to the natural and social environments which might reveal early impacts of technological change, but any such system shall be coordinated with other assessment activities which may exist in the departments and agencies of the executive branch of the Government;

(2) making surveys of ongoing and proposed programs of government with a high or novel technology content, together with timetables of applied science showing promising developments;

(3) publishing, from time to time, anticipatory reports and forecasts;

(4) recording the activities and responsibilities of Federal agencies in affecting or being affected by technological change;

(5) when warranted, recommending full-scale assessments;

(6) preparing background reports to aid in receiving and using the assessments;

(7) providing staff assistance in preparing for or holding committee hearings to consider the findings of the assessments;

(8) reviewing the findings of any assessment made by or for the Office; and

(9) assisting the office in the maintenance of liaison with executive agencies involved in technology assessments.

(c) Nothing in this section shall alter or modify any services or responsibilities other than those performed for the Office, which the Legislative Reference Service under law performs for or on behalf of the Congress. The Librarian is, however, authorized to establish within the Legislative Reference Service such additional divisions, groups, or other organizational entities as may be necessary to carry out the objectives of this Act, including the functions enumerated in this section.

(d) Services and assistance made available to the Office by the Legislative Reference Service in accordance with this section may be provided with or without reimbursement from funds of the Office, as agreed upon by the Chairman of the Board and the Libranian of Congress.

COORDINATION WITH THE NATIONAL SCIENCE FOUNDATION

Sec. 8. (a) The Office shall maintain a continuing liaison with the National Science Foundation with respect to—

(1) grants and contracts formulated or activated by the Foundation which are for purposes of technology assessment, and

(2) the promotion of coordination in areas of technology assessment, and the avoidance of unnecessary duplication or overlapping of research activities in the development of technology assessment techniques and programs.

(b) Section 3(b) of the National Science Foundation Act of 1950, as amended, is hereby amended to read as follows:

"(b) The Foundation is authorized to initiate and support specific scientific activities in connection with matters relating to international cooperation, national security and the effects of scientific application upon society by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such activities. When initiated or supported pursuant to requests made by any other Federal department or agency, including the Office of Technology Assessment, such activities shall be financed whenever feasible from funds transferred to the Foundation by the requesting official as provided in section 14(g), and any such activities shall be unclassified and shall be identified by the Foundation as being undertaken at the request of the appropriate official."

ANNUAL REPORT

Sec. 9. The Office shall submit to the Congress and to the President an annual report which shall, among other things, evaluate the existing state of the art with regard to technology assessment techniques and forecast, insofar as may be feasible, technological areas requiring future attention. The report shall be submitted not later than March 15 each year.

FINANCIAL AND ADMINISTRATIVE SERVICES

Sec. 10. Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Office by the General Accounting Office, with or without reimbursement from funds of the Office, as may be agreed upon by the Chairman of the Board and the Comptroller General of the United States. The regulations of the General Accounting Office for the collection of indebtedness of personnel resulting from erroneous payments (under section 5514(b) of title 5, United States Code) shall apply to the collection of erroneous payments made to or on behalf of an Office employee, and the regulations of the Comptroller General for the administrative control of funds (under section 3679(g) of the Revised Statutes (31 U.S.C. 665(g)) shall apply to appropriations of the Office; and the Office shall not be required to prescribe such regulations.

APPROPRIATIONS

Sec. 11. (a) To enable the Office to carry out its powers and duties, there is hereby authorized to be appropriated to the Office, out of any money in the Treasury not otherwise appropriated, not to exceed $5,000,000 for the fiscal year ending June 30, 1971, and thereafter such sums as may be necessary.

(b) Appropriations made pursuant to the authority provided in subsection (a) shall remain available for obligation, for expenditure, or for obligation and expenditure for such period or periods as may be specified in the Act making such appropriations.

S. 4086, S. 4087, AND S. 4088—INTRODUCTION OF BILLS RELATING TO AID FOR LOW-INCOME FAMILIES

Mr. BROOKE. Mr. President, I introduce for appropriate reference three bills—cosponsored by the distinguished Senators from New York (Mr. Goodell), and California (Mr. Cranston)—dealing in part with the housing crisis which prevails in this country. The first bill consists of a number of technical amendments designed to clarify and improve existing programs; the second bill contains provisions which address the growing problem of abandoned properties and neighborhoods; and the third bill would introduce, on an experimental basis, a housing allowance program.

Last year, the Senator from Alabama (Mr. Sparkman) and I introduced legislation designed to alleviate intolerable conditions which have been allowed to exist far too long in public housing projects throughout the Nation. The Sparkman amendment made it clear that Federal assistance to local public housing authorities was not limited to debt service requirements, but could be extended to cover operating needs as well. While many knowledgeable onlookers believed that the Department of Housing and Urban Development possessed such authority, Congress obliged departmental officials by restating the limits of HUD authority.

At the same time, I introduced legislation which authorized the Department of Housing and Urban Development to contract with local housing authorities to make payments for three purposes: first, to eliminate operating deficits which existed in public housing authorities when the Housing and Urban Development Act of 1969 was signed into law; second, to assure that local housing authorities have sufficient funds to maintain adequate operating and maintenance services and reserve funds; and third, to make up the loss in rental revenue caused by reducing tenants' rents to 25 percent of their incomes. At the same time, the 1969 act placed a ceiling equal to 25 percent of their incomes on the rent which public housing tenants pay.

Seventy-five million dollars in contract authority was authorized for these three purposes; however, congressional intent was clear as to HUD's ability to provide funding in excess of this amount—up to the annual statutory maximum as specified in the Housing Act of 1937, as amended—if the newly authorized funds were insufficient to meet the urgent needs which existed. It was also clear that Congress committed itself indefinitely to fund the three activities specified and did not place time constraints on the assistance program embodied therein.

Thus, sufficient funds were provided to make public housing authorities "whole" by eliminating past operating deficits; to insure that public housing tenants were not forced to pay a disproportionate share of their incomes for rent at a time when inflationary pressures were driving the operating costs of public housing projects higher each month; and to insure that, in the future, public housing authorities would have sufficient funds to provide those services, repairs, and training programs which are essential if we are to honor the commitment of "a decent home and a suitable living environment for every American family."

These two pieces of legislation hold the promise for reversing serious trends which have been occurring in the field of public housing in recent years. I am saddened to say that these provisions have not been implemented in the vigorous manner Congress intended. Bureaucratic machinations have undermined much of the hope and confidence which these provisions gave tenants and housing authorities.

Despite the provision for $75 million in new authorizations—specifically earmarked for the three purposes enumerated above—the administration requested only $33 million in appropriations for fiscal year 1971, even though administration figures indicated that operating deficits alone stood at the $100 million level. In addition, the Department saddled these provisions with a restrictive interpretation which ignores specific language in the Senate-House conference report as well as statements made by members of the Senate and House Banking and Currency Committees at the time this legislation was enacted. At this point in the RECORD, I would like to insert a legal memorandum prepared by the National Housing and Development Law Project at the University of California, Berkeley, which discusses the interpretation given to this legislation by HUD as well as the legislative history pertaining thereto.

I am introducing a provision today which restates congressional intent as embodied in sections 212 and 213 of last year's Housing Act. It is unfortunate that we must codify language contained in last year's Senate-House conference report on this subject; however, there appears to be no alternative. I call upon the Department of Housing and Urban Development, however, to review its policies prior to hearings on this subject which are scheduled before the Senate Banking and Currency Committee on July 24, 1970. The Department certainly shares our interest in correcting the misinformation which permeates the public housing community with respect to the implementation of this provision.

Let me address a few points directly. Last year's act withheld rent reduction benefits if such would result in reductions in welfare—or public assistance—payments. This provision was designed to insure that the payment of HUD subsidies did not enable local welfare agencies to cut back on their commitments. At the same time, the Secretaries of Housing and Urban Development and of Health, Education, and Welfare were charged with the responsibility of establishing policies within their respective departments which would aid the implementation of this provision. To date, confusion reigns at the local level with respect to the ability of welfare tenants to benefit from the provisions of the 1969 act.

I am therefore introducing a provision today which is designed to prevent local welfare agencies from reducing public assistance payments as a result of the payment of HUD subsidies. I further urge the Secretaries of Housing and Urban Development and Health, Education, and Welfare to report to the Senate Banking and Currency Committee concerning actions taken by their departments to agree on common policies regarding public housing rents paid by welfare recipients and to effectuate congressional intent regarding this subject.

Misinformation also exists with respect to which tenants will be eligible in computing the rent reduction subsidy benefits. Congressional intent is clear that no family residing in public housing after March 24, 1970, is required to pay more than 25 percent of its income for rent. It is also clear that any deficiency arising in a public housing authority's operating revenues as a result of this statutory ceiling will be covered fully by Federal subsidies.

Thus, the Federal Government was to pay local housing authorities for the loss in rental income due to the reduction of tenants' rents to 25 percent of their incomes. It was envisioned that Federal assistance would be provided based on a local housing authority's annual budget of estimated cost, in relation to the anticipated income. Local housing authorities should have been requested to submit an amendment to their fiscal year 1970 budgets to reflect the loss of rental revenue due to the rent reduction; however, they continue to complain about the absence of information concerning the availability of funds to meet deficiencies arising as a result of the rent reduction.

With respect to "adequate operating and maintenance services and reserve funds," it was contemplated that reserve funds should be restored to adequate levels and additional operating and maintenance services should be provided to insure that a sound physical and social environment is maintained. Clearly, neither tenants nor housing authorities could be expected to provide sufficient revenues to attain these goals—given the present state of public housing. Therefore, Federal subsidies were contemplated.

Among the operating and maintenance services which would be eligible for Federal subsidies if tenant rent payments were insufficient to cover their costs are the following: tenant counseling on family budgets and on care and upkeep of property; guard and other costs relating to the physical security of project residents; tenant access to available community services relating to employment, health, welfare, education, and personal counseling; effective management-tenant liaison on all aspects of housing administration, management, and maintenance; recreational equipment and facilities; and adequate and timely repairs to structures, including the removal of all code violations pertaining thereto. HUD has failed entirely to implement this aspect of last year's legislation and, therefore, legislative action is required to reaffirm congressional intent on this subject.

I am also introducing a provision which clarifies the fact that the determination of tenant incomes must reside with local housing authorities, subject only to HUD oversight with a view toward correcting abusive practices. The Department already possesses the latter authority and, therefore, statutory changes are unnecessary.

Income determination regulations recently promulgated by HUD served as a vehicle for altering longstanding policies concerning local autonomy and, therefore, further contributed to local confusion on this subject. We must not reverse time-tested practices of providing local flexibility to meet individual needs and circumstances.

In defining income pursuant to the 1969 act, HUD has taken a very narrow view of possible deductions. Thus, if a four-person family includes a husband who earns $4,000 per year and yet is temporarily disabled because of medical reasons and incurs substantial hospital bills in the process, the latter expenses are not deductible. This inequitable solution also arises with respect to other deductions which are not allowed. Rather than seeking the enactment of a provision which increases the burden on low-income families, I urge the retention of authority at the local level to determine income and deductions.

The provisions which I introduce today—designed to codify congressional intent concerning sections 212 and 213 of the 1969 Housing Act—specify that the Secretary of Housing and Urban Development is required to amend annual contributions contracts to provide payments up to the statutory maximum allowable contribution for three purposes: to assure the low-rent character of the projects involved; to achieve and maintain adequate operating and maintenance services and reserve funds; and to cover any public housing agency's operating deficit, including deficiencies in reserve funds, for the fiscal year which includes December 24, 1969.

The provision authorizing payments "to assure the low-rent character of the projects involved" does not mean that public housing tenants should be required to pay 25 percent of their incomes for rent. It does mean, however, that payments in excess of 25 percent represent a disproportionate share of their incomes which cannot be tolerated and which are prohibited since the enactment of the Housing and Urban Development Act of 1969.

The Department of Housing and Urban Development has requested a total of $19.5 million in fiscal years 1970 and 1971 to satisfy partially the requirement in last year's act that funds be provided to cover operating deficits, including deficiencies in reserve funds, for the public housing authorities' fiscal year which included December 24, 1969. As previously mentioned, the need for such funds approximates $100 million. In light of the fact that HUD has indicated its willingness to discharge this obligation at the earliest possible date, I am hopeful that this can be accomplished by the end of the next fiscal year.

With respect to the provision for a continuing flow of funds to public housing authorities designed to achieve and maintain adequate operating and maintenance services and reserve funds, I believe this aspect of last year's provision represents potentially the greatest hope for improving the quality of living in public housing. Specifically, I foresee the channeling of Federal funds to public housing authorities designed to enable them to increase maintenance services where such services are often absent or simply lacking in scope; to increase the scope of services to include recreational facilities where none hitherto existed, guard services where vandalism cannot be prevented by local law-enforcement agencies without taxing their already-limited resources, and tenant counseling and participation programs; and to maintain adequate reserve funds.

Despite congressional intent to the contrary, HUD regulations promulgated concerning this legislation conditioned the payment of funds on "satisfactory standards of management and tenant responsibility." While I certainly agree with the need for management and tenants to act responsibly, I do not believe the payment of funds for improving the quality of tenants' living accommodations can or should be made dependent on the performance of absentee managers or that vague and possibly unconstitutional standards should be allowed to govern or possibly intimidate legitimate actions on the part of tenants.

I have given thought to the rent payment provisions contained in the administration's proposed 1970 Housing Act; however, I have concluded that these provisions are not workable in their present form. This legislation would require public housing tenants to pay 20 percent of their incomes under $3,500 for rent and 25 percent of their earnings above that dollar amount for rent. The HUD proposal would result in substantial rent increases for many low-income families, particularly families with children. These results are intolerable.

I am also introducing proposals whereby the Secretary of Housing and Urban Development would be required to file as part of his annual report on housing goals a documented statement of the current effectiveness of statutory construction cost limits for public housing and statutory mortgage limits for insured programs authorized under title II of the National Housing Act, plus a recommendation as to the appropriate cost and mortgage limits for the insuring 12-month period. These cost and mortgage limits would automatically become effective unless Congress acted within 60 days. Recent experience has shown that the failure of cost ceilings to keep pace with rising costs has curtailed much-needed construction.

Another feature of this bill deals with the section 23 leasing program. Clear authority would be given to HUD to extend the program to newly constructed housing as well as to existing units. The evidence indicates that the section 23 leasing program has been highly successful and deserves broad Congressional support. Its effectiveness can be expanded still further by confirming its coverage of units which are planned or in the process of construction, as well as those which currently exist. I propose to extend the term of the lease to 10 years with an option to renew for an additional 10 years. Another provision would remove the requirement for local governing body approval prior to undertaking a leasing program. The latter provision has merely served to inhibit the expansion of this worthwhile program.

I am also introducing a proposal which is designed to clarify any uncertainty as to the right of tenants to serve as commissioners of local housing authorities. Certainly those residing in public housing are in the best position to understand the needs and concerns of local residents and to respond accordingly. Any inhibition on such practices merely prevents participation on the part of those persons whose well-being is being decided.

The subject of abandoned buildings has become particularly acute in many of our larger cities. In New York City, for example, block after block of buildings sit empty—the victims of spiraling costs, the inability of low-income families to respond to such increases, changing neighborhood growth patterns, obsolete construction, inadequate services, rent control, rent strikes, vandalism, and frustration. It has been estimated that New York City has suffered a loss of 130,000 apartment units in the past 4 years; that Washington, D.C., has approximately 7,500 boarded-up residential units; and that Boston has at least 1,000 vacant structures.

At a time when this Nation's housing supply is falling far short of existing needs and we have not begun to honor the goal of 26 million new units by 1978, we cannot permit the abandonment of usable structures to take place. These conditions are further aggravated by the reluctance of traditional lending institutions to provide sufficient funds to rehabilitate usable structures and hence forestall further deterioration in individual neighborhoods.

The problem of abandoned buildings is extremely complex and must be studied in considerable detail. We cannot, however, postpone efforts to arrive at a solution to this problem and, therefore, we must draw on techniques which are presently available. Accordingly, I am introducing a second bill which contains a series of proposals designed to accomplish the following objectives: to "hold" neighborhoods where abandonment has not yet occurred, but where deterioration is present or imminent; to rehabilitate declining or abandoned buildings and restore neighborhood services and facilities to adequate levels; and to provide sufficient rental income to permit owners of rental properties to maintain them at decent levels of repair, with adequate operating and maintenance services being provided.

With respect to holding neighborhoods where abandonment is imminent, I am introducing a program of "improvement assistance for neighborhoods with abandoned properties" which provides up to $200 million each fiscal year in grant funds to cities, counties or municipalities for the purpose of assisting in carrying out programs to alleviate harmful conditions and prevent deterioration in neighborhoods where abandonment is a problem. Such grants will require matching local funds to the extent of one-third of the cost where the city or other entity involved has a population of more than 50,000 persons or one-fourth in the case of any local entity having a population of 50,000 or less.

These grant funds will be available for a number of programs designed to forestall the deterioration of neighborhoods and improve those which have declined, including the repair of streets, sidewalks, parks and playgrounds; the improvement of private properties held by local governmental agencies to the extent necessary to eliminate harmful effects to public health and safety or the physical or social environment of the community involved; the demolition or closing of structurally unsound buildings; and the establishment or improvement of neighborhood services.

I am also introducing additional provisions which enable the section 312 rehabilitation loan program and the section 115 rehabilitation grant program to be used with respect to abandoned or deteriorating structures. I would also anticipate an expanded use of the section 23 public housing leasing program, although I do not believe a stautory amendment is required. Thus, the first two objectives set forth above will be addressed through the use of several programs, each designed to deal with specific local needs.

Even though necessary steps are taken to improve the structures and the neighborhood environment, individual homeowners or tenants of previously abandoned buildings—or those threatened with abandonment—do not, in many cases, have sufficient income to meet the operating costs necessary to maintain the housing in sound condition. This problem should not materialize where the properties become part of a local public housing program either through leasing or direct ownership by a public housing authority because of the provisions contained in last year's housing act which have been discussed earlier in this statement. Where the properties are retained by private parties, however, the problem becomes paticularly acute.

I am therefore introducing an amendment to the rent supplement program which will extend that program to cover abandoned or deteriorating structures. The problem is a complex one, since inadequate income affects all facets of a family's well-being, not simply its ability to meet housing costs. I am heartened, however, that consideration is being given by the Senate Finance Committee to the administration's proposal for a "minimum family allowance" (H.R. 16311). Although the proposed level of the allowance of $1,600 for a four-person family is low, this legislation is an important first step toward setting a floor on family income. If a family allowance is enacted at a level sufficient to meet minimum family requirements for food, clothing, and other nonhousing needs, then Federal assistance for housing can be a most useful complement to such a program.

The problem of obtaining decent living accommodations without the expenditure of a disproportionate share of a family's income for rent is acute for many Americans; however, it is most urgent, where low-income families are involved. Many families have incomes which qualify them for public housing, although they are not able to obtain such housing for a myriad of reasons. In some instances, local authorities already have long waiting lists of applicants who cannot be placed because of the shortage of public housing units. Elsewhere, local communities may not have engaged in either Federal or State public housing programs and hence subsidized structures are simply not available to meet pressing needs.

I am, therefore, introducing a third bill which would establish a housing allowance program on an experimental basis. Thus, Federal subsidies would be available equal to the difference between 25 percent of a tenant's monthly income and the maximum fair market rentals for standard housing in the community involved. The benefits provided for public housing tenants would thereby be extended to those persons who qualify for public housing but are unable to obtain public housing accommodations.

I offer this particular proposal with the hope that it will prove successful and will generate much-needed relief to low-income families in the future. The housing allowance would be limited to those tenants who qualify for public housing and to those communities where the Secretary of Housing and Urban Development determines that an adequate supply of standard housing exists. The latter requirement is included in the proposal to prevent the payment of housing allowance funds from being translated into rent increases because of the shortage of available units.

While the housing allowance concept is not new, it is one of the few proposals which may enable low-income families to meet their housing needs on reasonable terms, avoiding the expenditure of a disproportionate share of income for rent.

I offer these three bills with the hope that serious consideration will be focused on the concerns of low-income families during this session of Congress. There is a growing sense of hopelessness among this segment of our population which must not be perpetuated. The promises of recent years have too often lost their credibility with low-income families as well as local officials who are often frustrated in their efforts to meet local needs. It is no solution merely to rescramble existing programs, if we do not provide the necessary funds and wherewithal to address the pressing problems at hand.

The proposals which I put forth today represent constructive solutions to some of the more serious problems at hand. I recognize that these proposals do not address the concerns of middle income families or the housing crisis as a whole; however, recent bills passed by the Senate and the House will hopefully bring much-needed relief to other sectors of our society.

Mr. President, I ask unanimous consent that the text of the three bills be printed in the Record, together with a national housing and development law project memorandum.

The PRESIDING OFFICER (Mr. Goldwater). The bills will be received and appropriately referred; and, without objection, the bills and memorandum will be printed in the Record.

The bills, introduced by Mr. Brooke (for himself and other Senators), were received, read twice by their titles, referred to the Committee on Banking and Currency, and ordered to be printed in the Record, as follows:

S. 4086

A bill to provide decent and suitable living accomodations for low-income families

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing and Urban Development Amendments of 1970".

Section 1. Insert the following paragraph after the last full paragraph in section 2(1) of the United States Housing Act of 1937:

"Except that in the case of those families receiving public assistance, the total amount of their benefits thereunder shall not be reduced as a result of any rent reduction by a local public housing agency made pursuant to the rent ceiling specified above."

Sec. 2. The second paragraph of section 2(1) of the United States Housing Act of 1937 is amended by striking out the words "as defined by the Secretary" after the word "income".

Sec. 3. After the third sentence of section 10(a) of the United States Housing Act of 1937, as amended, the following is added: "*Provided further,* That the Authority shall amend or supersede annual contributions contracts to provide payments annually up to the maximum allowable contribution for each contract under section 10(b) and section 14 of the Act: (1) to assure the low-rent character of the projects involved; (2) to achieve and maintain adequate operating and maintenance services and reserve funds; and (3) to cover any public housing agency's operating deficit, including deficiencies in reserve funds, for the fiscal year which includes December 24, 1969."

Sec. 4(a). Section 1603 of Title XVI of the Housing and Urban Development Act of 1968 is amended by striking the word "and" in subsection (5) thereof and the period at the end of subsection (6) thereof and inserting "; and" at the end of the latter subsection.

(b) Section 1603 of Title XVI of the Housing and Urban Development Act of 1968 is amended by inserting the following after subsection (6):

"(7) contain a documented statement of the current effectiveness of statutory construction cost limits for public housing and statutory mortgage limits for insured programs authorized under Title II of the National Housing Act and a recommendation as to the appropriate cost and mortgage limits for the ensuing twelve month period.

"The cost and mortgage limits recommended pursuant to subsection (6) above shall automatically become effective after 60 days unless Congress specifically rejects or amends them within that period of time."

Sec. 5. (a) Section 10(c) of the United States Housing Act of 1937 is amended by striking out the term "existing structures" in the last proviso and inserting in lieu thereof the term "private accommodations".

(b) Section 23(a)(3) of the United States Housing Act of 1937 is amended by striking from the first clause thereof the words "an existing" and inserting in lieu thereof the word "a".

Sec. 6. The last sentence of section 23(d) of the United States Housing Act of 1937 is amended by striking out the term "sixty months" and inserting in lieu thereof "120 months".

Sec. 7. The Housing Act of 1937 is amended by striking section 23(a)(2) and renumbering the succeeding subsections accordingly.

Sec. 8. Section 2(11) of the United States Housing Act of 1937 is amended by striking the period at the end of the first sentence thereof and inserting the following:

": *Provided,* That tenants shall be authorized to serve on the Board of Directors or similar governing body of the governmental entity or public body involved."

S. 4087

A bill to address the growing problem of abandoned properties and neighborhoods

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Abandoned Properties and Neighborhoods Act of 1970."

Sec. 2 (a) Part A of title I of the Housing Act of 1949 is hereby amended by adding the following new section at the end thereof:

"IMPROVEMENT ASSISTANCE FOR NEIGHBORHOODS WITH ABANDONED PROPERTIES

"Sec. 119(a) Notwithstanding any other provision of this title, the Secretary is hereby authorized to make, and to enter into contracts to make grants (in an aggregate amount not to exceed $200,000,000 in any fiscal year) as provided in this section to cities, other municipalities, and counties for the purpose of assisting such localities in carrying out programs to alleviate harmful conditions or prevent deterioration in neighborhoods where the local governing body has determined that a substantial number of properties have been abandoned or foresees that the problem of abandonment may arise.

"(b) Such grants shall not exceed two-thirds (or three-fourths in the case of any city, other municipality, or county having a population of fifty thousand or less according to the most recent decennial census) of the cost of planning and carrying out programs which may include, but shall not be limited to, (1) the repair of streets, sidewalks, parks, playgrounds, publicly-owned utilities, public buildings to meet needs consistent with continued use of the area, (2) the improvement of private properties held by any city, other municipality, county or instrumentalities thereof to the extent needed to eliminate harmful effects to public health and safety or the physical or social environment involved, (3) the demolition or closing of structures determined to be structurally unsound or unfit for human habitation or which contribute adversely to the physical or social environment of the locality involved, (4) the establishment of recreational or community facilities including public playgrounds, and (5) the improvement of garbage and trash collection, and street cleaning.

"(c) The Secretary shall encourage, wherever feasible, the employment of otherwise unemployed or underemployed residents of the area in carrying out the activities and undertakings assisted under this section.

"(d) The provisions of sections 101(c), 106, 114 and 115 shall be applicable to activities and undertakings under this section to the same extent as if such activities and undertakings were being carried out in an urban renewal area as part of an urban renewal project: *Provided,* That in such neighborhoods the grants authorized under section 115 may be made to a low-income individual or family, as defined in section 115, who owns property otherwise eligible under section 115 even though such individual or family is not an occupant of the property: *Provided further,* That the grants authorized under section 115, in connection with eligible neighborhoods under this section, need not involve major rehabilitation, but can include the cost of refinancing, repairs, and minor rehabilitation."

(b) Section 103(b) of the Housing Act of 1949 is amended by striking out "$1,700,000,000" and inserting in lieu thereof "$1,900,000,000", and by adding at the end thereof a new sentence as follows: "Not less than $200,000,000 of the amounts available to the Secretary for grants under this title shall be for grants under section 119."

Sec. 3. Subsection (1)(C) of section 312 (a) of the Housing Act of 1964 is hereby amended by striking the colon at the end of that subsection and inserting in lieu thereof: "; or" and by adding a new subparagraph as follows:

"(D) the property is in an area with respect to which assistance may be made available pursuant to section 119 of the Housing Act of 1949, and the rehabilitation of such property is consistent with the locality's plan for the improvement of the neighborhood: *Provided,* That loans for such properties need not involve major rehabilitation, but can cover the cost of refinancing, repairs, or minor rehabilitation;".

SEC. 4. (a) Subsection (b) of section 101 of Title I of the Housing and Urban Development Act of 1965 is amended by striking the period at the end of the first sentence and inserting the following in lieu thereof:

": *Provided further,* That the term 'housing owner' means an individual, partnership, or corporation where a local public agency authorized by the Secretary determines that the property is located in an area with respect to which assistance may be made available pursuant to section 119 of the Housing Act of 1949."

(b) Subsection (c) of section 101 of Title I of the Housing and Urban Development Act of 1965 is amended by inserting the following after subsection (c)(2):

"*Provided,* That the provisions of subsection (c)(2) shall not apply in the case of property receiving assistance under section 119 of the Housing Act of 1949."

S. 4088

A bill to provide on an experimental basis, a housing allowance program

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Low-Income Housing Assistance Act of 1970".

SEC. 1. The Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(a) For the purpose of assisting, on an experimental basis, qualified tenants to obtain rental housing of their choice in existing standard housing units, the Secretary is authorized to pay and to contract to pay, subject to the limitations of this subsection, monthly housing allowances to families of low income in localities determined by the Secretary to have an adequate supply of such housing.

"(b) As used in this subsection—

"(1) the term 'families of low income' shall have the same meaning as in section 2(2) of this Act and, in addition, such families shall agree that any monthly housing allowance received by them pursuant to this subsection shall be used solely for the payment of rent or rental charges in existing standard housing for their occupancy; and

"(2) the term 'existing standard housing' shall mean a rental unit which meets standards prescribed by the Secretary.

"(c) Housing allowances to families of low income shall not exceed the difference between 25 per centum of the families' monthly incomes and the maximum fair market rentals established in the locality by the Secretary for dwelling units of similar size in projects receiving annual payments under contracts authorized by section 101(a) of Title I of the Housing and Urban Development Act of 1965.

"(d) The Secretary is authorized to pay and to contract to pay (in an aggregate amount not to exceed $100 million in any fiscal year) monthly housing allowance payments to families of low income pursuant to this section.

"(e) The Secretary is authorized to contract with public or private organizations to provide the services required in the selection of families of low income and any distribution of monthly rental assistance payments to such families. In contracting with such organizations, the Secretary is authorized (without limiting his authority under any other provision of law) to delegate to such organizations the authority to make monthly rental assistance payments to families of low income selected by such organizations.

"(f) The Secretary shall cause to be made such surveys and studies concerning the operation of the program authorized by this section as he deems useful to assist in the preparation of reports required by section 5 of the Housing and Urban Development Act of 1968."

The memorandum, presented by Mr. BROOKE, is as follows:

NATIONAL HOUSING AND DEVELOPMENT LAW PROJECT MEMORANDUM

The purpose of this memorandum is to interpret the meaning of Section 213 of the Housing and Urban Development Act of 1969, in order to provide a guide for the expenditure of funds authorized in these sections.

Since the statute itself is ambiguous, it is necessary to turn to the legislative history of the section.

Section 213(a) and 213(b) of the Act originated as S. 2761, which was introduced by Senator Brooke. That bill added a new Section 24 to the United States Housing Act of 1937 authorizing up to $75 million for annual rental assistance payments to public housing authorities to enable such authorities to maintain adequate operating and maintenance services and reserve funds, while at the same time limiting rents to no more than 25 percent of a tenant's total income. S. 2761 was incorporated into the final bill which emerged from the Committee on Banking and Currency, S. 2861, as Section 211.

The bill which was approved by the House did not contain the Brooke provision. However, as the Conference Report on the Housing and Urban Development Act of 1969 makes clear, the "Conference substitute retains the basic concept of Section 211 of the senate bill by generally limiting rents that may be charged public housing tenants to no more than 25 percent of their income." [Conference Report No. 91–740, p. 30]. The Report goes on to specify the two purposes for which federal funds may be expended: "It provides Federal funds *to cover* the amount by which the appropriate rental charges exceed 25 percent of the income of the tenant *and to cover* the cost of adequate operating and maintenance services." [Conference Report No. 91–740, p. 30 Emphasis added]. That there were two purposes for which the act authorized the expenditure of Federal funds is reinforced by the similar language used earlier by the conferees in describing the Brooke Amendment as it passed the Senate. There again it is specified that the Brooke provision authorized up to $75 million per year in contracts for annual rental assistance payments to public housing agencies to cover "the amount by which rental charges allocated to a unit exceed 25 percent of the tenant's income and to provide improved operating and maintenance services." [Report, p. 30].

Thus, on the first page of the Conference Report dealing with public housing, the conferree's description of the Brooke Amendment, and of the ultimate conference bill, indicates that they regarded Section 213 as having the dual purpose of: (1) limiting the rent a tenant pays to no more than 25% of his income; and (2) providing Federal assistance to LHA's for operating and maintenance expenses.

On page 31, the conferees give an additional indication of their intent in a key paragraph which reads as follows:

"The conferees intend that the secretary's authority to make annual contributions in *excess of debt service* requirements *may be used,* to the extent that the statutory annual maximum permits, for (1) payments to cover existing operating deficits of public housing agencies and enable *them* to maintain adequate operating and maintenance services and reserve funds, and (2) additional payments to make up the amount by which the proportionate share of operating and maintenance expenses attributable to a public housing tenant's dwelling unit exceeds 25% of the tenant's income."

This paragraph combines the "Brooke Amendment" with the "Sparkman Amendment" and simply notes that pursuant to the Secretary's newly clarified powers under Section 212(a) he may make annual contribution payments in excess of debt service to LHA's as authorized by the Brooke Amendment as well as payments in excess of debt service under the Sparkman Amendment. Thus, to understand the provisions of this paragraph, it is essential that the analysis of the Brooke Amendment by the conferees as set forth on p. 30 of the report be read into the language of this paragraph. Further, the conferees language on p. 31: "*transferring*" the payments authorized by the Brooke Amendment from a new Section 24 to the annual contribution contracts authorization provided by Section 10(c) of the U.S. Housing Act of 1937 again evidences the necessity of reading the Brooke Amendment language on p. 30 of the report into this paragraph.

As the Conference Report states on page 31, the payments were transferred from a new section 24 "on the basis that assistance for this purpose [rental assistance payments] can be provided within the existing annual contributions framework as clarified by the bill . . ."

The General Counsel of the Department of Housing and Urban Development, in a memorandum dated January 23, 1970, has offered an interpretation of Section 213 which is at considerable variance with the language of the conferees' report. His interpretation of the intent of Congress with respect to how funds authorized under those sections should be expended ignores the language on page 30 completely and relies entirely on the paragraph from page 31 of the Conference Report quoted above, to which he adds the following emphasis:

"The conferees intend that the Secretary's authority to make annual contributions in excess of debt service requirements may be used, to the extent that the statutory annual maximum permits, for (1) payments to cover *existing* operating deficits of public housing agencies and enable *them* to maintain adequate operating and maintenance services and reserve funds, and (2) additional payments to make up the amount by which the proportionate share of operating and maintenance expenses attributable to a public housing tenant's dwelling unit exceeds 25 percent of the tenant's income. (Emphasis added by General Counsel).

Drawing on only that paragraph, the General Counsel argues that the intent of the conferees was that no federal payments could be made to LHA's for operating and maintenance services except: (1) where the agencies have "*existing* operating deficits," (2) "to the extent that such improved services would require tenant rents in excess of 25 percent of tenant's income." Payments with respect to (2), according to the General Counsel, are "mandatory;" payments with respect to (1) "may be in the Secretary's discretion."

Thus, it is clear that the conferees did not intend that placement of the Brooke Amendment within the annual contributions framework should affect the dual purposes of the program set forth on page 30 (to cover both the cost of adequate operating and maintenance as well as the amount by which the appropriate rental charge exceeds 25% of income).

Moreover, the meaning of the word "and" in the phrase "payments to cover existing operating deficits of public housing agencies *and* enable them to maintain adequate operating and maintenance services . . ." must be understood in its normal statutory sense. That is: "to convey the relation of addition or connection, and [to] signify that something is to follow in addition to that which proceeds." See, for example, *Oliver v. Oliver,* 286 Ky. 6, 149 S. W. 2d 540, 542. When that meaning is applied to the phrase quoted above, it is apparent that the conferees intended that the "payments to cover existing operating deficits of public housing agencies" and payments to enable public housing agencies to "maintain adequate operating and maintenance services and reserve funds" be regarded as independent authorizations. This is consistent with the dual purpose ascribed to Section 213 by the conferees on page 30 of the report.

Taken as a whole, then, the language used by the conferees on pages 30 and 31 of their report can be seen to provide for three things: (1) payments "to cover existing operating deficits of public housing agencies;" (2) payments to enable LHA's "to maintain adequate operating and maintenance services and reserve funds;" and (3) payments "to make up the amount by which the proportionate share of operating and maintenance expenses attributable to a public housing tenant's dwelling unit exceeds 25% of the tenant's income."

Thus, under the General Counsel's interpretation of the Act, only one category of local housing agencies would be immediately eligible for federal payments for the maintenance of adequate operating and maintenance services, and reserve funds—those agencies with "existing operating deficits." The only way in which other agencies could receive federal funds for such expenses is if the "improved services" contemplated by the agency would "require tenant rents in excess of 25 percent of tenant's income." In that case, the agency would receive the difference between the cost of "improved services" and the amount of income devised from charging the 25% maximum allowable under Section 213.

The General Counsel's interpretation is erroneous in several respects. The first point to be made is that in formulating his interpretation, the General Counsel ignores language contained on page 30 of the Conference Report which is crucial to determining Congressional intent with respect to how the funds authorized are to be expended. As was pointed out earlier in this memorandum, the language utilized by the conferees on page 30 makes it clear that Section 213 did three things: (1) it authorized HUD to make payments to cover existing operating deficits of LHA's; (2) it authorized the Department to provide Federal funds to public housing agencies to cover the amount by which the rental charges necessary to sustain the operation of the project exceeds 25% of tenant income; and (3) it authorized HUD to provide Federal funds to cover the cost of adequate operating and maintenance services. That the latter two purposes were regarded as separate areas of authorization is made clear by the conferees repetition of the phrase "to cover" in the last sentence of the third paragraph of the Section on page 30 as set out below:

"It [the conference substitute] provides Federal funds *to cover* the amount by which the appropriate rental charges exceed 25% of the income of the tenant and *to cover* the cost of adequate operating and maintenance services." Emphasis added.

The General Counsel completely ignores this language of the conferees on page 30 and, as a result, erroneously subsumes payments for operating and maintenance services, and for reserve funds under the other categories of payments authorized by the conferees—those made to LHA's with operating deficits, and those made to LHA's whose operating expenses exceed the income available under the 25% maximum stipulated by the Brooke Amendment. On the basis of the language on page 30, it is apparent that such an interpretation is not in harmony with the intent of the conferees. Thus, the General Counsel's interpretation excludes language on page 30 of the Conference Report that is crucial to understanding congressional intent with respect to the purpose of Section 213.

Even if one accepts the General Counsel's view that congressional intent can be determined from the single paragraph from page 31 of the Conference Report alone, he misinterprets even that paragraph.

Looking first at the policy consequences of the General Counsel's reading of the Act, under his interpretation, an LHA which does not have an *existing* operating deficit, and which is currently charging its tenants less than 25% of their income as rent, can obtain Federal payments for adequate operating and maintenance services, and reserve funds in only one way: by raising the rents it is charging its tenants. Yet, the conferees plainly state on page 32 of the Conference Report that they "do not intend that all tenants in public housing should pay 25 percent of income for rent."

The 25% ceiling established by the Brooke Amendment was intended as the maximum amount which a tenant could be charged—not as the standardized rate at which tenants should pay. As Congresswoman Dwyer, (a House Conferee), noted on December 12, 1969, during the House debate on the conference substitute, "The Brooke Amendment assures that those who qualify for public housing need pay no more than 25 percent of their income for rent. And, I might add, this ceiling of 25 percent, should not encourage housing authorities to begin raising rents to that level. 75% of the tenants still pay less than 25%." (CONGRESSIONAL RECORD, vol. 115, pt. 29, p. 38778.)

Under the General Counsel's interpretation, local housing authorities will not simply be encouraged to raise rents to the ceiling; they will be required to do so in order to receive Federal payments for the maintenance of adequate operating and maintenance services and reserve funds, in clear violation of the language of the conferees on page 32.

In addition, the General Counsel's interpretation of the paragraph in question misconstrues two key words—"and," and "them." His interpretation of "and" in the phrase "payments to cover existing operating deficits of public housing agencies *and* enable them to maintain adequate operating and maintenance services . . ." subordinates payments designed to enable public housing agencies to "maintain adequate operating and maintenance services and reserve funds" to payments made "to cover existing operating deficits."

But as was noted earlier the normal statutory meaning of "and," especially in its conjunctive sense, is to convey the "relation of addition or connection, and to signify that something is to follow in addition to that which proceeds." If this meaning of "and" is applied, it is clear that the General Counsel's interpretation conflicts with the conferee's intent that two kinds of payments were being authorized by category (1) of the paragraph.

The General Counsel also misconstrues the grammatical function of "them" in the same paragraph. As "them" is a pronoun, one would normally interpret it to modify the noun immediately preceeding it—in this instance, "agency" or "public housing agency." But in the General Counsel's interpretation of the paragraph, "them" is construed to refer to "public housing agencies with existing deficits." Such an interpretation has no basis in normative grammer. Interpreting "them" to refer to "public housing agencies"—and not the grammatically untenable "public housing agencies with existing operating deficits"—reinforces the view that Congress intended to provide funds under the statute for two purposes: (1) to subsidize LHA's with existing operating deficits; and (2) to enable public housing agencies to maintain adequate operating and maintenance services and reserve funds. This interpretation, it should be noted, is consistent with the intent expressed on page 30 of the Conference Report.

Further, the General Counsel's interpretation is logically unsound in that it specifies that LHA's must have operating deficits before they are eligible to receive federal payments to "maintain adequate . . . reserve funds."

In accordance with HUD practice, LHA's are permitted to accumulate reserve funds which are equal to one-half of one year's rent roll. If an LHA incurs an operating deficit in a given fiscal year—in other words, if its expenses exceed its income—it is permitted to dip into its reserves to make-up the operating deficit. Hence, an LHA which has an operating deficit will usually have already dipped into whatever reserve funds it may have accumulated. Payments "to cover existing operating deficits" and payments "to maintain adequate . . . reserve funds" are, it should be noted, of a substantively different kind. The former were intended to result from the clarification of authority which Section 212(a) of the Act gave to the Secretary to make payments in excess of debt service requirements. The latter, on the other hand, resulted from the authority embodied in the Brooke Amendment.

As the Senate Banking and Currency Committee's Report on S. 2864 (Report No. 91-392) noted, two problems were recognized by Congress. One problem was that "a subsidy limited to debt service requirements is not sufficient to assure the low-rent character of projects located in some of our larger metropolitan areas." This refers to the projects with "existing operating deficits." The other problem was the need, as the committee put it, "to keep these local housing authorities solvent." This refers to the need to bolster inadequate LHA reserve funds.

Thus, it is clear that Congress did not intend that one category of payments should be subordinated to the other. Yet, this is precisely what the General Counsel's interpretation does.

In summary, the General Counsel's memorandum misinterprets congressional intent with respect to the implementation of Section 213 in two respects: (1) it fails to take account of language critical to an understanding of Congressional intent set forth on page 30 of the Conference Report, and unjustifiably relies on a single paragraph on page 31; and (2) it misinterprets even that paragraph by: (a) misconstruing the meaning of key words in the paragraph; (b) ignoring the stipulated intent of the conferees on page 33 that not all tenants in public housing pay 25% of their income as rent; and (c) failing to recognize the functional differences between payments "to cover existing operating deficits" and payments "to maintain adequate . . . reserve funds," and the logical unsoundness of subsuming the latter category of payments under the former.

S. 4089—INTRODUCTION OF A BILL TO AMEND THE TAX CODE TO CLARIFY THE TAX STATUS OF SELF-PROPELLED OIL WELL SERVICE OR DRILLING EQUIPMENT

Mr. MOSS. Mr. President, I am introducing today a bill to amend the tax code to clarify the tax status of self-propelled oil well service or drilling equipment with a chassis specially designed and constructed for such service or driving. Internal Revenue Ruling 69-340 held that such equipment is a highway motor vehicle and therefore subject to the Federal highway taxes. This self-propelled equipment, however, is not primarily designed for highway travel, but for onsite maneuverability. The Federal highway taxes are supposed to be a users charge since the revenue is put into a trust fund used solely for highway construction. Thus, since self-propelled equipment is used on the highways less than 2 percent of its working life, I believe it should not be classified as a highway motor vehicle.

If this equipment had been designed only to move from site to site over the highways, a great deal of time and money could have been saved by simply using conventional trucks. It is important to note that older methods of transporting equipment with conventional trucking equipment are rapidly being phased out of the oil industry.

Although this type of self-propelled equipment which is used on the highways less than 2 percent of its working life is classified as a highway motor vehicle, other vehicles which use the highways much more often are not so classified. Earthmovers, bulldozers, cottonpickers, and other vehicles use the highways to and from their worksites daily yet they are exempt from Federal highway taxation. Simple fairness would dictate that self-propelled drilling equipment receive similar treatment.

The Internal Revenue Service states that its reason for holding self-propelled equipment as highway vehicles is that the site-to-site mobility is the sole reason for their design. This rationale is clearly wrong. The primary function of oil well servicing and/or drilling equipment of the type in question is to provide a complete, self-contained unit as the site of the proposed drilling. This requires the presence of a power source to operate the winch on this type of equipment—the single most important part of the unit. The primary transmission shaft leading from the motor goes to the winch. There is only a secondary shaft leading to the vehicle wheels.

Several States have specifically exempted self-propelled oil well service and/or drilling equipment from the general category of motor vehicles for tax purposes. For reasons of fairness and consistency, the Federal Government should do the same thing.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The bill will be received and appropriately referred.

The bill (S. 4089) to amend the Internal Revenue Code of 1954 to clarify the status of certain oil well service equipment under subchapter D of chapter 36 of such code—relating to tax on the use of certain vehicles—introduced by Mr. Moss, was received, read twice by its title, and referred to the Committee on Finance.

SENATE JOINT RESOLUTION 220—INTRODUCTION OF A JOINT RESOLUTON TO ESTABLISH A COMMISSION ON LABOR LAW REFORM

Mr. TOWER. Mr. President, the country is again faced with the possibility of another railroad strike. Again, the President has ordered a 60-day halt to the strike and has set up an emergency board to look into the dispute between the carriers and the major rail union involved. Although I am hopeful that an accord can be reached by the parties independent of Government intervention, the history of such disputes belies sincere optimism for a settlement.

The provisions found in the Railway Labor Act of 1925 which deal with this type of labor-management dispute have proved to be most ineffective. President Nixon has responded to this urgent need by proposing reform of the Railway Labor Act. Last February my distinguished colleague from Michigan, Senator GRIFFIN, introduced the Emergency Public Interest Protection Act on behalf of the Nixon administration. I am proud to be a cosponsor of the bill. The need for passage of this legislation becomes more apparent as the country is faced with yet another possible strike in a transportation industry. The Washington Post, in an editorial on July 10, clearly enunciated the need for this legislation to be acted upon by the Congress. Concerning the current provisions under the Railway Labor Act, the Post stated the following:

> This forty five year old law has proved to be singularly ineffective. Its emergency provisions have been invoked 188 times, and in recent decades work stoppages at the end of the 60 day period have occurred at a rate of more than one a year. Twice Congress has had to legislate an end to railroad disputes. The White House finds it necessary to fall back upon the law as new emergencies arise, but its inadequacies are widely recognized.

Mr. President, as of this date neither the Senate nor the House of Representatives has held hearings on the Emergency Public Interest Protection Act. This is most distressing when one realizes the overall deteriorating conditions existent in current labor-management relations. The transportation industries represent just one area of concern in labor-management relations. Legislation pertaining to other fields of labor-management concerns has been introduced this session of Congress. However, the Congress has been slow to recognize the problem and act to reform our existing labor laws.

I believe the time for reform is long overdue. A recent task force studying labor problems concluded that a blue-collar revolt is a possibility for the future. We, as lawmakers, must conclude that our outmoded labor laws are a prime contributor to this dangerous state of affairs in labor relations.

With this in mind, I am introducing a joint resolution establishing a Commission on Labor Law Reform. While I have already referred to the urgent necessity to act on existing proposals, I also feel that the formation of this commission would be a step in the right direction in our continuing attempt to update our labor laws. The function of this commission would be to formulate a set of policy changes with regards to these laws.

I believe we need a report that will find fault where fault exists—a report that will have the support and backing of both political parties and the complete trust of the entire American populace. The commission proposed in my resolution would have all of these and more. Not only will it be empowered to recommend radical changes in the labor law field, but its mere existence alone might maximize public attention for action on current legislative proposals. It is not my objective to suggest the direction in which this proposed commission might conduct its activities. However, it is my obligation, in my opinion, to endorse such a commission when the need arises. Many of our labor laws are so old and entrenched as part of our system that an attack on them is sometimes considered the act of a fool.

Laws are never so old that they cannot be constructively reformed. The fact that labor laws are outmoded has been admitted by individuals on both sides of the political spectrum. I firmly believe that the adoption of this joint resolution will set us on the right direction in the field of labor law reform. I ask unanimous consent that the text of this joint resolution be inserted into the RECORD at this time. Furthermore, I ask my colleagues in the Senate to expedite consideration of this matter with the sense of urgency the problem demands.

The PRESIDING OFFICER (Mr. ALLEN). The joint resolution will be received and appropriately referred.

The joint resolution, Senate Joint Resolution 220, to establish a Commission on Labor Law Reform, introduced by Mr. TOWER, was received, read twice by its title and referred to the Committee on Labor and Public Welfare.

ADDITIONAL COSPONSORS OF BILLS

S. 364

Mr. TOWER. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Tennessee (Mr. GORE) be added as a cosponsor of S. 364, to amend title 10, United States Code, to equalize the retirement pay of members of the uniformed services of equal rank and years of service, and for other purposes.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

S. 3671

Mr. TOWER. Mr. President, I ask unanimous consent that, at the next printing, the name of the distinguished Senator from Oklahoma (Mr. BELLMON) be added as a cosponsor of S. 3671, to insure the separation of Federal powers by amending the National Labor Relations Act to provide for trial of unfair labor practice cases in the U.S. district court, and for other purposes.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

S. 3799

Mr. MOSS. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Idaho (Mr. JORDAN) be added as a cosponsor of S. 3799, to amend the Small Reclamation Projects Act of 1956, as amended.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

S. 3807

Mr. SMITH of Illinois. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Kansas (Mr. DOLE) be added as cosponsors of S. 3807, the Ethnic Hertage Studies Centers Act.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

S. 3921

Mr. MOSS. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Montana (Mr. METCALF), the Senator from Oregon (Mr. HATFIELD), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Wisconsin (Mr. NELSON), the Senator from Minnesota (Mr. MCCARTHY), and the Senator from Idaho (Mr. CHURCH) be added as cosponsors of S. 3921, to authorize emergency loans under subtitle C of the Consolidated Farmers Home Administration Act of 1961 to mink farmers who suffer severe losses caused by economic conditions.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). Without objection, it is so ordered.

S. 4041

Mr. TOWER. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Utah (Mr. Moss) be added as a cosponsor of S. 4041, to repeal section 7275 of the Internal Revenue Code of 1954, relating to amounts to be shown on airline tickets and advertising.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

SENATE RESOLUTION 430—RESOLUTION REPORTED TO PAY A GRATUITY TO SYLVIA M. COLEMAN

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution (S. Res. 430); which was placed on the Calendar:

S. RES. 430

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Sylvia M. Coleman, widow of Raleigh S. Coleman, Jr., an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION, SENATE CONCURRENT RESOLUTION 69

Mr. SMITH of Illinois. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. FANNIN), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. THURMOND), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Rhode Island (Mr. PELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. COOPER), the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. DOLE), the Senator from Illinois (Mr. PERCY), the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. HOLLAND), the Senator from Tennessee (Mr. BAKER), the Senator from Wyoming (Mr. HANSEN), the Senator from Alaska (Mr. STEVENS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from North Carolina (Mr. ERVIN), the Senator from Oregon (Mr. PACKWOOD), the Senator from California (Mr. CRANSTON), and the Senator from Nevada (Mr. BIBLE), be added as cosponsors of Senate Concurrent Resolution 69, expressing the sense of the Congress regarding an appropriate final tribute to American servicemen who have died in combat or in the service of their country.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection it is so ordered.

CREATION OF AN OFFICE OF DISASTER RELIEF—AMENDMENT

AMENDMENT NO. 783

SUBMISSION OF AN AMENDMENT TO S. 3619, TO MAKE THE ASSISTANCE PROVIDED UNDER PARTS B AND C OF TITLE III OF S. 3619 AVAILABLE TO THE COUNTIES AFFECTED BY THE PLAINVIEW AND LUBBOCK TORNADOES AND SAN MARCOS FLOOD

Mr. YARBOROUGH. Mr. President, I submit, for appropriate reference, an amendment to S. 3619, the Omnibus Disaster Assistance Act, which would make the assistance provided for under parts B and C of title III of S. 3619 available to any area designated as a major disaster by the President within 1 year prior to the enactment of S. 3619. More specifically, my amendment would insure that the special disaster assistance programs contained in title III of S. 3619 would apply to counties in the Plainview-South Plains and Lubbock areas which were affected by the devastating tornadoes of April 17, 18 and May 10, 1970, and the San Marcos-Hays County area which suffered from flooding on May 15, 1970.

This spring has been a time of great tragedy and suffering for many people in Texas. The South Plains area suffered the devastating effects of tornadoes and the city of San Marcos, in south Texas, was ravished by a flood. The people of these disaster stricken counties are doing the best they can with what help is available from the Federal Government to rebuild their homes and communities. Unfortunately, our present Federal disaster assistance law, Public Law 91-79, does not afford these people with all the relief they so desperately need.

On May 18, 1970, I, together with the distinguished junior Senator from Texas (Mr. TOWER), introduced a special disaster assistance bill, S. 3848, which would provide the people of the Plainview-South Plains and Lubbock areas with additional Federal assistance. In particular, S. 3848, would provide the Small Business Administration and the Farmers Home Administration with authority to forgive up to $5,000 of any loan made to a disaster victim. Under the present law the limit on forgiveness or cancellation on such loans is only $1,800. In this time of high interest rates, tight money, and inflationary prices, the $1,800 cancellation provision of the present law is of small assistance to a homeowner who has sustained a substantial loss.

This increased cancellation feature is also part of S. 3619, which is presently being consdered by the Senate Public Works Committee. Should S. 3619 be passed this session, which I, as a cosponsor of this measure, earnestly hope, it would be a great injustice if the assistance it provides were not available to the people of the counties that have suffered from the disastrous effects of the Plainview and Lubbock tornadoes and the San Marcos flood. These areas have been declared major disaster areas by the President and are desperately in need of all the relief the Federal Government can provide. My amendment is designed to insure that these unfortunate citizens of Texas are not cut out from any additional disaster relief legislation that Congress passes this session.

Mr. President, I know how hard the chairman of the Subcommittee on Disaster Relief (Mr. BAYH) and the members of his subcommittee have worked on S. 3619. I am grateful to the subcommittee for the concern it has shown for the people of Texas and the prompt attention it has given my bill, S. 3848. I urge the Senate Public Works Committee to accept the amendments I have offered this week and to report this bill to the Senate as soon as possible.

Mr. President, I ask unanimous consent that the amendment I am submitting today be printed in the RECORD.

The PRESIDING OFFICER (Mr. ALLEN). The amendment will be received and printed, and will be appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 783) was referred to the Committee on Public Works, as follows:

AMENDMENT NO. 783

On page 42, between lines 2 and 3, insert the following new part:

"PART D—EFFECTIVE DATE

"EFFECTIVE DATE

"SEC. 335. (a) The provisions of this title shall take effect upon the date of enactment of this Act.

"(b) Notwithstanding the provisions of subsection (a), assistance provided under parts B and C of this title shall be available for one year after the effective date of this title to any area designated as a major disaster area by the President within one year prior to such date."

NOMINATION OF DR. GLENN T. SEABORG TO ATOMIC ENERGY COMMISSION—NOTICE OF HEARING

Mr. PASTORE. Mr. President, the Senate section of the Joint Committee on Atomic Energy will hold a public hearing on Thursday, July 16, 1970, at 2 p.m., in room S-407, U.S. Capitol, on the nomination of Dr. Glenn T. Seaborg to be a member of the Atomic Energy Commission for a term of 5 years expiring June 30, 1975. President Nixon nominated Dr. Seaborg to the 5-year term on June 29, 1970.

Dr. Seaborg has served as the Chairman of the Atomic Energy Commission since 1961.

I ask unanimous consent to have printed in the RECORD a biography of Dr. Seaborg which was forwarded to the Joint Committee in connection with his proposed reappointment to the Atomic Energy Commission.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

GLENN T. SEABORG

Glenn T. Seaborg was born April 19, 1912, in Ishpeming, Michigan. At the age of ten, he and his family moved to California. In 1929 he was valedictorian of his class at the David Starr Jordan High School in Los Angeles. In his junior year at the University of California at Los Angeles, he was named to Phi Beta Kappa, and in 1934 he received an A. B. degree in chemistry from UCLA. In 1937 he was awarded the Ph. D. degree in chemistry from the University of California, Berkeley.

Dr. Seaborg is Chairman of the United States Atomic Energy Commission, having been appointed by President Kennedy in 1961, and subsequently reappointed by President Johnson and President Nixon. He also served under President Truman, from 1946 to 1950, as a member of the Atomic Energy Commission's first General Advisory Committee, and under President Eisenhower, from 1959 to 1961, as a member of the President's Science Advisory Committee.

From 1958 to 1961, Dr. Seaborg was Chancellor of the University of California, Berkeley, having served on the faculty since 1939, and from 1937–1939 as the personal research assistant of Gilbert Newton Lewis, Berkeley's famous physical chemist. He is currently on leave as professor of chemistry.

During World War II, while on leave of absence from Berkeley, he headed the group at the Metallurgical Laboratory of the University of Chicago that devised the chemical extraction processes used in the production of plutonium for the Manhattan Project.

Among his major scientific contributions are his discoveries, between 1940 and 1958, with several colleagues, of the transuranium elements: plutonium (element 94), americum (95), curim (96), berkelium (97), californium (98), einsteinium (99), fermium (100), mendelevium (101), and nobelium (102). His co-discoveries include the fissile isotopes plutonium–239 and uranium–233, as well as the identification of more than 100 other isotopes throughout the periodic table, including a number that have practical applications in research and medicine such as iodine–131, cobalt–60, technetium–99m, cobalt–57, iron–59, iron–55, manganeses–54, antimony–124.

In 1951, at the age of 39, Dr. Seaborg was awarded the Nobel Prize in Chemistry (with E. M. McMillan). In 1947 he was named by the U.S. Junior Chamber of Commerce one of America's ten outstanding young men. For his outstanding work in the field of nuclear chemistry and for his leadership in scientific and educational affairs, he was awarded the Atomic Energy Commission's 1959 Enrico Fermi Award. In 1962 he was named "Swedish American of the Year" by the Vasa Order of America in Stockholm, and in 1963 he received the Franklin Medal of the Franklin Institute of Philadelphia. The Pacific Science Center, Seattle, recognized his vast contributions to the public understanding of science by selecting him for the 1968 Arches of Science Award. He has been honored by the American Chemical Society with the Award in Pure Chemistry (1947), William H. Nichols Medal (1948), Charles Lathrop Parsons Award (1964), and Willard Gibbs Medal (1966). Dr. Seaborg holds honorary degrees from more than 30 educational institutions.

In 1959 Dr. Seaborg was instrumental in inaugurating the Chemical Education Material Study (CHEM Study), the high school Course Content Improvement Study of the National Science Foundation, and has served continuously since then as Chairman of its Steering Committee. Since 1966 he has been president of Science Service, Washington, D.C., an organization devoted to the popularization of science.

His many activities include membership on the Federal Council for Science and Technology, National Aeronautics and Space Council, National Council on Marine Resources and Engineering Development, Scientific Advisory Board of the Robert A. Welch Foundation in Houston, board of directors of the National Educational Television and Radio Center in New York, board of trustees of Pacific Science Center Foundation in Seattle, and Advisory Board of Nova University in Fort Lauderdale.

He is the author of more than a dozen books, many of which have been translated into foreign languages. He has published over 200 scientific papers on the transuranium elements, artificial radioactivity, nuclear physics and chemistry, high energy nuclear reactions, as well as the compilation of complete tables of isotopes, and a comprehensive article on "Elements Beyond 100, Present Status and Future Prospects" in the 1968 Annual Review of Nuclear Science.

He organized and was the chief participant in the National Educational Television series of ten half-hour films on *The Elements*, produced in 1957 and still widely used in high schools throughout the country.

Dr. Seaborg is a member of the leading national and international scientific societies, including the National Academy of Sciences, American Academy of Arts and Sciences, American Chemical Society, American Physical Society, American Nuclear Society, American Philosophical Society, Royal Society of Arts (England), Royal Swedish Academy of Engineering Sciences, Bavarian Academy of Sciences, Argentine National Academy of Sciences, Spanish Royal Academy of Sciences, honorary fellow of the Chemical Society of London, and the Royal Society of Edinburgh.

Dr. Seaborg is married to the former Helen L. Griggs; they have six children.

He is an ardent sports fan. His favorite spectator sports are football and baseball. His recreational interests include hiking and golf. From 1953 to 1958 he served as Faculty Atheletic Representative of the University of California, Berkeley, to the Pacific Coast Intercollegiate Atheletic Conference.

ADDITIONAL STATEMENTS OF SENATORS

DECREASING VALUE OF DEFENSE DOLLAR

Mr. STENNIS. Mr. President, the Senate in a few days will begin the debate on the annual authorization legislation for military hardware and research and development. The bill proposes an authorization of $19.2 billion and represents a 6.7-percent reduction by the committee. The purpose of my remarks at this time, however, is not to discuss the details of this legislation, which as we all know will be the subject of debate for a number of weeks and will cover the hundreds of items in the bill, together with a number of amendments which will be offered on the Senate floor.

I would only emphasize that the committee is recommending to the Senate an austere authorization, one which in my opinion will be the lowest possible dollar level consistent with the necessity for providing the weapons for our national survival. In reducing this bill below the budget request, which was described as rock bottom, the committee was keenly aware of the many problems facing the Nation: the severe financial condition of the Federal Government, the growing unpopularity of the Vietnam war, our many domestic problems, the inflationary trend of our national economy generally, and the highly significant fact that our total Federal budget while increasing in dollar amounts is failing to keep pace with the many demands on the Federal Government.

The purpose of my remarks today, Mr. President, is to point out, first, the declining share of the defense dollar within the Federal budget, and, second, the very severe effects of inflation on the defense budget since 1964.

REMOVAL OF MISCONCEPTION

Mr. President, I want to remove a widespread misconception that relates to the defense dollar and what has occurred since 1964 with respect to the defense budget as a whole.

Contrary to popular belief, the defense proportion of the total Federal budget is decreasing. From fiscal year 1964 to fiscal year 1968 total Government spending rose by 50 percent and I might add that in the President's budget forecast another increase of 12 percent is projected by the end of fiscal year 1971. In other words, from fiscal year 1964 through fiscal year 1971, total Government spending will have increased by 62 percent.

On the other hand the expenditures of the Department of Defense from fiscal year 1964 through fiscal year 1971 are expected to increase by 41 percent as compared to 62 percent for the Government as a whole. Dollarwise defense spending in fiscal year 1964 was $50.8 billion compared to $71.8 billion for fiscal year 1971.

In summary, Mr. President, from fiscal year 1964 through fiscal year 1971, discounting inflation and pay increases, over 90 percent of the increase in Federal spending has gone to non-defense Federal agencies.

Another significant and related fact is that since fiscal 1968 the Federal budget as a whole has grown very little except for inflation. In terms of actual dollars the fiscal 1968 budget was $178.9 billion. This same figure for fiscal 1968 would amount to $201.2 billion on the basis of fiscal 1971 prices and pay raises. Mr. President, the actual dollar outlay, for the Federal Government for 1971 is forecast at $200.8 billion.

INCREASES SINCE FISCAL YEAR 1964 NOT DEVOTED TO INCREASE HARDWARE FUNDING

Mr. President, as I have indicated above, defense spending will increase by $21 billion from fiscal year 1964 through fiscal year 1971. This increase of $21 billion, however, has not resulted in an increased level of effort in terms of modern weapons and increased capability for our Armed Forces. Let me itemize for the Senate just how this $21 billion will be utilized in fiscal year 1971.

First. The sum of $8 billion represents price increases in the thousands of items the Department of Defense must purchase annually; that is, it represents pure inflation since fiscal year 1964.

Second. Another $8 billion represents pay increases for military and civilian personnel. These increases assume the same number of military and civilian personnel that were on the rolls in fiscal year 1964.

Third. Another $2 billion reflects the increased annual retired cost which now totals $3.2 billion.

Fourth. An additional $2.3 billion represents the cost of the increased number of personnel, military and civilian, now on the rolls since fiscal year 1964.

Mr. President, in round figures this totals $20.3 billion. This total allows for no increase in the level of hardware procurement, modernization or otherwise over fiscal year 1964. I am advised by the Department of Defense that as compared to fiscal year 1964, there is an increase in our annual spending for all elements of defense other than personnel in fiscal year 1971 of only $700 million.

IMPACT OF INFLATION AND PRICE INCREASES ON HARDWARE AND RESEARCH AND DEVELOPMENT

Mr. President, it is important to understand that, despite what appears to be an increasing dollar level for military hardware and research and development, we are falling behind in terms of timely modernization of our Armed Forces.

For example, the amount enacted for the fiscal year 1964 authorization was $14.4 billion.

However, in fiscal year 1964 there were certain programs which did not require statutory authorization that are now included in the statutory authorization process. These include portions of the research and development programs, tracked combat vehicles, and the term "other weapons." If these additions had been included in 1964 the authorization for that fiscal year would have been $18.9 billion. This total should be compared to the $18.9 billion being recommended for fiscal year 1971 in the bill now before the Senate, exclusive of the $334 million being recommended for Safeguard construction.

Mr. President, I fully realize that dollar comparisons and budget figures are often dry and uninteresting, but I cannot overstress the fact that the severe and serious effect of inflation on the defense dollar is revealed by these comparisons.

At fiscal year 1964 prices—this is eliminating inflation and price increases—the fiscal year 1971 authorization would be $15.2 billion. This is a reduction of almost 20 percent from fiscal year 1964, the last prewar year.

Discounting inflation and price increases, the authorization recommended for defense for fiscal year 1971 is the lowest since fiscal year 1961 for comparable coverage. I find no basis to support an allegation that defense is continually increasing. The facts, when put on an equal basis, are quite the opposite.

INCREASED PRICE OF MILITARY HARDWARE

Mr. President, there is yet another aspect of this year's request that the Senate should be aware of. Put simply, not only has the buying power of the defense dollar been reduced, but the individual costs of military hardware are sharply increasing. This means that for the same dollar, we are able to buy less in quantity. To illustrate:

First. The Air Force is buying less aircraft in fiscal 1971 than in any year since 1935, and over half of these aircraft are designated for use of other nations of the free world.

Second. The Navy is buying less aircraft in fiscal year 1971 than in any year since 1946.

Third. From 1964 to 1971, the cost of the Air Force F-4 Phantom jet is up 104 percent.

Fourth. From 1964 to 1971, submarine sonar systems are up 159 percent.

Fifth. From 1964 to 1971, the Tartar antiaircraft missile launching system used on Navy ships is up 53 percent.

For some time now the requirements for funds to support the Vietnam war has been sufficiently urgent to cause the modernization of the Armed Forces to be postponed. It is significant that the Soviets are not neglecting their forces. The Soviet advances in strategic systems, new aircraft, and the second greatest Navy in the world are mute testimony to their continued emphasis on military superiority. Program by program, system by system we have seen rapid progress by the Soviet Union, and their momentum shows no sign of slackening.

I am convinced that today the United States has a superior military force. I am equally convinced that we can no longer delay the needed modernization of our forces. It would be criminal, indeed, if we did not match the high professionalism of our American servicemen with the latest and best equipment.

Mr. President, the pay of personnel and personnel related expenses now account for about 60 percent of defense spending. I believe that any significant reduction in defense spending will largely come from a reduction in the size of our forces. I am for a smaller force, but, in my opinion, modern equipment and a strong technological base are essential to any force reduction.

The $20.3 billion defense authorization request for fiscal year 1971 has been described by Secretary Laird as "rock bottom." Nevertheless, the committee is recommending a reduction of $1.3 billion to that request. The authorization recommended by the committee is adequate to cover only the most essential requirements.

TESTIMONY OF SENATOR KENNEDY BEFORE COMMISSION ON CAMPUS UNREST

Mr. MANSFIELD. Mr. President, the hearings of the President's Commission on Campus Unrest got underway this morning. The first witness was the able and distinguished assistant majority leader, the Senator from Massachusetts (Mr. KENNEDY). Senator KENNEDY's testimony exhibited a great deal of insight and perception regarding the grave and highly important matter under consideration by this Commission. I commend his statement to the attention of all Senators and ask unanimous consent that it be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR EDWARD M. KENNEDY BEFORE THE COMMISSION ON CAMPUS UNREST

Chairman Scranton, distinguished members of this Commission, I am honored to appear before you this morning and to have the opportunity to participate in the public phase of your proceedings.

I am especially pleased that the Commission is conducting part of its investigations in public. In spite of the strong pressure you face if the October deadline for your report is to be met with constructive analysis and recommendations, I believe it is absolutely vital that the work of the commission not only be of the highest quality, but that it be seen to be so.

More than any of the distinguished public and private commissions that have preceded you—especially the Crime Commission, the Commission on Civil Disorders, the Violence Commission and the Columbia Commission—your national mandate to identify the causes of our recent campus violence and to recommend methods to insure an effective atmosphere for education goes to the heart of the only future America has—our youth.

Today, sadly, neither the President nor any of the highest officials of his Administration can travel freely to the campuses of our country. Of all the deep concerns that plague the nation today, perhaps the deepest is the isolation of our leaders from our youth, the alienation of our present from our future.

The scream of the young girl kneeling beside her dead friend on the grass at Kent State is the scream of America. That terrible scene—and the photograph of the national guard firing wildly into the Kent students and the bullet-riddled Jackson dormitory, have become symbols of the tortured spirit of America, just as Picasso's "Guernica" and Goya's painting of the firing squad in Madrid transformed lonely killings in the past into timeless symbols of man's brutality to man.

We are surrounded by the signs of urgency of this Commission's investigation:

The most recent Gallup Poll indicates very clearly that the American people see campus unrest as the number one problem facing the nation, outdistancing even the Vietnam war and racial strife. Obviously, because the campuses are now quiet in their summer season, and because the poll was taken in May, at the height of the national outrage over the killings at Kent State and Jackson State the figures may be high. Nonetheless, the results are dramatic, and ominous in their implication for further unrest when classes resume in September. The recommendations of the Commission can be issued none too soon.

The number of great universities that have experienced severe disorder or unrest has increased dramatically in recent years. Berkeley and Columbia, Harvard and Yale have been joined by Kent and Jackson, and by Middle America. No longer is it possible to dismiss a campus disturbance as a manifestation of unique local factors. In spite of obvious differences, a common thread runs from campus to campus, whose dominant feature is the apparent collision between the irresistible force of youth and the immovable object of faceless and unresponsive institutions at all levels—Federal and local, public and private, business and academic.

The divisiveness of student confrontations has spilled over beyond the gates of the campus and into the community at large. The wounds opened in society by the street fighting on Michigan Avenue in 1968 and Wall

Street in 1970 have not yet begun to heal. Even when they do heal, the scars they leave behind will be solemn reminders of the abyss of anarchy into which we have gazed.

In my testimony today, I would like to touch on a number of related aspects of the crucial problem of campus unrest.

The first and most important point is that we cannot treat the problem of campus unrest in isolation, divorced from its central relation to the war in Southeast Asia. It is no coincidence that the age of campus unrest coincides almost precisely with the escalation of American involvement in Vietnam. It is no coincidence that the killings at Kent State came hard on the heels of our invasion of Cambodia.

The problem of campus violence cannot be solved by the resort to self-contained principles like the need for law and order, or the preservation of academic discipline. The problem must be seen in the larger political context of our society itself, the central fact of which is the war in Vietnam.

I urge this Commission not to back away from its own confrontation with the issue of the war. An analysis of campus unrest cannot look solely at the acts of students as disruptive and lawless. The analysis cannot omit Vietnam. It cannot ignore the central fact that the presence of the war has eroded the faith of all our citizens—and especially our youth—in the ability of our government and institutions to do the things that must be done.

I and all other Americans lament the wave of recent violence and destruction on our campuses, but we cannot confine the issue solely to the campus. We must treat it also as a reflection of the larger unrest in our society as a whole.

However, idealistic our hopes may be, none of us can reasonably expect our universities to be spared the disruption that permeates so many other aspects of society. A living university is a vital institution that exists in the real world. It does not float calmly in the ideal world of the platonic dialogue. The arena of the university is preeminently the place where problems are solved through rational discussion, but it is also a place that mirrors all the aspirations and frustrations of society.

Any one of us who has visited a campus in recent years knows the tensions that exist between the active life and the contemplative life. For students, however, the disparity between the real world and the ideal world goes especially deep, and feeds the frustrations that lead inexorably to unrest. They are the ones who face the draft. It is their friends who are dying in the war. It is their lives and careers that are being disrupted. They are disillusioned by the gap between the performance and the rhetoric of the Administration. They have lost faith in the ability of government and society to end the war, to bring the races together, to heal the economy, to help the Indians, and to preserve the environment. To deny or ignore this simple truth is to be wholly out of touch with the situation on every campus in America.

It may well be that in the nature of things, there can be no solution to the problem of campus unrest until there is a solution to the war in Vietnam. It may well be that the only line in the Commission's report that will have any real meaning for our colleges and universities is the line that reads "This war must end".

The second point I would like to make is that although the war may explain the present atmosphere of campus unrest, it cannot condone the violence and vicious confrontations that have become the hallmark of too many campus demonstrations. No amount of deep concern or commitment to a cause can possibly justify the wanton acts we have seen on campuses across our nation in recent weeks. This spring alone, professors have been violently assaulted at Connecticut, their homes vandalized in Wisconsin, manuscripts of their life's work destroyed at Stanford. ROTC buildings have been burned to the ground at Kent State and firebombed at Penn State. On many campuses the very functioning of the university has been made impossible by senseless acts and threats of violence.

We know that some societies and institutions can be closed, so unresponsive, that change can never come except by the use of force. But this is not the case with the universities of America in 1970. No amount of impatience for faster change or frustration with existing policy can possibly justify the cruel violence and brutality we have seen on campuses in recent years. Violence cannot be condoned. It must be contained. There is no need—no need whatever—for anyone to resort to the path of the brick or the bomb.

As the Violence Commission eloquently put it last June in its statement on campus unrest, "All history teaches that as a conscious method of seeking social reform, violence is a very dangerous weapon to employ." Violence feeds on itself. It breeds reaction and repression. Invoked for the best of causes, it produces counter-violence for the worst of causes, and mortally endangers the very goals for which it is invoked.

Too often, it is said, liberals see America as stolid and inert, dehumanized and incapable of change. They think you've got to shake America until the teeth rattle, kick it until the parts start moving.

Our greatest leaders have had a different view. They see America as a fragile society, stretched tense by our historic deep divisions and antagonisms. They recognize that the fabric of America can be easily torn, our liberties lost, if the constant struggle between change and repose becomes too passionate, and unleashes the spectre of violence and destruction.

It is clear, however, that if the tendency to violence is the most serious danger of today's college generation, it is not the only criticism.

Today's generation of students has all the virtues and vices of youth. At their best, as the Columbia Commission found, the present generation of young people is the best informed, the most intelligent and the most idealistic the country has ever known. They are sensitive to public issues, and they have a sophisticated sense of social and political conscience. Their role in issues like Vietnam and civil rights and voter registration is well known. In hundreds of respects, they have set far-reaching example of insight and commitment for us to follow.

At their worst, they are impulsive and arrogant, often wrong, but never in doubt. They are too willing to make the nonnegotiable demand, to insist that their own sense of values and events must be embraced by everyone. At their worst, they are ungenerous and rash in the motives they impute to others. Professors and administrators who are well-motivated are too often seen as villians, too often condemned as unscrupulous manipulators of the status quo, instead of as individuals genuinely concerned, trying to muddle through in a complicated world. Too often, in the metaphor used by Alfred North Whitehead to describe the difference in philosophy between himself and Bertrand Russell, students see the world at noon under a cloudless sky, when others see it at dawn on a misty morning.

This said, however, we must also keep in mind that the violent excesses of students in recent weeks appear to have been the work of only a tiny fraction of the student body at any campus. This may be an area where the Commission can make a lasting contribution. It can attempt to assess the relative proportions of students among the passivists, the peaceful activists, and the violent activists.

It is also worth remembering that in the America of recent weeks, the most destructive campus violence has not been student violence. It has been official violence—the official violence of the National Guard at Kent State, the official violence of the Highway Patrol at Jackson State. Who of us, seeing American students slain on the playing fields of this university, does not also see My Lai, with its defenseless Vietnamese civilians cut down by the official violence of American troops?

The most immediate task of the Commission is to investigate the tragic events at Kent State and Jackson State. It is absolutely essential for the Commission to find the facts and identify the principal causes of the killings at those two campuses. Chairman Scranton and Mr. Rhodes have already indicated their determination to get to the root of those tragedies and to develop recommendations to prevent them from recurring. Only by succeeding in this task can the Commission fulfill its mandate and maintain its credibility with the American people.

Last May, immediately after the killings at Kent State, many of us in Congress recognized the need for a full, candid, and objective inquiry into the facts of that tragic day. The questions on the mind of every American demanded answers. Who gave the order for military rifles to be fired at unarmed civilians? Were the Guardsmen shot at before they fired? What kind of training and instruction did the Guardsmen receive on the use of deadly force? What effect on young Americans and their feelings of frustration and dissatisfaction and alienation did the statements about them from high government officials have?

What was the impact of such statements on the Guardsmen in their attitude toward the demonstrating students? What is the proper means of handling violent campus disorder? What limits and conditions should be placed on the use of deadly official force on the campus?

The fatalities at Jackson State made even more pressing the need to re-examine the whole approach to the official handling of campus gatherings and outbreaks of campus disorder.

It was with these questions in mind that many of us, including Senator Mansfield, the Senate Majority Leader, urged the President to establish a high-level non-partisan Commission to inquire into these tragedies and to make recommendations that would preclude them from ever happening again.

From the general survey now being undertaken by my Senate Subcommittee on Administrative Practice and Procedure, it appears to me that the National Guard at Kent State was in direct violation of the standards set forth in the Army Field Manual under which all National Guardsmen are trained. Those standards prohibit firing of weapons where innocent persons may be killed or injured. Those standards require that all other means be exhausted before deadly force is used. Those standards require that if sniping occurs, specified trained marksmen respond with precision fire aimed at identified sniper targets. They would have required that the Guardsmen shoot to wound and not to kill. If those standards had been followed in the past, Kent State could not have happened. If those standards are followed in the future, no more Kent States can happen.

The problem, however, is that each state's National Guard operates under the control of the State Governor. Under present practices, each State can formulate its own rules for the use of deadly force, which may or may not be consistent with the national standards. In some states, the National Guard rules seem to encourage the use of weapons. In other states the rules are even stricter and more explicit than the Army rules.

In a recent letter to the President, I have expressed my deep concern with these disparities. I have urged him to use all the powers of the Department of Defense to bring the criteria for the use of deadly force by the National Guard into line with the Army's Field Manual. I have also suggested certain changes to clarify and update the Manual, and to coordinate the activities of law enforcement and military agencies that may be operating at the same time in the same area. I would be pleased to provide this Commission the materials I have assembled on this subject. The reality of campus violence makes it essential that we consider this distressing problem thoroughly before another tragedy occurs, rather than be forced to consider another tragedy.

My third point is that we must not allow our concern over campus unrest to obscure the important positive contribution that students have now begun to make to the political process in America. Historians of the future may well record that in the spring of 1970, the six year tide of campus disturbance that began at Berkeley in 1964 finally began to recede. Student activism has begun to take on a new and far more constructive dimension. On campuses across the nation, the student body as a whole is beginning to take over the center stage from the radicals. The ranks of the uncommitted have shrunk. More and more of our youth see that the system can change, and are caught up in the peaceful movement to accelerate the change from within.

It is fair to say that for a large number of college students across the nation, final examinations this year were held in Washington, D.C., instead of on the campuses of their universities. In my opinion and in the opinion of many others in Congress, the students passed with high marks—higher marks than we in Congress in good conscience could give ourselves for our activities over the past year.

Never before in my years in public life have I seen democracy in America come so alive, with so much constructive passion and energy, as it has this spring in the halls of Congress and on the steps of the nation's Capitol. At the very moment when the invasion of Cambodia had plunged the nation into despair over the wisdom of the mind of its leaders, we saw the wisdom of the hearts of the people, especially our students.

Thousands of students who came to Congress to voice their protest have taken the trouble to inform themselves of the facts and the background of the war. Their intellectual analysis of the war is often highly sophisticated, even among the most radical students and activitists. Townsend Hoopes is sweeping the campus today the way J. D. Salinger did in the Fifties.

The role of the graduate students has been especially impressive. Five years ago, it was largely the undergraduates who first took up the call for peace. The center of college activism was the undergraduate campus. The graduate schools were bastions of apathy and reaction. Now, the undergraduates of 1965 are enrolled in the graduate schools. They have carried their activism and commitment with them, to the benefit of new generations of undergraduates and the entire university community.

As a result, the discourse about the war has been continuously refined at successively higher levels. Through coordinated activities like the Southeast Asia Program at Cornell and similar programs at other universities, students and faculty have been extremely resourceful in researching and analyzing our involvement in Asia, and documenting the manner in which our political system has responded to that involvement. They have gone to the heart of the problem, they have researched it well, and they have come up with thoughtful answers and positions.

Equally important, it is frequently the best students who are involved in these constructive campus activities. Of course, not all of the best students are activists, and there is often a large amount of faddishness and modishness in such pursuits. But nonetheless, the fact remains that to a large extent the best students of today—the leaders of tomorrow—are not just in the college libraries learning the traditional disciplines. They are also working to understand and helping to solve the great issues of our time—not just the war but issues like race, crime, health, education, pollution and all the other problems that trouble our society.

I see great hope in this development. We can begin to close the generation gap that has opened wide in recent years in our society. Instead of watching the generation fly apart from one another, we can combine our resources in a bold effort together, based on mutual understanding and respect.

The fourth point I would like to make is that even though much of the present campus disorder is the direct result of wanton student acts, faculty and administrators must also share some blame.

The member of the faculty who promotes campus unrest as a way of pandering to student popularity is behaving every bit as irresponsibly as the most outrageous student. We cannot be blind to student excesses, but neither can we condone the aggravating acts of those who blindly seek and follow student passions.

Another major factor contributing to the current polarization in our universities is the disposition of too many faculty and administrators to respond to complex problems by invoking simple principles, instead of seeking real solutions. We all pay homage to the great principles by which our universities have always been governed, but we must also recognize that the principles are often abused. The cry of "academic freedom" or the "distinterested pursuit of knowledge" can only be the beginning of analysis, not the end. No university ever solved a serious crisis by hiding behind a statement of serious principle.

Even the most revered principle on which the life of a university is founded can become politically provocative when it is hoisted as a flag by a professor or college president, with the expectation that dissident students will salute it.

More likely than not, if the principles are legitimate and their applications are pursued in a reasonable way, the university will see that the principles are not under attack at all. When students at a university demand a program of studies relevant to contemporary social issues, it is not enough for the faculty to reject it on the ground that the university would be politicized, or that the principle of the university's disinterested pursuit of knowledge would be violated.

America's seven million college students well know that this sort of retreat to the shelter of abstract principle is highly artificial. It fails to acknowledge that the university exists in the real world, that the university is a very imperfect place where the purity of an intellectual principle can seldom be achieved in practice.

Almost everywhere that students look in the university curriculum—law, medicine, engineering, agriculture, government, business, ROTC, defense-research—they clearly see the involvement of their university in areas that can hardly be called the disinterested pursuit of knowledge. Frequently, the university is the largest employer or landowner in the community. The wage scales and housing patterns it sets may affect the life of every citizen in the community. In countless ways, the University is involved in the problems of society and is working for their solution.

Obviously, a particular social studies program can fulfill the sort of need for one segment of the community as, say, an agriculture studies program fulfills for the farm community. The problem is that, in using the principle of academic purity to deny the request for a social studies program, the faculty is making a selective invocation of the principle. It is applying a more rigorous standard of university purity to social studies than it applies to programs already existing in other areas. In reality, the request of the students is not so much a threat to the principle of academic purity—which is honored more often in the breach than in the observance—but a threat to the status quo and the complacency of the university.

Almost always, the university's resort to principle is a simplistic response to a situation perceived as a threat. I believe that this response is a product of inadequate analysis and confusion in people's minds. It is not at all the sign of administrative malice or duplicity that too many students are willing to see. The same faculty member who defends the principle of disinterested pursuit of knowledge by the university often sees nothing inconsistent in defending an ROTC program as part of the university's obligation to help the nation train its officers. Obviously, this sort of posturing within the university is a flaw in the very ideal for which the university stands—the fair analysis and application of principle—and the sooner the flaw is perceived the sooner it will be cured.

I have no answers here to the great questions of the changing role of the university in our society, but I believe that we cannot be content with code words like academic freedom or intellectual purity. The eloquent statement of an abstract principle will never solve a concrete crisis, and the earlier our faculties and administrators learn this elementary political lesson, the closer we will be toward finding a real solution to the problem.

At bottom, the question is not *whether* the university should be socially oriented, but *what* the social orientation should be. Just as the most crucial issue facing us in Congress is the reordering of national priorities, so the most crucial issue facing the university is the reordering of academic priorities. To a large extent, in raising this issue, students are filling a faculty vacuum. They are reflecting the mood of the nation as a whole when they challenge the university's traditional priorities, especially the imbalance between defense-related activities and contemporary social programs. Ralph Nader has a valid point when he asks MIT why it has so many dollars in funds for defense research, but so little for auto safety.

The same confusion surrounds the principle of academic freedom. Too often today, the legitimate invocation of the principle against certain kinds of intolerable, unreasonable, and disruptive student pressures shades off into a general lament over the politicization of the university, a form of nostalgia for a sheltered university that has never really existed.

Our greatest universities have always been forums of robust debate and intense legitimate pressures. The crucial question is not *whether* the universities should be under pressure, but *at what point* the pressures become illegitimate and repressive. Just as the public laws of a civilized society are called the wise restraints that make men free, so the reasonable pressures of the university create the nourishing tensions in which academic freedom can truly flourish. One of the great tasks of this Commission, therefore, is to give us guideposts by which the meaning of principles like academic freedom and intellectual purity can be understood and applied, while maximizing the opportunity for peaceful protest and dissent.

and minimizing any interference with the ongoing processes of education at the university.

The final point I would like to make is that I believe the Commission should give special emphasis to ways to prevent campus disruption before it begins, rather than merely dealing with disruption already in progress.

Clearly, as I have already indicated, the Commission must address the difficult problem of containing campus violence, especially the sensitive question of the relationship between the university and the local police or the national guard. To me, however, once a campus degenerates into bloodshed and violence, it has already deteriorated into a situation of despair. The real issue is how to develop the sort of early warning system that is necessary if the university is to have the opportunity to prevent events from disintegrating into serious violence.

The Commission on Civil Disorders was able to distill a general profile of the riot process from its extensive studies of the racial disorders in American cities in the summer of 1967. The Commission observed many similarities in that riot process from city to city, and found that virtually every major episode of violence was foreshadowed by an accumulation of unsolved grievances and widespread community dissatisfaction with the unwillingness or inability of local institutions to respond.

We need the same sort of profile of campus unrest. In spite of the unpredictable variations that will inevitably exist from campus to campus in the interactions between students, faculty, administrators, and local authorities, it is my hope that the studies of this Commission will be able to extract the similarities that exist in situations of developing campus unrest. Perhaps only in this way can we acquire the sort of concrete knowledge we need to understand the problem.

In large part, I suspect—because our level of knowledge is so low—it is still a matter of chance that one or another university has so far escaped the ravages of real violence. For example, in spite of the popular image of Cornell as a bloody campus—in spite of the student guns and isolated acts of destruction—that university has managed to avoid the mass violence that has come in recent years to Berkeley, Columbia, and Harvard. Often—and Kent State is a classic instance—what happens hundreds of miles away in Washington or thousands of miles away in Indochina may be far more directly related to the incitement of campus violence than any act or omission at the university itself.

At the same time, as the lesson of Yale suggests—a campus caught by chance in the throes of a Black Panther trial—an attitude of responsiveness and receptiveness by an enlightened university administration to the needs and passions of its students can do much to stem a tide of threatening violence, whatever the source.

There are many concrete steps that colleges and universities can take to help make the university community into the sort of society that is essential if it is to continue to function and effectively prevent disruption by violence. A year ago, the report of the Violence Commission urged the universities to establish codes of acceptable conduct for the presentation of ideas and redress of grievances, and to prepare contingency plans for dealing with campus disorders, so that trained police are brought onto the campus as a reasoned response to obvious necessity, not, as at Harvard or Jackson State, as a reflex response to the first breath of insult to the university by a student group.

Leaders like President Brewster of Yale have begun to move their universities in the direction of more open channels for the communictaion of grievances and dissent, better publication of the reasons for important university decisions, and greater public accountability by the university to its entire constituency—not just to the faculty alone, but to students, alumni, and the community at large.

These are the challenges that our colleges and universities face today, if they are to move with the tide of change. We must reject the path of stagnation. We cannot simply hold our finger in the dike, blindly resisting the overwhelming force of change. If Americans can walk the surface of the moon, then we can end the war in Vietnam. We can heal the wounds of our campuses and build a stronger university for the future.

If we succeed, the tragic deaths at Kent State and Jackson State will not have been in vain. 2500 years ago, Aeschylus, who fought at Marathon, gave us these immortal lines:

"I pray for no more youth
To perish before their prime;
That Revenge and iron-hearted War
May fade with all that has gone before,
Into the night of time."

This is the prayer that we must make our own.

AMERICAN PRISONERS OF WAR

Mr. GRIFFIN. Mr. President, the great English poet, Walter Savage Landor, once wrote that, "delay of justice is injustice." Surely, the delay and refusal of North Vietnamese authorities in abiding by the most elemental provisions of the Geneva Convention with respect to the treatment of prisoners of war is the most savage injustice of all those they have inflicted on these helpless men.

THE NEWS MEDIA—OUR MOST SERIOUS ENEMY

Mr. ALLEN. Mr. President, Mr. Sam Engelhardt is one of Alabama's most distinguished citizens and public servants and a valued personal friend. He has called my attention to a column by the nationally syndicated columnist, Henry J. Taylor, published in the influential Dothan, Ala., Eagle, on July 9, 1970.

Mr. President, Sam Engelhardt has written to me in part as follows:

> I believe that the news media is our most serious enemy and will eventually destroy us if not reined in.
>
> You have been in politics long enough to know what they can do. We will all appreciate your efforts to stop their brainwashing. . .

Mr. President, the column referred to provides facts to support the above conclusion of my friend Sam Engelhardt. I ask unanimous consent that Mr. Taylor's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NETWORKS PRESENT ADULT TV MOBSTERS

NEW YORK.—Infiltrated CBS, NBC and ABC still push on us such individuals as William Kunstler, attorney for the convicted Chicago 7, under the subterfuge, as usual, of "news."

Mr. Kunstler attended an Oakland, Calif., conference conducted by the Black Panthers. He stated in reference to the death of white policeman John Gleason in Plainfield, N.J., "The crowd, justifiably without the necessity of a trial, and in the most dramatic way possible, stomped him to death."

The William Kunstlers, et al., pushed into out nation's homes on TV, who proudly proclaim they are revolutionists are not just hot-headed "generation gap" youngsters. They are adult mobsters with coordinated plans and defined goals.

AT EVERY TURN

Meanwhile, while criminals and their propaganda are literally featured at every turn by infiltrated CBS, NBC and ABC, the excellent, police-oriented programs, "The F.B.I." and "Adam 12," have been dropped.

This column has asked several times whether you think it's a coincidence that anybody—literally anybody, some anonymous person who is certainly not newsworthy at all—can achieve a nationwide TV news spot if he is condemning the United States, a university, the ROTC, any of our respected institutions, a judge in some courtroom, the American flag or the forces of law and order. Why?

Or if there is fighting in our streets, in even some little town, you can be sure the TV cameras will somehow be there. You can be equally sure that you can predict the ending: policemen clubbing people—with the provocations usually omitted—and, in the closing shot, dragging bleeding people away.

ANARCHY TAUGHT

The anarchy that many people taught on TV they are practicing. "Teach anarchy and violence to the young," said Lenin. The respected National Association for Better Broadcasting reports that the average American child during the ages of 5 through 16 is subjected to 21 hours a week under the influence of TV.

The mayhem watched is now so immense that before reaching 16 this average child witnesses some 12,000 TV deaths. In one week, in just one city, TV stations showed nearly 800 acts of violence.

How can so many among us be blind to the profound helpfulness of all this to the Communist masters?

Anarchy—monumental anarchy—is on the planning boards in Moscow. The Kremlin men know that internal demoralization plus external encirclement, reinforced by nuclear blackmail, can equal overt or covert surrender.

The explosion of the first Soviet nuclear bomb in 1949 was the beginning of a redistribution in the balance of power. The Moscow center of worldwide Red manipulation has achieved a military stalemate.

STRIKE AT AMERICA

Everywhere I go in the world the Communists live on the prestige of violence. Read today's dispatches from anywhere. By their conspiracies, their power grabs, their fifth-column groups, their propaganda of local terror, their clever appeals to people who do not know they are serving the Red cause, they strike at America from the inside. We are the chief target for the United States is the only country the U.S.S.R. fears.

Russia does not intend to lick America, or even to fight America. Russia does not want actual war with us. Russia does not intend to have it. War with atomic-armed America would hurt Mother Russia. They are not fools. "They have very canny brains," as President Nixon himself once said.

The Kremlin masters have a better idea. They expect us to lick ourselves. They expect us to knock ourselves out in our own gymnasium.

The Moscow planners are pursuing this idea every hour of the day and night. They know that the key to our world power is our home power. If our home power is lost our world power is lost. Everything the Kremlin masters do and say today is dedicated to cracking America's solidarity and sense of greatness.

This is why the constant, relentless TV featuring of the William Kunstlers, et al., and the steadily repeated TV violence are the greatest things that can happen for the Kremlin masters—really hitting the U.S.A. jackpot, sweeping the board of the winning stakes and breaking the bank all in one.

TV is the most powerful medium any civilization ever had. Don't the TV stations, getting a free ride on the public's airwaves, have any responsibility at all?

NO U.S. GROUND FORCES IN LAOS

Mr. GOLDWATER. Mr. President, during my colloquy yesterday with the Senator from Wisconsin (Mr. Proxmire), I may have left the impression that the United States has ground forces in Laos. I should like to clarify at this time that what I meant was that our ground forces in Vietnam were greatly benefited by the tactical bombing of the Ho Chi Minh Trail in eastern Laos and that the airmen conducting this bombing used information supplied by ground sensor systems.

It is unfortunate, Mr. President, that such an inadvertent comment on my part should be seized upon by newsmen who prefer to believe that there is some deep, dark mystery about the disposition of our ground forces in Indochina. I can assure everyone that, so far as I know, President Nixon has been completely honest and above board on this subject; and I certainly do not possess any information to the contrary.

So at this time I want to make it absolutely clear that I did not in any fashion want to imply in my remarks yesterday that the United States is maintaining a ground force in the country of Laos.

THE FLOOD OF TEXTILE IMPORTS

Mr. HOLLINGS. Mr. President, today I received a petition from the legislative delegation of Spartanburg County, S.C., urging our Government to act swiftly to halt the flood of textile imports which have been so damaging to the American textile industry and to textile jobs. In recent months we have lost hundreds of vital textile jobs in my home State. There can be no doubt that the deteriorating situation for the American textile industry can be directly attributed to the increasing import problem.

The resolution from Spartanburg County succinctly summarizes the extent of the crisis. I commend it to Members of the Senate so that they may better understand the necessity to act now and delay no longer. I ask unanimous consent that the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution of the Delegation to the South Carolina Senate From Spartanburg County and the Members of the House of Representatives of South Carolina From Spartanburg County

Whereas, the textile industry is of vital importance to all the people of Spartanburg County, and the State of South Carolina, thousands of families being dependent upon employment in that industry, and

Whereas, since World War II the United States Government has expended billions of dollars to re-establish the textile industry in foreign countries so that for years the textile industry of the United States, and particularly the State of South Carolina and Spartanburg County, has suffered economically from the importation of foreign textiles, and

Whereas, the situation caused by unrestricted textile imports has become critical in the area represented by the undersigned, resulting in the closing of textile plants, unemployment, and layoffs, so that the people of this area and the economy of this State should no longer be sacrificed to Japan and the industrial nations of the Far East. Now, therefore,

Be it resolved, that the Delegation to the South Carolina Senate from Spartanburg County, and the members of the House of Representatives of South Carolina from Spartanburg County, do hereby urge the United States Congress and the Executive Branch of the United States Government to firmly support, enact and execute import quotas upon textiles, restricting the importation of textiles from other industrial nations by decisive and effective legislation, strengthening and restoring the textile industry of this Nation and the State of South Carolina.

Be it further resolved, that this Resolution be delivered to the President of the United States, United States Senator Strom Thurmond, United States Senator Ernest F. Hollings, and United States Congressman James R. Mann and United States Congressman Wilbur Mills.

HATFIELD COMMENTS ON STUDENT DISSENT

Mr. SCHWEIKER. Mr. President, the distinguished Senator from Oregon (Mr. Hatfield) spoke recently before the Oregon Fire Chiefs Association. Some of his remarks dealt with legislation of interest to the fire chiefs, but Senator Hatfield discussed at length the question of student unrest and dissent.

As a former college dean of men and one who speaks on many campuses across the country, his comments should be read and considered by all of us.

I ask unanimous consent that the pertinent section of Mr. Hatfield's speech be printed in the Record.

There being no objection, the section was ordered to be printed in the Record, as follows:

Speech by Mr. Hatfield

I think that this evening we should look at the forces operating in our country which brought about the need for laws to protect our firemen and policemen. What is it that has turned segments of our society against public servants—dedicated men—who are trying to prevent death, injury, and the destruction of property?

It is a crisis of authority that we face today; authority at every point is being tested, and the basic respect for authority in our land is seriously eroding.

Why is this so? Why do we find such utter disrespect and such offensive repudiation of basic standards of human decency and integrity?

In all candor, we must begin by looking at ourselves and our own families. Authority, after all, begins in the home. The decline of respect for law and authority has at least part of its roots in our homes.

It is in our homes that we discover how authority, if it is to be accepted, must be set forth in the framework of love. And with our children we also learn that authentic love and concern for them must include firm authority.

Authority without love becomes authoritarianism—the futile attempt to rule by brute force. Love that ignores authority becomes mere sentimentality—the naive believe that responsibility is the result of permissiveness.

What is true for our families is true for society as well.

It is the rule of law which is under attack in our land again today. Many times before in our history we have had to face the challenges to lawful authority which have come from the extremist elements—both on the left and the right. In the past, we have met and survived these challenges by firmly supporting the laws of the land—and by just as firmly supporting the right of all citizens to peacefully state their opinions. During these past decades, when Ku Klux Klan members, Communists, Fascists, and others have threatened the fabric of law in our society, we neither retreated to naive permissiveness, nor relied on brute force to preserve our democracy. Today we must continue to resist these temptations. Proper authority is not rooted in force, but is entwined in the fabric of human association through respect, through loyalty, and through love.

We all must strongly reject the thesis that violence is the only means available to effect change in our system. Recent events prove the potency of public opinion. Public opinion drove LBJ from the White House; public opinion influenced recent Supreme Court nominations. In the ABM debate, we started with 20 Senators, and public opinion helped us gather 30 more.

Here in Oregon, we saw public opinion at work in the May elections. On the positive side, it resulted in a massive state effort to fight air and water pollution. The political analysts tell us that public reaction to the disturbances at Portland State shortly before the election is one reason the 19-year-old vote failed.

We all have been shocked by events on our campuses during these past months. The burning of buildings, the closing of campuses, and the occupation of our universities by federal troops—as well as needless injuries and deaths—all seem unbelievable, and truly are intolerable.

I have spoken on college campuses and tried to build bridges of communication with the younger generation. Whenever I have done so, however, I have constantly warned students about the grave dangers and intolerable consequences of any use of violence—in any situation. More than a year ago, I was invited to be the Charter Day Speaker at the University of California in Riverside. At that time, I warned students that "violent, anarchistic means to promote change, whether successful or not, will likely result in a violent end . . . Those who choose to carry their protest, regardless of its virtue, to the point of aggression, coercive disruption and destruction only invite the application of counter-force. In any resort to violence today, the side best equipped and best trained in violence will win, regardless of the relative justice of the issues involved."

Peaceful dissent is an act of faith in the democratic system—a belief that orderly change is an attainable goal. Peaceful dissent is a responsible outlet for sincere differences of opinion, and is within our democratic framework. Peaceful dissent also focuses attention on public issues troubling our nation.

The right to dissent, however, is no license for violence, subversion, or revolution. These extremes run counter to all that I stand for in the name of peace.

Those who use violence in the name of peace are saboteurs of the cause they espouse. We who seek peace through lawful means are appalled at revolutionaries who subvert our goals and so mock our aims.

There are the warnings I have consistently issued to students and all audiences. For it is clear that the small minority of revolutionaries across our country today have created a massive counter-reaction throughout society. The polarization has been dramatically deepened and we are on the verge of being at war with each other.

No one gains from this condition, least of all our country. Let us be clear about the situation. We all know that violence and unlawful activity on our campuses cannot be tolerated. The campus cannot be a sanctuary immune from the laws and the individual rights that govern society in general.

We tell our young children that, as they grow, with each new freedom comes a new responsibility. Freedom brings responsibility in all areas of our society, and the university cannot be an exception. Those on our campuses who abuse freedom to avoid responsibility must face the same consequences that you and I face,

At the same time, however, the use of brute force to suppress or inhibit anyone who simply seems to disagree with us will only worsen our condition. If it is support for the law we wish to instill, then we must apply the law with complete justice, fairness, and firmness. Lawful channels for dissent must exist. When such channels are absent, or defective, frustration and resentment breed violence and rebellion. Naked power rises to take the place of authority.

The great danger of our time is that the trend of polarization will intensify. When anyone reacts to those he dislikes with bitterness and hatred, then the cycles of deterioration and division repeats itself.

To be frank, there are few that get more satisfaction out of this trend than the people who would like to undo us. The Communist leaders in Moscow, or Peking, or a revolutionary here in America, must take great delight in seeing the right-wing of a society fighting the left wing in our streets. They must applaud the trend toward oppression—the blanket condemnation of all students; and they would encourage the radical rhetoric and disruption across our land.

Here in Oregon, the long constructive efforts of the many young people involved in the 19-year-old vote were overthrown by those irresponsible actions of people using violence for their own ends. The revolutionaries in this country know that if the voting age is lowered, this will siphon off the 95% of the young who will work for change within the system. In short, those who want to destroy our society know that it can be done from within—and without firing a shot; it can be accomplished by dividing us as a people—by turning father against son, worker against student, old against young. If we allow or encourage this kind of division and polarization, then we are playing into the hands of those who seek our destruction.

What is the answer? What can we, as individuals, do, within our family, our town, and our country, to heal this malaise before the fuse burns down to the keg?

This is a perplexing age for parents and their children. Both react with more rhetoric than reason. We should realize how we rupture relationships with our young—often within our own family. We must remember that young people seek meaningful human relationships. They respect honesty, and seek understanding and love. This really starts at home for all of us. We should bridge the gaps in our own families and help build foundations for our young people's lives.

The strength of our democracy rests not in uniformity of thought or conformity of attitudes. Those are the principles which control totalitarian societies. Rather, in our land, it is the diversity of opinion that gives us our true strength. We believe that the freedom of thought and expression—in peaceful means protected by our law—is the great and distinctive quality of our society. It is freedom that we all cherish and this freedom which we all want to preserve.

But in any pluralistic society, where we believe in this right of all men to live in freedom, we must also be undergirded by understanding, respect, and love.

There is no hope for freedom to survive without a framework of reconciliation. To listen, to understand, to respect the opinions of others, and to build bonds of communication—all of us, whether young or old, must learn to practice these qualities if we are to protect our freedom.

To exercise authority in the framework of love, is the task for us all. Whether it be in our individual families, or in our Nation. We know that there will be no peace and no harmony among us if we believe that authority precludes love or, that love denies authority.

In this troubled age, as divisiveness and polarization threatens the strength of our land, I hope we can all choose the path of reconciliation. Our society needs to be brought together; we need to be healed. But this is more than can ever be accomplished by any act of Congress or by any expenditure of federal money. It must begin within our own hearts and our own families and in our local communities.

PRESIDENT'S INDIAN POLICY STATEMENT WORTHY OF SUPPORT

Mr. McGOVERN. Mr. President, President Nixon's recent statement to Congress on the status of Indian affairs deserves a word of praise and credit. It forcefully states that the policy of his administration toward termination is unalterably opposed to the policy of the administration in which he served as Vice President. The administration's statements regarding self-determination and Indian management of Indian programs and Indian affairs is certainly a step in the right direction for both the administration and the Congress.

Though the President's statement did not mention specifically a concurrent resolution I submitted several years ago, calling for a new Federal policy toward American Indians, I think that the aims and goals of my concurrent resolution sufficiently parallel the policy as outlined by the President that the adoption of the resolution by both Houses of Congress would sufficiently enunciate an acceptable policy statement for this administration.

Mr. President, my Indian policy concurrent resolution was agreed to by the Senate in the 90th Congress by a unanimous vote. I consider it unfortunate that it was not acted upon by the House in that same Congress.

The concurrent resolution was resubmitted in this, the 91st Congress, and it is now awaiting adoption in this, the 2d session of the 91st Congress. I hope that the Senate will soon again complete action on the concurrent resolution and that the House will see fit to give it early consideration.

Mr. President, so that Members of both bodies will be fully appraised of the contents of the concurrent resolution, I ask that it be printed again at this point in the RECORD.

There being no objection, the concurrent resolution (S. Con. Res. 34) was ordered to be printed in the RECORD, as follows:

S. CON. RES. 34

Whereas it is recognized by Congress that American Indians and Alaska natives (Eskimos, Indians, and Aleuts) suffer from adverse economic, health, education, and social conditions which prevent them from sharing equally in the great social economic advancements by our Nations; and

Whereas it is the understanding of Congress that periodic reversals in our Government's Indian policy throughout the years have ruled against full development of human and economic potential of Indian communities, thus prolonging the aforementioned deplorable conditions; and

Whereas improved and expanded services in Indian communities in recent years through direct Federal Indian service programs and a wide variety of other services have begun accomplishing encouraging breakthroughs; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the deplorable conditions of American Indians and Alaska natives can only be alleviated through a sustained, positive, and dynamic Indian policy with the necessary constructive programs and services directed to the governing bodies of these groups for application in their respective communities, offering self-determination and self-help features for the people involved; and that our Government's concern for its Indian citizens be formalized in a new national policy so that the beneficial effects may be continued until the day when the Nation's moral and legal obligations to its first citizens—the American Indian—are fulfilled.

(2) modern day needs of Indian people are no longer responsive to the programs and services of the two major Federal Indian service agencies alone (the Bureau of Indian Affairs and the Division of Indian Health), but the complete solution of Indian problems will require new and innovative services for the full development of Indian and Alaska native people and their communities, and that the National Council on Indian Opportunity created by Executive Order numbered 11399, because of the representation on the Council of the Secretary of the several Departments concerned with the welfare of the Indian people and of the representation of the Indian leaders and because of the responsibility of the Council, under the chairmanship of the Vice President of the United States, for coordination of efforts of the Executive branch in Indian affairs, should be charged with the important responsibility of coordinating the wide range of Federal, State, and local resources.

(3) Indian and Alaska native governing bodies should be recognized as having the full authority to determine the extent and manner of utilizing all available resources for their communities.

(4) American Indian and Alaska native property will be protected; that Indian culture and identity will be respected; that the necessary technical guidance and assistance will be given to insure future economic independence; that continued efforts will be directed to maximum development of natural resources; that inadequate and substandard housing and sanitation will be corrected; that a comprehensive health program incorporating and assuring curative and preventive physical and mental health will be further developed for Indian and Alaska natives; and that a long-term general, vocational, technical, and professional education program will be encouraged and developed for both old and young American Indians and Alaska natives so that they may share fully in our society;

(5) that the National Council on Indian Opportunity should periodically review all the activities of the Bureau of Indian Affairs and all other agencies of the Federal Government concerned with Indian welfare to assure Congress of maximum utilization of Federal, State, and local resources for Indian and Alaska native well-being; and that the National Council on Indian Opportunity should submit an annual report with necessary legislative recommendations to Congress

to indicate the manner in which the intent of this resolution is being carried out; and

(6) American Indian and Alaska native communities should be given the freedom and encouragement to develop their maximum potential; and that Congress will support a policy of developing the necessary programs and services to bring Indians and Alaska natives to a desirable social and economic level of full participating citizens.

MEDICAL AND DENTAL SCHOOL CRISIS

Mr. JAVITS. Mr. President, last year I introduced—with the cosponsorship of 23 Senators from both parties—S. 3150, a bill to provide emergency assistance to our Nation's medical and dental schools. The bill was recently adopted by the Committee on Labor and Public Welfare as an amendment to the Health Training Improvement Act of 1970 and ordered favorably reported out.

The amendment—section 102 of the bill—is designed to be a first step, stopgap emergency measure that seeks to save our medical and dental schools from disastrous closings and at the same time, enable these institutions to continue programs and services in the national interest.

There is a growing national concern with the financial crisis in our medical and dental schools and in view of the situation—and to further document the urgent need for my amendment—I believe there may be wide interest in a report published this month from the National Fund for Medical Education, a nonprofit organization with headquarters in New York. This document lives up to its purpose of giving the reader "a better understanding of the crisis in medical attention." In this discussion John S. Millis, the distinguished educator who was formerly chancellor of Case Western Reserve University and is now the vice president of the National Fund for Medical Education, outlines the nature of the problems facing the medical schools.

The report examines and clarifies the nature of the costs on the one hand and the services, on the other, of the medical school and its affiliated teaching hospitals and medical centers. Too often, in assessing the costs of medical education, some forget that university medical centers supply medical service to the public, for example, at least one out of every nine patients admitted to a hospital goes to a primary or secondary teaching hospital.

I commend this report to the Senate and ask unanimous consent that the text of the report entitled "Toward a Better Understanding of the Crisis in Medical Education" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOWARD A BETTER UNDERSTANDING OF THE CRISIS IN MEDICAL EDUCATION

It is widely known that the medical schools of the United States are experiencing substantial financial difficulties. Of greater importance is that fact that some schools are in truly critical financial straits—so critical that one must be concerned about their maintenance of quality and even about their ability to survive.

This unhappy state is of serious concern to the American people because the continued and expanded production of physicians and other health professionals by the medical schools is crucial to the achievement of the health goals which we as a nation have recently set for ourselves. We cannot provide more and better health services to more and more people unless we first have more physicians and health personnel, skilled in the most modern methods of health care.

Most people find it difficult to understand how such a serious financial crisis can have happened. The medical schools spend very large sums of money each year while enrolling relatively small numbers of undergraduate students. In fact, the Education Number of the *Journal* of the American Medical Association recently reported that in the year 1967–68, the 89 medical schools in full operation (there were five additional schools in development but not included in these figures) enrolled 34,538 undergraduate medical students, spent $1,175,396,186 and conferred 7,973 M.D. degrees.

To state on the strength of these figures that the average annual expenditures of the schools is about $34,000 per M.D. candidate and that it costs about $145,000 for each M.D. degree awarded is extremely misleading. The basic fact is that one cannot understand the crisis nor the underlying causes by examining the medical schools alone. Medical education is much like an iceberg. When the berg is observed from the usual vantage point of the surface of the sea, about one-tenth of the whole is visible, while nine-tenths is hidden from view. Similarly, the medical school is only the most obvious part of the total apparatus of medical education, and the education of the undergraduate medical student is only a small fraction of the responsibilities and activities of medical education.

Let us examine the part of the iceberg below the waterline not visible to the layman:

In the first place, medical education is not conducted in medical school buildings alone. Rather, it occurs in the medical school and, for more than half the four years, in one or more closely affiliated hospitals—that is, in a large and complex medical center. In the second place, the education of students requires that the medical center assume many added responsibilities. In addition to teaching, the medical school facilities must care for millions of patients, conduct much of the bio-medical research done in the nation, and furnish many and costly services to their communities, frequently in response to the decisions of governmental bodies. To understand the financial crisis, one must first understand the size and importance of all of the activities of a medical center—education, patient care, research, and extramural services.

I. EDUCATION

The education of physicians is a lengthy and complex process, accomplished in two principal steps: First, undergraduate education under the jurisdiction of a medical school which is generally part of a university. This four-year experience leads to the degree of Doctor of Medicine. Second, graduate education at one or more teaching hospitals, many of which are an integral part of or affiliated with a university medical center. This internship, followed by a residency, lasts an average of 4.7 years, and its completion is recognized by eligibility for certification by a specialty board.

Not only are undergraduate medical students taught in university medical centers, but also surprisingly large numbers of other students. These include interns and residents as already noted; undergraduate students in the basic medical sciences who are candidates for the degrees of Master of Science or Doctor of Philosophy; post-graduate clinical fellows and students in the basic sciences; and other professional students who are essential to the delivery of medical care, such as dentists, nurses, physical therapists, occupational therapists, medical technologists, pharmacists, dietitians, medical social workers, and radiological technicians. To compensate for the growing shortage of physicians, experiments are under way to train entirely new classes of health professionals such as assistants for physicians and dentists. Should these tests be successful, an additional teaching burden will be placed on the university medical centers.

In the academic year 1968–69 the enrollment of students in the American university medical centers engaged in full-time study for degrees, diplomas, or certificates was as follows:

a. Candidates for the M.D. degree	35, 833
b. Interns	4, 860
c. Residents	18, 602
d. Post-graduate clinical students	4, 966
e. Candidates for the M.S. or Ph.D. in basic science	7, 892
f. Post-doctoral fellows in basic science	1, 200
g. Candidates for degrees or diplomas in other professions	235, 054
The teaching responsibilities of the medical school faculties for these students are estimated to be the equivalent of 15,842 undergraduate medical students	15, 842

In addition to this number, there were about 100,000 physicians enrolled in one or more programs of continuing education offered by the university medical centers of the country. While no figures are available, the added burden on medical school faculties must be the equivalent of teaching several thousand undergraduate medical students.

The figures represent all of the undergraduate medical students in the country, virtually all of the post-graduate clinical fellows, the candidates for the M.S. and Ph. D. degrees, and the post-doctoral fellows in the bio-medical sciences; more than two-thirds of the interns and residents, and three-fifths of the registrations in continuing education of practicing physicians.

II. PATIENT CARE

In the process of education, the university medical centers are large suppliers of medical service to the public. Patient care is rendered by 189 major teaching hospitals of the 89 medical centers and by an additional 65 university-affiliated hospitals which are used to a lesser extent for teaching purposes. One out of every nine patients admitted to hospitals in the United States goes to one of these primary or secondary university teaching hospitals. About one in seven births takes place in teaching hospitals and one in seven outpatient visits.

In the following table, the several categories of patient care delivered by these university hospitals over a twelve-month period ending in August, 1968, are summarized. Because a few hospitals have not supplied figures for all categories of service, the totals reported must be regarded as minimal. Even so, they are impressive.

	Primary teaching hospitals	Secondary teaching hospitals	Total
1. Inpatient admissions	3, 015, 431	830, 878	3, 846, 309
2. Newborn (not duplicated in admissions)	335, 510	102, 348	437, 858
3. Patient days of hospital care	35, 710, 590	10, 834, 295	46, 544, 885
4. Outpatient visits	14, 924, 779	2, 327, 162	17, 251, 941
5. Annual expenditures	$2, 608, 419, 000	$724, 128, 000	$3, 332, 547, 000

Source: The 1968-69 Directory of the Council of Teaching Hospitals, issued by the Association of American Medical Colleges updated from statistics continued in the Aug. 1, 1969, issue of Hospitals, Journal of the American Hospital Association.

III. RESEARCH

In the past 20 years, the research efforts of the university medical centers have increased rapidly producing major contributions to the health of the American people. Examples include immunization against infantile paralysis, measles and other infectious diseases, techniques for open-heart surgery, control of hemophilia, antibiotic control of many diseases, such as mastoiditis, and substantial progress in treating cancer through chemotherapy.

In 1967–68 the 89 medical schools in full operation at that time expended $473,270,303 for sponsored research. Included were all funds restricted to research from federal grants, from foundation and most association grants, from personal gifts, and restricted endowment income. Undoubtedly there was some research paid for by unrestricted university funds, but the amount is probably so small that it can be neglected. In addition, the hospitals of the medical centers receive very substantial sums from governmental agencies, from private gifts and from foundation grants which also have the effect of supporting the research activities of university personnel. The locale and legal sponsorship are simply hospital rather than university.

From reports obtained by the Council of Teaching Hospitals of the American Association of Medical Colleges, it is clear that these hospital research expenditures are not less than $150 million per annum. Thus, the total research activity of the medical centers of the nation in 1967–68 involved the expenditure of not less than $625 million.

IV. EXTRA-MURAL SERVICES

In addition to better known activities of education, patient care and research, the professional members of the medical centers carry on a number of activities in the community and in the nation as a whole. These activities include participation in the organization and operation of community health centers, in regional health planning, in programs of public health, and in advising governmental and private agencies.

No data on the cost or value of these services is collected on a national basis. However, a recent experimental cost allocation study under the auspices of AAMC and HEW has been made and released under the title, "Program Cost Allocation in Seven Medical Centers: A Pilot Study." In this study, it was found that on the average 1.1% of annual expenditures went to these extra-mural services. When this percentage is applied to the total medical center expenditures in 1967-68, we obtain a value of approximately $35 million. This sum, though a small proportion of total expenditures, is still substantial.

SUMMARY

In summary, one can describe the 1967–68 activities of the medical centers of the country in the following quantitative terms:

1. The education and training of 272,767 health professionals and technologists of whom 61,828 were physicians-in-training.

2. The continuing education of about 100,000 practicing physicians.

3. The provision of 46,500,000 patient days of hospital care for over 3,500,000 patients and care of 440,000 newborn.

4. The provision of services for 17,250,000 out-patient visits.

5. The conduct of $625 million worth of bio-medical research.

6. The provision of extra-mural services at a probable cost of $35 million.

7. The expenditure for all of the above services of $4.5 billion.

THE FINANCIAL PROBLEM

We are now ready to examine the adequacy of incomes which are available to support these many, large, and complicated responsibilities of the university medical centers. Funds for patient care as described in Summary items 3 and 4 above do not constitute a serious problem—in fact, here the situation is improving. The amount of "charity care" which has to be furnished without reimbursement is declining because of medicare and medicaid payments and because the number of our citizens covered by health insurance plans continues to increase.

In contrast, in the other four areas, funds are at best remaining constant or declining while demand is increasing and purchasing power is being eroded by a rapid inflation. We need more physicians and we need more health professionals of all kinds. The medical schools are responding, shouldering the greater costs and responsibilities of educating more medical students. The number admitted to the freshmen class in 1969 was more than a thousand greater than only three years ago. This expansion of entering classes in existing and new medical schools will continue, and 2,000 additional entering places will be available in 1975. Similar increases in interns, residents, and clinical post-graduates have and will occur. At the same time, increases in the numbers of nurses, dentists, pharmacists, and other health professionals in training status have been accommodated along with greatly expanded programs in continuing education of practicing physicians, placing an additional heavy burden on the medical faculties. The educational demand is rising and the medical centers are responding.

In contrast with rising demands, income to support educational programs has not risen, and, if discounted because of inflation, has actually declined in many instances. For example, there is no income for the support of the training of interns and residents other than the fraction which can be buried in hospital costs to patients. Although endowment income, student fees and private contributions have increased dollarwise, the proportion of these sources to total income has fallen rapidly. Only recently have there been federal funds appropriated for the direct support of the education of students, and these, like state appropriations to support existing public medical schools, are not rising in keeping with the need. Although the drug industry has supported selected programs in continuing education, this activity is particularly lacking in support, with no endowments, no governmental appropriations, and no foundation grants. The participating physicians do pay fees for attendance, but these cannot cover more than a fraction of the cost.

The problem in research is quite different. Whereas in education, the medical schools have tried valiantly for years to teach more students, supported by inadequate budgets which are now declining in purchasing power, in bio-medical research, the medical schools have experienced a very rapid increase in financial support over the last two decades, particularly from federal sources. They have recruited large and competent staffs, built research facilities, and acquired expensive apparatus and libraries. In the past two years, the rising trend of federal support has stopped, and currently a decline has set in. Thus, the medical schools continue with responsibility which society asked of them, but no longer have the economic means to meet this responsibility. Adjustments in research obligations can be made and surely will. However, such adjustments take time, and there is and will continue to be a drain on medical school funds to meet the deficits between the former level of research support and that lower level which national policy seems to require.

Cutbacks in research and training grants pose another problem for medical schools. Medicine is taught today as an indivisible triad, in which teaching, research and patient care go hand in hand. Thus, research and training grants help to finance the faculty and general overhead of the schools. Of 22,163 faculty members, nearly half receive some portion of their support from research and training grants, and 16.3 percent are entirely funded in this way. Reduce the flow of those funds and the entire education effort suffers.

In the last category of medical center activity, extramural services, lies perhaps one of the most vexing parts of the financial problem. There are no endowments, no tuitions, few government appropriations, no foundation grants, and no voluntary gifts to support them. In contrast, the requests, the demands, the pleadings to each medical school for assistance, participation, advice and manpower for a great variety of community and national projects are swelling to great proportions. Medical school deans find themselves faced with the cost of meeting community demands but with little or no income to pay for it.

Extra-mural services also add to the already critical manpower problems of the centers. Committed to the education of more students, caring for more patients, and continuing vital research, medical school faculties still find it difficult to turn a deaf ear to community needs. It should be remembered that members of the clinical faculty already hold dual appointments in the medical school and teaching hospitals. For example, the chief of the medical service at the hospitals also serves as chairman of the department of medicine at the school and so on down the line. It is little wonder that these busy men can find time for community service only as an overload on a work week which is already of the magnitude of seventy hours.

It is difficult, if not impossible, to place the blame for the financial plight of our medical centers on a particular activity or a failure of the schools or of society. Yet, the simple fact is that our medical schools must do and are doing more and more and, as a consequence of a declining income, are working themselves into bankruptcy.

John S. Millis,
Vice President.

POLITICAL REPRESSION BY THIEU REGIME

Mr. **FULBRIGHT**. Mr. President, I regret to bring to the attention of the Senate yet another example of the consistent pattern of political repression employed by the Thieu regime. Mr. Philip Shabecoff in an article in the New York Times describes a growing wave of student protest in Saigon and the efforts being made by the Thieu regime to stifle it. I ask unanimous consent that Mr. Shabecoff's article be printed in the Record at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **FULBRIGHT**. Mr. President, the Saigon University students are protesting the Thieu government's violation of the civil liberties of student representatives. According to a student quoted by Mr. Shabecoff, 18 student leaders have been arrested by the Thieu regime since 1967 but none of them has ever been brought to trial. The students are demanding that those arrested be given prompt trials in civilian courts.

This might seem to be a simple enough request, but given the recent drumhead justice meted out to Deputy Tran Ngoc

Chau by an unconstitutional military tribunal, there seems little likelihood that their request will be honored. As one student leader told Mr. Shabecoff:

> In the broader sense this student protest is only part of a struggle for real freedom and democracy in this country.

The present student upheaval only one in the latest of a series of events which illuminate how rapidly the facade of democracy in South Vietnam is crumbling. Having ridden roughshod over the National Assembly and the Constitution in the Chau case, President Thieu now finds himself beset by the students. The portents of this development are most ominous. As Mr. Shabecoff points out, student groups have played a major role in the overthrow of previous Vietnamese ruling cliques.

One wonders whether the Embassy in Saigon and the administration see the relationship between the Chau case and the current student unrest. One wonders further whether they have noted the parallel between the events which preceded the end of the Diem era and the present latent turmoil in Saigon.

Regardless of what happens militarily in Vietnam, the character of the Thieu regime may well be the determining factor in the fate of the administration's Vietnamization policy. There seems to be little disposition on the part of the administration to acknowledge the realities of this fact.

The American public has been deceived about the nature of the Thieu regime. What is worse is that the administration has apparently deceived itself into believing that its lofty purposes in Vietnam can be achieved through the agency of a regime which corrupts the very freedoms which we are supposed to be defending.

EXHIBIT 1

VIETNAM STUDENT PROTESTS SPREAD IN SPITE OF POLICE

(By Philip Shabecoff)

SAIGON, SOUTH VIETNAM.—A student protest movement is rapidly gathering momentum in South Vietnam despite Government efforts to stifle it.

Today the police sealed off the office of the students' "struggle committee," which is directing a general strike of Saigon University's 32,000 students.

Yesterday, policemen and soldiers occupied all branches of the university to block a planned mass meeting and a march on President Nguyen Van Thieu's palace.

But the police action has apparently not slowed the growth of the protest movement. Students at the universities at Hue and Cantho and the Buddhist Van Hanh University have offered support to the Saigon students.

Eight Roman Catholic priests have published a declaration supporting the student movement and alleging police brutality in dealing with student prisoners.

Leaders of the movement said today that 20 students had volunteered to disembowel themselves and that five had offered to commit suicide by fire if the students' demands were not met.

Basically, the students are demanding that the Government respect civil rights and allow university autonomy. The immediate cause of the walkout at Saigon University was the arrest on March 10 of Huynh Tan Mam, acting chairman of the University's Student Union. The police said that Mr. Mam was a Communist and an agent of the Vietcong.

STUDENT SEES IRONY

The students dispute the Government accusation against Mr. Mam. But that was not the reason for the strike. The protest movement is intended to force the Government to give Mr. Mam and other arrested students speedy trials by independent civilian courts.

Doan Van Toai, a leader of the Saigon University protest movement, asserted in an interview today that Mr. Mam was the 18th student representative arrested since 1967 who had not been brought to trial. Most of them, he said, had been drafted into the army after having spent several months in jail.

"It is ironic that the Government accuses them of being Communists and then puts them in the army," said Mr. Toai, a slight, softspoken, 24-year-old pharmacy student.

One reason that Mr. Mam was arrested, Mr. Toai asserted, was that as leader of the Student Union he had transmitted a letter from Saigon students to students in the United States alleging that the Government of South Vietnam was becoming a dictatorial regime.

The students are insisting that the Government explain all charges of Communism and other vague accusations against all students arrested and detained in recent years.

Finally, the students are demanding that the Government end its "repressive measures" against the students and to respect the principle of university autonomy.

"In the broader sense, this student protest is only a part of a struggle for real freedom and democracy in this country," Mr. Toai said.

He declared that the Government's attempt to crush the protest movement was not a new policy. He said:

"The Government will not let the students meet among themselves for any reason. We can't even get together to put on plays or listen to music."

If precedent is any guide, President Thieu's Government has reason to be wary of student power. Militant students played a major role in overthrowing the regime of Ngo Dinh Diem in 1963 and of Nguyen Khanh in 1964.

After the presidential elections of 1967, which brought Mr. Thieu to power, students in Saigon held a number of meetings to charge election fraud. But after a number of student leaders were arrested and put in the army, the student movement remained relatively dormant.

By law, university students in South Vietnam are supposed to be draft-exempt as long as they pass their annual school examinations.

The current student movement is somewhat different from past student protest activity. For one thing, its basic support is said to come from southern Roman Catholics. Past student movements were largely organized and supported by Buddhist militants.

However, this movement too is employing nonviolent techniques such as hunger strikes and the threat of self-immolation by students.

The students are bracing for still sterner repression by the Government, Mr. Toai said.

"The Government gives those who oppose it only two alternatives," he declared. "Either they go to jail or they join the Vietcong."

DAVID LAWRENCE SQUELCHES CHET HUNTLEY

Mr. DOLE. Mr. President, in an editorial in the July 14 Evening Star, David Lawrence accurately refutes the charges recently made by Chet Huntley, an NBC commentator who for 14 years has presented an anti-Republican, anticonservative view of the news.

His charges that the President is "shallow" are groundless and apparently based on the fact that President Nixon did nothing to curry Huntley's favor—which, to many, is a mark of great distinction.

In any event, the editorial should be of interest to Senators. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"SHALLOW" COMMENT ON NIXON SCORED

(By David Lawrence)

When a prominent broadcaster was quoted the other day as having said in an interview that he was "overwhelmed" by the "shallowness" of President Nixon, one wonders how the busy man in the White House could get "equal time"—either in the magazine that published the article or on the wire services that reported it—to point out the number of observers who evidently think just the opposite about some of his policies.

Sizing up a president is not an easy task, as not all the critics really get behind the scenes. A chief executive, when he does have newsmen traveling with him, is usually cautious about what he says.

A good way, of course, to analyze his judgment is to read the transcripts of his remarks in a televised news conference. The questions asked are, for the most part, usually not known to the president in advance, and certainly as some of his answers provoke other questions it is obvious that he is talking in an impromptu manner.

Nixon has been on television at least seven times since last November, and, based on the Gallup polls, he has generally made a good impression on the public.

Presidents have had a variety of relationships with newsmen throughout the years, depending on how communicative they are on public affairs. This correspondent has known 11 out of the 15 presidents who have served in the second century of America's history as an independent nation. Some of them have been inclined to talk freely to members of the press, and others have been reluctant.

But a judgment of the kind of man sitting in the White House can hardly be formed on the basis merely of press relationships. It comes only by talking with men in and out of Congress who have conferences frequently with the chief executive and who have a chance to appraise his brain-power and his grasp of public affairs.

This writer started to cover the White House in 1910, during the administration of President William Howard Taft, and has written about the news there under Presidents Wilson, Harding, Coolidge, Hoover, Franklin D. Roosevelt, Truman, Eisenhower, Kennedy, Lyndon Johnson and Nixon.

While each of them differed from the other in personality, they were all men of good conscience and integrity. They were dedicated to their jobs. They made some decisions that were unpopular. They made mistakes in judgment and encountered criticism. But even their bitterest critics would say privately that they respected the presidents with whom they differed.

This writer has observed that every president has shown a deep sense of responsibility and a seriousness of purpose—a feeling that the high office of chief executive could not be dealt with in any casual way. The advice of well-informed persons has been earnestly sought again and again. Though policies have sometimes met with disfavor, the presidents themselves have felt that they had made a sincere effort to reach the right conclusion.

To say that any president of the United States is "shallow" seems to ignore the fact that throughout his political life many people have a chance to test him in other positions which he previously held. It would be almost impossible for anybody without a sense of practicality and experience in American life to become president of the United States—especially in the last half-century.

Nixon volunteered for the Navy in World War II and won two battle stars and two commendations. He was elected to the House of Representatives in 1946, then to the Senate in 1950. Subsequently for eight years he served as vice president, and was barely defeated for the presidency by John F. Kennedy in 1960. Individuals prominent in public life and in the Republican party had a chance to know him.

From 1963 to 1968 Nixon practiced law in New York City—a place where he won a reputation for alertness of mind and good judgment as well as a capacity to render sound advice. After all this, the Republican party nominated him in 1968 almost without opposition, and the American people elected him president. The latest Gallup polls show the silent majority is still behind him.

LEON SHLOSS, SENIOR EDITOR OF GOVERNMENT EXECUTIVE, PRAISES ACTION TO UNIFY GOVERNMENT RESEARCH ON AIR AND SEA—SENATOR ERNEST HOLLINGS, CHIEF SENATE SPONSOR—IN-DEPTH HEARINGS TO BE CHAIRED BY SENATOR HOLLINGS

Mr. RANDOLPH. Mr. President, the capable senior editor of Government Executive, Leon Shloss, has written a timely and interesting article on the administration bill to combine governmental research in the Nation's air and sea.

In his comprehensive report "At Long Last: Unified Government Research on the Air and Sea," Shloss explains the basic proposals contained in the measure to create the National Oceanographic and Atmospheric Administration to replace the many Government agencies engaged in this important research.

The Senator from South Carolina (Mr. HOLLINGS), chairman of the Oceanography Subcommittee, is expected to hold in-depth hearings on the reorganization plan for a single entity to control research in the ocean and atmosphere. His understanding of this problem is well known, and we can expect leadership from our colleague as he moves forward in the determination of a program for effective research.

Mr. President, I ask unanimous consent that Mr. Shloss' article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AT LONG LAST: UNIFIED GOVERNMENT RESEARCH OF THE AIR AND SEA

(By Leon Shloss)

HIGHLIGHTS

1. For at least 10 years a dozen U.S. Government agencies with fragmented authority have been trying to cope with the problems of environment—making studies while other nations were "making hay."

2. Now, at long last, it seems certain that a single entity will be created to research the mysteries of the ocean and the atmosphere. To be named the National Oceanographic and Atmospheric Administration (NOAA) it will take command of the "splinter" offices.

3. Doubtless the head men of departments which will have some authority subtracted will buck the reorganization plan which the White House is sending to Congress. But the plan is in the form of an Executive Order and does not require passage of new legislation. The proposal will become law in 60 days unless the House or Senate objects.

4. All official quarters have dropped the "cone of silence," but here are the details as ferreted out by Government Executive.

After too many years of badly splintered authority, during which other nations were making steady progress while the U.S. was making studies, this country is about to have a single Government entity to deal with its pressing oceanographic and atmospheric research needs.

The new unit will be titled the National Oceanographic and Atmospheric Administration (NOAA) which, of course, acronym-mad Washington is already calling "Noah." NOAA's budget would be in the neighborhood of $200 million.

At presstime, Congress awaited an Executive Order from the White House directing creation of NOAA and specifying what functions will be removed from what agencies and placed under one roof—the Commerce Department.

Appropriate Congressional committees have been briefed by the White House. Creation of an "administration," as opposed to an independent "agency," does not require legislation, which might be filibustered by Government departments which stand to have some current authority subtracted. Hence, NOAA will become fact unless the House or the Senate objects within 60 days.

Capitol Hill expects the Executive Order, embodying the recommendations of the President's Advisory Council on Executive Organization, chaired by Litton Industries President Roy L. Ash, by July 1. This means that, barring Congressional objection, NOAA would come into being about September 1.

The departments and other entities which stand to lose the most include Interior, National Science Foundation, the Army Corps of Engineers, the Coast Guard and the Navy.

A Senate official who is intimately involved with the project was asked if he expected any substantial opposition from executives of those bodies. He said: "There'd better not be if they want to stay around town. Have you noticed what is happening to dissenters?"

Under the organization plan in the works the following programs would be taken over by NOAA: Bureau of Commercial Fisheries (from Interior): Anadromous (salmon) fishing (from Interior); marine mining (Interior); sea grant programs (investigation of marine resources) from the National Science Foundation; Great Lakes survey functions (from Army Corps of Engineers); the National Data Buoy program (from the Coast Guard); the National Oceanographic Data Center (from the Navy).

The Congressional committees involved (House Merchant Marine and Fisheries, House Government Operations, and Senate Commerce), plus the Commerce Department, obviously got the word to clam up until the plan reached the Hill, but *Government Executive* was able to obtain the following information from completely reliable sources:

Commerce would receive authority for operation of NOAA, in turn would probably make its own Environmental Science Service Administration (ESSA) the nucleus. The handful of involved officials in Commerce, including Secretary Maurice Stans, made themselves completely unavailable to news media, but Stans attended the Congressional briefings by the White House to the Oceanography subcommittees of the Merchant Marine (House) and Commerce (Senate).

The only hearings required will be before the Government Operations Committee, but the House Oceanographic subcommittee will probably hold hearings to, among other things, give industry representatives a voice. A House source said:

"This subcommittee has been working on the problem for 10 years. Its chairman, Rep. Alton Lennon (D-N.C.), a year ago introduced a bill to establish an independent oceanographic agency which would have absorbed the entire Coast Guard. The new NOAA proposal takes from the Coast Guard only the National Data Buoy program. The bill would also have established a National Advisory Committee on the oceans and the atmosphere, comprising 15 leading figures from outside of Government. Such a step is not in the current White House proposal, and the subcommittee will probably want to know why."

"I am sure," he continued, "the subcommittee will also want to make a determination on the issues that are certain to come up in the wake of the NOAA order, and to define follow-up legislation."

A Senate source said he expected that hearings would also be held by the Oceanography subcommittee headed by Sen. Ernest Hollings (D-S.C.).

Both sources said there was nothing in the White House briefings that the subcommittees hadn't already deliberated. This tended to confirm the belief that the Administration was caught with its position papers down by newspaper stories that obviously were leaked, and had to hustle to catch up with the situation.

Among the items yet to be decided is the level of leadership NOAA will be given—certainly at least an assistant secretary of Commerce, with a possibility of an under secretary.

In addition there is the matter of what will happen to the Coastal Zone Management and Coastal Laboratories functions now within the Interior Department.

The White House decided on two new reorganization plans to cope with the environment problem—the other entails creation of an Environmental Protection Administration (EPA)—because President Nixon is said to feel that the Government must fight the problems of pollution on two fronts. The first front is the immediate war against today's polluted air and water. This will be EPA's concern. The second front concerns the forecast of pollution problems and the research which must be done to identify and combat the pollution of the 1980s and beyond. This will be one of the tasks of NOAA.

Oceanography has traveled a rocky road. The late President John F. Kennedy said this Nation's survival might depend upon the seas. Later he pocket-vetoed an important piece of oceanographic legislation. President Lyndon B. Johnson named a commission to study oceanographic needs but failed to act upon any of the recommendations that the commission made. Up until now President Nixon has included the subject in one campaign speech, appointed a task force to study it and mentioned it as one of the topics edited out of his State of the Union message. Otherwise he has avoided any reference to the problem.

One of the most knowledgeable journalists in the field—Robert W. Niblock, editor of *Under Sea Technology,* the industry's recognized authority, sums it up this way: "If ever a method was devised to build ships out of paper, then the oceanographic studies that exist would provide enough raw material to build a luxury research vessel for every scientist who wanted to go to sea.

"If there is any single major conclusion to be drawn from all the studies, it is this: the present Federal organizational structure for oceanography stinks and progress will be stymied until something is done about it."

The benefits to be reaped through an efficient NOAA are myriad. Taking as an example the National Data Buoy program, it could provide information which would vastly improve long-range weather forecasting. At present there are tremendous areas of the earth from which no data is available and little air-sea interaction data and data on the temperature of the upper layers of the water. Once such data becomes available, there would be payoffs such as these:

Knowing when to project shortage of fuel oil for winter.

How much salt to stockpile for clearing off roads in the winter.

Assist the recreation business, whether it's skiing in the north or swimming in the south.

When to get people off high steel in the construction business.

Agricultural implications.

Routing of ships. If a few hours can be lopped off a ship's time from Point A to Point B, that's money. It would be not a matter of the shortest *geographical* route, but the *fastest* route through and around weather.

There are many economic windfalls to be derived, from understanding the oceans better, in the areas of communications, transportation, fishing, safety, oil tower operation and others.

While foreseeable economic benefits are significant, there are credible authorities who hope that not too much emphasis will be placed on the cost/benefit ratio. One such authority is Dr. Harris B. Stewart Jr., director of ESSA's Atlantic Oceanographic and Meteorological Laboratories near Miami, Fla. Stewart says:

"I think there are two great intellectual challenges facing our American generation—one of these is certainly the exploration of space. The other is the exploration and understanding of the oceans. The nation that fails to meet the intellectual challenges with which it is faced is doomed as a society.

"If we devote the major share of our gross national product (GNP), particularly through the Federal Government, to provide creature comforts, and neglect these intellectual challenges, we've had it.

"I think a stronger program of exploring and understanding the seas can in fact be justified on the presently popular cost/benefit ratio basis. I think it can also be justified on the fact that this is an intellectual challenge and we damn well better rise up and meet it or the U.S. is doomed as a country."

Stewart makes several other points:

"It seems to me that NOAA is going to be dependent on whether it can locate, identify and lure the really top people. This to me has been the secret of NASA's success. They have put together a team the likes of which have never been seen. Of course, it took a lot of money, but the point is it worked.

"I'm firmly convinced that NOAA can be established without great influxes of money. I think it makes thoroughly good sense just to combine the activities for smoothness of operation. There will be pressures for more funds to get things started. But I'm against any big influxes. We're not ready for it and there are too many other demands on available monies.

"There is a *Sputnik* syndrome that might happen at any time. Assume that Russia were to plant a manned habitat on the middle of the Atlantic Ridge. All of a sudden we'd be in a flap and we'd have the same really wasteful initiation of a mass project to counteract. Now if NOAA is established and already going with relatively little money, and something like that does happen, here's a group already working that can handle the situation.

"The Stratton Committee report calls for about $8 billion over a 10-year period. I think that's a bit much, although it would take that much to do all the things the Stratton report sees NOAA doing. But my own feeling is that it's got to come slowly. We don't want a crash program. As soon as you get into such a program, you generate waste. I would like to see a slow, orderly development of U.S. posture vis-a-vis the oceans. We have problems in that oceanography has been oversold. I think we made a mistake years ago trying to justify the U.S. scientific problem on the basis of the rich resources that could be exploited."

(The Marine Sciences Commission, chaired by Julius A. Stratton, chairman of the Ford Foundation, and composed of competent, top level men from industry, the legal profession, Government and academic institutions, made recommendations that have been strongly supported by nearly everyone who read them. During hearings held by Senator Hollings' subcommittee, Hollings finally drew from Dr. Lee DuBridge, the President's science advisor, the embarrassing admission that he had not read the Stratton report.)

Stewart says that the early overenthusiasm resulted in the U.S. "jumping over the exploration challenge and trying to go right into the exploitation job, and that's not smart. Exploration is an absolute precursor to exploitation."

It is undeniable that as of now (with possible exception of the Navy) there is no single focus in Government working on the technology of oceanography. Instead, as Stewart puts it: "You have a bunch of bicycle shops working independently."

An example of the duplication of effort that has been rife in the last 10 years:

The Bureau of Commercial Fisheries had a man producing a bathymetric (bottom topography) map. He used data from the Coast and Geodetic Survey. Geological Survey had a group producing a map of the entire East Coast, also using data obtained for the Coast and Geodetic Survey. Coast and Geodetic Survey is the entity charged with this mapping responsibility. It had been asking unsuccessfully for years through budgetary channels for funds so it could take from its files the data it already had and produce these maps. The demand for the maps was big. The Bureau of Commercial Fisheries needed them so that struggling commercial fishermen could be advised where to fish.

When industry was oversold on the future of oceanography it tooled up on its own to produce research submarines. As Stewart says: "There are some crackerjack ones on the market but they're being laid up right and left because there is not enough money in the separate Federal agencies to support them. The U.S. has an incredible fleet of research submersibles and no one agency has enough money to afford to use them; NOAA could pull together the projects requiring their use."

Many authorities object to the long-bruited appellation "Wet NASA" for a Federal oceanographic agency. These authorities point out that "Wet NASA" implies a NASA-like operation which it really would not be. Exploration in inner space is different in that there is a whole group of Federal agencies which have a whole set of differing responsibilities, each of which demands that it have a certain amount of knowledge about the oceans.

One obstacle has been the Bureau of the Budget which apparently regards oceanography as another potential space program, with tax dollars flowing out and nothing coming in. Yet, the Government each year receives in revenue for lease and sale of offshore lands more than its annual investment in the oceanographic program. As Editor Niblock puts it:

"If the President decided tomorrow to launch a massive ocean program the industrial and technological capability would be there waiting. He would not, as was the case with the space program, need to spend enormous amounts of tax dollars to create a new industry. Hundreds of production projects could be launched immediately by firms that were started with this very objective in mind."

It may be hard to visualize an oceanographic exploit matching the drama and adventure of the lunar expeditions, but ocean exploration is not entirely colorless either. More important, however, is that the reasons for undertaking a major ocean exploration and exploitation effort can be understood by the average citizen. He knows that considerable food, minerals and fresh water already are being extracted from the sea and that an additional investment will produce a still larger ocean harvest.

Many say that the principal reason that oceanography has not received the attention or support it deserves from the White House is that it lacks a strong lobby. "But," says Niblock, "must an effort that is so clearly in the national interest fade away because it wasn't able to muster enough political pressure?"

As land resources are depleted by an ever-expanding world population the United States and other nations will depend increasingly on the sea. It is ironic that European countries and Japan are making much better use of the Stratton Commission's report than the United States.

Japanese government officials and industrialists are studying the document and adapting it to their own needs.

In Europe a six nation organization (EUROCEAN) has been established to speed the development of advanced marine technology and the acquisition of oceanic information.

Nobody today can say with certainty, says Niblock, how the sea will best serve future generations, but even the untutored realize that man's survival will depend in large part on his ability to understand and use the ocean properly. Whether NOAA receives the attention it deserves remains to be seen as the nation scrambles through the environmental seventies and the priorities sort out.

A NEW CROP IN THE FERTILE CRESCENT

Mr. JAVITS. Mr. President, in school textbooks, a great part of the Middle East was dubbed with its ancient name of "the Fertile Crescent." Once the prosperous heart of the ancient world, a new crop is now being sown in the area. According to Aviation Week & Space Technology—a highly regarded technical magazine and not a political journal—the Soviets and Arabs now have 1,230 fighter-bombers and bombers deployed in the Middle East, compared with approximately 330 Israel aircraft in these categories. And an additional 50 Mig-21J's under Soviet command are expected to be added this summer.

Added to this are some 2,400 Soviet T–54 and T–55 tanks, an almost equal number of 120-millimeter and 160-millimeter heavy mortars and at least eight new *Komar-* and *Osa*-class missile boats, all of which have been sent by the U.S.S.R. to its Arab clients.

This is quite a sowing of dragons' teeth.

The quantities of arms—representing some $3 billion in Soviet "investment"—belie the claim that these are for Arab defense against a voracious Israel, for the gap between Israeli and Arab strength in aircraft—running about four to one—is, in the words of Aviation Week, "substantially wider than it was at the start of the 6-day war on June 5, 1967, and infinitely greater than it was a week later, when both sides were at parity with fewer than 300 aircraft each." The Israelis, in addition, have only slightly less than a third of their strength in modern supersonic air-

craft while more than half of the combined Arab-Soviet forces are supersonic.

I ask unanimous consent that three articles from the distinguished nonpolitical technical journal, Aviation Week & Space Technology, on the danger-laden intensified Soviet military presence in the Middle East be included in the Record with my remarks. I ask that Senators read these articles, form their conclusions, and act with vigor and conscience on those conclusions in respect of the President's new policy on the Mideast which clearly depicts the grave danger of continuing war and confrontation.

There being no objection, the items were ordered to be printed in the Record, as follows:

SOVIETS SHIFTING MIDEAST BALANCE

(By Edward H. Kolcum)

Tel Aviv.—Soviet pilots defending Egypt's interior are flying a new interceptor with considerably better performance characteristics than the Dassault Mirage 3CJ, Israel's air superiority aircraft.

Russia has sent 150 pilots and 100 MIG–21J interceptors to Egypt to take over the country's air defense mission. The Russians are organized into 24 flight units and operate from at least four bases around Cairo and from Beni Suweif, 60 mi. to the south. The aircraft and pilots are part of a complete modern air defense package that includes 40–50 SA–3 Goa low-altitude surface-to-air missile batteries being installed and operated by the Russians.

The USSR in a combat role in Egypt has abruptly changed the Middle East strategic picture in these ways:

Israel is compelled to halt deep strikes into Egypt to avoid a direct confrontation with Russian-flown aircraft.

Egypt is relieved of protecting its interior and is concentrating its full air and ground strength on the Sinai territories Israel captured in the 1967 war. In the past two weeks, 250,000 Egyptian troops and substantial numbers of missile and artillery batteries have been massed in a 20-mi. band along the 109-mi. Suez front line. Another 100,000 troops are in reserve. Israel is able to commit fewer than 30,000 troops along this line.

Egyptian air force has started a series of bold probes into Sinai. Flights of two and three Sukhoi Su–7 strike fighters are regularly pounding Israeli Suez position with 500-lb. bombs. For the first time since the cease fire, Soviet-built Ilyushin Il–28 bombers have taken the offensive and are hitting Sinai targets. Israel claims to have shot down two Il–28s over the captured air base at El Arish.

Syria and Jordan are exploiting heavy Egyptian pressures along the Suez and have started air and ground probes in Israeli-occupied eastern borders.

Israel is unable to compete with this new Arab initiative. One Israeli said his country's losses "have been tremendous. They're slaughtering us."

At this time, Israel does not know the depth of the Russian commitment to Egypt—whether the Soviets have agreed only to establish defense enclaves around cities and strategic sites, if they will protect all of Egypt, or if they will extend their role and go on the offensive.

A senior Israeli diplomat said further developments depend largely on international reaction to the direct Russian involvement. He said Israel is convinced Russia does not want a full-scale war and has concluded that its present move into Egypt is the only way to protect its investment in the country.

The MiG–21J flown by the Soviets is a formidable weapon. It is the most advanced interceptor in this series and can fly supersonically at sea level. This version has four wing hard points, two for the Atoll infrared guided air-to-air missile. The other two normally are used for fuel tanks. The MiG–21J also carries an external 23-mm. gun in a centerline pod. Hard points also can be used for air-to-surface missiles in an offensive strike role.

Even if Israeli pilots were free to engage this aircraft, the Mirage has neither the speed nor maneuverability to close at low level.

The MiG–21J is replacing the MiG–21C flown by the Egyptians. Israel has captured a C model, and tests have found that even the MiG–21C is more maneuverable than either the Mirage or the McDonnell Douglas F–4E, when flown by Israelis. However, when flown by Arab pilots, the MiG–21C has been ineffective. It is not supersonic at sea level. Israel claims only two of its aircraft have been lost in dogfights with the Egyptians since the cease fire.

The F–4 currently is used only as a strike aircraft by Israel because it has not been needed for air superiority against the MiG–21C. If Israel unleashes its pilots to go on the offensive against Russian-flown MiG–21Js, it is likely that the F–4 will be given this mission.

U.S. and Israel say they have determined independently that Soviet pilots are flying air defense in Egypt. The first Israeli knowledge of this came Apr. 11 when a Mirage pilot who understands Russian heard the language being spoken between the pilots of two MiG–21 aircraft. He reported this to his base and was ordered not to engage. A second similar incident occurred Apr. 18.

During the following week, Israel cut back on its deep raids, and on Apr. 28 the government and defense ministry decided to stop strikes into the interior entirely. The rationale was that an Israeli-Russian confrontation could bring the U.S. into a combat role here and could set the stage for a general war.

A high Israeli foreign ministry official said an indication of an escalation in the Middle East war would be the Soviet admission that they have taken over Egypt's air defense, an admission they have not yet made. Despite the general knowledge of the Soviet intervention, "the Russians have been eloquently silent. We take this as a signal that they are not yet committing themselves. If the [missile] sites are hit, they will not be Russian targets, and the casualties will not be Russian," he said.

This same logic could apply in air engagements.

Russia has long been involved in training Egyptian pilots as well as in tactical planning. Only a few days before Israel discovered that Soviet involvement had escalated to combat missions, key Israeli defense and diplomatic spokesmen told Aviation Week & Space Technology that the air strategy of deep and shallow strikes was so successful that Egypt could not mount an attack to regain the Sinai for another five years.

Russian pilots at the control of the MiG–21J come as a shock to Israeli planners. Some strategists, who correctly predicted the MiG–21J would be deployed in Egypt, forecast that Russian pilots would not be committed to combat until the Yakovlev Yak–28P Firebar all-weather fighter was assigned to the country.

Israeli officials believe the Russian motivation to sharply increase its involvement in Egypt is based on the following:

Politically, Egypt is the funnel for Soviet incursions into the Mediterranean basin, North Africa and the Middle East.

Militarily, Russia was becoming increasingly frustrated at the inability of the Egyptians to handle the hardware it is lavishing there. The Soviets are appalled that Israel aircraft flew unchallenged deep into the UAR.

Economically, Russia has pumped $3 billion in military equipment and aid programs into Egypt.

Thus, the Soviets' options were clear: either keep pouring complex equipment into Egypt which they knew the Egyptians could not operate, or take the gamble of a general war by operating the equipment themselves. A third option would be to stop aid to Egypt entirely. But this would have virtually assured an unbroken string of Israeli victories and a resultant toppling of the government of Egyptian President Nasser on which Russia depends.

Russia's huge military investment in Egypt has included 934 aircraft and 300 SA–2 Guideline missiles. Israel's deep strikes into Egypt have wrecked the Guideline missile system, which was deployed in 30 batteries.

Israeli air strategy is based fundamentally on keeping the cease fire lines quiet. Deep strikes at multiple targets, which were conducted from Jan. 7 until late April, forced Egypt to thin the concentration of missiles and artillery along the Suez. This strategy successfully eased the front line pressure until early this month, when Egypt was able to reconcentrate its fire there. The second part of the strategy, shallow strikes along the front lines, succeeded in keeping Arab forces along the borders pinned down and blocked any buildup in forces preparatory to an attempt to retake the lost territories.

Israel is now forced to reshape its air strategy. It is likely that Israel will accept the concept of enclaves defended by Russians and will not attempt to engage Soviet-flown MiGs or to destroy SA–3 sites. On the other hand, Israel is likely to continue to pound all targets in a band 15 mi. behind the Suez whether Egyptian or Russian pilots defend this airspace.

Whatever new strategy should evolve, Israel cannot continue to sustain the casualties it has received since May 1, when Egypt exploited the cessation of deep raids by reestablishing all its firepower along the Suez.

Until the deep raids were stopped, Israel provided daily demonstrations of its control of the Middle East airspace in spite of the heavy numerical aircraft superiority held by the Arabs. Israeli security has become extremely tight since the 1967 war, and air strength is one of its most closely guarded secrets. Best estimates are that the air force consists of 300 tactical strike, air superiority and trainer aircraft—about half of them Mirage 3s, F–4s and McDonnell Douglas A–4s. The three most militantly active Arab countries—Egypt, Iraq and Syria—had fleets totaling 1,116 aircraft earlier this year.

The numerical odds are now substantially higher, with the Russian-flown MiG–21Js and the prospect that Libya could join the militants when it has its fleet of 108 Dassault Mirages. Israeli planners believe the Egyptian and Libyan air forces will be merged, but one official said Egypt will be Israel's only major Arab adversary for many years.

"Under Israeli standards," a top air officer said, "it would take 4,000 people to maintain and fly 100 Mirages. Under Arab standards, it will take 12,000. Maybe in 20 years Libya will have an air force. Until then, Egypt will control it."

In the tactical environment before the Soviets arrived, Israel had the opportunity to shake down much of its new hardware in battle. The F–4 was first used in combat by the Israelis Jan. 7 in the strike against an SA–2 missile site at Dahashur, 7 mi. south of Helwan. This raid marked the opening of deep strikes into Egypt. In the four months the deep strikes were part of the air strategy, about 45 were flown against 30 different targets located more than 10 mi. behind the cease fire line along the Suez.

Israel consistently denies raids against any but military targets. Egypt has charged that civilian targets, including a school, have been hit.

The F–4 and A–4 were used as fighter bombers in deep raids with the Mirage 3 providing air cover. The Mirage has been responsible for knocking down most Arab aircraft in air battles. Both McDonnell Douglas aircraft can be equipped for dogfights, but neither has yet flown an air-superiority mission in the Middle East.

One observer said it was not necessary to use the American aircraft for any but strike missions as long as targets were defended by the MiG–21C. At $4.5 million each, the Phantom is too expensive to commit to a dogfight merely to see if it is better than the MiG–21 in the Middle East environment. He added that the high ratio of Arab losses to those of Israel proves the Mirage was in the proper role.

The Mirage was both an air-superiority fighter and fighter bomber in the six-day war. The combination of aircraft cost, range with weapons load and success evolved the Israeli formula for aircraft usage.

As now used, the A–4 can carry an 8,200-lb. weapons load and the F–4, 16,000 lb. This compares to about 4,000 lb. for the Mirage 3. The A–4 is equipped with two 20-mm. guns and can be fitted with two Sidewinders. The F–4E has the M61 Vulcan cannon capable of firing 6,000 rounds/min. If necessary to use it in an air-superiority role in Israel, it can be fitted with four Sparrow and four Sidewinder missiles.

In its air-superiority configuration, the Mirage 3 is equipped with two 30-mm. cannons, a Matra 530 missile and two Sidewinders.

Another American system in operation here is the Sikorsky CH–53 heavy-lift helicopter. In one of the boldest raids of the war, the CH–53 carried a commando team to Ras Arib last Dec. 26 where experts dismantled and captured a complete Russian-built S–12 Barlock search radar installation. The raid was in preparation for deep strikes into Egypt that began two weeks later. Used to detect low-flying aircraft, the radar was taken apart with blow torches, wrenches and wire cutters and loaded complete with consoles and antenna into the helicopters. It has since been reassembled and is in operation in Israel.

Four ranking Egyptian air force officers were reported executed because of the radar theft, indicating the depth of Egyptian frustration over its inability to stop Israeli raids into the country. This undoubtedly was an element that impelled Egypt to surrender its air defenses to Russia.

Israel has not admitted receiving the CH–53 but now has seven in service. The helicopter probably will be shown publicly for the first time at the independence day parade here May 11. F–4s currently are being delivered at the rate of two per month, and the order for 50 was to have been completed by the end of this year.

All 48 Skyhawks in the same order have been delivered.

Of the French aircraft in the inventory, only the Mirages and Dassault Mystere 4s are now used in combat. Some of the other aircraft—Super Mysteres and Dassault Ouragan fighter bombers and Sud Vautour light bombers—are reaching service lives of 15–20 years. Israeli Fouga Magister trainers can be converted for ground attack, but they were found to be highly vulnerable in the 1967 war and have not been used for this purpose since then.

Initially, Israeli strikes into Egypt were restricted to a 10-mi. strip behind Egyptian lines. When the air force established confidence in its new long-range F–4s and A–4s, the attack pattern was enlarged to hit "anything that affects the quiet of the front lines," a top air strategist said. "The main thing we accomplished [with the deep strikes] was proving to Nasser and his generals that they are not ready for another war with Israel. If we hadn't done what we did, Egypt would have attempted to cross the [Suez] canal and there would have been another war."

One of the interior Israeli targets is believed to have been the Egyptian missile manufacturing site at Heliopolis, located between Cairo and Alexandria.

The two medium-range missiles Egypt is known to be developing have not been fired since the 1967 war when they were ineffective. Egyptian-built ballistic missiles are the Al Zafir, a 200-mi. weapon with a 900-lb. warhead, and the Al Kahir, a 350-mi. missile with a 1,000-lb. warhead.

MIDDLE EAST AIRCRAFT CLAIMS (SINCE 1967 CEASE FIRE TO MAY 1)

Country	Type	Number shot down
CLAIMED BY ISRAEL		
Egypt	Mig-21	57
	Mig-17	13
	Su-7	18
	Il-28	2
	Unidentified	1
Syria	Mig-21	20
	Mig-17	4

	Number Israeli aircraft shot down	Number admitted by Israel[1]
CLAIMED BY ARABS[2]		
Egypt	158	10
Guerilla groups	69	0
Jordan	45	7
Iraq	27	0
Syria	19	2
Saudi Arabia	2	0
Lebanon	1	0

[1] Israel does not identify type of aircraft lost. Of its total losses, 2 came in air battles over Egypt. Ground fire losses were 8 over Egypt, 7 over Jordan and 2 over Syria.

[2] For the most part, Arabs do not list type shot down.

Soviets Accelerating Mideast Drive

(By Edward H. Kolcum)

Geneva.—Soviet Union is accelerating its massive penetration into the Middle East and employing strategy designed to give it control of the Suez Canal, the Red Sea and ultimately the oil-rich, defenseless states that border the Persian Gulf.

At the same time, Russia has started to court Libya directly with the objective of torpedoing the French sale of 108 Dassault Mirages to that country. In this move, Russia has the strongest support of Egypt, Libya's eastern neighbor.

The feverish burst of Soviet activity is being viewed in Europe as a clever exploitation of the internal dissension in the U.S. triggered by President Nixon's controversial Cambodian campaign. While America, and much of the remainder of the western world, is engrossed in the U.S. domestic turmoil and events in Southeast Asia. Russia has been able to accelerate its Middle East timetable by:

Taking over the complete operation of three Egyptian military airfields and controlling three others (see map, p. 17).

Selling Libya 25 MiG–21 Mongol trainers.

Increasing the number of seasoned airmen and ground troops in Egypt to 15,000. Another 5,000 Soviet civilian technicians and advisers are in the UAR.

Delivering 80 low-level surface-to-air SA–3 Goa missile launchers and 160 Goa missiles to Egypt.

Constructing 15 T-shaper Goa concrete-shelter sites along the entire 109-mi. length of the Suez west bank. Sites are being built at standard 7.5-mi. intervals along the Suez narrows. This interval allows a range overlap for the SA–3s, providing a serious potential threat to low-level Israeli strike missions against massed Egyptian artillery emplacements along the west bank. The Goas probably will be manned by Russian military personnel.

Deploying four Tupolev Tu-16 strategic reconnaissance aircraft to Aswan, from which they will keep watch on the Red Sea.

Stationing a picket destroyer off the Sinai coast to furnish early warning data to Egypt of Israeli air activity.

Increasing air- and sea-lift between Russian and Egyptian ports to the point where deliveries now are at the heaviest pace since the end of the 1967 Arab-Israeli war.

A new intelligence assessment is that Russia will bring a total of 150 MiG–21J interceptors and 250–300 interceptor pilots into the UAR to defend the country's interior. Three airfields now completely under Soviet command and control are at Inchas, 30 mi. to the northwest of Cairo; Jiyanklis, 70 mi. to the northwest of Cairo, and Al Mansura, 70 mi. north of the UAR capital. Russian pilots also fly from Beni Suef. Cairo West and Aswan. They probably control these bases, but Egyptians also fly from them.

Soviet aircraft are protected by camouflaged shelters at all bases. There are about 450 hardened shelters in Egypt.

In addition to interior air defense of Egypt and reconnaissance of the Red Sea, Russia also conducts; routine reconnaissance of the U.S. 6th Fleet and the Mediterranean, using seven Tu–16s, with Egyptian markings but flown by Russian crews.

The 15,000 uniformed Russian airmen and troops in Egypt are responsible not only for operating and maintaining MiG–21J interceptors and Goa missiles, but also for manning and maintaining associated search radars and the artillery defending the missiles and radar. Russia has deployed two low-level radars to Egypt. They have the code names Low Blow and Flat Face. The 23-mm. antiaircraft artillery used for defense is radar controlled.

Russian flying elements in Egypt are organized into 12-aircraft units. Three such units, with 36 aircraft, form a fighter regiment. The entire Soviet interceptor fleet in Egypt goes on alert whenever Israeli aircraft penetrate UAR airspace.

New equipment delivered to Egypt in recent weeks also has included 16 additional Sukhoi Su–7 fighter bombers. This brings to 86 the number of these strike aircraft in Egyptian hands, and the new deliveries indicate that Egypt intends to increase its air pressure on the occupied Sinai.

As of late last week, Egypt's tactical combat air fleet also consisted of 55 MiG–21Cs and 44 MiG–21Ds. The UAR also has 73 tactical helicopters—mainly the Mil Mi–1, –4, –6 and –8.

In Russia's Middle East and North African penetrations, Egypt has been the strategic pivot point. There is a new fear that Egypt is convincing Libya to back out of its deal with France to buy Mirages. The rationale for this is that 25 Mongol trainers have been delivered to Egypt, which does not need them. They are apparently awaiting further shipment to Wheelus Air Base when the U.S. completes its withdrawal from this base June 30. Egypt and Libya will establish a master Arab air training center and air academy at Wheelus when the U.S. leaves.

French sources dispute the conclusion that Libya is about to default on the Mirage deal and say that first deliveries will be made on schedule next January and February. They point out that Libya already has lost $80 million by canceling the missile air defense package with Britain. It is estimated that Libya has paid at least $30 million down on the $400-million Mirage deal, which includes spares, training and maintenance as well as the 108 aircraft.

Oil looms ever larger as the major strategic and economic factor behind Russia's Middle East and North African push. Although the Persian Gulf states have largely been overlooked by intelligence experts as a Soviet goal, the departure of Britain from the five states there makes the area highly attractive at minimum risk.

Britain will begin its East-of-Suez withdrawal this summer and complete it by the end of next year. This will leave the wealthy states of Bahrain, Qatar, Kuwait, Muscat and Oman, and the Trucial states open to Soviet incursions.

These developments are evidence to some western observers that land-based military airpower is the real strategic key to the Soviet Middle East intervention. To Israeli planners, the speed at which Russia is moving means, the price Egypt is paying to the Soviets for military and economic aid is the control of the Suez Canal.

With Soviet control of the Suez, a direct confrontation between Russia and Israel will be unavoidable if Israel continues its basic policy of holding the Sinai territory it captured in the 1967 war. A critical aspect of Israeli strategy is to pin the enemy down along a 15-mi. strip behind the Suez cease-fire line to prevent an Arab buildup for retaking the Sinai.

At this point, Israel appears willing to allow the Soviets to defend enclaves in Egypt's interior, but believes its existence depends on maintaining the Sinai as a buffer zone. Doubtless, both sides will probe the other to determine how far they can go short of exploding the area into a general war.

SOVIET, ARAB AIRCRAFT STRENGTH IN MIDEAST TOPS ISRAEL'S 4 TO 1

Soviets and Arabs now have 1,230 fighter-bombers and bombers deployed in the Middle East, compared with approximately 330 Israeli aircraft in these categories. An additional 50 MiG–21Js under Soviet command are expected to be added this summer.

The present 900-aircraft gap between Arab and Israeli fighter-bombers and bombers is substantially wider than it was at the start of the Six-Day War on June 5, 1967, and infinitely greater than it was a week later, when both sides were at par with fewer than 300 aircraft each.

Massive Soviet resupply of Arab air forces, which began with the June, 1967, cease-fire has continued to this date.

Breakdown of the Arab-Soviet-Israeli air order of battle shows the Israelis with slightly less than one-third of their strength in supersonic aircraft while more than half of the combined Arab-Soviet forces are supersonic. By country, the fighter-bomber and bomber estimate is:

Soviet Union, 100 MiG–21Js, with plans to add 50 more by summer. All Soviet aircraft units are based in the United Arab Republic. Russia had no aircraft in the region at the close of the Six-Day War, but immediately established a permanent command presence in Egypt and thereafter began flying operational missions in Yemen against the Royalist forces.

United Arab Republic, 600 aircraft. Of these approximately 320 are MiG–21s and Sukhoi Su–7s. The rest are subsonic MiG–17s, Tupolev Tu–16s and Ilyushin Il–28s. At the close of the Six-Day War the UAR had 100 fighter-bombers and bombers.

Syrian Arab Republic, 260 aircraft of which 175 are MiG–21s and Su–7s and 85 are MiG-17s. Syria had 55 aircraft in these categories on June 11, 1967.

Iraq, 230 aircraft of which 150 are MiG–21s and Su–7s and 80 are MiG–17s and MiG–19s. The current figure represents an increase of more than 200 aircraft of this type in inventory since June 11, 1967.

Jordan, 40 aircraft, of which 22 are Hawker Hunters and 18 are Lockheed F–104s. Jordan's entire 29-aircraft air force was destroyed in the 1967 war, and F–104s were supplied on condition they not be used against Israel.

Israel, 330 aircraft of which approximately 60 are Dassault Mirage 3Js, 42 are McDonnell Douglas F–4s and 48 are McDonnell Douglas A–4s. Israel had approximately 280 aircraft at the end of the 1967 war.

In addition to the more than 900 aircraft they shipped to the Mideast, the Russians have sent approximately 2,400 T–54 and T–55 tanks and an equal number of guns, the majority of them 120–mm. and 160–mm. heavy mortars. Bulk of the tanks and guns—1,300 and 1,200, respectively—has been delivered to Egypt. Syria has received 650 tanks and 800 guns and Iraq 100 tanks and 300 guns since the Six-Day War.

The Russians have also shipped eight new Komar and Osa class missile boats to the Cairo government, one of which has already been sunk by the Israelis. The Israelis hope to counter these, and the Soviet Mediterranean fleet as well, with missile boats, six of which were spirited out of France last December. The new Israeli missile boats will be equipped with the Gabriel ship-to-ship missile.

MEMORIAL TO THE LATE MRS. CAPUS WAYNICK

Mr. JORDAN of North Carolina. Mr. President, it has been truly said that behind every great man stands a wonderful woman.

I know of no one who better exemplified that in her lifetime than Mrs. Elizabeth McKee Waynick, the late wife of former Ambassador Capus M. Waynick of High Point, N.C.

Before her death earlier this year, Elizabeth Waynick had for more than half a century been her husband's constant companion and partner in his distinguished career as a soldier, editor, diplomat, and Presidential confidant and finally as his State Adjutant General.

Recently I was privileged to read a memorial tribute to Mrs. Wynick, written by Mrs. Lettie E. Crouch, of Mayodan, N.C., who had known her since college days. It says more eloquently than I possibly could the kind of person she was and I wish to share those thought with the Senate.

I ask unanimous consent that the text of the memorial, which appeared in the Eden, N.C., News, be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

THE GOVERNOR THEN THE PRESIDENT CALLED HER

Ofttimes at the busy noon hour there floats from the old Moravian church tower sweet strains of sacred music wafting to God a human soul whose body will rest under the sod and moulder to clay till the trumpet shall sound for the great Resurrection Day.

The senior class sat in tiers of wooden chairs in a building back of Home Moravian church. One day Professor Starr paused in his philosophy lecture. The students laid their pencils on their open notebooks. The professor remained silent while the trombone band announced by the playing of a hymn that a member of Salem congregation had died.

Elizabeth sat in the tier just back of me, as I remember. Finally came the long dreamed-of day. The May morning sun shone down on the commencement processional along Salem Square. The happy graduates filed into Memorial Hall, the daisy chain on their proud shoulders. At the clap of the hand of the beloved Miss Lehmann, the daisy chain fell to the floor. The students stood to receive their diplomas, and go their individual ways to the four corners of America and even across the sea. Indeed, they stood expectant. But this commencement was made memorable because even the magna cum laude graduates were called second while the people in the crowded hall looked on in respectful wonder. A little lady wearing black taffeta and in a rolling chair was brought forward. She was an Academy girl and the widow of General Stonewall Jackson. Dr. Rondthaler presented her an honorary Salem college degree before her niece, Elizabeth, and eager classmates received their diplomas.

Miss Lehmann was strong on the character fundamentals that go into living a worthy life. Teaching English literature as a vehicle, she held up as the highest ideal of young womanhood that of becoming the wife and mother in the home.

Before World War I, Elizabeth became the bride of a volunteer who saw the muddy trenches of France and the poppies blooming in Flanders Field. Peace came, or rather the semblance of it. Elizabeth began keeping house while her husband edited an enterprising newspaper in a little city humming with factories making beds, tables, kitchen cabinets, school and lawn chairs.

The smoldering embers of World War II burst into flame. The Governor of North Carolina called the editor. Elizabeth went with her husband. His stern assignment was to help fight the deadly social disease that invades military camps and preys upon young men in the service of their country.

The ravages of World War II burdened many a country. Hunger and illiteracy were familiar to peoples rich in undeveloped natural resources. The President called. Elizabeth went with her husband to Washington. The Squire of Hyde Park outlined to the couple the Marshall Plan to help the farmers of Nicaragua, then Colombia.

Helpmate of an ambassador to a foreign country, Elizabeth gave her energy and talents to entertaining diplomats and being neighborly with farm hands. A world of honest hard work, prayer, and scientific know-how went into building good will for the United States while teaching people how to better themselves. On occasions of stress and strain Elizabeth's memory must have turned those days at peaceful Salem, and nights of verbal battle. Once there was "The War of Words" in Memorial Hall. Wake Forest debated Chapel Hill on the subject "He Who Would Pluck the Rose Must Endure the Throne." Because of duty performed with grace, dignity, and charm, Elizabeth returned home to be welcomed as a "splendid ambassadress."

The two lived for awhile in the shadow of the Empire State Building, then sought the quiet of their Guilford county farm home. But the would-be farmer was called upon to lead military guardians of the state before putting his hand to the plow. Even in retirement the war veteran was called to Charlotte and Durham to guide conference on the stormy racial issues distressing the land.

Elizabeth generously offered to go with a teacher and school children on a nature trail hike on her farm. But mortals are bound by the ceaseless march of time, the nature trail hike never came off.

It was March 2, 1970, year of our blessed Lord, the Death Angel called. Elizabeth Hunt McBee, my dear sweet, lovely classmate, answered.

Her war veteran husband, Capus Waynick, former adjutant general of North Carolina, lives on at their home, "Fieldstone Farm," near High Point.

"Sunset and evening star,
And one clear call for me!
And may there be no moaning of the bar,
When I put out to sea.
For tho' from out our borne of Time and
Place,
The flood may bear me far,
I hope to see my Pilot face to face
When I have crossed the bar."

SANCTUARIES

Mr. DOLE. Mr. President, in an interesting editorial published in the Evening Star of July 14, Orr Kelly points out a fact that may be overlooked by many when reviewing the Cambodian operation. As he so accurately indicates, the real gain in the Cambodia effort is the fact that the enemy will not be able to "rebuild" the sanctuaries. Certainly, supplies can be replaced, but again, as he states, sanctuaries cannot be restored.

He also explodes the charge that Communists now control most of Cambodia.

In my opinion, this is an excellent analysis of the situation. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NEW SITUATION IN INDOCHINA

(By Orr Kelly)

The argument between President Nixon and his critics over the wisdom and the results of the Cambodian operation has largely obscured a basic—and probably permanent—change in the battlefield situation in Southeast Asia.

Neither the administration nor its critics yet know for sure whether the pace of the American withdrawal can be increased and the number of American casualties reduced as a result of the incursion into Cambodia. But other important military effects of the operation already are becoming obvious.

Attention has centered, for example, on the amount of supplies found in the sanctuary areas and on the time it will take the enemy to "rebuild the sanctuaries." The fact is, however, that the supplies may be replaced, at some considerable effort, but the sanctuaries cannot be restored.

Enemy supply and troop movements are now subject to air interdiction from the moment they leave North Vietnam until they are committed to battle in South Vietnam or Cambodia—if they get that far. The sea route through Sihanoukville already had been cut off, even before the change in governments.

On the other side, the southern portion of South Vietnam has very much the character of a military sanctuary. South Vietnamese forces can strike from the relative security of their own bases against enemy troop or supply concentrations across the border—and they can strike at times and places of their own choosing.

In this very basic sense, the roles of the contending forces have been reversed by the events of the last three months.

In Cambodia, the maps so much in prevalence on television these days would seem to indicate that the Communists now control a vast northeastern section of the country. They have taken a few key towns, such as Stung Treng, and the Cambodians have withdrawn soldiers and population from some others.

But the area the Communists "control" contains neither population nor rice. Its major value to the enemy forces is as a route toward South Vietnam and, as such, it is subject to both air interdiction by American planes and attack on the ground by South Vietnamese and Cambodian forces. In recent days, the South Vietnamese have made just such a deep penetration along Highway 19 and Cambodian officials here say their government intends to go back into those areas.

If the Communists should take Phnom Penh, as they probably could if they set their minds to it, and establish a government friendly to their cause, they still would not succeed in re-establishing their sanctuaries.

They would, instead, assume the burden of governing a country whose citizens considered them alien invaders and whose neighbors considered them hostile rather than neutral.

Even more important, they would be forced to defend fixed positions against a foe that could choose the time—and place of attack—again a sharp reversal of traditional roles in Southeast Asia.

Given this alternative, the Communists might well decide their cause would be better served if the technically neutral Lon Nol government should survive, rather than be replaced by one more friendly to their cause.

This would leave most of Cambodia's 6.7 million people, the majority of South Vietnam's 17 million people, and most of the rice lands of Indochina under control of governments that do not want the Communists to prevail.

In these circumstances, the problems of both South Vietnam and Cambodia, in the near future, are likely to be less those of a direct military confrontation than a series of political crises brought on by a steadily worsening economic situation.

CULEBRA: TARGET OF THE MILITARY

Mr. FULBRIGHT. Mr. President, in recent weeks Culebra, a small Caribbean island, has been in the news because it is being used as a target by the U.S. military, and many of its residents do not like it.

Culebra is part of the Commonwealth of Puerto Rico. Its 726 inhabitants are U.S. citizens. Culebra's sons have fought in this country's wars and 12 of them are veterans of Vietnam. The Navy, which owns about one-third of the island and has used it for more than 30 years as a training target, sought to acquire the entire island and resettled the civilian population elsewhere. Because this was not, as the Navy admitted, acceptable to the Culebrans, the Navy had indicated its intention to acquire, by eminent domain if necessary, a leasehold interest and, eventually, purchase of an additional one-third of Culebra. The Navy wants to expand training operations and to establish a Walleye missile target on the immediately adjacent small island of Culebrita.

An official Navy statement said:

> Although the plan to purchase the entire island was discarded, the requirement for additional targets and their necessary safety zones was still pertinent.

Early this year, during the Atlantic fleet's "Operation Springboard" when ships and planes from 20 allied nations practiced their marksmanship with live bombs and rockets, feelings on Culebra became particularly intense. On March 15, the mayor of the Island of Culebra—a municipality of the Commonwealth of Puerto Rico—said:

> The intensity, the frequency, and the type of maneuvers carried out by the Navy of the United States on and around our island in recent years, and especially this year, have created a situation that passes the limits of our human tolerance.

The subject was given increasing attention in the Puerto Rican press and began to receive notice in major publications across the country. An article in the Washington Post on March 28, entitled "Batered Island Is at War With Navy," reported that a U.S. court of appeals had upheld a decision by a U.S. district court recognizing the Navy's legal right to bombard, strafe, and mine the island and the sea around it. The article also reported:

> Up to 1968 the Navy limited its shelling to Northwest Point, a peninsula about 2½ miles from the main town, Dewey. Now, with operations increasing, more shells stray off target.
>
> Last January, (Mayor) Feliciano says, one shell fell about 200 yards from the city hall. Another narrowly missed the ferry that plies once a day between Dewey and the town of Fajardo on Puerto Rico. Three bombs dropped by a Navy plane last month in the bay near Dewey sprouted a mushroom cloud of water hundreds of feet in the air, claims Feliciano.
>
> "We fear for our lives," he said.

In its April 10 issue, Life magazine published an article entitled "The Navy vs. Culebra." I quote one paragraph:

> Not just American ships fire on the island. The U.S. has extended punching bag privileges to 20 allied nations. Although no one has been killed during actual shelling, recent near misses have become more and more disturbing to Culebrans. Not long ago the Navy inadvertently threw a shell into the fresh-water supply of the island's one remaining town, Dewey. A bombing exercise one night last month became so intense and unbearable that islanders left their houses and huddled together in the streets, praying. "The Americans," said one small child, "are killing us."

I think the Life article summarizes an important aspect of the controversy:

> Something far less tangible than too much bombing finally goaded the Culebrans to direct action. It is a matter of arrogance. With all the detachment of a 19th Century colonial power, the Navy and the rest of the U.S. often seem to Culebrans to act as if there were no people at all on the island. Congressmen enjoying winter junkets to Roosevelt Roads seldom visit Culebra. Perversely, the Navy has refused to turn over two acres of unused land so that the people can build a hospital for which they already have the money. Similarly, it has refused to cede land for a ball park. And it staunchly defends its ownership of one half the island's burial grounds.

On May 12, I received a letter from Mr. Frank Sanders, Assistant Secretary of the Navy, in response to an inquiry I made about Culebra. Mr. President, I ask unanimous consent that Mr. Sanders' letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
Washington, D.C., May 12, 1970.

Hon. J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FULBRIGHT: Thank you for your letter of April 29, 1970 concerning the Island of Culebra.

The Island of Culebra is an integral part of the Atlantic Fleet Weapons Range Complex and is an essential target area for training crews of both ships and aircraft of the U.S. Atlantic Fleet. The Navy owns approximately 36% of the land on Culebra. Navy ships have utilized the Navy-owned northwest peninsula since 1936. That is the only area on Culebra that is used for firing. The other firing targets are located on cays or small islands near Culebra. All of these firing areas are considerably farther away from

> the town of Dewey than the northwest peninsula.
>
> As recently as a year ago, the Navy initiated exhaustive studies of alternative areas to conduct this type of training. All studies concluded that the Puerto Rico operating area, centered at the Navy's Roosevelt Roads base, was by far the most suitable site for a great variety of reasons. These include comparative freedom from ocean shipping and air traffic, deep water, proper mix of topography for training exercises, weather that permits effective year-round operations, and three locations in close proximity (Roosevelt Roads, Vieques and Culebra) that permit easy triangulation for training assessment. It is presently the only target area available to the U.S. Atlantic Fleet where combined air, sea and amphibious training operations can be conducted. For this reason, the Navy has over the years invested a large amount of money to develop the weapons range complex.
>
> The Navy is quite mindful to the wellbeing of the residents of Culebra. There are no plans for the use of the Atlantic Fleet Weapons Range that will require removal of the inhabitants of Culebra. The plan is to continue to conduct training with minimum inconvenience to the people. The Navy and the Culebrans have lived together for over 30 years and there is no reason why they cannot continue to live together. We are particularly proud that no civilian injuries have resulted from the use of the Culebran target complex in that time and we are most anxious that this safety record continue. The people are advised in advance of our training schedules in order to minimize inconvenience to them. Every effort is taken to avoid endangering the residents and, of course, this cannot be done without restricting their movement through target areas.
>
> Enclosed is the statement RADM A. R. Matter, Commander Caribbean Sea Frontier, made to the news media in San Juan, Puerto Rico on April 24, 1970, which, we believe, is self-explanatory. The Navy's course of action outlined by RADM Matter will provide greater opportunity for the Culebrans to develop their economy and municipality and still provide for some of the vital training needed for the Navy.
>
> The Governor of Puerto Rico has stated publicly that his government is pleased with the Navy plan which will permit essential training, although in a restricted manner, for the national defense, which is also their defense, without hurting the rights of the residents of Culebra for their progress and well being.
>
> The Resident Commissioner of Puerto Rico, Mr. Jorge L. Cordova-Diaz, is fully aware of this situation and has expressed publicly his approval of the Navy plan. Perhaps you would be interested in contacting him.
>
> Sincerely yours,
>
> Frank Sanders,
> *Assistant Secretary of the Navy (Installations and Logistics).*

Mr. FULBRIGHT. Mr. President, in the meantime the Washington law firm of Covington and Burling was authorized by Mayor Feliciano to serve as legal representative and counsel for the municipality of Culebra. The firm undertook this representation on a pro bono publico basis without fee.

Despite Mr. Sanders' indications that everything was working out satisfactorily, investigations by two Covington and Burling lawyers and several journalists from the Armed Forces Journal turned up a different picture.

Mr. Thomas Jones, Jr., one of the lawyers, conducted a survey to determine opinion on the relationship between the U.S. Navy and Culebra. In his report he states:

> I attempted in every manner I could conceive of to guarantee that the results of the survey would reflect an accurate and impartial impression of the attitudes of the people of Culebra. Indeed, because the results that I was obtaining showed virtually unanimous opposition to the Navy proposal, I searched out four of the Navy's five, six, or seven employees (the number of Navy employees seems to vary between five and seven and even Admiral Ward was unable to give us the precise number) in order to see whether there was some hidden reservoir of support of the Navy that I had been unable to uncover myself. However, even the Navy employees admitted to me that there was virtually no one in Culebra who supported or would benefit from the Navy plan. Thus, I am personally convinced that if there is any error in the results of my survey it is an error which would tend to exaggerate the support for the Navy proposal rather than the opposition to it.
>
> Ninety-five per cent of the people I spoke with were opposed to the Navy plan, and approximately seventy-five per cent favor a complete withdrawal of the Navy from the Island of Culebra. . .

The Armed Forces Journal, which calls itself "The Defense Weekly" and has been "Spokesman for the services since 1863," became interested in Culebra and decided to make a thorough check into the complaints of the Culebrans.

An editor's note accompanying the Journal's first article on the subject in the May 23 issue, seems to me to be rather convincing evidence that the Culebrans have a strong case. The Journal staff began with a strong pro-Navy bias and wound up siding with the Culebrans.

The editors of the Journal wrote:

> The Journal sometimes gets stories that we'd rather not print. In many ways, this is one of them . . . Our hearts are with the United States Navy, but not about Culebra. Not now. Our biases, our opinions have shifted from the Navy's side to the Culebrans' as we tracked down and checked out the story on these pages. In these cases, we think our facts, our research, our candor will check out better than the Navy's . . . .

I want to refer to a few specific paragraphs in the Journal article:

> The Navy is sincere, but readers who talk with the Culebrans would probably find them even more so. The Culebran problem isn't targets: it's people—patriotic, warm, gracious, honest, candid Americans who aren't accustomed to dealing with bureaucratic subtleties. They are not at war with the Navy. The only enemy the Culebrans have is indifference. But when you're sitting on the bull's-eye, it doesn't matter whether its friend or foe who pulls the trigger.
>
> The Culebrans earn their living from the land, and from the sea. They have only limited access to both, and the Navy proposes to make the limits even tighter. There is no school on the island; there is, as yet, no hospital. For both, the Culebrans must go to the Puerto Rican mainland. Denial of that access becomes a major infringement on their very lives.

Culebra was also the subject of a recent article in the Wall Street Journal. In its June 10 edition the Journal reported that the Navy "often appears to treat the people in a high-handed manner," referring to claims to cover the losses of fishermen and "the Navy's apparent inability to observe the firing schedule it tacks up at the post office and at the airstrip."

According to the Journal report:

> As recently as May 22 the Navy pulled what could have been a ghastly blunder. No gunfire was scheduled that day, and no warning flag was hoisted from the Navy observation post, so six children went swimming in Flamingo Bay. But at 3:30 p.m. mortar shells started falling, close not only to the swimmers but to a yacht occupied by Luis Ferre, governor of Puerto Rico. The governor had just visited Culebra to find out why the Culebrans were clamoring—and to receive Navy assurances that unscheduled firings rarely occur.

Finally, I would like to quote from a statement by Mr. Richard D. Copaken, one of the lawyers representing Culebra:

> We remain unconvinced that the Navy has looked hard enough for an acceptable alternative to Culebra. The Navy had assumed until very recently that it would be able to take over the entire island of Culebra. Apparently most of its studies of alternatives began from this unspoken premise . . . Leaving aside for the moment the political and moral costs inherent in conducting training operations with live ordinance on a small inhabited island such as Culebra, strictly from the standpoint of achieving important Navy training objectives it would be desirable for the Navy to take a real look at alternatives . . .
>
> When the human misery and deprivation that has resulted from the present level of Navy training operations is taken into account the conclusion becomes inescapable—the Navy must cease its use of Culebra and its neighboring cays as targets. In a recent press conference in San Juan, Admiral Ward attempted to delineate the issue posed as one involving a conflict between national and local interests. This, it seems to me, is not sufficiently comprehensive. There is a significant national interest in avoiding grave risk of damage to our reputation throughout the world as a nation that attaches great significance to the sanctity of life, that has committed itself to assuring every citizen the right of life, liberty and the pursuit of happiness, that treats every man as an equal under the law regardless of whether he is black or white and notwithstanding the fact that his native tongue may be Spanish rather than English.

Mr. President, I would hope that the Navy will be able to shift its training operations away from Culebra. I know that a number of other Senators and Representatives are looking into this matter and some reasonable alternatives have been suggested.

I believe that all parties would benefit if the island of Culebra was no longer used as a target.

Mr. President, I ask unanimous consent that several articles on Culebra be printed in the Record. They include articles from the San Juan Star of June 5, the Washington Star of June 14, and the Armed Forces Journal of June 27, which deals with alternative proposals for the Navy. I should point out, as the Washington Star article makes clear, that, contrary to Mr. Sanders' letter, Mr. Jorge L. Córdova, the Resident Commissioner of Puerto Rico, no longer approves of the Navy plan.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the San Juan Star, June 5, 1970]

Mortar Firing on Culebra Called "A Navy Mistake"

(By Robert Friedman)

The recent mortar firing near a Culebra beach where children were playing was a Navy mistake, Rear Adm. Norwell G. Ward, Caribbean Sea Frontier commander, acknowledged Thursday.

While Ward claimed that witnesses have reported the firing did not endanger the lives of the several children playing on the beach, he added: "It shouldn't have happened."

The incident, which occurred May 22, has escalated opposition to the Navy's use of Culebra for target practice. The mortar rounds were fired by the Navy near Flamingo Beach.

Ward also disclosed, in reply to a question, that the Navy is using live bombs in the exercises taking place along the outlying cays. He said, however, that live bombs are not used on the cays closest to Culebra, including Ladrone Cay, Culebritas and Agua Cay.

Ward, who spoke Thursday to the Overseas Press Club at the San Jeronimo Hilton, also acknowledged that prior warnings of the mortar firing were not posted. He added that "the report of the inspector general will tell us very definitely what will be done" to avoid such future incidents.

Rear Adm. M. U. Moore, the Atlantic Fleet's inspector general, is currently in Puerto Rico to gather information about the Culebra situation.

Ward said the fate of the Navy's role on Culebra would ultimately be decided by Congress. "We in the military are servants of our Congress," he said. He added that if Congress decides local interests overrode those of the Navy, then, "The Navy will be forced to look for other solutions to its training requirements."

Ward noted that there had previously been an "apparent" breakdown of dialogue between "local interests" and the Navy. He said, "I think I'm safe in saying that is in the past," then added, as far as the Navy was concerned, "Local interests will be heard."

Ward also pledged a step up in the Navy's community relations program on the island. He related how the Navy recently made available surplus incubators there.

However, despite the conciliatory tones, the admiral gave no indication that the Navy would comply with local demands that it abandon the island. He stressed the highly desirable location of the island for the gunnery exercises, and the economics involved.

Ward said that "well over $300 million" had been "invested" in the Atlantic Fleet Weapons Range. However, Culebra, itself, he qualified, represents only a small percentage of that total investment.

[From the Washington Star, July 14, 1970]

Navy Replies to Islanders: Culebrans Battle a "Ghost"

(By David Braaten)

"The Navy officials were important and they did not speak Spanish."—Justino Quinone, Culebra storekeeper.

"The Navy is a ghost. It is in the water, in the air, in the land, but we cannot speak with it." Clara Feliziano, 74-year-old Culebran.

"To some it may appear that we are showing less than adequate concern for the Culebran people . . . Their safety is the Navy's paramount concern consistent with our historical principle of the rights of the individual."—Joseph A. Grimes, Jr., assistant to the secretary of the Navy.

In crisp, beribboned summer whites and conservative business suits, a dozen Navy officials appeared before a House Armed Services subcommittee last week to explain their plans for the Caribbean island of Culebra, the Navy's only inhabited gunnery target.

The Navy witnesses were in sharp contrast to Culebrans (from among the island's population of 725) who had appeared to testify the day before. Dressed in their Sunday go-to-Washington best (which in one case included World War II vintage heavy wool OD trousers), the islanders read their statements haltingly from English translations prepared from the Spanish originals they had written themselves. Other statements were read to the committee by a D.C. lawyer who collected them in Culebra.

Led by Rear Adm. M. U. Moore, inspector general of the Atlantic Fleet, and Grimes, a special civilian assistant to the secretary of the Navy, the officials testified that Culebra and its surrounding islets are uniquely suited to the Navy's target practice needs.

One-third of Culebra's 11 square miles is already owned by the Navy, and the Navy is asking Congress for authority to buy another third of the island so that operations can be expanded to include missile firings as well as bombing, strafing and shelling. The Culebrans, numbed by 35 years of the Navy's explosive activities, want the Navy to get off their island altogether.

"They now have us, the fishermen, corraled like animals. It is cruelty,, what they are doing to us."—Juan Camillo Rosano, Culebran fisherman.

"The day I was there," Adm. Moore recalled, "there was a 2½-hour delay (in the firing) because we had to use a destroyer to chase off a fishing boat." Culebran fishermen are not allowed to use the waters around the island on firing days, which often take place every day of the week.

The admiral's visit was in response to an uproar touched off May 22 when some mortar shells from a Navy observation-post on Culebra dropped near a boat offshore in which the governor of Puerto Rico was taking a nap.

Moore acknowledged that his fact-finding trip was not exactly a success. He does not speak Spanish, and anyway, he said, about the only people he saw were newsmen and pickets waving "Navy Go Home" signs.

He spoke knowledgeably of the Navy's training "scenario," the "footprint" (margin of error) of various weapons, and the "inacceptable degradation" of training and preparedness that would result if the Navy were deprived of Culebra. He had a wealth of material at hand to shoot down suggested alternative target areas. Ironically, his arguments included some of the very objections the Culebrans have raised at the Navy's use of their island.

"It is like trying to teach school in a battlefield. The continuous flow of air traffic at low altitudes over the school, helicopters, jets and propeller planes, makes an infernal noise, creating a state of tension and anxiety and rendering it virtually impossible to hold the attention of the students. The school buildings tremble with every explosion. You can see fear in the children's eyes. They sit at school in a peculiar way as if ready to run at a moment's notice. During periods of heavy night bombing, students fall asleep in class . . . The fishermen's children are kept wondering if their fathers will ever come back in one piece because of the heavy bombing out there."—Carmelo Feliciano, school teacher.

"The Culebra issue," said Grimes, the Pentagon assistant, "has been reported primarily on an emotional level—perhaps understandably so—because for many people it is an emotional issue."

Grimes articulated the Navy's surprise at the recent outpouring of Culebran hostility. He said, "On a day-to-day basis, local Navy personnel and the citizens of Culebra lived in apparent harmony for many years. . . . Recent events have made us acutely aware that we must communicate better."

"Navy personnel are very rough on private landowners. The landowners are afraid of Navy officers because they threaten to take them to court if they do not allow them to use their land."—Claro Feliciano, farm manager.

Engineman 1c Dennis S. Hooper, the ranking Navy representative on the island when the mortar incident occurred, was flown up to tell about it Thursday. He was transferred to mainland Puerto Rico immediately after the incident, and a commissioned officer is now on duty 24 hours a day on Culebra.

Hooper explained that he fired six smoke rounds on May 22 to test the concrete pads the mortars rest on. The mortars are used to mark targets during fleet firing exercises.

He didn't put up the customary red warning flag, Hooper said, because he had been given telephoned permission to fire by a lieutenant on the mainland. As it turned out, in addition to the governor's boat offshore, there were some children swimming on the beach when the firing took place. They escaped unhurt but frightened.

Asked if he thought he had followed proper procedure in not raising a warning flag or looking for swimmers immediately before firing, Hooper replied: "Sir, I ask an officer a question and get an answer and I don't take it no further."

Navy witnesses said Hooper had indeed been within the regulations, which did not at that time require a red flag to be displayed before firing rounds to test the newly poured concrete pads. The regulations have since been changed to include such contingencies.

Jorge L. Cordova, Puerto Rico's non-voting representative in Congress, said he does not hold Hooper responsible, but added: "I think it is illuminating of the attitude of the (Navy) establishment toward the Culebrans that the man in charge on Culebra is not impressed with the necessity of raising a red flag."

Cordova wanted to know if Hooper, who does not speak Spanish, had any friends among the Culebra residents. Hooper mentioned a contractor whose name he could not recall, and listed the last names of two policemen and the proprietor of a bar.

It is the same bar in which Hooper was having a coke, he testified, on the day of another disputed incident.

That involved a five-inch shell that Culebrans say landed, without exploding, in a residential area. Hooper was driving by in a Navy truck, on his way to town to get "some chalk for cue sticks," and the Culebrans got him to take the shell away in the truck.

While he was having the coke downtown, the shell disappeared from his truck, possibly taken by Culebrans who wanted it as evidence in case the Navy denied the incident. It is Hooper's and the Navy's view that the dud was found in the residential area only because it was hauled there in soil taken from a target area elsewhere on the island.

"The constant bombing affects our personal lives in many terrible ways. Walls are cracked, building foundations are weakened, and there is no possible tranquility or peace on the island, day or night, because of the bombing. (If the Navy takes two-thirds of the island) the people of Culebra will lose all they have. A community of American citizens living in their country in time of peace will be treated like enemies in time of war."—Anastasis Soto, fisherman.

Subcommittee chairman Charles E. Bennett, D-Fla., said the matter will be referred to the White House before the committee makes a decision on the Navy's request for more of Culebra.

"Assuming that we find for the Navy," Bennett said, "we will certainly require very deep scrutiny into what we can do to make life more livable for the Culebrans."

[From the Armed Forces Journal, June 27, 1970]

Culebra: No Island Alternative? Honolulu Firm Offers To Bid on Building One

(By Bruce Cossaboom)

The Culebran Cauldron cooled down to a simmer this week, but at least four new developments bubbled up in the case of Culebra vs. the U.S. Navy:

(1) A large construction firm which enlarged Pacific islands for the Navy during WWII told The Journal it would be glad to undertake a feasibility study of building an artificial island alternative to Culebra as part of the Atlantic Fleet Weapons Range—if Congress asks it to.

(2) Branded "absolutely unfounded" by Jorge L. Cordova, Puerto Rican Resident Commissioner in Washington—and dismissed by the Navy with a "no comment"—was a *San Juan Star* story citing unattributed "Washington reports" that the Navy and the Puerto Rican government have already arrived at a settlement of the Culebra dispute behind closed doors.

(3) House Armed Services Real Estate Subcommittee Chairman Charles E. Bennett (D-Fla) and at least three other members of his seven-man panel were preparing, at Journal presstime, to fly to Culebra for an on-the-spot inspection tour. (Bennett's Subcommittee is currently considering the Navy's acquisition request for additional acreage on Culebra to enlarge existing safety zones for planned expansion of firing range activities.)

(4) A Naval Research official who had been quoted by Richard Copaken (Washington attorney for the municipality of Culebra) during the Subcommittee hearings as saying that floating platforms—another suggested target alternative—are "clearly within the state of the art," now tells The Journal he was quoted somewhat out of context and that "the concept of large floating stable platforms [needed for the Navy's target practice] is fraught with technological problems." This official projected deployment of such a device as falling within the 1985–90 time frame.

ISLAND-BUILDER CONFIDENT

Dillingham Land Corporation of Honolulu (together with Ocean Industries, one of its subsidiaries), a large and diversified land builder and developer, says it feels it could build an island the Navy could use as a target range near Roosevelt Roads if the proper conditions and requirements were met.

"It appears that there are some areas near Culebra where we could do it," company officials told The Journal, "but it would need intensive study. We'd be willing to do a detailed study if the Committee wanted us to," they said, adding that the company would provide its brochure for the Subcommittee's consideration in evaluating possible alternatives.

Dullignham officials said they would be glad to meet with the Navy, take soundings in the Culebra area, try to find suitable shallow banks or rock outcroppings that could be used as a base, and provide a quick answer at reasonable cost.

"We have built islands before," firm officials observed, citing a 75-acre island which the company built (at a cost of $4-million) in the Bahamas to support facilities for the mining of calcium carbonate.

From 1939 to 1946 the company sponsored a partnership of builders which constructed all naval military installations in the Pacific. "For this project," officials noted, "we took many islands that were too small and made them larger, such as Canton Island."

The firm was awarded the Navy "E" for excellence. It claims to have more "island-building experience" than anyone else, with operations in both the Pacific and the Atlantic.

More recently (1956–58) the company rebuilt Midway Island to lengthen the airstrip there, and built a port/airfield facility at Sattahip, Thailand.

Other company officials conceded, however, that the firm has had no mountain-building experience—and the Navy insists that any man-made targets must incorporate contours and relief similar to the features found on Culebra and other real islands.

Copaken introduced the subject of artificial islands in response to the Navy's repeated assertions that there are no natural islands which it regards as viable alternatives.

Navy officials told the House Armed Services Real Estate Subcommittee that, after studying a list of a score or more possible sites, they concluded that there is no alternative to Culebra.

Navy officials told The Journal that Atlantic alternatives from Newfoundland to the Gulf Coast and the Canal Zone had been checked out and "every logical island in the Caribbean examined," but not one of them fits Admiral Moore's six ground rules as does Culebra. ("This area is unique," Admiral Moore said of the Roosevelt Roads/Vieques/Culebra complex. "It fits our desires precisely.")

But Representative Charles E. Bennett (D-Fla.), Subcommittee Chairman, apparently regarded unsupported conclusions as inadequate testimony, and asked the Navy to provide the Committee with the detailed documentation of its "no other alternatives" position.

After considerable questioning on the subject, Bennett and other Subcommittee members indicated they felt the Navy should go back and study some more.

Bennett gave the Navy its choice between detailing the strong points and weak points of other areas at another adjourned meeting (which Bennett says now is not likely to be held) or to present them administratively with members of the staff. Navy officials at CINCLANTFLT Headquarters said they could not provide the Journal with this information before it is given to Congress.

Navy officials told the Journal that if the House panel rejects their request for approval of the Acquisition Report, they have, in effect, no contingency plan ready to go into operation.

"If the Navy directed you to use another target instead of Culebra," the Journal asked at CINCLANTFLT, "which would you use? What would be the next four or five best places?"

In the event of an adverse ruling, officials said, the Navy would have to "sit down and do some homework, some serious consideration." Alternatives?—"As far as we're concerned, there are none." Loss of Culebra, officials said, "would have a significant impact on the training of the Atlantic Fleet."

(Officials also told the Journal the Navy opposes any rearrangement of the target complex, any shift in target utilization, any greater increase in the density of operations in target complexes other than Culebra because this would "increase the safety hazard to Navy personnel." As a matter of fact, the casualty ratio of Navymen to Culebrans killed in accidents is ten to one right now.)

Navy officials also said that the idea of floating platforms as targets, although under study by Navy R&D, has not been keyed in specifically in conjunction with Culebra.

SOME OTHER POSSIBILITIES

Here are some of the other Caribbean island possibilities, as discussed during the hearings and in conversations between the Journal and Navy officials, with the Navy's assessment as to why they are unsuitable as alternatives.

North Cay—A large island off the Northwest coast of Culebra. It would be "unsafe for a bombing target," the Navy told the Journal, because its necessary safety zone would extend closer to Dewey than the zone radiating from the present targets on Culebrita Island.

Mona Island—A virtually uninhabited island, owned by Puerto Rico, on the other side of the mainland from Roosevelt Roads. It would take a period of years, the Navy said, to set up the necessary surveillance radar installed as on the complex. Its location in the international shipping lanes of Mona Passage would raise questions of international law.

Vieques—This island "does not afford two vantage points from which to determine the fall of a shot precisely."

The Navy and Marine Corps already use the island's eastern 2¾ miles for naval gunfire support/aerial close support targets, the next three miles inland for a Marine landing maneuver area, and Vieques' western end for an inert naval ammo depot. The possibility of moving the depot to Culebra, the Marine maneuver area to the western end of Vieques, and the new targets and expanded safety zones for Walleye, to the freed area on the east coast would be unworkable, the Navy told The Journal. The reason: the beaches to which it is proposed to move the Marine maneuver area are not suitable for amphibious training, the Marines say.

Desecheo—An island south of Mona, "worse" than Mona in the drawbacks it presents as an alternative, the Navy said.

East Palominos—This island doesn't have enough land mass, the Navy says, lacks suitable air space, and is in a shipping area.

Luis Pena Cay—This island off the coast of Culebra is already used as a rake station and is too close to Dewey.

The Navy stressed that any alternative would "have to be out of the shipping lanes . . . have to have the proper population density . . . have to be out of air travel lanes."

To move to some other island complex altogether would necessitate the transplantation of the Roosevelt Roads base. Bennett told Navy spokesmen he felt they should "come back and give us intensive research about that general pattern where you could still use Roosevelt Roads."

But if some are still interested in finding an alternate target to replace Culebra in the Atlantic Fleet Weapons Range, others claim that a behind-the-scenes alternative may already have been arrived at.

The *San Juan Star* cites anonymous "Washington reports" to give currency to rumors that the government of Puerto Rico (specifically Governor Luis Ferre) has made an "agreement" or a "deal" with President Nixon, SecNav John Chafee, and Henry Kissinger, the President's adviser on national security, whereby the Navy would make some concessions to the Culebrans, but would continue its operations on the island essentially unaltered.

Commissioner Cordova emphatically denied this report and said that Governor Ferre—though known to be a good friend of the President, socially and politically, and said to have been a heavy campaign contributor in the 1960 election—has not yet talked to the President personally about the Culebran issue.

But this non-visit is actually a sore point for some Culebrans, who insist that Ferre should draw on his political assets in an attempt to exert leverage on the Commander-In-Chief.

Puerto Rican Senate President Rafael Hernandez Colon—a member of the opposing political party—said at a news conference after his return from Washington (as reported in the same *Star* story) that the solution of the Culebra-Navy controversy depends upon the pressures Ferre exerts on the White House on behalf of the island.

The Key to the Issue?

Key to Culebra issue? Revived Navy plans to acquire all of Culebra and resettle islanders elsewhere were changed late in April when Commonwealth officials pointed out that Puerto Rico's constitution provides that no municipality can be dissolved unless its citizens vote for dissolution in a referendum.

Apparently the Navy wanted all of Culebra in order to insure safety for use of Culebrita Island as the target for new guided missiles like Walleye, Standard ARM, Condor, Bullpup A and B, and Bulldog—plus the homing glide bomb, Hobo. These require much larger safety "footprints" than the 1½-mile-radius safety zone for inert bombs and machineguns, now used on Culebrita. (Live or explosive bombs *are* dropped on nearby targets at Shark Rock and Palada Cay, however. These targets were "leased" by the Navy from the Commonwealth of Puerto Rico in 1964 and 1965 for $1 a year each, without any prior consultation with the Culebrans. For these and nine other targets totalling 60 acres, Navy pays a total of $11 a year.)

Revised Navy plan calls for getting new 1,600-acre easement on Culebra's northeast peninsula to provide a 2½-mile safety zone for what Navy calls "the precision missile, Walleye"—to be fired against Culebra (without explosive warhead), along with Hobo glide bombs.

A SecNav official told the Journal on 15 May that the Navy also wanted this bigger safety zone for misiles like "Standard ARM, Bullpup A and B, Bulldog, Shrike, and Condor" to be fired against Culebrita. *But the same official now denies the statement.*

Navy officials tell the Joural that Standard ARM's safety footprint is bigger than Walleye's, while those of Condor and the Hobo glide bomb "are yet undetermined." Condor's, by various reports, is estimated to be much larger than Walleye's.

Thus, the Navy apparently will need some other target—not on the Culebra target range—for Standard ARM, Condor, and possibly other missiles whose safety footprints are too large for safe firing even on the expanded Culebran/Culebritan range.

This hypothesis begs the question: "Why not also fire Walleye and Hobo against this other target, wherever it is (or will be), obviating the need for a bigger safety zone around Culebrita, and thus leave the eastern tip of Culebra at least no worse off than it is now?

MINORITY UNEMPLOYMENT AND PENDING LEGISLATION

Mr. JAVITS. Mr. President, the Department of Labor issued a report on July 9, 1970, underscoring dramatically the problems presented by the uneven effect of unemployment on the different racial and cultural groups residing in the four major New York City poverty neighborhoods. This information is vital to our manpower training and for placement efforts under the bills for manpower training, Office of Economic Opportunity and family assistance.

The report was based on a study conducted during the period July 1968 to June 1969, in Central and East Harlem, the South Bronx, and Bedford-Stuyvesant. Among the disturbing findings are the following:

First. The unemployment rate for men and women in these areas was nearly twice as high as for the Nation, and more than twice as high as for New York City as a whole.

Second. For all men in the prime working category—25 to 54 years old—residing in these areas, the unemployment rate was three times that of the comparable national rate—4.9 percent versus 1.7 percent.

Third. The unemployment rate for Puerto Rican males of prime working age in these poverty areas was almost twice that of their Negro counterparts—7.9 percent versus 4.1 percent. It was almost five times higher than the national rate for men in this age bracket in 1968–69.

Fourth. Unemployment among Negroes and Puerto Ricans living in these areas is higher than the national average at every level of educational attainment. A Negro with a high school diploma, for instance, is twice as likely to be unemployed as the average white high school graduate.

Fifth. The unemployment rate for poverty area teenagers was over 25 percent—twice as high as for teenagers nationally.

Sixth. Young workers in these areas were three times as likely to experience unemployment as their white counterparts in the city as a whole. The unemployment rate for Negro and Puerto Rican men 16 to 24 years old, at 17 percent and 15 percent, can be compared with 7 percent for young white men in New York City in 1969. The rate for Negro women in this age group was 17 percent, as against less than 5 percent for New York City's young white women.

The report concluded that poor educational background was among the major reasons for the high level of joblessness in these poverty areas.

The report also stated:

> Language problems undoubtedly add to the difficulties Puerto Rican workers face in locating jobs.
>
> Discrimination by potential employers probably still bars many minority workers from desirable positions.

To further demonstrate the situation in which we find ourselves, I would like to add that while the jobless rate among workers in New York City's poverty areas was relatively high, it still ran lower than the rates in five other cities where similar studies were conducted—Atlanta, Chicago, Detroit, Houston, and Los Angeles.

Mr. President, I need not add that the overall unemployment situation is much worse now than it was when this study was made. During the study period, July 1968 to June 1969, the national rate of unemployment ranged from 3.3 percent to 3.7 percent. Unemployment for June 1970 was at 4.7 percent. The unemployment rates among black teenagers in poverty areas throughout the United States during the first quarter of this year was 32.7 percent—or approximately one-third—as compared with a rate of 20.9 percent in the first quarter of last year.

Mr. President, these statistics—which represent such suffering for so many—underscore the absolute necessity of moving forward on certain proposals now before the Congress and of providing a new commitment in terms of full funding and implementation of existing laws. Among such crucial initiatives I would cite the following:

It is absolutely essential that the Congress enact forward looking manpower legislation, sufficient to meet the needs of the disadvantaged in our urban and rural areas. The Subcommittee on Employment, Manpower and Poverty on the Senate Committee on Labor and Public Welfare, is now considering in executive markup the Manpower Training Act, proposed by the administration, and substitute manpower bills proposed by Senator NELSON, chairman of the subcommittee, and by Senator PROUTY. Among the provisions which may be most helpful in dealing with the problem of the unevenness of unemployment, are proposals by Senator NELSON and myself for public service employment programs, and proposals by Senator YARBOROUGH, chairman of the committee, and Senator MURPHY, ranking minority member of the subcommittee, to deal with the special problems of those who face language difficulties as an obstacle to employment.

Mr. President, I think that these statistics also indicate the need for the administration's proposed Family Assistance Act which would provide for the links to employment for many of the Nation's disadvantaged and provide for substantial child care facilities to enable women on welfare to engage in meaningful employment.

Finally, Mr. President, the report of the Department underscores the need for full funding of programs under the Economic Opportunity Act of 1964, especially the special impact program under which programs have been established in poverty areas such as Bedford-Stuyvesant in my own State.

Mr. President, in these respects the Congress has a clear opportunity to make the kind of commitments so vital if we are to overtake these statistics which evidence the real suffering of so many of our fellow citizens.

I ask unanimous consent that there be printed in the RECORD an article from the New York Times of July 10, 1970, written by Richard Phalon, describing the findings of the Department of Labor's report together with that Department's release regarding the same.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 10, 1970]

CITY POVERTY-AREA JOBLESSNESS IS TRIPLE NATIONAL RATE FOR MEN

(By Richard Phalon)

Men in their prime employment years who live in one of the city's four major poverty areas are three times as likely to be unemployed as men in the same age bracket elsewhere in the nation, according to a survey released yesterday by the Bureau of Labor Statistics.

The Government agency's report showed that this unemployment problem is particularly severe for Puerto Ricans. It indicated that the unemployment rate for Puerto Rican males of prime working age (25 to 54 years old) is nearly twice that of their black counterparts and almost five times the rate for the nation's labor force as a whole.

The survey also estimated that poverty-area teen-agers—mostly Negro and Puerto Rican—are almost three times as likely to be out of work as white teen-agers living elsewhere in the city.

The report said poor health and poor educational background were among the major reasons for the high level of joblessness in poverty areas.

The average American worker has completed more than 12 years of school while the average male worker from one of the four poverty areas (the Bedford-Stuyvesant section of Brooklyn, Central Harlem, East Harlem and the South Bronx) "had little more than ten years" of school—a level reached by the labor force as a whole "nearly two decades ago," the survey said.

It also noted, however, that unemployment among Negro and Puerto Rican males from the poverty areas was higher than the national average at every level of educational attainment, including college. A black man with a high school diploma, for instance, is twice as likely to be out of work as the average white high school graduate.

One of the handicaps workers from the poverty areas have to surmount, the study said, "is poor preparation for the world of work, which the educational attainment data only partially reveal."

"Language problems," the report continued, "undoubtedly add to the difficulties Puerto Rican workers face in locating jobs, and discrimination by potential employers probably still bars many minority workers from desirable positions."

Puerto Rican groups agreed with the analysis. Hector Vasquez, director of the Puerto Rican Forum, said, "We have been saying that all along."

"High unemployment among Puerto Ricans," he continued, "is a chronic situation" because of the large number of high school drop-outs and "the language problem."

The Government survey is based on in-depth interviews with 8,000 persons out of a total work force of 219,000 living in the four poverty areas. The study began in July, 1968, and continued until the end of last month. The data released yesterday cover the period from July, 1968, to June, 1969.

It showed that the jobelss rate for males over 25 in the poverty areas during that period was 4.9 per cent compared with a natural rate of 1.7 per cent. The rate for Puerto Rican men was 7.9 per cent. For teenagers it was 25 per cent, twice as high as that among teenagers nationally.

Herbert Bienstock, regional director for the Bureau of Labor Statistics, said later information on employment patterns in the poverty areas would not be available for several months.

Unemployment generally is higher now than it was this time last year, however, and Mr. Bienstock said Negroes and Puerto Ricans were among the first workers to be let go.

One reason is that a disproportionately large number of Negro and Puerto Rican workers is concentrated in unskilled and semi-skilled jobs in industries—the garment industry and the restaurant trades, for example—that are highly vulnerable to swings in the economy and where employment tends to be seasonal.

Most the city's semi-skilled blue-collar jobs are concentrated in manufacturing, an area in which employment dropped by 13 per cent between 1959 and 1969.

Although unemployment rates are high in the major poverty areas here, they are generally lower than those recorded in five other cities covered by the study—Atlanta, Chicago, Detroit, Houston and Los Angeles.

"None of these other cities reported as low a rate for Negro workers as did New York," the report said.

It attributed that fact to the comparatively high rate of employment among Negro women, a rate that "reflects in large part the greater availability of clerical and kindred white-collar jobs in New York City, filled in the main by women job-seekers."

[News release of U.S. Department of Labor]

New BLS Report Analyzes Unemployment in Major New York City Poverty Neighborhoods

The unemployment rate for Puerto Rican men of prime working age, 25–54, residing in major poverty areas of New York City, was almost five times higher than the national rate for men of this age in 1968–69, according to a report issued today by Herbert Bienstock, Regional Director of the U.S. Department of Labor's Bureau of Labor Statistics. The 7.9-percent unemployment rate was nearly double that for Negro men, 25–54, residing in these areas.

Characteristics of the Unemployed is the second report on findings from the Urban Employment Survey. The survey has been directed by the Bureau of Labor Statistics with the cooperation and financing of the Manpower Administration. The Bureau of the Census collected and tabulated the data. The survey, which was begun in July 1968, was designed to examine the employment-related problems of the working-age population in Central and East Harlem, the South Bronx, and the Bedford-Stuyvesant section of Brooklyn.

Although Puerto Ricans had the highest jobless rate, Negroes accounted for a majority of the unemployed, reflecting their greater numbers. The labor force (16 and over) residing in these areas totaled 219,000, of whom two thirds were Negro and one fifth were Puerto Rican. Of this total, nearly 15,000 were unemployed, including 9,300 Negroes and 4,200 Puerto Ricans. Other highlights of the report follow:

High unemployment rates in major New York City poverty neighborhoods were in good part related to the concentration of workers in low-skill, low-status jobs, where joblessness tends to be higher than average, and to poor educational background. For example, Puerto Ricans, with the highest unemployment rates in these areas, had the least amount of schooling. Puerto Rican workers were predominantly employed in semi-skilled blue-collar and service occupations.

The overall unemployment rate for the labor force living in these poverty neighborhoods was 6.8 percent during the 1968–69 survey period—more than twice as high as for the City as a whole.

The unemployment rate for married Negro men, 20–64, living with their wives, was 2.1 percent. It was close to 12 percent for married Negro men living separately. Among Puerto Rican men, the differences between the two marital-status groups were equally pronounced.

The unemployment rate for teenagers, over 25 percent, was twice as high as for teenagers nationally. The problem was of comparable intensity among all the race-ethnic groups living in New York City's major poverty areas.

A large proportion of the employed workers held jobs in occupations in which the probability of unemployment was above average. One third of the employed worked in semiskilled and unskilled blue-collar jobs (including nearly one half of the Puerto Rican workers); one fifth were in service jobs exclusive of domestic work. In these fields the national unemployment rates have been consistently higher than the overall rate.

Men and women in the labor force residing in New York City's major poverty neighborhoods were more likely than workers generally to be handicapped by poor educational background in obtaining good jobs at adequate pay. The average Negro worker (male and female) had completed about 11 years of school—which, while roughly in line with median years of school completed by Negro workers nationally, was significantly below the average for all of the Nation's workers. For Puerto Ricans, the medians were considerably less, with men having on average completed less than 9 years of schooling and women, less than 10 years.

For each level of education the unemployment rate of these workers considerably exceeded the corresponding national rate. For example, Negro men 18 and over with 4 years of high school were twice as likely to be jobless as men with comparable education nationally.

Copies of *Poverty Area Profiles: Characteristics Of The Unemployed* (Regional Report No. 14) are available without charge upon request from the Bureau of Labor Statistics, Middle Atlantic Regional Office, 341 Ninth Avenue, New York, New York, 10001.

PRESIDENT'S PROPOSAL TO LIMIT SALT TALKS

Mr. HARRIS. Mr. President, I am very much concerned that President Nixon may let pass an historic opportunity to slow the terrible arms race.

Mr. Nixon's recent instructions to the U.S. negotiators at the strategic arms limitation talks, in Vienna, to seek a limited, rather than comprehensive, agreement with the Soviet Union exclude the vital issue of multiple warheads.

We now have the chance to halt the proliferation of a new and powerful weapon which could further escalate the arms race and exacerbate the tensions of the cold war. We have been repeatedly informed by scientific experts that once American MIRV's and Soviet MIRV's are operational and deployed, verification of weapons levels will be much more difficult. The need for on-site inspection of MIRV's, rather than verification by satellites or other detection devices, will encounter the already expressed resistance of many nations.

While I am pleased that agreement on the limitation of anti-ballistic-missile systems and strategic missiles and bombers will be sought, I fear that failure to include MIRV's in these initial negotiations will foreclose the possibility of a long-range verifiable arms control agreement. The question is too critical to this Nation and the world to be excluded from the SALT talks.

On July 9, 1970, an article by Chalmers M. Roberts, published in the Washington Post, discussed President Nixon's goals for the strategic arms limitation talks. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

President Sets Goal for SALT—United States To Seek a "Limited" Arms Treaty

(By Chalmers M. Roberts)

President Nixon has instructed his negotiators at the strategic arms limitation talks in Vienna to seek a limited rather than a comprehensive agreement with the Soviet Union as their first priority.

Mr. Nixon's green light to chief negotiator Gerard C. Smith is expected to mean that Friday's SALT meeting will see the beginning of efforts to pin down an agreement.

The term "limited" is something of a misnomer since what is contemplated, if it eventuates, would be the most far-reaching curb on the nuclear arms race in the 24 years of Soviet-American negotiations beginning with the Baruch Plan in 1946.

The agreement Mr. Nixon has decided to seek involves these two points:

A gross numerical limitation on the total number of (a) rival land-based intercontinental ballistic missiles (ICBMs), (b) submarine-based missiles and (c) long range heavy bombers. One bomber equals one missile in this count.

A low level of rival antiballistic missile (ABM) defense systems. The Soviets have talked of "zero ABM," but the latest indications are that some ABM defenses would be permitted but no greater than the current Soviet level with an American right to match it.

The Soviet Union is judged to be receptive to such a two-part pact, but how long it will take to wrap it up as an agreement in principle or an outline to be initiated by both sides, subject to later treaty drafting, is impossible to forecast with accuracy.

The President's decision means that the issue of multiple warheads, American MIRVs and Soviet MRVs, will be left to a later stage of what is expected to be a continuous series of SALT meetings betwen the two superpowers.

The United States has 1054 ICBM launchers, 656 submarine-based missiles and 581 intercontinental bombers, according to Defense Secretary Melvin R. Laird's February posture statement. As of Sept. 1, 1969, Laird estimated the Soviet Union had 1,060 ICBM launchers, 110 submarine based missiles and 140 to 145 intercontinental bombers.

However, while the U.S. force has been static in numbers the Soviet force has been growing. Mr. Nixon has projected a Soviet ICBM total of 1,290 by the end of 1970 plus 300 submarine missiles. On May 12 Laird told a congressional committee that of the Soviet ICBMs 220 were the huge SS–9s with 60 more under construction.

The net of these figures is essential parity in gross numbers which would permit a freeze. The proposed American level for such a freeze remains secret.

As to ABMs, the level to be agreed on will depend in considerable degree on how much of the American Safeguard system Moscow thinks it can accept and be sure that it is not part of a U.S. preparation for a "first strike" by protecting the population.

There is evidence, though it is not conclusive, of an American desire to retain part of Safeguard as a defense of the ICBM deterrent. There are some, however, who would prefer "zero ABM" or ABM limited to the two capitals, Washington and Moscow, and who hope for an agreement which in a series of cuts would eliminate most if not all of the Soviet system in exchange for American limitation or elimination of Safeguard.

"HAND-LOADERS" AND "MUZZLE-LOADERS" IN OREGON

Mr. HATFIELD. Mr. President, recently, I joined the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) as a cosponsor of amendment 728 to S. 3650, a bill designed to strengthen Federal legislation concerning the illegal use, transportation, and possession of explosives. I agree with Senator SCHWEIKER that a new provision in the bill is needed to protect the legal and lawful activities of one segment of our Nation's sportsmen—those who hand-load their ammunition.

I support the goals of the explosive control bill, for I am shocked at recent bombings across the country. The amendment does not conflict with this goal. It does allow, however, continuation of a long-established tradition by those who hand load their ammunition.

In addition, muzzle loaders are able to recreate a sense of history in their activities. In my State, there are five muzzle loading clubs, and I participated at one of their shoots at Banks, Oreg., while I was Governor. These clubs—the Multnomah Muzzle Loading Rifle Club in Portland, the High Desert Plainsmen, in Bend, the Little Butte Mountain Men, in Medford, the McKenzie Black Powder Club, in Eugene, and the Willamette Longrifles, in Salem—are attracting more Oregonians to their activities. Certainly the explosives control bill is not aimed at these sportsmen.

I believe the amendment does nothing to compromise the bill's goal, while allowing the sportsmen of the country to continue their activities.

A CHALLENGE TO AMERICANS

Mr. CASE. Mr. President, Americans have prided themselves on their magnanimity to others, on their sense of fairplay, and, above all, on their sense of common decency.

These virtues are real only as they are practiced. Like muscles, they atrophy without exercise. Like muscles, they show their real strength when challenged.

The reality of our possession of these virtues has most lately been challenged by the six letters of a remote island—Con Son.

Magnanimity, fairplay, decency, all dictate that the evils of this prison, and of other Vietnamese prisons, be eliminated. So long as the United States is in Vietnam, it shares the guilt for the existence of such conditions.

There are no excuses. We cannot claim ignorance. We cannot claim lack of responsibility. We cannot, in good conscience, claim that tiger cages are acceptable in South Vietnam because they may exist in the North. Our virtues are not relative; we practice them or we don't have them. I am shocked that anyone could even consider not reporting the conditions at Con Son prison to the American people. Our people need to know the facts so that they can be changed. Americans will be weak when they cannot face the truth. Americans will be evil when, knowing the truth, they do not act on it.

Beyond these most basic considerations, there are others. The brutal treatment of North Vietnamese prisoners of war at Con Son—or anywhere else—endangers allied POW's in the North. Can we honestly plead for better treatment of American prisoners in the North when tiger cages exist in the South? Can we really expect Hanoi to supply the names of American prisoners when on Con Son prisoners are lost to humanity in tiger cages?

U.S. policy toward prisoners of war in South Vietnam has long been misguided. We have disclaimed responsibility for prisoners of war because we hold none, having turned them over to the South Vietnamese. This policy must be changed. For these prisoners are our responsibility.

And do Americans accept the ugly equation of Con Son: that tiger cages equal "self-determination"? Are we to believe that the political prisoners at Con Son, in the tiger cages, represent the liberty for South Vietnamese that American men are dying for in Vietnam? Are the American people asked to support a war to preserve freedom, or to end it?

No man is an island. The bells on Con Son island toll for all of us.

The tiger cages, we are told, were built by the French when South Vietnam was their colony. Thus are the present Saigon regime and the United States linked to an imperialism we had told ourselves had disappeared into the past. Yet, does not Con Son make us the new imperialists? Can any prisoner come out of Con Son—if, indeed, he survives to come out—without hating those who put him there, without hating Americans who preach liberty but permit tiger cages?

No man, no nation, is an island.

As Americans we cannot simply call for an investigation. We cannot be content with the sequence of Bunker to Thieu to oblivion. The Con Sons of Vietnam must be eliminated. As decent human beings, as Americans, as members of the Government of the United States, we must see that this is done.

To fail to act would be to deny liberty and decency. It would be to deny ourselves.

SENATOR JAVITS REBUTS MAIN ARGUMENTS AGAINST RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, many arguments have been advanced at one time or another against ratification of the genocide treaty. I have attempted to answer these objections during the course of my statements on the convention. Recently the Senator from New York (Mr. JAVITS) presented an excellent summary of the principal arguments and rebuttals concerning ratification of the treaty. Today, I wish to present two of the arguments and then quote Senator JAVITS' excellent replies.

First, it has been argued that it would be very unwise for the United States to ratify the Genocide Convention at a time when most Americans wish to reduce, rather than expand, our international obligations. In reply to this argument Senator JAVITS states:

> One must distinguish between different kinds of international obligations. It is true that many people have argued that American military commitments should be contracted. This view, however, does not entail the further argument that the development of international law should be halted. Treaties of a great variety of kinds not involving military commitments have been negotiated and they have provided for more ordered relations among nations. It is hard to imagine that one would argue against the Genocide Convention on the grounds that it expands American international obligations.

Second, it has been argued that under the Genocide Convention individuals as well as persons exercising governmental power would be subject to trial and punishment for offenses which have always been regarded as matters falling within the domestic jurisdiction of the various nations.

Senator JAVITS' reply disposes of this argument:

> The protection of human rights is indeed a matter of international concern. The United States has shown that it agrees with this view by ratifying the World War II peace treaties, the United Nations Charter, the Slavery Convention of 1926, and more recently the Supplementary Convention on Slavery (1967) and the Supplementary Convention on Refugees (1968).

Mr. President, it is high time the Senate acted on the Genocide Convention. We have an excellent opportunity to do so this year.

THE IMPORTANCE OF THE MURPHY BILL

Mr. DOLE. Mr. President, mechanization has shortened the harvest time of agricultural products. Harvests that once spanned a period of several weeks are now accomplished within a few days. During the period of mechanization, the needs of the agricultural labor force have also changed.

An editorial published recently in the San Diego Union explains the need for the special labor legislation which has been introduced by the distinguished Senator from California (Mr. MURPHY). So that all sections of our Nation may become aware of the succinct analysis of this editorial, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MURPHY BILL IS NEEDED

Agriculture was excluded from the National Labor Relations Act of 1935 because the migratory nature of farm laborers and the perishable quality of what they produce gave farm work a unique character. The nature of agricultural employment has changed but laws have not.

Early this year Sen. George Murphy introduced a bill that would establish federal regulations tailored to protect both farm workers and employers.

The Murphy bill was clearly inspired by the irresponsible activities against California table-grape growers by Cesar Chavez and his United Farm Workers Organizing Committee over the last four years. The sudden emergence of Chavez' brother Manuel and a force of militant pickets in the melon fields of the Imperial Valley reminds us that adoption of federal law regulating farm labor is a vital national need of critical priority.

Melon-growers are especially vulnerable to the disruptions characteristic of Chavez' tactics. Melons must be picked within three days of ripening or they rot, and the vines must be harvested continuously or they die. Farmers faced with the choice between a ruinous harvest-time strike or surrender to possibly ruinous labor union demands are being denied any real freedom to choose.

Farm workers have the right to organize, if they wish. That right carries an equal responsibility to their employers that the Murphy bill would help enforce.

SHORTCOMINGS IN CHILD WELFARE

Mr. TALMADGE. Mr. President, plans are being made for the 1970 White House Conference on Children and Youth, to be held in Washington, December 13–18.

With all of the social and economic and international problems that plague our country today, the Nation's children seem to be caught in the middle. The needs of children, in education, health, social welfare, and in many other areas constitute what I regard as a problem of great seriousness to all of us in the Nation. Children, after all, are the most precious resource we have.

Earlier this month, on July 8, Mr. Stephen Hess, National Chairman of the White House Conference on Children and Youth, addressed the National Council of Juvenile Court Judges meeting in Atlanta. Mr. Hess discussed the shortcomings in child welfare and some of today's pressing problems and those that lie ahead, particularly as to the legal rights of children.

I bring Mr. Hess' address to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

HEARING THE SMALLEST VOICES

(Speech delivered by Stephen Hess, National Chairman of the White House Conference on Children and Youth)

It is a great privilege to be with you. If I have to face a bank of judges, I'm pleased it's this one.

My appearance here just happens to be with the benefit of counsel. A former partner in a distinguished New York law firm, Richard Nixon, has given me and the White House Conference on Children and Youth every measure of encouragement and support, so I feel quite comfortable as your witness this evening.

Last December, when the President announced my appointment as National Chairman, he indicated his desire that our Conference serve this country well. Acknowledging that ours was the oldest of all White House Conferences, having been launched by Theodore Roosevelt back in 1909, President Nixon went on to say, "Never has this White House Conference come at a time of greater national questioning. Long held attitudes on such subjects as family planning, pornography, health services, school curricula, sex education, family structure, drug abuse, moral standards, governance of higher education, responsiveness of government—all are now openly debated and challenged."

The President gave us the mandate to make an active contribution, not just talk about the problems. He obseved, "At a time when government often seems far way and immovable—when many of our youth are rightly asking, 'Who's listening? Who cares?'—I hope that this White House Conference, especially through the active involvement of a great many young people, will provide a positive answer."

We have, since December, directed all our efforts toward fulfilling this request of the President and, through him, of the Nation itself. The first result will appear in Washington, D.C., between December 13 and 18, at the Conference on Children. In February, 1971, at the Conference on Youth—the second half of this massive undertaking—we will gain the next real indication of how well we and our fellow citizens are doing on this matter of bringing young people and their elders together in a meaningful society.

Of course we are not exclusively concerned with the physical or biological well-being of the young. While these are important considerations, which we will explore, we must also be sensitive to the context in which youth grows—the social, economic, political, and juridical environments peculiar to our nation.

Therefore, we are approaching our assignment directly, building an issue-oriented Youth Conference, one that will address itself to the problems and the potential of young people in relation to our system of education, our cultural and racial pluralism, our sense of justice, and our commitment to individual strength and national unity.

This is ambitious, global, and quite possibly naive. We are sometimes advised by well-meaning friends to return to a more standard and, hence, safer Conference plan. But this we cannot and should not do. I can assure you that a more modest Conference would be far more consistent with our budget. And I can further assure you that many of us on the Conference staff now know that our kind of Conference does not produce generous rewards to the ego. The reason we must "go for broke" is that the young people of this country themselves have assumed a go-for-broke strategy. Their approach to bringing about improvement and change in America is one of:

Total involvement in politics—doorbell ringing, tough campaign jobs, teach-ins, street corner debates, and even fund-raising.

Total involvement in popular culture—the folk and rock festivals, the schoolyard art shows, the sidewalk theater—an explosion of interest the likes of which this country has never before seen.

Total involvement in national concerns—vigorous arguments of U.S. foreign policy, domestic policy, urban affairs, the environment, race relations, economic opportunity, and social justice.

The degree of youth's intensity has recently been measured for the White House Conference by Gilbert Youth Research of New York. In a national sample of 3,000 young people, we discovered that 47 percent believe the achievement of equal rights requires drastic action. Eighteen percent felt that equal rights could *only* be achieved through violent revolution.

When the question was broadened to the achievement of social and/or political goals, nearly one out of four (23%)—believed that violence is sometimes justified. Probing deeper among these figures, we learn that the groups who are not shy of violence are out-of-school youth—mainly minority youngsters or those from low-income white households—and college students. A curious coalition, you might say, but one we must reckon with, nevertheless. Obviously they despair of the system. Equally obvious is the fact that the system must not despair of them.

Many of the things I have said thus far pertain mostly to older youth. They are the issues and events that involve youngsters of high school and college age. Their protests, their voluntarism, their singing, and their movies are everywhere. But not so visible are those under 14, America's children, totally dependent on our good offices, good intentions, and good judgment to protect them and prepare them for the 60 years or more of living yet to come. I'd like to speak of them, because—over the roar of youth—we barely hear these smallest voices in our land.

Few Americans are so victimized by free advice and good intentions as our children. This requires of us a very special effort to make the Conference on Children particularly productive. Senator Jacob Javits told me of his personal interest in the December Children's Conference. He said it would deal with what he terms "our most vital resource." His Senate colleagues have, at one time or another, given similar expressions indicating their depth of feeling and concern about how well America does by its children.

Nearly 30 percent of the U.S. population is under the age of 13. Close to 60 million Americans are children—dependent, trusting, hopeful, and desirous of a good life. There is no group of citizens—under any general heading—that has as much potential for peaceful, useful, and fruitful citizenship.

Yet recall that the United States ranks 15th in infant mortality, relative to other major nations. Among every thousand children who come screaming into life, about 23 never reach their first birthday. In poverty and minority areas, this figure is doubled and even higher.

If we are so great a nation, can't we treat human life with more care? We spend so much time studying people with peculiar hang-ups—hippies, racists, pseudo-liberals, right-wing extremists—that we seem not to have time for those who come into the world with no detectable hang-ups at all.

I am no expert on children. I am a parent and not a statistician. I come upon these facts as a layman and as a concerned citizen. But they are now part of my daily life. I know that we bring our children into a society of laws, rights, and responsibilities. Yet too often they learn about law from the wrong sources. How much of a child's perception of law comes from television, and particularly from news coverage of demonstrations against "the pigs?" How many children grow up thinking of equity as a form of gamesmanship?

Not long ago, I was talking with Virginia's very able Governor, Linwood Holton. Governor Holton took office just recently. Among his primary objectives is to give the people of Virginia a better understanding of the law and of the state as their protector, not oppressor. He wants the children of his state to see the law as their basic and ultimate resource, their friend. And the Governor has pledged his help to our Conference on Children.

For such reasons, we are assigning one of the Conference Forums to the issue of children and the law. Our decision was influenced by a number of national organizations, not the least of them being the National Council of Juvenile Court Judges. And we are especially grateful to Bill Nuernberger who serves on our Technical Assistance Committee.

We also hope to raise the level of discussion surrounding the issue of the rights of children. As you know better than I, the *Gault* and *Winship* decisions have shifted rather dramatically the traditional concepts of the rights of children. As I understand it, there is now a constitutional protection for the child in adjudicative proceedings. But there remains the whole area of pre-court rights: the child is often a victim of those whom society has designated as his protectors—parents, guardians, teachers, physicians, and—yes—even lawyers.

The child in trouble cannot seek help on his own. Is the state and the family, therefore, a help or a hindrance today? For some of us here this evening, that is an interesting, academic question. For many children out there on the streets of Atlanta, the question is equal to survival.

I noted recently some figures that indicate the seriousness of this question. First, during the past three decades, the number of illegitimate births per 1,000 unmarried women has more than tripled. The estimates run from 7.1 children per 1,000 unmarried women in 1940 to almost 24 per 1,000 last year.

It would seem evident that we have a sizeable—and growing—segment of the children and youth population who may not have the traditional protections of home and family from the very day of birth. What then are their rights and protections?

As a second example, these are the figures on divorce in this country. Much has been published recently about the increased incidence of divorce and marriage annulment, but the figures that caught my attention had to do with the number of children involved in such events.

Back in 1922—balmier days I suppose—less than 100,000 children were involved in almost 150,000 divorces or annulments. By 1950, the number of children tripled and the number of such events nearly tripled. In 1965, the last year for which we seem to have complete figures, 630,000 children were involved in nearly a half-million (479,000) divorces and annulments. If you wish to figure this on a per-1,000-children basis, you come up with the rather sobering evidence that in 1922 only 2.3 of every 1,000 children were involved in a family break-up, while in 1965 8.9 of every 1,000 children were involved. And the figure is still climbing.

In one generation we have just about quadrupled this kind of personal tragedy for hundreds of thousands of children, leaving many of them—particularly the little ones—with only the mercy of society and of your courts to treat them with dignity and justice.

We know this cuts both ways. What are the rights of children in their standing before the family and the state? On the other hand, what are the responsibilities of each child to his family, his community, and his Nation? Ultimately, how do we inform all parties—child, family, state—of their rights and responsibilities so that our society can continue to move forward with equity, with mercy, and with humanity?

The figures on children of unwed mothers and of broken homes cause us to think about how well we are doing, in this year of 1970, to provide some kind of support for children so that they have real alternatives to delinquency, abuse, neglect, and disruption of their lives and the lives of their communities. Here, I believe, we are beginning to make some progress. We are taking to task our education system and our professional social workers. We are putting your courts and yourselves under the glare of both scholarly and popular examination. It is uncomfortable. It is often unfair. But it is absolutely essential.

A profession that cannot tolerate public scrutiny and that raises a protective screen of sanctity is already dead for all practical purposes. Fortunately, we are not attending a wake this evening. As practitioners of juvenile justice, you are very much alive and well, although sometimes roundly condemned by your fellow Americans.

But criticism is half the strategy of progress. The other half is action. Here in Atlanta I have been pleased to learn of the involvement of lay citizens as volunteer probation officers, working on individual juvenile cases in a kind of "Big Brother" capacity. Similarly, Atlanta is conducting citizenship training for children on probation, once again with the assistance of professionals drawn from the general public. Only through personal, local involvement by the public can we ever hope to correct many of our major social ills. I salute Atlanta's court and correctional personnel for their initiative and sense of mission. This kind of local leadership strengthens our communities and unites our nation. But of far more significance—it protects the liberties of the child.

At the December Conference we will address ourselves not only to what has gone before but what must come next. Last winter, President Nixon told us to "define problems, seek new knowledge, evaluate past successes and failures, and outline alternative courses of action." This last assignment—"to outline alternative courses of action"—is one which we at the Conference take very seriously. It is a feeling shared, I am happy to report, by the many experts and lay citizens who have been working diligently on the White House Conference through State Committees.

Your representatives, judges, counselors, and leaders from the great teaching institutions of law will share this assignment with us. Together we will examine the efficacy of present judicial, corrective, and rehabilitative processes for children. Together, we will propose what must next be done.

Change is in the air. It invades every area of social and political life. Why should the courts escape? Of course they will not and, from everything I gather in conversations with judicial and governmental leaders, the first ones to accept progressive change will be the courts themselves.

A judge who has been a great source of help to us, told me that we were sure to draw a good deal of fire if we met head-on the problems of law and children at the Conference. "But I trust you will do it anyway," he said. He pointed out that the failure rate among children arrested and convicted is about 50 percent. In other words, half of all youngsters under the age of 14 who were arrested, kept in custody, or put on parole or on probation get into trouble again. You are all familiar with this figure. This is twice the rate of offenders aged 21 or older.

What does this tell us? Perhaps that our correctional institutions are strengthening antisocial behavior and doing so in the name of *protecting* society.

I am confident that everyone in this distinguished audience shares this point of view to some degree. The National Council, like so many other responsible professional organizations, has responded to the appeal for good counsel from the White House Conference on Children and Youth. You have a stake in the development of a substantive report to the President and of a reasonable, useful plan of action for communities to follow in re-shaping and making more responsive their own juvenile court system.

Are para-professionals an answer? Are ex-addicts and ex-convicts really effective in preventive or rehabilitative programs? As we say in politics, "All the precincts haven't reported in yet."

We hope that the reporting will be done in depth at our December Conference on Children and in our February Youth Conference. With concerned citizens from all fields focusing on the issues, we have a chance to make some headway.

In this connection I am reminded of a comment made to me recently by Patricia Hitt, Assistant Secretary of Health, Education, and Welfare. I was briefing her on the interdisciplinary nature of the White House Conference, she nodded and said, 'Steve, I know what you're saying. I sometimes think that if all our programs at HEW were complete successes, we just might put the Department of Justice out of business. But until that time comes—if it ever does—we simply have to know what Justice and the Courts are doing, they have to know what we are doing, and we both have to be doing better."

Mrs. Hitt's point is well taken. The milenium isn't here. I frankly doubt that it is even just around the corner. But that's not at issue. We are dealing with the Here and the Now—and the possibilities for tomorrow. There is all sorts of talk about polarization and gaps. Those phenomena do exist. But we cannot allow them to persist and become the norms for America. The White House Conference is not going to contribute to the hardening of positions, as long as I am its National Chairman. Such a performance will be of no use to you in your important work and it will be of no service to the primary constituents of our Conference, the children and youth of America.

We would hope that our society can help its children mature with a respect and even a love for the laws that govern them. We do not advocate blind obedience to the law nor the disappearance of the adversary basis of the procedures we follow in gaining justice. But in the past we have not been sufficiently attentive to the cries of children in need. Much of the uproar among youth today can be traced to our own narrow view of their search for relief.

I appreciate very much your interest in and support of the White House Conference on Children and Youth. But I must remind you that we need that support not only through December, but most in the months and years that follow. Let us join together in creating an environment where we nourish and not mutilate the spirits of our children. In the words of the French philosopher, Albert Camus:

"Perhaps we cannot prevent this world from being a world where children are tortured, but we can reduce the number of tortured children. If we do not do this, who will . . .?"

AIRLINE TICKET TAX

Mr. TOWER. Mr. President, on June 30 I introduced a bill to permit the itemization of tax on airline tickets. Senators may recall that a prohibition of this was included in the Airport and Airway Development Act of 1970, which passed the Senate earlier this year. The bill I introduced was designated S. 4041.

The response—both from the traveling public and from within the airline and travel industry—has been more than I expected. I have received letters from all over the United States echoing my own sentiments on the matter and encouraging repeal of this provision.

The board of directors of the American Society of Travel Agents, Inc., meeting recently in Houston, passed a resolution on this subject. The president of National Air Transportation Conferences, Inc., Mr. Thomas S. Miles, has also written expressing the conferences' support of S. 4041.

I ask unanimous consent that the correspondence be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

WILKINSON, CRAGUN & BARKER,
Washington, D.C., July 6, 1970.

Re S. 4041
Hon. JOHN G. TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: We are general counsel for the American Society of Travel Agents, Inc., a trade association representing in excess of 3,000 active travel agents in the United States and Canada.

We are gratified to note the introduction by you of S. 4041. We agree that the "single fare concept" was a "sleeper provision," that it is misleading to the public, and that it presents difficulties for the airlines and travel agents.

In a recent meeting of its Board of Directors in Houston, Texas, ASTA passed a resolution on this subject. A copy is attached for your information.

We wish you success in action on S. 4041 and pledge our help to you in this effort.

Respectfully yours,
GLEN A. WILKINSON.

The resolution follows:

The American Society of Travel Agents whose members are the primary source of air travel ticket sales in the United States, is deeply disturbed in the interest of its clients, the traveling public and the airline industry at the air transportation tax legislation which becomes effective July 1st.

To that end its Board of Directors, meeting in Houston on June 23rd, unanimously passed the following resolution:

The Congress of the United States recently enacted a law imposing an additional tax on air transportation in the amount of 3%, now making the total tax on air transportation 8%;

And, even though Congress has recently enacted laws which demand full disclosure of all financial facts, such as truth in lending, it has, in the case of the additional air tax, required by law that it be hidden in the total ticket price, and has made it a criminal act for an airline or travel agent to disclose the amount of tax as a figure separate and apart from the air fare on any ticket or in advertising.

Be it resolved, that the Congress be asked to amend this law so as to give the public the right to know which portion of the total cost of an air ticket is the actual fare and which is the tax.

NATIONAL AIR TRANSPORTATION
CONFERENCES, INC.,
Washington, D.C., July 7, 1970.
Hon. JOHN G. TOWER,
The State of Texas, The U.S. Senate, Washington, D.C.

DEAR SENATOR TOWER: Congratulations on introducing S. 4041 to require that section 7275 of the Internal Revenue Code of 1954 (relating to penalty for offenses relating to certain airline tickets and advertising) be repealed.

If hearings had been held on this subject prior to passage of H.R. 14465, there are many reasons to believe that both the House & Senate would have supported the concept entitling the public to *continue to know* what they are paying for air transportation and what they are paying in taxes. And isn't that the American way of doing business? We think so!

For the reasons set forth in the attachment, N.A.T.C. members are unhappy with some of the tax provisions of the AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970 and favor appropriate amendments by the earliest possible date.

Thanks for leading the way. S. 4041 should receive strong support from so many. And their voices need to be heard in the public interest.

Sincerely yours,
THOMAS S. MILES,
President.

NATIONAL AIR TRANSPORTATION
CONFERENCES, INC.,
Washington, D.C., July 7, 1970.
Hon. RUSSELL B. LONG,
The State of Louisiana,
The U.S. House of Representatives,
U.S. Senate,
Washington, D.C.,

DEAR SENATOR LONG: Attached is a self-explanatory letter to Senator John G. Tower concerning S. 4041 which was referred to the Committee of Finance on June 30, 1970.

The Airport and Airway Development Act of 1970 is an excellent piece of legislation in so many ways. And we appreciate the intent of the Congress to simplify airline ticketing by requiring one entry on an airline ticket (fare including tax) in place of three entries (basic fare, tax, total). But if public hearings had been held on this subject prior to the passage of H.R. 14465, there are many reasons to believe that both the House and the Senate would have supported the concept entitling the public to *continue to know* what they are paying for air transportation and what they are paying in taxes.

Mr. George G. Eisen, president, Tours, Inc., Chicago said: "We have 'truth in lending', 'truth in packaging', but when it comes to the government's packaging, we have mystery in taxation."

To be candid, we have other problems. As the airlines and their travel agents will tell you, simplification at the ticket counter has been offset by complications in the back room. Ask. They'll tell you. And please review page after page of complicated procedures issued by N.A.T.C. and ATA dealing with the new law. It's unbelievable!

Sincerely yours,
Mr. J. L. Seaborn,
Mr. J. W. Huff, Jr.,
Mr. Henry C. Wallach.

PROPOSAL FOR STUDENT PROTEST OF PRISONER OF WAR TREATMENT

Mr. JORDAN of North Carolina. Mr. President, the plight of American prisoners held captive in Southeast Asia and the uncertain fate of those listed as missing in action is a matter of deep and continuing concern to every Member of this body.

We all know of the repeated efforts which have been made by Congress, the President, and the Department of State to secure decent and humane treatment of captured U.S. personnel in accordance with the Geneva Convention—with the latest effort in the form of a letter to North Vietnam's Premier Pham Van Dong in which I signed with other Senators.

We all know how little success those efforts have produced.

Now I am going to propose a new approach.

It is not my own idea but one evolved by a long-time North Carolina friend, John Dortch Lewis of Goldsboro.

His suggestion is that student groups and others who have protested against the war now direct their efforts toward securing better treatment and early release of Americans now held as prisoners.

His concern for POW's is not an abstract thing. He was captured, and escaped, four times during World War II—the last time from the infamous Stalag III.

His idea makes a lot of sense to me.

Such an effort as he proposes on the part of students would, in the first place, offer clear proof to the country and the rest of the world of their sincere dedication to the cause of peace and humanity—and, I may add, I believe that is the aim of most of them.

It is also quite possible that their concerted voice may be heard and heeded by Hanoi and the National Liberation Front both of whom have so far turned a deaf ear to all other proposals.

The concept of a public appeal on behalf of these prisoners has already been adopted, I might add, in North Carolina in recent weeks in a somewhat different way than that proposed by Mr. Lewis but with the same objective. Petitions circulated in the State under the joint auspices of the North Carolina National Guard and the Jaycees have gained more than a million signatures and are going to be sent to embassies in seven countries—Sweden, Poland, Rumania, India, Russia, France, and Denmark—which are considered to have influence with Hanoi.

The student movement which Mr. Lewis suggests would, it seems to me, lend further strength to that expression of grassroots sentiment.

His suggestion was the subject of a recent editorial in his hometown newspaper, the Goldsboro News-Argus, the text of which I ask unanimous consent be printed in the RECORD.

There being no objection, the editorial was order to be printed in the RECORD, as follows:

PROTESTERS COULD HELP WAR PRISONERS

In a letter to the editor appearing in yesterday's News-Argus, John Dortch Lewis noted: "The war protesters have made their point. If they will now direct their protest against the inhumane treatment of prisoners of war held by the North Vietnamese they will better identify as concerned Americans."

Mr. Lewis was not being flip. He was sincere. He recognizes that many of the students demonstrating against the war are sincere.

He also feels that this group could have more influence than any other on pressuring

North Vietnam to either treat the prisoners humanely or, preferably, to release them.

The North Vietnamese and the Viet Cong have a strong affinity for the anti-war demonstrators in this country.

They regard them as a significant and possibly decisive second front against the United States effort in Southeast Asia.

Unfortunately, while the sincere doves, the radicals, the blatant communists, the professors and all the other protesters have decried every U.S. action, not a word has been raised by them in behalf of the prisoners held by the communists.

From the few who have been released—always for propaganda purposes—we know that the prisoners are being tortured and poorly fed. They are kept in solitary confinement. The vast majority have not been permitted to communicate with the families. Some of the men have been held this way for six years.

Mr. Lewis knows first hand of life in a prisoner of war camp. He was in infamous Stalag III, scene of "The Great Escape." Mr. Lewis, who twice was shot down while flying with the Royal Air Force, three times escaped only to be recaptured. On his fourth attempt, he made it to allied lines.

He is a member of a group of survivors of Stalag III who have concerned themselves with securing humane treatment or release of the downed airmen and other prisoners.

They question whether enough effort has been exerted and whether, indeed, if the effort that has been made has not been misdirected.

Mr. Lewis sees in the organization and the energy and enthusiasm of the students and other protesters the possibility of the first significant step toward decent treatment and possible release of the prisoners.

Surely if their cause is sincerely one of humanity, they cannot divorce themselves from this important aspect of it.

WASHINGTON WORKSHOPS PROGRAM

Mr. PERCY. Mr. President, there has been a great deal of discussion and debate in the past months about the youth of the Nation. The newspapers, radio, and television constantly report on their activities. Unfortunately, most of what we see and hear is the bad news—what the youth of today is doing wrong.

I should like to point out a group of young people who do things right, the participants in the Washington Workshops program. For several years this program has brought interested high school students to Washington for the summer so that they might learn about our governmental process. Under the guidance of competent instructors, approximately 2,000 students have benefited from this program.

One student in particular, Jim Lackner, of Highland Park, Ill., exemplifies the type of student who participates in the workshops. After a year of careful research and debate, he was able to put down on paper a plan to improve our welfare system. His plan reflects the great thought he has given to one of our most pressing social problems.

Jim Lackner's plan was approved by the model Congress of the Washington Workshops. We do not have to agree with every feature of it to commend him for his creative thinking about a difficult social problem. I ask unanimous consent that it be printed in the Record.

There being no objection, the plan was ordered to be printed in the Record, as follows:

WELFARE REFORM

A.

(1) Government gives grants to business to build and operate plants in high unemployment rate area;

(2) Government would pay overhead costs for training of hardcore unemployed; and

(3) A tax incentive for keeping these former hardcore unemployed at jobs for two years or more.

This part would signify the building of more business, thus creating more job opportunities. Because there will be more people with jobs the factories built under this program will be successful in selling their products. (The Consumer Market will grow with more people working)

B.

(1) Agencies will be set up to obtain these new jobs for the unemployed;

(2) Those who are offered a job and are able to work, but turn it down for an unacceptable reason, will be excluded from the welfare roles;

(3) Day care centers will be available for one guardian-parent families, to enable those people to work, or anyone who requests their use;

(4) All those who take jobs, but whose salaries fall below the poverty level, will get compensation to that level by the government;

(5) Those who cannot work will be afforded more money than at present time, due to the shrinking of the welfare roles.

This part would mean anyone who at present wants to work can, and also those who can work (on welfare roles) will;

Enable those who do not have physical or mental handicaps that would make working impossible;

Unacceptable reasons—Use excuses given for not working but do not fit the above definition of work.

A CITIZEN LOOKS AT THE ABM

Mr. FULBRIGHT. Mr. President, the June 1970 issue of the Reader's Digest contains an article by the Honorable Henry Cabot Lodge entitled "A Citizen Looks at the ABM." The article makes a strong argument for the Safeguard system, emphasizing the Soviet threat. It concludes that "the evidence is persuasive that the President's requests are wise" and that what is at stake is "nothing less than protecting the deterrent forces of the United States and thus the survival of the country."

In the course of the final hearing in the series on "ABM, MIRV, SALT and the Nuclear Arms Race," held by the Subcommittee on Arms Control, International Law, and Organization, the two witnesses who were testifying were asked by the subcommittee to prepare comments on the article by Ambassador Lodge. These witnesses were Sidney D. Drell, deputy director of the Stanford Linear Accelerator Center, and Marvin L. Goldberger, professor of physics, Princeton University. Both men were, until recently, members of the President's Science Advisory Committee. They submitted their comments in a letter, dated July 6, to Senator Gore, chairman of the subcommittee, who has sent me a copy of their letter.

In the course of their letter Dr. Drell and Professor Goldberger express the view that Safeguard is "a cost ineffective response to the present or potential Soviet threat" and is also "technically incapable of preserving any substantial component of our ICBM force." They note that this opinion is "unchallenged by any studies of which we are aware" and add that they are "aware of no independent analysis of the Safeguard system by scientists outside of the Pentagon that endorses the proposed program for its stated missions." They conclude that "there is absolutely nothing in Mr. Lodge's article which makes a convincing case for the Safeguard Modified Phase II deployment."

I ask unanimous consent that the text of Mr. Lodge's article and the letter from Dr. Drell and Professor Goldberger be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Reader's Digest, June 1970]

A Citizen Looks at the ABM

(By Henry Cabot Lodge)

(Editor's Note.—Henry Cabot Lodge—politician, soldier, ambassador, statesman—has served his country long and well. He was first elected Senator from Massachusetts in 1936, and as a much-decorated Army officer in World War II was the first Senator to see battle action since the Civil War. He served as U.S. Representative to the United Nations (1953–60), ran unsuccessfully for Vice President in 1960 on Richard Nixon's ticket, was ambassador to South Vietnam (1963–64, and again in 1965–67) and last year was chief U.S. representative at the Paris peace talks).

Once again the vexing question of how far and how fast to proceed with a defense of our country by anti-ballistic missile (ABM) is before Congress and the nation.

Last summer the decision to make a limited start with our anti-ballistic missiles—Safeguard—cleared the Senate by a single vote. That decision, fiercely disputed, authorized the Defense Department to go only as far as deployment of the first two anti-missile installations.

This summer Congress is debating whether to carry the deployment somewhat further. The Administration wants funds to add a third site and to do the advance work on five more sites so as to be ready should an urgent expansion of the country's defenses against a nuclear attack be needed.

Our security needs were stated by President Nixon on March 14, 1969, when he disclosed the three functions that a "measured" deployment of the Safeguard system was intended to serve. The system, if fully extended, would provide:

1. A shield, or cover, for the land-based Minuteman intercontinental ballistic missile (ICBM) force and the Strategic Air Command's B–52 bombers against a direct attack.

2. A defense of American cities from a terroristic nuclear fusillade of the kind that could be mounted with relatively primitive nuclear ICBMs during the 1970s by a nation not in the first rank of nuclear powers.

3. A guard to ward off a nuclear shot or volley fired by accident or as a demonstration of force, or a warning shot "across the bow."

For a number of reasons, including the hope that the current disarmament talks with the Soviet Union may eventually slow the accumulation of long-range nuclear weapons, the Nixon Administration has refrained from attempting to go to a full Safeguard system immediately.

Safeguard and Stabilization. Our current strategic land-based offensive systems consist of two main elements: SAC B–52 manned-bomber wings are deployed across the United States; the Minuteman force, some 1000 ICBMs in deep concrete silos, are arrayed in six wide fields in five states. The first two Safeguard complexes are separately to cover the Minuteman squadrons in place around Malmstrom Air Force Base in Montana and around Grand Forks Air Force Base in North Dakota. The third complex called for in this year's budget is to cover the Minuteman field near Whiteman Air Force Base in Missouri. These three complexes protect about half of the entire Minuteman force.

While the major function of the Safeguard system that Congress is now being asked to strengthen is to defend Minuteman, there is also a need to provide cover for our manned bombers. They are increasingly exposed on their fields to missiles launched by submarines in positions just off our coasts. All that is requested in the new budget for this important function is funds for advance work on forward defenses.

Heretofore, one of the principal arguments against our investing seriously in a missile defense was that such an action by "destabilizing" (as the jargon goes) the condition of mutual deterrence, would "goad" the Soviet Union into still heavier deployments of ICBMs. It was argued that the Soviet Union was maneuvering only for ICBM equality with the United States, in the interest of making a condition of mutual deterrence absolutely certain.

The fact which challenges this assumption is that the Soviets show no signs of stopping the arms race.

In mid-1966, before the debate in the United States over the ABM became serious, our intelligence credited the Soviet Union with 250 land-based ICBMs, then deployed, with a growth rate of about 150 missiles a year. These reports said further that an unusually powerful new ICBM, the SS–9, was also undergoing test firing.

Only a year later the count rose to 570. Last September the Soviet ICBM force in being passed 1000. If Soviet deployments continue at the present pace (a new ICBM every other day), the ICBM force in operational readiness will number more than 1300 nuclear long-range attack vehicles by the end of this year. This compares with a total of about 1000 weapons in the U.S. Minuteman force, which was leveled off four years ago on the assumption that it was already big enough.

THE DEEPENING SHADOW

Numbers alone, however, are not the only reason for the deepening shadow which this expansion casts across the prospects for American security. Last year Defense Secretary Melvin Laird predicted that the Soviet force of huge and ready SS–9 missiles, which then numbered 150, could grow to about 230 missiles by this summer if the pace continued. The Soviets are reaching that goal. (Far bigger than the Minuteman, the SS–9 is believed to be able to hurl either a 25-megaton warhead or a cluster of three 5-megaton warheads more than 5000 miles and strike a target at a so-called miss-radius of less than half a mile.)

The experts believe that 400 SS–9s (with MIRV, independently targeted multiple warheads), launched more or less simultaneously, could with the benefit of surprise destroy 95 percent of the entire Minuteman force if it were left unprotected.

The continuing expansion of the Soviet land-based ICBM force has been paralleled by the growth of a Polaris-type submarine force, the so-called Y class. Last year the Soviet navy sent no fewer than six and perhaps as many as nine of these craft to sea. Since then, several more have been launched and as many more are under construction. Like our Polaris, the Soviet subs are each armed with 16 missiles. Military experts conclude that the Y-force is capable of destroying the SAC bombers, based for the most part only a few miles back from our coasts. The warning interval available to bomber crews on alert would be shrunk to minutes if the attack were to come from submarines launching a rain of flat trajectory warheads from concealments in the ocean close to the American shore.

The Soviets, according to reports, have also been experimenting diligently with a strategic-attack space machine, an orbiting version of the ICBM designed to respond on command and attack a ground target.

Nuclear Pearl Harbor. This fast-emerging threat last spring caused Secretary Laird to warn that the Russians seem to be headed for a first-strike capability; that is, the capability of destroying our total retaliatory force in one sudden strike—in a nuclear Pearl Harbor from which there could be no recovery. I know of no one who even suggests that the Soviets intend to do such a thing—to use a first-strike capability. What is important in maintaining world peace, however, is that no power have a capability such as this which it *could* use, without our having an adequate defense.

In the span of three or four years, while Americans have been absorbed in domestic strife and the Vietnam war, it appears to those in a position to know that our margin of strength in strategic-nuclear-weapons systems—the basis of our deterrent against attack—has been seriously reduced. It is thus no longer only the American cities that lie under nuclear threat, but our retaliatory defense as well. We thus can no longer afford the luxury of debating the ABM in abstract terms.

Obviously, the decision before us can be crucial to our survival. According to the respected Rand Corp. strategist, Dr. Alfred Wohlsteter, if the American Minuteman force should be left undefended; and if before 1975—the year the proposed initial elements of Safeguard should be in place—the Russians should match the accuracy and reliability already attained in our own systems; and if, too, the Russians should continue to add SS–9s while bringing on modest numbers of MIRV-type warheads for it—*then it is mathematically certain that by the middle of this decade virtually all the Minuteman force could be wiped out in a matter of minutes.*

Balance of Terror. A fresh look must therefore be taken at the two principal assumptions which, through the early and mid-1960s, regulated the U.S. approach to the strategy of mutual deterrence and which rejected the ABM as an essential reinforcing element in such a strategy.

One was the expectation that the Soviet Union would stop accumulating strategic offensive nuclear weapons as soon as equality was reached with the United States. Instead, as noted earlier, the Soviet Union is pushing ahead to numerical superiority.

The other assumption was that each nuclear super-power could achieve a balance of terror by leaving its cities in hostage to the other. So long as both the Soviet Union and the United States retained a capacity to retaliate by inflicting "assured destruction" equal to wiping out (by former Defense Secretary Robert McNamara's estimates) from one fifth to one third of the attacker's population, they would stand mutually self-deterred. Correspondingly, for one side or the other to start investing seriously in city-defending anti-ballistic missile systems would, by this theory, have the practical consequences of taking the hostages off the board. That would, presumably, unsettle the strategic balance, loosen the rein of self-deterrence, and spur the adversary into either following suit or putting more capital into the strategic strike forces. But now the argument that any ABM is "destabilizing" is, in the face of the rapid Soviet buildup of offensive systems, no longer valid.

The further argument that a decision by us to move ahead with an ABM would either frighten the Soviets out of discussing limitation of strategic offensive systems or would provoke them also has no validity. The Senate vote last year to proceed with the initial phase of Safeguard was followed by an immediate Soviet decision to join the disarmament talks at Helsinki in November. Indeed, one might argue that the U.S. decision helped bring about these talks.

GLASSBORO AND "GALOSH"

The most authoritative reports available of the meeting at Glassboro, New Jersey, in mid-1967 between President Johnson and Premier Kosygin are that the meeting was largely concerned with the ABM question. The year before, the Soviets seemed to be constructing around Moscow what was eventually identified as a full-blown and unmistakable ABM system, named "The Moscow System"; it materialized as a grouping of four huge installations, each intended to serve 16 "Galosh" anti-missile missiles, depending for guidance upon elaborate radar-computer combination.

That the Soviets became engrossed in the science of missile defense almost as soon as they grasped the science of offensive missiles was well known to American intelligence. Evidence gathered in the winter of 1961–62, after the Soviets broke the nuclear-test moratorium of 1958, establishd that their rocket forces had, with some success, attempted to intercept and destroy another rocket with a nuclear explosion at high altitude. There is also the so-called Talinn system, which became and remains, for American technicians, a subject of controversy: whether it is designed to shoot down U.S. bombers, or ICBMs, or possibly both, is in dispute. But it appears that there never was any serious doubt about the purpose of "Galosh," the first true anti-missile missile to become operational.

At Glassboro, according to the most authoritative reports, Secretary McNamara tried to persuade the Russians not to press on with the "Galosh" system. He is said to have made the argument against "destabilizing" the strategic balance. At that point, we Americans were holding back a prototype ABM system of our own. (This was the Nike X concept, from which have come most of the fundamental subsystems of Safeguard: the elaborate "phased-array" radars for tracking and identifying dozens of oncoming missiles individually; the long-range Spartan missile for intercepting and destroying nuclear warheads hundreds of miles out, above the earth's atmosphere; and the short-range, low-altitude Sprint for attacking nuclear warheads inside the atmosphere.)

Evidently the Soviets did not consider the ABM "destabilizing." Premier Kosygin was quoted in London in the same year as saying that a defense system had the merit of saving lives and that under no circumstances could such a mechanism be blamed for the arms race.

In the aftermath of Glassboro, the decision was made to deploy our first ABM system, named Sentinel. The deployment was aimed primarily at providing an area defense for American cities against the expected ICBM threat—albeit primitive—from other countries not in the front rank of nuclear powers. Secretary McNamara did, however, wisely foresee a possible need to provide a specific defense of the Minuteman force if the Soviet ICBM force kept expanding. That provision proved timely.

The Soviets, for their part, remain engrossed in the Moscow ABM System—probably to be refitted with a superior defense missile. They thus already have a fully operational system.

TIPPING THE BALANCE

Why have the Soviets invested so heavily in an ABM system of their own? Looking at it from their point of view, and setting aside a possible intent to achieve a first strike, we see they may well believe it necessary to have protection against an irresponsible, terroristic attack from some "minor" nuclear power. This is quite understandable; our experts feel a similar need. For that reason, the Soviets do not view their ABM system as speeding up the nuclear-arms race, but rather believe their ABM to be essential to their defense.

But in a world where so much is delicately balanced, even an understandable action must be scrutinized. Even if we assume that the Soviet ABM is built as a protection against a near neighbor, its existence, coupled with the Russians' increasing offensive capacity, can upset the strategic balance between the Soviets and ourselves.

What can we do to stabilize the situation without provoking another step down a dangerous road? We could, if we had to, increase our offensive capability to compensate for the new Soviet offensive and defensive systems—an invitation to further escalation. Or we could, as the President wishes to do, "stabilize" defensively—by building an ABM system that protects the United States.

Amid all the confusing terminology and sophisticated chess-playing, a certain common-sense fundamental stands out: The only time an arms race can be controlled is when both sides feel "safe," and the only time both sides feel safe is when neither side has an offensive or defensive advantage.

Another basic question arises: can we afford it?

The best information available to me indicates that the Administration's ABM program, in its second phase, would not unreasonably burden the American economy. Capital outlays for the total system thus far requested add up to $5.9 billion. This compares with the cost of $20 billion for putting a man on the moon.

Meanwhile, the reviewing arrangements set up by President Nixon will allow him to halt the project completely, or stretch it out, or turn it in a new direction as the technological situation might require. Furthermore, this flexibility will enable him to try a diplomatic initiative in the current disarmament talks, or as world political conditions might dictate.

SUMMING UP

Judged by these standards, Safeguard seems a modest program. Defense Secretary Laird said in February that what is contemplated really represents "the minimum we can and must do, both in cost and system development, to fulfill the President's security objectives."

The case, then, for moving on with Safeguard seems clear-cut. Safeguard holds out these propositions:

It provides a shield for the Minuteman and B–52 forces at a juncture when their retaliatory credibility is coming into jeopardy.

It offers the President a hedge against a hostile threat at a time when he has deliberately withheld production money from new strategic offensive forces.

It protects us from "nuclear blackmail" and the possible catastrophe of an attack from an irresponsible third power.

It widens the choices open to the United States if the disarmament talks should fail or be extended for a protracted period.

Finally, maintaining the development of ABM should strengthen the American trading position in the disarmament talks. As it is, their ABM strength is now greater than ours.

For me, therefore, the evidence is persuasive that the President's requests are wise.

In sum, what is at stake here is nothing less than protecting the deterrent forces of the United States and thus the survival of the country. In the face of this awesome proposition, four arguments are heard.

The first is that the ABM is technically faulty. This is an argument on which no layman can pass. The judgment of the expert officials whose solemn duty it is to pass on such matters is clearly favorable to ABM. Furthermore, the Soviets have perfected such a system. Can it be that our scientists are any less capable?

The second argument is that both sides have so much capacity to "overkill" each other's populations that ABM is not necessary. This is the so-called "balance of terror." But if party A can actually overwhelm party B's weapons, party B will have lost his capacity to kill anything. There will be "terror," but no "balance."

The third argument is that it would be better to spend the money which is asked for ABM on domestic peacetime pursuits. We can all agree that it would be more satisfying to spend the money on housing or anti-pollution but, almost at the same moment that we say this, the question presents itself: If our country is not secure, what do domestic programs avail? Professor Hans Morgenthau, assuredly no hawk, was quoted recently as saying: "A nation which refuses to accept the primacy of foreign policy over domestic politics has doomed itself."

Much as we may hope that other nuclear powers will live quietly within their own borders, common sense tells us that we cannot accept a state of affairs in which these powers are superior to us in nuclear missiles. Surely in a matter involving the survival of the nation, the burden of proof must rest on those who contend that the international order is so lamb-like that such superiority is acceptable.

It is bleak to have to admit that the international order is dangerous, disorderly and complicated, and that we therefore must expect that life will consist of a series of alerts—as it has for a large part of the 20th century. It is only human to exclaim, as many have done: "I don't want to live out my life in this kind of a world!" This human cry is understandable, but our chance of survival is greatest if we see the international order as it is—not as we would wish it to be. In all of this we, of course, are keeping the door open in the event that the disarmament talks should produce some sort of an agreement or new opportunity.

Far from criticizing ABM, should we not recognize that it is perhaps the one glimmer of light in an otherwise bleak prospect? The ABM is defensive; it can attack no country. It can be actually "de-escalatory"; it could work toward a shrinkage—a slowing—of the arms race, an easing of the tension.

The fourth argument—that for us to undertake this ABM program would be provocative—seems unconvincing. Whatever force it may once have had has been wiped out by the Soviet gains, by their obvious determination to build a system for their own protection, by the defensive character of the ABM, and by the fact that the President can modify or suspend the program entirely if it seemed that by so doing he could reach a satisfactory international agreement.

It can thus be a force for peace making. It might even augur the beginning of a more stable international order.

This being said, can we prudently turn away?

July 6, 1970.

Hon. Albert Gore,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

Dear Senator Gore: In his article "A Citizen Looks at the ABM" appearing in the June 1970 issue of *The Reader's Digest,* Henry Cabot Lodge argues in support of the Administration's proposed program for expanding Safeguard in FY 1971. In this letter we present a rebuttal of Mr. Lodge's position. The technical basis of our arguments can be found in our testimony to your subcommittee on 29 June 1970.

We share Mr. Lodge's concern about the growing Soviet nuclear missile capability and the potential threat it may pose to our land-based retaliatory forces unless arrested. Although the growing numbers of Soviet ICBM's and missile-carrying nuclear submarines do not at this time pose a threat to the survival of the Minuteman component of our deterrent forces, they could indeed endanger Minuteman should the Soviets continue to increase their numbers and improve their quality by MIRV'ing the SS–9's or improving accuracy of the SS–11's. We disagree strongly, however, with the idea that Safeguard has any significant value in providing a defense of Minuteman. Mr. Lodge's article mixes elements of the Soviet threat, Soviet psychology, abstract ideas about ABM and offensive vs defensive systems. What is does *not* do is address the relevance of Safeguard to any of these questions.

In the absence of meaningful arms control agreements, we feel that it is important to maintain the invulnerability of Minuteman. It is precisely this issue, the ability of the system to defend Minuteman, against which Safeguard must be measured. It is our opinion, unchallenged by any studies of which we are aware, that not only is Safeguard a cost ineffective response to the present or potential Soviet threat but it is also technically incapable of preserving any substantial component of our ICBM force. The point is simply that a Soviet force large enough to seriously threaten more than seven hundred Minuteman missiles would scarcely be affected by the presence of Safeguard. Another way of saying this same thing is that Safeguard, working perfectly and with the full nationwide 12-site deployment costing in excess of $10 billion, can be effective in preserving 300 Minuteman missiles, which is deemed adequate as a retaliatory force, against only a very limited and narrow band of models of an assumed Soviet strike.

We turn now to a point by point analysis of Mr. Lodge's article.

1. Mr. Lodge asserts that a MIRV'ed force of 400 SS–9's could destroy Minuteman. Assuming the requisite combination of payload capability and accuracy, so that each MIRV'ed SS–9 can destroy three Minuteman silos, one cannot quarrel with this statement. We note that this postulated force is pure conjecture, unsubstantiated by any hard intelligence and is a very large extrapolation beyond the present threat. The Soviets are currently credited with about 275 SS–9's (both operational and under construction) and they have yet to demonstrate a true MIRV capability—their current multiple warhead program has not demonstrated the flexibility to target individual silos. But the point again is that Safeguard would have little to do with negating Lodge's conjectured attack: A system with the capability to destroy no more than 100 or so of the presumed 1200 incoming warheads, less than 10% of the threat, can scarcely be called effective.

If the arms race with the Soviet Union continues, what will be needed are (a) programs to preserve Minuteman which can be implemented if needed, in less than the 4–5 years required for the *initial* Safeguard deployment; and (b) programs that can realistically respond to a massive Soviet buildup of counterforce capability. Programs of both sorts exist. They include the following possibilities if needed:

(1) Increasing the size of the offensive ICBM force. If needed this could be implemented with a shorter lead time, and also at a much lower cost. Thus Secretary Laird testified before the House Appropriations Committee on November 17, 1969 that a buy of 300 new Minuteman III missiles in silos, complete with all required support equip-

ment is $2.5 billion, or $8.3 million per missile. In contrast, the cost of the proposed modified Phase II–A of Safeguard designed primarily for Minuteman defense is given by DOD as $7 billion. If it is effective in saving roughly 100 or so Minuteman silos, this works out to an expense of $7 million per successfully defended missile. Thus the cost to defend and save a silo is almost nine times the cost of each Minuteman saved. Moreover, this cost exceeds the cost of the enemy missiles that could be intercepted with confidence.

(2) Superhardening of the silos to withstand larger blast overpressures.

(3) Creating more aimpoints by dispersal of a missile into one of several possible launch positions.

(4) Developing more mobility of the missiles either on land or by going to sea with more Polaris/Poseidon boats or with new longer range underwater launched missiles.

(5) Developing and deploying the alternative technology of a dedicated hard point active ABM defense system with many simpler, cheaper, less vulnerable and smaller radars for the Minuteman silos. As we testified, this can be done.

2. Mr. Lodge comments on the growing Soviet nuclear submarine threat and remarks that the force of Y-class submarines ". . . is capable of destroying the SAC bombers based for the most part only a few miles back from our coasts." There are two points we would like to make on this point:

(1) *Technically* it is true that the expanded Safeguard deployment will offer *some* protection to SAC air fields against attack from the growing Soviet submarine-based threat, although penetration aids associated with the incoming wareheads can defect a system that relies only on an intercept capability above the atmosphere as is the case with Safeguard for this mission. However *strategically* a sea-launched attack against SAC bases is not realistic on grounds of the timing requirements for such an attack. If the submarine launch occurs at the same time as the Soviet ICBM launch against our Minuteman force, then there will be at least 15–20 minutes or so after the SAC bases have been destroyed to assess this fact and to launch the Minuteman force—in addition to the Polaris/Poseidon force—in retaliation. If, on the other hand, the Soviets launch their ICBM's and their submarine-based missiles in an attack coordinated to arrive on target at the same time, early warning of their ICBM launch will allow us enough time to get most of the SAC bombers off the ground.

(2) Currently, the U.S. has in progress an effective and more straightforward program to relocate some of the SAC aircraft in times of emergency to numerous subsidiary air fields further removed from the submarine threat.

3. Mr. Lodge remarks that the "fast emerging threat caused Secretary Laird to warn that the Russians seemed to be headed for a first strike capability . . . a nuclear Pearl Harbor from which there could be no recovery." We disagree with the implications of this statement. A threat against the Minuteman silos or the SAC air bases is not synonymous with a first strike capability against the U.S., let alone the intent of a first strike. A first strike against the U.S. would have to accomplish a simultaneous attack against Minuteman, the SAC bombers, and the Polaris/Poseidon fleet. Technically it is impossible to envisage this possibility because of U.S. early warning capabilities. Under existing U.S. policy, moreover, each of these three U.S. retaliatory forces is designed with the capability to inflict unacceptable damage on the Soviet Union and on Mainland China—i.e. each, even after absorbing a first strike, is designed to meet the requirements of a deterrent force.

In spite of this, Mr. Lodge says that "while Americans have been absorbed in domestic strife and the Vietnam war . . . our margin of strength in strategic-nuclear weapons systems—the basis of our deterrent against attack has been seriously reduced." He concludes that "we can thus no longer afford the luxury of debating the ABM in abstract terms." In our opinion, the U.S. deterrent is not *seriously* threatened by any combination of Soviet offensive or defensive weapon systems about which we have any intelligence. Furthermore, it is Mr. Lodge who is talking about ABM in abstract terms: Even if the Lodge allegations were correct, Safeguard would do virtually nothing to change the situation as we have argued. What could be more abstract than advocating the deployment of an ABM system that makes no sense?

4. Mr. Lodge quotes the concerns of Dr. Alfred Wohlsteter to the effect that the Safeguard decision is crucial to our survival: "According to the respected Rand Corp. strategist, Dr. Alfred Wohlsteter, if the American Minuteman force should be left undefended; and if before 1975—the year the proposed initial elements of Safeguard should be in place—the Russians should match the accuracy and reliability already attained in our own systems; and if, too, the Russians should continue to add SS–9s while bringing on modest numbers of MIRV-type warheads for it—then it is mathematically certain that by the middle of this decade virtually all the Minuteman force could be wiped out in a matter of minutes."

While we agree that the Soviet threat could evolve during the next three or four years in such a way as to endanger survival of our Minuteman force, we have argued above that Safeguard is not effective for meeting this threat. We oppose the proposed extension of the Safeguard deployment neither because we disregard Dr. Wohlsteter's concerns nor because we oppose the concept of ABM. We oppose the administration's proposal because we believe that Safeguard, which is made of equipment engineered for city defense and not for hard point defense, will not be effective in accomplishing the defense of Minuteman. DOD spokesmen who defend Safeguard on grounds of its multimission capabilities (defense of the land-based retaliatory forces; thin area defense against China; defense against accident) ignore the fact that the compromises in the system that are designed to enable it to meet all these missions have made it relatively ineffective in accomplishing *each* one individually.

5. Mr. Lodge comments on the Soviet ABM system around Moscow, noting that "The year before, the Soviets seemed to be constructing around Moscow what was eventually identified as a fullblown and unmistakable ABM system, named "The Moscow System"; it materialized as a grouping of four huge installations, each intended to serve 16 "Galosh" anti-missile missiles, depending for guidance upon elaborate radar-computer combination"; and later on "The Soviets, for their part, remain engrossed in the Moscow ABM System—probably to be refitted with a superior defense missile. They thus already have a fully operational system."

Our comment on this is that a U.S. ABM is not necessarily the proper response to a Soviet ABM program. Our response to the 64 launchers around Moscow was to develop MIRV's for U.S. missiles to ensure their penetration of possible Soviet capabilities. In fact the present Soviet ABM ring at Moscow has very limited defensive capability and poses no significant threat to the U.S. deterrent capability. It follows in no way from the Soviet experience that deploying ABM is a useful course for the U.S. Indeed the Moscow ABM ring shows a major danger with going ahead with ABM. In this case, the Soviets gained no increased security—they merely triggered a U.S. response in the form of the MIRV program and thus simply perpetuated and escalated the arms race to a greater level of cost and destructiveness.

6. Mr. Lodge comments that "Judged by these standards, Safeguard seems a modest program. Defense Secretary Laird said in February that what is contemplated really represents 'the minimum we can and must do, both in cost and system development, to fulfill the President's security objectives.' "

As we have argued in this letter, the extension of the SAFEGUARD ABM system is not a wise course to follow simply because it is not responsive to projected or postulated Soviet threats, except for a very narrow band of threat models as we described in our testimony before your subcommittee on June 29, 1970.

7. Mr. Lodge dismisses the argument that the ABM is technically faulty by noting that: "This is an argument on which no layman can pass. The judgment of the expert officials whose solemn duty it is to pass on such matters is clearly favorable to ABM. Furthermore, the Soviets have perfected such a system. Can it be that our scientists are any less capable?"

Our response to this is as follows:

(1) Concerning the statement that expert officials judge ABM favorably, we again remark that we are aware of no independent analysis of the SAFEGUARD system by scientists outside of the Pentagon that endorses the proposed program for its stated missions. Our own criticisms have been reviewed above in response to earlier comments by Mr. Lodge.

(2) By judging the Safeguard to be technically faulty for defending Minuteman silos, we in no way imply or agree that U.S. scientists are less capable than Soviet scientists. We are simply saying that the engineering solution of Safeguard, designed as it was for defense of cities which are soft and high value targets, is the wrong solution for hard point defense of Minuteman silos, which are very hard and individually low value targets. We indeed believe that we can build an effective and much cheaper hard point defense based on the alternative technology of small radars, each much simpler, cheaper, and less vulnerable than the very expensive $200 million dollar MSR engagement radar which in SAFEGUARD is the single "eye" responsible for defense of an entire wing of 150 Minuteman missiles. We believe that the U.S. should be "getting on" with the job of designing this dedicated hard point defense system so that we can have it if needed in the face of a growing Soviet threat. SAFEGUARD in our view is an engineering mistake grafted from the city defense role in the old Sentinel system, and is ineffective for hard point defense.

8. Mr. Lodge asserts that ". . . it (ABM) is perhaps the one glimmer of light in an otherwise bleak prospect. The ABM is defensive; it can attack no country. It can actually be de-escalatory." He goes on to say the argument that ABM is provocative is "unconvincing."

This argument is contrary to U.S. experience of the past 10 years. We have already commented that our decision to go ahead with our MIRV program was provoked exactly by Soviet ABM activity at Moscow. Should the Soviets respond to the deployment of Safeguard by a similar substantial ABM deployment with large radars throughout the Soviet Union, this would certainly be interpreted as a threat to our deterrent. To be specific, a deployment of large radars comparable in capability with the full 12-site Safeguard installations would cause grave concern to U.S. planners. It would also lend credence to the possible utilization of their extensive air defense systems in an ABM role. The capability of such a defense to deal with a U.S. force degraded by a Soviet first strike would surely cause us grave concern and would provoke a response involving expansion of our offensive forces. Why should the Soviets react any differently to our deployment of a nationwide ABM system?

In summary, we find that there is absolutely nothing in Mr. Lodge's article which makes a convincing case for the Safeguard Modified Phase II deployment.

Very truly yours,

MARVIN L. GOLDBERGER,
Deputy Director,
Stanford Linear Accelerator Center,
Stanford University.

SIDNEY D. DRELL,
Professor of Physics,
Princeton University.

NASA BUDGET

Mr. DOLE. Mr. President, the proposed curtailment of the already reduced NASA budget was debated last week in the Senate. Although attempted reductions were defeated, the voting clearly indicated that support for the space exploration program is less than enthusiastic.

In light of the realities of American life in the 1970's, the Nixon administration has reevaluated our national priorities, but direction of efforts toward solving the country's domestic problems does not demand that we turn our backs on space exploration. The manned space program should not be regarded as a national luxury—rather, as an integral part of our country's progress. NASA has brought pride and the benefits of its technology to our country in the past and shows every promise of being one of the major links to our future progress.

The lead editorial in the Washington Post of July 12 clearly points out the value and necessity of continuing the NASA program. Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE CADILLAC IN THE SKIES

Just a year ago, the manned space program was riding high. Apollo 11 was waiting on the launch pad at Cape Kennedy for its crew and the world was waiting for the most spectacular trip in history to begin. The excitement and the glamor passed quickly and the manned space program is now in trouble. It came within a handful of votes last week of being strangled by the Senate and if the debate there is any indication more troubles are ahead. The psychology that sustained the program during its heydays of the 60s has been reversed and manned space flight is now regarded by many people as the Cadillac in the skies.

This psychological shift is understandable. To many of those who are deeply concerned about the quality of life at home, about the educational level of our children, the housing conditions of our poor, the pollution of our surroundings, supporting manned space flight is a provocation as riding in a chauffeured limousine through the slums. The country has so many problems, the argument goes, that it must divert the money that might be spent on manned space flights to programs that will aid more directly and more quickly the people who now inhabit the earth.

This is a hard argument to answer for to answer it fully and logically (or, for that matter, to make it fully and logically) requires a prescience that none of us has. No one really knows what is to be gained by going on with manned space flights and no one really knows what is to be lost by stopping them. There is a universe out there that we don't know about. There is, of course, the argument that unmanned space probes can tell us all we need to know about it for as far into the future as we now care to think. But it is difficult, if not clearly wrong, to accept the idea that machines can totally replace men in so delicate a task of exploration.

We raise this now because the debate in the Senate last week, while cast in terms of merely slowing down the pace of the manned space program, was in fact a debate over halting it. The cuts already made in NASA's budget have built in a halt to manned space activities from 1975 to, probably, 1978. To expand that period of inactivity to four or five years, it seems to us, is to kill the program. So long a pause would mean the dismantling of the teams of experts and probably of the equipment that put Apollo together and controlled its flights. Rebuilding those teams would be a long, arduous and costly process.

Thus we were pleased that the Senate did not go along with its liberal bloc which voted almost to a man to curtail NASA's funds even more. Many of the arguments made by NASA's supporters seem to us quite irrelevant—curtailment would mean unemployment in the aerospace industry, the Russians will be out there, and so on. But so did the basic argument made by the programs critics—that the funds should be used at home. We all know that cutting NASA's budget by $100 million or $500 million or $1 billion does not mean that the government is going to spend that much more on pollution control, education, housing, urban renewal and all the things that we ourselves place high on the list of national priorities. The fact is that if Congress really wanted to do all the things its members talk about, and postpone each year because of fiscal restraints, it wouldn't have turned last year's tax-reform bill into a tax-reduction bill.

The basic issue involved in NASA's appropriations this year, as it will be next year and for many years to come, is whether this country should give up something it has done and which is going well, something that has brought it great international prestige and internal pride, and something that we believe may well hold the key to man's future.

OLDER AMERICANS ACT: 5 YEARS OLD

Mr. WILLIAMS of New Jersey. Mr. President, the Older Americans Act became 5 years old on July 14. This anniversary is worthy of notice by all Americans, no matter what their ages. We can take some pride in achievements thus far, even while we raise questions about future directions and possible restructuring of the apparatus created a half decade ago by that pioneering legislation. Under the Older Americans Act, the Administration on Aging was meant to provide a Federal focus for services, programs, and research to improve the lives of the elderly. To date, 53 States and Territories have established units on aging and are receiving allotments through AOA.

Some idea of the range of objectives and activities under the Older Americans Act may be seen from the following list of AOA priorities in 1970:

Strengthened State agencies.

Development of more comprehensive coordinated local and State programs.

Use of talents, skills, and experience of older Americans in volunteer Service and employment activities.

Inclusion of services for the elderly in the Model Cities program.

Improved nutrition and transportation.

Development of truly multipurpose senior centers as vehicles for delivery of services and opportunities.

An all-out attack on isolation.

Development of a national policy on aging.

To many supporters of the Older Americans Act, it appeared that the legislation would offer a fine vehicle for Federal-State cooperation. And, to judge by testimony I have received as chairman of the Special Committee on Aging, this is quite often the case. In my home State of New Jersey, for example, the Administration on Aging and the State Division on Aging have worked together on many worthwhile projects, all of which have intensified local and State interest in the elderly.

Under title III of the act—the grant program which makes Federal funds available to States—for a 3-year period—to aid communities in providing service programs for the elderly—New Jersey has developed an outstanding network of offices, councils, or centers on aging and by creating a firm liaison with other service agencies in these communities, such as welfare, social security offices, housing authorities, and health care facilities.

Today, 16 offices, councils, or centers on aging are located in Ocean County, Union County, Middlesex County, Cape May County, Bergen County, Sussex County, city of Camden, Camden County, Hudson County, Paterson City, Mercer County, city of Trenton, Passaic County, Jersey City, Woodbridge Township, and Cumberland County.

It is significant that these agencies are action oriented to provide vital services to the older members of the community. Through senior center recreational activities elders are brought out of isolation into the mainstream of daily activity; meal service programs provide hot meals, nutrition education and companionship; health counseling, medicare and medicaid counseling provide needed awareness of existing services, as well as pointing up to authorities those services that are lacking or nonexistent; senior aides programs and employment of oldsters at senior centers provided the added income necessary to the well-being of those living within limited means.

The basic purpose of the 3-year Federal participation in title III programs is to assist States through additional funds to demonstrate to respective communities that a particular service can be provided effectively. Then the community may take that service and make it a continuing program.

In New Jersey many of the title III programs have been continued by the communities when Federal funds are no longer available. I think this is due, in large part, to the extremely able administration of the State director on aging, Mrs. Eone Harger, who left her position on June 30, Mrs. Harger has insisted from the beginning of the Older Americans Act programs in the State, on the development of strong local responsibility within the various communities through local organizations for aging.

John B. Martin, U.S. Commissioner of Aging, cited the New Jersey program in a speech presented before the Paterson Office on Aging this past March. According to Commissioner Martin:

> In the early days of the Older Americans Act program, this organizational beginning (Title III) and this quiet program were perhaps not as showy as direct services to older people. But for New Jersey it has I think now come into its own and has given a firm foundation to all future activities, extension development and refinement of programs throughout the State.

The occasion for Commissioner Martin's speech was another anniversary—a very special one—the celebration of the end of the 3-year Federal involvement in Paterson's title III programs—and the fact that the community had enthusiastically embraced the program and was continuing it.

Recently, New Jersey was the recipient of a title V training grant under the Older Americans Act. Seminars in gerontology are being offered to university faculty throughout the State at Rutgers University, thereby developing trained instructors who will be able to transmit their knowledge to practitioners in State and local programs in the field of aging.

On this fifth anniversary of the Older Americans Act we can, I believe, look back with some pride at the accomplishments in New Jersey—and the same can be said of many other States.

As the White House Conference on Aging in 1971 approaches, however, it is also clear that careful attention should be paid to certain issues which have arisen about the role and range of the Administration on Aging.

Congressional intent on the AOA is clear. We thought that we were establishing an agency which would have high visibility and direct access to the Secretary of Health, Education, and Welfare. Almost 3 years ago, however, the AOA became a subordinate unit of the Social and Rehabilitation Service in a major HEW reorganization. This step caused widespread concern by leaders in the field of aging, but it has remained in effect.

Additional concern about the situation was voiced a few weeks ago in the report of the President's Task Force on the Aging:

> The experience of the Administration on Aging during the last four years, however, makes it abundantly clear that interdepartmental coordination cannot be carried out by a unit of government which is subordinate to the units it is attempting to coordinate. Nor does the experience of the President's Council on Aging suggest that such coordination can be accomplished effectively through a Committee.
>
> We therefore, recommend that the President establish an Office on Aging within the Executive Office of the President. We recommend that the President seek statutory authority for this Office through an amendment to the Older Americans Act but that until such authority can be obtained the President create the Office by issuing an Executive Order.

The task force statement is similar to many voiced by the Senate Committee on Aging and by individual members of Congress. Such recommendations should receive careful attention by the White House.

It is hoped, however, that any reorganization will retain the best features of the existing Federal-State relationship which has been so carefully established within the past 5 years. Many skilled and resourceful people have made major efforts on behalf of the elderly under the Older Americans Act; their achievements should not be minimized.

Mr. President, to conclude this discussion of the July 14 anniversary, I ask unanimous consent that a fact sheet prepared by AOA for this occasion be printed in the RECORD. It provides a useful summary of progress thus far.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

ON AOA'S FIFTH ANNIVERSARY

For the first time in history, every Older American has a State agency on aging to act as his advocate, representative and supporter.

All 50 States, District of Columbia, Guam, Puerto Rico, Virgin Islands, and Trust Territory of the Pacific Islands are participating in the Older American Act program.

Major emphasis is being given to: Use of skills and experience of older people as a community and national resource. Comprehensive, coordinated local services, including a major attack on isolation of the elderly through such programs as nutritious meals in group settings, improved transportation, and use of multipurpose senior centers for service delivery.

New legislation has strengthened State agencies on aging.

State Older Americans Act programs are taking meals to homebound thousands, giving phone reassurance, shopping, friendly visiting and homemaker services, health information, counseling, referral and consumer aid.

A million older persons have been directly served by the program.

AOA's research and demonstration projects are stimulating new approaches to serving older people and providing new knowledge important to people working with and for the elderly.

AOA training programs are graduating students trained to fill critical manpower shortages in the field of aging. This Fall, 364 students will be enrolled in long-term degree courses in 17 American colleges and universities. More than 6,200 men and women have been given short-term training.

The Foster Grandparent Program, which began in 1965 as a limited demonstration of 21 projects, now supports 68 projects in 40 States and Puerto Rico—with men and women 60+ (the oldest 93) serving disadvantaged children.

Models for the RSVP Senior Volunteers Program and for area-wide services are being developed.

AOA, working in cooperative programs with other Federal agencies, is helping strengthen services to the elderly in Model Cities, employment, and retirement preparation.

The Presidential Task Force on Aging's recent report and the forthcoming 1971 White House Conference on Aging offer opportunities for further major advances.

STUDENT PARTICIPATION IN POLITICAL CAMPAIGNS THIS FALL

Mr. TOWER. Mr. President, following the late spring upheavals on campuses around the country, a number of universities resolved to alter their schedules for the fall semester in order to allow students to participate full-time in the political campaigns this coming November. This proposed practice has been criticized and questioned by many as perhaps undue involvement by the universities in partisan political processes.

I believe that universities should carefully guard against even the appearance of such involvement.

The policy adopted by my alma mater, Southern Methodist University, with regard to student political activity seems to me to be a reasonable one. Southern Methodist will continue classes as scheduled this fall. The decision to do so was the result of a careful analysis of the role of the university. I believe that the policy adopted by Southern Methodist University deserves the attention of all Senators. I ask unanimous consent that the policy statement concerning student political activity be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SOUTHERN METHODIST UNIVERSITY POLICY STATEMENT CONCERNING STUDENT POLITICAL ACTIVITY

Throughout this nation many students are manifesting a commendable interest in finding the means of knowledgeable and effective involvement in political processes at various levels. We at Southern Methodist University affirm that it is both the privilege and the obligation of each citizen of this country to be so engaged, and we stand ready to encourage this interest among our students in all appropriate ways.

In this instance, as in so many others, what is deemed useful and appropriate at one institution may not be so considered at another. Although several of the nation's universities have announced that they will reschedule classes to permit students to work in political campaigns for or two weeks prior to the November elections, other universities have announced that they will not follow this lead.

At Southern Methodist University, the decision has been made to continue classes and other academic programs as scheduled and publicized for the fall semester. This decision, in which the Administrative Committee, the Council of Deans, members of the Executive Committee of the Faculty Senate, available student officers, and alumni concur, is being announced at this time as a courtesy to students, faculty, staff and parents of students in order that they may make their plans accordingly.

This decision reflects the conviction that the basic purpose of the University is academic endeavor—study, teaching and research—and that the organized programs of the University are too important to be readily expendable in favor of other activities. The faculty and staff of SMU have been engaged to provide the essential leadership and supporting services for a major educational enterprise. They are expected to fulfill their roles as scheduled. In accepting the registration and tuition of students, the University is obligated to provide the educational program as contracted. This it will do.

This decision, however, reflects full awareness of the importance of political know-how and involvement on the part of students. Any student wishing to participate in political activity may do so—as may any other citizen—on his own time and initiative. If such involvement is so extensive as to result in absence from class or failure or delay in completing assignments, the individual student must then make his own arrangements with his instructors for satisfying the requirements of his academic program.

In addition, this decision recognizes the legitimacy of the University's role in contributing to the political education of its students. While the University cannot offer itself as a staging area for specific and concerted political action, it can and must provide opportunities for students to learn the nature of political institutions and processes and to analyze political issues and ideologies. Some such opportunities are provided through curricular offerings and through student organizations. In view of the special circumstances now extant, something more may be required. If the organization of nonpartisan political workshops would render academic life more meaningful at this juncture, ways should be sought to develop such programs, and hopefully the entire campus community will prove resourceful, cooperative and responsible in this endeavor.

CAPTIVE NATIONS WEEK

Mr. PERCY. Mr. President, on the occasion of Captive Nations Week, 1970, I want to state clearly and unequivocally and for the record that America has not forgotten the subjugated peoples of the world, and that America must never forget them.

I think of the Poles, the Czechoslovaks, the Hungarians, the East Germans, the Bulgarians, the Albanians, and other peoples of Eastern Europe whose freedom was lost after World War II.

I think of the Lithuanians, the Latvians, and the Estonians, whose nations have been forcibly incorporated into the Soviet Union.

I think of the Ukrainians, the Armenians, the Georgians, and other nationalities within the Soviet Union, whose quest for independence has been thwarted.

I think of the Chinese, the North Koreans, the North Vietnamese, the Tibetans, and the Cubans, who must live under oppressive Communist rule.

Let us here and now rededicate ourselves to the enduring ideal that all men, under God, have a right to liberty and self-determination, and to freedom from foreign subjugation and domestic repression.

Let us pray that somehow, some day, justice will prevail in all nations and that oppression and hate and war will be no more.

AMERICAN PRISONERS OF NORTH VIETNAM

Mr. DOLE. Mr. President, 89 U.S. Senators have sent a letter to North Vietnam insisting that U.S. prisoners of war in Southeast Asia be treated in accordance with universal humanitarian principles as outlined in the Geneva Convention.

The letter, circulated by the junior Senator from Kansas and the junior Senator from Indiana (Mr. Bayh) was sent Monday to North Vietnam Premier Pham Van Dong.

The North Vietnamese have blatantly ignored the standards set forth in the Geneva Convention—a treaty they signed in 1957.

It is my hope that this concerted effort by Senators from both sides of the aisle will bring to the North Vietnamese the realization that Americans and the American Government will not let this issue rest until all American prisoners have been returned.

I ask unanimous consent that the text of the letter and a list of those signing it be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., July 13, 1970.

His Excellency Pham Van Dong,
Premier, Democratic Republic of Vietnam,
Hanoi, North Vietnam.

Dear Mr. Premier: We, the undersigned members of the United States Senate, feel compelled to personally express our outrage at the persistent, callous attitude manifested toward United States personnel missing in action and the inhumane treatment of United States prisoners detained in Southeast Asia.

In obvious disregard of human decency, the Democratic Republic of Vietnam continually has refused to adhere to basic humanitarian obligations concerning detained prisoners.

As Senators, while we have differed over policies pursued by the United States in Southeast Asia, we wish the Democratic Republic of Vietnam to recognize that we are of one mind and one voice in insisting that United States prisoners be treated in accordance with universal humanitarian principles. It is also our belief that release of all American prisoners would be a most significant step toward bringing peace in Southeast Asia.

Birch Bayh, Robert Dole, Gordon Allott, Clinton Anderson, Howard Baker, and Henry Bellmon.

Wallace Bennett, Alan Bible, Caleb Boggs, Edward Brooke, Quentin Burdick, Harry Byrd, Howard Cannon, Clifford Case, Frank Church, Marlow Cook, and John Sherman Cooper.

Norris Cotton, Alan Cranston, Carl Curtis, Thomas Dodd, Peter Dominick, Thomas Eagleton, James Eastland, Allen Ellender, Paul Fannin, Hiram Fong, Barry Goldwater, and Charles Goodell.

Albert Gore, Mike Gravel, Robert Griffin, Edward Gurney, Clifford Hansen, Fred Harris, Philip Hart, Vance Hartke, Mark Hatfield, Spessard Holland, Ernest Hollings, and Roman Hruska.

Harold Hughes, Daniel Inouye, Jacob Javits, Everett Jordan, Len Jordan, Warren Magnuson, Mike Mansfield, Charles Mathias, Gale McGee, George McGovern, Thomas McIntyre, Lee Metcalf, and Jack Miller.

Walter Mondale, Joseph Montoya, Frank Moss, Karl Mundt, George Murphy, Edmund Muskie, Gaylord Nelson, Robert Packwood, James Pearson, Claiborne Pell, Charles Percy, and Winston Prouty.

William Proxmire, Jennings Randolph, Abraham Ribicoff, William Saxbe, Richard Schweiker, Hugh Scott, Margaret Chase Smith, Ralph Smith, John Sparkman, William Spong, John Stennis, and Ted Stevens.

Stuart Symington, Herman Talmadge, Strom Thurmond, John Tower, Joseph Tydings, Harrison Williams, John Williams, Milton Young, John Pastore, Ralph Yarborough, and Stephen Young.

THE FACTS ABOUT "NO-KNOCK"

Mr. TYDINGS. Mr. President, now that the House-Senate conference on the omnibus District of Columbia crime bill is concluded, it is especially gratifying to report that the conference resolution of the so-called "no-knock" issue represents a major victory for the Senate position.

Specifically in the interest of safeguarding the individual rights of the residents of the National Capital and of forestalling repressive practices in the name of improved law enforcement, the Senate conferees insisted upon what I have for convenience summed up as five critical points:

First. The statutory exceptions to the "knock-and-wait" rule are strictly limited so as to confine "no-knocking" to those few circumstances where it is already permitted under existing law.

Second. Existing law is substantially improved by requiring that, when grounds constituting exceptions to the "knock-and-wait" rule are known in advance, then a police officer can "no-knock" only after obtaining court permission in advance.

Third. The conference report restores the classic standard of "probable cause," derived from the Federal Constitution, for testing the sufficiency of the grounds for police conduct in the "no-knock" area.

Fourth. It is expressly set forth in the statement of managers on the part of the House, as it is stated likewise in similar reports to the Senate, that advance permission is required, not only when the applicant literally knows of facts in advance falling within the exceptions to the "knock-and-wait" rule; advance permission is also required when the applicant should know of such facts, in the sense that minimal ordinary diligence on the part of the police would have alerted the applicant to the facts.

Fifth. It is also expressly set forth in the House statement of managers that the "no-knock" provision is not to be bound by or otherwise construed in light of the House District of Columbia crime bill report language which suggested that the mere destructibility of the evidence being sought might be grounds for departing from the "knock-and-wait" rule.

It is true that the conference substitute on "no-knock"—like the existing common law approved by the Supreme Court, and unlike the much more limited Senate version—applies to arrests as well as searches. Nevertheless, by insisting on the five points just mentioned, the Senate conferees have seen to it that the conference substitute contains nearly every safeguard in the original Senate version. We have seen to it that the conference substitute surpasses existing case law in the number and scope of the safeguards provided. In point of fact, the conference report conforms quite precisely to the recommendations of the Bar Association of the District of Columbia and is well within the parameters of the "no-knock" legislation supported by the District of Columbia government.

In all candor, I must inform you that the Senate conferees were not only mindful of the depth of opposition in the Washington community to the enactment of legislation touching upon the "knock-and-wait" rule; the Senate conferees were greatly disturbed by the general misinformation abroad in the District of Columbia community. We were concerned with the obvious difficulties in presenting the facts in an unreceptive, hostile atmosphere. We determined to perfect the legislation, and to change that atmosphere through the process of public education. The need for stabilizing police practices in the "no-knock" area is too great, the safeguards of the conference substitute are too valuable and too many, for us to abandon the issue or temper our resolve.

In the judgment of the Senate conferees, it is far better to have the limited exceptions to the "knock-and-wait" rule spelled out and frozen on the statute books, instead of leaving the exceptions to grow in a disordered fashion and to change in Federal and local court case law. It is far better to have the limited exceptions spelled out clearly, statutorily, for the police to observe, instead of leaving police officers as at present to their own devices.

Similarly, in the judgment of the Senate conferees, any police encroachment on the privacy of the individual should issue where possible upon express judicial authority only. It is in the best interest of a just and ordered society that the conference substitute relieves the police officer in most situations of having to make the difficult decision of whether to "no-knock." As protection for the individual residents of the National Capital, the decision whether to "no-knock" is placed at the very outset in the hands of a judge.

What is equally important, at present the courts can supervise and limit police "no-knocking" only by means of the exclusion of evidence at a criminal trial. In contrast, by requiring judicial approval in advance for "no-knock," the conference substitute promises to add court supervision in the myriad cases where the defendant pleads guilty and there is no trial, or where there is no trial because the evidence is insufficient or simply not found. Under the conference substitute, in other words, court supervision is required on two separate occasions—at the time of the request for "no-knock" authority and at the time of the motion to exclude the fruits of any "no-knock" search. Likewise defense counsel, under the conference substitute, can move to exclude evidence on two grounds—the absence of facts comprising an exception to the "knock-and-wait" rule, and the failure of the police to ask the court for "no-knock" authority in advance.

Again, in many, many repects the conference substitute on the so-called "no-knock" issue—like the Senate-passed amendment to the crime bill—represents an important advance in both the stability of the law and in the protection afforded the individual under the criminal law of the National Capital.

Now that the conferees on S. 2601 are no longer enjoined from discussing the work of the conference, I am especially anxious to dispell the wealth of misinformation which has circulated in the past few months on the subject of "no-knock" and S. 2601. Time and time again, I heard it said that the District of Columbia crime bill gives the police the power to conduct "no-knock" searches and arrests. Once and for all, this statement as understood by most nonlawyers is 100 percent untrue; even as understood by lawyers the statement is misleading at the very least. The power to "no-knock" does not derive from this legislation or any other. "No-knock" searches and arrests have been permissable, have been authorized, since common law times, and have expressly been allowed in American criminal jurisprudence for 150 years. Regardless of what may have been in the House version of S. 2601, the Senate version and the similar conference substitute merely continue existing authority and add to it reasonable further safeguards.

Time and time again, I heard it said that the so-called "no-knock" provision in the District of Columbia crime bill experiments with the rights of the residents of the District and treats them as guinea pigs for the Nation. In this same vein, it has been charged time and time again that "no-knock" is designed to establish a precedent for the States. Again, nothing could be farther from the truth. An overwhelming majority of the States already have "no-knock" authority spelled out in their case law, and perhaps as many as a dozen or so of the States have "no-knock" provisions in their criminal statutes as well.

The "no-knock" law in my own State of Maryland was spelled out not long ago by the Court of Appeals of the State. In the case of *Henson* v. *State*, 236 Md. 518, 204 A. 2d 516 (1964), the police had probable cause to believe, on the basis of extensive, personal experience, that certain narcotics evidence would be flushed down the toilet or otherwise irretrievably thrown out if they were to adhere to the "knock-and-wait" rule; the police indeed had had the premises under surveillance for a week, during which time forty-three known addicts had visited the premises often comporting themselves in a manner bespeaking the transaction of sales of narcotics. The Maryland court ruled unanimously in the Henson case that the police had authority to "no-knock." The conference version of S. 2601 is intended merely to codify this and similar court rulings, and to add the further safeguard of a requirement of prior judicial scrutiny.

Last, it should be noted that the "no-knock" warrant provision in the conference report on S. 2601 is patterned after the equivalent "no-knock" warrant provision in the New York Code of Criminal Procedure, as well as comparable provisions in the codes of Nebraska, South Dakota, South Carolina, and Utah.

It has been suggested that the inclusion of the "useless gesture" in the list of exceptions to the "knock-and-wait" rule creates a loophole, permitting the police to take the law into their own hands, to "no-knock" pell-mell. Again, however, it must be understood that at least under the conference substitute the "useless gesture" exception positively has no such meaning. The term "useless gesture" under the conference substitute is specifically utilized as a legal term of art, with narrow and exclusive reference to prevailing case law. In this way the term is restricted to situations as where the officer's identity and purpose are already known to the occupant of the premises to be searched, or as where the occupant has failed to respond to a knock on the door and is known to be asleep and incapable of being given notice. See *Miller* v. *United States*, 357 U.S. 301 (1958); and *Bosley* v. *United States*, decided April 9, 1970, No. 21,513, U.S. court of appeals, District of Columbia circuit.

To the question, "Does the 'no-knock' provision give the police the power to enter over the occupant's objection?" the answer is decidedly, "No." Already the police may enter, even break and enter, over the occupant's objection, under a Federal statute applicable throughout the country (18 U.S.C. sec. 3109). Similarly, under the time-honored common law of warrants, when a court issues a warrant, it decides quite specifically that the interests of the public are such as to make entrance requisite regardless of the occupant's wishes. The complementary "knock-and-wait" and "no-knock" rules, to be exact, have nothing to do with whether or if the police may break and enter uninvited. Rather, they affect only the procedures by which the police execute said breaking and entering; the rules under discussion affect only the manner in which the police go about their rightful business.

Next, I have heard it argued that the exceptions to the "knock-and-wait" rule, the so-called "exigent" circumstances, do not admit of being known in advance. Despite its theoretical appeal, this objection finds no support in common sense or actual practice. In a gambling case, if it is known, for example, that the prospective defendants regularly use water soluble paper, that they conduct their operations near a disposal facility, that they have defeated searches previously by immediately and effectively disposing of all evidence upon receiving pre-entry notice from the police, and that the prospective defendants are aware of the police surveillance and are primed to effect the disposal of the necessary evidence—if these so-called "exigent" circumstances are known at the time of the execution of the search warrant, they are almost invariably also known at least 1 hour in advance of the execution, in time for the police to apply for court permission to depart from the "knock-and-wait" rule.

Let me give another example: in a case involving both armed robbery and murder, if it is known that the prospective defendant is armed and will shoot it out rather than surrender to the police, for example he has just shot and killed a police officer in the process of escaping, if his recent conduct in escaping has made it evident that he knows the police are hot on his trail—if these so-called "exigent" circumstances are known at the time of the execution of the arrest warrant, they are almost invariably also known the 1 hour or so in advance, in time for the court to rule on whether complete surprise is warranted and on whether the "knock-and-wait" rule must be complied with strictly.

S. 2601, as reported by the House-Senate conference, does not itself authorize "no-knock" in cases like those I have described. "No-knocking" in such cases is fully and clearly authorized under the law today as it has been for many years. What S. 2601 does is to continue that existing authorization in clearer, statutory language, all the while enhancing the protection afforded in the interest of individual privacy by stipulating that where possible a judge and not the policeman in the street must make the "no-knock" or "knock-and-wait" decision. I submit that this course is both advisable as a matter of public policy, and, as my examples demonstrate, also feasible in actual practice.

Without question the most troubling criticism that has been leveled on the subject of the so-called "no-knock" issue in S. 2601 is the suggestion that the legislation will heighten the level of violence in this community. Critics have suggested that when police officers depart from the "knock-and-wait" rule, occupants of the premises to be searched will, and perhaps should, respond with a blast from a rifle. Mr. President, if I believed that the net effect of the conference substitute would be an increase in shootouts with the police, I would immediately aline myself in opposition to this bill. My support of the conference substitute, however, reflects my firm conviction that the effect of the legislation will not be what the critics have supposed; indeed, I am amply convinced that most of the critics address an issue not now before the Congress.

First, it is a simple fact, as well as a matter of commonsense, that the danger of shootouts arises more out of strict adherence to the "knock-and-wait" rule, rather than out of the limited "no-knock" authority in existing law codified in S. 2601. Shootouts, violence, death, occur more frequently when the police signal their presence and purpose, and give a dangerous suspect time to get his weapon—not when the police take the dangerous suspect by surprise before he can arm himself to shoot. We need only reflect on the recent, publicized case of the local bank robber, Billy Austin Bryant. Bryant killed two FBI agents at the door of his wife's apartment after the agents identified themselves as police—and clearly not because he mistook them for burglars. Again, I am convinced that on balance the consequence of limited "no-knocking" is less violence, not more. And I am equally confident that the police, especially with increased court supervision, will continue to utilize their law enforcement tools so as not to endanger human lives, including their own.

Next, it is essential that we keep in mind what the basic issue is now before the Congress. Opposition to the concept of "no-knocking" is deep and widespread, in the Congress and in the community. What we have pending before us, however, is not the general question of whether police officers may or should ever execute warrants without "knocking-and-waiting." That question was settled long ago in the recesses of our legal history, and has been reaffirmed and reaffirmed by the Supreme Court of the United States. Despite our cautious reservation, "no knock" has been for years now a fact of American life and law.

The issues that are before us, Mr. President, are whether the exception to the "knock-and-wait" rule should be stabilized, clarified, in legislative form, and whether prior judicial approval is feasible and well-advised. On these, the genuine issues before us, the Senate conferees have expressed their view and ask the concurrence of the Senate; public order and individual privacy merit the safeguards of codification and prior approval; prior approval, moreover, not only constitutes valuable protection, but also is practicable in fact. While I fully know the dangers of the broad concept and practice of "no-knocking," I count myself among the most vigorous supporters of reform of the manner of statement and procedures surrounding the "knock-and-wait" rule. Notwithstanding the "no-knock" slogans, disavowals, threats, and misstatements, the public must understand that it is only this reform that is to be found in the conference report on the District of Columbia Court Reform and Criminal Procedures Act, only codification and further protection by substituting an objective judge to make vital decisions in place of the police.

ALTON'S DR. ANDERSON

Mr. SMITH of Illinois. Mr. President, I desire to join the multitude of others in Alton, Ill., to extend my greetings to the Rev. Orrin M. Anderson, L.H.D., pastor, First Baptist Church, for the last 15 years and salute "Anderson Sunday." Because Dr. George S. Reuter, Jr. has been a deacon of Dr. Anderson's church, I ask unanimous consent to have printed in the Record the address "Alton's Doctor Anderson." Dr. Helen H. Reuter joins her husband in this timely article.

There being no objection, the address was ordered to be printed in the Record, as follows:

Alton's Doctor Anderson

(By Dr. and Mrs. George S. Reuter, Jr.)

INTRODUCTION

Western society is in ferment. If our own country appears to be more tumultuous and dangerous than others, it is only because we are further advanced along the course of modern life; and we have less of a common heritage to guide us, or to help absorb the blows.

In the opening lines of the first canto of *Lady of the Lake*, Sir Walter Scott spoke of "Harp of the North that mouldering long has hung," and he expressed his determination to strike a few chords upon it in commemoration of the ancient heroes of the clans of Scotland. We have come together to strike some chords upon the "Harp of the West."

Edmond Burke believed that values and existing institutions reflected the accumulated wisdom and experience of a people and could not be discarded to satisfy every transient impulse without rendering the fabric of society. He believed it was man's first duty to defend the values of decency, tolerence, reason, and respect for freedom against all onslaughts.

Yes, as we honor Dr. Orrin M. Anderson, Pastor, First Baptist Church of Alton, Illinois, and his family, we recognize the critical hour in which we all live.

Sunday, June 7, 1970, will be remembered as "Anderson Sunday." It represents the twenty-fifth wedding anniversary of Rev. Orrin M. Anderson, L.H.D. Also, it was twenty-five years ago that he was ordained as a minister, and he is in his fifteenth year at the First Baptist Church of Alton, Illinois.

Dr. Anderson has traveled far and wide across the face of this nation. He has served in a multitude of capacities, ministering to servicemen and private citizens, to the great and others. He has observed the problems of the people firsthand and participated actively and wisely in their resolution. He possesses in large measure the qualities which come from the full Christian experience of life. To help in this important journey in life, Dr. Anderson has an outstanding wife and family to work with him in achieving important goals.

WORTHY PRINCIPLES TO REMEMBER

1. Be willing to be classified as an American, even though some may consider you reactionary.

Dr. Martin Luther King, Jr., was given to America by the South. He was not a saint, he was a man; a whole and liberated man, while so many others, white as well as black, remained slaves. This was his greatness. Let's look at the weakness of others.

Brenda Kay Perkins, a high school student of Hutchinson, Kansas, wrote, "If Abbie Hoffman claims to be an American, he is absolutely wrong. An American would never do or say the things he has to many students everywhere . . . it is people like this one man who are ruining our Great American Heritage. We have really got the best of opportunities going for us here in the U.S."

Dr. Landrum P. Leavell, Pastor, First Baptist Church of Wichita Falls, Texas, recently stated: "Just for the record—and without apology—I am a reactionary! I react to sin and sadism, riots and revolution, gutlessness and Godlessness! I react to Hedonism and humanism; to philosophies and sophistries which seek to destroy those values which made this country great; which fashioned the fabric of civilized mankind. I react to dancing the permissive polka with those who'd whirl you all the way to Hell, while whispering that God is dead and the Devil is a myth; to those ministers who'd convert my house of worship into a hootenanny hall or political forum."

2. Be willing to be firm when stability is necessary.

Dr. Ross Toole of the University of Montana recently said: "I am forty-nine years old. It took me many years and considerable anguish to get where I am—which isn't much of anyplace except exurbia. I was nurtured in depression; I lost four years to war; I am invested with sweat; I have had one coronary; I am a 'liberal,' square, and I am a professor. I am sick of the 'younger generation,' hippies, yippies, militants and nonsense."

3. Be willing to oppose looting, regardless of opportunity.

Violence may not be "as American as cherry pie," as a militant leader puts it, but it is rapidly becoming a familiar experience to all of us, at least through the news media, if not directly as a victim. It is worth noting, too, that the average looter in the cities is not poor. Statistics showed that the typical rioter has eleven years of education, makes ninety dollars a week, and has never been in trouble with the law before.

4. Be willing to support those Americans who are in uniform.

Those who currently wear the uniform of the nation's armed forces are being branded as everything from idiots to conspirators. Military men—together with a large group of "conniving industrialists"—are charged with having formed an insidious coalition, designed solely to extract unending self-enrichment from the labors of the American people.

5. Be willing to have war when necessary.

The First Amendment was added to the Constitution to insure that citizens would have a lawful and peaceful means of expressing their dissent. This purpose is now being perverted by those who wish to make it an excuse for criminal behavior.

Mayor Richard J. Daley of Chicago called for public support of President Nixon on his decision to send troops into Cambodia, and said the President made his decision "on the best advice he could get." Former President Lyndon B. Johnson asked that "all who love freedom" give President Nixon support in the Southeast Asia crisis.

The "domino theory" so long scorned by the new isolationists—the concept that when the Communists topple one helpless country another topple will not be far behind—is being proved every day in Southeast Asia.

6. Be willing to recognize that the academic community can be wrong.

George Bernard Shaw once remarked that every profession is a conspiracy against the public. We take it that he meant that the members of every profession are so deeply involved in the institutional rigidities of their particular field that they overlook their responsibilities to society.

The vulnerability of the academic community to exploitation by the radical or criminal groups is based on the communal spirit and identity of interest of its members. Each year a malleable swarm of new undergraduates enters the hive and is immediately caught up in peer customs and permeated by peer opinions.

7. Be willing to support strong central government on major issues.

No nation can expect to survive, much less provide leadership, unless the character of its people is strong; and strength of character requires adherence to moral values—the same ones that inspired the Founding Fathers; courage, integrity, resoluteness, love of country and its people, and, above all, faith in God.

Our cities will survive and be governable only if those we elect have effective power over those who are supposed to do the work, only if those we elect are responsible and accountable to the people who elect them. Government operations are costly, too. For example, the cost of providing essential services in New York City goes up every year by about fifteen per cent, while revenues rise by less than five per cent.

8. Be willing to support quality education.

Recently, a study financed by the Carnegie Corporation compared the hourly earnings of individuals' education in the various states. Differences in age, sex, race and number of years in school were considered in making the comparison. The study indicated a year of schooling in the State of New York is worth almost two and a half times as much as a year of schooling in Alabama—in terms of the average hourly wage a pupil will command.

9. Be willing to support freedom of religion throughout the world.

In 1952, Archbishop Boris stated in New York that there were 24,000 open churches in U.S.S.R. Nine years later, in 1961, the Moscow Patriarchate told the World Council of Churches that it had 20,000 churches. The average number officially quoted by the Patriarchate during the last five years was 10,000. However, in 1966, in an official Communist Party publication it was stated that the Patriarchate has only 7,500 churches.

10. Be willing to strongly support peace and goodwill.

Pope John's encyclical "Pacem in Terris", or "Peace on Earth," is one of the most profound statements of our time. It ranges over the complex relationships which should govern between man and state, between states, and among states. It came at a time when scientific breakthoughs seemed to offer mankind almost unlimited opportunities for material well-being on the one hand—or almost unlimited threats of extinction of the human race on the other, depending on how scientific developments are directed.

CONCLUSION

Dr. Anderson scores highly on these ten principles, but it is more than that. He is a friend of mankind. Let's conclude with a favorite poem, "The Heart of a Friend":

"The heart of a friend never wonders or doubts,
No matter if years intervene.
The old faith is there
And nought can compare
With the comfort it gives though unseen.
Yes, the heart of a friend is one thing I prize
As life lengthens and twilight descends,
It is the last boon I will ask
When I have finished my task,
That I live in the hearts of my friends."

"K" DAY—KICK THE HABIT DAY

Mr. TOWER. Mr. President, the mayor of Dallas, Hon. Erik Jonsson, issued a proclamation on June 21, 1970, designating Father's Day as "K" Day—Kick the Habit Day—to encourage all fathers to set a good example for their children by giving up smoking. Mayor Jonsson was encouraged in this endeavor by Dr. Paul Richburg, chairman of the smoking and health committee of the Dallas Area Tuberculosis Association. I believe this is an appropriate way to encourage personal efforts to warn young people of the dangers of smoking. I ask unanimous consent that the proclamation be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION

Following the lead of The American Thoracic Society and leading opinion which gives evidence that the smoking of cigarettes represents a clear and present danger to the health and lives of our citizens, in support of a "Clean Air Campaign" for Dallas sponsored by the Smoking and Health Committee of the Dallas Area Tuberculosis Association, be it hereby proclaimed that Father's Day, June 21, 1970, be designated "K" Day—Kick the Habit Day—and that all fathers who smoke cigarettes be encouraged and helped in their efforts to "Kick the Habit" and that they be nominated as "King" for the day in tribute to their victory in the battle to turn off the destructive effects of smoking on their lives, thereby giving to their families the gift of good health so that their future may be filled with happiness instead of breathlessness and helplessness;

Now, therefore, I, Erik Jonsson, as Mayor of the City of Dallas, do hereby proclaim June 21, 1970, to be "K" Day.

ERIK JONSSON,
Mayor, The City of Dallas.

MIDDLE EAST SITUATION

Mr. DOLE. Mr. President, each day the situation in the Middle East becomes more tense. The intentions of the Soviet Union have become increasingly ominous and should the Soviets continue to pursue such a hazardous policy of deepening involvement with the Arab States, the situation can only deteriorate further.

The Nixon administration is doing everything within its power to discourage the Soviet Union from continuing such activities. At the same time, it is seeking, through all available means, to bring about negotiations for a peaceful settlement. The heightening crisis in the Middle East as it is related to the injection of Soviet weapons systems was analyzed by Joseph Alsop in the Washington Post of July 8, 1970. I ask unanimous consent that the analysis be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ISRAEL'S SITUATION REACHING THE STAGE OF ACUTE CRISIS

Day by day, the ugly facts come in from the Suez front. Each new fact puts Soviet intentions in the Middle East in an ever-darker light. And each new fact means deeper and deeper peril for beleaguered Israel.

In this space last week, the first full report was given on the radically improved Soviet SAM–2 missiles, which are responsible for the tiny Israeli air force's hitherto unprecedented losses of Phantom fighter-bombers. It now appears, however, that this first report was sadly incomplete.

In the combat zone along the Suez Canal, the Israelis are fighting for their lives and national future. They must now face, not just the vastly more effective new-model SAM–2s, but an entire, carefully combined weapons system. And the new system ominously includes Soviet SAM–3 missiles manned by Russian troops.

The first component of the weapons system is an immensely dense deployment of ack-ack guns and other anti-aircraft weapons. These cover a strip along the entire Suez Canal and about 15 miles inland. And the deployment has been strengthened by another new Soviet missile, the Russian version of the American "Redeye," which is a light ground-to-air weapon with an efficient target-seeking device.

The second component of the weapons system is the line of SAM–2 missiles, emplaced on a line about 15 miles inland from the canal bank. With their 20-mile range, these improved SAM–2s are effective up to the canal itself. Thus any Israeli pilot, going in low to attack a target in the combat zone, meets the fiercest sort of anti-aircraft fire; and if the pilot goes in at high altitude, he is met with salvos of SAM–2s.

As to the weapons system's third component, it consists of at least two and probably three emplacements of SAM–3 missiles, complete with Russian crews as noted above. These have now been moved far forward from their former positions deep in the interior of Egypt, to new positions just outside the official combat zone. Here the SAM–3s can be used to support and protect the line of SAM–2s.

In a very real sense, therefore, Russian troops are already actively engaged in the great battle for control of the air over the combat zone along the canal. Yet even that is by no means the end of this grim story.

The evidence, albeit incomplete, is already clear that the entire vast weapons system above-described is now under direct Soviet control. The responses to the warnings of the radars; the management of the electronic counter-measures (and counter-counter measures!); the orchestration of the missile salvos and anti-aircraft fire—all these are now Soviet responsibilities in the vital canal-side strip, where the Egyptians were so recently alleged to be strictly on their own.

The effects to date, furthermore, have been desperately grave for the Israelis. The great majority of their aircraft—their supersonic Mirages, and their workhorse American Skyhawks, and naturally their wholly obsolete Mysteres, Vautours and Ouragans—can no longer be used to attack targets much beyond the bank of the Suez Canal itself.

Before the new weapons system was installed, these other planes ranged quite freely over the whole combat zone. Now, however, only the Israelis' Phantoms can be used to attack targets at any distance from the canal. And considering the tiny stock of Phantoms that Israel possesses, three Phantoms downed in a single week add up to a cruelly heavy rate of loss.

By shining courage and superb efficiency, the Phantoms' fliers have scored some successes. Three or four of the SAM-2 emplacements have been so heavily damaged that they have been put out of action, at any rate for a while. This has further meant painful losses for both the Egyptians and the Russians, who are also present at the SAM-2 sites as "advisers," but in extra heavy numbers. (The Russian dead, by the way, are sent home for burial marked "killed in a motor accident!")

Even so, the situation is plainly reaching the stage of acute crisis, with Israel's whole future ultimately at stake. Equally critical, moreover—and for President Nixon as well as for Israel—are the time factors.

The new weapons system was obviously put in along the Suez front, to coincide with Gamal Abdel Nasser's long visit to the Soviet Union. He and his Soviet masters are now assessing the first combat-results; and above all they are assessing the U.S. response to this further Soviet move forward. And God knows what the next move forward may be, if further dithering is the only real U.S. response!

RETIREMENT OF AMBASSADOR EDSON O. SESSIONS FROM THE FOREIGN SERVICE

Mr. SMITH of Illinois. Mr. President, Ambassador Edson O. Sessions retired from the Foreign Service in early 1970. During his distinguished career in Government which began in 1942 he has served as Ambassador to Finland, Deputy Postmaster General, and Associate Administrator for AID. His last assignment was U.S. Envoy to Ecuador from August 1968 until his retirement.

At the time of Ambassador Sessions' departure from Ecuador, the Apostolic Delegate to Ecuador and Dean of the Diplomatic Corps there, Dr. Giovanni Ferrofino, made a brief address commemorating the outstanding service of Ambassador Sessions and at the same time highlighting the challenging work of American Ambassadors throughout the world. I ask unanimous consent that excerpts from Dr. Ferrofino's remarks be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

One year and five months after his arrival in Quito, Mr. Sessions is leaving us. His stay with us, as Ambassador of the United States of America, may seem short to us, but our opinion in this case is modified by two considerations:

The first is this, that Mr. Sessions, in his by now long career in public service for the administration of the State, never remained for long at any post. We are familiar with his curriculum vitae, which has been published in the national press. Personally, I was impressed by the variety and number of the experiences that have filled and enriched his public life.

The other consideration, while as pragmatic as the first, has a highly spiritual foundation. Long ago, the Bible praised the man who knows how to make his life full, to the extent of making a long time out of a short time. This is precisely what has happened to Mr. Sessions: a diplomatic mission may be outstanding even because of its brevity. And there is no one among us who, when reading the words spoken by Mr. Sessions on February 4 at the office of the President of the Republic, has not admired the deep knowledge of the country he has gained, the sincerity and wholesome realism with which he has outlined a definite program of development for Ecuador. On the other hand, I know that the Government has valued highly the evidence of understanding and good will given by Mr. Sessions.

Therefore, while we can complain that Mr. Sessions is going all-too-soon, we must acknowledge that his mission was as successful as he wished it to be. And this is saying a great deal!

As a rule, when a colleague departs, I take advantage of such opportunity to bring to light less well-known aspects, and nonetheless interesting, of the country he has represented and served among us. I will restrict myself to emphasizing the fact that it is very difficult for a United States diplomat to represent his country in the world and, particularly, in Latin America.

The tremendous development of the United States, which is the result of its natural riches, exploited by generations of immigrants who distinguished themselves—and they still do—for their talents, their love of work, a high specialization, and all of this accompanied by a spirit of free initiative and competition . . . that tremendous technical and financial progress that made it possible to conquer the moon . . . that unmistakable dawning of a new civilization which will be called the American civilization . . . while these things can, on the one hand, give to an American diplomat a feeling of legitimate satisfaction and an understandable pride, they, on the other hand, do not make it easy for him to carry out his mission to the extent that he would expect. It is not only a matter of the human fact that few people can forgive those who make a quick ascent and dominate from on high. We are all familiar with the story of Joseph, the son of Jacob, and his eleven brothers! Ideally, the leadership of the United States is accepted, but it is asked to do what it possible as well as what is impossible; a boundless generosity is demanded of it, an uncontrolled generosity, and it is even blackmailed! On the other hand, the history of the people who successively ruled the world shows that it is difficult, if not impossible, to be powerful and well-beloved at the same time. As a rule, economic and political power engenders military power, and this assemblage of forces would remain in the sphere of the idea if individual passions would not destroy the virtues of the community.

In view of all of the foregoing, it is difficult to represent the United States. . . . We thus pay highest tribute to Ambassador Edson O. Sessions who has served in this difficult and challenging capacity with distinction and as an inspiration to American Ambassadors throughout the world.

DISTRICT OF COLUMBIA CRIME LEGISLATION

Mr. TYDINGS. Mr. President, tomorrow the Senate is scheduled to begin consideration of S. 2601, the President's District of Columbia crime legislation. I ask unanimous consent to have printed in the RECORD at the conclusion of these remarks a statement of the managers on the part of the Senate explaining the action of the conference on S. 2601. I commend this document to all Senators and their staffs and urge that it be examined closely.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TYDINGS. Mr. President, the Senate managers have prepared this statement to explain in considerable detail the actual results of the conference and the actual contents of the conference bill. We have taken this step in response to the widespread misunderstanding regarding this bill's provisions and in order to clarify the legislative history regarding the bill.

Copies of the Senate statement of managers were mailed to every Senator's office on Tuesday, and copies of the House statement of managers were personally delivered to every Senator's office this morning. These additional and extraordinary steps have been taken to insure fully the availability of all pertinent documents for every Senator before the debate begins.

EXHIBIT 1

STATEMENT OF THE MANAGERS ON THE PART OF THE SENATE SUBMITTED REGARDING THE CONFERENCE ACTION UPON S. 2601, THE PRESIDENT'S CRIME LEGISLATION FOR THE DISTRICT OF COLUMBIA

INTRODUCTION

A crime crisis grips the Washington area. This crime plague, which hits the inner-city resident with particularly relentless ferocity, is ripping the social and economic fabric of the entire metropolitan area.

The Capital and much of its surrounding suburban area have become a virtual ghost city by night. Law-abiding residents fear for their lives and property both on the streets and in their homes. Robbery and commercial crime are so out of control that many businesses have either curtailed their operations or left the city altogether.

The perpetration of serious crimes in the District of Columbia is increasing at a rate of 22% a year.

The number of felonies reported in the National Capital annually has doubled during the last five years. Yet felony convictions in D.C. courts in fiscal 1969 represented only 2½% of the 56,419 felonies reported here in that year (down from 3.8% in 1965). In contrast, in the past 5 years the number of reported felonies in the District has risen 122%.

The felony court in the National Capital, the Federal district court, continues to suffer from substantial delays in criminal trials, from inordinate time lapses between filing and disposition. Notwithstanding an exemplary implementation of the visiting judges program, an unsurpassed number of days on the bench per district judge, and the successful institution of an individual calendar system, the felony case backlog in the District of Columbia nevertheless stands currently at more than 1,600 cases. The current felony backlog in the district court nearly matches in size the total number of criminal cases disposed of in the district court in 1968.

In the search for some legislative solution to the crime crisis, the Senate District Committee has labored for sixteen months toward this conference report on S. 2601. In the first session of this Congress the Senate Committee conducted 36 days of hearings on crime in the National Capital, and published 2,500 pages of testimony with an appendix of 1,000 pages. (See the 10-volume Crime in the National Capital series. Hearings before the United States Senate Committee on the District of Columbia, 91st Congress.)

Further hearings were conducted during the four-month period between Senate passage of the last of the President's D.C. crime package and the commencement of the conference on S. 2601 on April 14 of this year. Moreover, the Senate and House conferees have now labored for three months, holding 24 sessions, often into the night, in an effort to resolve the 174 major differences between the two versions of S. 2601 and at the same time in an effort to perfect the legislation.

By way of background, the Senate District Committee conducted hearings in the first session of the Congress which preceded by nearly four months the introduction of the first of the President's D.C. crime legislation. The first of the President's bills, S. 2601, moreover, was in large measure based on other bills relating to court reform—S. 1066, S. 1067, S. 1214, S. 1215, and S. 1711—introduced by Senator Tydings and Senator Bible, and which were already pending before the Senate District Committee.

It should also be noted that, while the Senate District Committee held hearings last year on legislation introduced by Senator Tydings on the subject of pretrial release and detention, the President's proposal for the District of Columbia was never submitted to the Senate District Committee; and, indeed, the Depatrment of Justic declined to support local pretrial detention legislation at the time of the Senate hearings.

The truly revolutionary court reforms contained in the conference report on S. 2601 are calculated to reinstitute swift and fair trial in the District of Columbia. The court reforms contained in S. 2601 are calculated to restore the spectre of certain justice, the deterrent impact of speedy disposition, the keystone of the criminal justice system in any free society.

The conference report provides—

An efficient, merged local court system with divisions of flexible size capable of adjusting to exact court needs.

A nearly two-thirds increase in the number of local trial judges, along with numerous other means for expanding the city's judicial resources.

Increased tenure, salaries, retirement benefits, and the like, to attract high quality personnel to the local bench.

A refined mechanism for ridding the bench of unfit judges,

Modern court management, with the centralization of non-judicial, administrative duties in a top-level court executive,

A modern juvenile code codifying recent developments in the law of juvenile court proceedings,

A telescoping of numerous juvenile proceedings, and other means for assuring juvenile court expedition,

Three distinct modes of adjudication and treatment for three distinct categories of juveniles,

A full-fledged Public Defender Service for the District of Columbia, greatly expanded beyond the size and scope of the operation of the existing Legal Aid Agency,

An expanded bail agency, with new supervisory capacity and functions regarding persons released prior to trial,

Improved sentencing procedures, including discretionary, repeated-offender penalties and procedures, and a mandatory minimum sentence for second-offender armed violent felons only,

A general reorganization and revision of the District of Columbia code of criminal procedure,

Authorization for interlocutory appeals by the government from orders suppressing evidence,

Authorization for the issuance of "no-knock" warrants,

Revision of certain rules of criminal evidence, making insanity an affirmative defense and repealing the so-called "*Luck*" doctrine,

A comprehensive local wiretapping law, with penalties and safeguards in addition to those available under the Federal wiretapping law,

Authorization for pretrial detention, in lieu of bail, for certain persons charged with dangerous or violent crimes,

Authorization for increased police mutual assistance between the District and the suburbs, and

A Federal payment of $5,000,000 to assist the District of Columbia Government in meeting the costs of S. 2601 and certain other crime-related programs, notably the city's Narcotics Treatment Agency.

This legislation is unique in several ways. It will be the first of President Nixon's crime bills to pass the Congress. Second, this bill is the only local crime legislation Congress can enact for any particular jurisdiction in the Continental United States. The provisions of this bill will apply only in the District of Columiba—nowhere else. Third, it is a specific answer to the particular problems of the District of Columbia. It is not a model for other jurisdictions. In fact, in many provisions, such as wiretapping, "no-knock" warrants, and court administrations, it borrows from the time-tested experience of other jurisdictions. Whereas this legislation does contain many meaningful reforms in the criminal justice system, the legislatures of each state must answer the special problems each faces, just as Congress must meet its reponsibilities to the National Capital.

II. SUMMARY OF MAJOR DELETIONS

After nearly three months of conference sessions and countless hours of negotiation in 24 meetings, the Senate conferees are finally able to return a bill to the Senate floor and to urge its passage. The lengthy delay in the conclusion of the conference is in large measure attributable to the great array of questionable provisions which the House of Representatives appended to an otherwise non-controversial and urgently needed court reorganization and criminal law reform bill. The Senate conferees are now able to report that the vast majority of these provisions have been eliminated in the conference substitute.

Court Reorganization

Briefly, the conference report omits the House provision which made the day-to-day operations of the new court system subject to the direct influence of the executive branch of government. In the interest of a separation of governmental powers and of sound court management, the Senate conferees insisted on the deletion of the House provision whereby the President of the United States was charged with the power both to appoint and to remove the chief administrative officer for the local judiciary.

Also, by disapproving the fixed-amount determination of the salaries of local judges—that is, by making the judges' salaries in effect subject to periodic automatic review and revision—the conferees assured the time-honored independence of the judiciary and enhanced the attractiveness of service on the local bench. In the view of the conferees, better qualified judges enable greater efficiency and expedition, and the latter in turn assures prompt trial and the deterrence of much of the city's crime.

Juveniles

The Senate bill included a completely revised code of juvenile procedure for the District of Columbia, designed to alleviate the crippling backlog of juvenile court cases and to modernize juvenile proceedings in conformity with the safeguards required, under recent Supreme Court decisions, to be afforded juvenile offenders. Many of the provisions in the House version of the juvenile code, in contrast, were not focused upon these goals, but constituted a step backward in the handling of juvenile matters.

The conference version greatly reduces the number of cases which the House bill would have automatically transferred to the adult court for trial. The conference report eliminates a clear majority of the offenses from the list of offenses which would qualify a 16 or 17 year-old for treatment like an adult. Whereas the House bill would have shifted the burden of proof to the child in juvenile "waiver" proceedings, the Senate conferees insisted that the inappropriateness of juvenile treatment must be established in each case without placing any burden on the child. With the help of a timely Supreme Court decision, *In re Winship*, 397 U.S. 358 (1970), the Senate successfully preserved the requirement that delinquency involvement (guilt) must be proved beyond a reasonable doubt instead of by a mere preponderance of the evidence as in the House version of S. 2601.

The Senate also prevailed in requiring separate treatment for different categories of juveniles rather than permitting the court to order a child once found to be "in need of supervision" (for example, a habitual truant) to be placed in a facility for delinquent children (criminal law violators). Nor will authorities be allowed, under the conference report, summarily to transfer an obstreperous delinquent to an adult prison without the affirmative protection of an adult criminal trial. The House version in contrast indulged the summary procedure. The conferees disapproved the House provision which made "waiver" of a juvenile to adult court permanent with respect to subsequent offenses regardless of the outcome of the trial after "waiver". Also, the Senate conferees insisted upon deletion of the House provision which forbade the setting aside of the adult criminal conviction of a juvenile in cases of genuine mistake as to age.

SENTENCING

The Senate conferees further refused to accede to many of the self-defeating and inflexible provisions in the House bill on adult sentencing which have been severely criticized by penologists and other law enforcement officials as unwise, unworkable, and obsolete. The provision which made larceny from any vending machine (such as theft from a gum ball machine) equivalent to second degree burglary, carrying up to a 15-year penalty and many collateral consequences such as eligibility for pretrial detention, was rejected. A more appropriate penalty of up to three years' imprisonment is provided for this crime in the conference report, and the panoply of collateral consequences will not attach.

The Senate conferees would not yield to pressure and violate basic precepts of criminology and sound criminal justice penology, by agreeing to House requests to expand mandatory minimum sentencing to first offenders. Rather, the Senate conferees heeded the counsel of their own Panel Against Armed Violence and eliminated all of the House-passed mandatory minimums except in the case of second-offender armed violent crime. For example, the most misguided provision in the area of sentencing in the House bill—the provision for mandatory life sentences, with twenty years' imprisonment required prior to eligibility for parole—was struck from the conference version of the legislation. The Senate likewise insisted that a person may not be subject to recidivist penalties unless he has received pretrial notice of the prosecution's intent to rely upon prior convictions and to request recidivist treatment.

Other provisions deleted

The conference substitute does *not* include numerous other House provisions on criminal procedure which have been the subject of particularly severe criticism among others, "moot" appeals by the Government from judgments of acquittal, permission for police officers in executing search warrants to conduct scientific tests or experiments on persons, and the requirement that a plaintiff pay the attorney's fees for a police officer defendant in a wrongful arrest suit regardless of who wins the case.

Lorton

A major victory for the Senate, relating to the gathering process of correctional reform in the District, was the elimination of the House provision which would have transferred Lorton Reformatory to the Federal Bureau of Prisons. Senate recession on this issue would have gutted the move toward effective, coordinated correctional services—emphasizing rehabilitation and the reintegration of parolees into the community—and would have interposed, ironically, a stumbling block in the local war against crime.

III. COURT REORGANIZATION AND GENERAL PRACTICE REFORMS

a. Courts and court resources

The conference report, like the Senate version of S. 2601, recognizes that, in striving to meet the crime problem in the National Capital, primary emphasis must be placed on eliminating court congestion and assuring speedy trials. Until means are provided for restoring the specter of swift and sure judgment, the criminal justice system in the District of Columbia will never regain its rightful deterrent effect.

Accordingly, the conference report on S. 2601 provides for a streamlining of the judicial system of the District of Columbia, with an efficient centralization of local judicial authority, and an unprecedented increase in local judicial resources.

Pursuant to the conference report, the three trial benches of the District of Columbia (the general sessions, D.C. tax, and juvenile courts) are to be merged into a single local court, the Superior Court of the District of Columbia. The superior court is to have exclusive, general jurisdiction over all local matters, civil and criminal—consistent with the move toward home rule in the District as well as for purposes of efficiency and expedition. Likewise, the local appellate court, the District of Columbia Court of Appeals, is to be the highest court of this jurisdiction, the final authority, as to purely local matters and for purposes of appeal to the Superior Court of the United States.

Jurisdiction over local matters is to be transferred from the Federal district court to the new superior court, as indicated in the table below. (See Table 1.) Commensurately the Federal district court for the District of Columbia is to regain its rightful status as a Federal tribunal, devoted on a full-time basis to Federal business, like all other United States district courts.

TABLE 1. *Transfer of local jurisdiction from Federal district court to merged local trial bench (District of Columbia superior court)*

First Stage (6 Months After Enactment)

(1) Merger of all general sessions, D.C. tax, and juvenile court jurisdiction in the new superior court.

(2) Civil controversies up to $50,000.

(3) Quo warranto, land condemnation, change of name, contractor's bond, real property, habeas corpus, commitment of drug addicts, etc., proceedings.

(4) Local felonies punishable by up to 15 years' imprisonment.

Second Stage (2 Years After Enactment)

(1) Hospitalization of the mentally ill, certain other commitment, conservatorship, etc., proceedings.

(2) Remaining local felonies.

Third Stage (3 Years After Enactment)

(1) Remaining civil proceedings, including probate and controversies over $50,000.

Most important, the conference report creates 17 additional local judgeships for the new superior court, bringing the strength of the local trial bench to 44. (Presently, the law provides for 27 local trial judges—23 in general sessions, 1 in D.C. tax, and 3 in juvenile court.) Ten new judges are to be added immediately upon enactment; and 7 are to be added eighteen months thereafter, in anticipation of the second stage of jurisdictional transfer. To meet the increased workload resulting from the expanded trial bench and jurisdiction, the D.C. Court of Appeals is increased by 3 additional judges, all to be appointed immediately, bringing the strength of that court to a total of 9.

Again recognizing the primary importance of assuring adequate judicial manpower to meet the demands of the city's crime crisis, the Senate conferees would have preferred to authorize an even larger trial bench of 50 positions as the Senate bill provided, with more judges to be appointed in connection with the third stage of jurisdictional transfer. After protracted negotiation the conferees agreed on a number of judges which is four greater than the House version, but six less than the Senate had provided. As to the six additional judges in the Senate bill, the Senate deferred to the House view that the need for additional judges in connection with the last stage will be assessed in a later Congress (after court reorganization has gotten under way). Nevertheless, it was the understanding of the conferees that expansion of the local trial court in the pending legislation shall in no way prejudice—indeed the Senate conferees affirmatively anticipate—full consideration of the need for additional judges as the need appears.

The Senate conferees insisted upon an innovation in the Senate version of S. 261 whereby the chief judge of the Federal appellate Court in the District is authorized to assign Federal trial judges to serve temporarily on the local superior court, whenever a certified need arises. This provision is designed as assurance that the manpower needs of the local court will be met on at least a stop-gap basis, even if the size of the new superior court proves to be inadequate and also notwithstanding any future emergencies.

Adding flexibility to the new court system, the conference report, like the Senate version of S. 2601, authorizes the temporary assignment of judges of the D.C. Court of Appeals to sit on the trial bench when necessary, and likewise authorizes judges of the Superior Court of the District of Columbia to sit on the local court of appeals. The conference report furthermore authorizes the assignment of general sessions judges pending the effective date of the court merger (6 months after enactment) to sit in juvenile court to assist with the latter court's unprecedented, crippling backlog.

Once the court reorganization and attendant merger have come into effect, all juvenile matters will be handled in a consolidated Family Division of the superior court. Enhancing the effectiveness as well as the efficiency of the new local court, the Family Division will at the same time have jurisdiction over all "family" matters—including all matters formerly brought before the Domestic Relations Branch of the general sessions court, and civil proceedings for protection in cases involving intrafamily offenses.

Like the Senate version of S. 2601, the conference report does not fix the size of the new Family Division or of any of the superior court's divisions (including the civil, criminal, and tax divisions). Rather, the conference report permits the chief judge of the superior court to assign as many associate judges to handle juvenile or other Family Division business as may be necessary at any given time. The profound significance of this feature of S. 2601 is made especially apparent by comparing the previously authorized size of the District's juvenile court—consisting of only a chief judge and two associates—with the fact that perhaps as much as 50% of all serious crime in the District is presently being committed by juveniles.

The Senate conferees insisted that additional support from law clerks is essential in increasing the output of appellate judges, and that, without enhanced judicial "productivity," the 3 additional judges for the local court of appeals would hardly suffice to absorb the enormous increase in local appellate cases and over-all responsibility. The conference substitute provides 2 law clerks for the chief judge of the D.C. Court of Appeals, 1 personal law clerk for each of the associate judges, and 3 additional clerks for the court as a whole. Similarly reflecting the enhanced responsibility of the local trial court—now to be a court of general jurisdiction—the conference report provides that each of the superior court judges shall have a personal law clerk.

b. Judges.

As important as any element in assuring the National Capital of an effective system of criminal justice is the process of attracting and retaining on the local bench well qualified, hard-working members of the legal profession. Accordingly, the conference report adopts numerous provisions contained in the Senate bill which are designed to facilitate this latter process.

The conference substitute adopts the innovation in the Senate version of S. 2601 whereby the salaries of local judges are fixed as a percentage of the Federal judicial equivalents. With the assignment of comparability with Federal judicial officers, the local judges are accorded greater prestige commensurate with their grave new responsibilities. Similarly, since the salaries of Federal judges are reviewed on a regular, quadrennial basis by the so-called "Kappell commission" and can be appropriately raised without affirmative congressional action, the percentage method of computation promises to relieve the local judges of the ignominious task of importuning in the halls of Congress in the interest of their rightful compensation.

The salaries of the local judges specifically are set at 90% of the Federal equivalents. In this way, the trial judges will earn $36,000 per annum—that is, more than the $34,000 salary enacted for the general sessions trial judges as part of the recent pay raise, and $8,000 more than the $27,500 salary which remained effective until April of this year. The appellate judges will earn $38,250 per annum—that is, $2,250 more than the $36,000 salary enacted for the D.C. Court of Appeals judges as part of the recent postal pay raise, and $9,750 more than the $28,500 salary which remained in effect until April of this year.

The conferees anticipate, as a consequence of the new salary provisions, that the local courts will be able to attract judicial candidates who are both successful and skilled, and compete favorably with the Federal courts of the District in obtaining judicial personnel. The conference report also accepts the principle of the Senate bill of increasing the tenure of local judges. The conference report increases the present ten-year term by 5 years—in the hope that the new 15-year term will offer a more attractive promise of security to candidates hesitant to risk failure of reappointment in addition to the loss of a successful practice.

Even further enhancing the attractiveness of service on the local bench, the conference report provides that local judges may aggregate judicial and non-judicial service—including military and civilian service, with the Federal Government or with the government of the District of Columbia—for purposes of determining retirement eligibility and benefits. In addition, the conference report provides that retired local judges are to be granted proportionate increases in retirement benefits in the event of any increases in the compensation of active judges.

Correcting a grave flaw in the judicial code of the District of Columbia, the conference substitute, like the Senate version of S. 2601, creates a further substantial judicial resource by removing the 60-day limitation on the fully compensated, annual service of retired local judges. The new local courts are permitted to utilize the talents of the city's older, most likely more experienced jurists, much in the way that the Federal judicial system looks to an active corps of senior Federal judges. It has proved to be common, after all, in the Federal system for the so-called "retired" judges to serve as diligently and efficiently as their regular active brethren.

On a related matter, the House conferees receded to the Senate position whereby local judgeships are made subject to mandatory retirement at 70 years of age. Local judicial positions are to be regularly and automatically freed for the appointment of additional (and younger) judges. Thus, with the combination of mandatory retirement and the possibility of unlimited annual service after retirement (as aforementioned), even the new increased number of authorized judicial positions may be substantially exceeded in terms of the number of judges actually on duty on a full-time basis.

Meanwhile, the most obvious effect of provision for mandatory retirement is to remove the semblance of a "right" to judicial office notwithstanding advancing, possibly debilitating age. In a similar manner, the conference report alters the tenure and selection of the local chief judges, so that the President is now to designate a chief judge from among the associate judges of the relevant court to serve for a renewable 4-year term only. In this way, designation and redesignation as chief judge is more securely tied to performance, to demonstrated administrative skill. Designation ceases to constitute a "right" persisting throughout the judicial term of a single individual.

Recognizing that no judicial system can function effectively unless it is free of corruption and incapacity, the conference report creates a local Commission on Judicial Disabilities and Tenure to oversee the integrity of the local bench. The 5-man commission—consisting of at least one lawyer, one layman, and one Federal judge—is patterned largely after the successful removal commission of the State of California. The D.C. Commission is authorized to retire involuntarily any judge who is mentally or physically disabled, and to remove involuntarily any judge who is guilty of misfeasance or nonfeasance in office. As a further aid in freeing the bench of unfit judges, the House conferees receded to the Senate position, original in the Senate version of S. 2601, eliminating the 5-year service requirement for retirement benefits in case of involuntary retirement for disability. The Senate conferees successfully urged that even removal commissions are reluctant to remove a disabled judge without the assurance that he will receive adequate retirement benefits.

The conference report adopts a further Senate innovation in the form of a requirement of detailed, financial disclosure on the part of all local judicial officers. The rules of financial disclosure are patterned after those in force in the United States Senate. Information concerning income, property and trust interests, and gifts is to be filed on a confidential basis with the D.C. removal commission; while information concerning business and charitable associations and honoraria valued at $300 or more is to be filed with the commission and made available to the public. Both failure to comply and the filing of fraudulent information constitute grounds for involuntary removal from judicial office.

Lastly, with respect to guaranteeing the highest quality in local judicial appointments, the Senate conferees at the outset looked principally to the Senate-approved Advisory Committee on Judicial Selection. This innovation was urged upon the Senate by the District of Columbia Bar Association, and was modeled in some measure after the well-known and successful "Missouri plan." The Senate receded on the issue of the creation of such a committee with only the greatest reluctance. Indeed, the Senate conferees would have insisted upon this feature (1) were it not for persistent opposition to this provision by House conferees and the Department of Justice, and (2) were it not for assurances that appropriate high quality will issue from presidential appointment without institutionalizing outside advice. In short, the Senate conferees receded on this issue only with the understanding that the forthcoming nominees will be exceptionally learned in the law (see the provision in the conference report facilitating appointment of local professors of law and government lawyers, as well as experienced local practitioners), sensitive to the particular nature of the local community (see the provision requiring prior and continued residence in the National Capital area), and not favored unduly on the basis of political or other nonmeritorious affiliation.

Clearly, in the view of the Senate conferees, if this understanding is not borne out in fact in the qualifications of the actual nominees, the entire court reorganization will have been instituted for naught, and the battle against crime and toward greater judicial effectiveness in the District may well be hindered rather than helped.

c. Court administration

As was stressed in the original Senate-passed S. 2601, improved court administration must lie at the heart of any plan for eliminating court congestion. The criminal case backlog and regular criminal caseload in the District of Columbia are of such proportions as would quickly overwhelm any number of additional judges in the absence of court management reform. By the same token, the striking benefits of such reform can be seen in the recent heralded deployment of the individual calendar system in the District of Columbia's Federal trial court.

Most notably, the conference report, like the Senate version of S. 2601, creates the position of Executive Officer of the District of Columbia courts, in an effort to bring modern court management to the new court system.

Moreover, the conference report adopts the Senate provision regarding the appointment of the executive officer. The Senate conferees insisted that control over such appointment be retained in the judges themselves (through the Joint Committee on Judicial Administration, see below), since, without the assured cooperation of the bench, court management could not be improved.

Likewise the Senate conferees insisted that the clear, paramount authority of the respective chief judges be undisturbed in the individual local courts, and that the chief judges be given the power to disapprove the appointment of any court executive. This course was adopted in the interest of orderliness in administration and out of respect for the particular confidence which society reposes in judicial as opposed to non-judicial personnel.

The Senate conferees strongly objected to the provision in the House version of S. 2601 for presidential appointment and removal of the executive officer. The latter course was deemed destined to place the executive officer outside of or above the court system, in a wasteful confusion of chains of authority. The House provision was viewed as destined to drive a wedge between the court manager and the judges, instead of enhancing cooperation. Most important, presidential appointment and removal of the court's day-to-day administrator was viewed as a grave encroachment upon the independence and integrity of the judiciary, and a source of persistent violation of the rightful separation of powers.

The conference substitute, like the Senate version of S. 2601, creates a Joint Committee on Judicial Administration in the District of Columbia to act as a final authority over matters affecting the local court system as a whole. The committee is to consist of the two local chief judges, an associate judge of the D.C. Court of Appeals elected by the members of that court, and two associate judges of the superior court elected by the members of the local trial bench. It bears reiteration, however, that final authority over matters affecting, that is over operations within, a single court is vested without exception in the chief judge of that court.

The executive officer is principally to serve as chief administrative assistant to the respective chief judges and to the Joint Committee on Judicial Administration. In a more immediate or day-to-day sense, however, the executive officer is himself to exercise control, pursuant to the conference report, over the non-judicial personnel of the local courts and over the non-judicial aspects of court administration. To assist with this professional management, the Senate conferees insisted that the number of supergrade equivalents among the court employees be increased beyond the 4 allowed in the House version of S. 2601. The doubling of this number in the conference report will enable the local courts to compete not only with the Federal courts in the District, but also with other branches of government and with private industry, in obtaining the services of experienced executive and other specially trained personnel.

The conference report specifies that the rate of compensation of the District of Columbia Register of Wills shall be fixed by the superior court with a ceiling consisting of the maximum rate prescribed for GS–16 (presently $33,627). Otherwise, the executive officer is free to assign the supergrade equivalents as he deems best in the interest of effective and efficient court management. The following court officers among others, envisioned by the conference report, might warrant such assignment: the principal assistant or deputy to the executive officer, the clerks of the respective local courts, the Director of Social Services in the superior court, and the Fiscal Officer and the Auditor-Master for the District of Columbia court system.

Further aiding in the elimination of court congestion and in the interest especially of improved judicial efficiency, the conference report adopts certain further provisions originally in the Senate-passed version of S. 2601 and based on the extended hearings in this Congress before the Senate Committee on the District of Columbia. These Senate provisions include a requirement that the judges of the superior court meet not less than once each month to consider "matters relating to the business and operation of the court." Another such provision details the minimum information (for example, regarding times and attendance in court) which each judge is to submit to his chief judge and to the Commission on Judicial Disabilities and Tenure. Also, the Senate conferees prevailed on the issues of continuing a statutory limitation on the annual vacation of local judges and admonishing the chief judges to schedule the judges' vacations so as not to leave the respective courts under-manned at any given time.

d. Public Defender Service and Bail Agency

One of the most significant provisions of the conference report is the conversion of the existing pilot project Legal Aid Agency in the District of Columbia into a full-fledged public defender program. The Public Defender Service established by this bill will provide legal representation for a clear majority of the District's indigent criminal defendants, will expedite criminal trials by assuring experienced counsel in such cases, and will assist the private bar and aid the court in establishing an adequate system for the appointment of private counsel for the remaining indigent defendants not directly represented by the service. The public defender concept promises a double benefit, in that it not only better safeguards the rights of defendants, but also aids the process of swift justice by speeding up criminal proceedings, cutting down case backlog, and thus preserving the deterrent impact of prompt trial.

The Constitution requires the free appointment of defense counsel to persons who are financially unable to retain their own attorneys. The conference report on S. 2601 in turn provides that the Public Defender Service may furnish such representation at any stage of a criminal proceeding. The authorization of revenues in the conference report contemplates an eventual complement of 50 or more lawyers (1) to handle up to 60% of the total number of cases where the public defender is authorized to act, and (2) to assist the courts in creating a private appointment system to serve the remaining 40% of indigency cases.

The conference deleted the House provision which would have limited the Public Defender Service to representation of 60% of the eligible persons in each individual category of cases. The House provision would have impeded a flexible allocation of public defender resources. Instead, the conference adopted a provision, original with the Senate D.C. Committee, which will aid flexible allocation—a provision limiting representation to 60% of the cases in all of the categories combined. Thus, under the conference report (like the Senate version of S. 2601), if the private bar is more willing to undertake representation, for example, in adult felony matters, the Public Defender Service can limit felony representation hypothetically to 40% of these cases and shift its attention to 80% of the juvenile cases (where greater expertise is required).

The Senate conferees found persuasive the House provision which adds authority to represent chronic alcoholics in commitment proceedings. The other categories where representation is authorized include criminal cases punishable by at least 6 months imprisonment, parole and probation revocations, mental health and narcotics addict commitment and release proceedings, and juvenile delinquency and "need of supervision" cases.

The service will be governed by a Board of Trustees appointed by the chief judges of the local and Federal courts, and will be run by a Director and Deputy Director with salaries, following the model of the Senate bill, geared competitively to civil service supergrades in order to attract talented attorney-administrators in the top leadership positions. The conference report, deferring to the Senate position, provides a compensation ceiling equal to GS–18 (presently $35,505) for the Director of the Public Defender Service, and a GS–17 ceiling (presently $34,810) for the service's Deputy Director. The Senate conferees prevailed likewise in assuring that the service will be authorized to accept public grants and private contributions, to facilitate research and continuing educational assistance on the part of the Public Defender Service for members of the private bar inexperienced or otherwise untrained in handling indigency cases.

The conference report takes an important step toward the full implementation of the Bail Reform Act of 1966 by greatly expanding the size and functions of the District of Columbia Bail Agency. Under existing law the agency merely provides pre-bail information on arrested suspects to guide the judicial officer in setting release conditions. Although in many instances the D.C. Bail Agency would wish to recommend release under third-party supervision, the severely limited resources in the community for such supervision, however, force the courts to a choice between the risk of release without the necessary supervision, on the one hand, and, on the other hand, the imposition of money bond which is most often equivalent in actual effect to ordering outright pretrial detention.

An answer to this dilemma is the requirement in the conference report that the bail agency supervise, or coordinate the supervision by others of, suspects released on conditions other than money bond. The agency will hereafter make recommendations from the entire range of bail alternatives, follow up and supervise these defendants to assure that they conform to release conditions, notify them of appearance dates, and assure their appearance as required. Even further expanding the bail agency's positive role, the conference report requires that the agency assist persons on court-order release in securing employment or needed medical or social services.

e. General civil practice reforms

Rules of Procedure. The new local courts will continue to operate on the basis of rules of procedure familiar to the local bar. The Federal Rules of Appellate, Civil, and Criminal Procedure will apply in the local courts unless the court of appeals approves specific modifications of those rules. As in the Senate version of S. 2601, the new courts may adopt local rules of procedure supplementing the Federal rules, and the superior court is authorized to appoint a committee of lawyers to advise the court with respect to the adoption of local rules.

The conference report contains several provisions, dealing with service of process and interlocutory appeals, of major importance to the jurisdiction of the new local courts. The conference report provides for the first time in the National Capital a modern "long-arm" statute. The particular statute, based upon the Uniform Interstate and International Procedure Act, grounds personal jurisdiction generally upon the extent of contacts with the forum, and authorizes service of process outside the District of Columbia by reasonable means calculated to give actual notice. In addition, with regard to criminal cases the conference report encourages the service of process by summons instead of by warrant, and continues nationwide service in felony cases. Misdemeanor service, following the Senate version of S. 2601, is limited to the District of Columbia. These provisions reflect the best elements of modern jurisdictional statutes and place the new local courts on a parity with courts in the States.

Finally, the bill provide for interlocutory appeals in civil actions where the trial certifies a controlling question of law upon which there may be substantial difference of opinion and immediate resolution of which on appeal will advance the ultimate termination of the case. The provision is modeled upon the Federal statute, 28 U.S.C. §1292, which has worked well in the Federal courts. Each of these provisions constitutes an essential tool for a fully developed local court system.

Intra-family matters. The Family Division of the superior court is authorized to implement a new informal and civil process for the resolution of family disputes. This statutory alternative to criminal prosecution, a major innovation, is designed to heal family disharmony rather than invoke the criminal process which can bring about permanent family breakdown. The Director of Social Services in the superior court is authorized to provide marital, family and juvenile counseling, and in consequence can be expected to attempt to effect informal conciliation even short of resorting to the new civil procedure. In appropriate cases, however, the Director of Social Services may recommend the filing of a petition for a civil protection order, in the nature of an injunction, which may direct the respondent to refrain from injurious conduct or to perform or refrain from appropriate specified acts in order to restore family order.

Another important reform—originating with the Senate D.C. Committee—consists of the elimination of the criminal or quasi-criminal incidents of nonsupport and paternity proceedings. Under current law and practice such matters create considerable congestion in the trial calendar of the juvenile court, and are regularly "prosecuted"; most important, fathers who should be supporting their families are made subject to criminal sentence. The new proceedings, in contrast, will be entirely civil in nature and will change the focus from punishment of the putative father to provision or support of the minor child or children. Contumacy will be dealt with through the more effective tool of civil contempt, which the putative father can purge by making the required support payments.

The conference report provides that separate counsel may be appointed by the court in child custody proceedings to represent the child. Also, the conference report, like the Senate version of S. 2601, makes discretionary with the court the appointment of an attorney for the defendant in an uncontested divorce case, and relieves indigent plaintiffs of the present requirement of paying the attorney's fees of opposing counsel in such cases. Subsequent to Senate passage of S. 2601, the latter provision was apparently made requisite in the case of *Harris* v. *Harris*, No. 22, 266 (D.C. Cir. Jan. 14, 1970).

Small claims reforms. The conference report continues its emphasis upon the conciliation process by expanding the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court five-fold to encompass claims up to $750 as provided in the Senate version of S. 2601. This amount reflects, generally, modern costs and values; and will permit the expeditious and yet fair treatment of the greatly increasing number of small claims. The Senate conferees moreover insisted upon making the jurisdiction of the Small Claims Branch exclusive. Also, to accommodate small businessmen and other persons who cannot afford to miss work, the conference approved the Senate requirement that the Small Claims Branch hold at least one evening session each week.

Register of Wills; Medical Examiner. In recognition of the critical importance of the District of Columbia Register of Wills to effective probate practice in the District of Columbia, and also in recognition of the high quality of the service performed by the register's office in recent years, the Senate version of S. 2601 provided for an upgrading of the qualifications for the office of Register (which the new court is to maintain following transfer of probate jurisdiction). The conference report, which approximates the Senate provision in this regard, requires a minimum of five years' membership in the D.C. Bar, as well as broad experience in probate matters.

The conference report also substitutes a modern office of medical examiners for the ancient coroner system retained in existing law. The report provisions contemplate that the medical examiner will be concerned strictly with medical matters and will not become involved in legal and quasi-legal inquiries included in the coroner's present functions. Following recommendations of the D.C. Bar Association, the new legislation sets forth clearly the deaths to be investigated by the medical examiner and establishes high medical qualifications for the office of Chief Medical Examiner for the District.

Retarded persons. Although the substitution of the term "substantially retarded" for "feebleminded" in the revision of the D.C. Code is of no functional impact, it deserves mention simply to emphasize the dominant concern in this legislation for reforms in institutions, practices, and even language. The new characterization, adopted from the Senate version of S. 2601, is designed to refer, pursuant to chapter 11 of title 21 of the D.C. Code, to persons who are afflicted with mental defectiveness from birth or early age, so pronounced that they are incapable of managing their own affairs or of being taught to do so, and who require supervision, control, and care for their own welfare, the welfare of others and the community. The use of the term "substantially" was considered important by the Senate conferees, first, in order to eliminate from the law of the District the insensitive, outmoded term, "feebleminded." Secondly, the Senate conferees insisted upon "substantially retarded," instead of simply "mentally retarded," in order not to reflect harshly upon the many independent and productive citizens in society who are to a lesser degree or at least educably mentally retarded. Lastly, the conferees consciously opted not to employ a clinical term (such as "severely retarded") so as to avoid confusing the precise statutory or legal standard with a medical concept.

f. Juvenile proceedings

The need for a complete overhaul of the District's system of criminal justice is nowhere as clear as in the area of juvenile proceedings. As is indicated in the recent Court Management Study of the D.C. Juvenile Court (prepared under the auspices of the District of Columbia Judicial Council's Committee on the Administration of Justice), juvenile court procedures and management practices in the National Capital have been decidedly without success in meeting the problem of mounting juvenile crime.

Just as the need for reform of the District's juvenile court system is eminently clear, similarly the possibility of long-range benefit resulting from such reform is uniquely great. Juveniles by their nature are more impressionable than adults; the capacity of juveniles for rehabilitation is more pronounced. What is most obvious, failure to mend the ways of a juvenile necessarily imposes a detriment more lasting than in the case of an adult.

For these reasons the conference report, like the Senate version of S. 2601, places special emphasis on juvenile code revision. Positive reforms are most numerous and bold in this area. And the Senate conferees in the area of juvenile code revision most of all were successful in insisting upon a host of innovative amendments originating in the work of the Senate Committee on the District of Columbia.

The conference report, like the Senate version of S. 2601, institutes specific statutory criteria of screening both detention and shelter care cases to reduce the number of juveniles unnecessarily or inappropriately detained. The report envisions around-the-clock screening of such cases; and likewise provides for prompt screening by the arresting officer, by the intake officer (ordinarily at the juvenile detention facility itself), and by a judge of the Family Division. With repeated screening, moreover, in accordance with the new, specific criteria, the margin of traumatic error or unnecessary expense (of detention or preliminary shelter care) can be expected to diminish appreciably.

The Senate conferees insisted on the Senate position requiring a hearing to determine the need for detention or shelter care, no later than the next day after the child is taken into custody, and with no possibility of a continuance. Indeed the conference subsitute incorporates important time limitations for many juvenile proceedings or stages thereof. The Senate conferees insisted upon the institution of some time limits as the appropriate response to the unparalleled problems of delay and recidivism detailed in existence hearings on the new juvenile code before the Senate D.C. Committee.

The Senate conferees were convinced in effect that justice or treatment delayed in the case of a juvenile is justice (or treatment) without effect. The Senate conferees did finally yield to the House view that statutory limitations on factfinding and disposition should not yet be imposed. Nevertheless the conferees agreed that, as a matter of general policy and for most juvenile cases, a time schedule approximating that which follows is practicable and desirable, and indeed is in the long run to be expected:

Factfinding within 30 days for custody cases, 60 days for community cases.

Thereafter, disposition within—15 days for persons previously known to the juvenile system, 21 days for custody cases for persons new to the juvenile system, 30 days for community cases for persons new to the juvenile system.

As the Statement of the Managers on the Part of the House suggests, the conferees agreed that the imposition of statutory limitations should be promptly reconsidered in the event that, two years hence, the amount of time consumed in reaching the factfinding and dispositional stages continues to extend beyond the ideal time limits suggested above.

It bears mentioning that the Senate conferees do not recommend enforcement of the several limits, statutory and otherwise, by the dismissal of cases or the disallowance of proceedings. The Senate conferees oppose "punishing" the juvenile system and society for these failings. Rather, the recommendation and the concern are that the Commissioner in budgeting and in the deployment of city personnel, the Corporation Counsel in the management of his office, the court executive and the Director of Social Services in the allocation of non-judicial personnel in their charge, the chief judge of the superior court in assigning judges to the Family Division, and the associate judges of the division in ruling on requests for continuances, all take heed of the degree of compliance or non-compliance with the limitations and made any adjustments necessary to meet the timetable as mandated in the conference report or suggested in this statement. Again, in view of the Senate conferees, the price of non-fulfillment in the unique case of juveniles is the total voidance of the benefit of adjudication and treatment, of maintaining a juvenile court system.

The conference report provides that juvenile disposition orders shall remain in force for an indeterminate number of years not to exceed 2 years (in cases of probation or protective supervision, 1 year). While the child may ordinarily be discharged at any time prior to the expiration of the order, the time limitation provides the safeguard of a requirement that a court review its determination after such time as a child may be expected to have appreciably changed and been rehabilitated.

The conference report institutes a voluntary consent decree process designed to avoid formal adjudication in appropriate cases. Similarly reflecting the rehabilitative potential of juveniles, the conference report institutes a procedure for sealing juvenile records in addition to the customary rules of confidentiality. Sealing may be ordered in the case of any neglected child who has reached his majority, or, in the case of a delinquent child or person in need of supervision, two years after the completion of treatment and provided that no further juvenile court adjudication or criminal has intervened.

By providing that all juvenile hearings and proceedings shall be recorded, the conference report builds into the new juvenile code the basic for appellate monitoring essential for just and efficient supervision. Likewise it is to be expected that the requirement of written findings following a transfer or factfinding hearing will similarly provide the juvenile with a record adequate to give meaning to his right of appeal.

The new juvenile code approved as part of S. 2601 authorizes interlocutory appeals by a juvenile from any detention or shelter care order, and from any order of transfer for criminal prosecution. In this way, a juvenile may speedily be released from an unlawful detention or spared the trauma of inappropriate adult criminal trial, without having to wait until after the termination of all proceedings against him (several months later) for a determination of his rights.

What is at least equally notable, by the same token, is the approval in the conference report of the basic provision developed by the Senate District Committee requiring special expedited handling of these interlocutory appeals. The conference substitute requires that notice of appeal be filed within 3 days of the entry of the order being appealed from; argument on appeal must be heard within three days of the filing of such motion (a requirement made practical by the further direction that no written briefs are to be required beyond the documents earlier submitted to the Family Division); and appellate decision must be rendered on the next day following argument (made practical by authorization for dispensing with the issuance of a written opinion).

The conference report, like the Senate version of S. 2601, envisions a telescoping of juvenile proceedings. A juvenile is to have a single preliminary hearing comparable to a combined presentment and arraignment—a detention or shelter care and probable cause hearing in the case of juveniles in custody, and an initial hearing in the case of juveniles released into the community. A juvenile ordinarily is to have in addition only an adjudication hearing (including consideration of all "pretrial" motions) followed by a dispositional hearing.

The predisposition study, necessary for the dispositional hearing, is not ordinarily to be prepared until after factfinding has been completed and the juvenile found involved. In this way the juvenile does not suffer the distinct stigma of having investigators probe into his background (for example, questioning associates) with a view toward recommending appropriate correctional treatment unless and until his guilt (technically, his involvement) has in fact been established. In addition, the temptation for the factfinder, the judge, to look at the comprehensive report prior to finding involvement is necessarily diminished.

The exceptional case where the predisposition study must be prepared earlier is when a motion for transfer (for criminal prosecution) has been filed. In such instances the study is essential to a fair resolution of the transfer issue. Should transfer be denied, however, the earlier preparation of the study also should eliminate the need for appreciable delay after factfinding before commencing the dispositional hearing. With the necessary information already on hand—as likewise in the case of juveniles whose prior studies plainly do not require revision—the dispositional hearing could possibly follow factfinding immediately, as part of a continuous judicial proceeding.

The conference report like the Senate version of S. 2601 institutes for the District a system of separate and distinct adjudication and disposition (treatment) for three distinct categories of juveniles—(1) delinquent children consisting of the principal juvenile law violators, (2) persons in need of supervision consisting of juveniles who are guilty of minor non-criminal violations or who are simply "ungovernable," and (3) neglected children. In this way only that degree of stigma (arising from, for example, the label "delinquent") which is appropriate need be allowed; and correctional therapy likewise can be more strictly required to be tailored to the exact needs of any given case.

What is most important in this regard, the Senate conferees prevailed in mending critical defects in the three-way system of adjudication and disposition as provided in the House version of S. 2601. The conference substitute states that any child found for the first time to be a person in need of supervision may not be treated alongside delinquent children. For the conferees to have permitted otherwise would have altogether eliminated the rationale for creating the separate category of persons in need of supervision.

Similarly, the Senate conferees insisted upon the deletion of the House provision authorizing the expedited transfer of obstreperous delinquents to adult correctional facilities without the protections of criminal trial or even adjudication upon fresh charges in the Family Division. In the view of the Senate conferees, the latter provision was itself singularly unconstitutional and moreover threatened to undermine the constitutionality of the entire D. C. juvenile court system. In the absence of the Senate amendment it might have been successfully argued that, since the stakes involved in being adjudicated a delinquent include incarceration in an adult criminal correctional facility, then juveniles must be afforded the full panoply of adult criminal safeguards (including, for example, the rights of presentment by grand jury indictment and of trial by jury).

The conference report, like the Senate version of S. 2601, assures the juvenile's right to counsel at all critical stages of Family Division proceedings. More specifically the conference substitute adopts the precise Senate formulation which is broadly worded to accord with any court requirement affecting the right to counsel, including any requirement of counsel prior to the time of admission or denial of guilt, at for example the detention or shelter care hearing.

Pursuant to the conference report on S. 2601, jury trials are no longer to be allowed in juvenile proceedings; however, the standard of proof for purposes of factfinding in delinquency proceedings is raised from by a preponderance of the evidence to beyond a reasonable doubt. In the view of the conferees, the reasonable doubt standard renders jury trial unnecessary as protection against judicial predisposition. Equally important, again in the view of the conferees, the jury has no function to exercise as a buffer of broad community judgment between the accused and some prescribed statutory punishment (that is, a specific range of penalties), since under the juvenile code there are no prescribed punishments as such; disposition, treatment, in juvenile proceedings uniquely lies, and in theory is intended to lie, within the sole discretion of the judge. In the view of the conferees, any benefit lost in the elimination of jury trials is more than offset by the gain in expedition essential in juvenile cases. It is the case, furthermore, that jury trials may prove unnecessarily traumatic for the immature persons, children, in the juvenile system. Also, a peculiar need for expertise in factfinding may arise in juvenile proceedings as the testimony of juvenile parties and witnesses must be assessed from the often unusual juvenile perspective.

In providing the reasonable doubt standard for factfinding in delinquency proceedings, the conference report adopts yet another amendment which originated with the Senate Committee on the District of Columbia. It should be noted, however, that the United States Supreme Court several months after Senate passage of the new juvenile code held that this standard of proof where criminal law violations are at issue is constitutionally requisite. (See *In re Winship*, 397 U.S. 358 (1970).)

The conference report, however, departs from the Senate recommendations, notably regarding the standard of proof in cases involving persons in need of supervision. While the Senate conferees would have preferred to apply the same standard to all juveniles accused of reprehensible conduct, they recognized that the conference substitute alters the definition of persons in need of supervision, limiting the category to persons not charged with criminal law violations as such.

In defining "child" for purposes of establishing juvenile court (Family Division) jurisdiction, the conference substitute adopts a compromise. The limit of 18 years of age is lowered to 16 only in cases involving murder, forcible rape, first-degree burglary, and armed robbery (also felonious assault with intent to commit one of the aforementioned grave offenses). Unlike the House version of S. 2601, the list of offenses for which the age limit may be lowered does *not* include manslaughter, mayhem, arson, kidnapping, second-degree burglary, breaking into vending machines, assault with a dangerous weapon, or "unarmed" robbery (including common purse snatching and yoking).

As in the Senate version of S. 2601, even if a person between the ages of 16 and 18 is to be tried in criminal court on one of the limited number of qualifying offenses, he is not to be sent to a criminal correctional facility such as Lorton unless he is in fact *convicted* as a result of the grave charges against him. Briefly, the basic thrust of the new definition of "child" is to see to it that 16 and 17-year olds convicted of first-degree murder, forcible rape, first-degree burglary, or armed robbery are treated for purposes of rehabilitation like 18-year olds.

In the area of the formal transfer of juveniles for criminal prosecution (until now referred to under the law as "waiver"), the Senate conferees prevailed on the most controversial issues in disagreement. First, the Senate conferees insisted that a juvenile cannot fairly be required to bear the burden of disproving the appropriateness of transfer. Placing such a burden on the child (as under the House version) would have contravened the general rule of law that a moving party, here the government, must establish the grounds for his motion; the House version would have placed the burden on the party, the juvenile, least able to bear it; moreover, the House version overlooked the fact that the new definition of "child" already rids the juvenile system of most of the so-called "hardened" juveniles—thereby eliminating any need for raising expedition to a level of harshness.

The conference substitute still provides (as in the House version of S. 2601) that transfer shall be ordered unless the judge finds that there are reasonable prospects for the juvenile's rehabilitation prior to his majority. In the context of shifting the burden away from the child, however, this provision is not to be construed to imply that transfer pursuant to a motion therefor is in any sense automatic. Rather, the Senate conferees understood and intend that before transfer can be ordered the Family Division shall affirmatively determine whether transfer is appropriate or inappropriate. Transfer is to be ordered only if the court finds it appropriate—or, what is understood to be the exact equivalent, unless the court finds the opposite and finds transfer inappropriate. Again, consistent with all of the authorities in juvenile court law, the transfer determination is intended very much to remain within the discretion of the court (now supplied with explicit statutory criteria).

A second controversial issue on which the Senate conferees prevailed relates to the restoration of exclusive Family Division jurisdiction over a child who has been improperly transferred for criminal prosecution. Under the House version of S. 2601, notwithstanding the fact that the court was permitted to consider the nature of the pending charges in determining whether to order transfer for criminal trial and punishment, a juvenile once transferred was thereafter to be excluded from the juvenile system even if the charges proved at trial in the Criminal Division to be unfounded. The Senate conferees urged successfully that if the grounds for transfer prove to be without foundation, then logically and in all fairness Family Division jurisdiction must be restored; and any subsequent case against the child must be brought in the juvenile court (Family Division).

It bears mentioning that the latter concept in the conference substitute is intended to operate even more completely in cases shifted to the criminal court by the operation of the new definition of "child". If a 16 year old is charged with armed robbery, he is to be tried in the Criminal Division. But trial once in the Criminal Division has no bearing on his trial on subsequent charges, even if he is convicted. So, for example, were a 16 year old first offender armed bank robber to receive a suspended sentence only to be subsequently charged with a later unrelated purse-snatching, he would nevertheless be tried in the Family Division unless specially ordered by the court to be transferred.

Here as elsewhere in dealing with the juvenile code, the object of the Senate conferees was not to defeat the prosecution of juveniles, but rather to facilitate appropriate, expedited adjudication and the best available correctional treatment in the interest of permanently reducing crime. It remains the conviction of the Senate conferees that, once the management and resource needs of the city's juvenile court system are met (as they should be under court reorganization), adjudication within the juvenile system will become without question the most expeditious means of bringing juvenile offenders to trial and of deterring juvenile crime.

The conference report, meanwhile, like the Senate version of S. 2601, significantly facilitates transfer where transfer is appropriate. The conference report suggests specific criteria upon which transfer must be based. Most important, the conference report shifts the fundamental standard underlying the transfer determination. Recognizing that the courts have labored unsuccessfully with a standard having to do with the appropriateness of criminal prosecution, the new juvenile code bases the determination on a standard having to do, instead, with the inappropriateness of juvenile correctional treatment. In brief, while the rationale behind the juvenile system is relatively clear, even fresh in the memories of many judges and practitioners, the rationale behind criminal prosecution is confused at best and lost in the recesses of history.

An important collateral aid for the successful operation of the District's juvenile court system is provided in the conference report on S. 2601 in the form of authorization for the District of Columbia to enter into the Interstate Compact on Juveniles. Briefly, the compact provides for the interstate rendition of runaways, escapees, and absconders; the removal of juveniles from one jurisdiction to another as their rehabilitative needs require; the separate detention of juveniles apart from criminal or vicious persons; and interstate cooperation in the operation of juvenile rehabilitation programs.

Lastly, the Senate conferees insisted upon including in the new juvenile code the original Senate provision for setting aside criminal judgment or sentence on the ground of genuine mistake of age. In this way, if a child has been improperly sentenced in the Criminal Division—other than in cases of conscious deceit—the court may order resentencing, literally juvenile disposition, in the Family Division (the new juvenile court).

IV. CRIMINAL LAW AND PROCEDURE

a. Sentencing

The basic approach of the Senate version of S. 2601 to the general problem of sentencing was to provide new tools and sentencing alternatives to the trial judge to protect society and to secure certain additional safeguards, due process rights, and the rehabilitation of the convicted offender. The House version departed from this approach in many instances by substituting mandatory minimum sentences for sentencing flexibility and demonstrating only a limited concern for assuring defendant rehabilitation through the sentencing process and for the procedural rights of persons convicted of crime. In large measure the conference version of the bill eliminates interference with sentencing discretion and achieves the objectives, the flexibility and protection, intended in the Senate bill and urged by law enforcement authorities.

Recidivist penalties. In addition to the existing 50% increased penalty for offenders twice convicted of the same criminal offense, the conference agreed that the trial court should have the discretion to impose a triple penalty on the habitual offender who is convicted three or more times for the same criminal offense. For the conviction of a third or subsequent felony, the court may, in its discretion, impose an indeterminate sentence up to life in lieu of the regular penalty. Consultation on sentencing has increasingly become the practice in the Federal district court, and it is expected that creative approaches to informing the sentencing process, especially when recidivist options are at stake, will continue to develop in the new local courts even in the absence of the statutory requirement in the Senate version of S. 2601.

The Senate conferees insisted that the House provision for mandatory life sentences for certain three-time offenders, with a minimum of twenty years' incarceration prior to eligibility for parole, be eliminated from the conference report. The President's Commission on Crime in the District of Columbia, the Senate District Committee's own Panel Against Armed Violence, and virtually every criminal law and penal expert has warned against self-defeating and inflexible mandatory sentencing provisions. The mandatory life sentence is an especially odious model of inflexibility, requiring the taxpayers to support a convict for life, regardless of the status of his rehabilitation, and as such was rejected by the Senate conferees.

For the same reasons the Senate conferees insisted upon the elimination of other mandatory sentencing provisions in the House bill. The conference bill contains no mandatory minimum sentences for first offenders in any case. The conference resulted in the approval of sentencing options to protect the public and to promote correction, not sentencing mandates unrelated to the individual offender. Mandatory sentences were limited to a provision for second-offender armed violent felons only, comparable to a provision already contained in Federal law (18 U.S.C. § 924(c)).

Sentencing safeguards. The conference version of the bill contains several major reforms of a procedural nature affecting the sentencing process. New D.C. Code section 23–103 permits the defendant to make a statement on his own behalf and present information in mitigation of punishment, as is the usual practice in the Federal courts, and further makes the rules of mutual discovery applicable to any information adduced by the prosecution or defense in connection with sentencing. The section also authorizes a trial judge to disclose to the parties the contents of any presentence report submitted to the court in the case. The language on presentence reports is expressed in permissive rather than mandatory terms, and leaves open for court decisions the extent to which report disclosure is required as a matter of due process and sound policy.

D.C. Code section 23–111 as approved by the conference establishes an important new safeguard for defendants who may be subjected to increased, recidivist penalties following conviction. The House provision permitted notice of reliance upon prior convictions to be given following conviction. However, unless such notice precedes trial, a defendant cannot assess the consequences of his pleading or defending at trial. The conference ultimately rejected the House provision, and adopted the substance of a provision originating with the Senate D.C. Committee. The Senate provision, now in the conference report, requires that notice of prior convictions to be relied upon be given *pretrial,* as a precondition for imposing any recidivist penalty. The Senate provision is consistent with the recent decision of the District of Columbia Court of Appeals in *Brandon* v. *United States,* 239 A. 2d 159 (D.C. App. 1968).

In addition, under the conference report, following conviction a defendant who may be subject to increased punishment will have the benefit of a hearing at which time he may challenge the accuracy of the information alleging prior convictions, and the burden of proof beyond a reasonable doubt will be upon the prosecution. The defendant is also permitted to establish that a prior conviction is void as obtained in violation of constitutional right.

Consecutive sentences. The provision in section 23–112 of the House bill, adopted by the conference, which makes sentences run consecutively unless otherwise specified, is designed to eliminate the result reached in *Borum* v. *United States,* 409 F. 2d 433 (D.C. Cir, 1967), *cert. denied,* 395 U.S. 916 (1969), where two sentences were required to run concurrently, although based upon entirely unrelated offenses, because the trial judge by oversight failed to specify that the sentences should be consecutive. The provision was approved to avoid the irreparability of such judicial oversight. Significantly, an oversight to the detriment of the defendant in failing to specify that sentences should run concurrently may be easily rectified on a motion to correct the sentence under Rule 35 or Rule 36 of the Federal Rules of Criminal Procedure which will govern the local courts.

b. General practice and procedure

Government appeals. Existing section 23–105 of the District of Columbia Code purports to give the government the same rights of appeal in criminal cases as are given to the defendant; however, Constitutional considerations of double jeopardy have demanded a more restrictive reading of the government's right to appeal. The Senate version of S. 2601 was designed primarily to codify these restrictions and to require further that such appeals as are permitted be resolved on an expedited basis. The House version would have extended government appeals rights even to include allowance of government test cases in the form of classic "moot" appeals.

The conference version preserves the government's right to appeal from a pretrial order suppressing government evidence where the appeal is not taken for delay and the evidence is a substantial proof of the pending charge. Similarly, the government may appeal from an order quashing an indictment. A motion to suppress evidence is normally waived unless brought in advance of trial. In extraordinary circumstances, as when the defense was not aware of grounds for suppression in advance of trial, such a motion may be brought during trial, but the prosecution will be accorded the same right of appeal from the interlocutory order suppressing evidence as from the pretrial order to prevent the tactical defeat of the government's appeal rights by the timing of the suppression motion.

The Senate conferees reluctantly agreed to permit a limited interlocutory appeal by the government to resolve substantial and recurring questions of law requiring appellate resolution. Such appeals are permitted only with leave of the trial court, and it is anticipated that such leave will be sparingly granted with due regard for the need not to delay criminal proceedings and for other opportunities for the government to resolve such questions.

A worse evil by far was provision in the House bill, and the seeming authority in the existing code of criminal procedure, permitting moot appeals by the government to resolve substantial questions in a non-adversarial process in which the acquitted defendant has no personal stake. At best, such an appellate proceeding would have been a waste of prosecutorial resources, since non-adversarial rulings might not be given appreciable weight as authority. At worst, such an appellate proceeding would have amounted to having the prosecution dictate criminal law to the appeals court on an effectively *ex parte* basis, and would have then bound future defendants on the basis of this one-sided law. In any event, in the view of the Senate conferees the moot appeals proposal was clearly unconstitutional and had to be eliminated.

The conference also adopted the Senate approach to setting specific time limits on interlocutory criminal appeals to preserve the integrity of the trial, conserve trial resources, and prevent the possibility of prosecutorial delay. Contrary to the House version which would have permitted the court to declare a mistrial and continue the case until the appeal was resolved, the Senate conferees prevailed in having the conference report require adjournment for no longer than 96 hours at the end of which time, if not resolved, the appeal would be void and of no effect.

Impeachment by prior convictions. Both versions of the bill on impeachment of a witness (notably the defendant) by evidence of prior convictions sought to curtail the case law authority for a trial court in its discretion to exclude evidence of conviction whenever the prejudicial effect of the evidence "far outweighs" its probative value as to credibility. See *Luck* v. *United States,* 348 F. 2d 763 (D.C. Cir. 1965). The Senate version would have codified the District of Columbia case law requirement that such conviction reflect upon the honesty or veracity of the witness; but the conferees receded to the House position which allows impeachment by proof of any felony conviction or any misdemeanor involving dishonesty or false statement. The House version—which is the rule in most states and which is supported by a draft of the Advisory Committee on Rules of Evidence to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States—is premised upon the conclusion that a felony conviction is "[a] demonstrated instance of willingness to engage in conduct in disregard of accepted patterns [which] is translatable into willingness to give false testimony."

The recession by the Senate conferees was explicitly conditioned, however, upon a conference agreement to reconsider the rule on impeachment if the Advisory Committee's draft is substantially modified in the Federal rule adopted and promulgated by the Supreme Court. It would be clearly antithetical to have one rule for the District's local courts and a different rule for the Federal courts. The Senate conferees would indeed urge the appropriate judiciary subcommittees to reconsider this provision when the new Federal Rules of Evidence are adopted and become subject to congressional disapproval.

Physician-patient privilege. The Senate provision eliminated the anomaly of a defendant relying upon physician-patient privilege to preclude the introduction of relevant psychiatric testimony in circumstances when the trial court is required to interject the insanity defense over the defendant's objection. The Senate would not recede to the further modification suggested by the House that the privilege be treated as waived in the event that the issue of insanity is raised by the prosecution.

Vending machine larceny. The Senate conferees concurred in the House's concern that higher penalties should be available to deal with professional criminals who pilfer all types of coin-operated machines and who may take from each machine only an amount adequate to invoke the petty larceny law. The Senate would not agree to include such larcencies in the definition of second degree burglary, however, since the use of the word "burglary" would create distortions often inappropriate to the offense—including the allowance of wire interception and electronic surveillance in connection with the offense, the imposition of a mandatory minimum sentence for a second-offender armed violation, and pretrial detention of persons charged with the offense.

Unlawful arrests. The Senate conferees joined the House in prohibiting resistance to an arrest by a law enforcement officer on the expectation that adequate remedies by way of civil actions for damages are being developed by the courts to compensate for unlawful arrest. The patently unconstitutional and ill-advised provision in the House bill requiring a plaintiff to pay an officer's attorney's fees in a wrongful arrest action regardless of the outcome of the case, was eliminated, and a provision for defense by the Corporation Counsel's Office is substituted to protect the legitimate interest of law enforcement officers in defraying court costs which may arise incident to performance of official duties to make arrests.

Insanity defense and commitment. The conference adopted the House provision shifting the burden of proof on the insanity defense to the defendant, following the rule in effect in approximately twenty states. The Supreme Court previously had ruled that this result is Constitutionally permissible, in *Leland* v. *Oregon*, 343 U.S. 790 (1952). A salutory aspect of the new rule will require the defendant to establish, in the process of obtaining an acquittal on grounds of insanity, the exact quantum of proof that would justify a civil commitment.

The Senate conferees were not satisfied, however, that a person so committed would be capable of securing the necessary legal and medical assistance to test the continuing validity of his commitment, and accordingly, insisted upon provision for automatic judicial review within 50 days in order to continue such a commitment, and with mandatory assistance of counsel commencing at the outset, at the time of commitment, well in advance of the actual review.

Incendiary devices. The Senate conferees joined the House in the conclusion that stiff penalties should be prescribed for the possession of bombs and other incendiary devices. As previously noted, however, the Senate conferees refused to translate the need for penalties into a requirement that mandatory prison sentences be imposed regardless of the character of the case.

c. Warrants and arrest

A recurring issue in the various provisions of the two bills on warrants and arrest is the choice of language to express the classic quantum of proof or certainty required before a search warrant will be issued or an arrest upheld. The House version typically alludes to reasonable belief that specified circumstances are likely to obtain, while the Senate version adheres to the traditional expression in terms of probable cause to believe that specified circumstances will obtain. The conference compromise is to use "probable cause" in conjunction with "is likely," which recognizes that facts leading to arrest or search must withstand an objective test of probable cause but acknowledges that an officer's subjective belief cannot rise to an absolute certainty. The compromise version, by the same token, is intended simply to codify and not to increase or diminish the requisite certainty required by existing judicial decisions.

Tests on persons. The House version included a provision to allow an officer in the execution of a search warrant to conduct chemical, scientific, medical, and other tests and experiments on persons. No such authorization was included in the Senate bill. Although the House provision purported to be a mere codification of existing authority under *Schmerber* v. *California*, 384 U.S. 757 (1966), for intrusion into a person's body, a close reading of *Schmerber* will disclose that such tests may not be conducted specifically pursuant to the latter case authority unless (a) the tests are premised upon a search incident to a lawful arrest, (b) they are performed upon the arrested person, (c) they are conducted only after clear indication amounting to probable cause that the suspected evidence will be found, (d) an emergency situation threatens the imminent destruction of the evidence, (e) the tests are fully reasonable and are not subject to pain or indignity, and (f) the tests are performed in a reasonable manner by medical personnel in a hospital environment. None of these limitations were reflected in the House provision, nor did the House conferees adduce any authority other than *Schmerber* in support of their provision. For these reasons the Senate conferees insisted that the House provision be omitted from the conference report. Tests on persons, in other words, will continue to be subject to the constitutional limitations expressed in judicial decisions.

Nighttime searches. The conference report rejects the "positivity" test for execution of a search warrant in the nighttime. The requirement that an officer be "positive" that evidence sought is in the place to be searched before nighttime authority will be allowed is an expression of adversion to nighttime searches. Such searches are unanimously recognized to be more characteristic of a police state than of a free society. Yet, the existing "positivity" rule both falls short of and overreaches its intended mark. On the one hand, an officer's degree of certainty as to the location of evidence does not reflect special need to conduct a nighttime search. The new rule requires the existence of specific, compelling circumstances before nighttime search will be allowed. On the other hand, the "positivity" rule is completely unworkable since the human mind rarely achieves an absolute certainty of belief. The new rule in contrast expresses the requirement of belief that the compelling circumstances exist in traditional terms of probable cause.

Seizure of unspecified items. Unless the police are carefully limited in the execution of a search warrant to the seizure of only such items as are specified in the warrant, the process of prior judicial authorization is made meaningless. The broad provision in the House version of S. 2601, on the other hand, both would have defeated the particularity requirement of the Fourth Amendment and would have raised the spectre of the general warrant, one of the potent causes of the American Revolution. The House version permitted the seizure of any evidence "discovered in the course" of the search and which an officer reasonably believed to be subject to seizure.

The Senate version in contrast would have added the further requirement that such property be discovered by observation and as an inadvertent consequence of the search. The conference agreed to permit seizure of unspecified items "discovered in the course of the *lawful* execution of [a search] warrant." The intent of the conference substitute in the use of the word "lawful" is to incorporate present and future judicial interpretation of the requirements of the Fourth Amendment of the Constitution.

Preliminary police duties. The House version of S. 2601 provided that the police shall perform various preliminary police duties, such as booking, fingerprinting, and photographing, before taking an arrested person before a judicial officer. Although it is customary and acceptable for the police to perform such ministerial duties prior to presentment, the Senate conferees were concerned that the provision be expressed in permissive rather than mandatory language, and that the legislative history reflect that the term "preliminary police duties" refers exclusively to necessary, routine ministerial matters. "Preliminary police duties" should by no means be used as a pretext for conducting interrogations, lineups, or other investigations in advance of the prompt presentment of the suspect to a judicial officer. The new language of the conference substitute and the relevant statements in the House D.C. Committee report on H.R. 16196 satisfy these concerns.

"No-knock" warrants. The conference resolution of the so-called "no-knock" issue represents a major victory for the Senate position. Specifically, in the interest of safeguarding the individual rights of the residents of the National Capital and of eliminating any possibility of repressive practices in the name of improved law enforcement, the Senate conferees insisted upon what are here summed up as five critical points.

First, the statutory exceptions to the "knock-and-wait" rule are strictly limited in the conference report so as to confine "no-knocking" to those few circumstances where it is already permitted under existing law. The Senate conferees insisted, for example, that the danger of concealment be eliminated from the list of exceptions justifying service of a warrant without notice. The high regard traditionally accorded to individual privacy under our form of government dictates that notice be dispensed with only where to give it would make execution of the warrant impossible—not where notice would merely make that execution more difficult.

Secondly, existing law is substantially improved by the addition of the Senate-passed requirement that, where grounds constituting an exception to the "knock-and-wait" rule are known in advance, the police officer can "no-knock" only after obtaining court permission in advance. At the insistence of the Senate conferees, existing authority for police officers to "no-knock" on their own is eliminated in a great many cases. The difficult decision of whether to "no-knock" or "knock-and-wait" is shifted, where possible, from the police officers in the streets to the courts.

Thirdly, the conference report restores the classic standard of "probable cause," derived from the Federal Constitution, for testing the sufficiency of the grounds for police conduct in the "no-knock" area. The Senate conferees would have preferred to retain the complementary future indicative form of the verbs which follow in the list of exceptions to the "knock-and-wait" rule. The House conferees insisted, meanwhile, that use of the term "will" connotes certainty beyond that traditionally required in the law. The Senate conferees disagreed with the latter interpretation; and consented to language importing likelihood, only with the clear understanding that the language is to be construed to be in conformity with the Constitution, the well-settled law of warrants, and prevailing case law, specifically *Ker* v. *California*, 374 U.S. 23 (1963).

Fourthly, under the conference substitute, as in the final Senate version of S. 2601, the requirement that "no-knocking" be subjected to prior judicial approval is intended to be rigorously enforced by the courts. As the Senate conferees insisted be stated in the Statement of Managers on the Part of the House, it is not enough that judicial approval be obtained when facts falling within the exceptions to the "knock-and-wait" rule are known in advance to the officer applying for the warrant. The basic thrust of the conference report, the intent of the conferees, is that judicial approval must be obtained wherever minimum ordinary diligence on the part of the police would have alerted the applicant to such facts.

In other words, the courts are not expected to impute to the applicant the knowledge of every member of the police force; nevertheless, in the interest of maximum judicial supervision, it is expected that the courts will impute information which the applicant might easily have obtained (or been given) and certainly any information intentionally withheld from the applicant in an attempt to avoid the requirement of prior supervision.

Fifthly, the Senate conferees did not recede from their original position that only particular facts, bearing upon any given particular case, may serve as grounds for "no-knocking." The House conferees urged to the contrary that particular facts are unnecessary, they urged, for example, that "no-knocking" would be appropriate in nearly all narcotics or gambling cases, based on the destructibility of the evidence usually involved. The issue was resolved in favor of neutral language, adaptable to either the House or the Senate interpretation; but with the limitation of specific reference to the *Ker* case. Just as the Senate conferees are of the view that the particularity requirement is affirmed in *Ker* and rooted in the Constitution, in like manner the Senate conferees contemplate implicit incorporation of the requirement in the S. 2601 provision.

It bears mentioning, to correct a popular misconception, that the conference report does not itself and of itself grant to the police the power to conduct "no-knock" searches. Police officers have had such authority since common law times. Regardless of what may have been in the House version of S. 2601, the Senate version and the similar conference substitute merely continue the existing authority and add to it reasonable further safeguards.

The "no-knock" law in the State of Maryland, for example, was spelled out not long ago by the Court of Appeals of the State. In the case of *Henson* v. *State*, 236 Md. 518, 204 A2nd 516 (1964), the police had probable cause to believe, on the basis of extensive, personal experience, that certain narcotics evidence would be flushed down the toilet or otherwise irretrievably thrown out if they were to adhere to the "knock-and-wait" rule; the police indeed had had the premises under surveillance for a week, during which time 43 known addicts had visited the premises, often comporting themselves in a manner bespeaking the transaction of sales of narcotics. The Maryland court ruled unanimously in the *Henson* case that the police had authority to "no-knock." The conference version of S. 2601 is intended merely to codify this and similar court rulings, and to add the further safeguard of a requirement of prior judicial scrutiny.

Lastly, it should be noted that the "no-knock" warrant provision in the conference report on S. 2601 is patterned after an equivalent "no-knock" warrant provision in the New York Code of Criminal Procedure, as well as comparable provisions in the Codes of Nebraska, South Dakota, South Carolina, and Utah.

d. Wiretapping and Electronic Surveillance

The Senate version of S. 2601 includes a comprehensive local "wiretapping" law for the District of Columbia, improving on the provisions of the Federal Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351), which now applies in the District, but with safeguards in S. 2601 even more extensive than under the Federal law. The House bill merely selected several provisions from the Federal act for local purposes but did not supplement the existing law by providing safeguards against purely local abuses of wiretapping and bugging. The Senate conferees were not content to accept the unsubstantiated assumption of the House bill that adequate safeguards would flow from the Federal statute. The conference version in nearly every respect conforms with the provisions of the Senate bill.

Penalty for unlawful interception and disclosure. The Senate bill prohibited unlawful wiretapping and bugging and the unlawful disclosure or use of such communications. The House bill contained no such provision. The Senate position prevailed in conference on the grounds that unlawful surveillance must be supervised by local courts and subject to local prosecution without having to establish an artificial connection with interstate commerce.

Penalty for commerce in interception devices. Similarly, the Senate bill and the conference report prohibit the local manufacture, assembly, possession, sale, distribution, and advertisement of interception devices. The provision will eliminate the need for the prosecution to prove the involvement of interstate commerce and will thus give the public additional protection from local commerce in such devices. The penalty provisions in the Senate bill as adopted by the conference will further permit the confiscation of interception devices used in the violation of those sections. Again, the Federal law leaves a void in the area of purely local offenses and provides no options for local prosecution and control.

Emergency surveillance. The House bill would have permitted interception in advance of judicial authorization in both organized crime and national security cases. The Senate bill contains no provision for surveillance with respect to activities threatening the national security, since the Federal law completely covers the national security needs. The Senate conferees felt that national security matters should be exclusively within the province of the Attorney General, the Federal Bureau of Investigation, and the Federal courts rather than permitting local officials to decide for themselves what activities threaten some undefined national interest with the risk that surveillance be imposed on groups which are simply unpopular with some elements in the community. The conference deleted the House provision. At the same time the Senate receded to the somewhat broader list of criminal offenses in the House bill for which surveillance could be authorized, with the exception of abortion and manslaughter which, respectively, infrequently or never involve concerted action in the traditional sense.

Grounds for suppression. The Senate bill contained, and the conference approved, a broader list of grounds for the suppression of intercepted communications than is in the House bill. In addition to the grounds that the communication was unlawfully intercepted, the court authorization or approval is insufficient, the interception did not conform to the authorization, and service of the inventory, order, and application were not properly made, the conference report includes the following ground: the absence (without satisfactory explanation) of a seal on the official court copy of the interception. The sealing requirement is essential as a guarantee of integrity against possible editing of the official record of interception. In addition to the suppression motion, available in a criminal trial, a person who is subjected to an illegal surveillance or disclosure will have the right to a civil action for damages against any responsible person or the District of Columbia.

Privileged communications. The Senate conferees insisted upon special new protection for certain communications—including communications between physicians and their patients, between attorneys and their clients, involving clergymen in their pastoral activities, and between husbands and wives in their places of habitation. No such protection exists in the Federal wiretap law now in force in the District. Under the conference bill, before a court can authorize an interception likely to intrude upon such communication, there must be a finding that the facilities are being used in connection with—that is, that the case involves—organized crime, *and* that the interception will be conducted so as to minimize interception of privileged communications not subject to surveillance. Even in the event that a privileged communication is intercepted, the conference report expressly provides that the communication shall not lose its privileged character, but shall remain privileged.

e. Pretrial release and detention

The House version of S. 2601 included a recodification of the Bail Reform Act of 1966 with amendments to authorize selective and limited detention of certain criminal defendants who may be dangerous to society if released, and with amendments establishing additional penalties for violation of release conditions or commission of crime while on pretrial release. Since no proposals for pretrial detention were made by the Administration in the Senate for inclusion in S. 2601, the Senate version had no corresponding provisions. Although the concept of formal pretrial detention has generated much controversy, the Senate conferees concluded that the House provisions, with certain important modifications, constitute not only an essential tool in fighting crime but a major reform of existing bail practice.

While considerable difference of opinion characterizes the various interpretations of available statistical evidence on the subject, recent studies have demonstrated, at least, that crime commited by persons on court-ordered release, or bail recidivism, is of large enough proportions to be considered of major consequence to law enforcement. The National Bureau of Standards report indicated that 25% of persons charged with dangerous crime and 17% of those charged with violent crimes can be expected to be rearrested for further crime while on pretrial release. These figures must be further adjusted to reflect the fact that many crimes are not reported to the police, and that only 30% of reported crimes, even, result in arrest and criminal charges.

S. 2601 provides several solutions to this problem in addition to the pretrial detention alternative: court reorganization to promote speedy trials and increased bail supervision by an expanded Bail Agency should have an especial impact. Pretrial detention remains as an essential technique, however, for dealing with certain incorrigible criminals who feel they have little to lose by committing more crimes while on bail or compulsive narcotics addicts who must engage in crime to support their habits.

The Bail Reform Act of 1966, while partially achieving its goal of decreasing reliance upon money bond as a condition for release, also deprived the courts of any legal authority to consider potential dangerousness in setting conditions of release. Examples of increased bail recidivism under the current law are familiar to nearly every citizen in the District of Columbia. The recent publicized shoot-out—discussed on the floor of the Senate—between a police officer and two armed robbers, and which resulted in serious injury to the patrolman and death to one of the suspects, is but one of many such cases. Franklin Moyler had previously been convicted of one robbery and, at the time of the most recent holdup in which he met his death, was on bail in connection with two other armed robbery charges. A narrowly confined and adequately safeguarded pretrial detention alternative, as approved by the conference, constitutes a significant part of the needed response to cases such as this one.

Equally important, if not more so, however, is the fact that enactment of the conference report will constitute a major reform in existing bail practices which, in conjunction with the Bail Agency expansion, will clearly result in a net decrease in the percentage of persons who are detained prior to trial. Historically, danger to the community has always been considered by trial courts in setting money bond which could be manipulated to effect complete detention prior to trial, unencumbered by procedural safeguards. Pretrial detention is not a new concept; the thousands of persons who have waited in the D.C. Jail, often as long as a year or more, for their trial dates to come can testify that pretrial detention is a daily reality. In spite of the Bail Reform Act of 1966, the practice of pretrial detention through high money bond persists on a large scale in the National Capital. This irony is attributable in large part to two shortcomings in existing law—(1) the failure of Congress to implement the Bail Reform Act by providing resources for supervision of persons who would be eligible for release were such supervision readily available, and (2) the prohibition against consideration of dangerousness in setting release conditions—which have forced actual and inevitable consideration of dangerousness to be shrouded in hypocrisy.

Recent studies of the bail practices in the District of Columbia show that over 30% of persons charged with criminal offenses are currently being detained because of their inability to post a money bond. The detention rate for felony suspects is 40%. Nor does money bond need to be high to be unreachable for the indigent defendant. These studies show that a sizeable portion of these detained defendants were merely charged with misdemeanors. These persons were held, not on grounds of dangerousness, but simply because court and counsel were not able to devise adequate release conditions. The expansion of the Bail Agency's functions to include supervision of persons on court-ordered release will provide an adequate release alternative in the vast number of marginal cases where personal recognizance is counterindicated, and will free other, more rigorously policed supervision resources for the more difficult cases.

The 30% figure for all arrests and the 40% figure in felony cases also represent, however, many persons who are currently detained on the basis of their dangerousness. Today when a trial judge is faced with a bail decision involving an extremely dangerous suspect, the judge is forced to choose between ignoring his better judgment and the consequence to the community upon the release of the suspect of engaging in the subterfuge of setting an intentionally high and unreachable money bond. Nominally the money bond is calculated to assure appearance at trial, but in reality it is designed to detain the defendant in order to protect the community from his dangerous or violent behavior. This practice can no longer be tolerated. It permits an approach to pretrial detention that is both overinclusive and underinclusive in effect. It is overinclusive because the process is committed solely to the unreviewable discretion of the trial judge's mental processes. As a result, through the lack of procedural safeguards many persons who should be released are often detained. It is underinclusive because the hypocrisy of present bail practices does not permit the courts to focus directly, forthrightly, and in an adversary proceeding upon the question of dangerousness. As a result, many persons are being released to commit new crimes while on bail. In both instances, in addition to being arbitrary, the present practice is totally discriminatory, since it permits the detention of the poor but allows the rich defendant to be released regardless of his greater danger to society.

Any objective appraisal of the bail policies currently in effect in the District of Columbia would dictate that another major reform of the bail laws is essential. The provisions approved in the conference report represent an important step in that direction. Reform is achieved first by making visible the consideration of dangerousness in setting release conditions or in ordering detention. Henceforth, the pretrial detention provisions of this legislation, not financial conditions, will be imposed to assure the safety of the community, and, conversely, high money bond may not be used as a means to deny release on the untested assumption of dangerousness. Second, if release is to be denied, it must be denied forthrightly in an adversary proceeding which fulfills the Constitutional promise of due process of law. The detention decision is surrounded by a panoply of safeguards including limits relating to detention eligibility, procedural due process, and the actual detention itself.

First, detention can be ordered for a limited number of categories of defendants of the type which available evidences demonstrates pose an appreciable danger to society. If charged with a crime of violence, a defendant is not eligible for detention unless he is currently on bail, probation, or parole or has recently been convicted of another crime of violence. The Senate conferees furthermore insisted that persons who are charged with an extremely dangerous crime—limited to forcible robbery, first degree burglary, arson, forcible rape, and felonious sale of narcotics—must be shown to have a pattern of dangerous behavior consisting of his past and present conduct. A confirmed narcotics addict charged with a crime of violence may be held for treatment, and any defendant who threatens or injures witnesses or jurors in order to obstruct justice may be held. None of these defendants may be detained unless, after a thorough and exhaustive exploration of alternative release conditions, the court finds that no condition would reasonably assure the safety of the community. Most important, with the exception of the obstructor of justice, the government must establish in each case that there is a substantial probability of the defendant's guilt.

Second, procedural due process is assured by the requirement that these findings be made after an adversary hearing of record with the defendant represented by counsel and with the right to present witnesses on his own behalf and to cross-examine witnesses against him. The government must bear the burden of proof, and a prompt appellate resolution of any detention order is provided.

Finally, additional safeguards are required in the event detention is ordered. The Senate conferees receded to the House limitation of any detention order to 60 days, but insisted upon an expedited trial calendar and an agreement to urge budgetary appropriation for 25 new prosecutors for the District, to assure that the time limits will be met and in most cases met in substantially less than 60 days. To this end the Senate conferees also insisted that the time limits not be extended by virtue of the filing and resolution of timely pretrial defense motions. In addition, during his confinement, the defendant should be set apart from convicted offenders, have liberal access to counsel, and be released for short periods in custody to secure witnesses and prepare his defense.

It bears mentioning that the Senate conferees were not unmindful of the serious Constitutional questions raised by any legislatively sanctioned pretrial detention on grounds of dangerousness. This concern should be fully aired in the decision to adopt the conference report; however, on the basis of existing authority the conferees could not locate persuasive evidence that a narrowly limited and fully protected detention alternative violates either the due process clause or the Eighth Amendment. The prohibitions against excessive bail cannot be read to mandate bail in all cases; it merely forbids the imposition of high money bail in cases where the defendant has a right to statutory bail. This reading is supported by the Judiciary Act of 1789, passed by the same Congress that adopted the Bill of Rights, which limited the right to bail to noncapital cases. Moreover, in the early days of the Republic capital offenses included many felonies not similarly classified today. The Eighth Amendment does not speak of exceptions for capital cases, nor does it authorize the detention of a defendant when witnesses or jurors are threatened or when a defendant is charged with an offense while on probation or parole or pending extradition. Yet these exceptions have repeatedly been approved.

In *Carlson* v. *Landon*, 342 U.S. 524 (1952), the Supreme Court observed:

"The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different concept. The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country. Thus in criminal cases bail is not compulsory where the punishment may be death. Indeed, the very language of the Amendment fails to say all arrests must be bailable."

This interpretation was reaffirmed in the recent case of *United States ex rel. Covington* v. *Coparo,* 297 F. Supp. 203 (S.D.N.Y. 1969), in which the court said:

"Congress could, without running afoul of the Eighth Amendment, . . . provide . . . that persons accused of kidnapping, bank robbery with force and violence, or other serious noncapital crimes are not entitled to bail as a matter of right."

The ultimate test of constitutionality is due process of law. It is inconceivable that for decades *de facto* detention through high money bond and absent any procedural protections could avoid constitutional condemnation, while a measured response to bail recidivism fully surrounded by due process protections, the net result of which will guarantee the release of many persons wrongfully detained, will not pass Constitutional muster. The amendment to the Bail Reform Act, as approved in conference, is such a measured response. The pretrial detention alternative, approved in the conference report, in fact, is much more carefully limited than actual practice in the Federal system or the practice as it has existed in virtually every State and most countries of the western world.

f. Other anticrime measures

Police Mutual Aid. The Senate amendment provided for, and the conference accepted, removal of the limitation on the Mayor's authority to enter into police mutual aid agreements with governmental units in the States of Maryland and Virginia. Comparable legislation already exists in Maryland. In this way, lawful cooperation between area police forces will not be contingent upon a formal declaration of a disaster or emergency. It should be emphasized that not only does the provision constitute mere enabling legislation, but indeed no jurisdiction will be involved except by voluntary agreement. No outside officers may be sent into any jurisdiction except upon the express request and under the supervision of the requesting jurisdiction.

D.C. Insurance Placement Act. The conferees agree that Section 1104 of the Senate amendment to the House amendment to S. 2601, extending the definition of "basic property insurance" in Section 1203 of the District of Columbia Insurance Placement Act so as to include certain lines of crime insurance, is unnecessary because the District Insurance Commissioner already has unfettered authority to extend the definition to include such coverage under Section 1203(2) of the Placement Act and already has exercised such authority.

Section 1104 of the Senate amendment was drafted to dispel any doubts over the authority of the D.C. Insurance Commissioner to extend the definition of "basic property insurance" in Section 1203 of the D.C. Insurance Placement Act without prior identical action by the Federal Insurance Administrator, acting under Section 1203(a)(2) of the National Housing Act of 1968, to expand the definition of "essential property insurance."

The conferees agreed that the legislative history and statutory language of the National Housing Act clearly did not make expansion of FAIR plan coverage by the states dependent upon prior Federal action; rather, State initiative to increase coverage as a response to local conditions was encouraged. Further, the conference report of the D.C. Insurance Placement Act makes it unmistakably clear that this authority, free from Federal limitation, was given to the D.C. Insurance Commissioner.

The reference in Section 1203 of the Insurance Placement Act to Section 1205, referred to by some as authority for such limitation upon the D.C. Insurance Commissioner's power, was drafted to require only that promulgation of a new definition of "basic property insurance" be made according to the procedures governing industry participation in rule-making under the FAIR plans. There was no intention by Congress and no authority under the Insurance Placement Act that this reference in Section 1203 to Section 1205, when coupled with a further reference in Section 1205(b) to Part A of Title XII of the National Housing Act (to insure that all regulations would follow the purpose of the FAIR plans as outlined in the National Housing Act), be construed in any way as limiting the D.C. Commissioner's authority to expand the definition of "basic property insurance" to include crime insurance coverage without regard to similar action or lack of similar action by the Department of Housing and Urban Development.

Inasmuch as the D.C. Insurance Commissioner has acted under this section to expand the definition of "basic property insurance," and inasmuch as he had the authority to do so, the conferees are confident that District of Columbia statutes now require the writing of crime insurance coverage as part of FAIR plans in the District. Therefore, additional amendment to the Insurance Placement Act is not necessary.

Commission on Revision of D.C. Criminal Laws. The Senate conferees for a considerable time were insistent upon retaining the existing Commission on Revision of D.C. Criminal Laws or reconstituting the commission along the lines suggested by the D.C. Bar Association—in order to continue the necessary task of updating the District's outmoded criminal "code," of bringing order to the present disparate array of largely *ad hoc* criminal measures (like the prohibition against kite flying repealed only in this legislation).

The Senate conferees ultimately receded in the face of persistent insistence by the House conferees. Recession on the part of the Senate was based upon an understanding, however, that the respective committees on the District of Columbia will avail themselves of, and heed where appropriate, the same kind of expert advice in matters of criminal law reform as would have been institutionalized under the Bar Association's proposal for a reconstituted commission. Likewise, future consideration of a new Commission on Revision is not precluded by the elimination of the present body.

Lorton Reformatory. The Senate conferees were steadfast in their refusal to permit the transfer of Lorton Reformatory to the Federal Bureau of Prisons. Based on the advice of every penal expert who has addressed the question, the Senate conferees were confident that such a transfer would have spelled the end of the concept of coordinated correctional services with emphasis on rehabilitation and the successful reintegration of parolees into the local community.

The Senate conferees insisted that crime prevention, that local "law and order," in the long run depends in large measure upon such rehabilitation: nearly every person who is sentenced to a term of imprisonment must also be released in time back into the community. The Senate conferees insisted likewise that the recent implementation of correctional reforms at Lorton is to be encouraged, not dissuaded, and that available evidence suggests that the District's Department of Corrections is significantly more successful than the Federal Bureau of Prisons in averting recidivism among former inmates—a reliable index of overall success at rehabilitation.

Implied consent law. The Senate version of S. 2601 proposed a reasonable and Constitutional "implied consent law" to permit a police officer to require a chemical test of the blood, breath, or urine of any person whom he reasonably believed to be operating a motor vehicle while intoxicated. The House conferees were willing to accept a strict requirement of such tests, but not an "implied consent law" limited by appropriate and essential safeguards. The Senate proposal (1) allowed the driver the option of choosing any one of the three tests (blood test, the "breathylizer," or urinalysis), (2) required reasonable grounds for arrest before administering the test, (3) required that any blood test be administered by medical personnel, (4) permitted the accused to rebut any evidence from the official test with other test results, and (5) permitted the accused the option of surrendering his driver's license for six months in lieu of submitting to any test.

The House conferees refused to accept the five safeguards in the Senate version of S. 2601. Since the Senate conferees, on the other hand, believed these safeguards to be essential as a matter of sound public policy, and in some cases requisite for the provision to withstand Constitutional test, the entire provision had to be eliminated from the conference substitute.

Additional Federal Payment. In view of the financial crisis facing the District of Columbia Government, the Senate conferees deemed it unconscionable for the Congress to continue authorizing implemention of the President's crime program without taking steps to assure the financial means in fact for such implementation.

The Senate conferees receded from their position—favoring an increased Federal payment to cover the costs of the present Administration's crime program—only in light of assurances from the leadership of the House District Committee that the House Committee will hold hearings upon and otherwise give appropriate consideration to the city's revenue proposals now pending before the Congress.

In addition, the conference substitute provides for Fiscal Year 1971, a Federal payment of $5 million adequate to cover the first-year costs of implementing the legislation S. 2601 along with the cost of substantially expanding the District's Narcotics Treatment Agency.

JOSEPH D. TYDINGS.
ALAN BIBLE.
WINSTON L. PROUTY.
WILLIAM B. SPONG, Jr.

SEPARATE VIEWS OF SENATOR SPONG

Notwithstanding my reservations about certain of its provisions, I have signed this conference report because I believe there is a compelling need to begin doing something about the alarming level of crime in the District.

For all the questions that might be raised about the legislation, I believe the good far outweighs the bad and that such provisions as court reform, expansion of the bail agency and creation of a full-fledged public defender system are valuable and essential contributions to the system of justice in the District.

Despite the fact that the conference versions are more acceptable than the original provisions, I continue to have reservations about pre-trial detention and mandatory minimum sentences and would oppose these measures were they to be voted on separately.

WILLIAM B. SPONG, Jr.

As members of the conference committee on S. 2601, we are opposed to portions of the conference report and have not affixed our signatures to it.

THOMAS F. EAGLETON.
CHARLES E. GOODELL.
CHARLES McC. MATHIAS, Jr.

SENATOR BOGGS EVALUTES THE NEED FOR A NATIONAL MATERIALS POLICY

Mr. COOPER. Mr. President, legislation dealing with solid waste pollution will be reported to the floor of the Senate in the near future. A significant aspect of this bill will be a proposal for the establishment of a National Commission on Materials Policy.

Presented to the Committee on Public Works as an amendment by Senator BOGGS, the proposal authorizing a study of national materials needs and use was cosponsored by several Senators, including myself.

The subject of the need for a national materials policy is being discussed this week at a 5-day conference held at New England College at Henniker, N.H. The conference, sponsored by the Engineering Foundation Research Conference, has attracted more than 100 materials experts from the United States and abroad.

Senator BOGGS gave the keynote address at this conference. He spoke at some length on the need for a materials policy, and the important role that a National Commission on Materials Policy would play in articulating such a policy.

As this proposal may soon come to the Senate floor, I believe it would be helpful to my colleagues to have the opportunity to review Senator BOGGS' address on this subject.

I ask unanimous consent that Senator BOGGS' speech to the 1970 Conference on National Materials Policy be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR J. CALEB BOGGS

It is a great honor for me to visit Henniker, New Hampshire, and to participate in this seminar on National Materials Policy.

Each of you is an expert in the field of materials policy and materials use. I am not. When I first became involved in this question, I thought materials were something my wife stitched to make a dress. Now, I'm more sophisticated. In the work of our Public Works Committee, we are defining materials as any natural resource, whether animal, vegetable, or mineral, that is intended to be utilized by industry for the production of goods, with the exclusion of foodstuffs. You will admit that my old definition was a lot easier to explain.

I shall not seek to delve any deeper into technical definitions or aspects of materials and materials utilization. Rather, I believe it would be worthwhile if I talked with you about some of the legislative history affecting materials policy in recent years.

The Committee on Public Works will this week report to the Senate a bill that amends the existing solid waste legislation. The bill includes a provision establishing a National Commission on Materials Policy.

It is significant, I believe, that this commission is a part of the solid waste pollution legislation. Materials and their processing are quite obviously the source of pollution, and if we are to improve our environment, we must establish a policy on the utilization of materials.

Moreover. the material policy commission is compatible with the concept of the proposed solid waste legislation, which emphasizes the recycling of solid wastes.

While the Commission proposal is not a part of the House-passed legislation, I am hopeful that the conferees from the House will see, as our Committee did, the need for such a commission to provide a fresh evaluation of the numerous components that make up the cycle of materials use and reuse.

Our concept calls for a commission to be composed of seven experts from the materials community. They would be members from within and outside the Federal Government, with the members selected to give as wide a diversity in background and expertise as is possible.

These experts would be appointed by the President, with the advice and consent of the Senate, and serve without compensation. The Commission would have a full-time staff to assist it in its work and the preparation of the Commission's report, to be due in mid-1973.

Now, what would the Commission do?

Maybe the goal of a commission was best expressed in a recent commencement speech by Dr. William Pecora, Director of the U.S. Geological Survey. Dr. Pecora was discussing mankind's accelerating demands for iron ore, copper, phosphates, water, energy, housing—a spectrum of materials and goods needed to sustain and improve our standard of living. He said:

"If we must, therefore, take from the earth to provide for ourselves, we must employ value judgment and trade-off concepts in deciding how much to take from our environment, where to take it, and how to leave it in the taking and using."

Materials policy should be a systematic route toward such a value judgment.

Specifically, the language of the legislation empowers the Commission to study and evaluate the following topics:

One would be the current and projected domestic demands for materials. President Truman's Materials Policy Commission—the Paley Commission—in the first sentence of its summary report posed this question: "Has the United States of America the material means to sustain its civilization?" That question is more evident today than it was 18 years ago. Therefore, a new materials policy commission should study national demand and supply of materials, as well as those international factors that have a direct impact on the availability of the materials to be processed within the United States. The economic factors affecting materials selection would be an aspect of this study.

A second point would be the relationship between demand for materials and questions of population growth, seeking to identify how this relationship affects foreseeable supplies and the enhancement of the environment. Our Committee hopes the Commission will give particular attention to the impact of materials on the environment—the removal of materials in their raw state from the natural environment and the effect of materials selection on environmental enhancement.

The next specific charge to the Commission would be an insistence that it consider methods for coordinating materials policy with the basic purpose of the legislation, which is the recycling of materials to prolong their usefulness. Recycling of used materials, of course, has the effect of enhancing environmental quality, as well as conserving virgin materials for future generations.

As President Nixon said in his Environmental Message earlier this year: "As we look toward the long-range future—to 1980, 2000 and beyond—recycling of materials will become increasingly necessary not only for waste disposal but also to conserve resources."

Another facet of the Commission's study would be an evaluation of methods that might be encouraged to exploit existing scientific knowledge in the processing of materials.

Another area of enquiry would be methods for enhancing the coordination and cooperation among Federal departments and agencies in materials demand, use, and study. This should be a major topic for study, as nearly every agency of Government has a materials-related function, either in research, planning, pollution control, standards, or supply. Any national materials policy must be woven from the threads of this existing knowledge and diversified policy.

A final point should be the study of the feasibility and desirability of creating—or fostering the creation of—computer inventories of national and international materials supplies and requirements.

What is particularly heartening to me is the fact that this is not a partisan issue. I happen to be a Republican from Delaware. But our proposal to establish a National Commission has received wide support from across the political spectrum. One of the strongest advocates of the idea is Senator Edmund Muskie, who is Chairman of our Subcommittee on Air and Water Pollution.

The involvement of our Subcommittee with this subject dates to 1965, when we reported and passed the first Federal solid waste legislation. This fact, and an increasing personal interest in the question of solid waste disposal led me in July 1967 to request that the Legislative Reference Service of the Library of Congress make a study of materials and their relation to the question of the accumulation and disposal of solid wastes.

Dr. Frank Huddle, in his position on the Science Policy Research Division of the Legislative Reference Service, prepared an initial study. It was titled, "Availability, Utilization, and Salvage of Industrial Materials," and was published by the Committee on Public Works.

Subsequently, the Library of Congress assisted in the organization of an ad hoc committee of materials experts to examine in greater detail the need for a national materials policy.

Most of you probably are familiar with the second and more thorough report, "Toward a National Materials Policy." It was published by the Senate Committee on Public Works about a year ago, and offered this observation: "It is of the utmost importance that, from the initial stages of production of materials through their ultimate use and disposal, we conduct our operations and activities in such a way as to minimize pollution of air and water to avoid despoliation of the environment, both physical and biological."

Then the report came to the conclusion that it was vital to create a National Commission on Materials Policy: ". . . it is judged timely and essential that a national commission be chartered and organized to study the present stance of the United States with respect to materials, and to make recommendations based on its findings."

Then the report listed what the objectives of the commission should be:

"1. To identify the relationship of the broad subject of materials in all their aspects to national goals and objectives;

"2. To define materials goals and objectives of the nation;

"3. To contribute to a broader understanding and awareness of materials problems and opportunities; and

"4. To maximize, to the extent permitted by the constraints essential to the national interest, the opportunities for free enterprise to function efficiently in the materials field. . . ."

The report of the ad hoc committee says, in effect, that if our nation takes a hard look at our materials requirements and use, we can catch a lot of problems of environmental degradation before they occur. The Committee suggests examination of the various factors affecting the selection and use of materials that would be placed into the economic stream.

That is what the Committee on Public Works envisions in supporting the amendment to create a National Commission on Materials Policy. The Committee of Public Works saw the need for a commission study and report seeking to identify and analyze the factors affecting the materials flow. This would be followed by a report that would chart the path the United States should follow toward a national policy on materials, and how that policy should be implemented.

The amendment to establish such a national commission was introduced on September 9, 1969, cosponsored by 11 Senators. The response was gratifying.

You are far more familiar than I am with the details of the Paley Commission's pioneering effort in this field. Mr. Paley continues to carry a deep interest in the materials field. He graciously wrote to me recently concerning the amendment. I would like to quote briefly from his discussion of materials policy:

"This is a matter that touches virtually all aspects of our national life. The availability of materials, and use and reuse, the development of alternatives, the disposal of waste products—all of these are of increasing urgency as our population grows and our society becomes more interdependent."

Indeed, this is an effective summation of what we need to do!

In an effort to gauge further the reaction to the concept of a National Commission on Materials Policy, I wrote to 100 or so individuals. I did not focus these letters to the materials community. Rather, I sent them to persons who had demonstrated an interest in environmental enhancement by participating in the Environmental Clearing House. This is a non-profit group seeking to increase the communications between the academic-scientific community and Congress.

Most of the gentlemen to whom I wrote were scientists in the university community, with a few experts from industry. I sent a copy of our amendment and the report of ad hoc committee to each of these men. I was astounded by their response.

About half of the recipients took the time to evaluate in considerable detail the report and the amendment. If you are interested, you can find copies of many of these letters in Part 3 of the hearings on the Resources Recovery Act of 1969, just published last week.

The tenor of the letters was enthusiastic, endorsing the need for the type of independent study of questions relating to materials policy that would be accomplished by the Commission.

William E. Martin, an Associate Fellow at Battelle Memorial Institute, wrote that "I don't know of any important issue under the general heading of national materials policy that is receiving sufficient attention today." This was echoed by many others.

He went on to say that "a national commission on materials policy, as described in your amendment, could make a significant contribution to the development of a comprehensive understanding of the various processes involved in materials production, utilization, and disposal, and such an understanding is prerequisite to the development of national policies and management procedures which are needed (a) to utilize the economic and other benefits of these processes and (b) to minimize their adverse effects on man's environment."

This quotation, and others, are not mentioned by me in any attempt to congratulate myself. Rather, they are offered to indicate the significance of a concept that was held by many men in this room long before I had the opportunity to bring it to the attention of the Congress.

And, I believe, these comments indicate the broad and strong support existing for the commission concept.

Before moving one, I would like to give you two or three other reactions to my letter. Lynton K. Caldwell of Indiana University wrote: "I believe the establishment of a commission would serve a useful purpose. There is no question but that the problems to which it would address its attention are of major and growing importance in our national economy and are major factors in the difficulties we are now having with the management of environmental quality."

Frank G. Golley, Executive Director of the Institute of Ecology at the University of Georgia, stated: "A national materials policy is essential for economic as well as for ecological reasons."

Richard S. Caldecott, Dean of the College of Biological Sciences, University of Minnesota, wrote of his "wholehearted support" for the establishment of the Commission.

Extensive testimony was also received on the need to articulate a national materials policy during Senate hearings on resource recovery legislation in 1969 and 1970.

Hans Landsberg, of Resources for the Future, offered testimony that was most valuable. I would like to quote one portion of it:

"If the proposed commission would accord high priority to laying the groundwork for the establishment somewhere in the federal government of a permanent home for questions of materials policy, I would welcome its establishment."

Robert Finch, when he was HEW Secretary, told our Subcommittee that "I don't think there is any question but what there is a necessity" . . . for ". . . . having a national materials policy. . . ."

Other witnesses representing the Executive Department also supported the concept of a national materials policy, but offered the opinion that its formulations should be accomplished through an exiting agency of government, rather than a special commission.

Dr. John Buckley of the Office of Science and Technology told our Subcommittee: "Our needs for the kind of information foreseen by the Boggs amendment will continue; we believe such a study must then, be a continuing process rather than an inventory at a particular time such as would result from the proposed commission."

The question of how to formulate a national materials policy was a major issue that the Committee on Public Works wrestled with at some length. There are advantages and disadvantages to the creation of a Commission. Dr. Buckley pointed out one of the problems. Another is the time needed to establish the machinery for a commission, and then staff it.

But the Public Works Committee came to the conclusion that the advantages of an independent commission outweighed any disadvantages.

Firstly, the commission concept calls for an evaluation of materials policy by exports from inside and outside the Federal Government. This is absolutely essential, I believe, to guarantee the broadest possible scope and study. This is vital if this study is to prove meaningful. It cannot be effectively accomplished by consultants to an existing agency of Government.

Secondly, too little knowledge currently exists to chart the directives needed to guide a permanent agency in the operation of a national materials policy. For that reason, a commission of materials experts that has a set 3-year life span will prove invaluable as a first step toward formulating a national policy and its installation within an existing agency of Government. The Commission will sharpen the focus on the issue far more effectively than an existing agency could.

That is how our Committee views the Commission. The Commission would, in effect, serve as the foundation upon which to raise the structure of a coordinated materials policy for our nation. Whatever permanent office for materials policy might be established at some point in the future would then serve a truly effective and beneficial role, allowing the United States to use its resources and technology more effectively and thus enhance environmental quality and conserve the finite supply of materials.

CRIME CONTROL

Mr. **PEARSON**. Mr. President, the problem of rising crime has long been one of the most pervasive in American society. Year after year the number of rapes, robberies, murders, and muggings increases. And year after year we hear a great deal of debate about how to control this spreading lawlessness or why we must endure it. All too rarely are positive steps taken to do something constructive about making our streets safe to walk at night again.

The dimensions of the problem are awesome. In just the first 3 months of this year, for example, FBI statistics indicate that serious crime has risen by another 13 percent. Rural crime went up by 19 percent during the same period. In my own State of Kansas, crime has continued to spiral. Last year in our State capital, Topeka, crime soared by a whopping 42 percent. In the city of Wichita crime rose by 20 percent and in Kansas City it increased by 14 percent.

Why have we had to endure this continuing wave of crime? At least part of the reason is inadequate police protection. In some cases this is due to the fact that there simply are not enough police on the streets. In other cases overburdened courts and outmoded prisons are to blame. I was shocked to read recently that experts claim that of all reported major offenses only 12 percent lead to arrests, 6 percent to convictions, and just 1 percent to prison. And of the few who finally do end up in jail, one-third later commit other crimes after they are released.

Mr. President, if the causes of crime are as many as the police and sociologists claim, then the cures are equally as numerous. The police, the prisons, the courts, and the laws themselves all demand our constant attention. As the aforementioned figures on arrest and conviction percentages indicate, though certain Supreme Court decisions have obviously made the job of the policeman harder, at least some of the blame for inadequate law enforcement must also rest with those local officials who have not moved to reform outdated police departments and clogged court systems.

A large part of the problem also rests with the role of the policeman as a social worker. Certainly the work that the police perform in the field of community relations is vital in preserving a harmonious police/neighborhood relationship. Nonetheless the fact is that some three-quarters of police effort is expended, not on fighting serious crime, but on administering first aid, quieting loud parties, rescuing stranded cats, and settling family squabbles. Mr. President, the maintenance of neighborhood harmony and the deliverance of prompt medical attention demand that these tasks be done. But need they be performed by our already overburdened police? I think not. Why not expand the services afforded by our social agencies, have them performed 24 hours a day and thus let the police devote most of their attention to direct crime fighting? This is only one of a number of ways in which the work of our law enforcement agencies can be improved.

Another area that needs immediate attention is the law itself. On both the local and Federal levels crime needs to be redefined. In this regard, the National Commission on Reform of Federal Criminal Laws was established in November of 1966. Composed of three Senators, three Congressmen, one circuit judge, two district judges, and three members-at-large, the Commission was charged to "make a full and complete review and study of the statutory and case law of the United States which constitutes the federal system of criminal justice for the purpose of formulating and recommending to the Congress legislation which would improve the Federal system of criminal justice."

The Commission has now submitted a study draft indicating several items on which the members of the Commission have reached an interim consensus. In this draft the Commission calls for the creation of a "systematic, consistent, comprehensive Federal criminal code to replace the hodgepodge that now exists." The Commission also recommends that a new approach to Federal crime jurisdiction be taken. Mr. President, it is obvious that we can no longer say the Federal Government is concerned only with "the use of the mails" or "interstate commerce." Clearly we must also help provide expanded law enforcement support for local efforts to curb such substantive problems as fraud, prostitution, gambling, drugs, firearms, and governmental corruption. In this I fully agree with the view of the Commission. I also share the view that a major overhaul of the sentencing system is overdue.

Mr. President, another step that should be encouraged is to devise procedures that reduce the amount of time a policeman needs to spend in court. In New York and Washington, D.C., for example, suspects in minor cases are checked out at the station house and those with reasonably responsible backgrounds and credentials are issued summonses to appear. Records in New York indicate that approximately 95 percent of those released in this way do appear for trial. During the first 2 years this system was in operation throughout New York City, roughly 368,000 police man hours were saved—or roughly the equivalent of adding 209 men to the force. This approach applied nationwide where appropriate could significantly improve our crime fighting effectiveness.

Many other techniques must be developed and encouraged at all levels of government if we are to ever come to grips with the shocking and continuous use in criminal activity that has characterized the past decade. Frankly, Mr. President, the record of the Congress has been spotty in this regard. Some landmark legislation has been passed, but many other worthwhile proposals have languished in committee while citizens across the country have suffered the loss of hard-earned property or endured the heartbreak of broken bodies or lives that can never be replaced. Perhaps the most far-reaching legislation approved by the Congress in recent years was the Omnibus Crime Control Act of 1968 which has resulted in significant financial and training aid to our local law enforcement agencies. In my state of Kansas this year, for example, approximately $2,528,000 has been made available to assist our crimefighting efforts. All in all, the 89th and 90th Congresses passed 28 separate laws to fight crime.

These efforts have helped, of course, but obviously more action is needed if we are to successfully curb our shocking rise in crime. The administration is committed to do everything possible to win the war on crime, but unfortunately it has not received the congressional support it deserves. At least 25 crime bills have been introduced by the administration or received administration support. Of these, seven are aimed at organized crime, four are model acts designed to curb crime in Washington, D.C., three attack obscenity, two drug abuse, and two deal with preventive detention. Of all these proposals, only one has become law. The rest are bogged down in the legislative process. Among the many measures now stalled in Congress are such vital proposals as the organized crime control bill which represents a worthwhile attempt to halt the activities of the crime syndicate. It offers, among other provisions, further efforts to eliminate syndicated gambling and stiff sentences of up to 30 years for dangerous special offenders such as the organized crime leader.

This much and more must be done. The job will not be easy, but the chances of ultimate success are good. Just recently the Advisory Committee on Intergovernmental Relations said that the system of Federal block grants to State anticrime agencies had shown signs of beginning to work. Thus, if the Congress meets its responsibility to enact the badly needed anticrime legislation now stalled in committee, there is every reason to hope that our crimewave can be brought under control. Vigorous action at the local level coupled with strong Federal assistance should at last produce the "safe society" that all Americans have a right to expect.

WE MUST BE SURE HOW WE USE DRUGS

Mr. McINTYRE. Mr. President, the Washington Post of June 23 carried an article by the able and distinguished reporter, Mr. Morton Mintz, which disclosed the results of a recent court trial in which an Arlington, Va. woman, blinded by a drug known as Aralen, sued for damages both the drug's manufacturer, Sterling Drug Co., and the physician who prescribed it. The woman claimed to have lost 90 percent of her vision as a result of her long-term use of Aralen, the trade name for chloroquine phosphate, a drug used to relieve the symptoms of rheumatoid arthritis.

The implications of the trial reach far beyond the case in question, touching such issues as the promotion of prescription medicine and the methods used to inform doctors about the hazards as well as the benefits of drugs.

Aralen, approved by the Food and Drug Administration in 1946 as an antimalarial, was found by some physicians to be effective in the treatment of rheumatoid arthritis, and in July 1957, Sterling received permission from the FDA to make such claims. In the meantime, however, a number of physicians had begun to report visual difficulties in patients using Aralen on a long-term basis, and at least 300 cases of irreversible blindness concurrent with the use of Aralen have been reported. Despite this and other evidence that drugs of the quinine family, similar to chloroquine, had been known since 1906 to cause retinal damage, Mr. Mintz reports that Sterling made no attempt to undertake a comprehensive study, either on humans or animals, of the long-term effects of chloroquine phosphate on the retina. In fact, according to the prescribing physician in this case, the Physicians' Desk Reference, on which many—if not most—doctors depend for their drug information, and the Modern Drug Encyclopedia, both of which are supported by drug advertising, included no warning as to dangerous or irreparable side effects stemming from the use of Aralen. Instead, the entries implied that the side effects were minor and transitory.

The prescribing physician testified that he was totally unaware that Aralen could cause blindness. After reading the entries for Aralen in the Physicians' Desk Reference, entries written and paid for by Sterling, the doctor said he felt reassured about the safety of the drug and so prescribed it for his patient. Sterling's detail man assigned to the Arlington area testified that warning doctors about the drug's adverse effects was only a secondary responsibility, his prime concern being promotion of the product and stimulation of its sales.

It was not until 1963 that Sterling finally sent a "Dear Doctor" letter to physicians advising them of the harmful side effects. By that time, at least 80 articles warning about Aralen had been published, and Sterling had received several dozen reports from doctors about adverse reactions in patients. Moreover, the letter belatedly sent to the medical profession was described as confusing and more of an advertisement than a warning.

Physicians rely heavily for their information about drugs upon the detail men employed by the drug companies and upon advertising in medical journals. Since the journals depend for their existence on the advertising of companies like Sterling and since the detail men are instructed to concentrate on selling their products, the doctors are the targets of a constant barrage of nonobjective information and claims geared to the promotion of drugs, even at the expense of total honesty.

What is urgently needed, therefore, is a mechanism through which doctors can receive objective, scientific information about drugs—the hazards as well as the benefits. The recommendation has been made, that the Government subsidize independent medical journals, free of drug advertising and free of the influence and pressure of drug manufacturers. As Mr. Mintz has written in a second article, "The Stuff Doctors Read," published in the April 1969 issue of the Progressive, if the very roots of scientific integrity are to be protected:

> Physicians must eliminate or at least drastically reduce the addictive dependence of their publications on drug advertising. They must select and support editors who meet the highest standards of scientific excellence and independence—men who would, for example, be willing to criticize specific drug companies and specific drug advertisements. Such reforms would bring incalculable benefits to patients as well as to the medical profession.

In addition, consideration might be given to establishing independent county medical agents who, unlike company detail men, would be free of any financial interest in the promotion and sale of drugs. Such agents, perhaps working in conjunction with county medical societies, could supply doctors with the kind of unbiased and scientific information essential to sound medical practice.

Improper drug promotion and inadequate means of informing physicians fully about the medicines they prescribe pose a constant threat to patients and doctors alike. Unless some immediate steps are taken to reform the process of disseminating information to physicians, avoidable tragedies such as the Aralen case can be expected to occur.

I ask unanimous consent that the two articles by Mr. Mintz be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

HARM OF IMPROPER DRUG PROMOTION REVEALED IN ARLINGTON ARALEN CASE

(By Morton Mintz)

Ten years ago, an Arlington woman with painful symptoms of rheumatoid arthritis went to her physician to seek relief. He prescribed a drug called Aralen.

By mid-1967, the woman, Margaret B. Stumpenhorst, was irreversibly 90 per cent blind.

She is unable to read, sew, drive a car or work—unable to do any of the things for which central vision is required. The 10 per cent vision left is peripheral.

Mrs. Stumpenhorst sued Aralen's manufacturer, the Sterling Drug Co., and Dr. Clarence J. Weimer, the physician who prescribed it for her, for $250,000 in damages, claiming the drug caused her blindness.

Last Tuesday, as a jury deliberated the evidence after a three-week trial, the defendants agreed in an out-of-court settlement to pay Mrs. Stumpenhorst $175,000 in damages.

Sterling and the physician denied the charges and the settlement was premised on no admission of liability by them.

The record of the trial surfaced new information that reached beyond her particular case and touched on issues about how prescription drugs have been promoted to physicians and about the mechanisms to give doctors information about hazards as well as benefits of medicines.

This account of how Aralen was handled is drawn not only from the trial record in the Arlington case, but also from a 1969 decision by the U.S. Court of Appeals, 8th Circuit, affirming a judgment of $180,000 against the same company awarded to a South Dakota woman in a similar Aralen case.

Other sources were a wide array of documents filed in both court cases—depositions, papers involved in a marketing application to the Food and Drug Administration (FDA), letters from physicians and company officials and representatives, congressional hearings and promotional materials issued by the manufacturer, the Sterling Drug Co., and its Winthrop division.

Mrs. Stumpenhorst is 59. She was in her 50s when she started studying for a college degree and completed two years' work. She had been secretary of the Trinity Episcopal Church Sunday School. A widow, she lives with her mother, who is 90, and a grown son, John, at 821 S. Glebe Rd.

Until blindness forced her to give up her job, Mrs. Stumpenhorst had been a civilian employee of the Air Force, which gave her a total of five commendations for her work.

She retired in March 1967. This was 13 years sooner than the mandatory retirement date. Her lawyer, Aaron M. Levine, calculates the premature retirement cost her $98,000 in future earnings.

The story of the drug—and the ultimate convergence of the diverse forces that led Mrs. Stumpenhorst to take it—began during World War II when it was developed as an antimalarial agent.

In this usage, the medicine, which has the public name of chloroquine phosphate, was wondrously successful. But a person seeking protection from malaria has a relatively limited exposure to the drug. He takes it daily for a couple of weeks before entering a malarial zone, and then takes it once weekly as long as he remains in the zone.

PROLONGED TREATMENT

In contrast, a victim of rheumatoid arthritis takes a pill every day for years, or even decades.

The FDA in 1946 approved chloroquine phosphate for sale and use solely as an antimalarial. One of the FDA's concerns was that members of the same chemical family—primarily atabrine, quinine and quinoline—were known to have caused visual difficulties in some users.

Under FDA rules in force at that time, prescription drugs were approved for use only when the applicant supplied substantial evidence of safety for that use. Sterling provided the required evidence only for use of Aralen in malaria.

Nonetheless, some physicians, trying chloroquine phosphate in other diseases, reported in medical publications and told Sterling Drug of good results in the treatment of lupus, a chronic skin affliction affecting mainly the face and hands, and rheumatoid arthritis.

According to records in the South Dakota case, Sterling officials testified they supplied money, information and services for research in the use of Aralen for treating rheumatoid arthritis by interested physicians. If a physician inquired about treating lupus with Aralen, for example, the firm sent him literature about it.

At that time, a company was not required by the FDA to get its clearance for recruiting or allowing physicians to try drugs in clinical tests for unapproved uses.

As often happens, Sterling praised its own product extravagantly. In 1952, when the firm unsuccessfully sought FDA approval for over-the-counter sales of chloroquine phosphate, it asserted, "Aralen is one of the least dangerous drugs in existence."

But by 1955, correspondence introduced into evidence in the Stumpenhorst trial shows, a number of doctors—sometimes directly, sometimes through salesmen—were making inquiries to the company about Aralen patients who developed visual difficulties.

In March, 1957, according to the South Dakota case records, three doctors reported side effects on the eye from chloroquine therapy in lupus patients.

In July, 1957, those records show, Sterling formally applied to the FDA for permission to label Aralen for one use in addition to malaria—rheumatoid arthritis.

On Aug. 22, of that year, according to the Stumpenhorst trial record. Sterling's Winthrop division announced the new use for the drug, saying it "effectively and safely suppresses crippling rheumatoid arthritis."

The press release announced a "crash program to build up adequate supplies of the drug to meet the anticipated demand," and cited as proof of the drug's effectiveness a four-year patient test program conducted by a Canadian physician, Dr. Arthur W. Bagnall.

Within two months of making the application, the appeals court record shows, FDA approved Aralen for treatment of rheumatoid arthritis.

During the following year, the South Dakota case record shows, there were at least three reports of cornea changes in patients taking Aralen.

And in October of that year, according to the Stumpenhorst trial record, Dr. Bagnall, whose Aralen therapy tests were touted by Winthrop's press release, reported to the firm's director of medical research of eye complications in two long-term Aralen users.

SOME BLINDED

An article in the Journal of the American Medical Association, introduced in the Stumpenhorst trial by the company, says that about 15 percent of the long-term users become permanently blinded.

The number of identified cases of irreversible blindness is about 300, some officials estimate, but adverse drug effects of all kinds are widely acknowledged to be grossly underreported, the FDA itself asserts.

At the same time, the company had commissioned no comprehensive long-term testing—in either animals or humans—on the possible effects of chloroquine phosphate to a Stumpenhorst trial witness.

Mrs. Stumpenhorst's general practitioner in Arlington, Dr. Weimer, testified he began to prescribe Aralen (although not to her) in 1958.

In testimony, he said he did so after consulting two reference volumes to reassure himself about his understanding that the side effects of Aralen were mild and transitory.

One of the volumes was the 1958 Physicians' Desk Reference, the most widely used prescribing guide. The entries are written and paid for by drug manufacturers. The other manual was the 1958 Modern Drug Encyclopedia, which also is supported by advertising.

Dr. Weimer's office is in the territory of a Sterling "detailman" named James N. Dickson. Dickson testified that his duties, set out in a Sterling manual for its field forces, including making an average of six calls a day on doctors to promote the firm's products.

"Physician coverage must include the known important prescribers and influential men," the manual instructed. "Maintain complete, up-to-date records on each physician detailed."

Physicians deemed "important" were to be seen monthly, but all were to be esen at least quarterly. The detailman, the manual emphasized, "is the physician's major source of information regarding his company's products."

How faithful was Dickson to these instructions?

Dickson testified in court that the greater an inclination of a physician to prescribe Sterling products, the more often he visited him.

SALES RESPONSIBILITY

He testified that stimulating the sale of these products was his primary responsibility. Telling doctors about newly learned adverse effects was, he said, secondary.

Dr. Weimer told the court he set aside an hour a day to see detailmen, but that Dickson had never told him of the possibility that Aralen could cause retinopathy.

Dickson testified he was uncertain whether he had called on Dr. Weimer, as his instructions required him to do. In the period 1957 to 1963. He said he was certain he had not called on the Arlington physician after 1963, the year Sterling Drug sent out a "Dear Doctor" warning letter to the medical profession.

But from 1957 to 1963, according to the South Dakota case records, Sterling had instructed none of its 500 detailmen to warn doctors that Aralen could cause retinal changes.

The failure of Sterling to tell its detailmen to alert physicians to the peril of blindness in long-time Aralen use led, in the South Dakota case, to the $180,000 judgment against the company.

The award, made in federal Court, went to Irene M. Yarrow, a Sioux Falls mother of four, who was permanently blinded by the drug.

The U.S. Court of Appeals in St. Louis, in a far-reaching opinion in March, 1969, upheld the award, saying that detailmen, as the major source of drug information for physicians, must tell doctors the bad news as well as the good news about the medicines they promote.

The company has not appealed the award further.

As early as 1958, the year in which Dr. Weimer began prescribing Aralen, a number of physicians already were telling of visual problems in chloroquine patients.

Here is a sampling of a letter introduced by Levine in the Arlington trial:

Feb. 8, 1958—Dr. Pierre G. Jenkins, an ophthalmologist in Charleston, S.C., inquired about three patients on Aralen "who complained of colored halos in their vision."

In Cincinnati, Dr. Leon Goldman was "in a quandary" about three lupus patients "tending toward blindness" because of eye changes that progressed even after use of Aralen had been halted.

May, 1959—Dr. Dale B. Pritchard of Ithaca, N.Y., wrote to the company about a 45-year-old woman who had lost her vision after taking Aralen for two years.

"I have been unable to find any reference in the literature . . . and wondered if you had heard of any retinal damage resulting from Aralen," he said.

A few days earlier, on April 27, 1959, the Stumpenhorst trial record shows, Sterling's English subsidiary, Bayer Products, Ltd., reported to the Sterling-Winthrop Research Institute on three cases of a relationship between chloroquine and retinopathy.

These cases were publicly reported five

months later in an article by Dr. H. E. Hobbs, of London, in Lancet, a British medical journal.

In a deposition read to the jury in the Stumpenhorst case, Dr. E. J. Foley, vice president and medical director of Sterling Drug, said the Hobbs report of Oct. 3, 1959, was the firm's first notice of a cause-effect association.

ADDITIONAL ARTICLES

But even the Hobbs report—and four other new articles in medical publications—did not prod Sterling into launching a major effort to warn physicians.

Dr. Howard Bernstein, Mrs. Stumpenhorst's chief medical witness, testified in the Arlington trial that drugs of the quinine family (similar to chloroquine) had been known to cause retinal damage since 1906. Despite this and related evidence, he said, Sterling put chloroquine on the market for long-term use without conducting long-term animal tests.

Bernstein, who spent two years investigating chloroquine retinopathy as a Public Health Service officer, also testified that the animal tests the company did conduct, in his opinion were inadequate in view of the reported dangers of this family of drugs.

During the following year, 1960, there were two more medical journal warnings on Aralen. The firm told the FDA is would reflect the new information in the labeling enclosed in the package (which is frequently overlooked or thrown away) and in brochures for physicians that would be published thereafter.

Negotiations for the "Dear Doctor" warning letter began, but were prolonged for more than two years.

PRESCRIBED IN 1960

And as late as 1960 Dr. Weimer, in Arlington, began to prescribe Aralen for Mrs. Stumpenhorst.

In the 1961 Physicians' Desk Reference, Sterling Drug was continuing to describe Aralen's side effects as "often transient" and claim that they "usually subside on withdrawal or dosage reduction."

A much different message was put out in the same book by Drug Specialties-Prane, Inc., of Winston-Salem, N.C. In its entry for Tritis tablets, whose principal ingredient, chloroquine diphosphate, is closely related to Aralen, the firm cautioned:

"Periodic ophthalmic examination should be made for signs of retinopathy. Discontinue medication, if signs of corneal edema or opacification (result). Do not prolong treatment unnecessarily."

Sterling made no entry at all for Aralen in the PDR for 1962, the year before the "Dear Doctor" letter was issued.

In February, 1963—3½ years after the Hobbs report in Lancet—Sterling's Dr. Foley sent the "Dear Doctor" letter to the medical profession.

By this time between 70 and 80 articles questioning or warning about Aralen had been published, and several dozen reports and inquiries from physicians had been received by the company.

This letter is a cornerstone of the company's defense in the Stumpenhorst case, as it has been in other damage suits (Levine tried to introduce about 75 other damage suits in the Stumpenhorst trial; the court admitted 25. Levine claimed the firm lost or settled all but a few of the cases, at an estimated cost $1 million).

Along with changes made in its literature about Aralen, the firm says, the letter demonstrated its concern and good faith and exonerated it from liability.

The letter was headed "Important Drug Precautions." Dr. Weimer testified he found it confusing and more of an advertisement than a warning.

OCULAR COMPLICATIONS

The letter said in part that Aralen "may be very helpful" in lupus and rheumatoid arthritis cases but that "certain ocular complications have sometimes been reported during prolonged daily administration" (of Aralen).

It mentioned "retinal change" twice, and recommended eye tests before and during prolonged daily use and an immediate stop to its use if eye changes were detected.

The Court of Appeals in the South Dakota case had this to say about the warning letter: "The 'Dear Doctor' letter could have been reasonably found (by the trial court) to be lacking in emphasis, timeliness and attention-inviting qualities. A reasoning mind could find that (Sterling's) warning actions were unduly delayed, reluctant and lacking in a sense of urgency . . ."

The company sent the letter by first-class mail to AMA-listed doctors through a mail-order house. Dr. Weimer's characterization was not based on the copy addressed to him: he said he never received one.

From 1960 through 1962 (the year there was no entry for Aralen in the PDR), Sterling, through its Winthrop Laboratories division, produced more than 227 million tablets in the most popular dosage of 250 milligrams, the Arlington trial record shows.

From 1963 through 1966 (the last year figures were available), 272 million tablets were produced, with production figures falling, beginning in 1964.

In February, 1965, two years after the "Dear Doctor" letter went out, Mrs. Stumpenhorst went to an eye doctor. He testified he thought she had the beginnings of cataracts in both eyes, but was unable to pinpoint the cause.

Her condition worsened. On July 11, 1966, she went to a second eye specialist, Dr. V. John Murgolo, of Silver Spring. Alert to the eye hazards of Aralen, he asked Mrs. Stumpenhorst if she had been taking it. Learning that she had been, he immediately suggested to Dr. Weimer that he take her off it.

Dr. Weimer accepted the suggestion. In his deposition, he said it came as a surprise to him that Aralen could cause blindness.

The company's entries for Aralen phosphate in the PDR from 1963 through 1969 say retinal changes "have rarely occurred," or "only rarely occurred," but that long-term Aralen patients should have periodic, thorough eye examinations.

The 1970 entry deletes any reference to the variety of retinal changes, but simply states that they have been reported and thus "emphasize the necessity of periodic visual field examinations in order to detect early changes during prolonged treatment with the drug." The company lengthened the list of other precautions to be taken in administering Aralen.

THE STUFF DOCTORS READ

(By Morton Mintz)

Among the nation's publications for physicians, none waves the flag for expensive prescribing of drugs by trade name more constantly, more openly, and more unabashedly than *Massachusetts Physician,* an advertising-subsidized monthly which is distributed free of charge to 11,500 doctors in Massachusetts, New Hampshire, and Vermont.

Consider the November, 1968, issue, which had 100 glossy pages. Typically, the front cover was divided equally by a "Guest Editorial" at the top and an advertisement below. In this case, the "Guest Editorial," of which the first three paragraphs were on the cover and the balance inside, was signed by Charles T. Silloway, president, until last December 31, of the CIBA Pharmaceutical Company. Entitled "Hobgoblins—and Little Minds," the editorial was studded with references to Ralph Waldo Emerson, Henry David Thoreau, and Samuel Adams. These revered New Englanders were enlisted by Silloway in an attack on legislation designed to induce generally lower-cost prescribing of drugs by generic name.

Silloway did not discuss CIBA's pricing policies, such as the pricing of Serpasil, its brand of a prescription drug, reserpine, which is widely used to lower blood pressure. As readers of *The Progressive* ("The Great Drug Robbery," September, 1968) may recall, Silloway had some problems explaining Serpasil pricing when he appeared in September, 1967, before Senator Gaylord Nelson's Subcommittee on Monopoly. To cite an instance, the executive was unable to explain why CIBA of Switzerland, the parent firm, sold one hundred .25-milligram tablets of Serpasil to druggists in Bern for $1.24—while in this country, CIBA's wholly owned subsidiary charged $4.50. In the very month that Silloway's "Guest Editorial" appeared, Arthur Levitt, the comptroller of New York State, announced that under a change in policy state agencies would purchase reserpine generically rather than by trade name. He estimated that this would reduce the state's annual expenditures for the drug from about $58,000 to about $3,000, a saving of nearly ninety-five per cent.

It must be emphasized that in running Silloway's "Guest Editorial," his picture, his biography, and his warnings against the erosion of our liberties (by Federal and state legislation for generic prescribing), *Massachusetts Physician* was showing no favoritism to CIBA. Of ten recent front covers, four others also carried the first part of a "Guest Editorial" written by a president of a drug company. A sixth gave identical prominence to a "Special Article" entitled, "Who Makes the Drugs You Use?" The byline was that of C. Joseph Stetler, president of the Pharmaceutical Manufacturers Association (PMA). On the four remaining front covers, the top half was used to announce meetings of the Norfolk District Medical Society, which had established the magazine in 1941 as the *Norfolk Medical News*. Publication was suspended because of World War II, but in 1948 the publication was reactivated under its current title by Massachusetts Physician, Inc., a non-profit corporation.

The editor of *Massachusetts Physician* is Dr. Carl Bearse, a seventy-six-year-old surgeon and former president of the Massachusetts Medical Society who told me that his magazine "fills a need" because it deals with "the socio-economic aspects of medical practice." He denied that the prominence given the views of drug industry executives was conditioned on the drug advertising which—along with a relatively small amount of advertising of other kinds—is the magazine's sole source of income.

Although some of the unsigned editorials in *Massachusetts Physician* might just as well have been written by the drug industry insofar as their messages are concerned, the magazine stands out among medical publications as a model of candor. In contrast, consider *Current Therapeutic Research,* a monthly which says it "is distributed to the libraries of all medical schools in the world and to selected hospitals and medical societies in the United States." This distribution is made without charge, although it is apparently possible to buy a subscription.

Since there is no advertising, it is obvious—but not disclosed—that the journal is subsidized, mainly by the sale of reprints to drug manufacturers whose products it acclaims. This is in the mold of Henry Welch, who while head of the Antibiotics Division of the Federal Food and Drug Administration was, in the 1950s, simultaneously editor-in-chief of *Antibictics & Chemotherapy* and *Antibiotics and Clinical Therapy*. Over an eight-year period, these publications grossed $1,-

065,112 from fifteen firms—antibiotics suppliers, mainly—through sale of reprints and sales of advertising. Welch's gains from these enterprises, the late Senator Estes Kefauver's investigation of the drug industry disclosed, were "honorariums" totaling $224,000.

One of the frequent contributors to *Current Therapeutic Research* has been Dr. Leo J. Cass, director of the Harvard Law School Health Service and a prominent Boston physician. In the November, 1965, issue he, and a then colleague, Dr. Willem S. Frederik, identified as "Biostatistician, University Health Services, Harvard University" (one can only speculate how valuable these slender connections to Harvard would be to a drug company given favorable mention), wrote two articles. Each listed an identical set of four citations, of which three were to reports by "Cass, Leo J., and Frederik, Willem S." Of the three reports, two had been published within the previous eight months in *Current Therapeutic Research,* and the third was "in press" for the *Journal of New Drugs.*

Such productivity may be explained in part by the presence at that time of Dr. Cass himself on the Editorial Advisory Board of *Current Therapeutic Research,* and by the fact that the publication, unlike those careful scientific journals that do not print a manuscript until months or even a year after receipt, promises "prompt publication. . . . Ordinarily, papers received by the first day of one calendar month, if accepted for publication, will appear in the issue released on the first day of the succeeding month." It turned out, however, that a more compelling explanation for Dr. Cass's prolificacy was that Dr. Cass' studies were not always the highly sophisticated, objective work they were represented to be. Such was the case with one of the November articles which concluded that a single tablet of Measurin, a sustained-release aspirin, "provided pain relief as effective, over an eight-hour period, as did two doses of immediate-release aspirin at four-hour intervals at the same total dosage level." Soon after this was published, Chesebrough-Pond's, Inc., the manufacturer, launched a huge promotion campaign for Measurin. In a four-page advertisement in the *Journal of the American Medical Association* only two references were cited—one to "clinical reports on file" with the company, the other to the Cass-Frederik opus in *Current Therapeutic Research.*

Meanwhile, however, the Food and Drug Administration became suspicious about how, in a short period of time, Dr. Cass's organization, Cass Research Associates, Inc., could have been listed as an investigator by twenty-seven companies—in applications to FDA to test eighty-four experimental drugs in humans, and in applications to the agency for marketing approval of twenty-five medical products.

In an inquiry in May, 1966, Representative L. H. Fountain, North Carolina Democrat and chairman of the House Intergovernmental Relations Subcommittee, asked if work by Cass Research had been found by the FDA "to contain false data." "Yes," replied then FDA Commissioner James L. Goddard.

Although the now dormant firm blamed "certain deficiencies" in record-keeping and the "observers" it had retained, the FDA, in a formal notice in the *Federal Register,* said that a number of persons alleged to have been treated at Boston's Long Island Hospital, where Dr. Cass was visiting physician "in fact were not so treated." Indeed, the notice said, some of the patients in the three studies in which the Cass work was "significant" were "deceased or not hospitalized at the institution where the investigations were allegedly conducted."

The kind of candor shown by *Massachusetts Physician* has been conspicuously missing in the medical press, especially in those publications whose revenues are derived, in all but trivial amounts, from drug advertising. One example is *Modern Medicine,* which has a circulation of 200,000 and a former president of the American Heart Association, Dr. Irving H. Page, as its editor.

In July, 1967, a department of the free circulation throwaway called "Washington Newsletter" protested that the Pharmaceutical Manufacturers Association had too long been denied a chance to testify at Senator Nelson's hearings on drug prices about "its broad, balanced picture of what the industry contributes to health, how it goes about doing so, and why its price level has to be higher . . ."

Last March, the "Washington Newsletter" downgraded the importance of Nelson's inquiry into Chloromycetin, the antibiotic which has been responsible for hundreds of needless deaths (*The Progressive,* June and November, 1968). Candor required *Modern Medicine* to identify the writer of its "Washington Newsletter," but it did not. He was George Connery, editor of the PMA's "Newsletter."

The medical press' circulation leader (230,000) is *Medical World News,* a bi-weekly magazine. Second on its masthead and author of its "Behind the News" column is Dr. Howard A. Rusk. Behind Dr. Rusk is *The New York Times,* which prints his signed column every Sunday but declines to alert its readers to the close ties the physician has to the drug industry. In October, 1966, in the *Times,* Dr. Rusk depicted the drug industry as a counter-force to inflation. Impressed, the PMA circularized the column. Then last May, Dr. Rusk told readers of the *Times:* "Drug manufacturers are obliged to and do fulfill their responsibilities to provide the truth, the whole truth, and nothing but the truth regarding their products." At the time this claim appeared, Dr. Rusk's *Medical World News* was the front-runner among the throwaways found by the Food and Drug Administration to have been vehicles for false and misleading drug advertisements.

Last September, Dr. Rusk praised "the contributions that the American drug industry has made to Korea through many organizations but . . . primarily through the American-Korean Foundation." *Times* readers were not told that Dr. Rusk has been a leader of this philanthropic organization or that he himself has solicited huge gifts of charity for it from the drug firms. The point at issue was pungently put in the same month—and in the same newspaper—by Jack Gould, commenting on the Chet Huntley case: "If a journalist owns a piece of the action, he should be the first to disqualify himself from editorializing about or discussing any aspect of that business. But if he persists in doing so, as was the case in Mr. Huntley's commentaries, then at the very least his employer, be it a broadcasting chain or a publisher, should warn a listener, viewer, or reader, of the association on each and every occasion where it is pertinent." Disregarding the advice of its television and radio commentator, the *Times* provides no such warning about Dr. Rusk.

A third throwaway mailed free to physicians—and one with numerous foreign editions—is the twice-a-week Medical Tribune. With a domestic circulation exceeding 168,000, it claims to be "The Only Independent Medical Newspaper in the U.S." But of what is it independent? For one thing, it is all but inseparable from William Douglas McAdams, Inc., a leading medical advertising agency. By a simple device—nonmembership—trouble is avoided with the American Association of Advertising Agencies which, to prevent conflict of interest, forbids ownership of news media by advertising agencies.

In *Medical Tribune,* the advertisements are predominatnly for products of certain companies, especially Hoffmann-LaRoche, Warner-Lambert Pharmaceutical, the Upjohn Company, and CIBA Pharmaceutical, or their divisions. Usually, the advertisers have retained the McAdams agency. Their products rarely, if ever, are exposed to serious criticism—certainly not to the sustained campaigns that the publication has waged against two products of two firms that almost never advertise in *Medical Tribune,* Merck's Indocin and Dupont's Symmetrel. The executive editor, Dr. Joseph Gennis, is simultaneously executive vice president of the McAdams agency, although readers are not told of this dubious duality. Dr. Arthur Sackler, the retired board chairman of McAdams. was a founder of *Medical Tribune.* He, along with related Sackler enterprises, employes of the advertising agency, and the newspaper have shared a single personnel directory and personnel director, office space and various facilities, including a library, all at 130 East 59 Street, New York City.

Reporting of breadth and quality sometimes distinguished publications such as *Medical World News* and *Medical Tribune*—this should be said without hesitation. But such reporting usually does not reliably pertain to drugs. Advertising support from a single source is simply not conducive to editorial independence. Thus it was not surprising when one of the biggest drug stories ever, the criminal conviction on December 2, 1967, of three antibiotics makers on criminal antitrust charges, was whitewashed. The *Tribune's* doctor readers simply were not told that for eight years, tetracycline, the valuable antibiotic which is effective against a broad range of infections, was produced for as little as $1.52 per hundred 250-milligram capsules but sold to the pharmacist for $30.60, or almost twenty times as much.

Recently, the Food and Drug Administration adopted proposals to strengthen regulations intended to keep deception, falsity, and imbalance out of advertisements for prescription drugs. In 1967, while the proposals were pending, I made a check which showed that ninety-six objections had been filed against adoption of the regulations, as against zero endorsements. Pharmaceutical makers filed thirty of the objections, medical advertising agencies forty-six, publishers fourteen, trade groups four, and individuals two. One of the objectors was *Medical World News,* a McGraw-Hill publication whose seventy-nine-year-old editor—and Dr. Howard Rusk's boss—is Dr. Morris Fishbein, former czar of the American Medical Association. In an editorial attack, he denounced the proposals as "an invasion of medical practice and medical education"—education, that is, by drug companies whose advertisements, sometimes false, are his magazine's almost exclusive source of income. On behalf of the William Douglas McAdams advertising agency, Dr. DeForest Ely, the president, engaged in whimsey: The proposed regulations, he protested to the FDA, would "jeopardize freedom of the press."

With rare exceptions, particularly the *New England Journal of Medicine,* and the *Medical Letter,* which carries no advertising, a robust, reliable editorial independence is not the hallmark of the publications of medical professional groups. The American Medical Association derives almost half its total income from advertising—and, by last July, its *Journal* had, within sixteen months, been a medium for advertising messages for fifteen drugs which the FDA found to be misleading (in a few cases criminal prosecutions of the manufacturers resulted).

In 1964, the *AMA News,* "The Newspaper of American Medicine," was confronted by the conviction of Richardson-Merrell, Inc., and three of its scientists. All had pleaded no contest to charges of falsifying and withholding data which, under law, had to be submitted to the FDA about MER/29, an anti-cholesterol drug. Massive, unwise prescribing of this product, stimulated by exuberant advertising and promotion, had led to cataracts and other afflictions in thousands of patients before its removal from the market in 1962. The disposition made of this unusual event in the *AMA News* was instructive: a twelve-line item under a one-line heading ("DRUG FIRM FINED") on Page twelve of the June 22, 1964 issue.

In January, 1968, *Psychiatric News,* official newspaper of the American Psychiatric Association, devoted about a third of its total space to advertisements for drugs used to treat mental illness and anxiety. On Page three there was a story headlined, "'GENERIC EQUIVALENCY' CALLED MYTH BY DRUG PRODUCERS." The first paragraph said, "Pharmaceutical manufacturers, after enduring seven months of virulent criticism from consumer organizations in testimony before [Senator Nelson's] Senate . . . Subcommittee launched a double-barreled counterattack late in November." But associate editor Herbert M. Grant acknowledged that the *Psychiatric News* had done no first-hand reporting and had relied on "secondary sources," specifically including the *AMA News* and "press releases from the Pharmaceutical Manufacturers Association."

"Let me assure you we are not kowtowing to the manufacturers on those hearings," he told me. Be that as it may, an analysis of the story showed that about twenty per cent of it was devoted to a pro-industry letter by Alfred Gilman, a pharmacologist who had not been a Nelson Subcommittee witness and who had written the letter at the request of the PMA. He acknowledged this to Benjamin Gordon, the Subcommittee's economist, in a telephone conversion in which he said that in addition to serving Government agencies, he is a consultant to three drug companies. Another twenty per cent of the story was preempted by two more non-witnesses, and somewhat better than ten per cent was dedicated to actual testimony—by the president of the PMA.

In February, 1968, *GP,* official journal of the American Academy of General Practice, devoted four and one-half of its 280 pages to a reprint of excerpts from testimony given before Senator Nelson by Richard M. Furlaud, president of E. R. Squibb & Sons. The testimony was a defense of trade-name prescribing. This was, of course, consistent with the views of *GP*, whose February, 1968, issue carried 145 pages of advertisements for trade-name drugs, including nine for products of E. R. Squibb.

All too often, the quality of articles in medical journals is low—or worse. Dr. William B. Bean, of the University of Iowa College of Medicine, once told the Senate Anti-Trust Subcommittee that some journals have "refused to publish articles criticizing particular drugs and methods of therapy, lest advertising suffer." When Hubert H. Humphrey, then a Senator, headed an investigating subcommittee, he asked the National Library of Medicine, which subscribes to 2,000 medical journals, to see if any had ever published a comprehensive, unflinching post-mortem analysis of a drug disaster. None had. In 1962, Irving Ladimer of the National Better Business Bureau charged that a number of medical journals had become "inadvertent co-promoters of quackery, when they permit their pages to be filled with questionable or spurious reports."

The late Senator Estes Kefauver and Representative L. H. Fountain uncovered evidence that a substantial number of articles supposedly providing objective clinical evaluations were in fact written by or for the manufacturer. In hearings held in 1964 by his House Intergovernment Relations Subcommittee, for example, Fountain found that E. Fougera & Co. engaged in this practice in order to promote Orabilex, a dye used to make the gallbladder more visible in X-rays. The company itself wrote, or had written for it, laudatory reports on Orabilex that were carried, in 1960, in the *Journal* of the American Medical Association, the *Journal* of the Southern Medical Association, and *Radiology*. This practice, Fountain said, "surely raises questions of medical ethics and strikes at the very roots of scientific integrity."

If these roots are to be protected, physicians must eliminate or at least drastically reduce the addictive dependence of their publications on drug advertising. They must select and support editors who meet the highest standards of scientific excellence and independence—men who would, for example, be willing to criticize specific drug companies and specific drug advertisements. Such reforms would bring incalculable benefits to patients as well as to the medical profession.

Last December, one solid, encouraging omen appeared, in the form of comments volunteered in response to a letter sent to 306,000 medical and osteopathic physicians by Dr. Philip R. Lee, Assistant Secretary of Health, Education and Welfare. By a ratio of seven to two (1,246 to 375), the respondents endorsed legislation proposed by Senator Nelson and the Johnson Administration for a regularly updated Government factbook listing, describing, and indicating relative costs of all prescription drugs. The Government would publish and distribute the compendium free of charge. And by a ratio of three to two (858 to 561), the respondents endorsed a Federally supported prescribing journal which, as Dr. Lee described it, would provide objective evaluations of new drugs and reassessments of old ones."

Any objective evaluation of the Nixon Administration will have to take into account what it does about such proposals.

PRESIDENT NIXON'S REVISED FAMILY ASSISTANCE PLAN AND THE NEED TO REFORM OUR PRESENT WELFARE SYSTEM

Mr. COOPER. Mr. President, yesterday the Senate passed S. 2108, a bill to expand, improve, and better coordinate the family planning services and population research activities of the Federal Government available to all persons in the United States who desire them. I am pleased to have been a cosponsor of this bill. The program proposed in the bill should assist and contribute to the President's comprehensive program for family assistance.

When the President submitted his message to Congress proposing a major overhaul and reform of our present welfare system on August 11, 1969, I made this comment the following day in the Senate in support of the President's plan:

> In my judgment, I think it is one of the most significant proposals that the President has made. It is one of the greatest proposals made by any President for many years.
>
> I am sure that some adjustments will have to be made. Nevertheless, if the program were to cost more, at least in the beginning, it would be worth it because it would give purpose to the grant of aid . . . to those who are poor, disabled, unfortunate, and in need.
>
> I believe it will direct our people toward useful work and training and will raise the standards and the dignity of the people of our country. I am particularly pleased by and support his plans to see to it that children, especially in their first 5 years, before school age, shall have equal opportunity for care and training.

The House passed H.R. 16311, the Family Assistance Act of 1970, on April 16 of this year. The Senate Finance Committee held hearings on the bill on April 29, 30, and May 1, with certain changes recommended by committee members, and the administration's proposals have been under constant restudy and revision by the Department of Health, Education, and Welfare.

The need and urgency for the Senate to take action on the administration's program this year cannot be understated.

Secretary of Health, Education, and Welfare Richardson emphasized this point at his press conference of June 25 when he said:

> I consider the Family Assistance Plan as far reaching and imaginative . . . It has been significantly strengthened to relate the plan to medical services and the food stamp and public housing programs. I consider it really the center piece of the President's legislative effort.

Last Thursday I was pleased to note the announcement of the distinguished chairman of the Senate Finance Committee (Mr. LONG) that the committee would resume its hearings on H.R. 16311, on Tuesday, July 21, and provide an opportunity to administration officials and public representatives to testify concerning the revised program.

Mr. President, I ask unanimous consent that the statement of President Nixon of June 10, concerning the proposed revisions of this program, be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COOPER. Mr. President, beginning with my public service as a county judge in eastern Kentucky some 40 years ago, I have had an opportunity to observe and scrutinize the operation and administration of Federal welfare programs—starting with the Works Progress Administration—in my State in their evolution and development and to observe the changes that have taken place in public assistance over this period of time. It is my view that some of the earlier problems encountered in these programs, rather than being faced and dealt with head-on at the time, have, as a matter of political expedience, simply been passed over or ignored with the result that these problems have expanded and multiplied to the point that the present welfare system has become unworkable.

I agree with the President's own appraisal of the problem:

> The present welfare system has failed us—it has fostered family breakup, has provided very little help in many States and has even deepened dependency by all too often making it more attractive to go on welfare than to go to work.

Not only has the system failed to accomplish its purpose but in recent years its costs have skyrocketed. At the present time we have 50 different programs operating in 50 States, with Federal funds administered differently in each State. Welfare expenditures in the United States at the Federal, State and local levels reached the gigantic sum of $72 billion for the year 1969.

In his statement of August 8, President Nixon commented on the evolution of the present system:

> What began on a small scale in the depression 30's has become a huge monster in the prosperous 60's. And the tragedy is not

only that it is bringing States and cities to the brink of financial disaster, but also that it is failing to meet the elementary human, social and financial needs of the poor.

In my study of the operations of these programs in my State, I have come to the conclusion that the most serious problem encountered in the present welfare system is that it does not provide incentives for those who receive aid to accept employment or to undertake job training. The present system discourages them from doing so because they fear that if they take employment, they may find themselves out of jobs in a few weeks or months and then face the problem of reapplying for welfare assistance—a process that is viewed as a threat to their families.

The revised plan as proposed by the President may need further adjustment in the Congress. But its chief objective of providing incentives for work and job training should be maintained. I am hopeful that the Senate Finance Committee will be able to report a bill to the Senate during this session of the Congress and that the Senate will take favorable action in translating the President's needed program into legislation.

EXHIBIT 1

STATEMENT BY THE PRESIDENT ON WELFARE REFORM

JUNE 10, 1970.

Past programs to aid the poor have failed. They have degraded the poor, and defrauded the taxpayer. The Family Assistance Plan represents the most comprehensive and far-reaching effort to reform social welfare in nearly four decades. Today, I am announcing significant extensions of the Administration's welfare reform proposals.

BASIC PRINCIPLES

The Family Assistance Plan is based on four fundamental principles:

Strong incentives to encourage work and training;

Equity to provide assistance to working poor families;

Respect for individual choice and family responsibility; and

Administrative efficiency to earn the trust of the taxpayer.

Administration officials have worked recently to identify ways to extend the principles of this income strategy to other domestic programs—such as Medicaid, food stamps, and public housing.

On the basis of this review, I have made my decision to propose basic amendments to the Family Assistance Act of 1970.

HEALTH INSURANCE FOR POOR FAMILIES

The most important proposal I make today is to reform the Medicaid program.

Medicaid is plagued by serious faults. Costs are mounting beyond reason. Services vary considerably from State to State. Benefits are only remotely related to family resources. Eligibility may terminate abruptly as a family moves off welfare, often losing more in medical benefits than it gains in income.

In short—just like the existing welfare system—Medicaid is inefficient, inequitably excludes the working poor, and often provides an incentive for people to stay on welfare.

I will propose legislation at the beginning of the next Congress to establish a Family Health Insurance Program for all poor families with children. This insurance would provide a comprehensive package of health services, including both hospital and outpatient care.

Final decisions on the specifications of the Family Health Insurance Proposal must await further review by the new Domestic Council. We are satisfied that the basic principles will work. This proposal will constitute the second legislative stage of the Administration's income strategy against poverty.

UNIFIED ADMINISTRATION OF FOOD STAMPS AND FAMILY ASSISTANCE

The Administration has already made extensive changes in the food stamp program to improve benefits, make them more equitable, and help even the very poorest families to receive assistance. We will propose that the Congress build on these executive reforms to integrate food stamps with Family Assistance and other income support programs.

Therefore, I plan to:

Submit a Reorganization Plan at the beginning of the next Congress to transfer the food stamp program from the Department of Agriculture to the Department of Health, Education, and Welfare.

Make is possible for a family to "check off" its food stamp purchase and receive its stamp allotment automatically with its Family Assistance check; and

Revise the food stamp price schedule to make it rise evenly with increases in income.

ASSISTED HOUSING

Present subsidized housing programs are marked by inconsistencies and inequities.

Many families pay the same rent despite wide differences in income. A small increase in earnings may force the family to move, losing much more housing assistance than is gained in income.

We have proposed a solution to many of these problems in the Housing Act of 1970. Rents would vary directly with income. A family would not be forced to move at some arbitrary income limit. We will offer this provision of the Housing Act to the Senate Finance Committee for its consideration.

REFORM OF INDIVIDUAL AND FAMILY SERVICES

In other amendments, we are proposing significant changes in social services for the poor. This proposal has been developed in recent months, and will be ready for submission to the Congress next week.

These amendments will:

Encourage accountability and program results;

Strengthen the role of Governors, Mayors, and county executives;

Seek to eliminate duplication and overlap.

OTHER MAJOR CHANGES

Other Administration amendments to the Family Assistance Act make important changes. For example:

Phasing out the special program for unemployed fathers, thus eliminating one of the most serious disincentives noted by the Senate Finance Committee;

Limiting the welfare burden of the States by placing a ceiling on their financial obligations under the program;

Strengthening the work requirement, and

Reducing areas of administrative discretion.

Nowhere has the failure of government been more tragically apparent in past years than in its efforts to help the poor. The 91st Congress has an historic but rapidly vanishing opportunity to reverse that record by enacting the Family Assistance Act of 1970. Let there be no mistake about this Administration's total commitment to passage of this legislative milestone this year.

CONFERENCE REPORT ON S. 2601—THE DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

Mr. EAGLETON. Mr. President, I have in my hand a document entitled:

[91st Congress, 2d Session—House of Representatives—Report No. 91-1303]

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

July 14, 1970.—Ordered to be printed

(Mr. MCMILLAN, from the committee of conference, submitted the following conference report:)

This is the House printed version of the District of Columbia crime conference report which was submitted to the House earlier today and adopted by the House.

On page 218 thereof appear the names of seven U.S. Senators as conferees who purportedly signed the conference report. That printing of seven names is in error. Three Senate members of the conference committee—myself, Senator CHARLES E. GOODELL, and Senator CHARLES MCC. MATHIAS, JR., did not sign the report. I wish to clarify that this is a printing error. I wish to allay the misunderstanding of the House Member who contacted my office indicating that he had voted in favor of it thinking that the three Senate members of the conference—who had publicly announced their dissent—had belatedly changed their minds and had signed the report. Such is not the case. Senator GOODELL, Senator MATHIAS, and I have not signed the aforementioned conference report.

"DEVIL'S ISLAND" IN SOUTH VIETNAM

Mr. FULBRIGHT. Mr. President, with the assistance of an alert staff assistant and a former director of the International Volunteer Service in Vietnam, Representatives ANDERSON, of Tennessee, and HAWKINS, of California, have uncovered and courageously exposed the appalling treatment of political prisoners on the South Vietnamese island of Con Son. The Congressman and their assistants uncovered the atrocious "tiger cages" despite extensive efforts by the South Vietnamese, with the apparent collusion of American AID and Embassy officials, to conceal them. Once again we have vivid evidence of the character of the Saigon dictatorship and of the lengths to which American officials in Vietnam will go to shield that regime from scrutiny, even to the extent of misleading Members of Congress.

Representative ANDERSON described the incarceration of prisoners in the "tiger cages" as the "most shocking treatment of human beings I have ever seen." As described by the Congressman, the "tiger cages" are small, windowless concrete enclosures with iron bar roofs, each containing up to five emaciated prisoners. No one of the male prisoners, according to the Congressman, was able to stand, either because of malnutrition or paralysis caused by shackling or lack of exercise. A single small box in each cage was the only sanitation facility provided, and a single straw mat served as the only sleeping facility for the five prisoners in each cage. Over each cage was a box containing lime, which is thrown down on the prisoners as punishment for such offenses as asking for food or water. As Representative ANDERSON pointed out:

> Lime plays the devil with your breathing and nostrils.

The entire prison at Con Son is ridden with sickness, especially tuberculosis. According to Representative ANDERSON:

> There is one doctor for 10,000 prisoners, and about twenty percent of them have TB.

Some of the prisoners in the tiger cages told the Congressman that they had been chained and beaten.

According to Don Luce, the former IVS head who escorted the two Representatives, the prisoners were "terribly scared, very frightened people." Mr. Luce added:

> When the guard was not standing near us, the prisoners would tell me that they had never stood trial or been sentenced for any crime and that there was not enough food, water or medical treatment.

Asked why she had been arrested, one 18-year-old girl told Luce:

> I was in a peace demonstration.

Hardly less shocking than the conditions on Con Son Island is the bland lack of concern on the part of American officials, who appear to have far more energy for concealing the malpractices of their South Vietnamese clients than for correcting or alleviating them. In one of those stiff, evasive statements which regularly emanate from the American Embassy in Saigon, it was announced in Saigon on July 7:

> The United States Mission is aware of the shortcomings in the corrections program here in Vietnam . . .

The statement concluded:

> Of course, the control of this system rests with the Ministry of Interior of the Vietnamese government.

Just to clarify the matter, the Embassy spokesman who read the statement added:

> I am denying responsibility for tiger cages.

The chief American public safety adviser in South Vietnam, Mr. Frank E. Walton, who served as deputy police chief in Los Angeles before joining the AID mission in South Vietnam, told the American Congressmen, whom he escorted to Con Son, that he had never before seen the tiger cages, although he said he visited Con Son once every 3 months. A fact sheet distributed by AID in Saigon quotes Mr. Walton as describing the Con Son prison as a "correction institution worthy of higher ratings than some prisons in the United States." According to Mr. Luce, Mr. Walton did his best to help the prison warden in his attempts to conceal the tiger cages from the visiting Congressmen. Walton, according to Luce, suggested that the Representatives visit the "curio shop" and later rebuked the group for "intruding into a Vietnamese prison."

American officials who seem so indignant at Congressmen trying to learn the truth about our involvement in Vietnam might profit from a short course in American constitutionality. The Embassy itself said in its prepared statement that the United States had contributed $442,000 to the Vietnamese penal system during the last fiscal year. These officials might also recall that, under our system of government, all AID funds are authorized and appropriated by Congress, and that this power carries with it the authority—and responsibility—to oversee the use of appropriated funds.

The American mission in South Vietnam is not a private proprietorship operating a foreign plantation. Nor are its officials responsible to or for the government of Mr. Thieu, however, great their affection for that regime. Our representatives in South Vietnam are working for the American Government, of which Congress is a part, and, burdensome though they may find them, they have certain responsibilities to the elected representatives of the American people. Among these responsibilities are the duty to expend funds and administer aid programs in the manner intended by Congress and to assist, rather than obstruct, Members of Congress who go to Vietnam in search of facts about the administration of programs authorized by Congress.

Contrary to the assertion of the Embassy in Saigon, American officials cannot disavow all responsibility for atrocities in South Vietnamese prisons. The United States provides both money and advisers for the Vietnamese police and penal systems. That involvement carries with it the right and responsibility to insist upon some minimum standards of humane treatment of prisoners. If the American mission in Saigon was totally unaware of the conditions at Con Son, there has been gross incompetence in the administration of AID's public safety program. In fact, it seems inconceivable that American officials could have been unaware of conditions in South Vietnamese prisons. There are American advisers in every nook and cranny in South Vietnam, and the U.S. supports virtually every activity of the South Vietnamese Government.

The U.S. mission in Saigon should have been concerned enough about conditions at Con Son and other Vietnamese prisons to make sure that conditions such as those described by Representatives ANDERSON and HAWKINS were corrected long ago. If American officials were insensitive to the sheer inhumanity of what was being done to Vietnamese prisoners, they should at least have given some thought to the relationship between South Vietnamese prison conditions and the treatment accorded American POW's in North Vietnam.

What was witnessed at Con Son are not "shortcomings" as the Embassy referred to them; they are atrocities. This was not a "corrections program" as the Embassy referred to it, but rather a chamber of horrors. There is no way in which the U.S. mission, either by euphemism or artful dodging, can escape a measure of responsibility for the horrors on Con Son.

The entire matter takes on additional significance because of reports that the administration now proposes to provide the Saigon government with at least $100 million in new and previously unscheduled American aid. The apparent purpose of these additional funds is to spare the Thieu regime the political consequences of having to take stringent internal measures to control South Vietnam's galloping inflation and to face the problems of an economy distorted by war and bloated by the American presence. It is likely too that these new AID funds are aimed at helping Mr. Thieu to remain in power.

In any case, it is Congress responsibility to examine any and all new proposals for aid to South Vietnam with the greatest possible thoroughness and care. By uncovering the malpractices of the South Vietnamese in a prison program supported by American funds and advisers, Congressmen ANDERSON and HAWKINS have performed a valuable service, providing Congress with highly pertinent information for its consideration of this year's AID bill.

Mr. President, I ask unanimous consent that a number of articles relating to the prison at Con Son be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BAD NEWS: A FACT HAS BEEN FOUND

(By Mary McGrory)

When the Air America charter plane put down at the Saigon airport, the AID representative raced to the telephone.

"Something terrible has happened," gasped Frank Walton, who is AID's adviser to South Vietnam's police and prison system, "something terrible."

Something terrible had indeed happened. A congressional fact-finding committee had found a fact.

Two members of the House of Representatives, Augustus F. Hawkins, D-Calif., and William R. Anderson, D-Tenn., had just visited the penal island of Con Son and had seen for themselves the often-rumored but never-inspected "tiger cages" where some 500 South Vietnamese political prisoners, including two teenage sisters, exist in subanimal conditions.

"It would have been funny if the circumstances had not been so appalling," recalls Anderson.

The ex-skipper of the Nautilus, a blue-eyed, slow spoken man, and no dove, at once went to the hotel to report the awful news to the chairman of the committee, Rep. G. V. (Sonny) Montgomery, D-Miss.

"Montgomery knew he had a tiger by the tail," says Anderson, without humor.

The other members knew it, too, and the fact of the American-subsidized dungeons was the subject of innumerable hotel-room and airborne wrangles. A grisly "first" was the last thing the committee expected to discover.

The House certainly never expected anything but the rosy report on Vietnamization which Montgomery rushed to the public before the other members got a look at it.

The 12-man group was regarded as the most harmless front-line pilgrimage since President Nixon dispatched two of his aides and a clutch of hawk senators to Cambodia soon after the incursion.

Montgomery, a National Guard officer, is a devout believer in the war and once addressed a congressional prayer breakfast on the subject: "God is helping in Vietnam."

But in the party was Thomas E. Harkin, the 30-year-old aide of Rep. Neal Smith, D-Iowa. Harkin is a dark, handsome, sad-eyed graduate of the University of Iowa, a former Navy pilot and a law student at Catholic University.

He arranged for Donald Luce, a longtime volunteer worker in Vietnam, to bring a valiant young South Vietnamese man who had survived Con Son and the chairman of the South Vietnamese Interior Committee to the congressman.

Harkin not only pressed the expedition, turned down by three members, but took films of Con Son, an infraction for which he was reported to the embassy by Walton. He typed a report, which was rejected by the committee.

"It would destroy the trip," said one of the members in voting for exclusion on the grounds that the tiger cages would eclipse the other "facts" the committee was bringing back.

Hawkins made his own report, and the handwashing began. Rep. E. Ross Adair, a stout and balding Republican hawk from Indiana, referred ponderously on the day of Harkin's press conference to "the Oriental mind" and "the sovereign government of South Vietnam, to which we cannot dictate, only suggest."

Rep. Lee H. Hamilton, D-Ind., submitted his own findings. He called the chairman's one-paragraph reference to Con Son "insufficiently complete" and hoped the revelations "would have some impact" on the Thieu-Ky government, while glumly conceding its record of concern for civil and human rights is rather thin.

Rep. Hastings Keith, R-Mass., in his separate report, confined himself to the implications of the Nixon doctrine.

Anderson, in his report, called "with regret" for the replacement of U.S. Ambassador Ellsworth Bunker.

"The real trouble," he said in an interview, "is that Thieu and Bunker are Tweedledum and Tweedledee."

The impact on the Nixon administration and the country probably will be as faint as the pulse of a tiger-cage prisoner. The administration is planning to send another $100 million to the Thieu-Ky regime.

As for the public, it is rather like the three committee members who backed out of the Con Son trip—it would rather not know about atrocities on our side.

After My Lai, a poll taken in Minnesota showed 49 percent "didn't believe" American GIs had gunned down several hundred civilians and over 50 percent thought the news of massacre, suppressed by the Army and the South Vietnamese government, should not have been published.

The House is the last body in the world to make a protest of conscience. It displays cages used by the North Vietnamese for American POWs under the dome and concentrates on the mote in the enemy's eye.

"Now that we know," Harkin asked, "how in the name of justice and humanity can we continue to financially assist and personally advise the prison system that does these things?"

We can, it seems, quite easily. The country has been coached to consider dissent as the overriding problem. That is, of course, the view of the government which the United States supports in Vietnam and to which the President proposes to send $100 million more.

Americans Find Brutality In South Vietnamese Jail

(By Gloria Emerson)

Saigon, South Vietnam, July 6.—An American who visited South Vietnam's largest civilian prison last Thursday reported here today on what he described as the inhuman conditions and intimidation existing there.

Don Luce, who is gathering information in Vietnam for the Division of InterChurch Aid of the World Council of Churches, said that 500 of the 9,900 prisoners believed to be on the island known as Con Son were confined in small stone compartments, and that many of the prisoners were unable to stand. The prisoners, he said, suffer from malnutrition, physical abuse and filthy conditions.

Mr. Luce was able to visit the island, which is 140 miles southeast of Saigon, because of Representative Augustus F. Hawkins, a Democrat from the Watts area in Los Angeles, and Representative William R. Anderson, Democrat of Tennessee. The group was accompanied by a Congressional aide, Thomas Harkin, who photographed the worst of the prisons.

The legislators were in South Vietnam as part of a 12-man House committee that made a fact-finding tour on the United States' involvement in Asia.

NEWSMEN ARE BARRED

Access to the prison is denied to newsmen. South Vietnamese officials generally deny that conditions are extremely harsh on the island, which is often referred to by its French name, Polo Condor.

The small stone compartments, known to the Vietnamese as tiger cages, were not voluntarily shown to the American visitors. The purpose of the trip had been to see if they existed.

Attempts to prevent the inspection were made by the warden, Col. Nguyen Van Ve. Mr. Luce also asserts that when the legislators asked to see six specific prisoners—four students, the editor of a French-language daily newspaper closed by the Government and another man—the colonel became angry. Mr. Luce had supplied the prisoners' names to the legislators.

After insisting that a telegram be sent to the Ministry of the Interior in Saigon asking permission for the group to see the six prisoners, Colonel Ve, according to Mr. Luce, said in Vietnamese to his own aide: "Do not worry about getting an answer—the important thing is to send it."

The warden did not know that Mr. Luce, who has been in South Vietnam for more than 11 years, speaks Vietnamese fluently.

According to Mr. Luce, Frank E. Walton, the American who heads the Public Safety Directorate—an advisory program in South Vietnam under the wing of Civil Operations-Revolutionary Development Support known as CORDS—backed the warden in his attempts to block the visitors.

"Walton suggested we visit the curio shop," Mr. Luce continued. "He was angry to see me with the Congressmen and said, 'I thought this trip was above board—Luce has misrepresented everything in Vietnam.' "

Mr. Luce, who is 35 years old and came here in 1958 as a volunteer social-service worker, has been an outspoken critic of United States involvement in Vietnam and of the Saigon Government.

Mr. Luce, who had been told of a hidden entry to the tiger cages, saw a tiny gate. Representative Hawkins asked Colonel Ve to have the door opened after the warden had said it was not possible. A guard, hearing the warden's voice, opened the door and the Americans went inside with the warden at their heels.

"We looked down from a catwalk through large openings—one for each cell," Mr. Luce related. "These were the tiger cages which are not supposed to exist anymore."

He said that in the presence of Colonel Ve the Americans visited two buildings composed of what he described as airless, hot, filthy stone compartments. In the building for men, according to Mr. Luce, three or four prisoners are in each compartment, which seemed not quite 5 feet across and 9 feet long.

"It was high enough for the prisoners to stand up but none of the men did," he related. "They dragged themselves to the spot where they could look up and speak to us. The men claimed they were beaten, that they were very hungry because they were only given rice that had sand and pebbles in it."

The prisoners also pleaded for water, Mr. Luce said, and cried out that they were sick and had no medicine.

Above each compartment, Mr. Luce related, was a bucket of powdery white lime that Colonel Ve said was used for whitewashing the walls but that the prisoners said was thrown down on them when they asked for food.

The women prisoners, who numbered about 250, told Mr. Luce, he said, that they were moved from mainland prisons seven months ago. They had the same complaints, he added, and also said there was no water for washing.

He said there appeared to be 60 or 70 compartments in each of the two buildings, with five women in a compartment.

When the group came out of the tiger camps after an hour and 15 minutes, Mr. Luce said, they met Mr. Walton, who rebuked them for "intruding" into a Vietnamese prison.

Mr. Luce related that Mr. Hawkins said that he hoped Americans in North Vietnam were not being treated as were the prisoners he had seen.

A fact sheet distributed in Saigon by Mr. Walton's agency over his signature quotes him as describing the "Con Son National Correction Center" as follows:

"In the opinion of correction advisors with lengthy U.S. penology experience, Con Son is not a 'Devil's Island,' but on the contrary is a correctional institution worthy of higher ratings than some prisons in the United States."

OTHER FACILITIES VISITED

The center was established by the French in 1862 and its name stands for a fearful ordeal. The French, it is said, built the tiger cages.

The legislators and their aide, with Mr. Luce, toured three somewhat more orthodox facilities where groups of prisoners are confined in a large room.

Mr. Luce, who was busy talking with the prisoners, said today that he could not observe whether the conditions were adequate.

"They were terribly scared, very frightened people," Mr. Luce said. "When the guard was not standing near us, the prisoners would tell me that they had never stood trial or been sentenced for any crime and that there was not enough food, water or medical treatment."

"When the prison guards came up," Mr. Luce added, "the prisoner would say to me, 'I am a political prisoner,' and in one instance the guard replied for the man, "You were arrested because you were a traitor."

South Viet Prison Found "Shocking"

(By George C. Wilson)

A South Vietnamese prison where men and women are locked up in windowless cages and disciplined with dustings of choking lime was described by two congressmen yesterday.

Reps. William R. Anderson (D-Tenn.) and Augustus F. Hawkins (D-Calif.) provided that description on the basis of their tour of Con Son Island Prison, 60 miles off the South Vietnamese coast on July 2.

"It was the most shocking treatment of human beings I have ever seen," said Anderson, a 49-year-old former submarine officer who won the Bronze Star combat award.

Anderson and Hawkins were part of a House of Representatives fact-finding group that made an on-the-spot assessment of the Vietnam War. They were the only congressmen who toured the prison, where 10,000 persons—most of them held for political offenses—are kept.

The formal report on the trip submitted to the House yesterday contained only one paragraph on Con Son. But Chairman G. V. Montgomery (D.-Miss.) of the Special House Committee said "we do not condone" the prison conditions and mentioned it briefly because "we didn't want to focus the report on it."

Anderson, in an interview, said this is what he saw at Con Son in a tour that started about 9 in the morning and continued until mid-afternoon, including a look at the "tiger cages" the South Vietnamese prison commandant tried to keep hidden from the Americans:

He approached a wall of one compound and looked for what he had been told in Saigon would be a hidden door into the tiger cages he had heard about.

"I had been told that the South Vietnamese hid the door with a stack of wood," Anderson said.

Through an interpreter Anderson and Hawkins had brought with them from Saigon to the prison, Anderson asked the commandant to show the Americans the tiger cages. "I had been told they were in Compound 4," Anderson said.

As they stood before an uncamouflaged door in the wall of Compound 4, Anderson pressed the issue of the cages, even asking where that door led.

"He said it was to another compound. But just then—probably because the guard had heard the commandant talking—the door swung open. The commandant looked like a fellow who had dropped his teeth because it was obvious that door did not lead to another compound.

"The commandant," Anderson continued, "had no choice but to let us go inside.

"We saw a one-story foundation with no windows in it of any kind. We went up the stairs to a kind of catwalk and could look down through iron bars about ¾ of an inch thick at prisoners inside solid concrete cages about 5 by 9 feet."

Anderson said the concrete cages with the iron bar roofs were on either side of the catwalk. Most of the "tiger cages" had five people in them, although a few had three. The walls stretching up to the bars were about six or seven feet high.

"I noticed a box standing over each cage and asked the commandant what was in it. He said sand. I felt it and said I knew it wasn't sand. He then said it was lime for washing down the walls of the cages. But I could see lime clinging from the iron bars."

With the help of some advance information, Anderson found the evidence compelling that the lime was thrown on the prisoners. "Lime plays the devil with your breathing and nostrils," Anderson said in describing the lime punishment.

No one of the male prisoners was able to stand, Anderson said. They indicated to him by both talk and pointing at their limbs that they had lost the use of their legs. Anderson figured this was either from malnutrition or paralysis from lack of any exercise.

The only visible sanitation facility inside a cage, Anderson said, was a single wood or porcelain container about the size of a waste basket. One straw mat served as sleeping facilities for the five prisoners jammed into the cage, Anderson said.

While he did not see anyone shackled to the wall, the congressman said he saw steel plates evidently designed for ankle shackles in the cages.

After walking over the double line of tiger cages, which Anderson estimated contained about 200 men in 50 cages, the congressional party walked to the corresponding prison for the women prisoners.

There, in a separate building in the same compound, Anderson found a girl who spoke English. She said she was 18 and had been arrested while caught up in a political demonstration. She claimed she herself had not demonstrated but had been imprisoned for seven months at that time, with no bath in two months.

"She said her sister was somewhere in the compound, was sick but the girl didn't know where she was," Anderson said, "She looked pitiful. Most of the prisoners looked quite thin."

The women, too, evidently got the lime treatment as punishment because the same boxes of it were over the iron gratings. "Some women were standing or could stand," Anderson said, evidencing less severe periods of incarceration.

He estimated there were about 150 women in the tiger cages.

The Agency for International Development escort, former Los Angeles police officer Frank Walton, told the congressmen that there were about 10,000 prisoners in the whole prison complex and only about 35 of them were former prisoners of war.

Walton himself, Anderson said, had never seen the tiger cages before. As part of Walton's job as head of the AID section advising the Thieu Government's national police force and penal system, the former Los Angeles police officer said he visited Con Son once every three months.

Anderson said he told American officials "that there must be an early flight leaving Saigon" for Walton and other AID personnel "who have done such a botched up job" of overseeing prison conditions in South Vietnam.

The American government through AID funds, Anderson said, had spent as much as $100 million a year to assist the South Vietnamese national police force. The AID figure is below that for this current year, he said.

Since American money links the U.S. to the prison conditions, the findings of the congressmen are likely to embarrass the Nixon administration and provide Hanoi with fresh propaganda ammunition.

The chairman of the interior committee in the South Vietnamese assembly, Anderson said, told him that "their own efforts had not been very successful" in exposing prison treatment. The South Vietnamese assembly chairman, he said, encouraged the Americans to publicize what they had seen at Con Son.

Sickness, especially tuberculosis, is rampant at Con Son, Anderson said. Most of the male prisoners told him they had been imprisoned on the island for "many years."

One prisoner in the part of the compound outside of the tiger cages told Anderson he had been in Con Son 17 years, "received mail once a year and was bad off with TB."

"There is one doctor for the 10,000 prisoners," Anderson said, "and about 20 per cent of them have TB."

"Some of the prisoners in the tiger cages claimed to have been chained and beaten," Anderson said.

Some of the prisoners are suspected Vietcong while others were committed for criminal acts, according to Anderson's findings.

United States To Boost Saigon Aid by $100 Million

(By Robert G. Kaiser)

SAIGON, July 6.—After a bitter struggle within the American mission here, the United States has decided on a new and generous economic aid policy for South Vietnam. The Saigon government will soon receive at least $100 million in new American aid, informed sources said today.

According to U.S. officials here, the Nixon administration has decided not to burden the Thieu government with demands for severe and sudden economic reforms during this stage of the Vietnamization process.

Some officials here think the administration also wants to help President Thieu get re-elected next year.

Another indication of the more generous American attitude was President Nixon's private letter to President Thieu, delivered Saturday by Secretary of State William P. Rogers, in which Mr. Nixon said the U.S. would provide canned food for South Vietnamese soldiers and their families.

The letter also said a U.S.-finance housing program for Vietnamese soldiers' families would result in 20,000 new houses built in each of the next five years, according to authoritative Vietnamese sources.

The Saigon government had requested the food and housing aid, which will cost more than $50 million, as well as additional dollar aid to finance Vietnamization and to cope with rampant inflation and a gaping budget deficit. It is this dollar aid that the administration has now agreed to grant, according to official sources here.

Saigon received $365 million in economic aid in fiscal 1970 through the Agency for International Development (AID).

Adoption of the new U.S. policy will mean the abrupt transfer of the counselor of the U.S. embassy for economic affairs, Robert H. Harlan. He will be replaced by Charles Cooper, now a Rand Corp. consultant, who was economic counselor of the embassy in 1967–68.

Cooper recently visited Vietnam on a special mission for the National Security Council, and was largely responsible for pushing the more generous aid policy, official sources said. Harlan opposed the change in current policy, according to these sources.

The decision to give more financial assistance to the Thieu government means that a policy and program developed in the AID mission here for the next two years of the war will be scrapped. The old policy would have required the South Vietnamese to increase taxation sharply and to take other restrictive measures to bring Vietnam's lopsided economy into better balance.

The Vietnamese have agreed to make substantial reforms, but they are not willing to jeopardize the government's political position by sudden and harsh measures. As the minister of economy, Pham Kim Ngoc, said in an interview today, "If I tighten the belt whose belt do I tighten? The people in the cities. I don't have the administrative structure to tax the people in the countryside."

As Ngoc noted, "It is the urban population that has already paid the biggest price for rampant inflation in Vietnam." Any further penalty for these people could turn them against the government, in the opinion of many Vietnamese.

This situation indicates the change that has occurred in Vietnam since the Saigon government established control over most of the countryside last year: Where once the countryside was regarded as the crucial arena of the war against the Vietcong, now the cities and towns are seen as the key areas.

At the moment, the government is facing an ever-increaisng budget deficit with no prospect of substantial new revenues, except what American aid may provide. The government has also decided tentatively that it must increase the salaries of civil servants and soldiers by 40 to 50 per cent, to try to compensate for the huge loss of real income they have suffered during the galloping wartime inflation.

The economic situation here has become so serious that many Vietnamese and American officials regard it as the South Vietnamese government's biggest problem. Economic issues seem to be the single most potent political factor in this faction-ridden society. The population has had to cope with a general cost-of-living increase of more than 50 per cent in the last year.

The political significance of economic issues prompted the Nixon administration's decision to be more generous to South Vietnam in the future, according to official sources here.

Though some aid technicians are upset that the U.S. is not going to force Saigon to face up to the problems of its bizarre and lopsided economy, many other U.S. officials here express satisfaction that the U.S. will not try to alleviate some of Thieu's problems at this time.

The dispute over how best to assist the Vietnamese illustrates one of the generally forgotten issues raised by Vietnamization. That is, what are America's responsibilities to this society, now that the U.S. has decided that it can not continue supporting it militarily for an indefinite period?

A popular view among officials here is that Washington should be willing to increase its financial assistance as it withdraws American soldiers. But U.S. officials here acknowledge that this attitude does not take into consideration the mood of Congress, which theoretically must appropriate any aid for South Vietnam.

"You've economized on American lives," Economy Minister Ngoc said today, "you can't economize on American dollars."

Ngoc says he realizes that U.S. aid will have to decline eventually, and "we want to replace American resources."

But the government can't do this overnight, he adds. "Political survival is the sine qua non of Vietnamization."

With this priority paramount, Ngoc said, he cannot try to solve all Vietnam's economic problems in a stroke.

"I am concerned with the problems of 1970," he said. "I'm concerned with riots in the street now." This was a reference to protesting war veterans, students and Buddhists, all of whose grievances can be traced directly or indirectly to economic conditions.

ECONOMIC DISPUTE

Referring indirectly to the dispute between economic technicians and politically sensitive officials in the American mission, Ngoc said his problems cannot be solved "by pure economics."

"It's something that has to be done in the context of Vietnam today," he said.

Ngoc promised that he would increase taxes on the rural population, control imports of luxury goods and double the amount of money collected from Vietnam's largely ignored income tax.

The minister, who was educated in the U.S. and speaks fluent English, making him a favorite of U.S. officials here, also said he hoped to help the Vietnamese economy grow.

This is a favorite theme of Vietnamese officials. In a speech Saturday night, Vice President Ky lambasted American aid because it provided massive imports without increasing domestic production in Vietnam.

UNITED STATES DENIES RESPONSIBILITY FOR "TIGER CAGES" AT CONSON

(By Robert G. Kaiser)

SAIGON, July 7.—An American spokesman said tonight that U.S. officials had been aware of "tiger cages" at the prison on Conson Island, and had "discussed this with Vietnamese officials." But the spokesman went to extraordinary length to disassociate the U.S. mission from the operation of the Vietnamese prison system.

In a press conference convened hastily at 11 p.m. Saigon time, Roy W. Johnson of the embassy information staff read a statement which said:

"The United States mission is aware of shortcomings in the corrections program here in Vietnam. Our advisory effort and assistance are designed to help the Vietnamese government, to the extent we possibly can to improve their system as rapidly and completley as possible . . ."

"Of course," the statement concluded, "the control of this system rests with the Ministry of Interior of the Vietnamese government. Specifically, there is no (American) public safety adviser stationed at Conson."

Two U.S. congressmen who visited the prison at Conson last Thursday reported in Washington yesterday that conditions there were "shocking."

Reps. William R. Anderson (D.-Tenn.) and Augustus F. Hawkins (D-Calif.) said men and women prisoners were kept in the windowless, crowded tiger cages for long periods of time. Some had lost the use of their legs, the congressmen said.

In response to a question, Johnson said here today, "I am denying [American] responsibility for tiger cages."

He added that Frank E. Walton, a former deputy police chief in Los Angeles who is the chief American public safety adviser here, and his staff have "urged strongly that a detailed investigation be made and any needed corrections be made" at Conson. Johnson said this recommendation was made before the current publicity.

Reached by telephone this afternoon, Walton said he had been instructed "to keep my lip zippered," and declined to comment further. He accompanied Reps. Hawkins and Anderson on their visit to Conson.

The tropical island, which houses more than 9,000 civil criminals and political prisoners, including suspected Vietcong, has a reputation as a sort of Vietnamese Devil's Island.

In a mimeographed fact sheet about the prison. Walton referred to its unsavory reputation, saying, "In the opinion of the corrections advisers with lengthy penology experience, Conson is not a Devil's Island but on the contrary is a correctional institution worthy of higher ratings than some prisons in the United States."

U.S. CONTRIBUTION

The embassy's prepared statement said that during the last fiscal year, the United States contributed $442,000 to the Vietnamese penal system, primarily for construction of new facilities.

Johnson said that there already had been improvements made at Conson, and "possibly by Asian standards the prisons aren't that bad."

"I think the entire situation on the island has improved," he said, "maybe not that particular area (the tiger cages) . . .

"They tell me in many ways it (Conson Prison) is ahead of many advanced penal institutions," Johnson said. He said he thought "about 500 people" were imprisoned in the tiger cages.

The U.S. public safety advisers are part of the pacification program, directed by Ambassador William Colby. Johnson was asked if Colby was concerned about the situation at Conson.

"He's been concerned about it for the last several hours," Johnson replied with a smile.

Johnson had no comment when asked if revelations about Conson's tiger cages had any effect on previous U.S. protests to North Vietnam about the treatment of American prisoners of war. He said that there were no prisoners of war in the Conson prison, only political and criminal prisoners.

LUCE'S REPORT

Meanwhile, an American representative of the World Council of Churches who speaks fluent Vietnamese released a report on his visit to the prison with Reps. Hawkins and Anderson.

The American, Don Luce, 35, was director of the International Voluntary Service organization in Vietnam for six years until 1967, when he resigned to protest the war and U.S. policy here. He has been investigating prisons in South Vietnam for several months, and tried unsuccessfully to get to Conson before the two congressmen took him along as an interpreter.

The new charges about conditions on Conson came at a time when prison conditions and torture by police have became a public issue in Saigon. The issue has been pressed by students, including demonstrators from Saigon University and a group of young people jailed several years ago who were recently released from Conson.

Torture and mistreatment of prisoners is "taken for granted" by most Vietnamese, one thoughtful editor observed tonight. Such mistreatment has been common at least since the days of French domination, Vietnamese say.

In recent weeks, both President Thieu and Premier Tran Thien Khiem have made statements interpreted by Vietnamese as admissions that Saigon police had tortured students who were arrested during demonstrations this spring. The government has promised to bring half a dozen policemen to trial on charges of torturing students.

Five Vietnamese students recently released from Conson testified last month before a committee of the Vietnamese House of Representatives.

Food in the tiger cage, they said, consisted of rice, often riddled with sand and pebbles, and a form of dried fish which "people in South Vietnam often buy . . . to use as compost for plants." To supplement this diet, they added, they ate leaves, grass, fleas and beatles.

"For toilet paper," they said, "we had to use a small scrap of cloth ripped from a shirt or pants pocket, which we carefully washed out with urine so it could be used again and again."

These former political prisoners were all avowed opponents of the regime, and they expressed pride at their defiance of the authorities.

Luce, in his report, said prison officials attempted to hide the tiger cage section of the prison from the congressmen. But former inmates that Luce had interviewed had told him where the small door leading to the section was located.

After interviewing men in one section of tiger cages, the visitors moved to an adjacent building where they found female prisoners in similar conditions. Luce wrote this description of an exchange with one prisoner.

" 'How old are you,' I asked one beautiful girl.

" 'Eighteen.'

" 'Are you a student?'

" 'No, I am a laborer. I worked in a factory.'

" 'Why were you arrested?'

" 'I was in a peace demonstration.'

" 'Are you a Communist?'

"At this, the young girl laughed at what seemed to her an irrelevant question.

" 'No, I'm not a Communist. I am not concerned about politics. I am concerned about peace.'

" 'Will you salute the flag?' The guard who was standing beside me demanded.

" 'No! no, I will not salute your flag which represents all the things you have done to me,' she answered defiantly.

" 'Then you are a Communist and should be killed,' the guard retorted in equally bitter tones . . ."

VIET PRISON WHITEWASH IS CHARGED

(By George C. Wilson)

The congressional staff member who helped expose the imprisonment of South Vietnamese in "tiger cages" yesterday accused the majority of a special House committee of trying to cover up the situation.

The staff member, Thomas R. Harkin, a 30-year-old former Navy jet pilot, resigned from his committee post yesterday a few weeks before expiration of his tenure.

Harkins also accused his former congressional bosses of settling for generalized military briefing in Vietnam rather than ferreting out the facts.

His criticism came as the Thieu government's treatment of prisoners threatened to become a political issue in this country despite the State Department's effort to dissociate the Nixon administration from it.

Harkin, in an unusual press conference yesterday, said there are definitely some North Vietnamese or Vietcong prisoners of war at the Conson Island prison, which he and Reps. William R. Anderson (D-Tenn.) and Augustus F. Hawkins (D-Calif.) inspected on July 2.

Harkin's claim, if borne out, may prove an embarrassment to the United States, which has repeatedly criticized Hanoi for its treatment of American prisoners of war.

Sen. Charles E. Goodell (R-N.Y.), in a letter yesterday, asked President Nixon to tell President Thieu that such "inhumane prison conditions" are not condoned by the United States.

The mistreatment of American prisoners of war in North Vietnam and the mistreatment of "political prisoners in South Vietnam" are "equally reprehensible," Goodell said.

Anderson, as part of his own report issued yesterday on the committee's Vietnam field trip, said that since the United States government has involved itself in Saigon's prison system through money and advisers, it must "insist on immediate prison reforms in the name of humaneness and immediate reforms to the South Vietnamese legal processes."

Under the present authority to lock up people for two years without due process, Anderson said, the Saigon government is bound to lock up innocent people.

In a separate part of his report, Anderson recommended replacing Ellsworth Bunker as Ambassador in Saigon and consideration of a South Vietnamese navy blockade of the North Vietnamese port of Haiphong.

In Saigon, an American Embassy spokesman insisted yesterday that there were no prisoners of war in Conson. Anderson said officials of the Agency for International Development had told him there were about 35 former POWs there who had committed crimes since their capture.

While Harkin conceded that he did not know how many POW's were in prisons like Conson, he said one South Vietnamese attempt to keep the tiger cages secret illustrated the problem of finding out the truth.

He said the Americans probably would never had gained access to the tiger cages if a student who had been imprisoned there had not diagrammed the layout and secret door before they left Saigon.

So secretive were the Vietnamese jailers, Harkin said, that they even changed the numbers on the various compounds at Conson—a "devil's island" prison built 60 miles off the coast of South Vietnam by the French.

These were other developments yesterday stemming from the visit by 12 House members to Vietnam, including the tour of Conson:

Harkin charged that the committee conducted only a "superficial" study of Vietnam during the two-week trip, including 25 formal military briefings "in the 11 days over there." He said the resulting "whitewash and snow job"—the committee report—contrasted sharply with the advance promise of Committee Chairman C. V. Montgomery (D.-Miss.) that the group "would not be led around by the nose" in obtaining the facts in Vietnam.

Harkin further charged that the majority of the committee tried "to suppress the most significant finding of the trip"—the conditions at Conson. One member, he said, asserted "it would be highly embarrassing" if the findings became public.

Montgomery said the whitewash charge "is completely ridiculous and irresponsible. Quite to the contrary, planned itineraries were held to a minimum." As for Conson, Montgomery said Harkin had "blown the matter out of proportion" and the committee majority's concern was based on the impact of the findings on Hanoi's treatment of American prisoners.

Rep. Hawkins filed his own report on the Vietnam trip yesterday. It amounted to a dissent from the majority's optimistic view on winding down the war and bringing peace to South Vietnam.

He said the United States is not winning the war or the support of the people of South Vietnam. American policy is aimed more at halting Red China than achieving self-determination for South Vietnam, he said.

The American invasion of Cambodia is viewed by many as "another example of Western imperialism," said Hawkins. He questioned the military success of the Cambodian operation, saying that the Communists who were pushed out of the border sanctuaries now occupy nearly half of Cambodia.

DROPOUT PREVENTION PROGRAM

Mr. MURPHY. Mr. President, as the author of the dropout prevention program, which resulted in the first performance contract in the country, on June 23, 1970, I praised OEO's decision to further test this performance contract concept nationally.

The dropout prevention program helped to usher in two concepts that will become household words in education—the concept of accountability and the educational audit.

Yesterday, the Office of Economic Opportunity announced the selection of performance contractors and the cities chosen to participate in this multi-million-dollar experiment. I was particularly pleased that Fresno, Calif., was one of the cities selected. The contractor at the Fresno project will be the Westinghouse Corp.

Mr. President, I ask unanimous consent that the press release and other data from OEO be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

OEO SELECTS PERFORMANCE CONTRACTORS IN EDUCATIONAL EXPERIMENT

The Office of Economic Opportunity announced today the selection of 18 school districts and six private education firms to take part in the Agency's experiment to test new methods of improving reading and mathematics skills through performance contracting.

Dr. John O. Wilson, Assistant Director for Planning, Research and Evaluation, said at a news conference in Washington that the school districts will participate under contracts totaling $5.6 million.

The districts, located in 16 states, will in turn subcontract with the private firms for operation of the programs. Wilson said. The experiment will last for one year.

"Based on the educational innovations currently being developed by private industry, the Office of Economic Opportunity has decided to undertake this major experiment," Wilson said.

"We are hopeful that the results may provide evidence that society has at its disposal the means for upgrading the basic learning skills of students whose proficiency levels are well below their peers, in short, whether we are able to guarantee equality of results."

Wilson explained that the six education firms will employ different approaches, with payment to contractors based on their performance, i.e. their success in improving the reading and math skills of under-achieving students they instruct.

The private firms were selected on a competitive basis as representing a range of innovative techniques, including: incentives to students, teachers, parents and schools; teaching machines, programmed learning techniques, and the reorganized use of existing materials.

The contracts being announced today will involve about 27,000 students in grades 1 through 3 and 7 through 9. Approximately 1,000 more students will take part in projects to assess education incentive systems only through three contracts to be announced later this summer.

An earlier contract in the amount of $526,000 was awarded to Educational Turnkey Systems Inc. of Washington, D.C. to provide management support to the Agency in planning the experiment design, selecting participants, developing and monitoring on-site reporting procedures and providing technical assistance to the participating schools.

PERFORMANCE CONTRACTORS AND SCHOOL DISTRICTS

Alpha Learning Systems of Albuquerque, New Mexico, will serve as the subcontractor for Grand Rapids, Michigan, Hartford, Connecticut, and Taft, Texas.

Learning Foundations Inc. of Athens, Georgia, will conduct programs in Bronx School District No. 9, New York City, the Duval County Schools, Jacksonville, Florida and Hammond, Indiana.

Plan Education Centers of Little Rock, Arkansas, will serve as the subcontractor for the Clarke County Schools, Athens, Georgia, McNairy County Schools, Selmer, Tennessee and Wichita, Kansas, Public Schools, Unified District 259.

Singer/Graflex Inc. of Rochester, New York, will conduct programs in the McComb, Mississippi, Municipal Separate School District; Portland, Maine and Seattle, Washington.

Westinghouse Learning Corporation of Albuquerque, New Mexico, will be the subcontractor for the Fresno, California, City Unified School District, the Clark County School District, Las Vegas, Nevada, and The School District of Philadelphia, Pennsylvania.

Quality Educational Development of Washington, D.C., will operate programs in Rockland, Maine, the Anchorage, Alaska, Borough School District and the Dallas, Texas, Independent School District.

BACKGROUND, AN EXPERIMENT IN PERFORMANCE CONTRACTING, OFFICE OF ECONOMIC OPPORTUNITY

INTRODUCTION

Past and present poverty programs have stressed the marginal provision of compensatory educational services. They have been a piecemeal offering of more funds to poor school districts, additional books and tutors, summer study programs, smaller class size, and counseling to improve "attitudes" toward learning. Until recently, it has been assumed that positive results would follow from this provision of traditional educational inputs.

In light of the rapid development by private industry of innovative educational techniques, the Office of Economic Opportunity has decided to mount a major experiment designed to test the effectiveness of performance contracting in education. The purpose of the experiment is to examine a variety of techniques (both technological and incentive based) in order to determine the extent to which such techniques can improve the basic reading and math skills of students whose performance in these areas has been below the general achievement level. Results may provide evidence that the society has at its disposal the means for upgrading the basic learning skills of students whose proficiency levels are well below their peers. If such results accrue, they would permit students to take full advantage of the educational system in the United States, and would enhance their abilities to compete on an equal footing with their contemporaries.

THE EXPERIMENT

Various educational innovations that show great promise are being developed by private industry. The key to these innovations is accountability; that is, the firms are paid only to the degree to which they are successful in improving the reading and mathematics skills of the youngsters they instruct. In effect, the techniques promise that, for this first time, education will be able to promise "equality of results"; that ways can be found to bring poor children up to a level of achievement comparable to that of their nonpoor classmates, and that those providing the education will not be paid if "equality of results" is not provided.

The experiment will include 21 school districts, chosen to represent a diversity of participants in terms of geographic distribution, urban and rural settings, and ethnicity. Most of the students will come from low-income homes and will include blacks, Mexican-Americans, Indians, Puerto Ricans, Eskimos, and whites. A total of 28,000 students in grades one through three and seven through nine will participate in the experimental and control groups, so that the experiment will be large enough to test, in a statistically significant fashion, the variety of techniques in a range of settings. Students in the control, comparison, and special programs groups will be taught by traditional classroom methods or by specialized reading and math teachers now employed by some districts.

Three districts, in addition to the 18 announced today, will be selected in a few weeks to participate in an incentives-only group. For this group, the effects of incentives alone will be tested, so no private educational firm will be involved. Instead, the Office of Economic Opportunity will contract directly with the schools or a teachers union to develop a system that will involve both material and behavioral rewards.

Measurement of reading and math skills for all children in the experiment will be conducted by an independent contractor, not connected with the performance contracting firms or the school districts. The skills of each student will be tested at the beginning of the experiment, periodically throughout the school year, and six months after the experiment has been completed. This last testing will permit assessment of the permanence of the gains which may have been realized during the special instructional period.

On the basis of these results, the Office of Economic Opportunity will be able to make judgments as to which specific techniques are most effective under the various sets of circumstances. The Office of Economic Opportunity is preparing to undertake a separate, systematic investigation of the policy implications that may result from this experiment.

The administrative structure of the experiment, the dimensions of the experiment, an explanation of the various contractors' approaches, and other details of the experiment are set forth in the charts that follow.

Chart II: Experimental Design

I. Control group (omitted from Record).
II. Comparison group.
III. Special program group.
IV. Technology-plus-incentives group.
A. School.
B. Teachers.
C. Children.
V. Incentives-only group.

Chart III: Dimensions of the experiment

Number of school districts	21
Performance contract basis	18
Incentives-only basis	3
Number of students (about)	28,000
Technology-plus-incentives group (about)	10,800
Incentives-only group (about)	1,080
Control group (about)	11,880
Comparison group (about)	2,700
Special program (about)	1,000
Number of performance contracting firms	6
Cost (about) (million)	$6.5

Chart IV: Value of contracts

School district and contractor:	*Contract value*
Portland, Me., Singer/Graflex Corp.	$308,184
Rockland, Me., Quality Education Development	299,211
Hartford, Conn., Alpha Systems, Inc.	320,573
Philadelphia, Pa., Westinghouse Learning Corp	296,291
McNairy County (Selmer), Tenn., Plan Education Centers, Inc	286,991
McComb, Miss., Singer/Graflex	263,085
Duval County (Jacksonville), Fla., Learning Foundations, Inc.	342,300
Dallas, Tex., QED	299,417
Taft, Tex., Alpha	243,751
Hammond, Ind., Learning Foundations	342,528
Grand Rapids, Mich., Alpha	322,464
Fresno, Calif., Westinghouse	299,015
Seattle, Wash., Singer/Graflex	343,800
New York (Bronx), N.Y., Learning Foundations	341,796
Clarke County (Athens), Ga., Plan Education	301,770
Las Vegas, Nev., Westinghouse	298,744
Wichita, Kans., Plan Education	294,700
Anchorage, Alaska, QED	444,632
Total	5,649,252

DESCRIPTION OF CONTRACTORS' APPROACHES

Alpha Learning Systems.—This company minimizes the use of teaching machines; it uses programmed texts and reorganized existing materials. It utilizes an intensive incentive system for both students and teachers. The incentives to students are geared to whatever interests them, be it material gifts, trading stamps, time off, or whatever. Additionally, the learning environment itself is changed with the addition of carpeting and draperies and a separate room used for relaxation.

Singer/Graflex, Inc.—This company uses some teaching machines and audio-visual material and para-professionals, in addition to professional teachers. This approach calls for intensive use of incentives to students, teachers, parents, and schools.

Westinghouse Learning Corporation.—This company's approach involves a moderate use of teaching machines, tape cassettes, other audio-visual materials, and programmed texts. A unique feature of this approach is the involvement of computer managed instruction and a totally individualized, behaviorally based program. That is, according to performance or diagnostic tests, the computer or managed instruction system prescribes the student's lessons and materials to be used. Extensive use is made of individual behavioral objectives. Material incentives to students are an integral part of this approach. Additionally, the learning environment is modified to reflect a much more relaxed and less institutional atmosphere.

Quality Educational Development.—This contractor will employ fairly heavy use of audio-visual teaching machines and tape cassettes as programmed texts. Material incentives will be provided for students and teachers according to students' performance.

Learning Foundations.—This company's approach involves an extremely heavy use of auto-tutor teaching machines. Para-professionals, rather than certified teachers, are employed to monitor students' performance. Also, incentives that gradually change from extrinsic and tangible to intrinsic and attitudinal in nature, will be given to students and teachers. Computerized prescribed instruction is also used.

Plan Education Centers.— This company's approach employs very little hardware and very few extrinsic incentives to students. The contract uses programmed texts and existing instructional materials and believes that incentives are intrinsic to the learning system. Heavy reliance is placed on diagnostic testing and placement.

CHART V.—SUMMARY OF APPROACHES

Contractor	Utilization: Incentives	Teaching machines	Reorganized texts/workbooks
Alpha Learning Systems	Heavy	Light	Heavy.
Singer/Graflex	do	Medium	Medium.
Westinghouse Learning Corp	Medium	do	Heavy.
Quality Educational Development	do	do	Medium.
Learning Foundations	Heavy	Heavy	Light.
Plan Education Centers	Light	Light	Heavy.

CHART VI.—CHARACTERISTICS OF SELECTED DISTRICTS

	Urban				Rural		
	White	Black	Mexican-American	Other	White	Mexican-American	Black
Hartford		X					
Rockland					X		
Portland		X					
Bronx		X		X[1]			
Philadelphia	X	X					
Grand Rapids	X						
Hammond	X	X					
McComb							X
Selmer					X		
Duval County		X					
Clarke County					X		X
Dallas		X	X				
Taft						X	
Wichita	X	X					
Seattle	X				X		
Las Vegas	X						
Fresno	X	X	X				
Anchorage		X		X[2]			

[1] Puerto Rican.

[2] Eskimo.

PERFORMANCE CONTRACTING

District	Location	Contact	Amount of contract	Contractor
Anchorage Borough School District	Anchorage, Alaska	Joe D. Montgomery, acting superintendent, 670 Fireweed Lane, Anchorage 99503, 907-227-6652.	$444,632	Quality Education Development.
Bronx District No. 9, New York City Public Schools	New York, N.Y.	Mr. Anton J. Klein, 212-588-6708	341,796	Learing Foundations.
Clark County School District	Las Vegas, Nev.	Dr. Parker G. Woodall, director of Federal and special programs, 2832 East Flamingo Rd., Las Vegas, Nev. 89109, 702-736-5011.	298,744	Westinghouse Learning Corp.
Clarke County School District	Athens, Ga	Dr. Charles McDaniel superintendent, 419 Pope St., Athens 30601, 404-548-1343.	301,770	Plan Education Centers, Inc.
Dallas Independent School District	Dallas, Tex.	Mr. Rogers L. Barton, assistant superintendent, department of planning and research, 3700 Ross Ave., Dallas 75204, 214-824-1620 x401.	299,417	QED.
Duval County Public Schools	Jacksonville, Fla	C. Hines Cronin, supervisor of Federal programs, Duval County Courthouse, 330 East Bay St., Jacksonville 32202.	342,300	Learning Foundations.
Fresno City Unified School District	Fresno, Calif	Arthur G. Carlson, director, State and Federal acts 305 East Belgravia Ave., Fresno 93706, 209-266-3560.	299,015	Westinghouse.
Grand Rapids Public Schools	Grand Rapids, Mich	Norman Weinheimer, superintendent, Grand Rapids, 616-456-4700.	322,464	Alpha Learning Systems.
Hammond Public Schools	Hammond, Ind	Dr. Edward Ignas, director of Federal projects, 5935 Hohman Ave., Hammond 46332.	342,528	Learning Foundations.
Hartford Public Schools	Hartford, Conn	Robert J. Nearine, coordinator of evaluation, 249 High St., Hartford 06103, 203-527-4191.	320,573	Alpha.
McComb Municipal Separate School District	McComb, Miss	J. D. Prince, superintendent, Box 868, McComb 39648, 601-684-4661.	263,085	Singer/Graflex.
McNairy County Schools	Selmer, Tenn	Julius S. Hurst, superintendent, Selmer 38375, 901-645-3267.	286,991	Singer/Graflex.
The School District of Philadelphia	Philadelphia, Pa	Thomas C. Rosica, director, Federal programs, 21st St. south of the Parkway, Philadelphia 19103, 215-448-3441.	286,991	Westinghouse.
Portland Public Schools	Portland, Maine	Dr. Rodney E. Wells, superintendent, 389 Congress St., Portland, Maine 04111, 207-744-8221 x260.	308,184	Singer/Graflex.
Rockland Public Schools	Rockland, Maine	Bruce J. Kinney, superintendent, 5 Grace St., Rockland, Maine 04841, 207-596-6629.	299,211	QED.
Seattle Public Schools	Seattle, Wash	Forbes Bottomly, superintendent, 815 Fourth Ave. North, Seattle 98109, 206-587-3414.	343,800	Singer/Graflex.
Taft Public Schools	Taft, Tex	Carl Waddle, superintendent, Taft, 512-528-2636	243,751	Alpha.
Wichita Public Schools, Unified District No. 259	Wichita, Kans	Dr. Ralph Walker, director of research division services, Administration Building, 428 South Broadway, Wichita 67202, 316-AM7-8311.	294,700	Plan Education.

TO CLEAR UP THE SENSOR PROGRAM

Mr. GOLDWATER. Mr. President, there has been some, but not much, confusion created on the floor of the Senate, first by remarks made by the distinguished Senator from Wisconsin (Mr. PROXMIRE) relative to a so-called "electronic battlefield," a few comments which were made by me relative to this statement, and the interpretation of my remarks by Senator PROXMIRE that they constituted charges against him for violating classification.

I believe I have since made it abundantly clear that the material he placed in the RECORD could not have been classified because it was material available to every Senator; in fact, my files contain every bit of it, and it was obtained through public channels.

Because the distinguished Senator referred, as I said before, to an "electronic battlefield" and the Defense Establishment has no such title; because there were several inferences that the costs were getting out of hand; and because of the general confusion that I think the entire exchange has created, I have asked the Air Force to prepare for me a sanitized version of just what the sensor program is. That paper is now available, and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

SENSOR PROGRAM

Unattended ground sensors were originally developed for the detection of vehicular and personnel infiltration. Since their successful application in the support of the defense of Khe Sanh they have come into wide use in South Vietnam. Fundamentally, these are equipments which monitor and report on the enemy's movements but they are not a weapons system. We do not have, therefore, an "electronic battlefield" but another type of surveillance target acquisition capability which is now being used extensively by both U.S. and South Vietnamese forces.

KEY FACTS

1. Congress has been briefed repeatedly concerning this program in closed sessions by Secretary of Defense, DDR & E, Director, DCPG, and Chiefs of Services. Many Congressmen have also reviewed sensor operations in Southeast Asia.

2. Unattended ground sensors and associated relay and readout capabilities have been developed and been deployed to Southeast Asia. During the period FY 1967–FY 1970 only $877 million have been committed in support of this operational program. Over $600 million of authorized funds have been returned for use on other critical DOD requirements. In lieu of cost growth, there has been significant cost reduction.

3. Projected annual operating costs for this unattended ground sensor capability are less than $200 million including RDT&E, Procurement, and Operation and Maintenance funds.

4. A system called the "electronic battlefield" does not exist nor is it programmed in DOD.

5. Sensors are solely surveillance devices.

6. A discrimination capability for sensors was viewed as too costly to attain and, more importantly, contradictory to the policy of confirmation and control by combat commanders prior to the application of fire power.

7. Sensor technology has permitted economy of force, minimized surprise by the enemy, denied the enemy the sanctuaries of jungle and darkness and has reduced U.S. casualties.

8. The potential for technical and tactical countermeasures by the enemy were prime reasons for the program classification.

Comment 1

"I am informed that the Pentagon has already spent some $2 billion on a secret weapons system called the electronic battlefield. Some estimate its ultimate cost at $20 billion or more. To my knowledge this weapons system, as a weapons system, has never been directly authorized in the annual procurement bill in which major weapons systems are examined, judged, and passed on by the House and the Senate."

Answer 1

It is not known who has informed Senator Proxmire of the current costs and projected costs for the current capability existing in theater in sensor technology. However, the official costs have been furnished to both Houses of Congress and have been available to Senator Proxmire. This has been done over the past several years as noted in Attachment 1 and more recently has been summarized by the briefing of Lieutenant General Lavelle, as noted in Attachment 2.

It should be noted that the costs of this particular program have been significantly lower than the funds budgeted and these reductions in program expenditures have also been briefed to the Congressional Committees as noted in Attachment 3. Since the last briefing to Congress there has been a continued effort to carefully insure the most cost effective approach to development and acquisition and this has resulted in additional savings which have now been returned to the Department of Defense for other urgent uses. Dollars returned are summarized in Attachment 3.

Of the present $1,383.1 million program from inception through FY 1970, a total of $1,364.7 million has been committed to date. The total actual costs of the program to the current time are summarized in Attachment 4. With respect to the items and technology noted by Senator Proxmire (remote sensors and ancillary items less munitions and one-time military construction costs), the FY 1967–1970 program totals $877 million rather than the $2 billion indicated by the Senator. These dollars are shown in Attachment 5.

It is true that this program has not been briefed to Congress as a specific "weapons system" for it is not a weapons system but a broad program comprised of a collection of equipment designed to enhance our detection capability in the combat arena. The individual sensing devices have been used to monitor the enemy's use of roads and trails, to monitor his attempts to establish ambush points, to monitor his attempts to mine roads and trails, to monitor sapper attempts to infiltrate our defenses and to monitor and preclude attacks on bases, posts and fire support centers.

The term "instrumented/electronic battlefield" is, in fact, loose rhetoric—a Madison Avenue approach. The program, as noted earlier, consists of sensing devices, relay and readout equipment which have resulted in U.S. Commanders being able to effect economies of force, to obtain early warning/alerting resulting in protection of our forces, and permitting the use of fewer patrols—substituting sensors for personnel—with the end result of less exposure of American soldiers and a lower casualty rate.

BRIEFING BEFORE CONGRESS ON THE DEFENSE COMMUNICATIONS PLANNING GROUP PROGRAM

Committee	Date	Briefer
House and Senate Armed Services and Appropriations Committees (reprograming).	Nov. 8, 1966	OSD Comptroller.
Combined Meeting of Senate Armed Services and Senate Appropriations Committee.	Jan. 23, 1967	Secretary of Defense.
Senate Armed Services Committee (Chairman Russell).	Jan. 27, 1967	Dr. Foster.
Chairman DOD Subcommittee of House Appropriations Committee (Mr. Mahon).	January 1967	Deputy Secretary of Defense Vance.
Congressman Sykes of DOD Subcommittee of House Appropriations Committee.	Feb. 24, 1967	General Starbird.
Senator Russell of Senate Appropriations Committee	Mar. 16, 1967	Do.
House Armed Services Committee (Chairman Rivers)	Sept. 20, 1967	Dr. Foster/General Starbird.
Staff of Senator Stennis	Jan. 25, 1968	General Starbird.
House Armed Services Committee	Apr. 10, 1968	Dr. Foster/General Lavelle.
DOD Subcommittee of Senate Committee on Appropriations.	May 27, 1968	Do.
Preparedness Investigating Subcommittee of Senate Armed Services Committee.	July 30, 1968	Colonel Douglas.
Staff Senate Armed Services Committee	April 1969	Do.
DOD Subcommittee of Senate Committee on Appropriations.	Sept. 17, 1969	General Lavelle.
Staff DOD Subcommittee of House Appropriations Committee.	Mar. 18, 1970	Colonel Douglas.
R. & D. Subcommittee of House Armed Services Committee.	Mar. 24, 1970	General Lavelle.
DOD Subcommittee of House Appropriations Committee.	Mar. 25, 1970	Do.
R. & D. Subcommittee of Senate Armed Services Committee.	Mar. 31, 1970	Colonel Douglas.

SENSOR PROGRAM—SERVICE SUMMARY

[In millions of dollars]

	Fiscal year 1967	Fiscal year 1968	Fiscal year 1969	Fiscal year 1970	Fiscal year 1971	5-year total
Army	165.6	223.7	169.2	99.5	99.3	757.3
Navy	65.4	40.6	24.4	24.1	25.9	180.4
Air Force	94.1	138.6	221.7	161.9	161.0	777.3
DCPG	7.3	22.4	16.5	14.7	15.7	76.6
Total	332.4	425.3	431.8	300.2	301.9	1,791.6
Four-year total				1,489.7		
Budget request	0	258.5	691.5	637.6	314.0	1,901.6
Supp/Emer/Contg	302.1	18.9	1.5	0	0	322.5
Reprogram	84.5	274.2	2.0	0	0	360.7
Budget review	0	0	−.1	−224.2	−12.1	−236.4
Total authorized	386.6	551.6	694.9	413.4	301.9	2,348.4
CDPG returned	−54.2	−126.3	−263.1	−113.2	0	−556.8
New program	332.4	425.3	431.8	300.2	301.9	1,791.6
RECAP FUNDS RETURNED [1]						
Prior to Feb. 10, 1970	54.2	126.3	263.1	113.2	0	556.8
Subsequent to Feb. 10, 1970	2.4	1.3	20.1	82.8	0	106.6
Total	56.6	127.6	283.2	196.0	0	663.4

Note: Total program as briefed to R. & D. Subcommittee of House Armed Services Committee on Mar. 24, 1970, the DOD Subcommittee of House Appropriations Committee on Mar. 25, 1970, and R. & D. Subcommittee of Senate Armed Services Committee on Mar. 31, 1970.

[1] Total refunds as briefed to R. & D. Subcommittee of House Armed Services Committee on Mar. 24, 1970 the DOD Subcommittee of House Appropriations Committee on Mar. 25, 1970, and R. & D. Subcommittee of Senate Armed Services Committee on Mar. 31, 1970.

	Fiscal year 1967	Fiscal year 1968	Fiscal year 1969	Fiscal year [1] 1970	4-year total
Army:					
R.D.T. & E.	20.7	30.0	21.8	9.2	81.7
Procurement	144.9	192.4	131.4	24.2	492.9
O. & M.			7.5	7.6	15.1
Total	165.6	222.4	160.7	41.0	589.7
Navy:					
R.D.T. & E.	16.0	14.7	9.7	6.0	46.4
Procurement	43.8	14.3	13.0	12.3	83.4
O. & M.	5.6	11.6	1.7	2.2	21.1
Total	65.4	40.6	24.4	20.5	150.9
Air Force:					
R.D.T. & E.	9.0	23.5	20.0	12.3	64.8
Procurement	61.5	93.5	157.2	68.0	380.2
O. & M.	3.5	21.6	32.9	43.2	101.2
Milcon	17.7				17.7
Total	91.7	138.6	210.1	123.5	563.9
DCPG:					
R.D.T. & E.	5.9	20.6	15.0	12.6	54.1
O. & M.	1.4	1.8	1.5	1.4	6.1
Total	7.3	22.4	16.5	14.0	60.2
Grand total	330.0	424.0	411.7	199.0	1,364.7

[1] Committed to date. An additional $18,400,000 is available for the fiscal year 1970 approved program.

ON-GOING PROGRAM COSTS

[In millions of dollars]

	Fiscal year 1967	Fiscal year 1968	Fiscal year 1969	Fiscal year 1970	4-year total
R.D.T. & E.	34.8	70.4	65.6	41.2	212.0
Procurement	90.0	106.0	242.9	82.0	520.9
O. & M.	10.5	35.0	43.6	55.0	144.1
Total	135.3	211.4	352.1	178.2	877.0

Note: Excludes $17,700,000 militaryconstruction (1-time cost), $36,100,000 for development of munitions (fiscal year 67–69), and $452,300,000 for procurement of munitions (fiscal year 1967–70).

Comment 2

"There are other ramifications as well. Among these are the fact that the system involves vast amounts of complicated electronics equipment—sensors, lasers, computers—which have been the major cause of cost overruns, late deliveries, and failures to meet specifications on a large number of other major weapons systems."

Answer

The use of sensors in a surveillance role is not a complex operation. Use is made of a computer at only one installation although the equipments are used in support of U.S., and RVN forces as well, throughout all of South Vietnam.

An evolutionary approach to the development of sensors has insured an incremental, step-by-step attainment of more effective hardware which has met the operational requirement. In fact, rather than a program involving significant cost growth such as that inputed in the comment, this program has been managed in such a manner as to bring about repetitive return to DOD of authorized budget funds.

Specifically funds returned by Fiscal Year are:

(In millions)

FY 1967	$56.6
FY 1968	127.6
FY 1969	283.2
FY 1970	196.0

This program has not suffered cost overruns—but rather cost *under-runs* in the total of $663.4 million.

Comment 3

"In addition to all of this, the electronic battlefield includes items which are difficult to control and which may well result in indiscriminate killing. . . .

". . . Designed to kill anything that moves, it cannot discriminate between enemy soldiers and women and children. Despite the fact that as a weapons system it has never been specifically authorized, it has already cost the American taxpayer almost $2 billion. Some experts predict it will ultimately cost $20 billion. . . ."

Answer

Apparently "electronic battlefield" has a connotation to Senator Proxmire that we have no knowledge of, and which does not exist. The sensor equipment is not difficult to control and is employed as an integral part of existing command and control procedures. No counter action, based on sensor information, is ever tasked without the primary and essential element of the trained human judgment factor being exercised at multiple echelons of command. Fire power, delivered in reaction to sensor intelligence is governed by the same controls and rules of engagement applicable to any other reaction.

The equipment is in no way difficult to control. However, the pains taken confound the enemy's efforts to develop countermeasures, it is imperative that we retain the current degree of secrecy.

In addition, please see Comment 5 below for a discussion of the ability of the sensor system to discriminate between friend and foe.

Also, please see Comment 1 above for a discussion of the program's cost.

Comment 4

"With regard to the electronic battlefield, I think it is safe to say that most Congressmen have never heard of it. Like Topsy, it just grew. It exemplifies, as few other examples can, why the military budget is out of control.

Answer

As outlined in Comment 1 above, the Senate and House Armed Services Committees and DOD Subcommittees of the Appropriation Committees, as well as their staffs, have been briefed several times on the anti-infiltration and surveillance program. This has involved individual briefings—where requested—as well as the usual budgetary presentations.

The resources for the program are programed and budgeted by the Military Departments except for the costs of DCPG Headquarters (Operation and Maintenance and R.D.T. & E. appropriations only) which is part of the Defense Agency's budget. These overall costs have been identified repeatedly for Congressional review since the beginning of the program.

Comment 5

"Designed to kill anything that moves, it cannot discriminate between enemy soldiers and women and children."

Answer

The surveillance equipments—as they have developed and are in use today—are sensors which function as an extension of the battlefield commander's eyes and ears. They supplement, not supplant, other sources of intelligence available to today's troop leaders. Sensors are just that—they sense. No counter-action, based on sensor information, is ever tasked without the primary and essential element of the trained human judgment factor being exercised at multiple echelons of command.

The fact that current sensors cannot, of themselves, discriminate between friend and foe has been well known and constantly considered throughout the development of the system. Experience has proven true, an early judgment, that the commander's knowledge of the battlefield, enemy tactics, patterns of activities, and the nature of the area of operations were all that was necessary to make the sensor system operationally effective. In addition, in the kind of war we are fighting in Vietnam, the only positive identification of friend or foe results from face to face confrontation and personal identification.

To have designed the system to provide identification of friend or foe would have vastly increased its complexity, development time and costs. To have substituted some degree of identification through technology for the human judgment of the responsible commander was and is not acceptable. Reaction to sensor derived targets is therefore controlled under the same rules of engagement as recreation to any other intelligence.

As a result of the decision not to have an identification capability, but to rely instead upon reasoned judgment, the system was deployed in a much shorter time span, with a consequent saving in money and materiel. Early fielding of the system allowed for reduced exposure of US troops thus resulting in a saving of untold lives.

Comment 6

"Despite the fact that as a weapons system it has never been specifically authorized, it has already cost the American taxpayer almost $2 billion. Some experts predict it will ultimately cost $20 billion. . ."

Answer

Sensor technology and sensing equipment as such have never been considered a weapon system. However, the sensor development, procurement, and support program has been specifically authorized by appropriate Committees of both Houses. The commitments to date total $1.36 billion. In fact, the specific costs of the surveillance portion of the program, referred to by Senator Proxmire, have been only $877 million, not $2 billion as identified in attachment 6 to Comment 1.

An estimate of recurring development and procurement costs in future years is less than $200 million per year. The source of the prediction of some unknown "experts" of $20 billion is not known nor can any logical basis for such a prediction be determined or supported.

Comment 7

"Although known by various code names, it has been called the automated battlefield by General Westmoreland. Among industry officials, it is more commonly known as the electronic battlefield. By any name, it is nothing less than an effort to develop a totally new method of waging ground warfare. Essentially, it is a system of sophisticated sensors designed to assist in the detection of enemy movements over wide areas. The system involves the use of data links, computer-assisted intelligence evaluation and automated fire control. In a word, it is extremely complicated electronic equipment including:"

Answer

The "automated/electronic battlefield" is a coined phrase, not a weapons system, used generally to cover the classified unattended ground sensors and their use. It is true these sensors were designed to assist, and do in fact assist, in the detection of enemy movements over wide areas. At one installation, a computer and electronic display equipments are used. Their use is solely for assimilating the large amount of data generated, and to present salient facts to trained operators for their evaluation on which to base subsequent recommendations to their superiors.

"First, whole families of acoustic seismic, and magnetic devices to detect voices, footfalls, guns, and enemy troop carriers;" Captured enemy documents, and interrogation of enemy prisoners of war, indicate that the enemy believes the primary means of detection is acoustic. They always refer to sensors as "listening devices."

"Second, high-powered lasers to illuminate targets with visible and invisible energy designed to guide bombs, rockets, and anti-tank weapons."

The use of lasers is probably accurate, but lasers are not part of the surveillance program.

"Third, millions of tiny 'button bomblets' that give a sonic or radio signal to remote receivers, pinpointing the position of anything that steps on them; and . . .

"Fourth, elaborate electronic command and control displays that pull together all data gathered by the electronic network and automatically show troops movement over vast areas of terrain."

At one installation a computer and electronic display equipments are used. Their use is solely for assimilating the large amount of data generated and to present salient facts to trained operators for their evaluation on which to base subsequent recommendations to their superiors.

Comment 8

"In short, the electronic battlefield involves an entirely new concept in ground warfare, and if widely adopted, will require fundamental changes in the way our men fight.

"Yet, this revolutionary weapons system on which as much as $2 billion has already been spent, and upon which as much as $20 billion may well be spent, has gone ahead beyond the research and development stage without any specific authorization of Congress. We have never been asked, Do you wish to authorize billions of dollars for the automated battlefield?"

Answer

As outlined in Comment 1, the anti-infiltration and surveillance program does not constitute a weapon system nor an electronic battlefield.

Details on the cost of this program to date, as well as a forecast of costs for future operations, are contained in Comments 1 and 6.

The program has been reviewed by the Senate and House Armed Services and Appropriation Committees beginning with the FY 1967 Supplemental on an annual basis. In addition, there have been several reprogramming reviews. The program has received Congressional review an approval through this program and budgetary process.

Comment 9

"When the original barrier concept was discarded as unworkable, the program was reoriented and renamed the electronic battlefield. No longer designed to provide an electronic barrier, it is now intended to provide complete surveillance of enemy movements through the use of sophisticated sensoring devices backed by highly complex computer systems. First tested in Vietnam, the new devices are now undergoing intensive development for a variety of combat uses."

Answer

The overall barrier concept, as originally conceived, was never tried. Early in the fielding of the equipment, battlefield commanders realized the value of sensor surveillance. These early efforts brought home the importance of sensor derived target information which was developed and used in breaking the siege at Khe Sanh. The results at Khe Sanh fired the imagination of field commanders and were the catalyst which brought rapid expansion of the use of sensor technology throughout all of South Vietnam. In this sense, it is true that sensor equipment was reoriented to be used where the enemy was, and it does assist in the surveillance of enemy movements.

This equipment is being used by the Army, Navy, Marines and the South Vietnamese forces in the Republic of Vietnam. The sensor devices with a simple readout receiver can hardly be considered sophisticated and complex when the Vietnamese are trained to use the equipment in a matter of a few hours. No computers are used and no computer applications are envisioned for the operation in South Vietnam.

Comment 10

"Perhaps the outstanding feature of the program is the sharp rise in costs which have been incurred. Although the official figures are secret, some published figures show how explosively the program costs have grown.

"Research.—In fiscal 1967 the Defense Department's Advanced Research Products Agency budgeted $3.5 million, for sensor studies. One year later the amount spent on research for the electronic battlefield had grown to $82.9 million or over 25 times the amount spent the previous year.

Answer

It should be noted that the FY 1967 $3.5 million for ARPA sensor studies is unrelated to the program managed by DCPG. Thus, contrast of development funds should involve DCPG's $51.6 million in FY 1967 and its $88.8 million in FY 1968. The application of these funds is discussed later.

The implication of explosive growth in program costs is similarly misleading. The normal life cycle of military system acquisition involves carefully controlled initial development and procurement funding. Once the technology evolves and the operational value is validated, an accelerated, broadened development effort and procurement of operational quantities are initiated. This should not be construed as cost growth, but as normal life cycle planning and execution.

In a corollary sense, judgment of program costs should reflect the relationship of the development to the operational requirement Unattended sensor technology, and the associated readout capability, has dramatically increased the knowledge of enemy movements in the SEA environment. Real time intelligence upon which to base the application of strike resources is undoubtedly one of the most significant technological and operational advances of the war in Vietnam. Certainly in the context of our operations in Vietnam, sensors have greatly aided our soldiers and saved lives by giving early warning of enemy approach—warning that only a few short years ago was not possible of attainment.

The RDT&E costs for FY 1967 total $51.6 million of which $16.8 million was spent in support of munitions developments. The balance of $34.8 million was used in the development of electronic surveillance equipments.

The RDT&E costs for FY 1968 total $88.8 million of which $18.4 million was used in support of munitions developments. The balance of $70.4 million was spent in the direct support of the anti-infiltration surveillance system.

A recap of the RDT&E costs, excluding the development costs for munitions which terminated in FY 1969, is as follows:

(Millions of dollars)

FY 1967	34.8
FY 1968	70.4
FY 1969	65.6
FY 1970	40.1

This indicates that the major development efforts have been accomplished and that a sustaining level of effort can be predicted.

Comment

"Procurement.—Two years after the start of the program, procurement costs for the new surveillance devices had risen from $192.6 million in fiscal 1967 to $524 million in fiscal 1969."

Answer

A similar recap for procurement, excluding munitions, is as follows:

(Millions of dollars)

FY 1967	90.0
FY 1968	106.0
FY 1969	242.9
FY 1970	82.0

Further details are contained in Comment 1 and attached financial charts.

The $524 million in FY 1969, mentioned by Senator Proxmire as a procurement cost, correlates with the $523.4 million reported to the Department of Defense Subcommittee of the Senate Appropriations Committee on April 24, 1969. However, this sum as reported to Congress reflects the total FY 1969 program cost including RDT&E, Procurement and Operations and Maintenance appropriations for the Army, Navy, Air Force, and DCPG. Subsequently, $111.7 million was returned to OSD. The accurate costs of the FY 1969 procurement portion of the program are the $242.9 million reflected in the table above.

Comment

"Although just over two and a half years old, the cost of the entire program research, procurement, ammunition for testing, and funds from other sources—totals close to $2 billion."

Answer

The total program costs during the first four fiscal years of this effort are $1.36 billion. As indicated by Senator Proxmire, these costs include research, procurement, and ammunition for testing. In addition, this total program cost includes funds required for Military Construction and the annual Operating and Maintenance funds required in support of tactical operations which were not noted by Senator Proxmire.

Comment 11

"The most frightening fact about all of this is that this may be just the beginning of a cost spiral. . . . much of the program consists of very expensive electronic devices supported by computer systems."

Answer

The most heartening fact about the surveillance program is the cost reductions which have already been achieved in these "very expensive electronic devices." For instance, the original hand emplaced sensor cost $2100 a piece. A similar sensor being procured today costs $250 a piece. Simultaneously, the weight of the device has been reduced by a factor of four with an increase in the designed reliability. At $250 for a piece of hardware, this is an effective all weather sentry not subject to enemy fire as a soldier would be.

Computer support, as mentioned before, is at one installation.

Comment 12

"But in view of the size and nature of the program, the most shocking fact about the electronic battlefield is that it has never been directly authorized by Congress. The program has never been subjected to public hearings or a detailed review."

Answer

As outlined in Comments 1 and 4, the anti-infiltration and surveillance program has been repeatedly briefed to Congress and has been reviewed each year by Congress in the budgetary cycle. These hearings have been "closed" due to the highly classified nature of the development and implementation of the remote sensor technology in Southeast Asia. To publicly disclose this program would deprive U.S. troops and our allies in SEA of major operational advantages. By minimizing the enemy's knowledge of the system, we have prevented his early use of either tactical or technical countermeasures. Throughout the development of the anti-infiltration system and the parallel operational applications, we have pressed for improved technical performance which would deny the enemy such countermeasures. Public discussion jeopardizes that objective.

Comment 13

"But what is more, the military contractors know more about the program than most Congressmen and Senators. Early in January of this year more than 800 defense contractors jammed the National Bureau of Standards auditorium for a classified briefing on the program's future. All the reports and predictions made at the meeting were classified, as is practically all of the information relating to the program."

Answer

During the period January 6–8, 1970, the National Security Industrial Association, in conjunction with DOD, held a symposium on Sensor Aided Combat Systems at the National Bureau of Standards, Gaithersburg, Maryland. As stated in the keynote address, the Symposium was designed to apprise NSIA of:

The exceptional progress we have made to date in applying sensors of all kinds to modern warfare.

The emphasis and priority we intend to place on the continued development of this technology.

The new organizations with DOD and the Services that will be responsible for development and implementation of this technology and the ways in which they interact with each other and US industry.

The appropriate avenues for industry to approach DOD, the Services and Agencies to obtain the detailed information required to insure proper application of America's technology without which we cannot realize our goals.

Proceedings of the Symposium are classified "Secret Noforn" and are distributed by NSIA on a "Need-To-Know" basis.

The NSIA is a national organization of American industry composed of more than four hundred manufacturing, research and service companies of all sizes, which provides for an effective working partnership between industry and government, as visualized by its founder, James Forrestal, the first Secretary of Defense.

The sensor program has been presented to the appropriate committees of Congress several times.

Comment 14

"Perhaps most important, how is Congress to control expenditures if it does not even have knowledge, much less control, over major programs such as electronic battlefield?"

Answer

As outlined in previous comments, the anti-infiltration surveillance program has been briefed in detail many times to Congress and has been reviewed by Congress in the budgetary cycle, each year since inception. The program has been not only broadly covered by the Secretary of Defense and the Director of Defense Research and Engineering but also in detail by the Military Departments and DCPG in their Congressional budget and reprogramming reviews.

Comment 15

"The second important set of questions which the program raises centers around the development of secret weapons and their future implications for military policy. General Westmoreland has said that the electronic battlefield will revolutionize ground combat. In a speech given last October before the Association of the U.S. Army, he declared:

"The Army has undergone in Vietnam a quiet revolution in ground warfare—tactics, techniques, and technology. The revolution is not fully understood by many."

Answer

With regard to the foregoing, we believe it necessary to quote General Westmoreland completely so as to place his remarks in proper context. General Westmoreland's full comment before the annual luncheon of the Association of the United States Army, on Tuesday, October 14, 1969, is as follows:

"I will proceed on the assumption that neither the Congress nor the Nation wants us to lay down our shield of armed readiness. On the contrary, our citizens continue to

demand from us the best military forces possible within the resources made available to us. This is a fair and demanding challenge which we accept.

"In meeting this challenge, The Army has undergone in Vietnam a quiet revolution in ground warfare—tactics, techniques, and technology. This revolution is not fully understood by many. *To date it has received only limited attention. Analysis of the lessons from the revolution will influence the future direction of our Army both in fundamental concepts of organization and development of equipment.* (Note: Italic added to indicate additions to quotation.)

General Westmoreland is an astute and able commander. He recognized that when technology provided him with additional information about the enemy, in real and near-real time, tactics and techniques would have to be adjusted to use this information fully.

That this new capability was not broadly known or generally discussed, is understandable. Security precautions were taken so that our troops in combat could continue to enjoy the tactical advantages that technology provided.

Comment 16

"The financial implications alone of this so-called revolution are frightening. Will the Congress suddenly be told that it is essential that all ground forces be equipped with the new electronic sensors before the full implications of such a decision are known? Will we be told that the expenditure of almost $20 billion is necessary if we are to match the Russians in ground capability? In short, will Congress be confronted with a "decision" on the electronic battlefield over which it has little control? These are just a few of the questions which are raised by the secret nature of the program."

Answer

As previously noted, there is no DOD program for an "electronic battlefield." The anti-infiltration surveillance program, per se, has been briefed in detail many times to Congress and has been reviewed each year since inception by Congress in the budgetary cycle. Equipment, adapted to ground warfare as discussed by General Westmoreland, has been contained in these program briefings.

The source of Senator Proxmire's $20 billion figure is unknown.

Comment 17

"The electronic battlefield also presents several other problems related to its use in combat. One of the biggest problems is that it may be an indiscriminate weapon. The sensors cannot tell the difference between soldiers and women and children."

Answer

See answer to Comment 5.

Comment 18

"It has been pointed out that in such underdeveloped parts of the world as Vietnam, whole villages may be wiped out by seeding wide areas with air dropped explosive devices designed to kill anyone who ventures into their neighborhood. Once seeded, we would lose control over these devices and they could represent a permanent menace to the civilian population, much like old land mines."

Answer

The explosive devices referred to must be munitions similar to anti-personnel and anti-vehicular mines. Sensor field locations are very carefully selected along known enemy routes and in areas of enemy activity.

The sensors have been designed to insure that we can not lose control of them.

Comment 19

"A second major problem is presented by the extreme vulnerability of much of the electronic equipment to malfunction due to rough treatment."

Answer

The alleged vulnerability of much of the electronic equipment to malfunction due to rough treatment has not materialized in actual operations. In fact, both the reliability and the total life span of sensors has far exceeded the original estimates. These are key factors which have contributed in large measure to the return of funds authorized in support of the program.

Comment

"One infrared night observation device for use over medium range distances has already been abandoned because it could not withstand handling under combat conditions."

Answer

Infrared night observation devices, as posed by Senator Proxmire, are not a part of this program.

Comment

"In addition, the replacement costs, alone for equipment damaged by rough handling could be enormous."

Answer

During the development of the sensor equipment it has been designed for rough handling as may be expected in the field. In particular it was designed to have the capability of withstanding shock blows ranging from 200 to 1500 Gs. To date, rather than experiencing large losses of equipment due to a handling problem, such losses have been minimal and have contributed to our ability to reduce program costs.

Comment 20

"Finally, the most important, is the program really worth the money? Is combat capability increased to such an extent that the probable investment of billions of dollars is warranted? Once the Vietnam war is over, will we really need such a complicated system of sensors for combat operations?"

Answer

There can be no doubt that the surveillance equipments which have been deployed in SEA have proven their worth. General Tompkins, Commander of the 3d Marine Division at Khe Sanh, has stated often and in writing "the sensor-derived target information was instrumental in winning the battle."

Our soldiers now serving in Vietnam share General Tompkins' view as to the effectiveness of the sensors. They know that the use of sensors has improved dramatically our intelligence-gathering capabilities, has denied the enemy his traditional sanctuaries of night and the jungle, and has saved untold numbers of American and allied lives by giving early warning of enemy approach. All of this at a cost far less than the alleged $2 billion.

In this vein, then, military planners in all of our services are analyzing the lessons to be learned from the "revolution" to which General Westmoreland referred. From these analyses will come the direction as to how the services should proceed with respect to equipments, tactics, and organizations.

One fact now is clear, however. The capabilities which sensors of all types give us will enable our future forces to find and fix the enemy—even under the most difficult conditions of weather and terrain—with smaller forces, more quickly and more economically.

General Westmoreland, in the same speech quoted by Senator Proxmire went on to say: "Today, machines and technology are permitting economy of manpower on the battlefield, as indeed they are in the factory. But the future offers even more possibilities for economy. I am confident the American people expect this country to take full advantage of its technology—to welcome and applaud the developments that will replace wherever possible the man with the machine."

A CONSTRUCTIVE APPROACH

Mr. MANSFIELD. Mr. President, the issue of the effect on television upon the political process is becoming more in focus in recent months. More attention is being directed to this most important phenomenon and how it effects the basic institutions of society.

A most commendable presentation of one aspect of this problem is presented in a brief filed with the FCC by Mr. Joseph Califano. It presents a thoughtful and penetrating analysis and ably articulates a position seeking a balance in the use of the medium when the great national issues are presented. In attempting to face the issue of the use of television, this is the type of approach that is constructive. I ask unanimous consent that the brief be printed in the RECORD. I commend it to the attention of the Senate.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

[Before the Federal Communications Commission, Washington, D.C.]

IN THE MATTER OF OBLIGATIONS OF BROADCAST LICENSEES UNDER THE FAIRNESS DOCTRINE—DOCKET NO. 18859

COMMENTS BY THE DEMOCRATIC NATIONAL COMMITTEE

The Democratic National Committee (DNC), by its counsel, pursuant to the Commission's invitation in its "Notice of Inquiry and Notice of Proposed Rule Making" (Notice), in the above-referenced Docket number, dated May 18, 1970, hereby submits its comments on the proposed rules.

I. Summary of Position

The DNC endorses the Commission's efforts to expand and bolster the fairness doctrine and to promote and enhance the "First Amendment goal of providing an informed electorate capable of conducting its own affairs" in keeping with the letter and spirit of the Supreme Court's recent landmark constitutional decision, *Red Lion Broadcasting Co.* v *FCC,* 395 U.S. 367, 392 (1969).

In particular, the DNC supports the Commission's proposed rules which provide that a licensee must take affirmative action to solicit appropriate spokesmen to present contrasting viewpoints when a licensee (1) presents or permits to be presented only one side of a controversial issue on a matter of public importance in a series of broadcasts within a relatively short period of time or (2) presents an editorial expressing the licensee's viewpoints on a given issue. In its notice, the Commission states that its "proposal is a modest further step in promoting access to the broadcast media" and invites "interested persons . . . to make other suggestions on this general subject issue." Notice, pp. 6, 8.

We concur in the judgment that in most cases a licensee must be afforded latitude and flexibility in fulfilling its affirmative obligations. However, we believe there is at least one situation of such overriding national concern that the Commission should adopt a uniform, national policy clearly expressed and vigorously enforced by the Commission.

We refer to a broadcaster's obligation after it has aired a presentation (or a series of presentations) by the President of the United States of his viewpoint on controversial issues of public importance. We submit that virtually every time the President addresses the nation or appears at a press conference—whether speaking as Chief Executive on legislative or economic matters, Commander-in-Chief on military operations of new weapons system or the head of his party on issues or candidates in a forthcoming election—he expresses his self-interested viewpoint on controversial issues of current public interest.[1] Therefore, the principles underlying the Commission's proposed rules place upon a broadcaster an affirmative obligation to secure responsible spokesmen with contrasting positions and to accord them reasonable opportunities, comparable in duration and scheduling, to inform the American electorate whenever they air a Presidential presentation.

Accordingly, the DNC proposes that in addition to the rules contained in its Notice, the Commission adopt the following rule:

(a) When a network or licensee broadcasts a presentation by the President of the United States of a viewpoint on a controversial issue of public importance, that network or licensee has an affirmative obligation to seek out responsible persons or entities with significant contrasting viewpoints on the controversial issue and afford them equal opportunities to present their views.

(b) In the case of any broadcast of a Presidential address or press conference, it shall be presumed that the President has presented a viewpoint on a controversial issue of public importance; and in the event of any complaint of non-compliance filed with the Commission, the burden shall be upon the network or licensee to establish compliance with this rule.

(c) Each network and licensee shall be required for a period of not less than three years to maintain a complete tape and transcript of every presentation by the President which it broadcasts and to maintain records detailing all actions taken by it to fulfill its affirmative obligations under this rule. Such records shall be available for inspection and copying at any reasonable time upon the request of any person.

Note: The term "equal opportunities", as used in paragraph (a) hereof, shall have the same meaning and effect that it has under Section 315(a) of the Communications Act of 1934, 47 U.S.C. § 315(a) (1964).

II. The DNC has a vital interest in obtaining fair media treatment

The DNC is an agency of the Democratic National Party, established at each national convention, which has the obligation and authority to promote the principles and programs of the Democratic Party. As the representative of one of the two major political parties, the DNC is vitally interested in the preservation and strengthening of the nation's political processes. An informed and educated electorate is essential to the proper functioning of our democratic form of government. Thus, we are gravely concerned about what we perceive as a developing imbalance in access to the communications media with the resulting inability of the American people to hear and consider more than one point of view.

The DNC has no desire to limit the President's ability to communicate with, and thereby to lead and govern, the nation. We do not propose any restriction on the President's right to be accorded the broadcast time which he believes essential to the implementation of his programs and policies. In a nation of 200 million people scattered beyond a continent, communication through broadcast media is a critical tool of government. At the same time, communication of opposing points of view is essential to the healthy development of a society and our democratic form of government.

It is becoming increasingly difficult for the fair and effective presentation of opposing points of view. For example, as fully set forth in its Request for Declaratory Ruling Concerning Access to Time on Broadcast Stations, now pending before the Commission, the DNC has recently been the victim of artificial and arbitrary barriers to access to television facilities. The CBS television network flatly rejected a request by the DNC to purchase one half-hour of prime time for a program presenting viable alternatives to the policies of the incumbent Administration. Other networks and stations have raised similar obstacles, impairing the ability of the DNC to present its views. To perform its functions adequately—to inform a diverse national audience of the aspirations and recommendations of the Democratic Party—the DNC must have an opportunity to be heard.

The general rule which the DNC herein proposes would affect a variety of responsible persons and entities which hold and desire to communicate views which contrast with the President's on controversial issues of public importance.

III. The Enormous Impact of a Televised Presidential Presentation Places Special Obligation on the Broadcaster

The combination of the President of the United States—the most powerful individual in the free world—and television—undoubtedly the most effective communications medium ever devised by man—has an impact on public opinion that is difficult to exaggerate.

The Presidency, as Theodore Roosevelt observed, is indeed a "bully pulpit." The office is shrouded in majestic dignity. A statement by the President of the United States, simply by the force of his office, commands instant attention, respect and belief. As Woodrow Wilson noted about the President's force and impact as a national spokesman:

> "His is the only national voice in affairs. . . . No other single force can withstand him, no combination of forces will easily overpower him. His position takes the imagination of the country. . . . If he rightly interprets the national thought and boldly insists upon it, he is irresistible; and the country never feels the zest for action so much as when its President is of such insight and calibre." Quoted in C. Rossiter, *The American Presidency*, p. 21 (1965).

The accuracy of this observation is even more compelling in this present age of television than it was in Wilson's pre-radio era. As one distinguished commentator has written:

> ". . . Television has put the President himself in control of what image he will project to the country and enabled him to project it farther and more favorably than was ever possible before, with less competition from Capitol Hill and less interference from the press." R. MacNeil, *The People Machine: The Influence of Television on American Politics*, p. 292 (1968).

A. Television-Age Presidents Are Increasingly Exploiting the Medium

After the hesitant start in the Truman-Eisenhower era, the White House has moved more and more boldly to exploit the use of television so that the medium is now an integral part of the Chief Executive's power. The White House has come to realize that "In a highly communicative world, access to communications broadcast resource is partially equivalent to political power." Baran, *The New Communications and Social Values*, 34 Law and Contemp. Probs., 244, 249 (1969).

Although refusing to permit live broadcasts of his press conferences, President Eisenhower made 49 live television appearances during his tenure in the White House. His appearances came at crucial junctures for his Administration: the veto of the Farm Bill in 1956, the decision to send troops to Little Rock in 1957, the passage of the Labor Reform (Landrum Griffith) Bill in 1959, as well as foreign policy positions with respect to the Middle East, Latin America, NATO and the United States.

President Kennedy used television even more imaginatively and effectively. Six days after his inauguration, he held the first press conference to be broadcast live. The conference was held in the evening to attract a large national audience[2] and, indeed, it captured 33.8% of the eligible television audience. On March 23, 1961, President Kennedy graphically demonstrated his views of the nation's vital interest in Laos, illustrating his points by frequent references to three maps of Southeast Asia. Continuing his innovative use of television, President Kennedy undertook to evaluate, explain and define his Administration's policies in 1962 when he appeared in a broadcast from his study with one representative from each of the major networks.

President Johnson continued the expansion of the President's use of television. In his tenure of five years and two months in office, President Johnson made nearly 100 live television appearances; he averaged more than one appearance for each month in office. President Johnson delivered State of the Union messages to Congress in the evening to attract the largest possible audience. His televised reports to the nation covered such controversial topics as civil rights and tax legislation as well as the nation's foreign involvement in the Dominican Republic and Southeast Asia.

President Nixon has extended the Presidential use of television to seek support from the American public for his position on many controversial matters of public importance. In his 17 months in office, President Nixon has addressed the nation over network television 12 times and in addition has held 10 televised press conferences, for a total of 22 nationwide presentations. He has requested and received prime time from all the networks to advocate at any length he desired his viewpoint on such controversial public issues as (1) his veto of the $20 billion appropriations bill for the Departments of Labor and Health, Education and Welfare, (2) his proposed changes in the nation's welfare legislation, (3) his decision to send in the National Guard to replace striking Post Office workers, (4) his views on the economy, and (5) his position on our involvement in Southeast Asia.

At his ten televised conferences (five of them during the evening hours), the President has responded to 215 questions, and virtually every one of the responses contained a statement on a controversial issue of public importance. For example, the subjects included his views on the invasion of Cambodia, the antiballistics missile system, the economy, crime, education, desegregation, and pollution.

In its proposed rules, the Commission suggests that where there is a series of broadcasts within a period of six to nine months presenting only one viewpoint on a controversial issue, a license has special affirmative obligations.[3] In the last eight months, President Nixon has appeared on television during prime hours no less than six times to advance his position on America's role in the war in Southeast Asia. Indeed, the President has made special television presentations five times in the last eight weeks and has promised another in the next two or three weeks. Three of these five presentations were devoted exclusively to Vietnam and Cambodia; one—a prime-time press conference—dealt almost entirely with the war in Southeast Asia and its domestic implication; and the fifth, while essentially an economic message, included several references to the war in Southeast Asia and dealt extensively with the relationship of that war to our nation's current economic situation.

Footnotes at end of article.

These were the President's television appearances in the last eight months.

On November 3, 1969, on the eve of an election day in many parts of the country and twelve days before a scheduled mass protest on Vietnam, the President appeared on prime-time television to delineate in detail his plan on "Vietnamization."

On December 15, 1969, the President presented a prime-time "progress report," indicating that his plan was proceeding on schedule.

On April 20, 1970, the President delivered another televised "progress report," expressing approval of the operation of his "Vietnamization" plan and announcing his six-month plan for troop withdrawals.

On April 30, 1970, the President announced the invasion of Cambodia which he deemed necessary to the success of his "Vietnamization" program.

On May 8, 1970, a hastily arranged Presidential press conference was televised during prime evening hours, concentrating almost entirely on the Cambodian invasion and its domestic implications.

On June 3, 1970, the President again went on television to proclaim the Cambodian invasion "the most successful operation of the war," dramatizing his views with film clips of captured food, arms and equipment.

On June 17, 1970, the President presented his televised analysis of the nation's present economic state and his prescription for curing its economic problems.

B. The President Has Absolute Control Over the Timing, Format and Content of His Presentation

In each presentation of his views on controversial issues of public importance, the President has had instant access to tens of millions of Americans. On each occasion, the three major commercial networks have agreed to provide to the President his choice of time, sometimes on very short notice. Indeed, the networks have rarely, if ever, refused a specific request for television time to the President. See, R. MacNeil, *op. cit.*, pp. 301-07. As the Chairman of the Senate Foreign Relations Committee recently observed:

"The President can *command* a national television audience to hear his views on controversial matters at prime time, on short notice, at whatever length he chooses, and at no expense to the Federal Government or his party." [4]

Invariably, the President's speeches, if he so requests, are broadcast live simultaneously over the three major commercial networks. Thus, virtually everyone watching television at that time has little choice but to watch the President. Non-affiliated stations often repeat in its entirety a Presidential speech at other hours of the day. For example, after President Nixon's June 17, 1970, speech on the economy was broadcast at noon on all three networks, two local stations in New York rebroadcast the speech in its entirety later in the day, once at 4:00 p.m. and once at 11:00 p.m. See Television Listings, *New York Times*, June 17, 1970, at p. 95, col. 5. While a President's speech is being telecast live on all three networks, it is also simultaneously being broadcast on several radio networks, reaching untold additional millions of Americans. And, whatever the President has said is the subject of wide news coverage including extensive use of film clips of the appearance.

As a result, the President is able to augment the prestige of his office and the effectiveness of a television presentation with a guaranteed national audience of great magnitude. For example, President Nixon's well-publicized press conference on May 8, 1970, received a rating of 48.5%, which indicates that approximately 49,600,000 Americans listened and watched the President respond to questions about his views on such controversial issues as the war in Southeast Asia, student unrest on campus, the conduct of the public and National Guard, the sale of jets to Israel and unemployment.

Moreover, the President is able to choose what he deems to be propitious times and occasions for his addresses to the nation, thereby adding immediate political impact to his words. For example, the President chose to deliver his speech on the economy at noon, when the stock market was still open; his May 8 prime-time press conference was held on the eve of a scheduled mass protest against his policies near the White House.

The President is also entirely free to choose his format and any devices he desires to accentuate the effectiveness of his speech. In addition to using maps, President Nixon was the first President to include film clips in his live presentation to support visually his assertions.

C. The Networks Have Failed to Accord Fair Treatment to the President's Opponents

Against this powerful array of forces, the networks have not sought out, much less permitted, any effective rebuttal. The networks have not faced squarely the three basic questions which arise in considering the appropriate response to a Presidential presentation:

(1) Who are the appropriate spokesmen to respond?

(2) When should the response be broadcast?

(3) What should the format of the response be?

The networks rarely secure or permit persons who hold opposing views to respond to or analyze the President's statement. Generally, the networks have their own correspondents "comment" briefly on the Presidents' speech immediately after his address. This commentary, of course, does not purport to be and does not often have the effect of a presentation of a point of view on the subject which contrasts with the President's. Such sessions are directed primarily to summarizing, paraphrasing and in some cases noting the significance of the Preident's remarks. As Commisioner Cox recently stated concerning the network commentators' treatment of one of President Nixon's speeches on Cambodia: "All they did was reiterate what the President said." *The Evening Star*, June 19, 1970, at p. A4, Col. 4. Moreover, the commentary is invariably brief. As former television correspondent Robert MacNeil points out:

"Resumption of the full commercial schedule has a higher priority than analytic comments by reporters after the President has finished speaking. The usual network practice is to 'fill' until the normal time slot is expired. . . . Knowing this, an astute President will time his appearance so as to fill all or virtually all the time allotted to him." R. MacNeil, *supra*, at pp. 304–05.

Frequently, a network will carry on the next day's news program a very brief quote from a Senator or Congressman. Whatever the effectiveness such comments—which generally do not exceed one or two sentences—might otherwise have is diluted because they are frequently juxtaposed with another Congressman's statements in support of the President's presentation or a film clip of the presentation itself. Moreover, the difference in advance publicity, viewing time and format between the President's speech and any such opposition statement eliminates the latter's effectiveness.

A third approach—which also fails to give a full and balanced response to the President's statements—has recently been given sporadic application by the national networks. For example, after President Nixon's latest address on the Cambodian situation, NBC presented a special Thursday night edition of "Meet the Press" which had representatives who supported the President's views as well as those who opposed them. The next night CBS presented an hour-long "debate" between the supporters of Mr. Nixon's policies and the opponents of those policies. In both, the effectiveness of the opposition was substantially diluted by the difference in format between the "debate-type" program and the President's wholly self-controlled presentation.

To equate a President's unfettered presentation during prime time to a brief off-the-cuff reply carried during a newscast or a tightly controlled debate is like equating Neil Armstrong's first moon step from the Apollo XI spaceship to a Shirley Temple two-step on the Good Ship Lollipop.

In each of his televised addresses, President Nixon, like his predecessors, has been permitted to take all the time he wanted, to use any device (including, for example, maps and films) and to proceed uninterrupted in his presentation. Even at a Presidential news conference, a reporter is not permitted to ask follow-up questions. In marked contrast, the speakers in opposition to the President's presentation have their format and time dictated by the networks. Most importantly, under the present approach, opposition speakers are severely circumscribed in the presentation by questions and comments from reporters and opposing speakers who agree with the President's position.

As expert observers recognize, the manner of presentation often determines the effect and impact of a televised message. See generally M. McLuhan, *Understanding Media* 268–94 (1964). To make a point with maximum effectiveness, a President, a producer of documentaries, or even a commercial advertiser must have freedom within confined time limits to package and project his message. As Professor Miller points out in his book, *The Process of Persuasion*, we are all "creatures of conditioned reflex," and

"[T]he crux of all persuasion jobs, whether selling soft drinks or political philosophy, is to develop these conditioned reflexes by flashing on trigger words, symbols or acts." V. Packard, *The Hidden Persuaders* 18 (1957). See also H. Burtt, *Psychology of Advertising* (1938).

During the 1968 Presidential campaign, Ray Price, an advisor to Mr. Nixon, wrote:

"We have to be very clear on this point: that the response is to the image, not to the man. . . . It's not what's *there* that counts, it's what's projected—and carrying it one step further, it's not what *he* projects but rather what the voter receives." [5]

To counter the tremendous impact of a President's unfettered televised presentations, those who hold differing views on controversial issues of public importance must be free to project a coherent and complete response, which will at least begin to approximate in the minds of the viewers the impact of the President's position.

The Commission has already recognized that political spokesmen should have substantial freedom in choosing the manner and format for presenting their views to the public. *King Broadcasting Co.*, 15 F.C.C. 2d 829 (1967). To afford the American electorate a balanced presentation of views on controversial issues, the networks must permit those who hold opposing views from the President's reasonable opportunities comparable in duration, scheduling and freedom of format, to present their views.

IV. The Fairness Doctrine Requires the Rule Which the DNC Proposes

The Rule we propose promotes the Commission's well-established and judicially endorsed fairness doctrine, which requires broadcasters to act fairly in permitting a reasonable opportunity for reply in specific circumstances affecting the public interest. As codified by statute, 47 U.S.C. § 315(a) (1964) the fairness doctrine requires a broadcast licensee to afford "reasonable opportunity for the discussion of conflicting views on issues of public importance." As

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interpreted by the Supreme Court, this statute imposes an obligation on the broadcasters, "to discuss *both sides* of controversial public issues." *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. at 380 (emphasis supplied). Yet, as we have demonstrated, insofar as Presidential presentations are concerned, the networks have provided no reasonable or fair opportunity for reply.

A. The President's Television Presentations Pose a Special Problem Under the Fairness Doctrine

Under the fairness doctrine, what is "fair" in any one situation depends upon all of the surrounding circumstances. *See, e.g., King Broadcasting Co.*, 15 F.C.C. 2d 829 (1967). Given the enormous impact of a Presidential television presentation and the President's instant access to tens of millions of Americans, fairness requires at the very least that the President's opponents be given an opportunity which is in every feasible manner equal to the President's.

The networks have been patently unfair to the President's opponents and have thereby violated their public trust for the American people whose interest they are required by law to serve.[6] As the Supreme Court emphasized in *Red Lion:*

> "It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount." 395 U.S. at 390.

The networks have failed in their "obligation of presenting important public questions fairly and without bias"[7] and they have failed in their "fiduciary . . . obligations to present those views and voices which are representative of [the] community." *Red Lion Broadcasting Company,* 395 U.S. at 389. This is particularly unfair and unfortunate because of the enormous impact on public opinion which a Presidential presentation is likely to have.

Obviously, the President addresses on national television only the most critical questions of the day—questions on which there will likely be several contrasting opinions. It is precisely those questions which require the complete and unfettered discussion that our system contemplates to inform our citizens and thus enable them to participate intelligently in the democratic process. *See Red Lion Broadcasting Co.,* at 390. If the President of the United States considers a matter of such importance that he requests national television time and if the network believes the matter is of such importance that it provides such time to the President, then the matter is obviously important enough to impose an affirmative responsibility on the broadcaster to secure and present appropriate spokesmen with contrasting viewpoints.

Presidential pronouncements are, of course, subject to the terms of the fairness doctrine. *See, e.g., Republican National Committee,* 3 R.R.2d 767, 769 (1964); *Sen. Eugene J. McCarthy,* 11 F.C.C.2d 511 (1968). Indeed, in the 1964 proceeding, initiated by the then Republican National Chairman, Dean Burch, the Commission held that in response to a Presidential speech broadcast simultaneously on the three national networks, the networks were obligated under the fairness doctrine to provide a reasonable opportunity to opposition speakers to insure that their viewpoints were effectively presented to the public.[8]

The DNC believes that this situation requires that the Commission promulgate a rule to delineate the network's obligations. A specific rule, like the one proposed herein, will make crystal clear to the networks their responsibilities in fully presenting contrasting viewpoints on important controversial issues and will permit them to operate confidently under the fairness doctrine in the particular area of Presidential broadcasts. *See, e.g., In the Matter of Amendment of Part 73 of the Rules To Provide Procedures in the Event of a Personal Attack or Where a Station Editorializes as to Political Candidates,* 8 F.C.C.2d 721, 724 (1967). ("A major purpose of the rules is to clarify and make more precise the procedures which licensees are required to follow. . . .") Moreover, a carefully constructed, specific rule is not only easier for the Commission to administer than a case-by-case approach but a duly promulgated rule will also permit the Commission to use, when necessary, all of the enforcement powers provided it under the Communications Act. *Id.* at 722–24.

B. The Networks Have an Affirmative Obligation to Present Contrasting Views

Because we are addressing the adequacy of a response to a Presidential presentation broadcast simultaneously over three national networks, the DNC believes that the rule it proposes must be adopted on a uniform, national basis. The obligations therefore must be placed on the network, which originated the Presidential address, as well as any individual licensee.[9]

The DNC's proposed rule places an affirmative obligation on the networks and licensees to solicit and present viewpoints which contrast with the President's. It has long been the policy of the Commission to enforce the "affirmative duty [of the licensee] to encourage and implement the broadcast of controversial public issues." In the Matter of Editorializing by Broadcast Licensees, 13 F.C.C. 1246 (1949). Given the impact of a Presidential speech, an obligation on the licensee to provide comparable time to opposing viewpoints will best provide a way for the broadcaster to satisfy its obligation to help produce an informed populace.[10]

The rule would also recognize that, as we have demonstrated, virtually every Presidential broadcast presentation contains his viewpoint on controversial issues of the day. That presumption would be written into the rule in order to insure timely responses to the Presidential point of view and to eliminate the need which might otherwise exist for this agency to become enmeshed in disputes between the broadcasters and responsible spokesmen eager to respond. Nevertheless, there will inevitably be disputes in this area, perhaps regarding whether a controversial view was espoused and surely whether a broadcaster has met his affirmative obligation to seek out responsible spokesmen. In order to facilitate the resolution of such dispute, the DNC proposes that broadcasters be required to maintain records—open for public inspection and copying—detailing their efforts in this area.

The affirmative obligations the DNC proposes here follow logically from the rules which the Commission now proposes. The Commission's proposed rules place an affirmative obligation on a broadcaster to seek out a proponent of a contrasting viewpoint after a television editorial or a series of broadcasts on a controversial issue. The rationale for the Commission's proposed rule is to afford prompt and full discussion of a controversial issue by the advocates of a variety of contrasting opinions. We support this concept.

The Commission has recognized that where a licensee editorializes or broadcasts a series of programs, presenting only one side of an issue, he cannot passively rely on general over-the-air invitations to present the other side. The Commission states that if "the licensee has adjudged the subject matter of such importance to his community as to warrant an editorial," he must "make every reasonable effort to encourage presentation of views in opposition to his editorial." Notice, p. 6. Even though the licensee has presumably weighed all of the aspects of an issue and presents in an editorial a reasoned, unbiased conclusion, he must still select suitable persons with contrasting views, notify them of the issue and assist them in all appropriate ways to present their views.

If there is an obligation to find responsible opposition spokesmen where a presumably objective broadcaster editorializes on a given issue, how much greater should his obligation be when a President of the United States, the leader of a political party and a partisan of particular policies, presents his views on controversial matters of public importance? Moreover, when one compares the probable impact of a Presidential statement with that of a broadcaster's editorial, it becomes all the more important that the broadcaster assume an affirmative role in presenting views which contrast with the President's.

C. The Networks and Licensees Must Solicit Appropriate Opposing Spokesmen

Under the DNC's proposed rule, the affirmative obligation by the networks and licensees would be to notify and secure appropriate, responsible spokesmen who hold opposing views from those which the President has expressed on a controversial issue of public importance, and who are prepared to state them in prompt rebuttal to the President's presentation.[11] Both the Supreme Court and the Commission have recognized that a contrasting point of view is generally not adequately presented when provided by the licensee himself in an attempt to balance the record. In proposing the rules under advisement, the Commission noted that "requiring the *licensee* to present the contrasting viewpoint might inhibit the robust debate sought." Notice, p. 7, n. 8. (Emphasis added) *See also Radio Albany, Inc.,* 4 R.B. 2d 277 (1965). The Commission has recognized that a presentation by a licensee will not have the same impact as a presentation by an interested party. "'[I]ntonation, speech pattern and inflection are incomparably related to verbal expressions of opinion.'" *Id.* at 278. As the Supreme Court recently observed, quoting John Stuart Mill:

> "'[It is not] enough that [one] should hear the arguments of adversaries from his own teachers, presented as they state them, and accompanied by what they offer as refutations. That is not the way to do justice to the arguments, or bring them into real contact with his own mind. He must be able to hear them from persons who actually believe them; who defend them in earnest, and do their very utmost for them.' J. S. Mill, *On Liberty 32* (R. McCallum ed. 1947.)" *Red Lion, supra,* at p. 392, n. 18.

In direct contrast to this policy, Richard W. Jencks, President of the CBS Broadcast Group, recently stated that the CBS "news organization can give a fairer presentation" of controversial issues than truly partisan spokesmen. *N.Y. Times,* March 22, 1970, p. 39, col. 1. Opposition spokesmen should not have to contend with positions such as this when seeking to make a reasoned response under the fairness doctrine.

Under the rule that DNC proposes, a television network may have to present more than one opposition viewpoint. On some issues, there may be several significantly different opinions. The DNC's rule would require that each significant responsible view be given an equal opportunity to be heard. The Commission has clearly stated that "to accord one organization or group favored treatment, beyond that accorded to other responsible organizations," would be to the violate the fairness doctrine. *Lloyd C. Sigmon,* 8 F.C.C. 2d 987 (1967). Of course, the broadcaster is under no obligation to present highly extreme or irresponsible positions. *See Tri-State Broadcast,* 3 R.R. 2d 175 (1962). However, it is the obligation of the networks to present fully all responsible opinions. To do less is to defeat the interest of the public in receiving "suitable access to social, political, esthetic, moral, and other ideas and experiences." *Red Lion Broadcasting Co.* v. *FCC,* 395 U.S. at 390. In the final analysis, of

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course, as the Commission notes in its proposed rules, the broadcaster would still have discretion to choose in good faith the appropriate spokesmen who would be notified and given a full opportunity to respond.

D. The Opposing Spokesmen Must Be Given Equal Opportunity To Respond

To begin to counterbalance the enormous impact of a Presidential presentation, the DNC's rule incorporates the "equal opportunities" standard of § 315(a) of the Communications Act. We submit that nothing less than a truly equal opportunity for opposing spokesman to articulalte and rally support for their opposition will begin to allow for a fair presentation of contrasting viewpoints. If the public is not to adopt uncritically all Presidential suggestions without hearing contrasting viewpoints, substantial and effective offsetting measures are required. Only an appearance by an opposition spokesman comparable in duration, scheduling and freedom of format can hope to provide the necessary balance to a Presidential presentation.[12]

In delineating the obligations of the equal opportunities doctrine the Commission has noted that while "perfect equality is not practicable . . . a licensee must see to it that that time segments offered . . . are substantially equal in duration, quality and desirability of hours." *Station KTTV*, 14 R.R. 1227 (1957).

We submit that the spokesmen opposing the President's views must not be restricted in presenting their viewpoints by inappropriate program formats or inadequate scheduling offers. See *King Broadcasting Co.*, 15 F.C.C. 2d 829 (1967). In a fairness doctrine context, the Commission has recognized that a comparable opportunity for presentation by opposing spokesmen is necessary to the effective presentation of their viewpoint. In adopting the personal attack and political editorialzing rules, the Commission said:

"The phrase 'reasonable opportunity' to respond is used here and in the personal attack subsection because such opportunity may vary with the circumstances. In many instances *a comparable opportunity in time and scheduling will be clearly appropriate;* in others such as when the endorsement of a candidate is one of many and involves more than a few seconds, a 'reasonable opportunity' may require more than a few seconds if there is to be a meaningful reply." 8 F.C.C. 2d at 727. [Emphasis added.]

Moreover, as the Commission, as well as psychologists, political scientists and advertising executives, among others, has recognized, control over the format of the presentation is essential to success in affecting public opinion. In the case of personal attacks, the Commission has noted that the victim "might conclude that a panel or round-table discussion does not afford a comparable opportunity to reply", when the offending remarks were made on a program of a different nature. *John Birch Society*, 11 F.C.C. 2d 790, 791 (1968). An uninterrupted Presidential appearance requires a similarly unfettered opposition presentation, if contrasting viewpoints are to be forcefully put forth.

To permit less of an opportunity for a contrasting presentation is to defeat the "paramount . . . right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences." *Red Lion Broadcasting Co. v. F.C.C.*, 395 U.S. at 390.

The DNC's proposed rule will serve to insure that the American public is exposed to contrasting sides of a controversial issue of public importance. To countenance less than a full presentation by a network or licensee is to favor one idea over another. Such a result is the antithesis of free discussion. It maximizes the power of the President and the networks over public opinion and makes less likely the ability of new or contrasting ideas to gain currency. As the Supreme Court said in *Red Lion*, "There is no sanctuary in the First Amendment for unlimited private censorship operating in a medium not open to all." 395 U.S. at 392.

CONCLUSION

For the foregoing reasons, the Commission is hereby respectfully urged to promulgate a rule providing that:

(a) When a network or licensee broadcasts a presentation by the President of the United States of a viewpoint on a controversial issue of public importance, that network or licensee has an affirmative obligation to seek out responsible persons or entities with significant contrasting viewpoints on the controversial issue and afford them equal opportunities to present their views.

(b) In the case of any broadcast of a Presidential address or press conference, it shall be presumed that the President has presented a viewpoint on a controversial issue of public importance; and in the event of any complaint of non-compliance filed with the Commission, the burden shall be upon the network or licensee to establish compliance with this rule.

(c) Each network and licensee shall be required for a period of not less than three years to maintain a complete tape and transcript of every presentation by the President which it broadcasts and to maintain records detailing all actions taken by it to fulfill its affirmative obligations under this rule. Such records shall be available for inspection and copying at any reasonable time upon the request of any person.

Note: The term "equal opportunities", as used in paragraph (a) hereof, shall have the same meaning and effect that it has under Section 315(a) of the Communications Act of 1934, 47 U.S.C. § 315(a) (1964).

FOOTNOTES

[1] As students of the Presidency have noted, the President wears many hats and acts in many capacities. See C. Rossiter, *The American Presidency*, 2–33 (1956).

[2] The White House, of course, appreciates the facts that (1) approximately 95% of American households or 59 million households possess at least one television set and (2) the number of viewers increases throughout the day so that during prime time as many as 70% of the television sets will be turned on. Thus; at the same time in a single evening, there could be 120 million persons viewing.

[3] The network's affirmative obligation to seek opposition spokesmen if they present a one-sided series on controversial issues may stem from the likely impact of such a series. Multiple presentations make it possible to reach a larger number of persons. The reiteration of ideas in successive presentations also makes it more probable that they will be accepted by the public. We submit that a single Presidential presentation is likely to reach a larger audience and have a greater impact on public opinion than a series of broadcasts by a licensee.

[4] J. W. Fulbright, Speech to Senate, CONGRESSIONAL RECORD, page 17837, June 2, 1970. See also E. S. Muskie, Speech to Senate, CONGRESSIONAL RECORD, page 17837, June 2, 1970.

[5] J McGinnis, *The Selling of the President*, p. 37. As Alexander and Myers wrote in "A Financial Landslide for GOP," *Fortune*, March, 1970:

"From early 1967 until just before the election, Richard Nixon turned down all invitations to be interviewed on "free" programs like *Meet the Press* and *Face the Nation*. He preferred to pay for his time so that he could control content and format in his television appearances."

[6] NBC's reported offer of time to certain Democratic Congressmen to respond to one of President Nixon's speeches on the economy underscores the problem. In the first place, the other two major networks have failed to make similar offers. Secondly, NBC does not offer this time pursuant to a general policy but only in response to one isolated presentation. This does not satisfy the fairness doctrine.

[7] S. Rep. No. 562, 86th Cong., 1st Sess., 8-9 (1959).

[8] In *Republican National Committee*, the Commission approved the conduct of ABC when in response to a half-hour address by President Johnson, it provided Senator Goldwater with 25 minutes of reply time as well as carrying numerous newscasts in which his views were broadcast. Similarly, NBC's conduct was approved because it offered 15 minutes of reply time as well as presenting numerous newscasts and news type programs. In contrast, the Commission questioned CBS' conduct which consisted solely of newscasts.

[9] There can be no doubt that the Commission's authority extends to promulgating rules which operate directly upon television networks. *See* In the Matter of Amendment of Part 73 of the Commission's Rules and Regulations with Respect to Competition and Responsibility in Network Television Broadcasts, May 4, 1970.

[10] As the Commission has noted, the purpose of the fairness doctrine is "the development of an informed public opinion through the public dissemination of news and ideas concerning the vital public issues of the day." 13 F.C.C. 1249.

[11] The Commission has often noted, in other contexts, that "time is of the essence" if a reply is to be meaningful. In the Matter of Amendment of Part 73 of the Rules To Provide Procedures in the Event of a Personal Attack or Where a Station Editorializes as to Political Candidates, 8 F.C.C. 2d 721, 727 (1967). For example, when the broadcaster had broadcast an editorial the day before an election, a five hour delay before a response could be aired was found a violation of the fairness doctrine. Capitol Broadcasting Co., 8 F.C.C. 2d 975 (1967).

[12] It is arguable that a televised Presidential presentation is so prodigious in its impact that any effective rebuttal would require more time at a preferable hour than that afforded the President's speeches.

DISTRICT OF COLUMBIA REPRESENTATION: THE KENNEDY AMENDMENT

Mr. CRANSTON. Mr. President, last Friday's Los Angeles Times contained an excellent editorial on the need for representation in Congress for the District of Columbia. The editorial, entitled "Our Disenfranchised Capital," eloquently makes the point that simple fairness in our democratic system requires that citizens of Washington, D.C., should enjoy the same representation in Congress to which the rest of the Nation's citizens are entitled.

I believe that representation in Congress for the District of Columbia is long overdue. I believe that we must work to attain such representation at the earliest possible opportunity, in order at last to bring the citizens of our Capital City the mainstream of American democracy.

The distinguished Senator from Massachusetts (Mr. KENNEDY) has proposed to achieve this goal by offering an amendment on the Senate floor during the debate on electoral college reform. I support Senator KENNEDY's proposal, and I am pleased to be a cosponsor of his amendment.

Mr. President, I believe the Los Angeles Times editorial will be of interest to us all. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

OUR DISENFRANCHISED CAPITAL

A hundred and 94 years after Independence, taxation without representation is a going concern in only one part of the United States—the District of Columbia.

Although residents of the district were given the right to vote for President and Vice President by constitutional amendment in 1961, a similar amendment giving the district senators and congressmen has been prevented from coming to a vote in the House and the Senate by political opposition, chiefly from the South.

The amendment to give the district representation in Congress has wide bipartisan support, but it has been bottled up in the House Rules Committee and the Senate Judiciary Committee. It is no secret in Washington that certain powerful Southerners on these committees dislike the idea of giving representation to a city a majority of whose citizens are black.

But representation, of course, is the fundamental right of all citizens. When the capital district was established the Founding Fathers, envisioning it as a neutral place insulated from political pressures, set it up in a country swamp. Times have changed, and so has the district.

It is now a big city with a greater population than 11 of the states.

Its 900,000 disenfranchised citizens have an additional cause for complaint, for Congress is in effect the district's city council.

In an effort to get the representation amendment before Congress for a vote, Sen. Edward M. Kennedy (D-Mass.) plans to attach it as a rider to the upcoming constitutional amendment calling for popular election of the President.

We hope the tactic works. It seems to us only fair that the district's residents should have the representation the rest of us have. It is certainly only fair that Congress should have the opportunity to vote on whether to submit the amendment to the states for ratification.

S. 1478—ESTABLISHMENT OF A COMMISSION ON REVISION OF THE ANTITRUST LAWS OF THE UNITED STATES

Mr. JAVITS. Mr. President, as the Senate considers whether or not to approve the amendment of S. 1520 now before us, I want to call attention once again to the urgent need for comprehensive review and revision of our basic antitrust laws.

The role of antitrust legislation in the modern industrial economy has been the subject of endless debate in recent years. Though many academicians, businessmen and legislators are unhappy with various aspects of our current antitrust policy as formulated and administered by the Courts, the Justice Department and the Federal Trade Commission, antitrust has proven to be much like Mark Twain's aphorism on the weather—nobody has really done anything about it.

There is no question in my mind that something should be done about it. Our basic antitrust precepts were formulated three-quarters of a century ago to apply to a very different kind of economy than exists today. At that time the economy was not highly centralized and subject to practically no Government controls. The antitrust laws were necessary to insure at least a degree of regulation through the preservation of competition.

I am not suggesting that we scrap our antitrust laws or that competition is an anachronism. But it is evident that the antitrust laws are only one of a whole series of devices presently available to Government to control excesses in our economic system. These controls include the amount and type of Government lending and guarantees, Government licensing, tax policy, interest rates, and labor-management relations, to name just a few.

I feel that many of the criticisms—which have been made of the courts, the Federal Trade Commission, and the Justice Department for failing to take into account in the administration of the antitrust laws this fundamental change in the nature of the economy—are justifiable. I particularly deplore the tendency to rely more and more on per se rules of illegality and the tacit abandonment in such cases of the rule of reason. But even if criticism of particular decisions may be merited, such criticism is not going to accomplish the needed reforms. The essence of the problem is that we have allowed the courts, the FTC and the Justice Department to make our antitrust policy, whereas in my view this responsibility is in the Congress.

That is why for the last several years I have introduced a bill—it is S. 1478 in this Congress—to establish a high-level commission to study all aspects of our antitrust policy and make appropriate recommendations to Congress for amending the law. I believe that it is only on the basis of the recommendations of such a commission that Congress is likely to be moved to action.

What I am driving at is, perhaps, best illustrated by the case of bank mergers. The Supreme Court, after deciding—rightly or wrongly—that such mergers were subject to section 7 of the Clayton Act, proceeded to judge the legality of the mergers solely from the standpoint of their effect on competition. In a rare example of its kind since the 1880's, pressure—legitimate pressure—from the banking community led Congress to step in, through the Bank Merger Act, to broaden the criteria of legality to take into account other interests in addition to the preservation of competition.

I suggest that there is nothing really unique about banks and that the same technique might well be applied in other cases.

We need to rethink, from scratch, what it is we really want our antitrust laws to do—where they should lead us, if you will—at this point in our economic development. The courts and the FTC are not going to do this job of rethinking for us, and neither is Congress unless it gets some support for the kind of commission I have proposed and from the business community.

I am, of course, not so naive as to think that the commission will resolve all the deeply held views about the role of antitrust policy into one broad consensus. Thus, whatever the commission concludes about conglomerates and the current merger trend—and that will surely be one of its prime subjects of inquiry—I have no doubt that there will continue to be sharp differences of opinion as to just what, if anything, the Government should do about it.

However, there are many areas where I think the Commission might make recommendations that would find broad support in Congress. Let me just mention a few of them:

One of the areas in which the Commission clearly could make a most valuable contribution is in the application of our domestic antitrust laws to foreign trade and investment. For many years, experts have been pointing out how the rigid application of the antitrust laws has put our exporters at a serious competitive disadvantage abroad. That is not a matter to be taken lightly in these days of concern with our balance of payments and our poor export showing last year.

No less pressing is the need to encourage the investment of private capital of the United States and other developed countries in the developing countries. Again it is widely felt that our antitrust laws are an inhibiting factor, particularly to the establishment of consortia of United States and other private companies from industrialized countries grouping to invest in less developed countries. In both instances, there is a deep conflict between our antitrust philosophy and other major national policies when there should be coordination and thoughtful accommodation between them.

Another extremely valuable contribution the Commission could make would be to determine if the Robinson-Patman Act forbidding price discrimination continues to serve any purpose and, if so, to rewrite the act so that the courts who must interpret it, and the businessmen who must obey its abstruse commands, can make some sense out of it. For years now the courts have been extending pointed invitations to Congress to do something about this problem, and it is time the invitation was accepted.

Still another way in which the commission could perform a valuable service is to clarify the relationship between the Justice Department and the FTC in the enforcement scheme. At present, there is a good deal of overlap in their functions, particularly under the Clayton Act, which seems quite unnecessary. Similarly the relationship between private suits and Government suits could be clarified and strengthened.

Yet another area which the Commission could profitably give its attention to is marketing techniques. With the growth of the economy a number of novel marketing techniques have evolved, and with them have come, inevitably, antitrust problems. These problems include resale price maintenance, fair trade laws, limitations on competition between distributors and a whole panoply of problems connected with franchising.

Mr. President, this of course is only the briefest summary of what the Commission I propose could profitably consider. I am deeply convinced that our antitrust laws need to be modified and that this can be done only if Congress is willing to reassert its rightful prerogative in shaping our basic antitrust policy. I am still hopeful that time may be found for hearings on S. 1478 and I am confident that broad support exists to establish the Commission I propose, to lay the ground for Congress reasserting its voice in this area.

Finally, Mr. President, I ask unanimous consent that S. 1478 be printed in the Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1478

A bill for the establishment of a Commission on Revision of the Antitrust Laws of the United States

Whereas the antitrust statutes of the United States are, in certain major areas of their application, in need of revision; and

Whereas there exist under the antitrust statutes of the United States conflicts in policy as to the proper standards of conduct required to be observed by American business; and

Whereas a thorough examination is essential in order to determine the impact of such statutes upon the productivity and long-range economic growth of the United States and upon United States foreign trade, investment, and economic policy: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a Commission on Revision of the Antitrust Laws of the United States (hereinafter referred to as the "Commission") constituted in the manner hereinafter provided.

PURPOSE OF THE COMMISSION

Sec. 2. The purpose of the Commission shall be to study the effect upon competition (including competition between American business and foreign business), price levels, employment, profits, production, consumption, foreign trade, economic growth, and the capability of the economy to best sustain the Nation at home and abroad of—

(1) existing antitrust statutes (including enforcement proceedings thereunder), as interpreted by judicial, executive, and administrative decision;

(2) existing price systems and pricing policies of trade and industry in the United States; and

(3) the extent and causes of concentration of economic power and financial control.

MEMBERSHIP OF THE COMMISSION

Sec. 3. (a) Number and Appointment.—The Commission shall be composed of twenty-four members as follows:

(1) Eight appointed by the President of the United States, four from the executive branch of the Government and four from private life.

(2) Eight appointed by the President of the Senate, four from the Senate, and four from private life.

(3) Eight appointed by the Speaker of the House of Representatives, four from the House of Representatives, and four from private life.

(b) Political Affiliation.—Of each class of four members mentioned in subsection (a), not more than two members shall be from each of the two major political parties.

(c) Vacancies.—Vacancies in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

Sec. 4. The Commission shall elect a Chairman and a Vice Chairman from among its members.

QUORUM

Sec. 5. Thirteen members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

Sec. 6. (a) Members of Congress.—Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Members From the Executive Branch.—Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $30,000; and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) Members From Private Life.—The members from private life shall each receive not exceeding $100 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

Sec. 7. (a) (1) Hearings.—The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) Official Data.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

Sec. 9. The Commission shall transmit to the President and to the Congress not later than three years after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

Sec. 10. Sixty days after the submission to Congress of the final report provided for in section 9, the Commission shall cease to exist.

SENATOR EAGLETON'S CONCERN FOR THE DISTRICT OF COLUMBIA

Mr. KENNEDY. Mr. President, in too many instances we who are in the political arena are accused of responding only to the issues that clearly promise some kind of political mileage. Yet for those of us here in the national legislature, it is rare to see sincere concern expressed for the District of Columbia.

However, I believe that the distinguished Senator from Missouri (Mr. Eagleton) deserves praise and appreciation for his work in the past 18 months as a member of the District of Columbia Committee.

Ever since his assignment to that committee, Senator Eagleton has worked tirelessly in support of the city's needs. I have often admired how his zeal and enthusiasm have stimulated renewed congressional interest in District of Columbia affairs. I believe everyone of us here is aware of the importance to guarantee for the people who live in the Nation's Capital that their personnel affairs can be managed and directed by officials they have selected, instead of by those of us sent here to represent constituencies from around the country.

An excellent summary of Senator Eagleton's approach to the tasks he has assumed on that committee appeared in the Washington Post last Saturday.

Robert L. Asher, an editorial writer for the Post, has placed Tom Eagleton's efforts in a perspective that should inspire the concern of every Senator. For that reason, I ask unanimous consent to have printed in the Record Mr. Ashers editorial review of Senator Eagleton and the District of Columbia, published in the Washington Post of July 11, 1970.

There being no objection, the article was ordered to be printed in the Record, as follows:

The District Committee's Man From Missouri

(By Robert L. Asher)

The youngish man in the red and white short-sleeved shirt swivels through the cramped suite in the New Senate Office

Building, wisecracking about the Senator, changing the Senator's speech text, peeking at the Senator's mail and introducing himself to the Senator's waiting visitors.

He says, "Hi, I'm Tom Eagleton"—because he is the Senator.

And he also talks a lot about the District of Columbia—originally because he had to, and because he wants to. It started a year and a half ago, when at age 39 Thomas F. Eagleton became the junior senator from Missouri, subject to the senatorial fraternity's time-honored tradition of hazing freshmen.

To earn full standing in this brotherhood, all new pledges are given a variety of menial chores: necessary but unthrilling duties that most seniors are eager to throw off. This is about where duty on the Senate District Committee ranks, and that's exactly where Eagleton wound up.

What's more, he promptly won the uncoveted title of chairman of the Committee's fiscal affairs subcommittee, which entails listening to countless hours of testimony about the city's revenue problems—taxes, the annual federal payment to the city, borrowing authority and the like—and hammering out legislation for consideration by the full seven-member committee.

Unlike their House District Committee counterparts, who have fewer constituents and nearly four times as many committee members, most senators faced with D.C. duty are hardly in a position to really dig in, unless they are from Maryland—as are Chairman Joseph D. Tydings (D) and Charles McC. Mathias Jr. (R)—or Virginia, as is William B. Spong Jr. (D).

Yet to their credit, all seven members have been generally sympathetic to the city government's legislative hopes, from home rule bills on down the line. It was simply that no one anticipated Tom Eagleton's gusto.

Eagleton immediately began boning up on the city's incredibly baffling budgetary system, under which his subcommittee authorizes revenue-raising measures but must leave the item-by-item spending approvals to the appropriations committees. His findings prompted him to depart from traditional gentlemanly dealings with the House committee; instead, Eagleton ripped into the other side of the Hill for giving what he termed "pious speeches" about crime here while approving "reverse-progress" revenue bills.

As a man with crime-fighting credentials (youngest elected circuit attorney for the city of St. Louis, youngest Missouri attorney general, youngest lieutenant governor), Eagleton concluded that the House was shortchanging the city's efforts to deal with the "root causes" of crime by failing to allow enough funds for nonpolice programs such as narcotics treatment, the courts or correctional improvements.

Later last year, Eagleton raised more than a few Senate eyebrows when he led a floor fight against the Appropriations Committee and managed to win a 2 per cent increase in the budget that finally was approved. Bucking the appropriations fellows is touchy business, but thanks to his humor and his homework, the junior senator seemed to carry it off without serious reprisals.

Certainly there is no political mileage in Missouri for this sort of concern about Washington. Why does Eagleton bother?

Before answering, he moves from behind his desk to a chair on the interviewer's side, observing that he's "tired of looking like a bank president." Then he prefaces the answer with some anxiety that what he is about to say may sound corny or self-serving. "It's not that I'm trying to be a knight in shining armor or a great crusader," he replies, "I just have an interest in cities, and the same sort of problems that I worked with in St. Louis."

Eagleton notes that St. Louis is comparable to Washington in size, ethnic makeup, degree of poverty and affluence of suburbs. To him, the District Committee assignment is an opportunity to wrestle with urban issues. "Cities are going to pot, and if we don't save them the country is in for a hell of a lot of problems," the senator says. "I know that's old hat, but it's so patently true."

What Eagleton didn't realize when he began was that despite all these similarities between his city and this one, the big difference is in the governing. "Before, I believed in home rule for the District in theory," he remarks. "Now, one and a half years later, I believe in it one million per cent. Just look—Congress has to figure out if you can fly a kite here, Congress tells you to put flags on a policeman's uniforms . . . This stuff epitomizes the dilemma a resident of the District is in."

How much time does Eagleton spend on District affairs?" "Let's face it—the District comes third," he replies, noting that there are some 4.5 million voters in Missouri with interests in the education and health problems he handles on the Labor and Public Welfare Committee and the air and water pollution problems he handles on the Public Works Committee. "I'm not feeling guilty when I say that," he adds, "it's just a hard fact of staff hours."

It means shunting off citizen groups to members of his office staff and relying on District Committee aides, Jack Lewis and Ted Maeder as his "issue-spotters." In addition, Eagleton works closely with Tydings and Spong on many committee efforts.

"If 50 residents want to see me about rat control here," Eagleton says, "I've got to remember that there's flood control and OEO grants in Missouri to worry about. It's just hard to find time to know the problems of Joe Citizen in Cardozo, much as I'd like to."

As a result, Eagleton's contacts with the community are limited generally to city government leaders, such as Mayor Watler E. Washington, members of the school board or witnesses at hearings.

Within the committee, members over the years usually have striven for a public posture of unanimity on most issues. But lately, there have been occasions when the members have differed, such as over provisions in the pending anticrime bill. Eagleton notes that the issues and opinions vary not so much along the usual "liberal-conservative" lines, but according to the differing backgrounds and interests of both House and Senate District committee members. There are the House Southerners, the members from Washington's suburbs and those from other cities and rural areas.

Thus, Eagleton has no problem supporting such things as a proposal to tax suburban residents on income earned in the District. St. Louis has such a tax ("It's the number one revenue-producer, and I still pay it"). Tydings and Spong are not about to back it.

But the House committee is the great sticking point with Eagleton. "It has a distinctly different approach to urban problems than I do. That group as a whole seems to feel that the problems are ameliorated by, if you will, benign neglect."

Should the city government stand up to Congress more? "The mayor plays it about the way he has to play it,' Eagleton feels. "If he yelled and screamed terribly loudly, the day of retributional reckoning would come. He doesn't have that kind of clout. He isn't dealing on a parity basis. All the muscle chips are on one side of the table.

"If the city is ever to get off dead center—and dead center right now is kind of going backwards—there are two indispensable things: home rule and a statutory, agreed to, continuing, at-least-30-per-cent federal payment." An elected government without the money guarantee would still face the same "stranglehold" of Congress, Eagleton feels.

Does Eagleton enjoy the job enough to want to stay on the committee in the future? "I'm taking no oath in blood for eternity." he comments, "let's say we're doing it in two-year hunks."

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The BILL CLERK. A bill (S. 1830) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The celrk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HANSEN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. ALLEN). The amendment will be stated.

The Assistant Legislative Clerk read as follows:

> On page 182, line 1, strike out the words "open to entry," and insert in lieu thereof the words "open to mineral leasing, entry,".

Mr. HANSEN. Mr. President, this amendment is merely technical and clarifying in nature.

Section 23(a)(1) of the Alaska Native claims bill provides the Secretary with the authority to withdraw lands for a period of 5 years from all form of appropriation under the public land laws including the mining and mineral leasing law.

The bill provides that the Secretary shall then, at his discretion, classify such lands and open them to "entry, selection, or location for disposal in accordance with applicable public land laws." My amendment would clarify this provision so the Secretary of the Interior would be authorized to classify the lands and open them to mineral leasing as well as those forms of appropriation which I have just mentioned.

This amendment is intended to be merely of a qualifying nature and I believe reflects the intent of the Senate Interior Committee as I understand the intent of the committee.

Section 23 was not intended, as pointed out in the report, to provide a freeze on mineral leasing in Alaska for a period of 5 years.

Section 23, as originally drafted, was only intended to allow for the orderly disposal and leasing of the public lands in Alaska and it is with this intent that I offer the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

Mr. JACKSON. Mr. President, the Senator's amendment is entirely in order. The committee intended to do what the Senator from Wyoming is now correcting by his amendment. I am, therefore, very pleased to accept the amendment offered by the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank the distinguished chairman of the committee and express my appreciation to him for his consideration.

The PRESIDING OFFICER (Mr. ALLEN). The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. ALLEN). The question now recurs on the amendment of the Senator from Oklahoma.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. JACKSON. Mr. President, I ask unanimous consent that the pending Harris amendment and all amendments thereto be voted upon not later than 12:15 p.m. I understand the Senator from Oklahoma has agreed to that request. He is not in the Chamber at the moment, but I understand that he has agreed to this procedure.

Mr. GRIFFIN. Mr. President, we have checked with Senators on this side who are interested, and there is no objection.

The PRESIDING OFFICER (Mr. ALLEN). The request was for the amendment including all amendments thereto to be voted on not later than 12:15 p.m.

Mr. JACKSON. That is correct.

The PRESIDING OFFICER. Would the time be controlled?

Mr. JACKSON. The time is to be controlled by the junior Senator from Washington and the senior Senator from Oklahoma.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, may I inquire of the distinguished Senator from Washington, who is the manager of the bill, if there would be any reason why we could not get an agreement on a time limitation of 1 hour or even one-half hour on any amendments thereafter to the bill?

Mr. JACKSON. Mr. President, I see no reason why we should not be able to agree to a 1-hour limitation on all amendments offered thereafter. I would like to inquire of the able Senator from Wyoming (Mr. HANSEN) if we could get an agreement in that connection.

Mr. President, I suggest, and I will put it in the form of a request, that there be a 1-hour limitation on all amendments offered after the Harris amendment. This would give one-half hour to each side.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. HANSEN. Does the Senator mean an hour limitation on each amendment?

Mr. JACKSON. Each amendment.

Mr. HANSEN. I have no objection.

Mr. JACKSON. Mr. President, there is only one other amendment that is pending to my knowledge. That is the amendment I have offered, amendment No. 773, on competitive leasing. There would be a 1-hour limitation on that amendment.

The PRESIDING OFFICER. Would the 1-hour limitation apply also to amendments to the amendment?

Mr. JACKSON. Yes. Mr. President, I will make the unanimous-consent request.

I ask unanimous consent that after the disposition of the Harris amendment and all amendments thereto, there be a 1-hour limitation on each subsequent amendment including any amendments thereto, the time on such amendments to be equally divided and controlled by the junior Senator from Washington and the senior Senator from Alaska (Mr. STEVENS).

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Is there a unanimous-consent request as to the time on the bill itself?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the bill itself, there be a time limitation of 1 hour, so that if there is need for extra time, it will be forthcoming, the time to be equally divided between the Senator from Washington (Mr. JACKSON) and the acting minority leader, or whomever they designate on the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Who yields time?

Mr. JACKSON. Mr. President, I suggest the absence of a quorum, the time to be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, again I suggest the absence of a quorum, with the time to be taken equally out of both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. TOWER. Mr. President, I ask unanimous consent that Elizabeth Monnington, a volunteer worker on my staff, be permitted to be present on the Senate floor to assist me this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. HARRIS. Mr. President, I yield myself 5 minutes.

We were discussing yesterday the pending amendment that I offered and which would strike from this bill the provisions that would terminate certain services of the Bureau of Indian Affairs to the Alaskan Native people and would state that within 5 years from the date of the enactment of this act, the United States would cease to provide certain services to any citizen of Alaska solely on the basis of his racial or ethnic background.

I stated yesterday, Mr. President, that this amendment should be adopted and those objectionable provisions of the act should be stricken, for several reasons:

First, because American Indians, Eskimos, and Aleuts are entitled to compensatory attention to their needs because of the differences in the way they have been treated over the years, as compared with other American citizens.

Second, because the threat of termination ought to be removed once and for all, as President Nixon has himself lately recommended.

Third, because we ought not to tie to this bill, which seeks only to do justice for the Native peoples of Alaska, this separate provision which would terminate certain of their present rights.

We are not asked to pass the bill now before us out of generosity. We are asked to pass it only to do justice at this late date. Therefore, we should not hold hostage justice for the Native peoples of Alaska in order to get them to agree to giving up certain rights which they now have by reason of being American Indians, Eskimos, and Aleuts.

Overnight, Mr. President, the staff of the committee and others attempted to work out a compromise amendment which, as I understand it, with certain changes in the typewritten language, would have been agreeable to the Alaskan Native Federation. It involved two or three very specific and important conditions:

That there should be no termination of services or of rights of Alaskan Native people without their own prior involvement in that decisionmaking and without detailed approval by Congress.

Those words, as I understand it, might have been acceptable to some Members of the Senate, as they would have been to the Alaskan Native Federation; but I understand that the distinguished Senator from Alaska (Mr. GRAVEL) cannot agree to that compromise language. I am sorry about that. Therefore, we must have an up or down vote on the amendment which is now pending to strike from the bill the termination language.

I hope that will be done, Mr. President. I hope that the Senate will not now take a backward step in regard to one section of our country, but instead will consider this matter, not in connection with the Alaskan claim bill, but generally as we consider the overall recommendations of President Nixon in regard to self-determination without termination.

So, I sum up at this time by saying, as I did last night, Mr. President, that we no more need a Bureau of Indian Affairs than we need a Bureau of Italian Affairs or a Bureau of Irish Affairs, except for the special needs and problems which we have caused for American Indians, Eskimos, and Aleuts; and at least until we have more nearly righted those wrongs, we should not do away with the Bureau of Indian Affairs against the wishes of those whom it specially serves.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield 2 minutes to the senior Senator from Alaska.

Mr. STEVENS. Mr. President, I should like to make clear my position on this matter.

It is my understanding that basically the Bureau of Indian Affairs provides three types of services to Alaskan Native people: the education services, the welfare services, and the health services through the Public Health Service.

The amendment preserves the health service function. The education function is being taken over by the State of Alaska under an agreed program, in consultation with the Alaskan Native people and their organizations. I believe it meets 100 percent with the approval of all the people of Alaska that the State provide education for all Alaskan citizens, regardless of race, color, or creed.

The welfare function is slowly being taken over by the State. I feel this bill will eliminate a great deal of the welfare need, but in any event, our programs are better than the Federal programs, and as soon as possible I think the State should take over that function, too.

So, therefore, I think the fears that the Senator from Oklahoma has expressed, that might have reason to exist in other areas, will not have reason to exist in the State of Alaska. The provision that has been written into the bill by my colleague from Alaska is one that at the end of 5 years will make sense. If it does not make sense, we have 5 years to reconsider it. It is a statement of principle, which I believe all Alaskans feel, that no ethnic or racial considerations should be involved in public services provided in Alaska by the Federal Government.

Alaskans are prepared to meet the need. As stated last night, we will have the financial ability to meet the need. This bill, in and of itself, gives to 20 percent of our population more of a capital base than the whole of Alaska has today. I think that ought to be kept in mind as we review this problem.

Mr. JACKSON. Mr. President, I yield to the junior Senator from Alaska such time as he may require.

Mr. GRAVEL. I thank my colleague from Alaska, the senior Senator, for restating basically what happens with the present plan, and that is that there will be no cutback in services. That basically is the fear; because if there is more to it than that, somebody is in fear of the BIA for no reason at all. The only value of the BIA is to perform services. If those services are not cut back, then obviously we do not need the BIA, and that is really what we are putting forth here.

All I can say is that we can enunciate and pontificate all we want about how bad the BIA is, but until we do away with it, we really do nothing but expend a lot of wind.

This is not the compromise that was attempted last evening and this morning in my mind. It was no more than establishing a glorified study. I think we made that point very clear yesterday—that a State will not address itself to this problem, and until we force the issue, there will be no dissolution of the BIA, there will be no withdrawal. It is not because the Natives of Alaska or the Natives of any other area have a deficiency; because if there is a deficiency, it goes to all men. It is most difficult, if not impossible, to recede the expanding powers of government. Therefore, the compromise, in my mind, was not acceptable.

The other point at issue is that the proposed legislation considers only Alaskans, and those who say that it goes beyond the Alaskan situation beg the question. It only goes beyond the Alaskan situation if it is successful, because it puts to shame all prior programs, all prior efforts at solving the problem. So that what happens here is that we are not saying that the BIA should be taken out of Oklahoma. We are not saying that the BIA should be taken out of Utah. We are saying that, after 5 years, after a plan has been developed in which the Natives participate in developing this plan, there will be no BIA. If something unusual occurs within that 5-year period, this Congress or the next Congress can reexamine and alter that course of action, if it so desires. But I submit that unless we have a triggering mechanism in here to force the dissolution, it will not take place.

We will have to study the matter and then we will have to come here and mash our teeth over this gigantic problem that plagues this country. We will mash our teeth and say that we really have not been able to solve it and how terrible it is that these little Indian kids are not getting what the white kids are getting. They do not eat at the same table as the white kids. We give them an extra table and say that we are giving them special treatment—a special table for special treatment. That special treatment in the past has never measured up to what the other people get, and it will never measure up, because they are not in the majority, and they will always be discriminated against.

What we have done with the BIA is to build in a structural discrimination, and if we retain it in Alaska, we will continue to have a structural discrimination pattern.

I have seen this body rent over the civil rights issue, the fabric stressed to the extreme. Let us take the example of busing. My colleague and many of my other colleagues have fought the issue of busing. Let me describe what is probably the most diabolical busing program in this country, and it is not in the South, and it is not perpetrated by local government or local citizens. It is done in the highest councils of this Government; it is done at the Federal level, in Washington, D.C. Imagine busing a 13-year-old girl from Barrow, Alaska, which is almost a totally Native community, all the way down to Oklahoma—not to integrate her, but to put her in a little school with a group of little Indians, other Indians, so that you have a nice segregated cocoon.

I was the one in 1966 who developed the program in the State of Alaska that we do not bus our kids into another segregated area. We bring them into the urban areas of Alaska, and we have them go to school with my kids; we have them go to school with your kids. So that there is integration. That is the plan we worked out within the State. It was not a Federal plan, it was not a State plan, and it stands 10 times taller than any program ever initiated by the BIA.

Education is the concern of the Federal Government. It is the responsibility of the State government. It is the duty of local government. When you adhere to that, you recognize that the children in Alaska who are Natives will receive the direction of their education from their parents, within their school districts. The money will come and the direction of the law will come from the State government, and of course the bulk of the money will come from the Federal Government.

Let me conclude by picking up the point which my colleague so ably stated as he so ably put forth the kernel of the problem: Because of the harm that was done to the Indians of this country, there is a need and a moral requirement that we have compensatory attention. He could not be more right, and I could not applaud that kernel of wisdom any higher. The only difference we have is that he wants that compensatory attention based upon race, and I think that goes to the heart of our system in a most destructive manner. If we have compensatory action and if there is a need for it—and I say there is—it should be based not upon race but upon need, upon need in Alaska and any other part of this country. That, I think, is the case simply stated.

Mr. JACKSON. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a memorandum from Mr. William Van Ness, special counsel to the committee, in connection with a possible substitute to section 4(b) of the bill, together with the proposed substitute and a letter from the Alaskan Federation of Natives to the Senator from Oklahoma endorsing the substitute. I do this in order to provide a more adequate legislative history of the background of this discussion.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

JULY 15, 1970.

To: Senator JACKSON.
From: Bill Van Ness, Special Counsel.
Subject: S. 1830, Section 4(b).

A review of the record of the July 14 debate on section 4(b) of S. 1830 and the amendment proposed to that subsection discloses that the goals and objectives of the members who have discussed this "transitional section" are in general accord.

In view of this general agreement on principle I have drafted for your review and for the consideration of Senators Gravel, Stevens and Harris a revised section 4(b) which may provide legislative language on which an agreement can be reached. The major changes in the subsection are as follows:

SUBSECTION (B) (1)

1. The Secretary is directed to make a study of and to develop a program for the orderly transition of "appropriate" programs to the State of Alaska and, in addition, to existing Native organizations and to the Village Corporations and Regional Advisory Boards established by this Act. This change would in effect adopt the concept of self-determination and allow Alaska Native people to administer appropriate programs.

2. The language in subsection (b) (1) (second sentence) which would terminate services on the basis of racial or ethnic distinctions within five years would be deleted in its entirety.

3. Public health and educational programs referred to in the subsection would be specifically excluded from the Secretary's study as well as from the operation of the subsection.

SUBSECTION (B) (2)

1. This subsection has been revised to delete the requirements that a plan be presented for transition of the programs within four years. Also deleted is the last sentence which set up a procedure for Congressional review of the plan prior to its implementation. The new language continues the requirement for submission of annual reports and goes on to require that a "final report" on the transition of programs to the State and to the Native people be presented to the Congress within five years.

SUBSECTION (B) (3)

1. This subsection makes clear that there will be no reduction in the Federal Services provided to the Tsimshian Indians who are excluded from benefits under the Act. The language has been changed to allow the Tsimshians to assume the management of appropriate programs.

The changes proposed to subsection 4(b) make clear that:

1. No existing Federal programs are terminated.

2. The Alaska Native people may assume management of programs free of the paternalism and administration of the Bureau of Indian Affairs.

3. That the social, economic, and health needs of Native people will be met.

4. That the special legal relationship between Native people and the Federal government continues unimpaired.

AMENDMENT NO. —

On page 49, line 19, delete all of section 4(b) and substitute the following language:

"(b) (1) The Secretary is authorized and directed, together with other appropriate agencies of the United States Government, in conjunction with the Alaska Native people to initiate a study, subject to the approval of Congress, for the orderly transition and management of appropriate education, welfare, and other Federal programs benefitting the Alaska Native people from the United States to the State of Alaska or other appropriate local organizations, including existing organizations of Alaska Native people, and the Village Corporations and the Regional Advisory Boards established under this Act. *Provided*, That nothing in this subsection 4(b) shall affect services furnished the Alaska Native people through the Department of Health, Education, and Welfare, or diminish the applicability of the Act of April 16, 1934, as amended (48 Stat. 596), or the Acts of September 23, 1950, as amended (64 Stat. 967), and September 30, 1950, as amended (64 Stat. 1100). These programs shall be exempt from the study the Secretary is directed to undertake pursuant to this subsection.

"(2) The Secretary shall report annually to the Congress on the implementation of this subsection, on the need for any new programs or additional legislative authority, and on the availability of State and general Federal assistance programs to provide any necessary and needed services to Alaska Natives as citizens of the State of Alaska and the United States. Within five years of the date of enactment of this Act the Secretary shall present a final report to the Congress on the transition of programs referred to in subsection (b) (1) hereof.

"(3) None of the provisions of this subsection 4(b) shall diminish in any way the services and programs furnished to or available to the Tsimshian Indians on the Annette Islands Reserve: *Provided*, That the management of appropriate Federal programs may be transferred to the Tsimshian Indians by the Secretary."

ALASKA FEDERATION OF NATIVES,
Anchorage, Alaska.

Hon. FRED R. HARRIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HARRIS: We have reviewed the July 15, 1970, memorandum to Senator Jackson from Bill Van Ness which proposes alternative language for section 4(b) of S. 1830.

This alternative language would not, we understand, require the termination of any federal programs presently available to Alaska Natives, and would contemplate that the Secretary would consult with appropriate Native organizations in planning for the transition of any programs to state or other authorities.

On this understanding, we believe that this new language would represent an improvement to section 4(b). The Federation has requested the total elimination of any provision dealing with termination—on the ground that this issue is irrelevant to a land compensation bill. The proposed language, as we interpret it, would achieve the substance of this request.

Sincerely,

JOHN BORBRIDGE,
First Vice President.
EBEN HOBSON,
Executive Director.

Mr. JACKSON. Mr. President, does any other Senator request time on my side?

I yield such time as he may need on the pending matter to the able senior Senator from Colorado.

The PRESIDING OFFICER (Mr. SPONG). The Chair would advise the Senator from Washington that he has 3 minutes remaining.

Mr. JACKSON. I yield 3 minutes to the Senator from Colorado and if he wishes more time, I will yield it to him on the bill.

The PRESIDING OFFICER. The Chair would advise the Senator from Washington that the vote will occur at 12:15 today.

Mr. JACKSON. I yield the remainder of my time to the distinguished Senator from Colorado (Mr. ALLOTT).

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLOTT. Mr. President, I rise in support of the two Senators from Alaska. It is hard for anyone not familiar with the work of the committee to realize the many, many hours that the entire committee—not just the two Senators from Alaska, its chairman, and myself—devoted to this subject. It has just been called to my attention that there were 15 executive sessions alone on the bill, many of which stretched to 3 or 4 hours. This is not something that has just been brought up on the floor of the Senate out of a clear sky, and that the committee has not already carefully considered.

I agree wholeheartedly with the position taken by the two Senators from Alaska.

Mr. President, I refer to page 302 of part 2 of the hearing on the Alaska Native claims to the statement of Arthur Goldberg, who was representing and speaking for the Alaska Federation of Natives. Mr. Goldberg said this, and it should be in the RECORD:

> We have tried reservations and the result has been abysmal poverty and alienation from the mainstream of American life. We have tried the Bureau of Indian Affairs and various other forms of paternalism and the result has been a large and costly bureaucracy and a failure to develop Native self-sufficiency. In short, our past attempts to resolve Native land problems have been tragic failures.
>
> Now, as a result of the unique aspects of the Alaska problem, and as a result of what we have learned from the past, Congress has the opportunity to come up with a solution which will work. This cannot be achieved by trinkets or doles, by passing the problem off to some slow-moving adjudicatory body, or by imposing some modified form of reservation or paternalism upon the Alaskan Natives. But it can be achieved by a bold and imaginative approach which fully and finally resolves all claims, ties the settlement to the lands in question, and permits the Natives to improve themselves and their land and determine their own destiny.

That is Mr. Goldberg speaking, Mr. President, for the Alaska Federation of Natives. We have heard both Senators from Alaska speak. I, for one, am fully willing and confident to follow their leadership and advice in this matter.

Mr. HARRIS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. HARRIS. Mr. President, the Alaska Federation of Natives opposes the termination provision in this bill, a statement on which I placed in the Record last night. Because they are worried about the bill and getting through this momentous claim, they tried their best last night to work out some compromise on termination. Representatives of the Alaska Federation of Natives last night tried to get agreement on a substitute amendment which would not take rights away from them as a condition to their getting their claim settled, and decided specifically that, before any such decision was made they had to be taken into account, and before any new authority was granted to the Secretary of the Interior to cut off services or their rights as American Indians, Eskimos, and Aleuts, Congress would be asked for its prior approval.

Unfortunately, the substitute amendment which the distinguished chairman of the committee, I understand, was agreeable to, and which he has now placed in the Record, was not agreeable to the distinguished Senator from Alaska (Mr. Gravel).

Thus, once again, the Senate is being asked to play God in regard to American Indians, Eskimos, and Aleuts. It is being asked to decide what is good for them, against their wishes, and without consultation with them.

That is wrong.

Yesterday, the Senate decided that American Indians, Eskimos, and Aleuts should not be assured of having three of the five members of the commission established under the act but, instead, should have assurance of only two of five members on that commission which will make very vital and important decisions in regard to eligibility for benefits under the act and also in regard to matters concerning the villages, and so forth.

We said on the one hand, yesterday, that the Native peoples of Alaska should not be assured of a majority on that commission; on the other hand, we are asked to say today, "Turn them loose on their own."

As a condition of getting the benefits in this bill, it is said that the Alaska Natives will have to accept being cut off from certain of their present rights. So far as the U.S. Government is concerned, 5 years from today, they will cease to be considered Natives under the law and will cease to be entitled to certain services solely on the basis of racial or ethnic background.

Mr. President, I think that should be studied very carefully.

Mr. President, Alaska Natives do not want this. There is plenty of time, since the provision would not go into effect for 5 years, anyway, to develop the plans.

Why does not the Senator from Alaska come now with plans?

Why does he not tell us exactly what can be done?

The answer is that no one knows, since the plans do not exist, and we do not know how this would be carried out.

Why do it now? Why require it? Why not wait until such plans are developed in conjunction with the Natives themselves and then those plans can be brought back here for Congress to consider and approve?

If termination is such a good deal, why are not the Alaska Natives in here asking for it?

If termination is such a good proposition for the Alaska Natives, as the Senator from Alaska (Mr. Gravel) indicates, why is it not presented as a separate question, rather than as a part of this claims bill?

Why is it made a condition precedent to their receiving the benefits under the bill, which are nothing more than simple justice, justice to which they have long been entitled.

Those are the questions involved here. They are serious questions.

We know, as I said yesterday, that people do not stay in one place. Many of the Natives have already moved to other States; this amendment might cut off their rights when they move to urban areas.

Therefore, I think that is another reason why we should not act hastily here in conjunction with the bill and take a backward step along the trail of termination which has been such a sorrowful trail for American Indians, Eskimos, and Aleuts in the past.

Mr. JACKSON. Mr. President, I believe I have 1 minute remaining.

The **PRESIDING OFFICER** (Mr. Spong). The Senator is correct.

Mr. JACKSON. I yield 1 minute to the senior Senator from Alaska (Mr. Stevens).

The **PRESIDING OFFICER.** The Senator from Alaska is recognized for 1 minute.

Mr. STEVENS. Mr. President, I want to make certain I understand the last comment of the distinguished Senator from Oklahoma. The provision he speaks to applies only to a citizen of Alaska. Therefore, any Alaska Native who is a citizen of the State of Oklahoma or a citizen of the State of Washington, or a citizen of the State of California, will continue to get the Federal services that are provided for any Indians in that area.

We merely seek to establish the fact that this bill—which is the fairest settlement any group of Indians, Eskimos, or Aleuts have ever received from the Federal Government—will establish a system wherein Alaska will have no discrimination on the basis of race or color. I think that is clear. The bill is a fair one. It gives the Natives the opportunity to meet their own problems. To the extent that they cannot meet them, the State will meet them.

I can assure the Senator from Oklahoma that those needs will be met.

Mr. HARRIS. Mr. President, will the Senator from Alaska yield?

Mr. STEVENS. I yield, if I have any time left.

Mr. HARRIS. I yield on such time as may later be allowed me on the bill.

Does not the Senator feel that we should increase the acreage under the bill to 40 million acres, as the Natives would like to see done?

Mr. STEVENS. Mr. President, I have for some time believed that there should be substantially more land in the northwest portion of Alaska. We have in some ways met that by the amendment offered by the Senator from Washington (Mr. Jackson), and my distinguished colleague and me yesterday. But the bill is a substantial compromise between my views.

One of the compromises we reached in our committee was that in order to obtain the cash we need for a capital base—$500 million and the additional 2-percent royalties which led to another $500 million, for a total of $1 billion for 20 percent of our people in Alaska—we had to give up some of the land.

So again I would say to my good friend, the Senator from Oklahoma, as I did on yesterday, that the bill is a compromise bill to which I am wedded, and I intend to stay married.

Mr. HARRIS. Mr. President, does the Senator intend to offer an amendment which would increase the acreage to 40 million acres?

Mr. GRAVEL. Mr. President, I would be happy to do so if I thought it would pass. If the Senator believes it would pass, I would be happy to cosponsor an amendment with him.

Mr. HARRIS. Mr. President, I think that land is very important here. I will go into that at another time.

I raised that question here because this is not such a good deal. I hope that it will go through with the improvements we have incorporated in the bill. We have already made some improvements in it.

I compliment the committee and the chairman of the committee and the two Senators from Alaska for what they have done. But I think that we can still improve the bill more.

I do not think that we are doing enough in this bill without the additional acreage; we cannot say that the Indians ought to be glad to accept the termination provision in the bill because they are getting such a good deal.

Even if we can increase the acreage, as I hope we can do later, this will still only represent simple justice. We should not say, "If you receive this benefit from us, you will have to give up some of your present legal rights."

Mr. President, I do not think that is proper. I hope that the termination provision will be stricken and that my amendment will be agreed to.

The **PRESIDING OFFICER** (Mr. Spong). All time has expired. The question is on agreeing to the amendment of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Connecticut (Mr. Dodd), the Senator from Mississippi (Mr. Eastland), the Senator from Tennessee (Mr. Gore), the Senator from Indiana (Mr. Hartke), the Senator from Hawaii (Mr. Inouye), the Senator from New Mexico (Mr. Montoya), the Senator from Alabama (Mr. Sparkman), the Senator from

Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) and the Senator from Delaware (Mr. BOGGS) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) are absent because of illness.

The Senator from New York (Mr. GOODELL) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), and the Senator from Maine (Mrs. SMITH) would each vote "nay."

The result was announced—yeas 14, nays 68, as follows:

[No. 241 Leg.]

YEAS—14

Allen
Cranston
Eagleton
Harris
Hart
Hughes
Kennedy
Mansfield
McIntyre
Muskie
Nelson
Pell
Ribicoff
Young, Ohio

NAYS—68

Aiken
Allott
Anderson
Baker
Bayh
Bellmon
Bennett
Bible
Brooke
Burdick
Byrd, Va.
Byrd, W. Va.
Case
Cook
Cooper
Cotton
Curtis
Dole
Ellender
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hansen
Hatfield
Holland
Hollings
Hruska
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mathias
McCarthy
McClellan
McGee
McGovern
Metcalf
Miller
Moss
Murphy
Packwood
Pastore
Pearson
Percy
Prouty
Proxmire
Randolph
Saxbe
Schweiker
Scott
Smith, Ill.
Spong
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Williams, N.J.
Williams, Del.
Young, N. Dak.

NOT VOTING—18

Boggs
Cannon
Church
Dodd
Dominick
Eastland
Goodell
Gore
Hartke
Inouye
Mondale
Montoya
Mundt
Russell
Smith, Maine
Sparkman
Tydings
Yarborough

So Mr. HARRIS' amendment was rejected.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ALLOTT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 773

Mr. JACKSON. Mr. President, I call up my amendment No. 773.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 773) is as follows:

On page 145, after line 5, insert a new section 17 as follows and remember as appropriate the following sections:

"MINERAL LEASING ACT

"SEC. 17. Disposition of all minerals included under the Federal mineral leasing laws including but not limited to deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in public lands in Alaska and of all deposits of any other minerals located in such lands, which the Congress may hereafter authorize to be disposed of by sale or lease, after the effective date of this Act may, where there is competitive interest shown in a particular tract of land, be under such competitive bidding procedures, as the Secretary may prescribe by regulation. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 and following), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) shall apply to the extent that such provisions are not inconsistent with this Act. Where such competitive interest has not been displayed the provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 and following), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) shall apply."

Mr. JACKSON. Mr. President, I yield myself such time as I may require.

Mr. President, I have introduced an amendment to S. 1830, the "Alaska Native Claims Settlement Act of 1970," to authorize the Secretary of the Interior to dispose of oil and gas and other leasable minerals on the public lands in Alaska by competitive bid where there is competitive interest in the lands to be leased. This amendment is proposed in connection with S. 1830 rather than as general legislation because section 13 of S. 1830 terminates Public Land Order No. 4582, the existing land withdrawal order covering public lands in Alaska, and therefore has the effect of opening all unreserved public lands in Alaska to noncompetitive mineral lease offers.

If this amendment is not adopted, the minerals of the Nation's richest oil and gas area may be given away to speculators at a tiny fraction of their commercial value or true market value.

The provisions of the Mineral Leasing Act of 1920 do provide for a very limited form of competitive leasing. If the Geological Survey determines that the public lands in question are on a "known geological structure" the lands are leased competitively on a cash bonus bid basis. This term—"known geological structure"—is not defined in the act, but has been administratively defined to mean that there must be a producing well on a known geological structure, and the structure must extend to the public lands in question. As a result of this restriction on the use of competitive leasing procedures the great bulk of Federal mineral leases are issued noncompetitively to the first applicant.

The Mineral Leasing Act authorizes the issuance of noncompetitive leases on public lands for a mere $10 filing fee and a 50-cent-an-acre rental payment. In my view, it is not in the public interest to allow these lands, which are owned by all of the people, to be leased noncompetitively at a fraction of their fair market value, when there are willing buyers anxious to bid on the leases.

The amendment I have proposed, along with the able senior Senator from Delaware (Mr. WILLIAMS) would apply only to public lands in the State of Alaska and would adopt language which was recommended to the Congress by the Federal Field Committee for Development Planning in Alaska, by the Department of the Interior with the endorsement of the Bureau of the Budget, and by the Comptroller General of the United States. In addition, the Public Land Law Review Commission in its recent report to the President and the Congress recommended that the Mineral Leasing Act be amended in the manner which I have proposed for Alaska.

In my view a strong and convincing case can be made for extending the amendment I have proposed to all public lands. Hearings on this have not, however, been held and I have therefore limited the amendment's application to the public lands in the State of Alaska.

There are several reasons for urgency with respect to writing a competitive leasing provision into the present bill. The first, of course is the enormous value of the resources in question and the enormous pressures within the oil and gas industry to obtain oil leases in Alaska. There may be hundreds of millions, or even billions, of dollars at stake in the manner by which these minerals are leased. Congress provided in the Mineral Leasing Act of 1920 for noncompetitive leasing of oil and gas except in the immediate vicinity of a producing well. At that time the intention was to allow independent operators to prospect for leasable minerals with a minimum of red tape and expense on raw wildcat lands on which there was little competition for leases. The interest of the Government as landowner was protected by collecting a royalty on production wherever a commercial discovery was actually made.

The situation in Alaska today, however, is very different from the one Congress had in mind in 1920. Drilling is still the final test of whether or not oil and gas deposits are actually present, but modern geology and geophysical techniques provide powerful evidence about the probability of their occurrence before any exploratory drilling takes place. For this reason, exploration rights on some undrilled tracts in Alaska have had a market value of thousands and tens of thousands of dollars per acre.

The right to explore 179 tracts offered by the State of Alaska in September 1969, for example, brought in over $900 million. If the same acreage had been open to leasing under Federal laws in the spring of 1968—and this is the significant point—this acreage would have passed to speculators for a $10 filing fee and an annual rental of only 50 cents per acre. On the basis of a November 1969 field rules hearing, the State division of oil and gas defined three formations in the Prudhoe Bay field, the Sadlerochit, the Kuparik, and the Lisburne. These formations are roughly analogous to the U.S. Geological Survey's narrow definition of "the known geological structure of a producing well" and contained 43 of the 179 tracts offered in September. These 43 tracts received total high bids of $470.3 million.

Accordingly, if the area offered by the State in its competitive sale had been available for leasing under Federal laws, the $900 million in bonuses actually received would have been diminished by $429.7 million.

There is no reason whatever to convey such valuable rights in the public domain except at their fair market value as determined in a competitive sale.

The second reason this amendment should be incorporated into S. 1830 is related to the purposes of the Native claims settlement bill. Alaska Natives have a substantial, though unlitigated claim against much of the public lands of Alaska, including lands which hold rich deposits of oil and gas. A principal objective of this legislation is to extinguish these claims by purchase, by adopting the legislative settlement proposed by S. 1830. This has the effect of clearing title to those lands and their minerals, in part by an appropriation from the Federal Treasury and in part by the commercial revenues received from oil and gas production on the lands claimed by the Natives. The logic and the financing of this settlement both assume that the potential mineral revenues from the public lands of Alaska will not be dissipated by the disposal of mineral rights at a fraction of their true value. A fair price for the disposition of these resources can not be assured without allowing competitive leasing wherever there is competitive interest in the lands to be leased.

The GAO report referred to earlier notes that in one small oilfield, the Bell Creek field discovery in Montana, 2½ million acres of Federal lands were leased noncompetitively. The GAO estimates that these leases resulted in $24 million less revenue than their fair market value. This estimate represented the difference between the average price per acre for leases on these Federal lands and the average price per acre for competitively awarded leases on State lands in the same area. The disproportion in value on the rich mineral lands in Alaska could be much greater than this if provision is not made to lease public lands pursuant to competitive procedures where there is a competitive interest.

A third reason for this amendment flows from the interests of the State of Alaska. The combined provisions of the Mineral Leasing Act and the Statehood Act grant Alaska 90 percent of the revenues from mineral leasing on public lands within its boundaries. The State of Alaska therefore has a big stake in the Federal Government's choice of leasing practices. The State does, however, have a line of defense against the dissipation of potential mineral revenues by noncompetitive leasing: the State can select the lands in question under the provision of the Statehood Act which allows Alaska to select over one hundred million acres from the unreserved public domain. The State is therefore impelled to select lands immediately which it might not otherwise want, only to prevent their leasing under the noncompetitive provisions of Federal law. Representatives of the Governor of Alaska have told the Public Land Law Review Commission that the State intended to station agents in each of the Federal land offices in Alaska, in order that the State could select each tract on which someone was about to file a noncompetitive lease offer. Certainly this procedure does not lead to a sound pattern of land ownership or land management. Its necessity can be eliminated by authorizing the Secretary of the Interior to lease minerals on the same competitive basis as does the State of Alaska and almost all other States.

A final reason for this amendment is to eliminate a powerful source of confusion and possible corruption with regard to certain outstanding lease offers on Federal lands in Alaska. In 1966 the Department of the Interior began suspending the processing of mineral lease offers on lands where there was a Native protest. This so-called land freeze was superseded in January 1969 by the Secretary's public land order withdrawing all public lands in Alaska from mineral leasing in order to preserve the status quo for a congressional settlement of the Native claims. Meanwhile, however, various individuals tried to file offers to lease valuable oil and gas properties in the State under the noncompetitive provisions of the Mineral Leasing Act. These offers to lease lands which were not available for leasing cost the applicants only a $10 filing fee, and imposed no legal obligation on the Government to grant a lease. Yet some of these offers, or interests in them, were sold by the applicants to other individuals and even to substantial oil companies for many thousands of dollars. There is still reputed to be an active market for such lease offers in Fairbanks.

The State of Alaska has filed a selection of the most valuable of these lands and the State Commissioner of Natural Resources has ruled that under Alaska law they must be leased competitively. His ruling led the lease applicants to place great pressure on the Alaska Legislature to compel the State to grant leases to them. The legislation to this end, dubbed the "Dirty Oil Bill" by the Alaska newspapers, never came to a vote in either house of the legislature, but it led to bitter charges of corruption and malfeasance within the State. A group of Canadian oil companies and others who bought some of the lease offers on lands subject to the land freeze have made an effort to get oil and gas rights granted to them as part of S. 1830. The amendment proposed here will end any confusion about the status of the lease offers made during the Alaska land freeze, and should put an end to the trade in lease offers.

It should be made clear that this amendment will not end all noncompetitive leasing in Alaska, nor will it frustrate the intentions of the Mineral Leasing Act in providing for noncompetitive leasing. If there are indeed independent operators in Alaska who want to explore raw wildcat lands in which the major oil companies are not interested, there will surely be acreage which can be obtained either competitively or noncompetitively without the payment of huge bonuses. It is instructive that Tom Miklautsch, the Fairbanks druggist who became a millionaire from a small investment in a Prudhoe Bay oil lease, obtained his exploration rights in a competitive lease sale.

There is no justice, and no justification whatever, for the transfer of obviously valuable rights in the public domain to one party for a small filing fee, when there is another party who is willing to pay fair market value. The oil independent who actually explores apparently unpromising lands should not be used to justify the sacrifice of public revenues to middlemen who have no intention to drill and who would get windfall fortunes by peddling their cheaply obtained leases competitively to the big oil companies.

The detailed study of "Federal Land Laws and Policies in Alaska" which the University of Wisconsin School of Natural Resources made for the Public Land Law Review Commission summarized its views on noncompetitive leasing as follows:

NONCOMPETITIVE LEASING

Under the Mineral Leasing Act, leasing for gas and oil is not competitive until a "known geological structure" is defined. *This procedure results in many persons taking noncompetitive leases who have no competence or financial capacity to explore and develop oil but only intend to sell their lease rights to an operating oil company. Under a competitive leasing system, such as is employed on the outer continental shelf, the amounts now paid by the oil companies to the lease speculators would be paid to the public treasury.* Thus the non-competitive leasing system is a distribution of public funds to those speculators who are sufficiently familiar the law to play this lottery. *The only reasonable alternative is to make all oil and gas leasing competitive as is now the policy under the more modern law which applies to offshore leasing.* (Emphasis added.)

Mr. President, I strongly urge that this amendment be adopted. It is clearly in the best interests of the Natives, the people of Alaska, the public and the Federal Government.

Mr. President, I ask unanimous consent that extracts from various reports urging that the Mineral Leasing Act be amended to require wider use of competitive leasing be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

GAO REPORT

On March 17, 1970, following a review of Federal law and policy concerning the award of mineral leases the comptroller General of the United States formally recommended in a report transmitted to the Congress:

(1) "That the Department of the Interior, in leasing Federal lands for the development of oil and gas resources, should use competitive bidding to a greater extent to ensure that the lands are leased at prices that more nearly approximate their fair market value."

(2) "That the Mineral Leasing Act of

1920 be amended to (1) require that oil and gas leases of all Federal lands be awarded competitively unless otherwise justified."

The GAO report also noted in its findings and conclusions that:

"Many oil and gas leases of Federal lands outside a known geologic structure of a producing oil or gas field were awarded noncompetitively at prices that appeared to have been less than fair market value." (See p. 6)

"For example, GAO estimates that 2.5 million acres of Federal lands in the general vicinity of the Bell Creek Field discovery in Montana were leased noncompetitively for about $24 million less than their indicated fair market value. This estimate represents the difference between the average price per acre for leases on these Federal lands and the average price per acre for competitively awarded leases on State lands in the same area." (See chap. 2 for this and other examples.)

"GAO believes that the substantial public interest in acquiring noncompetitive leases indicates that effective price competition could have been obtained if the leases had been awarded competitively. However, the leases could not have been awarded competitively because, under the governing statute the first qualified applicant is entitled to lease, without competitive bidding, lands of the United States that are not within any known geologic structure of a producing oil or gas field. Generally, the geologic data needed to determine whether lands offered for leasing are within such a structure are not available to the Department before leasing and drilling." (See p. 7).

"On the basis of its review, GAO believes that the Department, in leasing Federal lands for the development of oil and gas resources, should use competitive bidding to a greater extent to ensure that the lands are leased at prices that more nearly approximate their fair market value." (See p. 38).

"GAO believes, also, that the increased use of competitive bidding would tend to reduce or eliminate certain undesirable aspect of awarding leases to applicants on the basis of simultaneously filed lease applications, such as the multiple filing of applications increase the chances of getting a lease, and the acquisition of leases for speculation rather than for the development of the resources."

PUBLIC LAND LAW REVIEW COMMISSION

One of the major recommendations of the Public Land Law Review Commission's report to Congress and to the President is to amend the present provisions of the Mineral Leasing Act of 1920 to enlarge the scope of the competitive leasing provisions.

The Commission noted with respect to the limited competitive sale requirements of present law: "We have concluded that these competitive sale requirements are too narrow in scope, particularly in the case of oil and gas." The Commission's recommendation number 49 provides that:

"Recommendation 49: Competitive sale of exploration permits or leases should be held whenever competitive interest can reasonably be expected. (p. 132, chapter 7, *One Third of the Nation's Land.*)"

The contractor's study of "Federal Land Laws and Policies in Alaska" by the University of Wisconsin, School of Natural Resources stated as follows:

"NON-COMPETITIVE LEASING

"Under the Mineral Leasing Act, leasing for gas and oil is not competitive until a "known geological structure" is defined. *This procedure results in many persons taking non-competitive leases who have no competence or financial capacity to explore and develop oil but only intend to sell their lease rights to an operating oil company. Under a competitive leasing system, such as is employed on the outer continental shelf, the amounts now paid by the oil companies to the lease speculators would be paid to the public treasury.* Thus the non-competitive leasing system is a distribution of public funds to those speculators who are sufficiently familiar with the law to play this lottery. *The only reasonable alternative is to make all oil and gas leasing competitive, as is now the policy under the more modern law which applies to offshore leasing.*"

The "Legal Study of the Federal Competitive and Noncompetitive Oil and Gas Leasing Systems" which was prepared for the Public Land Law Review Commission by The Rocky Mountain Mineral Law Foundation set forth a number of alternatives to the present noncompetitive leasing procedure of the Mineral Leasing Act of 1920. Alternative No. 11 of the contractor's study report is basically the same as the amendment proposed to S. 1830. The Foundation's discussion of the alternative is set out below:

"ALTERNATIVE NO. 11

"Modify the existing leasing system to authorize the Secretary of the Interior to extend competitive bidding to lands designated as being subject to competitive interest."

"1. Problems to be solved

"As a landowner it may be said that the United States does not receive a fair market value for leases issued under the simultaneous drawing system. A lucky winner is placed in the position of being able to receive this value. The administration of such a leasing system is a significant burden. If areas in which "competitive interest" exists were to be designated as being subject to competitive bidding, the number of applicants would be reduced and limited more to persons with a greater interest in development. The United States would realize the fair market value of leases upon such lands.

"2. Key features

"Upon receipt of more than a stated number of applications the land office would post the lands as being subject to competitive bidding. The number of offers would have to be arbitrary. It could range from more than one offer to such number as is deemed to establish a competitive interest. Upon receipt of the requisite number of offers filed in the existing open filing system within a certain time period, the lands would be posted as available only for competitive bids. The bidding could be restricted to only those who had filed applications within the time period, or it could be open to any bidder. A deposit of a stated sum should be required of applicants which would be forfeited if the applicant failed to make a bid."

"3. Probable advantages

"The United States would receive a higher return for lands made subject to competitive leasing. The prospect of having to engage in a bidding process to obtain a lease should discourage the submission of applications by complete strangers to the oil and gas industry in anticipation of striking it rich, and the simultaneous drawing could be eliminated. No significant change should occur in the total amount of acreage leased under this system in comparison to the present one. This alternative would not require the initiation of any new procedures for "designation" of competitive lands as would be true under other suggested expansion of competitive bidding, thus saving the imposition of additional administrative burdens and costs. No change should occur in development and exploration rates as present day operators are forced to acquire lands from those who are the lucky winners in the lottery. If bidding were limited to those persons who had filed applications within a certain number of days (assume 10 days), they would have some reward for their initiative in taking steps to apply for the lands and they are not acting solely in response to an advertisement to try their luck in a lottery. If the bidding were made open to any persons, it might be that a higher bid might be secured but presumably the competition has been indicated only by those who applied and it would appear consistent to restrict the bidding. However, all interested persons could still file applications and obtain the right to bid."

"4. Probable disadvantages

"While some incentive would be returned to constant examination of BLM records to determine the expiration of leases, the suggested alternate should not produce the "scrambles" and indications of inside information as to lease expirations that led to the simultaneous drawing. This should be offset by establishing a period of days during which competitive interest is ascertained. It is probable that some of the disadvantages noted with regard to an all competitive bidding alternative would arise, as would be true with any extension of competitive bidding to additional lands."

DEPARTMENT OF THE INTERIOR

In commenting on the provisions of S. 1830 in a report to the Committee of April 28, 1969 the Department of the Interior endorsed the principle that public lands in Alaska should be subject to competitive leasing. The Department stated that:

"Section 12(a)(1) provides that deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in all public lands in Alaska shall be subject to disposition by the Secretary upon application therefor or upon his own motion under such competitive bidding procedures as he may prescribe by regulations.

"The Department believes that it is important for the Secretary to have specific authority to dispose of all minerals under the mineral leasing laws by competitive bidding. We are carefully reviewing this language to be sure that this objective will be adequately accomplished. We recommend, however, that the section be amended to insure that it covers all minerals included under the mineral leasing laws."

A similar recommendation was made by the Bureau of the Budget in its April 29 report on S. 1830:

"We note that Sec. 12 of S. 1830 provides for competitive leasing of enumerated minerals subject to the Mineral Leasing Act. Competitive leasing would be a major step forward in assuring that the Federal Government obtains a fair market value return when it disposes of minerals. It is particularly important that this authority be enacted before the present "freeze" is ended since without this authority extremely valuable deposits will have to be disposed of noncompetitively unless they are determined to be in areas where competitive leasing is legally required."

The **PRESIDING OFFICER**. Who yields time?

Mr. **ALLOTT**. Mr. President, I do not know who controls the time in opposition.

Mr. **GRAVEL**. The Senator controls it.

Mr. **ALLOTT**. I yield myself such time as I may require.

Mr. President, I oppose the amendment of the distinguished chairman of the committee, fully aware of his feelings about this matter. We have discussed it many, many hours in the committee.

I wish to say, first of all, that I oppose it because by committee action—according to my recollection only by a majority of one or two votes—the committee recommended that section 17, which is the gist of this amendment, be eliminated from the bill.

I oppose the reinstatement of that provision for two or three other reasons, which I can state very clearly and very quickly.

First, 80 percent of the oil discovered in this country has been discovered by independents. It is nice to talk about offering these leases on a competitive basis and getting all the money in. But, if we do, we are going to force the people who have discovered most of the oil in this country out of the business.

Reference was made to the Bell Creek Field in the statement of the chairman of the committee, that if it had been leased on a competitive basis, it would have brought in $24 million more to the Government.

If the Bell Creek Field had been a known geologic structure, and it would have been leased on a competitive basis, and it is in all probability true that the Government would have received $24 million more out of it. But it was not on a known geologic structure. It was, therefore, leased noncompetitively, and as a result of that discovery and that find, subsequent leases brought in many, many dollars more to the Federal Government than if this one firm had not gone in there and risked its own reputation and its own capital in order to bring in that field.

Mr. HANSEN. Mr. President, will the Senator yield at that point?

Mr. ALLOTT. I yield.

Mr. HANSEN. Mr. President, I think it might be well to point out that Sam Gary, the Denver independent who discovered Bell Creek, had drilled 34 consecutive dry holes before he finally, in a last gasp dying effort, got together enough dough to drill a 35th well, and that was the well that was the producer, that brought into production and made available to all the people of this country the fabulous Bell Creek Field.

I just wanted to intrude on my good friend's time to make that observation.

Mr. ALLOTT. The Senator is not intruding at all. I knew he would allude to this in his remarks, and I did not want to intrude on his own speech.

But it illustrates the point very clearly that here is a man, an independent who had drilled 34 wells, and still had the backbone to drill a 35th. After that, by reason of his belief and confidence in his own efforts, in his geological abilities and drilling abilities, he brought in a field; and thereafter, of course, any bids that went out went out competitively.

Second, I want to say that I believe there is a very deep fallacy in this amendment, which is one of the main reasons, if not the main reason, that I oppose it.

The amendment reads, "where there is a competitive interest shown in a particular tract of land" it shall be under competitive bidding.

I ask, what is a competitive interest? Let us be practical, knowing the kind of a world we live in, and show how this will work.

I do not know whether it is generally known, but there was at one time a particular man in the oil business in the United States who had faster communication transmission out of the Bureau of Land Management than Bell Telephone has over its wires. He knew everything that went on there, and he knew it just as fast as a man came in.

So John Smith, who has worked in an area for a long time, and done some exploration and perhaps some geologizing, goes into the local office of the BLM, or sends in an application for a lease upon a given tract of land.

Bingo, just like that, the Maximum Oil Co. and the Super Maximum Oil Co. and the Super Super Maximum Oil Co. find out, through their pipelines in this big, sprawling Federal bureaucracy, that Smith who is a good oil man, has an interest in this area.

So what happens? When he makes his application for a lease, under this amendment it goes up for a competitive bid. So the man who had the brains to find it, the man who did the work to find it, all of a sudden, under this amendment, has a competitive interest shown. The Maximum Oil Co. and the Super Maximum Oil Co. and the Super Super Maximum Oil Co. all of a sudden come in, and the poor guy who had the brains and all the input, and spent his money, is outbid by the Maximum Oil Co. It is just that simple, and there is no way of getting around it. It is unfortunate about the Federal Government that it is that way, but there is no such thing as a secret application for a lease.

Therefore, what we are going to do is drive the independent oil people in this country, who have discovered most of the oil in this country that has been discovered, out of business, and we will be dependent completely and wholly upon the big companies, which are not now, for the most part, major exploration companies.

I sincerely hope that this amendment is not adopted, because it is going to thrust oil discovery in this country back many, many years, and it will destroy the very people who, it is true, have made their livings—and thousands of them have gone broke—trying to discover and bring in new oil. It is going to leave them out in the cold, and then we hand the whole ticket over to the major oil companies with the big checkbooks and the big pocketbooks. But once this independent has found a piece of land that he thinks looks good, that he has enough faith in to make an appliation for a lease and pay the lease on a noncompetitive basis and do the exploratory work and develop it himself, he actually has increased the income of the Government. Once he makes a discovery at his expense, from that time on, it is a known geological structure and the Government can lease it on a competitive basis with reasonable expectation of substantial bidding.

So when we speak of the long-run wellbeing of the United States, it will be better served from the prospect of more discoveries, and out of these discoveries, more competitive bidding in known geological areas.

I sincerely hope that this amendment, which was considered at great length by the committee, will be rejected.

Mr. METCALF. Mr. President, I am concerned about the loss of revenue if the provision for competitive leasing is not provided. I was especially concerned when the very able and distinguished chairman of the committee (Mr. JACKSON) used a horrible example of the Bell Creek field in Montana. I did not know that he was going to cite this as an example and was not familiar with the GAO report to which he referred. But immediately after I heard him cite this example, I called some independent and small oil drilling operators in Montana. Each of them acknowledged that the Bell Creek incident was valid, but each of them said that there would never have been a Bell Creek discovery had it not been for the small independent operator wildcatting on unproven ground.

The whole issue here is whether or not on unproven and undeveloped geologic structures in Alaska and only in Alaska, because in the rest of the Nation the Mineral Leasing Act is the present law, the independent and small operator shall be outbid and out-maneuvered by the large national and international companies that can spread their leasing costs and their losses over foreign operations, offshore leases, fields in several States, or whether an independent can risk his entire fortune in exploring undiscovered and unknown fields to try to bring in new areas and new discoveries.

My Montana advisors tell me that if every area has to be subject to competitive bidding, the big companies will monopolize the entire industry and the small independents will lose out completely. The question here is whether the independents are going to be shut out of further Alaskan development or not; whether the existing law is going to be applied to Alaska as a State of the Union or a special law for the benefit of the big oil corporations going to be used solely in this area.

Mr. JACKSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Washington has 22 minutes.

Mr. JACKSON. I yield 5 minutes to the senior Senator from Delaware, who is a cosponsor of the amendment.

Mr. President, I ask unanimous consent that the name of the junior Senator from Alaska (Mr. GRAVEL) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, I support the amendment. I can see no reason why, in the best interests of the American taxpayers, there is any objection to it. This amendment does not stop the Government from leasing in unknown geological areas the land on the basis of noncompetitive bidding. However, once it has been established that oil is in the surrounding area and there is a competitive interest in these leases, why should not the Government sell these leases and auction them to the highest responsible bidder?

The Comptroller General points out in his March 20, 1970, report, to Congress, which was referred to by the Senator from Washington, that oil was discovered in Powder River County, Mont., on June 29, 1967, and that at that time a substantial amount of acreage on Federal lands was not under lease. After oil was discovered in that area there was a great interest in these leases on the Government lands as well as the lands owned by the State of Montana. The State of Montana, very properly, auctioned its lands off at competitive bids, with the result that they sold the leases for 457,550 acres of State lands in this same area at prices per acre ranging from $6.14 up to $12.83. In leasing the 457,550 acres of State lands Montana received $4,544,025 from competitive bidding.

Since the oil had not been discovered on either the State lands or the other Government lands the Government under the present law leased 2,452,639 acres at 50 cents an acre and received a total of only $1,226,407. The Government leased nearly six times the acreage and received just over one-fourth of the amount of money. Government land was leased for 50 cents an acre. The Comptroller General estimates that on that one transaction we could have received approximately $24 million more by auctioning these leases in a competitive bidding sale.

I ask unanimous consent that excerpts from the Comptroller General's report relating to this matter be printed at this point in the RECORD, and I call particular attention to the letter which was included in the Appendix of this report as an example of the promotional literature that was sent to potential investors.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

At the time of the Bell Creek discovery, most of the Federal lands in the five-county area were not under lease. Since the KGS could not be established by GS before completion of the discovery well, the lands were available for leasing noncompetitively to the first qualified applicant. In fiscal year 1968, 3,482 leases covering about 5,018,000 acres of Federal land were issued as compared with 820 leases covering 860,000 acres of Federal land in fiscal year 1967.

Montana uses competitive bidding in awarding oil and gas leases of State lands. Normally, every 3 months there is a lease sale of State lands for which lease applications have been received and of State lands offered for lease at the direction of the Board of Land Commissioners. Leases are awarded by competitive oral bidding to the qualified applicant who submits the highest bonus bid; the lessee being subject to annual rentals and royalties on production. A lessee pays a $5 filing fee and an annual rental based on $1 an acre. In addition, it is required that a lessee pay royalties ranging from 12.5 to 25 percent in value or amount of the oil produced, depending on the volume of production, and royalties of 12.5 percent in value or amount of gas produced.

From June 29, 1967—the completion date of the Bell Creek Field discovery well—to September 10, 1968, BLM issued 1,596 noncompetitive leases, covering about 2.5 million acres of Federal lands in the five-county area, for the payment of first-year rentals of $1,226,407 based on $0.50 an acre. During this same period, Montana issued 850 competitive leases, covering 457,550 acres of State lands in the same general area, for the payment of $4,544,025, or an average of $9.93 an acre, comprised of an average bonus of $8.93 and first-year rentals of $1 an acre. This information is summarized in the following table.

County	State of Montana payment			Federal Government payment		
	Acres	Total	Per acre	Acres	Total	Per acre
Powder River	119,583	$1,516,890	$12.68	654,332	$327,234	$0.50
Carter	108,479	1,359,186	12.53	794,870	397,506	.50
Custer	122,187	749,650	6.14	414,274	207,179	.50
Rosebud	68,716	423,127	6.16	430,981	215,483	.50
Big Horn	38,585	495,172	12.83	158,182	79,005	.50
Total	457,550	4,544,025	9.93	2,452,639	1,226,407	.50

Because of the substantial leasing activity resulting from the discovery of the Bell Creek Field, we believe that the Federal lands could also have been leased competitively at prices comparable to those paid for leases of State lands in each of the five counties. The basis for our estimate that an additional $24 million in revenues could have been realized by the Federal Government is summarized in the following table.

County	Average price per acre on State lands	Number of acres of Federal land leased	Indicated market value	Amount paid under Federal leases	Market value not realized
Powder River	$12.68	654,332	$8,296,931	$327,234	$7,969,697
Carter	12.53	794,870	9,959,724	387,506	9,562,218
Custer	6.14	414,274	2,543,639	207,179	2,336,460
Rosebud	6.16	430,981	2,654,842	215,483	2,439,359
Big Horn	12.83	158,182	2,029,474	79,005	1,950,469
Total		2,452,639	25,484,610	1,226,407	24,258,203

We found that the Bell Creek Field discovery also had a significant impact on the leasing of oil and gas rights on Indian lands located within the five-county area. The Bureau of Indian Affairs (BIA) awards leases of Indian lands under a competitive bidding system. The leases provide for annual rentals of $1.25 an acre and royalties of 16⅔ percent of the value of oil and gas produced. Revenues received from oil and gas leases of the Indian lands supports our belief that Federal lands in the five-county area that were leased subsequent to the discovery of oil in the Bell Creek Field were leased at less than their fair market value.

At the time of the Bell Creek Field discovery, BIA's Northern Cheyenne Indian Agency had not held a lease sale for 2 years. BIA's Crow Indian Agency had received bids for only 3,482 of the 40,152 acres offered for lease in August 1966 and June 1967. However, between June 29, 1967—the completion date of the Bell Creek Field discovery well—and September 10, 1968, the Northern Cheyenne Indian Agency held four lease sales. For 149,039 of the 149,519 acres offered, the high bonus bids plus the first-year rentals averaged $8.10 an acre. The Crow Indian Agency also held two lease sales during that same period. For 44,199 of the 47,519 acres offered, the high bonus bids plus the first-year rental averaged $10.39 an acre. This increased leasing activity occurred despite the fact that these Indian lands are located at least 65 miles from the Bell Creek Field.

EXAMPLE OF PROMOTIONAL LITERATURE AND AGREEMENT OF A LEASING SERVICE

DEAR INVESTOR: Thank you for answering our ad on Uncle Sam's Drawing for petroleum rights on the rich oil and gas lands in the West.

This is the game for those who like to flirt with Lady Luck. It is absolutely legal, you can play it on a tax-deductible basis, the odds are far shorter and the payoff potentially far greater than the Irish Sweepstakes.

Some of these lands have had a potential of over $500,000 in royalty income for the winner. A great many parcels have a potential income value of from $100,000 to $250,000 and when sold to an oil company, under an advance oil production agreement, this income can be received as capital gain cash.

It is no longer necessary for you to visit the Federal Land Office to participate in these drawings. We, as your agent, can do it all for you for a very nominal fee of $10 or less per entry when filing on a regular basis. This includes our financing your filings by furnishing up to $1280 advance rental deposit per application. The enclosed literature explains our program in full.

Regularity is the keynote to success in this game. Most oil companies, shrewd investors and insiders file each and every month, on several parcels, without fail. Just one small winner can easily pay for 25 years of regular filing.

If you are interested in participating in these drawings, just sign and return one or more of the enclosed blue Entry Cards, along with your checks, and we will do the rest. If you hurry, you can make this month's drawing.

If you desire any additional information please feel free to write directly to me.

Yours For Good Luck,

——— ———.

P.S.—Over 95% of all federal leases acquired by oil companies are purchased directly from private citizens who have won in this drawing.

Mr. WILLIAMS of Delaware. Mr. President, this issue has been before Congress many times. Under the existing law the Federal Government has a standing rule of leasing the mineral rights on public lands at a fixed price of 50 cents per acre with an exception being made only in those areas in which there is known to be mineral rights.

All public lands are leased at these rates unless they are lands upon which oil deposits have been proven. On proven grounds they can sell or negotiate leases at higher rates.

The catch is that the lands are not proven for oil deposits until after they have been leased; therefore, the net effect of the existing law is that in areas in which the Government land is surrounded by proven oil deposits and at times when such surrounding lands are actually bringing premiums of as high as $20 to $30 per acre for the leasing rates, the Government will lease its land which is just as valuable for the standard 50 cents per acre.

One glaring example of how the Government lost under this noncompetitive bid operation is best illustrated by what happened in New Mexico. I discussed a similar transaction a few years ago which took place in New Mexico. I describe that New Mexico transaction which parallels the Alaskan situation.

An area of approximately 40,000 acres near Carlsbad, N. Mex., was withdrawn by the Secretary from oil or gas leasing on February 6, 1939, because of the potash development.

Many requests for leases to open the area for oil and gas development were received. Oil and gas had been found in large quantities in the immediate surrounding area. With modern technique for drilling it was believed that it would be possible to drill for oil and gas without serious risk to the potash development.

Accordingly, the area was opened for oil and gas leasing with nearly all of this area being open on a noncompetitive basis inasmuch as it had not been actually proven to be a producing area for either oil or gas.

This 40,000 acres was broken up into about 79 tracts, and immediately nearly 29,000 applications were received from various interested parties, seeking to lease these tracts at the standard 50 cents per acre. The demand was so great that the Federal Government announced and arranged a public drawing whereby on a given date all the applications were placed in a pot and the lucky 79 drawn.

Through this noncompetitive bid allocation the Government received $20,000 for leasing this approximately 40,000 acres.

According to the newspaper stories at the time, after this public drawing the lucky winners of this lottery—as it might be called—were able to sell their leases ofttimes without leaving the grounds at a profit of $3 to $4 million. Certainly the Government, as badly as it needs the money, could have sold those leases and received that much or more for them at auction.

As has been pointed out, the State of Alaska recently auctioned its leases on State lands. Certainly it cannot be said that it is known that there is going to be oil and gas on the land that was leased by the State of Alaska. Nevertheless, there is good reason to believe that there will be oil and gas, and the State received approximately $900 million. Why should not the State have sold these leases to the highest bidder, and why should not the Federal Government, which has substantial acreage in the same area, exercise the same prudence in disposing of leasing privileges on its public lands?

I would say that if this were land belonging to any Member of the Senate individually he would lease that land to the highest responsible bidder and get the most for it. After all, as Members of the Senate we are directors representing the American taxpayers, and I think they can best be protected by letting the Government auction these mineral leases to the highest responsible bidders. It just does not make sense to do otherwise.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. JACKSON. I compliment the Senator for his excellent remarks.

I want to emphasize again that if the existing Federal law had been applicable—instead of the State law of Alaska, which requires competitive bidding in connection with the Prudhoe Bay sales—the Federal Government would have lost over $429 million of the $900 million which the State of Alaska received at the September 11, 1969, lease sale. This is a dramatic example of the need for competitive leasing in this particular bill.

Mr. WILLIAMS of Delaware. I agree completely. Personally, I wish we could have this competitive bidding practice adopted throughout the Government on many of its procurements and sales.

Certainly, at this point, if we are going to consider this bill, the least we can do is to protect the Government's interests to that extent.

I strongly recommend that the amendment be adopted.

Mr. TOWER. Mr. President, I oppose the pending amendment to the Alaska Native Claims Act. I do so for two reasons. First, this amendment would tend to discriminate against the independent oil operator. By effectively raising the price he must pay for Federal oil and gas leases, the measure would make him less able to compete with the major oil company. Mr. President, I have nothing but respect for the major oil companies. Most of them began as independent oil operators. However, I am against adopting a measure which could have the longrun effect of driving the independent operator out of the market for these Federal leases. The independent cannot afford to pay the higher prices which usually result from competitive bidding.

Second, the amendment would establish a system of leasing Federal lands which would differ from the other 49 States. I feel that we should maintain a uniform leasing system throughout the 50 States of the Union. As I understand the amendment, all federally owned lands could be leased for mineral exploration only by competitive bidding.

Referring to my first reason, we must understand a little something about the manner in which the independent operator must employ his limited capital.

The independent operator is the epitomy of the free enterprise entrepreneur. He is willing to take high risks in seeking the larger reward. In the past, he has been responsible for drilling 80 percent of the exploratory wells in nonproducing areas. He has found the bulk of the new oil and gas reserves in the United States. This country has benefited from his efforts. Normally, the risk capital of the independent operator is limited. Usually, he is not able to expend large sums for unproven leases. His capital, rather, must be spent in completing his portion of any successful wells. He normally enters the capital market to raise the high-risk dollar which he spends for the lease, geologic work, and actual drilling.

In the past, only proven Federal leases were sold by competitive bidding. The term "proven" means that the lease is located on or in close proximity to a known petroleum producing geologic structure. The unproven Federal leases could be purchased for a nominal cash sum. Of course, the Government retained the usual landowners' royalty in addition to the cash.

This system tended to encourage the exploration for these vitally needed reserves of oil and gas. Under this noncompetitive system, large quantities of petroleum have been discovered by the venturesome independent operator through a multiplicity of efforts. These efforts probably would not have been made had only competitive bidding existed.

Competitive bidding by its nature tends to increase the price of all leases. While this increases the short-term benefits to the Nation by increasing initial revenues, this system would decrease the long-term benefits to the Nation by tending to drive many potential purchasers out of the market who could not afford the higher prices.

Thus, those who were willing and able to pay the larger sums for the proven leases at the competitive auctions could improve their chances to discover oil and gas. They could drill nearer the known producing reservoirs. On the other hand, the independent who could not afford the higher prices of the competitive bidding for the proven leases could wildcat; that is, he could drill in the completely untested territory at a much lesser price.

In this way, the independent could compete with the large companies for the leases. This is the manner of leasing which is used today. This system has contributed to this Nation's ability to produce the large quantities of oil and natural gas necessary to run this country and to maintain its national security.

I also object to this amendment for another reason. By establishing competitive bidding on Federal leases only in Alaska, the system thus proposed would differ from the other 49 States. The other 49 States presently allow both competitive and noncompetitive lease sales for federally owned leases.

I feel that we should maintain the present uniform system of leasing Federal lands for mineral exploration throughout all 50 States of the United States.

Mr. JACKSON. Mr. President, I yield 5 minutes to the junior Senator from Alaska.

Mr. GRAVEL. Mr. President, I should like to address myself to some facets of this matter that have been raised.

I do not claim any great knowldege or experience concerning the mineral history of other States. I think we have a unique situation in this particular bill, and the solution that is offered here is a very sound one.

I should like to digress for a moment, with reference to the parallel given by the Senator from Colorado about somebody having a direct wire line into the BLM and say that I know of an individual in the State of Alaska who used to be a floor sweeper for some oil companies and now is a very wealthy person.

I submit that being a spy within the Federal Government and passing knowledge is no different from being a spy in a private company and also passing out knowledge.

It should be noted, also, that this amendment is supported by no less than the administration, the Bureau of the Budget, the Treasury Department, the State of Alaska, and the Secretary of the Interior.

So, I think that the credentials of support are quite unusual.

The basic argument being made is that the competitive bid requirement goes to the fundamental tenets of our American leasing system. That is where the small prospector with his burro goes trudging up the mountain with his pick, he lays it down and discovers a great mineral deposit, and then goes out and files on it.

What happens in Alaska is not that. We do not have small developers. The nature of the oil business in Alaska is so expensive that small developers have not been able to get a toehold up there. So that the idea we are protecting some myth of Americana as it existed at the turn of the century does not hold in this particular instance.

What does hold is that when some of the companies do some geologic work and discover that there are some good finds, they parcel it out somewhat in the way of the shills in Las Vegas, where the properties are, and the people file on them, acquire it, turn around and sell to the oil companies when it is ready, willing, and able to take it up and do some exploration.

So the fact is that in Alaska, when properties are turned over by a small person—and let us keep this in context that by a "small persons" we are talking about millionaires, they are the small people involved here—they do not have the capacity to go out and perform any exploration.

Thus, in Alaska, the need for exploration is not met by this one method. It is met when the Government enters into a contract requiring companies to explore. That, of course, has been the record of Alaska. State law is similar to what is proposed here.

Interestingly enough, as a result of the hiatus of the Native land claims, and as a result of the selection procedures in Alaska, we had a similar situation where the State selected lands that individuals had filed on and those individuals had subsequently sold their interest to various major oil companies.

What happened was that, had they been permitted to exercise their filings, they would have become millionaires. The State of Alaska went in and took this land and the individuals turned around and filed a court case. The court case was not entertained. So they took the next remedy which was to go for legislation.

Thus, in the past 2 years the State legislature in the State of Alaska signed what is known as the dirty oil bill.

This dirty oil bill made a few people wealthy at the expense of a lot of other people.

Unless we adopt this amendment right here, S. 1830 will be known in Alaska and throughout the Nation as the dirty oil bill, because without this amendment, there is a mechanism, unintentional though it may be, that will make about 20 or more individuals multimillionaires, a sheer windfall for them; and all they will have done was to tack a little piece of paper to the bill and plunk it down.

Many of these individuals have no plans to go drill for oil. They have already sold the land and received the money. They have already sold the options, so that if the Federal Government accepts the filings they will not only have the money already received but considerable additional sums.

I think that is the point at issue in this particular legislation. It is not meant to deal with the States of the West. I think that the land problem will be treated adequately in the Land Law Review Commission report, already rendered—which, incidentally, recommends this course of action; but for the other States we can attack that problem there.

For Alaska, we do not want to see, by historical accident, a windfall of millions of dollars going to a very few individuals, when this money can approximate the amount of money we are rendering here in the Native land claims settlement. It could be the same smount. We do not want to see that same amount go to a few individuals but to the entire people of the State of Alaska.

That is the subject of the amendment. I urge its adoption.

Mr. HANSEN. Mr. President, let me point out that I have no disagreement with the distinguished chairman of the committee, nor with the distinguished Senator from Delaware (Mr. WILLIAMS) in urging that, generally, it makes good sense for our Government to offer anything it has to sell on a competitive bid basis.

I have supported, as the Senator from Delaware knows well, a number of efforts on his part, part of which were opposed by this and previous administrations, such as the sale of surplus minerals.

Thus, I point out that the Government has not pursued a policy of contending that the best and highest public interest always is attended by the sale of everything on a competitive bid basis.

In this instance, however, I think that the overriding concern of every one of the more than 200 million people in this country should be addressed to this hard fact: In the United States, 75 percent of all the energy that we use, the power that produces the light which illuminates this Chamber, for example, the power that keeps air conditioners working, comes from oil and natural gas.

More than 99 percent of all of our transportation whether it be by auto, train, plane, or ship is moved by oil or gas.

That is point No. 1.

Point No. 2, our reserves, those that we own, held by Americans on American soil, are not keeping pace with the tremendous use characterizing the ever-increasing activities of Americans. As a consequence, this applies to the problem we have had for some years: in relation to what we consume each year, our reserves are dwindling. This is true in the case of oil, and even more frighteningly true in the case of natural gas. Last year, two of the major industrial plants in this country—automobile manufacturing plants and tire plants—had to be shut down because there was not enough gas in the United States that could be turned on to fill the needs of the industrial plants and supply as well the needs of the consumers in the northeastern part of the United States.

This, then, is the prospect facing us today. Whether we will be able to keep the wheels of industry turning full time, so as to assure that all the people who want to work and have jobs can be assured of the ability to work, will depend upon the success that attends our efforts in this very important search for oil and natural gas.

Point No. 3 that we should consider: For those who try to equate the dollars that could come to our Government on a competitive-bid basis as compared with the present mineral leasing laws which, I submit, have served the best interests of this country very well, should consider another hard fact today: Of the total amount of oil, oil products, and natural gas that we consume per year, we import 20 percent.

Yet there are those who say, "We could have cheaper oil and cheaper gas in this country if we would just open the gates to let more come in."

Maybe we could, but only for a little while, because the fact is that we are facing a critical situation in the Middle East today. And what happens there will affect our NATO friends.

For anyone to contend that it would make good sense or that it would serve the best interests of this country to jeopardize the latitude and the flexibility of the options we have in the Middle East in trying to support our friends in Israel, I point out that if we were to become dependent upon others—as some suggest by the actions proposed by this amendment, which would certainly discourage much searching for oil and gas, then we would have to fulfill our requirements on the basis of what can come from other countries. And if we are to be dependent on the one hand upon the Arab nations of the world for our oil and gas and on the other hand pursue the policy which presently characterizes our attitude in the Middle East, I think we would have to make a hard decision.

We would either have to reckon with the fact that our sources of supply could be shut off at any time insofar as nations who are not pleased with our actions were concerned, or we would have to change our policies insofar as the nation of Israel is concerned.

So as an alternative to these choices, neither of which would be acceptable, it seems to me that we must continue to give every encouragement we possibly can to that small group of people that have accounted for 80 percent of all of the discoveries of all natural gas in the United States of America, exclusive of those on the Continental Shelf, in the last 10 years.

It is the small independent who operates under our present land laws who is able to put together a big enough block of land that he can interest dentists and doctors and farmers and housewives or anyone else who wants to put a little money into a gamble that is risky, to put together enough money to drill that hole.

The distinguished Senator from Delaware spoke about the Bell Creek field and what the General Accounting Office had to say. That is all well and good. However, how would the lands at Bell Creek have sold before Sam Gary made his first discovery? They would not have sold at all. The reason they would not have sold is that no one was interested in that area.

This land was available. No oilman had to bid for it. All he had to do was to lease it. Why was it not leased? It was not leased because it was only after Sam Gary made his discovery on his 35th well that he had drilled, after having drilled 34 dry wells, that there was any interest in Bell Creek.

It was only then that the General Accounting Office was able to say, "We could have gotten $24 million more."

That is a pretty small price to pay for the security that comes from having certain pubic lands laws that have served us well that makes us certain that we are not more dependent upon any other nation in the world.

I have said that of the total amount of oil and gas and allied products we consume in this country today, we import 20 percent. That means in terms of barrels of oil we are importing one for each four we produce.

I hope that we do not become dependent upon any country, even upon a nation as friendly as Canada is to us for these oil and gas supplies.

The way we can assure that we will not be dependent upon them is not to change these laws.

A lot has been said about Prudhoe Bay. I would like to point out to my good friend, the Senator from Alaska, if I may have his attenion, that it has been my privilege to support him on certain facets of this bill.

While the statement has been made that there would have been a loss in excess of $400 million if there had not been a competitive bid proposal there, let me point out what the facts are.

I am certain that my good friend, the Senator from Alaska, is aware of this, but many may not know that in September 1969, less than a year ago, there were 131 of 174 different parcels offered for sale upon which the Government received no bid at all.

No one wanted to bid on them. There were no bids at all. So any time anyone thinks that any time an oil lease is offered, someone is going to come in with a lot of money and bid on it, that is not the fact.

It is interesting to know, and I think it should be underscored, that a majority of the lands acquired by Mobil-Phillips in the 1964–65 sales were acquired for $1.55 per acre, as compared with the high of $28,233.25 per acre at the time of the bid sale last year in Alaska.

The point I want to make is simply that it is the independent, it is the little guy who is responsible. If we are concerned about little people, we should reject this amendment.

If my good friend, the Senator from Alaska, does not know some of the little men who are operating there, I can give him the names of a couple of people from my State of Wyoming. They have put their money, their expertise, their dollars, their last buck into these seismic exploration activities. They have geologized the area. They have done all those things that encouraged them to believe that there was some reasonable prospects, some reason to take a chance.

That accounts for the fact that only one out of every 50 wells drilled in this country today is a producer. Forty-nine do not pay off. Yet, it is this hope, that that one well in 50, or even less than that, will be the one that will be a commercial producer, which encourages these independents to search the length and breadth of this country and to bring into production a well after having first discovered the presence of this oil.

The only way I have ever heard anyone say that one can be sure the oil is in the ground is when the drill bit hits that oil.

It is terribly expensive to drill for oil on the north slope of Alaska. The fact that the State of Alaska was able to reap the great harvest it did came about because independents were operating up there and putting together these blocks of leases that finally brought about the activity and resulted in the discovery of oil.

When we look at the whole picture, our public land laws today give the assurance that the distinguished Senator from Delaware, my friend, wants to have. Any time there is a known geologic structure, the Director of the BLM, has the right—indeed, it his duty—to call for competitive leasing. But let us not be so concerned with trying to militate against the small operator as to discourage him to the point that this country of ours does not have adequate energy sources and we have to go, hat in hand, to the Middle East, to Indochina, or wherever it may be, and say, "We would like to buy oil."

Nothing is as expensive as something that one has to have that someone else has. And if there is a shortsighted policy that would not serve the best interests of this country well today, it would be a change in the public land policy which would discourage the independent operator from risking his last buck. That would discourage other Sam Garys from putting in their last dime, the last dime they could raise, after having drilled 34 dry holes when nobody else wanted to drill the land. Heaven knows, most people were not even interested in leasing at 50 cents an acre. The reason was that Sam Gary had not hit oil. It is a great thing to come around later, after someone else has had success, and say, "We would like to buy into this now that you are getting rich." Who would not?

The importance of this is that we think first about the adequacy of energy that will supply all the needs we have for jobs, and have the independence of action which makes it possible for us to inject our mighty influence into Southeast Asia one day, if we want to, and into the Middle East tomorrow, if we were to determine that is in our best interests, without first having to ask ourselves the tough question that perhaps was in the minds of a lot of Frenchmen when they decided to sell jets to Libya. There were those of us who did not understand why the French would do that. We might better understand if we would stop long enough and look closely to understand that France gets a great deal of this miracle material—oil and gas hydrocarbons—from that part of the Middle East.

If one can understand this he can understand many things that do not make sense to us because we are in that enviable position of being independent now, and I hope we are able to keep it that way.

Mr. President, the amendment offered by the Senator from Washington (Mr. JACKSON) underwent considerable discussion in the committee. It was only after a complete review of this matter that the committee made the decision to eliminate the provision proposed by the chairman.

The question surrounding competitive as contrasted with noncompetitive leasing is really peripheral to the whole question of settlement of native claims in Alaska.

The proposal the Senator from Washington (Mr. JACKSON) makes would establish a system of competitive bidding for all oil and gas leases on public lands in Alaska.

To adopt a system of competitive leasing would require a basic modification of the Mineral Leasing Act. This law is designed to promote the exploration and development of oil, gas, and certain other minerals on the public domain.

Existing law allows for noncompetitive bidding on all oil and gas leases outside a known geologic structure. A known geologic structure is generally identified as a geologic formation in which there is an existing producing oil or gas well.

So that there may be no misunderstanding, I wish to emphasize that noncompetitive leases that are issued under the Mineral Leasing Act embrace wildcat lands which are not within a known geological structure of a producing field. The definition of known geological structures on Federal lands is the function of the Geological Survey of the Interior Department.

In the State of Alaska, the Geological Survey has declared a total of 130,887 acres in eight separate areas as being within a known geological structure. This acreage is available only by competitive bidding. All other Federal lands in Alaska not withdrawn for governmental purposes are available for noncompetitive leasing.

Unless noncompetitive leasing is continued as authorized by existing law, the independent segment of the oil industry will eventually be squeezed out of Alaska to the detriment of the Nation. We cannot, in good conscience, permit this to happen, particularly at a time when our domestic oil and gas reserves are at low ebb and the need for greater exploration and development is imperative.

It is my contention, and was the feeling of the majority of the members of the Interior and Insular Affairs Committee, that while some revision of the Mineral Leasing Act was perhaps needed, the Alaska Native claims bill was no place to revise the act as it relates to Alaska.

The Public Land Law Review Commission recently reported their recommendations and findings. This was a $5 million study and took 6 years to complete.

It is the general consensus of many Members of Congress that regardless of the thoroughness of the review which was conducted by the Public Land Law Review Commission, much study and hearings need to be held before an enactment of any of the recommendations can be pursued.

Be that as it may, the recommendation on mineral leasing of the Public Land Law Review Commission is substantially different from that suggested by Senator JACKSON. In effect, Senator JACKSON has recommended a change in the public land laws for Alaska which does not coincide with the recommendation of the Public Land Law Review Commission.

The Public Land Law Review Commission recommends that the general public land laws throughout the Nation be altered uniformly so that a competitive sale of leases should be held whenever a competitive interest can reasonably be expected.

The Public Land Law Review Commission goes on to state that a "competitive interest can reasonably be expected" in the following situations:

First. In the general area of producing wells.

Second. For land covered by relinquished or forfeited leases or permits.

Third. Where past activity and general knowledge suggest reasonably good prospects for success.

This is different from Senator JACKSON's amendment which provides that competitive leasing shall be the rule where there is currently competitive interest shown.

I feel it is wrong to provide for a different mineral leasing law for Alaska alone; but even more important, I feel it is even more ill advised to alter the mineral leasing law without even taking into consideration the recommendations and suggestions of the Public Land Law Review Commission for which we just spend $5 million.

Aside from the fact that the Alaska native claims bill is a poor vehicle by which to attempt to force a major change the Mineral Leasing Act, there are other reasons why the adoption of a competitive leasing provision would be adverse to the interests of mineral development in Alaska as well as the United States.

First in importance is the real significance of the alarm sounded by Federal agencies concerning dwindling oil and gas reserves that are so essential to meet the expanding energy requirements of our Nation. There is a need for an accelerated exploration program to find new reserves of oil and gas to augment existing and dwindling supplies.

The Wall Street Journal, in its issue of April 8, 1970, called attention to the report of the American Petroleum Institute that crude oil reserves fell to a 15-year low in 1969. It also called attention to the report of the American Gas Association that proven reserves of natural gas fell for the second consecutive year in 1969.

Domestic petroleum requirements are projected to increase 38 percent by 1975. Worldwide demand will be up 76 percent. By 1975, the United States will consume one-half of the total world demand. Reserve growth rate will need to improve quickly if we are to meet projected demands.

High activity in the United States decreased considerably in the past year. Total wildcat wells were down 993 and field wells were down 2,820 in 1965. Wildcat success ratio last year—13.5 percent—was next to the alltime domestic low in 1959. If total acreage inventory decreases measurably, semirandom wildcat drilling also decreases, as many of these wells are drilled as much from an economic basis as scientific. More importantly, this type of drilling provides the data that ultimately develops specific prospects.

Amidst the hue and cry of both industry and government officials, for exploration incentives to encourage the search for new reserves of oil and gas to meet our ever-increasing demand for energy in the face of dwindling supply, the proposed amendment would, in fact, operate to discourage exploration and development of our oil and gas resources on the public domain of the United States in Alaska.

It is of real importance that the United States not allow itself to be placed in a position whereby it has to rely on foreign sources for its supply of oil and gas.

In light of the decreasing mineral reserves which are constantly in evidence, the United States has a substantial stake in the development of mineral reserves in Alaska.

In addition, there is no justification for adopting a separate mineral leasing law for Alaska. Any revision which is to take place in the Mineral Leasing Act should apply on a nationwide basis.

In view of the fact that 62 percent of all the Federal lands in the United States are located in Alaska, it is even more inconsistent for us to even consider changing the leasing system for this one segment.

Throughout the long history of the Mineral Leasing Act, its provisions with respect to the issuance of oil and gas leases have remained applicable uniformly to the entire public domain of the United States, including Alaska.

If modification of the Mineral Leasing Act is necessary or advisable in order to change the present system of leasing Federal lands, it should be by a separate bill addressed directly to the amendment of the Mineral Leasing Act and it should be applied uniformly to the entire public domain of the United States.

By restricting the leasing of oil and gas in Alaska to competitive bidding, there are many small oil and exploration companies that will be discouraged from taking part in discovery operations in Alaska.

Small independents simply do not have the financial resources or backing to bid competitively with larger oil companies for a specific piece of land.

The present ecological and environmental conditions in Alaska make it extremely difficult for the small independent to operate with the larger oil companies. This is true without even taking into account the original cost of such a lease. It is tremendously expensive to do business in Alaska.

An onshore wildcat well in the Cook Inlet Basin or the Copper River Basin in southern Alaska cost from $500,000 to $1.5 million.

Geologic field parties average $35,000 to $40,000 per month. Seismic crews on the Arctic Slope cost approximately $250,000 to $300,000 per month.

Operating costs of wells on the Alaska Peninsula can average $18,000 per day. Mobilization and demobilization costs can run as high as $750,000.

Wells on the North Slope will cost $2.5 to $3 million.

In all likelihood, competitive bidding would hamper the development of oil and gas in Alaska.

Historically, the independent has been responsible for 75 to 80 percent of the oil and gas discoveries.

Under the noncompetitive leasing system, the small oil companies have been able to amass sufficient land so that they could get financial backing to make basic seismic and geologic checks which have resulted in the major oil and gas discoveries.

Competitive leasing denies the aggressive, creative explorationist by removing those incentives which have led the independent to take great risks.

The important thing to note about the proposed plan to adopt a system of competitive leasing is that it is the independent oil and gas driller who will be harmed by such a proposal. But in the long run it is our Nation—all of us—who will suffer if we run short on oil and gas.

The large oil companies have the financial resources and backing to compete financially for oil and gas leases—the independent does not.

The truth of the matter is that the large oil companies would just as soon be placed in a position of being able to better any small oil company's bid. Competition would be substantially lessened. Because his resources are limited, the urgency characterizing his search distinguishes the independent's activity from that of the majors.

Every one is well aware of the great oil discovery which has occurred in the Prudhoe Bay on the North Slope of Alaska.

What the public generally does not realize is that Prudhoe Bay, in all probability, would never have been discovered if the industry had not been able to go up on the Arctic Slope and engage in the most expensive exploratory effort in one of the most inhospitable areas of the world without the incentive of being able to control large blocks of land. Most of us fail to realize that 131 of the 174 parcels offered for bid at the September 1969 sale were previously offered at sales in 1964 and 1965 and received no bids at all. A majority of the lands that were acquired by Mobil-Phillips in the 1964 and 1965 sales were acquired for $1.55 per acre as compared with the high of $28,233.25 per acre at the September sale in Alaska.

As with the North Slope and Prudhoe Bay areas, something has to be done to the land in order to make it valuable. Prudhoe Bay represents but a very small part of Alaska and is largely State-owned land. It is the independent, willing to take risks—whose presence in the vanguard of those searching for oil—who gives the best assurance that all Americans will have energy adequate to meet every task, from sources under our exclusive control.

It should be noted that even in the fabulous Prudhoe Bay field itself, several dry holes have already been drilled. Within the general area encompassing the Prudhoe Bay field, at least a dozen dry holes have been drilled. There can be no doubt that any number of parcels for which millions of dollars in bonuses were paid in the Prudhoe Bay sale will be found unproductive of oil or gas. This is the history of oil and gas exploration.

No one can predict whether one or more oil fields will be found in Alaska approaching even remotely the size of the Prudhoe Bay discovery. It is, however, a foregone conclusion that untold millions will be spent in exploration of the wildcat areas which remain available for noncompetitive leasing under existing law. It is much more important for the economy of Alaska, and for the good of the Nation, that exploration be encouraged—not discouraged—by placing the additional burden of competitive leasing on the oil development in Alaska.

Mr. GRAVEL. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 1 minute.

Mr. GRAVEL. Mr. President, I can only say that my distinguished colleague from Wyoming stated a very fine case for greater attention to oil. I share that view.

I think the situation in Alaska is a little different. I can only offer one slight correction, and that is that oil in Alaska was not discovered by the independent but by the U.S. Navy.

Mr. President, with that remark I would like to yield back all the time we have. If the Senator is prepared to yield back his time we could get to a vote.

Mr. HANSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. HANSEN. Mr. President, when the distinguished Senator from Washington (Mr. JACKSON) was in the Chamber earlier I had not objected to the unanimous-consent request. Although I had thought 30 minutes would be adequate, I call attention to the fact that the distinguished Senator from Colorado took about 10 minutes, and if there is a little time remaining there are a few additional things I would like to say. I am sure the Senator from Washington would not object if he were here.

Mr. GRAVEL. Mr. President, I am happy to yield additional time to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Alaska has yielded back his time.

Mr. GRAVEL. Mr. President, I ask unanimous consent that I may have returned to me the time I had yielded back.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I yield such additional time to the Senator from Wyoming as he may desire.

The PRESIDING OFFICER. The Senator from Wyoming has 3 minutes remaining of his own time.

Mr. GRAVEL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alaska has 8 minutes remaining.

Mr. GRAVEL. I yield to the Senator whatever time he needs.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I thank the Senator. I wish to point out that there are two other considerations to which I would like to call the attention of the Senate.

First, this is a very basic change in the public land laws of the United States. My plea to the Senate is that the Public Land Law Review Commission has been working for 6 years trying to understand this matter and to determine how relevant these public land laws that we have are to our conditions today. The cost of the study was $5 million.

If we are to change the public land laws in such an important respect as this is, it seems to me to be only good sense that we should make any changes applicable throughout all 50 States instead of singling out the State of Alaska and have them apply only to that State.

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. HANSEN. I am happy to yield to the Senator from Alaska.

Mr. GRAVEL. Mr. President, I wish to state for the RECORD and to have it noted that the State of Alaska does not mind being singled out in that particular regard.

Mr. HANSEN. The State of Alaska may not mind being singled out in that regard but I think it is in the public interest of all of us, those of us in the lower 48, as well as the State of Hawaii, to see that we pursue a policy which will serve all of us.

I am sure my good friend from Alaska joins me in that hope.

The Public Land Law Review Commission recommended changes not reflected by this bill. The members spoke specifically of some changes that they think should be brought in and generally they can be summoned up in this way. They state that a "competitive interest can reasonably be expected" in the following situations: In the general area of producing wells; for land covered by relinquished or forfeited leases or permits; and where past activity and general knowledge suggest reasonably good prospects for success.

In those instances the Public Land Law Review Commission recommends the sale of lands or the leasing of lands on a competitive bid basis. I think that is a rather important distinction.

I am pleased that my good friend from Washington has returned to the Chamber so that he might be aware of my having made the distinction between what this amendment calls for and what has been recommended by the Public Land Law Review Commission.

I thank my good friend from Alaska. If the Senator has no further need for time, I am happy to yield back whatever time I have remaining.

Mr. McGEE. Mr. President, the proposal by the distinguished Senator from Washington (Mr. JACKSON) to amend the Alaska native claims bill imposing a system of competitive bidding for oil and gas leases on public lands causes me grave concern.

If this amendment were adopted, it would be in conflict with a longstanding basic policy of the Federal Government which provides for noncompetitive leasing of oil and gas leases which are not "within any known geologic structure of a producing oil and gas field." I have long supported the noncompetitive bidding policy. The years of experience under this policy, evidenced by the widespread development of oil and gas on public lands, demonstrates most persuasively the wisdom of continuing the policy.

There is no sound reason to change our course of direction and policy in the State of Alaska. I respectfully suggest that this bill is a poor vehicle with which to institute such a drastic change in Federal mineral leasing practices.

The Public Land Law Review Commission's report has only recently been made available to Congress. We have not had sufficient time to digest the wealth of information contained in this report nor to draw sound conclusions from the Commission's recommendations.

The mineral leasing policy and the much-discussed changes with regard to simultaneous versus competitive leasing is a very complicated matter that has concerned both Government and industry for some time. There are a great many other Federal lands in other States of the Union, aside from those located in Alaska, which are involved in this total question and a policy change in this regard should apply equally to all of the public domain.

My State of Wyoming, its citizens, and the many small, independent operators and companies engaged in exploration and development have a large stake in this proposed amendment. We feel that its adoption will open the door to widespread changes in Federal leasing policies in the petroleum industry. The adoption of a competitive leasing policy would put the small, independent operator at a distinct economic disadvantage. In many cases, it would put him out of business. The smaller independent and individual operators could not compete with the large major companies which have unlimited capital and resources.

Competitive bidding for Federal oil and gas leases would more than likely place control of large tracts of land in the hands of the large companies. A pronounced slowdown in wildcat activity would result.

As an example of wildcat activity in my State, the March 19, 1970, issue of Petroleum Information for the State of Wyoming showed that there were 120 wildcat locations. Of those 120 locations, 104 were made by the independent operators and only 16 by major oil companies. Furthermore, the 1969 "Petroleum Information Annual Review of the Rocky Mountain Region" reveals that there were 133 new field discoveries. Of these 133 discoveries, only 10 were found by major oil companies. The remaining 123 were found by individuals and independent oil companies. In recent years the small independents have accounted for approximately 80 percent of all new discoveries in the continental United States.

In analyzing the above statistics, it is clear that the independent and individual operators are expending the majority of time and expense in exploring for oil and gas in the Rocky Mountains. In considering the proposed amendment we should bear in mind the adverse effect that the adoption of a competitive leasing policy would have upon the large number of small, independent operators, and businessmen who are making a substantial contribution to the discovery and the development of our petroleum reserves in this country. Competitive leasing would place the independents at a costly disadvantage resulting in diminished exploration at a time when it is vital to this country's economy and our national defense that we expand our known petroleum reserves and meet the increasing demands for production.

Mr. President, I strongly urge the defeat of this amendment and the retention of the mineral leasing provisions in the bill as reported by the Committee on Interior and Insular Affairs.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Connecticut (Mr. Dodd), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. Fulbright), the Senator from Tennessee (Mr. Gore), the Senator from Hawaii (Mr. Inouye), the Senator from Minnesota (Mr. McCarthy), the Senator from New Mexico (Mr. Montoya), the Senator from Georgia (Mr. Russell), the Senator from Alabama (Mr. Sparkman), the Senator from Maryland (Mr. Tydings), and the Senator from Texas (Mr. Yarborough) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Mondale) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Dominick) and the Senator from Delaware (Mr. Boggs) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) and the Senator from Maine (Mrs. Smith) are absent because of illness.

If present and voting, the Senator from Maine (Mrs. Smith) would vote "yea."

On this vote, the Senator from Delaware (Mr. Boggs) is paired with the Senator from South Dakota (Mr. Mundt). If present and voting, the Senator from Delaware would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 47, nays 35, as follows:

[No. 242 Leg.]

YEAS—47

Aiken
Allen
Anderson
Bayh
Bellmon
Burdick
Byrd, Va.
Byrd, W. Va.
Case
Cooper
Cranston
Eagleton
Ellender
Ervin
Fong
Gravel
Harris
Hart
Hartke
Holland
Hollings
Hughes
Jackson
Jordan, N.C.
Kennedy
Long
Magnuson
Mathias
McGovern
McIntyre
Miller
Muskie
Nelson
Pastore
Pell
Prouty
Proxmire
Ribicoff
Saxbe
Schweiker
Scott
Spong
Symington
Talmadge
Williams, N.J.
Williams, Del.
Young, Ohio

NAYS—35

Allott
Baker
Bennett
Bible
Brooke
Cook
Cotton
Curtis
Dole
Fannin
Goldwater
Goodell
Griffin
Gurney
Hansen
Hatfield
Hruska
Javits
Jordan, Idaho
Mansfield
McClellan
McGee
Metcalf
Moss
Murphy
Packwood
Pearson
Percy
Randolph
Smith, Ill.
Stennis
Stevens
Thurmond
Tower
Young, N. Dak.

NOT VOTING—18

Boggs
Cannon
Church
Dodd
Dominick
Eastland
Fulbright
Gore
Inouye
McCarthy
Mondale
Montoya
Mundt
Russell
Smith, Maine
Sparkman
Tydings
Yarborough

So Mr. Jackson's amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, I regret very much that the distinguished chairman of the Senate Committee on Interior and Insular Affairs has chosen to amend the Mineral Leasing Act by means of the Alaskan Native claims settlement legislation. The committee has made this legislation its prime concern for the 91st Congress. Every member of the committee has personally devoted countless hours to the consideration of the many proposals presented to the committee. We have all done our best to insure that fair and equitable action to settle these claims is taken this year.

As I stated in the committee's executive sessions, the purpose of this legislation is to settle the Native claims. These claims have been ignored too long and it is the duty of the Congress to enact a settlement now. But the bill is too important to be used as a vehicle for amending the public land law of the United States. I was heartened when the committee adopted this position and struck language identical to the chairman's amendment from the bill reported by the committee.

However, the able Senator from Washington decided to amend the act on the Senate floor. Since the chairman has decided that this legislation is to be used for the amendment of the Mineral Leasing Act of 1920, I feel obligated to call the attention of my colleagues to another provision of that act which urgently needs updating in fairness to the public land States of this Nation.

Mr. President, the Mineral Leasing Act of 1920 permits the Federal Government to lease its rights to certain minerals, notably oil and gas, to private parties for development and production in return for a royalty payment to the United States.

The act provided that 37½ percent of all moneys received from sales, bonuses, royalties, and rentals of public lands under its terms be paid to the State within the boundaries of which the leased lands or deposits are located.

However, in the State of Alaska, a State which contains one-half of all the public lands in the United States, the Federal Government returns 90 percent of the moneys collected from leasing Federal mineral rights to the State of Alaska. The coastal States receive the royalties from lands lying off their shores. The twelve remaining public lands States continue to receive only 37½ percent of the royalties on minerals on public lands located within their borders. Their only sin seems to be they were admitted to statehood too soon, at a time before the Federal Government realized the importance of this mineral wealth to the State and was prepared to let the States benefit from the minerals on public lands within their borders.

Wyoming is the ninth largest State in the Nation and has a population of 330,000 people. The State is trying desperately to compete in today's dynamic society. The State is sensitive to the beauties of its wide open spaces and wishes to protect them. The State also is working hard to provide needed governmental services for its people.

However, as the State undertakes these activities, it finds itself being drained of its mineral treasure. The Federal Government holds 48 percent of Wyoming's land surface, 72 percent of its mineral resources. Though coastal States receive all the mineral royalties from State tidelands under the ocean off their shores, Wyoming receives only 38½ percent of the mineral royalties from public lands within its own borders. While Alaska, which became a State in 1959, receives 90 percent of the revenues produced on its public lands, Wyoming, which became a State in 1890, receives only 37½ percent. Thirty-eight States prosper from the mineral treasure within their borders. But the Federal Government is the beneficiary of a great portion of the mineral wealth from 12 public lands States. In Wyoming the Federal Government holds the mineral rights on 72 percent of the mineral land in the State.

The continued syphoning of revenues from Wyoming's mineral resources to the Federal Government is a great hindrance to the State's development. Wyoming should not be forced to remain a colony as the Federal Government continues to take a large share of the mineral resources from the State.

How do the States stand on this subject? The Interstate Committee on Mineral Resources of the Western Conference of the Council of State Governments unanimously passed a resolution calling on the Federal Government to return a greater percentage of the mineral royalties to the States. This Western Governors' Conference has passed a resolution seeking a greater return on mineral royalties. The Governors are aware of the difficulties in meeting the problems of the States. The major share of mineral wealth of the States is not now used for the benefit of the States, but instead, it is taken to the U.S. Treasury in Washington.

Alaska receives 90 percent of the return of the royalties on public lands in that State. I believe that we can all recognize the opportunities open to Alaska as a result of this farsighted act of the Congress. Alaska is beginning to develop her mineral wealth today. The other public land States should share in the mineral returns from public lands in a like manner.

Seventy percent of the population of the United States lives on 2 percent of the land. This is a major cause of the problems we face today. A return of the royalties will aid the public land States in meeting these problems. Development in the less sparsely populated States will relieve the pressures on the larger States.

Now let me turn to just what this change will cost the Federal Government. In the last 48 years the percentage of the mineral royalties which the Federal Government kept and which I propose to return to the States has amounted to almost $800 million. This is less than $20 million per year. This amount is less than what we spend on most of the programs we undertake today, yet I can think of nothing which would provide a greater opportunity for public land States.

Such an action by the Congress is just and equitable. It would stand as a symbol of the Congress good faith in working with the States to meet the problems of the citizens. While I do not believe that the important legislation before us should be further delayed by efforts to substantially change our public land laws and therefore will not introduce an amendment today, I do feel compelled to direct the attention of the Senate to this inequity and urge that hearings be held by the appropriate committees of Congress on this subject immediately.

The PRESIDING OFFICER (Mr. GOLDWATER). The question is on agreeing to the committee substitute as amended.

Mr. HARRIS. Mr. President, the Chair has put the question with reference to the substitute amendment. If that were agreed to would that thereafter cut off additional amendment?

The PRESIDING OFFICER. That is correct.

Mr. HARRIS. I should like to be recognized in order to offer an amendment. First, Mr. President, I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRIS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. GOLDWATER). The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from Oklahoma (Mr. HARRIS) for himself and the Senator from Alaska (Mr. GRAVEL) proposes an amendment beginning on page 113, line 7, of S. 1830, to delete all of sections 13, 14, 15, and 16 (through page 145 line 5), and insert the following:

WITHDRAWAL OF PUBLIC LANDS

Section 13 (a) Public Land Order Numbered 4582, 34 Federal Register 1025, is hereby revoked.

(b)(1) There are hereby withdrawn, subject to valid existing rights, from selection by the State and from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands in each township as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State where protraction diagrams of the Bureau of Land Management are not available, which encloses all or part of any Native village listed in subsection (c) hereof, plus all public lands in each township which is contiguous to or corners upon the township or townships in which such Native village is located.

(2) In the event fewer than nine townships are withdrawn around a Native village pursuant to paragraph (1) because of the location of such village on an island, along the coast or near an international boundary, there shall be and hereby are withdrawn, in order of proximity to the center of such Native village, and on the same terms and conditions specified in paragraph (1), one or more additional townships contiguous (except as separated by bodies of water or by lands unavailable for withdrawal) to the withdrawn townships until a total of nine townships has been withdrawn.

(c) The following Native villages are qualified for land withdrawals under the provisions of subsection (b):

NAME AND PLACE OF REGION

Akhiok, Kodiak.
Akiachak, Southwest Coastal Lowland.
Akiak, Southwest Coastal Lowland.
Akutan, Aleutian.
Alaganik, Gulf of Alaska.
Alakanuk, Southwest Coastal Lowland.
Aleknagik, Bristol Bay.
Alatna, Koyukuk-Lower Yukon.
Allakaket, Koyukuk-Lower Yukon.
Ambler, Bering Strait.
Anaktuvuk Pass, Arctic Slope.
Andreafsey, Southwest Coastal Lowland.
Angoon, Southeast.
Aniak, Southwest Coastal Lowland.
Anvik, Koyukuk-Lower Yukon.
Arctic Village, Upper Yukon-Porcupine.
Atka, Aleutian.
Attu, Aleutian.
Atkasook, Arctic Slope.
Barrow, Arctic Slope.
Beaver, Upper Yukon-Porcupine.
Belkofsky, Aleutian.
Bethel, Southwest Coastal Lowland.
Bill Moore's Southwest Coastal Lowland.
Biorka, Aleutian.
Birch Creek, Upper Yukon-Porcupine.
Brevig Mission, Bering Strait.
Buckland, Bering Strait.
Candle, Bering Strait.
Cantwell, Cook Inlet.
Canyon Village, Upper Yukon-Porcupine.
Chalkyitsik, Upper Yukon-Porcupine.
Chanilut, Southwest Coastal Lowland.
Chefornak, Southwest Coastal Lowland.
Chenenga, Gulf of Alaska.
Chevak, Southwest Coastal Lowland.
Chignik, Kodiak.
Chignik Lagoon, Kodiak.
Chignik Lake, Kodiak.
Chilcat, Gulf of Alaska.
Chistochina, Copper River.
Chukwuktoligamute, Southwest Coastal Lowland.
Circle, Upper Yukon-Porcupine.
Clark's Point, Bristol Bay.
Copper Center, Copper River.
Cordova, Gulf of Alaska.
Craig, Southeast.
Crooked Creek, Upper Kuskokwim.
Deering, Bering Strait.
Dillingham, Bristol Bay.
Dot Lake, Tanana.
Eagle, Upper Yukon-Porcupine.
Eek, Southwest Coastal Lowland.
Egegik, Bristol Bay.
Eklutna, Cook Inlet.
Ekuk, Bristol Bay.
Ekwok, Bristol Bay.
Elim, Bering Strait.
Ellanar, Gulf of Alaska.
Emmonak, Southwest Coastal Lowland.
English Bay, Cook Inlet.
Eyak Village, Gulf of Alaska.
False Pass, Aleutian.
Fort Yukon, Upper Yukon-Porcupine.
Gakona, Copper River.
Galena, Koyukuk-Lower Yukon.
Gambell, Bering Sea.
Georgetown, Upper Kuskokwim.
Golovin, Bering Strait.
Goodnews Bay, Southwest Coastal Lowland.
Grayling, Koyukuk-Lower Yukon.
Gulkana, Copper River.
Haines-Port Chilkoot, Southeast.
Hamilton, Southwest Coastal Lowland.
Haycock, Gulf of Alaska.
Holkaichuk, Koyukuk-Lower Yukon.
Holy Cross, Koyukuk-Lower Yukon.
Hoonah, Southeast.
Hooper Bay, Southwest Coastal Lowland.

Hughes, Koyukuk-Lower Yukon.
Huslia, Koyukuk-Lower Yukon.
Hydaburg, Southeast.
Igiugig, Bristol Bay.
Iliamna, Cook Inlet.
Inalik, Bering Strait.
Ivanof Bay, Aleutian.
Juneau, Southeast.
Kake, Southeast.
Kaktovik, Arctic Slope.
Kalskag, Southwest Coastal Lowland.
Kaltag, Koyukuk-Lower Yukon.
Karluk, Kodiak.
Kasaan, Southeast.
Kashiga, Aleutian.
Kasigluk, Southwest Coastal Lowland.
Katalla, Gulf of Alaska.
Kenai, Cook Inlet.
Ketchikan, Southeast.
Kiana, Bering Strait.
King Cove, Aleutian.
Kipnuk, Southwest Coastal Lowland.
Kivalina, Bering Strait.
Klawock, Southeast.
Klukwan, Southeast.
Kobuk, Bering Strait.
Koliganek, Bristol Bay.
Kokhanok, Bristol Bay.
Kongigonak, Southwest Coastal Lowland.
Kotlik, Southwest Coastal Lowland.
Kotzebue, Bering Strait.
Koyuk, Bering Strait.
Koyukuk, Koyukuk-Lower Yukon.
Kwethluk, Southwest Coastal Lowland.
Kwigillingok, Southwest Coastal Lowland.
Lake Manchumina, Koyukuk-Lower Yukon.
Larsen Bay, Kodiak.
Latauche, Gulf of Alaska.
Levelock, Bristol Bay.
Lime Village, Upper Kuskokwim.
Livengood, Koyukuk-Lower Yukon.
Lower Kalskag, Southwest Coastal Lowland.
McGrath, Upper Kuskokwim.
Makok, Kayukuk-Lower Yukon.
Makushin, Aleutian.
Manley Hot Springs, Tanana.
Manokotak, Bristol Bay.
Mansfield Village, Koyukuk-Lower Yukon.
Marshall, Southwest Coastal Lowland.
Mary's Igloo, Bering Strait.
Medfra, Upper Kuskokwim.
Mekoryuk, Southwest Coastal Lowland.
Mentasta Lake, Copper River.
Metlakatla, Southeast.
Minchimina Lake, Upper Kuskokwim.
Minto, Tanana.
Moses Point, Gulf of Alaska.
Mountain Village, Southwest Coastal Lowland.
Mummy Island, Gulf of Alaska.
Nabesna Village, Tanana.
Naknek, Bristol Bay.
Napaimute, Upper Kuskokwim.
Napakiak, Southwest Coastal Lowland.
Napaskiak, Southwest Coastal Lowland.
Nelson Lagoon, Aleutian.
Newhalen, Cook Inlet.
Nenana, Tanana.
New Stuyahok, Bristol Bay.
Newtok, Southwest Coastal Lowland.
Nightmute, Southwest Coastal Lowland.
Nikolai, Upper Kuskokwim.
Nikolski, Aleutian.
Ninilchik, Cook Inlet.
Noatak, Bering Strait.
Nome, Bering Strait.
Nondalton, Cook Inet.
Nooiksut, Arctic Slope.
Noorvik, Bering Strait.
Northeast Cape, Bering Sea.
Northway, Tanana.
Nulato, Koyukuk-Lower Yukon.
Nunapitchuk, Southwest Coastal Lowland.
Ohogamiut, Southwest Coastal Lowland.
Old Harbor, Kodiak.
Oscarville, Southwest Coastal Lowland.
Ouzinkie, Kodiak.
Paradise, Koyukuk-Lower Yukon.
Paulof Harbor, Aleutian.
Pedro Bay, Cook Inlet.
Perryville, Kodiak.
Petersburg, Southeast.
Pilot Point, Bristol Bay.
Pilot Station, Southwest Coastal Lowland.
Pitkas Point, Southwest Coastal Lowland.
Platinum, Southwest Coastal Lowland.
Point Hope, Arctic Slope.
Point Lay, Arctic Slope.
Portage Creek (Ohgsenakale), Bristol Bay.
Port Ashton, Gulf of Alaska.
Port Graham, Cook Inlet.
Port Lions, Kodiak.
Port Heiden (Meshik), Aleutian.
Port Nellie Wayn, Gulf of Alaska.
Quinhagak, Southwest Coastal Lowland.
Rampart, Upper Yukon-Porcupine.
Red Devil, Upper Kuskokwim.
Ruby, Koyukuk-Lower Yukon.
Russian Mission (Kuskokwim) (or Chauthaluc), Upper Kuskokwim.
Russian Mission (Yukon), Southwest Coastal Lowland.
Saint George, Aleutian.
Saint Mary's, Southwest Coastal Lowland.
Saint Michael, Bering Strait.
Saint Paul, Aleutian.
Salamatof, Cook Inlet.
Sand Point, Aleutian.
Savonoski, Bristol Bay.
Savoonga, Bering Sea.
Saxman, Southeast.
Scammon Bay, Southwest Coastal Lowland.
Selawik, Bering Strait.
Seldovia, Gulf of Alaska.
Seward, Gulf of Alaska.
Shageluk, Koyukuk-Lower Yukon.
Shaktoolik, Bering Strait.
Sheldon's Point, Southwest Coastal Lowland
Shishmaref, Bering Strait.
Shungnak, Bering Strait.
Sitka, Southeast.
Skituk, Cook Inlet.
Slana, Copper River.
Sleetmute, Upper Kuskokwim.
Solomon Council, Gulf of Alaska.
South Naknet, Bristol Bay.
Squaw Harbor, Aleutians.
Stebbins, Bering Strait.
Stevens Village, Upper Yukon-Porcupine.
Stony River, Upper Kuskokwim.
Tanacross, Tanana.
Tanana, Koyukuk-Lower Yukon.
Tatitlet, Gulf of Alaska.
Telida, Upper Kuskokwim.
Teller, Bering Strait.
Tetlin, Tanana.
Togiak, Bristol Bay.
Toksook Bay, Southwest Coastal Lowland.
Tuluksak, Southwest Coastal Lowland.
Tuntutuliak, Southwest Coastal Lowland.
Tununak, Southwest Coastal Lowland.
Twin Hills, Bristol Bay.
Tyonek, Cook Inlet.
Ugashik, Bristol Bay.
Unalakleet, Bering Strait.
Unalaska, Aleutian.
Unga, Aleutian.
Uyak, Kodiak.
Valdezan, Gulf of Alaska.
Venetie, Upper Yukon-Porcupine.
Wainwright, Arctic Slope.
Wales, Bering Strait.
White Mountain, Bering Strait.
Wiseman, Koyukuk-Lower Yukon.
Wrangell, Southeast.
Yakutat, Southeast.

(d) There are also hereby withdrawn, subject to valid existing rights, from selection by the State and from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands within sections 5 to 8, inclusive, of every township in the State of Alaska not otherwise withdrawn pursuant to this section.

SELECTION OF PUBLIC LANDS

SEC. 14. (a) (1) Each Native village listed in section 10(c) is hereby granted and shall be entitled to select, within eighteen months after the effective date of this Act, a total of ninety-two thousand one hundred and sixty acres or five hundred acres per member, as shown on the temporary census roll prepared pursuant to section 7(a), whichever amount is greater, from the lands withdrawn in accordance with section 10: *Provided*, That a Native village having a reserve set aside for its use or benefit prior to the effective date of this Act shall have a right to select such reserve in accordance with section 15 (b) and (c).

(2) Where the Native villages within any region of Alaska, as defined in section 9(a) of this Act, are entitled to select in the aggregate less than 5 per centum of the total land area of such region, such villages are hereby granted and shall be entitled to select, within eighteen months after the effective date of this Act, such additional amount of land as is necessary to increase their aggregate entitlement to 5 per centum of the total land area of such region. Selection rights under this subsection shall be apportioned among the various Native villages of a region in direct relation to the population thereof, as shown on the temporary census roll prepared in accordance with section 7(a).

(3) In exercising its selection rights pursuant to paragraphs (1) and (2), a village shall first select from among the public lands withdrawn pursuant to section 10(b), and all such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and, wherever feasible, shall be in units of not less than one thousand two hundred and eighty acres. In the event the public lands withdrawn pursuant to section 10(b) are not sufficient in amount to satisfy the entitlement of any Native village under paragraphs (1) and (2) hereof, such village may select non-contiguous tracts from among the public lands withdrawn pursuant to section 10(d), in order of their proximity to the center of the village, until its selection rights are exhausted.

(b) If a Native village possesses a council, board of directors or other governing body recognized by the Secretary as having authority to act for such village, and which is both composed of and elected exclusively by Natives, such council, board or governing body is hereby authorized to exercise the land selection rights of its village. In the absence of a recognized council, board of directors or other governing body of a Native village listed in section 10(c), the Secretary shall hold an election for such village, under such rules and regulations as he may prescribe, at which a five-man village land selection committee shall be chosen, and the committee so elected is hereby authorized to exercise the land selection rights of its village. The Secretary shall hold all village elections hereunder within one year after the effective date of this Act, and the persons entitled to vote therein or serve on the land selection committee shall be the members of each Native village nineteen years of age or over, as shown on the temporary census roll prepared pursuant to section 7(a).

(c) (1) Where two or more Native villages, because of proximity in location, are entitled to select lands in the same townships and actually select the same lands, their respective village councils, boards, governing bodies or land selection committees, as the case may be, shall be authorized to settle the overlap by negotiation and, in furtherance of any such settlement, to release selected lands to each other. A Native village at any time may, and, if the villages which are parties to the overlap do not reach agreement within six months after the date such overlap arises, the Secretary shall refer the overlap to the Commission for decision in accordance with section 6 of this Act. The Commission shall award the land, or portions thereof, to the village or villages shown historically to have made greater use and occupancy thereof by a preponderance of the evidence, or in such manner as will do substantial justice.

CONVEYANCE OF LANDS

Sec. 15. (a) The Secretary shall promptly survey the townships withdrawn under section 10(b) and the areas selected for conveyance to Native villages and regional corporations pursuant to the provisions of sections 11 and 15 of this Act, but need monument only the exterior boundaries of these townships or areas. He also shall promptly survey (1) within the townships withdrawn or areas selected all lands occupied as a primary place of residence, a primary place of business, subsistence campsites, reindeer grazing grounds, and for other purposes as required under subsection (b)(2) hereof, and (2) any other land to be patented under this Act.

(b)(1) Upon completion of the survey of lands selected by a Native village, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to such village to the land and all interests therein, except minerals covered by the mining and mineral leasing laws, subject to valid existing rights, and subject to the provisions of paragraph (2) hereof: *Provided*, That the Secretary shall hold the lands and interests in lands to which the village may be entitled in trust until such village organizes as a corporation or otherwise qualifies to own real property. At the time of conveyance, the village corporation shall succeed and become entitled to any and all interests of the United States or the State, as lessor or landowner, in any leases, permits, contracts or rights-of-way covering the lands.

(2) Upon receipt of a patent or patents to selected lands, a Native village—

(A) shall issue deeds to the occupants, without payment of any consideration, to the surface of tracts occupied by Natives on September 1, 1969, as a primary place of residence, as a primary place of business, for subsistence campsites (up to five acres per individual or forty acres per group), or for reindeer husbandry (up to two thousand and five hundred acres per individual and a maximum of five tracts per village), subject to valid existing rights;

(B) shall issue deeds to the occupants, upon payment of the fair market value for such property, to the surface of tracts occupied by non-Natives on September 1, 1969, as a primary place of residence or a primary place of business, subject to valid existing rights;

(C) may issue deeds to the occupants, either in the discretion of the village without consideration or upon payment of an amount not in excess of fair market value for such property, to the surface of tracts occupied on September 1, 1969, by nonprofit organizations for the purposes for which such organizations were established, subject to valid existing rights: *Provided*, That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(2) A Native village which releases selected lands in order to settle an overlap, or which loses selected lands under a Commission award in accordance with paragraph (1), shall be entitled to select additional public lands pursuant to subsection (a)(3) until its selection rights are exhausted, and, notwithstanding the provisions of subsection (e) hereof, all townships withdrawn under section 10(b) around a Native village which is a party to a selection overlap shall remain in withdrawn status until three months after final settlement of the overlap or a final decision of the Commission concerning such overlap, including any appeal.

(d) The regional corporations created pursuant to section 9(b) of this Act are hereby granted and shall be entitled to select, during the period beginning eighteen months and ending ten years after the effective date of this Act, from the public lands withdrawn in accordance with section 10(d), such amount of land as represents the difference, if any, between forty million acres and the total acreage selected by Native villages under this section and section 15 hereof. Selection rights under this subsection shall be apportioned among the various regional corporations in direct relation to the population of the Native villages within each region, as shown on the temporary census roll prepared in accordance with section 7(a); *Provided*, That, in exercising selection rights under this subsection, each regional corporation may give consideration to the needs of Native villages which are entitled to select an area of land substantially smaller than the acreage actually used by such villages for subsistence hunting, fishing, and gathering on the effective date of this Act.

(e) Except as otherwise provided in subsection (c)(2) hereof, all public lands withdrawn pursuant to section 10(b), which have not been selected by a Native village under this section, shall be restored eighteen months after the effective date of this Act, or six months after the selection required under subsection (b) hereof, whichever later occurs, to the status in which such lands had been placed prior to the effective date of this Act: *Provided*, That any such lands previously included within a reserve revoked pursuant to section 15(a) hereof shall be restored to the public domain. All public lands withdrawn pursuant to section 10(d), which have not been selected by a Native village or regional corporation under this section, shall be restored ten years after the effective date of this Act to the status in which such lands had been placed prior to the effective date of this Act.

(D) may issue deeds to the occupants upon payment of the fair market value for such property, to the surface of tracts occupied on September 1, 1969, subject to valid existing rights.

Any dispute over the boundaries, use, occupancy or value of any tract which is covered by this paragraph may be submitted by any party to such dispute to the Commission for decision.

(3) Upon completion of the survey of lands selected by a Native village, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to all minerals covered by the mining and mineral leasing laws, subject to valid existing rights, to the regional corporation for the region in which such village is located. At the time of such conveyance, the regional corporation shall succeed and become entitled to any and all interests of the United States or the State, as lessor, in any mineral leases covering such lands.

(4) Upon completion of the survey of lands selected by a regional corporation, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to such corporation to the land and all interests therein, including minerals covered by the mining and mineral leasing laws, subject to valid existing rights. At the time of such conveyance, the regional corporation shall succeed and become entitled to any and all interests of the United States or the State, as lessor or landowner, in any leases, permits, contracts or rights-of-way covering such lands.

(c) Nothing in this Act, except the withdrawal of public lands pursuant to section 10, shall repeal, modify or otherwise affect the right of any Native to acquire public lands of the United States under the Native Allotment Act of May 17, 1906 (34 Stat. 197), as amended. In addition, upon application to the Commission within ten years after the effective date of this Act, and upon certification by the Commission that such application is valid and proper, the Secretary shall issue a patent to the Native applicant, subject to valid existing rights, without payment therefor, to the surface of public lands outside the areas withdrawn pursuant to section 10(b) and patented pursuant to section 12(b)—

(1) which have been used by a Native or group of Natives for a period of more than three years immediately prior to the effective date of this Act as a campsite for the harvesting of fish, wildlife, berries, fuel, or other products of the land: *Provided*, That such patents shall be issued (A) for five-acre tracts for each subsistence use campsite separate from the campsite of any other applicant, (B) for forty-acre tracts when the campsites of several applicants are in such proximity to each other as to make it not feasible to patent individual five-acre campsites, or (C) for larger tracts, not to exceed sixty acres, where individuals can establish under such rules and regulations as the Commission may prescribe, historic occupancy and use of the larger tracts; or

(2) which have been used by a bona fide reindeer husbandryman, family, or village community reindeer association or group, which was practicing reindeer management on the effective date of this Act: *Provided*, That such patents shall be up to, but shall not exceed, two thousand five hundred and sixty acres, may include more than one tract, and shall cover only lands that have been leased, permitted, or used for reindeer management purposes, including summer and winter range facilities and intervening line camps, for at least three years prior to the date of application to the Commission; or

(3) which have been used by a Native nineteen years of age or over as a primary place of residence or business for one year prior to the date of application to the Commission: *Provided*, That such patent shall be up to, but shall not exceed, one hundred and sixty acres: *And provided further*, That such patent shall include title to minerals subject to the mining laws, but not to the mineral leasing laws.

Pending the issuance of a patent under this paragraph, the Secretary may permit continued use of the lands for the purposes upon which the application for patent is based. The Secretary shall apply the rule of approximation with respect to acreage limitations set forth in this paragraph.

(d)(1) Where, prior to patent of any land under subsection (c), a lease, contract, or permit has been issued for the utilization of surface or mineral resources covered under such patent (including a lease issued under section 6(g) of the Statehood Act), the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permitee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all interests of the United States or the State, as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the surface or minerals patented.

(2) The Secretary shall provide as a condition to the granting of each permit to prospect, or to the granting of each lease to mine or drill for minerals covered by the mineral leasing laws, which minerals are situated in lands patented pursuant to subsection (c), and are not covered by such patent, that the permittee or lessee shall provide a bond, satisfactory to the Secretary, to indemnify the surface patentee for any damages which such permittee or lessee may

cause in connection with the development of such permit or lease, and further the Secretary shall include provisions in such lease or permit which will protect the surface patentee against unreasonable interference in the enjoyment of his land.

ADMINISTRATION OF LANDS

SEC. 16. (a) Village and regional corporations may exchange lands, interests in lands and water rights with each other, or with the State or the United States, and the Secretary, the Secretary of Agriculture and the Secretary of Defense, under such rules and regulations as they respectively may prescribe, may exchange land, interests in lands and water rights under their jurisdiction with village and regional corporations, for the purpose of effecting land consolidations or for facilitating the management or development of land. Exchanges of lands, interests in lands and water rights hereunder shall be made on the basis of equal value, and the value of improvements on lands shall be given due consideraiton and allowance made therefor in any valuation: *Provided*, That either party to an exchange under this subsection may pay or accept cash in order to equalize the values of the properties exchanged.

(b) Pending the selection by a Native village or regional corporation pursuant to sections 11 or 15 of public lands withdrawn in accordance with section 10, or the restoration of such lands to the status in which they had been placed prior to the effective date of this Act, the Secretary may take such actions as shall be necessary to administer, manage and protect such withdrawn public lands: *Provided*, That the Secretary shall not sell or otherwise permanently dispose of lands or interests therein, except as provided in this subsection: *And provided further*, That the Secretary shall not, without the consent of the village or regional corporation for the benefit of which the land was withdrawn, issue, enter into or renew any lease, contract or permit covering withdrawn lands which will be in effect more than eighteen months after the effective date of this Act. The Secretary, with the approval of the Commission, and in accordance with such rules and regulations as he shall prescribe, may grant an easement or right-of-way for a public purpose over, across, under or through withdrawn public lands on condition that the grantee of such easement or right-of-way: (1) shall provide a bond, satisfactory to the Secretary, in an amount sufficient to pay the fair market value of any interest it acquires in lands subsequently selected by a Native village or regional corporation; and (2) shall agree to conserve the natural resources of the land, including fish and wildlife, and to protect the surface owner from unreasonable interference in the enjoyment of his land. All payments or revenues attributable to the use or other disposition of withdrawn lands selected by a Native village or regional corporation, after deducting the cost of administration thereof, shall be paid by the Secretary to such village or corporation.

(c) After the selection by a Native village or regional corporation pursuant to sections 11 or 15 of public lands withdrawn in accordance with Section 10, but before the issuance of a patent thereto under section 12, such village or corporation shall have a right to lease or dispose of the lands and interests in lands so selected, including minerals, on the same terms and conditions (except that approval shall be by the Commission rather than by the Secretary) as an Indian tribe organized under section 16 of the Act of June 18, 1934 (25 U.S.C. 476; 48 Stat. 987), may dispose of unallotted lands and interests therein, including minerals, to which its title has been recognized by treaty or statute: *Provided*, That easements or rights-of-way for public purposes may be acquired within such lands by condemnation in accordance with the laws of the State. For purposes of this subsection, the board of directors of the regional corporation, and the council, board of directors or other governing body recognized by the Secretary as having authority to act for a Native village, shall have the same rights, powers, duties and authority as a tribal council possesses in acting for an organized tribe; the village land selection committee, elected pursuant to section 11(b) of this Act, shall be authorized to exercise the same rights, powers and authority, and assume the same duties, if the Secretary and the Corporation both approve. Notwithstanding any other provision of law, all payments or revenues attributable to the leasing or other disposition of selected lands in accordance with this subsection shall be paid directly to the Native village or regional corporation, as the case may be.

(d) After the patenting of selected lands pursuant to section 12 of this Act, the village and regional corporations may hold, manage, lease or dispose of such lands and interests therein, including minerals, in accordance with the laws of the State: *Provided, however*, That for a period of ten years after the effective date of this Act, any sale (other than a sale pursuant to section 12(b)(2)), mortgage, surface lease for a term (including renewals) of more than fifty years, grant of a permanent easement of right-of-way, or gift of such lands, or interests in lands, shall require the approval of the Commission in order to be valid. Land deeded to a non-Native individual or organization by a Native village pursuant to section 12(b)(2), and land sold by a village or regional corporation to any person or entity other than a Native, the Corporation, or other village or regional corporation shall not be exempt from taxation pursuant to section 18(c) of this Act as of the date of such deed or sale.

Mr. HARRIS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. HARRIS. Mr. President, the amendment would expand a portion of the settlement contained in the bill, that portion in regard to the amount of land which would be allowed to the Natives of Alaska.

The bill is essentially a three-part settlement—cash, land, and an overriding royalty interest on the production of the land. The amendment would expand one part of the settlement, that part having to do with land.

The Natives ask for 40 million acres, which is one-half their original request. As a matter of law, the Native people of Alaska own outstanding, unextinguished aboriginal title to approximately 93 percent of the State of Alaska. Their claim rests not only on moral grounds, but also on firm legal ground.

There is no doubt as to that firm legal ground. Most recently, on December 19, 1969, the U.S. Court of Appeals for the Ninth Circuit, in the case of Alaska against Udall and Alaska against Native Village of Nenana, affirmed the Natives' position:

That their aboriginal rights were preserved in the Alaska Statehood Act; that the power of Congress to confirm to the Natives' interest in those lands was preserved in the Statehood Act. The opinion also casts substantial doubt on the authority of the Secretary of the Interior to have issued any patents to the State on Native lands without first having conducted hearings to determine the validity of Native claims.

Mr. President, as I have previously said, the distinguished chairman of the committee, the Senator from Washington (Mr. JACKSON), the members of the committee and the two Senators from Alaska are entitled to high commendation for the excellent work they have done and the interest they have shown in producing a good settlement bill.

We have agreed to certain amendments in the Senate. Some of them have been offered by the chairman and some have been offered by other Senators. These amendments have improved the bill. They are amendments which I have been pleased to support.

There is one remaining and basic improvement which, most of all, the Alaskan Natives would hope to see made in the bill. That concerns the amount of land which the settlement would provide.

The distinguished Senator from Alaska (Mr. GRAVEL) is a cosponsor of this amendment which would carry out the recommendations of the Alaskan Federation of Natives. It also responds to what the people who live in the villages think is the most important aspect of this bill, that dealing with the land itself.

When we consider the value of the State of Alaska in 1970, what the Native people ask in the way of compensation seems modest indeed. They are willing to accept among other things, fee simple title to 40 million acres of land from the public domain to which they now have aboriginal title.

They ask us to approve that request as a way of doing justice in this case, and I think we can see the modesty of that request when we recall the generosity of Congress to the State of Alaska at the time Congress passed the Alaska Statehood Act in 1958.

From the public domain of 365 million acres, we gave the State of Alaska the right to select 103 million acres. From the remainder of the public domain, we gave the State 90 percent of the revenues from minerals and liberal portions of receipts from other important resources. In only one sale of oil and gas leases on the North Slope, the State of Alaska received $900 million in lease bonus payments.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARRIS. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 1 additional minute.

Mr. HARRIS. Mr. President, all agree that we have seen only the beginning of discoveries of Alaska's vast mineral resources.

This amendment has to do with the land which the American Indians, Eskimos, and Aleuts themselves value so highly. It is land that they have used for all of these years in history, for sustenance, for hunting carribou.

This bill basically involves a land question, a land settlement question. It is their land. They live on the land. They are dependent on it for their livelihood.

The 10 million acres which are provided in the bill represent only two percent of the land to which they have aboriginal title, 325 million acres.

Mr. President, we are really dealing now with the basic part of this bill. I hope that the bill will be amended to do what will more nearly constitute justice in this case.

The PRESIDING OFFICER. Who yields time?

Mr. HARRIS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, will the Senator yield me 5 minutes?

Mr. HARRIS. Does the Senator expect to speak in favor of the amendment?

Mr. STEVENS. In a way.

Mr. HARRIS. Mr. President, I would like to know a little more clearly. Would the Senator get time from the other side?

Mr. JACKSON. Mr. President, I yield 5 minutes to the senior Senator from Alaska.

The PRESIDING OFFICER (Mr. GOLDWATER). The senior Senator from Alaska is recognized for 5 minutes.

Mr. STEVENS. Mr. President, in the committee, we originally sought to use the Alaskan Federation of Natives bill as the vehicle for consideration of this subject. By that means, we would have started out with a figure of 40 million acres.

I understand what my friend the Senator from Oklahoma is doing. And I think that it is proper to make a record that the Native people of Alaska and the Alaskan Senators sought more land than actually is included in the bill.

I feel that the amendment should be supported by the Senators from Alaska as an indication that we did in fact seek more land.

I am sure that the chairman will affirm that in the committee we sought additional land beyond the 10 million acres involved in the pending bill.

The bill is a package; $1 billion is involved. I know members of the committee who feel that if the amount of land is increased, they will seek to decrease the amount of money involved. We have that knowledge. We have their assurances that this would happen.

I cannot see urging my fellow Senators to upset this package. Therefore, while I will vote for the amendment, as I sought in the committee to get additional land, I am fearful that it will be rejected.

Mr. HARRIS. Mr. President, I yield 5 minutes to the Senator from Alaska, who is a cosponsor of the amendment.

Mr. GRAVEL. Mr. President, I thank the Senator from Oklahoma. I am pleased to see us on the same side of an issue today, an issue that has great validity.

Mr. President, I think we become confused with numbers. I wish to make some comparisons to place this matter properly in a frame of reference. Alaska has 375 million acres. The State, under the Statehood Act can select a little more than 104 million acres. The Natives, in their claims which were filed in a court of law, claimed 70 percent of the land. The amendment would permit Natives to retain 40 million acres, which would be about 10 percent of the total amount. I do not think this is exorbitant; I think it is just. I think it is unfortunate that we lost on this in committee. We may lose it here on the floor of the Senate, I do not think we should go down without an effort to secure this because I think it is realistic to expect that the House may be of a disposition not to be as generous as the Senate and the realities would beg the logic of establishing generosity in the Senate so that we can have a proper and unified position when we settle differences with the House of Representatives.

For that reason I hope the Senate will agree to this very good amendment.

Mr. JACKSON. Mr. President, I shall address myself to the amendment very briefly.

The committee had various options presented to it in connection with the settlement: Payment in land; payment in cash; and payment over a long period of time in the form of trust proceeds. At the outset, on the land issue, let us try to put this matter in proper perspective. An outstanding study, Alaska Natives and the land, was made of the entire Native land claims issue by the Federal Field Committee for Development Planning in Alaska. The Field Committee has been operating in Alaska for many years. They went into this problem in great detail. After careful consideration the Field Committee recommended that 2 million acres of land be granted to the Alaska Native people. They also made other recommendations that were very useful and helpful to the committee. The committee relied heavily on the concepts for land grants, land management, and corporate investment which the Field Committee recommended and which later became a part of this bill.

The Department of the Interior recommended a little over 10 million acres of surface title with a reservation to the United States of the mineral estate. I personally wanted to see more acreage than was approved by the committee. That is why I offered and supported on the floor the amendments we adopted yesterday which enlarged the land grant provisions.

However, I think what the Senate has to face up to in connection with this vote is whether or not they are going to give a grant of 40 million acres which can be selected anywhere in Alaska; 40 million acres could and would tie up the economic development of Alaska. Under the proposed amendment these selections could be made in such a way so to severely damage the best interests of all people in the United States. It could affect conservation measures, national parks and forests, and hinder proper State and Federal land-use planning.

A further problem is whether we want to carve Alaska into a series of large racial land enclaves. That is what would happen if 40 million acres were set aside.

I think the land grants the committee proposes was most generous in American history and are fair and just to the Native people of Alaska. We have made available $500 million of federally appropriated funds that will be paid over a 12-year period; a 2-percent override on royalties from mineral revenues in Alaska up to a total of $500 million. That would be a total of $1 billion in cash. The committee places emphasis on cash rather than land. Cash is certain and land values are speculative. This money will be protected through prudent investments by the corporation established by the bill. The committee has set up a trustee relationship so that the assets of the trust can be properly protected and managed.

This will be ongoing income. The committee provided this large cash settlement in lieu of a huge land selection. It would be unwise, in my judgment, for the Senate to attempt now to carve out huge enclaves totaling 40 million acres of land after the largest cash settlement in history, and without carefully considering all of the facts and ramifications of what is proposed.

The whole basis of the cash settlement, and this unique provision to which there was much objection—the 2-percent share of Alaska's mineral resources was to avoid huge reserves and racial enclaves. I cannot think of anything more disastrous sociologically and disastrous to the future better relations between Native Alaskans and white Alaskans than to provide now for a 40-million-acre land grant.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. ALLOTT. Mr. President, would the Senator agree that if an amendment like this were agreed to it would destroy the whole theory, structure, and backbone of the bill, and all of the work that the Alaska Native Federation, the committee, and everyone has done?

Mr. JACKSON. The Senator is correct. It would undo the entire concept by which we put together the settlement.

Mr. ALLOTT. And there would be no recourse for any of us except to start with additional amendments to cut down the cash benefits; and in this way, although it would be necessary, it would still destroy the structure of the bill as the committee conceived it. Is that correct?

Mr. JACKSON. We would undo the whole concept. I would say the Alaska Natives understand the reasoning we had for doing certain things, such as the 2-percent override on royalties and investment procedures we set up in lieu of land selection. I think it would be a step backward sociologically in the United States to set aside these large enclaves.

Mr. ALLOTT. I thank the Senator.

Mr. COOK. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. COOK. Mr. President, rather than to go into the technical arguments of the bill, in listening to the debate it seems to me there would be 60,000 claims.

Mr. JACKSON. The Senator means 60,000 Native people?

Mr. COOK. Yes; if that is the case. If the measure were to be increased to 40 million acres it would mean each of these individuals would be entitled to 666 acres plus another 160 acres, which they would be entitled to under the Homestead Act. Is that correct?

Mr. JACKSON. That is correct.

Mr. COOK. By establishing the $1 billion fund and paying them out of the $1 billion fund for the taking of Alaska—and I thought we had gotten fee title to it from the Russians in 1867—does the Senator agree this means if there are 60,000 claims filed, each individual could secure 200 acres plus another 160 acres under homestead, which means under the present bill he could receive 360 acres, while under the amendment it would be 826 acres. Is that correct?

Mr. JACKSON. The Senator is correct in saying that Native people could still get their homestead rights; but the allotment of large amounts of land to individuals is not authorized by this bill. This would depend on the decisions made by the individual village corporation. All individuals would, of course, receive title to homesites, businesses and so forth.

Mr. COOK. The point is there is distributed under the terms of this act already a little over 12 million acres.

Mr. JACKSON. 10.2 million acres.

Mr. COOK. Just a minute. There is another figure. I believe of possibly 12-plus million acres——

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. STEVENS. It is conceivable. It depends on the number of people in the villages. If the people in the cities move back to the villages it increases and it is possible to go to 12 million under the bill.

Mr. JACKSON. The Senator is correct.

Mr. COOK. If 12 million acres were available, and they were still entitled to homestead, and 60,000 claims would be filed, beside having the billion dollar fund, the individual could receive 360 acres, and under this amendment he could receive 826 acres. Is that correct?

Mr. JACKSON. It is possible.

Mr. MURPHY. Mr. President, will the Senator yield for a question at that point?

Mr. JACKSON. I yield.

Mr. MURPHY. I have just done some rough figuring. I was told the average size of the population of a village is 50 Natives. Is that correct?

Mr. JACKSON. It is pretty hard to generalize on the number in the villages but it is on the average higher than 50 individuals.

Mr. MURPHY. I was going to say that if the number were 50, that would give each village some 33,000 to 35,000 acres. What would they do with that amount of land? I have visited Alaska twice in the last year. I wonder what use they could make of that land. I would think they would be better off with some industry and some means of making a living, rather than so much land up there.

Mr. JACKSON. I think we provide for a balanced, equitable, fair, and just settlement. This has been the most fair, just, and generous settlement, to my knowledge, in the history of the United States' dealing with our first Americans. The committee has labored for 3 years on this measure. I think if one studies very carefully all the provisions of the bill, he cannot help coming to the conclusion that this is indeed a very fair, logical adjudication of Native claims that have been pending now for 103 years.

Mr. MURPHY. I would like to congratulate the distinguished chairman. I would only add that, somehow or other, there should be provided some good overseeing and good management to make certain that those people make the best possible use of the money and the land, so they will have the prosperity the committee is hoping they will have.

Mr. JACKSON. I thank the Senator. I yield now to the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, as one of many Senators who has no vested interest in this question, I would like to express appreciation for this excellent example of the finest kind of committee work on a very complex issue and the dedicated efforts of the two distinguished Senators from Alaska, who have worked on behalf of the best interests of their own State. Justice and fairness have been the objective throughout, and I think an equitable compromise has been reached. We can put behind us now, with the passage of this legislation, the adjudication and the judicial procedures that have been followed for so many years. So may times we put a tough problem on the back burner and delay decisions. This Senate committee has faced up to the situation and made some tough decisions. I appreciate what the committee has accomplished. I understand why the two Senators from Alaska would support the present amendment. But because I think the committee has reached an equitable solution, I shall support the committee and oppose the amendment. I congratulate my own Republican colleague Sen. Stevens for his untiring efforts on behalf of his great state of Alaska and members of the Interior Committee who have participated in this effort, particularly the chairman of the committee, Sen. Jackson, the Senator from Washington, and Senator ALLOTT, the senior Senator for Colorado.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. KENNEDY. I was somewhat interested in the observations of the Senator from California and the Senator from Kentucky as to how many acres per person will be provided by this bill. When do we start deciding? When they actually have title to that land? Are we in the Senate going to decide whether they have the title to that land? Are we going to decide how many people should own the King Ranch and that that is too many acres for any one family in Texas to have? Why do we not use the same logic for people in Alaska? Or are we taking this position just because Alaskan Natives are involved and they are therefore not entitled to certain land or as much land?

They claim title to over 300 million acres of land in the first place. Now we are saying, when they comprise 20 percent of the population and are getting 4 percent of the land, how generous we are.

I think we are being told that, with this delicate balance between all the interests concerned, do not disturb, do not rock the boat, or we are going to leave ourselves open to many other amendments. If we make any adjustments and change the formula, we are opening ourselves wide to other proposals and the Alaska Natives will not get any satisfaction.

I think we in this body have an obligation to inquire into and to determine whether this is a matter of equity and justice. Twenty percent of the population, 4 percent of the land—that is what this legislation is saying. The Senator from Oklahoma is trying to recognize a need to adjust that. Yet we are told how well off they are if they get 2 percent of the royalties, for example. We are the ones who are supposed to decide how they will be better off. We are the ones to decide for them. What about the Natives? Suppose they say they would rather have the land. Should they not have the opportunity to have their feelings regarded to a greater degree?

I rise in support of this amendment knowing that it is enormously complex. After listening to the discussion by the distinguished chairman, I credit him with the greatest sense of obligation, duty, and wisdom in this matter. Those who rise here and talk about the generosity of the Senate of the United States and their trips to Alaska always interest me. May I say to the Senator from California, who was there at least a few hours when I was up there at one time, that I think we do ourselves a great disservice by beating on our breasts here on the floor of the Senate and saying what a good deal the Alaskan Natives are getting. This is what is said each time our native Americans are deprived of what is rightfully theirs. "See, we are letting you use some of the land that belongs to you. How generous we are."

Mr. THURMOND and Mr. MURPHY addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator from Washington yield?

Mr. JACKSON. Mr. President, I yield first to the Senator from South Carolina (Mr. THURMOND).

VISIT TO THE SENATE BY MEMBERS OF THE WEST GERMAN PARLIAMENT

Mr. THURMOND. Mr. President, we are honored by having with us two members of the German Parliament, Dr. Herbert Czaja and Dr. Herbert Hupka, accompanied by Mr. Dirnecker, First Secretary of the German Embassy.

I ask unanimous consent that they may be presented to the Senate and that the Senate recess for a few minutes, so that Senators may greet them. [Applause.]

RECESS

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Carolina? The Chair hears none, and it is so ordered.

Thereupon, at 2:37 p.m., the Senate took a recess.

At 2:40 p.m. the Senate reconvened, when called to order by the Presiding Officer (Mr. GOLDWATER).

ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1970

The Senate resumed the consideration of the bill (S. 1830) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

Mr. COOK. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield 5 minutes to the Senator from Kentucky.

Mr. COOK. Mr. President, I hope that the Senator from Massachusetts did not gather from my remarks that I talked about the generosity of this bill, or in terms of anything other than the mathematics of the figures themselves.

Let me also say, Mr. President, that I do not know a great deal about Alaska. I have spent 1 week there and know very little about it. But I think there are some things that should go into the RECORD in this regard, and some things that Senators should know.

For instance, they should know that while the State of Kentucky pays on a 50-50 basis on its ABC highway funds, the State of Alaska gets 93 percent Federal contributions, and the State pays 7. I think we should also know that when the State of Alaska, through its Federal lands, takes deposits out, 90 percent of the value of those deposits goes to the State of Alaska, and this is not true for any other State in the Union.

I think we also ought to know that we now stand prepared, at least some time in the near future, to allow the State of Alaska—the only such State in the Union—10 percent of its Federal highway funds for maintenaince, because they do not have sufficient funds.

Mr. President, we are not just talking about the Natives as such. We are talking about the development of the State. We are talking about what it receives. We are talking about the benefits it gets, and the benefits to all of the people of that State.

Mr. President, I shall vote for this bill, but what bothered me while I was in Alaska is that I went there, and I saw a railroad that belongs completely and thoroughly to the Federal Government. It was started in 1914, and we have spent perhaps a couple of hundred million dollars building it, for the benefit of all the people there.

While I was there, I saw a polluted bay. Nothing is being done about it, and yet here we have a State where we can, once and for all, solve problems on which, as they affect the rest of us, we shall have to spend billions of dollars to solve. We can solve those problems in Alaska for much, much less. But yet we are setting up a program that is going to serve one particular group who are, after all, residents of that State.

I am proud of the fact that I have been there; but we do have one State left where we can solve all the pollution problems, all of the environmental problems, all of those things for an absolute pittance compared to what it will cost to solve those things in the continental United States. If there is a slight degree of pollution in a river in Alaska, its correction will cost very little. Yet it will cost billions of dollars to solve the problem of pollution in this river that lies right down here.

We are not looking at that problem. We are trying to solve another problem. All I want to get into the RECORD is that there are things done for the State of Alaska that are done for no other State in the Union. There are things that will be done more and more in the future that are done nowhere else.

It is said that this is not for the benefit of a State, it is for the benefit of its people. Mr. President, what is a State but its people? This is the one remark I want to get into the RECORD, because the Senator from Massachusetts is correct. We are not talking about whether we are generous with 200 acres or 800 acres. I agree with him. We have other problems in that State, and I hope we are as willing to see to it that those problems are solved in the immediate future.

Mr. KENNEDY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. KENNEDY. Will the Senator yield me 1 minute, to respond?

Mr. JACKSON. I yield the Senator from Massachusetts 1 minute.

Mr. KENNEDY. Mr. President, I commend the Senator from Kentucky for his observation. He pointed out the special kind of relationship Alaska has with the lower 48. But I would certainly hope that this special relationship which exists today would not be used, and that the legitimate rights of the Native Alaskan people would not be prejudiced, because the State of Alaska has this special relationship with the Federal Government.

We should not say that Alaska does better on building its road system, combatting pollution, and developing its minerals, and therefore we can take a good deal more out of the adjustment and settlement we make with the Natives. I know that is not the reasoning of the distinguished chairman of the committee, or the feeling of the Senator from Kentucky. We certainly should not have that attitude.

Several Senators addressed the Chair.

Mr. GRAVEL. Mr. President, will the Senator from Oklahoma yield me 1 minute?

Mr. HARRIS. Mr. President, I yield 1 minute to the distinguished Senator from Alaska.

Mr. GRAVEL. Mr. President, on the matter of suggesting that Alaska enjoys a more favorable position with respect to the 90-10 which Alaska receives under the mineral lease program, the reason why we receive it is that we do not partake of the reclamation moneys. The reclamation moneys go to other Western States, to aid them. Alaska has been deprived of those funds, and we have turned around and given of the 90-10 so as to replace that money, and give it added impetus toward fiscal strength.

The next point as to the highways is that we do not have a highway system similar to that of any other State.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARRIS. One additional minute.

Mr. GRAVEL. Congress approved $14 million annually for 5 years to increase and improve our highway program, because it was recognized it was so deficient, and because this country had not heretofore applied its wealth to Alaska as it had to other States.

Now some of this money has gone for a study with respect to the Alaskan Railroad. The State has not received any of this money with respect to many other areas where it might appear that we might receive great largess from the Federal establishment. Much money goes there for purposes of national defense, and that money is not for special benefits to the areas involved. It is for the benefit, not of Alaska alone, but all the rest of the States also.

Mr. MURPHY. Mr. President, will the Senator from Washington yield to me?

Mr. JACKSON. I yield 2 minutes to the Senator from California.

Mr. MURPHY. Mr. President, the distinguished Senator from Massachusetts apparently did not understand my reference. I spoke of what I had seen in Alaska on what was truly a short visit, with his committee. But also, while there, I saw a village that was not on the itinerary of that committee. My concern, when I came back, was more with management than with land and dollars.

I saw a village that was a very well organized village. They had 35 new houses, paved streets, and a fine school. I found out how they had accomplished that, and that is why my remarks were pointed more to the area of help in management than to the amount in dollars or the amount of land.

I mentioned the figure of 30,000 acres for a village because it was my experience, on my two trips to Alaska, that these people need some industry, they need some way of making a living. It is very fine for us to stand here and say we will only be giving away 10 percent of 30 million acres, or 5 percent, or whatever it is. These people need more than land, more than money, more than great speeches here in this Chamber. They need help in figuring out how better to work out the economics of this great new area; and I hope the distinguished Senator did not misunderstand my remarks.

I think the bill is charitable. I think it is fully fair. I have confidence in the committee and in the chairman of the committee. That is why I said what I did. But I also think they should have all the help, all the brains, and all the planning that we can give them, to make sure that this is not just a hollow gift, such as we have made all too often in the past.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. MURPHY. I ask for 1 additional minute.

Mr. JACKSON. One minute.

Mr. MURPHY. Too often the land disappears, the money disappears, the good actions of Congress disappear, and the Natives are back where they started from, simply because we have not taken a complete look at the picture and done all the things that are necessary. I sincerely hope my distinguished colleague from Massachusetts will understand that that was the concern of the Senator from California.

Mr. HARRIS. Mr. President, I yield 3 minutes to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, to respond to the Senator from California, that was the Tyonek Village of Alaska, and our colleagues from Alaska can certainly testify as to the legitimacy of the observations made by the Senator from California as to its prosperity.

But, as I understand, that is a village unique unto itself. The reason it has been able to modernize and improve its streets and other public facilities, is because it has been able to sell the land. That has been valuable land in terms of prospective mineral development. That is precisely the point of the Senator from Oklahoma. If the Natives are able to get clear title to their land, to be able to make their own plans and initiate their own projects, I agree that they will be a good deal better off.

In conclusion, I point out that the Alaska Natives have never alienated their land in the past. They have always held their lands. They have never been conquered by a military force or negotiated a treaty.

What we are doing here, by extinguishing what has to be recognized as their legitimate rights to ownership of at least 80 million acres, perhaps three times that, is to produce what the Senate feels, in its wisdom, is a balanced bill. We are leaving the Natives with 10 million acres, and we think we are giving them a marvelous deal.

I would just say that this amendment goes a long way toward remedying that situation. If this is going to so violate any delicate balance, we might as well know about it right now. I am sure the Alaskan Natives would like to know about it. We surely cannot say that by voting against the amendment of the Senator from Oklahoma and restricting it this narrowly we are being overly generous and munificent to these people.

Mr. MURPHY. Mr. President, will the Senator yield 30 seconds?

Mr. JACKSON. I yield 1 minute to the Senator from California.

Mr. MURPHY. Mr. President, for the Record, it is my understanding, with respect to the village of Tyonek, that the land still belongs to the Natives, that the construction company that built their housing is now owned by those Natives. They have managed their affairs so well that they own two buildings in Anchorage, Alaska, one of which they rent to the Bureau of Indian Affairs. So it really was a matter of good management, which they arranged through the proper use of some moneys paid to them by one oil company for the right to drill for oil. I might add oil never was discovered. But that money, from the first downpayment, was well managed.

Again I stress that what is extremely important, so that these people, who are unused to these business matters, as the distinguished Senator knows, will have all the benefit of all the help that the Federal Government can give them to manage their affairs properly in order to make certain that the other villages do as well as the village of Tyonek. I asked the people in Tyonek, and they said they would be glad to help the other villages. This is what I would hope to see, not just a certain number of acres of land which may be useless and of little value.

The PRESIDING OFFICER. Who yields time?

Mr. HARRIS. I yield myself 5 minutes.

Mr. President, in connection with the debate on this amendment and the amount of land involved, which would be raised to 40 million acres by this amendment, it has been said, rightly, that this is the largest cash settlement in history for American Indians and the largest land settlement in history. That is true.

It has, however, been inadvertantly said by some—not by the distinguished Senator from Kentucky, who later spoke about this issue—that this is the most "generous" settlement in history. Mr. President, this is the largest settlement in history; but, since what we are trying to do here is to accomplish justice, I do not believe that "generosity" is a proper word. I think that really gets down to the nub of the argument in regard to this amendment.

The distinguished Senator from Kentucky (Mr. Cook) earlier said—I imagine this was inadvertent as well, and I believe it is an exact quotation from the Record—

> I thought that we got fee title to it from Russia.

That is exactly the point. Russia did not have fee simple title to this land, and neither does the United States, nor the State of Alaska.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. GRAVEL. Not only did they not have fee title, but also, they never got beyond the border areas on the Aleutian Chain. They only won a couple of battles. By and large, most of the battles that were fought by white men against the Natives of Alaska were lost. So they never got to the interior, to the North Slope, and never made a deep incursions into the southeastern area. These Natives have really had control from time immemorial.

Mr. HARRIS. The Senator is correct, and he emphasizes the point I am making. There has also been inadvertent use during the debate of the word "give"—it is said that we are "giving" something to the Alaska Natives by this bill.

Again, Mr. President, that brings us back to the basic point. We are talking about justice. The Alaska Natives have aboriginal claim as held by the Federal courts, to most of this land.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. KENNEDY. Are we not, in effect, really taking away land from the Natives? They have the land now; they use the land now. Their families have been using it for centuries. What we are doing, in effect, by this measure is to limit their ownership under the present bill, to some 10 million acres, when now they are using and claiming ownership between 80 million acres and more.

Mr. HARRIS. The Senator is correct. The courts have held that the Alaska Natives have aboriginal claim to this land, and, under this bill, they will have title only to approximately 2 percent of the land to which they have been held to have aboriginal claim.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. JACKSON. Will the Senator cite the case in which the court has held that the Alaska Natives have aboriginal title to the lands of Alaska?

Mr. HARRIS. I invite the Senator's attention to the most recent case—December 19, 1969—U.S. Court of Appeals for the Ninth Circuit, Alaska against Udall, and the other one is Alaska against Natives.

Those cases affirmed the Native's position that their aboriginal rights were preserved in the Alaska Statehood Act, and that the power of Congress to affirm to the Natives their interest in those lands was preserved in the Statehood Act. I might say that I believe that in the first case, the Supreme Court has recently refused to take jurisdiction.

Mr. JACKSON. The Ninth Circuit held in Alaska against Udall that in order for State land selections to be made the Native claims, if any, to the lands in question had to be presented and litigated first, as I understand it. The Supreme Court has never held that Alaska Natives have aboriginal title to all of Alaska. I do not want to confuse the record any more than it has been confused about title, but the Supreme Court has never held that the Natives of Alaska are entitled to the land of Alaska by aboriginal right. That is a sweeping statement the Senator has made, and of course there is no such ruling by the U.S. Supreme Court or any other court.

Bear in mind what the courts have held in connection with aboriginal rights. Generally speaking—that where Native people are in occupancy and where they have made use of the lands in question, they have a right against all third parties. They do not, however, have any right against the United States. In fact, the Supreme Court ruled in the Tee Hit Ton case, where the suit had been brought by Indians in southeastern Alaska seeking compensation for extinguishment of their rights of occupancy by the United States, that their aboriginal occupancy had not been recognized by Congress as a right protected by the fifth amendment against taking or extinguishment by the Government.

The point is that under the doctrine of aboriginal rights, the rights of Alaska Natives have not been judicially determined. To my knowledge, in the 48 States——

Mr. HARRIS. I believe the Taos case——

Mr. JACKSON. Perhaps in some limited areas. But the whole concept of the Indian Claims Commission procedure——

The PRESIDING OFFICER. The time has expired.

Mr. JACKSON. I yield myself 2 minutes in response.

I just wanted to say that when we talk about aboriginal rights, it is a right of occupancy, where they occupy it, as against third parties. But it does not constitute fee title. I think it should be made very clear that the Supreme Court has never made any such ruling. The Court has ruled over and over again—and that is why we are discussing this on the floor of the Senate today—that Congress must grant to Native people whatever fee title or other title they need or should have.

That is the history of the legal rulings going way back. I just wanted to point out that the case to which the Senator referred did not pass judgment on the question that was raised on the floor of the Senate. I am referring to Alaska against Udall.

Mr. HARRIS. And the other cases as well. I would point out once again that these were cases by the Circuit Court of Appeals, Ninth Circuit. It is true that the Supreme Court has not ruled on this but it has refused, as I understand it, to take up that case on appeal. Therefore, it is the law. Whatever holdings were made in the case, that is the law. I trust that the Senator from Washington would not want to go further into the question of rights to this land. I would not think that by right of discovery someone would have gotten a better title to the land than those living there when they were "discovered." I would not think we would want to open that up again. What we are talking about is the aboriginal claim to this land, which, it seems to me, they clearly have.

Mr. JACKSON. If that is the case, why does not the Senator suggest that 337 million acres—all of the State—be turned over, if that is his philosophy and line of reasoning?

Mr. HARRIS. Well, would the Senator cosponsor that?

Mr. PASTORE. May I get into this act?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 2 minutes.

Mr. JACKSON. May I also point out that I have been interested in Indian claims for a long time, being a cosponsor with the late Senator O'Mahoney of the Indian Claims Commission Act. We made a conscious decision there to try to adjudicate the proper claims of the Indians before this Commission by cash payments.

If the Senator wants to proceed on the line of reasoning he has just advocated, regarding land adjudication, need I say much more as to what will happen in the other 49 States?

Mr. HARRIS. I hope, perhaps in one way, that we will. I testified before the Senator's own committee, or the subcommittee, just lately, in regard to a land settlement for the Taos Pueblo. I do not believe we can always do full justice with money alone, and I think the Senator would surely agree with that——

Mr. JACKSON. I agree with the Senator on that, but——

Mr. HARRIS. This bill would provide some land, so, apparently, the Senator from Washington believes that the Natives involved are entitled to something more than money, because his committee has so recommended; but they have not recommended enough. That is what I am talking about now.

Mr. JACKSON. I understand that point, but——

Mr. HARRIS. If the Senator is to proceed on the question of settlements——

Mr. JACKSON. On the basis of restoring the land, let me point out that the obvious logic there is to turn over all of the land in Alaska, and then to turn over all of the land in the United States.

The fact is, we face some very serious conservation fights if this line of reasoning is carried too far. We have national parks and national forests throughout the great western part of the United States that can be subjected to that kind of adjudication. We will find ourselves in an impossible situation in the United States. I want to see justice for all Indians. I sponsored that legislation. I am sorry that the Indian Claims Commission is still trying to solve the claims, but I would much prefer trying to bring all our people together regardless of their ethnic origin, and not build enclaves in the United States. That is not justice compatible with the American concept of democracy. If we set up huge enclaves, we will invite the kind of discrimination I want to see eliminated in the United States. We have too much of it already.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. HARRIS. I have the floor. I yield myself such additional times as I may find necessary.

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. HARRIS. Five minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. HARRIS. I yielded to the Senator from Washington for a statement.

Mr. JACKSON. On whose time I yielded to other Senators.

Mr. HARRIS. The Senator from Washington (Mr. JACKSON) in all sincerity, has raised two objections to the amendment. First, I assume he really does not wish to push too strongly; that is, if we allow Alaska Natives 40 million acres, we will have to consider assuring them over 300 million acres. That is obviously not the issue here. Neither are other claims made in other States involved here. The case is, what is justice here? Forty million acres is better justice than 10 million acres. That is my argument.

The second argument is that we should not establish enclaves. That argument is late by 100 years. Reservations were established a long time ago over the objections of the Indians involved in various sections of the country. It is certainly too late for non-Indians to come along and say now that they will make the decision to do away with reservations. What we need to do is, at long last, to begin to ask the Natives in Alaska, and American Indians generally in this country, to join in decisionmaking generally, and not to make such decisions in the Senate, not to make them in the Bureau of Indian Affairs, but allow Indians themselves some self-determination, some ability to decide for themselves.

I merely say here, and I trust that no one will question it, that we are not giving something to the Alaskan Natives that is not rightly theirs. That is the whole question here, regardless of the talk about the exact condition of the law, and so forth.

Mr. JACKSON. I know the Senator from Oklahoma wants to keep the record straight, because the situation in Alaska is entirely different.

Mr. HARRIS. I understand that. We have been through all that.

Mr. JACKSON. He does not want to leave the record with the impression that we have established enclaves in Alaska. That is one thing we do not have up there. We do not have reservations or enclaves in Alaska.

Mr. HARRIS. I understand that, but the land there, as was pointed out by the Senator from Massachusetts, land that the Natives have not sold. It has not been taken away from them by war. They have not entered into some treaty which gave up their land. It is still there. They are still there.

Mr. President, what we are trying to do is to do justice. That is the question here. Land means life to the Natives. Surely everyone in the Senate knows that it takes a vast expanse of land in Alaska for people to survive. A village of 200 Indians up there may need 100,000 acres of land in order to survive. They depend on the land and the water for the food they eat and whatever small income they may derive from it.

I will point out further—and then I shall be glad to yield to the Senator from Rhode Island—that the Native Alaskans are the most impoverished of America's people.

The average family income of the Natives there is only one-fourth that of the non-Natives in America. Their average age at death is 35. Only one in 10 has received a high school education; 93 percent are living in homes which, according to Public Health surveys, need to be replaced; and, as we know, employment is extremely difficult to come by.

The Senator from Kentucky talked about environment, and the Senator from Washington talked about conservation. There has been talk about pollution. This amendment involves a very serious question on environment and on pollution. I fear that the present land provision in this bill will create a instant population problem. Overpopulation is due, as we all know, to spare resources as well as an abundance of people. If we take away land from the Natives, land which they depend upon for sustenance and support, we must realize that the village population may be far too large for a resource base.

That question is involved here, and it is basic and fundamental.

I am now pleased to yield to the Senator from Rhode Island.

Mr. PASTORE. I am curious to know why all of this was not settled before we granted statehood to Alaska.

Mr. HARRIS. I wish it had been. I was not in the Senate at that time. I wish it had been.

Mr. PASTORE. Were the Natives the Senator is talking about allowed by referendum to decide whether they wanted statehood?

Mr. HARRIS. I believe that the Senator from Alaska (Mr. GRAVEL) wants to answer that.

Mr. GRAVEL. Maybe I can answer that question. First off, there was a referendum and that was on the constitution of the State of Alaska and it did carry overwhelmingly within Alaska.

Mr. PASTORE. They were free to vote on that?

Mr. GRAVEL. Yes.

Mr. PASTORE. Did they vote?

Mr. GRAVEL. Yes; a very high percentage.

Mr. PASTORE. To become a part of the United States?

Mr. GRAVEL. We can conclude that they did.

Mr. HARRIS. It should be noted, however, that it was stated in the enabling legislation which Congress had passed that the Natives would not in any way lose whatever legal rights they had. Is that not correct?

Mr. GRAVEL. The Statehood Act Specifically stated that that problem was unsolved and that it would have to be solved by Congress at some future date. What we are doing here is what Congress decided in 1958.

Mr. PASTORE. So the question before us is whether they should have a claim to 10 million acres or to 40 million acres; is that the question?

Mr. GRAVEL. That is the question in the amendment.

Mr. PASTORE. In other words, the Senator from Oklahoma feels that 10 million acres is not enough and that it should be 40 million acres.

Mr. HARRIS. That is right; 40 million acres.

Mr. PASTORE. How did we reach that formula of 40 million acres?

Mr. HARRIS. This is a figure which the Alaskan Federation of Natives have agreed to accept. It is a part of a three-part settlement. The bill has in it cash, land, and a 2-percent overriding royalty. There are more than 300 million acres of land in Alaska. I am informed that the 10 million acres provided in the bill amounts roughly to 2 percent of the land to which they have aboriginal claim.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. HARRIS. I yield.

Mr. KENNEDY. Mr. President, as I understand, that is half of what they initially proposed, what they feel is the bare minimum for subsistance, and what they are using now. That is how we arrived at that figure.

Mr. PASTORE. Mr. President, will they sell this land or use it for the exploration of oil and minerals, or will they cultivate it to raise food?

Mr. HARRIS. Mr. President, there are restrictions concerning alienation for 12 years. In addition, this is primarily land that would normally be used for hunting, fishing, and game gathering.

The PRESIDING OFFICER. The Chair advises the Senator from Oklahoma that he has 2 minutes remaining.

Mr. JACKSON. Mr. President, I yield myself such time as I require.

May I help to respond to the able Senator from Rhode Island? In connection with this question, we provide $1 billion in cash payments. We are doing this in lieu of adding large sections of land.

A lot has been said about subsistence. We provide in section 20 that Alaska Native people can use lands for subsistence purposes—all of the public lands of Alaska.

So, that is not the issue. May I say, so that Senators will know what they are voting on in the amendment, that under the amendment as it is now before the Senate 40 million acres would be granted—much of it out of wildlife refuge, out of the public land, out of McKinley National Park, and out of the national forests.

Mr. HARRIS. Could that not be done with the 10 million acres?

Mr. JACKSON. No; it could not be.

Mr. HARRIS. Why could it not be?

Mr. JACKSON. The bill prohibits it. The amendment would permit it.

I am trying to explain the Senator's amendment and its impact.

I think this points up a serious problem. Senators ought to know when they are voting on the pending amendment that it would simply open for selection all of the 377 million acres of land in Alaska.

This shows what the result of an amendment can be when we come in after 3 years of effort and have very carefully and meticulously detailed all of these conflicting interests and have tried to provide a fair land settlement and not just a generous land settlement. We went out of our way to see to that on the floor yesterday. We made every possible effort to maximize the land grant.

The Native people are granted adequate land for subsistence purposes. The committee provided land for investment purposes. We also tried to protect the public interests in Alaska's great natural beauty and proper conservation practices.

We make available over $1 billion over a period of time.

Mr. PASTORE. Mr. President, with regard to the 40 million acres we are talking about, who is living on it now and who is using it?

Mr. JACKSON. For the most part in Alaska, so that the Senator understands, about 97 percent of the land in Alaska is owned by the Federal Government.

There are 377 million acres of land in Alaska. The State has the right to select 103 million acres.

Mr. STEVENS. Mr. President, I yield myself 5 minutes on the bill and yield it to the chairman.

Mr. JACKSON. Mr. President, I believe that I had completed my statement.

Mr. PASTORE. The Senator was cut off the answer in the middle, because his time expired. I had asked who is living on the land now, who is using it, and who owns it?

Mr. JACKSON. Mr. President, in a moment I will let the the Senator from Alaska respond on that matter.

I want to emphasize the figures. There are 377 million acres of land in Alaska; 103 million acres can be selected by the State of Alaska under the Statehood Act of 1958.

The State has obtained fee title to over 5 million acres. The bulk of this land is not used by anyone. There is limited occupancy and infrequent use, but it is very limited.

Mr. STEVENS. Mr. President, in response to the question raised, 1 percent of the land is in private ownership in Alaska today. About 90 million acres are occupied by the Federal Government.

The problem has been that the Native Villages had no title to the land.

The Senator from Oklahoma said they have not sold it. They have not.

The Tyonek Village that the Senator from California has mentioned is a good point. They have done very well.

The bill gives title to the villages of 10 million or 11 million acres of land. But the major provision has gone unrecognized.

That is the one that the chairman mentioned.

Section 20 of the bill authorizes the Secretary of the Interior to classify all public lands surrounding any or all of the Native villages withdrawn in this bill for subsistence use units.

They can continue the use of the land surrounding their villages for subsistence. But they will have title to their villages in an amount depending upon the areas. There will be from one township to seven or eight townships. They will be able to deal with the land as with any other land under private ownership.

They will not be under lease. It will be land that they can use as they see fit. Their subsistence rights are protected.

My friend, the Senator from Massachusetts is right. They need subsistence land so long as they live in a subsistence economy. The bill would take them out of a subsistence economy.

We realize they have had this right to the land in the past. The existing land laws give the Alaskan Natives the right to use the land they now occupy. They can use any land they want to not reserved by the Federal Government, but they have had no cash. There is $1 billion provided for the Alaskan Native people by this bill. That is what they need most.

Mr. HARRIS. Mr. President, I yield myself 2 minutes.

I think the distinguished Senator from Washington will certainly agree that if this bill passes, we can then agree on an amendment concerning where land can be chosen. I will agree that can be done. That is, therefore, not an issue.

The question is whether we want 10 million acres or 40 million acres. The amount of land which the Natives of Alaska have asked for is the minimum necessary for their subsistence. This is their land.

I think justice requires that we recognize that and be fair with them in regard to this land. I do not think we are being fair otherwise.

The adoption of this amendment would be awfully good strategy for us in conference. We know that we will have a hard time in conference with the other body on this bill. If we start with a larger amount of land, the chances of retaining more will be better.

More importantly, in the name of justice, the land allowed in this amendment is rightly the land of the Alaskan Natives.

The pending bill would give back to them a part of what is already theirs, but only 2 percent of the land to which they already have aboriginal claim. I do not believe that is enough.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) are absent because of illness.

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) would each vote "nay."

The result was announced—yeas 13, nays 71, as follows:

[No. 243 Leg.]

YEAS—13

Cooper
Cranston
Eagleton
Gravel
Harris
Hart
Hughes
Kennedy
Mansfield
Pell
Ribicoff
Stevens
Young, Ohio

NAYS—71

Aiken
Allen
Allott
Anderson
Baker
Bayh
Bellmon
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Case
Cook
Cotton
Curtis
Dole
Ellender
Ervin
Fannin
Fong
Fulbright
Goldwater
Goodell
Griffin
Gurney
Hansen
Hartke
Hatfield
Holland
Hollings
Hruska
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Moss
Murphy
Muskie
Nelson
Packwood
Pastore
Pearson
Percy
Prouty
Proxmire
Randolph
Saxbe
Schweiker
Scott
Smith, Ill.
Sparkman
Spong
Stennis
Symington
Talmadge
Thurmond
Tower
Williams, N.J.
Williams, Del.
Young, N. Dak.

NOT VOTING—16

Byrd, Va.
Cannon
Church
Dodd
Dominick
Eastland
Gore
Inouye
McCarthy
Mondale
Montoya
Mundt
Russell
Smith, Maine
Tydings
Yarborough

So Mr. HARRIS' amendment was rejected.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended. (Putting the question.)

The amendment was agreed to.

Mr. ALLOTT. Mr. President, the bill before us is a landmark in legislation. It is a landmark, because it attempts to settle an issue that has been before Congress and the Nation for more than 100 years. It is a landmark, because Congress rather than the courts is attempting to adjudicate land claims. It is a landmark, because of the complex corporate structure established to distribute its benefits among the Native people. It is a landmark, because its basic concept is self-determination. It is a landmark, because no reservations are established and no trusteeship is created. It is a landmark, because it reflects the desire of the Native people to get out from under the bureaucratic paternalism of the Bureau of Indian Affairs, and, in effect, terminates the activities of the BIA in Alaska at the end of 5 years. It may be a landmark because if the revenue-sharing features should be considered as a precedent for other Native land claims, it will be a precedent that Congress will regret for years to come.

This measure has been one of the most difficult and complex measures to come before the Interior Committee during my years of service on that committee. I wish to commend the able chairman, the Senator from Washington (Mr. JACKSON), for his diligent work and fair and evenhanded method of conducting the executive sessions. The committee has spent a great deal of time in hammering out this settlement package—15 days in executive session alone—and the settlement must be viewed as a "package" with all parts of it inextricably related. In particular, I wish to recognize the contributions of the able senior Senator from Alaska (Mr. STEVENS). The senior Senator from Alaska was an extremely persuasive advocate, and many of the provisions of this bill were incorporated as a direct result of his suggestions and advocacy.

Mr. President, I would be remiss at this time if I did not pay tribute, not only for myself but also, I am sure, for the chairman, to the wonderful and exhaustive staff work done by Mr. William Van Ness, counsel for the majority, and Mr. Charles Cook, counsel for the minority.

Mr. President, the early settlement of the Alaska Native land claims is highly important to the future of Alaska and its development. As Senators know, late in 1966 Secretary Udall imposed a land freeze on State selections in Alaska, which stopped the approval and conveyance of lands granted to Alaska by the Statehood Act. Just before leaving office in January of 1969, Secretary Udall signed an order which withdrew from entry and for State selection essentially all of the Federal land in Alaska not already withdrawn—approximately 270 million acres, an area comparable to the combined total land areas of the States of Texas and California. Because of this withdrawal order the State of Alaska has been in a "deep freeze" as far as development is concerned since late 1966. During his confirmation hearings, Secretary Hickel agreed to continue in force the withdrawal order until Native claims legislation had been enacted or until the end of 1970 if no legislation is passed. The purpose of the withdrawal order was to preserve the land in Alaska in a status quo posture to provide the Congress with an opportunity to work its will on settlement legislation.

A year and one-half has elapsed since the Secretary made that commitment, and the Senate Interior Committee has produced a bill. It would be unreasonable for us to further delay the development of the State and to prevent the State from proceeding in an orderly fashion with its selection of lands under the Statehood Act. It would be doubly unfair to the Natives to further delay the settlement of their claims. A total of 103 years have passed since we purchased Alaska from Russia and previous Congresses have consistently reserved the resolution of the Native land issue to subsequent Congresses. The time has come for Congress to act, and the 91st Congress has taken upon itself a good faith effort to settle these Native land claims.

The bill produced by the committee is a complex one. It attempts to solve many of the problems of the Natives by establishing a Service Corporation whose purpose it is to attempt to upgrade the social climate of the Natives. In addition, through its Investment Corporation, it grants to the Natives something of value which will produce individual income to him in the form of dividends. Through this mechanism, it is hoped that the Natives will learn to appreciate the values of stock ownership and corporate enterprise.

The committee recommendation, however, presents a delicate balance of settlement features. The amount of land is related to the amount of money to come from the Federal Treasury and must necessarily be related to the revenue-sharing provision. The settlement must be viewed as a package and not viewed as a series of individual compensation features. Thus, when we speak of the package, we are talking in terms of a maximum of 10 million acres, plus $500 million in compensation from the U.S. Treasury, plus $500 million in terms of revenue sharing.

Earlier in my statement I referred to innovative features in this bill. Perhaps the most significant one is, that with a few exceptions, existing reservations are revoked and a reservation system is not established in Alaska. As is pointed out on page 157 of the committee report:

> As noted in connection with Section 4(b), the revocation of these reservations is in keeping with the expressed desire of the Native people in Alaska to be free of the administrative oversight and wardship of the Bureau of Indian Affairs and the Department of the Interior.

Section 4(b) provides that within 5 years of the date of the enactment of this act the United States shall cease to provide services to any citizen of Alaska solely on the basis of racial or ethnic background. As is set forth in section 2(c) the purpose of the bill and the intent of the committee is to avoid perpetuating in Alaska the reservation and trustee system which has characterized the relationship of the Federal Government to the Indian peoples in the contiguous 48 States. Therefore, the underlying concept of the bill is largely one of self-determination by the Natives, but beyond that, it also includes a type of termination of the Federal trustee obligation and assumption of part of those obligations by the State of Alaska.

Time after time it has been indicated to the committee by representatives of the Natives that the Natives wish to see an end to the Bureau of Indian Affairs in Alaska. Section 4(b) provides for a phasing out of the Bureau of Indian Affairs within 5 years after enactment.

Mr. President, this measure is a compromise as reported from the committee, and I cannot agree with all of the provisions in the bill. It is appropriate to quote from the committee report beginning at the bottom of page 67:

> This bill represents a compromise in many respects. A compromise among the interests and desires of many of the parties involved and also a compromise among the views of many of the members of the Committee. The bill recommended by the Committee reflects a willingness on the part of individual members—after careful study of the issues involved—to concur in the clear necessity for adoption of a settlement package while reserving their right to debate further, at another time and in connection with other legislation, their individual views on some of the specific policies which are of necessity incorporated in this complex omnibus settlement measure.

Certain of the provisions of the bill deserve discussion and comment at this time. Among these are the revenue-sharing provisions, sometimes referred to as the 2-percent overriding royalty, and the total compensation paid from the U.S. Treasury—$500 million.

With respect to the latter, the figure of $500 million is an arbitrary one. It has no basis for formulation and I suspect that it was adopted because it is a "nice round figure," and because the Department of the Interior proposed the figure during the hearings of April 29, 1969. Someone suggested a dollar an acre for settlement, but it is difficult to determine the amount of land over which the Natives may be able to establish suzerainty, and consequently, the amount of the settlement based upon such a figure would be extremely low. It is noteworthy that the committee adopted the $500 million figure over a lesser figure of $350 million by a majority of only one vote.

With respect to the revenue sharing, this particular provision has a number of ramifications. Under the Statehood Act, 90 percent of the revenues from the Mineral Leasing Act in Alaska are paid over to Alaska. Therefore, 90 percent of the burden of revenue sharing is carried by the State, since it amounts to a reduction of its entitlement to share in mineral-leasing revenues on Federal lands in Alaska. The State burden is further increased by a provision requiring that lands patented to the State subsequently are subject to the revenue-sharing provisions. However, the September 1969 lease sale of lands tentatively approved are excepted from this provision.

The difficulty of this revenue-sharing provision is that it may establish certain undesirable precedents. First, it is an abrogation of the revenue sharing granted to the State of Alaska by its Statehood Act. The Congress in its wisdom granted to Alaska the right to select 103.5 million acres plus a right to 90 percent of the mineral revenues received from leases on Federal lands in a recognition of the vastness of Alaska and the tremendous State expenditures which would be required to develop this vast area. Under the terms of the revenue-sharing provision, the State's share is reduced from 90 percent to approximately 88 percent.

Second, it establishes a precedent for Indian land claims against a State. Section 17 appears to establish a claim of the Natives against the State of Alaska inasmuch as the section requires the State to participate in the payment of the Native claims.

Third, and most significantly, it may establish a precedent with respect to the public land States whereby the Natives may claim an overriding royalty interest in the minerals on the public domain and national forest preserves. By granting this royalty interest, the act grants to the Natives a proprietary interest in essentially the entire State of Alaska. This is a proprietary interest based primarily upon race, since it cannot be shown to be compensation for lands taken which were in the exclusive control and possession of the Natives. The same sort of claim to a royalty interest might be advanced by certain Indian tribes to the oil shale deposits of Colorado, Wyoming, and Utah, and those Indians might better be able to display exclusive control and possession of those shale lands at some point of time. Such a result would be intolerable.

There has been an effort to clearly state that the revenue-sharing provision shall not be a precedent for other Native groups in an attempt to advance similar claims. The argument has been made that the Alaska situation is totally unique and, therefore, what Congress does here does not have application with respect to other Natives. Should revenue sharing be a part of the final legislative product of the Congress in the settlement of Alaska Native land claims, it is my fervent hope that these disclaimers with respect to the establishment of a precedent will withstand the test of time and rhetoric. In all candor, though, I have serious misgivings.

In light of the expiration of the withdrawal order, I do feel that it is important that this measure pass the Senate and proceed to the House for its consideration and deliberation. Therefore, I feel there is a certain urgency for the Senate to complete its consideration of this legislation so that the other body will have time to work its will. It is my expectation that there will be a conference, since my information indicates that members of the House committee have significantly different views as to what is an appropriate settlement formula.

Mr. President, in conclusion, there are many considerations that entered into the conclusions we made in the bill. Not the least of which was the fact that when we entered into the Alaska Statehood Act, we granted to them 103 million acres of land. So far, I believe, they have selected approximately 26 million acres, but less than 6 million acres have been patented to the State. With the withdrawals which Secretary Udall made before he left office and continued by Secretary Hickel, it is absolutely impossible for Alaska to develop as it has a right to develop and as it will develop, once they are able to select this "in lieu" land and put them to work for the State.

Thus, if we are going to do justice to the State of Alaska, which we brought into the Union, the No. 1 priority is to move this legislation along so that Alaska may acquire its lands and discharge the obligations that statehood imposed upon it.

I hope that the bill will be agreed to. There are many things in it that I do not agree with but, nevertheless, it will go to conference, and there are different views which will be brought to bear in the House; and with it, at least, we will take a great step forward toward placing Alaska in the position which we intended to place her when she was admitted to the Union.

Mr. President, I ask unanimous consent to have printed in the RECORD an outline of Alaska Native land claims.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

OUTLINE OF ALASKA NATIVE LAND CLAIMS, S. 1830

I. HISTORICAL

A. Alaska was purchased from Russia in 1867 for $7.2 million. The 1884 Organic Act and the Statehood Act of 1958 left the issue largely untouched, and in essence, leaving the question of the Native title to future Congresses.

B. In late 1966, Secretary Udall imposed a "land freeze" on State selections in Alaska, which stopped the approval and conveyance of lands granted to Alaska (103,500,000 acres) by the Statehood Act. Just before leaving office in January, 1969, Secretary Udall signed an order which withdrew from entry or State selection, essentially all of the Federal land in Alaska not already withdrawn (approximately 270 million acres, an area comparable to the combined total land areas of the States of Texas and California).

C. During the 90th Congress 5 bills were introduced to settle the Native Claims:

1. S. 2690 was a jurisdictional bill for compensation for lands already taken, plus title to all claimed lands not disposed of to 3rd parties. Court of Claims to determine amount of money to be paid.

2. S. 1946 would grant in trust 50,000 acres to each tribe, band, clan, village, community or group, and 25-year hunting, fishing, and trapping permits. State of Alaska, on behalf of Natives would be authorized to file a single action against U.S. for compensation for land taken.

3. S. 2906 which resulted from recommendations of the Governor's Task Force (Walter J. Hickel). It provided for a grant of up to 40 million acres in fee or in trust, plus 100-year hunting, fishing, and trapping licenses, plus 10% royalty interest in proceeds from Outer Continental Shelf for 25 years, with a Congressional redetermination at the end of 25 year period. A minimum payment of $25 million was guaranteed.

4. S. 2586 the administration's bill, would have granted 20 million acres of land in fee. Land to be in trust for 25 years but conveyed in fee upon approval of land use plan. 50 year permissive use of all Federal

lands for hunting, trapping, fishing and berry picking. $3,000 per head to be paid over four year period, but total not to exceed $180 million. Native Development Corp. to receive mineral title to lands plus 10% of cash.

5. S. 3859 would grant 40 million acres and $500 million. This is what the Natives asked for. The $500 million was to be paid at a rate of $50 million per year. In addition, the State of Alaska was to vest 5% of revenues from selected lands in Natives. A framework of regional Native Groups and an Economic Development Corporation would administer minerals and most of the funds.

D. In the 91st Congress there have been essentially four proposals: one by the Federal Field Commission; one by the Department (Amendment 212 to S. 1830); one by the Alaska Federation of Natives (the AFN); and the bill as reported by the Committee.

1. S. 1830—as introduced—Federal Field Commission suggestion. One township of land (23,040 acres) granted to each of 209 villages (total is just under 5 million acres), plus lands to individuals in remote areas. Revenue sharing for 10 years, including revenues from Pet. #4. $100 million per year for 10 year period. Included revenues from hard rock minerals (a 5% royalty).

2. Amendment 212 (Departmental proposal), would grant 2 townships of land (46,080 acres) to each village, but reserves leasable minerals to U.S. 195 villages listed for total of about 9 million acres. Cash settlement was $500 million paid at $25 million per year for 20 years.

3. S. 3041—Native Substitute. Four townships (92,160 acres) for each of the 242 listed villages, for a total of 22.3 million acres, plus selections from sections 5, 6, 7 and 8 in each township to equal a total of 40 million acres. Mineral rights held by regional corporation. Subsistence rights on all public lands for 100 years. Lands to be tax-free for 50 years. $500 million to be paid with $100 million in first year and $50 million thereafter. Additional compensation of a 2% royalty on all resources of the land, including grazing, timber, minerals, water, etc. No termination of royalty interest nor monetary limit, but excluded Outer Continental Shield. There would be village regional and State-wide corporation structures to administer funds and lands.

4. Committee bill (S. 1830) compromises these features. Provides for one township for each listed village (approximately 5 million acres), with $500 million paid over a 12 year period, and a 2% royalty interest in minerals until an additional $500 million is paid, with additional land selections of up to 3 million acres. (1.5 million acres to be selected by Service Corp. in withdrawn areas—floor amendment). The details and corporate set-up will be dealt with in detail in later sections of this outline.

II. THE COMMITTEE BILL (S. 1830)

A. Declaration of Policy—this will be the final settlement of all land claims of Alaska Natives. Claims before the Indian Claims Commission will be dismissed by this Act, and the 2.6 million acres of land granted to Tlingit-Haida's by Court judgment would be extinguished in favor of lands and money granted under this bill.

B. Persons Eligible—Alaska Indians, Eskimos and Aleuts of ¼ or more blood.

C. Compensation—$500 million paid over the following 12 year period:

Year:	*Millions*
1	$20
2	50
3	70
4	70
5	70
6	40
7 to 12 ($30 per year)	180
Total	500

D. Division of Compensation—In first year, 80% to Services Corporation, and 20% to Investment Corporation. These percentages change during the pay out period so that 60% is paid to Investment Corporation and 40% is paid to Services Corporation in 12th year. The following table shows the division of the $500 million compensation:

[Dollar amounts in millions]

Year	Native Investment Corp.		Natives Services and Development Corp.	
	Amount	Percent	Amount	Percent
1st	$4.0	20	$16.0	80
2d	12.5	25	37.5	75
3d	21.0	30	49.0	70
4th	24.5	35	45.5	65
5th	28.0	40	42.0	60
6th	18.0	45	22.0	55
7th	15.0	50	15.0	50
8th	15.0	50	15.0	50
9th	16.5	55	13.5	45
10th	16.5	55	13.5	45
11th	18.0	60	12.0	40
12th	18.0	60	12.0	40
Total	207.0		293.0	

E. Alaska Native Commission:

1. Terminates in 7 years unless duties completed sooner.

2. Duties: (see page 61 of bill)

(a.) Preparation of final membership roll.

(b.) Preparation of final village roster.

(c.) Determination of boundary and other disputes.

(d.) Review and approval of certain land transactions.

3. Staff—small legal staff, clerical staff and hearing examiners, if needed.

4. Decisions reviewable by U.S. District Court (Alaska), then Court of Appeals (9th Circuit) and U.S. Supreme Court upon certification or certiorari.

5. Membership—5, of which at least 2 must be Alaska Natives; appointed by President with Senate confirmation; salaries are $32,500 for chairman, and $30,000 for members.

F. Alaska Native Corporations—there is a rather complex structure of corporations, including an Investment Corporation, a State-wide Services and Development Corporation, an Urban Corporation, a National Corporation (these last two serve as substitutes for the Services & Development Corporation for those natives living in the cities of Alaska and those living outside of Alaska) and Village Corporations, with Regional Advisory Boards;

1. Alaska Natives Services and Development Corporation—a non-profit, membership corporation—administers and disburses appropriated funds and funds reecived from revenue sharing to Villages and individual natives.

(a.) Services Corporation's major purpose is to improve the public services and social, economic and educational status of the natives.

(b.) Services Corporation holds title to mineral estate of all lands granted to villages.

(c) Services Corporation holds title to 2 million acres selected for timber potential (title is for timber only) and the surface estate for the additional one million acres to avoid hardships, preserve religious and historical sites, etc. (Reduced to 1 million acres by floor amendment.)

(d.) 18 member board of directors: 4 appointed by President, 14 elected by natives on regional basis, of which 2 are from Urban and National Corporations.

(e.) Each of 12 regions have Advisory Boards to develop plans, and which qualify, as does Services Corp., for Federal grants.

(f.) Services Corporation terminates at end of 13 years—may re-organize as ordinary taxable corporation, or merge with Investment Corporation.

2. Urban Corporation and National Corporations—have functions similar to Services Corporation, except they do not hold title to mineral lands and receive their funds from Services Corporation in proportion to the number of natives in the cities (those natives in the urban centers in Alaska are assigned to National Corporation). Termination and reorganization at the end of 13 years is allowed as nonprofit, business for profit, or merger with other corporations. Liquidation is also allowed and may be required if not reorganized.

3. Village Corporations—each qualified village (25 or more adult natives) to incorporate to hold surface title to lands granted and prepare and administer village plans for improvement.

(a) present occupants of residences and businesses would receive patents, also churches, etc.

(b) streets and other public sites to be conveyed to municipal corporation, which will encourage establishment under Alaska law.

(c) non-natives pay fair market value.

(d) Village Corp. to receive up to one township (23,040 acres) unless village has over 400 population, then up to one additional township for each additional 400 or part thereof.

4. Investment Corporation—whose principal purpose is to invest for profit the funds paid over to it and pay dividends to its shareholders.

(a) Board of Directors with 12 members:

(i) 4 members elected by Natives;

(ii) 5 members appointed by the President;

(iii) 3 non-Native members elected by the other members.

(b) Management contract to be awarded to professional management group by Board of Directors.

(i) Contract term=1 year, and may be renewable.

(ii) Compensation=not to exceed $250,000 or ½ of 1% of invested assets in a year.

(iii) Management group to be subject to periodic audits, and may be granted power of attorney by board to buy and sell securities.

(iv) At the end of 3 years, Board of Directors may, at its option, take over management of investments with in-house management capacity.

(c) Investments and dealings subject to Investment Company Act of 1940, and management Contract subject to review of Securities and Exchange Commission.

(d) Investments may include:

(i) national and international investments and securities;

(ii) businesses having impact upon economy of Alaska and Alaska Natives;

(iii) enterprises wholly or partially owned by Alaska Natives;

(e) Business investments will be such that the Investment Company will retain a creditor's interest which can be converted to an equity interest at option of the Board.

(f) Shares in Investment Corporation issued to all Natives on the final membership roll:

(i) Not more than 100 shares may be outstanding per Native;

(ii) Dividends are declared by Board of Directors, with provision for $4 million per year during first 5 years available from earnings and corpus to pay minimum quarterly dividend;

(iii) Stock is inalienable for 15 years.

(g) At end of 12 years all stock to be recalled and new class of stock issued. 10% conveyed to "Alaska Native Foundation". Stock issued to Natives freely alienable in 3 years.

G. Alaska Native Foundation—to be established at the end of 12 years and will be to some extent a successor to the Services Corporation which terminates at the end of 12 years.

1. Capital consists of 10% of outstanding stock of Investment Corporation.

2. Purpose of the Foundation would be educational (i.e. scholarships, etc.) and charitable for benefit of Natives.

H. Withdrawal of Public Lands for Villages:

1. Subject to valid existing rights—9 townships (a township is 23,040 acres, 9 X 23,040=207,360 acres or 234 square miles) will be withdrawn from all forms of entry, including State Selection under the Statehood Act, for two years.

2. Commission determines exact number of acres village is entitled to, depending upon population, type of land, and use, and within statutory limitations within the bill.

3. Village selection Committee selects lands from those withdrawn, and Secretary surveys the lands and executes conveyances.

4. Villages not listed in bill (there are 194 listed villages) may qualify for withdrawal if there are 25 adult natives (adult—over 19 years of age) and Commission certifies this to Secretary.

5. Provision is made for granting surface estate of 5 acre tracts to individuals for subsistence campsites, 40 acre tracts for group campsites, and up to 160 acre tracts to individuals who can establish historic use of larger tracts.

6. Provision is made for granting surface estate of 2,560 acres to bona fide reindeer husbandryman; must not be in national park, wildlife refuge, national forest, or defense reservation including Pet. No. 4.

7. Also provision for granting 160 acres (excluding leasable minerals) to native not in village if principal place of residence, if it is within the area of withdrawal for village. If outside area of withdrawal, only surface estate is conveyed.

8. There is a withdrawal of four townships per village in the Tongass and Chugach National Forests (Southeast Alaska); limit of grant is one township (23,040); 11 villages listed; villages not listed, but those villages with 25 or more adult natives may qualify for same benefits.

I. Land Selection for Economic Potential.

1. 2 million acres for timber potential—only the timber interests are to be conveyed. (Modified to 1 million acres by floor amendment.)

2. 1 million acres to avoid hardships (this classification is to take care of those natives who did not qualify otherwise, to protect cemeteries, abandoned villages, historical and cultural areas. (Modified to 500,000 acres by floor amendment.)

3. Floor amendment authorizes additional 1.5 million acres for village selection or selection by Services Corporation.

J. Revenue Sharing—this is perhaps the most significant feature of the bill with the most far reaching effects.

1. A share of the revenues from leasable minerals in Alaska (exclusive of the Outer Continental Shelf) will be paid to the Alaska Native Compensation Fund (which in turn pays it over to the Services Corporation and to the Investment Corporation) until the sum of $500 million is paid. This is in addition to the $500 million paid from the U.S. Treasury ($500 million+$500 million=$1 billion compensation).

2. Lands patented to the State are excluded, but tentatively approved and State selected lands are included.

3. A 2% royalty (that is 2% of 100% of the value of minerals extracted) is paid to the fund, plus 2% of the bonus payments, plus 2% of rentals. Under present law, Alaska receives 90% of Federal revenues from mineral leases on Federal land. With a standard ⅛ royalty oil and gas lease, the division of the royalty revenues would be as follows:

Royalty—12.5	*Percent*
Native share	2.00
State share	9.45
Federal share	1.05

4. In a sense, this royalty interest grants to the Natives a proprietary interest in the entire State of Alaska, except that it is limited and expires when $500 million is paid.

K. Attorney Fees and Expenses—are limited to $1.5 million for attorneys fees, but out-of-pocket expenses are to be re-imbursed. Compensation of attorneys for fees and expenses incurred in connection with the Alaska Native land claims legislation, or in connection with claims pending before the Indian Claims Commission which have been dismissed by the terms of the Act, would be set by the Chief Commissioner of the Court of Claims. The bill provides that the fees shall be paid on an hourly basis for services actually performed.

L.Taxation:

1. Funds paid over to Corporations and distributions to natives or dividends paid to individuals shall be exempt from State and Federal taxation until the $500 million deposited in the Compensation Fund from the Treasury including such interest as is earned while on deposit in the Fund, have been fully distributed.

2. The additional compensation ($500 million from revenue sharing) including interest earned while deposited in the Compensation Fund, shall be free of any State or Federal taxation for 12 years.

3. Gains on subsequent sales or other disposition of the shares of the successor corporations to the Service Corporation and Investment Corporation shall be taxable, but the basis shall be the fair market value at time of receipt.

4. Real property interests shall be exempt from State real property taxes for 12 years.

5. Only gains on real property conveyed by the Act are subject to taxation, but the basis for computing gain or loss shall be fair market value of land at time of receipt.

Mr. JACKSON. Mr. President, let me take this opportunity to express my appreciation to all the members of the committee over the 3-year period the committee was involved in hammering out the legislation that is now before the Senate. The committee acted without regard to party lines.

At the outset, I express my special appreciation to the ranking member of the minority, the distinguished Senator from Colorado (Mr. ALLOTT); his able staffman, Charles Cook, counsel for the minority; and his assistant, Dale Shaffer, for their long and continuing efforts; also the two distinguished Senators from Alaska, Mr. STEVENS and Mr. GRAVEL, who worked so long and hard in trying to get a good bill.

I also express my appreciation to the members of the staff on the majority, Jerry Verkler, staff director; and the individual assigned to this special undertaking, Mr. William Van Ness, special counsel to the committee, who was deeply involved in the ramifications and the technical details of this legislation for a period of 3 years. He was ably assisted in that effort by Dan Dreyfus.

Mr. President, this was a full committee effort. The Senator from Alaska (Mr. METCALF) conducted——

Mr. METCALF. That is Montana. [Laughter.]

Mr. JACKSON (hearings in Alaska). I must say, maybe I was right the first time because he acted like a Senator from Alaska when he was in Alaska, because he did such a fair and objective job in conducting the hearings up there, as well as in Washington.

Thus, Mr. President, I thank each and every member of the committee for their fair, impartial, legislative adjudication of these claims which have been pending for over 100 years.

I hope that the bill, on a roll call vote will be overwhelmingly passed by the Senate so that we can get House action before adjournment of Congress.

Mr. President, I ask unanimous consent that the clerk be authorized to make such technical corrections as may be necessary in connection with the pending measure.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on final passage

The yeas and nays were ordered.

Mr. METCALF. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield

Mr METCALF. Mr. President, I had not anticipated speaking on the bill. I did conduct many of the hearings and participated in the discussions during the writing up of the bill.

I want to echo what our distinguished chairman has said, as well as the remarks of the Senator from Colorado (Mr. ALLOTT), that this is landmark legislation.

This is legislation that does, in my opinion, contribute to participation in our responsibilities toward the Natives of Alaska. It gives them an opportunity to participate in the growth and the development of the natural resources of their State.

I think that this is a first in the many areas in which we have worked on Indian claims legislation. I am proud, and I think that every member of the committee should be proud, of the results of the bill.

I sincerely hope that it is passed by a substantial majority.

Mr. JACKSON. Mr. President, I yield back the remainder of my time, if my colleague on the other side will.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. GOLDWATER). The Chair will state that no further amendments are in order.

The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA) would vote "yea".

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. DOMINICK) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) are absent because of illness.

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The result was announced—yeas 76, nays 8, as follows:

[No. 244 Leg.]

YEAS—76

Aiken
Allen
Allott
Anderson
Baker
Bayh
Bellmon
Bennett
Bible
Boggs
Brooke
Burdick
Byrd, W. Va.
Case
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Eagleton
Ellender
Ervin
Fong
Fulbright
Goodell
Gravel
Griffin
Gurney
Harris
Hart
Hartke
Holland
Hollings
Hruska
Hughes
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Miller
Moss
Murphy
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Prouty
Proxmire
Randolph
Ribicoff
Schweiker
Scott
Smith, Ill.
Sparkman
Spong
Stennis
Stevens
Symington
Talmadge
Tower
Williams, N.J.
Young, N. Dak.
Young, Ohio

NAYS—8

Fannin
Goldwater
Hansen
Hatfield
Kennedy
Saxbe
Thurmond
Williams, Del.

NOT VOTING—16

Byrd, Va.
Cannon
Church
Dodd
Dominick
Eastland
Gore
Inouye
McCarthy
Mondale
Montoya
Mundt
Russell
Smith, Maine
Tydings
Yarborough

So the bill (S. 1830) was passed, as follows:

An act to provide for the settlement of certain land claims of Alaska natives, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska Native Claims Settlement Act of 1970".

DECLARATION OF POLICY

SEC. 2. (a) Congress hereby finds and declares that there is an immediate need for a fair, just, and final settlement of all land claims of Alaska Natives, Native Villages and groups; that the claims of Alaska Natives to the lands of Alaska, because they have not been judicially or legislatively determined, constitute a cloud on the title to lands in Alaska; that the best interests of the Alaska Native people, the State of Alaska, and the Federal government are served by a prompt and final legislative settlement; and that the purpose of this Act is to effect such a settlement by providing—

(1) a grant to each Native Village which qualifies under the requirements and procedures set forth in this Act of title to the village site and additional lands adjacent thereto for community use and expansion;

(2) for the organization of Native corporations and, in order to promote economic self-sufficiency as well as enhance the Natives' present and future welfare, for a transfer of lands, rights, and revenues to such corporations;

(3) a payment of $500,000,000 over a period of twelve years as compensation for lands taken in the past for Federal purposes or conveyed by patent or otherwise to the State of Alaska or to other third parties and for the extinguishment by this Act of all remaining aboriginal rights;

(4) a right to receive a portion of the revenues from the leasing and sale of minerals on certain lands in Alaska, subject to the limitations of this Act, as compensation for lands taken in the past and for the extinguishment by this Act of all remaining aboriginal rights;

(5) authority for individual Natives to acquire ownership of the lands which they use and occupy for homes, businesses, fishing, hunting and trapping camps, and for reindeer husbandry;

(6) a grant to the Alaska Native Services and Development Corporation of the right to select certain lands for their economic potential and to avoid cases of undue hardship; and,

(7) protection of Native subsistence hunting, fishing, trapping and gathering rights and, where it is within the power of the Federal Government, measures for the conservation of subsistence biotic resources.

(b) The Congress further finds and declares that the legal settlement provided in this Act constitutes compensation for the extinguishment of claims to land and does not and will not constitute a precedent for reopening, renegotiating or legislating upon any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

(c) It is the intent of Congress to carry out the terms of this settlement promptly, with certainty, and in conformity to the real economic and social needs of Alaska Natives by avoiding litigation, by maximizing the participation by Natives in decisons affecting their rights and property and by vesting in them as rapidly as prudent and feasible control over the land set aside and the corporations organized pursuant to this Act, without (1) establishing any permanent racially defined institutions, rights, privileges, or obligations; (2) creating a reservation system or lengthy trusteeship; or (3) ultimately adding to the categories of property and organizations enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska.

(d) No provision of this Act shall be construed to replace, diminish or otherwise modify any right, privilege, or obligation of Alaska Natives as citizens of the United States and the State of Alaska, nor to relieve, replace, or diminish any obligation of the United States or the State to protect and promote the rights and welfare of Alaska Natives as citizens of the United States and the State of Alaska. The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed a substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska, nor to effect a change or changes in the petroleum reserve policy reflected in sections 7421 through 7438 of title 10 of the United States Code except as specifically provided in this Act.

(e) No provision of this Act shall be construed to constitute a jurisdictional Act, to confer jurisdiction to sue, nor to grant implied consent to Natives to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Commission" means the Alaska Native Commission established by this Act;

(b) "Fund" means the Alaska Native Compensation Fund in the Treasury of the United States established under the terms of this Act;

(c) "Investment Corporation" means the Alaska Native Investment Corporation authorized to be established pursuant to this Act under the laws of the United States;

(d) "Municipal Corporation" means any Native Village incorporated as a general unit of municipal government under the laws of the State of Alaska;

(e) "National Corporation" means the Alaska Native National Corporation established pursuant to this Act;

(f) "Native" means a citizen of the United States who is an Alaska Indian, Eskimo, or Aleut of one-fourth degree or more Alaska Indian, Eskimo or Aleut blood, or a combination thereof, including any Native as so defined whose adoptive parent is not a Native and, in the absence of proof of a minimum blood quantum, also any citizen of the United States who is regarded as an Alaska Native by the Native Village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by such village or group: Provided, however, That "Native" as defined in this Act does not include any Tsimshian Indian blood, or the blood of any other Native tribe, band, clan, or group which came to reside upon or occupy lands in Alaska after June 30, 1867;

(g) "Native group" means any tribe, band, clan, village, community, or village association of Natives in Alaska;

(h) "Native Village" means any Native group which is composed of at least twenty-five or more Natives and which meets the requirements set forth in section 13 or 22 of this Act;

(i) "public lands" means all Federal lands and interests therein situated in Alaska as of the effective date of this Act, except: (1) the smallest practicable tract (but not less than forty acres), as determined by the Secretary, enclosing improved land actually used in connection with the administration of any Federal installation, and (2) land selections of the State of Alaska which have been patented or tentatively approved under section 6(g) of the Alaska Statehood Act as amended (72 Stat. 341, 77 Stat. 223);

(j) "Secretary" means the Secretary of the Interior;

(k) "Services Corporation" means the Alaska Native Services and Development Corporation established pursuant to this Act under the laws of the United States;

(l) "State" means the State of Alaska;

(m) "Village Corporation" means an Alaska Native Village Corporation organized under the laws of the State of Alaska to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native Village in accordance with the terms of this Act; and

(n) "Urban Corporation" means the Alaska Native Urban Corporation established pursuant to this Act.

DECLARATION OF SETTLEMENT

SEC. 4. (a) The provisions of this Act shall constitute a full and final settlement and extinguishment of any and all claims against the United States, the State and all other persons which are based upon aboriginal right, title, use, or occupancy of land in Alaska (including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist) by any Native, Native Village, or Native group or claims arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31

Stat. 321), or any other statute or treaty of the United States relating to Native use or occupancy of land, including all land claims (but not claims based on grounds other than loss of original Indian title land) pending before any court or the Indian Claims Commission on the effective date of this Act.

(b)(1) The Secretary is authorized and directed, together with other appropriate agencies of the United States Government, promptly to initiate a study and to develop programs for the orderly transition of educational, health, welfare, and other responsibilities for the Alaska Native people from the United States to the State of Alaska. Within five years from the date of enactment of this Act, the United States shall cease to provide services to any citizen of Alaska solely on the basis of his racial or ethnic background: *Provided*, That nothing in this subsection shall affect services furnished the Natives through the Department of Health, Education, and Welfare, or diminish the applicability of the Act of April 16, 1934, as amended (48 Stat. 596), or the Acts of September 23, 1950, as amended, (64 Stat. 967), and September 30, 1950, as amended (64 Stat. 1100).

(2) The Secretary shall report annually to the Congress on the implementation of this subsection, on the need for any additional legislative authority, and on the availability of State and general Federal assistance programs to provide any necessary and needed services to Alaska Natives as citizens of the State of Alaska and the United States. Within four years of the date of enactment of this Act the Secretary shall present a plan to the Congress for the transition of programs referred to in subsection (b)(1) hereof. The plan presented by the Secretary shall take effect within five years from the effective date of this Act: *Provided*, That the plan presented by the Secretary shall be subject to the provisions and the procedures set out in section 906, title 5 of the United States Code.

(3) None of the provisions of this subsection 4(b) shall apply to the services and programs furnished the Tsimshian Indians on the Annette Islands Reserve.

ALASKA NATIVE COMPENSATION FUND

Sec. 5. (a) There is hereby authorized to be appropriated $500,000,000 as compensation to the Natives for lands and interests in lands taken in the past or to which their rights and claims are extinguished by this Act, such compensation to be paid into the Alaska Native Compensation Fund in accordance with the following twelve-year payout schedule:

(1) $20,000,000 during the fiscal year in which this Act becomes effective, of which $1,500,000 shall be set aside in the Fund for the purpose of paying attorneys' fees pursuant to section 26 of this Act, and $350,000 shall be set aside in the Fund for the purposes set out in subsection 5(g) hereof;

(2) $50,000,000 during the second fiscal year;

(3) $70,000,000 during the third, fourth, and fifth fiscal years;

(4) $40,000,000 during the sixth fiscal year; and

(5) $30,000,000 during each of the next six fiscal years,

(b) As additional compensation to the Natives for lands and interests in lands taken in the past or to which their rights and claims are extinguished by this Act, there shall be paid into the Fund all revenues derived from revenue sharing pursuant to section 18 of this Act and the limitations therein.

(c) No interest shall be paid on the unappropriated or unaccrued balance of the compensation under subsections 5 (a) and (b) of this section: *Provided*, That annual payments or portions of annual payments which are due under the schedule set out in subsection 5(a), but have not been appropriated within six months after the end of the fiscal year in which payable, shall draw interest at the then current rate on short term treasury obligations.

(d) All moneys paid into the Fund shall bear interest from the date of deposit at the rate of 4 per centum per annum until paid to the Services Corporation or its successor and the Investment Corporation or its successor. Until incorporation and formal organization of the corporations pursuant to sections 8 and 10 of this Act, the Secretary may temporarily withdraw moneys from the Fund for investment in short-term obligations of the United States or for deposit with financial institutions qualified to receive and hold public funds of the United States: *Provided*, That any such investment or deposit made by the Secretary shall be at the highest current rate obtainable.

(e)(1) Moneys paid or deposited into the Fund shall be paid or distributed for the benefit of the Natives in accordance with the provisions of this Act. The Secretary of the Treasury shall make such payments and distributions pursuant to the following payment schedule to the Services Corporation and to the Investment Corporation:

Fiscal year (commencing in the fiscal year of enactment)	Alaska Native Investment Corp. (percent)	Alaska Native Services and Development Corp. (percent)
1st	20	80
2d	25	75
3d	30	70
4th	35	65
5th	40	60
6th	45	55
7th	50	50
8th	50	50
9th	55	45
10th	55	45
11th	60	40
12th	60	40

(2) For the first five fiscal years from the date of enactment of this Act, prior to making the payments and distributions required by subsection (e)(1) hereof, the Secretary of the Treasury shall pay from the Fund to the Investment Corporation the difference between the Investment Corporation's current earnings on its investments and $4,000,000. Moneys paid to the Investment Corporation pursuant to this subsection shall be used to pay shareholders a minimum quarterly dividend pursuant to the provisions of subsection 10(h)(1).

(f) All moneys paid or deposited into the Fund after the twelfth fiscal year from the date of enactment of this Act shall be distributed to the Services Corporation and the Investment Corporation or their successors on the same basis as in the twelfth year in the payment schedule set out in subsection (e)(1) hereof.

(g) Up to $350,000 of the moneys paid or deposited into the Fund in the first fiscal year shall be paid by the Secretary of the Treasury upon certification by the Commission to recognized Associations of Alaska Natives to reimburse them for actual costs incurred in filing protests, preserving land claims, advancing land claim settlement legislation, and presenting testimony to the Congress on the Alaska Native land claims. Moneys paid pursuant to this subsection shall be paid first to the recognized Statewide association, and then, to the extent funds are available, to regional Native Associations as determined by the Commission. The determination of the Commission shall be final without regard to subsection (6)(j) of this Act. Such moneys shall not be used to pay any attorney's fees or expenses.

(h) None of the funds paid or distributed pursuant to this section to any of the Corporations established pursuant to this Act shall be expended, donated, or otherwise used for the purpose of carrying on propaganda, or intervening in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office. Any person who willfully violates the foregoing provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than twelve months, or both.

ALASKA NATIVE COMMISSION

Sec. 6. (a) The Alaska Native Commission is hereby established. The Commission shall be in existence for seven years from the date of its first meeting, or for less than seven years if its duties under this Act are completed. The Commission shall be composed of five members to be appointed by the President with the advice and consent of the Senate. Not more than three members of the Commission shall be members of the same political party, and at least two of the members appointed by the President shall be Natives who are residents of the State. Upon assuming office, each member of the Commission shall become a full-time Federal employee. The Federal laws and regulations on conflicts of interest applicable to other Federal employees shall be applicable to the members of the Commission, but this provision shall not be deemed to preclude a Native from serving as a member: *Provided*, That such Native Commissioner shall not participate in any proceeding before the Commission in which his participation would be in conflict with section 208 of title 18, United States Code.

(b) The term of office of members of the Commission shall be for four years for the first three members appointed, and three years for the remaining two members. Thereafter the terms shall be until the Commission expires: *Provided*, That any member appointed to fill a vacancy on the Commission occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office, a member of the Commission shall continue to serve until his successor has been appointed and has qualified to take office. The President shall choose a Chairman from the Commission's membership, and the Commission may elect by a majority vote of its membership other officers, such as a Vice Chairman, as it may find necessary to perform its functions. A member of the Commission may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

(c) The Chairman shall initially receive compensation at the rate of $32,500 per year. The other four Commissioners shall receive compensation at the rate of $30,000 per year. The salaries of the Commission members and the Chairman may increase at the same rate as general salary increases for classified Federal employees. No member of the Commission's staff shall be compensated at a rate in excess of that paid to members of the Commission.

(d) The principal office of the Commission shall be in Alaska. Whenever the Commission deems that the convenience of the public or the parties may be promoted, or delay or expenses may be minimized, or at the request of any party, it may establish other offices, hold hearings or conduct other proceedings at any other place, including other States, for the convenience of the parties involved, that a majority of the Commission shall direct. The Commission shall have an official seal which shall be judicially noticed, and which shall be preserved in the custody of the secretary of the Commission.

(e) The Commission shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Commission and such legal counsel as it deems necessary. Subject to the civil service laws, the Commission shall appoint such other employees as it deems necessary in exercising its power and duties. The compensation of all employees appointed by the Commission shall be fixed in accordance with chapter 53 of title 5, United States Code, subject to the provisions of subsection 6(c) hereof.

(f)(1) For the purpose of carrying out its functions under this Act, three members of the Commission shall constitute a quorum and official action may be taken only on the affirmative vote of at least three members, but a special panel composed of one or more members upon order of the Commission may conduct any hearing or other proceeding provided for in this Act and submit the record of such hearing or proceeding to the entire Commission for its action thereon. Such record shall be made available to the parties, and they shall be afforded an opportunity to comment thereon, before any final action of the Commission.

(2) The Commission shall give reasonable notice to the interested parties and an opportunity for them to appear and be heard, and shall afford the parties an opportunity to present evidence before making a final determination upon any protest, claim, or other contested matter.

(3) A party to any proceeding before the Commission may appear on his own behalf or be represented by counsel of his own choice.

(g) The Commission shall have power to establish its own rules of procedure to carry out its duties under this Act. Except where inconsistent with this Act the Federal Administrative Procedure Act (5 U.S.C. 500 et seq.) will apply. Each official action of the Commission shall be entered in writing, and its hearings and records thereof shall be open to the public.

(h)(1) Any member of the Commission may sign and issue subpoenas for the attendance and testimony of witnesses and production of relevant papers, books, and documents, and may administer oaths. Witnesses, other than direct parties in interest, summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Any person who fails to comply with a Commission subpoena shall be subject to punishment in accordance with section 104 of title 43, United States Code. The Commission may order testimony to be taken by deposition in any proceeding before it and in any stage of such proceeding after reasonable notice is first given in writing by the party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition.

(2) The Commission shall have the power to call upon any of the departments or agencies of the United States for any information it may deem necessary for carrying out its functions under this Act.

(3) In any hearing or other proceeding before the Commission, letters, papers, documents, maps, transcripts, or records of any executive agency or court of the United States (or a certified copy thereof) may be used in evidence insofar as relevant and material. Every executive agency of the United States having possession thereof shall make available for copying and inspection such letters, papers, documents, maps, transcripts, and records bearing upon matters before the Commission to any interested Natives, Native group, Native Villages, or Native corporations, or their representatives as provided by section 552 of title 5, United States Code.

(1) Each decision made by the Commission shall show the date on which it was made, and shall bear the signatures of the members of the Commission who concur therein and, upon issuance of a decision under this Act, the Commission shall cause a true copy thereof to be sent by certified mail to all parties and their attorneys of record. When appropriate, each decision also shall include the findings of fact upon which the Commission's conclusions are based, and a statement of its reasons for such findings and conclusions. The Commission shall cause each decision to be entered on its official record together with any written opinion prepared by any members in support of, or dissenting from, any decision.

(j) Except where otherwise provided, decisions issued by the Commission shall be subject to judicial review by the United States District Courts upon the filing in such court within sixty days from the date of such decision of a petition by any person aggrieved by the decision praying that the action of the Commission be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to any other party to the proceeding and to the Commission, and thereupon the Commission shall certify and file in such court the record upon which the decision complained of was based. The court shall hear such appeal on the record made before the Commission. The findings of the Commission, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any decision or may remand the proceedings to the Commission for such further action as it directs. The judgment of the court shall be subject to review by the United States Court of Appeals for the Ninth Circuit and by the Supreme Court of the United States upon certiorari or certification as provided in section 1254, title 28, United States Code.

(k) The duties and responsibilities of the Commission shall include during the period of its existence—

(1) the issuance of rules and regulations for preparing a final membership roll of Natives and a roster of Native Villages qualified for benefits under this Act;

(2) the determination of eligibility for inclusion on such roll and roster, respectively, and of protests with respect thereto;

(3) the hearing of, and decision upon, any appeal from a refusal of the Services Corporation to approve a village plan for the management and expenditure of funds, as provided in section 11(e);

(4) the determination of Village land entitlement, the determination of regional boundaries under section 9(a), the determination of land disputes between Native Villages, the determination of disputes relating to land patents, and the certification of eligibility for patents under this Act;

(5) the approval of land transactions as provided under this Act; and

(6) such other duties and responsibilities as are provided under this Act.

(l) During the same period of time no person may serve in more than any one of the following capacities:

(1) as a member of the Commission;

(2) on the board of directors or as an officer of the Services Corporation;

(3) on the board of directors or as an officer of the Investment Corporation.

(m) Upon termination of the Commission's existence or upon completion of its duties under this Act pursuant to subsection 6(a) hereof, any pending business, any uncompleted matters, or any duties required to be performed by the Commission shall be performed by the Secretary in accordance with the provisions of this Act insofar as is practicable, and the Secretary, in consultation with the Commission and the General Services Administration, shall provide for the dispositon and preservation of the Commission records: Provided, such records shall remain available for public inspection, copying, and other appropriate use.

ENROLLMENT

Sec. 7. (a)(1) In order to facilitate the selection and management of lands, the use of funds and the organization of corporations in furtherance of this Act, the Secretary shall prepare wtihin six months after the effective date of this Act, pursuant to such rules and regulations as may prescribe, a temporary census roll of all Natives born on or before April 15, 1969, and living on the date of enactment of this Act. Such roll shall show with respect to each Native, insofar as is practicable, his name, date and place of birth, date and place of parents' birth, degree of Native blood and the Native Village or Native group of which he is a member. The decision of the Secretary regarding the eligibility of any person for inclusion on the temporary census roll shall be final: *Provided,* That any person listed on an existing membership roll of any Native Village or group pursuant to requirements similar to those set out in subsection 3(f) shall be presumed to be eligible for enrollment.

(2) Any person listed on the temporary census roll who is nineteen years of age or over at the time of voting shall be entitled to vote in the election of directors for the Corporations, as provided in this Act, and in the election for the Land Selection Committee of the village, if any, of which he is a member, as provided in sections 11, 14, and 23. The population of each Native Village which meets the requirements set out in, as is appropriate, section 13 or 23 of this Act, as shown on the temporary census roll and as corrected at the time of determination, shall be the basis for determining the number of acres of land to which the Native Village Corporation is entitled pursuant to this Act. Except as provided in this subsection, however, the temporary census roll shall not be used as a basis for determining the right of any Native, any Native Village Corporation, or any other corporation to receive funds and property or otherwise to share in the benefits accorded the Native people of Alaska under this Act.

(b)(1) The Commission shall prepare, in accordance with such rules and regulations as it may prescribe: (A) within five years after the effective date of this Act a final membership roll of all Natives born on or before April 15, 1969, and living on the effective date of this Act, including a separate listing and designation of the membership of each Native Village Corporation, the Urban Corporation and the National Corporation; and (B) a roster of all Native Villages which meet the requirements of section 13 or 23 and are eligible for benefits hereunder, within three years after the effective date of this Act. Before any such roll or roster is finally approved by the Commission, it shall be published in the Federal Register and in such other manner as the Commission shall find practicable and effective (including posting in each Native Village listed in the roster and in each village which was denied inclusion in the roster). Any applicant denied enrollment or any village omitted from the roster shall be notified by the Commission in writing of the Commission's action and of his or their right to protest such action.

(2) Within three months after notice of the Commission's action, any person denied enrollment or any Native group whose village is omitted from the village roster, as the case may be, shall have the right to protest such denial or omission to the Commission, and within three months after publication in the Federal Register, the Secretary or any Native Village eligible under section 13 or 23 or the Urban and National Corporations shall have the right to protest to the Commission the inclusion of any individual on the membership roll or any village on the roster of Native Villages. Any Native Village shall have the right, for three months after publication of the membership roll in the Federal Register, to protest a designation of membership therein by a Native on behalf of himself or his children below the age of nineteen under subsection (c) hereof. Such protests shall be the subject of a hearing by the Commission and judicial review as provided in section 6(j) of this Act. The mem-

bership rolls and village roster prepared by the Commission, as modified after any hearing or judicial review, shall be final and shall be promulgated by publication in the Federal Register.

(c) Each Native shall have the right to designate the Native Village in which he and his children under the age of nineteen years are to be listed as members and, in the absence of a protest by the named village pursuant to subsection (b) (2) hereof, such designation shall be final. In the event a Native Village does protest a designation of membership, the Commission shall determine the Native Village or villages, if any, of which the Native and his children under the age of nineteen are members, and the burden of proof of membership shall be upon the individual. In making its determination, and subject to the provisions of subsections (d) and (e) hereof, the Commission shall give priority to villages in the following order: (1) to the Native Village where the Native resides on the effective date of this Act, if such residence has continued without substantial interruption for a period of more than two years; (2) to the Native Village where the Native previously resided for a period or periods which aggregate ten years or more; (3) to the Native Village where the Native was born; (4) to the Native Village where either parent of such Native was born; (5) to the Native Village where the Native resides on the effective date of this Act; and (6) to a Native Village from which an ancestor of the Native came: *Provided*, That the Commission, upon the request of any Native, shall have discretion to deviate from the foregoing priorities and declare such person and/or his child under the age of nineteen to be a member of a Native Village from which he otherwise would be excluded in order to avoid hardship (such as the division of a family) or any other unreasonable classification.

(d) Natives who do not meet the requirements to qualify as members of a Native Village set out in this section or Native residents of urban areas who do not indicate or state their intention to return to a Native Village shall be enrolled as members of the Urban Alaska Native roll and shall be entitled to receive benefits under this Act through the Urban Corporation established pursuant to section 12.

(e) Natives living outside the State and who do not meet the requirements to qualify as members of a Native Village or who do not indicate or state their intention to return to a Native Village shall be listed as members of the Alaska Native National roll and shall be entitled to receive benefits under this Act through the National Corporation established pursuant to section 12.

(f) In preparing the final membership roll the Commission shall insure that each Alaska Native is designated a member of an eligible Native Village or a member of either the Urban or the National Corporations established pursuant to section 12.

(g) Any person who gives false information to qualify himself or any other person for inclusion on the temporary census roll or upon a Native membership roll, willfully and with knowledge that such information is false, shall be guilty of perjury and, upon conviction, shall be fined not more than $1,000 or imprisoned not more than a year, or both.

ALASKA NATIVE SERVICES AND DEVELOPMENT CORPORATION

SEC. 8. (a) (1) There is hereby established the Alaska Native Services and Development Corporation as a non-profit membership corporation which shall have the powers hereinafter granted. The Services Corporation shall be a Federally chartered corporation but shall not be an agency or establishment of the United States Government and shall cease to be in existence after twelve fiscal years from the date of enactment of this Act.

(2) The members of the board of directors appointed by the President shall serve as the incorporators and shall prepare the original articles of incorporation for the Services Corporation in a form consistent with the provisions of this section, and shall serve as the initial board of directors until the Native members of the board are elected. The incorporators shall file the articles of incorporation with the Secretary within six months after their appointment as members of the board of directors, and the Services Corporation shall be deemed to be incorporated and formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State. The Secretary of the Treasury is authorized and directed to advance from the Services Corporation's share of moneys in the Fund such sums as may be reasonably necessary for the organization of the Services Corporation.

(b) (1) The management of the Services Corporation shall be vested in a board of directors, which shall consist of eighteen members:

(A) four members of which shall be appointed by the President of the United States and each member shall serve a term of one, two, three or four years. Members so appointed shall serve until their successor has been appointed; and,

(B) fourteen members of which shall be elected by the voting members of the Services Corporation on the following basis:

(i) one member representing and elected by each of the twelve regions of Alaska as determined by section 9 of this Act;

(ii) one member representing and elected by the members of the Urban Alaska Native roll; and

(iii) one member representing and elected by the members of the Alaska Native National roll.

Members of the board so elected shall serve for terms of four years or until their successors have been elected and qualified: *Provided*, That among the directors first elected, two shall serve for terms of one year, four shall serve for terms of two years, four shall serve for terms of three years, and four shall serve for terms of four years: *And provided further*, That the directors who serve the shorter terms shall be determined by a drawing of lots conducted by the initial board. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Elections for membership on the board of directors shall be conducted in accordance with procedures set forth in the articles of incorporation or bylaws of the Services Corporation: *Provided*, That the first such election shall be held not less than six months nor more than one year after the effective date of incorporation of the Services Corporation.

(2) The board of directors shall elect a chairman annually from among its own membership. The board also may appoint a member of the Services Corporation to fill a vacancy within its membership, but such appointed director shall serve only until the next regular election of directors.

(3) Notwithstanding any other provision of this Act or the articles of incorporation to the contrary, the initial board of directors of the Services Corporation appointed by the President shall exercise only the following corporate powers: (A) completion of the organization of the Corporation and qualifying it to do business, including, but not limited to, the adoption of a corporate seal, the opening of bank accounts, the establishment of a place or places of business and the rental or acquisition of all necessary offices, furnishings, equipment and supplies related thereto, subject to the condition that no lease shall be for a period in excess of one year; (B) approval of amendments to the articles of incorporation; (C) the appointment of officers of the Corporation, the hiring of other employees and the employment of consultants, accountants, and other professional or financial advisers, subject to the condition that no contract of employment shall be for a period in excess of one year; (D) the receipt, investment, and distribution of moneys from the Fund in accordance with subsections 8 (e) and (f) hereof; (E) the expenditure of corporate funds to pay for or carry out the activities authorized under this section; (F) the conduct of the first election for membership on the board of directors; and (G) take any actions necessary to organize the Urban and National Corporations.

(c) The Services Corporation shall have a president, and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board and serving at the pleasure of the board. The president and other officers of the Services Corporation may, but need not, be members of the board. No officer of the Services Corporation shall receive any salary from any source other than the Services Corporation during the period of his employment by the Corporation. The president shall be responsible for conducting the business and affairs of the Services Corporation in a manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board of directors, and shall appoint such employees as the board deems appropriate.

(d) (1) Until publication of the membership roll in accordance with subsection 7(b) (1) of this Act, the members of the Services Corporation shall consist of all Natives shown on the temporary census roll prepared pursuant to section 7(a). After publication of the membership roll in accordance with subsection 7(b) (1) and before such roll becomes final in accordance with subsection 7(b) (2), the members of the Services Corporation shall consist of all Natives shown on the temporary census roll, and any other Native whose name is listed on the membership roll except an individual whose inclusion thereon is the subject of a pending protest. After promulgation of the final membership roll in accordance with subsection 7(b) (2), the members of the Services Corporation shall consist of all Natives listed upon such roll, as amended to reflect the death of any individuals so listed.

(2) The right to vote for directors and on such other matters as properly may be placed before the membership for decision shall be limited to members of the Services Corporation nineteen years of age or over at the time of voting.

(e) As soon as the Services Corporation is incorporated and formally organized in accordance with subsection (a) hereof, the Secretary of the Treasury shall pay to the Services Corporation all moneys deposited in the Fund to which the Services Corporation is entitled up to the date of such incorporation, together with any accrued interest. Thereafter, on January 1, April 1, July 1, and October 1 of each calendar year, the Secretary of the Treasury shall pay to the Corporation additional moneys deposited in the Fund to which the Services Corporation is entitled up to the date of payment, together with any accrued interest. The Secretary of the Treasury shall also furnish to the Services Corporation each month a statement showing the amount and source of moneys on deposit in the Fund.

(f) (1) Except as otherwise provided in this section, and pursuant to the provisions of subsection 11(e), the Services Corporation shall distribute moneys paid to it out of the Fund after the receipt thereof to the Native Village Corporations, and to the Urban and National Corporations in accordance with the provisions of this Act. The amount of money distributed shall, except as provided in section 9 (d) (1), be apportioned in direct proportion to the membership of each of the Village Corporations, the Urban Corporation and the National Corporation as shown on the final membership rolls promulgated in accordance with section 7. Moneys received from the Fund which the Services Corporation must distribute in accordance with this subsection shall not constitute income to the Services Corporation for any purpose.

(2) Until the membership roll becomes final in accordance with subsection 7(b)(2) of this Act, the Services Corporation shall distribute only eighty per centum of all moneys paid to it out of the Fund. The amount of money distributed to each Native Village Corporation and to the Urban Corporation and the National Corporation shall be apportioned in direct proportion to the Native population before publication of the membership roll in accordance with subsection 7(b)(1) as shown on the temporary census roll prepared in accordance with section 7(a), and after publication of the membership roll in accordance with subsection 7(b)(1) as shown thereon. Appropriate adjustments shall be made in actual distributions to reflect any prior advances, and the relative rights of the beneficiaries under this paragraph: *Provided,* That all distributions made pursuant to this paragraph shall be deemed advances of moneys to which the beneficiaries will become entitled upon promulgation of the final membership roll in accordance with section 7(b) and shall not constitute a determination of their relative rights to receive funds or property under this Act. Moneys paid to the Services Corporation out of the Fund, which are withheld by it pursuant to this paragraph, shall be invested by the Services Corporation for the benefit of the beneficiaries as their interests therein ultimately are determined.

(3) After promulgation of the final membership roll in accordance with subsection 7(b)(2), the Services Corporation shall distribute all moneys withheld under subsection (f)(2) hereof (adjusted to reflect earnings or losses from investment), after appropriate adjustments in the amounts of actual distributions also to reflect prior distributions and their respective rights in moneys derived from the Fund, to the beneficiaries as provided in subsection (f)(1) hereof.

(4) The Services Corporation shall withhold and invest any moneys due a Native Village Corporation or the Urban or National Corporations until such corporations are organized and qualified. The Services Corporation may withhold and invest in trust any moneys due a Native Village Corporation or the Urban or National Corporations if it is found that a corporation is violating any provision of this Act or of its articles of incorporation. All moneys so withheld (adjusted to reflect earnings or losses from investment) shall be paid over to the affected corporation upon a determination that the violations have been corrected or upon termination of the Services Corporation.

(5) The Services Corporation shall prepare and distribute to the Native Villages proposed articles of incorporation and other appropriate forms necessary to their organization and shall provide funds to the Native Villages for organization of the Village Corporations.

(g) The Services Corporation shall retain out of moneys paid to it out of the Fund: (1) such amounts as are necessary, but not in excess of 5 per centum for carrying on the business and affairs of the Service Corporation; and (2) 5 per centum as a contingency fund to be used for purposes specified in the articles of incorporation: *Provided,* That payments to the contingency fund shall not exceed a total unused balance of $5,000,000 and moneys in the contingency fund shall be prudently invested.

(h)(1) The Services Corporation shall be considered a public instrumentality eligible for grants and contracts for planning and development programs under any Federal law which will assist Natives, Native Villages, and Native Village Corporations. For a period of twelve fiscal years after the date of its formal organization, the Services Corporation shall be subject to audit by the General Accounting Office. Copies of such audits together with a report of the Administrator shall be filed with the appropriate committees of Congress. At the end of twelve fiscal years, and after a final audit by the General Accounting Office and the filing of a final financial report with the Congress, the limitations established, and the powers granted under this Act for the Services Corporation shall terminate.

(2) Upon expiration of the Charter of the Services Corporation, the assets and liabilities of the Services Corporation may, at the option of its membership:

(A) be transferred to the Investment Corporation or the successor to the Investment Corporation;

(B) be transferred to a new corporation organized pursuant to subsection 8(h)(3) hereof; or

(C) be liquidated and distributed among the members in any form permitted by law.

(3) In the event that the members of the Services Corporation, pursuant to subsection 8(h)(2)(B) hereof, elect to establish a new corporation to succeed the Services Corporation, the Directors of the Services Corporation shall appoint the incorporators of a new business for profit corporation (hereinafter called the successor to the Services Corporation), to which the assets and liabilities of the Services Corporation shall be transferred. Ten per centum of the total number of shares issued and outstanding shall be reserved for the Foundation established pursuant to section 24 of this Act. The remaining number of shares issued shall be distributed equally among Natives on the final roll and to those who have succeeded to their interest by request or pursuant to the statutes of descent or distribution. The successor to the Services Corporation will not be an agency or establishment of the United States and shall be governed entirely by the Federal and State laws ordinarily governing business corporations of the same type, and shall not be governed by the terms of this Act, except as follows:

(A) payments from the Fund to the Services Corporation or its successor as provided in subsection 5(f);

(B) shares of stock in the successor to the Services Corporation shall not be alienable for fifteen years from the date of enactment of this Act, and shall be subject to the provisions of subsection (h)(4) hereof.

(4) Any shares of stock held by Alaska Natives under any successor corporation established pursuant to this section for the benefit of Alaska Natives shall be inalienable for a period of fifteen years from the date of enactment of this Act. No contract to sell, pledge, or otherwise alienate such stock during this period of time shall be of any validity or enforceable in any court of law. Any person who knowingly seeks to acquire from an Alaska Native such stock in violation of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(i) The Services Corporation shall have and may exercise all rights and powers vested in a nonprofit membership corporation under the laws of the State. In addition, and without limitation upon any of the powers so conferred, or the powers conferred elsewhere in this Act, the Services Corporation shall have the following powers—

(1) to maintain an appropriate staff to provide professional, technical, engineering, social services, and financial assistance and advice to Natives, Native villages, and Native Village Corporations: (A) in the selection, use, management, leasing, and disposition of lands or interests therein; (B) in the development of comprehensive land use plans; (C) in the use, investment, and expenditure of funds; and (D) in the acquisition, use, and disposition of other property;

(2) to assist Native villages and Native Village Corporations in the planning and execution of programs for community development, including, but not limited to, housing, the establishment of local industry and the construction of public works;

(3) to enter into contracts with Natives, Native villages and Native Village Corporations, where appropriate, for the use, management, investment, economic development or disposition of lands, interests in lands, funds and other property for the benefit of such Natives and Native organizations;

(4) to provide loans and grants for the education and relief of distress of individual Natives, or their descendants and subject to the provisions of this Act, make distributions of funds to Native Village Corporations, and to municipal corporations in predominantly Native areas;

(5) to exercise authority to conduct the business and affairs of any Native Village Corporation shown to be violating any provision of this Act or of its articles of incorporation;

(6) to carry out any and all activities directed toward promoting the health, welfare, education and social and economic development of Natives and their descendants; and

(7) to provide any advice or assistance requested by the Urban and National Corporations.

(j) The internal affairs of the Services Corporation shall be governed in accordance with the laws of the State relating to nonprofit membership corporations, except to the extent inconsistent with the provisions of this Act; and except that—

(1) amendments to the articles of incorporation and annual reports shall be filed with the Secretary and certified copies thereof shall be transmitted to the State Commissioner of Commerce;

(2) the Services Corporation shall not be subject to any State licensing requirements, incorporation fees or other corporate charges, except the designation of a registered office and registered agent, and nominal fees for the filing of corporate papers, or to the imposition of State taxes as provided in this Act; and

(3) the Services Corporation shall not be subject to any State law which places a burden or duty upon it greater than is placed upon any other nonprofit membership corporation, or, unless the Corporation so consents, to any State corporate law which is in effect applicable only to the Services Corporation.

REGIONAL ADVISORY BOARDS

SEC. 9. (a) For purposes of this Act, the State shall be divided by the Commission within one year after the effective date of this Act into twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by the operations of the following existing Native associations:

(1) Arctic Slope Native Association (Barrow, Point Hope);

(2) Bering Strait Association (Seward Peninsula, Unalakleet, St. Lawrence Island);

(3) Northwest Alaska Native Association (Kotzebue);

(4) Association of Village Council Presidents (southwest coast, all villages in the Bethel area, including all villages on the Lower Yukon River and the Lower Kuskokwim River);

(5) Tanana Chief's Conference (Koyukuk,

Middle and Upper Yukon Rivers, Upper Kuskokwim, Tanana River);

(6) Cook Inlet Association (Kenai, Tyonek, Ekutna, Iliamna);

(7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula);

(8) Aleut League (Aleutian Islands, Pribilof Islands, and that part of the Alaska Peninsula which is in the Aleut League);

(9) Chugach Native Association (Cordova, Tatitlek, Port Graham, English Bay, Valdez, and Seward);

(10) Tlingit-Haida Central Council (southeastern Alaska);

(11) Kodiak Area Native Association (all villages on and around Kodiak Island); and

(12) Copper River Native Association (Copper Center, Glennallen, Chitina, Mentasta).

Any dispute over the boundaries of any region or regions shall be determined by the Commission and, without regard to subsection 6(j), shall be final.

(b)(1) There are hereby authorized to be established, at the option of the Natives within each region, pursuant to such procedures as the Commission may prescribe, a Regional Advisory Board for each of the regions defined under subsection (a) of this section. The Services Corporation, the Investment Corporation and the Village Corporations shall establish procedures for consultation from time to time with the appropriate Regional Advisory Boards on matters affecting the region represented thereby.

(2) There is hereby authorized to be established under the laws of the State by the Natives of the region described in section 9(a)(1) a North Slope Native Corporation which may carry out the duties of a Regional Advisory Board as specified in section 9, and shall in addition hold title to lands patented to it pursuant to section 19(f)(1). The North Slope Native Corporation shall be so organized that it may manage such lands, distribute to its members or shareholders revenue therefrom, and carry on such other activities as its members or shareholders may decide.

(3) The Regional Advisory Boards established pursuant to this subsection shall not be agencies or establishments of the United States Government. The Regional Boards shall be considered political subdivisions of the State solely for the purpose of being eligible for grants, loans, and contracts for regional planning, housing assistance, economic development, public works, construction, transportation and other programs under any Federal law which will assist Natives, Native villages, and Native Village Corporations. Village Corporations located within each region may allocate funds for that Regional Board.

(c) For purposes of electing the regional members to the board of directors of the Services Corporation as provided in section 8(b)(1) of this Act, the regional boundaries determined by the Commission under this section shall be used as the boundaries for the election.

(d)(1) In the distribution of funds the Services Corporation shall segregate, on a regional basis, revenues derived from the sale, lease, permit, development, use or other disposition of the leasable mineral estate of the lands to which the Services Corporation acquires a patent under section 15(d) of this Act and of the Village lands to which the Services Corporation acquires a patent under section 15(c) and 23(m)(3) of this Act. The Native Village Corporations within each region as defined in subsection (a) of this subsection shall be entitled, on a direct proportion of membership basis, to 50 per centum of the net proceeds derived from the disposition of the mineral estate to Village lands located within that region's boundaries. The remaining 50 per centum of such net proceeds shall be distributed among all the other Native Village Corporations and the Urban and National Corporations in direct proportion to their membership. For purposes of this subsection, membership shall be as shown on the final membership roll promulgated in accordance with subsection 7(b)(2).

(2) Moneys distributed pursuant to paragraph (1) hereof shall not constitute income of the Services Corporation, but shall constitute income of the receiving Native Village Corporations and the Urban and National Corporations and shall be subject to taxation on the same basis as like income is taxed when received by any other nonprofit membership corporation.

ALASKA NATIVE INVESTMENT CORPORATION

SEC. 10. (a)(1) There is hereby established the Alaska Native Investment Corporation (hereinafter referred to as the "Investment Corporation") as a business for profit corporation, which shall have the powers and duties hereinafter granted. The Investment Corporation shall be subject to the provisions of this Act and, to the extent consistent with subsection (i), to the Investment Company Act of 1940, as amended (11 U.S.C. 72a, 107f; 15 U.S.C. 80a–1 to 80a–52 et seq.). The Investment Corporation shall be a Federally chartered corporation, but shall not be an agency or establishment of the United States Government.

(2) The directors appointed by the President pursuant to subsection (b)(1)(A) hereof shall serve as the incorporators and as the initial board of directors, and shall take whatever actions are necessary to formally establish the Investment Corporation, including the preparation of the original articles of incorporation in a form consistent with the provisions of this Act. The incorporators shall file the articles of incorporation with the Secretary within six months after their appointment, and the Investment Corporation shall be deemed to be incorporated and formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State of Alaska and to the appropriate office of the State designated pursuant to subsection (e) hereof. The Secretary of the Treasury is authorized and directed to advance to the incorporators from the Investment Corporation's share of moneys in the Fund such sums as are reasonably necessary for the organization of the Investment Corporation.

(b)(1) The management of the Investment Corporation shall be vested in a board of directors, which shall consist of twelve members:

(A) five members of which shall be appointed by the President of the United States, within six months of the date of enactment of this Act: *Provided*, That no more than three members of the initial board shall be members of the same political party;

(B) four members of which shall be elected by Alaska Natives as provided in subsection (b)(6) hereof; and

(C) three members of which shall be elected by the nine directors named in subsections (b)(1) (A) and (B) hereof.

(2) Directors appointed by the President pursuant to subsection (b)(1)(A) hereof, and directors elected pursuant to subsection (b)(1)(C) hereof, shall, insofar as is possible, be persons who have demonstrated business ability and who have diplayed a high degree of expertise in national and international investments or corporate enterprise.

(3) Members of the board of directors shall serve for terms of six years or until their successors have been elected and qualified: *Provided*, That among the directors first appointed and elected, two shall serve for terms of six years; two for terms of five years; two for terms of four years; two for terms of three years; two for terms of two years; and two for terms of one year. The directors who serve the shorter terms shall be determined by a drawing of lots conducted by the initial board, except that the member appointed by the President to serve as the initial Chairman of the board of directors pursuant to subsection (b)(4) hereof shall serve for a full six-year term. Elections for membership on the board of directors shall be conducted in accordance with procedures set forth in the articles of incorporation or the bylaws of the Investment Corporation. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Upon the expiration of each director's term of office the shareholders of the Investment Corporation shall elect a new director to serve a term of six years, or until reorganization of the Investment Corporation as required in subsection (1) hereof.

(4) The President of the United States shall appoint one of the members of the initial board of directors to serve as Chairman of the board. The member appointed shall serve as Chairman for a three-year term. Thereafter, the board of directors shall elect a Chairman annually from among its own membership. The board also may appoint persons to fill vacancies within its membership, but such appointed directors shall serve only until the next regular election of directors.

(5) Notwithstanding any other provision of this Act or the articles of incorporation to the contrary, the initial board of directors appointed pursuant to subsection (b)(1)(A) hereof shall exercise only the following corporate powers: (A) completion of the organization of the Corporation and qualifying it to do business, including, but not limited to, the adoption of a corporate seal, the opening of bank accounts, the establishment of a place or places of business and the rental or acquisition of necessary offices, furnishings, equipment and supplies related thereto, subject to the condition that no lease shall be for a period in excess of one year; (B) approval of amendments to the articles of incorporation; (C) the appointment of officers of the Corporation, the hiring of other employees and the employment of consultants, accountants, and other professional or financial advisers, subject to the condition that no contract of employment shall be for a period in excess of one year; (D) the receipt, investment and distribution of moneys from the Fund in accordance with the provisions of this Act; and (E) the expenditure of corporate funds to pay for or carry out the activities authorized under this paragraph.

(6) Within ninety days after the filing of the articles of incorporation of the Investment Corporation, the initial board of directors shall organize and conduct an election for the four directors named in subsection (b)(1)(B) hereof.

(c) The Investment Corporation may establish such executive committees as are necessary for the conduct of business and may have a president and such other officers as may be named and appointed by the board, at rates of compensation to be fixed by the board and serving at the pleasure of the board. The president and other officers of the Investment Corporation may, but need not, be members of the board. No officer of the Investment Corporation shall receive any salary from any source other than the Investment Corporation during the period of his employment by the Corporation. The executive committee or committees or the president, as determined by the board, shall be responsible for conducting the business and affairs of the Investment Corporation in a manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board of directors, and shall appoint such other employees as the board deems appropriate.

(d)(1) The board of directors of the Investment Corporation shall contract with a Business Management Group or groups to manage and advise upon the conduct of the affairs of the Investment Corporation, subject to the terms of this Act and the policies established by the board. The Business Management Group or groups, to the extent consistent with this section and subsection (i) hereof shall be subject to the terms of the Investment Advisers Act. The Business Management Group or groups may, if the board of directors so decides, have a power of attorney for the sale, purchase, exchange, and transfer of securities of the Investment Corporation. The terms of the original contract between the Investment Corporation and the Business Management Group or groups shall be no longer than a renewable term of one year, and the contract shall be subject to review and comment by the Securities and Exchange Commission as provided in subsection (i) hereof.

(2) At the end of any year or upon cancellation of a contract the Investment Corporation may:

(A) award new contracts to the Business Management Group or groups;

(B) award contracts to another Business Management Group or groups; or

(C) at the end of three years establish an in-house management and investment capacity and staff to manage the affairs of the Investment Corporation.

The Investment Corporation through the board of directors and the Business Management Group or groups shall, to the extent consistent with sound management practices and the provisions of this section and the policies of the board, train and employ Alaska Natives in executive, management, and staff positions.

(3) The board of the Investment Corporation and the Business Management Group or groups shall manage the Investment Corporation's assets in such a manner as to maximize the financial interests of the shareholders, by investing in a balanced and diversified portfolio of:

(A) national and international public and private securities ("securities" as used in this section shall have the same meaning as defined in the Investment Company Act of 1940, as amended) (11 U.S.C. 72a, 107f; 15 U.S.C. 80a–1 to 80a–52);

(B) enterprises based in, or doing business in Alaska;

(C) enterprises having an impact on sectors of the economy especially important to Natives; and

(D) enterprises wholly or partially owned by Natives.

Neither (B), (C), nor (D) of this subsection shall be construed as obliging or authorizing the board of the Investment Corporation or the Business Management Group to make any investment which does not meet prudent investment standards and which is not in the best financial interests of the shareholders.

(e) The Investment Corporation shall have and may exercise, in addition to the powers and rights granted by this Act, all rights and powers vested in a business for profit corporation under the laws of any State which the board of directors designate in the articles of incorporation as the state whose law is to be applied in resolving legal questions arising from the corporate activities of the Investment Corporation. In addition, and without limitation upon any of the powers so conferred, the Investment Corporation may—

(1) make any lawful investments in local, national, and international business enterprises and securities which the board of directors determines would yield an acceptable return; and

(2) make loans and investments in such a manner as to maintain a creditor's protected interest which may, at the option of the board of directors, be converted into an equity interest: *Provided*, That notwithstanding any other provision of this Act, no more than twenty percent of the assets of the Investment Corporation may at any time be invested in venture capital situations.

(f) (1) As soon as the Investment Corporation is incorporated and formally organized in accordance with subsection (a) (2) hereof, the Secretary of the Treasury shall pay to the Investment Corporation all moneys deposited in the Fund to which the Investment Corporation is entitled up to the date of such incorporation and formal organization, together with any accrued interest. Thereafter, on January 1, April 1, July 1, and October 1 of each calendar year, the Secretary of the Treasury shall pay to the Investment Corporation or its successor additional moneys deposited in the Fund to which the Investment Corporation is entitled up to the date of payment, together with any accrued interest. The Secretary of the Treasury also shall furnish to the Investment Corporation or its successor each month a statement showing the amount and source of moneys on deposit in the Fund.

(2) The board of directors may retain out of moneys paid to the Investment Corporation such funds as are necessary for contingency funds, for the payment of dividends and for the administrative costs and the business expenses of the Corporation: *Provided*, That the compensation to be paid to the Business Management Group or groups during any year shall not exceed $250,000 or not more than one-half of 1 per centum of the invested assets of the Investment Corporation.

(3) The Investment Corporation and the Business Management Group shall be subject to periodic audits by a qualified group of certified public accountants to be selected by the board of directors. Such audits as are in accord with standard business practice shall be made at least once a year.

(g) (1) The Investment Corporation shall issue and have outstanding not more than one hundred shares of no par common stock for each Native.

(2) Until publication of the membership roll in accordance with section 7(b), the stockholders of the Corporation shall consist of all Natives shown on the temporary census roll prepared pursuant to section 7(a). After publication of the membership roll in accordance with section 7(b) (1) and before such roll becomes final in accordance with section 7(b) (2), the stockholders of the Corporation shall consist of all Natives shown on the temporary census roll, except an individual whose inclusion thereon is the subject of a pending protest. Stock held pursuant to this paragraph shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, and the right to file a stockholder's derivative suit, but shall not vest in the holder any rights to dividends or other distributions from the Corporation, except as provided in subsection (h) hereof.

(3) Upon promulgation of the final membership roll in accordance with section 7(b) (2), all stock issued pursuant to section 10 (g) (2) shall be deemed canceled, new shares shall be issued and thereafter the stockholders of the Corporation shall consist of all Natives shown on the final membership roll. Stock held pursuant to this paragraph shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, shall permit the holder to receive dividends or other distributions from the Corporation, and shall vest in the holder all rights of a stockholder in a business corporation organized under the laws of the State designated pursuant to subsection (e) of this section.

(4) Upon the death of any stockholder holding stock in the Corporation pursuant to section 10(g) (2) or (3), ownership of such stock shall be transferred to natural persons in accordance with his last will and testament or under the laws of intestacy: *Provided*, That such stock shall carry voting rights only if the holder thereof through inheritance also is a Native; *And provided further*, That in the event the deceased stockholder fails to dispose of his stock in the Corporation by will and has no heirs under the laws of intestacy, such stock shall escheat to the Corporation.

(5) (A) In the event that a Native under the age of nineteen shall become entitled to shares of stock in the Investment Corporation pursuant to section 10(g), such shares shall be issued to that member of such Native's family who is highest in the order of priority set forth in section 10(g) (5) (B) who shall agree, within thirty days of his receipt of notice of eligibility, to accept such shares as custodian for such Native. If a person designated as custodian or successor custodian under this section dies, resigns, is removed, or becomes legally incapacitated before such Native attains the age of nineteen, there shall be designated as successor custodian that member of such Native's family who is next highest in the order of priority set forth in section 10(g) (5) (B) who shall agree, within thirty days of his receipt of notice of eligibility, to accept such shares as successor custodian for such Native. In the event that no member of the Native's family accepts such shares as custodian (or successor custodian) pursuant to this sections, such shares shall be held by the Secretary as custodian for such Native.

(B) The order of priority in which members of the family of a Native under the age of nineteen shall be eligible to receive shares of stock in such business corporation as custodian for such Native is the following:

(i) the father;
(ii) the mother;
(iii) a brother;
(iv) a sister;
(v) an uncle;
(vi) an aunt;
(vii) a grandparent.

If more than one individual shall occupy any of the foregoing priority categories, the individuals within such category shall have priority in accordance with date of birth, with the individual having the earliest date of birth being assigned the highest priority.

(C) The custodian or successor custodian for a Native under the age of nineteen appointed pursuant to subsection (5) (A) hereof shall have the rights and obligations of, and be subject to the terms and conditions applicable to, custodians under the Alaska Gifts of Securities to Minors Act (Alaska Stat. Ann. § 45.60.010 et seq.), or corresponding provisions of subsequent law, except where inconsistent with the foregoing provisions of this subsection.

(6) The stock issued pursuant to this section and the right to any dividends paid pursuant to section 10(h) may not be sold. pledged, subjected to a lien or judgment execution, assigned in present or future, or otherwise alienated. Any person who knowingly seeks to acquire from a Native such stock in violation of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than twelve months, or both.

(7) Contemporaneous with any issuance of stock pursuant to this Act, each stockholder shall receive a report which shall contain the type of information similar to that normally contained in a prospectus of a corporation subject to the provisions of the Investment Company Act of 1940. Such additional information shall be included as the board of directors may require.

(h) (1) Commencing no later than eighteen months from the date of its incorporation, the Investment Corporation shall pay to its shareholders a quarterly dividend. Regardless of the current or cumulative earnings on the investments of the Investment Corporation, the total cash dividends paid in any quarter shall not be less than $1,000,000 for the first five fiscal years after enactment of this Act: *Provided, however,* That dividend payments prior to the first distribution of stock shall be made only subject to the provisions of subsection (g) hereof.

(2) The Investment Corporation shall pay out in dividends to holders of stock issued pursuant to section 10(g)(2) no more than 80 per centum of the moneys available in any quarter for payment of dividends. The Investment Corporation shall retain in a reserve account sufficient moneys to pay dividends, plus interest at 4 per centum, to persons not listed on the temporary census roll who are later determined to be eligible for benefits under this Act and enrollment on the final membership roll.

(3) The Investment Corporation may withhold any dividends due to a person eligible to receive stock pursuant to section 10(g)(2) whose eligibility for inclusion on the final membership roll is subject to a pending protest or is subject to substantial doubt, until such time as the stockholder's eligibility for benefits under this Act has been determined. Any stockholder who receives dividends and who is later determined to be ineligible for enrollment on the final membership roll shall repay the amount of those dividends, plus interest at 4 per centum to the Investment Corporation.

(i)(1) The provisions of the Investment Company Act of August 22, 1940 (54 Stat. 789), as amended; the Investment Advisers Act of August 22, 1940 (54 Stat. 847), as amended; the Securities Act of May 27, 1933 (48 Stat. 74), as amended; and the Securities Exchange Act of June 6, 1934 (48 Stat. 881), as amended, relating to public disclosure, reporting, and protection of the interests of stockholders shall, to the extent consistent with the purposes of this Act, be applicable to the activities of the Investment Corporation for a period of thirteen years.

(2) The Investment Corporation and its duly authorized representatives may, by application to the Securities and Exchange Commission, in accord with the procedures of section 6(c) of the Investment Company Act of 1940, request appropriate waivers and exemptions from any of the provisions of the Acts referred to in subsection (1) hereof if necessary to accomplish the purposes of this Act or to avoid hardship. This provision shall apply only to the Investment Corporation and only during its period of existence as a federally chartered corporation under this Act.

(3) The Securities and Exchange Commission is authorized, should it prove necessary to provide business certainty, to prepare rules and regulations which identify those provisions of applicable law or existing regulations of the securities law which, consistent with the purposes and provisions of this Act, may be applied to the Investment Corporation. Rules and regulations prepared pursuant to this subsection may be waived or exemptions made thereto in accord with subsection (2) hereof. Such rules shall be prepared and issued according to the procedures set forth in section 4 of the Administrative Procedure Act, section 553 of title 5, United States Code, and shall be subject to judicial review only as rules issued in such manner are normally reviewed.

(j) The Directors shall annually prepare and cause to be deposited with the Securities and Exchange Commission a report or reports which shall include information and data required under the provisions of the Investment Company Act of 1940 and such additional information and reports as the Securities and Exchange Commission and the Investment Company Act of 1940 may require. Copies of the report or reports herein required shall be made available for public inspection at the chief offices of the Investment Corporation and a summary shall be furnished upon request to any shareholder of the Investment Corporation. The report herein required shall be in addition to, and not in lieu of, any other report or disclosure required by law.

(k) The internal affairs of the Investment Corporation shall be governed in accordance with the laws of the State designated by the board of directors pursuant to subsection (e) hereof, except to the extent inconsistent with the provisions of this Act, and except that—

(1) amendments to the articles of incorporation and annual reports shall be filed with the Securities and Exchange Commission and certified copies thereof shall be transmitted to the appropriate office of the State referred to in subsection (e) hereof; and

(2) the Investment Corporation shall not be subject to any State law which places a burden or duty upon it greater than is placed upon any other similar corporation, or, unless the Corporation so consents, to any State corporate law which is in effect applicable only to the Investment Corporation.

(l)(1) At the end of the twelfth fiscal year commencing with the fiscal year in which this Act becomes effective, by operation of law all of the assets of the Investment Corporation shall be transferred to and all of its liabilities assumed by a new business for profit corporation (hereinafter called the Successor Corporation) established pursuant to this subsection, and the Investment Corporation shall terminate.

(2) During the fiscal year preceding the date specified in section 10(l)(1), the directors of the Investment Corporation shall draft the articles of incorporation for the Successor Corporation, appoint incorporators, and take all other steps necessary to create the Successor Corporation under the laws of any State selected by the directors. The Successor Corporation will not be an agency or establishment of the United States, and shall not be governed by the terms of this Act, except as follows:

(A) payments from the Fund to the Investment Corporation provided in section 5(f);

(B) limitations on disposition of shares within fifteen years of incorporation of the Investment Corporation in section 10(g); and

(C) merger of the Services Corporation with the Successor Corporation to the Investment Corporation as allowed pursuant to subsection 8(h).

(3) The stock in the Investment Corporation issued pursuant to section 10(g)(3) shall be deemed canceled on the date specified in section 10(l)(1), and shares of stock in the Successor Corporation shall be issued in replacement to all stocknolders in the Investment Corporation on that date.

(4) The Successor Corporation shall also issue shares of stock to the Foundation established pursuant to section 24 in such number that the Foundation shall hold 10 per centum of stock issued and outstanding under this section.

NATIVE VILLAGE CORPORATIONS

SEC. 11. (a) The Native members of each Native Village entitled to receive lands and benefits under this Act shall organize as a nonprofit membership corporation under the laws of the State before the Village Corporation may receive patent to lands or benefits under this Act except as otherwise provided. The initial articles of incorporation for each Village Corporation shall be subject to the approval of the Services Corporation. Amendments to the articles of incorporation and the annual budget of the Village Corporations shall, for a period of five years, be subject to review by the Services Corporation. The Services Corporation shall assist and advise Native Villages in the preparation of articles of incorporation and other documents necessary to meet the requirements of this subsection.

(b) Native Villages which are qualified under Alaska State law to organize as Municipal Corporations are encouraged to do so to be eligible for Federal grant-in-aid programs. In Native Villages which do not meet the population and other requirements of the State to organize as Municipal Corporations, and only for so long as they do not meet these requirements, the Village Corporations required to be established pursuant to this section shall be considered political subdivisions of the State solely for the purpose of being eligible for grants, loans, and contracts for planning, housing assistance, economic development, public works, construction, and other programs under Federal law which will assist Natives and Native Villages.

(c) Each Village Corporation shall have five incorporators. The incorporators shall be the Village Land Selection Committee as elected by the Native Village members pursuant to subsection 14(c) of this Act. After promulgation of the final membership roll in accordance with subsection 7(b)(2) the board of directors shall be elected by the Natives shown on the final membership roll in accordance with the articles of incorporation and the bylaws of the Village Corporation.

(d) Each Village Corporation shall be devoted to promoting the health, welfare, education, and economic and social well-being of its members and their descendants, and shall be authorized by its articles of incorporation, among other purposes, to construct, operate and maintain public works and community facilities, to engage in medical, educational, housing and charitable programs, to make loans and grants consistent with its corporate purposes, to foster industrial and economic development, to lease, sell, and manage real property and to distribute funds to its members and their descendants in furtherance of family plans.

(e) The Services Corporation shall not distribute more than the reasonable sums required for planning and administrative purposes and to deal with any pressing health and social problems to a Village Corporation until the Village Corporation has developed an initial program for the management, investment, and expenditure of such funds, and such program has been approved by the Services Corporation: Provided, That a failure or refusal of the Services Corporation to approve a Village program within ninety days after its receipt may be appealed to the Commission, and the Commission's decision thereon shall, without regard to subsection 6(j), be final. After approval of its initial program, each Village Corporation shall be entitled to distributions from the Services Corporation in accordance with this Act. The Services Corporation may invest for the benefit of a Village Corporation all moneys withheld under this paragraph until the Village program is approved.

(f) The articles of incorporation for each Village Corporation shall include the following provisions—

(1) all persons shown as members of the Native Village on the final membership roll prepared in accordance with section 7(b) of this Act shall be entitled to membership in the Village Corporation;

(2) for a period of at least thirteen years after the effective date of this Act, membership in a Village Corporation shall be limited to Natives and their descendants.

(g)(1) In any Native Village which is now organized or which becomes organized as a Municipal Corporation under State law within five years from the effective date of this Act, the Municipal Corporation shall be entitled to receive title to the surface estate of the land on which the village is located and as much additional land as is necessary for community expansion. Prior to the transfer of lands from a Village Corporation to a Municipal Corporation, lands shall be granted to occupants pursuant to section 15(b)(2) (A), (B), and (D) and section 23 (m)(2)(B) (i), (ii), and (iv). The acreage limitations in section 15(b)(2)(C) and section 23(m)(2)(b)(iii) shall apply to the transfer.

(2) In addition to the land grants referred to in subsection (1) hereof, Village Corporations shall also grant to Municipal Corporations or, where appropriate, to the State, title to existing rights-of-way necessary for public use, airport sites, and such other interests in land as are reasonably necessary for public use and benefit: Provided, That this subsection does not require the creation of floating easements or rights-of-way unless the Village Corporation decides to grant such rights-of-way for future use and expansion.

(3) The Alaska Native Commission shall settle any disputes with respect to the land transfers required under subsections (1) and (2) hereof and the Commission's decision shall, without regard to subsection 6(j), be final.

URBAN AND NATIONAL CORPORATIONS

SEC. 12. (a) (1) There shall be established two nonprofit, membership corporations as follows:

(A) Alaska Native Urban Corporation; and

(B) Alaska Native National Corporation.

(2) The Urban Corporation shall be incorporated under the laws of Alaska. The Natives listed on the temporary census roll under section 7(a)(1) who are listed as residents in Alaska but not as members of any Native Village shall be its temporary members and the Natives listed as members of the Urban Alaska Native roll under subsection 7(d) of this Act shall be its permanent members.

(3) The National Corporation shall be incorporated under the laws of any State other than Alaska determined by the Secretary to be the most appropriate. The Natives listed on the temporary census roll under section 7(a)(1) who are listed as not resident in Alaska and not members of any Native Village shall be its temporary members, and the Natives listed as members of the Alaska Native National roll under subsection 7(e) of this Act shall be its permanent members.

(4) The Secretary shall, within sixty days after the effective date of this Act appoint five incorporators for each of the corporations established under this section and shall select as such incorporators persons whom the Secretary deems to be knowledgeable in the needs of, and benefits desired by, the respective members of each corporation. The incorporators of each corporation shall, within sixty days after their appointment, prepare and submit to the Secretary, articles of incorporation and bylaws for the government of their respective corporations not inconsistent with the provisions of this Act. When the articles of incorporation and bylaws of either of such corporations are approved by the Secretary, or if they shall not have been disapproved by the Secretary within thirty days after they have been received, the articles of incorporation shall be filed with appropriate authorities in the State of incorporation and all other actions necessary to establish corporate existence shall be performed.

(5) The Urban and National Corporations shall be managed by their respective boards of directors, each of which boards shall be comprised of not less than five members.

(A) The incorporators shall constitute the initial board of directors to hold office until their successors are elected. They may engage such legal counsel, advisers and employees and perform such further acts as may be required to carry out the purposes of this Act. Any contract or other obligation of the corporation existing upon the date of the first election of directors shall be terminable at will by the corporation at any time within ninety days thereafter.

(B) All directors other than the initial board of directors shall be elected, by the members of the respective corporations who are nineteen years of age or over at the time of voting. The first election shall be held within four months following

(i) completion of the temporary census roll under subsection 7(a) of this Act, or

(ii) commencement of the existence of the corporation under the laws of its state of incorporation, whichever occurs later.

(6) The article of incorporation and the bylaws of the Urban Corporation and the National Corporation may be amended from time to time. Such amendments made during the first five years after the effective date of this Act shall be filed with the Secretary and the Services Corporation.

(7) The Urban Corporation and the National Corporation shall manage and use the funds distributed to them in accordance with this Act to serve the needs of their members and members' descendants. They shall have all of the powers granted to nonprofit corporations under the laws of their respective states of incorporation, except as such powers may be limited by their articles of incorporation and bylaws; and they shall carry out activities, either directly or through other instrumentalities, directed toward promoting the health, welfare, education, and cultural, social and economic development of their members and members' descendants.

(8) The National Corporation shall maintain an office or offices in its state of incorporation and in such other location or locations as will best serve the needs of its members.

(b) The provisions of subsection 11(e) of this Act relating to the distribution, withholding and investment of sums to, and for the benefit of, Village Corporations shall apply also with regard to sums received by the Services Corporation for distribution to the Urban and National Corporations.

(c) The Urban and National Corporations shall be entitled in proportion of their memberships to the total fund membership roll to receive distributions from the Services Corporation on the same basis as Village Corporations, including, prior to completion of the final membership roll, advances for organizational, planning, and administrative purposes and to deal with pressing health and social problems.

(d) The Urban Corporation and the National Corporation shall be entitled to a share, in proportion of their respecitve memberships to the total final membership roll, of the funds, retained pursuant to subsection 8(g), for administrative expenses and for contingency purposes.

(e) The Urban Corporation and the National Corporation shall be considered public instrumentalities eligible for grants, loans, and contracts for planning, housing, assistance, economic development, and other programs under Federal law which will assist their members and members' descendants.

(f) Upon termination of the Services Corporation pursuant to subsection 8(h) the limitations established and the powers granted under this Act for each of the corporations established under this section 12 shall terminate, and by vote of not less than a majority of its members casting votes in accordance with its articles of incorporation and bylaws, the members of the Urban and National Corporations shall elect to reincorporate either as a nonprofit corporation or a business corporation for profit, or to merge or consolidate with other corporation or otherwise reorganize or liquidate as the members deem appropriate. If either such corporation fails for any reason to make such election and carry it into effect within one year after the Services Corporation shall have gone out of existence, it shall be dissolved and liquidated in accordance with the provisions of its articles of incorporation and bylaws and applicable state law.

WITHDRAWAL OF PUBLIC LANDS

SEC. 13. (a) Public Land Order Numbered 4582, 34 Federal Register 1025, is hereby revoked.

(b) (1) There are hereby withdrawn, subject to valid existing rights, from the selection by the State under the Statehood Act (72 Stat. 341, 77 Stat. 223) and from all other forms of appropriation under the public land laws including the mining and mineral leasing laws, all public lands in each township, which encloses all or part of any Native Village listed in subsection (c) hereof, and any Native Village not listed, but which is approved for benefits under this Act by the Alaska Native Commission pursuant to subsection (e) hereof, plus all public lands in each township which is contiguous to or corners upon the townships in which such Native Villages are located, except lands withdrawn or otherwise reserved for national defense purposes other than Naval Petroleum Reserve No. 4, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State where protraction diagrams of the Bureau of Land Management are not available.

(2) At the time any Native Village not listed in section 13(c) is approved for benefits under this Act by the Commission pursuant to section 13(e), there shall be withdrawn subject to valid existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands in each township which encloses all or part of the Native Village, plus all public lands in each township which is contiguous to or corners upon the township in which the Native Village is located, except lands excepted from withdrawal under section 13(b)(1).

(3) (A) In the event that any Native Village referred to in subsections (b)(1) and (2) hereof is so located that less than nine townships of public lands are available for withdrawal as therein provided, there shall be withdrawn, subject to valid and existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, from among the available public lands, except lands excepted from withdrawal under section 13(b)(1), in order of their proximity to the center of the village, as much land of at least an equal character and value as the land upon which such Village is located as may be necessary for a withdrawal of an acreage equivalent to nine townships of public lands for such Native Village.

(B) The land exchange authority granted pursuant to section 16(a) of this Act may be exercised to make land exchanges with the State or other parties for the purpose of making lands in the townships on which villages referred to in subsection (b)(3)(A) hereof are located, or in the contiguous and cornering townships, available for selection: Provided, That the Secretary shall classify those public lands suitable for exchange under this section before any exchanges are made.

(c) The following Native villages are qualified for land withdrawals under the provisions of subsection (b)(1) hereof:

NAME AND PLACE REGION

Akiachak, Southwest Coastal Lowland.
Akiak, Southwest Coastal Lowland.
Akutan, Aleutian.
Alakanuk, Southwest Coastal Lowland.
Aleknagik, Bristol Bay.
Alatna, Koyukuk-Lower Yukon.

Allakaket, Koyukuk-Lower Yukon.
Ambler, Bering Strait.
Anaktuvuk Pass, Arctic Slope.
Andreafsey, Southwest Coastal Lowland.
Aniak, Southwest Coastal Lowland.
Anvik, Koyukuk-Lower Yukon.
Arctic Village, Upper Yukon-Porcupine.
Atka, Aleutian.
Atkasook, Arctic Slope.
Barrow, Arctic Slope.
Beaver, Upper Yukon-Porcupine.
Belkofsky, Aleutian.
Bethel, Southwest Coastal Lowland.
Bill Moore's, Southwest Coastal Lowland.
Biorka, Aleutian.
Birch Creek, Upper Yukon-Porcupine.
Brevig Mission, Bering Strait.
Buckland, Bering Strait.
Candle, Bering Strait.
Cantwell, Cook Inlet.
Canyon Village, Upper Yukon-Porcupine.
Chalkyitsik, Upper Yukon-Porcupine.
Chanilut, Southwest Coastal Lowland.
Chefornak, Southwest Coastal Lowland.
Chevak, Southwest Coastal Lowland.
Chignik, Kodiak.
Chignik Lagoon, Kodiak.
Chignik Lake, Kodiak.
Chistochina, Copper River.
Chukwuktoligamute, Southwest Coastal Lowland.
Circle, Upper Yukon-Porcupine.
Clark's Point, Bristol Bay.
Copper Center, Copper River.
Crooked Creek, Upper Kuskokwim.
Deering, Bering Strait.
Dillingham, Bristol Bay.
Eagle, Upper Yukon-Porcupine.
Dot Lake, Tanana.
Eek, Southwest Coastal Lowland.
Egegik, Bristol Bay.
Eklutna, Cook Inlet.
Ekwok, Bristol Bay.
Elim, Bering Strait.
Emmonak, Southwest Coastal Lowland.
English Bay, Cook Inlet.
False Pass, Aleutian.
Fort Yukon, Upper Yukon-Porcupine.
Gakona, Copper River.
Galena, Koyukuk-Lower Yukon.
Gambell, Bering Sea.
Georgetown, Upper Kuskokwim.
Golovin, Bering Strait.
Goodnews Bay, Southwest Coastal Lowland.
Grayling, Koyukuk-Lower Yukon.
Gulkana Copper River.
Hamilton, Southwest Coastal Lowland.
Holy Cross, Koyukuk-Lower Yukon.
Hooper Bay, Southwest Coastal Lowland.
Hughes, Koyukuk-Lower Yukon.
Huslia, Koyukuk-Lower Yukon.
Igiugig, Bristol Bay.
Iliamna, Cook Inlet.
Inalik, Bering Strait.
Ivanof Bay, Aleutian.
Kaktovik, Arctic Slope.
Kalskag, Southwest Coastal Lowland.
Kaltag, Qoyukuk-Lower Yukon.
Karluk, Kodiak.
Kasigluk, Southwest Coastal Lowland.
Kiana, Bering Strait.
King Cove, Aleutian.
Kipnuk, Southeast Coastal Lowland.
Kivalina, Bering Strait.
Kobuk, Bering Strait.
Koliganek, Bristol Bay.
Kokhanok, Bristol Bay.
Kongiganak, Southwest Coastal Lowland.
Kotlik, Southwest Coastal Lowland.
Kotzebue, Bering Strait.
Koyuk, Bering Strait.
Koyukuk, Koyukuk-Lower Yukon.
Kwethluk, Southwest Coastal Lowland.
Kwigillingok, Southwest Coastal Lowland.
Larsen Bay, Kodiak.
Levelock, Bristol Bay.
Lime Village, Upper Kuskokwim.
Lower Kalskag, Southwest Coastal Lowland.
McGrath, Upper Kuskokwim.
Makok, Koyukuk-Lower Yukon.
Manokotak, Bristol Bay.
Marshall, Southwest Coastal Lowland.
Mary's Igloo, Bering Strait.
Medfra, Upper Kusokwim.
Mekoryuk, Southwest Coastal Lowland.
Mentasta Lake, Copper River.
Minchumina Lake, Upper Kuskokwim.
Minto, Tanana.
Mountain Village, Southwest Coastal Lowland.
Nabesna Village, Tanana.
Naknek, Bristol Bay.
Napaimute, Upper Kuskokwim.
Napakiak, Southwest Coastal Lowland.
Napaskiak, Southwest Coastal Lowland.
Nelson Lagoon, Aleutian.
Newhalen, Cook Inlet.
Nenana, Tanana.
New Stuyahok, Bristol Bay.
Newtok, Southwest Coastal Lowland.
Nightmute, Southwest Coastal Lowland.
Nikolai, Upper Kuskokwim.
Nikolski, Aleutian.
Ninilchik, Cook Inlet.
Noatak, Bering Strait.
Nome, Bering Strait.
Nondalton, Cook Inlet.
Nooiksut, Arctic Slope.
Noorvik, Bering Strait.
Northeast Cape, Bering Sea.
Northway, Tanana.
Nulato, Koyukuk-Lower Yukon.
Nunapitchuk, Southwest Coastal Lowland.
Ohogamiut, Southwest Coastal Lowland.
Old Harbor, Kodiak.
Oscarville, Southwest Coastal Lowland.
Ouzinkie, Kodiak.
Paradise, Koyukuk-Lower Yukon.
Paulof Harbor, Aleutian.
Pedro Bay, Cook Inlet.
Perryville, Kodiak.
Savoonga, Bering Sea.
Scammon Bay, Southwest Coastal Lowland.
Selawik, Bering Strait.
Shageluk, Koyukuk-Lower Yukon.
Shaktoolik, Bering Strait.
Sheldon's Point, Southwest Coastal Lowland.
Shishmaref, Bering Strait.
Shungnak, Bering Strait.
Slana, Copper River.
Sleetmute, Upper Kuskokwim.
South Naknek, Bristol Bay.
Squaw Harbor, Aleutians.
Stebbins, Bering Strait.
Stevens Village, Upper Yukon-Porcupine.
Stony River, Upper Kuskokwim.
Tanacross, Tanana.
Tanana, Koyukuk-Lower Yukon.
Telida, Upper Kuskokwim.
Teller, Bering Strait.
Tetlin, Tanana.
Togiak, Bristol Bay.
Toksook Bay, Southwest Coastal Lowland.
Tuluksak, Southwest Coastal Lowland.
Tuntutuliak, Southwest Coastal Lowland.
Tununak, Southwest Coastal Lowland.
Twin Hills, Bristol Bay.
Tyonek, Cook Inlet.
Ugashik, Bristol Bay.
Unalakleet, Bering Strait.
Unalaska, Aleutian.
Unga, Aleutian.
Uyak, Kodiak.
Venetie, Upper Yukon-Porcupine.
Wainwright, Arctic Slope.
Wales, Bering Strait.
White Mountain, Bering Strait.

(d) Any of the villages listed in subsection (c) hereof shall not be eligible for land or benefits under this Act if the Commission determines within three years from the effective date of this Act that—

(1) less than twenty-five Natives are residents of the village; or

(2) the village is of a modern and urban character, that the majority of the residents are non-Native, and that the best interests of the Native resident would be served if they derived benefits through the Urban Corporation and other land provisions of this Act rather than as a Native Village; or

(3) the village was not in existence of the date of enactment of this Act: *Provided*, That this provision shall not be used to exclude any Native Village otherwise eligible which has been required to move to a new location because of a natural disaster or the actions of any governmental agency.

(e) Native Villages not listed in subsection (c) hereof shall be eligible for land and benefits under this Act and added to the village roster if the Commission determines

(1) twenty five or more Alaska Natives are residents of an established village; and

(2) the best interests of the Native residents would be served if they derived benefits under the Act as a Village Corporation; and

(3) the village would not be disqualified by the provisions of subsection (d) hereof.

(f) In making the determinations required pursuant to subsections (d) and (e) hereof, the Commission shall review all relevant evidence offered by the members of the concerned Native group or their representatives and shall review any recommendations of the State and the Secretary. The Commission's determination shall, without regard to section 6(j), be final.

(g)(1) In addition to determining which villages are entitled to land and other benefits under the terms of this Act, the Commission shall determine the total land acreage which eligible Village Corporations shall be entitled to select. The maximum grant of land which the Commission may award to an eligible Village Corporation shall be twenty-three thousand and forty acres for those Villages having an enrollment of less than four hundred Natives and an additional twenty-three thousand and forty acres for each additional four hundred Natives enrolled as members of the Village as follows: four hundred to eight hundred enrolled Natives, forty-six thousand and eighty acres; eight hundred to one thousand and two hundred enrolled Natives, sixty-nine thousand and one hundred twenty acres; one thousand and two hundred to one thousand and six hundred enrolled Natives, ninety-two thousand and one hundred sixty acres; one thousand and six hundred to two thousand enrolled Natives, one hundred and fifteen thousand two hundred acres; and two thousand to two thousand four hundred enrolled Natives, one hundred and thirty-eight thousand two hundred forty acres. In making determinations pursuant to this subsection the Commission shall consider the following factors:

(A) the Native population of the Village;

(B) the nature of the use, both historic and present, of the lands surrounding the Native Village including the carrying capacity of the surrounding lands and biological community in relationship to the village population and subsistence use patterns of the Native residents therein;

(C) the amount of land needed for prospective community expansion, the area to be granted to Municipal Corporations or to the State, and the area to be granted for access, rights-of-way, and other public services and facilities;

(D) the nature and economic value of the lands surrounding the village (without regard to the mineral estate) for the purpose of insuring some degree of comparability in value as between Native Villages; and

(E) the comprehensive land use plan prepared by the Village Corporation with the assistance of the Services Corporation staff pursuant to subsection (8)(1) hereof.

(2) Land acreages equal to the difference between the maximum grants of land which the Commission may award pursuant to subsection (g)(1) and the actual amounts awarded to eligible Village Corporations, together with land in the amount of 1,500,000

acres, shall be granted by the Commission upon application, as follows:

(a) to any Village Corporation which received the maximum grant the Commission may award, but which needs additional lands to maintain historic subsistence use patterns, but not to exceed the balance of the acreage withdrawn for that Village Corporation;

(b) to any Village Corporation which demonstrates that the nature, amount and economic value (without respect to the mineral estate) of the lands granted pursuant to subsection (g) (1) do not result in comparable values with the lands granted to other Village Corporations, but not to exceed the balance of the acreage withdrawn for that Village Corporation; and

(c) any remaining lands shall be granted to the Services Corporation.

In making the determinations required by this subsection the Commission shall consider the geographical relationship of individual villages to the lands in question and should avoid determinations which result in land grants that are separated by large bodies of water unless one of the above factors or the operation of section 13(b) (3) makes such a determination reasonably necessary. The Commission's determinations under this subsection shall, without regard to section 6(j), be final.

(h) (1) The Secretary, after consultation with the Commission and, where appropriate, with the Secretary of Agriculture or the Secretary of Defense, is authorized to withdraw from all forms of appropriation under the public land laws any public lands reasonably necessary to protect: (A) any settlement of a Native group established as of April 15, 1969, and not otherwise eligible for lands under this Act; (B) any historic Native village from which the population has been required to move, because of either direct or indirect actions of the Federal, State, or local government, and to which twenty-five or more adult Natives wish to return and reside; (C) any place which constitutes a new Native village location to which by virtue of natural phenomenon, or direct or indirect governmental actions, twenty-five or more adult Natives wish to relocate; or (D) any land occupied by a Native as a primary place of residence on May 1, 1970, and continuing on the effective date of this Act: *Provided, however,* That any withdrawal made pursuant to this subsection shall not exceed one township.

(2) The Commission shall determine the amount of land to which any Native group or individual is entitled under paragraph (1) hereof. The decision of the Commission shall, without regard to subsection 6(j), be final. Lands granted to Native groups or individuals pursuant to this subsection shall not exceed five thousand seven hundred and sixty acres under subsections (1) (A), (B), and (C) hereof nor more than one hundred and sixty acres under subsections (1) (A), (B), and (C) hereof nor more than one hundred and sixty acres under subsection (1) (D) hereof. Any lands granted under this subsection shall be patented by the Secretary on the basis of the Commission's decision and shall be deducted from the five hundred thousand-acre "miscellaneous" selection right created by subsection 19(b) (2). Patents issued pursuant to this subsection shall not include the leasable or locatable mineral estate.

(3) Where the lands referred to in subsection (h) (1) hereof are located within the national park system, the national forest system or the national wildlife refuge system the Secretary in withdrawing lands, and the Commission in granting lands pursuant to this subsection, may reduce the amount of lands withdrawn and granted to insure that the purposes for which these lands were reserved by the United States may be achieved with a minimum of interference.

(i) If the Secretary determines that a substantial dispute is involved or that the best interests of justice would be served he may direct that a public hearing be held in accordance with such rules as he shall prescribe prior to making any of the withdrawals permitted by subsection (h) hereof. Any hearings held pursuant to this subsection shall be held within five years of the date of enactment of this Act. The Commission shall consider, in any contested case, the hearing record prepared by the Secretary as well as his recommendations in making its determinations. The actions of the Commission under this subsection shall, without regard to section 6(j), be final.

(j) Pending the disposition of any lands withdrawn under this section, the Secretary is authorized to take such actions as may be necessary to administer, manage, and protect the withdrawn public lands for the benefit of the potential beneficiaries and the United States in accord with section 16 of this Act.

SELECTION OF PUBLIC LANDS

SEC. 14. (a) Upon application of any Native Village found eligible for land selections pursuant to section 13 of this Act, and upon certification thereof by the Commission, and after survey of the area selected pursuant to section 15(a), the Secretary shall issue a patent, without payment therefor, to the Village Corporation, or, if not yet incorporated, in trust to the Services Corporation for the benefit of the Native Village pending its incorporation as provided in section 11, for that amount of land to which the Native Village is found entitled by the Commission pursuant to the procedures set out in subsection 13(g). Lands to be patented may be selected, subject to all valid existing rights, from any public land within areas withdrawn for each Native Village under the provisions of section 13 of this Act.

(b) In exercising selection rights pursuant to subsection (a) hereof, Native Village Corporations shall select from among the public lands withdrawn pursuant to section 13, and all such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than one thousand two hundred and eighty acres. In the event the public lands withdrawn pursuant to section 13 are not sufficient in amount to satisfy the entitlement of any Village Corporation, as determined by the Commission, such Corporation may select noncontiguous tracts from among the vacant and unappropriated public lands, without regard to section 23, in order of their proximity to the center of the village until the Village Corporation's selection rights are exhausted.

(c) Within 2 months after a determination by the Commission that a Native Village is eligible for a grant of land pursuant to subsections 13 (d) and (e), the Secretary shall conduct an election for the village, under such rules and regulations as he may prescribe, to choose a five-member Village Land Selection Committee. The committee so selected is hereby authorized to exercise the land selection rights of the village pending organization of the Village Corporation. The persons entitled to vote in the election or serve on the Land Selection Committee shall be the members of each Native Village nineteen years of age or over, as shown on the temporary census roll prepared pursuant to section 7(a).

(d) (1) Where two or more Native Villages, because of proximity in location, are entitled to select lands in the same townships and actually select the same lands, their Village Corporations, or if not yet organized, their Land Selection Committees, shall be authorized to settle the overlap by negotiation and, in furtherance of any such settlement, to release selected lands to each other. If Native Villages making overlapping selections do not reach agreement within six months after the date such conflict arises, the controversy may be referred to the Commission by the Village Corporation or the Land Selection Committee for decision in accordance with section 6 of this Act. The Commission shall award the land, or portions thereof, to the Native Village or Villages shown historically by a preponderance of the evidence to have made greater use and occupancy thereof, or in such manner as will do substantial justice. The decision of the Commission shall, without regard to subsection 6(j), be final.

(2) A Native Village which releases selected lands in order to settle an overlap, or which loses selected lands under a Commission award in accordance with subsection (d) (1) hereof, shall be entitled to select additional public lands pursuant to subsection (b) hereof, until its selection rights are exhausted.

(e) Upon application of the Services Corporation, and upon certification thereof by the Commission, and after survey of the areas involved, the Secretary shall issue patents, without payment therefor, to the Services Corporation for lands to which it is entitled pursuant to subsection 13(g) (2) (c). The Services Corporation shall select such lands from among the lands withdrawn for Native Villagers pursuant to section 13 which remains after Native Village selection rights are exercised as provided in this section. All such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection and shall be in whole sections and, wherever feasible, in units of not less than one thousand two hundred and eighty acres.

(f) Except as otherwise provided in subsection (d) (2) hereof, all public lands withdrawn pursuant to section 13, which have not been selected by a Village Corporation or by the Service Corporation under this section shall eighteen months after the effective date of this Act, or nine months after the election required under subsection (c) hereof, whichever later occurs, be placed in the status provided for by section 24 of this Act: *Provided,* That lands withdrawn around a Village whose eligibility for land selection has not been finally determined by the Commission within eighteen months after the effective date of this Act shall remain withdrawn until six months after the Commission makes the determinations required pursuant to subsections 13 (d) through (g).

SURVEY AND CONVEYANCE OF LANDS

SEC. 15. (a) The Secretary shall promptly survey the townships withdrawn under section 13 and the areas selected for conveyance to Village Corporations and to the Services Corporation pursuant to section 14 of this Act, but need monument only the exterior boundaries of these townships or areas. He also shall promptly survey (1) within the townships withdrawn or areas selected all lands occupied as a primary place of residence, a primary place of business, subsistence campsites, reindeer grazing grounds, and for other purposes as required under subsection (b) (2) hereof, and (2) any other land to be patented under this Act.

(b) (1) Upon completion of the survey of lands selected by a Village Corporation, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to the Village Corporation to the land and all interests therein, except minerals covered by the Federal mineral leasing laws, subect to valid existing rights, and subject to the provisions of paragraph (2) hereof, and the provisions of section 14(a).

(2) Upon receipt of a patent or patents to selected lands, Village Corporations or the Services Corporation on their behalf—

(A) shall issue deeds to the occupants, without payment of any consideration, to the surface estate for any tracts occupied by

Natives as a primary place of residence, as a primary place of business, or used for subsistence campsites or for reindeer husbandry, subject to valid existing rights;

(B) shall issue deeds to the occupants, either without consideration or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate for any tracts occupied by non-Natives as a primary place of residence or a primary place of business, subject to valid existing rights: *Provided*, That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(C) shall issue deeds pursuant to subsection 11(g), without payment of any consideration, to any Municipal Corporation in the Native Village or to any Municipal Corporation established in the Native Village within five years of the date of enactment of this Act, to the surface estate of the improved land on which the village is located and of as much additional land as is necessary for community expansion, for appropriate rights-of-way for public use, airport sites, and such other interests in land as are reasonably necessary for public use and for foreseeable community needs: *Provided*, That prior to the transfer of lands from a Village Corporation to a Municipal Corporation, individuals shall receive patent to any lands used for residences and businesses: *And provided further*, That the amount of lands to be transferred to the Municipal Corporation shall be no less than one hundred and sixty acres;

(D) shall issue deeds to the occupants, either without consideration or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate for any tracts occupied by nonprofit organizations for the purposes for which such organizations were established, subject to valid existing rights: *Provided*, That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(E) may issue deeds, subject to valid existing rights, to all others.

Any dispute over the boundaries, use, occupancy or value of any tract which is covered by this paragraph may be submitted by any party to the dispute to the Commission for decision. The decision of the Commission, without regard to subsection 6(j), shall be final.

(c) Upon completion of the survey of lands selected by any Village Corporation, as provided in subsection (a) hereof, and contemporaneous with the issuance of patents to Village Corporations as provided in subsection (b) hereof, the Secretary shall issue a patent or patents to all minerals in such village lands covered by the Federal mineral easing laws, subject to valid existing rights, to the Services Corporation. At the time of such conveyance, the Services Corporation shall succeed and become entitled to any and all interests of the United States, as lessor, contractor, or permitter, in any mineral leases, contracts or permits covering lands selected by any Village Corporation as provided in subsection (k) of this section.

(d) Upon completion of the survey of lands selected by the Services Corporation, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to the Services Corporation to the land and all interests therein, subject to valid existing rights.

(e) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years from the effective date of this Act, issue a patent, without payment therefor, to any adult Native or Native group, subject to all valid existing rights, to the surface estate of any public land located in Alaska, outside of areas selected pursuant to this Act, except land within the national park system, national wildlife refuge system, national forest system, or land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4, which has been used by such adult Native or Native group for a period of more than three years immediately prior to the effective date of this Act as a campsite for the harvesting of fish, wildlife, berries, fuel, or other products of the land. Such patents shall be issued—

(1) for five-acre tracts for each subsistence use campsite separate from the campsite of any other applicant;

(2) for forty-acre tracts where the campsites of several applicants are in such proximity to each other as to make it not feasible to patent individual five-acre campsites; or

(3) for larger tracts, not to exceed sixty acres, where individuals can establish, under such rules and regulations as the Commission may prescribe, historic occupancy and use of the larger tracts.

Applications for patents under this subsection must be filed with the Commission within five years after the effective date of this Act. Pending the issuance of a patent for campsites under this subsection the Secretary is authorized to permit the use of such lands, upon which applications have been filed, as campsites. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(f) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent, without payment therefor, for the surface estate of up to two thousand five hundred and sixty acres to each bona fide reindeer husbandryman, family, or Native group who on the effective date of this Act was practicing reindeer management. Patents issued under this subsection may cover any public lands in Alaska outside the areas selected pursuant to this Act, subject to all valid existing rights, that on the effective date of this Act are leased, permitted, or used for reindeer management purposes, including summer and winter range facilities and intervening line camps. Lands granted pursuant to this subsection shall not include any lands selected pursuant to section 14 and shall not include lands within the national park system, national wildlife refuge system, national forest system or land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(g) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent without payment therefor, for up to, but not to exceed one hundred and sixty acres of land and interests therein, except the minerals covered by the Federal mineral leasing laws, and subject to all valid existing rights, from any public lands within the areas withdrawn for Natives under section 13, but not selected pursuant to section 14 of this Act to any Native occupying land within such one hundred and sixty acres on the effective date of this Act as a primary place of residence. The Secretary is authorized to apply the rule of approximation with respect to the acreage limitations set forth in this subsection.

(h) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent without payment therefor, of up to, but not to exceed, one hundred and sixty acres to the surface estate of any public land located in Alaska, subject to all valid existing rights, except land within the national park system, national wildlife refuge system, and national forest system, and land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4, to any Native nineteen years of age or older occupying such lands as a primary place of residence on the effective date of this Act and whose residence is outside the areas withdrawn for the benefit of Native Villages by section 13 of this Act. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(i) Notwithstanding the provisions of subsections (e) and (f) hereof any adult Native or Native group may apply for and shall receive special use permits for lands within any national wildlife refuge for the purposes set out in subsections (d) and (e) hereof: *Provided further*, That notwithstanding the provisions of subsection (h) hereof any Native nineteen years of age or older whose primary place of residence or business is outside the areas withdrawn by section 13 of this Act, but within the national wildlife refuge system, shall be entitled to a patent of up to eighty acres of land. Such patent shall be issued pursuant to the procedures set forth in subsection (h) hereof.

(j) In carrying out the provisions of this section, patents shall be issued by the Secretary in accordance with the following priorities:

(1) Within the areas withdrawn pursuant to section 13 of this Act—

(A) lands selected by Native Village Corporations;

(B) lands for the Services Corporation pursuant to subsection 13(g)(2)(C);

(C) land for individual places of residence; and

(D) land for subsistence campsites and reindeer management areas.

(2) Outside the areas withdrawn pursuant to section 13 of this Act—

(A) land for individual places of residence;

(B) land for subsistence campsites; and

(C) lands for reindeer husbandry.

(k) Where, prior to patent of any land or minerals under this section, a lease, contract, or permit has been issued for the utilization of surface or mineral resources covered under such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the estate patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that the patent does not cover all of the land embraced within any such lease, contract, or permit, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.

(l) The Secretary shall require as a condition to the granting of each permit to prospect, or to the granting of each lease to mine or drill for minerals covered by the Federal mineral leasing laws, on lands patented pursuant to subsections (e) through (i) of this section, and are not covered by such patent, that the permittee or lessee shall provide a bond, satisfactory to the Secretary, to indemnify the surface patentee for any damages which such permittee or lessee may cause in connection with the development of such permit or lease, and further the Secretary shall include provisions in such lease or permit which will protect the surface patentee against unreasonable interference in the use of his land.

ADMINISTRATION OF LANDS

SEC. 16. (a) Natives, Village Corporations and the Services Corporation may exchange lands and interests in lands with each other, or with the State or the United States and the Secretary, the Secretary of Agriculture, and the Secretary of Defense, under such rules and regulations as they respectively may prescribe, may exchange land and interests in lands under their jurisdiction and classified as suitable for exchange with Village Corporations, the Services Corporation, and Natives, for the purpose of effecting land consolidations or to facilitate the management or development of land. Exchanges of land and interests in lands hereunder shall be made on the basis of equal value, and the value of improvements on lands shall be given due consideration and allowance made therefor in any valuation: *Provided*, That either party to an exchange under this subsection may pay or accept cash in order to equalize the values of the properties exchanged.

(b) Pending the patenting to a Village Corporation pursuant to section 15 of public lands withdrawn pursuant to section 13, or the restoration of such lands to the status in which they had been placed pursuant to section 24, the Secretary may take such actions as shall be necessary to administer, manage, and protect such withdrawn public lands: *Provided*, That the Secretary shall not sell or otherwise permanently dispose of lands or interests therein, except as provided in this subsection: *And provided further*, That the Secretary shall not, without the consent of the Services Corporation, issue or enter into any lease, contract, or permit covering lands withdrawn pursuant to this Act which will be in effect more than eighteen months after the effective date of this Act. The Secretary may renew existing leases which would be in effect more than eighteen months after the effective date of this Act only if the basic lease provides for a right of renewal and then only on the terms provided in the basic lease. The Secretary, with the approval of the Commission, and in accordance with such rules and regulations as he shall prescribe, may grant an easement or right-of-way for a public purpose over, across, under, or through withdrawn public lands on condition that the grantee of such easement or right-of-way (1) shall provide a bond, satisfactory to the Secretary, in an amount sufficient to pay the fair market value of any interest the grantee acquires in lands which may be subsequently selected by a Village Corporation, issue or enter into any lease, contract, or permit resources of the land and the environment, including fish and wildlife, and to protect the surface owner from unreasonable interference in the enjoyment of his land. All payments or revenues attributable to the use or other disposition of withdrawn lands later selected by a Village Corporation, after deducting the cost of administration thereof, shall be paid to the Village Corporation, or to the Services Corporation, as appropriate: *Provided*, That if the selected land does not include all of the land covered by a particular lease, contract, or permit, the amount of the revenues therefrom to be paid to such Village Corporation, or to the Services Corporation, as appropriate, shall be the proportion which results from multiplying the revenues attributable to such lease, contract, or permit (after deducting the cost of administration thereof) by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the selected land and the denominator is the total acreage contained in such lease, contract, or permit.

(c) After lands are patented pursuant to sections 15 and 23 of this Act, Village Corporations and the Services Corporation may hold, manage, lease, or dispose of such lands and interests therein in accordance with the laws of the State: *Provided*, That for a period of twelve fiscal years after the effective date of this Act, any sale (other than a sale or grant under section 15(b)(2)), mortgage, surface lease for a term (including renewals) of more than twenty years, grant of a permanent easement or right-of-way, or gift of such lands, or interests in lands by a Village Corporation shall require the approval of the Services Corporation in order to be valid: *Provided further*, That easements or rights-of-way for public purposes may be acquired within such lands by condemnation in accordance with the laws of the State without any necessity for approval of the Services Corporation.

MINERAL LEASING ACT

SEC. 17. Disposition of all minerals included under the Federal mineral leasing laws including but not limited to deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in public lands in Alaska and of oil deposits of any other minerals located in such lands, which the Congress may hereafter authorize to be disposed of by sale or lease, after the effective date of this Act may, where there is competitive interest shown in a particular tract of land, be under such competitive bidding procedures, as the Secretary may prescribe by regulation. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 and following), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) shall apply to the extent that such provisions are not inconsistent with this Act. Where such competitive interest has not been displayed the provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 and following), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) shall apply.

REVENUE SHARING

SEC. 18. (a)(1) Disposition of all deposits of coal, phosphate, sodium, potassium, oil, shale, gas, or sulfur located in public lands in Alaska and of all deposits of any other minerals located in such lands which the Congress may hereafter authorize to be disposed of by sale or lease, after the effective date of this Act shall be made only pursuant to the terms of this Act and shall be subject to the provisions on revenue sharing as provided in this section. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 et seq.) and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) shall apply to the extent that such provisions are not inconsistent with this Act.

(2) All revenues derived by the United States from rentals and bonuses upon disposition of such minerals during the period beginning January 1, 1969, and ending on the effective date of this Act shall be distributed as provided in the Alaska Statehood Act of July 1, 1958 (72 Stat. 339), except that, prior to calculating the shares of the State and the United States as set forth in such Act, 2 per centum of such proceeds shall be deducted and paid into the Fund. From the royalty derived by the United States from the disposition of such minerals during the same period, an amount equal to 2 per centum of the gross value of the minerals (as the gross value thereof is determined for royalty purposes under the lease involved) shall be deducted and paid into the Fund, and the respective shares of the State and the United States in such royalty shall be calculated on the remaining balance.

(3) All leases or other dispositions of such minerals made after the effective date of this Act shall provide that prior to calculating the respective shares of the State and the United States in such proceeds under the Statehood Act: (A) a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid into the Fund; and (B) 2 per centum of all revenues derived from rentals and bonuses shall be deducted and paid into the Fund.

(b) Should the United States ever dispose of deposits of minerals referred to in subsection (a)(1) of this section located within Naval Petroleum Reserve No. 4, such disposition shall be made only under such competitive bidding procedures as the Secretary shall prescribe by regulation. The provisions of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), as amended and supplemented, shall apply to the extent that such provisions are not inconsistent with this Act. Any leases or other dispositions of such minerals shall be made in accordance with this subsection and shall provide: (1) that a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid into the Fund from the royalties derived by the United States; (2) that 2 per centum of all revenues derived from rentals and bonuses upon disposition of such minerals shall be deposited in the Fund; and (3) that the remaining proceeds from the disposition of such minerals shall be deposited as miscellaneous receipts to the Treasury of the United States.

(c) The royalties provided under this section shall not operate to exclude lands subject thereto from selection by the State under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), if such lands otherwise are available for selection. Every patent of public lands issued to the State under the Statehood Act after the effective date of this Act, however, shall expressly reserve for the benefit of the Natives: (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under any lease or other disposition by the State) of the minerals referred to in subsection (a) hereof produced on or removed from such lands from the royalties payable to the State; (2) a right to receive 2 per centum of all revenues derived by the State from rentals and bonuses upon disposition of such minerals. There are also reserved for the benefit of the Natives from and after January 1, 1969, an amount equal to a like royalty and other revenues from rentals, royalties and bonuses payable to the State under (i) leases of the United States which are or may be assumed by the State under section 6(h) of the Alaska Statehood Act, and (ii) under conditional leases and sales made pursuant to section 6(g) of the Alaska Statehood Act in the case of lands heretofore or hereafter selected by the State, the selection of which is or was tentatively approved by the Secretary, but as to which patents had not issued to the State by January 1, 1969: *Provided, however*, That the bonus revenues received by the State at the September 1969, sale of lands tentatively approved under the Statehood Act shall not be subject to the 2 per centum revenue sharing provisions of this section, nor shall rentals received pursuant to such sale up to the date of April 15, 1970. Any royalty, and rentals received pursuant to such sale after April 15, 1970, shall be subject to the revenue sharing provisions of this section.

(d) Revenues received by the United States or the State as compensation for estimated drainage of oil and gas shall, for purposes of this section, be deemed to be revenues from the disposition of oil and gas and the appropriate payments shall be paid into the Fund on account thereof. All royalty and other revenues required to be paid under this section shall be paid into the Fund promptly after the expiration of the fiscal year in which they accrue by the Secretary of the Treasury or the State, as the case may be, and shall be distributed or withdrawn therefrom only in accordance with this Act. In the event the United States or the State elects to take royalties in kind, there shall be paid into the Fund on account thereof an amount equal to the royalties that would have been paid into the Fund under the provisions of this section had the royalty been taken in cash.

(e) The payments required pursuant to this section shall continue only until $500,000,000 has been paid into the Fund. Thereafter the provisions of this section shall not apply and the reservation required in patents under subsection (c) of this section shall be of no further force and effect.

(f) The provisions of this section requiring revenue sharing by the State shall be enforceable by the United States on behalf of the Natives but this shall not preclude the Services Corporation, or its successor, from pursuing any remedies available to it in the event of default by the State. In the event of default by the State in making any payments due under this section, and in addition to any other remedies provided by law, there shall be deducted annually and deposited in the Fund the amount of any underpayment, to be taken first from the share of mineral revenues from public lands in Alaska which would otherwise be paid to the State pursuant to Federal law and, if such share is insufficient, from any other funds otherwise payable to the State as grants-in-aid by the United States which the President of the United States, at his discretion, deems appropriate.

(g) (1) The provisions of this section requiring revenue sharing by the State and the United States are enacted pursuant to the authority reserved by the United States in section 4 of the Alaska Statehood Act to determine the disposition of lands used and claimed by Natives and as to which the State was, by the Alaska Statehood Act, required to and did disclaim all right and title. Therefore:

(A) in the event that the State initiates litigation or becomes a party to litigation to contest in any manner the operation of this section 18 all rights of land selection granted to the State by the Alaska Statehood Act shall be suspended as to any public lands which are determined by the Secretary as potentially valuable for mineral development, timber or other commercial purposes, and no selections shall be made, no tentative approvals shall be granted, and no patents shall be issued for such lands during the pendency of such litigation; and

(B) in the event that the State or any other party initiates litigation to contest in any manner the operation of this section and any of the provisions of this section are judicially determined to be inapplicable to the State, such suspension and prohibition on the granting of tentative approvals and issuance of patents shall continue for as long as may be necessary, but not in excess of two years, to allow the Services Corporation or its successor an opportunity to select, out of lands described in section 19(a), in addition to the selection rights provided for in that section, the mineral estate of one million acres of land in noncontiguous blocks of our townships, half of which must be south of the Brooks Range. The Secretary upon application therefor filed by the Services Corporation or its successor shall issue to the Services Corporation or its successor, without payment, a patent to the mineral estate in the lands selected, subject to all valid and existing rights. Where, prior to such patent, a lease, contract, or permit has been issued for the utilization of the mineral resources covered under such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of such patent, the Services Corporation shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the minerals patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that the patent does not cover all of the land embraced within any such lease, contract, or permit, the Services Corporation shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.

(2) Any civil action commenced by the State or by any other parties to contest in any manner the purpose and the substantive operation of this section 18 shall be barred unless the complaint is filed within one year of the date of enactment of this Act. The purpose of this limitation on suits is to insure that, after the expiration of a reasonable period of time, the right, title and interest of the United States, the Natives and the State to share in revenues will vest with certainty and finality and may be relied upon by all other parties in their dealings with the State, the Natives and the United States.

(3) In the event that rights of land selection granted to the State by the Alaska Statehood Act should ever be suspended pursuant to the provisions of subsection (g) (1) (A) hereof, the State's right of land selection pursuant to section 6 of the Alaska Statehood Act, Act of 1958 (72 Stat. 341, 77 Stat. 223) shall be extended for a period of time equal to the period of time as the selection right was suspended pursuant to the provisions of subsection (g) (1) (A).

(h) The respective shares of the United States and the State with respect to payments to the Fund required by this section shall be determined pursuant to this subsection and in the following order:

(1) first, from sources identified under subsection (c) hereof;

(2) then, from sources identified under subsection (a) hereof; and

(3) then, subject to the provisions of subsection (b), from sources identified in subsection (b) hereof.

(i) The provisions of this section do not apply to mineral revenues received from the Outer Continental Shelf.

LAND SELECTION FOR ECONOMIC POTENTIAL

SEC. 19. (a) Upon application filed by the Services Corporation with the Commission and upon certification thereof, the Secretary shall issue a patent, without payment therefor, to the Services Corporation, subject to all valid and existing rights, to the appropriate interest in any public lands located in the State as provided in subsection (b) hereof. Any lands within the national park system, national wildlife refuge system, and national forest system, and lands withdrawn or reserved for national defense purposes including Naval Petroleum Reserve No. 4, shall be excluded from the selection rights granted to the Services Corporation by this section.

(b) The Services Corporation is granted the right to select, subject to subsection (a) hereof, lands in the amounts set out below and subject to the limitations of this section:

(1) the surface estate of one million acres of public land for timber and forest products potential, to be selected in noncontiguous tracts of two to four townships; and

(2) the surface estate of five hundred thousand acres of public land which the Services Corporation will select, administer, and grant to Natives and Native groups to avoid undue hardship; to provide protection for cemeteries, abandoned villages, and areas of historical and cultural significance to Natives; and for such other equitable purposes as the Services Corporation deems appropriate: *Provided,* That tracts selected pursuant to this paragraph shall, insofar as possible, conform to township survey designations and shall be no larger than eight sections nor smaller than one hundred and sixty acres.

Patents issued to the Services Corporation by the Secretary pursuant to this section shall cover only the interests in land designated in subsection (b) (1) and (2) hereof. The remaining estate shall be held by the United States and shall be subject to the applicable public land laws of the United States.

(c) Lands granted pursuant to this section are granted to provide the Services Corporation with a diversified land resource base, to avoid hardship, and to create opportunities for Natives to enter commercial enterprises not otherwise readily open to them. The Secretary and the State may submit comments upon the Services Corporation's applications for proposed land selections. The decision of the Commission in certifying applications shall, without regard to section 6(j), be final.

(d) (1) Lands selected and granted pursuant to subsection (b) (1) must be at least ten miles outside the boundaries of any city organized as a municipal corporation under State law. Lands granted pursuant to subsection (b) (1) shall be managed in accordance with sustained yield principles of forest management.

(2) "Noncontiguous" for the purposes of this section means that any tract selected under subsection (b) (1) hereof must be separated from any other tract selected by an area at least twice as large as the largest of the areas selected.

(3) All selections made pursuant to this section shall be surveyed by the Secretary and shall conform to township survey designations.

(e) (1) Lands granted pursuant to subsection (b) (1) hereof shall be selected within two years of the date of enactment of this Act. In the event that the Services Corporation, the State, and the Secretary are unable to agree upon a mutual plan for the selection of these lands, the Services Corporation shall select four townships, then the State may identify four townships to be reserved for State selection under the Statehood Act (72 Stat. 341, 77 Stat. 223). The Services Corporation then shall select four more townships and the State shall identify until the Services Corporation's selection rights are exhausted. State identification acts only as a withdrawal for purposes of subsection (b) (1) hereof and does not grant any rights nor does it interfere with any other selection rights granted by this Act. In the event of any overlap or conflict with the selection rights granted to Village Corporation, the village selection right shall have priority.

(2) Lands granted pursuant to subsection (b) (2) hereof shall be selected within ten years of the date of enactment of this Act. In the event of conflict, lands selected pursuant to subsection (b) (2) shall have priority over selections by the State pursuant to the Statehood Act (72 Stat. 341, 77 Stat. 223). At the end of ten years the right of selection shall terminate and any remaining right of the Services Corporation to select additional lands shall revert to the United States.

(f) (1) Upon application filed by the North Slope Native Corporation with the Commission and upon certification thereof by the Commission, the Secretary shall issue a patent, without payment therefor, to the North Slope Native Corporation, subject to all valid and existing rights, to the land and all interests therein of any public lands located in the State of Alaska as provided in subsection (2) hereof. The North Slope Native Corporation shall be entitled to retain 50 per centum of revenues derived from the sale, lease, permit, development, use or other disposition of the mineral estate of the land to which it acquires a patent under section 19(f) (1). The remaining 50 per centum of such net proceeds shall be paid to the Services Corporation for distribution in accordance with the formula set forth in section 9(d) (1) of this Act. Any lands within the National Wildlife Refuge system and lands withdrawn or otherwise reserved for national defense purposes other than Naval Petroleum Reserve No. 4, shall be excluded from the selection rights granted to the North Slope Native Corporation by this subsection (f).

(2) The North Slope Native Corporation is granted the right to select, subject to subsection (f) (1) hereof, five hundred thousand acres of land and all interests therein, subject to all valid and existing rights. Lands granted by this subsection shall be selected from the geographic region designated by the Commission pursuant to subsection 9(a) (1) and shall be within or contiguous to the areas withdrawn pursuant to section 13(b) (1) respecting any of the Native Villages named in section 13(c) that are located in such region. All selections made pursuant to this section shall be surveyed by the Secretary, shall conform to township survey designations, and shall be in tracts of two to four townships.

(3) Lands granted pursuant to this subsection shall be selected within two years of the date of enactment of this Act. In the event of any overlap or conflict the priority of land selections shall be as follows:

(A) The Village Corporations;

(B) The North Slope Native Corporation; and

(C) The State of Alaska.

(4) Prior to certifying applications under subsection (f) (1) hereof, the North Slope Native Corporation shall prepare and submit to the Commission a comprehensive land-use plan for the lands designated in the application.

REVOCATION OF INDIAN ALLOTMENTS IN ALASKA

SEC. 20. (a) No Native covered by the provisions of this Act may hereafter avail himself of an allotment under the provisions of any Indian allotment Act including the Act of February 8, 1887, as amended and supplemented (24 Stat. 389; 25 U.S.C. 334, 336), or the Act of June 25, 1910 (36 Stat. 363; 25 U.S.C. 337). Further, the Act of May 17, 1906, as amended (34 Stat. 197), is hereby repealed.

(b) Native persons who have deeds to lands granted by the United States pursuant to the Acts referred to in subsection (a) hereof or any other public land laws which have restrictions upon the sale, use, or disposal of such lands shall, upon application to the Secretary, be granted unrestricted deeds.

PROTECTION OF SUBSISTENCE RESOURCES

SEC. 21. (a) The Secretary is authorized and directed to classify, in accordance with appropriate ecological criteria, varying environmental circumstances and varying subsistence needs, public lands surrounding any or all of the Native Villages and groups for which lands are withdrawn under sections 13 through 15 and under section 23 as Subsistence Use Units.

(b) The Secretary in preparing such classifications shall hold public hearings concerning the proposed classifications units and shall consult with the State and other appropriate departments of the Federal Government and invite the comments of all parties concerned. Upon determining the lands and resources required for subsistence use in each area, the Secretary shall publish notice in the Federal Register of a proposed classification. Classification of an area as a Subsistence Use Unit shall not prevent disposal of such lands under the public land laws in conformity with subsection (a) hereof.

(c) After an area has been classified as a Subsistence Use Unit and final notice thereof has been published, the Secretary may, upon petition by residents of, or request by a local governing body within the unit, and upon the concurrence of the State, determine that the health, welfare, or livelihood of residents of the unit are threatened by the depletion of subsistence resources. Upon such a determination, the Secretary may close the area to entry by persons for the purpose of fishing, hunting, and/or trapping other than by residents of the unit for subsistence purposes.

(d) The maximum duration of such emergency closure shall be two years unless, after a public hearing, the Secretary determines the closure should be extended for an additional two-year term.

(e) Any person who knowingly enters upon lands within a subsistence-use classification unit closed under the provisions of this section, for the purpose of hunting, fishing, or trapping in violation of said closure, shall be guilty of a trespass against the United States and shall be subject to a fine of $1,000 or one year imprisonment or both. Complaints may be issued and arrests may be made under this subsection by Department of the Interior personnel designated by the Secretary to enforce this section.

REVOCATION OF RESERVATIONS; EXCEPTIONS

SEC. 22. (a) Notwithstanding any other provisions of law, and except where inconsistent with the provisions of this Act, the various reserves set aside by legislation or by Executive or Secretarial Order for Native use or for the administration of Native affairs, including reserves created under the Act of May 31, 1938 (52 Stat. 593), in Alaska and hereby revoked, subject to any valid existing rights.

(b) Notwithstanding any other provision of law, lands within the various reserves described in subsection (a) hereof are hereby withdrawn from selection by the State and all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, until the Native groups that are the beneficiaries of such reserves have selected lands to which they are entitled under section 14 and until the Secretary issues a patent pursuant to section 15. The requirements set forth in subsections 13 (d) through (f) shall not apply to any Native group settled as a village or community within the various reserves described in subsection (a) hereof, and lands shall be patented to the Village Corporation representing any Native group whose reserve was revoked pursuant to this section without regard to subsections 13 (d) through (f).

(c) Notwithstanding any other provision of law, the Tanina Indians, the beneficiaries of the Moquawkie Reservation (hereinafter referred to as the Tyonek Indians), shall vote, within one year of the date of enactment of this Act, under procedures established by the Secretary, whether their tribe:

(1) shall accept abolition of the existing reservation and a grant to an appropriate entity of which they are the members, stockholders or owners, of twenty-six thousand nine hundred and eighteen acres of such reservation lands, subject to the condition that the mineral estate underlying such lands may not be sold by the Tyonek Indians to anyone other than the United States or the State: *Provided,* That the Tyonek Indians may lease such lands; or

(2) shall accept abolition of the existing reservation and be entitled to full benefits under the terms of this Act.

In the event the Tyonek Indians decide to acquire title to the Moquawkie Reserve set aside by Executive order of February 27, 1915, in accordance with this subsection (1) hereof, the Secretary shall issue a patent to the appropriate entity referred to in subsection (1) hereof to all lands and interests in lands (including oil, gas, and other minerals) within such Reserve, subject to valid existing rights, and the Tyonek Indians shall not be eligible for benefits under this Act. Where, prior to such patent, a lease, contract, or permit has been issued for the utilization of surface or mineral resources covered by such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of such patent, the appropriate entity referred to in subsection (1) hereof shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the surface or minerals patented. The administration of such lease, contract, or permit shall continue to be by the United States.

(d) The Annette Islands Reserve established by the Act of March 3, 1891 (26 Stat. 1101), is hereby excluded from and shall not be affected by the terms of this section and the terms of this Act.

(e) Nothing in this Act shall repeal, modify, or otherwise affect the right of the Secretary to establish a townsite on Saint Paul Island or the right of Natives of the Pribilof Islands to acquire title to tracts therein pursuant to the Act of November 2, 1966 (80 Stat. 1094), and to participate in the benefits under this Act.

TLINGIT-HAIDA SETTLEMENT

SEC. 23. (a) (1) (A) There are hereby withdrawn, subject to valid existing rights, from selection by the State under the Alaska Statehood Act (72 Stat. 341, 77 Stat. 223 and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands, including lands in the Tongass and Chugach National Forests, in each township, which encloses all or part of any Native Villages listed in subsection (b) hereof, and any Native Villages not listed, but which are located in southeast Alaska and which are approved by the Commission pursuant to this section, plus all public lands in each one-quarter township which is contiguous to or corners upon the townships in which such Native Villages are located, except lands withdrawn or otherwise reserved for national defense purposes, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State where protraction diagrams of the Bureau of Land Management are not available.

(B) At the time any Native Village not listed in subsection (b) hereof is approved for benefits under this Act by the Commission pursuant to this section, there shall be withdrawn, subject to valid existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands, including lands in the Tongass and Chugach National Forests, in each township which encloses all or part of the Native Village, plus all lands in each one quarter township which is contiguous to or corners upon the township in which the Native Village is located, except lands excepted from withdrawal under subsection (a) (1) (A) hereof.

(2) Any and all claims of the Tlingit and

Haida Indians to the two and six-tenths million acres of land in southeast Alaska referred to in the Court of Claims case of "Tlingit and Haida Indians of Alaska against United States," jacket number 47900, are hereby extinguished.

(3) The benefits provided for in this Act and the lands granted pursuant to this section are in addition to the judgment award received by the Tlingit and Haida Indians of Alaska in the Court of Claims and constitute full and final compensation for the extinguishment of title made in subsection (a)(2) hereof, and are in lieu of the additional land selection rights granted Village Corporations outside of southeast Alaska by sections 13 to 15.

(b) The following Native Villages are qualified for withdrawals under the provisions of subsection (a) hereof:

Craig, Southeast.
Hoonah, Southeast.
Hydaburg, Southeast.
Kake, Southeast.
Kasaan, Southeast.
Klawock, Southeast.
Klukwan, Southeast.
Saxman, Southeast.
Tatitlek, Gulf of Alaska.
Yakutat, Southeast.

(c) Any of the villages listed in subsection (b) hereof shall not be eligible for land or benefits under this Act if the Commission determines within three years from the effective date of this Act, that—

(1) less than twenty-five Alaska Natives are residents of the village;

(2) the village is of a modern and urban character, that the majority of the residents are non-Native, and that the best interests of the Native residents would be served if they derived benefits through the Urban Corporation and other land provisions of this Act rather than as a Native Village; or

(3) the village was not in existence as of the date of enactment of this Act: Provided, That this provision shall not be used to exclude any Native Village otherwise eligible which has been required to move to a new location because of a natural disaster or the actions of any governmental agency.

(d) Native Villages located within southeast Alaska and not listed in subsection (b) hereof shall be eligible for land and benefits under this Act and added to the village roster if the Commission determines that—

(1) twenty-five or more Alaska Natives are residents of an established village; and

(2) the best interests of the Native residents would be served if they derived benefits under the Act as a Village Corporation; and

(3) the village would not be disqualified by the provisions of subsection (c) hereof.

(e) In making the determinations required pursuant to subsections (c) and (d) hereof, the Commission shall review all relevant evidence offered by the members of the concerned Native group or their representatives and shall review any recommendations of the State, the Secretary or the Secretary of Agriculture. The Commission's determination shall, without regard to subsection 6(j), be final.

(f) In addition to determining which villages are entitled to land and other benefits under the terms of this section and this Act, the Commission shall determine the total land acreage to which eligible Village Corporations shall be entitled to select pursuant to this section. In no event shall any Village Corporation be awarded a grant of more than twenty-three thousand and forty acres. In making determinations pursuant to this subsection the Commission shall consider the following factors:

(1) the Native population of the Village;

(2) the nature of the use, both historic and present, of the lands surrounding the Native Village including the carrying capacity of the surrounding lands and biological community in relationship to the village population and subsistence use patterns of the Native residents therein;

(3) the amount of land needed for prospective community expansion, the area to be granted to Municipal Corporations or the State, and the area to be granted for access, rights-of-way, and other public services and facilities;

(4) the nature and economic value of the lands surrounding the village (without regard to the mineral estate) for the purpose of insuring some degree of comparability in value as between Native Villages; and

(5) the comprehensive land use plan prepared by the Village Corporation with the assistance of the Services Corporation staff pursuant to subsection (8)(1) hereof.

In making the determinations required by this subsection the Commission shall consider the geographical relationship of individual villages to the land in question and should avoid determinations which result in land grants that are separated by large bodies of water unless one of the above factors make such a determination reasonably necessary. The Commission's determination under this subsection shall, without regard to section 6(j), be final.

(g) If the Secretary determines that a substantial dispute is involved or that the best interests of justice would be served he may direct that a public hearing be held in accordance with such rules as he shall prescribe prior to making any of the withdrawals he is required to make by this section. Any hearings pursuant to this subsection shall be held within one year of the date of enactment of this Act. The Commission shall consider, in any contested case, the hearing record prepared by the Secretary as well as his recommendations and the recommendations of the Secretary of Agriculture in making its determination. The actions of the Commission under this subsection shall, without regard to subsection 6(j), be final.

(h) Pending the disposition of any national forest lands withdrawn under this section, the Secretary of Agriculture is authorized to take such actions, subject to existing rights, as may be necessary to administer, manage and protect such lands for the benefit of the potential beneficiaries and, in so far as is consistent with this section, in accordance with the laws, rules, and regulations applicable to the national forests and to permit access or grant easements, rights-of-way, or other interests in lands for the purpose of administration, use, or development of contiguous or adjacent national forest lands not withdrawn.

(i) Upon application of any Native Village found eligible for land selections pursuant to this section and upon certification thereof by the Commission, and after survey of the area selected pursuant to subsection (m)(1) the Secretary shall issue a patent, without payment therefor, to the Village Corporation, or, if not yet incorporated, in trust to the Services Corporation for the benefit of the Native Village pending its incorporation as provided in section 11, for that amount of land to which the Native Village is found entitled by the Commission pursuant to the procedures set out in this section. Lands to be patented may be selected, subject to all valid existing rights, from any public land within areas withdrawn for each Native Village under the provisions of this section.

(j) In exercising selection rights pursuant to this section, Village Corporations shall select from among the public lands withdrawn pursuant to this section and all such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than six hundred and forty acres. In the event the public lands withdrawn pursuant to this section are not sufficient in amount to satisfy the entitlement of any Native Village Corporation, as determined by the Commission, such Corporation may select noncontiguous tracts from the Tongass National Forest in order of their proximity to the center of the village until the Native Village Corporation's selection rights are exhausted.

(k) Within two months after a determination by the Commission that a Native Village is eligible for a grant of land pursuant to this section, the Secretary shall conduct an election for the village, under such rules and regulations as he may prescribe, to choose a five-member Village Land Selection Committee. The committee so elected is hereby authorized to exercise the land selection rights of the village pending organization of the Village Corporation. The persons entitled to vote in the election or serve on the Land Selection Committee shall be the members of each Native Village nineteen years of age or over, as shown on the temporary census roll prepared pursuant to section 7(a).

(l) All public lands withdrawn pursuant to this section, which have not been selected by a Village Corporation, shall be restored eighteen months after the effective date of this Act, or six months after the election required under subsection (k) hereof, whichever later occurs, to the status in which such lands have been placed pursuant to section 23 of this Act: *Provided*, That lands withdrawn around a village whose eligibility for land selection has not been finally determined by the Commission within eighteen months after the effective date of this Act shall remain withdrawn until six months after the Commission makes the determinations required pursuant to this section.

(m)(1) The Secretary shall promptly survey the townships withdrawn under this section and the areas selected for conveyance to Native Villages pursuant to subsection (i) to (l) of this section, but need monument only the exterior boundaries of such townships or areas. He also shall promptly survey within the townships withdrawn or areas selected all lands occupied as a primary place of residence, a primary place of business, subsistence campsites, and for other purposes as required under subsection (2)(A) hereof, and any other land to be patented under this section.

(m)(2)(A) Upon completion of the survey of lands selected by a Village Corporation, as provided in subsection (m)(1) hereof, the Secretary promptly shall issue a patent or patents to the Village Corporation to the land and all interests therein, except minerals covered by the Federal mineral leasing laws, subject to valid existing rights, and subject to the provisions of subsection (m)(2)(B) hereof, and the provisions of subsection (l) hereof: *Provided*, That any conveyance of national forest lands under the provisions of this section shall be subject to reservations in the United States of easements, rights-of-way, or other interests in land necessary for access to or for administration, use, or development of contiguous or adjacent national forest lands not conveyed. Such easements, rights-of-way, and interests shall be based upon existing and planned roads and trails as depicted on national forest transportation system plans and related resource plans available for public inspection at the office of the Regional Forester and at the office of the Forest Service in Washington, D.C.: *Provided further*, That in any conveyance of national forest lands under this section the Secretary shall consult with the Secretary of Agriculture and, where possible without working a hardship on a Native or Native Village, shall exclude areas now used or planned to be used for the following purposes:

(i) national forest administrative sites;

(ii) airfields;

(iii) recreation sites necessary to serve visitors to national forest lands not conveyed; and

(iv) public service or other sites necessary to facilitate administration of national forest resources.

The Secretary shall, where he deems appropriate, reserve interests in land recommended by the Secretary of Agriculture as necessary for continued access to such areas. Such excluded areas shall be administered by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to the national forests.

(B) Upon receipt of a patent or patents to selected lands, Village Corporations or the Services Corporation on their behalf—

(i) shall issue deeds to the occupants, without payment of any consideration, to the surface estate for any tracts occupied by Natives on September 1, 1969, as a primary place of residence, as a primary place of business, or used for subsistence campsites, subject to valid existing rights;

(ii) shall issue deeds to the occupants, either without consideration or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy, and without regard to any improvements thereon, to the surface estate for any tracts occupied by non-Natives on September 1, 1969, as a primary place of residence or a primary place of business, subject to valid existing rights: *Provided,* That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(iii) shall issue deeds, pursuant to subsection 11(g), without payment of any consideration, to any Municipal Corporation in the Native Village or to any Municipal Corporation established in the Native Village within five years of the date of the enactment of this Act, to the surface estate of the improved land on which the village is located and of as much additional land as is necessary for community expansion, for appropriate rights-of-way for public use, airport sites, and such other interests in land as are reasonably necessary for public use and for foreseeable community needs: *Provided,* That prior to the transfer of lands from a Village Corporation to a Municipal Corporation, individuals shall receive deeds to any lands used for residences and businesses: *And provided further,* That the amount of lands to be transferred to the Municipal Corporation shall be no less than one hundred and sixty acres;

(iv) shall issue deeds to the occupants, either without consideration or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate of any tracts occupied on September 1, 1969, by nonprofit organizations for the purposes for which such organizations were established, subject to valid existing rights: *Provided,* That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(v) may issue deeds to all others subject to valid existing rights.

Any dispute over the boundaries, use, occupancy, or value of any tract under this subsection may be submitted by any party to the dispute to the Commission for decision. The decision of the Commission, without regard to subsection 6(j), shall be final.

(m)(3) Upon completion of the survey of lands selected by any Village Corporation, as provided in subsection (m)(1) hereof, and contemporaneous with the issuance of patents to Village Corporations as provided in subsection (m)(2)(A) hereof, the Secretary shall issue a patent or patents to all minerals in such village lands covered by the Federal mineral leasing laws, subject to valid existing rights, to the Services Corporation. At the time of such conveyance, the Services Corporation shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter in any mineral leases, contracts, or permits covering lands selected by any Village Corporation as provided in subsection (r) of this section.

(n) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years from the effective date of this Act, issue special use permits, without payment therefor, to any Native or Native group, subject to all valid existing rights, to the surface estate of any public land located in the Chugach or Tongass National Forest, but which has been used by such Native or Native group for a period of more than three years prior to the effective date of this Act as a campsite for the harvesting of fish, wildlife, berries, fuel, or other products of the land. Such permits shall be issued—

(1) for five-acre tracts for each subsistence use campsite separate from the campsite of any other applicant;

(2) for forty-acre tracts where the campsites of several applicants are in such proximity to each other as to make it not feasible to patent individual five-acre campsites; or

(3) for larger tracts, not to exceed sixty acres, where individuals can establish, under such rules and regulations as the Commission may prescribe, historic occupancy and use of the larger tracts.

Applicants for permits under this subsection must be filed with the Commission within five years after the effective date of this Act. Pending the issuance of a permit for campsites under this subsection, the Secretary is authorized to permit the use of such lands, upon which applications have been filed, as campsites. After five years after the effective date of this Act permits may be issued pursuant to the laws and regulations on the administration of the national forests.

(o) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent of up to, but not to exceed eighty acres of land and interests therein, except the minerals covered by the Federal mineral leasing laws, and subject to all valid existing rights, from any public lands within the areas withdrawn for Natives under this section, but not selected pursuant to subsections (i) to (l) of this section without payment therefor, to any Native occupying land within such eighty acres on the effective date of this Act as a primary place of residence.

(p) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent of up to, but not to exceed, forty acres to the surface estate of any public land, in Southeast Alaska including the Chugach and the Tongass National Forest, subject to all valid existing rights, without payment therefor, to Natives nineteen years of age or older occupying such land whose primary place of residence, on January 1, 1970 and continuing to the date of enactment of this Act is outside the area withdrawn for the benefit of Native Villages by this section.

(q) In carrying out the provisions of this section, patents shall be issued by the Secretary in accordance with the following priorities:

(1) Within the areas withdrawn pursuant to this section—

(A) lands selected by Native Village Corporations;

(B) land for individual places of residence; and

(C) land for subsistence campsites.

(2) Outside the areas withdrawn pursuant to this section—

(A) land for individual places of residence; and

(B) land for subsistence campsites.

(r) Where, prior to patent of any land or minerals under this section, a lease, contract, or permit has been entered into or issued for the utilization of surface or mineral resources on land covered under such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all income from the patented land and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the estate patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that the patent does not cover all of the land embraced within any such lease, contract, or permit, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.

(s) The Secretary shall provide as a condition to the granting of each permit to prospect, or to the granting of each lease to mine or drill for minerals covered by the Federal mineral leasing laws, which minerals are situated in lands patented pursuant to subsections (o) and (p) of this section, and are not covered by such patent, that the permittee or lessee shall provide a bond, satisfactory to the Secretary, to indemnify the surface patentee for any damages which such permittee or lessee may cause in connection with the development of such permit or lease, and further the Secretary shall include provisions in such lease or permit which will protect the surface patentee against unreasonable interference in the enjoyment of his land.

(t) Notwithstanding the provision of existing national forest timber sale contracts extending for a period more than three years from the date of this Act and directly affected by conveyances authorized by this Act, the Secretary of Agriculture is authorized to modify any such contracts with consent of the contractor to adjust the areas to which it or they apply for the purpose of avoiding hardship to Natives, unnecessary conflicts, and of offsetting the impacts of conveyances or special use permits authorized by this Act on national forest lands which are subject to any such contracts. Wherever possible such contracts shall be modified to avoid any overlap or conflict with lands withdrawn and lands selected and patented pursuant to this section.

TRANSITIONAL OPERATION OF PUBLIC LAND LAWS

SEC. 24. (a)(1) Except as otherwise provided in this Act, all unreserved public lands in Alaska which have not been previously classified by the Secretary are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, for not to exceed five years. The Secretary of the Interior is hereby authorized, at his discretion, and after consulting with the State, to classify any lands withdrawn by this section and to open to mineral leasing, entry, selection, or location for disposal in accordance with applicable public land laws, such lands as he determines are chiefly valuable for the purposes provided for by such laws.

(2) Nothing in this section shall restrict the land selection rights of the State under the Statehood Act (72 Stat. 341), or restrict

the acqusition, granting, or use of leases, permits, or rights-of-way under existing law, except that rights-of-way under Revised Statutes section 2477 shall take effect only under such terms and conditions as the Secretary may establish.

(3) In making the classifications required by subsection (a)(1) hereof the Secretary shall conduct detailed studies and investigations of all unreserved public lands in Alaska, and of Naval Petroleum Reserve No. 4 and the Rampart Power Site Withdrawal, which are suitable for inclusion as recreation, wilderness or wildlife management areas within the National Park System and the National Wildlife Refuge System, and shall advise the Congress within three years of the date of passage of this Act of the location, size and values of such areas, and shall simultaneously with notification to the Congress withdraw these areas from any appropriation under the public land laws, including application of the mining and mineral leasing laws, until such time as the Congress acts upon the Secretary's recommendations, but not to exceed the five year period during which all unreserved public lands are hereby withdrawn from appropriation.

(b) Upon the application of any applicant qualified to make entry, selection or location, under the public land laws, on lands not classified for entry under subsection (a) hereof, the Secretary shall examine the lands described in the application and if he classifies them as suitable for the purpose described in the application and opens them to entry, said applicant shall be entitled to enter, select or locate, such lands.

ALASKA NATIVE FOUNDATION

SEC. 25. (a)(1) There shall be created an Alaska Native Foundation during the ninety-day period prior to the dissolution of the Services Corporation as provided in subsection 8(h) of this Act. The Foundation shall be a nonprofit membership corporation with the powers hereinafter granted.

(2) The Foundation shall not be an agency or establishment of the United States Government.

(b)(1) The board of directors of the Services Corporation on the date specified in subsection (a) hereof shall act as the incorporators of the Foundation.

(2) The incorporators shall prepare the original articles of incorporation and bylaws for the Foundation, subject to the approval of the Secretary of the Treasury, in a form consistent with the provisions of this section and in a form that shall qualify the Foundation for tax exemption under section 501(c)(3) of title 26, United States Code or any successor provisions thereto.

(3) The incorporators shall serve as the initial board of directors until permanent directors are appointed as provided in subsections (c) and (e). The incorporators shall file the articles of incorporation with the Secretary within thirty days, and the Foundation shall be deemed to be formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State.

(c)(1) The management of the Foundation shall be vested in a board of directors which, with the exception of the initial board, shall consist of the members of the Foundation as selected in accordance with subsection (e).

(2) The board of directors shall elect a chairman annually from among its own membership.

(d) The Foundation shall have a president, and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board and serving at the pleasure of the board. The president and other officers of the Foundation may, but need not, be members of the Foundation.

(e)(1) There shall be seventeen members of the Foundation, fourteen of whom shall be initially elected by the voting members of the Services Corporation on the following basis:

(A) one member representing each of the twelve regions as determined by section 9 of this Act;

(B) one member representing the members of the Urban Alaska Native roll;

(C) one member representing the members of the Alaska Native National roll; and

(D) three members shall be appointed by the Governor of the State.

(2) Members of the Foundation shall be entitled to reasonable fees and shall serve until their death, resignation, retirement, or removal for cause. A member be removed only by a two-thirds vote of the members of the Foundation (without the participation of the affected member) upon a showing of physical disability or mental impairment preventing the reasonable performance of his duties, or upon a showing of a willful failure to perform his duties in a reasonable manner.

(3) Upon the death, resignation, retirement, or removal of a member, the remaining members shall elect a new member by a majority vote.

(f)(1) The purposes of the Foundation shall be to engage exclusively in charitable, educational, and scientific activities for the benefit of individuals of Native background.

(2) In furtherance of the purposes set forth in subparagraph (1), the Foundation may carry out such charitable, educational or scientific projects as may be consistent with its status as an organization exempt under section 501(c)(3) of title 26, United States Code, or any successor provisions thereto.

(g)(1) The Foundation shall have and may exercise all rights and powers vested in a nonprofit membership corporation under the laws of the State.

(2) The Services Corporation before its dissolution pursuant to section 8(h) of this Act, shall distribute to the Foundation and its incorporators sufficient funds to meet the necessary costs of the Foundation's organization and initial operation.

ATTORNEY FEES AND EXPENSES

SEC. 26. (a) The chief commissioner of the Court of Claims is authorized to receive, consider, and settle, in accordance with the provisions of this section, any unreimbursed claim submitted to him for attorneys' fees, and out-of-pocket expenses by any person in connection with services rendered, on or before the date of the enactment of this Act, on behalf of any Native, Native Village, statewide or Regional Native Associations or other Native tribe, band, or group (1) in the actual prosecution pursuant to any contract, of a claim pending before any court or the Indian Claims Commission which is dismissed pursuant to this Act, or (2) for legal representation with respect to the scope and preparation of this Act and previously proposed legislation to settle claims against the United States or the State based upon aboriginal right, title, use, or occupancy of lands by Natives, or with respect to litigation (other than litigation covered under clause (1) involving the validity of or otherwise affecting such claims.

(b) Any claim made pursuant to subsection (a) of this section shall be filed with the chief commissioner of the Court of Claims within six months following the date of the enactment of this Act, and shall be in such form and contain such information as the chief commissioner shall prescribe. The chief commissioner shall give reasonable notice to the interested parties and an opportunity for them to be heard and to present evidence before making a final determination upon any such claim. The amount of attorney fees payable pursuant to any claim filed in accordance with this section shall be determined by the chief commissioner on a quantum meruit basis. Out-of-pocket expenses shall be approved for payment pursuant to this section only if the chief commissioner has first determined that such expenses were unreimbursed and were necessary, reasonable, and actually incurred.

(c)(1) No more than $100,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered prior to January 1, 1964. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered prior to such date exceeds in the aggregate $100,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $100,000.

(2) No more than $400,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered during the period commencing January 1, 1964, and ending on December 31, 1967. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered prior to such date exceeds in the aggregate $400,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $400,000.

(3) No more than $1,000,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered during the period commencing January 1, 1968, and ending on the date of the enactment of this Act. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered during such period exceeds in the aggregate $1,000,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $1,000,000.

(d) The chief commissioner of the Court of Claims shall certify to the Secretary of the Treasury, with respect to each such claim, the name and address of the claimant and the amount determined by the chief commissioner, pursuant to subsection (c), to be payable to such claimant under this section for attorneys' fees and out-of-pocket expenses. The Secretary of the Treasury, upon receipt of such certification, shall pay to each such person named therein the amounts so certified. Any amounts so certified as attorneys' fees shall be payable from moneys in the Fund set aside pursuant to section 5(a)(1) of this Act. Such amounts so certified as out-of-pocket expenses shall be payable from other moneys in such Fund.

(e) No remuneration on account of any such services referred to in subsection (a) of this section and for which a claim is made pursuant to this section shall be received by any person for such services in addition to the amount paid in accordance with this section, and any contract or other agreement to the contrary shall be void. Whoever receives, on account of such services, any remuneration in addition to the amount paid in accordance with this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

TAXATION

SEC. 27. (a) The compensation paid to Natives pursuant to section 5(a) of this Act, and any interest earned with respect thereto while such funds are deposited in the Fund or are invested by the Secretary pursuant to section 5, shall not be subject to any form of Federal or State taxation either (1) at the time of receipt, or (2) upon distribution to any Native corporation or individual Native, whether directly by a per capita payment or indirectly through such corporation or corporations. For purposes of this subsection, the first dividend payments or other cash distributions made by any Native corporation shall be deemed to be distributions out of its share of funds derived from section 5(a), including interest, until such share has been fully distributed.

(b) The compensation paid to the Natives pursuant to section 5(b) of this Act, and any interest earned with respect thereto while such funds are deposited in the Fund, shall not be subject to any form of Federal or State taxation either (1) at the time of receipt, or (2) upon distribution to any Native corporation or individual Native, whether directly or by a per capita payment or indirectly through such corporation or corporations, for a period of twelve fiscal years commencing with the fiscal year during which this Act becomes effective. For purposes of this subsection, the first dividend payment or other cash distributions made by any Native corporation, after the distribution of compensation paid pursuant to section 5(a) in accordance with subsection (a) hereof, shall be deemed to be distributions out of its share of funds derived from section 5(b), including interest. After the expiration of the foregoing twelve fiscal years period, the compensation paid to the Natives pursuant to section 5(b) and any interest with respect thereto while such funds are deposited in the Fund, shall not be subject to Federal or State income taxation at the time of receipt, but shall be subject to taxation upon distribution to any Native or Native corporation on the same basis as like income is taxed when received by a non-Native individual or corporation.

(c) The receipt of shares of stock in the Investment Corporation or its successor by or on behalf of any Native pursuant to section 10 (g) or (l) or pursuant to section 8(h) by a successor to the Services Corporation shall not be subject to any form of Federal, State or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of any shares in the successor to the Investment Corporation issued pursuant to section 10(l) or in any successor to the Services Corporation issued pursuant to section 8(h) shall be the fair market value of such shares at the time of receipt.

(d) The receipt of money or other property pursuant to section 8(h) or 10(l) by the successor to the Investment Corporation or pursuant to section 8(h) by a successor to the Services Corporation shall not be subject to any form of Federal, State or local taxation. No money or property so received shall be treated as a contribution to capital for purposes of section 362(c) of the Internal Revenue Code, title 26, United States Code. The basis for computing gain or loss on subsequent sale or other disposition of any property so received by the successor to the Investment Corporation, for purposes of any Federal, State or local tax, shall be the fair market value of such property at the time of receipt.

(e) The receipt of land or any interest therein pursuant to sections 13, 14, 15, 16, 19 or 23 or of cash in order to equalize the values of properties exchanged pursuant to section 16(a), shall not be subject to any form of Federal, State or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of such land or interest in land for purposes of any Federal, State or local tax imposed on or measured by income shall be the fair market value of such land or interest in land at the time of receipt.

(f) Real property interests conveyed, pursuant to this Act, to a Native individual, group, village, corporation, or any other Native organization, shall be exempt from State real property taxes for a period of twelve fiscal years after the effective date of this Act: *Provided*, That municipal taxes, real property taxes, or assessments may be imposed upon individually owned real property within its jurisdiction by any Native village incorporated as a governmental unit under the laws of the State: *And provided further*, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds, derived from such real property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

(g) Real property interests conveyed, pursuant to this Act, to a Native individual, group, village, corporation, or any other Native organization, shall, so long as the fee therein remains not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23 of the United States Code, as amended and supplemented, and so long as there are also no substantial revenues from such lands, continue to receive forest fire protection services from the United States at no cost.

(h) The Foundation established pursuant to section 24 shall be treated as a private foundation for purposes of applying the taxes and restrictions on self-dealing provided for in section 4941 of the Internal Revenue Code, title 26, United States Code, and on expenditures for political purposes described in section 4945(d) (1) and (2) of the Internal Revenue Code, title 26, United States Code, or corresponding provisions of subsequent law, but otherwise shall not be treated as a private foundation.

REVIEW BY CONGRESS

SEC. 28. On or before March 1 of each year during the thirteen years following the effective date of this Act, the Commission, until its termination, and the Secretary, respectively, shall submit reports to Congress concerning the operation and implementation of this Act during the previous calendar year. Within ninety days after the end of each five-year period following enactment of this Act, the Commission and the Secretary also shall submit to Congress, through the President, a joint report on the status of the Natives and their organizations, a summary of actions taken under this Act, and their respective recommendations as may be appropriate for extension, amendment, or clarification of any provisions of this Act. This joint report and the Commission's annual report shall include as an appendix all statements, memorandums, reports, and other written comments presented to the Commission for forwarding to Congress by any Native village, corporation, or association.

APPROPRIATIONS

SEC. 29. (a) There is authorized to be appropriated to the Alaska Native Commission such sums as are necessary to carry out the functions and responsibilities it is required to perform under the provisions of this Act.

(b) There is authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to prepare the temporary roll, to survey lands to be granted pursuant to this Act, to classify lands and to carry out other functions and responsibilities required to be performed under the provisions of this Act.

(c) The President of the United States is requested to advance from the contingency fund established for his office such sums as the Director of the Bureau of the Budget determines to be necessary to defray the initial organizational and administrative expenses of the corporations to be established pursuant to this Act, pending the availability of moneys in the Fund. Such advances shall be reimbursed to the President's contingency fund from the Fund when sufficient moneys become available therein.

PUBLICATIONS

SEC. 30. The Secretary of the Interior and the Commission are authorized to issue and publish in the Federal Register, pursuant to the Administrative Procedures Act (5 U.S.C. 500 and following) such regulations as may be necessary to carry out the purposes of this title.

SAVING CLAUSE

SEC. 31. Except as specifically provided for in this Act, nothing in this Act shall be construed as repealing any other provision of Federal law applicable to Alaska. To the extent that there is a conflict between any provision of this Act and any other Federal laws applicable to Alaska, the provisions of this Act shall govern.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALASKA CLAIMS BILL

Mr. KENNEDY. Mr. President, last December, as the Alaska claims bill was going into markup in executive session of the Interior Committee, I addressed this body on what I regarded at that time as the central feature in any fair settlement for the Alaska Natives: The amount of land to be confirmed in Native ownership. I think that I have reiterated in this debate what I felt should be guiding principles in Congress' efforts to settle the Alaska land problem. Basically, the Natives do not seek charity, they do not ask to be given lands or money. They merely ask to retain a portion of the 350 million acres of land to which they believe they have a valid claim, and they ask just compensation for that portion of the land which is taken from them. I hope that my past statements explain the reasons why I voted no on this bill today.

To the State of Alaska the land is a commodity, to be bought and sold, to be used and developed. To the oil companies the land represents potential profits for executives and shareholders, a resource to be exploited. But to the Native the land is life. Arctic Eskimos hunt whale, walrus and seal in the coastal waters and caribou on the tundra. The Athabascans hunt moose, beaver, muskrat, rabbit, and black bear in the forests, and gather berries in the summer. Often a thousand acres are required to support one Native.

But the white man's civilization is coming rapidly to Alaska. On the North Slope roads are being built, machinery being moved in, new communities springing up. Soon a gigantic pipeline will traverse the State, blocking herd migration and presenting a threat of great proportions to ecology of the State. The Natives will bear the greatest burden in the opening of Alaska to resource development, but so far they have not been sharing in the benefits.

Mr. President, I want to acknowledge the devotion and effort which the able Senator from Washington, the chairman of the Interior and Insular Affairs Committee has given to the passage of this legislation today. He is particularly effective and resourceful, and I know that those talents have been necessary in bringing this legislation to where it is today. I congratulate and commend him and his colleagues for their arduous and difficult work. The effort goes far, I believe, toward providing the just and fair settlement to which Congress has committed itself.

It may be, as has been said today, that the bill represents the absolute maximum compensation which can be enacted into law. I know that this is the judgment of the distinguished chairman, and of many, if not most, of his colleagues on the committee, as well as the two Senators from Alaska. Apparently they were right in that judgment, because the Senate has not been willing to go beyond their recommendation, and I accept the Senate's decision.

But I felt that we should have recognized a greater right in the Alaska Natives, that we should have declared that the compensation offered was not adequate. I, therefore, decided to register my disagreement with the final outcome of our deliberations by voting "no."

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House receded from its amendments to the bill (S. 1456) to amend section 8c(6)(1) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, so as to permit marketing orders applicable to apples to provide for paid advertising.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H.R. 11766) to amend title II of the Marine Resources and Engineering Development Act of 1966.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16595) to authorize appropriations for activities of the National Science Foundation, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 16915) making appropriations for the legislative branch for the fiscal year ending June 30, 1971, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Andrews of Alabama, Mr. Kirwin, Mr. Yates, Mr. Casey, Mr. Evans of Colorado, Mr. Mahon, Mr. Bow, Mr. Langen, Mr. Reifel, and Mr. Del Clawson were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 980. An act to provide courts of the United States with jurisdiction over contract claims against nonappropriated fund activities of the United States, and for other purposes;

H.R. 12758. An act to authorize the Secretary of the Interior to establish a volunteers in the park program, and for other purposes; and

H.R. 16595. An act to authorize appropriations for activities of the National Science Foundation, and for other purposes.

LEGISLATIVE PROGRAM

Mr. GRIFFIN. I thank the distinguished Senator from Nebraska for yielding, and I take this occasion to inquire of the distinguished majority leader——

The PRESIDING OFFICER. The Senator will suspend until order is restored. There is a lot of talk going on between Senators. Senators will please refrain from conversation.

Mr. GRIFFIN. I think all Members will be interested, because I want to inquire of the distinguished majority leader whether he can advise us concerning the legislative schedule for the rest of the day and the rest of the week, if possible.

CANYONLANDS NATIONAL PARK, UTAH

Mr. MANSFIELD. Mr. President, in response to the questions raised by the distinguished minority leader, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 924, S. 26, that it be laid before the Senate and made the pending business, and when disposed of, to be followed by Calendar No. 925, S. 27.

The PRESIDING OFFICER. The bill will be stated by title.

The Assistant Legislative Clerk. A bill (S. 26) to revise the boundaries of the Canyonlands National Park in the State of Utah.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, line 11, after the word "National", strike out "Park'," and insert "Park, Utah,' "; on page 2, at the beginning of line 1, strike out "LNPSW–1001A–CAN," and insert "164–91004"; in the same line, after the word "dated", strike out "August 1967," and insert "June 1970,"; in line 3, after the word "and", strike out "fifty-three thousand three hundred and fifty", and insert "thirty-seven thousand two hundred and fifty-eight"; in line 8, after the word "the", strike out "1964 Act", and insert "Act of September 12, 1964 (78 Stat. 934)"; in line 14, after the word "sentence;"; insert "and"; after line 14, insert:

(3) change the period after the third sentence to a colon and add the words "*Provided further*, That Dead Horse Point State Park may be acquired only by donation and upon the condition that it be administered as a part of Canyonlands National Park."; and

And at the beginning of line 20, strike out "(4)" and insert "(3)"; so as to make the bill read:

S. 26

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of September 12, 1964 (78 Stat. 934), is revised to read:

"That in order to preserve an area in the State of Utah possessing superlative scenic, scientific, and archeologic features for the inspiration, benefit, and use of the public, there is hereby established the Canyonlands National Park which, subject to valid existing rights, shall comprise the area generally depicted on the drawing entitled 'Boundary Map, Canyonlands National Park, Utah' numbered 164–91004 and dated June 1970, which shows the boundaries of the park having a total of approximately three hundred and thirty-seven thousand two hundred and fifty-eight acres. The map is on file and available for public inspection in the offices of the National Park Service, Department of the Interior."

Sec. 2. Section 2 of the Act of September 12, 1964 (78 Stat. 934) is amended as follows:

(1) delete the words "described in section 1 hereof or" which appear after the word "area" in the first sentence;

(2) insert the words "or any amendment thereto" after the word "Act" in the third sentence; and

(3) insert the words "or any amendment thereto" after the word "Act" in the fifth sentence.

Sec. 3. Section 3 of the 1964 Act is amended as follows: insert the words "or any amendment thereto" after the word "Act".

Mr. MANSFIELD. Mr. President, these bills will be debated after the discussion of the Failing Newspaper Act. It is hoped that we will be able to get to the disposition of these two Utah proposals this afternoon. If that is the case, we will come in at 11 a.m. tomorrow, at which time the distinguished Senator from West Virginia (Mr. Randolph) will have an hour.

ORDERS FOR RECOGNITION OF SENATOR GOODELL AND SENATOR NELSON TOMORROW

Mr. MANSFIELD. I ask unanimous consent that the Senator from New York (Mr. Goodell) and the Senator from Wisconsin (Mr. Nelson) be recognized tomorrow for not to exceed 20 minutes, following the speech by the Senator from West Virginia (Mr. Randolph).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the conclusion of the remarks of Senator Randolph, Senator Goodell, and Senator Nelson tomorrow, there be a period for the transaction of routine morning business, with a time limitation of 3 minutes on statements therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. At the conclusion of the morning business, it is anticipated that the conference report on the District of Columbia crime bill will be laid before the Senate for consideration. It is a privileged matter. I understand that it may take some time to discuss, however.

Following the disposition of the conference report on the District of Columbia crime bill, it is anticipated that the Senate will proceed to the consideration of Calendar No. 1020, H.R. 17123, an act to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, and so forth, the so-called military procurement bill. That will take some time.

ORDER FOR ADJOURNMENT FROM TOMORROW TO 11 A.M. FRIDAY, JULY 17, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 11 a.m. Friday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. That concludes the report.

DONATIONS TO PRIVATE EDUCATIONAL INSTITUTIONS

Mr. ALLEN. Mr. President, the Department of Justice has filed an excellent brief and argument in the U.S. District Court, for the District of Columbia, in defense of the legality and logic of the deductible status of individual donations to private educational institutions. The Honorable Richard M. Roberts, Deputy Assistant Attorney General, at my request, has kindly provided me with a copy of the department's brief of law and argument in support of its position.

Mr. President, the brief presents cogent and compelling reasons why—in terms of constitutional law, equity, and logic—the tax-exempt status of donations to private schools should be continued. The arguments are so persuasive that I am astounded that the administration has seemingly reversed its position and now supports an opposite point of view as a matter of policy.

Mr. President, because of the limited availability to the public of copies of the brief and in view of widespread interest of lawyers, legislators, and laymen in the subject, and because of the important constitutional issues involved in the case, I ask unanimous consent that the text of the brief be printed in the Record.

There being no objection, the brief was ordered to be printed in the Record, as follows:

[In the United States District Court for the District of Columbia, No. 1355–69]

William H. Green, et al., Plaintiffs v. David M. Kennedy, Secretary of the Treasury of the United States of America, and Randolph W. Thrower, Commissioner of Internal Revenue, Defendants

(Brief for the defendants in opposition to plaintiffs' motion for summary judgment and in support of defendants' cross-motion for summary judgment)

This is a class action in which the plaintiffs seek a prohibitory and mandatory injunction against the Secretary of the Treasury and the Commissioner of Internal Revenue enjoining them from exempting certain private schools in Mississippi from federal taxation.

QUESTIONS PRESENTED

1. Whether the plaintiffs have standing to maintain this action.
2. Whether a declaratory judgment regarding federal taxes may be rendered in view of 28 U.S.C. 2201.
3. Whether the type of activity alleged in this action is within the scope of Title IV of the Civil Rights Act of 1964.
4. Whether federal tax exemptions to the particular private educational institutions involved herein deprive these plaintiffs of their due process rights conferred by the Fifth Amendment to the Constitution of the United States.
5. Whether the plaintiffs' motion for summary judgment was prematurely filed in view of the pending interlocutory appeal made to the Supreme Court of the United States by certain persons who have attempted to intervene in this proceeding.
6. Whether there are genuine factual questions existing on the record as to material facts which prohibit the rendering of summary judgment in favor of the plaintiffs.

STATUTES INVOLVED

The relevant statutory provisions are set forth at the Appendix, *infra*.

STATEMENT

Plaintiffs have brought the instant injunction action asking this Court to order the defendants (1) to withdraw rulings recognizing that certain particular private schools are exempt educational institutions under section 501(c)(3) and other provisions of the Code; (2) to withdraw all rulings recognizing any private segregated school—wherever located—as exempt under such provisions; (3) to issue no similar rulings in the future; (4) to subject to tax the income of such schools; and (5) to disallow as a charitable deduction all charitable contributions made to any such schools. Plaintiffs are Negro school children attending public schools in the State of Mississippi, their parents and taxpayers from the State of Mississippi. They claim that Sections 170 and 501 of the Internal Revenue Code of 1954 (Appendix, *infra*) are unconstitutional in that these provisions have the effect of establishing and maintaining segregated private schools through tax exemptions granted these schools as non-profit educational institutions. Plaintiffs further contend that income tax deductions available to persons contributing to these schools are likewise unconstitutional.

The defendants filed an answer in this case in which they raised certain jurisdictional defenses, including standing and the fact that a declaratory judgment is prohibited by the Federal Declaratory Judgment Act. The plaintiffs thereafter filed a motion for a preliminary injunction and this Court granted a preliminary injunction in its order of January 12, 1970. A motion to intervene was filed by certain parties and a order granting partial intervention was entered by this Court on January 21, 1970. That order allowed the intervention only of residents (adults and children) of Mississippi as a class representing groups which would discriminate on the basis of race and color. The other persons who attempted to intervene and who sought to do so representing a class which would discriminate on the basis of sex, religion, race, color, national origin and mental and physical disabilities and who were from without Mississippi were not allowed to intervene and have taken a direct appeal from the order of this Court to the Supreme Court of the United States. That matter is still pending before the Court.

The plaintiffs have undertaken extensive discovery in this case some of which has been objected to by the defendants. Plaintiffs have now filed a motion for summary judgment supported by various exhibits together with a statement of material facts to which they allege there is no genuine issue of fact. Defendants have submitted a cross motion for summary judgment on their behalf requesting that this action be dismissed with prejudice as a matter of law. However if the Court does not agree with the defendants legal arguments, the defendants nevertheless contend that there is a genuine issue as to material facts upon which the plaintiffs' motion for summary judgment is predicated which precludes the entry of summary judgment for the plaintiffs.

SUMMARY OF ARGUMENT

Plaintiffs lack the requisite standing to bring this action. There is no taxpayers' standing since no direct pecuniary loss particular to the plaintiffs herein can occur. In addition, the Fifth Amendment of the Constitution does not confer standing absent federal action and participation in a scheme to deny plaintiffs their constitutional rights.

The broad relief requested by plaintiffs is in the form of a declaratory judgment regarding the validity of provisions of the Internal Revenue Code of 1954. Such relief is expressly prohibited by the Declaratory Judgment Act, 28 U.S.C. § 2201.

The activity alleged in this action is not prohibited by the Civil Rights Act of 1964. The legislative history of that statute clearly establishes that the law was not intended to cover the administration of the Internal Revenue Code, and, more specifically, the effects of tax exemptions and deductions.

Defendants submit that plaintiffs have not stated a claim upon which relief can be granted and that as a matter of law defendants' motion for summary judgment should be granted; however, if this Court determines that a justificable claim has been alleged, nevertheless plaintiffs' motion for summary judgment should be denied as there exist genuine issues as to material facts. The federal tax exemptions are not equivalent to a direct subsidy by the federal government to these schools. The recognition of tax exempt status is an act of "benevolent neutrality" to benefit the general classification of educational institutions. Tax exemptions by their nature do not constitute support, maintenance or sponsorship of the recipients. As such, this federal governmental activity is constitutionally permissible since the exemption results in only minimal contact with these private schools. Assuming, *arguendo*, that the schools in issue discriminate on the basis of race, the degree of federal involvement is insignificant; no due process rights of plaintiffs are violated by the presence of tax exempt status. The dedution of contributions is even further removed from the maintenance of the schools. The deductions may benefit the contributors. but their effect upon the schools is *de minimis* for due process purposes.

The submission of the motion is premature under the circumstances of this case. A pending appeal by intervenors to the Supreme Court may result in a significant alteration of the material fact question in this litigation. A decision on the merits prior to a final resolution of the intervenors appeal would unduly complicate this proceeding and possibly prejudice the rights of the intervenor-appellants.

Plaintiffs' motion for summary judgment fails to meet the stringent requirements of Rule 56 of the Federal Rules of Civil Procedure which demand that there be no genuine issues as to material facts before a court is empowered to summarily render judgment on the legal merits of the case. The constitutional issues presented to this three judge court necessitate that a fully developed factual record be presented. The record pertaining to the significance of the federal tax exemption and deduction of contributions to these private schools is susceptible to various inferences and the factual materials are not supportive of plaintiffs' statements of alleged undisputed material facts. The motion should be denied, without prejudice to utilize further discovery proceedings to clarify material facts. The motion could be reinstated at a later time. Otherwise a decision on the merits must await a trial of facts before this Court.

Argument I: The plaintiffs lack standing to maintain the action

It is federal law that a plaintiff in a federal court must demonstrate he has standing to maintain his action. The fundamental aspect of standing is that it focuses on the party seeking to get his complaint before a federal court and not merely upon the issues he wishes to have adjudicated. *Flast* v. *Cohen*, 392 U.S. 83, 99 (1968).[1] In order to have standing, a plaintiff must allege "such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of the issues upon which the Court so largely depends for illumination of difficult constitutional questions." *Baker* v. *Carr*, 369 U.S. 186, 204 (1962).

One of the leading cases on the issue of standing is *Frothingham* v. *Mellon*, 262 U.S. 447 (1923). In that case Mrs. Frothingham brought the action as a federal taxpayer in order to challenge the constitutionality of the Maternity Act of 1921. She alleged that by passing the Act, Congress had acted beyond the scope of its powers and in an area reserved to the states by the Tenth Amendment. In holding that Mrs. Frothingham lacked the requisite standing, the Court stated (page 488):

> We have no power *per se* to review and annul acts of Congress on the ground that they are unconstitutional. *That question may be considered only when the justification for some direct injury suffered or threatened, presenting a justiciable issue, is made to rest upon such an act.* Then the power exercised is that of ascertaining and declaring the law applicable to the controversy. It amounts to little more than a negative power to disregard an unconstitutional enactment, which otherwise would stand in the way of the enforcement of a legal right. *The party who invokes the power must be able to show not only that the statute is invalid but that he has sustained or is immediately in danger of sustaining some direct injury as the result of its enforcement, and not merely that he suffers in some indefinite way in common with people generally.* (Emphasis supplied.)

The Supreme Court has followed the doctrine set forth in *Frothingham* in subsequent cases. In *Tileston* v. *Ullman*, 318 U.S. 44 (1943), the Court held that a doctor who sought to challenge a Connecticut statute which prohibited the use of drugs and/or instruments to prevent conception lacked standing since he asserted no "direct injury" to himself as is required by the test of standing. The insistence of the Court that a plaintiff must be able to show that he is personally injured or is in immediate danger of suffering direct injury is clearly demonstrated in *Poe* v. *Ullman*, 367 U.S. 497 (1961) in which two women sought to challenge the same statute complained of in *Tileston*. The Court held that they lacked standing even though they could demonstrate that their lives might be endangered if they were to become pregnant because they could not show they suffered from a "realistic fear of prosecution" in that there had only been one prosecution for a violation of the statute since 1879.

It is this setting in which the standing of these plaintiffs must be considered by this Court.

A. The Plaintiffs Lack Standing As Taxpayers

Although this Court held in its opinion of January 12, 1970, that it was unnecessary to reach the question of whether the plaintiffs have standing in their capacity as taxpayers, the plaintiffs nevertheless assert in their brief in support of their motion for summary judgment that they do have standing as taxpayers. We feel it necessary to make a brief reply to that contention.

The plaintiffs assert that the injury suffered by Negro taxpayers and their children which result from the existence of a segregated facility subsidized by the challenged practices cannot be measured; but they argue that since the decision of *Brown* v. *Board of Education*, 347 U.S. 483, was decided, it was been acknowledged to be present. Moreover, they attempt to show that there is an increase in the taxpayers' federal tax burden by the defendants' failure to collect federal tax revenues that would be otherwise collectible but for the allowance of deductions challenged in this case.[2] (Plaintiffs' Memorandum, page 8.) In addition, plaintiffs contend that it is beyond serious question that their class is financially injured by the higher tax rates necessitated by "illegal exemptions and deductions". (Plaintiffs' Memorandum, page 9.)

The Supreme Court has held that in order to assert a taxpayer's claim, the taxpayer must be able to show that he has suffered some direct *financial* injury. In *Doremus* v. *Board of Education*, 342 U.S. 429, 433 (1952) the Supreme Court stated:

> The complaint is similarly niggardly of facts to support a taxpayer's grievance. * * * *There is no allegation that this activity is supported by any separate tax or paid for from any particular appropriation or that it adds any sum whatever to the cost of conducting the school.* No information is given as to what kind of taxes are paid by appellants and there is no averment that the Bible reading increases any tax they pay *or that as taxpayers they are, will, or possibly can be out of pocket because of it.* (Emphasis supplied.)

While the Court did not find standing for a taxpayer to challenge Bible reading in *Doremus*, it did find that a taxpayer had standing in an earlier case to challenge public appropriations which were used to reimburse parents for money spent for the bussing of children to parochial as well as public schools. *Everson* v. *Board of Education*, 330 U.S. 1 (1947). The difference in the cases was that in *Everson*, the taxpayer complained that his money was extracted from him and spent to bus children attending religious schools. The injury he asserted was a direct pecuniary injury and he argued that he was out-of-pocket because of the challenged statute. The facts in *Everson* are substantially the same as those cited in *Flast* v. *Cohen, supra*. In *Flast*, the federal taxpayer sought to challenge federal funds appropriated under the Elementary and Secondary Education Act of 1965 on the grounds that they were being used to finance instructions in public as well as religious schools. Those taxpayers argued that the expenditures were in contravention of the Establishment and Free Exercise clauses of the First Amendment. The Court in *Flast* held that the taxpayers had standing and in so stating reiterated the test of standing discussed in *Doremus* by stating (page 106):

> *The taxpayer's allegation in such cases would be that his tax money is being extracted and spent in violation of specific constitutional protections against such abuses of legislative power.* Such an injury is appropriate for judicial redress and the taxpayer has established the necessary nexus between his status and the nature of the allegedly unconstitutional action to support his claim of standing to secure judicial review. (Emphasis supplied.)

The test of standing in *Flast* then is that in order for a federal taxpayer to have standing he must be able to clearly establish the nexus between the payment of *his* taxes and the misuse of *his* tax money. If he can accomplish this, he can demonstrate a direct pecuniary injury within the meaning of the test. The *Flast* test[3] is no different than the test found in either *Everson* or *Doremus*. His action must be a "good faith pocketbook action" and his grievance must be a "dollar and cents injury."

Turning our attention to this case, it is clear that these plaintiffs as taxpayers do not have the requisite standing. They are not contending that it is *their* tax money that is being misused, rather they are complaining that some other person or institution is *not* being taxed. Even if those institutions were taxed, these taxpayers cannot demonstrate that it would affect their tax burden in any way since there is no correlation between the statutes which exempt the schools from taxation and those statutes which impose the tax upon the plaintiffs. Moreover, this is not a case in which the taxpayers are claiming that money being extracted from them is being given to the institutions which allegedly segregate on the basis of race and color. Having failed to meet this test, it is obvious that their contention that they are aggrieved taxpayers is merely a "feigned issue of taxation." What these plaintiffs seek here is to air their generalized grievances about the conduct of the Government in according exemptions to the schools in question. They disagree with the Congress of the United States over the wisdom of including a section in the Internal Revenue Code which would recognize exemptions to schools without further qualifications. It is clear that their quarrel is with the legislative branch of Government and that they are not entitled to judicial relief based upon standing as taxpayers.

B. The Plaintiffs Lack Standing To Assert A Violation of Their Rights Under The Fifth Amendment To The Constitution

The plaintiffs assert, and this Court held, that they have standing to maintain this action based upon the alleged violation of the Fifth Amendment to the Constitution.

As seen in the preceding discussion, it is essential that a plaintiff be able to show that he has suffered a direct injury or is in immediate danger of suffering such an injury. Inherent in this doctrine is the concept that the injury must be by reason of or causally related to the challenged statutory provisions or administrative action, *Frothingham* v. *Mellon, supra*, page 488.

The injuries of which these plaintiffs complain is the reduction of state support to public schools and the inferior education which is inherent in segregated school systems. Those alleged injuries can only result from the policies of the subject private schools and the actions of the State of Mississippi in funding the public school system. The alleged injuries are not caused by, as a consequence of, or sufficiently connected to, the statutory provisions attacked in this case to afford standing to the plaintiffs. There is no evidence that the practices of these schools changed as a result of the recognition of their tax exempt status.

Since the alleged injury is necessarily a consequence of the practice of the schools in refusing to admit Negro students rather than of the challenged statutory provisions, it is obvious that the plaintiffs have failed to establish a nexus between the recognition of the exemptions and the establishment or operation of the schools.

The plaintiffs in this case attempt to equate the Fourteenth Amendment concept of state action involved in direct grants such as the state tuition grants discussed in *Coffey* v. *State Educational Finance Commission*, 296 F. Supp. 1389 (S.D. Miss. 1969), to the recognition of exemptions by the Internal Revenue Service under section 501(c)(3). They claim that the exemption constitutes federal government action with regard to the schools in violation of the Fifth Amendment. The two

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situations are clearly distinguishable. The Court in *Coffey* found that by giving tuition grants, the state was involved in a deliberate scheme to perpetuate segregated schools in Mississippi or at least to afford an alternative to white students who did not desire to attend desegregated public schools. In such a situation, it is clear that the state was not a neutral party. In the instant case, the Government is neutral and the recognition of the exemptions does not amount to a sponsorship by the Government of segregated schools. The exemptions are not extended to the schools in question because they are segregated; rather the exemptions are recognized simply because they are schools without any further inquiry into their social philosophy in spite of the fact that they are segregated. The primary purpose of exemptions is to foster education throughout the country without regard to the question of whether a particular school discriminates on the basis of race, sex, national origin or religion. Thus, the Government is no more involved with respect to these schools which are allegedly segregated than the City of New York was in recognizing exemptions on real property owned by churches. *Walz* v. *Tax Commission,* 38 U.S. Law Week 4347 (Sup. Ct., May 4, 1970).

The situation here differs little from that involved in *Doremus* v. *Board of Education* where a parent attempted to challenge the requirement of Bible reading in a public school on the grounds that he was a taxpayer. The Court in that case first found that he suffered no out-of-pocket injury because the Bible was read in classrooms. (See Argument I, page 10, *supra.*) The fact that there was perhaps a very slight connection between the reading of the Bible and the time expended by an instructor during which the Bible was read was so insignificant and so unrelated with respect to cause and effect that there was no standing. We submit that the same is true in the instant case. Assuming *arguendo,* that the schools in question are segregated and do prohibit the admission of Negro students, the plaintiffs have been unable to show that the mere recognition of exemptions in any way promotes or sponsors that course of action by the schools. Indeed as we will point out later in this brief, the testimony taken from representatives of the schools indicates that the fact that contributions may be deductible has had little or no impact upon whether such contributions are made to the schools.

In the words of Chief Justice Burger in the *Walz* case, *supra,* at 4350, all the Government is doing in regard to educational institutions is exercising a form of "benevolent neutrality". On the one hand, the Government could tax the schools in question and such taxation would be a form of Government involvement. On the other hand, the Government can refuse to tax the schools or, as the Court put it, the Government can refuse to require that the schools support the Government. Of the two, the lesser involvement, as the Court found in *Walz,* is probably the granting by Congress of tax exemptions to schools generally. We feel that if this Court should hold that the exemptions involved do violate the Fifth Amendment and that the plaintiffs have standing to challenge that violation, it can only be based upon the premise that the Government should take some affirmative action against the schools in question presumably by taxing these schools while not taxing other educational institutions.

Since these plaintiffs cannot show a causal connection and cannot show that they suffer a direct injury or that they are in immediate danger of suffering a direct injury because of the granting of the exemptions, we submit they do not have standing to maintain this action.

II: This action is prohibited by the Declaratory Judgment Act (28 U.S.C. 2201)

In the instant suit the plaintiffs are seeking an adjudication as to the tax exempt status of certain schools which are not parties to this action as well as an adjudication as to the deductibility of contributions to those schools by various unnamed individuals who likewise are not parties to this suit. It would thus appear to be perfectly plain that the Declaratory Judgment Act, Appendix, *infra,* does not apply because the statutory requirement of seeking such a declaration *as to their own legal rights or relations* has not been met. In addition, this statute does not apply because all the substantive matters plaintiffs seek to put in issue herein relate exclusively to federal taxes as to which the statute expressly withholds jurisdiction. It is well settled that the statutory proscription against the exercise of any declaratory judgment jurisdiction applies even in controversies involving constitutional issues. See *Wingreen* v. *Brock,* 412 F. 2d 1048 (C.A. 5, 1969); *Jolles Foundation* v. *Moysey,* 250 F. 2d 166 (2d Cir. 1957).

III: Title VI of the Civil Rights Act of 1964 is not applicable to the instant matter

It would appear that the plaintiffs have abandoned their request for relief under the Civil Rights Act of 1964; specifically under the provisions contained in Section 601 of Title VI (42 U.S.C. 2000d).[4]

The gist of their earlier argument was that tax preferences constitute a form of "federal financial assistance" to the subject private schools and that the Negro school children bringing this action are persons aggrieved under the subject statute so as to warrant a finding of standing on their part to challenge the tax preferences under Title VI.

The Government maintains that Title VI of the Civil Rights Act of 1964 is intended to encompass only programs or activities which are funded by the actual expenditure of Federal funds by means of grants, loans or through contracts; and that tax exemptions neither relate to any such Federal assistance programs nor are they grants within the intent of Section 602. Consistent with this interpretation, defendants assert that the Civil Rights Act of 1964 is totally inapplicable to the circumstances of this case.

Title VI of the Civil Rights Act of 1964 provides a positive, across-the-board congressional mandate to federal departments and agencies which are empowered to extend financial assistance *under any program by way of grant, loan or contract,* to terminate or refuse to grant monies to recipients if any individual is discriminated against or refused the benefits of such a federally assisted program on the grounds of race, color or national origin. Section 601 of Title VI (42 U.S.C. 2000d) provides the basic prohibitory language:

> No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefit of, or be subject to discrimination under any program or activity receiving federal financial assistance.

Federal financial assistance is defined in Section 602 (42 U.S.C. 2000d–1), which states in part:

> *Each federal department and agency which is impowered to extend federal financial assistance to any program or activity, by way of grant, loan, or contract* other than a contract of insurance or guarantee, is authorized and directed to effectuate the provisions of Section 601 of this title with respect to such programs or activities by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objective of the statute authorizing the financial assistance in connection with which the action is taken. . . . (Emphasis added.)

An exhaustive examination of the legislative history of the Act leads to the conclusion that Title VI is intended to encompass only programs or activities which are funded by the actual expenditure of federal funds by means of grants, loans or through contracts and that tax preferences neither relate to any such federal assistance programs nor are they grants within the intent of Section 602. The prime concern of the proponents of the bill which was ultimately enacted as Title VI of the Civil Rights Act of 1964 was to insure that money raised through taxation of all the people regardless of race, color, or national origin, would be expended without discrimination on the grounds of race, color or national origin.[5] Section 601 of Title VI was to be the tool to effectuate this policy and it therefore provided that federal grants could be withheld or cut off from any specific program operated on a discriminatory basis.[6]

While no direct reference to tax exemptions was made in the hearings or debates, it is apparent from the legislative history that only grant bills and federal assistance programs were intended to be covered by Title VI. Deputy Attorney General Nicholas Katzenbach prepared at the request of Chairman Emanuel Cellers, an extensive, though not exhaustive, list of programs and activities which involve federal financial assistance within the scope of Title VI. This list, coupled with references made on the floor of the Senate to programs covered, provides an insight into the nature and extent of the various federal programs which were within the intended scope of Title VI.[7] It is apparent that by placing emphasis on specific federally funded programs, and excluding any reference to tax exemptions, Congress did not contemplate or intend that tax exemptions be considered grants to federally assisted programs within the ambit of Section 602. To hold, as plaintiffs request, that the recognition of tax exempt status constitutes "federal financial assistance" would be to extend the statute beyond the intent of Congress.

Even assuming that an economic benefit would accrue to the subject schools as a result of the Commissioner's recognition of the claimed exemptions, such recognition would not constitute a grant, any more so than the economic benefits which flow from the adjustment of loss carrybacks, depletion allowances and various other claims established pursuant to the Internal Revenue laws. We submit that there are numerous economic and financial benefits which may be availed of through a proper utilization of the tax structure by qualifying taxpayers. However, it does not follow that such benefits are grants within the intent of Section 602. If that were the case, each such benefit would be a potential vehicle for action under the Civil Rights Act of 1964, and, while Title VI is extremely broad, not even its opponent in Congress around argued that it might be so all encompassing.[8]

IV: Federal tax exemptions and deductions of contributions to these private educational institutions do not violate the fifth amendment rights of the plaintiffs

A. Federal tax exemptions to educational institutions constitute legitimate neutral government activity

The Internal Revenue Code contains provisions granting tax exempt status to privately owned and operated educational institutions[9] and also provides that contributions to these organizations are, within limitations, deductible from the contributors' adjusted gross income.[10] Plaintiffs challenge the constitutionality of these provisions, and this necessarily requires a consideration of the legislative purpose behind these statutory provisions.

Tax exemptions for charitable and educational purposes have been a part of fed-

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eral tax law since its initial codification. Congress imposed no restrictions, conditions or qualifications upon recognition of institutions engaged in activities of a general educational nature,[11] but rather adopted a policy of benevolent treatment of such institutions without discriminating on the basis of their philosophical tenets or religious teachings. In this manner the Federal Government, while implementing the taxing provisions, has maintained a position of neutrality in an area which otherwise might be susceptible to excessive and non-permissible governmental influence. In issuing private ruling letters recognizing these exemptions, the Internal Revenue Service has followed the statutory directive requiring that the tax exemption be recognized if the applying organization merely states and can demonstrate that it does not operate for profit and is in fact an educational institution.[12] Aside from plaintiffs allegations of discrimination, there is no dispute that the schools involved in this proceeding are organizations of the type which are eligible for recognition as tax exempt educational institutions.

The university of the educational exemption produces results which have recently been recognized as being inherently beneficial. Justice Brennan's concurring opinion in *Walz, supra*, which considered the beneficial secular purposes of a state tax exemption granted real property used for religious purposes, is equally applicable to educational institutions. The opinion declared at 38 Law Week 4354:

> Second, government grants exemptions to religious organizations because they uniquely contribute to the pluralism of American society by their religious activities. Government may properly include religious institutions among the variety of private, nonprofit groups which receive tax exemptions, for each group contributes to the diversity of association, viewpoint and enterprise essential to a vigorous, pluralistic society.

Defendants, as enforcers of the federal tax laws, are required to give effect to all statutorily prescribed exemptions, exclusions and deductions imposed by Congress in respect to the determination of tax liabilities. The Commissioner's function in the exemption area is to determine factually and legally whether an organization or a particular contribution is one within the broadly described class of organizations or contributions to which the exemption and deduction provisions apply.[13] Consequently, neither the Commissioner nor his duly appointed delegates evaluate the merits or standards of excellence of those applicants who fall within the broad statutory guidelines.

B. Tax Exemptions In The Instant Case Cannot Constitute Impermissible Federal Involvement With The Institutions Recognized As Being Tax Exempt

In raising constitutional questions relative to federal tax exemptions to schools and to deductions for contributions to schools, plaintiffs focus attention upon the essential attributes of a tax exemption. The constitutional significance of the tax exemptions to these private schools, alleged to be segregated, depends in the first instance upon the nature of the tax exemption itself.

This Court in its opinion granting plaintiff's preliminary injunctive relief equated the outright State tuition grants involved in the *Coffey* litigation to the beneficial consequences of federal tax exemptions to the same schools. This Court found the differences between the two to be "only a difference of degree". *Green* v. *Kennedy*, 70–1 U.S.T.C., par. 9176 (D. C., January 12, 1970) at p. 82, 728. This determination is in conflict with the Supreme Court's decision in the *Walz* case rendered May 4, 1970. *Walz* held that state property tax exemptions granted to religious organizations did not violate the Free Exercise or Establishment Clauses of the federal Constitution. In *Walz* the Chief Justice's opinion for the Court declared that the granting of tax exemptions affords an "indirect economic benefit" which he distinguished from an outright money subsidy which would constitute "a relationship pregnant with involvement". *Walz, supra*, 38 Law Week at 4350. Further, Chief Justice Burger determined that the grant of a tax exemption was not sponsorship [of churches] since the government does not transfer part of its revenue to the churches; the exemption was said to create "only a minimal and remote involvement." Justice Brennan spoke directly to the issue of whether a tax exemption is the equivalent of a government subsidy. His separate concurring opinion declares at 38 Law Week 4354–55:

> Tax exemptions and general subsidies, however, are qualitatively different. Though both provide economic assistance, they do so in fundamentally different ways. A subsidy involves the direct transfer of public monies to the subsidized enterprise and uses resources exacted from taxpayers as a whole. An exemption, on the other hand, involves no such transfer. It assists the exempted enterprise only positively, by relieving a privately funded venture of the burden of paying taxes.

The essential differences between outright grants and tax exemptions were previously noted in *Poindexter* v. *Louisiana Financial Assistance Comm'n.*, 275 F. Supp. 833 (E.D. La 1967), *aff'd per curiam*, 389 U.S. 571 (1968) wherein Judge Wisdom, after holding unconstitutional "any aid to segregated schools that is the product of the State's affirmative, purposeful policy of fostering segregated schools" remarked parenthetically at 275 F. Supp. at 854:

> We distinguish, therefore state aid from tax benefits, free schoolbooks, and other products of the State's traditional policy of benevolence toward charitable and educational institutions.

The fundamental differences between an outright subsidy and a tax exemption highlights the significantly different constitutional frame of reference of the present case as against considerations in the *Coffey* litigation. The *Coffey* decision involved that "impermissible degree of entanglement" resulting from a direct money subsidy.

This Court must examine the facts of the instant case and analyze the judicial precedents as cited by the plaintiffs within the framework of the Supreme Court's definitional treatment of tax exemptions in *Walz*. In every case in which actions by the Federal Government or a State Government have been held discriminatory and violative of the Fifth or Fourteenth Amendment, the government body in question has either acted with a specific discriminatory intent or has entered into a specific contractual relationship with or made a direct grant to a third party which in turn has acted with a specific discriminatory intent. Cf. *Bolling* v. *Sharpe*, 347 U.S. 497 (1954); *Coffey* v. *State Educational Finance Commission, supra; Burton* v. *Wilmington Parking Authority*, 365 U.S. 715 (1961); *Simkins* v. *Moses H. Cone Memorial Hospital*, 323 F. 2d 959 (C.A. 4, 1963). The salient fact which distinguishes the instant case from the judicial precedents cited by the plaintiffs, is that the instant case involves the administration of a tax exemption statute which the Supreme Court in *Walz* held to be essentially different from the administration of a grant-in-aid or subsidy program such as was present in *Simkins*.

In *Walz* the Supreme Court recognized that a taxing authority necessarily becomes involved to a greater or lesser degree with every person and institution within the jurisdiction of the taxing authority. Further, the Court in *Walz* held that administering a tax exemption statute entailed a lesser degree of involvement between a taxing authority and a private institution or person than did the imposition of a tax. Necessarily, therefore, there is some involvement between the Federal Government and the tax exempt schools involved in the instant matter. However, under the rationale of the *Walz* decision this inescapable involvement is of the least possible degree.

Therefore, it must be concluded that the recognition of the tax exempt status of the schools in question cannot constitute any constitutionally significant federal involvement in the affairs of the schools, and even if these schools are following a policy of racial discrimination, there is no enjoinable involvement by the Federal Government.

C. Allowance of Deductions for Contributions by Individuals to the Schools Involved in the Instant Case Cannot Constitute Impermissible Federal Involvement in any Discriminatory Scheme

It goes without saying that for discriminatory acts to be a violation of the Fourteenth or Fifth Amendments there must be some state or federal involvement in the discriminatory action. As shown above there is no significant constitutional involvement by the United States in the recognition of tax exemptions to the schools in question. However, it may be argued that individual contributors to the schools in question are acting in concert with the schools in a discriminatory plan of action and that by allowing the contributors to claim deductions from their gross income for tax purposes, the United States does become constitutionally involved in the alleged discriminatory scheme. [14] As stated before, all judicial precedents involving discriminatory acts which were violations of the Fourteenth or Fifth Amendments by a state or the United States involved acts of the state or United States done with a specific discriminatory intent, or consisted of cases wherein the state or United States made a specific monetary grant to or entered into a specific contractual relationship with a third person who acted with a specific discriminatory intent. Certainly the allowance of a tax deduction generally to the public at large for contributions to any school does not involve the United States in any specific contractual relationship to anyone. Moreover, such an allowance does not constitute any direct aid or grant to anyone; rather it is a negative type of act consisting of the exempting from taxation of the part of a person's gross income which was contributed to a school. Thus, the allowance of such a deduction is analogous to the general exemption from taxation which the Supreme Court in *Walz, supra*, found not to be constitutionally significant. Further, it is patent that there is necessarily a relationship and involvement between the United States and every federal taxpayer. However, it cannot be held that the United States becomes constitutionally involved in the private discriminatory schemes of any individual taxpayer because it does not ferret out and disallow as a tax deduction payments made by an individual with a discriminatory motive but otherwise allowable as a tax deduction.[15] It is submitted that the allowance of deductions for contributions and business expenses with out otherwise questioning the taxpayer's subjective motives presents minimal federal involvement in the individual taxpayer's affairs, and thus cannot involve the United States in any discriminatory scheme in violation of the Fifth Amendment.

In conclusion it must be stated that if the tax exemption itself is but an indirect benefit to the shcools: *a fortiori* the allowance of tax deducations, emanating from contributions to the schools by individuals and corpora-

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tions, is necessarily an even more remote and indirect benefit.[16]

V: Plaintiffs' request for summary judgment is premature in view of the present posture of this litigation

Any action by this Court at this time on plaintiffs' motion for summary judgment would clearly be premature and not in the best interests of justice. There is presently pending before the Supreme Court of the United States a direct appeal from an order of this Court dated January 21, 1970, which: (1) limited the allowed class intervention to a conclusory characterization; (2) denied intervention prayed as of right by certain movants; and (3) granted a preliminary injunction without affording appellants a hearing thereon. (In the Supreme Court of the United States, October Term, 1969, No. 1358).

This Court's order of partial intervention permitted intervenor-appellant Dan Coit and his two minor children to intervene to represents a class limited to ". . . parents and children who support or attend private, nonprofit, tax-exempt schools in Mississippi having an enrollment consisting only of members of the white race and established as an alternative for white students seeking to avoid segregated public schools. . ." (Order Granting Partial Intervention, January 21, 1970.) By their appeal, the Coits seek to broaden the class represented to include schools which limit enrollment not only on the basis of race but on other grounds such as sex, nationality, religion, etc. In addition, the Coits claim that this Court's definition of the class they represent is conclusary in nature and therefore improper.

Individuals representing segregated private schools in Virginia and Louisiana and parents and children in Virginia, Louisiana and Alabama were denied intervention by this Court on the grounds that ". . . the trial on the merits in this litigation should encompass only issues related to the State of Mississippi . . ." (Order, *supra*) Joining in the direct appeal to the Supreme Court, these appellants claim that they should be allowed to intervene as of right under Rule 24(a) of the Federal Rules of Civil Procedure since, as a practical matter, a ruling adverse to the defendants' interest would materially affect their interest as parents, children and officials of private segregated' schools in states other than Mississippi. All appellants in the pending direct appeal challenge the entry of the preliminary injunction herein on the grounds that this Court abused its discretion in not allowing appellants a hearing on their interests before issuing the injunction.

Although the defendants herein maintain that the appeal is without merit, it is possible that appellants may receive favorable treatment by the Supreme Court which would present considerable practical problems should this Court at this time make a determination as to material facts and conduct a final hearing on the merits.[17] First, if the class represented by Mr. Coit and his children is expanded to include schools other than those which discriminate on the basis of race or which have been established to avoid desegregation orders, then facts relating to these other schools would become material. Since the record is void as to such facts, summary judgment would not be in order. Second, a ruling by the Supreme Court that the "non-Mississippi" intervenors should be allowed in the suit would similarly broaden the relevant issues of fact. In this regard, the appellants have requested that the Supreme Court define the geographic and substantive scope of the constitutional issues to be considered. Third, should the Supreme Court hold that the appellants were entitled to a hearing before the preliminary injunction was granted, this would be a clear indication that they may have conflicting rights which have not been heard and which may be bottomed on contested facts.

Finally, it is submitted that justice will be better served by holding in abeyance any action on plaintiffs' motion for summary judgment at least until the Supreme Court resolves the issues on appeal.

VI: The existence of genuine issues of material facts prevents the granting of plaintiffs' motion for summary judgment

Rule 56(c) of the Federal Rules of Civil Procedure, Appendix *infra*, requires that the proponent of a motion for summary judgment show that there is no genuine issue as to any material fact as a condition precedent to rendering a decision on the merits of the litigation. Summary judgment may be granted in cases involving important constitutional issues; but, as the plaintiffs have noted, judgment is rendered only "where the record is adequate for the constitutional question presented and there is no genuine issue of material fact." (Plaintiffs' Memorandum, p. 11.) The courts have placed stringent prerequisites upon granting the extreme remedy of summary judgment. All favorable inferences which can be drawn from the evidence are to be viewed in a manner to benefit the opponent of the motion. *Semaan* v. *Mumford*, 335 F. 2d 704 (C.A. D.C., 1964); *Jacobson* v. *Maryland Casualty Co.*, 336 F. 2d 72 (C.A. 4, 1964). It is a fundamental maxim that on a motion for summary judgment the court cannot try issues of fact. When depositions raise issues as to material facts, summary judgment is improper. *First National Bank of Washington* v. *Langley-Howard, Inc.*, 391 F. 2d 207 (C.A. 3, 1968). Moreover, the court may not probe the credibility of dependents in the consideration of such a motion, since this is a factual issue itself. *Cram* v. *Sun Ins. Office Ltd.*, 375 F. 670 (C.A. 4, 1967). The court may not assess the probative value of any evidence deemed admissible. In short, the court on such a motion is precluded from trying issues of fact and can only determine whether there are issues to be tried.

In this case plaintiffs have invoked their right to a three judge panel to resolve alleged substantial constitutional issues. In order for this Court to truncate this litigation and render summary judgment, the moving parties must demonstrate that discovery proceedings have clearly established the material facts upon which a constitutional decision is to be based. It is plaintiffs' duty to present the material facts in an undisputed posture, before this Court can render a decision on the merits of the questions of law. The gravity of the legal issues demands that a full development of facts regarding the *effect* of federal tax exemptions and the allowance of deductions for contributions to these private schools be presented to this Court before the summary judgment remedy can be utilized.

Plaintiffs' record in this case relies heavily upon testimony, stipulations, and the decision rendered in the case of *Coffey, supra*. That case does provide information as to the three Mississippi private schools involved in this litigation; Cruger-Tchula Academy, Central Holmes Academy, and East Holmes Academy. However, *Coffey* concerned a challenge on constitutional grounds of tuition grants to these private schools by the State of Mississippi. The *Coffey* findings submitted by plaintiffs are, by the nature of that litigation, devoid of any evidence or findings which pertain to the impact of federal tax exemptions upon these private schools. The evidence required to support a finding that state grants to these private schools are unconstitutional does not *ipso facto* support a like result in a case involving federal tax exemptions. In this case, plaintiffs have failed to present a record containing factual information as to how and to what extent the federal tax exemptions and deductions of contributions provide tangible benefits to these schools. In *Walz, supra*, the Supreme Court carefully delineated between an outright grant, or subsidy, and a tax exemption. The former possesses characteristics of direct support and sponsorship which are lacking in a tax exemption. A tax exemption was termed a function of the "benevolent neutrality" of the taxing authority. *Walz, supra*, at 4350. In light of the distinctions drawn by the Supreme Court between a grant and a tax exemption, plaintiffs' burden in this case extends far beyond the mere adoption of the *Coffey* findings. On the authority of *Walz*, the difference between a grant and a tax exemption can no longer be dismissed as one of degree. See *Green* v. *Kennedy, supra*, at p. 82, 728.

It is imperative that *facts* be established on the record, uncontroverted and beyond dispute, which demonstrate the effect or impact of the tax exemption. Although the depositions taken during the course of this action provided factual information relevant to the effect of the federal tax exemptions upon these schools, the testimony from these depositions, and discussed below, contradicts the facts declared by plaintiffs to be beyond dispute. Indeed, this Court's earlier opinion granting interlocutory relief has acknowledged that the support given to the schools themselves by virtue of granting the exemption is not of constitutional significance. *Green* v. *Kennedy, supra* at 82, 728. This conclusion is in accord with the rationale of *Walz* declaring that the tax exemption to churches from real property taxation affords only "an indirect economic benefit" and is a function of the "benevolent neutrality" of the taxing authority. *Walz, supra*, at 4350.

A careful dissection of the depositions taken by plaintiffs in this action exposes their vulnerability. The depositions of officials of Cruger-Tchula Academy and Central Holmes Academy do not establish that initial capital financing for building school facilities was actually *accomplished* through contributions. Admittedly, the officials indicated that the organizers "hoped" to provide initial capital financing "out of donations." (Cruger-Tchula Academy deposition August 14, 1969, at p. 64). There is no evidence that this bare expectation resulted in a substantial percentage of donations as measured against total capital costs. Instead, the Cruger-Tchula deposition reveals that major financing was accomplished through bank loans from local financial institutions. (*Id.* at 65, 107). A similar pattern emerges from the testimony of officials of the Central Holmes Academy, who testified that two local bank loans were obtained in connection with the construction of a new building for the school in 1967. Central Holmes Academy deposition 44–45 (August 14, 1969). The inference is clear that these schools were able to successfully secure financing from sources other than contributions for initial capital expenditures. These depositions were cited in this Court's earlier opinion in support of the contention that capital financing was "based on contributions". *Green* v. *Kennedy, supra*, at 82, 728. Upon closer examination for the purposes of the present motion, this Court must acknowledge that the deposition testimony fails to establish that contributions were in point of fact significant in capital financing. Beyond the depositions, there is no evidence that campaigns for contributions for capital financing actually produced any particular percentage of building costs, much less substantial portions.

At the time initial capital financing was undertaken for these schools, none had been recognized as being exempt from federal taxation by a ruling letter from the Internal Revenue Service. The schools had been established in 1965. (Compl. par. 8) Central Holmes Academy did not receive a ruling letter until October 11, 1968, and Cruger-

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Footnotes at end of article.

Tchula's letter was not sent until August 2, 1967. (Attachment A of Plaintiffs' Statement of Genuine Issues submitted pursuant to Rule 9(h).) Consequently, initial capital financing efforts were consummated prior to any federal action on tax exemption for these schools. The depositions of the officials of these two schools provide no relationship or nexus between contributions for capital financing and the actual deduction of these contributions by the contributors for federal income tax purposes. The record submitted is simply inadequate for a legal consideration of the constitutional questions posed in this regard by the plaintiffs. Absent any definite showing of actual impact of contributions for capital financing, this Court is without power to determine whether the allowance of deduction of contributions in this case constitutes an unconstitutional activity.

The record is also deficient as to the quantum of support or assistance that contributions have on the year-to-year operation of these private schools. Deposition testimony uniformly reveals that the operation of these schools is based almost entirely upon pupil tuition payments. (Central Holmes Academy deposition August 14, 1969, p. 44; Cruger-Tchula Academy deposition August 14, 1969, p. 107; Carroll Academy deposition September 15, 1969, p. 147). The deposition of officials of Calhoun Academy, September 23, 1969, at p. 77 contains the following testimony on this point by the Treasurer of the school:

Q. I would just like to know what the idea was on how the school was going to be financed?

A. From tuition that the children's parents pay and a lot of sweat and blood in the hours we put out in building and doing without things.

In its earlier opinion this Court "focused on the view of the school officials that the granting of the federal tax exemption would be a 'significant factor' that would 'aid the school in obtaining finances.'" *Green* v. *Kennedy, supra*, at 82, 728, citing Central Holmes Academy deposition, August 14, 1969, at p. 43–44. However, the views expressed in that deposition, as in other depositions in this record, belie any assertion that tax exemption is a "significant factor." The Central Holmes Academy colloquy on this point appearing at the p. 43–44 reference was as follows:

Q Was this the view also expressed and was it also believed by officers of the school and those who participated in the efforts of filing this application that the granting of exemption would also aid the school in obtaining financing?

A It would in a way. Yes sir.

Q In what way would that be?

A In the matter of getting contributions.

Q Was this considered to be an important factor in the ability of the school to get voluntary contributions?

A No, sir.

Q But a significant factor?

A No, sir.

Q Not a significant factor?

A No sir. Contributions play a very small part in our schools' operation.

The depositions show these private schools to be rather self-sufficient, particularly after the direct subsidies of state tuition grants were abolished. Local businessmen are on the Board of Directors, and current budgets are not dependent upon achieving a specific level of contributions. Contributions often take the form of an individual's labors expended on behalf of the school (Calhoun Academy deposition September 23, 1969, at p. 77; Cruger-Tchula deposition August 14, 1969, p. 108). Voluntary labor on behalf of the school is not a tax deductible item, (Treasury Regulation on Income Tax (1954 Code), Sec. 1.170–2(a)(2) (1956)) and this example provides a further indication that contributions are not primarily motivated by their deductibility feature for federal income tax returns. Although this deduction may motivate certain individuals, no facts have been presented to establish that this feature is an incentive to significant numbers of contributors. The deposition of Carroll Academy officials, Exhibit 7, page 42a, contains the statement that "numerous people" are waiting to contribute money until tax exempt status is granted to the school (Deposition, September 15, 1969, Exhibit 7, at p. 42a) This statement is clarified at page 146 wherein its author, principal of the school, testified that to his knowledge only three people were awaiting an exemption ruling and that "at least two of them" would make their contributions even if tax exempt status were denied.

The record does include testimony regarding solicitation campaigns for scholarship funds. No testimony indicates that without scholarship programs attendance would decline so as to endanger the continued operation of the schools. The organized campaign of Central Holmes Academy for a scholarship fund, which included solicitation letters noting the tax deductibility of contributions, produced less contributions than anticipated. (Central Holmes Academy deposition, August 14, 1969, at p. 99–100) Recurring statements in the depositions indicate that most contributions are in small amounts and are made by individuals who would probably take standard deductions on federal tax returns, thereby receiving no tax benefit whatsoever from their contribution. (Cruger-Tchula deposition, August 14, 1969, at p. 44)

This motion for summary judgment is bottomed upon deposition testimony which contradicts those facts which are an essential predicate for the granting of any summary judgment for the plaintiffs.

CONCLUSION

On the basis of the foregoing arguments, defendants request that this Court grant their cross-motion and dismiss this case as a matter of law with prejudice. Alternatively, defendants request that plaintiff's motion for summary judgment be denied since there exists genuine issues as to material facts.

Respectfully submitted,
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APPENDIX

Title 28, United States Code:

Sec. 2201. Creation of remedy

In a case of actual controversy within its jurisdiction, except with respect to Federal taxes, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

Internal Revenue Code of 1954:

Sec. 170. Charitable, etc., contributions and gifts

(a) Allowance of Deduction—

(1) General rule.—There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribtuion shall be allowable as a deduction only if verified under regulations prescribed by the Secretary or his delegate.

* * * * *

(c) Charitable Contribution Defined.—For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of—

* * * * *

(2) A corporation, trust, or community chest, fund, or foundation—

(B) organized and operated exclusively for religious, charitable, scientific, literary, or educational purpose or for the prevention of cruelty to children or animals;

* * * * *

Sec. 501. Exemption from tax on corporations, certain trusts, etc.

* * * * *

(c) List of Exempt Organizations.—The following organizations are referred to in subsection (a):

* * * * *

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

* * * * *

Title VI, Civil Rights Act of 1964, § 601, 78 Stat. 252, 42 U.S.C. § 2000d:

Sec. 2000d. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under Federally assisted programs on ground of race, color, or national origin

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Sec. 2000d–1. Federal authority and financial assistance to programs or activities by way of grant, loan, or contract other than contract of insurance or guaranty; rules and regulations; approval by President; compliance with requirements; reports to Congressional committees; effective date of administrative action

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part

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Footnotes at end of article.

thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

Federal Rules of Civil Procedure, Rule 56:

* * * * *

(c) Motion and Proceedings Thereon. The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

* * * * *

Constitution of the United States, Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

FOOTNOTES

[1] In a ruling on standing, it is appropriate and necessary to look at the substantive issues to determine whether there is a logical nexus between the status asserted and the claim sought to be adjudicated. *Flast* v. *Cohen,* 392 U.S. 83, 102 (1968).

[2] This contention is anachronistic in the present era of deficit spending and Keynesian economics which disregard any *pro tanto* relationship between federal receipts and expenditures.

[3] The holding in Flast is limited to a case where a taxpayer alleges a violation of the Establishment Clause of the First Amendment. *Flast, supra,* at *102.*

[4] Compare Complaint and Memorandum in Support of Plaintiffs' Motion For Preliminary Injunction with Memorandum in Support of Plaintiffs' Motion for Summary Judgment on file herein.

[5] Remarks of Congressman Cellers, 110 Cong. Rec., Part 2, p. 1623; remarks of Senator Javits, 110 Cong. Rec., Part 6, p. 7102; remarks of Senator Humphrey, 110 Cong. Rec., Part 5, p. 6543; remarks of Senator Keating, 110 Cong. Rec., Part 10, p. 13378; remarks of Congressman Lindsay, 110 Cong. Rec., Part 2, p. 2491.

[6] Title VI seems to have had its genesis in the so-called Powell Amendment. This amendment was a rider attached to individual appropriation bills and prohibited the expenditure of funds on a particular program if that program was administered in a discriminatory manner. See 110 Cong. Rec., Part 2, pp. 2465, 2468, and Part 5, p. 6544. Referring to the Powell Amendments and the purpose of Title VI, Senator Pastore stated:

Title VI would avoid the recurrence of acrimonious debate in the Congress as to discrimination in discussing individual Federal aid programs.

Time and time again such proposed legislation has come before this body. Amendments have been sponsored to make clear in a particular program that separate but equal provisions would not do.

* * * * *

It is to avoid such situation that Title VI would constitute as permanent policy of the U.S. Government the principle that discrimination will not be tolerated. This would eliminate all the confusion and discussion that arise every time a grant bill comes before the Senate. 110 Cong. Rec., Part 6, p. 7061.

[7] House Hearings before the Committee of the Judiciary, 88th Cong., 1st Session, Part IV, pp. 2771–2780. For further reference to programs covered by Title VI, see remarks of Senator Humphrey, 110 Cong. Rec., Part 5, p. 6543; remarks of Senator McClellan, 110 Cong. Rec., Part 10, pp. 13378–13415; remarks of Senator Reins, 110 Cong. Rec., Part 2, p. 2465; Senator Rogers stated with regard to the purpose of Title VI: ". . . We have over 100 *programs* in the Federal Government *where monies are allocated.* We provide a method whereby the agency or Federal department who has this money for distribution shall draw rules and regulations. . . ." (Emphasis supplied.) 110 Cong. Rec., Part 2, p. 2492.

[8] See Senator McClellan's remarks, 110 Cong. Rec., Part 10, pp. 13378, et seq.

[9] Section 501(c)(3) Internal Revenue Code of 1954, Appendix, *infra.*

[10] Section 170 Internal Revenue Code of 1954, Appendix, *infra*; Section 642(c); Section 2055; Section 2106. See also Section 2522 providing deductions for gift tax purposes.

[11] 44 Cong. Rec. 4148–4151, 4154–4157.

[12] Treasury Regulations on Income Tax (1954 Code) Section 1.501(c)(3)–1(d)(3) gives an example of an organization meeting the test of exemption:

"Example (1). An organization, such as a primary or secondary school, a college, or a professional or trade school, which has a regularly scheduled curriculum, a regular faculty, and a regularly enrolled body of students in attendance at a place where the educational facilities are regularly carried on."

[13] When an organization holding a ruling that it is exempt departs from the requirements of the statute in respect to the purposes and activities on which its exemption is based, the organization as a matter of law ceases to qualify, under the applicable provisions of the Code, as of the occurrence of the disqualifying acts. *Automobile Club of Michigan* v. *Commissioner,* 353 U.S. 180 (1957). See also Rev. Proc. 67–3, C.B. 67–1, 560.

[14] Of course there has been no showing that the United States has specifically allowed any such claimed tax deductions by any named person who made a significant contribution to the schools in question.

[15] A recent study contains findings which indicate that the deductibility feature of gifts to charitable institutions does not act as a significant incentive to contribute, particularly for middle and low income level contributors. Taussig, *Economic Aspects of the Personal Income Tax Treatment of Charitable Contributions,* Vol. 20, No. 1, National Tax Journal, March 1967.

[16] See Part VI, *infra,* for an extensive discussion of the *de minimus* effect of contributions and the allowance of deductions on the basis of the factual record submitted in this case.

[17] We are advised by the Solicitor General that the United States will file its motion in the Supreme Court early in the week of May 18, 1970.

CANYONLANDS NATIONAL PARK, UTAH

The Senate resumed the consideration of the bill (S. 26) to revise the boundaries of the Canyonlands National Park in the State of Utah.

Mr. MANSFIELD. Mr. President, the distinguished Senator from Nevada (Mr. BIBLE), the manager of the bill, has a brief announcement to make for the benefit of the Senate in relation to the bills that will be considered later.

Mr. BIBLE. I thank the majority leader.

I think it might be of help to the Members to indicate that we will have two bills before us. The first is the Canyonlands National Park bill and the second is the bill with reference to the Glen Canyon National Recreation Area. Both Senators from Utah are vitally interested in these bills.

From my conversations with the Senators from Utah, we can anticipate one rollcall vote on the first bill, and we will ask for a rollcall vote on the first bill. It will be on an amendment to be offered by the distinguished senior Senator from Utah. I announce that for the information of the Senate.

I see no reason why we should not complete the action on both bills within an hour or an hour and a half.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. BIBLE. I yield.

Mr. BENNETT. The bills are essentially identical, except for the difference in the area they cover. There will be considerable discussion on the first bill. I would think that we would dispose of the second bill without any record vote, in perhaps 5 or 10 minutes.

Mr. BIBLE. I would hope that the discussion would terminate about 5:30 or 6 p.m.

Mr. BENNETT. I am sure it will be over before that.

LEAVE OF ABSENCE

Mr. ALLOTT. Mr. President, I ask unanimous consent that I may have leave of the Senate to be absent the remainder of today, tomorrow, and Friday, on official business.

The PRESIDING OFFICER. Without objection, leave is granted

NEWSPAPER PRESERVATION ACT

Mr. HRUSKA. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1520.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1520) to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers which was to strike out all after the enacting clause, and insert:

SECTION 1. This Act may be cited as the "Newspaper Preservation Act".

DECLARATION OF POLICY

SEC. 2. In the public interest of maintaining a newspaper press editorially and reportorially independent and competitive in all parts of the United States, it is hereby declared to be the public policy of the United States to preserve the publication of newspapers in any city, community, or metropolitan area where a joint operating arrangement has been heretofore entered into because of economic distress or is hereafter effected in accordance with the provisions of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "antitrust law" means the Federal Trade Commission Act and each statute defined by section 4 thereof (15 U.S.C. 44) as "Antitrust Acts" and all amendments to such Act and such statutes and any other Acts in pari materia.

(2) The term "joint newspaper operating arrangement' means any contract, agreement, joint venture (whether or not incorporated), or other arrangement entered into by two or more newspaper owners for the publication of two or more newspaper publications, pursuant to which joint or common production facilities are established or operated and joint or unified action is taken or agreed to be taken with respect to any one or more of the following: printing; time, method, and field of publication; allocation of production facilities; distribution; advertising solicitation; circulation solicitation; business department; establishment of advertising rates; establishment of circulation rates and revenue distribution: *Provided*, That there is no merger, combination, or amalgamation of editorial or reportorial staffs, and that editorial policies be independently determined.

(3) The term "newspaper owner" means any person who owns or controls directly, or indirectly through separate or subsidiary corporations, one or more newspaper publications.

(4) The term "newspaper publication" means a publication produced on newsprint paper which is published in one or more issues weekly (including as one publication any daily newspaper and any Sunday newspaper published by the same owner in the same city, community, or metropolitan area), and in which a substantial portion of the content is devoted to the dissemination of news and editorial opinion.

(5) The term "failing newspaper" means a newspaper publication which, regardless of its ownership or affiliations, is in probable danger of financial failure.

(6) The term "person" means any individual, and any partnership, corporation, association, or other legal entity existing under or authorized by the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

ANTITRUST EXEMPTION

SEC. 4. (a) It shall not be unlawful under any antitrust law for any person to perform, enforce, renew, or amend any joint newspaper operating arrangement entered into prior to the effective date of this Act, if at the time at which such arrangement was first entered into, regardless of ownership or affiliations, not more than one of the newspaper publications involved in the performance of such arrangement was likely to remain or become a financially sound publication: *Provided*, That the terms of a renewal or amendment to a joint operating arrangement must be filed with the Department of Justice and that the amendment does not add a newspaper publication or newspaper publications to such arrangement.

(b) It shall be unlawful for any person to enter into, perform, or enforce a joint operating arrangement, not already in effect, except with the prior written consent of the Attorney General of the United States. Prior to granting such approval, the Attorney General shall determine that not more than one of the newspaper publications involved in the arrangement is a publication other than a failing newspaper, and that approval of such arrangement would effectuate the policy and purpose of this Act.

(c) Nothing contained in this Act shall be construed to exempt from any antitrust law any predatory pricing, any predatory practice, or any other conduct in the otherwise lawful operations of a joint newspaper operating arrangement which would be unlawful under any antitrust law if engaged in by a single entity. Except as provided in this Act, no joint newspaper operating arrangement or any party thereto shall be exempt from any antitrust law.

PREVIOUS TRANSACTIONS

SEC. 5. (a) Notwithstanding any final judgment rendered in any action brought by the United States under which a joint operating arrangement has been held to be unlawful under any antitrust law, any party to such final judgment may reinstitute said joint newspaper operating arrangement to the extent permissible under section 4(a) hereof.

(b) The provisions of section 4 shall apply to the determination of any civil or criminal action pending in any district court of the United States on the date of enactment of this Act in which it is alleged that any such joint operating agreement is unlawful under any antitrust law.

SEPARABILITY PROVISION

SEC. 6. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act, and the applicability of such provision to any other person or circumstance, shall not be affected thereby.

Mr. HRUSKA. Mr. President, it is my intention to make a motion, at the conclusion of very brief remarks, that the Senate concur in the amendments of the other body to S. 1520.

This proceeding is being undertaken after consultation with the leadership on both sides, after consultation with members of the Committee on the Judiciary, and with the concurrence and at the request of the chairman of the Judiciary Committee.

S. 1520 is a bill which was considered by this body in January. On January 30, approval of the bill was achieved by a vote of 64 to 13, after two amendments were adopted. The other body, just last week, modified the two amendments somewhat and effected other amendments which did not go to the substance of the bill. The bill in that form was approved by the other body by a vote of 292 to 87.

The amendment is designed to achieve five objectives.

They are:

First. To declare a public policy applicable to certain joint newspaper operating arrangements in the interest of maintaining a newspaper press editorially and reportorially independent and competitive in all parts of the United States.

Second. To grant a limited exemption from the antitrust laws for joint newspaper operating arrangements that have been entered into prior to the effective date of this act in 22 cities, communities, or metropolitan areas of the United States.

Third. To provide a limited exemption from the antitrust laws for joint newspaper operating arrangements entered into in the future with the prior written consent of the Attorney General of the United States after the Attorney General has made certain determinations defined in the act.

Fourth. To permit the joint newspaper operating arrangement in Tucson, Ariz., to be reinstituted notwithstanding the opinion of the Supreme Court in *Citizen Publishing Company* v. *United States*, 394 U.S. 131 (1969).

Fifth. To declare that the limited antitrust exemption provided in the act shall apply to the determination of any civil or criminal antitrust action pending in any district court of the United States on the date of enactment wherein it is alleged that a joint newspaper arrangement is unlawful under any antitrust law.

Mr. President, I move that the Senate concur in the amendments of the other body.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The question is on agreeing to the motion of the Senator from Nebraska.

Mr. HART. Mr. President, the House has passed an amended version of the Newspaper Preservation Act. The House amendments tighten the standards a court must use in deciding whether a newspaper is "failing" and, therefore, eligible for the antitrust exemption. In that respect, the House amendment is an improvement. In my judgment, the Senate should accept the House amendment without a conference.

My own feelings about the bill are no secret. I am opposed to exempting newspapers from the antitrust laws because an exemption will inhibit rather than preserve competition. If what we seek is mass media diversity, the answer is more vigorous enforcement of existing antitrust law by the Department of Justice. The eight volumes of testimony before the Antitrust Subcommittee amply document the need for more—not less—antitrust activity in the newspaper industry. The newspaper industry, as we understand it now, is newspapers, television, and radio—a chain link.

For these reasons, while I support the motion of the Senator from Nebraska (Mr. HRUSKA) that we act without going to conference once again, I will vote against the legislation.

Mr. HRUSKA. Mr. President, there were several amendments made by the other body at one time, so that the motion is to accept the amendments in their entirety and to consider the bill here in that fashion.

Mr. BENNETT. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield to the Senator from Utah.

Mr. BENNETT. Mr. President, since I represent a State which has only five daily newspapers, two of which are involved seriously in the problem that this legislation is intended to cure, I have been deeply involved and concerned with the legislation through all its steps in the Senate.

I want to express my satisfaction at the decision of the Senate, and now the House, and to state my support for the proposition that this language should be accepted without the necessity of going forward in conference.

The bill as it came from the House, while it may have been tightened, is an excellent solution to the problem, and I certainly approve of it.

Mr. FANNIN. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I support the acceptance of the House amendments to S. 1520. This measure is to grant limited antitrust exemptions to past agreements which meet the tests contained in S. 1520, as amended, and to make this method of insuring newspaper stability available to newspapers in danger of financial collapse.

Mr. President, this issue before us started in Tucson, Ariz., when Department of Justice sued the publishers of two daily newspapers in Tucson on January 4, 1965. Time does not permit a recitation of the full history, but it suffices to say that 22 cities in the United States, which have similar joint operating agreements, would be seriously affected if S. 1520, as amended, by the House, is not enacted into law.

The Senate on January 30 of this year passed S. 1520 by a vote of 64 to 13 and it was sent to the House which last week passed it—with several amendments—by a vote of 292 to 87.

These amendments have been examined by Senate cosponsors of the bill and I am reliably informed that the House version is acceptable.

Mr. FONG. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I am happy to yield to the Senator from Hawaii.

Mr. FONG. Mr. President, the Senate has the opportunity today to complete legislative action on the Newspaper Preservation Act and send this important bill forward to the President. I urge every Senator to join me in voting for the House version of the act and thereby bring to a successful conclusion 5 years of diligent work by people interested in maintaining a free press in a democratic society.

I have long supported the concept of permitting joint newspaper operating arrangements where such plans are necessary to keep newspapers alive. Such a situation exists now in 22 cities throughout the Nation, including my own State capital of Honolulu. Since these arrangements came under attack for failure to conform to antitrust standards, there has been a real danger that a number of independent and competing editorial voices would be silenced. Only by passage of the bill now before us will that danger be averted and healthy diversity of press opinion preserved in these cities. In addition, the Newspaper Preservation Act will provide means to approve similar arrangements in other cities if they become necessary in future to guarantee the same goals of free, vigorous and diversified editorial competition in an era of skyrocketing newspaper production costs.

The two fine newspapers in Honolulu, the Advertiser and Star-Bulletin, illustrate the advantages of the joint operating arrangements that we are asked to preserve today. Eight years ago the Honolulu dailies entered into a combined operating agreement. They have continued to maintain separate news and editorial staffs, different editorial policies and distinctive publishing personalities. I have never heard a complaint from the people these newspapers serve that any worthwhile advantage of competition has been lost—and I include in that statement the advertisers who have benefited by the existence of two healthy publications in which to place their ads.

I have no doubt that Honolulu would have become a one-newspaper city if this operating agreement had not been made, and that it would shortly become a single-newspaper city if the agreement were now outlawed. I am equally sure that many, if not all, of the other 21 cities with financially ailing newspapers would have been reduced to one editorial voice without combining their commercial operations.

Such a result could not be considered desirable by anyone sensitive to the needs of a modern democracy for more, rather than less, exposure to the challenge of a free press.

Hawaii's newspaper operators, fully supported by unions representing their employees, have taken a leadership role in bringing to the attention of the Congress the plight in which some newspapers found themselves. From the time the Newspaper Preservation Act came before the Senate Judiciary Committee's Antitrust Subcommittee, of which I am a member, I have actively supported this legislation. I am happy that today, through the efforts of legislators in both bodies, we have arrived at the moment when we can bring this matter to successful conclusion.

Mr. BAKER. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the Senator from Nebraska for yielding to me.

I wish to take this opportunity to commend him, the committee, and the Senator from Michigan, for doing a difficult thing; namely, to accommodate widely diverse views and coming to grips with a problem that has plagued much of the Nation, especially its metropolitan centers.

The State of Tennessee is one State where virtually every metropolitan area is served by a newspaper that would be affected by the antitrust provisions of present law, if this act were not adopted.

I heartily support the motion which the Senator from Nebraska has just made, in offering the House-passed version as amended, and would point out that it was passed and adopted by the other body by a vote of 292 to 87.

I trust that the Senate will concur in the motion of the Senator from Nebraska.

Mr. MOSS. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield.

Mr. MOSS. Mr. President, I want to express my support of the motion of the Senator from Nebraska that the Senate now adopt the House version of the Newspaper Preservation Act.

During all the time it was before this body, and through all the long hearings and discussions held, I supported the bill. I think that the House version is, perhaps, better still than the one we had in the Senate. Therefore, I think we should concur so that the bill may go straight to the White House for action by the President and I hope that it will be signed and will resolve a difficult problem that has existed in many cities, including the capital city of my own State.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The question is on agreeing to the motion of the Senator from Nebraska to concur in the House amendment in the nature of a substitute.

The motion was agreed to.

Mr. HRUSKA. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. BAKER. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to reconsider was laid on the table.

CERTAIN LANDS HELD IN TRUST FOR THE WASHOE TRIBE OF INDIANS

Mr. McGOVERN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 759.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 759) to declare that the United States holds in trust for the Washoe Tribe of Indians certain lands in Alpine County, Calif., which was to strike out all after the enacting clause, and insert:

That all of the right, title, and interest of the United States in the following described public domain land located in Alpine County, California, are hereby declared to be held by the United States in trust for the Washoe Tribe of Nevada and California:

Southeast quarter southeast quarter of section 20 and the northeast quarter northeast quarter of section 29, all in township 11 north, range 20 east, Mount Diablo base and meridian, Alpine County, California, containing 80 acres.

SEC. 2. The amount expended by the United States to acquire the land granted by this Act, as determined by the Secretary of the Interior, shall be deducted from any appropriation that is made to satisfy a judgment by the Indian Claims Commission in docket numbered 288 in which the Washoe Tribe of Nevada and California is entitled to share, and the amount deducted shall be deposited in the miscellaneous receipts of the Treasury.

Mr. McGOVERN. Mr. President, the purpose of this legislation, which was passed by the Senate on May 15, 1970, is to grant to the Washoe Tribe of Indians of Nevada and California a trust title to 80 acres of public domain in Alpine County, Calif., to carry out a program to assist certain Washoe Indians.

The House of Representatives has adopted an amendment to provide that the amount expended by the United States to acquire the land granted by the bill will be deducted from any appropriation to pay a judgment recovered by the tribe in Indian Claims Commission Docket No. 288. The tribe has already been awarded $5,053,000, subject to setoffs that have been briefed and argued before the Commission, and it is too late for the Commission to consider an additional setoff. The value of the land will, therefore, be handled by a deduction from the appropriation made to pay the judgment, rather than as a setoff when determining the net amount of the judgment.

Under the circumstances, there appears to be no other way in which a setoff could be made, and I am advised that this House provision is satisfactory to the sponsor of the bill, the senior Senator from Nevada (Mr. BIBLE), as well as to the members of the Senate Committee on Interior and Insular Affairs.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House to S. 759.

The motion was agreed to.

PREPARATION OF ROLL OF CERTAIN INDIANS

Mr. McGOVERN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 885.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 885) to authorize the preparation of a roll of persons whose lineal ancestors were members of the Confederated Tribes of Weas, Piankashaws, Peorias, and Kaskaskias, merged under the Treaty of May 30, 1854 (10 Stat. 1082), and to provide for the disposition of funds appropriated to pay a judgment in Indian Claims Commission Dockets Numbered 314, amended, 314-E and 65, and for other purposes which were, on page 3, line 11, strike out "funds." and inserts "funds in equal shares to those persons whose names appear on the roll prepared pursuant to section 1 of this Act."

On page 3, line 23, strike out "persons." and insert "person."

On page 4, after line 20, insert:

> SEC. 6. All claims for per capita share whether by a living enrollee or by the heirs or legatees of a deceased enrollee, shall be filed with the Area Director of the Bureau of Indian Affairs, Muskogee, Oklahoma, not later than three years from the date of approval of this Act. Thereafter, all claims and the right to file the same shall be forever barred and the unclaimed shares, along with unexpended tribal and judgment funds appropriated for tribal roll preparation and distribution, shall revert to the Peoria Tribe.

On page 5, line 1, strike out "SEC. 6." and insert "SEC. 7."

Mr. McGOVERN. Mr. President, on May 18, 1970, the Senate passed S. 885, which provides for the distribution of more than $2 million to these bands of Indians. Under the provisions of the bill, all of the funds would be paid out to the individual Indians entitled to the money.

The House has amended the bill to provide that any per capita share that is not claimed within 3 years from the date the bill is enacted, and any unused funds that were reserved for the preparation of the tribal roll, will escheat to the Peoria Tribe. In addition, the House has incorporated two technical amendments to correct drafting errors.

Mr. President, subsequent to the action by the House on this measure, members of the respective committee staffs discussed the language adopted by the House regarding the escheat provision. In view of the fact that there are several claims asserted by these Indians which are still pending before the Indian Claims Commission and which would be distributed under the authority included in the bill, it has been determined that the House language is deficient. In order to meet the contingencies that will arise by reason of these future claims, it has been suggested that the House bill be further amended.

Mr. President, I move that the Senate agree to the House amendments to the bill with a Senate amendment which constitutes a new section 6. I ask that the Senate amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> At the appropriate place, insert a new section 6 as follows:
>
> "SEC. 6. Any per capita share, whether payable to a living enrollee or to the heirs or legatees of a deceased enrollee, which the Secretary of the Interior is unable to deliver within two years after the date the check is issued, and all unexpended tribal and judgment funds set aside for tribal roll preparation and distribution, shall revert to the Peoria Tribe, and all claims for such per capita shall thereafter be barred forever."

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota.

The motion was agreed to.

CREATION OF A COMMISSION TO STUDY THE BANKRUPTCY LAWS OF THE UNITED STATES

Mr. BURDICK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 88.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the joint resolution (S.J. Res. 88) to create a commission to study the bankruptcy laws of the United States which were, on page 2, line 16, after "administration," insert "the applicability of advanced management techniques to achieve economies in the administration of the Act,".

On page 2, line 20, after "President" insert ", the Chief Justice of the United States,".

On page 3, line 6, strike out "designed" and insert "designated".

On page 3, line 7, strike out all after "President" down through and including "law" in line 8.

On page 3, line 9, after "two" insert "Members of the Senate, one from each of the two major political parties,".

On page 3, line 10, after "two" insert "Members of the House of Representatives, one from each of the two major political parties,".

On page 3, line 12, strike out "active full-time referees in bankruptcy".

On page 6, line 3, after "appropriated" insert "out of the Salaries and Expenses Fund created pursuant to section 40c(4) of the Bankruptcy Act (11 U.S.C. 68c (4))".

On page 6, line 4, after "sums" insert ", but not more than $600,000,".

Mr. BURDICK. Mr. President, as the author of Senate Joint Resolution 88, to create a Commission to study our bankruptcy laws, I am deeply gratified that the Senate will shortly consider final congressional action on the measure.

By this action, Congress has expressed recognition that the present laws comprising our bankruptcy system may be obsolete, highly uneconomical, and incapable of adequately conforming to the requirements of our modern economy.

The House has amended the resolution in some respects; I feel most of the House amendments are improvements. Limiting the authorization of funds to $600,000 for the 2-year life of the Commission, and providing that these funds come from the filing fees and charges collected from the assets of bankrupt estates were highly constructive changes.

The House eliminated the requirement that two of the appointees should be "active practitioners in the field of bankruptcy law" and two should be "active full-time referees in bankruptcy." While I would have preferred that the final version of the bill contain these restrictions, especially those pertaining to the appointment of referees, I am satisfied that the legislative history of the measure adequately details the desirability of making such appointments.

I move that the Senate concur in the amendments to Senate Joint Resolution 88.

The motion was agreed to.

REVISION OF BOUNDARIES OF THE CANYONLANDS NATIONAL PARK IN THE STATE OF UTAH

Mr. BIBLE. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The pending business is S. 26, a bill to revise the boundaries of the Canyonlands National Park in the State of Utah.

Mr. BIBLE. Mr. President, I move that the committee amendments be agreed to en bloc and that the committee bill as amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIBLE. Mr. President, the bill before us would extend the boundaries of Canyonlands National Park in southeastern Utah, bringing into the park a number of desirable areas that were omitted when the park was established in 1964.

The present park contains approximately 257,640 acres. S. 26 would add four additional tracts which are public lands for the most part, totaling some 79,618 acres, for a combined area for the expanded park of 337,258 acres.

Three of these parcels adjoin Canyonlands and one is located a few miles to the west of the present national park. The largest of the tracts is the Maze. It embraces a rugged labyrinth of canyons and eroded geological formations, some of which it is probable that no living man has ever seen.

The other three tracts are: First, approximately 10,032 acres which adjoin the southeast corner of Canyonlands, and includes part of the famed Lavender Canyon, second, 23,025 acres along the north boundary of Canyonlands, comprising the balance of the highly scenic Taylor Canyon, and third, 3,178 acres known as Horseshoe Canyon, which is located 7 miles west of the northwest corner of Canyonlands and which contain some of the finest galleries of prehistoric pictographs in the entire country.

About 25,000 people are now visiting Canyonlands annually, and they are spreading out into the remote areas both inside and ouside of the park boundary. The properties within the park are protected by the National Park Service, but those outside are continually subject to vandalism. By incorporating them within the park, there is some assurance that these artifacts will be kept in their natural state for the enjoyment of all. The addition of these tracts has been recommended by the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments.

I have had the privilege of serving in the capacity of chairman of the Parks and Recreation Subcommittee of the Committee on Interior and Insular Affairs for 12, 13, or 14 years. I handled the original Canyonlands bill. And I can say, I think, without any fear of contradiction, that the Canyonlands contain some of the most beautiful scenic country to be found anywhere in this great Nation.

The pending bill is, I think, a necessary addition to this great national attraction. I know that as time has gone on the number of visits have increased to these parks with which Utah is so richly blessed.

At the time S. 26 was introduced, the Utah Division of Parks and Recreation indicated it would be willing to donate Dead Horse State Park to the National Park Service for inclusion within Canyonlands National Park. After the hearings had been concluded, our committee received a telegram from this division stating that it had no desire to release Dead Horse Point at this time, so the tract has been eliminated from this bill as reported.

This is a State park. I personally think that somewhere along the way it would be of advantage to Utah to donate this section so that it would round out Canyonlands National Park. The State of Utah does not feel that way at this time. Obviously, they control the park.

Also deleted from the introduced version are three sections on the southwest corner, totaling 1,920 acres, which contain impregnated limestone. It is proposed that these be added to the Glen Canyon Recreation Area, where multiple land use is permissable.

There has been great interest in establishing some of the more remote areas of Canyonlands National Park as wilderness areas. In reporting this bill, the Interior Committee recommends that the Secretary of the Interior report to Congress within 2 years on the areas of the park which are suitable for wilderness designation.

Mr. President, there have been some reservations in southern Utah about taking additional acreage into Canyonlands National Park until there was wider development by the National Park Service of the area already encompassed in the park boundaries.

I believe the bill we bring before the Senate today has worked out most of these problems, but not all of them.

I urge passage of this bill on the assumption that development of the entire park area will be accelerated, and that the tourist potential of an enlarged Canyonlands will be fully realized. The bill must be passed to protect the new areas, and to assure that all of the desirable attributes of a great national park are attained.

Mr. President, I am delighted at this time to yield to my friend, the distinguished, Senator from Utah (Mr. Moss), the author of the original legislation.

I have gone over all of this area with him on two or three occasions. I think it is worthy of national park stature by every criteria imaginable.

Mr. MOSS. Mr. President, I thank the distinguished Senator from Nevada for yielding to me. I commend him as chairman of the Parks and Recreation Subcommittee of the Committee on Interior and Insular Affairs for moving along the bill that has been before our subcommittee during all of this session of the Congress and that was also before the subcommittee in the previous session of Congress.

Mr. President, the bill that is before us, as has been explained, would extend the boundaries of Canyonlands National Park in southeastern Utah, bringing into the park a number of superlative areas that were omitted when the park was established in 1964.

The present park contains approximately 257,640 acres. S. 26 would add four additional tracts which are public lands for the most part, totaling approximately 79,618 acres, for a total area for the expanded park of 337,258 acres.

Three of these parcels adjoin Canyonlands and one is located a few miles to the west of the present national park. The largest of the tracts is the Maze, which lies directly to the west of the park and north of the Glen Canyon National Recreational Area. It embraces a rugged labyrinth of canyons and eroded geological formations, some of which it is probable that no living man has ever seen.

The other three tracts are: First, approximately 10,032 acres which adjoin the southeast corner of Canyonlands, and includes part of the famed Lavender Canyon, second, 23,025 acres along the north boundary of Canyonlands, which includes the balance of the highly scenic Taylor Canyon, and some areas needed primarily for administrative purposes, and third, 3,178 acres known as Horseshoe Canyon, which is located 7 miles west of the northwest corner of Canyonlands and which contains some of the finest galleries of prehistoric pictographs in the country, and in the whole Western Hemisphere.

We knew when the original Canyonlands bill was passed that the day would come when we would want to add these additional areas, and that day is unquestionably here now. About 25,000 people are now visiting Canyonlands annually, and they are spreading out into the remote areas both inside and outside of the park boundary. The areas within the park are protected by the National Park Service, but those outside could be defaced by thoughtless treatment. By incorporating them within the park we assure that they will be kept in their natural state for the enjoyment of all. The addition of these tracts has been recommended by the Advisory Board on National Parks, Historic Sites, Buildings and Monuments, the National Park Service, and the Secretary of the Interior.

When I first introduced this bill the Utah Division of Parks and Recreation had indicated it would be willing to donate Dead Horse State Park to the National Park Service for inclusion within Canyonlands National Park. After the hearings had been concluded, the Interior and Insular Affairs Committee received a telegram from this division indicating that it had no desire to release Dead Horse Point at this time, so the tract has been eliminated from this bill as reported.

Also deleted from the introduced version are three sections on the southwest corner, totaling 1,920 acres, which contain impregnated limestone which has tars and sand and oil in it. It is proposed that these be added to Glen Canyon Recreation Area, where multiple land use is permissible. It would then be available for the production of petroleum when that is feasible and economic.

There has been great interest in establishing some of the more remote areas of Canyonlands National Park as wilderness areas. In reporting this bill, the Interior Committee recommends that the Secretary of the Interior report to Congress within 2 years on the areas of the park which are suitable for wilderness designation.

I should point out that the Maze would be one of those areas which may be designated as a wilderness area and never be invaded by roads, but only by trails on which people would walk or possibly travel on horse.

Mr. President, there have been some reservations in southern Utah about taking additional acreage into Canyonlands National Park until there was wider development by the National Park Service of the area already encompassed in the park boundaries.

I call attention to page 3 of the report of the Committee on Interior and Insular Affairs and I quote one paragraph:

> The committee endorses the State program of providing corridors of adequate scenic highways leading to recreational and park reservations. It is an obligation of the Federal Government to cooperate with the States in assuring accessibility for the average American to enjoy our great scenic heritage, such

> as exists in this wild and beautiful section of Utah.

This indicates the policy of Congress and gives direction to the Secretary of Interior and the National Park Service that access to the park is to be made and it should be made available to the average American so that he will have an opportunity to view the scenic wonders.

I urge passage of this bill on the assumption that development of the entire park area will be accelerated, and that the tourist potential of enlarged Canyonlands will be fully realized. The bill must be passed to protect the new areas, and to assure that all of the desirable attributes of a great national park are attained, but there must also be a much wider program of development by the National Park Service than has been evidenced in the past few years, if Canyonlands is to contribute to its fullest extent to the recreational enjoyment of the American public.

Therefore, I believe we should act speedily to pass the bill that is before us to expand the boundaries of Canyonlands so there will be time for the House of Representatives to act also in this session of Congress and complete this legislation this year.

Mr. BENNETT. Mr. President, before the Senator yields the floor, will he yield to me for some questions?

Mr. MOSS. I yield.

Mr. BENNETT. I am sure my colleague knows the purpose of my amendment, which is to provide for the construction of roads which would pass through both the Canyonlands and the Glen Canyon Recreation Area.

I would like to ask the Senator whether he believes that roads approximately following the road suggested by the Utah State Road Commission should be built.

Mr. MOSS. Yes. I have been shown a map by the State roads commission on which indications were made of areas where they felt roads should pass through the Utah area, part in the parks and part on the public domain land. I agree it would be desirable to have roads. I discussed this with the State road commission representatives before hearings were held on the bill. At that time I saw the map and I encouraged the representatives of the State roads commission to come and testify before the subcommittee so that their desires could be made known; and I assured them I would see that the matter was properly presented in the subcommittee and before the full committee, which was done. As a result of that, this section of the report that I have just read, was written to indicate that the committee endorses the principle of building roads and making access to the parks available to the average citizen rather than as was testified by some who testified, that it all be left as wilderness and not accessible.

I think the committee came down squarely on the side of accessibility, wrote it into the report, and I reported back to the State roads commission that we had accomplished what I expected, and that we had procedures whereby we could make sure the Park Service was carrying out the purposes of Congress, if they were dilatory in getting roads in there.

Mr. BENNETT. Since part of the roads would be inside the park and recreation area and part outside the park and recreation area, does the Senator believe it would be better to have one agency—and of course, the State is the only one agency covering all areas—build the road, or would it be better to have the State build the roads outside the park and to depend on the Park Service to build the roads inside the park?

Mr. MOSS. I think that is the only practical way to proceed. In the bill before us we are dealing with Canyonlands and what has been added to Canyonlands to put that in the national parks. Therefore, if we granted corridors, we would be granting corridors only in that boundary limit that we are dealing with.

We think we should urge the Park Commission, as we have discussed in the report, and also directed them to cooperate with the State.

I shall read again from page 3 of the committee report:

> It is an obligation of the Federal Government to cooperate with the States in assuring accessibility for the average American to enjoy our great scenic heritage, such as exists in this wild and beautiful section of Utah.

If the State does build roads across the public domain up to the recreation areas, then the National Park Service, in cooperation with them, as is its obligation, should build the road within the park itself.

When I heard of the Senator's proposal to add the amendment, I called the Director of State Roads Commission in Utah and I asked him what the cost would be for building the roads where they have drawn these lines within the park and the recreation areas if it were the obligation of the State to do that. His reply was, "Over $41 million."

I do not think that should be the obligation of the State of Utah. I think the obligation to build the roads within the park is the obligation of the National Park Service as part of the Department of the Interior.

Outside of that, the State may have an obligation, if there is a secondary road, to give public assistance; but basically outside the park boundaries. However, inside, it is totally the obligation of the Federal Government.

Mr. BENNETT. As I understand it, the Senator believes the language in the report is sufficiently strong and imposes a sufficiently heavy obligation on the Federal Government that the Park Service must build roads in that area, and if they do not, with the power of oversight which the Senator's committee has, it can force them to build roads.

Mr. MOSS. I think that is correct. Perhaps "persuaded" would be better than "force."

In the original planning of the Canyonlands we had a similar experience. It was determined a road would go into Squaw Flat, from there on west to the confluence of the river and south to the Needle.

At some subsequent time after the park was created the National Park Service changed its plans and started talking about taking a road around the south to come into the Needles and up to the confluence.

At that time Bates Wilson, who represents the Park Service in Utah, came to me, spread out the map, and talked to me about that situation. I protested. I said that I knew the parks, and that I had been there. I said there should be a road into the center of the park that could be traversed in an ordinary two-wheel vehicle that did not require 4-wheel drive to go over a hill. We had considerable discussion, and it took 6 months, but eventually the Park Service came around to agreeing with that idea and they have now completed the survey. I think they have the authorization to build that road from Squaw Flat through the confluence and down to the Needle.

So I say that simply as an illustration of what the committee can do to persuade carrying out the purposes of said committee. We state rather clearly in the report that the committee believes it is the obligation of the Federal Government to cooperate with the States to make parks available for the average American citizen, and that would mean roads through the park in the areas generally described in the map to which I have referred.

Mr. BENNETT. Then, I take it the Senator will not support my amendment?

Mr. MOSS. No; I do not think the amendment is needed, and, in fact, I think it is objectionable in some respects.

First of all, the amendment places the extra burden on the State that I mentioned. The State would assume the burden of putting $41 million of the funds of the State into building the roads and then maintaining the roads. Second, it is contrary to the policy of the National Park Service. In cases where a State road exists and then a park or monument is superimposed there, the road remains a State highway and the State does have the obligation for maintaining the road, but in no case that I was able to find—and I made inquiry at the Department—has the National Park Service ever authorized a State to build a new road in a park or monument. That has always been the obligation of the Park Service itself.

If we charge the National Park Service with operating a national park in accordance with the law that exists, it must have the power of decision as to where the road will go, as to whether or not it will impair the scenic beauty of the park, and otherwise have the responsibility for maintenance, turnoffs, campgrounds, and that sort of obligation, rather than delegate it to a State to maintain and control.

So the amendment is objectionable from that point of view. I think we might face a veto of the bill if we had that sort of amendment in it. The Park Service has indicated that it would change the situation, that it would perhaps impair its recommendation of approval of the bill if it were so amended.

Mr. BENNETT. Mr. President, I would like at this point to get the floor in my own right.

The **PRESIDING OFFICER**. The senior Senator from Utah.

AMENDMENT NO. 778

Mr. **BENNETT**. Mr. President, I call up my amendment No. 778 and ask to have it stated.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. **BENNETT**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Amendment No. 778 is as follows:

On page 2, immediately after line 24, add the following:

"Sec. 4. (a) The State of Utah, acting through its State road commission, is authorized to construct and maintain a highway to secondary standards as defined by the American Association of State Highway Officials within the corridors to be surveyed and commencing from Utah Highway 95 near Hite through the Glen Canyon Recreation Area and through approximately seven miles of Canyonlands National Park to a junction with Utah Highway 279 near Moab.

"(b) The Secretary of the Interior is authorized to construct and maintain markers and other interpretive devices typical of national park areas providing such markers or devices do not violate current highway safety standards. The Secretary is further authorized to connect with such routes those park roads and trails which he determines desirable. Any such road so constructed within such corridors by the Utah State Road Commission shall be permanently kept open for general public travel.

"(c) The State of Utah shall have full authority to regulate traffic and enforce the highway laws relating to highway use in the State of Utah with respect to any road constructed pursuant to this section. The right-of-way shall vest with the United States subject to the perpetual use of same as a public highway so long as needed for such purpose, as determined by the Utah State Road Commission."

Mr. **BENNETT**. Mr. President, I am happy today to support S. 26, revising the boundaries of the Canyonlands National Park in Utah, and S. 27, to establish the Glen Canyon National Recreation Area in Utah and Arizona.

In a sense, the two bills are related, because the two areas are contiguous. For my purposes, in offering these amendments they are related because the road that I think should be built passes through both of them as well as to land outside either. The arguments that I shall make for my amendment on S. 26 apply with equal significance to the amendment that I shall offer to S. 27, but since the two are so closely related, I shall make my major pitch with respect to the bill before us, and after the Senate has decided how it will vote on that bill, then it will be understood that everything I have said about S. 26 applies to S. 27.

Mr. President, I think it is unfortunate that the committee did not take care of this road problem when it had the bill before us. It ignored the testimony of the Utah State Road Commission, ignored the problem that can only be solved by the building of such a road, and, therefore, it is necessary for me to offer these amendments.

Just to describe the amendments, as I said, they are really one amendment, taken together. They would allow the State of Utah, through its road commission, to construct and maintain two sections of road, one from near the Arizona border at approximately Glen Canyon City to Bullfrog Basin and the second from Utah Highway 95 near Hite to a junction with Utah Highway 279 near Moab. Part of the proposed route goes through State land, part through land under supervision of the Bureau of Land Management, part through the recreation area, and part through the national park, but it is one continuous road.

Mr. President, I would like to bring to the attention of the Senate the background leading up to my introduction of these road amendments. On the weekend of June 12 to 14, while in Utah, I received a rather urgent invitation from the Utah State Road Commission to meet with the full commission to discuss S. 26 and S. 27, both of which had just been reported favorably by the Senate Interior Committee.

I should point out again for the record that I went before the Interior Committee and testified in favor of both bills—however, at that time I made clear that I hoped the committee would make certain general changes and assurances to protect the State's minerals, road, grazing, hunting, and similar rights.

At my meeting with the State road commission, I was informed of the major highway problem, which I have described and which passage of the bills would create.

The commission officially urged me to do what I could to see that the State's road program could be solved either by a floor amendment or acceptance of the language by the committee.

Subsequently, in conversations with the Governor and State highway officials, I was told that the sponsor of the bill, Senator Moss, has said that this road problem has been handled with language in the report, and my colleague has repeated that here again.

Mr. President, for the Record, I would like to read that report language:

> The Committee endorses the State program of providing corridors of adequate scenic highways leading to the recreational and park reservations. It is an obligation of the Federal Government to cooperate with the States in assuring accessibility for the average American to enjoy our great scenic heritage, such as exists in this wild and beautiful section of Utah.

I have had a great deal of experience writing language in reports in many, many committees and on many, many pieces of legislation. I regret to say that the success ratio in persuading the agencies downtown following and adhering to language in reports is not too high. In fact it is almost zero. One agency head told me once when I referred to language in a report:

> If it was that important, why didn't Congress write it into the law?

I also should mention that those of us who have been around Congress for a while are well aware of the fact too often many agenices downtown barely follow language in the laws we pass, let alone following often vague and relatively meaningless language in a report. In fact, I have a clear memory of one agency which told me they did not like an amendment I got into a piece of legislation, and they were, therefore, going to ignore it.

Later when I returned to Washington and began digging into this problem in order to discover for myself whether perhaps the language in the report might do the job I, of course, found that my worst fears were justified.

First, I phoned the National Park Service and read the language in the report about road corridors to Director Hartzog and inquired if this language were binding on the Park Service. A subsequent reply from the Chief of the Division of Legislation, Mr. Mike Lambe, revealed that the language would not bind the Park Service to grant rights-of-way through the park or recreational area lands as my amendments would do.

The intent of the language in the report, according to Mr. Lambe, was to require the Park Service to cooperate with the State to provide access to—and I repeat, Mr. President—access to, rather than through the areas.

I was told that the report was not specific enough to require the Park Service to grant the right-of-way. It did not come out and say that the Park Service will provide rights-of-way for the through highways proposed by the State; so, it was argued, it left the decision to the Park Service.

I was told that in order to accomplish what the State road commission and the Governor want accomplished would be either to get my amendment approved or to obtain a commitment from the Secretary of the Interior that he would allow this right-of-way.

This then led me to the Secretary of Interior, where I inquired of him officially if the language in the report would require the Park Service to permit the State to construct and maintain highways through Glen Canyon National Recreation Area or Canyonlands.

On July 2, 1970, I received an official reply from Mr. Mitchell Melich, the Department Solicitor, and I ask unanimous consent that this letter be printed in its entirety in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of the Interior,
Office of the Solicitor,
Washington, D.C., July 2, 1970.

Hon. Wallace F. Bennett,
U.S. Senate,
Washington, D.C.

Dear Wallace: Secretary Hickel has asked me to reply to your letter of June 29 in which you requested our views on whether the following language in the Committee report on S. 27 (S. Rept. No. 91–924) would require the National Park Service to permit the State of Utah to construct and maintain highways through Glen Canyon National Recreation area: "The Committee endorses the State program of providing corridors of adequate scenic highways leading to recreational and park reservations. It is an obligation of the Federal Government to cooperate with the States in assuring accessibility for the average American to enjoy our great scenic heritage, such as exists in this wild and beautiful section of Utah."

> Initially, it should be pointed out that there is no general authority available to this Department authorizing the grant of rights-of-way for highway purposes through areas of the National Park System. In my opinion, the language quoted above, unsupported by an appropriate provision in the bill itself, would not require or authorize the National Park Service to grant a highway to the State as contemplated by the Committee. In order to implement the Committee's desire on this subject amendatory language would be required to authorize the granting of a right-of-way to the State through the proposed areas. Although the Department has taken the position in the past that roads of this nature may be authorized under special use permit, the United States District Court for the Northern District of California ruled to the contrary in the case of *Sierra Club* v. *Hickel*, which dealt with an access road through Sequoia National Park to the proposed Mineral King development. Even though this case is on appeal, I feel we should follow the district court opinion until it is reversed.
>
> I trust this answers your question. Should you wish to discuss this matter further, please feel free to call me.
>
> Sincerely yours,
>
> MITCHELL MELICH,
> *Solicitor.*

Mr. BENNETT. For the information of the Senate, I would like to read the pertinent parts of Solicitor Melich's response:

> Initially, it should be pointed out that there is no general authority available to this Department authorizing the grant of rights-of-way for highway purposes through areas of the National Park System. In my opinion, the language quoted above—

That is, the language in the report—

> unsupported by an appropriate provision in the bill itself, would not require or authorize the National Park Service to grant a highway to the State as contemplated by the Committee. In order to implement the Committee's desire on this subject, amendatory language would be required to authorize the granting of a right-of-way to the State through the proposed areas. Although the Department has taken the position in the past that roads of this nature may be authorized under special use permit, the United States District Court for the Northern District of California ruled to the contrary in the case of *Sierra Club* v. *Hickel*, which dealt with an access road through Sequoia National Park to the proposed Mineral King development. Even though this case is on appeal, I feel we should follow the district court opinion until it is reversed.

With this general background, I then introduced these amendments on behalf of the State road commission to protect the State of Utah and its citizens. Indeed the language was written with the full cooperation, knowledge and at the suggestion of the Utah State Road Commission.

I would like now to turn for a minute or two to a discussion of the need for the roads.

The lack of access to our many scenic wonders in Utah has prevented development and utilization of much of my State. It is all very well for the Congress and the Interior Department to approve with great fanfare and enthusiasm massive parks and monuments, but I often wonder what happens to that fanfare and enthusiasm when it comes to putting forward meaningful development programs such as for roads and trails and other conveniences for the tourists who come and see these areas.

Mr. President, I think it is time for the Congress and the Interior Department to begin considering the common, average American tourist with average means who takes off work a day, a week, or a month, puts his family in a station wagon and wanders here and there to see our parks and monuments. This, of course, differs from the backpacking, rugged, outdoor-type hiker and mountain climber who likes to go off on his own, walking and hiking up and down canyons and mountains and also differs from the rich super executive who can afford an expensive safari-like trip into this kind of country.

The road I propose is for the common, everyday tourists and for the bulk of the citizens in my State, and those from other States who may visit us.

The need for the amendment is perfectly obvious and extremely important for Utah. Without this road a traveler who wanted to go from Wahweap, which is a harbor on the Arizona side of Lake Powell, up to Bullfrog Basin, which is a harbor on the Utah side, would have to detour a total 382 miles by going up Highway 89 across Utah Highway 24 and down to Bullfrog Basin. He would have an alternate route which also should be mentioned. This would take him through Arizona down to Tuba City, up to U.S. Highway 163 and over to Utah Highway 95. That way it would be a 366-mile detour.

The amendment would also provide a great benefit to the citizens of Salt Lake City, or those who start from Salt Lake City. It would cut off 50 miles of travel both to Hole-in-the-Rock and to the Padre Bay Marina. From Salt Lake City to Hole-in-the-Rock would be a 320-mile ride instead of a 370-mile ride, and from Salt Lake City to Padre Bay Marina would be 355 miles instead of 410.

In addition, I should point out that besides the citizens of Arizona and Utah who visit Lake Powell, the largest number of visitors come from California.

For no other reason than I have just stated these amendments must be approved for the benefit of our State and its economic development.

There are other reasons as well, and I would like to cite them here. As most experienced travelers will tell you, the common everyday tourist is loath to wander off onto a road for 50 to 100 miles, taking a chance he might or might not see something and then have to backtrack on the same road. Were I a betting man, I would wager that not 10 percent of the traveling public would take a 40-mile backtrack spur route on the chance he might see something. Today's traveler wants the so-called circle route. He wants to keep moving, to have the feeling he is getting somewhere new and different. In other words he does not want to double back.

I have done some research on how much doubling back there would be required without my amendments, and I think the figures would be of interest to the Senate.

First, in order to get to Hole-in-the-Rock Marina when it is built, we would have a spur route from Escalante 65 miles long, down and 65 miles back or 130 miles round trip.

From Hanksville on Utah Highway 24 down to Bullfrog Basin, it would be a 72-mile spur—down and back, each way.

From Blanding, over Utah Highway 95, to Hall's Crossing, it would be 83 miles—down and back.

From Utah Highway 24 down to Grand View to take a look into the Canyons from the West, it would be a 40-mile spur—down and back.

From Church Rock down to near the confluence of the Green and the Colorado Rivers, it would be a 40-mile spur—40 miles down and 40 miles back.

At the Canyonlands area, if there is no connection at the south end of the park, you would end up with a spur from Natural Bridges to the lower end of Canyonlands that would be 90 miles each way—down and back.

Mr. President, people just do not travel on spur roads on the chance they might see something, especially when you consider from where most of these spurs I have mentioned begin. Anyone who has been down into southern Utah can tell you that you can start at the flattest, most deserted spot on earth and go but 40 miles to see deep and breathtaking chasms that are magnificent.

The point is that these spurs begin at desolate spots and there is nothing really to give the visitor any assurance that the entire area will not be the same.

Specifically, Mr. President, two roads are involved here. The portion affecting Glen Canyon National Recreation Area extends from Glen Canyon City 105 miles to Bullfrog Basin, and from State Highway 95 near Hite 60 more miles to near the northwestern boundary of Canyonlands National Park. Part of this section of the road is within the boundaries of the Glen Canyon Recreation Area and part on Federal land under jurisdiction of the BLM.

For the record, and to fill the gap between these two sections, I should point out that in the middle, the route follows existing roads from Bullfrog Basin to U–95 at Trachyte Junction and southerly through north Washington to the point near Hite where we would pick up again with the second section covered in the amendment.

The portion affecting Canyonlands National Park commences on the west boundary near the northwest corner and extends approximately 7 miles within the park boundary, exiting at Dead Horse Point State Park and proceeding toward State Highway 279, leading to Moab.

Mr. President, I do not want to appear vague and overuse the word "approximate" in my definitions of this road; however, this is made necessary by the fact that there is no way at this time to be precise as to the exact metes and bounds of the area that would be needed for the road. Before any road would be built, there would have to be a major survey, an on-the-ground inspection by highway experts and others, all aimed at selecting the best and most feasible route possible. This way, we can avoid any damage to the countryside and to the scenery by having the flexibility and authority to go around or to bypass any particularly important or attractive spot.

The Utah State Highway Commission has assured me that it would build the road in such a way as to do the least damage to the environment or to the ecology. The State highway commission has told me:

> We will build this road with full and complete consideration of all environmental factors.

With this in mind, the State highway department has told me that it will comply completely and fully with section 4(F) of the Department of Transportation Act charging the Secretary of the Department of Transportation to make a special effort to preserve and enhance the natural beauty of the countryside in the development of all road programs.

I have been in contact with the Transportation Department on this matter, and I have informed them that the State plans to work closely with them, if the road is authorized, in adhering to the 4(F) provisions of the DOT Act and that the State plans to get DOT involved in the design phases of this project.

As I read section 4(F), I certainly do not find anything in it that automatically eliminates and thwarts responsible road projects. I am certain we can gain the cooperation of the Secretary of the Interior, of the Secretary of Transportation, and of the Utah highway people in making sure that we shall comply with the provisions of the law that reads:

> (ii) such program includes all possible planning to minimize harm to such park, recreational area . . . etc. . . . resulting from such use.

Indeed, Mr. President, I have just received a letter from Transportation Secretary John Volpe touching on this topic, in connection with my amendments; and I ask unanimous consent to have the letter printed in the Record at this point. It sets out the conditions under which the Department of Transportation would become involved.

There being no objection, the letter was ordered to be printed in the Record, as follows:

> The Secretary of Transportation,
> *Washington, D.C.*
>
> Senator Wallace F. Bennett,
> *United States Senate,*
> *Washington, D.C.*
>
> Dear Wallace: This is in further response to your letter of June 25, 1970, which was acknowledged by Mr. Legate on June 30, regarding amendments which you have offered in behalf of the State of Utah Road Commission to S. 26 and S. 27. Your letter requested advice as to the best way to handle Section 4(f) questions related to your amendments.
>
> As you know, Section 4(f) states essentially that the Secretary shall not approve any project which requires the use of publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge unless "(1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."
>
> As we understand the amendments which you have offered, each one would authorize the construction and maintenance of a highway by the State of Utah within the boundaries of a National Park. In such circumstances, if federal aid is provided for the construction of these roads, Section 4(f) would apply. If authorized, at the appropriate point in the planning of these projects, the Secretary would be required to consider—upon the advice of the State and the Federal Highway Administration—whether there are any feasible and prudent alternatives and whether all planning has been accomplished to minimize harm to the National Park from the road construction and use.
>
> I hope the above information is helpful to you.
>
> With best regards.
>
> Sincerely,
>
> John.

Mr. BENNETT. I also would like to read to the Senate the pertinent paragraph of the Secretary's response to my request for the best way to handle the 4(f) question:

In such circumstances, if Federal aid is provided for the construction of these roads, section 4(f) would apply. If authorized, at the appropriate point in the planning of these projects, the Secretary would be required to consider—upon the advice of the State and the Federal Highway Administration—whether there are any feasible and prudent alternatives and whether all planning has been accomplished to minimize harm to the national park from the road construction and use.

As I have said, the State, the Interior Department, and the Transportation Department have all assured me that they will cooperate fully to select the better route, if the road is authorized, and I am certain neither the amendments nor the roads will do violence to any of the provisions of 4(f) nor to the countryside, for that matter.

I would now like to turn for a moment or two to the precedent for the construction of a State highway through a national park. Back in 1962, the Bureau of Public Roads built a 5.7-mile project from the east boundary of Capitol Reef National Monument to the city of Fruita within the park. This was built with Federal National Park Service funds. In 1956, the State built a project—also 5.7 miles—from Fruita westerly. This was constructed under State supervision and by the State on a State-Federal matching fund basis. I should report that the cooperation between the Park Service and the State has been very good at Capitol Reef, and I would not expect any problems at all from these experts in working out any problems that might arise at Canyonlands or Glen Canyon.

Speaking of the funding for the project during a recent publicity release in Utah—and my colleague has repeated it here today—it was said that my amendments would cost the State of Utah $41 million and, apparently, therefore, they should be rejected.

First, let me say that whether one thinks the language in the report will bring these roads into reality or whether the Bennett amendments will create them, the cost of building the road still is going to be identical.

Second, if my amendments are adopted, the State of Utah would build this road under its Federal-State formula. I understand that it also is in the proposed program of the Four-Corners Regional Commission, which has jurisdiction over this part of the State of Utah and is a part of the Commerce Department. In this connection, I have today received a memorandum from Mr. L. Ralph Mecham, who is the Federal cochairman of the Four Corners Regional Commission, which says that the commission has requested—hold on to your hats—$808,924 to be spent over a 10-year period for a road program inside the area under its jurisdiction, the program to build approximately 5,700 miles of high priority roads in the States of Utah, Arizona, Colorado, and, New Mexico.

If this program is authorized and appropriated, I am told that approximately 100 percent of the funding for the roads proposed in my amendment would come from these commission funds. Therefore, it may be true that it is going to cost the taxpayers $41 million, but this is true whether it comes from the Federal pocket or the State pocket or from a combination of the two. But it is not going to cost any more or less than any other road in the State traversing similar topography.

It is difficult to say exactly which department is going to provide how many dollars, but a fair estimate would be 25 percent State and 75 percent Federal under current matching fund provisions and policies.

Mr. President, the support by officials and the citizens of Utah for these roads represented by my amendments is widespread and available on the record for all to see.

As I have said, the State highway commission, representing all regions of the State of Utah, wants the roads. The Governor of Utah wants the roads. The only difference between my position and his is that I am certain an amendment is required—I think the material I have put in the Record today would demonstrate that—and he feels that he should depend on Senator Moss' statement that the language of the report is sufficient. The San Juan County Commission favors the roads. A recent hearing in Kanab, on June 30, brought enthusiastic public backing to the proposed roads. The Utah Travel Council has endorsed the road projects.

I am doing the bidding of the people of Utah and offering these amendments on their behalf.

Mr. President, my colleague talked about the roads in Canyonlands National Park, and I think we should go back and take a look at that situation, because I believe it bears out what I am trying to say.

An amendment of mine to the Canyonlands bill which became law in September 1964, reads as follows:

> Section f. (a) In order to provide suitable access to the Canyonlands National Park and facilities and services required in the operation and administration of the park, the Secretary may select the location or locations of an entrance road or roads to such park and to points of interest therein from United States Route 160 and State Routes 24 and 95, including necessary entrance and related

> administrative headquarters sites upon lands located outside the park, and he may select a suitable location or locations outside the park for connections between entrance roads and between roads lying within the Canyonlands National Park.

That was on September 12, 1964.

Mr. President, that is a perfect example of what I mean when I say "Some Departments barely follow language in laws, let along language in reports." I offered that amendment and a modified form of it was finally passed by the Congress. It was offered to assure the people of Utah access to and within the major areas in Canyonlands. The final law says: "The Secretary may select and so forth." It does not say: "Will."

What has that word "may" produced at Canyonlands? Not much. For instance inside the park we have about 10 miles of primitive roads and from about 3 to 5 miles of reasonable roads. To me that is a pretty sorry total when we consider the park contains about 257,640 acres and the proposed expansion in the bill before us will raise that to 337,258 acres.

To carry this one step further, I would like to tell the tale of the Chesler Park Road. This road was designed to go from Squaw Flats to serve two vantage points, one near the confluence of the Green and Colorado Rivers and also to branch south to Chesler Park. However, for the past 3 or 4 years a major controversy has raged over this section of road ranging from whether the road should be built or not. Up to a year ago the Park Service probably was leaning heavily to a negative reply. Now, because of the great pressure and because of the requirement for the road some concessions—although unofficial—have been made that there may be a way to build it and some planning is under way for a route to serve these points. The newest outlook calls for construction of a road to the vicinity of Chesler Park—falling short by about a mile, making the tourist walk the last mile to the park. I understand that the ordinary tourist could make it with not too much trouble, but I make the point again just to indicate the thinking and the antiroad, antidevelopment mentality that prevails in the Parks Service these days.

I think here today, Mr. President, I have shown very clearly the reasons for the roads. I have shown why it would take amendments to see them built.

I just make the point that the people who are administering the park in that part of the country are not pro-road but antiroad. I am very much afraid that if this bill does not contain permission for the State of Utah to build that necessary road, not only will it not be built in the foreseeable future but the State of Utah will lose potential income from tourists, which was given by a former Secretary of the Interior as the reason why this vast acreage should be set aside for park purposes.

Mr. President, when the bill was under consideration, the Bureau of Economic and Business Research of the University of Utah estimated that by now we should have an average annual number of visitors to the park of something on the order of 338,000.

In 1965, there were 19,000. In 1969, there were 26,000, only about 6 percent of the number of visitors, it was expected could be attracted, came to the park.

The answer, of course, in my opinion, is roads. They cannot get in. If they can get in, then they have 10 miles of unimproved, dirt road, and then 3 or 4 miles of black road. The word gets around, so they do not try it. If a tourist wants to get into the Canyonlands, he has to make an arrangement with a man who owns a jeep, who will rent it and sell his services as a guide at a price that the ordinary tourist cannot afford.

Now, Mr. President, for these reasons, I hope that the Senate will accept my amendment. I realize that we are breaking new ground. I also realize that we are asking to give the State the right to construct a road through park and recreation areas.

The reason why I ask for that exception is that I know if we wait for the Park Service to construct those roads, based on its own record inside the Canyonlands, which is one of the areas we are discussing today, I shall not live long enough to be able to drive from Wahweep to Bullfrog Basin. I am getting a little too old to drive 330 miles on a detour road to get there.

Mr. President, I invite my colleague, the author of the two bills, to join me in urging the Senate to approve my amendments, so that we can provide free and effective access for all to this great country that is southern Utah.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. BIBLE. Mr. President, I have listened attentively to the Senator from Utah speaking to his amendment. I realize, as always, his great interest in developing and advancing the cause of his great State of Utah, which contains some of the finest parks of our entire United States, some of them with great visitations, some of them with less visitations at present but which will grow as time goes on.

I am amazed that the problem seems to be a road problem.

Both of us agree that there should be roads. The Park Service agrees that there should be roads. The Secretary of the Interior agrees that there should be roads. The Governor of Utah says there should be roads. The highway commission agrees that there should be roads. I say that there should be roads.

It all depends on who is handling the road problem.

That is the issue in the pending amendment.

I rise to oppose the amendment, not because I am opposed to roads, because I am not, but I am opposed to placing authority for the building of roads in a national park or recreation area in the Highway Commission of the State of Utah.

The responsibility for the building of roads within the Canyonlands National Park should be left and vested in the National Park Service. We have not ignored the problem. I think that the language in the report which was read earlier by the Senator from Utah (Mr. Moss) is completely self-explanatory on that point. I think it provides for a strong mandate. The senior Senator from Utah (Mr. BENNETT) argues that unless it is written out in black and white in the law, the National Park Service would ignore it. I do not agree with that conclusion.

It so happens, in addition, that I handle both the subjects of parks legislation and authorizations. I handle them as chairman of the Appropriations Subcommittee of Senate Interior Committee. We regularly have brought before us various proposals for the building of parks. I called for the Interior appropriations bill, which we just passed by a unanimous vote of the Senate, and we go to conference on it next week. There is some $17,660,000 provided for the National Park Service for parkway road construction.

In this one, just reading a paragraph on page 21 of the report accompanying the appropriation bill for this year, there is this language which I think is illustrative of what I am trying to say:

> The increase recommended by the committee provides $350,000 for roads and trails in Lake Mead National Recreation Area, $1,200,000 for the base cost on the first segment of Big Horn Canyon National Recreation Highway, and $110,000 for planning roads and trails in North Cascades National Park.

I would say to my friend the distinguished senior Senator from Utah (Mr. BENNETT) that I have been privileged to handle parks for 13 or 14 years, ever since I have been a Member of the Senate. And I have also, since the retirement of our beloved former senior Senator from Arizona, Carl Hayden, formerly the chairman of the Appropriations Subcommittee, handled the appropriations.

Year after year we provide money within the budgetary restrictions and fiscal limitations under which we operate year after year, for the building of roads within recreation areas.

I have firsthand experience in that the first recreation land in the United States is at Lake Mead in my own State. There, we have had no difficulty whatever in working cooperatively with the State highway commission and in developing adequate roadways both within and outside the park.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. BIBLE. I yield.

Mr. BENNETT. Mr. President, would the Senator repeat again the total amount of money contained in the bill?

Mr. BIBLE. $17,666,000 as it came out of the Senate recently.

Mr. BENNETT. Was any money provided in there for any of the Utah parks?

Mr. BIBLE. I do not know, except for add-ons from the Senate.

Mr. BENNETT. There probably were some.

Mr. BIBLE. I am sure there would be some. There usually is.

Mr. BENNETT. Mr. President, does the Senator realize with reference to the price of this road system we are talking about, $41 million, that if we are going to wait for Utah's share of the parks road money, we will be 50 years in getting enough money together to build this program.

I wish it were possible to build this road outside the park. But there is a difference in the terrain we are talking about between the land around Glen Canyon Recreation Area and Canyonlands National Park and around Lake Mead.

Mr. BIBLE. I realize that. I have been in every area there.

Mr. BENNETT. And the State Road Commission people tell me that if they attempt to build a road outside the park area and come up on the west of it, it will probably cost a great deal more money and will raise a very serious problem because the areas outside the park to the west may be designated as a wilderness area in which no roads may be built which is, of course, not true in a park area.

This is a very serious problem for my State to get the people down there. If we are just going to take these vast areas and put them into national parks and then not make it possible for people not only to just get to one point in the park but also to get through from one to another, I think it is tragic and so do the people of Utah.

Mr. BIBLE. Mr. President, I think we agree. There is a need for roads in the great State of Utah and in my great State and in other great States.

I have been responsive to that. I am trying to put jurisdictional responsibility where I honestly believe it belongs.

Based on my experience, I think that the report language is a sufficient mandate, which permits proper funding, as we go along. And it is difficult to secure this money whether under the Highway Service Act or under the Park Service Act.

All I am saying is that we have attempted first to create these parks and we have attempted to develop them realistically in accordance with the state of our treasury which is not in the best of shape. However, we have worked very faithfully, and I think, have done a very good job.

Mr. BENNETT. Mr. President, can the Senator tell me about any roads that have been built in parks as the result of the language in the report?

Mr. BIBLE. I think there have been a few. The Senator from Utah cites a couple of examples. I think Capital Reef does have a road.

Mr. BENNETT. They have roads.

Mr. BIBLE. I think that these roads were built prior to the creation of the park.

Mr. BENNETT. Mr. President, was that as the result of language in the report on the bill?

Mr. BIBLE. It was not, to the best of my recollection. At Lake Mead, with which I have the greatest familiarity, there is not any language there that requires the building of roads. The authority is in the Park Service Act itself. And they built the roads as they could develop them and as the funds were available. I think they met the responsibility extremely well.

There is a strong mandate in the report. In my own personal judgment, that is sufficient to get the job done and to do what the senior Senator from Utah and the junior Senator from Utah want to do. I think that we are headed in the same direction but are doing it a little differently.

Mr. BENNETT. Mr. President, I point out that the solicitor has told us that as a result of that lawsuit in California, the department no longer feels that it can move to make access connections with State roads.

Mr. BIBLE. I am not familiar with the Sequoia National Park to which the Senator refers. I think that it is a little different problem.

I have a letter from Acting Secretary of Interior Fred Russell—I do not know whether it has been made part of the record or not—which was addressed to me under date of July 2, 1970. He makes appreciable comment on the Senator's proposed amendment. I am sure that a copy was given to him.

In that case he says that he thinks in the transportation section, section 4(f), with which the Senator is familiar and has just commented on, there is sufficient authority under the general law to do what the Senator is suggesting and that the Park Service should not surrender that responsibility or that jurisdiction to a State highway commission.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the letter addressed to me under date of July 2, 1970, by Acting Secretary of the Interior Fred J. Russell.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 2, 1970.

Hon. ALAN BIBLE,
Chairman, Subcommittee on Parks and Recreation, Committee on Interior and Insular Affairs, U.S. Senate.

DEAR SENATOR BIBLE: At the recent hearing before your subcommittee on legislation to establish the Glen Canyon National Recreation Area, certain witnesses advocated inserting language in the bill that would reserve "highway corridors" through the area. Pursuant to committee staff request, the following paragraph articulates the Department's opinion on such language:

We do not oppose a road through the recreation area if there is no feasible and prudent alternative and if it is designed with minimum impact on the natural values of the area. We do, however, oppose language that would limit the Secretary's discretion to permit or not to permit the use of national recreation area lands for a road, in the absence of definite surveys. Moreover, section 4(f) of the Department of Transportation Act prohibits the use of park land for highway purposes unless there is no feasible or prudent alternative. As you know, this committee was most active in writing this protection into the Department of Transportation Act in 1966. Definitive studies, including alternatives, have not been made on this road location; therefore, to fix a location or corridor at this time would bypass the provisions of section 4(f), and unduly limit the Secretary's authority to administer and protect recreation and natural values in the area.

We appreciate the opportunity to present the above comments to your subcommittee.

Sincerely yours,

FRED J. RUSSELL,
Acting Secretary of the Interior.

Mr. BIBLE. Mr. President, I have no further comments to make. Simply repeating, I do not think that we have ignored the problem. I think that we were conscious of it.

I heard much of the testimony when they were in Washington. I did not read it all. I have read the exchange of letters between the two distinguished Senators from Utah. It looks to me that we are all driving in the same direction.

The senior Senator from Utah has one approach. The committee has another. I think that the committee approach is preferable.

I would make only one additional comment concerning the cost. It would cost more money in the future probably than it has in the past. But the Park Service road costs are to the advantage of a State.

This may be what the junior Senator from Utah (Mr. MOSS) had in mind. Building roads within the park itself, if it is made a Park Service responsibility, is not the State taxpayer's responsibility. That would be the obligation of the Federal Government or 100 percent of the taxpayers. Whereas, if there is a secondary road, constructed by the State road commission, in a national park, it becomes the obligation of the individual State; that is, on a Federal-State participating basis.

In Utah, I presume it is on an 85-percent basis. That is about what it is in our State. I would assume that it is very nearly that in the State of Utah.

I do not know if there is any particular percentage in arguing this matter further. This was submitted to the committee. The committee felt keenly that the solution they made in the language, as noted in the report, is the best practice. They also concluded that it was sufficient to build the roads in this area.

Mr. MOSS. Mr. President, I shall take only 2 minutes.

I have listened carefully to my colleague's statement with respect to his amendment. I agree with the objective he has in mind. During the 12 years I have been a member of the Committee on Interior and Insular Affairs I have been as vocal as anyone else and, perhaps more vocal than anyone else, in saying that our parks, monuments, and recreation areas should be available to the average American citizen. I have insisted that we should have adequate roads in these areas.

The matter now before us came to my attention before the hearings were held. As a matter of fact, representatives of the State road commission came and testified at my invitation in order to enlighten the committee with respect to what they felt should be done by way of roads. They accepted the invitation, they appeared and testified. The committee considered fully what they said. It was considered in executive session. But the road corridor idea was not included in the bill because it is contrary to the policy of the National Park Service for all recreation and park areas. Members of the Committee on Interior and Insular Affairs appreciate this position.

Mr. President, the proposal does represent the point of view of the Governor or the State Roads Commission.

I read an article in the Salt Lake Tribune of June 27, 1970, which stated:

> Clem Church, Panguitch, Commission Chairman, said Commissioners "support 100 percent" the language of a bill sponsored by Senator Frank E. Moss, D-Utah, and that Senator Wallace F. Bennett's proposal to write guarantees into the bill by amendment—rather than leave them as they stand in the Senate Subcommittee report on the bill—came "as a surprise" to him.

Mr. Church is the man who came and testified before the committee representing the State Roads Commission and the Governor at that time.

Therefore, I think that what we have done in writing the bill and the report is to act in accordance with the precedent of the National Park Service and the requirements of the National Park Service. At the same time we have made it eminently clear that the committee expects the National Park Service to construct roads in the parks and recreation areas that will connect with roads built by the State so that there will be full access by the ordinary citizen to view the unique wonders of said national parks. As stated in the report:

> The committee endorses the State program of providing corridors of adequate scenic highways leading to recreational and park reservations. It is an obligation of the Federal Government to cooperate with the States in assuring accessibility for the average American to enjoy our great scenic heritage, such as exists in this wild and beautiful section of Utah.

I think we are getting at the same thing and I think we want to get at the same thing. What the bill now states is acceptable to the National Park Service.

Mr. BENNETT. Mr. President, I yield myself 1 minute.

I also read the statement which was published in the Salt Lake Tribune, and I was the one who was surprised because Mr. Church presided over the meeting of the State Road Commission I attended, and it was he who urged me to offer these amendments. I think it is probably a "misreporting" but that is neither here nor there. I could not permit the inference to pass that we have not been telling the truth when I said that I attended the meeting of the State Road Commission and was urged to do this by them, and Mr. Church presided over that meeting.

Mr. BIBLE. Mr. President, I am sure everyone here is telling the truth. The position of the senior Senator from Utah (Mr. BENNETT) is clear. It is another way to handle the problem. We think the committee solution is best. The yeas and nays have been ordered, and I suggest we call the roll.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 778 of the senior Senator from Utah (Mr. BENNETT). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. MONDALE) is absent on official business.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA) would vote "nay."

Mr. GRIFFITH. I announce that the Senator from Colorado (Mr. DOMINICK) is necessarily absent.

The Senator from Colorado (Mr. ALLOTT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) are absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. JORDAN) and the Senator from Oregon (Mr. PACKWOOD) are detailed on official business.

If present and voting, the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from South Dakota (Mr. MUNDT), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The result was announced—yeas 37, nays 41, as follows:

[No. 245 Leg.]

YEAS—37

Aiken
Baker
Bellmon
Bennett
Boggs
Brooke
Case
Cook
Cooper
Cotton
Curtis
Dole
Fannin
Fong
Goodell
Griffin
Gurney
Hansen
Hatfield
Hruska
Javits
Mathias
Miller
Murphy
Pearson
Percy
Prouty
Saxbe
Schweiker
Scott
Smith, Ill.
Stevens
Talmadge
Thurmond
Tower
Williams, Del.
Young, N. Dak.

NAYS—41

Allen
Anderson
Bayh
Bible
Burdick
Byrd, W. Va.
Cranston
Eagleton
Ellender
Ervin
Gravel
Harris
Hart
Hartke
Holland
Hughes
Jackson
Jordan, N.C.
Kennedy
Long
Magnuson
Mansfield
McClellan
McGee
McGovern
McIntyre
Metcalf
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Sparkman
Spong
Stennis
Symington
Tydings
Williams, N.J.
Young, Ohio

NOT VOTING—22

Allott
Byrd, Va.
Cannon
Church
Dodd
Dominick
Eastland
Fulbright
Goldwater
Gore
Hollings
Inouye
Jordan, Idaho
McCarthy
Mondale
Montoya
Mundt
Packwood
Ribicoff
Russell
Smith, Maine
Yarborough

So Mr. BENNETT'S amendment was rejected.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BIBLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 26) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 26

An act to revise the boundaries of the Canyonlands National Park in the State of Utah

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of September 12, 1964 (78 Stat. 934), is revised to read:

"That in order to preserve an area in the State of Utah possessing superlative scenic, scientific, and archeologic features for the inspiration, benefit, and use of the public, there is hereby established the Canyonlands National Park which, subject to valid existing rights, shall comprise the area generally depicted on the drawing entitled 'Boundary Map, Canyonlands National Park, Utah', numbered 164-91004 and dated June 1970, which shows the boundaries of the park having a total of approximately three hundred and thirty-seven thousand two hundred and fifty-eight acres. The map is on file and available for public inspection in the offices of the National Park Service, Department of the Interior."

SEC. 2. Section 2 of the Act of September 12, 1964 (78 Stat. 934) is amended as follows:

(1) delete the words "described in section 1 hereof or" which appear after the word "area" in the first sentence;

(2) insert the words "or any amendment thereto" after the word "Act" in the third sentence; and

(3) insert the words "or any amendment thereto" after the word "Act" in the fifth sentence.

SEC. 3. Section 3 of the 1964 Act is amended as follows: insert the words "or any amendment thereto" after the word "Act".

AMENDMENT OF THE INTERNATIONAL TRAVEL ACT OF 1961—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 14685) to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes. I ask unanimous consent for the immediate consideration of the report.

The PRESIDING OFFICER (Mr. EAGLETON). The report will be read for the information of the Senate.

The assistant legislative clerk read the report.

(For conference report, see House proceedings of July 14, 1970, pp. 24031-24033, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the immediate consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MAGNUSON. Mr. President, I need not tell the Senate that international travel is the largest single item in world trade, and the United States is the world's largest travel market and foremost destination. In 1968, we earned more money—$2.030 billion—than any other country and received more visitors, 10.9 million. Yet the more than 18 million U.S. citizens who went abroad that year, and spent $3.907 billion, caused a travel deficit of $1.877 billion in our balance of payments.

World tourism, measured by arrivals and receipts, has grown tenfold over the past 20 years and since the introduction of jet transportation 10 years ago, it has doubled. In the coming decade an even more substantial rise is anticipated. It is estimated that the number of international tourists will quadruple over the next 10 years.

Since enactment of the International Travel Act of 1961 and the creation of the U.S. Travel Service the United States has been attracting 8 percent of total world tourist arrivals, and our receipts from foreign visitors have increased at an average annual rate of about 9.6 percent.

While this rate of growth has been satisfactory in both of these areas and compares favorably with many other competitive countries, the United States has not been successful in increasing its percentage share of total ironically, a chronic travel deficit—that is, the difference between the amount of money spent by foreign visitors to the United States and what our citizens spend visiting abroad. This deficit is a significant contributor to our overall balance-of-payments crisis. No one suggests that American citizens are not going to travel abroad and that they are going to spend more money, if they have it, than most other travelers. We once tried to do something about it, but it just is impossible to change the situation. The answer is to get more people to come here and close the gap, and that is what we have been trying to do since 1961, when the Senator from New York and I had a bill—I have had two or three—in which we started the travel service.

Our efforts as a government to attract international tourists have been relatively recent and limited in scope. We never could get any budget, under any administration, to give the amount of money that is necessary, because a lot of this means promotion.

Almost all the other countries add to what they get in tourism and take a flat percentage of that and use it for promotion. According to the last figure I saw from the Federal Government, the Belgian Congo spent more money for trade promotion than we did. England, France, and other countries use a certain percentage, as is done in any good promotional business.

The coming decade offers an unprecedented opportunity for an international travel breakthrough for the United States.

We have a little more money in this year's budget, but hardly enough. The conference report is substantially the Senate's bill. Very little was changed. There are some technical amendments. It sets up the people again to look at this matter, and it will provide $1.5 million to do it. The regular promotion for the regular travel service is separate.

It also provides something else that is very important. We have a big program in the travel service, to see America. To take care of this deficit—say, the State of New York or the State of Michigan or the State of Washington or any other State wants to set up a program—it provides for a grant to the States, matching 50 percent, and this is going to be helpful.

We are the only country in the world, with one exception, and it is not developed in certain areas, in which travel and tourism are not seasonal. Anyone can come to the United States any time —winter, spring, autumn, or summer— and find what he wants. This is what I want to promote with the States. The States do a pretty good job of attracting tourism. I think every State in the Union has an active tourist bureau, and we want to promote that and work with the Federal Government, to see whether we can do something about the deficit that is getting higher and higher every year, even though we have increased this 9.6 percent every year since the bill was passed.

I believe that H.R. 14685 as reported by the conference committee provides the framework within which the Government and the travel industry can realize the tremendous opportunity to attract foreign visitors that is ours in the 1970's.

Mr. President, the bill which came out of conference is substantially the bill which passed the Senate, and in no respect significantly differs from it. I wish to commend my colleagues who served on the conference committee as well as their counterparts from the House.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. JAVITS. Mr. President, I rise today for two reasons—first, to comment on the substantive aspects of what this conference report seeks to accomplish; and second, to express my pleasure in the collaboration, which developed when I came to the Senate with Senator MAGNUSON in what had been a longstanding effort of mine to bring our country to the realization of the potential inherent in tourism and how we were suffering from not developing that potential.

Without Senator MAGNUSON this progress in developing world travel resources would have been impossible. He took up this cause and has been very gracious, though he was chairman of the appropriate committee, to join me in it; it has worked that way ever since.

Mr. President, obviously, the so-called travel gap is the principal element of disequilibrium in our balance of payments. It was down to approximately $1 billion when I first started in the Senate. It is now $1.8 billion, and is climbing every year. We want our citizens to travel. Yet we do not want this freedom of travel to repair the strength of the dollar.

It may interest the Members of Congress to know that in the last conversation I had with President Kennedy before the tragic assassination took place, we talked about the balance of payments. He was then gravely concerned about it, and we even talked about the possibility of some curtailment of what American citizens could take abroad, because our situation was so bad. He did not like it; nobody liked it; but, nonetheless, it was that bad.

Yet, as Senator MAGNUSON has eloquently said, we have never adapted our resources to stimulate travel, which this country so readily deserves. Mexico, for example, earns now approximately $900 million a year net out of travel, mainly from the United States. That is the balance in its favor.

There are tens of millions of people in the world who ought to be traveling here. We have never articulated the situation intelligently enough to attract them. This is a situation which calls for improvement. I have introduced this bill, as cosponsor with Senator MAGNUSON, to try to beef up the situation. The improvement is in the authorization for the U.S. Travel Service, which is now $15 million, a figure which we certainly ought to meet in the appropriation. It is little enough. The bill also contains matching funds for State programs. This parallels our good experience in the arts and humanities, which has developed 50-State art councils which we would not have had otherwise. Finally, the bill sets up a commission, at long last, to look at the entire travel picture—what the facilities are, how they are run, how welcome we are to tourists, what language services we give, what packaged tours we arrange, and what we impose upon the foreign traveler through our customs and immigration requirements. There was a time, for example, when we fingerprinted tourists from foreign countries. It sounds like a joke, but it is true. And we expected them to love to come to America.

This commission will see what private business is doing. There was an effort in a program called "Discover America," by private enterprise—the travel companies, the airline companies, and so forth—to work up some kind of program for promotion of travel to this country. It never got off the ground, but that remains a possibility. So the commission is a very welcome addition. I know that Senator MAGNUSON will work with it closely, and so will I, in the hope that, at long last, a realization may come of the magnitude of the problem and the amount of money which needs to be spent on it.

I would estimate that the $15 million spent in promoting travel to the United States could result in cutting the travel gap by $500 million—it is that kind of leverage—perhaps even more than that. It is that kind of leverage which we could have in a very businesslike arrangement by which you get back for what you spend a minimum of 10 to 1, assuming, naturally, that it is spent intelligently and in areas from which travel can be stimulated.

So I join with the chairman of the Commerce Committee in commending this conference report to the Senate. I express my great satisfaction at our working together as we have.

I urge the Senate to pay strict attention to the report of this commission when it comes along. We shall do our utmost, naturally, to stimulate an early report, as this is one of the best ways, for many cultural and international relations reasons, in which to deal with the serious and worsening balance-of-payments problem of the United States. We are dealing here with one of the biggest single items in the adverse balance of payments. I hope, at the very least, that we get this program started.

I think that the chairman, Senator Magnuson, has done a magnificent job in this respect, and I urge the Senate to approve the conference report.

Mr. MAGNUSON. I thank the Senator. I hope he will join me so that it will be in the Record. I think one of the big jobs we have got to do is to dispel the sort of universal feeling or opinion that it is too expensive for foreign visitors to travel in the United States.

Mr. JAVITS. Exactly.

Mr. MAGNUSON. Of course, it is not. Maybe it is a little higher in New York. But it is not. As a matter of fact, I want to compliment and call again upon the travel people, the feeder airlines who give discounts and the car rental people, and many hotels and resorts that give inducements, that we must continue that.

The only one who has not got a monthly system or a tab is the railroad. I think it is about time they started to think about that.

Mr. JAVITS. My daughter this year, purchased for $180 a Euro-pass which will enable her to travel in Europe without limit, on all railroads, for 2 months. We should be able to offer the same convenience. Our airlines, for example, do not have any special arrangements, and I hope that they would explore all the possibilities.

Mr. MAGNUSON. I agree with the Senator. For all these reasons we look to the Commission for guidance and instruction. We look for some active coordination. A great deal can be done by the Commission, using its good offices, even before we get the report or before we get the legislation.

Mr. President, I move adoption of the conference report.

The motion was agreed to.

GLEN CANYON NATIONAL RECREATION AREA

Mr. BIBLE. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 925, S. 27.

The PRESIDING OFFICER (Mr. Kennedy). The Chair would inform the Senator from Nevada that under the previous order, the pending business is S. 27.

The clerk will state the bill by title.

The Bill Clerk. S. 27, a bill to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah.

The PRESIDING OFFICER. Is there objection to consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 10, after the word "numbered", strike out "LNPSW 1000A GLC,"; and insert "ARIZONA-UTAH-GLC 91001,"; in line 11, after the word "dated", strike out "February 1968," and insert "May 1970,"; in line 8, after the word "powersite', strike out 'development," and insert "development or related facilities,"; at the beginning of line 14, strike out "sixty-five thousand acres." and insert "sixty-seven thousand four hundred and twenty acres"; in line 21, after the word "be", strike out "acquitted", and insert "acquired"; on page 3, line 3, after the word "other", strike out "disposal", and insert "disposal and which is located in the same State as the non-Federal property to be acquired."; on page 5, line 15, after the word "and", strike out "Wyoming" and insert "Arizona"; after line 16 strike out:

Sec. 6. In carrying out the functions prescribed by this Act, the Secretary shall provide for vacation cabin site use, in accordance with existing policies of the Department of the Interior relating to such use, or as such policies may be revised thereafter by the Secretary.

Sec. 7. (a) Designated National Park Service employees of Glen Canyon National Recreation Area may make arrests for violations of any Federal laws or regulations applicable to the area and they may bring the accused person before the nearest commissioner, judge, or court of the United States having jurisdiction in the premises.

(b) Any United States commissioner appointed for the Glen Canyon National Recreation Area may try and sentence persons committing petty offenses, as defined in title 18, section 1, United States Code, except the commissioner shall apprise the defendant of his right to elect to be tried in the district court of the United States, and the commissioner may try the case only after the defendant signs a written consent to be tried before the commissioner. The exercise of additional functions by the commissioner shall be consistent with and be carried out in accordance with the authority, laws, and regulations, of general application to United States commissioners. The provisions of title 18, section 3402, United States Code, and the rules of procedure and practice prescribed by the Supreme Court pursuant thereto, shall apply to all cases handled by such commissioner. The probation laws shall be applicable to persons tried by the commissioner and he shall have power to grant probation. The commissioner shall receive the fees, and none other, provided by law for like or similar services.

And on page 6, at the beginning of line 23, strike out "Sec. 8." and insert "Sec. 6."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the State of Arizona and Utah and to preserve scenic, scientific, and historic features contributing to public enjoyment of the area, there is established the Glen Canyon National Recreation Area to comprise the area generally depicted on the drawing entitled "Boundary Map, Glen Canyon National Recreation Area", numbered ARIZONA-UTAH-GLC 91001, and dated May 1970, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior. When the Secretary of the Interior finds that two tracts of land adjacent to the boundary of the national recreation area at Sit Down Bench and Warm Creek, comprising seven thousand eight hundred and thirty-six acres and four thousand nine hundred and forty-six acres, respectively, are not needed or used for powersite development or related facilities, he may add the lands to the area by publication of a notice in the Federal Register, and from time to time he may make other boundary revisions in the same manner, but the total acreage of the national recreation area may not exceed one million one hundred and sixty-seven thousand four hundred and twenty acres.

Sec. 2. (a) Within the boundaries of the national recreation area, the Secretary of the Interior may acquire land and interests in land by donation, purchase with donated or appropriated funds, or by exchange, except that land owned by a State, political subdivision thereof, or an Indian tribe may be acquired only with the concurrence of the owner.

(b) When acquiring property by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the national recreation area, and in exchange therefor he may convey to the grantor of such property and federally owned property under his jurisdiction which he classifies as suitable for exchange or other disposal and which is located in the same State as the non-Federal property to be acquired. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(c) Nothing in this Act shall be construed to affect the mineral rights reserved to the Navajo Indian Tribe under section 2 of the Act of September 2, 1958 (72 Stat. 1686), or the rights reserved to the Navajo Indian Tribal Council in said section 2 with respect to the use of the lands there described under the heading "PARCEL B".

Sec. 3. (a) The lands within the national recreation area, subject to valid existing rights, are withdrawn from location, entry, and patent under the United States mining laws. Under such regulations as he deems appropriate, the Secretary of the Interior may permit the removal of the nonleasable minerals from lands or interests in lands within the national recreation area in the manner prescribed by section 10 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387 et seq.), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if he finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area pursuant to this Act.

(b) All receipts derived from permits and leases issued on lands in the national recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

Sec. 4. The Secretary of the Interior shall administer, protect, and develop the Glen Canyon National Recreation Area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and with any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this Act: *Provided however,* That nothing in this Act shall affect or interfere with the authority of the Secretary of the Interior granted by Public Law 485, Eighty-fourth Congress, second session, to operate Glen Canyon Dam and Reservoir in accordance with the purposes of the Colorado River Storage Project Act for river regulation, irrigation, flood control, and generation of hydroelectric power.

Sec. 5. The Secretary shall permit hunting, fishing, and trapping on the lands and waters under his jurisdiction within the recreation area in accordance with the applicable Federal and State laws: *Provided,* That the Secretary, after consultation with the respective State fish and game commissions, may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Nothing in this Act shall affect the jurisdiction or responsibilities of the States of Utah and Arizona under other provisions of State laws with respect to hunting and fishing.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. BIBLE. Mr. President, the purpose of the bill before us is to establish by statute, and clarify the uses and boundaries of the Glen Canyon National Recreation Area, the giant scenic recreation resource created in Utah and Arizona by the Glen Canyon Dam on the Colorado River. As the chairman of the Parks and Recreation Subcommittee, I want to emphasize my unqualified endorsement of this project.

It has been my privilege to visit this and the Glen Canyon area and I have a profound appreciation of their potentials both as a park and a public recreation unit.

This recreation area was established by administrative action in 1965 on land withdrawn from public entry for the Glen Canyon Reservoir project. The current bill would reduce by some 40,000 acres the size of the original region and would embrace a territory of approximately 1,154,638 acres of land and water.

Last year Glen Canyon attracted over 781,000 people. It is expected that by 1975 over 1½ million people will be visiting this national recreation area annually.

The region requires the statutory protection that this bill will give it. It is also necessary to spell out the multiple use purposes for which land within recreation areas can be used—subject, of course, to regulation by the National Park Service to protect the scenery and historic values of the area.

The legislation extends the boundaries of the Glen Canyon northward to embrace parts of a remarkable section of the country known as the Maze which lies to the north of the recreation area and west of Canyonlands National Park. Also included are six sections to the south at the lower tip of the intriguing waterpocket fold.

As introduced, the bill also removes from the recreation area two tracts included in the original reclamation withdrawal—Sit Down Bench and Warm Creek, approximately 7,836 and 4,964 acres, respectively. These two properties are immediately adjacent to Lake Powell, and are conveniently suitable for steam powerplant development. Subsidiaries of three private companies have expressed an interest in them, and are presently engaged in preliminary engineering and economic studies.

Since further economic development of the properties will require that the Department of the Interior grant easements and rights-of-way over, under, or across the Glen Canyon Recreation Area, the committee in reporting the bill, has stipulated that said easements and rights-of-ways should be authorized on a nondiscriminatory basis.

The Department of the Interior has indicated in a letter to the Senate Interior Committee that it has "ample authority to permit the use of Federal lands within the national recreation area for the purposes stated by the company or companies. The proposed industrial development is most important to the economy of the State of Utah, and especially to the southern part of the State.

During the hearings on S. 27, several conservation groups recommended that the entire drainage of the Escalante River, which lies to the north and west of the recreation area, be set aside as a wilderness area, and asked that the Escalante, included within the boundaries of Glen Canyon, be so designated. Accordingly, the committee has requested the Department of the Interior to make a study of the Escalante section and send its recommendations to the Congress; for example, suitability as a wilderness.

In the canyonlands enlargement bill, the Committee noted the request of the State of Utah that corridors be designated for adequate scenic highways as provided in its report.

It was the feeling of the committee however that specific areas for corridors should not be spelled out in this or in the Recreation Area legislation. This is in conformity with existent regulations: that is, Section 4(f) of the Department of Transportation Act which prohibits the use of park or recreation land for highway purposes unless there is no feasible or prudent alternative. The committee, however, strongly endorsed and made it part of the legislative history that "adequate scenic highways" should be built and that the Federal Government is obligated to cooperate with the States in assuring "accessibility for the average American to enjoy our great scenic heritage" in Canyonlands.

The bill as reported reaffirms continued authority for the removal of both leasable and nonleasable minerals from the recreation area, and for the continued issuance of grazing permits. It also permits hunting, fishing, and trapping in accordance with State law.

Nearly all of the land in the recreation area is public land. The cost of acquiring the 160 acres of private land is set at $175,000. The administrative costs of operating the area will not be increased by passage of this legislation.

Mr. President, I move that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

Mr. BIBLE. Mr. President, I move that the bill as amended by the committee amendments be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, the purpose of the bill before us is to establish by statute, and clarify the uses and boundaries of the Glen Canyon National Recreation Area, the giant scenic recreation resource created in Utah and Arizona by the Glen Canyon Dam on the Colorado River.

This recreation area was established by administrative action in 1965 on land withdrawn from public entry for the Glen Canyon Reservoir project. The bill would reduce by some 40,000 acres the size of the original recreation area, and would embrace a territory of approximately 1,154,638 acres of land and water.

Most of the area is rough and beautiful canyon country which has been known to various Indian tribes for over 2,000 years. Scattered through it are relics of ancient settlements and people. To this scenic and historic region have been added the beauty and recreational lure of the blue waters of Lake Powell, and the engineering marvels of the massive concrete dam of Glen Canyon. Rainbow Bridge National Monument abuts the recreation area as does Canyonlands National Park.

The area has become a great recreation magnet, and last year it attracted over 781,000 people. It is expected that by 1975 over 1½ million people will be visiting Glen Canyon National Recreation Area annually.

The area requires the statutory protection that this bill will give it. We also need to spell out the multiple use purposes for which land within recreation areas can be used—subject, of course, to regulation by the National Park Service to protect the scenery and historic values of the area.

The bill as introduced extended the boundaries of the recreation area northward to embrace parts of a remarkable section of the country known as the Maze which lies to the north of the Glen Canyon Recreation Area and west of Canyonlands National Park. The bill has been amended to include six sections to the south at the southernmost tip of the waterpocket fold. These are both spectacular and unique areas and should be protected.

As introduced, the bill also removed from the recreation area two tracts included in the original reclamation withdrawal—Sit Down Bench and Warm Creek, approximately 7,836 and 4,964 acres respectively. These two areas are immediately adjacent to Lake Powell, and are suitable for steampower plant development.

Subsidiaries of three private companies have expressed an interest in them, and are presently engaged in preliminary engineering and economic studies.

Since further economic development of the properties will require that the Department of the Interior grant easements and rights-of-way over, under or across the Glen Canyon Recreation Area, the committee, in reporting the bill, has called attention to the importance of allowing these things to be done.

The Department of the Interior has indicated in a letter to the Senate Interior Committee that it has:

> Ample authority to permit the use of Federal lands within the national recreation area for the purposes stated by the company * * *.

There must be no question about this authority, or the exercise of it. The cost of the completed project is in the neighborhood of $900 million, and no company should be encouraged to make this kind of investment without assurance of full access to its property. The proposed development is most important to the economy of the State of Utah, and especially to the southern part of the State.

During the hearings on S. 27, several conservation groups recommended that the entire drainage of the Escalante River, which lies to the north and west of the recreation area, be set aside as a wilderness area, and asked that the Escalante be included within the boundaries of Glen Canyon.

The Committee has asked the Department of the Interior to make a study of the Escalante watershed and send its recommendations to the Congress.

In the Canyonlands enlargement bill, the committee noted the request of the State of Utah that corridors be designated for adequate scenic highways as provided in its report as follows:

> The committee endorses the State program of providing corridors of adequate scenic highways leading to recreational and park reservations. It is an obligation of the Federal Government to cooperate with the States in assuring accessibility for the average American to enjoy our great scenic heritage, such as exists in this wild and beautiful section of Utah.

It was the feeling of the committee that specific areas for corridors should not be spelled out in this the National Park or the recreation area bills in the interest of later flexibility; however, the committee strongly endorsed and made it part of the legislative history that "adequate scenic highways" should be built and that the Federal Government is obligated to cooperate with the States in assuring "accessibility for the average American to enjoy our great scenic heritage" in canyonlands. It is implicit that this same position applies on the recreation area. It must be perfectly clear that appropriate roads should be built to enable our people to enter and use Glen Canyon National Recreation Area.

The bill as reported reaffirms continued authority for the removal of both leasable and nonleasable minerals from the recreation area, and for the continued issuance of grazing permits. It also permits hunting, fishing, and trapping in accordance with State law.

Nearly all of the land in the recreation area is public land. The cost of acquiring the 160 acres of private land is set at $175,000. The administrative costs of operating the area will not be increased by passage of this legislation.

I ask that the bill as amended, be passed.

AMENDMENTS NO. 727

Mr. MOSS. Mr. President, I call up my amendments No. 727 and ask that they be stated.

The PRESIDING OFFICER. The amendments will be stated.

The bill clerk read as follows:

> On page 3, line 18 and line 22, change the word "may" in each line to "shall".
>
> On page 6, add a new section 6 as follows:
>
> "Under such regulations as he deems appropriate, the Secretary of the Interior shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across or along any component of the Glen Canyon National Recreation Area, if he finds that such easements and rights-of-way would not have significant adverse effects on the administration of the National Recreation Area pursuant to this Act.
>
> On page 6, renumber section 6 as section 7.

Mr. MOSS. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. MOSS. Mr. President, I ask that my amendment be modified by striking the first seven words on line 4 and changing the "t" to a capital "T" so that it will then begin "The Secretary of the Interior."

The PRESIDING OFFICER. The Chair would inform the Senator from Utah that the Senator has a right to modify his amendment, and it is modified accordingly.

Mr. MOSS. Mr. President, what this has to do with is the fact that adjacent to the Glen Canyon National Recreation Area there is a vast coal deposit in the plateau there. For some time, negotiations have been carried on with a group of electric utility companies who intend to build there a generating plant, using coal, to send the electricity over long-distance lines to southern California and other areas where there is a growing power demand.

Adjustments have been made in the boundaries of the recreation area so that it would be an adequate site for the plant, but what will be necessary is that there be a way to take the powerlines out when the electricity is generated.

There of course will have to be roads and some of them may touch the recreation area. There is even the possibility that it might be necessary to have an easement for other types of facilities.

The amendment provides that the Secretary shall grant these easements and rights-of-way upon a nondiscriminatory basis, if he finds that such easements and rights-of-way would not have significant or adverse effects on the administration of the national recreation areas.

This has been discussed at considerable length. It seems to me this is necessary to enable it to be made use of. It is of great interest, of course, to my State of Utah. They expect to invest $900 million in its construction so that, in order to be sure of that investment they need to have assurance that they will be granted the rights-of-way on a nondiscriminatory basis; but the Secretary does retain the right to determine where that shall be done, so that it will not adversely affect the recreational values of the area.

This is a good amendment, Mr. President, and I urge that it be adopted.

Mr. BIBLE. The Senator from Utah (Mr. Moss), the sponsor of the amendment, has discussed this amendment, as modified, with me.

As modified, I have no objection to it. I concur in its passage.

Mr. BENNETT. Mr. President, as our population grows, there is increasing and constant demand for better recreational facilities. To meet these needs, we are in the process of creating the Glen Canyon National Recreational Area. I support this bill because I think it will be significant to the people of the West. At the same time we are improving our recreational facilities, it becomes necessary for the United States to produce more and more electrical power.

Recently Interior Secretary Walter Hickel approved, after many years of delay, the water contract for the Kaiparowits project in southeastern Utah. I had worked for this accomplishment for many years, and was greatly pleased when it came to fruition under the Nixon administration. In creating the Glen Canyon National Area it will be necessary to write into the law certain right-of-way authority for the Kaiparowits project. Such an amendment is being offered by my colleague, Senator Moss, and I fully support it. The amendment will direct the Secretary of the Interior to grant easement and rights-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the Glen Canyon Recreational Area. I point out that in signing the contract with the three participating companies who will develop Kaiparowits, the Interior Department, acting for the U.S. Government, wrote into the contract very stringent water and air pollution guidelines.

In supporting the amendment, I wish to point out how important Kaiparowits is to the State of Utah and to the surrounding areas. The cost of the project is estimated to be around $900 million and will have a projected work force of 2,000 employees. It will generate ultimately between 5 and 6 million kilowatts of electricity and return to the Government in taxes a great deal of income.

I believe it is entirely possible to have this kind of power generating project along with a beautiful national park recreational area. We have come too far in both projects, Kaiparowits and the Glen Canyon Recreational Area, to scuttle one or the other. Both are vital to the economic and recreational health of the State of Utah, and consequently, I call upon my colleagues to support the amendment offered by Senator Moss to grant the rights-of-way for the Kaiparowits project.

Mr. President, I concur in the necessity for the amendment. I hope that it will be approved.

The PRESIDING OFFICER (Mr. KENNEDY). The question is on agreeing to amendments No. 727, as modified, of the Senator from Utah.

The amendments, as modified, were agreed to en bloc.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 779

Mr. BENNETT. Mr. President, I send amendment No. 779 to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. BENNETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

> On page 6, between lines 22 and 23, insert the following:
>
> "SEC. 6. (a) The State of Utah, acting through its State road commission, is authorized to construct and maintain a high-

way to secondary standards as defined by the American Association of State Highway Officials within the corridors to be surveyed and commencing from Glen Canyon City through the Glen Canyon Recreation Area to Bullfrog Basin; and from Utah Highway 95 near Hite through the Glen Canyon Recreation Area to the Canyonlands National Park boundary and connecting with a State road through Canyonlands National Park to a junction with Utah Highway 279 near Moab.

"(b) The Secretary of the Interior is authorized to construct and maintain markers and other interpretive devices typical of national park areas providing such markers or devices do not violate current highway safety standards. The Secretary is further authorized to connect with such routes those park roads and trails which he determines desirable. Any such road so constructed within such corridors by the Utah State Road Commission shall be permanently kept open for general public travel.

"(c) The State of Utah shall have full authority to regulate traffic and enforce the highway laws relating to highway use in the State of Utah with respect to any road constructed pursuant to this section. The right-of-way shall vest with the United States subject to the perpetual use of same as a public highway so long as needed for such purpose, as determined by the Utah State Road Commission.".

On page 6, line 23, strike out "SEC. 6." and insert "SEC. 7.".

Mr. BENNETT. Mr. President, this is really the second part of a necessary two-part amendment, or amendment to two bills to accomplish what I sought to accomplish by the amendment I offered to S. 26.

Since we had a record vote on that and the Senate expressed itself, I will be happy to suggest that we have a voice vote at this time on this amendment, without any further discussion.

Mr. BIBLE. Mr. President, that is entirely agreeable with me as the manager in charge of the bill. The Senator from Utah (Mr. BENNETT) and I have discussed this matter when we laid out the program for the day on the two bills, S. 26 and S. 27. They are related. The same argument that could be made on the Bennett amendment to S. 26 can be made on this same amendment to S. 27. Therefore, I see no reason to remake that argument and am perfectly willing to rely on a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. BENNETT), No. 779.

The amendment was rejected.

Mr. MOSS. Mr. President, I ask unanimous consent that a copy of a letter addressed to me by Mr. Alan Nedry of the Southern California Edison Co. be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SOUTHERN CALIFORNIA EDISON CO.,
Washington, D.C., June 26, 1970.

Hon. FRANK E. MOSS,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: This will supplement our conference of Wednesday wherein representatives from your office and from the Senate Committee on Interior and Insular Affairs, and a representative from the Solicitor's office, Department of the Interior, discussed a proposed amendment to your bill which would establish by statute the Glen Canyon National Recreation Area, S. 27.

As you know and as was spelled out in the Committee report (S. Rept. 91–924), there is considerable interest in developing a power generating facility which would ultimately have a capacity of 5–6 million kilowatts. It is estimated that the cost of this project would be about $900 million. Those of us who are associated in considering this prospective development further estimate that upon completion of the total project—after about ten years—some 2,000 employees would be needed to operate the coal mines and the powerplants. Payroll would probably exceed $70,000 per day, and supplies and services for the operation of the facility would be on the order of $12 million annually. We estimate that royalty paid to the Federal Government would be at the rate of 17.5c per ton of coal mined. On a production of 15 million tons annually, this would generate over $2.5 million of income, of which 37.5%, or about $1 million, would be returned to the State of Utah under the Mineral Leasing Act.

You will also recall that as a further step in the projected development of this powersite, the subsidiary companies of the three electric utilities involved executed a "Contract for Water Service from Lake Powell" with the U.S. Department of the Interior on October 2, 1969 (Contract No. 14–06–400–5139). It is my recollection that you participated in the signing ceremony at the Department of the Interior when Secretary Hickel executed this contract on behalf of the United States. You may also recall that the water contract calls for very stringent water and air pollution controls as a condition for using Lake Powell waters.

With respect to our conference of Wednesday, as I explained to you and your associates, to further the development of these resources for power generation purposes it will be necessary to obtain easements and rights-of-way over limited portions of the Glen Canyon National Recreation Area to accommodate necessary transmission lines, roads, pipelines and other related facilities. It was to that end that we discussed an amendment which you would consider offering during consideration of S. 27 in the United States Senate. The language which you have proposed would read as follows:

"The Secretary of the Interior shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across or along any component of the Glen Canyon National Recreation Area, if he finds that such easements and rights-of-way would not have significant adverse effects on the administration of the National Recreation Area pursuant to this Act."

I have reviewed this proposed amendment with our General Counsel. We are aware of the necessity for granting such easements and rights-of-way so as to minimize scenic and environmental impact. However, it would be difficult to plan and fund a facility of this size if it were to be deemed that the Secretary of the Interior had a veto over whether such easements and rights-of-way were to be issued under the authority granted him in the above amendment. Therefore, the finding to be made by the Secretary would not be premised on whether such grant should be made, but whether the location of the grants would be so inconsistent with the use and purposes of the Area as to have significant adverse effects on the Area.

The amendment which you have proposed also refers to the fact that the Secretary of the Interior shall grant easements and rights-of-way on a "nondiscriminatory basis". It is our understanding that such phrase is intended to mean that such easements and rights-of-way will be granted on the same basis and on the same terms and conditions to anyone receiving such grants without regard to the nature of the entity to whom such grant is made. In other words, all classes or types of applicants shall be treated on the same nondiscriminatory basis with respect to the terms and conditions contained in such rights-of-way or easements.

Thank you for your courtesy and cooperation in this matter, and if we can be of further assistance, please advise.

Very truly yours,

ALAN M. NEDRY.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER (Mr. KENNEDY). The bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 27) was passed, as follows:

S. 27

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the State of Arizona and Utah and to preserve scenic, scientific, and historic features contributing to public enjoyment of the area, there is established the Glen Canyon National Recreation Area to comprise the area generally depicted on the drawing entitled "Boundary Map, Glen Canyon National Recreation Area", numbered ARIZONA–UTAH–GLC 91001, and dated May 1970, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior. When the Secretary of the Interior finds that two tracts of land adjacent to the boundary of the national recreation area at Sit Down Bench and Warm Creek, comprising seven thousand eight hundred and thirty-six acres and four thousand nine hundred and forty-six acres, respectively, are not needed or used for powersite development or related facilities, he may add the lands to the area by publication of a notice in the Federal Register, and from time to time he may make other boundary revisions in the same manner, but the total acreage of the national recreation area may not exceed one million one hundred and sixty-seven thousand four hundred and twenty acres.

SEC. 2. (a) Within the boundaries of the national recreation area, the Secretary of the Interior may acquire land and interests in land by donation, purchase with donated or appropriated funds, or by exchange, except that land owned by a State, political subdivision thereof, or an Indian tribe may be acquired only with the concurrence of the owner.

(b) When acquiring property by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the national recreation area, and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction which he classifies as suitable for exchange or other disposal and which is located in the same State as the non-Federal property to be acquired. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(c) Nothing in this Act shall be construed to affect the mineral rights reserved to the Navajo Indian Tribe under section 2 of the Act of September 2, 1958 (72 Stat. 1686), or the rights reserved to the Navajo Indian

Tribal Council in said section 2 with respect to the use of the lands there described under the heading "PARCEL B".

SEC. 3. (a) The lands within the national recreation area, subject to valid existing rights, are withdrawn from location, entry, and patent under the United States mining laws. Under such regulations as he deems appropriate, the Secretary of the Interior shall permit the removal of the nonleasable minerals from lands or interests in lands within the national recreation area in the manner prescribed by section 10 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387 et seq.), and he shall permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or the Acquired Lands Mineral Leasing Act of August 7, 1947 (30 U.S.C. 351 et seq.), if he finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area pursuant to this Act.

(b) All receipts derived from permits and leases issued on lands in the national recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands.

SEC. 4. The Secretary of the Interior shall administer, protect, and develop the Glen Canyon National Recreation Area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and with any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of this Act: *Provided however,* That nothing in this Act shall affect or interfere with the authority of the Secretary of the Interior granted by Public Law 485, Eighty-fourth Congress, second session, to operate Glen Canyon Dam and Reservoir in accordance with the purposes of the Colorado River Storage Project Act for river regulation, irrigation, flood control, and generation of hydroelectric power.

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on the lands and waters under his jurisdiction within the recreation area in accordance with the applicable Federal and State laws: *Provided,* That the Secretary, after consultation with the respective State fish and game commissions, may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Nothing in this Act shall affect the jurisdiction or responsibilities of the States of Utah and Arizona under other provisions of State laws with respect to hunting and fishing.

SEC. 6. The Secretary of the Interior shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across or along any component of the Glen Canyon National Recreation Area, if he finds that such easements and rights-of-way would not have significant adverse effects on the administration of the National Recreation Area pursuant to this Act.

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. BIBLE. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MOSS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIBLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the order of Monday that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 12 minutes p.m.) the Senate adjourned until tomorrow, Thursday, July 16, 1970, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 15, 1970:

DIPLOMATIC AND FOREIGN SERVICE

Emory C. Swank, of the District of Columbia, a Foreign Service officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Cambodia.

HOUSE OF REPRESENTATIVES—*Wednesday, July 15, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

O give thanks unto the Lord, for He is good: for His mercy endureth forever.—Psalm 118: 29.

O Thou in whom we live and move and have our being, and from whom flows the life that is in us all, we thank Thee for the mercies which daily attend our days. For family and friends, for homes in which love rules, for churches in which we can worship as we desire, and for a Nation that is free, we thank Thee. For tasks which make us strong, for truth which enforces our endeavors for justice, and for love which enfolds us in our search for peace, we thank Thee.

Strengthen us to struggle against every enemy of the human spirit, to stand valiantly for what is true, right, and good, and help us so to live our own lives that when night comes we may not only receive praise from Thee but may also have the inner assurance of having fought a good fight and having kept the faith.

Bless our dear ones with the gift of Thy grace, comfort the sorrowing, heal the sick, and give light to all who sit in darkness. Bless our Nation with Thy favor and bring peace to all the nations: So may Thy kingdom come and Thy will be done on earth, to the glory of Thy holy name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills, and a joint resolution of the House of the following titles:

On July 8, 1970:

H.R. 1698. An act for the relief of Joeck Kuncek;

H.R. 2275. An act for the relief of John Thomas Cosby, Jr.;

H.R. 2315. An act for the relief of Josefina Policar Abutan Fuliar;

H.R. 3908. An act for the relief of Elizabeth B. Borgnino;

H.R. 4246. An act to discontinue the annual report to Congress as to the administrative settlement of personal property claims of military personnel and civilian employees; and

H.R. 4247. An act to amend section 2734 of title 10, United States Code, to authorize the Secretary concerned to make partial payments on certain claims which are certified to Congress and to provide equivalent authority for administrative settlement and payment of claims under section 2733 of title 10 and section 715 of title 32, United States Code.

On July 10, 1970:

H.J. Res. 546. Joint resolution authorizing the Secretary of the Interior to provide for the commemoration of the 100th anniversary of the establishment of Yellowstone National Park, and for other purposes;

H.R. 1695. An act for the relief of Alfredo Caprara;

H.R. 3348. An act for the relief of the estate of Pierre Samuel du Pont Darden;

H.R. 4574. An act to provide for the admission to the United States of certain inhabitants of the Bonin Islands;

H.R. 12941. An act to authorize the release of 4,180,000 pounds of cadmium from the national stockpile and the supplemental stockpile;

H.R. 13407. An act to consent to the amendment of the Pacific Marine fisheries compact;

H.R. 13740. An act for the relief of Kimball Bros. Lumber Co.;

H.R. 14118. An act to amend section 213 of the Immigration and Nationality Act, and for other purposes;

H.R. 15021. An act to authorize the release of 40,200,000 pounds of cobalt from the national stockpile and the supplemental stockpile;

H.R. 15831. An act to authorize the disposal of bismuth from the national stockpile and the supplemental stockpile;

H.R. 15832. An act to authorize the disposal of castor oil from the national stockpile;

H.R. 15833. An act to authorize the disposal of acid grade fluorspar from the national stockpile and the supplemental stockpile;

H.R. 15835. An act to authorize the disposal of magnesium from the national stockpile;

H.R. 15836. A act to authorize the disposal of type A, chemical grade manganese ore from the national stockpile and the supplemental stockpile;

H.R. 15837. An act to authorize the disposal of type B, chemical grade manganese ore from the national stockpile and the supplemental stockpile;

H.R. 15838. An act to authorize the disposal of shellac from the national stockpile;

H.R. 15839. An act to authorize the disposal of tungsten from the national stockpile and the supplemental stockpile;

H.R. 15998. An act to authorize the disposal of Surinam-type metallurgical grade bauxite from the national stockpile and the supplemental stockpile;

H.R. 16289. An act to authorize the disposal of natural Ceylon amorphous lump graphite from the national stockpile and the supplemental stockpile;

H.R. 16290. An act to authorize the disposal of refractory grade chromite from the national stockpile and the supplemental stockpile;

H.R. 16291. An act to authorize the disposal of chrysotile asbestos from the national stockpile and the supplemental stockpile;

H.R. 16292. An act to authorize the disposal of corundum from the national stockpile;

H.R. 16295. An act to authorize the disposal of natural battery grade manganese ore from the national stockpile and the supplemental stockpile; and

H.R. 16297. An act to authorize the disposal of molybdenum from the national stockpile.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 7517. An act to amend the Canal Zone Code to provide cost-of-living adjustments in cash relief payments to certain former employees of the Canal Zone Government, and for other purposes; and

H.R. 12758. An act to authorize the Secretary of the Interior to establish a volunteers in the park program, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2108. An act to promote public health and welfare by expanding, improving, and better coordinating the family planning services and population research activities of the Federal Government, and for other purposes;

S. 2455. An act to authorize appropriations for the Civil Rights Commission, and for other purposes; and

S. 3586. An act to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health profession, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R 16595) entitled "An act to authorize appropriations for activities of the National Science Foundation, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 17711) entitled "An act to amend the District of Columbia Cooperative Association Act," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TYDINGS, Mr. SPONG, Mr. EAGLETON, and Mr. MATHIAS to be the conferees on the part of the Senate.

The message also announced the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 980. An act to provide courts of the United States with jurisdiction over contract claims against nonappropriated fund activities of the United States, and for other purposes.

REREFERENCE OF H.R. 18365 TO COMMITTEE ON ARMED SERVICES

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 18365) to amend title 10 of the United States Code to permit actions against the United States for damage to the good name and reputation of members of the Armed Forces charged with committing certain crimes against civilians in combat zones if such members are cleared of such charges, and for other purposes, of which I am the author, and that the bill be rereferred to the Committee on Armed Services.

In this regard, Mr. Speaker, I have gotten the permission of the chairman of the Committee on the Judiciary and of the Committee on Armed Services.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

THE CONSUMER AMENDMENT TO QUOTA BILL

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, today, the Ways and Means Committee adopted a watered-down version of my consumer amendment to the quota bill.

It was my hope that there could be a modest recognition of consumer rights in the items which are to receive special shelter and protection.

The original language of my amendment authorized the President to suspend the quota provisions, upon advice by the Council of Economic Advisers that wholesale prices of items affected by the quotas provided by the bill have risen unreasonably above the wholesale price index.

Stanley Nehmer, Deputy Assistant Secretary for Resources of the Department of Commerce, opposed the amendment on behalf of the administration. He stated that the President had powers under the bill to suspend quotas because of "market disruption" and "other factors he may deem relevant." He also stated that price increases could result from other factors and expressed concern about the feasibility of administering the consumer provision because of a correlation problem between tariff schedules and Bureau of Labor statistics.

The administration reaction to this modest consumer proposal reflects a general lack of concern for the American consumer. The established legislative history on market disruption is completely directed toward industries rather than consumers. It is also demeaning to the consumer's interests to include it among "other factors the President may deem relevant" in suspending quotas.

The administration's complaint about the difficulty in correlating the wholesale price index to the tariff identification numbers is feeble.

The watered-down amendment adopted as a substitute for my proposal is as follows:

New Section to Follow Sections 103 and 104

In carrying out the provisions of Sections 103 and 104, including the implementation of arrangements or agreements provided for in Section 104, the President may authorize increased exports to the United States or entries and withdrawals from warehouse for consumption in the United States of any category of articles whenever he determines that the supply of articles similar to those subject to limitation under such sections will be inadequate to meet domestic demand at reasonable prices.

This is a toothless consumer provision which does not protect consumer rights. I am very skeptical that it can work.

This provision adopted by the committee seeks to insure an adequacy of supplies to meet domestic demand at reasonable prices. My fear is that it will result in total collaboration between domestic producers and importers to develop a neat arrangement of rigging pricing policies for the benefit of everyone involved except the consumer.

NIXONOMIC GAME PLAN IS ON TARGET

(Mr. HANNA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANNA. Mr. Speaker, we have been assured by White House strategists that the Nixonomic game plan is on target. I have just received from my congressional district, Mr. Speaker, the latest tally on what the Nixon marksmanship is hitting in that target.

Jobless rates in Orange County hit 5.8 percent. For my area this means 32,000 persons are unemployed. Last month 800 people were laid off in the aerospace industry alone. They say recession occurs when your brother-in-law is out of work. Depression hits when you are out of work. A disturbing number of my constituents are joining their brother-in-law in the unemployment office.

Building trade unions estimate that from 30 percent to 35 percent of their skilled workers are jobless. With a great need for housing, the vacancy rate in apartments in Orange County is up 7.9 percent. People out of work cannot pay rent.

Our assessment is that the picture is even worse when one considers the amount of underemployment caused by displaced skills seeking undercapacity jobs as their only hope for employment.

Compressed living conditions and extension of the life of below standard housing also contributes to a profile of indignity and suffering not visible in the ordinary reporting and statistics.

More and more people in my area are hoping that the President will either shift his target or not take such deadly aim.

RECEDING FROM HOUSE AMENDMENTS TO S. 1456, AMENDMENT TO AGRICULTURAL ADJUSTMENT ACT

Mr. GOODLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1456) to amend section 8c(6)(I) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, so as to permit marketing orders applicable to apples to provide for paid advertising, with the House amendments thereto, and recede from the House amendments.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A motion to reconsider was laid on the table.

PROPOSED INVESTIGATION OF FEDERAL MEAT INSPECTION ACT

(Mr. KLEPPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEPPE. Mr. Speaker, I am today introducing a resolution that would establish a joint congressional committee to conduct a study and investigation of the Federal Meat Inspection Act.

The committee would undertake at firsthand an evaluation of packing plants in which meat destined for consumption in this country is processed. Particular emphasis would be placed on imbalances and deficiencies in the level of inspection provided.

Included in the study would be foreign plants which are approved for shipping meat to the United States.

Serious complications have arisen since implementation of the Federal Meat Inspection Act of 1968, and this committee, to be comprised of three Members of the House of Representatives and three Members of the Senate, would thoroughly study the Meat Act to determine whether meat inspection is being effectively and uniformly administered, whether the provisions of the act are practicable and fair, and whether the provisions of the act relating to imported meat are being effectively enforced.

The American people now have the highest quality of food available anywhere in the world. It would be unfortunate if we could not insure that all Americans enjoy purity of all their food products. By creating the joint committee proposed in my resolution, we can guarantee that the people of America will purchase only that food which is safe, healthful, and pure.

CHET HUNTLEY CONFESSES

(Mr. SCHERLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHERLE. Mr. Speaker, Chet Huntley has finally confessed to what many of us knew all along, just by listening to him. He is a Nixon hater. I just say he is in good company. Alger Hiss will applaud. So will Arthur Schlesinger and Dr. Spock. So will Jerry Rubin and some Members of the other body.

Mr. Speaker, they say confession is good for the soul. In this case confession is also good for the American people because it allows them to know just where Mr. Huntley has stood all these years when he was making the snide remarks and the great pontifications—as well as what he was standing in when he made them.

Mr. Speaker, I read that Mr. Huntley leaves NBC on August 1 to return to Montana. I believe he is 16 years late. Until then, however, it seems to me that Mr. Huntley hardly has a place among those unbiased electronic journalists we watch nightly. I would hope that NBC realizes that Mr. Huntley has ended his usefulness to them and has destroyed his credibility with the American people.

APPOINTMENT OF CONFEREES ON H.R. 16915, LEGISLATIVE BRANCH APPROPRIATIONS, 1971

Mr. ANDREWS of Alabama. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 16915) making appropriations for the legislative branch for the fiscal year ending June 30, 1971, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Alabama? The Chair hears none, and appoints the following conferees: Messrs. ANDREWS of Alabama, KIRWAN, YATES, CASEY, EVANS of Colorado, MAHON, BOW, LANGEN, REIFEL, and DEL CLAWSON.

REPORT ON STUDY OF EXTENT TO WHICH PORTIONS OF UPPER NEW YORK STATE SHOULD BE INCLUDED IN EITHER THE NEW ENGLAND OR THE APPALACHIAN REGION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91–367)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Public Works and ordered to be printed, with illustrations:

To the Congress of the United States:

Enclosed is a report to the Congress: A Study, with Recommendations, of the Extent to which Portions of Upper New York State Should be Included in either the New England or the Appalachian Region. This report is submitted in accordance with section 110 of Public Law 91–123, amending section 403 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 403).

RICHARD NIXON.

THE WHITE HOUSE, *July 15, 1970.*

WAYS AND MEANS COMMITTEE DEEPLY CONCERNED WITH PROBLEMS OF THE CONSUMER

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I understand that some statements were made in the House today with relation to the activities of the Committee on Ways and Means on its treatment of the consumers in respect to trade.

I want this House to know that every member of the Committee on Ways and Means is deeply concerned with the problems of the consumer. They are also deeply concerned with the exploitation of human beings in this world. When you stop to consider that some nations have 10-year-old children working in the mills and the factories for 10 hours a day 6 days a week for 6 cents an hour. This in my opinion is unconscionable and there is no justification for it. If we are going to amend the trade law to protect the consumer, we certainly need further amendments on that bill to protect the human beings of this world. I say it is unconscionable for anyone in this Nation or any nation in the world to have children work in the mills for 10 hours a day. Believe me, those children never reach the age of 30, and in some of those countries they have the fattest graveyards in the world. Those children die from malnutrition, tuberculosis, and all of the dread diseases caused by the exploitation of human beings in these various industries that are importing their goods into this country.

I want to say to the Members of this House, let us stand up and do the right thing. Let us stand for the protection of human beings in this world no matter where they are.

MEANINGFUL CONSUMER PROTECTION NEEDED

(Mr. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, I was much interested in the remarks made by the gentleman from Ohio (Mr. VANIK) and the gentleman from Massachusetts (Mr. BURKE).

Somehow or other I find myself puzzled that we seem now to neglect the consumer.

When I was growing up in Long Beach, Miss., when I was 13 years old I worked in a drugstore as a sodajerker. In that drugstore there was a sign which read, "The customer is always right." There was a very fine gentleman who ran that drugstore. His name was Day and was my friend for many years. When I first went to work he said to me, "Son, the only way that I stay in business is by pleasing the people who come in here and buy what I sell. They trust me as an honest businessman. And I want them to get fair treatment.

"I do not want to sell them a medicine that I do not think is the medicine that the doctor prescribed. I do not want to sell them something so that they can come back and say, 'Look. You were dishonest with me.' "

Somehow or other, Mr. Speaker, that fine concept of trust and friendship between the buyer and seller is not so prevalent now.

Today, in many places, there seems to be open battle between buyer and seller.

I would hope, before this Congress adjourns, that we will consider meaningful consumer legislation; not legislation designed to punish anyone or to harm American industry, which everyone knows is the greatest system in the world, but legislation that gives the consumer the kind of a break that that fine man who ran that drugstore insisted on giving the people who came into that store when I worked there 43 years ago.

PERMISSION FOR HOUSE MANAGERS TO FILE CONFERENCE REPORT ON H.R. 16916, OFFICE OF EDUCATION APPROPRIATIONS, 1971

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONFERENCE REPORT (H. Doc. No. 91–1306)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16916) "making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 12, 14, 26, 27, 28, 29, 30, 31 and 39.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 10, 11, 13, 16, 17, 19, 20, 21, 22, 25, 35, 36, 37 and 40, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$551,068,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$536,068,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$143,393,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$50,000,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,846,968,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$21,250,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$494,196,000"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$967,880,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the sum named by said amendment insert "$7,000,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$85,040,000"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,092,500"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$11,000,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the number proposed by said amendment insert "211"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 9 and 38.

DANIEL J. FLOOD,
WILLIAM H. NATCHER,
NEAL SMITH,
W. R. HULL, Jr.,
BOB CASEY,
GEORGE MAHON,
ROBERT H. MICHEL,
GARNER E. SHRIVER,
CHARLOTTE T. REID,
FRANK T. BOW,
Managers on the Part of the House.

WARREN G. MAGNUSON (except as to amendment 39),
RICHARD B. RUSSELL,
JOHN STENNIS,
ALAN BIBLE,
ROBERT C. BYRD,
SPESSARD L. HOLLAND,
NORRIS COTTON,
CLIFFORD P. CASE (except as to amendment 39),
HIRAM L. FONG (except as to amendment 39),
J. CALEB BOGGS (except as to amendment 39),
MILTON R. YOUNG,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments, namely:

TITLE I—OFFICE OF EDUCATION

Amendments Nos. 1 and 2: Appropriate $551,068,000 for "School assistance in Federally affected areas" instead of $440,000,000 as proposed by the House and $673,800,000 as proposed by the Senate and provide $536,068,000 for maintenance and operation of schools instead of $425,000,000 as proposed by the House and $658,800,000 as proposed by the Senate.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which incorporates language proposed by the Senate providing full entitlement under section 3(a) for "hardship" districts and restores House language stricken by the Senate providing 90 percent of entitlement under section 3(a) and 100 percent of amounts payable under section 6.

Amendment No. 4: Provides for allocation of funds under parts A, B, and C of title I of the Elementary and Secondary Education Act as proposed by the Senate instead of only part A as proposed by the House.

Amendment No. 5: Provides that $143,393,000 of the amount appropriated for "Elementary and secondary education" shall be for supplementary centers and services under title III of the Elementary and Secondary Education Act instead of $137,393,000 as proposed by the House and $150,393,000 as proposed by the Senate.

Amendment No. 6: Provides that $29,750,000 of the amount appropriated for "Elementary and secondary education" shall be for strengthening State departments of education under title V of the Elementary and Secondary Education Act as proposed by the House instead of $33,750,000 as proposed by the Senate.

Amendment No. 7: Provides that $50,000,000 of the amount appropriated for "Elementary and secondary education" shall be for equipment and minor remodeling under title III–A of the National Defense Education Act instead of $20,000,000 as proposed by the House and $79,200,000 as proposed by the Senate.

Amendment No. 8: Appropriates $1,846,968,000 for "Elementary and secondary education" instead of $1,808,968,000 as proposed by the House and $1,898,168,000 as proposed by the Senate. The conferees are agreed that the amount appropriated includes $10,000,000 for dropout prevention, instead of $8,000,000 as provided by the House and $15,000,000 as provided by the Senate, and $25,000,000 for bilingual education as provided by the House, instead of $31,000,000 as provided by the Senate. Within the total amount for bilingual education, $1,000,000 is specifically for schools on Indian reservations, as authorized by section 706 of the Elementary and Secondary Education Act.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which relates to the minimum grant which a State may receive under title I–A of the Elementary and Secondary Education Act.

Amendment No. 10: Modifies language to conform with Amendment No. 4.

Amendment No. 11: Provides that $1,000,000 of the amount appropriated for "Education for the handicapped" shall be for special programs for children with specific learning disabilities under part G of the Education of the Handicapped Act as proposed by the Senate. The House made no provision for these programs.

Amendment No. 12: Strikes language proposed by the Senate providing that $4,000,000 of the appropriation for "Vocational and adult education" shall be for residential vocational schools under section 151 of the Vocational Education Act.

Amendment No. 13: Inserts language proposed by the Senate citing part C of the Vocational Education Act which requires 10 percent of the amounts allocated to the States for basic vocational education grants to be used for research. The conferees are agreed that this provision is adopted on a trial basis for one year, and that the results will be reviewed before a decision is made to include it in next year's appropriation bill.

Amendment No. 14: Provides that $350,336,000 of the appropriation for "Vocational and adult education" shall be for basic grants as proposed by the House instead of $346,336,000 as proposed by the Senate.

Amendment No. 15: Provides that $21,250,000 of the appropriation for "Vocational and adult education" shall be for consumer and homemaking education instead of $17,500,000 as proposed by the House and $25,000,000 as proposed by the Senate.

Amendments Nos. 16 and 17: Insert language proposed by the Senate citing part I of the Vocational Education Act which authorizes grants for curriculum development.

Amendment No. 18: Appropriates $494,196,000 for "Vocational and adult education" instead of $490,446,000 as proposed by the House and $497,946,000 as proposed by the Senate.

Amendment No. 19: Provides that $16,000,000 of the appropriation for "Vocational and adult education" shall be for exemplary programs under part D of the Vocational Education Act as proposed by the Senate instead of $20,000,000 as proposed by the House. This will make $4,000,000 available for curriculum development.

Amendments Nos. 20 and 21: Insert language proposed by the Senate citing part A of title VI of the Higher Education Act which authorizes grants for instructional equipment.

Amendment No. 22: Inserts language proposed by the Senate citing title I of the Higher Education Facilities Act which authorizes grants for construction of undergraduate academic facilities.

Amendment No. 23: Appropriates $967,880,000 for "Higher education", instead of $899,880,000 as proposed by the House, and $1,046,670,000 as proposed by the Senate. The conferees are agreed that the amount appropriated includes $160,000,000 for college work-study and cooperative education programs as proposed by the House, instead of $176,000,000 as proposed by the Senate, $243,000,000 for student loans as proposed by the Senate, instead of $229,000,000 as proposed by the House, $10,080,000 for aid to land-grant colleges, instead of $8,080,000 as proposed by the House and $12,120,000 as proposed by the Senate, $8,000,000 for foreign language training and area studies instead of $6,000,000 as proposed by the House and $15,300,000 as proposed by the Senate. No funds are provided for grants for construction of undergraduate facilities except for those specifically earmarked by Amendment No. 25 for public community colleges and technical institutes. The Senate included $28,050,000 for grants for construction of other undergraduate facilities.

Amendment No. 24: Provides that $7,000,000 of the amount appropriated for "Higher education" shall be for instructional equipment instead of $14,500,000 as proposed by the Senate. The House made no provision for this program.

Amendment No. 25: Provides that $43,000,000 of the amount appropriated for "Higher education" shall be for grants for construction of public community colleges and technical institutes as proposed by the Senate. The House made no provision for this program.

Amendment No. 26: Provides that $167,700,000 of the amount appropriated for "Higher education" shall be for educational opportunity grants, as proposed by the House, instead of $185,600,000 as proposed by the Senate.

Amendment No. 27: Deletes appropriation of $4,500,000 for initial funding of six programs proposed by the Senate.

Amendments Nos. 28, 29, 30, and 31: Restore House language stricken by the Senate and delete language proposed by the Senate providing a separate appropriation for the "Teacher Corps" and appropriate $135,800,000 for "Education professions development" as proposed by the House, instead of $105,000,000 as proposed by the Senate, including $30,800,000 for the Teacher Corps as proposed by the House, instead of a separate appropriation of $40,800,000, as proposed by the Senate.

Amendment No. 32: Appropriates $85,040,000 for "Community education" instead of $71,636,000 as proposed by the House, and $101,794,000 as proposed by the Senate. The conferees are agreed that the amount appropriated includes $15,325,000 for college library resources, instead of $9,900,000 as proposed by the House and $20,750,000 as proposed by the Senate, $3,900,000 for librarian training as proposed by the House, instead of $8,250,000 as proposed by the Senate, and $6,613,500 for cataloging by the Library of Congress, instead of $5,727,000 as proposed by the House and $7,500,000 as proposed by the Senate.

Amendment No. 33: Provides that $7,092,500 of the amount appropriated for "Community education" shall be for grants for public library construction instead of $5,000,000 as proposed by the House, and $9,185,000 as proposed by the Senate.

Amendment No. 34: Provides that $11,000,000 of the amount appropriated for "Community education" shall be for educational broadcasting facilities, instead of $6,000,000 as proposed by the House and $15,000,000 as proposed by the Senate.

Amendment No. 35: Appropriates $90,077,000 for "Research and training" as proposed by the Senate, instead of $105,325,000 as proposed by the House. The conferees are agreed that the Secretary may exercise discretion as to the distribution of the total appropriation among the various activities, and that they would have no objection to the use of an additional $4,000,000 for experimental schools.

Amendment No. 36: Appropriates $45,164,000 for "Salaries and expenses" as proposed by the Senate, instead of $46,107,000 as proposed by the House.

Amendment No. 37: Strikes language proposed by the House and inserts language proposed by the Senate which will permit loans to be made from the Higher Education Facilities Loan fund, to the extent that amounts are available from commitments withdrawn prior to July 1, 1971, by the Commissioner of Education. The House language would have limited such loans to a total of $10,000,000.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will appropriate $75,000,000 for "Emergency school assistance" instead of $150,000,000 as proposed by the Senate.

TITLE II—GENERAL PROVISIONS

Amendment No. 39: Restores sections 209 and 210 included in the House bill and stricken by the Senate.

Amendment No. 40: Deletes section 211 included in the House bill and stricken by the Senate.

Amendment No. 41: Changes section number.

Daniel J. Flood,
William H. Natcher,
Neal Smith,
W. R. Hull, Jr.,
Bob Casey,
George Mahon,
Robert H. Michel,
Garner E. Shriver,
Charlotte T. Reid,
Frank T. Bow,
Managers on the Part of the House.

CONFERENCE REPORT ON S. 2601, DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

Mr. ABERNETHY. Mr. Speaker, I call up the conference report on the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the statement.

Mr. ABERNETHY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. ADAMS. Mr. Speaker, reserving the right to object, I notice that yesterday there was a unanimous-consent request made that the conference report not be printed in the Record. I do not know what the gentleman from Mississippi intends to do about the statement of the managers on the part of the House being read. I want to point out the fact that there are probably only 50 or 60 of us on the floor now. The report has not been printed in the Record. The statement is not going to be read and he has asked it not be printed. I would like to find out at some point about the contents of the report. I, therefore, want to engage in a colloquy with the gentleman from Mississippi in order to determine what is in this conference report.

Mr. Speaker, this has been a very controversial matter. It has involved preventive detention and no-knock provisions as well as many other things. I think at some point some of the Members ought to know what finally came out of the conference and I think the public should, too. That is why I reserved the right to object.

Mr. Speaker, I would like to know from the gentleman if we are going to have an opportunity to go through this and if at some point we are going to have the statement read or the report printed in the Record. I just got the report in the back of the Chamber and I will bet that there are not 10 Members who have ever seen the report.

At some point, I would say to the gentleman from Mississippi, I think we should go into some detail as to what is in this conference report.

Mr. ABERNETHY. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I am glad to yield to the gentleman from Mississippi.

Mr. ABERNETHY. The gentleman from Washington approached me earlier about this matter. I assured the gentleman then and I reassure him now that the conferees are here to answer such questions as we can about this report.

The only reason I requested that we dispense with the reading of the report is to attempt in a small way to save the Government a small amount of money. We were advised that it would cost about $18,000 to print the report in the Congressional Record. It was for that reason that I requested that the printing in the Record be dispensed with—the statement of the managers on the part of the House is no small printing item itself. I do not think the reading of it word for word would make any contribution to the edification or information of the Members. So for that reason and in order to expedite matters and in order to economize in the cost of printing the conference report and statement—not to conceal anything, however—we have asked that this be waived.

Mr. Speaker, I assure the gentleman that we shall attempt to answer every question he propounds and there will be no attempt to conceal anything or foreclose anyone.

I am aware of the gentleman's interest in this legislation. I am aware of the interest he manifested in the hearings. I know the gentleman has some things that are on his mind about which he wants to be informed. I can assure the gentleman we shall do our best to give him that information.

Mr. ADAMS. I might inquire of the gentleman if his unanimous-consent request also includes that the statement of the managers on the part of the House and the Senate will be printed in the Record so that at some point we will have in the Record of the House or of the Congress what came out of the conference, because most of us do not know what happened. The conference, of course, was closed and we simply do not know what happened.

Mr. ABERNETHY. Mr. Speaker, if the gentleman will yield further, my request did include a waiver of the printing of the statement of the managers in the Record. I offered that as an economy move. It would cost a considerable amount of money to print this statement. The conference report is now available and filed in the committee and in the House, and there will be copies of it maintained forever, I assume, in the Library of Congress and in the library of the House.

I personally think that the ideal thing to do would be to waive the printing of the statement of the managers in the Record. If the gentleman feels, however, that it should be printed in the Record and asks unanimous consent that it be so printed, then I certainly shall not interpose any objection; but I would hope that he would not do so.

Mr. ADAMS. As I understand it, in the unanimous-consent request made by the gentleman from Mississippi we are now talking about, is the statement of the managers on the part of the House as opposed to the report itself?

Mr. ABERNETHY. I referred to the statement of the managers on the part of the House, and I included that in the request.

Mr. ADAMS. If the gentleman would include in his request that the statement of the managers on the part of the House be printed in the Record as opposed to the report itself, then I would not interpose an objection to his request. Further, I think this colloquy has made it very clear that the gentleman from Washington is taking the responsibility for what additional expense might be involved in printing it in the Record. A report should be printed in the Record so that all of the Members will know what we have done.

Mr. ABERNETHY. If the gentleman will yield to me, I will make that request now.

Mr. ADAMS. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. Mr. Speaker, I ask unanimous consent to amend my request, and ask unanimous consent that the reading of the statement of the managers on the part of the House be dispensed with, and that it be printed in the Record at this point.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The statement of the managers on the part of the House is as follows:

Statement of the Managers on the Part of the House on S. 2061, District of Columbia Court Reform and Criminal Procedure Act of 1970

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all after the enacting clause and inserted a substitute. The Senate receded from its disagreement to the amendment of the House to the text of the bill with an amendment which was a substitute for both the House amendment to the text of the bill and the Senate bill. The House recedes from its disagreement to the amendment of the Senate to the amendment of the House to the text of the bill with an amendment which is a substitute for both the House amendment and the Senate amendment thereto. The differences between the House amendment and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

Unless otherwise indicated, references to titles 11, 16, and 23 (and sections thereof) are to those titles (and sections thereof) in the D.C. Code as contained in the revision made by the conference substitute.

COURT REORGANIZATION

Transfer of civil jurisdiction (3)

The House amendment provided for the transfer of civil jurisdiction from the United States District Court for the District of Columbia (hereafter in the statement of managers referred to as the "District Court") to the Superior Court of the District of Columbia established by the Act (hereafter in the statement of managers referred to as the "Superior Court") in three stages with probate, guardianship, partition of property, and other fiduciary matters being transferred in the second stage. It specified that pending, as well as subsequent, probate matters would be transferred. It also provided transfer of all local personal injury and property damage cases (regardless of the amount in controversy) in the first stage.

The Senate amendment provided for transfer in four stages with probate, guardianship, and partition of property in the fourth stage and other fiduciary matters in the second stage. Jurisdiction over personal injury cases (in which the amount in controversy did not exceed $50,000), like other civil cases, was transferred in the first stage.

The conference substitute in section 11–501 and 11–921 adopts the three stages of the House amendment but provides for transfer of probate, guardianship, and partition of property in the third stage. Pending probate and fiduciary cases (other than matters in actual trial) are transferred along with jurisdiction over subsequent cases. Jurisdiction over local personal injury and property damage cases (transferred in the first stage) is subject to the $50,000 jurisdictional limit. In addition, pending cases (other than matters in actual trial) under chapters 3, 7, 11, 13, and 15 of title 21 of the District of Columbia Code are also transferred at the time (second stage) when jurisdiction over those cases is transferred to the Superior Court. Section 199 (b) (3) of part E of title 1 of the Act provides that cases pending before the District Court or the Commission on Mental Health under chapter 5 of such title 21 are to be resolved without reference to the amendments made by the Act.

Jurisdiction of interlocutory appeals (6)

The House amendment provided that the D.C. Court of Appeals would have jurisdiction of interlocutory criminal appeals under proposed sections 23–104 and 23–111(d)(2) of the D.C. Code (interlocutory appeals by the United States in criminal cases and interlocutory appeals by the United States in hearings involving increased penalties for subsequent offenses) and also specified general jurisdiction of interlocutory criminal appeals, not otherwise covered by the provision, where a substantial question exists.

The Senate amendment provided jurisdiction of interlocutory criminal appeals only under proposed section 23–104 of the D.C. Code.

The conference substitute adopts in section 11–721 the House references to both 23–104 and 23–111(d) (2) but follows the Senate amendment in omitting reference to interlocutory criminal appeals not otherwise covered.

Small Claims and Conciliation Branch (10)

The House amendment fixed the jurisdictional limit of the Small Claims and Conciliation Branch of the Superior Court at $500 and required the Branch to hold evening sessions whenever necessary.

The Senate amendment fixed the limit at $750, specified that the jurisdiction of the Branch was exclusive, and required the Branch to hold at least one evening session per week.

The conference substitute in chapter 13 of title 11 adopts the Senate provisions. It is provided that the Branch has exclusive jurisdiction of action for the recovery of money. Actions involving interests in real property may not be brought in the Branch; and if interests in real property are raised in an action by counterclaim or any other means the Branch will certify the action to the

Civil Division. The Branch may also certify other cases to the Civil Division.

Number of judges, salary, and tenure (11, 12, 13)

The House amendment provided for the appointment of thirteen additional judges to the Superior Court—ten judges upon enactment of the bill and three more judges two years later. Judges were to be appointed for a ten year term. D.C. Court of Appeals judges would have received $36,000 per annum and Superior Court judges, $34,000 per annum.

The Senate amendment provided twenty-three additional judges—ten upon enactment, nine more judges two years after enactment (6 months preceding the second stage of transfer of jurisdiction), and four more judges three and one-half years after enactment. Appointment would have been for an initial four year term with reappointment for service during good behavior, subject to mandatory retirement at age 70. D.C. Court of Appeals judges would have received 95% of the salary of Federal appellate judges which is currently $42,500 and Superior Court judges, 95% of the salary of District Court judges which is currently $40,000.

The conference substitute in section 11-903 and in section 195 provides for seventeen additional judges—ten judges upon enactment and seven more judges eighteen months later (6 months preceding the second stage of transfer of jurisdiction). Under section 11-1502, judges are appointed for fifteen year terms subject to mandatory retirement at age 70. The new term of office will apply only to judges appointed after the date of enactment, whether appointed under the authorization for additional judges or appointed to fill vacancies. In addition, the new qualifications for judges will also apply to judges so appointed after the date of enactment.

Under sections 11-703 and 11-904 of the conference substitute, the local judges will receive 90% of the annual salary of the Federal judges in the District of Columbia. Thus the D.C. Court of Appeals judges will receive annually $38,250 (90% of current Federal appellate court salary rate of $42,500), and the chief judge will receive an additional $500.00. The judges of the Superior Court will receive annually $36,000 (90% of the U.S. District Court salary rate of $40,000), and the chief judge will receive an additional $500.00. The new salary rates will take effect on the effective date of the bill.

Judges' reports and meetings (14)

The House amendment required judges of both courts to submit time and attendance records to their respective chief judges, and required Superior Court judges to meet as specified in court rules and at the call of the chief judge.

The Senate amendment required Superior Court judges to submit monthly written reports to the chief judge and the Commission on Judicial Disabilities and Tenure, containing more detailed information than required in the House amendment. The Senate amendment also provided that Superior Court judges meet as specified in court rules and at the call of the chief judge, but required meetings at least once a month.

The conference substitute in sections 11-709 and 11-909 conforms to the Senate amendment, except that the requirement of monthly reports is made applicable to both the Superior Court and the D.C. Court of Appeals.

Law clerks for judges of appeals court (16)

The House amendment provided for the appointment of one law clerk per judge. The Senate amendment provided for the appointment of one or more law clerks per judge.

The conference substitute in section 11-708 permits the appointment of one law clerk per associate judge and permits the chief judge to appoint two personal law clerks and three general law clerks to serve the entire court.

Qualifications for judicial appointments (17)

The House amendment provided that in the case of appointees selected from law professors or Government lawyers, such appointees must be members of the D.C. bar at the time of appointment and must have been eligible for membership in the bar at least 5 years before appointment.

The Senate amendment had no special provision for law professors or government lawyers.

The conference substitute in section 11-1501 conforms to the House amendment and also reestablishes the residency requirement of existing law.

Judges' vacation and sick leave (18)

The Senate amendment contained a provision, not in the House amendment, which provided for vacations for judges not to exceed six weeks, and also provided for sick leave.

The conference substitute in section 11-1505 contains the Senate provision with an amendment authorizing vacations of not more than thirty calendar days, and deleting any reference to sick leave.

Judicial review of commission decisions (19)

The Senate amendment contained a provision not included in the House amendment, which required decision by the court reviewing the Commission's order of removal or retirement within ninety days of oral argument or submission of briefs.

The conference substitute in section 11-1529 adopts the Senate provision.

Commission on judicial disabilities and tenure (19)

(1) The House amendment provided for a seven member commission to be appointed by the President.

The Senate amendment provided a seven member commission with three members to be appointed by the President, two members appointed by the Commissioner, and two members appointed by the chief judge of the U.S. District Court.

The conference substitute in subchapter II of chapter 15 of title 11 establishes a five-member commission. The President is to appoint three members. Of the President's appointees two must be District of Columbia residents and one a member of the District of Columbia bar and actively engaged in practice for five of the ten years immediately prior to his appointment. The Commissioner is to appoint one member who is to be a District of Columbia resident and not a lawyer. The chief judge of the U.S. District Court is to appoint one member from among the active or retired Federal judges serving in the District of Columbia.

(2) The House amendment provided a chairman of the commission appointed by a majority of the commission to a two year term; and provided for four alternate members to be appointed by the President.

The Senate amendment provided for the designation of the chairman by the President from among his appointees who are members of the D.C. bar. No term of office was specified for the chairman. The Senate amendment also provided for three alternate members, one appointed by the President, one appointed by the Commissioner, and one by the chief judge of the District Court.

The conference substitute in subchapter II of chapter 15 of title 11 adopts the Senate provision.

Judges' financial statements (20)

The Senate amendment contained a provision, not included in the House amendment, which required annual financial statements to be filed by each judge with the Commission on Judicial Disabilities and Tenure.

The conference substitute in section 11-1530 adopts the Senate provision. It is provided that, except with respect to information relating to nonjudicial positions held and honorariums received, the information contained in the statements is to be confidential unless required to determine compliance with the reporting requirements or in connection with the duties of the Commission.

Judges' retirement (21)

The House amendment required any judge retired for disability, either voluntarily or involuntarily, to have five years' service (including allowable civilian service) to be eligible for retirement salary.

The Senate amendment required no minimum service for involuntarily retired judges.

The conference substitute in section 11-1562(d) adopts the Senate provision.

Executive officer (23, 26)

The House amendment provided for appointment of the Executive Officer of the local courts by the President, while the Senate amendment provided for appointment by the Joint Committee on Judicial Administration. The House amendment provided for vesting allocation of space in court buildings in the chief judges, while the Senate amendment vested allocation of space in the Executive Officer subject to the supervision of the Joint Committee. The Senate amendment also specified duties for the Executive Officer not included in the House amendment: (1) to recommend to the chief judges assignment of judges, and (2) receive, evaluate, and act upon complaints as to court operations.

The conference substitute in section 11-1703 adopts the Senate provisions relating to appointment of the Executive Officer by the Joint Committee and space allocation by the Executive Officer. In addition, the Executive Officer is to make recommendations to the chief judge of the Superior Court relating to the arrangement and division of the business of that court and the fixing of the time of sessions of the court's divisions and branches.

Auditor-master (24)

The House amendment contained a provision, not included in the Senate amendment, providing for the Office of Auditor for the D.C. court system.

The conference substitute modifies the House amendment by providing in section 11-1724 for an Auditor-Master of the Superior Court who both audits accounts and executes orders of reference, thus placing upon him certain quasi-judicial functions.

Salaries of nonjudicial court personnel (25)

The House amendment established a ceiling on the salary rate that could be fixed by the Executive Officer for non-judicial court personnel. He could fix the salary of not more than 1 person at the maximum salary rate for GS-17 and not more than 3 persons at the maximum salary rate for GS-16.

The limit in the Senate amendment was as follows: He could fix the salary of not more than 1 person at the salary rate for a GS-18, not more than 3 persons at the maximum salary rate for GS-17, and not more than 7 persons at the maximum salary rate for a GS-16.

The conference substitute provides that the maximum salary rate that can be fixed by the Executive Officer is the maximum salary rate for a GS-15 (current maximum $29,752), except that—

(1) he may fix the salary for 2 persons at not more than the maximum salary rate for a GS-17 (current maximum $34,810), and

(2) he may fix the salary for 5 persons at not more than the maximum salary rate for a GS-16 (current maximum $33,627).

Annual report of the District of Columbia court system (27)

The House amendment required the Executive Officer to prepare an annual report of the District of Columbia Court system concerning the work of the courts.

The Senate amendment was the same as the House amendment except that it specified with greater detail the purpose of the annual report.

The conference substitute in section 11-1745 adopts the Senate amendment.

Assignment of judges to juvenile court; administration of, and vacancy in, that court (30)

The House amendment contained a provision, not in the Senate amendment, which provided that during the period between the date of enactment of the bill and its effective date (six months) the chief judge of the District of Columbia Court of General Sessions could assign judges to the Juvenile Court.

The conference substitute in section 196 adopts the House amendment. Because of the recent death of the chief judge of the Juvenile Court, it is also provided that during the period between enactment and the effective date the chief judge of the District of Columbia Court of General Sessions will administer the Juvenile Court and that the vacancy in the office of chief judge of the Juvenile Court will be filled by the appointment of a judge who will serve as an associate judge.

Temporary assignment of District court judges to superior court (31)

The Senate amendment contained a provision, not in the House amendment, authorizing the Chief Judge of the Superior Court to certify a need for additional judges to the Chief Judge of the U.S. Court of Appeals. It authorized the Chief Judge of the U.S. Court of Appeals to assign District Court judges temporarily to the Superior Court.

The conference substitute in section 11-908 (c) adopts the Senate provision with the modification that the consent of the Chief Judge of the District Court is required. In addition, after the completion of the transfer of jurisdiction to the Superior Court (three years after enactment) District Court judges may be assigned to Superior Court only if the Attorney General of the United States consents.

Advisory Committee on Rules (32)

The Senate amendment contained a provision, not in the House amendment, which authorized the Superior Court to appoint a committee of lawyers to advise it with respect to rules of court.

The conference substitute in section 11-946 adopts the Senate provision.

Service by petit jurors (32A)

The House amendment provided that unless actually serving as a trial juror in a case, petit jurors could not be required to serve more than one month in any twelve consecutive months.

The Senate amendment differed in that service was limited to thirty days in any two year period.

The conference substitute in section 11-1905 adopts the Senate provision.

Qualifications for Register of Wills (33)

The Senate amendment contained a provision, not in the House amendment, which specified that a person appointed Register of Wills must be a citizen of the United States, must have been a member of the D.C. bar for five of the ten years preceding his appointment, must have either been actively engaged in probate practice in the District or had broad experience in the administration of estates in the District for five of the ten years preceding his appointment.

The conference substitute in section 11-2102(b) adopts the Senate provision, except that it requires active probate practice or broad experience in, or knowledge of the subject of, the administration of estates of deceased persons in the District of Columbia, and does not specify any length of time with respect to this qualification.

Salary of Register of Wills (34)

The House amendment left to the Executive Officer of the court the authority to set the Register of Wills' salary.

The Senate amendment provided a salary of not less than a GS-18.

The conference substitute provides in section 11-2102(c) and section 199(b)(2) that the court having probate jurisdiction will fix the salary at a rate not to exceed the maximum salary rate for a GS-16 (current maximum $33,627).

Bar admission and disbarment (36)

The House amendment provided for a transfer of jurisdiction over bar admission to the D.C. Court of Appeals effective April 1, 1972. A substantive amendment to existing law which required automatic suspension of a member of the bar convicted of a crime of moral turpitude pending appeal of the conviction would also have become effective April 1, 1972.

The Senate amendment provided an effective date of April 1, 1974, for transfer of bar admission jurisdiction but the suspension provision, identical to the House, would have become effective on the effective date of the bill.

The conference substitute in section 11-2501(c) retains the April 1, 1972, effective date for bar admission jurisdiction but in section 199(b)(1) makes the suspension provision effective on the effective date of the conference substitute.

Chief medical examiner

The House amendment provided for the establishment of the Office of Chief Medical Examiner in lieu of the Office of Coroner for the District of Columbia with the requirement that the Chief Examiner and at least one deputy be certified or board eligible for certification in anatomic pathology by the American Board of Pathology.

The Senate amendment provisions were identical to those of the House.

Chapter 23 of title 11 of the conference substitute contains the provisions of the House amendment. The conferees recognize the difficulty in securing persons who have the requisite qualifications and the necessary experience to fill the position of Chief Medical Examiner. It is intended that, in the administration of such chapter 23, the individual currently serving as the Coroner of the District of Columbia shall be continued in office as the Acting Chief Medical Examiner for a period of at least a year following the date such chapter 23 takes effect.

JUVENILES

Definition of child (37)

The House amendment provided that for purposes of Family Division jurisdiction the term "child" includes persons under 18 except those 16 and older charged by the United States attorney with murder, manslaughter, rape, mayhem, arson, kidnapping, burglary, robbery, any assault with intent to commit any such offense, or assault with a dangerous weapon, or any such offense and a properly joinable offense.

The Senate amendment provided that "child" includes persons under 18 except those 16 and older who have been previously either found delinquent with respect to a felony committed when 15 or older or have been subject to a consent decree and are charged by the United States Attorney for the District of Columbia with any of the offenses listed in the House amendment, or any such offense and a properly joinable offense.

The conference substitute provides in section 16-2301 that the term "child" includes persons under 18 except those 16 and older charged by the United States attorney with murder, forcible rape, robbery while armed, burglary in the first degree, or assault with intent to commit one of these offenses, or any such offense and a properly joinable offense.

Setting aside judgment (39)

The House amendment provided that if a court discovers after judgment has been entered that the person before it is under 18, the judgment may not be set aside because of the age of the defendant.

The Senate amendment provided that a court may set aside a judgment on the ground of the defendant's age if the court discovered after judgment had been entered that the person before it was under 18 and after a hearing the court found that (1) neither the defendant nor his counsel had reason to believe before entry of judgment that defendant was under 18, and (2) the defendant would not have been transferred for criminal prosecution if his age had been known.

The conference substitute in section 16-2302 adopts the Senate amendment.

Right to counsel (40)

The House amendment provided that a child alleged to be delinquent or in need of supervision is entitled to counsel at all critical stages of Family Division proceedings beginning at the time of admission or denial of the allegations in the petition.

The Senate amendment provided that a child alleged to be delinquent or in need of supervision is entitled to counsel at all critical stages of Family Division proceedings including the time of admission or denial of the allegations in the petition.

The conference substitute in section 16-2304 adopts the Senate amendment.

Time for filing petition (41)

The House amendment provided that the petition shall be filed within ten days after the complaint is referred to the Director of Social Services.

The Senate amendment provided that the petition shall be filed within five days after the complaint is referred to the Director of Social Services.

The conference substitute provides in section 16-2305 that the petition shall be filed within seven days, excluding Sundays and legal holidays, after the complaint is referred to the Director of Social Services.

Time of filing transfer motion (42)

The House amendment provided that the motion requesting the court to order a child transfered for criminal prosecution must be filed within ten days, or later for good cause shown, after a petition alleging delinquency is filed.

The Senate amendment provided that the transfer motion must be filed within five days after the delinquency petition is filed.

The conference substitute provides in section 16-2307 that the transfer motion must be filed within seven days, excluding Sundays and legal holidays, of the filing of a delinquency petition, except that the Family Division may for good cause shown extend the time for filing the motion.

Report of the director of social services (43)

The House amendment provided the report of the Director of Social Services is to be made available to the attorney for the child and the Corporation Counsel at least five days before the transfer hearing.

The Senate amendment provided the Director's report is to be made available to the attorney for the child and to the Corporation Counsel at least two days before the hearing.

The conference substitute provides in section 16-2307(f) that the report of the Director of Social Services is to be made available to the attorney for the child and to the Corporation Counsel at least three days prior to the transfer hearing.

Time for hearing on motion to transfer (44)

The Senate amendment contained a provision, not contained in the House amendment, which provided that the hearing on the motion to transfer a child for criminal prosecution is to be held not later than fifteen days after the motion is filed if the child is not in custody, or not later than seven days if the child is in custody.

The conference substitute provides in section 16–2307(d) that the hearing on the transfer motion shall commence within ten days (excluding Sundays and legal holidays) of the filing of the motion.

Requirement for transfer for criminal prosecution (45)

The House amendment provided that the Family Division shall order a child transferred for criminal prosecution unless it finds there are reasonable prospects for rehabilitating the child by the time he reaches his majority.

The Senate amendment provided that the Family Division shall order a child transferred for criminal prosecution if it finds there are no reasonable prospects for rehabilitating the child by the time he reaches his majority.

The conference substitute in section 16–2307(d) adopts the House version with an amendment which provides that at the hearing on the motion requesting transfer the child shall not be required to establish that there are reasonable prospects for his rehabilitation by the time he reaches his majority.

Jurisdiction of Family Division over person transferred (47)

The House amendment provided that Family Division jurisdiction terminates as to any law violations alleged to have been committed by a child after he has been transferred for criminal prosecution.

The Senate amendment provided that Family Division jurisdiction terminates over a child who has been transferred as to any subsequent law violations unless (1) trial after the original transfer is terminated by other than a verdict of guilty or not guilty by reason of insanity, and (2) if at the time of verdict there is no outstanding indictment or information for a criminal offense alleged to have been committed after transfer.

The conference substitute in section 16–2307(h) adopts the Senate version with an amendment providing that Family Division jurisdiction shall also terminate when a child who has been transferred for criminal prosecution enters a plea of guilty to any offense.

Time of initial appearance (48)

The House amendment provided that the time for an initial appearance is to be set forth in the summons or at a later time as authorized by rule of court.

The Senate amendment provided that the time for an initial appearance is to be set forth in the summons but may not be later than five days after the petition is filed.

The conference substitute in section 16–2308 conforms to the Senate amendment, except that it provides that failure to hold the initial appearance within the specified time shall not be grounds for dismissal of the petition.

Duties of Director of Social Services (49)

The Senate amendment included a provision, not included in the House amendment, which provided that the Director of Social Services, in addition to determining the need for detention or shelter care prior to the admission of a child to such facilities, shall advise a child who is not released of his right to counsel.

The conference substitute in section 16–2311 adopts the Senate amendment.

Continuance of detention or shelter care hearing (50)

The House amendment provided a detention or shelter care hearing or any part of it may, for good cause shown, be continued for five days.

The Senate amendment provided that only the probable cause determination may be continued for five days.

The conference substitute in section 16–2312 prohibits continuance of the determination of the need for detention or shelter care but specifically authorizes, for good cause shown, continuance of any other part of the hearing, including the filling of a petition, for five days.

Length of commitment for physical or mental examination (51)

The House amendment provided for an initial commitment of 60 days and permitted a 60-day continuance.

The Senate amendment provided for an initial commitment of 30 days and two continuances of not more than 30 days each.

The conference substitute provides in section 16–2315(b) for an initial commitment of 45 days and continuances of not more than 45 days in the aggregate.

Standard of proof in factfinding hearing in a delinquency case (52)

The House amendment provided that in a factfinding hearing in a delinquency case the allegations must be established by the preponderance of the evidence.

The Senate amendment provided that the allegations in a delinquency case must be established by proof beyond a reasonable doubt.

The conference substitute in section 16–2317 conforms to the Senate amendment.

Time for hearings (53)

The Senate amendment included a provision, not included in the House amendment, which provided for time limitations for factfinding and dispositional hearings. The conference substitute conforms to the House amendment. The conferees are deeply concerned about the backlog of over 6,000 cases in the Juvenile Court of the District of Columbia and the long delays in the processing of juvenile cases through the court. The new resources which will be available to handle juvenile cases in the Family Division of the Superior Court under this Act should alleviate the present situation. If after operating two years the situation has not significantly improved, the conferees suggest the appropriateness of Congress reviewing the need for alternative ways to effect the faster processing of cases including the establishment of time limitations for factfinding and dispositional hearings.

While not obligatory, the kind of general goals the conferees have in mind are as follows: Factfinding stage—about 30 days for custody cases and about 60 days for community cases; and dispositional stage—about 15 days for persons previously known to the juvenile system, about 21 days for custody cases for persons new to the juvenile system, and about 30 days for community cases for persons new to the juvenile system.

Dispositional hearing; notice requirements (55)

The Senate amendment contained a provision, not contained in the House amendment, which provided that in delinquency and need of supervision cases prompt notice of the time of dispositional hearing shall be given to the child, his spouse (if any), parent, guardian or custodian, or in neglect cases, to the child and to the parent, guardian or custodian named in the petition.

The conference substitute in section 16–2317(e) adopts the provision in the Senate amendment.

Place of commitment (56)

The House amendment provided that, unless the Family Division ordered otherwise, no child found to be in need of supervision, unless also found to be delinquent, shall be committed to or placed in an institution or facility for delinquent children.

The Senate amendment provided that no child found to be in need of supervision, unless also found to be delinquent, shall be committed to or placed in such an institution or facility, except that, if the child is found to be in need of supervision a second time, the Family Division may order him committed to or placed in such an institution or facility.

The conference substitute in section 16–2320 adopts the Senate amendment.

Institutional transfer (57)

The House amendment contained a provision, not in the Senate amendment, which provided that no delinquent child could be committed to a penal or correctional institution for adult offenders, except that a child age 16 or older could be transferred to a penal youthful offender institution if the Family Division found after a hearing that the child's conduct was menacing to other children and the child cannot be controlled.

The conference substitute provides in section 16–2320(e) that no child found to be delinquent, in need of supervision, or neglected can be committed to a penal or correctional institution for adult offenders.

Time of filing notice of interlocutory appeal (59)

The House amendment provided that notice of an interlocutory appeal shall be filed within three days of the entry of the order appealed from.

The Senate amendment provided that notice of an interlocutory appeal shall be filed within two days of the entry of the order appealed from.

The conference substitute in section 16–2327(a) adopts the Senate amendment.

Time of appellate court hearing of interlocutory appeal (60)

The House amendment provided that such appeals shall be given precedence over other cases and shall be expedited.

The Senate amendment provided that the appellate court shall hear argument in such appeals within two days (excluding Sundays) of the filing of the notice of appeal and render its decision the day following the argument.

The conference substitute in section 16–2327(b) adopts the Senate amendment with an amendment requiring argument to be heard within three days (excluding Sundays) of the filing of the notice of appeal.

Juvenile case records (61)

The Senate amendment contained a provision not contained in the House amendment which provided that the provisions relating to the confidentiality of juvenile case records would extend to any writing filed in court proceedings other than social records.

The conference substitute in section 16–2330 adopts the provision in the Senate amendment.

IMPEACHMENT OF WITNESSES

Impeachment of witnesses (64)

The House amendment, adopted in the conference substitute, provided that evidence of a conviction of a felony or any other offense involving dishonesty or false statement shall, if offered, be admitted to impeach the credibility of a witness. The language of the House amendment and the conference substitute is similar to the rule on impeachment recommended by the Advisory Committee on Rules of Evidence to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. Should the

Supreme Court of the United States subsequently promulgate as part of prescribed rules of evidence for all Federal courts a different rule of impeachment, the conferees suggest the appropriateness of Congress reconsidering the rule adopted in the conference substitute.

PRIVILEGED COMMUNICATIONS

Disclosure of privileged communications (65)

The House amendment removed the restriction in existing law that an accused must raise the defense of insanity before his doctor may disclose communications between himself and the accused relating to the mental competency or sanity of the accused. The Senate amendment maintained the existing restrictions but permitted the doctor to disclose such communications where the court is required under prevailing law to raise the defense of insanity *sua sponte*.

The conference substitute in section 143 (3)(B) conforms to the Senate amendment.

CHANGE IN REFERENCES TO FEEBLE-MINDED PERSONS

Changes in references to feeble-minded persons and authority to make regulations for District of Columbia Training School (66)

The House amendment provided that (1) all references to "feeble-minded persons" be deleted and "retarded persons" be inserted in lieu thereof in chapter 11 of title 21, D.C. Code, and (2) the District of Columbia Council instead of the Department of Public Welfare may make regulations relating to persons in the D.C. Training School.

The Senate amendment provided that (1) all references to "feeble-minded" be deleted and "substantially retarded" be inserted in lieu thereof in chapter 11 of title 21, D.C. Code, and (2) the District of Columbia Commissioner instead of the Department of Public Welfare shall be authorized to make regulations relating to persons in the D.C. Training School.

The conference substitute in section 150 adopts the Senate amendment, except that the regulation authority is placed in the District of Columbia Council.

CRIMINAL LAW

Mandatory life sentence for third violent felony conviction (69)

The House amendment contained a provision, not included in the Senate Amendment, which required the court to sentence a person convicted of a third violent felony to a mandatory sentence of life imprisonment with eligibility for parole only after serving twenty years.

The conference substitute contains no such provision.

Breaking into vending machines (71)

The House amendment contained a provision, not included in the Senate amendment, which included in the second degree burglary statute (maximum penalty of fifteen years imprisonment) the crime of breaking or entering into a parking meter, coin telephone, vending machine, or other device designed to receive currency with intent to steal.

The conference substitute in section 203 contains a provision making the breaking or entering of a parking meter, coin telephone, vending machine, or other device with intent to steal, a separate crime with a maximum penalty of three years' imprisonment.

Penalties for persons who commit crimes of violence while armed (74)

The House amendment contained a provision, not included in the Senate amendment, which amended existing law to prescribe mandatory minimum additional penalties for persons convicted of committing a crime of violence while armed. In the case of a first conviction, the minimum additional sentence was set at 3 years. In the case of a second or subsequent conviction, the minimum additional sentence was set at 10 years.

The conference substitute in section 205 provides no mandatory minimum penalty upon a first conviction (which follows existing law), and a five-year mandatory minimum penalty upon a second or subsequent conviction (which follows the 1968 Federal Gun Control Act).

Confinement of defendants acquitted on the ground of insanity (76)

The House amendment contained a provision, not included in the Senate amendment, which amended section 927 of the Act of March 3, 1901 (D.C. Code, sec. 24-301), to provide that a person acquitted solely on the ground that he was insane shall be confined to a hospital for the mentally ill until such time as the hospital certifies him eligible for release.

Section 207 of the conference substitute, which amends such section 927, conforms to the House amendment with an amendment providing that a hearing must be held within 50 days of the confinement to determine whether the person is entitled to release from custody. The decision of the court must be made within 10 days of the beginning of the hearing. Counsel is to be provided the person (including, under a provision of title III of the substitute, representation by the Public Defender Service) and eligibility for release must be established by the person by a preponderance of the evidence.

The hearing provided for will be held in accordance with the procedures of such section 927. The procedures for release in civil commitment cases prescribed by the District of Columbia Hospitalization of the Mentally Ill Act of 1964 will not apply to such hearing.

Explosive devices (78)

The House amendment contained a provision, not included in the Senate amendment, making it a crime to possess any incendiary device (bomb, grenade, mine, or other similar device) with a penalty of not less than two years for the first offense and not less than ten years for the second offense.

The conference substitute in section 209 provides (1) no person shall manufacture, transfer, use, possess, or transport a "molotov cocktail"; (2) no person shall manufacture, transfer, use, possess, or transport any device designed to explode or produce uncontained combustion with the intent that the same may be used unlawfully against any person or property; and (3) no person shall, during a state of emergency, manufacture, transfer, use, possess, or transport any device designed to explode or produce uncontained combustion, except at his residence or place of business. The penalties are one to five years for the first offense, three to fifteen years for the second offense, and five years to life for the third or subsequent offense. The Federal Youth Corrections Act shall not apply to a third or subsequent offense.

Conduct of prosecutions (79)

The House amendment provided that separate indictments or informations of the United States and District of Columbia may be joined for trial and the case may be prosecuted by either the United States or the District of Columbia, if the other consents. The Senate amendment provided that only the United States may prosecute such a case.

The conference substitute in section 23-101(e) conforms to the House amendment with a conforming amendment in section 23-101(d) which provides the same procedure for conducting prosecutions under an indictment or information charging offenses prosecutable by the United States and the District of Columbia.

Appeals by the United States and by the District of Columbia (81, 82, 83)

The House amendment contained a provision, not included in the Senate amendment, which provided that the prosecution may appeal a substantial and recurring question of law after trial, but a verdict in favor of the defendant could not be set aside.

The conference substitute contains no such provision.

The House amendment also contained a provision that the court could either adjourn the trial or grant a mistrial for purposes of an in-trial appeal by the Government.

The Senate amendment contained a provision that the court could only adjourn the trial for forty-eight hours for the purposes of an in-trial appeal by the Government and that the appellate court must hear oral argument within twenty-four hours and render a decision within twenty-four hours thereafter.

The conference substitute in section 23-104 conforms to the Senate amendment with an amendment that the trial can be adjourned for ninety-six hours and that the appellate court shall hear oral argument within forty-eight hours and render a decision within forty-eight hours thereafter; or otherwise the appeal is voided.

Depositions (84)

The House amendment contained a provision, not included in the Senate amendment, which gave the prosecution as well as the defense the right to request the deposition of potentially unavailable material witnesses.

The conference substitute in section 23-108 conforms to the House amendment with an amendment permitting the other party or parties to cross-examine the deponent and to receive a copy of the deposition.

Proceeding to establish prior convictions for recidivist penalty laws (85)

The House amendment provided that the prosecution shall file after trial but before sentence an information of previous convictions that would subject the defendant to increased punishment. The Senate amendment provided that the information must be filed before trial.

The conference substitute in section 23-111 conforms to the Senate amendment with amendments providing that (1) the court can grant a reasonable continuance of the trial or entry of guilty plea upon a showing by the prosecution that with due diligence it was not able to obtain before trial or entry of guilty plea the facts regarding prior convictions, and (2) clerical mistakes in the information may be amended at any time before pronouncement of the sentence.

Inclusion of tests for seizure of evidence in executing search warrant (87)

The House amendment provided that a search warrant may direct the seizure of designated property and the seizure may include taking impressions or performing chemical, scientific, medical or other tests or experiments on designated premises, vehicles, objects, or persons. The Senate amendment was identical except that reference to medical or other tests or experiments on persons was omitted.

The conference substitute in section 23-521(c) conforms to the Senate amendment. The omission of tests on persons is not intended, by negative inference or otherwise, to affect the authority of police officers to perform or conduct such tests as authorized by case law. E.g., *Schmerber* v. *California*, 384 U.S. 757 (1966).

Application for search warrant (88)

The House amendment provided that the application for a search warrant must include a statement that there is probable cause to believe that the property *may* be found in designated premises. The Senate amendment was identical except there had to be probable cause to believe the property *is* to be found.

The conference substitute in section 23-522(b) provides that the application for a search warrant must include a statement that there is probable cause to believe that the property *is likely to* be found in designated premises. The *likelihood* language here and throughout title 23 conforms to the constitutional standard of probable cause.

Application for nighttime search warrant (89)

The House amendment provided that an application for a nighttime search warrant must include a statement that, based upon a reasonable belief (1) the warrant cannot be executed during the hours of daylight, (2) the property sought is likely to be removed or destroyed if not seized forthwith, or (3) the property sought is not likely to be found except at certain times or in certain circumstances. The Senate amendment was identical except the term *probable cause* was used instead of *reasonable belief*, and the word *will* was used instead of the phrase *is likely to*.

The conference substitute in section 23-522 (c) provides that an application for a nighttime search warrant must include a statement that there is *probable cause to believe* that (1) the warrant cannot be executed during the hours of daylight, (2) the property sought is *likely to be* removed or destroyed if not seized forthwith, or (3) the property sought is *not likely to be* found except at certain times or in certain circumstances.

Executing warrant directing search of a person (90)

The House amendment provided that if a person, after being advised of the warrant to search him, resists the search, the executing officer may use such force as is necessary to execute the warrant. The Senate amendment provided that if a person, after being advised of the search warrant, resists the search, the executing officer may arrest the person, without a warrant, for resisting a police officer or for violating any other applicable provision of law.

The conference substitute in section 23-524 (b) conforms to the Senate amendment.

Seizure of evidence not specified in search warrant (91)

The House amendment provided that an officer executing a search warrant may seize any fruits, instrumentalities, or evidence of crime, or contraband, discovered in the course of the search which he reasonably believes are subject to seizure. The Senate amendment provided that an officer executing a search warrant may seize any fruits, instrumentalities, or evidence of crime, or contraband, discovered by observation incident to and as an inadvertent consequence of the search and which he has probable cause to believe are subject to seizure.

The conference substitute provides in section 23-524(e) that an officer executing a search warrant may seize any fruits, instrumentalities, or evidence of crime, or contraband, discovered in the course of the lawful execution of the search warrant if he has probable cause to believe such property is subject to seizure. The phrase *lawful execution of the search warrant* limits the seizure of items not listed in the search warrant to those discovered during the process of the search for items listed in the search warrant. See *Alderman* v. *United States*, 394 U.S. 177 n. 10 (1969).

Performance of preliminary police duties after arrest (92)

The House amendment contained a provision, not included in the Senate amendment, which provided that before taking an arrested person to a judicial officer, a law enforcement officer shall perform all recording, fingerprinting, photographing, and other preliminary police duties, and if performed with reasonable promptness, the period of time required shall not be considered a delay.

The conference substitute in section 23-562(c) conforms to the House amendment with an amendment providing that before taking an arrested person to a judicial officer the officer may perform any recording, fingerprinting, photographing, or other preliminary police duties.

Territorial limits for execution of misdemeanor warrants (93)

The House amendment contained a provision, not included in the Senate amendment, which provided in section 23-563(b) that a misdemeanor arrest warrant or summons can be served within twenty-five miles of the Superior Court.

The conference substitute contains no such provision.

Arrest warrant for child outside the District of Columbia (93A)

The House amendment contained a provision, not in the Senate amendment, which provided that a warrant for the arrest of a child could be issued as if the child were an adult if the warrant application alleged that the child committed a felony and may not be found in the District of Columbia.

Section 23-563 of the conference substitute is the same as the House amendment except that to conform to the Interstate Compact on Juveniles authorized by title IV of the substitute it is provided that, if the District of Columbia adopts article 17 of the Compact (relating to the return of juveniles alleged to be delinquent), such a warrant can be issued only if the child is not known to be in a jurisdiction which is a party to that article. If the child is found in a jurisdiction which is a party to such article and the District of Columbia has adopted that article, the child is to be returned in accordance with that article, and any warrant issued under this section shall be null and void.

Rule of announcement of identity and purpose and the exceptions thereto (96-97)

The provisions agreed to in the conference substitute do not change existing law but merely put into clear statutory form the current law in effect today in the United States and provide the additional protection of requiring prior judicial approval of an entry without notice when the circumstances which would justify such entry are known at the time application for a warrant is made.

The Senate amendment contained a provision, not included in the House amendment, which required an officer to obtain prior judicial approval when at the time of application for a search warrant he knew or had reason to know of circumstances justifying entry without notice. The provision restricted an officer from entering without notice on his own discretion to circumstances known to the officer at the time of entry but which the officer did not know or have reason to know at the time of application for the warrant.

The conference substitute in section 23-591(c) conforms to the Senate amendment with an amendment extending the requirement to arrest warrants as well and an amendment deleting the reason to know language. The *reason to know* language was deleted because it might have been interpreted as holding an officer accountable for knowledge possessed by other law enforcement officers in the District of Columbia. However, the deletion of this language shall not be construed to shield police laxity or to permit a police officer who knows the facts in advance to subvert the clear intent of this section favoring prior judicial authorization by sending an officer who does not possess the knowledge to make the application.

The House amendment provided that circumstances justifying dispensing with notice of identity and purpose exist where the officer reasonably believes (1) his identity or purpose is already known, (2) notice is likely to result in evidence being destroyed or concealed, (3) notice is likely to endanger the life of the officer, (4) notice is likely to enable the person to be arrested to escape, and (5) notice would be a useless gesture. The Senate amendment provided that circumstances justifying dispensing with notice of identity and purpose exist where the officer has probable cause to believe (1) notice will result in evidence being destroyed, and (2) notice will result in the life of the officer being in immediate danger.

The conference substitute in section 23-591(c) provides that circumstances justifying dispensing with notice of identity or purpose exist where the officer has probable cause to believe (1) notice is likely to result in evidence being destroyed, (2) notice is likely to endanger the life of the officer, (3) notice is likely to enable the person to be arrested to escape, and (4) notice would be a *useless gesture*. Useless gesture is a legal term of art and codifies the exception to the announcement rule recognized by the Supreme Court and the United States Court of Appeals for the District of Columbia Circuit in *Miller* v. *United States*, 357 U.S. 301 (1958) and *Bosley* v. *United States*, No. 21,513, D.C. Cir., decided April 9, 1970, and includes the exception where the officer's identity and purpose is already known. By using the *probable cause* and *is likely to* language, the conference substitute is intended to conform to the standard of the opinion of the Supreme Court in *Ker.* v. *California*, 374 U.S. 23 (1963). It is likewise intended, in this regard, that this provision of the conference substitute shall not be bound by relevant and conflicting statements, if any, contained in House Report No. 91-907 and Senate Report No. 91-538.

Wire interception and electronic surveillance (100-113)

The formats of the House amendment and the Senate amendment providing for court authorized interception of wire and oral communications were substantially different. Subchapter III of chapter 5 of title 23 of the conference substitute conforms in large part to the more comprehensive format of the Senate amendment.

The Senate amendment contained a number of provisions not included in the House amendment which were adopted, as follows, in the conference substitute: (1) Any person who unlawfully intercepts or discloses a wire or oral communication is subject to a criminal penalty of five years and $10,000, (2) any person who unlawfully possesses, sells, distributes, manufactures, assembles, or advertises a wire or oral communication interception device is subject to a criminal penalty of five years and $10,000, (3) any intercepting device unlawfully possessed, used, sold, distributed, or manufactured or assembled may be seized and forfeited to the District of Columbia, (4) immunity may be granted to witnesses testifying before a grand jury or court in the District of Columbia with respect to a violation of this law, (5) standards and conditions are set out under which lawfully seized communication may be disclosed, (6) any person whose communications have been lawfully intercepted may sue for civil damages and (7) in amendments to the Federal law, courts are authorized to order communications common carriers to assist law enforcement officers and good faith reliance on a court order or legislative authorization is made a complete defense to civil or penal actions.

The Senate amendment contained several provisions, not included in the House amendment, which were adopted with amendment, as follows, in the conference substitute: (1) A showing of special need is required for authorization or approval of any communications interception to be made or made from facilities of a physician, clergyman, or attorney, or, in the case of oral communications, also from facilities used as a place of habitation by husband and wife. The court must determine that the facilities were, are, or are about to be, used in connection with conspiratorial activities characteristic of organized crime and that the interception will be conducted to minimize interceptions of privileged communications. (2) A report must be filed by the authorizing or denying judge to the chief judge of the District of Columbia Court of Appeals within thirty days, and an annual report must be filed by the United States Attorney with the Chief Judge of the District of Columbia Court of Appeals and Congress. The Senate amendment had proposed, in addition, the filing of reports with the District of Columbia Commissioner and the public and the form of the reports being prescribed by the District of Columbia Council, but these provisions were not included in the conference substitute.

The Senate amendment contained several provisions slightly different from the House amendment which were adopted, as follows, in the conference substitute: (1) After an emergency wiretap, application for a court order must be initiated within twelve hours and completed in seventy-two hours; and (2) a motion to suppress an intercepted communication may be made on grounds that the communication was unlawfully intercepted, the order was insufficient on its face, the interception was not made in conformity with the order, service was not made as required, and the seal was not present. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this subchapter and shall not be received in evidence in the trial, hearing, or proceeding. This does not change the attenuation rule. See *Nardone* v. *United States,* 127 F. 2d 521 (2nd Cir.), *cert. denied,* 316 U.S. 698 (1942); *Wong Sun* v. *United States,* 371 U.S. 471 (1963). Nor generally does it press the scope of the suppression role beyond present search and seizure law. See *Walder* v. *United States,* 347 U.S. 62 (1954).

The House amendment contained a provision, not included in the Senate amendment, which permitted interception in emergency situations for activities threatening the national security.

The conference substitute contains no such provision.

The House amendment provided, in addition to those crimes in the Senate amendment, the following crimes for which court authorized interception could be authorized: abortion, arson, blackmail, burglary, destruction of property, receiving stolen property, and robbery.

The conference substitute conforms to the House amendment, except that the crime of abortion is deleted.

Release and pretrial detention of persons charged with criminal offenses (117)

The House amendment contained a comprehensive provision, not in the Senate amendment, delineating standards for release in criminal cases prior to trial, following conviction and pending appeal, and authorizing limited pretrial detention for specified categories of dangerous defendants.

The conference substitute adopts the House amendment with the following five amendments:

(1) A prohibition against the detention of any defendant charged with a non-capital crime solely on the basis of the nature and circumstances of the present offense charged.

The House amendment authorizes pretrial detention for a maximum of sixty days on grounds of dangerousness to other persons or the community for three classes of defendants:

(A) Defendants charged with "dangerous crimes";

(B) Defendants charged with "crimes of violence";

(C) Defendants charged with any crime who threaten witnesses or otherwise obstruct justice.

For defendants in classes B and C, the House amendment specifies the minimum past conduct necessary to make such a defendant eligible for pretrial detention. For a defendant in class B, this minimum is that he have a prior conviction of a crime of violence within ten preceding years, that he allegedly committed the crime of violence with which he is charged while released prior to trial, or while on probation, parole, or mandatory release, for a crime of violence, or that he has become a narcotic addict. For a defendant in class C, this minimum is a threat to witnesses or other conduct which obstructs justice. Moreover, while this minimum past conduct may, when considered together with the nature and circumstances of the offense charged, be sufficient to justify a defendant's pretrial detention, it may also not be sufficient since the judicial officer must find, based on all the facts set out in section 23–1321(b), that no condition or combination of conditions or release will reasonably assure the safety of the community.

Under the House amendment, a defendant charged under class A with a dangerous crime can be detained, even if he has never been convicted, arrested, charged, or even associated with any criminal conduct other than his present charge. The conference substitute eliminates this possibility. This is accomplished by providing that a person charged with a dangerous crime can be detained only if the judicial officer finds, after considering his pattern of behavior consisting of his past and present conduct, and other factors set forth in section 23–1321(b), that no condition or combination of conditions will reasonably assure the safety of the community. A judicial officer may not issue an order of detention based solely on the nature and circumstances of the dangerous crime charged. Such an order must be based at least in part on the past conduct of the defendant.

The conference substitute does not delineate the precise past conduct which may justify pretrial detention of a person charged only with a dangerous crime. Depending on the facts of the particular case, detention may be justified when further police investigation establishes that a defendant charged with a dangerous crime is responsible for other heretofore unsolved serious crimes. Detention may be justified for a defendant with a prior misdemeanor record. The decision is left to the sound judgment of the judicial officer based on the facts of the particular case, and subject to appellate review.

(2) The elimination of the crimes of nonforcible rape and indecent liberties from the category of "dangerous crimes."

The purpose of this change is to prohibit the possibility of detaining a person charged only with nonforcible rape or indecent liberties, unless he has a prior conviction of or is on pretrial release for a violent felony or is a narcotic addict.

(3) The addition of a provision which guarantees that the sixty-day period of detention cannot be extended by the filing of timely motions by the defendant other than motions for continuances.

The House provision authorizes extension of the sixty-day period of detention if the trial is delayed at the request of the defendant. The filing by a defendant of timely motions, such as motions to suppress illegally obtained evidence or motions for discovery, may result in delay of the trial beyond the sixty-day period. In order to make it perfectly clear that such a delay of the trial would not be considered *a delay at the request of the defendant,* this provision was added.

(4) The strengthening of the House amendment which provided for expedited trials within the sixty-day period by specifying that the cases of those detained shall be placed on an expedited calendar and, consistent with the sound administration of justice, given priority over all other cases. The conferees recognize that the success of an expedited calendar for pretrial detention cases depends on the readiness of the prosecution for trial and, therefore, urge that 25 additional prosecutors be appointed in the Office of the United States Attorney for the District of Columbia.

(5) The addition of the provision that for persons detained pending appeal pursuant to section 23–1325(c), the finding of the judicial officer that the appeal or petition for a writ of certiorari does not raise by clear and convincing evidence a substantial question of law or fact likely to result in a reversal or order for new trial, shall not be binding on the court in which review is sought; such a determination is one of law not subject to the traditional clearly erroneous standard of review.

PUBLIC DEFENDER SERVICE

Public Defender Service—limitation on representation, determination of eligibility (119,121)

The House amendment designated certain categories of persons who may receive public defender representation, and limited such representation to 60% of the persons *in each* of the categories. It also provided that a court must determine a person's financial inability to obtain adequate representation.

The Senate amendment limited representation to 60% of the persons *in all* the categories, rather than in each of the categories. The Senate amendment did not specify that a court determines financial inability.

Section 302(a) of the conference substitute conforms to the Senate provisions.

Compensation of Director and Deputy Director of the Public Defender Service (123)

The House amendment provided that the Board of Trustees of the Public Defender Service would fix the compensation to be paid the Director and the Deputy Director at not less than $17,500 or more than $27,500.

The Senate amendment authorized the Board of Trustees to fix the compensation of the Director at a rate not to exceed the rate for GS–18 of the General Schedule (current rate $35,505) and to fix the rate of compensation of the Deputy Director at a rate not to exceed the maximum rate for GS–17 of the General Schedule (current maximum $34,810).

Section 304 of the conference substitute conforms to the Senate amendment.

Acceptance by the Public Defender Service of public grants and private contributions (125)

The Senate amendment included a provision, not in the House amendment, providing for acceptance by the Public Defender Service of public grants and private contributions furthering the lawful objectives and purposes of the Service.

Section 307(b) of the conference substitute adopts the Senate provision.

LEGAL ASSISTANCE FOR POLICE OFFICERS

Legal assistance for police officers in wrongful arrest actions (126)

The House amendment contained a provision, not in the Senate amendment, which provided that, in an action for damages resulting from an alleged wrongful arrest by a police officer, the judgment of the court (whether for the plaintiff or the defendant) shall include an award of a reasonable attorney's fee to the police officer.

Title V of the conference substitute provides that in an action against a police officer for damages resulting from a wrongful arrest by such officer, upon request, the Corporation Counsel is to provide representation for such officer or, if the Corporation Counsel fails or is unable to provide such representation, the Commissioner of the District of Columbia shall compensate such officer for reasonable attorney's fees (as determined by the court) incurred by the officer in his defense of the action brought against him.

LORTON

Transfer of correctional facilities at Lorton to Bureau of Prisons (127)

The House amendment contained a provision, not in the Senate amendment, which provided that all functions, powers, and duties of the Commissioner of the District of Columbia and the District of Columbia Council with respect to Lorton are transferred to the Attorney General. The conference substitute contains no such provision.

POLICE MUTUAL AID

Police mutual aid (132)

The Senate amendment contained a provision, not included in the House amendment, to remove a limitation in existing law under which policemen and equipment could be furnished to and by nearby local governments to assist in emergency situations only.

The conference substitute conforms to the Senate amendment.

FEDERAL PAYMENT

Federal payment (135)

The Senate amendment provided for an annual additional Federal payment to the District of Columbia in the amount of $48,854,000, to be used in implementation of this Act and for other crime prevention purposes.

The House amendment contained no provision for Federal payment.

The conference substitute in title VII authorizes a one-time Federal contribution to the District of Columbia for the fiscal year ending June 30, 1971, in the amounts itemized below. These Federal authorizations total $5 million. The first three are based upon estimates furnished by the District of Columbia government as first-year costs of expansion of the local court system. The authorizations are as follows:

(1) An amount not to exceed $3,010,000 is authorized to be appropriated for costs of increasing the size and operation of the local court system provided in title I of the Act, and for the costs of additional services to be made through what is presently known as the Legal Aid Agency (reorganized under title III of the conference substitute into the Public Defender Service). Costs for the enlarged court system (the trial court and the appeals court) include salaries and benefits for additional judges, supporting court and prosecution staff, administrative and services personnel, witness and juror fees, and court supplies and equipment.

(2) An amount not to exceed $580,000 is authorized for costs of renting and fitting physical facilities necessary to accomodate the additional personnel provided in title I.

(3) An amount not to exceed $350,000 is authorized for costs of expansion of the District of Columbia Bail Agency so that it might carry out the additional services and assistance provided for in title II.

(4) An amount not to exceed $1,060,000, plus any pourover from the three items above, is authorized for any other purpose of this Act, and for the costs of programs specifically designed to reduce the drug problem in the District of Columbia.

KITE-FLYING

Repeal of kite-flying prohibition (136)

The Senate amendment contained a provision, not included in the House amendment, repealing the prohibition in existing law on kite-flying.

The House amendment has no such provision, but the House has already passed a similar repealer in separate legislation—H.R. 16476.

The conference substitute conforms to the Senate amendment.

John L. McMillan,
Thomas Abernethy,
John Dowdy,
Earle Cabell,
Ancher Nelsen,
William H. Harsha,
Joel Broyhill,
Lawrence J. Hogan,
Managers on the Part of the House.

Mr. ADAMS. Mr. Speaker, I will not object, then, under my reservation of objection.

Mr. ABERNETHY. Mr. Speaker, this conference report deals with what is generally referred to in the House as the District of Columbia anticrime bill.

This is a very important piece of legislation, and a very important report. This report is brought to the House of Representatives as the result of a conference between the House conferees and the Senate conferees following the adoption of the legislation by the two Houses, the legislation in the House covering some 455 pages, and in the Senate some 467 pages.

It deals with every phase of the enforcement of the law in the District of Columbia.

We had 23 conferences with the Senate conferees. The staffs of the two committees have met 50 or 60 times in their effort to work out the numerous technicalities. We have spent a substantial part of the last 3 months in our effort to bring this report to the Members of this body.

When the conferees met we found that there were approximately 170 differences between the two bills. These have been resolved as the conference substitute shows.

I am very happy and pleased to advise the House that the House bill very largely, and almost entirely, prevailed. There are some changes in the bill, but the principal provisions laid down in the House bill have been brought back for reaffirmation of that which we approved when the bill was before the House some several months ago.

Mr. Speaker, I have suggested to the gentleman from Washington (Mr. Adams) and others, if they wish to make some inquiries about the report that I would be happy for them to do so. At this point, I would like to yield to the chairman of the Committee on the District of Columbia, the gentleman from South Carolina (Mr. McMillan).

Mr. McMILLAN. Mr. Speaker, I thank the gentleman from Mississippi.

Mr. Speaker, as chairman of the conferees I want to thank the members of the staff of our committee and I want to thank especially the legislative counsel of the House and the conference committee for their assistance in writing this conference report. Also their great assistance in writing the original House bill.

I especially want to thank every member on the District Committee who gave so much of their valuable time in attending the numerous conferences with the Senate. We had a real tough time in trying to get together on the provision of the two bills in conference which contained 465 pages.

I regret very much that it was necessary to drop the proposal of transferring Lorton to the Department of Justice and one or two other items that was necessary for us to drop, with the understanding that they will come up in separate legislation.

Again I want to thank members on the Committee on the District of Columbia for the patience they have used in trying to bring a piece of legislation here to the House which is worthy of its name.

It is true we could have passed a bill before Christmas and sent to the President a crime bill, but it would not have had any teeth in it. Now if this legislation is enacted into law I think we can clean up the streets in Washington. I am certain it will not be the fault of the Congress and it will be the fault of the law enforcement officers and the court. We are reorganizing the courts to the extent that there will not be any excuse for not sending criminals in this city to jail.

CALL OF THE HOUSE

Mr. COHELAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. Boggs). Evidently a quorum is not present.

Mr. ABERNETHY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 215]

Beall, Md.
Bell, Calif.
Berry
Blatnik
Bray
Brock
Broomfield
Caffery
Carey
Celler
Chappell
Clancy
Clark
Clay
Conable
Cramer
Crane
Culver
Dawson
Diggs
Dorn
Edwards, La.
Ford,
  William D.
Galifianakis
Giaimo
Gilbert
Hawkins
Hébert
Ichord
Keith
Kirwan
Leggettt
Lloyd
Long, La.
Lukens
MacGregor
Matsunaga
Meskill
Murphy, N.Y.
Ottinger
Passman
Patman
Pepper
Pickle
Pollock
Powell
Rarick
Reifel
Rivers
Roudebush
Ruppe
Ryan
Scheuer
Springer
Symington
Tiernan
Tunney
Wiggins
Wilson,
  Charles H.

The SPEAKER pro tempore. On this rollcall 372 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 2601, DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi (Mr. Abernethy).

Mr. ABERNETHY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. Nelsen).

Mr. NELSEN. Mr. Speaker, this is probably the most important bill that we will have before this Congress of the United States. It deals with the problems of the District of Columbia, the Federal seat of Government, that should be of concern to all Members that are here in this body.

Without question the evidence would indicate that court reform in the District of Columbia is a very necessary step that must be taken in order to bring about the orderly administration of justice for those who come before the courts. In this bill, there is a very careful and thorough job done in the area of court reform.

At the same time, the evidence indicates that the law-enforcement facilities of this community are in need of tools with which to enforce the law, and these are also provided for in this bill.

I might point out that we find more and more evidence of narcotic addiction in the District of Columbia, and the police department in the District of Columbia has indicated the need of tools to cope with the crime problems caused by narcotic addiction, and they are provided for in this bill.

I want to say that perhaps one of the areas that needs most careful attention is the youth of this community, and we need do everything we can to make this a better city for our young people. The revision of the Juvenile Code is intended to treat firmly but fairly with our juveniles in this city.

A good deal of information has gone out that has frightened the public relative to the no-knock provision and to pretrial detention, but may I say that the bill as it is presently coming before you carefully defines the no-knock provision, which conforms to the case law or common law of the country. It carefully codifies what is presently being authorized by Supreme Court and other appellate court opinions in this country.

It also provides in the area of pretrial detention careful protection of the constitutional rights of those who may be detained by several procedural safeguards. May I point out that while we sat in conference, we had a case where a shootout with one of our Washington policemen occurred quite close to the Capitol. The person who was involved had been released and had been out on bail notwithstanding the fact that though he had been previously convicted of felonies he was nonetheless released so that he could conduct a shootout with one of our Metropolitan policemen. Under the procedure that is set up, this person could have been detained prior to trial and the shootout that nearly cost a policeman his life might never have happened.

So may I say that this bill has been carefully considered, that our conference committee did a very thorough and careful job of working with the other body, to obtain the best of both bills for the conference substitute, and that I believe that this bill should pass.

Mr. Speaker, 1 year ago today, I introduced, on behalf of myself and several other Members of this body, H.R. 12854, H.R. 12855, and H.R. 12856, which comprised a major part of the President's crime package for the District of Columbia.

Nearly 4 months ago, the House District Committee brought to the floor H.R. 16196, a bill which encompassed the President's crime package together with other amendments added in committee. That committee-sponsored bill passed the House by the substantial margin of 294 to 47.

This bill has been in conference for nearly 3 months, a long conference by nearly any standard. However, I should remind the Members that there were nearly 140 major differences between the House and Senate versions which had to be resolved.

Meanwhile, controversy, debate, and speculation—at times seemingly encouraged if not prompted by the various communications media—swirled outside the conferences concerning some of the provisions of the bill. Virtually all of these provisions had been put to a vote in the House prior to final passage and had been sustained by substantial margins. The long and thorough debate of the bill nearly 4 months ago gave a full airing to virtually all views concerning the provisions contained in the House bill. The House bill was in the main a good, strong piece of legislation badly needed in this city which is in serious, if not critical, condition by reason of the crime problem existing here for the past few years.

The labor of the conference is ended. We bring back to you today from conference not the same identical bill, but a good bill that I strongly urge you to promptly approve. It is a bill which I assure you meets the approval of the Department of Justice, and is one which, when passed by the Congress, will promptly be signed into law by the President.

The situation in the local courts and the crime statistics in recent months should tell us all that there is an urgent need for swift action as it relates to the District of Columbia Court Reform and Criminal Procedure Act of 1970. The May crime statistics saw an increase in crime after what appeared to be a 5-month decline. Other disturbing incidents have occurred. A former District Commissioner was recently mugged outside his home in midday. Then, a shootout between a policeman and a robbery suspect recently brought home to all of us, if we were not indeed convinced before, the need for amendment of the Bail Reform Act of 1966 so as to provide for pretrial detention.

In its court reform and criminal procedure aspects, this is much the same bill that left this body for conference some months ago. It still contains much of the legislation suggested and recommended by the District of Columbia Crime Commission, after a very thorough and costly study, some 4 years ago.

It is basically a court reform package. It reorganizes the local courts, increases the number of judges, provides for a professional administrator—an executive officer—to administer the local District of Columbia courts, and gives to the District a modern family division of the new superior court which was so strongly recommended by the District of Columbia Crime Commission in 1966. The date of enactment of this bill will give to the President the immediate authority to appoint 10 new trial judges and three new appellate judges to the District of Columbia courts. Eighteen months later he is authorized to appoint seven more trial judges to handle the increased workload which will occur when the local court jurisdiction is expanded and the Federal courts jurisdiction over local matters is lessened.

Under the conference substitute, jurisdiction over purely local matters will be transferred to the local courts in three stages, but certain matters, such as probate, will be transferred in the third rather than the first stage as earlier provided by the House. Judges' salaries were compromised between the House-Senate versions by tying them to the Federal trial and appellate scales—$36,000 for superior court trial judges and $38,000 for local appellate judges. The power of the executive officer is expanded somewhat in the conference substitute as well as containing a change in the manner of his appointment—by the Joint Committee on Judicial Administration.

The Juvenile Code is not substantially different from the form in which it originally passed the House. However, there are some substantive changes. The definition of "child" as contained in the conference substitute includes persons under 18 except those 16 and older charged by the U.S. attorney with murder, forcible rape, robbery while armed, burglary in the first degree, or assault with intent to commit one of these offenses. This is a limitation on the original House amendment. Also, the conferees adopted a standard of proof in a factfinding hearing on delinquency cases by requiring allegations to be established "beyond a reasonable doubt." I think this is an improvement in keeping with recent Supreme Court decisions. In addition, specific time limits are set for filing petitions and motions to transfer in juvenile cases which constitute a compromise to expedite certain aspects of the juvenile procedures.

Turning to the substantive criminal law provisions in the bill, I believe it advisable to call to your attention certain important changes in the House amendment, or House versions adopted in the conference substitute.

The House amendment on the impeachment of witnesses is adopted in the conference substitute. The House version is similar to the rule recommended by the Advisory Committee on Rules of Evidence to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. I believe it is designed to further the "truth seeking" aspects of criminal trials.

The House amendment on breaking into vending machines which amended the District of Columbia Code provision on second-degree burglary is changed. The conference substitute provides a separate section for this offense in the code carrying a maximum penalty of 3 years.

The House amendment providing mandatory life sentences for a third felony conviction has been deleted from the conference substitute. In addition, a House amendment providing mandatory additional minimum penalties for persons convicted of committing crimes of violence while armed, was changed so as to provide only a 5-year mandatory minimum penalty upon a second or subsequent conviction. This provision adopted in the conference substitute conforms to the add-on penalty provided for the 1968 Federal Gun Control Act. You may recall that there was some opposition to the original House amendment by certain Federal prison authorities.

The House version of the court reform bill provided that persons acquitted in the District of Columbia solely on the grounds they were insane shall be confined to a hospital for the mentally ill until such time as the hospital certifies them eligible for release. In addition, the House provided that the defendants during their criminal trials had the burden of proving, by the preponderance of the evidence, their mental illness or defect. Then, assuming acquittal by reason of insanity, the petitioners seeking release from a hospital for the mentally ill had the burden of proof, by the preponderance of the evidence, that they no longer constituted a danger to themselves or others in the community. These provisions of the House amendment remain in the bill. A conference substitute does provide that a person acquitted by reason of insanity must receive a hearing and decision within 60 days after confinement to determine his eligibility for release from custody in the mental hospital. This corrects a situation which Chief Justice Burger found fault with when sitting on the U.S. circuit bench for the District of Columbia.

There have been some compromises reached by the House-Senate conferees relating to application for the execution of search warrants. Concerning the application for search warrants the House originally provided the application must include a statement that there was probable cause to believe the property may be found in designated premises. The conference substitute adopted a standard that there was probable cause to believe that the property is likely to be found in designated premises. The conferees considered the substitute to conform to the constitutional standard of probable cause.

As to the no-knock provision which has received so much publicity, which I consider to be out of proportion to the effect it will have on the community, New York has had a no-knock provision on its statute books for some time now and even the American Civil Liberties Union lawyers have had to admit that the use of such warrants has not been excessive at all. There have been no indiscriminate kicking of doors off their hinges in New York, and if there were, I believe the statute in New York would have been amended.

A number of conference substitutes have been agreed to as relates to search warrants. One relates to nighttime search warrants. It is a compromise which provides that an application for a nighttime search warrant must include a statement that there is probable cause to believe that, first, the warrant cannot be executed during the hours of daylight, second, the property sought is likely to be removed or destroyed if not seized forthwith, or third, the property sought is not likely to be found except at certain times or in certain circumstances.

The House amendment provided that if a person, after being advised of the warrant to search him, resists the search, the executing officer may use such force as is necessary to execute the warrant. The Senate amendment provided that if a person, after being advised of the search warrant, resists the search, the executing officer may arrest the person, without a warrant, for resisting a police officer or for violating any other applicable provision of law.

The conference substitute in section 23–524(b) conforms to the Senate amendment.

The House amendment provided that an officer executing a search warrant may seize any fruits, instrumentalities, or evidence of crime, or contraband, discovered in the course of the search which he reasonably believes are subject to seizure. The Senate amendment provided that an officer executing a search warrant may seize any fruits, instrumentalities, or evidence of crime, or contraband, discovered by observation incident to and as an inadvertent consequence of the search and which he has probable cause to believe are subject to seizure.

The conference substitute provides in section 23–524(e) that an officer executing a search warrant may seize any fruits, instrumentalities, or evidence of crime, or contraband, discovered in the course of the lawful execution of the search warrant if he has probable cause to believe such property is subject to seizure. The phrase "lawful execution of the search warrant" limits the seizure of items not listed in the search warrant to those discovered during the process of the search for items listed in the search warrant. See *Alderman* v. *United States,* 394 U.S. 177n. 10 (1969).

The provisions agreed to in the conference substitute do not change existing law but merely put into clear statutory form the current law in effect today in the United States and provide the additional protection of requiring prior judicial approval of an entry without notice when the circumstances which would justify such entry are known at the time application for a warrant is made.

The Senate amendment contained a provision, not included in the House amendment, which required an officer to obtain prior judicial approval when at the time of application for a search warrant he knew or had reason to know of circumstances justifying entry without notice. The provision restricted an officer from entering without notice on his own discretion to circumstances known to the officer at the time of entry but which the officer did not know or have reason to know at the time of application for the warrant.

The conference substitute in section 23–591(c) conforms to the Senate amendment with an amendment extending the requirement to arrest warrants as well and an amendment deleting the "reason to know" language. The "reason to know" language was deleted because it might have been interpreted as holding an officer accountable for knowledge possessed by other law enforcement officers in the District of Columbia. However, the deletion of this language shall not be construed to shield police laxity or to permit a police officer who knows the facts in advance to subvert the clear intent of this section favoring prior judicial authorization by sending an officer who does not possess the knowledge to make the application.

The House amendment provided that circumstances justifying dispensing with notice of identity and purpose exist where the officer reasonably believes, first, his identity or purpose is already known; second, notice is likely to result in evidence being destroyed or concealed; third, notice is likely to endanger the life of the officer; fourth, notice is likely to enable the person to be arrested to escape; and fifth, notice would be a useless gesture. The Senate amendment provided that circumstances justifying dispensing with notice of identity and purpose exist where the officer has probable cause to believe, first, notice will result in evidence being destroyed, and, second, notice will result in the life of the officer being in immediate danger.

The conference substitute in section 23–591(c) provides that circumstances justifying dispensing with notice of identity or purpose exist where the officer has probable cause to believe, first, notice is likely to result in evidence being destroyed; second, notice is likely to endanger the life of the officer; third, notice is likely to enable the person to be arrested to escape, and, fourth, notice would be a "useless gesture." Useless gesture is a legal term of art and codifies the exception to the announcement rule recognized by the Supreme Court and the U.S. Court of Appeals for the District of Columbia Circuit in *Miller* v. *United States,* 357 U.S. 301 (1958) and *Bosley* v. *United States,* No. 21, 513, D.C. Cir., decided April 9, 1970, and includes the exception where the officer's identity and purpose is already known. By using the "probable cause" and "is likely to" language, the conference substitute is intended to conform to the standard of the opinion of the Supreme Court in *Ker* v. *California,* 374 U.S. 23 (1963). It is likewise intended, in this regard, that this provision of the conference substitute shall not be bound by relevant and conflicting statements, if any, contained in House Report No. 91–907 and Senate Report No. 91–538.

The House version of a local wiretap statute contained in the court reform bill was debated at some length during the floor action on the bill. The conference substitute is substantially the same as that which this body passed earlier with some changes which clarify and therefore, I believe, improve the bill.

The formats of the House amendment and the Senate amendment providing for court-authorized interception of wire and oral communications were substantially different. Subchapter III of chapter 5 of title 23 of the conference substitute conforms in large part to the more comprehensive format of the Senate amendment.

The Senate amendment contained a number of provisions not included in the House amendment which were adopted, as follows, in the conference substitute: First, any person who unlawfully intercepts or discloses a wire or oral communication is subject to a criminal penalty of 5 years and $10,000; second, any person who unlawfully possesses, sells, distributes, manufactures, assembles, or advertises a wire or oral communication interception device is subject to a criminal penalty of 5 years and $10,000; third, any intercepting device unlawfully possessed, used, sold, distributed, or manufactured or assembled may be seized and forfeited to the District of Columbia; fourth, immunity may be granted to witnesses testifying before a grand jury or court in the District of Columbia with respect to a violation of this law; fifth, standards and conditions are set out under which lawfully seized communications may be disclosed; sixth, any person whose communications have been lawfully intercepted may sue for civil damages, and seventh, in amendments to the Federal law, courts are authorized to order communications common carriers to assist law enforcement officers and good-faith reliance on a court order or legislative authorization is made a complete defense to civil or penal actions.

The Senate amendment contained several provisions, not included in the House amendment, which were adopted with amendment, as follows, in the conference substitute: First. A showing of special need is required for authorization or approval of any communications interception to be made or made from facilities of a physician, clergyman, or attorney, or, in the case of oral communications, also from facilities used as a place of habitation by husband and wife. The court must determine that the facilities were, are, or are about to be, used in connection with conspiratorial activities characteristic of organized crime and that the interception will be conducted to minimize interceptions of privileged communications. Second. A report must be filed by the authorizing or denying judge to the chief judge of the District of Columbia Court of Appeals within 30 days, and an annual report must be filed by the U.S. attorney with the chief judge of the District of Columbia Court of Appeals and Congress. The Senate amendment had proposed, in addition, the filing of reports with the District of Columbia Commissioner and the public and the form of the reports being prescribed by the District of Columbia Council, but these provisions were not included in the conference substitute.

The Senate amendment contained several provisions slightly different from the House amendment which were adopted, as follows, in the conference substitute: First, after an emergency wiretap, application for a court order must be initiated within 12 hours and completed in 72 hours; and, second, a motion to suppress an intercepted communication may be made on grounds that the communication was unlawfully intercepted, the order was insufficient on its face, the interception was not made in conformity with the order, service was not made as required, and the seal was not present. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this subchapter and shall not be received in evidence in the trial, hearing, or proceeding. This does not change the attenuation rule. See *Nardone* v. *United States*, 127 F. 2d 521 (2nd Cir.), cert. denied, 316 U.S. 698 (1942); *Wong Sun* v. *United States*, 371 U.S. 471 (1963). Nor generally does it press the scope of the suppression role beyond present search and seizure law. See *Walder* v. *United States*, 347 U.S. 62 (1954).

The House amendment contained a provision, not included in the Senate amendment, which permitted interception in emergency situations for activities threatening the national security.

The conference substitute contains no such provision.

The House amendment provided, in addition to those crimes in the Senate amendment, the following crimes for which court-authorized interception could be authorized: abortion, arson, blackmail, burglary, destruction of property, receiving stolen property, and robbery.

The conference substitute conforms to the House amendment, except that the crime of abortion is deleted.

Pretrial detention is another controversial part of this conference report. The conference substitute while it changes somewhat the earlier House version is a strong and badly needed tool for local prosecutors and the courts.

The House amendment contained a comprehensive provision, not in the Senate amendment, delineating standards for release in criminal cases prior to trial, following conviction and pending appeal, and authorizing limited pretrial detention for specified categories of dangerous defendants.

The conference substitute adopts the House amendment with the following five amendments:

First. A prohibition against the detention of any defendant charged with a noncapital crime solely on the basis of the nature and circumstances of the present offense charged.

The House amendment authorizes pretrial detention for a maximum of 60 days on grounds of dangerousness to other persons or the community for three classes of defendants:

First, defendants charged with "dangerous crimes";

Second, defendants charged with "crimes of violence"; and

Third, defendants charged with any crime who threaten witnesses or otherwise obstruct justice.

For defendants in classes B and C, the House amendment specifies the minimum past conduct necessary to make such a defendant eligible for pretrial detention. For a defendant in class B, this minimum is that he have a prior conviction of a crime of violence within 10 preceding years, that he allegedly committed the crime of violence with which he is charged while released prior to trial, or while on probation, parole, or mandatory release, for a crime of violence, or that he has become a narcotic addict. For a defendant in class C, this minimum is a threat to witnesses or other conduct which obstructs justice. Moreover, while this minimum past conduct may, when considered together with the nature and circumstances of the offense charged, be sufficient to justify a defendant's pretrial detention, it may also not be sufficient since the judicial officer must find, based on all the facts set out in section 23–1321(b), that no condition or combination of conditions or release will reasonably assure the safety of the community.

Under the House amendment, a defendant charged under class A with a dangerous crime can be detained, even if he has never been convicted, arrested, charged, or even associated with any criminal conduct other than his present charge. The conference substitute eliminates this possibility. This is accomplished by providing that a person charged with a dangerous crime can be detained only if the judicial officer finds, after considering his pattern of behavior consisting of his past and present conduct, and other factors set forth in section 23–1321(b), that no condition or combination of conditions will reasonably assure the safety of the community. A judicial officer may not issue an order of detention based solely on the nature and circumstances of the dangerous crime charged. Such an order must be based at least in part on the past conduct of the defendant.

The conference substitute does not delineate the precise past conduct which may justify pretrial detention of a person charged only with a dangerous crime. Depending on the facts of the particular case, detention may be justified when further police investigation establishes that a defendant charged with a dangerous crime is responsible for other heretofore unsolved serious crimes. Detention may be justified for a defendant with a prior misdemeanor record. The decision is left to the sound judgment of the judicial officer, based on the facts of the particular case, and subject to appellate review.

Second. The elimination of the crimes of nonforcible rape and indecent liberties from the category of "dangerous crimes".

The purpose of this change is to prohibit the possibility of detaining a person charged only with nonforcible rape or indecent liberties, unless he has a prior conviction of or is on pretrial release for a violent felony or is a narcotic addict.

Third. The addition of a provision which guarantees that the 60-day period of detention cannot be extended by the filing of timely motions by the defendant other than motions for continuances.

The House provision authorizes extension of the 60-day period of detention if the trial is delayed at the request of the defendant. The filing by a defendant of timely motions, such as motions to suppress illegally obtained evidence or motions for discovery, may result in delay of the trial beyond the 60-day period. In order to make it perfectly clear that such a delay of the trial would not be considered "a delay at the request of the defendant," this provision was added.

Fourth. The strengthening of the House amendment which provided for expedited trials within the 60-day period by specifying that the cases of those detained shall be placed on an expedited calendar and, consistent with the sound administration of justice, given priority over all other cases. The conferees recognize that the success of an expedited calendar for pretrial detention cases depends on the readiness of the prosecution for trial and, therefore, urge that 25 additional prosecutors be appointed in the Office of the United States Attorney for the District of Columbia.

Fifth. The addition of the provision that for persons detained pending appeal pursuant to section 23-1325(c), the finding of the judicial officer that the appeal or petition for a writ of certiorari does not raise by clear and convincing evidence a substantial question of law or fact likely to result in a reversal or order for new trial, shall not be binding on the court in which review is sought; such a determination is one of law not subject to the traditional clearly erroneous standard of review.

Another important part of this court reform bill is greatly expanded Public Defender Service. The conference substitute conforms to the Senate provisions but there was very little real difference between the earlier House and Senate versions. In any case the Public Defender Service will be expanded so as to provide representation to 60 percent of all indigent individuals coming before the local courts, as well as the Federal courts.

Finally, we have added a Federal payment authorization—a one-time authorization—to pay for some of the costs of this act. This bill eventually is going to cost much more than this as I think we all know. But, this authorization will take care of the court and other related costs for this fiscal year. The transfer of Lorton Reformatory as provided for in the House amendment was changed in conference so as to provide for a study of the matter by the Department of Justice with recommendations to be made, concerning its future, to the Congress.

In conclusion, may I say that this is a good strong bill. It has the support of the President, the Attorney General, the U.S. attorney for the District of Columbia, many, if not most of the local and Federal judges, and Chief of Police Jerry Wilson. It is a bill which I believe will benefit the residents of this city and will abate the increase, if not in fact decrease, of the crime rate in this city.

I strongly urge you to support the strong endorsement the House conferees gave to this conference report. There has been enough delay. Let us act promptly in favor of this report by a larger vote than we did when we considered this matter earlier.

Mr. ABERNETHY. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I thank the gentleman from Mississippi.

Mr. Speaker, I have a series of questions to ask, because as I pointed out earlier, we have not seen the report of the conferees. I just now received a statement of the managers of the House in the back of the Chamber and I have not had a chance, except during lunch, to read through it. So I want to know what is in it.

The chairman of the full committee said that this conference report is the House bill. I would like one of the conferees, since the conference also was in executive session and we never heard what they did or what happened—is this basically the House bill? I would like to ask the gentleman from Mississippi if that statement is correct, that the provisions of the House, as opposed to the Senate provisions, are basically what is in the bill?

Mr. ABERNETHY. First, I would like to state for the RECORD that it is customary for the House conferees to meet in executive session.

Mr. ADAMS. I agree with the gentleman and I did not mean by my remark to say anything different happened other than what is usual under the rules of the House—we just do not know.

Mr. ABERNETHY. I just wanted to have that clear in the RECORD.

This is basically the House bill. There are some slight changes in some of the provisions. The Lorton provision, I might say, did go completely out of the bill—not that we wanted it to go out—but we felt that in order to come to a complete concurrence with the Senate that was one of the essentials on which we felt compelled to yield. Otherwise this is the House bill with a few changes.

Mr. ADAMS. All right, I thank the gentleman. I asked the gentleman this question because in the remarks just made by the gentleman from Minnesota with regard to the no-knock provisions that were placed in it by the House, he said something about the no-knock provisions were not in—or were in—I have not been able to find them in my quickly going through the conference report. Is the House no-knock provision in the bill or is the Senate no-knock in the bill or is something else included?

Mr. ABERNETHY. There was a no-knock provision in the House bill. But, if the gentleman will yield to the gentleman from Maryland (Mr. HOGAN) to speak on that point.

Mr. HOGAN. I would suggest that the staff members would probably help the gentleman from Washington to find it in the conference report. But for his benefit, the version in the bill passed by the House included a no-knock provision. The version passed by the Senate included a no-knock provision. The drug bill passed by the Senate on a rollcall vote included a no-knock provision. It is in there in this conference report. It is not in the form passed by the other body nor exactly as passed by the House. What is provided now is that it states the general rule, which is that the police officer must announce—must knock and announce his identity before entering. Then it sets forth the exceptions as to when he may dispense with knocking.

Mr. ADAMS. And what are those exceptions? First, when his life is in danger; second——

Mr. HOGAN. If the gentleman will allow me to answer his question——

Mr. ADAMS. I just asked the gentleman that, and I will if he will help me to get additional time so I can do so. I have only 5 minutes.

Mr. ABERNETHY. I shall yield the gentleman from Washington additional time.

Mr. ADAMS. I yield to the gentleman from Maryland.

Mr. HOGAN. The gentleman's point is that he wishes an explanation of how it has been changed. I will explain to the gentleman what we have done. We have taken the language of the Senate which states, "when there is probable cause to believe." That is new.

Mr. ADAMS. Rather than "is likely to."

Mr. HOGAN. No. "Probable cause that it is likely to result in danger to his life," or "probable cause that evidence is likely to be destroyed." or "probable cause that the individual is likely to escape." The useless gesture is still included, and we eliminated one of the other provisions in the House bill that an officer may dispense with knocking when his identity and purposes are already known, specifying that it is included under useless gesture. The important thing to remember is, as we have said many times before, and as we said on the floor of the House, when we debated the bill, we are only clarifying and codifying existing law.

Mr. ADAMS. I thank the gentleman. I know that is the gentleman's opinion. We have a difference of opinion. I am trying to determine specifically what you have included. You said "useless gesture."

Mr. HOGAN. I have not finished answering the gentleman. One of the other things which was included and which was not in the House bill is that the police officer is required to get a warrant in advance when he knows of these exigent circumstances. He was not required to do so under the House bill. He was under the Senate bill. That is one of the provisions which the conference agreed to.

Mr. ADAMS. I see, but the tests for "no knock" as I understand it, under "no knock" are the House tests, including "useless gesture." I understand also that the wiretap provisions of the House stayed in which allow the U.S. attorney to authorize any officer who can arrest or any attorney who can prosecute to go in and get a wiretap. Is that correct? I got that from reading the House report. I assume that one of the gentlemen in charge of the report——

The SPEAKER. The time of the gentleman has expired.

Mr. ABERNETHY. Mr. Speaker, I yield the gentleman from Washington 3 additional minutes.

Mr. ADAMS. The next item, I understand, is on preventive detention. The preventive detention provisions of the House version are in the bill and remain in basically the form that they passed the House, is that correct?

Mr. ABERNETHY. I do not know exactly what the gentleman means by "basically," but I would say that the substance of the House provisions on preventive detention remain in the bill. There is a modification that they should take into consideration the past conduct of the principal in the case. But in substance the House position is about the same.

Mr. ADAMS. In other words, it is 60 days—

Mr. ABERNETHY. The 60-day provision.

Mr. ADAMS. And the man can be detained if the judge determines from his past conduct and from the potential danger to the community that he thinks he should be held. Otherwise he cannot be held beyond 60 days.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I have very little time.

Mr. ABERNETHY. Mr. Speaker, I yield 2 additional minutes to the gentleman from Washington.

Mr. ADAMS. I yield to the gentleman from Ohio.

Mr. HARSHA. There were four changes in the procedure for pretrial detention of persons charged with criminal offenses.

First, there is a prohibition against the detention of any defendant charged with a noncapital crime solely on the basis of the nature and the circumstances of the present offense charged.

A person charged with a dangerous crime, that is, those crimes defined in the bill—and, incidentally, there were two in the House version that were eliminated from that list, and that was indecent liberties and nonforcible rape. They are taken out of the conference report. But a person charged with a dangerous crime can be detained only if the judicial officer finds, after considering both his past and present record a pattern of conduct and other factors that no condition or combination of conditions will reasonably assure the safety of the community.

The decision of what constitutes past conduct sufficient to justify pretrial detention is left to the sound judgment and discretion of the court, the judicial officers, and is subject to appellate review.

Second, as I said before, we eliminated the two crimes of nonforcible rape and indecent liberties.

Third, the 60-day period of detention cannot be extended by the filing of time motions other than motions for continuance. If the defendant files a motion for continuance, then he would extend the 60-day time period.

Fourth, on expediting trial, we provide for expediting the calendar, and any person if he is detained under this provision of law has his case placed on that calendar, and insofar as consistent with good judicial practice, his trial is expedited, and his trial is to be considered first.

Those four changes are clearly made. They substantially tighten up the procedure and assure the defendant adequate protection under the law.

Mr. ADAMS. Mr. Speaker, I thank the gentleman.

I think what we are trying to do demonstrates the need for changes in the rules of the House, because we are trying in a period of 10 minutes or a very short extended time to illuminate a very complex bill. I know there are others who will want to speak—and I know this procedure follows the rules of the House, but we have no conference report we can read, and we have just obtained the statement of the managers on the part of the House, and we have less than an hour to discuss some very controversial provisions of this bill.

I will say I understand the procedure on impeachment of witnesses is still in the bill, which means one can ask a man on the witness stand about all prior convictions and it also provides for a 3-year penalty for a man about breaking into a vending machine, and we have moved the juvenile age limit down to 15 years. I think we ought to spend more time on this bill. I know many will say that this is a District matter and not that important. That is why many of us say that we ought to move District of Columbia matters out of this House committee and down to the people who will spend more time on them because they will be governed by these laws.

Mr. Speaker, I appreciate the gentleman yielding time. I do not think we can put together a proper bill in this kind of procedure. As I said, this is not criticism of conferees for using the rules. They have the right to meet in executive session. But we just cannot consider a bill when they do this. I believe if Congress is going to govern the District and going to put in some very controversial measures: First, we ought to spend more time at it; or, second, we ought to let the local people act on it.

Mr. ABERNETHY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to say to the Members of the House the gentleman from Washington has just covered matters which have already been approved by the House. On the points he makes the identical language is still in the bill.

The gentleman seems to think there is something unusual about the procedure of the conferees. There is nothing unusual about what we did. We went through the identical procedure that is gone through by all committees of the House when they go to conference.

I might say that the gentleman from Washington did not ask to come into the conference. If he had, we would have admitted him. But certainly we should not be criticized for holding executive sessions when every conference committee of this Congress meets in a similar manner.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. ABERNETHY. I am sorry, I cannot yield further.

Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Speaker, when this measure was originally before the House I voted for it—reluctantly, because there were provisions in the bill with which I seriously disagreed and which I sought unsuccessfully to correct by amendment on the floor; but, nevertheless, I decided, on balance, to support the bill, as with all its faults, a serious-minded effort toward correction of a bad situation.

Since then the measure has been improved in the conference—notably by the omission of a section providing for mandatory life sentences for certain offenders which I considered extremely unwise and unjust, and which I had previously attempted to remove by amendment in this House. I certainly commend the House conferees for dropping that section; and, due to this action, I must agree that the present measure is an improvement over the one for which I voted.

Nevertheless, further reflection has convinced me that I cannot support this bill. This is for several reasons, but most notably and persuasively because the bill still provides for so-called "preventive detention", which I have also actively opposed, which I spoke against when this bill was first before us, and which I regard, on further and continued consideration, as so unwise and unsound that I simply cannot give it my approval, even when the beneficial purposes of this bill are considered.

Preventive detention may well violate the Constitution of the United States, as it certainly would violate the constitutions of a number of the States of the Union if it were attempted in the State courts; this is a question which the Supreme Court of the United States must ultimately decide. But whether unconstitutional or not it is, in my judgment, ineffective, unnecessary, and, as I believe, un-American.

It is ineffective because, under the bill, it requires a hearing and a determination of probable guilt before preventive detention can become operative—which means, in effect, two trials, and will clog the court system further; and because preventive detention operates for only 60 days and, if history is any guide, few of these cases can, or will be brought to trial within that period.

It is unnecessary because at best it can operate to prevent only a comparatively few possible crimes committed by persons waiting trial on bail, and because its objectives can be better accomplished by less drastic methods, such as better supervision of persons released on bail, various conditions of release, stiffer sentences for any offenses committed while released on bail, and, above all, more prompt trials.

Most of all, in my judgment—and with all deference to my friends who disagree—preventive detention is a fundamentally un-American concept.

In common, I think, with most Americans, I have always supposed that, in this country, we did not commit people to jail until and unless they had been found guilty and had been adjudged guilty of some crime. I have appeared in the courts for many years, and I must confess that I always supposed that if I represented an American citizen accused, but not convicted, of a crime, that I could secure his release either on bond or on his own recognizance until the question of his guilt or innocence had been determined. I believed that he was clothed with the presumption of innocence, and that he could not be committed and confined until and unless he had first been proved guilty beyond a reasonable doubt. It never occurred to me that some judge or magistrate, equipped I assume with some sort of judicial crystal ball, could decide ahead of time, not only that my client—this accused but not convicted American citizen—was probably guilty as charged, but, moreover and in addition, that he would probably commit another crime while waiting trial and was consequently too dangerous to walk the streets in the meantime, and that he should therefore, on the basis of this judicial "guesstimate," be forthwith committed to jail, although he stood unconvicted of any sort of an offense.

This, however, is just exactly what we do under this bill. I say that it is un-American. Regardless of safeguards which are provided we will, inevitably, jail some innocent men. I say that it is a very sorry precedent—a prime example of the adage that a bad situation can breed bad law. I say that with the adoption of so-called preventive detention we are taking a first step in the abandonment of fundamental principles which, we have always thought, distinguished our system from the communistic and the fascistic dictatorships in other lands.

There is much that is good in this bill; much that I would like to support. Preventive detention is unnecessary to the purposes of this legislation. I had hoped that it, too, might be taken out in the conference. Unfortunately, however, it is now written permanently into the legislation and, in good conscience, I cannot let it become law without registering my protest, or with my consent or approval.

Mr. ABERNETHY. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Speaker, the conferees bring to this House a crime bill for the District of Columbia which is fair, just, and comprehensive enough to immeasurably aid the administration in curbing crime and violence in our Nation's Capitol.

This measure represents the best features of both the House and Senate versions of the original bill. It is not repressive but to the contrary very progressive and constructive and will be a valuable tool in the drive to eradicate crime from this Federal City.

Adequate safeguards are provided in this legislation that will assure every person, who finds himself involved with the law enforcement authorities, his fundamental constitutional rights. On the other hand the rights of the law abiding citizen and society generally are likewise fully protected.

For far too long we have been overly concerned with the rights of the criminal—so concerned that with some it has become an obsession. The rights of the victims of these criminals and of our law-abiding society have been neglected and shunted aside.

It is time these rights have had some consideration.

This conference report endeavors to protect the rights of society without infringing upon the rights of the accused. It represents the work of many legal scholars and persons highly knowledgeable and experienced in the field of criminology and rehabilitation.

In these troubled times there are many items which deserve our immediate attention. International crisis, domestic conflict, and social injustice plague our Nation. While many of our problems seem to be beyond solution, today we have the opportunity to alleviate one of this Nation's most serious problems—the skyrocketing crime rate in our Nation's Capital. Within the shadows of the Capitol itself, vicious crimes are committed, visitors are robbed, and residents of the city are beaten. As the crime rate increases, the number of citizens willing to venture into the city to enjoy its many facilities decreases. Business suffers and what was a busy metropolis becomes, in the evening hours, a deserted maze of empty streets and buildings. Visitors from other lands must wonder how a nation with our resources can fail to protect its people from the common criminal.

We need not dwell on the problems created by the criminal element in this city; the story is all too familiar. What we need to do is to use our collective will to solve this crime problem. Our favorable action on the pending bill, the District of Columbia Court Reform and Criminal Procedure Act of 1970 will be a major step in the right direction. This carefully drafted legislation represents a comprehensive and coordinated attack on the District's crime problem. Despite irrational rhetoric to the contrary, careful analysis indicates that the approach this bill takes exemplifies rather than goes against our notions of criminal justice and due process.

Mr. Speaker, I will not attempt to describe each provision of this huge bill on the floor, but I would like to mention some of its major provisions.

Of the utmost importance is the provision reorganizing the District of Columbia's totally antiquated court system. This provision is absolutely essential. Court backlogs of 9 months and more cannot be tolerated. The court reorganization proposal is the result of very acute scrutiny and study by the Congress and by the Department of Justice. Careful consideration was given to various authorities including the National Crime Commission, the American Judicature Society and the American Bar Association's Minimum Standards for Criminal Justice. The result of these efforts is a proposal which completely revises the present court system and makes it more responsive to the pressing need for efficient and expeditious handling of criminal cases.

The proposed Code of Juvenile Procedure will enable the juvenile court system to more efficiently and realistically deal with the problems of modern day juvenile crime within the safeguards established by the Supreme Court in the now famous in re Gault decision.

A much needed public defender program will be created by the bill—a program essential if the principle of criminal justice is to be a reality to all residents of the District. Under the provisions the conference bill indigent defendants are assured that they will be skillfully and fairly represented by capable counsel.

To fully benefit from a new court system, it is also necessary that the present outmoded laws of criminal procedure be replaced by a modern Code of Criminal Procedure. This task, like all other provisions in this bill, was undertaken with great care and study. A wide variety of sources were carefully examined, and the result is a modern, progressive, and functional Code of Criminal Procedure.

Within the proposed Code of Criminal Procedure are two provisions which have received widespread publicity by the press and news media. I am referring to the so-called no-knock provision and the pretrial detention proposal. Some have charged that these provisions fly in the face of our Constitution.

Mr. ADAMS. Mr. Speaker, will the gentleman yield for an inquiry?

Mr. HARSHA. I yield to the gentleman.

Mr. ADAMS. It is my understanding that we have an act already in existence that provides for the commitment of narcotics addicts if they have the habit and, second, if the man committed a previous crime and has a record he is generally on probation or parole and that can be revoked. Are not those two alternatives to the things you have mentioned?

Mr. HARSHA. There are several alternatives to the thing I mentioned. That is right.

Mr. Speaker, in regard to the no-knock provision, it is said that the police will be given broad unrestricted powers to break into homes. Mr. Speaker, it is time for us to look through the rhetoric and look at the provision itself. The provision limits—I repeat—limits the present powers of police officers to enter private dwellings. Under this provision, if an officer has knowledge of facts which justify an unannounced entry at the time he applies for a search or arrest warrant he must obtain judicial approval to make such unannounced entry. When the officer obtains information after obtaining a warrant which creates probable cause to believe that notice is likely to result in evidence being destroyed, or that notice will endanger the officer's life or permit escape, or where notice is a useless gesture, he may make an unannounced entry. In this situation the officer is merely acting under the existing authority of the Supreme Court's decision in *Ker v. California*, 374 U.S. 23 (1963). It is, therefore, clear that the only change in existing law created by the no-knock provision is the imposition of a statutory limitation on an officer's powers to make an unannounced entry by requiring that he obtain the approval of a neutral judicial officer when it is reasonable to require the officer to seek such advance approval. It is entirely proper, in an area as sensitive as police entry into a private dwelling, that we have explicit directions to our law-enforcement officers as to the proper method by which to carry out their increasingly difficult task of ferreting out crime.

An even more misunderstood provision in the bill is the provision dealing with pretrial detention of persons charged with criminal offenses. I wish at this point only to stress two aspects of this provision which are often overlooked by those who criticize this feature of the bill. First, this provision brings the issue of the dangerousness of an accused to the community from the present state of sub rosa pretrial detention by means of high money bond into the light of a full adversary hearing. At this hearing the right to counsel, the right to present evidence and the right to appellate review and—most importantly—the right to have a clear determination of whether or not a person's release would endanger the community will all be afforded.

Under the present bail system a judge is often forced to release a person whom he believes will commit a crime of violence. Would any of us sleep well at night if we, as judges, were forced by adherence to the law to release a narcotic addict with a $100-a-day habit charged with a crime of violence so that he can commit further violent crimes to maintain his addiction? Would any of us like to explain such a release to his next victim? Under the present system the only alternative in such cases is to impose a money bond beyond the ability of the addict to pay on the unjustified basis that he will not appear at his trial. Is it not infinitely fairer to grant such a person an honest determination on the real issue involved in the release decision—the question of the danger he poses to the community?

The second feature of the pretrial detention provision that I wish to emphasize is the fact that the number of potential persons covered by its provisions is exceedingly small. Great care has been taken to limit the detention categories to those defendants who appear to pose a real and substantial threat to the community. In this regard it should be noted that the fact that a defendant fits one of the categories of persons subject to pretrial detention does not mean that he will automatically be detained. If the judge finds that, despite the fact that the defendant fits into a specific detention category, that his conditional or unconditional release will not substantially endanger the community, he will be released.

In short, this provision simply lifts a hypocritical veil from the court's determination of whether or not to release a defendant prior to his trial.

Mr. Speaker, we have a duty to enact this bill. This duty extends to all the visitors mugged, to all the merchants shot, and to the hundreds of thousands of people who fear that they will become the next victim of this invidious fact of life in our Nation's Capital.

I urge the adoption of this conference report.

Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Speaker, I rise as one of the conferees to speak in support of the conference report on the District of Columbia crime bill, which is now before us. It is my considered opinion that the conference report can best be described as a comprehensive and balanced piece of legislation to reorganize and modernize the criminal justice system in the District of Columbia. It considers both the safety of the Metropolitan Washington community and the rights of the individual. It is a bill badly needed to combat the intolerable crime rate in the Nation's Capital area, of which we are all well aware.

Mr. Speaker, in my opinion the conference report now pending before us is an improvement over the bill which was passed by the House previously and the bill which was passed by the Senate. I think it deserves the support of every Member. It is important that we realize that this is a compromise. There was a good spirit of compromise on both sides. The House conferees gave and the Senate conferees gave, but, in sum, it is a very important and strong anticrime measure and will go a long way toward helping to reduce crime in this metropolitan area.

A great deal of attention has been focused upon the controversial aspects of the legislation, the so-called no-knock provision and the pretrial detention provision which my good friend and distinguished colleague, the gentleman from Ohio (Mr. HARSHA), explained so well. So there are many other important measures in this legislation.

It provides a comprehensive reorganization and modernization of the criminal justice system in the District of Columbia. The number of judges and their salaries are substantially increased. Jurisdiction of all local matters is placed in one court. An executive officer, a highly trained top caliber administrator, is made responsible for providing the court system with a unified and expert management. All of these proposals are designed to achieve the goal of swift and sure justice in the District.

In addition, the conference report provides for a full-fledged public defender service with authority to represent 60 percent of the indigent criminal defendants and juvenile offenders in the District. The District of Columbia Bail Agency is given additional authority to supervise and notify persons released prior to trial and authorization for additional funds.

Also provided for is a new juvenile code for the District which would replace outdated and incomplete methods for processing juvenile cases with modern and detailed procedures, and would incorporate the juvenile court itself into a newly created family division of the unified court system, this division will be empowered to deal with intrafamily offenses with civic tools rather than with inappropriate criminal penalties.

Equally as important to the fair and effective administration of criminal justice in the District are the provisions for updating and improving the District's criminal law procedures. Without these provisions, we cannot hope to maximize the benefits of the proposed court reorganization. As you are well aware, two criminal law provisions, pretrial detention and "no knock" entries, have received special attention by those who criticize the bill. Let me turn to some of those criticisms which unfortunately are based on a misunderstanding of what the legislation provides.

With respect to pretrial detention, critics have alleged that pretrial detention incorporates a concept contrary to "one of the fundamental traditions of Anglo-Saxon law," the presumption of innocence. With all due respect, I cannot agree with this allegation.

Detention prior to trial of defendants charged with certain crimes has been authorized in England by statute since 1275. The Supreme Court has recognized that the English Bill of Rights Act was never thought to accord a right to bail in all cases. Indeed, as recently as 1967, the English Parliament authorized pretrial detention on grounds of dangerousness of persons accused of misdemeanors. In view of this history, I am at a loss to understand how pretrial detention can be considered inconsistent with the presumption of innocence, which is generally recognized only as a rule of evidence in a criminal trial that places upon the prosecution the burden of proving guilt beyond a reasonable doubt and allows the defendant to stand mute. Indeed, in the United States, Federal law has authorized the pretrial detention of defendants charged with capital crimes since 1789. Surely, their pretrial detention is consistent with the presumption of innocence and the foes of the proposal do not challenge the constitutionality of pretrial detention in capital cases.

Nor does the eighth amendment require pretrial release of all arrested persons, a fact specifically acknowledged by the Supreme Court in 1952 in the case of Carlson against Landon. Appropriate provisions in the pretrial detention section providing for access to counsel and release to prepare for trial assure that such legislation does not contravene the sixth amendment right to counsel. Finally, provisions providing such procedural protections as a full hearing, right to counsel, right to present evidence, and right of review, and limiting detention only to a narrow category of defendants charged with the most serious crimes guarantee compliance with the fifth amendment.

Contrary to the assertion of some critics, there can be no doubt of the urgent need for pretrial detention in the District of Columbia. In the 3 years since the Bail Reform Act of 1966 was enacted requiring the release of noncapital defendants prior to trial no matter how dangerous, the number of robberies in the District has more than tripled; burglaries and forcible rape have more than doubled. The rate of increase from fiscal 1967 to fiscal 1968 in Washington, the only city in the United States exclusively governed by the Bail Reform Act of 1966, was more than double the national rate for cities of comparable size.

Of course, I do not mean that all this increase in crime is solely attributable to crime committed by individuals on bail, but recent studies have demonstrated an abnormally high rearrest rate for defendants released prior to trial, a rate which in view of the estimated 10 percent rate of cases which police actually clear, represents but the tip of the iceberg of crime on bail. A study by the Metropolitan Police Department in fiscal 1967 demonstrated a reindictment rate of 35 percent for indicted armed robbers. A study by the U.S. attorney's office in 1968 revealed a 70 percent rearrest rate for indicted robbers released prior to trial.

The critics cite what they consider the

low rearrest rate of the National Bureau of Standards study as proof that pretrial detention is not needed. The report itself, however, cautions that it is only a pilot or exploratory study, its sample being too small, its data and time frame too limited to constitute a thorough statistical study. Moreover, the low arrest rate by police, the failure of a significant percentage of victims to report crimes are factors which should be assessed. Also the failure of the study to examine records for rearrest other than in the District of Columbia itself. When a high percentage of crime in the Maryland and Virginia suburbs is committed by individuals on bail from District of Columbia courts clouds the picture. In addition, the fact that 35 percent of the defendants studied were never released prior to trial, a percentage which include those with worse prior records and who were charged with more serious crimes than those who were released should be considered. All these factors demonstrate that the rearrest rate figures of the study do not accurately reflect the actual crime committed by those on bail, but are far too low. Indeed, it is suggested in the report itself that due to data limitation and other facts the true rate for crimes on bail for both felonies and misdemeanors would approach 40 percent.

A second equally important reason for a pretrial detention provision is the need to eliminate the present practice of judges, notwithstanding the Bail Reform Act of 1966, to detain defendants by setting high money bond. This is hypocrisy. Detention should occur only after an open hearing on the record, with a right of review, in which the issue of dangerousness is confronted openly and honestly and rich and poor are treated alike. Detention should not be restricted to those who lack sufficient funds to buy their way out.

Turning to the so-called no-knock provision, I would like to point out that the House, on March 19, 1970, decisively approved the no-knock provision in the District of Columbia crime bill and the Senate, on January 25, 1970, approved by a vote of 70 to 15 a "no-knock" provision in the controlled dangerous substances bill—S. 3246—and also approved the "no-knock" provision in their version of the District of Columbia crime bill. These votes overwhelmingly established certain principles and guidelines which are also contained in the conference report.

These principles and guidelines are as follows: First, the general rule is that an officer must knock and announce before entering private premises to execute a warrant or to make a felony arrest; second, there are certain limited exceptions to this rule which have been recognized and approved by the Supreme Court, many State courts and several State legislatures, including New York; and third, when possible, the police should be required to obtain prior judicial approval of an entry without notice. Some criticize the authorization for police officers to secure no-knock warrants in advance and state their preference for police officers justifying their no-knock entry after the fact. This is directly contrary to the spirit and purpose of the fourth amendment which requires officers whenever possible to secure prior judicial approval for arrests, searches and seizures.

The Senate and House District Committees have been diligently studying the crime problem in the Nation's Capital. One thing is clear from studying the crime situation in Metropolitan Washington is action is needed now. During the last 12 years the number of murders in the District of Columbia has increased threefold, the number of rapes has increased fivefold and the number of robberies has increased sixteenfold. In 1958, there were 79 murders, while in 1969, there were 289 murders; in 1958, there were 65 rapes, while in 1969, there were 336 rapes; and in 1958, there were 709 robberies, while in 1969, there were 12,423 robberies.

Thus, I hope that now that the bill has been reported out of the conference committee, it will promptly be approved by both bodies and be sent to the President for his signature. It is long overdue.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Washington.

Mr. ADAMS. I want to agree with the statement that the gentleman just made. I think the gentleman is correct. There are some very good things in this bill. I agree with the gentleman in supporting the public defender provision, the court reform provision, and the bail agency. That is the reason there has been no controversy about those provisions in the course of this colloquy.

Mr. HOGAN. I thank the gentleman from Washington.

I might say to the gentleman from Washington who is concerned about the "useless gesture" provision that this is and has been specifically approved by the Supreme Court in Miller against United States and by the U.S. Circuit Court for the District of Columbia in the case of Bosley against United States.

I also want to corroborate what the distinguished gentleman from Mississippi said with reference to this matter and to which the gentleman from Washington alluded during the course of his formal remarks, these matters were specifically approved by the House when the bill was originally debated. In addition, all of the gentleman's amendments designed to strip out of the bill the provisions the gentleman objects to were resounding, defeated.

Mr. ADAMS. Mr. Speaker, if the gentleman will yield further, that is what I was trying to determine, whether the House provisions which have already been voted on were in the bill or whether the Senate provisions, some of which I support, were in the bill. It is my understanding based upon what the gentleman from Maryland has said and based upon what the chairman of the subcommittee said, that the House provisions prevailed. That is why I will probably oppose this conference report. That is the reason.

I thank the gentleman for yielding.

Mr. HOGAN. Mr. Speaker, as a sponsor of the omnibus District of Columbia crime bill and several of the separate bills it absorbed, and as one of the House conferees I would like to discuss, on behalf of all the House conferees, some specific provisions in the bill for purposes of legislative history. These statements should assist the trial judges in the new Superior Court and the appellate judges in the expanded District of Columbia Court of Appeals in reaching the results intended by Congress as set forth in the language of the conference report. These statements represent the solid position of the House conferees, all of whom signed the conference report, on the intent of the language in several provisions of the bill.

The conference report adopts the entire subchapter of the House bill dealing with pretrial detention with only five modifications. Only two of these require comment.

The conference report requires that a person charged with a dangerous crime—forcible rape, robbery, burglary, arson, and unlawful sale of depressant or stimulant drugs—can be detained only if the judicial officer finds, on the basis of his pattern of behavior, consisting of his past and present conduct, and other factors set forth in section 23–1321(b) that no condition or combination of conditions of release will reasonably assure the safety of the community. The House bill permitted a finding of dangerousness based solely on the nature and circumstances of the offense charged; it did not require, as does the conference report, that the finding of dangerousness be based at least in part on the past conduct of the defendant.

It is important to understand just what this new provision requires. It does not require a prior conviction or even arrest for any offense, felony or misdemeanor, on the part of the defendant. As explained in the House report, past conduct need not consist of prior involvement with the law. Through testimony and other reliable sources of information, a judicial officer may be informed of conduct on the part of the defendant, which while dangerous to the community, never resulted in his arrest or conviction.

The past conduct may consist of a number of serious offenses charged to the defendant following his arrests on the charge before the court, offenses committed prior to his arrest but not solved until after his arrest. Prior arrests, even those which did not result in convictions, may be considered. Nor need the past conduct by itself support a finding of dangerousness. The more serious the present offense charged, the less extensive the defendant's past conduct need be. For example, for a defendant charged with shooting a policeman in the course of an armed robbery, the evidence of past conduct need be relatively slight. The significant fact is that all the facts before the judge—the past conduct of the defendant, the nature and circumstances of the offense charged, and all other factors listed in section 23–

1321(b) when considered together, justify a finding by the judicial officer that no condition of release or combination of conditions of release will reasonably assure the safety of the community.

The second point which warrants comment concerns the provision in the conference report which specifies that a delay in the trial caused by the filing by the defendant of timely motions other than motions for continuance shall not be considered delays of the trial requested by the defendant. Under the House-passed bill, pretrial detention on grounds of dangerousness to the community alone was allowed for 60 days unless the trial is in progress or the trial is delayed at the request of the defendant. This provision, specifying that timely motions resulting in delay would not be considered a delay requested by the defendant, was added by the conference committee to make clear that a defendant's detention on grounds of dangerousness alone could not be extended by his filing timely motions, such as motions to suppress or for discovery. Emphasis is on the word timely. If a detained defendant files motions after the time allowed by court rule or by the judge and this delays his trial, then such delay is to be considered at his request. This provision added by the conference report does not, of course, apply to defendants detained because of likelihood of flight since the 60-day detention limit has no applicability to them.

The conference report adopts a provision authorizing entry without notice of identity and purpose limited circumstances modeled after the House bill. One major improvement was made to the House-passed provision. The conference report provides that an officer is required to obtain prior judicial approval when at the time of application for an arrest or search warrant he knows of circumstances justifying entry without notice.

The House conferees adopted this provision primarily because we recognized that there will be a number of cases, especially narcotics and gambling cases, where an officer at the time of application for a search warrant will have "probable cause" to believe that if notice is given the evidence "is likely to" be destroyed. Such a conclusion can be based on the officer's general knowledge and experience in the area of narcotics or gambling activity that such evidence is easily disposed of and frequently destroyed if the police give advance warning by announcing. See *Ker* v. *California*, 374 U.S. 23 (1963) (Opinion of the Court by Clark, J.); *Henson* v. *State*, 204 A. 2d 516 (Md. 1964).

The House conferees felt that it was in the best spirit of the fourth amendment to require prior judicial approval when the officer knew at the time of application for a warrant circumstances justifying entry without notice. The procedure of having an officer obtain prior judicial approval has had success in a number of States including New York. An example of such a success was described by the New York Court of Appeals, the State's highest court, in *People* v. *Delago*, 16 N.Y. 2d 289, 113 N.E. 2d 659 (1965), cert. denied, 383 U.S. 963 (1966). In Delago, a no-knock entry, pursuant to the New York statute, was authorized along with a search warrant for gambling paraphernalia. The no-knock authorization was based wholly on the general experience of the police officers that gambling records are frequently quickly destroyed if announcement is given. The search of the premises, which had been entered without announcement, was successful and the suspect was convicted. The New York Court of Appeals upheld the entry. Such a result has been incorporated in the language of the conference report.

The conference report, while adopting a number of time limits for juvenile proceedings, specifically rejected time limits for the factfinding and dispositional hearings. The conferees did suggest in the House statement of managers general goals to be sought by the court in reaching the factfinding and dispositional hearings. However, these goals are not obligatory in any way and must not be construed to create any rights on behalf of the child to have his case heard within a specified time period. The conferees, however, agreed that if after the family division of the superior court has been operating 2 years, the present backlog in the present juvenile court has not significantly improved it, would be appropriate for Congress to review the need for alternative ways to effect the faster processing of cases including the possibility of the establishment of time limitations for factfinding and dispositional hearings.

Of course, the conferees understand that what will be appropriate and practicable 2 years from now can only be determined at that time and a future Congress will have to reinvestigate the situation in the family division. Only then will anyone really know if time limitations will be helpful for faster processing of cases through the family division and if so what specific times are desirable. The only intention of the confrees at this time is to express our concern and our hopes for what this bill should effect so that the present outrageous delays will no longer exist.

The provision in the conference report on impeachment of witnesses by evidence of a prior criminal conviction originated with a bill I introduced in the House of Representatives—H.R. 15340. This rule is essentially the same as that proposed in March 1969 by the Advisory Committee on Rules of Evidence to the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States and is consistent with the rules in at least 80 percent of the States. While recognizing the soundness of this rule, the conferees agreed that it would be appropriate for the District of Columbia Committees of the Congress, in its responsibility for overseeing the new, local, District of Columbia judicial system, to review the rule adopted by the conference substitute, should the Supreme Court of the United States subsequently promulgate as part of prescribed rules of evidence for all Federal courts a different rule of impeachment.

Mr. Speaker, as was said by the gentleman from Minnesota (Mr. NELSEN) under whose leadership I am honored to serve on the District Committee, this is one of the most important matters the Congress has considered regarding the Nation's Capital. I hope it will be promptly approved.

The SPEAKER pro tempore (Mr. BOGGS). The time of the gentleman from Maryland has expired.

Mr. McMILLAN. Mr. Speaker, at this time I yield 3 minutes to the gentleman from Texas (Mr. CABELL).

Mr. CABELL. Mr. Speaker, I do not come before you as an attorney who is versed in all of the legalistic language of the judiciary. I do not come before you as a psychiatrist or a psychologist who has any opinions concerning penology and matters involved in those fields. I come before you as a member of the conference committee, one of the conferees on this bill, and I come to you to support the position of the House which was made very clear in the debate on this floor when the House passed the original bill, by a vote of 294 to 47.

It was my position and it was my intent that as a member of this conference committee I would support the position of the House that was taken by a preponderant vote of this body, and I felt an obligation to support that position.

I also come before you as a Member of this House who believes that the rights of the citizen are paramount to the rights of the criminal in this matter of criminal jurisprudence and criminal acts. This bill that we bring before you today in this conference report is essentially that, that the House voted on by a preponderant majority. Certainly we made certain concessions, we eased up some of the provisions of the House bill, but I want to tell you, and I may be violating a rule of protocol, but may I tell you that the other body did not want a criminal bill, they did not want a crime prevention bill, they wanted about 15 or 20 new judges upon whose appointments they could pass, and let it go at that. But I am interested in protecting the rights of the citizens on the street, as opposed to the rights of the criminal. I hope and I pray that the wisdom of this body will prevail, and that you will accept and approve the conference report that has been brought to you after some 26 meetings of that conference committee.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ABERNETHY. Mr. Speaker, I yield 2 additional minutes to the gentleman from Texas.

Mr. CABELL. I thank the chairman for this additional time.

Mr. Speaker, I come before you to ask that you quit listening to the ACLU, that you quit listening to those people who spoke before our committee, and who spoke before the House, who were repudiated by the House, and who are only rehashing the same questions that were rehashed and repudiated by this body when the House bill was passed.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. CABELL. I will not yield at the

moment. The gentleman has his own time.

Mr. Speaker, I will spend what little time I have left to implore this body to, for once—not for once, because this body is much more responsible than the other body—I am imploring you to think about the citizens of the United States, the citizens of the District of Columbia, their rights, and their privileges as citizens, and quit shedding crocodile tears for the criminals who have been rampant in this District for the past several years, and let us have a real revision of the criminal codes.

I ask your approval of this conference report.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. ABERNETHY. Mr. Speaker, in order to answer some of the questions that have been raised, I yield 5 additional minutes to the gentleman from Maryland (Mr. Hogan).

Mr. HOGAN. Mr. Speaker, a number of questions have been asked by the gentleman from Washington in addition to those concerning the pretrial detention and the no-knock provision, but I just thought that I should bring out these additional items.

Regarding "no knock," we replaced the clause in the House bill concerning "reasonable belief," and it became the "probable cause" phrase which the Senate put in. On the wire-tapping provisions, we have accepted the provisions closer to the Senate's version rather than the House provisions.

We have eliminated the provision to transfer the administration of the Lorton Reformatory to the U.S. Bureau of Prisons. That was not in the Senate bill. It was in the House bill, and we gave up on that.

The provision calling for payment of fees to private attorneys for defending police officers was very much modified. Now the Corporation Counsel is to defend these police officers and only when he is unable to do so are fees to private attorneys for defense authorized.

As to the vending machine provisions, which the gentleman is interested in, that was changed substantially.

Mr. ADAMS. It is still in the bill?

Mr. HOGAN. It is in the bill in an entirely different form. The offense is not now second degree burglary but it becomes a felony with a maximum penalty of 3 years.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. HOGAN. Mr. Speaker, I would like to answer the questions that the gentleman has already asked before hearing additional questions because I might run out of time.

Mandatory penalties for crimes have been severely changed from the House version. There are no mandatory minimum penalties for a first offense in the bill at all, as it now stands, and there are no mandatory life sentences in the bill at all.

Mr. BIAGGI. Will the gentleman yield?

Mr. HOGAN. I have a commitment to yield to the gentleman from Washington first, but I will be happy to yield, if I have any time remaining.

I yield to the gentleman from Washington (Mr. Adams).

Mr. ADAMS. As to the vending machine provision, it is still in as I read the bill and has a 3-year penalty. Is a penalty for the type of violation carried over as a violent or dangerous crime for purposes of other parts of the bill.

Mr. HOGAN. No, it is not.

Mr. ADAMS. Is it specifically applicable as to the no-knock provision, it is my understanding under the original version by which you can go in without knocking, include the useless gesture; is that correct?

Mr. HOGAN. No, that is not correct. If the gentleman will read the bill as originally passed by the House and compare it with the conference report, he will find that there was a provision in the House bill that said when the identity of the police officer was known, he need not knock and announce. That has been eliminated although it was stated by the managers that we do intend to have that exception included under "useless gesture."

I repeat again—the Supreme Court has specifically approved the "useless gesture" exception. I will give the gentleman a sample of what a "useless gesture" is.

Suppose a police officer sees a crime being committed and he pursues the individual down the street and the individual runs into a house and slams the door in the police officer's face. It is a "useless gesture" for the police officer at that time to pause and to knock on the door and to say that he is a police officer.

Mr. ADAMS. If the gentleman will let me reply to that, I agree that that is an exception. It was so held in certain crimes in the Ker case. However, when you place this in statutory form that the police officer can make a decision prior to arriving at the door as to whether or not it is a useless gesture, you have a different situation.

Then the decision is not made by the court, after the fact. The decision is made by the officer before he arrives and you have statutorily authorized him to do it, and there has been no judicial standard established to determine what an officer must have in his mind regarding useless gesture before he breaks in.

If I were an officer, I would say it is a useless gesture in order for me to get through that door. I have supported the Ker case. I think that is all right. But I think the no-knock provision you are putting in is extremely dangerous.

Mr. HOGAN. I am sure the gentleman knows the only no-knock provision that is being put in is already specifically authorized by Supreme Court decisions, including the "useless gesture," which I mentioned while in the well.

Mr. ADAMS. That is where we happen to disagree because the useless gesture is after the fact, and it is to determine the situation of the officer pursuing the man, as to whether he should break through the door. Now the Supreme Court can make decision. Under this bill the Court must now interpret the statute.

Mr. HOGAN. I would suggest to the gentleman that he read the Supreme Court cases. I insert the opinion in Bosley against United States at this point in the Record:

[U.S. Court of Appeals for the District of Columbia Circuit, No. 21,513]

David E. Bosley, Appellant *v.* United States of America, Appellee—Appeal from the U.S. District Court for the District of Columbia

[Decided April 9, 1970]

Mr. R. Timothy Hanlon, with whom *Mr. Murdaugh Stuart Madden* (both appointed by this court) was on the brief, for appellant.

Mr. Donald T. Bucklin, Assistant United States Attorney, with whom *Messrs. Thomas A. Flannery,* United States Attorney, *Roger E. Zuckerman* and *Victor W. Caputy,* Assistant United States Attorneys, were on the brief, for appellee. *Messrs. David G. Bress,* United States Attorney at the time the record was filed, and *John A. Terry,* Assistant United States Attorney, also entered appearances for appellee.

Before Wilbur K. Miller, *Senior Circuit Judge,* and Wright and MacKinnon, *Circuit Judges.*

MacKinon, *Circuit Judge:* Appellant was charged in a three count indictment with housebreaking (D.C. CODE § 22-1801), rape (D.C. CODE § 22-2801), and sodomy (D.C. CODE § 22-3502). He was found guilty by a jury of housebreaking and sodomy as charged and of the lesser included offense of assault with intent to commit rape. He was sentenced to four to twelve years for housebreaking, four to twelve years for assault with intent to commit rape, and three to nine years for sodomy, the sentences for the assault with intent to commit rape and sodomy to run concurrently but consecutively to the sentence for housebreaking.

The Government's evidence may be briefly summarized. The complaining witness, a young lady, testified that she resided by herself in an apartment on Connecticut Avenue, N.W. in Washington, D.C. She testified that on the night of March 16, 1966, she went to bed around 11:30 P.M., having locked both the door and window to her apartment. She testified that she was awakened later that night by a man standing over her bed. Her testimony that Bosley entered her apartment without her consent is corroborated by a broken window glass in her apartment opposite the fire escape. Both complainant and a girl friend testified this was not broken earlier in the evening. Thus the fact that the window was broken in a manner to permit unlatching the lock from the outside is corroborative of the Government's contention that Bosley had gained admission to the apartment in this manner. Also corroborative of an outside entrance by Bosley into the apartment is complainant's testimony that he was wearing gloves when she first noticed him standing by her bedside. Bosley admitted he had gloves with him at the time.

The complaining witness recognized the intruder as appellant, whom she had met on two previous occasions,[1] and who lived in the apartment above her. She screamed and was told by appellant that he would kill her if she continued to scream. She testified that appellant then raped her and forced her to engage in oral sodomy. She testified that a cycle of rape and sodomy continued throughout the night. Her description of the rape and sodomy can only be described as bestial. She further testified that appellant left her apartment by way of the fire escape the next morning, and she then promptly went to a girl friend's apartment and called the police.

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[1] At the first meeting, the complaining witness had locked herself out of her apartment. She went upstairs to the apartment of another girl she knew and was surprised to find appellant staying there also. The appellant then assisted her in gaining entry by climbing from the upstairs apartment via the fire escape to her apartment, going in through the window, and opening the locked door. The second meeting was apparently a brief encounter in front of the building, more properly described as a rooming house than as an apartment building.

A detective of the Metropolitan Police arrived at her girl friend's apartment in answer to her call, and together they proceeded to her apartment. Shortly thereafter, another detective arrived at complainant's apartment and the two officers then went upstairs to appellant's apartment. As testified to by the detective:

"We knocked on the door. The door was a little bit ajar. We knocked on the door. No answer. We could look through and see someone laying on the couch. So we just pushed the door open and walked in." The officers then shook the appellant awake,[2] placed him under arrest, and took him to the police station. Here certain items of appellant's clothing were seized and a sample of his pubic hair was taken.[3] Apparently no evidence was taken from the appellant's apartment.

Appellant defended on the claim of consent. He testified that he had twice met the complaining witness in or about their apartment building,[4] that preceding the early morning hours of March 17th he had been to a bar and, upon returning to his apartment, had felt lonely. The girl in whose apartment he was staying was out of the city. He further testified that he went downstairs to the apartment of the complainant, knocked on the door, was admitted and that after some conversation, he made advances which were accepted by her, after which he fell asleep, that when he awoke the next morning, complainant was upset about the possibility of pregnancy and about her fiance learning of the episode; that he was feeling poorly and could offer her little sympathy, so he left her apartment by the window and returned to the upstairs apartment where he was staying by way of the fire escape. He stated he took this route because he had left the keys to his apartment in his apartment. When he found there was no food in his apartment, he went to a nearby store and picked up some groceries, then returned and fell asleep on the couch, and the next thing he remembered was being awakened by the police.

I

The appellant first argues that the trial court erred in admitting, over objection, a certain statement allegedly made by him while in police custody and before he had been advised of his rights as required by *Miranda* v. *Arizona*, 384 U.S. 436 (1966).

The statement in question was allegedly made by appellant in his apartment after the police had entered and shaken him awake. The detective was allowed to testify that after they had awakened him they first informed him that the girl downstairs had charged him with rape and appellant stated that he had not been in the apartment of the complaining witness but rather had been in a tavern until 2:00 A.M. at which time he had come home and gone to bed. The appellant denied making this statement; rather he testified as follows:

"As far as I can recall, when they came in, he said the girl downstairs . . . complained I had broken into her apartment and raped her.

"The only thing I can recall telling him was I didn't know what he was talking about, that I did not break in and I had not raped anybody."

Appellant was next arrested and taken to the police station.

The Government first argues that the trial court properly admitted the detective's testimony as impeachment evidence; the defense argues that the statement was used to discredit appellant's consent defense. In any event, we need not dwell long on this point since *Miranda*, if violated, under our decisions would prohibit the introduction of the statement even if it were used only for impeachment purposes. *Miranda* v. *Arizona*, *supra*, 384 U.S. at 477; *see also Proctor* v. *United States*, 131 U.S. App. D.C. 241, 404 F. 2d 819 (1968); *Blair and Suggs* v. *United States*, 130 U.S. App. D.C. 322, 401 F. 2d 387 (1968).

The Government next argues that appellant's statement was voluntary and as such comes within the "volunteered statement" exception to *Miranda*. On this point *Miranda* states:

"[T]he prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination." 384 U.S. at 444.

We note that the Court drew no distinction between voluntary and involuntary statements, and we may assume that *Miranda* applies to all statements that come within its purview whether voluntered or not.

However, the Court also made it clear that not all statements come within the purview of its rule. We quote (384 U.S. at 478):

"In dealing with statements obtained through interrogation, we do not purport to find all confessions inadmissable. Confessions remain a proper element in law enforcement. Any statement given freely and voluntarily without any compelling influences is, of course, admissible in evidence. The fundamental import of the privilege while an individual is in custody is not whether he is allowed to talk to the police without the benefit of warnings and counsel, but whether he can be interrogated. There is no requirement that police stop a person who enters a police station and states that he wishes to confess to a crime, or a person who calls the police to offer a confession or any other statement he desires to make. Volunteered statements of any kind are not barred by the Fifth Amendment and their admissibility is not affected by our holding today." (Emphasis added).

The emphasized portion of the quote shows that the question to be asked is not solely whether the statement was voluntary, but rather in what circumstances was the voluntary statement made.[5] The rest of the quote sheds light on this question. It would indeed be a harsh rule with respect to a volunteered statement made by one who walked into the police station in order to confess, or who volunteered his confession over the telephone, to prohibit its admission in evidence because the volunteered statement was offered before the police could give the required warning. In these situations, there would be no opportunity for overreaching or other abusive practices on the part of the police and consequently one of the main purposes of the *Miranda* decision—the deterrence of such police practices—would not be involved. Exclusion in such situations would serve no useful purpose and the Court wisely limited its rule to those statements "stemming from custodial interrogation."[6]

Turning to the case at bar, we note that appellant's statement whatever its exact content[7] was a spontaneous denial of guilt which he volunteered when the police informed him of the charges levelled against him. We consider the reasoning of *Miranda* is applicable here which allows the admission of a voluntary statement that is not the result of "in-custody interrogation." We note here that there was no opportunity for the police to employ any abusive practice in order to obtain an incriminating statement. At the time the statement was made, there had been no interrogation whatsoever, and thus appellant's statement could not have been one "stemming from custodial interrogation." And no claim is made that appellant was subjected to any custodial interrogation.

We are not ready to condemn the police practice of announcing to a person they may seek to arrest the charges against him as early as possible in the encounter. In this instance the police were only doing what was required of them by 18 U.S.C. § 3109. Upon learning the charges, the arrested person may quite naturally make a spontaneous statement of innocence or noninvolvement. At this point, the police may have had no opportunity to give the *Miranda* warnings or to prevent the statement from being made. They had no such opportunity here. Exclusion of a statement made in these circumstances would not effectuate the purposes of the *Miranda* decision.

We recognize that at some point in time during the course of the arrest it could no longer be contended that the police were without opportunity to give the *Miranda* warning. We believe that *Miranda* does re-

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It was an older home that had been subjected to some remodeling. Appellant testified that he was invited to the complainant's apartment during this encounter but this was denied by her.

[2] An indication of how soundly appellant was sleeping can be gained from the testimony that the police awakened him at about 8:45 A.M. on March 18th and that he had a hangover at the time; that from 10 P.M. of the day previous he had been out celebrating his birthday and had consumed 13 cans of beer, a couple of mixed drinks and some sherry; engaged in three acts of sexual intercourse and several acts of sodomy and had been awake until about 7:45 A.M. when he went to sleep. He had about one hour's sleep according to this version. His own testimony reduced the instances of sexual intercourse to one and stated he had slept from about 3:00 A.M. to 6:00 A.M. The jury did not believe his testimony in other particulars and the other version of his night's activity seems to be the most reliable.

[3] The items taken from the appellant at the police station included a shirt, T-shirt, undershorts, handkerchief, sweater and trousers. This property was turned over to the FBI for analysis. This analysis revealed that the fibers taken from appellant's trousers and sweater were similar to those found on the complainant's sheets, nightgown, and panties. Pubic hairs which matched the sample taken from appellant were found on complainant's nightgown and sheets. Evidence of these and similar analyses were introduced into evidence by stipulation. Appellant here challenges the introduction of this evidence. *See* note 8 *infra*.

[4] *See* note 1 *supra*.

[5] In Orozco v. Texas, 394 U.S. 324, 326 (1969), the police "officers questioned petitioner about incriminating facts" in his own room without advising him of his rights. The facts there are thus distinguishable from this case because here the police never questioned Bosley about the crime either at his own room or at the police station and no evidence was offered or admitted as to any response Bosley gave to any question by the police.

[6] Miranda v. Arizona, 384 U.S. 436, 444. (1966).

[7] *See* p. 4, *supra*.

quire the police to warn an arrested suspect of his rights as immediately as practicable after arresting him. A heavy burden rests on the Government to prove any contention that the arrested suspect volunteered a statement without any "interrogation," explicit or implicit, on the part of the police and before he could be warned of his rights. *See Miranda* v. *Arizona, supra,* 384 U.S. at 475. We also recognize that the case before us would be quite different had the police interrogated the appellant in conjunction with informing him of the charges against him, *i.e.*, had the police informed the appellant of the charges and then *asked* him to respond to these charges. But the case at bar is not such a case. Here the appellant's statement was a spontaneous denial of guilt which he volunteered in response to the announcement of the charges levelled against him before the police had an opportunity to give the usual warning. We do not think the *Miranda* decision was intended to apply to such facts. Its entire thrust, as it reiterates so many times, is at "in-custody interrogation."

The appellant next argues that the statement allegedly made by him, along with certain physical evidence,[8] should not have been admitted on the grounds that they were obtained following his arrest which was in violation of 18 U.S.C. § 3109 (1964). That statute provides:

> "The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant."

It is clear that appellant's point does not raise constitutional issues because it is unquestioned that the police did have probable cause to enter to arrest Bosley for felonies. What is raised is the application of the statute to the entry and its effects on certain evidentiary matters. In *Miller* v. *United States,* 357 U.S. 301 (1958), the Supreme Court held section 3109 to be applicable to arrests,[9] and the Court has since broadly construed the section to proscribe an "unannounced intrusion," *Sabbath* v. *United States,* 391 U.S. 585, 590 (1968).

On the other hand, the Supreme Court has left open the question of whether there may be exceptions to the requirements of section 3109 in certain circumstances. *See Sabbath* v. *United States, supra,* 391 U.S. at 591; *Ker* v. *California,* 374 U.S. 23, 40 (1963); *Wong Sun* v. *United States,* 371 U.S. 471, 482–83 (1963); *Miller* v. *United States, supra,* 357 U.S. at 309–10. Mr. Justice Brennan was clearly of the opinion there would be certain exceptions to any constitutional ruling on the subject, *Ker* v. *California, supra,* 374 U.S. at 47, and Mr. Justice Marshall has suggested that these exceptions may be applicable to section 3109. *Sabbath* v. *United States, supra,* 391 U.S. at 591 n.8. Lower courts have, in fact, engrafted certain exceptions onto section 3109.[10] One of these may be termed the "useless gesture" exception. *Cf. Miller* v. *United States, supra,* 357 U.S. at 310; *Hair* v. *United States,* 110 U.S. App.D.C. 153, 155 n.9, 289 F.2d 894, 896 n.9 (1961). In the past it has been applied when the arresting officers were justified in being virtually certain that the person to be arrested knew their purpose, and hence compliance with section 3109 would be a "useless gesture." *See, e.g., Wittner* v. *United States,* 406 F.2d 1165, 1166 (5th Cir. 1969); *Der Garabedian* v. *United States,* 372 F.2d 697, 699 (5th Cir. 1966); *Chappell* v. *United States,* 119 U.S.App.D.C. 356, 358–59, 342 F.2d 935, 937–38 (1965).

We think application of the "useless gesture" exception to the case at bar is appropriate. We note that the officers originally attempted to comply with section 3109 by knocking on the partially open door. They received no response and apparently knocked again. Then, noting that appellant was asleep on the couch they entered the apartment through the open door, awakened appellant and announced their purpose. Since appellant had not been awakened by their knocking, the officers could reasonably have concluded that further knocking or verbal announcement would be a "useless gesture." Indeed, it appears that at this point the most practical means available to the officers to carry out their duty of giving notice of their authority and purpose was to enter the apartment and awaken the appellant. We note that the officers, after they had awakened the appellant, did immediately state their purpose (and impliedly their authority) by informing the appellant of the charges levelled against him.[11] To have done so before entry would have been useless gesture as the person the statute is designed to protect, the occupant, was asleep and the indications to the officers were that he was not capable of hearing them as he had not been awakened by their knocking. We conclude that the entry through the open door in these circumstances did not violate section 3109.

Affirmed.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

On this particular question, in connection with the question raised by the gentleman from Washington, if that particular officer did wrongfully utilize the useless gesture provision, would he not be subject to a civil suit and to disciplinary charges?

Mr. HOGAN. Yes; and he would be subject to civil suit for false arrest and he would be subject to the payment of damages and prosecution for breaking and entering.

Mr. ABERNETHY. I yield 3 minutes to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Speaker, I rise as a lawyer and one who is not a conferee. The American system of jurisprudence is not designed to make us comfortable. It is designed to make us free. I wish to pay particular praise to the gentleman from Indiana (Mr. DENNIS) who has pointed out some of the weaknesses and the problems in the bill. I think he is a constitutional conservative in the House in the sense that the late Senator Taft was when he stood against the Nuremberg trials at a time when it was not popular politically to do so.

I have supported this bill. I will support the bill, because on balance I think it is a good bill. But we have a "no knock" provision in the bill which disturbs me greatly. We should try to remember always that we have been a nation in which citizens have been free from unlawful arrest. We were free from unreasonable searches and free from "no knock" provisions. Let us not give that up too easily. We have been a nation in which we once thought it was better that nine guilty men should escape rather than that we should imprison one who is innocent.

Mr. ABERNETHY. I yield 1 minute to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. I thank the gentleman for yielding.

I would just like to point out that you are not free from "no-knock" provisions in the law right now. They exist in the law. They are in case law. We are merely trying to codify what the Supreme Court has said the law is to provide additional safeguards to the individual by this codification method. The individual is further protected by the fact that you must get judicial sanction before you go in under those circumstances.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Missouri.

Mr. HUNGATE. Are the "no-knock" provisions which the gentleman describes in the current state of the law as broad as those which would be extended in the statute?

Mr. HARSHA. They are as broad, subject to the flexibility of interpretation placed on the circumstances involved in each case by the judge ruling on the legality of an arrest or the suppression of certain evidence obtained in the execution of such warrants.

Mr. HUNGATE. Then the provisions in the bill would extend only to narcotics and gambling cases, is that correct?

Mr. HARSHA. Sir?

Mr. HUNGATE. Then the provisions in the bill would extend themselves only to narcotics and gambling cases?

Mr. HARSHA. No, the provisions are general in nature, but their use would undoubtedly be limited to those types of cases.

Mr. ABERNETHY. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. I thank the gentleman for yielding.

Mr. Speaker, I wish to pay particular commendation to the members of the conference committee because they have endured perhaps more than the majority of the body is aware. I should like to address a question to the gentleman from Mississippi. How long has this bill been in conference, approximately?

Mr. ABERNETHY. I would say approximately two or two and a half months. We had 23 meetings with the Senate conferees, and they were very lengthy.

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[8] *See* note 3, *supra*. We note that this physical evidence was not seized at the appellant's apartment, but rather was taken from him at the police station after his arrest. Appellant argues that this evidence should have been suppressed as "fruits of the poisonous tree" under Wong Sun v. United States, 371 U.S. 471, 487–88 (1963). However, granting *arguendo* the primary illegality, we are far from clear that the seizure of this evidence was not so remote so as to be "purged of the primary trait." *Id.* In any event, our disposition on the merits of the § 3109 question renders decision of this question unnecessary.

[9] This circuit had reached a similar result prior to *Miller* in Accarino v. United States, 85 U.S. app. D.C. 394, 179 F. 2d 456 (1949).

[10] *See, e.g.,* Gilbert v. United States, 366 F. 2d 923, 932 (9th Cir. 1966) (peril to officers); Wayne v. United States, 115 U.S.App.D.C. 234, 241–43, 318 F. 2d 205, 212–14 (1963) (emergency situations; here a report of a "dead, dying, or unconscious woman"); United States v. Fair, 176 F. Supp. 571, 573–74 (D.D.C. 1959) (destruction of evidence).

[11] See p. 4, *supra*.

Mr. STEIGER of Arizona. I do not know if that is a record, but it is certainly entitled to be noted.

Mr. ABERNETHY. I think we were in conference for 3 months.

Mr. STEIGER of Arizona. I note that now the senior Senator from Maryland is saying that the bill is really as he likes it and his provisions are an important part of the bill. Then I note that those who have espoused the same concern he has espoused are still espousing them. I wonder if the gentleman can tell me if he feels that in the main the House was successful in retaining the substance of what we passed here.

Mr. ABERNETHY. I think we have retained the substance of the House-passed bill.

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PODELL).

Mr. PODELL. Mr. Speaker, I am disturbed by a number of things in the bill, preventive detention, and particularly the "no knock" provision. I wish to bring to the attention of the House the possibility of an officer breaking into a home where he thinks he has probable cause to believe that narcotics are present, and the owner of that home is in possession of a revolver. The owner of that home in possession of a revolver will have every right to shoot the officer because that officer broke into his home without announcing himself as an officer of the law.

I would like to ask the gentleman from Ohio (Mr. HARSHA) or the gentleman from Maryland (Mr. HOGAN) whether or not the bill provides for any safety for that officer?

Mr. HARSHA. The provision of no-knock is designed to provide safety for the officer. One of the reasons he would use the no-knock provision or not identify himself in language to the suspect is because he fears he may be shot if he does that. We have had many occasions when the officer has identified himself and been shot. He says, "I have a warrant for your arrest," and he is shot through the door. This is designed to prevent the very thing the gentleman thinks might prevail.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. ABERNETHY. I yield the gentleman from New York 1 additional minute.

Mr. PODELL. Mr. Speaker, if I am alone during the course of the evening, and I own a pistol, and a man breaks into my home during that evening without announcing he is a police officer, I am going to shoot him.

Mr. HARSHA. In the first place, unless the gentleman is a known criminal or there is some evidence to cause the officer to know the gentleman has illicit narcotics in his possession or other unlawful contraband, the officer is not going to break into the gentleman's home.

Mr. PODELL. Is it not possible the officer may have a mistaken impression the owner of the apartment has narcotics? And is it not possible for an officer to break into the wrong one or a string of identical homes or the wrong apartment for instance, 2A instead of 2B?

Mr. HARSHA. That can happen now under present law.

Mr. PODELL. And it has happened in two recent cases.

Mr. ABERNETHY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, the cheeses of preventive detention and no-knock and minimum-mandatory sentences do not smell any better as a result of the time they aged while the conference committee sat.

Where we should be setting up a model for the country in terms of what they ought to do to solve the local crime problems, we are telling the country, in effect, that the only provisions Congress can come up with are those which belie the belief that we can achieve a system that recognizes that justice and order go together. I find it sad that we are saying that the only way to be secure is to create conditions where freedom and repression are equated, and balanced against each other.

Mr. Speaker, I intend to vote "no."

Mr. ABERNETHY. Mr. Speaker, I yield two minutes to the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, President Nixon assumed office pledging a relentless struggle against crime in the District of Columbia.

Eleven days after his inauguration, he outlined a comprehensive program of crime control designed to restore a decent measure of security to residents and visitors in the Nation's Capital.

The President's program envisioned a partnership with Congress. Many of his recommendations required congressional action.

Specifically, the President proposed a massive reorganization and expansion of the local courts, featuring added manpower and modern court administration to reduce the scandalous backlogs and delays that have characterized the present system.

He supported an enlargement of the District of Columbia Bail Agency to improve surveillance of defendants before trial.

He advocated a full-fledged public defender service to assist indigent defendants in criminal proceedings.

He called for sweeping reforms in the operation of the juvenile court and in the Juvenile Code.

And he asked for changes in the Bail Reform Act to correct manifest deficiencies which had become apparent through experience.

In subsequent weeks and months, other suggestions to improve the District's criminal justice system were forthcoming—from the Department of Justice, from Members of the House and Senate, and from the public at large.

In time, each Chamber produced and passed a bill.

Last Monday, after more than 3 months of spirited debate, after 24 sessions of conference and compromise, the best in these disparate measures was at last brought together in a single omnibus crime bill for the District of Columbia.

We should send this first major crime legislation of the 91st Congress to the President's desk for signature without further delay.

The legislative process has taken a long time—too much time for any of us to be proud or satisfied. Almost 18 months have passed since the President's crime message. These long months have been a tragic loss when we consider the urgency and magnitude of the present crisis.

But a bill has emerged—a sound, constitutional bill of great depth and dimension that will make history as one of the most progressive crime control measures ever enacted by the Congress.

The members of the conference committee who hammered out this compromise legislation deserve our thanks. Special tribute should be paid to Congressmen JOHN MCMILLAN, TOM ABERNETHY, JOHN DOWDY, EARLE CABELL, ANCHER NELSEN, BILL HARSH, JOEL BROYHILL, and LARRY HOGAN, who faithfully represented the interests of the House.

The District of Columbia crime bill is long overdue—not months overdue but years overdue—in a city where crime has increased more than 600 percent during the past decade.

The bill is not a panacea for every problem in this crime-beleaguered capital. But it is a reasoned response to rampant lawlessness—an immediate response to immediate problems. It is needed now. It is needed for the future.

The House of Representatives was not satisfied with just a court reorganization bill because a comprehensive crime bill was the medicine needed.

This bill is sound, progressive, bipartisan legislation. The provision authorizing pretrail detention is designed to meet the problem of dangerous felony defendants whose past and present record of behavior demonstrates that they cannot be trusted to refrain from additional criminal conduct during the period between arrest and a speedy trial. Crime on bail is an undeniably serious problem in the District of Columbia, and it will not disappear through wishful thinking.

The no-knock provision in the bill codifies the law of the land as set out by the Supreme Court in Ker against California. Exaggerated concern about police barging into private homes is competely unfounded in the accumulated experience of 29 States. Authority to enter a premises in exigent circumstances without first knocking is often essential to the life and safety of an officer or the preservation of critical evidence.

The wiretapping provision in the bill implements the authority granted to local jurisdictions by the Omnibus Crime Control and Safe Streets Act of 1968. There is no truth whatever to charges that the provision exceeds the careful standards set out in 1968.

Idle talk about repression contributes nothing to the sober resolution of serious problems.

The District of Columbia crime bill will contribute significantly to peace, liberty, and order in the Capital City of our Nation. It merits the support of the Congress.

Mr. ABERNETHY. Mr. Speaker, I yield

1 minute to the the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Speaker, I would like to ask the gentleman from Ohio (Mr. HARSHA) a question if I may.

I understood the gentleman to suggest that the no-knock provisions were merely a compilation of the existing Supreme Court decisions on that subject with the added extension that it gave more protection to the individual. Is that a fair statement?

Mr. HARSHA. That is correct.

Mr. WALDIE. Am I correct in saying that in effect what has been done in this bill is to tie the policeman's hands even further than they are presently tied with the case law that exists in the field?

Mr. HARSHA. We have limited his discretion.

Mr. WALDIE. So, in effect, we have made it easier on the criminal and tougher on the policeman by this provision?

Mr. HARSHA. We have not made it easier for the criminal.

Mr. WALDIE. Have we made it tougher for the policeman?

Mr. HARSHA. We have defined the avenues within which the policeman may operate.

Mr. WALDIE. And that made it tougher over the existing case law, did it not?

Mr. HARSHA. It made it more difficult but it does not follow that it made it easier for the criminal. It clearly defines the circumstances under which the no-knock procedure may be used and it takes the guess work out of the present law. Thus permitting the police to use no-knock with more assurance and legal sanctity.

Mr. WALDIE. If it is tougher for the policeman, we have made it easier for the criminal, have we not?

Mr. HARSHA. That does not necessarily follow.

Mr. WALDIE. Not necessarily, but it does in this case and I am disturbed that the committee would make the policeman's task more difficult.

I say, if we have made it tougher for the policeman have we not made it easier for the criminal?

Mr. HARSHA. No; that does not follow.

Mr. ABERNETHY. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. GUDE).

Mr. HOGAN. Mr. Speaker, will the gentleman yield?

Mr. GUDE. I yield to my colleague from Maryland.

Mr. HOGAN. I wish to answer the gentleman from California. The difficulty is, because there is so much confusion about this at the present time the U.S. attorney and the police are confused and they do not use this even though they are authorized to do so under the case law.

Mr. GUDE. Mr. Speaker, I rise particularly to commend the remarks of the gentleman from Missouri in regard to the no-knock provision. I regret that the conference did not strike this unnecessary provision altogether.

I wish I could exercise an item veto before voting on this huge report. There are still serious defects in the sections relating to juveniles, wiretapping, and preventive detention, although some of the more egregious parts of the bill have been modified. However, I sponsored and supported most of the major sections of this legislation. These include court reorganization, expanding the legal aid agency into a full-fledged public defender service, strengthening of the District of Columbia Bail Agency, and authorizing the District to enter into the interstate compact on juveniles. We must get on with these reforms. I am relieved to see that the conferees have dropped the ill-considered provision to transfer Lorton Reformatory to the Federal Bureau of Prisons. Our goal is to upgrade all of the institutions in the system of criminal justice, not to fragment and weaken it.

I am pleased that the conferees have amended the preventive detention section of the bill to require that the cases of persons detained be placed on an expedited trial calendar. I proposed this amendment on the floor, but it was rejected. It is essential that any provision for preventive detention be coupled with a speedy trial requirement. Other amendments which I proposed to the preventive detention section would have strengthened the provision against constitutional attack, and I regret that no one insisted on them.

Despite its defects, I support this bill because it will give the District of Columbia the institutional resources it needs to reduce the crime that shadows District citizens and visitors to this great city.

Mr. OTTINGER. Mr. Speaker, I regret that the House-Senate conferees on the District of Columbia crime bill have reached agreement on a version that retains so many provisions of H.R. 16196 which are unconstitutional and which I opposed when the bill passed the House on March 19.

The answer to our rising crime does not lie in repression, and certainly not in tossing out the basic liberties embodied in the Constitution for which our forefathers fought.

The answer to crime lies first in an effective attack on drug addiction. Between 50 percent and 80 percent of violent crime in our cities is attributable to addicts having to steal, burglarize, mug, and hold up people to get the money to feed their habits. I have proposed comprehensive legislation to deal with this menace to our society, including stiff mandatory sentences for drug suppliers and distributors, doubling the customs staff assigned to stopping smuggling, cutting off aid to countries that fail to take effective measures to stop drug exportation, licensing and regulating U.S. drug manufacturers and distributors, and taking the incentive to steal out of the traffic in drugs by treating addicts as the health problems they are.

Another sound answer to crime is to beef up our local police forces and improve their training and equipment. To carry this out, I proposed legislation to provide $3 billion for the Crime Control and Safe Streets Act rather than the $216 million proposed by the administration, and to distribute these funds in accordance with the incidence of crime rather than on a per capita basis.

Lastly, we must attack more effectively the conditions in our society which lead to crime—slum housing, inadequate education, and training which lead to joblessness.

The answer definitely does not lie in throwing out basic constitutional protections for the many who are innocent to get at the few who are guilty.

It is just unthinkable that the widespread alarm of American citizens over rising crime should create the emotional climate for passage of a bill that includes preventive detention, no-knock searches by law enforcement personnel, the trying of 16-year-olds as adults, and creation of special discriminatory sentences.

These provisions assault the most cherished principles of American democracy as set forth in our Constitution: the presumption of innocence, right to privacy in the home, and selective sentencing of convicted criminals on the basis of the facts in each individual case. As I pointed out in prior debate on this bill, offenses by persons released on bail comprise approximately 6 percent of the total crime incidence, and more than half of this percentage involves crimes committed more than 60 days after release. A 60-day preventive detention authorization will succeed in crowding the jails even more than they are now, will establish a presumption of guilt, injure the suspect's ability to receive a fair trial, and will clutter an already badly backlogged court docket by adding the time and preparations for preventive detention hearings.

Likewise, the no-knock provision has frightening implications for the security of citizens in their own homes. There have been several instances of such entry in the District area in recent months, one of them a breaking into the wrong apartment. I am convinced that this practice is going to lead to tragic unnecessary deaths, both among the public and for police officers as well.

As I have pointed out so often before, the problems in our crime prevention and detention procedures could be greatly alleviated by the institution of speedier trials, a reform which would obviate the objectionable features of the bill before the House today. Until we clean up our center cities, provide employment opportunity for every American, make our prisons rehabilitative, give every accused person the right to a speedy trial, and help local jurisdictions to upgrade the quality of law enforcement personnel, we shall not have taken the truly necessary steps to rid ourselves of the high crime rate which makes so many Americans insecure when walking the streets. That security will not be gained by the incursions into civil liberties authorized under S. 2601, and I urge defeat of this legislation today.

Mr. ABERNETHY. Mr. Speaker, I wish to express my appreciation to the members of the conference and to the Members of the House for the consideration they have given this measure both at the time it was originally considered and at this time on the consideration of the conference report. Each of you deserve commendation for your participation and effort.

We have reached the point of a final vote. I urge that you support this legislation. The District and the Nation need it.

PARLIAMENTARY INQUIRY

Mr. ADAMS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ADAMS. How much time is left for this debate?

The SPEAKER pro tempore. Eight minutes.

Mr. ADAMS. I would ask the gentleman handling the bill, since there are 8 minutes remaining, that we in opposition have an opportunity to continue our inquiry on several matters. I understood that the time had been exhausted by the proponents of the bill. I would ask now, with the time remaining, if I might be recognized?

Mr. ABERNETHY. Mr. Speaker, I yield myself 1 minute to respond to the gentleman.

It is impossible to preliminarily work out to the exact minute the time that is allotted in the consideration of a conference report. Some must be held in reserve for late requests. I have yielded time to every Member who sought it. I do not feel that further debate on the report would contribute a thing. The gentleman from Washington has had more time than anyone in the Chamber. With all deference, I feel that we now ought to get on with the vote.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HARSHA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 332, nays 64, not voting 35, as follows:

[Roll No. 216]

YEAS—332

Abbitt
Abernethy
Adair
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Ashley
Aspinall
Ayres
Baring
Barrett
Beall, Md.
Belcher
Bell, Calif.
Bennett
Betts
Bevill
Biaggi
Biester
Blackburn
Blanton
Boggs
Boland
Bow
Brademas
Brinkley
Brooks
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Utah
Bush
Button
Byrnes, Wis.
Cabell
Camp
Casey
Cederberg
Chamberlain
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins
Colmer
Conable
Conte
Corbett
Coughlin
Cowger
Cunningham
Daddario
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denney
Dent
Derwinski
Devine
Dickinson
Donohue
Dorn
Dowdy
Downing
Dulski
Duncan
Dwyer
Edmondson
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fallon
Fascell
Feighan
Findley
Fish
Fisher
Flood
Flowers
Flynt
Ford, Gerald R.
Foreman
Fountain
Frelinghuysen
Frey
Fulton, Pa.
Fulton, Tenn.
Fuqua
Galifianakis
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Goldwater
Goodling
Gray
Green, Oreg.
Griffin
Griffiths
Gross
Grover
Gubser
Gude
Hagan
Haley
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hastings
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Henderson
Hicks
Hogan
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kazen
Kee
King
Kleppe
Kluczynski
Kuykendall
Kyl
Kyros
Landgrebe
Landrum
Langen
Latta
Lennon
Lloyd
Lujan
McClory
McCloskey
McClure
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKneally
McMillan
Macdonald, Mass.
Madden
Mahon
Mailliard
Mann
Marsh
Martin
Mathias
May
Mayne
Michel
Miller, Calif.
Miller, Ohio
Mills
Minish
Minshall
Mize
Mizell
Mollohan
Monagan
Montgomery
Morgan
Morton
Mosher
Murphy, Ill.
Myers
Natcher
Nelsen
Nichols
Obey
O'Konski
Olsen
O'Neal, Ga.
Passman
Patman
Patten
Pelly
Perkins
Pettis
Philbin
Pickle
Pike
Pirnie
Poage
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Reid, Ill.
Rhodes
Rivers
Roberts
Robison
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, Pa.
Rostenkowski
Roth
Roudebush
Rousselot
Ruppe
Ruth
St Germain
Sandman
Satterfield
Saylor
Schadeberg
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Stafford
Staggers
Stanton
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Sullivan
Symington
Taft
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Wampler
Watkins
Watson
Watts
Weicker
Whalen
Whalley
White
Whitehurst
Whitten
Wiggins
Williams
Wilson, Bob
Winn
Wold
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young
Zablocki
Zion
Zwach

NAYS—64

Adams
Addabbo
Bingham
Bolling
Brasco
Brown, Calif.
Burton, Calif.
Byrne, Pa.
Carter
Celler
Chisholm
Cohelan
Conyers
Corman
Culver
Dennis
Dingell
Eckhardt
Edwards, Calif.
Eilberg
Farbstein
Foley
Ford, William D.
Fraser
Friedel
Gallagher
Gilbert
Gonzalez
Green, Pa.
Harrington
Hathaway
Helstoski
Holifield
Kastenmeier
Koch
Leggett
Long, Md.
Lowenstein
McCarthy
Meeds
Melcher
Mikva
Mink
Moorhead
Morse
Moss
Nedzi
Nix
O'Hara
O'Neill, Mass.
Ottinger
Podell
Rees
Reid, N.Y.
Reuss
Riegle
Rooney, N.Y.
Rosenthal
Roybal
Stokes
Thompson, N.J.
Tunney
Waldie
Yates

NOT VOTING—35

Berry
Blatnik
Bray
Brock
Broomfield
Caffery
Carey
Chappell
Clancy
Clay
Cramer
Crane
Dawson
Diggs
Edwards, La.
Hawkins
Keith
Kirwan
Long, La.
Lukens
MacGregor
Matsunaga
Meskill
Murphy, N.Y.
Pepper
Pollock
Powell
Rarick
Reifel
Ryan
Scheuer
Springer
Stuckey
Widnall
Wilson, Charles H.

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Chappell for, with Mr. Ryan against.

Mr. Long of Louisiana for, with Mr. Powell against.

Mr. Edwards of Louisiana for, with Mr. Dawson against.

Mr. Murphy of New York for, with Mr. Diggs against.

Mr. Pepper for, with Mr. Kirwan against.

Mr. Widnall for, with Mr. Matsunaga against.

Mr. Rarick for, with Mr. Scheuer against.

Mr. Stuckey for, with Mr. Hawkins against.

Mr. Bray for, with Mr. Carey against.

Mr. Cramer for, with Mr. Clay against.

Mr. Crane for, with Mr. Charles H. Wilson against.

Until further notice:

Mr. Blatnik with Mr. Pollock.

Mr. Caffery with Mr. Brock.

Mr. Broomfield with Mr. Reifel.

Mr. Clancy with Mr. MacGregor.

Mr. Springer with Mr. Lukens.

Mr. Meskill with Mr. Keith.

Mr. CARTER changed his vote from "present" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. ABERNETHY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the adoption of the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON H.R. 16595, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1971

Mr. DADDARIO. Mr. Speaker, I call up the conference report on the bill (H.R. 16595) to authorize appropriations for activities of the National Science Foundation, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 13, 1970.)

Mr. DADDARIO (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. GROSS. Reserving the right to object, Mr. Speaker, I assume in lieu of the reading the gentleman will take some time to explain the conference report.

Mr. DADDARIO. Mr. Speaker, in reply to that, I shall be happy to take as much time as necessary to answer any questions the gentleman from Iowa and other Members may have.

Mr. GROSS. Mr. Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. DADDARIO. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the conference report on the bill H.R. 16595, to authorize appropriations for the activities of the National Science Foundation, and for other purposes, for fiscal year 1971.

The managers on the part of the House met in conference with the managers on the part of the Senate on Thursday last, July 9.

The results of that conference were not only a reasonable compromise with the views of the other body, but were in keeping with the sentiment of the House as expressed in its action in passing the authorization bill, H.R. 16595 on May 11 of this year.

The House conferees did an admirable job in working out the details of this compromise and I should like to compliment them for their efforts in this regard.

After House passage of H.R. 16595 on May 11, the Senate Committee on Labor and Public Welfare reported this bill with amendment on June 11. The Senate committee struck out all after the enacting clause in H.R. 16595 and inserted a Senate amendment. This amendment differed from the House passed version in two substantive ways:

It increased the amount of the authorization from $527,630,000 to $548 million, and it did not include the House approved "student unrest" provision. The full Senate approved the bill on July 1 as reported by the Senate Committee on Labor and Public Welfare, but did not request a conference. The House disagreed to the amendment of the Senate, requested a conference, and appointed conferees on July 6. The conference agreed to a compromise figure of $539,730,000, including $2,000,000 in excess foreign currencies. The Senate approved the conference report yesterday. I hope we shall do likewise today.

As I have already noted, there were two substantive differences between the House and Senate versions which were reconciled by the conferees on July 9. Let me explain first of all the differences between the two bodies over the amount of the authorization.

Mr. GROSS. Mr. Speaker, would the gentleman be good enough to yield?

Mr. DADDARIO. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

I ask him how much above the budget the conference figure is.

Mr. DADDARIO. Mr. Speaker, the administration's budget for the National Science Foundation was $500 million including $2 million in excess foreign currencies. The increase, then, is $39,730,000 above the request.

Mr. GROSS. Some $35 million, then, with or without the foreign currencies?

Mr. DADDARIO. That is correct. If the gentleman will recall, over the course of the last few years the Committee on Science and Astronautics and the Subcommittee on Science Research and Development, which holds the authorization hearings, has cut back on the budgets which were originally proposed by the administration. On this occasion, as we demonstrated during the debate on the authorization bill when it was before the House, there were numerous transfers of programs which we on the subcommittee believed to be of tremendous value to the country. They were being transferred to the National Science Foundation, but only a small share of them could be supported. We have added $20 million for that purpose, which is the largest change in the administration budget.

As I pointed out, the administration requested for the National Science Foundation a total authorization of $500 million, not including $13 million for the national sea grant program which is authorized separately. The House action added $27.63 million to the administration request. The additional funds were added specifically for five programs.

The House added $9.5 million for graduate traineeships: The administration budget provided no funds for first year trainees. These stipends are distributed on a geographical basis to 244 institutions, and furnish a basic strength and quality to the graduate education programs in the sciences throughout the country. Termination of the program would have serious consequences to the graduate education programs at many emerging universities. Analysis of the fiscal year 1971 budgets of other agencies indicates an overall reduction in direct Federal support to first year graduate students of one-half as compared to fiscal year 1970. Projections of scientific manpower requirements 6 to 8 years from now, when these graduate students would be entering the manpower pool, indicate that the Nation will require more rather than fewer scientists. Restoration of this program to its fiscal year 1970 level reduces the impact of these reductions, and will permit an orderly review of future scientific manpower requirements during the coming year.

The sum of $10 million was added by the House to support academic science projects transferred to NSF from mission agencies: Shifts in program emphasis by agencies other than the National Science Foundation are causing a reduction in the support of academic research in colleges and universities by approximately $54.1 million in fiscal year 1971, not including changes in the programs of the National Institutes of Health. Information indicates NSF expects to fund projects previously supported by NIH at a level of $3.8 million in fiscal year 1971. Present plans of agencies other than NIH include the termination of research grants or contracts in more than three-quarters of the States. Most, and perhaps all, of the remaining States will be affected since many of these projects will be of very high quality and will compete successfully for Foundation support.

Hearings were held on March 19 on this subject. Four witnesses from the academic community related the effects of current policy on the Nation and their own institutions. Dr. Benjamin Lax of MIT warned about the danger of losing the lead in important scientific disciplines to other nations. Dr. Charles Hosler of Penn State noted the cutback of research and training in areas related to environmental problems. Dr. Thomas Jones of the University of South Carolina described how modest percentage cutbacks at the "excellent" institutions turn into catastrophic reductions at the "emerging" universities. Dr. Ivan Bennett, of New York University, related how cutbacks in the support of the life sciences would affect our medical education now and in the future.

The action of the House increased funding for the college science improvement program by $4 million to a total of $8 million for fiscal year 1971: Our undergraduate colleges have historically furnished a large proportion of the undergraduate science majors who go on to graduate study. The effectiveness of COSIP has been well demonstrated in the past. The need for this program is demonstrated by the fact that proposals totaling $24 million were submitted to NSF in fiscal year 1969.

The House attempted to deal with the demonstrated need for more basic research regarding environmental problems by adding $4 million for environmental research in Federal laboratories.

This is a new budget item which did not appear in the proposals put forth by the administration. The pattern of building new laboratories to solve each major new problem is not an efficient way of utilizing our limited scientific and fiscal resources. In the area of research on environmental quality, competence can be found in existing Federal laboratories. This competence should be brought to bear in a coherent manner to solve some of these pressing problems. We need laboratories of a certain "critical mass" to provide comprehensive studies and multidisciplinary approaches.

Many environmental problems require research and pilot plant capabilities beyond the resources of individual universities. A recognition of this need for environmental laboratories of significant size has been reflected in legislation introduced in both Houses of Congress. The problems, however, are of such magnitude and importance that delay seems unwise. The NSF already has the necessary jurisdiction to take the needed first steps, and a unique set of circumstances existing at the Oak Ridge National Laboratory makes this alternative feasible.

This $4 million provides the necessary first steps toward a viable research program in those areas most important to the preservation and restoration of our physical environment.

The final item for which funds were added by the House was the State and local intergovernmental science policy planning program. The House added $130,000 to this program, bringing it to a total level of $500,000.

The State and local intergovernmental science policy planning program was formally initiated in fiscal year 1969. It supports projects designed to assist State and local governments in planning for better utilization of science and technology.

Effective measures for dealing with many environmental problems can be most effectively generated at the State and local levels. This NSF program has been extremely valuable in providing the necessary capability for attacking these problems by demonstrating the value of effectively organizing science and technology to cope with local conditions.

The Senate sustained all of the additions of the House to the administration request, and added funds to three of the programs which the House increased. With respect to the House approved figures, the Senate added $20 million for support of academic science projects transferred to NSF from mission agencies; $500,000 for the college science improvement program, and $370,000 to the State and local intergovernmental science policy program. The Senate also added $1.5 million to the Foundation's program for institutional support for science.

The compromise worked out by the conference committee reflected the differences in funding for these four programs, over which there was disagreement, as follows:

The difference of $20 million between the House and Senate for support of academic science projects transferred to NSF from mission agencies was resolved by agreeing to a figure precisely midway between the House and Senate figures. The $10 million added to the House figure will allow the Foundation to support approximately half of the high quality research projects that are being terminated by mission agencies in fiscal year 1971.

The House conferees agreed to the Senate addition of $500,000 over the House level for the college science improvement program. The conferees concurred with the Senate figure, which will permit the Foundation to more adequately cope with the needs in quality science education which exist in our undergraduate colleges.

Mr. MILLER of California. Will the gentleman yield?

Mr. DADDARIO. I yield to the chairman of the committee.

Mr. MILLER of California. The gentleman has not said anything about the fact that we retained in the House bill the language that restrains persons from rioting or violating the laws and rules and regulations of universities or institutions, which language the House very much insisted upon and the Senate deleted from the bill. Part of the agreement with the Senate, you know, involved this: We made concessions to them on the budget in order to retain this language in the bill. I hope the gentleman touches on that.

Mr. DADDARIO. I am pleased that the chairman has called that to the attention of the House. I shall touch on it after going through the remaining budget changes. That language concerning "student unrest" was kept as passed in the House version.

Mr. FULTON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. DADDARIO. Yes, I am glad to yield to the distinguished gentleman from Pennsylvania.

Mr. FULTON of Pennsylvania. This year as well as last, the House has insisted upon certain limits in order to prevent disturbances and rioting at educational institutions. So, there are these limits that have been gained on the control of the spending of the money. Nonetheless, the money amount has gone up. So, in the give and take there was a money increase. However, I would like to discuss briefly this matter of an increase and ask my colleague from Connecticut a question.

Actually, the amount under the Mansfield amendment limited the DOD research programs to those that have only a direct and apparent relationship to the mission of the Department of Defense. The total amount of transfer would be about $60 million. Under the amount requested in this bill, the National Science Foundation would be able to assume only $30 million of that. We are only giving them just over 50 percent of it. Is that not correct?

Mr. DADDARIO. If I may reply to the gentleman from Pennsylvania, Mr. Speaker, I think the question he has raised is one of extreme importance. I would add to that that the figure of $60 million is an extremely low estimate. My own judgment on that is that the total for the programs which have been dropped out of the Department of Defense, the National Institutes of Health and the Atomic Energy Commission may run over $100 million. The figure that we are adding in support of these programs will support only a portion of the very best programs.

Mr. FULTON of Pennsylvania. So, that on the academic science projects transferred to the National Science Foundation from mission-oriented agencies, the House added $10 million and the Senate added $20 million more. Therefore, what we come up with is really one-half of what would be necessary for Department of Defense research programs?

Mr. DADDARIO. That is correct.

Mr. FULTON of Pennsylvania. Mr. Speaker, if the gentleman will yield further, all of us on the House floor are interested in making more progress toward environmental quality I think one of the chief things that should be emphasized here is a small increase of $4 million for environmental research in Federal laboratories.

Improvement of our environment through scientific research can be given an enormous boost by utilizing the existing competence that can be found in our Federal laboratories. The National Science Foundation already has the necessary jurisdiction to make use of these laboratories. At the same time, it has the necessary authorization to provide the highly specialized laboratories where they are required.

Many environmental problems require research and pilot plant capabilities beyond the resources of our individual universities and laboratories. For these reasons, the committee of conference agreed to our recommendations to add $4 million for this purpose.

I believe everyone in the House, regardless of party or affiliation, would favor such an increase and emphasis at this time. This is also in step with the new movements toward environmental legislation and the new Environmental Protection Agency that has been proposed by President Nixon in his Reorganization Plans Nos. 3 and 4.

Mr. DADDARIO. Mr. Speaker, on that particular point I think it ought to be emphasized that the Subcommittee on Science and Research and Development has for some time laid emphasis on the idea that Federal laboratories ought to be more flexible than they have been in the past; that they are the repository of both brains and equipment that can be used for present day problems. This action is a manifestation of that concern, one which I believe will pay great dividends in the years ahead.

Mr. FULTON of Pennsylvania. Mr. Speaker, if the gentleman will yield further, in the planning and policy studies program of the NSF there is the State and local intragovernmental science policy planning program.

One of the purposes of this program is to assist State and local governments to plan for better utilization of science and technology.

It has been increasingly evident in the past few years that State and local authorities are better equipped organizationally to deal with their particular local problems.

The conference committee added $230,000 to this program which puts a part of our Government research money to work back in the States so that, on a local basis, States can expand their science programs to conform to local conditions. This is really a part of the President's policy of returning a part of the Federal funds to the States.

We are taking the lead in scientific research and development by emphasizing these programs which will be of assistance to the science and research departments in these various States. Therefore, those people who are States' rights minded should certainly feel that the increase of money for these State programs, which totals $600,000 for fiscal year 1971, should be retained.

Would the gentleman agree with that?

Mr. DADDARIO. Mr. Speaker, the program that the gentleman from Pennsylvania is referring to is one in which he has shown great interest over the course of many years. It is at this time a very small program, and has been for the last few years, because the States are not in condition as yet to do any more than to develop a planned capability which these amounts of money are directed toward accomplishing.

The difference of $370,000 between the House and Senate figures for the State and local intergovernmental science policy planning program was compromised to a figure of $100,000 above the House figure. The conferees agreed that this program has been productive and will continue to be increasingly valuable in providing increasing capability at the State and local levels for dealing with such problems as environmental quality and pollution abatement. However, testimony presented by the NSF to the House Committee on Science and Astronautics indicated that the Foundation could utilize in an effective manner not more than $600,000 for this purpose in fiscal year 1971. Therefore, in order to assure maximum efficiency in the expenditure of these funds, the total budget for this program was kept to the $600,000 level.

The Senate added $1.5 million to the administration request of $55.5 million for institutional support for science. The House did not provide any increase in this program. The Senate expressed a strong desire to assure the further strengthening of the capabilities of our universities in the social sciences, and stipulated that this $1.5 million increase in institutional science support should be for this purpose. The House conferees concurred with the Senate position with respect to their position.

The other major disagreement between the House and the Senate versions of H.R. 16595 was the inclusion of the "student unrest" provision in the House version but not in the Senate version. In essence, the House approved a provision stating that no funds under the act could be paid by the institution to such persons if they: First, willfully refused to obey a lawful regulation or order of such institution and such refusal was of a serious nature and contributed to the disruption of the administration of such institution; or, second, had been conviced in any Federal, State, or local court of competent jurisdiction of inciting, promoting, or carrying on a riot, or convicted of any group activity resulting in material damage to property, or injury to persons, found to be in violation of Federal, State, or local laws designed to protect persons or property in the community concerned.

The House conferees insisted strongly upon retaining the provision as approved by the House. This provision is similar to others enacted into law in connection with major Federal programs of higher education, and, identical to a provision included in last year's NSF Authorization Act.

The Senate conferees receded on this point of disagreement, and the "student unrest" provision was retained in precisely the same form as passed by the House.

Summing up the results of the conference, the House and Senate versions differed by $22.37 million. The amount agreed to by the committee of conference is $12.1 million more than authorized by the House and $10,270,000 less than authorized by the Senate and totals $539,730,000. In other words, the House conferees gave in slightly to the Senate on the amount of the authorization, but with respect to the other major item in disagreement, the "student unrest" provision, the Senate receded and the House position prevailed.

I would like to compliment the gentleman from Pennsylvania (Mr. FULTON) on giving his support to this report and also to recognize that he has made an extremely valuable contribution to the work of the Science and Astronautics Committee, and to the conference committee as well. His fine spirit and keen insight have made our deliberations truly bipartisan in nature, and have shown his dedication to the pursuit of scientific excellence in this country.

Mr. FULTON of Pennsylvania. Mr. Speaker, I thank the gentleman.

Mr. DADDARIO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I merely want to express my appreciation to the Subcommittee on Research and Development for the work that they have done on this bill.

I also want to compliment the gentleman from Connecticut (Mr. DADDARIO), the gentleman from Ohio (Mr. MOSHER), and the other members of the subcommittee, along with my colleague, the gentleman from Pennsylvania (Mr. FULTON). We have tried to handle this on a strictly bipartisan basis because of its great importance to the country.

I also want to thank the staff of the committee for the very fine work they have done.

Mr. FULTON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Pennsylvania.

Mr. FULTON of Pennsylvania. Mr. Speaker, I also wish to compliment the gentleman from Connecticut (Mr. DADDARIO). As chairman of the distinguished Subcommittee on Science, Research and Development, he has been, perhaps, the leading congressional figure in support of our national scientific research and development effort. His dedication and insights into these matters have been extraordinary. I also want to compliment the gentleman from California (Mr. MILLER) on his cooperation and on the forward-looking views he has taken in the work he has done on this particular legislation.

Mr. Speaker, will the gentleman yield further?

Mr. MILLER of California. I yield further to the gentleman from Pennsylvania.

Mr. FULTON of Pennsylvania. Mr. Speaker, I would also like to point out to the House one further thing. For those people who are interested in expenditures and who are concerned that this is above the President's budget, it must be remembered that $20 million of the $37.5 million above the President's budget is for research work that is being transferred from the Department of Defense and allied agencies. The National Science Foundation is picking up programs that would otherwise have been done for the defense of this country. Secondly, another $4 million of this total is to emphasize environmental research in our Federal laboratories. These are two major areas of support that I think everybody should agree on at this time.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MILLER of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. EVINS of Tennessee. Mr. Speaker, I want to commend the distinguished gentleman from Connecticut (Mr. DADDARIO), chairman of the Subcommittee on Science, Research and Development of the Committee on Science and Aeronautics, for this bill and this conference report providing authorization for programs of the National Science Foundation.

Mr. Speaker, it would seem that after November we will be referring to the distinguished committee chairman as Governor DADDARIO.

We will miss him as he leaves the House following an outstanding career of public service in the House for further service to the great State of Connecticut.

The gentleman from Connecticut is able, diligent, capable—and this conference report reflects his great talent and ability.

I commend this conference report and urge its approval.

Mr. DADDARIO. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 311, nays 77, not voting 43, as follows:

[Roll No. 217]

YEAS—311

Abbitt
Adair
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Aspinall
Ayres
Baring
Barrett
Beall, Md.
Belcher
Bell, Calif.
Bennett
Bevill
Biaggi
Biester
Bingham
Blanton
Boggs
Boland
Bolling
Brademas
Brasco
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burlison, Mo.
Burton, Calif.
Burton, Utah
Bush
Button
Byrne, Pa.
Cabell
Casey
Celler
Chamberlain
Clark
Clausen, Don H.
Cleveland
Cohelan
Collier
Conte
Conyers
Corbett
Corman
Culver
Cunningham
Daddario
Daniel, Va.
Daniels, N.J.
Davis, Ga.
de la Garza
Delaney
Dent
Derwinski
Dingell
Donohue
Dorn
Downing
Dulski
Duncan
Dwyer
Eckhardt
Edmondson
Edwards, Calif.
Eilberg
Esch

Eshleman
Evans, Colo.
Evins, Tenn.
Fallon
Farbstein
Fascell
Feighan
Fish
Fisher
Flood
Flowers
Foley
Ford, William D.
Fraser
Frey
Friedel
Fulton, Pa.
Fulton, Tenn.
Fuqua
Galifianakis
Gallagher
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gilbert
Goldwater
Gonzalez
Gray
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Grover
Gude
Haley
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hastings
Hathaway
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Holifield
Horton
Hosmer
Howard
Hungate
Hunt
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Langen
Leggett
Lennon
Long, Md.
Lowenstein
McCarthy
McClory
McCloskey
McClure
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKneally
Macdonald, Mass.
Madden
Mahon
Mailliard
Mann
Marsh
Martin
Mathias
May
Meeds
Melcher
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mink
Minshall
Mize
Monagan
Moorhead
Morgan
Morse
Mosher
Moss
Murphy, Ill.
Natcher
Nedzi
Nichols
Nix
O'Hara
O'Konski
Olsen
O'Neill, Mass.
Ottinger
Passman
Patman
Patten
Pelly
Perkins
Pettis
Philbin
Pickle
Pike
Pirnie
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rees
Reid, N.Y.
Reuss
Rhodes
Riegle
Rivers
Roberts
Robison
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roth
Roudebush
Roybal
Ruppe
St Germain
Satterfield
Saylor
Schadeberg
Scheuer
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Stafford
Staggers
Stanton
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stubblefield
Sullivan
Symington
Taft
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Tiernan
Tunney
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
Watkins
Watson
Watts
Weicker
Whalen
White
Whitehurst
Widnall
Wiggins
Winn
Wolff
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young
Zablocki
Zion
Zwach

NAYS—77

Abernethy
Andrews, Ala.
Arends
Ashbrook
Ashley
Betts
Blackburn
Bow
Brown, Ohio
Burke, Fla.
Burleson, Tex.
Byrnes, Wis.
Camp
Carter
Cederberg
Clawson, Del
Collins
Colmer
Conable
Coughlin
Cowger
Davis, Wis.
Dellenback
Denney
Dennis
Devine
Edwards, Ala.
Erlenborn
Findley
Flynt
Ford, Gerald R.
Foreman
Fountain
Goodling
Gross
Hagan
Hall
Harsha
Henderson
Hogan
Hull
Hutchinson
Jonas
Jones, N.C.
King
Kleppe
Kyl
Landgrebe
Latta
Lloyd
Lujan
McMillan
Mayne
Michel
Mills
Mizell
Montgomery
Morton
Myers
Nelsen
O'Neal, Ga.
Reid, Ill.
Rousselot
Ruth
Sandman
Scherle
Schmitz
Schneebeli
Smith, Calif.
Snyder
Thompson, Ga.
Whalley
Whitten
Williams
Wilson, Bob
Wold
Wylie

NOT VOTING—43

Anderson, Tenn.
Berry
Blatnik
Bray
Brock
Broomfield
Caffery
Carey
Chappell
Chisholm
Clancy
Clay
Cramer
Crane
Dawson
Dickinson
Diggs
Dowdy
Edwards, La.
Frelinghuysen
Gubser
Hawkins
Hébert
Keith
Kirwan
Long, La.
Lukens
MacGregor
Matsunaga
Meskill
Mollohan
Murphy, N.Y.
Obey
Pepper
Pollock
Powell
Rarick
Reifel
Ryan
Springer
Stratton
Stuckey
Wilson, Charles H.

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bray.
Mr. Blatnik with Mr. Frelinghuysen.
Mr. Chappell with Mr. Dickinson.
Mr. Murphy of New York with Mr. Broomfield.
Mr. Carey with Mr. Clay.
Mr. Long of Louisiana with Mr. Berry.
Mr. Charles H. Wilson with Mr. Gubser.
Mr. Pepper with Mr. Cramer.
Mr. Anderson of Tennessee with Mr. Brock.
Mr. Kirwan with Mr. Dawson.
Mr. Matsunaga with Mr. Keith.
Mr. Obey with Mr. Hawkins.
Mr. Dowdy with Mr. Lukens.
Mr. Edwards of Louisiana with Mr. MacGregor.
Mr. Ryan with Mr. Diggs.
Mr. Caffery with Mr. Meskill.
Mr. Mollohan with Mr. Powell.
Mr. Stratton with Mrs. Chisholm.
Mr. Rarick with Mr. Clancy.
Mr. Stuckey with Mr. Pollock.
Mr. Springer with Mr. Reifel.

Messrs. FLYNT, HENDERSON, NELSEN, ARENDS, DENNIS, BROWN of Ohio, and DENNEY changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. DADDARIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

TO AMEND TITLE II OF THE MARINE RESOURCES AND ENGINEERING DEVELOPMENT ACT OF 1966

Mr. LENNON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11766) to amend title II of the Marine Resources and Engineering Development Act of 1966, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

"That section 203(b)(1) of the National Sea Grant College and Program Act of 1966 is amended by inserting after 'for the fiscal year ending June 30, 1970, not to exceed the sum of $15,000,000,' the following: 'for the fiscal year ending June 30, 1971, not to exceed the sum of $20,000,000, for the fiscal year ending June 30, 1972, not to exceed the sum of $25,000,000, and for the fiscal year ending June 30, 1973, not to exceed the sum of $30,000,000,'."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. SISK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

The SPEAKER pro tempore. (Mr. BOGGS). The question is on the motion offered by the gentleman from California.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 17654, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the Clerk had read through section 106, ending on page 13, line 24, of the bill. If there are no further amendments to that section, the Clerk will read.

The Clerk read as follows:

SUPPLEMENTAL, MINORITY, AND ADDITIONAL VIEWS

SEC. 107. (a) Section 133(e) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190a(e)) is amended to read as follows:

"(e) If, at the time of approval of a measure or matter by any standing committee of the Senate (except the Committee on Appropriations), any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than three calendar days in which to file such views, in writing, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

"(1) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

"(2) shall bear upon its cover a recital that supplemental, minority, or additional views are included as part of the report.

This subsection does not preclude—

"(A) the immediate filing and printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subsection; or

"(B) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.".

(b) Clause 27(d) of Rule XI of the Rules of the House of Representatives, as amended by section 105(b) of this Act, is further amended by adding at the end thereof the following subparagraph:

"(3) If, at the time of approval of any measure or matter by any committee (except the Committee on Rules) any member of the committee, gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than three calendar days in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

"(A) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

"(B) shall bear upon its cover a recital that supplemental, minority, or additional views are included as part of the report.

This subparagraph does not preclude—

"(i) the immediate filing or printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; or

"(ii) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.".

AMENDMENT OFFERED BY MR. STEIGER OF WISCONSIN

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Wisconsin: On page 15, line 17, after the word "days" insert "(excluding Saturdays, Sundays, and legal holidays)."

Mr. STEIGER of Wisconsin. Mr. Chairman, the bill of the Committee on Rules is a major improvement over the present situation, because it does grant to the minority 3 calendar days in which to file supplemental, minority, or additional views. I think this provision as it stands in the committee bill is a good one.

The amendment I offer simply inserts a phrase found in almost every other section of the rules amended under this bill, to provide that we would exclude Saturdays, Sundays, and legal holidays. I would hope the Committee on Rules and the distinguished chairman of the subcommittee, the gentleman from California (Mr. SISK) and the ranking Republican member, the gentleman from California (Mr. SMITH) would be willing to accept the amendment.

I offer the amendment because I would hope it would be possible for those who wish to have the 3 calendar days not to be forced into the situation in which on a Friday, for example, if a bill is reported, it would mean one would have to work on Saturday and Sunday in order to get any views he wished to include in the committee report prepared within the 3-calendar-day limitation.

As a result, it seems to me for an orderly process in the House and for the benefit of those who wish to have supplemental, minority, or additional views, this one change, which is consistent with other rules changes being proposed by the Committee on Rules, can be adopted in order to make it possible for the Members to have the time without having the constraint of weekend work in order to file their views.

It seems to me the House is well served by such a provision.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the distinguished gentleman from California.

Mr. SISK. I appreciate the gentleman's yielding.

Let me simply say that I appreciate the amendment which the gentleman is offering. I am sure, as my colleague from Wisconsin knows, this is the first time in the rules where the right of the minority for any period of time has been recognized.

I might say that the gentleman is correct, in that in most cases where we use the words "calendar days" we have put in the idea of excluding Saturdays, Sundays, and legal holidays.

I recall the discussion which occurred. There was a general feeling, at least, that this was 3 days, and more than heretofore had been granted as a matter of fact under the rules, and that in many areas of the bill we have recognized for the first time the rights of the minority—as I believe they should be recognized—and that we had gone far enough at the beginning.

So far as I am personally concerned, I see no great objection to the gentleman's amendment. I believe at the time there was some feeling, of course, that this could possibly delay the reporting of a bill by as much as 2 or 3 days, when there was a long weekend involved. I know at the time there was some thought expressed that if there was a desire to file minority views perhaps it would not hurt to work on Saturday. I am being a little facetious in saying that; I am sure many of us do work on Saturdays.

I do appreciate the amendment. I believe it would not be an insurmountable problem even if we did delay a report by 1 day or perhaps a couple of days. So far as I am concerned, I have no personal objection to the amendment. I would be glad to hear the comments of my colleague from California.

Mr. STEIGER of Wisconsin. I very much appreciate the gentleman's statement.

Mr. SMITH of California. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the distinguished gentleman from California.

Mr. SMITH of California. I appreciate very much the statement by the distinguished gentleman from California (Mr. SISK). I argued at great length for this in the committee. As I said when I presented the bill, I was pleased the majority were so kind as to give me the 3 days. Since the gentleman from California (Mr. SISK) goes along now, I will be happy to accept it.

Mr. STEIGER of Wisconsin. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. STEIGER).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

AVAILABILITY OF COMMITTEE REPORTS AND PRINTED HEARINGS ON MEASURES AND MATTERS BEFORE FLOOR CONSIDERATION THEREOF

SEC. 108. (a) Section 133(f) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190a(f)) is amended to read as follows:

"(f) A measure or matter reported by any standing committee of the Senate (except the Committee on Appropriations) shall not be considered in the Senate unless the report of that committee upon that measure or matter has been available to the Members of the Senate for at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of that measure or matter in the Senate. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the Senate prior to the consideration of such measure or matter in the Senate. This subsection—

"(1) may be waived by joint agreement of the majority leader and the minority leader of the Senate; and

"(2) shall not apply to—

"(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress, and

"(B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.".

(b) Clause 27(d) of Rule XI of the Rules of the House of Representatives, as amended by sections 105(b) and 107(b) of this Act, is further amended by adding at the end thereof the following subparagraph:

"(4) A measure or matter reported by any committee (except the Committee on Appropriations, the Committee on House Administration, the Committee on Rules, and the Committee on Standards of Official Conduct) shall not be considered in the House unless the report of that committee upon that measure or matter has been available to the Members of the House for at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of that measure or matter in the House. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House. This subparagraph shall not apply to—

"(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress; and

"(B) any executive decision, determination, or action which would become, or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.".

(c) Clause 6 of Rule XXI of the Rules of the House of Representatives is amended to read as follows:

"6. No general appropriation bill shall be considered in the House until printed committee hearings and a committee report thereon have been available for the Members of the House for at least three calendar days (excluding Saturday, Sundays, and legal holidays).".

MOTIONS FOR CONSIDERATION BY THE HOUSE OF MEASURES PREVIOUSLY MADE IN ORDER BY RESOLUTION FOR CONSIDERATION

SEC. 109. Clause 27(d) of Rule XI of the Rules of the House of Representatives, as amended by sections 105(b), 107(b), and 108(b) of this Act, is further amended by adding at the end thereof the following subparagraph:

"(5) If, within seven calendar days after a measure has, by resolution, been made in order for consideration by the House, no motion has been offered that the House consider that measure, the Speaker may, in his discretion, recognize any member of the committee which reported that measure to offer a motion that the House shall consider that measure, if that committee has duly authorized that member to offer that motion.".

COMMITTEE FUNDS

SEC. 110. (a) Section 133 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190a), as amended by sections 102 to 108, inclusive, of this Act, is further amended by adding at the end thereof the following new subsection:

"(g) Each standing committee of the Senate (except the Committee on Appropriations) which, in any year beginning on or after January 1, 1971, requires authorization for the expenditure of funds in excess of the amount specified by section 134(a) of this Act shall offer one annual authorization resolution to procure such authorization. Each such annual authorization resolution shall include a specification of the amount of all such funds sought by such committee for expenditure by all subcommittees thereof during that year and the amount so sought for each such subcommittee. The annual authorization resolution of any such committee of the Senate for each year beginning on or after January 1, 1971, shall be offered not later than January 31 of that year, except that, whenever the designation of members of standing committees of the Senate occurs during the first session of any Congress at a date later than January 20, such resolution may be offered by any standing committee of the Senate at any time within thirty days after the date on which a majority of the members of such committee have been designated during that session. After the date on which an annual authorization resolution has been offered by any such committee in any year, or the last date on which such committee pursuant to the preceding sentence may offer such a resolution, whichever date occurs earlier, such committee in any year may procure authorization for the expenditure of funds in excess of the amount specified by section 134(a) of this Act only by offering a supplemental authorization resolution. Each such supplemental authorization resolution shall specify with particularity the purpose for which such authorization is sought, and shall contain an explicit statement of the reason why authorization for the expenditures described therein could not have been sought at the time of, or within the period provided for, the submission by such committee of an annual authorization resolution for that year. The minority shall receive fair consideration in the appointment of staff personnel pursuant to any such annual or supplemental resolution.".

Mr. SISK (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the language of section 110 regarding the Senate provisions be dispensed with and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. ROGERS OF FLORIDA

Mr. ROGERS of Florida. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rogers of Florida: Beginning on page 19 after line 5: That rule XXI of the Rules of the House of Representatives is amended by adding at the end thereof the following new subparagraph:

"7. No bill or joint resolution of a public character making an appropriation shall be finally passed, and no amendment of the Senate to, or report of a committee of conference on, such a bill or resolution shall be agreed to, unless the vote of the House is determined by yeas and nays."

POINT OF ORDER

Mr. SMITH of California. Mr. Chairman, I make the point of order that we have read past the place in the bill where this particular amendment would be in order.

The CHAIRMAN. Does the gentleman from Florida wish to be heard?

Mr. ROGERS of Florida. I do not, Mr. Chairman.

The CHAIRMAN (Mr. Natcher). The Chair is prepared to rule.

The Chair would like to inform the gentleman from Florida that the Clerk has read beyond that point to the extent of about a page and a half. Therefore, the amendment comes too late and the Chair sustains the point of order.

Mr. ROGERS of Florida. Mr. Chairman, I ask unanimous consent that the amendment may be submitted at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. SMITH of California. Mr. Speaker, I object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. THOMPSON OF NEW JERSEY

Mr. THOMPSON of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Thompson of New Jersey: On page 23, line 15, strike out the words "and shall receive fair consideration in", and insert in lieu thereof the following: "if they so request not less than one-third of the funds provided for".

And make the appropriate and necessary technical changes in the bill.

PARLIAMENTARY INQUIRY

Mr. SISK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SISK. The unanimous-consent request made earlier pertained only to the Senate—the language concerning the Senate rules—and did not apply to the language concerning the House rules. It is not my understanding that this has been read.

Mr. Chairman, my parliamentary inquiry is this: Has it been read or has it not been read?

The CHAIRMAN. The Chair will state that the gentleman from California is correct. The Clerk has not completed the reading of the section and the amendment is not in order at this particular point.

Mr. SISK. Mr. Chairman, a further parliamentary inquiry.

Th CHAIRMAN. The gentleman will state it.

Mr. SISK. At what point is the Clerk beginning to read?

The CHAIRMAN. The Clerk will report the page and the line.

The Clerk read as follows:

Page 21, line 14.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

(b) Rule XI of the House of Representatives is amended by adding at the end thereof the following new clause:

"32. (a) Whenever any standing committee (except the Committee on Appropriations) is to be granted authorization for the payment, from the contingent fund of the House, of its expenses in any year, other than those expenses to be paid from appropriations provided by statute, such authorization initially shall be procured by one primary expense resolution for that committee providing funds for the payment of the expenses of the committee for that year from the contingent fund of the House. Any such primary expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—

"(1) state the total amount of the funds to be provided to the committee under the primary expense resolution for all anticipated activities and programs of the committee; and

"(2) to the extent practicable, contain such general statements regarding the estimated forseeable expenditures for the respective anticipated activities and programs of the committee as may be appropriate to provide the House with basic estimates with respect to the expenditure generally of the funds to be provided to the committee under the primary expense resolution.

"(b) After the date of adoption by the House of any such primary expense resolution for any such standing committee for any year, authorization for the payment from the contingent fund of additional expenses of such committee in that year, other than those expenses to be paid from appropriations provided by statute, may be procured by one or more additional expense resolutions for that committee, as necessary. Any such additional expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House—

"(1) state the total amount of additional funds to be provided to the committee under the additional expense resolution and the purpose or purposes for which those additional funds are to be used by the committee; and

"(2) state the reason or reasons for the failure to procure the additional funds for the committee by means of the primary expense resolution.

"(c) The minority party on any such standing committee is entitled to and shall receive fair consideration in the appointment of committee staff personnel pursuant to each such primary or additional expense resolution.

"(d) The preceding provisions of this clause do not apply to—

"(1) any resolution providing for the payment from the contingent fund of the House of sums necessary to pay compensation for staff services performed for, or to pay other expenses of, any standing committee at any time from and after the beginning of any year and before the date of adoption by the House of the primary expense resolution providing funds to pay the expenses of that committee for that year; and

"(2) any resolution providing in any Congress, for all of the standing committees of the House, additional office equipment, airmail and special delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from the contingent fund of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until enactment of the provisions of the resolution as permanent law.".

PARLIAMENTARY INQUIRY

Mr. THOMPSON of New Jersey (during the reading). Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. THOMPSON of New Jersey. Mr. Chairman, is it appropriate for me to offer my amendment at this point, or at the end of the section?

The CHAIRMAN. The Chair will state to the gentleman that the amendment will be in order at the end of the section.

Mr. THOMPSON of New Jersey. I thank the Chairman.

The Clerk concluded the reading of the section.

AMENDMENT OFFERED BY MR. THOMPSON OF NEW JERSEY

Mr. THOMPSON of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. THOMPSON of New Jersey; on page 23, line 15, strike out the words "and shall receive fair consideration in", and insert in lieu thereof the following: "if they so request not less than one-third of the funds provided for".
>
> And make the appropriate and necessary technical changes in the bill.

Mr. THOMPSON of New Jersey. Mr. Chairman, I also have an amendment to page 73 of the bill which I ask unanimous consent to be considered at this time, since the first amendment I offered relates to granting to the minority certain professional staff, and the other relates to the granting to the minority of a certain percentage of the investigative staff.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. SISK. Mr. Chairman, based upon the problems involved here inasmuch as the one amendment pertains to financing and the other has to do with staffing, I would necessarily have to object.

The CHAIRMAN. Objection is heard.

The gentleman from New Jersey is recognized for 5 minutes in support of his amendment.

Mr. THOMPSON of New Jersey. Mr. Chairman, this is a bipartisan amendment worked on principally by the gentleman from New Hampshire (Mr. CLEVELAND), myself, and some others.

Very simply, this first amendment to page 23, line 15, strikes out the words, "shall receive fair consideration in" for the minority, and inserts "if they so request not less than one-third of the funds provided for."

Now, in essence the effect is simple. The language, "shall receive fair consideration" is susceptible of a different interpretation in each and every committee because what might be considered fair in one committee might not be so considered in another committee. Therefore the minority could possibly, under the existing language which I hope to amend, be deprived of what I consider to be a very necessary right, the right to have a reasonable share of the staff.

I might point out that the Committee on Education and Labor, which in my judgment has the most forward-looking rules of any committee in the House, has so provided for the minority over a period of years. It has worked out extremely well. It is conducive to a close working relationship between the majority and the minority.

The minority is guaranteed under such provision the staff help that is necessary to prepare its work.

It has been my experience on that committee and on the subcommittees as well that this arrangement has brought about an extremely harmonious relationship between the majority and minority members. The preparation of the legislative work, the reports and the amendments and all of the work incident to the legislative process is much more efficient because of the fact of the minority having the staff and the cooperation between the minority and the majority.

Mr. SCHWENGEL. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman.

Mr. SCHWENGEL. I am very interested in this amendment and have pursued this problem for some years as the gentleman from New Jersey knows.

The minority cannot be an effective minority unless they have the wherewithal. One of the things we have not had is adequate staffing—and we have not had adequate staffing because we have not had adequate funds.

Mr. THOMPSON of New Jersey. In other words, the gentleman from Iowa supports the amendment?

Mr. SCHWENGEL. Yes, I do. I have some questions, if I may.

Mr. THOMPSON of New Jersey. I yield to the gentleman.

Mr. SCHWENGEL. Your amendment reads, "at least one-third." Is that what I understand?

Mr. THOMPSON of New Jersey. No, it reads "not less than one-third." There is a very distinct difference.

Mr. SCHWENGEL. This says "not less than one-third," and as I would interpret it, it could mean more than one-third?

Mr. THOMPSON of New Jersey. Obviously.

Mr. SCHWENGEL. That is what I wanted to have clear for the record because I had an idea about this and my bill would provide up to 40 percent, at the request of the minority. But this is a step in that direction.

Mr. THOMPSON of New Jersey. This says "not less than one-third" which is going to be an awful lot better than an attempt to enlarge it in the statutory language.

Mr. SCHWENGEL. If the gentleman will yield further, I want first to commend the gentleman and I support him. I think we are making a very fine forward step here in improving the legislative process. I join him in his effort to get the amendment passed.

Now—one further question. This comes at the request of the minority, so that it does not interfere with a committee that has a completely bipartisan arrangement.

Mr. THOMPSON of New Jersey. That is quite so.

Mr. SCHWENGEL. I just want to clear those two points.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the distinguished gentleman from New York (Mr. CELLER).

But first, Mr. Chairman, I ask unanimous consent that I may proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The gentleman from New Jersey is recognized for 3 additional minutes.

Mr. CELLER. Suppose we have a House—and I am not going to mention parties—but suppose we have a House where one party has let us say 300 Members and there are 135 Members of the other party. Would the proportion be the same—one-third to the minority and two-thirds to the majority despite that disproportion of the numbers?

Mr. THOMPSON of New Jersey. Yes.

Mr. CELLER. Why would that be so?

Mr. THOMPSON of New Jersey. In circumstances like that, I should think the minority would need even additional protection.

Mr. CELLER. Additional protection?

Mr. THOMPSON of New Jersey. Yes.

Mr. CELLER. Who is going to be in control?

Mr. THOMPSON of New Jersey. The majority, under the rules of the House, and assuming that there is some degree of party discipline always in control in that situation if there is a majority of one or more than one. I think it will be greater in the next Congress.

Mr. CELLER. I am not speaking in any partisan manner, but certainly if one particular party has a preponderant number of the Members, how can that party be properly served if they are going to have a miniscule number of the staff?

Mr. THOMPSON of New Jersey. If the distinguished gentleman from New York will look carefully, as I see this thing, we are talking about the one-third, and not any of the statutory employees at this point—but not less than one-third of the investigating employees.

Mr. CELLER. I understand but I do not think you have to have a situation as inflexible as you indicate. Of course, we all speak from our own experience. In my own committee, we have not the slightest bit of trouble and I am very generous in parceling out the number of clerks, investigative staff and so forth.

Mr. THOMPSON of New Jersey. I am sure the gentleman always is.

Mr. CELLER. Would it not be better to leave the discretion with the chairmen themselves?

Mr. THOMPSON of New Jersey. No, I do not think so, and had I obtained unanimous consent to discuss the amendment relating to the committee professional staff which really ties in with this, I would explain that this would do the same thing for the minority, and we are going to take another look at the language before we get to page 73. But the purport of these two amendments is essentially to guarantee to the minority party certain staff people, and under the amendments a majority of the majority on a committee will hire their employees and the majority of the minority will hire the minority employees.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Iowa.

Mr. GROSS. I have not consulted with my good friend and colleague from Missouri, but I wonder if the amendment would do anything for the minority of the minority.

Mr. THOMPSON of New Jersey. It could not hurt. After all, you are in pretty bad shape now, and any remote possibility might help you and your distinguished personal physician, the gentleman from Missouri (Mr. HALL).

Mr. SISK. Mr. Chairman, I rise in opposition to the amendment. I guess we are getting down to the meat of the coconut, as I mentioned yesterday. The amendment which is now pending before us is of considerable importance if we are really interested in passing legislation, if we are interested in making progress in connection with procedures of the House, and I think Members have been. I think that the debate has gone very well, and personally I was most impressed with the attendance on the floor yesterday and the interest shown by Members, the tone of the debate, and the discussion. Yesterday some amendments were adopted; some were defeated. Again, I think that was an excellent demonstration of the House working its will.

But we are now coming to some issues that, if I may be permitted to say so, are pretty important issues, and basically depending on how we handle these issues the ultimate status or fate of this legislation could very well be determined.

The whole question of minority staffing, of the rights and privileges of the minority under the Rules of the House, was discussed at great length by your subcommittee. I frankly admit that we do not possess all wisdom, and I am sure none of the members of the subcommittee or of the Rules Committee itself would claim that we did. We were dealing with a very difficult subject. Very frankly, whatever we did would be too much for members of one party, in all probability; in all probability whatever we did would be not enough for members of the other party.

I made a remark on one occasion that I understood that the party in the minority today was making quite an effort to win control of the House. Therefore, I assume that sometime in the future they expected to be the majority party, and therefore, keeping that in mind, I think that this amendment and possibly some others along this line should be of just as much concern to the members of the Republican Party as such amendments are to the Democratic Party. The mere fact that the situation for the past 16 years has been one in which the Democratic Party has been in control and the Republican Party has been the minority party may or may not continue. That, again, is up to the will of the people.

Of course, I suppose that if any change should occur this next January, those of us on our side would be most happy to have an amendment of this kind, because apparently it is unlimited. In essence, according to the statements made by the distinguished gentleman offering the amendment, the amount could go up to almost any amount which would be set aside specifically and completely for the use of the minority. In no event could it be less than one-third.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the distinguished majority leader.

Mr. ALBERT. Mr. Chairman, I thank the gentleman from California for yielding.

Of course, this is a subject on which there has been a great deal of discussion in recent years. If I recall correctly, the 1946 reorganization act undertook to set up a nonpartisan committee for the staffs. That action was first implemented by the 80th Congress, which was under Republican control. I cannot speak for all the committees, but I can for some of the committees. Most of the top people that were selected were selected by the Republican chairman and usually with the advice and agreement of the ranking Democratic Members. Many of those who were selected were outstanding men and women and are still serving their committees after all these years, and I have not heard any complaint about them.

I know we ought to protect the rights of the minority, but I just wonder if— and the gentleman and his fine committee in their work have gone into this question—the time has come when we should depart from the principle of a professional as against a partisan type staff and go into one where our staffs might be divided into opposing camps.

Mr. SISK. Let me say, Mr. Chairman, I deeply appreciate the comments of our majority leader.

I wish to say that if I have said something in my earlier remarks that may sound partisan, I did not mean them in that way, because I firmly and frankly believe this is a matter we should all deal with in as bipartisan an approach as possible.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. WAGGONNER, and by unanimous consent, Mr. SISK was allowed to proceed for 5 additional minutes.)

Mr. SISK. Mr. Chairman, I recall very well I came to the Congress 16 years ago when the Democratic Party became the majority party, after the preceding 83d Congress under the control of the Republican Party, and the committee on which I requested assignment and was fortunate enough to be assigned on that occasion had a very excellent professional staff selected under what I understand was the intent of the 1946 Reorganization Act. It was a professional staff. It was bipartisan. I might say there was not one single member of that professional staff changed during the first or even the second year of Democratic control of that particular committee. Again it seems to me it was being carried on in the spirit of the 1946 act.

I would hope and trust, although the committee has gone a little way here in working with our good friend and my distinguished colleague, the gentleman from California (Mr. SMITH) and others in recognizing certain concerns in connection with the minority problems and the minority needs, that we do not run away here and sink the ship, because really what this does—and this, in my opinion, goes back to the old era of political hacks, and that is exactly what we had in connection with most committee staffs before 1946. If that is what we wish to return to, of course, we could go down that road, but I do not believe the Members, either Republicans or Democrats, desire to do that.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I thank the gentleman for yielding.

This subject, like all others in this reorganization proposal, is a coin with two sides. I think through the years, sitting on the House Committee on Administration Subcommittee on Accounts, where the committee chairmen, majority and minority, come for their investigative money and investigative funds for the year, we have found that there is a great deal of discrepancy or variation from committee to committee. We also have found a great deal of divisiveness between the committees, because their practices are so different. I have been the No. 1 defender on the committee of what we are doing in allocating staff members but I have some doubts as to the pending amendment.

We are coming to the point, it seems to me, when something must be done to protect the minority and to provide for some staff members. Something is going to have to be done but I am not convinced that this is the way to go.

I have mixed feelings about this proposal. As a committee member of the Subcommittee on Accounts, we have heard a diversity of opinion from committee to committee, to believe that we are going to have to take some positive action to protect the minority.

It was amusing when the gentleman from New Jersey spoke a minute ago, as to the example given of a House which had 300 Members of one party and 135 Members of the other party, that perhaps under those circumstances they needed more protection and more assistance than under any other.

This is not an argument without two sides. I personally believe every staff member should assist any Member any time and under any circumstances, but it just does not seem we are moving in that direction.

Mr. SISK. I appreciate the comments of my good friend from Louisiana.

Of course, I have not had these experiences. I have served, I believe, on eight or nine different legislative committees and procedural committees, including the committee on which I am a member now, and I have enjoyed the services of good professional staff, of people dedicated to the job, of people who work for Republicans or work for Democrats as the case might be.

As I say, it was my understanding that was the spirit and intent of the 1946 act. I would hope that we do not here take a position to totally reverse that situation. Certainly to me, if we are going to divide the funds, that is exactly what we are going to do.

Mr. CLEVELAND. Mr. Chairman, I rise in support of the amendment.

This amendment is one of the bipartisan amendments referred to on several occasions here, as shown in the extension of remarks in the CONGRESSIONAL RECORD for July 13, on page 24009. The RECORD shows a copy of the amendment, with the principal sponsors besides myself and Congressmen THOMPSON of New Jersey, SCHWENGEL, and WAGGONNER. There is a group of other Members who also sponsored this amendment. They are: Messrs. COUGHLIN, CRANE, DELLENBACK, DENNIS, ERLENBORN, HOGAN, KEITH, KUYKENDALL, LUKENS, MACGREGOR, MAYNE, MORSE, RIEGLE, ROTH, STEIGER of Wisconsin, WINN, and WYDLER.

The amendment, which was printed in the RECORD at that time, failed to include the words I suggested to the gentleman from New Jersey (Mr. THOMPSON). He has included them. Those words are, "if they so request."

I want to make very clear that I also serve with the gentleman from Louisiana (Mr. WAGGONNER), on the Committee on House Administration. It is not always that the minority party will request more than one or two staff members. There are some committees where there is no difference between the two parties insofar as staff members are concerned.

The majority leader made a remark about suggesting we may be getting away from a totally professional staff. The answer is, in some committees no, but in other committees yes.

In my own Committee on Public Works we have been desperately trying to get needed additional staff, which we would certainly make available to the majority, but we in the minority feel we need them. An example, you ask? I will give an example. The Public Works Committee now deals with Appalachia and deals with economic development. We are in fields where we need the services of economists and we need the services of statisticians, and we do not have them. We are traditionally a dam building, public works type of committee, but now we have gotten into other fields and we need new expertise and we are not getting it.

We have to consider water pollution, which is a hot ticket, as Members know, but we have been able to get only one real expert in that field.

There is a desperate need for the minority to be more adequately staffed, if they request it.

Mr. Chairman, I could discuss the need for increased minority staffing at some length.

In the general debate on Monday, I discussed the book "We Propose: A Modern Congress," with selected proposals by the House Republican Task Force on Congressional Reform and Minority Staffing, of which I was chairman. My own chapter in that book details the case for increased minority staffing. In that chapter I offered support for the proposition that came from many political scientists and distinguished members of the majority party of this body, such as Representative JOHN S. MONAGAN and Representative David S. King.

Time does not permit me to present the entire case here, but I submit that the case is a strong one which has won wide and well deserved support.

It is difficult for me to conceive of any congressional reform bill worthy of the name that does not absolutely assure to the minority a reasonably adequate staff.

I want to make clear that in some committees the majority is already being very generous, and there is no need for this mandate written into the rules of the House.

However, as the gentleman from Louisiana (Mr. WAGGONNER) pointed out, unfortunately, in some of the other committees sad experience has shown that without this type of relief you are stripping the minority of what should be a very important right.

Let me point out something else here. The gentleman from California (Mr. SISK), the very distinguished chairman of the committee, expressed a little surprise yesterday about what happened in connection with proxy voting. Now, if you go back and do your homework on the Legislative Reorganization Act of 1967, you will find that there are not too many surprises coming along. Many of these things were carefully considered by that Joint Committee on Reorganization of the Congress. Minority staffing was carefully considered by the joint committee. Two years of hearings and thousands of pages of testimony, with political scientists from every shade of the spectrum, from all over the country, testified before that joint committee. Many members testified. The record will show that that committee came up with a very strong, solid recommendation in this area of guaranteeing to the minority certain staffing privileges. It is the guts of the two-party system and the guts of the legislative system. If you will turn to page 22 of the report of that joint committee, you will find it right there in writing. We should do great harm if we turn our back on the hard work done by that joint committee, and an extension of that work is what I understand is being done here. You have told me publicly, Mr. SISK, that your committee was building on the findings of that committee and not going over the whole area all over again.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. Certainly. I yield to the gentleman.

Mr. SISK. I think, yes, that statement is still true. We did use a lot of that material. But to get it straight, the gentleman is not saying that S. 355 had language such as here proposed in connection with the division of committee funds.

Mr. CLEVELAND. I am sorry. I did not get the gentleman's point.

Mr. SISK. The gentleman is not saying that S. 355 proposed a division of the funds such as is proposed here in the amendment we are now considering. We recognize minority staffing, of course.

Mr. CLEVELAND. This amendment does go just one step further, because it pertains to investigatory staffing for committees which come before the Committee on House Administration, but in the professional committees it guaranteed one-third of it to the minority. All this does is—

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. CLEVELAND was allowed to proceed for 3 additional minutes.)

Mr. CLEVELAND. Mr. Chairman, I want to inquire of the gentleman from California (Mr. SISK), if I have been responsive to his question.

Mr. SISK. I appreciate the gentleman yielding.

Let me say that nowhere in S. 355 do I find any language with reference to a division of funds as provided here where actually the minority party could get 50 percent or, I suppose, 75 percent of the funds, at least, if some committee chose to give it to them. In other words, there is a floor of one-third and an unlimited amount above that. Nothing in this bill has anything like that. It is recognizing minority staffing as your subcommittee recognized it in the findings that it proposed.

Mr. CLEVELAND. There is a difference here because this amendment offered by Mr. THOMPSON and myself and others has to do wtih the so-called investigatory staff of committees. But listen to what the report says on the standing staff. Here it is. This is page 21 from that report of the Joint Committee on the Organization of the Congress:

> The language of section 202 with respect to the appointment of professional staff without regard to political affiliations shall be retained and emphasized. However, at least two of the authorized professional staff positions—

And there were six authorized, so that is two out of the six or one-third—

> and one clerical position shall be appointed and assigned to the minority on request.

Mr. SISK. All right. Is that not exactly or just about what we are providing in our bill?

Mr. CLEVELAND. That is correct except that we are extending it to the investigatory staff, which is just as important.

Mr. SISK. Yes. And, of course, as the gentleman knows, there was a request to combine this amendment with the other matter pertaining to professional staff. I recognize here we are talking about funds for investigating staffs, but they were also attempting to connect it to the other. We do require and provide in this legislation—and I hope we will continue it under any set of circumstances—whatever we give would certainly provide that a majority shall control that staff in the final analysis.

Mr. CLEVELAND. That, excuse me, is a departure from the Reorganization Act of 1967 and insofar as you have taken that position you have retreated from the Legislative Reorganization Act of 1967 and I think that is wrong.

Mr. SISK. If the gentleman will yield further, of course there is no Reorganization Act of 1967. There was some proposed legislation.

Mr. CLEVELAND. It passed the Senate by a vote of 75 to 9.

Mr. SISK. As the gentleman knows it never cleared the committee on this side and I might say that some of the things that were contained therein, as my good friend knows, affected its clearing the House of Representatives. I appreciate my friend's concern and I am sympathetic with his position. However, we have gone down the road with you in this bill and I think we have gone further than some people realize.

Mr. FRASER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that as we consider an amendment of this kind, we face a trade off that is inevitable in all of the amendments we are considering. There is no amendment to any of these bills that does not tend to tip the balance one way or the other, to gain something and lose something. But I would make the observation, based upon my relatively short time in the House of Representatives, that what is proposed through the adoption of this amendment has not been the practice in the House. I know that "professionalism" is sometimes interpreted to be inconsistent with partisanship. I think that is an erroneous point of view. On the committees on which I serve, contrasting points of view on the part of the staff are very important if not vital in making our committee work more effective. I would judge it important that the minority have the right to have professional staffs who may have points of view different from the professional staff that may be retained by the majority. In no case does this amendment deprive the minority and the majority from working together in developing the kind of staff to best fill the needs of the committee. This is designed to provide a minimum protection from the minority point of view. I would hope that the Democratic side would never be forced to rely upon that protection as a minority. However, I think it is well to establish that principle.

I think, on balance, this is a wise and judicious amendment which I hope will have the support of the committee.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's yielding and I wish to commend the gentleman upon the statement which he has made, along with the remarks of the gentleman from New Jersey (Mr. THOMPSON).

May I ask the gentleman from Minnesota for clarification on the statement made by the distinguished majority leader, the gentleman from Oklahoma (Mr. ALBERT). These funds for which this amendment is intended are not the funds provided under the 1946 Reorganization Act; that is, the so-called professional staff?

Mr. FRASER. This amendment does not affect that staff. We will come to that later. All this affects are the funds adopted by the Committee on House Administration for investigative professionals.

Mr. STEIGER of Wisconsin. The Committee on Education and Labor, for example, has a breakdown of about 60-40 and I see no reason why the minority should have 75 percent of the funds. I am sure the majority would not allow that to happen. I would hope, however, that the record is clear that this amendment does not go to the 1946 Reorganization Act professional staff.

Mr. FRASER. I used the term "professional" in the general sense and not in the technical sense. I agree that we are dealing with investigative staffing but I think, in fact, that often these funds are used for our professional people and they are retained for assistance to the committee members.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I am glad to yield to the distinguished majority leader.

Mr. ALBERT. Of course, what the gentleman has said is technically correct. I was talking about the spirit and intent of the act. I think that was intended with respect to all staffs. That is my recollection of it. But, beyond that I think the statement which has been made by the distinguished gentleman from Minnesota (Mr. FRASER) is very good.

And he has viewpoints that are very fine and sound. That is one of the things that bothers me about this, but I think this is primarily the function of the Members, and I think the professional—and I use it in a broad sense—is primarily to function as a staff.

Mr. FRASER. I thank the majority leader. I can only say in my own experience that a good staff person who holds strong points of view and is well qualified, can be of enormous assistance to Members in suggesting questions and presenting viewpoints, so that I think diversity is of help to the committee.

Mr. KYL. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment.

As one who has received requests of individual Members and chairmen for a number of years, I would like to put this whole thing in a little different context. To me this is not a partisan matter, it is not a matter of representation of one party or the other. It is a matter of getting adequate staffing for a committee.

In case No. 1 you have a committee which does not have an adequate staff to perform its functions for either the majority or the minority. We have had chairmen who have simply refused to add additional staff members. We have had those committees in which the chairman—and I am speaking from experience here, and not from fancy—we have had other chairmen who have had a staff which was unavailable to either majority or minority members. We have had extra staffing situations in which a chairman has as many as 32 consultants doing work for that chairman of the committee, committee work and legitimate committee work, about which only the chairman knew, and not even the majority members knew, only the chairman knew what they were working for on the committee.

I view this as an opportunity to get adequate staffing for all members of the committee, regardless on which side of the aisle they sit. And to the extent that we provide that adequate staff, I think this is an excellent amendment, and I yield back the balance of my time.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I view this pretty much in the same sense as the previous speaker did. Out of the 22-year term that I have served, at one time, I served 18 of them as a minority leader, and the first 12 years of that period we operated somewhat like the loose screws we operate here insofar as staffing for the minority is concerned.

I finally convinced the majority they ought to set up some kind of a staffing procedure for the minority.

This House would be surprised if they knew how much easier the work became between the minority and the majority leaderships when the staffs were given to the minority on the committees, as well as a staff provided for the minority leadership.

Even today I personally believe that we have on the Committee on Education and Labor, and any of its autonomous committees, better understanding, and I do not believe that they would contradict what I say in that the work of the subcommittees and the work of the full committee is oftentimes expedited because the minority is given a significant, self-appointed staff membership of their own based on somewhere near the percentages the gentleman from New Jersey (Mr. THOMPSON), has in this particular amendment.

The function of being a legislator demands certain knowledge that you cannot get if it is going to rely on a question of always having to rely on a person who is not in some way allied to your viewpoint. If we did not have different viewpoints there would be no difference between our political parties. The Republicans have to have a philosophy somewhat different than ours, and Democrats of course have a philosophy of their own. So there is no reason why their staff members should not be in the committee meetings, and in the markup meetings and everything else, as they are for those in the majority, and give the viewpoints that they know and that they are able to give, based upon the philosophical differences in legislative enactments.

I would say that it would be a big mistake if this House today did not take advantage of an opportunity of establishing a sound principle in this legislative body of giving the minority a staff to work with that understands the minority viewpoint.

I might say very frankly to you that the minority staff of my own subcommittee that I can speak for, and I believe for the others, is very helpful in the work done when we get down to the nitty gritty parts of really writing the legislation and what is going to be presented to this House. Many times these staff people work way into the night trying to get the language that meets the desire of the minority as well as the majority needs and desires.

I would beg of you to give very serious consideration to this and not try to hide the issue by saying it will be partisan.

I do not believe the minority members of our Committee on Education and Labor are any more partisan than any of the other committees' minorities are, or majorities are, whether they get the staff or they do not get the staff. Parisanship is what causes elections to have to happen and you cannot wipe away partisanships by denying proper staffing to a committee.

Mr. HARVEY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have expressed many times since I have been in here in the House the hope that if, and when, my own party takes control of this House that this would be the first act that they would perform—that is to be generous and to allot a specific standard insofar as allowance of staffing is concerned.

Today we have an opportunity to do that while the party in which I belong is still in the minority. The spirit of fairness demands it.

I have heard many references here at this time by our more senior members and some in the leadership to the Republican controlled 88th Congress and to that time many years ago when the reorganization bill was passed. But the facts of the matter are very simple, Mr. Chairman. The facts of the matter are that within the last 40 years the Republicans have only controlled the Congress in 4 of those years, or in two Congresses.

The facts of the matter are that in most staffs, I would say in all of the legislative staffs, the investigatory members are not bipartisan. Those who are hired to investigate know who control the pursestrings. They know who has the power to hire and fire. The minority cannot do its job unless it is allotted a specific number of persons. The standard of one third is fair and reasonable.

In my years in the Congress, I have concluded that this subject is widely misunderstood by the people back home. They seem to think that the person they elect and send down here regardless of his party or regardless of whether he serves in the minority or the majority can perform equally as well as any other person they send down here.

I hate to confess to my people that this is not true. We, in the minority party have not over the years, and do not now have adequate staff and the necessary staff to do this in many cases.

I heard it mentioned by the chairman of a committee, for whom I have the greatest regard, that my party might possibly get as much as 75 percent under the words that are used in the bill. I would say to him with all respect, I think this is a joke. In all the years I have been here, I have never seen anything even approaching such an award, nor in the time I have served on the Committee on House Administration have I seen any such figure approaching such an award. I cannot conceive of it.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. I am glad to yield to the gentleman.

Mr. SISK. I would agree with the gentleman on that and I would doubt seriously that it would happen anyway, and the language that is here before the House would preclude that, as the gentleman would very frankly admit; would he not?

Mr. HARVEY. I would admit it but the gentleman would agree with me, I am sure, that there is nothing in the language which would assure the minority of getting 5 or 10 percent. It would depend on what the gentleman's spirit of fairness might construe it to mean.

Mr. SISK. Will the gentleman yield further?

Mr. HARVEY. I yield to the gentleman.

Mr. SISK. It is my understanding that it guarantees one-third—not less than one-third?

Mr. HARVEY. This is what we are specifically asking for—the investigative personnel. That is what I am talking about.

Mr. SISK. If the gentleman will yield further for the purpose of making a correction—and I am sure the gentleman did not mean to leave the wrong impression—but a little while ago I understood he referred to what the joint committee did. The joint committee made no recommendation in connection with the investigative staff, in connection with minority hiring or minority rights. They did discuss the subject in connection with professional staffing, as we have in this bill, but I think we should keep that matter in perspective.

Mr. HARVEY. I am sure the gentleman will have ample time to answer that statement. I just want to close by saying I believe a spirit of fairness should compel adoption of the amendment. I want to applaud those on the other side of the aisle, some of whom I have had the pleasure of serving with on the House Administration Committee, and the others as well who have spoken for this particular amendment.

During my time in Congress I have served on four committees: The Committee on Public Works, the Committee on Banking and Currency, the Committee on Interstate and Foreign Commerce, and the Committee on House Administration. Those committees cover a variety of subjects. I have seen the allotment of staff abused over and over again, and I have often considered how our work could have been that much better if the staff had been available. I hope the House will see fit to adopt the amendment.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we are faced here today with a very practical question. The question is, Who has the responsibility for the legislative program of the House? The people of this country make their choice when they choose as President a member of one political party for service in the executive branch. He has the responsibility for the program of the executive branch. Only recently the President asked for and received, under Reorganization Plan No. 2, 90 political appointees in the Office of the President for the express purpose of studying programs and setting priorties on those programs for funding and implementation, programs which the Congress has authorized.

In the legislative branch the majority party, whichever it may be, has the responsibility for producing the legislative program which their party stands for and their party platform stands for. In order to do that, they have traditionally been given, whether it was a Republican administration in power or a Democratic administration, they have been given the privilege of appointing the staffs of the different committees.

Speaking from my own personal experience as Chairman for 6 years of the Joint Committee on Atomic Energy, there is no Republican member of that committee who can rise and accuse me of partisanship in the setting of staff. The staff have the explicit order from me as Chairman to respond to every inquiry and to give every assistance to the minority members that they have given to the majority.

In my Subcommittee on Military Operations of the House Committee on Government Operations the same identical direction is given to the staff. I have never had a member of the minority party come to me and say that the staff did not respond to their request and did not try to serve them.

Frequently I have consulted with the minority and got their approval of different members who were put on the staff, but I could not tell you today if I was requested, the political affiliation of the members of my staff. I have never asked them. I do not hire them on that basis. They are hired on the basis of professional competence, and I expect them to serve the committee and to serve the majority program of the majority party in putting the emphasis on the legislation which is being developed. But this task of majority program implementation does not preclude them from giving reasonable professional service to the minority.

The amendment that has been offered by Mr. THOMPSON would actually give exclusive staff to the minority in addition to the general staff which is provided for under the Reorganization Act of 1946.

I assume that the minority staff would serve the minority members only.

If that be the case, would the minority members cease requesting service from the general professional staff and the two-thirds "investigative" and "clerical" staff hired by the chairman and assigned to the various subcommittees?

Would a sharply divided staff responsible to the minority party and its different political philosophy, result in staff division and staff dissension?

Frankly, I do not know what the result would be. But I do know that it would make the majority party's task of discharging their responsibility more difficult.

I was here in the 80th Congress, and I was here in the 83d Congress, and I lived under the rules of that time when the House was controlled by the Republicans, and I made no protest.

I say that the responsibility in the executive branch belongs to the President, and he has the right to fire every political nonclassified employee that he wants to—and there have been many of them who have walked the plank voluntarily or by request. I go along with that.

In the legislative branch the majority has the legislative responsibility. The legislative game is not a croquet game or a pink tea tennis game. This is a game where we are legislatively carrying out the mandate of the people in the respective branches of Government, whether it be the executive or the legislative, and there is bound to be some conflict between the philosophies on both sides of the aisle. I say when the majority is Republican, they should control the tools to put the program which the people have approved by electing them into effect, and I say when the Democrats are in power that they have to program legislation on the basis of their platform pledges, their programs, and their policies, and they should have the right to have the control of the tools to put their philosophy into effective legislative form.

With due regard to fairness and with due regard to the rights of the minority, I believe this can be obtained under the present situation, and I ask that the Thompson amendment be defeated.

Mr. DELLENBACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, may I say just a few words in response to the gentleman who preceded me in the well. Without any doubt, it is the responsibility of the majority party in the Congress to take the leadership so far as the pushing of a legislative program is concerned. But more than half of this body has received at least a portion of its professional training in the law. And any of us who has served in the law and has participated in trial work is aware of the fact that with the goal being justice, the advocacy system calls for the best possible presentation of both sides of the issues which come before the court. With the goal being justice, justice is better achieved if there be the best possible presentation of the case for the plaintiff as well as the case for the defendant. There is no intention that, in our system of justice, merely because of the fact that one side has a certain responsibility, the other side should be deprived of the tools that are necessary to make the best possible presentation in opposition to that which is presented by the one side.

Nobody is suggesting that the chairmanships be divided. Nobody is suggesting that the responsibility should be divided so that in some instances the minority shall be pushing and shall be in charge of the mechanics of the legislative process.

All we are requesting is that with the goal on both sides of the political aisle being the best possible legislation, the minority—whichever party it may be, Republican or Democrat—have the chance to go into committee deliberations with staff doing investigative work so that the best possible case can be made in opposition to the program of the majority party.

The votes are still in the majority. If, after the best possible case has been made by both the majority and the minority, the majority are unpersuaded that the legislation would be any better as advocated by the minority, then the votes are in the hands of the majority to pass the final legislative product.

But this amendment which is here proposed and which has been advocated by Members on both sides of the political aisle merely says we are all better served if in the committee's deliberation it has had the chance to have brought before it the best possible evidence, some dug out by staff for the majority and some dug out by staff for the minority.

With the full facts laid out before the committee, the decision will be made by the majority, so long as it remains unpersuaded of the case which the minority makes.

We do not ask for going beyond that, but we feel justice and better legislation will be forthcoming with the adoption of the amendment here proposed.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT OFFERED BY MR. THOMPSON OF NEW JERSEY

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from New Jersey (Mr. THOMPSON).

The Clerk read as follows:

Amendment offered by Mr. DINGELL to the amendment offered by Mr. THOMPSON of New Jersey: Add a new paragraph as follows:

"(d) The majority party on any such standing committee shall receive not less than one-third of the funds provided for the appointment of committee staff personnel pursuant to each such primary or additional expense resolution."

Renumber succeeding paragraphs accordingly.

Mr. DINGELL. Mr. Chairman, this amendment is not offered in the spirit of partisanship. Frankly, I have always thought that the minority needed and deserved staff. I have always felt it was appropriate that every Member of this body should have committee staff. But I believe it is time this body recognized that the amendment offered by my good friend from New Jersey is a remarkable change of direction and orientation from that which we have seen during my 16 years of service in this body.

It effectively says we are going to have a committee staff and says we are going to have a minority staff.

As I have indicated, I believe it is desirable that the minority should have a staff. I believe it is also desirable that we should have a staff for the majority if we are to have a staff for the minority, because, if the amendment offered by my good friend from New Jersey carries in the form in which it is written, we will have a committee staff.

Under the rules of every committee I have served on—and I have served on four; the Committee on Public Works, Interstate and Foreign Commerce, Small Business and Merchant Marine and Fisheries—every member of the committee, regardless of his position and regardless of his partisan position in the House or in the Congress, is entitled to call in full upon the staff of the committee and to achieve equal treatment in terms of receiving service from that staff. That is how I believe it should be.

During my years in this Congress I have never heard a Member on either side of the aisle complain about the quality or kind of service given by members of the staff.

As to each of these committees, I have no way of knowing what the partisan designation or political philosophy of the members of the professional staff happens to be. However, each of them does have a minority staff which is available only to the members of the minority. This is something about which I do not complain.

I will say that if this amendment goes through as offered by my good friend from New Jersey (Mr. THOMPSON), we will have a highly preferential set of circumstances where members of the minority will achieve a highly preferential treatment in terms of services of the staff. They will be able to call in the future as they have in the past, upon the services of the committee staff and receive equal treatment therein. The members of the majority, whoever they might be, whether my party or the other political party, will continue to have the right to call only on the committee staff. But the minority will also have the special minority staff designated for their particular service.

I believe a student of political science or the House of Representatives or the Congress of the United States can recognize with some clarity that this is a set of circumstances which does not work to further the very desirable goal of majority rule, and does not give the majority party in this body an opportunity to achieve an ability to work its will and to function effectively.

During my years in the Congress I cannot recall a single instance when the staff behaved in a partisan fashion on any of the committees on which I have served.

I would point out something else. During my years of service in this body I can recall no instance when the staff functioned as a majority or minority staff, or when it failed to give due recognition and due dignity to requests by members of the minority.

As a matter of fact, I believe it would be uniformly agreed to by the members of the committee on which I serve that the committee staff has provided equal and equally valuable and equally dignified service in response to the requests of members of both the majority and the minority. So, if we are going to take this rather extraordinary departure from the practices and the rules and the way in which this body has behaved over the years and increase the staffs here, I believe it becomes very plain that we should do one thing more, namely, see to it that the majority has a staff upon which they may call so that we may have a professional staff for the committee and a staff for the minority, which I think is desirable, but also that we should have a staff for the members of the majority so that they might have somebody to whom they might look at any given time on any project on which they have embarked which would be in the unique position of being a staff that reflects a viewpoint. While I discuss this question of viewpoint I believe it would be worthwhile to make it very plain that during my years of service here I have never permitted staff on any committee on which I served to exercise a policymaking function. I believe this to be hopelessly undesirable, but if we are going to do so, then I would urge we make it available to the members of the majority.

Mr. PREYER of North Carolina. Mr. Chairman, I would like to draw the attention of the House to a number of editorials from around the country in support of the antisecrecy amendments being offered to the Legislative Reorganization Act of 1970. While the editorials support the antisecrecy amendments generally, all also urge adoption of the O'Neill-Gubser amendment to record teller votes. Most of the editorials remark on the irony of voting by secret vote on this proposal to abolish secret voting.

These nine editorials are only a representative sampling of those appearing around the country as we consider this bill. Editorial opinion from papers serving large urban areas and rural areas alike is favorable to the abolition of secrecy in the House. I am sure Members have noticed other insertions of editorials supporting the antisecrecy amendments, both in the Extensions of Remarks and the body of the Record.

I hope, Mr. Speaker, that we heed these messages from the people and adopt the antisecrecy amendments, particularly the O'Neill-Gubser proposal to record teller votes. To do otherwise is to mock our obligations as representatives of the people in a democratic institution. I include at this point editorials from the Chicago Sun-Times, the St. Petersburg Times, the Plain Dealer, the Daily Oklahoman, the Washington Post, the St. Louis Dispatch, the Detroit News, the Richmond Times-Dispatch, and the Youngstown Vindicator:

[From the Chicago Sun-Times, July 13, 1970]

Against Secrecy in Congress

For many years this newspaper has argued long and often for the public's right to see and hear the deliberations of its elected officials. Illinois now has on its statute book a law requiring all public meetings to be public, including committee meetings, with certain reasonable exceptions.

We therefore are particularly pleased that the anti-secrecy movement is taking hold in Congress where members have notoriously ignored the people's right to know.

This week action is scheduled in the House on H.R. 17654, the Legislative Reorganization Act of 1970. A group of Congressmen, including Illinois Republicans John N. Erlenborn and Thomas F. Railsback, are sponsoring amendments which would require a public recording of how members vote on major issues both in committee and the House floor. They would open committee hearings and meetings to the press and public, and require publication of committee reports and hearings a reasonable length of time before final House action is taken.

House members now can avoid putting themselves on record on a final vote on an issue by permitting passage by a voice vote (all in favor say "Aye") or by a standing vote in which members are counted but not recorded individually.

The public is entitled to know how its individual members vote on major issues and it is entitled to even more than that. It is entitled to know the reasons behind their votes and this means that the voters are entitled to hear the arguments made in committee meetings.

Unless there is such a free flow of information to the public, the democratic process is handicapped.

One of the most secret of the House committees is the one labeled Ways and Means, in which all government spending originates. (In the Senate, virtually all appropriations hearings are open.)

It has been argued that secrecy is needed in such House committees so that members may not be inhibited about speaking up and asking questions, thereby, perhaps, exposing ignorance of the subject.

Secrecy is argued for appropriations subcommittees on the grounds that it is necessary to prevent "raids on the treasury." We don't follow that argument. It seems to us that raids on the treasury might better be prevented by letting the public see what's going on.

In a special report, the Democratic Study Group, which has been working to modernize government and the political parties, noted that what the secrecy process does is concentrate the "power of the purse" in the hands of a few men. It denies the taxpaying public an opportunity effectively to influence national priorities and make a farce of the principle of representative government. Even congressmen who are not members of the particular subcommittees are barred from them.

The Democratic Study Group says:

"The only real opportunity afforded other members of the House to influence an appropriations measure is during floor consideration. However, after months of closed-door committee consideration, this stage of the appropriations process is telescoped into a few days with the predictable result that members can do little more than rubber-stamp the committee decisions."

Surely the public expenditure of billions of dollars should not be the private business of a few influential congressmen. Nor should the public be held at arms length as the House debates life and death and dollar issues and then votes them up or down in virtual anonymity.

We salute the courageous bands of innovating congressmen who are trying to let some light into the capitol.

[From the St. Petersburg (Fla.) Times, July 10, 1970]

The Secret House

Floridians can take pride in three of their congressmen who have joined others in trying to lift the dark cloak of secrecy that hides much of the work of the U.S. House of Representatives.

Reps. Sam Gibbons of Tampa, Charles E. Bennett of Jacksonville and Claude Pepper of Miami are among 50 cosponsors of a rule change to end some House secrecy.

Much of the House's work is done with non-record committee votes, secret votes on floor amendments, secret House-Senate conferences and closed committee sessions.

Over the past decade, the House has initiated appropriations averaging $130-billion a year. Every year the process was dominated by secrecy.

Secret votes this year have authorized funds for Cambodia, anti-ballistic missiles, and a new manned bomber, decided policy on school desegregation and made changes in laws about wiretapping.

This secrecy undermines representative government by denying congressmen the information they need to make wise decisions and by denying voters the facts they need to elect good congressmen.

This secrecy destroys public confidence in the government.

Much of the secrecy comes from outdated rules concerning votes while the House is in a committee of the whole. This situation allows unrecorded voice votes, standup votes and teller votes (when members pass quickly between counters, who record numbers but not names).

These practices of secret voting originated in the English Parliament to permit members to hide their votes from the King.

Parliament passed reforms in 1832 to make public records of votes. Some 138 years later, it is past time for the members of the U.S. House to quit hiding from the voters in their districts.

"We believe this is one of the most important steps Congress can take to assure the future of our society," said Rep. Gibbons. "We don't think democracy can work in secrecy."

The rule change cosponsored by Gibbons, Bennett and Pepper is modest enough. It would allow measures defeated in the committee of the whole House by teller votes to be voted on for the record in the full House if one-fifth of a quorum demands.

Where are the other Florida members on this question—William C. Cramer of St. Petersberg, Robert Sikes of Crestview. Don Fuqua of Altha, William Chappell of Ocala, Lou Frey of Winter Park, James Haley of Sarasota, Paul Rogers of West Palm Beach, Herbert Burke of Hollywood and Dante Fascell of Miami?

Do they favor secrecy? Do they want to hide their votes from their constituents?

Floridians will know when the issue is voted later this month—unless that also is by secret vote.

[From the Cleveland (Ohio) Plain Dealer, July 12, 1970]

Abolish Secrecy in U.S. House

A bipartisan move is under way in the U.S. House of Representatives to abolish secrecy in committee meetings and in voting. Both congressmen and the public will benefit if it succeeds.

The move is spearheaded by the liberal Democratic Study Committee. It has attracted support from Republicans.

They intend to submit amendments calling for more open committee meetings and record voting on major issues when the Legislative Reorganization Act of 1970 reaches the floor in mid-July.

Because much committee work is done behind closed doors, members of Congress do not have adequate information to make intelligent judgments on vital bills.

They routinely vote to appropriate billions of dollars of the taxpayer's money with only a sketchy notion of where the money is going.

They are not given time to peruse lengthy bills and the transcripts of closed-door hearings before the bills are called up on the House floor.

Appropriations Committee reports generally are not available until a few days before scheduled floor action. Transcripts of closed hearings—which average over 4,000 pages per bill—are published so late that even members of the Appropriations Committee who are not on the subcommittee involved do not see them until the day the full committee meets to report the legislation, says the Demorcratic Study Committee.

House members routinely decide important issues while giving the people back home no notion at all how they voted. Amendments on bills are considered by the House while meeting as a committee of the whole, and current rules forbid recording of individual votes at these sessions.

Questions about such major issues as the supersonic transport, antiballistic missile, civil liberties and air and water pollution have been decided in the House without a record of the members' votes.

Secrecy in committee meetings and in voting is detrimental to the congressmen, by denying them information, and to their constituents, by denying them knowledge of the performance of their representative.

Cleveland area citizens should urge their congressmen to support the antisecrecy reforms. They may never know, unfortunately, how their congressmen vote when the reorganization bill comes up. The amendments offered will be decided by nonrecord votes.

[From the Daily Oklahoman, July 10, 1970]

Putting Congress on Record

Reform of the rule under which Congress votes on important measures is long overdue. In the House of Representatives, a group of 56 members from both parties, and varied leanings, is now working to allow more recorded votes on key issues. The success of their efforts will be known next week, when the House acts on congressional reforms.

A bill drawn up by the Rules Committee provides for minor changes in House procedures. Amendments almost certainly will be proposed by the reform group, specifically aimed at the system of non-record voting. Although chances of passage might seem remote in an election year, the plans to put members on record for or against more measures have won growing support.

Certainly, a reform that wins the backing of such diverse men as Rep. Philip Crane, R-Ill., an articulate young conservative, and Rep. Donald Fraser, D-Minn., one of the most liberal members of the House, will have some chance of passage.

Members have different reasons for wanting to put more votes on the record. Antidefense forces feel that the present system favors acceptance of committee recommendations on defense appropriations bills, which they would like to cut drastically. Conversely, they feel that record votes would help them pass increases in the amounts allotted to welfare, urban projects, and similar favorite activities.

Conservatives would like to force some of the liberals to put on record their stands on questions that do not fit the liberal pattern. Few members are consistently conservative or liberal, by the standards of pressure groups which wear such labels. Again, appropriations are the key issues on which more record votes are sought.

The number of important questions on which no member's vote is known to the voting public is staggering to outsiders. Almost all amendments are accepted or rejected without a record vote. There are several systems used. Voice votes, as nationally televised political conventions showed the viewing public, are often decided by the chair, In a "division" vote, members stand to be counted, but the count is made so quickly that members of the press gallery cannot keep track of more than a few. In a "teller" vote, members file past counters for or against an amendment.

On such major issues as money for antiballistic missiles, the supersonic transport, and Amercian forces in Indochina the House voted by one of these non-record methods. Critics note that besides keeping their constituents in the dark, the members feel less compulsion to be present for a non-record vote. The 50 members of the Appropriations Committee usually attend when money bills are considered. The liberal Democratic Study Group points out that this gives them added weight in any voting, since only simple majorities of those present are required.

A further handicap for amendments is provided in a quirk of the present rules that creates a double standard. Votes on amendments are taken in the Committee of the Whole, which is everyone present. If an amendment is defeated while the House is so sitting, it cannot then be brought up for a roll call vote in the full House. But if it is passed in the Committee of the Whole, it must then be voted on again in the full House, an arrangement which gives opponents a chance to muster all the votes they can from those who were not present for the non-record tally.

The average citizen would welcome a reform that let him hold his representative in Congress responsible for all votes cast. The reforms now proposed do not quite do that, but lead in that direction.

[From the Washington (D.C.) Post, July 15, 1970]

Spotlight on the House

The House began its first debate on congressional reform in 24 years with a very modest bill before it. The Rules Committee tried to create an impression of moving toward reform, but ignored the most vital changes recommended by critics of the status quo in Congress. It was content to advocate expansion of the Legislative Reference Service, the telecasting of some committee hearings, more democratic controls over committee procedures and so forth. Nothing in the committee bill would shake the House out of its traditional routine, which is often a shabby distortion of representative government.

If the House wishes to convince the people back home that it is alert to the problems of the 1970s, it will have to do something more than ratify this pittance of reform. The public is asking for a modern Congress capable of transacting the public business efficiently and in accord with the best democratic procedures. It is looking for the substance and not merely the shadow of reform. The outcome of this debate will be very disappointing unless the House adds to the cut-and-dried fare offered by the Rules Committee some genuine reform that will enhance the quality of government on Capitol Hill.

The first significant vote on a proposed amendment on Tuesday was not encouraging. The House voted down by a relatively small margin the proposal that all committee meetings be open unless the committee by majority vote at the beginning of each session should require otherwise. The defeat of that relatively mild requirement for the transaction of public business in public undoubtedly casts a shadow over the more important issues yet to be decided. That dismal response is offset, however, by the approval of an admirable amendment requiring that roll-calls in closed committee meetings be made public.

The most vital test will come on the proposal to record member votes on amendments on the floor. The present method of disposing of amendments to bills in the Committee of the Whole, where the votes of individual members are not recorded, is an undemocratic device that has no place in the United States Congress. The essence of representative government is that legislators chosen by the people will keep the people informed of what they do and stand or fall by the records they make. When they hide behind anonymity to vote their own personal prejudices or do the bidding of a lobbyist or for any other reason, they are not functioning in a truly representative capacity.

Approval of this major reform would thus give the bill new meaning for the people who are eager to see Congress tackle its own shortcomings. By this one improvement the House could give every member an item to display with pride and satisfaction to his constituents in the election campaigns this fall. By the same token, however, rejection of this vital reform would leave the country with an increasingly hopeless feeling about the body, which, more than any other, is supposed to represent the people.

[From the St. Louis (Mo.) Post-Dispatch, July 9, 1970]

Toward an Open House

Centuries ago, members of the English parliament developed a system of anonymous voting to protect themselves from the revenge of a hostile king. Today, the House of Representatives uses much the same system to protect itself against the revenge of an informed electorate.

So far in this year's session, Representatives have voted anonymously on such issues of vital public importance as the Cambodian invasion, the antiballistics missile system, the supersonic transport, military spending, school desegregation and the no-knock, pretrial detention and wiretap provisions of the District of Columbia crime bill. But a reluctance to make voting records public is only one of the ways in which an unhealthy secrecy pervades the House's procedures. Nearly half the committee meetings are closed to press and public. Committee reports are deliberately delayed. House-Senate conference committees are closed to other members of Congress.

It hardly needs pointing out that secrecy not only is contrary to democratic ideals and contributes to the erosion of public confidence in representative government but that it also impairs the ability of the House to function efficiently. The debilitating effects of closed committee meetings, for example, are compounded by the practice of delaying reports. As a result, Representatives all too frequently are unable to evaluate proposed legislation adequately.

Within a few days, the House is scheduled to take up the Legislative Reorganization Act of 1970, a bill which provides the first significant opportunity since 1946 for a comprehensive attack on the problems of secrecy. The bill itself is a modest but worthwhile document which would provide Congress with a computerized information system and open more committee meetings to the public. Its larger importance, however, will be to serve as a vehicle on which to attach a number of amendments, which, if passed, would effectively open up the House to scrutiny by the people.

Chief among the expected amendments, in our opinion, are those which would provide for an increase in record votes on the House floor. Currently, through teller votes, voice votes and standing votes, all of which are non-record, Representatives are able to avoid public accountability in matters of the highest public concern. They also are able to shirk their duties of participation. Less than half the House was present to vote on such a controversial issue as funds for the SST.

Another important amendment would require a public record to be kept of committee votes. We consider this also an essential reform since under the present system each Representative's decisions on key provisions of legislation are withheld, unless he chooses to disclose them himself, from his constituents.

In a functioning democracy, secrecy can only benefit interests that are narrow and private and never those of the public. The Legislative Reorganization Act and its accompanying amendments would do much to increase the responsibility of individual legislators; but equally important, it would put an end to a system which denies the voters the information necessary for intelligent electoral decisions. The English parliament reformed its system of nonrecord voting 138 years ago. The House has no excuse to wait any longer.

[From the Detroit News, July 11, 1970]

Congress Should Open its Doors: Why the Secrecy?

More often than the public realizes, the U.S. Congress conducts its business—your business—anonymously and behind closed doors.

Members who demand a strict accounting from the executive and judicial branches regularly conceal their own deliberations and actions.

A chance for reform is at hand.

This month, the House of Representatives will act on a bill to reorganize Congress. The bill offers an opportunity, one which comes along infrequently, to write amendments stripping away some of the secrecy that cloaks the federal legislative process.

One proposed amendment strikes at the practice by the House of converting itself into a Committee of the Whole and casting unrecorded votes. This practice provides politicians a haven of anonymity and denies constituents the right to know how their representatives ballot on important and sensitive issues. In the legislative body of a democratic system, voting should be a matter of public record.

Another proposed amendment would require disclosure of voting on committee and subcommittee roll calls. Under present rules, House committees keep a record of how each member votes but that record is not released to constituents or the general public.

In fact, many committee sessions are closed entirely to press and public. About half the hearings and meetings of House committees are closed. The House Appropriations Committee, which has so much to say about the spending of those billions of taxpayer dollars, holds all its meetings and hearings in secret.

Secrecy may be dictated on occasion by national security but in general the committee meetings and the voting should be open and on the record, accountable to the public, which foots the bill and to which the Congress owes its very existence.

The purpose of the reforms, of course, is to make the House a more responsible body. Paradoxically, the fate of the reforms depends on whether the House is responsible enough to approve them. Confronted by an ethical dilemma of this sort, men often need outside guidance. So this is one of those occasions when a letter to your congressman would be particularly appropriate.

[From the Richmond (Va.) Times-Dispatch, July 10, 1970]

Putting Them on Record

They have a clever little system in the House of Representatives to permit members effectively to hide the way they vote on controversial amendments to pending bills.

First, the House constitutes itself a "Committee of the Whole" to consider the amendments. While sitting as a committee, no recorded votes are permitted. Voting is by voice, or by the members' walking up the center aisle in the line of those for an amendment or in the line of these opposed, to be counted by tellers.

After the House changes its hat and once again becomes the House of Representatives, no recorded vote is permitted on any amendment that was defeated while the same body was sitting as the Committee of the Whole.

In the case of teller votes, viewers in the galleries can see which line the members go through. But when the members go up the aisle, they are walking away from the press gallery, which makes it difficult for newsmen to determine how each votes. Members face the public galleries in the teller voting, but note-taking in those galleries is prohibited.

This system possibly has one advantage from the standpoint of the public welfare. Sometimes a member may be able to vote his honest conviction when his vote is not recorded, whereas if the knew his vote would be made public, he might feel compelled, for political reasons to go against his conviction.

But a far stronger case can be made for requiring members to put themselves on record on crucial issues. The people, who are affected by what happens in the House chamber, have a right to know how their representatives vote. This is basic in a democracy.

Thus we applaud a bipartisan group of five House members who next week will seek approval of a package of anti-secrecy proposals, including one requiring a recorded vote whenever 20 per cent of the members present demand it and another specifying that votes taken in closed committee sessions must be publicized.

On rare occasions, govermnental bodies are justified in discussing governmental matters—relating to personnel appointments, for example—behind closed doors. But there is never justification for making decisions affecting the public without the public knowing exactly who made those decisions. The House's present practice in this regard is indefensible.

[From the Youngstown Vindicator, July 10, 1970]

Getting It on the Record

Advocates of congressional reform are stepping up the pressure to bring an end to the practice of non-record voting in the House of Representatives.

The system of avoiding roll-call votes was borrowed from England centuries ago when members of Parliament utilized the cloak of anonymity to escape royal displeasure. When such fears were no longer justified, however, Parliament dropped the hidden vote method.

That was 138 years ago, but the U.S. House has yet to follow suit. Crucial votes continue to be masked from public accountability leaving the result known only to the solons, the tellers and presumably, their barbers and hair-dressers.

Members of both major parties, liberals and conservatives alike, are pressing a variety of amendments to a reform bill. While the proposed procedures vary they all have a common goal—force House members to vote on the record.

Similar action isn't expected in the Senate where current rules permit any senator to force a roll call vote on any issue.

Along with keeping constituents well informed on their representative's positions, the change will serve to minimize situations which find some congressmen "privately" voting actions which they publicly disavow. It also would discourage absenteeism on controversial amendments, a tactic encouraged by non-record voting.

Ironically, as things stand it will take a floor vote to decide on the adoption of the proposed reform. Initially, at least, such a decision will have to be reached on a non-record vote.

Mr. ICHORD. Mr. Chairman, I rise in strong support of H.R. 17654, the so-called Legislative Reform Act of 1970. H.R. 17654 is a measure which is long overdue and I commend the members of the Rules Committee for bringing this measure to the floor and particularly do I wish to thank the gentleman from California, (Mr. Sisk) who has labored so long and so hard to perfect the legislation.

Change in this world, Mr. Chairman, is inevitable and the House of Representatives is no different than any other thing. Many of the existing rules and practices are archaic and should be revised and updated. In some cases, this measure may have gone too far, in other respects, I personally feel that it did not go far enough, but in balance it is an excellent legislative product.

I am confident that H.R. 17654 will be adopted with few dissenting votes but in view of the fact that I must return to Missouri to keep a series of longstanding engagements this week which cannot be canceled, I want to take this opportunity to commend Mr. Sisk and the Rules Committee and urge my colleagues to support the measure.

Mr. LUJAN. Mr. Chairman, I support the intent of the Legislative Reorganization Act of 1970, but I share the belief of scores of my colleagues that the proposed changes are insufficient to achieve the necessary goals.

It is commendable that the committee has proposed to open committee meetings to the public and to give free tours to Capitol visitors. These are desirable changes, but I suggest that they fall short of the reorganization that is implicit in the title of the act.

There will be a number of amendments introduced to this act, and I strongly urge my colleagues to give them firm support. In particular, I believe the following amendments are vital to the purpose of the act: first, provide for the election of committee chairman by the members of the committees, thus eliminating the present automatic selection on the basis of seniority alone; second, provide for at least 3 legislative days for study of any bill before it is brought to a vote. This would permit a higher degree of responsible and thoughtful voting on each measure; and third, eliminate secret or anonymous balloting on important issues. Public knowledge of voting records is a vital ingredient of our unique form of representative democracy.

As this supremely important legislation comes to the floor, Mr. Chairman, there will be many proposals and counter-proposals offered. I commend to my colleagues the thought that any reservations they may hold on individual amendments be weighed in favor of openness, disclosure, and majority rule.

The needs of our country and of our people in the seventies are too great, too pressing, too immediate to be subjected to the delays and inadequacies of the many cumbersome impediments which this body has imposed on itself over the past century.

Mr. REID of New York. Mr. Chairman, I rise in support of H.R. 17654, the Legislative Reorganization Act of 1970. To say that this bill is overdue is at best an understatement. Its provisions are absolutely essential to bring the operations of the Congress into the 20th Century.

The changes proposed in this bill are laudable, especially in areas that will afford the public greater knowledge of committee actions and provisions for more adequate research and fiscal-budgetary information for Members of Congress. The difficulty lies not with what the bill includes, but with what it fails to include. I am aware that the Members of the Rules Committee have worked long and diligently to report out a bill that contains few items controversial enough to jeopardize its passage.

I am compelled to point out at this time, however, that further changes in the committee bill are essential if the Congress is to be a viable, contemporary institution for the conduct of the American people's business.

Therefore, I strongly support a number of amendments to be offered to lift the shrouds of secrecy and to make more truly democratic the procedures of the House. If we are to revive the failing confidence of the American people in the Congress, we must insure that citizens can know how their representatives stand on each and every bill, all the way from consideration in committee to final passage of the conference report. Procedures which inhibit and even exclude the public from access to information on a Member's votes are inconsistent with participatory democracy and destructive of public trust in the processes of Government. The Congress must not operate in the dark.

Chief among the amendments to be proposed is the Gubser-O'Neill amendment, which would permit the recording of names on teller votes. Current procedures which permit a Member to vote one way on tellers, under the cloak of anonymity, and another way when his vote is publicly recorded, are devious and unfair to the people who elected him. The American people are entitled to know how their representatives vote on all major issues, not just those which are decided by a rollcall vote. Accountability is an essential part of the electoral process.

I have earlier introduced a resolution proposing that one-fifth of a quorum call could demand a record vote on any amendment rejected on tellers. I am pleased to support as well the current effort to record all names on teller votes. This reform, at the minimum, is vital for a responsive Congress.

I intend also to support other amendments which seek to require the printing of conference reports in the Record at least 3 days prior to floor consideration. I shall also support a series of amendments designed to publicize committee meetings, including the public recording of each Member's vote in committee.

In addition to an end to secrecy, the reform most often demanded of the Congress by the American people is the reform of the seniority system. At a time when young men and women are so often constructively ahead of their government, there is ample reason to question the awarding of committee chairmanships solely on the basis of length of service. The issue is not whether chairmanships should go to the young or to the old, but rather that chairmanships—like all positions of public responsibility—should be held by those most likely to discharge their responsibility with ability and with a sense of responsiveness to all points of view.

A number of studies of changes in the seniority system are now in progress. Nonetheless, I think it is important that the House go on record today to assure the American people that the seniority system will be changed. I intend to support the amendment to be offered by Mr. Reuss which will add an "advisory mandate" to rule X to indicate that the committee member elected as chairman "need not be the member with the longest consecutive service on the committee." This language does not require any change in any existing procedure but it serves to make clear that the Congress is actively considering changes in the seniority system.

Mr. Chairman, our constitutional function is to represent the citizens of our district. That function is impeded by some of the archaic and undemocratic procedures under which this Congress labors. Thus, the reform bill pending before us must be enacted, along with essential amendments.

Mr. SISK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so in order to make a brief statement.

There are apparently a number of Members here who are interested in speaking on this amendment, if I understand it correctly from those who have been contacting me. In view of the time and the fact that we have certain commitments this evening, at this time and because of that, Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Natcher, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, had come to no resolution thereon.

EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO CONQUEST OF CANCER AS A NATIONAL CRUSADE

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent for the immediate consideration of House Concurrent Resolution 675.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. HALL. Mr. Speaker, reserving the right to object, is it the intention of the gentleman to amend House Concurrent Resolution 675?

Mr. ROGERS of Colorado. If the gentleman will yield, we intend to amend it by striking the last "whereas" clause.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. WIGGINS. Mr. Speaker, further reserving the right to object, and I make this reservation for the purpose of asking some questions of the distinguished gentleman from New York (Mr. Rooney), the author of this resolution.

I would inquire of the distinguished gentleman from New York concerning the second page of the House concurrent resolution where there is a resolving clause in which it states that it is the sense of the Congress that appropriate funds be authorized for cancer research.

It is my understanding, I would say to the gentleman from New York (Mr. Rooney), that this resolution does not in and of itself appropriate any funds. It is further my understanding that it is not the gentleman's intention as the author of the resolution to have more funds appropriated for this effort than can legitimately, appropriately, and prudently be expended; is that correct, sir?

Mr. ROONEY of New York. Mr. Speaker, if the distinguished gentleman from California will yield, I say to him that the answer to both inquiries is "True." We have the same understanding.

Mr. WIGGINS. Mr. Speaker, with that understanding, I withdraw my reservation of objection and urge support of the resolution.

Mr. ROONEY of New York. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

(Mr. ROONEY of New York asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. ROONEY of New York. Mr. Speaker, on March 4, 1970, I introduced House Concurrent Resolution 526 which was referred to the Committee on the Judiciary. Subsequently, the distinguished chairman of Subcommittee No. 4 of the House Committee on the Judiciary, the gentleman from Colorado (Mr. Rogers), sought to call up this resolution by unanimous consent when informal objection was made to the inclusion of one word of the resolution. On July 8, 1970, the gentleman now addressing the Chair introduced a new concurrent resolution known as House Concurrent Resolution 675 which was also referred to the Committee on the Judiciary. This resolution omitted the objected-to word.

Mr. Speaker, I firmly believe there is no more fitting way to commemorate the 200th anniversary of the independence of our country than to eliminate cancer as a disease.

I believe that the people of this country have a sound sense of national priorities. From time to time, the order of these priorities is confused by rhetoric or by the number and complexity of our national commitments. We therefore owe it to ourselves as individuals to make clear to the Nation and to the world our sense of dedication to the total conquest of cancer. This is the purpose of the resolution.

The Federal programs in cancer have been going on since 1938. They have had long periods of rapid development and shorter periods of temporary decline. Overall, the thrust has been forward, and today the programs are substantial.

The questions are: What progress has been made? What yet remains to be done? What prospects are there for closing the gap between the problem and the solution? And how are we to address ourselves to the effort?

The scientists whose views have stood the test of time insist that we are near the point of breakthrough. Our 30 years of painstaking research are ready to pay off in dramatic terms. The dedication and wisdom of the men who have made cancer research their life's work are about to be redeemed. But to effect this redemption and take the final strides to a breakthrough will require a sustained effort of substantial proportions over a relatively short period of time. I am told by the most eminent men in the field—and I yield to the judgment of these men—that given the funds, the programs, the resources and the authority, they can come to us before the end of this decade with a solution to cancer, hopefully by 1976. Just as the 1960's will go down in history as the decade in which man contrived to reach the moon, so the 1970's could go down in history as the one in which man reached an even nobler goal.

For these reasons, I ask you to join with me in expressing, as a sense of this Congress, a national commitment to give to the cancer effort the resources it needs to solve the remaining mysteries of the disease.

This commitment will consist of the new laws which the legislative committees of the House and Senate deem necessary, and the appropriations provided they can legitimately, appropriately and prudently be expended to carry out the purposes of the new legislation in addition to the programs now in being.

What the Congress must provide are the means to meet the following requirements:

First. An increase in all forms of training in the field of cancer: predoctoral, postdoctoral, career development, basic training, and clinical training;

Second. The establishment of a score of task forces along the lines of the lung cancer and breast cancer task forces already in existence. These new task forces must address themselves comprehensively and intensively to the aspect of cancer to which they are directed;

Third. Vastly increased support of the cancer centers now being funded and an increase in the number of such centers throughout the entire country;

Fourth. A review and revision of the emphasis of the programs of the National Cancer Institute with more to be done on a research contract basis in the interest of more efficient research and more quickly attainable goals; and

Fifth. A program of construction of research facilities, basic and clinical, to begin on a broad basis in the four points of the compass within the limits of our national boundaries. This construction program—neglected for the past several years and now temporarily phased out—is one of the vital requirements of the overall program. It must go on concurrently at the places in which it is to be done and it must start next year if it is to serve the purposes for which it is needed.

I believe that if we provide these means, the men of science will respond to the challenge and reach the goal that we have set for ourselves as a people.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 675

Whereas cancer is a disease that has taken an enormous toll of lives and caused universal anguish and suffering; and

Whereas the Congress and the Nation have been committed to the elimination of cancer since 1938; and

Whereas despite this commitment more than three hundred and seventy-five thousand Americans will die from cancer in the year of 1970; and

Whereas cancer reseach shows imminent promise of significant breakthrough in several forms of the disease; and

Whereas the medical knowledge and the dedicated scientific personnel necessary to make the breakthrough are available and ready: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the conquest of cancer is a national crusade to be accomplished by 1976 as an appropriate commemoration of the two hundredth anniversay of the independence of our country; and be it further

Resolved, That the Congress appropriate the funds necessary for a program of cancer research and for the buildings and equipment with which to conduct the research and for whatever other purposes are necessary to the crusade so that the citizens of this land and all other lands may be delivered from the greatest medical scourge in history.

AMENDMENT OFFERED BY MR. ROGERS OF COLORADO

Mr. ROGERS of Colorado. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS of Colorado: On page 1 strike out the last "whereas" clause.

The amendment was agreed to.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the House concurrent resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

WATER POLLUTION—PART II

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, the Federal Refuse Act of 1899 prohibits anyone from discharging refuse into our navigable waters. Violators are liable to fine and/or imprisonment.

As I mentioned last week, on June 29 of this year, I invoked one of the provisions of the act which permits any citizen to present information about polluters to the appropriate U.S. attorney. On June 29, I filed affidavits with the U.S. attorneys for the southern and eastern districts of New York. The affidavits named 10 companies doing business in New York City who, as of January 1970, were listed by the New York State Department of Health as polluters of "major importance."

Although the Refuse Act of 1899 directs U.S. attorneys to "vigorously prosecute" all violators, I learned while filing my affidavit that the Justice Department apparently does not intend to use this law against major industrial polluters. I was told that the Justice Department has issued a memorandum to all U.S. attorneys instructing them not to prosecute industrial polluters under the Refuse Act. I wrote to the Justice Department requesting a copy of this memorandum and received a copy from Mr. Shiro Kashiwa, Assistant Attorney General, Land and Natural Resources Division, on July 7.

The memorandum "guidelines for litigation under the Refuse Act" instructs U.S. attorneys that they may prosecute "to punish or prevent significant discharges which are either accidental or infrequent, but which are not of a continuing nature resulting from the ordinary operations of a manufacturing plant." In outlining the procedures to be followed by U.S. attorneys using the Refuse Act, cases of "continuing industrial discharge" are to be exempted from prosecution.

This language makes it quite clear that the Justice Department does not intend to use this potentially powerful and effective statute to safeguard our waters. Rather, it is their intention to rely primarily on the procedures of the Federal Water Pollution Control Act. However, this enforcement machinery has proved to be extremely cumbersome and very long and drawn out. Furthermore, it fails to provide specific penalties for violators. Its laborious three-stage process of conference, hearing, and eventual court action can literally take years and years. Even under the 1965 Federal Water Quality Act which mandated quality standards for interstate waters and which was designed to speed up enforcement, the process remains a terrible bureaucratic labyrinth. Although the Federal Government has had permanent water polluter legislation since 1956, there have been only a meager number of cases in which the Government has actually initiated court action against violators. Approximately 10 actions have been initiated.

Meanwhile, the pollution of our waterways continues. What is needed in our fight against water pollution is a strong law that can be expeditiously enforced. The Refuse Act of 1899 is such a law and I have urged the Justice Department to reconsider their position and to vigorously prosecute the polluters named in my affidavit who at this time have yet to take proper steps to abate their pollution.

The Refuse Act also states that any citizen providing information which leads to a conviction is entitled to one-half of any fine that may be levied. Such a citizen may also bring suit against the alleged polluters in the name of the Government in order to collect his share of penalties if the Government fails to act within a reasonable length of time.

I consider the date of filing of my affidavit in New York to be the start of the reasonable period in which the Government should act. I intend to pursue this matter and would urge my colleagues and other concerned citizens to explore the potential use of the Refuse Act as an effective weapon against water pollution. I would also hope that my colleagues would condemn the Justice Department's reluctance to enforce this law particularly in light of the dubious success of enforcement procedures under the Water Pollution Control Act of 1956 as amended.

Mr. Speaker, the Refuse Act is a good law, let us use it.

SURVEY OF HONORARIUMS PAID GUEST SPEAKERS AT COLLEGES AND UNIVERSITIES

(Mr. ICHORD asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, criticism has been voiced by one of my colleagues concerning a voluntary survey now being conducted by the Committee on Internal Security in furtherance of what newsmen would champion as "the public's right to know."

The survey was recently authorized by the committee to determine the extent to which today's extremist and radical speakers have used the forum of college and university campuses to finance revolutionary violence among a militant minority of young people in this Nation.

Preliminary indications of fees paid to various radical speakers on campuses throughout the Nation suggest that such a survey is warranted since it involves no invasion of the field of academic freedom, concerns only what should be a matter of public record, and affects primarily institutions which should have no objection to making the record of expenditures of honorariums a matter of public information.

The survey letter approved and sent out by the committee seeks information regarding honorariums paid only to guest speakers "other than academicians and lecturers who appeared in connection with courses of instruction."

All available information indicates that these speakers certainly have contributed heavily to the revolutionary climate in our Nation by their inflammatory and vicious tirades as well as by their frequently disgraceful antics.

For example, at a recent speaking engagement at the University of California, Santa Barbara, William Kunstler urged students to take to the streets and they did just that. More than 800 protesters surged through the streets, throwing rocks and bottles, overturning a police car, and burning a bank. Academic freedom and freedom of speech unfortunately have become devices for the dissemination of concepts of violence. Using cliches and platitudes which have long been employed to foment hate and dissatisfaction, these militants are systematically spreading their venom—concentrating on students. Keep in mind that customarily their campus presentations are lectures rather than debates. Thus, opposite viewpoints are not presented in context. Is it any wonder then that their youthful audiences are often influenced in the wrong direction?

At the same time the academic community gains nothing in its knowledge of the revolutionary movement by inviting revolutionaries to speak on the campus, but the revolutionary movement has gained tremendously in respectability and propaganda.

A question repeatedly asked is where the money comes from to finance the revolutionary movement. Information along that line is scarce indeed, but a fragment here and there provides some clues. For example, following a recent inflammatory speech on the campus of the University of Cincinnati, William Kunstler was asked during a press interview where the money comes from to defray expenses for the revolutionary movement. Specifically mentioned were trial expenses, bond money, and appeal efforts for the defendants found guilty of using interstate facilities to start a riot during the 1968 Democratic National Convention in Chicago. Kunstler told the newsmen quite candidly:

> We raise most of the money for our movement through speaking engagements.

In substantiation of his statement, Kunstler pointed out he had been paid only $100 a week for expenses during the 160-day trial in Chicago, suggesting that his legal talents and time are reimbursed through the speaking engagement fees.

Other examples I would cite:

Abbie Hoffman, a radical New Left spokesman and one of the "Chicago Seven" convicted of crossing State lines to incite a riot during the Democratic National Convention in Chicago during August 1968, was paid an honorarium of $750 for a speech he delivered on April 22, 1969, at North Dakota State University, Fargo, N. Dak.

David Hilliard, chief of staff of the Black Panther Party, was paid a $2,000 honorarium for being the keynote speaker at a "repression teach-in" held on February 26, 1970, in Dillon Gymnasium at Princeton University.

Thomas Hayden, cofounder of the Students for a Democratic Society, and who was also one of the "Chicago Seven" convicted of crossing State lines to incite a riot, was paid an honorarium of $600 to speak at San Fernando Valley State College, Northridge, Calif., on April 17, 1970.

It is shocking to think that honorariums paid from funds from tax-supported universities or from fees assessed students in public institutions are seemingly being used to subsidize the revolutionary movement in this country. The results of a preliminary study made by the committee staff has shown that radical spokesmen have traveled the length and breadth of our land to fulfill speaking engagements.

Incredible as it may seem, it appears large fees are being paid to militants who are urging the disruption of our colleges and universities. Instead of utilizing the college and students' funds to strengthen understanding and a deeper appreciation of our free enterprise system and the relative merits of various systems of government compared with our own, these funds may be going into the coffers of groups seeking to destroy traditional American concepts and the structure of our society.

These dissidents rise in great indignation and protest at any attempt to prevent them from speaking on college campuses. They use every means at their disposal to fight such action. Last year the president of Auburn University refused to permit a speaker on the campus because the speaker had been convicted of urging students to resist the draft. This ruling by the college president was challenged in court, whereupon a Federal judge ordered that the individual be permitted to speak. In addition, the Federal judge instructed Auburn University to provide the speaker facilities and the payment of an honorarium from school funds. This court decision caused Alabama Gov. Albert Brewer to remark that the court decree not only undermines the capable administration of Auburn University but even goes so far as to direct the university to pay a convicted felon who has sought to influence young people to undermine their country.

The people of America are deeply concerned about violence as rightfully they should be. They have been witness to assassinations of national figures. They have seen students disrupt classes, seize buildings and destroy property at institutions of learning. They have seen young people confronting the police at draft centers across the country; they have heard students shouting the strident rhetoric of revolution. Militant agitators have seized upon this insurrectionary climate to persuade even more of our youth to join the revolutionary movement. One of their spokesmen has recently boasted:

> Perhaps twenty-five universities linked to the movement would be too much for the police—for the dominant class—and we would get what we demand.

These dissidents seek every opportunity to speak before student groups throughout the country. They avail themselves of the chance to take advantage of the natural inquisitiveness of students. They distort the facts and misrepresent conditions in our country. They seize every opportunity to criticize our institutions without making any constructive suggestions. Regardless of the title of the subject matter to be covered, these speakers invariably manage to work in bigotry, hate, and falsehoods. Obviously, their primary aim seems to be to turn young Americans against their country. But their secondary purpose very possibly is to raise funds for advancing revolutionary activity.

Notwithstanding the inevitable hue and cry from those who regard any inquiry into the activities of colleges and universities as an infringement upon academic freedom, I am confident, and so was the committee, that the majority of the American people share our concern and would like to know if large sums of money are being spent in the form of honorariums to revolutionary speakers who, in turn, might use such revenue to underwrite some of their plans for revolution, disorder, and violence.

Based on the initial returns received, it is gratifying to be able to assure this House that the cooperation of the surveyed institutions has been forthcoming.

We have received to date responses from 26 universities overwhelming in support of our survey. Typical of the reaction was the following from a president of one university who stated:

> It is my firm belief that speakers and promoters of disruption as well financed and

that there is firm justification for concern. This university is seriously concerned about this matter and like all other urban institutions in particular, we feel the need of assistance to curb the threat which they pose to the educational community and to our institutions.

A university president in the Rocky Mountain States wrote:

> The work of your committee is crucial and certainly you will receive our full support.

The president of a Northwest Pacific Coast university declared:

> I suspect that there are organizations which wish to destroy the university and the social and political organizations which sustain it. To be a party to this by financially supporting these organizations is obvious folly and we would not wish to be involved in such action at this institution if we knew that it was being done and could avoid doing so.

The total offensive of these revolutionaries is indeed formidable and cannot be minimized. They are calling for riots and a war of so-called "national liberation." We must not and cannot ignore their efforts.

As part of my remarks, I submit for the Record the results of a preliminary study by our committee staff showing a list of confirmed appearances by radical and revolutionary speakers on various campuses since 1968. This list is far from complete, I am sure, but it is enough to indicate the reasons for our committee's concern.

In conclusion, I want the Record to show in mid-May, all members of the Committee on Internal Security were advised that a survey was under consideration, that there were no written objections raised to such a survey at that time, and that in June the full committee met and, by a majority vote, approved the letter which was ultimately sent to a random list of colleges and universities.

At this time, Mr. Speaker, I include a copy of the letter so approved and mailed, a copy of the reply form accompanying it, and a list of the institutions of higher learning contacted in the Record as part of my remarks:

Congress of the United States,
House of Representatives, Committee of Internal Security,
Washington, D.C.

Dear Sir: As Chairman of the House Committee on Internal Security, I am writing to solicit your cooperation in the furnishing of information with regard to honorariums paid to all guest speakers other than academicians and lecturers who appeared in connection with courses of instruction.

As directed by the House of Representatives, our Committee is charged with the responsibility of making inquiry into those organizations, who by their activities, would effect changes in our Government or the administration of our Government by force, violence or other unlawful means. Preliminary data available indicates that guest speakers representing such organizations have made numerous appearances on many college and university campuses, and have received honorariums which could be of significance in funding their activities. The means by which such organizations are financed is a matter which is under inquiry by this Committee.

We would be grateful if you could be of assistance by completing a separate sheet on each guest speaker on your campus during the period September, 1968, to May, 1970, (excluding academicians and lecturers in connection with courses of instruction) using the form set forth in the enclosure. Your cooperation in helping us to fulfill our legislative mandate will be greatly appreciated.

Sincerely yours,

Richard H. Ichord,
Chairman.

Survey By House Committee on Internal Security of Honorariums Paid To Guest Speakers

School Name.

Address.

Date.

Name of Speaker.

Group Identification or Sponsorship of Speaker.

Amount of Honorarium Paid.

How Paid (Check or Cash).

To Whom Paid (Individual or Organization).

Sources of Funds: (1) Student Activities; (2) Foundation; (3) Appropriation; (4) Free Will Offering; (5) Other as Described.

Speaking Engagements

COLLEGE OR UNIVERSITY, DATE, AND SPEAKER

Alabama, University of: October 1968, Eldridge Cleaver (BPP); March 16, 1969, Abbie Hoffman (YIP).

American University: April 7, 1970, Jerry Rubin (YIP).

Briarcliffe College, Braircliffe Manor, N.Y.: March 11, 1968, Mark Rudd (SDS).

California, University of, Berkeley, California: May 21–22, 1965, David Dellinger (NMC); October 29, 1966, Rennie Davis (SDS); and Stokely Carmichael (SNCC) (BPP); October 18, 1968, Tom Hayden (SDS); Fall 1968, Eldridge Cleaver (BPP); April 22, 1969, Tom Hayden (SDS); March 5, 1970, Tom Hayden (SDS).

California, University of, Santa Barbara, California: February 25, 1970, William Kunstler (Misc.).

California, University of, Los Angeles, California: October 1968, Eldridge Cleaver (BPP); February 14–15, 1970, Jerry Rubin (YIP).

California State College, Los Angeles, California: December 1967, Michael Klonsky (SDS); March 2, 1970, Carl Oglesby (SSD).

Case-Western Reserve University, Cleveland, Ohio: May 9, 1969, Jerry Rubin (YIP); and David Dellinger (NMC).

Chicago, University of: Summer 1967, Rennie Davis (SDS).

Cincinnati, University of: March 3, 1970, William M. Kunstler (Misc.).

City College of New York: December 3, 1968, Stokely Carmichael (SNCC) (BPP): September 25, 1969, Mark Rudd (SDS).

Colorado State College: May 18–25, 1969, Lauren Watson (BPP); Henry X (NOI).

Colorado, University of: October 12, 1968, Michael Klonsky (SDS).

Columbia University: June 25, 1968, Leroi Jones (Misc.); November 13, 1965, Tom Hayden (SDS); July 26, 1967, David Dellinger (NMC); April 1968, H. Rap Brown (SNCC); January 15, 1969, Mark Rudd (SDS); March 17, 1970, Rennie Davis (SDS).

Connecticut, University of: October 14–15, 1969, Rennie Davis (SDS).

Cornell University: August 5, 1969, Mark Rudd (SDS).

Denver, University of: April 1969, Tom Hayden (SDS).

Dillard University: April 1967, Stokely Carmichael (SNCC) (BPP).

Fairleigh Dickinson University; September 17, 1969, Carl Nichols (BPP).

Fisk University: November 5–8, 1966 Stokely Carmichael (SNCC) (BPP); April 8, 1967, Stokely Carmichael (SNCC) (BPP).

Florida, University of: April 11, 1969, Michael Klonsky (SDS).

Fresno State College: October 24, 1968, George Murray (BPP).

Georgetown University: October 3, 1968, Bernardine Dohrn (SDS); Tom Hayden (SDS).

George Washington University: October 17, 1968, Mark Rudd (SDS); March 12, 1969, Karl Wolff (Misc.); April 9, 1970, Stokely Carmichael (SNCC) (BPP).

Glendale College: October 9, 1969, Elaine Brown (BPP).

Houston, University of: March 20, 1969, Mark Rudd (SDS).

Howard University: November 1968, Leroi Jones (Misc.); November 14, 1968, Stokely Carmichael (SNCC) (BPP); December 1968, Eldridge Cleaver (BPP); April 9, 1970, Stokely Carmichael (SNCC) (BPP).

Hunter College: January 28, 1970, Don Cox (BPP); February 18, 1970, Rennie Davis (SDS).

Illinois, University of, Chicago Circle Campus: May 8, 1969, Rennie Davis (SDS).

Illinois, University of: March 2, 1970, William M. Kunstler.

Kansas, University of: January 7, 1969, Mark Rudd (SDS).

Kent State University: April 28, 1969, Bernardine Dohrn (SDS).

Kentucky, University of: February 9, 1968, Rennie Davis (SDS); April 4, 1970, William M. Kunstler (Misc.).

Maine, University of: September 16, 1969, Leroi Jones (Misc.).

Marquette University: January 29, 1970, David Dellinger (NMC).

Maryland, University of: September 30, 1968, Tom Hayden (SDS); Bernardine Dohrn (SDS); October 18, 1969, Mark Rudd (SDS).

Merritt College, Oakland, California: February 21, 1968, Stokely Carmichael (SNCC) (BPP); May 12, 19, 20, 1968, Huey P. Newton (BPP), Leroi Jones (Misc.).

Miami, University of, Miami, Florida: September 29, 1964, David Dellinger (NMC).

Michigan, University of: November 1968, Rennie Davis (SDS); December 1968, Bernardine Dohrn (SDS); March 1969, Karl Wolff (Misc.); September 1969, Rennie Davis (SDS); September 26, 1969, David Dellinger (NMC).

Michigan State University: September 25, 1969, Rennie Davis (SDS), David Dellinger (NMC); November 13–15, 1969, Rennie Davis (SDS).

Nassau Community College: November 18, 1967, David Dellinger (NMC).

Nasson College: January 23, 1969, T. D. Pauley (BPP).

New York University: July 2, 1968, Eldridge Cleaver (BPP); October 11, 1968, Eldridge Cleaver (BPP).

Northwestern University: January 1969, Jerry Rubin (YIP).

Oberlin College: April 18–20, 1969, Bernardine Dohrn (SDS).

Oregon University, Eugene, Oregon: February 19–21, 1968, David Dellinger (NMC), Leroi Jones (Misc.).

Pennsylvania, University of: March 1969, Rennie Davis (SDS).

Penn State University: February 13, 1969, Jerry Rubin (YIP).

Pittsburgh, University of: January 17, 1970, Rennie Davis (SDS).

Portland Community College, Portland, Oregon: May 22, 1969, Aaron Dixon (BPP).

Queens College: October 13, 1967, Jerry Rubin (YIP); February 29, 1968, Abbie Hoffman (YIP); November 14, 1967, Leroi Jones (Misc.).

Rhode Island, University of: September 23, 1969, Mark Rudd (SDS).

Rice University: March 21, 1969, Mark Rudd (SDS).

Roosevelt University, Chicago, Illinois: April 10, 1967, Rennie Davis (SDS).

San Fernando State College, Northridge, California, March 1, 1970, William M. Kunstler (Misc.).

San Francisco State College, August 1967, Leroi Jones (Misc.).

San Jose State College, March 1969, Tom Hayden (SDS).

Southern University, May 1969, H. Rap Brown (SNCC).

Southern California, University of: March 1970, Carl Oglesby (SDS).

Stanford University, October 1, 1968, Eldridge Cleaver (BPP).

Sterling College: February 15, 1970, Philip Clayton (BPP).

St. Peter's College, Jersey City, N.J.: February 12, 1970, Robert Scheer (Ramparts).

Syracuse University: March 4, 1970, Thomas Jolly (BPP).

Temple University: August 11, 1967, David Dellinger (NMC).

Temple Buhle College, Denver, Colorado: November 2, 1968, Michael Klonsky (SDS).

Texas, University of: March 1969, Michael Klonsky (SDS).

Tufts University, Medford, Massachusetts: March 6, 1970, David Dellinger (NMC).

Tulsa, University of: November 12, 1969, Earl Anthony (BPP).

Utica College, Utica, New York: March 3, 1970, Clifton DeBerry (SWP).

Vanderbilt University, Nashville, Tennessee: April 8, 1967, Stokely Carmichael (SNCC) (BPP).

Yale University, New Haven, Connecticut: February 1964, David Dellinger (NMC); May 19, 1969, Bobby Seale (BPP).

Western Michigan University, Kalamazoo, Michigan: October 21, 1968, Michael Klonsky (SDS); October 27, 1968, Mark Rudd (SDS).

Williams College, Williamstown, Massachusetts: March 5, 1970, Andrea Jones (BPP), Wayne Thomas (BPP).

Wisconsin, University of: January 18, 1966, Jerry Rubin (YIP); February 6, 1967, Stokely Carmichael (SNCC) (BPP); February 13, 1969, Tom Hayden (SDS); October 13, 1969, Nathaniel Bellamy (BPP); February 9, 1970, Willie Calbin (BPP).

College or University and Location

ALABAMA

University of Alabama—University.
Auburn University—Auburn.
Huntingdon—Montgomery.

ALASKA

Alaska Methodist University—Anchorage.
University of Alaska—College.

ARIZONA

University of Arizona—Tucson.
Grand Canyon—Phoenix.
Northern Arizona University—Flagstaff.

ARKANSAS

Arkansas Polytechnic—Russellville.
State College of Arkansas—Conway.
University of Arkansas—Fayetteville.

CALIFORNIA

University of California—Berkeley.
University of California, Santa Barbara.
University of California—Los Angeles.
California State College—Los Angeles.
Fresno State College—Fresno.
Stanford University—Stanford.
San Fernando State College.
San Francisco State—San Francisco.
Merritt College—Oakland.
Glendale Jr. College—Glendale.
University of Southern California—Los Angeles.
San Jose State—San Jose.

COLORADO

University of Denver—Denver.
Colorado State—Greeley.
Univ. of Colorado—Boulder.
Temple Buell—Denver.

CONNECTICUT

University of Connecticut—Storrs.
Central Connecticut State—New Britain.
Yale University—New Haven.

DISTRICT OF COLUMBIA

American University.
Georgetown University.
George Washington University.
Howard University.

FLORIDA

University of Florida—Gainesville.
Florida A & M University—Tallahassee.
University of Miami—Coral Gables.

GEORGIA

University of Georgia—Athens.
Georgia State—Atlanta.
West Georgia—Carrollton.

HAWAII

University of Hawaii—Honolulu.
The Church College of Hawaii—Laie.
Chaminade College of Honolulu—Honolulu.

IDAHO

Idaho State University—Pocatello.
Boise State—Boise.
College of Southern Idaho—Twin Falls.

ILLINOIS

Northwestern University—Evanston.
Roosevelt University—Chicago.
University of Chicago—Chicago.
University of Illinois—Chicago Circle Campus.
University of Illinois—Urbana & Champaign.

INDIANA

Indiana University—Bloomington.
Indiana State University—Terre Haute.
University of Notre Dame—Notre Dame.

IOWA

Iowa Wesleyan—Mt. Pleasant.
University of Iowa—Iowa City.
Parsons—Fairfield.

KANSAS

University of Kansas—Lawrence.
Kansas State Teachers—Emporia.
Washburn University of Topeka—Topeka.

KENTUCKY

University of Kentucky—Lexington.
University of Louisville—Lousville.
Transylvania University—Lexington.

LOUISIANA

Southern University and A & M—Baton Rouge.
Dillard University—New Orleans.
Louisiana State University—Baton Rouge.

MAINE

University of Maine—Orono.
Nassou—Springvale.
Bates—Lewiston.

MARYLAND

University of Maryland—College Park.
University of Baltimore—Baltimore.
Johns Hopkins University—Baltimore.

MASSACHUSETTS

Tufts University—Medford.
University of Massachusetts—Amherst.
Harvard University—Cambridge.
Williams College—Williamstown, Mass.

MICHIGAN

Western Michigan University—Kalamazoo.
University of Michigan—Ann Arbor.
Lawrence Institute of Technology—Southfield.
Michigan State University—East Lansing.

MINNESOTA

University of Minnesota—Minneapolis.
Moorhead State—Moorhead.
St. Olaf—Northfield.

MISSISSIPPI

Mississippi State University—State College.
University of Southern Mississippi—Hattisburg.
Delta State—Cleveland.

MISSOURI

University of Missouri—Columbia.
Missouri Southern—Joplin.
St. Louis University—St. Louis.

MONTANA

University of Montana—Missoula.
Eastern Montana—Billings.
College of Great Falls—Great Falls.

NEBRASKA

University of Nebraska—Lincoln.
Wayne State—Wayne.
Creighton University—Omaha.

NEVADA

University of Nevada—Reno.
University of Nevada—Las Vegas.

NEW HAMPSHIRE

University of New Hampshire—Durham.
N.H. College of Acct. and Comm.—Manchester.
Plymouth State—Plymouth.
Dartmouth—Hanover.

NEW JERSEY

Fairleigh Dickinson University—Rutherford.
Glassboro State—Glassboro.
Jersey City State—Jersey City.
St. Peter's College—Jersey City.

NEW MEXICO

University of New Mexico—Albuquerque.
New Mexico State University—Las Cruces.
College of Santa Fe—Santa Fe.

NEW YORK

City College of New York—New York.
Cornell University—Ithaca.
Columbia University—New York.
Hunter c/o Columbia Univ.—New York.
Nassau Community College—Garden City.
New York University—New York.
Syracuse University—Syracuse.
Utica College.
Briarcliffe College—Briarcliffe Manor.
Fordham University—Bronx.

NORTH CAROLINA

University of North Carolina—Chapel Hill.
Queens College—Charlotte.
North Carolina College at Durham—Durham.

NORTH DAKOTA

University of North Dakota—Grand Forks.
North Dakota State University—Fargo.
Dickinson State—Dickinson.

OHIO

Case-Western Reserve University—Cleveland.
University of Cincinnati—Cincinnati.
Kent State University—Kent.
Oberlin—Oberlin.
Ohio State University—Columbus.

OKLAHOMA

University of Tulsa—Tulsa.
Oklahoma State University—Stillwater.
University of Oklahoma—Norman.

OREGON

University of Oregon—Eugene.
Oregon State University—Corvallis.
Pacific University—Forest Grove.
Portland Community College.

PENNSYLVANIA

University of Pennsylvania—Philadelphia.
Penn State University—University Park.
University of Pittsburgh—Pittsburgh.
Temple University—Philadelphia.

RHODE ISLAND

University of Rhode Island—Kingston.
Brown University—Providence.
Rhode Island Jr. College—Providence.

SOUTH CAROLINA

University of South Carolina—Columbia.
Bob Jones University—Greenville.
Clemson University—Clemson.

SOUTH DAKOTA

South Dakota University—Brookings.
Black Hills State—Spearfish.
Dakota Wesleyan University—Mitchell.

TENNESSEE

Vanderbilt University—Nashville.
Fisk University—Nashville.

University of Tennessee—Knoxville.
Tennessee Tech. University—Cookeville.

TEXAS

University of Texas—Austin.
Rice University—Houston.
University of Houston—Houston.

UTAH

University of Utah—Salt Lake City.
Utah State University—Logan.
College of Southern Utah—Cedar City.

VERMONT

University of Vermont—Burlington.
Castleton State—Castleton.
Middlebury—Middlebury.

VIRGINIA

University of Virginia—Charlottesville.
Virginia State—Petersburg.
Washington & Lee—Lexington.

WASHINGTON

University of Washington—Seattle.
Western Washington State—Bellingham.
Witman—Walla Walla.

WEST VIRGINIA

West Virginia University—Morgantown.
W. Liberty State—W. Liberty.
Bethany—Bethany.

WISCONSIN

University of Wisconsin—Madison.
Carthage—Kenosha.
Wisconsin State University—Oshkosh.
Marquette University—Milwaukee.

WYOMING

University of Wyoming—Laramie.
Northwest Community—Powell.

SPEECH BY HON. WILLIAM D. FORD BEFORE ANNUAL UNIVERSITY OF DENVER LAW JOURNAL BANQUET

(Mr. EVANS of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EVANS of Colorado. Mr. Speaker, my good friend and colleague, the Honorable WILLIAM D. FORD, of Michigan, was the speaker May 16 before the annual University of Denver Law Journal banquet. Congressman FORD and I are both alumni of the University of Denver Law School, and it was a great pleasure to see my colleague receive the honor of addressing this distinguished gathering.

His speech before the Law Review students, judges, law school professors, and other distinguished members of the Denver bar who attended the banquet raises pertinent questions about the impact of the law journal on the legislative process.

Congressman FORD suggests some important and innovative areas of concern for student legal periodicals—as well as suggesting some valuable ways in which those of us who serve as legislators can better utilize the assistance provided by these legal journals.

My colleague has established his reputation as a man who fully understands and upholds the legal process and I highly commend his speech on the role of the law journal in that process. The text of this speech follows:

REMARKS OF CONGRESSMAN WILLIAM D. FORD BEFORE THE ANNUAL DENVER LAW JOURNAL BANQUET ON MAY 16, 1970

While I was thinking about what I would talk about with you today, I read a column by Fred Graham, the law reporter of the *New York Times*, in which he discussed how, almost overnight, the Senate took up and passed an amendment to the Voting Rights Act extension, granting 18, 19, and 20 year olds the right to vote in all elections in this country. As he pointed out, all the conventional wisdom was to the effect that such a change had to be accomplished by a constitutional amendment, which as you know requires a sustained, vigorous drive in order to succeed. Yet the Senate, changing its concept of conventional wisdom almost overnight adopted the amendment, introduced by Senator Kennedy, by a vote of 64 to 17.

What really caught my eye was this paragraph by Mr. Graham:

"This remarkable political spasm was an impressive tribute to the *occasional impact* of scholarly work on public policy. Senator Kennedy got the idea originally from a 1966 article in the Harvard Law Review by former Solicitor General Archibald Cox. . . ."

Note that "occasional impact" so casually inserted. I am afraid, however, that he is more right than wrong. Indeed, except for Professor Cox's article, we would be hard pressed to think of comparable situations in which the law reviews have so directly affected legislative developments.

Of course, causation is a difficult process to trace. There are no doubt many legislative acts which owe their substance and form, perhaps their existence, to the long-range effect of scholarly writings and speakings. Such scholarship can turn around public opinion or place new perspectives on old problems. Certainly, in the civil rights field, one who reads the debates of 1957 and 1960 with regard to the power of Congress to protect voting rights, through the abolition of such devices as literacy tests, is struck by how dated the views seem, how insurmountable the problems of legislating in the field were, how viable the "state action" doctrine was. But all through the 1950's and 1960's, the law reviews featured scholarly assaults on the traditional "state action" doctrine. I think the effect was first felt in the courts. Congress was no doubt influenced more directly by the decisions, but in 1965 and in 1969–70, the Congressional debates over federal protection of voting rights seemed removed by centuries from the earlier debates.

The Cox article, written as the Foreword to the Harvard Law Review's annual survey of Supreme Court developments, had a number of traceable influences which may be illustrative of my thesis here. First, the theme of the article was an exposition of a very important Supreme Court decision. *Katzenbach* v. *Morgan* almost deserves the appellation of "a revolutionary decision." But contrary to other decisions of the Warren Court which critics cite as gross assumptions of power by the Court, the *Morgan* decision constituted a denial of power by the Court and a concomitant vesting in Congress of a power most observers had not expected to find there.

The basic premise of the *Morgan* decision is that the validity of Congressional action displacing a state law is not dependent upon an independent judicial resolution of the question of constitutionality.

Thus, the import of *Morgan* is so great that it would have been used for numerous purposes had Professor Cox never written his article. But the internal evidence suggests that it was the article and not the case itself which stimulated the congressional enterprises.

We have Mr. Graham's testimony about the influence of the Cox article on Senator Kennedy. Anyone who examines the hearings before the Senate Judiciary Subcommittee on Constitutional Rights will be struck by the obvious influence that shows up in the unlikeliest people. Attorney General Mitchell and Senator Goldwater, presenting arguments on the federal power to do away with literacy tests and to circumscribe residency reauirements. follow Professor Cox's reasoning. Senator Kennedy repeatedly cited the article and Professor Cox put in an appearance and quoted himself.

Before leaving this particular article, we should note that its influence has not been all progressive; it has not been used only to support measures extending freedom. The first example of the influence of the article turned up in support of a congressional effort, only partially turned back, to overrule the *Miranda* decision through Title II of the Omnibus Crime Control and Safe Streets Act of 1968.

The Senate Judiciary Committee included in its report on the bill a memorandum which did not cite Professor Cox but relied heavily on *Morgan*, as authority for Congress to override the Court's judgment in *Miranda*. The argument parallels that of Professor Cox, except that the two are going in different directions.

My point in this rather lengthy discussion of the Cox article is to illustrate the influence a scholarly article in a law review can have, both progressive and baneful, and to suggest that the law reviews could be doing much more to influence the course not only of legislative policy but public policy as well. We in Congress certainly need all the help we can get as issues and problems and answers and ramifications get more and more complicated.

It is not as if anyone is calling upon adolescent publications to influence legislation. I was surprised to learn that the first distinctively legal periodical was published first in 1761 in England—it was called the Lawyers' Magazine and it was published until 1762. The first American legal periodical was the American Law Journal, which was published from 1808 until 1817.

Today, a count of those publications listed in the Index to Legal Periodicals discloses they number 187, which is probably an incomplete listing. But it is not with numbers we are concerned; it is quality. The day is long past when no court would cite a law review article, let alone a law review student note, in support of a point or to illustrate the point. The change was well illustrated by Justice Cardozo, writing in 1931, when he said:

"Judges and advocates may not relish the admission, but the sobering truth is that leadership in the march of legal thought has been passing in our day from the benches of the courts to the chairs of the universities. . . .

"This change of leadership has stimulated a willingness to cite the law review essays in briefs and in opinions in order to buttress a conclusion. More and more, the law reviews are becoming the organs of university life in the field of law and jurisprudence."

Justice Douglas once wrote an article, in a law review, advocating full disclosure of the affiliations of the authors of law review articles so that special pleading would not pass unnoticed. The Justice's concern was aroused by the work of a colleague of mine in the House, Congressman Wright Patman of Texas. Mr. Patman noticed that when the Attorney General's National Committee to Study the Antitrust Laws was appointed, its membership was somewhat weighed toward the defendants' side in antitrust practice. Mr. Patman's committee report[1] makes interesting reading for one who wants to see the law reviews more influential in legislation. Ranging away from the Attorney General's committee, Congressman Patman surveyed the field of antitrust writing and found numerous articles written by lawyers and law professors which advocated less antitrust law enforcement and which did not reveal their authors' affiliation with and receipt of funds from businesses. The Congressman listed in the *Congressional Record*[2] many instances in which partisans for a point of view wrote purportedly objective articles which were designed to influence the courts and Congress in a certain way.

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[1] H. Rept. No. 2966, 84th Cong., 2nd Sess. (1956).

[2] 103 Cong. Rec. 16159–69 (1957).

If we find hard-headed businessmen underwriting articles in the law reviews expecting Congress and the courts to be influenced, I think we can assume that there exist real possibilities of influence.

So I believe that law reviews have a great opportunity and indeed a duty to speak out on the issues of the day. They should do so on as objective a basis as possible, setting out the alternatives, discussing the problems; in short, they should deal dispassionately with the issues. This is not to say they should have no point of view. They will in any event and they should consider any issue within a frame of reference, a philosophy.

All I insist is that special pleading not be disguised as something else and that the point of view be plainly stated.

There are many areas in which fresh thinking and scholarly attention would be of assistance to Congress. The environmental crisis and what we can do by legislation to meet it is one. Whether we should attempt to alleviate it by appropriating large sums of money, by requiring under penalty of criminal sanction polluters to make correction at their own expense, by authorizing citizens to sue for legal and equitable remedies, all present complicated issues of efficacy and policy.

Another such issue is the now very "in" subject of consumer affairs. Here the complications, the variety, and the solutions are unlimited. We need scholarly legal inquiry about the problems associated with consumer class actions, a matter under much congressional scrutiny these days. (Parenthetically, I should note that one source of advice to Congress opposing consumer class actions is the Special Cmmittee on Consumer Legislation of the ABA's Section of Antitrust Law. A colleague of mine, Congressman Eckhardt, has shown that, like the Attorney General's antitrust committee, this ABA committee has impressive credentials in terms of defense attorneys for large corporations.)[3]

Other issues in this area concern deceptive advertising on television and there a law class at George Washington University in Washington, under the leadership of Professor John Banzaff (of TV smoking commercials fame) has been proceeding very effectively, intervening in several cases before the FTC. The legal problems of credit, of repossession practices and policies, of shoddy merchandise in stores in low income areas, present real problems of analysis.

And this type of consumer problem leads into the problem of the poor. What can Congress do to alleviate some of the problems associated with not having much money in our society? Problems of access to the courts, adequate legal representation, welfare policies and procedures, dealings with multifaceted layers of government, the issues go on and on.

Lawyers, professors, law students can do much to show the possibilities of dealing with the great issue of discrimination. What are the real options, for instance, with regard to *de facto* segregation? Do we concentrate on improving ghetto schools alone? Or do we bus children about? Is the solution to break up racial residential patterns, by scattering public housing into the suburbs and beyond, overriding economically discriminatory zoning laws and ordinances, and taking other steps that will operate to eliminate *de facto* segregation?

There is no point in prolonging this with an itemization of our problems. Congress needs help, the President needs help, and the courts need help—help which you can provide.

In closing, I would like to point out a trend which I discovered in the changing focus and emphasis of the Denver Law Journal over the years. I compared random copies of the Journal for the 1940's, and the 1950's and the 1960's to get a picture of what the growth and direction of the Journal has been.

In the 1949 issues, the emphasis is on such topics as traditional agency, partnership and corporation, civil procedure, contract, negligence, property and domestic relations law.

In the issues for the 1950's, the topics I just mentioned continue to be stressed but the Journal begins to broaden its coverage. Tucked in with the traditional subjects are articles on such topics as the rules of evidence before workmen's compensation commissions, the investigating powers of Congress, teachers' rights at dismissal hearings, court reform, labor law and legal advice for unwed mothers.

The 1960's bring the most drastic change. I will read just a few titles of articles. They speak for themselves. "Fair Housing," "Automobile Design-Evidence catching up with the law," "Controls over atoms-for-peace under Canadian bilateral agreements with other nations," "Winter rights-summer riots 1968", "Student response to the urban crisis", "Black-White confrontation: the law and the lawyer", "Proper handling of mass arrests: the experience of two cities—Chicago 1968 and Detroit 1967", and "Getting at the causes of riots through legal services".

Clearly, the Journal is putting its emphasis on the most pressing problems of today and this is as it should be.

In the past days in Washington, young people from all over the country have come to Washington to talk with their Congressmen and Senators about their concern over the war and our pressing domestic problems.

This is one of the most encouraging signs I've seen in a long time. Young people have a lot to tell us and a lot to teach us. You as lawyers have a very special responsibility and opportunity to help in the articulation of these lessons.

I for one hope you will keep working and keep talking to us. We're listening.

BURLISON ANSWERS UNDER SECRETARY CAMPBELL

(Mr. BURLISON of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BURLISON of Missouri. Mr. Speaker, many months ago when the Department of Agriculture presented its "draft" farm proposal, I came out firmly against it. My reason, stripped of all unnecessary verbiage, is that it will drastically reduce farm income.

There are two phases of the program of which I have been most concerned. One is loss of the parity concept. Application of parity has given a built-in escalator for Government farm programs. This has been the farmer's salvation over the years while his costs have been spiraling and his prices stabilizing or declining. The Department has admitted that present prospects for stopping inflation are not bright, but has at the same time claimed that the parity concept must be dropped, to save Government money. In no other segment of the economy is Government spending being reduced. The costs of Government programs continue to mount everywhere. Wages and salaries in all facets of the economy continue upward to compensate and even overcompensate for inflation and increased productivity. But not for the farmer.

The second part of the administration proposal with which I disagree is the so-called set-aside. Under this plan the farmer must remove from production, without compensation, a given percentage of his allotment acreage in each crop. The Department argues that essentially the same amount of Government money as in the past will be infused into the program. But what the administration, many of my colleagues on the Agriculture Committee, and many farmers have not yet realized is that loss of revenue from the large set-aside acreage must result in a drastic reduction in net farm income. The Secretary and his top assistants admitted as much in response to my questioning on the last day of their appearance before the committee on May 12, 1970.

Some of my efficient farmers in recent years have gone bankrupt. Many more are now on the verge of it. If the administration proposal encompassing loss of parity and addition of set-aside passes in basically its present form, the number of farmers put out of business by it will shock the Nation. We in Congress should have the foresight to prevent it. Logic and rationale are on the side of the farmer. Government farm programs have subsidized the food and fiber consumer so that he pays a smaller percentage—16½ percent—of his income dollar for farm products than ever before. And the American consumer is ahead of all others. In England he pays 26 percent; France, 31 percent; Japan, 40 percent; and Russia, 50 percent. It is crystal clear that the American consumer is going to be irreparably harmed if the Government abandons the farmer.

Now let us consider where we are in our new farm proposal proceedings. On June 2, 1970, the full committee derailed the administration proposal as it applied to wheat and feed grains by substituting Committee Print No. 4 for Committee Print No. 7. The vote was 17 to 14 on the proposition. The most significant difference between the prints is that No. 4 restores the parity concept that had been eliminated in No. 7. My vote was cast with the majority.

However, it should be pointed out that I do not necessarily embrace everything in Committee Print No. 4. The latter is simply more preferable than No. 7. I wish the record to clearly reflect that my vote symbolizes my opposition to loss of parity and to set-aside and this is true whether we are speaking of wheat, cotton, or feed grains.

The committee and Department had worked for many months almost incessantly until the above mentioned June 2. It was my assumption at that time that the committee would be called back the next day and would determinedly continue its efforts and deliberations. For, after all, the hour is getting late for passage of a new farm bill by the 91st Congress. To my amazement, here it is over 6 weeks later and the committee has not met. The clue to this mystery has just been disclosed.

Just this week, without warning or explanation, Under Secretary of Agriculture, J. Phil Campbell, issued a news release charging:

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[3] CONGRESSIONAL RECORD, April 28, 1970, pp. 13358–13360.

> Certain influences have bottled this bill (administration proposal) up in the House Agriculture Committee with an apparent aim of having no new farm bill at all with the result that cotton would revert to the Agriculture Act of 1958.

He further stated that the Department, the committee chairman, and the ranking minority member have "reached an agreement" on a new farm bill. I now ask of the Under Secretary, is it part of the "agreement" to prevent the committee from meeting for further consideration of a farm bill? It is becoming more and more apparent that earlier fears may have been well founded. I refer to charges made long ago by some farm leaders that the administration does not really want a farm bill but seeks to blame the farm district representatives for the lack of one simply because we will not take the unacceptable program offered by the Department.

I have been patiently waiting since June 2 to resume consideration of farm legislation. I believe our farmers join me now in urging prompt resumption of our efforts to get a bill. But Mr. Campbell should understand that I, for one, will not be intimidated into accepting in the Agriculture Committee a proposal that is clearly unacceptable to the farmers of my Nation, State, and district.

HICKEL ACTS TOO SLOWLY—SHOULD BAN MERCURY FROM U.S. WATERS

(Mr. ROGERS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS of Florida. Mr. Speaker, I am encouraged that Secretary of the Interior Hickel has officially recognized the problem of mercury pollution in the Nation's waterways, but feel that he is moving too slowly in halting the menace.

I wired Hickel last week asking that he halt all dumping of mercury into the Nation's waterways. I asked at that time that he either immediately get the States to take action or the Federal Government should ban it.

It has taken him 5 days to begin action. There have been hundreds of pounds of mercury dumped into waterways since then and by the time action is taken there apparently may be much more.

The really frightening thing about the entire situation is that no one questions the fact that mercury ingestion by humans can cause death, paralysis or mental afflictions. No one disputes this. And at the same time, the authorities at Interior and HEW and on the State levels as well, have not moved to halt it. I wonder why it has taken more than 3 months to arouse our public protectors of the environment and health. If we found cyanide being put into waterways there would be swifter action, I am sure. Yet, mercury is equally dangerous. Governor Brewer of Alabama today said that Secretary Hickel was "passing the buck."

Most of the authorities who have taken action have gone about it in a backward fashion. They have banned the taking or eating of fish from areas where traces of mercury have been found, but we should stop the mercury pollution. It is the poison which is the problem, not the fish.

Under present law, Secretary Hickel could, and should, ban the dumping of mercury. I am also disappointed that the Department of Health, Education, and Welfare has not taken any action.

Secretary Hickel has been quoted as saying he would recommend court action if certain States did not take corrective measures. He has wired 17 Governors, and although tardy, this is good. But what about the other 33 States? Should we wait until the problem is evident there also? I think not. I think we know mercury is harmful to health and should ban it completely. Why should we wait for one State after another to turn out mercury? If all mercury were banned, the problem would at least be curbed now.

One of the real threats is that mercury will not dissipate like many substances, so that the mercury being dumped into waterways now will remain there as a live biological time bomb for years and years.

CAPTIVE NATIONS WEEK—1970

The SPEAKER pro tempore (Mr. ROONEY of New York). Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, this week is the 1970 Captive Nations Week. July 12 to 18 is the 12th observance of this highly important week. We in the U.S. Congress, join with millions of our fellow Americans in expressing to the world our firm determination never to forget the freedom aspirations of all the captive nations and to work in every possible manner for the achievement of their eventual liberation from the bondage of Red totalitarianism and Sino-Soviet Russian colonialism. Their fixed objective of national independence and freedom is our objective, and each Captive Nations Week observance stresses this fundamental truth.

The remarkable feature of the annual Captive Nations Week is its steady growth and expansion from year to year. As countless of our fellow citizens come to learn the long list of captive nations, dating back to 1920, the more they are impressed by the significance and importance of the week. Following the leadership of several of our Presidents, our State Governors and our Mayors also proclaim the week, urging our citizens to dedicate themselves anew to the study of all the captive nations.

Under the guidance of the National Captive Nations Committee of Washington, D.C., State and local committees have been formed in practically all large States and major cities to observe the annual week. Moreover, the week has attracted the attention of numerous foreign countries so that in the Republic of China, South Korea, the Philippines, West Germany, Turkey, and elsewhere Captive Nations Week is being appropriately observed.

Mr. Speaker, there are already several concrete lessons that can be drawn from these annual observances. I summarize them in this fashion:

First. By their consistent opposition to and vehement castigation of Captive Nations Week, Moscow, Peking, and the lesser lights in the Red empire have shown since 1959 their fear of the total captive nations concept as reflected in Public Law 86–90;

Second. The growth and development of Captive Nations Week in this country and abroad have demonstrated the deepened understanding on the part of our people and others of the basic and fundamental importance of all the captive nations to our national security and that of the free world;

Third. Our concentrated support of all the captive nations, including necessarily the dozen in the Soviet Union itself, is one of our most powerful nonmilitary deterrents against further overt Sino-Soviet Russian aggression and a prime, formidable force for peace with freedom and justice in the world;

Fourth. A broad area of detailed work still remains to be done in exposing the complete breadth and depth of Sino-Soviet Russian imperiocolonialism so that once and for all the peoples of the world will know and never forget who the real imperialists and colonialists are, so that the full impact of world opinion will fall heavily on the two last remaining imperiocolonialist centers, namely and solely Moscow and Peking, and

Fifth. To open the full vista of this area and to prepare the ground for this vital work, a Special House Captive Nations Committee becomes more urgent, more necessary, more indispensable with the passing of every day. On this commemorative occasion, I again call upon the Rules Committee to at least vote on the measures which have been submitted to create this desperately needed committee. I again ask the members of that committee to begin with my own, House Resolution 102.

As part of my remarks today, Mr. Speaker, I would like to include the following:

The President's proclamation of Captive Nations Week, 1970.

The Captive Nations Week proclamation of Gov. Marvin Mandel of Maryland.

The Captive Nations Week proclamation of Mayor Clifford S. Bartholomew of the city of Allentown, Pa.

An article by Dr. Lev E. Dobriansky of Georgetown University, Washington, D.C., entiled "Captive Nations in the 1970's," which appeared in the spring 1970 edition of the Ukrainian Quarterly.

Another article by Dr. Dobriansky which appeared in the summer 1970 edition of the Ukrainian Quarterly, entitled "Asianization—Not Vietnamization—Is the Winning Concept."

Aforementioned material follows:

CAPTIVE NATIONS WEEK, 1970—A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

The Eighty-Sixth Congress on July 17, 1959, by Joint Resolution authorized and requested the President to proclaim the third week of July in each year as Captive Nations Week. The aspirations of the peoples of oppressed nations for independence and basic human freedoms are vital and inextinguishable. It is in keeping with our own principles and traditions as a free and independent nation that we should look with sympathy and understanding upon their hopes and efforts to realize these just goals.

Now therefore I, Richard Nixon, President of te United States of America, do hereby designate the week begining July 12, 1970 as Captive Nations Week.

I call upon the people of the United States to observe this week with appropriate ceremonies and activities, and I urge them to renew their dedication to the cause of freedom and independence for all nations and to sustain these high ideals, which are both the previous heritage of this Republic and a foundation stone of lasting world peace.

In witness whereof, I have hereunto set my hand this seventh day of July, in the year of our Lord nineteen hundred and seventy, and of the Independence of the United States of America the one hundred and ninety-fifth.

Richard Nixon.

Governor's Proclamation: Captive Nations Week—July 12–18, 1970

Whereas, The imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, The freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples for freedom and independence;

Now, therefore, I, Marvin Mandel, Governor of the State of Maryland, do hereby proclaim the week of July 12–18, 1970, as "Captive Nations Week" in the State of Maryland, and call upon the citizens of this State to join in observing this week by offering prayers for the peaceful liberation of oppressed peoples all over the world.

Given Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 8th Day of July, in the Year of Our Lord, One Thousand Nine Hundred Seventy.

By the Governor:

Marvin Mandel.

Proclamation

Whereas: Communist Russia, which has engulfed the countries of Eastern and Central Europe, the territories of half of Asia and Cuba at the very doorstep of the United States, continues to demonstrate its aggressive polices in Viet Nam; and

Whereas: The avowed aim of Communist Russia is the enslavement of the entire free world, including the United States; and

Whereas: The people whose native lands have suffered the horrors of Russian captivity, will never allow the cause and spirit of freedom to be stifled; and

Whereas: The United States of America remains the true citadel of freedom and hope of all the oppressed peoples in the world; and

Whereas: The observance of "Captive Nations Week" throughout the United States will dramatize the plight of the captive and enslaved peoples behind the Iron Curtain; and

Whereas: The Lehigh Valley Branch of the Ukrainian Congress Committee of America will mark this year's "Captive Nations Week" with appropriate ceremonies on Sunday, July 19, 1970, to be held at West Park. Nineteen hundred and seventy marks the Twelfth Observance of this important week.

Now, therefore, I Clifford S. Bartholomew, Mayor of the City of Allentown, Pennsylvania, do hereby proclaim that the Week of July 12th through 19th, 1970, be observed as "Captive Nations Week."

In witness whereof, I have hereunto set my hand and caused the Seal of the City of Allentown, Pennsylvania, to be affixed this thirtieth day of June, 1970.

Clifford Bartholomew, *Mayor*.

Captive Nations in the 1970's

(By Lev E. Dobriansky)

The captive nations in the aggregate, and particularly those in the Soviet Union and Red China, will undoubtedly assume an increasingly determinative role in world affairs during the 70's—for global peace or war. Little is it recognized, let alone understood, that numerous captive nations are involved in the mounting struggle between Moscow and Peking or that many potential captive nations exist in Southeast Asia, the Middle East, and in Latin America—the present target of systematic Red psycho-political warfare engineered by our prime enemy, the guardians of Soviet Russian imperio-colonialism. Shifts either way, within the Red Empire or in extension of it, cannot but seriously affect the security of the United States and that of the Free World. The ultimate question is how well prepared are we to cope with and capitalize on these inevitable shifts?

ILLUSIONS OF THE 60'S

Overlapping illusions of the 60's actually predetermine a marked incapacity to meet such unavoidable exigencies, as, once again, was so clearly demonstrated by the most recent case of the Russian rape of Czecho-Slovakia. The prominent illusions of the 60's, unfortunately carried over into this decade, are in logical order as follows: (1) cessation of the Cold War (2) detente with the imperio-colonialist Russians (3) make-believe confetti diplomacy, resulting in irrelevant treaties on nuclear test bans, fisheries, airway routes, consular establishments, hoped-for strategic arms control and other extra-tangential minutia (4) ineffectual polycentrism in the Red Empire and (5) an implosive, myopic neo-isolationism with short-sighted premiums on domestic priorities. With evidence and rational analysis, each of the illusions can be easily exploded, but the crucial point here is that each and all in combination have muddied our thinking and have also thickly clouded the foremost reality that has caused and fundamentally explains, in a sequential cumulation of events, our most pressing problems both internationally and domestically. That towering reality is the captive nations in the aggregate and their exploitation by Moscow and its syndicate members in their ever-present, compulsive drive for world domination.

If it could stand adequate definition, a talked-about policy of uncertainty and so-called pragmatic adjustment is essentially a weak continuation of past U.S. policy toward the USSR, the center of our chief enemy. It rests on identical grounds of misconception and misunderstanding with regard to the nature of the Soviet Union, not to speak of the determining structure of the Red Empire itself, and offers practically nothing in the way of constructive Free World leadership for the attraction of freedom forces both within and outside the USSR. Even in the light of the Brezhnev doctrine itself, to predicate a policy on a prayed-for evolution of divisive forces within the Red Empire, without providing a magnetic, psycho-political pull for these forces, suggests a measure of naiveté in relation to Russian strategy and operations. Without the prerequisites of perspective, vision and a firm comprehension of the highly vulnerable structure of the enemy, sheer play-it-by-ear pragmatism in our foreign policy will virtually insure the outbreak of a third world war. All the phraseology about non-confrontation and the need for negotiation will be so much past rhetoric. In point of fact, play-it-by-ear pragmatism has led us into two world wars, and regardless of our different military posture today, it will certainly lead us into a third one. It is both frightening and inconceivable that this would be our policy orientation for the 70's.

To prevent a well nigh inevitable catastrophe, it is indispensable for us in this decade to dissolve as quickly as possible the lingering illusions of the 60's and to face up to the essential truths of our situation. The first is that the Cold War has not begun to cease or even to lessen; on the contrary, it is more extensive, and in certain areas more intensive, now than ever before. Vietnam, where the Russians have had us by the tail for years, the deep Russian penetration in the Middle East, Moscow's conversion of Cuba as a base for hemispheric subversion,[1] and the U.S. itself gradually transformed into an enterprising terrain for Red political warfare are just a few notable examples of the Cold War being waged by Moscow and its proxies. In this and the broader context of Russian cold war strategy, wishful thinking about a detente with the worst empire in the history of mankind simply smacks of a truly supreme illusion.

Make-believe, confetti diplomacy may serve short-run political ends, but essentially it contributes nothing to the solution of basic problems and to the solidification of grounds for the avoidance of a hot global war. On the one side, it is employed as a demonstration of time and effort being devoted to the pursuit of peace, thus satisfying the natural instincts of most citizens while obfuscating the realities surrounding them; on the other side, it buys time for the rectification of some outstanding political and economic problems, in Moscow's unrelenting drive for strategic military superiority, and its steady progression of Cold War operations on all continents.[2] As for the illusion of polycentrism in the Red Empire, let it be said that a real monolith never existed in the empire, even when it was exclusively synonymous with the USSR three decades ago. There is a chasmic difference between effectual polycentrism and an ineffectual one, wherein the latter superficial inter-Party squabbles and rifts have prevailed for more than forty years. Plainly, so long as the USSR is the predominant power center of the Red Empire and enjoys political sanctuary within, room for effectual polycentrism is nil, notwithstanding Red China.

A dismantling of the first four illusions obviously leaves no ground for entertaining the last one on neo-isolationist strength and concern. For it is evident that the last feeds on the preceding four. A neo-isolationist mentality either believes the others to be true or is a mere expression of cowardice in coping with the problems of the world environment in which, whether we like it or not, we constitute an integral and critical part. In any case, the insular bias is a most useful tool for the enemy's strategy.

THE DOMINO THEORY AT WORK

The captive nations also are an integral and critical sector of the world environment.

Footnotes at end of article.

No matter how desperately some wish to brush their reality under the rug, with softer references and distorting interpretations, periodic lessons abound as to their blunt existence. The captive nations are the peoples imprisoned within the Red states under the dictatorship of the Communist Parties, and their consummate experiences attest to the overall truth that both in theory and action communism is but a mythology shielding the worst form of totalitarianism and imperio-colonialism in the history of mankind. For different reasons, many in our Government have feared and resisted a popular concentration on these nations. Yet a more solid course for education in freedom by contrast cannot be found than this. The more one concentrates on the approximately 1 billion souls in the captive nations, the more one begins to appreciate his freedoms and the pressing need of unity and solidarity for general freedom, not only among the still free nations of the non-communist world but also with the one-third of humanity in the captive nations.

In a column devoted to "demonstrations," an eminent analyst asks, "Why is there an absence of humane feeling about the enslaved populations in Eastern Europe and particularly in the Soviet Union?"[3] For those duped into these "demonstrations," the answer lies in the fact that they haven't been taught and know scarcely anything about these captive nations. Even their parents share in this deficiency which could be expeditiously righted through governmental action. But common sense also plays its role. An old Spanish proverb warns, "A handful of common sense is worth a bushel of warning." When in this postwar period Red totalitarian aggression has been so blunt and obvious as in the cases of China, Korea, and Vietnam, one cannot but wonder about the common sense of otherwise many learned people in the Free World. We can perhaps forgive them for being unable to perceive the subtle and indirect aggressions undertaken by both Peking and Moscow in Asia, the Middle East, Africa and Latin America, not to mention the U.S. itself, but it is plainly unforgivable in these crass cases.

Inadequate as it may be, a modicum of common sense should guide the laboring citizen to think all this through in terms of the steady aggregation of captive nations since the early 20's. Much has been said about the domino theory in relation to Southeast Asia, but there can be no question as to its empirical application to this growth in the family of captive nations since the 20's. Fifty years of proliferated Red totalitarian and imperial rule are but a minute in historical time. Without oversimplification but with the guiding thread of essentiality, all one need do on a global map is to first encircle in red the Russian area encompassing Moscow and Leningrad, then in concentric form the non-Russian area from Byelorussia and Ukraine to Azerbaijan to the old Far Eastern Republic, then the Baltic States, then Central-South Europe over to North Korea, mainland China and North Vietnam, finishing for the exceptional moment with a red spot covering the island of Cuba. In Eurasia, the dominoes fell, one by one, as events permitted.

Clearly, as shown below, the domino theory has been at work in the very expansion of the Red Empire, which began in Moscow and in terms of ultimate, determining power today rests on Moscow for its survival. This list of captive nations cannot be too often reproduced for our sustained memories:[4]

The captive nation—Who's next?

Country and people and year of Communist domination:

Armenia	1920
Azerbaijan	1920
Byelorussia	1920
Cossackia	1920
Georgia	1920
Ideal-Ural	1920
North Caucasia	1920
Ukraine	1920
Far Eastern Republic	1922
Turkestan	1922
Mongolian People's Republic	1924
Estonia	1940
Latvia	1940
Lithuania	1940
Albania	1946
Bulgaria	1946
Serbia, Croatia, Slovenia, etc. in Yugoslavia	1946
Poland	1947
Rumania	1947
Czecho-Slovakia	1948
North Korea	1948
Hungary	1949
East Germany	1949
Mainland China	1949
Tibet	1951
North Vietnam	1954
Cuba	1960

Who's next? South Vietnam? Algeria? Colombia? Congo? Laos? Tanzania? Cambodia? Thailand? Greece? Guatemala? Chile? Israel?

President Nixon truthfully declared in 1969 that the non-negotiable issue in South Vietnam is the right of national self-determination and the independence of the free Vietnamese. What unfortunately was not stressed, and which explains much more, is that the United States cannot honorably afford again the addition of another free nation to the long list of captive nations. Too many knowledgeable Americans still recall the sell-out at Yalta and elsewhere of several East European nations by the Harrimans and other diplomatic undertakers providing the hearse of coalition governments and the like. Examine again the list of captive nations; each was targeted just as South Vietnam, Laos, Thailand, and others are today. An organic concept of captive nations enables us to view current crises differently and more perceptively.

NEW INSIGHTS UNDER CONCEPT

The concept of captive nations is historically founded, organic in character, and a guiding one for bold and decisive action. It has been wisely said, where necessity pinches, boldness is prudence. To exercise prudent boldness demands also a guiding concept. Despite the worldwide publicity given to the U.S. Captive Nations Week Resolution ten years ago and the annual reports on it since, it still remains a mystery how relatively few in the Free World comprehend the concept. Moscow, Peking and the Red satraps perceived its significance quickly and vehemently.[5] We have sustained a cultural lag toward it.

Public Law 86–90 defines the broad concept of the captive nations clearly and succinctly. The captive nations are those that in the past fifty years have been overtaken and subjugated by Soviet Russian imperio-colonialism and its several totalitarian offsprings. Quite plainly, how all of the Red present came to be what it is, regardless of rifts and squabbles, is the answer as to who are the captive nations. As the list above shows, to enumerate them accurately and historically, one must begin in 1920, not in the 1940's or later.

It must be borne in mind that the first international wars and aggression waged by Soviet Russian imperio-colonialism under the deceptive guise of communism were against newly independent states and nations like Byelorussia, Ukraine, Georgia, Armenia, Azerbaijan and several others that are now imprisoned in the Soviet Union. The second wave of this imperialist aggression reduced Latvia, Estonia and Lithuania to captivity in the early 40's; and the third wave in the later 40's enslaved a whole new group into the growing family of captive nations, such as Poland, Hungary, Czecho-Slovakia, Albania and so forth. Inspired, assisted and trained offsprings of this Red tradition of conquest and domination of people dropped the totalitarian curtain about the peoples of Yugoslavia, mainland China, North Korea, North Vietnam and Cuba in this and the decade after.

If the domino process has ever been at work, it certainly and unquestionably has been in the methodical Red conquest and aggregation of captive nations. If one fails to understand this process, executed largely and basically through the whole panoply of psycho-political warfare techniques, he then does not know the history of Eurasia these past fifty years. Any appreciation of the fundamental distinction between the captive nations—the exploited peoples themselves—and the Red totalitarian states is completely lost on him. It is this working distinction, implicit in the very concept of the captive nations, that has cast profound fear in the professional propagandists of the Red states. More, an inability to see this organic process of politico-military conquest from 1917 to the present beclouds also the important truth as to the chief enemy of the Free World.

THE CHIEF ENEMY

Some Free Asian leaders may well honestly disagree with the logical and factual determination of the Soviet Union—more precisely Soviet Russian imperio-colonialism—as the chief enemy. In one sense they are not wrong when their immediate danger of a proximitous and aggressive Red China is properly and justly weighed. No matter where, sheer survival for freedom is an incomparable, conditioning force. Moreover, the collapse of Red China would spell the beginning of the end of the Red Empire. Nevertheless, at the moment there is a more general truth affixed to the global framework which we must face with equal awareness and perspective. And that is the primacy of the Soviet Russian enemy. In the broader global framework and on the basis of historical evolution itself, let us not forget the fundamental Soviet Russian contributions that have been made to the training, economic and military equipment, and the apparatus of the North Korea army and the tragic Korean war that ensued, and to the totalitarian and mini-imperialist Hanoi regime, an aid which has protracted the Vietnam war more than any other Red totalitarian factor.

Concerning the war in Vietnam, which really involves three fundamental factors—they are, the seventeen million captives in North Vietnam, the aggression by totalitarian Hanoi backed essentially by Russian Moscow, and the valiant endeavor of the patriotic and nationalist South Vietnamese not to be forced behind the Red totalitarian curtain—this simple conflict could have been over three or four years ago if it hadn't been for the circumstantial combination of sophisticated Soviet Russian aid and America's complete misconduct of the war. This has produced more pseudo-rationalist nonsense than any war in this century.

In saying this, one is siding with the human boils and carbuncles of American society, for even the healthiest of organisms are capable of such poisonous excesses. The virtual and overt traitors of freedom in the U.S., meaning specifically the professional pacifists, the melodramatic and poor imitations of mid-19th century Bakuninists and Blanquists, who ignorantly spout Marxism, the ridiculously bearded Trotskyists, the basically ignorant and scant minority of students, and many naive clerics and so-called liberals—always pawns for the professional Red revolutionary who manipulated this species in the 30's and is repeating it now—are of course political warfare fodder for Hanoi, Peking, Havana and Moscow. Like the Russians they protesteth "peace" or "*mir*" too much, and we cannot but wonder what peace they seek.

Footnotes at end of article.

Most significantly, their stony silence about the captive nations indicates their motive and objectives.

ASIANIZATION, NOT VIETNAMIZATION

Relative to the captive nation of North Vietnam and the potential one in South Vietnam, we in America have so far failed in coping with what some call revolutionary warfare and what is really Russian-developed psycho-political warfare as applied in Vietnam. The so-called and miscalled Vietnamization of the war in Vietnam could have been accomplished years ago, in fact during the Eisenhower period. What was required was a psycho-political warfare concept extending into North Vietnam and buttressed by American armed logistics. With American military withdrawal from Vietnam, its application should be seriously considered in a new context of Asianization of the war with the presence of not only more Korean divisions, but also Free Chinese and other Asian divisions.[6] Developments in Laos, Cambodia and Thailand alone show the broad front of Red aggression and political warfare from the Mekong Delta to Calcutta.

Regrettably, we Americans still don't understand this psycho-political warfare, which today extends even to the terrain of the United States itself. If anyone is to be charged with a specific irresponsibility in the United States for this institutional incapacity, it is Senator Fulbright of the Foreign Relations Committee. He and the ever-blundering Harrimans have for years opposed and sat on the Freedom Academy measures in the U.S. Congress which are proposed to equip Americans and their allies in the ways and means of this type of warfare. This is by no means an unfounded charge; it can be easily documented and justified. Its tragedy is that it involves other peoples, including the captive people of North Vietnam and all others in the extensive Red Empire. It involves us, completely and irrevocably.

INDOMITABLE NATIONALISM IN THE CAPTIVE WORLD

By the very nature of realities prevailing in the captive world, conditions of psycho-political warfare are always extensive and omnipresent. It has been truly said, "In a free country there is much clamor with little suffering; in a despotic state there is little complaint, but much grievance." In the Soviet Union, which Alexander Solzhenitsyn has accurately described as a "sick society," the dozen and more captive nations are being subjected to a new wave of political repressions, cultural genocide, religious oppression, imperio-colonialist economic exploitation, revived MVD operations, and concentration camp consignments. All this and more in the sweep of Russian consolidating moves for Moscow's expanding Cold War operations in Asia, the Middle East, and the Western Hemisphere.

In mainland China, North Korea and North Vietnam the captive peoples are under the worst conditions of totalitarian tyranny, economic privation, and dehumanization left in the train of a grotesque "cultural revolution," guerrilla war activities on the Korean peninsula, and a war of aggression by Hanoi. In captive Cuba similar forms of Red exploitation of the people prevail as that unhappy island is being rapidly transformed into a Russian base for continental political warfare. And in Central Europe the Russian rape of Czechoslovakia last year confirmed again the oppressions and imperio-colonialism imposed on the captive peoples in that area.

Among the numerous forces at work fcr freedom in the captive world, the most dominant is the indomitable force of nationalism. This natural force means national self-determination and independence, economic freedom and opportunity, cultural progress and a respectful place in a peaceful community of independent nations. Expressed in many ways, this persistent force is rampant in the Soviet Union; it is manifested daily in Central Europe; it permeates all of Asia; it is the basis for Cuban resistance and hope. As the record well shows, nationalism is the greatest insurmountable obstacle to Red totalitarianism and Soviet Russian imperio-colonialism.

In Ukraine, the largest captive non-Russian nation both in the Soviet Union and in Eastern Europe, this spirit of nationalism abounds and expresses itself persistently in many, diverse forms. Without Ukraine, the Soviet Union could scarcely endure. This fundamental insight has even surfaced to the level of open, literary expression within the USSR itself, where increasing doubts surround the possible survival of the Soviet Union by 1984.[7] In any studied analysis, this captive nation is the focal point of the captive non-Russian resistance in the USSR.

THE BIND WE'RE IN

Whether viewed from the East or the West, efforts to wean less powerful Red states from the direct or indirect control and influence of the powerful Soviet Russian center will come to naught so long as this center is afforded psycho-political sanctuary within the substrate empire of the Soviet Union. This truth is the clear lesson of the Czecho-Slovakian tragedy. The free governments in the West clearly found themselves in a bind. And they will continue to be in this bind unless a radical shift is made in policy toward the captive nations within the USSR.

That such a policy shift can be executed with maximum contribution to peace has been justified time and time again on a number of issues. In areas of diplomatic relations, meaningful cultural relations, Voice of America and Radio Liberty broadcasts and many others, the shift would begin to place Moscow in a bind as concern its aggressive Cold War operations, aid in Vietnam and the Middle East, as well as in Cuba and our hemisphere. A progressively insecure Cold War aggressor begins to generate his own curbs and limitations.

The Brezhnev doctrine further substantiates the truth of our bind. In essence, a contemporary version of traditional Russian imperialism, this doctrine can be applied by Moscow to any Red state in the West or in the East, including mainland China; even to ostensibly socialist states in the Free World, all for the goal of insuring the security of the mythical commonwealth of socialist states. This doctrine is in itself a confession of intent and also weakness. The fundamental weakness is represented by the existence and struggles of the captive nations.

CAPTIVE NATIONS WEEK, A SPECIAL COMMITTEE AND THE MEDIA

An old French adage teaches us, "the weakness of the enemy forms a part of our own strength." The captive nations in the aggregate constitute the foremost weakness of the totalitarian Red Empire. As such, they are one of the most essential parts of our Free World strength. The more we concentrate on the captive nations, the more we intensify the weakness, the insecurity and the doom of all Red governments. But to advance along this sure road toward world freedom and the avoidance of a general hot war, citizens of the Free World must scotch certain misconceptions and wishful thoughts.

The first misconception is about the captive nations themselves. The captive nations concept must be clearly understood. The family of captive nations extends from Central Europe into the Soviet Union out to Asia and over to Cuba. Second, it is a species of wishful thinking to believe that any genuine detente is possible with the vast Red Empire. The dynamics of history, greased with the victories of Red totalitarianism and the worldwide network of Red psycho-political warfare, simply do not favor this. Wishful, too, is the misleading notion of spheres of influence, a sideline of the containment policy. It not only compromises principle with its accommodationism but also is unrealistic and self-defeating. Our enemies don't pour billions of investment into Cold War operations for physical exercise and self-enjoyment.

Contrary to absurdities witnessed in some places of the Free World, including the United States, the youth, the workers and the intellectuals in the captive world know what it means to be deprived of freedom. With their grasp of the real and true values of human existence, these captives of Red totalitarianism are today freedom's most trusted allies; tomorrow they shall be its sternest guardians.

The eventual solution of the titanic struggle in this century rests not only with military arms, but rather with the effective linkage of the forces of freedom in the non-Red world with those of all the captive nations, particularly those in the huge concentration camp called the Soviet Union. The forging of this link with the truly genuine NLF's and their tremendous legions behind all three Red curtains can only be effected through the means of psycho-political penetrations that are indispensable to the deterrence of a hot general war. The captive nations are our formidable allies, and had we sensibly tapped their resource in North Vietnam, the war there would have been over long ago.

In this new decade, there are three ways for you, as an individual citizen, to advance the lines and goals expressed here. One is to urge your Congressman to support the establishment of a Special Committee on the Captive Nations in the House of Representatives.[8] The benefits of such a committee would be immense, both domestically and internationally. Second, our media—the press, TV, and radio—have consistently minimized the captive nations issue and, as Vice President Agnew correctly maintains, have contributed to a heavy imbalance in popular thinking concerning the world situation and its impact here. By protest and demand for public service programs you can correct this unfair condition.

And third, by participating in the annual Captive Nations Week observance held every third week of July (1970—July 12–18) you can let our enemies know that we will never acquiesce to any permanent captivity of the nations in Eurasia and Cuba and also our captive allies that we are determined to work for their freedom, which in essence means our national freedom as well. In this, you will be in solidarity with our Free Asian allies who are fighting for their survival and who conduct some of the largest Captive Nations Week observances.[9] The captive nations will play their role for world freedom in the the 70's, about this there can be no doubt. Will you play your role for our own freedom without more local wars, needless sacrifices, and wasteful internal confusion and division?

FOOTNOTES

[1] See "Castro and the Americas," CONGRESSIONAL RECORD, February 10, 1970, pp. 3185–3191.

[2] Herman F. Achminov, "Kremlin Plays A Waiting Game," *Institute for the Study of the USSR*, Munich, November 1969.

[3] David Lawrence, "Why Not Protests on Soviet Policy?" December 18, 1969.

[4] For further elaboration, see *Tenth Anniversary of the Captive Nations Week Resolution 1959–1969*, U.S. Congress, 1969, p. 105.

[5] For documented evidence, see Lev E. Dobriansky, *The Vulnerable Russians*, New York, 1967, p. 453.

[6] See "Asianization—Not Vietnamizaton of the Vietnam War," *Insight On the News*, Miami, February 15, 1970, p. 9.

[7] See Andrei Amalrik. *Will the Soviet Union Survive Until 1984?* New York, 1970, p. 93.

[8] See *Captive Nations Week, Red Nightmare, Freedom's Hope*. USGPO, Washington 1966, p. 310.

[9] E.g. "Resolution on 1970 Captive Nations Week," *Asian Outlook*, Taipei, December 1969, p. 41.

Asianization—Not Vietnamization—Is the Winning Concept

(By Lev E. Dobriansky)

As in each preceding year for the past decade, in the fall of 1969 this writer was privileged to travel in several areas of Free Asia, from Korea to Thailand, and to discuss the foremost problems of Asia with high governmental and civic leaders. In November, from the time of my lectures on Soviet Russian and Castroist political warfare in the Americas at the Freedom Academy in Seoul to my address in December on the captive nations before the Third World Anti-Communist Conference in Bangkok, endless hours were spent in discussion on the Vietnam War, attitudes toward the American presence, the scope and depth of the Red threat to Free Asia, the efficacy of U.S. foreign policy and so forth.[1] What emerged from these productive discussions was a concept suggested by the free Asians themselves to tackle successfully the aggressive designs and operations of the communist imperialists. One clearly more realistic than the U.S.-sponsored Vietnamization concept circulated at the time.

Upon my return to the States I immediately sought to test this more realistic concept of Asianization among our groups and citizenry. Before an Army reservist group led by Mr. Bryce Harlow, an aide to the President, and meeting in the National Press Club in Washington, this concept was elaborated with encouraging, receptive report. Toward the end of December in Miami, a three-hour radio program was devoted to it over the Alan Courtney Show, and again with favorable results despite some severe criticism by phoned-in comments predicated almost entirely on the recurring fear of Red Chinese or Soviet Russian mass intervention. In February, a Miami periodical published a short but essentialist article on the concept.[2]

Subsequently, because this concept and the war in Southeast Asia bear an integral relationships to the more fundamental captive nations thesis, the concept was presented in the broader framework of the *domino fact* of the cumulative captive nations experience.[3] From the angle of Free World interest in Southeast Asia, the Vietnamization concept has always been empirically deficient and misguiding; from the angle of the historical cumulation of captive nations, from 1918 to the present, this same concept is insular and suggestive of a lack of perspective. The well-grounded concept of Asianization is neither empirically deficient nor without historical perspective.

THE ESSENCE OF VIETNAMIZATION

You will recall that since the fall of 1969 our policy toward Southeast Asia has been reshaped by the so-called Nixon doctrine which emphasizes progressive Asian self-reliance in coping with internal insurgencies and Red aggression. The doctrine can be theoretically implemented in many forms, but it soon became evident what the Administration had in mind. To achieve "victory" in Vietnam, the form adopted was an insular one, calling for the Vietnamization of the war in South Vietnam. Some of the ingredients of this implementing form of the Nixon doctrine are, of course, subject to serious question. For example, the so-called victory in Vietnam against combined Red aggression cannot be anything but a negative one in character. Simply to preserve your right possession against aggressive theft entails no net positive gain, and in the long haul may even result in positive defeat. Lest we delude ourselves with semantic twists, genuine victory in a war, regardless of its type, means positively the destruction of the aggressor, in this case, proximately, Hanoi, and the liberation of some 17 million North Vietnamese captives.

An honest appraisal of our involvement in Vietnam would also demand that we recognize that the war there is, and has always been, an integral part of Red aggression in Southeast Asia generally, in Korea, in the Middle East, in Eastern Europe and in Latin America. Admittedly, it is difficult for many of our people to see this as an evolving integralist pattern, but this is the successive expression in time of Red global strategy, primarily and decisively executed by imperialist Moscow. From the genetic-analytical viewpoint of cumulating captive nations since 1918, namely the conclusive results of this successful and unfolding Soviet Russian strategy, the pattern is unmistakably clear; only the details of historical contingency and accident shift and must be logically placed accordingly. This crucial perspective will be applied to the Vietnam sector later. Quite significantly, it is almost totally ignored in Amercan discussion of the Vietnam case; in the Far East, on the other hand, the struggle for national self-determination on the part of Korea, China, Tibet, Vietnam, Cambodia, Laos, and others is strongly conceived in terms of the cumulative captive nations' experience.

These two fundamental strictures overshadow all others in weighted importance and strategic effect. Criticisms bearing on democracy in South Vietnam, religious conflicts, the paper NLF and scores of other misleading superficialities have been unintelligently magnified to the inadvertent or deliberate benefit of the enemy. In pointing out these two fundamental strictures, we can now determine objectively, and aside from imputed political maneuverings, the essence of Vietnamization.

As gathered from the President's several statements, Vietnamization means a gradually staged withdrawal of American ground troops and their substitution by South Vietnamese personnel to undertake the burdens of the war. American logistical and air and naval support will be continued as the overall capability of the South Vietnamese is enhanced. It is envisioned that the same type of progress seen over the years in Korea will take place in South Vietnam, and without any needed presence of U.S. ground forces. With this augmented responsibility on the battlefield, it is expected that the Thieu government will also broaden the popular base in South Vietnam, which, as a matter of fact, has been considerably broadened in the hamlets and provinces for the past two years.

In ideal terms, then, this application of the principle of implemented self-reliance in South Vietnam entails several major phases of development. One, clearly, is growing South Vietnamese self-determination in all spheres, including the military. Second, with steady U.S. withdrawal, this in turn would hopefully eliminate grounds for Red and even some American charges of "U.S. imperialism." That this point has to be brought up indicates in itself the propaganda inefficiency of our Government. The third ingredient of this policy vision is an optimistic fading out of the war as the South Vietnamese extend their control to more than 90 per cent of the territory. And, fourth, the climax of the Vietnamistic vision is that with security assured and maintained, a rapid economic development would ensue in South Vietnam, along the lines of the Republics of China and Korea.

THE UNREALITY OF VIETNAMIZATION

Long before the Cambodian decision, the unreality of this projected Vietnamization policy was clear to some close analysts of the war in Asia. It must be confessed that, emotionally, for the good of our own country and the future of Vietnam one could not but hope for the successful fruition of this policy. Rationally, however, and in the spirit of constructive criticism, it was necessary to point out certain contradictions, ifs, and assumptions involved in this policy, as well as to outline an alternative policy that would enable us to come to grips with the total Asian situation. Certainly, this alternative path does not include such thoroughly irresponsible notions as (1) "The national security of the United States is not involved in Vietnam," "We cannot win a military victory in South Vietnam";[4] (2) "we are involved in a war that no one wants, that no one really understands";[5] (3) "Vietnam has been most overstated . . . We have built it up," "There is no good way out of Vietnam";[6] or (4) "I submit that our national interest would best be served by a unified Vietnam even if under Communist rule, as it would then serve as a relatively firm barrier to Chinese expansion."[7] These erratic utterances on the part of supposed leaders in American opinion are a measure of the state of confusion that has engulfed this nation.

Concentrating on factual essentials again, it must first be stressed that the war in Southeast Asia has not been confined to the territory of South Vietnam. Actually, and in varying degrees of political and guerrilla warfare, the sector of this war has for over a decade extended in arc-like shape from the Mekong Delta to Laos, northeastern Thailand, north Burma, over to Calcutta in India. In this region, South Vietnam has not been the only target of Red aggression, though in the past five years it became the most prominent one. Red sanctuaries in Laos and Cambodia can insure a protracted and even a more intensified war against the South Vietnamese, thus impeding the Vietnamization process and endangering the American position both in Paris and at home. Added Red pressures in Thailand and Burma would aggravate the situation further. The President's initiative on eliminating the proximitous sanctuares in Cambodia was a wise and necessary one, but in view of its self-imposed restrictions as to time and depth, it is a doubtful gamble that this action will succeed for the long pull ahead.

Taking a broader view of the situation in Asia, it can be realistically said that this arc of Red aggression goes beyond the indicated terminal points. In fact, it curves southward toward Indochina and then turns northward toward the Philippines and all the way up to the Republic of Korea. Surely, with some perspective, one cannot ignore Red probings, infiltrations and pressures in these free areas of Asia, including even Japan. In short, Vietnam is only a hotly pinpointed sector of the broader area of Red operations in Southwest Asia, and this region in turn is only an integral part of the more comprehensive field for these operations in Asia generally. The Sino-Soviet Russian rivalry in no way affects the outlines of this pattern. If anything, it intensifies the imprints of its contours by the competition resulting from this conflict.

With the empirical base of the Communist war in Asia far broader than what Vietnamization implies, it should also be evident that by Vietnamizing the war we are inadvertently giving credence to the myth that the conflict in South Vietnam is a "civil war." Basically supported by the Russian totalitarians, the war there is international in character and essence. In the post-Cambodian period, this is clearer than ever. How many of our people are short on the history of Russian and Communist techniques of political warfare has been well illustrated these past few years by their naive acceptance of the civil war myth. Going all the way back to 1918 in Eastern Europe, they would discover the selfsame applications of this old technique in Byelorussia, Ukraine, Armenia and elsewhere. The more accurate concept of Asianization disallows any currency of this oft-repeated myth.

Footnotes at end of article.

In addition, the Vietnamization policy has also placed in doubt the actions to be taken by our allies in Vietnam. The same degree of hesitancy and doubt has spilled over into the Cambodian and Laotian situations. Regarding Vietnam alone, the Philippines has pulled out most of its 3000 man force, and the question still is as to what will be the fate of about 50,000 Koreans, 10,000 Thais, 7500 Australians and 500 New Zealanders now fighting in Vietnam? Their combined presence in Vietnam all these years in itself demonstrated the Asianistic basis of this war, rather than just a Vietnamistic one. Logically, to talk about Vietnamizing it means to call for their withdrawal, too. Now with Cambodia and Laos publicized in this Southeast Asian war sector—not just Indo-Chinese—these forces of genuine Asianization should be expanded more than ever before.

Prior to the President's decision on Cambodia, the Vietnamization policy was rapidly heading for a critical test, specifically in Hanoi's challenge to the armed capability of the South Vietnamese forces. Last year and this, over 10,000 North Vietnamese regulars infiltrated the Mekong Delta, and supply routes and sanctuaries were being expanded in Laos and Cambodia, down into April, 1970. From all evidence, Hanoi was determined to put the policy to a test. Fortunately, the Sihanouk ouster provided the U.S. and its allies with a golden opportunity to counter this challenge by entering Cambodia and destroying the major sanctuaries. However, though time was gained for the progressive build-up of the South Vietnamese forces and Hanoi suffered a major reversal, the long-run picture still remains one of typical Red protracted warfare as Hanoi consolidates its gains in Laos and parts of Cambodia, where undoubtely new sanctuaries are being established. This change in the Indo-Chinese sphere markedly affects the total Southeast Asian sector of the war and demands more than ever a policy of Asianization rather than Vietnamization.

THE POLICY OF ASIANIZATION

In a significant release, Representative E. Ross Adair of Indiana at least raises the question "Asianization not Vietnamization?" And as he puts it, "Almost unnoticed in the debate over President Nixon's move to destroy the communist sanctuaries in Cambodia has been the change in the political situation in southeast Asia in particular and in Asia in general. For the first time in years Cambodia has good diplomatic relations with both Thailand and South Vietnam. Both nations are actively lending military assistance to Cambodia in her struggle to survive as a nation. Indonesia has indicated it may be willing to extend some limited aid to Cambodia. Japan has extended economic aid; Taiwan has also offered aid to Cambodia. Thus, across the bottom of the southeast Asian peninsula, North Vietnam faces a group of hostile nations."[8]

Whether one is given to think narrowly in terms of Vietnam or, since Cambodia, a bit more flexibly in terms of Indo-China or, with more knowledge, in terms of Southeast Asia or, with full rational perspective, in terms of Red strategy for Asia, the alternative policy cannot logically be one other than the Asianization of the war. Empirically, this has been shown by the embryonic presence of other Asian allies in Vietnam. Our fault in the past has been to Americanize that part of the war rather than to Asianize it. As part of the more extensive war in Southeast Asia, logically, Vietnam has been an Asian battle in the global conflict between the freedom of nations and basically Soviet Russian imperio-colonialism. The Red Chinese contribution to North Vietnamese aggression can hardly be compared to Moscow's aid.

The more realistic Asianization policy would augment the present Asian forces in Vietnam. Since the changes in situation which occurred in April 1970, this would now apply also to Laos and Cambodia. The plan of augmentation would entail a number of essential steps. One, the U.S. would continue to withdraw its ground troops, but it would also guarantee its Asian allies proportioned logistical support in the Southeast Asian war against imperialist Communist aggression. Two, considering security needs elsewhere, it may be necessary for every additional Korean division placed in Southeast Asia to send a withdrawn American one for security duty in Korea.

Another step in implementing Asianization would be the engagement of Japanese economic power in revolutionary warfare. Of considerable and vital importance in this type of warfare is the construction of a vast network of roads and highways, which would deny the advantage of inaccessibility to the guerrillas and enhance the immobility of allied forces. This Japanese investment can multiply later in Hondas and other types of transportation. For the long-run security of Japan itself, a massive effort of this sort and at this time cannot but pay heavy dividends.

As the policy in application gains momentum, further steps would be the inclusion of nationalist Chinese forces, the attraction of Indonesian and Malaysian aid, and increases in Thai, Philippine, Australian and New Zealand armed contributions. The Republic of China has consistently offered to help with military man-power in Vietnam, but the offer has never been accepted. Groundless fears about Red Chinese intervention and Vietnam-Chinese relations apparently have obstructed this aid. With Red China in a thoroughly chaotic state, it is most unlikely that it would commit its forces in Southeast Asia, not to mention the constant threat posed by Taiwan. As for the nationalist Chinese presence in Vietnam, little difficulty would result from a concentration of its forces along the DMZ line in Vietnam and extended into Laos, cutting off the Ho Chi Minh supply routes.

ADVANTAGES OUTWEIGH RISKS

When one considers soberly these main outlines of the Asianization policy, he comes to realize that its calculated advantages far outweigh the risks. Indeed, the advantages would far exceed those of our present Vietnamization policy and, most important, the risk of protracted warfare would be considerably less. Nor would the risk of escalation into a general war be greater. One stubborn lesson of our Vietnam experience has been an excessive preoccupation with comparative risks that has led us into a mire of errors and serious omissions, as for example not bombing the dikes in North Vietnam or blockading Haiphong with sunken ships. Any war, if to be won, demands bold risk-taking.

By Asianizing the war not only in Vietnam but in Southeast Asia, where the entire front really exists, we would reap an accelerated cessation of the war in Vietnam, assuming of course U.S. logistical support throughout. Throughout Free Asia one is constantly told, "We don't want or need your manpower. We have more than enough. What we do need from you is the fire-power." A second clear advantage of Asianization is that it would place far greater emphasis on the all-Asian nature of the war there and its integral significance for the world struggle. The most egregious fallacy circulating in the United States is that the war in Vietnam or in Southeast Asia is somehow unrelated to the world conflict between national freedom and Communist imperialism, this despite the decisive contributions made by the Russians to Hanoi.

Moreover, the policy would provide an expanded framework for the sound development of Asia for the free Asians. It would instill tremendous hope for the future in the hearts and minds of the free Asians, and doubtless, through them, to the three-quarter of a billion captives on the mainland. In addition, a skillful implementation of this policy would definitely undermine the broad Red front of aggression from Calcutta to the Mekong. But, perhaps, what is most impotrant is that this course of action would provide a catalyst for the formation of a counterpart on this side of the world to the established NATO—a PATO, the Pacific Asian Treaty Organization, consisting of Pacific powers, such as the U.S. and Canada, and our Asian allies. The wars in Asia justify a PATO to thwart future Red aggressions.

Those who talk about "escalation" of the war in Vietnam fail to recognize the fact that the war front in Southeast Asia has always been broader than Vietnam. The Vietnam war has just been one sector of it. Intensified action through Asianization and in other sectors would bring the war in the Vietnam sector to a virtual stop. In part, the Cambodian episode has indicated this, but the determining question now is how much of a follow-up will be produced for the rest of Indo-China. Dynamic Asianization, with dynamic American political and diplomatic leadership, is the rational answer.

In brief, then, the policy of Asianization as described here really extends and magnifies what essentially has been present in Vietnam for years. And it applies the rationale to the real front of Southeast Asia. A growing solidarity of interest and action for survival would move even Burma and India into more overt, constructive action against Red aggression. Such developing solidarity would undoubtedly have an enormous impact upon all of Free Asia, from Korea to New Zealand to India. Its impact on the totalitarian regimes of Peking and Moscow would be a sobering one as concerns planned future aggression. As pointed out before, Red China is in such chaos today that it couldn't risk a repetition of Korea, which in itself was an unforgettably sour experience for her. As for the USSR, which follows the necessary policy of not committing massively its unreliable forces in overt warfare, it is so over-committed now in other Cold War ventures and is patently in an economic mess within its own empire-state that it would not entertain the risk of armed intervention which so many falsely fear.

A FINAL PERSPECTIVE

Though this final note justifies an article in itself, it must be recognized that on the world scale the relative military strength of the U.S. has eroded these past ten years, a fact resulting both from the enemies' persistent build-up and a foolish American absorption with nuclear parity vis-a-vis the USSR. With this development, the areas of flexibility and power determination have become restricted. Thus a greater need exists for diplomatic skills and vision, political foresight, and determination to do what must be done for the ultimate security of our Nation. The pursuit of Asianization affords the opportunity for all this.

What's more, the Asianization course also affords us the best chance to prevent any further additions to the long list of captive nations. The war in Southeast Asia, involving national self-determination against Red imperialism, is directly related to the previous experiences of all the present captive nations.[9] To the question at the end of the score sheet on the captive nations—"Who's next? South Vietnam? . . . Laos? . . . Cambodia? . . . Thailand?—the resounding answer can be No, with the forward looking policy of Asianization.

FOOTNOTES

[1] See "Castro and the Americas," CONGRESSIONAL RECORD, February 10, 1970, pp. 3185–3191; also, "Enslaved Peoples Under Communism," CONGRESSIONAL RECORD, February 5, 1970, pp. 2631–2632.

[8] Lev E. Dobriansky, "Asianization—Not

Vietnamization—of the Vietnam War," *Insight On The News*, Miami, Florida, February 15, 1970, p. 9.

[3] "Captive Nations In The 70's," *The Ukrainian Quarterly*, New York, Spring 1970, pp. 24–35.

[4] Clark Clifford, "National Security of U.S. Is Not Involved In Vietnam," *The Washington Post*, May 17, 1970.

[5] Gov. Nelson A. Rockefeller, Address in Ithaca, New York, *UPI*, May 16, 1970.

[6] George W. Ball, *The Evening Star*, Washington, D.C., January 12, 1970.

[7] Sen. Claiborne Pell, Senate address, *UPI*, June 30, 1970.

[8] E. Ross Adair. *Report From Your Congress*, Washington, D.C., June 8, 1970.

[9] *Captive Nations In The 70's*, CONGRESSIONAL RECORD reprint, USGPO, Washington, D.C., 1970, p. 5.

Mr. McCORMACK. Mr. Speaker, throughout the free world, as in previous years, government officials, educators, and other leaders are joining in the observation of 1970 Captive Nations Week.

Although it has been a quarter century since the end of World War II, millions of persons today still live in captive tyranny in the nations of Eastern Europe, on the Asian and African Continents, and other countries where totalitarianism and dictatorships thrive on the suppressed citizens of the nations which were once free and open, with liberty as a way of life.

The countries behind what we have for many years called the Iron Curtain still remain satellites of Soviet power. The Sino colonialism still reigns throughout most of the Asian land mass, and in the tiny nations of Africa, we still find tribal nations that live in horror and fear of those who govern.

While the futility of war and the misery that accompanies it have proven very little in the expansion of national freedom, the observance of 1970 Captive Nations Week presents to us in the Congress, and to the free nations of the world, an even greater challenge.

The challenge is to us concerned with the plight of the oppressed, one of confrontation, not in the form of military action, but in the form of the truth, how we face it, and what we must do to see that its spirit survives. For if the captive nations of the world are to live, and some day be free, the spirit of truth must likewise live on.

We must never cease for a moment to forget the nations, large and small, which live under dictatorship. We must never forget the ideals of the people who yearn for freedom, and most of all, we must never forget that it is freedom which is the truth they seek, and cannot be forgotten.

We likewise are faced with another challenge—one of commitment. On this Captive Nations Day, let us resolve to rededicate ourselves to the spirit of freedom that we in America enjoy, while we commit ourselves to doing all possible to see that the spirit of freedom of the oppressed nations lives on. Never let us wane from the conscious fact that our spirit of freedom, and the absence of captivity, is one of our most cherished national traditions.

A special tribute is in order, I feel, to the National Captive Nations Committee of Washington, D.C., who for 12 years have spearheaded this annual observance of Captive Nations Week.

To the scores of national organizations which have as their cause the liberations of oppression and the restoration of freedom in the captive nations, I likewise offer my congratulations for their massive effort in keeping alive the cause of these people.

May I suggest to my colleagues in the House that the 1970 observance be the occasion for our rededication to the principles of freedom, and an expression of our determination that the spirit of freedom and truth shall not die in these foreign lands where our spirit of liberty, and theirs, shall again, with God's help, reign throughout their nations.

Mr. DERWINSKI. Mr. Speaker, I am pleased to join the distinguished gentleman from Pennsylvania (Mr. FLOOD) as the House commemorates Captive Nation's Week.

With the growing threat to peace resulting from Soviet actions in the Middle East and their continued instigation of aggression in Southeast Asia, the plight of the people long captives of communism deserve our reemphasis.

The world cannot exist in peace with half the people free and half under the yoke of communism. The captive nations have been accurately described as the Achilles heel of the Soviet empire. It is important to note that the Soviet autocrats have not been able to suppress the nationalism of the captive peoples. The forces of nationalism are continuing to work for their right of self-determination, legitimate independence, economic freedom, and their proper places in a peaceful community of truely independent nations.

The issue of the captive nations and the issue of commemoration of Captive Nation's Week is as clear in its significance at this time as in any period since the close of World War II.

Mr. Speaker, to emphasize recognition of the importance of Captive Nation's Week and to demonstrate the nationwide support which this movement receives, I am pleased to include as a continuation of my remarks today the following material:

Proclamations issued by Gov. James A. Rhodes, of Ohio; Gov. Edgar D. Whitcomb, of Indiana; and Mayor Richard J. Daley, of Chicago, Ill.

"Declaration of the Rally," an article from the July 16, 1969, Asian Outlook.

Press releases issued by Captive Nations Week Committee of New York, Conference of Americans of Central and Eastern European Descent, and Ukrainian Congress Committee of America, Inc.

"Enslaved Peoples Under Communism," an article from the February 1, 1970, WACL bulletin by Dr. Lev E. Dobriansky.

"Captive Nations Show Threat of Communism," an editorial from the Friday, July 10 New World, the official publication of the Catholic archdiocese of Chicago.

The material follows:

PROCLAMATION OF THE STATE OF OHIO ON CAPTIVE NATIONS WEEK, JULY 12 TO 18, 1970

Whereas, the republican form of government—based upon "the consent of the governed"—which has existed in the United States of America for 194 years, has resulted in the development of a warm understanding and sympathy for the aspirations for freedom of peoples everywhere and in the recognition of the natural interdependency of the peoples and nations of the world; and

Whereas, since 1918 the imperialistic and aggressive policies of vast military despotisms of International Communism have resulted in the creation of a constant threat to the security of the United States and of all the free peoples of the world; and

Whereas, the imperialistic policies of the Communist regimes have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, Serbia, Croatia, Slovenia, Cuba and others; and

Whereas, it is vital to the national security of the United States and the other free nations of the world that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive:

Now, therefore, I, James A. Rhodes, Governor of the State of Ohio, do hereby designate the week of July 12–18, 1970, as Captive Nations Week and I invite the citizens of the State of Ohio to observe this week with appropriate public ceremonies and exercises.

JAMES A. RHODES,
Governor.

PROCLAMATION OF THE STATE OF INDIANA

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, White Ruthenia, Estonia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples for freedom and independence;

Now, therefore, I, Edgar D. Whitcomb, Governor of the State of Indiana, do hereby proclaim that the week of July 12-18, 1970, be designated Captive Nations Week in Indiana.

EDGAR D. WHITCOMB,
Governor.

PROCLAMATION OF THE CITY OF CHICAGO

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, Slovakia, North Viet Nam, Cuba and others; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 36–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities expressing their sympathy with and support for the just aspirations of captive peoples for freedom and Independence; and

Whereas, the City of Chicago is linked to these captive nations through the bonds of family, since numbered among the people of Chicago are hundreds of thousands of our citizens who through nativity or ancestry treasure the heritage which endowed them with the culture and industry which are theirs; and

Whereas, these nations have been made captive by the imperialistic, aggressive and heartless policies of communism; and

Whereas, the peoples of these communist-dominated nations have been deprived of their national independence and their individual liberties; and

Whereas, it is appropriate and proper to demonstrate to the peoples of the captive nations the support of the people of the City of Chicago for their just aspirations for freedom and national independence; and

Whereas, the people of Chicago, as do all of the United States, want for the peoples of the world the same freedom and justice which is theirs:

Now, therefore, I, Richard J. Daley, Mayor of the City of Chicago, do hereby designate the week beginning July 13, 1970 to be Captive Nations Week.

I urge the people of Chicago to join in the programs arranged for observance of the occasion and I urge all of our churches, our educational institutions and all media of communication to observe the plight of the communist-dominated nations and to join in support of the just aspirations of the people of the captive nations.

I especially encourage everyone to concretely demonstrate his interest in the people imprisoned in the captive nations by their attendance at or participation in the parade to be held on State Street on Saturday afternoon, July 18 at 12:00 Noon.

Dated this twelfth day of June, A.D., 1970.

RICHARD J. DALEY,
Mayor.

[From Asian Outlook, July 1969]

DECLARATION OF THE RALLY

In response to the "Captive Nations Week" Movement sponsored by the United States, various circles in the Republic of China hold a rally in Taipei in support of the peoples in the captive nations who seek freedom. With firmness we reiterate our faith against Communist aggression, slavery and tyranny and vow to support the enslaved peoples behind the Iron Curtain who seek freedom and liberation. Again, we reiterate our determination to back up our compatriots on the mainland in their anti-Mao and anti-Communist revolution and jointly overthrow the puppet Chinese Communist regime.

A decade has elapsed since the United States initiated the "Captive Nations Week" in 1959. During the past ten years, the struggles between the forces of democracy and freedom and the forces of Communist enslavery have clearly indicated the historical development that freedom will prevail and that tyranny will perish. This development is most pronounced in the disintegration of the international Communist bloc, the imminent collapse of the puppet Chinese Communist regime, the emergence of the liberalization movement in Eastern Europe, the intensification of the anti-Mao and anti-Communist struggles on the China Mainland, increasing opposition and hostility of the newly-emerging nations against Communism, and the solidarity and cooperation of the freedom forces.

The Communist bloc which has depended on violence and terror for its survival in the past decade is fast disintegrating, while the widely scattered free nations are strengthening their solidarity. This is a turning point in history. The increase and decrease in the forces of democracy and freedom and the forces of Communist enslavery explain the bankruptcy of Communist ideology and the failure of the Communist dictatorial system.

The contradictions of the Communist tyranny have negated its own strength and have explained that the basic nature of people's love for freedom cannot be restrained and that the forces generated by democratic and free thinking continue to grow in strength. This then is the historical rule that freedom will prevail and that tyranny will perish.

However, we must understand that the present crisis of the Communist tyrannical rule is the result of the striking force of freedom within and without the Iron Curtain. Nevertheless, we must not wait idly for the Communist tyrannical rule to fall apart by itself. We must strengthen freedom forces for a coordinated attack from within and without in order to expedite its disintegration and collapse. We must alert ourselves that to save itself from the doom of total destruction, the Communist tyrannical regime is resorting to various means such as the launching of a peace offensive, moving appeasers to undertake front activities, attempting to disarm the moral armament of the democratic camp and frustrating the anti-tyranny struggle of the enslaved peoples behind the Iron Curtain. They may create, even more chaos throughout the world. Presently, the Chinese Communists support the Viet Cong in the invasion of Laos, incite the Thai Communists to stage armed rebellion, open up a political battlefield in the United States, create social disorder and help American isolationists to rise in order to scatter the strength of freedom forces and gain time for respite and combat readiness.

Hence, at this critical turning point in our history before the enslaved peoples achieve total victory in their fight to seek freedom, free nations must double their efforts to align the forces of freedom and democracy and to strike a heavy blow against the Communist bloc.

Free nations must carry out their policy of liberation completely, actively support the anti-tyranny revolution of the enslaved peoples behind the Iron Curtain, employ all possible means, take all possible courses of action and assist the development of revolutionary forces behind the Iron Curtain.

Free nations must take full advantage of the power-seizure struggle within the Chinese Communist camp, support the Chinese people in breaking the weakest link in the chain of the Communist block and eliminate the sources of Asia's turbulence which seriously threaten world peace.

Free nations must, on the basis of uniting the peoples throughout the world in the anti-Communist movement, further strengthen the mutual assistance and cooperation between governments and achieve the development of a regional security organization.

Free nations must support the Vietnamese people to seek an honorable victory in the anti-Communist war and must firmly oppose the Viet Cong plot for the formation of a coalition government and their absurd demand calling for the unilateral withdrawal of the allied forces.

Free nations must firmly oppose the admission of the Chinese Communists into the United Nations as well as the illusion and hallucination of establishing diplomatic ties and trading with the Chinese Communists.

We are convinced that the Communist tyranny is merely a phase of short duration in the development of history and that this phase will soon terminate. Under the distinguished leadership of President Chiang, the people of the Republic of China stand on the frontlines against aggression, fight to the end for the delivery of our compatriots on the mainland and contribute to the liberation of all enslaved peoples in the world. We hereby call upon all free peoples in the world to unite and form an international front against Mao and Communists and march against the common enemy of mankind.

[From Captive Nations Week Committee of New York]

CAPTIVE NATIONS WEEK, 1970

Ukrainian Catholic Bishop, Most Rev. Joseph Schmondiuk, D.D., of Stamford, Conn. celebrating.

His Eminence Terrance Cardinal Cooke presiding.

This year, the observance of Captive Nations Week in New York City will open with the Solemn Mass in Eastern Catholic rite celebrated by Ukrainian Catholic Bishop, Most Rev. Joseph Schmondiuk, D.D., His Eminence Terrance Cardinal Cooke presiding at St. Patrick's Cathedral on Sunday, July 12, 1970 at 10:00 a.m.

Responses during the Liturgy will be sung by the choir of St. John the Baptist Ukrainian Catholic Church of Newark, N.J., under direction of Michael Dorosh.

The sermon at St. Patrick's will be delivered by Rev. Raymond J. de Jaegher, a Catholic priest who was held captive by Red Chinese.

Following the Liturgy, the participants will proceed in formation to Central Park's Bandshell for a rally. The rally will open with the Pledge of Allegiance by Robert G. Goff, Commander of CWV, Queens Chapter, with opening address by Chairman, Hon. Matthew J. Troy, and followed by remarks of Dr. Ivan Docheff, Chairman of American Friends of Anti-Bolshevik Bloc of Nations, Inc., Mario E. Aguilera, Chairman of Americans to Free Captive Nations, Inc., Michael Pizniak, Esq. of Ukrainian Congress Committee of America, and by the guest speaker.

A program of folk songs and dances performed by Romanian, Hungarian, Byelorussian, Ukrainian and other ethnic youth groups will follow.

After the Rally in Central Park Bandshell, the participants are going to march to the Soviet Union's Mission to the United Nations, 67th Street and Lexington Avenue, New York City to picket in order to call the attention of our fellow Americans to the real enemy of peace and to the main source of all today's international tension.

Next Sunday, July 19, 1970, 1:30 p.m.–3:00 p.m., there will be a closing Rally of the Captive Nations Week—1970 at the Statue of Liberty with an appropriate program.

The annual observance of Captive Nations Week dates from the signing of Public Law 86–90 by President Eisenhower in 1959. This law requires the President of the United States to issue an annual proclamation calling on the American people to give a moral support to nations held captive by Communism in their struggle to regain their freedom and independence.

CAPTIVE NATIONS DAY, JULY 12, 1970

9:00 a.m.: Assembly of Captive Nations marching units in front of Plaza Hotel, Fifth Avenue and 59th Street.

9:30 a.m.: Parade to St. Patrick's Cathedral.

10:00 a.m.: Solemn Mass on behalf of all Captive Nations celebrated by Most Rev. Joseph Schmondiuk, D.D., Ukrainian Catholic Bishop of Stamford, Connecticut, His Eminence Terrance Cardinal Cooke presiding.

11:15 a.m.: Parade from St. Patrick's Cathedral to Central Park Bandshell (Route:

Up Fifth Ave. to 72nd St.—Enter Park and proceed in formation to Bandshell).

11:45 a.m. to 1:30 p.m.: Rally in Central Park Bandshell as stated on the first page.

1:30 p.m.: Rally ends and participants march to the Soviet Union's Mission to the United Nations, 69th Street and Lexington Avenue, New York City.

2:00–3:00 p.m.: Picketing the Soviet Union's Mission to the United Nations.

All the Parades will be led by American War Veterans under the command of Robert G. Goff, Commander of CWV, Queens Chapter.

News Release of Captive Nations Week Committee of New York

Since the well-known Khrushchev speech, delivered during the 20th Congress of the Russian Communist Party, no one can deny the existence of Stalin's terror when millions of Soviet citizens—mostly members of the non-Russian subjugated peoples—were starved, executed or sent to concentration camps.

During the time of terror, however, with the exception of a few show trials, the Soviet Government was able to hide from the outside world this unprecedented magnitude of its crimes against humanity. Why?

In 1968, Robert Qouquest published his well-researched book about Stalin's purges. Reviewing this book in Washington Post, Mr. Colmley says: ". . . we (American liberals) were inclined not so much to excuse as to overlook the crimes of Stalin." G. Kennan, on the other hand, in his review published in New York Times, says: "There is (in Qouquest's book) a vast amount which we would like to forget."

"Overlook" and "Forget", these two tendencies of important segments of western intellectuals in their approach toward Communism, is the tragedy of our times. This tragedy was manifested by the student outbreaks triggered by the President's decision to destroy Communist sanctuaries in Cambodia. All the masses of young people, presumably idealistic but misinformed and misdirected, fought, and four of them died for the wrong cause and on the wrong side of the barricades.

Fellow Americans, from July 12 to July 19, Captive Nations Week is being observed. The purpose of the Week as stated in Congressional Resolution is to give moral support to Captive Nations in their struggle for liberation from Communist oppression. Another purpose of the week, especially now, is to call the public's attention to the real, not imagined or distorted world situation, to the hard facts of the past and present. It is time for cool meditation and unprejudiced analysis of world events. It is time to ask ourselves what kind of future we want for ourselves and our children—a future of hope for steady improvement, steady progress, future of freedom and peace, or future of stagnation and despair, future of repression and dogma.

The following small list of books is our suggested reading for the Captive Nations Week:

Barber, Noel: From the land of lost continent; the Dali Lama's Fight for Tibet. Haughton Mifflin, 1969.

Qouquest, Robert: The Great Terror. Macmillan, 1968.

Chornovil, Vyacheslav: Chornovil Papers. McGrow, 1968.

Dobriansky, Lev E.: Vulnerable Russians, Pageant, 1968.

Dzyuba, Ivan: Internationalism or Russification. Humanities, 1969.

Levine, Isaac Don: Intervention. McKay, 1969.

Lynd, Staughton and Thomas Hayden: The Other Side. New American Library, 1967.

Meray, Tibor: That Day in Budapest. Funk, 1969.

Pryce-Jones, David: The Hungarian Revolution. Benn, 1969.

Windsor, Philip: Czecho-Slovakia, 1968: Reform, Repression and Resistance. Columbia University Press, 1969.

The Rape of Czecho-Slovakia, by Russian Troops in the Summer of 1968 is convincing proof that nothing has been changed in the Russian colonial orbit.

[From Conference of Americans of Central and Eastern European Descent]

Manifesto for Captive Nations Week, 1970

Captive Nations Week, established by the U.S. Congress on July 17, 1959 (Public Law 86–90), will be observed this year during the week of July 12 to 18, for the eleventh consecutive year. Each year, observances marking this signal event are held throughout the country, serving as a powerful reminder to the American people not to forget the captive nations or to approve their permanent captivity under Communist enslavement.

The *Conference of Americans of Central and Eastern European Descent* (CACEED) is an organization of American citizens of Central and Eastern European background whose countries of origin—Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Ukraine—are presently under Communist domination and are denied fundamental human rights and national liberties.

CACEED supports all the captive nations, and calls on all Americans to manifest their public support for the captive nations in their unequal struggle for national self-determination and the restoration of their national independence. Public Law 86–90 defined the plight of the captive nations in the following words: ". . . The imperialistic policies of Communist Russia have led, through direct or indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Romania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, and others . . ."

Every year, since observances of Captive Nations Week have been held throughout the length and breadth of the United States, the official Soviet press and mass communication media in the Communist-controlled countries have untiringly attacked the WEEK as an instrument of the Cold War aimed at disturbing "peaceful coexistence" between the USSR and the United States.

This is a typical method of Communist propaganda by which Moscow and its satellites are trying to conceal their great concern over Western interest in the captive nations. Moreover, the captive nations movement has grown steadily, enlisting the staunch support of several countries of the free world, including the Republic of China, Korea, Turkey, West Germany, Argentina and Australia.

The worldwide captive nations movement received powerful and fresh impetus with the brutal and unprovoked invasion of Czechoslovakia by Soviet and satellite troops in August, 1968, and the subsequent enunciation of the "Brezhnev Doctrine," which claims that the Soviet Union has a "legitimate" right to intervene in the internal affairs of any "socialist" country.

There is no doubt that the "Brezhnev Doctrine" indicates Soviet determination to continue the oppression of the captive nations and to trample underfoot their fundamental human rights, although these rights to self-determination and national sovereignty are expressly set forth in the *Universal Declaration of Human Rights*, adopted unanimously by the U.N. General Assembly on December 10, 1948. The "Brezhnev Doctrine" further ascribes to the USSR a "mandate" to intervene at will in the internal affairs of neighboring states, in direct contravention to the principles enunciated in the Atlantic Charter and the Charter of the United Nations.

The contention of this spurious "doctrine" that Central and Eastern Europe is the exclusive domain of Moscow should be categorically rejected by the free world as immoral, imperialistic and dangerous to world peace.

Despite the Sino-Soviet conflict and the Russian fear of Red China, Moscow is doing everything to help Hanoi in its present war against South Vietnam and the United States. Only a few days ago the Kremlin announced that far-reaching agreements had been reached between Moscow and Hanoi, resulting in a large increase of material aid to North Vietnam by the USSR.

In the Middle East, the Soviet Union is continuing to push forward. The strategic meaning of these actions is that expansion of Communist Russia's military presence and political influence would become an unchallengeable fact. The USSR is attempting to undermine U.S. power there and become a "champion" of the Arab and Moslem worlds with the ultimate objective of subverting the entire area and subjecting it to eventual Communist domination from Moscow.

There has hardly been any change in the status of the captive nations since the last observance of Captive Nations Week in 1969. This year's observances will be held a few months after the 25th anniversary of the termination of the war war in Europe—at which time the Nazi totalitarian domination over vast areas of that continent was eliminated. But for millions in Central and Eastern Europe, as well the peoples of the USSR, Nazi domination has been replaced with brutal and ruthless Communist rule and Soviet Russian colonial hegemony.

Soviet leaders, in attacking U.S. foreign policy would have us believe that all is well and orderly in the USSR and its far-extending Communist empire. Yet developments occurring daily behind the Iron Curtain speak of something else. In Poland, the Communist regime stifles intellectual and economic life, and continues its violation of human rights on a large scale. In Czechoslovakia, the Soviet-backed new regime has re-imposed censorship, curtails travel, and has made the country a faceless puppet of Moscow. In Romania, which is often described as following an "independent" course, there exists police repression, total control over intellectual and artistic life, and economic strangulation. Attempts by the people of Hungary and Bulgaria to secure more freedom and the enjoyment of human rights have been stubbornly opposed by the Communist regimes. In Estonia, Latvia and Lithuania, Moscow continues to exercise its oppressive policies, and the official course of Russification becomes an ever-increasing threat to the ethnic structure of those nations. In the Ukraine, the largest non-Russian captive nation in the USSR, arrests and trials of hundreds of intellectuals continue, while the Communist regime openly persecutes members of the Catholic, Protestant and Jewish faiths. Even in Russia property, youth and writers demanding more freedom are being arrested and confined to mental institutions.

In observing Captive Nations Week this year, we:

1. Express our full support for U.S. policy in Southeast Asia and elsewhere in resisting the Communist aggression and attempts at world domination; at the same time we ask that the U.S. Government adopt a firm policy with respect to the USSR and its subservient Communist regimes of Central and Eastern Europe by challenging and denouncing their persecution and oppression of the captive nations.

2. We accuse the USSR of crass violation of its solemn promises of freedom and independence for the nations made captive during and after World War II, such as Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland and Romania.

3. We denounce the Soviet government for the destruction of the independence of the

Ukraine and other non-Russian nations inside the USSR, and for depriving them of the right to national self-determination.

4. We condemn the Communist celebration of the 100th anniversary of Lenin's birth and its sponsorship by UNESCO and the U.N. Commission on Human Right, which bestowed international honor upon the originator of Communist terror and genocide.

5. We denounce the Communist enslavement of Albania, China, North Korea, North Vietnam, Tibet and Cuba.

6. We appeal to the U.S. Government and all other governments of the free world to undertake measures in the United Nations to insure that the "Declaration on the Right of Peoples and Nations to Self-Determination," adopted in 1952, the "Declaration on Granting of Independence to Colonial Countries," adopted by the U.N. on October 14, 1960, and the *Universal Declaration of Human Rights,* adopted on December 10, 1948, are applied to all the captive nations as enumerated in the U.S. Captive Nations Week Resolution of July 17, 1959.

7. Finally, we appeal to the American people to take an active part in the Captive Nations Week observances of July 12–18, 1970, and to manifest their unstinting support and sympathy for the just aspirations of all the captive nations of Europe and Asia, to express their full understanding and to pledge them moral support in their unequal struggle for freedom and national statehood.

The Right Reverend Monsignor
JOHN BALKUNAS,
President.

[News release of Ukrainian Congress Committee of America, Inc.]

Observances of Captive Nations Week in New York City

NEW YORK, N.Y.—Captive Nations Week, initiated in 1959 on the basis of a Joint Resolution of the U.S. Congress (Public Law 86–90), will be observed this year between July 12 and 18. A series of programs and manifestations throughout the country will be held under the auspices of the National Captive Nations Committee (NCNC), under the chairmanship of Prof. Lev E. Dobriansky of Georgetown University, Washington, D.C.

Congressmen Daniel J. Flood (D., Pa.) and Edward J. Derwinski (R., Ill.), members of the NCNC, issued a special letter on June 26, 1970 calling on the American press to publicize the event "so that your constituents may be afforded the opportunity of advancing for world freedom the natural alliance between ourselves and the one billion captives under totalitarian Red rule."

President Richard M. Nixon, Governor Nelson A. Rockefeller and Mayor John V. Lindsay will issue special proclamations of Captive Nations Week, calling for nationwide support of this important event.

CAPTIVE NATIONS WEEK IN NEW YORK CITY

In New York City a series of events is being planned by a Coordinating Captive Nations Committee under the chairmanship of the Hon. Matthew J. Troy, Sr., chairman of the N.Y. Chapter of the NCNC, in cooperation with the American Friends of the Anti-Bolshevik Block of Nations (AF–ABN), Americans to Free the Captive Nations, and the Conference of Americans of Central and Eastern European Descent (CACEED).

The following observances will be held:

Thursday, July 9, 1970, at 11:00 A.M. at City Hall (Blue Room): Presentation of Captive Nations Week Resolution by Mayor John V. Lindsay to representatives of the captive nations organizations;

Saturday, July 11, 1970 at 10:30: Special Services at Temple Emanu-El;

Sunday, July 12, 1970, at 10:00 A.M.: At St. Patrick's Cathedral—Solemn Mass presided over by His Eminence Terence Cardinal Cooke. The celebrant will be the Most Rev. Joseph M. Schmondiuk, Bishop of the Ukrainian Catholic Diocese of Stamford. A special sermon will be delivered by Rev. Raymond J. de Jaegher. The Mass will be accomplished by the St. John the Baptist Ukrainian Catholic Choir of Newark, N.J., under the direction of Prof. M. Dobosh.

At 1:00 A.M. there will be Special Services at the Cathedral of St. John the Divine, where a sermon will be delivered by Canon Edward West.

Sunday, July 12, 1970, at 11:30 A.M. a Protest March on Fifth Avenue to 72nd Street, and at 12:00 o'clock a Captive Nations Week Program at the Bandshell in Central Park under the chairmanship of Michael Piznak, New York attorney;

Sunday, July 19, 1970, at 1:00 P.M.: Assembly at the Statue of Liberty, and at 1:30 P.M. a Captive Nations Week Manifestation with a program, including addresses by representatives of various groups, dedicated to the freedom and independence of all the captive nations.

Both programs, at the Central Park Bandshell and at the Statue of Liberty, are being coordinated by Dr. Roman Huhlewych, chairman of the United Committee of Ukrainian Organizations of Greater New York, a branch of the Ukrainian Congress Committee of America.

Enslaved Peoples Under Communism

(By Dr. Lev E. Dobriansky)

(NOTE.—This is an address delivered by Dr. Lev E. Dobriansky, Professor of Georgetown University, Chairman of the National Captive Nations Committee, USA and President of the Ukrainian Congress Committee of America, before the World Anti-Communist League Conference, Bangkok, Thailand on December 4, 1969.)

Mr. Chairman, Distinguished Delegates, Observers and Guests, I am deeply honored by the privilege you've extended me in affording this opportunity to speak about the enslaved peoples under communism. In the greatest measure the enslaved peoples are captive nations, and in theory and action communism is but a mythology shielding the worst form of totalitarianism and imperiocolonialism in the history of mankind. The more we concentrate on the approximately one billion souls in the captive nations, the more we can appreciate the pressing need of unity and solidarity, freedom, not only among the still free nations of the so-called noncommunist world but also, and equally important, with the one-third of humanity in the captive nations.

Make no mistake about it, this World Anti-Communist League, with fertile and vigorous Asian origin, has developed into an essential instrument focused upon the huge family of captive nations as the natural and formidable ally for world freedom and peaceful global community of independent and sovereign nations. To be sure, much remains to be done, but those whose freedom is in immediate danger and under the shadow of constant totalitarian threat are in the best experiential position to positively advance the supreme cause of world freedom in order to preserve their freedom and indirectly that of the numerous other members of the Free World geographically removed from the battlelines of freedom and thus myoptically indulgent in their domestic complacencies. Leadership in truth and moral fortitude is an enduring power in itself, capable of attracting and magnetizing every other form of power in the Free World.

There is an old Spanish proverb that warns: "A handful of common sense is worth a bushel of learning." When, in this post-World War II period, Red totalitatian aggression has been so blunt and obvious as in the cases of China, Korea and Vietnam, one cannot but begin to wonder about the common sense of otherwise many learned citizens of the Free World. We are almost forced to acknowledge that there is nothing worse than a learned and educated fool; and we have our dose of this species in the United States as no doubt you have in your respective countries. We can perhaps forgive them for being unable to perceive the subtle and indirect aggressions undertaken by both Peking and Moscow in Asia, the Middle East, Africa and Latin America, not to mention the United States itself, but it is plainly unforgiveable in these clearly crass and overt cases.

Yet, with a modicum of common sense and not too much required learning, the average citizen of the Free World can think all this through in terms of the steady aggregation of captive nations since the early 20's; and fifty years of proliferated Red totalitarian and imperial rule are but a minute in historical time. Without oversimplification but with the guiding thread of essentiality, all he need do on a global map is to first encircle in red the Russian area encompassing Moscow and Leningrad, and then in concentric from the non-Russian area from Byelorussia and Ukraine to Azerbaijan to the old Far Eastern Republic, then the Baltic States, then Central-South Europe over to north Korea, mainland China and North Vietnam, finishing for the moment with a red spot covering the island of Cuba. This is the expansive Red Empire, which began in Moscow and in terms of ultimate, determining power today rests on Moscow for its survival.

As President Nixon recently stated, the non-negotiable issue in South Vietnam is the right of national self-determination and independence of the free Vietnamese. What he unfortunately did not say, and which explains much more, is that the United States cannot honorably afford again the addition of another free nation to the long list of captive nations. Too many patriotic and knowledgeable Americans still recall the sell-out at Yalta and elsewhere of several East European nations by the Harrimans and other diplomatic undertakers. And you can rest assured that if the present Moscow-Havana-Peking-Hanoi propaganda assault upon the U.S. leads to any serious internal disturbances, the reaction following World War II will look like a stroll in the park. The domino theory, which has been accurately but narrowly applied to this quarter of the world, will reach its full bloom of historical application to all the captive nations since 1917.

That this occasion will necessarily arise, sooner or later, I have absolutely no doubt. The sprawling pattern of Red psycho-political warfare, as seen here in Asia, in the Middle East, in Latin America and in the United States makes it as certain as the sun rising and setting tomorrow. In preparation for this occasion as well as in coping with our immediate problems, it behooves us to workably grasp the organic concept of the captive nations, understand the dominant trends in the Red Empire, appreciate "the bind" in which the Free World finds itself, and develop a solution to this bind, short of a general shooting war or object surrender.

THE CONCEPT

Remember always, where necessity pinches, boldness is prudence. But to exercise prudent boldness demands also a guiding concept. Despite the worldwide publicity that was given to the U.S. Captive Nations Week Resolution ten years ago and the annual reports on it since, it is amazing how relatively few in the Free World comprehend the concept. On Moscow, Peking and the Red satraps perceived its significance quickly and vehemently. The continuing responses to my current work, *The Vulnerable Russians,* show a grave deficiency on this score in the Free World. To offset this somewhat, two months ago I managed to have another resolution sponsored and passed in the U.S. Congress, providing for the publication of a House of Representatives' Document on the Captive

Nations Movement. This forthcoming publication, made possible through the efforts of Representatives Daniel E. Flood and Edward J. Derwinski, should aid immeasurably in the advancement of the basic captive nations concept.

The U.S. Congressional Captive Nations Week Resolution defines the broad concept of the captive nations clearly and succinctly. The captive nations are those that in the past fifty years have been overtaken and subjugated by Soviet Russian imperio-colonialism and its several totalitarian off springs. Quite plainly, how all of the Red presently came to be what it is, regardless of rifts and squabbles, is the answer as to who are the captive nations. To enumerate them accurately and historically, one must begin in 1917, not in the 1940's or later. The first international wars and aggression waged by Soviet Russian imperio-colonialism under the deceptive guise of communism were against newly independent states and nations like Byelorussia, Ukraine, Georgia, Armenia, Azerbaijan and several others that are now imprisoned in the Soviet Union. The second wave of this imperialist aggression reduced Latvia, Estonia and Lithuania to captivity in the early 40's and the third wave in the later 40's enslaved a whole new group into the growing family of captive nations, such as Poland, Hungary, Czecho-Slovakia, Albania and so forth. Inspired, assisted and trained offsprings of this Red tradition of conquest and domination of peoples dropped the totalitarian curtain about the peoples of Yugoslavia, mainland China, north Korea, North Vietnam and Cuba in this and the decade after.

If the domino process has ever been at work, it certainly and unquestionably has been in the methodical Red conquest and aggregation of captive nations. If one fails to understand this process, executed largely and basically through the whole panoply of psycho-political warfare techniques, he then does not know the history of Eurasia these past fifty years. Any appreciation of the fundamental distinction between the captive nations—the exploited peoples themselves—and the Red totalitarian states is completely lost on him. It is this working distinction, implicit in the very concept of the captive nations, that has cast profound fear in the professional propagandists of the Red states. More, an inability to see this organic process of politico-military conquest from 1917 to the present beclouds also the important truth as to the chief enemy of the Free World.

Yes, I'm well aware that many of my dear Asian friends honestly disagree with the logical and factual determination of the Soviet Union—more precisely Soviet Russian imperio-colonialism—as his chief enemy. In one sense they are not wrong when their immediate danger of a proximitous and aggressive Red China is properly and justly weighed. No matter where, sheer survival for freedom is an incomparable, conditioning force. But there is a more general truth affixed to the global framework which we must fact with equal awareness and perspective. And that is the primacy of the Soviet Russian enemy. In the broader global framework and on the basis of historical evolution itself, let us not forget the fundamental Soviet Russian contributions that have been made to the training, economic and military equipment, and the apparatus of the so-called communists on mainland China, to the formation and equipment of the north Korean army and the tragic Korean War that ensued, and to the totalitarian and mini-imperialist Hanoi regime, an aid which has protracted the Vietnam war more than any other Red totalitarian factor.

Concerning the war in Vietnam, which really involves three fundamental factors—they are, the seventeen million captives in North Vietnam, the aggression by totalitarian Hanoi backed essentially by Russian Moscow, and the valiant endeavor of the patriotic and nationalist South Vietnamese not to be forced behind the Red totalitarian curtain—this simple conflict could have been over three or four years ago if it hadn't been for the circumstantial combination of sophisticated Soviet Russian aid and America's complete misconduct of the war. This war has produced more pseudo-rationalist nonsense than any war in this century.

In making this charge, believe me, I am not siding with the human boils and carbuncles of American society, for even the healthiest of organisms are capable of such poisonous excesses. The virtual and overt traitors of freedom in the U.S. meaning specifically the professional pacifists, the melodramatic and poor imitations of mid-19th century Bakuninists and Elanquists, who ignorantly spout Marxism, the ridiculously bearded Trotskyists, the basically ignorant and scant minority of students, and many naive clerics and so-called liberals, always pawns for the professional Red revolutionary who manipulated this species in the 30's and is repeating it now, are of course political warfare fodder for Hanoi, Peking, Havana and Moscow. Like the Russians, they protested "peace" or mir too much, and we cannot but wonder what peace they seek.

Nevertheless, we in America have so far failed in coping with what some call revolutionary warfare and what is really Russian-developed psycho-political warfare as applied in Vietnam. The so-called Vietnamization of the war in Vietnam could have been accomplished years ago, in fact during the Eisenhower period. What was required was a psycho-political warfare concept extending, into North Vietnam and buttressed by American armed logistics. Regrettably we still don't understand this type of warfare, which today extends even to the terrain of the United States itself. If any one is to be charged with a specific irresponsibility in the United States for this institutional incapacity, it is Senator Fulbright of the Foreign Relations Committee. He and the ever-blundering Harrimans have for years opposed and sat on the Freedom Academy measures in the U.S. Congress which are purposed to equip Americans and their allies in the ways and means of this type of warfare. This is by no means an unfounded charge: it can be easily documented and justified. Its tragedy is that it involves other peoples, including the captive people of North Vietnam and all others in the extensive Red Empire.

NATIONALISM IN THE CAPTIVE WORLD

By the very nature of realities prevailing in the captive world, conditions of psycho-political warfare are always extensive and omnipresent. It has been truly said. "In a free country there is much clamor with little suffering: in a despotic state there is little complaint, but much grievance. "In the Soviet Union, which Alexander Solzhenitsyn has accurately described as a "sick society" the dozen and more captive nations are being subjected to a new wave of political repression, cultural genocide, religious oppression, imperio-colonialist economic exploitation, revived MVD operations, and concentration camp consignments. All this and more in the sweep of Russian consolidating moves for Moscow's expanding Cold War operations in Asia, the Middle East, and the Western Hemisphere.

In mainland China, North Korea and North Vietnam the captive peoples are under the worst conditions of totalitarian tyranny, economic privation and dehumanization left in the train of a grotesque "cultural revolution" guerrilla war activities on the Korean peninsula, and a war of aggression by Hanoi. In captive Cuba similar forms of Red exploitation of the people prevail as that unhappy island is being rapidly transformed into a Russian base for continental political warfare. And in Central Europe the Russian rape of Czecho-Slovakia last year confirmed again the oppressions and imperio-colonialism imposed on the captive peoples in that area.

Among the numerous forces at work for freedom in the captive world, the most dominant is the indomitable force of nationalism. This natural force means national self-determination and independence, economic freedom and opportunity, cultural progress and a respectful place in a peaceful community of independent nations. Expressed in many ways, this persistent force is rampant in the Soviet Union; it is manifested daily in Central Europe; it permeates all of Asia; it is the basis for Cuban resistance and hope. As the record will shows, nationalism is the greatest insurmountable obstacle to Red totalitarianism and Soviet Russian imperio-colonialism.

THE BIND

Whether viewed from the East or the West, efforts to wean less powerful Red states from the direct or indirect control and influence of the powerful Soviet Russian center will come to naught so long as this center is afforded psycho-political sanctuary within the substate empire of the Soviet Union. This truth is the clear lesson of the Czecho-Slovakian tragedy. The free governments in the West clearly found themselves in a bind. And they will continue to be in this bind unless a radical shift is made in policy toward the captive nations within the USSR.

The Brezhnev doctrine further substantiates this truth. In essence, a contemporary version of traditional Russian imperialism, this doctrine can be applied by Moscow to any Red state in the West or in the East: even to ostensibly socialist states in the Free World, all for the goal of insuring the security of the mythical commonwealth of socialist states. This doctrine is in itself a confession of intent and also weakness. This fundamental weakness is represented by the existence and struggles of the captive nations.

PROBLEMS AND THE SOLUTION

An old French adage teaches us, "the weakness of the enemy forms a part of our own strength." The captive nations in the aggregate constitute the foremost weakness of the totalitarian Red Empire. As such, they are one of the most essential parts of our Free World Strength. The more we concentrate on the captive nations, the more we intensify the weakness, the insecurity and the doom of all Red governments. But to advance along this sure road toward world freedom and the avoidance of a general hot war, citizens of the Free World must scotch certain misconceptions and wishful thoughts.

The first misconception is about the captive nations themselves. The captive nations concept must be clearly understood. The family of captive nations extends from Central Europe into the Soviet Union out to Asia and over to Cuba. Second, it is a species of wishful thinking to believe that any genuine détente is possible with the vast Red Empire. The dynamics of history, greased with the victories of Red totalitarianism and the worldwide network of Red psycho-political warfare, simply do not favor this. Wishful, too, is the misleading notion of spheres of influence, a sideline of the containment policy. It not only compromises principle with its accommodationism but also is unrealistic and self-defeating. Our enemies don't pour billions of investment into Cold War operations for physical exercise and self-enjoyment.

Contrary to absurdities witnessed in some places of the Free World, including the United States, the youth, the workers and the intellectuals in the captive world know what it means to be deprived of freedom. With their grasp of the real and true values of human existence, these captives of Red totalitarianism are today freedom's most trusted allies; tomorrow they shall be its sternest guardians.

The eventual solution of the titanic struggle in this century rests not with military arms, but rather with the effective linkage of the forces of freedom in the non-Red world with those of all the captive nations, particularly those in the huge concentration camp called the Soviet Union. The forging of this link with the genuine NLF's and their tremendous legions behind all three Red curtains can only be effected through the means of psycho-political penetrations that are indispensable to the deterrence of a hot general War. The captive nations are our formidable allies, and had we sensibly tapped this resource in North Vietnam, the war there would have been over long ago.

Fortitude is the mean between fear and rashness. To fight adequately for freedom means to constantly display fortitude in will, determination and honor. The captive nations ceaselessly show this fortitude. Free men can't afford to do less.

[From the New World, July 10, 1970]

Captive Nations Show Threat of Communism

Captive Nations Week this year will be observed from July 13 to 18. In Chicago, a parade on State Street July 18 at noon will remind us of the many nations which have fallen under Communist control since 1918.

The list is a long one of proud and brave peoples, now subject to the rule of other countries.

Public Law 86-90, passed July 19, 1959, said:

"The imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, East Germany, Latvia, Lithuania, Poland, Ukraine, etc. These policies make a mockery of the idea of peaceful coexistence between the nations and a dire threat to the security of the United States and all free peoples in the world."

It added: "It is fitting that we clearly manifest to the subjugated peoples through an official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence."

A Captive Nations Week is most necessary to remind us of those repressed and persecuted. A visitor to the Lithuanian exhibit a few weeks ago could not but be impressed—and shocked—by the brutal repression of the peoples in that country. And the same story, varying only in minor details, could be told in all the other Captive Nations.

We must remember; we must pray for them; we must help them all we possibly can. Their fate, for the time being at least, is to serve as a warning to all of us of the dangers that prevail as long as these nations are in servitude, held in the bonds of tyranny.

They are our brothers in humanity; they are our brothers in Christianity; and we cannot rest—nor be completely free ourselves—until they too are free.

Mr. MORSE. Mr. Speaker, it is with great honor that I join my colleagues today to participate in this year's official observance of Captive Nations Week, for 1970 is particularly significant in the quest for freedom and justice for all peoples of the world. Twenty-five years ago we successfully concluded the Second World War—a long struggle for the preservation of liberty and the principle of national self-determination. Twenty-five years ago, 47 nations came together to sign the Charter of the United Nations—an organization whose founding reflects the hopes for peace, liberty, and justice for all mankind.

In the quarter of a century that has passed we have witnessed increasing progress toward these goals. Certainly we have continued to support the ideals and hopes which are shared by all freedom-loving peoples. There still exists, however, great numbers of people who are not free, who do not enjoy the freedom and liberty which is their right. It is particularly fitting, therefore, that in this year when we commemorate so much, we also recognize the plight of those still living under oppressive rule, denied, by the use of force, universal human rights, and national self-determination. Let us hope that in the years to come we will be able to stand here in celebration of the universal application of the ideals of liberty, freedom, and justice.

Mr. MOORHEAD. Mr. Speaker, this week has been designated by the Congress as Captive Nations Week. It is with much sadness that we recall the loss of freedom which Latvians, Lithuanians, and Estonians suffered 30 years ago.

Words of ire now are futile. Words of sympathy are probably of minor solace to men and women who live daily without the personal liberties many Americans have come to take for granted.

In the final analysis, words of confidence are perhaps most appropriate. The desire for liberty can never be stamped out, even if its expression is temporarily stifled.

On this occasion, then, it is fitting that we look with hope to a future when the Baltic peoples and all men will be rid of the chains which may bind them today but cannot ever succeed in shackling their spirits.

Mr. VANIK. Mr. Speaker, each year, for the past 11 years, we have set aside a week in remembrance of the hundreds of millions of people in the world who live under totalitarian governments—governments which hold their peoples captive and deny the basic freedoms and liberties which are the natural and inalienable rights of all men everywhere.

This year the observance is scheduled for July 12–18. It is ironic, in a sense, that this commemoration takes place in the month of July—the month which has seen two of the greatest bursts of freedom and creative energy in human history. Perhaps the reminder of these great events—Fourth of July and Bastille Day—can serve as an inspiration to those who live today under tyranny. These great events, bringing freedom from despotism to the peoples of America and France, can serve as a beacon to these down-trodden peoples.

These great revolutions for freedm give a proof to an eloquent statement by the late Senator Robert Kennedy:

> The ideal of freedom has traveled a long and hard road through human history. Yet the record shows that the ideal persists and has an explosive power greater than that locked up within the atom. It shows that this ideal is the strongest motive of human action—that it fortifies the human will in the face of adversity and force and terror.

Further, Mr. Speaker, I would like to say that we cannot just pledge our support for the peoples of captive nations 1 week out of 52 weeks a year. As Jefferson said:

> Eternal vigilence is the price of liberty.

Let us remember today that we must always remember that there are men on this earth who are not free; we must remember that our task in life is not done while one fellow man is left a slave.

Mr. BUCHANAN. Mr. Speaker, while those of us here in America enjoy the benefits of individual freedom and self-determination, tyranny, oppression, and subjugation are the way of life for many of the world's people. Captive Nations Week is presently being observed for the 11th consecutive year and serves as a powerful reminder to the American people not to forget the enslaved nations or to approve their permanent captivity under Communist enslavement.

The evening daily in my district, the Birmingham News, has spoken eloquently in this regard in its lead editorial of Sunday, July 12; and I commend it to my colleagues and to every freedom-loving individual. It is as follows:

The Captives

In 1959 Congress passed and President Eisenhower signed a law establishing the third week in July each year as Captive Nations Week, intended to call attention to the plight of the people of Eastern Europe whose countries were gobbled up by the Soviet Union during and just after World War II.

The Cold War was many degrees colder then, and the brutal suppression of the 1956 Hungarian revolt against Communist rule was still fairly fresh in people's minds.

As years have passed, Captive Nations Week has lost some of its impact. But the nations involved are no less "captive."

We're certain it wasn't intended that way, but the ruthless, systematic downgrading and humiliation of Alexander Dubcek by the Soviet puppet government in Czechoslovakia is the most timely and pertinent possible reminder of that.

As prime minister, Dubcek led a reformist Czech regime which briefly—how tragically briefly gave his countrymen a glimmer of hope for a greater measure of freedom.

Dubcek and his colleagues were not advocating abandonment of communism; only its liberalization.

But totalitarian communism cannot tolerate even the slightest crack in the wall of its authority. The erosive force of freedom would soon turn the leak into a torrent, and the power of the few over the many would be washed away.

And so the Soviet Union sent tanks into Prague to "save" the Czechs from themselves.

Dubcek was too popular with the people for the Russians to risk clapping him in prison or standing him against a wall at that time. But we are certain he never had any more doubt than anyone else that his time would come, as soon as the "trustworthy" leaders appointed by the Kremlin to succeed him reestablished undisputed control.

And so it has happened.

First Dubcek was ousted as premier. Later he was named ambassador to Turkey. He was recalled—the mouthpiece propaganda press said he hadn't fulfilled his responsibilities properly. Last month he was expelled from the Czechoslovak Communist Party. Last week he was stripped of membership in the Czech parliament, his last remaining public function.

Inexorably the wheel has turned—on Dubcek and on the Czech people. The former premier is supposed to be an object lesson to any who might be tempted by such subversive ideas as freedom and individual worth and dignity.

Dubcek's ordeal may not be over yet. The

Communist rulers may not have exacted the last measure of revenge.

Let it be said for Alexander Dubcek that he is not making it easy for them. He has refused to recant. He won't apologize for his role in Czech history.

Dubcek's story is the story of the captive nations.

It may be, as some say, that things are not as bad as they were at the height of the Cold War, as oppressive as they were during the days of Stalin.

But is Alexander Dubcek a free man, at liberty to think his own thoughts and determine his own actions?

Is Czechoslovakia a free nation?

The "no" was spelled out in the streets of Prague in the imprint of tank treads.

Today begins Captive Nations Week, 1970. It is 25 years since the end of World War II.

It is a fitting time for us all to give the occasion more than the passing thought we generally give it.

It is a fitting time, too, in this country where the freest imaginable debate washes the land and where dissent and dissenters come in every hue and stripe, for those who cry "repression" to think again about what repression really is.

Only an America based on liberty and freedom, as the champion of the free world, will serve as the obstruction to the spread of despotism and intolerance of the Communist world. Let all captive people take heart in viewing our democratic way of life. Let America rediscover the preciousness of freedom by observing the hunger for it in the hearts and minds of captive people who treasure so deeply what we sometimes take so lightly.

Mr. WYDLER. Mr. Speaker, there are eight captive nations in Europe, plus some 18,000,000 captive Germans in East Germany. Together their total population numbers about 100,000,000. These nations occupy the eastern borderlands of Europe, extending from the Baltics in the north to the Balkans in the south. In the past these peoples enjoyed varying degrees of freedom; they all fought hard to win or maintain independence. Some of them were unsuccessful in their fight, but they kept it up, until the end of the First World War, and then they regained their freedom.

Thenceforth for about two decades they maintained a precarious independence, until the outbreak of World War II. During the war they lost much of their worldly possessions, but they lived on the hope that in the end their cause would win out and they would be free. Unhappily, no sooner was the end of the war in sight, than "Lady Luck" seem to have deserted these peoples. The Soviet Union and its Communist leaders were determined to capture them and make them Soviet satellites. Unfortunately the Communists were allowed to carry out their evil designs against these nations. Before the statesmen of the West were aware of the full import of what was happening, very early in the postwar years, most of these nations were completely sealed off from the free world by the Iron Curtain imposed between East and West by the Soviet Union.

Since the end of the war Western statesmen, under the leadership of the United States, have done everything within their limited power to better the lot of these nations, hoping to bring about their eventual liberation. However, all efforts made to this end have failed to produce significant results. On the occasion of Captive Nations Week we all hope and pray that some way may yet be found whereby these peoples can regain their independence and live in peace with freedom.

Mr. NEDZI. Mr. Speaker, this 11th annual observance of Captive Nations Week provides us with the opportunity to remind ourselves and the people of America that we have a continuing obligation not to forget those lands and people who are not free.

By this action we emphasize the right of self-determination for all peoples and we speak for the concept of individual expression and fulfillment.

In my judgment, thoughtful legislators should turn from time to time to former President Harry Truman's message to a joint session of Congress on March 12, 1947. His words signaled the beginning of the Truman doctrine:

> At the present moment in world history, nearly every nation must choose between alternate ways of life. . . .
>
> One way of life is based upon the will of the majority, and is distinguished by free institutions, representative government, free elections, guarantees of individual liberty, freedom of speech and religion, and freedom from political oppression.
>
> The second way of life is based upon the will of a minority, forcibly imposed upon the majority, it relies upon terror and oppression, a controlled press and radio, fixed elections, and a suppression of personal freedoms.

When we speak of the free world, we realize that it includes nations which are not really free. Certainly the dictatorships of Greece, Portugal, and Spain should be a stain on the conscience of the West.

On the whole, nevertheless, the leading nations of the free world are parliamentary democracies, with respect for individual liberties and with constitutional restraints.

During the past decade and a half, more than 60 new nations have been born, nations which previously have not existed except in some subordinate form as colonies, as tribes, as protectorates. Certainly, the captive nations of Eastern and Central Europe are just as entitled, if not more so, to genuine sovereignty, yet over 100 million Europeans live under an alien rule imposed from the Soviet Union. It is a rule which they would not have chosen through a free vote.

Their present condition should not be regarded and cannot be accepted as permanent and unalterable. In the long run the great moving force in the world must be humanity's craving for freedom, for opportunity, and for a just share of the blessings of life.

Police states are incompatible with this spirit and in the long run will not endure.

With this observance, Congress restates its own belief in the superiority of national independence and the personal freedoms which were at the heart of our own American Revolution.

Mr. NELSEN. Mr. Speaker, the people of the world look to the United States for direction and leadership in the struggle against world communism. Now, during Captive Nations Week, it is particularly appropriate for Americans to reaffirm the postive blessing of liberty and to reexamine the sad plight of those who must live where this blessing is absent.

Behind the Iron Curtain people live, but not in freedom. Their basic needs are cared for, but they have no rights as individuals. Their freedom to choose their own government, to say what they want and to print what they choose is nonexistent. The rights of the people have been abrogated by the Communist leadership of their respective countries.

But their struggle for freedom has never stopped. Over a long period, various captive peoples have attempted to gain freedom from their Communist overlords. During particularly stressful times, their pent-up anger at tyrannical Communist rule has erupted in rebellion, sometimes openly, sometimes through silent resistance. Some would suggest that their efforts have led only to greater suppression—as with the Czechs and Hungarians. But this is a superficial view, for inside each individual who took part, there remains a burning desire for freedom. It is profound truth that the love of freedom and democracy can never be wholly suppressed.

Aside from our shared ideals, the people of the United States as well as all who live in the Free World have special reason to encourage the continued aspirations of captive peoples for freedom and national self-determination.

The Communist bloc is continually attempting to expand into regions where it has never been before. Wherever there are those who are dissatisfied with their present situation, the Communists attempt to gain a foothold. Through subversion, coercion and sabotage, the Communists infiltrate, fomenting hatred for free institutions and nations. The peoples of Eastern and Central Europe, those on the Asian mainland as well as those in Cuba have discovered with horror the pitiless meaning of a Communist takeover. They have been enslaved. So a strong deterrent to the Communist threat is necessary and vital. The United States is proud to be part of this deterrence. The people of the captive nations must know that the rest of the world has not forgotten them or abandoned them.

Mr. GIAIMO. Mr. Speaker, Captive Nations Week is a time of sober reflection, a time when freedom and liberty take on added meaning, a time when the imperfections of this Nation pale in comparison to the indignities suffered by millions in other lands.

The plight of our fellow men in captive nations is forgotten all too often in these chaotic times. How loudly we complain about our own problems; how seldom we compare what we have with what others would give anything to have.

As we tell these millions that they have not been forgotten, at the same time we should urge—

Those in this country who take independence for granted to think of others who have never known it;

Those who use the concept of freedom for narrow political purposes to realize that freedom is the humanitarian goal of every man and woman on this planet;

Those who criticize peaceful dissent to realize that it is one of our most sacred rights as free men;

Those who abuse the right of dissent to ponder the fate of peaceful dissenters in Communist countries;

Those who attack the mass media to compare our concept of a free press with the use of the press in Communist nations as a propaganda tool of the state;

Those who condemn the size and power of our Government to remember that in America the state serves the people while in Communist nations the people serve the state;

Those who call our society "racist" to consider the treatment of Jews and other minority groups in the Soviet Union;

Those who criticize our electoral process to remember that no Communist regime has ever come to power in a free and open election; and

Those who would scrap our Bill of Rights to remind themselves that this document is a beacon of hope to millions of captive people.

Yes, Mr. Speaker, Captive Nations Week is a time for reaffirmation by all Americans of the principles upon which this Nation was founded. The light of freedom is watched by millions of people in captive nations, Mr. Speaker. Let us not, through anarchy or repression, extinguish that flame.

Mr. BIAGGI. Mr. Speaker, this Nation has enjoyed freedom from foreign domination for nearly 200 years. During that course of time, each succeeding generation tends to forget a little bit more what it would mean if this country were dominated by a government or power over which the people had no control.

During Captive Nations Week it would do well for each of us to reflect on the terrible plight of the many millions of people caught in the iron vise of communism. Those people in Eastern Europe, the U.S.S.R., parts of Asia, and Cuba, are unable to go out out in the streets and demonstrate for a cause unpopular with their government. Yet how often do those who condemn our Government from the streets realize the precious freedom they hold?

Those people imprisoned in the captive nations cannot just step across the border or flee to another country when an unpopular service is demanded of them. Yet how often do those who cross easily into Canada or run to Sweden think about the freedom their country has given them in permitting such an evasion?

Those people in the Ukraine, in Lithuania, in Czechoslovakia, in North Vietnam, in North Korea, in Red China, in all the other nations of the world covered by the black cloak of Communist domination, know the freedoms we here in America enjoy. They know what it means to be able to choose freely those who govern. They know, because when freedom is gone, its memory burns ever in the minds of the oppressed.

Mr. Speaker, can we wonder how many times those people in the captive nations must think of the freedoms we enjoy here in this country?

This annual reminder that some nations still are denied the freedoms we enjoy should help us fortify ourselves to continue the fight against oppression and domination everywhere. In the New Testament, the Lord rewarded only those whose light shone forth, and punished those who slept in the darkness. Should the United States of America fail to keep the lamp of freedom lit, the world will be cured with the darkness of Communist domination. Let us never forget that.

Mr. McCLORY. Mr. Speaker, it is entirely appropriate that we should set aside this time in the U.S. House of Representatives to commemorate Captive Nations Week. It is a privilege to participate with my colleagues from Illinois (Mr. DERWINSKI) and from Pennsylvania (Mr. FLOOD) in observing the 11th anniversary of Captive Nations Week. Normally an anniversary is a time of joy and happiness, but such is not the case this week. Indeed, we cannot help but feel deeply troubled as we take special note of the more than two dozen nations which have been overwhelmed by the repressive forces of communism during the last 50 years. It is sad, but true, that massive areas of the globe are today denied the joys of freedom and liberty by a political and ideological system which they did not want and adamantly refuse to accept.

It has been truly said, Mr. Speaker, that in a free country there is much clamor with little suffering, while in a despotic state, there is little complaining, but much grievance. Certainly our situation today provides a perfect illustration of this poignant irony. In the free countries of the world there is constant discussion and frequent dissent, a right which most of us have come to take for granted. Sadly, though the captive peoples of the world long for this same privilege and would value it as the greatest of treasures, they are refused even the tiniest shred of freedom by their Communist masters. These forces, with a ruthlessness and cruelty which is all but beyond comprehension, have thus far made the citizens of 27 nations virtual prisoners in their own lands.

No compassionate human being can help but feel both outrage and shame at this shocking exhibition of inhumanity.

These lands of great pride and proud heritage have had imposed on them regimes so grotesque and vicious as to deny them their history and efface their culture. Religious traditions which span the course of centuries have been forcibly abolished, and those who dare challenge the edicts of the Kremlin bosses become the object of unceasing persecution. Individual liberty is stifled, for the Communists know they could not survive the unfettered political activity of free men.

Despite the overwhelming power of the Communist juggernaut, people of the captive nations of the world have never ceased in their struggle to regain their freedom. This resistance to tyranny, widespread but most spectacular in such states as Poland and Hungary, has been as heroic as its brutal and bloody suppression has been odious. Less than 2 years ago the free world watched with hope and anxiety as the Government of Czechoslovakia attempted to pursue an enlightened policy of greater freedom and respect for its citizens. Regretfully, we were soon gasping in horror at the sight of Russian troops invading this proud country and crushing its quest for liberty for the second time in the past 20 years. Here the true colors of the present Soviet leaders were revealed for all to see. Like their predecessors, they too have shown that they will not tolerate any form of individual freedom, and if a captive nation seeks to deviate from this edict, no force will be spared in bringing it quickly back into line. Let us not be deluded into thinking that 27 nations are enough to satiate the greed and fulfill the desire of the Communists. No limited sphere of influence will satisfy them. World domination continues to be their goal. It is not consolidation they seek, but expansion—into Southeast Asia, the Middle East, South America, and the rest of the free world.

Mr. Speaker, I know of no more appropriate time for renewing our total commitment to the principle that the people of every nation, big or small, rich or poor, weak or powerful, are entitled to establish a government of their own choosing. Let us remind the Kremlin leaders that we are fully aware of their intentions and equally determined that they will not succeed. To the people of the captive nations, we express both our sympathy, and our admiration for the tremendous courage they have shown. Their gallant fight for freedom, regardless of the physical might and total ruthlessness of their captors, is a lesson for us all. We confidently look forward to the day when these lands will once again know the joys of independence. Though the Communists have said that they will bury us, every day that they continue the enslavement of millions of people with their oppressive doctrine, they are also digging their own graves.

Mr. CRANE. Mr. Speaker, this is the week that we Americans have designated to give public recognition to the plight of the millions who suffer under the domination of communism in Europe, Asia, and now in other parts of the world. While it is fitting that we should do this, it is a sad commentary on the attitude of our Nation today that we must reserve 1 week out of the year to do so.

Surely the fact that the peoples of Eastern Europe, of mainland China and much of Southeast Asia, parts of the Middle East and Africa, and of Cuba—so near our own borders—labor under the yoke imposed by foreign oppression is not something we can ignore for 51 weeks of the year.

Surely the postwar takeover of Eastern Europe by the Soviets, and the bloody destruction of freedom in those nations, is something we cannot forget for all but 1 week of the year.

Surely our memory of the Soviet "butchers of Budapest" is too strong to disregard for 51 weeks out of 52.

Surely the Russian subjugation of Czechoslovakia only 2 short years ago is not something to be criticized only 1 week of the year.

Surely the fact that the Russians are even now making further inroads into the Middle East—arming Egypt as a preliminary step to making of that nation another satellite—is worthy of our year-round attention.

Surely that island satellite, 90 short miles from the State of Florida, must be considered more regularly than once a year.

Surely it can be seen—and can be seen at any time, not merely during the third week of July—that the Communist powers, Russia and Red China, are even now seeking to expand their empires.

Yet official U.S. policy dictates that one week of the year is set aside for recognition of the fact that 85 percent of the Communist war effort in Southeast Asia is the responsibility of the Soviet Union; that the Soviets have been spending a million dollars a day since 1966 to subsidize terrorist activities in South America; that the Arab war effort in the Middle East is supported and supplemented extensively by the Soviet Union. For the rest of the year these facts are ignored by our policy as by our rhetoric.

Mr. Speaker, this is a tragic state of affairs. Our callous disregard of the expansionist aims of the Communist nations over the past 25 years has been as critical an error as our earlier disregard of Hitler's dreams of a "1,000-year Reich" including all of Europe.

It is sadly without reason that we dedicate a week to "freedom and independence for all nations" when we pursue a foreign policy whose only effect can be to perpetuate the absence of freedom for many nations. It is sadly without reason that so many Americans would call a halt to our efforts on the one front where we have confronted the Communists—in Southeast Asia. And it is sadly without reason that we refuse to assist another Nation that stands alone against the Communists on another front of the global revolution—in the Middle East.

Mr. Speaker, either we as a nation are dedicated to "freedom and independence for all nations" or we are not. We cannot show that dedication 1 week of the year and make it believable.

A century ago Abraham Lincoln said that this Nation could not survive "half slave and half free." Today the world's size has been reduced by rapid transportation and communications: Can we not now make the same statement for the world of the 20th century that Lincoln made for the Nation of the 19th?

If we are to support the oppressed nations in their struggle against the chains of Communist tyranny, we must demonstrate our support the year around. We must commit ourselves and our national policy to the constant defense of freedom wherever it may be under attack, to unremitting opposition to the expansion of Communist domination, and to the eternal vigilance that has preserved, to date, our own freedom against the usurpers of the liberty of other lands. Only if we find the courage to do so will Captive Nations Week be truly meaningful.

Mr. ANDREWS of North Dakota. Mr. Speaker, this week marks the 12th annual observance of Captive Nations Week. It is only fitting that, in the light of our recent celebration of our 194th year of independence and the Honor America Day events that ensued, we should take this time to reflect on the struggles of over one-third of the earth's population who are living in the "captive nations."

In this time of domestic turmoil and trouble it is easy to forget and take for granted the freedoms we enjoy in America. These people do not know the freedom of speech or the right to stand up for their beliefs that we exercise so freely. They yearn for the time when they, too, will be able to live in a country where human dignity is a reality and not a dream far removed. There is no dignity in totalitarianism.

Mr. Speaker, this is not a week of celebration. It is, rather, a week in which we as Americans must remember a grave responsibility. Our national heritage and history make us an example in the free world. We are looked to for leadership and guidance in the principles of democracy. We must let these people know that we have not forgotten them and that we are bound to those who are struggling for their freedom—it was not so long ago that we were fighting for these same basic rights and goals.

This is a time for renewing our commitment to the rights of self-determination, national freedom and individual dignity. These people have sustained their faith in their heritage and hope for the future in the face of tremendous odds; although they have lost their freedom, they have not lost the hope or desire for it. I wish to join my colleagues and all the people of the free world in assuring those in the captive nations that they have not been forgotten. We will continue to dedicate ourselves to working for world freedom and world peace.

Mr. ZABLOCKI. Mr. Speaker, each year as we observe Captive Nations Week, it is appropriate to turn our attention to the plight of the enslaved peoples throughout the world.

This year, the observance takes on a special significance because it is the 25th anniversary of the conclusion of World War II. With the passing of time, no just lasting solution for the people living under Communist domination was accomplished. Nevertheless, the United States and the free world have and are attempting to alleviate their burden either by repelling aggression, aiding economically or "building bridges" with programs encouraging mutual cooperation. It is our sincere hope to therefore hasten the process of loosening the bonds of Communist domination.

The eyes of the enslaved particularly look to the United States as their hope. Our position as champion of democracy reaffirms our responsibility to help these captive people achieve their freedom, self-determination, and inherent human dignity.

As we look back, however, acknowledging our accomplishments and grateful for the gains we have made in these areas, our energy must be directed toward the future—to bring a fulfillment of hope with renewed effort toward independence for the captive peoples. This can only be accomplished with a strong reaffirmation of American support to the universal application of human rights and self-determination. Surely, as long as these natural rights are denied or limited and justice is trampled upon anywhere in the world, our own independence is in jeopardy.

Mr. Speaker, our concern must be for the future. It is this vein of rededication to a just cause that will give meaning to the observance of Captive Nations Week. With this sincere effort pursued by all the freedom-loving people of the world, the establishment of a new era for peace and freedom will be assured.

Mr. MONAGAN. Mr. Speaker, I am proud to join with our colleagues and other lovers of freedom through the world in observing Captive Nations Week, authorized by the U.S. Congress in 1959.

In 1970, Captive Nations Week gains special significance as this is the 25th anniversary of the conclusion of World War II in Europe. Despite the years, no permanent and just solution has yet been found for the problems of East-Central Europe resulting from the war.

The tragic events in Czechoslovakia from the night of August 20, 1968, to the present reveal just how far from a just solution we are. For a long period ending in 200 dramatic days, the liberals had attempted to follow a course of increasing freedom of action for the Czechoslovak people. The Soviet pattern of conformity and strict centralized control in Eastern Europe appeared to have been altered. The Russian response to this introduction of a breath of freedom was troops and tanks. The leaders of this liberation were swiftly removed. Alexander Dubcek's recent expulsion from the Communist Party marks the final tragedy of Soviet oppression.

Captive Nations Week is an appropriate time to remember that tanks cannot crush ideals. During this week, Americans express their common bonds with the people of the captive nations, bonds which have existed throughout the years. It has often been said that the right of self-determination is the foundation on which all other rights rest. If self-determination is denied, no other right is secure. All Americans support the right of the captive nations to decide their own destinies. Today millions of people live in nations under Communist domination where they are denied the basic individual rights of free speech, free press, and free assembly. We who enjoy those rights must reaffirm our determination to pursue freedom and justice for all peoples.

It is particularly important during this week so close to our own celebration of independence that we publicly proclaim our continued support for the just aspirations of these courageous peoples. I have introduced a resolution in the House expressing the sense of Congress that the occupation of Czechoslovakia is illegal and unjustified. Through this resolution, House Concurrent Resolution 457, and other actions, we must firmly express our support for the independence and sovereignty of all nations, large or small, weak or strong.

The plight of the captive nations must be kept in world consciousness. Free people must not surrender their commitment to the freedom-loving people behind the Iron Curtain. The fundamental rights of man, so admirably articulated in the Declaration of Human Rights of the United Nations and in the U.S. Constitution must be restored and protected.

Mr. HICKS. Mr. Speaker, 25 years ago this May the war in Europe came to an end. But the hopes and expectations that rose in the wake of victory have yet to be realized for the over 100 million people living in Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Rumania. For them, the yoke of Nazi oppression simply has been replaced by Soviet domination.

For a quarter of a century the U.S.S.R. has ruled the destinies of these nine nations. At the close of World War II the Russians pledged to restore freedom and independence to East and Central Europe. Instead, they brutally seized control of their governments and installed harsh totalitarian regimes that have long denied the people their basic right to self-determination.

Of course, this enslavement has not gone unchallenged. The true sentiments of the people toward their Communist overlords were vividly brought forth during the 1956 Polish October, the Hungarian Revolution of the same year, and 2 years ago in Czechoslovakia. In each instance only strong Soviet intervention—arbitrary invasion and occupation by Soviet troops in the cases of Hungary and Czechoslovakia—prevented the collapse of the Communist regimes.

To help dramatize the cruel plight of captive people in East and Central Europe, Congress in June of 1959 unanimously adopted a resolution dedicating the third week of each July as Captive Nations Week. Over the past 11 years Presidents Eisenhower, Kennedy, Johnson, and Nixon have called upon all Americans to initiate or join in appropriate observations. This day, we in Congress wish to express our solidarity with the freedom-loving people of these proud and once independent nations, and to let them know that they have not been forgotten.

Mr. FEIGHAN. Mr. Speaker, it was in October 1956 that the gallant people of Hungary spent 5 heroic days driving their tyrannical oppressors from their homeland. During those 5 days, young men, women, aged grandmothers, entire families, fought together to break the bounds of brutality imposed on them by the puppet government installed by the Soviet Union.

Within hours after these courageous people succeeded in throwing off the Red blanket that covered them, the Soviet Union sent her armies to crush those who so dearly fought for liberty and the dream of a coming freedom. In only a short time, all that had been accomplished in those 5 days was utterly annihilated by the invading armies. The dream of freedom was shattered, torn down and wiped away, as was the dreamer.

Mr. Speaker, the tragedy of occupation that was imposed on Hungary is nothing new. Occupation was also imposed on Estonia, Latvia, Lithuania, Albania, Bulgaria, Poland, Rumania, Czechoslovakia, North Korea, East Germany, Mainland China, Tibet, North Vietnam, Armenia, Azerbaijan, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasia, Ukraine, Mongolia, Yugoslavia, and Cuba.

These are the captive nations of the world. These are the nations under the iron-fist rule of communism.

One would think that these enslaved peoples would give up all hopes of freedom after the experiences of the past. Not so, because today we find Kuznetzov, the writer, and the daughter of Stalin, from Mother Russia itself, denouncing the Red tyranny. In fact, there seems to be a greater and greater recurrence of unrest among all the peoples of the captive nations.

Communism seeks to dominate the entire world. Unrest at home inhibits their expansion plans abroad.

Today as we observe the 11th anniversary of Captive Nations Week, created by Public Law 86-90, of which I was a cosponsor, let us keep in mind two points of the first Captive Nations Week resolution passed by both houses of this Congress in 1959, which declared:

> It is vital to the national security of the U.S. that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and . . . the desire for liberty and independence by the overwhelming majority of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace. . . .

Mr. Speaker, I feel, that now is the time for the United States to take the political and ideological offensive in this area concerning these captive nations. We have seen in this decade how we have struggled to end further expansion of the Communist empire. Now we need to expand our efforts to bring freedom to captive nations.

In a period of our history when the reasons for the Russian reinvasion of Czechoslovakia is fresh in the minds of many—a helping U.S. hand can make the difference between success or failure of these nations struggling for freedom.

As we face up to the challenge of freedom in celebrating this Captive Nations Week, I ask you all to remember the words of Rev. Richard Wurmbrand, head of the Hungarian underground church when he declared:

> America is the repository of hope for the millions of people held captive behind the Iron Curtain today.

Mr. Speaker, let us never turn our backs on these faithful people.

Mrs. REID of Illinois. Mr. Speaker, I wish to join with my colleagues in the House in once again observing Captive Nations Week.

Eleven years ago the Congress passed Public Law 86-90, establishing the third week in July each year as Captive Nations Week. The late President Dwight D. Eisenhower was the first Chief Executive to issue a Presidential proclamation to that effect.

Each year Captive Nations Week has provided a fitting opportunity for the American people to show their solidarity with their captive brethren in East and Central Europe. Nationwide observances preceded by Captive Nations Week proclamations by the President and by Governors and mayors of many States and cities, offer Americans a traditional vehicle for manifesting their continued concern with the plight of the 100 million East and Central Europeans under Communist rule.

This year's observance takes on a special significance because it comes a few months after one of the most poignant anniversaries of our time. Twenty-five years ago this May the war in Europe came to an end, but the hopes and expectations that came in the wake of the hard-won victory have yet to be fully realized. For the people in East and Central Europe in those countries Nazi domination was replaced by a harsh and repressive Communist rule.

It has often been said that the right of self-determination is the foundation on which all other rights rest. If self-determination is denied, no other right is secure. Yet there are millons of people today who are forced to live in nations under Communist domination where the basic rights of free speech, free press, and free assembly are held in utter contempt.

I know I speak for many in my own State of Illinois whose ancestral homeland is in one of the captive nations and who continue to pray that liberty will soon be restored to these gallant and long-suffering people. I know, too, that I speak for many Americans of all nationalities who share this same dream.

I am proud to join wth the voices of the free world in rededicating ourselves in the great cause of liberty for all peoples. Our words and deeds must continue so that we can soon realize a day of true world freedom. I have faith that one day the people of the captive nations will once again be masters of their own destiny.

Mr. DINGELL. Mr. Speaker, one of the saddest, most shocking, and tragic legacies of the last war is the fate of captive nations in Europe. This tragedy was brought about by the coldly calculating and treacherous policy of the Soviet Union. As the result of that policy—the policy of Soviet colonialism and exploitation of peoples in other lands—about one-third of Europe's land area and close to one-third of its population have become imprisoned in northern, central, and southeastern Europe, behind the Soviet-imposed Iron Curtain. These peoples constitute today's captive nations of Europe.

There are nine captive nations in Europe. Poland with its 30 million population is the largest and, of course, the most important among them. The sturdy and stouthearted Poles are not reconciled with their present lot, and are unalterably opposed to the Communist regime which rules in Poland. Short of open rebellion against their Moscow-directed oppressors, they have been struggling for their freedom from Communist tyranny.

That is true in the case of other captive nations. They all are struggling to shatter the chains which hold them bound to the Soviet Union, but their efforts have not been successful. The fate of Hungary in the uprising in 1956 is still fresh in their memory, and they do not want to share the sad fate of unhappy Hungarian victims of that uprising. The Baltic peoples and the Czechoslovaks, Bulgarians, and Rumanians know that they are being exploited by the Soviet Union, but they also know that they themselves alone cannot change their political lot. Instead they look forward to the working of peaceful means, to diplomatic negotiations between the West and the Soviet Government, by which they hope for the lessening of tensions, the improvement of international relations, and the eventual betterment of their lot under free and democratic governments. Let us all hope on this observance of Captive Nations Week these efforts through peaceful means will succeed and that these captive nations will soon regain their freedom.

Mr. ANDERSON of California. Mr. Speaker, I join my colleagues in the 12th annual observance of Captive Nations Week held throughout the country, and in 17 other free nations during July 12–18, 1970. This is indeed a fitting opportunity for freedom-loving people and defenders of fundamental human rights to show their solidarity with their captive brethren in East and Central Europe, and to manifest their continued concern with the plight of the 100 million people under Communist rule.

The observance is especially significant in 1970, since this year marks the 25th anniversary of the conclusion of World War II in Europe. The problems which appeared in East-Central Europe as a result of the war are still present and no permanent, just solution has yet been found. By the use of force, millions of people are limited or denied basic human rights and the opportunity for national self-determination.

Public Law 86–90 defined the plight of the captive nations in the following words:

> The imperialistic policies of Communist Russia have led, through direct or indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, and others.

We deplore such repression and are shocked that the God-given right of freedom is withheld from so many people by the will of a few.

We refuse to accept a sense of inevitability that regimes will continue to be imposed upon these unfortunate victims of tyranny.

We must continue to make known our deep concern for our fellow human beings of the captive nations and make this message known to the captive world. This message should not be limited to the observance of Captive Nations Week, but should continue until the yearning for freedom and love of liberty within the hearts of the enslaved peoples ultimately prevails.

One way of doing this is to promote the basic human rights and fundamental freedoms of all people—neighbors, coworkers and countrymen—and not simply to mouth these rights on special occasions.

While also being mindful of the suppression of millions in other countries and proving to them that they have not been forgotten, we must be mindful of our own freedom and independence and realize that it must not be taken for granted.

I call on my colleagues and all Americans to aid in informing the captured people of our support for their desires of national and individual freedom, not only during this week of observance, but in a continuing effort to recognize the gift of freedom which we have and to promote it for all people.

Mr. PATTEN. Mr. Speaker, in these days of internal strife, we tend to become too caught up in our own affairs and therefore lose sight of one of the most serious problems that confronts the free world today—the plight of 100 million subjugated persons in more than two dozen captive nations under Communist domination.

I represent a district whose population is largely based on people who have very close cultural and spiritual ties with those in captive nations today. I, therefore, have had a chance to talk extensively with these people and know how strongly they feel, and how we all should feel about people who have been denied their inalienable right of freedom. This is the freedom to choose and determine their own form of government, their own means of employment, and the freedom to live their life in undisturbed peace.

The principle behind Captive Nations Week is to show the world that we support the aspirations of those people in the Captive Nations, and that we express solidarity with their hopes for a restoration of freedom. The people in these nations look to us for leadership in bringing about peace in the world, and it is therefore up to us not to fail them. We must show captive people that we have not forgotten them, but instead, that we are aware of their tragedy.

Public Law 86–90, signed by President Eisenhower in July 1959, proclaimed that the purpose of Captive Nations Week is to gain "a warm understanding and sympathy for the aspirations of persons everywhere." I hope that this understanding and sympathy do not fade at the end of this week, but rather use this time to rededicate ourselves to the difficult, but not impossible task of helping to restore freedom to those who have lost it to tyranny. Only by doing so, can we reassert our intention to work for the day when all people will be able to enjoy freedom, dignity, and equal justice.

Mr. SMITH of New York. Mr. Speaker, as we enter a new decade and observe the 12th anniversary of Captive Nations Week, we, as Americans, should continue to strive to promote freedom and peace throughout the world. When President Eisenhower proclaimed Captive Nations Week 12 years ago he stated that it would be observed "until all captive nations were free and independent." Yet today the people of Eastern Europe remain under the domination of Communist aggression and are continually struggling for their freedom and independence. It is, therefore, incumbent upon us as a free people to rededicate ourselves to the task of achieving freedom, independence, and peace in this decade for all the peoples of the world.

Mr. BYRNE of Pennsylvania. Mr. Speaker, this week we are observing the 12th annual Captive Nations Week.

The year 1970 marks the 25th anniversary of the conclusion of World War II in Europe and, unfortunately, over a billion people are still living as captives of Communist imperialism. Today, as I have in the past, I am joining my colleagues in Congress in sending a word of encouragement to all citizens of the captive nations who still cherish the dream of national independence and the right of self-determination. We Americans enjoy to the fullest the right of self-determination, and it is our desire that all people shall have the opportunity to enjoy this freedom.

We want to remind the people of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, Rumania, and other captive nations that we have not forgotten them. We know that their life is not easy, and we pray that the future will bring them liberation from their shackles. We salute their courage, their bravery, their endurance, and their high ideals.

The people of the captive nations have our sympathy and firm support in their struggle for freedom and happiness.

Mr. GERALD R. FORD. Mr. Speaker, this year marks the 25th anniversary of the conclusion of World War II in Europe. I wish to join those who today pause in commemoration of Captive Nations Week. This observance was designated 11 years ago by a resolution of Congress and the subsequent signing of the bill into law by President Eisenhower.

Captive Nations Week serves a solemn reminder of the more than 100 million people in over 25 countries behind the Iron Curtain who no longer exercise the right of self-determination in the political affairs of their nations.

Today we should reflect on the true meaning of this loss of political freedom. A loss which has been established and perpetuated by force of Soviet arms. A loss which has carried with it a loss of religious and economic freedom as well. Above all we should reflect on the tragic personal loss for millions of people within the captive countries who were ripped from their homes by Soviet terrorists and murdered or deported to slave labor camps to establish Soviet political domination. Is it possible to describe with words the personal losses and suffering perpetrated on these captive nations?

It is one of the bitterest ironies of history that World War II should be fought over the right of the Polish people to exercise their basic right of self-determination only to find 25 years later that Poland and all of the rest of the eastern European and Baltic countries have become captive nations to Soviet imperialism as a result of that war.

Today we reiterate our opposition to the cruel Soviet stranglehold on East and Central Europe. The brutal force used by Russia to crush the Hungarian revolution in 1956 and the invasion of Czechoslovakia in 1968 demonstrate the fragile support of the Communist order in the captive nations. The observance of Captive Nations Week recognizes that the desire for freedom that burns in the hearts of free men everywhere cannot long be repressed. Someday these captive nations will once again raise their own flags over free countries.

I stand today with those who wish for the freedom of these captive nations and work for the dignity that is the right of free men everywhere.

Mr. FISH. Mr. Speaker, 11 years ago this month the 89th Congress during the administration of the late Dwight D. Eisenhower, designated the third week in July as Captive Nations Week. This year, from July 12 through July 18, the people of the United States and 17 other free nations will again mark that anniversary.

As is pointed out in the Captive Nations Week Manifesto of 1970, this week's observance falls just 2 months after the 25th anniversary of one of the most poignant anniversaries ever marked in our time. For it was 25 years ago in May, as World War II drew to a victorious close, that the 100 million people from East and Central Europe began to be drawn into the Communist domination of Russia. Even as these once free and independent people were celebrating their liberation from the Nazi tyranny, they were being absorbed by the Communists.

Living in freedom we often forget what a priceless possession freedom is, and that even as we enjoy our freedom much of the world still knows only Communist oppression. Yet the revolts of Hungary and Poland in 1956, and more recently the tragic crushing of liberalizing movements in Czechoslovakia remind us how much those people held under Communist domination for nearly a generation desire freedom. They show us the sacrifices those brave people held captive will make to possess something we take for granted.

Therefore, this week-long observance of Captive Nations Week should give us all an opportunity to reaffirm, not only our efforts on behalf of all repressed people, but give us also the chance to ponder the danger and suffering that can occur through freedom's loss. Let us this week rededicate ourselves to the principle that all men should be free, and strengthen our spirits with that love for freedom that has marked us as a nation from our birth.

Mr. DELANEY. Mr. Speaker, in July of 1959 the Congress passed Public Law 86-90 providing for the observation of Captive Nations Week during the third week of July. This week of July 12-18 marks the twelfth observance of Captive Nations Week. During this time the United States and 17 other free nations will again demonstrate their commitment to the more than 100 million people held captive by the Soviet Union. At this time we should recall the words of President Kennedy:

> This country must never recognize the siutation behind the Iron Curtain as a permanent one, but must, by all peaceful means, keep alive the hopes of freedom for the peoples of the Captive Nations.

World War II ended 25 years ago and for countries such as France, Belgium, and West Germany, the end of the war meant an end to tyranny and a return to freedom. But to Albania, Bulgaria, Czechoslovakia, East Germany, Estonia, Hungary, Latvia, Lithuania, Poland, Rumania, and Yugoslavia, the end of the war meant trading the yoke of one tyranny for the yoke of another tyranny even worse.

For the last 25 years the peoples of these captive nations have lived without the basic human freedoms we believe in and cherish. The young men and women who fought in that war and who hoped for a day of freedom have seen their children grow up and have children of their own—without freedom! There are no free elections in these countries. The news is censored, and travel is curtailed. Intellectual, economic, and private life is controlled by the state. And there is police repression to enforce the dictates of the Russian puppet governments.

The suppression in these countries has not gone unchallenged. First Hungary and then Czechoslovakia openly rebelled against the Russians. And in the quieter drama of day to day life individuals continue to oppose repression. These peoples refuse to give up their minds and souls to the Communists. Radios are tuned to the Western World. Writers secretly publish criticisms of the state. The faithful continue to practice their religious beliefs. There are defectors who give up home and family and risk their lives to escape.

The invasion of Czechoslovakia and the "Brezhnev doctrine" make it quite clear that Russia has no intention of relaxing its grip on the captive nations. The Brezhnev doctrine claims that the Soviet Union has a right to interfere in the internal affairs of any Socialist country, and it is obvious that Russian imperialism will be continued.

The United States fought for freedom in World War II, and since the war the United States has urged that the colonies around the world be given their freedom. It is only fitting, therefore, that we support the hope for freedom in the captive nations.

In his Captive Nations Week proclamation statement of 1965, President Johnson said:

> The United States of America has an abiding commitment to the principles of independence, personal liberty, and human dignity.

And each year at this time we pause in our activities to consider the terrible plight of these peoples and to reaffirm that we have not forgotten them nor have we accepted their captivity. It is my deep personal hope that we shall one day see these 100 million people regain their freedom.

Mr. FRIEDEL. Mr. Speaker, among the many miseries and tragedies of the last war there is the sad fate of the captive nations. These are the approximately 100,000,000 helpless peoples in eastern, central, and southern Europe—peoples living in the European borderland extending from the Baltic to the Balkans—who have been separated from their spiritual and cultural kinsmen in the free West for 25 years.

All of these peoples had previously enjoyed a great measure of freedom in their homelands, even during some precarious years of the interwar period. But when the forces of destruction and death were unleashed by the outbreak of the last war, they became its first victims; they lost nearly all their worldly possessions, and many millions lost their lives. Yet they bore such sufferings with much fortitude, hoping that some day, at the end of the war, they would regain their freedom and live once more in peace in their homelands. That hope, and perhaps that alone, kept up their spirits as self-respecting human beings. Then came the end of the war, and with it the reinforcement of their miseries and misfortunes.

It has been clear for some years now that one of our wartime allies, the Government of the Soviet Union, had its own secret and selfish designs on these nations. However, before the statesmen of the West became fully aware of the evil aims the Soviets were up to, most of these lands were being occupied by the Red Army, and Communist totalitarianism was being imposed upon their inhabitants forcibly. These developments took place behind what came to be called the Iron Curtain, while the leaders of the West ruefully admitted their inability to be of much help to these people without bringing about a further disastrous confrontation of major powers. Nevertheless, the sympathies of people in the West remain with the captive peoples, and on the observance of Captive Nations Week we once more voice our protest against the Soviet Government's enslavement of them and the fervent hope that they will soon attain their freedom from Russian tyranny.

Mr. GREEN of Pennsylvania. Mr. Speaker, only 2 weeks ago Americans observed the 194th anniversary of continuous freedom. As a Nation preoccupied with deep problems it is difficult to see that our growth has really been the constant refinement of freedom and justice for all our citizens—and the development of rights for all, regardless of race, color, creed, or sex. It is often forgotten that when this country was born full rights were enjoyed by a minority.

It is important for Americans, in these critical times, to reflect on their past and to remember that the freedom we Americans enjoy and work to keep are not enjoyed by millions of people behind the Iron Curtain. In our struggles for recognition of minority views we should recognize that no such expression is allowed in the captive nations. We should also draw inspiration from the human spirit in these countries which continued, in the face of adversity, to fight for dignity and freedom and national identity.

On this 12th anniversary of Captive Nations Week we Americans should pledge ourselves to include in the fight for freedom around the world the people of the trampled nations in Eastern Europe.

Mr. SMITH of California. Mr. Speaker, this week Americans throughout our country mark the 12th annual observance of Captive Nations Week.

Thirty years ago a tragic event took place in Eastern Europe which should remind freedom-loving people everywhere of the precious commodity of human rights.

When the Russian Communists enslaved the peoples of the Baltic nations of Latvia, Estonia, and Lithuania, these three once great and independent nations lost their freedom and independence. Those who remain are waging an intensive fight to regain their liberty. They are undeniably deserving of our support—if only because of our adherence to the U.N. Charter affirmation of "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of nations large and small."

The present involvement of the United States in the major conflict in Vietnam is because of our belief in the principles of human rights for all. Let us continue to heed the pleas of all whose rights have been denied by Communist domination. Let us maintain our greatness as a nation by standing for freedom in the affairs of all nations.

Mr. ADDABBO. Mr. Speaker, once again the House of Representatives participates in Captive Nations Week through the statements of sympathy and support of our colleagues for captive peoples throughout the world. Since 1959 when Public Law 86-90 was enacted, we have taken this time to call public attention to the oppression of millions of our brothers and sisters behind the iron curtain and in areas of Communist domination.

The danger that these observances may become routine and thereby lose their impact has been temporarily lessened by the recent experience in Czechoslovakia and the present danger in the Middle East. If anyone questioned the need for Captive Nations Week observances, those questions have been answered by the state of world affairs today and the fact that one third of the world's population lives under restrictions on basic human freedoms.

Last week America celebrated its Independence Day with a renewed awareness of what makes America great and the added participation of hundreds of thousands of Americans in "Honor America Day." It is appropriate that this week the Nation which cherishes freedom turn its attention to those less fortunate who live in fear, terror, oppression and domination by those who do not believe in freedom.

The two occasions are really inseparable for we cannot understand the greatness of America or honor its independence without knowing and appreciating the plight of those who are captive. This is a time then to rededicate ourselves to the goals of the United Nations Charter and the United Nations Universal Declaration of Human Rights and to deplore the policies of those who would restrict the right of the individual to choose his own course in life and to block a nation's basic right to determine its own future.

We hold out our sympathy, our support and our hopes to the peoples of East and Central Europe on this occasion and rededicate ourselves to the liberation of oppressed people everywhere. This is the message of freedom which we send out across the globe today—the very same message which we recognized last week on our Nation's Day of Independence.

Mr. DENT. Mr. Speaker, I rise in support of the captive nations of Europe and Asia; nations such as Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Rumania.

We all know of the threat which the worldwide menace of communism poses. During this week of remembrance and encouragement for those nations, I would like to remind the Members of this Chamber of two examples, as evidenced in the captive nations, of what communism holds in store for the free world: enslavement of men's minds and usurpation of men's political liberty.

It is common knowledge that in Communist countries the state controls the press, radio, and TV. These people do not get "the news"; rather, they receive the party line. Control of information is the first step on the road to the control of men's minds.

Communist leaders have abolished the freedom to seek the truth. When men cannot actively seek the truth, as is the case in the Captive Nations, they latch on to dogma. Their minds become lazy, unquestioning and thus are more easily controlled.

A second means of controlling men's minds in the captive nations is by restricting their movement. People under Communist domination cannot travel from city to city let alone visit foreign countries. This restriction prohibits people from exploring their country and the rest of the globe and seeing for themselves what the outside world is really like. Often those who find out defect.

In free countries people can travel almost anywhere; thus the truth is not hidden by false fronts and lies. Rather it is there for all to see. The press can expose inequities or bad conditions in our society. They are free to bring the country's problems to the public's attention. But since movement is restricted and the press is state-controlled few people in the captive nations really know all the evils of their society nor do they know about that which is good in our society.

Finally these two restrictions culminate in the suppression of dissent. Even though our country is a hotbed of dissent and resulting turmoil I think that everyone here realizes that dissent is a prerequisite for freedom. It is a prerequisite because it compels us to always question that which we consider the truth. In free countries dissent provides us with living truths rather than dead dogmas. In Communist countries suppression of dissent leads to blind acceptance and that leads to control of men's minds. Management of the news restriction of movement and suppression of dissent are the never-ending circle in the movement to control of the mind.

In turn control of the mind leads to the loss of political freedom. There is no such thing as national sovereignty under communism. Our Declaration of Independence proclaims the right of revolution if the people of a country are intolerably oppressed. Communists proclaim this right for all nations in the world except those which are under the heel of communism. If a revolution does break out with the support of a majority of the people Communist countries then forget the cry of national sovereignty. Other countries proclaim the right to intervene in order to preserve unpopular communism. This is the heart of the Brezhnev doctrine and the Brezhnev doctrine is the beginning of the end of national sovereignty for any country which turns Communist.

Russia came under the rule of the Communists in 1917. Since then it has imposed its influence and the influence of communism upon those nations which we know of today as the captive nations. Not one of these nations has ever been able to popularly change its leaders nor has any one even had a choice through election. Rather the leaders of these countries are chosen by an elite group of less than 20 men. Communism is that form of government furthest from being of, for, or by "the people." A "democratic'" Communist government is a contradiction in terms.

Mind control and political suppression have a striking relation to the captive nations. The people of these countries are striving to preserve their mental freedom despite the fact that their leaders are trying with all means available to control their minds. We in the United States admire the courage of these people in the face of almost insurmountable odds. Despite these odds, they have struggled to keep their minds free and informed by listening to Radio Free Europe and by reading publications from the free world even though they may be illegal in their own countries.

Despite political repression, they revolt. The people in Hungary in 1956 and the people of Czechoslovakia in 1968 showed that people with a heritage of national sovereignty find international communism impalatable. We admire these people for standing up to Soviet aggression and suppression. These two revolts are prime examples of the Communist disconcern for national sovereignty. But, even though they are able to suppress large-scale revolutions, they cannot control small ones. Even though the regime suppresses political dissent, these courageous people still practice it and make it quite evident. Whether it be through poetry, literature, or music or through clandestine garden plots or a deliberate slowing of production, these people revolt in small ways which, when all totaled, constitute a large protest against the regime.

We in the United States have an obligation as freedom-loving people to aid the people of the captive nations politically and morally in their struggle against mind control and political oppression. We also have an obligation to aid sovereign nations in their battle to be free. Communists espouse a line of national sovereignty, and then they make a mockery of it by invading other countries in order to impose their form of government. We must see that the list of captive nations does not grow not only in Asia but in the Mideast and in America.

In conclusion, Mr. Speaker, let me say that I have confidence that the people of the captive nations will persevere as long as they are oppressed and suppressed because they have a heritage of national sovereignty which they will never renounce. The question now is whether our heritage of national sovereignty will cause us to persevere with them. As long as we do persevere, we can insure not only our sovereignty but the national sovereignty of other countries of the world.

Mr. MINISH. Mr. Speaker, I should like to add my voice to the many others concerned about the plight of captive nations. As we all know, July 12–18 marks the 12th observance of Captive Nations Week, which was established by Public Law 96–90 in 1959. Unfortunately, however, remedies still do not exist for such countries as Albania, Bulgaria, Czechoslovakia, Hungary, Poland, Rumania, Estonia, Latvia and Lithuania. Nonetheless, these are nations with nationalistic peoples, who retain their singularly individualistic character in the face of overwhelming odds.

It is necessary that we in the United States pay tribute to these other countries which, in spite of their tribulations, manage to retain an optimistic outlook. Furthermore, it is fitting to reflect upon some of the freedoms guaranteed by our Founding Fathers which are frequently taken for granted. What must be kept uppermost in our thoughts is that these same freedoms are not permitted most persons of the world, and should therefore be more utilized, appreciated and cherished by us.

At this time, I should like to include for the edification of those who have not seen it, Public Law 86–90:

[Public Law 86–90, 86th Congress]

S.J. Res. 111

Joint resolution providing for the designation of the third week of July as "Captive Nations Week"

Whereas the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a desire threat to the security of the United States and of all the free peoples of the world; and

Whereas the imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Viet-Nam, and others; and

Whereas these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace; and

Whereas it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the third week in July 1959 as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

GENERAL LEAVE TO EXTEND

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today on Captive Nations Week—1970.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

THE LATE HONORABLE CLIFFORD DAVIS

The SPEAKER pro tempore (Mr. Rooney of New York). Under previous order of the House, the gentleman from Tennessee (Mr. Evins) is recognized for 60 minutes.

Mr. EVINS of Tennessee. Mr. Speaker, this time in history has been set aside in the House to honor the memory of our beloved friend and colleague, Clifford Davis of Memphis, Tenn.

Cliff passed away quietly at his home here in Washington on June 8 last—watching news reports on television. He was always alert and energetic and kept abreast of the currents of history.

Cliff Davis served in the House for 24 years and at the time of his retirement was dean of the Tennessee delegation. His warmth and geniality impressed all who knew him. He was a great friend to all of us—and he increased his multitude of friends as new Members joined the House. He always went out of his way to assist his colleagues, giving them the benefit of his experience and knowledge—which was certainly extensive.

Cliff loved his friends—someone has said that friendship is love with understanding. Certainly Cliff possessed both of these qualities and where Cliff was there was good humor and warmth of spirit.

Apart from his greatness as a wonderful human being, Cliff Davis was able, capable, courageous and possessed of vision and foresight. He was an outstanding legislator—skilled in the processes of the legislative procedure—and he served with great distinction on the Committee on Public Works and the Armed Services Committee.

As a member of the Committee on Public Works, he was chairman of the Subcommittee on Flood Control and chairman of the Subcommittee on Property Acquisition. He was also chairman of the House Select Committee on Campaign Expenditures.

He was a champion of water resource development—the building of dams for electric power—navigation—flood control—economic development and other benefits that have contributed to the building of a greater and stronger America.

As chairman of the Subcommittee on Flood Control of the House Public Works Committee, he had the responsibility for authorizing and approving all major water resource development projects in the Nation. Many outstanding water resource projects throughout the Nation exist today as monuments to the foresight and dedication of Cliff Davis.

Cliff Davis believed in a strong defense for this Nation. He was a great champion of national defense—he believed in a strong America as a force for peace. And as a member of the Armed Services Committee he worked to build a strong and modern military posture for our Nation.

Among his other legislative achievements were sponsorship of the Appalachian Regional Development Act, the Federal Interstate Highway Act and bills to strengthen and assist the Tennessee Valley Authority in its mission.

Cliff Davis was a builder—a doer—a practical man with the vision to perceive the needs and opportunities in the America of the future—and to act to make his dreams become a reality.

He diligently and ably represented his district, State and Nation. He will be greatly missed. He will long be remembered.

Cliff Davis was a great Tennessean—a great American—and a grand gentleman. We all loved him. He was a genial, warm and personable friend.

We are all saddened by the loss of this wonderful man and I want to take this means of conveying to his lovely and devoted wife, Carrie, and other members of the family this expression of my deepest and most sincere sympathy. Mrs. Evins joins me in these sentiments of sorrow and sympathy as we pay tribute to the late beloved Clifford Davis of Tennessee.

Mr. FLOOD. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to my friend, the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Speaker, first of all, I am very happy and pleased that my distinguished friend, the gentleman in the well, is presenting this memorial to our late beloved friend, Cliff. As the gentleman knows, I served with Cliff on the very first day I came here, and he took me, as he did the gentleman, by the hand and showed us around these halls.

I might add—and I am sure the gentleman will mention it—his very gracious lady was a close friend of Mrs. Flood, and in the Congressional Women's Club she was a worker year after year.

So Mrs. Flood joins me in holding hands with the gentleman in this tribute.

I can only say, thinking of Cliff in the Chamber, I can see him sitting back in the chair as we talked and joked so much:

> They shall grow not old, as we that are left
> grow old;
> Age shall not weary them, nor the years condemn.
> At the going down of the sun and in the
> morning
> We will remember them.

Mr. EVINS of Tennessee. I thank my colleague, the gentleman from Pennsylvania, for his beautiful tribute.

Mr. KUYKENDALL. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the very able and beloved gentleman from Tennessee, the Representative from Shelby County in Tennessee.

Mr. KUYKENDALL. Mr. Speaker, I thank the distinguished gentleman for the privilege of adding my voice to those of the many friends of Cliff Davis in this body. All of us who knew him, and particularly you who served with him, know how difficult it is to find the best thing to say, the place where your memory dwells most when his name is spoken.

His greatest pleasure after he left the House, it seemed to me, was in doing the thing he had done for 24 years as a Member of it—helping people. When I came to this city in December of 1966, his hand was one of the first that was held out to me, offering help. Surely no one needed it more than a not-yet-sworn-in freshman Congressman, and just as surely, no one could have offered it more happily than Cliff Davis. The fact that we did not belong to the same party never was mentioned. It was not a subject we avoided deliberately, it simply made no difference in our relationship.

I listened to his counsel and profited from his vast experience and his knowledge of people, and I still obey some of his suggestions of what to do and his admonitions of what not to do.

And while I was being counseled, his lovely wife, Carrie Davis, was seeing to it that Mrs. Kuykendall had answers for the many questions that a new citizen of Washington, D.C., would want to ask. Between the two of them, they must have made hundreds of new Washingtonians more comfortable during their long tenure.

As I pointed out in my remarks last month, he was a man who had faced death in the official performance of his duty. Some of the furniture in this room still bears the bullet scars from the 1954 incident when he was one of five Members who were shot from the gallery: and he was returning to his district in 1962 when a plane crash in Knoxville almost took our Representative from us. He escaped the first incident with a bullet wound in his leg, and the second one without a scratch.

There are many monuments to Cliff Davis' legislative career in Memphis. But I am sure the one he is proudest of is our magnificent Port of Memphis with its industrial complex on President's Island. As the chairman of the Public Works Subcommittee on Flood Control, he had a vital interest in the Nation's waterways, and this interest reached its zenith in the harbor and the industrial complex that was truly "the house that Cliff built."

None of us will ever have enough friends that we can afford the loss of such a one as Cliff Davis. The gracious lady who shared his home and his life for so many years can, I hope, take some small comfort in the esteem he was held in by his colleagues, by Tennesseans and by the Nation he served.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to my distinguished colleague from Tennessee.

Mr. BLANTON. Mr. Speaker, when death takes a friend from our midst, words somehow seem inadequate to express the profound sense of loss.

Last month, Cliff Davis—a former Member of this body—passed away.

Judge Davis—as he was known to his close friends—was an unusual man. He spent most of his life in the service of the people, and for 24 years represented the largest city and county in Tennessee.

Judge Davis was one of the most popular Members of the House. I still hear some of the Members refer to some of his stories he used to delight both his congressional audiences and his constituents.

As one of the newer Members, I was not fortunate enough to serve with Cliff Davis, for I took office 2 years after his 12 terms were completed. But I can remember very well that immediately upon winning my election in 1966, Cliff Davis sent me a message offering to help me get adjusted to this awesome job. We began a deep friendship from that day on, and I enjoyed his visits to the floor, and to the Hill—although many of us told him that we wished he would visit us more often.

Cliff Davis loved Memphis, and embodied the finest traditions of the southern city that it was and is. He was truly the typical southern gentleman, always tipping his straw boater at the ladies, and taking his hat off in elevators. He was a friend and confidant of some of the most important political figures of the 1930's and 1940's, and it was always a delight to hear him reminisce about E. H. Crump, Franklin D. Roosevelt, and the many other regional and national politicians he knew. His wit and his knack for mimicking always cheered those around him.

As a young lad of 14, Cliff moved to Memphis with his parents from his hometown of Hazlehurst, Miss. Only 9 years later he embarked on his lifetime career in public service. He started as secretary to Mayor Rowlett Paine of Memphis in 1920. Three years later he was elected city judge, an office which would establish his reputation as a stern but fairminded individual who strongly believed that laws were to be upheld but justice was to be open for everyone.

It was while Judge Davis was presiding over the city court that the late W. C. Handy, one of the most famous blues singers and composers of that era, composed the "Cliff Davis Blues," a song which told of the strict—but fair—judge.

Cliff was elected commissioner of public safety and vice mayor of the city of Memphis in 1928 by such an overwhelming majority that the late E. H. Crump, one of the most powerful political bosses in the South, took notice of the young judge.

Mr. Crump wanted Cliff to be a part of his organization and admitted that because of Cliff's popularity, he was afraid of his potential threat to the tight control Mr. Crump maintained over politics in Memphis. Cliff consented, only with the stipulation that he was his own man, and that he could not go against the good of the people on any matter.

Mr. Crump respected the young Davis, and never infringed on the independence of his idealistic and hard-working recruit. They became like father and son, more than political comrades.

It was in 1940, when Cliff Davis' longtime friend, Walter Chandler, resigned from Congress to be mayor of Memphis, that Cliff got his chance to go to Congress.

He was consistently reelected, and as always, was constantly the top vote-getter in Shelby County—always pulling in more votes than even the winning presidential candidates did in Shelby County.

In Congress, Cliff Davis proved as popular to his colleagues as he did to his constituents. I think the late Robert "Fats" Everett said it best when he told Cliff at a testimonial dinner:

> Cliff, you can get more done in a day . . . than most can do in a month.

The Midsouth region was always top priority for Cliff Davis. He was a guiding force in the Tennessee-Tombigbee project, and had the honor of being the organization's only lifetime member, a distinction he retained even after he left Congress in 1964.

He was instrumental in very important flood control legislation, and his work on the Tennessee Valley Authority self-financing program saved hundreds of jobs for Memphians and allows Memphis to get cheaper TVA rates to this day.

Cliff was almost a national celebrity after the Puerto Rican nationalists shot up the House during the 83d Congress, and he was one of the five Members who suffered wounds.

In 1964, when faced with the toughest political campaign in more than two or three decades, Cliff Davis sacrificed days of crucial campaigning to be on the job in Washington. President Johnson's Appalachian regional development bill was in trouble, and it was Cliff Davis who was asked by the leadership to steer the bill through the Public Works Committee and the House. Cliff Davis never refused a job—no matter how tough it was. It was a great sacrifice, because it took many weeks of valuable time away from his campaign. He lost the campaign, but won a great legislative triumph, and it was President Johnson who publicly gave Cliff Davis credit for the work on this important legislation.

Cliff Davis was on the ballot 32 times in his life, and won smashing victories 31 of those times. In his last campaign, he had one of the largest youth organizations ever formulated in a Memphis campaign—a testimony to the devotion people had for him. Cliff was always on the lookout for assisting young people with their careers just as he was interested in helping me make a good start on my job when I first came to Congress.

At a testimontial dinner for him in 1965, he was praised by some of the most important people in the Nation, from the President on down through the ranks of his colleagues and local and State officials. But one of the most heartening testimonials came from a chapter of his fraternity, Sigma Alpha Epsilon. The young men at the local university presented him with a plaque commemorating 50 years of service to the community and especially to the young people.

Cliff often told his colleagues and friends that the singularly biggest asset he had in his public life was his wife, Carrie. Mrs. Davis is one of the most charming, popular ladies in Washington, and she is loved and respected by all. I extend to her my deepest sympathies, and to the Davis family, who while saddened by his passing, must surely be humbled and honored at the unusual man he was and the exceptional service he has rendered to his community and to his Nation.

Mr. Speaker, others will probably be more eloquent than I on this day when we eulogize our departed friend and former colleague. I can only say that his memory will live on in the many legislative triumphs which he accumulated over his 24 years in Congress, and 40 years of public service. It will live on in the city of Memphis, in the modern, progressive city he assisted in so many ways.

Mr. Speaker, I suppose many of us have a certain nostalgia for the golden days of Tennessee politics which produced such colorful people as Fats Everett and Cliff Davis. For truly now, an era has passed, the like of which we may not see again for many generations.

Mr. ANDERSON of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to my distinguished colleague from Tennessee.

Mr. ANDERSON of Tennessee. Mr. Speaker, I appreciate the distinguished dean of our Tennessee delegation yielding. I feel honored to have the opportunity to add to the meaningful remarks which have been made here this afternoon concerning Judge Davis.

I was not privileged to serve in the House during the time he was here. However, I did have the privilege of meeting him subsequent to my arrival in Washington and the opportunity, with members of our Tennessee delegation including the distinguished gentleman in the well, to have lunch on several occasions with him, and to hear other Members in very large numbers speak of their high regard for him and their high respect for his performance as a legislator of wisdom, as a legislator of great impact on many, many bills that passed through the Halls of Congress.

I observed them and found that there was a common feeling among all of those here who knew him and loved him that he was a gentleman in the truest sense of the word, a gentleman who never spoke an unkind word about anyone.

It is a great loss to the United States of America and, as our distinguished colleague from Tennessee (Mr. BLANTON) just pointed out, he was a man who always put his Nation first and himself way down the line when it came to approaching matters of concern to the United States, to the State of Tennessee, and his own congressional district.

His was a great life of public service and one which will be a hallmark for young people to follow as time goes on.

Mr. Speaker, I wish especially to express my condolences to his lovely and gracious wife, Carrie Davis, who is a person of great stature and a person who is loved throughout the State of Tennessee and throughout Washington and who has friends throughout the United States who recognize her as a strong and influential person in her husband's behalf.

So it is with great sadness I say we have lost a most distinguished man.

I extend to Mrs. Davis and all of the members of the family my very deepest sympathy.

Mr. JONES of Alabama. Mr. Speaker, I want to pay tribute today to a distinguished former Member, the Honorable Clifford Davis.

I have never had a closer relationship with anyone serving in the Congress than I had with him.

He was the most effective legislator I have ever served with. He had a complete knowledge of his subject matter and engaged it in the service of his country. No one has done more during their tenure to add to the strength of this country than Cliff Davis.

He was entertaining and enjoyable to be around. He was one of the most engaging speakers we have ever known.

He was courteous, considerate, and kind.

He was never so intemperate of mind that it destroyed his purpose to accomplish things which were most beneficial to the people of this Nation.

He was never sectional in his outlook as is attested by the fact that not a State of the Union has escaped his handiwork in building a multitude of water resource projects. Not a drop of water falls in America today and flows through our streams without benefit of the influence of Cliff Davis.

I have lost a fine companion, a great adviser, a stalwart for purpose and, above all else, I have lost a devoted, kind, and generous friend.

His family and his many friends can take comfort and pride in the knowledge that his work will remain a monument to his useful service to the improvement and development of his country.

Mr. WRIGHT. Mr. Speaker, the name of Clifford Davis would loom large in the list of constructive accomplishments performed for the Nation by Congress during the past generation.

When I came to Congress in 1955 and received an assignment to the Public Works Committee, Clifford Davis was chairman of the Flood Control Subcommittee. He conducted a vigorous schedule of committee sessions, demonstrated a deep and personal interest in the needs of every section of America for the development of its water resources. Cliff Davis was not a parochial or insular man. His mind was big, his interests broad and his dedication unswerving to all the country.

Cliff had a gift of friendship which will be remembered by those who had the privilege of serving with him. A natural and instinctive entertainer, he often rescued a situation from the monetary tension of conflict and short tempers by an appropriate story. On such occasions, he surely was one of those of whom it has been said "blessed are the peacemakers."

Throughout the breadth of America, citizens live secure in their homes, freed from the threat of devastating floods, because of the earnest and dedicated service of Clifford Davis. The water resources of our land have been developed at a more expeditious pace because he had the vision to look into the future and see the needs of a growing country.

Those of us who knew him will miss him sorely. But his memory will remain with us to brighten our days and to lighten our load.

Mr. JOHNSON of California. Mr. Speaker, I would like to pay tribute to a great American. The death of our former colleague, Clifford Davis, "the Judge," was a great loss to our country, his State of Tennessee, and a very personal loss to me.

Cliff Davis was a valuable Member of the House of Representatives for 24 years. When I first came to the House and was assigned to the Public Works Committee, of which he was a member, I learned a great deal from him about the committee and the entire legislative process. I will always be indebted to him for his assistance and understanding.

As a member of the Public Works Committee, I had the rare privilege of serving with Judge Davis on the Select Committee on Real Property Acquisition, of which he was chairman. It was indeed a wonderful opportunity to work closely with this tremendously human legislator as he, through a long series of field hearings, Washington hearings, and executive discussions, undertook the most comprehensive study this Nation has ever known of the Federal policies and programs affecting our real property acquisition procedures. As a result of his dogged determination, he uncovered grave discrepancies in the manner in which these land acquisitions were carried out. I feel that, as a result of his efforts, the people of our great Nation have better protection than ever before in these proceedings. As a result of legislation now pending before the Congress, which I hope will soon be enacted, and an outgrowth of the studies made by Judge Davis, they will be even more protected than they are at present.

I do want to make one more brief comment. The judge had a bulldoglike tenacity for ferreting out wrongdoing, mismanagement and discriminatory acquisition practices. Yet, I will warrant that no one who met him or worked with him or had any contact with him in any way ever found him to be anything but a gentleman—courteous, considerate, and distinguished. He was a wonderful guy.

The impact of his diligence and hard work can be seen across the country—progress in Appalachia, development of the Tennessee Valley Authority, water resource projects, inland waterway systems and highways.

In addition to being a very capable legislator, he was a warm and wonderful friend. Those of us who were privileged to know him will long treasure the memories of the work we did together and the good times we had together.

My family joins me in expressing sorrow at his passing and deepest sympathy to his lovely wife, Carrie, and their sons and daughter.

Mr. FEIGHAN. Mr. Speaker, it was with deep regret that I learned of the passing of our former colleague, the able and distinguished Member from Tennessee, Cliff Davis.

It was my privilege to know Cliff for more than 20 years and to have served with him in Congress. His passing has brought sorrow to those with whom and for whom he served.

Cliff served his constituency and the Nation well and with distinction.

I extend my deepest sympathy to his family and loved ones.

Mr. FULTON of Tennessee. Mr. Speaker, it is an honor to have the opportunity today to say a few words in tribute to our former friend and colleague, Clifford Davis.

There are many of us here today who had the privilege and good fortune to serve with "Mr. Cliff" for many of his 24 years in the House of Representatives. Unfortunately, it was my privilege to serve with him only during his last term in the 88th Congress, but during that short time I came to know, respect, and develop a great fondness for him.

The 88th Congress was my first term in the House of Representatives and, almost from my first day in the House, Mr. Cliff extended his hand of friendship to me. He helped guide me, counsel me, and assist me during those often lonely and confusing freshman days. For this I owe an obligation of gratitude which I can repay now only through the high respect and esteem which I continue to hold for Clifford Davis.

He was an amiable, well-liked, and able legislator. More than this, he was my friend, and I shall miss him.

Mr. JONES of Tennessee. Mr. Speaker, having known Hon. Clifford Davis all of my life, I want to be among the first to say how much we all will miss the warmth and wit of this outstanding gentleman who served his district, his State, and his Nation so long and so well.

Although I never had the pleasure of being either his constituent or his Representative, our districts were adjoining and numbers of my friends are his friends. We were both involved in campaigning during national elections, and "Judge," as we all affectionately called him, was always at his best when speaking before an audience. With his sharp wit and picturesque language, he could hold an individual or a group in the palm of his hand in fascinated attentiveness.

His love of people was manifested in so many varied ways. I shall always remember the luncheon in the Speaker's dining room he gave with me, a newly elected Member, as one of the three honored guests. But the best of all memories of Judge will be of that day when I was first elected and he came up to visit me in my office. We spent 30 wonderful minutes together, with him recalling experiences of his lifetime of public service.

During his years here in Congress, he had two brushes with violent death when he was wounded during the shooting on the House floor and he and Mrs. Davis survived a plane crash. So death was no stranger to him, but I am happy that after a vigorous and tempestuous life, it came peacefully to lay him to rest in his own home.

Mr. PATMAN. Mr. Speaker, it was my privilege to be associated with the Honorable Clifford Davis of Tennessee during his long tenure in this House, both as a respected colleague and an honored friend. Clifford Davis above all else was a man of character, moral, intelligent, loyal, and as sturdy and enduring in his beliefs and convictions as the towering broad-based mountains of Tennessee. It is a marvelous thing in our Nation that so often our great statesmen have left the place of their nativity to achieve outstanding recognition in a sister State. Clifford Davis who was born in Mississippi became one of the leading jurists and Congressmen ever to represent the great State of Tennessee. And it is only fitting and appropriate to remember that this remarkable reciprocity worked to the advantage of my own State of Texas, and I have only to mention the revered names of Jim Bowie, Davey Crockett, and Sam Rayburn—all of whom came from their native State of Tennessee to be forever inscribed in the glorious pages of Texas history. There are more of this noble company of illustrious Tennesseans, and with them for the eternity of our country's existence, Clifford Davis is a partner in honor, distinction, and patriotism.

I extend my most sincere sympathy to his wonderful family.

Mr. KLUCZYNSKI. Mr. Speaker, I knew the late Cliff Davis, the distinguished former Representative from Tennessee, for many years. He was a colleague of mine in this body and I knew him to be a dedicated and hardworking Member. He performed his duties both to his district, his State, and his country, in an exemplary way.

Cliff Davis was a man who did his own thinking. Forming his own opinions only after careful investigation, he was firm and fearless in defending his conclusions when once they were formed. When he felt called upon to defend what he believed to be right, or to expose what seemed to him wrong, he did so with all the power of his great intellect, regardless of the consequences to himself.

He has passed to his eternal rest and will be sadly missed by all whose good fortune it was to know him.

Mr. DUNCAN. Mr. Speaker, today I join with my fellow Members of Congress from Tennessee and with colleagues from throughout the Nation in paying homage to the late Clifford Davis.

The Honorable Clifford Davis repeatedly won the vote of his constituents in Tennessee and they kept him in the House of Representatives for 24 years.

I think his life speaks for itself. He served long and faithfully and had many friends everywhere he went.

As we pay tribute to the memory of this distinguished man, we are thanking him for the lessons he taught us and for the way he paved for those of us who succeeded him in this Chamber.

Memphis and Shelby County, Tenn., will long remember the services of their Congressman, Clifford Davis.

Mr. BARRETT. Mr. Speaker, I should like to join my colleagues this afternoon in paying tribute to a great American.

It was my privilege to serve with our former colleague and friend the Honorable Clifford Davis here in the House of Representatives. I was always impressed, as we all were, with his complete dedication to his district, State, and to the Nation.

He was a great public servant. Perhaps his outstanding characteristic was his spotless integrity.

I extend my deepest sympathy to his lovely wife and family.

Mr. WHITTEN. Mr. Speaker, recently when it was called to our attention about the untimely death of our good and close friend, Hon. Clifford Davis, I joined with several Members in a brief tribute to his life and service. In the short time available I could not begin to enumerate the many contributions that Cliff Davis had made to his city, to his district, to his State, and to his Nation.

Possessed of a delightful personality, a keen and bright mind, he had also a true-love for his fellow Americans. He was blessed in his life with a wonderful family; a wife, Carrie, who was a real partner in Cliff's very successful activities which covered many years as city commissioner and Congressman.

Prior to his service here, when I was a young district attorney in the northern part of the State of Mississippi, I worked very closely with him when he was commissioner for the city of Memphis, Tenn.; and in my service here in the Congress, Cliff and I worked very closely indeed, particularly in connection with public works and electric power.

It was wonderful, indeed, to see Cliff handle a bill on the floor of the House. His poise, his ready answers, his knowledge of his subject, and above all, his sincerity always got over to his colleagues.

As a result, much legislation bears his name; and many of the benefits of such legislation continue on as a constant reminder of Cliff Davis' contributions again to his city, to his district, to his State, and to his Nation.

Clifford Davis of Tennessee was a fine man, a splendid legislator, a grand American. His family can take great pride and comfort in his record.

Mr. ADDABBO. Mr. Speaker, I join with my colleagues in this special order for the purpose of eulogizing and paying tribute to the memory of our late colleague from Tennessee, the Honorable

Clifford Davis. It was my privilege to serve with Clifford Davis during the later years of his 12 terms in the House of Representatives.

Clifford Davis was respected and liked by his colleagues on both sides of the aisle and he proved himself to be a dedicated representative of Memphis and Shelby County in Tennessee.

I extend my sympathies to Mrs. Carrie Davis and to the family and friends of Congressman Clifford Davis. We shall miss him and remember his devotion to public service.

GENERAL LEAVE TO EXTEND

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life and service of our late colleague and friend, Clifford Davis.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

ECOLOGY BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. KUYKENDALL) is recognized for 60 minutes.

Mr. KUYKENDALL. Mr. Speaker, all of us know that a pat on the back is one of the most effective ways to inspire good people to do better things. An ounce of recognition is worth several tons of nagging. On behalf of my colleagues who have joined me as cosponsors, I wish to introduce today a bill that will help supply that ounce of recognition.

This measure would simply set up a program to honor those people and organizations who make efforts to combat pollution.

The bill would amend the National Environmental Policy Act of 1969, by empowering the Council on Environmental Quality to determine and suitably honor persons, firms, and organizations—manufacturers and civic groups, retailers, outdoorsmen, Girl Scouts and Boy Scouts—who act in positive ways to do something about this national problem.

It seems to me that we can, and should, take a strong lesson from the success of the Army-Navy "E for Excellence" flags that were awarded during World War II, that enlisted the enthusiastic cooperation of industry, from management and labor alike, to accomplish a major national goal. Surely we can have no greater national goal today than to encourage the aid and support of every citizen in every age group in every walk of life in meeting this great challenge—the preservation of our environment.

The type of award and the criteria for earning it would be determined by the Council. But whether it takes the form of a flag to be flown over a manufacturing plant or a cloth badge on a Boy Scout uniform, I predict that it will be sought after and courted, and that it will become as familiar in advertising layouts as the Good Housekeeping Seal of Approval once was.

Mr. LUKENS. Mr. Speaker. I am gratified to announce my cosponsorship of Representative KUYKENDALL's bill providing that a national ecology award be given to any corporation or organization making significant contributions toward eliminating or preventing air or water pollution. It represents another in the long line of steps that will be required to halt the systematic destruction of our environment. This bill is unique, however, because it breaks away from the traditional technique for fighting pollution. Instead on initiating a new penalty for offenders, it creates a positive incentive for working to eliminate this problem by encouraging private citizens and organizations to exert whatever influence they are able.

The U.S. Government cannot end pollution by itself; the problem is too widespread and its solution is both expensive and often difficult to effect. With a significant cooperation from the public, together with Government-published guidelines, progress will be made.

Pollution control can no longer be considered simply a fashionable topic for conversation, for too much destruction has already taken place. How many more rivers must be declared "unfit for swimming" or how many more smog-filled days will have to be endured by us and future generations because we have not combated this problem? We must strive with all our power to stem environmental pollution. The passage of this bill will hopefully bring us closer to this goal.

GENERAL LEAVE TO EXTEND

Mr. KUYKENDALL. Mr. Speaker, I ask unanimous consent that all Members of the House may have 5 legislative days in which to extend their remarks on the bills being introduced by me today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PRIMARY RESEARCH: WHAT IT IS AND WHAT IT NEEDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GUBSER) is recognized for 30 minutes.

Mr. GUBSER. Mr. Speaker, as the Representative of a congressional district which is one of the leaders of the Nation in scientific research, and as one whose committee assignment has exposed him to the importance of basic scientific research, I have become increasingly concerned with what I believe is a mistaken course this Nation is following. I feel strongly that our Nation's scientific effort has lacked consistency and has been funded more in response to the current winds of public opinion than to our Nation's needs and the needs of mankind. I feel particularly strongly that basic or primary research, because it lacks the glamor of an immediate application, has suffered from such a policy.

Because of this concern, I have held frequent meetings with the scientists of Stanford University in my congressional district, and my presentation today is based upon knowledge gained from these outstanding men. For the content of this presentation I am especially indebted to Prof. Henry Taube of Stanford and Prof. William Dauben of the University of California, Berkeley. These gentlemen in turn received assistance from Prof. Stuart A. Rice of the Fermi Institute, University of Chicago.

The material follows:

PRIMARY RESEARCH: WHAT IT IS AND WHAT IT NEEDS

Man's capacity to enjoy and improve the world around him has been shaped by scientific research. What we have learned from the natural sciences has affected the material things that touch our lives; it has had an impact on our political institutions, domestic and international, and it has affected the degree with which we regard and understand ourselves.

There may be differences of opinion on whether the fruits of this endeavor have been good. But knowledge and understanding are not responsive to the test of being good or evil. Only what we, having conscience and feeling, do with them can be called to answer to this test. The question for us is: *should* man try to understand himself and the world around him.

For those who believe in human progress there is no answer but the affirmative. Man's progress is directly proportionate to his ability, to experience, to appreciate and to enjoy. To increase this ability he must free himself from the limitations imposed by the material world, and from the ignorance and superstition of his primitive state. In freeing himself and extending his powers, science is man's most effective ally.

THREE CASE HISTORIES OF DISCOVERY

A child lies ill with pneumonia. A solution of a chemical substance is administered by injection. In 24 hours the fever abates and the child is on the way to recovery. A means is found to release enough energy from one pound of metal to brighten a thousand homes with light and to provide them with the comfort of heat for nearly a year. A small device delivers a ray of light so perfectly defined and controlled that it can be used for precision surgery of the eye. It can puncture a hole in a single red blood cell, or it can be adapted to blast its way through a sheet of high melting metal. Behind these miracles lie the discoveries of penicillin, of nuclear fission, and of the principle of the maser. How were these discoveries made? We have something to learn from them as case histories in scientific discovery; let us follow their stories.

We begin with Professor Alexander Fleming of St. Mary's Medical School of the University of London. Fleming had a research interest in pus-forming bacteria of the staphylococcus group. In 1928, in the course of a series of experiments for which he had prepared cultures of the bacteria, he noted that a spot of mould had appeared accidentally on one of the plates. He noted also that in the area surrounding the mould the bacteria had been killed. This observation aroused Fleming's interest and caused him to study the mould itself. Taking advantage of work done in 1911 by Westling in Stockholm, he was able to classify the mould as penicillum notatum. He went on to show that filtered broth in which the mould had grown contained a principle which was remarkable effective against many kinds of bacteria.

The work was taken up at the Pathological Institute of Oxford University by Professor Florey. Here again a significant start was made from what is commonly called basic research. Professor Florey had a long-standing interest in the natural powers which the body has in protecting itself against infectious diseases. Collaborating with the chemist, Dr. Ernst Boris Chain, Florey succeeded in concentrating the active ingredient which Fleming had discovered, and its curative powers were soon established. At the risk of overdramatizing, I ask this question: How many human beings are alive today because of the unexpected results from this basic or primary research?

What lessons on the course of scientific discovery do we learn from this brief history of penicillin? These are best put using the words of two of the principals who took part in the Nobel Award ceremony in 1945 honoring the work of Fleming, Florey and Chain. Fleming, on this occasion in commenting on his share in the discovery, said "It arose simply from a fortunate occurrence which happened when I was working on a purely bacteriological problem which had nothing to do with antagonism or mould, or antiseptics or antiobiotics." Note, please, the disclaimer of an applied mission in the research. Professor Liljestrand of the Caroline Institute of Sweden, who introduced the recipients of the Nobel Prize, in commenting on the significance of the work they had done, had this to say: "The story of penicillin is well known throughout the world. It affords an example of different scientific methods cooperating for a great common purpose. Once again it has shown the fundamental importance of basic research. The starting point was a purely academic investigation which led to a so-called accidental observation. This gave the nucleus around which one of the most efficient remedies ever known was crystallized."

We turn now to a laboratory of the Chemical Institute of Berlin. There in 1936 Professor Otto Hahn, in collaboration with Dr. Lise Meitner, began a program of research in which he set out to create new elements. In this research, he used a particle called the neutron, which was discovered by Professor James Chadwick of England in 1932, as a bombarding particle. Professor Enrico Fermi, then at the University of Rome, had demonstrated the utility of this particle in producing new nuclei. Hahn, with his background and interests in chemistry, was particularly attracted to the problem of creating not merely new nuclei, but new elements. It was natural for him to turn to the element of the then known highest atomic number as the target nucleus. This was the element uranium of atomic number 92. In Hahn's own words, "For more than 100 years uranium, discovered by W. H. Klaproth in 1789, had had a quiet existence as a somewhat rare but not particularly interesting element." Hahn's work shattered this quiet, with echoes that still resound. The work which was to deliver into man's hands the most awesome power he has been able to command, the energy of the nucleus, was begun by Hahn in 1938 in collaboration with Dr. F. Strassmann. These trained and skilled investigators soon realized that the nuclear events triggered by bombarding uranium with neutrons were not taking the expected course. So unanticipated was nuclear fission, for this was the process discovered by Hahn and Strassmann, that it was only after months of exhaustive and exhausting work that they dared to publish their findings. The dire implications of nuclear fission did not occur to them at the time of discovery; Hahn and co-workers were then completely caught up in the excitement of having found an unexpected new nuclear process of interest to others who worked in this field. By 1943, when Hahn read a paper to the Swedish Academy of Sciences on his work, he did refer to the possibility of a chain reaction in the fission of uranium nuclei. But even then he expressed doubt that the difficulties of realizing a self-sustaining nuclear reaction could be surmounted. "Providence has not wanted the trees to reach the skies," he remarked on this occasion. He apparently did not know that a team of scientists under Fermi's leadership at the University of Chicago had achieved a self-sustaining nuclear fission reaction on December 2, 1942.

The invention of the laser is partially an outgrowth of Einstein's work. In 1917, he theorized that atoms containing excess energy are stimulated by incoming radiation of proper frequency to emit this energy in the form of radiation. It is also an outgrowth of the technology of microwave spectroscopy which was developed during World War II. Einstein's idea, which implies the principle of amplification, was not put to this particular use until it was combined with the idea of a resonant cavity. Professor C. H. Townes and his associates, J. Gordon and A. Zeiger of Columbia University, in 1954 described a device which produced amplification making use of the two ideas. Amplification was first achieved not with visible light, but with radio waves of short wave length. The validity of the underlying principles was established by this work. The importance of this contribution was recognized by the Nobel Prize, which was awarded to Townes in 1964. The device, called a maser by Townes and coworkers, led Townes, in collaboration with Professor Arthur L. Schawlow, now at Stanford University, to the development of the laser. Before completing the story of the laser, we should consider Townes' own evaluation of the circumstances which led to the discovery of the maser. We refer to an article by Townes in Science, published in February, 1968, bearing the title "Quantum Electronics and Surprise in the Development of Technology." Townes makes it clear that the development of the maser arose from his interest in the potential which the then newly developed microwave spectroscopy had "to examine delicately and powerfully the various types of interactions between electromagnetic waves and molecules in ways which were different from ordinary spectroscopy." When he initiated his program of research in this field at the Bell Telephone Laboratories, he had no idea that it would lead to the maser and the laser, though he did try to persuade the research management that the new field of physics, in which he was interested, would provide "worth while contact with commercial applications." However, the research he outlined apparently was too academic for research management, and Townes moved to Columbia University where, with the help of excellent graduate students, the encouragement of colleagues, and the support of a "rather far-sighted Armed Services contract", it flourished. Three other industrial laboratories also made an early start in microwave spectroscopy, but in these cases too, this research eventually moved to university laboratories.

Few discoveries have been as rich as the laser in potential applications. Some applications have already been referred to. Other important ones lie in the field of communications—theoretically, one light beam can carry more information than all the radio and television channels now in use—and in lensless three-dimensional photography. Still others are certain to appear as the properties of the new device are explored and its capacities are tested.

In the article in Science, Townes further makes the point that "the idea for maser amplification originated independently in three different laboratories of microwave spectroscopy, and from research rather universally eschewed in applied laboratories. Each of the three origins had slightly different timing and differed appreciably in its completeness and practicality. However, all three came from physicists occupied with basic, university-type research on the microwave spectroscopy of gases."

An oscillator for light of visible and shorter wave lengths was yet to come. The idea for this was developed jointly by C. H. Townes and Arthur L. Schawlow. Schawlow had worked as a post-Doctoral research associate with Townes in the field of microwave spectroscopy from 1949 to 1951, and at the end of his appointment at Columbia, joined the staff of the Bell Telephone Laboratories. Townes was a consultant at the laboratory and Schawlow and he turned their attention to the problem of developing an oscillator for visible light, using the maser principle. They published a workable idea for the laser in December 1958. This started a race between many experimenters to develop the first laser. The race was won by Theodore Maimann at Hughes Aircraft Company in 1960, verifying the Townes-Schawlow theory and opening the door to a wealth of further developments.

The three discoveries which I have chosen as case histories were made in three different countries, in three different fields and at different times. But despite these differences, there are significant similarities in the processes of discovery in the three cases, and in the conditions which were essential to their being made.

In each of the discoveries there was an element of the unusual, and of the unexpected. Fleming was not searching for antiseptics or antibiotics when he made the observation that eventually led to the isolation of penicillin; Hahn had no inkling of nuclear fission when he began his work attempting to extend the periodic table of the elements; Townes had no idea that his academic interest in spectroscopy would lead to fundamentally new devices of exceptional utility and versatility.

It was essential to each discovery that those involved did not have their activities confined by an applied mission, but felt free to follow where their trained scientific curiosity led. Fleming and Hahn, at the time their significant observations were made, were already in a university environment. Townes, as we have seen, found it necessary to transfer to a university to pursue his interest, and as he has acknowledged, he benefitted from the far-sighted policy under which the Armed Services contract by which he was supported was administered.

In each case the primary scientific discovery has led to a chain of discoveries in terms of practical applications. But I want to stress again that none of these applications was formulated or anticipated when the respective research programs were initiated. The element of surprise and of the unexpected is present as much in the development of applications as it is in the initial scientific discovery. This point is well put by C. H. Townes in the article in Science already refered to. He writes: "A general conclusion which seems to me to emerge from a historical approach—the examination of a number of research case histories—is that mankind consistently errs in the direction of a lack of foresight and imagination. We continuously underestimate the power of science and technology in the long term. Eminently knowledgeable planners and scientists, in attempting responsibly to make realistic appraisal of research and facing what is at the time the uncertain and unknown, all too frequently fall short in foresight and imagination. The element of surprise is a consistent ingredient in technological development, and one we have great difficulty in dealing with on any normal planning basis." I think we must face the fact that scientists, for all their training and expertise, also have a limited vision of the future. We may, however, place confidence in the subject of their study; extending our knowledge and understanding of the world around us is bound to improve our condition if we use this knowledge with wisdom and foresight.

A point which is easily overlooked when considering only those discoveries having the most direct and dramatic impact on our everyday existence is that no scientific discovery is created in a vacuum of knowledge. Each of the three was germinated in and nourished by the body of scientific knowledge which, in turn, is the product of man's desire to know and to understand. Hahn's work, for example, called upon an enormous system of descriptive inorganic chemistry involving the heavier elements. It would not have been successful if Hahn had not had available through the chemical literature the record of this vast accumulation of knowledge. This was supplied by different investigators pursuing diverse interests, but united in their desire to explore the unknown. Many of the studies which provided a background for Hahn's discovery in prospect may well have seemed more exciting than the program of research he laid out for himself in 1938. It was the unexpected that raised his work above the level of other work of quality, work of the kind which constitutes the durable main fabric of scientific knowledge.

PRIMARY RESEARCH: THE ROLE OF UNIVERSITIES

The three case histories of discovery were chosen to illustrate the point that the pursuit of scientific knowledge for its own sake brings untold and unexpected benefits. Research done with this kind of motivation is often referred to as basic research, as distinguished from applied research, which is undertaken to learn how a recognized need can be met. I think it preferable to use the term "primary" in place of "basic" to describe research done for the sake of increasing knowledge. Those engaged in applied research can argue that in the dictionary sense of the term "basic", their research is often as "basic" as that commonly referred to as basic. The term "primary" should be taken as suggesting the research which provides the body of knowledge intrinsic to the subject itself, and is, I hope, less offensive to those in applied research. In emphasizing the role of primary research, I intend no disparagement of applied research. The latter also provides scope for exciting discovery, requires imagination and a high level of creativity, and is an essential component in helping us realize material benefits from basic scientific discoveries. Of course, such basic discoveries are often made in the course of applied research. Because applied research leads directly to material benefits, it is generally better appreciated and is therefore less vulnerable in times of economic stringency. By contrast, the vital component of the scientific process constituted by primary research is extremely vulnerable under our present system of providing support for research. As I shall show, primary research in our country is at present suffering severely from lack of encouragement and nourishment.

What organization within our country provides the best environment for primary research? We must agree that it is the universities. Ideally, universities live by the principle that knowledge is worth pursuing for its own sake. There is undoubtedly a serious erosion of this principle in the sciences, owing to the enormous pressure which scientists are placed under to relate their research activity to some applied mission. Despite such pressures, those working in universities strive to uphold the ideal. In many universities, schools of science are closely linked by organization to the humanities. At Stanford University, a private institution located in my District, we find that there is a School of Humanities and Sciences, under one dean. Within this school, the natural sciences are represented by, among others, the fields of anthropology, biological sciences, chemistry, mathematics and physics. This organizational structure would not be stable if the sciences and the humanities did not share common perspectives and objectives. The work in science in universities is evaluated primarily in terms of the creativity it shows, and the significance it has for the main body of knowledge within its proper subject. These are the standards applied also to scholarly work in history, in language and in literature.

In universities, research is an integral part of the educational process, and is regarded primarily as a vehicle for instruction. Some is done by undergraduates, some by post-Doctoral research associates, and most of it by graduate students working toward the Ph.D. degree. For all categories, research experience advances training in the subject represented. It brings to the undergraduate appreciation of how the body of scientific knowledge has been developed, and helps him to choose his course after graduation. For the Ph.D. candidate, it provides the first opportunity he has to prove himself in independent work on a major problem, and prepares him for a career in research. For the post-Doctoral research associate, it provides an opportunity to strengthen skills, to widen research horizons, and to decide on a future course. By virtue of the skills he has already attained, the post-Doctoral research associate brings valuable experience to the group he is associated with, and so assists in the educational process as well as benefits from it.

With this emphasis on university research as a vehicle for teaching, we may well ask how effective it is, appraised as research. We can supply an answer for the field of chemistry taken from a report, "Chemistry: Opportunities and Needs," prepared by a committee appointed by the National Academy of Sciences. I quote from this report: "A survey of over 5000 articles in leading U.S. and international journals of fundamental chemistry shows that approximately 60 percent of the publications of basic research in U.S. chemistry originate in university laboratories, 30 percent in industry, and the rest in government laboratories and independent research institutions." In this particular context the field of chemistry is perhaps unique because there is a large, busy and efficient chemical industry supporting in-house research, some of which is published in journals devoted to fundamental chemistry. In most other fields of science, the percentage of papers devoted to basic research appearing in fundamental journals and originating in universities is likely to exceed the 60 percent arrived at for chemistry.

A reason for the effectiveness of the universities in doing primary research has already been emphasized. It rests on the freedom that the investigator has to chart his own course, and follow his imagination and curiosity. A second reason must also be acknowledged. A faculty member has as apprentices bright, strongly motivated young people who, in first becoming imbued with the adventure and excitement of independent discovery, are willing to work harder than they ever may be willing to work again; moreover, they bring to the research a freshness and daring which is unmatched. The Federal government nowhere else gets a better bargain in research investment. Even when the total cost is considered, it is likely less per unit of research (measured perhaps in terms of published papers) in universities than elsewhere, because the graduate students work overtime at a very low rate of pay.

FEDERAL GOVERNMENT AS THE PATRON OF RESEARCH

To understand the serious situation which faces scientists in academic work today, we need to review the involvement of the Federal government in sponsoring university research.

In the past 30 years great changes have taken place in the way research in the physical sciences is supported. There has been a rapid increase in total level of support, and with this a shift from local or private support to Federal. Between 1958 and 1968, the contribution from Federal sources increased tenfold, but by 1965 the rate of growth of Federal support had started to level off, and in the next three year period remained at 7.6 percent per annum. When it is considered that the inflationary factor was approximately the same value, it is evident that Federal support did not permit the growth of primary research in these institutions to keep pace with the gross national product, which increased a total of 40 percent over the same period. By 1968, 89 percent of the support of primary research was contributed by five Federal agencies: NASA, HEW, AEC, DOD and NSF, and 37 percent of it went to universities and colleges.

In 1967 the total support provided by the Federal Government for research and development was approximately $17 billion. Of this amount, only $2 billion was devoted to support of "basic" research. If we use the 37% figure already mentioned as representing the fraction of basic research support given to universities, we arrive at an upper limit of $800 million, or about 0.7% of the total Federal expenditure as being in support of university-based primary research. The figure is an upper limit because, of the various Federal agencies which support university research, all except one are mission-oriented, and the single exception, NSF, provided only 12% of the total Federal support for basic research.

RECENT GROWTH OF SCIENTIFIC RESEARCH—CHEMISTRY AS AN EXAMPLE

Even when we take into account that support of primary research from sources other than the Federal government increased less than tenfold in the 1958–68 period, the fact remains that the total rate of increase in this period was large, and we are bound to ask whether the increased funds were used efficiently. Two independent but complementary social forces contributed to the rapid rise in funding in the decade referred to. On the one hand, we, the general public, had not yet become blasé about new antibiotics, artificial fabrics, and amplifying devices, so that we were then more receptive to lessons of the kind I have extracted from three case histories of discovery. Further motivated by Sputnik, we were willing to underwrite an increased investment in primary research at least as an appendage to increased funding of applied research and of development activities. On the other hand, scientists ready with new instruments and new methods opened up new research frontiers and found themselves in a position to solve problems which only a few years earlier in many cases were not even formulated, and which in others seemed impossible of solution.

To illustrate the transformation which has taken place in scientific research, we view the field of chemistry which, in the complexity of the systems dealt with lies between the fields of physics and of biological science. Within a century, chemistry has evolved from an isolated science dealing with the composition of simple substances to being partially integrated into the two fields mentioned. It relies heavily on physical principles and methods, and finds some of its most challenging problems in the biological systems. At the same time, it contributes to the conceptual framework and practical applications of both. In the course of its evolution, the difficulty and complexity of the problems being studied have increased enormously, and their significance, if anything, has increased. Genetics is being studied on the molecular level as a problem in the chemistry of complex molecules, the nucleic acids. Cancer is undoubtedly a problem in cell chemistry. Providing the working matter in masers, lasers and transistors and understanding its structure and composition involves difficult problems in chemistry. So does the chemical and isotopic analysis of the lunar surface.

Taking first the area of chemistry related to natural substances, we can trace the increase in the complexity of the problems by considering the synthesis of sucrose, table sugar, in the early 1940's and the present day synthesis of the complex molecules such as chlorophyll, cortisone, insulin, peptides, hormones, and finally, the gene. The molecule of sucrose contains 45 atoms; that of a peptide may contain hundreds. The degree of complexity which the present day problems feature, problems related to the synthesis of even larger building blocks of life such as proteins and nucleic acids, points to the ever-changing nature of primary research in a basic science.

In the area of chemistry related to interesting man-made molecules, the synthesis of plastics, detergents, fibers, fabrics, and high temperature stable materials typifies the complexity of present day chemistry. The interrelationship between chemistry and a wide variety of physical and biological sciences has become greater, demanding that chemistry be able to adapt readily to the needs of other sciences. The pollution of our earth is of great current concern. It is a chemical problem, the solution of which will involve also the socio-economic area.

As the problems of chemistry have become more difficult, the sophistication of the equipment needed to solve the problems has increased. Many of the studies mentioned earlier appeared at their beginnings to be very formidable, but the advent of new instrumentation permit them to be solved now in days rather than months or years. This is particularly true with regard to molecular structure of chemical compounds, a knowledge of which permits molecules to be transformed in a predictable way. A total approach is now possible, and it is possible only because highly sophisticated equipment is now available.

In 1945, laboratory techniques were little different from those used in 1900. In the 1950–60's modern electronic spectroscopic methods revolutionized the science; a major one of these, nuclear magnetic resonance spectroscopy, owes its existence to Professor Felix Bloch of Stanford University. Now with the availability of the computer another major step forward is to be made. A few specific examples can serve well to illustrate this increase in the complexity and sophistication of equipment. The automatic amino acid analyzer, a device using chromatography, a modern analytical method, when coupled with a computer permits analysis of complex proteins to be performed in a matter of hours rather than months or years. A decade ago such detailed information as a routine matter was unimaginable. The automatic X-ray diffractometer, when used in conjunction with a computer for analysis of the data, has enabled the chemist to obtain molecular structures in crystals on a routine basis. Now it is possible to use this powerful method to follow the course of synthesis or to apply it to the solution of complex structures which would not have been thought possible in the recent past. The mass spectrometer, when coupled with chromatographic apparatus and computer, offers a new analytical tool which permits study of problems of extreme complexity with a minimum of material. This combined analytical-structural device has enabled chemists to obtain information on the composition of the moon, meteorites, earth, and contaminants in air and water as they relate to the problem of pollution.

The price for this increased application of highly sophisticated equipment to the solution of complex problems is high. Not only are the analytical devices themselves costly items, but the computer required to fully exploit the instruments is of even greater cost.

Thus, in the first year of the '70s, the field of chemistry has grown and has become involved with a wide variety of our most pressing problems. Although primary research in chemistry did not start out to solve these problems, the evolution of primary research will aid their solution.

The field of chemistry is not alone in having evolved rapidly in the last two decades. Equally dramatic changes have taken place in other fields of science with a commensurate increase in the cost of doing research. One field taken as an example serves, however, to indicate how the increased resources in the 1958–68 period were absorbed. Though the period 1966–68 marks the high point in Federal support of science relative to need, there is no reason to believe that the level of support provided was optimum in balancing need against efficient and productive use of funds. In the report, "Chemistry: Opportunities and Needs", prepared by a committee of the National Academy of Sciences, a strong case was made for the proposition that chemistry was seriously underfunded in 1964. There was a slight increase of support in the two or three years following 1964, but there has been a decline since, and the present level falls far, far short of the level projected as optimum, again using the criterion of satisfying needs without incurring waste.

In turning now to the funding difficulties which face the academic science body today, I shall continue to use the field of chemistry for concrete illustrations, but I want to emphasize again that the other natural sciences face parallel problems.

Let us examine the consequences on departments of science of the recent decreases in funding by the Federal government of research and development. The percentage decline has not been great and the change in the gross figures gives no hint of the severe dislocations taking place in universities. Because of the way that support for primary research is provided, the problem created by the decline of total support is compounded many times over for those in primary research. In a time of financial stringency, the mission-oriented agencies adopt more and more restrictive interpretations of mission relevance, with the result that primary research, which in its very nature usually cannot be directly related to an immediate practical goal, suffers far out of proportion to the total budget cuts. To appreciate the problem, we must examine it from within the science. Let us, for this purpose as well, use the field of chemistry.

Chemistry, concerned as it is with matter—its composition, its structure and its transformations—is a fundamental science and has an important bearing on the work of each of the Federal agencies providing support of research in the natural sciences. The relationship is perhaps most readily apparent and most easily appreciated for NIH, an agency of HEW. Living cells are complex, dynamic chemical systems. Biologically significant components such as proteins, lipids, nucleic acids, steroids, vitamins, and hormones, are chemical substances. Processes such as metabolism, cell growth and its control, muscle and nerve action, and gene reproduction, are problems in chemistry. More and more diseases, whether caused by malfunction or by invasion, are being understood in chemical terms and controlled by chemical means. Despite the importance of chemical principles and knowledge for the mission of NIH, less than 3% of the budget has, in the past, been devoted to support of chemical research in departments of chemistry. This contribution, small in terms of the total NIH budget, and pitifully so considering the general relevance of chemistry to the mission of NIH did, in recent times, account for approximately one fourth of the direct Federal support of chemical research. Within the past few years NIH has narrowed its views in judging relevance, a trend exacerbated by the decline in total level of funding. Support of chemistry in departments of chemistry is not being reduced merely by the few percent which would be commensurate with the total cutback. Among the institutes in NIH, the Institute of General Medical Science has, in the past, been the most generous patron of primary research in chemistry; if current practices on renewal and new applications in chemistry are continued, a reduction in total support for chemistry of more than 50% within the next few years is in prospect.

NIH is unfortunately not the only agency curtailing sponsorship of primary research in chemistry. The AEC also is responding to the pressures of shortage of funds interacting with concern for mission relevance by adopting a similar posture. The reaction is rather general in the mission-oriented agencies; scientific merit seems to be becoming a secondary criterion in funding proposals. The NSF, with its limited resources, cannot possibly accommodate the established research programs denied support by the other Federal agencies and at the same time show the concern for the beginning investigator which is needed to ensure the continued vitality of basic science. The NSF budget for chemistry in 1969 was $18 million; in 1970 it is $17.6 million. Because the cost of doing research is increasing, the actual decline is greater than these figures would indicate.

Though the denial of support is being made as a matter of policy rather than caprice, its effects are as disastrous as if the decisions were entirely capricious. Established programs are cut off abruptly without being given a period of grace in which to terminate in an orderly fashion. This is a much graver matter than it might appear to be at first sight. Once a research team is disbanded, it can take a period of at least two years to restore it to full strength. Thus, even if support were reinstated after a short time, the loss in production would be enormous. Apart from the loss measured in quantity of research which results from termination, there is a loss in quality when first-rate investigators, with a vision of where significant new knowledge is to be uncovered, find it necessary to stifle the free expression of their creative bent so as to be certain to win at least a modicum of support. Finally, we must recognize, in view of the intimate relation between graduate education and academic research, that loss of research support means at once a decrease in the number of those being trained to fill the future needs of industry, of academia and of administration. In drawing attention to this factor, it needs to be acknowledged that there has been a recent decrease in demand for Ph.D.'s in science. But only if we believe in or plan for a declining economy can we regard this trend as normal or healthy. Demand can develop as abruptly as it declined. Here, too, we need to reckon with a time lag of three to four years, the time needed to train a Ph.D, as supply adjusts to demand.

I have referred to the dislocations in research activity in departments of chemistry caused by the recent cut-backs in support. What are the consequences for our society if this pattern is repeated in the other basic sciences? These will be felt in at least three major areas: economic, educational and social.

Wage rates in the U.S. are high, and our standard of living depends on high productivity and highly developed technological products. A comparison of exports in 1940 and 1969 shows a decided shift toward items which depend on advanced technology, e.g., electronics, computers, aircraft, fine chemicals and plastics. Advances in these and related products do depend on advances in science, not only through spectacular discoveries of the kind I used for case histories, but also the less publicized work that is the substantial body of the scientific structure. I quote here from the report "Chemistry:

Opportunity and Needs", (NAS, 1965): "We have examined the publications of nearly 40 inventions or practical discoveries in chemistry since 1946; these include, for example, the discoveries of polytetrafluoroethylene (Teflon), of an important catalyst for producing polyethylene, of antiarthritic steroids, and of pyschostimulants. All the footnotes (approximately 750) in these publications have been analyzed to find out where the supporting work cited by the authors was performed, and whether it was published in fundamental or applied journals. The results are summarized in the following table (see also the introduction to Section III of this report):

CLASSIFICATION OF SOURCES FOR ARTICLES CITED IN ANNOUNCEMENTS OF PRACTICAL DISCOVERIES IN CHEMISTRY

[In percent]

	Sources of citation		
Type of invention	Fundamental journals	Applied journals	Patents and others
Industrial	67	22	11
Pharmaceutical	87	5	8

Clearly, a large majority of the footnotes refer to work published in fundamental journals; furthermore, 60% refer to work carried out in universities (Table 5, Section III). These data go far toward showing that, in chemistry, nothing is so practical as basic research. The conclusion reached by this committee for chemistry applies with equal force to the other basic sciences.

The effect of the cutbacks on the training of Ph.D.'s has already been pointed out, and the present decline in demand has been acknowledged. In considering need for Ph.D.'s, we should not limit ourselves to past practices. There is, for example, a need for improving the faculties of liberal arts colleges, junior colleges and other institutions that now cannot adequately employ trained people. We are moving toward a policy of universal post-high school education, and accepting this as a social goal, which is good in its own right. If this is worth doing, it is worth doing well, and highly trained people are needed to get the greatest benefit from the educational system.

Some of the crises of our day arise from complex interactions of technical political and social problems. While technical solutions alone cannot eliminate pollution, the development of cheaper and more efficient techniques in combating pollution would influence the political climate and make their adoption easier. Similarly, low cost housing requires, in addition to legislative action, new ideas and materials. The solution of these and similar problems is clearly not aided by a decrease in research activity and in the availability of trained scientists.

GENERAL RECOMMENDATIONS FOR THE SUPPORT OF PRIMARY RESEARCH

The consequences of stemming the flow of new ideas in science may be slow in coming, but the consequences are inexorable. Rather than retreat from our national commitment, we should honestly recognize the intimate connection between research in universities and advanced education.

In turning now to recommendations for change, I shall, for the most part, restrict myself to enunciating principles, admitting that specific plans for their implementation will, of course, require additional study and analysis.

We begin by returning to our earlier theme: the nature and structure of primary research. Perhaps one of the major reasons for the difficulty in understanding what it is and what it contributes to the welfare of mankind stems from the fact that it is—and means—many things at the same time. It has been looked upon as a necessary requirement for keeping American industry competitive with that of other countries, and as a source of the concepts which lead to diversification and growth. It has been looked upon as serving this function also for the mission-oriented agencies for research. It has been looked upon as a fundamental instrument of teaching at an advanced level. It has been looked upon as providing new knowledge as a goal in its own right. Indeed, it is all of these things, and this being so, primary research in science should be viewed as a national resource. It differs from many such resources in that to maintain it, it must be not only protected, but nourished. To ensure its vitality, the Federal outlay in support of the resource should not be left, to the extent that prevails at present, to the judgment of administrators who serve other interests as their principal obligation. It must be protected by being identified as a line item in the budget.

Plurality in the source of support has much to recommend as helping to ensure stability, and also as helping to realize the benefits which flow from primary research.

If we recognize that primary research in universities is an integral part of graduate education, it seems prudent to provide a substantial core of support tied to the graduate student population. To meet the need of the academic community realistically, two changes in current practice should be made. One is that the program of Federally supported fellowships needs to be greatly expanded. Such fellowships best serve science when they are made directly to the students, with selection based on excellence and promise. The student selected as a fellow then has the freedom to study the areas which seem to him to be the most rewarding, and at the institutions that provide the best training and the greatest challenge in these areas. In the past, the support given to a university to cover the expenses of such a fellow have been insufficient to permit the university to develop and maintain modern tools of research. A more realistic approach to this critical component of support must be taken if universities are to properly prepare the new generation of scientists to meet the new challenges in scientific research which they will face.

A broad base of support provided in this way, with perhaps a majority of the students on Federally sponsored fellowships, would do much to alleviate the difficulties arising from the present unstable and erratic funding system. It has the advantage as well that the need is readily assessed. There is no reason to believe that students are attracted to a field by fellowships awarded during student days. What is of greater consequence to the student in deciding on a career are the opportunities and rewards promised at the end of the training period. Fewer graduate students would automatically lead to a proportionate reduction in the total support.

The need for stability and continuity in support should perhaps be enlarged upon. Education is not a machine which can be turned on and off like a water faucet. Once the process has started for an individual, it must be completed because anything less than completion is wasteful of the earlier investment. Although minor fluctuations can be accommodated in the system, abrupt changes of large magnitude do not merely slow down the educational process; they may, in fact, bring it to a halt. Universities do not sell a product and do not have available the simple device of increasing the price upon short notice to make up unexpected deficits in the budget. The major support of graduate education in science and, thus, primary scientific research, stems from the funds available from the Federal government. Such support can be expected to undergo changes, but if this national resource is to be kept viable, the changes must be programmed over a period of time.

It would, in my view, be a serious mistake to completely supplant a research grant system by support tied to the graduate student. The needs of some of the most enterprising research scientists would not be satisfactorily met in this way. The most active may require, in addition to graduate students, technicians and post-Doctoral research associates. They will certainly need equipment beyond that made available through a departmental pool. The idea of the National Science Foundation administering a research grant program, but beyond this, concerned with the problems of total support, distribution of support and maintaining a balance between the various demands is, in my view, sensible. For such a Foundation to discharge its obligations, it must have a very substantial sum in terms of grant funds to administer. But I think there are good reasons for not restricting the funding of grants to a single agency. Primary research should be part of the mission of each of the Federal agencies making an investment in research. It is important for those in primary research and in applied research to feel themselves part of a common enterprise. This feeling of a community of interest can be fostered by an imaginative administration of research support. In making this recommendation, I want to emphasize the need of having primary research recognized as a line item in the budget of each agency, and the absolute necessity of having scientific excellence rather than mission relevance the criterion in distributing funds thus made available.

As I have mentioned, the National Science Foundation would be concerned with problems of the distribution of support. Among the problems of this kind which are urgent and important is the support of the beginning investigator. Under our present grant system, particularly in a time of declining support, young investigators find themselves in an unfavorable, indeed, an impossible position in competing for funds. They have not had the opportunity to establish themselves as independent investigators and thus do not qualify for support; not having support, they cannot qualify themselves. When funds are scarce, the decision is almost invariably made not to take a chance. Another problem is the distribution of funds between big and little science. Accelerators represent big science, and certainly the frontier in science which they reach continues to yield discoveries which border on the sublime. But how do we weigh the real benefits of these discoveries against the equally real benefits that arise, let us say, from a chemical discovery? How many chemists should be sacrificed to make the next decade in the energies reached by accelerators possible, not tomorrow, but today? I am not providing an answer to this question. I think it is essential for the scientific community to cooperate in a spirit of concern for the corporate body of science, in arriving at answers. The National Science Foundation can be instrumental in promoting the discussion of issues as grave as these.

In pleading for protection of primary research in science, it may seem to some of you that I am advocating a scientific priesthood which is to be shielded at all costs from the vicissitudes of life as it is lived in the real world. Perhaps, therefore, it needs to be remarked that primary research, protected as I have recommended, provides no sinecure for its practitioners. Science is highly competitive. The need to justify one's self-esteem is as powerful in this area as it is in any of the most highly competitive enterprises. Furthermore, the scientist is obliged to put on display the basis of his self-esteem by publishing his findings in the journals. Here they are subject to the critical eye of the scientific community. With this mechanism for evaluation and criticism available and actively used, we need not be too concerned about being overly protective in implementing general recommendations of the kind I have made.

At this time when we are re-examining

many of our standards and values, it is essential for us to see that the success of future generations rests mainly upon that which is not known today. Primary research must be recognized as a vital national resource and the University as a national asset: the two taken together probably comprise a critical element in determining our future. Without adequate funding on a continuing basis of these two units, the future development of this country will be in jeopardy. A better life for all has been and will remain directly related to primary research. Let us ensure its vitality by solving the problem of funding now.

SUPPORT OF H.R. 12284, TO PROTECT COLLECTORS OF ANTIQUE GLASSWARE AGAINST THE MANUFACTURE IN THE UNITED STATES OR THE IMPORTATION OF IMITATIONS OF SUCH GLASSWARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, rarely does a day pass when we cannot read in the press reports of fraudulent deception of consumers. One day it concerns car or TV repairs. Another day it is home repair services. Or short weight in packaged foods. Or mislabeling of textiles. The Congress is showing itself increasingly concerned with these and many other forms of deception in its efforts to provide legitimate protection to the American consumer. Today, I wish to speak in behalf of a measure which deals with still another form of deception, one which may not rank high in the minds of most Americans, but one which can cause a great deal of anguish and financial loss to a small group of us, those who are collectors of antique glassware. Unfortunately, there are those who dupe such collectors into buying as antique glassware, imitations which are difficult to distinguish, for all but the most expert from the original article. It is against this kind of fraud that H.R. 12884, introduced over a year ago, on June 18, 1969, by the gentleman from New Hampshire (Mr. WYMAN), is intended to serve as a meaningful weapon. This bill declares that both the manufacture and the importation of any imitation antique glassware product which is not plainly and permanently marked with the calendar year in which such product was manufactured is unlawful and shall be declared an unfair method of competition and an unfair or deceptive act or practice in commerce under the Federal Trade Commission Act.

Imitation antique glassware is defined as any product made wholly, or in chief value of glass which resembles, by reason of its design, color, texture, and markings any glassware product which was manufactured before 1940. The requirement that such imitation glassware must be permanently marked means that it must be molded into the glass or otherwise permanently inscribed in the glass. I should like to note further that, to protect glass producers from needless governmental interference in the process of protecting antique glass collectors, the Federal Trade Commission is empowered to promulgate regulations exempting glassware from the provisions of this act if the nature, form, or quantity of such glassware product does not require it to be subject to this act for the adequate protection of such collectors. The enforcement of the act is to be in the hands of the Federal Trade Commission under essentially the terms and provisions of the Federal Trade Commission Act.

This is not a complicated act. It is, however, another piece of legislation needed to complement existing consumer protection law in an area of real significance to some of our citizens who are unable by the nature of the product involved to protect themselves adequately without such law. I therefore urge its prompt enactment.

TAX BENEFITS FOR FAMILIES OF MEN KILLED IN CAMBODIA OR LAOS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 5 minutes.

Mr. MINISH. Mr. Speaker, yesterday I placed in the hopper H.R. 18447, to provide retroactive tax benefits for the families of servicemen killed in Cambodia or Laos.

There are many tax benefits and exemptions that normally accrue to the estates of servicemen killed in combat zones. However, Cambodia and Laos have never received combat area designations, although an estimated 331 servicemen have died in Cambodia and unofficial figures indicate that many Americans have also fallen in Laos.

H.R. 18447 would provide equitable treatment for the families of servicemen who gave their lives in Cambodia and Laos. I hope that my colleagues in the House will give this measure full support.

THE NO. 1 PROBLEM OF AMERICA: DRUG ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. KEE), is recognized for 30 minutes.

Mr. KEE. Mr. Speaker, during the week of May 4 through May 8, it was my pleasure—my duty—to bring to the citizens of the Fifth Congressional District of West Virginia a professional panel on narcotics and dangerous drugs.

My distinguished colleague, the gentleman from Florida, Congressman CLAUDE PEPPER, chairman of the House Select Committee on Crime, and the Bureau of Narcotics and Dangerous Drugs, U.S. Department of Justice, provided knowledgeable staff asssistants who are in my opinion unsurpassed in this field concerning the future of our Nation—our most vital domestic problem.

This panel, in concert with the West Virginia Department of Mental Health and the local medical societies within the congressional district I have the honor to represent, informed our citizens as to the crisis of drug abuse and narcotics use in our country today.

I was amazed to find that many of the usually well-informed citizens of my district were sadly lacking accurate information about this menace. I feel this public program should, in some manner or form, be repeated throughout the Nation.

In effect, I am saying that we are not asking anyone to do more than his share, but we are asking everyone to do something constructive to help themselves eliminate the odious problem which is besetting our youth and our Nation.

The Honorable Howard M. Jarrett, judge of the intermediate court of my home county of Mercer, originally brought this to the attention of the public at home. Chairman PEPPER—equally concerned—developed the tragedy ahead on a national basis. In the very near future all of America will realize that we owe a debt of gratitude to Chairman PEPPER and members of his committee, as well as John E. Ingersoll, of the Bureau of Narcotics and Dangerous Drugs, because they have clearly pointed out for all to see the real problem we now face. It is up to each of us to meet our responsibilities now before it becomes too late. I simply followed through in my small way to eliminate the continued expansion of this terrible tragedy that could destroy from within the Nation we all respect and love.

This same panel conducted a statewide discussion and question-and-answer period at the University of West Virginia. I am hoping to arrange to have this taped program reproduced—because of its importance.

Because of concern by responsible citizens who care about the future of America, a group of the finest public speakers of America met on Sunday April 19, 1970, in Phoenix, Ariz., each giving of their time—free of charge. Speakers for America with Zig Ziglar of Dallas, Tex. as chairman, Cavette Robert as vice chairman, Dr. Glenn Cunningham, Dan Bellus on the board of trustees, Mr. Wayne Caldwell, CPA, the secretary-treasurer was formed. Mrs. Mary Crawley and Dr. Wayland Tonning have joined the board of trustees also.

The purpose of Speakers for America is to eliminate the continued growth of the drug problem and sell America to all Americans.

Because of the dedication of these respected, outstanding and concerned citizens arrangements have been made for a national conference in Dallas, Tex., on August 29 and 30, Saturday and Sunday.

At this point, Mr. Speaker, I include the following article by Chairman Ziglar be included in the RECORD:

SPEAKERS FOR AMERICA

Purpose.—To wipe out the drug problem and to sell America to all Americans.

History.—On January 19, 1970, while speaking to a S.M.E. sales rally in Winnipeg, Canada, four dedicated Americans who are professional speakers decided that our growing drug problem combined with the alarming decline in patriotism demanded a "best effort" from all concerned Americans. The men: Zig Ziglar, Cavett Robert, Dr. Glenn Cunningham and Dan Bellus were later joined on the Board of Trustees for Speakers For America by Wayne Caldwell, C.P.A. who serves as Secretary-Treasurer, Mrs. Mary Crowley and Dr. Wayland Tonning. On Sunday April 19 in Phoenix, Arizona, Zig Ziglar was elected Chairman of the Board of Trustees and Cavett Robert Vice Chairman. The wheels were set in motion with each member doing research and writing on drugs and the declining patriotism.

Problem.—Speakers For America feel that we are essentially confronted with a "sales" problem. We feel that the youth of America have not been sold on why they should not use drugs. We also feel that many Americans of all ages have not been properly sold on the real greatness of this country and it's future. We further felt that many citizens of all ages were complacent to the degree that they did not truly understand the magnitude of our growing drug problem. For simplicity and brevity we are going to use the word "drug" to include everything from "grass" to "heroin" as well as the up and downers, the sniffers, the addictive and the non-addictive. We at least partially understand the enormous difference but it is our belief that basically they all come into use because of similar problems or for similar reasons.

On June 3rd and 4th, I, Zig Ziglar, spent several hours with Congressman Jim Kee, of West Virginia, who was the first Congressman to initiate a thorough investigation into the drug problem on a Congressional District basis—its causes and solutions. With Congressman Kee was a Congressional investigator who has spent enormous amounts of time on this problem both from an investigative analytical point of view and a study solution point of view. It is the firm opinion of both Congressman Kee and the Congressional investigator that we have a *maximum of two years* to reverse the trend or we can chalk this generation up as "lost". According to Dr. Hardin Jones, a well known drug authority from the University of California, we had some 50,000 people who were users or casual experimenters with Marijuana five years ago. Today the number is 15,000,000. Five years ago the rate of increase of "hard" drug users was ½% per month. Today the figure is 7% per month. This means that our number of addicts will double every 10 months. When you realize that less than 5% of the addicts successfully kick the habit once they hit the "hard" stuff and that the normal life expectancy of a heroin addict is 18 months you begin to realize the seriousness of our problem. We believe it is a sales problem so we are mounting a "sales campaign" such as has never been launched in this country.

1. We are officially appointing every concerned American as a "Speaker For America" Each one is requested to wear the official button and pass out the brochures which outline the problem—and the solutions.

2. We are enlisting the support of every professional speaker, sales trainer, and sales training organization in this country to join us in our campaign. We are asking these companies and individuals to include something about the problem and the solution in every talk they make to any kind of group. We are further urging them to solicit unpaid engagements from high schools, colleges, and all civic and service clubs to further spread the word.

3. We are seeking the support of organizations such as Toastmasters International, The American Legion, The Jaycees and the numerous clubs who share our sentiments.

4. We are producing records on a professional basis and of top professional quality that will be distributed through independent sources throughout the country. These records will be "aimed" at all segments of our society but with special emphasis placed on ten to eighteen year olds in one recording and special emphasis placed on the 20 to 35 year olds in the other recording. This way we feel we will be reaching the youngsters who are now at the "vulnerable" age as well as reaching the parents of these youngsters. These records and all of our material will be aimed at "selling" and will not "preach" either to the kids or to the parents. There are so many sound reasons for leaving drugs alone and so many sound reasons why everyone should be loyal and patriotic to this land that all we need is a good sales job to get the results.

5. Because many people are willing to do—but don't really know "what to do"—we are spelling out in detail some very simple steps that *anyone* can do. These steps are available in pamphlet form. There are special pamphlets for many different walks of life. Not much is asked of anyone—but something is asked from *everyone*.

6. We will hold "training schools" to teach concerned Americans how they can best "sell" the idea of not using drugs. We will also conduct clinics on how to sell America—and it's future—to all Americans.

7. We are calling on the schools, churches, and universities to join us in our campaign. Most of the 6,700,000 college students feel the same way we do so we are going to urge them to abandon their "silent" support and make it "loud and clear".

8. Eventually—it takes time—we are going to put together an inspirational radio program of five minutes duration. We will sell it to sponsors who will provide us the money and the opportunity to tell our story to millions of people. The plan is to use one of our professional speakers for one week and then change to another. The radio program will also be printed in the newspaper which gives us another source of income for more activities. The sponsor will get double benefit since he will be mentioned both in print and on the air. All money will be utilized by Speakers For America to further the cause. No speaker will be paid anything for his services.

9. One of our major projects is to publish our own newspaper. It will be called, "Good News From America" and will feature the good things that are taking place all over the country. It will be a week by week progress report on our victories and on our progress in the field of civil rights, foreign relations, and triumphs over disease and poverty.

10. On August 29, and 30, 1970, we are having a "giant" rally in Dallas, Texas, complete with all the fanfare befitting such an occasion. Present on the 29th will be the professional speakers who are available and who support us in what we are doing. Also present will be the heads of as many major companies in America as we can gather together. We will place special emphasis on companies with sales organizations. Visualize, if you will, every sales person making a sales call or putting on a group demonstration of any kind. At the end of the presentation the sales person gives a 60 second talk on drugs and Americanism while distributing a pamphlet explaining more in detail what we are doing for our country. Also visualize the major companies all over the country who publish weekly or monthly bulletins. In each of these bulletins if there were only a few lines devoted to "whipping" the drug problem or "selling" America just think of the impact. Also present at this meeting will be the decision making officers of the service clubs such as Lions, Rotary, Kiwanis, J.C.'s, Business and Professional Women's Clubs, etc. The men and women in these clubs represent the leadership of America and have an enormous influence across the nation. All of these are already engaged in community service so this project will merge with their present goals. In short, this is going to be a giant sales meeting for the purpose of recruiting all Americans to sell America and then to give them tips on how to do it. On the 30th we will have an open rally with the best professional speakers in America "doing his thing" for America. We believe this will give us the momentum and arouse the interest and imagination of enough people around the country to get the sales job done—*now.*

On the western slopes of the Rocky Mountains a giant Redwood is slowly rotting where it lays. This giant was in its glory when Columbus discovered America. It was living when Christ preached the Sermon on the Mount. It was at full strength when the first Continental Congress convened and was still in its glory during World Wars one and two. It withstood the storms the earthquakes, the rains and hundreds of bolts of lightning. But then a little beetle came along one day and started to eat its way into the bark and later into the depth of the giant. Soon there were hundreds and then thousands of other beetles and each succeeding generation of beetles took its toll and multiplied itself many times over. Finally the proud giant which had taken the best shots nature could give lost its struggle and toppled to the earth.

America is a giant. We have survived storms, floods, riots, wars, epidemics, civil disorders and civil wars, depressions, and the combined efforts of some powerful enemies. We not only survived all of this—we grew strong and dominated the world as no nation has done since the glory of Rome. A few years ago a little beetle started tearing at our innards and went to work on our vital parts. It went straight to our kids because the beetle—which is obviously drugs—knew that only one generation separated us from all the "isms" in the world. The drug merchants did their own effective sales job of planting apathy and indifference in the minds of the millions of parents who were either too busy or too naive to believe that this thing was serious—that it could happen to "them" or to "their" children. But the sales process went on and converts went the drug route by the hundreds, then by the thousands and now by the tens of thousands. If we start with the ridiculously low figure of 100,000 serious drug cases in the U.S.A. right now and apply the doubling figure every 10 months—which is accurate—we have the frightening fact that in just five years we will have 3,200,000 *addicts.* Now use your imagination as to how much the cost will be in crime to support these habits.

There is time. This is a sales process. It has started. We need *you* now. If you are interested—if you want to help—write.

ZIG ZIGLAR,
Chairman of the Board of Trustees,
Speaker for America, Dallas, Tex.

In conclusion, Mr. Speaker, I respectfully invite every Member of the Congress to attend these meetings in Dallas and also urge concerned citizens to write to Chairman Ziglar concerning their desire to be present to learn the facts and determine the best possible preventive programs, designed for all local communities. In fact, this is our last chance, in my opinion, to preserve our way of life.

NEW JUSTICE DEPARTMENT GUIDELINES FOR U.S. ATTORNEYS DISCOURAGE ENFORCEMENT OF 1899 REFUSE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, recently I brought to the attention of the House the very progressive regulations which the U.S. Army Corps of Engineers issued only a few weeks ago to carry out its responsibilities under the River and Harbor Act of 1899 (30 Stat. 1151). These new regulations will help in protecting and enhancing the quality of this Nation's environment. My speech on this subject, and the text of the corps' new regulations, are in the CONGRESSIONAL RECORD of June 17, 1970, pp. 20252–20256.

But, while the corps has acted responsibly under the 1899 law, the Department of Justice is proceeding to undermine and negate the public interest by discouraging the enforcement of that law.

Several days ago, the House Conservation and Natural Resources Subcommittee, of which I am the chairman, learned that the Justice Department is about to issue guidelines for U.S. attorneys concerning litigation under section 13 of this act 33 United States Code 407—which is also known as the Refuse Act. Upon examining these proposed guidelines, we found that they virtually establish a policy of nonenforcement. Therefore, on July 8, 1970, we wrote to Attorney General John Mitchell objecting to the Department's proposed guidelines.

The 1899 law imposes fines of up to $2,500 on polluters discharging into the Nation's waters any refuse such as metals, salts, acids, oil and brines, cyanides, grease, food product wastes, animal wastes, and textiles, pulp, and paper mill wastes. It requires all U.S. attorneys "to vigorously prosecute" all polluters who discharge such refuse into a waterway without a corps permit. It encourages citizen involvement by specifying that "one-half" of the fine shall "be paid to the person or persons giving information which will lead to conviction."

In March of this year, the House Committee on Government Operations issued a report, prepared by our subcommittee (H. Report 91–917, March 18, 1970) recommending that the 1899 act be vigorously enforced. Shortly thereafter, I presented information to the U.S. attorneys for the eastern and western districts of Wisconsin urging strict enforcement of the 1899 law against 149 polluters of Wisconsin's waterways. Subsequently, I filed similar charges against an additional 121 industrial polluters in Wisconsin. My colleagues, Congressmen Edward I. Koch of New York, and Michael J. Harrington of Massachusetts, and other citizens and organizations, have also asked U.S. attorneys to enforce the Refuse Act.

However, the Justice Department has been busily preparing a backward policy of nonenforcement of the law. On June 11, 1970, I released a letter from the Department's Assistant Attorney General Kashiwa, who told our subcommittee:

> * * * it would not be in the genuine interest of the Government to bring an action under the Refuse Act to secure a criminal sanction against a company which admittedly is discharging refuse into the navigable waters of the United States, but which, pursuant to a program being conducted by the Federal Water Quality Administration, is spending significant amounts of money to secure the abatement of that pollution.

The Department now proposes to embody this absurd doctrine into its proposed guidelines for U.S. attorneys.

This doctrine favors the polluter over the public's interest in protecting the environment. By administrative fiat, the Justice Department has concluded that it is perfectly proper to allow polluters to violate the 1899 law if someday they will abate their pollution under a program of the FWQA. As we said in our July 8, 1970, letter to the Attorney General:

> There is no statutory or legislative history for this administrative policy.

Even where the Justice Department reluctantly allows U.S. attorneys to enforce the law in some cases, the proposed guidelines limit such enforcement by exempting polluters who have a State or local license. Under this exemption, a polluter with a food or liquor dispensing license, which is unrelated to the purposes of the 1899 act, could qualify for this loophole.

The 1899 law is not a water pollution control statute. It does, however, complement the Federal Water Pollution Control Act, as amended by section 21(b) of the Water Quality Improvement Act of April 3, 1970 (84 Stat. 91). Under the 1899 act, a polluter must, as I have said, obtain a corps permit to discharge or deposit refuse into the Nations' waterways. Without such a permit, the polluter is in violation of the law.

Furthermore, since the enactment of the Water Quality Improvement Act on April 3, 1970, the polluter who applies for a corps permit must now obtain a certificate from the State in which the discharge originates or will originate before his application can be approved. The certificate provides reasonable assurance that the discharge will be conducted in a manner which will not violate applicable water quality standards. Surely, a State would not issue the certificate unless it had a sound basis for providing this assurance. Thus, when the U.S. attorney enforces the 1899 law and requires polluters to obtain a corps permit, the 1899 law helps to set into motion the amended Federal Water Pollution Control Act, as Congress intended.

But the Justice Department's guidelines are totally inconsistent with this approach to improved pollution control. They frustrate the intent of Congress because they tell the U.S. attorney that he should not enforce the 1899 law, except in very limited circumstances.

Moreover, the negative statements and tone of the guidelines would discourage, rather than encourage, even the most ardent U.S. attorney's efforts to enforce the 1899 law.

The Justice Department should scrap these proposed negative guidelines. The Department should, instead, issue new guidelines which are in accord with the law and encourage its enforcement. The waters of this Nation have been despoiled long enough by polluters who ignore the law. Now that the corps, at Congress' urging, has begun to breathe new life into this 1899 law, the Justice Department should not be allowed to establish administrative loopholes for persons who discharge refuse into our Nation's waterways in violation of the clear mandate of the law.

If the Justice Department lacks personnel to enforce the law, let it promptly ask Congress for funds to do so, or delegate this responsibility to the corps, which has shown a willingness to protect our environment.

I believe the House, and the public, will be interested in the text of our subcommittee's letter of July 8, 1970, to the Attorney General, and I therefore enclose it in the Record at this point:

HOUSE OF REPRESENTATIVES, CONSERVATION AND NATURAL RESOURCES SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., July 8, 1970.

Hon. John N. Mitchell,
Attorney General of the United States, Department of Justice, Washington, D.C.

Dear Mr. Attorney General: We understand that the Assistant Attorneys General for the Civil, Criminal, Land and Natural Resources, and Internal Security Divisions of the Justice Department will soon issue to the U.S. attorneys "Guidelines For Litigation Under the Refuse Act (33 U.S. Code 407)." These "Guidelines" will establish the Justice Department's enforcement policy concerning violations of the Refuse Act by industrial polluters.

We believe that these guidelines (1) are, in many respects, inconsistent with the 1899 Refuse Act; (2) indicate a lack of understanding of the provisions of the Federal Water Pollution Control Act, as amended (33 U.S. Code 466 et seq) and the policies and practices of the Federal Water Quality Administration which administers that Act; (3) are, in some cases, ambiguous; and (4) are unduly and startlingly negative and discouraging toward any hope of vigorous enforcement of the Act. Indeed, the "Guidelines" appear to establish a policy of nonenforcement of the 1899 Refuse Act at a time when the Corps of Engineers has most responsibly issued regulations, pursuant to the Committee's recommendations (see H. Rept. 91–917, March 18, 1970), concerning Corps permit applications under the 1899 law, which show a great concern for our environment.

We believe that the adoption of these "Guidelines" with this policy is not in the public interest and urge that you substantially revise those guidelines.

A. Section II, paragraph 1 (p. 3) of the proposed Guidelines states the Justice Department policy as follows:

"The policy of the Department of Justice with respect to the enforcement of the Refuse Act for purposes other than the protection of the navigable capacity of our national waters, is not to attempt to use it as a pollution abatement statute in competition with the Federal Water Pollution Control Act or with State pollution abatement procedures, but rather to use it to supplement that Act by bringing appropriate actions either to punish the occasional or recalcitrant pollutor, or to abate continuing sources of pollution which for some reason or other have not been subjected to a proceeding conducted by the Federal Water Quality Administration or by a State, or where in the opinion of the Federal Water Quality Administration the pollutor has failed to comply with obligations under such procedure."

Thus, rather than state affirmatively what enforcement actions Justice will pursue under the 1899 Act, this statement declares that the 1899 law is not a pollution law.

As we have often stated, no one seriously contends that the 1899 law is a "pollution abatement statue in competition with the Federal Water Pollution Control Act." Rather, the 1899 Act complements that law, as we will demonstrate.

Section 13 of the Act (33 U.S. Code 407) *prohibits* the throwing, discharge, or deposit of "any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state" into any navigable waterway or tributary thereof. It also provides that the Corps, and no other agency, "May *permit* the deposit" of any such material into any such waterway "provided application is made * * * *prior* to depositing such material." (Underlining supplied). Thus, under the 1899 law a person or corporation either obtains a Corps permit or is in violation of this section if he deposits or discharges such material in a navigable waterway without a permit. It is that simple.

When anyone applies for such a permit after April 3, 1970, he must also obtain a certificate from the State "in which the discharge originates or will originate" (or, as appropriate, from the Secretary of the Interior). This certificate is required by section 21(b) of the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970 (Public Law 91-224; 84 Stat. 91, 108). The issuance of such a certificate provides reasonable assurance from the State or Secretary that such discharge "will be conducted in a manner which will not violate applicable water quality standards." We expect these certificates will not be granted until the State or the Secretary is satisfied that there is, in fact, a firm basis for such assurances. Thus, by enforcing section 13 of the 1899 law, and requiring each violator to apply for a Corps permit, the Justice Department will trigger the requirement of section 21(b) of the Federal Water Pollution Control Act. In the absence of such an application for a permit, section 21(b) will not apply. Further, applicants for Corps permits must also comply with its new regulations which are designed to protect our environment.

B. The policy statement specifically states (Section II, paragraph 1, p. 3) that "significant discharges * * * of a *continuing nature* resulting from the ordinary operations of a manufacturing plant * * * *pose the greatest threat to the environment.*" But it then says: "—but it is precisely this type of discharge that the Congress *created the Federal Water Quality Administration to decrease or eliminate.*" (Underlining supplied). Accordingly, the policy statement of your Department concludes that:

"* * * it is to the programs, policies, and procedures of that Agency *that we shall defer* with respect to the bringing of actions under the Refuse Act. *Therefore, in order that we might coordinate our litigation with the programs of the Federal Water Quality Administration, civil and criminal actions against manufacturing plants which continuously discharge refuse into the navigable waters of the United States are not among the types of actions which the United States Attorneys may initiate on their own authority.*" (Underlining supplied).

Under the procedures set forth in Section III, paragraphs 3-5 (p. 6) of the Guidelines, the U.S. attorney cannot, without prior approval, initiate (1) a civil action "where the defendant is or has been a party to an administrative proceeding which has been or is being conducted by" FWQA, or (2) a civil or criminal action under the Act against "* * * any person acting pursuant to a *license*" from a State or political subdivision thereof, or (3) a civil or criminal action under the law where the discharger's unlawful activity "is the subject of abatement litigation or criminal prosecution" begun by a State or political subdivision thereof.

We believe that this policy and procedure are unwarranted for the following reasons:

First, neither the creation of the FWQA, nor the institution of some type of proceedings under the Federal Water Pollution Control Act affects or limits the requirements of the 1899 Act mentioned above. Regardless of what actions FWQA takes against a polluter, it cannot relieve the polluter of the obligation to obtain a Corps permit under the 1899 law or the duty of the U.S. "to vigorously prosecute" (33 U.S. Code 413) all violators of that law.

The Committee on Government Operations recently pointed out, in its report of March 18, 1970 (H. Rept. 91-917, p. 16), entitled "Our Waters and Wetlands: How the Corps of Engineers can help Prevent their Destruction and Pollution," that the Federal Water Pollution Control Act specifically states (33 U.S. Code sec. 466k) that it shall not be construed as (1) superseding or limiting the functions, under any law . . . of any other officer or agency of the United States, relating to water pollution, or (2) affecting or impairing the provisions of . . . sections 13 through 17 of the River and Harbor Act of 1899, as amended (i.e., the Refuse Act).

Thus, the Justice Department by administrative fiat is, by its Guidelines, subjecting the permit requirements of the 1899 Act to the Federal Water Pollution Control Act and allowing a polluter to continue to discharge its refuse material into a navigable waterway in violation of that law. There is no statutory or legislative history basis for this administrative policy.

We request that the Justice Department not undermine the law by adopting this unwarranted abdicative policy.

Second, the water quality standards program of FWQA applies only to interstate waters. Other navigable waters and their tributaries are not covered by that program. The Guidelines do not even recognize this fact, but simply assume that all navigable waters and their tributaries are subject to FWQA's water quality standards. Even if the policy expressed in the proposed Guidelines were correct, the Guidelines should have stated that the U.S. Attorneys should "vigorously prosecute" unlawful discharges in such waters.

Third, in many cases, FWQA's sole effort to "decrease or eliminate" discharges of a "continuing nature" into an interstate water has been limited to a "conference" proceeding under section 10 of its law. This proceeding is not part of FWQA's water quality standards program. It is even difficult to classify it as an administrative proceeding because of its informal nature.

In such conferences, FWQA attempts to get all polluters to agree to a timetable under which they will abate their pollution. All too often these timetables are not met and the conference is reconvened and a new delayed timetable is adopted.

FWQA, in effect, follows a practice of trading time for persuasion. The effect of that practice is illustrated by the recently reconvened Lake Erie enforcement conference where it was announced that 44 of our largest industries failed to redeem their earlier pledges to clean up pollution of Lake Erie according to schedule. Of these, 38 are reported to be more than a year behind, with one, Mobil Oil, 32 months behind at its Buffalo, New York plant. While the Department can formalize these proceedings after a conference by holding a hearing and then requesting your Department to institute an abatement suit, it has done so only once since 1956.

Under these schedules, a polluter, even if he is expending substantial sums to abate his pollution, generally proceed at a leisurely pace and with no threat of a court order or fine. During this period, the polluter can continue to discharge his refuse material and befoul the waterways and, if he lacks a Corps permit, he will, under this Justice policy and procedure, escape the requirements of the 1899 law.

Fourth, the provision of the proposed guidelines (Section III, paragraph 3, p. 6) which forbids a U.S. Attorney from initiating, without special permission, a civil or criminal action to enforce the Refuse Act against a polluter who is conducting an activity under a license from a State or local subdivision, is so ineptly worded as to be virtually ludicrous. Under this guideline, any license issued to the polluter for any purpose whatsoever (such as a State or local license for the manufacturer to sell food to his workers in his cafeteria) would preclude the U.S. Attorney from proceeding to enforce the Federal law. We fail to see any basis in law for the Justice Department to, in effect, excuse violators of a Federal law merely because they have a State or local license.

Throughout the proposed Guidelines runs a highly negativist refrain which will undoubtedly tend to discourage U.S. Attorneys from enforcing the Act. The urgencies of stopping the dreadful pollution of our waterways should have induced your Department, on the contrary, to frame guidelines which would encourage U.S. Attorneys to enforce a law designed to protect our nation's waterways.

It is also curious that the proposed Guidelines state (Section I, paragraph 1) that the Refuse Act authorizes only criminal actions and civil actions for an injunction and fails to mention that it can be used also to secure reimbursement from polluters for the Government's costs in cleaning up their pollution (See *Wyandotte Trans. Co.* v. *United States*, 389 U.S. 191 (1967)).

Without attempting here to enumerate all of the deficiencies and ambiguities of these guidelines, we hope that your Department will revise these proposed guidelines to make them fulfill, rather than negate, the requirements of the 1899 law, and to encourage, rather than discourage, the enforcement of the law.

We would appreciate your early response.

Sincerely,

Henry S. Reuss,
Chairman, Conservation and Natural Resources Subcommittee.

TRAVEL AGENTS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. Tiernan) is recognized for 15 minutes.

Mr. TIERNAN. Mr. Speaker, last week we were all shocked by the rash of airline charter strandings which affected thousands of American students who were either already in Europe or were at Kennedy Airport in New York en route to Europe on chartered airlines. Many of these students had saved their allowances and worked for years in order to save enough money to make this trip. According to a report in a national magazine, these students will get no more than 10 cents to a dollar back. But even if they were to be repaid in full, they will never be able to be repaid for their ruined plans and dreams.

In February of 1969, I introduced H.R. 7786, the Travel Agents Registration Act. The purpose of this bill is to "protect the convenience, safety, and well-being of persons who patronize travel agencies in the United States." Basically, the bill would establish in the Department of Transportation a Bureau of Travel Agents Registration whose purpose would be to register travel agents and promulgate a code of ethics for the travel agency industry.

No person would be able to engage in the business of conducting a travel agency, directly or indirectly, without having first received a registration certificate from the Bureau. The Director of the Bureau would require that any applicant be financially qualified and successfully complete a written examination as to competency, in accordance with standards to be established by the Director and his eight-man board.

A reasonable fee would be charged each applicant and the registration certificates would expire on the last day of December each odd-numbered year. It is our hope that the collection of these fees would make the Bureau of Travel Agents Registration, to some degree, self-sufficient.

The need for this legislation is unquestionable. The facts go far beyond the recent World Academy catastrophe. The Civil Aeronautics Board this year alone has complaints against over 50 clubs, organizations and individuals for engaging in "unfair acts or deceptive practices and unfair methods of competition" in providing flights for trips abroad and elsewhere. These offenses varied from refusing to make refunds for overcharges to operating without a certificate of public convenience and necessity or any other authority from the CAB. My bill, by requiring that any individual or organization engaging in the travel agency business either directly or indirectly would have to receive a certificate of registration, will help to put an end to the victimization of substantial segments of the traveling public.

I am today reintroducing H.R. 7786 with 37 cosponsors, representing 17 States and the Commonwealth of Puerto Rico. The need for immediate hearings on this legislation is evident. It is estimated that 700,000 persons will be traveling to Europe on charters this year, and unless immediate action is taken, the potential for another World Academy is great.

Mr. Speaker, I want to make it clear that my bill is not designed to discourage low cost, safe and responsible travel. I am certainly not opposed to charter travel. But I am concerned with the safety and protection of the traveling public, as well as the majority of our travel agents who are honest and responsible businessmen. This is the purpose of H.R. 7786.

Mr. Speaker, a list of the cosponsors of the bill follows:

COSPONSORS OF THE TRAVEL AGENTS REGISTRATION ACT

Ken Hechler (D, W.Va.).
Ed Garmatz (D, Md).
Ray Blanton (D, Tenn).
Buz Lukens (R, Ohio).
John Murphy (D, NY).
Jacob Gilbert (D, NY).
Joseph Addabbo (D, NY).
James Hastings (R, NY).
Jorge Cordova (P.R.).
John Dent (D, Pa.).
Don Clausen (R, Calif).
Martin McKneally (R, NY).
Michael Harrington (D, Mass).
G. Williams Whitehurst (R, Va).
Thomas Rees (D, Calif).
Harold Donohue (D, Mass).
Charles Teague (R, Calif).
J. William Stanton (R, Ohio).
Donald Fraser (D, Minn).
Edith Green (D, Ore.).
John Buchanan (R, Ala).
Bert Podell (D, NY).
Jim Burke (D, Mass).
Arnold Olsen (D, Mont).
J. Herbert Burke (R, Fla).
Jim Fulton (R, Pa).
Brock Adams (D, Wash).
Dan Button (R, NY).
B. F. Sisk (D, Calif).
Thomas P. O'Neill (D, Mass).
Fernand St Germain (D, RI).
William Mailliard (R, Calif).
Frank Brasco (D, NY).
William Hathaway (D, Me).
Peter Kyros (D, Me).
John Moss (D, Calif).
Fred Rooney (D, Pa.).

A MERITORIOUS PERFORMANCE AWARD TO JACK COKER, MANAGER OF WACO, TEX., VETERANS' ADMINISTRATION OFFICE

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, the regional office of the Veterans' Administration at Waco, Tex., has been honored every year since 1965 with the Meritorious Performance Award. To earn this award for exceptionally high quality of operation during this period was almost unbelievable, in view of the tremendous amount of work imposed on the Veterans' Administration by the thousands of new veterans discharged each month who are very properly taking advantage of the benefits provided by the Congress.

For that reason, it was truly wonderful when I received the news that Mr. Jack Coker, the manager of the Waco office, and his staff have even surpassed their former achievements—the Waco regional office is the first in history to attain the distinction of achieving the highest possible evaluation rating in all factors for every program that it administers. The chief benefits director of the VA, Mr. Olney B. Owen, recently advised all VA regional offices and centers of this achievement, stating:

> You in the field can fully appreciate the magnitude of Waco's accomplishment. It is particularly significant in view of the continuing increase in workloads.

Mr. Speaker, as I have noted in this body before, those of us who are fortunate enough to do business with the Waco regional office have long known that its personnel are outstanding in every respect—they are not only highly efficient, but always courteous and sympathetic as well. I am delighted that these exceptional Federal employees have again received national recognition, and would like to extend my personal congratulations to Mr. Coker and his fine staff, with my deep appreciation for their wonderful work.

BANKS AND REAL ESTATE TRUSTS: NEW AND DANGEROUS EXTENSION OF BANKING POWER

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, a recent development in the expanding economic power of banks, bank holding companies, and life insurance companies is the entrance of these huge financial institutions into the field of real estate investment trusts. This development presents shocking and unparalleled possibilities of conflicts of interest, involves a potential of billions of dollars, poses a real danger to the American economy, and, in my opinion, appears to be in violation of existing law.

The real estate investment trust was first developed and marketed in 1961. It has been copied in 1970 by the banking industry. So far this year, trusts have been launched by the Chase Manhattan Bank, more than $100,000,000; the Wachovia Bank, $65,000,000; and America Fletcher National Bank, $12,500,000. At least two more are about to be launched: One by Bank of America, $135,000,000, and one by Wells Fargo, $65,000,000. Thus, these five banks alone account for over one-third of a billion dollars—and the movement has just begun. Many others have filed, and more are in the process of filing prospectuses with the SEC. In short, a frightening new colossus has been spawned.

All of these ventures follow a similar pattern. The money secured from the public plus additional borrowed money is to be invested in real estate loans of various types and other real estate interests. A bank or an affiliate acts as manager in return for a management fee of 1 percent or more plus a contingent fee. Directors and officers of the bank serve as officers and trustees of the real estate investment trust.

INNUMERABLE CONFLICTS OF INTERESTS

The section "Possible Conflicts of Interest" occupies two pages of the Chase Manhattan prospectus, and other scattered and veiled references to conflicts are contained throughout the prospectus. The possibilities for self-dealing, both those disclosed and the undisclosed ones, are shocking.

The most basic and pervasive conflict is that investment opportunities which are available to the real estate trust are substantially identical with those available to the bank. Although the Chase's and other banks' prospectuses struggle mightily with this problem, the end result is that there are no guidelines or principles under which investment opportunities would be allocated to the bank or to the trust. Real estate investments are not like securities investments; 10,000 shares of United States Steel are exactly like 10,000 other shares of United States Steel, and if investment opportunities arise as to the particular stock or corporation, two affiliates can each participate by buying stock. This is not true as to real estate, where each project and each loan is different. It will be impossible for the stockholders of the bank—or the bank holding company—and the security holders of the trust to know which entity is being favored or prejudiced as to any particular real estate projects or on an overall basis.

Similar problems arise when the bank and the trust invest in the same project or in the same real estate. Each of the prospectuses studied makes it quite clear that this is contemplated, but who is to tell whether one is being favored over the other in any particular joint investment?

Even more shocking opportunities for self-dealing and conflict of interest arise in actual purchase, sale, and loan transactions between the trust and the bank. Of course, this type of self-dealing would be forbidden by ordinary trust law, but the deeds of trust creating these trusts specifically permit this unconscionable conduct. The Chase prospectus naively states, on page 5:

> Such transactions may not be considered to be arm's length.

A more direct violation of traditional fiduciary standards could hardly be imagined.

One of the considerations that led to the divorcement of the banking business from the securities business in the Banking Act of 1933 was that a bank could not give disinterested investment advice; large numbers of unsophisticated investors depend on banks for investment advice and the banks control huge amounts of money in their trust departments. There are absolutely no restrictions whatsoever on a bank recommending purchase of securities of its affiliated real estate trust to investors or purchasing such securities for trust accounts. In engaging in these activities, a bank could hardly be regarded as disinterested and objective. Certainly, in this instance the banks have found a way to get back into the securities business.

The lack of disinterest extends not only to the original issuance of shares of these real estate trusts in which the bank has a direct economic interest, but also to the continuing market price of the shares. The market price of any security is largely a function of supply and demand for that security, and banks are in a position directly to affect the demand side of the market. Thus, not only may there be lack of disinterested advice to investors and trust accounts, but there may even be market manipulation.

Another fertile area for self-dealing may arise when a shaky investment or loan made by a bank is shored up by further financing from the resources of the real estate trust. The reverse can, of course, also be true. In either case, analysis of the proposed additional financing is necessarily affected by the interest of the affiliate, and a rational, dispassionate judgment is difficult if not impossible.

Another familiar and reprehensible pattern of conduct is the use of the assets of the trust as a "bird dog" to generate bank business. Thus, real estate loans or investments may be made by a real estate trust only on condition that compensating balances are maintained in the bank, or that other profitable banking relationships are entered into as a condition of the loan or investment by the trust. The Chase prospectus blatantly indicates that the bank intends to take advantage of these possibilities and states, on page 14:

> It is not contemplated that the Trust will benefit from any of such banking relationships or compensating balances.

In fact, the trust itself is expected to maintain compensating balances with the bank in connection with the loans made by the bank to the trust.

Another fertile field for birddogging operations arises out of the generous commissions generated by real estate operations. Banks have had a long history of conducting their security operations to benefit themselves by the brokerage. In 1963, former SEC Chairman Cary testified before Congress as follows:

> We have learned that at present brokerage is often distributed by banks according to a formula which rewards those brokers who keep balances in the banks or have other business relations with the bank.

With this background, it is difficult to believe that banks will not take similar advantage of the even richer brokerage available in real estate transactions.

A further situation involving a conflict of interest between a bank and its affiliated real estate trust would arise in connection with a particular investment which goes sour and should be foreclosed; if both the bank and the trust have an investment in the property, it is quite likely that one loan will be senior to the other. Thus, a foreclosure which would be beneficial to the senior creditor might well be detrimental to the junior creditor, and thus, a foreclosure which should take place if the bank were speaking with one voice would not take place.

Two additional areas of conflict arise in connection with the cash position of the trust. It seems to be assumed in all of these prospectuses that the cash assets of the trust will be deposited with the affiliated bank. This "float" is, of course, highly remunerative to the bank and the bank is under a continuing temptation to keep the float higher than it should be in the interests of the security holders of the trust.

However, not only the amount but also the form of the cash deposit can be a source of conflict. Prudent investment management would have as little as possible of the assets of the trust invested in non-interest-bearing obligations. There is no reason why short-term Government securities cannot be used to draw interest on the portion of the assets of the trust which must be liquid. This does not seem to be the intention.

In cases where banks have recently been involved in securities operations, they have clearly shown themselves to be subject to the temptations posed by various conflicts of interest similar to those outlined above. For example, the SEC brought an injunction action against First National City Bank and others for operating an investment service without registration under the Securities Act of 1933 and the Investment Company Act of 1940. The SEC alleged that—

> Approximately 47 percent of the assets held by . . . [the investment service] were invested in securities issued by companies affiliated or controlled by persons who are also directors of Citibank. (SEC Litigation Release No. 4534 (Feb. 6, 1970).)

ECONOMY AND HOUSING ENDANGERED

There are other conflicts of interest which involve not only the possibilities of self-dealing but direct dangers to the entire economy. Probably the most important of these involves the tremendous power of banks to affect the prime rate of interest which is so basic to our economy. Not only will advance knowledge of prime rate changes enable affiliates of a bank to engage in transactions in the securities of the trust at the expense of investors who do not know of these impending changes, but the judgment of the bank in fixing prime rate will necessarily be affected by the effect of any prime rate change on the market value of the securities of the trust and on the costs of borrowing by the trust. It would seem clear that in such an important area to the entire economy, banks should not be permitted to serve two masters.

Another great danger to the economy arises out of the tremendous financing required by these trusts; a large part of these financings will be directly from the affiliated bank and from other banks. Necessarily, this will have a tremendous effect on the loans available to other creditworthy borrowers, including competing real estate trusts that are not affiliated with banks. By use of their tremendous economic power and prestige, banks have a new vehicle for exerting their power in an uncompetitive way in the money markets, to detriment of less powerful competitors. Very serious antitrust questions are latent in this power structure.

Serious housing problems are also raised by this trend. The banks, which have demonstrated quite clearly their lack of interest in mortgage financing for housing, will be able through their real estate trusts to raise money in public markets for their traditional commercial real estate loans, to the detriment of nonbank real estate trusts, which have over the years demonstrated constant support of housing. This will have a most detrimental effect on the Nation's ability to meet desperate housing needs.

In another area, the banks are under a considerable temptation to maximize the amount of loans made to these trusts by themselves and others, since their management fee is 1 percent or more of total assets, including borrowed funds. Thus, for every dollar that a bank lends its affiliated trust, it makes a management fee of 1 percent or more per annum, in addition to earning interest. The power of major banks over other banks to influence them to make loans to their own real estate trusts necessarily causes a drying up not only of the available supply of money of the affiliated bank but of many other banks throughout the system.

Another danger to the economy is the fact that real estate investment trusts are necessarily somewhat risky operations. The caption "Risk Factors" in the Chase prospectus occupies almost five printed pages. There does exist the possibility that one or more of these trusts would go under; there would necessarily be a loss of confidence by depositors and others in the affiliated bank if any such catastrophic event should occur.

A further risk to the economy lies in the extension of the tremendous holdings which banks already have in equity securities. The percentage of the Nation's equity securities held or controlled by banks is already a matter of deep concern to interested observers. The dangers of investment by the bank's trust departments in the equity securities of affiliated trusts have already been discussed. Furthermore, there is the problem that additional equity securities are likely to come as a result of bank control under these affiliated real estate trusts. For example, the Chase prospectus, at page 12, states:

> The Trust may acquire ownership of or participants in the ownership of equity interests in real property. These equity in-

> terests may be in the form of direct ownership, with or without lease-back provisions, in existing real property or in real property to be developed. These interests may be in the form of stock, stock purchase warrants, or other interests in the entity owning or developing the real estate.

ILLEGALITY

The most disturbing aspect of these bank-sponsored real estate trusts is their very shaky legal foundation. The Banking Act of 1933 sought to establish a complete divorce between the banking business and the securities business. In particular, section 32 of that act provides in effect that no officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate participation, of stocks, bonds, or other similar securities can legally at the same time be an officer, director, or employee of any member bank of the Federal Reserve System. The Board of Governors of the Federal Reserve System has consistently held that an open-end investment company; that is, a mutual fund, is principally engaged in these activities through the regular sale of its own shares and that, therefore, no officer, director, or employee of a member bank may also be an officer, director, or employee of a mutual fund.

In 1961 the Governors of the Federal Reserve Board ruled on interlocks between member banks and real estate investment companies—12 C.F.R. section 213.104. Real estate investment trusts were not then common. The Board specifically noted the objection mentioned above about impairing of confidence, as follows:

> Apart from the legal question, the Board noted that an arrangement of the kind proposed could involve some dangers to an affiliated bank because the relationship might tend to impair the independent judgment that should be exercised by a bank in appraising its credits and might cause the company to be so identified in the minds of the public with the bank that any financial reverses suffered by the company might affect the confidence of the public in the bank.

However, the Board ruled that—

> On the basis of the facts stated, the Board concluded that the companies involved would not be subject to Sections 20 and 32 of the Banking Act of 1933, since they would not be principally or primarily engaged in the business of issuing or distributing securities but would only be issuing their own stock for a period ordinarily required for corporate organization. The Board stated, however, that if either of the companies should subsequently issue additional shares *frequently and in substantial amounts* relative to the size of the company's capital structure, it would be necessary for the Board to reconsider the matter. [Emphasis added.]

Even assuming that the Board is correct in this ruling, necessarily any bank-affiliated real estate investment trust must be constantly concerned, when considering the desirability of the issuance of additional equity securities, with whether or not such issuance would render the entire operation illegal under this ruling. It follows, then, that any bank-affiliated trust will be unable to engage in the amount or volume of equity financing which might well be desirable from the point of view of the interests of the investors in the trust. This could lead to a debt-heavy financial structure of the trust, with consequent increase of risk to investors.

Even more dangerously, the 1961 ruling of the Board of Governors was made before real estate trusts were common, and without awareness of the fact that these trusts necessarily and continuously engage in the issuance of securities. The constant issuance of these securities is substantially identical with the contant issuance by mutual funds of their shares, and would seem to be covered equally by section 32 of the Banking Act of 1933. That provision, of course, covers not only stocks but also bonds and similar securities. The Chase prospectus, for example, states on page 16:

> The Declaration of Trust authorizes the Trustees to borrow money and for this purpose to issue notes, debentures, bonds or other type of debt obligations including commercial paper.

The remainder of this section makes it quite plain that the trust intends to engage in this type of activity on a regular basis. The legal status of these trusts seems, therefore, to rest on very shaky foundations.

As the Supreme Court has stated in *Board of Governors* v. *Agnew*, 329 U.S. 441 (1946):

> Section 32 is not concerned, of course, with any showing that the director in question has in fact been derelict in his duties or has in any way breached his fiduciary obligations to the bank. It is a preventive or prophylactic measure.

CONCLUSION

The numerous and substantial conflicts of interest involved in the establishment of bank-affiliated real estate trusts, and the dangers to the economy which they create, would seem to indicate that the "preventive or prophylactic" measures of section 32 should be applied and that the Justice Department should evaluate the antitrust dangers.

As indicated earlier, insurance companies are also forming real estate investment trusts. Connecticut General Life Insurance Co. has formed a $125,000,000 trust and Mutual of New York a $100,000,000 trust. Other life insurance company-sponsored trusts are being formed. Many similar conflict-of-interest, antitrust, and economic problems are raised.

There should be no question that the growing trend toward establishment of these trusts as affiliates of banks, bank holding companies, and insurance companies should be stopped immediately and divestiture should be required of those already established.

Mr. Speaker, as I have made clear, this relatively new development is laden with grave danger to the entire economy, including the banking community itself. It is further evidence of the predatory intent of a few large banks to control and dictate, by horrendous conflicts of interests, the Nation's economic forces—an intent that must be stopped if other businesses are to survive and prosper and if our economy is to be strong and competitive.

I am convinced that the national well-being dictates that steps must be taken to sever existing ownership of real estate trusts by banks, bank holding companies, and life insurance companies, and to prevent their further encroachment into this field.

I shall call this serious matter to the attention of the Federal Reserve Board and the Anti-Trust Division of the Department of Justice, with the request that those agencies take appropriate action to halt and undo this dangerous development, and I urge all Members of Congress to in their own right take action to prevent this new and dangerous economic trend.

RED RIVER EMPLOYEES FEDERAL CREDIT UNION OF TEXARKANA, TEX., ROLLS BACK INTEREST RATES—INTEREST CHARGES REDUCED FROM AVERAGE OF 6½ PERCENT TO LESS THAN 5 PERCENT

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, the Red River Employees Federal Credit Union, sponsored by the Red River Army Depot of Texarkana, Tex., has done something about interest rates.

At a time when banks across the country are raising interest rates and cutting off funds to many small borrowers, the Red River Employees Federal Credit Union has taken an opposite course. On July 1, the credit union reduced its interest rates on loans from 1 percent a month on the unpaid balance to three-fourths of 1 percent per month on the unpaid balance. Based on an annual percentage rate on a 12-month loan with one-twelfth being paid on the principal each month and the interest at 1 percent a month on the declining balance, the effective interest rate for the year is about 6½ percent on a three-fourths of 1 percent a month, the new rate is less than 5 percent per annum, the reduction was from 12 percent to 9 percent, or, quite simply, a 3-percent savings for credit union members. Not only has the credit union put the new lower rate into effect for all loans made after July 1, but also reduced the interest rate for those loans which were outstanding as of July 1.

It should be pointed out that the Red River Federal Employees Credit Union is not only giving an interest break to borrowers, but at the same time is paying a 6-percent interest rate to shareholders, the highest rate allowed under National Credit Union Administration regulations.

The actions of the Red River Employees Federal Credit Union are typical of the outstanding work being done by the nearly 24,000 credit unions in the country. As I have said on so many occasions, next to the church, credit unions do more good for people than any other institution. If the large banks of this country would follow the lead of the Red River Employees Federal Credit Union and reduce interest rates, this country would quickly recover from the brink of recession that it now faces.

The little people of this country are

doing their share in our economic struggle and it is up to the big boys to follow their lead.

THANKFUL TO BE AMERICANS

(Mr. RANDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RANDALL. Mr. Speaker, a short time ago I received a letter from a constituent who lives in my home city of Independence, Mo. Its contents so impressed me that I then concluded it should be shared with my colleagues and all of those who may read the CONGRESSIONAL RECORD. First, I had to write to receive consent of my correspondent in order to publish her letter. The answer was to the effect that I could tell everyone who cared to listen about her letter and in fact to tell the whole world, that they thank God every day, again and again, that they live in America.

Last fall, for some unexplained reason, our constituents decided it would be best to return to West Germany. Last October they sent three of their children who stayed with Mrs. Butts' parents and attended German schools. Early this spring the family decided to dispose of their home and convert it into cash and to proceed to make their home in Germany.

They left Kansas City on April 18. The events which thereafter transpired are well documented and beautifully described in their letter. In order to leave they had to convert into cash the equity in the home which was the result of 16 years of hard work and represented the entire savings of this family.

Along with my fellow Members of Congress I had always been led to believe that West Germany enjoyed one of the highest standards of living in the world. That may be true but after the receipt of this letter from my constituent I am convinced that life in America is far ahead of West Germany which is regarded by many as one of the most prosperous countries in the world.

As soon as the Butts family arrived in Germany they discovered their destination was suffering from the very worst kind of inflation. They learned there is little or nothing being done to control it. I am wondering what our people would think if they had to pay $6 for a small jar of coffee which sells for 65 cents in the United States, or $4.25 for a gallon of milk or $2 for a loaf of bread? I am told these are actual prices when the deutsche marks are converted into dollars. What would our people do if they had to pay $11 for 10 weiners which is over a dollar per weiner, or $3 for a can of peas, $5.50 a pound for chicken and $2.85 for a can of green beans?

Well, our one-time constitutents, now returned, found their former home in Germany was not as attractive as they had remembered it particularly in comparison with their home in America. For them 4 months were enough. One of the things which so impressed me about their letter was their description of the first time they saw an American flag flying in Germany. It was such a pretty sight it made them cry. Regardless of what the bystanders thought or said the Butts family was proud to proclaim "up there flies my flag."

The John Butts family is now back home in Independence, Mo. They are starting anew. When they arrived in Germany they realized very quickly and all too well the good things they had left behind them in America. As their letter states they are glad to be back in complaining, but wonderful and glorious America.

I was impressed by the suggestion of Mr. Butts that our country should provide free plane trips abroad to our complaining youth. If we did this there would be no more riots on our campuses. Our youth would come back to this country humble and on their knees, thankful to be Americans. She is so very right when she said the mouths of our young people should be filled with praise for this country rather than full of complaints coupled with efforts to try to tear it down. For the Butts family a big disappointment was remedied in time. Four weeks in West Germany were not only enough but far too long. They are glad to come back and tell it like it is.

Mr. Speaker, I have never received a letter which is a better testimonial to what is right with America. The comments of Mrs. John Butts, Jr., who after several disappointing weeks is thankful that her family can once again return to the good life in America. Her thought provoking but beautifully descriptive letter follows:

INDEPENDENCE, MO., *June 30, 1970.*

DEAR MR. RANDALL: For weeks I wondered if I should write to you or not. Well I have just called you at your office to talk to you and was told that you are in Washington, so here goes a letter.

I really don't know where to start or how to write for fear of wrong spellings but I will try my best.

Maybe you remember my letter to you last fall. I asked you about going to Germany and if our children could go to School for U.S. Dependents Overseas? Well to make it short our three oldest went to Germany last October. They stayed with my parents and went to German schools and they thought it was fun.

Well my husband practically gave our home away so we could sell it fast and get cash money. We sold everything we had and gave the rest away. We left Kansas City April 18, a beautiful sunny day, and arrived in Germany April 19, a dark and dreary Sunday. As we rode with a taxi through streets which should have been familiar and a joy for me to see, I experienced without a doubt the biggest disappointment of my life. It was like a kaleidoscope in my mind. The past 16 years went through my thoughts, the hard work my husband had to work, the saving we had to do, the hardships we had. You know raising 7 children is a joy but it can also be worrisome at times.

Well all those things flashed through my mind and still all those dark thoughts were pushed aside by remembering all the good things I left behind, like smiling people, gaily colored houses, wide streets, nice cars, and big stores. The streets over there seemed so dark and unfriendly, people dressed in dark colors, houses all looked alike, stucco that was once white and now everything was grey and dirty, dark and gloomy. By now you probably know that I was sorry right away, when we got there, for everything I left behind.

Of course it was nice seeing my parents and three brothers again. My parents are considered fairly well off, but it still was a far cry from the way we four lived here. You could not afford this or that, this is only for special occasions and so on. My husband John and I went to the butchershop to get some meat. The lady gave us a discount everytime we came because she remembered us. It was well to get a roast and some soup bones for 40 DM with enough bologna for some sandwiches.

Now you might think 40 DM is only $10.00 but you really cannot figure this way. You see my husband works for a non-union company and does not make as much as some people but it is steady every day work. Well he brings home $140.00 per week without overtime. Now over there the average workman brings home from 150–200 DM for a week working Saturdays too. So you can almost say 1 DM over there is like a dollar over here in salary. A small jar of instant coffee (American brand name) that costs here at the most 65 cents is 5.85 DM. 1 liter milk cost 1 DM. 4.05 liter (one gallon) would cost about 4.25 DM. Milk to drink for a large family is out. 1 pack cigarettes (husband John smokes—2.00 DM. 1 loaf of hard bread—1.25 DM. I bought 20 lb. of potatoes.

The lady at the store thought she did not hear right. She sent the manager over to inform me that the store only has good potatoes and they are new ones too. Well I said yes I need 20 lb. because we were going to have a family get together. Manager and all started digging in the potato sack to pack 20 lb. Nothing comes ready packed. You carry everything home in little plastic bags or bring your own bag. Well none of the potatoes were more than 2½ inches round, about like a marble, that was 15 DM. 10 pair wieners with discount were 11.00 DM. We got 20 pairs and I could not eat a one. I thought of the many times we had hot dogs in the states and complained because that was all we could afford on certain days. And here my nephews and nieces thought it was the greatest treat.

I asked my brother if he would get me a can of tomatoes from the store (he was going anyway). He said they don't have anything like that. Well I went to the store with him and I found the tomatoes. No wonder he did not know that they had them. 2.85 DM a can. 2.85 DM a can green beans. 3.00 a can sweet peas, 5.50 DM *per pound* chicken. Everything and everyone is so petty.

My old home town has a cathedral with the highest tower of any church in the world. I used to be very proud of this. Now it makes me sick. I stood before this work of art. There is not one foot of stone without fancy stonework and figures. The figures' faces all look so mean and stern. To me they were a mirror of misery of the people who were forced to create and build this cathedral, and all at once I understood why I never found peace and calmness inside of me whenever I was inside the cathedral. Its walls are cold and foreboding. The angels inside looked bitter and grim like they would rather harm me than protect me. You see all the walls inside and out were lined with plaques dedicating this figure to this king and to this city father. The chapel was dedicated to a king that visited there. Nothing was built to the glory of God. You can not find comfort in there.

Mr. Brandt was here in the United States asking to keep U.S. boys in Germany. Yet I heard German people speak badly about Americans. Our children were overheard speaking English and they were called bad names. I never was called any bad ones here. People love American made stuff over there yet they are not big enough to say this to Americans. I was so proud to wear my little U.S. Flag on my coat. One day as we were in town we saw the American Flag fly among other flags. It was the prettiest sight my eyes have seen in a long time. I could not help but cry. My husband who is no sissy had wet eyes. I didn't care that people stared. I was so happy to say, up there flies my flag. We had to wait for our money for our return tickets from the Chrisman Sawyer Bank or we would have been back in this great land, the U.S.A., sooner.

I wish I was a famous person and could talk to those kids in colleges. They are wasting precious time on the prettiest campuses in the world, tearing down the *most* perfect land in the world. Things can get quite a bit more worse as they say, yes I mean we can still go a long way in the wrong direction, and we still will be headed in a better direction than any other nation on earth. I wish you could make a suggestion to our President, Mr. Nixon. He should provide free plane transportation to all those kids who complain so much. They would come back humble and on their knees, thankful to be Americans. They would be better citizens for the rest of their lives. I doubt if they would let their children grow up to run down this land. What it would cost to fly those people out of the U.S.A. would probably be a very profitable business. It would fill their mouths with praise instead of complaints. I could just go on and on. We are starting anew. All the money is gone on plane tickets, but we are tickled pink to be back. We were gone four weeks. That was enough. You may have the means and power to tell people to stop and think what good things they have. I hope you can make out what I was trying to tell you. I really should go over this letter and correct mistakes but I won't because I might not send this letter at all if I do. So I will just go on and send this letter to you. Keep up the good work and we are all behind you.

A very grateful citizen of the United States of America.

Mrs. John D. Butts, Jr.

IMPORTS—THE DEEPENING CRISIS

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, during my 8 years as a Member of Congress, I have been deeply concerned by the troubles of our textile industry. I have seen the flood of imports coming into our country force the closing of important factories in my district in New Hampshire. At the same time advocates of so-called free trade have been calling for even fewer restrictions on imports. My urgings that we act to insure that free trade also be fair trade went unheeded by many though of course not by workers who saw their jobs disappear or employers who laid them off. The battle for relief of the hard-pressed textile mills has been a lonely one, with all too many people willing to stand by while factories closed.

In 1964 I made a major issue out of the imports coming into America which were threatening to destroy our textile industry. But at that time my warnings were scoffed at as "reactionary" or "groundless." Now times have changed and people are awakening to the problem. Regrettably, the hour is late for industry and too late for many factories and workers.

The House Ways and Means Committee is to be commended for acting on this major problem, and for holding exhaustive hearings to demonstrate to all the need for legislation. The Mills bill, of which I am a cosponsor, and which is the principal bill being considered by the Ways and Means Committee, is one of the most heartening developments on this subject since I have been in Congress. I only regret that it comes so late, since many factories have already closed or will be forced to close before relief is obtained from any bill passed by Congress this session.

Mr. Speaker, the difficulties facing the textile industry were again brought sharply to my attention by a resolution passed at the July 6 meeting of the City Council of Franklin, N.H. The impact of the flood of imports on communities in my district was well expressed in this resolution by the mayor and Council of Franklin. It expresses a need felt by many Americans, and is a call for us in Congress to act on this problem. I urge the Ways and Means Committee, the House, the Senate, and the administration to heed this call.

The hour is late and the textile industry and workers, just as many others, need help.

The resolution and my response to it follow:

Resolution No. 15 of City of Franklin, N.H.

In the year of our Lord on thousand nine hundred and seventy.

A Resolution Pertaining To Protection of Textile Mills From Foreign Competition On Basis of Tariffs.

Resolved by the City Council of the City of Franklin as follows:

Whereas, the textile mills in Franklin and Tilton of J. P. Stevens & Co., Inc., represent the oldest industry and the largest employer of this area:

Whereas, over the years this industry has survived the handicaps of high transportation, fuel, and electric rates:

Whereas, recently, due to the additional burden of continuing inflation, this industry, both in New Hampshire and nationally, has been adversely affected:

Whereas, these conditions have given foreign textiles a tremendous and unfair advantage over domestic manufacturers and caused local markets to be flooded with cheap imports:

Whereas, many textile concerns, due to the above conditions, have been forced to liquidate and close their mills, while others, including J. P. Stevens & Co., Inc., have been compelling to greatly reduce their work force, jeopardizing the economic welfare of this community and its many citizens:

Be it therefore resolved that the Council and Mayor of the City of Franklin earnestly solicit the help of all its Washington Congressional delegation in providing adequate protection for American textile concerns.

Be it further resolved That the City Clerk send duly authenticated copies of this resolution to the President of the United States, Richard M. Nixon, the Governor of our State, Walter Peterson and the Members of our Congressional delegation Senator Norris Cotton and Thomas McIntyre and Congressmen Louis Wyman and James Cleveland.

July 15, 1970.

Barbara S. Lorden,
City Clerk,
City of Franklin,
Franklin, N.H.:

Resolution No. 15 is acknowledged with thanks. Please advise the Mayor and the Councilmen that I deeply appreciate their interest in the important problems which pose a direct threat to the textile industry and have for a long time. During my years in Congress, I have repeatedly urged that reasonable protection for industries particularly vulnerable to the flooding imports from countries where low wage scales and poor working conditions prevail. Our governmental policies for the past eight years have resulted in the exporting of jobs and the creation of unfair trade conditions with serious and unfair results for large segments of New Hampshire industry. This has been proved by the closing of industries in my district. Mounting concern has resulted in the Nixon administration partially supporting legislation to meet this problem. The Mills bill, of which I am a cosponsor and in behalf of which I testified at length before the Ways and Means Committee, is expected to be ready for House action in the near future. It is regrettable that this action by Congress has come at such a late date.

Thank you again for your resolution which I am placing in the Congressional Record together with my own remarks urging long overdue action by Congress in this critical area.

James C. Cleveland,
Member of Congress.

PUBLIC LANDS, TIMBER RESOURCES AND HUMAN NEEDS

(Mrs. MAY asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Mrs. MAY. Mr. Speaker, few domestic issues are as critical to both the short-term and long-term interests of the citizens of the United States as the proper management of national assets to meet public needs.

The necessity for sound national policy to insure that all our citizens derive maximum benefits from public resources has nowhere been more dramatically underscored than in the case of national commercial forest lands and their productivity so essential to the fulfillment of our national housing goals.

This is, of course, a matter of deep interest and concern to many of us in this country. Along with a number of my colleagues with whom I have the privilege of serving in this body and on the House Agriculture Committee, I have devoted a great deal of time and attention to the development of legislation to meet this national policy objective with regard to national forest lands. In view of recent events, I believe it is appropriate at this point in time to review this whole issue in an effort to bring these new developments into better focus and perspective.

THE LUMBER-PLYWOOD-HOUSING CRISIS

In late 1968 and early 1969, prices for softwood lumber and plywood, essentials for the construction of housing, rose sharply in a short span of time to unprecedented heights. Supplies of both were short of demand in the face of an anticipated rise in housing and other construction activity.

Both the Senate and the House of Representatives undertook investigative hearings to determine the causes of such sudden and sharp price rises for end products which had traditionally been plentiful and reasonably priced. Because of the significant impact supply-demand imbalance for softwood lumber and plywood had upon housing, these investigations were undertaken by the Housing Subcommittees of the Senate and House Banking and Currency Committees.

Each of these distinguished committees readily ascertained that the principal cause of supply shortages and high prices in the face of heavy demand was an inadequate availability of timber suitable for manufacture. They further established that more than half of the national softwood sawtimber inventory was federally owned, mostly in the national forests administered by the U.S. Department of Agriculture. It was clear that forestry and timber growing on our Federal lands was being neglected. Many millions of acres were and still are relatively nonproductive for lack of timber growing investment. Parenthetically, it was recently estimated that up to 15 billion board feet of timber is lost annually to overmaturity, insects, disease, and fire in the United States—more than enough for all housing currently being built. Two-thirds of this huge loss of usable wood occurs in the West and most of it on Federal forest lands.

The committees found that unless steps were taken, either legislatively or administratively, to increase the availability of timber from public commercial lands over the long term, lumber and plywood supplies would not be sufficient to meet the Nation's increasing housing needs.

Senate Document No. 91–27, "Effect of Lumber Prices and Shortages on the Nation's Housing Goals," dated June 16, 1969, in its foreword and in its conclusions and recommendations, clearly established the direct correlation between public timber and national housing needs. See appendix, item I.

President Nixon had acted promptly to effect corrections of the short term problem. Actions involving prompt increases in the allowable cut, restrictions on Federal purchase of lumber and plywood, and ICC measures to free boxcars for transportation of lumber and plywood had, in fact been taken, while the Senate investigative hearing was in progress.

Furthermore, the President had created a Cabinet level Task Force on Softwood Lumber and Plywood to explore solutions to the long term problems which were clearly ahead.

A FOUNDATION FOR LEGISLATION

While the congressional committees clearly discerned the need for immediate remedies related to housing, they also anticipated the means to overcome development of future wood product shortages. In previous months there had been a separate series of hearings and investigation by the Congress, and the Departments of State, Commerce, Treasury, and Agriculture, into the need to control log exports from Federal lands.

These studies, investigations, and the testimony of expert witnesses made it eminently clear that the primary and practical solution to wood shortages was to grow more trees. The committees recognized that timber, alone among major industrial raw materials, is a renewable resource and they wisely laid the groundwork for legislation to make it possible for the Federal Government to guarantee that its commercial timberlands in the national forests could provide an eternal source of timber.

Briefly, these studied judgments were the foundation of the National Forest Timber Conservation and Management Act of 1969, originally introduced in the Senate and the House by leaders of both parties who were members of the Banking and Currency Committees, as well as by many others in both bodies who were members of the Agriculture Committees or who were familiar with timber as a resource and the critical housing needs of the Nation.

I was one of the sponsors of the measure on which the House and Senate Agriculture Committees conducted legislative hearings. Our House committee, with but one dissenting vote, recommended passage of a thoroughly revised bill—H.R. 12025—which took into account changes sought by the Forest Service as well as the anxieties expressed by those who felt—and I believe incorrectly—that the legislation would in some way prove detrimental to other national forest benefits and values such as recreation, fish and wildlife, watersheds and wilderness areas.

Our House Agriculture Committee report eloquently argued the case for adoption of H.R. 12025, and emphasized the safeguards against exploitation of the timber resource or its concomitant benefits. See appendix—item II.

H.R. 12025 AND THE CONGRESSIONAL CLIMATE

The National Forest Timber Conservation and Management Act, however, did not reach the floor of the House for debate. Although 158 Members voted to grant it a rule for House consideration on its merits, the opposition and confusion surrounding this resource management measure in the face of a rising environmental awareness sweeping the country and the Congress, cast a deep shadow over the possibility of fair and objective consideration. The basic problem, of course, was not with the legislation itself, which was both sound and responsible, but with the climate in which it was engulfed as it moved to the threshold of House debate—a climate of mistrust, misapprehension and misunderstanding.

Refusal of the House to debate H.R. 12025 was the result of many factors. At the time of this action, homebuilding was hit by rising interest rates and tight money, and lumber and plywood prices crashed to 20-year-low levels as demand evaporated.

Although the administration fully supported the bill, their position was the subject of some last minute confusion.

There were others who recognized the need for positive legislative support of improved forest management but who were concerned about the possibility of ecological damage, or reduction of support in other areas, such as recreation and protection of wildlife and wilderness areas. Still others had become confused or uncertain about the merits of the bill by some of the vociferous and emotional attacks which had been made upon it.

Of significant influence on the debate of the rule on February 26, 1970, was the upcoming report of the Public Land Law Review Commission—the result of nearly 5 years of study on Federal land and related matters. Two distinguished Members of the House, one the chairman and the other a member of the Commission, spoke to the issue and urged delay. My colleague, the gentleman from Iowa, JOHN KYL, succinctly summarized his concern with H.R. 12025, and stated that Congress needed assurance "that the funds are expended for the best opportunities for growing timber."

The distinguished Chairman of the Commission, my colleague, the gentleman from Colorado, WAYNE ASPINALL, who also serves with distinction as Chairman of the Interior and Insular Affairs Committee of the House, urged legislative patience. He told the House that timber management on Federal lands was one of the studies undertaken by the Public Land Law Review Commission but that the report would not be completed until late in June. He further cautioned that should H.R. 12025 be defeated, "such action may make it a little more difficult for the recommendations of the Commission in this matter to be brought more successfully before the Congress."

He said that, in his opinion, the motives behind the introduction and furtherance of the proposed act "were correct".

Representative ASPINALL declared:

> What we have at the present time is an unnecessary controversy between the so-called preservationists and those who believe in the wise use of our national resource values, including timber. . . . If this bill is not considered at this time, and it has to wait its turn for recommendation by the PLLRC, we will have a much better chance of reviewing this controversy, which is always a difficult one for the members of this House.

THE PLLRC REPORT DESERVES CAREFUL STUDY

Chairman ASPINALL's recommendation for caution was extended to other interested parties as well. In May 1970 at a meeting of the National Forest Products Association in Washington, while acknowledging that "we will need some measures that will produce a greater yield of timber", he urged the industry to study carefully the Commission's report when issued.

He emphasized that each of the 137 major recommendations would have to be discussed thoroughly—pro and con—between issuance of the report and the time of the next legislative session. He said:

> Then at the start of the next Congress, let us be prepared to start the legislative process.

Careful study would be necessary, he said, because of the comprehensive nature of the report and the many overlapping considerations it embodied.

The report was presented to the President and the Congress on June 23, 1970. On the occasion of its release, Chairman ASPINALL again urged complete analysis by all interested parties, emphasizing that responsible evaluation can only come from consideration of each of the 137 major recommendations and some 250 subsidiary recommendations in relation to each other.

Sixteen of the 20 sections in the 342-page document deal with resources and recommended classification of public land and well as treating public land policy, the environment and planning for future public land use.

One section of the report is devoted to timber resources and makes clear that timber production could be increased in national forests while protecting both future growth and multiple use of commercial timber lands.

TIMBER AND HOUSING TIES REAFFIRMED

Prior to issuance of the Public Land Law Review Commission report in June, President Nixon fulfilled his statutory obligation to report to the Nation on national housing goals.

The President's second annual housing report to Congress of April 2, House Document No. 91-292, again affirmed the need to plan for increases in lumber and plywood production. He said:

> Only through an accelerated management program in both public and private forests could there be any reasonable expectation of adequate supplies of such lumber over the decade to meet all the likely needs at reasonable prices.

The message held that sufficient softwood lumber and plywood should be forthcoming approximately at current price levels during fiscal 1970 and 1971. But, it added:

> Beginning in 1972 supply probably will not keep up with likely demand at current prices. The estimated deficit rises from 1 billion to 8.5 billion board feet a year by 1976.

Getting to the crux of the problem, the President said:

> To head off likely pressure on lumber prices, there is a need for a well-conceived program of accelerated forest management, which would permit an increase in the rate of growth of timber, while preserving the multiple use and sustained yield characteristics of the national forests. Steps along the lines proposed in the National Forest Timber Conservation and Management Act will help solve this potential lumber shortage while preserving the essential character of our forests.

The President then declared that:

> There must be a comprehensive effort at timber planning and harvesting; reforestation, construction of additional access roads for increased lumber, recreation, park lands, and other uses, and resource protection from fire, pests and other improvements.

See appendix—item III.

The President's housing message clearly showed that his Cabinet officers and advisors with all the vast research facilities at their disposal, had come to the same conclusions as had all others seriously studying the timber supply and demand situation.

THE WHITE HOUSE TASK FORCE REPORTS

On June 18, 1970, the White House Task Force on Softwood Lumber and Plywood delivered its long awaited report. Its major thrust was that a substantial increase in the supply of softwood timber products will be needed to meet the Nation's growing requirements, especially in order to attain our goal of providing adequate housing for all our people by the end of this decade. The report stressed that while this increase in supply can be met, it must be achieved in a manner consistent with the preservation and enhancement of the quality of our environment.

The task force was appointed by the Cabinet Committee on Economic Policy in March of 1969 to look into the causes of the rapid increases in prices and to find ways of increasing supplies of timber products.

The group promptly focused its attention on the short-range problems and recommended a series of steps to alleviate the immediate price pressures. The steps proposed included those to which I referred earlier: Action by the Interstate Commerce Commission to relieve the rail boxcar shortage; requests to the Congress for supplemental appropriations for fiscal year 1969 and fiscal year 1970 to increase the amounts of Federal timber sold without exceeding the allowable cut; action by the Department of Defense to reduce its procurement of softwood products; and an approach by the State Department to Japan seeking to curtail log exports from the United States.

These steps were approved by the White House in March of 1969.

The task force then turned its attention to the long-range situation with the objective of insuring that the supply of softwood timber and its products would not impose serious constraints on meeting the Nation's housing goals. The panel was also concerned with avoiding extreme price fluctuations in the lumber and plywood industry such as those of 1968 and 1969. Although lumber and plywood prices during the past year dropped sharply, the task force found that the long-range outlook indicates renewed pressure on timber supplies and prices as housing construction recovers.

As part of the work of the task force, the Forest Service submitted a report on August 1, 1969, entitled "Possibilities for Meeting Future Demands for Softwood Timber in the United States." Its purpose was to indicate actions on public and private lands that might be taken to alleviate the future long-range timber supply demand-price situation. The report considered the potential demands for softwood lumber and plywood products based on projections of growth in population; gross national product; disposable personal income and expenditures for construction; supplies that might be made available under different price levels and management inputs; and forestry program alternatives to provide increased supplies of softwood timber for housing and other purposes and to dampen prospective increases in timber prices.

The report's projections of softwood sawtimber supplies and demands indicated that if forest management were intensified only in line with recent trends, a balance between supplies and demands could be achieved only with substantial increases in prices. Up to 1980 supply and demand would be roughly in balance with the relatively high 1968 price levels, but beyond that year supplies would fall increasingly short of the projected demand.

With accelerated management on Federal, State, and private forest lands, as proposed by the Forest Service, projected demands could be met at prices about half way between those prevailing in the 1962–67 period and the late 1968 price level. Adoption of the accelerated management program outlined in the report would thus meet potential timber demands over the next couple of decades without a sizable increase in prices of timber products.

When the Forest Service published Forest Resource Report No. 17, "Timber Trends in the United States" in 1965, it noted that to meet the Nation's expanding needs for timber and at the same time provide for adequate recreation and other uses of the forests, intensified forestry programs were needed. The Forest Service has long recognized that accelerated management could increase timber yield without sacrificing either the quality of the forest environment or other forest resources, and that total allowable cut could be increased gradually over time as necessary tree planting, thinning, road construction, improved forest protection, and suitable coordination with other national forest purposes is accomplished.

With this background, the June report of the Softwood Lumber and Plywood Task Force flatly stated that effective programs are necessary to expand timber availability, and that "of the sources of supply directly controllable by the Federal Government, the national forests offer the principal possibility for expansion. The national forest cut can be expanded through appropriate investment in more intensive management."

It added that an increase of 7 billion board feet in annual timber harvest can be attained by 1978 without impairing sustained yield and environmental objectives if properly planned and financed, and that increased output from non-Federal lands obviously must play a major part in matching supply to demand.

The report forecast that a rapid buildup in demand for softwood timber will occur after 1971, when housing construction is likely to expand significantly. This demand would be about 11 billion board feet higher by 1974 than it was in 1969. Domestic consumption of softwood lumber in 1969 was 33.773 billion board feet; plywood production that year totaled 14.5 billion square feet.

The report recommended:

That the Forest Service push ahead with development and implementation of programs to increase timber yields from national forests, with a goal of about 7 billion board feet annual increase by 1978.

That Federal agencies should create greater flexibility in adjusting timber sales to demand fluctuations, including increasing the amount of timber in the pipeline available for sale and cutting on areas with adequate roads.

That State and private forest lands—especially the latter—be looked to for steadily increasing supplies of lumber and plywood.

That larger net imports of lumber be obtained.

That a panel of outside experts be invited "to study these problems and their possible solutions objectively and carefully" and that the panel should submit an independent assessment of the probable consequential costs, and benefits of alternative solutions.

PRESIDENT NIXON ACTS ON THE REPORT

In releasing the task force report on June 19, President Nixon said he fully endorsed the findings of the group. With regard to the Task Force proposals, he said:

> While some of these recommendations require further intensive study and continuous reassessment in the light of changing conditions, I am directing that the following initial steps be taken promptly.

Among the steps he enumerated were:

The Secretaries of Agriculture and Interior should formulate plans to improve the level and quality of management of forest lands under their jurisdiction in order to permit increased harvest of softwood timber consistent with sustained yield, environmental quality and multiple use of objectives, with any required additional funding to be reviewed by the Bureau of the Budget.

Reasonable flexibility in sales should be provided to take account of anticipated swings in demand.

The Secretary of Agriculture should press ahead with programs to increase production harvesting on State and private lands, consistent with maintaining environmental quality.

The Secretary of Housing and Urban Development, with the Secretaries of Agriculture and Commerce, should continue programs aimed at improved and more economical wood products utilization, including development and utilization of substitute materials.

Necessary steps should be taken for the appointment of the panel of experts recommended by the report. See appendix, item V.

While many of us hailed the President's action as a significant step toward maximizing public benefits from an important national resource, the Task Force report and the President's implementation of its recommendations have come under attack from other quarters as an attempt to do by administrative means what Congress had refused to do legislatively.

These charges, of course, are directly related to the earlier—and equally unfounded allegations—that the proposed National Forest Timber Conservation and Management Act would direct an increased timber cut from the national forests in disregard of the principles of multiple use and sustained yield.

It might be useful at this point to recall that Congress did not reject, but rather, deferred consideration of the timber bill. A technical point, perhaps, with which some might argue, but one which must be made, nevertheless. Many voted against the rule last February, it is true, because they opposed the bill. But many others voted nay for a number of other reasons: Because they feared premature defeat of good legislation; because they wanted to wait for the findings of further studies such as the task force report and the Public Land Law Review Commission report; because they felt the bill about to come before them could be improved to make it more acceptable to them or to others. Who can count the motives behind the votes? And who can say if the House would have approved or defeated the bill. There can be no doubt that Congress will, in the future, be asked to consider legislation with similiar objectives.

In any case, it is clear that the report of the task force and the President's actions did not constitute an attempt to legislate by administrative means. The President's directions were obviously well within the bounds of his constitutional authority and responsibility as Chief Executive—and if there are any serious questions as to whether or not this is the case, the Constitution also provides the mechanism to test those questions.

I believe it would be appropriate, also, in view of the criticisms which have been leveled, to emphasize again three especially important points about the task force report and the President's actions.

First. The recommendations of the task force and the directed action by the President made it clear that any increase in timber cut in the national forests would be done only under strict provisions to protect and enhance the environment. The President also directed that plans to increase the timber cut should be developed in consultation with the Council on Environmental Quality.

Second. The task force recommended steps to increase timber supplies from State and private lands—especially the latter. The President directed the Secretary of Agriculture to press ahead with the development of programs designed to increase the production and harvesting of timber in State and private lands, consistent with maintaining environmental quality.

Third. The President directed that a panel of outstanding citizens be invited to study the entire range of problems involved in insuring that the achievement of our housing goals is not constrained by an inadequate supply of softwood lumber and plywood, while fully protecting and enhancing the quality of our environment. Such a panel would be composed of persons of outstanding ability and broad experience, with no ties or commitments that might prejudice objective judgment.

THE PUBLIC LAND LAW REVIEW COMMISSION REPORT AND TIMBER

Chronologically, the Public Land Law Review Commission report became public 4 days after the President's statement regarding the task force report. The scope of the Commission report was much broader than that of the task force report but both studies reflected data and trends which had been clearly established by a whole host of independent investigations spanning several years.

The 5-year, $7 million study of the PLLRC is one of the most significant ever to be issued by a public body. A basic principle set forth by the Commission is that all public lands should be used in ways that will result in "maximum public benefit," and that a designation of "dominant use" should apply to all public land classifications, such as recreation, watershed, wildlife, fish, wilderness, mining, and timber production.

Chairman Aspinall defined "dominant use" as "where one use within a limited area takes precedence over every other one. And in that use, we then would say in regard to timbering, that harvesting would be permitted. That does not mean that there will not be any recreation. That means that, perhaps for a short time, recreation will be limited because you cannot harvest and have recreationists in the area while you're harvesting."

Representative Aspinall noted that values in the timber areas of Federal lands "must be considered as a great natural resource potential for the use of the United States."

One of the more sweeping recommendations in the report was that the Forest Service be merged with the Department of the Interior into a new Department of National Resources. It also called for congressional jurisdiction over public land programs to be consolidated into a single committee in each House of Congress, the provision for statutory authority for public land citizen advisory boards, and the setting of guidelines by statute for their operations.

Other recommendations concerning timber resources included:

Passage of legislation to provide that public lands highly productive for timber could be classified for commercial timber production as the dominant use.

Federal programs on timber production units be financed by appropriations from a revolving fund made up from receipts from timber sales on these units. This was, of course, the purpose behind the Timber Supply Act. Forestry on Federal lands will always be neglected unless timber sale receipts are required to be used first to regain the trees that are harvested. Nothing is more basic to conservation.

The PLLRC also recommended that dominant timber production units should be managed primarily on the basis of economic factors to maximize net returns to the Federal Treasury.

Major timber management decisions, including allowable cut determinations, should include specific consideration of economic factors, such as fluctuations in demand for timber.

Communities and firms dependent on public land timber should be given consideration in management and disposal of public land timber.

Controls should be imposed to assure that timber harvesting minimizes adverse impacts on environment on and off public lands.

The PLLRC's recommendations on timber production as a "dominant use" have been the target of some severe criticism since the report was released, and, without passing judgment one way or the other on the PLLRC proposals I think it might help to bring things into a little clearer focus by quoting some excerpts from the report itself in explanation of PLLRC's "Recommendation 28," that "there should be a statutory requirement that those public lands that are highly productive for timber be classified for commercial timber production as the dominant use, consistent with the Commission's concept of how multiple use should be applied in practice."

Page 93—"One Third of the Nation's Land"—

> In harmony with our belief that effective multiple use planning can be accomplished only by classifying lands for their highest and best uses, *lands classified for inclusion in this system would be those that are capable of efficient, high quality timber production, and are not uniquely valuable for other uses.* By no means would all of the public lands

> currently defined by the Forest Service as "commercial forest lands" be included in the system. The Forest Service definition, for example, requires, among other things, that such lands be capable of producing at least 25 cubic feet of timber per acre per year. This standard excludes only those forest lands of the very poorest quality. Much of the land defined as commercial is at higher elevations in the West or on ridges or swamps of low productivity in the East. The Commission does not intend that these lower quality timberlands be included in timber production units.
>
> * * * * *
>
> Criteria for establishing timber production as a dominant use on public forest lands must involve consideration of other existing or potential uses. Those lands having a unique potential for other uses should not be included in timber production units.
>
> * * * * *
>
> *Timber production should be the dominant use, but secondary uses should be permitted wherever they are compatible with the dominant use.*
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> * * * * *
>
> The actual limitations placed on other uses would not be as severe as they might appear at first glance. The best sites for timber growing are mostly at lower or middle elevations in the West and in the southern states. In the West, outdoor recreation use tends to occur at the higher elevations where the scenery is more spectacular, where there is snow for winter sports, and where the ground cover is more open and suitable for hiking and other summer sports. The conflicts resulting from outdoor recreation on the better national forest timber production areas in the South occur less frequently than in other regions.
>
> The total area that would be included in timber production units would probably be less than one-half of the total forest land now in Federal ownership, and less than one-fourth of the total area of the national forests.
>
> * * * * *

The significance of PLLRC's carefully developed recommendations has a direct bearing on congressional attitudes towards timber growing and towards the recommendations of the PLLRC contained in chapter V, "Timber Resources."

It is not possible, as Chairman ASPINALL has made eminently clear, to evaluate these recommendations without reference to all of the others. However, the rationale for their recommendation is pertinent to an understanding not only of the purposes being sought by the Commission but in the context of the fulfillment of America's increasing need for additional timber products.

Without prejudging the recommendations of the Public Land Law Review Commission report, it appears obvious that its findings closely parallel the findings of the other responsible bodies in American public life with respect to the role of the national forests in meeting the Nation's timber needs for the future. See appendix, item IV.

MEETING THE NEED FOR HOUSING

The Congress has taken actions which are wholly pertinent to the subject of present and future timber supply.

In recent weeks both the Senate and the House have approved the emergency credit bill to increase the availability of mortgage credit for home building. The measures are now in conference.

Provisions call for:

A $250 million authorization to subsidize the interest rate on Federal Home Loan Bank Board advances to member savings and loan institutions, which is expected to generate lending for 240,000 homes.

Establishment of a secondary market for conventional mortgages in the Federal National Mortgage Association and in a new Federal Home Mortgage Corporation to be operated by the FHLBB.

Provision of $1.5 billion in special assistance funds for the Government National Mortgage Association to increase its purchases of mortgages underwritten by the Government.

The measure is expected to unlock the tight mortgage money market and provide a shot-in-the-arm for lagging homebuilding. Any such stimulation of homebuilding will certainly stimulate a rising demand for lumber and plywood as anticipated in both the PLLRC report and the report of the Task Force on Softwood Lumber and Plywood.

The Congress must be prepared to respond to that public need by enabling the production of more timber.

BALANCING HUMAN NEEDS

The National Forest Timber Conservation and Management Act, the Task Force Report on Softwood Lumber and Plywood, the President's endorsement of its findings and his implementation of its recommendations, and the comprehensive report of the Public Land Law Review Commission all have at least two basic things in common.

First, they were all initiated in response to very real and pressing public needs, and they are all founded on exhaustive and extensive analysis of those needs and the resources available to meet them, as I believe has been amply shown in my statement today. Their findings as to our national timber needs, and our resources available to meet those needs are similar.

Second, they have all met with varying degrees of criticism from groups and individuals who seem to be concerned primarily over the possibility that environmental, ecological and conservation values may somehow be damaged or discarded as a result of these proposals, recommendations and actions.

I, too, am very keenly aware of the critical importance of these values, and the need to protect, conserve and enhance our environment. So is our President, and so are those who served on the Public Land Law Review Commission, as well as those Members of Congress who supported the timber management legislation.

These values have been recognized and planned for in every study, every finding, every recommendation, and every action I have cited here today.

Now, I am not saying, and I do not think anyone else is, either—that this recognition and planning has been perfect. I know of no instance in the development of public policy where perfection has been attained. The point is though that the effort has been and is being made, by responsible and reasonable people.

In implementing proposals of the Task Force on Softwood Lumber and Plywood, President Nixon pointed out that:

> Some of these recommendations require further intensive study and continuous reassessment in the light of changing conditions.

Chairman ASPINALL and members of the Public Land Law Review Commission have recognized that the Commission's nearly 400 recommendations will require complete analysis and responsible evaluation by all interested parties.

In developing the timber conservation and management legislation in Congress we attempted in every way possible to provide protection for all the national forest values so important to us all.

What we must come to understand here is that we are really seeking a balance among human needs—something with which all of us, as individuals, are quite familiar, because we are faced on our own personal level with the necessity of seeking this kind of balance for ourselves a hundred times a day.

And this balance of human needs can be achieved on a national level as well, if we approach our problems with reason and understanding. But when objectivity and reason fail, we are left only with misunderstanding and bitterness—and with nothing accomplished.

Our pressing environmental and ecological needs must be met—and so must our housing needs. It is not a question of which is most important, but rather, how each can be met in balance, without damaging the other. I believe this can be done.

And the fact is that trees can be harvested, replanted, cultivated, grown to maturity in cycle on Federal, State, and private lands without damage to any other important values, and in a way that will preserve, protect, and enhance our environment.

This has been the judgment of the House and Senate committees which conducted thorough investigations and heard all sides; this has been the judgment of a special White House Task Force with access to the most expert of opinion and limitless scientific, economic, and social data; this has been the judgment of private citizens highly qualified in forestry, manufacturing, ecology, homebuilding; this has been the judgment of industrial forest land managers around the world who do it routinely every day; it is a proven concept in the management of the vast forests owned by my own State of Washington.

What we are searching for here is sound national policy to insure that all our citizens derive the maximum benefits from our public resources. We are still far from achieving that objective, but we must continue the search—and continue it together.

APPENDIX—ITEM I

EFFECT OF LUMBER PRICES AND SHORTAGES ON THE NATION'S HOUSING GOALS

FOREWORD

In the early months of this year, skyrocketing prices and critical shortages of softwood lumber and plywood reached such serious proportions as to threaten our basic housing program and our effort to meet the national housing goals established by the

Housing and Urban Development Act of 1968.

On March 19, 20, and 21, 1969, the Subcommittee on Housing and Urban Affairs held hearings to determine the causes of the crisis and what could be done about it. It is the purpose of this report to summarize the testimony of the hearings and to give the subcommittee's conclusions and recommendations on the action needed to remedy this serious problem.

Representatives from Government and private groups involved in producing and distributing lumber, as well as homebuilders, contractors, conservationists, and consumers testified before the subcommittee.

The testimony covered every phase of timber growth and the distribution of timber throughout the economy, both domestically and abroad. From the point of view of the subcommittee, the most important testimony involved the relationship between the supply of lumber and the volume needed to meet homebuilding requirements now and in the future. Other important issues involved the pricing and marketing of timber, the export and import of logs and lumber, and the necessity of managing our Federal forests to create a proper balance between the Nation's recreational and conservation needs, on the one hand, and homebuilding and economic needs, on the other.

Basic to the hearings were data which gave the subcommittee some dimensions of the problem before it. On the demand side, the subcommittee was inclined to agree with HUD Secretary Romney's estimate that softwood lumber and plywood needs for housing would double by 1978, and that the total consumption would be 50 percent higher over last year's consumption of 35 billion board feet. On the supply side, it was made clear that there was no shortage of hardwood lumber and that the shortage of softwood lumber was somewhat artificial in view of the vast forest areas which covered about one-third of the land area of the United States; that although one-third of these forest lands was unproductive or reserved for recreational or conservation uses, two-thirds of the forest lands were commercial and thus available for selective timber cutting. Furthermore, over one-half of the inventory of softwood sawtimber was in the national for-Department of Agriculture. Of this inventory, ests under the administration of the U.S. which is estimated at over 1 trillion board feet, the Department currently has an allowable cut limit of about 11 billion board feet per year. The remainder of the 30 billion board feet produced domestically last year came out of the other 1 trillion board feet of sawtimber in forests under other public ownerships, industry owners, farmers, and other private owners. With such a tremendous source of timber, and with every indication that improved techniques in forest management could sharply increase the yield, the subcommittee saw no excuse for our Nation failing to provide the lumber and plywood needed to meet our housing needs indefinitely.

The testimony revealed that the lumber crisis had two dimensions— a temporary one and a long-range one. The temporary crisis was the result of a number of factors which occurred all about the same time—rising exports to Japan, a boxcar shortage, a waterfront strike, bad weather conditions, an increase in construction starts, and wide publicity from the 1968 Housing Act calling for a 60-percent average increase in housing units in the next 10 years. However, more serious than the temporary crisis was the long-term projection raising grave concern about the ability of the U.S. forests to provide adequate timber to meet the future lumber needs of our Nation.

At the conclusion of the hearings, the subcommittee recognized the need for action on a number of fronts to remedy both the temporary problem and the long-run problem. These include reconsideration of export and import controls, improved transportation facilities, both by freight and by water, an analysis and correction, if possible, of pricing practices which lead to highly fluctuating timber and lumber practices, and additional research to develop lumber substitutes and final approval of new lumber standards. Most important of all, was the general agreement that there must be a prompt and significant increase in softwood timber output. Some of this increase could come from better management of private nonindustry timber holdings. But, in view of the preponderant ownership (60 percent) of softwood sawtimber by the U.S. Government, the subcommittee concluded that the only sure way of increasing the timber output would be by financing improved management techniques on a sustaining basis in the National Forests.

Furthermore, in recognition of the great potential income that could be derived from the sale of timber, it appeared obvious to the subcommittee that any funds spent for improved management would represent an excellent investment for the Federal Government. The U.S. Forest Service reported that $1 million invested in intensive forest management would add additional timber cuttings worth $215,000 annually. In addition to making money for the U.S. Treasury the subcommittee was convinced that a program of intensive management of the Federal forests could be undertaken without diminishing the use of the forests for recreational and conservation purposes.

The subcommittee concluded that the Federal forests are one of America's great resources which belong to all of our people. A more intensive management of these resources will benefit the people, not only for greater recreational and conservation opportunities, but by supplying the timber needed to build our homes and to meet the needs of an ever-growing economy.

CONCLUSIONS

A combination of events—increased exports to Japan, shortages of water and freight car transportation facilities, a waterfront strike, bad weather, and a sharp rise in consumer needs aggravated by overestimating and some questionable pricing practices—were the visible causes of the recent crisis in the price of lumber and plywood. However, the underlying cause, which has both temporary and long-term significance, is an artificial shortage of available timber from our Nation's forests. The early-year crisis appears to be a temporary one and, in fact, seems already to be partially solved largely as a result of a number of Government emergency measures and partially by a reduction in demand because of mortgage credit shortages.

The long-range problem is by far the most serious one because, unless softwood timber production is sharply increased, our Nation will find itself critically short of lumber and plywood in the years ahead.

To reach the Nation's housing goal of 26 million units in the next 10 years, lumber availability would have to be increased by 60 percent. The subcommittee was convinced that this increase is well within our resources provided the necessary investment is made in intensive forest management on a continuing basis. About one-half of the Nation's inventory of mature softwood timber, estimated at 2 trillion board feet, is under Government ownership in the National Forests, administered by the Department of Agriculture.

Considering that the National Forests are contributing only 11 billion board feet annually out of this huge inventory, the problem can be seen to be one of management and adequate funding to build roads, to plant trees, to thin, to prune, to fertilize, and to apply the latest technological development to the forests. Obviously, this can be done, but whether or not it will be done, depends upon the approval by the Congress of a dependable continuous adequate financing device. The subcommittee concluded that the best sources of such funds are the forests themselves and the receipts from the sale of timber produced by these forests.

The subcommittee was convinced that, with the necessary financial input, the solution to our long-range problem could be resolved without impairing the use of the forest to meet the conservation and recreation needs of the American people.

The subcommittee also concluded that the export and import factors involved in the current crisis would be resolved on a supply and demand basis once the Nation's forests were operating more productively. However, the subcommittee saw a continuing difficulty with freight car and water transportation problems under existing conditions. The subcommittee also recognized serious dilemmas in pricing and distribution of lumber, starting at the auction process conducted by the Forest Service. Finally, the subcommittee concluded that lumber would continue to be the single most important material in homebuilding but saw increasing opportunities for use of other materials as we move into the mass-production stage of homebuilding in the years ahead.

RECOMMENDATIONS

The subcommittee's recommendations are directed both at the temporary problem and the long-range problem. We are calling the current situation temporary because, for the most part, as a result of congressional hearings and action already taken by the administration, the crisis which threatened to bring homebuilding to a halt early this year has been resolved.

THE TEMPORARY PROBLEM

The President and the Federal agencies are urged to:

(1) Offer for sale the full allowable timber cut on Federal lands.

(2) Loosen the personnel restriction on timber-management agencies.

(3) Negotiate with Japan to release part of its unshipped timber for domestic purposes and postpone its purchases for the first half of 1969.

(4) Hold back Federal purchase of lumber.

(5) Issue the appropriate regulations to free boxcars for lumber shipments.

THE LONG-RANGE PROBLEM

The President and the Federal agencies are urged to:

(1) Develop closer regulations of boxcars to meet the shipment needs for lumber.

(2) Arrange with Japan an automatic reduction in lumber shipments when domestic shortages reach an intolerable level.

(3) Free lumber and plywood shipments from "Jones Act" limitations.

(4) Speed up processing of revisions in U.S. lumber standards.

(5) Cooperate with the Forest Service on the following:

(*a*) Offer for sale all accessible salvageable dead and damaged timber.

(*b*) Concentrate road building where it will generate the maximum timber.

(*c*) Offer for sale the full allowable cut on national forests.

(*d*) Implement the Morse amendment to prevent substitution of public timber for exported non-Federal timber.

(*e*) Aggressively pursue intensive forest management practices to increase timber yield, including the salvaging of dead and decaying timber.

(*f*) Reexamine present methods of selling and pricing Federal timber to prevent instability and upward pressure on lumber prices resulting from Federal dominance of the market.

The Congress is urged to:

(*a*) Approve legislation providing for the application of high-yield forestry techniques to Federal commercial timberlands similar to the bill now before the Committee on Agriculture and Forestry.

(*b*) Approve legislation now pending before the Agriculture Committee to fund such a program with income from the sale of timber it produces.

(*c*) Review the timber-selling practices of Federal agencies.

(*d*) Approve emergency funds and personnel, for National Forest management—legislation is now pending before the Committee on Appropriations.

(*e*) Consider amending the Jones Act to exempt lumber and plywood from its coverage under certain circumstances.

APPENDIX—ITEM II

NATIONAL FOREST TIMBER CONSERVATION AND MANAGEMENT ACT OF 1969

[Report together with dissenting views]

The Committee on Agriculture, to whom was referred the bill (H.R. 12025) to provide for the more efficient development and improved management of national forest commercial forest land, to establish a high timber yield fund, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike out all after the enacting clause and insert the following:

That this Act may be cited as the "National Forest Timber Conservation and Management Act of 1969."

STATEMENT OF FINDINGS

SEC. 2. The Congress hereby finds that in order to meet increasing national demands for lumber and other wood products, including that needed for home construction, it is necessary to increase substantially the timber yield from the commercial forest land of the Nation including that in the national forests; that, through intensified development and management, such land is capable of producing a substantially increased yield; that the national forests are the source of a substantial part of the present and future supply of timber within the policy of the Congress stated in the Multiple Use-Sustained Yield Act approved June 12, 1960 (74 Stat. 215, 16 U.S.C. 528–531): that increased annual harvests from national forest commercial forest land may be permitted under sound conservation principles on the basis of short-range accomplishments so long as long-range goals are assured; and that to accomplish increased annual harvest it is necessary to provide a reliable and adequate source of funds.

DEFINITION

SEC. 3. As used in this Act the term "commercial forest land" means forest land which is producing or is capable of producing crops of industrial wood and not withdrawn from timber utilization by statute or administrative regulation.

HIGH TIMBER YIELD FUND

SEC. 4. There is hereby established in the Treasury of the United States a high timber yield fund, hereinafter referred to as the "fund". Except as hereinafter provided, beginning July 1, 1969, there shall be credited to the fund all receipts from the sale of timber and other forest products from the national forests: *Provided, however*, That the foregoing shall not modify or repeal any provision of law that authorizes or directs that deposits in connection with or receipts from the sale of timber and other forest products from national forests be used for a specific purpose, and such deposits and receipts shall continue to be utilized for the purposes so specified by law and shall not be deposited into the high timber yield fund.

APPROPRIATIONS

SEC. 5. Moneys credited to the fund shall be available for expenditure for the purposes of this Act only when appropriated therefor. Such moneys as may be appropriated shall be available until expended. Any money credited to the fund and not subsequently authorized for expenditure by the Congress within two fiscal years following the fiscal year in which such money was credited to the fund shall be transferred to miscellaneous receipts of the Treasury.

DEVELOPMENT AND MANAGEMENT OF NATIONAL FOREST COMMERCIAL FOREST LAND

SEC. 6. Moneys appropriated from the fund shall be allocated in each fiscal year for expenditure as determined by the Secretary of Agriculture or the appropriation Acts making them available. Money allocated to any national forest under this section shall be used in conformity with the provisions of the Act of June 12, 1960 (74 Stat. 215, 16 U.S.C. 528–531) only for increasing timber yield in such national forest by—

(1) obtaining regeneration at the earliest practical date after harvesting, or after deforestation by fire or other catastrophe of better site lands, and for reforesting unsatisfactorily stocked better site lands;

(2) precommercial thinning to control spacing or stand composition;

(3) semicommercial thinning both to control spacing or stand composition and to produce material with commercial value in excess of the additional costs required for its harvesting;

(4) pruning, if justified by a subsequent reduction in age at which the trees become marketable;

(5) planning, preparation, including marking and execution of thinning, salvage, and understory and overstory removal and harvest sales;

(6) fertilization;

(7) development, production, and procurement of seed or stock with superior growth capabilities or characteristics; and

(8) such other timber production improvement practices as the Secretary of Agriculture deems appropriate.

IMPLEMENTATION

SEC. 7. The Secretary of Agriculture, subject to the provisions of the Act of June 12, 1960 (74 Stat. 215, 16 U.S.C. 528–531) shall immediately establish programs to carry out the policy and purposes of this Act and shall specifically—

(1) develop into optimum timber productivity as soon as possible the national forest commercial timberlands;

(2) revise the allowable annual harvesting rates in national forests to take into account (A) rotation ages estimated to be appropriate for markets and technology at the expected time of harvest, (B) the need for and benefits from use of high level current harvest rate options available within sustained yield limitations, and (C) increased timber yields which will result from application of the measures authorized by section 6 of this Act, as rapidly as possible after such measures have been undertaken: *Provided*, That appropriate reduction in allowable harvesting rates will be made if planned measures are not satisfactorily accomplished;

(3) submit to the Congress within one year from date of enactment (A) a program for the development and management of all national forest resources and (B) a program for the development of all the Nation's commercial forest lands for high sustained timber yield including reference to farm and other small woodlands;

(4) report annually to the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the operation and effectiveness of this Act; and

(5) establish policies governing the sale of timber from each national forest that will, to the extent possible, assure that small business concerns collectively obtain a fair proportion of the total timber sold in each year from each national forest. As used in this subsection (5): (i) the term "small business concerns" is hereby defined as any concern that (1) is primarily engaged in the logging or forest products industry; (2) is independently owned and operated; (3) is not dominant in its field of operation; (4) together with its affiliates employ a number of employees as proscribed by the Small Business Administration. Business concerns are "affiliates" when, either directly or indirectly, (1) one concern controls or has the power to control the other or (2) a third party has the power to control both, (ii) the term "fair proportion" is hereby defined as an amount not less than the average of the percentages of the total timber sold from each national forest which small business concerns collectively obtained from such forest during the preceding three calendar years.

GENERAL STATEMENT

For more than three decades it has been declared Federal policy that programs should go forward to encourage the building of adequate and livable housing for the people of this Nation. Yet, in these past 30 years none of the goals established have been met or even approached. Indeed, the goal established only recently of 2.6 million units annually—set in the Housing and Urban Development Act of 1968—will not be met and cannot be achieved unless the materials needed to construct these dwellings are provided. And this at a time when the United States is experiencing its first problems of lumber shortages. There is not a shortage of sawtimber that cannot be met on a short-term basis, but there will be a continuing shortage of timber for our construction needs in the years ahead unless the Congress acts promptly to establish and promote the intensified forest management needed to increase the harvest and sustain an augmented yield of timber on the commercial forest lands. Therefore, the first place for the Government to start is on the commercial forest lands in our national forests—and this is an objective of H.R. 12025.

If we are to rebuild America along lines that will permit each citizen to obtain a decent domicile, these materials must be provided. The Kerner Commission report—and other reports on unrest and violence in our cities—indicates that overcrowded and substandard housing is one of the primary causes of disorders in our inner cities. Slums in these urban communities are areas of concentration of people who reside in decaying and neglected units far below modern standards of habitability. In addition, too large a percentage of our rural housing is substandard and lacking in the most essential of sanitary conveniences.

These conditions are a disgrace to this Nation, degrading to our citizens, costly to our economy, and extremely dangerous to the health of the country. They cannot be permitted to continue to exist. To solve the situation the materials for construction must be provided over a period of years which requires a long-range program. This is an intent of H.R. 12025.

In addition, many rural communities depend on national forest timber harvests as a significant source of income for carrying out their municipal responsibilities. The pansion of modern technology and management in the national forests in order to benefit these communities and to create new job opportunities is also a goal of this legislation.

PURPOSE

The basic purpose of this bill is to help meet increasing national demands for lumber and other wood products, including that needed for home construction, by substantially increasing the timber yield from the commercial forest land of the national forests. Intensified development and management of national forest commercial timberlands will enable these lands to produce a substantially increased yield and thus provide an important share of the Nation's supply of timber within the policy of the Congress stated in the Multiple Use-Sustained Yield Act approved June 12, 1960 (74 Stat. 215, 16 U.S.C. 528–531). The bill is intended to provide a reliable and adequate source of funds to accomplish increased annual harvest from the national forests under sound conservation principles in such a way that short-range accomplishments will assure that long-range goals are realized. Fortunately, the Forest Service has highly qualified, dedicated professionals to plan and manage all aspects of the enlightened forestry programs envisioned by this legislation.

NEED FOR THE LEGISLATION

The United States has long been faced with the problem of whether its timber resources would be adequate to meet its future needs for wood and other forest products. In testimony before the Forests Subcommittee as well as before the House and Senate Banking and Currency Committees on the Nation's timber situation, the Forest Services has pointed out that since 1950, domestic consumption of industrial roundwood, that is, all products except fuelwood, has risen from 10 billion cubic feet to 12.3 billion cubic feet in 1968—an increase of 23 percent. Major increases in the future as a result of population and economic growth, even after allowances for possible use of substitutes, are indicated.

The Forest Service also estimates that projected timber supplies, assuming a continuation of recent trends in management intensification and increased imports, will continue to rise over the next couple of decades. They suggest, however, that these supplies are not large enough to meet demands for very long. Projected softwood sawtimber supplies, for example, fall below projected demands in the early 1970's.

The prospective shortfall in timber supplies points to rising prices for lumber, plywood, and other forest products and increased costs of housing, furniture, and other similar products. The economic impact of a shortfall in timber supplies was highlighted in 1968 and early in 1969 when softwood plywood prices rose 115 percent and softwood lumber prices 50 percent.

The construction industry, as a principal consumer of softwood lumber and plywood, sought relief from these unprecedented price rises and urged corrective congressional action.

The Housing Subcommittee of the Senate and the House Banking and Currency Committee conducted extensive hearings earlier this year to determine the cause of these sharp softwood lumber and plywood price rises and to seek means to overcome the short-range problem and to provide adequate supplies to meet future demands.

These hearings made it clear that the price rises reflected a combination of circumstances such as adverse weather conditions in logging areas, an extended east coast dock strike, a shortage of rail cars, rising log exports, and growing demands for construction materials. It was, nevertheless, established that an important contributing factor, both short and long range, was evidence of a tightening timber supply situation in the face of large prospective increases in timber demands.

Although prices have declined recently, it was established in both the House and Senate Housing Subcommittee hearings that realization of the Nation's housing goals of 26 million units through the decade ending in 1978 would be seriously handicapped unless substantial additional volumes of softwood timber or substitute materials could be made available in the next few years.

The committee feels that if the Nation is going to effectively meet its needs for wood, all forest landowners must increase their efforts to practice the kind of modern, efficient forest management which can produce optimum wood supplies. This bill would create a particular opportunity and obligation in this regard for the intensive management of the national forest system.

This is true because more than half of the Nation's softwood sawtimber inventory is contained on the 19 percent of the commercial forest land administered by the Forest Service in the U.S. Department of Agriculture. The following tables illustrate the relative importance of the national forest commercial timber lands:

U.S. COMMERCIAL FOREST AREA, 1968

Type of ownership	Acres (millions)	Percent	Softwood growing stock (billion cubic feet)			Softwood sawtimber (billion board feet)		
			Inventory	Removals	Growth	Inventory	Removals	Growth
National forest	97	19	210.7	2.3	1.9	1,064.1	13.4	7.0
Other public	45	9	48.8	.7	.9	232.7	4.2	3.3
Forest industry	65	13	70.5	2.7	2.5	325.1	14.4	10.0
Farm and miscellaneous	303	59	107.3	3.2	4.7	381.1	12.1	15.9
Total	510	100	437.3	8.9	10.0	2,003.0	44.1	36.2

Source: Forest Service, USDA, November 1969.

The total average annual allowable cut on the national forests has about doubled since 1950 as a result of construction of access roads, changes in utilization standards, more effective protection of forests from fire, insects, and disease, and increased reforestation and timber stand improvement. However, it was established at the hearings held by the Subcommittee on Forests that substantial additional increases in timber harvests on the national forests would be possible under intensified management. Forest Service testimony indicated that under an accelerated management program, sawtimber harvests on the national forests could be increased by over 7 billion board feet in the next decade. A major portion of this increase, 5 billion board feet, could be realized if the present backlog of forest management work on the national forests could be accomplished. Testimony showed that this backlog includes 4.8 million acres in need of reforestation and over 13 million acres of young timber in need of thinning and other stand improvement work to produce optimum growth. While this work has been estimated to cost about $900 million based on present costs when all areas are treated, it is also conservatively estimated that this cost would soon be recovered and this investment would continue to yield additional annual income of $100 million, based on 1968 stumpage values.

The chairman of the Forests Subcommittee along with over 50 other Members of the House introduced this or similar legislation designed to enable the Forest Service to apply intensive management practices to the commercial timberlands under its jurisdiction and permit these lands to supply their share of the Nation's total timber needs.

COMMITTEE ACTION

Based on these various proposals and on testimony before the Forests Subcommittee on May 21, 22, and 23, 1969, the subcommittee chairman introduced this bill. This new bill sought to incorporate affirmatively the safeguards recommended by the Forest Service and the various conservation groups, labor organizations, homebuilders, farm organizations, construction trade, and timber industry, as well as numerous Members of Congress and other public officials. Both the subcommittee and the full committee have further amended and perfected this legislation in order to more effectively meet the long-range timber requirements of the Nation and to protect the public interest. A discussion of the major elements of the reported bill follows:

THE HIGH TIMBER YIELD FUND

The basic approach of H.R. 12025 is to provide assured and stable support for intensified management of the national forest commercial forest lands. The key element of this approach is the high timber yield fund which the bill would establish. An unallocated receipts from the sale of timber and other forest products from the national forests would be deposited in this fund for use, when appropriated, only for intensified timber management practices on the national forests.

The committee believes that adoption of the high timber yield fund concept is essential to put national forest timber management on a prudent, businesslike basis. National forest management is a unique Federal activity, for these lands produce high level annual revenues resulting from harvest of renewable resources. The timber production which results in these revenues cannot be increased, or even maintained, unless investments are made in those practices which increase growth and improve the quality of the timber resource. Adequately high levels of timber production cannot be achieved unless greater investments are made to maintain and improve the quality of the lands and timber growth. To date, the gap between sound and necessary investment opportunities and investments actually made on the national forests has been substantial. The high timber yield fund will help close that gap. It will provide the stable, high level financial support for timber management which is a prerequisite for timber yields. The level of funding that can result is illustrated by the following table based on national forest receipts for the last 5 years and estimates for 1969 and 1970:

U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE

[In thousands of dollars]

Fiscal year	Statement of resource revenue: Timber only	Statement of resource revenue: Total including timber	Receipts shared by the Forest Service with local governments	Roads and trails for States-National forest fund (R. & T. 10 percent)	Estimate of funds available for high timber yield fund under H.R. 12025
1964	127,962	137,514	30,680	12,001	
1965	138,772	149,239	33,532	13,141	
1966	164,940	175,616	36,214	14,204	
1967	172,791	184,517	42,619	16,778	
1968	205,627	218,323	44,627	17,566	
1969 [1]	314,000	327,000	53,000	21,000	
1970 [2]	328,000	338,000	79,000	32,000	
1970 [3]	361,000	371,000	[4] 79,000	35,000	[5] 229,000

[1] Estimated.

[2] Estimated under present authority.

[3] Estimated under H.R. 12025 formula.

[4] Receipts shared with local governments are paid in the fiscal year following receipt so the local government share actually paid would not increase under H.R. 12025 until fiscal year 1971.

[5] An addition of $33,000,000 to timber revenue which would normally be K–V deposits and a deduction of $9,000,000 from timber revenue for O. & C. and Tongass funds was made to calculate the estimate for the high timber yield fund.

The committee expects that in the first years the fund will be used in part to eliminate the current backlog of needed work. The prompt and direct result of its use will be substantial increases in timber harvests on the national forests, thus allowing these public lands to make their contribution to supplying America's growing timber needs. In turn, timber receipts can be expected to increase, and ultimately the committee expects that by bringing national forest commercial forest land into optimum productivity, a substantial return on timber management investments will be realized.

APPROPRIATION OF FUNDS

Under the provisions of H.R. 12025 the key step in the use of the high timber yield fund would be appropriation of the moneys made available through the fund. The bill would not bypass the appropriations process. Section 5 specifically provides that moneys would be available only when appropriated. In addition, moneys not appropriated within 2 fiscal years after the fiscal year they are credited to the fund would be automatically transferred to miscellaneous receipts of the Treasury. These provisions together with the annual report provided for by section 7 assure regular congressional review of progress and practices under the act and retain congressional control of the moneys which will be in the fund.

THE HIGH TIMBER YIELD FUND AND MULTIPLE USE

The committee was disturbed by charges at the hearings that H.R. 12025 would displace or supersede the Multiple Use-Sustained Yield Act of June 12, 1960. Such an effect was not its purpose, but in order to lay at rest any possible misunderstanding, the committee has amended the bill to include an explicit statement of the relationship of this legislation with the 1960 act. H.R. 12025 provides that moneys from the high timber yield fund shall be used in conformity with the Multiple Use-Sustained Yield Act and that implementation of programs to carry out H.R. 12025 shall be subject to that act.

The committee recognizes that H.R. 12025 will result in major increases in the moneys which will be available for timber management on the national forests but will not itself provide for concurrent increases in moneys for other resource management activities, such as outdoor recreation, fish, and wildlife, watershed, and range. It is not the intent of the committee that timber management funding be increased at the expense of increased funding of other resource activities, or independent of such funding. Unless development of other national forest resources keeps pace with development of timber resources, an imbalance will result. The committee expects that the balance which is essential for true multiple-use management of the national forests can and should be achieved through the same, regular appropriations process under which moneys from the high timber yield fund will be made available.

Some have expressed concern that H.R. 12025 would endanger those portions of the national forests suitable for wilderness designation. The Multiple Use-Sustained Yield Act, to which H.R. 12025 would be subject, provides that establishment and maintenance of areas of wilderness are consistent with its purposes. It is the understanding and expectation of the committee that H.R. 12025 shall not interfere with existing procedures for the designation of wilderness prescribed by the Wilderness Act, or with the present practices for multiple-use management of the national forests under the Multiple Use-Sustained Yield Act.

It should be further noted that there is no intent or purpose in this legislation to repeal any of the several statutes affecting national forest resources management. This includes the basic act of 1897, as well as the Multiple Use-Sustained Yield Act of 1960, the Wilderness Act of 1964 and the National Scenic Trails and Wild and Scenic Rivers Acts of 1968. Indeed, the bill is intended to sustain all of these laws while strengthening the organic Act of 1897, which established the nation forests. That act clearly states:

> No national forest shall be established, except to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flow, *and to furnish a continuous supply of timber for the use and necessities of citizens of the United States.*

The committee is confident that the program authorized by H.R. 12025 is needed to meet this initial requirement with no danger of erosion or threat to other uses of our national forest lands.

USE OF THE HIGH TIMBER YIELD FUND

H.R. 12025 originally provided that moneys appropriated from the high timber yield fund would basically be allocated to the national forests in amounts substantially the same as the contribution each national forest made to the fund. The report of the Department of Agriculture on H.R. 12025 pointed out that much of the development work on the national forests is needed in national forests that are producing low receipts at the present time and that the allocation provisions could result in inadequate amounts of the fund, in relation to development needs, for some national forests now returning low timber receipts. Relative regional needs are demonstrated by the following table presented at the Forests Subcommittee hearings:

TIMBER MANAGEMENT INTENSIFICATION OPPORTUNITIES BY REGIONS

[In thousand of acres]

Timber trend region	Reforestation acres	Thinning acres	Release acres	Total thinning and release acres
Rocky Mountain	1,169	7,045	1,367	8,412
Pacific	1,270	1,362	605	1,967
South	1,554	222	1,266	1,488
North	796	493	1,034	1,537
Total	4,789	9,122	4,282	13,404

Note: This backlog of opportunities does not contain management work required by current harvest activities.

Source: Forest Service, USDA, May 1969.

It is also quite possible that allocation needs of individual national forests may shift over the years. For these reasons the committee amended H.R. 12025 to provide that the Secretary of Agriculture would determine the allocations of moneys from the fund. The committee expects that in the use of this allocation authority the Secretary of Agriculture will place emphasis on work on highly productive sites and on areas where intensive management will result in needed increases in national forest timber harvests.

Section 6 of H.R. 12025 spells out a number of practices for which the high timber yield fund could be used. These practices include those which are both necessary and desirable in carrying out intensive forest practices. Their utility and effects have been proven by experiences of the Forest Service and industrial and other private forest managers. The committee deleted road construction from this list of practices because existing authorities and procedures for financing national forest timber development roads are adequate to meet intensive forest management needs. However, moneys from the fund could be used for project road construction in connection with particular yield improvement projects.

Testimony given the committee indicates that investments in forestry can produce returns of 9.2 percent on the best lands, 7.7 percent on the next lowest category, and so on, down to 4.8 percent. Because of the underinvestment in the national forests, it was also stated that each $1 million in additional forest management investment would return about 21 percent.

Since 1961 a forest management program similar to the one envisioned by this bill has been in operation on the forest lands owned by the Department of Defense. On the lands managed by the Army income has gone up from about $1.5 million in 1961 to $4.6 million in 1968. In total the military forestry programs have produced almost $12 million in net income to the Federal Government. The self-funding program of the Bureau of Land Management has also produced equally impressive results from more intensified forest management.

IMPLEMENTATION

A basic principle of the National Forest Timber Conservation and Management Act is that when funds are made available from the high timber yield fund and the Forest Service begins an intensive management program, national forest timber harvests can be promptly increased. On the other hand, the committee expects that these increases will be based on sound sustained yield forest management principles. Accordingly, H.R. 12025 was amended to provide that the Secretary of Agriculture shall revise allowable annual harvesting rates in national forests to take account of application of intensive management practices as rapidly as possible after such measures have been undertaken.

APPENDIX—ITEM III

[Second annual report on national housing goals]

BUILDING MATERIALS

The studies conducted during the past year conclude that the Nation's suppliers of building materials probably can meet without difficulty most of the demands stemming from an expansion of housing production in line with the 10-year goals. In most materials supplying industries there is either ample unused capacity and/or evidence of sustained growth that would meet increased demand resulting from the projected levels of housing production. One major problem area is apparent, namely, the projected increase in the need for lumber and wood products. Only through substantial efforts to increase the supply of softwood timber and to develop adequate lumber substitutes will the threatened "lumber barrier" be overcome. Supplies of finished materials that depend upon copper or alloys of copper, and of some fabricated metals products may also present problems at times—though not so serious as to become major impediments to expanded housing activity.

Lumber

The problem of softwood lumber and plywood was underscored by the spectacular rise of lumber and plywood prices in the winter of 1968–69 when housing production temporarily expanded. By April 1969, a broad index of lumber prices was up to a level more than 60 percent above the 1962–67 average. This spectacular price rise partly reflected supply shortages caused by unusually severe weather conditions that hindered both logging and shipping. Also, freight cars were not available in adequate numbers to transport lumber, and imports of plywood had been delayed by the longshoreman's strike. The price trend was finally reversed by a series of effective actions by the administration to release additional amounts of stumpage, cut back Government purchases of lumber and plywood, and improve the availability of freight cars for shipping. Meanwhile, housing production was also declining sharply, which contributed to the reversal in the rise of lumber and plywood prices. As a result, by the end of the summer of 1969, lumber prices were down 21.6 percent from their earlier peak. The ratio of lumber prices to the overall wholesale price index remained, however, about 11 percent above its 1962–67 average.

This volatility of softwood lumber and plywood prices made imperative a careful special examination of the impact on these prices that was likely to result from efforts to achieve the housing goals. The analysis undertaken considered probable demands for softwood lumber and plywood stemming both from the housing industry and from the remainder of the economy. The study showed that only through an accelerated management program in both public and private forests could there be any reasonable expectation of adequate supplies of such lumber over the decade to meet all the likely needs of reasonable prices.

Projections of lumber supply and expected demand indicate that sufficient softwood lumber and plywood should be forthcoming approximately at current price levels during fiscal 1970 and 1971. Beginning in 1972, however, supply probably will not keep up with likely demand at current prices, as shown in table XV. The estimated deficit rises from 1 billion to 8.5 billion board feet a year by 1976.

TABLE XV.—ESTIMATED SUPPLY AND DEMAND FOR SOFTWOOD LUMBER AND PLYWOOD[1]

[In billions of board feet]

Fiscal year	Demand[2]			Present management		Accelerated management	
	Total	Housing	Other	Supply	Surplus or deficit	Supply	Surplus or deficit
Average of—							
1968-69	50.0	15.5	34.5	50.0			
1970	49.0	13.6	35.4	51.0	+2.0	52.4	+3.7
1971	50.3	14.5	35.8	52.4	+2.1	54.8	+5.0
1972	54.1	17.6	36.5	53.1	−1.0	56.6	+3.2
1973	57.6	20.6	37.0	53.7	−3.9	58.6	+2.0
1974	60.9	23.3	37.6	54.1	−6.8	59.9	+.2
1975	63.1	24.8	38.3	54.7	−8.4	61.5	−.2
1976	63.8	24.7	39.1	55.3	−8.5	63.2	+1.0
1977	64.4	24.4	40.0	55.9	−8.5	64.9	+2.
1978	65.0	24.0	41.0	56.5	−8.5	66.5	+3.1 3

[1] Assumes that prices shown are 113 percent of the 1962–67 average wholesale prices for all lumber and plywood. This is the level reached after the severe pressures on lumber prices in 1968–69 had abated.

[2] This table is based on a moderately different composition of new and rehabilitated units over the decade than shown in the projected production schedule for the national housing goal.▌

To head off likely pressure on lumber prices, there is a need for a well-conceived program of accelerated forest management, which would permit an increase in the rate of growth of timber and utilization of mature timber, while preserving the multiple use and sustained yield characteristics of the national forests. Steps along lines proposed in the National Forest Timber Conservation and Management Act will help solve this potential lumber shortage while preserving the essential natural character of our forests. There must be a comprehensive effort at timber planning and harvesting; reforestation; construction of additional access roads for increased lumber, recreation, park lands, and other uses, and resource protection from fire, pests, and other improvements. A research program to increase softwood saw-timber growth potential and productivity and to improve utilization of forest products should also be undertaken.

If a program of accelerated management of our forests is initiated, the yield of lumber—particularly from our national forests—can be increased while preserving the principle of sustained yield and the character of these forests as multiple-use resources as presently required by law. Without such a program, unless we have major changes in our technology, we can anticipate rapidly rising lumber prices coupled with a shortage in supply. It must be emphasized that even with an accelerated management program, softwood lumber and plywood prices will rise somewhat in the years ahead. This will, of course, encourage the development and use of substitutes for softwood lumber.

APPENDIX—ITEM IV

MEMORANDUM FOR CABINET COMMITTEE ON ECONOMIC POLICY

Subject: Findings and Recommendations of Task Force on Softwood Lumber and Plywood.

The Task Force on Softwood Lumber and Plywood was appointed by the Cabinet Committee on March 7, 1969, in response to the extremely rapid and sustained increase in the price of these products over the preceding 15 months, and because of the Committee's concern about the impact of these price increases on the costs of housing. At its first meeting on March 8, the Task Force agreed to devote its attention not only to the immediate situation, but also to the longer range problems involving the relation between the supply of softwood timber and the Nation's growing need for timber products for housing and other essential requirements.

During the remainder of March, the Task Force focused its attention on the immediate market situation and recommended a series of steps to alleviate the immediate pressures. These steps were detailed in a memorandum to the President on March 17 and were approved and summarized in a White House press release of March 19. The steps included measures by the ICC to relieve the boxcar shortage; requests to Congress by the Forest Service, the Bureau of Land Management, and the Bureau of Indian Affairs for supplemental appropriations for FY 1969 and 1970 to increase the amounts of timber available for sale; action by the Department of Defense to exercise strict control over procurement of softwood products; and an informal approach by the State Department to the Japanese to restrict imports.

Following these actions, the prices of softwood lumber and plywood turned around sharply and are currently (May 1970) at levels close to those prevailing at the beginning of 1968. Although the price declines reflected a number of changes in market conditions, including the decline in housing construction, actions taken by the Task Force clearly played a contributing role.

Since April 1969, the Task Force has turned its attention to the longer range problem, with the major objective of insuring that the supply of softwood timber and its products would not impose a serious constraint on the achievements of the Administration's housing goals. The Task Force also has been concerned with the importance of avoiding a repetition of the extremely sharp swings in prices that occurred during 1968 and 1969, and which had a serious disruptive effect upon all elements of the industry.

In developing its findings and recommendations, the Task Force has assumed that achievement of the established housing goals for the coming decade is high on the list of national priorities. It assumed also that there will be a rapid expansion in the number of housing units created during the early 1970s reaching a peak of over 3 million units in 1975 and leveling off thereafter. At the same time, it bore in mind the need to insure that programs to increase the nation's supply of timber be compatible with the preservation of the quality of the nation's environment.

I. FINDINGS

A. Basic objectives of forest policy

The forest lands of the United States, both public and private, are one of our most valuable national resources. It is essential that this resource be so managed as to make its maximum contribution to all aspects of the national well-being. Our need for timber—especially softwoods—will grow rapidly in the years immediately ahead to satisfy the requirements of an expanding economy, including the satisfaction of our housing goals. Our imports of timber products exceed and will continue to exceed our exports by a substantial margin. It is equally important that our physical needs for softwood timber be met in such a way as to preserve and enhance the quality of our environment for this and future generations. The Task Force is convinced that there is no inherent conflict between these two objectives; they can and must be fully reconciled. Such reconciliation is the basic challenge to policy and management for the seventies and future decades.

B. Softwood timber output

1. Inadequate supplies of softwood timber and its products may act as a constraint on the achievment of the nation's housing goals

and will increase the cost of meeting those goals unless effective programs are developed to expand timber availability. Such programs must give equal weight to other national objectives of forestry policy, including sustained yield and multiple use criteria.

2. Of the sources of supply directly controllable by the Federal Government, the national forests offer the principal possibility for expansion. Smaller increments to supply are available in forests under the control of the Bureau of Land Management and the Bureau of Indian Affairs.

3. The national forest cut can be expanded through appropriate investment in more intensive management. An increase of 7 billion board feet (international log scale) in annual timber harvest is believed to be attainable by 1978 without impairing sustained yield and environmental objectives if properly planned and financed. On the other hand, significantly larger increases in harvest during this period could pose a serious threat to these latter objectives.

4. Of 510 million acres of commercial forest land in the United States, 96 million are in the national forests and about 16 million in other Federal ownership. Increased output from non-Federal lands must obviously play a major part in matching supply to demand in the years ahead.

C. Substitute materials

1. The balance between the supply and demand for softwood products at any time will have a substantial impact on the prices of those products. These prices will, in turn, affect the balance by increasing or decreasing the use of substitutes, by stimulating or retarding the cut of timber, and by widening or narrowing the excess of imports over exports. It should be stressed, however, that pressure on prices will depend heavily on the availability of satisfactory substitutes and the freedom to utilize substitutes without unreasonable institutional and legal constraints.

2. If satisfactory substitutes are not utilized during periods when there are substantial gaps between softwood supplies and requirements, prices will show significant increases. Moreover, inadequate supplies of softwood products or substitutes may act as a physical constraint on the number of housing units that can be built, with a resulting shortfall in meeting the housing goals.

D. The supply-demand outlook

1. *The Initial Period.* Demand for softwood timber will build up rapidly after 1971, and supply-demand pressures are likely to become increasingly acute during the years immediately following.

(a) Housing construction is likely to expand significantly when monetary conditions ease. To meet the housing goals, the number of units to be built should be close to peak by 1974, and remain fairly level thereafter.

(b) Estimates of the amount of softwood timber products utilized in the construction of any given volume of housing, as well as for all other uses, will depend in part upon the price of timber products relative to that of other commodities. Supply will be similarly affected. The following forecasts of the supply-demand balance are based on the initial assumption that the price of softwood lumber, relative to the general wholesale price level, would be approximately that prevailing during July-August 1969, after it had receded sharply from its March-April peak.

(c) On this basis it is estimated that annual demand for softwood timber, consistent with the achievement of the housing goals, would be about 11 billion board feet higher by 1974 than it was in 1969. Even if the Forest Service is authorized to move ahead promptly with a program for greater intensity of management, with due regard to environmental objectives, the increase in the timber harvest from National Forests for 1974 would be not much over 2 billion board feet. An additional 6 billion board feet might be obtained from private holdings and larger net imports. This would still leave an apparent gap of about 3 billion board feet, or more than 5 percent of indicated demand. If these forecasts are correct, the gap would presumably be closed with higher prices, accompanied by accelerated substitution, and possibly a shortfall in the number of units built. While these estimates cannot be precise, it is evident that the balance will be at best precarious.

(d) The impact of the residual gap on prices for softwood products is likely to be large after 1973 unless limitations on the availability of satisfactory substitutes, and institutional and legal barriers to their use, can be overcome.

(e) If an early start toward greater intensity of management is not made, strong upward pressure on the prices of softwood lumber and plywood relative to the general price level is to be expected as housing construction revives, intensifying as the housing program gains momentum. A prompt start on an accelerated forestry program would appreciably lessen, but probably not eliminate, this pressure. In either event, if housing goals are to be met, substitutes for several billion board feet of softwood products would have to be used.

2. *The Longer Range.* After 1974, further increases in total timber demands are likely, even though annual housing starts should level off at about 3 million units. At the same time, if prudent steps are taken to increase timber supply from all sources, as well as to improve the availability of substitutes, the supply-demand gap can be closed, while fully preserving the quality of the environment.

II. RECOMMENDATIONS

In the light of these findings, the Task Force submits the following recommendations for consideration by the Cabinet Committee on Economic Policy. Obviously, the budgetary implications of these recommendations must be subject to the usual Bureau of the Budget scrutiny in the light of overall national policies and priorities, and other constraints.

1. The Forest Service should be encouraged to push ahead with the development and implementation of programs to increase timber yields from the national forests. A goal of about 7 billion board foot annual increase in timber harvest from the national forests by 1978 is believed to be attainable and consistent with other objectives of forest management. With an increase of this magnitude, supply and demand could be in approximate balance by 1978 at relative prices approximating those prevailing in July-August 1969 if: (a) the cut from other lands responds as anticipated, (b) imports increase substantially and (c) adequate substitutes are available at reasonable prices.

2. The Forest Service—as well as the agencies responsible for other Federal forest lands—should develop and implement plans to provide greater flexibility in the adjustment of timber sales to fluctuations in demand, within the long-term constraints of sustained yield. This should include increasing the pipeline of stumpage available for sale and cutting in any year on areas with adequate roads, as well as moderate adjustments in the level of annual sales in response to existing and foreseeable market conditions. If present housing projections are to be realized at reasonable prices, prompt action in this direction will be necessary. This should include the willingness to adjust annual sale offerings to meet emerging situations. Such adjustments may be upward or downward, but should be compensated as promptly as feasible so that the aggregate cut over a period of years remains in line with sustained yield objectives.

3. Steadily increased supplies from State and private lands—especially the latter—will become progressively more important in the years ahead. Steps to elicit such increases are essential. The Forest Service proposals for increased production, and technical and financial assistance to State and private owners through cooperative forestry programs and for research, could contribute to this objective, and deserve careful consideration.

4. Substantially larger net imports will also be needed to meet growing demand. A considerable increase in imports, especially from British Columbia, is anticipated, but there is some possibility of an offsetting growth in exports. Authority to contain such a growth, should it develop, is available, including that provided in the Morse Amendment to the Foreign Assistance Act of 1968 which expires at the end of 1971. The Departments of Commerce, State, Agriculture, and Interior should continue to monitor the trend of both imports and exports, in readiness to take such action as may be needed and appropriate.

5. The Task Force believes independent analysis is needed to review these programs and to evaluate the probable benefits against the substantial budgetary costs involved. Such analysis is necessary also to review in depth the relation between timber management policies and environmental goals. To accomplish this, the Task Force recommends that a panel of outside experts be invited to study these problems and their possible solutions objectively and carefully, and to submit an independent assessment of the probable consequences, costs, and benefits of alternative solutions. In the judgment of the Task Force, such a panel should be headed by an outstanding public figure and should include as members persons of recognized ability and broad experience, with no ties or commitments that might prejudice objective judgment. In view of the urgency of the problem, such a panel should be requested to submit reports on specific problems as soon as they have been developed and to present its final report not later than November 30, 1970. In the meantime, implementation of the Task Force recommendations should begin without delay, subject to subsequent revision as may be required.

6. While expansion of timber supply—with due regard to other values, including environmental protection and improvement—is a prime requisite, rapid progress toward economizing on timber use through improved wood products utilization, more flexible design standards, and development of satisfactory and economical substitutes is clearly essential. HUD is moving on design standards and substitutes and has indicated its willingness and desire to press ahead. It is recommended that HUD be encouraged to proceed along these lines and that the necessary resources be provided, including such assistance from other agencies as may be appropriate.

7. The Department of Agriculture should also be encouraged to proceed with the development of further plans looking toward longer-range timber production and conservation programs. Such plans could include the coupling of an agricultural land resource adjustment program with tree planting.

8. These recommendations represent only a beginning toward the resolutions of the problems ahead. Continued top-level interagency review of progress and developments will be needed for some time. It is recommended, therefore, that the Task Force and its working party remain available for further consultation as required.

Signed:

Robert P. Mayo,
Chairman, Task Force on Softwood Lumber and Plywood.

Appendix—Item V

Statement by the President

I have received from the Cabinet Committee on Economic Policy the findings and recommendations of the Task Force on Softwood Lumber and Plywood. The Task Force reports that a substantial increase in the supply of softwood timber products will be needed to meet the nation's growing requirements, especially in order to attain our goal of providing adequate housing for all our people by the end of this decade. It stresses also that this increase in supply can and must be achieved in a manner consistent with the preservation and enhancement of the quality of our environment. I fully endorse these findings.

The Task Force report includes a number of specific recommendations designed to meet these objectives. While some of these recommendations require further intensive study and continuous reassessment in the light of changing conditions, I am directing that the following initial steps be taken promptly.

1. The Secretaries of Agriculture and Interior should formulate plans to improve the level and quality of management of forest lands under their jurisdiction in order to permit increased harvest of softwood timber consistent with sustained yield, environmental quality and multiple use objectives. As recommended by the Task Force, such plans should take cognizance of the increased requirements for timber to meet our housing goals. They should be developed in consultation with the Council on Environmental Quality with the aim of not only protecting but also enhancing the quality of the environment in our forest lands. Any additional funding required for the execution of these plans will be reviewed by the Bureau of the Budget in relation to overall national priorities.

2. In determining the level of timber to be offered for sale in any given year, the Secretaries of Agriculture and Interior should provide reasonable flexibility to take account of anticipated swings in demand. Such adjustments may be upward or downward, and should be compensated as promptly as feasible to keep within the constraints of long-term sustained yield objectives.

3. The Secretary of Agriculture should press ahead with the development of programs designed to increase the production and harvesting of timber on State and private lands, consistent with maintaining environmental quality.

4. The Secretary of Housing and Urban Development, in cooperation with the Secretaries of Agriculture and Commerce, should continue the development of programs and standards looking toward improved and more economical wood products utilization, including encouragement of the development and utilization of substitute materials.

The Task Force has recommended that a panel of outstanding citizens be invited to study the entire range of problems involved in ensuring that the achievement of our housing goals is not constrained by an inadequate supply of softwood lumber and plywood, while fully protecting and enhancing the quality of our environment. I concur in the need for such a panel, and hereby direct that the necessary steps be taken to select its members, who should be persons of outstanding ability and broad experience, with no ties or commitments that might prejudice objective judgment.

I am releasing the full report of the Task Force at this time, so that the public may be fully informed of the issues involved in this important problem.

TIMBER RESOURCES

(A report to the President and to the Congress by the Public Land Law Review Commission, June, 1970)

The Federal Government has a dominant position in the Nation's timber economy. Just before and after the beginning of the 20th century, vast areas of timberland were reserved from disposal under the public land laws for the express purpose of guaranteeing that the country would have a continuous supply of timber to meet its future needs. These reserves were later supplemented by additional timberlands acquired primarily in the eastern states.

As a result, the Federal Government now owns some 20 percent of all of the country's commercial forest land, nearly 40 percent of its supply of merchantable timber and over 60 percent of its softwood sawtimber. The degree of potential Federal control over the supply of timber is greater than over that of any other commodity presently produced from public lands.

In part because of the success of management programs on privately owned timberlands, in part because of the conservative manner in which Federal timber has been permitted to enter the economy in the past, and in part because of continuing changes in the wood needs of the country, the Nation's ability to meet its long-range future wood needs is promising, as long as the timber grown on both public and private lands is made available for harvesting. This is in sharp contrast to judgments often made as recently as the 1930's and 1940's.

At the present time, the wood needs of the United States are increasing rapidly. Also, exports of logs, particularly to Japan, increased dramatically during the 1960's. Forest lands, both public and private, are being withdrawn from timber harvesting and set aside for other purposes. Although private timberlands met the major burden of our wood requirements during the first half of this century, the pressure is now on public lands to supply much of the country's wood needs in the near future. Despite this tremendous responsibility of the Federal Government, the statutes applicable to most of the Federal forest lands provide at best inadequate policy guidelines directing how these public lands are to be managed or timber made available to meet our needs.

Regardless of the reasons why the Federal Government became, by far, the country's leading owner and manager of forest lands and timber, and regardless of the relevancy of these reasons to today's conditions, the facts are:

Federally owned timber is vital to the wood economy of the country;

Federally owned timber is vital to the economies of many communities;

Federal policies with respect to the sale of this timber can result in the life or death of firms that use it;

The Federal Government's dominance as a supplier of timber will continue in the future.

Although this chapter sets forth the Commission's recommendations concerning timber as a commodity of the public lands, the recommendations were arrived at, as were all our recommendations, only after giving full consideration to all other uses that can and must be made of the forests. This is emphasized because we recognize that the potential for conflicts among competing uses is particularly high on public forest lands. While wood harvesting, watershed protection, and grazing were always primary purposes of forests on public lands, recreation use, including wilderness areas, has assumed a growing importance in recent years. The availability of a continuing timber supply depends in part on the extent to which public forest lands are allocated to meet the demands for other uses. Despite this and the fact that, of all the various classes of public lands, forest lands generally are capable of producing the most combinations of commodities and, in many cases, the highest values, there are no statutory guidelines to indicate how the various uses are to be balanced.

The diversity and intensity of use dictates that great care be taken on forest lands to assure that environmental values are not lost through poor forestry practices. This is especially important on those forest lands that are managed primarily for the production of timber. The harvesting of timber, of course, can, when not exercised with care, have very substantial effects on the scenic and watershed values of forest land as well as on surrounding lands and downstream water flows. The United States cannot afford to have its timberlands used so as to degrade the surrounding environment.

We also believe it is important to note the possible effects of some management practices on the lands and forests themselves. Timber management on public lands has progressed over the past few decades from primarily fire protection to the point where a variety of techniques, including controlled fires, pesticides, herbicides, fertilizers, and mechanical equipment, is used. These techniques and the practice of planting large areas to a single species can have harmful environmental consequences over large areas of land. The use of these practices should not be stopped entirely, but, as discussed generally in the chapter on Public Land Policy and the Environment, we favor continued surveillance and monitoring of such programs. These must be supported by a continuing program of research to ascertain all the facts about presently used practices and to develop new and improved practices that will reduce environmental hazards.

In accord with our general recommendations that artificial distinctions between classes of land be eliminated, we believe that policies guiding timber production and use should generally be the same for all public lands. We see no reasons, other than those dictated by varying regional conditions, why the best available practices should not be adopted by all agencies.

There are significant differences now in some timber policies, in the same geographic area, between the Forest Service and the Bureau of Land Management. For example, the Forest Service sells timber on a royalty basis, while BLM sells timber on a lump sum basis, and the methods for measuring timber volumes as a basis for payment are different. Methods of financing timber management programs and timber access road construction differ between the two bureaus. The other agencies managing public lands also differ somewhat. We find that these differences are confusing to the public and should not be retained.

Dominant Use Timber Production Units.—Recommendation 28: There should be a statutory requirement that those public lands that are highly productive for timber be classified for commercial timber production as the dominant use, consistent with the Commission's concept of how multiple use should be applied in practice.

We have previously recommended the concept of dominant use classification as a means of implementing land use planning on public lands not designated by statute for primary use.[1] This concept finds ready application in the case of planning for timber production on public lands.

Legislation creating national parks and wilderness areas, and administrative determinations without legislative sanction placing public forest lands in noncutting zones, and restricting the cut on other areas, have reduced the area of public land—and the value of timber available from it—that is necessary to support the timber industry. In some cases, despite the absence of guidance from Congress, which under the Constitution has the authority to make such rules, timber stands in which substantial sums of public money have been invested are set aside for other use before the timber can be harvested and the public can reap the benefits of its investment.

The amount of forested public land reserved from harvesting or placed under special cutting limitations more than doubled between 1957 and 1967.[2] Although data are

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Footnotes at end of article.

not available to show the extent of the continuing pressure on private forests, land is being cleared for many uses such as residential, commercial, and highway construction. Also significant is the fact that much private forest land is made unavailable for timber harvesting because of the increasing ownership of forest lands by people interested primarily in recreation values.

Lack of assurance that public land timber-will be available for harvesting in the future results in:

Lack of security for investment planning by timber industry firms using public land timber, and a concomitant unwillingness to modernize their plants and equipment;

Short-range planning by communities whose economies are dependent on timber harvested from the public lands;

Unwillingness on the part of the Bureau of the Budget to recommend needed levels of investments in timber management;

Concern over the country's ability to continue to meet increasing levels of consumption of wood products without a substantial increase in timber prices;

Resistance to all proposals, however meritorious, to withdraw public land from timber harvesting.

The fact is that the purposes of the 1897 Organic Act[3] of the Forest Service, whose major aim was to assure future timber supplies, have been obscured by changing conditions and needs. Yet, the United States continues to require timber and wood products in increasing quantities. The Commission believes that these and other requirements can best be met by the identification of highly productive areas of public forest lands administered by the Forest Service and the Bureau of Land Management, their classification for commercial timber production as the dominant use, and their inclusion in separate timber management systems. *To manage these systems separately from other public lands, there should be created a Federal timber corporation or division within the Forest Service and the Bureau of Land Management.*[4]

In harmony with our belief that effective multiple use planning can be accomplished only by classifying lands for their highest and best uses, *lands classified for inclusion in this system would be those that are capable of efficient, high quality timber production, and are not uniquely valuable for other uses.* By no means would all of the public lands currently defined by the Forest Service as "commercal forest lands" be included in the system. The Forest Service definition, for example, requires, among other things, that such lands be capable of producing at least 25 cubic feet of timber per acre per year. This standard excludes only those forest lands of the very poorest quality. Much of the land defined as commercial is at higher elevations in the West or on ridges or swamps of low productivity in the East. The Commission does not intend that these lower quality timberlands be included in timber production units.

Most of the forest lands to be included in such units are in Alaska, California, Idaho, western Montana, Oregon, Washington, and the southern states. These lands are highly productive; for example, about 70 percent of the national forest lands in the Douglas-fir region of Oregon and Washington is capable of producing more than 85 cubic feet per acre per year. These areas are already the ones where the greatest wood processing capacity is located. However, there are other areas of public lands that should be considered for inclusion in such units. The decision should rest on the merits of each case.

Criteria for establishing timber production as a dominant use on public forest lands must involve consideration of other existing or potential uses. Those lands having a unique potential for other uses should not be included in timber production units. Critical watersheds, for example, where cutting may be prohibited or sharply limited, should not be included. Similarly, important, or potentially important, intensive recreation use sites close to urban areas should not be included. On the other hand, watershed, recreation, or other uses would not be precluded on lands in the system.

Timber production should be the dominant use, but secondary uses should be permitted wherever they are compatible with the dominant use. Generally these areas would be available for recreation use except during the period when timber is being harvested and the time thereafter required to permit new growth to get started. It may also be necessary to impose greater restrictions than now exist on grazing during periods when timber stands are being regenerated.

The actual limitations placed on other uses would not be as severe as they might appear at first glance. The best sites for timber growing are mostly at lower or middle elevations in the West and in the southern states. In the West, outdoor recreation use tends to occur at the higher elevations where the scenery is more spectacular, where there is snow for winter sports, and where the ground cover is more open and suitable for hiking and other summer sports. The conflicts resulting from outdoor recreation on the better national forest timber production areas in the South occur less frequently than in other regions.

The total area that would be included in timber production units would probably be less than one-half of the total forest land now in Federal ownership, and less than one-fourth of the total area of the national forests. Although the area of forest land that would be so designated does not make up a majority of all federally owned forest lands, this highly productive part the total is vital as a source of timber. This is the land that will react most readily to investments in timber management and will be the key source of public timber for industrial uses in the future.

Financing.—Recommendation 29: Federal programs on timber production units should be financed by appropriations from a revolving fund made up of receipts from timber sales on these units. Financing for development and use of public forest lands, other than those classified for timber production as the dominant use, would be by appropriation of funds unrelated to receipts from the sale of timber.

On the more productive public forest lands, receipts from timber sales generally exceed the costs of financing not only the administration of timber sales, but the overall level of investments in timber management. This is not true of much of the lower quality forest lands.

A revolving-fund method of financing these timber production units would provide the land management agencies with a reasonably assured source of funds to permit long-term investment and management programs; it would assure the industry of a fairly certain continuity of supply; and it would provide Congress and the people of the country with a means of measuring the success of this economic program in economic terms.

Such a fund, as envisioned by the Commission, would not bypass the congressional appropriation process. We propose that no money would be available to the agencies unless appropriated, even though the money came from the production fund. *Funds for timber production on other forested public lands should be provided by direct appropriation from the Treasury as justified.*

Back-door financing, i.e., payments that do not go through the appropriation process, of timber production programs should be ended, whether in the form of purchaser-built access roads, reforestation payments under the Knutson-Vandenberg Act,[5] *or any other form of indirect appropriation. When timber is sold from public lands, its full value should be collected by the United States and deposited either in the timber production fund or the Treasury.*

The Federal timber corporation or division we recommend be established within the administering agency would be charged with overseeing the management of the timber dominant areas and for maintaining records of both expenditures and receipts. Keeping records in a manner that will permit comparisons of expenditures with receipts will be a key to the success of this approach.

Use of Economic Considerations.—Recommendation 30: Dominant timber production units should be managed primarily on the basis of economic factors so as to maximize net returns to the Federal Treasury. Such factors should also play an important but not primary role in timber management on other public lands.

Timber is an economic good that is typically grown and harvested on private, as well as public, lands. The market for timber is well established, just as it is for most other goods and services used by the American public. This system generally works well by producing the desired goods and services in an efficient manner and allocating them to those who need or desire particular products. We find no compelling reason to treat public land timber differently from the way it would be treated by the owners of well managed private forest lands.

It appears to the Commission that timber management and investment programs will be most effective if the market for timber is generally accepted as a guide for Federal actions. On dominant timber production areas, this will mean that the primary directive to the public land management agencies should be to maximize the net dollar return to the Federal Treasury in the long run. This does not mean, of course, that other considerations of these lands are not important We do not believe that the use of economic guidelines will lead to a deterioration of the land and its capacity to produce other values. Timber production is consistent in many cases with the production of other values and long-term timber production requires the maintenance of the basic productivity of the land.

Although the position of the Federal Government as the Nation's major owner of timber and timberlands leaves it open to the charge that it controls timber markets through the exercise of monopoly power, no evidence was found to indicate that this is actually occurring. Nevertheless, it would be reassuring to the users of public timber to have it well understood, and stated in law, that the Federal Government is not to extract monopoly profits or to use its position to control timber markets. This is particularly important with respect to timber sales to firms dependent on the public lands for their supply of timber.

We have found that failure to make needed economic investments in Federal timberlands has resulted in failure of the Federal agencies to meet their share of the Nation's wood requirements today, even though protection of other values was not involved. Of particular note is timber access road construction, which has lagged behind needs in past years. As a result, considerable areas of timber that could be harvested are inaccessible, and salvage and protection programs have been hampered.

Our recommended approach to the use of Federal funds in timber production programs, utilizing sound conservation practices, will result in higher receipts from timber sales over the long run, and in greater expenditures per acre than at present for the areas

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Footnotes at end of article.

involved, without depleting this natural resource. Average annual timber production on these areas will be increased substantially by directing the land management agencies to maximize the net return to the Federal Treasury. The Commission notes that there are many opportunities on national forest lands for investments that would more than pay for themselves.[6]

Economic Factors.—Recommendation 31: major timber management decisions, including allowable-cut determinations, should include specific consideration of economic factors.

Although timber is an economic good, and there are data on the costs and returns to timber management, the Commission found that the public land agencies do not generally make specific economic analyses as a basis for their management decisions. Allowable-cut determinations, which provide a basis for determining most of the timber programs, are particularly confusing with respect to the use of economic factors. Those that are used are commonly hidden behind cumbersome definitions and are combined with other assumptions in complicated formulae so that their actual use and effects are completely obscured.[7]

The Multiple Use and Sustained Yield Act of 1960[8] confirmed the policy long enforced by the Forest Service that timber harvesting should be accomplished on a sustained yield basis. This has been interpreted by the management agency to require establishing annual allowable cuts that do not vary widely from one year to the next. Biological factors predominate in the methods used to determine allowable cuts. The species mix, growth rate and age classes of the existing timber stands all enter into the resulting calculations.

The public lands have large volumes of overmature timber, in part because of the conservative cutting policies that have been followed and in part because these forest lands were more inaccessible than the private lands that were the base for logging in past years. Consequently, mortality rates are high and net annual timber growth is less than in managed forests with a lower average age. For example, the annual growth rate in western national forests is somewhat less than one-half of 1 percent, while managed forests can be expected to grow at several times this rate. To convert an over-mature forest with large volume of timber to a balanced managed forest requires liquidating the old growth timber over a period of time. The public land agencies have generally chosen to do this over a fairly long period of time so that the volume of timber harvested from one period to the next does not vary considerably. On the other hand, commercial forest operators have usually cut old growth faster so that the goal of a balanced managed forest capable of rapid growth is reached sooner. Such a policy includes a larger allowable cut in the earlier stages and a reduction in allowable cut later on as the age classes become balanced and the annual net growth rate becomes stabilized. To an extent, investments in reforestation and thinning can tend to offset this reduction, although the extent of their effect depends on the length of time set for converting old growth to a managed forest.

In Federal forests the rotation age, i.e., the time to grow timber from seed until harvest, has been traditionally determined by the log size suitable for manufacture into lumber. These large sizes are not required to meet the increasing demands for pulpwood and kindred products, for which shorter rotation periods and younger trees are more suitable. These changes in the demand for wood products should be reflected in allowable cut determinations.

We have also noted that the demand for wood products tends to fluctuate with changes in the economic cycle, and the availability of construction credit. Since the existing allowable cut policies are designed to lead to approximately equal timber sale offerings each year, fluctuations in the demand for timber are not taken into account in any important sense. The restriction on sales offerings in any one year or period tends toward greater fluctuations in the cut of non-Federal timber and greater fluctuations in prices of all timber than would be the case if Federal policies were more flexible.

Sales Procedures.—Recommendation 32: Timber sales procedures should be simplified wherever possible.

At present, timber from the public lands is generally sold at market value, and the market itself usually determines the price through competitive processes. However, the Commission found that the process of selling timber is confusing in its complexity and ambiguity.

Much of the confusion arises because of statutory requirements that timber be sold at not less than its appraised value. The Commission believes that the Federal Government should receive the same price for its timber as would be received by a private landowner. Therefore, the competitive market should serve as the guide for the price that is received by the Federal Government. In fact, it appears that in many cases, comptition can be relied on to set prices without resort to costly appraisals. Appraisals should be viewed as a means of establishing a minimum price for timber wherever competition cannot be relied on to set a price that reflects the value of the timber. But in all cases, the pricing objective should be to obtain the competitive price.

There must be flexibility in both the timing and the size of sales. Becase of varying needs in different regions and at different times, we do not believe that detailed statutory directives can be devised. The land management agencies must recognize this and adjust their offerings accordingly.

In particular, we note the problems caused by the very long-term commitments of public land timber in large sales in Alaska. These sales, some of which have committed national forest timber to a single firm for 55 years, greatly limit the flexibility of the public land agencies in meeting changing conditions and changing timber values.

Coupled with flexibility there should, nonetheless, be some degree of regularity. The assurance of regular sales would complement our earlier observation that the establishment of timber production units on an economic basis would promise the availability of a continued supply, by providing the vehicle to move that supply to the market.

We agree with those who have urged that bidders show financial responsibility and, where applicable, a satisfactory past performance on timber sales operations. Among the reasons for this are: (1) the degradation of the environment that ensues from an incomplete job or from failure to clean up the site; and (2) extensions of time for completion of contracts, which also have the effect of withholding timber from the consumer. It follows as a corollary, that land management agencies should carefully scrutinize any request for extensions of time, and grant such extensions only when specific conditions set forth in the regulations are met.

METHODS OF SALE

We recommend that, for both economic reasons and in the interests of conservation, the method of selling timber on the lump sum, or cruise, basis be adopted generally by the Federal land management agencies when selling timber. The Forest Service and Bureau of Land Management differ in the basis on which each sells timber. The Forest Service generally uses scale selling, in which payment is based on the measurement of the volume of each log removed from the forest. The Bureau of Land Management, on the other hand, uses a "cruise," or estimate of the total volume of timber in a sale, as the basis for a lump sum payment.

The economics of logging is such that fewer logs and marginal trees are left in the woods under cruise, or lump sum, sales than under scale sales. The interests of the purchaser, once he has paid for all the timber in a lump sum sale, encourage him to utilize all of the timber that will pay the direct costs of logging. This leads to complete utilization with a minimum need for administrative surveillance. Not only does the better utilization leave the forest less susceptible to insect, disease, and fire, but the lack of a need to scale each log results in lower costs in administering timber sales. Lump sum sales encourage more thorough logging and, therefore, produce more favorable environmental conditions than scale sales.

Access Road Construction.—Recommendation 33: There should be an accelerated program of timber access road construction.

The practice followed by the public land management agencies of having timber access roads constructed in large part as an adjunct of timber sales has limited the construction of those roads. By requiring timber operators, who are not, or do not desire to become, road builders, to handle road construction activities, the agencies have also limited some legitimate operators from obtaining public timber sales. In many instances roads are required to a standard higher than necessary merely to harvest timber.

Agency reliance on purchaser-built timber access roads has a number of other serious disadvantages. First, road development must be keyed to timber sales which can lead to inefficient design and size specifications. Second, it can lead to undesirable harvest schedules. And third, lack of suitable access road networks has made salvage of dead or dying timber impossible as well as inhibiting measures to control or present disease and fire losses. Timber saved as a result of suitable access would be reflected subsequently in net growth computations and allowable cuts.

The Commission believes that a "catch-up" program of access road construction must be authorized and supported with appropriations. These access roads would make available merchantable timber within the dominant timber production units recommended above. The initial funding for these roads will have to come either from direct appropriations from the Treasury, or from the revolving fund we have proposed, if that fund in its inception is granted borrowing authority.

In addition, by making these new areas available for the protection, management, and harvesting of public land timber, this accelerated road program, which we believe could be completed in a 10-year period, would each year permit the salvage and sale of considerable timber that must now be abandoned after it has either fallen or been blown down. As part of the protection of the lands, these roads would provide access for fire, insect, and disease control. It would also allow the agencies to make economic investments and carry on management programs in areas that cannot be reached now. Finally, it would simplify existing timber sales programs by separating road construction from timber harvesting, and eliminating allowances for road construction costs from the timber sales procedures, a practice we suggest earlier in this chapter as one to be ended.

Dependent Communities and Firms.—Recommendation 34: Communities and firms dependent on public land timber should be given consideration in the management and disposal of public land timber.

Many communities and firms, particularly in the western United States, are dependent on public land timber. If the public lands were suddenly eliminated as a source of tim-

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Footnotes at end of article.

ber, some of these communities and firms would cease to exist. Others would experience very difficult times.

Through its timber management and sales policies, the Federal Government over the years has in effect made a commitment to communities and firms that it will make timber available to assure their continued existence. The provision of the 1968 Foreign Aid Act[9] that limits exports of logs to Japan from the western public lands and the long-standing primary processing requirement for timber harvested from the national forests in Alaska[10] are examples. The Small Business Administration set-aside program to limit eligibility for some timber sales to firms having less than 500 employees is an example of a regulatory commitment to small firms.[11]

The Commission recognizes that changes are continually taking place both in the structure of the timber industry and in the viability of particular firms and communities. But we also recognize that the Federal Government has an obligation to those who depend on public lands for their livelihood. Federal policy should be directed at achieving a balance between healthy change and the assurance of opportunity for existing users and communities dependent on Federal timber.

The use of a procedure whereby timber "quotas" were allocated to dependent areas was attempted in the past to provide an assured supply of timber to firms in each designated area. The Sustained Yield Unit Act of 1944[12] provided a statutory basis for assigning quotas to areas established under that Act. A number of units were established, one of which involves joint consideration for management purposes of public and private timberlands in an area. We have found that these attempts to use quotas as a means of assuring timber supplies to a firm or an area have not been entirely successful. Their usefulness is limited by changing conditions.

Obviously, where there is a limited timber supply, the allocation of timber to one firm restricts the opportunities for another. The long-term commitment of Federal timber to the existing sustained yield units under the 1944 Act has limited the flexibility of the Government and of the involved firms and communities to meet changing conditions. We do not believe that a quota system is a necessary tool for Federal policy and, furthermore, we believe that it is inconsistent with our free enterprise system. For the foregoing reasons, we recommend that the 1944 Act be repealed with provisions, of course, for units now in operation to continue until terminated in ordinary course.

Timber harvested from public lands should ordinarily be processed by domestic mills, but interstate shipment should not be limited. The export of unprocessed logs from public lands damages those firms and communities dependent on a public land timber supply.

Therefore, the ban on exports of public land logs should be continued. Those who exports logs from their private lands should be prohibited from evading this policy by purchasing public land timber for their domestic needs.

The Commission believes that the United States should assure that small firms and dependent firms be given some opportunity to obtain public land timber. The current definition by the Small Business Administration of small firms as having less than 500 employees sets this limit at an unrealistically high level for the timber industry, where most firms have fewer employees. Accordingly, *the size limit for this industry in terms of qualifying for Small Business Administration assistance should be flexible enough to recognize actual conditions and to give real advantages to small firms when conditions warrant.*

The Commission also believes it desirable to allow oral competitive bidding in public land timber sales. Oral auction, starting from a base fixed by sealed bids, permits the firm dependent on Federal timber to engage in bidding on sales it believe necessary to its existence, and limits the ability of other firms to squeeze it out of the market. Whenever it appears that smaller firms or dependent mills are disadvantaged by sealed bidding, the public land agencies should allow oral auction procedures.

Acquistion and Disposal.—Recommendation 35: Timber production should not be used as a justification for acquisition or disposition of Federal public lands.

The Commission believes that neither increasing nor decreasing the area of Federal public forest lands can be justified on the basis of need for timber production. As stated earlier, the Federal Government already owns 20 percent of the Nation's forest land, 40 percent of its merchantable timber, and over 60 percent of its softwood sawtimber. The acquisition of additional forest land by the United States would not, in our opinion, improve the timber production potential of the country.

If there is a need to acquire additional land, it should be done; but the United States should not acquire private lands under the guise of a need for timber production when in fact the land is to be used for some other purpose.[13] While timber production should continue to be an authorized use of acquired forest lands, it is no longer by itself an appropriate reason for acquiring lands.

Public lands should not be transferred to state or private ownership simply to reduce the proportion of timber producing land in Federal ownership. We have found no significant differences between Federal and other lands in the manner in which timber is produced or sold that would require that public lands be transferred to the states or private ownership. Nor would "monopoly" be the basis for such transfer because, as indicated earlier in this chapter, no evidence was found that the Federal Government is exerting monopoly control over markets.

The many other public values that also occur on forest lands may themselves justify the retention of much of the Federal timberlands in public ownership.

We believe, however, that the public land agencies should be authorized to exchange, acquire, and dispose of forest lands when necessary to improve ownership patterns and to ease administrative problems. Limitations on general disposal and acquisition authority should not preclude meeting the necessities of administration.

Environmental Impacts.—Recommendation 36: Controls to assure that timber harvesting is conducted so as to minimize adverse impacts on the environment on and off the public lands must be imposed.

The cutting of timber has substantial adverse effects on environmental values on a large area of public lands each year. The immediate environmental impacts of timber cutting are often dramatic, particularly where the technique of clear-cutting is used, although new growth may alleviate the situation in a relatively short time and restore the area to a substantial extent within a decade or two.

Where all the timber on an area is cut, the effect on scenic values and the quality of water flowing from the area is significant under many conditions typically encountered in logging public lands. Even on areas where only a portion of the trees are cut, effects on scenery and other environmental factors can be substantial. Inasmuch as logging is conducted to one degree or another on about a half million acres of public lands each year, it is evident that the potential for problems is great.

We realize, of course, that to halt all timber cutting on the public lands would not be in the public interest. We also note that the public land agencies have used roadside and streamside strip zones, in which cutting practices are prohibited or modified, to reduce some of the undesirable effects of logging on what they believe to be the visible scenery and water quality conditions.

In addition, they have planned timber harvesting and road construction to minimize environmental impacts, and have included provisions in timber sale contracts to control adverse impacts.[14] While such provisions generally might be adequate to accomplish environmental protection objectives, their enforcement, for various reasons, leaves much to be desired.[14] *Consequently, we conclude, consistent with the recommendations contained in the chapter on Public Land Policy and the Environment, that even efforts must be made in the future.*

The results of most logging are esthetically unattractive to many people. The fact that future stands of timber will be attractive is not an acceptable rationale to them to tolerate unnecessary environmental effects now. The United States has an affirmative obligation to minimize the impact on the environment from logging on public lands, even though this is a complex task. *Such efforts should be directed not only to scenic effects, but air, soil, and water quality as well.*

The development of new multipurpose road systems and widespread public travel by air means that nearly all forest lands are visible to the public at large. Logging systems and layouts, in addition to protective roadside strips, must be designed to minimize scenic impacts. Logging practices must be such that waste is minimized, that logged areas are restored as soon as possible to an esthetically pleasing condition, and its effects, as well as those of road construction, on stream quality are minimized. We believe the agencies should make a continuing effort to improve controls over logging practices to assure that these desirable results are achieved. Further, a continuing research effort is necessary to find techniques and design systems that will help meet environmental quality objectives. Timber harvesting must also be recognized as a means of improving the condition and appearance of average forests. Public land forests must be managed through harvesting and regeneration so that we have an improved living resource for producing the multitude of values that can be obtained from healthy, growing woodlands.

Timber purchasers should be required to comply with Federal, state, and local environmental quality standards in processing plants using timber from the public lands. Timber processing plants, particularly pulp and paper mills, contribute to both air and water pollution. Regardless of whether plants that process timber in the first manufacturing stage are on or off the public lands, compliance with established environmental quality standards should be required as a condition of obtaining a timber sale contract. We believe this is a desirable way to help enforce established standards for air and water quality and other aspects of environmental quality.

Inasmuch as most environmental quality standards are established and policed by the states or local governments insofar as timber processing plants are likely to be concerned, we believe that close cooperation by the public land management agencies with the states and local governments can provide a workable means of implementing this recommendation. Responsibility for establishing that a plant is violating standards should generally rest with the state or local government. The public agencies would then use state or local actions as a basis for qualifying possible timber purchasers and for enforcing their possible timber purchasers and for enforcing their failure to comply with contractual provisions.

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We believe that this recommendation should be applied only to those plants that convert logs, pulpwood, or other roundwood products from the public lands into a new form. Thus, sawmills using logs from public lands would be subject to such restrictions, but plants using lumber from these sawmills would not be. Since most plants using timber from the public lands are located close to their source of timber, the practical effect of this restriction would be felt mainly in public land areas. But we see no reason why plants that are further from the public lands should not be similarly restricted if a part of their timber comes directly from public lands.

We believe implementation of this recommendation will provide a practical means of requiring timber processing firms to comply with established environmental quality standards. We see it as an important adjunct to other methods of improving the quality of our day-to-day life.

FOOTNOTES

[1] See Chapter Three, Planning Future Public Land Use, for a discussion of the Commission's recommendation on this point.

[2] George Banzhaf & Company, *Public Land Timber Policy*, PLLRC Study Report, 1969, App. G.

[3] 16 U.S.C. §§ 473–478, 479–482, 551 (1964).

[4] If merger of the Forest Service and the Department of the Interior is accomplished, as recommended in Chapter Twenty, Organization, Administration, and Budgeting Policy, merger into one system should be possible.

[5] 16 U.S.C. § 576 (1964).

[6] George Banzhaf & Company, *Public Land Timber Policy*, Ch. 8. PLLRC Study Report, 1969.

[7] Allowable cut is the amount of timber that may be harvested from a timber management unit over a prescribed period of time in accordance with a timber management plan designed to provide a sustained discussion of the methods used in planning the annual cut is contained in George Banzhaf & Company, *Public Land Timber Policy*, Ch. 6. PLLRC Study Report, 1969.

[8] 16 U.S.C. §§528–531 (1964).

[9] 16 U.S.C. § 617 (Supp. V, 1970).

[10] 36 C.F.R. § 221.3(c) (1970).

[11] George Banzhaf & Company, *Public Land Timber Policy*. PLLRC Study Report, 1969.

[12] 16 U.S.C. §§ 583–583i (1964).

[13] Acquisition of forest lands by the Forest Service is accomplished under the authority of the 1911 Weeks Law (16 U.S.C. §§ 500, 513–519, 521, 563 (1964)). This provides for acquisition of forest lands "necessary to the regulation of the flow of navigable streams or for the production of timber." Forest Service acquisitions that are actually being accomplished for recreation purposes, as was the case of the Sylvania tract in Michigan, now must be justified on the basis of either timber production or watershed protection.

[14] Ira M. Heyman and Robert H. Twiss, *Legal and Administrative Framework for Environmental Management of the Public Lands*. PLLRC Study Report, 1970.

HIGHWAY SAFETY: THE DRUNK PATROL—A TOUGH DUTY

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, the problem of drunken drivers and the deaths, injuries, and destruction they are causing is one which needs our attention. Though drunken drivers receive little publicity, except in the daily accident reports listing their latest victims, they are a menace which must be stopped.

The men who actually have the task of getting drunken drivers off of our highways, our State and local police, receive too little attention and support from the public and press. It has perhaps become trite to say that these men are risking their lives to make ours safe; but it is nonetheless true. Their job is difficult for a number of reasons. One is the lack of manpower, as there are too few policemen to do the job. Another involves the weak and inadequate laws they often have to work with. Yet perhaps the basic reason is that the public, the news media, and people in government are just not demanding action. Though drunken drivers are killing over 28,000 people a year on our highways, the public seems relatively unconcerned.

This seeming disinterest in one of our most pressing national problems continues to baffle me. As part of my contribution toward arousing interest in this area, I have recently inserted into the RECORD two articles which appeared earlier in the Christian Science Monitor as part of a series on highway safety. The third article, which appeared in the July 9 edition, discusses the problem from the point of view of the policemen who patrol our highways, and with dedication and commitment try to cope with this growing menace. The story of the policemen is heartening, but the story of the problems they face is distressing.

Mr. Speaker, the third article in the series by Guy Halverson follows, and deserves a thoughtful consideration:

THE DRUNK PATROL—A TOUGH DUTY

(By Guy Halverson)

WASHINGTON.—"Better stand back when we get the door open," the Washington, D.C., patrolman shouted at me as he ran toward the darkened vehicle. "No telling what we'll find."

Inside, we could see a young man slumped motionless across the wheel. The late-model automobile, the engine on and running quietly, was stopped about 30 feet from an intersection.

The driver coughed and twisted as the officer jammed a small vial of smelling salts under his nose. On the cluttered floor of the front seat was an empty can of malt beer.

His recently pressed clothes were in disarray. He said that he was returning home from a party when he "fell asleep" approaching the intersection. Repeated loud bangings and poundings on the side of the car by passing motorists had failed to rouse him.

After producing identification and a driver's license during a brief questioning in the back seat of the patrol car, the driver was asked if he thought he could safely maneuver his vehicle home. Nodding affirmatively, he was allowed to drive off.

The ticket given the man read only: "Failing to give full time and attention to driving."

DALLAS-AREA CHECKOUT

Contrast this cavalier response of the officer to the more purposive methods of three Dallas patrolmen. In March of this year I watched officer Don DeWees and two other Dallas patrolmen (one a citizen police auxiliary) "check out" some two-dozen nightclubs and taverns in a bleak four-block area on the city's racially mixed east side.

As we entered each club, the din and music would grind to a halt as every head turned suspiciously toward the small cluster of men in blue by the door.

"Club owners hate us for this type of patrol," says officer DeWees, an outgoing seven-year veteran of the force. "But we've gone a long way toward cutting down knifings and fights by our presence. And you can be sure that there are many characters in these places who think twice about that fourth or fifth drink before they hit the highway with us around."

As these two contrasting incidents clearly indicate, the wheels of law enforcement move unevenly when it comes to curtailing and apprehending the drunk driver in the United States today. In some cases, it moves not at all, as departments teeter toward outright nonenforcement.

In hundreds of departments across the country budget and manpower woes plus heightened citizen demands for stepped up anticrime patrolling is causing severe cutbacks in the number of men assigned to traffic details. Results are invariably disastrous. In Detroit, traffic units have been hacked by some 171 men since 1965—almost 30 percent of the total traffic detail—even though the size of the police force itself has swollen by more than 500 men.

SURVEILLANCE FALLS OFF

Surveillance and issuing of tickets has fallen off. Not surprisingly, the accident rate has risen steadily and shows no sign of lapsing.

By contrast, accident rates in rural areas patrolled by the Michigan State Police, who have maintained and in some areas even tightened surveillance, have dropped.

While scores of policing agencies, such as the Los Angeles and San Diego police departments, and the Maine State Police, have mounted aggressive preventive campaigns against the drunk driver, literally thousands of other departments are still relying on antequated and plainly inadequate control programs. Or worse, they have hidden the whole problem in dusty back-room files.

Admittedly, the problem of apprehending the drunk driver is one of the knottiest problems facing policing agencies today. The social drinker requires a more traditional type of preventive patrol—a response that may have no application for the hard-core problem drinker at all.

As studies have indicated, the problem-drinking driver is not like the typical social drinker. The former often have had long-standing difficulties with police, and other social agencies, and in some cases have even garnered strings of psychiatric evaluation, license revocations and suspensions, and criminal records.

Use of established enforcement ploys, such as dummy vehicles, radar boxes, and helicopter surveillance, often have little practical effect. Some departments, intimidated by the sheer complexity of the problem, have resigned themselves to passivity and inaction.

MANY GO UNAPPREHENDED

Any drunk driver who is at this moment careening across the nation's highways has little likelihood of ever being apprehended. Of the nation's half-million lawmen, only a fraction are on traffic-enforcement duty.

Take the nation's 34,000 state police. They patrol more than one million miles of highway, yet less than 8,000 are behind the wheel at any given period of time—averaging out to about one man for every 125 miles of roadway.

Police, moreover, forced to rely upon limited visual-arrest criteria, are apprehending only the most blatantly intoxicated drivers at peak alcohol blood levels. Hundreds of thousands of drinking drivers at lower illegal levels are going undetected. "I drove nonstop from Pennsylvania to Wisconsin one weekend through five states, and I wasn't stopped by a patrolman once," a key leader of a Milwaukee Alcoholics Anonymous chapter told me, recalling his pre-AA days. "Yet I was so drunk I don't even remember getting into the car."

Top police administrators insist, rightly, that the problem of the drinking driver isn't just a law-enforcement problem. "We're talking about a vastly complicated community problem that is going to require a comprehensive attack on alcoholism," says William H. Franey, a top official of the International Association of Chiefs of Police (IACP).

For its part the IACP has published a number of policy guidelines on traffic safety, including directives supporting implied-consent statutes and a .10 presumptive level of intoxication. (Implied consent means that acceptance of a license implies consent to a chemical blood test in the event of arrest.)

WHAT POLICE CAN DO

Still, many law-enforcement officials, including IACP's Mr. Franey, concede that there is much that police departments can and must do if the highway toll is to be significantly slashed:

Renewed emphasis on traffic safety. This would include clearcut supervisory policies for police personnel. "Tolerances"—or definitions—for example, of what constitutes drunken driving should be clearly defined.

While increasing calls are heard for farming out traffic-safety duties to supplemental or even auxiliary civilian forces, most experts strongly insist that traffic safety must once again be given priority billing within existing police organizations.

"Thousands of officers are now trapped in trivial administrative jobs or forced to respond to unnecessary calls such as chopped garden hoses or overturned bird baths. These men would be more useful out on the roadway," argues James Slavin, director of the Northwestern University Traffic Institute, and a former chief of the Denver force. "Traffic is the one area where police can exercise tremendous control, unlike, say, the assault area, which usually occurs away from the police."

Detection and apprehension. Police need to upgrade detection methods for better apprehension of drunk drivers. Many law-enforcement officials admit a distaste for dealing with the alcoholic who drives (as distinct from the problem of public drunkenness, the largest category of arrests in the United States).

NATIONAL AVERAGE NOTED

"I'll seldom stop a DWI [driving while intoxicated] unless he's really in bad shape," one officer on a major metropolitan force told me. The national average is about two drunk-driver arrests per each officer per year, clearly inadequate, many feel, when it's recollected that we are talking about a problem involving millions of drivers.

Reporting procedures. Many departments, especially in the South and rural areas in the Midwest and Southwest, need to adopt better accident-reporting procedures. It is from such information that preventive countermeasures can be devised.

States need mandatory chemical tests for victims of fatal accidents. Police records need to be related to state motor-vehicle records in some type of high-speed computerized collection agency.

Many lawmen now are seeking to put together some type of national traffic "information grid" along the lines of the National Criminal Information Center, which provides instant up-to-date information on such things as stolen vehicles. At present the National Register in the Department of Transportation maintains records of mandatory license revocations and suspensions, but the information by law is a service to state motor vehicle departments.

Not all states are "on line." In most states, a police department seeking information from the National Register must first call the state motor-vehicle department, which in turn contacts Washington, a cumbersome and lengthy process.

CONNECTICUT EXPERIENCE

For some states the time lag is substantial. "It takes us about a week to get information," says H. J. Ulrich, superintendent of the Kansas Motor Vehicle Department. His department relies on the United States mail for contact.

Whatever the pace such reforms might take in a department, police traditionalists maintain that in the final analysis there is no substitute for clearcut sanctions for traffic offenses plus intensive patrolling. As proof they cite what happened in Connecticut back in the 1950's.

In 1956, Abraham A. Ribicoff, then governor, waged a massive crackdown on speeders. Anyone convicted, he told a stunned constituency, would face an immediate license suspension and possible revocation. The upshot was that the accident roster sagged sharply during the next year.

Something similar happened at Lackland Air Force Base in Texas not too long ago. Appalled at the rising accident rate, usually involving liquor, base officials announced that all personnel involved in an accident involving a personal injury would be given psychiatric screening plus a review of their service record. As happened in Connecticut, the accident rate went down.

SUSPENSION SUSTAINED

Some departments, using a combination of sophisticated computerized technology and a refined community-action approach, are making tremendous progress in upgrading enforcement and apprehension rates. In Maine—which has tallied 117 traffic fatalities this year as of this writing in late June, compared with 90 last year—the state police are seeking to tighten traffic patrolling, while giving special attention to the drunk driver.

If a Maine motorist loses his license out of state for drunk driving, the same suspension can apply in Maine as well. Repeat offenders face indefinite license suspension and even loss of their registration.

Ask members of the 300-man Maine state police force, and they quickly admit being delighted with the crackdown. Lt. Richard C. Jones, assistant director of the traffic section, explains that the force has applied to the Department of Transportation for a $10,000 grant for a special study program in detecting drunk drivers at the more difficult blood-alcohol levels below .15 percent.

(The level of .10 to .14 percent is considered "impaired" in Maine, while .15 and above is "intoxicated," a harsher offense.) "All too many of our men just can't spot the 'impaired' levels using visual methods," the officer says.

Lieutenant Jones, like most police officers with whom I've talked, believes that some type of prearrest testing along the lines of the British Road Act and the Baton Rouge and New York State laws, will eventually win widespread national acceptance, despite present qualms over constitutionality. Prearrest testing is being considered in Minnesota, California, and Michigan, as well as in Maine. (See paragraphs under title "Baggie Bill.")

The Maine force has also found that by concentrating on specific "target areas" it can quickly dent accident tolls. Thus, special squadrons have been sent into Aroostook County during the potato harvest time in late fall, a traditionally high accident—high alcohol consumption—period there.

Targeted action has also been successful in San Diego and Kent County, Michigan. In San Diego, some 15 carefully selected officers who are given more than 40 hours of special training use a computer to identify locations drunk drivers are apt to frequent.

This special "traffic-enforcement squad" —which is partly underwritten by a $62,000 grant from the Department of Transportation—is credited with having substantially reduced liquor-related fatalities, even though the overall accident picture has gone up.

The Kent County Sheriff's Office (in the Grand Rapids area) has also had similarly successful results using less-sophisticated methods on key roadways.

In addition to consolidation, many lawmen look toward development of mechanical detection devices, such as video-tape units, or even "drunkmographs" (on the principle of the seismograph) that could keep a permanent record of driving patterns right within an enclosed part of the vehicle.

There is also talk of using special coded license plates known only to police for problem drivers, an experiment already tested in Minnesota. "Such a plate could put tremendous social pressures on the problem drinker," argues Northwestern's Mr. Slavin.

What would you do if you were a relative or friend of the problem drinker and had to borrow his car for a night? After being tailed by a squad of patrol cars for an hour or so you'd probably strongly suggest that he seek rehabilitation—and in a hurry."

"BAGGIE BILL"

The 1971 Minnesota legislative session may set a course for prearrest blood-alcohol testing statutes.

A number of safety organizations there, including the Metropolitan Area Safety Council and the American Medical Association, are pushing what is known as the "Baggie bill," which would tie prearrest screening to the right of an officer to make a license check. It would be an on-the-spot breath test utilizing a small plastic bag.

According to Forst Lowery, executive vice-president of the Minneapolis Metropolitan Areas Safety Council, the Minnesota legislation, like the British Road Act, would only be a guide for arrest. Results could not be entered as court evidence. Upon arrest the suspect would still face the choice of a conventional police chemical test.

The measure, which is being heavily promoted throughout Minnesota, was decisively buried in the 1969 legislative session after lukewarm support from top state officials, including Gov. Harold LeVander.

Proponents now plan to have the measure reintroduced by at least one attorney in next year's session to help ward off legal doubts—a tactic not adopted last year.

LOSSES RESULTING FROM THE USE OF CYCLAMATES

(Mr. SISK asked and was given permission to extend his remarks at this point in the Record.)

Mr. SISK. Mr. Speaker, on behalf of myself and Mr. Gubser, Mr. Abbitt, Mr. Broyhill of Virginia, Mr. Don H. Clausen, Mr. Collier, Mr. Conable, Mr. Edwards of California, Mr. Leggett, Mr. Mathias, Mr. McFall, Mr. Matsunaga, Mrs. May, Mr. Nelsen, Mr. Scott, Mr. Steiger of Wisconsin, Mr. Teague of California, Mr. Waldie, and Mr. Ullman, I am introducing legislation to alleviate the many losses suffered because of the HEW action last fall barring the use of cyclamates in food. These losses were incurred by persons who relied in good faith on the Government's listing of cyclamates as safe. Because the losses were based on this reliance, and because they have serious consequences for many business enterprises, I believe that the Government should recognize its responsibility for these losses and provide indemnity for them.

Cyclamates and other artificial sweeteners have for many years been widely recognized for their value in food products to be marketed to diabetics and to other persons for weight reduction and weight control purposes. Prior to October 18, 1969, existing uses of cyclamates were regarded by the Food and Drug Administration as being of unquestioned safety. They were included among the substances listed by FDA as "generally recognized as safe." In addition, their use was specifically recognized in a number of food standards promulgated by the Food and Drug Administration for artificially sweetened canned fruits. Based on the actions of the Food and Drug Administration prior to October 18, 1969, there was no indication that cyclamates were not entirely safe for use in food at their present levels. The food manufacturers thus were justified, based on this official recognition of the safety of cyclamates, in using these substances in their products.

Secretary of Health, Education, and Welfare Finch on October 18, 1969, announced the discovery that ingestion by rats of cyclamates at very high levels over their entire lifespan led to the formation of bladder cancer. In view of this, the Secretary stated that the Delaney clause of the Federal Food, Drug, and Cosmetic Act required him to ban the manufacture of all foods containing cyclamates. At the same time, however, both Secretary Finch and Deputy Assistant Secretary Steinfeld emphasized that there was absolutely no evidence that cyclamates presented a hazard to humans. Secretary Finch states that his decision "in no sense should be interpreted as a 'life-saving' or emergency measure." Secretary Finch subsequently appointed a medical advisory group who, after studying the available data, concluded that continued use of cyclamates by persons who medically require them outweighed any possibility of harm. Secretary Finch also announced that continued marketing of inventories of foods packed in good faith prior to October 18 would be permitted, and that this limited marketing presented no health hazard.

As everyone knows, Secretary Finch's October 18, 1969, announcement received extraordinarily wide coverage in the news media and prompted considerable public reaction against foods containing cyclamates. In the midst of this furor, the Secretary's assurances that sale of existing inventories of foods containing cyclamates presented no health hazard were largely ignored. Retail sales of these inventories in fact fell off to almost zero and, although they later regained some sales volume, have in most cases never achieved much more than 25 percent of their former sales. Thus, food manufacturers have been left with large stocks of foods containing cyclamates and the reduced value of these foods has caused crippling financial injury. Some manufacturers have had to sell these products at a significant price reduction, to repurchase merchandise already sold to their customers, to give their production to charity, or to destroy unsalable merchandise. Some companies may find it impossible to continue in business unless reparations from the Government are forthcoming.

Mr. Speaker, it seems to me and others totally inequitable that the affected companies must bear alone these out-of-pocket losses which were a direct result of the Government's announcements on October 18, 1969. Especially since the companies used cyclamates in good faith reliance on earlier governmental actions, they should not be required to suffer serious economic losses for subsequent governmental actions believed necessary to protect the public welfare. In particular, they should not be made to suffer the consequences of public overreaction to a startling Government announcement which rendered ineffective the Government's attempts to minimize losses by allowing continued sale of existing inventories of foods containing cyclamates.

Under these circumstances, I believe that the Government should share the responsibility for the net losses incurred directly as a result of reliance on the FDA listing of cyclamates as safe for use in food and the reversal of FDA's position on October 18, 1969.

In recent years there have been several similar situations in which the Government has acted to compensate losses caused by its sudden changes in policy. The prime example is the cranberry incident in 1959 in which an announcement by then HEW Secretary Fleming destroyed public confidence in the cranberry crop. Ten million dollars was eventually paid to cranberry growers for losses which they suffered. There was another similar incident at about the same time involving the use of stilbestrol in certain poultry products. Also, since 1964, Congress has appropriated funds to indemnify dairy farmers unable to sell milk because it contains pesticide chemical residues. There are a number of other, similar instances including several outside the food and drug area in which the Government has paid compensation for losses caused by changes in its policies. The case for indemnification for cyclamate losses is at least equally meritorious.

The legislation I introduce today would give jurisdiction to the Court of Claims to determine the amounts of losses suffered due to the cyclamate ban. It would provide compensation for both direct and indirect losses but would explicitly exclude any recovery of lost profits.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. In 1968 there were more full-time students enrolled in higher education in the United States than any other country. There were 7,571,636 compared to 2,396,000 in the Soviet Union and 1,967,796 in India.

GREATER CORPORATION RESPONSIBILITY TO SHAREHOLDERS AND PUBLIC NEEDED

(Mr. BURTON of California asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BURTON of California. Mr. Speaker, the U.S. Court of Appeals for the District of Columbia has just announced a remarkable decision which is of interest to shareholders and consumers throughout the country.

Basically, this decision, cited as Medical Committee for Human Rights against the SEC, allows shareholders to have their views presented in proxy statements for vote by the shareholders, and as such should greatly enhance the ability of shareholders to have their voices heard on matters of significant corporate and public interest.

More specifically, shareholders of the Dow Chemical Co. who were arbitrarily denied the right by the Securities and Exchange Commission to have a vote among themselves on the merits of Dow's continued sale of napalm now have been granted this right by the court.

Shareholders in many different companies across the country should benefit from this securing of their rights. This scholarly decision also further focuses attention on the need for greater corporate responsibility both to shareholders and to the public.

I insert this precedental decision for the consideration of shareholders and Members:

[U.S. Court of Appeals for the District of Columbia Circuit, No. 23,105]

MEDICAL COMMITTEE FOR HUMAN RIGHTS, PETITIONER *v.* SECURITIES AND EXCHANGE COMMISSION, RESPONDENT—PETITION FOR REVIEW OF AN ORDER OF THE SECURITIES AND EXCHANGE COMMISSION

[Decided July 8, 1970]

Mr. Roberts B. Owen, with whom *Messrs. Edwin M. Zimmerman, Richard B. Herzog* and *Paul S. Hoff* were on the brief, for petitioner.

Mr. Richard E. Nathan, Special Counsel, Securities and Exchange Commission, of the bar of the Court of Appeals of New York, *pro hac vice,* by special leave of court, with whom *Messrs. Philip A. Loomis, Jr.,* General Counsel, and *David Ferber,* Solicitor, Securities and Exchange Commission, were on the brief, for respondent.

Before McGowan, Tamm, and Robinson, *Circuit Judges.*

Tamm, *Circuit Judge*: The instant petition presents novel and significant questions concerning implementation of the concepts of corporate democracy embodied in section 14 of the Securities Exchange Act of 1934, and of the power of this court to review determinations of the Securities and Exchange Commission made pursuant to its proxy rules. For reasons to be stated more fully below, we hold that the Commission's action in the present case is reviewable, and that the cause must be remanded for further administrative proceedings.

1. PROCEDURAL HISTORY OF THE CASE

On March 11, 1968, Dr. Quentin D. Young, National Chairman of the Medical Committee for Human Rights, wrote to the Secretary of the Dow Chemical Company, stating that the Medical Committee had obtained by gift several shares of Dow stock and expressing concern regarding the company's manufacture of the chemical substance napalm.[1] In part, Dr. Young's letter said:

"After consultation with the executive body of the Medical Committee, I have been instructed to request an amendment to the charter of our company, Dow Chemical. We have learned that we are technically late in asking for an amendment at this date, but we wish to observe that it is a matter of such great urgency that we think it is imperative not to delay until the shareholders' meeting next year. . . .

"We respectfully propose the following wording to be sent to the shareholders:

" 'Resolved, that the shareholders of the Dow Chemical Company request the Board of Directors, in accordance with the laws of the State of Delaware, and the Composite Certificate of Incorporation of the Dow Chemical Company, to adopt a resolution setting forth an amendment to the Composite Certificate of Incorporation of the Dow Chemical Company that napalm shall not be sold to any buyer unless that buyer gives reasonable assurance that the substance will not be used on or against human beings.' "

(App. 1a–2a.) The letter concluded with the following statement:

"Finally, we wish to note that our objections to the sale of this product [are] primarily based on the concerns for human life inherent in our organization's credo. However, we are further informed by our investment advisers that this product is also bad for our company's business as it is being used in the Vietnamese War. It is now clear from company statements and press reports that it is increasingly hard to recruit the highly intelligent, well-motivated, young college men so important for company growth. There is, as well, an adverse impact on our global business, which our advisers indicate, suffers as a result of the public reaction to this product."

(App. 2a.) Copies of this letter were forwarded to the President and the General Counsel of Dow Chemical Company, and to the Securities and Exchange Commission. (App. 3a.)

By letter dated March 21, 1968, the General Counsel of Dow Chemical replied to the Medical Committee's letter, stating that the proposal had arrived too late for inclusion in the 1968 proxy statement, but promising that the company would "study the matter and . . . communicate with you later this year" regarding inclusion of the resolution in proxy materials circulated by management in 1969. (App. 4a.) Copies of this letter, and of all subsequent correspondence, were duly filed with the Commission.

The next significant item of record is a letter dated January 6, 1969, noting that the Medical Committee was "distressed that 1968 has passed without our having received a single word from you on this important matter," and again requesting that the resolution be included in management's 1969 proxy materials. (App. 7a–8a.) The Secretary of Dow Chemical replied to this letter on January 17, informing the Medical Committee that Dow intended to omit the resolution from its proxy statement and enclosing an opinion memorandum from Dow's General Counsel, the contents of which will be discussed in detail in part III, *infra*. (App. 9a–12a.) On February 3 the Medical Committee responded to Dow's General Counsel, asserting that he had misconstrued the nature of their proposal in his opinion memorandum, and averring that the Medical Committee would not "presume to serve as draftsmen for an amendment to the corporate charter." (App. 15a.) The letter continued:

"We are willing to bend . . . to your belief that the management should be allowed to decide to whom and under what circumstances it will sell its products. Nevertheless, we are certain that you would agree that the company's owners have not only the legal power but also the historic and economic obligation to determine what products their company will manufacture. Therefore, [we submit] . . . our revised proposal . . . requesting the Directors to consider the advisability of adopting an amendment to the corporate charter, forbidding the company to make napalm (any such amendment would, of course, be subject to the requirements of the "Defense Production Act of 1950," as are the corporate charters and management decisions of all United States Corporations), [and] we request that the following resolution be included in this year's proxy statement:

" 'Resolved, that the shareholders of the Dow Chemical Company request that the Board of Directors, in accordance with the laws [*sic*] of the Dow Chemical Company, consider the advisability of adopting a resolution setting forth an amendment to the composite certificate of incorporation of the Dow Chemical Company that the company shall not make napalm.' "

(App. 16a.) On the same date, a letter was sent to the Securities and Exchange Commission, requesting a staff review of Dow's decision if it still intended to omit the proposal, and requesting oral argument before the Commission if the staff agreed with Dow. (App. 17a.)

On February 7, 1969, Dow transmitted to the Medical Committee and to the Commission a letter and memorandum opinion of counsel, which in essence reiterated the previous arguments against inclusion of the proposal and stated the company's intention to omit it from the proxy statement. (App. 18a–19a.) Shortly thereafter, on February 18, 1969, the Commission's Chief Counsel of the Division of Corporation Finance sent a letter to Dow, with copies to the Medical Committee, concluding that "[f]or reasons stated in your letter and the accompanying opinion of counsel, both dated January 17, 1969, this Division will not recommend any action . . . if this proposal is omitted from the management's proxy material. . . ." (App. 20a.) In a letter dated February 28—which contains the first indications of record that petitioners had retained counsel—the Medical Committee again renewed its request for a Commission review of the Division's decision. (App. 24a.) On the same day, the Medical Committee filed with the Commission a memorandum of legal arguments in support of its resolution, urging numberous errors of law in the Division's decision. (App. 26a–32a). Several other documents were filed by both the company and the Medical Committee; finally, on April 2, 1969, both parties were informed that "[t]he Commission has approved the recommendation of the Division of Corporation Finance that no objection be raised if the Company omits the proposals from its proxy statements for the forthcoming meeting of shareholders." (App. 44a–45a.) The petitioners thereupon instituted the present action, and on July 10, 1969 the Commission moved to dismiss the petition for lack of jurisdiction. On October 13 we denied the motion "without prejudice to renewal thereof in the briefs and at the argument on the merits."

In its briefs and oral argument, the Commission has consistently and vigorously urged, to the exclusion of all other contentions, that this court is without jurisdiction to review its action. We find this argument unpersuasive.

II. JURISDICTION TO REVIEW

A. Timeliness

The Commission's first argument on the jurisdictional point is that the instant petition was untimely filed, thereby depriving this court of power to adjudicate the controversy. This argument is based upon the provision of section 25(a) of the Securities Act, 15 U.S.C. § 78y(a) (1964), which requires that a petition for review must be filed "within sixty days after the entry" of a Commission order.

In the instant case the Commission's minutes reflect that the decision which was reached after reviewing the petitioner's proxy claim was made on March 24, 1969 (App. 46a), whereas the petition to review in this court was not filed until May 29, 1969—some 66 days thereafter. It also appears uncontroverted that the Commission gave the Medical Committee some notification by telephone on March 24 that a decision had been reached, although the substance of this conversation is not reproduced in the briefs or record. (*Cf.* Supp. App. 3.) However, as we noted in the preceding section, petitioners did not receive any written information concerning the Commission's decision until a letter was mailed to them on April 2; in addition, the Medical Committee has asserted, without contradiction, that the Commission temporized for approximately four weeks after the petitioner requested a formal copy of the minutes of the decision, before making this important information available. (Reply Brief for Petitioner at 14 n.2 and accompanying text.)

It must be noted that the Commission is itself rather untimely in making this assertion of untimeliness, for in its July 10 Motion to Dismiss it explicitly disclaimed any intention to press upon us an argument relating to the time of filing the instant petition.[2] This resolve apparently fell by the wayside, however, and the timeliness argument appeared in full dress in the Commission's responsive brief on the merits, thereby helping to trigger further rounds of briefing by both sides. We need not elevate the Commission's vacillation to the status of a waiver, however, because we have concluded that its timeliness argument must fail on the merits.

The Commission relies primarily upon section 22(k) of its Rules of Practice, 17 C.F.R. § 201.22(k) (1970), which provides:

"In computing any period of time involving the date of the entry of an order by the Commission, the date of entry shall be (1) the date of the adoption of the order by the Commission . . . or (2) in the case of orders reflecting action taken pursuant to delegated authority, the date when such action is taken. . . . *The order shall be available for inspection by the public from and after the date of entry, unless it is a non-public order. A non-public order shall be available for inspection from and after the date of entry by any person entitled to inspect it."* [Emphasis added.]

In essence, the Commission has taken the position that the date of decision, March 24, must be deemed the date of "entry" within the meaning of Rule 22(k), notwithstanding the language of the rule italicized above, and notwithstanding the fact that no written information regarding the basis of the decision was available until a substantial time after March 24.

None of the cases cited by the parties offers much guidance in resolving the particular timeliness question now before us; [3] however, we think it clear that Rule 22(k), together with the 60-day statutory period for filing petitions for review, evidences an attempt by Congress and the Commission to strike a balance between the need to have Commission orders operate with finality, and the aggrieved party's need to have both adequate notice of the substance of the decision, and sufficient time to prepare his petition.[4] To hold that the running of the 60-day period can be initiated by a mere telephone call, as the Commission urges, would create risk of inequity and hardship to aggrieved parties and defeat the goal of orderly and open administrative procedures embodied in the italicized portions of Rule 22(k) quoted above. Therefore, we conclude that the in-

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Footnotes at end of article.

stant petition for review is not barred for reasons of untimeliness.

B. The existence of a reviewable order

The most difficult problems presented by this case arise from a congeries of related arguments supporting the general assertion that the Commission's decision regarding the Medical Committee's proxy proposal is not a reviewable order within the relevant jurisdictional statute. That statute is section 25(a) of the Securities Exchange Act of 1934, 15 U.S.C. § 78y(a) (1964), which in pertinent part states:

> "Any person aggrieved by an order issued by the Commission in a proceeding under this chapter to which such person is a party may obtain a review of such order . . . in the United States Court of Appeals for the District of Columbia [Circuit], by filing in such court, within sixty days after the entry of such order, a written petition praying that the order of the Commission be modified or set aside in whole or in part."

Neither precedent[5] nor the legislative history of the Securities Act[6] offers an unambiguous answer to the question of whether decisions of the kind presently before us should be categorized as reviewable orders under this provision; thus, we must resort to general principles and analogies in determining whether we have jurisdiction to adjudicate this controversy.

Bypassing for the moment the question of whether deference to administrative discretion should compel us to foreclose review of this petition,[7] we begin by restating the well-established principle that there is a strong presumption in favor of the courts' power to review administrative action. As the Supreme Court concluded in *Abbott Laboratories v. Gardner,* 387 U.S. 136, 140 (1967), "[A] survey of our cases shows that judicial review of a final agency action by an aggrieved person will not be cut off unless there is persuasive reason to believe that such was the purpose of Congress." This theme has been developed at greater length by Professor Jaffe in his study of the law of reviewability:

> "Congress, barring constitutional impediments, may indeed exclude judicial review. But judicial review is the rule. . . . It is a basic right; it is a traditional power and the intention to exclude it must be made specifically manifest. . . .
>
> The mere fact that some acts are made reviewable should not suffice to support an implication of exclusion as to others. The right to review is too important to be excluded on such slender and indeterminate evidence of legislative intent. (L. Jaffe, Judicial Control of Administrative Action 346, 357 (1965) [hereinafter "L. Jaffe"]. *See also Environmental Defense Fund, Inc. v. Hardin,* No. 23,813 (D.C. Cir. May 28, 1970) (slip op. at 7); *Scanwell Laboratories, Inc. v. Thomas,* No. 22,863 (D.C. Cir. Feb. 13, 1970); 4 K. Davis, Administrative Law Treatise 1–32 (1958).)

Several other general observations which we have gleaned from our perusal of numerous cases and commentaries on reviewability must serve as prolegomena to our discussion of that issue in the present case. It appears that the factors most often relied upon in determining whether a particular administrative action is a reviewable order can be subdivided into two general categories. The first of these basic areas of concern involves consideration of whether the administrative action operates with final effect upon a particular individual, entity, or group.[8] *See, e.g., Abbott Laboratories v. Gardner,* 387 U.S. 136, 149 (1967); *Isbrandtsen Co. v. United States,* 93 U.S. App. D.C. 293, 298, 211 F.2d 51, 55, *cert. denied,* 347 U.S. 990 (1954); L. Jaffe, 358, 403—404. The second line of analysis looks to the formalities preceding and attending the administrative action, for, as one commentator has stated, "the notion of an 'order' implies some formal characteristics." L. Jaffe 419; *cf. Helco Products Co. v. McNutt,* 78 U.S. App. D.C. 71, 137 F.2d 681 (1943); *American Sumatra Tobacco Corp. v. SEC,* 68 App. D.C. 77, 93 F.2d 236 (1937).

Finally, the cases in the area seem virtually unanimous in proclaiming that pragmatic considerations, particularly those relating to the institutional relationships between the courts and the administrative agencies, must prevail over purely doctrinal arguments for or against reviewability. *See, e.g., Abbott Laboratories, supra* 387 U.S. at 149; *American Federation of Labor v. NLRB,* 308 U.S. 401, 408 (1940); *Cities Service Gas Co. v. FPC,* 255 F.2d 860, 862 (10th Cir.), *cert. denied,* 358 U.S. 837 (1958); *Isbrandtsen Co., supra,* 93 U.S.App.D.C. at 297, 211, F.2d at 55.

While the problem of whether there is sufficient formality is admittedly difficult in the present case, we need not pause long over the question of the decision's final effect upon petitioner. Here the administrative process had run its course with respect to petitioner's proxy proposal, and there can be no basis for any fear that review of the decision would cause the courts "to interfere in matters yet within the consideration of the Commission." *Cities Service Gas Co., supra,* 255 F.2d at 862. Here, also, we are dealing with a limited and easily identifiable class of individuals—shareholders of a regulated corporation—whom Congress sought to protect in section 14 of the Act, and who claim that they are wrongfully being denied fair corporate suffrage by the Commission's approval of Dow's decision to omit their proposal. *Cf.* Jaffe. *The Individual Right to Initiate Administrative Process,* 25 Iowa L.Rev. 485, 528 (1940). In this regard, we cannot see any merit in the Commission's contention that the petitioner has not suffered any "aggrievement" under the jurisdictional statute because it may still have relief through a private action against the company in a district court.

The relevance of a possible private action will be examined more fully later in this portion of our opinion. For present purposes, it is sufficient to note that the Medical Committee has been forced to undergo a two-stage administrative proceeding, compelled by the risk that failure to do so would preclude any judicial relief by virtue of the exhaustion doctrine;[9] its recourse to an authoritative judicial determination of the merits of its proxy proposal has been substantially delayed because of the administrative proceeding, whereas time is clearly of the essence in proxy contests; and not only has the Medical Committee lost the potential benefit of the Commission's resources and expertise as an ally in compliance litigation against the company, it has also had imposed upon it the added burden in a private action of overcoming an adverse Commission determination in face of the principle that the agency is entitled to judicial deference in the construction of its proxy rules. *See, e.g., Union Pacific R. Co. v. Chicago & N.W. Ry. Co.,* 226 F.Supp. 400, 408 (N.D.Ill. 1964) Moreover, we believe that there is a substantial public interest in having important questions of corporate democracy raised before the Commission and the courts by interested, responsible private parties. *Cf. Scanwell Laboratories, Inc. v. Thomas,* No. 22,863 (D.C. Cir. Feb. 13, 1970) (slip op. at 8–10); *Environmental Defense Fund, Inc. v. Hardin,* No. 23,813 (D.C. Cir. May 28, 1970) (slip op. at 5–7). Thus, we conclude that the Medical Committee is "aggrieved" for purposes of section 25(a) of the Act.

Finally, in the context of assessing the reviewability of the Commission's decision—as distinguished from our later inquiry into the scope of administrative discretion—it is clear that no significance whatsoever inheres in the fact that the administrative determination is couched in terms of a "no action" decision rather than in the form of a decree binding a party to perform or refrain from some particular act. This much has been clear ever since the Supreme Court interred the discredited "negative order doctrine" in *Rochester Telephone Corp. v. United States.*[10] That case, like the present controversy, involved a petitioner's attempt to obtain judicial review of "action by the Commission which affects the complainant because it does not forbid or compel conduct with reference to him by a third person." (307 U.S. at 135.) The Court pointed out that "[n]egative has really been an obfuscating adjective" because it failed to illuminate "the real considerations on which rest . . . the reviewability of Commission orders within the framework of its discretionary authority and within the general criteria of justiciability." (307 U.S. at 141.) The Court then concluded:

> "An order of the Commission dismissing a complaint on the merits and maintaining the *status quo* is an exercise of administrative function, no more and no less, than an order directing some change in status. . . . Refusal to change an existing situation may, of course, itself be a factor in the Commission's allowable exercise of discretion. . . . But this bears on the disposition of a case and should not control jurisdiction." (307 U.S. at 142.)

Similarly, section 10(e) of the Administrative Procedure Act provides judicial relief for "agency action unlawfully withheld or unreasonably delayed" (5 U.S.C. § 706(1) (Supp. V 1965–69)), and the courts have had little difficulty in determining when an administrative failure to act presents an appropriate occasion for judicial scrutiny. *Compare Environmental Defense Fund v. Hardin, supra, with International Ass'n of Machinists v. NMB,* No. 23,409 (D.C. Cir. Jan. 30, 1970); *see generally* Goldman, *Administrative Delay and Judicial Relief,* 66 Mich.L.Rev. 1423 (1968). Thus, there can be little doubt that the Commission's decision operates with sufficient particularity and finality to warrant judicial review.

The question of whether the procedures attending the Commission's decision in this case are sufficiently formal to make the determination a reviewable order under section 25(a) is admittedly a close one, but we believe that the considerations militating in favor of reviewability must prevail. At the outset, we note that the decided cases make it clear beyond doubt that the absence of a formal evidentiary hearing does not compel the conclusion that an administrative decision is unreviewable. *See, e.g., Cities Service Gas Co. v. FPC,* 225 F.2d 860, 862–63 (10th Cir.), *cert. denied,* 358 U.S. 837 (1958); *Phillips Petroleum Co. v. FPC,* 227 F.2d 470, 475 (10th Cir. 1955), *cert. denied,* 350 U.S. 1005 (1956); *Isbrandtsen Co. v. United States,* 93 U.S.App.D.C. 293, 297, 211 F.2d 51, 55, *cert. denied,* 347 U.S. 990 (1954).

This is a sound and necessary doctrine because agencies frequently are confronted with situations in which substantial questions of fact, law, or policy may be properly resolved through information-gathering mechanisms less cumbersome than a trial-type hearing. This court has consistently recognized that this kind of flexibility in procedures is a desirable attribute of the administrative process, regardless of whether the power was explicitly provided by statute or rule, or was evolved on an ad hoc basis by implication from a broad statutory grant. However, our deference to the efficient deployment of administrative resources has not been—and logically could not be—considered a matter which touches upon the courts' jurisdiction to review the action in question, in the absence of a clear indication that Congress intended such a result. *See generally National Air Carrier Ass'n v. CAB,* No. 23,012 (D.C. Cir. May 28, 1970);

Footnotes at end of article.

H & B Communications Corp. v. FCC, No. 22,685 (D.C. Cir. Nov. 13, 1969); *Marine Space Enclosures, Inc. v. FMC,* —— U.S. App. D.C. ——, 420 F. 2d 577 (1969). Thus, we must look to the Commission's rules and to the attributes of the proceeding here in issue in order to determine whether this is an appropriate occasion for review.

Although the line is not drawn with complete clarity, the Commission's Rules of Practice distinguish between "formal" and "informal" proceedings. Procedures denominated "informal" by the Commission generally involve negotiation between the Commission and one private party, and normally culminate in a letter of advice to the party from a Commission staff member.[11] Here, however, there is an important difference which the Commission readily concedes:

> "The difference is that in the normal no-action situation, there is only one interested private party and accordingly the Commission has not found it necessary to prescribe any rules dealing with the situation. The private party simply writes a letter which is answered."
>
> "In the case of stockholder proposals, there are two interested private parties: the management and the shareholder. Consequently, Rule 14a–8(d) provides a procedure by which the position of both may be brought to the Commission's attention." (Supplementary Memorandum of Respondent at 10.)

Thus, the Commission's procedural regulations governing proxy proposals incorporate the basic theory of an adversary encounter, and a detailed perusal of Rule 14a–8 and its history reinforces this impression.

For the shareholder who wishes to have his proposal included in management's proxy statement, Rule 14a–8, 17 C.F.R. § 240.14a–8 (1970), is the touchstone of procedural and substantive rights. Rule 14a–8(a) describes the initiation of this process by providing that the security holder "shall submit to the management of the issuer, within the time hereinafter specified, a proposal which is accompanied by notice of his intention to present the proposal for action at the meeting." The basic time period established in this section is 60 days, subject to certain qualifications. Subsection (b) then provides that if management opposes the shareholder's proposal, it must include in its proxy materials a 100-word statement by the proponent of the proposal. The substantive exceptions to the general rule of inclusion are then set forth in subsection (c), and several of these grounds for omitting a shareholder proposal will be discussed at length in part III, *infra.* The following provision, subsection (d), contains the procedural steps which are immediately relevant; it describes the course of proceedings which comes into play whenever management believes that it is entitled under the substantive criteria of the preceding section to omit a shareholder proposal.

Subsection (d) is phrased wholly in mandatory rather than permissive language. It requires management to "file with the Commission . . . a copy of the proposal and any statement in support thereof as received from the security holder, together with a statement of the reasons why the management deems such omission to be proper in the particular case, and, where such reasons are based on matters of law, a supporting opinion of counsel." At the same time, management must "notify the security holder submitting the proposal of its intention to omit the proposal" and "forward to him a copy of the statement of the reasons why the management deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel." This filing and forwarding must be completed "not later than 20 days prior to the date the preliminary copies of the proxy statement are filed pursuant to § 240.14a-6(a)"; this requirement was promulgated "[s]o that the Commission will have more time to consider the problems involved in such cases and the security holder will have an opportunity to consider the management's position and take such action as may be appropriate." 19 Fed. Reg. 246 (1954). Presumably this "other appropriate action" by the shareholder encompasses the possibility of filing with the Commission detailed legal arguments in favor of requiring the company to include the proposal, similar to the one which the Medical Committee filed with the Commission in the present case after the Division of Corporation Finance had made its recommendation, and which the Commission accepted without comment or objection. (App. 26a-32a; *see also id.* at 38a-39a.) Finally, the history of the rule explicitly states that it "places the burden of proof upon the management to show that a particular security holder's proposal is not a proper one for inclusion in management's proxy material." (19 Fed. Reg. 246 (1954).)

We think that these provisions contain persuasive indicia that the Commission's proxy procedures are possessed of sufficient "adversariness" and "formality" to render its final proxy determinations amenable to judicial review, although the scope and content of that review must yet be investigated. This conclusion is inferentially supported by cases dealing with private actions to enforce the proxy rules, in which shareholders have been required to exhaust the administrative remedies provided by the foregoing sections. *Peck* v. *Greyhound Corp.,* 97 F. Supp. 679 (S.D.N.Y. 1951); *cf. Dyer* v. *SEC,* 291 F. 2d 774, 778 (8th Cir. 1961). However, the Commission urges that the structure of section 14 of the Act gives rise to a doctrinal anomaly if administrative decisions like the present one are held reviewable. This difficulty arises from the fact that even when the Commission moves against recalcitrant management under section 14 of the Act to terminate or prevent violations of the proxy rules, there is never a traditional trial-type hearing followed by a conventional mandatory order. Professor Loss has catalogued the Commission's enforcement alternatives under section 14 as follows:

> [W]hen management or a security holder is adamant in refusing to comply with the rules as the Commission construes them, there is no administrative procedure comparable to the stop-order proceeding under the 1933 act. The Commission may investigate. It may use its statutory power to "publish information concerning . . . violations," as it did in two early instances. It may institute appropriate administrative proceedings of a disciplinary nature under the 1934 act when the offender happens to be a registered broker-dealer or an exchange member, as it may when some other statutory provision or Commission rule has been violated. It may even use a violation of section 14(a) as a basis for delisting the security. And it may ask the Attorney General to prosecute willful violations. But the principal sanction—and the only practicable way of forcing compliance—is the statutory action for injunction." (Loss, *The SEC Proxy Rules in the Courts,* 73 Harv. L. Rev. 1041, 1043–44 (1960); *see also* Aranow & Einhorn, *Corporate Proxy Contests: Enforcement of SEC Proxy Rules by the Commission and Private Parties,* 31 N.Y.U. L. Rev. 875, 886, 866–87 n.50 (1956).)

We see little force in this anomaly—if. indeed, it is in fact an anomaly. Through section 14 of the Act Congress has invested the Securities and Exchange Commission with sweeping authority to regulate the solicitation of corporate proxies; the few words employed by Congress in subsection (a) of this provision confer upon the Commission much power, but little guidance or limitation:

> "It shall be unlawful for any person, by the use of the mails or by any means or instrumentality of interstate commerce . . . or otherwise, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy . . . in respect of any security (other than an exempted security) registered pursuant to . . . this title." (15 U.S.C. § 78n(a) (1964).)

Pursuant to this broad mandate, the Commission has established elaborate procedures which are of unquestioned validity for present purposes and which, as we have indicated above, otherwise possess sufficient attributes of finality and formality to warrant judicial review. Viewing the proxy rules in this light, we see no substantial reason why the absence of formal adjudicatory hearings in the regulatory scheme should render Commission decisions, however capricious or erroneous, utterly immune to direct judicial review or redress. Indeed, it seems doubtful that there is any meaningful distinction between review in this situation and review in the commonly accepted context of judicial assessment of final agency determinations made well in advance of, or in collateral proceedings relating to, a statutorily prescribed trial-type hearing. *See, e.g., Phillips Petroleum Co.* v. *FPC, supra,* 227 F.2d at 475; *Isbrandtsen Co.* v. *United States, supra,* 93 U.S.App.D.C. at 297, 211 F.2d at 55.

On the other hand, we do see significant problems and anomalies which would result from accepting the Commission's restrictive interpretation of the jurisdictional statute. There is no doubt that the Medical Committee could obtain a judicial determination of the legitimacy of its claim through a private action against Dow Chemical in the district court; the Supreme Court held that such a remedy is implicit in section 14(a) in *J. I. Case. v. Borak,* 377 U.S. 426 (1964). The essential question, then, is whether the district court is a more appropriate forum for adjudication of petitioner's claim than this court. We believe that every substantial consideration in this case leads to precisely the opposite conclusion.

Here the Medical Committee does not seek to contest any matters of fact which would require a trial de novo; rather, petitioner seeks only to have its proposal assessed by the Commission under a proper interpretation of the governing statutes and rules. The petitioner does not seek any relief which is peculiarly within the competence of the district court; instead, it seeks merely to have the cause remanded so that the Commission, in accord with proper standards, can make an enlightened determination of whether enforcement action would be appropriate. Thus we see no practical or theoretical virtues in commanding a course of action which "would result in equal inconvenience" to the petitioner, the Commission, and the overcrowded courts, and "would constitute circuitous routes for the determination of issues easily and directly determinable by review in this court." *American Sumatra Tobacco Corp. v. SEC,* 68 App. D.C. 77, 82, 93 F.2d 236, 241 (1937). *See also Gardner v. Toilet Goods Ass'n, Inc.,* 387 U.S. 167, 191–93 (1967) (Justice Fortas concurring and dissenting); *Environmental Defense Fund, Inc. v. Hardin, supra,* (slip op. at 9); L. Jaffe 358.

There is also, it seems to us, an independent public interest in having the controversy decided in its present posture rather than in the context of a private action against the company. The primary and explicit purpose of section 14(a) is "the protection of investors," and the primary method of implementing this goal is through Commission regulation of proxy statements, not through private actions by individual security holders. For the small investor, personal recourse to the Commission's proxy procedures without benefit of counsel may well be the only practicable method of contesting a management

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decision to exclude his proxy proposal.[12] In this situation, as our recent decisions make clear, it is particularly important that the Commission look carefully at the merits of the shareholder's proposal, and that it do so pursuant to an accurate perception of the Congressional intent underlying the proxy statute. *See generally Hale* v. *FCC,* No. 22,751 (D.C. Cir. Feb. 16, 1970) slip op, at 15–17; concurring opinion); *Office of Communication of the United Church of Christ* v. *FCC,* No. 19,409 (D.C. Cir. June 20, 1969). Direct judicial review of Commission proxy decisions is unquestionably the most logical and efficient means of achieving this objective.

Thus, we hold that the Commission's decision in this case is presently reviewable, and turn our attention to an investigation of the proper scope of this review.

C. Scope of review and administrative discretions

Many of the Commission's most forceful arguments are addressed to the proposition that the action which the Medical Committee now asks us to review falls within the purview of administrative discretion and therefore is protected from judicial inquiry or interference by section 10 of the Administrative Procedure Act, 5 U.S.C. § 701(a)(2) (Supp. V, 1965–69). In large measure, this line of defense reflects the misconstruction of section 10 that Professor Davis has called an "all or none fallacy" which ignores the language and intent of this provision.[13] The more accurate interpretation of the statute holds that assertions of discretion inevitably raise questions of degree which must be appraised in the context of the relevant provisions of law and the nature of the particular action sought to be reviewed: "[T]he question is not *whether* agency action is by law committed to agency discretion but *to what extent* agency action is so committed." 4 K. Davis, Administrative Law Treatise 33 (1958) (emphasis added); *see also Scanwell Laboraories, Inc. v. Thomas,* No. 22,863 (D.C. Cir. Feb. 13, 1970) (slip op. at 28–29). Our decisions also make clear that in analyzing issues of administrative discretion, as in dealing with general questions of reviewability, we must be fully cognizant of the strong presumption in favor of judicial review. *Environmental Defense Fund, Inc. v. Hardin,* No. 23,813 (D.C. Cir. May 28, 1970) (slip op. at 7–8).

The Commission asserts that its enforcement activities pursuant to the proxy rules are entitled to particular deference because they partake of the nature of the prosecutorial functions, which has traditionally been considered immune to judicial review.[14] This contention is meritorious, as will be seen below, but only in a limited sense; and the decisions of this court have never allowed the phrase "prosecutorial discretion" to be treated as a marginal incantation which automatically provides a shield for arbitrariness. Indeed, we have explicitly alluded to the prosecutorial function in compelling an administrative agency to deal openly and fairly with public interest intervenors in licensing proceedings:

"[A] 'Public Intervenor' . . . is, in this context, more nearly like a complaining witness who presents evidence to the police or a prosecutor whose duty it is to conduct an affirmative and objective investigation of all the facts and to pursue his prosecutorial or regulatory function if there is probable cause to believe a violation has occurred.

"It was not the correct role of the Examiner or the Commission to sit back and simply provide a forum for the intervenors; the Commission's duties did not end by allowing Appellants to intervene; its duties began at that stage." (*Office of Communication of the United Church of Christ v. FCC,* No. 19,409 (D.C. Cir. June 20, 1969) (slip op. at 6).)

There is some reason to believe that similar judicial supervision of the administrative process is needed in circumstances like the present one, in order to assure that the investing public can obtain vigorous, efficient, and evenhanded implementation of the concepts of corporate democracy embodied in the proxy rules. One published study has accused the Commission of a variety of procedural sins in its regulation of proxies, most of which could be curtailed or eliminated through judicial review. Specifically, the Commission has been charged with repeatedly violating its own established procedural principles, particularly those relating to management's burden of proof in justifying the omission of proposals; of allowing non-lawyers to decide complex legal problems raised in proxy disputes; and of affording inconsistent treatment to similar factual situations for no apparent reason.[15] Perhaps the most serious charge against the Commission's secretive decision-making, how ever, is all too clearly illustrated by the record in the present case: the lack of articulated bases for past decisions encourages management to file shotgun objections to a shareholder proposal, urging every mildly plausible legal argument that inventive counsel can contrive, in the hope that the Commission will accept one of them.[16] If the Commission does agree with one of management's arguments, or if it determines not to act against the company for other reasons, the shareholder often has no idea why his proposal was deemed unworthy or what he can do to cure its defects for subsequent proxy solicitations. Viewed in this light, "discretion" can be merely another manifestation of the venerable bureaucratic technique of exclusion by attrition, of disposing of controversies through calculated non-decisions that will eventually cause eager supplicants to give up in frustration and stop "bothering" the agency.

Nevertheless, we recognize that there is a legitimate domain of administrative discretion in the proxy area, albeit not quite so broad as the Commission urges. As the Supreme Court has recognized, the Securities and Exchange Commission must process a formidable number of proxy statements in limited time and with insufficient manpower.[17] Obviously not all proxy proposals can or should be given detailed consideration by the full Commission, and even the boldest advocates of judicial review recognize that the agencies' internal management decisions and allocations of priorities are not a proper subject of inquiry by the courts.[18] However, that is definitely not what is at issue in the present case: here, the full Commission has exercised its discretion to review this controversy, and, as will be seen below, it has ostensibly acted in accord with a very dubious legal theory. The Medical Committee asks us merely to examine this allegedly erroneous legal premise and return the controversy to the Commission so that it may properly exercise its further discretion regarding the propriety and desirability of enforcement activity.[19]

Limited and partial review to examine the legal framework within which administrative discretion must be exercised is scarcely a doctrinal innovation; it has been repeatedly sustained by the Supreme Court. *See, e.g., McGrath v. Kristensen,* 340 U.S. 162, 169 (1950); *Perkins v. Elg,* 307 U.S. 325, 349–50 (1939). We think that Justice Frankfurter's incisive observations in *Rochester Telephone Corp. v. United States,* 307 U.S. 125, 136 (1939), are equally appropriate here:

"Judicial relief would be precisely the same as in the recognized instances of review by courts of Commission action; if the legal principles on which the Commission acted were not erroneous, the bill would be ordered dismissed; if the Commission was found to have proceeded on erroneous legal principles, the Commission would be ordered to proceed within the framework of its own discretionary authority on the indicated correct principles."

We foresee scant possibility that such sharply circumscribed review, which depends upon the Commission's initial determination to review the staff decision, will cause the destruction of informal advisory and supervisory functions which the Commission now fears. The courts, we think, are abundantly capable of distinguishing between situations in which an agency gives informal advice and situations in which it formally decides among conflicting adversary claims premised on detailed legal arguments. Moreover, experience indicates that the grim forebodings which are frequently expressed in this court regarding the possibility that a particular decision will cause irreparable disruption of the administrative process only rarely, if ever, come to pass.[20]

On the other hand, if we are to foreclose review as the Commission urges, we would surely be condoning a frustration of congressional intent; for here the petitioner asserts that the Commission is failing to correct abuses which Congress sought to end by enacting the statute, and that it is a member of the class which Congress endeavored to protect in the Securities Act. In such situations, as a leading commentator has phrased it, "[i]nterests intended as the beneficiaries of legislative munificence will have cold comfort from embracing the dry, unmoving skeleton of the statute." [21] Review limited to the task of correcting such legal defects is consistent with the Supreme Court's interpretation of the Securities Act in *J. I. Case Co. v. Borak,* 377 U.S. 426, 432 (1964): "[A]mong [the] chief purposes [of section 14(a)] is 'the protection of investors,' which certainly implies the availability of judicial relief where necessary to achieve that result." Therefore, we conclude that partial review of the merits of this controversy will not project us into an area which is committed by law to agency discretion.

III. THE MERITS OF PETITIONER'S PROPOSAL

The Medical Committee's sole substantive contention in this petition is that its proposed resolution could not, consistently with the Congressional intent underlying section 14(a), be properly deemed a proposal which is either motivated by *general* political and moral concerns, or related to the conduct of Dow's ordinary business operations. These criteria are two of the established exceptions to the general rule that management must include all properly submitted shareholder proposals in its proxy materials. They are contained in Rule 14a–8(c), 17 C.F.R. § 240.14 a–8(c), (1970), which provides in relevant part:

"[M]anagement may omit a proposal . . . from its proxy statement and form of proxy under any of the following circumstances: . . .

"(2) If it clearly appears that the proposal is submitted by the security holder . . . primarily for the purpose of promoting general economic, political, racial, religious, social or similar causes; or . . .

"(5) If the proposal consists of a recommendation or request that the management take action with respect to a matter relating to the conduct of the ordinary business operations of the issuer."

Despite the fact that our October 13 order in this case deferred resolution of the jurisdictional issue pending full argument on the merits (*see* part I, *supra*), the Commission has not deigned to address itself to any possible grounds for allowing management to exclude this proposal from its proxy statement. We confess to a similar puzzlement as to how the Commission reached the result which it did, and thus we are forced to remand the controversy for a more illuminating consideration and decision. *Cf. Environmental Defense Fund, Inc.* v. *Hardin, supra.* In aid of this consideration on remand,

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we feel constrained to explain our difficulties with the position taken by the company and endorsed by the Commission.

It is obvious to the point of banality to restate the proposition that Congress intended by its enactment of section 14 of the Securities Exchange Act of 1934 to give true vitality to the concept of corporate democracy. The depth of this commitment is reflected in the strong language employed in the legislative history:

"Even those who in former days managed great corporations were by reason of their personal contacts with their shareholders constantly aware of their responsibilities. But as management became divorced from ownership and came under the control of banking groups, men forgot that they were dealing with the savings of men and the making of profits became an impersonal thing. When men do not know the victims of their aggression they are not always conscious of their wrongs. . . .

"Fair corporate suffrage is an important right that should attach to every equity security bought on a public exchange. Managements of properties owned by the investing public should not be permitted to perpetuate themselves by the misuse of corporate proxies." (H.R. Rep. No. 1383, 73d Cong., 2d Sess. 5, 13 (1934). *See also SEC v. Transamerica Corp.*, 163 F.2d 511, 517, 518 (3d Cir. 1947), *cert. denied*, 332 U.S. 847 (1948).)

In striving to implement this open-ended mandate, the Commission has gradually evolved its present proxy rules. Early exercises of the rule-making power were directed primarily toward the achievement of full and fair corporate disclosure regarding management proxy materials (*see, e.g.*, 3 Fed. Reg. 1991 (1938); 5 Fed. Reg. 174 (1940)); the rationale underlying this development was the Commission's belief that the corporate practice of circulating proxy materials which failed to make reference to the fact that a shareholder intended to present a proposal at the annual meeting rendered the solicitation inherently misleading. *See Hearings on Security and Exchange Commission Proxy Rules Before the House Comm. on Interstate and Foreign Commerce*, 78th Cong., 1st Sess., pt. 1, at 169–70 (1943) [hereinafter "House Hearings"].

From this position, it was only a short step to a formal rule requiring management to include in its proxy statement any shareholder proposal which was "a proper subject for action by the security holders." 7 Fed. Reg. 10,659 (1942). It eventually became clear that the question of what constituted a "proper subject" for shareholder action was to be resolved by recourse to the law of the state in which the company had been incorporated; however, the paucity of applicable state law giving content to the concept of "proper subject" led the Commission to seek guidance from precedent existing in jurisdictions which had a highly developed commercial and corporate law, and to develop its own "common law" relating to proper subjects for shareholder action. *See generally II L. Loss, Securities Regulation* 905–06 (1961); *Hearings on SEC Enforcement Problems Before a Subcom. of the Senate Comm. on Banking and Currency*, 85th Cong., 1st Sess., pt. 1, at 118 (1957) [hereinafter "Senate Hearings"].

Further areas of difficulty became apparent as experience was gained in administering the "proper subject" test, and these conflicts provided the Commission with opportunities to put a detailed gloss upon the general phraseology of its rules. Thus, in 1945 the Commission issued a release containing an opinion of the Director of the Division of Corporation Finance that was rendered in response to a management request to omit shareholder resolutions which bore little or no relationship to the company's affairs; for example, these shareholder resolutions included proposals "that the anti-trust laws and the enforcement thereof be revised," and "that all Federal legislation hereafter enacted providing for workers and farmers to be represented should be made to apply to investors." [22] The Commission's release endorsed the Director's conclusion that "proposals which deal with general political, social or economic matters are not, within the meaning of the rule, 'proper subjects for action by securty holders.' " [23] The reason for this conclusion was summarized as follows in the Director's opinion:

"Speaking generally, it is the purpose of Rule X-14A-7 to place stockholders in a *position to bring before their fellow stockholders matters of concern to them as stockholders in such corporation;* that is, such matters relating to the affairs of the company concerned as are proper subjects for stockholders' action under the laws of the state under which it was organized. It was not the intent of Rule X-14A-7 to permit stockholders to obtain the consensus of other stockholders with respect to matters which are of a general political, social or economic nature. *Other forums exist for the presentation of such views.*" [24]

Several years after the Commission issued this release, it was confronted with the same kind of problem when the management of a national bus company sought to omit a shareholder proposal phrased as "A Recommendation that Management Consider the Advisability of Abolishing the Segregated Seating System in the South"—a proposal which, on its face, was ambiguous with respect to whether it was limited solely to company policy rather than attacking all segregated seating, and which quite likely would have brought the company into violation of state laws then assumed to be valid.[25] The Commission staff approved management's decision to omit the proposal, and the shareholder then sought a temporary injunction against the company's solicitation in a federal district court. The injunction was denied because the plaintiff had failed to exhaust his administrative remedies or to show that he would be irreparably harmed by refusal to grant the requested relief. *Peck v. Greyhound Corp.*, 97 F. Supp. 679 (S.D.N.Y. 1951). The Commission amended its rules the following year to encompass the above-quoted exception for situations in which "it clearly appears that the proposal is submitted by the security holder . . . primarily for the purpose of promoting general economic, political, racial, religious, social or similar causes." 17 Fed. Reg. 11,433 (1952); *see also id*. at 11, 431. So far as we have been able to determine, the Commission's interpretation or application of this rule has not been considered by the courts.

The origins and genesis of the exception for proposals "relating to the conduct of the ordinary business operations of the issuer" are somewhat more obscure. This provision was introduced into the proxy rules in 1954, as part of amendments which were made to clarify the general proposition that the primary source of authority for determining whether a proposal is a proper subject for shareholder action in state law. *See* 19 Fed. Reg. 246 (1954). Shortly after the rule was adopted, the Commission explained its purpose to Congress in the following terms:

"The policy motivating the Commission in adopting the rule . . . is basically the same as the underlying policy of most State corporation laws to confine the solution of ordinary business problems to the board of directors and place such problems beyond the competence and direction of the shareholders. The basic reason for this policy is that it is manifestly impracticable in most cases for stockholders to decide management problems at corporate meetings. . . .

"While rule X–14A–S does not require that the ordinary business operations be determined on the basis of State law, the premise of Rule X–14A–S is that the propriety of . . . proposals for inclusion in the proxy statements is to be determined in general by the law of the State of incorporation. . . . Consistency with this premise requires that the phrase 'ordinary business operations' [1] in rule X–14A–S have the meaning attributed to it under applicable State law. To hold otherwise would be to introduce into the rule the possibility of endless and narrow interpretations based on no ascertainable standards." (Senate Hearings at 118.)

It also appears that no administrative interpretation of this exception has yet been scrutinized by the courts.

These two exceptions are, on their face, consistent with the legislative purpose underlying section 14; for it seems fair to infer that Congress desired to make proxy solicitations a vehicle for *corporate* democracy rather than an all-purpose forum for malcontented shareholders to vent their spleen about irrelevant matters,[26] and also realized that management cannot exercise its specialized talents effectively if corporate investors assert the power to dictate the minutiae of daily business decisions. However, it is also apparent that the two exceptions which these rules carve out of the general requirement of inclusion can be construed so as to permit the exclusion of practically any shareholder proposal on the grounds that it is either "to general" or "too specific." Indeed, in the present case Dow Chemical Company attempted to impale the Medical Committee's proposal on both horns of this dilemma: in its memorandum of counsel, it argued that the Medical Committee's proposal was a matter of ordinary business operations properly within the sphere of management expertise and, at the same time, that the proposal clearly had been submitted primarily for the purpose of promoting general political or social causes. (App. 9a–10a; *see also id.* at 19a). As noted above, the Division of Corporation Finance made no attempt to choose between these potentially conflicting arguments, but rather merely accepted Dow Chemical's decision to omit the proposal "[f] or reasons stated in [the company's] letter and the accompanying opinion of counsel, both dated January 17, 1969; [27] this determination was then adopted by the full Commission. Close examination of the company's arguments only increases doubt as to the reasoning processes which led the Commission to this result.

In contending that the Medical Committee's proposal was properly excludable under Rule 14a–8(c)(5), Dow's counsel asserted:

"It is my opinion that *the determination of the products which the company shall manufacture*, the customers to which it shall sell the products, and the conditions under which it shall make such sales are related to the conduct of the ordinary business operations of the Company and that any attempt to amend the Certificate of Incorporation to define the circumstances under which the management of the Company shall make such determinations is contrary to the concept of corporate management, which is inherent in the Delaware General Corporation Act under which the Company is organized.[28]

In the first place, it seems extremely dubious that this superficial analysis complies with the Commission's longstanding requirements that management must sustain the burden of proof when asserting that a shareholder proposal may properly be omitted from the proxy statement, and that "[w]here management contends that a proposal may be omitted because it is not proper under State law, it will be incumbent upon management to refer to the applicable statute or case law." 19 Fed. Reg. 246 (1954. As noted above, the Commission has formally

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represented to Congress that Rule 14a–8(c)(5) is intended to make state law the governing authority in determining what matters are ordinary business operations immune from shareholder control; yet, the Delaware General Corporation law provides that a company's Certificate of Incorporation may be amended to "change, substitute, enlarge or diminish the nature of [the company's] business."[29] If there are valid reasons why the Medical Committee's proposal does not fit within the language and spirit of this provision, they certainly do not appear in the record.

The possibility that the Medical Committee's proposal could properly be omitted under Rule 14a–8(c)(2) appears somewhat more substantial in the circumstances of the instant case, although once again it may fairly be asked how Dow Chemical's arguments on this point could be deemed a rational basis for such a result: the paragraph in the company's memorandum of counsel purporting to deal with this issue, which is set forth in the margin,[30] consists entirely of a fundamentally irrelevant recitation of some of the political protests which had been directed at the company because of its manufacture of napalm, followed by the abrupt conclusion that management is therefore entitled to exclude the Medical Committee's proposal from its proxy statement. Our own examination of the issue raises substantial questions as to whether an interpretation of Rule 14a–8(c)(2) which permitted omission of this proposal as one motivated primarily by *general* political or social concerns would conflict with the congressional intent underlying section 14(a) of the Act.

As our earlier discussion indicates, the clear import of the language, legislative history, and record of administration of section 14(a) is that its overriding purpose is to assure to corporate shareholders the ability to exercise their right—some would say their duty[31]—to control the important decisions which affect them in their capacity as stockholders and owners of the corporation. Thus, the Third Circuit has cogently summarized the philosophy of section 14(a) in the statement that "[a] corporation is run for the benefit of its stockholders and not for that of its managers." *SEC v. Transamerica Corp.*, 163 F. 2d 511, 517 (3d Cir. 1947), *cert. denied*, 332 U.S. 847 (1948).

Here, in contrast to the situations detailed above which led to the promulgation of Rule 14a–8(c)(2), the proposal relates solely to a matter that is completely within the accepted sphere of corporate activity and control. No reason has been advanced in the present proceedings which leads to the conclusion that management may properly place obstacles in the path of shareholders who wish to present to their co-owners, in accord with applicable state law, the question of whether they wish to have their assets used in a manner which they believe to be more socially responsible but possibly less profitable than that which is dictated by present company policy. Thus, even accepting Dow's characterization of the purpose and intent of the Medical Committee's proposal, there is a strong argument that permitting the company to exclude it would contravene the purpose of section 14(a).

However, the record in this case contains indications that we are confronted with quite a different situation. The management of Dow Chemical Company is repeatedly quoted in sources which include the company's own publications as proclaiming that the decision to continue manufacturing and marketing napalm was made not *because* of business considerations, but *in spite of* them; that management in essence decided to pursue a course of activity which generated little profit for the shareholders and actively impaired the company's public relations and recruitment activities because management considered this action morally and politically desirable. (App. 40a–43a; *see also id.* at 33.) The proper political and social role of modern corporations is, of course, a matter of philosophical argument extending far beyond the scope of our present concern; the substantive wisdom or propriety of particular corporate political decisions is also completely irrelevant to the resolution of the present controversy. What *is* of immediate concern, however, is the question of whether the corporate proxy rules can be employed as a shield to isolate such managerial decisions from shareholder control.[32] After all, it must be remembered that "[t]he control of great corporations by a very few persons was the abuse at which Congress struck in enacting Section 14(a)." *SEC v. Transamerica Corp., supra,* 163 F.2d at 518.

We think that there is a clear and compelling distinction between management's legitimate need for freedom to apply its expertise in matters of day-to-day business judgment, and management's patently illegitimate claim of power to treat modern corporations with their vast resources as personal satrapies implementing personal political or moral predilections. It could scarcely be argued that management is more qualified or more entitled to make these kinds of decisions than the shareholders who are the true beneficial owners of the corporation; and it seems equally implausible that an application of the proxy rules which permitted such a result could be harmonized with the philosophy of corporate democracy which Congress embodied in section 14(a) of the Securities Exchange Act of 1934.

In light of these considerations, therefore, the cause must be remanded to the Commission so that it may reconsider petitioner's claim within the proper limits of its discretionary authority as set forth above, and so that "the basis for [its] decision [may] appear clearly on the record, not in conclusory terms but in sufficient detail to permit prompt and effective review."[33]

Remanded for further proceedings consistent with this opinion.

FOOTNOTES

[1] Napalm is described as follows in 15 Encyclopaedia Britannica 1170 (1968):

"[T]he aluminum soap of naphthenic and palmitic acids which, when mixed with gasoline, forms a sticky sirup used in chemical warfare.

"In World War I both Germany and the Allies used raw gasoline in flame throwers . . . but it burned too quickly to be fully effective. What was needed was a thickener that would slow down the rate of burning and increase the range of the weapon. Napalm did this, and it also greatly raised the temperature at which the fuel burned. Harvard university scientists, in cooperation with the U.S. army chemical warfare service, developed the substance in 1942."

[2] Memorandum in Support of Respondent's Motion to Dismiss Petition for Review at 5 n.2:

"This court may, alternatively, be without jurisdiction based upon the Medical Committee's failure to file its May 29 petition to review 'within sixty days after the entry of' the alleged order. . . . *We do not urge the point, however, since the Commission's staff did not advise the Medical Committee of the Commission's March 24 decision . . . until April 2. . . .*" [Emphasis added.]

[3] Lile v. SEC, 324 F.2d 772 (9th Cir. 1963), which seems most directly apposite to the facts of the instant case, was decided prior to the adoption of the present version of Rule 22(k). *See* 29 Fed. Reg. 3424 (1964). Moreover, the discussion of the timeliness problem in *Lile* appears to be dictum, since the case was decided on the ground of exhaustion of administrative remedies. However, to the extent that the discussion in *Lile* is useful to elucidate the present inquiry, it militates against the Commission's argument: the text of that opinion clearly reflects the court's concern that orders which assertedly had the effect of starting the running of the 60-day review period were not readily available for public inspection. *See* 324 F.2d at 773.

M. G. Davis & Co. v. Cohen, 256 F.Supp. 128 (S.D.N.Y.), *aff'd*, 369 F.2d 360 (2d Cir. 1966), which the Commission relies upon, is distinguishable in that it involved a different provision of the Rules of Practice which governed the issuance of orders initiating administrative proceedings and which did not include language comparable to that contained in Rule 22(k) relating to the parties' immediate right to inspect orders affecting them.

[4] For a discussion of an analogous problem of computation arising under the Federal Rules of Civil Procedure, *see* 4 C. Wright & A. Miller, Federal Practice and Procedure 632–42 (1969).

[5] Dicta in a few cases and remarks by some scholarly commentators tend to indicate that it has generally been assumed that proxy decisions like the present one are not reviewable by the courts. *See, e.g.,* Klastorin v. Roth, 353 F.2d 182, 183 n.2 2d Cir. (1965); Clusserath, *The Amended Stockholder Proposal Rule: A Decade Later,* 40 N.D. Lawyer 13, 17 (1964). However, we have found no holding that proxy decisions like the present one are unreviewable, and no adequate analysis of the myriad arguments bearing on the jurisdictional question.

[6] The absence of any indication in the legislative history that Congress intended to preclude review serves to distinguish the instant controversy from Schilling v. Rogers, 363 U.S. 666 (1960), which the Commission heavily relies upon. *See, e.g.,* 363 U.S. at 671:

"The only express provision in the Trading with the Enemy Act for recourse to the courts by those claiming the return of property vested during World War II is that contained in § 9(a). That section, however, is applicable only to persons not enemies or allies of enemies as defined in the relevant statutes, and hence is not available to this petitioner, an enemy national. . . .

"The question then is whether a right to such relief can fairly be implied. . . . The terms of § 32 and its legislative history speak strongly against any such implication."

Cf. Heikkila v. Barber, 345 U.S. 229, 233 (1953): "Each statute in question must be examined individually; its purpose and history as well as its text are to be considered in deciding whether the courts were intended to provide relief for those aggrieved by administrative action. Mere failure to provide for judicial intervention is not conclusive; neither is the presence of language which appears to bar it."

The *Schilling* case is further distinguishable because the administrative action there in issue was found to be wholly within the province of administrative discretion; *see* 363 U.S. at 674. As will be developed more fully below, we do not find the discretionary aspects of the Commission's action preclusive of review in the present controversy. Finally, it must be noted that the subject matter of the regulatory scheme in *Schilling* was permeated with overtones of foreign affairs and national defense policy—considerations which have always made the courts reluctant to review administrative action, and which obviously are totally lacking here. *See e.g.,* Curran v. Laird,—— U.S. App. D.C.——, 420 F.2d 122 (1969) (*en banc*).

[7] *See* part II C, *infra.* Schilling v. Rogers, 363 U.S. 666 (1960), which is discussed in the preceding footnote, clearly indicates that the issue of whether particular administrative action is rendered unreviewable by implication of a statute or by pragmatic concerns should be considered a different inquiry from the question of whether agency discretion precludes review.

[8] Frequently these considerations are

analyzed under one or more or the related doctrines of ripeness, finality, and exhaustion of administrative remedies; however, it is not uncommon to find these factors treated under the more general rubric of reviewability.

[9] *See* Peck v. Greyhound Corp, 97 F.Supp. 679 (S.D.N.Y. 1951).

[10] 307 U.S. 125 (1939). *See generally* 4 K. Davis, Administrative Law Treatise 87–93 (1958).

[11] 17 C.F.R. § 202.1 (1970) provides:

"The statutes administered by the Commission provide generally (1) for the filing with it of certain statements, such as . . . proxy solicitation material . . .; (2) for Commission determination through formal procedures of matters initiated by private parties or by the Commission; (3) for investigation and examination of persons and records where necessary to carry out the purposes of the statutes . . .

"(c) *The statutes and the published rules, regulations and forms thereunder prescribe the course and method of formal procedures to be followed in Commission proceedings.* These are supplemented where feasible by certain informal procedures designed to aid the public and facilitate the execution of the Commission's functions. . . .

"(d) The informal procedures of the Commission are largely concerned with the rendering of advice and assistance by the Commission's staff to members of the public dealing with the Commission." [Emphasis added.]

Informal negotiation also plays a large role in Commission hearings which are indubitably formal in nature; *see, e.g.*, 17 C.F.R. § 202.4 (1970):

"(a) Applications, declarations, and other requests involving formal Commission action after opportunity for hearing are scrutinized by the appropriate division for conformance with applicable statutory standards and Commission rules and generally the filing party is advised of deficiencies. . . .

"(b) After the staff has had an opportunity to study an application or declaration, interested persons may informally discuss the problems therein raised to the extent that time and the nature of the case permit. . . .

"(c) During the course of the hearings, the staff is generally available for informal discussions to reconcile bona fide divergent views not only between itself and other persons interested in the proceedings, but [also] among all interested persons; and, when circumstances permit, an attempt is made to narrow, if possible, the issues to be considered at the formal hearing."

[12] This contention was recently presented to the Commission in a proxy contest involving the General Motors Corporation. *See* Congressional Record, p. 7770, (March 17, 1970):

It must be recognized that Management's proxy statement is the only effective vehicle through which all of the shareholders can have an opportunity to express themselves, and even to hear any arguments on the questions involved. . . . [T]he cost [of conducting a competing solicitation] is virtually prohibitive except to extremely well heeled shareholders. . . . This is no ordinary dispute with Management; it is not an effort by insurgent shareholders to seize control of the corporation. If it were so, one could justify large expenditures because the individual rewards are great and because, if successful, the insurgents could obtain reimbursement of their expenses from the company. The issues here lack that personal pecuniary bias. Denial of access to the shareholders through management's proxy solicitation, practically speaking, is total denial."

[13] 4 K. Davis, Administrative Law Treatise 33 (1958). We note that Professor Davis espouses a more restrictive role for the courts in reviewing the discretionary acts of administrative agencies than that which is urged by other scholarly commentators. *See, e.g.*, Berger, *Administrative Arbitrariness: A Synthesis*, 78 Yale L.J. 965 (1969), and authorities cited *id.* at 966 n.9.

[14] *But cf.* K. Davis, Discretionary Justice 225–26, 229 (1969):

"In the regulatory agencies, abuse of the power to prosecute or not to prosecute may be ten times as frequent as abuse of the power of formal adjudication and therefore may be ten times as damaging to justice. . . .

"The prosecuting power everywhere, whether exercised by police, by prosecutors, by regulatory agencies, or by other administrators, can and should be highly structured by both rules and precedents. . . .

"The American assumption that prosecutors' discretion should not be judicially reviewable developed when executive functions were generally unreviewable. The assumption is in need of reexamination in light of the twentieth-century discovery that courts can review executive action to protect against abuses while at the same time avoiding judicial assumption of the executive power."

[15] Clusserath, *The Amended Stockholder Proposal Rule: A Decade Later*, 40 N.D. Lawyer 13 (1964).

[16] *See id.* at 43.

[17] *Cf.* J. I. Case Co. v. Borak, 377 U.S. 426, 432 (1964):

"The Commission advises that it examines over 2,000 proxy statements annually and each of them must necessarily be expedited. Time does not permit an independent examination of the facts set out in the proxy material and this results in the Commission's acceptance of the representations contained therein at their face value, unless contrary to other material on file with it."

[18] *Cf.* Environmental Defense Fund, Inc. v. Hardin, *supra*, slip. op at 10; Goldman, *Administrative Delay and Judicial Relief*, 66 Mich.L.Rev. 1423, 1426–31 (1968).

[19] Were we to compel the Commission either to entertain administrative review of a staff decision in the first instance, or to undertake particular enforcement activity upon remand, our decision might well conflict with the precedents which the Commission has cited involving petitioners' attempts to have courts order the Commission to initiate investigations pursuant to different sections of the Act. *See* Dyer v. SEC, 291 F.2d 774 (8th Cir. 1961); Leighton v. SEC, 95 U.S.App.D.C. 217, 221 F.2d 91, *cert. denied*, 350 U.S. 825 (1955). We note, however, that other circuits in dealing with action by other agencies have occasionally circumscribed administrative discretion to undertake investigatory activities. *See e.g.*, Trailways of New England, Inc. v. CAB, 412 F.2d 926, 931–33 (1st Cir. 1969).

[20] *Cf.* Goodman v. United States, No. 22,521 (D.C. Cir. Jan. 30, 1970) (slip op. at 9): "Words like 'chaos' and 'impossible situation' fall readily from bureaucratic lips when confronted with the prospect of doing something not absolutely required by the book." *See also* Scanwell Laboratories, Inc. v. Thomas, No. 22,863 (D.C. Cir. Feb. 13, 1970) (slip op. at 25–26).

[21] Jaffe, *The Individual Right to Initiate Administrative Process*, 25 Iowa L. Rev. 485 (1940).

[22] Securities Exchange Act Release No. 3638 (Jan. 3, 1945), Brief for Petitioner at Addendum p. 2–3.

[23] *Id.* at Addendum p. 2.

[24] *Id.* at Addendum p. 3 (emphasis added).

[25] *See* Emerson & Latcham, *The SEC Proxy Proposal Rule: The Corporate Gadfly*, 19 U. Chi. L. Rev. 807, 833 (1952); Congressional Record, p. 7771 (March 17, 1970).

[26] *See, e.g.*, the following colloquy, which appears in House Hearings at 162–63:

"Mr. Boren. So one man, if he owned one share in A.T. & T. . . . and another share in R.C.A. . . . if he decided deliberately . . . to become a professional stockholder in each one of the companies—he could have a hundred-word propaganda statement prepared and he could put it in every one of these proxy statements. Suppose he were a Communist.

"Commissioner Purcell. That is possible. We have never seen such a case.

"Mr. Boren. Suppose a man were a Communist and he wanted to send to all of the stockholders of all of these firms, a philosophic statement of 100 words in length, or a propaganda statement. . . . He could by the mere device of buying one share of stock . . . have available to him the mailing list of all the stockholders in the Radio Corporation of America. . . .

"Commissioner Purcell. Of course, we have never seen such a case; and if such a case came before us, then we would have to deal with it and make such appropriate changes as might seem necessary."

[27] App. 20a. The letter referred to by the Division merely contains a citation to the proxy rules and a reference to the opinion of counsel (see App. 12a); thus, for present purposes the only relevant argument is that contained in the memorandum of counsel.

[28] App. 9a (emphasis added). The remainder of the company's argument under Rule 14a–8(c)(5) reads as follows, in its entirety:

"Moreover, there is considerable doubt as to the efficacy of the proposed limitation in the context of the ability of the Government of the United States to issue a directive that the Company manufacture napalm. Therefore, the proposed limitation could conceivably be contrary to the requirements of the Defense Production Act of 1950." (App. 9a–10a.)

In response to this contention, the Medical Committee pointed out that "any such amendment would, of course, be subject to the requirements of the 'Defense Production Act of 1950' as are the corporate charters and management decisions of all United States Corporations." (App. 16a.) No rebuttal by Dow was forthcoming.

[29] Chapter 1, Title 8 Delaware Code §§ 242 (a)(2), 242(d) (19––). *Cf.* II L. Loss, Securities Regulation 906 (1961): "Inevitably the Commission, while purporting to find and apply a generally nonexistent state law, has been building up a 'common law' of its own as to what constitutes a 'proper subject' for shareholder action. It is a 'common law' which undoubtedly would yield, as it should, to a contrary decision of the particular state court."

[30] App. 10a:

"It is a well-known fact that the Company has been the target of protests and demonstrations for the past few years at its office and plant locations, and on the occasion of recruiting on college and university campuses, as well as at its annual meeting of stockholders held May 8, 1968. The various protests and demonstrations are a reflection of opposition on the part of certain segments of the population against the policy of the United States Government in waging the war in Viet Nam. Although The Dow Chemical Company was not among the 100 largest prime contractors with the Department of Defense during the 1967–68 Government fiscal year and was only 75th on the list in the 1966–67 fiscal year, it appears to have been singled out symbolically by the protesters. Under all of these circumstances it is my opinion that it clearly appears that the proposal is primarily for the purpose of promoting a general political, social or similar cause."

[31] *See* Bayne, *The Basic Rationale of Proper Subject*, 34 U. Det. L.J. 575, 579 (1957):

"In so far as the shareholder has contributed an asset of value to the corporate venture, in so far as he has handed over his goods and property and money for use and increase, he has not only the clear right, but more to the point, perhaps, he has the stringent duty to exercise control over that asset for which he must keep care, guard, guide, and in general be held seriously responsible. . . .

"As much as one may surrender the immediate disposition of [his] goods, he can never shirk a supervisory and secondary duty (not just a right) to make sure these goods are used justly, morally and beneficially.

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[32] *Cf.* Note, *Corporate Political Affairs Programs,* 70 Yale L.J. 821, 846–47 (1961).

[33] Environmental Defense Fund, Inc. v. Hardin, No. 23,813 (D.C. Cir. May 28, 1970) (slip op. at 11).

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Wright, for the period extending from August 3 through August 11, on account of public business.

Mr. Pepper (at the request of Mr. Bennett), for the balance of the week, on account of official business.

Mr. Matsunaga (at the request of Mr. Boggs), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Miller of Ohio) to revise and extend their remarks and include extraneous matter:)

Mr. Gubser for 30 minutes today.

Mr. Halpern for 5 minutes today.

Mr. Williams for 25 minutes July 16.

(The following Members (at the request of Mr. Preyer of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. Minish for 5 minutes today.

Mr. Kee for 30 minutes today.

Mr. Reuss for 30 minutes today.

Mr. Tiernan for 15 minutes today.

Mr. Rostenkowski for 60 minutes July 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Madden and to include extraneous matter.

Mr. Mahon in two instances and to include extraneous matter.

Mr. Randall and to include extraneous matter in two instances.

Mr. Hogan to include following his colloquy with Mr. Adams the text of the decision of the U.S. Circuit Court for the District of Columbia in Bosley against the United States April 9, 1970.

Mr. McCormack (at the request of Mr. Flood) immediately following the remarks of Mr. Flood on his special order today.

(The following Members (at the request of Mr. Miller of Ohio) and to include extraneous matter:)

Mr. Horton in two instances.

Mr. Steiger of Wisconsin.

Mr. Cunningham in five instances.

Mr. Kleppe.

Mr. Cowger.

Mr. McCloskey.

Mr. Hunt.

Mr. Hosmer in two instances.

Mr. Wyman in two instances.

Mr. Lujan in two instances.

Mr. Nelsen in four instances.

Mr. Wold.

Mr. Bob Wilson.

Mr. Fish.

Mr. Smith of New York.

Mr. Erlenborn.

Mrs. May.

Mr. Fulton of Pennsylvania in 10 instances.

Mr. Goodling.

Mr. Schmitz.

Mr. Duncan in two instances.

Mr. Goldwater in two instances.

Mr. Wydler.

Mr. Derwinski in two instances.

Mr. Ruppe.

Mr. Burke of Florida.

Mr. Landgrebe in two instances.

Mr. Devine.

Mr. Bush.

Mr. Schwengel.

(The following Members (at the request of Mr. Preyer of North Carolina) and to include extraneous material:)

Mr. Brasco.

Mr. Giaimo in 10 instances.

Mr. Fraser.

Mr. Bolling in two instances.

Mr. Burke of Massachusetts in two instances.

Mr. Daddario in five instances.

Mr. Waldie.

Mrs. Griffiths in two instances.

Mr. Anderson of California in two instances.

Mr. Burton of California.

Mr. Vanik in two instances.

Mr. White in two instances.

Mr. Patten in two instances.

Mr. Rodino in two instances.

Mr. Bingham in eight instances.

Mr. Friedel in two instances.

Mr. Eilberg.

Mr. Garmatz.

Mr. Fountain in three instances.

Mr. Kluczynski in two instances.

Mr. Symington in two instances.

Mr. Dorn in two instances.

Mr. Dingell.

Mr. Whitten.

Mr. Ichord in two instances.

Mr. Waggonner.

Mr. Hechler of West Virginia.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2108. An act to promote public health and welfare by expanding, improving, and better coordinating the family planning services and population research activities of the Federal Government, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2455. An act to authorize appropriations for the Civil Rights Commission, and for other purposes; to the Committee on the Judiciary.

S. 3586. An act to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for instittuional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILLS SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 12758. An act to authorize the Secretary of the Interior to establish a volunteers in the park program, and for other purposes.

H.R. 16595. An act to authorize appropriations for activities of the National Science Foundation, and for other purposes.

SENATE ENROLLED BILL SIGNED

The Speaker announced his signature to an enrolled bill of the Senate of the following title:

S. 980. An act to provide courts of the United States with jurisdiction over contract claims against nonappropriated fund activities of the United States, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on July 14, 1970 present to the President, for his approval, a bill of the House of the following title:

H.R. 7618. To provide for the conveyance of certain real property of the Federal Government to the Board of Public Instruction, Okaloosa County, Fla.

ADJOURNMENT

Mr. PREYER of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Thursday, July 16, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2216. A letter from the Secretary of Labor, transmitting the first annual report on the work incentive program, pursuant to the Social Security Act; to the Committee on Ways and Means.

2217. A letter from the General Counsel of the Treasury, transmitting copies of the letter of the Acting Secretary of the Treasury transmitting a draft of proposed legislation to amend the act of June 10, 1938, relating to the participation of the United States in the International Criminal Police Organization, dated June 25, 1970; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of the rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Science and Astronautics. Report on H.R. 16538. A bill to authorize appropriations to carry out the Fire Research and Safety Act of 1968; without amendment (Rept. No. 91–1304). Ordered to be printed.

Mr. THOMPSON of New Jersey: Committee on House Administration. Report on H.R. 15351. A bill to authorize additional funds for the operation of the Franklin Delano Roosevelt Memorial Commission; with an amendment (Rept. No. 91–1305). Ordered to be printed.

Mr. FLOOD: Committee of conference. Conference report on H.R. 16916 (Rept. No. 91–1306). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BUTTON:

H.R. 18468. A bill to amend the Social Security Act concerning psychiatric benefits available under title XVIII and XIX; to the Committee on Ways and Means.

My Mr. DADDARIO (for himself, Mr. Miller of California, Mr. Fulton of Pennsylvania, Mr. Davis of Georgia, Mr. Bell of California, Mr. Waggonner, Mr. Mosher, Mr. Brown of California, Mr. Lukens, Mr. Cabell, Mr. Winn, Mr. Podell, and Mr. Symington):

H.R. 18469. A bill to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes; to the Committee on Science and Astronautics.

By Mr. HALPERN:

H.R. 18470. A bill to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HOSMER:

H.R. 18471. A bill to aid in the control of drug abuse by establishing a code for the identification of prescription drugs, to be printed on individual tablets or capsules; to the Committee on Interstate and Foreign Commerce.

By Mr. LENNON:

H.R. 18472. A bill to amend the Agricultural Adjustment Act of 1938 to authorize the sale of tobacco acreage allotments under certain conditions; to the Committee on Agriculture.

By Mr. LUJAN:

H.R. 18473. A bill to assist in meeting the housing goals of the American people by creating the Federal Home Mortgage Loan Corporation; to the Committee on Banking and Currency.

By Mr. MURPHY of New York (for himself, Mr. Ashley, Mr. Blatnik, Mr. Boggs, Mr. Byrne of Pennsylvania. Mr. Culver, Mr. Dent, Mr. Gallagher, Mr. Gaydos, Mr. Giaimo, Mr. Halpern, Mr. Karth, Mr. Miller of California, Mr. Murphy of Illinois, Mr. Nix, Mr. Pucinski, Mr. Rostenkowski, Mr. Thompson of New Jersey, Mr. Tiernan, and Mr. Vanik):

H.R. 18474. A bill requiring that each Member of Congress be notified of the intended disposition of federally owned real property in the district he represents; to the Committee on Government Operations.

By Mr. RIVERS:

H.R. 18475. A bill to authorize the longterm chartering of ships by the Secretary of the Navy, and for other purposes; to the Committee on Armed Services.

By Mr. RODINO:

H.R. 18476. A bill to amend title 18 of the United States Code to provide for better control of interstate traffic in explosives; to the Committee on the Judiciary.

By Mr. BOW:

H.R. 18477. A bill to amend sections 4261 and 7275 of the Internal Revenue Code of 1954 (as added by the Airport and Airway Revenue Act of 1970) with respect to the Federal tax on transportation of persons by air; to the Committee on Ways and Means.

By Mr. FEIGHAN:

H.R. 18478. A bill to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal programs, nutrition training and education programs, opportunity for social contact, and for other purposes; to the Committee on Education and Labor.

By Mr. GREEN of Pennsylvania:

H.R. 18479. A bill to authorize the Secretary of the Interior to establish the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LOWENSTEIN:

H.R. 18480. A bill to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal programs, nutrition training and education programs, opportunity for social contacts, and for other purposes; to the Committee on Education and Labor.

H.R. 18481. A bill to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

By Mr. MEEDS:

H.R. 18482. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Snohomish Tribe in Indian Claims Commission docket No. 125, the Upper Skagit Tribe in Indian Claims Commission docket No. 92, and the Snoqualmie and Skykomish Tribes in Indian Claims Commission docket No. 93, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 18483. A bill to provide for the disposition of funds appropriated to pay the judgment of the Indian Claims Commission in favor of the Snohomish Tribe in docket No. 125; to the Committee on Interior and Insular Affairs.

By Mr. MINISH:

H.R. 18484. A bill to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SISK (for himself, Mr. Gubser, Mr. Abbitt, Mr. Broyhill of Virginia, Mr. Don H. Clausen, Mr. Collier, Mr. Conable, Mr. Edwards of California, Mr. Leggett, Mr. Mathias, Mr. McFall, Mr. Matsunaga, Mrs. May, Mr. Nelsen, Mr. Scott, Mr. Steiger of Wisconsin, Mr. Teague of California, Mr. Waldie, Mr. Ullman, Mr. Davis of Wisconsin, and Mr. Vander Jagt):

H.R. 18485. A bill to provide for the payment of losses incurred by growers, manufacturers, packers, and distributors as a result of the barring of the use of cyclamates in food after extensive inventories of foods containing such substances had been prepared or packed or packaging, labeling and other materials had been prepared in good faith reliance on the confirmed official listing of cyclamates as generally recognized as safe for use in food under the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on the Judiciary.

By Mr. TIERNAN (for himself, Mr. Buchanan, Mr. Podell, Mr. Burke of Massachusetts, Mr. Olsen, Mr. Burke of Florida, Mr. Fulton of Pennsylvania, Mr. Adams, Mr. Button, Mr. Sisk, Mr. O'Neill of Massachusetts, Mr. St Germain, Mr. Mailliard, Mr. Brasco, Mr. Hathaway, Mr. Kyros, Mr. Moss, and Mr. Rooney of Pennsylvania):

H.R. 18486. A bill to amend the International Travel Act of 1961 to provide for Federal regulation of the travel agency industry; to the Committee on Interstate and Foreign Commerce.

By Mr. TIERNAN (for himself, Mr. Hechler of West Virginia, Mr. Garmatz, Mr. Blanton, Mr. Lukens, Mr. Murphy of New York, Mr. Gilbert, Mr. Addabbo, Mr. Hastings, Mr. Córdova, Mr. Dent, Mr. Don H. Clausen, Mr. McKneally, Mr. Harrington, Mr. Whitehurst, Mr. Rees, Mr. Donohue, Mr. Teague of California, Mr. Stanton, Mr. Fraser, and Mrs. Green of Oregon):

H.R. 18487. A bill to amend the International Travel Act of 1961 to provide for Federal regulation of the travel agency industry; to the Committee on Interstate and Foreign Commerce.

By Mr. UDALL (for himself and Mr. Reid of New York):

H.R. 18488. A bill to promote and protect the free flow of interstate commerce without unreasonable damage to the environment; to assure that activities which affect interstate commerce will not unreasonably injure environmental rights; to provide a right of action for relief for protection of the environment from unreasonable infringement by activities which affect interstate commerce and to establish the right of all citizens to the protection, preservation, and enhancement of the environment; to the Committee on the Judiciary.

By Mr. WOLFF:

H.R. 18489. A bill to provide that the United States shall reimburse the States and their political subdivisions for real property taxes not collected on certain real property owned by foreign governments; to the Committee on Foreign Affairs.

By Mr. BURTON of Utah:

H.R. 18490. A bill to amend the Small Business Act to encourage the development and utilization of new and improved methods of waste disposal and pollution control; to assist small business concerns to effect conversions required to meet Federal or State pollution control standards; and for other purposes; to the Committee on Banking and Currency.

By Mr. KUYKENDALL (for himself, Mr. Adair, Mr. Buchanan, Mr. Burton of Utah, Mr. Button, Mr. Devine, Mr. Dellenback, Mr. Dent, Mr. Dorn, Mr. Erlenborn, Mr. Esch, Mr. Fish, Mr. Fulton of Pennsylvania, Mr. Friedel, Mr. Hunt, Mr. Olsen, Mr. Patman, Mr. Pettis, Mr. Steiger of Wisconsin, and Mr. Symington):

H.R. 18491. A bill to amend the National Environmental Policy Act of 1969 to provide a program for honoring industry and other private efforts to contribute to the maintenance and enhancement of environmental quality; to the Committee on Merchant Marine and Fisheries.

By Mr. KUYKENDALL (for himself, Mr. Biester, Mr. Brown of Michigan, Mr. Daddario, Mr. Corbett, Mr. Derwinski, Mr. Fisher, Mr. Fulton of Tennessee, Mr. Halpern, Mr. Hansen of Idaho, Mrs. Heckler of Massachusetts, Mr. Kyros, Mr. Lukens, Mr. McCloskey, Mr. McDade, Mr. McKneally, Mr. Morse, Mr. Moorhead, Mr. Pelly, Mr.

SCOTT, Mr. TEAGUE of California, Mr. WHITEHURST, and Mr. WYMAN):

H.R. 18492. A bill to amend the National Environmental Policy Act of 1969 to provide a program for honoring industry and other private efforts to contribute to the maintenance and enhancement of environmental quality; to the Committee on Merchant Marine and Fisheries.

By Mr. PURCELL:

H.R. 18493. A bill to amend the National Envirnmental Policy Act of 1969 to provide a program for honoring industry and other private efforts to contribute to the maintenance and enhancement of environmental quality; to the Committee on Merchant Marine and Fisheries.

By Mr. BINGHAM:

H.J. Res. 1303. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. MILLER of Ohio:

H.J. Res. 1304. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. KLEPPE:

H. Con. Res. 681. Concurrent resolution to establish a joint congressional committee to carry out a study and investigation of the Federal Meat Inspection Act; to the Committee on Rules.

By Mr. ROYBAL:

H. Con. Res. 682. Concurrent resolution relating to treatment and exchange of military and civilian prisoners in Vietnam; to the Committee on Foreign Affairs.

By Mr. BARING:

H. Res. 1143. Resolution to express the sense of the House of Representatives that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

By Mr. BURKE of Florida:

H. Res. 1144. Resolution to express the sense of the House of Representatives that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 18494. A bill for the relief of Mrs. Anna R. Bacon; to the Committee on the Judiciary.

By Mr. MOLLOHAN:

H.R. 18495. A bill for the relief of Chien Danh Florio; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 18496. A bill for the relief of 1st Lt. John P. Dunn, U.S. Army, retired; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

541. Mr. HUNT: Petition of Wilbur F. Foster, Haddon Heights, N.J., relative to Southeast Asia; to the Committee on Foreign Affairs.

542. By the SPEAKER: Petition of the Inter-Tribal Council of the Eight Tribes of Northeastern Okla., relative to repeal of the Choctaw Termination Act; to the Committee on Interior and Insular Affairs.

543. Also, petition of the U.S. section, Women's International League for Peace and Freedom, Washington, D.C., relative to domestic repression; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

A SUMMARY OF SENATOR SCOTT'S RECORD ON URBAN AFFAIRS

HON. JOHN G. TOWER

OF TEXAS

IN THE SENATE OF THE UNITED STATES

Wednesday, July 15, 1970

Mr. TOWER. Mr. President, as a member of the Subcommittee on Housing and Urban Affairs, I am concerned about the state of our urban areas and about solutions for the problems of our Nation's cities. Many Senators have expressed similiar concerns and have acted to meet urban difficulties. The Honorable HUGH SCOTT, our Republican leader, is among those Senators. I ask unanimous consent that a summary of his record on urban affairs be include in the Extensions of Remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SENATOR HUGH SCOTT'S RECORD, HOUSING AND URBAN AFFAIRS LEGISLATION

Although there has been much talk recently about our crumbling cities, Senator Hugh Scott is a man who has done something to halt the trend. One of his first votes as a senator was to retain a certain number of public housing units and to keep a higher level of Federal funds for slum clearance. Clearly, Senator Scott, a resident of our Nation's fourth largest city, Philadelphia, is a man who is no stranger to urban problems.

In addition to Philadelphia, the Commonwealth has four other cities ranged among the most populated in the Nation. They are Pittsburgh, Erie, Scranton and Allentown. Senator Scott feels that our urban problems cannot be continually neglected, since nearly three out of every four Pennsylvanians now lives in an urban area.

The following summary of Senator Scott's record on urban affairs shows how he has worked to improve our cities:

THE 91ST CONGRESS

Legislation

S.J. Res. 113—To direct the Federal Trade Commission to conduct comprehensive investigation of unfair methods of competition and unfair or deceptive acts or practices in the home improvement industry; to expand enforcement activities in these areas.

S. 2940—To provide for acquisition of property for Independence National Historical Park in Philadelphia.

S. 3025—Urban Land Improvement and Housing Assistance Act—To authorize Federal incentive grants to State and local governments to strengthen their capacity to utilize land more productively.

Votes

Voted to provide an additional $587.5 million for the urban renewal program.

THE 90TH CONGRESS

Legislation

S. 1592—National Home Ownership Foundation Act—To create a private nonprofit National Home Foundation with authority to make loans and to offer technical assistance to aid local organizations in conducting home ownership programs.

S. 2219—To provide Federal financial assistance to help cities and communities of U.S. develop and carry out intensive local programs of rat control and extermination.

S. 2573—To charter an Economic Opportunity Corporation to encourage private enterprise participation in the effort to rebuild urban slums and eliminate poverty in the U.S.

Votes

Voted to increase funds for grants to neighborhood facilities by $15 million.

Voted to increase funds for the model cities program by $300 million.

Voted *not* to limit contract authorization for rent supplement program to $20 million.

Voted to restore $40 million in 1968 contract authorization for the rent supplement program.

Voted to restore $46 million in funds for the National Science Foundation.

Voted *not* to limit eligibility for the homeownership program to families whose income was 70 percent or less of the prescribed limits for low- and moderate-income programs.

Voted to retain a guarantee program for financing new community land development.

Voted to give those whose homes were destroyed in riots and civil disorders priority in relocating in urban renewal areas.

Voted to create the National Insurance Development Corporation to provide reinsurance for insurance companies for losses resulting from riots and civil disorders.

Voted for the Housing and Urban Development Act of 1968.

THE 89TH CONGRESS

Legislation

S. 3451—To assist in provision of adequate housing in areas in which there is a shortage of housing credit as a result of the occurrence of riots and other civil disorders.

Votes

Voted to retain the rent supplement program for disadvantaged persons.

Voted for the Housing and Urban Development Act of 1965.

Voted to establish a Department of Housing and Community Development.

Voted *not* to eliminate funds for the rent supplement program for FY 1966.

Voted *not* to reduce from 90 to 50 percent the Federal contribution of funds to pay the salary of any teacher in the National Teacher Corps.

Voted to stimulate mortgage credit for Federal Housing Administration—and Veterans Administration-assisted residential construction.

THE 87TH CONGRESS

Legislation

S. 2982—To assure decent, safe and sanitary housing to families displaced by construction of highways forming a part of the Interstate System.

S. 3516—To establish an Office of Urban Affairs in the Executive Office of the President in order to coordinate Federal programs and to serve as a source of information to state and local officials.

Votes

Voting *not* to reduce to 37,000 the number of public housing units authorized under the proposed Housing Act of 1961.

Voted *not* to reduce by $700 million authorized grants for urban renewal.

Voted for Humphrey-Scott amendment providing three-fourths Federal contribution rather than two-thirds on urban renewal housing in small communities in distressed areas.

Voted *not* to eliminate $50 million in grants for mass transportation experiments.

Voted *not* to eliminate a $100 million authorization for grants for open space and urban development.

Voted for the Housing Act of 1961.

85TH CONGRESS

Votes

Voted *not* to eliminate $300 million in funds for direct loans to veterans, *not* to eliminate 35,000 additional public housing units, and *not* to cut back from two-thirds to one-half Federal share of capital grants for slum clearance.

Voted to agree to conference report on the Housing Act of 1959.

Voted to override the President's (Eisenhower) veto of the Housing Act of 1959.

Voted to extend (for one year) the Federal Housing Administration Mortgage Insurance Authorization Programs.

Voted *not* to reduce from 37,000 to 25,000 the units of public housing authorized.

Voted for the Housing Act of 1959.

Voted to provide for 37,000 additional low-cost dwelling units.

Voted for the Housing Act of 1960.

As the Republican Leader, Hugh Scott will continue to urge more funds and more programs for our cities. Because of his efforts in the past, Pennsylvania's cities are receiving more Federal assistance than ever before.

HORTON SALUTES KING FAMILY AND THEIR SERVICE TO THE COMMUNITY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. HORTON. Mr. Speaker, in this day of big business and mammoth merchandising operations, it is refreshing to be made aware of a small family-type "corner grocery" that has flourished for a half century.

For 50 years the King family, Mr. and Mrs. Wesley C. King and their son Kenneth, have operated a small grocery and ice cream store in the town of Perinton in my congressional district. I doubt there is anyone within miles of the location who is unaware of the King family business, for many hours a day, every day of the week, the Kings have been open for business, serving the area tirelessly and efficiently.

While I herewith want to share with my colleague my admiration for the Kings, and express my appreciation for their long service to the community, it is with some regret I point out the family has now closed the business and retired.

A splendid report on the King family and their half century neighborhood operation recently appeared as a feature story in the East Rochester Herald. Authored by Jeffery Parnall, it pays well-deserved tribute to the Kings and I recommend it to all as an inspiring bit of Americana, the closing of which marks the end of an era.

The article follows:

AFTER 50 YEARS, "WE'RE TIRED"—KINGS CLOSE LANDMARK GROCERY

(By Jeffery Parnall)

The King family in Perinton will be able to sleep late for the first time in 50 years come Monday morning.

Every morning since 1920, they have opened King's Grocery and Ice Cream Store at 6 a.m., but they are closing the small neighborhood store after a half century Sunday.

"It's time to quit," said Kenneth W. King, who bought the business from his father, Wesley C., in 1955. "I've been working 16 hours a day, seven days a week for the past 35 years," he said.

"And we're tired," added his father, an 81-year-old native of Fairport. Son Kenneth, 58, lives with his father and mother at 1315 Fairport Rd. next door to the store.

"We had a good chance to sell the land," the younger King said, "and it will give me a good chance to do things I've always wanted to do, but have never had time for."

They have sold to Mobil Oil Co., which plans a service station for the site at Jefferson Ave. and Fairport Rd.

Ironically, the building on the site, when Wesley King bought it a half century ago, was a gas station of sorts.

The structure there was a simple "lean-to," as the senior King described it and had one gas pump. "We only sold a gallon or two in those days, because cars didn't use much gas then."

The building was reconstructed into a small "20-by-20 store" in 1922 and expanded to its present size with an addition on the back, a second floor and a garage in 1935.

From 1927 to 1935 the store was run by the late John Benge of Fairport, while the Kings moved to East Rochester. The business was then bought back on "April 6, 1935," Kenneth quickly recalled.

Business started to flourish and 30 years ago Wesley started to make ice cream to sell at the back of the store.

"We sold 400 cones that first day," Mrs. Wesley King said. "Cones were 10 cents each then," her husband added.

Further expanding occurred then when the Kings, with the aid of two of the five sons, Irving and Stewart, started to bake bread, rolls and doughnuts upstairs over the store.

"We were the only store around here then," said Wesley King, referring to what is now a built-up suburban neighborhood. "The only other stores were in East Rochester and Fairport."

"People used to come from miles around to buy our fresh bread," he said. When Stewart, who was the baker, left the business 15 years ago, the head of the family would get up at 4 a.m. to bake bread.

Even though there is no more baking done, "he still gets up at 4 a.m.," Kenneth said. "I guess I'm just in the habit," Wesley said with a smile.

During World War 2 they were only allowed to make a few cartons of ice cream because of rationing. "We had to close at 6 p.m. then instead of 11 p.m. because there was no ice cream left at the end of the day," Mrs. King said.

Post-war expansion in Perinton was at first "good for business" Kenneth said. But with the introduction of supermarkets in the area about 10 years ago, business began to decrease.

Competing against the bigger stores is difficult, "because the distributing companies will only fill the bigger orders." Just recently one driver for a distributor told the Kings that he was not to stop there any more.

The senior King added, "people can buy products at the chain stores at lower prices than we can buy them at."

The clientele has changed over the years too. At first, weekly sales were regular to families but they dropped off. For the most part now, sales are highest from 4 to 6 p.m. when people are doing last-minute shopping on the way home from work.

"They drive in as close as they can to the store and are in and out as fast as they can." Wesley King said. "Most are strangers."

One family "has traded with us since we have been open," he said. "Dan Bostian over on Erie Dr. has always been getting his groceries here by the week."

What will the Kings do with time on their hands for the first time? They're moving from their 150-year-old house to 608 Madison St. in East Rochester. They have always gone to church there and the "children," five sons and one daughter, went to school there.

Mrs. Norman E. Barager of 100 Midvale Dr., Perinton, has been clerk at the grocery for 18 years, "I've always enjoyed working here," she said. "I don't know what I'll do when it closes."

Kenneth said, "I'm going to take a vacation—I've never had much time off."

Then he added, "I'm going to miss the people, we've made a lot of friends over the years."

PENNSYLVANIA'S FOLLOWUP ON FOOD, NUTRITION, AND HEALTH

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, July 15, 1970

Mr. SCOTT. Mr. President, Pennsylvania's Governor, Hon. Raymond P. Shafer, as requested by the White House, has scheduled for Wednesday, July 22, a followup meeting to the White House Conference on Food, Nutrition, and Health.

A review of the preliminary program for that conference shows plans to discuss "If You're Old" and the "Meals on Wheels Program," both of which are concerned with the availability of food for the elderly, and the benefit of exchanging food stamps for cooked meals.

I ask unanimous consent that the preliminary program for the Pennsylvania Followup Conference on Food, Nutrition, and Health be printed in the RECORD.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

PRELIMINARY PROGRAM, PENNSYLVANIA CONFERENCE ON FOOD, NUTRITION, AND HEALTH, PENN-HARRIS MOTOR INN, CAMP HILL, PA., JULY 22, 1970

9–10 Registration.

Morning session: Presiding, Mrs. Joseph Young.

10–10:30: Speaking out on food and hunger, the Honorable Raymond P. Shafer, Governor of Pennsylvania.

10:30–11:30: This Is Pennsylvania—This Is How It Looks:

If You're Poor, Carmen Favela, a consumer.

If You're Old, William Coombs, President, Pennsylvania Association of Older Persons.

If You're Sick, Diane Gregovich, coordinator, Cambria County Health Unit.

If You're a Taxpayer, Jacob J. Kaufman, Ph. D., Professor of Economics, the Pennsylvania State University.

11:30–12: Discussion.

12–1 Luncheon.

Presiding: Ellsworth R. Browneller, M.D., Secretary of Health, Commonwealth of Pennsylvania.

1–1:30: The White House Conference and Its Implications.

Speaker: Jean Mayer, Ph. D., D.Sc., Professor of Nutrition, Harvard University School of Public Health and Chairman, White House Conference on Food, Nutrition and Health.

1:30–3: Afternoon session—Recommendations for action.

[Interest groups and discussants]

(a) School Lunch, Rodney Leonard, Consultant, Children's Foundation.

(b) Family Feeding Programs, Maria Pappalardo, Program Associate—CRASH, American Friends Service Committee.

(c) Meals on Wheels Programs, Sara Casparro, Director, Meals on Wheels Program, Scranton.

(d) Supplemental Food Programs.[1]

(e) Income Maintenance, John Lagomarcino, Deputy Executive Director, Urban Coalition Action Council.

(f) Nutrition Education, Theodore T. Tsaltas, M.D., Jefferson Medical College.

3–3:30: Summary of Recommendations and Discussion, John R. Clark, D.D.S., Deputy Secretary of Health, Commonwealth of Pennsylvania.

NEED FOR ENERGY POLICY CITED

HON. JOHN WOLD

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. WOLD. Mr. Speaker, the record is overwhelmingly clear that the United States is on the threshold of an energy shortage. The threat is even more dramatic when the Nation's dependence on foreign supplies of fuels is taken into account.

Fortunately, however, the Nation has energy fuel reserves completely adequate to meet the expected demand for hundreds of years. It is unclear, however, whether the Nation intends to pursue policies which will insure supplies adequate to meet the demand under all conditions including the cutoff of foreign supplies.

The July 9, 1970, issue of the Rocky Mountain News carries an article headlined, "U.S. Energy Policy for Rapid Oil Shale Production Urged." The article summarizes the views of Mr. M. M. Winston, executive vice president of the Oil Shale Corp., on the need for developing the Nation's vast oil shale resources.

As one who has been pushing the Interior Department to initiate a test leasing program for oil shale, I am naturally interested in Mr. Winston's views. Because of their broader implications, I feel the subject of the article would be worthwhile reading.

I insert the article at this point in the RECORD:

U.S. ENERGY POLICY FOR RAPID OIL SHALE PRODUCTION URGED

WASHINGTON.—The United States today, for the first time in its history, faces energy shortages capable of inhibiting its economic growth and stability, impairing its security and adversely affecting its conduct of foreign affairs, M. M. Winston, executive vice president of The Oil Shale Corp. (TOSCO), told a House interior subcommittee Wednesday.

Winston said the need for additional secure supplies of crude oil for domestic use is "immediate and urgent."

"It is urgent that there be a consistent national energy policy to foster orderly and rapid development of the nation's oil shale resources," he contended.

"Absence of such a policy for the development of energy minerals has delayed, inhibited and made more costly the task of realizing the substantial benefits that will flow from production of both privately owned reserves and the more than 80 per cent of the shale oil resource that lies in the public domain."

Steadily increasing domestic demand for crude oil in the face of declining net liquid reserves, he said, emphasizes the need for a consistent national energy policy that will develop new and expanding energy resource bases.

DISTURBING EMPHASIS

"Recent events in the Middle East and in Libya give disturbing emphasis to the hazards of reliance on foreign sources for a commodity that each day must satisfy more than 40 percent of our total national energy requirements," Winston said.

As for shale oil development, he continued, leasing of government-owned reserves in the Rocky Mountains area has been deferred, pending study of environment protection costs.

Calling attention to extensive studies already made by TOSCO and by the Colony Development Corp. in connection with experimental plants at Rocky Flats and Parachute Creek, Colo., Winston said Interior Secretary Hickel and his staff had been invited to visit these facilities to view the operation and learn what these studies have developed.

The Parachute Creek plant is operated as a joint venture by four companies with Atlantic Richfield Co. as operator. Other members are The Oil Shale Corp., Sohio Petroleum Co. and Cleveland Cliffs Iron Co. They seek to increase efficiency in production of oil from shale and look toward commercial scale production.

Winston said a consistent energy policy might have avoided extensive litigation that has developed over some oil shale mining claims. He also called for clarification of shale oil qualification under the oil import program, saying it remains unclear. He contends shale oil should qualify, "in line with the purposes of the entire import program."

MATERIALLY IMPAIRED

"If it is not so regarded," he continued, "the value of shale oil would be materially impaired as against conventionally produced crude oil, since the processing of shale oil would not earn import quotas."

Winston questioned the wisdom of government allocation of funds for research and development operations and suggested consideration of several alternatives for the use of these public funds.

Among these were further detailed exploration and egological evaluation of the vast oil shale deposits, planning and construction of large-capacity crude oil pipelines capable of moving shale oil to principal markets at low unit costs, and development of a unified program of water resource utilization in Western Colorado.

PROTECTING OUR ENVIRONMENT

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BRASCO. Mr. Speaker, the need for concern over beauty in our country has never been more apparent to our citizens than it is today. Americans are becoming increasingly conscious of their environment—the air they breathe, the rivers and lakes they depend upon, the cities and suburbs they work and live in.

I believe, therefore, that it is appropriate to single out those who share this regard for environment—who are aware of the importance of beauty. Typical is a firm of builders, Feldman Bros.

In creating an office building in Great Neck, N.Y., known as The Atrium the firm has put esthetics on an equal footing with functionality. Here is reflected an awareness that environmental quality is determined not only by our natural scenery, but also by manmade creations—our bridges, highways, residential and commercial buildings.

The Atrium takes its name from the ancient Roman architectural concept of an open-air courtyard surrounded by the interior walls of a building. Thus The Atrium has at its core not steel and masonry but sunshine and fresh air.

Through the building, on permanent display, is a valuable collection of art produced by a cross section of the leading figures of contemporary American sculpture, including Robert Cook, Sahl Swarz, David Burt, and Thomas Young. Their work has been seen and appreciated in prominent museums around the country by thousands of Americans.

The landscaped courtyard is the setting for much of sculpture, and one leading figure of the art world has called the result striking.

In the lobby of the building, the sculpture accents the Brazilian rosewood paneling and Italian marble that distinguish the entrance area.

Feldman Bros.' purpose was to avoid the stodgy, uninspiring appearance that characterizes far too much of man's surroundings. I believe that with The Atrium they have succeeded.

WELFARE AS A "RIGHT" INCONSISTENT WITH GUARANTEED INCOME PLAN

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. HUNT. Mr. Speaker, let us hope that the welfare reform legislation embodying the guaranteed annual income plan is dead. No better evidence of the undesirability of such a plan is found than the recent storming of the District of Columbia welfare offices by irresponsible welfare recipients demanding "we want money" and throwing rocks and smashing windows in arrogant defiance of the society that supports them.

Leading this indefensible assault upon the offices whose only job it is is to administer the welfare moneys made available by the Government was the National Welfare Rights Organization whose annual budget is reported to be more than $500,000 annually. This is the same organization that is demanding a minimum guaranteed annual income of $5,000 for a family of four.

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[1] Pending.

Perhaps the best service that the National Welfare Rights Organization can perform is to focus the indignation of the taxpayer on this so-called progressive notion that welfare is a right. It must indeed stir the ire of those who have had to squeeze the last drop of blood from the stone to pay the Government's share of their income while others, without work and with evidently little desire to work, are rampaging in the streets for more welfare money. So long as welfare is viewed as a right by those who receive it and those in the Congress who are pressing for a higher minimum guaranteed income while designating work requirements "demeaning," any welfare reform plan without the backbone to separate the able-bodied but indolent and shiftless from the welfare rolls is doomed to failure.

I have no doubt that there are individuals who are genuinely in need of public assistance, but there is absolutely no excuse for the kind of brash episode the National Welfare Rights Organization organized to intimidate the District of Columbia welfare officials.

PARADISE OR POLLUTION?

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Wednesday, July 15, 1970

Mr. BOGGS. Mr. President, Americans are justly concerned with the question of environmental pollution and the efforts to enhance our quality of life. President Nixon has proposed several imaginative proposals to meet this need and Congress has acted to consider several major pollution bills this session.

Possibly one of the most significant factors in the struggle to enhance the environment is the obvious commitment among our young people to this task.

Recently David Webb, the 1970 Future Farmers of America speaking contest winner for Delaware, discussed the question in remarks that he entitled "Paradise or Pollution." His observations, I believe, are pertinent to our concern with the environment. Therefore, I ask unanimous consent that the speech be printed in the Extensions of Remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

PARADISE OR POLLUTION?

(By David Webb)

"In the beginning, God created the heaven and the earth." Having made man in His own image, God commanded, "saying, of every tree in the garden thou mayest freely eat; but of the tree of the knowledge of good and evil, thou shalt not eat of it; for in the day that thou eatest thereof thou shall surely die." Having eaten the forbidden fruit, Adam and Eve were cast out of Paradise.

In the millions of years since, man has come close to regaining Paradise. He has conquered many diseases and pests, and made life more convenient and comfortable through his own inventions. Those that once died in famine and epidemic now live, and each generation becomes healthier and longer-lived than the one before.

Man has surely become wise when he can accomplish these things, and it might seem his stay in Paradise is assured. However, there are those emotional folks who keep warning that we are about to pluck the forbidden fruit again. They warn that our "natural environment" is doomed, and that every breath we draw, every drop we drink, every bite we eat, will soon be contaminated. Furthermore, they cry, we will soon be buried in our own trash!

This is a wonderful opportunity for me, a teenager, a Future Farmer, and a great advocate of food, to speak my piece on the matter. If I can see a bit of interest, a little concern, some emotion, in the faces of but one or two of my listeners, I will have done a little to help hold onto Paradise!

When did the forbidden fruit begin to ripen?

During the Fourteenth Century, Bubonic Plague killed one-fourth of the population of Europe in four years. When the Spaniards conquered Peru in the Sixteenth Century, they treated Malaria with quinine, but did not understand what caused the disease. Infancy was a perilous time, and forty-five was an average life span.

The farmer worked long, tiring hours to harvest just enough to feed his own family. The formula for planting corn was "One for the squirrel, one for the crow, one for the cutworm, and one to grow." Though Paris Green was known to kill potato bugs, weeds and pests took their toll.

Life before 1900 was far from being Paradise!

In 1936, the Sulfa drugs were discovered, and soon after, Penicillin. These drugs, and other related ones, went hand in hand with vaccines discovered in this century, to help man rid himself of many of the causes of a short life span.

In 1924, rotenone was discovered, and in 1942, DDT. A whole barrage of weapons was soon developed for the farmer and gardener to use in his war with pests.

Now the larger population brought about by the victories against diseases could be fed well and cheaply. A farmer could harvest enough for his own family plus many others in the cities.

Surely such great advances will keep us in Paradise forever, you may say. Why, then, are our President and our Governors so concerned—concerned enough to declare April 22, 1970 "National Earth Day" to protest the pollution of our air, seas, and land by some of these advances of the Twentieth Century?

A Sunday drive will quickly show you reason for concern. The heavy cloud of smog over the city clears as you travel into the country—just in time for you to see the trash that litters the roadside. More people enjoying more conveniences make more garbage. The factors turning out these products belch chemical vapors into the air above us, and the streams and waterways around us. Paradise just isn't as pretty as pictured on that glossy page in the Family Bible, is it?

Garrett De Bell, one young Ecologist from California, has prepared a pamphlet called "The Environmental Handbook". He believes in turning back progress and doing without electricity because any use of it causes pollution; plastics and no-return bottles because they are hard to dispose of, and appliances because old ones litter the countryside. He feels that "women can go back to 1940 to examine what they got along without to determine if the harmful consequences of the products perhaps don't outweigh the benefits."

His suggestions surely would clean up the countryside, and maybe even the seas, where thirty-seven million tons of pollution are poured each year. Some scientists believe another twenty-five or fifty years of pesticide use will wipe out our fish supply.

Back to the farm again after a Sunday drive, the air is clean and clear, the streams sparkle, the birds sing, and you feel far from the pollution. But are you?

The first to point an angry finger at the farmer was perhaps Rachel Carson, with her book, "Silent Spring". She warned that the two hundred basic chemicals used in pest control "have the power to kill every insect, the 'good' and the 'bad', to still the song of birds, and the leaping of fish in the streams, to coat the leaves with a deadly film, and to linger on in the soil—all this though the intended target may be only a few weeds or insects."

Ralph Nader is beginning to join the criticism of the farmer as he investigates the poultry industry, and dairy and beef farmers hear about residues in meat and drugs in milk.

Will that next steak dinner and tossed salad be the forbidden fruit, or will my generation enjoy Paradise the rest of our lives? And what of the next generation? Is it any wonder emotions are high?

Voltaire said, "Judge a man by his questions rather than his answers". If my wisdom is to be judged today, please let it be for the concern I may have brought to you, and not for the pitiful solutions I offer. Perhaps the multitude of young who march on "Earth Day" will have suggestions. The biggest hope is that these young people are concerned, and that some of them will form a career out of preserving our natural environment.

It will take time, concern, legislation, and research to preserve life in Paradise. Industry must put forth the effort, but so must the consumer and the farmer. The modern farmer with chemicals at his fingertips must be selective and cautious in their use. He must study other means of weed and insect control, and perhaps use crop rotation, biological control where the natural enemy of the pest is used, disease resistant seed, and other new methods being developed by scientists. Drugs are a boon to the livestock raiser and can be safe if farmers are careful to follow instructions. The farmer must use the Golden Rule—marketing only that which he would feel safe to feed his own family.

Let's be emotional about pollution, but why turn back the clock as Garrett De Bell suggests? If man can create Paradise in one century, he can exist in it eternally by remembering "Whatsoever a man soweth, that shall he also reap".

THE MISSOURI FARMERS ASSOCIATION AND ITS ABLE LEADER, PRESIDENT FRED HEINKEL

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BOLLING. Mr. Speaker, the following St. Louis Post-Dispatch article by Gerald Meyer briefly describes one of Missouri's most remarkable and useful organizations, the Missouri Farmers Association and its able and public-spirited leader, President Fred Heinkel. The MFA has made many important contributions to the State of Missouri and to the people of Missouri as well as furnishing enlightened leadership to our region and Nation in seeking to dissolve the problems not only of farmers but of all our citizens, rural and urban alike.

The July 6, 1970, article follows:

MFA: A GIANT ORGANIZATION WITH ROOTS IN RURAL MISSOURI

(By Gerald Meyer)

Many a big city businessman, hearing for the first time of the Missouri Farmers Association, would probably visualize a kind of combination Rotary Club and general store, a roadside place for square dancing and peddling eggs.

And if he happened to meet Fred V. Heinkel, MFA's long-time president, the urban business magnate probably would be less than awed. Heinkel, born 71 years ago in a tin-roofed farmhouse in Jefferson County, still speaks with the accent and vocabulary of outstate Missouri. He does not fit Madison Avenue's image of the man in the executive suite.

But all this simply proves that illusion and reality are not the same, and that provincialism is not limited to the provinces. For unless the big city businessman is a very big businessman indeed, he is not as big a businessman as Fred Heinkel. And unless his business is one of the nation's largest, it is dwarfed by MFA.

A STATEWIDE GIANT

MFA, which Heinkel has headed since 1940, is a statewide giant with annual sales exceeding $500,000,000. That figure does not include the revenues of three insurance companies, all MFA-affiliated and all having Heinkel as their chairman, with total assets of more than $100,000,000.

That puts MFA in the same league with Pet, Inc., recently listed by Fortune Magazine as number 181 in total sales among American corporations. It makes MFA much larger than Brown Shoe Co., Granite City Steel Co., or Falstaff Brewing Corp.

One measure of MFA's size—and therefore of Heinkel's power—is that it is the largest customer of the St. Louis-San Francisco (Frisco) Railway and the second largest customer of the Missouri Pacific Railroad.

The association has 152,000 members, all of them farmers or producers of agricultural products, and more than 6000 employees. Its operations include the manufacture of fertilizers and feeds, production of hybrid seed corn, meat packing, poultry and egg processing, and the operation of service stations, farm supply outlets, and giant grain elevators.

MODEST BEGINNING

Things were not always so grand, either for Heinkel or for MFA.

MFA was organized during World War I, when farmers in different parts of the state began to form small clubs for a combination of social and economic purposes. The first such club was founded in 1914 in Chariton County by seven farmers who discovered that they could save money by pooling their orders for supplies.

The club idea spread rapidly as its advantages became more apparent, and soon the clubs were organized into rural exchanges. The exchanges pyramided into cooperatives, and in 1917 a farm journal editor named William Hirth called for a convention at which MFA was formed as a "federation of cooperatives." Hirth became the association's first president.

Under Hirth's leadership, Missouri farmers organized a joint livestock shipping association, creameries, poultry dressing plants and feed production businesses. They continued to save money, and to make money, and MFA grew.

FACED RESISTANCE

There was some resistance from established business at first. A boycott by large packing houses unwilling to accept cattle shipped by the farmers was ended only after MFA appealed to President Warren G. Harding for help.

Without much interruption, however, MFA grew steadily .

"A lot of people want to know why we're so big and diversified," Heinkel said recently. "Well, you look at Missouri and you see it has one of the most diversified agricultural industries in the country. To serve our farmers, we have to be diversified.

"We were born out of necessity, and we've grown out of necessity."

Necessity was never more acute than in the 1930s, when the Depression threatened farmers everywhere and made even cooperative ventures risky. A group of farmers in California, Mo., for example, bought a carload of bran in Kansas City. By the time the car of bran was delivered to the farmers, its value had dropped so far that the cooperative was almost bankrupt.

But most cooperatives survived, and so did MFA—with growing membership.

CALLED FROM FARM

In 1940, when the association's annual volume was about $55,000,000 and membership was about 32,000, Hirth died. Heinkel, an unpaid MFA vice president operating a farm near Catawissa, Mo., (in Franklin County) was called in to take over.

The following year he was elected to his first one-year term as MFA president. He has been reelected annually ever since, with increasing predictability, and with passage of time has become as much the patriarch as the president of the association.

"As a friend of mine used to tell me," Heinkel said last week during an interview at his plush offices in Columbia, "I came out from between the corn rows to run the organization. But MFA itself was very small when I became president. It wasn't as big a jump as it would be for somebody today."

As both a cooperative and a federation of smaller cooperatives, MFA does not have shareholders. Its purpose is not to make money but to save money for its members, but sometimes equities are dispersed to patron members on the basis of how much business they do with MFA.

SPINOFF COMPANY

Several years ago MFA spun off an independent organization, Midcontinent Farmers Association, as a vehicle for public relations, public affairs and lobbying.

"As time passed and things got more complicated, the lawyers said we shouldn't try to do legislative work with our business organization," Heinkel explains. "That's why we started Midcontinent."

Other spinoffs were MFA Mutual Insurance Co., MFA Life Insurance Co. and Countryside Casualty Co., which employ more than 600 persons in Columbia, which is home base for all MFA operations.

A few years ago, to combat what it considered inadequate services provided by what Heinkel calls "big international grain corporations," MFA helped finance a huge new elevator near New Orleans. The elevator now handles 10,000,000 bushels a month.

The elevator has been a partial success, according to Heinkel, "certainly volume-wise—but it's been a little difficult to make money on it."

A NEW PHILOSOPHY

MFA had a reputation years ago for being somewhat secretive about its dealings. With the operation as big as it is now, however, Heinkel has adopted a new philosophy.

"I'm inclined to tell people everything they want to know," he says.

Behind the bigness, there remains the rather unique fact that MFA is the agency of a large number of comparatively small farmers. To help the family farm, which Heinkel says is "still the most efficient production unit that's been found in the world," MFA continues to experiment with such things as a telephone pig auction, which connects Ozark pig breeders with markets in four states.

To Heinkel, all such things are "examples of what farmers can accomplish when they act cooperatively."

"I remember the first time I met Mr. Hirth, when I had just joined the MFA in 1917," Heinkel says. "I remember what he said to me: 'You young fellows are going to have to fight this battle differently than your fathers fought it,' he said.

"Well, we've worked at doing that."

HOUSE OF REPRESENTATIVES—*Thursday, July 16, 1970*

The House met at 12 o'clock noon.

Rev. Ted G. Matkin, St. Stephen United Methodist Church, Troy, Mo., offered the following prayer:

O God, in whose strength nations rise, by whose grace they endure, and before whose judgments nations pass away, in humility we bow before Thee, Creator, Sustainer, and Judge of all!

We pray this day for our Nation and our world, and especially for these here assembled who bear the burden of great responsibility, by whose deliberations and decisions the destinies of us all are determined.

Grant them, O God, vision to recognize the things that matter most, wisdom to discern between right and wrong, perseverance to see that tasks begun are completed, humility to seek Thy way and to be led by Thy spirit, love, that they may be among their fellow men as those who serve.

Grant us these gifts, O God. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendments of the House to bills and a joint resolution of the Senate of the following titles:

S. 759. An act to declare that the United States holds in trust for the Washoe Tribe of Indians certain lands in Alpine County, Calif.;

S. 1520. An act to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers; and

S.J. Res. 88. Joint resolution to create a commission to study the bankruptcy laws of the United States.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 14685) entitled "An act to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes."

The message also announced that the

Senate had passed bills of the following titles, in which the concurrence of the House is requested:

> S. 26. An act to revise the boundaries of the Canyonlands National Park in the State of Utah;
>
> S. 27. An act to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah.

PRESIDENT'S POWER TO IMPOSE TARIFFS ON IMPORTED OIL TAKEN AWAY

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, late yesterday afternoon in the last few minutes of deliberation on the trade bill of 1970, the Ways and Means Committee adopted a hastily considered amendment which takes away from the President the power under the national security clause to impose tariffs on imported oil. This action freezes in a program which costs the American consumer $4.5 to $7 billion per year, under the Government's own figures.

This ill-conceived action puts the slimy hand of oil on the trade bill converting it into a gargantua of greed.

I am ashamed of the trade bill and the process under which it was conceived and developed. It is ugly, it is oppressive, it is Rosemary's baby.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I am happy to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I want to commend the gentleman from Ohio.

I read this in the press today and I think this is one of the most dastardly things that the Committee on Ways and Means could have done.

The consumers of this country have been opposed now for about 11 years to this phony mandatory restriction on crude oil and they have been paying about $5 billion a year in extra costs as a result of these artificial prices.

From the statement that came out in the Washington Post today about a former Secretary of the Treasury, he was one of the key architects in drafting this mandatory restriction, and it should put the Committee on Ways and Means on guard that, if anything, they should repeal the mandatory restriction entirely and not compound the problem.

Mr. VANIK. I thank the gentleman from Massachusetts (Mr. Conte) and commend him for his long and persistent efforts in behalf of the consumer and the taxpayers of America.

Mr. CONTE. After all the good that it could have done for our domestic industries they have gone ahead and impaired this bill because of some greedy oil producers.

Mr. VANIK. I thank the gentleman for his contribution.

OIL IMPORT QUOTAS

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I was present in the Committee on Ways and Means yesterday when this oil amendment was adopted.

Unfortunately, the vote was taken very quickly and we were not able to bring our troops together.

I do not think I am violating the rules as to the executive session, but a request was made that a rollcall be postponed for 2 weeks. I know there is an expression in this life—Who worries about their enemies when we have friends that are helping us out?

When this vote was taken yesterday, we were only able to gather five votes against the amendment. There was no reason for a rollcall vote on it yesterday and we could have postponed it for 2 weeks. I do not know what the parliamentary situation is now, but I imagine under the rules that the ones who voted in favor of the amendment would have to make a motion for reconsideration.

I hope we are not locking the door after the horse has been stolen. I regret that the vote was not postponed because more than likely we could have garnered enough votes in committee to block the amendment. But when the vote was taken at that time, we only had five votes to oppose the adoption of the oil amendment. So I hope, Mr. Speaker, we can change this.

I know that there are a great many people who are trying to freight this bill down with a lot of amendments so that the legislation can be killed, and I am not going to be baited into that position. We have got to keep that trade bill alive, bring it through the House, and make our effort to knock out the oil amendment if we can. But I hope we will not be put into the position where the shoe workers of this Nation, the textile workers, the electronic workers, those engaged in the fishing industry, and those engaged in manufacturing sporting goods, and others are going to be injured by no legislation at all.

There is a lot riding on this bill. I have had 22 years of legislative experience and I know the methods of killing legislation. I am not going to be baited into a position where we are going to allow this bill to fall by the wayside.

ANNOUNCEMENT OF HEARINGS ON EQUAL RIGHTS AMENDMENTS

(Mr. CELLER asked and was given permission to address the House for 1 minute.)

Mr. CELLER. Mr. Speaker, and Members of the House, the Committee on the Judiciary has scheduled hearings on all resolutions providing for equal rights amendments on Wednesday, September 16. Because of the heavy schedule of the Judiciary Committee and the intervening recess, a prior date could not be chosen. All Members of the House who desire to testify on these resolutions providing for equal rights will please notify the executive director of the Judiciary Committee.

THE DEPLOYMENT OF THE SS-9

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, the distinguished minority whip, the gentleman from Illinois (Mr. Arends), has kindly called my attention to remarks that he made last Tuesday on the floor of the House with regard to the the U.S. MIRV and the Soviet SS-9's. Apparently this was in relation to a statement I made the day before on the floor of the House on the same subject.

I do want to make it clear that I did not charge, as the gentleman from Illinois (Mr. Arends) apparently understood me to charge, that the decision of Soviet Russia to initiate new SS-9 site construction had come as a direct response to our decision to deploy MIRV. I merely stated certain facts, and I was interested to see that the gentleman from Illinois (Mr. Arends) in his statement did not quarrel with those facts. I especially stressed the fact that for a 9-month period, from August last year until June this year, the Soviets did not make any new SS-9 missile site starts, and they did not resume that activity until after we had started deploying the MIRV.

I know very well that the deployment of MIRV goes back a long way in terms of the decision of the Pentagon and congressional action, but it was my position and that of many others that, in view of the apparent restraint on the part of the Soviet Union on new SS-9 starts, the MIRV deployment timetable should have been reexamined and serious consideration should have been given to deferring the MIRV deployment at least temporarily. Whether the Soviets would have responded in time to such restraint I cannot say, but I believe we should have gone far enough to find out.

DEMOCRATIC NATIONAL CHAIRMAN RISES ABOVE PARTISANSHIP

(Mr. SCHERLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHERLE. Mr. Speaker, by some quirk I am on the mailing list of the Democratic national chairman, Lawrence O'Brien, and recently I received a letter from him.

I would like to share it today because Mr. O'Brien has risen above partisanship and is offering the support of his party to the President. Let me read the letter:

> Dear Mr. Scherle: If ever there was a time for good Democrats to help it is now.

Mr. Speaker, the grammar is bad but the words are very true. The letter continues:

> I could give you many reasons why, but I have answered the party's call because of mainly two: One is President Nixon. The other is Vice President Agnew.

Mr. Speaker, you cannot fault that reasoning. These are two of the finest, most able men in the Nation.

> Whichever reason you choose, please send in your membership contribution today and become a card carrying member of the Democratic party. The future of Richard Nixon depends on it.

Now, there, Mr. Speaker, I disagree a little with Mr. O'Brien. I believe that Democrats, like Republicans, should put the future of their country first, but even so, Mr. O'Brien's concern for President Nixon indicates a wonderful possibility—that he and the Republican Party can work together for the good of our country in 1972 and will do so by reelecting President Nixon and Vice President AGNEW.

ACTION TAKEN BY WAYS AND MEANS COMMITTEE ON OIL QUOTA SYSTEM

(Mr. BUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSH. Mr. Speaker, perhaps some of the heat that was exhibited here on the floor regarding what the House Ways and Means Committee did yesterday stems from an article in the Washington Post this morning. Mr. Frank C. Porter, who is a very able and accurate reporter, did make, I think, a couple of errors.

Here he says, "Oil import quotas were frozen into the foreign trade bill yesterday by the House Ways and Means Committee." This is not what happened in the Ways and Means Committee. Quotas were not frozen into the bill. Further on he says the existing system which "could be removed by a stroke of the President's pen" could not be removed if the Ways and Means action passed.

This is not what happened. What happened was that the committee denied to the President under the national security provision of the act the power to go to tariffs. If the Congress so elects it can go to tariffs, though in my view this would be most unwise. I do think this will help clarify the record, because I think there is some misapprehension as to exactly what the committee did.

CITY OF CINCINNATI WELCOMES PRESIDENT AT ALL-STAR GAME

(Mr. TAFT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAFT. Mr. Speaker, the city of Cincinnati on Tuesday night had its cup running over. Southern Ohioans enjoyed the first all-star game in many years and celebrated the magnificent new stadium.

But especially we were proud of the attendance of our President in recognition of the event, and of the universally warm reception given to him as our Chief Executive who is uniting the country by the fact that, despite the overpowering and isolating nature of his responsibilities, he remains one of us. In these difficult times of ever-arriving crises, it restores confidence to see the Nation and its leader able to relax in and thrill to the best baseball ever.

The tremendous reception Dick Nixon received on arrival in the city and at the stadium were overwhelming testimony to the admiration of Americans for and to their warm affinity with, the man they have chosen as their President. It was a reassuring and thrilling experience for all who were there and for the millions who viewed it throughout the Nation. Yaz and Pete Rose may have starred on the field, but Dick Nixon had the nod with the fans in the stands.

THE DEPARTURE OF MR. HUNTLEY

(Mr. HUNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNT. Mr. Speaker, Life magazine carries an article this week called "Chet Heads for the Hills." In my opinion 14 years too late.

In leaving, Mr. Huntley, who has hidden behind sly innuendo and a false front of rugged honesty, finally shows his true colors. Since his vicious and supercilious bias against the President has already been commented on at length, I would merely like to call to my colleague's attention one of Mr. Huntley's inadvertent confessions.

He says, and I quote:

> I'm running away to think. Maybe where there's clarity of air, there's clarity of thought.

Let me say, Mr. Speaker, for 14 years there has been a complete lack of clarity of thought when Mr. Huntley has been on the air. His departure can be nothing but an improvement.

CONFERENCE REPORT ON H.R. 14685, TO AMEND THE INTERNATIONAL TRAVEL ACT OF 1961

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 14685) to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

CALL OF THE HOUSE

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 218]

Anderson,
 Tenn.
Ayres
Baring
Berry
Bray
Brock
Burke, Mass.
Burton, Utah
Caffery
Chappell
Chisholm
Clark
Clay
Conyers
Cramer
Crane
Dawson
Diggs
Edwards, La.
Farbstein
Gallagher
Garmatz
Gilbert
Gray
Hawkins
Ichord
Kirwan
Long, La.
Lujan
MacGregor
Martin
Matsunaga
Meskill
Murphy, N.Y.
Nix
Ottinger
Pepper
Pollock
Powell
Quillen
Rarick
Roudebush
Ryan
Stuckey
Teague, Tex.
Tiernan
Ullman
Watson
Watts
Weicker
Wilson,
 Charles H.

The SPEAKER pro tempore (Mr. BOGGS). On this rollcall 380 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 14685, TO AMEND THE INTERNATIONAL TRAVEL ACT OF 1961

Mr. STAGGERS. Mr. Speaker, I renew my request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. HALL. Mr. Speaker, reserving the right to object, will the gentleman please explain the conference report before the unanimous consent is sought, and tell us whether the areas in which we have receded in favor of the Senate and whether the Senate additions to the bill as passed by the House would be considered germane under the rules of the House, and what the additional cost to the taxpayer is?

Mr. STAGGERS. Will the gentleman yield?

Mr. HALL. I am glad to yield to the gentleman.

Mr. STAGGERS. I will answer the gentleman's last question first.

Every part adopted, in my opinion, is germane. I am sure it is.

Mr. HALL. I thank the gentleman, Mr. Speaker.

Mr. STAGGERS. I might say this: There are three principal changes in the bill as it passed the House. First we changed the composition of the commission. We had eight Government members on our side and seven from private life. On the other side they had 15 private. We thought the public agencies which have an interest in tourism should be represented on this commission, and we left them on. That would be the Departments of Transportation, Interior, Commerce, and State. We thought they should be on there because they have always been involved in this. So some of them were left on.

There is another change. On the Senate side they authorized $2.5 million for this study, which will take about 2 years to complete. That amount was cut in half. That meant approximately $1 million, because it was finally settled at $1.25 million.

Mr. HALL. Mr. Speaker, I thank the gentleman for his statements. I will advise him that I have read the conference report and statement of the managers on the part of the House in detail. With regard to that last paragraph in the report on authorization of appropriation, I would like to ask this further question. It seems to me the function of a commission like this over a stipulated period of time, by a set number of people, could well be figured out as to the necessary authorized appropriation; based on the number of vacancies and time to be spent and per diem allowance, et cetera, and come up with a definite authorization. It ought to be either $250,000 as it was when it passed the House, or it ought to figure out to $2.5 million. Actually, the conferees settled on the $1.25 million instead of 10 times that which passed the House. This is in the area of five times that which passed the House. In other words, from a quarter of a million up to one million and a quarter. What is the rationale on the basis of pay, per diem, expenses of staff, et cetera, for a 2-year study?

And, what is expected to be appropriated and actually expended from the Treasury in order to accomplish the International Travel Act?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield further, I will answer to the gentleman. I would like, if I may, to go back to one point and say that there is another change in this conference report and then I shall answer the gentleman's question.

Mr. HALL. I shall be glad to yield to the gentleman for that purpose.

Mr. STAGGERS. We accepted a provision in the Senate bill that authorized an Assistant Secretary of Commerce for Tourism to head this department, and I will explain why in just a moment. However, getting back to the gentleman's question, the other body came with their staff and said that in their opinion the $2.5 million was needed and should be authorized and tried to justify it to us. We cut that in half. In cutting it in half, we said that they are going to have to go to the Appropriations Committee and justify their budget before they can get any part or all of it. We did agree on that principle to cut it in half. They will have to come in and make the justification as to how they will spend the money. In other words, we said that we would go as far as one-half on that basis to make it $1,250,000.

Mr. HALL. I must say to the distinguished gentleman from West Virginia that I am delighted that they did cut this outrageous authorization 10 times the amount of what they calculated in the House of Representatives, and of the people that would be required, in order to accomplish this International Travel Act. As far as authorizing any amount and expecting it to be justified and spelled out before the Committee on Appropriations, thank goodness, they do a good job in that respect, but more often than not, these authorizations become floors instead of ceilings, and we work up instead of down. I just wish we had stuck to the basis of whatever it was anticipated it would cost.

Mr. STAGGERS. I appreciate the gentleman's statement.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HALL. Yes, I yield to the gentleman from Iowa.

Mr. GROSS. If I may ask the gentleman from West Virginia a question, what is meant by the italicized language on page 3 of the report which states:

> Determining the domestic travel needs of the people of the United States and of visitors from other countries at the present time and to the year 1980;

How does one determine the travel needs of the people of the United States and foreign visitors for a decade ahead? What kind of language is this to be placed into a bill? How does anyone know what economic and other conditions are going to be for a period of 10 years ahead?

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. HALL. Yes, I yield further to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Speaker, I would say to the gentleman from Iowa (Mr. GROSS) that that is a good question. It would be pretty difficult to do, as the gentleman says, to project anything along that line. That is one reason why we insisted that we have some Government members on this Commission who have been in the travel promotion area and who know what they are talking about. They should be able to speak with authority when the Commission meets.

Mr. GROSS. Mr. Speaker, if the gentleman from Missouri will yield further, what are the needs of the people of the United States with respect to travel for 10 years—a decade—and what are the needs of foreigners with respect to travel for the next decade? I find this kind of language unfathomable. I do not know what you mean or what you are aiming at except to expend Federal funds when you talk about the needs, and I emphasize needs, of the people to travel for 10 years in the future.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection, although I am opposed to the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 14, 1970, pages 24031–24033.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 174, nays 208, not voting 49, as follows:

[Roll No. 219]

YEAS—174

Adams
Albert
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Ashley
Aspinall
Barrett
Bennett
Bingham
Blanton
Boggs
Boland
Bolling
Brasco
Brinkley
Brooks
Broomfield
Brown, Calif.
Broyhill, Va.
Burke, Mass.
Burton, Calif.
Button
Byrne, Pa.
Cabell
Carey
Carter
Casey
Celler
Clark
Clay
Cohelan
Corman
Culver
Daddario
Daniels, N.J.
Davis, Ga.
de la Garza
Derwinski
Diggs
Dingell
Donohue
Dorn
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fallon
Fascell
Feighan
Flood
Ford, William D.
Fraser
Frelinghuysen
Friedel
Fulton, Pa.
Fulton, Tenn.
Fuqua
Galifianakis
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Green, Oreg.
Green, Pa.
Griffiths
Gubser
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Hathaway
Hays
Helstoski
Hicks
Holifield
Howard
Hungate
Jarman
Johnson, Calif.
Jones, Ala.
Karth
Kastenmeier
Kazen
Keith
Kluczynski
Koch
Leggett
Lowenstein
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McCarthy
McClory
McClure
McDonald, Mich.
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Meeds
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Miller, Calif.
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Mollohan
Moorhead
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Nedzi
O'Hara
Olsen
O'Neill, Mass.
Patman
Patten
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Preyer, N.C.
Price, Ill.
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Rees
Reid, N.Y.
Reuss
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, Pa.
Rosenthal
Roybal
St Germain
Sandman
Satterfield
Scheuer
Schwengel
Shipley
Sisk
Slack
Smith, Iowa
Springer
Stafford
Staggers
Stanton
Steed
Stephens
Stokes
Stratton
Stubblefield
Sullivan
Symington
Taylor
Teague, Calif.
Thompson, Ga.
Thompson, N.J.
Tunney
Udall
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Arends
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Beall, Md.
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Bell, Calif.
Betts
Bevill
Biaggi
Biester
Blackburn
Blatnik
Bow
Brademas
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
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Burlison, Mo.
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Byrnes, Wis.
Camp
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Clancy
Clausen, Don H.
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Corbett
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Cunningham
Daniel, Va.
Davis, Wis.
Delaney
Dellenback
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Dennis
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Dickinson
Dowdy
Duncan
Dwyer
Edmondson
Edwards, Ala.
Erlenborn
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Hagan
Haley
Hall
Halpern
Hamilton
Hammerschmidt
Hanna
Harsha
Harvey
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Landgrebe
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Latta
Lennon
Lloyd
Long, Md.
McCloskey
McCulloch
McDade
McEwen
McKneally
McMillan
Mahon
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Marsh
Martin
Mathias
May
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Miller, Ohio
Mills
Minshall
Mize

Mizell
Monagan
Montgomery
Morton
Myers
Natcher
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Pettis
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Purcell
Quie
Railsback
Randall
Reid, Ill.
Rhodes
Riegle
Rivers
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Robison
Rooney, N.Y.
Rostenkowski
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Rousselot
Ruppe
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Saylor
Schadeberg
Scherle
Schmitz
Schneebeli
Scott
Sebelius
Shriver
Sikes
Skubitz
Smith, Calif.
Smith, N.Y.
Snyder
Steiger, Ariz.
Steiger, Wis.
Taft
Talcott
Thomson, Wis.
Vanik
Wampler
Watkins
Weicker
Whalen
Whalley
Whitehurst
Whitten
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Edwards, La.
Farbstein
Gallagher
Garmatz
Gilbert
Gray
Hawkins
Hébert
Ichord
Kirwan
Long, La.
Lujan
MacGregor
Matsunaga
Meskill
Murphy, N.Y.
Nix
Ottinger
Passman
Pepper
Pollock
Powell
Quillen
Rarick
Reifel
Roudebush
Ryan
Stuckey
Teague, Tex.
Tiernan
Ullman
Waggonner
Watson
Watts
Wilson, Charles H.

So the conference report was rejected.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Watson.
Mr. Garmatz with Mr. Roudebush.
Mr. Passman with Mr. Lujan.
Mr. Matsunaga with Mr. Burton of Utah.
Mr. Caffery with Mr. Berry.
Mr. Teague of Texas with Mr. Ayers.
Mr. Waggonner with Mr. Bray.
Mr. Long of Louisana with Mr. Brock.
Mr. Pepper with Mr. Cramer.
Mr. Edwards of Louisiana with Mr. Crane.
Mr. Chappell with Mr. MacGregor.
Mr. Murphy of New York with Mr. Meskill.
Mr. Watts with Mr. Quillen.
Mr. Charles H. Wilson with Mr. Nix.
Mr. Tiernan with Mr. Reifel.
Mr. Stuckey with Mr. Ichord.
Mr. Gilbert with Mr. Dawson.
Mr. Gallagher with Mr. Hawkins.
Mr. Ryan with Mr. Conyers.
Mr. Ullman with Mr. Baring.
Mr. Farbstein with Mr. Rarick.
Mr. Kirwan with Mrs. Chisholm.
Mr. Gray with Mr. Downing.
Mr. Ottinger with Mr. Powell.

Messrs. HAMILTON, NATCHER, ANDERSON of Tennessee, FLOWERS, WHITTEN, BROTZMAN, CLEVELAND, BROWN of Ohio, EDMONDSON, and COLMER changed their votes from "yea" to "nay."

Mr. MACDONALD of Massachusetts changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON THE DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1971

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight tonight to file a report on the Departments of Labor, Health, Education, and Welfare and related agencies appropriation bill for the fiscal year ending June 30, 1971.

Mr. MICHEL reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONFERENCE REPORT ON H.R. 16916, OFFICE OF EDUCATION APPROPRIATIONS, 1971

Mr. FLOOD. Mr. Speaker, I call up the conference report on the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 15, 1970.)

Mr. FLOOD. Mr. Speaker, we are considering today the conference report on the education appropriation bill that passed the House in April. You will recall, after the difficulties we had last year, that everybody agreed, in both Houses, and urged, especially the educators in the districts back home, that Federal appropriations for education should be enacted much earlier in the year than they have been in the past. So we took the education bill as a separate bill to expedite it and to permit the budget people, the administrators and the school people in the districts back home to know where they were, and not be as confused insofar as dollars are concerned, as they certainly were last year.

Mr. Speaker, the education appropriations bill that passed the House in April amounted to a total of $4,127,114,000 or $319,590,000 more than the President had requested.

The bill, as it passed the Senate in June, added $816,000 more than the House bill of April.

Now to be fair, Mr. Speaker, we should hasten to add, and we do, that the Senate bill included two items totaling $159,300,000 which were requested by the President, but were not considered by the House.

In conference, and it was a conference, and we understand that legislation is the art of compromise, we were seeking a compromise between the House bill of $4,127,114,000 and the Senate bill of $4,782,871,000.

The conference agreement is $4,420,145,000 which is $362,726,000 under the Senate bill and $293,031,000 over the House bill.

Now I will just briefly mention the major items which were in conference and describe how they were settled.

For impacted area aid, the House bill included $440,000,000, and the Senate bill included $673,800,000, or an increase of $233,800,000 over the House bill. We have agreed upon a total figure of $551,068,000. This will provide:

First, 100 percent of entitlement for "A" children in hardship school districts where they represent more than 25 percent of total enrollment;

Second, 90 percent entitlement for all other "A" children; and

Third, 65 percent of entitlement for "B" children.

We think this is a much more equitable method of distribution than a flat percentage of entitlement for both "A" and "B" children.

The total amount that we have agreed upon for impacted area aid is $111,068,000 over the amount in the House bill and $122,732,000 under the amount in the Senate bill, and it is $126,068,000 over the budget request.

For elementary and secondary education, the budget request was $1,614,693,000 which the House increased to $1,808,968,000.

The Senate further increased the amount to $1,898,168,000, or an increase of $89,200,000, and of that increase, $38 million was agreed to in the conference.

Mr. Speaker, for "Higher education," the budget estimate was $857,525,000. The House bill provided $899,880,00. The Senate further increased it to $1,046,670,000, or an increase of $146,790,000.

In conference we agreed to $68 million of that increase. Most of the increase that we agreed to—and this will interest you, Mr. Speaker—is for grants for construction of public community colleges and for the NDEA student loans which I know you favor.

The other major item which we considered in conference was the President's request for $150 million for emergency assistance to school districts which are being desegregated this fall. The Senate bill included the full $150 million requested by the President. That item had not been considered by the House.

After considerable negotiations—and I assure you, Mr. Speaker, it was considerable—we agreed upon one-half of the President's request for $75 million. None of us believes it would be possible to spend the full $150 million wisely and effectively in the time remaining before the school opening in September, even though we endorse the President's desire to help those schools.

Mr. LANDRUM. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Georgia.

Mr. LANDRUM. With regard to the amount of money included in this conference report for the purpose of assisting local school districts with problems in connection with integrating the schools, can the gentleman tell me whether the applicants for such assistance will have their applications approved or acted upon first by the State departments of education, or will they be acted upon first in the Education Office in Washington, D.C.?

Mr. FLOOD. I am aware of the concern of the gentleman from Georgia. He has discussed the subject with me. Let me read this language so there will be no mistake as to the attitude of the managers on the part of the House:

> So far as the House managers are concerned, we are anxious that these funds be made available to qualified local educational agencies as quickly as possible in order to be of assistance when schools open in the fall of 1970. Toward this end, we strongly urge that maximum use of State educational agencies be made by the Office of Education in the review and approval of project applications. In this way the administrative process can be expedited.

Mr. LANDRUM. Mr. Speaker, will the gentleman yield further?

Mr. FLOOD. I yield to the gentleman from Georgia.

Mr. LANDRUM. Mr. Speaker, that statement, if followed by the administering agency in Washington, will be extremely helpful to the districts which may have these problems and will facilitate, in my judgment, appropriate use of the funds to the end that the President has said they should be applied and to the end, I understand, the distinguished gentleman from Pennsylvania has indicated they will be applied.

But is there anything in this legislation or in this appropriation bill that would prevent the Federal Education Office from approving an application from a non-educational local agency, for example, from a militant organization that wanted to participate in these activities, and giving them money under this appropriation so they could be a force in the administration of it in the local areas?

Mr. FLOOD. I understand. May I suggest under all the circumstances, including the gentleman's last question, that to change the language would be gilding the lily.

Mr. LANDRUM. The gentleman, if he will yield further, always disarms even his friends with his eloquent and colorful language. Nevertheless, I do want to express my appreciation to the distinguished gentleman for saying that insofar as his committee and the managers on the part of the House are concerned, they would hope this money could be allocated to the State departments and have the approval at the State departments of education level.

Mr. FLOOD. I did not think anybody could say it any better than I could.

Mr. LANDRUM. Mr. Speaker, I thank the gentleman.

Mr. FLOOD. Mr. Speaker, with respect to the general provisions in the House bill which were stricken by the Senate, the well-known Whitten and Jonas amendments, we followed what we thought was a mandate of the House and tried to get them restored to the bill. We were able to persuade—and that is an understatement—the Senate conferees reluctantly to put the Whitten amendments, that is, sections 209 and 210, back in the bill; however, we had to give up on the Jonas amendment, section 211.

These are the highlights of the conference report, Mr. Speaker, and I think the committee and the managers on the part of the House did an excellent job under all the circumstances, because this is a can of worms. We did considerably better than a 50–50 split, no matter how we look at it.

(Mr. FLOOD asked and was given permission to insert a table showing in detail the results of the conference.)

The table referred to follows:

OFFICE OF EDUCATION APPROPRIATION BILL, 1971 (H.R. 16916)—NEW BUDGET (OBLIGATIONAL) AUTHORITY

CONFERENCE SUMMARY

Agency and item	1970 enacted [1]	1971				Conference agreement compared with—			
		Budget estimate [2]	House bill	Senate bill	Conference agreement	1970	Budget 1971	House	Senate
School assistance in federally affected areas	$520,581,000	$425,000,000	$440,000,000	$673,800,000	$551,068,000	+$30,487,000	+$126,068,000	+$111,068,000	−$122,732,000
Elementary and secondary education	[4] 1,614,397,900 (1,693,108,000)	1,614,693,000	1,808,968,000	1,898,168,000	1,846,968,000	+232,570,100	+232,275,000	+38,000,000	−51,200,000
Advance appropriation, 1972		1,339,050,000					−1,339,050,000		
Education for the handicapped	85,000,000 (100,000,000)	95,000,000	105,000,000	105,000,000	105,000,000	+20,000,000	+10,000,000		
Vocational and adult education	419,046,000 (442,816,000)	440,046,000	490,446,000	497,946,000	494,196,000	+75,150,000	+54,150,000	+3,750,000	−3,750,000
Higher education	850,913,000 (899,374,000)	[5] 857,525,000	899,880,000	1,046,670,000	967,880,000	+116,967,000	+110,355,000	+68,000,000	−78,790,000
Initial funding of programs				4,500,000					−4,500,000
Education professions development	117,249,500 (129,237,000)	136,100,000	135,800,000	105,000,000	135,800,000	+18,550,500	−300,000		+30,800,000
Teacher Corps	(6)	(6)	(6)	40,800,000	(6)				−40,800,000
Community education	67,213,250 (89,381,000)	59,446,000	71,636,000	101,794,000	85,040,000	+17,826,750	+25,594,000	+13,404,000	−16,754,000
Research and training	80,325,000 (82,108,000)	118,329,000	105,325,000	90,077,000	90,077,000	+9,752,000	−28,252,000	−15,248,000	
Educational activities overseas (special foreign currency program)	1,000,000	3,000,000	3,000,000	3,000,000	3,000,000	+2,000,000			
Salaries and expenses	44,685,000	46,733,000	46,107,000	45,164,000	45,164,000	+479,000	−1,569,000	−943,000	
Student loan insurance fund	10,826,000	18,000,000	18,000,000	18,000,000	18,000,000	+7,174,000			
Payment of participation sales insufficiencies	2,918,000	2,952,000	2,952,000	2,952,000	2,952,000	+34,000			
Emergency school assistance		[7] 150,000,000		150,000,000	75,000,000	+75,000,000	−75,000,000	+75,000,000	−75,000,000
Grand total, new budget (obligational) authority, Office of Education	[4] 3,814,154,650 [4] (4,016,034,000)	5,305,874,000	4,127,114,000	4,782,871,000	4,420,145,000	+605,990,350	−885,729,000	+293,031,000	−362,726,000
Consisting of—									
Regular appropriations	[4] 3,814,154,650 [4] (4,016,034,000)	3,966,824,000	4,127,114,000	4,782,871,000	4,420,145,000	+605,990,350	+453,321,000	+293,031,000	−362,726,000
Advance appropriation, 1972		1,339,050,000					−1,339,050,000		

[1] 1970 appropriations are adjusted to be comparable to the 1971 estimates and to reflect the limitation contained in section 410 of Public Law 91-204. Where a 1970 appropriation has been reduced in the administration of this limitation, the amount carried in the Act (adjusted for comparability) is shown in parentheses directly under the reduced figure. Includes supplemental appropriations.

[2] Includes amendments contained in H. Doc. 91-285 and S. Doc. 91-80 and a proposed supplemental for fiscal year 1970 contained in S. Doc. 91-83.

[3] Proposed for separate transmittal.

[4] Includes an advance for 1970 of $1,010,814,300 appropriated in 1969 bill.

[5] Includes budget amendment of $9,300,000 (S. Doc. 91-80) which the House did not consider.

[6] Included under "Education professions development."

[7] Proposed supplemental for fiscal year 1970 (S. Doc. 91-83) which House did not consider.

Mr. FLOOD. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from Illinois, the ranking minority member (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, and Members of the House, you will all recall that when we brought this bill before you in April, it was over $300 million over the budget, but it provided sufficient increases in the sensitive areas to prevent our getting completely rolled for considerably higher amounts as we were on last year's bill. That, to some, was bad enough and now coming back to you with a conference report that is $453 million over the President's budget has caused some of you to raise additional questions.

I must confess that I find myself very distressed that this second or third appropriations bill to go to the President for his signature is in the neighborhood of a half billion dollars over his request, and I suspect it might be tempting for the President to veto it in view of the very serious fiscal situation we find ourselves in today, particularly so when there are several other appropriations bills waiting in the wings that in the aggregate are several billion dollars over the President's budget requests.

Our timing is somewhat unfortunate in the sense that this is one of the first bills, as I said, but then, we had always planned on getting early action on this education measure so that our school districts and institutions of higher learning throughout the country would have some advance notice before the fall term begins as to just what sums would be available.

I have no idea what the President's view will be with respect to this particular bill, although it is fair to state that those in the Department of Health, Education, and Welfare, including the Secretary, are fairly pleased with what action has been taken, and the President will be urged to sign the bill. I hope he does, for we have worked hard to bring about this compromise and you all know that it is absolutely essential that there be a give and take in a conference of this kind. Your conferees fought hard for the House position at every turn of the road.

I believe both the gentleman from Iowa and the gentleman from Missouri will be very interested in knowing that in the Office of Education there was a request for 88 new positions. We felt that 50 of them should be allowed in the House. In the interest of compromising, where the Senate had no positions allowed, we agreed to their position. So there are 88 requested positions which will go unfilled in the Office of Education.

So far as the Jonas and Whitten amendments are concerned, I made the point on the floor when the bill was originally here in April that I was opposed to the Jonas amendment definitely but that the so-called Whitten amendments did not really change basic law nor did they really require a change in HEW requirements, and for that reason I had no serious objection to the Whitten amendments.

As the chairman indicated, as a part of the overall package we deleted the Jonas amendment and kept the Whitten amendments and went along with $75 million of the $150 million request to assist these school districts around the country to speed their integration plans.

The chairman has very ably touched on the most significant items that were in disagreement and had to be compromised, and I shall not repeat what he said with respect to the impacted aid item, for that has been very adequately covered.

In the elementary and secondary education item, it should be noted that in the equipment and minor remodeling, NDEA title III the House carried a figure of $20 million, the Senate added another $59,200,000 and we compromised this out at $50 million.

In dropout prevention, ESEA, title VIII, our House bill carried $8 million and the Senate version called for $15 million, and we agreed on $10 million as the compromise. There were several other items in this category where the Senate was over our figure but they receded.

Now, in the field of vocational and adult education, there was no difference between our bills in the $346,336,000 for basic grants to the States, but the Senate had a reference to part C of the Vocational Education Act, which requires the States to earmark 10 percent of the amount for research. I personally have some misgivings about forcing each and every State to spend an arbitrary figure of 10 percent for research and innovation, but that figure happens to be in the enabling legislation. I personally think there is a great deal of room for improvement and with all our technological advances and requirements for the future, we have to update our vocational education and training programs. We would like to give it a try for at least a year and see what can be accomplished, but we want to also make it clear that we do not mean by our action in agreeing to it this year that we expect to allocate and earmark that amount in the future for research. It certainly does not have to be a continuing thing at that level, but in this amount it will surely give it a big shot in the arm nationwide.

The chairman covered the item of educational opportunity grants, NDEA student loans, and college work-study items. We in the House have been more impressed with the loan approach than the outright grant to the student, and we maintained this position in our conference.

In the foreign language training and area studies the House bill carried $6 million, but by the time the bill got to the Senate, there was a budget amendment bringing this item up to $15,300,000, and the Senate provided for the full amount. Personally, I would have gone along with the higher figure, but it was quite obvious among our House conferees that my views were not shared by the other Members and the final figure arrived at was $8 million. There are those who argue that we already have too many language teachers in the country who cannot find jobs, but there is a definite problem in our institutions of higher learning, for in the more exotic languages there are so few students taking the subject matter. The classes are small, sometimes only five or six students, and obviously the class is a losing proposition to the university. However, as a national resource I do not think we can summarily say that there is no need for Federal subsidy for classes of this nature.

Our House bill carried no money for grants for the construction of public community colleges and technical institutes, although there is all kinds of testimony in the record by administration witnesses in support of the community college concept. The Senate provided last year's figure of $43 million and the House receded to the Senate figure. The Senate also had added grants for construction of other undergraduate facilities in the amount of $28 million, but they receded on that item.

On the Teachers Corps item we retained the House figure of $30,800,000 as against the $10 million increase in that amount in the Senate bill.

Educational broadcasting facilities ends up being way over the budget that came in at $4 million. You may recall your House committee boosted the figure to $6 million, the Senate carried a figure of $15 million and we compromised at $11 million.

Other than the item for increased positions of which I made reference to earlier, there is only one item where the Senate figure was below the House figure, and that was in research and training, and your House conferees, much more willing to economize than the other body, was quick to recede to the Senate's lower figure, although I must confess from a personal point of view, I have some reservation about our having cut so deeply in this experimental and research area.

Mr. Speaker, I believe that pretty well covers the specific items that are in need of explanation at this time and would be happy to answer any questions Members might have about our conference report. As I said, we did our darndest for you in the hope of getting the kind of bill that will satisfy most on both sides of the aisle and also acceptable, even though it may be with grave reservations with the higher figure, by the President.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am glad to yield to my friend from Missouri.

Mr. HALL. I appreciate the gentleman yielding for a question.

Reverting back to the gentleman's statement about the conference report in the amount that is over and above the budget estimate, will the gentleman advise the Members whether or not there is a mandatory spending clause in this, as there has been in other reports which have been over the budget, the so-called Yarborough amendment in the other body?

Mr. MICHEL. No, sir; there is not.

Mr. HALL. I thank the gentleman.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. McCLORY. As I understand it, with respect to category A pupils, as to impact aid, if they are 25 percent or more of the population where the students come from, and the parents reside on the military base, there is a 100 percent entitlement?

Mr. MICHEL. That is correct. And that is about a $8.8 million item that would take care of that category of schools.

Mr. McCLORY. And 90 percent with regard to the balance of category A?

Mr. MICHEL. Yes.

Mr. McCLORY. And then category B is a flat 65 percent. Is that correct?

Mr. MICHEL. That is exactly correct.

Mr. McCLORY. Do I understand that these payments will be made, or are you suggesting by your response to the last question that perhaps the payments under this formula would not be made?

Mr. MICHEL. Well, there is no reason for me to make such a statement that they would not be made, because we have provided the money here for it. It is clearly understood on the part of all parties concerned that it would be made under those terms.

Mr. McCLORY. Mr. Speaker, under the conference committee report, impacted school aid to the 28 affected school districts in my congressional district will be reduced by more than $570,000 below the amount to which these same schools were entitled under the formulas used last year.

The application of 65 percent to category (b) pupils may be fair insofar as some school districts are concerned. Indeed, this percentage may be excessive in many school districts.

Let me observe that the conferees have agreed to a larger figure than was voted by the House for category (b) pupils.

Furthermore, it is my hope that improvements will be made in the calculation of impacted school aid to the end that those school districts most adversely affected by students whose parents are employed at Federal institutions may be compensated—adequately.

It would be a sufficient answer if the Federal properties paid an amount equivalent to the real estate taxes.

In the absence of such an agreement, a way must be found to resolve the inequities which exist in the present method of providing impacted aid. I will continue to work to achieve that result.

Mr. DON. H. CLAUSEN. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. What was the final compromise figure?

Mr. MICHEL. It was $551 million. The House version, you recall, was $440 million. So there is a $111 million increase.

Mr. DON H. CLAUSEN. I thank the gentleman.

Mr. FLOOD. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. Williams).

Mr. WILLIAMS. Mr. Speaker, I rise in opposition to this conference report, because under this conference report we are simply going to perpetuate fiscal irresponsibility on the part of the Congress of the United States.

I know that we were all surprised when President Nixon presented a Federal budget for fiscal year 1971, a proposed budget, calling for the expenditure of over $200 billion, the largest Federal budget in the history of this country. I was pleased at the time that the budget called for a $1.3 billion surplus but I was disappointed that the surplus was not greater.

However, it has become quite apparent from legislation passed by the House in both appropriation and authorization bills that our deficit for the fiscal year 1971, this fiscal year which started July 1, is now going to be somewhere between a $10 and $15 billion deficit.

I am for education, and I believe every Member of this House is for education. The President's budget proposed an expenditure of $3,966,824,000 for education and I am for spending this sum of money for education. This is far and away the largest sum of money that the Federal Government has ever spent for education. This conference report calls for a total expenditure for education of $4,420,145,000, which is an increase of over $453 million over the budget.

What is this going to mean to our economy? First let me explain to you that we now owe over $374 billion. The debt now has to be refinanced every 3 years. That means in this fiscal year we are going to be refinancing over $110 billion in maturing Federal obligations that are carrying interest rates of 4 or 5 percent. To refinance these obligations we are going to pay a minimum of 8¼ percent.

That means that this year the interest on the money we owe is going to exceed $20 billion and within 2 years the interest on the money we owe is going to exceed $30 billion annually.

Mr. Speaker, this is going to be a never-ending annual item. We wonder why there is not more money in our economy for housing and for all the other things that people want. The reason for this is that the Federal Government is soaking up all of the money out of the capital market, the money market, just like a sponge.

Mr. Speaker, we have GNMA, FNMA, and countless other Federal agencies competing in the money market with our Treasury Department in borrowing money and this forces up interest rates to their present alltime high.

We do not have this $453 million over the budget. This and other overexpenditures are going to require the Treasury Department to go out into the open money market and borrow money at a minimum of 8.25 percent.

I say to you that unless we start to live——

The SPEAKER pro tempore (Mr. Boggs). The time of the gentleman from Pennsylvania has expired.

Mr. WILLIAMS. Mr. Speaker, I wonder if the gentleman from Pennsylvania (Mr. Flood) would yield to me some additional time?

Mr. FLOOD. I yield the gentleman 30 additional seconds.

Mr. WILLIAMS. I thank the gentleman from Pennsylvania.

Mr. Speaker, I say to the Members of this House that unless we start to adopt sound fiscally responsible procedures and reduce Federal spending that what we are doing is fueling the fires of inflation, bringing our economy ever closer to the brink of complete failure and disaster, and setting the stage for a large increase in taxes for all Americans.

Mr. Speaker, I urge the defeat of this conference report.

Mr. CONTE. Mr. Speaker, we have all been through the Whitten amendments, time and time again. They are still with us, although I am pleased that the Jonas amendment has been eliminated.

Sections 209 and 210 are essentially the antibusing provisions previously introduced by the gentleman from Mississippi (Mr. Whitten), with one major exception. The current version would be operative only with respect to "any school or a school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964."

Title IV provides:

> As used in this title * * * "desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

It is my understanding that adoption of sections 209 and 210 would not impose additional limitations in the enforcement of title IV. Where a school district has acted to separate children on the basis of race, color, or national origin, subsequent assignments to undo that separation are not assignments "in order to overcome racial imbalance" as that term is used in title IV. A school district which previously established schools on a racial basis does not achieve a desegregated status—is not assigning students "without regard to their race"—until it has achieved the constitutionally required unitary school system.

I hope that what I have said clarifies the legal effect of sections 209 and 210.

Mr. COHELAN. Mr. Speaker, I wish to commend my friend and colleague, Chairman Flood and the other conferees for their work on the Office of Education conference report. They have done a remarkable job of assimilating and coordinating the views of this body with those of our colleagues in the Senate. I am especially pleased that the job was done with great care and precision and with speed, because we all realize the importance of releasing the funds necessary for the Office of Education to function.

It appears that the total dollars appropriated are adequate, and will allow the Office of Education to pursue its work of improving and perfecting our Nation's educational system.

I was pleased that the conferees saw fit to delete the pernicious Jonas amendment from this bill. It is heartening that we will no longer run the risk of jeopardizing the effort to end unconstitutional racial segregation in our schools. The future of the country and the education of generations of American citizens would most certainly have been threatened by this detrimental and unconstitutional language.

I am quite disturbed, however, that the conferees have not deleted the Whitten language. But as I pointed out in previous debate on this appropriations bill, a careful and thorough reading of this language indicates that it has no legal effect. Its purpose is to impede the Federal effort to end unconstitutional segregation in our schools. It was for this reason that I originally opposed the Whitten provisions. However, this version of the Whitten provisions will not restrict the obligation of the Federal Government to enforce the nondiscrimination requirements of the Civil Rights Act.

The precise legal effect of this new version of the Whitten amendments, sections 209 and 210, is clear. I have had skilled lawyers interpret this language. They have concluded that nothing in these provisions removes or interferes with the obligation of the Federal Government to enforce title VI of the Civil Rights Act of 1964.

I discussed this point in my remarks during the floor debate over the House version of the Office of Eduction appropriations bill. At that time, I stated:

> For a desegregated school system, as provided in sections 209 and 210, must be read as a unitary school system. My understanding of the language is that a desegregated school system has met the constitutional requirements in this area of assuring equal opportunity.

The objection to sections 209 and 210, therefore, goes to the fact that they are calculated to deceive. The prohibition, although qualified, against busing and assignment of students is bound to confuse parents and school officials alike. The requirements of the law remain. But these sections will lead people to believe that no effective remedy to meet those requirements is imposed. It is irresponsible legislation, and I urge the House to strike these provisions. Desegregation as used in title IV of the Civil Rights Act has been judicially interpreted to mean desegregation in accordance with constitutional requirements. The new Whitten language which would subject title VI activities to the title IV defintion of "desegregation" would have virtually no effect on the policies and enforcement activities of HEW with respect to title IV. Desegregation as defined in title IV of this act is coextensive with the duty imposed upon school districts by the 14th amendment and by title VI of the Civil Rights Act of 1964.

The language is mischievous, confusing, and poses yet another hindrance to proper enforcement of the law. These sections serve only to raise false hopes of relief for those who want out of a sticky situation, but the fact still remains that these provisions cannot alter the constitutional obligation to desegregate and to desegregate now.

Mr. Speaker, it is clear that the only effect of these provisions is that they are calculated to deceive and to confuse. But in the final analysis, the requirements of the law remain and make the effect of this language negligible. I have been informed that officials at HEW have concurred in this view and feel that the constitutional requirements for ending segregation can remain fully effective in spite of the Whitten language.

I urge my colleagues to give approval to this conference report so that the Office of Education can proceed with the business of education.

Mr. BRADEMAS. Mr. Speaker, I believe it is appropriate that today when we vote on the conference report on the Office of Education appropriations bill for fiscal 1971, that I pay tribute to Dr. James E. Allen, Jr., the former Assistant Secretary of Health, Education, and Welfare and U.S. Commissioner of Education.

Indeed, Mr. Speaker, I was delighted when President Nixon chose Dr. Allen to be U.S. Commissioner of Education because Dr. Allen had an outstanding record as an educator and as a chief State school officer.

For 13 years before coming to Washington, at the beginning of the Nixon administration, Dr. Allen served as Commissioner of Education for New York State. His record in leading that formidable education system bespoke of his high administrative capabilities and his firm commitment to improving our Nation's schools and colleges.

No doubt, President Nixon's compaign pledges in 1968 concerning American education encouraged Dr. Allen to come to Washington and persuaded him that this administration would assign a high priority to education.

It became increasingly evident, however, that the administration strongly opposed sufficient funding and rejected new initiatives for educating America's youth. Yet Dr. Allen persevered as the U.S. Commissioner.

Despite the delays he faced in gaining approval for his plans from the White House.

Despite inordinate political pressure for the appointment of key aides at the Office of Education.

Despite recurrent opposition from the White House to his recommendations of outstanding educators and persons prominent in education for staff positions at the Office of Education, Dr. Allen was committed to being as effective as possible.

When asked in May about whether he would resign his post, he said "No," that he would remain a while longer.

DISMISSAL NOT SURPRISING

Yet it is not surprising that the administration on June 10 requested Dr. Allen's resignation.

For on three issues of overriding importance to our Nation, Dr. Allen stated that administration policy was not in the best interests of our educational system.

First, Dr. Allen talked about the benefits to be derived from integrated schools, and he announced his intention in line with the Constitution and the law, to press for the integration of all schools regardless of the reasons for their previous segregation. He thereby advocated a much broader policy of desegregation than had President Nixon in his statement of March 24.

Second, three times Dr. Allen stated publicly that the administration's budget proposals for education were inadequate. On May 5, for example, he wrote to President Nixon saying that he could not "defend, for a third year, insufficient funds for education."

Third, Dr. Allen was deeply concerned—and so he spoke out—that President Nixon's move into Cambodia would have disastrous effects on education throughout the country.

In each of these instances, Dr. Allen's position was stated without compromise—but also without rancor. Dr. Allen sought in each case to be persuasive with his thoughtful judgment about how best to sustain and improve the quality of education in the United States.

Mr. Speaker, that the administration could not abide Dr. Allen's candid judgements on school desegregation, funds for education, and the effects on American education of U.S. involvement in Cambodia is doubly dismaying: First, because the Federal Government has lost a highly qualified and respected educational leader; and second, because the administration has again demonstrated that political considerations are foremost in formulating its educational policies.

UNDERSTOOD YOUTH

But, Mr. Speaker, Dr. Allen's dismissal is particularly unfortunate for yet another reason.

In a commencement address at Notre Dame University on June 7, Dr. Allen chose the theme "Does Anybody Hear?"

In his remarks, Dr. Allen maintained that increasingly Americans are hearing "the real meaning of youthful protest and concern." And he challenged Notre Dame's graduating students to "grow into a renewal of our society through the political processes of democracy."

Indeed, Mr. Speaker, I deeply regret Dr. Allen's dismissal because he was one of the few individuals in the administration who understood the gap of confidence between the administration and young people. Moreover, he understood the breach of confidence which was rapidly growing between the administration and educators across the United States.

Mr. Speaker, I would add that—true to his own admonition to students at Notre Dame—Dr. Allen carried out the duties of his office with great regard for the processes of democratic government.

Mr. Speaker, I ask that Dr. Allen's commencement address at the University of Notre Dame—to which I referred—and his statements on his dismissal, on school desegreation, and on Cambodia be included in the RECORD at this point:

DOES ANYBODY HEAR? [1]

(By James E. Allen, Jr.)

It is an honor to be here today to participate in your 1970 Commencement exercises. Notre Dame is one of our great universities and the steadfast allegiance to excellence that continues to be demonstrated here in these tumultuous times is a hopeful augury for the future of higher education everywhere.

You look, I am sure, with great pride upon the national leadership which has been exerted by your President, Father Hesburgh, not only in affairs of higher education but also particularly in Civil Rights. The value of his service cannot be overestimated, and both as an educator and a citizen, I am grateful for his understanding and support, and for the wisdom and the dedication he has brought to the great issues of our day.

The members of this graduating class do not, I surmise, want or expect the usual kind of commencement congratulations. Although this ritual is invested with all the tradition accumulated in its long history beginning in the Middle Ages, the message on campuses throughout the Nation this year cannot with any sort of realism be the accustomed bland, patriarchal felicitations but must reflect the conflicting moods and problems within our society.

The symbolism of the hundreds of commencement exercises taking place across our Nation in these spring weeks will be as varied as the institutions themselves and the students they serve. But one symbolic interpretation that is certainly no longer apt is that of commencements as a line of demarcation between the life of the "campus" and the life of the "world." Clearly emerging from the current period of travail in higher education is the knowledge that this separation no longer has, if indeed it ever had, any reality or validity. Our college and university students are no longer waiting in the wings—they are on stage, ready for action. The question that must concern all of us is what part they are going to play.

Some of you may have seen or read about the current Broadway play "1776." This witty and perceptive drama is concerned with the creation and adoption of the Declaration of Independence. John Adams, Thomas Jefferson and Benjamin Franklin are a determined trio, bent on ensuring that liberty and justice for all shall in this document have a secure, inalienable foundation.

But the fight is not easy, and in one scene John Adams stands alone on the stage which has been darkened to hide the assembly room where he has been arguing and pleading his cause, with a spotlight focusing on his figure, bent with weariness, and on his face, lined with discouragement. He muses on his fears for this Nation aborning, and in mounting anguish over his inability to convince his fellow representatives of the people, calls out "Does anybody out there hear?"

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[1] Before Annual Commencement Exercises at University of Notre Dame, Notre Dame, Indiana, Sunday, June 7, 1970.

Now, almost two hundred years after those historic days, there is another scene—not on stage, but in a dormitory room, perhaps, or in a local campus gathering place. A record playing—it begins with a young voice quietly asking "Does anybody hear, does anybody hear?" and goes on repeating that question with an increasing volume of sound and of despair, anguish and frustration that mounts to a crescendo that tears the heart.

Though so different and so far apart in time, these two questions are very much the same. Inherent in John Adams' cry was his concern that we should set for ourselves as a beginning Nation a course dedicated to principles of liberty and justice for all; and inherent in the question of youth today is a concern that we have not stayed firmly enough on that course at home and abroad and that we have not kept true faith with the principles upon which our Nation was founded.

WHAT ARE STUDENTS REALLY SAYING?

More and more the voice of youth is being raised, and it is vital not only to listen but to attempt to hear what is *really* being said. It is all too easy to hear only the harsh, shrill, unreasoning voice of the small numbers who see violence, terrorism, and destruction as the only way to change. Their frustration is understandable, but their choice of means is indefensible not only because it is wrong, morally and legally, but because it is self-destructive and foreign to the very goals they espouse.

Speaking also, however, and in far greater numbers, are the voices of those who still hope to be able to effect change peaceably, but who are equally strong in their dedication to change and to bringing our actions more in accord with our principles. They share the sense of powerlessness arising out of the realization of a loss of control over life in our huge technological-industrial-bureaucratic machine. They question the extended state of adolescence and the resulting separatist youth sub-culture that society has forced upon them where they are kept from real positions of power and decision-making on issues that they consider vital to their lives both now and in the future.

They know that if they "play the game," they can count on a fair measure of material comfort and security, but they find little of value in a secure place in a dehumanized society where their talents will be used to perpetuate those elements which they feel require reform and renewal.

They sense that their society is on a collision course with its ideals and that nothing short of a drastic shift in values and structure will avert disaster. But they also believe that if they were to opt for riots, arson, vandalism and terrorism, they would be creating an even greater danger to society, and that those few elements who attempt to destroy the system, most seriously contribute to the anxieties and the hostility of other elements of society.

The end result of destructive protests is a tendency to destroy the liberal or vital center of our society and to polarize it into two extreme groups, intensifying and igniting deep-seated fears and hatreds of broad segments of our population. Such an atmosphere encourages the forces of repression and reaction throughout society. It could threaten all of the social reform of the past four decades, destroying, perhaps for our lifetime, the optimistic hopes that our open society was truly progressing toward a more perfect one with its great institutions and ideals intact. The legendary *1984* could arrive a decade earlier and the irony would be that this Orwellian Nightmare would have been helped to reality because of the same young idealists who would most deplore it.

George Bernard Shaw understood the danger when he wrote that "revolutions have never lightened the burden of tyranny; they have only shifted it to another shoulder." The history of the twentieth century seems to warn us that this shoulder would be more likely totalitarian than democratic, more demagogic than benevolent, and that the liberal values of tolerance, patience, good temper, respect for the rights of opponents, and non-violent resolution of problems through the political process would become things of a distant, nostalgic past.

The majority of our students and our young speak for the constructive way of change that can avoid such hazards. Theirs is, I believe, the true voice that should be heeded.

These young people do *not* want to destroy their universities, they do *not* want to destroy their society or to harm their country, but they do want to participate, to be accepted and respected for their concern and their willingness to work for what they believe. They want to get on with the unfinished business of the older generation—achieving a lasting peace, promoting racial harmony, protecting the environment, building and preserving livable communities, improving and expanding educational opportunities.

I am, of course, only guessing when I say these things about youth. I am obviously far beyond that 30 year point of credibility which could make me a somewhat authentic spokesman. But let me share with you what I hear when I listen to the voices of youth.

STUDENTS' CONCERN FOR EDUCATION

About their education and their concern for its direction and quality, I hear something like this.

What does it mean to educate? A tough old question, that. The dictionary says that to educate is "to develop the faculties and powers by teaching, instruction, or schooling." Not much help: *which* faculties and *which* powers? And what about "develop"?—free development, or are their restrictions a result prefigured? What if the society which supports the universities does not like what one of its students proves capable of being? What if that student or a teacher starts asking hard questions of his society? Furthermore, what if he *demands* answers? What if he refuses to do what the society expects him to do, and what if he tells you exactly why he refuses to do it? What if he takes what you have to teach him and turns it around against you and asks: why have you not *lived* what you would presume to teach? What if he pushes *beyond* what he is taught, beyond where his teachers envisioned he would and should go, so that there is no understanding of where he is going and what he is doing?

If that is what *can* result from the development of human faculties and powers, and from letting each one among us become all he is capable of being, then what kind of society can permit this risk in its conception of education?

Can you teach a man to reason critically and also tell where and when he may and may not do so? Can you teach a man to reason critically and not also expect him—more, ask him!—to turn that same power upon *everything* you have taught him, all your values, your principles, your vision of what human society should be? Can you educate *for* anything but this power of critical reasoning? And if you do, is it still education? Or is it indoctrination? This word is not intended as a bogy, but in its meaning of teaching or inculcating a doctrine, principle, or ideology. Most education is indoctrination. Most education is conceived as the putting of information into the student. It is akin to stuffing tomatoes into a can. But is this what education *should* be?

Is to educate to provide a society with the kind of members it wants to ensure the stable continuation of itself on its own terms? Or is to educate to develop in the individual the power to keep him not only in but *beyond* his society, the power to make him live *critically* in that society so that it is, not stable, but fluid, always moving, evolving, always—yes!—a little chaotic? For if a man is reasoning critically he will never be at rest: that is, he will never harden over, he will never be silent, he will never be stunted and he will watch for any other man who would presume, in the name of anything, to stunt him in any part of himself.

Education should fundamentally concern only two people: the student and the teacher. Anyone else whose presence is considered necessary to make the university work is subordinate to these two and must remain so. The power working between the student and the teacher is the only power that can exist in a university, the *only* power that can define the university and hold it together.

Here is an example of that power.

The student has the *duty* to bring all of what he knows, or surmises, questions and envisions to bear upon any man who would (however well-intentioned) say to him: "I have something to teach you." The student must say, "Go ahead; but you'd best be good."

On the other hand, the teacher has the duty to bring everything he knows, every bit and scrap of what he is, all that he says and does, to bear upon one who would presume to say to him: "I want to learn." And if a student should challenge the teacher, on what or how he teaches, or on the relationship between what he says and what he does, the teacher must say to him: "Go ahead: but you'd best be good."

Who, it could be asked, in either situation, will judge the outcome? Who else but the student and the teacher: a student *knows* a good teacher. And a good teacher has never been one with whom his students have always agreed. But he will be one who, if he is challenged and cannot meet that challenge, will shut his mouth and listen. And when and if he speaks again, it will be because he has put his dogma (using the word non-pejoratively) on the line and questioned it; because he is always ready to do that, because that readiness, that obligation, is somewhere very near the heart of learning and teaching.

If those are the only rules, then no one, regardless of his age or other straw armor, will have power except that which is in the stuff of what he says and thinks. In a university of students and teachers and no one else, you have leadership not power. No one in the university (indeed, no one claiming to be involved in education) could crouch under any carapace of power. No one. Each man would have only the power of what he says and thinks. And if that is all you have, there is no hiding. You do not have to occupy the office of a man who has no power *over* you. You can seek him out and call him to account. Every day, if necessary. He will have to answer your questions, and, as I said before, he will have to be good.

I must confess that one voice has been predominant in these ideas about education which I have presented. Not every student would perhaps agree with these particular ideas, but I do think they represent the yearning of students for a more personalized university that recognizes the essential individuality of the learning process. They are the answer, in his words, that I received from my son when I asked him what should be the theme of a speech of a 1970 Commencement.

Is such a view of a university visionary and idealistic? Perhaps so, but it must be sought, for as your President has said, the university is "an open community that lives by the power of reason" and that it "can prevail only when the great majority of its members share its commitment to rational discourse, listen closely to those with conflicting views, and stand together against the few (and I would add, the many) who would impose their will on everyone else."

YOUTH'S VIEW OF SOCIETY

Now what do I hear youth saying about their society and the place of the university in that society? The message seems clear—first, that they will no longer accept the injustices that negate our democratic principles, and second, that they will no longer respect, support, or honor a university that stands aloof from the problems and the challenges of not only encouraging, but leading in the achievement of constructive social change.

This message, if it is, as I believe it to be, authentically representative of the views of youth, leads directly to the question of what the continuing role of youth is to be.

In logical progression this question must lead to a further one—namely, "How serious is youth about social change?" There are many who believe that the social concern of youth today is a fad, the "in" thing, ephemeral, and likely in some cyclical fashion to be supplanted by a "return" to more traditional enthusiasms.

Perhaps a brief review of the development of the concern of this younger generation will help to judge the depth of their commitment.

It was the great civil rights movement that first sparked widespread activism beginning with the historic sit-ins by black and white students in 1960, followed throughout that decade by other sit-ins, freedom rides, voter registration drives, as the students lent their support to a movement that culminated in passage of the Civil Rights Act of 1964.

Students were also instrumental in bringing the issue of poverty and hunger to the forefront of the American mind and conscience. Throughout the late sixties students were in the vanguard of the peace movement which grew to overshadow the causes of race and poverty as youth issues in the United States.

With the beginning of the seventies, the students found another issue: the quality of life and our decaying environment. They poured their energies and enthusiasms into Earth Day and made it an encouraging success.

Their contributions have been invaluable in awakening a lethargic people and in stirring them into action. But what now comes next? Certainly, none of the problems that has aroused youth can be abandoned or considered as solved. The pattern of past action has, however, been one of going from issue to issue as a succession of neglected problems competed for action.

I can understand this kind of movement. Today's intelligent, idealistic students see a Nation which has achieved the physical ability to provide food, shelter, and education for all but has not yet devised the social institutions to do so. They see a society built on the principle that all men are created equal but that has not yet assured equal opportunity in life. With the fresh energy and idealism of the young, they are impatient with progress that seems to them so indefensibly slow. They want to accelerate social change, and they feel, it seems, that they must jump from issue to issue in order to highlight all the societal inadequacies and unmet promises of America.

Too often during the turbulent sixties, youth picked up an issue and ran with it. But before they reached the finish line, they switched tracks. What we need for the 70's and the 80's are the long distance runners for the social change and new social inventions so urgently needed.

That this concept is beginning to prevail within the ranks of youth is indicated by a gradual change from mass rallies and demonstrations essentially *ad hoc* toward more organized and permanent structures that can coordinate and concentrate activities. The real doers and movers among youth seem to be taking de Tocqueville seriously by establishing new organizations to ensure that the ideas behind their crusades stand a fighting chance in a Nation of joiners and self-interest politics. They are establishing their own youth and citizen lobbies. Utilizing the existing political techniques they are also gaining some historical perspective and a new vision of de Tocqueville's optimistic picture of American democracy. Like the brilliant French genius of 135 years ago, these new generation leaders have a "lively faith in the perfectability of man and judge that the diffusion of knowledge must necessarily be advantageous, and the consequences of ignorance fatal: they consider society as a body in a state of improvement, humanity as a changing scene, in which nothing is, or ought to be permanent; and they admit that what appears to them today to be good, may be superseded by something better tomorrow."

This new youth pattern of organization and national offices backed up by local grass roots political participation is one of the most hopeful signs in this troubled spring of 1970.

I trust they will become viable organizations infused with a democratic spirit and representative of the best of our society.

Strengthened by this kind of internal order and direction, I would hope that the move outward which is now being demonstrated in an upsurge of student political involvement would make widespread, positive political action the main arena of future youth participation. One measure of the unused opportunity here is the statistic showing that the age group from 21 to 25 has one of the poorest voting records of any segment of society, with only approximately 50 percent voting in the last national election.

If the students are really determined to understand the political process and to work in the nitty gritty of politics, they can do enormous good in the causes they so ardently espouse, for in the final analysis, good government, social reform, and social justice can only be lastingly achieved through the political system.

STAYING POWER

More and more students are rejecting the prophets of flamboyant rhetoric for the political precincts. As in past student crusades, the open question is whether they will be able to sustain the enthusiasm and the necessary constructive approach in such groups as the Movement for a New Congress, the National Petition Committee, or the Continuing Presence in Washington, and others.

Not long ago a student came up to one of my young assistants and said, "I hope the Government does something about pollution soon because I've given six months of my life to this environment movement." Would that problems could be solved so quickly! But the remaking of a society is a task that cannot be measured in months or even years, but must encompass the commitment of a whole lifetime.

Some students will be turned off, I fear, by the sheer drudgery and dullness of some aspects of the political process—canvassing, petitioning, endless checking, stuffing envelopes, mimeographing and the rest. Some will find it hard to accept that those who toil within the system in routine, unspectacular fashion contribute to a better society as mightily as do the more flamboyant, self-styled revolutionaries.

I hope the young will cultivate their staying power, for the young political activists can be the new agents of change who can revitalize our politics. They can prove that there is still vitality and hope in the methods and norms of democracy; that a participant-oriented political society can be created in which pluralism, trust, and optimism can prevail.

The emerging willingness of youth to direct its activities to working within the political system is the real hope of succeeding in the effort to preserve and extend democracy while simultaneously moving toward fundamental social change.

Such an effort will, of its very nature, be disruptive, making this decade a time of unrest and even of peril. But what I hear from the youthful voices of today is the promise of the possibility of a new Renaissance, a development of a new humanism in which this younger generation and those to come will make their decisions and base their actions on values primarily concerned with the dignity of man and the quality of life.

As our young people seek to participate earlier and more actively in the shaping of their world, the American people should recognize that the universities and colleges mirror both the weaknesses and the yearnings of society at large. Eric Erikson, a renowned student of youth, has noted that young and old achieve mutual respect when "society recognizes the young individual as a bearer of fresh energy and he recognizes society as a living process which inspires loyalty as it receives it, maintains allegiance as it extracts it, honors confidence as it demands it."

In conclusion then, let me say that the answer to the question of "Does anybody hear?" is increasingly a "yes," and that more and more people are at last beginning to hear the real meaning of youthful protest and concern. You remember the old story of the donkey and the stick—first, you had to get his attention. Well, youth has certainly succeeded in getting the attention of a society that has been dangerously complacent and slow to move. With attention gained, I hope the young people will continue to be goads to our national conscience and that their crusading spirit will not diminish but rather grow into a renewal of our society through the political processes of our democracy.

STATEMENT BY JAMES E. ALLEN, JR., IN CONNECTION WITH HIS DISMISSAL BY THE ADMINISTRATION, JUNE 11, 1970

At five o'clock yesterday afternoon at a meeting in his office, Secretary Finch informed me that he had been directed to request my resignation as Assistant Secretary for Education in HEW and United States Commissioner of Education. I have this morning submitted my letter of resignation to the President.

Much of my experience as Commissioner of Education has been rewarding and satisfying, but difficulties and conflicts have been apparent from the beginning of my tenure. Foremost among these have been the serious frustrations and discouragements in trying to carry forward the drive to eliminate racial segregation in the schools and to obtain a priority for education at the Federal level commensurate with its importance and its urgent needs. Of special concern also has been the inordinate influence of partisan political considerations in the matter of appointments to positions in the Office of Education. A further serious difficulty in carrying out the responsibilities of the Office has been the frequent and often lengthy delays in securing from higher levels the action necessary for proceeding expeditiously with the plans and the work of the Office.

With regard to my statement about the Cambodian situation, I understand fully the position of the Administration. The decision to respond as I did to the question raised at a recent meeting of Office of Education personnel was a very difficult one for me to make. Since this issue has so profoundly affected the education community and the youth of the Nation, I believed that I could not refrain from publicly expressing my views.

I regret that I shall no longer be directly involved in the many excellent projects and programs that are underway in the Office of Education and the Department of Health, Education, and Welfare, and in other developments such as the proposed National Institute of Education. I particularly regret that I shall not be able to press officially for the nationwide Right to Read effort and I hope that the commitment which has been made to that effort will be honored by effective and vigorous action.

It has been a privilege and satisfaction to work with the many people in the Government and throughout the country who are dedicated to the improvement and support of education and I am grateful for the opportunity that was given me to try to serve the needs of education in our Nation in these trying times.

Statement by James E. Allen, Jr., U.S. Commissioner of Education, on the Obligation of the Educator With Respect to School Desegregation

Equal educational opportunity is the principle upon which our educational system is founded and must be the goal of all of our efforts. No child whatever his race can be expected to learn or accept the fundamental values of American society when those values are openly denied in his own school.

In the present period in our nation, the greatest single barrier to progress in achieving this goal is the continuing existence of racially segregated schools. No one can deny that this is probably the most sensitive and serious problem ever faced in the development of American education. But undeniable also is the fact that despite the complex social and economic causes of segregation and the enormous difficulties involved in eliminating it, segregation in our schools simply makes a mockery of the concept of equal educational opportunity.

When confronted with an issue that has such deep emotional and social impact, it is natural to seek the easiest and least disruptive means of dealing with it. But with the issues of desegregation and integration, it is inescapably evident that, when considered in fundamental terms, there is no way, no argument as to means, no sophistry or evasion whereby the principle of equality of educational opportunity can be made to accommodate the continuing existence of segregated schools in a democratic society—no matter how difficult the problems involved in eliminating them may be.

It follows therefore that every educator dedicated to the principle of equal educational opportunity for all must accept his responsibility to work unstintingly for the elimination of school segregation and do everything he can to achieve educational integration.

The social, economic and humanitarian implications of integration are, of course, a part of the reason for the desegregation of our schools, but the primary objective of integration is educational—the conviction that equal educational opportunity will be best achieved by providing for all children quality education in an integrated setting.

More and more research evidence, more reports are pointing out that not only is separation by race or class within a democracy inherently wrong but that the health of our democracy cannot thrive as long as such separation continues. This condition affects all elements of life in our society—school, housing, employment—and all levels of government and all sectors of society bear a responsibility for it. But education has, I believe, a particular responsibility because of its unique formative influence which comes into play so early in the life of the individual. Continued segregation can only weaken the fabric of our society. All our children must live in a multi-racial world and the school is a natural place in which to introduce them to that world.

The public schools exist in order to educate the individual and to make an educated populace in a free and open society. When a condition exists which stands in the way of both of these goals, it is the obligation of all those responsible for the public schools to do everything within their power to correct it.

All educators throughout the nation, therefore, should not only persevere in their efforts to eliminate segregation in our schools, but should take the lead in helping the public to understand the values that are at issue, the harmful educational effects of segregation on all our people, and the necessity for its elimination if the public schools are to serve equally well all the people of America.

It is the educator who must see to it that debates about means such as busing, neighborhood schools, district boundaries, etc., are not allowed to obscure the ends being sought. He should help his community to understand that in seeking to eliminate segregation we are acting in faithfulness to the fundamental principle of equality of educational opportunity.

It is clear that the conscience of the nation is troubled. This, I believe, is a most hopeful sign that we shall eventually emerge from the thicket of controversy which now ensnares us and find a way to accomplish the integration which we know must exist if our public schools are to reflect and reinforce the democratic principles of our nation.

I am fully and sympathetically aware of the critical nature and the diversity and complexity of the problems school officials face in their efforts to eliminate segregation in their respective communities and areas. I am also aware of and command the courage and tenacity of purpose demonstrated by so many educators which have brought about significant progress in all parts of our country. Action at the Federal level is, of course, important and can help, but alone it cannot effectively eliminate segregation—the ultimate responsibility must be accepted and acted upon by the educational leaders and the people of each State and of each community.

In the position of national leadership which I occupy, I shall continue to emphasize the educational value of integration, and the educational deprivation of segregation regardless of cause.

Statement by James E. Allen on Cambodia

Obviously, my professional competence cannot include questions of this sort. Thus any opinion that I have is only a personal one, like that of most other citizens. I find it difficult to understand the rationale for the necessity of the move into Cambodia as a means of supporting and hastening the withdrawal from Viet Nam—a withdrawal that I feel must be accomplished as quickly as possible.

What concerns me most now is what our responsibility is in dealing with the disastrous effects that this action has had on education throughout the country and on the confidence of millions of concerned citizens in their Government.

ADDRESS BY DR. JAMES E. ALLEN, JR. (ANNUAL MEETING, EDUCATION COMMISSION OF THE STATES, DENVER, COLO., JULY 8, 1970)

Mr. Speaker, I also include Dr. Allen's first major address after resigning from the Office of Education—delivered at the annual meeting of the Education Commission of the States in Denver on July 8—also in the Record. In this speech, Dr. Allen provides a candid assessment of the massive needs today at every level of the American educational system and an eloquent plea for a higher national priority for education:

The Missing Ingredient—A Sense of Urgency

(By James E. Allen, Jr.)

Exactly one year ago I was doing just what I am doing tonight—speaking to the Annual Meeting of the Education Commission of the States.

This is a case of history repeating itself—with one small difference.

In opening my remarks last year, I said "This is my first meeting with you since becoming United States Commissioner of Education." This year I open by saying that this is my first meeting with you since becoming a *former* Commissioner of Education.

Since June 10, I have become a new member of a growing group—the five percent of unemployed—and before proceeding further I want to say that I have copies of my *vitae* with me and I shall be available for interviews immediately following this banquet.

It is not my intention tonight to try to assess my experience as Commissioner of Education. I shall be doing this, but later, after a period of reflection and in the perspective of time.

There are, however, several important initiatives taken by the Administration in Washington during the past year which I should like to review briefly with you.

The National Institute of Education.—a proposal to create a highly visible, and much needed, national center of planning for educational research and development. Legislation to create the NIE is now before the Congress.

Experimental Schools.—a new program designed to test major new innovations in education. Initial funds are included in the FY 1971 budget for the Office of Education.

The President's Commission on School Finance.—a study group now underway whose mission is to analyze the fiscal plight of the elementary and secondary schools, public and private, and to seek new methods of finance which will ensure greater equity, adequacy, and stability in the pattern of school support within our Nation.

The Right to Read Goal.—a nationwide effort to ensure that by the end of this decade no boy or girl shall be leaving school without having acquired the skills and the desire to read to the full limits of his capability. The success of this effort depends heavily upon the launching of the National Reading Council, still awaiting appointment by the President. The primary function of this Council will be to arouse the Nation to the importance of eliminating reading deficiencies, to coordinate the effort, to mobilize resources and forces, and to provide the extra technical and financial assistance required. I fervently hope that the commitment made by the President to the Right to Read effort will be honored by strong and effective action.

The Proposed Emergency School Aid Act of 1970.—calling for $1.5 billion over a two year period for assistance to school districts in eliminating segregation in education, *de jure* and *de facto*, and for achieving the educational advantages offered by desegregation. The enactment of this legislation is of the utmost importance if the Federal Government's commitment to desegregation is to become something more meaningful than commitment merely to legal compliance.

Reform of the Impacted Aid Program.—an effort to eliminate long existing inequities in the distribution of Federal funds to school districts with Federally-connected student population.

Review of Title I.—a comprehensive effort to improve the effectiveness of this largest of the ESEA programs by building into its administration at Federal, State and local levels better techniques for management, accountability and evaluation.

Career Education.—a legislative proposal for making formula grants to the States for the purpose of meeting the added costs of developing vocational programs in new careers primarily through community colleges and other types of pre-baccalaureate degree operations.

Higher Education Proposals.—including expansion of educational opportunity grants and subsidized student loans for lowest income groups; creation of a National Student Loan Association to ensure the continuing supply of loan funds; establishment of a National Foundation for Higher Education to stimulate reform and to maintain quality in higher education.

The Reorganization of the Office of Education.—designed to strengthen the role of the Office in planning and evaluation and as an advocate of improvement and relevance in American education.

These are all initiatives and plans which deserve your support and the support of the entire education community as well as the public. But as yet these important initiatives are just that. They have a long way to go before they bring results. Each individual and group concerned with education must assume a responsibility for following the progress of these measures and insisting that they be adequately funded and properly implemented.

As important as these initiatives are, however, they can, in terms of the broad perspective of educational needs in our country, be viewed as but beginning steps in providing the basis for achieving the improvement and reform so necessary. They fall far short of providing solutions for such long-standing problems as these:

URBAN EDUCATION

Each year our city school systems slide closer and closer to disaster. Yet each year finds only piecemeal attempts to deal with the problem, and the all out attack that can ultimately restore health to our city schools remains still in the discussion stages.

SCHOOL DISTRICT REORGANIZATION

There are nearly 20,000 school districts in the United States. This is many too many, and the continuing existence of such a surplus is an anachronism, relating not to present-day requirements but to a bygone era with simpler needs and goals.

Because we insist on clinging to outmoded organizational and management patterns, hundreds of thousands of children are denied equal educational opportunity, hundreds of millions of dollars are inefficiently expended, and human and material resources are unnecessarily duplicated and poorly utilized.

THE FEDERAL STRUCTURE FOR EDUCATION

Anachronistic also is the present Federal structure for education.

I am more than ever convinced that education should not be coupled with any other department of government, and that it must have the separate status that allows for sharp and undivided focus on its policies and support.

The time is here for serious attention to be given to devising the best means for making such a change. The new structure could be a separate Federal Department of Education, with a cabinet-level officer as its head, or perhaps a Federal department headed by a National Board of Education responsible for policy development and for the appointment of the chief administrative officer. Whatever the means, the objective should be to minimize partisan political considerations and the influence of vested interests and to provide for the continuing implementation of plans and programs that will reduce the disruptions caused by changes in the Administration.

The need for a change in the structure for education at the Federal level has been talked about for years but with education now so big and complex and becoming increasingly a national concern and a growing Federal activity, the effort to give education separate status at the highest level in the government can no longer be postponed.

ADEQUATE FINANCING FOR EDUCATION

Education in America faces serious financial problems. The difficulty stems not from the lack of ability to finance education adequately but from a continuing reliance on sources of revenue and methods of distribution designed for past needs and goals.

Therefore, it is hoped that the President's Commission on School Finance will quickly and forthrightly direct its attention to the proper role of the Federal government in the support of education, recognizing first that more Federal support is inevitable, and second, that a system should be devised for Federal aid which will incorporate three basic ways of allocation—*general aid,* adequate to provide a solid base of support on wich the States and localities can build; *categorical aids,* designed to meet special or short-term nationally recognized needs (e.g. the disadvantaged, the handicapped, etc.); and *research and development funds,* to ensure the continuing discovery, testing, and dissemination of new and better approaches to educational practice and management.

HIGHER EDUCATION

A major part of any consideration of adequate financing of education must include the particular needs of higher education. This is the principal growth area of the 70's and rapidly rising costs are creating financial problems for colleges which threaten both the stability and the viability of many institutions.

A positive first step toward helping these institutions would be Federal funds linked to offsetting the difference between actual per student costs and the tuition paid by students receiving Federal student aid subsidies.

EARLY CHILDHOOD EDUCATION

Despite our knowledge that as much of a child's intellectual development occurs in the first five years as in the next thirteen years of his life, there has been little general movement to extend public education's responsibility to these early years.

Here again, the efforts have been piecemeal and unless there is a strong move to accelerate the acceptance of this responsibility, it is likely that this step so fundamental to sound education and to the equalization of educational opportunity will suffer the same delay that has so often in the past stood in the way of new departures.

VOCATIONAL EDUCATION

The whole area of vocational education has received tremendous attention during the past decade. As a result, much excellent legislation has been enacted and many new approaches have been created. But in too many school systems, vocational education still limps along under the constraints of the traditional "shop-home economics" concept.

The broader concept of career education—education for competence—is far from a reality on anything like a nationwide basis. An important factor in delaying the spread of this concept is a Federal policy of financial aid for vocational education and manpower training which tends to emphasize post-school remedial action rather than adequate, realistic, in-school preparation. This policy should be promptly corrected.

NO COLLECTIVE SENSE OF URGENCY

This list of major needs could go on and on. Those omitted are absent not on grounds of lack of importance but rather on lack of time.

These are, as I said earlier, not new problems. We have been aware of them for a long time. But considering that we have just had three decades of unprecedented concentration upon the problems of education—three decades of a growing recognition of the importance of education, it is dismaying that such a list of major problems so far from solution can still be compiled. WHY?

There are, of course, many reasons, but to me one stands out as the prime villain—that is the lack of a sense of urgency about the needs of education. This is the missing ingredient—and my experience of the past year has strongly reinforced my conviction that it is the absence of this essential motivating force that is most seriously standing in the way of solutions to the problems.

Surely this Nation has both the means and the ability to provide good education for all—missing in the will to insist upon their full application.

Now, I know, of course, that there *is* a sense of urgency in many groups and with many individuals, but there is no *collective* sense of urgency sufficiently widespread and intense to force at all levels—local, State and national—the full mobilization of resources that would bring results.

The files of this Nation, in high places and low, are replete with speeches, papers and reports whose opening paragraphs extol the virtues, the importance, the necessity of education—calling it the heart of, the foundation of, the source of, the best hope of all good things. But with succeeding paragraphs most of these documents move into the "yes, but" areas—into the ring-around of rationalization that has educators saying "We could do it if we had the money," the public saying "We'd give the money if the schools were better," legislators saying "Support for education has no political clout"—and meanwhile too many children still wait for the better schools everyone is saying they need.

Where is the "savage rage" of which Alfred North Whitehead spoke? What we are talking about is not some remote, disembodied endeavor—we are talking about the lives of children and youth, their hopes, their aspirations, their rights. How can we continue to tolerate the endless rationalization of delay that denies opportunity to so many?

In a way education is the victim of its success. It is difficult to generate indignation or to gain widespread appreciation of the seriousness of the conditions and the needs when the education now being provided is adequate for many and outstandingly good for some. The most serious failures of education tend to be localized—in the slums of the cities, in impoverished rural areas, among minorities and the poor—remote from the experience of the average citizen. Furthermore, the broader effects of educational failure—manpower deficiencies, unemployment, crime, poverty, alienation—appear mostly as statistics that tend to blur their direct connection with education and that do not in any highly visible fashion touch the lives of most people.

For too many people, education's needs are somewhere out there—someone else's problems—nothing to be stirred up about personally. Hence, no widespread public sense of urgency.

A HIGHER PRIORITY FOR EDUCATION

It follows, therefore, that vigorous leadership is essential for the creation of a sense of urgency. But here we face that dilemma inherent in a democracy—namely, that leadership tends to be a response to opinion, a reflection of the public state of mind. Thus, a low priority for education in the minds of the people—a low priority in national affairs.

But surely among the leadership of this Nation, there should be the perspective about education, the broad understanding of its needs that would generate a compelling sense of urgency to be communicated vigorously to the people.

The educational failure of any affects all, and any indifference, complacency or rationalization that continues the delay in getting at the solutions of education's problems is a disservice to all.

This is a dangerous time for education—paradoxically because of the desirable interest, insufficient though it is, that is being displayed. Plans and proposals abound, but an honest appraisal of our efforts too often sees great motion, but so much of it a kind of "running in place" that we are, instead of moving out and broadly affecting education, too often merely digging ourselves a deepening rut and comforting ourselves by calling it "innovation and change."

Education must have a higher priority than it is now given, especially at the Federal level, and those in positions of leadership from the President on down have an obligation to nurture and demonstrate unremittingly the sense of urgency that can bring action now.

The demonstration of this leadership at the national level is of particular importance now as the Federal government is increasingly playing a formative role in the development of education. The main responsibility for education still remains at the State and local level but it is only with strong Federal suport that our States and localities are going to be able to solve many of their most pressing and distressing problems—problems such as urban education and segregation—which stand as the greatest barriers to meeting our acknowledged obligation for the provision of equal educational opportunity.

The Education Commission of the States was created to provide a new focus of power for education. It is unique in its cross-section of membership, in its alliance of education and government, of citizen and professional, and in its opportunity to be a powerful force for creating this sense of urgency both in the public and in government.

To date this power which you possess has not reached even a fraction of its potential. I urge you to assume the mantle of national leadership and to use your power to secure in fact the priority for education which it has always been accorded in words.

The forces of education have been too patient, too willing to wait. We have perhaps been too inclined to assume that our own assessment of education's importance would naturally prevail with everyone else.

DeWitt Clinton in 1826 said that "The First duty of Government and the surest evidence of good Government is the encouragement of education."

This duty is not being neglected, but certainly it is not being carried out either in full honor to the adjective "first" nor in compliance with that principle of our government that recognizes the obligation of providing equality of educational opportunity.

Let us then dedicate ourselves anew to supplying the missing ingredient of a sense of urgency, let us be possessed by it, and let us make ourselves heard wherever there is a reluctance to take whatever action is necessary to carry out fully and unstintingly this first duty of good government.

Mr. PUCINSKI. Mr. Speaker, I want to take this opportunity to congratulate the gentleman from Pennsylvania, Mr. Daniel Flood, chairman of the conference, and the members of the conference, for accepting amendment No. 13 which inserts language proposed by the Senate citing part one of the Vocational Education Act which requires 10 percent of the amounts allocated to the States for basic vocational education grants to be used for research.

I am most pleased that the House conferees have accepted the Senate language. This action by the House conferees will provide the Division of Comprehensive and Vocational Research in the Office of Education with some $17,000,000 for research into new methods and techniques for updating vocational education in this country.

Congressman Flood and his fellow House conferees, have performed an enormous service to the people of this country by accepting the Senate language.

It was my privilege to sponsor the 1968 Vocational Education Amendments, and after very exhaustive hearings on this legislation, it became crystal-clear to myself and my committee, that vocational education can not meet the changing needs of American technology in the 1970's and 1980's, if we do not have an extensive input of new concepts for teaching vocational education. My committee wrote into the act the mandatory 10-percent set-aside of all basic State grants for vocational education to be used for research, because we realize that it is only through such research that we can put into proper perspective the vocational education needs of this country.

The United States will reach a trillion-dollar gross national product this year and then, in the next 9 years, that figure will double to a $2 trillion economy by 1980. Unless our schools can train young Americans to fill the labor needs of this enormous growth in our economy, we will see or whole existence seriously jeopardized.

It is my sincere hope that the Office of Education will not divert these funds from the Division of Comprehensive and Vocational Research, but rather, make all of these funds available to the Division so that the necessary input of new concepts can be generated.

I congratulate the conferees for writing into their report the caveat that—

> The conferees are agreed that this provision is adopted on a trial basis for 1 year, and the results will be reviewed before a decision is made to include it in next year's appropriation bill.

The provision by the conferees will strengthen the hand of the Division of Comprehensive and Vocational Research to assure that only the more promising programs shall be funded for research. It imposes a serious obligation on the Division, but I have every confidence that in a year from now, we will see research emanating from this Division which will give American vocational education new dimensions of promise and achievement.

I am most pleased that the distinguished Senator from Washington, Mr. Warren Magnuson, had brought the Senate language to the conference, and that he was able to reach agreement with our representative, Congressman Flood, on this very important amendment.

Up to now, I have always heard complaints that no funds were available for research, and therefore, new programs could not be generated. I am pleased that with the action being taken by this House today, these funds will now be made available, and we can make a most significant step forward in bringing the needs of American vocational education in tune with the needs of the last third of the 20th century.

Finally, Mr. Speaker, I am most grateful to Mr. Robert Moyer, staff assistant of the House Appropriations Committee, and all of the members of the staff, who have been so very helpful in understanding the needs of American vocational education.

I do hope the House will overwhelmingly approve the conference report and express our gratitude to both our colleague Congressman Dan Flood and our colleague Congressman Robert Michel of Illinois, ranking minority member of the House conferees, as well as all the other House conferees who have today made such an enormous contribution toward improving vocational education in America.

Mr. FLOOD. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Boggs). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 359, nays 30, not voting 42, as follows:

[Roll No. 220]

YEAS—359

Abbitt
Abernethy
Adair
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Aspinall
Baring
Barrett
Beall, Md.
Belcher
Bell, Calif.
Bennett
Bevill
Biaggi
Biester
Bingham
Blanton
Blatnik
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Calif.
Bush
Button
Byrne, Pa.
Byrnes, Wis.
Cabell
Camp
Carter
Casey
Cederberg
Celler
Chamberlain
Chappell
Clark
Clausen, Don H.
Clay
Cleveland
Cohelan
Collier
Collins
Colmer
Conable
Conte
Conyers
Corbett
Corman
Coughlin
Cowger
Culver
Cunningham
Daddario
Daniel, Va.
Daniels, N.J.
Davis, Ga.
de la Garza
Delaney
Dellenback
Denney
Dent
Dickinson
Dingell
Donohue
Dorn
Dowdy
Downing
Dulski
Duncan
Dwyer
Eckhardt
Edmondson

Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fallon
Fascell
Feighan
Fish
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Foreman
Fountain
Fraser
Frelinghuysen
Frey
Friedel
Fulton, Pa.
Fulton, Tenn.
Fuqua
Galifianakis
Gaydos
Gettys
Giaimo
Gibbons
Gilbert
Goldwater
Gonzalez
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Grover
Gubser
Gude
Hagan
Haley
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hungate
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Keith
King
Kleppe
Kluczynski
Koch
Kyl
Kyros
Landrum
Langen
Latta
Leggett
Lennon
Lloyd
Long, Md.
Lowenstein
Lukens
McCarthy
McClory
McCloskey
McClure
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKneally
McMillan
Macdonald, Mass.
Madden
Mahon
Mailliard
Mann
Marsh
Martin
Mathias
May
Mayne
Meeds
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills
Minish
Mink
Minshall
Mize
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Morse
Morton
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Hara
O'Konski
Olsen
O'Neill, Mass.
Passman
Patman
Patten
Pelly
Perkins
Pettis
Philbin
Pickle
Pike
Pirnie
Poage
Podell
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quie
Railsback
Randall
Rees
Reid, Ill.
Reid, N.Y.
Reifel
Reuss
Rhodes
Riegle
Rivers
Roberts
Robison
Rodino
Roe
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roth
Roybal
Ruppe
Ruth
St Germain
Sandman
Satterfield
Schadeberg
Scherle
Scheuer
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Stafford
Staggers
Stanton
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Taft
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Tunney
Udall
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Watkins
Weicker
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Winn
Wold
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young
Zablocki
Zion
Zwach

NAYS—30

Andrews, Ala.
Ashbrook
Betts
Blackburn
Chisholm
Clancy
Clawson, Del
Davis, Wis.
Dennis
Derwinski
Devine
Diggs
Erlenborn
Findley
Flynt
Goodling
Gross
Hall
Jonas
Kuykendall
Landgrebe
O'Neal, Ga.
Rousselot
Saylor
Schmitz
Schneebeli
Smith, Calif.
Steiger, Ariz.
Thompson, Ga.
Williams

NOT VOTING 42

Anderson, Tenn.
Ayres
Berry
Bray
Brock
Burton, Utah
Caffery
Carey
Cramer
Crane
Dawson
Edwards, La.
Farbstein
Fisher
Gallagher
Garmatz
Gray
Hawkins
Ichord
Kirwan
Long, La.
Lujan
MacGregor
Matsunaga
Melcher
Meskill
Nix
Ottinger
Pepper
Pollock
Powell
Quillen
Rarick
Roudebush
Ryan
Tiernan
Ullman
Wampler
Watson
Watts
Wilson, Charles H.
Yates

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Garmatz with Mr. Watson.
Mr. Carey with Mr. Ayres.
Mr. Caffery with Mr. Wampler.
Mr. Long of Louisiana with Mr. Berry.
Mr. Matsunaga with Mr. Pollock.
Mr. Rarick with Mr. Crane.
Mr. Pepper with Mr. Cramer.
Mr. Charles H. Wilson with Mr. Fisher.
Mr. Yates with Mr. Dawson.
Mr. Tiernan with Mr. Meskill.
Mr. Anderson of Tennessee with Mr. Lujan.
Mr. Edwards of Louisiana with Mr. Brock.
Mr. Gallagher with Mr. MacGregor.
Mr. Melcher with Mr. Burton of Utah.
Mr. Watts with Mr. Bray.
Mr. Ullman with Mr. Quillen.
Mr. Ichord with Mr. Roudebush.
Mr. Ottinger with Mr. Nix.
Mr. Kirwan with Mr. Powell.
Mr. Gray with Mr. Ryan.

Mr. SCHADEBERG changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 2, line 7, strike out "That this appropriation shall not be available to pay local educational agencies pursuant to the provisions of any other section of said title I until payment has been made of 90 per centum of the amounts to which such agencies are entitled pursuant to section 3(a) of said title and 100 per centum of the amounts payable under section 6 of said title." and insert "That $8,800,000 of this appropriation shall be available to pay full entitlement under section 3(a) of said title to a local educational agency where the number of children eligible under said section 3(a) represent 25 per centum or more of the total number of children attending school at such local educational agency during the preceding year."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following:

"That this appropriation shall not be available to pay local educational agencies pursuant to the provisions of any other section of said title I until payment has been made of 90 per centum of the amounts to which such agencies are entitled pursuant to section 3(a) of said title and 100 per centum of the amounts payable under section 6 of said title: *Provided further*, That $8,800,000 of this appropriation shall be available to pay full entitlement under section 3(a) of said title to a local educational agency where the number of children eligible under said section 3(a) represent 25 per centum or more of the total number of children attending school at such local educational agency during the preceding year."

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 9: Page 3, line 4, strike the words "State and" and insert in lieu thereof "States on behalf of".

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 38: Page 9, line 3, insert the following:

"EMERGENCY SCHOOL ASSISTANCE

"For assistance to desegregating local educational agencies as provided under part D of the Educational Professions Development Act (title V of the Higher Education Act of 1965), the Cooperative Research Act, title IV of the Civil Rights Act of 1964, section 807 of the Elementary and Secondary Education Act of 1965, section 402 of the Elementary and Secondary Education Amendments of 1967, and title II of the Economic Opportunity Act of 1964, as amended, including necessary administrative expenses therefor, $150,000,000: *Provided*, That no part of any funds appropriated herein to carry out programs under title II of the Economic Opportunity Act of 1964 shall be used to calculate the allocations and proration of allocations under section 102(b) of the Economic Opportunity Amendments of 1969: *Provided further*, That no part of the funds contained herein shall be used (a) to assist a local educational agency which engages, or has unlawfully engaged, in the gift, lease or sale of real or personal property or services to a nonpublic elementary or secondary school or school system practicing discrimination on the basis of race, color, or national origin; (b) to supplant funding from non-Federal sources which has been reduced as the result of desegregation or the availability of funding under this head; or (c) to carry out any program or activity under any policy, procedure, or practice that denies funds to any local educational agency desegregating its schools under legal requirement, on the basis of geography or the source of the legal requirement."

MOTION OFFERED BY MR. FLOOD

Mr. FLOOD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLOOD moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: Strike the sum of "$150,000,000" named in said amendment and insert in lieu thereof, "$75,000,000".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. SISK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

The SPEAKER pro tempore (Mr. Boggs). The question is on the motion offered by the gentleman from California.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 17654, with Mr. Natcher in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on yesterday the Clerk had read through section 110, ending on page 24, line 12, of the bill, and there was pending the amendment offered by the gentleman from New Jersey (Mr. Thompson) and an amendment to the amendment offered by the gentleman from Michigan (Mr. Dingell).

Without objection, the Clerk will again report the amendment offered by the gentleman from New Jersey (Mr. Thompson) and the amendment to the amendment offered by the gentleman from Michigan (Mr. Dingell).

There was no objection.

AMENDMENT OFFERED BY MR. THOMPSON OF NEW JERSEY

The Clerk read as follows:

> Amendment offered by Mr. Thompson of New Jersey; on page 23, line 15, strike out the words "and shall receive fair consideration in", and insert in lieu thereof the following: "if they so request not less than one-third of the funds provided for".
>
> And make the appropriate and necessary technical changes in the bill.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT OFFERED BY MR. THOMPSON OF NEW JERSEY

The Clerk read as follows:

> Amendment offered by Mr. Dingell to the amendment offered by Mr. Thompson of New Jersey: Add a new paragraph as follows:
>
> "(d) The majority party on any such standing committee shall receive not less than one-third of the funds provided for the appointment of committee staff personnel pursuant to each such primary or additional expense resolution."
>
> Renumber succeeding paragraphs accordingly.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. MOSS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan (Mr. Dingell) to the amendment offered by the gentleman from New Jersey (Mr. Thompson) because I believe the amendment brings very clearly into focus basic problems which attach to the amendment offered by the gentleman from New Jersey to provide that one-third of the investigative staff would be controlled by the minority.

I have for 16 years chaired investigative subcommittees of committees of this House, and on all of those subcommittees—and there have been quite a number of them—the investigative staff has done the work of the committee. It has not done my work. It has not done the work of the majority. It has done the work for the committee, and has been as available to the minority as to the majority.

As a matter of fact, I had inquiry made of the staff of my Subcommittee on Foreign Operations and Government Information, and find that they respond to more requests from the minority than they do requests from the majority.

Now, I think we would have to look at the structuring of these investigative staffs. The responsibility of legislating and investigating and conducting the affairs of this Congress rests with the majority of the Congress, the majority party of the Congress, and that has long been a tradition. If we are now to change that pattern as it relates to staff and if it is going to be segmented, then let us do it fairly, let us give one-third of the staff to the majority and say "you use this for whatever partisan purposes you want," give one-third of the staff to the minority and say "you use this for whatever partisan purposes you might have in mind," and then have one-third to do the work of the Congress and carry on the responsibilities of the committee.

I believe that is fair, it is evenhanded, but I do not believe it will represent good Government, good investigation, or good legislative procedures to do it. But if it is going to be segmented by partisan designations, then do it that way.

At this moment I could not tell you the party affiliation of a number of the members who serve on the staff of my subcommittee, either on Government Operations, or the Committee on Interstate and Foreign Commerce.

Then, of course, there is the very interesting question, How do you finally divide one-third of one? In some of these subcommittees, you end up with one investigator. How do we give one-third of one investigator to anybody? The problem becomes mighty complicated—or you could require that we cut him up into three—or maybe we can divide it on the basis of time rather than in dollars. I think it is a ridiculous proposal.

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I am very happy to yield to the gentleman.

Mr. CLEVELAND. It is not ridiculous at all because the language is very clear and precise and addresses itself to one-third of the funds. It says nothing about one-third of the people. It says one-third of the funds.

Mr. MOSS. Mr. Chairman, I decline to yield further to the gentleman.

It says one-third of the funds—and the funds employ people. Now you are going to have to have a staff director normally for a committee or a subcommittee. Who is going to pay for the funds that go to the staff director? Are you going to have two staff directors? If you are going to have two, then why not have three?

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield ?

Mr. MOSS. I am very happy to yield to the gentleman.

The CHAIRMAN. The time of the gentleman from California (Mr. Moss) has expired.

(Mr. MOSS asked and was given permission to proceed for 3 additional minutes.)

Mr. HOLIFIELD. Another interesting question is brought up by the Thompson amendment—Will the minority members have access to the two-thirds that are left that they have at the present time? In other words, are we really guaranteed two-thirds of the staff to the majority and one-third to the minority. Is that the purpose both in the professional and the clerical, because there is another section in the bill where they get to the clerical and the professional staff and the Thompson amendment, I understand, applies to the investigative staff.

So the intent apparently is to have one-third exclusive to the minority staff and then have full access to the balance of the staff, which they now have.

Mr. MOSS. That is the way I would read it. That is why I support the amendment offered by the gentleman from Michigan, because that clarifies it.

Mr. HOLIFIELD. That is right. The amendment offered by the gentleman from Michigan says that there shall be one-third for the minority and one-third for the majority and then the other one-third, we will fight over who gets to appoint them.

Mr. MOSS. It is probably available to both.

Mr. HOLIFIELD. What did the gentleman say?

Mr. MOSS. It is probably available to both, and I would hope so, as the present professional staff is available to both sides.

I will concede it would create greater confusion than to attempt to intermix the staff in the manner that is proposed here.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I am pleased to yield to the gentleman from Ohio.

Mr. HAYS. I do not know how it would work on all committees, but if it works the way it does on one committee I am on, it will not create any confusion because the professional staff that we had before are doing all the work and the one-third that has been added on are political employees and are out playing politics. They really do not interfere with anybody on the staff and they are never there and do not know what is going on.

Mr. MOSS. Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of California. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New Jersey (Mr. THOMPSON) and in opposition to the amendment to the amendment offered by the gentleman from Michigan (Mr. DINGELL).

Mr. Chairman, these amendments give me considerable concern. In fact, it frightens me. I am unable to ascertain from the debate, which I listened to very attentively, just what the real purpose of offering this amendment is.

Later on in the bill, as I said when I made my first remarks in presentation, I submit that the majority party was very fair to the minority in writing into the rules that we would have two of the six professional staff members and we would have one of the six clerical members.

I well realize, Mr. Chairman, that there are more than six staff members on a committee, and that more than one would not be 30 percent of the clerical staff on many committees, but that would at least give the minority some assurance that they will have two staff and one clerk. To go ahead now and start dividing up money on investigative staffs, in my opinion, would simply cause confusion.

There may be one or two committees in the House—if so, I have never served on them—where there is some dissension among the investigative staff of the committee. But I have served on the Veterans' Affairs Committee and I never had any problems with the staff of that committee. I have never had any problems with the committee staffs. They are just as courteous, kind, and efficient to me as if I had a third of the money and attempted to pick up my own staff. I think we are going to start a backward step and end up with two competing investigative staffs.

As mentioned by the gentleman from California (Mr. MOSS)—and I am not quite clear how he meant it—but assume the Committee on Internal Security or the Committee on Standards of Official Conduct wanted to hire a former investigator to go out and investigate a specific complaint. Are we then going to have three staff members so that the minority can have one as its staff member, one investigative member, so that he can go one way and the other two go the other way? I do not think we should have two investigative staffs competing with one another.

I do not have any such problem on the Rules Committee. In fact, if I were ever fortunate enough to be chairman of the Committee on Rules I would hope that the three clerical staff girls would stay with the committee and the two able professional staff members would, also.

I have never had a problem with the gentleman from New York on the Judiciary Committee. He was eminently fair in selecting able people to conduct appropriate investigations.

If you want to start killing this bill, if you want it killed with kindness, start with amendments like these that have been offered.

There are many points of value to the minority in the committee bill. I will not take the time to read them all. At least we will have 1 day for witnesses and 3 days, excluding Saturdays, Sundays, and holidays, to file our minority reports, which will have to be printed. We will have half the time on conference reports. I think the majority is being very fair to the minority, and the majority party has the responsibility of running the House of Representatives. If we ever get to be the majority party, it will then be our responsibility, and I hope that we will do a good job and we will be the ones who will be responsible for doing these things.

In my opinion, this is a bad amendment. I think it is wrong to proceed in this manner and clutter up this bill with this investigative staff proportion of the committees. I oppose the amendment and the amendment to the amendment.

Mr. COLMER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I am pleased to yield to my distinguished chairman.

Mr. COLMER. This is a classical example of what happens when we try to rewrite the rules of the House on the floor of the House without ample and sufficient background, No. 1. No. 2, Mr. Chairman, it also exemplifies the high character, the objectiveness, and the statesmanship of the gentleman from California (Mr. SMITH) in approaching these matters without partisanship, and I just want to pay my compliments to him.

Mr. SMITH of California. Mr. Chairman, I will mention for the benefit of the Members various measures in which consideration for the minority has previously been considered:

It was recommended by the Joint Committee on the Organization of the Congress in its final report of July 28, 1966, page 21. It was in S. 355 as introduced by Senator Monroney on January 16, 1967.

It was in H.R. 2594, introduced by the gentleman from Indiana (Mr. MADDEN) on January 17, 1967.

It was in H.R. 2595, introduced by former Member, Mr. Curtis from Missouri, on January 17, 1967.

It was in S. 355, and it was passed by the Senate.

It appeared in the same form in every legislative organization bill in this Congress by Republicans and Democrats, including 11 bills that have been introduced and given fair consideration. It seems to me that if all those people agreed with it, about 110 Members, the language in the bill is the best approach.

Mr. Chairman, I urge the defeat of the amendment and the amendment thereto be defeated.

Mr. CELLER. Mr. Chairman, I rise in opposition to the amendment.

(By unanimous consent, Mr. CELLER was allowed to proceed for 3 additional minutes.)

Mr. CELLER. Mr. Chairman, I respectfully oppose the amendment offered by the gentleman from New Jersey. When threshed out, we will find it is full of mischief. Its paramount deficiency lies in its rigidity. It leaves no room for flexible personal policy.

When the committee's budget is submitted to the Committee on House Administration, the proposed expenditures on salaries is at best only an estimate. The number of persons employed on the investigatory staff expands and contracts as the needs of the committee demand. One month the staff may number 15, and the following month 12. Thus, if the amendment prevails, the committee will find itself involved in constant bookkeeping operations. As the size of the staff changes, does the allocation in dollars and cents change? Remember, too, the salaries vary, so a rigid percentage would in no way guarantee adequate staff for the minority, depending upon which staff members were necessary to discharge and what was the rate of pay.

I remind the Members I am not talking in self-interest as the chairman of a committee, the Committee on the Judiciary. The staff of the minority on the investigatory payroll of my committee now receives more than 40 percent of the payroll expenditures. We go way beyond what the amendment even suggests.

I believe that the application of a rigid formula will do much mischief. By applying the formula which says "so much is yours," and "so much is mine," we risk a sharper polarization of staff. We encourage a greater emphasis on political affiliation rather than on technical competence.

I have long hoped that the committee staff would serve the Members, not only along ideological bipartisan lines, but along the lines of skilled professionals and craftsmen.

For example, in employing personnel for our investigation into conglomerate corporation mergers, as well as in all the other investigations we have conducted—and we have conducted many of them—in those we have undertaken I did not once ask the political affiliation of any applicant to the staff. This approach is reflected in the total staff. Many of the employees who now are considered majority employees came to my committee when the House was organized by the minority party. Consequently, there is a continuity of staff expertise. We kept them on, because they were competent, because they were dedicated, and not because they were Republicans or because they were Democrats, and not because they belonged to the minority or to the majority, but because they were worthwhile.

This rigid formula on salary allocations based on political affiliation and choice was always prohibited so far as I was concerned, and so far as my counterpart on the Republican side of my committee was concerned, the gentleman from Ohio (Mr. McCULLOCH).

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. Mr. Chairman, I thank the gentleman for yielding.

The Chairman has spoken several times about the rigidity that the amendment offered by the gentleman from New Jersey (Mr. THOMPSON) might impose. I want to be sure the chairman realizes that the amendment specifically says that they will have not less than one-third if they request it.

Mr. CELLER. I am aware of it, but there is the other word "one-third," and that is the word that is going to count most, not the least. The demand is always going to be with more emphasis on one-third, and that is what I object to.

This should not be a matter of arithmetic. This appointment of staff members ought to be a point of competence.

The use of a fixed formula in no way guarantees an equitable solution. Much depends upon the nature, the duration, and the objective of the committee. The situation should dictate staffing needs.

I believe that the proposal as is presently in the bill will work in the best interests of both the majority and minority parties.

Members should keep this in mind: That the majority staff of my Judiciary Committee and all other committee staffs serve all the members of the committee. Certainly the clerical staff who man the telephones, who keep the committee calendars, who mail the agenda, who distribute the mail, and so forth, are all charged to the so-called majority payroll but they serve all the members. Are they to be subtracted, added to, divided, and subdivided according to this formula? We see how absurd and inane this proposal becomes.

Now, as to the amendment by the gentleman from Michigan (Mr. DINGELL) to create two separate staffs, one for the majority and one for the minority, that will completely polarize the two factions. It would create greater and unnecessary dissension. Both sides would be weakened.

The greater responsibility lies with the majority. It has more members. It has to file the reports. It floor manages the bill. It leads in conference. It assumes the greater responsibility. Thus there was never meant to be any equality between the majority and the minority in that regard, and the Dingell amendment flies in the face of that theory.

I wonder, how otherwise could the majority, the majority of the people, properly discharge their responsibility?

Finally, the development should be toward a professional corps rather than a partisan or ideological division. The ideology should be controlled, by whom? The ideology should be controlled by the members, but the technique of the committee should be controlled by the staff. That should be the lodestar that governs and guides all committees.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Chairman, I will not bicker with the dean of the House with respect to his views relating to my amendment, but I should like to comment on the amendment to my amendment by the gentleman from Michigan.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. THOMPSON of New Jersey. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 2 additional minutes.

Mr. CELLER. Mr. Chairman, I do not wish more time.

Mr. QUIE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I should like to reiterate what has been said before, that there is a great deal of flexibility involved. The amendment is not inflexible as others believe.

The gentleman from New York has indicated it is inflexible. The amendment does not say it must be one-third, but it says it should be at least one-third. If there is an arrangement in the Judiciary Committee where the minority needs 40 percent, there is nothing to prevent it. However, it does insure for the minority, if they request it, that there would be at least one-third of the funds—not one-third of the staff, but one-third of the funds.

If the committee operates so that there is no ideological difference at all, undoubtedly the majority and the minority will work together on the staff and all the staff will serve all the members.

However, in many of the committees there is a philosophical difference which seems to fall along party lines. Some seem to worry that this would cause greater partisanship. I have had experience since 1959 on the Committee on Education and Labor. If any committee has had partisanship, this one has certainly had it. But back some years ago, when we had very little funds for the minority, I recall one year when the majority had 50 staff members and we had four. The chairman then fired two of our minority staff members, which really put us in an embarrassing position. If you wanted to say there was partisanship, we certainly had it that year.

We had it until we were able to secure about a third of the money for the minority. We worked much better since that time. The reason is this: Instead of resorting to partisanship, we have been able to develop the facts and come up with the kind of dialog in debate that has meaning to it.

We can use the example of the coal mine safety bill which passed this Congress. I recall in previous Congresses the coal mine safety bill legislation was fraught with complete partisanship and there was little logic to the debate. At least in this Congress, though, the House Members on both sides of the political aisle had done a very thorough study on their amendments. I think they came up with better educated arguments than had ever been pursued before.

For that reason I think this amendment makes good sense. While those of you who are now on the majority side have been on that side for most of your own careers here in the Congress, you may be on the minority side someday.

I commend the gentleman from New Jersey (Mr. THOMPSON) for the kind of forthright stand he has taken, being in the majority and sticking up for the rights of the minority, because without that kind of support we would be lost over here.

Mr. THOMPSON of New Jersey. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. THOMPSON of New Jersey. I really honestly believe that the minority should have some help, but I do not want any construction put on my amendment that in any way I anticipate or desire to be in the minority.

Mr. QUIE. I recognize the gentleman neither anticipates nor desires that. I am also enough of a realist to know that it would be just about a miracle, I guess, next fall if we had the election turn out where we would be in the majority afterward. Most of the reason for that is the fact that you do have a pretty sizable majority now and we have developed a means whereby an incumbent can reach his constituents better than ever before, so it is easier for him to stay in office than ever before, as the last few elections have indicated.

I should also point out, while it is a help to the minority, this Member of Congress does not anticipate staying in the minority forever. I hope you will be able to benefit from this amendment some day in the future.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Minnesota.

Mr. FRASER. I want to say to the gentleman that we both served in the State Senate of Minnesota. One of the reasons why I support this amendment is I found in all the years that I served in that legislature I was a member of the minority group in the State senate. I fought hard to get minority rights. I find it impossible now that I am in the majority suddenly to decide that I was wrong all those 8 years. It seems to me minimum protections for the minority strengthen the legislative process. That is why I think the amendment is a good one and I intend to support it.

Mr. QUIE. The gentleman from Minnesota learned what it was like to be in the minority while he was in the minority in the State senate, and I learned how important it is to have minority rights while serving in the Congress, but both of us recognize what some of the minorities go through, and when the majority say, "Well, we will give you what you need," it is not always sensitive to the needs of the minority.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when the Dingell amendment is disposed of, I want to serve notice that I am going to offer an amendment to the Thompson amendment which will strike out the period and insert a comma and the following words:

> *Provided further*, That this amendment shall become effective upon notification from the President that the Executive Branch of the Government will assign to the opposition party the appointment of one-third of the nonclassified personnel appointments in the Executive Departments and agencies of the Government.

Now, Mr. Chairman, if this is such a good thing, we ought to spread it around. If that amendment should fail—and I do not think it will because I am going to make the point of order and get the reformers over here; you know there are a lot of reformers around here and there are a good many of them on our side but I do not see many of them here; they want to reform but they do not want to be here when we reform. I made a speech last night in Columbus on behalf of the Democratic candidate for Attorney General in Ohio—if he lives until November he will be elected in view of what is going on out there with the Republicans trying to cut each other up—and I told them that there are certain areas in Washington where words and slogans become popular. We had the New Deal, the Fair Deal, the Square Deal, the Bull Moose, and right now it is reform. I told them last night, publicly, I said if you wanted to pass a bill to legalize prostitution, you call it a reform bill and you can get it through the House in 30 minutes.

Mr. Chairman, there is not any reform about this. I know something about professional staffs and have dealt with them over the years. We have a staff on the Foreign Affairs Committee that I can honestly tell you does a job for both sides and I have no idea as to the politics of any one of them insofar as that is concerned.

And, Mr. Chairman, another thing. Why 35 percent? If I can read the political signs right and if the Nixon depression continues, we may only have 25 percent Republicans in Congress but over there, if this passes they are going to have 35 percent of the jobs. What kind of arithmetic is that?

We have made provision in the House Administration Committee to see to it that the minority—and I supported it and voted for it and as chairman of the Subcommittee on Accounts I have said that if they get money—and we have asked every chairman and every ranking minority member who came before the Subcommittee on Accounts, "Are you satisfied with the staff arrangements? Are you getting your share? Are you agreed that you have professional people on the minority? Is the committee in agreement on how much money you want"? And not until they said they were have we given the committee chairmen any money. That is a rather recent development, but that is the fact of the matter.

Now, Mr. Chairman, all I can say is that this amendment would, if it passes, as the distinguished dean of the House said, further polarize the staffs of the committees until you get them so busy working against each other that they cannot work for the Members. I think that is what is going to happen if this amendment passes.

Mr. ARENDS. Mr. Chairman, will the gentleman yield?

Mr. HAYS. Yes, I yield to the gentleman from Illinois.

Mr. ARENDS. I join with the gentleman in his regret that those who so badly desire reform do not happen to be here this afternoon. I feel we possibly ought to send letters out to all of them, advising that if this reform bill passes and there is adopted the public teller amendment, each and every Member is going to have to be on the floor of the House for every amendment on every bill or be listed as absent in the RECORD.

Mr. HAYS. I think the gentleman from Illinois makes a fair statement and I do not think that amendment is going to pass, because I have a substitute for that which will make the vote public but which will do it in an orderly and definite way so that you will not have some clerk back there and be wondering whether he is writing down the right name or the wrong name.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Iowa.

Mr. GROSS. I would not think the distinguished minority whip would want to send that letter until he got the postal reform bill through.

Mr. HAYS. May I say to the distinguished gentleman from Iowa that if we have this bill around for another week or so—and I do not know what my distinguished friend from California is going to do—but if this thing keeps on the way it is going, I can tell you what I would do in his place. I would move that the Committee rise some evening and then I would forget to ever move that they go back into the Committee of the Whole.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not able to be present on Monday, and therefore I could not extend my congratulations to the distinguished gentleman from California (Mr. SMITH) and the distinguished gentleman from California (Mr. SISK) for the fine work that they have done in bringing to the floor this particular bill.

However, I find myself with the same feeling as my colleague on the committee, the gentleman from Missouri (Mr. BOLLING) that as good and effective a piece of legislation as I think this is, I believe it can be improved and, where it should be, we owe an obligation to offer those amendments that would improve it.

I want to express my appreciation to the gentleman from New Jersey (Mr. THOMPSON) who has offered this amendment in good faith on minority staffing.

I have the feeling that there has been an effort on the part of some to ridicule this as an unworkable and completely impossible idea and yet, if I had the time, and I do not in the brief 5 minutes that are allotted to me, I could point out that, for example, as long ago as in March 1963, we had a very distinguished group of political scientists testify before a subcommittee of our House Republican conference, and they made a statement at that time that I think is worth quoting now:

> Some have argued that an increase in minority staffing of congressional committees would jeopardize the recent "professionalization" of these staffs. We do not believe that is true. There is no reason why such "professionalization" cannot take place in a bipartisan framework. What is needed are professional staff members separately responsible to the majority and the minority. The demand that a substantially larger portion of the professional staff be responsible to the minority members is wholly reasonable and within the best democratic traditions.

And I listened with great interest to the distinguished dean of the House when he said a few moments ago that the matter of staffing is not a matter of arithmetic; it is a matter of competence—and I agree. There is nothing in the amendment offered by the gentleman from New Jersey (Mr. THOMPSON) that is in the least inconsistent with that idea. I wonder why it is that the suggestion has been made this afternoon that when the majority controls all of these funds, and has the responsibility for the hiring, that they are in every instance going to hire competent, professional, nonpartisan people, but that if the minority is granted control over one-third of the committee funds, that somehow or other they are then going to resort to partisan chicanery, and they are going to hire political hacks, they are going to hire incompetents who are there only for the purpose of stirring up partisan controversy.

I think, as the gentleman from Minnesota (Mr. FRASER) said yesterday, that the whole intent is, within the best traditions of the democratic process, to bring out those differing responses, those differing ideas that can be used on the anvil of debate so that we hammer out the very best possible legislation that we can within the committee room, and then here on the floor of the House.

So to suggest that we are going to resort to partisanship if we are given responsibilities for one-third of the funds allotted on the investigative staff of the committees, completely distorts what the gentleman from New Jersey (Mr. THOMPSON) is trying to do.

Mr. ARENDS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. ARENDS. Mr. Chairman, in view of this interesting debate on this amendment, I hurriedly did a little checking, and I note that the Committee on Government Operations has 75—I repeat—75 employees, out of which three are minority and one a clerk. That is something to chew on.

Mr. ANDERSON of Illinois. I thank the gentleman from Illinois, because it illustrates the very next point that I want to make. It is not that we in the minority feel that these people on the majority staff are going to be unwilling to help, but it is that we do not feel that they are responsive to us—you do not feel the same freedom and the same ease that I think the Members on the majority side feel when they go to a member of the staff and say, "I would like to have you research this particular point." It is very interesting to sit here, as I have done for the last day or two now, and hear people who have served in the House, as has the gentleman from California (Mr. MOSS), for 16 years, and say, "I have never known an instance where a member of the committee staff has refused any member of the minority every cooperation."

Well, for one thing I do not suppose he has gone around, like Hawkshaw, with a spy-glass, looking for any of those instances where maybe the minority has not always been able to get all the information that it felt it needed to research a particular point.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I mentioned the gentleman's name, and of course, I will be glad to yield to the gentleman.

Mr. MOSS. I only observed that the distinguished minority whip did a thorough job in checking, and who they are assigned to and their political affiliations. If he continued that, he might have learned that there are a great many more of his party working within the committee than three.

Mr. ANDERSON of Illinois. Let me close by saying that in the final report of the Joint Committee on the Organization of Congress, which was issued back in July of 1966, they said this:

> It is fundamental to our legislative system that the opposition have adequate resources to prepare informed dissent or alternative courses of action. All sides of an issue need to be forcefully presented.

That is all, Mr. Chairman, that this amendment on minority staffing is designed to do.

Mr. THOMPSON of New Jersey. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I address myself to the amendment offered by the gentleman from Michigan to my amendment, and in the course of doing so I would like to make this comment—there are a great many distinguished committees of this body and each and every one of them has a jurisdiction differing from the other, although there is some overlapping.

But every one of them is composed of different Members with different experiences, with relation to staff.

I did not intend in the slightest, as the dean of the House implied, for this to be mischievous. I simply remember, and perhaps too well, my days in my State legislature as the minority leader when we had absolutely nothing. When my party came into the majority I persuaded them that the minority should have some staffing. Since then they share, as about this amendment would do, and everything works well.

I might point out, on the Committee on Education and Labor, I am chairman of the Special Committee on Labor. The distinguished member, my good friend, the gentleman from Ohio (Mr. ASHBROOK), is the ranking member. I defy anyone to find two more divergent political philosophies or political voting records than the philosophy and voting record of my friend the gentleman from Ohio (Mr. ASHBROOK) and myself.

We have had nothing but complete and total cooperation, notwithstanding our partisan differences.

Perhaps I am not so confident, as a great many of my friends on this side of the aisle; that we can always remain in the majority? Then, if we are in the minority, that we should have nothing—that we should trust no one appointed by the other side of the aisle? I do not believe this. Certainly, I expect partisanship. Certainly, I would like, however, to see more sophisticated minority views and more thoroughly discussed issues in the committees and a better rapport in the national interest between the majority and the minority, without taking in the slightest away from the responsibility, in which I do believe in the right of the majority to rule. Because, as the gentleman from New York (Mr. CELLER) said, that is the way the people want it.

I am willing to take my chances, and the Lord only knows that I cannot stand in this well and claim to be nonpartisan—because I am not.

The gentleman from Michigan has what I characterize as a cute idea—one-third for the minority, one-third for the majority, and the last third to fall to the Chair.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I am very glad to yield to the gentleman.

Mr. MOSS. If it is so cute perhaps the gentleman could tell us how the remaining two-thirds is to be directed?

Mr. THOMPSON of New Jersey. Is it not obvious to my friend from California that if one-third goes to the minority, if you are in control, the other two-thirds goes to the majority? Are you afraid of that?

Mr. MOSS. It is not obvious to me, no more than it would be——

Mr. THOMPSON of New Jersey. I will not yield any further.

Mr. Chairman, I am not really much of a mathematician, but I think I can understand this. I do not say the gentleman from California, the gentleman from New York, the gentleman, my friend, from Ohio, who has done precisely on the Committee on Accounts what he says he has done, I do not say that their ideas are invalid, nor do I put them down. I simply say that we have a difference of opinion on this subject. I certainly respect their point of view. They disagree with mine thoroughly and articulately, and are so entitled. But that does not mean that they are impugning my motives.

I think the amendment of the gentleman from Michigan is in fact and in effect frivolous and should be defeated. That will reduce the question to my amendment. Those who agree with it, please vote for it. Those who disagree with it, please vote against it and let the House work its will.

Mr. SCHWENGEL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Jersey.

The CHAIRMAN. The gentleman from Iowa is recognized.

Mr. SCHWENGEL. Mr. Chairman, I wish to speak for the amendment offered by the gentleman from New Jersey (Mr. THOMPSON) and against any amendment to the amendment. The gentleman from New Jersey has made crystal clear the objective of his amendment. I am totally in sympathy with his approach to a solution of a legislative problem.

I have said many times that I respect this Congress because there is in it more capability and capacity in the sense of dedication on both sides of the aisle than in any Congress before in history. But it has not had a chance to come through, and one of the reasons it has not had a chance to come through and function at its best is because the minority has not had a chance. What the gentleman's amendment proposes will give us a fighting chance.

I salute the gentleman from New Jersey for his statesmanship here in this House. As I have spoken in the well of statesmanship, and many Members of the House have done so, also, I have praised the leadership on our side for having continued to study the minority staffing problem. Under the leadership of the gentleman from New Hampshire (Mr. CLEVELAND) with whom I served as a member of the Public Works Committee, we had a real and genuine staffing problem, and also on the House Administration Committee. I recognize his capability and his fairness. He has done a study of this matter. He has written an article and has a chapter in a book entitled "We Propose" on the need for increased minority staffing.

Mr. Chairman, I ask unanimous consent to have it inserted in the RECORD at this point so it can be read by all Members of the Congress.

The CHAIRMAN. Is the statement that the gentleman is requesting to be printed in the RECORD his own statement?

Mr. SCHWENGEL. Yes.

The CHAIRMAN. Without objection, it is so ordered.

Mr. HAYS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Ohio will state his parliamentary inquiry.

Mr. HAYS. I thought the gentleman said that it was the statement of somebody else.

Mr. SCHWENGEL. It is.

The CHAIRMAN. The Chair inquired of the gentleman if it was his own statement. Is it the statement of the gentleman in the well?

Mr. SCHWENGEL. It is not.

The CHAIRMAN. Then the gentleman from Iowa will have to request permission for that statement to be printed in the RECORD when we go back in the House.

Mr. SCHWENGEL. At the proper time I will make that request.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. SCHWENGEL. I yield to the gentleman from Ohio.

Mr. HAYS. The gentleman made a very interesting statement. He said that he thought the amendment which would give the minority one-third of the employees would give them a fighting chance. What percentage does the gentleman think he would have to have to give them a chance?

Mr. SCHWENGEL. Well, my proposal is—and it is in bill form before the Congress and it is the result of rather thorough study—it would be at least 40 percent, but I am willing to buy this. I think it is a significant step forward.

If we want to make this the kind of effective Congress that it can be and should be, I think we ought to take the amendment without amendment. It sets a wonderful precedent for the House.

It aids and abets also and is central also to what I call the adversary system that we are used to in America. Better opposition—and I think this is true and political scientists agree on it—produces better legislation in the finality. If the opposition has adequate staff to propose good legislation, this forces the majority to produce a superior product, and then we will have to choose the better of two ideas or propositions which are presented.

So I think if we want to improve the Congress and its opportunity to function at its best, we have got to give the minority a chance. This amendment is sound, because it does not interfere in situations such as the gentleman from New York referred to in his committee, where they have recognized the minority rights and given the minority an opportunity to function properly, and out of his committee has come some pretty significant and meaningful legislation through the years, and I think it is an example that it works.

So, Mr. Chairman, I sincerely hope we will give sincere consideration to the amendment, and that we will vote against the amendment to the amendment.

Mr. PODELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am opposed to the amendment to the amendment offered by the gentleman from Michigan for precisely the same reason that I have opposed the amendment offered by the gentleman from New Jersey. It strikes me we are embarking upon a day or a week or perhaps weeks of legislative reorganization and we hope legislative reform, and it is truly a great day for our House. But to bog down the debate on true legislative reform with an argument over the patronage system to me seems to be completely inconsistent.

The notion that by adding more Republican Members to the committees, we will have a more representative type of government representing the people of our country is inconsistent both in fact and in ideology. I think we should look forward to having a type of legislative in which the staff of our committees will be hired on merit and ability of men to serve rather than on their political party. Certainly we will be departing from what I consider to be legislative reform to go back to a system in which party affiliation is more important than merit.

I had served 14 years in the State legislature, 12 of them under Republican control. We were lucky to be given a seat in the house at that time. I think that was unfair. What we should do is strike from our rules any question of political party insofar as employees or staff are concerned.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. PODELL. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, the gentleman knows, being a member of the House Committee on Administration, that we have in effect for all intents and purposes a rule that requires the majority and the minority to get together and negotiate out the status of the staff. It does not tie it to any hard and fast percentage. The gentleman is also aware that we do not give them any money until they both come in and say they are satisfied and that the negotiations have been successfully concluded.

So I am agreed in principle with what the gentleman is saying. I merely made a speech about this proposed amendment, because I wanted to show how consistent the minority would be when it came to truly dividing up the jobs. They want a third of them here, but they do not want us to have any of them downtown. I do not say all of them, because the distinguished gentleman from California, I think, made a very brilliant presentation.

I agree with him. He is one exception, but I would say those who vote for this amendment on the minority side ought to, if they really believe it, then vote for my amendment, and I simply offer it in the spirit of finding out who is consistent and who is being political.

Mr. PODELL. Mr. Chairman, I thank the gentleman.

Finally we must give additional credence to the possibility of having the Republican Party, should this amendment prevail, having filled its one-third complement, and then a man appearing before the committee with all the expertise the committee absolutely requires, and being denied the opportunity to serve merely because the Republican complement has now been completed.

For these reasons we should go back to the business of reforming our legislature without reference to the patronage system.

Therefore, I oppose both amendments.

Mr. RIVERS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, this amendment should be defeated.

We have the Armed Services Committee. We do not even have a minority committee room in our committee. I do not have any idea of the political feelings of the staff. I do not know which party they belong to. I understand the chief counsel is a Republican.

What we are interested in is security. How in the name of goodness could we segregate our staff and find out what their beliefs are and then go out and get security clearance on a lot of people? What we want are people who are dedicated to America.

We never discuss that. If anybody raises the question of politics in our committee he gets shouted down. It has seldom happened—perhaps once since the committee was formed.

We could not do a thing like this. This is ridiculous. It is absurd to go out here with 30 percent this and 30 percent that. It just could not happen.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. RIVERS. Of course I yield to the distinguished gentleman from Illinois.

Mr. ANDERSON of Illinois. I appreciate the complete sincerity of the gentleman now in the well, and I am sure he is stating the absolute fact when he says he is not aware of the political affiliation of those employed on the staff of the Armed Services Committee. That is the way it should be.

I wonder why it is that the gentleman, as so many others on this side of the aisle this afternoon, has jumepd to the conclusion that if the minority have the responsibility of one-third of the funds for the investigative staff they would be more inclined to regard partisanship as the main consideration in hiring somebody? I believe the gentlemen ought to give us credit for having the same desire as they have to maintain a nonpartisan staff on a committee concerned with national security.

Mr. RIVERS. I am delighted the gentleman asked that. We have an investigative committee, and we are interested in getting the job done. We do not ask the employees what their political persuasions are.

To get out here and say, "I will take one-third of you, and I will take one-third of you, and I will take one-third of you" is the most ridiculous thing I have ever heard of.

Never having been exposed to it, I do not know what you are talking about.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield further?

Mr. RIVERS. Of course I yield further.

Mr. ANDERSON of Illinois. It is not a question, as I tried to point out earlier, of partisanship. It is a question of having the minority secure in the feeling that they have a portion of the staff who are responsible to them.

Mr. RIVERS. We do not have a minority on our committee. I do not know what this talk is all about. We have a group of dedicated Americans who are trying to keep this country free. We could not live under this amendment.

Ask the distinguished minority whip. I do not know what this talk is all about.

Mr. ARENDS. Mr. Chairman, will the gentleman yield?

Mr. RIVERS. I yield to the distinguished gentleman from Illinois.

Mr. ARENDS. What the gentleman from South Carolina says about our committee staff is absolutely true. I myself, the same as the gentleman, do not know whether they are Republicans or Democrats. I have never bothered to ask, because we have one concern on that committee, and that is what is best for the United States from the standpoint of our military posture.

Mr. RIVERS. I have observed one thing. We adopt our rules and we live by them. Whenever anything comes up, I follow the rules of the House. I go and talk with the gentleman from Illinois (Mr. ARENDS) who represents the minority, and then we decide what we are going to do in the committee. We have never heard any more about the minority. We could not live under a silly thing like this. It just could not be done.

Mr. BLACKBURN. Mr. Chairman, will the gentleman yield?

Mr. RIVERS. Of course I yield to the gentleman from Georgia.

Mr. BLACKBURN. I appreciate the gentleman's yielding. I must say I admire the way in which the gentleman's committee operates. Unfortunately, all the committees of the House do not have that same commonality of purpose and method as the gentleman's committee.

Mr. RIVERS. Let me answer by saying:

> And while the lamp holds out to burn,
> The vilest sinner may return.

We may be prophets without honor.

Mr. BLACKBURN. If the gentleman

will yield further, I would say that on our committee we have some very fine staff people on both sides, the minority as well as the majority. I can assure the gentleman that on the Committee on Banking and Currency everything in the committee becomes a partisan issue to a very distressing degree. If every committee operated like that of the gentleman in the well, this amendment would not be necessary, but unfortunately I find that they do not, and therefore I support this amendment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. RIVERS was allowed to proceed for 1 additional minute.)

Mr. RIVERS. Of course, I do not question the gentleman, but I just never sat on a committee like that, and if it is as you say, then go ahead and pass it. We will have trouble living under it, but if it will change some of the things that you say exist, go ahead and pass it. I cannot live under it, but go ahead and pass it. We do not need it. I thought this bill here was for the purpose of expediting the business of the House. If there ever came a bill before this House that will foul it up in more ways than a country boy can go to town, I have not found it. I do not know when we have had one like this.

Let me tell you something else. Take the $20 billion authorization bill that we reported out of our committee. It would take us so long to get that bill out of committee that I think I could retire on that one bill in our committee if you followed out some of the things that are being adopted here. The thing to do as the gentleman from Ohio (Mr. HAYS) said, is to give this thing a respectful burial and forget it.

Mr. SISK. Mr. Chairman, I move to strike the last word.

I will not take the 5 minutes. I rise to see just where we stand. I have had a number of compliments from Members that we have not attempted to cut off time, and I am not here attempting to cut off time, but we have been on this amendment now for quite some time yesterday afternoon and today. All I am seeking to do here is to determine how many speakers we have left and see if we can get unanimous consent for a time certain for a vote this afternoon, because there are Members, I am sure, who would like to attend to other business over the weekend. How many Members desire to speak, so we can have an idea of what is possible?

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman.

Mr. GIBBONS. All I want is 2 minutes. I will not ask for 5.

Mr. SISK. Mr. Chairman, I ask unanimous consent that we vote at 4:20 with a reservation of 5 minutes for the gentleman from Missouri.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. ANDERSON of Illinois. Mr. Chairman, reserving the right to object, I did not hear the time.

The CHAIRMAN. The gentleman will state the time again.

Mr. SISK. Mr. Chairman, the unanimous consent request was that we vote at 20 minutes after 4, with 5 minutes reserved for the gentleman from Missouri who would like to speak on it.

The CHAIRMAN. On the pending amendment before the Committee of the Whole and all amendments thereto?

Mr. SISK. That is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, I take this time to address myself to the remarks of the gentleman from Illinois because he seemed somewhat puzzled by the response from the previous speaker in the well.

The system that is advanced here by the previous speaker in the well is known as the "angel system of government." Those who are above politics do not need rules. Laws are not needed in a society of angels. But maybe, just maybe, Congress does not consist of angels. Therefore, I urge rule by law here, rather than "rule by man"—even "the Man." That is why I support the amendment by the gentleman from New Jersey. Good will is a fine thing. But just in case we are dealing with men and women here, and not angels, let us put fair play in writing. That way we will be sure not to forget. I think committee chairmen would find they could live with it, perhaps not live it up so much. But do not shed a tear. Life can go on—maybe even be beautiful—for more people.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, this discussion appears to be getting cast in terms of partisanship. I do not think it is partisan at all. Our goal here is to have a workable set of rules under which this body may operate. The fragmenting of any staff is extremely bad. I think every member of every committee should be able to call to the fullest extent upon members of the committee staff. I recognize the need for minority staffing.

Mr. Chairman, I would call the members of the Committee's attention to the committee language which appears on page 75 of the bill and which sets out what we should have in the way of committee staff. It says:

> (3) The professional staff members of each standing committee—
>
> (A) Shall be appointed on a permanent basis, without regard to political affiliation, and solely on the basis of fitness to perform the duties of their respective positions;

That is what the committee staff should be, whether it be professional or investigative, and any language which would change that fundamental concept would usurp and would inject a partisan viewpoint and any partisan viewpoint in the hands of the staff would be bad.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, before we go further, let me read. The Thompson amendment is on page 23, line 14, and reads as follows:

> The minority party of any such standing committee is entitled to, upon request, not less than one-third of the funds provided for the operation of that committee.

That means in a case where you operate largely on a bipartisan basis, where you operate with a chairman who is able to perform in that manner, you do not have to divide the funds and the minority, perhaps, would not ask for them.

Mr. Chairman, I serve on the Subcommittee on Accounts of the House Administration Committee and there are committees where there is no problem like this. But, there is definitely a problem here and in my opinion the long debate which we have had on this subject has pointed it out.

Mr. Chairman, I would urge and remind my fellow colleagues on the majority side that the tables can always turn but I hope they will not turn. However, I think it would be a good idea to set a constructive precedent now. I urge the adoption of the Thompson amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. LOWENSTEIN).

Mr. LOWENSTEIN. Mr. Chairman, all of a sudden "nonpartisanship" is the cry on every venerable Democratic lip, and the glories of the two-party system are all but forgotten. Well, I am not a very partisan Democrat, but neither am I clear about why defeating this amendment is the way to show a nonpartisan spirit. Some Republicans might even suspect that the purpose of all this sudden enthusiasm for nonpartisanship is to deny Republicans reasonable representation on committee staffs while jobs are saved for Democrats. That, by coincidence or not, is the effect of defeating this amendment in the noble pursuit of "ignoring party labels."

But the question arises, if committee staffs should be nonpartisan, why should not committees? Should we not elect chairmen—and maybe the Speaker—in the same nonpartisan spirit? I do not remember much enthusiasm among some of today's most vociferous nonpartisans when some of us mentioned such a possibility a while ago. And how about choosing the membership of this body? Maybe we too should seek our jobs without party labels. That might not be a bad idea, at least for those of us who must run in districts where the other party is the majority party.

As long as we get here by party, and sit on committees by party, I can see no excuse for denying representation in staff personnel to both parties. Somehow, this view seems to me consistent with genuine nonpartisanship. In fact, those who have espoused nonpartisanship here today ought to listen to their own eloquence and join me in voting for this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. SCHWENGEL).

Mr. SCHWENGEL. Mr. Chairman, I rise in support of the amendment without amendment. The minority staffing provisions of the bill be stricter in order that the spirit of the new rule cannot be violated. I assure the members of the Rules Committee which reported this bill that I appreciate their work on this aspect, but I and several of my colleagues of both parties have discovered a loophole in the proposed rules which we believe must be plugged.

The minority party has been severely hampered in past years, particularly with the increase in the workload and the complexity of our problems, because of inadequate staff on the committees. As a group of distinguished political scientists has said:

> To deny the Minority in Congress access to adequate representation on Committee staff eliminates the opportunity for a minority to act responsibly after a careful examination of the problems under consideration.

The minority party has been forced to act with a lack of adequate data and evaluation in several subject areas, and has, as a result, often been unable to offer complete and complex alternatives to legislation.

The members of the Rules Committee have evidently seen the need for an active and competent loyal opposition in order to improve our alternatives, and they have seen fit to take a step in the direction of solving the problem in the current bill. As the chairman of a Republican conference subcommittee which studied the problem of minority staffing, I have become quite well acquainted with the subject, and I and several of my colleagues, particularly my fellow Republican Mr. CLEVELAND and two of our Democrat counterparts, Mr. THOMPSON and Mr. WAGGONNER have discovered some cracks in the wall, and we are working to fill them with this amendment.

Though it is true that there are no minority staffing problems on many committees, there are some which have proved unacceptable. Specifically, the problem is that the staff hired by the minority is subject to the veto of the entire committee, which gives the majority party the power to deny competent personnel to the minority. This flaw is unacceptable, as, I am sure, the majority party would agree if the minority were to have a veto over its staff. I would hasten to add that the present majority party may not always enjoy such status.

Our amendment provides for the separate hiring by either party of the allotted number of staff personnel. Neither party will have a say in whom the other shall appoint to its professional or clerical positions. This provision would be extremely helpful in the minority's attempt at fulfilling the role of a loyal opposition, thereby contributing to the upgrading of the legislation which would result from an improved and more dynamic adversary system.

This change is relatively minor, particularly in view of the enormous benefits which would accrue. The current situation, in which the majority has a veto power, distresses me, and I ask your support in changing the bill to permit the minority sole hiring and firing power over the minority staff. This amendment stems from a bipartisan effort and is supported by a broad spectrum of the Members. I ask you to join us in this effort.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. I rise in opposition to both the Thompson and Dingell amendments. I think this idea of allocating at least one-third of the staff of each committee to the minority is a dangerous precedent, regardless of which party might now or hereafter be in control of the Congress or either of its branches.

If there are committees where the minority is inadequately staffed to assist it in carrying out its responsibilities to the people, then we should do something about the situation on those particular committees. But let us not saddle all of the legislative committees in the Congress with two separate and distinct staffs. Where any minority, whether they be representatives of a political party or within a political party, needs staff help to enable them to get their job done, they should have it, and on the vast majority of the committees in the Congress, I am told that they do have it.

I happen to have the privilege and responsibility of chairing an investigative subcommittee of the Committee on Government Operations. Fortunately, under present circumstances, with the splendid minority membership we have on that subcommittee, I would have no fears of their unwise use of any additional staff they may need. We have wonderful cooperation on that committee, and a nonpartisan experienced professional staff. The gentlewoman from New Jersey (Mrs. DWYER) is the ranking minority member of our subcommittee and of the full Committee on Government Operations. We also have among the minority the gentleman from Ohio (Mr. BROWN) and the gentleman from Michigan (Mr. VANDER JAGT). They are not only among our most able and competent members, but they have been nonpartisan in their labors. Ours has been a nonpartisan committee.

It has not mattered which administration has been in power. We have endeavored to exercise our surveillance responsibilities over the agencies under our jurisdiction without regard to the political affiliation of their heads, or of the party in power. I think this has been substantially true with every other subcommittee of the Committee on Government Operations.

Let me emphasize—ours is an investigative committee which requires experienced nonpartisan professional people whose concern is objectivity and whose dedication is to honest and efficient government service. Our investigations are the responsibility of the majority of the members of that committee, and especially the members of the majority political party. For one subcommittee or a committee to have two separate investigative staffs which may feel obligated to oppose or check on each other and make separate investigations could result in an extremely costly and unwieldly situation.

Whether the professional staff members be Republicans or Democrats, no committee can do an adequate job unless the members of a staff work together. This has been the case on our subcommittee and the staff have been accessible to all members of the subcommittee—Democrats and Republicans alike. In addition, there is the minority staff which has limited responsibilities—primarily to assist the minority members. And if a particular committee has not provided adequate staff for the minority for that purpose then we should do something about that particular situation.

On the Government Operations Committee, for example, I feel sure that the gentleman from California (Mr. HOLIFIELD), who will be permanent chairman of that committee during the next Congress, if our party is still in power—and other members of the majority party, will cooperate with the minority members to the end that they have adequate staffs. The distinguished minority leader of our committee, the gentlewoman from New Jersey (Mrs. DWYER) will have no problem in this respect. I am sure she would treat us the same way. The House Administration Committee has helped this situation and will, I am sure, continue to do so where there are justified complaints. If inequities exist and are not corrected by the committee themselves, then the House can act.

I am satisfied that no member of the minority of the subcommittee which I happen to chair, will contend that he or she has not had full access to the professional staff of our subcommittee in addition to their own minority staff, and all of the records and facts uncovered by the full committee staff. While we have had wonderful relations with the splendid members of the minority party now serving on the Government Operations Committee, I am fearful that an increase in personnel in excess of the actual needs of a minority of whichever party, regardless of which political party may be in control of the Congress, could well lead to a lot of unnecessary trouble, confusion, and even embarrassment to the minority members, as well as to the Full Committee. You see the majority members have no special staff. The staff are actually supervised by committee chairmen on behalf of the full committees. So in a way, the minority already have an advantage over the other members.

I think all of us who have had chairmanship responsibilities on investigative committees, can well appreciate the inherent dangers of opening the door of opportunity to partisanship among staff members. It took us on the Government Operative Committee years to get this kind of staff. They are hard to keep. They are dedicated to the Congress and to the members of the committees on which they serve. I can not speak as strongly about legislative committees as I can about the Investigative Committee on Government Operations; but on that committee, I am satisfied there should be—in fact effective action requires—cooperative understanding not just among all committee members, but between the staff seeing the full committee and the limited staff selected to serve just the minority. It is an erroneous impression to conclude that because one political party is in power, the staff selected by the majority party serves only the majority. They serve all of the members, while those selected primarily to assist the minority serve the minority. That is as it should be.

Let me emphasize again that I strongly support an adequate staff primarily for the minority members on a committee to assist them in research, in the preparation of their own views, and so forth, but not the right to "at least a third" of the entire staff on a committee or such a large staff that it could well become a stumbling block to the efficient and effective assumption by the full committee or subcommittee of their responsibilities to both the Congress and the American people.

Again, if there are inequities or injustices, let us eliminate them. If the full committees do not do it, let us do it here in the House, but let us not saddle all the committees of the Congress, and this Congress with a new staff quota system which we may live to regret. The rules we are about to adopt may well be the rules of this House for many years to come. Let us be careful not to adopt an expensive and unworkable patronage staffing system. We have already had enough unhappy experiences with some of the antiquated rules we now have.

Although all of us are elected to the Congress as members of a particular political party, once we get here and are assigned to committees, as members of those committees, we have a responsibility to the entire Congress and to all of the American people.

I therefore urge my colleagues to vote against these amendments and wherever there are inequities, let us deal with them individually, without imposing upon every committee an expensive and rigid staffing system which is neither wise nor necessary.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Miller).

Mr. MILLER of Ohio. Mr. Chairman, during yesterday afternoon, and also today, we have heard a great deal of debate and discussion about a particular amendment. It seems that we have gone down the road quite a distance, and we are only on page 23.

If we are interested in really reforming and improving the operation of the legislative branch of the Federal Government we should get on with the business, because if we become bogged down with every amendment like we are today we undoubtedly will take the rest of the year just trying to unravel what we are entangling so quickly.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Smith).

(By unanimous consent, Mr. Smith of California yielded his time to Mr. Bolling).

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. Bolling.)

Mr. BOLLING. Mr. Chairman, the subcommittee that dealt with this matter for 15 months anticipated this debate, and it has heard nothing new, and there have been no surprises. We heard all of the same things said, almost, either in the open hearings or in statements presented to us in public and private and other fashion .

It is very clear that there is a very considerable division in the House, and an honest division, as to the way in which we should staff our committees.

Now, it is important to clarify a few things. I am sure more by accident than otherwise, a Member or two misrepresented the final report of the Joint Committee on Organization. The Joint Committee on Organization consistently held to the view which is expressed in its final report on page 22:

> In seeking to provide protection for the minority, it would be an error to divide the entire staff of each committee along partisan lines, or to require a staff allocation for the minority proportionate to its representation on the committee . . .

The evidence, the testimony of those who have studied this the longest, and who are completely objective in their approach in that they are outside the institution, is that it is a mistake to go to a partisan staff.

It is a mistake in two ways.

First, it tends to exacerbate the natural divisions that exist in a basically two-party legislative body.

Curiously enough, to all of us who are partisan, the fact of the matter is that the public interest is not necessarily the sum of the reconciliation of the differences between the two parties. It may be something less—it may be something more.

But those of us on the subcommittee and the full committee recognize the validity of the point made, that the minority should be "protected."

It is ridiculous to talk of a committee staff as the only resources available to the majority or the minority. We all know that we have all kinds of resources other than those that reside here on the Hill. I, for example, can call on any economist in the United States, because I have been for 20 years a member of the Joint Economic Committee, and he will be delighted even to come to Washington to discuss a serious problem.

I have had that experience recently as chairman of the subcommittee of the Joint Economic Committee, I took a trip last fall to look at regional planning and housing. The best qualified staff member of the joint committee available to me was a Republican. We had a fine trip and we made a useful report.

I think we have lost our approach. As soon as you provide one-third for the minority, then you inevitably respond with two-thirds to the majority. This particular amendment goes to a particular kind of staffing. It is the kind of staffing that is taken care of not by law but by resolution, which is then implemented through a resolution of the Committee on House Administration. It is the special staff over and above the standard staff, and it is clear that the Committee on House Administration in a flexible fashion is taking care of the problem.

On the permanent staff the committee has a proposition which has the virtues of protecting the minority and yet leaves in the hands of the majority, which is responsible for the organization of the Congress and the organization of the committee, the final say.

In that language it is absolutely clear to any fairminded person that the standing regular professional staff of six shall include the minority chosen members. The only reservation is that they perform on good behavior—not on a policy question—but that they be people of good character and of proven qualifications.

This was the conclusion that was arrived at unanimously by the only group of people who heard any Member of the Congress who desired to be heard. We had open hearings and not as many showed up there as we had hoped—any more than there are as many people on this floor as we had hoped.

It was a unanimous decision on a bipartisan basis. We are completely convinced that we came to a solution, as proposed by the Joint Committee on Organization, which will best serve the Congress and the Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. Dingell) to the amendment offered by the gentleman from New Jersey (Mr. Thompson).

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. Thompson).

The question was taken; and on a division (demanded by Mr. Sisk) there were—ayes 78, noes 53.

Mr. SISK. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. Thompson of New Jersey and Mr. Sisk.

The Committee again divided, and the tellers reported that there were—ayes 105, noes 63.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PUBLIC NOTICE OF COMMITTEE HEARING

Sec. 111. (a) (1) Part 3 of title I of the Legislative Reorganization Act of 1946 (60 Stat. 831) is amended by inserting immediately after section 133 thereof the following new section:

"SENATE COMMITTEE HEARING PROCEDURE

"Sec. 133A (a) Each standing, select, or special committee of the Senate (except the Committee on Appropriations) shall make public announcement of the date, place, and subject matter of any hearing to be conducted by the committee on any measure or matter at least one week before the commencement of that hearing unless the committee determines that there is good cause to begin such hearing at an earlier date.".

(2) Title I of the table of contents of the Legislative Reorganization Act of 1946 (60 Stat. 813) is amended by inserting, immediately below the item relating to section 133 contained in that title, the following:

"Sec. 133A. Senate committee hearing procedures.".

Mr. SISK (during the reading). I ask unanimous consent to dispense with further reading of the portion of this section dealing with the other body and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will read the remainder of the section.

The Clerk read as follows:

(b) Clause 27(f) of Rule XI of the Rules of the House of Representatives is amended to read as follows:

"(f) (1) Each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any hearing to be conducted by the committee on any measure or matter at least one week before the commencement of that hearing, unless the committee determines that there is good cause to begin such hearing at an earlier date. If the committee makes that determination, the committee shall make such public announcement at the earliest possible date. Such public announcement also shall be published in the Daily Digest portion of the Congressional Record as soon as possible after such public announcement is made by the commmittee.".

OPEN COMMITTEE HEARINGS

SEC. 112. (a) Section 133A of the Legislative Reorganization Act of 1946, as enacted by section 111(a) of this Act, is amended by adding at the end thereof the following new subsection:

"(b) Each hearing conducted by each standing, select, or special committee of the Senate (except the Committee on Appropriations) shall be open to the public except when the committee determines that the testimony to be taken at that hearing may relate to a matter of national security, may tend to reflect adversely on the character or reputation of the witness or any other individual, or may divulge matters deemed confidential under other provisions of law or Government regulation.".

(b) Clause 27(f) of Rule XI of the Rules of the House of Representatives, as amended by section 111(b) of this Act, is further amended by adding at the end thereof the following new subparagraph:

"(2) Each hearing conducted by each committee shall be open to the public except when the committee, by majority vote, determines otherwise.".

STATEMENTS OF WITNESSES AT COMMITTEE HEARINGS

SEC. 113. (a) Section 133A of the Legislative Reorganization Act of 1946, as enacted and amended by section 111(a) and 112(a) of this Act, is further amended by adding at the end thereof the following new subsections:

"(c) Each standing, select, or special committee of the Senate (except the Committee on Appropriations) shall require each witness who is to appear before the committee in any hearing to file with the clerk of the committee, at least one day before the date of the appearance of that witness, a written statement of his proposed testimony unless the committee chairman and the ranking minority member determine that there is good cause for the failure of the witness to file such a statment in compliance with this subsection. If so requested by any such committee, the staff of the committee shall prepare for the use of the members of the committee before each day of hearing before the committee a digest of the statements which have been so filed by witnesses who are to appear before the committee on that day.

"(d) After the conclusion of each day of hearing, if so requested by any such committee, the staff shall prepare for the use of the members of the committee a summary of the testimony given before the committee on that day. After approval by the chairman and the ranking minority member of the committee, each such summary may be printed as a part of the committee hearings if such hearings are ordered by the committee to be printed.".

Mr. SISK (during the reading). Mr. Chairman, I ask unanimous consent to dispense with the reading of that portion of this section which deals with the other body and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will read the remainder of the section.

The Clerk read as follows:

(b) Clause 27(f) of Rule XI of the Rules of the House of Representatives, as amended by section 111(b) and 112(b) of this Act, is further amended by adding at the end thereof the following new subparagraph:

"(3) Each committee shall require, so far as practicable, each witness who is to appear before it to file with the committee, in advance of his appearance, a written statement of his proposed testimony and to limit his oral presentation at his appearance to a brief summary of his argument.".

CALLING OF WITNESSES SELECTED BY THE MINORITY AT COMMITTEE HEARINGS

SEC. 114. (a) Section 133A of the Legislative Reorganization Act of 1946, as enacted and amended by section 111(a), 112(a), and 113(a) of this Act, is further amended by adding at the end thereof the following new subsection:

"(e) Whenever any hearing is conducted by any such committee of the Senate (except the Committee on Appropriations) upon any measure or matter, the minority on the committee shall be entitled, upon request made by a majority of the minority members to the chairman before the completion of such hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.".

Mr. SISK (during the reading). Mr. Chairman, I ask unanimous consent to dispense with the reading of that portion of section 114 which deals with the other body and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will read the remainder of the section.

The Clerk read as follows:

(b) Clause 27(f) of Rule XI of the Rules of the House of Representatives, as amended by section 111(b), 112(b), and 113(b) of this Act, is further amended by adding at the end thereof the following new subparagraph:

"(4) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the chairman by a majority of those minority party members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.".

POINTS OF ORDER WITH RESPECT TO COMMITTEE HEARING PROCEDURE

SEC. 115 (a) Section 133A of the Legislative Reorganization Act of 1946, as enacted and amended by section 111(a), 112(a), 113(a), and 114(a) of this Act, is further amended by adding at the end thereof the following new subsection:

"(f) Whenever any such committee of the Senate (except the Committee on Appropriations) has reported any measure, by action taken in conformity with the requirements of section 133(d) of this Act, no point of order shall lie with respect to that measure on the ground that hearings upon that measure by the committee were not conducted in accordance with the provisions of this section.".

(b) Clause 27(f) of Rule XI of the Rules of the House of Representatives, as amended by sections 111(b), 112(b), 113(b), and 114 (b) of this Act, is further amended by adding at the end thereof the following new subparagraph:

"(5) No point of order shall lie with respect to any measure reported by any committee on the ground that hearings upon such measure were not conducted in accordance with the provisions of this clause; except that a point of order on that ground may be made by any member of the committee which has reported the measure if, in the committee, such point of order was (A) timely made and (B) improperly overruled or not properly considered.".

Mr. SCHWENGEL. Mr. Chairman, I herewith call to the attention of my colleagues and others a dissertation on minority staffing authored by a distinguished Member of Congress Mr. JAMES CLEVELAND of New Hampshire, with discussion on congressional reform. They are pertinent and valuable for all who are interested in a more effective Congress.

[From "We Propose: A Modern Congress"]

THE NEED FOR INCREASED MINORITY STAFFING

(By JAMES C. CLEVELAND, M.C.) *

INTRODUCTORY NOTE

The adequacy of congressional staffing in a broader sense involves the continuing efficacy of Congress *vis-à-vis* the President. The survival of representative government is directly at stake.

In many areas of the world during recent years, we have witnessed a decline in the power of established parliaments and a shift of that power to the executive. The subordination of the power of newly established parliaments to the executive in the emerging nations of Africa and Asia underscores that trend. One of the most notorious instances of a decline in the power of an established parliament occurred recently in France, where the French people, with apparent willingness, accepted the transfer of important powers from the legislature to the executive.

It should be pointed out to those who can watch a drift away from representative government with equanimity, that it was such a trend which paved the way for the ascendancy of Hitler. Lack of representative government is also a characteristic of the Communist-dominated countries of today.

The need for establishing new rules in Congress to insure the minority party an adequate supply of professional staff on committees is of overriding importance. It must be met promptly if Congress is to fulfill its constitutionally assigned functions as a coequal branch of government.

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* Mr. Cleveland represents the 2nd Congressional District of New Hampshire. Before his election to Congress in 1962, he served 12 years in the New Hampshire State Senate where he was Majority Floor Leader for four years, Chairman of the Judiciary Committee and, at various times, a member of eight additional committees. In Congress he is a member of the House Public Works Committee and was recently named to the Joint Committee on the Organization of Congress succeeding former Rep. Griffin, now a U.S. Senator. Mr. Cleveland's wife, Hilary, teaches Government and History at Colby Junior College for Women in New London, N.H., the Clevelands' home.

This is a problem that has engaged and troubled many minds, inside Congress and out, in partisan and nonpartisan context, for many years. The work of this chapter is founded on much preceding labor by many hands as well as on my own experience and observations.

While it would be impossible for me to acknowledge everyone who has contributed to the development of this issue, I do wish particularly to acknowledge the work of the Honorable Fred Schwengel of Iowa, who was Chairman of the old House Republican Conference Subcommittee on Increased Minority Staffing, the predecessor to the present Task Force. I also wish to acknowledge the invaluable work of Miss Mary McInnis, staff assistant to the present Task Force. * * *

The serious threat to an effective Congress, and therefore to representative government itself, which is posed by the lack of adequate staff for the minority has not been fully understood, even by some members of the minority. Interest and concern is growing, however, and the time is not far off when, I believe, the majority of both parties in Congress will realize what adequate minority staffing would really mean for them in terms of increasing *their* effectiveness—and that of representative government.

One of the best statements of the issue was published on March 15, 1963, by the Schwengel Subcommittee and signed by the following political scientists: Dr. Robert J. Huckshorn, Bethesda, Maryland; Dr. Howard Penniman, Chairman, Department of Government, Georgetown University; Dr. Franklin Burdette, Bethesda, Maryland; Dr. Brownlee S. Corrin, Goucher College, Baltimore, Maryland; Dr. George Carey, Georgetown University; and Dr. Russell Ross, University of Iowa. I quote it here in full:

"POLITICAL SCIENTISTS' STATEMENT ON MINORITY STAFFING

"The committee staff function at the congressional level is not being fulfilled. And a failure to do so is not only unfair, but it is a threat to the tradition of representative government. Responsibility for this condition falls upon the Democratic Party leadership in Congress.

"To deny the Minority in Congress access to adequate representation on Committee staffs eliminates the opportunity for a minority to act responsibly after a careful examination of the problems under consideration. Congressmen, in this difficult and complex period of our history, require access to data and evaluation in those subject areas to which they are given responsibility as Committee members. It is obvious that this work cannot be placed regularly with their own office staffs, which have functions very different from those of a Committee. It is obvious, in light of policy formulation patterns at all levels of government, that the adversarial technique of law and politics in this country requires a personal relationship in which a congressman can develop confidence with the professional staff members. This is why, of course, the President has a high degree of control over his White House staff, as well as at many policy-making levels in the Executive Departments.

"Some have argued that an increase in minority staffing of congressional committees would jeopardize the recent 'professionalization' of these staffs. We do not believe that this is true. There is no reason why such 'professionalization' cannot take place in a bipartisan framework. What is needed are professional staff members separately responsible to the majority and the minority. The demand that a substantially larger portion of the professional staff be responsible to the minority members is wholly reasonable and within the best democratic traditions.

"Congressional committee staff members are not intended to serve the same function as staff members in the Legislative Reference Service. Nor should they. The Committee staff must possess high levels of competence. It is equally important, however, that there exists mutual confidence between the congressmen and the staff members. This confidence is not possible when a minority party, be it Democrat or Republican (and there is always the possibility of reversal of role), does not have access to adequate and qualified professional staff members of its own selection.

"The existing position is more than unfortunate; it is a subtle denial of freedom of effective speech, of which Congress as a body purports to be justly proud. It hinders reasoned debate that alone can lead to just solution of legislative problems. It prevents the minority from carrying out its major democratic function of knowledgeable criticism.

"The country cannot afford gamesmanship or petty, cheap politics at the congressional level. Yet, we are witnessing an outstanding example of partisan pettiness in the denial to the minority in Congress the right to exercise its legislative function by refusing to grant it necessary staff support."

The issue has also engaged the earnest attention of thoughtful members of the present majority party. In his testimony before the Joint Committee on the Organization of Congress, Rep. John S. Monagan (D., Conn.), stated:

"The capacity of the minority to examine and criticize should not be abridged, but should be preserved as a basic strength of our system."[1]

In the course of these same hearings, Rep. David S. King (D., Utah), expanded this line of thought: ". . . a formula must be found for balancing the personnel of the committee staffs more equitably between the majority and minority parties. . . . In my opinion, the balance of personnel between the two parties on the committee staffs should more nearly approximate the division of party strength in the House itself. . . ."[2]

One more quotation will help set forth the urgency of the issue. Dr. James A. Robinson, professor of political science at the University of Ohio, writes:

"It is not fairness, however, that constitutes the most compelling argument for providing minorities with a staff almost equal in number with that of the majority. The best argument is that the improved performance of the minority members helps to strengthen the legislative way of life. If the majority party becomes increasingly aligned with the executive branch . . . then we must look to the minority to check the majority and in so doing to provide the necessary counterbalance to executive power. Hence, generous allocations of minority staffing are essential to the normative theory of Congress."[3]

The present situation is deplorable. Although precise figures on majority-minority divisions among committee staffs in the House have proven impossible to obtain, research into committee payrolls, conducted both by the old Schwengel Subcommittee and my own Task Force, establish a general ratio of about 10 to 1 in favor of the majority.

Some committees—*e.g.*, Armed Services, House Administration, and the Un-American Activities Committee—list no personnel as responsible to the minority.

One rough measure of the discrepancy in staffing is that counsel assigned to the minority often do not receive as much pay as majority counsel. Naturally, this creates difficult recruitment problems for the minority. There has never been any suggestion that minority members of Congress should be paid less than Congressmen belonging to the majority party, and the principle is precisely the same in the case of staff. It makes no more sense to pay minority staff personnel less for equal work than majority staffers than it would to pay less to minority Congressmen themselves.

In fairness, however, it must be conceded that minority leaders on committees do not always press as hard as they should to obtain salary equity for minority counsel. This condition, however, merely reinforces the need to establish the equal pay principle by legislation.

Even in the cases of committees which do list staff members as assigned specifically to assist the minority, those employees are ultimately responsible to the committee chairman, who is always a member of the majority party. By that I mean that they cannot be hired without the chairman's approval; their salaries are subject to the approval of the majority, and often their physical location is determined by the majority. *Thus, nowhere in the House does the minority party have guaranteed to it an unobstructed conduit to information vital to the success of its adversary role under our two-party system.*

We Republicans, currently in the minority, are often accused of mere obstructionism and are charged with failure to come up with constructive alternatives. Under the extremely hampering conditions in which we must operate, it is remarkable that we have done as well as we have. When the majority party not only controls all committee personnel but, as is the case at present, has exclusive access to the vast resources of advice, information, and power in all the federal agencies, the minority party is at a terrible disadvantage. This is very bad for representative government, because it chokes off responsible criticism and seriously cramps the capacity of the public to find out what is going on so it can form independent judgments. The ability to reach sound policy decisions for the nation, both in foreign and domestic affairs, is critically hobbled in these circumstances.

In spite of its handicaps, the Republican Party is doing a creditable job in its present minority status in the House. This is reflected in the increase in the number of Minority Views and Supplemental Views by Republicans appearing in committee reports on various bills. These minority views perform a vital function under the adversary system and represent a valuable distillation of opposition views. Often they form the basis of future legislation or corrections to existing programs.

In my own Committee on Public Works, I use this vehicle quite frequently even when I am in accord with the general purposes of the particular legislation. They are the best means of establishing for the permanent record an assessment of flaws in generally acceptable legislation and, of course, they serve to expound detailed arguments in opposition to legislation deemed unacceptable.

They can be used quite dramatically to capture attention for minority positions that otherwise tend to be overlooked by the news media, which tend to concentrate on the activities of the majority party. I put into verse my supplemental views opposing the legislation authorizing an official mansion for the Vice-President.[4] This poetic device had never been used before in an official congressional report on a bill and that fact was what got the most attention. At the same time, however, my reasons for opposing the bill also received wide publicity that we couldn't afford it at this time and that it was singularly inapppropriate to build a luxurious mansion for the Vice-President while the country was at war and our servicemen are badly housed in many parts of the country. After the bill was approved, the President ordered an indefinite halt to the project, using much the same reasoning.

Minority views have frequently influenced the course of legislation. Notable examples

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Footnotes at end of article.

include the Manpower Development and Training Act, which was almost completely rewritten on the basis of Republican proposals before it was passed; the Civil Rights Act of 1964; and Medicare, among many others. Minority views on the anti-poverty program and the Participation Sales Act have had great impact in the country and will almost certainly lead to future reforms, if not in this Congress, then hopefully in the next.

The Legislative Reorganization Act

The Legislative Reorganization Act of 1946 streamlined committee jurisdictions and reduced the number of standing committees of the House from 48 to 19. As a result of the Act, provisions for more uniform procedure were written into the standing Rules of the House, including the provision that each committee, other than the Committee on Appropriations "is authorized to appoint by majority vote of the committee not more than four professional staff members on a permanent basis without regard to political affiliations and solely on the basis of fitness to perform the duties of the office."

Rule XI further provides that:

"Professional staff members shall not engage in any work other than committee business and no other duties may be assigned to them."

In actual practice, both the spirit and letter of the law have been violated. (One of the most flagrant examples of such a violation occurred in my own Committee on Public Works when it was under control of the previous chairman, former Representative Charles Buckley of New York. We discovered that the committee payroll contained the names of nine persons who were never known to have done any work for the committee or had never even been seen in Washington. They were assigned to work for the chairman in his own Congressional District in the Bronx. I condemned the situation publicly and this exposé perhaps was a contribution to the chairman's defeat in a party primary.[5] With this defeat, the problem ended. Under its new administration the Public Works Committee is operating fairly once again and is one of the committees which gives reasonable, though not adequate, consideration to the minority membership in the matter of staff. Eight employees are assigned to the minority out of a staff of around 40. However the chairman insists upon paying minority staff members substantially less than majority personnel performing similar duties.)

I question the wisdom of ever incorporating into the standing rules governing any legislative body such specific language as that contained in Rule XI, which, to repeat, provides that each committee may appoint "not more than four professional staff members." Twenty years ago the authors of the Reorganization Act could not even foresee the need for a standing committee on Science and Astronautics (which was added in 1958). Today this committee, which must oversee one of the largest Government agencies, the National Aeronautics and Space Administration, with an annual budget totaling over $5 billion, operates with one of the smallest staffs in the House. Other committees have augmented their staffs through extra authorizations by the House Administration Committee for "investigative" or additional professional personnel. The Science and Astronautics Committee, however, continues to function with only four professional staff employees. In the words of one of the Committee's members:

"Anyone who has served on this committee and participated in the markup of the NASA authorization bill knows that, while the desire is there and the intentions good, there are instances when many members must inevitably conclude on a given item that they just don't know with assurance whether or not it is reasonable.[6]

But this is not the whole story. The Committee on Appropriations was carefully exempted from any ceiling on the hiring of employees; yet some of its members suffer from a shortage of expert assistance! The entire federal budget, program by program and agency by agency, goes through this committee—which assigns only one professional staff person to each of its subcommittees with the exception of the Subcommittee on Defense and Independent Offices.

"How does a member know that the post office needs so many trucks, or so many mailbags? How does a member know that a Coast Guard station is obsolete and should be discontinued? We have in the past had to use our common sense and rely on the people who have made a request. But if someone were to come to them and say: 'Do you know, or does the committee know, this or that for a fact?' the only honest answer we can give is, 'Well, this is how the executive branch justified their request.' "[7]

Without competent and adequate committee staffing, Congress is at a distinct disadvantage *vis-a-vis* the executive branch. Without such staff assistance, the overwhelming task of checking on the operation of government becomes impossible. And without checking the myriad details, Congress can only pay lip service to its constitutional duty of control over government expenditures.

By law, each of the standing committees is required to report the names, positions and salaries of all of its employees every six months. These lists are duly printed in the *Congressional Record*. Simple enough? Try ferreting out the physical location of all of these people!

"The student of committees," wrote former British M.P. Kenneth Wheare, "has to make a choice. Either he can try to hack his way through the jungle on foot, or he can try to get a bird's eye view of the terrain from the air. If he chooses the first alternative, the most he can hope for is to clear a portion of his territory; if he chooses the second, the most he can hope for is to produce a rough sketch-map of the whole area."[8] How true this is. Our Task Force has tried both approaches.

The push for reform of the minority staffing question is, and has been, hampered by two major underlying fundamental conditions, which must be reported.

First, there is an absence of any consensus among the members of either party as to the proper role of Congress in the 1960's. Should Congress concede its loss of initiative in policy-making and bill-drafting to the executive and become more of an agency for oversight of the administration? Or should Congress attempt to regain some of its initiative in the legislative process and be content with a general overseeing function? The question does not have to be answered to bolster the case for increased committee staffing, because either direction calls for expert assistance and independent sources of information to serve Congress. (Clearly, a national debate over the role of Congress in the twentieth century is in order. The Administration, the academic community, the press, and interested citizens throughout the country should join. This book is an attempt by House Republicans to get the dialogue moving in a meaningful and constructive manner.)

The second condition we found in the committee staffing situation is the prevalent abuse of committee staff people by individual members of both parties. To reiterate the injunction of Standing Rule XI:

"Professional staff members shall not engage in any work other than committee business and no other duties may be assigned to them."

Candor compels me to admit this rule is sometimes violated. Professional staff employees are sometimes commandeered to write speeches or do other chores for individual Members that are not directly connected with the business of the committee, to handle constituent mail on matters of no relevance to the committee, and even to engage in activities directly concerned with the re-election of a Member. We turned up a distressing number of instances in which committee employees were physically quartered, not in the committee staff room, but in the personal offices of committee members. (Part of this situation is undoubtedly due to space limitations, however. A staffer may be assigned to a Member's personal office in some instances because there is simply not room for him in the limited committee quarters. Another reason may be that, because of his committee responsibilities, the individual Member may wish to have his staff adviser readily accessible. This would be particularly true where the Congressman's office was located inconveniently far from the committee offices.)

There is also the fact that Members of the minority party have failed to prosecute actively the case for increased staffing. In an extensive survey of Republican Members' attitudes with respect to the work and staffing of their committees, we found roughly two-thirds dissatisfied with the performance of their committee in the exercise of oversight of the Administration. Yet, we are able to document a grand total of only eleven instances in which minority Members were denied requests for additional committee staff help! (One reason, undoubtedly, is that minority Members know from painful experience that it is pointless to make such requests because they have invariably been turned down.) This does not, of course, negate the case for better staffing for the minority; it *does* point up the educational job we have to do on our own side of the aisle as well as generally.

It is hoped that this chapter will form part of this educational process.

THE ADVERSARY SYSTEM

This writer, in common with most responsible political observers, believes firmly in the two-party system. The system has evolved naturally from the early days of our Republic as the best means for organizing disagreement in a diverse society.

The importance of the two-party system goes, indeed, far deeper than simply the "firm belief" of this author or of any other observer. The two-party system is the vital ingredient that has made possible the success of our government. Throughout our history, the interplay between two broadly based, widely inclusive national political parties has enabled the country to overcome, in large measure, those regional differences and conflicts between social and economic interests that, in many other democracies, result in the formation of numerous, specialized parties, none able to speak for the whole nation, or worse, to dictatorship.

The capacity of our two-party system to resist the divisive formation of effective third parties has been the salvation of America. Freed from the worst excesses of enervating factionalism, our country has been able to develop in freedom her enormous natural resources and to achieve fulfillment, in great measure, of the individual rights guaranteed by our Constitution. That document alone could not have provided this result without the proper instruments to carry it into effect. The impotence of mere documents is nowhere better to be seen, for example, than in the Soviet Union, where maximum tyranny reigns under the aegis of one of the world's most liberal written constitutions. In our case, the most effective political instrument for the fulfillment of our Constitution's promise is the two-party system.

Footnotes at end of article.

The evolution of the system followed logically from our Anglo-Saxon tradition of jurisprudence, which is the root of all American legal institutions.

It is based on the adversary system. The right to counsel and the right to be judged on the facts pertaining to the issue are rights that are stamped indelibly on the minds and hearts of the American people. Through the adversary system, we get more information on which to base our judgments. Under ideal conditions, each side has complete freedom to develop relevant information and present its arguments. The end result is the production of the greatest possible amount of information, and therefore, the greatest possible understanding for those who must render decisions.

Much the same adversary technique is seen in business competition as well. Competition in business leads to better products at lower cost and to improved public understanding of the products themselves as well as the nature of business. Competition is the economic strength of the nation, and in the marketplace of ideas the principle is of equal importance.

This tradition is as applicable to a legislative body as it is to a court of law. Under free government, each party is permitted to present its views fully. Most important, the system protects the rights of minorities while allowing the will of the majority to prevail.

The success of the adversary system depends on the quality of the debate. To assure the highest possible quality, each side must have equal opportunity to marshal evidence in support of its positions. In a legislative body, it is just as essential that the minority party have sufficient staff assistance as it is for either party in a court of law to have proper counsel.

The present situation in Congress, as the staffing ratio proves, is deplorable with respect to counsel for the minority. When both Senate and House and the Presidency are controlled by the same party, the situation is at the point of maximum danger to representative government. When the minority in Congress is reduced to capitalizing on such mistakes as are made by the Administration (if it can find out about them), effective opposition (if there is any) must come from the ranks of the majority party itself. This is the present trend and it is a very unreliable state of affairs. The business of the Republic demands that the effective expression of minority views not be allowed to rest on the capricious, internal strains within the party that is charged with the responsibility of governing.

In this connection, I wish to mention a Republican-sponsored proposal to give to the minority party control of an investigative committee of the House whenever the majority party controls both houses of Congress and the executive branch. Sponsors of the bill are headed by Minority Leader Gerald Ford of Michigan, and include Congressman Robert H. Michel of Illinois, whose chapter in this book is devoted solely to a detailed explanation of the proposal.

Here I merely want to point out that the adoption of the Republican proposal would ease considerably some of the problems of a minority party seeking to fulfill its functions under the present state of affairs. It would help insure against whitewashes of wrongdoing and gross errors on the part of government officials.

While outsiders and members of the majority party may be forgiven a feeling of suspicion at Republican motives in making the proposal, in refutation of these I point out that there is good Republican precedent for the idea.

In 1923, when both the executive branch and both houses of Congress were controlled by the Republican Party, rumors of improprieties surrounding the leasing of the Teapot Dome oil reserve whirled through the Capital. As they grew to a point requiring formal investigation, Republicans prevailed upon Democratic Senator Thomas J. Walsh of Montana to take charge of the investigation. This is a dramatic example of a case in which Republicans gave to the Democrats control of an investigation into a major scandal involving high-ranking members of a Republican Administration. The results were salutary and of great benefit to the whole country. There should be formal provisions enacted so that this would always be the case.

(It should also be noted that the British House of Commons has a Committee of Public Accounts whose chairman is by tradition a leading member of the Opposition, usually a person who has been Financial Secretary of the Treasury. The committee is charged with responsibility for insuring that all public money is spent in the manner intended by Parliament. It promotes economy and efficiency and helps to maintain high standards of morality in all public financial matters).

In this day and age, more is expected of a minority party than mere criticism, a political platform, and legislative debate. A responsible party must be one in which people have confidence and one to which they will entrust their destiny. It must be prepared to present, in reasonable detail, at least some practical alternatives to the hundreds of complicated and technical issues confronting the country. Offering meaningful alternatives is no simple task. The development of such alternatives requires the services of specialists and technicians, men and women who have devoted their lives to concentrated study of a particular problem.

By the very nature of a Congressman's job, it is very difficult for most Members to become as expert as the problems require. They must be concerned with too wide a range of subjects to permit specialization. Many Members of Congress face still another problem. Most Congressmen feel that they simply do not have the time to study *all* legislative matters and administrative policies. Just to keep up with individual problems of constituents is a huge task. Consider the following examples: A shortage of heating coal, fraud by mail, eligibility for a pension, the impact of a new law, a missing person, a family tragedy, a suspected crime, a missing pension check, harsh treatment at the hands of a government agency, the need for a job, a visa, citizenship for a relative or friend, the impact of a drought, a rate increase, a public transportation problem, a tariff ruling, information concerning the workings of an obscure government agency, a man's draft status, taxes, naming a mountain, a hardship discharge, a promotion, a pay increase—the list is endless.

Besides answering a large volume of mail, greeting constituents visiting the Capitol, attending to the needs of their districts and their party obligations, Congressmen are called upon to exercise leadership and concern in almost every matter involving the federal government. Although some of these areas are beyond the immediate control of Congress, a Congressman frequently must act to rally public opinion or file strong protests on behalf of his constituency. He has an important role in reminding the often smugly insulated federal agencies that they are meant to be the servants and not the masters of the people.

Congressmen have personal staffs to help with some of their tasks, but some reponsibilities cannot be delegated. Some commentators have suggested that it would be helpful to the legislative process to remove certain of these tasks from the Congressman's workload by establishing an Ombudsman-type office. This writer is strongly opposed to any such proposal. Dealing with constituent and district problems is the raw material of the legislative process. The Congressman, through the power conferred by his constituents' vote and acting, in a sense, as a trustee, can cut through red tape and keep our government responsive. Even more important is the fact that as he performs this function the Congressman becomes aware of problems which need legislative action.

Above all, however, a Congressman is a legislator. This most important function begins with his committee work. Although Congressmen are responsible for final judgments in the legislative product of their committee work, their acts are influenced in many ways by the work of the committee staffs. No significant legislation is produced without the aid of experts. The staff supplies the expertise necessary to reduce the extensive time which few Members of Congress can afford to devote to legislative duties. Under the direction and supervision of committee members, the staff suggests investigations, prepares their preliminary groundwork, and often influences their scope and direction. The staff selects witnesses and prepares lines of questioning. The staff collects mountains of data, checks facts, organizes and digests them into manageable proportions. The staff may generate or prepare special studies. Staff people often draft reports upon which the most pivotal committee decisions are based. In short, the staff does that essential spade and leg work few Congressmen have the time to perform.

The demands on a Congressman's time highlight the importance of good staff work. Implicit in this situation is the recognition that many Congressmen cannot devote as much time as they would like to supervising the work of their committee staffs. If this is so, it suggests yet another reason for adequate minority staffing: mindful of human nature, it is conceivable that improperly supervised staffs could exercise undue influence over the work of their committees. A good check on this, obviously, would be an alert minority staff.

Infrequently, the minority is blessed with offers of outside assistance. One memorable example occurred when a task force under the chairmanship of Representative Frank Bow (R., Ohio) and composed of Republican members of the House Appropriations Committee undertook a thorough analysis of the proposed budget for fiscal 1964. Maurice Stans, Director of the Bureau of the Budget under President Eisenhower, and some half dozen former members of that agency, provided valuable assistance to the project. The economy drive which this effort spearheaded resulted in savings of $6.3 billion to the taxpayers of this country. It also permitted economy-minded Congressmen to vote for the tax cut.

It is interesting to note that when Congressman Bow first announced that he thought his task force could recommend substantial cuts in the budget, without damage to necessary programs, he was challenged immediately to itemize the proposed cuts. Congressman Bow refused because he feared that by thus forewarning agencies their public relations sections could man the ramparts and stave off a threatened economy drive by whipping up public opinion as only battle-tested bureaucrats can. I mention this here because it shows how important secrecy is in connection with legislative strategy. Obviously, a minority which relies entirely on a staff responsible to the majority, with lines of communication to the executive departments and agencies, is either naive or lazy or worse.

It should be noted here that where the minority is deprived of its own staff and where members are not as fortunate as Congressman Bow in receiving aid, there is always a temptation to turn to private interests for help. Without discussing the advantages and disadvantages of consulting special interests in regard to legislation which affects them, I shall simply contend that any situation which forces minority Congressmen to turn to special interests for staff work is not in the best interest of sound representative government.

All Members do, of course, have access to the assistance of the Senate and House Legislative Counsel for bill-drafting, and to the Legislative Reference Service of the Library of Congress for research. The primary functions of the Senate and House Legislative Counsel involve the highly technical and specialized task of drafting legislation. The staffs of both offices are composed of qualified and dedicated personnel. The Legislative Reference Service operates exclusively as a nonpartisan research and reference service for Members of Congress. Its staff has grown steadily and in all probability will continue to grow with the increasing need of Congress for specialized research assistance with which to deal with the technologically induced changes in our society and economy. Assuming that Congress maintains a reasonable balance between the legitimate demands for staff assistance from these auxiliary sources and the actual capacity of the staffs to provide such help, it is the committee staff system itself on which Congress must principally rely. While organizations like the Legislative Reference Service greatly assist individual Members in their particular areas, they cannot substitute for committee staffs.

But the needs of congressional committees go beyond the question of sheer size of a staff and reach to the problem of making possible an effective distinction between majority and minority positions in order to facilitate meaningful floor debate and responsible problem-solving. As long as Congress is organized on the basis of a differentiation between majority and minority roles, even at the committee level, it is not realistic to expect adequate legislation to evolve from a "nonpartisan" staff arrangement.

The nonpartisanship of the 1946 Reorganization Act has not, as I have suggested, been a success. Some committee staffs in the House of Representatives are truly nonpartisan, not only in terms of party affiliation but in terms of serving members of both parties equally. On other committees, the principle of appointment and control of tenure by a majority of the committee has led to control of the staff by the Chairman and almost exclusive use of its time by the majority party. Even on the few committees which try to give equal service to members of both parties, it is evident that whoever appoints the staff also controls it. Today, the overwhelming majority of committee staff members are hired, supervised, promoted, and assigned duties by the chairmen of the committees. When the workload of these committees is heavy, the staff naturally feels obliged to give preference to the needs of the majority members on whom they rely for their jobs. Consequently, one can understand why members of the minority party cannot always confide in or depend upon staff members responsible to the opposing party.

CONCLUSION

The case for increasing the staff available to the minority is overwhelming, in my opinion. It has been brought to the attention of the Joint Committee on the Organization of Congress, which is preparing its report and recommendations as this book goes to press. Very likely the Committee's report will have been issued before this paper is published. However, because many Members addressed themselves to this problem in the course of the Committee's extensive hearings and because our Task Force has worked closely with the Committee's staff, it is expected that the report will contain strong recommendations for immediate action to correct the partisan imbalance in committee staffing.

In discussing what should be done, I do not believe it is necessary to get into a numbers game and try to set up any specific ratios that will meet the problem. The work of every committee is diffierent; accordingly, its personnel requirements are different. Moreover, staffing needs must change in response to new developments.

I strongly believe, however, that the minority on every committee should have the right to hire and fire its own staff personnel, set their salary scales, and locate them without prior approval of the majority.

Last year, minority members of the Public Works Committee asked permission to hire an economist to assist them in consideration of the extremely involved implications of the Appalachian Development Act and the Public Works and Economic Development Act then pending before the Committee. These programs involved many social and economic factors not normally within the purview of the Public Works Committee. We needed to have competent outside advice and counsel. The majority turned us down, and we had no recourse but to swallow this decision and get along as best we could. This is wrong. We should have been able to make our own decision on this point and hire the expert we wanted. While I have no illusion that the final passage of some bills would have been changed, greater public knowledge would have resulted from clearer delineations of portions of them, and it is likely that improvements in the legislation could have been made during the drafting of the bills in committee.

(Another example drawn from the Committee on Public Works is the fact that as of this writing more than eight months have elapsed since a new subcommittee was authorized for the purpose of supervising, overseeing, and investigating the new Appalachian Redevelopment Program and the Public Works and Economic Development Act. Committee members of both parties unanimously adopted the Resolution creating the new subcommittee. This failure to activate the subcommittee, while not directly applicable to the minority staffing question, is further illustration of the need for the minority to have an investigative arm of its own. In this particular situation, even the majority seems powerless to enforce its own formally approved decision. The minority has no chance at all.) (The subcommittee finally was activated July 13, 1966.—Ed.)

Frankly, I wish to state that this concern on my part does not stem entirely from the fact that I am a member of the current minority party. Although it is true we feel the brunt of this staff deprivation at the moment, I expect to feel no differently when my party is in the majority. Effective criticism from the loyal opposition is essential to good government, regardless of which party is in control. As far as I am concerned, the Republican Party has a commitment when it becomes a majority to see that the minority is provided adequate staffing.

FOOTNOTES

[1] Hearings, Joint Committee on the Organization of Congress, 89th Cong., 1st Sess., Part 1, p. 74.

[2] *Ibid.*, Part 4, p. 527.

[3] Robinson, James A., *Congress, The First Branch of Government*, American Enterprise Institute, 1965, Library of Congress Catalog No. 66–14193, p. 273.

[4] From Supplemental Views of Rep. James C. Cleveland on S. 2394. 89th Congress, 2nd Session:

> "But over the hill and horizon
> A light is beginning to burn;
> Dissent is getting respectful again,
> Thinking is taking a turn. . . .
>
> "So courage my lonely colleagues,
> Be of good heart and of cheer;
> Minority views are sometimes read
> And the public's beginning to hear."

[5] I had prepared an article for the *George Washington University Law Review*, which was not published due to the insistence of the faculty adviser that I omit a footnote naming the nine persons and monies received.

[6] Rumsfeld, Rep. Donald, (R., Ill.), JCOC Hearings, Part 4, p. 538 (1965).

[7] Conte., Rep. Silvio (R., Mass.), JCOC Hearings, Part 2, p. 278.

[8] Wheare, K. C., *Government by Committee: An Essay on the British Constitution*, Oxford University Press, 1955.

Mr. MINSHALL. Mr. Chairman, as we continue to clear a path through the legislative jungle of amendments being offered to the Legislative Reorganization Act I feel most optimistic and confident that at long last we are beginning construction of a great new legislative freeway that will give our citizens increased efficiency without the obstructions of needless legislative secrecy.

Many members on both sides of the political aisle have contributed and are contributing to streamlining and upgrading the structure and procedures of the House. All of us who were in the 89th Congress voted for creation of the Joint Committee on the Organization of the Congress, which reported numerous recommendations incorporated in the bill before us now. I think the Republican Task Force on Congressional Reform is entitled to equal congratulations on its magnificent contributions.

As our Nation's population continues to grow past the 200 million mark, the tendency of individual citizens to feel that they are out of touch with the formation of national policy increases proportionately. To reinforce the fact that no citizen is a cipher in our form of representative government, that the Congress is indeed cognizant of and responsive to his views, it is essential that we dispel any notion, however erroneous, that the Congress operates under a cloud of subterfuge and needless secrecy, or that any of us is afraid to stand up and be counted by name when the roll is called on any issue. Congress must reestablish contact with the people and restore good faith and confidence in representative government by being receptive to new ideas, new faces and the challenge of new goals. I feel we are on the way to achieving that to a great degree with the Legislative Act of 1970, which I strongly support.

Mr. FRIEDEL. Mr. Chairman, I rise to support the proposals embodied in the Legislative Reorganization Act of 1970. We must have constructive change in our legislative process and I believe deeply that the provisions contained in this bill will go a long way in improving the operation of the House of Representatives.

The Members have long needed a means by which to better record their actions and thus keep the public at large more informed and up to date on the issues which we consider. We have always considered ourselves as Members of the greatest lawmaking body in the world, the Congress of the United States. It is that privilege and obligation which we enjoy which should be foremost in our minds when we consider the constructive improvements that are contained in the measure before us.

The proposed changes would do the following: Give us, in the Congress, a new source of information in keeping abreast of this fast-changing world. We are going to have the marvel of automatic data processing without our system because of action taken by my Committee on House Administration. The expansion of the legislative Reference Service into a truly Congressional Research Service is also a progressive step forward.

The opening of our congressional deliberations is of major importance. In a free society like ours, the more people know what is at stake, the more constructive will be the actions of their Representative. Greater public awareness and understanding of the congressional process will, I am sure, produce better legislation for the entire Nation.

On the subject of recording the all important teller votes, I am in complete agreement with this proposal. First, it would meet the public's right to know what is going on and, as I have said, this is all important in a free society. Second, it would strengthen the House as an institution by making more Members participate in the important stages of the legislative process. In addition, it would go a long way in removing any secrecy in voting.

The need for a public record on teller votes is most important because it is right. The people back home have the right to know what their elected Representative in Congress is doing. For too many years, this right has not been honored. The practice of determining the fate of key amendments in the Committee of the Whole, without a public record, as I have indicated, helps spread the wrongful notion that the House has something to hide. By supporting these changes we can change this idea.

In conclusion, Mr. Chairman, this is a good and proper thing we are doing today. By enacting these constructive changes, we do honor to the great country and all the people who have placed us here to serve them. By enacting these reforms, we will certainly make the House function more responsibly and in doing so we will also take a major step forward in our effort to reorient our priorities of the Government in the direction of putting the people first.

Mr. WOLFF. Mr. Chairman, I want to commend the Rules Committee for providing us with the framework for putting our House in order. The need for more efficient and effective procedures for performing our important work is all too apparent. This act, which I support, when coupled with several needed amendments for providing the public with more open access to our proceedings, will, I believe, restore the confidence and relevancy of this body.

In my view, the Rules Committee has provided us with a good foundation upon which we must add some further supports for our democratic system. The expansion of the Legislative Reference Service, the telecasting of some committee hearings, more democratic controls over committee procedures and several other important measures are included in this legislation. However, several necessary reforms, regrettably, were not adopted by the committee.

The major reforms that are omitted are mostly those that deal with the inordinate amount of secrecy and lack of democratic procedures that have become part of our daily processes. The essence of the democratic process relies heavily on public knowledge. This knowledge is made up in no small measure by the proceedings of this body and its committees, and the statements and actions of its members. Therefore we must provide in this legislation better access for the public and the Members to the information and questions with which we deal.

Unfortunately one of the most important amendments that would have helped correct this was defeated by a teller vote on Tuesday. That amendment called for a positive approach to opening and closing of committee hearings. It is now the rule to have certain committee sessions closed and a vote must be taken in order to open the meetings. It rather should be the rule to keep the meetings open and the exception to close them. The public has the right to know and must, if we are to have a truly informed public, be allowed access to our committee sessions, except of course where classified information is being discussed. Furthermore, it is ludicrous that not only are the members of the public excluded from these closed sessions, but the Members of this very body are not permitted to attend these sessions without invitation.

We are here as Members of the House of Representatives of the Congress of the United States because we were duly elected by the people of our districts to represent their interests in the making and regulating of the laws of this Nation. The constituencies which we represent have the right to know how we are performing our duty. In order for the people of this Nation to make an intelligent choice at the polls, and in order to insure the responsiveness of this body we must commit ourselves to making known our votes on important issues. The recording of teller votes is a necessary step in that direction. Far too many important issues are won or lost on unrecorded teller votes. How can we pretend to be accountable to our constituencies if we hide behind the secrecy of teller votes? This undemocratic process must be changed in our reorganization of the Congress.

Along these same lines our votes on issues in committees must also be recorded publicly. The heart of our legislative process is the work done in committee and therefore our actions in this part of the process must be open to the scrutiny of the public eye.

Mr. Chairman, the Members of this body should be aware of the intricacies and principles involved in the various legislation and amendments that we are called to vote upon. Due to the vast number of bills and the extensive work required of the members of any given committee no man can be fully informed on all pieces of legislation. However, we certainly should make an effort to provide each member the opportunity to inform himself about the legislation which he must act on. Therefore, I believe it is imperative that we institute the practice of laying over for 3 legislative days all conference reports. In the same vein we should reconsider the inequitable practice of limiting debate time on amendments.

A vital part of the legislative procedure is the improvement, by amendment, of measures included in legislation which is considered for some reason unacceptable to a number of Members. Yet the amendment procedure is stifled and made a farce when a man with a valid amendment, attempting to improve a piece of legislation is allowed only minutes, in some cases seconds, or in some cases no time at all to present his arguments and to inform his colleagues of the intent of his measure. In order to have rational actions in our legislature we must be willing to debate matters, particularly with such great import attached to them.

Finally, and perhaps most importantly, we must address ourselves to the question of selection of committee chairmen. To select a member of a committee to be chairman of that committee simply because he has tenure is not only undemocratic, but it is also an unwise and unfair procedure. I believe that a man certainly needs experience in a given area before he can qualify as chairman of a committee. However, simply a man's political longevity does not provide the necessary competence. To make this process both more democratic and more effective I believe that the chairman of the committee should be elected by the majority members of the committee from among the three most senior majority members, and that the ranking member should be selected from among the three most senior members of the minority by election by secret ballot also. The time has come for the choice of chairmen rather than the echo of the past.

The rejection of these vital reforms will leave this Nation with a feeling of mistrust and hopelessness. If we can not function, and function within the framework of true democracy, then we do not, and can not demand the respect and faith of the people of this Nation.

Mr. BENNETT. Mr. Chairman, I am pleased to support the objectives of the legislation before the House of Representatives today, the Legislative Reorganization Act of 1970. I believe this bill is a step in the right direction toward a more modern Congress—responsive to the needs and desires of the American people and their elected representatives.

The thrust of this bill will assist in bringing our multibillion-dollar Government organization out of the bygone days and into the space age. Reform and modernization are long overdue, and I hope the House will approve the bill.

The House Rules Committee is to be congratulated on bringing the legislation to the floor. This bill, H.R. 17654, is an excellent companion to the legislation offered by the Rules Committee last week, amending the rules of the House to allow the House Committee on Standards of Official Conduct to investigate lobbying practices and campaign financing and make recommendations for changes in the laws. These two areas need reform, and I have introduced H.R. 953, to strengthen the lobbying laws, and H.R. 958, providing for public disclosure of campaign finances, which I hope will be recommendations of the ethics committee.

I will support certain amendments to the bill before us today, including one to permit recording teller votes on major amendments. There are other housekeeping items not in the bill, including the establishment of an electronic voting system in the House Chamber, which I would have liked to have seen in the bill. There are several provisions in the bill which I have worked for over the last several Congresses, and I am happy they are included in the bill.

One of my bills, H.R. 951, introduced first in the 89th Congress, and also in the 90th and 91st Congresses, would provide for a Congressional Budgetary Information Service to promote fiscal responsibility in the Federal Government.

The legislation was introduced by me after an evaluation and study of how the Congress functions with the executive branch of Government, particularly in the fiscal and budgetary areas. At the time of introduction, March 9, 1966, the country was taxing and spending the citizens of America a total of over $100 billion annually, but our accounting was geared more to a Continental Congress with horse and buggy tools rather than with the instruments of a missile and jet era. The bill called for the Congress to have a "computerized analytical ability."

The Arthur D. Little Co., of Cambridge, Mass., in cooperation with the National Broadcasting Co., suggested such a budget office in the Congress in its extensive study of the House and the Senate, and the Florida Times-Union, of Jacksonville, Fla., said in an editorial of March 12, 1966:

> The annual budgets will grow more complex and the probability that the Congress will be able to analyze them will be reduced unless some steps are taken soon to provide senators and representatives with an agency that is staffed and equipped with professionally trained personnel and analytical machinery.

For fiscal year 1971, the President's budget requests totaled $203 billion, doubled in 4 years. My legislative idea to make sure every taxpayer gets "his dollar's worth for every dollar he pays in taxes" is included in title II, part I, section 201, "Budgetary and Fiscal Information and Data," and title IV, part I, section 401, "Joint Committee on Data Processing" in the bill before us today. My bill has been endorsed by the Comptroller General of the United States, and the Council of Economic Advisers.

Said the House report on H.R. 17654:

> Potentially, the spending power is the most powerful prerogative Congress possesses for effecting and affecting public policy decisions. In recent decades, however, Congress has wielded this precious constitutional birthright in an increasingly haphazard and essentially ineffective manner.

The budget, fiscal, and data processing sections of the bill will make for a sounder and more economical government.

Another bill I have sponsored and supported, House Resolution 22, first introduced in the 89th Congress, follows and strengthens Public Law 801, enacted in 1956, which required the executive branch to report on cost estimates for Government programs. My bill would amend the rules of the House to provide for a detailed accounting in committee reports on spending bills and creation or expansion of Federal programs by the Government. This legislation is included in the legislative reorganization bill in title II, part 2, section 221, "Supplemental Budget Information," and title II, part 5, section 252 "Cost Estimates in Reports."

The committee report on H.R. 17654 states:

> In order to give the Congress a better picture of the expected expenditures in future years, the committee bill will require estimates for those years to be included by the executive when it recommends a new program or a change in an existing one. These estimates must cover the ensuing fiscal year and the next four fiscal years.

Further, committee reports will include estimates and 5-year projections on all programs.

The Wall Street Journal of July 14, 1966, commenting on my bill, House Resolution 22, included in the new reorganization bill, said:

> Congress continues blithely to authorize programs, which eventually have to be paid for, without keeping tabs on over-all spending figures or even putting any price tag on some programs at all.
>
> Sporadic efforts to persuade Congress to adopt at least some elementary bookkeeping so far have been unsuccessful, although a few hardy souls keep trying. Among them is Rep. Charles E. Bennett, who has offered a bill to require committees approving creation of new federal programs to present statements estimating those programs' costs for each of the next five fiscal years.

A third bill I have sponsored in the 91st Congress, H.R. 17622, to provide for annual reports concerning price increases in Government contracts and failures to meet contract completion dates, is covered in the expansion of the General Accounting Office, included in title II, part 1, section 204 of legislative reorganization bill. This section calls for the Comptroller General to review and analyze the results of Government programs and activities carried on under existing law, including the making of cost benefit studies. In the important area of contract overruns, the section allows the General Accounting Office additional authority to insure fiscal responsibility in our Government. My bill, H.R. 17622, has had favorable reports from the Comptroller General who wrote:

> We are in agreement with the basic objectives of the bill.

And the Bureau of the Budget:

> We believe the general purpose of this bill, to assure disclosure and closer scrutiny of selected government contract costs and performances, represents a desirable objective.

Mr. Chairman, H.R. 17654, the Legislative Reorganization Act of 1970, is a good bill. It will help the Congress do a better job, especially in the oversight field of watching our tax dollars.

Mr. OTTINGER. Mr. Chairman, Dr. George Galloway, one of the most respected observers of the Congress of the United States, has noted:

> Representative government is the keystone of the democratic arch. The eyes of the world are upon it and the way it works. If Congress is to save itself from the antidemocratic forces which are challenging it at home and abroad, then it must act promptly to improve its efficiency and democratize its methods.

Except at those times when scandal rocks the Halls of Congress, congressional reform and reorganization are not headline-making subjects. And yet, as the volume of information, problems, programs, solutions, and responsibility explodes on Congress, the maintenance of the legislative branch as an effective coequal depends on our mastery of our operations.

It is apparent today that Congress has not achieved a sufficient degree of such mastery. Outdated procedures and rules, an ornate but cumbersome committee arrangement, and an antiquated legislative calendar virtually prohibit the Congress from responding to new needs, new viewpoints, and new political forces within the Nation.

The need for congressional reform—and the urgency of that need—is highlighted if we look beyond the Congress to the changes that have taken place in other institutions in our society. Modern management techniques have been adopted with astonishing speed by the industrial sector where failure to keep pace with a competitor can mean extinction.

The executive branch has undergone numerous reorganizations—creating new agencies, such as the National Aeronautics and Space Administration, the Office of Economic Opportunity, the Departments of Transportation, and Housing and Urban Development, in order to deal more effectively with new problems. It also subjects itself to scrutiny and recommendations for change by a never-ending host of outside specialists.

Once considered the bastions of conservatism, our churches have undertaken changes in their ritual and organizational structure to an extent that would have been unimaginable a few short years ago.

We also see our universities and other educational institutions undergoing basic overhauls—as they struggle to stay relevant and up-to-date with changing conditions.

The individual State governments are also attempting to keep pace. Since 1960, eight States have adopted new constitutions and numerous improvements in procedures, and rules have been instituted by the legislatures of other States.

But the reluctance of Congress to make needed changes continues and, in my judgment, contributes greatly to a general loss of public esteem. We no longer enjoy the confidence of the public the way we did years ago. Without maximum public confidence, we cannot be as effective as we must be. As the executive branch has grown in power and influence, Congress has surrendered important initiatives and its influence has declined. One sad result of this is seen in the growing number of people who are going outside the system to seek redress of their grievances.

Perhaps the most apparent deterioration of the functions and authority of the Congress may be seen in the field of foreign affairs. A power which has been expressly reserved to the Congress—the authority to declare war—has disappeared in a haze born with the Gulf of Tonkin resolution in 1964 and thickened further with the recent invasion of Cambodia. Our partnership role in formulating this Nation's foreign policy has been reduced to a minimum and we have become followers where we were intended to be leaders.

I. WHAT OF THE ESSENTIAL PRODUCTIVITY OF CONGRESS?

At the time I testified before the House Rules Committee during its hearings on legislative reorganization — November 1969—the House of Representatives had been in session for 164 days, recorded 11,072 pages of Members' debates and worldly observations, borne the filing of 20,239 bills by its 535 Members, and of this number, there had been enacted only 117 public bills and 55 private laws. We had recorded in the House 277 quorum rollcalls which required 185 hours, while being in session 625 hours and 11 minutes.

This incredible waste of time, money, and intellectual resources was graphically illustrated during the 1965 hearings on legislative reorganization in testimony by Congressman David King, of Utah. He pointed out at that time:

> During the six-year period from 1958 to 1963 there were 632 roll call votes in the House. The average legislative day during this period lasted about four hours. Figuring an average roll call at 40 minutes, 111 full legislative days were consumed on roll call votes alone.
>
> During this same period, the House had 725 quorum calls. Figuring an average call at 22 minutes, the House used 69 legislative days on this activity.
>
> Thus, a total of 180 legislative days was spent on roll calls and quorum calls over a six-year period. In terms of a 5-day week, House Members spent more than 8 months just responding when their names were called.
>
> And what of costs?
>
> During the 88th Congress, the House was in session for 334 days. More than 2 months—68 legislative days, to be exact—was consumed with roll calls and quorum calls. Computed from fiscal 1965 legislative appropriations, the cost of each daily session was slightly more than $64,000.
>
> Thus, $4.4 million was spent on roll calls and quorum calls during the 88th Congress alone. It cost each of our constituencies $10,000 for us to respond to our names.

How much will it cost our constituencies today for us to answer to our names? How many legislative days in the 91st Congress and subsequent Congresses will be lost because of rollcalls and quorum calls? This is a problem which has been alleviated in many State legislatures, but it is 54 years now since the first bill was introduced to employ a form of electronic voting in the Congress.

Coupled with a time-saving electronic voting system, the House should either devise a quorum system of notifying Members when a requisite number have already reached the floor or adopt the Senate procedure of abandoning the call when a quorum is achieved in order to save fruitless, time-consuming floor trips.

However, antiquated voting procedures and the needless consumption of the Members' time is only part of a great malady: a seeming lack of legislative restraint and legislative responsibility among House members.

In the first session of the 91st Congress, more than 17,000 bills were introduced. Of course, most of these will be pigeonholed in committee, but is it possible to legislate under such a burden?

It would be possible for congressional committees to consider—at least receive reports and hold hearings—on far more of the legislation introduced each year if Congress would fully exploit the benefits of computerization and automatic data processing. It is conceivable that every bill introduced could be cataloged and imputed into an ADP system that would provide a daily digest report.

II. CONGRESS AND THE COMPUTER AGE

It is past time that we brought Congress out of the horse and buggy age and into the computer age. With the exception of a few units to handle payrolls, the Congress makes no use whatever of the most significant invention of our time—the electronic computer. It is essential that Congress establish a Legislative Data Processing Center to coordinate the development of ADP facilities and services for both Houses. This center would provide each Member of Congress with instantaneous, up-to-the-minute data on such things as the status of all bills and resolutions, budget receipts, and expenditures for each fiscal year, statutes currently in force, schedules of committee meetings and legislative sessions, significant developments, and bibliographical references in each Member's field of interest, statistics compiled by Federal departments and agencies to justify program expenditures, and analyses of the merits of competing demands for Federal resources.

I envision a central read-out facility on Capitol Hill that could tap the memory banks of the more than 3,000 computers now in use by Federal executive departments and agencies. The information could be channeled into each congressional office via desk-sized read-out devices or closed circuit television screens.

Such an ADP center would not only relieve Senators and Representatives of a number of time-consuming chores, but enable them to make better informed decisions on legislative matters. More significantly, it would enable Congress to keep up with the pace of change and progress in the Nation, perhaps even to anticipate it.

III. A JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

Even with the advantages an ADP center would provide, congressional operations would remain diverse, complex, and often intricate. A permanent Joint Committee on Congressional Operations would provide a continuing study of these operations and functions and would be able to recommend improvements. It could also be charged with new functions which significantly involve Congress as an institution, improve its relationships with other branches of the Government, and enable it better to meet its constitutional responsibilities. It could also be authorized to make recommendations on the rules, procedures, practices and precedents of either house. My concern with this aspect of reform rests not so much on what areas are specified as appropriate to be studied, but rather that there be a permanent, ongoing committee whose responsibility it is to maintain a continuing interest in the Congress as an institution. Failure to establish such a committee could lead to a situation in which some type of reform bill is passed and then no further action is taken for another 20 years.

IV. A LEGISLATIVE ATTORNEY GENERAL FOR CONGRESS

At present, when it becomes necessary in any legal proceeding for the courts to look into the question of legislative intent, the opinions, generally speaking, have been obtained from the Department of Justice and the Attorney General. It appears in some cases that this causes a problem, since the administrative and executive parts of the Government are attempting to interpret what the legislative branch intended. This is not to imply that the opinions of the Attorney General are anything but honest, but the procedure does represent a tendency to favor the division of powers between the legislative and the executive, heavily on the executive side.

Congress should enact legislation providing for a legislative attorney general, and necessary staff, to serve as the authoritative source for interpretation of legislative intent. The legislative attorney general should be appointed by the President of the Senate and the Speaker of the House of Representatives, subject to ratification by Congress.

On the floor of the Senate and in the House, there have been great debates as to whether an item of legislation, as it was written, was actually constitutional. This is being raised now with regard to legislation authorizing 18-year-olds to vote. But there is no one in authority in such instances. There are such groups as the Legislative Reference Service, counsel on committees, individual lawyers, but there is no one in an authoritative position to really represent the position of Congress before the courts to say that for these or those reasons Congress thought legislation which it passed is constitutional.

The same thing is involved with regard to legislative intent. We frequently find a wide variety of thought. Several years ago, for instance, there was a difference of opinion between the Department of Health, Education, and Welfare and the State of Alabama on a point of legal interpretation of a law that Congress passed. The State of Alabama contended HEW's action was arbitrary, but there was no authoritative voice to speak for the intent of Congress.

For another example, take legislation which is considered by the Senate Finance Committee or the House Ways and Means Committee. These bills are subject to many interpretations of tax law. Situations arise which just were not considered at the time the legislation was before the committees. The chairman of the Ways and Means Committee made a speech at one time in which he indicated seven different interpretations had been given to one paragraph of a revenue law, none of which was the one he thought was really meant when the House was giving original consideration to the bill.

V. COMMITTEES AND THE SENIORITY SYSTEM

Woodrow Wilson said that "Congress in committee is Congress at work." The work of committees must, however, be made more productive and less agonizing, and the committee process must become more reflective of the democratic traditions in which we believe.

One essential reform must be to truly open committee sessions to the public. Rather than permit the chairman to determine whether hearings should be open, I feel that we should require that all hearings be open except when national security or the privacy of individuals would be unduly violated. Certainly, the presumption ought always to be in favor of open sessions. This must apply to the appropriations committees, for there is no logic in the idea that money matters are less the public's business than other matters.

Additionally, we should arrange it so that committee schedules conflict as little as possible with the general and daily schedules of the House and Senate. Each year, great difficulty is encountered in carrying on legislative business when the authorizing and appropriations hearings are out of sequence. It is not unusual, for example, for the markup of an appropriation bill dealing with foreign aid to proceed while the authorizing legislation is still under discussion.

Voting in committees is now cloaked from public view and this is wrong. In many instances, votes in committee have far more significance than votes cast on final passage of a bill. All committee votes should be matters of public record and readily available to the press and the people.

Committee reports and the bills as reported by the respective committees should be made automatically available to Representatives and Senators no less than 5 legislative days before debate commences, and they should be accompanied by the printed text of the committee hearings. It is unconscionable that a defense appropriation bill of more than $60 billion, for instance, could be brought to the House floor a mere 2 hours after the text of the bill and the committee report were made available.

Most Representatives and Senators are eager for all the radio and television they can get when they are campaigning. Unfortunately, this eagerness has not been matched in the legislative arena. Some of us, at least, seem to be a bit jittery about the possibility of a camera catching us in an unguarded moment in committee. Wide broadcast coverage would be valuable, in my view, in informing the American people not only as to the decisions their Congress is making, but equally important, how those decisions are arrived at. All open committee sessions should be subject to radio and television coverage, as should regular House and Senate sessions. Committee witnesses should not be permitted to bar coverage of their testimony, and adequate physical facilities should be made available so that at least five television cameras can be accommodated.

At the heart of any program for congressional reform and reorganization is the seniority system. While many proponents of reform advocate total abolition of the seniority system, and while this has a good deal of surface appeal, I believe it would present situations in which the cure would be worse than the disease. In the present Congress, for example, abolition of the seniority system and substitution of a procedure in which committee chairmen were chosen by majority vote would result in the loss of a good number of progressive chairmen and the rise to power of men representing a conservative coalition of southern Democrats and less-than-progressive Republicans. The following procedure, advocated by Congressman BINGHAM, is far preferable, in my judgment:

A. RECORD VOTE APPROVAL OF COMMITTEE CHAIRMEN

First. At the beginning of each Congress, the caucus of the majority party should have submitted to it for approval the names of all proposed committee chairmen. On demand of a certain number of members—perhaps one-fifth—a record vote should be taken, the results of which would be made public.

Second. If the seniority rule or a variation of it is to be continued, the most senior eligible member of the committee would automatically be nominated. If that member failed to obtain approval by the majority, the next senior member of the committee would be voted on, and so on until a chairman was elected.

Third. The same procedure should be followed for the chairmanship of subcommittees of the appropriations committee and of such other subcommittees as the caucus might decide.

Fourth. By this means the caucus could assure that members who were out of sympathy with major elements of the Democratic Party platform or who had not been performing their duties as chairmen in accordance with the wishes of the caucus would not serve as chairmen of important committees or subcommittees.

B. ROTATION OF CHAIRMANSHIP

First. There should be rotation of all committee and subcommittee chairmanships except where an overwhelming—perhaps two-thirds—majority of a caucus decides otherwise.

Second. Such rotation would give more members an opportunity to hold positions of responsibility, tend to prevent the accumulation over time of excessive power in the hands of a few individual members, encourage greater professionalization of committee staffs, and assure that committee and subcommittee chairmen not in the mainstream of national Democratic Party thinking could be replaced without embarrassment.

Third. The principle of rotation could—and should—be applied whether choice of chairmanships is based on seniority or not. If there is no widespread agreement on what system should be substituted for seniority, seniority could be continued as the basic criterion for choosing chairmanships in the first instance.

Fourth. The following is one illustration of how the seniority rule and the principle of rotation in office could be combined:

For each committee chairmanship, eligible members would be voted on in the caucus in order for seniority—as suggested under A above.

No member of a committee would be eligible to serve as chairman after serving two terms in that office, unless the caucus should decide by a two-thirds record vote to suspend the rules.

The same procedure would be followed in the case of chairmen of subcommittees of the Appropriations Committee and of such other committees as the caucus might designate. The selection of the remaining subcommittee chairmanships would be left to the respective committees, with the proviso that no subcommittee chairman could be elected for more than two terms without the approval of the caucus by a two-thirds vote.

A member who had served as a subcommittee chairman would be eligible to serve as chairman of another subcommittee or of the full committee. A member who had completed two terms as chairman of a committee would retain his seniority and would be eligible to serve as chairman of a subcommittee of which he had not previously been chairman for two terms.

VI. FISCAL YEAR CALENDAR YEAR

I strongly recommend that the fiscal year for all departments, agencies and instrumentalities of the Federal Government coincide with the calendar year. In September, 1969, when I introduced legislation to authorize such a change, a conference committee was about to meet to reconcile differences between the appropriations bills passed by the House and Senate for the Department of the Treasury and the Post Office Department. It was the first of 13 regular appropriation bills to reach that stage, and that was two and a half months after the new fiscal year began. By late November, a full five months after the start of the fiscal year, final action still had not been taken on appropriations bills for the Departments of State, Justice, and Commerce, the Judiciary and related agencies, the Department of Health, Education, and Welfare, public works and the Atomic Energy Commission programs, military construction, the Department of Transportation, and foreign aid.

Even in a normal year—if there ever is such a thing—the appropriations process is a complex difficult one. In this area, even more so than in other aspects of congressional business, times have changed and the rules of Congress simply have not kept pace. It was not so long ago that the job of a Congressman was equally divided between service in Washington and service in his district. It was possible to convene in Washington in January, transact the Nation's business and then return home in June or July. Money was authorized and appropriated for a fiscal year that began soon after final passage of the bills.

But today we are dealing with a Federal budget that is approaching $200 billion, and a myriad of Government programs and policies that touch virtually every aspect of daily life. Consideration of these programs and policies requires fuller investigation and greater understanding. The work of the committees is longer and more complex. Our work in Washington occupies us regularly 12 months of the year.

Changing the fiscal year to coincide with the calendar year will permit a full year to consider authorizations and appropriations and permit a greater opportunity for thorough yet timely work on the appropriations bills. It will permit programs to be authorized and funded in advance of the the start of the year. It will end the waste and diversion that cost us so much under the present system.

VII. FLOOR PROCEDURES

In the area of business conducted in what the public believes is the major legislative arena—the House and Senate floors—reform is particularly urgent in the House, and in two main areas. First, it is long past time to do away with a procedure that does violence to the democratic process—the closed rule. There simply is no sound reason to preclude germane amendments to legislation. The American people expect, and rightfully so, that national legislation is the product of full and fair deliberation by 435 Representatives and 100 Senators. But with a closed rule in effect, much of that legislation is really the product of a single committee—perhaps 35 Members.

A second major reform, also applicable to the House, must be to put all votes on the public record. Under present rules, the really key votes—those coming on amendments to pending bills—are voice or teller votes, and there is no way for the press or the public to determine how a Member is voting. If there is to be heightened confidence in our political system and our legislative process, our emphasis must be on opening up the process by which national policies are made and carried out.

CONCLUSION

Mr. Chairman, in addition to supporting amendments on the above recommendations, I intend to back all the liberalizing amendments that will be offered on this important measure. By approving a strong bill we will take a giant stride toward bringing Congress out of the dark ages and into an era of new respect for the institutions which shape our national policies and priorities.

Mrs. CHISHOLM. Mr. Chairman, this week on the House floor we are considering a most important legislative matter—the Legislative Reorganization Act of 1970. Twenty-four years have elapsed since Congress last made a comprehensive attempt to reform and modernize its internal machinery. This fact alone emphasizes the failure of the Congress of the United States to improve its own operations in a time when its ability to operate effectively is increasingly questioned by the American people.

In the time I have been a Member of Congress, I have experienced and observed many inadequacies and deficiencies which cripple the effective internal operation of Congress; the same faults which so many other Members have seen, described and attempted to reform. I have observed the secrecy of committee hearings, the failure to have committee votes made known to the public, and teller votes which permit Members of Congress to remain anonymous to the public and their constituents in terms of their support or rejection of legislation. I have seen the stifling influence of strict adherence to the seniority system in all activities of Congress—from the choosing of committee chairmen to the control of the motion to recommit and the allotment of amendments under the 5-minute rule on the House floor to the selection of House-Senate conferees. I have seen the senseless inefficiency occasioned by such archaic rules and procedures as time-consuming quorum calls and rollcall votes which could be handled quickly by an electronic voting system. I could go on and on. The examples above are only some of the anachronisms which impede the effective working of Congress. This institution has been operating with horse and buggy rules which are not effective in this age.

The Legislative Reorganization Act of 1970 is only the beginning of a comprehensive effort to free Congress of archaic, outmoded practices. The act itself is a small beginning in the mammoth task of overhauling our legislative machinery. It will be a worthy beginning only if it is strengthened by the worthwhile amendments which are to be proposed.

Among the more important amendments to be proposed are those which would: First, record and make public the votes of individual Members in teller votes; second, release to the public all rollcall votes taken within committees and subcommittees; third, open all committee hearings to the public except those closed by a two-thirds vote of the committee members, and, fourth, provide that appropriations bills, other bills, and House-Senate conference reports all be made available to House Members a number of days before they are voted upon so that Members might become familiar enough with them to amend and vote upon them intelligently. I must stress again—only with these amendments will the Legislative Reorganization Act of 1970 be a worthy reform measure. These amendments are absolutely necessary if the Congress is to become a progressive and positive force in America.

Even with the adoption of the amendments noted above, the Legislative Reorganization Act of 1970 must be construed only as a beginning of congressional reform.

Many other impediments of the effective operation of Congress will not be dealt with in this legislation. If we must again wait 24 years for the next congressional reorganization effort to follow this one, we will have failed. We will have failed to make Congress an effective institution for dealing with the problems which confront America today. Those who consider this package of legislation a once-for-all effort at reform are deceiving themselves. They will be disillusioned later. Cumbersome rules and procedures, and seniority preferences will continue to pervade and impede the operations of Congress. Only with continued effort beyond this legislation will we make substantial progress toward a 20th century Congress.

As we approach the challenge of modernizing Congress, we must consider our image in the eyes of the American people whom we serve. We can serve the American people effectively only if we command their respect and confidence in us as a legislative body. We must recognize that many people representing different political persuasions and philosophies look with jaundiced eye at the House of Representatives being able to find solutions to fundamental national problems. Black Americans, other minorities and whites are especially doubtful that substantial progress in the face of America's mounting problems will emanate from the U.S. Congress.

Perhaps most disturbing of all is the conception many of our young people have of the U.S. Congress. The young people who dream of an improved and more responsible America feel almost no hope that our national legislature can play a positive role in achieving this future. We call them "alienated." The lack of faith in the U.S. Congress is pervasive among many young people—the people who will be the future leaders of America. Working youths, minority youths, State college students, and ivy league students alike feel that the U.S. Congress is an anachronistic and archaic institution obsessed with procedures and maneuvers irrelevant to the greater problems of today which threaten the very future of America.

Thus we must reform and modernize Congress not only for ourselves, but also for the American people whom we serve. We must not let considerations of what makes things easiest for liberals or for conservatives or for our own reelections dominate our actions. We have the greater burden of regaining the confidence of the American people, especially the young people upon whom the very future of this Nation rests. To regain the confidence of the people we must dedicate ourselves to what is truly best for the people. That is to update the U.S. Congress into an effective institution which will lead in discovering solutions to fundamental problems in our Nation today.

Mr. SISK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would simply like to say this: I think we have moved along rather well for a little while here. We are coming up now to a subject on which there is a great deal of concern having to do with the televising and radio broadcasting of committee hearings. It seems to me this might be a good breaking point.

With that in mind, at this time, Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, had come to no resolution thereon.

PERSONAL ANNOUNCEMENT

Mr. DULSKI. Mr. Speaker, I was absent on official business and missed rollcall No. 213. Had I been present and voting, I would have voted "yea."

LEGISLATIVE PROGRAM FOR THE WEEK OF JULY 20

(Mr. ARENDS asked and was given permission to address the House for 1 minute.)

Mr. ARENDS. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader as to the legislative program for the following week.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. ARENDS. I yield to the distinguished majority leader.

Mr. ALBERT. Monday is Consent Calendar Day. There will be six suspensions, as follows:

H.R. 18253, to increase the availability of guaranteed home loan financing for veterans.

H.R. 14114, to improve the administration of the national park system.

S. 3279, to extend the boundaries of the Toiyabe National Forest, Nev.

H.R. 12475, Federal Aid in Fish and Wildlife Restoration Acts.

H.R. 14124, to extend the term for fisheries loans.

H.R. 15351, to authorize additional funds for the operation of the Franklin Delano Roosevelt Memorial Commission.

Then we will resume consideration of the Legislative Reorganization Act of 1970.

For Tuesday and the balance of the week:

Tuesday is Private Calendar Day. There is also scheduled for the consideration of the House the Department of Labor, Department of Health, Education, and Welfare appropriation bill for fiscal year 1971.

Following that, we will return to H.R. 17654, the Legislative Reorganization Act of 1970. If we finish that bill in time—and there may be at least one or more conference reports—we will go on with the program which we previously announced for this week, that is:

H.R. 13100, to extend programs for training in the allied health professions under an open rule with 1 hour of general debate;

H.R. 14237, to amend the Mental Retardation Facilities and Community Health Centers Construction Act of 1963 under an open rule with 1 hour of general debate; and

H.R. 16542, to regulate the mailing of unsolicited credit cards, under an open rule with 2 hours of general debate.

Mr. Speaker, if the distinguished minority whip will yield further, may I state also that we do intend to have a Friday session next week. We must do this. We have a backlog of rules and it is necessary to do this if we hope to dispose of all available business by the middle of August.

Mr. Speaker, this announcement is made subject to the usual reservation that conference reports may be brought up at any time and that any further program may be announced later.

Mr. ARENDS. I thank the distinguished majority leader.

ADJOURNMENT TO MONDAY NEXT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works; which was read and, together with accompanying papers, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C, July 14, 1970.

Hon. JOHN W. MCCORMACK,
Speaker of the House,

MY DEAR MR. SPEAKER: Pursuant to the provisions of Section 201 of Public Law 89-298, the Omnibus River and Harbor and Flood Control Act of 1965, the Committee on Public Works of the House of Representatives on July 14, 1970, approved by resolution the following flood control projects:

Fourmile Run, City of Alexandria and Arlington County, Virginia

Channel Improvements on Souris River through and below Minot, North Dakota

Attached are copies of the resolutions referred to above.

Sincerely yours,
GEORGE H. FALLON,
Chairman.

THE SUCCESSFUL 747

(Mr. MEEDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEDS. Mr. Speaker, today, July 16, 1970, bears special significance for the aviation industry of the United States and for the traveling public throughout the world. Today a 747 superjet is carrying the millionth passenger since the airplane started commercial service this past January 21.

Seldom has a single technological innovation caused such international interest as the 747 jetliner. Four years ago, this airplane existed only in the minds of men. In 2 years' time one of the largest buildings in the world was constructed at Everett, Wash. Today, the airplane is flying in 12 countries and serves 2 dozen of the great cities of the world. It carries up to 30,000 people daily to their destinations.

This is only a start, for this program is young. The 50 superjets delivered to date will increase to 100 by the end of this year, and 747's will be touching down in nearly every corner of the world. The numbers will continue to grow, and the economic impact will be felt wherever the airplane is seen. This is a large airplane, Mr. Speaker. It is 232 feet in length—112 feet longer than the first flight of the Wright brothers. It can carry up to 490 people per flight, although the airlines are flying at a maximum capacity of 364 at this time. The 747 will reduce congestion in the airways, since one superjet can do the work of about 2½ 707-type jetliners. On some transcontinental routes, many flights have already been consolidated into single 747 flights. And this, too, is only a start.

The 747 is typical of American genius. A firm in the northwest corner of the United States, the Boeing Co. of Seattle, Wash., had enough faith in its own capability to invest nearly three-quarters of a billion dollars of its own resources to make the 747 a reality. But the story does not end there. Boeing subcontractors and suppliers for the 747 are located in every State of the Union and in six foreign countries. Those outside firms receive 50 cents of each dollar spent with Boeing for these airplanes. The multiplier effect of 747 money spreads throughout this Nation. And further, nearly half of the 747 orders are placed by foreign carriers. This has a favorable impact upon the United States' balance of trade.

The 747 is a credit to our country, to the airlines flying it and to the company that is building it. Somewhere today, passenger number 1 million is flying in the greatest comfort he ever has known in the largest and probably the safest airliner ever built. Once again the Boeing Co. has combined research and engineering into a success that benefits us all.

Mr. PELLY. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to my colleague from Washington.

Mr. PELLY. Mr. Speaker, I thank the gentleman for yielding, and I want to commend my colleague from the State of Washington for his remarks regarding a great airplane and a great aerospace company.

Mr. Speaker, I share his pride in the contribution that the Boeing Co. and the 747 jetliner are making to modern air travel.

Meanwhile, south of the 747 plant, and in Seattle, the Boeing Co. is applying its wealth and talent and technological ability to the next generation of commercial jetliners—the U.S. supersonic transport.

When it enters commercial service in 1975, this marvel of American genius and technology will provide a major advance in service to the traveling public. For example, with a cruising speed of 1,800 miles an hour, it will transport up to 300 passengers in complete comfort and safety from Washington, D.C., or New York to London in 2 hours and 45 minutes; or from San Francisco to Tokyo in slightly more than 5 hours. In retrospect, each advancement in commercial aviation during its relatively brief history has benefited our society. By making the world smaller, the air travel has significantly enhanced the communication and interrelationships between the peoples of the earth.

Looking to the future, it does not require a vivid imagination to recognize the benefits that our Nation will derive from the SST. Intercontinental travel time will be reduced by two-thirds. Think of what this will mean in the fields of commerce, finance and international relations.

Mr. Speaker, the positive impact on our national economy will also be far-reaching. Studies by the Boeing Co. and the Federal Aviation Administration indicate a market potential for more than 500 U.S. SST's by 1990, based on selected international routes with no boom-producing flights over populated areas. This is over $20 billion worth of business. And by 1985, the SST share of the long-range air traffic will equal the total free-world traffic of 1970. Here is what this much business would mean to the U.S. economy. At the peak of production, the SST program will provide about one out of every 50 new civilian jobs. The long-term direct work force on the SST may number 50,000 and the supportive work force, 100,000.

Although the Boeing Co. has the prime contract, the engines will be assembled in the General Electric plant in Evendale, Ohio, the cockpit and hinged nose sections will come from Hawthorne, Calif., and the tail assembly from Farmingdale, N.Y.

Depending upon final source selection by Boeing and General Electric, there is a potential opportunity for suppliers and subcontractors in most of the 50 States to benefit from the program.

Last, but certainly not the least of the economic benefits, will be the impact of SST sales on the U.S. balance of payments. The potential balance of trade effect of a successful American SST program in international competition during the next two decades becomes a consideration of major national significance with the serious deterioration of our balance of payments outlook as viewed after the first quarter of 1970. It is now estimated that this balance of trade impact could reach as much as $22 billion over the life of the SST program.

Mr. Speaker, a program of this size and scope is certainly not without risks and high cost. The development costs of the SST prototype program is estimated at $1.3 billion—more money than has been required to build any other airplane now flying commercially, and certainly more money than private industry is in a position to invest. Therefore, the only feasible way in which the United States could meet the competition from the British-French and Russian Government-financed SST's was to form an industry-government financial partnership on a 90–10 cost sharing basis. Contrary to the claims of some of the program's critics, this is not a Government subsidy—it is a loan which will be repaid totally upon the sale of the 300th SST.

As much as I desire to do so, I will not take the time here to attempt to answer the other criticisms being voiced by the critics of the U.S. SST program. I will, however, offer the observation that a considerable amount of the controversy is either nonfactual or is based upon misinformation. With this thought in mind, I ask unanimous consent to submit at the conclusion of my remarks the June 19, 1970, issue of the Boeing Management Information bulletin containing a transcript of an interview with H. W. "Bob" Withington, vice president-general manager of the SST Division of the Boeing Co. Mr. Withington very ably separates fact from fantasy regarding the major criticisms of the SST program. I commend it for your reading.

And Mr. Speaker I close my remarks by quoting a statement about the SST program made by President Nixon on September 23, 1969, in which he said:

> For fifty years the United States has led the world in air transport . . . It is essential to build this plane if we are to maintain that leadership.

Mr. Speaker, I submit that the money spent now on the SST program is truly an investment in the future.

Facts on SST: An Interview With Withington

Controversy, accompanied by a great amount of misinformation, has surrounded the congressional battle over the supersonic transport. So that Boeing managers will be able to sort fact from fantasy, here is a special interview with H. W. "Bob" Withington, vice president-general manager of the SST Division.

Q. At this point, as you're getting ready to start building the prototypes, are you really satisfied with the SST design?

A. Absolutely. I think one of the most significant things is the technical stability our design has maintained over the past year and a half. We have been working more than a dozen years on the SST, and during most of that time almost every configuration we had gradually seemed to get worse the more we worked on it. This one has stayed good all the way and in some places has even improved. We know where we are technically and we really are ready to go with the prototypes.

Q. What are you looking for in the way of competition from the Concorde and the Russians?

A. We think our airplane will be greatly superior in performance and passenger appeal to both the British/French Concorde and the Russian airplane. Remember, though, that they have a long lead on us. The potential threat this poses is that, with their experience from flight tests, they may be able to come up with a second-generation airplane that would be much more competitive and would be available in the same time period as ours.

Q. You don't expect, do you, that their second-generation airplane would be better than our first production models?

A. No. But anyone who has tried to sell airplanes outside the U.S. knows that his product has to be quite a bit superior to a foreign product if he's going to make the sale. We're anticipating a 500-airplane market, but we expect about half of it to be overseas.

Q. Foreign sales of the Boeing SST, then, are pretty vital to the program's success?

A. Yes, for a couple of reasons. We need them to make the program an economic success, for Boeing and for the government. One of the reasons that three administrations have considered it important that the U.S go ahead with an SST is that it is expected to give America a favorable effect in the balance of trade. If no American SST were available, it is estimated that U.S. airlines would have to purchase some 380 foreign-built SSTs to maintain a competitive position. Approximately 250 of these could be expected to be advanced-model Concordes approaching the performance, size and economy of the present American design and therefore selling at a higher price than the original Concordes. The unfavorable balance of trade during this period caused by these increased imports and loss of exports, would amount to some $22 billion—enough to seriously tip the scale against the United States in its international monetary position. Right now, commercial transports are one of the very few kinds of manufactured products in which the U.S. still has a marked edge in the world market.

Q. But haven't a lot of critics been saying the government shouldn't have to put up the money for a privately produced product?

A. They have, but they're ignoring some pretty basic facts. The government is loaning us about one and a quarter billion dollars—and I think we ought to make real sure we understand this is a *loan*, a long-term loan. The government isn't *giving* anyone that money; it's *investing* it. It will get its principal back by the sale of the 300th airplane, and its full interest in another 200. Beyond that, it will draw royalties that will amount to clear profit. And the government is not putting up all the money, as the governments of Britain, France and Russia are doing for their supersonic airplanes. Twenty-six airlines, including fourteen foreign carriers, have reserved delivery positions for 122 U.S. SST. More than $80 million has been invested by the carriers, some $60 million of it at risk by nine domestic airlines and one foreign airline. General Electric (producer of the engines) has a total commitment of $94 million. And Boeing's commitment is about $214 million—half in cash and half in the cost of facilities.

Q. Mr. Withington, some critics have been saying the SST will create sonic booms that will break windows, stampede cattle, and knock housewives off their kitchen stools. Care to comment?

A. I shouldn't have to comment, simply because that charge should have been laid to rest long ago. It's ridiculous, on two counts. First, the government has stated quite clearly that the SST will not be permitted to fly at boom-producing speeds over populated areas. In fact, all of our studies at Boeing—including economic studies—have been based on the assumption that the SST will not be flying over land at supersonic speeds.

Second, there is a tremendous misconception about the effects of sonic boom. Critics tend to think of some of the things that have happened when fighters have broken the so-called sonic barrier over a community. The over-pressures involved in those incidents were 60 to 80 pounds per square foot. The SST's over-pressure is four pounds in climb, two in cruise. That magnitude of noise is about equal to the thunder clap from a lightning bolt that hits a half mile away, and I don't think that amount of noise has ever broken anything. We recognize, however, that it can be an annoyance, and we don't intend to perpetrate that annoyance on anyone.

Q. What about the effect of sonic boom on ships at sea?

A. It will be negligible. A special report to the Secretary of the Interior, prepared by a committee appointed by him, indicates that it seems unlikely that the pressure from sonic booms would have any effect on ships, especially since "the overpressure from sonic booms are much less than the difference in pressure between the top and the bottom of a small ocean wave."

Q. Apart from sonic boom, aren't you anticipating noise problems around airports?

A. We're anticipating just one tough problem here, but we expect to solve it. The SST's engines will generate about as much thrust as four 707's. This means there will be quite a bit of what we call "sideline" noise—principally noise on the airport itself—unless we suppress it. The prototype engines will not have sound suppression, but Boeing and the engine manufacturer, General Electric, have a major program aimed at reducing engine noise for the production engines.

Q. With sound suppressors?

A. Yes. We think we know, from the acoustical standpoint, what we need to do. Fundamentally, there are two approaches which will be explored: One to reduce specific thrust (reduce jet exhaust velocity), and the other to change low frequencies to high (high frequency attenuates rapidly with distance). We feel that, by the time we get to the production airplane, we can make a significant reduction in sideline noise. This is something most of the critics don't seem to appreciate: The fact that we have some years ahead of us in which to advance our technology.

Q. What about noise on takeoff and approach?

A. Because we have so much power on this airplane, we climb fast and will get pretty high over the community at a very early point. Our calculations indicate the SST may be even better than today's airplanes at meeting the government's requirements with respect to noise in the community under a takeoff.

As far as approach is concerned, we also should be better than today's aircraft. Part of the reason is the unique engine inlet required for supersonic flight. We can choke it and no noise will come out the front. Besides this, the instrumentation, the capability of the airplane, the auto-throttles and the automatic flight control on approach will permit us to use techniques that will hold down the noise.

Q. We read a lot about air pollution these days. Do you expect the SST to be a factor in pollution?

A. A fully loaded SST, traveling at 1780 miles per hour, won't emit any more air pollutants per mile than three automobiles traveling at 60 mph. That may sound surprising, but the fact is that reciprocating engines used in land transportation vehicles convert 30 to 50 per cent of the fuel consumed into air pollutants. Turbine engines convert less than 1 per cent.

You might remember also that smokeless burners now are being installed on today's aircraft engines. In ground operation, they have reduced smoke particles by about 65 per cent and smog ingredients by 50 per cent.

Q. Didn't one critic predict some kind of permanent high-altitude overcast resulting from crystallized SST contrails—an overcast he said might blot out the sun and change the earth's climate?

A. I'm afraid he did, and he even got some congressmen excited about it. But the fact is that condensation trails are seldom, if ever, formed at the 60,000 to 70,000-foot altitude at which the SST will cruise. We know this, because military pilots have flown supersonically for hundreds of thousands of hours at high altitude.

Q. Well, what did this man base his theory on?

A. Apparently on some early studies that indicated it might take 10 years or so to circulate air and water out of the stratosphere, thus permitting the SST's water vapor to accumulate as a sort of global cirrus cloud layer. But later studies show that the circulation time is more like one year .

As a matter of fact, the National Academy of Sciences and the Office of Meteorological Research both have studied this prospect and reported that a fleet of SST's will have no appreciable effect on the earth's normal atmospheric balance. The NAS study showed that 1,600 SST flights per day would produce about 150,000 tons of water. That's about the same amount that would be injected into the stratosphere by a single large cumulonimbus cloud in the tropics.

Q. Haven't some other critics suggested that SST passengers might be exposed to too much radiation in the thin atmosphere at high altitudes?

A. That's really a far-out suggestion. Military airmen and astronauts have spent a great deal of time at such altitudes and there has been no evidence of radiation hazard.

Federal standards recommend that the general public not be exposed to more than 500 millirems of radiation per year. Atomic workers are permitted 5,000. In some areas of the world, natural radiation runs as high as 12,000 millirems per year.

A person would have to make 250 trips from Seattle to New York at the altitudes we fly today to receive an additional 500 millirems of exposure. Flights at 65,000 feet would increase the radiation dose by a factor of three, but at SST speed you would be exposed only one-third as long. Thus the SST passenger isn't going to have any more radiation exposure over any given number of miles than today's subsonic-jet passenger.

Q. Altogether, what you're saying, then, is that the SST will not in any way pose additional hazards to man and his environment?

A. That's what I'm saying, yes. It's popular these days to attack a great many things on environmental grounds, and a lot of these things should be attacked because we've got to stop the deterioration of our environment. In the case of the SST, though, the critics simply have the wrong whipping boy.

Q. Isn't congestion on the airways and airports an environmental problem?

A. I guess you could call it that. But if you're suggesting that the SST will compound the congestion, I think we're still talking about the wrong whipping boy. Remember, this airplane will fly at 60,000 feet and above. This is a complete new chunk of airspace—so we actually will be helping to alleviate the airways congestion problem.

So far as the airports are concerned, obviously we'll have to go into the same traffic pattern as other aircraft. But the SST's short time of flight will give us an opportunity for wholly different schedules in terms of departure and arrival times.

Q. You mean the SST will be taking off and landing at different times than most other aircraft?

A. I expect it will be scheduled that way. Right now the peak departures from Kennedy International to Europe are in the evening—6, 7, 8 o'clock—and that, coupled with the domestic traffic, makes Kennedy pretty congested that time of night. Well, the SST can leave as early in the morning as you want to get up, or as late as 1 o'oclock in the afternoon, and still reach its destination the same day. For this reason, I think the SST is going to help lighten the airports' burden.

Q. One persistent critic in the Senate has been calling the SST a "plaything for the jet set." How do you answer that charge?

A. By pointing out that the SST is the farthest thing from a "plaything"—it's in fact a "workhorse." Because of its speed alone, it will do *three times* the work of a subsonic *jet of equal capacity.*

You know, there were equally unrealistic criticisms from some congressmen on other Boeing products. For example, when we were introducing the B–17 Flying Fortress, congressmen debated appropriations for anything bigger than two-engine planes because "there would be too many eggs in one basket." And then when we were going from piston engines to jets for commercial travel, there were scare stories about what would happen if we tried to break the so-called sonic barrier. All those criticisms faded away promptly as soon as the airplanes had a chance to prove themselves. I expect the same thing will happen to the criticisms of the SST once we've got it in the air and demonstrated what it can do.

DESPICABLE LAW IN EFFECT IN NORTHERN IRELAND

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, yesterday I pointed out the need for a thorough investigation of the Northern Ireland situation by the United Nations. I hope that the relative calm in Northern Ireland recently does not cause the U.N. officials to ignore the problem.

I would like to bring to the attention of my colleagues a despicable law in effect in Northern Ireland. The Special Powers Act, which was passed by the Northern Ireland Parliament in 1922, would permit near dictatorial rule by those in power. I offer for the record the provisions of this act.

If such a law were proposed in this country, there would be a great hue and cry about civil liberties and destruction of the Constitution. Yet, how can we condone such a law—and particularly its implementation—in Northern Ireland?

Mr. Speaker, we are currently marking Captive Nations Week in this country. Today, in this Chamber, my colleague from Pennsylvania (Mr. FLOOD) will sponsor a special order so that the Members can express their concern over the conditions in countries dominated by communism.

Many who take to the floor this afternoon will have much to say about the right of self-determination and how every person should be allowed to exercise that right. Yet unfortunately in the so-called free world, those Irish Catholics in Northern Ireland do not have that right. Let us never forget that the cause of freedom and justice can best be served through the strengthening of these values in the democratic nations. I think it is time that this country became concerned about the cause of freedom and justice in Northern Ireland as well as those countries in Europe and Southeast Asia under the domination of foreign powers.

Summary of the Special Powers Act follows:

THE SPECIAL POWERS ACT, NORTHERN IRELAND

1. Arrest without warrant;
2. Imprison without charge or trial and deny recourse to habeus corpus or a court of law;
3. Enter and search homes without warrant, and with force, at any hour of day or night;
4. Declare a curfew and prohibit meetings, assemblies (including fairs and markets) and processions;
5. Permit punishment by flogging;
6. Deny claim to a trial by jury;
7. Arrest persons it is desired to examine as witnesses, forcibly detain them and compel them to answer questions, under penalties, even if answers may incriminate them. Such a person is guilty of an offense if he refuses to be sworn or answer a question;
8. Do any act involving interference with the rights of private property;
9. Prevent access of relatives or legal advisers to a person imprisoned without trial;
10. Prohibit the holding of an inquest after a prisoner's death;
11. Arrest a person who "by word of mouth" spreads false reports or makes false statements;
12. Prohibit the circulation of any newspaper;
13. Prohibit the possession of any film or gramophone record; and
14. Arrest a person who does anything calculated to be prejudicial to the preservation of peace or maintenance of order in Northern Ireland and not specifically provided for in the regulations.

THE NATION'S NEWSPAPERS ARE DEMANDING REDUCTION OF FABULOUS FARM SUBSIDIES

(Mr. MADDEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. MADDEN. Mr. Speaker, last week

the Senate courageously limited annual subsidy payments to any farm operation to the amount of $20,000. A year ago the House pioneered the $20,000 limitation, but unfortunately when this legislation was before the other body the $20,000 limitation was rejected.

The other body no doubt is reacting to the avalanche of American public opinion and the demand of taxpayers that this unfortunate raid on the public treasury be terminated. All Members of Congress in both bodies want legislation that will make agriculture prosperous and by limiting payments to $20,000 annually thousands and thousands of smaller farm operations will be given protection on a sensible farm legislation program.

Many newspapers over the Nation have commended the Senate for its action on this subsidy limitation to $20,000 annually, on July 8, 1970. I do hope when the House Conferees meet with the Senate Conferees they will go along with the action of the Senate and uphold the limitation the House enacted last year on the farm subsidy.

Mr. Speaker, I am enclosing the following editorial from the Hammond, Ind. Times and Gary, Ind., Post Tribune commenting on the limitation enacted by the Senate:

FARM SUBSIDIES

Crippling of one of the nation's worst boondoggles, the farm subsidy program, was narrowly voted by the Senate. It decided 40-35 to limit handouts to $20,000 a year per farmer.

Heretofore, attempts to limit the amount were rejected by the Senate. It was always in the House that they flourished where last year the limit won 224 to 140 approval.

Now that the Senate has come to its sensibilities, the House is in retreat. It has already rejected the $20,000 ceiling, and hopes appear shaky that it will accept the Senate's decision.

Should the House fall in line, it could mean annual savings of from $200 to $300 million for the taxpayers, according to Illinois' Senator Smith, a sponsor of the Senate restriction. He estimates that more than $3 billion is paid every year in farm subsidies.

If all that moeny went to stave off economic disaster for the small farmer, it would be well invested. That was the original intent of the program through its mechanism of paying him to idle land thereby depressing crop production so prices would remain reasonably high and his income adequate.

But most of the money over the years has found its way into the hands of the huge corporate farms, the principal reasons being the drastic shrinkage in the number of small farmers. Sen. John Williams, (R., Del.) long an advocate of a subsidy ceiling, notes that such farms are owned by industrial monoliths like Standard Oil of California and Reynolds Aluminum Co.; numerous banks also receive the subsidy payments.

"Those collecting the money aren't cultivating the farms. They're cultivating the Treasury of the United States," Williams correctly observes.

Subsidy proponents argue that if the payments are curtailed, the large landowners will return idle acreage to production, flood the market with products and drive down prices. The implication is that to keep the little farmer solvent, the big ones must be allowed at the trough, too.

The rebuttal to this illogic is for the government to protect the floundering little guy; reject obvious manipulators. The $20,000 limit is a good idea.

[From the Gary Post-Tribune, July 11, 1970]

LIMIT THE SUBSIDIES

Gary's Rep. Ray J. Madden faces a new opportunity and a new challenge involving one of his pet projects—in which we are heartily in accord.

What is involved in the possibility of limiting farm subsidy payments to $20,000 for any one farmer.

Previously Madden has been instrumental in getting legislation for such a limitation through the House. Previously it has died in the Senate. Now this week the Senate has surprised its farm bloc by approving such a limitation by a 40-to-35 roll call vote. Now, however, the proposal reportedly faces rough going in the House.

We feel sure Madden will be trying hard to get it through. Admittedly such an effort takes no great courage for a representative of a district as little farm-oriented as his is. Nevertheless, we wish him success.

The farm subsidy program was wisely conceived in the depression years as a means of cutting down overproduction of certain crops without leaving farmers destitute because of what they failed to plant. That kind of control probably still is needed. However, too often in more recent years of bigger corporate farms such subsidies have resulted in huge windfalls for very big landowners. That wasn't the original idea. It should be stopped.

CON SON—AND WHY NOT HUE?

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the National Observer asks a very good question, one that the proponents of appeasement need to answer. That question is: "Con Son—and Why Not Hue?"

Indeed, Mr. Speaker, why not Hue? Or why not the American prisoners of war? Why not, indeed, that land of prisoners—Czechoslovakia?

Why not, indeed.

Mr. Speaker, I insert in the RECORD the July 13, 1970, editorial from the National Observer, "Con Son—and Why Not Hue?" at this point:

CON SON—AND WHY NOT HUE?

Con Son—that's the big name this week and probably next week and the one after that for those who are determined to get the government of Thieu and Ky, at whatever cost, and to increasingly and compulsively prove the "immorality" of United States involvement in Vietnam.

The spectacle of prisoners being mistreated is not a pleasant one. Not a very new one, either. But that the outrage was mostly political was quickly evident. There was the remark, for example, of Rep. Augustus F. Hawkins, Democrat of California, that Con Son is "a symbol of how some American officials will cooperate in corruption and torture because they want to see the war continued and the government they put in power protected." Getting Thieu and Ky is a long-standing game—in which there has been far more weeping and gnashing of teeth over what they have allegedly done than hard evidence of ill doing—of which Con Son, though not really dramatic, is rather heaven-sent.

As we say, the spectacle of prisoners being mistreated is not a pleasant one. Atrocities never are. But how much outcry have we had over some other atrocities—Hue, for example, where thousands of South Vietnamese were murdered by Viet Cong.

Hue is not publicized, of course, because it would harm the image of a benign Viet Cong, more sinned against than sinning. Smith Hempstone, writing in the Evening Star of Washington, D.C., recalled some other atrocities—the South Korean "spy" mangled in a North Korean prison, the Belgian nun beaten to the bone by bicycle chains in the Congo. Somehow these incidents never caused the outcry that Con Son, for example, does.

Do the young people going from here to cut sugar cane for Castro recall how he abolished elections and sent his foes before kangaroo courts and on to the firing squads? Or do they condone it? And how about their parents who continually push for closer relations with Cuba? How about the mass murders perpetrated on the China mainland by the Chinese Communists? Are they likewise condoned by those who so ardently seek to embrace that land? Why all the outcry over Con Son and so little over the treatment of U.S. prisoners in the hands of the Viet Cong?

Well, the difference isn't hard to find. If the atrocity is perpetrated by a right-wing government, it is built into a major event. If it comes from a left-wing government, it is ignored, or swept under the rug.

We would be more impressed by all the concern over atrocity if it were applied more to atrocities themselves and less to political targets.

SUPPORT FOR VETERANS BY THE HONORABLE FRANK THOMPSON, JR.

(Mr. ROONEY of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROONEY of Pennsylvania. Mr. Speaker, I was very much disturbed quite recently to read in the Easton Express, a leading newspaper in my district, an article which alleged that the distinguished gentleman from New Jersey (Mr. THOMPSON) had not taken an interest in veterans affairs. I do not know the person who made the allegation, but I do know our distinguished friend and colleague (Mr. THOMPSON), and I do know, as a former member of the Committee on Veterans Affairs, of his unswerving and dedicated support to assist our veterans. Little more than a month ago, our distinguished colleague (Mr. THOMPSON) issued a public statement pointing to the plight of the veterans hospital program. That statement set forth in specific detail the staffing needs for veterans hospitals in New Jersey. With your permission, I would like to make that statement part of the RECORD.

Under the leadership of the distinguished gentleman from Texas (Mr. TEAGUE), chairman of the Veterans Affairs Committee, the House has passed several major bills relating to veterans affairs in this session of the Congress. The distinguished gentleman from New Jersey (Mr. THOMPSON) supported and voted for each and every one of these bills, a list of which, with the House's permission, I attach herewith. While the gentleman from New Jersey needs no defense from me for his support of legislation on veterans affairs, I felt that I could not let the published statement go unanswered or unrebutted. I commend the gentleman, and I am sure that those of our colleagues who know of his record on veterans affairs will wish to join me.

LIST OF HOUSE-PASSED BILLS RELATING TO VETERANS' AFFAIRS

H.R. 370—Increases from $1,600 to $2,500 the amount allowed for the purchase of specially equipped automobiles for disabled veterans.

H.R. 372—Provides for changes in the reporting requirement and establishes additional income exclusions relating to pensions for veterans and their widows.

H.R. 692—Extends the length of time community nursing home care may be provided for veterans at U.S. expense from 6 to 9 months.

H.R. 693—Provides that veterans 70 or older shall be deemed unable to defray expenses of necessary hospital care and provides an extra $50 a month for a widow who is helpless or blind.

H.R. 2768—Eliminates the 6-month limitation on the furnishing of nursing home care in the case of veterans with service-connected disabilities.

H.R. 3130—Provides that the Administrator of Veterans' Affairs may furnish medical services for nonservice-connected disability to any war veteran who is totally disabled from a service-connected disability.

H.R. 4622—Insures the preservation of all disability compensation evaluation in effect for 20 or more years under veterans benefits.

H.R. 6808—A bill which permits a veteran to receive GI educational benefits whether or not he is receiving assistance under another Federal program.

H.R. 9334—Increases generally the Federal payments to the states for the care of veterans in state homes.

H.R. 9634—Improves the V.A. program of sharing specialized medical resources.

H.R. 10912—Provides for the liberalization of the conditions under which the Administrator of Veterans' Affairs is required to effect recouping from disability compensation otherwise payable to disabled veterans.

H.R. 11959—Increase rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans.

H.R. 13576—Increases the rates of dependency and indemnity compensation payable to widows of veterans.

H.R. 16661—Authorizes a maximum of $15,000 coverage under Servicemen's Group Life Insurance.

H.R. 17958—Provides increases in the rates of disability compensation and liberalizes criteria for eligibility of widows for such benefits.

STATEMENT

While Memorial Day is still fresh in our minds, it would be appropriate for all Americans to join in a national commitment to provide a higher standard of care for those veterans who are hospitalized. Their number is truly staggering. Each year more than 800,000 patients are treated in Veterans Administration Hospitals, and the number is growing by 16,000 a year as a result of the Vietnam war. In spite of this growing roster of patients, we actually have 1,100 fewer staff personnel in our 166 VA Hospitals today than we had in 1966.

A recent article in Life Magazine publicized a situation that has developed for several years. The fact is that the present Administration and the preceding Administration has consistently underestimated staffing needs for VA Hospitals. Therefore, the executive branch has failed to request sufficient funds from the Congress to operate the VA Hospitals in a manner that will assure adequate care for the patients.

In New Jersey for example, Reuben Cohen, Director of the East Orange VA Hospital, advised the Committee on Veterans Affairs that he has 34 authorized staff positions now vacant, but no funds to hire personnel to fill them. Moreover, Mr. Cohen has said he needs authorization for 695 new positions to adequately staff the hospital.

Dr. S. T. Ginsberg, Director of the Lyons VA Hospital, advised the committee that he has 19 authorized staff positions which he cannot fill because of the lack of funds. He estimates that he needs authorization for 200 additional employees to provide an adequate standard of care.

President Nixon recognized the crisis on April 2 in a special message to the Congress. He recommended appropriation of an additional $15 million for the VA medical budget for the current fiscal year which ends June 30; and an additional $50 million for the 1971 fiscal year. The House of Representatives acted promptly and, upon the advice of Rep. Olin E. Teague, Chairman of the Veterans Affairs Committee, we went beyond the President's recommendations. The House appropriated an additional $22 million for the VA medical budget for the current fiscal year and an additional $75 million for the coming fiscal year. The House Committee did not act in a vacuum. The Committee staff conducted a four-month survey of all veterans hospitals last year. The findings fully support the conditions reported by Life Magazine.

Advanced medical techniques have wrought miracles in providing treatment for seriously wounded men. A soldier may now find himself on the operating table within minutes of being wounded. As a result, men are being saved who in prior years would never have reached a hospital bed. How ironic it is for wounded servicemen to receive superb medical care under battle conditions only to fall victim to neglect in a VA Hospital at home. Surely, this Nation can do better. It must do better.

DEPARTMENT OF DEFENSE CHANGES POLICY FOLLOWING MARINE'S DEATH

(Mr. ROGERS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROGERS of Florida. Mr. Speaker, on May 7, 1970, I told my colleagues of the unfortunate death of Pvt. George J. Girot, a U.S. Marine recruit who died of a heart attack during training exercises at Parris Island, S.C.

Young Girot had managed to enlist in the U.S. Marine Corps even though he was classified 4–F by his local draft board because of a heart condition. He also managed to pass the physical examination at the Armed Forces Entrance Examination Station at Coral Gables, Fla., primarily because the physicians at the examining station did not know he was 4–F and did not bother to check his draft status with his local draft board or with the recruiter who referred Girot for a physical examination.

I expressed dismay at the fact that the U.S. Army or the U.S. Marine Corps, both of which use the AFEES facilities, would not have sufficient liaison with these examining stations to provide information on a prospective recruit's draft status or medical history. I was further concerned that the AFEES station in Coral Gables, Fla., did not attempt to ascertain young Girot's draft status from his local board or from the recruiter.

On May 7 I sent a letter to Secretary of the Army Stanley Resor urging that such lax procedures be reviewed and recommending that better liaison be established between the AFEES facilities and the Selective Service System in order that such tragedies could be avoided in the future.

I have received a reply from Col. Raymond T. Reid, Chief of the Legislative Liaison Office, Department of the Army, in behalf of Secretary Resor, stating that the Department of the Army, acting as executive agency of the Department of Defense for the operation of AFEES, has adopted a change in policy along the lines which I recommended.

I would like to insert at this point in the RECORD that letter from Colonel Reid for the benefit of my colleagues:

DEPARTMENT OF THE ARMY,
Washington, D.C., July 2, 1970.

Hon. PAUL G. ROGERS,
House of Representatives.

DEAR MR. ROGERS: The Secretary of the Army has asked me to reply to your inquiry concerning the death of George J. Girot.

As a result of the unfortunate death of Private Girot, the administrative directives relating to evaluation of medical documentation for applicants with a previous IV–F classification were subjected to intensive review. The review revealed that in certain circumstances, such as those under which Private Girot applied and was accepted for enlistment, prior medical documentation was not in fact made available for evaluation at the Armed Forces Examining and Entrance Station (AFEES).

Following the review, the U.S. Army Recruiting Command recommended to the Department of the Army (Department of Defense executive agency for operation of AFEES) that any prospective applicant for enlistment previously registered with his local draft board as IV–F be referred back to that board to request re-examination by AFEES. This will insure that the documented medical history of the individual is furnished to AFEES along with the request for reexamination and will negate total reliance on the applicant's Personal History Form. This recommendation is now being coordinated with the other services and National Headquarters, Selective Service System. Informal coordination with the other recruiting services indicated their acceptance of this proposal, and it should be implemented in the near future.

I trust this information will be of assistance to you.

Sincerely,

RAYMOND T. REID,
Colonel, GS, Office, Chief of Legislative Liaison.

I am very pleased that the Department of the Army has acted favorably in this matter, and I believe the new procedures will greatly improve the liaison between our armed services, the Selective Service System, and the physical examination facilities throughout the country, and that such tragedies as befell young George Girot can be avoided in the future.

INDUSTRIAL OUTPUT DECLINE

(Mr. ALBERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALBERT. Mr. Speaker, recently we have witnessed a steady barrage of statements emanating from the executive branch of the Government to the effect that our current economic recession has bottomed out and that we are on the road to recovery. Bottoming out appears to be an expression developed by this generation of Republican policymakers to replace that somewhat tarnished expression used by their political forbears; namely, "prosperity is just around the corner." Like its ill-fated predecessor, the phrase "bottoming out" has as its objective the creation of a rosy warm glow of confidence as to this Nation's economic status. Unfortunately, when subjected to the acid test of the factual situation in the real world, it fails to engender the desired results. Quite the contrary; as the history of 40 years ago so effectively demonstrated, repeated Presidential expressions of unwarranted optimism as to the state of the economy when sharply contradicted by economic statistics, tend to aggravate lack of confidence on the part of both business and the public.

Yesterday, the Federal Reserve Board revealed that industrial production during May had dropped once again. This decline means that the country has now experienced a downward thrust in the economy for a year. The press reports that shortly after the report was issued, President Nixon met with his top economic advisers for a general discussion on the economy. White House Press Secretary Ron Ziegler, however, stated that Mr. Nixon was not necessarily planning any new move on the economy.

Mr. Speaker, the million people who are now unemployed and who had jobs when Mr. Nixon took office, and the workers who are experiencing sharply reduced workweeks, will find little comfort in the fact that the President held a general discussion on the economy yesterday with the selfsame officials, Messrs. Mayo, McCracken, Kennedy, and Burns, who have been the architects of our current unprecedented economic disaster. As I have stated on previous occassions, these gentlemen have somehow concocted an economic policy which has at one and the same time produced galloping inflation and deepening recession.

Mr. Speaker, the country has had enough of Pollyanna statements from the administration on the economy, it has had enough general discussions on the economy, it has had more than enough of a Republican economic elixir guaranteed to produce both inflation and recession. It is time for the President to take those economic measures necessary to curb inflation and put people back to work.

ANGKOR WAT AND THE HAGUE CONVENTION

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, as a result of the combat in Cambodia many people throughout the world became acquainted with the ancient cities of Angkor Wat and Ankgor Thom. Those monuments of a great and early civilization appeared to be threatened with destruction and are still in peril. I received requests from a number of constituents concerned with protecting those and other art treasures that I ascertain what measures could be taken by the United Nations and the United States to protect them.

I discussed the matter with our distinguished colleague, PETER H. B. FRELINGHUYSEN, of New Jersey, whose deep involvement in cultural matters is well known to the public. We decided to urge upon Secretary General U Thant a course of action which would seek the establishment of a United Nations presence to safeguard these extraordinary structures and on June 16, 1970, we sent him a telegram requesting his intercession.

We then enlisted the aid of Thomas P. F. Hoving, director of the Metropolitan Museum of Art, Richard F. Brown, president of the American Association of Art Museum Directors, and Kyran McGrath, director of the American Association of Museums, and wrote to more than a hundred museum directors and others throughout the country who would be interested in preserving architectural and cultural treasures throughout the world requesting that they endorse and sign a petition which would be delivered to Secretary General U Thant. One hundred petitions have been signed and returned to us. Last night Representative FRELINGHUYSEN and I forwarded these petitions to the Secretary General.

In the course of the correspondence which we had with Secretary General U Thant we were advised that the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, which was drawn for the express purpose of protecting such threatened cities as Angkor Wat and Angkor Thom has not been ratified by the United States, North Vietnam, or South Vietnam.

Because of our great anxiety relating to these two cities and other cultural and architectural objects which might be endangered in the future on July 15 we wrote to President Nixon urging that he immediately submit the Convention to the Senate for ratification.

With the thought that the correspondence and petition would be of interest to our colleagues I am setting forth the texts.

The material follows:

JUNE 16, 1970.

U THANT,
Secretary General,
United Nations,
New York, N.Y.:

Possible destruction of Angkor Wat and Angkor Thom makes your immediate intercession desirable. We urge you to call on all combatants to bar any military action in or around the ruins; further, that, that you seek to establish a U.N. presence to safeguard these extraordinary structures which are the patrimony of all mankind.

Let not happen to Angkor Wat that which happened to the Parthenon in 1687, when it was used by the Turks to store explosives and shelled by the Venetians and destroyed after surviving for 2000 years.

PETER H. B. FRELINGHUYSEN,
EDWARD I. KOCH,
Members of Congress.

UNITED NATIONS,
June 23, 1970.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR SIR: On behalf of the Secretary-General, I acknowledge your telegram of 16 June requesting United Nations intercession to protect the temples of Angkor Wat and Angkor Thom.

For your information, I enclose the Secretary-General's appeal made on 8 June and an account of very recent steps taken by the United Nations Educational, Scientific and Cultural Organization toward the same end.

With regard to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, it is extremely pertinent to note that, of the parties involved in the conflict in Cambodia, only Cambodia is a party to the Convention. The United States, North Viet-Nam and South Viet-Nam have not acceded to it.

Please be assured that the Secretary-General shares your concern for the protection of these great monuments and that he is doing everything within his power to help assure their safety.

Yours sincerely,
NANETTE B. RODNEY,
First Officer.

STATEMENT BY THE SECRETARY GENERAL, U THANT

The extension of the Viet-Nam war to Cambodia has resulted in more death, more destruction and more devastation. The Viet-Nam war has already become an Indo-China war.

The latest news dispatches indicate that one of the most sacred and renowned religious and cultural monuments of man—Angkor Wat in Cambodia—is in danger of following the fate of Hué, another cultural and religious centre revered by all Viet-Namese people. Ankor Wat must be saved.

I earnestly appeal to all concerned to respect, and to take every possible precaution to preserve, the many historic religious and cultural edifices in the fighting zone and elsewhere in Indo-China.

WASHINGTON, D.C.,
July 15, 1970

Hon. U THANT,
Secretary General, United Nations,
New York, N.Y.

DEAR MR. SECRETARY GENERAL: Pursuant to the correspondence we have had on the subject of Angkor Wat and Angkor Thom, we would like to present you with 100 petitions signed by museum directors throughout the country and others interested in preserving cultural and architectural treasures throughout the world. The petitions are intended to support your efforts and those of UNESCO in protecting the temples of Angkor Wat and Angkor Thom and give you additional support for placing similar antiquities and other cultural objects under United Nations protection.

A list of those who have subscribed to the petitions and their affiliations is enclosed.

Sincerely,
PETER H. B. FRELINGHUYSEN,
EDWARD I. KOCH,
Members of Congress.

STATEMENT ADDRESSED TO SECRETARY GENERAL U THANT AND SIGNED BY 100 MEMBERS OF THE ART COMMUNITY

We believe that there is urgent need to protect the architectural and art treasures of the world, wherever they may be, from the threat of damage and destruction. The imminent peril to Angkor Wat and Angkor Thom because of the conflict in Cambodia shows dramatically that affirmative action is needed.

We propose that the United Nations Educational, Scientific and Cultural Organization immediately take steps to take under its protection architectural and art treasures of the world which are the patrimony of all mankind. In addition to whatever the United Nations may do to enable UNESCO to carry out such a mission, UNESCO now carries immense influence and could marshal world opinion to protect important artistic treasures.

At this moment, Angkor Wat and Angkor Thom, a spectacular complex of buildings covered by some of the finest sculptural decorations in the world, are in danger. Built from the 8th to the 13th Centuries, they are comparable in grandeur to the medieval cathedrals of Europe. Insuring their safety is of urgent concern. The danger to the temples through air bombardment or ground action is apparent. Further, because of recent conditions in Cambodia, some senseless act of destruction could take place.

Therefore, we urge that U Thant, Secretary General of the United Nations, immediately call upon all parties to the conflict to withdraw from those two sites and to respect them as they would open cities.

We also urge the cultural leaders of every country having armed forces in Cambodia to act now in pressing their governments to safeguard these monuments of antiquity which are some of the finest art treasures of the world.

SIGNATORIES

Philip R. Adams, Director, Cincinnati Art Museum.

Mrs. Howard Ahmanson, Trustee, Los Angeles County Museum of Art; Trustee, California Museum of Science and Industry.

Karl Bach, Director, Denver Art Museum.

Fred S. Bartlett, Director, Colorado Springs Fine Arts Center.

John I. Baur, Director, Whitney Museum of American Art.

David Bourdon, Art Editor, LIFE Magazine.

Adalyn Breeshin, Director Emeritus, Baltimore Museum of Art.

James M. Brown, Director, Virginia Museum of Fine Arts.

Richard F. Brown, President, Assoc. of Art Museum Directors.

David S. Brooke, Director, Currier Gallery of Art.

Charles E. Buckley, City Art Museum, St. Louis, Missouri.

Thomas S. Buechner, Director, The Brooklyn Museum.

Clyde H. Burroughs.

Gevenere Cheseh.

James Chillan, Jr., Director Emeritus, Museum of Fine Arts, Houston.

Anthony M. Clark, Director, The Minneapolis Institute of Arts.

Thomas C. Colt, Director, Dayton Arts Institute.

Christopher C. Cook, Director, Addison Gallery of American Art, Phillips Academy.

Mrs. Glenn C. Cooper.

Mrs. George M. Crandell.

C. C. Cunningham, Director, The Art Institute of Chicago.

Larry Curry, Curator of American Art, Los Angeles County Museum of Art.

Frederick J. Dockstader, Director, Museum of the American Indian.

Kenneth Donahue, Director, Los Angeles County Museum of Art.

Edward H. Dwight, Director, Museum of Art, Utica, New York.

Ebria Einblatt, Los Angeles County Museum of Art.

Dr. Lorenz Eitner, Director, Stanford University Museum, Chairman, Dept. of Art, Stanford University.

James Elliott, Director, Wadsworth Atheneum.

S. Lane Faison, Director, Williams College Museum Art.

James W. Foster, Director, Honolulu Academy of Arts.

Charlie Francis.

Martin Friedman, Walker Art Center.

Richard Fuller, President and Director, Seattle Art Museum.

Barbara B. Grant.

Richard N. Gregg, Director, Joslyn Art Museum.

Harry D. M. Grier, Director, The Frick Collection.

George Heard Hamilton, Director, Sterling and Francine Clark Art Institute.

Katherine Hanna, Director, The Taft Museum.

Eleanor C. Hartman, Los Angeles County Museum of Art.

John B. Hightower, Director, The Museum of Modern Art.

Thomas Carr Howe, Director Emeritus, California Palace of the Legion of Honor.

Thomas P. F. Hoving, Director, Metropolitan Museum of Art.

H. W. Janson, President, College Art Association of America.

Jack Jungmeyer, Jr.

Edith Skouras Jungmeyer.

Mary Kahlenberg, Curator, Textiles and Costumes, Los Angeles County Museum of Art.

Dr. Patrick J. Kelleher, Director, The Art Museum, Princeton University.

Sherman E. Lee, Director, The Cleveland Museum of Art.

John Palmer Leeper, Director, Marion Koogler McNay Art Institute.

Samella Lewis, Los Angeles County Museum of Art.

Caroline Liebig, Trustee, Los Angeles County Museum of Art.

Mrs. Phoebe S. Liebig.

Lynne Marlass.

Kyran McGrath, Director, American Association of Museums.

Mrs. Hyman Miller.

Agnes Mongan, Director, Fogg Art Museum, Harvard University.

Philippe de Montebello, The Museum of Fine Arts, Houston, Texas.

Francis J. Newton, Director, Portland Art Museum.

Gerald Nordland, Director, San Francisco Museum of Art.

Mrs. Charles O'Gara.

Maile Scott Olsen.

Mr. and Mrs. Arthur Park.

Charles Parkhurst, Director, The Baltimore Museum of Art.

James B. Pretehard, Associate Director, University Museum.

Harris K. Prior, Director, Memorial Art Gallery, University of Rochester.

Perry T. Rathbone, Director, Museum of Fine Arts of Boston.

Richard H. Randall, Jr., The Walters Art Gallery.

Charles van Ravenswaay, Director, The Henry Francis du Pont Winterthur Museum.

Andrew Ritchie, Director, Yale University Art Gallery.

Frederick B. Robinson, Museum of Fine Arts, Springfield, Mass.

Merrill C. Rueppel, Director, Dallas Museum of Fine Arts.

Charles Ryskamp, Director, The Pierpont Morgan Library.

Marvin Sadik, Director, National Portrait Gallery.

Charles H. Sawyer, Director, The University of Michigan Museum of Art.

Taft B. Schreiber, Member of the Board of Trustees, Los Angeles County Museum of Art.

William Seitz, Director, Rose Art Museum, Brandeis University.

Maria P. Shearer.

Joseph C. Sloane, Director, Ackland Art Center, Chapel Hill, N.C.

Gordon M. Smith, Director, Albright-Knox Art Gallery, Buffalo, N.Y.

Dr. A. J. Smith.

Mrs. Kellogg Spear.

John R. Spencer, Director, Allen Memorial Art Museum, Oberlin, Ohio.

Charles N. Stanford, Director, North Carolina Museum of Art, Raleigh, N.C.

Harold P. Stern, Acting Director, Freer Gallery of Art, Washington, D.C.

William B. Stevens, Jr., Director, Pennsylvania Academy of Fine Arts.

George L. Stout, Isabella Stewart Gardner Museum, 2 Palace Road, Boston, Massachusetts.

Barbara Sweeny, Curator, John, John G. Johnson Collection, Philadelphia, Pa.

Ross E. Taggart, Senior Curator, Wm. R. Nelson Gallery of Art, Kansas City, Missouri.

Joshua C. Taylor, Director, National Collection of Fine Arts, Smithsonian Institution.

Lorenzo C. Tedesco.

Thomas S. Tibbs, Director, La Jolla Museum of Art, La Jolla, Calif.

Constance R. Treusch.

Evan H. Turner, Director, Philadelphia Museum of Art, Phila., Pa.

Diana Turner, Los Angeles County Museum of Art, Los Angeles, California.

William R. Tyler, Director, Dumbarton Oaks Research Library and Collection, Washington, D.C.

Hal Wallis, Universal Studios, Universal City, California.

John Walker, Director Emeritus, National Gallery of Art, Washington, D.C.

Mrs. Virginia Slocum Weaver.

Carl J. Weinhardt Jr., Director, The Indianapolis Museum of Art, Indianapolis, Indiana.

Ian M. White, Director of Museums, M.H. deYoung Memorial Museum and California Palace of the Legion of Honor, San Francisco, Calif.

Caroline K. Wilson, Art Museum Council, Los Angeles County Museum, Los Angeles, California.

Willis F. Woods, Director, The Detroit Institute of Arts, Detroit, Michigan.

Mahonri S. Young, The Columbus Gallery of Fine Arts, Ohio.

WASHINGTON, D.C., *July 15, 1970.*

Hon. RICHARD NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Because of our great anxiety with respect to the possibility of destruction to the two ancient cities of Angkor Wat and Angkor Thom in Cambodia, we wrote to the Secretary General of the UN requesting UN intercession to protect them. We were advised that the Secretary General shares our concern for the protection of these great monuments and that he will do everything within his power to insure their safety. We were also advised by the Office of the Secretary General of the following:

"With regard to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, it is extremely pertinent to note that, of the parties involved in the conflict in Cambodia, only Cambodia is a party to the Convention. The United States, North Vietnam and South Vietnam have not acceded to it."

May we urge you in the interest of protecting not only these two Cambodian cities, but also other cultural treasures throughout the world that you submit to the Senate for ratification this Hague Convention. We urge you to do this immediately so that our country may further assist in marshaling world opinion in protecting the cultural heritage of all mankind.

Sincerely,
PETER H. B. FRELINGHUYSEN,
EDWARD I. KOCH,
Members of Congress.

GET YOUR FACTS FIRST

(Mr. PRICE of Illinois asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, there was a very famous American gentleman who lived in Hannibal, Mo., slightly upriver from my hometown of East St. Louis, Ill., who was quoted by Rudyard Kipling as having said:

> Gets your facts first, and then you can distort them as much as you please.

I was reminded of this quotation after having read a truly simplistic article in the CONGRESSIONAL RECORD of June 25, 1970, which attempts to point out, gleefully I might add, that the dirty old AEC has had it. As Mark Twain said in cable to the Associated Press in 1897:

The reports of my death are greatly exaggerated.

I would like to state that the uninformed author of the article I cited is confused when it comes to reporting on the health of the nuclear power industry.

I would like to include in the RECORD at this point an announcement on an International Atomic Energy Agency conference to be held in New York City on August 10 through 14, 1970, on Environmental Aspects of Nuclear Power Stations. It is interesting to note that 55 papers will be presented by authors from 10 countries. This sounds pretty healthy to me.

The article follows:

More Than 50 Papers To Be Presented in IAEA Symposium on Environmental Aspects of Nuclear Power Stations at U.N.

More than fifty technical papers have been selected for presentation at the Symposium on Environmental Aspects of Nuclear Power Stations at United Nations Headquarters in New York City on August 10–14. The International Atomic Energy Agency is sponsoring the conference in cooperation with the U.S. Atomic Energy Commission.

The 55 papers which have been selected by the IAEA to date will be presented by individuals from the following 10 countries and three international organizations: Canada, France, Federal Republic of Germany, India, Japan, Mexico, Pakistan, Switzerland, United Kingdom, the United States, the IAEA, the United Nations, and the Commission of European Communities.

The symposium will consist of a series of technical sessions in the five major subject areas—nuclear power as an energy resource, standards for the control of effluents, effluent control and monitoring, considerations affecting steam power station site selection, and benefit-risk assessments. There is also to be a panel discussion on "Prospects for the Future" to be held at the end of the closing session.

It is expected that nearly 400 representatives from countries and international organizations throughout the world will be on hand for the symposium. The countries and organizations presenting papers have a high degree of experience or interest in the nuclear power field. Interest in the symposium is expected to be high because of the current worldwide emphasis on environmental matters.

In accordance with normal procedures of the International Atomic Energy Agency, those persons wishing to participate in or observe proceedings of an IAEA symposium must be designated by their respective governments. As was indicated in AEC news release N–45 dated March 24, 1970, the deadline for receipt by the AEC of abstracts of U.S. technical papers for the environmental symposium was April 15, 1970. Other persons in the United States who would like to participate or attend the symposium should communicate with John H. Kane, Special Assistant for Conferences, Division of Technical Information, U.S. Atomic Energy Commission, Washington, D.C. 20545.

The provisional program, including those who will present the papers, their affiliations, the titles of the papers and the co-authors, is attached.

Symposium on Environmental Aspects of Nuclear Power Stations

MONDAY, AUGUST 10, 1970

Opening of symposium—10:00 a.m.

Nuclear Power as an Energy Source: Session 1—10:30 a.m.

M. K. Hubbert, U.S. Geological Survey, Washington, D.C.—"Energy Resources for Power Production."

United Nations Speaker—"Future World Electrical Needs."

B. Spinrad, IAEA, Vienna—"Role of Nuclear Power in Meeting World Energy Needs."

T. Ipponmatsu, Japan Atomic Power Company, Tokyo, Japan—"Role of Nuclear Power in Japan."

T. J. Thompson, U.S. Atomic Energy Commissioner, Washington, D.C.—"Role of Nuclear Power in the United States."

Standards for Control of Effluents: Session II—2:30 p.m.

E. E. Pochin, University College Hospital, Medical College, London, U.K.—"The Development of the Quantitative Basis for Radiation Protection."

L. Rogers, USAEC, Washington, D.C.—"U.S. Regulations for the Control of Releases of Radioactivity to the Environment in Effluents from Nuclear Facilities."

A. Preston, Ministry of Agriculture Fisheries Radiobiology Laboratory, Hamilton Dock, Lowestoft, Suffolk, England—"The U.K. Approach to the Application of ICRP Standards to the Controlled Disposal of Radioactive Waste Resulting from Nuclear Power Programmes."

P. Candes, Commissariat a l'Energie Atomique, Centre d'Etudes Nucleaires de Saclay F–91 Gif sur Yvette, France—"Arrangements for the Control of Radioactive Wastes Associated with the Fast Reactors Developed in France."

P. L. Courvoisier, Section on Safety of Nuclear Installations of the Federal Office of Energy, 5303 Wuerenlingen, Switzerland—"Standards for Effluents in Switzerland," co-author: B. Muller.

D. S. Barth, Department of Health, Education & Welfare, National Air Pollution Control Administration, Durham, North Carolina—"U.S. Approach to Development of Air Pollution Emission Standards for Stationary Sources," co-author. J. C. Romanovsky.

D. I. Mount, National Water Quality Laboratory, 6201 Congdon Boulevard, Duluth, Minn.—"Thermal Standards in the United States."

TUESDAY, AUGUST 11, 1970

Session II Continued—9:15 a.m.

K. Z. Morgan, Health Physics Division, Oak Ridge National Laboratory, Oak Ridge, Tenn.—"Criteria for the Control of Radioactive Effluents," co-author: E. G. Struxness.

M. M. Hendrickson, Battelle Memorial Institute, Room 230, Federal Building, Box 999, Richland, Wash.—"The Eventual Total Body Exposure Rate from ^{85}Kr Released to the Atmosphere"

Y. Tsunetoshi, c/o Y Tsunetoshi, Field Survey Div., Center for Adult Disease, Minami-1, Higashinari-ku, Osaka, Japan—"Atmospheric Contamination of Industrial Areas Including Fossil-Fuel Power Stations & a Method of Evaluating Possible Effect on Inhabitants," co-authors: S. Kajihara, T. Shimizu, A. Ohshino, K. Sakaki, M. Ogino and Y. Nishiwaki.

I. L. Ophel, Atomic Energy of Canada, LTD, Chalk River Nuclear Lab., Chalk River, Ontario, Canada—"Waste Control Problems in an Expanded Nuclear Power Industry," co-author: P. J. Barry

V. P. Bond, Brookhaven National Laboratory, Upton, New York—"Evaluation of Potential Hazards from Tritium Water"

(Panel Discussion on Standards for the Control of Effluents.)

Effluent Control and Monitoring: Session III—2:30 p.m.

P. N. Krishnamoorthy, Atomic Energy Establishment, Trombay, Bombay 74 (AS) India—"Methods of Effluent Control to Meet the Standards Set for Nuclear Plants"

J. E. Martin, U.S. Department of Health, Education and Welfare, Rockville, Md.—"Radioactivity from Fossil Fuel and Nuclear Power Plants," co-authors: E. D. Harward, J. M. Smith and P. H. Bedrosian.

J. M. Smith, General Electric Company, San Jose, Calif.—"Effluent Control from Boiling Water Reactors," co-authors: S. Levy and C. E. Kent.

S. Meyers, National Air Pollution Control Administration, Cincinnati, Ohio—"Methods of Effluent Control of Fossil Fuel Burning Power Plants," co-author: E. D. Margolin.

K. J. Schneider, c/o K. J. Schneider, P. O. Box 999, 324 Building, Richland, Wash.—"Status of Solidification & Disposal of Highly Radioactive Liquid Wastes from Nuclear Power in the United States of America," co-authors: A. G. Blasewitz, R. L. Bradshaw, J. O. Blomeke and W. E. McClain.

P. Pellerin, Ministere de la Sante SCPRI, B. P. No. 35, 78—Le Vesinet, France—"Environmental Monitoring of Power Stations."

C. Beck, USAEC, Washington, D.C.—"Elements in the Environmental Monitoring System of the U.S. for Licensed Power Reactors."

W. Schikarski, Kernforschungszentrum, Karlsruhe, Postfach 3640, 75 Karlsruhe, F. R. Germany—"An Approach to Compare Air Pollution of Fossils and Nuclear Power Plants," co-authors: P. Jansen and S. Jordan

WEDNESDAY, AUGUST 12, 1970

Session III Continued—9:15 a.m.

H. J. Dunsted, UKAEA Health & Safety Branch, Harwell, Didcot, Berks., England—"Environmental Monitoring British Policy & Procedures"

T. Itakura, c/o T. Itakura, Otemachi Building, Otemachi, Chiyodaku, Tokyo, Japan—"Management of Effluent from JAPC's Nuclear Power Stations," co-author: T. Yoshioka

F. E. Gartrell, 720 Edney Building, Chattanooga, Tenn.—"Environmental Quality Protection—Large Steam-Electric Power Stations—Tennessee Valley Authority," co-authors: G. F. Stone and T. A. Wojtalik

W. R. Gould, Southern California Edison Company, Los Angeles, Calif.—"Regional Environmental Considerations in the Evolution of and Operating Experience with the Southern California Edison Company Generating System," co-author: J. B. Moore

W. Feldt, Isotopenlaboratorium der Bundesforschungsanstalt fur Fischerei, 2 Hamburg 55, Wustland, F. R. Germany—"Research on the Maximum Radioactive Burden of Some German Rivers"

D. Merriman, Yale University, New Haven, Conn.—"Does Industrial Calefaction Jeopardize the Ecosystem of a Long Tidal River?"

B. Kahn, Radiological Eng. Laboratory, U.S. Public Health Service, 5555 Ridge Avenue, Cincinnati, Ohio—"Radiological Surveillance Studies at a Boiling Water Nuclear Power Reactor," co-authors: R. L. Blanchard, H. L. Krieger, H. E. Kolde, D. B. Smith, A. Martin, S. Gold, W. J. Averett, W. L. Brinck and G. J. Karches

J. H. Wright, Westinghouse Electric Corp., P.O. Box 355, Monroeville Mall, Pittsburgh, Pa.—"The Impact of Environmental Radiation and Discharge Heat from Nuclear Power Plants," co-authors: J. B. F. Champlin and O. H. Davis

(Wednesday Afternoon Free.)

THURSDAY, AUGUST 13, 1970

Session III continued—9:15 a.m.

R. E. Nakatani, Battelle Memorial Institute, Pacific Northwest Laboratories, P.O. Box 999, Richland, Wash.—"Thermal Effects and Nuclear Power Stations in U.S.A.," co-authors: I. C. Roberts, G. L. Sherwood, D. Miller and J. V. Tokar

T. Philbin, Empire State Atomic Development Associates, 1250 Broadway, New York, N.Y.—"Thermal Effects Studies in New York State," co-author: H. Philipp

W. L. Templeton, Battelle Memorial Institute, Pacific Northwest Laboratories, Richland, Wash.—"Studies on the Biological Effects of Thermal Discharges from Nuclear Reactors to the Columbia River at Hanford," co-author: Ch. C. Coutant

P. Bogh, Motor-Columbus Engineering Co., Baden, Switzerland—"The Control of River Heating by Accurate Digital Simulation," co-author: H. Zund

Considerations Affecting Steam Power Stations Site Selection: Session IV.

J. T. Ramey, U.S. Atomic Energy Commissioner, Washington, D.C.—"Environmental Considerations in the Regulatory Process for Nuclear Power Plants in the U.S.—The Role of the Public and Public Understanding

F. R. Hunt, Central Electricity Generating Board, London, E. C. 1., United Kingdom—"Power Station Site Selection in England and Wales"

H. Mauer, Commission of European Communities, Brussels, Belgium—"Engineering Safety Factors and Their Influence on Siting Practices for Nuclear Power Plants in the European Community," co-authors: W. Vinck and L. Leonardini

S. Nishiyori, The Federation of Electric Power Companies (Japan), Otemachi, Chiyoda-ku, Tokyo, Japan—"Status on Site Selection Problem for Nuclear Power Station in Japan"

P. Courvoisier, The Federal Office of Energy, 5303 Wurenlingen, Switzerland—"Siting of Nuclear Power Stations in Switzerland"

R. A. McCormick, National Air Pollution Control Administration, Washington, D.C.—"Environmental Aspects of Power Plant Siting," co-authors: L. E. Niemeyer and J. H. Ludwig.

L. H. Roddis, Consolidated Edison Company of New York, Inc., New York, N.Y.—"Metropolitan Siting of Nuclear Power Plants," co-authors: W. J. Cahill, A. Hauspurg and W. E. Wall.

R. T. Jaske, Battelle Memorial Institute, Pacific Northwest Laboratory, Richland, Wash.—"Improved Methods for Planning of Thermal Discharges Before Site Acquisition with a Specific Case Example on the Columbia River," co-authors: W. L. Templeton, J. R. Eliason and J. C. Sonnichsen.

S. D. Freeman, Office of Science & Technology, Washington, D.C.—"Policy Alternatives for Resolving the Power Plant Siting Problem".

C. Velez, Comision Federal de Electricidad, Rodano 14, Mexico 5 D. F. Mexico—"Selection of a Site for the First Nuclear Power Station in Mexico".

M. Nasim, Pakistan Atomic Energy Commission, P. O. Box 3112, Karachi, Pakistan—"Environmental Aspects of Karachi Nuclear Power Plant".

FRIDAY, AUGUST 14, 1970

Session IV Continued—9:15 a.m.

F. K. Wachsmann, Institut fur Strahlenschutz, 8042 Neuherberg, F. R. Germany—"Considerations for Siting Nuclear Power Plants in Areas with High Population Density in Germany," co-author: J. Schwibach.

S. I. Auerbach, Oak Ridge National Laboratory, Oak Ridge, Tenn.—"Ecological Considerations in Reactor Power Plant Siting," co-authors: D. J. Nelson, S. V. Kaye, D. E. Reichle and C. C. Coutant.

M. Saiki, National Institute of Radiological Sciences, Chiba, Chiba Prefecture, Japan—"Public Acceptance Aspects of Nuclear Plants Site Selection on Coastal Areas of Japan"

H. G. Slater, Atomic Industrial Forum, New York City, N.Y., Niagara Mohawk Power Corporation, 300 Erie Boulevard, West Syracuse, N.Y.—"Public Opposition to Nuclear Power—An Industry Overview"

M. Eisenbud, New York University Medical Center, Sterling Lake, Tuxedo, N.Y.—"Review of U.S. Power Reactor Operating Experience."

Benefit-Risk Assessments: Session V. C. Starr, University of California, Los Angeles, Calif.—"Benefit-Risk Assessment of Modern Technology"

F. D. Sowby, ICRP, Clifton Ave., Sutton Surrey, England—"Some Risks of Modern Life"

Panel Discussion: Prospects for the Future—2:30 p.m.

Another document of interest, titled "Status of Central Station Nuclear Power Plants—Significant Milestones," which is reproduced below, shows that from January 1, 1970 to May 31, 1970, nine new nuclear powerplants were ordered versus the total of seven ordered in calendar 1969.

I would like to tell these purveyors of doom and gloom to stop their wishful thinking about the death of the nuclear industry and to do something realistic about the sad state in which they find this country. Constructive action, not false destructive criticism, will help improve things in this country. As my good friend and chairman of the Joint Committee on Atomic Energy, CHET HOLIFIELD, said on June 30, 1970—page 22161 of CONGRESSIONAL RECORD:

> Today it is fashionable to write bad science fiction and sell the articles as true stories about the uses and abuses of the entire spectrum of nuclear energy.

When Mark Twain wrote science fiction like "A Connecticut Yankee in King Arthur's Court," he wrote to entertain the public, not to try to scare them to death by deliberate distortions of the truth. There are some who may recall how adroitly the episode of the eclipse was used in the King Arthur tale.

False statements about reactors, which liken them to bombs, are deliberate misrepresentations, although some recent authors may not even know this. As a matter of fact, as I read some of this article, I knew I had seen the identical material in print before, and I wondered if there is such a shortage that the fraternity is now reduced to plagiarism. Joseph Paul Goebbels, the Nazi propaganda minister, may not have been the originator of the theory of continually telling the big lie until all the people believe it, but he certainly made it work in Nazi Germany.

We can drive these junior league Goebbels' out of business in this country by keeping an open mind and by examining the facts presented by all the sides involved in a controversy.

I would like to make two additional quotes from Mark Twain:

> One of the most striking differences between a cat and a lie is that a cat has only nine lives.
>
> When in doubt, tell the truth.

The material referred to follows:

STATUS OF CENTRAL STATION NUCLEAR POWERPLANTS—SIGNIFICANT MILESTONES

Key to AE's (Architect-Engineer)

AEP	American Electric Power Service Corporation
Bech.	Bechtel
B&R	Burns and Rowe
CA	Commonwealth Associates
Ebas.	Ebasco
Gil	Gilbert Associates
GHDR	Gibbs, Hill, Durham & Richardson
H&N	Holmes and Narver
J&M	Jackson and Moreland
O	Owner
PSE	Pioneer Service and Engineering
S&L	Sargent and Lundy
SSC	Southern Services Company
S&W	Stone and Webster
UEC	United Engineers and Constructors
Vit.	Vitro

Key to NSSS's (nuclear steam system supplier)

AC	Allis-Chalmers
AI	Atomics International
B&W	Babcock & Wilcox
Comb.	Combustion Engineering
GGA	Gulf General Atomic
GE	General Electric
PRDC	Power Reactor Development Company
West.	Westinghouse

Project/Location	Owner	Capacity* Net (MWa)	Type	NSSS/AE Contr.	Publ. Annc'd	NSSS Contr. Awarded	Constr. Permit Applied	CP/POL Issued	Initial Crit.*	First Elec.	Initial Design Power*	Commercial Operation*
Shippingport Atomic Power Station, Unit 1 (Pa.)	Duquesne Light Company and AEC	90.0	PWR	West. S&W	10/53	7/53	NA	NA	12/2/57	12/18/57	12/57	NA
Indian Point Station, Unit 1 (N.Y.)	Consolidated Edison Co.	265.0	PWR	B&W O/Vit.	2/55	2/55	3/55	5/56 3/62	8/2/62	9/16/62	1/63	10/62
Dresden Nuclear Power Station, Unit 1 (Ill.)	Commonwealth Edison Co.	200.0	BWR	GE Bech.	4/55	7/55	3/55	5/56 9/59	10/15/59	4/15/60	6/60	8/60
Yankee Nuclear Power Station (Mass.)	Yankee Atomic Elec. Co.	175.0	PWR	West. S&W	4/55	6/56	7/56	11/57 7/60	8/19/60	11/10/60	1/61	2/61
Hallam Nuclear Power Facility (Neb.)	Consumers Public Power District and AEC	75.0	SGR	AI Bech.	4/55	9/57	2/59	7/60 8/62	8/25/62	5/29/63	7/63 [a]	11/63
Enrico Fermi Atomic Power Plant (Mich.)	Power Reactor Development Company	60.9	FBR	PRDC CA	4/55	3/57	1/56	8/56 7/63	8/23/63	8/5/66	----------	----------
Elk River Nuclear Plant (Minn.)	Rural Cooperative Power Association and AEC.	22.0	BRW	AC S&L	2/56	6/58	3/59	12/59 11/62	11/19/62	8/24/63	2/64	[b] 7/64
Piqua Nuclear Power Facility (Ohio).	City of Piqua, Ohio and AEC	11.4	OMR	AI H&N	2/56	6/59	9/58	1/60 8/62	6/10/63	11/4/63	1/64	[c] 2/64
Pathfinder Atomic Power Plant (S.D.)	Northern States Power Company	58.5	BWR	AC PSE	2/57	5/57	3/59	5/60 3/64	3/24/64	7/25/66	9/67	(d)
Carolinas-Virginia Tube Reactor (S.C.)	Carolinas-Virginia Nuclear Power Associates, Inc.	17.0	HWR	West. S&W	8/57	1/59	7/59	5/60 11/62	3/30/63	12/18/63	9/65	[e] 3/64
Humboldt Bay Power Plant, Unit 3 (Calif.)	Pacific Gas & Electric Company	68.5	BWR	GE Bech.	2/58	2/58	4/59	11/60 8/62	2/16/63	4/18/63	5/63	8/63
Boiling Nuclear Superheater Power Station (P.R.)	Puerto Rico Water Resources Authority and AEC	16.5	BWR	Comb. J&M	6/58	1/60	12/59	7/60 4/64	4/13/64	8/14/64	9/65	(f)

Footnotes at end of table.

STATUS OF CENTRAL STATION NUCLEAR POWERPLANTS—SIGNIFICANT MILESTONES—Continued

Key to AE's (Architect-Engineer)

AEP	American Electric Power Service Corporation
Bech.	Bechtel
B&R	Burns and Rowe
CA	Commonwealth Associates
Ebas.	Ebasco
Gil	Gilbert Associates
GHDR	Gibbs, Hill, Durham & Richardson
H&N	Holmes and Narver
J&M	Jackson and Moreland
O	Owner
PSE	Pioneer Service and Engineering
S&L	Sargent and Lundy
SSC	Southern Services Company
S&W	Stone and Webster
UEC	United Engineers and Constructors
Vit.	Vitro

Key to NSSS's (nuclear steam system supplier)

AC	Allis-Chalmers
AI	Atomics International
B&W	Babcock & Wilcox
Comb.	Combustion Engineering
GGA	Gulf General Atomic
GE	General Electric
PRDC	Power Reactor Development Company
West.	Westinghouse

Project/Location	Owner	Capacity* Net (MWa)	Type	NSSS/AE Contr.	Publ. Annc'd	NSSS Contr. Awarded	Constr. Permit Applied	CP/POL Issued	Initial Crit.*	First Elec.	Initial Design Power*	Commercial Operation*
Peach Bottom Atomic Power Station, Unit 1 (Pa.).	Philadelphia Electric Company..	40.0	HTGR	GAA Bech.	11/58	11/58	7/60	2/62 1/66	3/3/66	1/27/67	5/67	6/67
Big Rock Point Nuclear Plant (Mich.).	Consumers Power Company of Michigan.	70.3	BWR	GE Bech.	12/59	12/59	1/60	5/60 8/62	9/27/62	12/8/62	3/63	3/63
San Onofre Nuclear Generating Station, Unit 1 (Calif.).	Southern California Edison & San Diego Gas & Elec. Co.	430.0	PWR	West. Bech.	4/60	1/63	2/63	3/64 3/67	6/14/67	7/16/67	10/67	1/68
LaCrosse Boiling Water Reactor (Wisc.).	Dairyland Power Cooperative and AEC.	50.0	BWR	AC S&L	4/61	6/62	11/62	3/63 7/67	7/11/67	4/26/68	8/69	....
N-Reactor/WPPSS*) (Wash.)......	Washington Public Power Supply System.	790.0	PWR	Burns & Roe	4/62	4/63	NA	NA	12/31/63	4/8/66	7/66	....
Malibu Nuclear Plant Unit 1 (Calif.).	Los Angeles Department of Water and Power.	462.0	PWR	West. S&W	11/62	1/63	11/63	....	8/75	....	11/75	3/76
Haddam Neck Plant (Conn.)......	Connecticut Yankee Atomic Power Company.	575.0	PWR	West. S & W	12/62	12/62	9/63	5/64 6/67	7/24/67	8/7/67	12/67	1/68
Oyster Creek Nuclear Power Plant, Unit 1 (N.J.).	Jersey Central Power & Light Company.	530.0	BWR	GE B & R	5/63	12/63	3/64	12/64 4/69	5/3/69	9/23/69	12/69	12/69
Nine Mile Point Nuclear Station (N.Y.)	Niagara Mohawk Power Corporation.	500.0	BWR	GE O	7/63	10/63	3/64	4/65 8/69	9/5/69	11/9/69	1/70	12/69
Dresden Nuclear Power Station Unit 2 (Ill.)	Commonwealth Edison Company.	809.0	BWR	GE S & L	2/65	2/65	4/65	1/66 12/69	1/7/70	4/13/70	5/70	5/70
Fort St. Vrain Nuclear Generating Sta. (Colo.)	Public Service Company of Colorado.	330.0	HTGR	GGA S&L	3/65	3/65	10/66	9/68	10/71	....	2/72	3/72
Millstone Nuclear Power Station, Unit 1 (Conn.).	The Millstone Point Company...	652.1	BWR	GE Ebas.	4/65	9/65	11/65	5/66	7/70	....	9/70	10/70
Shoreham Nuclear Power Station (N.Y.).	Long Island Lighting..........	819.0	BWR	GE S&W	4/65	2/67	5/68	....	1/75	....	1975	5/75
Pilgrim Station (Mass.)..........	Boston Edison Company........	654.0	BWR	GE Bech.	8/65	8/65	6/67	8/68	4/71	....	8/71	10/71
Robert Emmett Ginna Nuclear Power Plant, Unit 1 (N.Y.).	Rochester Gas & Electric.......	420.0	PWR	West. Gil.	8/65	8/65	11/65	4/66 9/69	11/9/69	12/2/69	3/70	1970
Turkey Point Station, Unit 3 (Fla.).	Florida Power and Light Company	651.5	PWR	West. Bech.	11/65	11/65	3/66	4/67	4/71	....	6/71	....
Turkey Point Station, Unit 4 (Fla.).	Florida Power and Light Company.	651.5	PWR	West. Bech.	11/65	4/67	3/66	4/67	....	....	1972	....
Indian Point Station, Unit 2 (N.Y.).	Consolidated Edison Company..	873.0	PWR	West. UEC	11/65	11/65	12/65	10/66	2/71	....	4/71	5/71
Vermont Yankee Generating Station (Vt.).	Vermont Yankee Nuclear Power Corporation.	513.9	BWR	GE Ebas.	12/65	8/66	11/66	12/67	2/71	....	6/71	7/71
Maine Yankee Atomic Power Plant (Maine).	Maine Yankee Atomic Power Corporation.	790.0	PWR	Comb. S&W	1/66	2/67	9/67	10/68	2/72	....	....	5/72
H. B. Robinson S. E. Plant, Unit 2 (S.C.).	Carolina Power and Light Company.	700.0	PWR	West. Ebas.	1/66	1/66	7/66	4/67	6/70	....	8/70	11/70
Dresden Nuclear Power Station, Unit 3 (Ill.).	Commonwealth Edison Company.	809.0	BWR	GE S&L	1/66	1/66	2/66	10/66	10/70	....	2/71	6/71
Palisades Nuclear Power Station (Mich.).	Consumers Power Company of Michigan.	700.0	PWR	Comb. Bech.	1/66	1/66	6/66	3/67	5/70	....	7/70	8/70
Point Beach Nuclear Plant, Unit 1 (Wisc.).	Wisconsin Elec. Pwr. Co. and Wisc.-Mich. Pwr. Co.	497.0	PWR	West. Bech.	2/66	2/68	8/66	7/67	8/70	....	10/70	12/70
Quad-Cities Station Unit 1 (Ill.)...	Commonwealth Edison-Iowa Illinois Gas & Electric.	809.0	BWR	GE S&L	4/66	4/66	5/66	2/67	3/71	....	6/71	7/71
Monticello Nuclear Generating Plant (Minn.).	Northern States Power Company.	545.0	BWR	GE Bech.	4/66	4/66	8/66	6/67	5/70	....	7/70	7/70
Rancho Seco Nuclear Gen. Station (Calif.)	Sacramento Municipal Utility District.	800.0	PWR	B&W Bech.	4/66	8/67	11/67	10/68	12/72	....	4/73	5/73
Peach Bottom Atomic Power Station, Unit 2 (Pa.).	Philadelphia Electric Co., PSE & GC, ACEC, DP & LC.	1,065.0	BWR	GE Bech.	5/66	8/66	2/67	1/68	12/71	....	2/72	5/72
Peach Bottom Atomic Power Station, Unit 3 (Pa.).	Philadelphia Electric Co. PSE & GC, ACEC, & DP & LC.	1,065.0	BWR	GE Bech.	5/66	8/66	2/67	1/68	11/72	....	1/73	3/73
Salem Nuclear Generating Station, Unit 1 (N.J.)	Public Serv. Elec. & Gas Co., PEC, ACEC, & DP&LC.	1,050.0	PWR	West. O	5/66	8/66	12/66	9/68	7/72	....	11/72	12/72
Salem Nuclear Generating Station, Unit 2 (N.J.).	Public Serv. Elec. & Gas Co., PEC, ACEC, & DP&LC.	1,050.0	PWR	West. O	5/66	5/67	10/67	9/68	2/73	....	6/73	7/73
Browns Ferry Nuclear Power Plant, Unit 1 (Ala.).	Tennessee Valley Authority.....	1,064.5	BWR	GE O	6/66	6/66	7/66	5/67	7/71	....	30/71	10/71
Browns Ferry Nuclear Power Plant, Unit 2 (Ala.).	Tennessee Valley Authority.....	1,064.5	BWR	GE O	6/66	6/66	7/66	5/67	1/72	....	20/72	4/72
Surry Power Station Unit 1 (Va.)..	Virginia Electric & Power Company.	780.0	PWR	West. S&W	6/66	10/66	3/67	6/68	3/71	....	6/71	6/71
Cooper Nuclear Station (Nebr.)....	Nebraska Public Power District.	778.0	BWR	GE B&R	6/66	4/67	7/67	6/68	12/71	....	3/72	4/72
Fort Calhoun Station Unit 1 (Nebr.).	Omaha Public Power District....	457.4	PWR	Comb. GHDR	6/66	10/66	4/67	6/68	4/72	....	6/72	6/72
Oconee Nuclear Station Unit 1 (S.C.)	Duke Power Company..........	841.0	PWR	B&W O	7/66	7/66	11/66	11/67	12/70	....	4/71	6/71
Oconee Nuclear Station Unit 2 (S.C.).	Duke Power Company..........	886.0	PWR	B&W O	7/66	7/66	11/66	11/67	12/71	....	4/72	6/72
Quad-Cities Station Unit 2 (Ill.)...	Commonwealth Edison-Iowa-Illinois Gas & Electric.	809.0	BWR	GE S&L	7/66	7/66	8/66	2/67	10/71	....	2/72	5/72
Diablo Canyon Nuclear Power Plant, Unit 1 (Calif.).	Pacific Gas & Electric Company..	1,060.0	PWR	West. O	9/66	11/66	1/67	4/68	6/72	....	9/72	1/73
Surry Power Station Unit 2 (Va.)..	Virginia Electric & Power Company.	780.0	PWR	West. S&W	10/66	10/66	3/67	6/68	2/72	....	4/72	4/72
Three Mile Island Nuclear Station, Unit 1 (Pa.)	Metropolitan Edison Company...	810.0	PWR	B&W Gil.	11/66	11/66	5/67	5/68	12/71	....	3/72	5/72
Donald C. Cook Plant, Unit 1 (Mich.)	Indiana & Michigan Elec. Co....	1,054.0	PWR	West. AEP	12/66	7/67	12/67	3/69	6/72	....	7/72	9/72
Salisbury (Mass.)..............	New England Electric System...	800.0	....	....	12/66	....	....	....	....	....	....	....
Bailly Generating Station (Ind.)...	Northern Indiana Public Service Company.	660.0	BWR	GE S&L	1/67	1/67	....	....	....	....	....	2/76
Prairie Island Nuclear Gen. Plant, Unit 1 (Minn.).	Northern States Power Company.	530.0	PWR	West. PSE	2/67	2/67	4/67	6/68	2/72	....	5/72	5/72
Three Mile island Nuclear Station, Unit 2 (Pa.) b	Jersey Central Power and Light Company	810.0	PWR	B&W B&R	2/67	2/67	4/68	11/69	8/73	....	10/73	12/73
Trojan Nuclear Plant (Oregon)....	Portland General Electric EW&EB and PP&LC	1,106.0	PWR	West Bech.	2/67	11/68	6/69	....	2/74	....	7/74	9/74
Zion Station, Unit 1 (Ill.).	Commonwealth Edison Companv	1,050.0	PWR	West. S&L	2/67	2/67	7/67	12/68	12/71	....	3/72	4/72

Footnotes at end of table.

Project/Location	Owner	Capacity* Net (MWa)	Type	NSSS/AE Contr.	Publ. Annc'd	NSSS Contr. Awarded	Constr. Permit Applied	CP/POL Issued	Initial Crit.*	First Elec.	Initial Design Power*	Commercial Operation*
Kewaunee Nuclear Power Plant, Unit 1 (Wisc.)	Wisconsin Group (WPSC, WP&LC, MG&EC)	527.0	PWR	West. PSE	2/67	2/67	8/67	8/68	2/72		4/72	6/72
Crystal River Plant Unit 3 (Fla.)	Florida Power Corp	858.0	PWR	B&W Gil.	2/67	2/67	8/67	9/68	1/72		3/72	4/72
Point Beach Nuclear Plant Unit 2 (Wisc.)	Wisconsin Elec. Pwr. Co. and Wisc.-Mich. Pwr. Co.	497.0	PWR	West. Bech.	2/67	2/67	8/67	7/68	5/71		7/71	8/71
Grays Harbor Plant (Wash.)	Washington Public Power Supply System.	1,100.0		B&R	2/67							1977
Bell Station [i] (N.Y.)	New York State Electric and Gas Corp.	838.0	BWR	GE UEC	3/67	6/67	3/68					
Seabrook Nuclear Station [j] (N.H.)	Publ. Serv. Co. of N.H. & United Illuminating Co.	860.0	PWR	West. Ebas.	3/67	8/68	4/69					
Arkansas Nuclear One, Unit 1 (Ark.).	Arkansas Power and Light Company.	850.0	PWR	B&W Bech.	4/67	4/67	11/67	12/68	5/73		9/73	9/73
Indian Point Station, Unit 3 (N.Y.).	Consolidated Edison Company	965.0	PWR	West. UEC	4/67	4/67	8/67	8/69	2/73		4/73	5/73
Oconee Nuclear Station, Unit 3 (S.C.).	Duke Power Company	886.0	PWR	B&W O	5/67	5/67	4/67	11/67	12/72		4/73	6/73
	Pennsylvania Power and Light Company.	1,052.0	BWR	GE	5/67	5/68						1975
Calvert Cliffs Nuclear Power Plant, Unit 1 (Md.)	Baltimore Gas and Electric Company.	800.0	PWR	Comb. Bech.	5/67	5/67	1/68	7/69	8/72		1/73	1/73
Calvert Cliffs Nuclear Power Plant, Unit 2 (Md.).	Baltimore Gas and Electric Company.	800.0	PWR	Comb. Bech.	5/67	5/67	1/68	7/69	7/73		1/74	1/74
Bayside Generating Station (N.J.)	Atlantic City Electric Company	1,000.0			6/67							75–76
Millstone Nuclear Power Station, Unit 2 (Conn.).	The Millstone Point Company	828.0	PWR	Comb. O/Bech.	6/67	12/67	2/69		12/73		3/74	4/74
Hollister Ranch (Calif.)	Southern California Edison Company.	1,000.0			6/67							1980
Browns Ferry Nuclear Power Plant, Unit 3 (Ala.).	Tennessee Valley Authority	1,064.5	BWR	GE O	6/67	6/67	7/67	7/68	7/72		30/72	10/72
Prairie Island Nuclear Gen. Plant, Unit 2 (Minn).	Northern States Power Company.	530.0	PWR	West. PSE	6/67	6/67	8/67	6/68	2/74		5/74	5/74
Edwin I. Hatch Nuclear Plant, Unit 1 (Ga.).	Georgia Power Company	786.0	BWR	GE SSC/Bech.	6/67	12/67	5/68	9/69	11/72		6/73	6/73
Zion Station, Unit 2 (Ill.)	Commonwealth Edison Company	1,050.0	PWR	West. S&L	7/67	7/67	8/67	12/68	1/73		4/73	5/73
Donald C. Cook Plant, Unit 2 (Mich.).	Indiana & Michigan Elec. Co	1,060.0	PWR	West. AEP	7/67	7/67	12/67	3/69	3/73		5/73	6/73
Beaver Valley Power Station Unit 1 (Pa.).	Duquense Light Co., Ohio Edison Co. and Pennsylvania Power Co.	847.0	PWR	West. S&W	9/67	9/67	1/69		12/72		5/73	6/73
Limerick Generating Station Unit 1 (Pa.).	Philadelphia Electric Company	1,065.0	BWR	GE Bech	10/67	10/67	3/70		12/74		1/75	3/75
Limerick Generating Station Unit 2 (Pa.).	Philadelphia Electric Company	1,065.0	BWR	GE Bech	10/67	10/67	3/70		12/76		1/77	3/77
North Anna Power Station, Unit 1 (Va.)	Virginia Electric & Power Company.	845.0	PWR	West S&W	10/67	10/67	3/69		9/73		1/74	3/74
North Anna Power Station, Unit 2 (Va.).	Virginia Electric & Power Company.	845.0	PWR	West. S&W	10/67	1/70	3/69		9/74		1/75	3/75
Midland Nuclear Power Plant Unit 1 (Mich.)	Consumers Power Company of Michigan [k].	492.0	PWR	B&W Bech.	12/67	5/68	1/69		10/73		12/73	2/74
Midland Nuclear Power Plant Unit 2 (Mich.)	Consumers Power Company of Michigan [k].	818.0	PWR	B&W Bech.	12/67	5/68	1/69		10/74		12/74	2/75
Verplanck Unit 1 (N.Y.)	Consolidated Edison Company [l]	1,115.0	BWR	GE O	1/68	1/68	6/69		6/77		10/77	5/78
Brunswick Steam Electric Plant Unit 2 (N.C.).	Carolina Power and Light Company.	821.0	BWR	GE UEC	1/68	1/68	7/68	2/70	11/73		2/74	3/74
Brunswick Steam Electric Plant ▶ Unit 1 (N.C.)	Carolina Power and Light Company.	821.0	BWR	GE UEC	1/68	1/68	7/68	2/70	11/75		2/76	3/76
North Carolina	Carolina Power and Light Company.	821.0	BWR	GE UEC	1/68	1/68						
Davis-Besse Nuclear Power Station (Ohio)	Toledo Edison and Cleveland Electric Illuminating Co.	872.0	PWR	B&W Bech.	2/68	10/68	8/69		7/74		11/74	12/74
Diablo Canyon Nuclear Power Plant, Unit 2 (Calif.)	Pacific Gas & Electric Company	1,060.0	PWR	West. O	2/68	7/69	6/68		12/73		3/74	7/74
Duane Arnold Energy Center Unit 1 (Iowa).	Iowa Elec. L&PC, Cent. IPC, and Corn Belt PC.	545.0	BWR	GE Bech.	2/68	2/68	11/69		7/73		9/73	12/73
Hutchinson Island Unit 1 (Fla.)	Florida Power and Light Co	800.0	PWR	Comb. Ebas	2/68	12/67	1/69		2/73		4/73	5/73
Wm. H. Zimmer Nuclear Power Station, Unit 1 (Ohio).	Cincinnati Gas and Elec. Co., C&SOEC and DP&LC.	810.0	BWR	GE S&L	3/68	9/69	4/70		9/74		12/74	1/75
Oregon	Pacific Power and Light Co	1,000.0			3/68							1977
Sequoyah Nuclear Power Plant, Unit 1 (Tenn.)	Tennessee Valley Authority	1,124.0	PWR	West. O	4/68	4/68	10/68	5/70	4/73		30/73	10/73
Sequoyah Nuclear Power Plant Unit 2 (Tenn.)	Tennessee Valley Authority	1,124.0	PWR	West. O	4/68	4/68	4/68	10/70	1/74		20/74	7/74
	Pennsylvania Power and Light Co.	1,052.0	BWR	GE	5/68	5/68						1977
Enrico Fermi Atomic Power Plant Unit 2 (Mich.).	Detroit Edison Company	1,123.0	BWR	GE O/S&L	7/68	8/68	4/69		9/73		12/73	2/74
James A. FitzPatrick Nuclear Power Plant (N.Y.).[m]	Power Authority of the State of New York.	821.0	BWR	GE S&W	8/68	12/68	12/68	5/70	1/73		4/73	5/73
Forked River Nuclear Generating Station, Unit 1 (N.J.).[n]	Jersey Central Power and Light Co.	1,129.0	PWR	Comb. B&R	12/68	12/69	6/70		6/75		9/75	1/76
	Seattle City Light and Snohomish County PUD.	1,000.0			4/69							1979
Joseph M. Farley Nuclear Plant (Ala.).	Alabama Power Company	829.0	PWR	West. SSC/Bech.	5/69	5/69	10/69		10/74		2/75	4/75
Newbold Island. Nuclear Generation Station, Unit 1 (N.J.).	Public Service Electric and Gas Co.	1,088.0	BWR	GE O	8/69	8/69	3/70		9/74		2/75	3/75
Newbold Island, Nuclear Generating Station, Unit 2, (N.J.)	Public Service Electric and Gas Co.	1,088.0	BWR	GE O	8/69	8/69	3/70		9/76		2/77	3/77
McGuire Nuclear Station, Unit 1 (N.C.).	Duke Power Company	1,150.0	PWR	West. O	11/69	11/69			7/75		9/75	11/75
McGuire Nuclear Station, Unit 2 (N.C.).	Duke Power Company	1,150.0	PWR	West. O	11/69	11/69			1/77		3/77	5/77
Wm. H. Zimmer Nuclear Power Station, Unit 2 (Ohio).	Cincinnati Gas & Elec. Co., C&SOEC and DP&LC	810.0	BWR	GE S&L	1/70	1/70	4/70		9/75		12/75	1/76
San Onofre Nuclear Generating Station, Unit 2 (Calif.).	Southern Calif. Edison and San Diego Gas & Elec. Co.	1,140.0	PWR	Comb.	1/70	1/70	5/70		2/75		5/75	6/76
San Onofre Nuclear Generating Station, Unit 3 (Calif.).	Southern Calif. Edison and San Diego Gas & Elec. Co.	1,140.0	PWR	Comb.	1/70	1/70	5/70					1977
Edwin I. Hatch Nuclear Plant, Unit 2 (Ga.).	Georgia Power Company	786.0	BWR	GE SSC/Bech	2/70	2/70						1976
LaSalle County Nuclear Station, Unit 1 (Ill.).	Commonwealth Edison Co	1,100.0	BWR	GE S&L	3/70	5/70						1976

Footnotes on following page.

STATUS OF CENTRAL STATION NUCLEAR POWERPLANTS—SIGNIFICANT MILESTONES—Continued

Key to AE's (Architect-Engineer)

AEP	American Electric Power Service Corporation
Bech.	Bechtel
B&R	Burns and Rowe
CA	Commonwealth Associates
Ebas.	Ebasco
Gil	Gilbert Associates
GHDR	Gibbs, Hill, Durham & Richardson
H&N	Holmes and Narver
J&M	Jackson and Moreland
O	Owner
PSE	Pioneer Service and Engineering
S&L	Sargent and Lundy
SSC	Southern Services Company
S&W	Stone and Webster
UEC	United Engineers and Constructors
Vit.	Vitro

Key to NSSS's (nuclear steam system supplier)

AC	Allis-Chalmers
AI	Atomics International
B&W	Babcock & Wilcox
Comb.	Combustion Engineering
GGA	Gulf General Atomic
GE	General Electric
PRDC	Power Reactor Development Company
West.	Westinghouse

Project/Location	Owner	Capacity* Net (MWe)	Type	NSSS/AE Contr.	Publ. Annc'd	NSSS Contr. Awarded	Constr. Permit Applied	CP/POL Issued	Initial Crit.*	First Elec.	Initial Design Power*	Commercial Operation*
LaSalle County Nuclear Station, Unit 2 (Ill.).	Commonwealth Edison Co.	1,100.0	BWR	GE S&L	3/70	5/70						1977
Aguirre Nuclear Power Plant (P.R.).	Puerto Rico Water Resources Authority.	583.0	PWR	West.	5/70	5/70						1976
Arkansas Nulcear One, Unit 2 (Ark.).[o]	Arkansas Power and Light Company	950.0	PWR	Comb.	5/70	5/70						1976

*Initial or current capacity; may be lower than that authorized by license. Information on achievement of future milestones based on data furnished by utility.

CP=Construction Permit.

NA=Not Applicable.

POL=Provisional Operating License.

[a] Shut down 9/64.

[b] Plant shut down 2/68. On 3/20/70 RCPA rejected an option to purchase ERR.

[c] Shut down for repairs January 1966; operating contract terminated 12/67.

[d] Plant was shut down October 1967; on 9/6/68 NSP announced plans to install gas fired boilers for operation summer 1969; license to possess but not operate issued May 14, 1969.

[e] Shut down January 1967.

[f] Decision to decommission announced 6/88. Order to dismantle issued 8/11/69.

[g] AEC owns reactor, WPPSS the generating facilities with Burns & Roes the contractor for WPPSS.

[h] This unit originally planned as Oyster Creek 2; transfer to Three Mile Island Site announced by GPU 12/31/68.

[i] Indefinite postponement announced by utility on 4/11/69.

[j] Indefinite postponement announced by utility on 11/13/69; August 1968 contract with Westinghouse terminated in May 1970.

[k] Consumers Midland Unit 1 will also produce 3.6 million pounds per hour of process steam; Unit 2 will provide 0.4 million pounds per hour.

[l] Consolidated Edison has an option for an identical unit at the same site (Nuclear 5), CP applied 6/69.

[m] PANSY took over Niagara Mohawk contract for Easton Plant announced and contracted in 1966.

[n] Jersey Central has an option for another unit of same size.

[o] Arkansas Power and Light has an option for another identical unit.

NUCLEAR STEAM SUPPLY SYSTEM CONTRACT AWARDS [1]—U.S. CENTRAL STATION PLANTS, NUMBER OF UNITS/NET MWE

Year	GE		Westinghouse		B. & W.		Comb.		Other		Total	
	Number	MWE	Number	MWE	Number	MWE	Number	MWE	Number	MWE	Number	MWE
Through 1964	5	1,368.8	6	1,749.0	1	265.0	1	16.5	8	1,107.8	21	4,507.1
1965	3	2,115.1	3	1,944.5	0		0		1	330.0	7	4,389.6
1966	9	7,744.9	6	4,867.0	3	2,537.0	2	1,157.4	0		20	16,306.3
1967	8	7,075.5	13	10,656.5	5	4,204.0	5	4,018.0	0		31	25,954.0
1968	9	8,171.0	4	4,414.0	3	2,182.0	0		0		16	14,767.0
1969	3	2,986.0	3	3,129.0	0		1	1,129.0	0		7	7,244.0
1970	4	3,796.0	2	1,428.0	0		3	3,230.0	0		9	8,454.0
Total	41	33,257.3	37	28,188.0	12	9,188.0	12	9,550.9	9	1,437.8	111	81,622.0

[1] Through June 1, 1970.

Status	Number of plants	Capacity, MWE (net)
Decommissioned	6	200.4
Operable [1]	16	5,073.7
Building	52	42,364.9
Contracted	37	33,983.0
Announced	7	6,760.0
Total	118	88,382.0

[1] Achieved initial criticality; not permanently shutdown.

ACHIEVEMENTS OF INITIAL DESIGN POWER [1]—NUCLEAR POWERPLANTS CONTRACTED FOR AS OF JUNE 1, 1970

Year	MWE net		Number of plants	
	Annual	Cumulative	Annual	Cumulative
Through 1968				
1969 [2]		3,484.2		18
1970	4,884.0	8,368.2	9	27
1971	7,492.9	15,861.1	10	37
1972	15,614.9	31,476.0	19	56
1973	15,874.0	47,350.0	18	74
1974	9,614.0	56,964.0	11	85
1975	10,389.0	67,353.0	11	96
1976	4,900.0	72,253.0	6	102
1977	7,710.0	79,963.0	7	109
Indefinite	1,659.0	81,622.0	2	111

[1] Based on Mar. 31, 1970, schedule information reported by utility.

[2] Includes 6 plants which achieved design power in prior years but have since been permanently shut down: Hallam (75 MWE); Piqua (11.4 MWE); CVTR (17 MWE); BONUS (16.5 MWE); Pathfinder (58.5 MWE) and Elk River (22 MWE).

TENSIONS IN NEW BEDFORD

(Mr. MORSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORSE. Mr. Speaker, New Bedford, Mass., was once known as the greatest whaling city in the world. It was once also one of the greatest textile manufacturing centers of the Nation. In recent days, however, it has become a city divided.

New Bedford has, over the past 10 years, received more Federal aid than any city its size. Yet it has the highest unemployment rate in the State and one of the highest in the country. It suffers from serious housing problems, poor police-community relations, considerable poverty, and a serious alienation of its minority groups from the community. Out of this has grown an increasing bitterness, which climaxed last week in an outbreak of violence and the tragic, meaningless death of an innocent youth.

It is easy to assign blame for this turmoil, and it can be liberally spread around; but it is less easy to find the answers to the problems—made even more difficult by the outbreak of violence—for they are not unique to New Bedford. Almost every city in this Nation holds, to a greater or lesser degree, the potential for similar hostilities.

There are, therefore, valuable lessons to be learned from the efforts that have been made in the last few days to ease tensions in New Bedford and restructure community priorities. It is to the great credit of men such as Senator EDWARD BROOKE, Congressman HASTINGS KEITH, and the various city officials and minority group representatives who met last Monday, that a series of agreements were reached which have calmed the situation. More important, these agreements point the way to further progress in tackling the basic problems that have plagued the community.

As a recent Boston Globe editorial comments:

> These agreements are a beginning . . . and a testament to what can be accomplished by the concerned—provided they swing enough weight to make their presence felt.

It is indeed a tribute to the immense creative energy of our colleague in the House, HASTINGS KEITH, and to the responsible leadership which Senator EDWARD BROOKE has appropriately and conscientiously provided, that a dialog—and the initial steps toward reconcilation and repair—has begun. I am pleased to be able to present here, for the consideration of my colleagues, the full text of the editorial statement which appeared in the Boston Globe of July 15:

BROOKE IN NEW BEDFORD

The concessions to poverty stricken blacks and Puerto Ricans which Sen. Edward W. Brooke has obtained from the city government in New Bedford are not the complete answer to the racism and frustration that took one life and injured more than a score of persons on five consecutive nights of disturbances in that city. One man cannot in a day settle problems which had been aggravated by neglect for years and to which some members of the City Council have shown continuing indifference.

But the concessions are a beginning, anyway, and a testament, also, to what can be accomplished by the concerned—provided they swing enough weight to make their presence felt. Two hundred new housing units will not suffice as accommodations for the families who have lost 1200 homes to indifferently conceived highway and urban renewal programs—even if, indeed, the City Council approves the land sale on which the program is contingent. Nor will an approximate 400 jobs in the new industry which the new mayor, George Rogers, is bringing to the city make much of a dent in the ranks of more than 6000 jobless in a workforce of 62,000.

What Sen. Brooke did is vital for all that, and a lesson, too, for other communities that are heading into trouble because they treat their minorities as though they weren't there. By handpicking an 11-member community council of blacks and Puerto Ricans to take the place of Mayor Rogers' Human Relations Commission, which obstructionists on the City Council had starved out of existence by cutting its budget in half, he and the mayor together have given the minorities assurance that their social, housing and job problems will not be pigeon-holed from now on as they have been in the past. A voice in the control of its own affairs is what any minority is entitled to. It is this that now is assured.

What happened to the more than $100 million in Federal money which Mayor Rogers says was poured into New Bedford "over five or 10 years" prior to his inauguration last January is a question to which both Sen. Brooke and Mayor Rogers will ask either a congressional committee or the U.S. Attorney's office to find the answer. How that much money could be spent in a city of 100,000 with such negligible results is a puzzler. The minorities now will have, as they should, some say in how such funds are to be spent in the future.

One area in which it could and should be useful is in food for New Bedford's share of the 5000 persons in Massachusetts who go to bed hungry every night, and for its share of the 90,000 children under 12 who are suffering medical symptoms of protein deficiency.

"END-WAR" ADVERTISING RAISES SERIOUS QUESTIONS

The SPEAKER pro tempore (Mr. MONTGOMERY). Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAMS) is recognized for 25 minutes.

Mr. WILLIAMS. Mr. Speaker, with no little fanfare in the media, a reportedly half-million dollar advertising campaign has been launched to "gain," as United Press International puts it, "wide public support for legislation calling for the withdrawal of all U.S. forces from Vietnam by next summer."

More specifically, this unusual and flagrant lobbying effort is in behalf of the end-the-war amendment of Senators GEORGE S. MCGOVERN and MARK O. HATFIELD and cosponsored by 23 other Senators—the so-called McGovern-Hatfield amendment.

According to the UPI report which appeared Monday, July 6, 1970, in the Washington Post, the advertising stresses the following themes:

> The war could go on "forever" if it is not stopped by congressional action; it is not unpatriotic to be against the war; inflation is hurting everyone and the war is causing inflation.

A similar Washington-datelined UPI report which appeared Monday, July 6, 1970, in the Seattle Post-Intelligencer contained this additional information which, certainly, is not without significance:

> Probably for the first time in history members of Congress are buying advertising to appeal above the heads of their colleagues for citizen support of a legislative proposal. To ward off anticipated complaints that the campaign is actually intended to promote McGovern's unannounced candidacy for the Democratic presidential nomination in 1972, the commercials will show no politician or widely known personality.

Even so, the version of the UPI report which appeared in the Washington Post spoke of "Gordon Weil, MCGOVERN's press secretary, who is helping coordinate the campaign." Of course, this is only supposed to be a coincidence.

Both versions of this report carried the information that:

> The advertising, prepared with volunteer New York professional talent (was) said to be worth $200,000 if it had been purchased * * *.

However, it was not indicated if this "professional volunteer talent" was contributed by corporations or individuals.

At this time, I shall leave it to those who may wish to do so to argue the sensitive questions of how close this unprecedented technique may come, perhaps, to violating at least the spirit of laws regarding campaign and/or lobby practices. Certainly this matter raises some rather obvious questions. For example:

Is it ethical? Is it legal? Are these gentlemen arranging for a full accounting of the funds which, by public solicitation, they are raising? If they are, to whom, and how, will they make such an accounting? Are contributions tax deductible items for the contributor? Are these contributions taxable items for the recipient? Exactly who, or what, is the actual recipient of these funds? Have these gentlemen formed a nonprofit, nontaxable organization to effect and protect this action? What is the view of the Internal Revenue Service? Has it been checked—has it been cleared—with IRS?

To these several questions, there may well be added four others:

First, might political history one day write that this effort in behalf of the McGovern-Hatfield concept of peace in Vietnam proved to be the beginning of a McGovern-Hatfield—or a Hatfield-McGovern—third party "peace ticket" in 1972?

Second, are these two gentlemen, their cosponsors, supporters, and contributors, so genuinely interested in peace in the world—so devout in their belief that their "United States Get Out" policy is so sound, right, and just that, even as they would apply it to Vietnam, they would also apply it to Israel?

Third, what prevents Senators MCGOVERN and HATFIELD and their supporters from seeing the threatening menace of communism? What prevents them from recalling that it was a nonaggression treaty signed by Stalin for Communist Russia that gave Adolph Hitler's Nazi Germany a safe eastern front and permitted Hitler to start World War II? Are not they aware of the fact that Communist North Vietnam has 50,000 men in Cambodia and, probably, as many men in Laos and that the Communists have been violating the territorial integrity of these countries for at least 5 years?

Fourth, do they not know that Communist Russia is supplying the Arabs in the Middle East and even has pilots in Egypt? Has not anyone told them that every time we have attempted to achieve a detente with Russia, the Communists turn their backs on us and that right now Russia's missile building program is proceeding at an accelerated pace? Can't they understand that the Soviet worldwide military deployment continues, even in Castro's Cuba, with the confidence that arises from nuclear equality or superiority?

Whatever may be the answer to these questions, and I totally fail to understand how they can fail to see the very real threat of communism while being constantly critical of U.S. policies, I am confident that I have good reason to suspect that these two distinguished gentlemen, their cosponsors and their supporters, might well be expected to complain of violation of at least the spirit of law regarding campaign and/or lobbying practices if conservative opposite numbers were involved in such an effort in behalf of total military victory, or in support of President Nixon's policy of wind-down and withdraw.

So much for rhetorical question and speculation. Permit me, now, to move to respond to what, according to UPI reports, are the three claims stressed in this landmark political-lobbying maneuver in which Senators MCGOVERN and HATFIELD and their associates solicit money with which to persuade Americans to pressure Congress in behalf of the McGovern-Hatfield amendment to compel the President and Commander in Chief to alter his diplomatic and military policy regarding the Vietnam conflict.

First, under President Nixon's policy and procedure, the war is not being permitted to go on forever, and no congressional action has forced it; quite the contrary, all of the months of sometimes politically-opportune criticism and debate over such converse policies as those of Senators MCGOVERN and HATFIELD have given the other side in Vietnam cause to believe that our Nation and Government is so deeply divided that, one day, the Communists will be handed Vietnam on a platter.

Meanwhile, Mr. Nixon and his military commanders have gone routinely about their business of hastening the Vietnamization of the war and the planned, orderly, systematic withdrawal of our forces, first from combat, and second from Vietnam itself.

As a result, we see, again and again, in public opinion poll and survey after poll and survey, that the majority of Americans continues to prefer the Nixon plan and system which, among other things vital, will permit the people of Vietnam the means of defending themselves against continued Communist efforts to dominate or destroy them after the last American soldier has been withdrawn. This is the policy and program which, from the outset, I have supported, and which I will continue to support.

Second, no, it is not unpatriotic to be against the war; it is quite intelligent, Godly and human to be opposed to all war, and certainly, to one of this most terrifying character; but it is a grave disservice, and it is grossly unfair for those of the McGovern-Hatfield persuasion to portray that majority of Americans who support the Nixon plan for peace as superpatriots who fashion themselves as having an exclusive claim to patriotism.

Third, it is, by no means, Vietnam and Vietnam alone that is causing inflation; quite the contrary: Over the past nearly four decades of deficit spending, of borrowing from Peter to pay Paul in order to support more and more self-proliferating, self-perpetuating social welfare plans and programs, our national debt has grown to more than $374 billion, with the long-overburdened American taxpayers confronted with an interest cost of nearly $20 billion in this new fiscal year, 1971, which began only the first of this month. This interest cost to the American taxpayer will increase to $30 billion annually by 1973.

This incredibly massive squandering must be brought to a quick end. Certainly, I see little in the record, from persons of the McGovern-Hatfield persuasion, which would suggest that, given their way in Vietnam, they would not immediately argue for mere transfer of the moneys currently appropriated for Vietnam to more, and enlarged and expanded social welfare schemes and programs here at home which, in turn, would convince more and more Americans that, by doing less and less, they can get more and more from the Federal Government.

It is against this background that I note with no little interest a significant quotation attributed, in the UPI account, to Gordon Weil, McGOVERN's press secretary; the quotation, "This is emotional stuff," referring to the use of "sweet kids" who, according to one of these TV spot advertisements, could "die in Vietnam 12 years from now" if the war is not stopped.

This is, indeed, "emotional stuff," the propriety of which I seriously question because something more candid and practical and honest is needed to bring peace than the emotions upon which ultra-liberals and the anti-war, peace-at-any-price cult have too long been permitted to play.

I can only conclude that the sponsors and supporters of the McGovern-Hatfield amendment, and their supporters, are more interested in something other than the security and future of the United States and the free world.

BIG THICKET NATIONAL PARK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BUSH) is recognized for 5 minutes.

Mr. BUSH. Mr. Speaker, today I am introducing the following bill which I believe is a forward-looking proposal for the establishment of a Big Thicket National Park in east Texas.

I think my plan is sound. It will connect the major pearls suggested for the park via the waterways. It provides for the development of a low-speed scenic roadway, constructed so as not to disturb in any way the ecological balance of the area. Secretary of the Interior Walter J. Hickel says my bill "appears to have tremendous potential."

The Big Thicket area in east Texas is one of the rare sites left in America remaining essentially as it was hundreds of years ago. This is a crucial time for this biological crossroads. The Big Thicket is a vanishing wilderness. Once covering three and a half million acres in eastern Texas, today only about 10 percent of those acres in the Big Thicket remain untouched. Each week this acreage diminishes.

It is fortunate that the importance of conserving our natural resources and natural environment has become an important challenge. No one I have spoken with disputes the fact the Big Thicket has a unique quality that must be preserved. But, there has not been much agreement on how to accomplish this. One proposal has been made to create several independent units known as "pearls." Other proposals call for conserving the pearls and a separate large tract which affords a home for wildlife of the area.

To develop a plan which will readily accomplish the preservation of the forest areas of the Big Thicket, I have called upon the expertise of those who know the area best, and the Department of the Interior. The key to preserving the ecological balance of the Big Thicket is proper drainage. As Secretary Hickel said in a letter to me:

> You certainly are correct in your statement "that drainage is the key for preserving the ecological balance of the Big Thicket." Your proposal appears to afford the necessary protection for this important drainage.

My bill does provide for that. In detail it asks the Federal Government to acquire land along the Neches River, the Village and Big Sandy Creeks. Acquisition of land along these waterways will tie together some of the virgin forest areas previously identified by the Department of the Interior as being of unique ecological value. The bill provides for a contiguous national park area.

I believe the low-speed roadway proposed in this measure to be feasible and desirable. Constructed so as to maintain the ecological balance of the Big Thicket community without disturbing its natural beauty, such a roadway will provide means for our citizens to experience much of this wilderness.

Hopefully, the introduction of this bill will hasten the day when the Big Thicket National Park will be a reality rather than a dream.

At this time, Mr. Speaker, I would like Secretary Hickel's letter and the bill printed in the CONGRESSIONAL RECORD.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 13, 1970.

Hon. GEORGE BUSH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BUSH: I read with interest your letter of July 7 suggesting the establishment of a national park in the Big Thicket area of between 100,000–150,000 acres. Your suggestion that we connect the "string of pearls" concept to an acquisition program of land along the Neches River and the Village Creek, extending up to Sandy Creek, together with the development of a low-speed scenic roadway system certainly appears to have tremendous potential. As you know, I join your concern in preserving the Big Thicket area and feel that your suggested proposal would afford outstanding recreational activity for residents of Houston, Beaumont, Port Arthur, Dallas, Fort Worth and other parts of eastern Texas.

You certainly are correct in your statement "that drainage is the key for preserving the ecological balance of the Big Thicket". Your proposal appears to afford the necessary protection for this important drainage.

This Department is currently considering various proposals for the protection of the Big Thicket area and your suggestion will certainly be reviewed as a possible solution.

As requested, I am enclosing a drafting service prepared by this Department implementing your suggested program. As I am sure you realize, we can take no official position on this legislation until we have clearance from the Office of Management and Budget.

Sincerely yours,
WALTER J. HICKEL,
Secretary of the Interior.

H.R. 18498

A bill to authorize the establishment of the Big Thicket National Park in the State of Texas, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve for the education and inspiration of present and future generations certain unique natural areas in Tyler, Hardin, Jasper, Polk, Liberty, Jefferson, and Orange Counties, Texas, and to interpret therein the outstanding scientific values and ecological associations within the Neches River, Village Creek, and Sandy Creek watersheds, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Big Thicket National Park (hereinafter referred to as the "park"). The boundary of the park shall be as generally depicted on the drawing entitled "Big Thicket National Park, Texas," dated July 1970, and numbered NP-BT-91,001. Copies of the drawing shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary may make minor revisions in the boundary of the park from time to time but in no event shall the boundary encompass more than 150,000 acres.

SEC. 2. Within the boundary of the park the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Property owned by the State of Texas or any political subdivision thereof may be acquired only by donation. Federal property within the boundary may be transferred to the jurisdiction of the Secretary without consideration for purposes of the park, with the concurrence of the head of the agency having administrative jurisdiction thereover.

SEC. 3. In order to provide access to the unique natural areas within the park and to fully provide for the interpretation of its ecology, the Secretary is authorized to construct and maintain scenic roads within and between the units of the park, including roads outside of the boundary of the park where necessary. For the purposes of this section the Secretary may acquire lands and interests therein outside the boundary by any of the methods authorized in section 2 of this Act. The scenic roads and related facilities herein authorized shall be designed, constructed, and operated so as to avoid permanent adverse effects on the ecology of the park and adjacent areas, and they shall include rights-of-way of sufficient area to assure protection of the scenic quality of the road and, where appropriate, to provide facilities for interpretation and administration of the park. The scenic roads and related facilities authorized herein shall be administered as a part of the park, subject to such special regulations as the Secretary may deem necessary to carry out the purposes of this section.

SEC. 4. The Secretary shall administer the park in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1, 2–4).

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

URBAN COALITION: POWER PLAY FOR DISASTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 15 minutes.

Mr. ASHBROOK. Mr. Speaker, one of the biggest lobbies for massive Federal spending is the so-called urban coalition headed by John W. Gardner. This group has been effectively mounting a crusade for heaping more and more taxes on the back of the already overburdened American taxpayer. Through its spokesman, Mr. Gardner, it has come out against giving any tax break to the average American and has called for massive doses of socialism and spending to cure every conceivable ill.

It is of vital concern because the urban coalition has the backing of most big city U.S. mayors and all too many big businessmen in the country. A good example of their efforts was seen in the disastrous welfare bill which recently passed the House of Representatives. The U.S. Senate did the work that the House chose not to do under a blinding magic spell cast by the White House on many otherwise conservative Republican Congressmen. There is yet hope that the Senate will save us from this folly but it will not be with the help of the urban coalition which was one of the bill's chief sponsors.

Even the National Association of Manufacturers was taken in by the rhetoric of the bill. In fact, they supported it even though it is full of inconsistencies which have been fully documented before. I take this opportunity today not to condemn the so-called family assistance plan—I have done this in detail before—but rather to point out some of the liberal forces which spearheaded this drive. In the future, they will undoubtedly be in the forefront of the more socialistic proposals and it would be well to understand a little more about this power bloc.

To read Mr. Gardner's speeches, he presents the picture of an overage hippie who sees no good in the American system and like the radical kids, simply would substitute about everything we have for massive doses of the Federal programs which have failed in the past. Vice President AGNEW would be pilloried for the same rhetoric but the left is in tune with Mr. Gardner's attacks and demands. In his speech to the National Press Club last December, Mr. Gardner suggested that the public throw the weight of public opinion against those industries who contribute to the problems he cited. In that spirit, it would be wise to look at just who is sponsoring the urban coalition and backing its radical, socialistic, and budget-busting proposals. Maybe the public can throw its weight against them although in a different way than Mr. Gardner advocated.

On March 30, 1970, the following letter was written to Members of Congress from the Urban Coalition Action Council:

THE URBAN COALITION ACTION COUNCIL,
Washington, D.C., March 30, 1970.

Hon. JOHN M. ASHBROOK,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CONGRESSMAN: Within a few days the Family Assistance Act of 1970 (H.R. 16311) will be brought to a vote in the House of Representatives. Many prominent corporate executives support this legislation and have signed a statement urging members of the House to vote for it.

I am enclosing the statement and a list of the signers. The Urban Coalition Action Council joins these business leaders in urging you to support the Family Assistance Act.

Sincerely,

LOWELL R. BECK,
Executive Director.

Enclosed was a statement by business leaders which also listed four pages of those who supported the welfare bill. The statement and the list of signers follows:

STATEMENT OF BUSINESS LEADERS

WELFARE REFORM

The failure of present welfare programs has been of growing concern to the business community. Leading businessmen have participated in the work of public and private commissions that have studied the problems of poverty in the United States. Their studies have concluded overwhelmingly that the time has come to discard the existing patchwork of ineffective public assistance programs.

President Nixon last year put forward an extremely important set of proposals for a family assistance program. The House Ways and Means Committee, after extensive hearings on the President's proposal, has approved H.R. 16311, the "Family Assistance Act of 1970". The Act contains important, new and innovative sections. It could be strengthened further. However, it is an important breakthrough and deserves strong support.

The Federal Government will for the first time accept responsibility for financing a minimum level of payment throughout the Nation. The Act provides help for the working poor, those fathers and mothers who may work full-time and still not earn enough to bring their families above the poverty line. It offers stronger incentives for those now on welfare rolls to seek training and job opportunities. National standards of eligibility will correct some of the present disparities between one state and another.

House passage of this legislation would be an important step toward a sound and more equitable welfare system.

As a group of interested businessmen, we feel the time has come to speak out for welfare reform. We urge members of the House of Representatives to vote for the *Family Assistance Act of 1970.*

LIST OF SIGNERS OF WELFARE REFORM STATEMENT

Vernon R. Alden, Chairman, the Boston Company, Inc.

Joseph Allen, President, McGraw-Hill Publications, Inc.

Ernest C. Arbuckle, Chairman, Wells Fargo Bank.

Charles Bluhdorn, Chairman of the Board, Gulf and Western Industries, Inc.

Donald Burnham, President, Westinghouse Electric Corp.

F. L. Byrom, Chairman, Koppers Company, Inc.

Howard Clark, Chairman, American Express Company.

A. W. Clausen, President, Bank of America National Trust and Savings Association.

Frederick J. Close, Chairman of the Board, Aluminum Company of America.

C. W. Cook, Chairman, General Foods Corp.

Alonzo G. Decker, Chairman and President, Black & Decker Manufacturing Co.

Harry K. DeWitt, Chairman of the Board, American Hospital Supply Corp.

George S. Dillon, President, Air Reduction Company.

Harrison F. Dunning, Chairman, Scott Paper Company.

W. D. Eberle, President, American Standard.

William Ericsson, President, American National Bank & Trust Company of Chicago.

Gaylord A. Freeman, Jr., Chairman of the Board, First National Bank of Chicago.

John W. Gardner, Chairman, Urban Coalition Action Council.

Gen. James Gavin, Chairman of the Board, Arthur D. Little, Inc.

Eli Goldston, President, Eastern Gas & Fuel Associates.

Rodney C. Gott, Chairman, American Machine & Foundry Co.

J. Peter Grace, President, W. R. Grace & Company.

Donald M. Graham, Chairman, Continental Illinois Bank & Trust Company of Chicago.

Stanley Grossman, President, Lebanon Knitting Mills, Inc.

W. P. Gwinn, Chairman, United Air Craft Corp.

John C. Haas, Chairman, Rohm & Haas Company.

R. V. Hansberger, President, Boise Cascade Corporation.

Howard C. Harder, Chairman of the Board CPC International.

Ellison L. Hazard, Chairman & President, Continental Can Company, Inc.

Ben W. Heineman, President, Northwest Industries, Inc.

Andrew Heiskell, Chairman of the Board, Time, Inc.

William A. Hewitt, Chairman, Deere & Company.

William R. Hewlett, President, Hewlett-Packard Company.

Philip B. Hoffman, Chairman of the Board and Chief Executive Officer, Johnson & Johnson.

Amory Houghton, Jr., Chairman of the Board, Corning Glass Works.

William Hudjins, President, Freedom National Bank of New York.

Robert S. Ingersoll, Chairman, Borg-Warner Corp.

Herman E. Johnson, Chairman, Western Publishing Company.

Samuel C. Johnson, Chairman and President, S. C. Johnson & Sons, Inc.

Stephen Keating, President, Honeywell, Inc.

D. B. Kemball-Cook, President, Shell Oil Company.

Donald M. Kendall, President, Pepsico, Inc.

Francis Keppel, Chairman, General Learning Corporation.

Ralph Lazarus, Chairman of the Board, Federated Department Stores, Inc.

Gustave Levy, Partner, Goldman, Sachs & Company.

Roger Lewis, Chairman and President, General Dynamics Corporation.

Franklin A. Lindsay, President, Itek Corporation.

John L. Loeb, Senior Partner, Loeb, Rhoades & Company.

Charles F. Luce, Chairman of the Board, Consolidated Edison Company of New York.

William F. May, Chairman, American Can Company.

J. Irwin Miller, Chairman of the Board, Cummins Engine Company.

Alfred S. Mills, Chairman and Chief Executive Officer, The New York Bank for Savings.

Guy M. Minard, President, Kimberly-Clark Corp.

Milton E. Mohr, President and Chief Executive Officer, Bunker-Ramo Corporation.

Henry T. Mudd, Chairman, Cyprus Mines Corporation.

Milton C. Mumford, Chairman of the Board, Lever Brothers Company.

William C. Norris, Chairman & President, Control Data Corporation.

Daniel Parker, Chairman, Parker Pen Company.

Donald Perkins, President, Jewel Companies, Inc.

Howard C. Reeder, Chairman and President, CNA Financial Corporation.

H.R. Roberts, President, Connecticut General.

William E. Roberts, President & Chief Executive Officer, Ampex Corporation.

David Rockefeller, Chairman of the Board, Chase Manhattan Bank.

Charles G. Rodman, President, Grand Union Company.

James Rouse, President, The Rouse Company.

Lelan F. Sillin, Jr., President, Northeast Utilities Service Co.

John Simmen, Chairman of the Board, Industrial National Bank of Rhode Island.

J. Henry Smith, President, Equitable Life Assurance Society of the United States.

Edwin H. Snyder, Chairman, Public Service Electric & Gas Co.

Emmett G. Solomon, Chairman of the Board, Crocker-Citizens National Bank.

Martin Stone, Chairman & President, Monogram Industries, Inc.

Robert Stuart, President, National Can Corporation.

Robert D. Stuart, Jr., President, Quaker Oats Company.

Henry G. Van der Eb, President & Chief Executive Officer, Container Corporation of America.

L. H. Warner, President, General Telephone & Electronics Corporation.

Rawleigh Warner, Jr., Chairman, Mobil Oil Corporation.

Richard Wasserman, President, Levitt & Sons, Inc.

John Wheeler, President, Mechanics and Farmers Bank.

Nelson C. White, Chairman, International Minerals and Chemical Corp.

William M. White, Jr., Chairman & President, Great Western United Corp.

Joseph C. Wilson, Chairman of the Board, Xerox Corporation.

C. A. Winding, Chairman, Marine Midland Banks, Inc.

F. C. Wiser, President, Trans World Airlines.

Walter B. Wriston, President, First National City Bank.

C. J. Zimmerman, Chairman, Connecticut Mutual Life Insurance Company.

Whether these businessmen had been mesmerized or whether they had really studied the bill and thought its guaranteed annual income innovation was needed in America cannot be known. What is known is that a substantial number of American business executives threw their weight behind one of the worst bills ever to pass the House of Representatives and one of the most radical, socialistic proposals ever to be recommended to this body.

No amount of spending will ever be enough for these urban coalition types. The Nixon budget had no sooner been offered than it was assailed by Mr. Gardner. He said:

> We must act to increase Federal revenues. As a start, I would suggest that the remaining 5 per cent of the surtax should not, under any circumstances, be allowed to lapse in June.

The urban coalition not only presses for more spending, more programs, more deficits but also called for the defeat of Judge G. Harrold Carswell. They have currently jumped on the antimilitary bandwagon of the left.

WHO IS JOHN GARDNER?

Who is John Gardner? He is the perfect example of the sophisticated east coaster who is virtually hatched by the foundations and the liberal establishment. These types have come in and out of government for the past 25 years. The 1967 Congressional Directory contains the following biography of Mr. Gardner when he was Secretary of Health, Education, and Welfare:

> John W. Gardner, Secretary of Health, Education, and Welfare; president of Carnegie Corporation of New York and the Carnegie Foundation for the Advancement of Teaching, from 1955 to July 27, 1965, date of his appointment to the Cabinet by President Johnson; born in Los Angeles, Calif., 1912; married Aida Marroquin; children: Stephanie (Mrs. Philip Trimble), Francesca (Mrs. John Reese); honorary fellow of Stanford University where he received his A.B. and M.A. degrees; received Ph. D. from the University of California; before World War II, taught psychology at Connecticut College for Women and Mount Holyoke College; served in 1942 as chief of the Latin American Section of Foreign Broadcast Intelligence Service of the Federal Communications Commission; in 1943 joined the U.S. Marine Corps and was assigned to the Office of Strategic Services; served with the OSS in Washington, Italy, and Austria; joined the Carnegie Corp. in 1946 as executive associate; served as consultant to various government agencies; served on President Kennedy's Special Task Force on Education; chairman of the U.S. Advisory Commission on International Educational and Cultural Affairs (1962–64), President Johnson's Task Force on Education (1964), and of the White House Conference on Education (1965); awarded the U.S. Air Force Exceptional Service Award, and in 1964 the Presidential Medal of Freedom; served as member of the board of the Metropolitan Museum of Art and the American Association for the Advancement of Science; is a fellow of the American Psychological Association and the American Academy of Arts and Sciences; member of the Council on Foreign Relations and the Society of Sigma Xi; author of numerous articles and studies on American education; editor of President John F. Kennedy's book "To Turn the Tide"; author of the books "Excellence; Can We Be Equal and Excellent Too?" and "Self-Renewal; The Individual and the Innovative Society"; took oath of office as Secretary of Health, Education, and Welfare on August 18, 1965.

Foundation background, Council on Foreign Relations and special assignments in Government provided the background for this man who, after being created to specification, now tells us how to reform the Congress, our cities, the Federal Government and our way of life.

Unfortunately, many businessmen follow this pied piper of Eastern liberalism, as witnessed by the welfare bill fiasco. Some of these same businessmen were active in the committee set up in 1964 to oppose BARRY GOLDWATER after the Republican Party nominated him. For the record, I here include the list of the business leaders who formed a committee to back L.B.J.:

CHAIRMEN

John T. Connor, Summit, N.J.

John L. Loeb, Sr. Partner, Carl M. Loeb, Rhoades & Co.

VICE CHAIRMEN

Carter Burgess, Ch., American Machine & Foundry Co.

William A. Hewitt, Pres., Deere & Co.

Edgar F. Kaiser, Pres., Kaiser Industries Corporation.

Mills B. Lane, Jr., Pres., Citizens & Southern National Bank.

SPONSORS

Kenneth S. Adams, Ch., Phillips Petroleum Co.

John M. Akers, Pres., Akers Motor Lines.

Frank Altschul, New York, N.Y.

Robert B. Anderson, Greenwich, Conn.

James W. Aston, Pres., Republic National Bank of Dallas.

Perry Richardson Bass, Fort Worth, Tex.

Ford Bell, Ch., Red Owl Stores, Inc.

Arthur E. Benning, Pres. & Gen. Mgr., The Amalgated Sugar Co.

T. Roland Berner, Ch., Curtiss-Wright Corporation.

William R. Biggs, Washington, D.C.

Gordon Bilderback, Champaign, Ill.

Eugene R. Black, New York, N.Y.

Jacob Blaustein, Co-founder & Former Pres., American Oil Co.

Joseph L. Block, Ch., Inland Steel Co.

Samuel J. Blomingdale, New York, N.Y.

James H. Brady, Knoxville, Tenn.

Edgar M. Bronfman, Pres., Jos. E. Seagram & Sons, Inc.

D. W. Brosnan, Pres., Southern Railway.

Paul C. Cabot, Ch., State Street Investment Corp.

Thomas D. Cabot, Ch., Cabot Corporation.

Cass Canfield, Ch., Exec. Com., Harper & Row Publishers, Inc.

Charles A. Cannon, Ch., Cannon Mills Co.

Edward E. Carlson, Pres., Western Hotels, Inc.

James V. Carmichael, Pres., Scripto, Inc.

Henry Z. Carter, Pres., Avondale Shipyards, Inc.

Sam H. Casey, Pres. Commonwealth Oil Refining Co.

Nobel C. Caudill, Dir., Genesco, Inc.

J. M. Cheatham, Pres., Dundee Mills.

Peter Colefax, Ch., American Potash & Chemical Corp.

Donald C. Cook, Pres., American Electric Power Co.

James M. Cox, Pub., The Miami News.

Edgard M. Cullman, Pres., General Cigar Co., Inc.

Nathan Cummings, Ch., Consolidated Foods Corp.

Colgate Darden, Norfolk, Va.

Ralph K. Davies, Ch., Natomas Co.

A. D. Davis, Pres., Winn-Dixie Stores, Inc.

Lewis W. Douglas, Sonoita, Ariz.
Marriner S. Eccles, Ch., Utah Construction & Mining Co.
Buford Ellington, Lousville & Nashville Railroad Co.
German H. H. Emory, Ch., Riegel Textile Corp.
Ray R. Eppert, Pres., Burroughs Corporation.
Amon C. Evans, Pub., The Nashville Tennessean.
Samuel M. Fleming, Pres., Third National Bank in Nashville.
Marion B. Folsom, Dir., Eastman Kodak Co.
Henry Ford II, Ch., Ford Motor Co.
James M. Gavin, Pres., Arthur D. Little Co.
Eli Goldston, Pres., Eastern Gas & Fuel Assoc.
William T. Gossett, Bloomfield Hills, Mich.
Herschell Greer, Pres., Guaranty Mortgage Company.
Walter A. Hass, Jr., Pres., Levi Strauss & Company.
Robert V. Hansberger, Pres., Boise Cascade Corp.
Robert M. Hart, Ch., Boulder National Bank.
Ben W. Heineman, Ch., Chicago and Northwestern Ry.
Harry B. Henshell, Pres., Bulova Watch Co., Inc.
George Watts Hill, Ch., Home Security Life Insurance Co.
Walter Hochschild, Ch., American Metal Climax, Inc.
Bailey K. Howard, Ch., Field Enterprises Educational Corp.
Edwin Janss, Jr., Pres., Janss Corp.
R. Huston Jewell, Pres., Crystal Springs, Bleachery.
D. Wellsman Johnson, Pres., Abney Mills.
Earl D. Johnson, Past Pres., General Dynamics Corp.
Halbert M. Jones, Pres., Waverly Mills, Inc.
Sidney Kellman, Ch., Bank of Virginia Beach.
Charles Keller, Jr., Pres., Keller Construction Company.
James R. Kerr, Pres., AVCO Corp.
George L. Killion, Pres., American President Lines, Ltd.
E. William King, Pres., Mason & Dixon Lines, Inc.
Thomas S. Lamont, New York, N.Y.
Harley Langdale, Jr., Pres., The Langdale Company.
John Lawrence, Ch., Dresser Industries.
Ralph Lazarus, Pres., Federated Department Stores, Inc.
Robert Lehman, Sr. Partner, Lehman Bros.
Salim L. Lewis, Bear Stearns & Company.
Sol M. Linowitz, Ch., Xerox Corp.
August C. Long, Ch., Texaco, Inc.
J. Howard Marshall II, Pres., Union Texas Petroleum Corp.
J. Elroy McCaw, Communications & Real Estate.
David M. McConnell, Belk Stores.
Joseph H. McConnell, Pres., Reynolds Metals Co.
John Mecom, Houston, Tex.
Andre Meyer, Sr. Partner, Lazard Freres & Co.
Al C. Mifflin, Jr., Pres., Murfreesboro Bank & Trust Co.
Arjay R. Miller, Pres., Ford Motor Company.
Bernard A. Monaghan, Pres., Vulcan Materials Co.
Walter S. Montgomery, Pres., Spartan Mills.
Charles H. Murphy, Pres., Murphy Corp.
Charles F. Meyers, Jr., Pres., Burlington Industries, Inc.
John Nuveen, Dir., John Nuveen & Co.
Monford A. Orloff, Pres., Evans Products Co.
General Frederick Osborn, New York, N.Y.
Herman H. Pevler, Pres., Norfolk & Western Railway.
Alexander M. Poniatoff, Ch., Ampex Corp.
Troy V. Post, Ch., Greatamerica Corp.
Jerome Preston, Preston, Moss & Co.
Hickman Price, Jr., Ch., International Products Corporation.
Will Turner Ray, Ch., Bank of Monterey.
Richard S. Reynolds, Jr., Ch., Reynolds Metals Co.
L. W. Robert, Ch., Robert & Company.
Corbin J. Robertson, Quintana Petroleum Corporation.
James E. Robison, Pres., Indian Head Mills, Inc.
Lessing J. Rosenwald, Former Ch., Sears Roebuck.
Raymond Rubicam, Scottsdale, Ariz.
W. H. Ruffin, Ch., Irwin Mills.
Robert M. Schwarzenbach, Pres., Schwarzenbach Huber Co.
Norton Simon, Pres., Hunt Foods & Industries, Inc.
Ross D. Siragusa, Sr., Ch., Admiral Corporation.
Robert S. Small, Pres., Woodside Mills.
Roger Sonnabend, Pres., Hotel Corporation of America.
William E. Spaulding, Ch., Houghton Mifflin Co.
Modie J. Spiegel, Ch., Spiegel, Inc.
Mansfield D. Sprague, American Machine & Foundry Co.
Sydney Stein, Jr., Stein, Roe & Farnham
William C. Stolk, Ch., American Can Co.
Ralph I. Straus, Dir., R. H. Macy & Co., Inc.
Alfred A. Strelsin, Ch., Cenco Instruments Corp.
H. Gardner Symonds, Ch., Tennessee Gas Transmission Co.
S. Mark Taper, Ch., First Charter Financial Corp.
Charles B. Thornton, Ch., Litton Industries, Inc.
Walter J. Tuohy, Pres., Chesapeake & Ohio Railway.
Frederick M. Warburg, New York, N.Y.
Sidney J. Weinberg, Sr. Partner, Goldman, Sachs & Co.
Charles A. Wellman, Pres., First Charter Financial Corp.
Howard Werthan, Dir., Werthan Bag Corporation
Walter H. Wheeler, Jr., Ch., Pitney-Bowes, Inc.
Alfred Mayowilson, Exec. V. Pres., Honeywell, Inc.
John U. Wilson, Pres., E. P. Wilson & Son.
Joseph C. Wilson, Pres., Xerox Corp.
Frederic B. Whitman, Pres., Western Pacific RR. Co.
Joseph S. Wright, Pres., Zenith Radio Corp.

COUNSEL

Henry H. Fowler, Washington, D.C.
Lloyd M. Cutler, Washington, D.C.
Maxwell M. Rabb, New York, N.Y.

The persons listed as officers or sponsors serve in their personal and individual capacity; the corporate and business affiliations listed are purely descriptive, carrying no implication of authorization or participation by the organization noted.

Incorporated in 1964.

Their influence was clear on the usually conservative National Association of Manufacturers which supported the welfare bill. The following telegram was sent to Members by the NAM:

WASHINGTON, D.C.,
April 15, 1970.

Hon. JOHN M. ASHBROOK,
Washington, D.C.:

We urge your support for H.R. 16311, the Family Assistance Act of 1970. The failure of the present system is clear. The incentive features of this bill point to a practical way of strengthening family life and reducing poverty and welfare dependency.

W. P. GULLANDER,
President, NAM.

I immediately wrote Mr. Gullander and received the following reply:

NATIONAL ASSOCIATION OF MANUFACTURERS,
April 29, 1970.

Hon. JOHN M. ASHBROOK,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE ASHBROOK: Thank you for your letter on H.R. 16311.

Our reasoning on the work requirement and work incentive is detailed on pp. 5–6 and 8–11 of the attached analysis of Title I. We are very aware of the risks attendant on these proposals. However, we feel that something must be done before the present AFDC "mess" becomes worse and, of all the proposals we have heard, H.R. 16311 makes the most sense.

We are mindful of the dangers of another "Medicaid." Therefore, in our statement to the Senate Finance Committee we intend to stress the importance of a careful start at limited benefit levels. We also expect to suggest several ways to strengthen the "workfare" aspects.

This was not a hasty decision on our part. For the better part of a year, a group of our members studied the various welfare reform proposals. Their conclusion was that a work- and incentive-oriented program was necessary. The NAM Board of Directors reviewed their proposal in December and endorsed it. That policy is appended to the analysis of H.R. 16311 and is the basis for our support of the bill.

Sincerely,

W. P. GULLANDER.

It is interesting to note that the NAM has evidently had a relapse of conscience or good judgment and now speaks more cautiously about the welfare bill. However, they played their part in getting this dangerous bill passed in the House of Representatives and their reluctance comes a little late.

Does the urban council have an ally in the National Association of Manufacturers? Only time will tell. At any rate, it will be most interesting to watch this new high-powered pressure group for the left. I will introduce more material on the urban coalition as the months progress. Prudent Americans who are worried about the direction of the Federal Government, our Federal tax burdens, huge and mounting Federal deficits, and grasping Federal bureaucracy should keep an alert eye on the urban coalition and John Gardner. They are the powerful foe of all who believe in limited government and checking the runaway nature of the Federal Government. In fact, these same Americans should watch these business leaders who aline themselves with Mr. Gardner and his crowd. As consumers, they should make their weight felt.

REINTRODUCTION OF A BILL TO LIMIT THE IMPORTATION OF ELECTRONIC PRODUCTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr BOLAND), is recognized for 10 minutes.

Mr. BOLAND. Mr. Speaker, Congressman SILVIO O. CONTE and I are introducing again today—this time with 20 cosponsors—our legislation to place limits on the importation of electronic products.

The cosponsors, a bipartisan group of eight Democrats and 12 Republicans, share our alarm at the staggering new increases in electronic imports—increases that are threatening the jobs of hundreds of thousands of workers from coast to coast. Enjoying an ample supply of cheap labor and other economic advantages that American industry lacks, foreign manufacturers soon may dominate this country's marketplace in electronic products. Electronic workers are already losing their jobs. Major layoffs in this industry—as in the shoe and textile industries—are becoming almost commonplace.

Plainly, Mr. Speaker, the Congress must honor its responsibility to safeguard the jobs of American working men and women.

I want to emphasize again today—as Mr. Conte and I did in fuller discussions of this problem March 25 and May 14—see the Congressional Record, pages 9369 through 9373, March 25, and pages 15627 through 15628, May 14—that our bill is not just another piece of shortsighted protectionist legislation.

It simply allows domestic and foreign manufacturers to compete fairly for the consumer's dollar.

The bill's cosponsors, besides Mr. Conte and I, are:

James T. Broyhill, Republican, of North Carolina.

James A. Burke, Democrat, of Massachusetts.

Laurence J. Burton, Republican, of Utah.

Hugh L. Cary, Democrat, of New York.

Tim Lee Carter, Republican, of Kentucky.

Del Clawson, Republican, of California.

James C. Cleveland, Republican, of New Hampshire.

Harold D. Donohue, Democrat, of Massachusetts.

Thaddeus J. Dulski, Democrat, of New York.

John J. Duncan, Republican, of Tennessee.

Samuel N. Friedel, Democrat, of Maryland.

James G. Fulton, Republican, of Pennsylvania.

Seymour Halpern, Republican, of New York.

Hastings Keith, Republican, of Massachusetts.

Dan Kuykendall, Republican, of Tennessee.

Philip J. Philbin, Democrat, of Massachusetts.

Fernand J. St Germain, Democrat, of Rhode Island.

Keith G. Sebelius, Republican, of Kansas.

Robert O. Tiernan, Democrat, of Rhode Island.

Louis C. Wyman, Republican, of New Hampshire.

A BILL TO AMEND PUBLIC WORKS ACCELERATION ACT OF 1962

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. McFall), is recognized for 15 minutes.

Mr. McFALL. Mr. Speaker, much has been said and much has been written about the economic decline during the past year and the attendant intolerable unemployment rates experienced in many of our communities.

Unemployment has increased from 3.3 percent at the beginning of 1969 to approximately 5 percent nationally, with the unwelcome prospect of further increases in sight. This means 1½ million more Americans out of work than was the case 18 months ago. Many millions more have seen their purchasing power and paychecks eroded by shorter workweeks and higher costs.

Implementation of certain Federal executive policies has contributed both to the increase in unemployment and inflationary conditions now plaguing the country. In some vital parts of the economy, such as housing, the term "depression" is not too strong.

The result has been that in certain geographic areas, pockets of unemployment have been created which have alarming portent.

Legislation I am introducing today could be the basis for one task force to help turn the tide of unemployment rates downward in impacted areas where great economic peril exists. This bill offers no panacea, but from previous experience with similar programs, it could be extremely beneficial in reversing current trends.

Mr. Speaker, the repeated reports that things will get better and prosperity is around the next bend, no longer hold out the hope or fulfill the promises needed to satisfy the workingman without a job. The need is now. The time for action is now. The opportunity for the Congress to join forces with the administration in offering solutions is now. The burden of responsibility is ours to authorize actions and appropriate funds now.

The measure I am offering is not complicated. It uses as its basis a law still on the books that was highly successful as an antirecession measure in the early days of the 1960 decade, the Public Works Acceleration Act.

It would give the administration a major tool to assist communities that are particularly hard hit by the current recession.

I propose to amend the Public Works Acceleration Act of 1962 to provide immediate direct Federal assistance of 80 percent for construction of needed public facilities in areas where unemployment has soared to 150 percent above the national average.

The basic ground rules for the program require that the applicant have a firm plan for a badly needed permanent public facility, be able to finance the local share of construction, be ready to begin almost immediate construction, and guarantee that a high percentage of the construction cost will be labor.

I was particularly distressed by the news report only last week that the city of Stockton, Calif., in my congressional district, led all major labor market areas in the Nation in unemployment. The figure of 10.6 percent for March was more than three times last year's national average.

Stockton, one of the oldest cities in California, has not attracted the type of individuals who look to the Federal Government for cradle-to-grave existence. Its people are proud and would prefer not to rely on welfare and unemployment checks. The area is inhabited with willing hands, but the work they want in most instances simply has not been available.

Even worse conditions prevail in smaller communities across the country classified as "redevelopment areas." During the entire first 6 months of this year, Modesto—also in my congressional district—had an unemployment rate more than three times last year's national average.

Under this bill there would be 197 similar areas which would be eligible for special assistance, using the "trigger" mechanism of an unemployment rate of 150 percent above the national average.

I ask the Congress and the administration to turn their attention inward to developing domestic lifelines for the hard-core areas suffering from inordinately high rates of unemployment. To do nothing may be construed as benign neglect.

EXPERTS ALL, SCHOLARS FEW

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, during the past 2 months we in the Congress of the United States have been deluged by mail and visitors concerning the issues of Cambodia, Southeast Asia, and student unrest. My office alone has received, as of our latest count, 1,629 letters on the Cambodian action—1,217 against the Cambodian action, and 412 supporting our policies in Cambodia. I think it is significant and necessary to footnote this tally further by saying that from May 20 until our most recent count, the letter count has been 206 against to 205 in support of the President. I have met personally with over 400 visitors. These meetings have been frank, informal, and interesting dialogs in which I have tried extraordinarily hard to be attentive to the ideas brought to my attention.

I think this recent trend of concern over our national policies and priorities is healthy and has the potential to be extremely useful to the leaders and decisionmakers of our country. This is the lifeblood of representative democracy which, for all of its faults, is still the best system of government mankind has ever devised. I have always prided myself on listening to and welcoming at all times rational forms of criticism, and I continue to do so.

Although I feel that peaceful dissent is healthy, I have become very disturbed with the inaccuracy, emotion, and most often the vacuum of knowledge people have used to justify arguments concerning Southeast Asia. I realize this has occurred on both sides of the issue, but the most vociferous and the most disturbing group, the academic community, has most flagrantly violated logical debate by making statements of the most grave nature without any research or background material to base them on. I have found most academicians unaware of the recent sweeping land reform bill enacted by the legislative body of South Vietnam or of the Supreme Court of South Vietnam overruling its President recently, yet almost every one of them has suggested that the present Government in South Vietnam is totally corrupt and dictatorial.

I find the academic community unreasonable when it does not put its ability to the most desirable use by instituting independent research to get hard facts that at present, from all quarters, are admittedly obscure, to substantiate its sweeping, blanket statements or to open its eyes to new revelations. I realize that students and professors, like everyone else are disheartened with the whole subject of Vietnam, but I do not believe that this justifies their inability to face up to the subject academically, with solid research and applied reason. I do not claim to be an expert on Indochina, because I am not. But in order to be swayed in my beliefs I must have hard facts rather than emotional pleas. There is a huge area for study in Southeast Asia and I am disappointed that the academic community in this country has not taken the initiative to instigate study.

I am also disappointed in the academic community for its inability to accept outside criticism. A large portion of the academic community has been trying to tell Mr. Nixon how to operate in Vietnam, and Mr. Nixon has responded and listened to this constructive criticism. But when anybody even proposes to criticize the academic community, much of the group becomes deeply resentful, insulted, or even hostile.

I commend this Boston Herald Traveler editorial of June 12 for my colleagues' earnest attention. I also plead with the academic community to do itself justice by living up to the high ideals of education by teaching and practicing the truly democratic and intellectually honest method of sound decision-making and openmindedness:

EXPERTS ALL, SCHOLARS FEW

The nation's colleges and universities, which boast countless "experts" on the legality, logistics and life of Vietnam and the rest of Southeast Asia, have in truth fostered precious little study of the region.

Consider these dismal facts unearthed in a recent survey: Fewer than 30 students in the entire country are studying Vietnamese; there is not a single scholar with a tenured professorship at an American university who specializes in Vietnamese studies; nor is there an American scholar who devotes a major portion of his time to the study of current affairs in North Vietnam.

Cornell University's program in Vietnamese language, history and politics, reputed to be the best in the nation, has awarded only three doctoral degres in 10 years. Yale University, the only school in the nation that offers a course in Cambodian, last semester enrolled the grand total of two students in the language.

The nation's great centers of learning, some of which have shut down because of events in Vietnam and Cambodia, have, in effect, shut their minds to the region. That the focus of the nation's academic agitation should be the subject of such scant academic inquiry is an outrageous paradox.

What is even more disturbing is the major reason cited for the dearth of Vietnamese studies. Professor John K. Fairbanks, director of Harvard University's East Asian Research Center, opines: "Academics are fed up with the whole subject of Vietnam. They would like to abolish Vietnam if they could. So students are not interested in going and studying about it."

A paradox confounded by illogic and academic ascapism is redoubtable. But it is incumbent on the academic community to undo the contradiction and perhaps do a little recording of its own esoteric priorities.

THE CRISIS IN MEDICAL EDUCATION AND MANPOWER TRAINING

(Mr. FRIEDEL asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. FRIEDEL. Mr. Speaker, in recent weeks, I have spoken out repeatedly about the major crisis that the Nation faces in the field of medical education and manpower training.

Just today, I have arranged an important meeting between my colleagues in the Maryland delegation and representatives of affected institutions in the State of Maryland. At that meeting we discussed in depth the Nation's, and particularly Maryland's interest in this crisis and the Federal role encouraging and fostering the needed educational opportunities and training for the doctors, nurses, and other health personnel that are so badly needed.

Next week, as we all know, the vital appropriations measure to meet this need will be up for a vote here in the House. To perhaps better acquaint any Member who is not fully briefed on this important problem I would like to share with my colleagues a recent letter and enclosures which I received from Dr. John C. Hume, M.D., of the Johns Hopkins University School of Hygiene and Public Health and include it in the RECORD at this point:

THE JOHNS HOPKINS UNIVERSITY
SCHOOL OF HYGIENE AND PUBLIC
HEALTH,
Baltimore, Md., June 20, 1970.

Hon. SAMUEL N. FRIEDEL,
House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN FRIEDEL: I am writing you on behalf of The Johns Hopkins University School of Hygiene and Public Health, of which I am the Dean, as well as in my capacity of President of the Association of Schools of Public Health, about a matter of deep concern to me and to my colleagues. This has to do with the FY '71 appropriations upon which the schools of public health are heavily dependent. It is my personal opinion that the financial plight of many of the educational institutions preparing individuals for the health professions is quite well known. Much has been written, for example, about the difficulties of schools of medicine. The public as a whole, and I suspect some members of Congress, are less aware of the role of the schools of public health, their multidisciplinary approach to the education of their students and research on health problems. I am therefore sending to you two documents. The first of these is a brief statement I recently prepared for internal University use which I believe will give you some feel for the interest and activities of schools such as ours, as well as some of the needs and goals of our particular institution in Baltimore. The second document is a statement presented by Dr. Myron E. Wegman, Dean of the School of Public Health at the University of Michigan, on behalf of the Association of Schools of Public Health to the Subcommittee on Labor-HEW Appropriations of the House of Representatives on June 5, 1970. I subsequently submitted the same statement before the Senate Subcommittee on Labor-HEW Appropriations.

It is obvious that all educational institutions are having financial difficulties but it is also true that schools of public health are peculiarly dependent upon and a responsibility of the federal government. There is some documentation of this in the statement and I shall not repeat this here except to state that this has been repeatedly borne out at Congressional hearings each time the authorization bill has been considered.

In response to the urging of the federal government during the early and mid-sixties and demands of the public over the past five or six years, the schools have expanded very dramatically, tripling their annual enrollment over a ten-year period and doubling the number of degrees awarded annually over a six-year period. This has come about through an increase in the output of existing schools and the creation of new schools. In 1959, there were 12 accredited United States schools; there are now 16 and there are 5 waiting in the wings. The one at the University of Washington presumably is to be approved within the next few months.

If the momentum of the past decade is not to be lost in the immediate future, it is imperative that federal support be increased through Sections 306 and 309(a) and (c) of the Public Health Service Act. Section 306 provides support to students in the form of stipends, dependency allowances and payment of tuition. Section 309(a) provides funding to institutions for project grants designed to assist in the development of new programs or the improvement and enrichment of existing curricula. Section 309(c) provides institutional support to schools of public health through formula grants, traditionally kwnown as Hill-Rhodes funds.

Despite President Nixon's health message emphasizing prevention of disease and disability and the preparation of health personnel, the President's budget for FY '71 shows an actual decrease in requested appropriations for this area. While appropriations for the two sections of the Public Health Service Act have never equalled the amounts authorized, Section 306 for several years has had appropriations at the level of 80% of the authorization and Section 309(a) and (c) combined, approximately 63%; 309(a)—55% and 309(c)—roughly 75%. If the President's budget figures are accepted for FY '71, the equivalent figures would be Section 306—53%; 309(a)—32%; 309(c)—51% and 309(a) and (c) combined—39%.

The authorization figures of Section 306—14 million dollars, Sections 309(a) and (c) combined—23 million dollars; Section 309 (a)—14 million dollars and Section 309(c)—9 million dollars are, in fact, reasonable estimates of requirements. A reduction to the levels proposed in the President's budget would literally be disastrous. Maintenance of the same proportion of appropriations to authorizations as has obtained in the recent past would be uncomfortable but tolerable. This would result in appropriations as follows: Section 306—11.2 million; Section 309 (a)—7.75 million and Section 309(c)—6.75 million.

I earnestly solicit your concern and dare to hope that you will find it possible to discuss this with your colleagues on the Appropriations Committee, particularly on its Subcommittee on Labor-HEW, and to support our cause on the floor.

Since you have been a constant supporter of our School and the schools of public health since the inception of the program of formula grants to schools of public health, I feel confident that you will continue your interest in us and give your backing to our request.

With best personal regards and all good wishes,

Sincerely yours,
JOHN C. HUME, M.D., Dr.P.H.
Dean.

Statement of Dr. Myron E. Wegman, Dean, School of Public Health, University of Michigan for the Association of Schools of Public Health to the Subcommittee on Labor-HEW Committee on Appropriations, U.S. Senate, June 17, 1970

I am Dr. Myron E. Wegman, Dean of the School of Public Health of the University of Michigan, representing the Association of Schools of Public Health. There are, at present 16 accredited schools of public health in the United States, nine in state universities and seven in private universities.* I wish to comment particularly on the portions of the Appropriations Act having to do with preparation of health manpower for preventive services and public health, under Section 306 and Section 309 of the Public Health Service Act.

My testimony this year has a special sense of urgency. Over the past several administrations there has been uniform recognition that prevention of disease results in economy in both public and private funds. This thesis was supported by President Nixon in his health message to this Congress when he emphasized prevention and the preparation of health manpower. It is, thus, particularly bewildering and disillusioning to find that the two key appropriations requested for preparation of manpower in public health and preventive medicine have not been increased, as one might have expected from increased authorizations and the health message, but have actually been decreased.

It seems to me incredibly shortsighted, at a time when there is such grave concern over soaring hospital and health care costs to reduce efforts at prevention—yet prevention offers the best chance for curbing illness and consequent costs for hospitalization and medical care. Business men know that proper investment in maintenance and protection will cut repair costs but somehow government seems to have difficulty in learning the lesson.

The legislative provisions of Sections 306 and 309 are an outgrowth of the attitude of the Congress, both in authorization and appropriation, over more than a decade. Three National Conferences on Public Health Training, 1958, 1963 and 1967, all held at the direction of the Congress to provide recommendations on legislation, uniformly emphasized the need to prepare manpower for comprehensive services for health protection, health maintenance, and prevention of disease. Since the Conferences made special note of the large number of unfilled positions in public service in the country, the then 11 schools of public health made great effort to expand and five new schools were accredited. The results are shown in Table I and II, showing the increased enrollment and the increased graduates at schools of public health. We are proud of the increase and we have enough momentum for still greater expansion.

The special reasons for federal aid in preparation of public health and preventive medicine manpower were examined in great detail by this very Congress, which, after considering two bills in the Senate after five in the House, unanimously passed S. 2809, which was signed by President Nixon on March 12, 1970, as P.L. 91-208. This legislation achieved the uniformly supported step of bringing Federal support for students and for the institutions into coordinated planning. Although I am particularly concerned about schools of public health, to which Section 309(c) applies, I must emphasize that Section 306 and Section 309(a) of the Public Health Service Act provide the basic support for preparation of public health personnel in every variety of school, including nursing schools, engineering schools, medical schools, osteopathic schools and others, as well as the 16 accredited schools of public health.

With regard to student support the Congress noted that those who undertake careers in public health, in the very nature of the services they will be providing, cannot look forward to large remuneration. They look forward primarily to careers with federal, state and local civil service, or with voluntary agencies, none of which are known for high income levels. To be sure, a good number of our students come to schools of public health with previous doctoral degrees in medicine, dentistry or similar professions. It is a wry joke among our schools that few can equal us in being able, in one year's training, to convert a successful pediatrician from someone who can make $40,000 a year in private practice into a public servant who can command $20,000 a year as salary. One expects higher education to fit a person for being more productive, and this is usually evidenced by higher income. It is our claim that we fit a person to be more productive in public service but that his recompense is in personal satisfaction rather than greater salary. The point of the argument simply is that one cannot expect students to invest the necessary sums from personal savings for tuition in what is admittedly an expensive program where there is so little likelihood of long time compensatory gain.

The Congress noted and accepted that increased personnel needs justified the rise in the authorization for traineeships in public health from $10,000,000 in FY 1970 to $14,000,000 in FY 1971.

I should like to summarize briefly the points noted in the testimony and the report on P.L. 91-208 with regard to institutional support:

(1) The 16 accredited schools must provide the trained public health personnel for all 50 states, the District of Columbia, Puerto Rico and overseas territories.

State legislatures cannot be expected to meet a high proportion of teaching costs, when two-thirds to three-quarters of the enrollment at schools of public health are from out-of-state.

(2) The complexity of professional preparation in public health, requiring instruction in both natural sciences and social sciences, make a large multidisciplinary faculty necessary.

(3) The Federal Government sends about two-thirds of the students to these schools yet tuition covers only a small proportion of teaching costs.

(4) Professional training at schools of public health is brief and intensive. In contrast to some other health professional schools, the majority of students receive the Master of Public Health degree in one calendar year and are then ready to work in preventive health service programs.

(5) Section 309(c) provides a fixed sum of dollars to be divided, according to a formula, among all accredited schools of public health. There are at present 16 such schools in the United States but several other institutions, stimulated by the demand for graduates, are in various stages of preparing for establishment of schools of public health. Among these, in particular, are the University of Washington, University of Illinois, the University of Cincinnati, the University of Alabama and the University of Missouri.

The University of Washington, which has a widely-known and excellent Department of Preventive Medicine, has formally applied for accreditation as a school of public health. It is expected that accreditation will be accomplished in the next few months.

The University of Illinois is actively seeking a Dean for its School and hopes to accept students within the year. These additional schools are sorely needed to meet the nation's demands for health personnel. Yet, in fact, in the absence of any increase of appropriation, an allotment to a new school means that all the other schools will receive a relative decrease in funds allocated. It hardly seems rational to increase capacity for trained personnel by establishing new schools while decreasing the capacity of existing schools for the same purpose.

The actual situation in respect to authorization and appropriation may be summarized as follows:

TABLE III

[In millions of dollars]

	Fiscal year 1969	Fiscal year 1970	Fiscal year 1971
Sec. 306:			
Authorization	10.0	10.0	14.0
Appropriation	8.0	8.0	7.4
Sec. 309:			
(a) Authorization	9.0	9.0	14.0
(c) Authorization	6.0	7.0	9.0
Total	15.0	16.0	23.0
Sec. 309:			
(a) Appropriation	4.917		
(c) Appropriation	4.554		
Total	9.471	[1] 10.071	[2] 9.071

[1] Spending to be reduced to 9.471 in order to achieve 2 percent reduction. One new school accredited: University of Texas.

[2] President's budget proposal. Appropriation will need to provide also for new school at University of Washington.

Furthermore, the budget document states that decrease in numbers of students trained will be only 4.5% while the appropriation is decreased 7.5%. In view of increased tuition and other costs this estimate is inexplicable.

Astronomical increases in health care costs fall as burdens on the entire general public as well as on the Federal Government. A most significant way to lower these costs is by preventing the disease and disability which necessitate the high costs of care. The expanded program for preparing public health personnel is absolutely essential if intensification of preventive services is to be accomplished and the resultant savings obtained. The substantial decrease in appropriation, at the very time the Congress has sharply increased the authorization is clearly contradictory.

I submit, Mr. Chairman, that there has been no evidence suggested in any way that the health problems of our country have decreased. I submit further that an actual decrease in numbers of personnel trained in preventive services can only result in increased cost and increased burden to the economy. I urge that the amounts authorized be appropriated.

The Johns Hopkins University, the School of Hygiene and Public Health: Its Role and Programs in the Seventies

When the School of Hygiene and Public Health was established at this University in 1916, it was a truly pioneering effort. There were no models to follow, but its architects, Dr. William H. Welch and Mr. Wickliffe Rose, were men of remarkable vision. They stressed the inseparability of research and education, already a cardinal principle of all graduate programs at Hopkins. They also defined in the broadest terms the immense scope of the fields of knowledge embraced by hygiene and public health. In their concept, "hygiene" included ". . . the whole body of knowledge and its application relating to the prevention and improvement of health of individuals and of the community and to the prevention of disease." They also regarded public health as being virtually synonymous with the health of the public and not limited to the control of specific diseases or health hazards. In sum, they planned for a university school of public health based upon an institute of hygiene, with a multidisciplinary faculty and student body representing the biological, physical, social and behavioral sciences in which "unity is to be found rather in the end to be accomplished—the preservation and improvement of health—than in the means essential to this end." The objectives of the School were to be, and remain, the advancement of knowledge and the provision of educational opportunities for students who wish to prepare themselves for careers in the field of public health or in the sciences which are basic to it.

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*At the following universities: California (Berkeley), California (Los Angeles), Columbia, Harvard, Hawaii, Johns Hopkins, Loma Linda, Michigan, Minnesota, North Carolina, Oklahoma, Pittsburgh, Puerto Rico, Texas, Tulane, Yale.

It is unlikely, however, that the founders of the School could have foreseen the dramatic rush of events which has overtaken our society and brought the traditional concerns and resources of the School into congruence with a large proportion of the major issues currently confronting our society. In fact, a retrospective glance at the past decade makes it clear that it is rash, in view of the revolutionary nature of today's world, to predict with any real sense of security the future demands upon and needs of a school of public health during the next ten-year period. The changing face of our society, the burgeoning population, the almost incredible rate of increase of scientific knowledge, the gross inadequacies of our medical care systems and the excursions into the unknown to seek for solutions, the recognition of the need for entirely new categories of health professionals and the impending restructuring of the so-called power structure of the health professions, the entirely new environmental problems being posed in a technological society which has literally been backed into a corner by the debris which it has been creating and ignoring for so many years, the new ethical problems which are forcing a complete reevaluation of the nature of the decision-making processes at the interface between the provider and the consumer of the product of the health professions, the social and moral issues confronting the guardians and protectors of the accumulating hordes of aging and aged populations—all these factors and many others combine to force us to recognize the futility of putting too much weight on long-term projections.

The dimensions of the health sector have changed almost as rapidly as its nature. In this country during the sixties the annual national expenditures for health have more than doubled from approximately 25 to over 60 billion dollars, and the share of the gross national product devoted to health has increased by more than 30%. Such expansion has obvious implications for the demand for trained health professionals and, even more importantly, for managerial and administrative skills to cope with this unplanned, at times chaotic, expansion. The acute shortages of health manpower are generally recognized.

EFFECTS ON SCHOOL

These political and societal changes have been reflected by dramatic alterations in the School. The student body has increased by more than 160%, the faculty has almost doubled in size, and additions to the physical plant have more than doubled the space available.

Shifts in emphases have occurred in areas of instruction and investigation partly in response to demand and partly because the availability of support made it possible to move in previously charted directions. Outstanding examples of these areas are population dynamics, chronic diseases, international health, social and behavioral sciences, medical care and hospital administration. The School has had activities in each of these areas for years but had been unable to develop them on a large scale as a result of relative public apathy.

While, from its inception, the School had had a multidisciplinary faculty, there has been a reclustering of individuals from the various disciplines as departments or other units were developed which were oriented to problem areas rather than disciplines. It is clear that this is a transitional period in which increasing pressures will build up, forcing greater collaboration among the disciplines and among the departments and divisions of the University to work towards the solution of society's health and health-related problems. The trick will be to achieve this goal without losing the potential for developing the highly-qualified and specialized scientists essential to the realization of these solutions.

ACADEMIC CHANGES IN THE COMING DECADE

It is probable that the nature of the teaching program of the School will be drastically altered during the next ten years. Whereas the vast bulk of graduates have in previous years received the degree of Master of Public Health, the increasing trend towards departmentalization and specialization has led to the situation where the "generalist" degree is losing its appeal for many students, particularly those from the United States. Already, in response to pressures for increasing opportunities for specialized training, a new program leading to the degree of Master of Health Sciences has been instituted. It is believed that this new approach will lead to greater flexibility in the provision of graduate programs of a concentrated nature by the several departments of the School while preserving the integrity of the concept of broadening the horizons of professionally-prepared students to allow them to work effectively in the field of public health through the more generalized program provided in the Master of Public Health curriculum. While the view is somewhat murky, it seems likely that the size of the M.P.H. student body will remain at the same or a slightly higher level while there will be a considerable, possibly dramatic, number of students entering the new Master of Health Sciences program. Certainly, the increasing desire of the new generation of medical students to become involved with the community will make the School of Hygiene and Public Health an increasingly popular base for postgraduate and residency training. The same forces are at work in virtually all of the traditional health-related professions. In addition, there is an increasing demand on the part of college graduates for educational opportunities which will prepare them to play an appropriate role in the public health field. It is clear that these forces will result in a relative increase in the emphasis placed on departmental graduate training efforts at the master's and doctoral levels as well as specialized training for postdoctoral fellows, including residents in general preventive medicine.

PROGRAM EMPHASES DURING THE SEVENTIES

The very nature of the mission of this portion of the University has kept its faculty in close contact with the immediate problems of society and hence less isolated than is true of many parts of the academic world. Its greater peril lies in the ever-present possibility that the exigencies of societal problems and the demands of the public will divert the School from its equally vital role of preserving and increasing its strength in the sciences basic to public health. The maintenance of a balance among the various essential elements of the School becomes more and more difficult as public enthusiasms of the moment create excessive insistence upon the development of certain programs and lavish financial support upon them, while others of more permament and fundamental value but of less immediate popularity are deprived of minimal sustenance. For these reasons, our first priority must be to assure the continued excellent quality and necessary quantitative growth of the nuclear elements of the School. These central areas include biostatistics, epidemiology, administration, and the environment in relation to man's health. Having emphasized this, let us look at the following nine programs, all of which depend upon the fields of priority listed above, eight relating to areas of substance, and one to expanded responsibility in the provision of educational opportunity.

1. The organization and delivery of personal health services

This is a problem of world-wide concern and has reached crisis proportions in this country. While the School of Hygiene and Public Health is not a provider of such service, it has been concerned since its establishment with the study of systems of medical and health care. The past decade has seen the development of a Department of Medical Care and Hospitals which is totally involved in the study of such systems both internationally and within the United States. The Department has played a dominant role in the Health Services Research and Development Center of the Office of Health Care Programs of the Johns Hopkins Medical Institutions. This interdivisional and interinstitutional program is an outstanding example of the pooling of University and Hospital resources to meet current community problems while at the same time providing an excellent laboratory for the faculty. Other departments of the School also are involved in studies in this field independently and in collaboration with the Department of Medical Care and Hospitals. Among these are the Departments of Behavioral Sciences, Biostatistics, Epidemiology, International Health and Public Administration. The obvious great need for persons to work in the field as administrators and investigators assures the continuation of strong academic programs as a major emphasis for the foreseeable future.

2. Environment and health

It is hardly necessary to belabor the importance of this general field. While much of the current conversation and proposed solutions to our problems are overly simplistic, there can be no doubt that man, if he is to survive, must secure more knowledge about human ecology and how both man and his environment can be controlled. The School has great strength in those departments with special interest in the environment. The departments almost totally involved are Environmental Health, Environmental Medicine and Radiological Science. The Departments of Epidemiology, Pathology and Public Health Administration, including the Operations Research unit, also have responsibility for and interest in this matter. While the mobilization of resources within the School for the purposes of both research and training has already started, the next decade should see a much better integration of these activities at inter- and intra-divisional levels. There can be no doubt this will be an expanding activity in the years ahead.

3. Population dynamics

Recognized generally as possibly the greatest single problem facing mankind, this activity has become a major commitment of the School during the past decade, though research and teaching in some aspects of population dynamics has been carried out since the 1920's. The Department of Population Dynamics has three major units with responsibilities in demography, program administration and reproductive physiology. The Departments of Biostatistics, International Health, Maternal and Child Health and Public Health Administration also have concerns in the field, collaborating to various degrees with the Department of Population Dynamics in the teaching program and, either independently or in concert with that Department, prosecuting studies related to population problems. Efforts are under way to bring together the departments most involved into a Center which will more effectively coordinate their activities and define their respective roles. Many opportunities exist in this field for collaborative effort across divisional lines. Work in Population

Dynamics will inevitably be a top priority endeavor of the School for decades to come.

4. Administration

A Department of Public Health Administration has existed since the formation of the School. Historically, it has had periods of growth, particularly in specialty areas, followed by the splitting off of the following separate departments: Behavioral Sciences, Chronic Diseases, International Health, Maternal and Child Health, Medical Care and Hospitals, Mental Hygiene and Population Dynamics. All of these Departments are basically specialized units of Public Health Administration. While Public Health Administration retains its fundamental responsibility for being a resource for expertise in management skills and the principles of administration, it is also that one Department with program orientation that retains a broad, general interest in public health without specialized content area, methodologic or geographic limitations. The Department has faculty groups with skills in public health nursing, operations research and systems analysis, economics, education and general administration and should increasingly provide the instruction in administration for all of the departments with program content. Meanwhile, it is developing a program in comprehensive health planning in collaboration with the Departments of International Health and Medical Care and Hospitals. With the big demand for health manpower in the fields of Health Services Administration, Health Research Administration, Comprehensive Health Planning, Environmental Health Program Administration and General Public Health Administration, there is of necessity a very high priority assigned to the strengthening of this Department and the broadening of its programs of research and training.

5. Nutrition

Possibly the most illustrious and influential research work done in this School over the years was done in the field of nutrition under the direction of Dr. Elmer V. McCollum. The Department of Biochemistry, of which Dr. McCollum was Chairman for many years, has continued its endeavors in this field and today is involved in studies of animal and human nutrition of tremendous potential significance. More recently the Department of International Health, because of the overwhelming importance of nutrition as a world-wide program, has inevitably become involved in nutritional studies. The public awareness of nutritional problems has again focused attention on research and education in this field and, with the combined strength of faculty in these two Departments, there will be an increasing emphasis in this area over the coming years.

6. Social and behavioral sciences

In the Welch-Rose report it is stated, "When one considers the many points of contact between the modern social welfare movement and the public health movement, and to what an extent social and economic factors enter into questions of public health, it is clear that an Institute of Hygiene must take full cognizance of such factors and that students of social science should profit by certain opportunities in the Institute, as well as students of hygiene by training in social science. . . ." Particularly over the past decade this School has been fortunate in attracting a distinguished faculty group with backgrounds in the social and behavioral sciences. The focus of work in the behavioral sciences has been reflected by the creation of a Department of this name. The faculty of roughly half of the Departments of the School include individuals from such social science backgrounds as sociology, anthropology, social demography, social psychology, political science, ecology and ethology. Obviously our well-known Department of Mental Hygiene has had an important role in this field. The faculty of this School have been deeply involved in the development of the Center for Urban Affairs and the Chairman of the Department of Behavioral Sciences is also the Director of that Center. The imperative requirement for the involvement of individuals with these interests and backgrounds in the understanding and solution of human health problems is indisputable. In view of the increasing recognition of this need, it is essential that strength in this area be fostered in the years ahead.

7. Maternal and child health

The importance of work in the field of maternal and child health has long been recognized, and while the nature of the health problems has changed as many of the communicable diseases have been controlled if not conquered, it still remains a matter of utmost national concern. Virtually each President in recent times has referred to this field as a priority item of Federal Government responsibility in his messages to the Congress. The work in this Department must be expanded in the 70's, if the School is to meet its obligations nationally and internationally.

8. Genetics

This institution has had an interest in genetics *ab initio*. There has been ongoing research on a gradually increasing scale for the past several years. The interest is spread over several Departments with faculty competence in such areas as epidemiologic genetics, cytogenetics, population genetics, and the biochemistry and immunology of genetics. Members of the faculty of this School have collaborated with representatives of the other divisions of the University in providing training opportunities in the field of human genetics. With the rapid advances now occurring in this field and as knowledge with practical application begins to emerge, there will be increasing concern in this School for investigations in genetics and the applications of new findings to our population as this becomes feasible.

9. Extension of educational opportunities

Every effort is being made to develop degree program opportunities for individuals currently working in the various health agencies in this region. Such opportunities would involve the enrollment of professional workers in health departments and other health agencies in part-time degree programs which could be completed in a two to three-year period. The first effort will be made in all likelihood in the provision of a program for individuals in the Washington, D.C., area. Possibly half of the actual course work would be carried out in facilities of the District of Columbia Department of Health. The remainder of the work, primarily elective course work, would be given within the School of Hygiene and Public Health. If this proves as successful as seems probable, this would be a continuing effort and it is possible that similar arrangements might be made for work in other locations as well. Our faculty look upon this as one of the most exciting developments in recent years and it is probably the most appropriate and effective type of contribution which this School could make to this and the surrounding communities.

PHYSICAL PLANT REQUIREMENTS FOR THE SEVENTIES

Despite major additions to the School of Hygiene and Public Health during the 60's, bringing the total available space to nearly 200,000 net square feet, the rapid growth in the size of the faculty and student body has already outstripped the capacity of the physical plant. There are currently over 20,000 net square feet of space being rented in buildings outside the main facility. Qualitatively there are major problems as well. Plumbing and heating systems in the original building are outmoded and there is no architectural provision for air-conditioning. Over half of the space in the building is devoted to wet laboratory activities for which the building is no longer well suited and for which no alternative space is provided in the newer areas of the building. There is therefore need for additional space to accommodate the increasing student body and faculty. This would be in the form of classrooms, offices, student studies, teaching laboratories and service facilities. In addition, such new ongoing activities as research in genetics, human nutrition, reproductive physiology, environmental health and medicine, virology and immunology will demand expanded laboratory and animal facilities. The solution is the development of a new building devoted primarily to modern laboratory facilities and renovation of the original building with the provision therein of offices and teaching facilities.

FACULTY ADDITIONS DURING THE SEVENTIES

Recognizing the growing fiscal constraints, it is somewhat alarming to consider the increases in faculty which will be required to cope with the anticipated increase in student enrollment and to maintain a favorable faculty-student ratio, to develop research activities in certain essential areas and to maintain our current leadership position among schools of public health. The following table sets forth, by Department, rather modest estimates of these requirements:

Department	Current positions	Estimated number of new positions	Estimated total 1979-80
Behavorial sciences	5	22	27
Biochemistry	10	2	12
Biostatistics	13	8.	21
Environmental health	2	5	7
Environmental medicine	25	6	31
Epidemiology	36	10	46
International health	22	2	24
Maternal and child health	16	6	22
Medical care and hospitals	15	10	25
Mental hygiene	9	3	12
Pathobiology	50	4	54
Population dynamics	12	8	20
Public health administration	16	10	26
Radiological science	33	4	37
Total	264	100	364

THE SIZE OF THE STUDENT BODY DURING THE SEVENTIES

The School has been in a rapid growth phase during the past decade. While this has inevitably brought certain stresses to bear on the institution, adjustments have been made. Assuming the availability of funds, faculty and space, the further enlargement of the student body envisioned below should be more readily accommodated than that of the recent past.

Degree program	Enrollment 1968-69	Projected enrollment 1979-80
Master of public health	96	125
Doctor of public health	23	60
Master of science	30	50
Doctor of science	57	100
Doctor of philosophy	57	125
Master of health sciences		125
Special students [1]	45	100
Total	308	685

[1] Includes postdoctoral fellows and general preventive medicine residents.

These estimates do not include decree candidates in such programs as may be developed at sites outside the School. Conceivably this could lead to the graduation of 25 to 50 additional students per year at the master's level.

CONCLUDING THOUGHTS

Much has been said about the past rapid expansion of the size and scope of the School's activities during the past decade. It was emphasized that this was brought about in response to public demand. It also should be made clear that it was possible only because this demand was reflected in governmental financial support in the form of fellowships for students, general institutional support and research and training project grants. In effecting these responses, the School has been forced to take calculated risks in financing. In this decade, its annual expenditures have increased 460% as compared to an overall University increase of 330%; the historic value of its endowment funds has increased by only 20% in contrast to an increase of 58% for the University at large; and the School now receives approximately 86% of its revenue directly or indirectly from the Federal Government, in comparison to 53% for the University as a whole. It is obvious that such dependence on Federal funds, a large portion of which are derived from restricted grants, jeopardizes the ability of the School to maintain its independence in the establishment of its own academic priorities. If it is to remain an independent private institution, a more favorable ratio of unrestricted private support to public funding must be secured.

HIGHWAY SAFETY—A COMMENTARY

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, for more than a year now I have inserted into the RECORD a number of articles to bring to the attention of the American people the appalling slaughter and the unending, mounting carnage which occurs, not on the battlefields of Vietnam, but on our Nation's highways. In 9 years of the Vietnam war, 39,979 Americans have been killed. This same period of time has been marked by 437,000 highway deaths. In this year of interest in preserving our Nation's resources, what resource is more valuable—and more necessary to be preserved—than that of human life?

Today's offering, written by Dr. Howard A. Rusk, appeared in the New York Times on July 5, 1970. Dr. Rusk states with strong evidence that—

> The No. 1 culprit in automobile accidents is the drunken driver. The National Safety Council reports that, during 1969, drunk drivers killed 25,000 people and caused 800,000 accidents.

Dr. Rusk also questions, with good cause, the standard used in most States to determine whether or not a driver is legally drunk. This generally accepted standard, he says, is the "presence of an alcohol concentration in the blood of 0.15 percent or higher by weight in the bloodstream." Though this figure may sound acceptable for determining the point of being legally drunk, many medical experts would disagree. Facts have shown:

> The odds of becoming involved in an accident increase astronomically when the alcohol-blood level goes above .05 percent.

Since the waste of lives and resources due to the menace of drunken driving was brought to my attention in hearings before the House Public Works Committee, on which I serve, I have been looking for ways to bring attention to this senseless and avoidable tragedy of more than 50,000 highway deaths yearly.

It is my hope that Dr. Rusk's informed commentary will be read and well heeded. These needless highway tragedies must be reduced in their rate of occurrence; and if more people present these facts to the media, and focus needed attention to this serious matter, I feel that the situation can indeed be ameliorated.

I highly commend this thought-provoking article to the attention of my colleagues:

DEATH ON THE HIGHWAY—DRUNKEN DRIVER STILL NO. 1 CULPRIT AS FOURTH OF JULY TOLL IS RECORDED

(By Howard A. Rusk, M.D.)

This weekend on the highways is like Tet in Vietnam or the opening day of deer season in the Adirondacks. It is open season for death. The National Safety Council estimated that from 6 P.M. Thursday until midnight tonight there will have been 560 to 660 traffic deaths and 27,000 to 31,000 injuries. Over the Fourth of July weekend in 1969, 609 persons were killed on the highways and 28,000 had disabling injuries.

Last year's tally also showed that 183 drowned, 36 died in small-plane accidents and 10,000 suffered from fireworks injuries.

In Vietnam, a total of 39,979 American men died in nine years of the war. During the same period in the United States, the automobile accounted for 437,000 deaths. The injuries in Vietnam numbered 263,000, there were 138 million disabling highway injuries at home. During its 70-year history, the automobile has taken 1.75 million lives—far more than from all the wars in America's history.

The No. 1 culprit in automobile accidents is the drunken driver. The National Safety Council reports that, during 1969, drunk drivers killed 25,000 people and caused 800,000 accidents. Especially tragic is the fact that much of the annual loss of life, limb, and property damage on the highway involves completely innocent persons.

INNOCENT VICTIMS

One medical examiner has estimated that 44 per cent of the drivers killed were innocent victims of drunken driving. The social drinker in the past has been labeled as the culprit in the drinking-driver problem. However, people arrested for drunken driving typically are social drinkers who have had only a couple of drinks. But the majority of such drivers are hard-core alcoholics of which there are from five to six million in this country.

In 1968, a study made by Dr. William Haddon and his colleagues of the National Safety Bureau detailed the most relevant data ever gathered about the effects of alcohol on the drunken driver problem. The Haddon Report indicated that the major proportion of drinking drivers involved in accidents have a high blood alcohol level.

Workers in the field have been intrigued by the standard still used in most states in determining whether a driver is legally drunk—that is the presence of an alcohol concentration in the blood of .15 per cent or higher by weight in the blood stream. For instance, in order to reach a level of .15 per cent or higher in the blood of a man weighing 190 pounds, one would have to drink 10 ounces of 80-proof liquor in one hour on an empty stomach or 12 ounces on a full stomach.

Obviously, most social drinkers would be flat on their backs at that level. Thus, actual measurements of blood-alcohol concentrations in accident subjects refute the belief that people arrested for drunken driving tend to be "ordinary," or "social," drinkers. Actually, more than half of all drivers arrested for this offense have blood-alcohol concentrations of .20 per cent or even higher.

THE ODDS INCREASE

Conversely, it has been established that the odds of becoming involved in an accident increase astronomically when the alcohol-blood level goes above .05 per cent. Many European countries have adopted .05 per cent as the point at which a person is legally drunk. That is about four ounces of 80-proof an hour for a 190-pound man on an empty stomach, and about six on a full stomach. By comparison, one state in the United States—Utah—has .08 per cent. A few have .10 per cent and most others have .15 per cent.

The Advertising Council, in behalf of the National Safety Council, has mounted a campaign this year that goes far beyond the old premise of the past. "If you drink, don't drive." Obviously, this kind of a slogan is unrealistic and ineffective. This year the campaign theme is, "Scream Bloody Murder." The publicity copy sardonically thanks the drunk drivers "for all they've done for us." It goes on to say:

"They've helped eliminate overcrowding in our schools—by killing and injuring our children; they've brought families together—in hospital rooms and at funerals, and they've added an unforgettable red color to our highways. Drunk drivers have killed more Americans than World War II. Close your eyes and pretend you're driving a car. Now you can see how a drunk driver does it."

This is a sad weekend for at least 100,000 mourners of the dead and families of the injured. The tragedy is that it is all so useless and preventable. In our society, we need not put our shoulder to the wheel but put sanity, sobriety, common sense and just plain old-fashion courtesy behind the wheel.

THE ADMINISTRATION AND OCEANOGRAPHY

(Mr. ANDERSON of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON of Illinois. Mr. Speaker, last week the administration sent to the Congress reorganization plans Nos. 3 and 4, to create an Environmental Protection Agency and a National Oceanic and Atmospheric Administration. I want to take this opportunity to commend the administration on both of these monumental reorganization proposals which would give greater control over and direction to our national land-sea-air environment programs. The administration has pledged that this will be both a decade of Government reform and a decade of the environment, and these two plans reflect the depth of our commitment to both of those goals.

I am particularly interested in reorganization plan No. 4 to create a National Oceanic and Atmospheric Administration because this is an idea which I have long favored and supported. You will recall that on January 11 of last year a report entitled "Our Nation and the Sea" was released by the President's Commission on Marine Science, Engineering, and Resources, under the able leadership of Julius A. Stratton. The report was the culmination of a 2-year study authorized by the 89th Congress in the Marine Resources and Engineering Development Act of 1966 (Public Law 89-454).

One of the most important and urgent recommendations of the Stratton Commission was the creation of a National Oceanic and Atmospheric Agency—NOAA. In the words of the report:

> We believe that it will mobilize the resources of our government in the most effective manner to lend strength and power to the Nation's marine commitment. The incremental cost in taking prompt action for consolidation will in itself be relatively small. The added effectiveness for the fulfillment of the national program should be enormous.

The Stratton Commission noted that marine programs are presently scattered throughout some 23 departments and agencies of our Government and this made impossible any kind of unified national thrust in this area. Again quoting from the Commission report:

> Marine missions have proliferated throughout the Federal Government, but most programs are too small to achieve real effectiveness. There are voids and overlaps. . . . The Commission finds that the present Federal organization cannot meet the changing, broadening aspects of marine affairs. . . . A new, strong Federal focus for marine activity is essential to a national ocean effort.

Mr. Speaker, I had occasion to read that report shortly after its release and I was both impressed and excited by its tone and thrust. As early as February 5, 1969, in remarks delivered to this Chamber, I made the following statement:

> At a time when Executive reorganization is receiving such widespread attention, it is incumbent upon us in the executive and legislative branches to give careful and immediate consideration to proposals such as those made by the Stratton Commission. . . . I think we should turn our immediate attention to the Commission's proposal to establish the National Oceanic and Atmospheric Agency to coordinate our efforts in this area.

On April 29, 1969, the Oceanography Subcommittee of the House Merchant Marine and Fisheries Committee began a comprehensive series of hearings on the Stratton Commission report and specific legislation to establish a national marine program and agency. On Wednesday, May 7, 1969, I was privileged to testify before that subcommittee and lend my full support for a National Oceanic and Atmospheric Agency to coordinate and direct our national marine policy. All told, the subcommittee heard from 92 witnesses in 27 public hearings which were concluded in October of last year.

In his reorganization message to the Congress, the President acknowledges his indebtedness to the Oceanography Subcommittee and its exhaustive hearings. I too want to commend the subcommittee on its diligent efforts, and I particularly want to single out its distinguished chairman, Mr. LENNON, and its distinguished ranking Republican, my good friend and colleague, Mr. MOSHER. They have worked closely together in a bipartisan spirit for the implementation of a national marine program and NOAA, and it is obvious from this reorganization plan that their efforts have been rewarded.

While the administration's proposed NOAA is not, in every respect, identical to the NOAA envisioned in the Stratton Commission report or the commmittee's bill, the similarities are striking and significant, both with regards to its mission and composition. The main differences include placing NOAA under the Department of Commerce rather than making it an independent agency, and excluding the Coast Guard as one of its components. Without the Coast Guard, the Environmental Science Services Administration—ESSA—with its 10,000 employees would form the backbone of NOAA—70 percent of NOAA's personnel strength. Since ESSA is already a part of the Department of Commerce, it is only logical that the new National Oceanic and Atmospheric Administration would be placed under that same roof.

The other components of NOAA are virtually the same as those proposed by the Stratton Commission including elements of the Bureau of Commercial Fisheries, the marine sport fish program of the Bureau of Sport Fisheries and Wildlife, the Marine Minerals Technology Center, the Office of Sea Grant Programs, elements of the U.S. Lake Survey, the National Oceanographic Data Center, the National Oceanographic Instrumentation Center, and the National Data Buoy project.

I think it is important to note that in his message, the President carefully avoided making the claim that this reorganization plan was either perfection or panacea. In his words:

> The reorganizations which I am here proposing afford both the Congress and the Executive Branch an opportunity to re-evaluate the adequacy of existing program authorities involved in these consolidations. As these two new organizations come into being, we may well find that supplementary legislation to perfect their authorities will be necessary. I look forward to working with the Congress in this task.

Mr. Speaker, I am sure I speak for most of my colleagues in saying that we too look forward to working with the Executive on any supplementary legislation which may be deemed necessary to perfect the authorities of both EPA and NOAA. At the same time, we are indebted to the President and his advisory council on executive organization—the Ash Council—for the leadership they have demonstrated in truly making this a decade of both Government reform and the environment. Reorganization plans Nos. 3 and 4 have been brilliantly conceived, and upon their approval by this Congress, I am confident that they will be masterfully executed. In the words of the President:

> The Congress, the Administration and the public all share a profound commitment to the rescue of our natural environment, and the preservation of the Earth as a place both habitable by and hospitable to man. With its acceptance of these reorganization plans, the Congress will help us fulfill that commitment.

Mr. Speaker, I urge my colleagues in this body to join with me in lending their full support for these far-reaching and vital reorganization plans.

CAPTIVE NATIONS WEEK

(Mr. SHRIVER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SHRIVER. Mr. Speaker, the third full week of July marks the 12th annual observance of Captive Nations Week. I join my colleagues in Congress, the people of the Fourth District of Kansas, and the rest of the Nation in commemorating July 12–18 as the national observance of this week.

Since its establishment in 1959, Captive Nations Week has become a significant part of American national life. Each year at this time Americans everywhere hold appropriate ceremonies, television and radio programs, and public discussion forums in remembrance of their fellow human beings trapped behind the Iron Curtain.

We, the American people, who so justly value and treasure our freedom of speech, freedom of religion, and freedom of assembly mourn the loss of these human rights and dignities by the East and Central European people to Soviet dictatorship. Through overt and inovert aggression we have seen the Russian Communist subjugation of the national independence of Albania, Bulgaria, Estonia, Hungary, Latvia, Lithuania, Czechoslovakia, Poland, and Rumania. The so-called Brezhnev doctrine and the Czechoslovakia tragedy manifest for the world only another grave reminder of Russian suppression. That doctrine is a symbol of tyranny by unpopular regimes and perpetuated solely by the military force of the Soviet Union.

Despite 20 years of repression, the captive peoples continue to look to the day when they will at last be able to exercise their fundamental rights free of Soviet interference.

Let us resolve anew to never forget the millions of people who are under the yoke of communism in East and Central Europe. One of our greatest, yet most inspiring and worthy challenges, is the pledging of our Nation and our people to the cause of freedom for all mankind. America must continue to be the beacon of faith and the personification of individual rights and human dignity for the suppressed European nations.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. America's great technological achievements are perhaps best exemplified in agriculture. One hundred years ago, a farmer could support seven people with his crop yield. Today, the American farmer can feed over 40 people.

NATIONAL ARBORETUM

(Mr. O'HARA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. O'HARA. Mr. Speaker, a few acres dotted with trees are an open invitation to a developer's bulldozer these days. Out in Southeast Washington lie the verdant slopes of the National Arboretum, 415 acres on which more than 7,000 species of trees, shrubs, and flowers serve for both research and education.

In years past, the arboretum has been threatened by highway schemes and housing proposals.

But now those who love nature's glories are confronted—and confounded—by another proposal, this one from Mrs. Martha Mitchell, the influential wife of the Attorney General.

In an interview published this week by Look magazine, Mrs. Mitchell proposes that a sort of public housing project for Cabinet officials and their families be constructed on the arboretum grounds.

The article's author, paraphrasing Mrs. Mitchell, reports that she has suggested the construction—presumably by the Federal Government—of a high-class protected compound for Cabinet families.

I doubt that Cabinet members and their wives really require a protected compound to guard them from the people. I suspect they could use more contact with ordinary citizens and their problems rather than less.

And I am certain that Martha Mitchell could not have selected a worse site for her Cabinet compound. This proposal to turn the bulldozer loose on the beautiful and nearly irreplaceable trees and shrubs of the Nation's arboretum assures Mrs. Mitchell of a place in history alongside Marie Antoinette. Let them see asphalt seems to be her attitude.

She says in the Look article:

> They have so many acres out there, they could spare some.

They could, I suppose, but only at a sacrifice of some of the crapemyrtles and cotoneaster, boxwoods, azaleas, and 7,000 other priceless species on the arboretum grounds.

Let us hope that Mrs. Mitchell's suggestion is entirely her own and will be dismissed out of hand by all responsible officials and that we will be reassured by the highest sources that her insensitive proposal has no support within the administration.

There is value in flowers, trees, and open space; and the Nation's Capital has too little of all three. They must not be sacrificed for Mrs. Mitchell's personal public housing project—or for anyone else's.

REMARKS OF FRANK L. RIZZO, POLICE COMMISSIONER, PHILADELPHIA, PA.

(Mr. BARRETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BARRETT. Mr. Speaker, I insert at this point in the RECORD the remarks of Frank L. Rizzo, police commissioner, Philadelphia, Pa.:

REMARKS OF FRANK L. RIZZO

(Given on Thursday, July 16, 1970, before the Select Committee on Crime, House of Representatives, U.S. Courthouse, Ninth and Chestnut Streets, Phildelphia, Pa.)

GENTLEMEN: Thanks for the opportunity to discuss Philadelphia's teen-gang problem with your distinguished panel.

The gang problem is of immense concern to city and State officials, and I am pleased the Federal Government has shown a similar interest.

Philadelphia's gang situation is very critical, make no mistake about it. I say this, despite the fact that conditions have improved slightly this year.

So far in 1970, 17 persons—including a nine-year-old girl sitting innocently on her front step—have been slain in gang-related rampages. For the corresponding period last year, there were 24 gang-related slayings.

In all of 1969, 41 persons lost their lives in gang incidents.

Gentlemen, this is a needless, senseless, shameful loss of life; and it must be halted immediately. Any time one of our citizens is slain, it becomes the concern of all society, not law enforcement alone.

The recent killing of nine-year-old Antoinette Williams was particularly tragic. This innocent child was cut down in the crossfire between two rival gangs—the 8th and Diamond Streeters and 12th and Oxford Streeters.

It is important that police arrested the culprits—two members of the 8th and Diamond gang and one from the 12th and Oxford Streeters. But even more important, we must take an initial step here today, to see that other Antoinette Williamses are not killed in the future. It is for us to insure that her death was not in vain.

At this point, let us examine the scope of Philadelphia's teen-gang problem, and some of its causes.

First, I view teen-gang violence as part of the overall crime problem. There is no doubt in my mind that social ills such as inadequate housing, lack of jobs and inferior education are the root of much of our crime today.

I am equally convinced that these conditions must be remedied if we are to keep crime at a minimum.

But the solutions to many of these ills must come from the community. While awaiting these solutions, I, as police commissioner, cannot sit idly by and allow the lawless to take over our schools, our streets, our city.

We must have speedy trials for hardcore gang offenders, plus swift and severe penalties for those convicted. Surely, the snail's pace of our judicial system is no deterrent to crime.

Gentlemen, we must put gang members on public notice that if they break the law, they will be punished quickly and severely.

Now, some facts about gangs.

Philadelphia has 93 organized teen-gangs, enlisting 5,300 members.

Seventy-two of these gangs are negro. The largest gang in the city—valley gang, vicinity of 25th and Diamond Streets—has 250 active members. The white gangs are located in the northeast and south Philadelphia.

Practically none of the gang-fighting is racially inspired. In most cases, negro gangs battle negro gangs, and whites move against whites.

The 93 gangs are divided into two groups, aggressive and defensive.

An aggressive gang is one that moves into or through another's territory to create or invite trouble. Defensive groups stay within their own "turf" and defend it from "invasion". Typical of these are gangs formed at public housing projects.

Many gang members have girl friends who travel with the gangs; in some cases the girls serve as weapons carriers. Often, the girls are a source of contention between gangs, leading to armed warfare.

Investigation has shown that narcotics play no part in gang activities. In many cases, when a gang member becomes hooked on drugs, he ventures alone into a career of burglary and larceny to feed his habit.

In the past, many gang members were armed with home-made zip guns fashioned from lengths of pipe and rubber bands. Recently, however, their weapons have become more sophisticated, and it is not uncommon to confiscate pistols, revolvers, rifles and shotguns during a rumble.

Many of these guns are obtained by gang members through burglaries, and it becomes the "corner gun," passed from member to member for personal use.

Last year, police confiscated 145 weapons from gang members. These included 59 hand guns, 5 rifles, 14 shotguns, 53 knives and 14 miscellaneous weapons. The latter included pipes, car aerials, brass knuckles, lengths of chain and razors.

So far this year, 72 assorted weapons, including 43 knives and 11 pistols and revolvers, have been confiscated.

By confiscating these weapons, police saved an untold number of lives, and prevented injury to scores of citizens, young and old.

Gang members range from midgets, 12 to 14 years old, to the "old heads," over 18.

Each gang is headed by a leader known as the "runner." The "warlord" is in charge of the gang while in battle. Certain influential members are known as "check holders." The rank and file are called "corner boys."

Most gangs in the city lay claim to a special "turf" which is off limits to other gangs. Intrusion means warfare.

There is no sole, logical explanation of why boys join gangs.

There is evidence, however, that boys join for status, to satisfy a longing to own or belong to something. Others are attracted by the violence generated by gangs.

In some cases, gang members cite fear or the need for self-protection as reasons for joining gangs.

While there is some doubt as to why boys join gangs, there is no doubt of the death and destruction caused by gangs.

Lest people get the false impression that police have done nothing about the gang situation, I wish to point out that arrests have been made in each of the city's 100 gang killings since January, 1967.

This excellent record is a tribute to the dogged determination of our gang control and homicide units. Our uniform policemen also deserve credit for preventing even greater gang bloodshed.

Police are fully conscious of the many problems facing the youth of our city.

In our way, through the Police Atheletic League and the Police Community Relations programs, we seek to turn youngsters from a life of self-destruction to one of fruitful endeavors.

Police are involved in these programs to provide a friendly contact with the city's underprivileged.

The police maintain 22 PAL centers, most of them in gang areas. Cost to the police department: $270,000 a year.

The police department also expends $217,000 a year on various specialty programs for youth, including town watch, designed to forestall criminal activity; free lunches for needy children and free movies in the streets.

By now gentlemen, you realize these programs cost staggering amounts of money.

Indeed, the expenses of law enforcement and the courts in Philadelphia are so great, that we cannot bear the burden alone.

The police department budget alone rose from $30 million in 1960 to the current $81 million.

Last summer, the State crime commission held hearings on the city's teen-gang problem. Very little came of these hearings.

I did make one change—I added 20 men to the 43 assigned to the gang control unit. Gentlemen, this was done without State aid, purely from police department funds.

I mention this to emphasize that Philadelphia needs large and immediate infusions of State and Federal aid.

The gang-control officers are among 263 men assigned to the Juvenile Aid Division.

The current budget for the Juvenile Aid Division is $3.1 million. Salaries for the gang control unit alone amount to $660,000.

Gentlemen, it is clearly obvious that outside funds are needed to help combat Philadelphia's gang problem.

If additional Federal funds were available for such needs as police community relations, equipment and training, this would free blocs of funds in our budget, enabling us to hire more policemen.

I would assign two police gang control experts to each of the city's 50 most active and violent gangs. Hopefully, these experts would develop close personal ties with gang leaders, diverting gang energy into constructive pursuits.

These experts would serve as consultants to gang members, helping them obtain employment, special tutoring and, if necessary, clothing and other needs of life.

I sincerely believe that only with this helping-hand treatment, can we make effective inroads against the gang problem.

As an extension of this program, the police department might if Federal funds were available, assist needy pre-gang age children.

I envision a program whereby the police department would supply deserving families with certificates to purchase clothing, shoes, and storm gear for their elementary school children.

Too often, our police see these unfortunate children trudging to school, underclothed and unprotected from the elements. It is both the parents and the children of underprivileged families that we seek to assist in such a program.

Gentlemen, it is a sad commentary on our times, that some children miss school today, simply because they have nothing to wear. To me, this is an intolerable condition.

Some may criticize these recommendations as beyond the scope of the police department. Maybe so.

But many city agencies that should be providing this assistance are caught in the squeeze of rising governmental costs. They simply don't have enough money to get the job done.

Furthermore, the police department wishes to become involved in these aid programs. We want the public to realize that the police department has a heart, that we're genuinely interested in the welfare of Philadelphians, and not simply intent on arresting people.

Recently, the police department launched a free lunch program for needy children. I'm extremely happy with the initial success of this project, and hopeful of expanding into other neighborhoods.

However, this requires additional funds.

In my opinion, the federal government should appropriate money for programs such as this, thus affording youngsters a better chance to become the productive citizens of tomorrow.

Already, our department performs many non-police services. Last year, we handled over 800,000 non-criminal services, including 137,000 hospital cases.

The policeman's job today is very diverse, and we must respond to the various needs of all citizens, particularly those in needy areas.

These added tasks place a heavy financial drain on our department; for this reason, we urgently need federal funds.

Without doubt, we also need additional people to work closely with gangs. These workers must come from within the community. They must be people who best understand the fears and frustrations of gang members, as well as their street culture.

Here again, money is the problem.

In conclusion, I respectfully offer these additional recommendations:

1. More recreational facilities to serve as an outlet for juvenile energies.

2. Additional vocational and job training programs for our youth.

3. Improved housing and job opportunities.

4. Special counseling within the school system to divert gang-inclined youths.

Gentlemen, Philadelphia is ready for a wholesale assault on its gang problem. Won't you give us the funds to mount a full offensive?

Thank you for your interest and kind attention. I will be happy to answer any questions you may have.

CHART PRESENTATIONS OF COMMISSIONER FRANK L RIZZO PHILADELPHIA POLICE DEPARTMENT JULY 16, 1970

JUVENILE GANG HOMICIDES BY YEAR

Year	Number of gang homicides	Cleared by arrest
1967	12	12
1968	30	30
1969	41	41
1970 (Jan. 1, 1970 to June 30, 1970)	17	17

JUVENILE GANG HOMICIDES BY MONTH

	1967	1968	1969	1970 (January 1, 1970 to June 30, 1970)
January	0	1	5	0
February	0	3	5	1
March	2	2	1	3
April	1	4	2	7
May	0	4	7	3
June	3	1	4	3
Subtotal	6	15	24	[1] 17
July	0	6	1	----------
August	2	2	5	----------
September	1	2	1	----------
October	0	1	6	----------
November	2	2	4	----------
December	1	2	0	----------
Total	12	30	41	17

[1] 6 month total.

JUVENILE GANG HOMICIDES BY GEOGRAPHICAL DIVISION

Division	1967	1968	1969	1970 January 1 to May 1970	Total
Central	2	4	4	0	10
East	0	3	3	4	10
North central	4	8	12	7	31
Northeast	0	1	1	0	2
Northwest	1	2	8	0	11
South	1	6	7	2	16
West	4	6	6	4	20
Total	12	30	41	17	100

HOMICIDE

City	1969 homicides	Clearance rate 1969 (percent)	1970 homicides	1969 gang killings	1970 gang killings
Philadelphia	271	91.5	[1] 176	41	[1] 17
New York	1,043	68.0	[2] 434	(3)	(3)
Los Angeles	377	67.5	[2] 150	(3)	(3)
Chicago	716	85.7	[1] 419	74	[2] 30
Detroit	439	81.0	[1] 238	(3)	(3)
Baltimore	236	86.0	[2] 95	(3)	(3)
Houston	278	84.5	[1] 153	(3)	(3)
Dallas	232	84.8	[2] 102	(3)	(3)
Cleveland	266	66.5	[1] 140	(3)	(3)
St. Louis	254	88.6	[1] 108	(3)	(3)
Washington, D.C.	292	88.0	[1] 117	(3)	(3)

[1] January to June 30.
[2] January to May 31.
[3] No statistics available—not categorized by type.

GANG CONTROL UNIT ACTIVITIES

	1968	1969	1970 to June 30
Pt. 1 crimes	370	350	201
Cleared	267	269	130
Percent	72.2	76.9	64.7
Pt. 2 crimes	216	206	109
Cleared	182	169	83
Percent	84.3	82	76.1
Runaways Youth Detention Center	595	291	165
Cleared	376	162	108
Percent	63.2	55.7	65.5
Curfew violations	1,085	931	130
Miscellaneous investigations	17,098	18,291	8,293
Total investment	19,364	20,069	8,898

NUMBER OF JUVENILE GANGS BY GEOGRAPHICAL DIVISION

	Number
Northeast division	13
Northwest division	12
Northcentral division	17
East division	7
Central division	7
West division	18
South division	19
Total gangs	93

JUVENILE GANG HOMICIDES BY AGE OF VICTIM

Age	1967	1968	1969	1970 to June 30	Total
7 to 13		2	-------	1	3
14		3	2	1	6
15		2	4	4	10
16	2	5	10	5	22
17	4	5	6	-------	15
18	2	1	5	2	10
19	3	2	4	1	10
20 to 24		5	4	3	12
25 to 35		2	1	-------	3
36 to 50	1	1	4	-------	6
Over 50		2	1	-------	3
Total	12	30	41	17	100

JUVENILE GANG HOMICIDES BY AGE OF OFFENDER

Age	1967	1968	1969	1970, Jan. 1 to June 30	Total
13	0	2	2	2	6
14	1	3	6	3	13
15	1	4	17	7	29
16	5	16	25	11	57
17	7	18	35	8	68
18	6	7	19	8	40
19	2	5	3	6	16
20	2	4	2	0	8
21	1	0	0	0	1
22	0	0	0	1	1
23	0	0	1	0	1
Total	25	59	110	46	240

JUVENILE GANG HOMICIDES BY WEAPON

Method used	1967	1968	1969	1970 Jan. 1 to June 30	Total
Firearm	6	18	24	8	56
Knife	6	10	17	9	42
Beating	0	2	0	0	2
Total	12	30	41	17	[1] 100

[1] Grand total, 100.

GANG WEAPONS CONFISCATED

	1969	1970 to June 30
Handguns	59	11
Rifles	5	4
Shotguns	14	4
Knives	53	43
Miscellaneous	14	10
Total	145	72

CASE STATUS OF GANG HOMICIDE ARRESTS

	1967	1968	1969	1970 to June 30	Total
Trial pending	0	10	59	38	107
Trial completed	25	[1] 49	51	8	133
Total defendants	25	[1] 59	110	46	[1] 240

[1] 1 defendant in 1968 case died before trial.

DISPOSITION OF COMPLETED TRIALS

	1967	1968	1969	1970 to June 30	Total
Defendant convicted	21	32	39	6	98
Prison	10	11	5	0	26
Less than 2 years	5	1	0	0	6
2 years of more	5	10	5	0	20
Juvenile institutions	4	9	14	0	27
Probation	6	5	5	2	18
Sentence deferred	1	7	15	4	27
Defendant acquitted	4	16	12	2	34
Total, trials completed	25	48	51	8	132

TOTAL JUVENILE ARRESTS

	1969		1970 (To May 30) juvenile arrests
	Juvenile arrests	Percent of total arrests	
PT 1 OFFENSES			
Homicide	146	33	59
Rape	162	33	42
Robbery	1, 194	51	601
Aggravated assault	872	34	434
Burglary	2, 349	54	1, 054
Larceny	1, 973	41	666
Auto theft	1, 665	54	714
Total	8, 366	46	3, 570
SELECTED PT 2 OFFENSES			
Simple assault	1, 083	31	500
Weapons	621	25	288
Narcotics	398	10	302

Note: Total juvenile arrests, 1969 10,468—1970 to May 30 4,660.

PUBLIC LAND LAW REVIEW COMMISSION REPORT—FOUNDATION FOR THE FUTURE

(Mr. KYL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KYL. Mr. Speaker, as a member of the Public Land Law Review Commission, I have urged all concerned to take the long view with regard to the Commission's report, "One Third of the Nation's Land," and its recommendations. The Commission was charged with the responsibility of making recommendations for the future and not for today alone.

The report that was submitted represents a consensus of 19 people with diverse backgrounds. While this does not mean unanimity, I, for one, support the basic principles on which the Commission's report is built and virtually all of its recommendations. But we do not expect these recommendations to be implemented overnight because, aside from anything else, it will take time for people to absorb both the policy framework and the interrelationships of individual recommendations.

In receiving the report at the White House on June 23, President Nixon recognized the potential although he had not had an opportunity to see the report and its recommendations in advance. He referred to the development of the West and the historical role of the Homestead Act, and then added:

> I trust that history will record one day that this program, about one-third of the Nation's remaining land, will have the same vision and make the same contribution to the greater America that we all want for our children.

Mr. Speaker, the Commission Chairman, the gentleman from Colorado (Mr. ASPINALL), has emphasized that we do not seek universal endorsement of the Commission's report and recommendations, but we do seek understanding. This can then be the starting point for constructive, significant revision of the public land laws.

We have been heartened by numerous expressions of editorial opinion from coast to coast taking the same approach as that taken by President Nixon and Chairman ASPINALL. I would like to cite a few of these for my colleagues.

The Philadelphia, Pa. Inquirer, on June 28, discussed the importance of the public lands and emphasized that:

> The Commission's findings and proposals need to be examined carefully by Congress, by officials at all levels of government, and by conservation groups.

The Huntsville, Ala., Times had earlier on June 24, similarly analyzed the public lands and concluded with the following:

> We would not agree, in all probability, with all the recommendations of the study Commission. But it does appear that the United States should be exercising greater control over, and getting a greater financial return from, its vast land holdings than it now does. Implementing these recommendations will undoubtedly require years. The Nation can afford to wait for action on some of them—but not forever.

Likewise, the Providence, R.I., Journal, on June 28, recognized that it would take time but urged, in the following words that the initiative be taken by the administration in utilizing the Commission's report as a point of departure from which to build new public land policy:

> If the Commission's work is not to be wasted, then the first task for President Nixon is to assemble a small, working staff to translate into legislation whatever must be done as a beginning to set a uniform land use policy. If the report simply gets filed away, then the Commission might better have saved its time and the government money by doing nothing.
>
> Mr. Nixon has accepted the report with expressions of gratitude and with promises to begin work to realize whatever goals are realizable. But the Commission itself said that it thinks several years will be needed to get anything done; that time factor could be multiplied into the distant future unless Mr. Nixon can get machinery started right now.

The St. Louis, Mo., Post-Dispatch, on June 25, discussed various aspects of the Commission report and pointed out the need for national parks, wilderness areas, forests, wild rivers, and a variety of preserves. The newspaper concluded its editorial with the following suggestion that requires thoughtful reflection:

> The 750,000,000 acres of public land should be used for the public good, and the optimum use for some of it may be to absorb the additional 100,000,000 population that will be with us in only 30 years. The movement of population in a free country cannot be controlled, but it can be guided and encouraged. We will have to decide very soon what we want this country to look like by the time our school children reach middle age. Is the inevitable growth to be planned, or haphazard?

The Cleveland, Ohio Plain Dealer, on June 29, observes that:

> The report represents the first really serious attempt to solve a long-standing national problem, the future determination of how a great national treasure shall be administered.

The editorial then discusses the background of the present situation and the Commission's recommendations and concludes that:

> There is much for Congress to do in the matter of public lands and the Commission's report points the way to start action.

Another newspaper that has seen the need for intensive study is the Dallas, Tex., News which concluded its editorial of June 29 with the following:

> Public lands are resources as well as landscapes, and somewhere, Congress willing, a balance ought to be struck between the two. The new report doesn't recommend dismemberment of national parks and forests, but it does recommend much broader use than recreation in other areas.
>
> In the last 180 years, Congress has passed thousands of piecemeal land acts. It has an opportunity now to adopt a general policy for better management and use of a land area as big as Mexico.

The Denver, Colo., Post, on June 24, noted that:

> The implications of making fundamental changes in something so vast as one-third of the Nation's land area are not encouraging to rapid change.

The Post then added the hope:

> With anything so broad it is certain to generate worthwhile discussion and may, as a minimum, lead to legislative correction of the most glaring misuses of public lands.

The editorial then concluded:

> But the subject is one of the most vital a citizen can address himself to as a guide to the kind of future this Nation's citizens are to have. We hope the report gets wide circulation and that its specific recommendations are taken as seriously as they deserve to be.

In the State of Oregon, where over 52 percent of its land area is owned by the Federal Government, the Coos Bay World, on June 26, urged considered evaluation of the recommendations and pointed out:

> The completion of the Commission report and recommendations are but the beginning of the job which was assigned our federal law makers when the Commission was established early in the last decade. There is one certainty in the tangled mass of uncertainties which various competing interests have voiced since the Comission report was announced. As yet, nothing is changed. Recommendations are not laws.
>
> Before the Commission findings and recom-

mendations have the power either to stimulate or restrict industrial or governmental actions, more laws must be passed rescinding the old ones and creating new authorities and restraints. History cannot be unmade and recreated in a day. Laws take time—this much we know.

Two particularly perceptive editorials appeared on successive days last week carrying forth the President's thought and the hopes that we of the Commission have. These editorials in the Grand Junction, Colo., Daily Sentinel recognize that the report contains only recommendations most of which must be implemented through legislation and concludes:

> Now, all that remains is to hold these public hearings, work out the difficulties—and find out what, if any, other laws recommended we want and need for our journey into the 21st century.

Because of the objectivity of these editorials from the Daily Sentinel and their appeal to reasoned consideration, I commend them, Mr. Speaker, to all my colleagues and with permission of the House, include them at this point in the RECORD.

[From the Grand Junction (Colo.) Daily Sentinel, July 10, 1970]

NOT DICTATORIAL

The efforts of the Public Land Law Review Committee to be equitable, fair and realistic in its proposals for modern laws are obvious.

In moving from a frontier time to the 21st Century the committee has made it clear that environmental standards must be set by law and that all users must not only pay for use of the land but must be held responsible for damage done to it.

There are ample provisions for public hearings, and for protection of existing state and local boundaries. Reasons for rulings or exceptions to rulings must be made public and explained by government officials.

Mining, lumbering, grazing and recreation interests would be regulated. All public land would be classified—again, only after public discussion—and the dominant use determined. But neither the wilderness bug nor any industry would have a chance to close out any land to one use only. Determination of multiple-use in the best interests of the land, the environment, the economy and the people of the nation would be weighed. From that weighing would come limiting or non-limiting decisions.

Withdrawals of public land would be rigidly controlled. Environmental quality would be recognized by law as an important objective of public land management.

Restrictions would be in the interests of the preservation of the land, first of all. This would mean that mining, timbering, and grazing would have use of the land, but that maintenance and restoration would be a part of the right to that use.

This does not mean that the Public Land Law Review Committee saw the remaining public land as an open playground for the recreationist. Far from it.

The members saw it as a land being destroyed by jeeps, motorcycles, litter-bugs, over-crowding in parks, expanding highways, bad hunting and fishing practices and just plain negligence.

With a steady eye on the twin goals of environment and equity, they made provisions for recreational use, too. Rationing of visitors to crowded parks and an annual fee charge ($1 to $3 is suggested) for all users of public land are recommended.

Now all that remains is to hold these public hearings, work out the difficulties—and find out what, if any, of the laws recommended we want and need for our journey into the 21st Century.

[From the Grand Junction (Colo.) Daily Sentinel, July 9, 1970]

INTO 21ST CENTURY

To nostalgic Westerners and some vested interests the report of the Public Land Law Review Commission is the end of the world.

In a sense, it is. Public land laws, a conglomeration of regulations often contradictory and frequently unrealistic, were designed to expand and develop a frontier country.

The country was big; its resources were rich; the people were few; dreams of empire were rampant. The land was there for the taking.

Nobody seemed to notice that when the frontier was gone the laws stayed on. Few saw that a burgeoning, mobile population was on collision course with an over-used, fast disappearing expanse of land.

Special interests from cattlemen to conservationists, miners to motorcyclists, fought over everything from water to wilderness. Patchwork laws protected some interests, destroyed some rights, eroded the land and built administrative empires.

Men like the Fourth District's Congressman Wayne N. Aspinall saw that the patchwork wouldn't hold. America was bulging at the seams. If she were to survive with anything like a livable environment for human beings the inequitable, leaky old garment would have to be abandoned entirely. A new, carefully woven, water-and-air-tight model for the 21st Century was in order.

That did not mean dictatorship. It meant looking at cold, hard facts and cutting the cloth to cover them.

The No. 1 objective of the report, not just stated as its goal but repeatedly backed up in every proposed new regulation, is twofold. It would preserve the environment and provide equity for all land users.

More protection for the land with more protection for the users is the result. No one—and no special interest—can, if the recommendations are followed, make wanton, unproductive use of the land. Neither can he block proper use of it by any other segment of the American public.

That, of course, takes regulation. It takes a lot of money. It is going to take a lot of discussion, a lot of public hearings, and time. Unfortunately, we haven't much time.

The reasonableness of the equitable use and preservation of Uncle Sam's resources and the preservation of Uncle Sam's resources, as presented by the report, makes it possible to hope that what protests there may be can be overcome, ironed out or met before the time is all gone—and with it, the land.

Mr. Speaker, the fact that there is disagreement on some of the recommendations is actually proof that the Commission discharged its mission faithfully. The Commission did not avoid considering complicated issues. The Commission did face the issues squarely and in each instance suggested solutions which are at the very least, starting points for administrative and legislative accomplishment.

The Commission and its very excellent staff contributed in other ways. For instance, the Commission, for the first time, attempted to translate the abstract terms we use in discussing environment and ecology, into objectives and practices for concrete management.

Finally, Mr. Speaker, because this is the first time I have delineated my thoughts on the Commission report, I want to commend the Chairman of the Commission for the manner in which he headed the group. No member was ever denied an opportunity for full expression, or to offer any proposal or amendment. I do not recall one instance in which the Chairman himself offered a motion on any recommendation. Even the day-to-day procedures were determined by Commission membership. The hearings and advisory council sessions were handled in the same fair fashion.

When the Commission's recommendations are translated into administrative procedures and statutes, I hope the deliberators will utilize the thousands of pages of hearing testimony, and the tens of thousands of pages of contract studies which gave objectivity to the Commission's findings. I have served on three commissions, and have studied many other commission reports. I am confident that no other such body ever studied more exhaustively from such a complete compendium of factual material.

HOUSE REFORM LEGISLATION

(Mr. ROSENTHAL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROSENTHAL. Mr. Speaker, there has been a great deal of discussion about the residents of the District of Columbia being disenfranchised by the absence of congressional representation.

Many people have been indifferent to the controversy because they view the District as merely a complex of marble Government buildings and spacious lawns.

To a great extent, the public displays the same myopic attitude toward the efficacy of its own congressional representation.

Mr. Speaker, it is only now that constituencies around the country are beginning to realize that because of some rigid and archaic parliamentary rules, they can as easily be ignored in the halls of Congress as a citizen without any elected officials to look after his interests.

We must restructure the House to make it more accountable to the electorate. Our aim should be not only to stave off public wrath, but also to recapture the spirit of fair play and responsiveness to the people that are the cornerstones of democracy.

We have entered the nuclear age. America is in the midst of an enormous social upheaval that threatens to undermine her great strength. Under such circumstances, every major piece of legislation takes on added importance.

Members of Congress must have sufficient time to study the nuances of important bills. It is vital that the people have access to a lawmaker's full voting record so they can, in fact, determine the direction in which their Government will travel.

For 8 years, I have watched the House make major policy decisions through teller votes which do not divulge the identities of the participants.

To put it simply, the American people deserve better. Under a truly democratic form of government, they are entitled to know how their representatives voted on the issues, whether it be Vietnam or the dredging of a local pond. The present teller system not only relieves the Congressman of a sacred accountability to his constituents, but also encourages vacillation, indifference, and unreliability.

I also urge passage of proposed reforms which give committee members a larger voice in guiding and reporting out legislation. We do not want to perpetuate a system where House committee chairmen head miniature fiefdoms within the framework of what is supposed to be the world's exemplary democracy.

The provision of the reform legislation allowing television and radio coverage of committee hearings is also consistent with the overdue democratization of House procedures. This public scrutiny of the House at work will do much to expedite constructive legislative reaction to urgent public concerns.

Reform which will compel congressional leadership to be more accountable, and therefore more responsive to the American people is sorely needed.

The legislation before us is a good start toward this objective, particularly if we adopt some amendments which will require record votes where at present a Congressman can conceal inconsistencies from the public.

CONCRETE OR HUMANITY?

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, in West Virginia's State capital of Charleston, a classic struggle has ensued over the issue of whether justice prevails when an interstate highway ruthlessly bulldozes out people's homes before they are adequately relocated. The following account in the July 13 New York Times very clearly poses the issue involved:

CHARLESTON, W. VA.: HOMES OR A HIGHWAY?

(By Donald Janson)

CHARLESTON, W. VA., July 12.—This state capital, nestled in the narrow green Kanawha Valley of the Appalachian Mountains, has become a testing ground for the Nixon Administration's policy of financing highways only after adequate replacement housing is fully ready for people living in the highway's right-of-way.

On Wednesday and Thursday of last week, the jaws of a wrecking machine crunched 19 homes to rubble after Police Chief Dallas Bias and his men broke up a man wall of some 50 protestors seeking to preserve the predominantly black Triangle neighborhood between the Elk and Kanawha Rivers in the heart of Charleston.

The protest, against clearing the right-of-way for a six-lane, combined section of Interstate 64 and Interstate 77, prompted an order Friday by Transportation Secretary John A. Volpe to halt further demolition pending a review of the routing.

The small interstate segment is part of a total of 133 miles of the 42,000-mile system held up by route disputes in urban areas.

The common past practice of road builders was to route highways through parks and low-income areas as the path of least resistance. But, increasingly, community groups are objecting.

Whitney M. Young Jr., executive director of the National Urban League, has put it this way: "Transportation planning is going to have to get away from the habit of destroying black neighborhoods to make commuting faster and easier for white suburbanites."

To balance past condemnation practices, the 1968 Highway Act required state highway agencies to consider social and environmental factors in road-routing decisions.

"Now we have to change people's minds and sell them on a relocation plan," Federal Highway Administrator Francis C. Turner said in a recent interview. "Before, we just bought property and relocation was their responsibility."

CASE IS DISMISSED

But not all state highway departments put relocation needs ahead of road building, and the Triangle Improvement Council, a Charleston agency supported by the Office of Economic Opportunity, sued the West Virginia Highway Department last year, charging failure to supply adequate housing.

Federal District Judge John Field ruled that the highway department was not required to provide a comprehensive relocation plan and dismissed the case.

The Triangle Council has appealed to the United States Court of Appeals for the Fourth Circuit. Overruling objections by the Highway Department, Chief Judge Clement F. Haynsworth Jr. of the appeals court has ordered that a Volpe order of last Feb. 16 be filed with the court for its consideration.

The Volpe order tightens the 1968 Highway Act requirement that state Highway Departments make replacement housing available "to the extent that can reasonably be accomplished."

The Volpe order said the Administration's policy would be to grant Federal funds for land acquisition and construction "only upon verification that replacement housing is in place and has been made available to all affected persons."

The Federal Government pays 90 per cent of the cost of interstate highways.

Charleston has a severe housing shortage. Benjamin Starks, publisher of the Negro Beacon-Digest here, said Triangle residents already displaced by the highway and by a West Virginia water company filtration plant planned for the area have in numerous cases had to double up or leave town for substandard housing on the outskirts.

Plans for an urban renewal project in the Triangle also are being opposed by residents as another threat to the long-established community.

Residents want the interstate looped around the city rather than through it, but would be content with a compromise that would shift its route one block east through the Triangle. This would save many homes by routing a segment of the road over Penn Central Railroad tracks.

James D. Braman, assistant secretary of transportation for environment and urban systems, came here in May and later indicated he favored a change. Last month the City Council passed a resolution favoring the one-block shift.

Mayor Elmer Dodson voted against a rerouting.

"Right or wrong" he said, "the work of demolition is legal and will continue."

State Highway Commissioner William S. Ritchie said, "It is too late to make changes."

DELAY CITED

The one-block route shift, he said, would delay the road at least three years.

He pointed out that the city council lacked jurisdiction over interstate highway routing.

Charleston blacks, 10 percent of the 70,000 population, welcomed the Volpe order to freeze demolition.

But bitterness remained high last weekend. The Save the Triangle Committee of residents demanded that incitement to riot and all other charges against 12 members of the protesters arrested Wednesday be dropped.

Mr. Starks said this week's protest with stones and firebombs and the rocking of the car of police Chief Bias would be tame compared with violence in prospect if demolition is resumed.

Mrs. Ruth Robinson, president of the Save the Triangle Committee, said at the street-corner news conference Friday at the scene of the razing that residents would soon begin a boycott of downtown businesses.

They charge merchants and other downtown concerns with insisting on the present route for selfish reasons, despite the uprooting of families. They contend business is putting commuting ease and the hope for greater income foremost.

Charleston merchants have worked for the present route since planning began in the 1950's.

A recent full-page newspaper advertisement by the Charleston Downtown Association says:

"The big interstates . . . nearer and nearer they come . . . making it only minutes from your home to downtown Charleston, shopping capital of West Virginia . . . like riding on a magic carpet."

An editorial page columnist for the Charleston Daily Mail, which favors the present route, wrote:

"True, for those whose homes or businesses fall prey to the ribbons of concrete, there will be heartbreak, expense and inconvenience. But until there is a better way suggested, a few always will have to pay the price of progress."

He said one advantage of constructing the big highway through the narrow city would be to provide "a long-needed shift in the city's population."

Interpreted, Mr. Starks said, this is "Negro removal."

He said blacks under the plan of the city power structure, are to be sent to a nearly completed frame housing project on Hanna Drive on the city's outskirts. He described the buildings as "barracks" alongside a creek awash with raw sewage.

Mrs. Robinson has presented the city council petitions with more than 300 signatures thanking councilmen for backing the residents' plea for a shift in the interstate route to save their homes.

One of the signers was secretary of State John D. Rockefeller 4th, who is considering running for Governor in 1972.

"The Triangle community should not be split," he said in an interview, "I wrote the Department of Transportation earlier in the year to protest the route and asked that it be shifted a block. It should never have come into this narrow, mile-wide city in the first place.

"At what price progress? The sense of community is dying in America. People are not allowed to participate in decisions that affect them absolute ways. Moving the interstate one block would give Charleston and West Virginia some attention as governments that acted humanistically."

BANKING AND CURRENCY COMMITTEE TAKES GIANT STEP TOWARD GIVING THE PRESIDENT IMPORTANT NEW TOOLS TO STABILIZE THE ECONOMY

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ALBERT. Mr. Speaker, the Banking and Currency Committee today took a giant step toward giving the President important new tools to stabilize the economy.

The committee, on an 18-to-15 vote, kept title II in the pending Defense Production Act. This title gives the President standby authority to stabilize wages, prices, salaries, and rents until February 28, 1971.

This legislation is one of the most important economic measures of the 91st Congress and the Banking and Currency Committee is to be commended in the highest terms for taking this forthright and courageous action. The committee has recognized the seriousnes of the Nation's economic ills and has let the American people know that Congress is willing to take concrete action.

This legislation will give the President the power to bring about a more stable economy and to put an end to the disastrous combination of inflation and recession which is plaguing the entire Nation.

Mr. Speaker, I regret that the President has not spoken out in support of this vital measure. It is equally regrettable that the members of his party in the Congress are not putting their weight behind the legislation.

This morning, the effort to strike the standby wage-price authority from the bill was defeated on an 18-to-15 vote—with all 18 votes coming from the Democratic members of the committee. It is unfortunate that not a single member of the minority cast a vote in favor of giving the President standby authority to stabilize prices and wages.

Next Tuesday, I understand that the committee will complete markup of the Defense Production Act and I hope that the standby authority is retained in the final version of the bill. Today's 18-to-15 vote is a firm indication that the committee will so act.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Matsunaga (at the request of Mr. Boggs) for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Miller of Ohio), to revise and extend their remarks and include extraneous material:)

Mr. Bush, for 5 minutes, today.

Mr. Ashbrook, for 15 minutes, today.

Mr. Hogan, for 60 minutes today.

(The following Members (at the request of Mr. Anderson of California), to revise and extend their remarks and include extraneous material:)

Mr. McFall, for 15 minutes, today.

Mr. Boland, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Bennett during consideration of H.R. 17654.

Mr. Wolff during consideration of H.R. 17654.

(The following Members (at the request of Mr. Miller of Ohio) and to include extraneous material:)

Mr. Halpern in two instances.

Mr. Broomfield.

Mr. McCloskey.

Mr. Wydler in three instances.

Mr. Keith.

Mr. Bush in two instances.

Mr. Rhodes.

Mr. Button in three instances.

Mr. Wyman in two instances.

Mr. Hogan.

Mr. Landgrebe.

Mr. Hunt.

Mr. Quillen in four instances.

Mr. Duncan in two instances.

Mr. Bob Wilson.

Mr. Robison.

Mr. Price of Texas in two instances.

Mr. Broyhill of Virginia.

Mr. Ashbrook.

Mr. Gude.

Mr. Springer.

Mr. Conable.

Mr. Devine.

(The following Members (at the request of Mr. Anderson of California) and to include extraneous material:)

Mrs. Chisholm.

Mr. Bingham in five instances.

Mr. Helstoski.

Mr. Wolff in two instances.

Mr. Gallagher.

Mr. Leggett in two instances.

Mr. Marsh in two instances.

Mr. Brown of California in two instances.

Mr. William D. Ford.

Mr. Ottinger in two instances.

Mr. Anderson of Tennessee in two instances.

Mr. Brasco.

Mr. Udall.

Mr. Meeds.

Mr Dent in two instances.

Mr. Kluczynski in two instances.

Mr. Gonzalez in two instances.

Mr. Rodino in three instances.

Mr. Fountain in two instances.

Mr. McFall in two instances.

Mrs. Griffiths in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 26. An act to revise the boundaries of the Canyonlands National Park in the State of Utah; to the Committee on Interior and Insular Affairs.

S. 27. An act to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah; to the Committee on Interior and Insular Affairs.

ENROLLED BILLS SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 7517. An act to amend the Canal Zone Code to provide cost-of-living adjustments in cash relief payments to certain former employees of the Canal Zone government, and for other purposes.

H.R. 11766. An act to amend title II of the Marine Resources and Engineering Development Act of 1966.

SENATE ENROLLED BILL AND A JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 1520. An act to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers.

S.J. Res. 88. Joint resolution to create a commission to study the bankruptcy laws of the United States.

ADJOURNMENT

Mr. ANDERSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 47 minutes p.m.), under its previous order, the House adjourned until Monday, July 20, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2218. A letter from the Assistant Secretary of State for Congressional Relations, transmitting copies of a Presidential determination authorizing an increase in military grant assistance to a country in Asia, pursuant to sections 610 and 614(a) of the Foreign Assistance Act, and the third proviso of the Military Assistance paragraph of title I of the Foreign Assistance and Related Programs Appropriation Act, 1970; to the Committee on Foreign Affairs.

2219. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide for employment within the Environmental Protection Agency of commissioned officers of the Public Health Service, and for other purposes; to the Committee on Interstate and Foreign Commerce.

2220. A letter from the Secretary of Health, Education, and Welfare, transmitting requesting an extension of the filing date for a report required by law appraising the health profession educational assistance and nurse training programs under the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GARMATZ: Committee on Merchant Marine and Fisheries. H.R. 15770. A bill to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes; with an amendment (Rept. No. 91–1307). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. Problems confronting the Federal Aviation Administration in the development of an air traffic control system for the 1970's (Rept. 91–1308). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. S. 3978. An act to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971 (Rept. No. 91–1309). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOOD: Committee on Appropriations. H.R. 18515. A bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1971, and for other purposes (Rept. No. 91–1310). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOLAND (for himself, Mr. Conte, Mr. Broyhill of North Carolina, Mr. Burke of Massachusetts, Mr. Burton of Utah, Mr. Carey, Mr. Carter, Mr. Del Clawson, Mr. Cleveland, Mr. Donohue, Mr. Dulski, Mr. Duncan, Mr. Friedel, Mr. Fulton of Pennsylvania, Mr. Halpern, Mr. Keith, Mr. Kuykendall, Mr. Philbin, Mr. St Germain, Mr. Sebelius, Mr. Tiernan, and Mr. Wyman):

H.R. 18497. A bill to provide for an equitable sharing of the U.S. market by electronic articles of domestic and foreign origin; to the Committee on Ways and Means.

By Mr. BUSH:

H.R. 18498. A bill to authorize the establishment of the Big Thicket National Park in the State of Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FLOOD:

H.R. 18499. A bill to amend section 700 of title 18 of the United States Code to provide penalties for violations of the flag code; to the Committee on the Judiciary.

By Mr. HENDERSON (for himself, Mr. Broyhill of North Carolina, Mr. Lennon, Mr. Ruth, Mr. Stuckey, Mr. O'Neal of Georgia, Mr. Rivers, Mr. Jonas, and Mr. Fountain):

H.R. 18500. A bill to amend the Agricultural Adjustment Act of 1938 to authorize the sale of tobacco acreage allotments under certain conditions; to the Committee on Agriculture.

By Mr. McFALL:

H.R. 18501. A bill to reduce the maximum alternative source interest rate for certain emergency loans under title III of the Consolidated Farmers Home Administration Act of 1961; to the Committee on Agriculture.

H.R. 18502. A bill to amend the Public Works Acceleration Act to make its benefits available to certain areas of extra high unemployment, to authorize additional funds for such act, and for other purposes; to the Committee on Public Works.

By Mr. RODINO (for himself, Mr. Baring, Mr. Frey, Mrs. Green of Oregon, and Mr. Horton):

H.R. 18503. A bill to amend section 620 of the Foreign Assistance Act of 1961 to suspend, in whole or in part, economic and military assistance and certain sales to any country which fails to take appropriate steps to prevent narcotic drugs produced or processed, in whole or in part, in such country from entering the United States unlawfully, and for other purposes; to the Committee on Foreign Affairs.

By Mr. SCHEUER:

H.R. 18504. A bill to authorize special appropriations for training teachers for bilingual education programs; to the Committee on Education and Labor.

By Mr. CLAY:

H.R. 18505. A bill to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal programs, nutrition training and education programs, opportunity for social contacts, and for other purposes; to the Committee on Education and Labor.

By Mr. CORMAN:

H.R. 18506. A bill to amend the Trade Expansion Act of 1962; to the Committee on Ways and Means.

By Mr. FRASER:

H.R. 18507. A bill to provide Federal financial assistance to help cities and communities of the United States develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning; to the Committee on Banking and Currency.

H.R. 18508. A bill to provide that Federal assistance to a State or local government or agency for rehabilitation or renovation of housing and for enforcement of local or State housing codes under the urban renewal program, the public housing program, or the model cities program, or under any other program involving the provision by State or local governments of housing or related facilities, shall be made available only on condition that the recipient submit and carry out an effective plan for eliminating the causes of lead-based paint poisoning; to the Committee on Banking and Currency.

H.R. 18509. A bill to provide Federal financial assistance to help cities and communities of the United States develop and carry out intensive local programs to detect and treat incidents of lead-based paint poisoning; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLS:

H.R. 18510. A bill to provide for amortization of railroad grading and tunnel bores, and for other purposes; to the Committee on Ways and Means.

By Mr. MURPHY of New York (for himself, Mr. Pepper, and Mr. Gallagher):

H.R. 18511. A bill to provide for the establishment of a Metropolitan Drug Addiction Commission to coordinate and make more effective in the New York metropolitan area the various Federal, State, and local programs for the control, treatment, and prevention of drug addiction; to the Committee on Interstate and Foreign Commerce.

By Mr. FLOOD:

H.R. 18515. A bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1971, and for other purposes.

By Mr. CELLER (for himself, Mr. Addabbo, Mr. Bingham, Mr. Brasco, Mr. Button, Mr. Carey, Mr. Conable, Mr. Delaney, Mr. Dulski, Mr. Gilbert, Mr. Halpern, Mr. Hanley, Mr. Hastings, and Mr. Horton):

H.J. Res. 1305. Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the Waterfront Commission compact and for entering into the Airport Commission compact, and for other purposes; to the Committee on the Judiciary.

By Mr. CELLER (for himself, Mr. King, Mr. Koch, Mr. Lowenstein, Mr. McKneally, Mr. Ottinger, Mr. Pirnie, Mr. Reid of New York, Mr. Rosenthal, Mr. Scheuer, Mr. Smith of New York, Mr. Stratton, Mr. Wolff, and Mr. Wydler):

H.J. Res. 1306. Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the Waterfront Commission compact and for entering into the Airport Commission compact, and for other purposes; to the Committee on the Judiciary.

By Mr. RODINO (for himself, Mr. Widnall, Mr. Daniels of New Jersey, Mrs. Dwyer, Mr. Frelinghuysen, Mr. Gallagher, Mr. Helstoski, Mr. Howard, Mr. Hunt, Mr. Minish, Mr. Patten, Mr. Roe, Mr. Sandman, and Mr. Thompson of New Jersey):

H.J. Res. 1307. Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the Waterfront Commission compact and for entering into the Airport Commission compact, and for other purposes; to the Committee on the Judiciary.

By Mr. DEL CLAWSON:

H.J. Res. 1308. Joint resolution authorizing the President to proclaim the period August 11 through 18, 1970, as "Law and Morality Week"; to the Committee on the Judiciary.

By Mrs. GREEN of Oregon:

H.J. Res. 1309. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. STANTON:

H.J. Res. 1310. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. RUPPE:

H.J. Res. 1311. Joint resolution to provide for the appropriation of funds to assist school districts adjoining or in the proximity of Indian reservations, to construct elementary and secondary schools and to provide proper housing and educational opportunities for Indian children attending these public schools; to the Committee on Interior and Insular Affairs.

By Mr. ANNUNZIO (for himself, Mr. Anderson of California, Mr. Anderson of Tennessee, Mr. Bingham, Mr. Bolling, Mr. Brown of Michigan, Mr. Córdova, Mr. Edwards of California, Mr. Fallon, Mr. Fish, Mr. Fulton of Pennsylvania, Mrs. Mink, Mr. Moss, Mr. Pike, Mr. Roe, Mr. Rooney of Pennsylvania, Mr. Scheuer, Mr. Stanton, Mr. Steiger of Arizona, and Mr. Tunney):

H. Con. Res. 683. Concurrent resolution expressing the sense of Congress relating to films and broadcasts which defame, stereotype, ridicule, demean, or degrade ethnic, racial, and religious groups; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of Tennessee (for himself, Mr. Hawkins, Mr. Adams, Mr. Boland, Mr. Casey, Mrs. Chisholm, Mr. Conyers, Mr. Dulski, Mr. Farbstein, Mr. Friedel, Mr. Fulton of Tennessee, Mr. Harrington, Mr. Hays, Mr. Hicks, Mr. Kyros, Mr. McCloskey, Mr. Madden, Mr. O'Hara, Mr. Passman, Mr. Pryor of Arkansas, Mr. Riegle, Mr. Smith of Iowa, Mr. Thompson of New Jersey, Mr. Waggonner, and Mr. Wolff):

H. Con. Res. 684. Concurrent resolution relating to treatment and exchange of military and civilian prisoners in Vietnam; to the Committee on Foreign Affairs.

By Mr. EVINS of Tennessee (for himself, Mr. Addabbo, Mr. Brown of California, Mr. Burton of California, Mr. Button, Mr. Clark, Mr. Cohelan, Mr. Corman, Mr. Daniels of New Jersey, Mr. Eilberg, Mr. Fraser, Mr. Giaimo, Mr. Green of Pennsylvania, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Koch, Mr. Leggett, and Mr. Lowenstein):

H. Con. Res. 685. Concurrent resolution relating to treatment and exchange of military and civilian prisoners in Vietnam; to the Committee on Foreign Affairs.

By Mr. MILLER of California (for himself, Mr. Barrett, Mr. Burton of Utah, Mr. Carey, Mr. Clay, Mr. Corbett, Mr. Eckhardt, Mr. Foley, Mr. William D. Ford, Mr. Gray, Mr. Jacobs, Mr. Johnson of California, Mr. Kastenmeier, Mr. McCarthy, Mr. Meeds, Mr. Moorhead, Mr. Moss, Mr. Obey, Mr. Ottinger, Mr. Pike, Mr.

Rogers of Colorado, Mr. St Germain, Mr. Steed, Mr. Stokes, and Mr. Wyatt):

H. Con. Res. 686. Concurrent resolution relating to treatment and exchange of military and civilian prisoners in Vietnam; to the Committee on Foreign Affairs.

By Mr. TEAGUE of Texas (for himself, Mr. Flood, Mr. Fulton of Pennsylvania, Mr. Halpern, Mr. Mikva, Mr. Minish, Mr. Nedzi, Mr. Podell, Mr. Pucinski, Mr. Randall, Mr. Rees, Mr. Rodino, Mr. Rosenthal, Mr. Roybal, Mr. Ryan, Mr. Scheuer, Mr. Tunney, Mr. Van Deerlin, Mr. Vanik, and Mr. Yatron):

H. Con. Res. 687. Concurrent resolution relating to treatment and exchange of military and civilian prisoners in Vietnam; to the Committee on Foreign Affairs.

By Mr. SAYLOR (for himself, Mr. Berry, Mr. Steiger of Arizona, Mr. Pollock, Mr. Wold, Mr. Camp, Mr. Lujan, and Mr. Don H. Clausen):

H. Con. Res. 688. Concurrent resolution relating to a national Indian policy; to the Committee on Interior and Insular Affairs.

By Mr. EVINS of Tennessee:

H. Res. 1145. Resolution providing funds for the operation of the Select Committee on Small Business; to the Committee on House Administration.

By Mr. SIKES:

H. Res. 1146. Resolution to express the sense of the House of Representatives that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

By Mr. FRIEDEL:

H. Res. 1147. Resolution relating to certain allowances of Members, officers, and standing committees of the House of Representatives, and for other purposes; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON of California:

H.R. 18512. A bill for the relief of Mrs. Severa Salonga Virag; to the Committee on the Judiciary.

By Mr. OLSEN:

H.R. 18513. A bill for the relief of Col. Paul E. Greiner, U.S. Air Force, retired; to the Committee on the Judiciary.

By Mr. SANDMAN:

H.R. 18514. A bill for the relief of Luella M. Freeman; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

544. By the SPEAKER: Petition of the city council, Hometown, Ill., relative to captured American and allied fighting men and those missing in action in the Vietnam conflict; to the Committee on Foreign Affairs.

545. Also, petition of Local No. 1271, International Association of Machinists and Aerospace Workers Union, Lawrence, Mass., relative to the proposed merger of Northwest Orient Airlines and Northeast Airlines; to the Committee on Interstate and Foreign Commerce.

546. Also, petition of John C. Moran, et al., Greenville, N.C., relative to appointments to the U.S. Supreme Court and other Federal benches; to the Committee on the Judiciary.

SENATE—*Thursday, July 16, 1970*

The Senate met at 11 a.m. and was called to order by Hon. Mike Gravel, a Senator from the State of Alaska.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, in whose name this Republic was born, and by whose spirit it has been guided, open our minds once more to Thy truth. Preserve us from contentment with things as they are and give us wisdom to strive for life as it ought to be. Create in us the qualities of manhood which fit us to be directors of the Nation's destiny. Qualified by Thy grace, bless this Nation and make it a blessing to the whole world. Hear and answer our prayers, uttered or unexpressed, and grant that our private lives and public actions may be consistent with our prayers.

Through Him whose name is above every name. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Russell).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., July 16, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. Mike Gravel, a Senator from the State of Alaska, to perform the duties of the Chair during my absence.

Richard B. Russell,
President pro tempore.

Mr. GRAVEL thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, July 15, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from Wisconsin (Mr. Nelson) and the distinguished Senator from New York (Mr. Goodell), there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

IMPLEMENTATION OF THE CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Arkansas (Mr. Fulbright), I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3274.

The ACTING PRESIDENT pro tempore (Mr. Gravel) laid before the Senate the amendment of the House of Representatives to the bill (S. 3274) to implement the Convention on the Recognition and Enforcement of Foreign Arbitral Awards which was on page 1, line 4, strike out "of" and insert "on the".

Mr. MANSFIELD. Mr. President, I move that the Senate concure in the amendment of the House.

The motion was agreed to.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair now recognizes the distinguished senior Senator from West Virginia (Mr. Randolph), for a period of not to exceed 1 hour.

PRIVILEGE OF THE FLOOR

Mr. RANDOLPH. Mr. President, before I address myself to the subject matter I shall speak on this morning, I ask unanimous consent that Walter Planet, a congressional fellow, assigned to the Committee on Public Works, have the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

S. 4092—INTRODUCTION OF A BILL TO ESTABLISH A COMMISSION ON FUELS AND ENERGY

FEDERAL FUELS AND ENERGY COMMISSION URGENTLY NEEDED

Mr. RANDOLPH. Mr. President, in these troubled times, we are a nation which seems to move from one crisis to another.

The crisis of which I shall speak today is a real and genuine one. It is not synthetic. It is not one that has been created. It has developed with the growth of our complex society. It is a crisis that faces approximately 205 million men, women, and children in the United States at this time of speaking.

What we do about facing up to the problem will, in some degree at least, cause the crisis to diminish or to continue. If we fail to affirmatively work on the problem we will have a crisis that will deepen and have a deleterious effect upon the people of the United States—and, in a sense, on all mankind. We must not fail in this session, by congressional action, to create a Federal Fuels and Energy Commission to give guidance in the establishment of a policy or policies that would give to this country and its people solutions for our complex fuels and energy problems, and for the related environmental involvements.

Mr. President, I do not overstate when I say at the outset that we are facing today and will face tomorrow and many more tomorrows a possible shortage of fuel and power to serve the industries and the homes of America.

Mr. President, the energy demands of the United States since World War II have been doubling every decade, and have been doubling since that new form of energy we call nuclear energy came into being 25 years ago today, when the first atomic bomb was detonated experimentally, as we recall, in New Mexico.

This growth has been due to both population increase and the increasing standard of living of the American people. Our ability to meet the demand has clearly resided in the use of fossil fuels for their energy value. Recently, nuclear power has emerged as a competitor in its own right, but lags—and I say that with no feeling of depreciation of nuclear power, of course—in reaching the potential expected of it.

During this period of almost total dependence on fossil fuels, the economy of the United States has developed at a dramatic and, I should say, dynamic rate.

This is of immense importance as a portent for the future of energy development of other nations which we are already witnessing in the industrial resurgence of West Germany and Japan. A brief review of the past reveals the full implication of this situation and the potential attendant resource and environmental effects for the future is in order.

In 1950, one-half of all the energy generated in the United States came from animals. We do not think of this very often, but I have only gone back to about slightly more than two decades when about one-half of the energy generated in the United States came from animals; 90 percent of the remaining energy, or 45 percent of the total expended, came from wood. In effect, the human population lived off the solar energy deposited in the environment from the sun.

Mr. President, as recently as 1945, most bread and milk were delivered by horses rather than gasoline-powered trucks in many sections of the United States. Since 1950, 11 million horses have been replaced by tractors in the United States. This required a fossil fuel energy subsidy to agriculture equivalent to the energy needs of 44 million people, with an associated use of resources and accompanying environmental impacts.

Similar energy subsidies have occurred in many other areas. As a consequence we are able to support 205 million people where it has been estimated that only 100 million people could be supported without a fossil fuel or nuclear energy subsidy.

The future presents a picture of continuing growth with continued reliance on fossil fuels. The world energy production has increased by about 6.9 percent every year since 1890, and this trend is expected to continue. Americans have developed a standard of living which they are not about to relinquish, and the other 95 percent of the world's population—and I think this would not be an overstatement—desires to share in this standard of living.

For example, while our automobile population is only growing by 4 percent a year, the automobile population in other countries is growing by 6 to 29 percent per year. A 6.9-percent world growth rate in energy represents a doubling in energy production every 10 years. This sounds high, but it is realistic.

Crude oil production throughout the world is expected to show an increase from 11 billion barrels in 1965 to 123 billion barrels in the next 30 years. By the year 2000, it is estimated that there will be 6 billion people in the world. Crude production will then amount to 20 barrels per person, only slightly higher than the U.S. per capita consumption rate in 1960.

I am very gratified that, as I bring these matters to the attention of the Senate today, the distinguished Senator from Oklahoma (Mr. BELLMON) is present in the Chamber. He knows, of course, of the development of oil and gas in his own State and throughout America. He knows of the needs that are constantly draining these resources that are in the ground and to be extracted.

Meanwhile it is estimated that the U.S. per capita consumption will have increased. This demand will require that 9 percent of known crude oil reserves be burned annually, and the world energy market will be competing against the United States for these reserves.

Substantial portions of these reserves are in the State of Alaska. Presiding over the Senate at this time is an able Senator from that State (Mr. GRAVEL) who, in recent days, has been "on the ground," as it were, with other Members of the Senate looking into the problems that increasingly come to a State of the pioneering type such as Alaska. Certainly, the fuels of that area can be most helpful in furthering the productivity of the Nation as a whole. And the resources of Alaska must have careful attention.

This Nation, and the world, are embarked on a gigantic gamble that we can maintain this energy subsidy—a subsidy that is dependent on reliable sources of crude oil, natural gas, and coal and some other immense sources of energy, possibly the breeder reactor or fuel cells, to replace fossil fuels when they are depleted. To lose this gamble would mean a catastrophe for the American people and, perhaps, for large portions of the earth.

Concurrently, and partly as a response to the side effects of this energy expansion and the accompanying growth in our economy, a broadening public concern has developed for environmental quality.

I know this concern is very real; and it is a concern not only by older persons but also by the youth of our country. In the Committee on Public Works, and through our Subcommittee on Air and Water Pollution, we have been attempting to keep moving forward with necessary but well-reasoned legislation which will cope with the problems which must be solved in order to bring about an enhancement of the environment and a bettering of the quality of life in America. These are the environmental matters we must consider in legislation and which doubtless will flow also from the findings of such a commission as we are advocating today.

This concern has been expressed in the emergence of what might be termed an "environmental ethic." This ethic is a response to the realization that the United States, and even the world, is faced with a crisis of our own making. No one else made it. It was made by us. It is an acknowledgment that we can no longer allow the continued degradation of our physical environment.

In reaching this awareness, however, we have become uptight environmentally. As a nation we appear to be entering a new era of nature worship. There is talk of returning to a balance of nature. Those who propose this, however, imply, as economists used to consider the policy of laissez faire, that the natural balance is the only one and if man would just effect a hands-off policy, nature would adjust itself by natural processes to everyone's benefit.

This attitude fails to recognize that man is a part of the ecological system and by our presence we affect the balance of nature. Public policies must be tempered to a rational outlook toward environmental problems while at the same time retaining the necessary sense of urgency.

We are the custodians of nature. The environmental confrontations we are experiencing result from our failures to properly exercise this custodianship. We have failed prospectively to consider the effects of our modern technology on the environment, not only detrimentally, but in terms of what can be done to improve our environment.

We live in a world that is considerably of our own making. As custodians of the environment we are faced with new responsibilities if the economic vitality of this Nation and the world are to be assured.

With these considerations in mind, I directed members of the staff of the Committee on Public Works to conduct a preliminary exploration of this Nation's energy demands in relation to a national fuels policy and environmental requirements.

For example, what are the resource and environmental implications of our present, if existent, national fuel policies?

To determine this requires estimates of future energy and power requirements. Yet, a most significant fact is the past energy predictions have consistently underestimated consumption rates. At one point the Atomic Energy Commission underestimated the demand for civilian nuclear power in a 23-year forecast by 53 percent in just 1 year. Current projections of aviation kerosene consumption for the year 1980 are 300 percent higher than the highest projection made 5 years ago.

Useful and meaningful national energy policies are dependent on valid estimates of future energy requirements. A recent Office of Science and Technology compilation of energy forecasts for the United States lists 19 different projections.

These energy projections start from a 1965 energy base of approximately 54,000 trillion Btu's—British thermal units. Estimates for the end of this decade, 1980, however, range from 74,000 to 104,000 trillion B.t.u.'s or a 41-percent variation.

I say to the Senator from Oklahoma (Mr. BELLMON) that these are matters which should come before the Commission, if that Commission is created as urged in legislation which the Senator from Oklahoma has joined in cosponsoring.

Projections for the year 2000 show an even wider variation; namely, from 106 to 209 million Btu's or a 100-percent variation. Yet, our ability to supply reliable energy, whether from fossil or nuclear fuels or other sources depends on our ability to make these projections meaningfully and reliably.

Regional projections of total energy requirements appear nonexistent even though the need for such projections is widely recognized within the context of assuring electric power reliability.

Because of the lack of regional projections, discussions of energy requirements must focus on national projections. For this reason I have relied on the publication of the Department of the Interior, Bureau of Mines, "Energy Model for the United States Featuring Energy Balances for the Years 1947 to 1965 and Projections and Forecasts to the Years 1980 and 2000."

This projection assumes an annual 4-percent growth in gross national product while experiencing annual 1.6-percent growth in population. Under this projection, the 1965 total energy demand of 54,000 trillion of B.t.u.'s rises to 64,300 trillion B.t.u.'s in 1970, and will approach 88,100 trillion B.t.u.'s by 1980, and 168,000 trillion B.t.u.'s in the year 2000.

At this point, Mr. President, I offer an explanatory table and request unanimous consent to have it printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—PROJECTED U.S. ENERGY REQUIREMENTS, 1965 to 2000

Year	Total energy (1) (trillions of B.t.u.'s)	Per capita energy (2) (millions of B.t.u.'s per person)
1970	64,300	312
1975	75,600	346
1980	88,100	378
1990	122,000	450
2000	168,600	547

[1] Bureau of Mines, Department of the Interior, "An Energy Model for the United States Featuring Energy Balances for the Years 1947 to 1965 and Projections and Forecasts to the Year 1980 and 2000," IC8384 (July 1968). Selected "Case I" for 1980 demand and "Case XIII" for year 2000 demand.

[2] Bureau of the Census, Department of Commerce, "Projections of the Population of the United States, by Age, Sex, and Color to 1990, With Extensions of Total Population to 2015," Current Population Reports, Population Estimates, series P-25 No. 359 (Feb. 20, 1967), selected "Series C."

Mr. RANDOLPH. Mr. President, it is of particular interest to note that while the U.S. total energy demand is predicted to increase by 34 percent between 1970 and 1980, the amount of energy to be used by each individual is forecasted to increase by 20 percent. Should the per capita energy demand forecast remain constant during this period, the total energy demand prediction would increase by only 14 percent.

Anticipated increases in per capita energy consumption can be attributed to two causative factors; namely, increased use to supply basic energy needs to social groups formerly with low-energy demands; and increased use to supply added conveniences to social groups whose basic energy needs were previously supplied.

It cannot be overemphasized, however, that the world per capita energy requirement is increasing at a faster rate than ours and the competition by other nations for fuel resources on which the United States is now dependent may well interfere with our own capability to meet anticipated growth.

Perhaps it is not inappropriate to say at this point that we can spread ourselves too thin in our efforts of one type or another throughout the world and that our present resources are not inexhaustible. A study such as is proposed here is of vital importance to the present and the future of the United States.

I ask the second question:

What does this projected growth in energy requirements mean in terms of total electric power generating capacity?

The answer is that net electric power generation will continue to double each 10 years. In turn, fuel resources, both fossil and nuclear, will be depleted at an ever-increasing rate. Accompanying this will be a greater potential for deleterious environmental effects, and a greater potential for brownouts or blackouts, which were discussed with my colleague from West Virginia earlier today.

Mr. President, I offer as table II another set of figures, with footnotes, showing projected U.S. electric energy. I ask unanimous consent to have this table printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE II.—PROJECTED U.S. ELECTRIC ENERGY

Year	Installed capacity [1] (thousands of megawatts)	Net generation [1] (billions of kilowatt-hours)	Per capita generation [2] (kilowatt-hours per person)
1970	360	1,493	7,250
1975	420	2,047	9,350
1980	523	2,739	11,600
1990	885	5,000	18,500
2000	1,500	9,036	29,400

[1] Bureau of Mines, Department of the Interior, "An Energy Model for the United States Featuring Energy Balances for the Years 1947 to 1965 and Projections and Forecasts to the Year 1980 and 2000," IC8384 (July 1968). Selected "case I" for 1980 demand and "case XIII" for year 2000 demand.

[2] Bureau of the Census, Department of Commerce, "Projections of the Population of the United States, by Age, Sex, and Color to 1990, with Extensions of Total Population to 2015." Current Population Reports, Population Estimates, Series P-25, No. 359 (Feb. 20, 1967), selected "Series C."

Mr. RANDOLPH. Mr. President, past experience shows that electric power generating equipment installed today may well be in use 30 to 50 years from now. This means that new means of power generation such as nuclear reactors and high voltage transmission cabled which are installed in the decade, 1970 to 1980, may well be used in power systems in 2010 or 2030. Advanced concepts such as central-station magnetohydrodynamics—Mr. President, that is a long word; I will call it MHD from this point on in my discussion—generators, fuel cells, and superconducting transmission cables which may be in service on power systems during the following decade, 1980 to 1990, will be operating in 2020 to 2040.

Each decision made today to build a coal- or oil-fired powerplant represents a 30- to 50-year reliance on coal or oil. Along the Atlantic seaboard there is a current increasing reliance on imported oil. Increased reliance can be anticipated in the Midwest due to barge traffic on the Mississippi River as far north as Chicago. In all instances the availability of this fuel is subject ot the impacts of international energy requirements. In midland America, it also may mean reliance on imported natural gas from Canada or Mexico.

A brief historical review of electric energy production in the United States and some speculation on the future seem to me to be indicated.

The past decade has been characterized by the construction of large generating plants with pooling arrangements and interconnections to achieve economy and improve reliability. During this period, the rising costs of fossil fuel plants, resulting in part from increased fuel costs and the requirements of air and water pollution controls, largely coincided with the falling costs of nuclear power to produce a competitive market.

Nuclear powerplants approached a capacity of 1,000 megawatts. Because of their large size they were built away from cities and close to large supplies of cooling water. And, because of their size and decreased thermal efficiencies, nuclear powerplants have increased the problem of thermal pollution. This was not thought to be a reality a few years ago, but it has come to be just that.

Massive blackouts occurred in 1965 and 1967, forcing a reevaluation of existing concepts regarding interconnections, spinning reserve allocations, systems operations, and standby generation. The effect on the 1970's will probably be a greater reliance on computers to control and optimize power system interconnections.

From 1970 to 1980 we will see a 46-percent increase in installed electric generating capacity. This will entail about a 50-percent increase in the need for the use of coal, and a ninefold increase in installed nuclear generating capacity. More importantly, for economic reasons, utilities will move toward individual nuclear plants which will start to approach 5,000 megawatts, with their attendant higher thermal impacts on the environment. It appears the breeder reactor will not be available in the 1970's as originally predicted. This increment in generating capacity will be filled partially by fossil fuel plants, most likely coal fired if coal production can be sustained and increased commensurate with demand.

Another table is offered, Mr. President, this one showing projected electric generating capacity. I ask unanimous consent that it be printed in the RECORD at this point as table III.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE III.—PROJECTED ELECTRIC GENERATING CAPACITY

[Thousand megawatts]

Year	With breeder reactor					Without breeder reactor				
	Coal	Gas	Oil	Hydro	Nuclear	Coal	Gas	Oil	Hydro	Nuclear
1970	215	45	22	38	11	215	45	22	38	11
1975	265	52	27	40	40	265	52	27	40	40
1980	330	59	33	43	106	327	59	33	43	103
1990	480	75	44	44	350	530	75	53	48	295
2000	690	88	68	52	740	786	88	68	52	645

Reference: Spaite, P. W., and Hangebrauch, R. P., "Sulfur Oxide Pollution: An Environmental Quality Problem Requiring Responsible Resource Management," paper presented at 19th Canadian Chemical Engineering Conference, Canadian Society of Chemical Engineers, Edmonton, Alberta (Oct. 19–22, 1969).

Mr. RANDOLPH. But, Mr. President, this will conflict with the availability of environmentally suitable fossil fuels. In a keynote address before the American Power Conference annual meeting on April 21, 1970, Carl E. Bagge, Commissioner, Federal Power Commission, stated:

> The problem posed by the necessity to rely on fossil fuel generation as the backbone of the industry for many years to come is compounded by the fact that low sulfur fossil fuels are simply not presently available in sufficient quantities to clear the air pollution hurdle which now has been imposed upon the industry. Natural gas, the cleanest fossil fuel, accounts for one-quarter of all electric generation by steam plants and for one-sixth of the gas consumed in this country. It appears unlikely, however, that domestic gas supplies will be able to substantially alleviate the problem. While imported LNG and residual fuel oil hold out some promise, neither do their prospects appear sufficient to resolve the problem.
>
> Low-sulfur coal is plagued by problems of supply, location and difficulty of extraction. Unfortunately, the deposits and markets do not coincide and one can only wonder about how feasible it is in the long run for the Chicago market to look to Wyoming and Montana for its fuel supply. Add to this the recent sanction of Commonwealth Edison's proposal to import Venezuelan low-sulfur residual oil, and one can begin to appreciate the agony this industry is presently experiencing in its effort to meet both its environmental and its energy service commitments.

I think those are very important warning words which were spoken by Mr. Bagge.

It has been stated that the 1980's will see modular electric powerplants approaching 10,000 megawatts. This possibility raises serious questions on the optimum plant size compatible with environmental quality and may well result in regulations.

The first new cities in the decade of the 1980's, planned industrial-residential complexes, will have to be built around central power stations. By 1990, peak powerloads will have risen four times over those of 1970. By this time the first breeder reactors should be built, as well as direct fuel-to-electric power conversion, such as MHD and fuel cell generators.

Throughout the period from 1970 to 1990, fuel selection, in part, will be determined by the economics of the time and in part by environmental considerations which I mentioned earlier. Unless we develop a coherent national fuels and energy policy during the next two decades, we will witness decreased power reliability and further degradation of environmental quality in the United States.

The utilities most likely will continue to compete against each other for fuel resources on purely economic ground under the mandate to supply power at the "lowest possible cost."

In the address from which I quoted, Commissioner Bagge discussed the market-oriented philosophy of the American power industry and some of its effects on the energy supply problem. On this point, he said:

> Still another outcropping of the market-oriented mentality is reflected in the irrational competition for markets without concern for the superior adaptability of particular energy forms to specify functions. This has contributed to the existing power crisis. The validity of growth for growth's sake is now being questioned by even orthodox thinkers. An objective review of existing competitive marketing policies is now required to determine whether, for example, other energy sources can, in some instances, more rationally serve the space heating market.

Yes, Mr. President, these are words that give warning. And, Mr. President, I noted with interest a recent television special on the electric utility industry which reported that the industry spends less than 1 percent of its gross revenues on research to develop more efficient methods to generate electric energy. That industry continues to rely on equipment suppliers or the Federal Government to conduct the required research, as has been happening with respect to nuclear power.

I believe this is a short-sighted policy. The future of the electric utility industry is dependent, among other technological developments, on MHD, coal gasification, and the fuel cell. In addition, these methods represent a more effective utilization of our existing natural resources, which must be used more effectively in order to satisfy our growing energy demand, and which, in turn, will offer benefits to society as a whole. Again quoting Commissioner Bagge:

> The question facing this industry obviously is not one of either pollution or blackout. Except for the radical fringe, no one seriously advocates turning back the calendar. Anyone with a glimmer of real understanding of the nature of the problem realizes that substantial additional electric generating capacity must be constructed in the decades ahead just to keep pace with the essential and basic needs of our expanding population, irrespective of any increase in per capita utilization. Rational minds will also concede that even more substantial increments of additional electric energy must be produced in the future to successfully wage the entire environmental battle on many other relevant fronts such as meeting the growing requirements of the depressed areas of our Nation, the urgent needs of the inner city, urban and mass transportation and the staggering waste disposal problem.

For example, in principle MHD plants can achieve an estimated overall efficiency between 50 and 60 percent, compared to 40 percent for our best fossil fuel plants and 33 percent for current boiling water and pressurized water nuclear powerplants. Although controls must be developed for nitrogen oxides and sulfur oxides emited from MHD, this technology will represent a significant improvement in thermal efficiency and a significant decrease in waste heat discharged to the environment. Yet, commercial application of this technology before the middle or late 1980's is unlikely without Federal support.

A second example is fuel cells. Using pipeline gas and air, fuel cells offer an operating efficiency of 50 percent. The distinct advantage is decreased environmental impact. They do not produce particulates, sulfur oxides, or nitrogen oxides.

I recognize that there is a shortage of natural gas in the United States and will discuss the gas crisis in a subsequent speech in the Senate. Fuel cells, however, can operate on synthetic gas derived from the gasification of coal, as well as from nautral gas. A sulfur-free gas can be created from coal, minimizing the environmental impact of electric power generation while effectively utilizing this Nation's most plentiful fossil fuel resources.

I have many times questioned national priorities in funding nuclear power development, while severely underfunding Federal research in the generation of electric energy from fossil fuels. The consequences are now before us.

I ask the next question:

What are the potential environmental consequences of projected growth in electric power generation?

The immediate potential consequence is increased emissions of waste heat, both to receiving waters and to the atmosphere, as well as increased emissions of particulates, sulfur oxides, nitrogen oxides, and radioactivity from both fossil fuel and nuclear powerplants.

As the size of powerplants becomes larger and larger, the amount of waste heat increases proportionately. The current solution is to rely on cooling towers which often result in increased local humidity and fogs and smogs throughout the United States.

The waste heat from a typical 1,000-megawatt powerplant is enough to evaporate almost 60,000 tons of water per day. Conceivably, this could change the humidity of an area of several hundred square miles. Yet, plants 10 times this size are under discussion for the 1980's. As I have mentioned, there must be a public policy decision regarding the optimum powerplant size compatible with a particular environment.

Already, our cities are somewhat warmer than the surrounding countryside. This is partly the result of waste heat discharges from powerplants, as well as industrial and home consumption of energy. This trend is expected to continue and could conceivably endanger public health and welfare. I must underscore what I have said in this reference. Early signs of the possibility of "heat episodes" analogous to "air pollution episodes" were observed in St. Louis, Mo., in 1966 and recently were reported in the December 1969 issue of the American Journal of Public Health.

Also accompanying increased electric power generation will be increased emissions of atmospheric pollutants. Particulate levels in the ambient air can be expected to increase during the 1970's even though better control equipment is installed.

Mr. President, I have a table of projected annual particulate emissions from fossil fuel combustion. I offer it as table IV, and ask unanimous consent to have it printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE IV.—PROJECTED ANNUAL PARTICULATE EMISSIONS FROM FOSSIL FUEL COMBUSTION

[In millions of tons per year]

Year	Utility power plants	Nonutility sources	Uncontrollable fine particulate utility combustion
1970	5.2	1.8	0.2
1975	5.4	1.8	.3
1980	5.3	1.6	.4
1990	2.7	.9	.6
2000	.6	.4	1.2

Source: Spaite, P. W. & Hangebrauck, R. P., "Pollution From Combustion of Fossil Fuels," paper presented at National Pollution Control Conference and Exposition, San Francisco, Calif. (Apr. 1-3, 1970).

Mr. RANDOLPH. The difficulty is that improving particulate collection efficiencies form an average of 86 percent to 99 percent will not offset increased growth in generating capacity. We may well be in the mid-1980's before we return to 1970's atmospheric levels of particulates. This is due in large part to inadequate industrial support of the Federal research and development program provided for in the Air Quality Act of 1967.

Recently, a new dimension has been added to particulate control. Fine particulates offer the potential for seriously affecting public health. Although control and collection efficiencies for particulates continue to rise, the fine particulates continue to escape and are discharged into the atmosphere.

These fine particulates are the most hazardous to public health, because they are easily inhaled and are retained in the lungs. They also offer the greatest potential for creating changes in the climate, particularly in urban areas of our country. Yet, it is these smaller, fine particles which are not collected by current control methods and are expected to continue to increase in emissions.

In the case of sulfur oxides, it is estimated that 1970 emissions will be 37 million tons from all sources; however, by 1990 this total, under presently projected technology, is expected to reach 95 million tons per year, with about 65 million from power generation alone.

Beyond 1990, potential emission levels from powerplants will reach five to eight times present levels under the current control program. I will comment extensively on this problem in a subsequent speech.

Mr. President, I offer, as table V, figures on the projected annual uncontrolled sulfur oxide emissions from powerplants, and I ask unanimous consent to have this table printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

TABLE V.—PROJECTED ANNUAL UNCONTROLLED SULFUR OXIDE EMISSIONS FROM POWERPLANTS

[In millions of tons per year]

Year	With breeder reactor	Without breeder reactor
1970	20	20
1975	30	30
1980	40	40
1990	62	68
2000	94	105

Source: Hangebrauck, R. P. and Spaite, P. W., "Pollution from Power Production," paper presented at National Limestone Institute 25th annual convention, Washington, D.C. (Jan. 21-23, 1970).

Mr. RANDOLPH. Immediate short-term regional needs for the control of sulfur oxides may well necessitate the establishment of a priority system based on regional air pollution problems rather than economics. Long-term solutions, however, will require the parallel development of new nonpolluting methods for combusting fuels; methods for producing synthetic low-pollution fuels, and methods for flue gas cleaning.

It is obvious that if air pollution levels that protect public health are to be achieved and maintained, there is an immediate need for short-term as well as long-term planning on how to achieve these objectives, largely with indigenous resources of coal, oil, gas, and fissionable materials. The alternative is to allow electric power reliability—especially along the Atlantic seaboard, as I mentioned earlier, and in the Midwest—to become increasingly dependent on foreign sources of fuels and competitive international economics and the vagaries of foreign governments—the control, the stewardship of those governments.

For the reasons stated—and others which I will discuss in three speeches in the Senate in the near future—I am introducing legislation today to establish a Federal Commission on Fuels and Energy. This Commission would make a detailed investigation and study of the energy requirements and fuel resources and policies of the United States with respect to the different type of fuels and energy, and would report to the President of the United States and to the Congress on, first, the Nation's projected energy needs, broken down into regional areas, for the next two decades with particular reference to electric power; second, the fuel resources available or which must be developed to meet those needs, including, as applicable, the programs for research, development, and demonstration necessary to provide those major technological advances which may greatly enhance the Nation's ability to efficiently and economically utilize its fuel resources; third, the air, water, and other pollution created by energy requirements, including any programs to overcome promptly and efficiently any technological or economic barriers to the elimination of such pollution; and fourth, the existing policies and programs of the Federal Government and of State and local governments, which have any significant impact on the availability or economic utilization of such fuel resources and on the ability to meet the Nation's energy needs and environmental requirements, including proposals, policies, and programs for reconciling the Nation's environmental quality requirements with energy needs.

Mr. President, I send the bill to the desk and ask unanimous consent to have it printed in the Record as introduced by me and more than 50 cosponsoring colleagues, including: Messrs. Allott, Allen, Baker, Bayh, Bellmon, Bible, Boggs, Burdick, Byrd of West Virginia, Cook, Cooper, Cranston, Case, Dole, Dominick, Eagleton, Eastland, Fong, Gravel, Hansen, Harris, Hart, Hatfield, Hollings, Hughes, Inouye, Jackson, Javits, Jordan of Idaho, Jordan of North Carolina, Magnuson, Mansfield, Mathias, McGee, McIntyre, Montoya, Moss, Muskie, Nelson, Packwood, Pell, Prouty, Saxbe, Scott, Schweiker, Sparkman, Spong, Stevens, Symington, Tower, Tydings, Williams of New Jersey, and Yarborough.

This indicates genuine and widespread interest. The sponsors of the legislation come from both parties and all sections of the United States.

The PRESIDING OFFICER (Mr. Hughes). The bill will be received and, without objection, the bill will be printed in the Record.

The text of the bill is as follows:

S. 4092

A bill to establish a Commission on Fuels and Energy to recommend programs and policies intended to insure that United States requirements for low cost energy will be met, and to reconcile environmental quality requirements with future energy needs

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT OF COMMISSION

SECTION 1. (a) There is hereby established a National Commission on Fuels and Energy (hereinafter referred to as the "Commission") which shall be composed of twenty-one members appointed as follows:

(1) three appointed from the membership of the United States Senate by the President of the Senate, two from the majority party and one from the minority party;

(2) three appointed from the membership of the House of Representatives by the Speaker of the House, two from the majority party and one from the minority party;

(3) fifteen appointed by the President, one each to represent the Departments of State, Defense, Interior, Commerce, and Health, Education and Welfare; and the Federal Power Commission, the Atomic Energy Commission, the Office of Emergency Preparedness, and the Office of Science and Technology; and six from among members of the public who have particular knowledge and expertise with respect to fuels and energy.

(b) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(d) Eleven members of the Commission shall constitute a quorum.

DUTIES OF THE COMMISSION

SEC. 2. (a) The Commission shall make a full and complete investigation and study of the energy demands and of the fuels and energy resources, requirements and policies of the United States. In particular, it shall evaluate all possible alternative methods of energy production and the relative merits of all energy sources, including fossil fuels, synthetic fuels derived from natural fossil fuels, nuclear and any other practical sources. Based on such study, it shall recommend those programs and policies which are most likely to insure, through maximum use of indigenous resources, that the Nation's rapidly expanding requirements for low cost energy will be met, and in a manner consistent with the need to safeguard and improve the quality of the environment.

(b) The Commission shall submit to the President and to the Congress a report with respect to its findings and recommendations not later than one year after the Commission has been fully organized. Such report shall include the Commission's determinations with respect to—

(1) the Nation's projected energy needs, broken down into regional areas, for the next two decades with particular reference to electric power;

(2) the fuel resources available or which must be developed to meet those needs, including, as applicable, the programs for research, development and demonstration necessary to provide those major technological advances which may greatly enhance the Nation's ability to efficiently and economically utilize its fuel resources;

(3) the air, water and other pollution created by energy requirements, including any programs to overcome promptly and efficiently any technological or economic barriers to the elimination of such pollution; and

(4) the existing policies and programs of the Federal Government and of State and local governments, which have any significant impact on the availability or economic utilization of such fuel resources and on the ability to meet the Nation's energy needs and environmental requirements, including proposals, policies and programs for reconciling the Nation's environmental quality requirements with energy needs.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 3. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act hold such hearings, take such testimony, and sit and act at such times and places as the Commission, subcommittee, or member deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee or member thereof.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power—

(1) to appoint and fix the compensation of such staff personnel as he deems necessary, and

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 4. (a) Any member of the Commission who is appointed from the executive or legislative branch of the Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of duties vested in the Commission.

(b) Members of the Commission, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

EXPENSES OF THE COMMISSION

SEC. 5. There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out this Act.

EXPIRATION OF THE COMMISSION

SEC. 6. The Commission shall cease to exist ninety days after the submission of its report.

Mr. RANDOLPH. Mr. President, I also ask unanimous consent to have printed in the RECORD, the text of FPC Commissioner Bagge's address to the 32d annual meeting of the American Power Conference, and the text of the Office of Science and Technology report, "A Review and Comparison of Selected United States Energy Forecasts."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ELECTRIC POWER INDUSTRY IN CRISIS AND TRANSITION: THE NEED FOR A NATIONAL ENERGY-ENVIRONMENT POLICY

(Address by Carl E. Bagge, Commissioner, Federal Power Commission)

The privilege of keynoting this year's Annual Meeting of the American Power Conference is a distinct honor and I am grateful for a number of reasons—particularly since this conference comes at a time when the electric power industry apprehensively prepares for the dawn of a critical new decade. The appearance of the chronological milestone traditionally provides an opportunity to reevaluate what has gone before and to redefine the relevant goals for the years that lie ahead. But more importantly, it also comes at a time when this vast industry—the Nation's largest—finds itself uniquely on the defensive as it has never been before. Indeed, it finds that its very right to expand and serve the growing energy needs of the Nation is seriously questioned and has become a national political issue. An earlier political confrontation faced by this industry resulted in broader economic regulation under the Public Utility Holding Company Act. The essential objective of this industry to serve the increasing power needs of the Nation has never before been subject to doubt, however, today it is being severely challenged by even some of our most respected thinkers. Thus, I regard this occasion as a unique opportunity to take advantage of an important forum, at a most critical time, to express the deeply felt concerns of one of the regulators of your industry.

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In the title to this address, I have characterized that electric power industry as one in transition. I have done so because, upon analyzing the events of the past decade and relating them to the future, the overriding characteristic which manifests itself is the emergence of new industry goals and the shift of emphasis with respect to these objectives.

Does it seem possible that it was but six years ago, in November 1964, that the Federal Power Commission, in cooperation with all the segments of this industry, published the first National Power Survey? This comprehensive nationwide survey was undertaken in order to define and articulate the long range goals of the industry. Some of the finest talent in government and industry studied the past performance of this highly fragmented industry; and as they observed the developing trends in generation and transmission; and as they projected the future supply and demand for electricity, there emerged a concept—a vision, if you will, which was translated into presumably attainable objectives—which were characterized as "guidelines for growth." That goal of the mid-sixties was to provide greater impetus to the trend toward the integration of the Nation's power systems; to move from isolated or segmented operations and from existing pools of limited scope, to participation in fully coordinated power networks embracing entire regions of the country.

In time, when justified economically, all the regional systems in the Nation would be joined in a single interconnected network. From such coordinated regional and interregional planning, in which all ownership segments could participate and build facilities to meet their combined needs, there would inure vast economies of scale in generation and transmission to stimulate demand and afford the Nation continuously more increments of electric power, at lower costs, to the mutual advantage of both producer and consumer. More and even more electric power at lower costs! This, then, was the vision of the National Power Survey. It provided the goal of this industry in the mid-sixties.

Looking back only the few years since its publication, one is struck by what in retrospect was an inexplicable lack of humility on the part of the architects of the National Power Survey. Certainty must have existed even then in the thinking of the utility industry and its regulators. The questioning of the limitations of technology, its direction, and even its values, which was then being focused on other sectors of our society, apparently had not extended to the electric power industry. And if it was, we must have believed that the utility industry would remain immune from these forces.

How did this happen? How could we all have been so positive—so blindly certain—that the only challenge—the only goal—was the one which we conceived—that of continually reducing costs in order to usher in the era of unlimited power—the era of the gigawatt—the electric energy economy—under what we characterized as "guidelines for growth." I submit that it was engendered by a monstrous sense of intellectual and technological arrogance which ignored not only the limitations of technology but even more importantly, the limitation of the vision of its high priests. The arrogance of our high priests is spread across the pages of our technical journals and in the National Power Survey as an irrevocable indictment of our own myopia. Today we stand convicted by our own testimony.

The arrogance manifested in the National power Survey was, however, to be short lived. For within exactly a single year after its release we were made humble. On November 9, 1965, the system fell apart in one awesome moment and, unfortunately, in the area of the Nation which exercises a disproportionate influence upon public opinion. Such an occurrence in any other area probably would not have led to the events which followed. In New York it struck as a national calamity and every American, as a consequence, was made insecure about the reliability of his power supply. Those of us on the Federal Power Commission at that time were summoned before Congressional committees to give an accounting of our stewardship of the public trust and to defend the then severely questioned articles of faith underlying the Power Survey—the value of regional interconnection and coordination. Although these objectives survived the testing of the legislative crucible, the goal of this industry was significantly altered in the process.

I make no apology for having joined my colleagues in endorsing what became a highly controversial legislative proposal—the FPC sponsored Electric Power Reliability Act of 1968. Its very existence, and the reaction which it generated within the industry, in my opinion, constructively accelerated the evolution of regional and national reliability planning. This proposed legislation served a vital function simply by its introduction. Its enactment, in that or in any one of a variety of its existing forms, would now be a tragic mistake. The goal of this industry was broadened to embrace reliability. It is today being pursued in a meaningful way.

But even as the industry was striving to evolve the institutional framework necessary to cope with the problems of technological reliability and at the same time waging a defensive struggle in the halls of Congress, a new issue began to take shape on the horizon. At first it appeared docile enough to be manageable. You even coined a new term to deal with it. "Beautility" was this industry's response to its critics.

New designs for transmission towers and low silhouette transformers were introduced. Residential distribution facilities went increasingly underground. However, as the issue began to take on form and substance, much like a storm cloud it quickly mushroomed and soon enveloped not only aesthetics but also all aspects of the electric power industry. As a consequence, soon after it was coined, "beautility" was erased from the lexicon of the industry as a far too superficial characterization of its response to the issue.

The newly emergent environmental ethic with which this industry sought to deal constructively in its Report of the Electric Utility Industry Task Force on the Environment suddenly became radicalized. And, because its principal thrust was aimed directly at the heart of the industry—the right to expand—it has transcended all other goals and raised critical questions with respect to the adequacy of electric power to meet the existing and projected levels of demand and with respect to the level and configuration of future demand.

Thus, in the few years since the release of the National Power Survey, the goals of this industry have been radically altered. The emphasis has shifted from an unquestioned commitment to constantly lower costs, first, to greater reliability and quality of service; and now to an adequate power supply without degradation of environmental values. Today, these goals are but different facets of a broader national objective—one which President Nixon in his State of the Union Address characterized as a concern for the quality of life. Surely both a reliable and adequate supply of electric power are just as vital to the achievement of that objective in contemporary society as is the urgent need to halt the destruction of our environment. And to the extent that these concerns are interrelated, all of us today, regulators, consumers, and utility managers alike, must be prepared to accept a posture which would have been unthinkable for all of us only a few years ago.

II

Today, the forces of transition are just as powerful and just as pervasive as those which led to the changing goals of the past decade. They are now at work shaping the goals of this decade. So it is with an awareness of change that an attempt must be made to come to grips with the future. None of us consciously seek the mantle of the doomsday prophet. But neither can we responsibly look to the future with blithe complacency. Already there are numerous signs which manifest a growing apprehension concerning the ability of this industry to meet even its most recent goal of achieving adequate electric power without environmental degradation.

The approach of summer, for example, arouses an uneasy feeling within many of us. It is caused by more than the dread of personal discomfort brought about by thoughts of heat and humidity. It is the result of an awareness that the turn of a page on the calendar may be accompanied by regional power shortages. Already there have been early forebodings of what may, in a few months, develop into the recurring annual drama which has become symptomatic of the electric power industry in some areas of the Nation. The signs are clear to even casual observers of this industry: newspaper advertisements alerting the public to possible power reductions, expressions of concern from many sectors of industry and government, critical manufacturers' strikes, threatened transportation strikes, fuel shortages, an abnormal number of production delays and equipment failures and a new militancy on the part of the public regarding the location of utility facilities.

Incredible as it may seem, there are those who scoff at the idea that the electric power industry could again suffer some agonizing moments. Even more remarkable is the fact that some of your industry leaders maintain that it is "sheer nonsense" to suggest, as many of us have, that there presently exists a power crisis of national significance. Yet, that is precisely what Mr. A. H. Aymond, President of the Edison Electric Institute, recently stated in a speech delivered to the security analysts in New York City. I sincerely wish that I could share his optimism regarding the present state of this industry. Faced, however, with the hard reality of the acute problems besetting electric manufacturing, generation and transmission, and recognizing further that these problems are likely to increase rather than decrease in the immediate future, I would be less than responsible as a regulator of this industry if I continued to permit this comment to go unchallenged. I am obliged to make use of this forum to take issue with Mr. Aymond and to describe the situation confronting the electric industry today as one which constitutes a "national crisis." Minimizing this fact will only make its eventual realization that much more devastatng. Inducing the public to ignore it would be catastrophic.

To those of us willing to acknowledge the existence of the crisis there is raised the question of how it came about. What were the forces that created it, for obviously it did not just "happen". It evolved out of a series of unrelated events—the cumulative effect of which gave shape to its existing form. The underlying factors must be understood if similar situations are to be avoided in the future and if the existing crisis is to be intelligently resolved.

Obviously, one of the most significant factors has been the sudden emergence of an almost religious fervor about the quality of our environment which has provided, within the political dynamics of this industry, a substitute for the old orthodoxy—the public's relentless demand for cheap power. Few issues have so captured the public's imagination. The speed with which it was transformed from a benign environmental ethic into a zealous ecologic faith has been nothing lees than meteoric. Its sudden emergence as a national religion has profound implications to our theologians—and to the electric power industry. The environmental awakening will achieve even greater impetus throughout the Nation tomorrow when, to the accompaniment of teach-ins, marches and demonstrations, hundreds of thousands of converts rivaling the crusades of Billy Graham will make commitments to the new religion of ecology.

The growing national awareness of environmental quality has only now begun to make its presence felt on your industry. Yesterday, you were confronted only by groups of angry citizens. Today, counties and municipalities are expressing their concern by directing your choice of fuels for the generation of electric power. Tomorrow the Department of Justice may be opposing the generation of electric power by waging the battle of Turkey Point in every courtroom to prevent the boiling of plankton in the Nation's waters. The issue is incredibly comprehensive and defies easy resolution. It is crucial both to the reliability and the adequacy of the nation's electric power. It must be faced and it must be resolved.

Of equal importance to an understanding of the existing crisis are the explosive population growth patterns of the Nation and their consequential effect upon the demand for electric power. Volumes have been devoted to studies of population expansion. Page after page of statistics point to an incredible population picture which at times defies comprehension. Some predict that this Nation's population will double by the end of this century. The impact on demand is obvious. Past experience indicates that demand has been doubling every ten years and our latest studies predict an increase of nearly four times by 1990. Contributing to this is the fact that per capita consumption is expected to nearly triple during this period. Of profound importance, however, is the fact that since our population will increase absolutely, a tremendous surge in electric power demand will occur regardless of the rise in per capita utilization.

The commitment by this industry to nuclear power generation also lies at the root of the crisis. Stimulated by government policy, utility planners envisioned nuclear power as the answer to future expansion of their generating capacity and placed an inordinate amount of their eggs in the nuclear basket. And now the chickens have hatched and come home to roost. Although these vast nuclear generating complexes were welcome additions in the fight against air pollution, they created a new problem of thermal pollution which this industry for a while, insisted on characterizing as "thermal enrichment." Economy had also been one of the virtues of this mode of power generation. Now, however, the statistics from recently installed units were knocking earlier cost predictions out of the hat. The cost of skilled labor, quality control and stricter safety measures—all acted to skew investment curves beyond acceptable limits. New units did not become operational on schedule and suddenly the manufacturers were reporting that orders for new nuclear facilities had dropped to the level of the 1950's. The hard facts had to be faced—nuclear power generation was not the great panacea we had envisioned.

But there were more than merely economic factors which led to this crisis. Technology, which had so brilliantly brought forth nuclear generation, was at an impasse in developing the acclaimed salvation for the future power needs of this country—the fast breeder reactor. After the inauspicious record and nearly catastrophic disappointment of the Enrico Fermi facility, the AEC and the industry found that their ambitious endeavor had fallen far short of its projected goals. It would be at least 1985 before the fast breeder, even with a sufficient commitment of funds at the earliest possible date, would have an impact on the Nation's power generation.

Faced with these pessimistic developments in the nuclear field, it has become evident that the need for fossil fuel generation will appreciably increase. Even if nuclear generation should emerge as originally envisioned, fossil fuel generation will nearly double in the next twenty years. To many, especially those who had counted so heavily on nuclear generation, this realization has been slow and difficult. It even caught some segments of the industry unprepared. After all, who wanted to consider the environmental ugly duckling—when the promise of nuclear generation was ultimately to redeem this industry.

The problem posed by the necessity to rely on fossil fuel generation as the backbone of the industry for many years to come is compounded by the fact that low sulfur fossil fuels are simply not presently available in sufficient quantities to clear the air pollution hurdle which now has been imposed upon the industry. Natural gas, the cleanest fossil fuel, accounts for one-quarter of all electric generation by steam plants and for one-sixth of the gas consumed in this country. It appears unlikely, however, that domestic gas supplies will be able to substantially alleviate the problem. While imported LNG and residual fuel oil hold out some promise, neither do their prospects appear sufficient to resolve the problem. Low-sulfur coal is plagued by problems of supply, location and difficulty of extraction. Unfortunately, the deposits and markets do not coincide and one can only wonder about how feasible it is in the long run for the Chicago market to look to Wyoming and Montana for its fuel supply. Add to this the recent sanction of Commonwealth Edison's proposal to import Venezuelan low-sulfur residual oil, and one can begin to appreciate the agony this industry is presently experiencing in its effort to meet both its environmental and its energy service commitments.

Another factor contributing to today's crisis can be traced to the nature and scope of the industry's research and development program. Technology plays a unique role in the electric power industry—one need only glance at this conference program to appreciate this. As engineers, you have devoted your careers to this discipline. But despite the achievements of the past, the result is still far short of the goal. The delegation by this industry of its basic responsibility for research to its equipment manufacturers has proven insufficient. And to the extent to which you have discharged this responsibility yourselves, it has been largely in the form of market-oriented programs geared to a fast return on investment. It has not dealt meaningfully with equally vital concerns illustrated, most notably, by the existing environmental crisis. Moreover, the cash flow objective of your own research and the profitability criteria of your equipment manufacturers' research simply do not coincide completely with the needs of your industry and the public. The solution to such pressing problems as sulfur removal from the fuel or from the stack emissions to make all eastern coal useable, better methods of cooling generating facilities—especially "dry" cooling, and more economic underground transmission—cable insulation, d-c converters and super conductors have not received adequate attention.

The market-oriented philosophy reflected in your research effort has another outcropping in the form of promotional practices and promotional rates. While the industry has waged a campaign for an increasing share of the energy market, the success of these skirmishes has accelerated the already spiraling load forecasts and has created a level of demand which, in some cases, cannot now be met. It is paradoxical that the industry persisted in this objective at the very time there existed warning signs of forced load curtailments, through brownouts, voltage reductions and interruptions of service. In its quest for promoting greater electric use, this industry is now obliged to expend its resources to meet a market demand—which it has itself, in part, created while experiencing difficulties in meeting normal market demand.

Still another outcropping of the market-oriented mentality is reflected in the irrational competition for markets without concern for the superior adaptability of particular energy forms to specific functions. This has contributed to the existing power crisis. The validity of growth for growth's sake is now being questioned by even orthodox thinkers. An objective review of existing competitive marketing policies is now required to determine whether, for example, other energy sources can, in some instances, more rationally serve the space heating market.

III

The existing power crisis and each of the several forces which have created it must be met head on if this industry is to successfully bridge the period of transition which will run as a span across this decade and the decades to come. Because the environmental concern exists as the most pervasive factor in the present situation, I should like to deal with it here by recommending a fundamental step that I believe is essential to any meaningful solution of the crisis.

There is a tendency in all of us to refuse to come to grips with problems and formulate answers which necessitate a change in our thinking, attitudes and objectives. This is particularly evident on both sides with respect to the emotional issues raised by the concern for our environment on the one hand and the continuing growth of our needs on the other. The allegation that every environmentalist seeks to curtail all future growth is obviously an oversimplified rallying cry that has served only to polarize positions and encourage meaningless denunciations. The question facing this industry obviously is not one of either pollution or blackout. Except for the radical fringe, no one seriously advocates turning back the calendar. Anyone with a glimmer of real understanding of the nature of the problem realizes that substantial additional electric generating capacity must be constructed in the decades ahead just to keep pace with the essential and basic needs of our expanding population, irrespective of any increase in per capita utilization. Rational minds will also concede that even more substantial increments of additional electric energy must be produced in the future to successfully wage the entire environmental battle on many other relevant fronts such as meeting the growing requirements of the depressed areas of our Nation, the urgent needs of the inner city, urban and mass transportation and the staggering waste disposal problem.

In the past, all of us have paid the price for the devastation inflicted upon the household of mankind by an industrial society. But it was assessed as a social cost which could be measured only to the extent that the benefits of our natural environment were denied to us. The damage was not reflected in the prices paid by us. Thus, the true cost of goods and services were understated to their competitive advantage. Today, we acknowledge that industry and consumers must bear the cost required to put an end to environmental degradation. This social cost must as a matter of national policy be recognized as a cost of doing business just as the cost of preventive maintenance reflects the price paid by the consumer for safety and reliability.

I take profound issue with those observers of the industry who advocate the rationing of electric power as the answer to this dilemma. I do so because I am convinced that the economic impact of the transformation of the social cost of environmental degradation into the cost of service of the utility industry, channelled by means of a realistic rate design, and the elimination of certain attendant promotional practices, can provide this industry and its regulators with sufficient leverage to moderate and shape effective demand.

Overly emotional reaction to this issue necessitated that more time and effort be expended to create an awareness of the devastating impact on our lives and the urgent need to bring the abuse to an immediate halt. Unfortunately, there has been a tendency to become too preoccupied with the creation of the institutional structure and the forum necessary to consider the environmental issues and not enough attention has been devoted to fundamental solutions. More than enough rhetoric, and gratefully even some constructive dialogue, has been brought to bear upon the institutional questions which have already been identified and are, it appears to me, headed toward a constructive solution. State legislative action is beginning to provide the needed governmental forums for the resolution of the siting problems of both generation and transmission and the evolution by the federal government of minimum standards for thermal and air pollution are being created to determine the operational characteristics of these electric utility facilities. Furthermore, the acceptance of open and long-range planning by this industry and its eventual coordination into comprehensive regional planning will culminate the urgently needed institutional response. This much of the problem will soon be behind us.

Therefore, an urgent need now exists for a commitment to a course of action which focuses on a more fundamental solution. The question of whether we can meet our growing need for electricity without environmental degradation must be answered decisively and definitively by the leaders of this industry by a total commitment to providing for the essential growth consistent with our environmental goal.

In order to gain the confidence and the trust of a concerned public, this commitment, however, must be shared by both government and the industry. It must be total and it must extend beyond merely providing an institutional apparatus for the siting of facilities and establishing operational standards. It is essential that we direct our attention to the more fundamental policy considerations which must set the parameters for the achievement of that goal and which are determinative of whether the goal can, in fact, be achieved at all. For reality requires that we recognize that this objective can only be achieved within the limitations of the available fuels and the existing fuel technology. Our commitment to this goal, therefore, involves nothing less than the dedication of National Energy Policy to its attainment.

IV

Energy resources are critical to the security and economic welfare of our Nation. So it follows that an objective of government policy is to develop and maintain adequate supplies of low-cost energy. In the United States, unlike some other countries, this does not burden the energy industry with centralized production plans and allocation directives. The government instead is called upon to establish an atmosphere conducive to the growth of the energy industry. Government is the economic climatologist charged to forecast only sunny days. But, unlike the weatherman, an error in prognosticating the practical effect of a particular government fuels policy means more than just a foot in a puddle.

The collective impact of the numerous specific national fuels policies can be regarded as our National Energy Policy. This policy has evolved from the interaction of the response of both government and industry to specific energy needs based upon two overriding national objectives: national security and economy or, perhaps more accurately stated, national security or economy because a single fuel policy cannot always accommodate both objectives.

National Energy Policy is wide ranging and includes programs to fund and encourage scientific energy research in order to increase supply, enhance utilization and decrease costs; to control the well head price of natural gas; to limit petroleum imports to encourage development of nuclear generation; to offer tax and other incentives to promote the exploration and development of various fuels; and to encourage the long distance transmission and regional coordination of electricity. It embraces conservation laws to prevent the waste of valued resources. Inter-fuel competition is favored and when the muscle of competition does not flex, government regulation and antitrust policy, which must be regarded as essential parts of National Energy Policy, is no ninety-seven pound weakling.

Since the evolution of our existing National Energy Policy there has emerged and risen to the very highest position on our scale of national priorities a number of specific national environmental goals. Although it may have been too early for us to recognize all of the ramifications, their collective effect must now be regarded as our National Environment Policy. It is, of course, still in the process of evolution. Indeed, bits and pieces of that policy are being forged almost daily in legislative halls throughout the Nation. However we must now recognize the significant impact that the evolving environmental policy and our National Energy Policy have upon one another.

Obviously, National Energy Policy significantly affects what fuels are available to alleviate environmental concerns. On the other hand, clearly discernible now are the profound implications of that evolving National Environment Policy, as it has already been shaped, upon our existing National Energy Policy. For example, environmental goals have not only entered into the decision-making process whether it relates to coal, gas, oil or any other fuel—they have, in many cases, provided the decisive determinant. Indeed, in a constantly increasing proportion in the electric utility industry, these decisions have been wrested from the hands of management, and have been made a matter of government fiat either by restrictions on the quality of fuel or absolute prohibitions on its utilization. And the pressure continues to mount.

Fuels which existing National Energy Policy has ordained to compete are thus removed from the market place by the new national goal. Fuels which, on the other hand, could serve these new goals are effectively foreclosed from the market by existing energy policy. And even when environmental goals have overriden existing energy policy, such as in the importation of Venezuelan oil to a generating plant in Chicago, it has been done in an atmosphere of crisis, as an ad hoc determination, and without the benefit of guidelines sensitive to the implications of the decision.

It is now clear that our National Energy Policy must consciously be directed to the attainment of the emerging national environmental goals. It must be transformed into an instrument of National Environment Policy. The rationale for our National Energy Policy should now therefore be expressly extended beyond considerations of national defense and economy in order to encompass this equally paramount national objective. And, just as a new test of environmental feasibility has now been added to the long-standing prerequisites of engineering and economic feasibility in the construction of utility facilities, so must our national environmental goals now be added to the long-standing objectives of national security and economics in the formulation of National Energy Policy. I believe that this objective can best be achieved by the formulation of a coordinated National Energy-Environment Policy.

What has the recognition of this fact to do with the electric utility industry as it faces a new decade and attempts to contribute to the quality of life? The coordination of our National Energy Policy and its goals with national environmental goals, in the final analysis, and in the most fundamental sense, provides the real hope for this industry if it is to continue to serve the Nation and its growth without degradation of the environment.

The development, articulation and implementation of such a National Energy-Environment Policy provides the only cornerstone of such hope. We can no longer engage in the whole sale elimination of fuels, such as high-sulfur coal, without providing both for short term substitutes and for the technology which will inevitably redeem them again for the market place. We can no longer, for example, prevent the economic transportation of gas in liquid form from Alaska to the West Coast markets where it is urgently needed to provide a short term substitute fuel. But this is precisely what we are doing by administering an energy policy which was designed to achieve other goals.

All aspects of our energy policy must, therefore, be reappraised. This includes tax incentives, oil import restrictions, gas producer regulation, regulatory policies, the Jones Act and a score of other fuels policies which will determine whether we can achieve our goal of growth in the energy industry without environmental degradation. The most immediate need, however, is for a basic reappraisal of our R&D objectives.

National Energy Policy presently includes the expenditure of enormous sums for energy R&D. A recent study by the Energy Policy Staff of the Office of Science and Technology reported that $368 million will be spent in Fiscal Year 1970 on civilian energy research and development through programs supported by federal funds. About 90 percent of the federal R&D expenses are addressed to the problems and opportunities of the electric power industry. The research and development effort for atomic energy received over 84 percent of all the federal funds for energy R&D. It has also received approximately three billion dollars of government expenditures in the past twenty years. Compared with this ambitious federal commitment to atomic energy, the amounts of money which have and are being allocated for the improvement of fossil fuel generation and for other fossil fuel energy research are ridiculously small. It should be made clear that I am not advocating a reduction in the dollar allocation to nuclear energy research. Rather, I am suggesting that more money be appropriated for non-nuclear energy R&D, so that we may strike a balance between the lure of unlimited energy through atomic power and the continued development of our other primary energy resources.

I believe that energy policy must drastically expand non-nuclear energy R&D for two essential reasons:

1. Fossil fuel will continue to be a major source of primary energy for electric power generation. In the Federal Power Commission's updating of the National Power Survey there appears to be ample evidence that even with the optimistic forecasts of nuclear growth in the next two decades there will be a continually expanding demand for fossil fuels for electric power generation. If the electric utilities are permitted to expand at their projected rates of growth, fossil-fueled, steam-electric generating capacity will increase from 261 gigawatts in 1970, to 559 gigawatts in 1990. Correspondingly, the electric power industry's annual demand for fossil fuels will nearly double in the next twenty years. By 1990 we will require coal, gas and oil for electric power generation in quantities equivalent to nearly a billion tons of coal annually, in addition to nuclear fuels equivalent of about 1.1 billion tons of coal. There can be no question that the need for fossil fueled generation will continue well into the twenty-first century.

2. Because of their own unique characteristics, fossil fuels can make invaluable contributions to the quality of life in the decades ahead. I think it is much too early for government energy policy to write off fossil fuels. As long as nuclear energy research is concentrated in a single agency while fossil fuel production, transportation, utilization, conversion, and other research is divided among a dozen agencies, fossil fuels will inevitably be disadvantaged in the competition for the energy R&D dollar unless energy policy responds to this environmental need.

Except for the nuclear power field, most energy R&D programs exist on minimum subsistence budgets reflecting little or no relationship to our new environmental goals. For example, in the electric power industry alone every one percent improvement in fossil fuel utilization efficiency would lead to a saving of ten million tons of coal annually by 1990. Correspondingly, there would be a reduction, however small, in the environmental problems.

Government policy must also stimulate through a variety of means, including tax incentives, an equivalent commitment in the private sector to R&D programs relevant to this goal. The market oriented research of the past by the electric utility industry and its manufacturers must give way to programs which are addressed to the primary challenge of this decade of the 70's. Regulatory policy, both state and federal must also accommodate this goal. Corporate budgets must also be reexamined to reevaluate the relative significance at this time of promotional advertising and the commitment, measured by research dollars, to the achievement of this goal.

How well we respond to the need to limit emissions of air pollutants from fossil fueled plants is to considerable measure a function of our research policies. A technology for the removal of particulate matter from power plant flue gases is already available. This is not the case with oxides of sulfur. Although several technologies currently under investigation hold out promise of removing varying proportions of the sulfur oxides from the flue gases, none have been sufficiently developed to make them generally acceptable on a commercial scale. Keeping in mind that power plants contribute about one-half of the sulfur oxide emissions in this country, it is crucial that research efforts be expedited toward the resolution of this problem in view of the significant role of fossil fuels in the future.

In this sense natural gas is the most desirable power plant fuel. But, it is evident that we could not possibly replace all the uses of coal and oil in this country with natural gas as a preventive measure against air pollution.

The technology is presently available to substantially reduce the sulfur content of residual oil prior to combustion and, as a result, the electric utility demand for this fuel has increased rapidly in the past several years. Domestic production of residual oil, however, is continuing to decline and electric utilities are depending on foreign supplies for an ever-increasing share of their residual oil requirements.

Until recently this demand was largely limited to the East Coast and, to a much lesser extent, the West Coast. But the pressure for using low-sulfur fuels in electric power generation is so great, and the economically available domestic supply of these fuels so limited, that utilities as far inland as Chicago now find it necessary to import low-sulfur-oil from abroad. Who here would have believed five years ago, that 4.5 million barrels of oil will be barged 1000 miles up the Mississippi River to replace coal in Illinois? As a Chicagoan I would have been the first to question the rationality of such a decision only a year ago. I still feel very uneasy about it.

But can we expect a solution from the coal industry? Some relief—yes, but a solution—no—not without stack devices. The United States has large reserves of low-sulfur coal—coal containing about one percent sulfur or slightly less. However, the bulk of these reserves are located in a continuing belt that stretches from North Dakota, west through Wyoming, Utah and Colorado, and down into New Mexico and Arizona. Much of the coal production capacity in the East, however, is in high-sulfur coal. To the extent that low-sulfur coal is found in the East, a major portion of these reserves is dedicated to the steel industry and to export markets where it sells at substantially higher prices.

In time production of low-sulfur coal could be greatly increased. But the use of this fuel, with its one percent sulfur content, will not solve the air pollution problem, but merely keep it from becoming much worse. A major effort to redeem high-sulfur coal for the market must therefore be an essential element of a National Energy-Environment Policy.

A national program should now be instituted to achieve this objective and at the same time, the importation of low-sulfur fuels including oil and LNG must be encouraged to meet our present needs for clean fuel during the interim. It may be necessary to channel the available low sulfur fuels to those markets where sulfur oxide emissions are a critical problem. Substantial efforts must also be brought to bear upon the transportation problems relating to the cost of moving western low sulfur coal and our policy with respect to the shipment of Alaskan oil and LNG so that these fuels can be made available to more markets in the continental United States.

The development of desulfurization programs will require capital investment as will the construction of equipment to provide for delivery and use of low sulfur fuels. The lead time required before facilities become operational and the long life of these installations call for a realistic evaluation of the conditions and future trends in both the power and fuel industries. Mistakes in judgment can be costly. Hence it is necessary to make plans as flexible as possible to be able to take advantage of new technology that is developed earlier than predicted, and to be able to avoid a crisis situation when the hoped for developments are delayed.

While all aspects of our National Energy Policy must now be reevaluated, I believe that the most significant area is that of energy R&D. It is fashionable today to attack technology. The electric utility industry is presently experiencing the pressure of the critics of its technology. But technology is not the evil which it is portrayed. It is our failure to direct it—to channel it into the areas that are critical to contemporary needs—that is the real shortcoming of our existing technology. The success of this industry's effort to continue to meet essential power needs without environmental degradation hinges, in the final analysis, upon the success of its technology and this, in turn, rests in your hands—the engineers and the technicians of this industry who, with a sense of purpose and vision can direct technology, stimulated by a relevant National Energy-Environment Policy, to the achievement of this goal in this new decade.

A REVIEW AND COMPARISON OF SELECTED U.S. ENERGY FORECASTS

(Prepared for the Executive Office of the President, Office of Science and Technology, Energy Policy Staff, by Pacific Northwest Laboratories of Battelle Memorial Institute, December 1969)

FOREWORD

The formulation of energy policy inevitably depends upon expectations regarding energy supply and demand and this dependence is growing. Correct assessment of energy prospects is important for planning future regulatory, tax, environmental protection and other policies. It is perhaps most critical in providing for an efficient allocation of limited government funds for energy research and development where the time from initial commitment to major commercial utilization may be decades. We are therefore interested in the adequacy of existing forecasts for public policy purposes.

This report does not constitute an independent projection of the magnitude of future demand for energy by the Energy Policy Staff of the Office of Science and Technology or by Battelle Northwest. Rather, the report is an attempt to pull together on a comparable basis a number of projections which have been made in recent years.

This study had two main purposes. One was to collect and compare energy projections of a number of energy forecasts. As the text of the report makes clear, there are terminological and conceptual differences between forecasts which cloud comparisons and for which simple adjustment is not always possible. Furthermore, differences in assumptions and data bases introduce additional complications. Nevertheless, comparative tables are valuable in identifying areas of agreement and disagreement between various forecasts and often the reasons for such differences. Such tables also provide a convenient reference.

The second purpose of the report was to assess the methodology used by various forecasters. While sound methodology does not insure a better forecast any more than good form in sport assures a winning team, good form and sound methodology increase the probability of superior performance.

Most of the forecasts studied provided only limited information about their methodology and practically none provided quantitative statements of the actual forecasting relationships. Very few forecasts provided standard errors of estimate or other measures of uncertainty. Some forecasts gave ranges but no information on the probability that future values would be within the range.

THE PAST

In considering the projections in the report, the dynamic nature of the energy economy should be kept in mind. If the future is similar to the past, new energy sources will crowd into the market place before existing sources are depleted. A century ago, fuel wood provided about 75 per cent of the nation's inanimate energy supply. By 1900 fuel wood supplied only 21 per cent; coal was dominant, with 71 per cent of the market. By the late 1930s the fluid fuels (oil and gas) were challenging coal's position and shortly after World War II fluid fuels were supplying more energy than coal.

The post-war period witnessed another shift in market shares within the fluid fuels, with natural gas growing faster than crude oil. In 1968 natural gas production (on a wet gas basis; i.e., including natural gas liquids) supplied 34.7 per cent of the nation's energy. Domestic crude oil production supplied 35.3 per cent. Inclusion of oil import raises oil's share to 40.1 per cent. The higher rate of gas consumption, combined with increased demands for environmental quality control purposes, could result in natural gas becoming the nation's largest energy source within a few years if adequate supplies are available—a matter of considerable uncertainty at present.

Given the dynamic pattern of supply, along with a comparable dynamism on the consumption side (e.g., increasing use of electricity), it is easy to understand the divergent opinions about future market shares shown by various forecasts. It would not be inconsistent with history for uranium (nuclear power) to be the largest single source of energy for the nation by the year 2000, although its present contribution is negligible. However, given large resources of coal and oil shale, and the prospects for converting them to fluid fuels, petroleum's dominance is likely to continue for the remainder of this century. Moreover, a potential challenger to the dominance of nuclear fission in the next century is already on the horizon—namely, nuclear fusion. And in the distant future the possibility of economical solar energy possibly collected in space by satellite stations, cannot be altogether dismissed.

The future as projected by the forecasts

According to the forecasts examined in this report, energy consumption in the year 2000, including non-fuel uses, is expected to be about 170,000 trillion British thermal units if real gross national product grows at about 4 per cent per year. Consumption in 1968 was slightly over 62,000 trillion Btu. The average annual indicated growth rate is about 3.2 per cent.

Although a figure of 170,000 trillion Btu in the year 2000 is certainly reasonable, on the basis of extrapolating current trends, it does not reflect an analysis of new factors which are already emerging, the most important of which is the growing concern for protecting the environment. It is also by no means clear that it adequately reflects possible changes in efficiency of energy conversion and changes in the structure of consumption, especially the larger share going into electric power production.

All of the existing projections that we have analyzed estimate that oil (including natural gas liquids) will continue to be the nation's largest source of energy through the year 2000. Natural gas (dry) is expected to continue to be the second largest source of energy. Of the three projections providing figures for both nuclear power and coal at the end of the century, one estimates that coal will provide slightly more energy than nuclear, another estimates just the opposite, and one foresees a large margin for nuclear.

Hydroelectric power is expected to continue to grow but to be of decreasing relative importance and to supply the smallest amount of any of the commercial energy sources in the year 2000. Nuclear generation is expected to exceed hydroelectric generation some time in the 1975–1980 period.

A consistent rate of growth of energy consumption toward the expected 170,000 trillion (170×10^{15}) Btu figure for the year 2000 would require 3.4 quintillion (3.4×10^{18}) Btu in the 32 years from 1968 to 2000. Converting to more meaningful terms, this is equivalent to the amount of energy in 590 billion barrels of crude oil or 170 billion tons of average grade U.S. coal resources (20 million Btu per ton).

Relative to past consumption, expected consumption in the 32-year period from 1968 to 2000 will be almost three (2.8) times consumption in the prior 32-year period from 1936 to 1968. Providing such quantities of energy will pose a substantial problem for the energy industries and for government policy, since the nation has been consuming its higher grade, more accessible resources first and since even the much smaller energy consumption of the last three decades has already created serious environmental problems.

Questions for the future

Review of the forecasts herein—which formed the basis of the previous discussion—reveals that many relevant questions are not answered or in many cases even addressed. Before it is possible to gain a high degree of confidence in even the range within which future energy consumption is likely to fall, many of these questions must be considered and answered.

On the level of total energy consumption, there has been a definite relationship between total energy consumption and real gross national product in the past. Over the last 50 years the relationship shows that a decreasing amount of energy has been required for each unit of GNP.[1] The increased technical efficiency of energy use has tended to more than offset the more intense use of energy in our economy. However, the trend appears to be changing. In the future it is possible that a constant or even increasing amount of energy per unit of GNP may be required if present policies of encouraging energy use are continued.[2] One reason for the changing trend is that the technical efficiency of new electric power plants and many other energy conversion devices is no longer increasing and may even decrease over the next several decades.[3] This factor, coupled with the increasing share of end uses being supplied by electricity, is at least an important item working in the direction of changing the historical relationship. It is thus possible that most projections have understated future growth in the overall energy consumption if present trends continue.

The forecasts reviewed in this report were prepared before the recent surge of concern about the environment. They contain little information about the effects of environmental quality control on energy consumption even though the production, transportation, and utilization of energy is deeply involved with environmental quality and conservation considerations. It is possible that in the future government policy in regard to environmental quality and conservation matters will lead to a lower level of total energy consumption than would otherwise occur. In fact, if environmental quality control considerations and other factors increase the cost of energy over what would otherwise prevail, that fact alone will to some extent decrease consumption, the extent of the decrease depending, of course, on the magnitude of cost increases and the elasticity of energy demand.

It is even possible to envision Federal policies designed to slow the growth of energy consumption due to adverse environmental effects through rate-making policies and emphasis on increased efficiency.

Widespread use of fuel cells or heat pumps could tend to increase technical efficiency. Similarly, various structural changes in the economy, such as the widespread displacement of private automotive travel by mass transportation, might act in the direction of decreasing energy consumption per unit of GNP.

In the case of individual fuels, most of the forecasts made several convenient but questionable assumptions. A major assumption is that overall and relative prices for energy will be such that price need not be explicitly considered in the forecasts. A second and related assumption is that there will be no limit on the availability of any fuel or energy form. The assumption of unlimited availability at no change in relative prices is of questionable validity for even the next decade, let alone the remainder of the century. It is, of course, very difficult to consider price and resource availability in energy forecasts, but it appears to be increasingly necessary to do so.

In view of the new impact of environmental concerns and differences and uncertainties identified in existing energy forecasts, we are considering undertaking a forecasting effort oriented toward public uses of energy forecasts. Its purpose would be to provide a consistent framework for the more detailed forecasts made by agencies having specific energy responsibilities. (Energy Policy Staff, Office of Science and Technology)

STATEMENT OF ATTRIBUTION AND DISCLAIMER

This report was prepared under a contract with the Office of Science and Technology, Executive Office of the President, by Pacific Northwest Laboratories, a Division of Battelle Memorial Institute. The authors were W. A. Reardon, J. A. Merrill, L. D. Jacobson and W. L. Bathke.

The forecasts to be analyzed were selected by the Office of Science and Technology as a sample of the forecasts available in the public domain. For the most part, better known publicly available forecasts were selected. However, a few less widely known forecasts with characteristics of special interest were included. No attempt was made to judge the validity of the forecasts in making the selection.

Basic responsibility for the numbers in the report, for the text, and particularly for the comments on individual forecast effort, is Battelle Northwest's. The judgments expressed in the report are those of the authors and do not necessarily reflect the views of the Office of Science and Technology or any other department or agency of the United States Government. Any report of this nature will almost certainly contain errors and misinterpretations of individual works, some of which are the result of ambiguity in the individual forecasts and reports reviewed. The original reports are the authoritative source of information on the specific forecasts.

Introduction

A review of a segment of the energy requirements forecasting literature was made by the Systems and Electronics Division of Battelle-Northwest under contract to the Energy Policy Staff, Office of Science and Technology. The objective of this particular study was to examine a group of reports and books for the purpose of comparing the methods employed, the assumptions used and the energy forecast values obtained by the different investigators, hence the report does not readily lend itself to summarization in the usual sense. We have tried to condense the information and present its trends in such a way as to give the reader a useful summary, so that he may be able to select such parts of the contents as he wishes for detailed reading.

The studies reported herein were generated for many different purposes and thus can be expected to differ considerably in approach and detail and somewhat less in results. Examples range from the very detailed and comprehensive 1000 page book (not all concerned with energy) to the 8 page summary of natural gas requirements. The length of a report however is not necessarily an indicator of quality since some of the reports are more in the nature of summaries and much of the detail is omitted.

Several cautions should preface surveys of existing forecasts, since it is virtually impossible to detect all implied assumptions behind the projections. Many projections do not set out separately their underlying assumptions nor do all projections consider the same factors in the construction of their projection. Included in this review was an attention to the following particular items:

1. Source of data used in each analysis.
2. Historical period covered by the data.
3. Methods of analysis used:

a. Projection of total energy which was broken down into end-use and source of supply categories (Subdivision Approach) versus projection of individual end-use requirements which were aggregated to provide a total energy prediction (Building Block Approach).

b. Projection based on historical trends in energy requirements versus projections using intermediate variables such as population growth, growth in GNP, and changing patterns in per capita energy use.

c. Statistical regression analysis, judgment, or combination.

4. Degree of completeness or coverage.
5. Assumptions made.
6. Equivalence of terminology used.

Terminology relationships

For any comparison study, an important early step is an inquiry into the equivalence of the terminology used by the different investigators. Therefore, this possible source of misinterpretation of results is discussed early in this report.

An examination of historical data for the total energy consumption (requirement or demand) in the United States tabulated in the reports included in this study revealed some sizeable differences in the recorded values. Some differences were too large to be explained by variations in data rounding techniques or other minor differences in the handling of the source data. Therefore, it became apparent that variations in definitions for such terms as energy consumption, energy requirement, and energy demand must exist. Examples of some of these variations in definitions are presented below. For these examples, it has been assumed that all fuels have been converted to a common base, BTU's and that stockpiles of fuels remain at a constant level.

The basic relationship for energy fuels for a geographic entity is:

Production:
+ Imports
− Exports
+ Inventory Change
—
= Fuels Disappearance

The energy balance may be made for total energy or for any component as long as consistent units of measurement are used. However, as attention is focused more and more on detail, the definitional problems tend to increase. This overview is of projected values at a fairly aggregative level, and the main definitional problems appear to be in connection with such terms as consumption, demand and requirements.

Part of the terminological difficulty results from a different orientation of the forecasters. Producers of energy materials and resource-oriented forecasters tend to regard production plus imports minus exports as consumption. (Inventory changes are important in short-run forecasts but are normally neglected in long-run forecasts.) Sellers of fuel and customer-oriented forecasters tend

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Footnotes at end of article.

to exclude non-energy uses of fuel (e.g., asphalt for highway use) from energy consumption. Projections of non-energy uses may run as high as 10 percent of total fuel used. Similarly, losses in production or transmission of fuel and energy may be excluded from consumption by various forecasters.

Table I compares the definitions used by a number of forecasts, although there is not always complete consistency within a given forecast as to treatment and terminology, particularly with regard to minor components.

In the CGAEM report, the term "consumption of fuels and waterpower" is used. Their use of the word "consumption" in this context appears to be more in line with a literal interpretation of a concept such as "total fuels disappearance." For the "consumption of fuels and waterpower" usage, it would appear that CGAEM includes all fossil fuel losses and non-energy uses as well as electricity conversion and line losses.

An examination of Table 1 reveals that differing definitions for "consumption" do exist and that "requirement" is not necessarily synonymous with "consumption." In some reports, the word "demand" is used rather loosely, e.g., Pages 5 and 93 of the CGAEM report. Many of the differences in the above definitions would be expected to be quite small when compared with the total amount of fuel actually consumed. For example, coal losses and natural gas transmission losses should be small when expressed as a percentage of total fuel consumed in the United States. However, some of the items are reasonably large and may become considerably larger in the future. For example, conversion losses in electricity production and some of the non-energy uses of the fossil fuels are items in this category.

TABLE 1.—COMPARISON OF TERMINOLOGY[1]

Item	A	B	C	C	D	E	F	F	G	H	I	J
Production	+	+	+	+	+	+	+	+	+	+	+	+
Imports	+	+	+	+	+	+	+	+	+	+	+	+
Exports	−	−	−	−	−	−	−	−	−	−	−	−
Nonconversion losses	−		−									
Nonenergy uses	−				−		−					
										Adjusted for changes in stockpiles.		
	End-use energy requirements.	Consumption of fuels and waterpower.	End-use consumption.	Projected consumption of energy.	Energy consumption.	Energy use (oil equivalent).	Excludes nonfuel use.	Energy demand consumption.	Gross energy consumption.	Energy consumption (calculated disappearance figures).		
	CGAEM	CGAEM	RAF	RAF	EUS	OEUS	EMUS	EMUS	PEC	ERDNP	PCCP	FFF.

[1] Many reports did not provide the detail necessary to determine what items were included and excluded in forecasting of energy consumption.

With these considerations in mind, it is evident that direct comparisons among energy forecasts by various investigators can be misleading. Direct comparisons are strictly valid only for those studies using equivalent definitions. Theoretically, one could "correct" the forecast values by the various investigators to some desirable common definition. However, in most cases this is almost impossible to accomplish since the reports do not present the necessary information, data, and references which would allow such a correction to be made.

General trend and order of magnitude comparisons can be informative even for two studies based on slightly different definitions—especially so if the definition differences are kept in mind while making the comparison.

Energy items forecast

Energy forecasts vary greatly in the amount of detail on prospective energy use and supply which they provide. While a more detailed forecast is not necessarily more accurate, it is generally more useful. For example, a forecast which provides detail on expected production and consumption by fuel types is of more value to coal producers than a total energy projection from which coal's share must be estimated.

A detailed projection indicates how the forecaster expects conflicting trends within the components of the total to be resolved. It also provides a basis for critical review by other energy experts and, therefore, a mechanism for judging the reasonableness of the assumptions and projections. In general, it is also somewhat easier to determine, by comparison of the detailed projections with accumulating actual data, when a detailed forecast is going astray.

Table 2 indicates the main items of detail covered by the projections reviewed here.

TABLE 2.—ENERGY ITEMS FORECAST

Forecast	Total energy	Primary sources						Secondary Sources			Energy consumption					Regional detail	Other energy items
		Coal	Petroleum liquid	Natural gas	Shale oil	Uranium	Hydro	Synthetic	Electrical	Nuclear	Residential	Commercail	Industrial	Transportation	Electric utility		
CGAEM	X	X	X	X			X		X	X	X	X	X	X		X	X
EMUS	X	X	X	X		X	X			X	X	X	X	X	X		
ERDNP[1]	X	X	X	X	X	X		X	X	X							X
ESDNR									X	X							
EUS	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
FFF	X	X	X	X	X		X			X							X
FGNP						X			X	X						X	
FNGR				X							X	X	X	(2)			
GUPID											X	X	X[2]				
NFES	X	X	X	X			X			X					X		
NPS						X			X	X	X	X	X	X	X	X	X
OEUS	X	X	X	X			X			X	X	X	X	X	X	X	
PCCP	X	X	X	X		X	X		X	X	X	X	X	X			
PEC	X										X	X	X	X	X		
RAF	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X
USP	X		X	X													

[1] Presents consensus of 10 agencies of the Federal Government.

[2] Other.

[3] Entitled "Industrial and Other."

Assumptions

Energy consumption depends to a large extent upon the assumptions and conditions under which the projections are made. Authors of energy projections must either explicitly or implicitly envision the future performance of key aspects of the energy environment.

BNW found in this review that a basic set of rather broad assumptions could be assembled. In most cases, the exact degree of influence any one assumption had upon the resulting forecast is unknown. Also, it is not known if all stated assumptions were actually utilized in all instances.

The assumption made in the forecasts reviewed generally fell within seven categories.

1. Gross national product—the assumptions usually refer to a rate of growth, generally about 4 percent per year.

2. Population which usually referred to a Bureau of Census projection, (Series II–B) generally about 1.6 percent per year.

3. Pricing of fuels—these assumptions usually refer to the fuel price in relation to other fuels or to the general price level and it was generally assumed that the relative prices would remain at competitive levels.

4. Availability of fuels—the usual assump-

tion is that there will be no limitation in availability.

5. Assumptions regarding changes in technology that permit displacement of fossil fuels generally foresee a substantial increase in nuclear generating capacity.

6. Business cycle swings are assumed to be minor.

7. National defense assmptions were generally that of ("cold war" with no significant change in defense spending levels. (All preceed the Vietnam Escalation.)

In Table 3 we have listed the reports and their assumptions. As can be seen from the table, not all the forecasts reviewed gave consideration to all of the seven general categories of assumptions.

TABLE 3. ENERGY FORECAST ASSUMPTIONS

	Annual GNP growth rate (percent)	Population	Price of fuels	Availability of fuels	Technology
CGAEM	5 percent (1965–85)	250,000,000 by 1985	Continue trends evolved since 1960.	Adequate	No extraordinary change.
EUS	Continue 1960–65	(3)	(3)	(3)	Introduction of electric cars.
NF&ES	3½–4 percent	250,000,000 by 1980	Correspond to general price increase.	No restrictions	Nothing revolutionary.
RAF[2]	Low, 3.0 percent; medium, 3.8 percent; high, 4.8 percent.	1.55 percent annual growth (base year 1960, 180×10^6).	(3)	(3)	No major changes.
PEC	(4)	1.6 percent annual growth	Relative to other fuels	Adequate	Evolutionary.
PCCP	Same as RAF, with some adjustment.				⅓ electric generation nuclear by 1980 and ½ from 1980 to 2000.
OEUS	Not given				No electric autos by 1980.
USP	(4)	1.3 percent annual growth	Relative to other fuels	(3)	Gradual evolutionary.
EMUS	2.5 to 5.5 percent annual growth.	1.0 to 2.2 percent annual growth.	Stability of relative costs	Adequate/some restriction	Evolutionary.
FNGR	(1)	(1)	Same relationship as now	Adequate	(1).
GUPIP	(4)	(3)	Competitive price relationship	do	Major changes not accounted for.
FGNP	(4)	(3)	(3)	(3)	(3).
NPS	(4)	250,000,000 by 1980	(4)	(4)	(4).

[1] Mentions these categories were considered but does not indicate what the assumption was.

[2] This work is heavily dependent upon the book "Energy in the American Economy, 1850-1975," by Schurr, Netchert, etc.

[3] No assumption stated for this category.

[4] Mention was made that other pertinent data was considered.

Characterization of methods

Forecasting methods may be characterized in many different terms. We believe there is no all encompassing term that can be utilized. Normally, a forecast will employ several techniques to create the forecast. This may be done to provide a system of checks and balances or it may be that the various components of the forecast do not lend themselves to application of identical methods.

We have chosen three basic categories by which to characterize the methods employed by the authors of the forecasts reviewed. No attempt has been made to read into the text of the forecasts reviewed any implications of method. In most cases, the more comprehensive forecasts stated the methods that were employed.

The first category is *derivation*. By this, we mean whether the forecast was derived by some means of statistical fitting of historical trends or whether it appears to rely heavily on judgment. The two techniques are not entirely exclusive. All statistical work involves some judgment. The general criteria for classification here is whether the forecast clearly indicates that statistical methods were important in the derivation or not. Our review indicates that a majority of the forecasts were derived using statistical fits to historical trends.

The forecast *scope* is the second category of characterization. The scope may be either complete (forecast for all major energy sources) or incomplete (not all major energy sources forecasted). The scope may also be defined relative to consuming sectors but we have not done so here.

The third category pertains to the forecast *construction*. If forecasts of each major energy source or use was made, and added together for the total energy projection, the forecast would be classified as utilizing the building block approach. Where the total energy forecast constrains the various components the forecast is classified as having used a subdivision approach.

By using the foregoing criteria, Table 4 was compiled to present in tabular form the classification of the forecasts by the methods employed.

TABLE 4.—CLASSIFICATION OF FORECAST METHODOLOGY

Source document	Derivation	Scope	Construction
CGAEM	Extension of present trends.	Complete	Building block.
EUS	Extension of trends and judgment.	do	Do.
N.F. & E.S	Judgment	do	Do.
RAF	Extension of trends and judgment.	do	Building block—energy use subdivision sources.
PEC	Projections of least square trends.	do	Subdivision.
OEUS	Extension of trends and judgment.	do	Apparently subdivision.
USP	Extension of present trends.	Incomplete domestic	(1)
FNGR	Judgment	Natural gas only	(1)
GUPID	Extrapolation of past trends.	do	Building block.
FGNP	Statistical fit	Incomplete	(1)
NPS	Extension of present trends.	Electric only	Building block.
PCCP	Extension of trends and judgment.	Complete	Building block—energy use subdivision sources.
EMUS	Projection by least square treads and judgment.	do	Subdivision.

[1] Means not available.

Total energy

The projections of the future use of energy, when examined in relation to one another, indicate a range within which the actual usage is likely to occur and a magnitude of the change in the demand for energy. Because we do not know the degree of influence that the various assumptions had upon the derivation of each forecast, a completely detailed comparison is not feasible.

There is confusion in the literature which results from the lack of a clear definition of fuels requirement and energy requirement. Most reports are internally consistent in usage but comparison with others is difficult without a very detailed examination of each. Perhaps it would be more satisfying if a standard terminology were adopted; production could be characterized by *fuels requirement* for all uses and consumption characterized by *energy requirement* for all fuels. This would be consistent with the thought that fuels are not energy until burned and it is energy which is used. It would also be consistent with some of the common uses as is seen in some of the forecasts. Table 5 incorporates this usage.

Of the forecasts considered, projections of total fuel requirements (converted to energy units) were found to range from 74,542 trillion BTU to 97,000 trillion BTU for the year 1980. Table 5 presents the forecasts of total fuel requirements. Some forecasts stated the average annual growth rate of total energy and in most cases it was approximately 3.2 percent annual growth rate. The publication entitled "United States Petroleum Through 1980" observed that the rate of increase in energy consumption tended to be less than that of gross national product. Further, that since 1940 the growth of energy use has been slightly more than 80 percent of the annual growth rate of GNP. They assumed an annual growth of 4 percent for GNP and an energy annual growth of approximately 80 percent of GNP or in other words, 3.3 percent per year for total energy use.

Table 6 is a representation of the derived growth rates as deducted from the values in

Table 5. Since the base years cover a wide range and in some cases are a range of years whose trend is being extended the left side limit of the arrow should be interpreted as extending to the base year given in Table 5.

TABLE 5.—FORECASTS OF TOTAL ENERGY REQUIREMENTS

[Trillions of B.t.u.'s]

Source document	Date of publication	Base years	Base value	1970	1975	1980	1985	2000
CGAEM [1]	1968	1947–65	30,838 52,350	64,444	79,611	97,825	119,597	
EUS [2]	September 1967	1960–65	41,453 50,314	60,827	79,944	93,374	118,126	
N.F. & E.S.	September 1962	1961	44,064			[3] 82,000		
RAF	do	1960	45,250	60,190		79,200		135,200
PEC	December 1968	1947–62	33,168 47,897			85,934		
ER	December 1962	1907–60	14,600 44,900			[4] 61,000		
OEUS	October 1968	1950–65				[5] 97,000		
USP	July 1968	1965	54,000			88,100		
EMUS	do	1947–65	33,168 53,791	64,276	75,605	88,075 [2] 83,900		168,600 [2] 158,951
PCCP [3]	May 1968	1948–65	54,000			91,000		155,000
FFF	October 1960	1953	41,000		73,000	86,200		170,000
TCUSEC [6]	1968	1960	43,200			90,300 (99,700)		174,000 (213,000)

[1] Hydro accounted for at kilowatt-hour energy equivalent.
[2] Excludes nonfuel uses.
[3] Consensus of 11 forecasts.
[4] Minimum.
[5] Converting their 17,000,000,000 barrels of oil equivalent to B.t.u., 5,800,000 B.t.u. per barrel
[6] GNP growth rate at 3.5 percent per year and (4 percent per year).

TABLE 6.—FORECASTS OF TOTAL ENERGY ANNUAL GROWTH RATES

	To base year(s)	1970–75	1975–80	1980–85	1985–90	1990–2000
CGAEM			.037			
EUS		.042	.044	.047		
RAF		.027		.025		
EMUS					.032	
PCCP					.031	
FFF		.034			.035	
PEC		.032				
OEUS		.038				
ER				.0204		
USP		.031			(Petroleum onlly)	
		.029			(Natural gas only)	
N.F. & E.S.		.032				

Note: Growth rates generally indicate the compound annual rate of growth from the average value for 1 period to the average of another period.

Energy sources

In addition to total fuel forecasts there are many report forecasts for individual fuels. These are summarized in Tables 7–11. The tables include also the fractional use of each fuel as given by the forecast or deduced from the numbers given in the reports. It is apparent also from the sparcity of entries in some of the tables that not all forecasts were given in the detail required to complete the tables. Unless otherwise stated the mineral fuels requirements include nonfuel uses and losses.

Coal

The use of coal as an energy source is expected to decline by all forecasts reveiwed. Coal, in general, will show an ever decreasing annual rate of growth. The reason advanced most often is that of consumer preference, transportation costs and changes in technology. Natural gas, for example, is much cleaner and more convenient than coal when used for home heating. Increases in industrial and electrical utility cosumption are not enough to offset the declines in the remaining use categories. Sartorius & Company in their publication "Energy in the United States 1960–1985" predict that the annual rate of increase in coal consumption will decline from 3.0 percent annually in the 5-year period 1965–1970 to below 1.0 percent annually in 1980 to 1985.

Table 7 presents the forecasted coal requirements for the United States. Amounts are listed only if forecast in the source document.

Petroleum

Those forecasts that include petroleum forecasts predict that consumption of petroleum for fuel will continue to increase, but the rate of increase will slow to approximately 2 percent per year by mid 1980's.

Texas Eastern Transmission Corporation in its document entitled "Competition and Growth in American Energy Markets 1947–1985" (CGAEM) states that non-energy use of petroleum was 84.6 percent of total non-energy use of fuels and would increase to 94.1 percent in 1985, although the non-energy use of petroleum amounts to approximately 10 percent of total petroleum usage.

TABLE 7.—FORECASTS OF U.S. COAL FOR ENERGY REQUIREMENTS—WITH PERCENT OF TOTAL

[Trillions of B.t.u.'s]

Source	1970	1975	1980	1985	2000
N.F. & E.S.			21,000 (25.6)		
PEC			16,342 (19.1)		
EUS [1]	14,214 (23.4)	15,013 (20.0)	16,024 (17.1)	16,703 (14.1)	
CGEAM	13,945 (21.6)	16,638 (20.8)	19,880 (20.3)	23,121 (19.3)	
FFF			[2] 25,000 (29.7)		[2] 62,000 (36.5)
RAF	13,030 (21.6)		15,770 (19.9)		17,960 (13.3)
PCCP			18,400 (20.7)		27,200 (18.0)
EMUS	14,251	16,865	[3] 19,298 (21.8)		22,400 (13.3)
Do			[4] 17,685 (20.1)		

[1] Excludes nonfuel uses.
[2] Includes nuclear energy.
[3] Based on 70,000 megawatts of nuclear power in 1980.
[4] Based on 110,000 megawatts of nuclear power in 1980.

TABLE 8.—FORECASTS OF U.S. PETROLEUM AND NGL REQUIREMENTS—WITH PERCENT OF TOTAL

[Trillions of B.t.u.'s]

Source	1970	1975	1980	1985	2000
CGAEM	28,127 (43.6)	33,764 (42.4)	40,174 (41.1)	47,625 (39.8)	
EUS [1]	24,275 (39.9)	27,069 (36.1)	29,943 (32.1)	32,762 (27.7)	
N.F. & E.S.			33,000 (40.2)		
RAF	25,140 (41.8)		32,910 (41.6)		61,670 (45.6)
PEC			36,042 (41.9)		
OEUS			[2] 39,927 (41.2)		
USP			36,000 (40.9)		
FFF			38,000 (44.1)		71,000 (41.8)
PCCP [2, 3]			30,300 (34.7)		52,800 (35.0)
EMUS	27,275 (42.4)	31,875 (42.2)	35,578 (40.8)		57,600 (34.2)

[1] Specifically excludes nonenergy fuel use.
[2] Converting the forecasted barrels of oil to B.t.u.'s at 5,800,000 B.t.u.'s per barrel.
[3] Medium projection, includes agriculture, asphalt and road oil, liquid refinery gas, miscellaneous uses and exports.

Natural Gas

The use of natural gas as an energy source is expected to grow, but the overall rate of increase is expected to decline.

The changing nature of projections is exhibited in "Future Natural Gas Requirements of the United States" (FNGR) Vol. 1 and 2. Volume 1 was published in December 1964 and projected the natural gas requirement for 1970 as 18.4 trillion cubic feet while Volume 2, published 2½ years later, forecasts 21.5 trillion cubic feet for 1970. In 2½ years the gas industry had increased their projection by over 16 percent. This variance is even more distinct when comparing forecasts by different authors. For example, the "Report of the National Fuels & Energy Study Group" (NF&ES) forecasts 22,770 trillion BTU for 1980 which is only slightly more than the 22,252 trillion BTU forecasted for 1970 in Volume 2 of FNGR.

As stated before, the forecasts indicate a range within which actual usage is likely to occur. (Table 9)

Nuclear Energy

The extent that nuclear energy will penetrate the electricity generation market is apparently very much in doubt. Table 10 presents the forecasts from nine different sources. In 1980, the forecasts are from a low of 2,000 trillion BTU equivalent to a high of 13,330 trillion BTU equivalent. In general, the forecasts made in the early 1960's are the lower forecasts when compared to forecasts made around 1966 to 1968. (Table 10)

"Energy in the United States" (EUS) published in September 1967 indicates that nuclear energy in 1985 will be 21.9 percent of the total energy requirements while "Competition and Growth in American Energy Markets" (CGAEM) published in 1968 forecasts that nuclear energy in 1985 will furnish 7.4 percent of total energy requirements. There is wide variance even among relatively recent projections. This variance probably results from the small amount of past history and the fact that nuclear energy for peaceful uses is relatively new. The "growing pains" of industry were not well understood. The intrusion of competition of nuclear plants has stimulated more economical fossil fuel systems. Bottlenecks have developed which delayed some nuclear plants and in some cases caused buyers to go to fossil plants for earlier delivery.

TABLE 9.—FORECASTS OF U.S. NATURAL GAS REQUIREMENTS—WITH PERCENT OF TOTAL

[Trillions of B.t.u.'s]

Source	1970	1975	1980	1985	2000
CGAEM	20,883 (32.4)	26,123 (32.8)	31,894 (32.6)	38,711 (32.4)	
EUS [1]	20,834 (34.3)	26,054 (34.8)	33,030 (35.4)	41,515 (35.1)	
N.F. & E.S.			[2] 22,770 (27.8)		
RAF	19,200 (31.8)		24,150 (30.5)		33,810 (25.0)
PEC			25,516 (29.7)		
OEUS			[3] 24,345 (25.1)		
GUPIP [4]	16,111	21,139	27,663	35,599	
FNGR [5]	22,252	26,392	29,601	33,120	
USP			[6] 25,456 (28.9)		
FFF			20,000 (23.2)		34,000 (20.0)
PCCP			28,000 (31.5)		43,600 (28.9)
EMUS	19,374 (30.1)	22,360 (29.6)	25,455 (28.9)		41,698 (24.7)

[1] Specifically excludes nonenergy use of fuels.
[2] 22,000 billion ft.^{3} converted to B.t.u.'s at 1,035 B.t.u.'s per ft.^{3}
[3] Forecast in barrels of oil equivalent converted to B.t.u.'s at 5,800,000 per barrel.
[4] Projections of sales not requirements.
[5] Forecast numbers converted to B.t.u.'s at 1,035 B.t.u.'s per ft.^{3} of natural gas.
[6] Includes 660 billion ft.^{3} imports. Total 24,595 billion ft.^{3} converted to B.t.u.'s at 1,035 B.t.u.'s per ft.^{3}

TABLE 10.—FORECASTS OF U.S. NUCLEAR ENERGY REQUIREMENTS—WITH PERCENT OF TOTAL

[Trillions of B.t.u.'s]

Source	Date of publication	1970	1975	1980	1985	2000
EUS [1]	September 1967	737 (1.2)	5,964 (8.0)	13,300 (14.3)	25,913 (21.9)	
RAF	September 1962	360 (0.6)		3,700 (4.7)		19,000 (14.1)
EMUS	July 1968	874 (1.4)	1,803 (2.4)	[2] 4,076 (4.6)		43,526 (25.8)
Do				[3] 5,681 (6.4)		
N.F. & E.S.	September 1962			2,000 (2.4)		
USP [4]	July 1968			7,560 (8.6)		
FGNP [5]	December 1967	640	4,010	10,000		
PEC	December 1968			4,361 (5.1)		
CGAEM	1968	728 (1.1)	2,143 (2.7)	4,757 (4.9)	8,809 (7.4)	
NPS [6]	October 1964			4,810		
PCCP	May 1968			8,323 (9.4)		24,044 (15.9)
CNP [7]	1962	393		2,620		33,012
	1967			6,500		33,012

[1] 13.6, 80.6, 184.9, and 378.9 gigawatts installed in 1970, 1975, 1980 and 1985 respectively.
[2] Based on 70,000 megawatts of nuclear generating capacity in 1980.
[3] Based on 110,000 megawatts of nuclear generating capacity in 1980.
[4] 110 gigawatts installed at 80-percent load and 10,200 B.t.u's per kw.-hr.
[5] 9.8, 61.2, and 145.5 gigawatts installed in 1970, 1975, 1980 respectively; 80-percent load with 10,700 B.t.u.'s per kw.-hr. in 1970 and 1975; 80-precent load with 10,200 B.t.u.'s per kw.-hr. in 1980. Rounded to nearest 10.
[6] 70 gigawatts forecast. Converted to B.t.u.'s—80-percent load with 10,200 B.t.u's per kw.-hr.
[7] Target nuclear power production.

HYDROPOWER

Hydro electricity may continue to play a dominating role in certain regions but is bound to become a factor of decreasing significance due to the lack of availability of suitable sites.

There seems to be a consensus that hydropower will continue to share in the total energy consumed at its present share of 1.2 to 1.1 percent when measured at 3,412 BTU per kW hour. If hydropower is computed in terms of the amount of energy which steam-electric stations would require to generate the same number of kilowatts, these percentages would be about three times as large.

It is worthwhile to comment here on the two ways that hydropower is handled. In Table 11 as in most (but not all) forecasts the hydropower is represented by its thermal station equivalent, e.g., the actual energy generated is converted to BTU at some assumed plant heat rate. The actual energy consumed is then approximately one-third the number in the tables. While there may be some virtue to this representation it is not consistent with reality and its virtue does not outweigh the confusion which results from its use. The usage is continued here only because the majority of the reports carried it that way. Most reports actually forecast electricity demand in kWhr's and properly made the conversion to an equivalent thermal plant but the hydropower fraction was similarly treated. Since hydropower is a small fraction of the total requirements the problem is largely academic and is not likely to expand in the near future.

Uses by consuming sector

The industrial sector represents the largest end use of energy in the United States. Most reports expect that industrial usage of energy will continue to be the dominant consuming sector, but will gradually be replaced by the electric utility sector by 1980 to 1985. "Energy in the United States 1960–1985" (EUS) discusses the reasons for this shift in the acceleration of the growth rate of electrical demand between 1970 and 1985. Approximately one-third of the energy consumed in power plants actually reaches the ultimate electrical user. This magnifies the fuel requirement by approximately three times.

TABLE 11.—FORECASTS OF U.S. HYDROPOWER REQUIREMENTS—WITH PERCENT OF TOTAL

[Trillions of B.t.u.'s]

Source	1970	1975	1980	1985	2000
EUS	2,400 (3.9)	2,550 (3.4)	3,000 (3.2)	3,370 (2.9)	
CGAEM[1]	2,270 (3.5)	2,690 (3.4)	3,060 (3.1)	3,490 (2.9)	
RAF	2,520 (4.2)		2,640 (3.33)		2,820 (2.1)
EMUS	2,193 (3.4)	2,422 (3.2)	3,027 (3.4)		5,056 (3.0)
N.F. & E.S			2,000 (2.4)		
PEC			2,674 (3.1)		
OEUS			3,895 (4.0)		
FFF			2,580 (3.0)		2,550 (1.5)

[1] B.t.u.'s per kw. equals hr. rate: 1960 equals 11,010; 1970 equals 10,175; 1980 equals 9,320; 1990 equals 8,565; 2000 equals 7,860; includes hydro. See RAF p. 855.

In forming the tables "Uses by Consuming Sector" a problem arises in identification of the components of the consuming sectors, particularly the industrial sector. In some reports the composition is given in general terms such as "mills, mines and factories" and in others it is not specified. The electric utilities are specifically excluded in some forecasts and are treated separately in most. The industrial sector therefore generally includes the activities of gas utilities but excludes the electric utilities. The usage again reflects the differing purposes of the various forecasts. Perhaps some standard of usage should be developed and promoted.

Industrial use growth rates are generally expected to increase slightly. The rate will increase approximately 0.4 percent to an annual growth rate of about 3.8 to 3.9 percent in 1985.

Table 12 gives the details of the Industrial Sectors projected demands.

Tables 13 and 14 give the details for the Household and Commercial and Transportation Sectors. While the Household and Commercial usage was in some projections given separately, it was not always, and the values in Table 13 represent either a combined projection or the sum of two separate projections.

Table 15 gives the projections for the electric utility sector. All values include losses and in some cases represent an arbitrary conversion of kilowatt-hours to British thermal units (BTU's at 33 percent efficiency. Some "ironing out" of differences in projections is achieved when losses are added to projected consumption (at an assumed loss rate of 10 percent; see Patterns of Energy Consumption in U.S., PEC) in order to achieve a uniform set for comparison. Some quite sizeable differences still remain however, but these very likely stem from more basic differences in assumptions and data.

Specific energy relationship

Not all of the projections were directed to the same end and they did not use the same independent variables. Some of the specific variables, however, could be extracted from the data given in the reports. These are collected in the following five tables (Table 16, 17, 18, 19, and 20). No attempt to distinguish between those reports which used the variables as primary variables and those for which they were incidental have been made.

TABLE 12.—FORECASTS OF U.S. INDUSTRIAL ENERGY REQUIREMENT

[Trillions of B.t.u.'s]

Source	1970	1975	1980	1985	2000
EUS[1]	22,093	26,303	31,576	38,016	
RAF	21,810		29,100		55,620
OEUS[2]			30,000		
EMUS	20,370	22,446	24,633		32,594
PEC			22,231		
CGAEM	21,649	26,216	31,591	37,954	

Excludes nonenergy uses of fuels.

[2] Includes commercial usage.

TABLE 13.—FORECASTS OF U.S. HOUSEHOLD AND COMMERCIAL ENERGY REQUIREMENTS

[Trillions of b.t.u.'s]

Source	1970	1975	1980	1985	2000
EMUS	13,837	15,451	17,265		21,066
CGAEM	14,246	17,224	20,983	25,701	
EUS	14,737	17,559	21,269	26,028	
RAF	16,430		21,110		27,600
OEUS[1]			11,000		
PEC			17,979		

[1] Excludes commercial use of energy.

TABLE 14.—FORECASTS OF U.S. TRANSPORTATION ENERGY REQUIREMENTS

[Trillions of B.t.u.'s]

Source	1970	1975	1980	1985	2000
EMUS	15,548	18,733	21,481		42,749
CGAEM	15,501	18,376	21,968	25,836	
EUS	14,303	16,935	20,002	23,662	
RAF	12.960		18,530		37,190
OEUS			24,000		
PEC			21,000		

TABLE 15.—FORECASTS OF U.S. ELECTRIC UTILITIES FUEL REQUIREMENTS

[Trillions of B.t.u.'s]

	1970	1975	1980	1985	1990	2000
EMS	14,547	19,011	24,258			72,291
CGAEM	13,473	18,198	24,024	31,251		
NPS	15,190		27,566			
EUS	14,207	20,590	29,890	44,253		
RAF	13,060		19,380			35,040
OEUS			31,000			
PEC			25,489			

TABLE 16.—PER CAPITA GROSS NATIONAL PRODUCT

[Constant 1958 dollars]

[Utility electric power generation [1] in billions of kilowatt hours]

	1970	1975	1980	1985	1990	2000
NPS	1,484	2,024	2,693			
RAF	1,287		2,084		3,044	4,467
N.F. & E.S.			2,700			
CNP			2,700			
CGAEM	1,448	1,995	2,581	3,363		
PEC			2,739			
EUS			3,086			
EMUS			2,739			
PCCP			2,641			5,874

[1] Does not include industrial self-generation. NPS estimated this at 127 in 1980 for total generation of 2,820.

	1960	1965	1970	1975	1980	1985	2000
CGAEM [1]	2,708	3,168	3,917	4,682	5,611	6,553	
GUPIP		3,307	3,673	4,138	4,630	5,144	
PCCP		3,119			5,000		8,457
RAF [2]	2,705		3,468		4,183		6,424
TCUSEC [3]	2,433				3,532		5,227
	(2,253)				(3,270)		(4,840)

[1] Adjusted to 1958 dollars.
[2] Median projection adjusted to 1958 dollars.
[3] Adjusted to 1958 dollars and (as given in 1954 dollars); GNP growth at 3.5 percent per annum.

TABLE 17.—PER CAPITA ENERGY USE

[Millions of B.t.u.'s]

	1960	1965	1970	1975	1980	1985	2000
CGAEM		220	251	284	320	357	
EUS [1]		230	260	295	337	386	
FFF			291		332		439
PCCP			288		336		474

	1960	1965	1970	1975	1980	1985	2000
PEC		278			358		499
TCUSEC [2]	268				366		524
					(403)		(642)

[1] 5-year averages, 1960-65, 1965-70, etc.

[2] GNP growth at 3.5 percent per annum and (4 percent per annum).

TABLE 18.—ENERGY PER UNIT GROSS NATIONAL PRODUCT [1]

[Thousands of B.t.u.'s per dollar and kilowatt-hours per dollar]

	1965	1970	1975	1980	1985	2000
CGAEM	85.9 1.71	80.8 1.79	78.5 1.91	75.1 1.96	73.0 2.04	
PEC	87.6 1.72			78.5 2.44		68.5 3.67

	1965	1970	1975	1980	1985	2000
USP	87.4	85.3	82.4	80.1		
PCCP [2]	87.5 1.88			77.3 2.36		58.8 2.34
RAF [2]		83.4 1.94		77.2 2.17		63.5 2.21

[1] In 1958 constant dollars. Electricity figures are for generation and thus include losses.

[2] Includes industrial self-generation of electricity.

TABLE 19.—PER CAPITA ELECTRICITY USAGE [1]

[Kilowatt-hours]

	1965	1970	1975	1980	1985	2000
CGAEM	5,440	7,070	8,985	11,080	13,430	
PCCP [2]	5,900			11,800		19,800

	1965	1970	1975	1980	1985	2000
PEC	5,440			11,130		26,700
RAF [2]		6,730		9,100		14,230

[1] Electricity is electricity generated; thus it includes losses.
[2] Includes industrial self-generation.

TABLE 20.—ENERGY PER UNIT OF MANUFACTURING

[Thousands of B.t.u.'s per dollar]

	1965	1980	2000
PCCP	112	74.4	69.9

The specific variables summarized in this section include: per capita energy use, per capita GNP, energy use per unit GNP, electricity used per unit GNP, and per capita electricity.

In only one case is it possible to compute from the data the energy per unit of industrial output. That projection is presented separately in Table 20. The numbers are derived from the data by using the projected manufacturing index, the base dollar value of manufacturing and the projected energy use.

The methods used in the projections have been discussed previously and the differences noted in the definitions will account for some of the differences in the specific variables. An important difference in the forecasts involving electricity is the inclusion of industrial self generation in some forecasts and not in others.

DISCUSSION OF INDIVIDUAL FORECASTS: REPORT OF THE NATIONAL FUELS AND ENERGY STUDY GROUP ON AN ASSESSMENT OF AVAILABLE INFORMATION ON ENERGY IN THE UNITED STATES, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. SENATE, SEPTEMBER, 1962

General

Purpose of study was to compile and assess an existing body of information.

The nation's resource base, in terms of fuel, is adequate to meet projected requirements to 1980. *Implicit* is an assumption about the ability of continued technological progress to hold costs within limits.

Consumption of fossil fuels is a function of 1. End-use energy needs, 2. form in which needs are supplied, 3. fuel consumed for non-energy purposes.

Method

Analyze needs and then measure them against the supply of energy available.

Assumptions

"One's assumptions as to the future must be couched in terms of probability."

"*We have to be careful* in comparing because many forecasts do not set out separately their underlying assumptions and the weight given certain assumptions is not known and the same assumptions are not always considered. *However*, we can make some broad statements."

This forecast used:

1. GNP—3½ to 4 percent annual growth constant dollars 1960–1980.
2. Population—250 million by 1980.
3. Defense—"Cold War".
4. Minor cyclical business swings, but with no major depression or inflation.
5. No restriction on availability of fuels.
6. Technology—slow advances in efficiency of energy use. No revolutionary advances that would displace fuels.
7. Public policy—no basic change.
8. Price—costs of producing fuels and price at which fuels will be sold will rise in rough correspondence to the overall price level.
9. General deviations from preceding 8 assumptions may very well balance out in their net effect.

Conclusions

Of 11 reports 6 have a close range around 82,000 trillion BTU in year 1980. Three have a common area of between 84,000 and 88,000 trillion BTU. *This report* projects *82,000 trillion* in 1980.

Electricity—5 of 7 forecasts have a common area of agreement around 2,700 billion Kwh—about 3½ times that of 1960.

Coal—general level of consumption in 1980 will be about double 1960.

Gas—range between 20 and 23 trillion cu. ft. use of gas in 1980 will be somewhat less than double the 1960 usage. The highest forecast was double the lowest.

Oil—Allowing for a margin of error 6 forecasts are between 5.8 and 5.9 billion barrels, and 6 others are between 5.3 and 5.4 billion barrels. The first is just under 1¾ times 1960 and the second is just over 1½ times 1960. Forecast then is 1⅔ times 1960 level.

Hydropower—270 billion Kwh in 1980.

Nuclear Energy—estimates range from 1 to 8 percent of total energy. For this study consider it the same as Hydro—270 billion Kwh in 1980.

Study presents some hypotheses on the happening of various stages of international relations.

TABLE 21.—FUEL CONSUMPTION BY SECTOR AND SOURCE

Trillions of B.t.u.

	1955
Industry	11,815
Commercial	2,262
Households	5,726
Transportation	8,017
Government	1,114
Agriculture	616
Miscellaneous	2,848
Electric generation	6,256

	1980	1980 percent	1960 percent
Coal	21,000	26.0	23.1
Gas	22,000	28.0	31.4
Oil	33,000	41.0	41.4
Hydro	2,000	2.5	4.1
Nuclear	2,000	2.5	None
Total	80,000	(1)	(1)

[1] Independently deducted by the study group.

FINAL PROJECTION

Total energy (trillion B.t.u.)	82,000
Total electric energy (billion kw.-hr.)	2,700
Coal (double 1960) (million tons)	800
Gas (less than double 1960) (trillion cu. ft. or a little more)	20
Oil (⅔ as much as 1960) (billion barrels)	5.7

ENERGY R. & D. AND NATIONAL PROGRESS INTERDEPARTMENTAL ENERGY STUDY, ENERGY STUDY GROUP, ALI BULENT CAMBEL, JUNE 1964

General

Four requirements deemed fundamental for government initiative in energy R&D:

1. Must be scientifically sound and technologically practicable.
2. Should have socioeconomic benefits
3. Benefits from R&D (Public and private) should exceed the costs (public and private)
4. Cost exceeds what private sector is willing to outlay.

Energy contribution to national income is about 3 percent. As much as 95 percent of total U.S. energy is consumed for purposes in which several or all of the primary energy sources are potential substitutes (directly or through conversion).

Adequacy of resources under extreme demand levels

1. Coal—sufficient, no significant cost increase.
2. Liquid hydrocarbons—cost increase necessary unless present technological pace continues.
3. Natural gas—Total estimated resource insufficient by year 2000.
4. Nuclear fuels—depends on extent nuclear power plants are installed, efficiency of fuel utilization, and price of uranium ore.

Coal represents over 80 percent of known U.S. recoverable reserves of fossil fuels. Transportation of coal places it at a disadvantage, relative to oil and gas. Consumer preference for the more easily handled fuels, oil and gas, may offset any gains in transportation costs.

Energy consumption per dollar of GNP has been declining in recent decades, 110,000 BTU/$GNP in 1940 to 90,000 BTU/$GNP in 1960 (1960 dollars).

This report provides a comparison of 15 different projections. They also make some assumptions for an all coal economy, all oil, and all gas economies.

U.S. PETROLEUM THROUGH 1980, U.S. DEPARTMENT OF INTERIOR, OFFICE OF OIL AND GAS, JULY, 1968

General

Outlook for domestic oil and gas over a 15-year period—1965 to 1980. Investigation conducted by a working task force. All people on task force were Department of Interior employees.

Petroleum resources are adequate to support consumption for many years in the future. The real question is whether they can be located and produced at costs which permit them to compete with other energy sources.

The crude oil discovery rate since 1957 will not be sufficient to offset withdrawals from proved reserves between 1965 and 1980 on the basis of anticipated recovery rates.

Natural gas proved reserves will increase 2.2 percent annually between 1965 and 1980 would provide 383 trillion cubic feet of reserve additions. This is a net addition to reserves of 81 trillion cubic feet after use of 302 trillion cubic feet.

Technological improvements have failed to offset the rising costs of drilling wells.

In 1967, the United States consumed approximately 30 percent of all energy consumed by the world in that year; yet U.S. population is only about 7 percent of the world's.

Study is principally concerned with supply factors.

Method

"Fairly straight forward extension of present trends, policies and relationships."

Assumptions

1. No large-scale war (World War II or greater).
2. No major depression.
3. Population to increase 1.3 percent annual. Series C, Bureau of Census Current Population Reports. Series P-25, No. 388—March 14, 1968.
4. Real GNP to grow 4 percent annually.
5. No major price changes—relative to other fuels.
6. Technological advances will be gradual and evolutionary.
7. Pollution control regulations will have no major impact on consumption of fossil fuels.

The assumed 110,000 Mwe of Nuclear-powered electrical generating capacity in 1980.

Gross energy requirements

The amount of energy a nation uses is largely determined by its people—their numbers, the state of their technology, and the pace of their economic activity as reflected in the figure obtained for GNP.

The rate of increase in energy consumption tends to be less than that of GNP. Since 1940 energy use has been observed to grow slightly over 80 percent of the rate of increase in GNP.

Therefore, using the annual growth assumed for GNP of 4 percent annual we see that energy use will grow at 3.3 percent annual. Apply this against a consumption base in 1965 of 54 quadrillion BTU the result is an estimate energy consumption of 88.1 quadrillion BTU in 1980.

Consumption of oil and gas

Growth rates of oil and gas consumption, analyzed by 5-year intervals since 1945, show both to have diminished greatly to a point where they currently approach the average rate of increase for all energy sources. With the record of the immediate past and with the assumptions stated, it appears that oil and gas will have in 1980 about 40.9 percent and 28.9 percent respectively of the total energy market:

Oil in 1980: 36 quadrillion BTU, 40.9 percent; 6.66 billion barrels; 18.2 million barrels/day.

Gas in 1980: 24.6 trillion cubic feet.

Integral amount to be used from 1965 to 1980:

Petroleum: 1859–1965, 91 billion barrels; 1966–1980, 80 billion barrels.

Gas: 1859–1965, 263 trillion cu. ft.: 1966–1980, 310 trillion cu. ft.

The 1966–1980 petroleum and gas together will furnish an energy equivalent of 785,000 quadrillion BTU.

Petroleum

Used in this document includes all forms of fluid hydrocarbons obtained from wells. It includes crude oil and products refined from it, natural gas, and the liquids occurring with natural gas. It does not include oil or gas derived from other sources such as oil shale, coal or tar sands.

Natural Gas

Almost all domestic, in 1965; imports amounted to 430 billion cubic feet or 2.7 percent of total marketed production.

The projections are summarized in Table 22.

TABLE 22.—PROJECTIONS OF PETROLEUM AND NATURAL GAS CONSUMPTION

	Actual, 1965	1980
Petroleum (billions barrels):		
Domestic crude oil	2.701	4.150
NGL and condensate	.584	1.040
Imports	.833	1.335
Total	4.118	6,535

	Actual, 1965	1980
Natural gas (billion cubic foot)	15,610	23,935
Imports	430	660
Total	16,040	24,595

Note: Imports remain constant approximately 20 percent.

FORECAST OF GROWTH OF NUCLEAR POWER, WASH–1084, U.S. ATOMIC ENERGY COMMISSION, DIVISION OF OPERATIONS ANALYSIS AND FORECASTING, DECEMBER, 1967

General

Sources used included FPC, AEC, Department of the Interior, Corps of Engineers, REA, EEI, National Coal Association, Electrical World and Power Journals, and Moody's Public Utility Manual and Municipal and Government Manual.

Average percent increase was 6.3 percent per year. Lists forecasts for basically each power supply area.

Method

The method adopted for forecasting the growth of nuclear power in the United States through 1980 is to use data on electrical generating capacity, conventional and nuclear, installed during the past 7 years and planned to be installed during the next 7 years as a basis for *extrapolating* for a further 7 years.

Specific exclusions:

1. Plants under 100 MW.
2. Peaking Plants.

Assumptions

Installation of new capacity will cover both increasing demands and replacement of retired facilities. Six-month delay in new plants scheduled for 1970 and 1971. Twelve-month delay in new plants scheduled for 1972 and 1973. The forecast for 1974–1980 is based on the assumption that the percent increase per year for each area will be the same as the average for that area during 1960–1973.

TABLE 23. *Forecast of installed nuclear power capacity*

Capacity installed by end of:	*MWe*
1966	1.8
1970	9.8
1975	61.2
1980	145.5

PATTERNS OF ENERGY CONSUMPTION IN THE UNITED STATES

(By William A. Vogely, Division of Economic Analysis, Bureau of Mines, U.S. Department of the Interior, 1962)

General

This report presents two views of the energy economy: 1) Energy resource consumption by source (fuel) and by sector (industrial, etc.); and 2) by consuming sector and by function (space heat, motive, non-energy use, etc.)

The report emphasizes that forecasts made in the context of a total energy balance and based upon general indicators, are not necessarily the best for any particular fuel. Specific fuel forecasts contain the highest degree of expected variability (± 30 percent).

Assumptions

1. No major change in our international relations.

2. An annual growth in GNP of 4 percent.

3. Annual growth in population of 1.6 percent.

4. Stability of the real cost of primary energy sources relative to each other and general level of commodity cost.

5. Continuation of evolutionary technology rather than revolutionary.

6. Adequate supplies either foreign or domestic.

7. FPC and AEC forecast of 70,000 megawatts nuclear installed by 1980.

8. *Explicit* assumption—no major new technological breakthrough except nuclear energy.

Method

Projection of least squares trends of historical data and correlation between these data and other indicators. An initial estimate was made of the rate of growth of total energy consumption by sector by correlating the various sectors with general economic indicators. The indicators were:

1. GNP—for total energy.

2. Population—for household and commercial.

3. Composite of new construction, producer, durable and personal consumption expenditures—for industrial.

4. GNP—for transportation.

5. Advisory Committee Report (No. 21) National Power Survey—for electric utilities.

From this analysis, estimates of total consumption and of consumption by consuming sector were determined. These markets were then allocated to energy sources by subjecting the least squares projections of each source to analysis and judgment based on knowledge of the energy industries and markets, consensus of outside experts, and examination of other functional energy forecasts.

CONCLUSION

[In percent]

	1947-62 historical trend	1962-80
Total energy	2.5	3.2
Industrial	1.0	2.0
Transportation	1.75	3.5
Electricity	5.0	5.5
Household and commercial	3.3	2.8

ANNUAL GROWTH RATE CHANGES

Bituminous coal	[1] −2.5	[2] 2.5
Petroleum	[1] 4.25	[3] 3.0
Natural gas	[1] +8.0	[3] 3.5
Hydropower	[1] 2.0	[4] 2.0
Anthracite	[1] −7.5	[3] 2.0
Nuclear		[2] 34.0

[1] Per year.
[2] Increase.
[3] Decline.
[4] Growth.

Major shifts have occurred among the sources of energy in the United States economy and the shifts have been of much greater magnitude than shifts in the total energy consumption by sector.

What are the determinants of the energy source shift? The author offers that it is explained by the changing production functions in the consuming sectors—by technological changes in the consuming sectors. For example, development in technology of gas transmission and development of automatic furnace forced coal out of the market. The space saving, cleanliness, and convenience features were and are overwhelming.

TABLE 24.—GROSS ENERGY BY CONSUMING SECTORS [1]

[Trillions of B.t.u.'s]

	1947	1955	1962	1980
Household and commercial	6,774.2	8,642.9	10,996.0	17,979.0
Industrial	12,662.7	13,853.0	14,983.5	22,231.2
Transportation [2]	8,790.6	9,836.8	11,416.2	21,342.7
Electric utilities:				
Fuel-burning	2,938.0	5 189.4	7,251.6	17,346.0
Hydro [3]	1,459.0	1,497.0	1,943.0	2,674.5
Nuclear [3]			25.9	4,361.0
Miscellaneous and unaccounted for	543.8	955.3	1,281.2	
Total gross energy	33,168.3	39,956.4	47,897.4	85,934.4

[1] Gross energy is that contained in all types of commercial energy at the time it is incorporated in the economy whether the energy is produced domestically or imported. Gross energy comprises inputs of primary fuels (or their derivatives) and outputs of hydropower and nuclear power converted to theoretical energy inputs. Gross energy includes the energy used for the production, processing, and transportation of energy proper.

[2] Includes bunkers and military transportation.

[3] Represents outputs of hydropower and nuclear power converted to theoretical energy inputs at the prevailing rate of pounds of coal per kilowatt-hour at central electric stations. Excludes inputs for power generated by nonutility plants, which are included within the other consuming sectors.

Sources: Compiled by Bureau of Mines, U.S. Department of the Interior, supplemented by data on hydropower and nuclear power from the Federal Power Commission and the Atomic Energy Commission.

TABLE 25.—GROSS CONSUMPTION BY MAJOR SOURCES

[Trillions of B.t.u.'s]

	1947	1955	1962	1980
Coal:				
Anthracite	1,224.2	599.4	381.0	250.0
Bituminous and lignite	14,599.7	11,104.0	10,159.7	16,091.8
Natural gas, dry [1]	4,518.4	9,232.0	14,120.8	26,515.6
Petroleum [2]	11,367.0	17,524.0	21,267.0	36,041.5
Hydropower	1,459.0	1,497.0	1,943.0	2,674.5
Nuclear			25.9	4,361.0
Total gross energy	33,168.3	39,956.4	47,897.4	85,934.4

[1] Excludes natural gas liquids.

[2] Petroleum products including still gas, liquefied refinery gas, and natural gas liquids.

Note: Footnotes on table 24 apply.

GAS UTILITY AND PIPELINE INDUSTRY PROJECTIONS, 1968–72, 1975, 1980, AND 1985

(Department of Statistics, American Gas Association Inc., 605 Third Avenue, New York, N.Y. 10016)

Overall

The data are projections prepared by A.G.A. Department of Statistics, rather than a compilation of forecasts made by individual gas utilities. For the most part, these data are *extrapolations of past trends* modified to reflect the influence of probable changes in the economic characteristics of the gas industry. Future effects of possible major *technological* breakthroughs in fuel utilization are not accounted for. No attempt was made to project impact of air pollution where measures are not already in effect.

This *does not include* field use, exchange gas and direct sales from producer to ultimate customer, company use, inter-departmental transfers, transmission losses, and unaccounted for.

The report projects number of gas customers, total gas sales, new plant construction, pipeline construction, sales by class of service, sales to customers by region. Population projection was from Bureau of the Census 1975, 1980, 1985; No. 375, October 3, 1967, page 18 (Series II–B).

Assumptions

Assumptions used for development of projections:

1. Continuation of long-term economic growth in the nation.

2. Availability of natural gas, synthetic gas or imports in the form of liquefied natural gas to meet customer demands.

3. Continuation of competitive price relationships with alternate fuels.

Other

1. Four percent growth rate (constant dollars) in GNP was adopted for development of industrial gas sales projections.

TABLE 26.—PROJECTIONS OF POPULATION, GNP AND NATURAL GAS USE 1968–85

	1967	1970	1975	1980	1985
Population (millions)	197.9	206.3	222.8	242.3	263.6
GNP (billions 1958 dollars)	669.3	752.9	916.0	114.4	1,355.9
Billions of B.t.u.:					
Residential heating and cooling	2.9	3.3	4.0	5.1	6.4
Other residential [1]	1.5	1.6	1.9	2.3	2.7
Commercial	1.6	2.0	3.0	4.6	6.9
Industrial and other	7.5	9.1	12.1	15.7	19.6
Total (rounded)	13.5	16.1	21.1	27.7	35.6

[1] All residential, including those using gas for heating.

FUTURE NATURAL GAS REQUIREMENTS OF THE UNITED STATES

(Future Requirements Agency, Denver Research Institute, University of Denver, Denver, Colo., Vol. 2, June 1967.)

Method

A survey questionnaire was sent in May, 1966 to all appropriate public and private companies in the U.S. Each company was asked to submit data on natural gas requirements in its marketing area, classified into residential, commercial, firm industrial, interruptible and "other" categories. "Other" includes pipeline fuel, company use, unaccounted for, transmission loss, and any other sale or actual use not otherwise specified. Only volumes for actual sale to the ultimate customer or quantities used or lost by a company were to be reported. No sales for resale are included.

Eleven regional work committees reviewed and coordinated information received from questionnaires. They also made estimates of requirements for nonreporting companies. Ninety-four percent overall replied with no less than 85% reply within any region. Region 11—Alaska—did not participate.

Each company was asked to submit "actual" volumes for 1961–1965, "estimated" for 1966–1970 and 1975, "projected" for 1980, 1985, and 1990. The data were standardized at 14.73 psia and 60° F.

Assumptions

1. There will be an adequate supply for all estimated requirements in its market area for all periods covered by the survey.

2. Present-day relationship of the cost of gas to the competing fuels will remain the same in the future.

Each company was allowed to use its own operations, policies and local conditions when preparing the forecast. Other factors, such as air pollution, were considered to be clouded with uncertainty; therefore, they are not covered in the guidelines for the study.

Factors considered

The following list gives an indication of the factors that were variously considered by individual companies.

1. National and regional economic growth.
2. Population.
3. Household formations.
4. New construction.
5. Industry size and composition.
6. Normal U.S. Weather Bureau degree days.
7. Number, age, and replacement trends for appliances with customer fuel preference.
8. Gas usage per customer and heating saturations.
9. Trends in demand for recently developed gas applications such as air conditioning, total energy installations, and other technological advances in gas consuming equipment.

TABLE 27.—PROJECTED NATURAL GAS REQUIREMENTS

ANNUAL REQUIREMENTS

Year	Trillion cubic feet			Year	B.t.u. (trillion)	Requirements index, 1965=100
1965 (actual)	16.2			1965	16,797	100.0
1966	17.8		Average annual growth rate 4.1 percent compounded annually.	1966	18,423	109.9
1967	18.8			1967	19,458	116.0
1968	19.7	Average annual growth rate 3 percent compounded annually.		1968	20,390	121.6
1969	20.7			1969	21,631	127.8
1970	21.5			1970	22,253	132.7
1975	25.5			1975	26,393	157.4
1980	28.6		Average annual growth rate 2.3 percent compounded annually.	1980	29,601	176.5
1985	32.0			1985	33,120	197.5
1990	36.0			1990	37,260	222.2

Use class, 10^{12} cu. ft.	1961 actual	1966	1970	1975	1980	1985	199
Residential	3.3	4.2	4.9	5.7	6.5	7.4	8.3
Commercial	1.0	1.3	1.6	1.9	2.2	2.6	2.9
Firm Industrial	3.7	4.6	5.9	7.6	8.4	9.2	10.3
Interruptible	2.8	3.8	4.4	4.9	5.3	5.9	6.4
Field Use [1]	1.9	2.4	2.7	3.1	3.6	4.0	4.7
Other	1.1	1.5	2.0	2.3	2.6	2.9	3.4
Total	13.8	17.8	21.5	25.5	28.6	32.0	36.0

[1] Lease pumping, drilling, plant extraction loss and fuel.

Note: Gas volumes converted to B.t.u. at .035 B.t.u./cu. ft. (dry).

COMPETITION AND GROWTH IN AMERICAN ENERGY MARKETS, 1947–85

(Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Tex., 1968.)

General

Consumption or requirements data given in this report *do not* have a one-to-one correspondence with data from *Statistical Abstracts of the United States*, U.S. Department of Commerce.

A comparison:

Recorded value 1960 (trillion B.T.U.)

Texas Eastern (consumption)	42,967
Texas Eastern (requirements)	35,752
U.S. Bureau of Mines (consumption)	44,816
Resources in America's future (demand)	45,350
Resources in America's future (end use consumption)	43,300

Type of Forecast

As far as energy forecasting is concerned, this report presents a fairly complete set of projections. Included are forecasts for total end-use requirements, a breakdown by end-use categories, a breakdown by source of supply categories, and total consumption of fuels with breakdowns by (a) source of supply and (b) for each source, a further breakdown by the end-use categories. Also included was a separate section on electrical power generation. Some effort is devoted to regional aspects of electric power generation and fuel supply.

Method

Basically this was a building block approach. End-use energy requirements (see the section on Equivalent terminology for a definition) were projected first. This then provided the forecast for total energy requirements by summation. Finally the source of supply forecasts were forced to fit into this framework.

In those cases were regression analysis was deemed to be unsatisfactory, the forecasts appear to be equivalent to making projections using a model of the form $E=a_i 10^{b_i (t-t_0)}$ where the b_i are changed from one time interval to the next based on such intermediate variables as population projections, per capita energy use projections, GNP predictions, or based on judgment. The b_i can be converted to annual rates of change.

REQUIREMENTS—AVERAGE ANNUAL RATES OF CHANGE

[In percent]

	Residential	Commercial	Industrial	Transportation
1960-65[1]	2.83	5.71	3.51	3.88
1965-70[2]	2.58	6.01	3.99	3.74
1970-75[2]	2.83	6.34	3.90	3.46
1975-80[2]	2.90	6.30	3.80	3.64
1980-85[2]	2.92	6.24	3.74	3.30

[1] Experience.
[2] Forecast.

Residential: Regression analysis using the intermediate variables of (1) population, (2) per capita personal income, and (3) weather.

Population: 1.6% increase for 1947–1965—expect this to decrease to about 1.3% by 1985.

Per capita personal income: 2.3% increase 1947–65; 3.6% increase in the future.

Weather experience of degree-days (65°) for selected cities in the U.S.: Forecast at a normal level.

Commercial: Regression anaylsis was unsatisfactory; therefore judgment was used. Consideration was given to changing living patterns, expansion of suburbs—new shopping centers, new government buildings, etc. A composite indicator is taken as non-residential building (less industrial).

Industrial: Industrial use was broken down into the categories of coke and general industrial submarkets—the projections were then summed. Regression analysis employed using the variables of (1) industrial production index, (2) nondurables component of GNP, and (3) a mix of industrial output and the efficiency of energy utilization.

Transportation: Transportation use was broken down into the categories: (1) passenger cars, (2) industrial related transportation, and (3) aviation. Passenger car forecasts were obtained using a multiple regression approach. The intermediate variables included (1) number of auto registrations, (2) average brake horsepower per auto, and (3) average miles driven per auto. For the projection, brake horsepower was assigned the 1964 average. Average miles driven was assigned the value of 9,400. Auto registrations were forecast as a function of the variables of population and economic activity using a regression technique. Industrial transportation requirements first put historical data on a diesel equivalent basis for a railroad fuel and then predicted using multiple regression. The significant variables were GNP and "certain measures" of bus traffic. For aviation, the regression approach was not suitable for forecasting this market. Simple correlation with GNP and perhaps some judgment was used since their projections showed.

[In percent]

1965–1975:	
GNP	5.1
Aviation	5.5
1975–1985:	
GNP	4.9
Aviation	3.6

No limits of uncertainty were given for any of the forecast values presented. Theoretically where regression analyses were used to derive the forecasting relationships, it should have been possible to calculate such limits; however, there are quite a few difficulties from the practical point of view. Just a couple of the problems are:

1. The x-variables are frequently subject to measurement errors.

2. Some of the x-variables used (say GNP) are themselves functions of the energy consumption.

A summary of the projection variables and methods is given in Table 28.

Assumptions

1. The economic growth rate from 1961-1965 is more indicative of the growth rate to be expected in the near future than the growth rate from the historical period between 1947–1965.

2. A continuation of the energy price trends which have evolved since 1960.

3. No extraordinary technological developments. By and large, the forecasts in this report assume the same types of energy utilization and conversion that are in common use today. It is stated that this is largely an *assumption of convenience*—they don't really believe it.

4. There will be a sufficient supply of all fuels to meet consumption demands without distorting price relationships.

TABLE 28.—SUMMARY OF PROJECTION CHARACTERISTICS BY USE SECTOR

Sector and type of fuel	Regional consideration	Use	Important variables
Residential:			
Gas	By region	Heat	Customers and use. (10^6 customers with air conditioning.)
		Nonheat	Customers and use.
Petroleum		Heat	Do.
Electricity	By region	Heat, nonheat	Customers and use; multiunit housing, personal income, market share, competitive standing.
Coal			Vanishing market.
Commercial:			
Gas	By region		10 largest energy-using industries and market share.
Petroleum			Very complex: Government policy, etc.
Electricity			Customers and use.
Coal			Vanishing market.
Industrial:			
Gas			Not included.
Petroleum			Market share and total; industrial energy use.
Electricity			Regression analysis using industrial activity and total industrial energy market.
Coal		Coke	
		Other	Regression and cost and performance improvements.
Transportation:			
Gas			Nil.
Petroleum		Auto	Multiple regression.
		Aircraft	GNP correlation.
		Other	Traditional market.
Electricity			Constant.
Coal			Vanishing market.

TABLE 29.—FORECAST TABULATIONS

[In trillions of B.t.u.'s]

	1970	1975	1980	1985
Total End-use requirements	51,396	61,816	74,542	89,491
Residential requirements	10,240	11,776	13,587	15,693
Gas	5,171	6,443	7,958	9,723
Petroleum	3,559	3,497	3,441	3,271
Coal	200	120	30	0
Electricity	1,310	1,716	2,158	2,699
Commercial requirements	4,006	5,448	7,396	10,008
Gas	2,092	2,917	4,051	5,603
Petroleum	621	675	711	723
Coal	60	36	9	0
Electricity	1,233	1,820	2,625	3,682
Industrial requirements	21,649	26,216	31,591	37,954
Gas	9,524	11,752	14,432	17,563
Petroleum	4,118	4,785	5,401	6,089
Coal	6,075	7,165	8,550	10,266
Electricity	1,932	2,514	3,208	4,036
Transportation	15,501	18,376	21,968	25,836
Gas				
Petroleum	15,473	18,352	21,948	25,819
Coal	12	8	4	1
Electricity	16	16	16	16
Total energy and fuel consumption:				
Gas	20,883	26,123	31,894	38,711
Petroleum	28,127	33,764	40,174	47,625
Coal	13,945	16,638	19,880	23,121
Waterpower	761	943	1,120	1,331
Nuclear	728	2,143	4,757	8,809

NATIONAL POWER SURVEY: FEDERAL POWER COMMISSION, 1964

General

In 1962 the U.S. had about 6 percent of the world's population and used almost 40 percent of the electrical energy produced in the entire world.

In 1920 electricity used was about 11 percent of energy used in 1960.

Electric energy produced by utility systems was 753.4 billion Kwh in 1960.

Requirements will be approximately 2.8 trillion Kwh of electricity in 1980, slightly more than three times the amount generated in 1960. This does not include Alaska and Hawaii, but does include industrial in-plant generation.

Assumptions

1. Bureau of Census estimates of population growth and household formations.

2. Assumed annual increase in GNP of 4 percent.

3. Other pertinent data.

The "other" assumptions are not spelled out in detail.

Method

Load growth projections began by assembly of data for the 48 power supply areas, 16 coordination study areas, 8 statistical regions and 4 sectors. The FPC field offices were provided with a set of basic assumptions which guided their estimates. Finally their projections were presented for detailed evaluation by the power requirements special technical committee, whose membership was selected from all segments of the industry and every region.

The committee reviewed the forecasts in depth not only as to the postulates on which they were based, but also in comparison with various long-range forecasts made by regional and national suppliers.

Other

Overall growth rate is projected to be 6.5 percent between 1960–1980. The South Central, West Central and Southwest regions have growth rates of 7.6, 7.2, and 7.2 percent respectively. East Central region has the slowest annual growth with 5.8 percent per year.

Technological factors considered in the energy use projections were.

1. Electric automobiles, not before 1980.
2. Electric railroads, no substantial growth before 1980.
3. Substantial increase in use for luxury conveniences in homes.

Table 30 provides a summary of the electrical energy requirements observed in 1960 and projected to 1970 and 1980.

TABLE 30.—PROJECTIONS OF ELECTRICAL ENERGY REQUIREMENTS

	1960 actual	1970	1980
Total utility	761	1,484	2,693
Industrial inplant	85	105	127
Use category:			
Residential (nonfarm)	174	373	729
Irrigation and drainage	10	17	25
Other farm	22	35	52
Commercial	121	241	430
Industrial:			
Purchased	330	615	1,098
Inplant	85	105	127
Street and highway	7	13	22
Electric transport	5	6	6
Other	22	42	71
Losses and unaccounted	70	142	260
Total	846	1,589	2,820

ENERGY RESOURCES

(A Report to the Committee on Natural Resources, National Academy of Sciences, National Research Council, 1962.)

General

The objective of this study *was not* to provide energy requirement projections for the relatively short period of time of 15–20 years in the future.

The author has addressed himself to the problem of an analysis of historical data to obtain objective estimates of ultimate potential reserves for the various fossil fuels in both the United States and the world. Included was a projection for the ultimate potential hydroelectric power capacity in the U.S. The method employed in estimating these ultimate reserves was imaginative and indicate that some deep thought went into insuring an appropriate use of reasonable mathematical models to describe the phenomenon being studied. A case in point is the author's method of estimating the time delay between the recognition and discovery of large oil fields. The approach used showed considerable deep thought and imagination.

The mathematical model which was used most in this study was the logistic or growth curve. This model has appeal from the statistical point of view and, even more importantly, it appears to fit all of the historical data very well. In addition, use was made of exponential type models and normal and lognormal distribution functions. Throughout the report, considerable care was taken to not only write down the model and the appropriate function estimates but also to present a reasonable amount of background and development to justify its use.

This is a well documented report. It is broken down into seven chapters and at the end of each chapter a detailed list of pertinent references to the discussion in that chapter is given. For example, most of the historical data used in this study were obtained from the following sources:

1. Department of Commerce, *Historical Statistics of the United States, 1789–1945*, U.S. Government Printing Office, 1949.

2. Department of Commerce, *Continuation to 1952 of Historical Statistics of the United States, 1789–1945*, U.S. Government Printing Office, 1954.

3. Department of Commerce, Annual Editions of *Statistical Abstract of the United States*, U.S. Government Printing Office, 1953–1961.

A very significant point which the author is attempting to drive home to the reader is that the world, in general, and the United States, in particular does not have available an infinite supply of fossil fuels. For example, the author estimates that the time required to use from the first 10 percent to the 90th percent of ultimate reserves will cover some 350 years (not an immediate problem which must be faced today) while the corresponding time span to cover the middle 80 percent of consumption of the ultimate reserves for oil and natural gas is something like 1935–2005.

New sources of supply such as nuclear and solar energy provide some reason for hope. However, these new sources have associated with them some rather serious problems—waste disposal in the case of nuclear energy and efficient harnessing in the case of solar energy.

The report even delves into the seriousness of the population growth and the nonfuel mineral resources problems which are facing the world. The population problem is finally being recognized by a fairly large number of people but such is not the case with the energy and mineral resources problems.

ENERGY IN THE UNITED STATES 1960–85: SARTORIUS & CO., SEPTEMBER 1967

General

The base historical time period was chosen as 1960–1965. The source data were obtained from statistical reports by the Federal Government and trade associations. These included the Bureau of the Census, the Bureau of Mines, the Federal Power Commission, the American Gas Association, the American Petroleum Institute, and the Edison Electric Institute. Auxiliary information concerning fuel prices and other pertinent factors were obtained from the above references or from reports or private communications from other government agencies or trade associations. The table showing the historical data used gives references to the source of the data. However, most of these are not references to a specific document or report (year not even given) but rather to the government agency or private organization.

The study is quite complete as far as forecast breakdowns are concerned—geographical regions, end-use categories, source of supply, and even different types of petroleum products—also coal, hydropower vs. nuclear electricity generation.

Method

The report is apparently a building block approach. (However, in the field of Ground Transportation, a building block approach was not used.) Consumption was completed separately for each type of energy source broken down by each category of consumer within each of the geographical areas used. Statements concerning whether or not a regression analysis approach was used could not be found. The method of forecasting used intermediate variables such as per capita consumption, population growth, per capita vehicle use, and anticipated future fuel costs. Mathematical models were not given.

Ten geographical areas and four consumer categories were used. It was implied that consumption projections were obtained within each of these 40 (10 x 4) categories and then summed to give the "all uses" or total consumption values.

Residential and Commercial: Space heating and non-heating uses were based upon per capita use and population. Weather conditions in the base period were used to adjust the data. The breakdown by energy sources was done in such a way that the individual forecasts had to fit into the framework established for total.

Industrial: Done on a per capita use and population basis since industrial activity is partially dependent on the population. Breakdown by energy source was forced to fit (subdivision).

Ground Transportation: For vehicles, the forecast total consumption was on the basis of total vehicular use (guided by U.S. Bureau of Public Roads). Allocation to geographical regions was based on current per capita use and population projections. For railroad usage, the forecast was on the basis of a straight forward time projection with modification using as the intermediate variable the efficiency.

Air and Water Transportation: For air, the forecasts were guided by Federal Aviation Agency projections. In the breakdown by energy sources, foreign purchases of aircraft fuels and imports were considered. Water transportation consumption was done in a similar fashion to the railroads' forecasts.

Gas and Electric Utilities: Gas and electric utility consumption was forecast to fit into the framework established by the total end-use projections. The breakdown by source of supply was done using as intermediate variables the projected relative prices for the fuels and generating costs within the individual geographical regions.

Assumptions

The main assumption made is that the growth rate will continue at approximately the same level as during the base period of 1960–1965. The principal intermediate variable in the projections was per capita consumption. Traditional as well as changing consumption trends, as measured by surveys and other data were used. Population estimates were obtained from U.S. Bureau of the Census data.

An assumption of rather minor importance in connection with energy consumption was about the use of electric cars and vehicles.

$1.4\text{x}10^6$ vehicles—1980
$4.6\text{x}10^6$ vehicles—1985

The projected power requirements for these vehicles used in this study were:

$5\text{x}10^9$ kwh—1980
$17\text{x}10^9$ kwh—1985

They were influenced by the Federal Power Commission report (February 1967) in arriving at these figures.

A more important assumption was one concerned with nuclear power. "Nuclear power is expected to revolutionize the electric utility industry during the next two decades. Most new generating capacity to be built after 1970 will be nuclear powered."

TABLE 31.—FORECAST FOR ENERGY CONSUMPTION BY SOURCE AND USE

	1970	1975	1980	1985
Total annual energy consumption[1]	60, 827 60, 927	74, 944 75, 111	93, 374 93, 576	118, 126 118, 364
Residential and commercial:				
Gas	6, 729	8, 261	10, 196	12, 435
Petroleum	4, 939	4, 964	4, 629	3, 732
Coal	442	299	181	80
Electricity	2, 627	4, 035	6, 263	9, 781
Total	14, 737	17, 559	21, 269	26, 028
Industrial:				
Gas	10, 769	13, 830	17, 678	22, 461
Petroleum	4, 209	4, 439	4, 647	4, 782
Coal	5, 244	5, 643	6, 183	6, 837
Electricity	1, 871	2, 391	3, 068	3, 936
Total	22, 093	26, 303	31, 576	38, 016
Transportation:				
Gas	0	0	0	0
Petroleum	14, 252	16, 898	19, 956	23, 541
Coal	35	21	13	7
Electricity	16	16	33	74
Total	14, 303	16, 935	20, 002	23, 622
Utilities:				
Gas	3, 336	3, 963	5, 156	6, 619
Petroleum	837	720	659	655
Coal	8, 493	9, 050	9, 647	9, 780
Hydro	804	893	1, 098	1, 286
Nuclear	737	5, 964	13, 330	25, 913
Total	14, 207	20, 590	29, 890	44, 253
Total	60, 826	74, 945	93, 373	118, 128

[1] These 2 sets of numbers occur on pp. 1 and 72 of the report. The difference in the 2 sets is not immediately apparent, and is small enough to be inconsequential.

RESOURCES IN AMERICA'S FUTURE: RESOURCES FOR THE FUTURE, INC., SEPTEMBER 1962

General

There was a substantial reliance on data collected and disseminated by the trade organizations such as American Gas Association, Edison Electric Institute, etc. These data were checked against and reconciled with government compiled data where possible.

The historical base was 1960.

The Residential, Commercial, Industrial, and Transportation end-uses were not, in general, broken down by geographic regions. In the case of fuels used for electricity generation, the study was carried out on a regional basis.

The authors indicate that the work is a major extension of *Energy in the American Economy, 1850–1975,* by Schurr, Netschart, et al. The work is well documented.

Method

Basically this study used a building block approach starting with a 1960 base for the various consuming (end-use) sectors and forward projection of the base. These projected demand figures were then disaggregated (subdivided) into the different sources of energy categories based on estimates of future sharing.

For quite a few of the individual projections, there were presented low, medium, and high forecast values. The medium value represented a "best estimate" and the low to high range is a reflection of the uncertainty to be associated with the forecast values but there is no statement concerning the confidence to be placed on these limits.

The low-medium-high estimates generally were in the range of +10 percent to +20 percent.

Residential

Space Heating—Past growth rates modified by customer preferences, etc. Electric heating projected on judgment alone. Number of households, heat output/household, share by energy sources and efficiency.

Other Uses—Ranges, hot water, lighting, air conditioning, miscellaneous. Historical data not too valuable.

Commercial

Obtained from long-run direct or indirect relationships with residential trends. The number of customers and use per customer were related to an "average" residential customer.

Industrial

Basically projections done by power per unit of production forecast multiplied by production index forecast and weighted by judgment on future sharing by various fuels.

Transportation

An extension of historical trends.

Electric Power

Regional breakdown with a detailed analysis of the part played in the past by gas, coal, and oil and the future sharing of these three sources and the new nuclear power.

Miscellaneous

Agriculture—Number of tractors and fuel use per tractor.

Public use.

Non-Power and Losses—Projected on basis of historical trends.

Assumptions

For space heating, allowances were made for improvements in the efficiency but it was assumed that the type of heaters would not change materially.

For transportation projections, it was assumed that the kinds of power plants will remain fairly similar (as far as fuel consumption is concerned) to what they were in the early 1960's. Also, the average annual mileage will remain at about 9,800 and miles per gallon at about 14½.

There were quite a few of the above type technological assumptions throughout the book. They were of the nature "no revolutionary technological changes."

"The assumptions behind the demand projections do not specifically include any major uses that differ greatly from those around us today, although within these uses provision is made for changing technology, including some entirely new devices.

"Certain uniform assumptions . . . Most important are population growth and the nation's output of goods and services, represented by the gross national product."

The assumptions include:

1. By the year 2000 a labor force of 142 million;

2. A 2% annual increase in productivity, and

3. Medium 3.8% per year increase in GNP; low, 3.0% per year increase in GNP; high 4.8% per year increase in GNP.

4. No general war—cold war to continue with about the current relationship of defense expenditures to GNP.

5. High projection assumes an increase in proportion of output to defense. Low projection assumes a decrease or tapering off of such expenditures.

Excluded is the possibility of a deep depression; therefore, projection is to "normal" years.

(They do not call these values "forecasts" or "predictions" since they have not been developed with consideration of the *cost* involved in supplying the required amounts.)

TABLE 32.—DEMAND FOR ENERGY BY SOURCE

[Trillions of B.t.u.'s]

	1970	1980	1990	2000
Petroleum	22, 640	29, 500	39, 370	54, 800
Gas	19, 140	24, 200	28, 360	33, 800
NGL	2, 500	3, 400	4, 680	6, 800
Coal	13, 030	15, 800	16, 450	18, 000
Hydro	2, 520	2, 600	2, 770	2, 800
Nuclear	360	3, 700	10, 280	19, 000
Total	60, 190	79, 200	101, 910	135, 200

TECHNOLOGICAL CHANGE AND UNITED STATES ENERGY CONSUMPTION, 1939–54

(Alan M. Strout (Doctoral Dissertation, Unpublished), University of Chicago (1966).)

General

The projection portion of this tour-de-force in energy analysis was developed as a test of the totals arrived at in the Input-Output analysis for 1939–1947–1954. The sources of the model over the period 1921-1961 lent some confidence in the technique (per capita energy consumption was projected) and it was extended to the years 1980 and 2000.

Method

The basic method is a multiple linear regression model. After testing several variables for significance and accuracy and other variants of form, such as the loglinear form, the above-mentioned model, was found to be simplest and at least as satisfactory as the others.

The explicit form is:

$$Fc/P = 1.8757 + .0082\ FDD + .1148\ Y_p/P - .00097t$$

where:

FcP = the per capita fuel use, Fc (10^{15} BTU's) and P 10^6 people). Total domestic consumption and thermal equivalent of hydropower.

FDD = The average Fuel Degree Days for 36 metropolitan areas, weighted by the nearest decennial census

Y_P = Private Gross National Product (1954 dollars), not including general government spending.

t = The year (1921, 1922, . . . 1980, . . . 2000).

Assumptions

1. GNP is assumed to grow at the rate of 3.5 percent per year. The alternative of a rate of 4.0 percent per year is also calculated.

2. Population is assumed to grow at the rate of 1.6 percent per year through 1980 and at the rate of 1.5 percent thereafter.

3. The average fuel degree days is assumed to continue to decline at the rate of ⅓ of 1 percent per year. This trend is an extension

of the 1921–1960 trend and also reflects some shift of population to the warmer parts of the country.

Results

The projected total energy is summarized in Table 33.

TABLE 33.—TOTAL ENERGY PROJECTIONS
[In trillions of B.t.u.'s]

	1960 (actual)	1980	2000
GNP at 3.5 percent p.a.	48,200	90,300	174,000
GNP at 4 percent p.a.		99,700	213,000

AN ENERGY MODEL FOR THE UNITED STATES FEATURING ENERGY BALANCES FOR THE YEARS: U.S. DEPARTMENT OF THE INTERIOR, IC 8384, JULY 1968

General

The historical base period was 1947–1965 (a complete set of balances for those years). Whether any particular years received more weight than others is not apparent. The main sources of data and information are the Bureau of Mines energy series published in the annual issues of the U.S. Department of the Interior Minerals Yearbook, Vol. II Fuels. These are supplemented by data for the electric utilities obtained from publications and reports of the Federal Power Commission; for the nuclear power industry from reports of the USAEC; and for electricity sales and distribution from the annual issues of the Edison Electric Institute Yearbook. Data on energy demand by major industrial groups in the mineral and industrial sectors were obtained from the U.S. Department of Commerce, Bureau of Census for 10 years 1947, 1954, 1958, and 1962.

Projections are presented for total energy consumption and consumption broken down by end-use and source of supply. Regional forecasts are not given.

Method

The main emphasis in this report is on the prediction of the future demand for energy rather than supply.

"The basic model for energy, considered to be a logarithmic linear of an exponential function, is expressed as follows:

$$E \text{ or } Y_1 = f(x_1^b x_2^c, \ldots . x_{13}^n)$$

. . . ; and with b, c, . . . n the parameters or coefficients of the independent variables."

"The first step in the forecasting procedure was the projection of least squares historical trends for 1947 to 1965 of the quantitative structures for total energy E or Y, and its components, by form (direct fuel uses, utility electricity uses, and raw material non-fuel and non-power uses), sector, and source. The extrapolated trends, representing only a function of time, were subsequently altered by techniques which varied accordingly to the energy components being projected."

The basic method for obtaining the forecasting relationships cannot be assigned to a single technique since the authors state that, "Procedures for the forecasts may be described as opportunistic in that various types, methods, and techniques are used." Although models written in a generalized notation are presented throughout the report, nowhere is an actual model along with the required parameter estimates written down. Some of the "independent" variables used may not be really completely independent. As a matter of fact, fuels and electricity are themselves components of GNP. This statement is applicable to some of the other studies as well as this one.

Assumptions

Adequate supplies of energy resources, either domestic or imported, will be available to meet the forecast demand.

The real costs of the primary resources relative to each other and to the general level of commodity costs will remain constant or decrease during the forecast period. Some 22 "case studies" were made using the model for energy prediction and in most of these studies a large number of assumptions were made concerning the future behavior of the "independent" variables.

TABLE 34.—TOTAL ENERGY CONSUMPTION FORECAST BY FUEL AND CONSUMING SECTOR
[In trillions of B.t.u.'s]

Forecast tabulations	1970	1975	1980	2000
Household and commercial (Used as direct fuels):				
Gas	7,350	8,485	10,000	19,066
Petroleum	5,979	6,512	6,940	2,000
Coal	508	454	325	
Total	13,837	15,451	17,265	21,066
Industrial:				
Gas	8,988	10,458	11,780	17,504
Petroleum	5,481	6,431	7,104	13,090
Coal	5,901	5,557	5,749	2,000
Total	20,370	22,446	24,633	32,594
Transportation:				
Gas	560	628	689	1,000
Petroleum	14,959	18,069	20,736	41,649
Coal				
Total	15,552	18,697	21,434	42,649
Electric utilities:				
Gas	2,589	2,789	2,976	4,128
Petroleum	856	863	861	861
Coal	8,035	11,134	12,516	18,720
Hydro	2,193	2,422	3,027	5,056
Nuclear	874	1,803	4,878	43,526
Total	14,547	19,011	24,259	72,291
Miscellaneous:				
Gas			337	
Petroleum				
Coal			147	
Total			484	
Total gross consumption	64,276	75,605	88,075	168,000

TABLE 35.—UTILITY ELECTRICITY DISTRIBUTION FORECAST BY CONSUMING SECTOR
[In trillions of B.t.u.'s]

	1970	1975	1970
Household and commercial	2,899	4,055	5,541
Industrial	2,270	2,950	3,725
Transportation	26	36	47
Total	5,195	7,041	9,313

OUTLOOK FOR ENERGY IN THE UNITED STATES: ENERGY DIVISION, CHASE MANHATTAN BANK, OCTOBER 1968

General

No references are given in the report. The base historical time period was not specified in the report. They used an annual growth rate (energy consumption) of 3.8% which corresponds fairly closely to a value obtained using 1960 or 1961 through 1965 as the historical base. But most estimates of the growth rate using the early 1960's as the base are somewhat higher, around 3.9% to 4.0% per year.

This study was not an attempt to make *precise* projections, and actually only one projection was made—from 1965 to 1980. Forecasts for geographical regions were used. Total energy use was further broken down into end-use categories which were further broken down by source of supply.

Method

The study used geographic regions, end-use, and source of supply breakdowns. Regions: East Coast, North Central, Gulf Coast, Mountain, and West Coast. End-Use: Industrial-Commercial, Transportation, Electric Utilities, and Residential. Souce of Supply: Oil, gas, coal, hydro, and nuclear.

It could not be determined from the report whether the analysis was basically a building block or a subdivision approach—it could have proceeded either way. No statements about regression analysis or the type of mathematical model used could be found anywhere in the report. The projection of total energy use presented in the report appears to be equivalent to using the model:

$$E = 26{,}000{,}000(10)^{(.016519)\,(t-1965)}$$

where t is in years (e.g., t=1980) and E is in barrels of oil equivalent rather than BTU.

Energy use projections were apparently based on the use of intermediate variables such as population growth and per capital use trends. Their pet capita use projections appear to be based on rather complex patterns of shift in frequencies of the population in the various age groups over the years. They have placed a great deal of emphasis on the 20–35 year age group as being the primary indicator of energy use in the U.S. This reflects the use of the "rate of household formation" as a strong indicator of demand.

In connection with limits of uncertainty to be associated with the forecast values in the report, the authors made the following statement: "It is, of course, impossible to forecast future developments precisely. And the predictions in this study are intended to present no more than direction and order of magnitude."

Assumption

The size of the 20–35 year age group is a good indicator of economic activity (implied).

It was assumed that the electric powered vehicle would not be able to compete with the internal combustion engine vehicle by the end of their forecast period (1980).

TABLE 36.—FORECAST ENERGY CONSUMPTION BY SECTOR AND FRACTIONAL DISTRIBUTION BY FUEL

Total energy requirements	1965 oil equivalent		1965 B.t.u.'s[1] (trillions)	1980 oil equivalent		1980 B.t.u.'s[1] (trillions)
	Millions	Percent		Millions	Percent	
Industrial-commercial	3,650	100	21,170	5,100	100	29,580
Gas		45			44	
Oil		30			36	
Coal		25			20	
Electric-utilities	2,000	100	11,600	5,400	100	31,320
Gas		21			14	
Oil		6			2	
Coal		55			35	
Water		18			13	
Nuclear					36	
Residential	1,500	100	8,700	1,900	100	11,020
Gas		47			59	
Oil		45			38	
Coal		8			3	
Transportation:						
Gas						
Oil		100			100	

[1] Converted at 5,800,000 B.t.u.'s per barrel.

ECONOMIC STRATEGY FOR DEVELOPING NUCLEAR BREEDER REACTORS

(Paul W. MacAvoy—M.I.T. Press 1969)

The study contains an elegant attempt to predict the installation of nuclear reactors versus more conventional fuel for the generation of electricity.

The demand for electric generating capacity is assumed to be a function of the *price* of electricity, *per capita real income* and *population*. The expansion of plant as well as replacement is considered. These factors are used in a regression formula (least squares fitted) to predict additions to capacity. Population and income are projected exogenously and used directly. The price question is projected within the study.

Having a total capacity, an attempt is made to predict the share which is nuclear. This model uses the prices of plant and fuel for each kind of plant as the independent variables. Again a regression approach is used. The equation for projecting added capacity was

$$\log Q = -7.046 - 1.240 \log P + 0.855 \log (Y/N) + 0.914 \log N$$

where

Q=capacity installations.

P=price of electricity.

N=population.

Y/N=per capita income.

The equation for the nuclear share is

$$\log Qn/Q = -4.375 + .418 \log S - .859 \log (PNF/PFF) - 1.03 \log (PNK/PFK)$$

where

PNF=nuclear capital cost; PFF=conventional fuel cost.

PNK=nuclear capital cost; PFK=conventional capital cost.

S=plant size.

The second equation shows that there is a preference from nuclear power plants as the size (S) increases (Qn/Q increases). The competition based on relative fuel prices, (PNF/PFF), and the relative capital costs (PNK/PFK) indicate, not unexpectedly, that the nuclear fraction varies inversely with the costs.

The development of the second equation is based upon the rather skimpy data available at the time. It is also recommended in the study that the study be updated at appropriate intervals.

FOSSIL FUELS IN THE FUTURE

(Office of Operations Analysis and Forecasting, U.S. Atomic Energy Commission, Milton F. Searl, 1960.)

General

The purpose of this report, as stated by the author, was to review the extent of fossil-fuel resources and to forecast the rate at which they will be depleted in the absence of new sources of energy in order to estimate the earliest time when large amounts of nuclear power will be needed. It deals mainly with forecasts of energy consumption to the year 2000. It contains forecasts of world consumption of energy.

The United States is expected to use four times as much energy in 2000 than in 1958. Fuel resources available are adequate but the distribution of fuel resources with respect to fuel consumption patterns is poor.

Only the so-called commercial fuels were considered. The tendency for non-commercial fuels to be replaced by coal, petroleum and hydroelectric power will continue.

Method

The methodology employed was basically an extension of past trends (rates of growth) with variations. Per capita consumption in connection with population forecasts was also used.

Total energy—Commercial fuels and hydroelectric power not including Alaska and Hawaii

[In trillions of B.t.u.'s]

1960	45, 000
1970	62, 300
1980	86, 200
1990	120, 800
2000	170, 100

PROJECTIONS OF THE CONSUMMATION OF COMMODITIES PRODUCIBLE ON THE PUBLIC LANDS OF THE UNITED STATES, 1980–2000

(Robert R. Nathan Associates, Inc., 1968.)

General

This report was prepared for The Public Land Law Review Commission in May 1968. The objective of the study was to provide projections of the consumption of commodities producible on the public lands, which can be used as a basis for evaluating the effects of alternative land policies.

Method

Projections of the residential, commercial, industrial, and transportation consumption of mineral fuels and electricity are based on the methods and projections of the 1963 study by Resources for the Future, Inc. Projections were made for population, labor force and employment, productivity, GNP, Index of Industrial Production and Gross Product Originating (GPO). Nine specific commodities and activities were projected.

Assumptions

Unless otherwise stated in the text of the report, recent *trends* in the following are assumed to persist to 1980 and 2000.

1. U.S. consumption needs and preferences.

2. Changes in the relative prices of competing commodities.

3. Federal policies regarding economic growth, economic stability, economic equity, regional development, and foreign policy.

4. Military commitments and mobilization for defense.

U.S. CONSUMPTION OF COAL, OIL, AND GAS, 1965 AND PROJECTED 1980 AND 2000

[In quadrillions of B.T.U.'s]

Fuel	Actual 1965	1980			2000		
		Low	Medium	High	Low	Medium	High
Coal	14	19	20	21	27	30	34
Oil	21	28	31	36	44	53	68
Gas	17	26	28	29	38	44	49
Total	52	73	79	86	109	127	151

U.S. CONSUMPTION OF ENERGY, BY USE

Item	Actual 1965	1980			2000		
		Low	Medium	High	Low	Medium	High
Conventional fuels:							
Residential and commercial	9	12	13	13	12	13	13
Industrial	12	19	21	22	33	39	44
Electric generation	11	14	16	20	20	22	24
Transportation	10	15	16	18	26	31	36
Other	10	11	13	15	17	22	29
Total	52	71	79	88	108	127	146
Other sources:							
Hydroelectric	2	3	3	3	3	3	3
Nuclear fuel		9	9	9	22	25	27

Note: Columns do not always add to totals shown. Difference is presumably due to rounding.

CIVILIAN NUCLEAR POWER: A REPORT TO THE PRESIDENT, NOVEMBER 1962

(1967 Supplement to the 1962 report to the President, February 1967, U.S. Atomic Energy Commission.)

General

The 1962 report concentrated on basic policies. It included examinations of the need for nuclear power, the direction in which the central station nuclear power program should be headed, the rate at which the program should proceed, and the nature and amount of Government participation necessary. The 1962 report data is incorporated with the 1967 supplement in this review.

The 1967 supplement contains information on International programs. Fossil fuel resource estimates had not experienced any significant changes from 1962 to 1967.

It is estimated that nuclear power generation capacity will account for 23 to 30 percent of electrical generating capacity in 1980 and about 50 percent in 2000.

In making the forecasts the report relies upon data from other sources, such as Edison Electric Institute, Federal Power Commission, and Resources in America's Future as well as other Atomic Energy Commission estimates and the judgement of the authors.

U.S. ENERGY CONSUMPTION

[10^{15} B.t.u. per year]

Year	1962 report	1967 report		
		Low	Medium	High
1965	54		[1] 54	
1980	82	76	80	84
2000	135	120	130	140
2020	207	190	210	230

[1] Actual.

PROJECTION OF ELECTRICAL GENERATION IN THE UNITED STATES

[In billions of kilowatt-hours]

	Low	Medium	High
1980	2,400	2,700	3,000
2000	6,000	8,000	10,000

U.S. ELECTRIC GENERATING CAPACITY PROJECTIONS

	1965 actual	1980	2000
Steam:			
Fossil	185	311	572
Nuclear	2	95	734
Subtotal	187	406	1,306
Other (hydro, etc.)	48	117	250
Total capacity	235	523	1,556
lectrical energy (10^{15} b.t.u.'s per year)[1]	11.1	25.2	62.9

[1] Kilowatt-hours converted to b.t.u.'s using 10,590 b.t.u.'s per kilowatt in 1965; 9,320 b.t.u.'s per kilowatt-hour in 1980; and 7,860 b.t.u.'s per kilowatt-hour in 2000.

FOOTNOTES

[1] An excellent discussion of the relationship between energy consumption and gross national product is contained in *Energy in the American Economy 1850–1975*, by Sam Schurr, Bruce Netschert, et al., published by The Johns Hopkins Press for Resources for the Future, Inc., 1960. This study had firm data only through 1955 available, and an updating of the energy-GNP relationship might be quite productive.

[2] The use of input-output analysis for quantifying the impact of technological change on energy consumption is being explored for OST by Pacific Northwest Laboratories of Battelle Memorial Institute in another phase of this study effort.

[3] This does not necessarily mean that economic efficiency is decreasing. Technical efficiency must be distinguished from economic efficiency.

Mr. JACKSON subsequently said: Mr. President, I ask unanimous consent that a bill to establish a Commission on Fuels and Energy and to recommend programs and policies intended to insure that U.S. requirements for low-cost energy will be met and to reconcile environmental quality requirements with future energy needs, introduced by the distinguished Senator from West Virginia (Mr. RANDOLPH) and other Senators, be referred to the Senate Committee on Interior and Insular Affairs.

I might say, Mr. President, that the distinguished senior Senator from Washington (Mr. MAGNUSON), chairman of the Committee on Commerce, is on the floor. We have discussed this matter, and possibly later we may have a joint hearing of the two committees, along with the Committees on Public Works and the Senate Members of the Joint Committee on Atomic Energy. This arrangement meets with the approval of the distinguished author of the bill, the senior Senator from West Virginia (Mr. RANDOLPH), who also chairs the Committee on Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I am pleased to join my able colleague from West Virginia in cosponsoring this very meritorious legislation. I am grateful to him for his invitation to me to join in cosponsoring this legislation of which he is the principal sponsor.

The establishment of a National Commission on Fuels and Energy will go a long way in formulating a realistic and much overdue national energy policy for the United States.

It is a commission which should be promptly established to study and compare the fuel resources currently available in the Nation with its projected energy needs for the next two decades. The resulting data would provide us with a basis upon which to develop a national policy on fuel resources to meet the country's future fuel energy requirements.

I have consistently maintained that this country has long been delinquent in fully utilizing its indigenous energy resources, in particular the fossil fuels, and the synthetic fuels derived from natural fossil fuels. The inadequacy of our past efforts to plan for the fuel and energy needs of our country becomes more apparent every day.

There is no excuse for the fact that our country, the greatest country in the world, runs the risk this summer of not being able to supply the minimal amount of electrical power needed to sustain many of its most important metropolitan areas.

Mr. President, we can no longer allow our energy requirements to be neglected, nor can we allow our energy resources to remain undeveloped. This legislation is a first step in the right direction, and I am glad to lend my support to the efforts of my senior colleague on behalf of this legislation.

I am very grateful to my colleague for yielding.

Mr. RANDOLPH. Mr. President, I am exceedingly grateful to my colleague from West Virginia, Senator BYRD, who has spoken in reference to what, in a sense, may be a pioneering effort. It is an effort that must be undertaken and must be made, I think, as quickly as possible.

My colleague from West Virginia has spoken briefly but tellingly of the possibility of shortages which are imminent—the blackouts and brownouts. They are not just something to talk about. They are something that we must face up to.

Mr. President, we shall be hopeful, both of us, I know, that we will be able to go through the summer without a very serious electric energy breakdown.

I point out that electricity in hundreds and hundreds of hospitals in this country is enabling us to care for those who need X-ray, surgery, healing, and other forms of treatment.

There are so many indirect, as well as direct uses for electricity that, if we had the conditions of brownout or blackout come to pass, we might find the very fabric of our Nation weakened.

For that particular reason I am very grateful that my colleague has spoken of the situation which might face us through fuel and energy shortage in a very few weeks and at some period in the future if the problem is not recognized and approached aggressively and realistically.

Mr. President, I shall be gratified to work with my colleague, as with the other sponsors of the legislation, in attempting, through proper hearings before the committee to which the legislation would be assigned, to give consideration to the language which is in the original draft as presented today on language which might improve our purposes.

I think it is appropriate at this time to indicate the very real interest that exists in the Senate concerning this matter. More than 50 Senators have joined as cosponsors of the resolution which is being presented.

I feel that is an indication of the desire of the Senate to move forward.

I trust that the commission can be created as soon as possible, and do its work, and that then we shall have guidelines to help us keep America strong.

Mr. BYRD of West Virginia. Mr. President, I commend my colleague from West Virginia and thank him for his authorship of the legislation and for his diligent efforts to promote legislation of this nature.

Mr. RANDOLPH. Mr. President, I am gratified by the interest of my colleagues in this matter.

I ask unanimous consent that a thoroughly cogent and informative statement by the able Senator from Colorado (Mr. ALLOTT), who is unable to be here today, be printed in the RECORD.

There being no objection, the statement of Senator ALLOTT was ordered to be printed in the RECORD, as follows:

Mr. ALLOTT. Mr. President, I am very happy to join with the distinguished Senator from West Virginia (Mr. RANDOLPH) in co-sponsoring this measure. It is my opinion that the establishment of a National Commission on Fuels and Energy is an important step in insuring this Nation's future energy needs will be met.

Senators may recall that S. 719, a bill to establish a National Mining and Minerals Policy passed the Senate unanimously on September 5, 1969. The purpose of S. 719 is to concisely enunciate and declare an overall national minerals policy, as a matter of law. The national policy established under the provisions of S. 719 would assist the Federal Government in fostering and encouraging: 1) a sound and stable domestic mining and minerals industry; 2) the development of sufficient domestic mineral resources and reserves to meet the future needs; and 3) the proper research to promote the efficient use of mineral resources.

Senators may also remember that minerals and materials such as coal, oil, gas, oil shale, and uranium are specifically excluded from the definition of minerals as that term is used in S. 719. The reason for this exclusion is that the sponsors of S. 719 and the Interior Committee were in agreement that these minerals, along with hydroelectric power and solar energy, have a direct relevance to our national energy problems. Clearly, there are many matters which pertain uniquely to energy. It is because I feel that the energy problem should be treated separately that I enthusiastically support this proposal to establish a National Commission on Fuels and Energy.

The bill provides that the Commission shall make ". . . a full and complete investigation and study of the energy demands and the fuels and energy resources requirements and policies of the United States." The Commission would also evaluate possible alternative methods of energy production and the relative merits of all energy sources including fossil fuels, synthetic fuels derived from natural fossil fuels, nuclear and any other practical sources. I believe that the findings of such a full and complete study will presage an expanded understanding of our energy posture.

Such a national policy is needed now. It is needed for two reasons. First, it is needed to make the Government more efficient in its policy-making. Second, it is needed to provide a secure basis for national strength.

With regard to making our Government policy-making more efficient, I would like to call attention to the problem of taking away with the left hand what we are trying to establish with the right hand.

On several occasions during the Spring I called Senators' attention to the problem of "hidden polices." The "hidden policy" is an increasingly serious obstacle to efficient government, and it is all the more serious because government inflicts it upon itself. Government has a "hidden policy" when a policy designed for one social problem has important ramifications on another social problem.

There is a clear and present danger that, unless planning is begun now on a national scale, we shall have energy policies which conflict with our emerging environment policies. To consider just one difficult problem, the Nation is using electric power at ever increasing rates, and this growing use comes at a time when people are increasingly concerned about the sort of air pollution problems that result from the generation of electricity in non-nuclear plants. In addition, Americans are worried—and properly so—about the thermal pollution that affects lakes and rivers when water is used for cooling purposes in nuclear generating plants. Such conflicts will be eased when we have before us a comprehensive understanding of our energy sources, and the alternative ways of using them to satisfy our energy needs.

Clearly, in our complex society many social efforts are inextricably entwined with other social efforts. Nowhere is the interdependency of things so clear and so important as in the relationships between the needs of our economy, the demands upon our sources of energy, and the fragile balance of our environment.

In this triad—the three "E's"—economy, energy and environment—it is proper to put energy in the middle. Without comprehensive energy policies, the economy faces dire dislocations in the near future. And without prudent balance in developing all energy sources we can do damage to our total environment—to the air, the water, and the land.

There are those who say we should reorder our priorities. There are even those who suggest that we should put severe limits on economic growth because economic growth puts unsupportable strains on the environment.

I think we should be constantly re-examining our priorities. Most importantly, we should try to insure that we have some control over our priorities. I do not think that economic growth and a healthy environment are mutually exclusive goals. But two things are clear.

First, unless we have a sensible long-term fuels and energy policy, we may find that our priorities are set for us by the rigorous exigencies of unplanned and unpleasant scarcity. Second, if such scarcities come, we will not have the economic capacity we need for a good life and a convincing defense, and we will not have the economic capacity to finance environmental improvement

We should make no mistake about it. It costs money to make the needs of the environment compatible with the needs of our economy. It is a luxury we can afford, and must insist on, but it is something that we will purchase with the margin provided by a robust economy.

Mr. President, to encourage efficient policy-making, to insure a growing economy, and to provide for a healthy environment—for all these reasons we should continue to seek more comprehensive knowledge of where we stand, and where we are going in the field of energy use.

The Interior Committee has held investigatory hearings on some of the problems in this area. The hearings have dealt with the shortage of natural gas, the possible use of magnetohydrodynamics (MHD), various oversight hearings on oil development and production, and the effect which energy production has on the environment. While these hearings and discussions have been beneficial in examining specific areas of concern, they were only designed to focus on particular problems. They were not supposed to provide an integrated, comprehensive survey of energy problems. Because of this, I believe that it is most important to authorize such a survey.

Mr. President, again I compliment the able senior Senator from West Virginia for proposing this pioneering Commission. I urge the Senate to give this proposal the prompt consideration it merits.

Mr. RANDOLPH. Mr. President, I am grateful for the support the distinguished senior Senator from Colorado gives to this legislative proposal. Mr. President, there are other Senators present in the Chamber who have been most helpful as we have considered and drafted this legislation. I believe I have just about utilized the 1 hour I was privileged to speak.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The time of the Senator from West Virginia has just expired.

Mr. RANDOLPH. Mr. President, I ask unanimous consent to proceed for an additional 10 minutes to accommodate other Senators who desire to discuss this subject further.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

Mr. BELLMON. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I am happy to yield to the Senator from Oklahoma.

Mr. BELLMON. I should like to thank the Senator from West Virginia for yielding to me, and also to compliment him on an extremely thoughtful, comprehensive, and authoritative statement on one of the greatest problems our country faces at the present time.

I am very proud to be one of the coauthors of the legislation which the senior Senator from West Virginia has just introduced, to create a Federal Commission on Fuels and Energy. I certainly support the concept, and agree that a study of this kind has long been needed—it is probably long overdue.

I feel that, at the present time, probably no problem facing this country is more serious than the one of providing adequate and dependable energy sources for the continued development of this Nation.

Mr. President, the fact that, at the present time, much of our energy comes from sources that can be interrupted and that frequently have been interrupted, is a matter of great concern to me. The fact that, at the present time, drilling and exploration activities in this country are down sharply; the fact that we face, even in the present year, almost the certainty of brownouts all along the eastern coast and perhaps along the Great Lakes area as well; the fact that we have little reserve producing capacity remaining in the oil and gas fields; and the fact that there is a serious delay in building the trans-Alaska pipeline, upon which we have counted so heavily for energy sources, all of these things disturb me greatly.

The distinguished Senator from West Virginia is well aware of the fact that there is practically no reserve coal-producing capacity left in this country. For these reasons, we are in an extremely critical condition so far as many of the energy needs of this country are concerned.

But, to me, the really remarkable thing about the whole situation is that the United States has the potential to produce abundant energy. We have vast reserves in this country of oil and gas, and we have the technology to make it possible to produce from these reserves even though they exist at great depths. Their production is possible only through the expenditure of huge sums of money.

We have the financial resources needed for this kind of production and, yet, we are not getting the exploration and new developments we need.

Mr. President, the Senator from West Virginia has pointed out some hopeful, even revolutionary and new methods for obtaining a large portion of the available total energy from the fuels we consume, but even if we succeeded in making these new developments practical and get them into use, still there would be a tremendous demand for new energy sources.

I believe the reason that this country is in this present energy crisis, and the reason we are not developing the reserves we need, is that we have never truly undertaken a study such as this which the Senator from West Virginia has recommended. We have never had a Federal commission on fuels and energy that could go into this whole problem in an objective way and prepare information that could be taken at face value.

If we had a commission such as the Senator from West Virginia is now recommending, we probably would not have followed some of the shortsighted Government policies which have brought us to this state of affairs.

I believe that many of the policy decisions made by some of the Federal regulatory agencies have been shortsighted, and that they have created a situation in the energy business which has caused new investments to be noneconomical. For this reason venture capital has now dried up.

Thus, I am pleased to join with the distinguished senior Senator from West

Virginia in this new development. I look forward with eager anticipation to the report which will be forthcoming. I believe that a study such as the Senator has recommended will make it possible for us to find the energy we need, so that we will not be faced with the idle factories and the cold dark houses that are said to be in store for much of our country. Unless a study of this kind is made and unless needed developments follow in its course this Nation will truly face a major energy crisis.

I congratulate again the Senator from West Virginia and thank him for the leadership he has shown in making this move.

Mr. RANDOLPH. Mr. President, I am very grateful for the constructive comments of the distinguished Senator from Oklahoma. He is knowledgeable in the matter of the energy needs of this Nation. To have his active cooperation and coauthorship of the proposal gives me great encouragement as we move forward here today.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. RANDOLPH. Mr. Presidnet, I yield to the able Senator from Alaska.

Mr. GRAVEL. Mr. President, in our daily lives, probably the largest bugaboo we face is the ability to develop some forethought, the ability to effect some planning into our lives. This bugaboo compounds itself on a national scale when we deal with the total organization of our country.

Probably the problem that besets this Nation and the world more than any other problem has been an orderly determination of our resources, particularly the resources of energy.

Today we have tragedy. We have a degree of pollution which threatens our own existence. Commensurately, we have a degree of need for energy, which is the only way we can develop the quality of life.

These two interests are not incompatible, but they are without planning, without forethought, and destructive.

I can only say that this is the first time in the history of the Congress of the United States, the history of the Nation, and the history of the world when there has been a concrete effort to address ourselves in a total manner to inventory and determine trade priorities with regard to our energy demands. That this should come from a Senator whom I have the honor to serve with on the Public Works Committee, who is my chairman and in essence my "boss," gives me a deep and sincere feeling of gratitude.

I congratulate him for his leadership. I am proud to cosponsor the legislation concerning an issue that, because of the blessed benefits my State has received, has been so acute of my own personal knowledge. I praise the Senator from West Virginia for his effort.

Mr. RANDOLPH. Mr. President, I am appreciative of the assurance given by the Senator from Alaska of his desire to have this program move forward. I am sure that we shall be sustained and strengthened by the ability that he will bring to the further discussions as we proceed through the hearings.

I know that the State of Alaska is a big area of this country and is vitally concerned with what we do here. His State is a State with a pioneering history and a great future, and we are thinking about the future here as we consider the overall fuel and energy needs of the United States.

The PRESIDING OFFICER (Mr. HUGHES). The Senator has 1 minute remaining.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that I be permitted to continue for an additional 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, will the distinguished Senator from West Virginia yield?

Mr. RANDOLPH. Mr. President, I yield to the able Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I am pleased to join with the distinguished Senator from West Virginia (Mr. RANDOLPH) and with my other colleagues in cosponsoring legislation to establish a National Commission on Fuels and Energy.

Mr. President, it is increasingly clear that our industrialized society is in the midst of two full-scale crises, separate crises but also closely interrelated. One is the crisis of pollution of the air, water, and land around us—the environment crisis. The other is the crisis of energy needs—the mix of oil, gas, coal, and nuclear power resources that will be needed in greater and greater quantities in the years ahead to fuel our economy.

It is high time that our Nation mounted a top-level effort to see exactly where we are headed in terms of our present and future energy resources and needs.

The current summer, for example, has brought with it dire warnings from electric utilities about possible power blackouts and brownouts. A large nuclear power facility near New York City has shut down for the entire summer so that retooling can take place, and as a result electric power service to our largest city will be subject to possible brownouts or power reductions. Last Sunday there was an explosion at the Keystone Power Station in western Pennsylvania, one of the new power stations incidentally which has been built directly over the mouth of a coal mine. As a result, the power reserves for the entire mid-Atlantic region were given a setback during the peak summer season.

What these incidents point out is the vulnerability of our electric power supply, at a time when the need for power is growing. There is no better time, Mr. President, for this legislation for a National Commission on Fuels and Energy, and I hope it can move promptly through Congress.

In addition, Mr. President, I am pleased that the National Coal Policy Conference, a group made up of both coal industry and labor union representatives, is giving its support to this bill. As a Senator from the Commonwealth of Pennsylvania, whose coal production is exceeded only by that of West Virginia, I naturally share with the coal policy conference a deep interest in the future of coal as a leading energy source. Nevertheless, to the credit of the coal policy conference, this group has seen the need for an overall look at all types of energy resources and needs, a look at oil, gas, and nuclear power, along with coal, as components in an overall fuel and energy mix.

I am glad, Mr. President, to join in cosponsorship of this most worthwhile and vital legislation with the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, the Senator from Pennsylvania is especially knowledgeable in reference to the problems of the production of coal, both anthracite and bituminous, in his State. I know that he takes no narrow concept of the use of coal, although it is of a value that is beyond what people generally recognize and will be for a long time in the future. It is a basic energy fuel.

The Senator speaks of the broad organization and support of people as we go into this matter. There are so many possibilities. I know that the Senator from Rhode Island talked with me yesterday about energy that would come from the sun. He has been intensely interested in looking into this matter.

I assure my friend, the Senator from Pennsylvania, that we will work together. Approximately 53 Senators cosponsor the legislation. That constitutes more than half of the Members of the Senate. I think it reflects a broad assumption of responsibility in this matter, and it is a responsibility which the American people want us to be responsive to, because they, with us, see the problems of the future.

The Senator from Pennsylvania mentioned a matter that concerns all of us, the incident that occurred at the Keystone powerplant in his commonwealth.

I ask unanimous consent that an article concerning that explosion in his State, as it was covered in the Washington, D.C. Post of Tuesday, January 14, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ELECTRICITY RESERVES CUT BY BLAST IN PENNSYLVANIA

(By David Vienna)

A major electricity generating plant that provides an important part of the reserve power for Washington, sections of Maryland and three other states was knocked out for three to six months by an accidental explosion early Sunday morning.

The accident at the Keystone, Pa., facility reduced the excess or reserve capacity of electricity in the Pennsylvania-New Jersey-Maryland region from 12 per cent to 9 per cent of the anticipated total peak demand.

The Federal Power Commission says that 15 per cent is the bare minimum utilities must have in reserve to assure safe and reliable operations. A utility official reached yesterday said, however, he is not too concerned at this time.

Without reserve capacity, the increased use of air conditioners alone on a succession of hot summer days could tax the ability of utilities to supply electricity.

The result could be a reduction in voltage to conserve power, the intentional blacking out of some areas for short periods of time—even a total power failure, some federal power experts say.

The explosion that knocked out the Keystone, Pa., power station affects utilities and their customers in other states because power companies serving Washington and sections of Pennsylvania, New Jersey, Maryland and Delaware are joined in a pool and operate together as if they were one big utility. The arrangement is known as the PJM power pool.

In a statement yesterday, a PJM spokesman said "the loss of this unit does not pose an immediate threat to the PJM system's reliability."

Stephen R. Woodzell, president of the Potomac Electric Power Co., said in an interview yesterday, "I don't say that we're in the best shape in the world, but we're not in a crisis, either. We have the reserve to take care of the situation, but anything can happen. We're not too concerned at this time." Pepco serves Washington and the Maryland suburbs and is a member of the PMJ pool.

An official of the Federal Power Commission said the situation "would be critical if the pool loses another one of these big units, but the loss of the Keystone plant is not enough to cause major problems."

In a May 5 report, the President's Office of Emergency Preparedness noted that if PJM plants at Keystone and Conemaugh, Pa., as well as the facility at Oyster Creek, N.J., go out, "the area has no reserve."

Those three plants are by no means the only power-generating facilities for companies in the PJM pool, but they were singled out in the report as possible weak links in the system.

Though the government's report indicated the Keystone, Conemaugh and Oyster Creek plants produced reserve power, pool members say they have no facilities designated to produce excess power. Each plant in the system, they said, contributes to the reserve supply.

PROBLEMS ELSEWHERE

The companies in the PJM pool are not the only utilities with reserve problems. Those serving the Carolinas and Virginia, known as the CARVA pool, have a reserve capacity of only 6.5 per cent, according to the emergency preparedness office report.

That report notes that other pools and integrated utilities in the Midwest and Northeast also have low reserves.

There are several factors behind this problem.

There has been an increase in the summer demand for electricity caused by a growing use of air conditioners. The electric utilities themselves have pushed this demand through advertising campaigns encouraging consumers to buy and use electric instead of gas air conditioners.

As a result, demand for power is increasing at about 9 per cent a year while the utilities had planned for a 7 per cent increase.

Municipal and other government-owned power facility partisans charge that successful lobbying by big investor-owned utilities against proposed new publicly owned plants has also diminished the potential power supply.

NEW PLANT DELAYS

On the other hand, the investor-owned power companies complain that conservationists have fought construction of new, privately owned power facilities, thereby delaying their operations.

Moreover, plants built within the past year are experiencing normal start-up problems, which means they frequently can't be counted on to supply a continuous flow of electricity.

Those plants whose problems have been worked out are experiencing a new kind of problem. Federal Power Commission officials worry that coal supplies are getting "dangerously low." One southern plant, for example, had been carrying an inventory of coal equal to a 60-day supply but it is now down to a week's supply.

The problems of the electric power industry "may get worse before they get better," says one Federal Power Commission official.

Industry experts as well as federal power specialists say it will be three or four years before the generating capacity of the industry begins to come more in line with demand.

By 1973 or 1974, the power problems of the eastern region may be solved, but those in the West may just be beginning. Already, federal officials wonder if new plants in Southern California and the Pacific Northwest will be ready on time to meet anticipated demand.

It was a boiler explosion that crippled the Keystone, Pa., plant. It happened as workmen began firing up a generator, authorities said. No one was injured but the boiler and the building that housed it were damaged.

Mr. NELSON. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. Mr. President, I yield to the able Senator from Wisconsin.

Mr. NELSON. Mr. President, I wish to join with so many of my colleagues in the proposal of the Senator from West Virginia to create a Federal Commission on Fuels and Energy.

Of the seven or eight most important problems facing the country—poverty, the delivery of medical care to people, peace, housing, education, transportation, energy, and violence—the distinguished Senator from West Virginia is a leader in three of those areas and is now conducting very important hearings on the country's highway transportation system. This is a problem that has developed in the past 15 years. It involves the disastrous disappearance of cheap, mass transportation in this country.

The Senator from West Virginia is addressing himself to that serious and very important area. I commend him for it.

Today he is addressing himself to a proposal to examine in depth the energy requirements of this country, which we should have done a long time ago.

I commend the Senator from West Virginia for being the one who came up with what I think is the appropriate approach to a study and understanding of what our requirements are as projected for the next few decades with regard to our fuel resources, and what the implications, particularly environmental, are with respect to the growing demand for energy.

As the Senator from West Virginia pointed out in his excellent speech, power consumption in this country has doubled every 10 years.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that we may proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, at that rate, by the end of 100 years this country will be consuming over 1,000 times as much energy as it is consuming today. Given known methods of production this would mean we would be stringing 1,000 times as much wire, using 1,000 times as much coal, and using 1,000 times as much nuclear energy. I think the fact of the matter is that there are neither the resources nor the facilities for this country to reach a stage where, under any known sources of power, we will produce 1,000 times as much. And if in the course of producing that energy we have to continue to use water as a coolant, every single river in America, for all practical purposes, will have to run through a powerplant on its way down to the Gulf of Mexico or to the oceans of the east coast and west coast which, of course, means that the various kinds of insects and plant life living in that water will be destroyed, with environmental consequences which no one can predict.

I am pleased to have the opportunity to cosponsor this legislation of the distinguished Senator from West Virginia. I commend him for what I think is one of the most important pieces of legislation introduced in Congress in the past decade.

Mr. RANDOLPH. Mr. President, I appreciate the comments and the cosponsorship of the distinguished Senator from Wisconsin. I am gratified that he will work actively with us in this matter.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. RANDOLPH. Mr. President, I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I, too, am a cosponsor of this legislation. I speak only because I think that what the Senator from West Virginia is trying to do is something which is related to a bitter experience we face now in connection with the railroads.

For years there was an effort to get a national transportation policy, which never got anywhere. Now we have a failure of one of the great railroads of the world and we have a feeling of concern and disorganization in the entire field. Nothing really was anticipated, not even improvements, not even the shift of passenger traffic, nor even the grave problems of interurban traffic and suburban traffic—which are so heavily complicated by the inadequacy of the rail system to deal with the problem. The problems are further distorted by the growth of central core cities and many other unhappy circumstances.

The use of atomic power and perhaps some power beyond atomic power has been suggested. Everything is possible in this world. As the Senator from Wisconsin said, old-fashioned methods will lag behind modern technology in various degrees of time intervals unless there is a concept of what is ahead. I do not believe a free society and a competitive economy needs, necessarily, to be unplanned; but the distinction which must be made is between planning which is compulsory in execution and planning which is advisory and guiding in its effect. The latter is not only compatible with freedom but probably essential to preserve it.

Mr. President, I am very pleased the Senator from West Virginia has taken this initiative, especially since he comes from a strong coal mining State. I hope we all join in this effort and that we will be creative about it, not letting up on it nor treating it as the interest of one particular Senator.

One of the hottest international situations today is attributable to the fact that the energy resources of the industry of Western Europe and Japan are concentrated in the Middle East.

This does not have to be and, hence, the proposal of the Senator from West Virginia is of critical importance in a strategic sense.

Mr. RANDOLPH. Mr. President, I appreciate the constructive comments of the distinguished Senator from New York. I want him to know I am thinking of this problem in its domestic proportions, and I think of it in world proportions, too.

The Senator made mention of West Germany and Japan and problems which concern the Middle East. I have touched on that in my remarks today. I think the knowledgeable Senator draws a very correct distinction between the compulsion and the advisory capacity of Government in placing before us the priorities and guidelines and policies which will be absolutely necessary if this country and its growing population are not only to be sustained but are to be enabled to continue to expand and prosper and to sustain the quality of life which is so important to us.

I am grateful to the senior Senator from New York for his interest in this matter, and for his cogent comments.

Mr. JAVITS. I thank the Senator.

Mr. PELL. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, in my part of the country, Rhode Island and New England, we are principally consumers and we are concerned with the cost of power and our ability to compete in this producing world of ours.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, in this regard I congratulate the Senator from West Virginia on the leadership he has shown in introducing this measure. I am proud to be a cosponsor of it. I believe this commission can be in the forefront to lead the thought in our country to demonstrate that not enough attention has been given in any of the studies of the science of human environment, that is, of ekistics; and that neither has enough attention been given to the planning of energy requirements in the development of cities and the making of decisions with regard to kinds of energy.

When we speak of the kinds of energy, I trust this commission will examine probably the most pressing problem which will face our great grandchildren when supplies of petroleum may be exhausted. When we look at written history of the last 5,000 years, we realize that in 100 years, or in one-fiftieth of that period of time, there may no longer be energy from the principal sources we use today. We should pay very special attention to the work of this commission, on whose creation I particularly commend the senior Senator from West Virginia.

Mr. RANDOLPH. Mr. President, as I relinquish the floor, I wish to express, not in any perfunctory fashion, my personal appreciation to Walter Planet, who is a congressional fellow and who is with the Department of Commerce. He came to our Committee on Public Works and labored for 10 months on this subject matter. He has been of real value to us. I want to mention the considerable contribution of Richard Grundy, who is a technical staff member of the Committee on Public Works and who assisted very much in this effort. I wish to mention also the excellent work of James W. Harris, my executive assistant, who worked with these gentlemen, as did Richard Royce, staff director of the Committee on Public Works. These four gentlemen, and many, many others, have made notable contributions to our efforts.

ORDER OF BUSINESS

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from New York (Mr. Goodell) is recognized for not to exceed 20 minutes for the purpose of engaging in a colloquy with the Senator from Wisconsin (Mr. Nelson).

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT DURING FISCAL YEAR 1971—AMENDMENT

AMENDMENT NO. 784

Mr. GOODELL. Mr. President, I have taken this time to join with the Senator from Wisconsin (Mr. Nelson) to discuss an amendment which we shall offer against the use of environmental warfare. I shall be delighted to yield to the Senator from Wisconsin to take the lead in this, if he wishes.

I yield 10 minutes to the Senator from Wisconsin.

Mr. NELSON. Mr. President, today I submit an amendment I am coauthoring with Senator Goodell that is cosponsored by Senators Case, Cranston, Eagleton, Gravel, Hart, Hughes, Proxmire, Williams of New Jersey, and Young of Ohio. It is the amendment on environmental warfare to be offered to the military authorization bill for procurement. The measure will do three things. First, it prohibits the U.S. military use of antiplant chemical weapons. Second, it prevents the transfer of such weapons for use by second countries. Third, it provides for the elimination of the present stockpile of antiplant chemical weapons.

In December 1969, the General Assembly of the United Nations passed by a vote of 80 to 3 a resolution that declared the use of military herbicides a form of chemical warfare which is forbidden under the Geneva Protocol. The United States, Australia, and Portugal were the only dissenters.

The United States has pledged itself to uphold the Geneva protocol ban against the first use of chemical weapons, but has never officially ratified the agreement. Instead, the United States has been actively using antiplant chemicals in unprecedented amounts in Vietnam and has set a precedent for a new kind of insidious warfare.

Since 1961, 100 million pounds of antiplant chemicals have been sprayed over 5 million acres of South Vietnam, an area the size of the State of Massachusetts. This country has dumped enough chemicals to amount to 6 pounds for every man, woman, and child in South Vietnam.

The military use of herbicides is argued as being necessary to protect American bases and to prevent surprise attacks and infiltrations. The military also contends that defoliation destroys enemy infiltration routes and bases, forcing him to keep on the move and exposed to aerial observation. One of the primary uses of the chemicals is to destroy agricultural crops.

While there may have been limited military benefits, they have been exaggerated and misinterpreted. Defoliation of forests gives the enemy notice of 6 to 8 weeks to move his camp facilities, since it takes that long for the chemicals to defoliate the trees. Defoliation of infiltration routes has little effect on the elusive guerrillas who have an ability to change routes in response to military thrusts.

Defoliation to reduce the chance of ambush along allied supply and communication lines opens up the routes to attack from heavier weapons and gives allied soldiers traveling these routes little cover if they are attacked.

While about half a million acres of rice and other food crops have been destroyed by chemical sprays in South Vietnam, the destruction has had little impact on the guerrilla who manages to get the food he needs. The people of South Vietnam, mainly the women, children, loss of the food and livelihood of their and aged, who suffer the most from the farms, are forced to leave their lands to join the continually growing list of displaced refugees. We only succeed in making enemies of the Vietnamese farmer deprived of his livelihood and his home.

There is little evidence of the military value of the use of chemical defoliants, but even if there were some military value, the widespread use of herbicides for military purposes has dramatic environmental implications worldwide. There is no way of knowing what future environmental problems in Vietnam will be during the next 10, 50, or 100 years.

Scientists have warned that there are several possible long-term ecological dangers from the use of chemical defoliants. These include laterization, or the irreversible hardening of soil no longer protected from the sun by foilage; permanent destruction of mangrove swamp forests; poisoning of aquatic life by runoff into the water system; elimination of many forms of animal life and opening up vast areas to the permanent invasion of fast-spreading undesirable plants like bamboo, forcing out the future growth of natural plantlife.

In 1968, aware there was little data on the ecological effects of the military use of herbicides in Vietnam, the State Department sent F. H. Tschirley of the Agriculture Department to make a 30-day study. Tschirley's report indicated the military defoliation program "is having a profund effect on plantlife in Vietnam."

One of the long-range effects of ecological destruction that Tschirley found was in the massive destruction of mangrove forests. He found that mangroves are extremely susceptible to defoliants and that one application was sufficient to kill most trees. He reported visiting areas on the Rung Sat Peninsula that were still completely barren, even though they had been sprayed years earlier. He estimated it would take about 20 years for the reestablishment of a mangrove forest. Two zoologists, Gordon H. Orians and E. W. Pfeiffer, in a recent article on the "Ecological Effects of the War in Vietnam" in Science magazine, argued, however, that Tschirley's estimate was based on the assumption of the immediate redistribution of seeds to the defoliated areas and the presence of suitable germination conditions when they arrive.

Emphasizing the lack of knowledge on the use of defoliants, the zoologists contended there is reason to believe the timetable for mangrove regrowth may be longer than 20 years. "Possible conditions for seed germination are not now very good in the defoliated forests. The unusual soil conditions of mangrove forests may result in a failure of the herbicides to be decomposed," they argued.

There are areas of sprayed mangrove forests in Vietnam that were sprayed as early as 1961 that still have shown no significant recovery.

Orians and Pfeiffer also found that the almost complete destruction of all the vegetation of the mangrove areas had a severe effect upon the animals living there:

> During our tour of the defoliated areas, we did not see a single species of insectivorous (insect eating) or frugivorous (fruit eating) birds with the exception of barn swallows . . . which are migrants from the north.

They pointed out that they had received one report of many sick and dying birds and mammals in forests following defoliation and two reports of death of large numbers of small pigs near Saigon:

> Nevertheless, we must not forget that habitat destruction which defoliation regularly accomplishes is in most cases the equivalent of death for animals," Orians and Pfeiffer wrote. "The widespread view that animals can move to other nearby areas is untenable because recent ecological evidence suggests that tropical forests hold the maximum number of individuals of most species that the resources will support. Reduction of forest habitats will decrease the populations of forest animals by an equivalent amount. Nor is it true that forest species can live successfully in the greatly modified conditions which prevail in even partially defoliated forests.

The potential biological consequences of our herbicide program are equally alarming. Two sets of hearings by the Senate Subcommittee on Energy, Natural Resources, and the Environment on the teratogenic—deforming—effects of 2,4,5–T and 2,4–D greatly influenced the administration to restrict the use of 2,4,5–T and accelerate studies of 2,4–D. These two chemicals are the primary herbicides used in Vietnam. As a result, the Department of Defense has banned 2,4,5–T in Vietnam and is evidently having serious reservations about 2,4–D, because 2,4–D has already been shown to cause deformities in chicken embryos. The administration has not yet considered the results to be conclusive enough to take restrictive action.

We have sprayed sparsely populated areas at concentrations in excess of those used in experiments that showed substantial teratogenic effects to experimental animals. The Army has denied, however, any reports of hazards to health or any miscarriages, fetal deformities or deaths caused by the defoliation program. The United States has, nonetheless, paid more than $3 million to South Vietnamese claims for personal property damages, with many still outstanding.

The United States is now in the process of turning over the environmental warfare program to the South Vietnamese military as part of the Vietnamization program. This is a reprehensible act, not only because no one should be permitted to engage in this kind of warfare, but because chemicals that cause such widespread and possibly permanent environmental destruction should be denied everyone. Environmental warfare cannot be permitted to proliferate. It is an inexpensive and indiscriminate form of chemical-biological warfare that could cause ecological damages and effect irreversibly the balance of nature.

Mr. President, I ask unanimous consent that the amendment to end environmental warfare, the article by Drs. Orians and Pfeiffer appearing in Science, "Ecological Effects of the War in Vietnam," and the column by Ralph Blumenthal from the New York Times be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. HUGHES). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment and the articles to which the Senator has referred will be printed in the RECORD.

The amendment (No. 784) is as follows:

AMENDMENT No. 784

Sec. —. Prohibitions on environmental warfare.—No part of any amount authorized or appropriated pursuant to this Act or any other law shall be expended for the purpose of—

(1) engaging directly in the military application of antiplant chemicals;

(2) entering into or carrying out any contract or agreement to provide agents, delivery systems, dissemination equipment or instruction for the military application of antiplant chemicals;

(3) procuring or maintaining agents, delivery systems or dissemination equipment intended for the military application of antiplant chemicals.

The articles, presented by Mr. NELSON, are as follows:

ECOLOGICAL EFFECTS OF THE WAR IN VIETNAM

(By Gordon H. Orians and E. W. Pfeiffer)

Wars are always destructive of environments, but never before have the ecological effects of a war been a major issue. For the past several years there has been widespread concern among scientists about the massive use of chemicals for defoliation and crop destruction in Vietnam. Because these chemicals have never before been used in military operations, there are no data upon which to predict the effects of such use. However, J. S. Foster, Director of Defense Research and Engineering, Department of Defense, has stated that the Department of Defense would not use these chemicals if it judged that seriously adverse ecological consequences would occur. The basis upon which this judgment was made is not clear in view of the fact that the report of the Midwest Research Institute (sponsored by the Department of Defense) on the ecological effects of herbicides[1] points out that predictions based on civilian uses are not valid. This is because the military application of herbicides in Vietnam is carried out under conditions that are not comparable to the civilian situation.

Recognizing that there were no data on the ecological effects of the military use of herbicides in Vietnam, the Department of State sent F. H. Tschirley, a U.S. Department of Agriculture plant ecologist, to Vietnam in March 1968, to make a 30-day assessment of the ecological effects of defoliation. His report[2] indicates that the defoliation program is having a profound effect on plant life in Vietnam. He was, however, unable to get first-hand data on many aspects of the problem, including effects on animal life. Accordingly, the Society for Social Responsibility in Science decided to sponsor a trip in March 1969, with the objective of supplementing Tschirley's observations with those of zoologists. Unfortunately both of these visits have been made in the dry season.

SOURCES OF INFORMATION

We gathered information and impressions from interviews with military personnel involved with both field operations and policy decisions. We traveled by helicopter over areas damaged by B–52 bombing raids, and we flew on spray missions with the C–123 aircraft which have been modified for spray application. We were also able to take a 2-hour, 40-minute (104 kilometers) trip by Navy patrol boat through the Rung Sat Special Zone, an extensive region of mangroves on the Nha Be River, which has been heavily defoliated. The main shipping channel to Saigon passes through the area and widespread defoliation has been used to reduce the incidence of rocket and mortar attacks on vessels coming up the river. We are grateful to the U.S. Embassy, Army, Navy, and Air Force, the Rubber Research Institute of Vietnam, Plantations Michelin, and the many Vietnamese biologists, both in governmental and nongovernmental positions in their country, for their cooperation and hospitality. All information which we requested from the Department of Defense that did not carry a security classification was made available to us.

Because rubber plantations are one of the most important sources of foreign capital in Vietnam and since the rubber tree *Hevea brasiliensis* is particularly susceptible to damage by defoliants, especially 2,4,5-trichlorophenoxyacetic acid (2,4,5-T)[3], we interviewed plantation owners concerning defoliation damage. The planters themselves have not carried out systematic studies of the physiological effects of defoliants on rubber trees, but they have been very much interested in estimating their losses. The Rubber Research Institute of Vietnam, a private research corporation, has made careful observations of the nature and extent of damage to rubber trees and has carried out some experiments to find ways of minimizing the loss to defoliants. The data in the files and publications of the Institute, kindly made available to us by the director, Jean-Paul Poliniere, were invaluable to us in learning more about effects of defoliation on rubber trees. Also, during a visit to the research station of the Institute, we were able to observe recent damage to trees by defoliants and to view pictures of trees damaged and killed by previous defoliations. Of-

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Footnotes at end of article.

ficials of the Michelin Plantations also provided us with data from their files on the nature and extent of herbicide damage to rubber trees on one of their plantations.

The Faculty of Science, University of Saigon, and government agencies concerned with plants and animals, such as Ministries of Fisheries, Forestry, and Agriculture, are staffed with biologists trained primarily in France and the United States. These people are knowledgeable and concerned about the ecological effects of the war in their country. By means of interviews with them we were able to assess their concerns, find out what kinds of studies have been initiated, explore ways of helping them launch future studies, and to gather information they had collected which was relevant to our mission.

Wartime conditions prevented us from making ground observations in heavily defoliated forests, but we were able to discuss damage with B. R. Flamm, Chief, Forestry Branch, U.S. Agency for International Development, Saigon, and to examine photographs he took inside forests receiving one and two applications of defoliants. In addition, one of us (G.H.O.) visited some of the sites in Puerto Rico, which have been used to test defoliants under tropical conditions, in April 1969, for a closer look at vegetation recovery and animal populations.

Because previous work on the effects of defoliation in the field have dealt almost entirely with direct effects upon plants, we made a special effort to observe animals in all the areas we visited and to ask as many questions as we could about changes in the status of animals. Because our own knowledge was most extensive about birds we learned the most about them, but we did gather some information on other taxa through interviews. Because of the short duration of our visit we were unable to obtain definitive answers to some of the most important questions which have been raised by the American scientific community about the ecological effects of the war, but we feel that the material we gathered forms a significant contribution to continuing efforts to assess the impact of modern warfare upon the environment in which man must live.

OPERATIONAL ASPECTS OF THE DEFOLIATION PROGRAM

Inasmuch as it is the widespread use of herbicides in Vietnam that has been of greatest concern to American scientists, we gave top priority to learning about the effects of the defoliation program in Vietnam. Defoliants have been used in Vietnam by the United States since 1962. The program started modestly but increased sharply after 1965 (Table 1). A peak was reached in 1967 followed by a slight reduction of total area sprayed with defoliants in 1968 as a result of the reassignment of equipment for other missions following the Tet Offensive.[4] The bulk of the spraying is directed against forests and brush, but a significant proportion is directed against cropland in the mountainous parts of the country.[4] The U.S. military authorities believe the food grown in the mountainous areas is used to feed the forces of the National Liberation Front. They deny using defoliants on rice crops in the delta region. Much of the defoliation is along roads and rivers and around military establishments, and border areas (near Laos and Cambodia) are extensively defoliated. Forested regions north and northwest of Saigon in Tay Ninh, Binh Long. Binh Duong, Phuoc Long, and Long Khanh provinces have been very hard hit. This area contains some of the most valuable timber lands in the country. In most cases, broad forest areas have not been repeatedly defoliated, though possibly 20 to 25 percent of the forests of the country have been sprayed more than once. Roadsides and riverbanks are subjected to multiple defoliation at regular intervals.

TABLE 1. ESTIMATED AREA

[1 acre=0.4 hectare) treated with herbicides in Vietnam. Actual area sprayed is not known accurately because some areas are resprayed. Areas are estimated from the number of spray missions flown, the calibrated spray rates and the width of spray swath covered.]

Year	Defoliation (acres)	Crop destruction (acres)
1962	17,119	717
1963	34,517	297
1964	53,873	10,136
1965	94,726	49,637
1966	775,894	112,678
1967	1,486,446	221,312
1968	1,297,244	87,064

Source: From Department of Defense data.

Officially the defoliation program is a Vietnamese program with the assistance of the United States. The initial request for defoliation may be made by either a district or a province chief with the support of his American advisor. Included in the request must be the claim that the targeted area is under control of the National Liberation Front or of the North Vietnamese. The chief must also pledge to reimburse his people if there is any accidental damage to their crops by wind-blown spray or other causes. The request also must contain a promise to inform people in the target area that it will be sprayed, giving them the reasons for the spraying, and offering them the opportunity to change their allegiances if they so desire. Plans are supposed to be made in advance to handle any refugees which might result from the operation.

This request then goes to the division tactical zone commander and his American advisor, then to the Corps commander and his advisor, and then to the Vietnamese Joint General Staff and its American advisors in Saigon. In Saigon the request is circulated among a broad spectrum of groups dealing with pacification operations, intelligence, psychological warfare, and chemical warfare. Finally, permission must be given by the commanding general and the United States Ambassador to Vietnam.

Despite this formal arrangement, in Vietnam the program is generally considered to be an American one, and military justification of it is always given in terms of the American lives it saves. Moreover, there is evidence that the many precautions specified by the procedures are neglected regularly. For example, aerial reconnaissance of the target area prior to the decision to spray it, is omitted if the schedule is busy, and in enemy-held areas there is often no warning given.

To reduce transfer of herbicides by the wind and to improve the kill on the desired target, the military authorities have established regulations governing conditions under which defoliation may take place. Missions are to be flown only when the temperature is less than 85° F (29.4° C) and the wind is less than 10 knots. This restricts aerial spraying to morning hours, though usually an attempt is made to fly two successive missions each morning.

The defoliants used in Vietnam, the concentrations used, and those used in U.S. civilian operations, and the purposes for which they are best suited are given in Table 2. In the region of Saigon, where wind-blown and gaseous herbicides pose threats to cropland, agent White is now preferred because of its lower volatility and persistence, but in regions where there is little agriculture, Orange is the preferred agent because it is more economical. Presently in Vietnam, Orange constitutes about 50 percent of the total herbicide used, White 35 percent, and Blue 15 percent, the latter being used primarily against mountain rice crops.[4] Approximate areas where extensive defoliation has been carried out are shown in Fig. 1.

EFFECTS OF DEFOLIANTS ON TREES

It was impossible for us to visit defoliated forests on foot or by means of ground transportation. We, therefore, are unable to add much to what has already been reported on the direct effects of defoliants on forest trees. We can confirm Tschirley's report[2] that the trees which are collectively known as mangroves are extremely susceptible to the action of defoliants and that one application at the normal rate employed in Vietnam is sufficient to kill most of the trees. Most of the areas we visited by boat on the Rung Sat Peninsula (Fig. 1) were still completely barren even though some of the areas had been sprayed several years earlier. Only in occasional places was there any regeneration of mangrove trees. We observed no growth of the saltwater fern *Achrosticum aureaum* which often invades mangrove areas.

Mangrove vegetation is floristically simple, the forests in Vietnam being dominated by *Avicennia marina, A. intermedia, Rhizophora conjugata, Bruguiera parviflora, B. gymnorhiza, Ceriops candoleana,* and *Nipa fruticans,* the latter species also forming dense stands along most rivers in the delta region where they are subject to tidal influence. The normal pattern of vegetation succession in mangrove areas has been reviewed by Tschirley[3] who suggests that about 20 years would be required for the reestablishment of the dominant *Rhizophora-Bruguiera* forest. This estimate is based upon the assumption of immediate redistribution of seeds to the defoliated areas and the presence of suitable germination conditions when they arrive. Although our observations were limited to what we could see from the boats with binoculars, there is reason to believe that the timetable may be somewhat longer than this. Possibly conditions for seed germination are not now very good in the defoliated forests. The unusual soil conditions of mangrove forests may result in a failure of the herbicides to be decomposed. If the molecules remain bound to the soil particles they might influence seed germination for a long time. Alternatively, seed dispersal into the areas is difficult because of the large areas in which mature trees have been killed. Many of the areas, as a result of continued soil deposition under the trees, are flooded only at the highest of high tides, and seeds must be transported for long distances from the river channels under very unfavorable conditions. It cannot be excluded that reestablishment of the original forest may be impossible except along the edges of the river channels and backwaters.

Military operations in Vietnam provide an opportunity to study the effects of unusually high rates of application of herbicides. For example, before jet pods were installed in the C–123 aircraft, the planes were unable to remain aloft in case of engine trouble. In such a contingency, the crew could jettison the entire contents of the tank (1000 gallons; 3.79 kiloliters), in slightly less than 30 seconds, whereas normal spray time is about 4 minutes. Although such contingencies are said to occur less frequently now, they do continue to happen. On the spray mission which one of us (E.W.P.) accompanied as observer, the spray nozzles of one plane failed to work properly, and the entire tank was unloaded at the end of the target. Because the locations of targets are pinpointed very precisely, and because reports are made of all unusual activities during a spraying mission, it should be possible to keep a record of such occurrences. It is most important that all

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such incidents be recorded in order to enable biologists, in the future, to investigate the sites of concentrated defoliant applications.

EFFECTS OF DEFOLIATION ON UPLAND FORESTS

Our observations on upland forests that were sprayed directly were limited to aerial reconnaissance. Regrettably we have nothing to add to the published studies about the short-term effect of defoliants on tropical forest trees after single applications of herbicides[1,2,5]. The area in northern Long Khanh province that one of us (G.H.O.) observed from the air had been sprayed previously, and many of the trees on the actual target of the mission already appeared to be dead. Except for the wetter spots which were covered with bamboo, the ground was clearly visible in most areas from the low-flying aircraft. Many areas in War Zones C and D have been sprayed more than once, and this multiple spraying is also associated with coverage of wide areas. Vegetative recovery as judged from the air was limited to the growth of bamboo and understory trees rather than to refoliation of the canopy dominants.

Observations of defoliated upland forests were made from the ground by Tschirley[3] and Flamm.[6] They visited defoliated forests near Special Forces camps in Tay Ninh and Binh Long provinces northwest of Saigon, a region of gray podzolic soils. According to these studies, after defoliation, on sites sprayed once, there appears to be a modest kill of canopy trees, but understory seedlings and saplings survive and forest regeneration begins fairly rapidly. However, on sites that received two sprayings roughly 1 year apart, a heavy kill of all woody plants, including seedlings, is reported. Two or three spray applications may kill approximately 50 percent of commercially valuable timber in such forests. These areas are being invaded by grasses which are resistant to forest defoliants and which may arrest succession by preventing the reestablishment of tree seedlings for a long time. Even if this does not occur, it will take many decades before a mature forest grows. Subtle effects, such as changes in the species composition and forest physiognomy, may persist for much longer than that.

A year after spraying, timber is still in good condition, and could be harvested for commercial use, if equipment and markets are available. However shrapnel will be a serious problem for the Vietnamese lumber industry for many years. Most sawmills report that they lose from 1 to 3 hours each day because shrapnel in the logs severely damages the saw blades. The forestry program is looking for suitable metal detection equipment that might help to reduce this damage.

A variety of herbicides, including picloram, bromacil, isopropylamine, prometone, dicamba, divron, and fenac have been tested for their effects under tropical conditions in Puerto Rico since 1962.[7] The plots visited in April 1969 were located at an elevation of 540 meters in the Luquillo Experimental Forest in northeastern Puerto Rico. They had been sprayed in 1965 with a Hiller 12–5 helicopter which delivers the spray over a standard swath 35 feet (10.7 meters) wide. The plots were 60 by 80 feet (18 by 24 meters) separated by buffer zones 20 feet (6 meters) wide and there were three replications, ordered in a randominzed block design, with 50-foot (15-meter) buffer zones between the strips. The extent of defoliation had been measured 1 year after treatment, the percentage of defoliation on each tree being estimated visually. Apparently there had been no recent ground visits to the sites because all the trails were overgrown and the boundaries of the plots were almost impossible to find. There has been little interest in the continuing effects of the herbicide treatments. This is unfortunate for some areas received very high rates of herbicide application [27 pounds acid equivalent per acre (30.2 kilograms per hectare)]. Assays of growth rate and germination of cucumbers, made in soils up to 1 year after application of the herbicides, revealed relatively high concentrations of picloram, although this technique does not provide precise quantitative measures.

There is a possible serious source of error in the visual estimates of the speed of refoliation in these Puerto Rican rain forest plots. At the higher rates of herbicide application, it was clear that most of the trees had been either killed or severely damaged. However, these plots had been invaded by vines which climbed the trunks of the dead trees and spread out over the former canopy. On some of the plots nearby all of the greenery above 3 meters was contributed by vines and not by refoliation of the original trees. Nevertheless, a quick visual estimate, particularly if it were made from a helicopter, might be taken to indicate that extensive refoliation of trees had occurred. The vine-choked plots will not return to their former state as rapidly as they might otherwise, because the dead trunks will probably collapse under the weight of the vines in a few years, creating a low, vine-covered mat through which regeneration could be very difficult. We urge that continued studies of vegetation succession on these and other Puerto Rican test plots be undertaken so that the time required to reestablish the original forest and the factors influencing the pattern of succession can be determined.

TABLE 2.—CHEMICAL COMPOSITION, RATES OF APPLICATION, AND USES OF MILITARY HERBICIDES

Agent	Composition (percent)	Concentration (pounds per gallon AE)	Rate of application (pounds per acre) Vietnam	Rate of application (pounds per acre) United States	Use
Orange	n-Butyl ester 2,4-D 50	4.2	27.0	2	General defoliation of forest, brush, and broad-leafed crops.
	n-Butyl ester 2,4,5-T 50	3.7			
Purple	n-Butyl ester 2,4-D 50	4.2			
	n-Butyl ester 2,4,5-T 30	2.2			General defoliation agent used interchangeably with agent Orange.
	Isobutyl ester 2,4,5-T 20	1.5			
White	Triisopropanolamine salt, 2,4-D	2.0	6.0	.5-2	Forest defoliation where longer term control is desired.
	Triisopropanolamine salt, picloram	.54	1.5		
Blue	Sodium cacodylate 27.7	3.1	9.3	5-7.5	Rapid short-term defoliation. Good for grass control and use on rice.
	Free cacodylic acid 4.8				
	Water, sodium chloride balance				

Source: From data supplied by the U.S. Departments of Defense and Agriculture. One pound per gallon, acid equivalent (AE) equals 114 grams per liter. One pound per acre equals 1.12 kilograms per hectare.

Some vine invasion was also characteristic of plots receiving lesser amounts of herbicides, but a severe setback in these forests did not appear to have taken place. Seedlings of mahogany, *Swietenia macrophylla*, and Caribbean pine, *Pinus caribaea*, which had been planted in some of the plots a month after defoliation were surviving quite well.

EFFECTS OF DEFOLIANTS ON ANIMALS

Tschirley obtained no direct information on the effects that killing the mangroves had on animal populations, but he cited statistics that the fish catch in the Republic of Vietnam has been increasing. Because many factors influence total fish catch and because most of the fish are caught in regions not directly exposed to defoliation, the significance of these data is unclear. Therefore, we attempted to learn as much as we could about animal populations in the defoliated mangrove forests.

As might be expected, the almost complete killing of all of the vegetation of the mangrove areas by herbicides has had a severe effect upon the animals living there. During our tour of the defoliated areas we did not see a single species of insectivorous or frugivirous bird with the exception of barn swallows, *Hirundo rustica*, which are migrants from the north. Although no data regarding the bird populations in the Rung Sat prior to defoliation exist, our experiences in mangrove areas in tropical America indicate that there should have been large numbers of land birds. For example, in Panama as many species of birds were found in pure red mangrove (*Rhizophora mangle*) forest as would be expected on the basis of the leaf height profile (density of leaves per unit volume as a function of height of forest) of the stand,[8] and in a brief census of a similar mangrove forest (primarily *Rhizophora*) in Costa Rica, 44 species of land birds which appeared to be resident and breeding were recorded.[9] Mangrove areas throughout the tropics are rich in bird species,[10] many of them restricted to that type of vegetation, and the Southeast Asian mangroves are no exception.

Fish-eating birds seem to have suffered less severely, but even their numbers were much fewer than we expected. The species of birds and the number of individuals per species that we observed during a 2-hour period in the defoliated areas, are: oriental darter (*Anhinga melanogaster*), 2; grey heron (*Ardea cinerea*), 13; large egret (*Egretta alba*), 3; little egret (*E. garzetta*), 12; intermediate egret (*E. intermedia*), 1; javan pond heron (*Ardeola speciosa*), 6; stork (*Leproptilos* sp.), 2; black-winged kite (*Elanus caeruleus*), 1; osprey (*Pandion haliaetus*), 9; whimbrel (*Numenius phaeopus*), 3; little tern (*Sterna albifrons*), 10; and white-breasted kingfisher (*Halcyon smyrnensis*), 2. All except the kite, which feeds on small mammals, are fish-eating birds. This suggests, as would be expected, that aquatic food chains in the mangroves may have been less severely affected by defoliation than the terrestrial ones. The only other vertebrate we saw in the defoliated areas was a large crocodile (*Crocodylus*) on the bank of a small channel.

Of all the areas in Vietnam, the mangroves in the delta of the Saigon River have probably been most severely affected by defoliation. The area treated has been very extensive, covering many square kilometers, the vegetation is extremely sensitive to herbicides, and many of the species of animals inhabiting mangroves are restricted to that type of vegetation. These animals are therefore inhabitants of "islands" surrounded by unsuitable habitat and as such are expected to have higher rates of extinction even under normal conditions than species of more continuous habitats.[11] These same properties make them more susceptible to local and complete extermination by disturbance and destruction of habitat than are species of upland habitats. Long-term studies of the ecology of the Rung Sat should be given a high priority, including investigation of the status of such invertebrates as crustaceans.

Birds were scarce in the heavily defoliated plots in Puerto Rico but in the more lightly treated areas both species composition and

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general population density were comparable to that found in untreated areas in the general vicinity. There was not time to conduct a complete census, but it is doubtful whether such studies would be worthwhile since the plots are so small that they are less than the average size of most bird territories. Therefore, the effects of the tests on bird populations should in any event be minimum. It is important to remember, however, that results from spraying of very small areas cannot be assumed to apply to extensively treated areas.

TOXICITY OF HERBICIDES

The problem of the toxicity of herbicides to animals is not yet resolved. Nearly all studies are short term, and results are contradictory. Some reports[1] suggest that at the prevailing concentrations herbicides are not directly toxic to animals, and Tschirley[2] states: "There is no evidence to suggest that the herbicides used in Vietnam will cause toxicity problems for man or animals." However, according to Holden[12] 2,4-dichlorophenoxyacetic acid (2,4-D) may constitute a potential danger to fish even in normal use. The LD_{50} value for salmonids during a 24-hour exposure to 2,4-D is 0.5 part per million. Thus, a concentration of 4 pounds of active constituent per gallon (458 grams per liter) in a small [10 cubic feet (0.28 cubic meter) per second] stream would expose fish to about 100 times the LD_{50}. It should be recalled that the rate of application of 2,4-D in Vietnam is slightly greater than this. According to Holden, the toxicity of 2,4,5-T is about one-half that of 2,4-D.

Another possible source of toxicity to animals from defoliation is in indirect effect of the activity of 2,4-D in plants. Stahler and Whitehead[13] reported that there are several cases of cattle becoming ill or dying after eating certain species of weeds that had been treated with 2,4-D. These authors present data that clearly indicate that sublethal dosages of 2,4-D may markedly affect the metabolism of certain plant species so that toxic quantities of nitrates accumulate in the treated plants. In the animals the nitrates are changed to nitrites which are absorbed into the blood producing methemoglobin which results in oxygen deficiency to the tissues. This condition may cause death or illness resulting in abortion. Leaves of sugar beets that had been treated with 2,4-D were shown to have amounts of nitrate well above the minimum lethal concentration. A recent statement[14] by an American agricultural specialist emphasizes that "Dairy cows should not be grazed on irrigated pasture for seven days after application of 2,4-D at the one-half pound and over rate of application."

To our knowledge there are no studies of the effects of agent Orange on Vietnamese forage plants to determine whether these plants become toxic to animals due to nitrate accumulation following defoliation with Orange. Determination of nitrate concentration in leaves should be made in defoliated and control areas, and the hemoglobins of animals which feed on exposed plants should be studied.

A recent study of the teratogenicity of 2,4-D and 2,4,5-T[15] shows that the latter compound is highly teratogenic in rats and mice at dosages that are possible of ingestion by humans in Vietnam.

We uncovered little evidence of direct toxic effects on animals. The Tan Son Nhut air base in Saigon is sprayed by hand with agent Blue several times each year and nonetheless has a serious rat problem. A trapping crew every night puts out 100 snap traps and 30 live traps, baited with bacon. From 3 January 1969 to 19 March 1969, they had trapped 613 rats and 8 viverrids of at least two species. We netted and observed birds on a previously sprayed brushy area near Bien Hoa on two different mornings and found birds very common. We saw much territorial defense and singing as would be expected at the end of the dry season in the tropics.

We did receive one report of many sick and dying birds and mammals in forests following defoliation and two reports of death of large numbers of small pigs near Saigon, but were unable to follow up either report. The Ministry of Agriculture has received no bona fide claims of animal damage from defoliants. Nevertheless, we must not forget that habitat destruction, which defoliation regularly accomplishes, is in most cases the equivalent of death for animals. The widespread view that animals can move to other nearby areas is untenable because recent ecological evidence suggests that tropical forests hold the maximum number of individuals of most species that the resources will support. Reduction of forest habitats will decrease the populations of forest animals by an equivalent amount. Nor is it true that forest species can live successfully in the greatly modified conditions which prevail in even partially defoliated forests. Species characteristic of successional stages will, of course, be expected to move into the disturbed areas, but even they may have to wait until the basic food resources, such as insects and fruit, have built up again, and we do not know how long this will take.

A phenomenon that should be investigated immediately is a widespread sickness which appears at the beginning of the rainy season in commercially important freshwater fishes. The symptoms are many small, round, dark spots in the muscles. The taste of the fish is also adversely affected. Poor people continue to eat the fish even though they are diseased. This disease has always been characteristic of that time of the year in Vietnam, but the director of the Institute of Fisheries has received reports which suggest that the incidence is now higher than before. Conditions in the shallow water of the fields are ideal for concentration of herbicides. The Vietnamese fisheries people, who are qualified and presently have greater mobility in the country than Americans, are in a position to initiate such studies now. The Minister has already circulated a letter among his representatives in the provinces asking for any information they may have, and we agreed to help formulate a more detailed questionnaire for future circulation.

Some insight into the possible harmful effects of the harbicides now in use in Vietnam may be gained by consulting the labels which give directions for their uses. Dow Chemical Co., makers of agents Orange and White, warn that these chemicals should be kept out of reach of children and animals. The label on agent White states: "Do not allow material to contaminate water used for irrigation, drinking, or other domestic purposes." Dow Chemical Co. also recommends that no grazing be allowed on treated areas for 2 years after treatment and that some broadleafed crops may show damage 3 years after application.

Ansul Chemical Co., makers of agent Blue, state that when an individual is exposed (to cacodylic acid) daily for extended periods, the inspection of skin sensitivity should be supplemented by monthly urinalysis for arsenic. Symptoms of acute poisoning from cacodylic acid are headache, vomiting, diarrhea, dizziness, stupor convulsions, general paralysis, and death. The dosage required to cause these symptoms may be as little as one ounce (28 grams) of cacodylic acid per human adult.

EFFECTS OF DEFOLIANTS ON RUBBER CULTURE

Most studies of the effects of defoliants on forest trees have been confined to observation of the percentage of defoliation after relatively short intervals following single applications of herbicides. Studies of the effects of defoliation on rubber trees have been initiated by the Rubber Research Institute of Malaya and by the Rubber Research Institute of Vietnam because of the economic importance of rubber trees to Vietnam and because of the widespread damage to plantations from military spraying. Although these studies contain the best available data, they have been limited by the shortage of funds and difficulties of field work in a country during wartime.

Damage to rubber trees in Vietnam has been extensive. During 1967–68, the Institute staff visited over 200 different plantations in the provinces of Bien Hoa, Binh Duong, Gia Dinh, Hau Nghia, Long Khanh, Phuoc Tuy, Tay Ninh, and Binh Long. (This covers most of the area between the rice-growing areas of the Saigon and Mekong River deltas and the mountainous central part of the country.) On this extensive area of approximately 130 by 40 kilometers, all plantations reported damage by defoliants. More than 40,000 hectares planted with rubber trees were defoliated at least to the extent of 10 percent. It is difficult to estimate the total amount of damage resulting from defoliation. Plantation owners might possibly submit exaggerated claims, but there is no doubt that the damage has been considerable. For example, Plantation de Dautieng of the Michelin Company has been affected by defoliants three times since 1965. In all cases, the defoliant has not been applied directly to the rubber trees, but has been carried by the wind from applications in the general area. No trees were killed, but, by measuring the drop in latex production due to stoppage of tapping, decreased yield of lightly damaged trees, and costs of cutting and trimming back partially killed trees, the company estimates that the damage amounted to \$27,835 in 1965, \$37,479 in 1966, and \$27,844 in 1967. The areas of spraying, direction of the wind, and areas of the plantation affected are shown in Figs. 3 to 5.

The yield of rubber per hectare is decreasing. In 1960, rubber plantations in Vietnam yielded 1066 kilograms of dry rubber per hectare (on plantations of more than 25 hectares). In 1967, the yield had dropped to 793 kilograms per hectare. In contrast, in Malaysia the yield in 1960 was 758 kilograms of dry rubber per hectare, but had risen to 1007 kilograms per hectare in 1966. The decrease in yield in Vietnam is due to a combination of circumstances such as the cessation of tapping forced by military action, less experienced labor and less thorough control in the field, herbicide damage, lack of general upkeep of plantations, and the cutting of rubber trees along roads where about 3000 hectares have already been cut. The relative importance of each factor seems impossible to assess. It is a fact that they are all the consequence of the war.

The total yield of rubber in Vietnam has also declined. In 1960, 77,560 tons of dry rubber were produced. Rubber exports amounted to \$48,000,000, which was 56 percent of South Vietnam's total exports for that year. In 1967, the yield had dropped to 42,510 tons of dry rubber, which, considering the devaluation of the piaster, amounted only to \$12,800,000. Inasmuch as other exports suffered even more heavily, this diminished amount (26 percent of the 1960 exports) made up 72 percent of South Vietnam's exports, which had decreased to \$17,800,000, or 20.8 percent of the 1960 exports.[16]

If a rubber tree is completely defoliated by herbicides, the Institute recommends that planters stop tapping until its new leaves are fully grown. Because it takes a month for a new leaf to grow to full size from the time of breaking of bud dormancy and because dormancy is not usually broken immediately after defoliation, the minimum period of stopping is about 2 months. The maximum period of stoppage is, of course, permanent if the tree is killed. If tapping is not stopped while the tree is defoliated, there is competi-

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tion between growth of new leaves and yield within the tree, and the future health of the tree is jeopardized. In a number of cases where trees were not killed, tapping has been stopped for as long as 1 year. If only some of the leaves are lost, tapping can be continued, but there is a drop in latex production after a lag of about 1 month. The loss, over a period of a year, has been estimated to be sometimes as much as 30 percent of the normal yield of latex. At current prices that amount of loss reduces profit from about $90 per hectare per year to nothing. As a consequence, most of the small plantations have been unable to stay in business. Only the large planters, with solid financial backing, can afford to remain in operation despite the war.

According to studies by Dow Chemical Company (as reported to us by the Rubber Research Institute), the defoliant is absorbed through the leaves of the trees and is carried down through the phloem within 24-hours, and symptoms of defoliation appear within a few weeks after spraying. The distance the defoliant travels down the tree is a function of the dosage received, and the Institute people have assessed this by the simple device of cutting into the trunk of the trees at different heights to investigate the flow of latex. Necroses are also clearly visible in the sectioned trunks, many of which we examined in the laboratories of the Institute. As might be expected, the smaller the rubber tree, the more readily it is killed by defoliants. Research in Malaysia has shown that a wide range of concentrations of the *n*-butyl ester of 2,4,5–T killed rubber seedlings in 6 weeks.[3] Accidental defoliations in Vietnam indicate that trees less than 7 years old can be killed by the dosages used in military operations, but that older trees normally recover. Nevertheless, all trees on 100 hectares on Plantation Ben Cui were killed by herbicides in 1965, despite the fact that the trees were 33 years old. From such occurrences, the Rubber Research Institute concluded that repeated defoliations threaten the very existence of rubber culture in Vietnam.[17]

In spite of such evidence, Chemical Operations Division, United States Army, claims that rubber trees cannot be killed by defoliants. According to our observations, although we do not claim expertise in this field, damage to rubber production is severe. The Rubber Research Institute, which does not itself maintain any plantations and cannot be accused of bias on that account, seems to be in an excellent position to conduct further research into the physiological effects of defoliants on trees. Funds are urgently needed for this purpose.

EFFECTS OF ACCIDENTAL DEFOLIATION

The extent of damage resulting from windblown and gaseous herbicides has been much debated. Agent Orange is classified as a volatile herbicide by plant physiologists, but physical chemists regard it as nonvolatile. Under proper weather conditions nearly all of the spray is deposited on the vegetation or ground within a minute after release from the aircraft. Those vapors formed during fall of droplets subsequently diffuse according to the laws of gaseous diffusion. Therefore, it has been concluded that "The rate of downwind movement of vapors, and therefore the duration of exposure of plants to the vapors, is dependent upon wind speed in the first few minutes subsequent to spray release. *While no quantitative data are available,* it is our considered judgment, based on the above reasoning, the vapors arising during the actual spray operation, as usually carried out, can be dismissed as a source of herbicides for crop damage outside target areas" [18] (emphasis added by us). This assumes the existence of inversion conditions and that transport of the liquid spray droplets by the wind is negligible. Our direct observations and interviews suggest that the seriousness of this problem has been greatly under estimated.

We were able to observe defoliation damage to several species of trees far removed from target areas. On 25 March, in the village of Ho-Nai, we observed many fruit trees that had recently been damaged by defoliants. The characteristic sign was the presence of curled, dead leaves on the trees. Damage seemed excessive on the south side of the trees, which suggests that the spray was carried into the village by a southerly or southeasterly wind. Villagers informed us that spray had hit them about 1 week previously. Chemical Operations Division, United States Army, reported to us that a defoliation aircraft had had to jettison its chemicals at the time of takeoff from nearby Bien Hoa Air Base, approximately at the time when the Ho-Nai residents had observed the spray. The most severe damage was to jack fruit (*Artocarpus heterophyllus,* Moraceae) which is also a producer of a milky sap. The residents of Ho-Nai claimed to have been affected by defoliation missions seven times within the past year.

On 23 March, in a residential area between Saigon and the U.S. Air Base at Bien Hoa, we examined and photographed many diseased mango trees. The owner, a biologist trained in the United States, claimed that the trees suffered defoliation 3 years ago, after which they became infected and had not since flowered or produced fruit. In other areas we subsequently observed the same symptoms in mango and other trees. According to the Rubber Research Institute, latex-producing trees seem to be more susceptible to herbicide damage than other species.

Every Vietnamese biologist we talked to explained that actual herbicide damage has been frequent and regular over much of the delta region. In the Ministry of Agriculture we were shown photographs of damaged jack fruit, manioc, and rubber and were told that many guava trees had been killed. The Ministry has attempted in a preliminary way to assess the total damage reported and found it to be so extensive that adequate financial compensation to the owners of damaged trees would probably be impossible. The experimental station of the College of Agriculture of the University of Saigon at Tu Duc has been affected by windblown defoliants several times, usually with almost complete kill of vegetables.

It is difficult to determine the amount of claims actually submitted to or paid by the Vietnamese government. Funds for the payment of defoliation claims are provided by the United States, but the claims are handled by the Political Warfare Department of the Air Force of the Republic of Vietnam under the Military Civil Assistance Program. Damage claims are considered and paid by province officials under guidelines established by the central government. Everyone we talked with agreed that payments are minimum. We were told by Vietnamese that people who file claims with the government are often threatened with imprisonment if they continue to press their claims. Many others do not attempt to file claims because they feel it will be of no use. United States officials argue that most claims are fraudulent.

It is our opinion that significant quantities of defoliants are regularly carried by the wind over broad areas of cropland in the Republic of Vietnam. Even given the difficulties of making first-hand observations in a war zone, it would be possible for independent observers to verify or disprove many of the conflicting claims. Such a study is urgently needed. Rising damage claims in 1967 caused a serious review of the defoliation program at that time.[19] Serious controversies over damage caused by windblown spray had arisen, and the psychological impact on the Vietnamese was great. It is noteworthy (and substantiates the claims of widespread crop damage) that the United States now has changed its policy and uses primarily agent White in the delta region because its volatility is lower than that of the other available agents. Nevertheless, we encountered many reports of very recent damage in that area.

CROP DESTRUCTION

Direct and deliberate application of agent Blue to cropland has been restricted to the highland regions of the country which are held by the National Liberation Front. Consequently, scientists of the Republic of Vietnam and those of the United States are unable to make first-hand studies at present. American officials consider the program very successful because many captured soldiers from these areas are seriously undernourished; some to the extent of being stretcher cases at the time of capture. These reports might suggest that the "resource denial" program has been successful, but there are strong reasons for believing that food shortages affect women, children, and elderly people much more than they affect soldiers.[20]

EFFECT OF B–52 BOMBING

Although it has not attracted the concern of American scientists, the damage caused by raids with B-52 bombers is of considerable ecological significance. The 500- and 750-pound bombs dropped by these aircraft leave craters as much as 30 feet deep and 45 feet across. Most of these are filled with water even late in the dry season. The army does not disclose the total number of bombs dropped, and the total area affected cannot be calculated accurately. However, the magnitude of the effect can be estimated from the following facts. A standard load for a B–52 is 108 500-pound bombs or nearly 30 tons of explosives. Normally, a "mission" consists of 3 to 12 aircraft. In 1967, 982 missions were flown over the Republic of Vietnam. In 1968, 3022 missions were flown (Table 3). If one assumes an average of eight planes per mission, then one can estimate that about 848,000 craters were formed in 1967 and 2,600,000 craters in 1968. As one Vietnamese put it, we are making the country look like the surface of the moon. Unless heavy earth-moving equipment can be brought to the sites to fill the craters they will remain a permanent feature of the Vietnamese landscape. Areas such as War Zones C and D, which have been heavily hit by B–52 attacks, are riddled by craters.

Since most of the attacks have occurred in militarily contested areas it has not been possible for scientists to investigate heavily cratered areas to determine the effects on local ecology. Obviously, they are potential breeding grounds for mosquitoes; they may possibly be fish-breeding ponds; they may also render many agricultural areas difficult to utilize.

MISCELLANEOUS EFFECTS

The prolonged military activity in Vietnam is causing other ecological upheavals. Not the least are the major sociological changes that are taking place in the country, such as the amazingly rapid rate of urbanization of the population. This results as people flee from war-torn countryside or are forcibly transported to the city. Within the last decade Saigon has changed from a quiet city of 250,000 to an overcrowded city of 3,000,000 inhabitants. The tremendous infusion of American capital has also resulted in rapid increase in the number of motorized vehicles in the streets. Japanese motor bikes and small cars of Japanese or Italian manufacture seem to be prevalent. Traffic accidents are common. Saigon's air pollution problem due to fumes from the mixture of gasoline and oil which serves as fuel is so severe that many trees along the major arterials in the city are dead or dying. (It is possible that

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the winddrift of defoliants has contributed to weakening the trees, but it is likely that the major cause is fumes from motor vehicles.) There are no immediate prospects for any improvement as the population of the city continues to grow and creation of an adequate municipal transportation system seems improbable.

A major cause of forest destruction in Vietnam today is fire. Some fires are started deliberately by the Vietnamese army and some are caused by artillery shells. Over 40 percent of the pine plantations in the country have been burned recently; the extent of destruction of the mixed forests is unknown. We were unable to estimate the total area involved.

Because of the war, all hunting in the Republic of Vietnam has been officially discontinued. Nevertheless, there are large numbers of armed men in the forest, many of whom are poorly nourished. Presumably, they regularly shoot all suitable food animals. Tigers, on the other hand, seem to have benefited from the war. In the past 24 years, they have learned to associate the sounds of gunfire with the presence of dead and wounded human beings in the vicinity. As a result, tigers rapidly move toward gunfire and apparently consume large numbers of battle casualties. Although there are no accurate statistics on the tiger population past or present, it is likely that the tiger population has increased much as the wolf population in Poland increased during World War II.

SUMMARY AND CONCLUSIONS

In Vietnam the chemical weapons of a technologically advanced society are being used massively for the first time in a guerrilla war. In this conflict there are no battle lines, no secure territory, and no fixed, permanent military installations which can serve as targets for attack. Rather, the military efforts are aimed at increasing the toll of fatalities, denying food to the enemy, and depriving him of the cover and concealment afforded by natural growth. This type of warfare is, therefore, extremely destructive, both of human lives and environment. Our own observations showed the profound effects of denuding the country of growth. The military is emphatic about the effectiveness of defoliation in reducing American casualties significantly. The demand for the services of 12th Air Commando Squadron greatly exceeds their ability to supply them. Although the total numbers of requests for defoliation missions was not disclosed, we were told that even if no further requests were made, the defoliation crews would be kept busy for years by the present backlog. The current extent of the defoliation program is not determined by military demand nor by any considerations of saving the ecology and viability of the land and natural resources of Vietnam, but solely by competition for equipment and personnel.

TABLE 3.—MISSIONS FLOWN BY B-52 BOMBERS OVER VIETNAM

Month	I Corps	II Corps	III Corps	IV Corps	DMZ		North Vietnam
					N	S	
1967							
January	18	14	27	1	2	7	
February	23	30	30	1	1		
March	45	23	32				
April	55	13	22	2	2	4	
May	55	27	23	1	1	3	
June	45	28	25	1			
July	44	31	22	3		3	3
August	26	28	24			24	1
September	13	9	6			57	15
October	17	15	20			30	27
November	13	47	16	1		12	9
December	6	19	22			27	8
1968							
January	59	22	23			4	1
February	204	53	34				
March	222	58	27	4		6	
April	173	66	19	7		2	
May	71	123	27	10		13	1
June	24	87	171	11	4	6	
July	28	34	152	26	7		45
August	71	55	161	13	8	8	8
September	51	55	167	18	1	10	8
October	86	33	128	25	2	1	15
November	45	36	109	17			
December	53	22	125	17			

With general agreement among military experts that defoliation is a potent weapon in guerrilla warfare, it is to be expected that in any future wars of this nature more extensive use will be made of it. At the end of their war against the Vietnamese, the French discovered the usefulness of helicopters as field combat aircraft, but they had only about a dozen at their disposal. There are now several thousand helicopters in Vietnam as a major component of our offensive air power. Making a realistic appraisal of defoliation and its ecological consequences, we must, therefore, consider not only the present extent of use but also anticipate greatly expanded defoliation actions in the future.

We consider that the ecological consequences of defoliation are severe. Enough is now known to reveal that a significant fraction of mature trees in most forests are killed by single applications of herbicides and that almost complete kill, including destruction of seedlings and saplings, is to be expected if repeated sprayings are made. Because of military demands for respraying, we must expect virtual elimination of woody vegetation of defoliated sites as a common result of the military use of herbicides.

It is evident that the most stringent regulations for the application of defoliants cannot prevent the widespread dispersal of herbicides to areas far beyond those that were intended to be defoliated. We found abundant evidence of repeated moderate to severe defoliation of trees and herbs in areas many miles removed from sites of direct application. Every responsible Vietnamese person we met confirmed this. Moreover, a pilot in a war zone will jettison his load of defoliant, rather than jeopardize the safety of his crew and plane, and a spray plane will not return to its base with a full tank because its crew found the temperature or the wind velocity higher in the target area than anticipated. Military use of defoliants will inevitably result in herbicide damage to areas that are far more extensive than those specified as targets.

It is evident that the defoliation program has been a tremendous psychological impact upon the Vietnamese people and has profoundly affected their attitude toward Americans. A farmer whose entire crop has been destroyed by herbicides, whose fruit trees do not bear fruit for 3 years, will inevitably be resentful. We were told repeatedly, though politely, that a significant deterioration of attitudes toward Americans has resulted from the massive use of defoliants. The claim that defoliation is more humane than other weapons of war because it does not directly cause human casualties, may appeal to those whose land has not been defoliated, but hardly to those whose food supply or property has been destroyed. A realistic assessment of the effects of defoliation must take into account the psychological effects upon the people.

The politically sensitive nature of effects of defoliation is fully recognized by the military authorities. Although they claim that defoliants produce no long-term effects on the environment, they have instituted the most stringent regulations to govern their use. The Army claims that it is more difficult to get permission for the defoliation of trees in Vietnam than for killing persons, and permission to spray rubber trees has never been granted, according to military sources, even when enemy forces were "known" to use plantations for concealment. It seems that preferential treatment of the politically powerful rubber interests in Vietnam has added to the hostility of the poorer Vietnamese.

The secrecy surrounding the use of defoliants in Vietnam has also contributed to the feelings we have reported above. The government of the Republic of Vietnam and American officials have not disclosed information to the Vietnamese about the agents used, areas sprayed, and the nature of the chemical action of defoliants and herbicides. The most concerned Vietnamese scientists did not know the chemical composition of the herbicides even though they have tried to ascertain it from their government.

RECOMMENDATIONS

American scientists will want to know what investigations might be immediately possible to sift facts from among so many conflicting claims regarding the ecological effects of defoliants and to stem the tide of increasing mistrust between the Vietnamese and the Americans. Support for research projects should be initiated by the American scientific community without delay. In Vietnam there are scientists, well-trained at American and European universities, who are deeply concerned about the effects of the war on their country. They are eager to conduct research that is necessary for the rehabilitation of their ravaged land. The flora and fauna of the country are well known. The Rubber Research Institute of Vietnam continues to function, although it has once been displaced by military action. It is capable of expanded research into the physiological effects of defoliants on rubber trees and other species. Its staff is interested in investigating the possibilities of diversifying so that it can advise rubber planters on avoiding complete dependence upon rubber. A modest investment of funds for Vietnamese scientists is likely to produce important research results. It would also improve Vietnamese relations with American scientists.

Although long-term studies, such as following vegetational succession on heavily defoliated areas, would be impossible for Vietnamese (Saigon) or American investigators, there are no insuperable barriers to the investigation of fish diseases, of methods of minimizing herbicide damage to commercially important trees which have been deliberately or inadvertently sprayed, and of further studies of toxicity to animals. It should also be possible to gather soil samples from areas that have been subjected to different treatments to learn more about the fate of arsenical compounds, their effects on soil microorganisms, and possible accumulation in the soil of the more persistent herbicides

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such as picloram. We urge that such studies be initiated now rather than be delayed until hostilities cease, although obviously the difficulties are great. We recommend most strongly that the American Association for the Advancement of Science, in accordance with its resolutions of 1966 and 1968[21], take the initiative in setting up an international research program on the long-range effects of the military use of herbicides in Vietnam. We believe that such action is necessary if United States scientists wish to maintain (or regain) the respect of scientists in Southeast Asia.

FOOTNOTES

[1] W. B. House, L. H. Goodson, H. M. Gadberry, K. W. Docter, *Assessment of Ecological Effects of Extensive or Repeated Use of Herbicides,* Midwest Research Institute Report No. 3102–B (1967).

[2] F. H. Tschirley, *Science* 163, 779 (1969).

[3] F. Hutchinson, *J. Rubber Res. Inst. Malaya* 15–5, 241 (1958).

[4] Information supplied by officers in the Chemical Operations Division, Military Assistance Command, Vietnam.

[5] R. A. Darrow, G. B. Truchelut, G. M. Bartlett, *OCONUS Defoliation Test Program, Tech. Rep. No. 79* (U.S. Army Biology Center, Fort Detrick, Maryland, 1966), p. 149.

[6] B. R. Flamm, *A Partial Evaluation of Herbicidal Effects to Natural Forest Stands Principally in Tay Ninh Province* (U.S. Agency for International Development, 1968).

[7] J. E. Munoz and L. W. Hill, *The use of herbicides for site preparation and their effects on tree survival, U.S. Forest Service Research Note No. IFT 12* (Institute of Tropical Forestry, Rio Piedras, Puerto Rico, 1967).

[8] R. H. MacArthur, H. Recher, M. Cody, *Amer. Natur.* 100, 319 (1966).

[9] G. H. Orians, *Ecology,* in press.

[10] G. D. Field, *Ibis* 110, 354 (1968; R. P. French, *ibid.* 108, 423 (1966); T. Haverschmidt, *ibid.* 107, 540 (1965); E. M. Cawkell, *ibid.* 106, 251 (1964); I. C. T. Nisbet, *ibid.* 110, 348 (1968); B. C. Smythies, in *The Birds of Burma* (Oliver & Boyd, Edinburgh, 1953).

[11] R. H. MacArthur and E. O. Wilson, *The Theory of Island Biogeography* (Princeton Univ. Press, Princeton, N.J., 1967).

[12] A. V. Holden, *J. Inst. Sew. Purif.* 1964, 361 (1964).

[13] L. M. Stahler and E. I. Whitehead, *Science* 112, 749 (1950).

[14] T. Woiciechowski (Missoula County Agent), *Missoulian* (8 May 1969).

[15] B. Nelson, *Science* 166, 977 (1969).

[16] From data supplied to us by Plantations Michelin, Saigon.

[17] J. P. Poliniere, *Situation Phytosanitaire de Différent Sites Hévéicoles en Relation avec Apport Probable de Defoliants (à suivre)*, arch. 5/67 (Institut des Recherches sur le Caoutchouc au Viet-Nam, 1967).

[18] C. E. Minarik and R. A. Darrow, *Potential Hazards of Herbicide Vapors* (Headquarters U.S. Military Assistance Command Vietnam, Chemical Operations Division, 1968).

[19] E. Pond, *Christian Science Monitor* (25 and 29 Nov. and 8 Dec. 1967).

[20] J. Mayer, *Scientist and Citizen* 9, 115 (1967).

[21] D. Wolfle, *Science* 167, 1151 (1970).

UNITED STATES SHOWS SIGNS OF CONCERN OVER EFFECT IN VIETNAM OF 9-YEAR DEFOLIATION PROGRAM

(By Ralph Blumenthal)

SAIGON, SOUTH VIETNAM, March 14.—Many South Vietnamese who live adjacent to areas that are being defoliated by spray from United States planes are convinced that any ailments or misfortunes that they suffer are related to the sprayings.

There is no proof that they are right about the effect of the chemical sprays on the human body, but neither is there any assurance that they are wrong.

Although the defoliation program, organized and run by the United States, has been in operation for nearly nine years, the full effect of the chemicals on animal and human life remains largely undetermined.

The United States military command says the program, which is designed to strip plant cover from areas occupied by the enemy and to destroy crops that might yield him food, has covered about 5,000 of South Vietnam's 66,350 square miles.

UNITED STATES COMMAND TERMS IT VALUABLE

The United States command says the program has proved its military worth. "It has contributed materially to the security of units operating in the field by increasing their visibility from the ground as well as the air," the command said.

About 13 per cent of the program has been directed against crops, presumably food grown by and for the enemy. Because of the drifting of defoliants and the difficulty of assessing the results on the ground, it is virtually impossible to say how much of the crop has been destroyed by the chemicals, but it would not appear to be a significant part of the country's capacity. It has brought hardships, however, to individual farmers.

After years of assuring the South Vietnamese that this extensive spraying was harmless to animals and humans, United States officials are showing signs of concern over recent reports that the chemical sprays may have some little-understood and alarming effects.

PANEL STUDYING EFFECTS

In the last several months, reportedly on instruction from Washington, the United States military command and the United States Embassy have formed a special committee to review the effects of the defoliation program, especially on humans.

The sensitivity of the issue has foreclosed official comment, but according to informed sources the science advisory office of the command is responsible for gathering data in interviews and tests that embassy officials will then evaluate.

The South Vietnamese Government regards the entire subject as taboo. Vietnamese newspapers have been suspended for publishing articles about birth defects allegedly attributed to the defoliants, and the public Health Ministry declines to provide any statistics on normal and abnormal births.

However, the concern felt among the Americans is shared by many South Vietnamese scientists, physicians, health officials and villagers interviewed in a three-week survey of the effects of the program.

Officers of the United States command are aware of the allegations of birth defects but they generally discount the reports.

Responsible South Vietnamese scientists and officials say they know virtually nothing about the effects of the chemical sprays.

Saigon's leading maternity hospital, Tudu, from which rumors of an increase of abnormal births emanate periodically, has not even compiled annual reports of statistics for the last three years. Recent monthly figures show an average of about 140 miscarriages and 150 premature births among approximately 2,800 pregnancies, but the hospital is not prepared to say whether this represents an increase and, if so, what the cause might be.

A high Agriculture Ministry official said: "I don't think the Americans would use the chemicals if they were harmful."

He conceded that his ministry had made no tests and asserted that his experts had been unable to get any information about the defoliants from the Defense Ministry, which considers such data secret. The main defoliant compounds and some information about them are available in the United States.

Last Oct. 29, President Nixon's science adviser, Dr. Lee A. DuBridge, announced that as a result of a study showing that one of the defoliants used, 2, 4, 5–T, had caused an unexpectedly high incidence of fetal deformities in mice and rats, the compound would henceforth be restricted to areas remote from population.

That directive appears to be ambiguous in South Vietnam for military spokesmen assert that 2, 4, 5–T continues to be used only in "enemy staging areas"—by definition populated regions.

DEFOLIANTS WERE CONCEALED

Don That Trinh, Minister of Agriculture from November, 1967 to May, 1968, and for 10 years professor of agronomy at Saigon University, said that while he was minister, the Defense Ministry "would try to conceal the defoliant products from me."

"I did not believe in defoliation," he added.

According to one of the Vietnamese directors of a Government research laboratory in Saigon: "We didn't know anything before the United States started spraying. It was only when we received complaints from the livestock people that we started getting interested." But, he added, there are still no Vietnamese studies.

Even the village of Tanhiep, 20 miles north of Saigon, on which 1,000 gallons of defoliants were jettisoned on Dec. 1, 1968, has not been the object of attention or study.

An American C–123 flying out of Bienhoa air base, Northeast of Saigon, developed engine trouble shortly after takeoff. To lighten the craft, the pilot sprayed the full load of chemicals over Tanhiep and nearby Binhtri in 30 seconds instead of the usual 4 minutes 30 seconds, which spreads the defoliant at the rate of three gallons an acre in unpopulated areas.

The defoliant involved, according to the United States command, was a 50–50 mixture of 2,4-Dichlorophenoxyacetate, or 2,4-D, and 2,4,5-Trichlorophenoxyacetate, or 2,4,5-T, in an oil base. It is one of three compounds the military says it uses here, the others being a Dow chemical product called Tordon 101, a mixture of amine salts of 2,4-D and Picloram, and an arsenic compound of cacodylic acid.

No physicians visited Tanhiep to examine the people after their exposure, which, like eight similar emergency dumpings since 1968—some over unpopulated forests—was not made public by the United States command.

A United States Air Force medical team visited Binhtri shortly after the spraying and, according to American district officials, found the villagers had suffered no ill effects. There was no later inquiry.

Mrs. Tran Thi Tien of Tanhiep, who says she has four normal children, is convinced that the malfunction of her son, who still looks like a newborn at 14 months of age, "must be due to the chemicals I breathed."

Her neighbors, Mrs. Nguyen Thi Hai and Mrs. Tong Thi An, blame the spraying for the fact that their children, one year and 20 months old respectively, still crawl instead of walk.

Nguyen Van Nhap, a farmer, complains of suffering bouts of fever, sneezing and weakness.

"I was working in the field when the spray came down," Mrs. Tien said through an interpreter. "I felt dizzy, like vomiting and had to stay in bed three or four days." She was holding her stunted baby, who was born about a month after the spraying.

Many other villagers reported feeling the same sensations as Mrs. Tien, but, except for the two children described as retarded in learning to walk, no other abnormal children were described to visitors at the village of 1,200 residents.

Tran Van Dang, a farmer in neighboring Binhtri, recalled that three days after the spraying two villagers, Tam Ten and Mrs. Hai Mua, died after suffering respiratory difficulties and trembling. The next day, he said, a third villager, Mrs. Hai Nuc, died after showing similar symptoms. Mr. Ten was an old man and could have been expected to die soon anyway but the two others, Mr. Dang said, were middle-aged and had seemed healthy. At the funerals, he said, the relatives and friends attributed the deaths to the spraying.

Such complaints are not limited to Tanhiep and Binhtri where villagers were admittedly exposed to concentrated doses of defoliant—though just how concentrated has not been established.

In Bienhoa city, 10 miles from Tanhiep, any defoliant in the air drifts down from the heavily sprayed battle area to the north.

Dr. Nguyen Son Cao says he finds a clear correlation between the days when there is spraying and the number of patients who come in with respiratory ailments, mostly sneezing and coughing.

Dr. Cao, who has been practicing in Bienhoa for 21 years, said he had also noticed that in the last two or three years the number of miscarriages among his patients had doubled. Of the average of 40 pregnant women a month who come in to see him, he said, more than 10 suffer miscarriages where there used to be five or six.

"These women are convinced they are the victims of the chemicals," he said. "I only suspect there could be a relationship. This suspicion is very well known. The increase in miscarriages is very obvious, very significant."

Mr. GOODELL. Mr. President, I am pleased to join with the Senator from Wisconsin (Mr. NELSON) in submitting this amendment against environmental warfare.

It is very similar to the amendment I submitted on May 26 of this year prohibiting use, transfer, and stockpiling of antiplant chemical weapons. My amendment has been referred to and considered by the Senate Armed Services Committee as part of the military procurement bill.

Yesterday, the committee reported out the military procurement bill. Regarding antiplant chemical weapons, I regret to note that the committee has seen fit only to require another study on the effects of herbicides used in military application. The study is to be conducted by the National Academy of Sciences. The committee recommends a study into "the ecological and physiological consequences inherent generally in the use of herbicides and also into the specific ecological and physiological effects which have followed from our use of herbicides as defoliants in Vietnam."

Mr. President, it is difficult for me to understand why we persist in this "use now, study later" approach to environment-damaging chemicals as weapons of war. It is true that pollutants of environment derived from peaceful uses of chemicals and pesticides have received the most attention from our citizens in demands for governmental action and control. It is true that what has been neglected is the control of pollutants derived from chemicals, herbicides, and defoliants used as weapons of war.

The Nelson-Goodell amendment prohibiting environmental warfare attempts to fill this area of neglect. We feel that there has been sufficient evidence gathered by studies to date on the military use of herbicides and defoliants in Vietnam to warrant the complete termination of the military defoliation program there. We believe in a "stop now-also study" approach to the military use of antiplant chemicals and to the effects of such use—on environment, on arms control, on weapons proliferation, on community economy, public health, and general living conditions. We have welcomed the decision of the American Association for the Advancement of Science—a decision made last December—to conduct an on-the-spot study of the ecological effects of wartime use of herbicides and defoliants in Vietnam. Preparation for this study is well underway and the study team led by Prof. Matthew S. Meselson, a leading expert on chemical and biological weapons use, is scheduled to be in Vietnam this August.

While studies continue, let us move now to stop the highly questionable use of antiplant chemicals as weapons of war.

Mr. President, Senators will recall that defoliation, the reduction of forest vegetation and plant growth, has been adopted for warfare by the Department of Defense on the grounds that it allows an additional military tactical option for U.S. forces in combat.

According to a recent Army training manual, "antiplant agents" for military application are:

> chemical agents which possess a high offensive potential for destroying or seriously limiting the production of food and defoliating vegetation. These compounds include herbicides that kill or inhibit the growth of plants; plant growth regulators that either regulate or inhibit plant growth, sometimes causing plant death; dessicants that dry up plant foliage. . . . Military applications for anti-plant agents are based on denying the enemy food and concealment.
>
> *Source:* Department of the Army Training Circular TC 3-16 (Department of the Army, April 1969), p. 62.

Antiplant chemical agents developed for the military defoliation program include: "Orange," a mixture of 2,4-D and 2,4,5-T; "White," a mixture of 2,4-D and picloram; and "Blue," an aqueous solution of cacodylic acid. Collectively, these agents have commonly been called "herbicides" and "defoliants." Technically, "Orange" and "White" are "growth-regulating compounds" and are directed mainly against forest vegetation; "Blue" is considered a "dessicant" and used primarily to destroy crops. Each of these antiplant chemical agents has been used as a weapon of war in Vietnam.

Use of defoliants by U.S. forces began on December 4, 1961 when President Kennedy authorized the Department of Defense to test the military effectiveness of defoliation on several lines of communication in South Vietnam. Since that time, this country has spent over $96 million to defoliate over 5 million acres of forest and cropland in South Vietnam. The primary target for the military defoliation program has been forest areas. Roughly 13 percent of South Vietnam's forest areas have been sprayed at least once and 15-20 percent of this sprayed forest area has been subject to repeated sprayings. Regarding crop destruction, it is estimated that 7 percent of Vietnam croplands have been sprayed.

Objectives of this environmental warfare program are to deny the enemy food and concealment. According to the Defense Department, "in the final analysis the sole purpose of the herbicide program is to protect friendly forces, conserve manpower and deny food resources to the enemy."

Mr. President, let us also recall that in April of this year the U.S. Department of Agriculture ordered an immediate cancellation of registrations of 2,4,5-T for use in the U.S. around homes and water areas because such use could constitute a hazard to human health. At the same time, the Defense Department announced a ban on its primary defoliant "Orange," a mixture of 2,4,-D and 2,4,5-T, for military use in Vietnam. To date, the Defense Department has further restricted its military defoliation program in Vietnam by foregoing the use of "White," a mixture of 2,4-D and picloram as a possible substitute to defoliate forest areas for military purposes.

Desiccant "Blue," then, it appears, is the only agent now authorized by the Defense Department for use in the remaining defoliation program in Vietnam. Agent "Blue," an aqueous solution of cacodylic acid, has been primarily used for crop destruction, but could also be used as a defoliant for forest and roadside areas.

Mr. President, the recent decisions of the Defense Department to greatly limit the military application of antiplant chemicals, provide an appropriate opportunity to review and assess the basic question of whether an antiplant chemical warfare arsenal is really needed and whether the negative side effects of the United States first use of these chemicals in Vietnam outweigh the value of defoliation and crop destruction as tactics in war.

Mr. President, there is the danger that military application of defoliants is producing long-lasting, irreversible damage to the environment of South Vietnam.

I fear that when we leave Vietnam we will also leave a vast environmental wasteland due to massive use of antiplant chemicals weapons sprayed on forest acreage and food croplands. The legislation we are introducing today aims at preventing this wasteland tragedy.

Regarding other negative side effects of the military application of antiplant chemicals, there is evidence that environmental warfare has hampered pacification in Vietnam by creating resentment among rural populations due to accidental destruction of civilian crops and damage to country landscape. Already over $3 million has been paid to Vietnamese for defoliant damage claims. Still pending is a Cambodian claim for over $12 million for damage to rubber trees due to defoliant spraying. Equally important, is the dangerous weapons proliferation that will occur if an antiplant chemical warfare capability is transferred to the South Vietnamese. The Army has revealed that this is the present intention.

This amendment against environmental warfare which I have coauthored with Senator GAYLORD NELSON prohibits the use of environment-damaging chemicals for military purposes; it forbids the transfer of such chemicals to allied troops; and it calls for the gradual dismantling of antiplant chemical weapons.

Mr. President, for every environmentalist, concern does not stop at a nation's edge; it is worldwide.

Today man's environment, now and for the future, is a focal point of concern. Vast amounts of potent pollutants still threaten clean air, clean water, and a livable environment here at home.

Chemical pollutants from war use are deserving of our attention and control as well as chemical pollutants from peaceful uses.

Our concern for environment must be matched by our determination to take firm action against unwise use of chemicals leading down a mad collision course of environmental catastrophe.

Mr. HART. Mr. President, I welcome the opportunity to cosponsor what I believe to be one of the more significant amendments to be considered to the Military Procurement bill.

Senator Nelson and Senator Goodell have shown perceptive leadership in recognizing the potential damage which may result from continuation of our defoliation and anticrop operations in South Vietnam.

They are also to be commended for pointing out how little evidence is available as to the actual military effectiveness of these operations.

Our experience in the Subcommittee on Energy, Natural Resources and the Environment has been related to the first of these points—the potential damage—and has demonstrated the rather alarming risks inherent in the use of chemicals like 2,4,-T and 2,4-D. In our hearings several prominent scientists have argued that no limits can yet be placed on the potential damage to man that may result from these chemicals. Whereas no case of human damage has yet been determined conclusively to be attributable to 2,4,5-T or 2,4-D, constantly we have been reminded that birth defects seldom bear a brand name which will allow determination of their cause.

Perhaps the most alarming prospect discussed at the hearings was that a highly toxic contaminant known as dioxin may now be building up in our bodies and in those of the Vietnamese. Currently produced 2,4,-T, a major ingredient of agent "Orange" is known to contain small amounts of this contaminant. Although dioxin has not yet been found in 2,4-D, which is used in both agent "Orange" and agent "White" it has been discovered in its chemical precursor, 2,4-dichlorophenol. Some scientists have concluded, as a result, that it is likely that it is contained in 2,4-D as well.

The dioxin associated with 2,4,5-T, we have been told, is stable when sprayed on soil. We have also learned that it accumulates in the tissue of chicks. What this evidence suggests is that dioxin may persist in the environment after being deposited on forests and plants and that it may, when transferred to the human body through the food chain, accumulate in human tissue. Although we do not know that it will do so, it seems irresponsible to take the risk with a chemical shown to be many times more toxic than thalidomide in experiments with chick embryos.

We have also received testimony at our hearings on the ecological damage that may be caused by defoliants. The risks of destruction of nontarget plants and of wildlife and fish species has been discussed, as has the possibility of permanent replacement of valuable vegetation by bamboo.

Although in most of these cases, we are dealing with possibilities rather than with instances of known harm to humans and the environment, we must ask ourselves whether the benefits of our defoliation and anticrop programs can justify these risks. Until impressive evidence of military effectiveness is available, I cannot find any such justification. At a time when we must make every effort to wind down the war in Southeast Asia, every weapon in our arsenal must be subjected to increased scrutiny and stiffer tests for effectiveness and possible harmful consequences. With the evidence at hand it does not appear that these tests have been met.

A policy which would destroy a country in order to save it would be absurd. It is the responsibility of Congress to insure against actions which might have such a consequence.

AMERICAN PRISONERS OF WAR

Mr. GOODELL. Mr. President, for 5 years or more American soldiers have been held as prisoners of war by the North Vietnamese Communist government. We do not know the exact number, we do not know how many are alive or dead, in good health or bad. The families of these unfortunate men have heard very little, in most cases nothing at all, about their men whom, in some cases, they last saw 6 years ago. All this despite the fact that the Government of North Vietnam is a signatory to the Geneva Convention on prisoners of war.

I grant you that these statements calling attention to the violations of this convention and to the plight of these Americans are not in themselves of great import. Nor, to be honest, have they produced the results for which we hope.

That should not discourage us. In the words of Samuel Johnson, "He who waits to do a great deal of good at once, will never do anything."

We will continue to press for action at all levels, public and private, to persuade the North Vietnam Government to obey the Prisoner of War Convention they signed.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. Hughes). Pursuant to the previous order, there will now be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. Gravel) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations received today, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to a concurrent resolution (H. Con. Res. 675) expressing the sense of the Congress with respect to the conquest of cancer as a national crusade, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 1520. An act to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers;

H.R. 7517. An act to amend the Canal Zone Code to provide cost-of-living adjustments in cash relief payments to certain former employees of the Canal Zone Government, and for other purposes;

H.R. 11766. An act to amend title II of the Marine Resources and Engineering Development Act of 1966; and

S.J. Res. 88. Joint resolution to create a commission to study the bankruptcy laws of the United States.

HOUSE CONCURRENT RESOLUTION REFERRED

The concurrent resolution (H. Con. Res. 675) expressing the sense of the Congress with respect to the conquest of cancer as a national crusade, was referred to the Committee on Labor and Public Welfare.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred or held at the desk as follows:

By Mr. RIBICOFF:

S. 4090. A bill to preserve and promote the resources of the Connecticut River Valley, and for other purposes; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. Ribicoff when he introduced the bill appear later in the Record under the appropriate heading.)

By Mr. SCHWEIKER (by request):

S. 4091. A bill to provide for the establishment of a National Weather Modification Regulating Commission to regulate all weather modification activities, and for other purposes; to the Committee on Commerce.

By Mr. RANDOLPH (for himself, Mr. Allott, Mr. Allen, Mr. Baker, Mr. Bayh, Mr. Bellmon, Mr. Bible, Mr. Boggs, Mr. Burdick, Mr. Byrd of West Virginia, Mr. Cook, Mr. Cooper, Mr. Cranston, Mr. Case, Mr. Dole, Mr. Dominick, Mr. Eagleton, Mr. Eastland, Mr. Fong, Mr. Gravel, Mr. Harris, Mr. Hart, Mr. Hatfield, Mr. Hollings, Mr. Hughes, Mr. Inouye, Mr. Jackson, Mr. Javits, Mr. Jordan of Idaho, Mr. Jordan of North Carolina, Mr. Magnuson, Mr. Mansfield, Mr. MATHIAS, Mr. McGEE, Mr. McINTYRE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PELL, Mr. PROUTY, Mr. SAXBE, Mr. SCOTT, Mr. SCHWEIKER, Mr. SPARKMAN, Mr. SPONG, Mr. STEVENS, Mr. SYMINGTON, Mr. TOWER, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, and Mr. YARBOROUGH):

S. 4092. A bill to establish a Commission on Fuels and Energy to recommend programs and policies intended to insure that United States requirements for low cost energy will be met, and to reconcile environmental quality requirements with future energy needs; to the Committee on Interior and Insular Affairs, by unanimous consent.

(The remarks of Mr. RANDOLPH when he introduced the bill appear earlier in the RECORD under the appropriate heading.)

By Mr. GOODELL (for himself and Mr. JAVITS):

S. 4093. A bill to authorize increases in construction cost limitations applicable to certain federally assisted housing; and

S. 4094. A bill to amend section 236 of the National Housing Act; to the Committee on Banking and Currency.

By Mr. MOSS:

S. 4095. A bill for the relief of Osvaldo R. Borelo, Angela Borelo, Diana Laora Borelo, Viviana Christina Borelo, Estevan Daniel Borelo and Mirian Borelo; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 4096. A bill to amend the Federal Food, Drug, and Cosmetic Act, and for other purposes; to the Committee on Labor and Public Welfare.

By Mr. SPONG:

S.J. Res. 221. Joint resolution to provide for the construction of a monument commemorating the Apollo 11 lunar landing; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. SPONG when he introduced the joint resolution appear later in the RECORD under the appropriate heading.)

By Mr. JAVITS (for himself, Mr. GOODELL, Mr. CASE, and Mr. WILLIAMS of New Jersey):

S.J. Res. 222. Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the Waterfront Commission Compact and for entering into the Airport Commission Compact, and for other purposes; held at the desk temporarily, by unanimous consent request.

S. 4090—INTRODUCTION OF A BILL TO PRESERVE AND PROMOTE THE RESOURCES OF THE CONNECTICUT RIVER VALLEY

Mr. RIBICOFF. Mr. President, I introduce for appropriate reference a bill to create the Connecticut Historic Riverway. This legislation is a vital step in the efforts to preserve one of nature's great natural resources—the Connecticut River.

The Connecticut Historic Riverway would encompass 23,500 acres along an 11-mile stretch of the Connecticut River from Old Saybrook to Haddam, Conn. This is the identical area described as the Gateway Unit in an earlier version of this legislation.

Last year, I sponsored S. 1805, a bill to create a Connecticut River National Recreation Area. Today's bill is a new draft of this earlier legislation. It remains based on the report, New England Heritage, drawn up by the Bureau of Outdoor Recreation in the Department of the Interior and published in 1968.

The new legislation contains two major revisions.

In May of this year, Senator ALAN BIBLE, chairman of the Senate Subcommittee on National Parks and Recreation, joined me in a day-long excursion of the proposed Federal unit in the State of Connecticut. Consultations held with many Connecticut residents at that time and subsequently have convinced me that further safeguards must be included in the bill to protect the proposed riverway from needless and unwise despoliation.

These safeguards will serve as standards for the National Park Service which will administer the federally owned area. To reflect the emphasis on preservation, the former Gateway Unit has been renamed the Connecticut Historic Riverway.

Second, the bill has been redrafted to permit action on the Connecticut portion of the river while awaiting further developments in Massachusetts, Vermont, and New Hampshire.

We cannot overestimate the need for initiating constructive steps to preserve the Connecticut River at the earliest possible moment. The urgency of the situation, however, should not make us forgetful of the importance of including local residents in the planning process.

In Connecticut, private individuals and public officials alike have been consulted at every step in the long process to establish a Federal park area in Connecticut. Their assistance has been invaluable. The thoughts and suggestions of these Connecticut citizens are reflected throughout this bill. Constructive cooperation of this nature has been heartening and has convinced me that we in Connecticut are now prepared to take actual steps to preserve the Connecticut River for our future generations.

Similar discussions and consultations are now taking place in Massachusetts, Vermont, and New Hampshire regarding the Mount Holyoke and Coos Scenic River Units of the original bill, S. 1805. It is my belief, which is shared by the Senators from these States, that action on these units should be deferred until the full exchange of views so necessary to the successful implementation of the plan has taken place.

Nevertheless, I hope and expect the proposals to create the Mount Holyoke and Coos Scenic River Units will become reality in the near future.

Meanwhile, this legislation would provide authorization to move ahead with the Connecticut portion of the comprehensive plan for the Connecticut River outlined in New England Heritage.

The Connecticut riverway would be comprised of 19,800 acres of land adjacent to the Connecticut River and 3,700 acres of water area. This legislation authorized acquisition by the Federal Government of no more than 5,000 acres of land which would be mainly undeveloped area including 870 acres of tidal marshlands so important to the survival of marine and aquatic wildlife. The remaining area of the riverway would remain in private hands under locally enacted zoning ordinances meeting standards prescribed by the Secretary of the Interior. The total Federal cost of the riverway is expected to be $36 million.

The proposed riverway is an area of varied natural beauty. It includes both the low-lying tidal marshes of the coastlands and the forested hills and coves of the upland area further north on the river. The value of the riverway lies precisely in this natural bounty and in the strong role it has played in the history of New England.

Federal administration of the riverway would accordingly be carefully circumscribed to respect the tranquillity and scenic charm of the area. No new road system or massive and intensive recreational facilities are contemplated. The ecology of this scenic and pastoral area must be preserved.

The bill establishes a local advisory committee to assist in the administration of the riverway. This committee would consist of representatives from the several towns adjacent to the area as well as representatives from the State and regional planning commissions. Consultation with the Secretary of the Interior on matters relating to the development and administration of the area would be on a regular basis. This advisory committee would provide residents of the proposed riverway direct access to those charged with administering the Federal area.

Crucial to the legislation is the concept of the Connecticut Valley Corridor, a provision of S. 1805 which has been included in this new legislation. The corridor includes the first tier of Connecticut towns adjacent to the river and the Connecticut portion of the river itself. The authorization of this corridor will permit coordinated planning and conservation efforts by State, local, and Federal agencies in the Connecticut portion of the river valley.

In addition, all Federal projects affecting the river and corridor will be subject to the review of the Secretary of the Interior.

Although only the riverway itself is under direct Federal control, the Secretary will be authorized to assist local and State efforts to enhance the recreation resources within the corridor which are outside of the riverway.

Mr. President, this bill represents recognition that conservation is no longer a luxury for anyone seriously concerned with the future of the Connecticut River Valley. It is furthermore a commitment to the preservation of the beauty and majesty of this river which has been so great a part of the heritage of New England.

The Connecticut, which has given man so much, now needs man's help. We cannot afford to ignore the signs of decay already present. It is to our advantage to take this first step toward saving this great natural resource.

The ACTING PRESIDENT pro tempore (Mr. GRAVEL). The bill will be received and appropriately referred.

The bill (S. 4090) to preserve and promote the resources of the Connecticut River Valley, and for other purposes, introduced by Mr. RIBICOFF, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

SENATE JOINT RESOLUTION 221—INTRODUCTION OF A JOINT RESOLUTION TO PROVIDE FOR THE CONSTRUCTION OF A MONUMENT COMMEMORATING THE APOLLO 11 LUNAR LANDING

Mr. SPONG. Mr. President, I introduce for appropriate reference a joint resolution to erect a monument in the District of Columbia commemorating the Appolo 11 lunar landing.

It was a year ago today that the Apollo 11 lifted off from Cape Kennedy toward its epic rendezvous with the moon 4 days later. History will record it as the most spectacular technological achievement of our time and as the true opening of the space age.

I hope that it will be remembered also as the beginning of an era in which the power of our science is turned away from war and toward the goal of human enrichment. In this, the Apollo 11 flight stands in stark relief to another scientific achievement on the same day 25 years earlier—Alamogordo and the first atomic explosion.

As a Virginia Senator, I note with considerable pride the contributions of the scientists and engineers of the Langley Research Center to the success of the Apollo moon landing. The very first Space Task Group organized by NASA in its first week of existence was based at Langley. And it was at Langley the concept of the "Little Joe" test vehicle which was to become the workhorse of the Mercury program was perfected. From there, the Langley group went on to draft the preliminary specifications for the Mercury program which began in June 1958.

Langley scientists also were instrumental in proving the feasibility of the heat shield and planning the Mercury tracking network.

Looking toward the day of longer space flights, these scientists studied the concept of rendezvous and staging of space flights and established the value of the lunar orbit rendezvous which is the foundation of the entire Apollo program.

Mr. President, the Apollo 11 flight consummated an age-old dream of man to explore the heavens and beyond. I believe that it is fitting that we memorialize that event for the generations to come.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of this joint resolution and an excerpt from the NASA publication, "Fifty Years of Aeronautical Research" which pays tribute to the contributions of the Langley Research Center to our space program.

The PRESIDING OFFICER (Mr. BELLMON). The joint resolution will be received and appropriately referred; and, without objection, the joint resolution and excerpt will be printed in the RECORD.

The joint resolution (S.J. Res. 221) to provide for the construction of a monument commemorating the Apollo 11 lunar landing, introduced by Mr. SPONG, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S.J. RES. 221

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Administrator of the National Aeronautics and Space Administration shall erect, on a site provided in accordance with subsection (b) of this section, an appropriate monument expressing the sense of national pride and honor as a result of the lunar landing of Apollo 11. The design of the monument shall be approved by the Commission of Fine Arts.

(b) The Secretary of the Interior shall select, with the approval of the Commission of Fine Arts, a suitable site on public grounds within the District of Columbia or the immediate vicinity thereto, upon which may be erected the monument authorized by subsection (a) of this section.

(c) The maintenance and care of the monument erected under the provisions of this section and of the site provided in accordance with this section shall be the responsibility of the Secretary of the Interior.

SEC. 2. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution.

The excerpt, presented by Mr. SPONG, is as follows:

FROM "FIFTY YEARS OF AERONAUTICAL RESEARCH"

During the years since the establishment of NASA, Langley scientists have continued to make major contributions to the science of space flight, to develop unique test facilities for better understanding of the problems, and to adapt existing test facilities to new uses.

NASA was assigned responsibility for the U.S. manned space flight program in August 1958. In its first week of existence, NASA organized the Space Task Group, and based it at Langley. It included 45 scientists from the Langley and Lewis Research Centers.

Many of the Langley members of the Space Task Group staff were no strangers to the problems of manned space flight. Before the Group was organized, they had developed the concept of the "Little Joe" test vehicle, which became a workhorse of the Mercury program; they had shown the feasibility of a manned satellite program, using existing intercontinental ballistic missiles for launch vehicles and the ballistic re-entry shape as the crew capsule. And the contour couch concept—later used in all the space capsules' crew positions—had been conceived and built at Langley, and tested to prove its feasibility.

They had drafted the preliminary specifications for what was to become the Mercury program in June 1958; when they were appointed to the Space Task Group in August, they were ready to go.

After that date, they designed the "Big Joe" test vehicle, proved the feasibility of the ablative heat-shield, and developed procedure trainers for the Mercury astronauts which were the foundations for the complex simulators of later space flights. In support, Langley Research Center took on the responsibility for planning and contracting for the Mercury tracking network.

Langley scientists developed supporting programs for manned space flight such as Project Fire, which investigated the heat of re-entry and its effects on materials; Project RAM (Radio Attenuation Measurements) which focused on the problems of transmitting through the plasma sheath formed around a re-entering spacecraft; and the development of infra-red sensors to tell a spacecraft which way was up.

The automatically inflating satellite, like the huge Echo balloon, was a Langley concept and development; so was the inflatable space vehicle, which was one approach to the problem of housing men in an orbiting laboratory.

Re-entry speeds as high as Mach 26 were achieved in multistage rocket firings from the Wallops Station in a study of the problems of that unique phase of space flight.

The concept of rendezvous and the staging of a space flight from an initial established orbit was studied by Langely scientists who established the value of the lunar-orbit rendezvous, which is the foundation of the entire Apollo program, and which made the Apollo program feasible with the available sizes of launch vehicles and crew capsules.

More recently, the highly successful Lunar Orbiter series of exploration satellites, designed to transmit topographic information about the lunar surface, was conceived at Langley and the development program managed by Langely scientists.

Project Mercury grew into Project Apollo, in which the first announced goal was simply to sustain an orbit around the earth or the moon with a multi-man crew. It was later expanded to tackle the job of manned lunar exploration, and Project Gemini was established to solve some of the problems of orbital rendezvous and docking that would characterize the advanced phases of the Apollo program.

SENATE JOINT RESOLUTION 222—INTRODUCTION OF A JOINT RESOLUTION TO AUTHORIZE THE STATES OF NEW YORK AND NEW JERSEY TO MAKE CERTAIN AMENDMENTS TO THE EXISTING WATERFRONT COMMISSION COMPACT AND TO ENTER INTO AN AIRPORT COMMISSION COMPACT

Mr. JAVITS. Mr. President, on behalf of Senators GOODELL, CASE, WILLIAMS of New Jersey, and myself, and for the States of New York and New Jersey, I introduce a joint resolution authorizing the States of New York and New Jersey to make certain amendments to the existing waterfront commission compact and to enter into an airport commission compact.

Mr. President, I introduce the joint resolution for appropriate reference, but I ask unanimous consent that it may be temporarily held at the desk subject to appropriate reference at a later date.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, this same legislation is being introduced simultaneously in the other body under the auspices of the steering committee of the New York congressional delegation by Representative CELLER, of New York, the senior member of the delegation, and by a number of Representatives from the State of New York, and by the New Jersey delegation as well. The intent of this airport commission compact is to help prevent aircargo thefts at the major New York-New Jersey airports by authorizing the commission—to be named the "Waterfront and Airport Commission of New York and New Jersey"—to regulate the airfreight industry at these aviation centers.

Evidence submitted to the States of New York and New Jersey and at hearings before the U.S. Senate Small Business Committee, on which I serve as ranking minority member, makes it abundantly clear that legislation such as this is needed. The testimony has shown that there has been an alarming increase in aircargo theft throughout the Nation, citing the pervasive existence of criminals and corrupt practices in the handling of airfreight, especially in the New York-New Jersey metropolitan area. For example, during the past 2 years, reported aircargo thefts at Kennedy International Airport alone have substantially increased from about $2 million to $3,300,000, and the magnitude of the problem is readily seen only after noting that 7 years ago thefts amounted to only $45,000. To cite another example, I am informed that postal thefts at Kennedy International Airport from 1967 through 1969 amounted to $65 million.

Although it is difficult to estimate the total aircargo loss for the country because there exists no systematic loss reporting system, it has been suggested to the Small Business Committee that the domestic-international aircargo loss for the Nation in 1969 was between $20 and $50 million. Last year Kennedy Airport handled more than $9½ billion worth of cargo, 22 percent more than in 1968, and with the coming of the mammoth cargo aircraft, aircargo traffic is expected to quadruple during this decade. Certainly, some regulatory control is needed. This cargo pilferage in the New York-New Jersey area must be stopped. Because shipments from throughout the country, and indeed throughout the world filter through the New York-New Jersey center, businessmen worldwide are affected and, ultimately, it is the consumer who pays the crime-inflated price of this unchecked pilferage.

As a result of the extensive hearings conducted by the U.S. Senate Select Committee on Small Business, the distinguished senior Senator from Nevada, Senator BIBLE, this session of Congress introduced S. 3595, a bill which I have cosponsored. Senate bill 3595, now pending in the Senate Commerce Committee, provides for a 5-year study commission to investigate the problem of thefts in all modes of transportation—air, truck, rail, and water—and to make comprehensive recommendations concerning "practical and effective measures for the prevention and deterrence of loss, theft, and pilferage of cargo in interstate and international commerce." Senate bill 3595 specifically recognizes that "State and local governments, through exercise of their regulatory powers, have an equal responsibility in stimulating measures to enhance the safety and security of cargo storage and transport." In the airport compact that we now introduce, we have just such an enlightened example of States joining together to attack the problems of criminality and cargo thefts in the airports in the New York-New Jersey metropolitan area.

Briefly summarizing the provisions of this joint resolution:

The first section would give the consent of Congress to amendments to articles II and III of the existing waterfront commission compact between New York and New Jersey, which was approved by act of Congress in 1953, merely amending article II so as to change the name of the commission from the Waterfront Commission of New York Harbor to the Waterfront and Airport Commission of New York and New Jersey, and article III to increase the membership of the commission from two to four members to reflect the increased responsibilities of the commission.

The second section of the joint resolution provides for the consent of Congress to the new airport commission compact between the States of New York and New Jersey extending the jurisdiction of the commission to the airports.

This new airport commission compact consists of 10 articles. Article I of the airport compact sets forth the findings of the States of New York and New Jersey that the public interest requires a joint exercise of the police powers of the two States to deal with the shocking infiltration of criminal elements into the airfreight industry at the major airports of the States. These findings declare in part—

> That criminal and racketeer elements have infiltrated the air freight industry; that such criminal infiltration is threatening the growth of said airfreight industry; that one of the means by which such criminal and racketeer elements infiltrate the airfreight industry is by posing as labor relations consultants and that firms handling airfreight are often forced to employ or engage such persons; that the airfreight industry is suffering an alarming rise in the amount of pilferage and theft of airfreight; and that it is imperative to the continued growth and economic well-being of the states of New York and New Jersey that every possible effective measure be taken to prevent the pilferage and theft of airfreight and the criminal infiltration of the airfreight industry.

Article II contains the definitions which constitute the basis for the commission's regulatory control over airfreight operations at John F. Kennedy, La Guardia, and Newark Airports.

Article III extends the powers that the commission presently possesses on the waterfront to the airports and adds the following new power—the power to make security regulations for the protection of airfreight. One of the major reasons for frequent losses of aircargo through theft is that valuable cargo is easily accessible to any person in the airports. Under this article, the commission can mandate the airfreight industry to provide proper physical facilities for the protection of cargo and, in addition, require proper accounting for airfreight and prompt and accurate reporting of losses.

Under the next two articles, articles IV and V, the commission will:

License employees engaged in the movement of airfreight or performing services incidental to the movement of airfreight;

License trucking firms that contract to haul airfreight to and from the airports and their truck personnel;

License owners or operators of airfreight terminals and their air-handlers; and

License airfreight labor relations consultants in the airfreight industry.

The licensure of these persons by the commission is a key part of the program to root out criminal elements from the airfreight industry. By licensing employees handling airfreight, contracting trucking firms, the operators of airfreight terminals, and airfreight labor relations consultants in the airfreight industry, the commission will be able, under this legislation, to apply its expertise to root out criminal elements in the industry and to prevent them from placing their criminal associates in key positions affording access to information as to the presence and location of high-value shipments. In addition to eliminating undesirable criminals from airport employment, the possible loss of license would serve as an effective deterrent to participation in thefts and other misconduct by licensees.

Article VI empowers the commission to designate airfreight security areas within the airports so as to limit access to aircargo in those areas only to persons authorized by the commission in order to protect the cargo. Commission police will be assigned to protect cargo at these and other areas in the airports.

The remaining four articles of the airport compact contain various technical and administrative provisions. Thus, article VII relating to the commission's administrative hearings requires that no license or permit can be denied or revoked without a hearing. Article VIII relates to the expenses of the administration; article IX to civil and criminal penalties for violations of the compact; and article X to amendments and construction of the compact.

Article VIII relating to expenses provides that the extension of the commission's jurisdiction to the airports shall be financed by assessments levied upon the airfreight industry. A payroll assessment of up to 2 percent would be levied upon employers of licensed persons who work only at the airports. This payroll assessment is exactly identical to the payroll assessment in force upon the waterfront industry in the Port of New York. Employers of licensed truck personnel would pay an annual license fee of up to $100 and persons whose business requires them to have access to airfreight security areas upon a regular basis would pay an annual permit fee of up to $75.

Congressional action on this joint resolution and on S. 3595, as well, is essential to help stem this criminal threat at our airports.

Mr. President, S. 3595 is a most important measure and I am very hopeful it will pass. In the meantime, self-help by the States is critically important. The introduction of this joint resolution, seeks the required consent by Congress to the compact between both States and in effect also seeks for the States the opportunity for them to help regulate an important element of interstate commerce. The critical element here is licensing of the parties involved, the workers and others concerned. This turned out to be a very successful effort in respect of the waterfront, and we believe it will be just as successful here.

There is an urgent need to get action on this legislation before the close of the session. My reason for deferring the matter of reference is to be able to do my utmost, with other Senators concerned, to get the chairman of the committee or committees that may be involved to expeditiously consider it in order to be able to deal with an extremely serious question one which every day sees new losses which we believe can be eliminated by the legislation introduced today.

At an appropriate time I shall ask for the necessary reference of the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the bill.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF BILL—NEW YORK-NEW JERSEY COMPACT AMENDING THE WATERFRONT COMMISSION ACT TO PROVIDE FOR THE WATERFRONT AND AIRPORT COMMISSION OF NEW YORK AND NEW JERSEY

PURPOSE OF THE BILL

To grant congressional consent to the compact between New York and New Jersey designed to combat organized crime and to prevent air cargo thefts by providing for regulation of the air freight industry at the major New York-New Jersey airports.

SUMMARY OF PROVISIONS OF THE BILLS

This Compact would authorize the Waterfront Commission of New York Harbor (to be known as the "Waterfront and Airport Commission of New York and New Jersey") to exercise regulatory powers at airports at New York and New Jersey similar to those powers now exercised by the Commission along the waterfront of New York harbor.

The Commission will, under the new compact, in addition to its function relating to the waterfront:

License employees engaged in the movement of air freight or performing services incidental to the movement of air freight;

License trucking firms that contract to haul air freight to and from the airport;

License owners or operators of air freight terminals; and

License persons who are consultants to or advisors and represent air carriers, owners or operators of air freight terminals, airline contract trucking firms hauling air freight; or a labor organization representing employers licensed by the Commission or an organization of such person or persons.

The Commission is empowered to promulgate regulations for the security of air cargo and designate air freight security areas within airports in order to limit access to air cargo to authorized personnel for the protection of the cargo.

The compact also prevents persons who have been convicted of a felony or a serious misdemeanor from serving as officers or employees of (1) labor unions which receive 20% or more of their funds from licensees under the supervision of the Commission, or (2) any employer organization, 20% or more of whose members employ persons belonging to a union which is subject to the act.

The compact is supported by an appropriation of $750,000 to pay for New York State's share of the initial start-up costs to be incurred by the expanded Commission in discharging its new responsibilities. New Jersey has appropriated $250,000 as its share. These monies will be repaid from assessment to be levied upon the air freight industry. A payroll assessment of up to 2% would be levied upon employers of persons licensed by the Commission. Air freight truck carriers, however, who employ persons licensed by the Commission, would pay an annual license fee of $100 for each employee so licensed.

STATEMENT IN SUPPORT OF THE COMPACT

In 1967, the State Commission of Investigation conducted hearings which exposed an alarming incidence of theft and pilferage of air cargo and the existence of criminal and corrupt practices by persons seeking to infiltrate the air freight industry in New York.

In its report issued on December 20, 1967, the Commission stated:

"The evidence was convincingly clear that racketeer elements had infiltrated and gained a foothold in the air freight industry at Kennedy International Airport. In its wake has come violence, crime, monopoly practices and racketeering.

"This attempt by the racketeers and criminal elements to gain control of the air freight industry in New York must be stopped at the very threshold. Efforts of all law enforcement agencies must be combined and coordinated to accomplish this task."

The port of New York district is the Nation's center for domestic and international air commerce. The value of air cargo at Kennedy Airport alone has increased from $2.7 billion in 1962 to approximately $10 billion in 1969. In the next decade, a vast increase both in volume and value of air cargo is certain, particularly in light of the introduction of the massive jumbo jets and supersonic airliners.

In the past seven years, the economic loss from theft and pilferage of air freight in the port of New York district has increased from $45,000 to over $3,000,000. Despite the shocking disclosures by the S.I.C. in 1967, conditions have not improved and in fact have worsened.

Mr. GOODELL. Mr. President, I am pleased to join with my colleagues, the senior Senator from New York, Mr. JAVITS, and the Senators from New Jersey, Mr. CASE and Mr. WILLIAMS, in introducing this joint resolution to grant congressional consent to the airport compact recently agreed to between New York and New Jersey.

The compact is designed to combat the influence of organized crime at the New York-New Jersey metropolitan airports and to curb aircargo thefts which have been steadily increasing over the past 7 years. In 1963, thefts of air freight at Kennedy International Airport amounted to $45,000. In 1967, reported thefts had climbed to over $2 million, and in 1969, they amounted to $3,300,000.

In 1967, the New York State Investigation Commission reported that organized crime had gained a foothold in the airfreight operations at Kennedy Airport. In 1969, a reexamination of the situation by the New York commission revealed that criminal elements were even more deeply involved at that airport.

The New York port area is the center of this country's international and domestic air commerce. The rampant thefts affecting the New York-New Jersey airports, therefore, have tremendous implications for the maintenance of the U.S. role in international trade. It is also clear that airport pilferage ultimately gets passed on to the U.S. consumer in the form of higher prices. Some concrete action is obviously very urgently needed.

This compact provides for the regulation of the air freight industry in the New York-New Jersey metropolitan area airports, and gives jurisdiction over the protection of aircargo to the Waterfront Commission of New York and New Jersey—renamed the Waterfront and Airport Commission of New York and New Jersey.

Significant substantive provisions of the compact include:

Commission authority to promulgate security regulations for the protection of airfreight at the airports that are required to be observed by persons in the airfreight industry;

Commission authority to license airport employees handling airfreight, trucking firms which have contracts with air carriers to transport airfreight and their truck personnel, operators of airfreight terminals and labor relations consultants in the airfreight industry;

Commission authority to designate airfreight security areas within the airports in order to limit access to airfreight to persons authorized by the commission. Commission police would be assigned to protect cargo at the airports.

Under the provisions of the compact, the cost of combatting airport cargo theft will not be borne by the general taxpaying public, but by the airfreight industry itself—the immediate beneficiaries of improved conditions at the airports.

Mr. President, cargo pilferage is a critical problem. It has a serious effect upon our economy, and is extremely detrimental to the public. I would hope that swift consideration will be given to this compact in this session of the Congress.

Mr. WILLIAMS of New Jersey. Mr. President, I join today with my Senate colleagues from New Jersey and New York in introducing legislation designed to halt thievery from air and sea terminals.

This piracy has grown ever more serious over just the last few years. Several years ago the value of stolen items from air commerce in the Port of New York district was approximately $45,000. It is estimated however, that aircargo thefts totaled over $3 million in 1969. In that same year, it is reported that $6 million was lost to thievery from the piers of New York harbor.

Mr. President, it had been hoped that the continuing containerization process for ship and air cargo would cut down on what, in the early midsixties, amounted to large-scale pilferage. However, containerization has apparently attracted the attention and avarice of organized crime. Theft of such large packaging cannot be the result of a whim on the part of an individual. It must encompass a number of organized individuals who can identify the cargo, transport it without detection and apprehension, store large amounts of stolen cargo, and dispose of it through safe "fences." This takes large-scale criminal resources available only through organized crime.

The container has become, in the words of the special report of the Waterfront Commission of New York Harbor to the Governors of New Jersey and New York, "An attractive and valuable target for thieves." Each container holds cargo valued at from $50,000 to $200,000. Testimony before the waterfront commission indicated that in 1967 there were 25 thefts from New York Harbor docks. There were 41 thefts in 1968 and 50 in 1969.

Mr. President, it is obvious that great economic losses result from this professional thievery. And, as usual, the burden is borne not by those directly involved in the loss, but by the consumer, who underwrites increases in prices, insurance rates, and security costs.

I wish to take this opportunity to applaud the expeditious presentation of this compact to the Congress. The waterfront commission held important and very revealing hearings. The Governors presented legislation recommended by the commission to the State legislatures. The legislation extending jurisdiction of the Commission to New York metropolitan aircargo terminals was passed swiftly and forwarded to Washington for congressional approval.

Such responsive action by Government is necessary to combat the organized efforts of professional thieves to live well at the expense of the working, taxpaying, American consumer. Anticrime legislation is particularly needed now when increases in the amount of cargo being shipped by sea, and particularly by huge air transports, will be even more tempting.

Mr. President, I am confident that the Senate committees to which the legislation is referred will understand the urgent nature of this issue and take expeditious action.

The continued theft of valuable cargoes from the seaports and airports of the Metropolitan New York Area cannot be tolerated. New Jersey and New York should be enabled to intensify their efforts to halt this organized and costly thievery.

ADDITIONAL COSPONSORS OF BILLS

S. 4002

Mr. DOLE. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Wisconsin (Mr. Nelson), the Senator from Oregon (Mr. Packwood), the Senator from Pennsylvania (Mr. Scott), and the Senator from Maryland (Mr. Mathias), be added as cosponsors of S. 4002, a bill to establish a National Information Resource Center for the Handicapped.

The PRESIDING OFFICER (Mr. Hughes). Without objection, it is so ordered.

S. 4041

Mr. HRUSKA. Mr. President, on behalf of the Senator from Texas (Mr. Tower), I ask unanimous consent that, at the next printing, the name of the Senator from Florida (Mr. Gurney) be added as a cosponsor of S. 4041, to repeal section 7275 of the Internal Revenue Code of 1954, relating to amounts to be shown on airline tickets and advertising.

The PRESIDING OFFICER (Mr. Bellmon). Without objection, it is so ordered.

S. 4075

Mr. HRUSKA. Mr. President, at the request of the Senator from Texas (Mr. Tower), I ask unanimous consent that, at the next printing, his name be added as a cosponsor of S. 4075, to provide for limitations on the importation of sulfur.

The PRESIDING OFFICER (Mr. Bellmon). Without objection, it is so ordered.

S. 4080 AND S. 4081

Mr. ERVIN. Mr. President, I ask unanimous consent that, at the next printing, the names of the following Senators be added as cosponsors of S. 4080 and S. 4081: the Senator from California (Mr. Cranston), the Senator from Oklahoma (Mr. Harris), the Senator from Iowa (Mr. Hughes), the Senator from New York (Mr. Javits), the Senator from South Dakota (Mr. McGovern), the Senator from Wisconsin (Mr. Nelson), the Senator from Connecticut Mr. Ribicoff), the Senator from New Jersey (Mr. Williams), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young).

S. 4080, is designed to reorganize the courts of the District of Columbia, improve the District of Columbia Bail Agency, authorize a District of Columbia Public Defender Agency, allow the District of Columbia to participate in the Interstate Compact on Juveniles, and for other purposes. S. 4081, is designed to revise the laws of the District of Columbia relating to juvenile proceedings, to revise the laws of the District of Columbia relating to criminal law and procedure, and to extend the life of the Commission on Revision of Criminal laws, and for other purposes.

The PRESIDING OFFICER (Mr. Hughes). Without objection, it is so ordered.

ADDITIONAL COSPONSOR OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 212

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Vermont (Mr. Aiken), I ask unanimous consent that, at the next printing, the name of the Senator from Rhode Island (Mr. Pell) be added as a cosponsor of Senate Joint Resolution 212, to authorize the President to designate the period beginning September 20, 1970, and ending September 26, 1970, as "National Machine Tool Week."

The PRESIDING OFFICER (Mr. Hughes). Without objection, it is so ordered.

SENATE RESOLUTION 431—SUBMISSION OF A RESOLUTION TO PRINT AS A SENATE DOCUMENT THE REPORT "MANPOWER AND TRAINING NEEDS FOR AIR POLLUTION CONTROL"

Mr. RANDOLPH submitted the following resolution (S. Res. 431); which was referred to the Committee on Rules and Administration:

S. Res. 431

Resolved, That there be printed as a Senate Document, with illustrations, a report of the Secretary of Health, Education, and Welfare, entitled "Manpower and Training Needs for Air Pollution Control", submitted to the Congress in accordance with section 305(b), Public Law 90–148, the Clean Air Act, as amended, and that there be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT DURING FISCAL YEAR 1971—AMENDMENT

AMENDMENT NO. 784

Mr. NELSON (for himself, Mr. Goodell, Mr. Case, Mr. Cranston, Mr. Eagleton, Mr. Gravel, Mr. Hart, Mr. Hughes, Mr. Proxmire, Mr. Williams of New Jersey, and Mr. Young of Ohio) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, which was ordered to lie on the table and to be printed.

(The remarks of Mr. Nelson when he submitted the amendment appear earlier in the Record under the appropriate heading.)

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENT

AMENDMENT NO. 785

Mr. PROUTY. Mr. President, on June 10 of this year I submitted three amendments to H.R. 17550, the House-passed social security reform bill of 1970. My amendments, including a proposed $100 per month minimum social security benefit, effective January 1, 1971, are cosponsored by the distinguished minority leader, Mr. Scott, and by Senators Cotton and Fong. Upon submitting my amendments I asked my colleagues to join with me in recognizing the urgent need of today's retired citizens to achieve adequate retirement income. In my view, an adequate minimum benefit must be provided if we are to adopt an automatic cost-of-living increase provision; otherwise, we are simply ignoring our responsibility to assure a decent retirement for the elderly.

Today I am submitting a further amendment to H.R. 17550, in order to permit all persons reaching age 70 by January 1, 1972, to be eligible for special benefits under section 228 of the Social Security Act, if they are not otherwise entitled to benefits. I ask that the amendment be referred to the Committee on Finance, which is now holding hearings on H.R. 17550, and I ask unanimous consent that the text of my amendment be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. Hughes). The amendment will be received and printed and appropriately referred; and, without objection, the amendment will be printed in the Record, as requested.

(See exhibit 1.)

Mr. PROUTY. As the law now stands, Mr. President, persons otherwise ineligible for benefits who reached age 72 before 1968 are entitled to the special payment. The monthly amount is currently $46; I have introduced an amendment to increase that amount by 10 percent to $50.60.

I am proud to have authored the special payment law in 1966 to blanket-in elderly persons who, although they worked all their lives, happened through no fault of their own to have worked at jobs not covered at the time by social security. Thousands of Americans labored long throughout the forties, and fifties in nonindustrial jobs—agricultural workers, migrant laborers, retail clerks, and domestics—only to retire into poverty without even minimum social security coverage.

My initial proposal in 1966 would have blanketed in at $44 per month all uncovered persons age 70 and over. Although the Senate adopted my measure, it was limited in conference to a $35 payment for persons reaching age 72 before 1968. This modest benefit has helped over 1,000,000 retired persons to enjoy at least some semblance of decent living; they can at least buy food for their tables.

But, Mr. President, there still remains in this abundant Nation a large segment of retired persons who did not—and, for the most part, could not—qualify with quarters of coverage under social security. Approximately 700,000 retired persons who were age 65 and older in 1966, when my amendment became law, continued to suffer their retirement without any social security benefits. They worked in many fields of labor to contribute to the Nation's prosperity; some were self-employed, some performed retail or domestic work, some were in agricultural work. Some indeed, particularly women, simply did not earn enough quarters of coverage; most, however, worked for years in jobs not covered by law.

My modest proposal is simply to correct this injustice by expanding special benefits to all persons reaching age 70 by 1972, thereby covering those persons who reached aged 65 in 1966 when my initial amendment was enacted.

Until 1950, social security benefits were payable only to persons who worked in industry and commerce. That year coverage was extended to most farm and domestic workers and nonfarm self-employed persons. Very few people indeed are now not eligible for social security—about 2 percent of the work force. Most of these people are eligible under State and Federal civil service plans. Yet, a small pocket of retired persons remains ineligible. I, therefore, urge the Congress now, in 1970, to step up to its duty to these citizens and to permit them to begin living respectable lives; to give them enough money for food on the table and adequate shelter.

The cost of my proposal is surely not excessive; I estimate that for the first year it will be $125 million, approximately $110 of which will be borne by the general revenues.

Let us act now, Mr. President, to fulfill our Nation's duty to its retired citizens.

The amendment (No. 785) was referred to the Committee on Finance, as follows:

EXHIBIT 1

AMENDMENT NO. 785

On page 73, after line 22, insert the following:

"REDUCTION FROM 72 TO 70 THE AGE AT WHICH CERTAIN UNINSURED INDIVIDUALS MAY RECEIVE BENEFITS

"SEC. 126. (a) (1) Section 228(a) (1) of the Social Security Act is amended by striking out '72' and inserting in lieu thereof '70'.

"(2) Section 228(a) (2) (A) of such Act is amended by striking out '1968' and inserting in lieu thereof '1972'.

"(b) The heading to section 228 of such Act is amended by striking out '72' and inserting in lieu thereof '70'.

"(c) The amendments made by this section shall apply with respect to monthly benefits under section 228 of the Social Security Act for months after December 1970 on the basis of applications filed in or after the month in which this Act is enacted."

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 682, 683, AND 684

Mr. PROUTY. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Pennsylvania (Mr. SCOTT), the Senator from New Hampshire (Mr. COTTON), and the Senator from Hawaii (Mr. FONG), be added as cosponsors of my proposed amendments Nos. 682, 683, and 684 to H.R. 17550, the Social Security Act Amendments of 1970.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

AMENDMENT NO. 728

Mr. DOLE. Mr. President, at the request of the Senator from Pennsylvania (Mr. SCHWEIKER), I ask unanimous consent that, at the next printing, the names of the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. COOK), and the Senator from California (Mr. MURPHY) be added as cosponsors of amendment No. 728 to S. 3650, to amend section 837 of title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosives and the penalties with respect thereto, and for other purposes.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

NOTICE OF HEARING ON GEORGE WASHINGTON MEMORIAL INSTITUTE FOR THE SOCIAL SCIENCES

Mr. KENNEDY. Mr. President, on behalf of the Senator from Minnesota (Mr. MONDALE), who is chairman of the Special Subcommittee on the Evacuation and Planning of Social Programs of the Committee on Labor and Public Welfare, I would like to announce hearings on S. 3983, which was introduced by the Senator from South Dakota (Mr. MCGOVERN). This bill would establish an institute for the social sciences in memory of George Washington and in fulfillment of his bequest to endow a national university. The hearings will be held on Wednesday, July 22.

CONGRATULATIONS TO ADMINISTRATION ON FORMULATION OF OCEAN POLICY AND ON DRAFT SEABED TREATY

Mr. PELL. Mr. President, I rise to congratulate the administration on the fine job it has done in proceeding with the implementation of the President's earlier and excellent announced ocean policy and in the development of a draft treaty concerning the oceans' seabeds.

As one who has long labored in this field, one who strongly believes in the urgency of such a treaty and one who, in fact, has introduced a draft seabed treaty in the form of Senate Resolution 33, I am especially delighted that knowledge of its existence has become public.

However, it would be improper for me to comment on its contents, just as it would have been improper for me to comment on its existence if the press had not become aware of it through their own channels and had, in fact, queried me on the subject.

At the same time, however, I must express a concern that some representatives of industry are at this time fighting hard to have their views accommodated. I very much hope that the administration will not yield to these pressures.

Moreover, I trust the administration's spokesmen will maintain the current momentum and put forward such a draft treaty at the August meeting of the United Nations Seabed Committee scheduled to begin on August 3 in Geneva, Switzerland.

Once again, I congratulate the administration on its excellent moves in the right direction.

THE MANDATORY OIL IMPORT PROGRAM

Mr. PROUTY. Mr. President, I was deeply disturbed and disappointed to learn this morning that the House Ways and Means Committee has acted to write into the tariff bill a provision freezing into law the 1959 mandatory oil import program. The program heretofore has been regulated by Presidential proclamation pursuant to section 232 of the Trade Expansion Act. I believe that this action is wrong for several reasons, and I am hopeful that the full Ways and Means Committee will reconsider its action before finally reporting out the tariff bill.

The tentative action by the House committe would require the President to adopt a quota system and would remove from him any discretion to utilize other means, such as tariffs or licenses, to protect domestic oil production. I strongly fear that this move will freeze the present quota system and eliminate prospects for needed reform.

The economic operation of the quota system has resulted in higher consumer prices for petroleum products. It has been estimated that consumers paid about $5 billion more for oil products in 1969 than they would have paid in the absence of import restrictions.

The burden to consumer is felt when they buy their gasoline, when they heat their homes, and even when they purchase fabrics made from petrochemicals. That burden is greatest in my own New England region, where we must rely on domestic products which cost more both at the gulf coast wellhead and as delivered via tanker. The homeowners of New England have too long suffered the burden of paying artificially high prices in the area of national security, and he should, therefore, not be hamstrung in deciding how to best protect domestic resources from international interruption.

It is all too sad but true that the quota system, which was initially devised solely for national security reasons, has now become an instrument for the economic protection of an industry. The action of the House committee confirms this distortion of purpose.

I shall state now for the record that I cannot vote for any bill which would freeze into law the inequitable aspects of the oil import program. I have labored long and hard to obtain needed changes in the system and now, just as we entered the road to successful reform the House committee action threatens to frustrate our efforts.

I urge my Senate colleagues to soundly reject this effort to turn back the clock and wipe out the progress achieved in reforming the system.

Virtually every day I receive letters from citizens in New England and throughout the country asking why they must put up with increasing gasoline and fuel oil prices. We cannot fail to listen to the legitimate needs of the American consumer merely to perpetuate a highly questionable protection program. There are too many sound arguments against the quota system to ignore. Indeed, the Cabinet Task Force determined that the United States can be self-sufficient in its petroleum need in the event of international supply disruption. Moreover, sound for such necessary commodities as home heating fuel.

Although I have recognized and appreciated the national security interests behind the import system, I do not believe that the program was ever intended to operate to the detriment of the American consumer. I, therefore, applauded the conscientious recommendations made last February by the President's Cabinet Task Force on Oil Imports. Their report recommended changes in the system so as to fairly balance the legitimate national security interests with the rights of the consumers. Now, however, it is apparent that a small group of vested interests has chosen to disregard the needs of the American consumers in favor of locking in the existing program by legislation.

Such action will petrify the inequities of the import program and make it even more difficult to make needed reforms in the system.

The action of the Ways and Means Committee is, therefore, unsound economically and improper in its removal of Presidential discretion. President Nixon has courageously attacked the oil import problem in a reasonable and fair manner. He has acted recently to abolish some of the inequities in the program, particularly in his recognition of the fuel oil needs of the Northeast States. I say that we must let the President supervise the program on the basis of his powers to conduct foreign affairs. It is the President who has chief responsibility, arguments have been advanced suggesting that the quota system reduces rather than enhances our domestic reserves. Recently, for example, exploration and production of domestic reserves has increased in light of certain reductions in the supply of Syrian and Lybian oil. I do not entirely reject the need for some control over foreign oil imports to serve our legitimate national security needs. But I do reject the inequities in this system and I emphatically oppose any attempt at congressional enactment of the program.

I hope that my colleagues shall do likewise.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Without objection, the Senator from Mississippi (Mr. STENNIS) will be recognized for not to exceed 20 minutes.

THE DEFENSE BUDGET AND OUR WORLDWIDE MILITARY COMMITMENTS

Mr. STENNIS. Mr. President, although the fiscal year 1971 military authorization bill is not now the pending business, I think it is appropriate for me to outline in general terms the impact of this bill on our national security and its relationship to our defense requirements and treaty commitments.

However, let me point out initially that on June 30, 1970, during the debate on the Cooper-Church amendment, the distinguished Senator from Wyoming (Mr. McGEE) made several significant comments. First, he emphasized that we should not intentionally hobble the efforts of Asians to attain a security effort to protect their own interests.

Second, he raised the question of how we might update the role of the Senate in the latter half of the 20th century in the exercise of its responsibility in foreign policy in a nuclear age.

Third, he urged the Senate Committee on Foreign Relations, of which he is a very valuable and informed member, to turn its energies, resources, and good judgment into a searching exploration of a modern role for the Senate, in concert with the President of the United States, in projecting future crisis decisions in the field of foreign policy.

I mention these sound statements by the Senator from Wyoming at the outset because I believe that they have a direct relation to the remarks which I am about to make on the military authorization bill which will shortly be before the Senate. I commend the distinguished Senator for his perception and analysis of the problems confronting us in the field of foreign affairs. They are of particular significance and value because of his membership on Foreign Relations and his broad experience in this field.

We all recall that the military authorization bill last year was the subject of extensive debate and that many amendments were offered to reduce or eliminate vital weapon programs. On September 3, 1969, I told the Senate "that if these weaponry amendments are passed and the error not corrected, the safety of the American people will be placed in jeopardy. I also said that in military strength we will be a second rate nation by 1975 and this fact shall become well known long before that time."

I anticipate that this year, as last, the authorization bill will be debated at length.

I know the Senate understands that I do not criticize debate on these issues. Such debate is important and helpful.

I emphasize that debate on the defense budget should be knowledgeable because if we do not understand the problem we cannot be a part of the solution; nor can we make sound decisions.

There are many in our society who earnestly, conscientiously and sincerely believe that if we reduce our defense establishment we somehow reduce the probability of our involvement in hostilities. History argues to the contrary. It shows that aggressor nations in general will wage war if there is a prospect that it will be to their advantage. This is a lesson which in the past we have been slow to learn and quick to forget, but I hope that by now we have learned it well and will never forget it. We play a dangerous game if we reduce the defense budget simply to make more funds available for massive Federal funding of other programs.

In saying this I do not mean to suggest that the defense budget cannot stand judicious pruning; it can and must. And I think that you will find the Committee on Armed Services has done just this. But massive assaults on the budget just for the purpose of diverting the dollars for other purposes can very well leave us in a very shaky position with respect to our ability to meet the demands for our security which includes our many and heavy commitments around the world and face the growing Soviet threat.

We forget too often that the necessity to maintain a strong military capability and an adequate deterrence is not based simply on the proposition that we must defend our own shores. A portion of the requirement arises from our heavy commitments all around the world. This should be clearly recognized because, when we consider our military and defense requirements, we should face the facts.

Like it or not, we are a world power—the acknowledged leader of the free world—and this imposes on us a very heavy responsibility. Like it or not, we are committed to more than 40 nations by solemn, formal treaties or other formal agreements voluntarily undertaken by us to assist them in the event of aggression. I will discuss some of these later. The point is that in planning our defense posture we must—unless we want to withdraw into fortress America—take into consideration our heavy worldwide military commitments. The Congress should be well aware that our defense requirements are based in part on the need to be prepared to help defend other nations with whom we have mutual defense agreements approved by the Congress or whose defense is vital to our own national security interests. The primary consideration, of course, is our own security and protection.

Now let me discuss some of our treaty obligations. I emphasis again that all of these were approved by the Senate. They were voluntarily assumed by us. Many of the present Members of this body voted in favor of them.

One of our most important treaties is, of course, the North Atlantic Treaty, which is a multilateral treaty with 14 other free world nations. It provides that:

> The Parties agree that an armed attack against one or more of them in Europe or in North America shall be considered as an attack against them all; and . . . each of them will assist the . . . attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary including the use of armed force.

The Senate gave its advice and consent to the ratification of this treaty on July 21, 1949, by a vote of 87 to 8.

The Inter-American Treaty of Reciprocal Assistance, more commonly referred to as the Rio Pact, involves 21 Latin American nations. It provides that an armed attack against any American state "shall be considered an attack against all the American states and—each one—undertakes to assist in meeting the attack." This treaty was ratified by the Senate on December 8, 1947 by a vote of 72 to 1.

Incidentally, I think that is the first major vote that I cast as a Member of this body.

The Anzus Treaty involves Australia, New Zealand, and the United States. It provides that each of the parties:

> Recognize that an armed attack in the Pacific area on any of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

So far as I know, that is the origin of the term "in accordance with its constitutional processes."

This treaty was ratified by the Senate on March 20, 1952. There was no roll call vote.

Also, on March 20, 1952, without a roll call vote, the Senate gave its advice and consent to the bilateral treaty with the Philippines, the terms of which provide that "an armed attack in the Pacific area on either of the Parties would be dangerous to its own peace and safety" and that each party agrees that it will act "to meet the common danger in accordance with its constitutional process."

On June 22, 1960, by a vote of 58 to 9, the Senate gave its advice and consent to the bilateral treaty between the United States and Japan, which provides that each party "recognizes that an armed attack against either party in the territory under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processess." This treaty replaces the security treaty signed September 8, 1951.

On January 26, 1954, the Senate had before it the bilateral treaty with the Republic of Korea. Advice and consent to the ratification of this treaty was given by a vote of 81 to 6. This treaty provides that each party "recognizes that an armed attack in the Pacific area on either of the parties would be dangerous to its own peace and safety" and that each party "would act to meet the common danger in accordance with its constitutional processes."

On February 1, 1955, the Senate took up for consideration the Southeast Asia Collective Defense Treaty, better known as SEATO, which involves eight other countries. Advice and consent to the ratification of this treaty was given by a vote of 82 to 1. The language of the SEATO Treaty provides that each party "recognizes that aggression by means of armed attack in the treaty area against any of the parties would endanger its own peace and safety" and that each will "in that event act to meet the common danger in accordance with its constitutional processes."

Finally, on February 9, 1955, the Senate ratified the bilateral treaty with the Republic of China by a vote of 65 to 6. The language of this treaty is that each of the parties "recognizes that an armed attack in the west Pacific area directed against the territories of either of the parties would be dangerous to its own peace and safety" and that each "would act to meet the common danger in accordance with its constitutional processes."

In addition to the formal treaties which I have discussed briefly we have bilateral agreements of cooperation with several countries, including Iran, Turkey, Liberia, and Pakistan. While these were not formalized as treaties and were not submitted to the Senate for ratification or rejection, each of them imposes obligations upon the United States to assist the other party in the event of aggression against it.

I recite these facts for the purpose of pointing out the extent of the obligations we have assumed all around the world to assist our friends in the event of aggression against them. We were not compelled to assume these commitments. We did it freely and voluntarily because we thought it was the right and proper thing to do and that it was in our best interests.

I emphasize that each of the treaties I have discussed was approved by the Senate by a wide margin. Whether, in hindsight, we now approve of these treaty obligations, the fact is that they are solemn and binding obligations upon us. The fact is also that they affect very materially the quantity and quality of the weapons and arms which we require. When we look at the military arsenal which we must build and maintain, we cannot afford to think only of defending our own shores but we have to think of what is needed in order to give some reasonable assurance that we will be able to meet the extensive commitments we have assumed so freely.

Frankly, I think that many of these commitments should be reviewed with some adjustments made. I do not favor repudiating any promise or pledge. We cannot run out where our word has been solemnly given and is solemnly and seriously involved. While I did not vote for at least one of these treaties, I do not want to welsh on any of them.

These requirements also generate a broad need for a variety of weapons. We cannot afford, in this nuclear age, to rely solely on strategic weapons because this might force us to a nuclear exchange which could otherwise be avoided. We must build on entire arsenal of strategic and general purpose weapons so as to be able to insure that we can respond appropriately across the entire spectrum of possible general or conventional wars which might confront us.

Since the middle of 1965 we have had large amounts of land, air, and sea forces committed to Southeast Asia at great cost to us in weapons, equipment, and supplies. Not only have we been compelled to supply our own weapons, equipment, and materiel, we have also had to bear almost the entire financial burden for the free world allies who have been fighting on our side.

All of these are inescapable facts which I hope the Members of the Senate will keep in mind. I feel that most Members will do this as we consider the military authorization bill. We cannot ignore our treaty commitments and we cannot walk away from them. These are solemn international contracts with other nations which must be respected and honored as long as they are in existence.

However, it would be far better to walk away from them and openly renounce them than to render the United States so impotent that it would not have the ability to meet its commitments should the occasion arise. This is the issue which we should and must face. Either we must provide the weapons and the other implements of war and resources which are necessary for us to meet our worldwide obligations or we should let it be known that we no longer consider ourselves bound by these obligations.

Despite all the complaints which have been made about our involvement in the war in South Vietnam, there has been no effort whatsoever to adjust any of our worldwide commitments or to relieve us of any of them. The President has made no recommendation that we abrogate or cancel any of the treaties. The Foreign Relations Committee of the Senate has not made any recommendations so far as I can tell, for any change on this subject or the elimination of any of our treaty commitments.

I point out once again that these commitments are a part of our defense requirement and that we cannot avoid the responsibilities and obligations which these commitments impose upon us.

I have long been concerned by the extent of these treaty commitments and have thought that, at some point in time, we might very well have to make a hard-headed distinction between what we are willing to do and what we are reasonably able to do within the limits of our military manpower, resources, and assets. However, it is my judgment that this is an issue that should be met head on and directly—not indirectly by failing to provide what is needed to meet our defense requirements. I personally would welcome an entire examination of our treaty commitments around the world to see whether they are now required and whether they are still fully valid or whether adjustments could and should be made.

I hope that our Committee on Foreign Relations—which is unusually well qualified in this field—will give this matter serious study and consideration in addition to the consideration they are now giving it. I think that such a study would be a very timely effort and that something constructive should be done about it and reasonably soon.

In the meantime, however, I think that we are going to have to face the hard facts and recognize that these treaty commitments are part and parcel of our military requirement and that when we consider the defense budget they have to be recognized as such and cannot be ignored.

It is well known that it takes years to develop and produce the complex and sophisticated machines of defense which are absolutely vital to our security. Thus, what we did on the defense budget last year and what we do this year, and next year, will have vital postural implications 5, 10, and 15 years from now.

We were little better than a second rate military power when we entered World War II and that was also true when we entered the Korean conflict. Fortunately, in both instances we had the time to gear up our industrial machine and produce the necessary arms and weapons of war in overwhelming quantities. Never again, however, in a general war, will we have time to do this. We will have to go with what we have, and this is why it is so essential that we have the arms and weapon systems which are vital to our defense in being.

The basic point that I am making today is that, as long as we have these heavy worldwide commitments and, as long as conditions in world affairs remain substantially as they are now, we are obligated to provide the resources to meet them. If we are not willing to do this, then we should take prompt action to divest ourselves of at least some of the obligations which we have assumed. The matter of the approval of our treaty obligations was within the primary jurisdiction of the Committee on Foreign Relations, not the Committee on Armed Services. Similarly, any change or reduction in our treaty obligations would be within the jurisdiction of the Committee on Foreign Relations, not the Committee on Armed Services. However, as long as these treaty obligations remain in existence, it is the obligation of the Committee on Armed Services, and the Senate as a whole, to recommend the weapons and other resources which are essential to meeting them.

Mr. President, the purpose of my remarks on this subject today is to review the historical development of the situation that we are faced with and to point out the clear authority and responsibility that rest upon the Senate of the United States, and the House of Representatives in this field of jurisdiction, and to suggest the ways they should be met.

Mr. President, I think we are on our way in these directions. We will have a good solid debate, I believe and hope, with reference to the contents of this bill. Substantial reductions were made last year by the committee in spite of the rising cost of weaponry. Additional substantial reductions were made by the committee in the bill we will present next week in spite of rising costs of weaponry and their complicated nature.

I think that these two bills have laid the groundwork for very substantial reductions in the next few years providing that war can be deescalated.

I welcome the time when we can have debate on the bill.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I ask unanimous consent that I be permitted to continue for 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIRNESS

Mr. DOLE. Mr. President, 11 U.S. Senators, whose names appear hereafter submitted a brief today in support of a letter of July 10, 1970, to the Federal Communications Commission in which it was requested that the National Broadcasting Co.—NBC—grant comparable time without cost to present contrasting and opposing views to the May 12, 1970, NBC program which supported the amendment to end the war. It is respectfully requested that this brief be associated and considered in connection with the July 10, 1970, letter request.

REQUEST FOR EXPEDITIOUS CONSIDERATION

As a preliminary matter, we first wish to emphasize the need for expeditious action on this matter. The Senate has tentatively scheduled debate on the Military Procurement Authorization Act—including the amendment to end the war—the week of July 19, 1970. Unless the requested time to present contrasting views is granted prior to final passage of that legislation, the issue will be rendered moot.

STATEMENT OF FACTS

On May 12, 1970, a one-half hour prime-time program sponsored by the amendment to end the war committee was televised by NBC. This program dealt with the general issue of the Indochina war, but, more specifically, sought legislative and monetary support for the so-called amendment to end the war—amendment 609 to H.R. 17123, Military Procurement Authorization Act—and the supportive amendment to end the war committee.

In fact, the purpose for the broadcast was clearly stated at the outset of the program. It was not, as NBC has implied, to make a case against administration Indochina policy; rather, the program was designed, in the words of its sponsors, to provide five of the 20 Senators who cosponsored the amendment to end the war the opportunity "to make a case for this amendment."

In order that the public might be fully informed on this controversial issue and in accordance with the fairness doctrine, a telegram was sent to the president of the National Broadcasting Co., Mr. Julian Goodman, requesting broadcast time to respond to that program. The telegram specifically requested time for Senators who oppose the amendment to end the war to present contrasting views. In its response, NBC rejected this request for comparable, free time to counter the May 12 broadcast. Mr. Corydan B. Dunham, an NBC vice president, cited various televised speeches by President Nixon and news programs which dealt with "many of the issues involved in the war in Southeast Asia." But the network failed to cite one instance where the specific subject of the May 12 broadcast—the amendment to end the war—was discussed by an opponent of the legislation.

On July 9, a second request to NBC for broadcast time to present contrasting views specifically on the amendment to end the war was made. It was pointed out in the telegram that the coverage NBC cited as presenting both sides of the issue did not deal directly with the amendment. It was made clear in the second telegram that the issue was not contrasting views of overall Indochina War policy, but specifically amendment No. 609 to H.R. 17123, and the solicitation of monetary support. Disregarding this consideration, NBC again rejected the request in a telegram from Mr. Goodman, who pointed to an hour-long broadcast on the issue of Cambodia televised on July 9—a program which did not deal in any substantial way with the amendment to end the war.

ARGUMENT

The obligation of NBC to present contrasting views on this important legislation is a basic and fundamental one. In the Commission's 1949 report on "editorializing by broadcast licensees," the Commission stated in paragraph 18:

> Thus, in appraising the record of a station in presenting programs concerning a controversial bill pending before the Congress of the United States, if the record disclosed that the licensee had permitted only advocates of the bill's enactment to utilize its facilities to the exclusion of its opponents, it is clear that no independent appraisal of the bill's merits by the Commission would be required to reach a determination that the licensee had misconstrued its duties and obligations as a person licensed to serve the public interest.

Previously, the Commission in paragraph 9 stated:

> We do not believe, however, that the licensee's obligations to serve the public interest can be met merely through the adoption of a general policy of not refusing to broadcast opposing views where a demand is made of the station for broadcast time. If, as we believe to be the case, the public interest is best served in a democracy through the ability of the people to hear expositions of the various positions taken by responsible groups and individuals on particular topics and to choose between them, it is evident that broadcast licensees have an affirmative duty generally to encourage and implement the broadcast of all sides of controversial public issues over their facilities, over and beyond their obligation to make available on demand opportunities for the expression of opposing views. It is clear that any approximation of fairness in the presentation of any controversy will be difficult if not impossible of achievement unless the licensee plays a conscious and positive role in bringing about balanced presentation of the opposing viewpoints.

It is an equally fundamental concept of the Fairness Doctrine that where a station or network chooses to broadcast a sponsored program which for the first time presents one side of a controversial issue, a presentation of contrasting points of view cannot be rejected on the grounds that paid sponsorship is not available for these views. *Cullman Broadcasting Co., Inc.*, 25 RR 895 (1963). See also *Red Lion Broadcasting Co., Inc. et al.* v. *FCC et al.*, 395 U.S. 367 (1969).

The broadcast of an appeal for contributions at the conclusion of the program to support opportunities by the participating Senators to "speak out" on the war issue raised additional unresolved problems. This appeal for contributions to promote legislation is within itself a controversial issue of public importance, also giving rise to an opportunity to present contrasting views. We note that NBC does not purport to claim that it has presented contrasting views on this matter. We raise the further question whether the real purpose of the broadcast was, as claimed, to present views favorable to the amendment to end the war or whether the broadcast was not, in fact, a subtle and commercial venture to raise money. The appeal for funds was so clearly "interwoven" with the context of the program that a question is presented as to the real purpose of the broadcast. See, FCC Letter to KCOP-TV, Inc., July 1, 1970—FCC 70-685.

CONCLUSION

Accordingly it is respectfully requested that NBC be compelled to afford us comparable time to respond with contrasting and opposing points of view.

Mr. President, the brief was signed on July 16, 1970, by Senators BOB DOLE, EDWARD GURNEY, ROBERT GRIFFIN, PETER DOMINICK, BARRY GOLDWATER, PAUL FANNIN, RALPH SMITH, STROM THURMOND, CLIFFORD HANSEN, CARL CURTIS, and GORDON ALLOTT.

Mr. President, I ask unanimous consent to have printed in the RECORD what I have referred to as attachments 1, 2, and 3.

There being no objection, the attachments were ordered to be printed in the RECORD, as follows:

ATTACHMENT No. 1

Mr. BEN WAPLE, Secretary,
Federal Communications Commission,
Washington, D.C.

DEAR MR. WAPLE: On July 7 a telegram was sent to the President of the National Broadcasting Company, Mr. Julian Goodman, requesting broadcast time to respond to a May 12 NBC program sponsored by the Amendment to End the War Committee. This program was a one-half hour prime time telecast which solicited funds in support of the so-called Amendment to End the War. On July 8, Mr. Corydon B. Dunham, an NBC Vice President, rejected this request for comparable, free time to counter the May 12 broadcast.

Then on July 9, a renewed request to NBC for the broadcast time to present contrasting views specifically on the End the War Amendment was made. It was pointed out in the telegram that the coverage NBC cited as presenting both sides of the issue did not deal directly with the Amendment. Disregarding his consideration, NBC again rejected the request in a telegram from Mr. Goodman, who only pointed to an hour long broadcast on the issue of Cambodia in general which was televised July 9.

We feel that NBC has not presented contrasting views on the issue of the End the War Amendment as required by the Fairness Doctrine. And since the National Broadcasting Company has not recognized the importance of presenting both sides of the specific issue involved in the Amendment to End the War debate, our only recourse is to ask the Federal Communications Commission to compel NBC to grant us comparable time without cost to present the viewpoints of those who oppose the Amendment.

Signed: BOB DOLE, EDWARD GURNEY, ROBERT GRIFFIN, PETER DOMINICK, BARRY GOLDWATER, PAUL FANNIN, RALPH SMITH, STROM THURMOND, CLIFFORD HANSEN, CARL CURTIS, GORDON ALLOTT.

AMENDMENT TO END THE WAR, MAY 12, 1970, NBC TELECAST

ATTACHMENT 2

Mr. GOODELL. Mr. President, a bipartisan group of Senators purchased prime television time to explain the amendment to end the war—amendment No. 609 to H.R. 17123—to the American public and to seek support for it.

The half-hour broadcast marks the first time that a congressional group has produced such a nationwide program.

The program—"The Amendment to End the War"—was broadcast on Tuesday, May 12, at 7:30 p.m. over the NBC television network.

Senators George MCGOVERN, MARK HATFIELD, HAROLD HUGHES, FRANK CHURCH, and I participated in the program.

The amendment to end the war was drafted by Senators MCGOVERN, HATFIELD, HUGHES, and me and was introduced on May 5, 1970. It states that unless Congress shall have declared war, no moneys appropriated under the act to which it is attached, or under any other law, shall be used in Vietnam after December 30, 1970, except for the withdrawal of all American forces. It requires that the withdrawal of American forces from Vietnam be completed—that all American military personnel be pulled out—by June 1971, unless the President of the United States requests and Congress passes a joint resolution extending that deadline.

The amendment provides that no money shall be used for military operations in Laos after December 1970. And it provides that no moneys shall be authorized for any military operations in Cambodia or for military aid for that country 30 days following the adoption of the amendment.

I ask unanimous consent that the transcript of the program be printed in the RECORD.

Mr. President, last week the St. Louis Post-Dispatch carried an excellent editorial commenting upon the Cambodian invasion and the amendment to end the war.

I ask unanimous consent that the editorial and the text of the amendment be printed in the RECORD.

THE AMENDMENT TO END THE WAR: A NETWORK TELEVISION BROADCAST, MAY 12, 1970, NBC

(Participants: Senator George McGovern, Senator Mark O. Hatfield, Senator Charles E. Goodell, Senator Harold E. Hughes, Senator Frank Church)

NARRATION. Today, in the bright springtime of 1970, the United States of America has been ripped apart. Citizens bludgeon each other in the streets of New York. Students die in a campus eruption. Buildings explode, Banks burn. The Nation's colleges are shut down. The population is polarized, and there are parades of protest everywhere. Not since the days of the Civil War have Americans treated each other like this.

At the heart of the trouble lies the war in Vietnam. It is a strange war—a war that we have to keep explaining to ourselves year after year after year. And it is a difficult war to explain—particularly to the people who have to go and fight on its inconclusive battlefields.

But while all the talk goes on, the war goes on, too. It continues tonight, as it has continued for a decade. Tonight, Americans will die in Vietnam. Tonight, Americans will die in Cambodia.

What can we do?

Last week, amendment No. 609 was introduced on the floor of the United States Senate. It was co-sponsored by a bi-partisan coalition of twenty Senators. These Republicans and Democrats call it *the amendment to end the war*. They regard it as a realistic new thrust for peace. The Senate debate on it will begin in just a few days.

In the next half hour, five of these Senators will make a case for this amendment. If the American people can effectively urge its passage upon the Members of the House and Senate, if "the amendment to end the war" is passed, then the traditional right of declaring whether or not we shall commit Americans to battle will be returned to the Congress—where it belongs.

Through protest . . . petition . . . and an act of *law*, we shall have at last ended the Vietnam war.

And now, Senator George McGovern of South Dakota.

Senator MCGOVERN. There is no way under the Constitution by which the Congress of the United States can act either to continue this war or to end it, except by a decision on whether we will appropriate funds to finance the war.

Article I, Section 8 of the Constitution reads as follows: "The Congress shall have power to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years."

Senator HATFIELD. Our amendment to end the war fulfills the obligations that we have under the Constitution. The amendment clearly states that unless the Congress shall have declared war, that no monies appropriated on the act to which we attach the amendment, or any other law, shall be used in Vietnam after December the 30th, 1970, except for the withdrawal of American troops and other provisions.

It provides that no money shall be used for military operations in the country of Laos after December of 1970. It provides that no monies shall be authorized for the use of any military operations in Cambodia, thirty days following the adoption of the Amendment; and that all troops shall be withdrawn from Vietnam, all American troops, by June 1971 unless the President of the United States shall deem that it is important enough to extend that time by requesting the Congress to pass a Joint Resolution authorizing such extension time.

Senator HUGHES. The Amendment to End the War provides continuing funding for full protection of American troops during the total period of our withdrawal. It also provides adequate funding to provide political asylum for all those South Vietnamese and other civilians for which there may be great concern about a bloodbath; and there are adequate provisions that these civilians may be placed in other places for their own protection.

It also provides for a continuing negotiation of exchange of prisoners.

Senator CHURCH. Very soon the Senate will be acting on another Amendment offered by Senator Cooper and myself, which is addressed to the Cambodian situation and sets the limits on that adventure to those declared by the President.

But this End the War Amendment takes the full step, and provides an orderly method for the extrication of the United States from the war in Vietnam, itself.

Senator MCGOVERN. And so what we're looking for is a reasonable way to accomplish that withdrawal, and I think that the principal stumbling block now is that we're somehow worried about losing face. We're worried about embarrassing the policy makers that sent us in there. We're worried about admitting that perhaps we made a mistake.

Actually, I think it would contribute to the greatness of the United States if, as a free people, we could just admit that we're capable of making a mistake; and then do the best we can to put an early end to it.

Senator HUGHES. Vietnamization is not a change in policy at all. It's a continuation of the old, old policy. It is dedicated to war, not to peace. It means that the war will go on and continue to go on for years to come. It means that there has been no one speaking, in this Administration or the last, of an end to our support commitment in Vietnam.

It means that we can look into the future for at least a decade, in all probability, to a quarter of a million men involved in Vietnam. I think every mother and father in America who has a son right now that's five, or six, or seven years old, or anywhere up to 15 or 16, should well realize that that boy is going to be involved in our future commitment in Vietnam under existing policy.

Senator GOODELL. We have come to the point where we realize, and I think the President realized when he went into Cambodia, that Vietnamization will not work; and it was an admission of the failure of Vietnamization.

I think it's time that the American people recognize that the President doesn't have the power to declare war or make war, alone. He can ask Congress to declare that power; and I think that's why what we are discussing here, and urging support from the American people for, is so important.

Congress can do this, and it's not an irresponsible action; and with the walls all falling down around American prestige and power in the world if we decide we're going to get out, Congress would simply be saying, "Okay, we've fought for seven years, we've bled and died, and we've spent our resources on this; and now the time has come to say to the South Vietnamese, 'take it over. We'll give you time. Over a period of time we're going to be withdrawing and you can go on getting aid if you fight for yourself in your own civil war. We're not going to stay there and fight and bleed and die for you any longer.' "

Senator HATFIELD. But the point is simply this: It's no longer the opinion of Presidents, and no longer the opinion of Senators; it's the evidence of history, of over 40,000 deaths, and this amount of resource expended that has proven each one of those escalations to be wrong. And I say, how many more American men have to be heaped upon that funeral pyre of war to disapprove a theory or a doctrine of miltiary action that has been proven wrong each time that it's been acted upon.

Senator CHURCH. After all, the United States is not going to impose any permanent solution in Asia to settle Asian problems among the Asian people on the Asian mainland. Now, the idea that we are going to do that is—runs against the whole current of history.

Now, what's happening in Asia is that the western powers are moving out, and that the Asians are taking over for themselves; and Vietnamization, as it's been pointed out here, is not the method for extricating us from this morass. It will merely perpetuate our involvement in this war. Half of the troops may come home; the other half will stay indefinitely; and it does not serve the interests of the United States to maintain a permanent military base in Southeast Asia.

Senator GOODELL. The President reiterated the other night that he was going to continue to bring back these 150,000 men in the next 12 months. Now, many Americans may feel that that means they're all going to be coming back, and nobody's going to be going.

Under a policy of bringing back 150,000 men in the next 12 months, we will send to South Vietnam 276,000 men who are not there now, who are now in the military or about to go into the military; and we'll bring back more, 150,000 more than we send, but in the rotation process there will be this 276,000 men go over there to fight, and perhaps die.

Senator MCGOVERN. And what would we have accomplished, or what evidence is there based on past history, to lead us to believe that we would be in any better position, or that South Vietnam would be in any better position, 1 year or 5 years or 10 years hence, after tens of thousands of additional Americans have been killed, than we are now? What would we have gained?

Senator CHURCH. We have created a "crisis of confidence," and a deep disillusionment and an alienation that doesn't just affect a narrow fringe of radicals on campus. Anyone who goes to the campuses knows that this feeling extends to millions of young Americans.

Now, if they grow up without a belief in this system, that, it seems to me, has far greater bearing upon the future of the United States than anything we have now, or have ever had at stake out in Indochina.

Senator HUGHES. I think one of the great, tragic byproducts of all of this has been the spiritual scarring of our own people. The questioning in our own minds of why we're involved in a body-count war with total military supremacy, with indiscriminate bombing and far-ranging effects on the ecology of those nations by spraying chemicals and driving the people off of the land into the cities, completely changing the complex of that little nation involving sixteen to eighteen million people.

And we ask ourselves, can we be happy about the fact that we've killed 10,000 Vietnamese and suffered 300 deaths ourselves and in the process that this complete psychology that we have of destroying life, you know, at any expense, and what the results of it are—

Senator CHURCH. It's brutalizing our own society.

Senator HUGHES. It's brutalizing us internally, and we find our young people turning away from it, fleeing to Canada to avoid a war they consider immoral and attitudes that they consider unrealistic in a time, in an age when we really are questioning ourselves to find national purpose again.

Senator MCGOVERN. What we need to understand is that there is no way to separate the cost of this war in Asia, from the cost of our own society. Now, there were stories in the press recently that some of our poor people, some of the black citizens and other minority groups, have shied away from participating in protests against the war on the ground that their concerns are with hunger and with racism and with poverty.

But what I think all of our fellow Americans need to understand is that the answer to these other problems will not come until we put this war behind us, and the enormous drain that it's taking here in our society. The person who's worried about inflation ought to realize that war is a principal cause of it. The man who's worried about the stock market skidding ought to realize that the stock market jitters are associated, to a great extent, with the war.

And as you've said so many times, the Governors and the city councilmen and the others who are worried about where the money is going to come from for those new schools or new sewage projects or other things, they have to understand that the war is robbing them of those possibilities.

Senator HUGHES. We're talking about 16 to 18 million people in South Vietnam; here are 23 million blacks in America who have not been able to find justice in this great country. Untold thousands of American Indians who have never been brought to their fulfillment. You who have worked so long and so energetically in the field of hunger in America, and poverty, with some 35 million people living in poverty, with the very foundations shaking of every major city in the Nation, with the great, basic, undergirding of this Nation that has always kept it stable, with those minorities is now being drained off and siphoned off in the name of somehow saving face in Southeast Asia, you know.

So when we talk, I think you would agree that there seems to be a great paradox in this.

Senator GOODELL. The cost of the war last year was $23 billion, so you can say in just about specific terms that 1 year's cost of this war would clean up all our waters in the United States.

Senator HATFIELD. The half hour that this program is being telecast to the American people, to reduce that or to translate that into terms of the cost of the war; the Federal Government will be spending $1 million just in this one-half hour period.

Senator GOODELL. In Vietnam.

Senator HATFIELD. In Vietnam. Just in Vietnam.

Senator CHURCH. Mark, you know the argument is made that the world will think we're weak if we withdraw from Vietnam. I think that of all the arguments that are made, that is the least impressive. Actually, the world knows that we have the power to exterminate every living inhabitant of Vietnam. If we unleashed that power we could salt it over the way, Rome salted over Carthage.

It's not our power that's in question out there. It's the wisdom of our policy; and the world sees the biggest, richest, strongest nation dropping more bombs in North Vietnam than we dropped on all Europe in the Second World War. They see this tremendous disproportion of strength and wealth, and that puts us in a very bad light in the world.

In fact, this war has done more to undermine America's moral leadership in the world than anything that's ever happened to us, and the faster we put the matter right in Southeast Asia and end this war, the sooner we will begin to win back again the respect that this country ought to have throughout the world.

Senator HUGHES. What do you say to people who are really concerned, and I know they're concerned, about the fact that we'll lose face in the world, you know, that we'll really not be a first rate power, as has been implied by our Chief Executives in the past and in the present? And the concern of honest Americans who want to get out of the war, who want to stop the killing and the dying, and yet they say this is America's place in the world, that unless we accept this challenge we're somehow failing in world leadership.

I think this is the question in the minds of millions of Americans today.

Senator HATFIELD. What constitutes leadership. Not just power of armament, but power of ideals. And I say that we are losing in the world today by continuing to be in Vietnam.

It's not a matter of national price. It's a matter of whether we're practicing what we preach. It's a matter of whether our ideals that were embodied in the Constitution, in the hearts of the American people, are really at the center of our policy, or whether we're out here with some peripheral object of face-saving; and so forth. I say, if it's to be humilitated to admit we're wrong and to save lives, then the sooner we do this, the better it's going to be for our nation. But I don't consider it humiliation. I consider it greatness, because only the powerful can take the chance of admitting error, and we're that powerful today.

Senator GOODELL. And most civilizations that have died, have died from within; and that is happening now in the United States of America if we don't get out of this war.

Senator CHURCH. We clothe this war in the sacred words of "justice" and "freedom" and "peace." But justice and freedom and peace aren't at stake out there. You know, the Government that we're supporting is not a democratic government, it's an incompetent and corrupt military dictatorship; and it's involved in a war with another dictatorship. This is a war between two dictatorships for control of Vietnam.

So I think we make a grave mistake when we try to clothe such a war in terms of the ideals for which this country should stand. Freedom is not at issue for the people of Vietnam. One way or the other, the kind of freedom that we know is not going to be the gift of this war out there.

Senator Hughes. I think the gut question, though, Frank, and particularly George, when we're talking about this Amendment to End the War, to most Americans is, how can I support this Amendment and at the same time support my country in an involvement we've had over the last 15 years. And I think if people could resolve this in their own minds, you know, they'd very willingly bring this war to an end through this Amendment.

Senator McGovern. Now, the President said the other night that if we leave Vietnam now, we're going to be through, or I think he said we're going to be finished as a peacemaker in Asia. Well now, I think we ought to quit trying to be the policeman for Asia. Let's quit trying to be a solo policeman and banker and pacifier in Asia alone. How ironic it would be if at long last we succeeded in pacifying Southeast Asia and couldn't pacify our own society.

Senator Hughes. The invasion of Cambodia, I think, was truly the straw that broke the camel's back. They're writing to me at about 8 to 10 to one against the President's posture right now in Southeast Asia; and in the belief and the hope that the Senate of the United States, will offer leadership, you know, to alter this posture.

Senator Goodell. Everything we have said here tonight is completely unpartisan. I think we have all been as critical of the Democratic Presidents as we have of Republican Presidents, and we should not be considering this in terms of political or partisan advantage one way or the other. This war transcends partisanship, and I know a great many Republicans as well as Democrats who think our policy now is wrong, and we ought to get out. I think the overwhelming number of all Americans, whatever their political party, believe this.

Senator McGovern. I think what we're trying to do with our Amendment to End the War, is to say that that is too important a decision to place on the shoulders of one man. It's too big a risk to ask one man to decide alone. The President ought not to have to make that judgment alone, and under the Constitution, he's not supposed to make that decision alone.

What we're proposing to do is to share that responsibility, and whatever political risk, whatever opportunity, whatever hazard is involved in making the decision to end this war, we're prepared, as elected officials, to stand up on that question and answer yes or no, and then take whatever blame or whatever credit is involved.

Senator Goodell. In effect, we're providing a situation where the President can withdraw faster, where he can make a determination the war is going to end by a fixed date, and he will not bear the whole onus, himself. We recognize that when you've made such a tragic mistake, there's no painless way to get out of that mistake. We're saying, "We'll share that pain, we'll share that responsibility. But let's recognize the mistake and get out of it."

Senator Hughes. What do we say to the American parents who have sons fighting in Vietnam? Is this a patriotic move that we are taking in this Amendment to End the War? Is this support of their sons and of our fighting men in Vietnam?

Senator Goodell. There is no better way to protect the young men who are fighting over there than to bring them home; and I don't know of any military person in any responsible position, who doubts that if we made our declaration, "we're coming out," that they would be brought home safely then.

As long as we stay there, the casualties are going to go up, and if President Nixon's program works, over the next three years, we are talking about a minimum of 5,000 more American dead, and probably closer to 20,000. Four or five times that many casualties, and four or five times that many Vietnamese deaths in the process. Not to mention the billions of dollars involved.

Senator McGovern. But now what we're proposing is not a disorganized and uncoordinated outcry. We're proposing a specific legislative Act that will have the full force of law, and it will say in effect, no more money for Southeast Asia for any purpose other than arranging for the systematic and safe withdrawal of our forces, for the exchange of prisoners, for asylum for those people that might be threatened by our withdrawal. It's an orderly, Constitutional procedure for bringing about an end to this war.

Senator Church. Now, this brings the Congress back to the role that it should have been playing all along. It asks the Congress to assume its responsibility to the American people, and it brings our democratic system back to life again in a balanced, Constitutional manner; and that in itself is as important in the long run to the life of this Republic as ending the war in Vietnam.

Senator Hatfield. What do we say to the American people who have been watching, and who would say, "Well, we agree with you, but our voice is not very loud. I'm only one person, I'm just a little person, so-called little person." You hear that many times. Does that voice have a place in this whole great issue of war and peace?

They say, "We're tired of speeches. We want some action." A lot of the young people say this to us. A lot of the older people say, "All right, turn it off. We agree with you, but what have you done about it? What can you do about it, what can we do?"

Senator Church. We're asking people to make their views known responsibly to their Congressmen and we are asking the Congress and the Senate of the United States particularly, to begin to assume its responsibility under the Constitution. For years and years now we've abdicated. We've given all the power to the President when it came to war. We've sat on our hands and done nothing, and hoped that the people would look the other way.

Well, the time has come to reassert our responsibility and to stand up and vote on the question of war or peace.

Senator Hatfield. You know, we've sort of enshrined silence as the virtue of patriotism in the last year or so; and actually, I think the highest patriotic duty that any citizen has is to speak up, to speak his convictions and his mind. That's the hope that we've got to give to all American people. That there is this method, there is this channel open to them, and that we, and others like us on this end of the power structure, so to speak, are receptive. We're not only receptive, but we're inviting them to participate in this Amendment to end the War.

Senator Hughes. This is what we must do. We need their help. Even if we had 40 Senators presently on this Amendment, we need the help of the people of the United States. There's no other way that we can succeed; and the voice of the people counts in the final analysis. If I'm to exercise my judgment and to follow my conscience in a position of responsibility, I must tell the people when I think we're right, and I must tell them when I think we're wrong; and expect them to support those positions, or to oppose them. But for Lord's sake, don't be quiet. Write, support or oppose, but do something in this critical time.

Senator Hatfield. If you want to cast your vote to end the war in Indochina, there is something you must do in the next few days. Write to your Congressman or your Senator, just the simple words, "I vote for the Amendment to End the War in Southeast Asia."

Senator Goodell. And there's something else you can do. Take a sheet of paper and write on the top, "We, the undersigned, favor the Amendment to End the War." Leave room for names and addresses; and then go out to work, to the church, to the super market, where ever you can collect signatures, and get people to sign who agree with you. Send those petitions to your Congressman and to your Senators.

Senator Hughes. The President of the United States rightfully can command all media to bring a message to the people of the United States any time he deems he has a message of importance. For those of us who have differing viewpoints, and wish to express those to you, the American people, it requires that we seek your assistance.

Senator Church. Remember that 66 cents out of every tax dollar now goes for war. A dollar for peace could go a long way. So send your contribution, whatever it may be, in order that we can continue to speak out. Make your checks out to "Amendment to End the War," post office Box 1A, Ben Franklin Station, Washington, D.C. 20044.

Senator McGovern. Let me close this broadcast on a very concrete and specific point. What we are proposing here is that for the first time in the long history of this war, the Senate of the United States stand up and be counted yes or no, on the question of whether we wish the war to continue, or to be ended. We propose to do that in a vote that will come in a very short time. We pledge you that that vote will be held. This is not a sense of the Congress Resolution, it is not a debator's point; it is an act of law, which if carried, will put an end to this war in a systematic way. We ask earnestly tonight for your support in that effort.

President Nixon. Strive in every area of the world——

General Westmoreland. In 1968, a new phase is now starting.

President Johnson. General Westmoreland's strategy is producing results.

General Westmoreland. The enemy's hopes are dim.

President Nixon. If, when the chips are down, the world's most powerful nation acts like a pitiful, helpless giant——

Closing Narration. In just a few days, debate on the amendment to end the war will begin on the floor of the United States Senate.

If the American people can effectively urge its passage upon the Members of the House and Senate, if the amendment to end the war is passed, then the traditional right of declaring whether or not we shall commit Americans to battle will be returned to the Congress—where it belongs.

Through protest, petition, and an act of law, we shall have at last ended the Vietnam war.

AMENDMENT NO. 609 TO THE MILITARY PROCUREMENT AUTHORIZATION BILL (H.R. 17123)

Sec.—— (a) Unless the Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended in Vietnam after December 31, 1970, for any purpose arising from military conflict: Provided, That funds may be expended as required for the safe and systematic withdrawal of all United States military personnel, the termination of United States military operations, the provision of assistance to South Vietnam in amounts and for purposes specifically authorized by the Congress, the exchange of prisoners, and the arrangement of asylum for Vietnamese who might be physically endangered by the withdrawal of United States forces: And provided further, That the withdrawal of all United States military personnel from Vietnam shall be completed no later than June 30, 1971, unless the Congress, by joint resolution, approves a finding by the President that an additional stated period of time is required to insure the safety of such personnel during the withdrawal process.

(b) Unless Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended after December 31. 1970, to furnish to Laos any military advisers, or to support military operations by the forces of the United States or any other country in or over Laos.

(c) Unless the Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended, after thirty days after the date of enactment of this Act, to furnish to Cambodia any defense article or any military assistance or military advisers, or to support military operations by the forces of the United States or any other country in or over Cambodia.

(d) For the purposes of this section, the term "defense article" shall have the same meaning given such term under section 644 of the Foreign Assistance Act of 1961.

ATTACHMENT NO. 3

July 7, 1970.

Mr. Julian Goodman, *President, National Broadcasting Company, New York, N.Y.:*

On May 12, 1970, a 30-minute program sponsored by the Amendment To End The War Committee was broadcast on NBC–TV. Since NBC has not broadcast contrasting views, I respectfully request that Senators opposed to the end the war amendment be granted equal time, without cost, so that the public may be informed and the fairness doctrine complied with. Your immediate response will be appreciated.

Bob Dole,
United States Senate.

Hon. Robert J. Dole,
Senate Office Building,
Washington, D.C.:

In response to your telegram today to Julian Goodman may I point out that the NBC television network has provided many opportunities since May 12 for spokesmen opposed to the views expressed on the program sponsored by the Committee On The Amendment To End The War. In addition to coverage in our regularly scheduled news programs President Nixon addressed the Nation on the subject of Cambodia on June 3 and discussed many of the issues involved in the war in Southeast Asia in a special broadcast on July 1. Many other spokesmen opposed to the Hatfield-McGovern amendment have appeared on the Today program including Senator McClellan, Secretary Laird and Edmund J. Gullion. Secretary Laird and General Earle Wheeler also appeared on a special prime-time edition of Meet The Press on June 4 to discuss issues raised by the incursion into Cambodia. Senator Peter Dominick and General Maxwell Taylor are scheduled to appear on a special program on the same subject to be broadcast from 7:30–8:30 PM on Thursday, July 9. In our judgment those who oppose the amendment to end the war have had full opportunity to express their views and we respectfully decline your request for a special program devoted to this issue.

Corydon B. Dunham, Vice President and General Attorney, National Broadcasting Co., Inc., New York.

July 9, 1970.

Mr. Julian Goodman,
President, National Broadcasting Company,
New York, N.Y.:

I renew my request for equal time to respond to statements made by so-called "end the war" Senators on NBC May 12. NBC has not presented contrasting views on the amendment itself. The coverage outlined in the telegram from C. B. Dunham did not in any way deal directly with the so-called "end the war" amendment. Reportedly over one half million dollars has been raised as a result of the NBC program on May 12. Numerous Senators oppose solicitation based on emotion and the amendment itself. Respectfully request NBC reconsider my request of Tuesday, July 7.

Bob Dole,
United State Senate.

Hon. Bob Dole,
United States Senate,
Washington, D.C.:

This will reaffirm the reply sent you yesterday at my request by NBC vice president and general attorney Corydon B. Dunham. NBC has afforded ample opportunity for comment by all sides on the issues raised by your two telegrams, and I am sure additional opportunity to comment on the "end the war" amendment will be possible on Tonight's special NBC news program titled "Cambodia—Right or Wrong?" which will be televised over the NBC television network seven thirty to eight thirty p.m. We must respectfully deny your request for reconsideration of the proposal in your telegram of July 7 that you be granted equal time without cost to the thirty minute program broadcast on NBC May 12, 1970.

Julian Goodman,
President, National Broadcasting Company Inc.

Mr. DOLE. Mr. President, the brief that was filed today with the FCC was submitted by the junior Senator from Kansas (Mr. Dole), the junior Senator from Florida (Mr. Gurney), the junior Senator from Michigan (Mr. Griffin), the junior Senator from Colorado (Mr. Dominick), the junior Senator from Arizona (Mr. Goldwater), the senior Senator from Arizona (Mr. Fannin), the junior Senator from Illinois (Mr. Smith), the senior Senator from South Carolina (Mr. Thurmond), the junior Senator from Wyoming (Mr. Hansen), the junior Senator from Nebraska (Mr. Curtis), and the senior Senator from Colorado (Mr. Allott).

ORDER OF BUSINESS

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS OF SENATORS

IMPORTANCE OF THE FARM PROGRAM

Mr. ELLENDER. Mr. President, we are again hearing reports that our Nation cannot afford to continue our farm price support and supply stabilization programs. In my opinion, this is a mistaken, short-sighted view.

Although the number of people living on farms has declined a third in the last 10 years, three out of every 10 jobs in private employment in our country today are related to agriculture.

Agriculture's assets total $307 billion, equal to—

About two-thirds of the value of current assets of all corporations in the United States; or

About one-half of the market value of all corporation stocks on the New York Stock Exchange.

Capital investment in agriculture is approximately $50,000 per farmworker double the investment for each manufacturing worker.

About 55 percent of the Department of Agriculture expenditures, in the 1970 budget, are for services which are of primary benefit to the general public. Only 45 percent goes for price support and related programs in which farmers are the primary but not the only beneficiaries.

These farm program expenditures have maintained net farm incomes 25 percent or more above what they would otherwise have been in recent years. However, the effects of farm program expenditures go far beyond their income benefits to farm families. The stabilization of market supplies and prices of major farm products has stimulated farmers to adopt new technologies and improved practices, and made it possible for young farmers to obtain credit for modernization and farm enlargement.

Although cotton, feed grains, wheat, tobacco, rice, and peanut producers benefit most directly from these programs, they have contributed to the stabilization and improvement of livestock, dairy, and poultry producers' incomes. Federal marketing agreements and orders also have improved and stabilized incomes for most fruit, vegetable, and milk producers.

Agriculture's progress, made possible in part by these programs, has been dramatic. Since the early 1950's the annual increases in farm output per manhour has been two to three times the rate of increase outside of agriculture.

The number of workers released from the farm work force equaled one-fourth the growth in civilian nonfarm employment during this period.

Even though the number of farmers and farm workers declined sharply and the acreage of harvested crops was reduced, farm output increased by almost one-third.

The high level of efficiency of American farmers is reflected by the fact that consumers are spending only 16.5 percent of their disposable income for food today as well as by the fact that only 5 percent of consumers disposable income is represented by the farm value of domestically produced food. In Western Europe consumers spend 25 percent of their income for food; in Russia they spend nearly 50 percent, and in many areas of Asia they spend as much as 75 percent.

Farmers in no other country of the world produce such a high proportion of its citizen's food and receive such a small fraction of the consumer's income for their products.

This magnificent performance of American farmers and agribusiness is a direct result of the research and development programs largely authorized and financed by the Congress, beginning about 100 years ago, together with the credit, price, and income stabilization programs of the past 37 years.

In relative terms farm program costs are small—not large, and on a relative basis they are becoming even smaller as national income and other Government expenditures grow.

In recent years expenditures for market supply, price stabilization, and related programs represented less than 2 percent of total Federal Government budget expenditures and about one-half of 1 percent of the disposable income of consumers.

If one added the entire cost of Department of Agriculture expenditures to consumer expenditures for food they would still be spending only 6 percent of their disposable income for farm-produced foods, including the costs of all Department of Agriculture activities.

No other industry gives consumers as great a bargain.

Mr. President, I am concerned that time is running out for the renewal and extension of the programs which have meant so much to farm families in recent years. I can understand farm leaders' reluctance to give up tried and tested programs and shift to new set-aside provisions which analysts tell us may result in increased farm program costs and lower farm income.

In my opinion, we should improve and extend the programs that have demonstrated their effectiveness in improving farm families' incomes, expanding exports, and strengthening our balance of payments, while liquidating the surpluses built up in the late 1950's. We do not have any serious crop surpluses in government warehouses now and we do not want to acquire any more in the next few years.

People living on farms now receive only three-fourths as much income as nonfarm people and we cannot with good conscience allow their incomes to decline further. While remaining competitive in world markets, we must continue programs which will stabilize market supplies and prices, an essential condition for a progressive agriculture.

When I addressed the Senate on this subject on January 27, I went into some detail regarding the economic consequences of failing to extend or replace the Food and Agriculture Act of 1965 before the 1971 crops are planted. Unless the 1965 act is extended or replaced the continuing legislation enacted in the 1930's, 1940's, and 1950's will become effective.

Analysts are generally agreed that farm income would fall by a billion dollars or more in 1971 if we fail to enact new legislation. Wheat producers probably would fail to approve a marketing quota referendum as required and lose all their wheat certificate payments which amount to $900 million in 1970. The second year, wheat acreage allotments probably would be reduced even further because loans at 50 percent of parity, now required in the continuing legislation, would cause stocks to pile up again.

Although cotton producers might receive higher incomes in 1971 under the continuing legislation if the 1965 act is allowed to expire, unmanageable stocks of cotton would be piled up. New legislation would be almost imperative the second year.

Feed grain producers would be most adversely affected the first year. They would lose all their current payments which will total about $1.5 billion in 1970 and market prices would rest on the 50 percent of parity price support level provided in the continuing legislation. This will be about $.90 a bushel for the 1971 crop of corn.

Although feed grain producers would incur the most serious income losses in 1971, if the 1965 act is not renewed or replaced, cotton and wheat growers may incur the greater income losses over a 3- to 5-year period. Farm income losses would surely reach $4 to $5 billion a year—a fourth to a third of the net income now realized by farmers.

After the first year or two lower prices of grains, soybeans, cotton, and livestock products would result in lower values for all agricultural assets. Cattle breeding value for a year or two but, they too, would decline after that.

The decline in agriculture income and farm assets would adversely affect all rural financial institutions and all public institutions in rural areas.

In addition to the economic chaos in the rural communities resulting from the return to the continuing legislation, the Commodity Credit Corporation would again acquire surplus stocks of cotton, feed grains, wheat and wool, adding to Government costs and creating more problems for future years.

In closing this brief statement on our most important domestic industry, I want to call the attention of my urban colleagues to the fact that although industrial prices and wages are continuing to rise farm prices have been declining in recent months. Farm prices in 1969 were only 2 percent higher than in 1947–49. They reached a 5-year high in February of this year only a little above 1947–49 levels and have been declining since. Farm prices declined slightly in March with price declines in hogs, eggs and milk contributing most to the decline. In April farm prices declined 3 percent with price declines for hogs, eggs, cattle and oranges accounting for most of the price drop. In May farm prices held at their April level but the statistical reporting service reported still lower prices for eggs, cattle and hogs. Although retail food prices in May were 7½ percent higher than a year earlier, farm prices were up only 1½ percent.

Even though existing farm programs are continued, farmers are facing their most severe cost-price squeeze in recent years. In the past 5 years increases in the prices farmers paid for production items, interest, taxes and farm labor have been 1½ times the increase in farm prices. Farmers face the prospect that their costs will continue to rise even though farm prices decline in the months ahead.

If existing programs are ended abruptly with the expiration of the Food and Agriculture Act of 1965, many farmers and many rural financial institutions face bankruptcy.

If consumers are to continue to be supplied with ample quantities of a wide variety of high quality foods at all times at moderate prices, an efficient progressive agriculture must be maintained. Existing programs which stabilize market supplies and prices are an essential part of today's modern, efficient agriculture. Their continuation will benefit consumers as well as producers in the long run. With no farm program, a food shortage may follow, our economy will sag, and the small amount paid farmers under existing laws will pale into insignificance compared with the additional cost to consumers in the event of a food shortage.

CHAMPION OF THE INDIAN

Mr. MANSFIELD. Mr. President, the New York Times of July 11, 1970, contains a very interesting and captivating story on the wife of our distinguished senior Senator from Oklahoma (Mr. HARRIS). The article, entitled "Champion of the Indian," describes the work, the attitude, the integrity, and the desire of LaDonna Crawford Harris, the wife of Senator HARRIS.

I know personally, of her great and primary interest in the welfare of the Indians ever since she and her husband came to the Senate. I know of the long hours she has put in in their behalf while her husband, in the Senate, has put in long hours and contributed great knowledge to the cause of good Indian legislation. They make a great team, and the first Americans of this Nation are fortunate to have as their champions, Senator FRED HARRIS in the Senate, and LaDonna Crawford Harris outside the Senate.

I ask unanimous consent that the article on LaDonna Crawford Harris be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHAMPION OF THE INDIAN—LADONNA CRAWFORD HARRIS

WASHINGTON, July 10.—LaDonna Crawford Harris has never been the tea party sort of Senate wife. "When she gets ahold of a cause she's like a terrier," says one friend, "she just won't let it go." This week, the White House spoke on the cause that Mrs. Harris most fiercely champions—Indian rights—and the wife of the former Democratic National Chairman, Senator Fred R. Harris of Oklahoma, was quick to respond with cautious praise.

"Indians have been the victims of fine rhetoric, followed by inaction or worse for two centuries," said Mrs. Harris, who is a member of the Comanche tribe. "I only hope the President will employ all the resources of his office to see that his excellent and sensitive recommendations are actually carried out."

Mrs. Harris testified today before a Senate subcommittee in favor of the Administration-endorsed bill that would return 48,000 acres of federally owned land in New Mexico to the Taos Pueblo Indians.

Tomorrow, she will be raising funds on Long Island for the Americans for Indian Opportunity, a private organization modeled after the Urban Coalition that she founded in February.

NATIONAL CLEARINGHOUSE

Mrs. Harris was one of the six original Indian members of the National Council on Indian Opportunity, the White House panel appointed by President Johnson in 1968. She later quit the council, complaining that Federal agencies were responding sluggishly to proposals to help Indians.

Her own new organization, an aide said yesterday, is designed to be a clearinghouse for national lobbying efforts for Indian causes. It will aid Indian self-help projects, advise foundations on which programs merit funds, and provide legal services.

Americans for Indian opportunity set up a political action council last month, borrowing an organizational device from the Urban Coalition on whose national steering committee Mrs. Harris serves.

Friends and co-workers speak of Mrs. Harris's "emotional commitment" to the minority-group causes she champions. Most attribute a good part of her energy and intensity to a strong identification with her own Oklahoma background.

Born Feb. 15, 1931, to an Irish father and Indian mother, she was raised by her Indian grandparents on a farm in Walters, Okla. Comanche was the family's primary language.

She and Fred Harris were high school sweethearts (he unsuccessfully managed her candidacy for Cotton County Turkey Queen), and they were married as he entered the University of Oklahoma.

Mrs. Harris worked in the university library while her husband became Phi Beta Kappa in his junior year and later went on to rank first in his law school class.

PART OF THE CREDIT

A political associate gives Mrs. Harris some of the credit for Mr. Harris's defeat of J. Howard Edmondson and Charles (Bud) Wilkinson in 1964 to become a Senator at the age of 33.

The Senator and his wife could be placed in separate rooms and asked the same question and they would most often give the same answer, Mr. Harris has said. "They really grew up together," an associate said, "and that means they have a great deal of common purpose."

The Harrises have three children—Kathryn, 20, Byron, 12, and Laura, 8. Despite the pace of Mrs. Harris' public activities, the couple frequently entertain in their home in McLean, Va.

Referring to the crusader for Indian rights the other day, a friend in Washington said: "She's young and vibrant and doesn't try to come on as a stodgy Senator's wife."

THE INTERNATIONAL TRAVEL ACT

Mr. SCOTT. Mr. President, the Senate's passage of legislation to encourage national efforts to increase foreign travel to the United States could not come at a more opportune time than now. The American Revolution Bicentennial Commission has just recommended that Philadelphia be selected as the principal site for an exposition during our bicentennial celebration in 1976. The relevance between the conference report on the bill that was adopted yesterday and the anticipated exposition lies in the importance which the former will mean to the latter. For example, the bill will encourage foreigners to visit our country in greater numbers than ever before. The bicentennial exposition is expected to draw 51 million visitors to Philadelphia, who will then spend over a billion dollars. So we see how well these two things complement each other.

My interest in promoting tourism in America is not new. In fact, I sponsored the legislation creating the U.S. Travel Service back in 1961. Since that time, foreign travel to our country has increased more than 188 percent, a fact I brought out during my testimony on this bill, which I cosponsored nearly a year ago. As reported by the conferees, H.R. 14685 authorizes appropriations of $15 million for the U.S. Travel Service for each of the next 3 fiscal years. It would also establish a 15-member National Tourism Resources Review Commission which will, among other things, determine the domestic travel needs of our citizens and foreign visitors alike and will then determine what we must do to meet those needs. Last, the bill creates, within the Commerce Department, an Assistant Secretary for Tourism to administer the U.S. Travel Service.

The travel situation within the United States is paradoxical. On the one hand, we earn more money and receive more visitors than any other nation in the world, yet so many Americans travel abroad that we register a huge travel deficit. For every two tourist dollars leaving the United States, only $1 returns. As I have mentioned in the past, travel restrictions on U.S. citizens are certainly not the answer. We must use existing means to promote foreign travel to our country, and I believe the enactment of the legislation we are considering will aid in that effort.

A study by the Industry-Government Special Task Force on Travel also supported the objectives of the pending bill. In its report, the task force recommended four general approaches to encourage foreign visitors to see the United States. The legislation before us implements this report and assures a more dynamic and coordinated approach to our travel policy and encourages the development of its full potential.

First, the report says that we should provide reductions and discounts to lower the cost of travel by foreign visitors to the United States. Clearly, foreigners do not usually spend as much per capita in the United States as we do in their countries. Monetary incentives are, indeed, very much in order.

Second, we should have a concerted national effort to stimulate foreign travel to the United States. This would include the promotional efforts of U.S. industries and the news and entertainment media.

Third, the task force recommends that we make some very routine adjustments enabling the foreign visitor to avoid a great deal of redtape and delay. Such suggestions as simplifying and consolidating entry procedures would help.

Fourth, we should expand the role of the U.S. Government in promoting travel to our country. As similarly recommended in the pending bill, there should be increased Federal spending for travel promotion and a more dynamic national travel policy.

Mr. President, with but 6 years to go until the American Revolution bicentennial observance, we must redouble our efforts to bring foreign visitors to our shores. Philadelphia and our entire Commonwealth will benefit immensely from the more than 50 million visitors in 1976. I am personally going to redouble my efforts to assure that citizens of other nations will be encouraged to travel to the United States and to tour the Commonwealth of Pennsylvania. The conference report adopted yesterday is a positive step in that direction.

PRIVILEGE AND POISON: SERMON BY CANON MICHAEL HAMILTON

Mr. PELL. Mr. President, Canon Michael Hamilton presented a strong, striking sermon at the Washington Cathedral on Sunday, July 5.

I found his sermon so compelling that I thought it might be of interest to Senators. I, therefore, ask unanimous consent that the sermon be printed in the RECORD.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

PRIVILEGE AND POISON

(Sermon preached at Washington Cathedral on Sunday, July 5, 1970, by Canon Michael Hamilton)

Once upon a time, a king decided to crush a rebellion in a distant land. He called together the captains of his army, told them his will and sent them on their way. After some months, one of the captains returned to report that the rebels were in retreat but that they were still dangerous. The king commended the captain for this progress and ordered his army to continue fighting until the rebels sued for peace. After many more months, another captain returned to report that the war was not yet over, that the rebels had taken refuge in a fortified city, and that the king's army still suffered occasional casualties. Upon hearing this the king became angry and demanded to know if there was any way the enemy could be defeated. The captain replied that if the king wished for a speedy victory he would permit the river which brought water to the city to be poisoned. The suffering caused by this would surely bring peace. The king pondered his nation's great traditions and the dishonor of winning a war by such means; he thought about the continued killing of hundreds of his own soldiers, and he considered the many thousands of women and children who would surely die if the poison were to be used. Then he spoke to the citizens and said "In love and mercy we must act to save the lives of our soldiers. Their lives are privileged—let the poisoning begin!"

What do you think of such a king? Did he do right or did he do wrong? Did he act in love and mercy or did he not. While I do not make a one to one relation between that story and the state of our nation, the story does raise questions for us to ponder. If the mark of a great nation is a willingness to face up to issues, then clearly to fulfill our own heritage we must do so, especially on a weekend when we celebrate our independence and the high principles then espoused. This week the President and others in Congress have discussed the merits of the Indo-Chinese war, and I do not wish to speak on that vast subject. However, there is an aspect of the war not as often reviewed, and this morning I invite you to examine with me the morality of its conduct.

When we first intervened in the Vietnamese struggle we did so by using conventional weapons and tactics. After six years of our participation in that war, reflect for a moment to what degradation we have come. We now view as ethical the creation of thousands of refugees by forced evacuation, and we have yet to supply them with adequate food, shelter or medical services in their new locations. We view the torture of prisoners as normal, and some of our soldiers have been involved in massacres of women and children. We drop napalm and fragmentation bombs, and contrary to the Geneva Protocol of 1925, we have used tear gas and herbicides. Tear gas has been released not only to immobilize enemy troops as first claimed, but also to force them out of hiding so that they may be killed by either small arms fire or bombing from aircraft. It is true we have withdrawn some of the poisonous defoliants from current use, but only after they have been shown to cause genetic defects in animal offspring. The extent of long-term ecological damage is still unknown.

The greatest single cause of suffering has probably been the bombing of areas inhabited by civilians suspected of being sympathetic to the enemy. Anything that moves in so-called "free zones" is a target, even if it turns out later to be a child running across a village square. The continued practice of high-level area bombing of Viet Nam has aroused the disapproval and disgust of statesmen all over the world. Now it has been extended into yet another unfortunate country—that of Cambodia. The irony of such bombing is that while it weakens the enemy's military strength, it also alienates more civilians whose eventual acceptance of our stated political goal of democratic self-determination is essential to peace.

Poison returns to the poisoner and the violence that we have practised abroad has come to brutalize us here at home. Many Americans have come to believe that all is fair in love and war: but as Christians we must disagree. Some have hoped that the end justifies the means: but as Christians we must dissent. Our leaders have neglected that humanitarian concern which should penetrate all wartime decisions: as Christians we must protest.

It is hard to preach on these matters in a service of Eucharist, hard again in times of war to criticize the policies of one's leaders. However, it is also a duty to speak the truth as we are given to know it.

The conduct of the Indo-China war brings discredit on both sides. The enemy has also used inhumane weapons and tactics, they too, have tortured and massacred civilians. But by what authority can we excuse our acts by the sins of another? Not by the God of the Bible, not by the God of Abraham, Moses and the prophets. This call to your conscience is not, of course, a lone one, for many voices in our land have been raised in dissent. Last month our Presiding Bishop, John Hines, joined by other denominational leaders, appealed to Churchmen to view the war with humanitarian perspective, not national pride. The Executive Council of the Episcopal Chuch has demanded the total withdrawal of all American forces from Southeast Asia now, and an end of the war.

The final moral issue which I wish you to consider this morning is the increasing tendency of our Administration to justify its policies by saying that they will save or protect the lives of American soldiers. Everyone wishes desperately to save those lives—but we must also honestly ask what will be the cost of such salvation to others. To undertake drastic military action which promises peace and saves lives may well be warranted. But to take an act that saves the lives of one's own soldiers, while bringing great destruction on enemy civilians, has never been honored amongst men. How much privilege shall we extend to ourselves? To save one American life may we kill ten Cambodian women? Or a hundred Vietnamese children? Or a thousand? To what ghastly new massacres will we be led? This strategy, unless re-defined by humane considerations, is immoral and should be discarded. Is a cause is worth espousing, if it is in our national interest, then we ourselves must be prepared to defend it. There is something deeply wrong about our being willing to shed the blood of others for a cause which we will not risk our own lives. The importance of facing up to this moral issue will increase as our combat troops withdraw, but our bombers continue their devastation.

God is the Father of all people. He values Vietnamese, and Cambodians just as much as he loves Americans. The hairs of all his children, whatever their political persuasion, are numbered. God is no respecter of persons and no self-assumed privilege will withstand His judgment. This is part of our witness as we gather round this table to remember Jesus Christ, He who died for all men. As we drink His blood, and eat His body, and recall sacrifice, may we also thankfully accept His forgiveness and pray for His guidance in our national and personal affairs.

SENATOR PERCY DISCUSSES OUR NATO COMMITMENT

Mr. GRIFFIN. Mr. President, the senior Senator from Illinois (Mr. PERCY) has written for the June issue of Washington Monthly Magazine a penetrating article on our commitment to NATO. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PAYING FOR NATO

(By Charles H. Percy)

Today, a quarter of a century after the end of World War II, it is time for a thoughtful and comprehensive reassessment of the American commitment to NATO. In terms both of total costs and manpower the United States is bearing an unfair and staggering burden in the defense of Europe. If the European nations are not getting a free ride, they are at the very least traveling at an absurdly low fare.

At present, there are about 1.2 million American troops stationed overseas. About 25 percent of them, or 300,000, are located in Europe, with 220,000 in West Germany alone. Moreover, along with our troops in Europe are 242,000 dependents and 14,000 civilian employees—a total of 556,000 Americans in Western Europe. This constitutes a longer American presence than the United States ever has deployed in Indochina, where a war is being fought. The cost of the vast American military presence in Europe places a tremendous drain on the U.S. budget. Each year, it costs the American taxpayers $14 billion to support our troops in NATO. There is also a $1.5 billion balance-of-payments deficit directly tied to our military commitment; $1 billion of that deficit is in Germany alone.

At a time when the United States must turn its resources to an unprecedented array of domestic problems, it is apparent that not even the wealthiest nation in the world can afford to continue its present commitment to NATO. The litany of this nation's internal maladies is by now familiar—a deteriorating environment, racial discord with all of its ugly ramifications, inadequate health care, poverty that touches more than 25 million Americans, cities on the verge of economic and social collapse. If we are to reduce our disproportionately large commitment to NATO to permit us to marshal our resources for the domestic battleground, two possible approaches are open.

The first, a unilateral withdrawal of a portion of our troops from Europe, has the virtue of simplicity and its effects would be felt almost immediately. Sentiment is growing for this approach in the Congress and with the public at large, and if no satisfactory alternative is implemented within the next few months, I am prepared to help lead the fight in the Senate for troop reduction.

But I believe that another option is available—one which will insure that the cost of defending Europe will no longer be primarily an American responsibility, but which also will permit the question of troop commitments to be resolved on military and strategic grounds, not out of economic necessity. I call my approach "burden-sharing" and it simply means that the Europeans will begin to carry a fair share of the expenses of their own defense. It requires no special perception to observe that Europe today is not the rubble-strewn continent it was 25 years ago, or that its reconstructed, thriving economies can bear a much larger defense burden than was possible in the immediate post-war years. Changing conditions demand changing responses. If the European nations do not accept their new responsibilities, and do so quickly, reductions in American troop levels will have passed the point of debate; they will become inevitable.

The immediate goal of the U.S. should be the cutting of its NATO expenses by $2 billion. If this country found it possible to pare its own annual space expenditures from over $6 billion to $3.3 billion, it should not be difficult to devise ways to trim $2 billion from a total outlay of $14 billion. With the U.S. facing severe economic pressures, with every American aware of the need for budgetary belt-tightening, it is ludicrous for us to continue to shoulder expenses that rightfully should be borne by Europeans. There are several identifiable areas in which Europeans could pick up the cost burden from the U.S.:

(1) Salaries of the 74,000 local nationals employed by U.S. forces. These people are working for NATO and just happen to be servicing Americans. In Germany, for example, where 62,000 of the local nationals are employed, we are now paying German citizens—service help, not mercenary soldiers—about $250 million. Why shouldn't the local government assume these costs?

(2) Construction costs. Buildings built in Europe for American forces obviously are not going to be brought back to the U.S. when American troops leave, nor are we likely to be reimbursed for them. They should be paid for by the host government.

(3) Materials and equipment purchased in the local economy for use in that country.

(4) Transportation, power, and various other services. Why should we pay the cost of transporting our troops around Europe when the means of transportation are owned by the local government? And why should we be paying a German government-owned power company to supply us with electricity?

(5) NATO infrastructure expenses. Certainly structures like runways and roads cannot be carried back to the U.S.

Just these five categories, if picked up by the European governments, could save the U.S. about $1 billion a year in budgetary costs, about half of it in Germany.

Moreover, it is scandalous that the U.S. government continues to pay millions of dollars annually to its NATO partners in taxes—real property taxes, local and municipal taxes, business and trade taxes, excise taxes, and import taxes. We do not pay taxes to the states and communities in our own country where we have military installations; yet our European allies, the nations we spend billions to protect, have no compunction about adding those surcharges to our costs for our mutual defense. The General Accounting Office, in a detailed report of our tax payments in NATO countries abroad, found taxation to be particularly high in the United Kingdom and Germany, but it is also prevalent in Italy and Belgium. Clearly, U.S. military involvement in NATO should be tax exempt, and I intend to work with the General Accounting Office toward the elimination of this example of an intolerable burden.

Our foreign exchange position has deteriorated not only because of the many unjustifiable expenses we bear due to our NATO commitments, but also because of the unsatisfactory agreements we have negotiated in an attempt to offset our balance-of-payments deficits. In the early 1960's, offset arrangements took the form of military purchases by European countries in the U.S., but these purchases have diminished in recent years as European nations began equipping themselves. Since 1967, Germany has offset part of the U.S. balance-of-payments drain by buying $1 billion in bonds from the U.S. Treasury.

But a loan, which must be repaid, cannot be considered a true offset; it merely postpones the agony. Beyond that, the U.S. must repay its offset loans to Germany with interest, which puts this nation in the incredible position of paying money to Germany for the privilege of defending Germans. And finally, as the ultimate insult to our fiscal intelligence, the German Federal Bank—the Bundesbank—called in $500 million worth of offset bonds three years ahead of time. It did so in utter disregard of the comparative economic conditions of our two countries—as measured by the relative stability of the mark and the dollar, the size of our national debt measured against theirs, or any other major indicator—and with no seeming concern for the possible fracturing of our political relationships. Moreover, because of the 9.3 per cent revaluation of the mark, the U.S. will have to repay not $500 million, but $545 million. And, should the Bundesbank wish to cash the remaining $500 million in offset bonds ahead of time, it can do so under the terms of the existing agreements.

These offset arrangements strain credulity to the breaking point. Our troops and dependents are hostages in Europe, designed to insure the credibility of our deterrent, and we are paying money to the nations that are benefiting. Fortunately, however, the current financial arrangement run only until June 30, 1971, at which point I trust they will be terminated. Chairman Arthur Burns of the Federal Reserve Board, Secretary of the Treasury David Kennedy, and Budget Bureau Director Robert Mayo concur in my conclusions that the agreements never should have been made.

In an effort to devise a better plan to cover military expenditures within NATO, I have been working with the NATO North Atlantic Assembly since 1968. I presented my plan, which was developed with the cooperation of the U.S. Treasury, to the NATO governments last October and invited them to make suggestions for its improvement. While I am not wedded to every detail of the proposal, I believe its basic concept is sound. It would provide that a clearinghouse be set up by NATO to identify the balance-of-payments gains or losses to each NATO country as a result of its commitment to the common defense and would create a structure for the adjustment of these gains and losses. I have urged that this structure take effect as soon as possible, in order that balance-of-payments adjustments could begin on a multilateral basis on July 1, 1971. This date would coincide with the conclusion of the existing bilateral arrangements between the United States and the United Kingdom and Germany.

This past January, I attended a privately-sponsored meeting of legislators and other prominent Americans and Germans in Bad Godesberg, Germany, at which the financing of the NATO alliance was a prime topic of discussion. Predictably enough, many of the German delegates' initial reaction to my burden-sharing proposals was that it would be politically and economically calamitous. I was often chided for being stubborn. Yet after prolonged discussion, I believe my colleagues and I were successful in reaching a consensus with the German participants. We agreed that a reevaluation of the manner in which the U.S. and Europe share the cost of the defense of Europe was needed and that a full range of proposals should be thoroughly examined—including a multilateral arrangement for automatic adjustments in the financial burden, such as the plan I had been working on in the NATO North Atlantic Assembly. During my visit to Germany, I also consulted with Chancellor Willy Brandt, who agreed in principle to the concept of burden-sharing, although he stressed that it would have to be carried out on a multi-national basis. I assumed that his qualification was based on internal political considerations and regarded it as an understandable device.

Our European allies have thus been slowly moving toward recognition of the financial inequities within NATO. Indeed, the NATO defense ministers agreed in June to commission a thorough review of budget responsibilities, with the clear intention of lightening the U.S. load. But no specific dollar commitments have been made, and current plans envision no reforms at all until fiscal 1972.

Having observed the understanding German atttiude at the Bad Godesberg conference, I returned to the United States considerably encouraged. As I had learned from my experience in business—during which, as a manufacturer of photographic equipment, I was in direct competition with them for 25 years—the Germans are hard-headed, tough negotiators, but above all they are realists. And they quite clearly understood that the only alternative to some form of burden-sharing would be a major American troop reduction in Europe.

Regrettably, however, European realism does not mean that the road to redistributive action will be easy. Chancellor Brandt, in a subsequent appearance on "Meet the Press," offered two unimpressive arguments to explain why the American commitment to the defense of Europe must be expressed in the present number of troops. First, he said, is the political and psychological factor—in some parts of Europe, a major unilateral withdrawal of American troops from Europe would be regarded as a step toward Soviet hegemony. Secondly, he suggested a chance exists that during the next few years NATO might be able to enter into serious negotiations on mutual balanced force reductions (BFR) with the Warsaw Pact nations; a precondition to these talks would be an important American presence in Europe.

To Chancellor Brandt's initial argument, I would reply that there are also serious political and psychological problems in the United States, and these must be my paramount concern. A majority of the Senate and growing numbers of the American people are disturbed by our sending billions of dollars overseas at a time when we are enduring a domestic crisis, particularly in view of the conspicuous prosperity of Europe. In my view, if Europe does not offer some tangible evidence that it is willing to make minimal sacrifices to pay for its defense, the public demand for troop reductions in Europe will grow in this country to a point at which no other response will be possible.

The Chancellor's references to BFR are little more than a red herring. American officials with whom I have consulted see virtually no chance of mutual troop reductions in the foreseeable future. They have been mentioned for years, but always in the conditional, as something that "may" or "might" occur sometime years from now. The reason for the conditional tense is a complete lack of interest to date on the part of the Soviets. Late in May, the NATO foreign ministers invited the Soviet Union, other Warsaw Pact powers, and other interested governments to explore mutual and balanced reduction of forces in Central Europe. While the proposal sparked some interest in the smaller countries of Eastern Europe, it was, as usual, promptly rejected by Moscow.

If anything, the public remarks of Helmut Schmidt, the Defense Minister of West Germany, have been less persuasive than the arguments of Chancellor Brandt. Defense Minister Schmidt blithely notes that it appears to be a "law of postwar history" that every 10 years a great debate arises over the relationship between U.S. and Europe. The debate he sees "in the offing" revolves about "America's future political position in Europe" and "the number of American troops that will have to be kept in Europe to maintain the credibility of the American commitment to the defense of the Old World." Mr. Schmidt, I suspect, has not been listening; the debate is already several years old. A resolution was introduced in the Senate three years ago calling for substantial reduction of U.S. forces permanently stationed in Europe. But it was much earlier, in an interview with former President Eisenhower in the October 26, 1963, issue of *The Saturday Evening Post*, that the debate began in earnest. At that time, General Eisenhower said:

> "Though for eight years in the White House I believed and announced to my associates that a reduction of American strength in Europe should be initiated as soon as European economies were restored, the matter was then considered too delicate a political question to raise. I believe the time has now come when we should start withdrawing some of those troops."

Mr. Schmidt argues that Germany is not "sitting idly on its haunches, satisfied to leave its defense to Americans." To support this thesis, he states that the West German defense budget for 1970 represents an increase of 6.8 per cent over the previous year. I submit that Mr. Schmidt is neglecting more pertinent statistics, which put the German defense effort truly in context. He fails to mention that, according to the latest figures available, 8.7 percent of the men of military age in the U.S. are in the armed forces, compared to four per cent in Germany. He slights the fact that in 1969 defense expenditures per capita were $396 in the U.S. and $93 in West Germany; the German figure was lower than those of the United Kingdom and France and the same as that of Norway. He also ignores the fact that in 1969 the portion of American gross national product devoted to defense was 8.7 per cent, compared to 3.5 percent of the GNP in Germany—a percentage lower than those of the United Kingdom, France, Greece, the Netherlands, Norway, Portugal, and Turkey.

Mr. Schmidt concludes his disconcertingly frank presentation with a statement that further offset agreements to balance some portion of the foreign exchange costs the U.S. incurs because of the level of our commitment in Europe will be "difficult." Presumably not even Mr. Schmidt is enchanted with the interest-bearing loans. Budgetary contributions, the defense minister says, "would have to come out of the German defense budget; we would mend one hole by opening up another." In effect, he throws up his hands, saying, "I doubt strongly that we can come up with any solutions." His lack of solutions is the basic problem; it is completely unrealistic. It may be true that neither Germany's friends nor her enemies want a significantly larger West German army, and the German public probably would agree. But to argue that the most affluent nation in Europe can neither continue to offset American balance-of-payments losses suffered because of our troops in Europe nor pay a greater share of the budgetary cost of our military presence is not calculated to satisfy either the American Congress or American public opinion. And it should not, at a time when there are so many valid claims on our tax dollars.

Nothing in the foregoing should suggest that the United States will abandon its NATO partners; we have pledged to assist in the defense of Europe, and we will honor our treaty commitments. This country values highly its close friendship with West Germany and with the other nations of Western Europe. But legitimate friendship is based on equity and mutual self-respect. The American burden in the defense of Europe is patently inequitable and, were we to permit it to continue, it would reflect poorly on our judgment and leave our claim to world leadership open to serious question.

The Nixon Administration accepts the concept of Europeans sharing more of the costs of the NATO common defense. Some action will almost certainly be taken before the expiration of the current agreements in the middle of next year, whether it be troop withdrawals or the implementation of a burden-sharing plan. In saying this, I do not wish to appear to be threatening West Germany or the other European nations; I am merely stating the economic facts of life. The time has passed when the United States could afford to devote $14 billion to the defense of Europe. That amount represents $560 annually for each of the approximately 25 million people now living below the federally-defined poverty level in the U.S. Our government would be remiss if it did not appreciate what this money could mean to countless Americans if a substantial part of it were invested in food, housing, education, and medical care for our own citizens.

I can envision no formidable obstacle to a shared responsibility in NATO if there is good faith on both sides. Certainly, if this country can Vietnamize the war in Southeast Asia, it should not be impossible to Europeanize the defense of Europe.

Europe, then, should be our first target in the campaign to return the primary burden for their own defense to the other nations of the world, but it should by no means be the only one. Japan, another highly industrialized, economically self-sufficient nation, now spends less than one percent of its gross national product on defense, far lower even than the West German figure of 3.5 per cent. Yet Japan profits from the American nuclear umbrella as well as from our vast military establishment in Asia. Equity demands that Japan become a primary candidate for burden-sharing in the years immediately ahead. Though perhaps my stubbornness on this matter of equitable burden-sharing can be traced to my own German heritage, I intend to be equally persistent with Japan and other nations in saying, "There is a limit to American resources. We have a job of nation-building here at home. We do not intend any longer to be the policemen for the world."

ANNOUNCEMENT ON VOTE

Mr. JACKSON. Mr. President, last Friday, July 10, on rollcall vote No. 238, the Senate passed Senate Joint Resolution 173, authorizing a grant of $20 million to defray a part of the cost of expanding the United Nations headquarters. At the time of this vote, I was necessarily absent from the Senate. I ask unanimous consent that the permanent RECORD reflect that if I had been present and voting on this rollcall, I would have voted "yea."

CRITICISM OF ARBITRARILY IMPOSED SCHOOL PLANS IN THE SOUTH

Mr. ALLEN. Mr. President, I have received numerous letters from concerned parents and public officials in Mobile County, Ala., in criticism of school plans arbitrarily imposed upon local school boards, parents, and school children of Mobile County, Ala., by agencies of the Federal Government.

The mayor of the city of Chickasaw, Ala., has written me on this subject, and his letter is typical of thousands I have received in the same vein. I think that Senators would want to be aware of the consequences of irresponsible actions by the Department of Health, Education, and Welfare, acting in consert with Federal courts, in actions which have the effect of destroying public support of education in Alabama and in the South.

Mr. President, I become incensed when agencies of the Federal Government resort to treating children as mere ciphers or quantitative units to be manipulated by formula to meet arbitrary requirements of a Socialist theory of equality.

Mr. President, I intend to continue to call the attention of the Senate and the public to examples of what I consider complete irresponsibility on the part of public officials in dealing with school children in the South.

Mr. President, in order to illustrate the substance of this complaint, I ask unanimous consent that the letter to me from the Honorable J. C. Davis, Jr., mayor of the city of Chickasaw, and an article written by Dixie Wright, press staff reported for the Mobile Press Register, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

CITY OF CHICKASAW,
Chickasaw, Ala., July 2, 1970.

Hon. JAMES ALLEN,
U.S. Senate,
Washington, D.C.

DEAR MR. ALLEN: The United States Fifth Circuit Court of Appeals rendered on June 8 this year a decree demanding further desegregation steps of the Mobile County School System, of which the City of Chickasaw is a part. The Board of School Commissioners is quite disturbed regarding the plan, stating that it is impossible to carry it out.

We in Chickasaw are deeply concerned regarding the changes that will be made in our local schools. While there is sufficient space in our existing schools to handle all the pupils in this area, a substantial number at all grade levels will be required to attend classes in Mobile, Prichard and Whistler. These students will be forced to travel distances of almost five miles each way daily. The Mobile County School Board has told us that they will not be able to provide buses, and there is no public transportation available in our city.

The attendance zones are severely gerrymandered, with no regard to the accessibility of schools to students, community patterns or traffic hazards. There is no doubt that the only benefit to ensue from such a plan is the "ideal" of racial balance. Such important factors as the welfare of students and teachers—in fact, the process of education itself—are totally disregarded.

We firmly believe that our children are entitled to equal treatment and protection under the law. They should not be manipulated like pawns in some manic chess game.

The Mobile County School Board has filed an appeal, but past experience leaves us with doubt that this will be of any value. We hope you will give your earnest consideration to our problem, and use your influence with the Department of Justice and HEW, bringing about the adoption of a reasonable and workable plan for our schools. Without your intervention, we fear for the stability of our public school system.

Yours sincerely,

J. C. DAVIS, Jr.,
Mayor.

SCHOOL ACTION SAID IMPOSSIBLE

(By Dixie Wright)

Implementation of a June 8 court order which will extensively change the Mobile public school system in Mobile, Chickasaw and Prichard has been called a "physical impossibility" by the Mobile school officials.

The attorney for the Mobile County School Board has filed a petition with the U.S. Circuit Court of Appeals in New Orleans for a rehearing on the court order which school officials say has numerous mistakes and statistical inaccuracies making it impossible to implement.

The administrative staff yesterday said changes required by this most recent order "are so extensive as to amount to a totally new and different desegregation plan for . . . the system. Virtually every attendance zone is changed, at all three grade levels, elementary, junior high and senior high."

Magnifying the School Board's problems is the fact that the board will not be able to provide additional transportation to the students who will be affected by the decree.

J. A. McPherson, associate superintendent, emphasized at a news conference yesterday that there will not be any additional buses available for these students because (1) the board was not able to purchase more buses, and (2) even if they want to, there is not any money in the capital outlay budget to provide for this.

The court has required no changes in the rural portion of the system, slight changes in that part of the city portion of the system lying west of Interstate Highway 65 and very drastic and sweeping changes in all of the system lying east of I–65.

In general, the court order, which follows a plan submitted Jan. 27 by the U.S. Justice Department, calls for pairing of schools and the creation of senior high school complexes, the closing of a school, the reopening of another school closed March 20 and the gerrymandering in other school districts to achieve racial balance.

The court order further requires that teachers be assigned in each school on a 60 per cent white and 40 per cent Negro basis.

Asked whether this could be accomplished, Dr. Cranford H. Burns, superintendent, said a meeting is scheduled today but he did not know what the outcome would be and if the 60–40 ratio could be accomplished.

Also required by the order is application of the majority to minority policy. Under the policy, students can be transferred from a school where their race is in the majority to a school where their race is in a minority and they must be granted transportation if they desire it.

Abram L. Phillips, attorney for the board, in his petition to the court, said the plan "is an incompetent travesty which cannot be implemented because of sheer physical impossibility."

He said the Justice Department plan was "conceived in stupidity."

Phillips said the only hope the board has is that the court will give serious consideration to the appeal. "If the court takes only a superficial look, then it will all be out the window. If they take a serious look, then they are the only ones who can help with the situation."

Phillips also said the current plan being forced upon the school system is one which the district court rejected as "unworkable."

School officials said that many schools, under the new court order, are assigned overloads, and many others are under-utilized.

Of 60 schools in the area concerned, 34 are overloaded and 25 are under-utilized. Sixteen have overloads of 125 students or more, three have overloads of 500 or more, and one, Prichard Junior High, has an overload of more than 900 students.

On the other hand, 17 schools have been underutilized by 100 students or more, and 10 of these by more than 250 students each.

OVERLOADED SCHOOLS

Some schools overloaded are: Phillips-Washington Junior High, 674; Shaw High, 534; Dickson Elementary, 429; Rain Junior High and High School, 387; Central Junior High, 312; Dunbar, 303, and Toulminville, 252.

Major under-utilizations are: Mobile County Training, 899; Murphy, 486; Council, 341; Scarborough, 336; Dodge, 313, and Caldwell, 301.

Major problems associated with the new court decree outlined by school officials with the use of maps are:

Elementary:

The lines between Dodge and Dickson Elementary schools have been changed, leaving

313 vacant spaces at Dodge and creating an overload of 429 at Dickson. This will necessitate the use of seven portables, in addition to the seven already at Dickson.

Children in the north end of the Whitley Elementary zone (grades 1–5) must travel about a mile to their school.

Emerson School is ordered closed, when in fact, it was already closed by a previous order. The decree sets out a specific apportionment to other schools of 450 students from the Emerson area when there are only 192 students in existence.

There is a pairing of Chickasaw Elementary and Robbins. The Chickasaw attendance zone extends into Prichard requiring some students to walk at least three miles. The school will serve grades 1–5.

Gorgas becomes a very small district. Black students are the ones affected and there is no increase in desegregation in this area. Also affected in varying degrees are Crichton, Fonvielle, and Old Shell Road.

Mertz students attending Woodcock will have to be transported about two miles away from the Mertz zone.

Craighead was gerrymandered. Students have to walk 2½ to 3 miles to school.

Indian Springs, serves grades 1–5 but provides no place for the sixth grade.

Eight Mile grades 1–8 go there according to the map but decree says grades 1–6, no provision is made for grades 7–8.

The only elementary zones remaining the same are Barkley, Morningside, Brazier, Williams and Grant.

MIDDLE SCHOOLS

Middle schools:

Trinity Gardens becomes a middle school for grades 6–7.

Prichard serves grades 6–7. Provides for 1,500 students when the capacity of school is 588.

In the Mobile County Training area, the court says there are 1,200 students. The school board says 300.

K. J. Clark, serves only grade 8, for a large geographic area.

In some cases, the board pointed out some students will have to attend at least five different schools.

Scarborough—The decree indicated that it was left as is but the maps show different. According to the board, the school will be only 50 per cent filled.

Washington-Phillips, another pairing situation with grades 7–9 served. This would result in students traveling as far as 6–7 miles.

Central is changed to a middle school. The zone extends all the way to U.S. Highway 90. Students would have to be transferred seven miles. At present there is no transportation provided the school.

Dunbar is overloaded.

Eanes and Hall are paired for grades 6–9. Students in the Navco area would be sent to Hall, a distance of about 7–8 miles.

B. C. Rain, grades 7–12, is left as is.

SENIOR HIGH SCHOOLS

Senior high schools:

Williamson, expanded to include the Navco area.

Murphy, expanded to take care of the Central students.

Toulminville, varying changes with discrepancies between the map and the decree.

Davidson, left as is except with ninth grade in the Spring Hill area to go to Phillips-Washington.

Mobile County Training is used for grades 6–7.

Closed Bienville as an elementary school to provide for the Vigor-Bienville senior high complex.

Blount paired with Carver for another senior high complex.

According to figures of the pupil personnel office, there will be four all white and four all-black schools. The all white schools would be Scarborough Middle School, Westlawn, Morningside and Forest Hill Elementary schools. The all-black would be Brazier, Fonvielle, Owens and Council Elementary schools.

But, according to the court plans, Fonvielle and Caldwell would be all black, and Westlawn, Morningside and Forest Hill would be all white.

Under the plan, Arlington, closed March 20, would be reopened, Emerson would remain closed and Howard would be closed.

BACKGROUND OF THE KENT STATE TRAGEDY

Mr. BYRD of Virginia. Mr. President, I have just read an interesting article in the July issue of the American Legion magazine.

The article presents background on the tragedy at Kent State University as excerpted from the annual digest of the House Committee on Internal Security.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BACKGROUND OF THE TRAGEDY AT KENT STATE UNIVERSITY

The Students for a Democratic Society got what it wanted on Monday, May 4, 1970, when four students were killed and eleven others injured in a confrontation with the Ohio National Guard at Kent State University. It wanted martyrs and had been seeking an event like this on many campuses, including Kent.

Though not well known nationally until May 4, Kent is a big university, the second largest in Ohio with 21,000 students. The SDS and related organizations—whose objectives follow the world Communist line to the crossing of the last tee and the dotting of the last eye—have striven to make martyrs on American high school and college campuses for many years. They were successful at Kent within less than two years of their opening effort.

Even with the spotlight on Kent since May 4, it is still a sort of well-kept secret that the Kent tragedy was the culmination of a two-year concerted effort, led by SDS, to create a "major confrontation" on the Kent campus.

On May 5, the day after the tragedy, the New York Times reported that ". . . until recently the school's most serious demonstration was a 1958 panty raid on two women's dormitories . . . since then, except for some rowdy Friday nights, the students, mostly middle class . . . maintained peace with local residents and in fact had a distinct reputation for apathy. . . ." The Times headline said that the shooting shattered "60 years of quiet at Kent State."

And if we can believe the New York Times' choice of witnesses and quotes, not even the sanest students at Kent seem to relate the sad events of May 4 to the steady drive of campus and non-campus militants to bring on a violent event there. On May 11, the New York Times published a lengthy interview with eleven students at Kent who *seemed* to have some sense. But if one of them said that they saw any connection between the tragedy of May 4 and the two-year effort of SDS to bring it about, the Times didn't publish it. Nor, in interviewing them, did the Times report any question it put to the eleven students that related the two-year drive of the SDS at Kent to the sad showdown. The tenor of the interview seemed to point to President Nixon as the guilty party.

The Kent Stater (the student newspaper at Kent) had done better a year earlier. On April 21, 1969, it spelled out, point by point, the SDS's stated strategy for whipping the Kent students into a mob state of mind whose goal was "a major confrontation." *The Kent Stater* then showed the students at Kent how events that had already happened by then fitted, step-by-step, into the SDS plan for a coming violent showdown.

If anything hovers over the deaths at Kent State it is those SDS words "major confrontation." It happened at Kent and four students paid for it with their lives. In the weeks that have elapsed since the tragedy, with the country groping to understand it, there has been amply time for all the media—newspapers and major networks—to have told the public, from the beginning, the carefully organized plan from the outside that led to May 4. The silence has been fairly enormous. In spite of all the words published about Kent, a country that needs to know what led up to the shooting has been pretty well shielded by its media from what is an open story.

It was on June 24th and 25th, 1969, that the Committee on Internal Security of the U.S. House of Representatives held hearings on SDS activities at Kent State during the 1968–69 school year. The hearings themselves fill a volume larger than this magazine, but in its annual report, the committee digested its Kent hearings into shorter form. Here is the digest, in full, reprinted from pages 43 to 52 of the annual report of the committee:

Students for a Democratic Society was involved in four disturbances—two of them marked by violence—on the campus of Kent State University in Kent, Ohio, during the academic year 1968–1969.
functions. The committee also heard testiceive testimony regarding the activities and demands of SDS which culminated in attempted and actual disruptions of university

The Committee on Internal Security held public hearings June 24 and 25, 1969, to remony on the procedures followed by the university in response to those activities and demands.

Appearing as witnesses were: Dr. Robert I. White, president of the university, accompanied by his assistant, Richard A. Edwards, and Dr. Robert Matson, vice president for student affairs; Margaret A. Murvay, student who attended SDS functions as a reporter for the campus radio station; Lt. Jack R. Crawford of the university police deportment; Chester A. Williams, university director of safety and public services, accompanied by Security Officer Donald Schwartzmiller and Investigator Thomas Kelley; and Committee Investigator Neil E. Wetterman.

Testimony showed that SDS emerged as an organizational force on campus in the spring of 1968 when individuals who had been operating for several years under the aegis of the Kent Committee To End the War in Vietnam decided they would become "more well known" under the name of SDS.

In response to the group's petition for approval of an "innocuous" constitution that spring, the student government employed the customary procedure in acting on such petitions by granting the Kent State chapter of SDS "provisional" status as a campus organization. This was enough to give SDS access to university facilities. (This status of temporary recognition continued until the university suspended the SDS charter on April 8, 1969.)

Although its constitutional provided for a roster of officers and a membership based on payment of dues, there were no known officers and no dues payment. Local SDS'ers could pay $5 to the national office for a "national" membership and subscription to the officials newspaper, *New Left Notes*. They might also receive a membership card from the national organization, as one Kent Stater did. The Kent State chapter had no membership applications or membersip cards.

The SDS membership locally, therefore, was described as consisting of (1) its leaders and recognized spokesmen and (2) a larger number of individuals who were sympathetic to the movement, supported SDS demands, and participated in SDS activities advocated by the leaders.

University officials estimated that the "hard core" of the Kent State SDS comprised no more than 15 to 25 members in a student enrollment of 21,000. However, this relatively minuscule group of hard-core activists could count on support from 150–200 students for meetings and for most of the incidents on campus. The number of supporters would fluctuate with the issues and the nature of the action. A seasonal fluctuation was also observed, with about 200 students likely to participate in an SDS-sponsored activity in the fall quarter and only about half the number in the spring quarter as "freshmen see that there are other activities on the campus besides SDS."

Members of the staff of the Ohio regional SDS, located in Cleveland, some 30 miles from Kent, also made frequent appearances on the Kent State campus. The staff was identified during the hearings as consisting of Corky Benedict, Lisa Meisel, Terry Robbins, Bobbi Smith, and Charlie Tabasko. This staff engaged in supplying "educational" pamphlets and films to chapters such as Kent's, as well as sending out mimeographed newsletters and directives aimed at getting local SDS members to carry out programs developed by SDS national officers and the national council.

During the 1968–1969 academic year, initial SDS activity revolved around "rap" (discussion) sessions in Kent State dormitories, together with rallies and film showings.

Key attraction at a public affair for which the SDS reserved the Kent State auditorium on October 24, 1968, was Mark Rudd. Rudd as chairman of the SDS chapter at Columbia University won notoriety as a leader in the seizure of campus buildings in the spring of 1968. Rudd also returned for a Kent State SDS rally and march protesting the national elections on November 5, 1968.

At least seven films, made available from the SDS regional office in Cleveland, were offered to Kent State students by the local SDS chapter. The films were among those listed in the catalogue of "Newsreel," a film company with main offices in New York City. Newsreel is engaged through several outlets coast to coast in the acquisition, production, and distribution of films propagandizing the causes of the radical minority and New Left movements. A witness who viewed two of the films—one dealing with the Black Panther Party and another simply titled "Weapons"—testified both reflected unfavorably on law enforcement officers.

The Black Panther film was effectively utilized prior to a sit-in on November 13, 1968, by the combined forces of the SDS and another campus organization, Black United Students.

In the course of several days of propagandizing, SDS had achieved an alliance with the BUS for the purpose of preventing recruiters from the Oakland, Calif., Police Department from conducting interviews on campus on November 13. On the eve of the scheduled appearance of the recruiters, SDS sponsored a meeting in the campus education building attended by members of BUS. A film on the Oakland-based Black Panther Party was shown. The presentation was highly emotional and "geared to make the police look bad," according to an eyewitness.

Oakland police officers portrayed in the film were berated as "racists" by a speaker at the SDS meeting. The speaker further exhorted the audience to action on the following day to insure that no campus recruiting would be conducted by that law enforcement agency.

On the afternoon of November 13, approximately 150 SDS supporters joined with some 200 members of BUS in occupying the student activities center. While nonviolent, the 5-hour sit-in nevertheless forced postponement of some interviews of potential recruits by the Oakland Police Department. The three demands of SDS on this occasion were: a ban on campus recruitment by the Oakland Police Department; the disarming of campus police; an administration agreement not to "infiltrate" organizations in order to keep an eye on them.

The university administration had made an unsuccessful attempt, prior to the sit-in, to establish an on-going communication with the local SDS chapter. Dr. Matson testified that the SDS leadership refused an invitation to meet in his office and demanded instead that he journey to the SDS meeting place. When the official agreed, he found that the SDS leaders had no specific concerns to discuss with him, although their sit-in occurred only 4 days later. One SDS member at the meeting, in fact, derided the official for expecting the organization to keep the administration informed of its plans.

The sit-in failed to accomplish a single SDS demand. It did, however, impel the administration to plunge "into the task of adjusting our student personnel and administrative staff assignments, procedures, and policies in dealing with major student disruptions and disorders," according to Dr. White.

Throughout the winter quarter, the president recalled, meetings were held involving the president's cabinet, the student affairs staff, and the safety and public service division, as well as outside law enforcement agencies on city, county, and State levels. The combined efforts led to the formation of "confidential emergency procedural guides" which set forth "who does what" in the event of further attempts to start campus disruptions.

Concurrently, the administration consulted with the faculty and sought to improve communication with the rest of the student body. University policy, as described by its president, was to protect dissent while rejecting coercive or violent actions and to institute change to meet legitimate student grievances. Cited by the administration in this connection was the fact that the Black United Students ended their alliance with SDS after the November 13 incident and thereafter worked with administration representatives through the normal process of consultation. The BUS has obtained administrative support for developing educational programs with particular relevance for black students.

Kent State officials were alerted during the winter quarter to expect planned disruptions during the spring quarter, which would begin officially on March 30. "The signals coming from the SDS," the president explained, "were so clear that tensions and concerns were evident throughout the entire campus, even to the most casual observer." One of the clearest signals was a 10-page, mimeographed *Organizers' Manual for the Spring Offensive*, copies of which were piled on a table at a campus lecture sponsored by the local SDS chapter.

The manual, which was introduced as an exhibit during the committee's hearings, was an avowed attempt by the SDS regional office in Cleveland to help local chapters implement a spring program to "Smash the Military in the schools." The Ohio region of SDS claimed that its inspiration was a two-part program of the same name adopted early in February at a regional SDS conference at Princeton, N.J., with SDS National Secretary Michael Klonsky serving as one of the authors.

The manual, written by Ohio regional staffer Terry Robbins with assistance from activists in the Kent State SDS chapter, proposed issues and called for a series of escalating actions in their behalf on the campus and in the community. Proposed demands included (1) immediate withdrawal of American military forces from Vietnam and support for the Vietnamese Communist forces; (2) an end to ROTC; (3) an end to counterinsurgency and police training on campus; (4) an end to draft assemblies and tracking in high schools; and (5) open admissions for so-called Third World, black and white "working-class" people.

Demands were to be pursued through a series of "escalating actions" described in the manual as follows:

"During the course of the struggle it will probably be necessary and helpful to carry out a series of escalating 'mini' actions to help build consciousness and dramatize the issue. Beginning with guerrilla theater actions in dorms we can escalate to disrupting classes, street marches, quick assaults on buildings, etc., before moving to the major confrontation of the struggle."

The objective of such actions was also spelled out in the manual. SDS did not seek reforms but creation of a so-called revolutionary class consciousness among students which would enable them to identify with struggles in Vietnam and Cuba while struggling against "capitalism" and "imperialism" at home. SDS members were expected to hold themselves ready "to move, to desanctify, to confront, to escalate, and ultimately to defeat the system we live under."

University officials sought to counteract the proposed SDS "spring offensive" in a number of ways. In addition to the previously described confidential guidelines for procedures in the event of campus disruptions, the university administration on March 7, 1969, issued a statement of policy which warned students, among other things, that: (1) the university would not respond to proposals for change advanced by force or threats of violence; and (2) the university would not tolerate disruptions of university activity.

During a recess at the end of the winter quarter (March 22–26) the administration conferred with State and local legal authorities and set in motion the machinery for issuance of temporary restraining orders when needed.

When students returned to class for the spring quarter on March 30, they were also informed that a new system of immediate suspensions might be applied to those who attempted to disrupt university processes. Before the spring quarter was ended, the university would have an opportunity to test the efficacy of its newly adopted procedures.

Witnesses supplied a detailed account of three disruptions of Kent State University operations planned by SDS and executed with varying effect during the spring quarter.

The first attempted disruption occurred on April 8, 1969, in behalf of demands raised only a day or two prior to the actual demonstration. The demands reflected all of the campus issues proposed in the aforementioned *Organizers' Manual for the Spring Offensive*, with the exception of the manual recommendation on "Open Admissions."

Recommendations in the manual on the subject of the Vietnam war, ROTC, and counterinsurgency and police training on campus were reworded, and the following local SDS demands were then mimeographed in leaflet form and circulated on campus:

(1) abolish ROTC because it supplies leaders for an alleged "imperialist" American action in Vietnam.

(2) abolish the Liquid Crystals Institute (Engaged in cancer research, the university institute also held a research grant from the U.S. Defense Department, which led SDS to charge it with involvement in a Government counterinsurgency program.)

(3) abolish the Northeast Ohio Crime Lab (an agency of the State of Ohio assigned space on campus).

(4) abolish the Law Enforcement School (a university curriculum which produces professionally trained law enforcement officers).

Events of April 8 began with a rally called by the SDS chapter to advertise the four demands. A spokesman for the university administration offered to meet with three SDS representatives to discuss their complaints, but the offer was rejected. SDS reportedly viewed its demands as nonnegotiable. Its announced intention on April 8 was to organize support for a mass march on the Administration Building for a symbolic nailing of the demands on the door to the meeting room of the board of trustees.

Following the speechmaking in front of the Student Union, 35 to 40 SDS supporters marched through various campus buildings to the chant of "Ho, Ho, Ho, Ho Chi Minh." They disrupted some class sessions as they handed to other students literature spelling out SDS demands. The demonstrators (numbering about 50) continued on to the Admininistration Building in an attempt to tack their demands to a door. Efforts by the demonstrators to force their way into the building were thwarted by the university police. Police officers, however, were struck by demonstrators. The 15-minute confrontation ended only after SDS leader Howard Emmer ordered the students to "quit for now." The coordinated action of the law enforcement agencies in the area thus foiled SDS's first attempted disruption in its "spring offensive."

The university reacted quickly and firmly. First, it suspended the SDS chapter, pressed assault and battery charges against six demonstrators for attacking police officers, and imposed immediate suspension upon a number of students involved. (All of the charges were still pending at the time of the committee's hearings, with exception of those against Alan DiMarco, who entered a plea of *nolo contendere* and received a fine and jail sentence.) It also obtained temporary restraining orders barring from the campus five demonstrators whom the administration viewed as leaders of SDS activity. They were students, Howard Emmer, Colin Neiburger, and Edward Erickson, and nonstudents. Jeffrey Powell and George Gibeaut.

One of the nonstudents identified as being present on campus April 8 was Terry Robbins of the Ohio regional SDS in Cleveland. This marked the first of several appearances by Robbins during the "spring offensive" at Kent State. He was later joined by other regional staffers. The liaison maintained between the local and regional SDS was also illustrated by the record of telephone toll calls between the Cleveland office and the Kent residence of Edward Erickson. Erickson was identified as a Kent State student, eventually suspended for participation in the campus disorders, whose Kent home had been the base for most of the SDS activity off campus. Toll charges showed a total of 36 phone calls had been made from his residence to the Cleveland regional SDS between February 21 and April 24, 1969.

A university disciplinary proceeding on April 16, involving two students suspended after their participation in the attempted disruption of April 8, provided the issue for another, more violent SDS demonstration.

SDS had sponsored a series of rallies after the April 8 incident and engaged in dormitory "raps" in an acknowledged effort to violate "as much as possible" the administration's ban on SDS's use of university facilities. When the university set the date for its closed disciplinary hearings stemming from the April 8 affair, the SDS chapter added a fifth demand to its original four—"open and collective hearings for all those suspended"—and promised to "open up" the hearing on April 16.

Mimeographed leaflets, headed "Open It Up, or Shut It Down!" were distributed by the Kent State SDS to explain the organization's expanded demands and to solicit supporters for an SDS rally and march on campus April 16. "Open the Hearings!" and "Free All Political Prisoners!" were the slogans for the rally and march.

By the time the SDS rally had concluded, the organizers had garnered some 100 supporters for its march on the music and speech building where the disciplinary hearing was underway before the student judicial council. The demonstrators stormed through two sets of locked and chained doors with the aid of such improvised instruments as a 7-foot iron bar from a dismantled coatrack. When SDS supporters reached a third-floor corridor, they were confronted by university police and sheriff's deputies who forestalled any entry into the actual hearing room. The accompanying din nevertheless served the purpose of disrupting the disciplinary proceeding.

In accordance with prearranged procedural guides, Ohio State police were summoned to the campus, at which time 58 demonstrators were arrested. Charges filed against them on the same day, which were still pending at the time of the committee's hearings, included trespass, inciting to riot, participating in riot, and malicious destruction of property. Temporary restraining orders had been lifted to permit the five SDS activists barred from campus to appear as witnesses at the disciplinary hearings. As a result of their behavior during the demonstration, they were subsequently found guilty of contempt of court and sentenced to fines and jail sentences, which were being appealed at the time of the committee hearings.

The confrontation between demonstrators and police and the ensuing mass arrests involved no injury to SDS activists, their supporters, or the police. A representative of the Kent State police testified that, in addition to breaking through the barricaded doors, there were oral threats to "kill" directed at the police by SDS members during the confrontation in the third-floor corridor.

The Ohio regional SDS was represented in the April 16 events by Lisa Meisel, who joined in the march on the music and speech building. During scuffles between the demonstrators and some of the approximately 200 students who opposed the SDS march at the door to the building, Lisa Meisel was observed to grab a student by the back of the shirt. Another outsider on campus that day was Jim Mellen, a guest speaker at the rally preceding the march on the discplinary hearing. Mellen was introduced as a representative of the Radical Education Project at Ann Arbor, Mich., a New Left research and propaganda organization. University officials also discovered that 10 of the 58 demonstrators arrested on April 16 were not actually enrolled at the school.

Subsequently, regional and national SDS officials and other outsiders put in appearances on the Kent State campus during a series of rallies and other public events avowedly aimed at drumming up support for additional militant SDS actions on the campus.

The organization's strategy was outlined in a pamphlet. "The War Is on at Kent State," which was circulated during campus speechmaking by SDS officials, defining the organization's strategy.

The pamphlet, coauthored by Terry Robbins and Lisa Meisel of Ohio Regional SDS, explained that SDS at Kent State had shown tactical flexibility by using rallies, dorm "raps," etc., geared to "increasing the possibility" of struggle. It announced that SDS was working on more elaborate explanations of its demands because the struggle would continue despite the mass arrests of April 16.

Robbins and Mellen were on hand for an SDS rally held in a campus park the day after the mass arrests. The theme of their speeches on April 17 was the immediate need for some kind of militant action to show the university that the SDS was "strong" and was not going to be stopped by "racism," "imperialism," or "political repression." Of the 200 persons attracted to this rally, at least one half were classified as merely curious onlookers.

Another outdoor rally and march on April 20 involved use of the services of Ohio regional staffer Corky Benedict. Benedict returned to join three national and local SDS representatives in a speechfest in Williams Hall on campus on April 28. Handbills gave top billing to Bernardine Dohrn, the organization's national interorganizational secretary, who was to discuss "repression" and SDS demands. Speakers for the banned organization obtained use of a university facility by appearing under the sponsorship of a local Yippie group.

According to testimony from a committee investigator who attended the session Miss Dohrn told the 125 individuals attracted to the meeting that SDS recognized a necessity for an organized revolution to destroy a power structure by which a wealthy few repressed the majority in America. Miss Dohrn justified violence directed at police officers and forecast that both blacks and whites fighting "oppression" would have to carry weapons for the purpose of self-defense.

Speeches by Corky Benedict and SDS member Rick Skirvin, a former student at Kent State, emphasized that they expected power to be wrested from the "ruling class" in America only through the application of force and that an element of revenge would enter into revolutionary violence.

Although the April 28 meeting marked the only known appearance of a current national SDS official on the Kent State campus, local activists maintained telephone contact with the national office in Chicago, according to an examination of toll charges from the Kent residence of the previously mentioned SDS activist, Edward Erickson. Eleven phone calls were made from the Erickson residence to the SDS national office in the period February 21 to April 24, 1969.

Also at the meeting April 28 was Joyce Cecora, local SDS activist and former Kent State student, who spoke on Kent State SDS demands. Her militant observations at another rally May 6 were publicized in the campus newspaper. This rally was sponsored by a campus committee that had been organized to protest the earlier arrests of SDS demonstrators. An eyewitness testified that the following account in the *Kent Stater* was an accurate rendition of Miss Cecora's position:

"Earlier, a Students for a Democratic Society (SDS) spokeswoman called for armed rebellion on the Kent State campus.

"Joyce Cecora, SDS member, speaking to approximately the 200 persons sitting under the searing post-noon sun called for the use of arms to end what she called the 'repressive actions of the administration.' 'Sitting on the grass in front of the Administration Building is not fighting!' she emphasized. As she spoke, several of her male counterparts stood beside her holding two red SDS banners aloft.

" 'They used guns at Cornell, and they got what they wanted,' she said. 'It will come to that here!' "

A similarly aggressive position was taken by Joyce Cecora in a talk at a Kent State dormitory the previous February 27, witnesses informed the committee. Aroused over the arrest of an SDS activist for distributing literature on campus in violation of State obscenity statutes, Miss Cecora reportedly declared that the SDS would burn and level the campus if the university did not discontinue "politically repressing" the organization.

The strident tone of SDS speakers continued up to May 22, when another SDS rally set the stage for what was to be the final "action" in the spring offensive at Kent State.

A witness testified that speechmaking in front of the Student Union included a declaration by SDS member Rick Skirvin that: "We'll start blowing up buildings, we'll start buying guns, we'll do anything to bring this—[obscenity for school]—down."

SDS was able to muster only about 15 persons, however, for the ensuing march aimed at disrupting an ROTC Review Day ceremony on the campus. The demonstrators invaded a chalked-off area on a field where the ROTC cadets awaiting review were standing at attention. Chanting slogans, they pushed their way through the cadet ranks. A university official warned the demonstrators over a public address system that they had entered the equivalent of a classroom area and were subject to university discipline as well as civil arrest. SDS supporters continued demonstrating for another 10 minutes without arousing retaliatory action on the part of the cadets and finally marched off the field.

Warrants were subsequently issued for the arrest of 15 individuals on a charge of disturbing a lawful assemblage.

The demonstration was cited as an example of the special problem which the university administration faced as a result of an influx of organizers and other outsiders. Of the group of 15 individuals who unsuccessfully sought to disrupt the ROTC review on May 22, the university president testified, five had been identified as students, five had definitely been established to be nonstudents, and the others had yet to be identified.

The university administration came to view Students for a Democratic Society—in the words of President White—as "an enemy of democratic procedure, of academic freedom, and of the essential university characteristics of study, discussion, and resolution." At the same time, SDS was classed as only one part of the problem of student unrest.

The dual approach of (1) being prepared to resist proposals for change advanced by force while (2) remaining responsive to change pursued through legitimate procedures had the following positive results, according to witnesses representing the university administration:

(*a*) Incidents provoked by SDS actually "de-escalated" and campus support waned in spite of an SDS program for a series of "escalating actions."

(*b*) Faculty, students, and citizens of the Kent community expressed spontaneous support for university policy, and all major parts of the campus commended the performance of the university's police force.

(*c*) Personal injury and major destruction of university property were avoided.

(*d*) The university completed the academic year "free and unfettered with no shameful compromise and with increased mutual respect among the parts of the campus."

Testifying on the basis of her personal observations at SDS meetings and demonstrations, Student Margaret Murvay stated that the arrests and immediate suspensions of SDS supporters on April 8 and April 16 weakened and, in fact, crippled the Kent State SDS chapter. Many supporters dropped out of SDS activity thereafter in fear of future arrests or the possibility that their parents would learn of their activity. Many other SDS members were deflected from other action by the necessity to raise bail, Miss Murvay reported.

SDS confirmed the findings of Miss Murvay. The previously cited pamphlet, circulated on campus after the mass arrests of April 16, and bearing the title "The War Is On at Kent State," acknowledged that . . . "The repression has clearly hurt us: over sixty of our people have been banned from the campus, at least 11 face heavy charges, with total bail exceeding $120,000, and the Administration has succeeded to some extent in scaring a lot of people and obfuscating our original demands . . ."

That is the end of the House Committee digest of its Kent hearing of June 1969. It seems to end on a promising note of a restoration of the university's function to get on with teaching. No such account exists of events in the 1969–70 school year. There will undoubtedly be hearings in Congress covering agitation for violence at Kent from last September on. Since the news media seem to have no inclination to put such connected stories together the country will probably have to wait for new hearings, and then for someone with an interest in publishing them.

Obviously, the inclination of a nucleus of Kent students to precipitate mob actions with their senseless consequences did not die with the 1969–70 school year. But the public record is vague up to Friday, May 1, 1970. On that day a band of "students" (that's what the press calls them, though invariably non-students and faculty members often seem to be among the leaders) went on a window-smashing, stone throwing spree in the town of Kent, with the military campaign in Cambodia as the excuse, pretext or reason, according to how you look at it. On Saturday, May 2, the ROTC building on the Kent campus was burned to the ground by arsonists.

Students threw rocks at the firemen and chopped the firehoses. Townspeople said that college mobs had terrorized them in the weekend rioting. These events led to the calling out of the National Guard. On Monday, just before the shooting, college mobs taunted and hemmed in Guardsmen, threw large rocks at them. The Guard used tear gas until it was exhausted. One Guardsman said some collegians had come at them with coathangers in their fists, hooks out. A tape recording, the Guard reports, indicates a lone shot fired some 10 or 11 seconds before the Guard opened fire. After the event, numerous arms were found on the student's premises and one gun was reported found thrown in a stream.

There you have two backgrounds at Kent State to choose from. You have the version of an idyllic, peaceful, pantyraiding campus invaded by brutal authority, Or you have the record.

SENATOR JAVITS ANSWERS MAJOR OBJECTIONS TO RATIFICATION OF THE GENOCIDE CONVENTION II

Mr. PROXMIRE. Yesterday I quoted several replies made by the Senator from New York (Mr. JAVITS) to arguments against ratification of the genocide convention. Today I wish to present another series of objections to the treaty and the corresponding answers given by Senator JAVITS in a statement submitted to the Committee on Foreign Relations during hearings on the Genocide Convention.

It has been argued that the only reason for ratifying the Genocide Convention now is that it would improve the image of the United States in the eyes of Russia and other totalitarian parties to the convention. In reply, Senator JAVITS points out:

> The Convention should be ratified because the United States is unequivocally opposed to genocide. As the President in his message pointed out, U.S. ratification would be the "final convincing step that would reaffirm that the United States remains as strongly opposed to the crime of genocide as ever." U.S. ratification is long overdue. In addition, many of the arguments against ratification have since 1950 been clearly shown to be invalid. For example, it is now clearly established that the crime of genocide is a legitimate subject for an international treaty. Seventy-five nations have already become parties to the Genocide Convention.

Second, it has been argued that the treaty is deficient in that it does not embody the real meaning of the term "genocide." Further, it is unclear exactly what the term means as defined in the convention.

Senator JAVITS points out that:

> It is entirely legitimate that the term "genocide" be defined in the convention for the purposes of the convention. "Genocide" was a new term and the definition in the convention represented the international consensus on its meaning. It seems futile to look beyond that for the "true" meaning of the term.

Mr. President, I believe these answers to some of the major objections to ratification of the Genocide Treaty are excellent. In the next few days I shall summarize the remaining objections and Senator JAVITS' replies.

FOLKLIFE FESTIVAL

Mr. FULBRIGHT. Mr. President, earlier this month some 700,000 persons visited the fourth annual Festival of American Folklife on the Mall. The 5-day event, sponsored by the Smithsonian Institution, was a huge success and has received considerable favorable publicity.

I was particularly pleased with the success of this year's festival because, as everyone knows by now, Arkansas was the featured State. We had a delightful group of Arkansans here who entertained and educated people in the traditional folk music and folk crafts of the State.

Every newspaper article and editorial I have seen on the subject has commented favorably on the festival. Everyone I have talked to about the festival has felt that we should have more of this kind of activity. I have received a number of letters and phone calls from persons who were enthusiastic about the folklife festival and who support more activities and programs of this nature.

Running through nearly all the comments I have read and heard has been a common strain. An editorial in the Washington Evening Star expressed it well, saying that the festival "succeeded in bringing people of diverse origins and persuasions together in cheerful sharing."

As the Star pointed out:

> Staid middle America and hippies, urbanites and country folk, and even a few Panthers were packed together and nobody was troubled.

Jimmie Driftwood, the noted folklorist from Arkansas, said during the festival:

> Look at those college kids out there. They're looking for the roots of our society and where can you find them more than in our folk traditions and folk music. You could learn more here in an afternoon than in a semester of college.

A woman from Bethesda was quoted in the Washington Post as saying the festival was "more like an old Fourth of July than what Billy Graham has planned."

A correspondent of the Christian Science Monitor wrote:

> The folk festival was in fact a kind of truce where the factional emotions in the patriotic and political demonstrations of that morning were laid aside. Everyone just had a good time learning about life on the Southwestern plains, and especially among the original Americans, and coming to know a part of their country better.

Columnist Kevin Phillips had some highly favorable comments about the festival and suggests that such activities should be a major part of the Nation's bicentennial celebration in 1976.

Mr. Phillips said "Americans genuinely honored their Nation" at the festival, which "for 5 short days in Washington started to bring us together again."

Mr. Phillips wrote:

> Not a few visitors found the Festival of American Folklife a better window on America's heritage than the noisy, star-studded "Honor America" rally.

Martin Weil wrote in the Washington Post:

> Those who attended Honor America Day observances yesterday morning and those who smiled at the very idea both came happily to the Mall yesteday afternoon for the Smithsonian Institution's Festival of American Folklife.
>
> Wearers of "Love It or Leave It" buttons and bearers of the peace symbol met without friction as they enjoyed the sights, sounds and smells representing aspects of the American past for which both groups feel affinity.
>
> The five-day annual folklife festival, which ends today, this year features ethnic cultures of Arkansas and the life styles of the southern plains Indians.
>
> Handcraftsmen demonstrated their skills in booths set up on the mall, bluegrass musicians played on small platforms under shady elms, Indian tribesmen danced and Arkansas rodeo cowboys roped.
>
> Yesterday, at these exhibits the audience itself provided a display representative of some of the emerging political and social subcultures of modern America.
>
> Yet, despite differences in dress and belief, peaceful coexistence prevailed.

The success of the previous folklife festivals and the obvious potential of these events—certainly borne out by this year's program—were major factors behind the introduction by Senator YARBOROUGH and myself of S. 1591, a bill to create an American Folklife Foundation.

I am hopeful that action will be taken soon on this propose legislation. I quote, once again, the editorial from the Washington Evening Star of July 7:

> The festival demonstrated anew that the country's folklore and music having strong contemporary relevancy. They are part of the glue that holds the society together. Senators Fulbright and Yarborough are co-sponsoring a bill to establish an American Folklife Foundation, which would take the lead in preserving this heritage and in keeping it before the public, with events like the festival here. The measure, which received wide-scale acclaim in committee hearings this spring, should be expedited.

Mr. President, I ask unanimous consent that several of the recent newspaper articles and editorials and one of the many letters I have received commenting on the success of the folklife festival be printed in the RECORD.

There being no objection, the articles and editorials were ordered to be printed in the RECORD, as follows:

[From the Evening Star, July 7, 1970]

BRINGING THE "FOLKS" TOGETHER

There can be no disputing that one event, at least, on Washington's Mall last week succeeded in bringing people of diverse origins and persuasions together in cheerful sharing. They were drawn by sounds from the dawning of America—by the high whine of the mountain fiddle, the ring of the banjo, the delicate strumming of dulcimers under the elms. Mixed in the traffic din along Constitution Avenue could be heard ballads once sung by the earliest settlers in the deep folds of the Ozarks, and if one had driven past at the right moment he would have seen the unbelievable—Senator McClellan of Arkansas doing a hill-country jig.

Arkansas, where the Ozarks grow tallest, was the featured state at the fourth annual Festival of American Folklife, and officials of the sponsoring Smithsonian Institution estimate that about 700,000 persons attended the five-day affair. It was a mighty testament to the ameliorative powers of folk music; staid Middle America and hippies, urbanites and country folk and even a few Panthers were packed in together and nobody was troubled.

Probably the mountain music got inside them, with its transfixing magic. That was some of the same music—some of the same tunes both light and tragic—to which Henry Clay and Daniel Boone vibrated. The viewers were reminded by the mischievous fiddles (in which one can hear the skirl of pre-Revolutionary bagpipes) and the flying feet of the jiggers (ranging from preteens to septuagenarians) that doing one's thing is nothing new in this country. Maybe the fiddle and banjo, which brought life to the weary spirit on the lonley frontier, can do the same for the lonely crowds of today.

The crafts displays were a welcome reminder that many Americans still work pridefully with their hands, and performances of the Southern Plains Indians, also featured at the festival, were impressive. Unforgettable were the Arkansas urban Negro and white rural singers belting it out joyfully onstage together, with Governor Winthrop Rockefeller keeping time. The country needs scenes like that, South *and* North.

The festival demonstrated anew that the country's folklore and folk music have strong contemporary relevancy. They are part of the glue that holds the society together. Senators Fulbright and Yarborough are co-sponsoring a bill to establish an American Folklife Foundation, which would take the lead in preserving this heritage and in keeping it before the public, with events like the festival here. The measure, which received wide-scale acclaim in committee hearings this spring, should be expedited.

[From the Washington Post, July 7, 1970]

PRESIDENT SHOULD CONSIDER FESTIVAL OF U.S. FOLKLIFE AND HISTORY FOR '76

(By Kevin P. Phillips)

Even as the ballyhoo of Washington's massive Fourth of July "Honor America" rally was going on last weekend, another less publicized but better-attended event was taking place just a few blocks away: the July 1–5 Festival of American Folklife sponsored by the Smithsonian Institution. President Nixon, who is considering plans for the celebration of the nation's 200th anniversary in 1976, ought to keep this concept in mind.

This year's fourth annual festival featured traditional craftsmen and musicians from Arkansas, as well as Indians from Oklahoma's Southern Plains tribes—Osages, Poncas, Kiowas, Kickapoos, Choctaws and Comanches and others. Whereas the "Honor America" events drew 300,000 people, the folk festival appears to have drawn nearly half a million. By any standards, it was a great success.

Young and old alike were fascinated by the Arkansas craftsmen, most of whom hailed from the rural, little developed Ozarks. One man carved turkey-callers, another whittled episodes in the life of an Arkansas razorback hog. One artisan demonstrated how to make straightback chairs with no glue—just carefully planned shrinkage of green wood. Another made barrels by hand.

To younger visitors, the craftsmen provided a glimpse at a way of life few remembered—or indeed had ever seen. Older festival-goers found it a chance to think back on a rural or small town past.

The hundred or so Oklahoma Indians present corrected many cultural misconceptions among urbanites whose Indian lore was gleaned from movie or television screens. Care was taken to make the program of dances and craft demonstration genuinely representative of Oklahoma Indian life styles.

Young tribe members discussed how they were maintaining powerful cultural loyalties even as they moved toward full participation in American society. But the most popular attraction were culinary: a stall where three Kiowa sisters dispensed golden-fried biscuit dough, plus eating facilities which featured a menu of barbecued buffalo, fried bread, fried meat pies and grape dumplings. As so often proves true, food was the best ambassador.

Of course, the great merit of the Folklife Festival does not lie in the peculiar attraction of Arkansas craftsmen or Oklahoma's Southern Plains Indians. Substitute Vermont maple sugarmen, Swiss cheesemakers from Wisconsin and Latin Americans from Miami, and the moral, if not the exhibits, would be the same. Americans need to know one another and to comprehend the many cultures that make up our nation. The melting pot, in short, hasn't melted. This is true in the cities as well as the countryside. It is time to put aside the pretense of one melting pot for a realization that this cultural diversity can be a source of strength rather than weakness. But first Americans must come to know each other. Events like those of July 1–5 are steps in the right direction.

Not a few visitors found the Festival of American Folklife a better window on America's heritage than the noisy, star-studded "Honor America" rally. As Arkansas fiddler Jimmy Driftwood put it: "Look at all those college kids out there. They're looking for the roots of our society and where can you find them more than in our folk traditions and folk music?" A suburban women observed that the "festival was more like an old Fourth of July than what Billy Graham has planned."

Be this as it may, the cultural confrontation that marred "Honor America" day was nowhere present at the folk festival. Wearers of "Love It or Leave It" buttons mingled in friendly fashion with long-haired hippies as they enjoyed the sights, smells and sounds of the past they share.

At the festival, Americans genuinely honored their nation in a way that President Nixon can greatly stimulate over the next few years. Righ now, the program of the U.S. bicentennial celebration is up in the air. The President has before him the usual pompous, commission-like proposals, including a nebulous one that regions, cities and organizations be encouraged to undertake a project "that to them is an embodiment of their contribution to the future of America." He ought to ask himself, why not scrap most of this bureaucratic boondoggling in favor of a nationwide Festival of American Folklife and History, the type of thing that for five short days in Washington started to bring us together again?

[From the Washington Post, July 3, 1970]

COUNTRY FOLK AND THE CITY

(By Tom O'Brien)

Despite the heat they gathered yesterday in front of Ira Tillmann's open stove where boiling cane sent country smoke and Arkansas smells into the city's smog.

And they listened as the hot blues of the Joe Willis Wilkins Blues Band coalesced into the morning's swelter.

These were only some of the 90,000, according to 4:30 p.m. police estimates, who gathered yesterday at the living museum of folk history and rural technology at the Smithsonian's Festival of American Folklife.

Most of "them" were urbanites who came to the festival, as Arkansas fiddler and banjo player Sherman Ward said, "to get as close to the old-time folk world as they can. They can 'live it' here for a couple of days."

It was the second day of events at the festival, a cross-roads of rural and metro America.

For most craftsmen and performers from Arkansas, the festival is the occasion of their first visit to Washington.

For many children visiting the festival, it is their first chance to look closely at a way of life their culture is rapidly losing sight of. "I didn't know anyone worked with their hands anymore," said one young girl observing Ben Harris making barrels.

For many older visitors the festival stirs memories, as one Washington woman put it, "of those old country fairs where little ladies brought their homemade pure preserves."

"The only thing missing here is a good dry-fly trout stream," declared another city resident as he listened to the music at the afternoon's "Fiddlers Convention."

"I served in the Army Air Corps in Arkansas and I used to snicker at that music," he continued. "Now I find it enchanting."

The fiddlers' convention was visited by Sen. J. William Fulbright (of Fayetteville) who was greeted by fiddler Jimmy Driftwood (of Timbo), "a genuine hillbilly if there ever was one," according to Fulbright.

"He knows all us fiddlers," Driftwood confided.

"This is the surest antidote for what ails America down deep," Fulbright declared. "People here are trying to be creative. Too bad there isn't more of it. Too bad there isn't much consciousness of it. When you live in a city you forget so easily."

Fulbright had his picture taken by a festival photographer with Claude Phillips (of Dog Branch), who has been busy building a log cabin since the festival began. Claude wanted his own pictures, though, grabbed an instamatic camera out of his cabin, put his arm around the Senator, and told the photographer to shoot away.

When Fulbright was leaving Claude's mule began hawing, but Phillips explained, "It's because he's a country mule, not a city mule. He's not used to all these crowds."

Claude and all the Arkansas people have been enjoying the crowds. "They're just like the folks back home, just more of them."

"The hospitality has been grand," fiddler Dean Hinsley (of Stone County) added. "People are so friendly and well mannered. I heard a lot of talk and read a whole deal about trouble in the cities, but I've never met nicer people before. For country boys we're just amazed."

And the "nice people" included everybody: government officials in blue suits, servicemen in uniforms, tourists in bermuda shorts, and young people in dungarees, American flags and Indian robes. Some were hardly distinguishable from festival Indians."

"Look at all those college kids out there," Jimmy Driftwood declared. "They're looking for the roots of our society and where can you find them more than in our folk traditions and folk music. You could learn more here in an afternoon than in a semester of college."

"I was fascinated at the number of long-haired people here," Sherman Ward added, "but they all love music and that's fine by me."

Whether the good mood at the festival will prevail over the weekend is questionable. Many visitors said they had come early in order to avoid "Honor America Day" and one Bethesda woman said the festival was "more like an old Fourth of July than what Billy Graham has planned."

[From the Arkansas Democrat, July 8, 1970]

SEVENTY-TWO ARKIES: THEY WEREN'T BASHFUL ABOUT THEIR DRAWLS

(By Bob Lancaster)

WASHINGTON.—Most of us Arkies have a variety of hang-ups about the Arkansas "image" we grew up with—that of the barefoot and slurping ignoramus with hay in his hair. It never helped me much to thank God for Mississippi, and I've often thought with pleasure about how I'd like to wrap that blasted bazooka around Bob Burns' neck.

The trouble with being so image-conscious is that it can sour you on some of the best and most unique things about Arkansas' distinctive cultural heritage.

Fortunately, the 72 Arkies who performed at the national folklife festival here last weekend weren't worried about their image. They weren't embarrassed about being different. They obviously were dropouts from the effort toward a national conformity in which everyone will talk alike, sing the same empty songs, cook the same insipid dishes, and amuse themselves with the same dulling pastimes.

Most of them seemed to be self-sufficient people who were too contented to be particularly self-conscious. They brought their drawls and Big Smith overalls and whittling knives and home-made guitars to the Washington Mall. And 600,000 people dropped by to watch them cook up fried blackbird, sing uncorrupted songs, take unbarked logs and turn them into log cabins and rocking chairs, and turn corn shucks and hickory chunks into works of art.

The 600,000 people included government bureaucrats, hippies, Ivy League college kids, housewives from the Maryland suburbs, and a variety of vacationing refugees from the Silent Majority. And they seemed charmed by the Arkies because the Arkies were up to something different and weren't trying to put them on.

They could tell, for example, that Bookmiller Shannon was playing the same stuff on his banjo that he'd be playing if he was back home on his Stone County front porch. And that the jig Caroline Rainbolt was doing (and teaching them to do) was not something they could just as easily stay home and catch on a rerun of the Ed Sullivan Show.

Senator Fulbright put his finger on it one day when he dropped in for one of the many rousing hillbilly hoedowns. "This is the surest antidote for what ails America deep down," he told a gang of metropolitan reporters. "People here are trying to be creative. Too bad there isn't more of it. Too bad there isn't much consciousness of it. When you live in a city you forget so easily."

For a few days here, 72 folks from back home helped a few hundred thousand of them remember.

[From the Washington Post, July 6, 1970]

OUT ON THE MALL

For a little while out under the trees on the Mall, we watched Mrs. Violet Hensley, the "Whittlin' Fiddler" from Arkansas, carve the bottom piece of a violin with skill and love. She had learned fiddle whittling from her daddy, she said. And if she worked at one continuously, which she doesn't, what with her many other chores, she could finish one instrument in 15 or 16 days, she added. Occasionally she will sell one for $200, a price that obviously doesn't stand up very well in a cost-benefit analysis on which, nowadays, we seem to base most of the American Way of Life—the way we build and rebuild our place to live, or "environment," as it is now fashionably called. Nor could any of the many and varied other activities that went on at the 1970 Festival of American Folklife, the annual Smithsonian event that concluded its week-long run on the Mall yesterday, bear the scrutiny of cost-benefit analysis. Human care in toy making, cookie baking, butter churning, copper hammering, silhouette cutting and the many other skills and wonders the folks from Arkansas showed us at this year's festival, are not what accounts for our standard of living. The Park Policemen on horseback who helped to give the festival its Currier and Ives atmosphere would undoubtedly be more efficient on noisy motor scooters. The hay provided for the small kids to romp and roll in, could probably be more economically replaced by foam rubber. And, for all we know, a machine-made fiddle may well be not only cheaper but also more nearly perfect than one whittled by Mrs. Hensley. But in the end, we think, these wonderful folklife festivals "cost out," as the engineers say. For a mere $100,000 a year, or thereabouts, the Smithsonian's Bureau of American Ethnography gives us an enjoyable reminder of what culture is all about. That is a benefit even a computer couldn't put a price tag on.

SILVER SPRING, MD., *July 12, 1970.*

Senator WILLIAM FULBRIGHT,
Senate Office Building,
Washington, D.C.

DEAR SEN. FULBRIGHT: I've wanted to write you for a week, but kept forgetting or was occupied with something else. Tonight I was reading a book on American ballads, by John Lomax, and it reminded me that I hadn't dropped you that line.

I just want to say that I haven't enjoyed anything so much in years, as I enjoyed the program and exhibits set up by the people from Arkansas at the recent Smithsonian Folklore Festival down on the Mall. The barrel making, blacksmithing, jelly and sassafras tea, furniture and fiddlemaking and cabin building were all great to see, and I don't think I ever was in a big crowd which was so fascinated and pleased with what was going on. Many of them had never seen any of this; many more, like me, had seen only some of it and the memories it brought back of the past were a great tonic. But most of all I enjoyed the music and singing.

I listened all Friday afternoon to the music and ballads, and was really turned on by the dancing. I went back Sunday with a little tape recorder and preserved about 3 hours worth; listened to it all the way home and again that night. Next day I played it for my car pool riders, for several people at the office including the fellow who ate lunch with me, and they all enjoyed it. A Yugoslav friend said the music and ballads took him back to Serbia; he said, after the first few seconds of listening, "that music is the guts of the people". He expressed my feelings exactly.

Will you please thank those people, and everyone who helped to organize the show, for giving me and all the other city dwellers a chance to see, hear, and touch a vital piece of America that is all but lost in the hubbub of an increasingly industrial, bureaucratic, and citified society. It was a wonderful tonic, and I won't forget it. It showed me where my roots are.

Sincerely yours,

F. L. KLINGER.

SULFUR MINING INDUSTRY

Mr. TOWER. Mr. President, one of the basic and essential industries of the United States, the sulfur mining industry, is under increasing economic stress. Unless this stress is relieved, the sulfur producing capacity of the United States may be irreparably impaired.

Since 1968, the market price of sulfur at the mine in Canada has declined from approximately $38 per ton to the present level of approximately $11 per ton. This drastic decline in the market price has caused six U.S. sulfur mines to be closed down, five others to be on the verge of closing, and others have been forced to lay off workers, restrict production, and reduce dividends to stockholders. Unless the situation is relieved, additional mines may have to be closed.

The cause of this economic harm to the domestic sulfur industry is the direct result of large and increasing imports of sulfur from our good neighbor to the

North, Canada. Since 1968, this imported sulfur has been consistently priced below our own sulfur. The Canadians were attempting to capture our domestic markets by selling their sulfur at prices below the U.S. prices.

How could the Canadians consistently price their sulfur below our price? For the answer to this question, we must examine the differences between the processes by which the two countries extract the sulfur and ready it for market.

In the United States, the Frasch process is employed to extract most of our sulfur. This is the process by which superheated steam is injected into the raw sulfur deposits under the ground. The steam melts the sulfur which is then brought to the surface and stored.

The Canadians, on the other hand, extract their sulfur from a certain kind of natural gas produced there which contains a high percentage of hydrogen sulfide. In order to prepare this "sour" gas, as it is called, for the market, the hydrogen sulfide must be removed. This leaves the "sweet" gas which can then be sold. Once the hydrogen sulfide is removed, it is converted into pure sulfur. The process of extracting hydrogen sulfide from the "sour" gas and converting it into pure sulfur is performed at much less cost than our own Frasch process.

Further, it can be seen that the amount of sulfur produced in Canada is directly related to the amount of demand for Canadian "sour" gas. Since there is no cost which can be allocated to the sulfur, it is not related to the market demand for sulfur.

The Canadians normally allocate the cost of extracting the hydrogen sulfide to the cost of purifying the "sour" gas. This cost is not borne, and is, therefore, not reflected in, the price which the Canadians must charge for their sulfur.

So, as the demand for Canadian "sour" gas increased, as it has since 1968, the amount of sulfur extracted from the "sour" gas increased accordingly. The Canadians attempted to seize U.S. and other sulfur markets in order to sell their less expensive sulfur and could do so at prices under those existing in the United States.

The Canadians are succeeding in capturing our markets. Prior to 1969, the United States was a net exporter of sulfur. We are now a net importer. The 1965 through 1967 imports of sulfur from Canada to the United States averaged 703,000 tons per year. On the basis of the first 4 months' imports of 1970, the projected imports of sulfur from Canada into the United States for the entire year of 1970 will be approximately 1,117,000 tons. This is a substantial increase.

Mr. President, in order to prevent further disruption of our own sulfur industry, immediate steps must be taken.

S. 4075 was introduced on July 10, 1970. That bill, if enacted, would accomplish the desirable result of stabilizing the domestic sulfur industry from imports of sulfur from all foreign sources by limiting the amount of sulfur which can be imported. Since the Canadian flood of byproduct sulfur represents the more serious threat to the domestic industry, I will use those import figures in explaining how the bill would operate.

Imports would be limited by a two step process:

First. For the calendar year 1971, the amount of sulfur which could be imported from Canada would be reduced to the 703,000 ton level. This was the average quantity of sulfur imported into the United States from Canada for the years 1965 through 1967.

Second. For subsequent years, the amount of Canadian sulfur which would be allowed to be imported into the United States would vary from this 1971 base figure. It would vary either up or down by the same percentage as changes in domestic consumption varied during the previous year. For example, if the U.S. domestic consumption increases by the expected 4 percent in 1972 over the consumption in 1971 base year, then, the amount of sulfur which could be imported from Canada and sold in the United States would be 4 percent more than the 1971 base figure of 703,000 tons.

Mr. President, this is a fair and equitable method for protecting our own industry and, at the same time, allowing the Canadians to participate in our markets.

This industry contributes substantially to the prosperity, health, and security of this Nation. Sulfur is a basic and necessary ingredient of many vital products.

Since 1969, the United States has become a net importer of sulfur. Hence, our balance-of-payments problem has become further aggravated by these large and increasing imports of sulfur from Canada.

Mr. President, I ask careful consideration of S. 4075.

WAR AND PEACE AND CONGRESS—GULF OF TONKIN RESOLUTION: ACTION TO REPEAL

Mr. GOODELL. Mr. President, on June 24, the Senate voted on an amendment to the Foreign Military Sales bill to repeal the 1964 Tonkin Gulf Joint resolution. I voted for repealing the resolution. The amendment was agreed to and is now before House-Senate Conference Committee on the controversial Foreign Military Sales bill. If Congress can resolve a variety of House-Senate differences in this bill, a most significant one being the Senate passed Cooper-Church provision limiting U.S. involvement in Cambodia, the bill will then go to the President for signature.

Last Friday, the Senate again took action to repeal the Tonkin Gulf resolution. Repealing action was taken on a concurrent resolution requiring only a majority vote by the two Houses of Congress, without requiring Presidential action for the legislation to be effective.

The Senate took this additional legislative action in terminating the Gulf of Tonkin resolution in order to focus specifically on the issues which the 1964 resolution has raised in terms of congressional-Executive rights, responsibilities, and respective areas of jurisdiction regarding warmaking powers. Action was also taken to place on record legislative history developed by the Committee on Foreign Relations regarding the warmaking powers of Congress and the Executive.

Although I was unable to be present in the Senate Chamber last Friday due to prior commitments in New York State, my position on the repeal of the 1964 resolution has been clear, and I asked to be recorded that, if present, I would have voted for the repeal of the Gulf of Tonkin resolution. I am pleased to note that the measure to repeal passed by a large margin, the vote being 57 to 5.

The author of the legislation to repeal the Tonkin Gulf resolution, the distinguished Senator from Maryland (Mr. MATHIAS), has referred to the 1964 resolution as an enactment of abdication—an abdication by Congress not of power but of constitutional duty regarding questions of war and peace, including the use of U.S. troops in a foreign country. I agree with his observation and would add that it presents a clear warning as we face other important decisions on war and peace during this session.

Repeal of the Gulf of Tonkin resolution is significant for at least the lesson it has taught us, namely, that confidence in Congress will not be attained through issuance by the two Houses of a blank check of authority to the Executive. Confidence in Congress will not come by transferring decisionmaking responsibilities to the Executive. Confidence in Congress will come with independent judgments and independent thinking on policies recommended by the Executive and with independent initiatives by Congress when Executive policies are found wanting. Beyond Executive policy recommendations, Congress has a role to play in forging its own policy directions as to where this country should be moving now and for the future.

In this 91st Congress the Senate has taken several significant steps toward the reassertion of its decisionmaking responsibility on questions of warmaking and peacekeeping.

There is the national commitments resolution, adopted by the Senate on June 25, 1969 by a vote of 70 to 16. This resolution defined "national commitment" as the use of American troops in a foreign country or the contingent promise of such use. It further resolved that it is the sense of the Senate that such a national commitment requires affirmative action by the executive and legislative branches of the U.S. Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

There is the Cooper-Church amendment on Laos and Thailand, agreed to by the Senate on September 17, 1969, by a vote of 86 to 0, restricting the use of U.S. ground troops in Laos and Thailand.

There is the recent Cooper-Church amendment on Cambodia, agreed to by the Senate on June 30, 1970, by a vote of 58 to 37 setting limits to U.S. involvement in Cambodia.

There is the most recent action to repeal the Gulf of Tonkin resolution.

Mr. President, I have supported all of these measures because I think that they are sound courses of policy and because I think these congressional actions are necessary if Congress is to function as a meaningful branch of Government.

I have, in addition, authored legislation, the Vietnam Disengagement Act, which I introduced last September, calling upon Congress to face squarely the issue of the Vietnam war and vote it "up" or "down." My legislation set a timetable for complete U.S. troop withdrawal from Vietnam and called upon Congress to use its power to withhold funds to implement this policy.

My bill, the Vietnam Disengagement Act, was the first bill in Congress that would require, as a matter of law, that all American military personnel be withdrawn from Vietnam by a specified date and that funds would be cut off for the maintenance of a continued U.S. presence in Vietnam after that date.

A timetable for U.S. troop withdrawal and the use of congressional power over the purse—these two provisions which I put into legislation last September for the purposes of ending Vietnam engagement and of catalyzing congressional attitudes into action to end the war—are now incorporated in the current amendment to end the war which I have coauthored with Senators McGovern, Hatfield, Cranston, and Hughes. We will call up our amendment to end the war when the Senate debates the military procurement bill.

Mr. President, throughout our history, there have been periods of congressional government when Congress was the predominant branch of Government; and there have been periods of Presidential Government when the Executive has been the most powerful branch of Government.

Such concentrations of power in one branch of Government or the other can be, have been, and are dangerous to the proper functioning of our system of Government.

Today we are still in what has been a long period of Presidential Government. With the National Commitments Resolution, with congressional efforts to restrict U.S. military engagement in Vietnam and Southeast Asia, and with the action to repeal the Gulf of Tonkin Resolution, we are participating in a movement to restore the constitutional balance between Congress and the Executive branch on matters of war and peace.

Steps taken so far in congressional reassertion of responsibility in questions of warmaking and peacekeeping are only a beginning. They only start the approach to attaining a proper balance between the use of the powers of Congress and the use of the powers of the Executive. There is much more to do, that we must do, if we are to achieve the real essence of our governmental system which is constitutional Government.

SURVIVAL OF FHA SECTION 202

Mr. MOSS. Mr. President, as chairman of the Subcommittee on Housing for the Elderly, of the Senate Special Committee on Aging, I have been in a unique position to measure the housing needs of our senior citizens.

At the present time the general housing picture across the Nation is more than dismal. The present high-interest rates have brought construction virtually to a standstill. And if the problem seems acute for youthful and middle-aged adults it is even more devastating for our senior citizens.

While most of our senior citizens own their own homes, they continue to be "house poor" in that they cannot afford to repair their homes which tend to be old and in areas of the central city that constantly face escalating real estate taxes. At a time when their incomes have been reduced markedly in retirement they continue to pay an unreasonable share of their income on housing.

A few years ago Congress reacted to this dilemma and provided in the housing act a section No. 202. This section provided FHA direct loans to nonprofit sponsors providing homes for the elderly and handicapped.

The 202 program has been one of the most effective and efficient of our housing programs. In fact, some people say its very success might have been its undoing. Nonprofit sponsors had learned the procedures and had begun to develop a sizable volume of projects until the program was sharply interrupted by HUD policies announced by the Nixon administration.

The administration has been consistent in its opposition to direct loans issued by the Government. The rationale is that through direct loans the Government is placing itself into competition with private lending establishments.

The results, Mr. President, are history although little, if any, information has been given by HUD on this score. The fact is that this most successful Federal Housing program has been phased out in favor of the FHA section 236—interest subsidy—program.

This was possible by seizing on langauge in the 1968 Housing Act which made possible the transition by nonprofit sponsors from section 202 to section 236 on a voluntary basis. HUD directives under Secretary George Romney make this transition mandatory.

In the Housing Act of 1969 the Congress authorized $150 million for extension of section 202. The committee reports of the Banking and Currency Committee of the Congress reflect congressional contempt for HUD directives which misinterpreted congressional intent. As the committee reports make clear, it was not congressional intent that section 202 be phased out in favor of section 236. The contrary is true.

Mr. President, I would think the action of the Congress in authorizing $150 million for the continuation of section 202 would be a clear indication of the depth of congressional concern and commitment. Secretary Romney knew of the congressional action on the 1969 housing bill but justified his exclusion of section 202 from his scheme of reorganization for HUD by saying that there were no appropriations for section 202.

Since no funds were requested last year for section 202 by the administration and the Bureau of the Budget, it is logical that no funds were appropriated.

This year the Independent Offices Appropriation bill which passed the Senate on July 7 does contain an appropriation for FHA section 202. It should be made clear that for the second year in a row the administration did not request funding. It should also be made clear that the $25 million in the Senate passed bill reflects the diligent work of the chairman of the Senate Committee on Aging, the Senator from New Jersey (Mr. Williams). I should like to commend Senator Williams for keeping section 202 alive.

At this point, Mr. President, it would be appropriate to point out that there have been no failures or foreclosures by the Government under 202. It is appropriate to point out that there is a backlog of some 728 section 202 applications and it is appropriate to talk about the sizeable volume of mail that has been received by the Special Committee on Aging on this subject. Likewise I could detail the results of our June 8 hearings on "Sources of Community Support for Federal Programs which Serve the Elderly." The plea of nonprofit sponsors at our hearings and through the mail was: Restore Section 202.

Thanks to Senator Williams and the Senator from Rhode Island (Mr. Pastore), the chairman of the Appropriations Committee Subcommittee on Independent Offices, the Senate has acted. What is important now is that the Williams amendment survive the Senate-House conference. In the name of the thousands of elderly who have been well served by the 202 program and in the name of nonprofit sponsors who seek to provide additional 202 housing for the elderly and handicapped, I urge that the Senate insist on its amendment.

Since the House of Representatives last year committed itself to a $150 million authorization for section 202, I consider it logical that the House would agree to the minimal $25 million appropriation to keep the 202 program functioning. The intent of Congress was underlined with authorization last year and now this appropriation by the Senate.

If the House agrees to the Senate amendment and provides funds for section 202 it would be inconceivable to me that the administration would still refuse to continue the program. Let me underline that the 202 program must be continued as it functioned before the 1968 Housing Act. Sponsors should be free to transfer to section 236 after application on a voluntary basis but in no case should such transfer be made compulsory.

There are many excellent examples, Mr. President, of the results of section 202. I need only point to the Council Plaza constructed by the International Brotherhood of Teamsters in St. Louis, Mo., or to Springvale Terrace, in Silver Spring, Md. Both are delightful places to live featuring excellent food services and recreation facilities at very modest rental rates. It has been my experience that invariably there is a long waiting list of seniors who would like to reside in these facilities.

I implore the conferees from the Senate and the House to act with courage to make this kind of facilities available to our thousands of elderly and handicapped who are so badly in need of decent housing at a reasonable price.

GEORGE FRIEDMAN: AN ASSET TO THE SOCIAL SECURITY ADMINISTRATION

Mr. TYDINGS. Mr. President, the efforts of the many civil servants in our Government often go unnoticed, but without these men and women, the wheels of Government could hardly function at all.

One such civil servant is George Friedman. Winner of the First Civil Servant Award of the year for Maryland in the scientific area, Friedman has made an exceptional record with the Social Security Administration.

A Social Security employee since 1935, George Friedman is accredited with having saved the Government over $5 million during the current fiscal year.

I ask unanimous consent that an article from the News American of May 1, 1970, concerning this award be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

FEB Honors Civil Servants

(By Ned Young)

The recipients of the first Civil Servant of the Year Awards for the State of Maryland to be sponsored by the Federal Executive Board in Baltimore are George Friedman of Social Security and Harold Brager of the Internal Revenue Service.

Presentation was made by Senator Charles McC. Mathias (R-Md.) and Colonel Paul R. Cerar, president of the FEB, at a luncheon attended by some 250 civil servants of the Baltimore District in the Statler-Hilton Hotel in Baltimore.

Friedman and Brager were selected from among seven finalists that had been picked by a special committee from a large number of nominees sent in by various federal agencies.

Senator Mathias, who was guest speaker, noted that there are some 63,000 federal employes working in Maryland.

Nominees were divided into two categories, nonscientific and scientific.

Brager, winner in the nonscientific category, joined the Internal Revenue Service July 1, 1963 as an intern and within a three-year period progressively advanced to become a senior revenue officer.

In nominating him for the award, the IRS states in part as follows:

"The Taxpayer Delinquent Accounts assigned to our nominee are consistently difficult or sensitive. He can be relied upon to initiate effective collection measures as well as dispose of troublesome collateral investigations.

"He effectively manages and utilizes his work schedules and consistently applies tact, patience and investigative abilities which result in the successful closing of a large number of cases."

Brager is also cited for extensive involvement in activities for the prevention of children's diseases.

The scientific winner, Friedman, is an assistant bureau director of the Social Security Administration at the agency's national headquarters near Baltimore.

A native of New York City, Friedman began his federal career with the Justice Department in 1935 and transferred to Social Security the following year.

The agency credits him with developing a cost reduction plan that will save the government more than $5 million during the current fiscal year alone.

The plan, declares Social Security, will also result in considerable savings to other federal and state agencies.

Senator Mathias arrived late for the luncheon and explained he had been detained at a meeting of the Senate Judiciary Committee of which he is a member.

"You know what we were doing, and this time I think we've got one," he asserted, referring, of course, to Judge Harry A. Blackmun, the latest candidate for the Supreme Court.

In his talk, the senator paid tribute to the entire federal family.

"The President of the United States is a human being, the same as the rest of us. However, he can depend upon some three million persons for advice and help in achieving the nation's aims. The image of the government worker having it easy is wrong. We owe the Civil Service a debt of recognition," he declared.

United States Marshal Frank Udoff was chairman of the luncheon. Co-chairman and toastmaster was C. Temple Thomason, deputy director of the Veterans Administration Hospital in Baltimore.

CAPTIVE NATIONS WEEK

Mr. GOODELL. Mr. President, this week we mark the 11th annual observance of Captive Nations Week. Every year since 1959, when, by Presidential proclamation, Captive Nations Week became an annual national event, we have taken this opportunity to rededicate ourselves to the ideals of freedom and self-determination for all people. It is a week in which we reflect upon our own gifts of liberty and feel keenly the plight of the over 1 billion individuals of the captive nations who exist under forms of government not of their own choosing.

This week, parades and celebrations all over the United States will give testament to the alliance that exists between our own citizens—many of whom trace their heritages to the captive nations—and those men and women whose battle for liberty is not yet won. We are aware in this country that the people of the captive nations look to us for encouragement in their fight for freedom and basic human rights. I welcome the observance of Captive Nations Week as an opportunity to speak out on my personal dedication to the principles of self-determination and my support for policies which will someday lead to freedom for the peoples of the captive nations.

We mark this observance with a reaffirmation of our commitment to liberty and an end to oppression for all people.

CHESAPEAKE BAY OIL SPILL

Mr. HOLLINGS. Mr. President, the distressing news that over 67,000 gallons of oil have been spilled into the Chesapeake Bay from an oil barge while its captain slept, highlights once again the importance of the coastal zone to us. The oil has spread 10 to 15 miles from the barge in Baltimore Harbor, over a populous area used for commerce, recreation, and important for the sea life it supports. And if there are fish and shellfish in the area, the oil will be poisonous to them. All oil is toxic to all living marine resources. And the most poisonous parts are those that are water soluble. No matter what cleanup procedures are followed now, the most poisonous parts of the oil spill have been irretrievably spread in the waters of the Chesapeake Bay.

Action has been begun to clean up the spill by Clean Water, Inc., and the Humble Oil & Refining Co. has agreed to accept responsibility for the cleanup. A five-point plan for the cleanup has been invoked. It appears to me that the cleanup will be effective to remove the unsightly mess, but the real damage has probably already been done by those parts of the spill that cannot be recovered.

Mr. President, we must redouble our efforts to prevent such spills from occurring, and provide increased support for improving our ability to recover oil spills with the least possible damage to property, lands, waters, and natural resources in the range of such spills when they occur.

Mr. President, I ask unanimous consent that the latest Coast Guard report on the Baltimore oil spill be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Baltimore Oil Spill

At 0530 Sunday morning 12 July 1970 Humble Oil reported a spill of No. 6 fuel oil from the barge *Shamrock* loading in Baltimore Harbor. At 0532 a Coast Guard investigator was dispatched to the scene. The tug and barge had departed but a spill estimated at 6,000 gallons was located and a CG utility boat was sortied to deploy booms at the scene. All appropriate agencies were notified by 0720 in accordance with the Maryland Subregional Contingency Plan. This plan is one of the component elements of the National Contingency Plan published by the President in June 1970 in compliance with the Water Quality Improvement Act of 1970. At 0800 containment had been effected and it was thought that 95 percent of the oil had been contained. The MD port authority skimmer vessel *Port Service* was effecting recovery on the scene. By noon on 13 July several calls had been received reporting small deposits of oil in various areas in and around Baltimore. Since no other source was known and there was a strong similarity between this oil and the oil at the spill site it was felt that this was oil that had escaped before containment was effected. At this time Humble Oil Co. was not willing to accept responsibility for the additional cleanup. During a conference between the CG on-scene commander and Maryland Port Authority, it was determined that additional response would be required. The on-scene commander conferred with Mr. Preus, president of Clean Water Incorporated on availability of material and the possibility of conducting containment and recovery operations. It was decided to go ahead with response efforts and if Humble was not willing to assume the cost we would underwrite such cost.

On the 14th Humble Oil agreed to accept responsibility for cleanup and restoration and also to accomplish it through Clean Water Incorporated. Surveillance was conducted by CG helicopter and it was determined that there were extensive moderate to heavy oil slicks in numerous areas of the harbor area and light to moderate slicks in the surrounding waters and some light beach deposits. At that time the plans of Mr. Preus were reviewed by the on-scene commander and concurred in. These consisted of:

1. Remove oil in and near Humble Terminal and nearby piers.
2. Remove oil in or approaching creeks.
3. Clean private craft on site.
4. Sweep harbor of slicks with sorbent boom.
5. Clean affected beaches.

Late on the 14th helicopter surveillance and other investigations resulted in a revised estimate that the original spill consisted of at least 40,000 gallons. Humble would not confirm this figure.

During a hearing on the morning of the 15th held by the MD Department of Water Resource Humble advised that 67,000 gallons had been spilled. Cleanup continued by Clean Water Incorporated with the CG monitoring. The MD Department of Water Resources was also assisting by providing surveillance in the affected areas. The Port Authority vessel had recovered 8,000 gallons of oil water emulsion. Clean Water Incorporated had about 50 men involved in the operation and by the end of the day about half the material had been recovered.

Coast Guard monitoring continued today including helicopter surveillance. Cleanup is continuing and it is felt that Clean Water Incorporated is taking all appropriate action to combat the situation. The CG will continue to monitor the case through its on-scene commander but no Federal response is anticipated at this time.

CAPTIVE NATIONS WEEK

Mr. WILLIAMS of New Jersey. Mr. President, this week the 12th anniversary of the founding of Captive Nations Week is observed, as we focus world attention on the fall of over 25 nations to Communist domination. It is particularly distressing to note that these once-autonomous countries collapsed within the last 50 years, a period of renewed drive toward national independence.

Today I join all Americans in reflecting upon the courage and conviction shown by those patriotic citizens who sacrificed so much in an effort to maintain freedom within their borders.

It is a privilege to share with Senators this tribute to millions of people throughout the world who continue to resist foreign control in a common struggle for liberty.

IRS LIBRARY INVESTIGATIONS

Mr. GOODELL. Mr. President, I ask unanimous consent that a statement on the IRS library investigations be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Senator Charles E. Goodell, speaking on the Senate floor, noted that he was "deeply disturbed" to learn of the nation-wide investigations that are allegedly being conducted by agents of the Internal Revenue Service, aimed at identifying readers of library books on explosives and any other subjects that agents consider to be "militant or subversive". The Senator cited news accounts appearing in the Washington Post and The South Today, the publication of the Southern Regional Council, that reported complaints from librarians in several cities of the United States who have been asked by IRS employees to open their files of borrowers' names for investigation. These reports also indicated that IRS agents have threatened to subpoena official library records when librarians have refused to cooperate.

"Clearly," the Senator said, "if such reports are true, the Department of the Treasury is engaged in a fearful and repressive practice that violates the constitutional rights of all American people. None but a totalitarian government would attempt to supervise the reading habits or intellectual curiosity of its citizens." He stated that, "The Bill of Rights assured all citizens of the right to freedoms of inquiry and expression, and, under the Constitution of the United States, no government agency has the power to deny the people these freedoms."

The Senator announced that he had asked the Secretary of the Treasury, David M. Kennedy, to institute an immediate and thorough investigation of these alleged programs, and to provide him with answers to the following questions:

(List of questions.)

Senator Goodell also announced that he had sent a letter to Senator Sam Ervin, Chairman of the Senate Subcommittee on Constitutional Rights, commending the Senator on his prompt response to the reports of these programs, and expressing full support for the Subcommittee's study of the alleged investigative practices.

The Senator concluded that, should these reports prove accurate, he was prepared to "wage a relentless battle against such an ominous invasion of privacy and deplorable intrusion upon our most fundamental freedoms."

THE FREE PRESS IN WASHINGTON

Mr. CRANSTON. Mr. President, the District of Columbia took a major step toward protecting a free and effective press yesterday.

The District's police department announced it will no longer allow its officers to pose as newsmen.

The announcement came after Washington reporters complained that undercover police officers were attending press conferences disguised as newsmen.

Washington's press corps brought the complaint to District officials in a responsible and forthright manner. And officials responded with admirable speed and sensitivity. Both groups should be congratulated.

The District's new policy was announced in a story in this morning's Washington Post. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Police Acting as Newsmen Ruled Out

Washington police will no longer pose as newsmen, a police spokesman said yesterday.

The new policy resulted from complaints by Washington media, most of them referring to an incident last Friday in which a policewoman identified herself at a news conference as a "free lance writer."

"It shall be against the policy of the department for any of its members to represent himself in any way as a member of a news gathering organization," said Paul Fuqua, police information officer.

However, he said, policemen will continue as necessary to pose as citizens engaged in other occupations, except when this is prohibited by law (such as masquerading as a doctor or lawyer).

Fuqua explained that plainclothes police attending public events, including news conferences with cameras, pens, or pencils will not be prevented from otherwise falsely identifying themselves. "We're doing nothing to prevent a policeman from identifying himself as, for instance, a telephone man," Fuqua said. "We're not closing that option."

Recently more than two dozen Evening Star reporters signed a pledge that henceforth they would announce at any new conference the presence of any police agent masquerading as a journalist. "We will try to identify the agent, get photos of him if possible, and complain to the (police) department," they said.

Managing Editor Eugene Patterson of The Washington Post asked in a letter Monday to Police Chief Jerry V. Wilson that the practice be stopped.

POLLUTION OF THE ENVIRONMENT

Mr. GOODELL. Mr. President, our young people have become increasingly concerned with pollution of their environment. And, with the enthusiasm and vitality of youth, they turn their concern into action.

I am particularly proud of three young constituents of mine in Albany County. Brian Stankovich, Joseph Sacca, and Lorren Elkins designed and sold an antipollution button, donating the proceeds to buy additional equipment for antipollution study.

I ask unanimous consent to have printed in the Record an Albany Times-Union column by Jeff Cahan describing the efforts of these three boys and a letter they wrote me in response to a request for one of the "Don't Destroy Tomorrow" buttons.

There being no objection, the column was ordered to be printed in the Record, as follows:

Three Glenmont Pupils Mount Creative Antipollution Campaign

(By Jeff Cahan)

Three Glenmont Elementary School pupils have designed and distributed an anti-pollution button to enter their plea for a clean environment.

"Don't Destroy Tomorrow" is what Brian Stankovich, 10, Joseph Sacca, 12, and Lorren Elkins, 11, ask of their fellow men.

The slogan was created to fit the letters of the infamous DDT insecticide, a colorless, odorless, poisonous chemical used in harvest fields against agricultural pests and at home against mosquitoes, flies and body lice.

After ordering 1,000 buttons from an Albany advertising aids agency, the boys have sold 900 buttons to children, teachers and administrators at Glenmont Elementary. They have recently ordered 1,000 more buttons to be sold throughout the Bethlehem community. Each button sells for 25 cents. The boys have earned $193, $100 of which they paid back to the Glenmont Parent-Teachers Association for an initial capital loan.

The boys will donate all profits to the Atmospheric Sciences Research Center at Albany State University, where, they have been promised, their money will buy additional equipment for anti-pollution study.

With the aid of Glenmont PTA member Robert Tage as financial advisor, the boys are processing copyright forms in Washington, D.C. to make formal claim to their creation.

Against an orange background, the pin's colors are blue, for sky and water, and yellow for the sun.

What originally sparked their interest in environmental preservation was a recent fifth-grade teach-in at Glenmont under the guidance of teachers Ruth Doyle and Julia Esmond.

The boys were particularly inspired by the visit of Albany State University Professor Raymond Sarotsky, who spoke to the fifth grade about major polluters of society.

Dear Senator Goodell: We thank you for taking the time to write to us. We appreciate it very much.

Why we got into this project is that we

are very much concerned about our future.

Enclosed please find the button that you requested.

Sincerely,

BRIAN STANKOVICH.
JOSEPH SACCA.
LORREN ELKINS.

THE THREAT OF FOREIGN IMPORTS

Mr. THURMOND. Mr. President, there are many reasons why the United States should protect domestic industry from the threat of foreign imports. In statements on the Senate floor I have discussed these reasons from a military, economic, and business viewpoint. My primary concern has been, and still is, that, unless the American textile industry is protected, people will lose their jobs.

Mr. President, it is people we are talking about. When we talk about balance of payments and balance of trade and flooding the marketplace we are talking about people, no matter what the terms we may use.

I received a letter from a Miss Marie Franks of Laurens, S.C., who is one of the people whose well-being we must protect.

Mr. President, I ask unanimous consent that a portion of the letter of Miss Marie Franks, dated July 12, 1970, be placed in the RECORD at the conclusion of my remarks.

Mr. President, statements made by this lady constitute an eloquent plea for protection and, in my mind, give complete justification for the enactment of legislation which will curb excessive textile and apparel imports.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LAURENS, S.C.,
July 12, 1970.

Senator STROM THURMOND,
Washington, D.C.

DEAR SENATOR THURMOND: I know that you are doing what you can about the bill to curb Japanese imports. But, sir, I thought you would want to know that more has happened—and things are going to get worse.

The plant that employed my sister was closed yesterday, July 11, 1970—with the exception of the first shift.

She, her sixteen-year-old son and I live together—I recently purchased this house in which we live. And if this plant doesn't reopen soon, we will lose it.

There is another plant here that has also layed off some of its employees—and there are rumors that three more plants will go on a 3 or 4 day work week.

I read in the papers and hear on the TV news about plants all around us, either closing completely or laying off employees.

I feel, as many others do, that the situation is very serious—and if something isn't done very soon it will become critical—This affects the black as well as the white—because we have many blacks employed in the textile plants.

I am employed in a department store as a sales clerk in men's and boys' wear. Sir, we have shirts from Korea, Malaysia, Singapore, Hong Kong, Taiwan, etc. It would take me a few minutes to find a shirt in our department made in the United States.

Sincerely,

(Miss) MARIE FRANKS.

MEMORIAL OF LEGISLATURE OF NEW YORK LABOR-MANAGEMENT LAW FOR AGRICULTURAL EMPLOYMENT

Mr. JAVITS. Mr. President, the problem of establishing a labor-management program covering agricultural employment deeply concerns me. The Subcommittee on Migratory Labor of the Committee on Labor and Public Welfare has held a number of hearings with respect to this problem. The Senator from California (Mr. MURPHY) has introduced a bill, S. 8, to bring agricultural workers under the National Labor Relations Act. Secretary of Labor Shultz has proposed the creation of a separate Farm Labor Relations Board to regulate the right of farmworkers to organize and bargain collectively.

Mr. President, in my own State of New York, agriculture is the No. 1 industry, generating directly or indirectly, jobs, products, and services having a total value of $3,500,000,000 per year.

In New York, farm labor contractors, growers and food processors in their capacity as employers are subject to the Labor and Management Improper Practices Act which prohibits payments made to any person for the purpose of interfering with employees in their right to collective bargaining. However, the need for Federal legislation is apparent to us in New York.

I ask unanimous consent that a concurrent resolution of the Legislature of the State of New York memorializing the President of the United States and the Congress to enact appropriate laws relating to the establishment of a labor-management program covering agricultural employment be printed in the RECORD.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION 128

Concurrent resolution of the Legislature of the State of New York memorializing the President of the United States and the Congress to enact appropriate laws relating to the establishment of a labor-management program covering agricultural employment

Whereas, Agriculture is the number one industry in New York, and generates, directly or indirectly, jobs, products and services having a total value of three billion, five hundred million dollars per year; and

Whereas, New York agriculture directly employs more than three hundred fifty thousand workers, most of whom depend primarily upon agricultural wages for income; and

Whereas, The products of New York agriculture move widely in both national and international commerce, and must compete with agricultural products originating in other states and countries where labor standards and labor costs are lower than those in New York; and

Whereas, A percentage of the New York farm labor force also seek farm employment or maintain residence outside of the state during a portion of the year; and

Whereas, The problems of labor-management relations law in agriculture are truly national in character, and can be appropriately dealt with only through federal legislation; now, therefore, be it

Resolved (if the Senate concur). That the Legislature of the State of New York, respectfully memorializes the President and the Congress of the United States to promptly enact legislation establishing labor-management relations laws, separate from the national labor relations act, covering agricultural employment; and be it further

Resolved (if the Senate concur), That the Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from New York in the Congress of the United States.

In Senate, April 19, 1970.

Concurred in, without amendment by order of the Senate.

ALBERT J. ABRAMS, *Secretary*.

By order of the Assembly.

DONALD A. CAMPBELL, *Clerk*.

CHARLES VILLAGE—A HEARTENING EXPERIENCE

Mr. TYDINGS. Mr. President, with vast sections of our central cities being turned into blighted "gray areas" of deteriorating housing, poor schools, and dying communities, it is heartening to note that, in Baltimore, one such gray area, the Charles Village section near the Homewood Campus of Johns Hopkins University, has reversed the onslaught of decay.

There, the efforts of one woman, Miss Grace Darin, have led to a rebirth of a once blighted neighborhood. A copydesk girl in the city room of the Evening Sun, Miss Darin launched a campaign to rejuvenate her community by calling informal meetings of other neighbors dedicated to revitalizing their community. With the skill of a high-powered real estate promoter, she changed the community's name, organized her neighbors to get improved city services, published a local newspaper to keep the neighborhood informed and to help build community spirit, and coaxed older residents to write out their memories of the neighborhood history—resulting in two published histories that now sell well in local bookstores.

Charles Village today is a vibrant, diverse community that maintains a small-town self-awareness and unity. It has scholars, professional people, emigrants from Appalachia, artists and blue collar workers, whites and blacks, orientals and Indians, students, young married, and oldsters.

It still has problems. Schools need improvement, financing for home buying and rehabilitation is hard to come by, factions quarrel about the direction the community must take. But it is alive today, its residents are vitally concerned about its future.

Mr. President, I believe that all of us who are concerned about revitalizing the Nation's cities can be encouraged by the success of Miss Darin and her neighbors. She and her fellow organizers, Mrs. O. David Homes and Dr. John Neff, a pediatrician on the Hopkins staff who was instrumental in upgrading the neighborhood's educational programs, deserve our admiration.

I therefore ask unanimous consent that an article published in Baltimore magazine of July 1970, describing the efforts of this community to rebuild itself, be included in the Record so that others may read of their success and gain an appreciation of the problems they face.

There being no objection, the article was ordered to be printed in the Record, as follows:

CHARLES VILLAGE

(By James F. Waesche)

With some effort, a plump white-haired lady in her 70's pulled herself aboard a Number 3 bus at Mt. Vernon Place. She was wrapped in a mink stole that had seen far happier days, but her matching fur hat and her lizard shoes and bag marked her as a woman who hasn't stopped trying to keep up appearances. With her was a younger woman, hatless and tweedy, perhaps in her late 50's. As the bus lurched and fumed up Charles Street, the two talked genealogy, each trying to out-ancestor the other. When it approached North Avenue, however, the conversation abruptly changed.

"*My* I'm glad I live in the county!" the younger woman exclaimed, looking out the window. Then, realizing she may have blundered, she hesitantly asked her companion where she lived.

"On St. Paul near 28th," came the feared reply.

"Oh . . . I see . . . Well . . ."

The white-haired woman interrupted the incipient apology. "It's really very nice," she said. "It's like a small town. They've started something new they call Charles Village and lots of lovely young people are moving in and fixing up the houses. And" . . . her enthusiasm mounted . . . "they have *children*. It's so wonderful to go to the market and see all the young, cultured-looking girls with their lovely babies."

"But aren't you being overrun by those students?" the unconvinced countyite persisted, obviously visualizing bands of unkempt sex fiends rampaging down Charles Street brandishing Molotov cocktails and syringes filled with evil drugs.

"Oh, there are lots of them, but they're really not so bad."

"But all that hair . . ."

"You get so you don't look at their hair," the elderly Charles Villager said. "They're just people, just like the rest of us."

They've started something new they call Charles Village . . . The woman didn't realize how accurate her vague-sounding statement really was, for in no way has Charles Village "just growed." It is the product of a deliberately conceived, carefully nurtured PR campaign calculated to transform a teetering, critically-located chunk of mid-city into a colorful, viable residential community. That the campaign seems to be succeeding is a tribute to the inspiration and perseverance of one woman and an indication that her ideas were not sown on exhausted soil. Moreover, Charles Village is freshly painted proof that a new breed of home-owner is weighing the suburbia in which it was born, finding it wanting, and testing the city as an alternative.

To long-time Baltimoreans, Charles Village might be more familiar as Peabody Heights: the blocks immediately east and southeast of the Johns Hopkins University's Homewood Campus. Starting at 25th Street on the south, the Village extends to 33rd Street on the north, to Howard and Charles Streets on the west, and to Abell and Guilford Avenues on the east. Only a century ago the area was rural, a crazy-quilt of cornfields, dairies, pastures, wooded streambeds and private estates. Not until the 1870's did developers start to lay their lots and street-grids over its brooks and gentle hill. By the turn of the century, North Baltimore had its last pre-automobile neighborhood.

The homes that were built were mostly three-story brick. Halls were long, ceilings high, walls thick. Although they had central heating, most retained fireplaces—and the atmosphere of graciousness they impart. The scale of the houses is "human," as architects say; from the sidewalks they appear large enough to bespeak roominess and comfort, but small enough so as not to overwhelm. Shallow plots of lawn and shrubbery and, in some cases, porches, cushion the houses from the streets. Back yards are deep.

Put up before the concept of free-flowing interior space caused rooms to dissolve into ambiguous "living areas," the houses contain well-walled, well-defined chambers that permit privacy and quiet. Built before the age of plastic and plasterboard, they are mines of marble, heavy dark wood, and ceramic tile.

But well-built though they were, they could not escape the gnawing of time. Paint peeled. Plaster cracked. Homes fragmented into apartments—or fraternity houses—and the neighborhood's population density increased. City services began to slide. Along many an alley concrete was poured and green back yards became barren parking slabs. Traffic increased as Charles, St. Paul, and Calvert Streets became one-way commuter arteries. Dismayed, many residents left and gradually Peabody Heights took on the coloration that is symptomatic of impending death: gray.

"That whole are has gone through a transition," one of the city's assessors recently observed. "A lot of one-family houses have been converted into multiple family dwellings. Because of this overcrowding, and because of the increase of traffic and parking in the area, it's in a condition where the bottom could fall out. Values are holding on Maryland Avenue because they've gone commercial there, but Guilford Avenue has changed for the worse. The values have definitely come down. Barclay has come down. Abell has come down. Those streets are getting a shotgun blast from the Waverly area, and Waverly is shot now because of the influx of the colored." Values in the Charles, Calvert and St. Paul blocks are holding, the assessor said, adding:

"The Charles Village Association is trying its damnedest to educate the people up there to keep their properties in good condition. It's only a matter of time before we see what's going to happen. Right now, it's in a state of flux."

The Charles Village Association is indeed working to turn aside the forces of blight. But underlying its activities—fueling them, as it were—is a concept, an attitude that Charles Village is a community of dynamic individuals committed not merely philosophically, but also actively, to the ideals of urban revitalization and in-town living. That concept is the brainchild of one woman, Grace Darin.

By workday an inconspicuous copy desk girl in the frenetic city room of the Evening Sun, the private Miss Darin has sparked Charles Village ever since its birth some three years ago. It was she who realized that it was imperative for Peabody Heights to have a zippy new name—and a zippy new image—if it were to survive. And it was Miss Darin who knew that, once renamed, the old neighborhood would have to be promoted just as intensively as brand new developments are. To that end she has more than once injected into the columns of The Evening Sun stories mentioning Petunia Lane (the alley behind her 26th Street house) and Little Georgetown (the attractive detached houses in the 2600 block of St. Paul Street) and art galleries and shops that have "served the carriage trade in city and valley for over half a century." At image-building she is a pro.

An earlier attempt to rejuvenate the area had been made, Miss Darin relates, by some of the older residents. Themselves finding the Peabody Heights label dull, they formed what they called The University Heights Improvement Association.

"They did originate the 26th Street Art Mart, which began in 1959," Miss Darin said, "but otherwise they were a bunch of old people sitting around remembering how things used to be. The president kept talking about how they had to get rid of all the Negroes, hillbillies, prostitutes, students and intellectuals. And I think the students and the intellectuals were at the top of their list."

Miss Darin and a neighbor, Mrs. O. David Holmes, had more realistic ideas. They called an informal meeting of a few likeminded neighbors, dreamed up the name Charles Village, and formed a steering committee. (The committee later matured into The Charles Village Neighborhood Association, which then absorbed the moribund University Heights Improvement Association.)

The committee's first job was to announce to the public that the city had a new neighborhood. It began by contacting the Real Estate Board, which agreed to sanction the use of the name in real estate listings.

"The first time I saw an ad saying that a house was for sale in Charles Village," Miss Darin recalled, "I thought: They must be kidding! They're falling for this phony gag!" But others noticed it too. The owner of the Playhouse Theater phoned to ask if he could use the name in his theater ads. That prompted the committee to ask other neighborhood businesses to use it. Several did, especially the restaurants. Miss Darin's Evening Sun features began to appear. So did a chatty, home-town newsletter called The Charles Villager—written, published and distributed by, naturally, Miss Darin.

Attracted by the big houses, the low prices and the propaganda broadcast by Miss Darin ("the area is popular with artists, librarians, teachers, newspapermen, professors and students," she wrote . . . it is "lively and friendly as opposed to expensive, exclusive and aristocratic") young couples with children began to buy in the area. With their coming Charles Village became a reality.

Sensing the new vitality around them, some of the older residents withdrew their names from golden age establishments' waiting lists and decided to remain in the homes of their memories. New gardens were dug. Shrubbery was planted. Flower boxes began to appear. New sidewalks have been laid; steps repaired. A few gas lamps have been installed, and some of the dismal, algae-green and inky brown paint that darkens the doorways of so many Baltimore rowhouses has been covered with lighter, happier shades of moss, white, mustard and aqua. The demand for apartments has risen, and asking prices for homes have begun to rise.

"Real estate people are now taking listings whereas even two or three years ago they would have told owners to skip it and sell to speculators," Miss Darin said. Although houses on the eastern and western edges of Charles Village can still be bought for $5,000 ("in need of remodeling," as the ads read) those along the central spine straddle the median of $11,000.

One of the neighborhood's most acute problems before its reincarnation was the deterioration of municipal services. "We'd read about the prize-winning hokey cart men in Bolton Hill when we didn't even have a hokey cart," Miss Darin said with a little pout.

Making the city bureaucracy aware of their existence was the Villagers' first major accomplishment. They did it by yelling with a single voice that was loud enough to penetrate the thick walls of City Hall. Shortly thereafter City Council President William Donald Schaefer and Housing Commissioner Robert Embry toured Charles Village and pronounced it savable. Services rapidly improved.

Realizing that the city would now back them up, certain residents started little spruce-up campaigns of their own. Along the Guilford Avenue border, where conditions were shakier than elsewhere, Mrs. Frank Rock last September organized a Shape Up Or Ship Out Committee with five or six other women. Her committee now can call on the support of some 60 neighbors.

"No one had even been sweeping up," Mrs. Rock said. "They had a tsh-tsh attitude. You know: Tsh, tsh, what a nice neighborhood this used to be. Well, we took an inventory and started our cleanup campaign and got people involved. When they're involved they're more aware and now there are a lot of good things happening around here, so you know that people really did care all along. I think everyone realizes now that it's up to each of us to save the city."

One of the committee's most significant accomplishments was the enlistment of the aid of the housing inspection office of the city's Department of Housing and Community Development. Even though HCD hasn't enough inspectors to go around, its officials decided that the Charles Village effort was worth encouraging. Consequently, an accelerated but unofficial house-to-house inspection program has been launched there.

How does HCD decide which of the city's neighborhoods rate special attention? "We evaluate the need and the objectives and what we can hope to achieve in a given area, and we weigh that against our manpower," explained Charles E. Noon, chief of the district in which Charles Village is located.

Yet the phenomenon of Charles Village involves much more than the stabilization of bricks and mortar, as important as that is. Charles Village is a state of mind; a young, highly self-conscious community with its own enthusiasms, goals, and activities. Scout troops, homemakers' and boys' clubs—even two chapters of Alcoholics Anonymous—meet at St. John's Methodist Church on St. Paul Street. Informally, neighbors rendezvous at numerous natural gathering points: in, say, the new antique shop on Charles just above 25th, or in one of the art galleries that abound in Lower Charles Village, or, perhaps, in the outdoor flower arcade whose blossoms brighten the shopping center in the 3100 block of St. Paul Street. (Faith in Charles Village was recently demonstrated when a $250,000 two-story bank and office building was constructed in that block.)

Village activities are legion. It continues to hold the 26th Street Art Mart. Just this spring it hosted its first house and garden tour. A neighborhood committee has sponsored a ballet for Village children. Residents troop to City Hall together when matters like zoning changes threaten. Miss Darin, of course, continues to publish her newsletter, and she and Mrs. Francis W. Buschman, another long-time resident, have compiled two histories of the neighborhood.

The histories' performance in bookstores has surprised everybody, because they were not really written to be best-sellers. "One of the first things we had to do when we started this," Miss Darin said, "was to devise something for the older residents to do, to keep them busy so they wouldn't sit around and worry—you know, about the hippie next door. So we got them to contribute to the Village the one thing only they can contribute: their memories."

So far, 36 pages of mimeographed memories have been published. As does any collection of tradition and lore, the compilations have helped unite the community. They have created a common heritage with which the individuals who collectively comprise one of Baltimore's most heterogeneous neighborhoods can all identify.

Diversity, indeed, is a Village hallmark. Many of the younger residents come from small towns. Most of the older folks are veteran urbanites. The Village has scholars, professional people, emigrants from Appalachia, artists and blue collar workers; whites and blacks; Orientals and Indians, many of whom are graduate students at Hopkins. It contains probably the largest concentration of liberal organizations in the city. It harbors at least one commune. There are Union Memorial Hospital nurses and interns and a host of undergraduates from colleges and universities all over the city. There is an increasingly large population of young marrieds, and there is what must be the biggest colony of elderly widows in the metropolitan area. Drug stores which in other parts of town would mount displays of suntan lotion and paper party packs instead stack arrangements of canes and bedpans.

"This is probably the only area in the city that could accommodate such diversity," noted William Robinson, the 29-year-old Village bookseller who has published the Buschman-Darin memory compilations. "There is such a strong sense of community that even though people disagree there remains a definite identification with Charles Village." And people *do* disagree.

"What we had here some years ago," recalled Miss Darin, "was a peace and quiet, an attitude of live and let live. It was the peace of the graveyard, but it wasn't neighbor-against-neighbor like it was in Bolton Hill. But as I told my sister: If we succeed in waking this neighborhood up, we will sacrifice its peace. If we get rid of apathy, we'll get factionalism in its place. But at least instead of having a dead human situation we'll have a living human situation."

Neighbor has now faced neighbor on a number of issues. One of the first confrontations came when Chip House, a halfway house for alcoholics, sought to establish itself in the Village. (The question, fought fervently, was resolved in favor of Chip House after one of its residents risked his life to save a relative of one of the most violent opponents from a burning building.) Villagers have also differed regarding the still-undetermined height of a low-to-moderate-income public housing tower for the elderly which HCD intends to build on the corner of Howard and 29th Streets.

Opposing positions are now being taken on the question of just how many houses can be converted to apartments without jeopardizing the Charles Village concept. Some residents feel the neighborhood will choke of overpopulation if many more homes are converted. Others are themselves accumulating houses and sectioning them as investments, realizing that as long as Hopkins has a dearth of dormitory space there will be a demand for nearby apartments.

(Fortunately, two of the four or five biggest owners of apartments live right in Charles Village and show a resident's concern for their properties. Two others live nearby and make Charles Village their offices during the work-week, overseeing their units personally. Real estate investment in the Village seems for the most part to be of the long-term development variety rather than the short-term "bleed it for all it's worth" type that has sucked the life from so many of Baltimore's rows.)

In another area, there is a difference of opinion concerning the Village's racial "problem."

"A lot of people are concerned with keeping it white," Mr. Robinson said. "They're afraid that if Negroes move in property values will drop, which may be the case. But many of us don't think that should be the primary consideration."

"There is a feeling among many Villagers that the blacks are unwanted," added the Rev. D. B. Lowe, minister of St. John's. "But they would feel that I am biased in thinking that they don't want them here."

Actually, it is questionable whether the Negroes in the Charles Village area identify with the Village at all. Concentrated in the lower blocks of Guilford and Abell Avenues, they recently formed their own neighborhood organization, The Guilford Avenue Association. W. C. McCaine is its president. Asked if his members felt themselves part of Charles Village, Mr. McCaine's reply left a lot unsaid: "Well . . . uh . . . in a way yes; in a way no."

The two associations have worked together on some issues—particularly on the as yet unresolved question of zoning changes which would permit higher densities. "But it would certainly improve the community if both would work more closely," Mr. Lowe stated.

Although the factionalism Miss Darin predicted has occurred, it seems to have occurred without any attendant animosity. "One of the remarkable things about the Village is the tremendous diversity of people who are communicating well with each other," she now says.

One of the reasons they are communicating well is the "we're all in this together" feeling that prevails in the Village. With such an attitudinal catalyst at work, residents can band together to counter the common problems that face them. One of the most pressing is the school situation.

Two elementary schools serve the children of Charles Village: P.S. 53 (Margaret Brent) and P.S. 54 (Barclay). Neither scored too well on a recent city-wide measurement of reading achievement. Both fell just below the city median. Both are racially balanced, but both are overcrowded. Both have unwieldly pupil-teacher ratios—over 30 students for each teacher; and Barclay, although a relatively new school, has one of the smallest teacher-aide staffs in the city. Everyone realizes that something must be done about the schools if Charles Village is to continue to attract young, middle-income couples who are concerned about the education of their children. Something is being done.

There exists an active education committee headed by Dr. John Neff, a pediatrician on the Hopkins staff. The parents of three young children, Dr. and Mrs. Neff chose to move to Charles Village because, as Dr. Neff explained, they discovered there "people like ourselves who were looking for a place to move into and help develop, help create. In part it was an anti-suburban move on both our parts. We disliked the ethnic and socio-economic homogeneity we found in suburbia.

"I think," he added, "that living in the city will broaden our children's horizons. As far as their understanding of their fellow human beings, it is terribly important for them to learn that there are people of many different types and backgrounds." But there remain the weaknesses of the Village's public schools.

In its efforts to upgrade the quality of Village education, Dr. Neff's committee (which is structured as a corporation for fund-raising purposes) has encouraged the program of tutorials being conducted at St. John's for youngsters with reading problems by neighborhood volunteers. It is working to transform Barclay into a community school, and it is trying to raise money for the installation of a creative playground at Margaret Brent which will feature a climbing apparatus that can be transformed into a stage.

What Dr. Neff sees as a giant step in the improvement of the two schools has been made by The Johns Hopkins University. Recently the university announced that it would offer tuition-free courses leading to masters degrees to Brent and Barclay faculty members.

"We hope that the program will serve as an incentive for good teachers to stay at our schools—and for them to come here," Dr. Neff said. "About a third of the teachers at each school are taking advantage of the program now."

That move on the part of Hopkins, even

though the idea was generated within Neff's committee, has been greeted with hallelujahs by Charles Villagers. It has been taken as a sign that the university, for the first time in almost a century, may be preparing to leave its hill and involve itself with its community. They see it as an initial attempt on the part of Hopkins to prevent upper Charles Street from going the way of Broadway.

Hesitant indication of just such an intention came four years ago when Hopkins begat The Greater Homewood Community Project to investigate what a project spokesman called "an obvious deterioration of the area." Greater Homewood as then defined included Guilford, Tuscany-Canterbury, Homewood, Charles Village, Remington, Hampden, Wyman Park, and parts of Roland Park and Waverly—neighborhoods that obviously share little except proximity to Homewood Campus. Nonetheless, after many meetings of neighborhood and university representatives, it was agreed to continue the amalgamation in the form of a corporation. The Greater Homewood Community Corporation was announced last year.

"It is a model program that is being looked at all over the country," boasted Mrs. Dea A. Kline, who served as director of the project and who is watching over its offspring, the corporation, until an executive director is hired.

"We are very concerned about Charles Village," she said. Charles Village is on the firing line, facing pressures to go commercial and to increase in density. We are concerned with those pressures because they tend to erode the very solid residential base that Charles Village does now have. We look upon it as a very important community in relation to the university. After all, so many of our students do live there."

At the moment there is a good deal of mutual back-slapping on the part of the university and some Charles Villagers. Dr. Neff, for instance, points out that his education committee originated within the Greater Homewood Project. He notes too, that the university was gracious enough to allow his committee to use Shriver Hall for its benefit ballet. Mrs. Kline, in turn, praises the Village as a "valiant effort" and "a concept for an intellectual revival."

But to a contingent of Villagers who see the GHC as a token effort and little more, Hopkins still has to prove its sincerity. Said one, indignantly, "It just kills us to see all that money being spent for nobody knows what. [Hopkins is granting the corporation $20,000 a year.] If they'd put it in the schools, the sky would be the limit. Charles Village is Greater Homewood's real source of enthusiasm and action, yet Dea Kline is up there acting like Lady Bountiful. Do you know what she did last year? She had the Guilford Garden Club come down to St. John's to teach *us* how to make Christmas greens! And they want us to get a neighborhood mayor's station, or whatever you call it. That just assumes that we don't have sense enough to pick up the telephone and dial City Hall!"

It has been suggested by some Villagers—and by some frustrated would-be Villagers as well—that if Hopkins really wants to contribute to the rooting and nurture of Charles Village, it could start by using its influence and perhaps some of its money to make it easier for people committed to the Village concept to buy homes in the area, something it is now almost impossible to do without down payments of 40 per cent or more.

Charles Villagers are caught in an ironic sort of pinch. To the north of them, in areas where incomes are considerably higher than theirs, down payments are lower and F.H.A. insured mortgages are relatively easy to get. Beside and to the south of them, closer to the inner city, there are houses in dire need of rehabilitation, just as there are in Charles Village itself. In many of the inner city areas, three per cent federal loans—and, in some cases, out and out grants—are available to property owners who wish to rehabilitate. Few do. In Charles Village, however, where people of moderate means are trying both to buy and to rehabilitate, no federal monies are available, F.H.A. insured loans are extremely hard to come by, and conventional mortgage money is painfully expensive. ("If lending institutions are going to discriminate against the city, that's their prerogative," one local realtor stated matter-of-factly.)

The condition has thwarted a number of families. "It seems like it's easier to buy an expensive new Cadillac than a cheap antique Ford you want to fix up," grumbled a young decorator who, frustrated in his attempts to get an F.H.A. loan for a Charles Village house, bought instead—and quite easily—a more costly but smaller home a few blocks north.

Of course, many people attracted to the Village sweat through the difficulties and manage to buy anyway. "You just expect to have to make a big down payment," one young homeowner said. "You have to put off the renovations or do them yourself."

As an encouraging sign, however, some of the lenders located in the Village itself—perhaps because they are in a better position to see what is happening there—are beginning to make money available to people who intend to buy and rehabilitate. (Practically every Villager mentions Homeseekers' Federal Savings and Loan Association in this connection.) "But we sure could use more help from the major lending institutions," one property owner lamented.

The financing problem is, of course, typical of what Charles Villagers have been facing throughout their three-year private urban renewal project. The solutions they have reached, the strides they have made, have been accomplished largely on their own, with practically no outside help. In that respect Charles Village represents a continuation of the country's fokloric tradition of self-reliance and individual enterprise.

In another respect, however, the Charles Village phenomenon hints of something new. It suggests a moderation of American attitude toward cities. As New York's Mayor John V. Lindsay recently observed, Americans historically have considered the city a suspect institution. "The city has seemed to many of our important and revered thinkers a condition to be avoided, not a problem to be solved," he has stated. "We Americans don't like our cities very much."

But neighborhoods like Charles Village—and Bolton Hill and Seton Hill, and Society Hill in Philadelphia and Church Hill in Richmond and Beacon Hill in Boston and all the other Hills wherever about the country they may be—may prove him wrong. Drawn to metropolitan areas in ever-increasing numbers by job opportunities, Americans may finally be resolving to come to grips with the urban environment in which they must live and work rather than continue their frustrating attempts to escape it. Even now the "vanguard of the Hills" are creating within their respective cities well-defined neighborhoods which, while providing each resident a milieu in which he can pursue his individual goals, also provide him the society—and the strength and security—of community. The city may indeed be the new frontier. If in fact it is, Charles Village will have had the distinction of being one of its pioneer settlements.

TRIBUTE TO POLICE CHIEF HENRY F. MILLER, JR., WEST WARWICK, R.I.

Mr. PELL. Mr. President, I wish to commend Police Chief Henry F. Miller, Jr., of West Warwick, R.I., for two outstanding acts of heroism within the past 10 days.

Henry Miller, whom I know and respect, on two occasions, at great personal risk to himself, unarmed confronted first, a man armed with a rifle; and second, a number of people in a house from which shots were fired, which, it was later determined, were blanks.

In these unhappy times when we hear much criticism of our police authorities, whose obligation and responsibility it is to maintain law and order, it is all too rare that those of us in a position of responsibility take the opportunity to commend our police officers who daily risk their lives and bring to a successful conclusion the maintenance of order in a community without bloodshed.

Chief Miller, a 36-year police veteran, exemplifies the character of the type of policeman we so much admire. In praising him, I wish to point out that he is representative of thousands of policemen who prevent crime and violence from occurring in our society, but not without great personal sacrifice and risk.

I salute him for his courage and good judgment and hope that he will continue to serve the community of West Warwick and its citizens for many years.

COMMITTEE FOR CONTINUED U.S. CONTROL OF THE PANAMA CANAL

Mr. THURMOND. Mr. President, last week I presented to the Senate an article from Human Events carrying reports that discussions were being reopened relative to renegotiating treaties. In my opinion, such an effort is sheer folly, given the present circumstances in world affairs and the international threats which we face.

Today, Mr. President, I am happy to announce that a very distinguished committee of scholars, engineers, and men with a practical interest in canal affairs has been formed to express their combined wisdom and experience on this important matter. This group is called the Committee for Continued U.S. Control of the Panama Canal. The committee comes out clearly against renegotiation of the treaties and in support of the plan for the modernization of the canal according to the Terminal Lake-Third Locks plan, which is embodied in my bill, S. 2228.

In looking over the names of this committee, I cannot think of a group which would have more expertise and more understanding of the manifold problems involved in the canal. There is Dr. Karl Brandt, who was formerly Chairman of the President's Council of Economic Advisers. There is Dr. John C. Briggs, who has done magnificent work in pointing out the ecological problems which would be created by a sea-level canal. There is Dr. Donald M. Dozer, a distinguished historian and authority on Latin America, who has written widely on canal problems. There is Maj. Gen. Thomas A. Lane, former Commissioner of the District of Columbia and an Army engineer. There is Dean Edwin J. B. Lewis of George Washington University, who is president of the Panama Canal Society of Washington, D.C. There is Vice Adm. T. G. W. Settle, who was formerly Commander of the Amphibious Forces in the Pacific. There is Brig. Gen. Herbert D. Vogel, who was formerly Deputy Governor of the Panama Canal Zone.

In citing these names by random, I do not mean to diminish the importance of the other distinguished members of this panel, all of whom have had intimate experience with the canal from the standpoint of engineering, navigation, history, politics, economics, geology, and business experience. I refer my colleagues to the complete list which includes professors, engineers, general officers, and naval officers of flag rank.

This distinguished committee has prepared a memorial to the Members of the Congress of the United States. This memorial succinctly recapitulates the history of our investment in the Canal Zone.

In connection with attempts to reopen treaty negotiations I call attention to paragraph 7 of this memorial which says:

> All of these facts are paramount considerations from both U.S. national and international viewpoints and cannot be ignored, especially the diplomatic and treaty angles. In connection with the latter, it should be noted that the original Third Locks Project, being only a modifiation of the existing Canal, and wholly within the Canal Zone, did not require a new treaty with Panama. Nor, as previously stated, would the Terminal Lake-Third Locks Plan require a new treaty.

I also call attention to paragraph 14 which says:

> The Panama Canal is a priceless asset of the United States, essential for interoceanic commerce and Hemispheric security. Clearly, the recent efforts to wrest its control from the United States trace back to the 1917 Communist Revolution and conform to long range Soviet policy of gaining domination over key water routes as in Cuba, which flanks the Atlantic approaches to the Panama Canal, and as was accomplished in the case of the Suez Canal. The real issue as regards the Canal Zone and Canal sovereignty is not United States control *versus* Panamanian, but United States control *versus* Communist control. This is the subject that should be debated in the Congress, especially in the Senate.

This memorial concludes by calling upon Congress to enact the measures for the major modernization of the existing Panama Canal, as embodied in my measure, S. 2228.

Mr. President, I ask unanimous consent that the memorial to Congress issued by the Committee for Continued U.S. Control of the Panama Canal, with the list of signers, be printed in the RECORD.

There being no objection, the memorial was ordered to be printed in the RECORD, as follows:

MEMORIAL TO THE CONGRESS

Honorable Members of the Congress of the United States, the undersigned, who have studied various aspects of interoceanic canal history and problems, wish to express our views:

1. The construction by the United States of the Panama Canal (1904–1914) was one of the greatest works of man. Undertaken as a long-range commitment by the United States in fulfillment of solemn treaty obligations (Hay-Pauncefote Treaty of 1901) as a "mandate for civilization" in an area notorious as the pest hole of the world and as a land of endemic revolution, endless intrigue and governmental instability (Flood, "Panama: Land of Endemic Revolution . . ." Congressional Record, vol. 115, pt. 17, pp. 22845–22848). the task was accomplished in spite of physical and health conditions that seemed insuperable. Its subsequent management and operation on terms of "entire equality" with tolls that are "just and equitable" have won the praise of the world, particularly countries that use the Canal.

2. Full sovereign rights, power and authority of the United States over the Canal Zone territory and Canal were acquired by treaty grant from Panama (Hay-Bunau-Varilla Treaty of 1903), all privately owned land and property in the Zone were purchased from individual owners, and Colombia, the sovereign of the Isthmus before Panama's independence, has recognized the title to the Panama Canal and Railroad as vested "entirely and absolutely" in the United States (Thomson-Urrutia Treaty of 1914–22).

3. The gross total investment of our country in the Panama Canal enterprise, including its defense, from 1904 through June 30, 1968, was $6,368,009,000; recoveries during the same period were $1,359,931,421, making a total net investment by the taxpayers of the United States of more than $5,000,000,000. Except for the grant by Panama of full sovereign powers over the Zone territory, our Government would never have assumed the grade responsibilities involved in the construction of the Canal and its later operation, maintenance, sanitation, protection and defense.

4. In 1939, prior to the start of World War II, the Congress authorized, at a cost not to exceed $277,000,000, the construction of a third set of locks known as the Third Locks Project, then hailed as "the largest single current engineering work in the world." This Project was suspended in May 1942 because of more urgent war needs, and the total expenditures thereon were $76,357,405, mostly on lock site excavations at Gatun and Miraflores, which are still usable. Fortunately, no excavation was started at Pedro Miguel. The current program for the enlargement of Gaillard Cut is scheduled to be completed in 1970 at an estimated cost of $81,257,097. These two projects together represent an expenditure of more than $157,000,000 toward the major modernization of the existing Panama Canal.

5. As the result of canal operations during the crucial period of World War II, there was developed in the Panama Canal organization the first comprehensive proposal for the major operational improvement and increase of capacity of the Canal as derived from actual marine experience, known as the Terminal Lake-Third Locks Plan. This conception includes provisions for:

(1) Elimination of the bottleneck Pedro Miguel Locks.

(2) Consolidation of all Pacific Locks South of Miraflores.

(3) Raising the Gatun Lake water level to its optimum height (about 92').

(4) Construction of one set of larger locks.

(5) Creation at the Pacific end of the Canal of a summit-level terminal lake anchorage for use as a traffic reservoir to correspond with the layout at the Atlantic end, to permit uninterrupted operation of the Pacific locks during fog periods.

6. Competent, experienced engineers have officially reported that "all engineering considerations which are associated with the plan are favorable to it." Moreover, such solution:

(1) Enables the maximum utilization of all work so far accomplished.

(2) Avoids the danger of disastrous slides.

(3) Provides the best operational canal practicable of achievement with the certainty of success.

(4) Preserves and increases the existing economy of Panama.

(5) Avoids inevitable demands for damages that would be involved in a Canal Zone sea level project.

(6) Averts the danger of a potential biological catastrophe with international repercussions that would be caused by removing the fresh water barrier between the Oceans.

(7) Can be constructed at "comparatively low cost" without the necessity for negotiating a new canal treaty with Panama.

7. All of these facts are paramount considerations from both U.S. national and international viewpoints and cannot be ignored, especially the diplomatic and treaty angles. In connection with the latter, it should be noted that the original Third Locks Project, being only a modification of the existing Canal, and wholly within the Canal Zone, did not require a new treaty with Panama. Nor, as previously stated, would the Terminal Lake—Third Locks Plan require a new treaty.

8. In contrast, the persistently advocated and strenuously propagandized Sea-Level Project at Panama, initially estimated in 1960 to cost $2,368,500,000, exclusive of indemnity to Panama, has long been a "hardy perennial," and according to former Governor of the Panama Canal, Jay J. Morrow, it seems that no matter how often the impossibility of realizing any such proposal within practicable limits of cost and time is demonstrated, there will always be someone to argue for it; and this, despite its engineering impracticability. Moreover, any sea-level project, whether in the U.S. Canal Zone territory or elsewhere, will require a new treaty or treaties with the countries involved in order to fix the specific conditions for its construction, and this would involve a huge indemnity and a greatly increased annuity that would have to be added to the cost of construction and reflected in tolls, or be wholly borne by the United States taxpayers.

9. Starting with the 1936–39 Treaty with Panama, there has been a sustained erosion of United States rights, powers and authority on the Isthmus, culminating in the completion in 1967 of negotiations for three proposed new canal treaties that would:

(1) Surrender United States sovereignty over the Canal Zone to Panama;

(2) Make that weak, technologically primitive and unstable country a partner in the management and defense of the Canal;

(3) Ultimately give to Panama not only the existing Canal, but also any new one constructed in Panama to replace it, all without any compensation whatever and all in derogation of Article IV, Section 3, Clause 2 of the U.S. Constitution. This provision vests the power to dispose of territory and other property of the United States in the entire Congress (Senate and House) and not in the treaty-making power of our Government (President and Senate).

10. It is clear from the conduct of our Panama Canal policy over many years that policy-making elements within the Department of State have been, and are yet engaged in efforts which will have the effect of diluting or even repudiating entirely the sovereign rights, power and authority of the United States with respect to the Canal and of dissipating the vast investment of the United States in the Canal Zone project. Such actions would eventually and inevitably permit the domination of this strategic

waterway by a potentially hostile power that now indirectly controls the Suez Canal. That canal, under such domination, ceased to operate in 1967 with vast consequences of evil to world shipping.

11. Extensive debates in the Congress over the past decade have clarified and narrowed the key canal issues to the following:

(1) Retention by the United States of its undiluted and indispensable sovereign rights, power and authority over the Canal Zone territory and Canal, and

(2) The major modernization of the existing Panama Canal. Unfortunately, these efforts have been complicated by the agitation of Panamanian extremists, aided and abetted by irresponsible elements in the United States which aim at ceding to Panama complete sovereignty over the Canal Zone and, eventually, the ownership of the existing Canal and any future canal in the Zone or in Panama that might be built by the United States to replace it.

12. In the First Session of the 91st Congress identical bills were introduced in both House and Senate to provide for the major increase of capacity and operational improvement of the existing Panama Canal by modifying the authorized Third Locks Project to embody the principles of the previously mentioned Terminal Lake solution.

13. Starting on October 27, 1969 (Theodore Roosevelt's birthday), more than 100 Members of Congress have sponsored resolutions expressing the sense of the House of Representatives that the United States should maintain and protect its sovereign rights and jurisdiction over the Panama Canal enterprise, including the Canal Zone, and not surrender any of its powers to any other nation or to any international organization.

14. The Panama Canal is a priceless asset of the United States, essential for interoceanic commerce and Hemispheric security. Clearly, the recent efforts to wrest its control from the United States trace back to the 1917 Communist Revolution and conform to long range Soviet policy of gaining domination over key water routes as in Cuba, which flanks the Atlantic approaches to the Panama Canal, and as was accomplished in the case of the Suez Canal. The real issue as regards the Canal Zone and Canal sovereignty is not United States control *versus* Panamanian, but United States control *versus* Communist control. This is the subject that should be debated in the Congress, especially in the Senate.

15. In view of all the foregoing, the undersigned urge prompt action as follows:

(1) Adoption by the House of Representatives of pending Panama Canal sovereignty resolutions; also similar action by the Senate.

(2) Enactment by the Congress of pending measures for the major modernization of the existing Panama Canal.

To these ends, we respectfully urge that hearings be promptly held on the indicated measures and that Congressional policy thereon be determined for early prosecution of the vital work of modernizing the Panama Canal, now approaching capacity saturation.

Dr. Karl Brandt, Palo Alto, Calif. Economist, Hoover Institute, Stanford, Calif., Formerly Chairman, President's Council of Economic Advisers.

Dr. John C. Briggs, Tampa, Fla. Chairman, Department of Zoology, University of South Florida.

William B. Collier, Santa Barbara, Calif. Business Executive with Background of Engineering and Naval Experience.

Dr. Lev E. Dobriansky, Alexandria, Va. Professor of Economics, Georgetown University.

Dr. Donald M. Dozer, Santa Barbara, Calif. Historian, University of California. Authority on Latin America.

Cmdr. Carl H. Holm, Miami Beach, Fla. Business Executive, Naval Architect and Engineer.

Dr. Walter D. Jacobs, College Park, Md. Professor of Government and Politics, University of Maryland.

Maj. Gen. Thomas A. Lane, McLean, Va. Engineer and Author.

Dean Edwin J. B. Lewis, Washington, D.C. Professor of Accounting, George Washington University. President, Panama Canal Society, Washington, D.C.

Dr. Leonard B. Loeb, Berkeley, Calif, Professor of Physics, University of California.

Howard A. Meyerhoff, Tulsa, Oklahoma. Consulting Geologist. Formerly Head of Department of Geology, University of Pennsylvania.

Richard B. O'Keeffe, Washington, D.C. Assistant Professor, George Mason College. Formerly Research Associate, The American Legion.

William E. Russell, New York, N.Y. Lawyer, Publisher and Business Executive.

Capt. C. H. Schildhauer, Owings Mills, Md. Aviation Executive.

V.Ad. T. G. W. Settle, Washington, D.C. Formerly Commander, Amphibious Forces, Pacific.

Harold L. Varney, New York, N.Y. Editor, Authority on Latin American Policy. Chairman, Committee on Pan American Policy.

B. Gen. Herbert D. Vogel, Washington, D.C. Consulting Engineer. Formerly Deputy Governor, Panama Canal Zone.

R.Ad. Charles J. Whiting, La Jolla, Calif. Attorney at Law.

(Note.—Institutions are listed for identification purposes only.)

HAROLD BRAGER: A TRIBUTE TO A CIVIL SERVANT

Mr. TYDINGS. Mr. President, today I have the privilege of paying tribute to an outstanding example of what a civil servant should be.

Recipient of the Maryland First Civil Servant of the Year Award in the nonscientific area, Harold Brager has been an employee of the Internal Revenue Service for the past 7 years.

His success can perhaps be attributed to his ideal combination of organizational and investigative abilities and a knack for dealing with people in a field where tact is a necessary attribute.

An active participant in his community, Brager also manages to devote his attention to outside philanthropies, particularly the prevention of children's diseases.

I ask unanimous consent that an article from the News American of May 1, 1970, concerning the achievements of Mr. Brager be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

FEB Honors Civil Servants

(By Ned Young)

The recipients of the first Civil Servant of the Year Awards for the State of Maryland to be sponsored by the Federal Executive Board in Baltimore are George Friedman of Social Security and Harold Brager of the Internal Revenue Service.

Presentation was made by Senator Charles McC. Mathias (R-Md.) and Colonel Paul R. Cerar, president of the FEB, at a luncheon attended by some 250 civil servants of the Baltimore District in the Statler-Hilton Hotel in Baltimore.

Friedman and Brager were selected from among seven finalists that had been picked by a special committee from a large number of nominees sent in by various federal agencies.

Senator Mathias, who was guest speaker, noted that there are some 63,000 federal employes working in Maryland.

Nominees were divided into two categories. non-scientific and scientific.

Brager, winner in the non-scientific category, joined the Internal Revenue Service July 1, 1963 as an intern and within a three-year period progressively advanced to become a senior revenue officer.

In nominating him for the award, the IRS states in part as follows:

"The Taxpayer Delinquent Accounts assigned to our nominee are consistently difficult or sensitive. He can be relied upon to initiate effective collection measures as well as dispose of troublesome collateral investigations.

"He effectively manages and utilizes his work schedules and consistently applies tact, patience and investigative abilities which result in the successful closing of a large number of cases."

Brager is also cited for extensive involvement in activities for the prevention of children's diseases.

The scientific winner, Friedman, is an assistant bureau director of the Social Security Administration at the agency's national headquarters near Baltimore.

A native of New York City, Friedman began his federal career with the Justice Department in 1935 and transferred to Social Security the following year.

The agency credits him with developing a cost reduction plan that will save the government more than $5 million during the current fiscal year alone.

The plan, declares Social Security, will also result in considerable savings to other federal and state agencies.

Senator Mathias arrived late for the luncheon and explained he had been detained at a meeting of the Senate Judiciary Committee of which he is a member.

"You know what we were doing, and this time I think we've got one," he asserted, referring, of course, to Judge Harry A. Blackmun, the latest candidate for the Supreme Court.

In his talk, the senator paid tribute to the entire federal family.

"The President of the United States is a human being, the same as the rest of us. However, he can depend upon some three million persons for advice and help in achieving the nation's aims. The image of the government worker having it easy is wrong. We owe the Civil Service a debt of recognition," he declared.

United States Marshal Frank Udoff was chairman of the luncheon. Co-chairman and toastmaster was C. Temple Thomason, deputy director of the Veterans' Administration Hospital in Baltimore.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business, If not, morning business is closed.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970—CONFERENCE REPORT

Mr. TYDINGS. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two

Houses on the amendments of the Senate to the amendments of the House to the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. McGovern). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

PRIVILEGE OF THE FLOOR

Mr. TYDINGS. Mr. President, I ask unanimous consent that for the duration of the debate on the conference report on S. 2601, the District of Columbia Court Reform and Criminal Procedures Act of 1970, the following members of the District of Columbia Committee staff have the privileges of the floor without regard to the usual maximum limitation of two staff members' presence on the floor:

John McEvoy, Wesley S. Williams, Jr., James Davenport, Ted Maeder, Karen Williams, and James Medill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. TYDINGS. I yield.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum; and this may well be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 246 Leg.]

Aiken
Allen
Baker
Bayh
Boggs
Burdick
Byrd, Va.
Byrd, W. Va.
Case
Curtis
Ellender
Ervin
Goodell
Griffin
Gurney
Hansen
Hatfield
Holland
Hollings
Hruska
Hughes
Jackson
Javits
Jordan, N.C.
Kennedy
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Moss
Murphy
Pastore
Pell
Prouty
Schweiker
Sparkman
Stennis
Stevens
Symington
Talmadge
Tydings
Williams, Del.
Young, N. Dak.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Idaho (Mr. Church), the Senator from Connecticut (Mr. Dodd), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Tennessee (Mr. Gore), the Senator from Hawaii (Mr. Inouye), the Senator from New Mexico (Mr. Montoya), the Senator from Texas (Mr. Yarborough), and the Senator from Ohio (Mr. Young) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. Mondale) and the the Senator from Wyoming (Mr. McGee) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. Allott) is absent by leave of the Senate on official business.

The Senator from Massachusetts (Mr. Brooke) is absent on official business.

The Senator from Kentucky (Mr. Cook), the Senator from New Hampshire (Mr. Cotton), the Senator from Colorado (Mr. Dominick), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Hawaii (Mr. Fong), and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The Senator from South Dakota (Mr. Mundt) and the Senator from Maine (Mrs. Smith) are absent because of illness.

The PRESIDING OFFICER. (Mr. Hansen). A quorum is not present.

Mr. BYRD of West Virginia. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Anderson
Bellmon
Bennett
Bible
Cooper
Cranston
Dole
Fulbright
Gravel
Harris
Hart
Hartke
Jordan, Idaho
Long
Magnuson
McCarthy
McClellan
Miller
Muskie
Nelson
Packwood
Pearson
Percy
Proxmire
Randolph
Ribicoff
Russell
Scott
Smith, Ill.
Spong
Thurmond
Tower
Williams, N.J.

The PRESIDING OFFICER (Mr. Hansen). A quorum is present.

UNANIMOUS-CONSENT AGREEMENT TO DISPENSE WITH THE PRINTING OF CONFERENCE REPORT IN THE RECORD

Mr. BYRD of West Virginia. Mr. President, in view of the great length of the conference report on the bill (S. 2601), which might cover as many as 160 pages of the Congressional Record, I ask unanimous consent to dispense with the printing of the conference report in the Record.

The PRESIDING OFFICER (Mr. Hansen). Is there objection? The Chair hears none, and it is so ordered.

Mr. TYDINGS. Mr. President, today the Senate begins final action on President Nixon's District of Columbia crime legislation. This conference report on S. 2601 combines five of the President's anticrime bills into a single package: Court reform for the District of Columbia, creation of a permanent Public Defender Agency, Bail Agency expansion, juvenile court procedure revision, pretrial detention for dangerous criminal defendants, and a number of reforms of the criminal laws and statutes of the District of Columbia.

This legislation will mark the second of President Nixon's crime bills to pass the Congress. Earlier this year it was my pleasure to manage the passage of S. 952, the first of the President's crime bills to be enacted by Congress. That omnibus judgeship bill significantly increases the Federal judicial manpower available to try both criminal and civil cases.

Mr. President, no one doubts the need for prompt enactment of District of Columbia crime legislation. More than 56,000 felonies were reported in this city last year, but scarcely more than 1,400 felony convictions were obtained in the District's courts during the same period. The number of felonies reported in the District has risen 122 percent in the last 5 years, while the percentage of convictions obtained each year has actually decreased during the same period.

This conference bill is a sound, effective, constitutional, and fully safeguarded response to this crime crisis.

The debate in the Senate will be a thorough one extending over several days. I anticipate that, at the conclusion of the debate, the bill will be approved by an overwhelming majority of the Senate. The bill deserves that overwhelming support.

I expect the debate will center on the pretrial detention provision of this legislation. In nearly overy other area, the bill simply enacts prior Supreme Court decisions or makes applicable to the District of Columbia legislation which Congress has previously enacted for the entire country.

In addition, it adopts reforms in the courts, the Bail Agency, and creates a Public Defender Service, provisions which are uniformly applauded by criminologists and others who are interested in improving our criminal justice system.

For example, the wiretap provisions of this legislation do not even extend as far as Congress authorized the States to go in the omnibus crime bill in 1968. In fact, the wiretap provisions of this bill are considerably tightened and more carefully safeguarded than is the 1968 act itself, which presently applies in the District of Columbia.

The minimum mandatory sentences provision of this legislation applies in no case to the first offender. As it applies to second and subsequent offenders, it is modeled on the provisions of the Federal Firearms Control Act the Senate overwhelmingly approved in 1968.

The no-knock warrant section of the legislation is simply a codification of longstanding Supreme Court decisions. In fact, this bill adds a very significant additional protection for privacy not contained in those prior decisions or in the law of the District of Columbia today: prior judicial supervision of no-knock entry in every possible case. It is a far better proposal insofar as the point of view of civil libertarians is concerned than presently exists under the law of the land as decided by the Supreme Court.

Most of the rest of this legislation was enacted by the Senate, without a dissenting vote, last fall when we passed our version of the President's District of Columbia crime legislation.

Only the pretrial detention section of this legislation has not previously been passed in one form or another by the Senate. Some Senators will oppose this provision.

I would hope that they would make their judgments on the facts and actual law as it is proposed by the conference report; and that they will consider the practice which has existed for hundreds of years in Great Britain and the practice which has existed in most of the Western World. Great Britain not only shares our legal traditions but, in fact, we borrowed verbatim from the British Bill of Rights relating to bail, in adopting the eighth amendment. I trust Senators will be fair enough to realize and admit that today in the United States we have pretrial detention in the courts of every State operating under the hypocrisy of a high money bail system, which discriminates against the poor and benefits the affluent and which does not provide for the many safeguards, including adversary proceedings or speedy trials, which are contained in this report.

I hope that each Senator will look at the facts in the report and in the Senate Statement of Managers. If they will, I am confident of the overwhelming support of the majority of the Senate for this provision of the bill.

Mr. President, some Senators will argue that even though a majority of the Senate supports this legislation, the Senate should reject it and send a halfway measure back to the House instead as an amendment to other legislation. I expect this strategy to be rejected by the Senate. But I must also warn that it is a dangerous delusion to believe that the House of Representatives, which approved this very bill yesterday by a vote of 5 to 1, is ever going to accept such legislation stripped of the few provisions which the House won in conference.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. HRUSKA. Could that so-called end run technique be engaged in under the present parliamentary situation? Is it not true that the alternatives available to this body are either to accept the report or to reject the report?

Mr. TYDINGS. The Senator is correct. The possibility that some Senators might offer parts of the District of Columbia crime conference report as an amendment to another District of Columbia bill, or as an amendment to another piece of legislation, in the hope that the legislation would then pass the House of Representatives and be enacted into law is a very dangerous delusion.

Mr. HRUSKA. I am confident that that is the situation because of the advice of the Parliamentarian. If there is a rejection of the conference report for the purpose of later engaging in that end-run technique, then we run the high possibility of no crime bill for the District of Columbia during the remainder of this session of Congress. Is that correct?

Mr. TYDINGS. That is my judgment and I will speak to that point.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. TYDINGS. I yield for a question.

Mr. ERVIN. Mr. President, I wish to ask the Senator if this does not mean the Senate should not have a voice in the passage of this legislation but let the House of Representatives work its will, regardless of how the Senate feels about the matter. The Senator is arguing we must let the House have the only real representative voice in this matter and that Members of the Senate must not have a voice in it.

Mr. TYDINGS. Did the Senator ask me a question?

Mr. ERVIN. Yes; but I added a statement.

Mr. TYDINGS. I yielded for the purpose of a question. However, I accept the Senator's response. I must caution the Senator, however, that those members of the Senate conference who actually participated in our proceedings well remember the warning of the House conferees that if this bill goes back to conference, they will insist on amendments from top to bottom and will retract the numberless concessions the House made in its bill in order to achieve this conference report.

If this bill goes back to conference, the House will once again insist on minimum mandatory sentences for first offenders; the ill-advised transfer of the Lorton Reformatory; deletion of any money to pay for the bill; and restoration of the no-knock warrant features the Senate considers unconstitutional. And this will be just the beginning.

This conference bill represents the work of 3 months of grueling conference process in which good faith and flexibility were exercised by both sides. If it is rejected by the Senate now, in my judgment, no conference bill acceptable to the Senate will ever emerge.

And do not be fooled by some arguments that the House will accept a watered-down version of the District of Columbia crime bill tacked on as an amendment to some other legislation. Those members of the Senate conferees who actually participated in the conference proceedings will recall clearly the warning from the House side that they will block action in the House on any bill that attempts to circumvent the normal legislative processes and substitute a watered-down version of the District of Columbia crime bill.

Mr. President, I do not criticize the House conferees for these positions. They made enormous concessions to the Senate conferees in order to obtain this bill. They have no intention of now being circumvented or defeated on this bill. And neither do I.

There were times when I did not think we could get a good bill, but we prevailed and we did.

I want to take this opportunity to express my gratitude to Senators PROUTY, BIBLE and SPONG, whose support for returning a sound bill to the Senate permitted me the flexibility of negotiation necessary to achieve this conference report.

Our game plan has been to bring back to the Senate a sound bill, an effective bill, a constitutional bill which contains an effective, sound, and constitutional pretrial detention section. We have achieved this objective. In the end, after 24 long meetings of the conference we were able to agree on a bill which met the high standards I had defended throughout the conference.

Mr. President, we have known from the beginning that a bill containing pretrial detention would be opposed by some Senators who are irrevocably opposed to any formal pretrial detention. But we have also known the majority of Senators, just like the overwhelming majority of the House, favor a bill which includes pretrial detention.

This is the bill which is before the Senate. This is the bill which in a few days the President of the Senate will send to the President for his signature, if the conference report is agreed to.

I do not think any mistake should be made about it. If this bill fails, given the unequivocally clear attitude of the House, there will be no District of Columbia crime legislation in this Congress, particularly in view of the backlog of legislation already before both Houses, the elections, and the other procedural and personal difficulties connected with any type of end-run version of a District of Columbia crime bill in the House of Representatives.

Some—friends and critics alike—have actually suggested that we should not pass this bill at all—at least not now—because the division and suspicion surrounding it go so deep among law-abiding citizens.

But I reject this course. For, while I fully recognize the insensitivity of many administration policies, I believe this conference bill, the work product of 3 hard months, is a constitutional, sound, and urgently needed measure which will greatly strengthen the criminal justice system of the National Capital. While I understand the concern, even the fear, of citizens who do not understand this bill, I also recognize another kind of fear—the fear of unchecked crime which is ravaging the National Capital every day and night; ripping its social and economic structure to shreds; and viciously crippling and smashing lives, families and businesses, every hour of every day of the year.

To those who know this bill is sound, but say that we should not pass it, I say look to the morass of despair, terror, and fear into which the people of this city are sinking. Look at the barred windows of private homes, the deserted nighttime streets, the empty stores, the broken lives of crime's victims.

To those who say this bill is antiblack, I say crime in this 70-percent black city is antiblack. President Johnson's District of Columbia Crime Commission tells us that 86 percent of all District of Columbia murder victims are black; 86 percent of all aggravated assault victims are black; 80 percent of all rape victims are black; 66 percent of all auto theft victims are black; and 60 percent of all burglary victims are black. In fact, the only crime of violence which afflicts blacks and whites equally in this city is robbery.

To those who say the bill is repressive, I say study the actual conference report on the bill, and do not read the various statements and speeches made attacking the House version for the past 3 or 4 months. The conference version must stand on its own merits, and it should be judged by what is contained in it—not what was contained in the House version or other proposals. Study the conference report, and not speeches of political leaders in the District of Columbia or elsewhere.

If Senators will look at the bill, they will see that the court reform provisions should cut down pretrial delays by 75 percent.

They will see that updating half-century-old criminal statutes to conform to Supreme Court decisions in no way unwisely increases police powers.

They will see that the juvenile procedure sections will radically improve the treatment of juveniles caught up in the judicial system.

They will see that the wiretap section does not expand the present wiretap law in the District beyond the additional offenses Congress explicitly authorized local governments to cover in the 1968 Federal wiretap law now in force in the District.

They will see that it provides special protections for communications involving attorney-client, doctor-patient, pastor and member of his congregation, and husband-wife relationships, protections that do not exist in the House bill nor in the Federal wiretap law adopted by the Congress for the whole country in 1968. They will find that there are other protections not in the present law. Under the wiretap provisions in the conference report, it would be illegal to sell or manufacture purely locally electronic eavesdropping devices, to purchase them, or to possess them purely locally. There is no such District of Columbia law today.

Examine the "no-knock" warrant provision. See that it meets the standards of the unanimously passed Senate bill; that it does not expand on the existing law of the land as declared by the Supreme Court; and that it adds a new safeguard for privacy: prior judicial review of police intentions in every case possible.

The conference bill simply conforms the District of Columbia law on search and arrest with Supreme Court decisions which have been rendered since the statutes were last revised half a century ago. It simply states the conditions which the Supreme Court has already held permit a police officer to dispense with the standard notice of his identity and purpose when he serves a search or arrest warrant.

Nothing in the Conference bill in any way enlarges the authority of officers to search a place without a warrant. The Conference bill merely codifies the Supreme Court decision in Ker against California which specified that a police officer may enter premises without knocking, when an announcement of his presence and purpose would endanger his life or result in destruction of the evidence for which the court has authorized him to search.

In addition, the conference report, like the Senate bill, adds a protection for privacy which does not exist under the Supreme Court decisions or even in the law of Maryland. The bill requires prior judicial review of so-called no-knock entries whenever the officer knows in advance he may have difficulty in executing a search or arrest warrant. The bill provides that, when an officer knows beforehand that his life may be in danger or that evidence may be destroyed, he must seek specific authorization from a judge before he can enter the premises to be searched without knocking.

I might say that, in the great majority of such instances, the police officer would have that knowledge beforehand. In the case of getting an arrest warrant for a known dangerous individual, a person who is sure to injure a police officer in the execution of the warrant, when the officer has the information as to where that person is hiding, he will, at the same time, have ample information that he is a dangerous person certain to injure the police officer executing the arrest warrant. At the time that the police officer goes before the judge to get a search warrant on a gambling raid, he will undoubtedly have both the information, from stakeouts and otherwise, in order to get the warrant, and information that they will have the type of evidence which is readily destroyable and which will be destroyed if they follow their usual course of getting rid of the evidence when notice is given.

In effect, what we do in the conference report is insert judicial approval or judicial authority between the person who is going to be arrested or whose evidence is going to be taken, on the one hand, and the police officer on the other. We spell it out.

In the House statement language, Ker against California is made the governing decision. We have in the conference report the same basic proposal which passed the Senate without a dissenting vote, either in our committee or on the floor of the Senate. We, too, in the Senate statement insist on the Ker case.

What we are talking about are the conditions under which a warrant can be served. I do not believe that anyone would suggest a police officer must absorb a bullet in his stomach as the price for announcing his presence at the door of a known dangerous criminal, perhaps fleeing from a murder or robbery. Nor do I think anyone would suggest a policeman should have to stand helplessly by outside the door while he listens to heroin being flushed down the sink, or sees evidence of a numbers operation going up in smoke.

I think the decision in Ker against California was the right one; but the conference report follows, as well more recent case law including the Supreme Court's decision in Sabboth against United States.

The conference provision is an essential protection for the safety of police officers and a necessary measure to prevent the destruction of evidence in criminal cases.

It is more restrictive than the case law and procedure which has been followed in the States—the State of New York, the State of South Dakota, the State of South Carolina, and others—and it codifies and makes available for all concerned to see what the actual law is with respect to so-called "no knock" entries.

I hope that my colleagues will study pretrial detention proposals pending in the pretrial detention section. Examine its restriction to a specific, limited number of grave crimes—which is far more restrictive than the British or Canadian system. I would hope they would examine its guarantee of due process hearing procedures: right to counsel, a preliminary determination of guilt; quick appeal from a pretrial custody order, its expedited trial provisions within 60 days for affected defendants; and its provisions which would abolish the hypocritical approach, based on high money bail, taken by almost all courts without exception on the issue of detention because of dangerousness.

I hope my colleagues will compare the provisions of the conference proposal with the present situation in the District of Columbia, in which, according to the Bureau of Standards, 40 percent of all felony suspects in the District of Columbia during the period of the Bureau of Standards survey were detained by means of high money bail—a system which does not provide them any adversary proceeding, any right of appeal, or any speedy trial. Such defendants at present sit and cool their heels until either they came up with enough money or the trial process finally gets around to them, whether that is in 6 months, 12 months, or 18 months.

The pretrial detention provision of this legislation is not a new, unique, or original idea. It was recommended by President Johnson's D.C. Crime Commission in 1965. It has been endorsed by the relevant Committee of the Judicial Council of the District of Columbia. A similar proposal was introduced by me, before the Department of Justice proposal was introduced, after I had spent some weeks studying the British operation in 1967.

The British success with pretrial detention over hundreds of years demonstrates that a carefully safeguarded system can be consistent with the concepts of the Bill of Rights and still meet the public safety needs of a modern society. I hope Senators will recall that we had hearings in the Senate Committee on the District of Columbia, on the issue of pretrial detention, prior to the passage of the Senate District of Columbia crime bills. At that time, the Department of Justice stated that they did not wish a pretrial detention proposal in the Senate District of Columbia crime bills. We did not include one.

I brought to testify before our committee, at those hearings, Sir George Coldstream, the former Secretary to the Lord Chancellor, one of the leaders of the court reform movement in the free world, who was at that time lecturing in this country on court reform. I brought over Chief Magistrate Frank Milton, the Chief Metropolitan Magistrate of London and noted British Authority on commitment procedures, who came to explain how well it worked over there, to alleviate the fears of those in the community who are and were genuinely concerned.

We played a tape at the hearing of the Right Honorable Lord Denning, Master of the Rolls—third-ranking member of the judicial system in England—of a lecture he gave before the California Bar Association on the specific point of Congress. I should like to read from his remarks. This is found in the record of the District of Columbia hearings.

> Be it murder, rape, bank raid, or the like, in England we do not allow that man out on

bail; we keep him imprisoned pending his trial. It isn't necessary to show that he may abscond. If there is reason to think that he may make another offense, we do not let him out so that he may do it pending trial. We keep him in prison until he is tried.

But I believe here, and I have heard the controversy, that it is an unfair procedure; you are imprisoning him without trial; he has not been convicted; what right have you to imprison him like this pending trial?

In England we do. I think it is right, myself, but this is important: We make sure that he is tried speedily. In England, every man, after his arrest, we arrange for him to be tried within 8 weeks, the greatest length between arrest and trial.

I have been most interested to hear of the bill now before Congress in which proposals are made for preventive detention in this country providing always that the man is tried within 60 days. To my mind, our experience in England, we would have thought that very desirable. It is a matter of controversy for you, but I let out that thought because in our experience in England it is better for society that criminals or potential criminals should not be let loose pending trial. We do not let them out on bail, although we have in our bill of rights, like you, the prohibition against excessive bail being demanded.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. TYDINGS. I would rather wait until I have finished, and then I will yield for questions.

The concept of protecting the public against persons who might reasonably be believed or presumed to be dangerous is common in our country and perfectly consistent with our notions of individual freedom. There is no strong objection today to the detention of narcotics addicts for their own protection and that of the public. I do not think that anyone would suggest that persons believed to be mentally defective or dangerously unbalanced ought to be released rather than committed to an appropriate institution.

In fact, criminal suspects whom judges believe to be dangerous are detained before trial in every State in the union through the subterfuge of high money bond which the defendant cannot pay.

I believe that dangerous defendants should be held in custody before trial, or, at the very least, released under effective conditions that will protect the public.

But I do not think we should use the hypocritical high money bond system to achieve pretrial detention. Use of money bond unfairly penalizes the poor and does not deter the affluent. We should instead have the kind of carefully safeguarded pretrial detention system this conference bill proposes.

The conference bill's pretrial detention provision is fully constitutional. The eighth amendment to our Constitution was taken word for word from the British Bill of Rights. The British in effect wrote that eighth amendment. It was then submitted to the States for ratification as part of the Bill of Rights. At the same time Congress drafted the eighth amendment in the Bill of Rights, the Congress also drafted the first statutes with respect to bail; and they specifically provided that bail may be denied in capital cases. In those days, capital cases included most serious offenses.

Congress made it abundantly clear that it never intended the eighth amendment to keep a judge from jailing a defendant prior to trial. That First Congress, in the first Federal bail law, provided that a judge could refuse bail and jail any suspects accused of the most serious crimes then listed in their statutes.

The eighth amendment language on bail, I repeat, is taken directly from the British Bill of Rights, which has always been interpreted in that country to authorize pretrial detention of dangerous persons.

The law has been changed since our early colonial days. Since enactment of the Bail Reform Act in 1966, in which I took some part, the only ground for detaining criminal suspects in the District of Columbia is the possibility that they might not appear at trial. That is the only ground for setting any type of conditions on release. The basic concept of the bail reform bill—namely, the elimination of money to determine the appearance of a defendant at trial—I support. I was a cosponsor of that legislation, and I held a substantial number of hearings in my own subcommittee.

But I believe that additional bail reform is needed. I believe that our bail laws should make no distinction between the rich and the poor. But the bail law should make a clear distinction between the ordinary defendant and the defendant whose case and record demonstrates a high probability that if released he may very well commit a crime before trial on the original charge; and I think the Bail Reform Act needs an additional reform to take care of this situation.

When a judge has before him a man whose record supports a reasonable belief that he will commit a crime if released, the judge ought to be able to take more into account, when he determines bail, than whether the defendant will show up for trial even after further crimes have been committed. That is not enough. That does not give the judge the tools with which to protect the community.

The law in the National Capital presently provides that defendants must be released even if it is clear that they are likely to commit further crime. The law ought to be changed.

The law also says that no conditions can be set on the release of an individual, even if it is clear that he is likely to commit another crime, so long as the judge feels that he is going to show up in court when his trial is called. That law ought to be changed in reform.

Some have suggested that the amount of serious crime committed by those released under the present law is so statistically insignificant as to make new legislation providing for pretrial detention unnecessary.

I disagree on that issue as well.

Whatever the percentage of crime committed by suspects released awaiting trial, it is no consolation to the dead store owner or his family, or to the victim of rape, or to the robbed, wounded, maimed, and terrorized citizens against whom these crimes have been committed that their experience is part of what some people would call a "statistically insignificant number of crimes."

I do not think that any Member of the Senate would wish to change places with the District of Columbia busdriver who, on the night of March 12, 1968, was threatened with having his throat slashed by a robber who, only 10 days before, had been released without bail after he had robbed another busdriver only a few blocks away. Subsequently, the accused was convicted of both offenses.

I do not think any Member of the Senate would wish to change places with the downtown bank teller who, on the morning of May 4, 1968, faced down the barrel of a pistol held by a thug who had robbed a Safeway store 4 months earlier, but had been released without bond? He was subsequently convicted of both crimes.

I do not believe anyone here would want to change places with the young woman who was choked and raped in her own apartment near Capitol Hill on June 11, 1968, by an assailant who, 3 weeks later, after he was released without bond on the rape case, appeared at his victim's place of work, fired five shots at her, and struck her down with a bullet in the shoulder.

The blistering, demoralizing record of crime in the National Capital area presents too devastating a picture for us to blind ourselves to the reality that a very large portion of all that serious crime is committed by a relatively small, hard group of criminals, many of whom have been accused of one crime, but released pending trial of that charge.

I think, on both issues, the need to reform the present system of setting bail and the hypocrisy of the high bail system today and protection of the public, on both counts, the conference report on pretrial detention is highly desirable.

CONCLUSION

The Capital and much of its surrounding suburban area have become a virtual ghost city by night. Law-abiding residents fear for their lives and property both on the streets and in their homes. Robbery and commercial crime are so out of control that many businesses have either curtailed their operations or left the city altogether.

The perpetration of major felonies is increasing at a rate of 22 percent a year. The number of felonies reported in the National Capital annually has doubled during the last 5 years. Yet, felony convictions in the District of Columbia courts in 1969 represented only 2½ percent of the 56,419 felonies reported here last year.

The need for action is urgent. The time for action is now. Consider this bill on the basis of its merits, not on the basis of the misunderstanding and emotionalism which surround it.

Nearly 2 years of hard legislative work has produced a vital, constitutional, effective bill to help answer the National Capital crime crisis.

Study this bill. Look at this city riddled by the fear and destruction of crime. Then, I believe, you too will support this legislation.

As debate on the conference report progresses, I will also discuss in depth the provisions for pretrial detention of certain dangerous offenders.

Today I want to discuss in particular the conference action on a number of other criminal law provisions in the House bill, however, which have been criticized by several organizations of responsible spokesmen for the practicing bar and which deserve some attention.

Statements have been made by five groups, in particular, which merit a response: the District of Columbia Bar Association, the American Bar Association Section on Criminal Law, an organization of former Federal prosecutors, former members of the President's Commission on Crime in the District of Columbia, and an organization of lawyers concerned with the juvenile court. The provisions in the House bill which troubled these spokesmen were of grave concern to the Senate conferees. In fact, insistence by the House conferees on many of these items was the chief cause of delay in the conference and the main reason why the conference lasted for 3 months. Any fair-minded appraisal of the conference report will disclose that the Senate conferees achieved exceptional results in the negotiations on these provisions. I wish to take this opportunity to rehearse with you, if I may, the criticisms which have been made and the corresponding conference action.

MANDATORY MINIMUM SENTENCES

The former Federal prosecutors, the ABA Section on Criminal Laws, and the former Commissioners on Crime in the District of Columbia were all concerned with the mandatory minimum sentencing provisions included in the House bill. The conference report eliminated mandatory sentences for first offenders convicted of armed violent crime and the mandatory life sentences, with 20 years before eligible for parole, for three-time violent crime offenders.

Mr. ERVIN. The way I read the bill on the provision for the mandatory minimum sentences for first offenders, it permits such sentences for the use of incendiary devices.

Mr. TYDINGS. I am afraid the Senator is in error. The incendiary provisions contain no mandatory minimum sentences.

Mr. President, the only mandatory sentence provision contained in the conference report is for second offenders convicted of armed violent crime, and this provision is limited to the 5-year mandatory sentence which was previously passed into law in the Federal Firearms Act of 1968. All the other sentencing alternatives are completely discretionary with the courts. Since there have been erroneous statements made about the sentencing provisions, it bears repeating that whereas the conference legislation contains effective and appropriate penalties, there are no mandatory sentences for use of molotov cocktails or other incendiary devices and no mandatory sentences for conviction of crime while released on bail.

OTHER SENTENCING MATTERS

In addition, pursuant to the criticism by the Criminal Law Section and the District of Columbia bar, the Senate requirement of pretrial notice of the intention to ask for the imposition of recidivist penalties and notice of those prior convictions to be relied upon was adopted by the conference. The consecutive sentence rule is completely discretionary with the courts, and, if consecutive sentences are mistakenly imposed, the error can be quickly and easily cured by a simple motion for reduction of sentence.

I am trying to point out areas where the conference responded to critcisms which the Senate conferees felt were justifiably directed at some parts of the House proposal.

Mr. ERVIN. In view of the fact that the Senator said I was in error——

Mr. TYDINGS. Mr. President, do I have the floor?

The PRESIDING OFFICER (Mr. HANSEN). The Senator from Maryland has the floor. Does he yield to the Senator from North Carolina?

Mr. ERVIN. Well, the Senator does have——

Mr. TYDINGS. I do not yield at this time.

Mr. ERVIN. The Senator answered me. Of course, he is not obligated to yield, but he did yield to me for a question. He said that I was in error and I just wanted to ask him about the bill he is explaining to see what I am in error about.

Mr. TYDINGS. Mr. President, I do not yield at this time. I shall be glad to yield to the Senator when I have completed my remarks, as I stated before.

VENDING MACHINES

Mr. President, the provision for making tampering with a vending machine equivalent to second-degree burglary with a 15-year penalty was deleted, as was urged by the former prosecutors. Pursuant to the District of Columbia bar suggestion, this crime can be punished by no more than 3 years.

JUVENILE COURT

The juvenile court lawyers, along with the former prosecutors and Crime Commissioner, expressed special concern with several provisions in the new juvenile code.

Although both bills eliminated juvenile jury trials, the conference report follows the Senate bill in requiring proof beyond a reasonable doubt for conviction in delinquency cases.

The conference report, following the pleas of the juvenile court lawyers, contains statutory time limits for most juvenile proceedings, including the time for filing a petition and for requesting a transfer to adult court, the time for initial appearance, for holding a transfer hearing, for holding a detention or shelter care hearing, and for conducting physical or mental examinations, and the timing of interlocutory appeals.

Due to the 6,000-case backlog awaiting trial, the Senate conferees did not insist upon the immediate inclusion of statutory time limits for factfinding and dispositional hearings, but did insist upon explicit guidelines for these proceedings in the two statements of managers with the intention that time limits be enacted into positive law in the future if the suggested time limits are not achieved in the large majority of cases.

TRIAL OF JUVENILES AS ADULTS

Mr. President, the groups which addressed the juvenile code provisions were also concerned with the lowering of the age limit for juvenile court jurisdiction for a large category of offenses. The conference compromise agreed to set the age at 16 instead of 18 for only the most heinous offenses of murder, forcible rape, 1st degree burglary, and armed robbery. The offenses of manslaughter, statutory rape, indecent liberties, mayhem, arson, kidnaping, 2d degree burglary, unarmed robbery and assault with a dangerous weapon were all eliminated from the list of offenses which must be prosecuted in adult court, involving an accused who is 16 or 17 years of age.

OTHER JUVENILE MATTERS

The Senate position prevailed on all of of the other provisions which troubled these spokesmen, specifically eliminating House proposals, first, assigning the burden of proof to the juvenile to establish the appropriateness of juvenile court treatment in a transfer hearing; second, providing a more narrowly defined right to counsel in juvenile proceedings; third, automatically terminating juvenile jurisdiction with respect to subsequent offenses even when the charge on which the juvenile is transferred results in an acquittal; fourth, permitting the indiscriminate mixing of delinquents and persons in need of supervision, in spite of the need for separate treatment; and, fifth, permitting summary transfer of an unruly juvenile to an adult prison without the benefit of affirmative criminal proceedings.

IMPEACHMENT BY PRIOR CONVICTION

Although the Criminal Law Section urged a different formulation of the rule on impeachment of a witness by evidence of prior convictions, the House version was supported by the District of Columbia Bar Association and followed the preliminary draft of the rule to be included by the Judicial Conference of the United States in the proposed Federal Rules of Evidence. The Senate conferees would have preferred to withhold action on this provision until the Federal Rules of Evidence are finally adopted by the Supreme Court, but agreed to the House version with the proviso that the rule for the District of Columbia should be amended by Congress, if the final version contained in the Federal Rules of Evidence does not conform to the preliminary draft.

INSANITY DEFENSE

Likewise, the former prosecutors and the Criminal Law Section were disturbed by the House provisions which would shift the burden of proof to the defendant on his affirmative defense of insanity and would require the automatic hospital commitment of a person acquitted on grounds of insanity. The House provision is supported by prevailing practice in a large number of States. It closes a loophole in the law which permits a person to raise a reasonable doubt as to insanity in order to defeat criminal conviction and, at the same time, to escape hospitalization because the burden is on the Government to establish insanity by a preponderance of the evidence in a civil commitment proceeding. The Senate conferees insisted, however, on a safeguard which would mandate a hearing with counsel for the person under the insanity charge on the continuing need for hospitalization. The mandatory hearing must be held within 50 days of the conclusion of the criminal trial. This safeguard, which the Senate conferees put in the report, will prevent the person from being kept indefinitely in a mental hospital without an immediate review of the person's present sanity and dangerousness.

NO-KNOCK

The former prosecutors and the criminal law section both urged the adoption of the Senate version of no-knock. The conference report follows the Senate version in all important aspects.

GOVERNMENT APPEALS

The prosecutors were critical of the expanded provisions for Government appeals. The authorization for moot Government appeals was dropped and the provision which would allow the court to call a mistrial pending a Government interlocutory appeal was also deleted.

WIRETAP

The local wiretapping law provides for authority to wiretap for a somewhat longer list of offenses than in the Senate bill, but adopts numerous safeguards to improve upon the existing Federal wiretapping law. Included also are the Senate provisions for criminal penalties and civil damages for illegal wiretapping or electronic surveillance.

WRONGFUL ARREST

Finally, the conference report excludes the House-passed provision for compulsory payment of a policeman's attorney's fees by a plaintiff in a wrongful arrest suit regardless of the outcome of the case, a provision which was condemned by Section on Criminal Law, the District of Columbia Bar, and the former prosecutors.

In addition, during the conference on the crime bill, the chairman of the House conferees agreed to hold immediate hearings on an adequate revenue bill for the District of Columbia.

THE CONFERENCE REPORT

Mr. President, every Member of the Senate knows that a joint conference between the two Houses of Congress must proceed on a spirit of compromise and conciliation. When a conference is held on a major bill with 174 items of difference, no reasonable person would expect the conference report to track one version of the bill in its entirety. Insistence by either House's conferees upon all of the provisions in its version of the bill would have immediately deadlocked the conference and caused the defeat of the many urgently and desperately needed reforms upon which there was already substantial agreement. I could not and will not stand by and watch these reforms fail to be enacted. The conference version of the bill is sound. It is constitutional. In my judgment, it will be effective. It is a major improvement of the criminal justice system of the District. The conference report deletes the undesirable provisions of the House bill and retains many of the Senate-passed reforms. Indeed, in the conference report, on 80 percent of the major, controversial issues so widely criticized, the Senate prevailed.

I urge each Member in considering the objections which he may have to a few provisions in the conference report to be mindful of the many major victories for the Senate bill in the course of the conference. I have singled out the main criticisms that have been voiced by various spokesmen in the community who have attacked the House bill. Well over 80 percent of these issues were resolved in favor of the Senate version, and most of the remaining items were substantially modified by safeguarding amendments or agreements to reconsider the provisions in a short time. Many other Senate victories not mentioned by these critics, such as the elimination of authority for the police to conduct "tests and experiments on persons" and the provision for transfer of Lorton Reformatory which would have gutted effective corrections in the District, must also be added to the list of conference achievements.

Mr. President, the essential reforms this legislation contains and the dramatic Senate conference achievements must be preserved for the citizens of the District of Columbia. I urge the approval of the report.

I hope my colleagues will read the conference report, the statement of the managers of the House, and especially the statement of the managers in the Senate. I hope they will not be misled by key words, but will focus upon what is in the bill and what the bill actually contains, rather than on criticisms not based on the actual content of the final Senate-House conference report. I am confident that if they do, the bill will receive the overwhelming support of my colleagues.

Mr. PROUTY. Mr. President, the pending conference report is one of the most important pieces of legislation, affecting the District of Columbia, to come before the Senate in many years. It is the result of long, mature reflection on serious problems which have long been crying for attention and solution.

Much has been said about this bill. Much has been speculated about what it would do. Little has been said about what it is not. It is not a panacea for all the ills confronting the judiciary and law enforcement agencies. It does little to sweep poverty, misery, ignorance and despair from the community. That is not its purpose. Rather it is a giant step forward in providing for an improved system of Justice, with protection for the accused and public alike.

Eighteen months ago, President Nixon observed that the District of Columbia is a Federal city and that the Federal Government could not evade its responsibility for the condition of life in the Nation's Capital.

When President Nixon took office, the Metropolitan Police Force was badly undermanned. The office of the U.S. attorney, which prosecutes all serious crimes in the District, was woefully understaffed. The various courts were confronted with backlogs and delays, and the correctional facilities were failing to rehabilitate. There were virtually no programs to treat narcotics addicts, and the law-enforcement authorities were saddled with some of the most unrealistic, rigid rules of criminal procedure in the world.

The crisis of disorder demanded the best efforts of the President, the Congress and the courts to effect needed reforms.

Eleven days after taking office, President Nixon outlined a comprehensive crime control program—a large part of which required approval by the Congress.

In the ensuing months, the District Committees of the Senate and the House have been hard at work, studying the problems of the District in depth and fashioning workable solutions.

From the outset, the President's program has provided an agenda for our deliberations. The key provisions in that program are embodied in the bill before us today. They include:

First. A complete reorganization and expansion of the court system in the District of Columbia. This new system will end the jurisdictional squabbles between Federal courts and local courts in Washington. It will provide modern management techniques. And it will make possible a very significant reduction of the 10-month delays between arrest and trial in the District of Columbia.

Second. A full-fledged Public Defender Service to assist indigent defendants in criminal proceedings.

Third. An expanded bail agency to provide adequate supervision for reliable defendants released on bail.

Fourth. A new modern juvenile code that confronts 20th century juvenile problems in a manner consistent with modern trends.

Fifth. A modification of some of the most unrealistic rules of procedure, which have undermined the sound administration of the District's criminal law.

Sixth. Carefully considered authority for court approved electronic surveillance to make inroads into organized criminal activity in the District.

Seventh. Authority for the limited pretrial detention of dangerous defendants.

On other occasions, the proposal to reorganize the courts, shifting the felony jurisdiction which now resides in the Federal district courts to a new, unified local court system, might have engendered sharp controversy. It would be quite inaccurate to assume that there was no opposition to this development, or that it has not been given intense study. Court reorganization has consumed a tremendous amount of time, thought, and effort, and it will contribute a great deal of the restoration of an orderly system of criminal justice in the District of Columbia, which should be a model of administrative effectiveness.

The fact remains, however, that this central feature in the bill has been overshadowed by several widely debated criminal provisions, which have been the focus of most public attention.

In recent years the condition of life in this city has seriously deteriorated. Crime has demoralized the spirit of this city. Crime breeds fear and at present our society is permeated with this fear and distrust. Neighbors are too frightened to lend to one another a helpful hand in time of distress. A society whose members build walls between each other and who live in a city fast becoming an armed camp cannot survive. In the District of Columbia, as in other cities, the criminal justice system has just broken down. It has proved itself inadequate in the present crisis.

In the last 11 years, the total number of serious crimes in the District of Columbia has increased about 600 percent. The incidence of armed robbery and burglary have been particularly shocking. Last year, armed robberies increased 52 percent, averaging almost 20 each day—which means that each day, roughly 20 people were confronted head on with a weapon of destruction.

There has been an ominous trend in homicides—away from intrafamily murders or quarrels between lovers—toward coldblooded, impersonal murders on the street.

Studies reveal that 50 percent or more of the crime in the District is related to narcotics, mostly heroin.

It is by looking at the drug problem that we can see the very obvious link between organized crime and street crime.

These growing numbers of drug addicts offer one explanation for the enormous increase in street crime over this past decade. As the addict's tolerance for drugs increases, his demand for the drugs grows—and so does the cost. It is clear that there is no way a person addicted to hard narcotics can purchase his drugs without resorting to crime.

A heroin addict may need $100 a day or more to pay for his habit, and this is every day of the week. There are no holidays for those hooked on drugs. They must get their money anyway they can. Traditionally, drug addicts have committed nonviolent crimes like shoplifting, forgery, and breaking to achieve their ends. Now, however, the scene is changing. Drug adicts are committing more and more armed robberies and other violent crimes.

Why? Partly because of the enormous expense involved in maintaining a habit; and, in part, because an addict who supports his habit by burglary must sell the stolen merchandise for one-fourth to one-third of its retail value. That means he must steal a minimum of merchandise worth three or four times the amount of his habit to secure the necessary cash. Robbery is just an easier, faster way to make his payments.

Detailed discussion of those provisions in the bill relating to court reorganization and criminal procedure is work for the great lawyers in this Chamber.

I am not a lawyer, but I think I can bring some practical wisdom and commonsense to some of the problems at hand.

For example, two of the most controversial provisions in this entire legislation have, through what might be termed "overexposure," been responsible for a great deal of emotional reaction to this entire bill. I refer, of course, to those provisions which have been commonly referred to as "no-knock" and "pretrial detention."

Because of the apparent controversy involving these two provisions, I have found it desirable, and indeed necessary to make an especially intensive study of these two provisions. After much care and thought I must support both no-knock and pretrial detention.

I support the provisions for no-knock and pretrial detention because I believe they are essential to any serious effort to reduce crime in the District of Columbia.

The evidence is persuasive that a significant amount of serious crime is being committed by persons released prior to trial.

In July of 1968, the District of Columbia Metropolitan Police Department undertook a study of 130 persons indicted for armed robbery and released during fiscal 1967. The Department determined that 34.6 percent of those defendants were indicted for at least one felony while on bail.

In a later study, the U.S. Attorney's Office collected data on 557 robbery defendants indicted during calendar 1968. Some 70 percent of the 345 defendants released before trial were reportedly rearrested for a new crime.

Subsequently, the Judicial Council Committee to Study the Operation of the Bail Reform Act in the District of Columbia reviewed the U.S. attorney's investigation. Taking a sample of 140 of the 557 robbery defendants, the committee determined that 63.7 percent of the 106 defendants released were rearrested while on bail, which confirmed the substance of the original findings.

Finally, last spring, the National Bureau of Standards released a new report of criminal court data relating to pretrial release in the District of Columbia. The report focused on 426 defendants who were released before trial during 4 random weeks in the first half of 1968. The report revealed that 17 percent of 147 felony defendants were rearrested during pretrial release. Seventeen percent of the defendants charged with "violent crimes," as defined in the bill, and 25 percent of the defendants charged with "dangerous crimes," were rearrested on bail. Altogether, 11 percent of the 426 defendants, including those charged with misdemeanors, were rearrested for new offenses.

The question for lawmakers is whether legislative action can be taken and should be taken to reduce incidents of crime committed by persons out on bail. I believe a limited system of pretrial detension is a vital part of the answer.

In its presentations on this issue, the Department of Justice has convinced me that there are some offenders—people who can be identified—who pose a particularly serious threat to the lives and property of others if released before trial. These defendants include professional holdup men and professional burglars who are usually armed and who steal as a livelihood; desperate narcotics addicts who have resorted to crimes of violence to support their addiction; incorrigible young toughs who have demonstrated vicious propensities in their repeated brushes with the law; compulsive sex offenders and compulsive arsonists; and defendants who have a special motive to engage in crime.

Speedy trials are not a satisfactory answer to the depredations of these men. Something more is needed, and that something is a limited system of pretrial detention.

Let me make plain the fact that most defendants can be released and should be released before trial, and this legislation does not require or inspire pretrial detention that is not needed to secure the public safety or secure the presence of defendants at trial. Release is desirable in most cases because it permits the liberty of a defendant before trial and eliminates the expense of unnecessary custody.

We deal with the exceptions, with the situations in which the public safety demands protection.

The conference went out of its way to minimize the detention of first offenders. Except in the case of addicts, we have required a prior pattern of behavior to reveal the dangerous tendencies that would justify detention. I believe this test is ample protection against erroneous findings.

We have tried to be fair to defendants without neglecting the public interest.

I rely on the wisdom of a New England jurist in my vote on this question. Writing in "Ex Parte Thaw," Federal District Judge Edgar Aldrich of New Hampshire declared:

> The right to bail . . . is subject, like all other personal rights, to being influenced by considerations of public policy and public safety.

Another Federal judge has observed that the bail system is an attempt "to reconcile the conflict between the presumption of innocence and the interests of society." Surely, the interests of society include the right to be free from unreasonable risks of harm by persons who have already been charged with one or more serious crimes. That is my judgment, rendered after full deliberation.

I am heartened by the fact that many newspapers throughout the country have come to a similar conclusion, and I ask unanimous consent to print several editorials in support of pretrial detention at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROUTY. Mr. President, the tools and improvements provided for in this legislation are urgently needed to meet the dire situation the courts and law enforcement agencies of the District face. I urge your adoption of this conference report.

In conclusion, may I pay tribute to the distinguished chairman of the Committee on the District of Columbia for the yeoman service which he rendered in bringing about a meeting of the minds of the conferees on the House side as well as on the Senate side.

EXHIBIT

[From the Washington (D.C.) Evening Star, Oct. 22, 1969]

PREVENTIVE DETENTION

A House Judiciary Subcommittee has tackled the difficult and much debated question of what to do about a 1966 law which requires that criminal suspects must be released on bond—personal or monetary—even though there is a high probability that they will commit additional serious crimes while free.

It is our belief that the 1966 law should be changed. As matters stand, a federal judge can consider only one thing in passing upon a request for bail in a non-capital case—whether an accused person is likely to show up for his trial of whether he can be expected to flee to avoid trial. This limited discretion, we think, should be enlarged to permit a judge to take into consideration the danger to the community that could be created if a particular suspect were to be released prior to his trial. This is what is known as preventive detention.

Under a bill proposed by the Nixon administration, this additional discretion would be subject to tight restrictions. Preventive detention would apply only in the case of very serious felonies. The period of detention could not exceed 60 days. The judge must hold a hearing at which the accused person could present evidence and cross-examine witnesses. Before denying bail, the judge must find that there would be a high risk to the public in releasing the accused. He must spell out his reasons in writing, and the accused has the right of appeal.

Sen. Ervin, who is chairman of the Senate Judiciary Committee, is a principal opponent of the bill. He says it "smacks of a police state" and that it "protects no one." We disagree on both counts. The senator also said the true rate of crime committed while on bail in the District is only about 5 percent.

Again, disagreement is strong. Maryland's Representative Gude disputed this vigorously in his testimony before the subcommittee. Police Chief Jerry V. Wilson in a speech last month told of a survey in Washington of persons released on personal bond before trial, but after indictment, on robbery charges. The survey covered the period from July 1, 1966, to June 30, 1967, and it showed that 35 percent of the released individuals were rearrested and reindicted for subsequent felonies, mostly armed robberies, before being brought to trial. Some were rearrested and reindicted as often as three times in one year.

This condition can be and should be remedied. Chief Wilson and U.S. Attorney Flannery have said that the preventive detention of no more than 300 persons would go a long way toward cleaning up the problem of street crime in Washington. And, generally speaking they know who these people are. One of them, certainly, is the heroin addict indicted for a robbery staged to get money to feed his habit. To release him pending a trial six months or a year in the future virtually guarantees that he will commit new robberies to get the money he needs. What kind of justice is this?

Perhaps the main argument against preventive detention, aside from the constitutional question which the Supreme Court would have resolved, is that a judge cannot read a suspect's mind to determine whether he is likely to commit another crime if released. But this same judge is authorized by the 1966 law to read a suspect's mind to determine whether he is likely to skip the jurisdiction to avoid trial. If a judge can do the latter, why is he not equally competent to make the former determination?

[From the Washington (D.C.) Post, Aug. 26, 1969]

HYPOCRISY AND THE LAW

The case of Damon Alston Jr. provides a superb illustration of what the acrimonious debate over bail and preventive detention is all about. The case involves a sharp dispute between the United States Court of Appeals and Chief Judge Curran of District Court. It demonstrates that the Bail Reform Act, as it now stands, is a constant irritant in the judicial process. And it provides a sound factual basis for Congress to consider the amendments to that Act proposed by the Nixon Administration.

Mr. Alston, it appears, is not one of the District of Columbia's more upright citizens. He has been convicted of various things seven times in the last 12 years and now stands charged with armed robbery. He was on parole at the time of that robbery last December and he has been in jail ever since, unable to obtain a $5000 bail bond. What makes his case particularly unusual is the following set of facts: his employer at the time he was arrested has promised to give him his job back if he is released pending trial; the Bail Agency has recommended he be released in someone's custody; Bonabond is willing to be that someone; the Offender Rehabilitation project has worked out a plan of release for him; and the Shaw Residence has assured him of living quarters.

Despite these arrangements, Judge Curran has refused twice to release Alston without bond or to reduce the bond from $5000. He contends that Alston's prior criminal record and the facts of this robbery indicate that the only thing that might keep Alston from fleeing if released is the posting of bail. This rationale, it seems clear, is phony. What Judge Curran really fears is that if Alston is released he will commit another crime. And that is where the rub of the Bail Reform Act comes in. Under it, and indeed under the whole history of bail procedures in the nation, the standard for pre-trial release is the probability of flight, not the probability that another crime will be committed.

Applying that law as it is written, the Court of Appeals last week ordered Alston's release under a tough set of conditions. It specified that he must be employed, that his employer must report if he fails to appear for work, that he must live at Shaw Residence, that an official there must report if he breaks the curfew time or any other rules, that he must reenroll in the Alcoholic Rehabilitation Clinic, and that he must deposit 10 per cent of his net earnings with the Court as security for his appearance for trial until the fund reaches $500.

It is hard to believe that Alston is more likely to flee if he is released under those conditions than if he were released because he could raise the $280 to buy a $5000 bond. But that merely underlines the problem. Since the law is cast in terms of fleeing, the trial judges talk of flight when they mean danger and the real question—will Alston be a threat to the community before his trial?—is never faced.

Even without answering that question, it is clear why the Bail act should be reconsidered. Congress ought to decide whether the judges should have power to detain a man pending trial because they believe he is too dangerous to release. This newspaper has argued in the past that judges should have that power in certain clearly defined situations and with substantial restrictions on its use. Whether Congress agrees or not, it ought to clarify the situation. One of the worst evils of the law is hypocrisy, and the bail procedures are full of it.

One other fact in this case is relevant. Alston was arrested on December 16, 1968. He has been in jail eight months and he has not yet been tried. Even if the Nixon Administration's proposals were now law, Alston would be released automatically; those proposals limit pre-trial detention to 60 days and Alston has been in jail 250 days. A system of criminal justice that permits this kind of delay is uncivilized and the whole problem of court reform ought to get the highest kind of priority when Congress returns.

[From the Richmond (Va.) News Leader, June 30, 1970]

LET THE JUDGES DECIDE

A few days ago in Washington, a traffic patrolman shot and killed a robbery suspect fleeing from a liquor store holdup, after the suspect had shot the patrolman through the chest and neck. Details of the shooting repeat a pattern that has prevailed in the nation's capital since passage of the Bail Reform Act of 1966, under which all suspects charged with other than capital crimes in Federal courts must be released on bond if the judge considers them likely to show up for trial.

Had Federal District judges in Washington been permitted to consider a suspect's record or the likelihood that he would commit other crimes while free on bond, the recent shoot-out might not have occurred. The suspect in the case, Franklin E. Moyler, had the record of a hardened criminal. He had served two years in jail on charges of assaulting an officer. He subsequently chalked up a number of assault charges: In January, he was charged on four counts, including assault with a deadly weapon, but was released when he posted one-tenth of a $1,500 bond. On June 1, he was charged again with robbery and released on a $2,000 bond. So he was free on June 19 to shoot and to wound a policeman critically.

The latest incident adds yet more imperative reasons for approval of a preventive detention provision included in the D.C. Crime Bill, under which Federal District judges would be permitted more discretion in setting bail. The Tydings Advisory Panel Against Armed Violence recently endorsed preventive detention as "an immediate response to armed violence." The panel found, in its investigation, that one out of every 11 suspects released on bond is charged with subsequent offenses before reaching trial on the first charges. The panel also reported that offenders charged with certain crimes, such as burglary, robbery, and narcotics offenses, are much more likely to be charged with subsequent offenses while free on bond.

The preventive detention proposal has sincere opposition from those who believe that it infringes on the constitutional rights of criminal suspects. After all, they say, the suspect has not yet faced trial on his charges, and therefore, he must be presumed innocent and set free until proved guilty. Opponents further contend that only a small percentage of those released actually commit new crimes before their trials, and preventive detention would punish both the innocent and the guilty.

These arguments fail to persuade. In recent testimony before a Senate subcommittee, U.S. District Judge George Hart recounted 14 cases in Washington in which preventive detention would have prevented commission of new crimes by the suspects, all of whom had been charged with crimes of violence. The subsequent crimes included rape, attempted murder, and armed robbery. In Judge Hart's view, the right of society to be protected from crimes of violence justifies approval of preventive detention.

Those who oppose preventive detention

somehow view judges as ogres who would welcome an opportunity to put every criminal suspect behind bars. The record suggests otherwise. Judges who deal daily with violent criminals soon learn to recognize a hardened criminal when he appears in their courtrooms. These judges also recognize their responsibility to uphold the law, acting as instruments of that law. Arguments against preventive detention suggest that most judges are corrupt and that they have no ability to distinguish a hardened criminal from a first offender, an unjustified insult to the Federal judiciary.

The arguments continue, pro and con, and a great deal of misinformation results. Meanwhile, the crime rate in Washington rose 21 per cent during the first three months of this year over the same period in 1969; the national crime rate rose by 13 per cent. Even the liberal *Washington Post* has recognized that the lack of preventive detention has contributed to Washington's crime problems. With support from both conservative and liberal elements, preventive detention, in conjunction with a speedier trial system, may yet prove a highly effective weapon against those who repeatedly threaten the lives and safety of citizens in the nation's capital.

[From the Rockwood (Ill.) Register-Republic, Feb. 23, 1970]

Preventive Detention Reasonable

(The issue: Proposed legislation to permit detention of defendants considered dangerous to the community.)

One of the most reasonable suggestions advanced by the Nixon administration proposes judicial authority for pretrial detention of dangerous defendants.

The proposal comes as a series of amendments to the federal Bail Bond Reform Act of 1966 which requires that criminal suspects must be released on bond—personal or monetary—even though there is a high probability that they would commit additional serious crimes while free.

As it now stands, a judge may consider only two areas in ruling on bonds in noncapital cases—whether the accused is likely to show up for his trial or whether he can be expected to flee to avoid trial.

If a judge is competent to rule in these areas, why is he not also competent to determine if the release of a suspect might create a danger to the community?

This latter judgment is the heart of preventive detention, which would permit a judge to take into consideration the public danger that could be created if a particular suspect were to be released prior to his trial.

The proposal is loaded with safeguards and tight restrictions. It would apply only in the case of very serious felonies.

The period of detention could not exceed 60 days, which would place on the court special obligations to try the case within that period, a prompt trial guarantee not provided for most defendants today.

Further, the judge must hold a hearing at which the accused person could present evidence and cross-examine witnesses. If the judge decides to deny bail, he would have to spell out his reasons in writing and the accused has the right of appeal.

These restrictions more than serve to override the critics of the proposal who protest that because the accused is innocent until proven guilty, he should remain free until he comes to trial. Already, bond can be denied in capital cases and judges are free to set bonds at prohibitively high figures.

Balancing the interests of the individual and the public at large is one of the basic dilemmas of a free society.

In an address to the American Trial Lawyers Assn. a few days ago, Deputy Atty. Gen. Richard G. Kleindienst pointed out:

"Today, as we reconcile the tensions between order and liberty, crime and fear weigh heavily in the balance. For they threaten important liberties as well as our lives.

"The time has come to face our responsibilities, to afford protection to all of our people. We can no longer neglect the security of our citizens. We must reassert their liberty to live without fear. Pretrial detention is not the whole answer; but it is part of the answer in this time of crisis."

Kleindienst stated the case most succinctly. The public has rights, too, and the courts should have reasonable power to protect those rights.

The preventive detention proposal has the safeguards to prevent its misuse, yet affords protection against the menace of known offenders running loose and extending their string of crimes.

[From the Cincinnati (Ohio) Enquirer, Oct. 21, 1969]

The President's Proposals For Pretrial Detention

One of the distressing aspects of the nation's already appalling crime rate, especially in the so-called street crimes such as robbery, burglary, rape and traffic in narcotics, is the high incidence of crimes committed by persons out on bond and awaiting trial for a crime previously committed.

A major point of President Nixon's anticrime program is an effort at reducing this activity, which understandably infuriates a large segment of the public. The administration has introduced identical bills in both the House and Senate to provide for pretrial detention in noncapital cases of Federal prisoners, for periods up to 60 days and under certain conditions and procedures.

Last week, a subcommittee of the House Judiciary Committee began hearings on Mr. Nixon's bail-reform proposals. So far, Congress has moved hardly at all on others of the 20 bills submitted or supported by the administration to help launch a nationwide attack, on a number of fronts, against crime.

The President has asked Congress for omnibus antinarcotics legislation; for increased appropriations to the existing National Law Enforcement Assistance Administration, which provides monetary and administrative help to the states for a concerted anticrime effort; for better legislation to protect minors from receiving obscene materials through the mails; for funds for a national crime program—as yet with little success.

In this light, it is gratifying to a nation which has seen its major-crime rate more than double in the last eight years that Congress has begun moving on the President's pretrial-detention bill, a recommendation that patently is designed to enhance public safety.

Although the thrust of the bill is toward fighting the incidence of street crimes in Washington, D.C., the only place where such crimes come under Federal jurisdiction, the proposal has nationwide implications. For if the measure—which already has stirred considerable controversy—becomes law and then survives challenges as to its constitutionality, it could provide a framework for similar action on the part of states and municipalities plagued by criminal recidivism from persons already under indictment and awaiting trial.

The legislation the President has requested would allow courts to consider danger to the community in setting nonfinancial conditions of pretrial release; provide pretrial detention for up to 60 days of defendants of certain categories who are found, after a hearing, to be "dangerous to the community." The categories of persons who may be detained until trial are listed by the bill as repeated offenders in crimes of violence, persons charged with offenses that have a high risk of repeated public danger (robbery and drug-pushing, for example); narcotics addicts charged with a crime of violence; any defendant who threatens witnesses or jurors.

The bill additionally authorizes sanctions against those defendants who, having secured a pretrial release, violate the conditions of their bond or commit a crime.

Some of the present dilemma arises from failures of the Bail Reform Act of 1966, intended to protect the rights of Federal prisoners who found themselves unable to obtain bail money, while other defendants similarly charged were able to obtain pretrial release.

As a consequence of this act, there has been steadily decreasing reliance on money bail in the nation's capital, with releases on personal recognizance becoming almost the order of the day.

Last month, the District of Columbia police chief said his department has found that 35% of the defendants indicted on armed-robbery charges who were released on personal recognizance were rearrested and reindicted on subsequent felonies—mostly armed robberies—before coming to trial.

Under these conditions, a community needlessly suffers and already overcrowded court dockets become more jammed.

Hopefully, the President's corrective recommendations will win congressional approval, and thus provide a guideline for action throughout the nation.

[From the Oakland Sunday Tribune, Mar. 1, 1970]

Pretrial Detention: Practical Way to Combat Crime

The do-gooders, bleeding hearts and nicely-nicely apologists for much of the nation's criminal element are beclouding the question of pre-trial detention to the point where public attention is diverted from the true issues.

As a result, a serious and practical proposal to reduce crime is denied enactment, much to the consternation of those responsible for protecting society.

Last July, Attorney General John Mitchell proposed to Congress that the Bail Reform Act of 1966 be amended to prevent certain dangerous defendants from being easily and automatically freed on bail while awaiting trial.

Appropriate and effective safeguards against abuse or misuse of such powers were detailed in the proposed legislation, and in a practical and logical sense, every anticipated criticism was realistically answered.

The answers, however, have been coldly ignored by an assortment of self-anointed civil libertarians, who allege that denying bail to an accused rapist, with a record of prior convictions for similar offenses for example, would somehow violate his rights.

These nay-sayers suggest that somehow bail is an unqualified "right," but such a position finds little support in the Constitution.

The Eighth Amendment forbids imposing "excessive bail," but nowhere does it require that all those accused of any and all crimes be freed on bail. From the earliest days of this nation, accused murderers have been kept locked up without any protests about their constitutional rights.

If indeed the Eighth Amendment actually established a "right" to bail, by what authority have states regularly and consistently taken away that alleged right when defendants were accused of capital offenses—those punishable by death?

Murderers, however, are not the only ones who pose a direct threat to society if permitted freedom. In Washington, D.C. in 1968, nearly 70 per cent of the persons indicted for robbery and released prior to trial eventually were rearrested and charged with a subsequent offense.

That is precisely the crime problem the Justice Department proposal is designed to diminish. Under the plan, an accused person would be kept in jail only after a hearing before a judge and only after his attorney had had ample opportunity to rebut the government's case for retention.

A judge could keep such person locked up when he was convinced by the accused's past performance that release would literally endanger the community and public safety.

The suggestion that pre-trial detention presumes guilt and thus violates the protection that a defendant is "innocent until proved guilty" simply reflects ignorance of this time-honored canon of American law.

Presumption of innocence is merely a rule of court procedure during trial and is unrelated to a separate hearing as proposed to determine pre-trial detention. If such were truly the case, judges would be forced to grant accused murderers pre-trial release, for we certainly do not deny them the presumption of innocence.

Suggestions that due process protections of the Constitution would be denied defendants by pre-trial detention are refuted by the very wording of the proposed statute.

Every word of the proposal reflects the fairness and reasonableness of the procedures by which detention would be achieved, and therein lies the basic test of due process.

The Mitchell plan would apply only in federal cases, particularly in the District of Columbia where crimes of violence are a priority problem. There is little question, however, that it could serve as a model for legislators concerned about the incidence of crime by repeaters in their own states.

Indeed, the validity of the attorney general's arguments should inspire Sacramento solons to apply Mitchell's logical, reasoned position to California law.

Action in both capitols to permit pre-trial detention of known felons in non-capitol cases would provide positive steps in controlling vicious and irresponsible actions by all manner of dangerous, hard-core criminals.

[From the St. Louis (Mo.) Globe-Democrat, Feb. 10, 1970]

Hold Dangerous Defendants

Before anyone, even a speed reader, can complete this editorial, someone in the United States will have been the victim of a horrible crime.

Such is the frequency of crime and violence in the land that traveling to the moon is safer than walking the streets at night.

When Richard Nixon campaigned for President he promised to do something about the dreadful crime crisis, obviously one of the major concerns of voters.

One of the most reasonable and protective proposals put forth by the Nixon Administration, in its fight against crime, asks authority for pretrial detention of dangerous defendants.

As President Nixon observed, in asking Congress to amend the Bail Reform Act of 1966, "Increasing numbers of crimes are being committed by persons already indicted for earlier crimes, but free on pretrial release. Many are being arrested two, three, even seven times for new offenses while awaiting trials."

No one needs to draw St. Louisans a picture of a dangerous defendant.

Milton Brookins, who has been found guilty of an armed robbery attack on a young woman while out on bond on two rape charges, answers the description.

Under a system authorizing pretrial detention, Brookins could have been denied bail because of the substantial probability that his release posed a danger to the community.

At present a court must ignore a defendant's danger to the community and release him on bond if he is not considered likely to flee.

Precise statistics on the number of crimes committed by those out on bond while awaiting trial for other offenses are not available, because until recently no attempt was made to tabulate them.

Available figures, however, are shocking. In Washington, D.C., nearly 60 per cent of defendants indicted for robbery, and released prior to trial, were re-arrested and charged with subsequent offenses.

As requested by the Justice Department, pretrial detention would be authorized in all federal courts, but would have its greatest impact in the District of Columbia, where these courts have full jurisdiction.

Adoption by states would have a most beneficial effect in crime-infested cities everywhere.

Detention is no presumption that the accused is guilty of the offense charged, any more than a person charged with murder is presumed guilty because he need not be granted bail on a capital offense.

Rather than cripple anyone's constitutional rights, pretrial detention of dangerous defendants could make it practical to do away with the hypocrisy of setting high bonds in situations where the defendants are not considered a threat to the whole community.

The aim of pretrial detention is simple and clear. The welfare of the majority requires that the community be protected against the menace of known offenders running loose, piling crime upon crime to the ruination of us all.

[From the Wisconsin State Journal, Feb. 5, 1970]

Free Society Dilemma: Merit in Pretrial Detention

Back in 1967 Madison was shocked when three armed bandits, who were virtually caught in the act of robbing employes of the Kohl's Food Store at gunpoint, were permitted to be released on bail.

And the shock and indignation was compounded a few months later when these same bandits who jumped bail killed a Louisville, Ky., policeman during a supermarket robbery.

You could reasonably conclude that if these bandits, with long criminal records, had been held in jail here pending trial, the Louisville policeman might be alive today.

Judges should have the power to protect the public against known criminals. The records show that increasing numbers of crimes are being committed by persons already charged with earlier crimes, but free on pretrial release.

ATTACK BY CRITICS

The Nixon Administration is trying to remedy this situation. It has proposed to Congress certain amendments to the federal bail reform act to give judges some discretion in dangerous crimes to deny release on bail if this is deemed necessary to protect the public.

The President and the Department of Justice were immediately attacked by a host of critics with some arguing that it is wrong and immoral to hold an accused without bail until trial, or to set the bond at a prohibitively high figure. Because he is innocent until proved guilty, they argue, he should remain free until he comes to trial.

The pretrial detention proposed by the Nixon Administration is designed to accomplish two objectives. First, it is an effort to reduce violent crime, a significant percentage of which may be attributed to persons released prior to trial.

The second objective is to eliminate from the bail system the hypocrisy of locking up defendants, without fixed standards, through the device of requiring unattainably high bail money.

Preventive detention would place special obligations on the court to give the accused a trial within 60 days, a prompt trial guarantee not provided for other defendants.

BALANCING INTERESTS

Balancing the interests of the individual and the public is a dilemma inherent in a free society. As Deputy Atty. Gen. Richard G. Kleindienst said in a speech to the American Trial Lawyers Assn. last week:

"Today, as we reconcile the tensions between order and liberty, crime and fear weigh heavily in the balance. For they threaten important liberties as well as our lives. The time has come to afford protection to all of our people. We can no longer neglect the security of our citizens. We must reassert their liberty to live without fear. Pretrial detention is not the whole answer; but it is part of the answer in this time of crisis."

Pretrial detention of the armed bandits who raided the Kohl's store here was the whole answer for Louisville Policeman William F. Meyer, slain Sept. 1, 1967.

The long list of officers like Policeman Meyer and the public generally have rights, too, and the courts should have reasonable power to protect them.

[From the San Francisco Chronicle, Sept. 15, 1969]

How the British Deal With Crime

When a suspect is arrested in Britain for murder, rape or other violent crimes, Lord Alfred Denning told the State Bar convention here last week, "we keep him in prison pending his trial; we do not allow that man out on bail . . . if there is reason to believe he may commit another offense while awaiting trial."

This amounts to saying that the British already employ the system of "preventive detention" which the Nixon Administration is proposing to employ in certain criminal situations over which the Federal courts have jurisdiction.

Last July the Justice Department asked Congress for authority to detain dangerous suspects in specified classes of crimes for up to 60 days without bail if a judge, having found a "substantial probability" of guilt, determines that the defendant's release on bail would be a danger to the community.

Civil libertarians and strict constitutionalists are bitterly opposed. Senator Sam Ervin Jr. of North Carolina said the request is "unconstitutional and smacks of a police state." In his address to the bar, Lord Denning, a leading jurist of his country, took note of this opposition. "I have heard here that this is regarded as an unfair procedure because it amounts to imprisonment without trial," he said. "In England, we make sure he (the accused) is tried speedily—within eight weeks."

That is the big difference. The English provide a speedy trial; under the Sixth Amendment to the Constitution we guarantee a speedy trial but seldom make good on the guarantee. The reasons for this are many. Defense lawyers customarily play for delays, rather than for speedy disposition of their client's case, and this practice itself becomes a self-serving argument for release on bail as opposed to detention pending trial. Courts are slow-moving and usually clogged with backlogs of cases. Most jails are crowded and would feel the strain of any substantial number of suspects being preventively detained.

In the face of these hindrances to speedy trials, all of which are frequently cited as discreditable to American justice, the opponents of the preventive-detention proposal of the Administration are making considerable headway.

Still, in any deliberation about how to control crime in this country, it is a good idea to begin by inquiring how the British do it. Our system, with its rights and safeguards, developed from theirs, and it is generally acknowledged that they have on the whole a much better record than we have of protecting society from the criminal and the criminal from injustice. And it is highly relevant to learn that preventive detention not only is customary in the homeland of Anglo-Saxon law but is no great subject of complaint because justice is swift there.

[From the Appleton (Wis.) Post-Crescent, Apr. 2, 1970]

PRETRIAL DETENTION TO COMBAT CRIME

One of the key provisions of President Nixon's anti-crime program has now been adopted by both houses of Congress, although a conference committee will have to work out minor differences between House and Senate versions of the bill. It is a proposed law to authorize the limited pretrial detention of dangerous defendants in the District of Columbia. It is viewed as a possible model for later legislation for federal and state courts throughout the nation.

When the President asked Congress to amend the Bail Reform Act of 1966 in this regard, he observed that "increasing numbers of crimes are being committed by persons already indicted for earlier crimes, but free on pretrial release. Many defendants are being arrested two, three, even seven times for new offenses while awaiting trials."

Meaningful statistical data on recidivism is limited since few records have been kept. But one study in the District of Columbia showed that of 557 persons indicted for robbery in 1968, 70 per cent of the persons released prior to trial were rearrested while on bail.

Under the proposed law, pretrial detention would be limited to two categories of offenses, "dangerous federal crimes" and "crimes of violence." As regards the former, proponents of the law point out that they usually result from a continuing motivation of pecuniary profit or sexual gratification which involve planning, deliberation and the purposeful selection of a victim. Moreover these dangerous crimes frequently involve cooperation with other criminals on a continuing basis.

The bill has been challenged on constitutional grounds on the basis that it violates the Eighth Amendment, presumption of innocence, and the due process clause of the Fifth Amendment.

The Justice Department has argued forcibly, however, that restrictions on the right to bail have been recognized since before the Eighth Amendment was adopted in 1791, notably in capital punishment cases. And the Department argues that due process is protected in the proposed law inasmuch as the defendant is granted a judicial hearing at which he is represented by counsel, has an opportunity to present witnesses in his behalf and to cross-examine adverse witnesses. The burden of proof of dangerousness is on the government.

The Justice Department believes that pretrial detention of dangerous defendants will be an effective tool in reducing violent crime. Under the legislation now pending in Congress the District of Columbia will become a testing ground for this theory. Obviously the Justice Department should take steps to keep detailed records of experience when the law goes into effect. For a successful experience in the District could lead to nationwide application of the procedure.

[From the New York Daily News, May 25, 1970]

A MATTER OF JUSTICE

Sen. Sam J. Ervin Jr. (D–N.C.) has worked himself into a fine froth of opposition to the Nixon administration's proposal to keep potentially dangerous criminals off the streets of Washington, D.C., during the period between arrest and trial.

This is called "preventive detention," and from the outraged protests raised by Sen. Ervin and others of like mind, one would think the administration was advocating a mammoth, arbitrary assault on constitutional rights.

Sen. Ervin, in fact, professes to see in it the beginnings of a "police state." That's hardly the case, since the pending legislation requires thorough and thoughtful judicial consideration before an accused person could be jugged prior to trial.

Preventive detention would be used only in those cases where the accused had a record of violent conduct so vicious as to label him a menace to society if allowed to roam at large. The danger of setting such men free on bail is more than theoretical. Testimony supporting the present bill is piled high with examples of assaults, robberies, rapes and even murders committed by men set loose on bond.

The public also has constitutional rights, including the right to be secure in their persons and property. Doesn't it deserve protection?

We think it does. And while the weapon of preventive detention is one that should be used sparingly and with the most careful safeguards, it should nonetheless be available in dealing with certain types of criminals.

[From the Oakland Tribune, Sept. 12, 1969]

BAIL: INVITATION TO RECIDIVISM

In the lexicon of sociologists, lawyers and law enforcement officials, "recidivist" is a much-used word of growing importance to a general public which is just beginning to fully understand its meaning.

The word identifies those who return to a life of crime, usually after arrest, jailing, etc.

Latest FBI statistics show that 82 per cent of all persons arrested in 1968 had a previous arrest, 70 per cent were previously convicted and 56 per cent had been imprisoned under a prior sentence.

Further, police officials are increasingly convinced that many of these repetitive crimes are committed while the criminals are out on bail awaiting trial for earlier felonies.

It's almost a treadmill condition as a man is arrested for armed robbery, posts bail and then goes out to commit another robbery to pay the bail bondsman. He gets caught again, pays a new bail fee, and so on, more or less forever.

Federal court rules governing such activity have set a far more progressive pattern than have most individual states or local courts. There are, however, many examples of states following federal examples to judicial reform.

Frequently cited in this respect is the 1966 Bail Reform Act, which established new federal bail bond rules for the first time in 175 years. It permits suspects accused of noncapital crimes to be released pending trial unless authorities believe they might attempt to flee, in which case bail must be set.

The Justice Department now wants to amend the procedure to permit pretrial detention of dangerous criminals—those accused of major (but not capital) crimes such as rape, armed robbery, arson, etc. The Justice proposal offers balancing safeguards calling for trial within 60 days, for instance, to protect those accused from arbitrary, lengthy imprisonment without trial.

Society, in natural self-protection, has long denied release, with or without bail, to accused sexual psychopaths and murderers. Thus what can be provided via the Administration proposals are safeguards to society against attacks from other dangerous criminals who continue in a life of crime while free on bail.

These so-called lesser crimes, which are still quite "major" as viewed by the victims, have now become so prevalent, and are being committed with such frequency by the repeaters—the "recidivists"—that added public protection is needed.

As we continue to satisfy all the requirements for fairness and due process for accused defendants, it is also necessary to meet the needs for maximum public safety.

The Justice Department proposal deserves adoption for federal offenses, and the entire reform plan, with the proposed amendments, deserves consideration for more localized judicial reform.

[From the New York Daily News, Sept. 4, 1969]

WHY NO PREVENTIVE DETENTION?

The State Penal Law Revision Commission, working on a proposed new code of criminal procedure, has decided not to include a provision permitting judges to refuse bail to defendants they feel are menaces to society.

Preventive detention, as it is called, looks good to us—and to President Richard M. Nixon on a nationwide basis for some classes of criminal defendants.

We think the commission made a mistake in ruling against preventive detention, and we hope the Legislature will restore it before voting on the proposed new code at the 1970 session.

This device could keep out of circulation a lot of dangerous characters who otherwise would be free, between time of arrest and time of trial, to let their criminal instincts be their guides, to society's grave detriment.

Why not at least give preventive detention a fair tryout?

[From the Richmond (Va.) News Leader, July 10, 1969]

WHILE FREE ON BAIL

The liberal coterie, holding firm to a sentimental view of the nature of man, insists on promoting the view that it is wrong and immoral to hold an accused suspect without bail until trial, or to set his bond at a prohibitively high figure. But in a case where a suspect has been charged with one or more crimes of physical violence, critics of this view argue, wouldn't it be more in the interest of society to protect itself from possible subsequent acts of violence by isolating the suspect? Not at all, the liberals reply; he is innocent until proved guilty, and he should remain free until he comes to trial.

Well, that may be nice in theory, but in practice last week it proved close to disastrous in St. Louis. The case involved a series of more than 20 assaults against women committed by the "Phantom Rapist," although the rapist boasted of committing close to 60 assaults in notes he left behind for the police. In these notes, he also poked some jibes at the police, calling them "stupid coppers," and "slowwitted cops." He also referred to some of them by name in his notes, and members of the St. Louis police force began to wonder if the rapist might not be one of their fellow policemen.

The rapist finally made a mistake when he used a credit card stolen from one of his victims, and the police arrested a four-year veteran of the St. Louis police force. One judge thought the suspect's bail ought to be set at $51,000, but he later was freed on $12,000 bail. Then last week, a 22-year-old St. Louis newspaper reporter and her teen-aged girl friend were attacked in the reporter's apartment by a man who tore their clothes and swore to rape them. He brandished a gun; when the reporter continued to resist, he shot her in the face and fled. The bullet wound was not fatal, and both girls later identified the policeman charged with the previous assaults as their assailant.

So the suspect is in jail, where he is being held without bond. Had he been held without bond when first arrested, two young girls might have been spared a traumatic and terrifying experience. But the liberals have a theory for that too: The rights of the suspect take priority over the rights of his possible future victims, and society has few rights at all, especially when it comes to rational acts of self-protection.

[From the Tulsa (Okla.) World, Nov. 30, 1969]

Need For Bail Reform

The Justice Department's efforts to tighten up permissive legal practices which are held contributory to worsening crime conditions have run afoul of opposition in and out of Congress.

One of the prime targets of the Department's clampdown is the widespread use of bail-bond practices which permit criminal elements to continue their depredations while awaiting trial.

A celebrated example of the problem occurred just a week ago in the nation's capital. A suspect under charge in two murders was released on bail of $500—reduced at the request of his attorney from an original $50,000 figure. While out on bail, the defendant was re-arrested in connection with another killing. He now stands charged in three murders.

The exposure of the ludicrous aspects of the bail policy followed in some of Washington's courts prompted local General Sessions Judge Tim Murphy to reignite public interest in bail reform legislation. The Nixon Administration, through Attorney General John Mitchell, has proposed a system of "preventive detention" to protect society from constant criminal repeaters. Mitchell's plan has met frigid stares from legal lights not only in Congress but outside.

Sessions Judge Murphy says, however, that a sterner method of admitting to bail must be devised. He reports that in personal interviews with enforcement officials and jailed criminals, there is no compunction by those admitted to bail against continuing their crimes.

Violators tend to feel "duty bound," said the Judge, to continue their pursuits if for no other reason than to "bankroll" their families. They are inclined to go out on a "last fling," on the theory they will be tried for only one violation and the others mean nothing.

Attorney General Mitchell seeks legislation granting to courts more rigid authority to withhold bail from those whose records indicate freedom awaiting trial serves no other purpose than to permit them to commit more crimes.

He has a valid point, but one which has created adverse reaction in the legal profession. Since the right to bail for most crimes is guaranteed under the Constitution, strict legalists question the propriety of laws recommended by the Attorney General.

Still, there is a point beyond which a law-abiding society cannot stand helpless while criminals use the protection offered by the Constitution against it. Mr. Mitchell is not asking that arbitrary powers of incarceration be given courts; his purpose is to obtain stiffer guidelines under which the courts may act. We think he is on the right track and that Congress, while properly wary of overdoing the legal tightening-up process, should take a most careful and sympathetic look at the basic if drastic goal he is seeking.

Certainly there is reason to suspect the American judicial system has become flabby and overly permissive, and its slowness scandalous.

[From the Richmond (Va.) News Leader, Nov. 24, 1969]

While Free on Probation

Some of the talk these days around Capitol Hill centers on the thorny question of preventive detention. Is it constitutional to deprive a suspected criminal of his liberty until he can be tried, when probable doubt exists that he will commit no more crimes before his trial? Or is the right of society to be protected from further criminal acts the overriding consideration? It is an issue on which reasonable minded men can disagree.

Perhaps those who doubt the need for preventive detention, pending trial, of suspected criminals might want to study a textbook case of what can happen without preventive detention. This case was headlined on the front page of *The Washington Post* last week. It involves a 30-year-old unemployed truck driver, Walter C. Powell, who was charged last week with a third count of murder within a six-month period. (On the same day, incidentally, *The Post* carried six ads for truck drivers in its help-wanted columns).

In May, Powell was arrested and charged with robbery, but the case was not prosecuted. On June 18, a 28-year-old woman was shot to death in her Washington apartment. On June 30, Powell appeared before a U.S. District Court judge to be sentenced on a conviction of attempted auto theft last year. The judge placed Powell on probation for three years.

Then on August 25, an elderly man was shot to death as he ran from a robbery attempt. The next day, Powell was charged with murder, not for the killing the day before, but in the June 18 case. Bail was set at $10,000 at first; Powell could not raise this amount. His lawyer petitioned for a reduction in bail, and the judge complied, setting it at $5,000 with the stipulation that, if $500 could be put up in cash, Powell could be released. A friend of Powell's posted the $500, and Powell went free, after being in jail one week.

In September, a judge conducting a preliminary hearing into the June 18 slaying concluded that the charge against Powell in the June 18 slaying was justified. He recommended that Powell's bond be increased, but he had no authority to increase it himself. Powell stayed free.

On November 3, a grand jury instructed Powell to appear for arraignment on the charge of murder in the August 25 killing. He didn't show up, and a warrant for his arrest was issued. On November 15, a 42-year-old man was killed by a robber who entered his apartment. On November 19, police arrested Powell, and charged him with murder in this most recent slaying. He now is being held without bond.

So during a six-month period, Powell managed to rack up three charges of murder two of them committed while on probation for another crime. Even the most determined opponent of preventive detention should be able to learn something from this case, and the many others like it that have occurred in the nation's capital. If they refuse to believe that preventive detention has any positive factors at all, it says a great deal more about their sympathy for criminal suspects than about their concern for society's right to protect itself from being further victimized.

[From Arizona Republic, May 28, 1970]

Preventive Detention

There well may be some constitutional questions involved in the preventive detention legislation passed by the House of Representatives at the urging of the administration. And Sen. Sam J. Ervin, chairman of the Senate constitutional rights subcommittee, has articulated them very well.

But there is also a great amount of foolish talk being raised against the bill, particularly by former Atty. Gen. Ramsey Clark who has denounced it as "immoral."

What is immoral about pre-trial detention of persons accused of specified dangerous crimes? What is immoral about pre-trial detention of those charged with crimes of violence while on bail, probation, parole or within 10 years of a prior conviction?

Unconstitutional, perhaps. Mistaken, maybe. But immoral?

Robert Conquest, well-known British political writer, recently wrote in the New York Times Magazine:

"On this law-and-liberty issue, a piece of news that was completely astonishing to Englishmen of all political opinions was that a significant proportion of the armed robberies taking place in Washington, D.C. are carried out by men out on bail on earlier charges of armed robbery.

"We do not think ourselves less liberal or less legally oriented than the U.S.; but it is virtually inconceivable that bail would be considered for a moment in such cases in England."

Ramsey Clark might reply that Englishmen, of all political opinions, are therefore immoral. But the rest of us should be able to view the proposed law with less emotion.

The House-passed bill would apply only to the District of Columbia; where crimes by previously convicted criminals are common. It would become nationwide for federal crimes under bills pending in Congress. And the administration has urged states to use the bill as a model for themselves.

Senator Ervin and other critics have said the crime problem could be substantially reduced if trial were conducted in 60 or even within 120 days. That may well be. But the fact is that trials are not so conducted. Meanwhile, those out on bail continue to rob and beat and vandalize.

Deputy Atty. Gen. Richard Kleindienst, speaking for the administration, acknowledged that conscientious men have difficulty balancing the interests of the individual and the public. But he also said that society has the inherent right to protect its members for limited periods, through due process procedures (a judge would first have to determine, after a hearing, whether the release of a criminal suspect would constitute a danger to the community), from persons who pose a serious threat to life and safety.

These are the choices, and there are good men lined up on both sides of the issue. But Ramsey Clark's moral posturing tends to make it appear that the bill (to quote UPI) "will tear families apart, jail thousands of innocent persons, lead to more—not less—crime, violate the Constitution," etc.

It is his prerogative to live in a dream world, if he so desires. But he has no business accusing others of sanctioning immorality simply because they wish to do something concrete about a terrible problem that has continued to worsen through the years.

[From the Cincinnati (Ohio) Enquirer, Dec. 12, 1969]

Congress Troubled Doorstep

Rudimentary law enforcement in the United States is essentially the responsibility of the states and cities—with one notable exception: Washington, D.C., as the nation's capital and a city that belongs to the entire nation, is a federally governed city; its major officials are appointed by the President, and Congress functions as something of a city council.

The fact, accordingly, that crime continues to mount in Washington ought to be a matter of significant concern to both Congress and the administration.

Police for the District of Columbia reported a few days ago that serious crime in Washington during October had shown an increase of 35.4% over October of last year and that, for the 12 months ended September 30, the number of robberies in the district had climbed 59% over the preceding 12 months. Burglaries were up 20%.

As U.S. News & World Report observed in its December 8 issue: "Downtown Washington at night is almost deserted . . . Store clerks, filling-station attendants and deliverymen work in constant fear."

Yet Congress has evidenced none of the urgency the problem seems to warrant. Perhaps Mr. Nixon waited longer than he should have—July 11—to send a "model anticrime program" to Congress. But Congress has shown no disposition to act on it. Indeed, the prospects for action at this session seem virtually nil.

The proposals the President put before Congress included a series of recommendations reflecting, as Attorney General John N. Mitchell put it, the administration's "firm, even-handed" approach to crime control.

The most controversial aspect of the administration's program is an amendment to the Bail Reform Act of 1966 to permit a judge to set strict conditions on the release of suspects awaiting trial in noncapital cases and to detain without bail certain categories of suspects who are found, after a hearing, to pose a threat to the safety of society.

This proposal—the so-called preventive-detention bill—has been bitterly assailed by, among others, Sen. Sam J. Ervin Jr. (D., N.C.), who called it a "repudiation of centuries of Anglo-American traditions of fairness, due process and common standards of justice."

Another phase of the program would reorganize the court system of the District of Columbia. Yet another would convert Washington's Legal Aid Society into a public-defender service.

Two months ago, Mr. Nixon reminded Congress of its responsibilities in connnection with Washington's crime problem and declared that crime in the city had reached the crisis point.

Washington ought to represent a laboratory in which the Federal government introduces new techniques to combat crime for imitation by cities across the nation. Instead, it has been allowed to acquire the highest rate of robberies and burglaries of any city of comparable size in the United States—despite the significant fact that it has the highest per capita income and the lowest unemployment rate of any major city.

Congress should not allow the problem to grow even more acute.

[From the Washington (D.C.) Evening Star, Dec. 29, 1969]

RESTRICTING THE BAIL RIGHT

It is often said and widely believed that a criminal defendant has an "absolute" right to bail unless he is likely to flee to avoid trial. But this is not true in all cases.

A few days ago the U.S. Court of Appeals acted in the case of Kermit N. Gilbert Jr., charged with assault with intent to kill. Gilbert had been denied bail in the lower courts because of a claim that his friends and possibly the defendant himself had threatened witnesses with a view to so intimidating them that they would be afraid to testify at the trial.

The appellate court stated the controlling principle in these words: "We are satisfied that courts have the inherent power to confine the defendant in order to protect future witnesses at the pretrial stage as well as during trial." And this despite the language of the Bail Reform Act of 1966 which supposedly establishes an absolute right to bail in noncapital cases if the accused can be expected to show up for his trial. Of this, the court said: "The necessities of judicial administration prevail, and the right to bail is not literally absolute."

Surely no one will quarrel with this view of the law. It would be absurd to contend that a suspect must be released on bail if, while at liberty, he uses the opportunity to coerce witnesses so that when his trial is held there will be no one present to testify against him. It is difficult enough at best to get witnesses to appear and testify. If they could be threatened and intimidated, the administration of criminal justice would soon break down.

But if judges have the inherent power to protect witnesses, why should they not also have the power to protect the public? In our opinion they should have, and this is what the debate over preventive detention is all about.

Police Chief Jerry V. Wilson recently told the International Association of Police Chiefs of a study made by his department of individuals released in this city on personal bond, which means no bond, after being indicted on charges of armed robbery. The study covered the period July 1, 1966, to June 30, 1967.

The key finding was that "35 percent of these individuals released in one year were rearrested and reindicted on subsequent felonies, mostly armed robberies, before coming to trial. Some were rearrested and reindicted as many as three times in one year." This is a state of affairs which certainly has not improved since 1967, and which bears impressive witness to the extent to which the right of the public to be protected against criminals is trampled upon under the bail reform act.

The Nixon administration is trying to remedy this situation. It has proposed to Congress certain amendments to the bail reform act to give judges some discretion to deny release on bail if this is deemed necessary to protect the public.

This proposed discretion is not unlimited. Before denying bail the judge must hold a hearing at which the accused would be represented by counsel. Bail could be refused for these types of suspects: (1) Those charged with committing a "dangerous crime" in which there would be a high risk of additional public danger should the suspect be released. Included would be such offenses as bank robbery and the sale of narcotics. (2) Repeat offenders who have been charged with at least two crimes of violence. (3) Narcotic addicts charged with any crime of violence. (4) Defendants who try to obstruct justice by threatening witnesses or jurors.

There also are safeguards for the accused, chief among these being that a suspect must be released unless he is brought to trial within 60 days, or unless additional delay is at his own request.

Competent officials have stated that crime in Washington could be very substantially reduced if only 300 hardened criminals and narcotics users could be taken off the streets pending trial. But Congress has been dragging its feet on preventive detention despite the strong case that has been made for this law enforcement tool.

Perhaps the ruling by the Court of Appeals will help bring action at the next session of the legislators. For if judges have the power to protect their courts, no persuasive argument can be made against authorizing some similar protection for the long-suffering public.

Mr. **PROUTY**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

Mr. **HRUSKA**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

PROTECTION OF CONSUMERS IN RELATION TO ARTICLES COMPOSED IN WHOLE OR IN PART OF GOLD OR SILVER

Mr. **PASTORE**. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1046.

The **PRESIDING OFFICER** (Mr. HANSEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 1046) to protect consumers by providing a civil remedy for misrepresentation of the quality of articles composed in whole or in part of gold or silver, and for other purposes, which was to strike out all after the enacting clause, and insert:

That the Act entitled "an Act forbidding the importation, exportation, or carriage in interstate commerce of falsely stamped articles of merchandise made of gold or silver or their alloys, and for other purposes", approved June 13, 1906 (34 Stat. 260), as amended October 4, 1961 (75 Stat. 776; 15 U.S.C. 294 et seq.), is amended by—

(a) Inserting immediately after the section number "Sec. 5." the subsection designation "(a)".

(b) Adding at the end of the newly designated subsection "Sec. 5. (a)" the following new subsections:

"(b) Any competitor, customer, or competitor of a customer of any person in violation of section 1, 2, 3, or 4 of this Act, or any subsequent purchaser of an article of merchandise which has been the subject of a violation of section 1, 2, 3, or 4 of this Act, shall be entitled to injunctive relief restraining further violation of this Act and may sue therefor in any district court of the United States in the district in which the defendant resides or has an agent, without respect to the amount in controversy, and shall recover damages and the cost of suit, including a reasonable attorney's fee.

"(c) Any duly organized and existing jewelry trade association shall be entitled to injunctive relief restraining any person in violation of section 1, 2, 3, or 4 of this Act from further violation of this Act and may sue therefor as the real party in interest in any district court of the United States in the district in which the defendant resides or has an agent, without respect to the amount in controversy, and if successful shall recover the cost of suit, including a reasonable attorney's fee. If the court determines that the action has been brought frivolously for purposes of harassment, or in implementation of any scheme in restraint of trade, it may award punitive damages to the defendant.

"(d) Any defendant against whom a civil action is brought under the provisions of this Act shall be entitled to recover the cost of defending the suit, including a reasonable attorney's fee, in the event such action is terminated without a finding by the court that such defendant is or has been in violation of this Act.

"(e) The district courts shall have exclusive original jurisdiction of any civil action arising under the provisions of this Act."

(c) Inserting immediately after the section number "Sec. 6." the subsection designation "(a)".

(d) Adding at the end of the newly designated subsection "Sec. 6. (a)" the following new subsections:

"(b) The term 'person' means an individual, partnership, corporation, or any other form of business enterprise, capable of being in violation of this Act.

"(c) The term 'jewelry trade association' means an organization consisting primarily of persons actively engaged in the jewelry or a related business, the purposes and activities of which are primarily directed to the improvement of business conditions in the jewelry or related businesses."

(e) Changing paragraph (A), subsection (b), of section 4 to read as follows:

"(A) Apply or cause to be applied to that article a trademark of such person, which has been duly registered or applied for registration under the laws of the United States within thirty days after an article bearing the trademark is placed in commerce or imported into the United States, or the name of such person; and"

SEC. 2. If any provision of this Act or any amendment made thereby, or the application thereof to any person, as that term is defined is held invalid, the remainder of the Act or amendment and the application of the remaining provisions of the Act or amendment to any person shall not be affected thereby.

SEC. 3. The provisions of this Act and amendments made thereby shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of the United States.

SEC. 4. This Act shall take effect three months after enactment.

Mr. PASTORE. Mr. President, we are considering S. 1046, as passed by the Senate. I have cleared this matter with the minority, with the Senator from Pennsylvania (Mr. SCOTT), and it is agreeable with him; and also with the Senator from Montana (Mr. MANSFIELD), and it is agreeable with him as well.

Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

THE C-5A AIRCRAFT PROGRAM

Mr. RUSSELL. Mr. President, I wish to address myself today to the issue of authorizing $200 million to insure a continuation of the C-5A aircraft program.

I am proud to say that this airplane was conceived and designed and is assembled by men and women of Georgia, and I cannot deny that I am vitally concerned about their well-being. Also, I am concerned about the adverse economic impact any precipitous work stoppage at the Lockheed-Georgia Co. would have on Georgia and the whole Southeast.

But the issue is even larger than the livelihood of 20,000 or more families in Georgia. The entire Nation has a vital stake in its outcome. The ability of the United States to meet its international commitments at a cost commensurate with our ability to pay hangs in the balance.

My distinguished colleague from Georgia, Senator TALMADGE, addressed himself to the issue when he spoke on the Senate floor last Thursday, July 9. He spoke very convincingly about the importance and the value of the "remote presence" concept. The distinguished Senator from Missouri (Mr. SYMINGTON), is the midwife of this concept and has been very articulate on this subject.

It envisages bringing hundreds of thousands of our troops back home from foreign bases, but still making our foreign treaties and commitments credible and viable through the ability to redeploy these troops and their equipment quickly and efficiently through the use of massive airlift. It is remote presence rather than physical presence, and estimates indicate it could save up to $2 billion per year.

The implementation of a remote presence policy is totally dependent on an adequate massive airlift capability. It is highly questionable whether even the 81 C-5's on order are sufficient to meet this capability much less the C-5's to which we would be limited if the $200 million contingency amount is deleted from the military procurement authorization bill.

The remote presence concept has been ably espoused by Senators SYMINGTON and TALMADGE and I wish to endorse strongly their remarks. I hope the administration generally and the Pentagon particularly will give greater attention to it. It would be useful, it seems to me, for the Pentagon to make further studies of this concept in the hope that we could pinpoint more accurately and more certainly the numbers of airplanes needed to implement such a policy and the numbers of dollars we could save by its adoption.

As a matter of fact, there is a growing amount of evidence that we will need even more than 81 C-5A airplanes. The Joint Chiefs of Staff unanimously recommended twice this year going on to six squadrons, or 120 C-5A's. The Secretary of the Air Force says they still need six squadrons but budgetary constraints will make it necessary to limit our purchase to 81. The Military Airlift Subcommittee of the House Armed Services Committee recently filed a report after many months of hearings and investigations indicating there will be a deficiency of 46 airplanes with only 81 aircraft.

President Nixon, in his foreign speech to Congress in February, describing the one and a half war strategy and the new low profile policy abroad, said:

> Questions have been raised concerning whether . . . our airlift and sealift capabilities are sufficient to meet the needs of the existing strategy.

The dollar savings from implementation of the remote presence concept are certain to be in the billions, and there is certain to be a huge favorable effect on our balance of payments situation. I believe it would be very useful to the Congress for a detailed study to be made to provide us with more precise information for use in considering this matter in future years.

Mr. President, the taxpayers of this Nation would not benefit by stopping the C-5A program at 30 or 31 airplanes. It is incredible to me that we could seriously consider denying the funding necessary to continue C-5 production. Such a decision would not only void the delivery of the additional 50 to 51 aircraft we so badly need, but also create fiscal chaos.

Let me bring to your attention some of the statistics given in hearing before the Senate Armed Services Committee by the Deputy Secretary of Defense, David Packard, and by the Assistant Secretary and Comptroller Robert Moot. They indicated that if the $200 million contingency amount were not available or used, the Government would have spent $3.7 billion by January of 1971, and for that amount about 30 aircraft would have been completed and delivered. This includes the amounts to be paid Lockheed and its subcontractors and suppliers for the production of the airplane, and the amounts to be paid to General Electric for the engines. It also includes such Air Force items as ground handling equipment, spare parts, training costs, and the cost of facilities that are associated with the C-5A.

On this basis, the first 30 aircraft will cost about $120 million apiece. Mr. Packard and Mr. Moot estimate that to complete the current order of 81 C-5A's, the cost would be a total amount of $4.5 billion at an average of about $55 million apiece. Simple arithmetic indicates the cost of those additional 51 aircraft would be at the rate of less than $16 million apiece.

As Secretary Packard said in his testimony, and I quote him exactly:

> We have put so much money into the program now that we are going to get a very poor bargain if we stop it at 30.

These facts are readily explainable because there are certain costs that have already been incurred and are not recoverable. There are design and development costs—as well as employee training expenses—that go with beginning production of any new airplane. Obviously, to average these expenses over the production of only 30 airplanes makes the cost far greater per unit than if the averages are extended over 81 airplanes, or over 120 airplanes or more.

The first effect of limiting the C-5 program to 30 airplanes would be the loss of more than 20,000 jobs in the Lockheed-Georgia Co., and about 20,000 more jobs in the plants of subcontractors and suppliers in 42 States. Such precipitate layoffs would not only have a disastrous impact on all those workers and their families, but also would have a very serious and adverse economic ripple effect thoughout the Nation.

But the most incredible and startling waste comes from the fact that this work stoppage would leave about 50 unfinished C-5A's in the "pipeline," in various stages of completion. Their only value would be whatever they would bring by selling them for scrap.

I have asked for an analysis of the cost of these useless unfinished airplanes. I asked for conservative estimates so they could not be attacked or distorted, for we certainly have had enough of that in connection with this airplane.

This analysis reveals that a stoppage of production would bring about a waste of Government funds of at least $1.15 billion and possibly a great deal more.

And the irony of it is that it comes in the guise of avoiding waste in military programs.

Let me take you briefly through the arithmetic—the arithmetic of waste—if we vote to deny the funds to continue production of the C-5A.

First, the analysis indicates that 31 complete airplanes would have been delivered to the Air Force by December 31, 1970, the approximate time when the $200 million would be needed to continue production. This reflects a slight change from the figures given us in March of this year indicating that only 30 airplanes would be complete at this date.

In stopping work at this point 50 airplanes would be left unfinished. The funds to complete these aircraft have already been committed; and most of the costs would have been already incurred. This is, of course, quite normal in an industry which requires long lead-times.

All the raw material for the full complement of 81 aircraft would have been purchased and all the structures and avionics would have been delivered from subcontractors for 58 airplanes.

For 23 C–5A's, 55 to 65 percent of the structures and avionics would have been delivered by the last day of 1970.

Of the 50 unfinished airplanes the last one would be about 50 percent complete and the 32d C–5A would be about 96 percent complete.

The cost of these 50 unfinished airplanes at the December 31 date is estimated by Lockheed to be at least $1.350 billion. The salvage value from scrapping them is estimated at approximately $200 to $300 million resulting in a net waste of $1.150 billion.

These figures do not include those extra costs to be spent directly by the Air Force on ground handling equipment, training costs and so on. These estimates do include the possible savings that could be realized from immediately stopping production of parts, rather than waiting for the end of the year when the money would run out.

Also, it should be noted that these estimates do not include the effect of contract termination charges against the Government. I do not know what the termination costs might me, and I am sure no one knows at this time. It probably would require years of lawsuits to find out.

In any event, it is certain that the termination charges would add very substantially to the fiscal chaos that would occur in the event production is stopped at 31 C–5A's. But more than a billion dollars in wasted, unfinished airplanes is reason enough for us to come to our senses as we debate the question of whether to continue the C–5A.

Why must we create this chaotic fiscal mess, and incur this incredible waste? Why must we stop production at 31 C–5A's?

First, we are told that we should stop at the so-called "legal limit"—that is, the amount of funding due Lockheed and its associated contractors for the completion of 81 aircraft if you accept the legal position of the Air Force on the interpretation of the contract.

The trouble with this argument is that it prejudges the legal case. It assumes the legal position of the Air Force is unassailable and that Lockheed's legal case is worthless. It puts the U.S. Senate in the position of being a judge and a jury and denies the opportunity for a normal, judicial review of the case.

I do not know what the ultimate legal judgment might be, but in any event, I believe it is highly inappropriate for Senators to become injected into the legal question, and to use it as a reason for denying the funds for completion of the airplanes.

We are told that is a Government "bail out" of a private company, or some form of Government charity.

This "charity" argument is hardly valid once you understand that it is a legal question. Lockheed has only asked for the funds that they say are due them under the contract. They simply do not have the resources to continue this program while awaiting a legal determination of their case.

We have heard the argument that Lockheed has incompetent management. If this contention is used as a basis for refusing to authorize the $200 million, it presupposes that a receiver could do a better job.

In this connection, I have gathered a few statistics about Lockheed's record which will indicate just the opposite is true.

Since its founding in 1932, Lockheed has delivered more than 31,000 military and commercial aircraft. Since World War II, excluding current programs, they produced 9,265 military aircraft of various types, and their production performance has been truly outstanding. The performance by Lockheed on these more than 9,000 aircraft indicates a composite compliance with delivery schedules of 99.6 percent, and a composite compliance with target prices of one-tenth of 1 percent under the targets.

Since 1961, Lockheed has delivered more than 270 Agena satellite vehicles to the U.S. Government with a 94-percent schedule achievement and at costs of 7.5 percent over target prices.

Lockheed delivered more than 1,000 Polaris missiles to the Navy with a 98.6 schedule achievement and with costs at nine-tenths of 1 percent over target prices. And they delivered the first Polaris missile 2½ years ahead of the original Polaris schedule.

With a record like that it is no wonder that Lockheed became the No. 1 defense contractor and has maintained that position most of the past 10 years, including the current one. Although there are a number of fine companies in the aerospace industry, I do not believe that any other company in the industry can furnish such a record of performance.

In addition, Lockheed has become noted for the high quality of its products. I only need to mention such standouts as the P–38, the F–104, the Constellation, the U–2, the Agena satellite vehicle, and the Polaris missile. From the Georgia division, the workhorse C–130 which is still in production and the very reliable C–141 are doing yeoman's service in our Vietnam war effort and have been invaluable to the welfare of the American boys serving there.

Even today, on Lockheed's current programs, their cost overruns are about average for the industry. Their cost excess over original estimates on the C–5A, for example, is estimated to be about 60 percent, and this is about average for major defense systems these days. These overruns occurred at Lockheed for the same reasons they occurred throughout the industry—inflation; unusual problems in the industry itself where the subcontractor market turned quickly from a buyers' market to a sellers' market; well-intentioned contract procedures which turned out to be harmful rather than helpful in holding down costs; and, admittedly, some mistakes in judgment by Lockheed's management about the difficulty of the development and production task on the C–5A.

Of course, Lockheed's management has made mistakes, but in spite of their mistakes they are producing a fine useful airplane which is badly needed for our security and to meet our defense commitments.

To have made mistakes under the circumstances that faced them, is hardly a proper reason to drive them to bankruptcy. And, if you drive them to bankruptcy, who would you nominate to install as the receiver—the new man in charge?

In view of Lockheed's record, both past and present, in comparison with the records of other companies in the defense industry, would you trust some other company to do a better job? Hardly. Or would you go outside the industry to get someone who never had experience in building an airplane?

But even if you could get someone else who would be satisfactory to all of us, is it really practical to do it in midstream? Secretary Packard—a man with a wealth of experience in this field—testified that it would not be wise or feasible to make such a switch.

It might be necessary, he said, to take over full ownership and control of the Georgia plant and equipment—and it might be necessary to establish a "super" Air Force projects office to monitor continuing production—but no one in his right mind would propose completely changing management.

Lockheed's problems are financial, not managerial. And there are legal questions involved. But, more importantly, there is the question of building and delivering badly needed airplanes.

When all arguments fail, the critics of this program claim that the airplane is deficient, and we would be pouring good money after bad by continuing this program.

Because these questions have been raised, the Air Force found it necessary to review and monitor the technical progress of the C–5A far beyond normal. Incidents occurring during the development cycle have been blown all out of proportion to their importance.

The airplane has been judged by the experts to be basically sound and, at this stage, in its test program, it still promises to meet all of its basic performance requirements. This conclusion comes from Dr. Ray Bisplinghoff, the distinguished scientist and professor at MIT, and his panel of experts on the special scientific advisory board appointed by the Air Force to review the technical progress of the C–5A. Dr. Robert Seamans, the Secretary of the Air Force, who is also a distinguished scientist, confirms these conclusions. For example, they assert flatly that no new wing design is needed, despite shrill claims to the contrary.

The question finally boils down to this. Are we willing to create fiscal chaos and waste more than a billion dollars on the C–5 program on the basis of arguments that are either distortions or which are not germane to the central issue? Are we willing to stop this program at 30 airplanes instead of going ahead with the production of 81, which may not even be enough?

Is it really appropriate for the Senate to sit in judgment on the degree of punishment that should be meted out to a defense contractor, its shareholders, its employees, and its subcontractor's employees, when the legal case is not yet settled?

It is just commonsense, in my judgment, and in the interests of the United States, to proceed with the completion of this program.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes.

Mr. HRUSKA. Mr. President, I rise to speak in support of the conference report on S. 2601, the District of Columbia Court Reorganization and Criminal Procedures Act of 1970. This bill has been subjected to close scrutiny by the able members of the District of Columbia Committees in both the House and the Senate. The conference members met a total of 24 times to discuss and reconcile their differences, and the resulting bill is a triumph of wisdom and judicious compromise.

The District of Columbia crime bill represents an ambitious, very advanced project, for it is the first time that Congress has ever revised an entire criminal justice system from top to bottom. This is the type of effort that must eventually be made in other jurisdictions to assure that our institutions of criminal justice meet and conquer the pestilence of crime.

The President and the Attorney General are to be commended for undertaking this massive effort. Members of the District Committees are to be commended for seeing it through. Casual observers of the legislative process cannot know, cannot even imagine, the work that has gone into this bill and the commitment of energy and resources which have come from both the executive and legislative branches of the Government.

Much has been said about certain controversial provisions in this bill. Some critics have attacked the so-called no-knock search warrant provision and pretrial detention provision as "repressive" legislation. A modified form of these provisions is included in this bill, as reported by the conference committee. In my judgment, these sections are constitutional, reasonable, and highly necessary.

Mr. President, there is a great deal in this bill that has not been mentioned by the critics of the administration.

THE PRESIDENT'S MESSAGE

President Nixon outlined his legislative program to combat crime in the District of Columbia on January 31, 1969. I ask unanimous consent that the text of that message be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Chief among the President's several goals was a court system "similar to that of the States and other large municipalities." This required a broad and comprehensive plan to reorganize the present court system. I had the privilege of introducing S. 2601, the legislation designed to accomplish this objective.

The thrust of that bill, and the bill before us today, is to create an expanded, unified local court system in which all "local" jurisdiction is transferred, gradually, from the U.S. district court and the U.S. court of appeals to a new superior court for the District of Columbia and the District of Columbia court of appeals. The bill includes a transfer of the juvenile court jurisdiction and a timetable by which the transfer is to be effected.

This reform has been necessary for several reasons. Divided jurisdiction in criminal cases, with all felony jurisdiction residing in the Federal district courts, has been wholly unsatisfactory, resulting in squabbling, disagreements, "buck-passing," and general confusion. Through the years, this type of court system has led to the inefficient use of judicial resources and fumbling inequities in the administration of justice. The local courts and the Federal courts have been separate entities. There has been no central administration. And there have been few existing devices for solving mutual problems for the benefit of the public.

Although the District of Columbia Crime Commission, various committees, and prominent local judges called for reform, no one authority stepped forward to assume the task of planning and drafting a complete reorganization of the courts until the President directed such an effort in his crime message of January 31, 1969.

The newly created superior court replaces the present court of general sessions, the juvenile court, and the District of Columbia tax court. Over a three-stage period of 36 months, the superior court will be vested with all local trial jurisdiction and will have 44 judges serving in five divisions—civil, criminal, family, probate, and tax.

The District of Columbia Court of Appeals will have expanded powers including a greater scope of review in criminal cases, rulemaking power, and control over admissions to the bar. Its decisions will no longer be appealable to the U.S. Court of Appeals for the District of Columbia Circuit. Review on certiorari, will be the U.S. Supreme Court. The size of the court of appeals will be increased from six to nine.

In the new system, Federal courts will not be changed in structure. At the end of 36 months, their jurisdiction will be comparable to that of other Federal courts. In the new era ahead, local judicial business will be eliminated from the Federal courts.

A large urban court with 44 judges needs capable administration to perform effectively. The bill provides for modern management and court administration. It creates the post of court executive, who is made responsible for all nonjudicial functions such as facilities, procurement, personnel, and management of court operations.

The moulding and shaping of a new court system has necessitated the modification of certain judicial procedures. This procedural revision is also undertaken in the bill. For example, special procedures are created for handling intrafamily offenses, would avoid resort to the criminal process.

There are other changes, improvements, and reforms associated with court reorganization that are incorporated into this bill. They are designed for the sole purpose of updating and modernizing the District of Columbia court system so that it will be better able to cope with the crime crisis. This is the sort of fundamental reform that is absolutely necessary if the court system is to attain its mission of justice.

At the same time the courts are streamlined and given the capacity to speed up the trial of cases, efforts should be made to update the District's criminal law and procedure. This too has been accomplished in the conference report. As the President has often said, law enforcement authorities must be given the proper tools if we are to make real progress in fighting crime.

The criminal law reforms incorporated into this bill have excited some controversy. Proponents of the disputed measures have been attacked as "repressive," and it has even been suggested that the proposals will lead to a "police state."

These allegations are not true. The public officials who support the tough crime measures in this bill—men like the President, the Attorney General, the distinguished Senator from Maryland and in fact all the proponents of the measures—have taken an oath, as I have, to support and uphold the Federal Constitution. None would ignore our duty and responsibility under the law by promoting legislation he believed to be unconstitutional.

Our goal is to see that the law responds with fairness but reasonable efficiency to the sometimes harsh realities of modern society. Our objective is to advance the cause of justice by reducing the rampant crime and personal insecurity which detract so much from the quality of life, but at all times within the Constitution.

NO-KNOCK AUTHORITY

On December 5, 1969, criminal law reforms for the District of Columbia were considered in S. 2869 and approved by this body. That bill, reported by the District Committee, contained a provision establishing no-knock authority for police officers in the District of Columbia. During the course of the debate, I offered a substitute version of this provision which in my view provided a more comprehensive reform, consistent with existing law and the practical needs of law enforcement.

At the request of the Senator from Maryland (Mr. TYDINGS), I withdrew my amendment with his assurance that the amendment would be considered in the conference. Subsequently, the House passed a bill that included a no-knock provision which was very similar to my amendment.

The bill reported by the conference

embodies a little of both the Senate version and the House version, and I am well satisfied.

When I presented my amendment last December, I stated that in contrast with S. 2869, my provision would apply to both arrest and search situations, and that it would codify each of the exceptions now recognized in this area, and provide flexibility for future judicial developments in the law.

As I said then:

> The exigent circumstances existing at common law include entry without notice when, as stated as early as 1843 in Aga Kurboolie Mohomed v. Queen case, 4 Moore P.C. 239, 13 Eng. Rep. 293: First, the officer's identity or purpose is already known to the person on the premises. Other cases have recognized exigent circumstances when, second, such notice would result in the destruction or concealment of the evidence, third, such notice would increase the likelihood of bodily peril to the officer or anyone aiding him; and fourth, the notice would permit the party to be arrested to escape.

Since my remarks on the floor, the United States Court of Appeals for the District of Columbia Circuit has taken note of the "useless gesture" exception. I ask unanimous consent that pertinent parts of this decision, Bosley against United States, be printed following my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 2.)

Mr. **HRUSKA**. A majority of our States, in statute or in court decision, recognize situations which justify no-knock entries. My own State of Nebraska has enacted a statute that provides in part, that a judge may issue a warrant authorizing an officer's entry without giving notice of his authority and purpose, when, upon proof under oaths, he is satisfied "that the property sought may be easily or quickly destroyed or disposed of, or that danger to the life or limb of the officer or others may result, if such notice be given." Nebraska Revised Statutes, section 29-411.

U.S. Attorney Thomas Flannery has stated that—

> [T]he passage of [a no-knock provision] is necessary for effective enforcement of local and federal narcotics law. Experience has shown that the time consumed by the executing officers in announcing their authority and purpose and waiting to be refused admittance is used by the dope peddler in disposing of his narcotics down the toilet. All too often law enforcement officers, after finally entering the premises to be searched, find the drug trafficker in his bathroom gleefully watching his drugs vanish from sight. The provision . . . would also be of exceptional value in our efforts against organized gambling.

This prophetic statement was borne out last week when gambling evidence was destroyed during the course of a police raid. I ask unanimous consent to have printed at this point in my remarks an article from the Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FBI ARRESTS NINE IN GAMBLING RAIDS

(By Alfred E. Lewis)

FBI agents, acting on information obtained through federal court-authorized wiretaps, raided 13 locations in Washington and Maryland yesterday and arrested nine persons on interstate gambling conspiracy charges.

A spokesman for the FBI said the raided operations were doing a business in excess of $25,000 a week.

Thomas A. Flannery, U.S. attorney for Washington, said the raids, conducted by more than 50 FBI agents, were the result of a two-month investigation. It was the third major raid since last August based on wiretap information. The first two raids involved narcotics allegations.

The wiretaps at three locations, authorized by federal District Court judges in Washington and Maryland, were the first obtained in a gambling investigation by the FBI in this area, Flannery said. The horse betting and numbers investigation was coordinated by the year-old major crimes unit of Flannery's office.

Arrests were made at only eight of the 13 locations. Flannery said, because evidence was destroyed in some instances before the agents could enter. He said it was a "classic case for 'no-knock' authority."

"At each of the 13 locations searched by the FBI," he said, "agents were required to and did knock, announce their identity and purpose and give the occupant a reasonable time to answer, as required under present law. On several occasions today, they gained entry only to find pans of indistinguishable water soluble paper and charred remnants of flash paper," which he said were destroyed betting slips.

"Clearly, if the pending 'no-knock' legislation had been in effect, we would have saved this evidence," Flannery said. The proposed law would give police authority to enter premises without knocking if they believed evidence was being destroyed.

He said the wiretaps were based on applications made by the FBI to Judge John J. Sirica, of the District Court for Washington, and Judge R. Dorsey Watkins, of the U.S. District Court for Maryland in Baltimore. He said the taps showed that the phones were being used to transmit bets and betting information "in aid of a racketeering enterprise."

The following persons were arrested. All were charged with using an interstate facility (a telephone) to conduct a gambling operation and using a telephone in aid of a racketeering enterprise (gambling).

Arrested at the scene of the first wiretap, 201 I St. SW, was Thurman M. Jones Jr., who was held on $5,000 bond.

Arrested on the scene of the second wire tap, at 3623 Eastern Ave., Mt. Rainier, was William F. Cush, held on $5,000 bond.

Arrested at 4105 Southern Ave., Hillcrest Heights, the third location the FBI tapped, was Robert L. Cheruahas, held on $1,000 bond.

Others arrested at their homes and held on $1,000 bond were Francis R. Jones, 4105 Southern Ave., Hillcrest Heights; John W. Crowley, 4901 4th Ave., Oxon Hill; Paul Grasso, 6103 42d Ave., Hyattsville; Joseph L. Garilli, 3601 Eastern Ave., Mt. Rainier; William A. Shields, 3712 42d Ave., Cottage City.

Joseph Juliano, 7310 Rolling Ridge Rd., Seat Pleasant, was arrested at the Cottage City address.

Mr. **HRUSKA**. I strongly endorse this provision of the bill.

PRETRIAL DETENTION

My position with regard to pretrial detention was set out at length in my article, "Preventive Detention: The Constitution and the Congress," which appeared in 3 Creighton Law Review 36 (fall 1969). In that article, I argued in support of formalized pretrial detention while observing that "the judicial instinct to protect society from defendants who pose an obvious danger to the community cannot continue to operate without restraint. It can and must be channeled into constructive procedures which limit the range of the judge's discretion and protect the rights of the defendant."

In reducing these sentiments to statutory language, the conference report has made several important changes in the law.

First, it authorizes courts in the District of Columbia to consider a defendant's potential danger to the community in setting conditions of pretrial release. We have learned through hard experience that this consideration was unwisely forbidden in the Bail Reform Act.

Second, the bill authorizes the limited pretrial detention of very dangerous defendants for a period of up to 60 days. The possibility of detention is limited to defendants charged with specified serious felonies; and it is additionally limited to defendants who have been found in an adversary hearing to constitute an acute danger to the safety of the public.

Third, the bill provides sanctions for defendants who violate the conditions of their release and adds penalties for defendants found guilty of bail jumping or committing an offense while free on bail.

A fourth provision, found elsewhere in the bill, enlarges the size and function of the District of Columbia Bail Agency. This provision will permit the improved supervision of defendants released on bail.

Pretrial detention is clearly the most controversial of these four provisions, and it deserves further comment.

From the available evidence, there appear to be four major reasons why the Bail Reform Act should be amended to authorize pretrial detention in the District of Columbia.

First, pretrial detention will reduce crime. A sizeable percentage of the serious crime in the District of Columbia may properly be attributed to persons released before trial and subsequently apprehended in the commission of new crimes. Of 130 persons indicted for robbery and released before trial in fiscal 1967, 34 percent were reindicted for at least one felony committed during pretrial release. In calendar 1968, 70 percent of the 345 robbery defendants indicted and released were subsequently rearrested for a new crime.

Although we do not have a complete statistical breakdown of recidivism on bail for every category of offender, we have sufficient information to know that crime on bail is not insignificant. A recent study by the National Bureau of Standards indicated that while 17 percent of the felony defendants released during a four week period in 1968 were rearrested for a new crime, the true recidivism rate was probably close to 40 percent.

Let me direct your attention to two quotations on this problem. Testifying before this Subcommittee on Constitutional Rights last year, Judge Tim Murphy of the District of Columbia Court of General Sessions said:

> [A]s a practical matter, many cases come before the court in which from the outset

> there is not a shadow of a doubt about the defendant's guilt. Many of these cases involve dangerous persons whom the judge knows to a moral certainty will repeat their criminal activity if released. Yet under the Bail Reform Act he must release these people to prey on the community. My immediate examples are the holdup man who is in on one, two, three, or four gunpoint holdup charges, and, of course, your narcotic addicts, who because of their illness must commit a crime to support a habit.

Compare with Judge Murphy's testimony this comment in the New York Times magazine, by British political writer Rober Conquest. Conquest wrote that:

> A piece of news that was completely astonising to Englishmen of all political opinions was that a significant proportion of the armed robberies taking place in Washington, D.C., are carried out by men out on bail on earlier charges of armed robbery.
>
> We do not think ourselves less liberal or less legally oriented than the U.S.; *but it is virtually inconceivable that bail would be considered for a moment in such cases in England*. (Emphasis added.)

These questions supply a little food for thought to those who wonder why the crime rate in Britain is considerably lower than the rate here. They should also inspire support for the pretrial detention provision in this bill.

Now, second, even if the crime on bail were not a significant factor, individual instances undoubtedly arise when predetention is really the only way to avoid an unspeakable tragedy.

At present, the Bail Reform Act mandates the release of virtually all noncapital defendants before trial. These defendants include men charged with such serious crimes as forcible rape, kidnapping, arson, armed robbery, burglary, bank robbery, mayhem, manslaughter, assault with intent to kill, and second degree murder.

As interpreted by the court of appeals, the Bail Reform Act does not permit a consideration of dangerousness in any of these cases, regardless of how extreme the facts may be.

A story in yesterday's Washington Daily News provides a hypothetical example of the problems at issue.

Shortly before 2 p.m. on Tuesday, Officer Harvey E. Baker spotted a man in an alley in the 1200 block of Seventh Street NW. As Baker's patrol car pulled near, the man dropped a small package to the ground that might have been narcotics.

When the officer went up to the man and apprehended him, the man shouted for help. Suddenly, two men jumped the officer from behind.

When the attackers had wrestled the officer's service revolver away, the suspect screamed, "Kill him, kill him." Within the next few seconds, five shots were fired, three directly at the officer, though none wounded him. Later, the man in the alley was apprehended, with narcotics paraphernalia in his possession.

Suppose all three men had been arrested and been positively identified. All three would be entitled to pretrial release, even though they have been addicts, even though they definitely assaulted an officer, and even though they came within inches of killing a policeman in cold blood. I ask unanimous consent to have printed in the Record, an article entitled "Kill Him, Kill Him, the Suspect Screamed," written by Mark Lewis and published in the Washington Daily News of July 15, 1970.

There being no objection, the article was ordered to be printed in the Record, as follows:

"Kill Him, Kill Him!" the Suspect Screamed

(By Mark Lewis)

"Kill him, kill him!" the suspect screamed as a friend aimed the police revolver at a D.C. police officer writhing on the ground.

"Then he started cranking them off," Officer Harvey E. Baker said as he described yesterday's experience as a human target.

The first shot whipped thru his pants leg.

The second hit the ground beside him and ricocheted away.

The third shot glanced off a metal eyelet high on his combat boot.

"You just think about trying to stay alive, that's all," the 23-year-old Vietnam veteran said. "I got up and started ducking and trying to get out of the way."

The final two shots went wild as the gunman backed away.

"I was shaking. It was pretty hectic," the officer said as he recounted the incident yesterday.

It began shortly before 2 p.m. when Officer Baker spotted a man in an alley in the 1200 block of Seventh-st nw. As the one-man patrol car pulled near, Officer Baker said the suspect dropped a small package that might have been narcotics on the ground.

Leaving the patrol car, the First District officer ordered the man to halt and placed him under arrest. "He began to shout for help," Officer Baker said. As the officer attached one end of the handcuffs on the suspect's wrist, two men jumped him from behind.

The officer was wrestled to the ground and his gun was pulled away. He said that the original suspect urged the man with the gun to kill him. After the five shots, the three fled.

Officer Baker was treated at Washington Hospital Center for bruises and abrasions, and then returned to duty.

Forty minutes after the struggle, Officers James L. Jones and Ronald A. Firmani spotted a man with a white towel wrapped around his left wrist. They ordered him to halt and when he whirled toward them, Officer Jones fired one shot but missed.

The man surrendered. The towel covered handcuffs, police said.

Booked at the District jail charges of assault on a police officer and possession of a hypodermic needle was William Henry Slaughter, 20, of 655 Acker-st nw.

Last night, Officer Baker who was wounded twice and received both Navy and Presidential citations during his 27 months with the Marines in Vietnam, said the gunfire reminded him too much of combat.

Mr. HRUSKA. More extreme cases can easily be imagined and have in fact occurred in the District of Columbia. Vicious rapists have been released on personal bond. Bank robbers, burglars, and armed felons have been released casually on personal recognizance. New crimes have been committed.

In my view, the compulsive rapist and sex pervert who may strike without warning at any time—the incorrigible recidivist who has been engaged in a life of crime since early childhood, the narcotics addict who is desperately in need of money for his next fix, and the hardcore tough who is inclined toward viciousness and physical violence, should be detained before trial because no system of accelerated trials and no alternative to pretrial detention will protect the public from such men. When these men have been charged with a serious crime, society should have an appropriate means to effect their detention.

The third reason why this pretrial detention provision is desirable is that it will restore integrity to the legal system.

Even under the Bail Reform Act, which was designed to minimize the use of money bond, not every defendant has been released before trial. On the contrary, the Senator from North Carolina (Mr. Ervin) reports that on May 15 of this year, 1,408 defendants were being held for trial in District facilities. This is a shocking figure, which will undoubtedly be reduced if the present bill is passed.

There is really no doubt that some of these defendants were not released because they could not meet the money bond required by judges who considered them dangerous.

Detention derived through bail manipulation is dishonest and hypocritical, even when it is wholly rational. The law should be above this subterfuge.

Open pretrial detention would not only restore integrity to the legal system, it would also afford greater protection to individual defendants, whose alleged dangerousness and whose open detention would be subject to appellate review.

The fourth reason why the Bail Reform Act should be amended in the District of Columbia is that, as drafted, it grants no authority to revoke bail for those who have been apprehended for a new crime during or following pretrial release; nor does it authorize the detention of those who would threaten or injure witnesses or jurors or otherwise disrupt the administration of justice. These grounds for pretrial detention are almost universally accepted as necessary and reasonable, but they are not recognized in the language or the legislative history of the 1966 act.

These four reasons, plus others which might be adduced, provide ample justification for changing the law. I am convinced that the Bail Reform Act should be amended to authorize pretrial detention, and I think we are deluding ourselves if we seriously insist that this is not so.

As I review the constitutional questions that have been raised concerning this provision, I have concluded that the statutory and constitutional history of Federal bail establishes that the eighth amendment to the Constitution does not guarantee an absolute right to bail. Too many exceptions exist which have stood the test of time and Supreme Court review. Just as bail has been traditionally denied in capital cases, so it can properly be denied in noncapital cases if the standards and guidelines of the Congress are carefully drawn. They have been carefully drawn in this bill. The fifth amendment's guarantee of due process can be adequately protected in detention hearings by providing procedural safeguards and the right to judicial review.

I ask unanimous consent to have printed at this point in the Record several editorials relating to the District of Columbia crime bill and pretrial detention.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Evening Star, July 15, 1970]

A Sound Compromise

Given the scope, controversy and emotional confusion of the omnibus D.C. Crime Bill, the merits of the House-Senate conference report now before Congress constitute an impressive legislative victory for this city. We urge its immediate enactment.

The nearly 500 pages of this massive bill certainly are not free of flaws—from our view as from that of everyone else. But it is a compromise measure in which no fault is sufficiently severe to outweigh the substantial advances. Through some 24 conference sessions, surprisingly satisfactory solutions were hammered out in most of the 174 separate points of difference between the initial House and Senate versions. Where doubts remain as to legislative wisdom, we believe they can be overcome in each instance by prudent, intelligent administration of the law.

In the Senate, a great deal will be heard during the next few days about a move to try to enact several essential provisions—including the reorganization of the local court system—through new, separate legislation. That effort deserves rejection if for no other reason that it has no chance whatever of acceptance in the House. One might continue to argue, as we believe was the case, that the Senate initially chose the wiser course in approaching this multitude of anti-crime proposals through a series of bills rather than the single measure insisted upon by the House. But the public should be aware that those senators who still urge that course, in view of present realities, have embarked upon a futile political trail—at the risk of losing an invaluable package of tools for combatting crime and improving this city's system of justice.

We intend, as the debate proceeds, to comment at greater length in these columns on specific aspects of the bill. In brief, we think it regrettable that the police "no-knock" provision, which has become such a symbolic point of emotional dissent, survived the conference. There are aspects of juvenile treatment which could have been improved upon. The inadequate federal financing, and the curtailed authorization for new judges for Washington's courts, are sharply disappointing.

As to the most hotly debated provision, however, we applaud the Senate conferees for accepting the concept of a preventive detention authorization—having insisted upon safeguards which vastly improve the original House proposal. The elimination of the senseless proposal to transfer the Lorton Reformatory from District to federal control was a major victory. The Senate conferees prevailed, as well, in removing objectionable features of mandatory minimum sentence proposals, and in bolstering provisions for an effective public defender program and an expanded city bail agency.

These, moreover, are merely the highlights of this incredibly complex and far-reaching legislation. The relatively few points of philosophical controversy can be counted upon to monopolize the debate in both the House and Senate. But it is the total package, clearly in the public interest, which should be the pre-eminent concern.

[From the Washington Daily News, July 15, 1970]

Pass It the Way It Is

It was pleasant to report on Monday that, after three months of deliberations, Senate and House conferees had reported out the omnibus crime bill for the District of Columbia. It was high time.

The conferees' bill contains most of the controversial sections of the original Senate and House measures—as, to be sure, was manifest weeks ago.

Months ago, more than 15,000 concerned D.C. citizens took occasion to write to the Washington Daily News urging swift action on the crime bill. These letters were transmitted formally to the men on Capitol Hill. The fact that three long months were required for such action to be forthcoming seems to say something sad about the effectiveness of the voice of the people—the people of the disenfranchised Federal City, at least.

But now there is agreement among the conferees, and we only hope that the full Senate and House will make up for all that lost time.

Most controversial sections of the bill are:

Provision for preventive detention of persons accused of certain crimes of violence when, in the opinion of the court, the accused might be expected to commit another crime while free awaiting trial.

The right of policemen, having obtained a warrant, to enter private premises without knocking—when there is reason to believe that if they announce themselves evidence may be destroyed or the person suspected of having committed the crime in question will be given opportunity to escape.

The preventive detention provision has opperated extremely well for many years in Britain—which is, however, admittedly a somewhat different society than ours. Certainly preventive detention can function fairly only if there is sweeping reform of our courts and many more judges are provided to give swift justice. Provision is made for this in the current bill.

The "no-knock" provision appalls many concerned and thoughtful citizens. We do not find it so appalling, provided judges and policemen follow the rules meticulously. One of the problems is that police already break in without knocking under certain circumstances and this law would require that they get judicial sanction for such practices.

If a householder, hearing someone breaking in his door, undertakes to defend his dwelling by shooting the policeman—well, we shall have to see what comes after that. Meanwhile, we believe the "no-knock" provision will give those same policemen a necessary weapon in their war on the very crimes that have so justly frightened all citizens here, whether they are for or against "no-knock."

Cliche tho it be, we believe that the vast majority of our people who are law-abiding require strong measures for their protection.

We hope, then, that the full Senate and House will enact the bill into law—right now.

Nixon Crime Legislation—I

(This editorial was broadcast October 22 and 23, 1969 over WTOP Radio and Television, No. 166)

This is a WTOP editorial.

The need for a war on crime rightly has aroused the nation to action. One manifestation of the growing concern is a broad range of anti-crime legislation prepared by the Nixon administration for the District of Columbia. In this and subsequent editorials, we will address ourselves to a number of the most significant proposals.

The most controversial among these is the jailing of suspects charged with serious crimes to prevent their committing additional crimes while awaiting trial. Three months ago, we editorially opposed the concept. Today, we reluctantly support it.

Two things have altered our view: the danger to our communities from hardened criminals who are exploiting the existing bail law has become, we believe, more acute. Secondly, we are reasonably assured that the kinds of safeguards drafted by the Justice Department for its amendment to the Bail Reform Act probably will pass a constitutional test.

Under the administration's proposal, carefully-designated suspects may be detained up to 60 days, but only on an order of the court and only after a full hearing. This is a drastic policy, for its net effect is to impose imprisonment in advance of conviction. But in this particular respect, the right of society to a reasonable degree of safety needs to be reinforced.

The language of the legislation is critical. A 60-day maximum detention, for example, may be unnecessarily long. The categories of offenders to whom detention would apply may be somewhat broad in the administration's draft. The procedural safeguards it contains must be regarded as minimal.

The jailing of suspects is an easy way—albeit a risky one—to fight crime. It will get people into prison, but it won't alleviate the conditions which disposed them toward crime, and it won't cure the wretched mess we call a correctional system. The administration's commitment to attacking these parts of the problem is far from sufficient.

With some misgivings, therefore, and with a deep concern for the careful drafting of the law, we support the use of preventive detention.

This was a WTOP editorial . . . Norman Davis speaking for WTOP.

[From the Washington Post, June 21, 1970]

Crime Control: A Case History of What Is Wrong

"A Washington policeman shot and killed a fleeing robbery suspect at New Jersey Avenue and K Street NW," the story on Friday's front page began, adding that the officer had been shot twice by the suspect, according to the police. That was all that could be said in one paragraph, in a straightforward news account, and it is not until you examine the background of the dead man that the event becomes something more than a shoot-out between a policeman and a suspect—becomes, in fact, almost a model of what is wrong about our system of crime control. For the fact is that Franklin E. Moyler was more than a "suspect"; he was, from all the evidence, a hardened criminal, at liberty on a very small bond and awaiting trial for two previous offenses involving use of a dangerous weapon. In 1965 he was found guilty of robbery and assault on an officer and was imprisoned for nearly two years. After this release, he was charged with assault on several occasions. Last January he was accused of four offenses including assault with a dangerous weapon, but succeeded in regaining freedom when he put up one-tenth of a $1,500 bond in cash. On June 1 he was arrested again on charges of robbery and carrying a dangerous weapon, and this time a bonding company put up the $2,000 required for his release.

This is a record which calls into question almost every aspect of our approach to crime and criminals and criminal suspects—the efficacy of correctional institutions and of rehabilitation programs for convicted criminals; the speed, or shocking lack of it, with which accused persons are brought to justice; and, finally, the hard question of how to protect the public from people with demonstrably dangerous criminal tendencies who are set free for prolonged periods while awaiting trial. It is impossible to say precisely what might have been done to rehabilitate Moyler over the past five years even if the most advanced techniques had been available—except that it would have been worth a try. It is also impossible to know what would have been the judgment if he had been brought speedily to trial; he might well have been found innocent of the several crimes of which he stood accused, and released each time.

What seems inescapable, however, is that he would not have been at New Jersey Avenue and K Street NW last Thursday with gun at hand, as the police say he was, if he had been detained or even subjected to close and continuing supervision after his arrest on June 1 and until he could be tried—under a greatly accelerated and reformed judicial process. And some such precaution for the sake of public security would have been justified by the known facts in this case, in our view. The record suggested a pattern of criminal activity involving acute dangers to the community. The bail agency was apparently concerned about that risk. It recommended that he be required to get a job in January, and that he be placed in someone else's custody in June, but the judge ignored both conditions of release.

The chief difficulty with the present law is that it makes no allowance for restraints designed to protect the community, except in capital cases. The conditions of release specified in the act are supposed to be used only for the purpose of assuring the appearance of the defendant at the time of his trial. We think judges should also have discretion to use conditional release and monetary bail where necessary to protect the community and that in some cases, involving extraordinary risks, preventive detention for a limited period would be the lesser of two evils. If preventive detention had been used in this case, it might have saved the life of the accused and prevented suffering and danger of death for a conscientious policeman.

Unfortunately, the Department of Justice has sought to cast too broad a net. In some wide categories of cases it would allow preventive detention to become the rule rather than the exception carefully tailored to defendants with records of violence, bail-jumping or other conduct that may menace the public. The District crime bill now in conference between the Senate and House ought to be revised so that it would give the courts new resources in dealing with known criminals of Moyler's type, without making detention before trial almost a general rule in serious cases.

[From the Omaha Sunday World-Herald, June 21, 1970]

JAIL BEFORE TRAIL

Preventive detention—the jailing between arrest and trial of defendants considered too dangerous to be released on bond—is a comparatively new concept as a matter of law. But it is fairly routine as a matter of practice.

For years judges have kept defendants in jail before trial, simply by setting bail so high the accused cannot afford it. Prof. Abraham Goldstein of the Yale Law School, quoted in the New York Times magazine, said this technique "has been so widespread that fewer persons are released on bail in most of our states, where there is nominally an absolute right to bail, than in England, where there is no such right."

It has been estimated that 40 per cent of all felons indicted in the United States District Court for the District of Columbia in 1965 were detained before trial. The figure was 26 per cent in 1967 and 34 per cent in 1968. A Justice Department survey has shown that only 10 per cent of persons indicted in a recent period, in the same jurisdiction, would have qualified for pretrial detention under the administration's proposed law.

This is one aspect of the preventive detention issue that has not received the public attention it seems to merit.

Another largely overlooked factor is the support of federal pretrial detention legislation by widely varied individuals and groups. It is not, as has been pictured, solely the brainchild of Atty. Gen. John Mitchell and the "repressive" Nixon administration.

Some liberal congressmen, including Sen. Charles Goodell, R-N.Y., and Sen. Joseph Tydings, D-Md., chairman of the Senate District of Columbia Committee, support preventive detention legislation.

Last year a panel reported to the Tydings committee that "pretrial detention offers an immediate response to armed violence and adds long-range rationality to our criminal justice system."

The panel included a judge of the D.C. court of general sessions; a past president of the Washington Bar Association; the chairman of the 1966 President's Commission on Crime for the District of Columbia; the dean of the Howard University Law School; a past president of the D.C. chapter of the NAACP, and the director of the D.C. Human Relations Commission. It was hardly a vigilante gang.

There are varieties of pending legislation. Basically, all would provide a procedure something like this:

In prescribed cases, the federal prosecutor could ask the court to detain a dangerous defendant before trial. A hearing would be required immediately or within a few days, and a clear and convincing picture of the defendant's dangerous nature would be required.

The accused would have the right to appeal and the right to counsel. The prosecution would be required to go to trial within a specified time period—which in all the proposals is considerably shorter than normal pretrial delays.

Thus there seem to be several safeguards. But this is not to say the proposals would pass constitutional muster. Preventive detention laws probably would have to be very carefully written and even more thoroughly hedged with protections to satisfy strict requirements of the Constitution as to due process and right to bail.

However, it can be seen that pretrial detention as presently envisioned is not necessarily the frightening police-state measure it often is said to be. It would be helpful if the discussion could continue in that realization.

[From the Albuquerque Journal, January 12, 1970]

CRIME IN NATIONAL CAPITAL

Because of its appallingly high crime rate, Washington is frequently referred to by Journal columnist Andrew Tully as "Hell City."

This appellation and the statistics that produced it obviously must distress most Americans. The nation's capital is one of the world's most beautiful cities and certainly its most important power center. It should be the show place of the nation.

But the dismal fact is its residents live in constant fear. At night they stay behind locked doors and visitors are advised to do likewise; those who go out after dark do so at their own peril.

Washington's high rate of crime is indisputable but there is some question about its root causes.

A recent report by Police Chief Jerry V. Wilson showed that murder, rape and robbery reached an all-time high in Washington in 1969. The city's total crime index, which includes statistics for seven major classifications of crime, has risen from 10,000 cases to 60,000 in the last decade.

Chief Wilson says a major cause of this increase is the change in the attitude of the courts that followed the U.S. Supreme Court's decisions in the Escobedo and Miranda cases. These have made prompt justice impossible and eventual justice uncertain.

Availability of bail contributes to delay. There have been numerous instances in which a suspect, out on bond pending trial on one crime, is arrested for another offense and again gains freedom by posting additional bail. In this Washington is no different from Albuquerque and other cities.

But in the nation's capital this mischief has been compounded by a recently enacted Bail Reform Act. A suspect arrested for a crime and who cannot make bail, but has ties to the community, must be released on his own pledge to appear in court when his case comes up. So he is again free to rob, rape and kill until his first case eventually surfaces on the court's overloaded docket.

Still another factor in Washington's crime rate is congressional penuriousness. In their book "The Case-Against Congress," Journal columnist Jack Anderson and the late Drew Pearson label Rep. John L. McMillan, D-South Carolina, as "the man who has ruled the city of Washington . . . for the last 22 years."

The book blames McMillan, chairman of the House District of Columbia Committee, for blocking home rule because Washington was the first big city in the nation to have a Negro majority."

And it states McMillan's "sturdy opposition to progress over the years has stunted the development of Washington as a real metropolis."

Fighting crime anywhere else in the nation is difficult; in Washington it has been made almost impossible.

[From the Richmond News Leader, June 30, 1970]

LET THE JUDGES DECIDE

A few days ago in Washington, a traffic patrolman shot and killed a robbery suspect fleeing from a liquor store holdup, after the suspect had shot the patrolman through the chest and neck. Details of the shooting repeat a pattern that has prevailed in the nation's capital since passage of the Bail Reform Act of 1966, under which all suspects charged with other than capital crimes in Federal courts must be released on bond if the judge considers them likely to show up for trial.

Had Federal District judges in Washington been permitted to consider a suspect's record or the likelihood that he would commit other crimes while free on bond, the recent shootout might not have occurred. The suspect in the case, Franklin E. Moyler, had the record of a hardened criminal. He had served two years in jail on charges of assaulting an officer. He subsequently chalked up a number of assault charges: In January, he was charged on four counts, including assault with a deadly weapon, but was released when he posted one-tenth of a $1,500 bond. On June 1, he was charged again with robbery and released on a $2,000 bond. So he was free on June 19 to shoot and to wound a policeman critically.

The latest incident adds yet more imperative reasons for approval of a preventive detention provision included in the D.C. Crime Bill, under which Federal District judges would be permitted more discretion in setting bail. The Tydings Advisory Panel Against Armed Violence recently endorsed preventive detention as "an immediate response to armed violence." The panel found, in its investigation, that one out of every 11 suspects released on bond is charged with subsequent offenses before reaching trial on the first charges. The panel also reported that offenders charged with certain crimes, such as burglary, robbery, and narcotics offenses, are much more likely to be charged with subsequent offenses while free on bond.

The preventive detention proposal has sincere opposition from those who believe that it infringes on the constitutional rights of criminal suspects. After all, they say, the suspect has not yet faced trial on his charges, and therefore he must be presumed innocent and set free until proved guilty. Opponents further contend that only a small percentage of those released actually commit new crimes before their trials, and preventive detention would punish both the innocent and the guilty.

These arguments fail to persuade. In recent testimony before a Senate subcommittee, U.S.

District Judge George Hart recounted 14 cases in Washington in which preventive detention would have prevented commission of new crimes by the suspects, all of whom had been charged with crimes of violence. The subsequent crimes included rape, attempted murder, and armed robbery. In Judge Hart's view, the right of society to be protected from crimes of violence justifies approval of preventive detention.

Those who oppose preventive detention somehow view judges as ogres who would welcome an opportunity to put every criminal suspect behind bars. The record suggests otherwise. Judges who deal daily with violent criminals soon learn to recognize a hardened criminal when he appears in their courtrooms. These judges also recognize their responsibility to uphold the law, acting as instruments of that law. Arguments against preventive detention suggest that most judges are corrupt and that they have no ability to distinguish a hardened criminal from a first offender, an unjustified insult to the Federal judiciary.

The arguments continue, pro and con, and a great deal of misinformation results. Meanwhile, the crime rate in Washington rose 21 per cent during the first three months of this year over the same period in 1969; the national crime rate rose by 13 per cent. Even the liberal *Washington Post* has recognized that the lack of preventive detention has contributed to Washington's crime problems. With support from both conservative and liberal elements, preventive detention, in conjunction with a speedier trial system, may yet prove a highly effective weapon against those who repeatedly threaten the lives and safety of citizens in the nation's capital.

CONCLUSION

Mr. HRUSKA. Mr. President, the final paragraph from the editorial in the Washington Star says in part that the bill is incredibly complex and far reaching and that the total package, clearly in the public interest, should be the preeminent concern in Senate consideration of the legislation, not just a few controversial paragraphs out of almost 500 pages.

I applaud this sentiment. As has been pointed out earlier in this speech, I support the controversial revisions in the criminal code of the District. I think these changes and additions to the laws are necessary for the protection of the people of this city, consistent with the constitutional rights of all.

But even those who do not support certain of these sections must not lose sight of the totality of this bill. The great bulk is devoted to reform of the criminal justice system in this city—court reorganization, creation of a public defender service, revision of the bail agency. These are vital changes, urgently needed now. To vote against the entire package and condemn these changes to the wastebasket is a classic case of throwing out the baby with the bath water.

I urge my colleagues to look at the entire bill in making up their minds on how to vote. When that is done, I am hopeful that the Senate will approve the conference bill, as the other body has already done by an overwhelming vote.

Mr. President, I yield the floor.

EXHIBIT 1

ACTIONS AND RECOMMENDATIONS OF THE PRESIDENT FOR THE DISTRICT OF COLUMBIA

Responsibility begins at home.

The District of Columbia is the Federal City, and the Federal Government cannot evade its share of responsibility for the conditions of life in the District.

For many who live here, those conditions have become intolerable. Violent crimes in the District have increased by almost three times in the last eight years; only two days ago, the local newspapers carried a report that armed robberies had more than doubled in the past year alone.

This violence—raw, vicious violence, hurting most of all those who are poor and work hard—is the surface manifestation of far deeper troubles.

These troubles have been long building. In part, Washington today is reaping a whirlwind sown long since by rural poverty in the South, by failures in education, by racial prejudice, and by the sometimes explosive strains of rapid social readjustments.

Because its roots are deep and closely woven, crime in the District cannot be brought under control overnight. Neither can poverty be ended or hatred eliminated or despair overcome in a year. But we can begin.

In the 11 days since the new Administration took office, I have asked the departments and agencies concerned to make an intensive study—as a matter of first priority—of actions that could be taken now toward curbing crime and improving the conditions of life in the city of Washington.

I wish I could report that we had produced a magic formula that would end crime and sweep away despair overnight. We have not. I have determined on a number of actions and recommendations which will provide a start.

These include:

A swift start on restoring those areas devastated nearly ten months ago.

A package of proposals that can at least help toward restoring the safety of life and property.

A commitment to give the people of the District of Columbia the voice they legitimately should have in the public policies that affect their lives.

Before detailing these measures I would like to make two points, both of which may help set the measures themselves in perspective.

I am pleased to report, first, that Mayor Washington and I, together with key members of our respective Administrations, have established the basis for what I confidently expect will be the most effective cooperation yet achieved in the relations between the Federal and City governments.

The basic framework within which we both intend to operate is one of local initiative and responsibility, and the fullest possible Federal support—not only in terms of the necessary money, but also by involving the vast array of technical assistance available from within the Federal departments and agencies headquartered here.

Second, the great majority of these actions and recommendations are in the fields of crime control and the administration of justice. I recognize full well that crime and violence are only part of the complex interweave of problems the District faces, and that in the long run crime itself also requires much more far-reaching and subtle approaches. But the rapidly mounting urgency of the crime crisis in the District marks immediate, direct anti-crime measures as the first-priority task.

There is another reason for this early and urgent emphasis. Crime in America today is both a primary local responsibility and a primary national concern. Here in the District, the Federal Government bears a special responsibility and has a unique opportunity. By searching for new ways of applying the resources of the Federal Government in the war against crime here, we may discover new ways of advancing the war against crime elsewhere.

These measures are by no means a comprehensive list. They represent things that are clearly needed and can be done now. Other crime-control measures will follow, and also additional measures to meet the vast array of the District's other needs.

RESTORING THE DEVASTATED AREAS

Scarcely any of the shops and homes destroyed during the riots of last April have been rebuilt, and very few of those damaged have been made habitable or usable again. These rotting, boarded-up structures are a rebuke to us all, and an oppressive, demoralizing environment for those who live in their shadow. They remind us again of the basic fact that the principal victims of violence are those in whose neighborhoods it occurs.

It is not enough merely to patch up what now exists: we must truly rebuild.

The people of the District—especially, of course, the people who live in these areas, and those who own the land—must decide the purposes for which these blocks will be used. The Federal Government can, however, pledge its full support for those Federal programs which can enable such redevelopment to proceed, and can further pledge the utmost Executive energy in responding to formal applications from the District.

We have already begun.

Specifically, Secretary Romney informed me today that the Department of Housing and Urban Development has approved a 29.7 million dollar neighborhood development plan for the Shaw area, including the major portion of the 7th Street neighborhood damaged during last April's riots. This plan, the result of several years of preparation, is an accomplishment of which this city can be proud.

It took Secretary Romney's Department less than 24 hours to approve this plan for the Shaw area, once it was approved by the City Council last Tuesday and submitted for Federal approval Wednesday evening. This unprecedented process illustrates the commitment of this Administration to the meeting of the urgent needs of the Capital city.

Mayor Washington has indicated that he intends to seek similar assistance under the Housing and Urban Development Act of 1968 for rehabilitation of the two major areas of riot damage not covered in the Shaw plan—the areas along 14th Street and H Street. I can assure him that this Administration will respond with the same sense of urgency to his requests for help in these areas.

He has promised me a tight but serious timetable under which the first construction in these areas would begin next fall.

While the city prepares for this construction—and decides what to do with the 14th and H Street areas—the Department of Housing and Urban Development will make available $1 million in special interim assistance for improvements in some of the blighted areas. This morning, I watched the first cranes at work clearing rubble to make way for a temporary playground. The District has plans for swings, slides and swimming pools where now there is charred rubble. Street lighting will be improved, roads and sidewalks repaired.

Under Section 514 of the 1968 Housing and Urban Development Act, Mayor Washington has undertaken to provide ⅓ matching funds for this $1 million, and the District Government will take the initiative in deciding how this money will be spent. The limited assistance to be provided by the federal government under this interim program cannot by itself remake these areas. But it is a first step toward making them more livable, an earnest demonstration of our concern, and a first sign of hope.

In this connection, I can announce that the 1969 Inaugural Committee, through its chairman, Mr. J. Willard Marriott, has agreed to devote the net proceeds of the Inaugural to the cost of providing playground equipment and other improvements for these parks and playground areas.

CRIME AND ADMINISTRATION OF JUSTICE

A meaningful assault on crime requires action on a broad array of fronts. But in the midst of a crime crisis, immediate steps are needed to increase the effectiveness of the police and to make justice swifter and more certain.

Toward these ends and as a beginning, I have taken or will propose action in twelve major areas.

1. THE COURTS OF THE DISTRICT OF COLUMBIA

I am asking Congress to provide 10 more judges for the courts of the District of Columbia. I will ask later for more additional judges as they become necessary upon the reorganization of the District of Columbia court system.

As an interim measure, I would hope that the existing visiting judges program would be expanded in the District. The Chief Judge of the District of Columbia circuit here has diligently sought the services of visiting judges. I will encourage and aid him in his effort to obtain the services of more judges.

To improve the administration of justice in the District, I have directed the Attorney General to consult with the bench, the bar and the various interested groups, to assist in the drafting of appropriate legislation providing for a reorganization and restructuring of our present court system toward the eventual goal of creating one local court of general, civil, criminal and juvenile jurisdiction for the District of Columbia. It is consistent with my support for home rule to urge the creation of a local court system similar to that of the States and other large municipalities.

To perform with full effectiveness, a modern court needs modern computer and management techniques. I have asked the Attorney General to offer his department's assistance to the study groups in the District that are presently seeking to apply such techniques in the court system.

I have asked the Attorney General to submit specific recommendations for such additional court house personnel, including United States Marshals, court clerks, probation officers, law clerks and bailiffs, as are necessary to support not only the present judges but the additional judges that will be requested.

2. UNITED STATES ATTORNEY'S OFFICE

The chronic under staffing of the prosecutor's office has long hampered the efficient administration of justice in the District. It is widely recognized that a ratio of at least two prosecutors for each judge is needed. To achieve that goal, 20 new Assistant U.S. Attorneys are required immediately. With the creation of 10 additional judgeships and the contemplated court reorganization, another 20 prosecutors will be required. Consequently I am recommending the authorization of 40 more Assistant U.S. Attorneys.

A comprehensive reorganization of the Office of the U.S. Attorney is imperative. This should include a restructuring of the office to provide for two-man prosecutor teams in important cases; the development of specialized functions for technical cases such as frauds and other economic crimes; and the creation of a special "violent crimes unit" to handle such crimes as armed bank robberies on a priority basis, as is presently being tried experimentally. In addition, greater emphasis is needed on developing policy guidelines and training program. On January 14, $120,000 was awarded by the National Institute of Law Enforcement and Criminal Justice for a special study committee. Included in its study is an examination of the prosecutor's office, with a view toward recommending improvements in its operation. I strongly support this study and have instructed the Attorney General to make available the resources of the Department of Justice to assist the committee and to facilitate reorganization found desirable.

In addition, I will seek authorization for the hiring of law clerks and sufficient other personnel for the proper staffing of the U.S. Attorney's office—and for the hiring and use of trained investigators, who are necessary to the effective functioning of the prosecutor's office.

3. COURTHOUSE FACILITIES

The local courts already are overflowing the existing Court of General Sessions buildings. Judges are sitting in three different buildings, and some in temporary courtrooms. With the creation of additional judges and the eventual transfer of greatly expanded jurisdiction to the local courts, a new courthouse complex becomes a pressing necessity. $100,000 has already been utilized for planning for a new courthouse and $3.5 million has been appropriated for site selection. But we must have these facilities now. Consequently, I am vigorously endorsing the requests presently pending before the Congress for $1,240,000 to be used to complete acquisition and for additional planning. The Administration will fully support the Mayor in such additional requests as are needed to speed the building program. Meanwhile, I have instructed the General Services Administration to assist in providing temporary facilities.

4. BAIL REFORM AND THE BAIL AGENCY

Problems arising out of the operation of the Bail Reform Act of 1966 are now being considered by the Congress. But substantial changes in this area are needed quickly. Increasing numbers of crimes are being committed by persons already indicted for earlier crimes, but free on pre-trial release. Many are now being arrested two, three, even seven times for new offenses while awaiting trials. This requires that a new provision be made in the law, whereby dangerous hard core recidivists could be held in temporary pre-trial detention when they have been charged with crimes and when their continued pre-trial release presents a clear danger to the community.

Additionally, crimes committed by persons on pre-trial release should be made subject to increased penalties.

Insufficient staffing of the Bail Agency is one of the contributors to crime by those on pre-trial release. I support immediate lifting of the ceiling that now constricts the Agency's funding. I will seek appropriations for an initial expansion of the agency from 13 to 35 permanent positions. If the pre-trial release system is to protect the rights of the community, the agency must have the capacity for adequate investigation and supervision.

5. THE DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

As the local government is painfully aware, the existing facilities and programs of the Department of Corrections are woefully inadequate. On January 16, 1969, the Director of the Bureau of Prisons submitted a comprehensive report to Mayor Washington identifying the deficiencies and making a number of recommendations. I join with the Mayor in urging immediate implementation of those recommendations, and I will offer whatever Federal assistance is possible in doing so.

All who have studied the problem agree that far-reaching changes are needed in the penal facilities and programs serving the District. I will press vigorously for accomplishment of the needed reforms.

6. OFFICE OF PUBLIC DEFENDER

The recent bail reform hearings before the Senate Judiciary Subcommittee on Constitutional Rights have emphasized the important contributions skilled defense counsel can make toward expediting criminal trials.

Too often, inexperienced lawyers who are appointed to represent indigent defendants complicate and delay the trial process by their unfamiliarity with the law and criminal practice. Experience has shown that professional public defenders, on the other hand, not only better safeguard the rights of defendants, but also speed the process of justice. The Legal Aid Agency in the District is a pilot project which has given every indication of great success if properly supported. I believe the time has come to convert this project into a full-fledged Public Defender program. To make this project possible, I will support the Legal Aid Agency's 1970 budget request for $700,000 to allow an increase in its staff from 22 to 34 attorneys and to assume responsibility for a successful project in offender rehabilitation. This would allow it to become a full-fledged Public Defenders Office with the capacity to represent almost half of the indigent adult and juvenile defendants in the District.

7. THE METROPOLITAN POLICE DEPARTMENT

There is no deterrent to crime quite so effective as the public presence of policemen. Several immediate steps are needed to bolster and improve the local police force in the District of Columbia.

The first step is more effective recruitment. Despite diligent recruitment efforts, the police force has hundreds of unfilled vacancies. I have pledged to the Mayor the assistance and full support of this Administration to improve the recruitment process. I will sponsor the establishment of a procedure by which the District can draw upon the experience of other cities. Imaginative and innovative approaches may be necessary.

But even bringing the department up to its presently authorized strength will not secure adequate public protection in these troubled times. Consequently, I am recommending to the Mayor that he request authorization of an additional 1000 police officers for the District, and I will support such a request.

I endorse the Mayor's efforts and those of the police department to reorganize the structure of the department, so as to consolidate functions, reduce duplication and free additional police officers for patrol and enforcement duties. I offer the assistance of the Federal Government in this effort.

I urge our local police officials to give a high priority to planning and development, making use of the increased Federal funds now available for the introduction of new law enforcement techniques.

The police department also needs the increased assistance of competent legal advisers in this era of evermore complicated criminal law and procedures. I laud the Mayor for his recent appointment to the police department of a legal adviser. However, with the increased burdens on the department it seems advisable to increase the staff and capability of such an office. Not only do the police need to be properly advised as to the performance of their duties, but it is also necessary for the police department to be assured of the Government's support of an interest in the officer's performance of his individual duties.

8. DIRECTOR OF PUBLIC SAFETY

The potential of this office is great. It is presently vacant. The Mayor informs me that he is diligently searching for the right man to fill the job. I have offered the Mayor this Administration's resources to assist him in selecting the best possible Director.

9. CITIZEN PARTICIPATION

Increased citizen involvement is essential to any program of crime control and prevention; it is also in keeping with the American tradition. I strongly support the Mayor in his plan to appoint a Criminal Justice Coordinating Committee patterned after similar successful programs in other large cities. It is important that the Council be properly staffed. This could be done with help from the recently created Criminal Justice Planning Office and funded under the Law Enforcement Assistance Act, which provides financial support of up to 90% for such planning activity involving citizen participation. Policy making and planning must have citizen participation and coordination if they are to produce programs that are widely acceptable to the community. I pledge the Mayor the support and assistance of the Federal Government in this area.

10. NARCOTICS

Although the narcotics traffic in the District of Columbia is apparently not dominated by organized crime it has become an acute and growing problem. It is a direct cause of much of the District's crime, by driving the narcotic user to commit crime to support his "habit". Many armed robberies, assaults and bank holdups are directly related to narcotics use.

Consequently, I have instructed the U.S. Bureau of Narcotics and Dangerous Drugs to increase significantly its role in the District of Columbia in enforcing the narcotic and dangerous drug laws. The Bureau has assured me that they will also increase their cooperation with the Metropolitan Police Department in enforcement, training and in making available additional laboratory facilities and expert and technical assistance.

I have also directed the Bureau and the Department of Justice to seek more effective application of the civil commitment provisions of the Narcotics Rehabilitation Act of 1966 which has not yet been widely used.

11. JUVENILE CRIME

In recent years the median age of those charged with crime has been ominously dropping. The National Commission on Violence warned this month: "The key to much of the violence in our society seems to lie with the young. Our youth account for an ever-increasing percentage of crime, greater than their increasing percentage of the population. . . . It may be here, with tomorrow's generation, that much of the emphasis of our studies and the national response should lie."

I strongly support the city government's efforts to draft a new Juvenile Code, and I am making available technical assistance by Federal authorities. The Department of Justice is already cooperating with the Corporation Counsel and other local officials on the project.

Under the proposed court reorganization, the now isolated and undernourished Juvenile Court would be brought into the new District of Columbia court of general jurisdiction. Thus juveniles would have the advantage of the comprehensive facilities of the new court, including family services and probation assistance.

The pilot Group Home Rehabilitation Project, in which juveniles enjoy retention of community ties, close adult supervision and peer-group controls, gives every appearance of success. Expansion of the project as a substitute for institutionalization and as a possible supplement to probation is desirable. I support the Mayor in his request for increased funding and authorization for such facilities.

The lack of sufficient psychiatric services for the youthful disturbed is a serious obstacle to crime prevention. Young minds gone astray must be helped while still malleable. I will assist the Mayor in his forthcoming request for a well-staffed psychiatric care residential facility for adolescent delinquents.

I also urge that the local government, together with local school officials, prepare a plan to provide for the education of those school children whose discriplinary and truant absence from schools for long periods now causes them to reach adulthood educationally stunted. A substitute educational program must be devised for them, lest they become a burden to themselves and the community.

12. NEW ATTENTION TO THE DISTRICT

The Attorney General has created a new post within the Justice Department, that of Associate Deputy Attorney General for the Administration of Criminal Justice, with one of the new official's special and continuing responsibilities that of helping improve the administration of justice in the District of Columbia. He has named to the post Mr. Donald Santarelli, a widely experienced expert on the special problems of crime control in the District. One of Mr. Santarelli's functions will be to evaluate and help implement new ideas for more effective anti-crime measures in the District.

HOME RULE AND DISTRICT REPRESENTATION

For more than 20 years I have supported home rule for the District of Columbia. I continue to support home rule, but I consider the timing of that effort the key, as is proven by its past history of failure. For the present, I will seek within the present system to strengthen the role of the local government in the solution of local problems.

Beyond this, I will press for Congressional representation for the District. In accordance both with my own conviction and with the platform pledge of my party, I will support a constitutional amendment to give the 850,000 people of the District at last a voting representative in Congress.

Adding an amendment to our Constitution, however, is a long and difficult process. As an interim measure, I will press this year for legislation that would give the District a non-voting delegate. The District is a Federal city, but it should not be a Federal colony. Nearly 200 years ago, the people of America confronted the question of taxation without representation. It was not acceptable then; it hardly is justifiable today.

I cannot overemphasize the fact that these reforms are not a panacea. They are a beginning. Some will show modest results quickly; others may show greater results over a longer period of time. More must be done. But as the city moves to modernize its own government, as improved Federal cooperation provides the support so desperately needed, as the citizens of Washington develop a greater awareness of ways in which citizen action can make their city safer and more livable, as progress is made in tackling the stubborn social problems that have sapped the spirit of so many of the District's people, I am confident that together we can make measurable progress toward reviving the spirit and restoring the safety of the nation's capital, and making it once again what it ought to be: a proud, glorious city, cherished by every American as part of his heritage and cherished by those who live here as a place of beauty, neighborliness and decency.

Exhibit 2

[No. 21,513]

David E. Bosley, appellant *v.* United States of America, appellee

Appeal from the United States District Court for the District of Columbia.

[Decided April 9, 1970]

Before Wilbur K. Miller, *Senior Circuit Judge,* and Wright and MacKinnon, *Circuit Judges.*

MacKinnon, *Circuit Judge:* Appellant was charged in a three count indictment with housebreaking (D.C. CODE § 22–1801), rape (D.C. CODE § 22–2801), and sodomy (D.C. CODE § 22–3502). He was found guilty by a jury of housebreaking and sodomy as charged and of the lesser included offense of assault with intent to commit rape.

• • • • •

The appellant next argues that the statement allegedly made by him, along with certain physical evidence, should not have been admitted on the grounds that they were obtained following his arrest which was in violation of 18 U.S.C. § 3109 (1964). That statute provides:

> "The officer may break open an outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant."

It is clear that appellant's point does not raise constitutional issues because it is unquestioned that the police did have probable cause to enter to arrest Bosley for felonies. What is raised is the application of the statute to the entry and its effect on certain evidentiary matters. In *Miller* v. *United States,* 357 U.S. 301 (1958), the Supreme Court held section 3109 to be applicable to arrests, and the Court has since broadly construed the section to proscribe an "unannounced intrusion," *Sabbath* v. *United States,* 391 U.S. 585, 590 (1968).

On the other hand, the Supreme Court has left open the question of whether there may be exceptions to the requirements of section 3109 in certain circumstances. See *Sabbath* v. *United States, supra,* 391 U.S. at 591; *Ker* v. *California,* 374 U.S. 23, 40 (1963); *Wong Sun* v. *United States,* 371 U.S. 471, 482–83 (1963); *Miller* v. *United States, supra,* 357 U.S. at 309–10. Mr. Justice Brennan was clearly of the opinion there would be certain exceptions to any consitutional ruling on the subject, *Ker* v. *California, supra,* 374 U.S. at 47, and Mr. Justice Marshall has suggested that these exceptions may be applicable to section 3109. *Sabbath* v. *United States, supra,* 391 U.S. at 591 n.8. Lower courts have, in fact, engrafted certain exceptions onto section 3109. One of these may be termed the "useless gesture" exception. *Cf. Miller* v. *United States, supra,* 357 U.S. at 310; *Hair* v. *United States,* 110 U.S.App.D.C. 153, 155 n.9, 289 F.2d 894, 896 n.9 (1961). In the past it has been applied when the arresting officers were justified in being virtually certain that the person to be arrested knew their purpose, and hence compliance with section 3109 would a "useless gesture." *See e.g., Wittner* v. *United States,* 406 F.2d 1165, 1166 (5th Cir. 1969); *Der Garabedian* v. *United States,* 372 F.2d 697, 699 (5th Cir. 1966); *Chappell* v. *United States,* 119 U.S.App.D.C. 356, 358–59, 342 F2d 935, 937–38 (1965).

We think application of the "useless gesture" exception to the case at bar is appropriate. We note that the officers originally attempted to comply with section 3109 by knocking on the partially open door. They received no response and apparently knocked again. Then, noting that appellant was asleep on the couch they entered the apartment through the open door, awakened appellant and announced their purpose. Since appellant had not been awakened by their knocking, the officers could reasonably have concluded that further knocking or verbal announcement would be a "useless gesture." Indeed, it appears that at this point the most practical means available to the officers to carry out their duty of giving notice of their authority and purpose was to enter the apartment and awaken the appellant. We note that the officers, after they had awakened the appellant did immediately state their purpose (and impliedly their authority) by informing the appellant of the charges leveled against him. To have done so before entry would have been a useless gesture as the person the statute is designed to protect, the occupant, was asleep and the indications to the officers were that he was not capable of hearing them as he had not been awakened by their knocking. We conclude that the entry through the open door in these circumstances did not violate section 3109.

Affirmed.

Mr. GOODELL. Mr. President, I oppose this conference report.

I served on the conference. It was a difficult conference, and I express my great respect for the manner in which the chairman of the conference, the Senator from Maryland, handled the complex issues that were presented to us. The Senator from Maryland was diligent and persistent. He fought very hard for the Senate version of the bill. We faced a very strong-minded group of House conferees.

In spite of the gallant effort made by the Senator from Maryland, the Senate lost most of the crucial battles on the most controversial and most significant sections of the bill.

Yesterday, when the House considered this measure, Representative ABERNETHY, one of the conferees, made this comment to his colleagues in the House:

> I am very happy and pleased to advise the House that the House bill very largely, and almost entirely, prevailed. There are some changes in the bill, but the principal provisions laid down in the House bill have been brought back for reaffirmation of that which we approved when the bill was before the House some several months ago.

The ranking Republican conferee, Representative NELSEN, made this comment:

> In its court reform and criminal procedure aspects, this is much the same bill that left this body for conference some months ago.

Despite the diligent and gallant efforts of our leader in the conference, the Senator from Maryland (Mr. TYDINGS), we had to back off on a great many of the provisions, with which I believe sincerely that the Senator from Maryland disagreed as much with the House provisions as the rest of us did.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. GOODELL. I yield.

Mr. TYDINGS. Would the Senator mind enumerating some of those areas? I think the facts on the issues of difference will show that we prevailed on more than the House. On 68 major points of difference on which we could not decide on the first go-round, the Senate conferees prevailed on 50 percent, the House on something like 32 percent, and the balance were modified back and forth.

With all due respect to Mr. ABERNETHY's dialog on the House floor, which was disputed by other members of the committee, I should like to have some facts rather than just generalities.

Mr. GOODELL. Mr. President, numerous facts will be given in the course of this debate.

As I believe the Senator from Maryland is aware, I have introduced a substitute measure and the Senator from North Carolina has introduced a substitute measure as an amendment to another bill. We enumerate in those bills the many areas in which we are in agreement with this conference report, but we also make very clear the significant and numerous areas where we differ.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. GOODELL. I yield.

Mr. ERVIN. The distinguished Senator from Maryland talked about the number of instances in which the House conferees receded and those in which the Senate conferees receded, if I understood his remarks correctly. Sometimes, when people go back and forth in trade, they merely swap a couple of rabbits for an elephant, do they not?

Mr. GOODELL. Or a donkey.

Mr. TYDINGS. I might point out that we used the 68 issues as the ones Senator ERVIN thought were most important on which to base our figures. They were Senator ERVIN's 68 issues. The Senate prevailed on 50 percent, the House on 32 percent, and the balance we agreed on or modified back and forth.

Mr. ERVIN. Preventive detention and no-knock were kept in the bill. The House receded on some inconsequential matters, and all the big inequities were kept in the bill—every one of them. They did take out the provision that a prosecuting attorney could appeal after an acquittal. That was taken out.

Mr. TYDINGS. What about the transfer to Lorton and mandatory minimum sentences on first offenders and on third offenders? What about the no-knock provision, on which the Senate prevailed?

Mr. ERVIN. The bill was like a mangy hound dog. It was so full of fleas that it was clear that a few of the fleas would get off the dog, when the conference lasted 3 months.

Mr. GOODELL. If the Senator from Maryland wishes to respond at this time, I will yield to him; otherwise, I shall continue.

I think the question of who prevailed most is not as significant as the vital issues we have presented in this conference report. I have praised the Senator from Maryland for his gallant fight. I think he did as well as could be expected under the circumstances.

Now the Senate must make unmistakably clear our determination that we are not going to pass a bill that includes some of the very serious deficiencies that this conference report includes.

The difficulty here, of course, is that this is a very important measure. It contains many things that all of us would applaud: Substantially the language of the conference bill on court reorganization; establishment of a public defender for the District; adoption of the Interstate Compact on Juveniles; strengthening of the District of Columbia Bail Agency. My substitute bill S. 4080, introduced with the cosponsorship of the Senator from North Carolina and 19 other Senators, also contains these desirable provisions. Should we choose not to pass the conference report, S. 4080 provides a ready alternative.

We do add $48.8 million in our bill to carry out court reorganization and other provisions. That was the figure in the original Senate bill, in contradistinction to this conference report, which provides only $5 million to implement the provisions of the conference report.

As to criminal law and procedure, in our substitute bill we knock out entirely preventive detention, the no-knock section, wiretapping, and mandatory sentencing, and we drastically overhaul the juvenile procedure section.

We also modify sections about nighttime searches, criminal penalties, moot and interlocutory appeals, and the insanity defense. I shall talk a little more about those in a moment.

The truth of the matter is that the House of Representatives, particularly the conferees on the bill, are holding these noncontroversial and important matters hostage, with the threat that we will get no legislation at all, that we will not enact these important reform provisions that are noncontroversial unless we deal with the other sections which, in my opinion, are in some cases unconstitutional and in other cases certainly undesirable.

I have not closed my mind to the possibility of a pretrial detention measure that would be constitutional and proper, a measure oriented toward therapeutic treatment of a person who would be likely to injure himself or others if released, and not toward mere custodial detention. As a matter of fact, in trying to enlighten the discussion with reference to this important matter, I introduced a pretrial detention through emergency guardianship and therapeutic treatment measure that had a great deal more protection for the civil liberties of defendants than the bill proposed by the administration.

I did not offer my detention bill as an amendment to the District of Columbia crime bill in the District of Columbia Committee or on the floor because I felt that it should have full hearings before the subcommittee of the Judiciary Committee that is chaired by the distinguished Senator from North Carolina. He has been holding the hearings. He accorded me the privilege of testifying on my bill and on others. During the period of consideration, I found that I had other suggestions that could modify my proposal and provide greater guarantees to the rights of individuals who might need therapeutic treatment in a period of temporary detention.

The reason I have kept an open mind with reference to this issue is a practical one: In reality, we now have massive preventive detention throughout the country today through the bail system. As was pointed out by the Senator from Maryland, preventive detention through the setting of bail does not protect the rights of individuals in any way because it is an arbitrary decision made by a judge setting high bail. It does affect grievously the rights of the poor. This is true all over the country. In the Tombs in New York City, the facility available to those awaiting trial, about one-half of the 2,000 inmates are subject to a $500 bail or less but cannot raise it, so that some of them have been there up to 2 years awaiting trial. That is preventive detention—preventive detention in its worst form.

Thus, I think we have to consider alternative measures to what the present existing situation is; but I certainly do not accept the preventive detention provisions of this bill. In the first place, they are very broad. They apply to an overbroad category of offenses, particularly first offenses. They do not adequately procedurally protect the rights of the individual. They do not provide to the individuals who are subjected to preventive detention any protection of their rights. I shall talk more about that in the course of this debate in the next few days. But I think it should be understood that the objections we have to this legislation are on questions of policy and constitutionality overriding.

It is not just a question of one or two provisions that have been compromised a little bit in a fair compromise. In the compromise bill, the substitute bill which the Senator from North Carolina and I and others have offered, we have accepted 92 out of 136 provisions of the conference report. In some 44 instances the conference agreement was rejected, notably on the five items which were most controversial: The no-knock, the wiretapping, preventive detention, the mandatory sentencing, and the juvenile procedure sections.

Now if we accept the view of those of us who wish to reject the conference, what will happen?

The claim is made that it will kill the legislation. That is a sad commentary on the honest and objective views expressed by the Senator from Maryland. Of course we have been encouraged to that view by the very strong statement made by the Members of the House. But is it really true? My bills, S. 4080 and S. 4081, are available and we could bring them out of the Judiciary and the District of Columbia Committees in short order. S. 4080 incorporates all of the items which were agreed to in conference and which are relatively noncontroversial and would delete those items to which we are objecting today. It could be passed and sent to the House and then the House would be in a position to decide whether it will continue to hold hostage court reorganization and needed procedural reforms in the criminal law of the District of Columbia, or whether it will act responsibly and bring out a bill.

If the House determines that it will not, the Senator from North Carolina has offered another alternative, the possibility of adding the very worthwhile and desirable sections to a bill pending in the Judiciary Committee's jurisdiction and to send it through to the House to see if the House Judiciary Committee will act.

In any event, those of us who feel deeply on this matter, as a matter of conviction, cannot sacrifice our conviction to an expedient compromise here. Much as we desire to have court reorganization in the District of Columbia, and much as we enthusiastically endorse many of the provisions in the conference report, we must reject those very significant provisions which infringe upon the constitutional rights of individuals. They are very large issues.

Mr. President, I shall speak more on this in the course of the debate. I shall deal with the detailed items on which we differ, particularly on the no-knock provisions and preventive detention, because I think they are two of the most significant provisions in the bill.

I might say that there is more involved here even than just the decision as to the District of Columbia crime bill. We may well be setting in deciding upon the conference report, a precedent for legislation nationwide in scope.

Many of the controversial items in the District of Columbia bill are also included in the overall Federal crime proposals of the administration. I think we should set the pattern now as to how we will deal with those vital issues. We should set it by rejecting preventive detention in the conference report, and by rejecting the no-knock provision. I recognize that the Senator from Maryland indicated he believes this merely codifies the present law as laid down by the Supreme Court in the Ker case. I must say that I disagree with him, while acknowledging his good intentions.

Mr. TYDINGS. Mr. President, will the Senator from New York yield?

Mr. GOODELL. But there are very significant differences that may result from this law, particularly because the criterion for invocation is probable cause that evidence is likely to be lost—not "will" be lost but is "likely to be."

I have grave questions about the application of the language we have put in the conference report in relation to the present case law on no-knock.

Mr. TYDINGS. Mr. President, did the Senator read the statement of the managers on behalf of the House and of the Senate?

Mr. GOODELL. Yes, I have.

Mr. TYDINGS. Mr. President, would the Senator agree that the statement of the managers, both on the part of the House and the Senate, specifically refers to the Ker case in California being determinative of that type of situation involving the likely language the Senator brings up?

Mr. GOODELL. It is irrelevant.

Mr. TYDINGS. It is irrelevant?

Mr. GOODELL. It certainly is.

Mr. TYDINGS. We wrote it into the law and we are creating legislative history.

Mr. GOODELL. Mr. President, the Supreme Court determined in the Ker case the constitutional limits of the no-knock provision. Obviously no committees and no Representative or Senator will openly say that we are trying to overrule the Supreme Court in its constitutional interpretation of the rights of the individduals to be protected in the privacy of their homes.

So, while we try to alter the rules, we say that, of course, if the Supreme Court has dealt with this in the Ker decision it prevails. The point is that the Ker decision dealt with a specific fact situation. It was a 4-4-1 decision, a very close decision. There was a strongly worded and persuasive dissenting opinion.

I think the Ker decision leaves a great deal of question and uncertainty as to what constitutional rights we have. The Congress of the United States should responsibly try to define them consistent with the Ker decision.

In the case of the conference report, I believe that it very likely will be used as an authority to restrict further the rights of privacy of our citizens in their homes.

Mr. President, I intend to speak on this matter at great length at a later time. So I will not take the time of the Senate today to go into the full details. I particularly want to join with my esteemed colleague from North Carolina in his colloquy with reference to the analysis of the specific provisions of the conference report.

There is no need to overlap and waste the time of the Senate by doing it individually and separately. I feel very deeply that this is an important decision for the Senate. We should reject the conference report.

We may have difficulty in getting the needed court reorganization. But I am sure that the Senator from Maryland will be a leader in moving forward with legislation out of the District of Columbia Committee or the Judiciary Committee that can pass the Senate and will have a chance to pass the House of Representatives, and thus put the pressure on the House of Representatives to enact these needed reforms that are acceptable to both Houses and not just to the House of Representatives.

In this connection I note that I introduced S. 4080, the court reorganization bill largely embodying the conference provisions on that subject, with 21 cosponsors. The Senator from Maryland could, should the conference bill fail, support us in pressing for passage of that measure.

Mr. President, I yield the floor.

Mr. ERVIN. Mr. President, I do not care to prolong the inquiry as to whether the House got a couple of elephants in trade for a couple of jackrabbits. I will have to admit that the bill has been improved by the omission of certain provisions regarding mandatory sentences and the appeals of prosecuting attorneys after trial. Those provisions, as I have pointed out, were clearly in conflict with the Constitution.

I note that Mr. Abernethy, who seems to have been chairman of the subcommittee handling the House provisions, said this in the course of the debate:

> I am very happy and pleased to advise the House that the House bill very largely, and almost entirely, prevailed. There are some changes in the bill, but the principal provisions laid down in the House bill have been brought back for reaffirmation of that which we approved when the bill was before the House some several months ago. (Cong. Rec., July 15, 1970, p. 24463.)

Then Mr. McMillan said:

> I regret very much that it was necessary to drop the proposal of transferring Lorton to the Department of Justice and one or two other items that was necessary for us to drop, with the understanding that they will come up in separate legislation. (Ibid.)

Mr. Nelsen said:

> In its court reform and criminal procedure aspects, this is much the same bill that left this body for conference some months ago. (P. 24464.)

Mr. Abernethy had this to say in response to a question from Mr. Adams:

> This is basically the House bill. There are some slight changes in some of the provisions. The Lorton provision, I might say, did not go completely out of the bill—not that

> we wanted it to go out—but we felt that in order to come to a complete concurrence with the Senate that was one of the essentials on which we felt compelled to yield. Otherwise this is the House bill with a few changes. (P. 24466.)

Mr. ABERNETHY also said further:

> I would say that the substance of the House provisions on preventive detention remain in the bill. There is a modification that they should take into consideration the past conduct of the principal in the case. But in substance the House position is about the same. (Ibid.)

Mr. HOGAN said in a prepared statement for purposes of legislative history intended to represent the solid position of the House conferees:

> The conference report adopts the entire subchapter of the House bill dealing with pretrial detention with only five modifications. Only two of these require comment. . . .

Mr. HOGAN said further:

> The conference report adopts a provision authorizing entry without notice of identity and purpose [in] limited circumstances modeled after the House bill. . . . (P. 24471.)

Mr. CABELL said:

> I come before you to ask that you quit listening to the ACLU, that you quit listening to those people who spoke before our committee, and who spoke before the House, who were repudiated by the House, and who are only rehashing the same questions that were rehashed and repudiated by this body when the House bill was passed. . . .
>
> I will spend what little time I have left to implore this body to, for once—not for once, because this body is much more responsible than the other body—

That is the way he talks about the Senate.

I continue to read what Mr. CABELL had to say:

> I am imploring you to think about the citizens of the United States, the citizens of the District of Columbia, their rights, and their privileges as citizens, and quit shedding crocodile tears for the criminals who have been rampant in this District for the past several years, and let us have a real revision of the criminal codes. (P. 24472.)

In other words, in the opinion of the House conferees, we are shedding crocodile tears if we grieve over the destruction of the principle of our law that every man's home is his castle and if we weep over the acceptance of the theory that men will be put in jail and kept there for crimes they have not committed and may never commit, instead of being tried and sent to jail only for the crimes they do commit.

Mr. STEIGER of Arizona said to Mr. ABERNETHY:

> I note that now the senior Senator from Maryland is saying that the bill is really as he likes it and his provisions are an important part of the bill. Then I note that those who have espoused the same concern he has espoused are still espousing them. I wonder if the gentleman can tell me if he feels that in the main the House was successful in retaining the substance of what we passed here. (P. 24475.)

Mr. ABERNETHY, in response to Mr. STEIGER of Arizona, said:

> I think we have retained the substance of the House-passed bill. (Ibid.)

I want to say that the Senator from Maryland has made a gallant fight, but that it was a gallant fight worthy of a more noble cause than that in which it was waged.

Mr. President, we are told in effect that the Senate must not exercise its own intelligence in this matter; that the Senate must knuckle under to the House demands; that Americans residing in the District of Columbia be robbed of the privileges of dwelling under their own vine and fig trees with none to molest them and make them afraid; and that they be imprisoned for crimes they have not committed. Although many of us feel that the bill—and I will discuss that in more detail tomorrow—is filled with unconstitutional provisions. The Constitution of my country, as I interpret it, states that every man's home is his castle, and that no man is to be imprisoned for crimes he has not committed and may never commit.

I am not willing to knuckle under to the House. I am not going to agree to unconstitutional provisions in a bill which robs Americans of liberties they have enjoyed since this Nation became a republic, merely to get a law passed.

Edmund Burke said bad laws are the worst sort of tyranny. I resist the conference report because, if adopted, it would constitute a bad law and it would be the worst sort of tyranny.

Mr. President, I recognize the importance of law and order. I recognize the seriousness of crime. I am just as anxious as any other Senator to have a law speedily enacted which will deal in an adequate manner with the crime situation in the District of Columbia.

However, I would compare the position of the Department of Justice in demanding passage of this bill with the apple grower who wanted to sell his rotten apples along with his good apples. So he put them all in the same basket and he put his rotten apples in the bottom of the basket and he put his good apples on the top of the basket. We are told here if we are going to buy good apples we have to buy rotten apples along with them. That is what we are told when it is said we must take the House bill.

The only solution to the crime problem is that which is pointed out in the sixth amendment which provides that people who are accused have a constitutional right to a speedy trial. The only way you are ever going to enforce the criminal law effectively, Mr. President, is by having enough judges and enough prosecuting attorneys to handle the cases. We could have had enough judges and we could have had enough prosecuting attorneys in this District a year ago if the Department of Justice had not insisted on selling us rotten apples, like preventive detention and no-knock, along with some very salutary provisions of this bill, which those of us who oppose the conference report want to see enacted into law.

Mr. President, the distinguished Senator from Indiana (Mr. BAYH), the distinguished Senator from Massachusetts (Mr. BROOKE), the distinguished Senator from Kentucky (Mr. COOK), the distinguished Senator from Missouri (Mr. EAGLETON), the distinguished Senator from New York (Mr. GOODELL), the distinguished Senator from Michigan (Mr. HART), the distinguished Senator from Massachusetts (Mr. KENNEDY), the distinguished Senator from Maryland (Mr. MATHIAS), the distinguished Senator from Maine (Mr. MUSKIE), and I have jointly introduced two bills. One of those bills is S. 4080 which contains every provision in the conference report relating to the reorganization of the courts of the District of Columbia, relating to the establishment of a public defender system for the District of Columbia, relating to the strengthening of the Bail Agency in the District of Columbia, and all like matters that are in the conference report. These are good provisions and they should be enacted into law.

I wish to notify the Senate here and now that in the event the majority of the Senate votes to reject the conference report I and the other Senators who are associated with me propose to ask unanimous consent immediately that this bill be recalled from the Committee on the Judiciary, to which it has been referred, and placed before the Senate for immediate passage in the Senate, and sent to the House, to see if the House will vote for a good bill and not a bad bill.

The same Senators have introduced S. 4081, which contains every other provision in the conference report which is worthy of a place in a civilized system of criminal administration; and in the event the conference report is rejected we also propose to ask unanimous consent that the District Committee to which this bill has been referred be discharged from further consideration and that this bill be placed for immediate consideration in the Senate.

In the event there is any objection to these unanimous-consent requests we propose to make an immediate motion to discharge these two committees on these two bills and bring the bills before the Senate for immediate consideration. Under the Senate rules that motion could be voted on and would be subject to the will of the majority of the Senate on the following day.

We will undertake, in the event the conference report is rejected, to see that every provision of the conference report which, as I said, is worthy of any place in a civilized system of criminal justice, is immediately voted by the Senate and sent to the House for its consideration. I think the House will pass a bill of that kind and I am satisfied the bills will become law as quickly as if we adopted this monstrous conference report.

In saying that I do not ignore the fact that members of the conference have done some fine work on this bill and it contains these worthy provisions which we have incorporated in these two bills and expect to have enacted.

I gave the names of the 10 Senators who joined in introducing both S. 4080 and S. 4081. Mr. President, I now ask unanimous consent that the following additional Senators be made cosponsors of these two bills: the distinguished Senator from California (Mr. CRANSTON), the distinguished Senator from Oklahoma (Mr. HARRIS), the distinguished Senator from Iowa (Mr. HUGHES), the distinguished Senator from New York

(Mr. JAVITS), the distinguished Senator from South Dakota (Mr. MCGOVERN), the distinguished Senator from Wisconsin (Mr. NELSON), the distinguished Senator from Connecticut (Mr. RIBICOFF), the distinguished Senator from New Jersey (Mr. WILLIAMS), the distinguished Senator from Texas (Mr. YARBOROUGH), and the distinguished Senator from Ohio (Mr. YOUNG).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I do not intend to proceed any further today. I have quite a detailed statement I expect to make in respect to this conference report, and which I hope to be able to make tomorrow.

For that reason I ask unanimous consent that these remarks which I have made on this occasion not be counted as a separate speech on the bill, but that they and such additional remarks as I shall make tomorrow be counted as the first speech on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, before yielding the floor I ask unanimous consent that the following documents be printed in the RECORD at this point: Statement of Jerome J. Shestack, chairman, American Bar Association Section of Individual Rights and Responsibilities, made before the Subcommittee on Constitutional Rights of the Committee on the Judiciary of the Senate in opposition to preventive detention.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JEROME J. SHESTACK

Mr. Chairman and Committee Members, the Board of Governors of the American Bar Association has authorized the Association's Section of Individual Rights and Responsibilities, of which I am Chairman, to appear and present testimony to Committees of Congress regarding proposed legislation popularly known as "preventive detention" and contained in such bills as S. 2601, S. 2600, H.R. 12806, and H.R. 16196. In particular, I wish to express the Association's opposition to such bills to the extent that they are inconsistent with the "Minimum Standards of Pretrial Release," approved by the House of Delegates in August, 1968.

Preliminarily, I should like to say a few words concerning the American Bar Association's Project on Minimum Standards for Criminal Justice. The scope of this Project has been the entire spectrum of the administration of criminal justice, including such aspects as pretrial proceedings, prosecution and defense functions, criminal trial, sentencing and review and fair trial and free press. The Project was under the overall supervision of a 15 member Special Committee on Minimum Standards for the Administration of Justice chaired by Chief Judge J. Edward Lumbard of the United States Court of Appeals for the Second Circuit. Following Judge Lumbard's chairmanship, Judge (now Chief Justice) Warren E. Burger became Chairman of the Committee and served in that capacity until the end of the annual meeting of the American Bar Association in August 1969. The present Chairman of the Committee is Senior Judge William J. Jameson of the United States District Court for Montana. Judge Jameson is a former President of the American Bar Association.

In order to cover the broad areas dealt with by the Project on Minimum Standards for Criminal Justice, sub-areas were delineated and a separate Advisory Committee was appointed for each area to make the necessary studies and to draft the standards for the major topics within that area. One such area was Pretrial Release, which included the subject matter of the proposed legislation currently before this Committee.

The Advisory Committee on Pretrial Release (herein Advisory Committee) was chaired by Chief Judge Alfred P. Murah of the United States Court of Appeals for the Tenth Circuit. Attached to this statement is a list of the members of the Advisory Committee and a brief description of their qualifications. You will see that they include judges, practicing lawyers, professors, prosecuting attorneys and defense attorneys; a more knowledgeable committee would have been difficult to assemble.

The Advisory Committee was fortunate in having as its Reporter Dean Charles E. Ares of the University of Arizona Law School. Dean Ares had practiced as a deputy county attorney and as a lawyer in Tuscon, Arizona. While a professor at New York University Law School, he was one of the architects of the well known Manhattan Bail Project, a major spark for the recent movement towards pretrial release reform.

The Standards relating to Pretrial Release proposed by this Advisory Committee were recommended by the American Bar Association's Special Committee on Minimum Standards for the Administration of Criminal Justice and were approved by the House of Delegates of the American Bar Association at its annual meeting on August 6, 1968.

The question of preventive detention was specifically considered by the Advisory Committee on Pretrial Release. The Committee was most sensitive to the felt need to protect the community from harm at the hands of the dangerous defendants and the Committee was well aware of the proposals that had been made for preventive detention. The Advisory Committee thoughtfully explored all facets of this question. Indeed, in order to focus on the issue in a realistic context, the Committee drafted what would be a model provision for preventive detention. After thorough consideration, the Advisory Committee rejected the draft proposal for preventive detention and concluded that at this time, and on the basis of present knowledge, it should not recommend the adoption of preventive detention.

There is a basic difference in philosophy and approach between the Minimum Standards of Pretrial Release proposed by the Advisory Committee and adopted by the House of Delegates of the American Bar Association and the type of preventive detention proposal contained in the legislation before this Committee. The American Bar Association's Minimum Standards of Pretrial Release proceed on the general principle that the law favors the release of defendants pending determination of guilt or innocence and that before resorting to outright preventive detention, with all its attendant problems and drawbacks, attempts should be made to protect the community through alternate methods more consistent with the individual rights which our American system of jurisprudence has traditionally safeguarded.

Central to the structure proposed by the Minimum Standards is the use of restraining orders embodying carefully defined restrictions on the activities of the released defendant. The Standards borrow from the power frequently exercised by courts when they place convicted defendants on probation.

By imposing such conditions, the Standards provide varied methods of controlling a defendant believed likely to engage in criminal conduct when released. For example, his movements, associations and activities may be carefully circumscribed. He may be prohibited from possessing any weapons. He may be placed under the close supervision of a probation officer. These methods impose restraints short of detention. In addition, the standards provide that when the defendant violates the conditions of his release or where a competent court or grand jury has found probable cause to believe the defendant has committed a serious crime while released, the judge may, after hearing, review and revise the release conditions or revoke the release where indicated, provided that in the latter instance there is the right to an immediate trial.

These standards in themselves are far reaching proposals and seek to prevent crime in pretrial release situations by strictly supervising the accused. Moreover, if the accused nonetheless violates his release, further sanctions, which may or may not include detention, are proposed. However, the treatment of the accused under the Minimum Standards focuses on specified acts by the given individual involved—not subjective guesswork of future conduct. We believe that the Minimum Standards which I have described are reasonable and desirable methods of treating the problem and should be undertaken before resorting to the extreme measure of outright preventive detention.

At this point, it is appropriate to discuss some of the concerns expressed in the report of the Advisory Committee regarding preventive detention. Essentially, the problems inherent in outright preventive detention proposals which led the Advisory Committee to recommend against the adoption of preventive detention provisions such as those before this Committee fall into the following general categories:

1. The constitutional infirmities.
2. The detrimental effects on the defendant.
3. The lack of empirical evidence justifying preventive detention.
4. The overburdening of the system of administering justice.

I shall discuss each briefly.

1. THE CONSTITUTIONAL PROBLEMS

Initially, it is apparent that preventive detention statutes such as H.R. 12806, H.R. 16196, S. 2600 and S. 2601 raise grave constitutional problems. Although I do not propose to discuss these in any detail since leading constitutional scholars have amply pointed out the constitutional defects, they are of serious concern and can hardly be ignored.

The most obvious constitutional problem is presented by the Eighth Amendment, which prohibits "excessive bail." Although the Federal Constitution, unlike many state constitutions, does not explicitly state that there is a right to bail, leading authorities on this subject have argued that the Eighth Amendment prohibition of excessive bail cannot be viable unless read to provide a general right to bail. On the other hand, dictum in at least one opinion of the Supreme Court of the United States has indicated that the prohibition against excessive bail applies only in cases where there is an initial determination in favor of granting bail. Whatever the ultimate result under the Eighth Amendment, it is clear that preventive detention would violate present constitutional and statutory provisions in numerous states and no system could be generally adopted in state courts without major constitutional and statutory changes.

Additionally, preventive detention raises due process problems, since it would deprive a defendant of his liberty prior to conviction. Thus, preventive detention measures under consideration before this Committee provide that an accused can receive as much as a 60-day jail sentence, *not* on proof of guilt beyond a reasonable doubt, but on a unique finding of "probable guilt" and "dangerousness". Moreover, due process problems may arise from subjecting the detained defendant to strategic and representational disadvantages. I will discuss these problems more fully later on in dealing with the adverse effect which preventive detention has on an accused. Suffice it to say for now that these and other constitutional problems raised by preventive detention are of sufficient dimension to becloud seriously any proposal of this type.

2. THE DETRIMENTAL EFFECTS ON THE DEFENDANT

Anyone sophisticated in the practice of criminal law appreciates that defendants subjected to preventive detention are likely to suffer considerable damage.

Most apparent, some defendants who subsequently are acquitted will have been subjected to punishment without trial. Current proposals do not provide for the compensation of these persons; in any event, financial remuneration will hardly compensate for time spent in a detention center by innocent persons.

Preventive detention is likely to have other serious adverse effects on the accused. Detained defendants are deprived of an opportunity to work to support themselves and their families, and this, of course, would be especially detrimental to the poor defendant. Preventive detention also hinders the defendant in the preparation of his case. Even if the accused is given access to his attorney while under detention, jailhouse conferences cannot compare to the opportunity for consultation and preparation available on release. The problem is particularly critical when, as so often is the case, the defendant must rely on witnesses whose identity and whereabouts are difficult to ascertain. In many instances, the defendant is the person with the best chance of finding those witnesses. In the case of indigent defendants, in particular, the burden of investigation must be largely borne by the defendant, something he obviously cannot do if he is behind bars.

Additionally, the quality of the representation of a detained defendant is likely to be impaired. There are obvious disadvantages stemming from conditions unconducive to effective representation. If counsel is an appointed lawyer with a large clientele, having to visit his client in jail imposes a burden; the result may well be a reduction in pretrial consultations.

Moreover, there is strong evidence that detention has an adverse effect on the outcome of the defendant's case. Studies in Philadelphia, the District of Columbia and New York indicate that the conviction rate for jailed defendants materially exceeds that of bailed defendants. For example, the Rankin Study which appeared in the New York University Law Review in 1964 indicated that, while 64 percent of convicted defendants who did not obtain pretrial release were ultimately sent to prison, only 17 percent of those convicted who had been out on bail were similarly sentenced. Furthermore, the acquittal rate amongst those who were not detained prior to trial was 20 percent higher than amongst those who were subject to pretrial detention. By holding other causative factors constant, the study indicated that there is a strong causal relationship between detention and unfavorable disposition.

The severity of the sentence is also likely to be affected. For example, there is evidence to indicate that defendants at liberty are more likely to receive suspended sentences if they are convicted than those who have been forced to stay in jail. Quite apart from statistical studies, common sense would indicate that a man who has been working, supporting his family and comes into court from his home, not a cell, stands a better chance of impressing the judge that he is a good risk for probation than the man who has been locked up in jail for a month or more.

Another significant consideration emphasized by the Advisory Committee is the devastating effect on a defendant who has been detained because he was found too dangerous to walk the streets. The most careful precautions concerning pretrial publicity would surely not prevent news of a court finding of dangerousness from reaching the public press.

3. THE LACK OF EMPIRICAL EVIDENCE SUPPORTING THE NEED OR EFFECTIVENESS OF PREVENTIVE DETENTION

When one considers the above legal and practical problems and defects of a system of preventive detention, it would seem clear that such a system should not be employed without a clear demonstration both of need and of the predictive techniques required to operate the system with tolerable accuracy. No such demonstration has been forthcoming from the proponents of preventive detention.

Despite many assertions of the need for preventive detention, the empirical evidence supporting these claims is not convincing. On the other hand, statistics provided by release on recognizance projects (see, e.g., 70 Harv. Law Rev. 1489, 1496–7) reveal that few of the defendants are rearrested while on pretrial release; these studies, too, need further analysis and corroboration.

The off-cited D.C. Crime Commission Study found that approximately 7.5 percent of defendants released in a given period were later alleged to have committed offenses while at liberty and of these only 4.5 percent involved crimes of actual or potential violence. If these statistics are representative, the claims made by proponents of preventive detention proposals for the efficacy of such proposals in reducing the crime rate would seem highly exaggerated. It appears particularly inappropriate to undertake the extreme of a system of preventive detention when there is so little evidence that it will accomplish much benefit.

Apart from the lack of data on need, there remains the large question of whether the courts could have identified in advance the 4.5 percent or 7.5 percent of the defendants in the D.C. study who committed crimes while awaiting trial. The answer would appear to be that the courts are unable to make such predictions reliably. Nothing in the D.C. statistics or any other indicate that those defendants who did commit crimes while released were distinguishable beforehand from other defendants who had similar records and charges but who did not commit crimes while released. To have been able to isolate the 4.5 percent or 7.5 percent of the defendants who committed crimes when released with any reasonable degree of accuracy, would have required more sophisticated predictive techniques than are presently available to even the most perceptive and experienced judge.

Necessarily, the principal criteria for prediction would be the past criminal record and the nature of the present charge. Inevitably, more defendants would be detained than necessary. One of the most serious dangers in the process is that errors would not be discovered because each detention would involve a self-fulfilling prophecy—no detained defendant would commit crimes while released.

This factor leads to another danger—the inevitable pressure upon judges to resolve in favor of detention. The judge who erroneously predicts dangerousness will not be confronted with the consequences of his error. But if he makes an erroneous prediction of non-violence, he may learn of it from newspaper headlines announcing a subsequent crime and condemning the release. All too few judges, especially in election years, will be able to resist the modus operandi which Professor Dershowitz succinctly termed: "When in doubt, don't let him out. . . ."

4. THE OVERBURDENING OF THE SYSTEM OF ADMINISTERING JUSTICE

Few would disagree that the problem of pretrial crime would be minimized if means could be found for insuring prompt trials. Obviously, the long delays that presently exist in the processing of criminal cases maximizes opportunities for commission of crime while on pretrial release. At the same time, it should be pointed out that the existence of current conditions of delay make it more difficult to justify pretrial detention as a solution to the problem. Obviously, in most urban centers of the nation, including the District of Columbia, trials are not now held within 60 days. This means that the current 60-day detention proposals would not accomplish the objectives of the proponents of preventive detention, even assuming the validity of the assumptions on which the proposals are based. Indeed, if the proposals are adopted, the public would be faced with the phenomenon of defendants being released at the end of 60 days even though they have been found by a court to be dangerous. Such a situation is not likely to instill confidence in the law and is also likely to lead to demands for increasing the detention period.

Another serious problem is that a preventive detention system is itself likely to add to the already intolerable delay. For preventive detention hearings to be constitutionally valid, they will frequently have to resemble full scale trials and will thus add an additional heavy burden to already overcrowded dockets. This will make speedy trials even more difficult. Moreover, if a preventive detention system complicates the task of reducing the time lag between arraignment and trial, it is possible that defendants who have been released after their 60-day detention will, overall, spend more time out of jail than might be the case if there was no preventive detention system. Even if the defendants who are candidates for preventive detention are tried by an expedited procedure, this will simply mean that other defendants, who may as a matter of fact be just as dangerous as those detained, will spend even more time on release. Thus, preventive detention has serious self-defeating aspects to it.[1]

A more desirable alternative would seem to be to reduce pretrial crime by focusing on speedy trials and reduction of the criminal backlog. The American Bar Association Standards Relating to Speedy Trial recommend some much needed provisions. In most jurisdictions, there is also the need for more judges, additional court facilities, increased staffing of prosecutor and defender officers, improved administrative court procedures and firmer handling of requests for continuances. All such measures should be tried on a crash program and present a much more fruitful approach to the problem. Of course, such measures will require a greater commitment of funds than appropriating bodies have thus far been willing to make.

It was because of problems such as these I have described that the Advisory Committee decided against adoption of preventive detention proposals and even rejected a Model Provision which it had under consideration. In this connection, I believe it is pertinent that the particular bills before this Committee fall short even of the Model Provision which the Advisory Committee rejected. A few brief comments will illustrate this.

For example, HR 12806 does not require that a detention order be issued only by a judge of a court of general jurisdiction and presumably even inferior judicial officers in a system would be authorized to detain. When one considers the level of inferior judicial officers in many parts of the country, it seems highly undesirable to vest the awesome power to detain at the lowest level of the criminal process.

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[1] The public also suffers in an economic way when defendants are unnecessarily detained. The detention of prisoners is costly and results in still further drain upon the resources of already overcrowded detention facilities.

Another failing is the definitions employed in H.R. 12086 and its companion bills. As Dean Ares has pointed out, they are exceedingly broad and have the defect of proceeding on a categorical rather than on an individual basis. For example, a "dangerous crime" includes "unlawful breaking and entering or attempting to break and enter any premises adopted for overnight accommodation of persons or for carrying on business with an intent to commit an offense therein." A person could therefore be charged with a dangerous crime even though the alleged specific crime constituted no actual danger to persons. The same is true of a number of the other dangerous crimes listed in the Act. The addition of a crime of conspiracy in the definition of "crime of violence" emphasizes the broad categories of crime which may be the basis for preventive detention. By contrast, the Model Provision requires, as a prerequisite to preventive detention, a specific finding that there be a high degree of probability that if released the accused would inflict serious bodily harm on another person. Furthermore, the Model Provision specifically places the burden of proving the necessity for detention by clear and convincing evidence on the prosecution.

Another serious failing in the proposed bills is that they would relieve the judicial officer of the necessity of conducting a truly evidentiary hearing; hearsay and other incompetent evidence would apparently be admissible.

The Model Provision also shows greater sensitivity than do the proposed bills to the prejudice to the defendant inherent in preventive detention. Thus, the Model Provision states that, "The fact that the defendant has been detained pending trial should not be allowed to prejudice him at the time of trial or sentencing. Extreme care should be taken to insure that the trial jury is unaware of the defendant's detention." It further provides that all defendants should be accompanied into the courtroom by apparently unarmed personnel in plain clothes, and that detained defendants should not be dressed or treated differently than defendants who have been at liberty pending trial.

The Model Provision also provides that in the event of conviction the sentencing court "should not regard a pretrial detention order as any evidence of the need to impose a prison sentence. In the event a prison sentence is imposed, the defendant should receive credit for all time spent in custody as a result of the criminal charge for which the sentence is imposed, or as a result of the underlying conduct upon which such a charge is based."

The Model Provision also provides that any detained defendant who is not subsequently convicted should receive compensation, with the compensation to be made available to dependents for support and maintenance, if necessary.

This comparison points up some of the serious failings in the legislation before this Committee. If a preventive detention measure is to be adopted, the Model Provision at least shows a sensitivity and awareness of the need to protect individual rights and dignity and is a decided improvement over such bills as H.R. 16196, H.R. 12806, S. 2600 and S. 2601.

In sum, the American Bar Association endorses the principle that the law favors the release of defendants pending determination of guilt or innocence and that deprivation of liberty pending trial is harsh and oppressive. It recognizes also that the interest of society may require the imposition of conditions of release and sanctions for violation of those conditions. The Minimum Standards of Criminal Justice adopted by the American Bar Association propose reasonable and well thought out means of handling this problem, and we recommended heartily their adoption; but at this stage of our knowledge and experience, the Standards do not recommend the adoption of preventive detention proposals such as those before the Committee.

One final observation. As Bernard G. Segal, the President of the American Bar Association, has emphasized in major addresses, the Association, like all thoughtful citizens, is deeply concerned with the problems created by the nation's high crime rate; a society cannot progress and flourish when its urban centers are beset by crime and are unable to afford the citizenry essential security and freedom from the devastations of lawlessness. We recognize that every effort must be made to combat crime with all of the resources at our disposal, and we must do much more than has been done until now. At the same time, the remedies we fashion must be consistent with the spirt of liberty and due process which is part of our heritage and which is the basis for our claim to moral leadership in the free world. In the last analysis, we recognize that the problem of crime is not alone a problem of more effective law enforcement, of better administration of justice and of penal reform—important as these are. The real inroads on crime will be made as we progress in remedying the conditions of slum housing, unemployment, lack of education, racial discrimination and the other conditions of helplessness, despair and alienation which for so long have been root causes of crime.

Mr. ERVIN. Mr. President, I also ask unanimous consent that a statement by former Federal prosecutors on the District of Columbia crime bill be inserted in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF FORMER FEDERAL PROSECUTORS ON THE DISTRICT OF COLUMBIA CRIME BILL

We are all former Federal prosecutors for the District of Columbia. We are united in opposition to certain provisions of the omnibus crime bill for the District of Columbia passed by the House of Representatives and presently in conference between the House and Senate. None of us considers himself "soft on crime" or a "bleeding heart." As members of the United States Attorney's Office we committed ourselves to the goal of effective law enforcement. We remain committed to that goal. We also believe that this community should not be subjected to measures of doubtful constitutionality, questionable necessity, and demonstrable ineffectiveness. We urge the Congress to reject provisions which will impede the cause of law enforcement rather than help it.

We have set forth our views on certain provisions of the House bill in some detail in the hope that they may assist the members of the conference and the Congress before they finally act on this legislation.

A. The mandatory sentencing and severe penal provisions of the House bill are among its most objectionable features:

(1) This bill makes breaking into a gum machine, a pay phone, or a parking meter second degree burglary, a felony punishable by up to 15 years imprisonment. By contrast arson, a crime far more dangerous to life and property, carries a penalty of up to ten years and robbery by force and violence a penalty of up to 15 years. It is utterly disproportionate to treat breaking into a vending machine as a crime of the same or greater severity than these offenses.

(2) This bill provides that any person convicted of three so-called "violent" crimes shall be sentenced to a mandatory life sentence, with no possible parole until he has served 20 years. "Violent crimes" include assault with a dangerous weapon, which can be commited in circumstances which would not justify the imposition of the harsh sentence contemplated by the bill.

(3) Furthermore, any person convicted of a "crime of violence" while armed with a weapon, including an imitation pistol, must be sentenced to a minimum of three years imprisonment and may be sentenced to life imprisonment. Since burglary is a "crime of violence" under this provision, a person apprehended breaking into a vending machine while carrying a toy pistol would receive at least three years in prison and might receive a life sentence.

(4) Mandatory sentencing provisions are contrary to experience in penology and are likely to be counter-productive from the standpoint of law enforcement and corrections. The report on Standards for Criminal Justice of the American Bar Association has concluded: "the legislature should not specify a mandatory sentence for any sentence category or for any particular offense." (ABA Standards Relating to Sentencing Alternatives and Procedures, p. 48) These provisions embody a distrust of the ability of trial judges to protect the community in their sentencing of convicted offenders. This distrust is misplaced. Mandatory sentences deprive trial judges of discretion to make the punishment fit the crime and the criminal. Moreover, mandatory sentencing provisions discourage guilty pleas and force more defendants to take their chances at trial, even though they actually are guilty. Since at least some of these defendants are likely to be acquitted after trial, such provisions virtually guarantee that guilty defendants who would otherwise be convicted will be set free. Mandatory sentencing provisions also can create serious disciplinary problems for our prison authorities. By precluding the prisoner from shortening his time, they impede correction and rehabilitation by destroying a prisoner's principal incentive for good behavior and self-improvement.

(5) Another provision of this bill provides that any person convicted of any three felonies, whether violent or not, may be sentenced to life imprisonment. The House bill, however, lacks the procedural safeguards contained in the Senate bill, which requires a judicial determination, with the assistance of psychiatric and psychological experts, that the defendant is beyond rehabilitation before a life sentence may be imposed.

(6) Still another provision of the House bill would create a presumption that sentences for two or more offenses shall run consecutively, even if the offenses arise out of the same transaction. This is contrary to the leading authorities on sentencing, such as the ABA's study which states: "Consecutive sentences are rarely appropriate." (ABA Standards Relating to Sentencing Alternatives and Procedures, p. 171)

B. The provisions of the House bill relating to juveniles would give the District of Columbia one of the most backward Juvenile Codes in the United States.

(1) It is provided that any juvenile 16 or older who is merely *charged* with any of a number of crimes—including breaking into a vending machine if this bill becomes law—will automatically be treated as an adult criminal defendant. Not even a judicial determination of probable cause that he committed the offense would be required to treat him as an adult, much less a judicial inquiry whether he can be rehabilitated in a juvenile institution.

(2) This bill would lower to 15 the age for transferring a juvenile charged with any felony, violent or not, to adult criminal

court. The presumption is apparently in favor of transfer, instead of consigning the juvenile to adult court and adult penal institutions only when it is evident that other methods of rehabilitation and protection of the community have failed or are unavailable. Perhaps most extraordinary, a juvenile who has once been transferred to adult criminal court could never again be treated as a juvenile—*even if he is acquitted of the charge in the adult criminal court*. He must thereafter be treated as an adult criminal even if charged with the most trivial offense.

(3) These provisions for relegating greater numbers of juveniles to adult criminal processes come at a time when adult penal facilities in the D.C. Jail and at Lorton are notoriously overcrowded. These institutions are breeding grounds for more crime. On the other hand, for the first time the District has an outstanding institution for hard-core juvenile offenders—the new Juvenile Facility at Laurel, Maryland. This institution provides maximum security for juvenile offenders and, unlike the adult institutions, it is not overcrowded. This is the wrong time to give up on the possibility of rehabilitating juvenile offenders, especially when it can be done while protecting the community at the same time.

(4) Further, at a time when the procedural rights of accused juvenile delinquents are being enlarged in the United States, this bill would abolish the right to trial by jury, the most important safeguard developed by our legal system for the determination of guilt or innocence. Trial by jury was explicitly provided when our present Juvenile Court Act was enacted in 1938 because Congress was convinced that the Constitution requires this right for any juvenile charged with an offense which would be a crime if committed by an adult. Nothing in the history of the last 30 years indicates that Congress was wrong. Moreover, since the question of the constitutional right to trial by jury in a juvenile delinquency proceeding is presently before the Supreme Court, there is every reason to avoid precipitate action in advance of a decision by the Court.

(5) This bill would also authorize the transfer of a delinquent from a juvenile institution to an adult penal institution without affording him the full procedural rights that any adult would have before he could be convicted of a crime and confined in such an institution. Whatever the arguments may be for affording a juvenile in a delinquency proceeding fewer procedural rights than adults, there is no justification for confining a juvenile in an adult penal institution without first according him the procedural rights of an adult. Moreover, the bill would authorize the mingling in the same institution of juveniles found to have committed criminal acts and those found merely in need of supervision such as truants from school. The effect of such provisions would be to subject juveniles who might be salvaged to influences which could turn them into incorrigible criminals. Everyone will lose in the process and the community will be rendered less safe rather than more so.

C. Other criminal procedure provisions of the House bill are so constitutionally dubious that they must by their nature invite trouble. It is no service to law enforcement to subject criminal convictions to certain constitutional attack and endless litigation. All this does is to remove the deterrent effect of swift and sure punishment, multiply appellate issues, and undermine the principle of finality in criminal cases.

(1) For example, the House bill authorizes appeal by the prosecution from certain rulings during trial and directs the trial court either to adjourn the trial or to declare a mistrial until the appeal is determined. But the law governing former jeopardy is clear that a mistrial may be declared over a defendant's objection only in case of "manifest necessity." It is difficult to see how this provision of the bill can be squared with the constitutional limitation. The effects of this provision, if implemented, are readily predictable: there will be attacks on the motives of the prosecution any time such an appeal is taken, on the ground that the prosecutor is seeking a mistrial because he fears the jury will decide against him.

(2) Moreover, the House bill authorizes appeal by the prosecution even after trial and directs the appellate court to decide the appeal even if the defendant has been acquitted. Few principles have been more firmly settled in the courts of the United States than that judges should decide only cases of actual controversy in which there are genuine adversary interests. This is the essence of the doctrine of judicial restraint. But this provision would purport to compel a court to decide questions which cannot affect the outcome of the case and in which the acquitted defendant has no interest in presenting the other side.

(3) This bill would also place the burden of proof on the defendant with respect to the issue of insanity. This is contrary to the tradition of Anglo-American law that the prosecution must prove every element of a criminal offense—including the criminal intent and guilty mind of the defendant—beyond a reasonable doubt. This requirement of proof beyond a reasonable doubt is an essential of due process of law under our Constitution.

Provisions like these are a threat, not an aid, to the orderly enforcement of the criminal law. If they are struck down by the courts, convictions will be overturned and guilty men may be freed.

D. (1) The so-called "no knock" provisions of the House bill raise serious questions of public policy, wholly apart from constitutional considerations. These provisions are sufficiently obscure in language, purpose, and effect that their enactment may leave the law more confused and less workable than it was before. Depending on how they are interpreted, these provisions may do any one of three things, each of doubtful wisdom:

(i) They may make no change in the existing powers of law enforcement officers to enter private premises without prior announcement of their authority and purpose. If so, they are superfluous and will merely spawn prolonged litigation.

(ii) Or they may expand the existing "no knock" powers of law enforcement officials by creating a looser concept of exigent circumstances than the courts have heretofore recognized as justification for dispensing with an announcement of authority and purpose. For example, if officers or judges construe these provisions as authorizing a "no knock" entry whenever narcotics, gambling paraphernalia, or other easily destroyed evidence are sought, the exceptions would swallow up the general rule that an announcement of authority and purpose is ordinarily required.

(iii) Or these provisions may actually curtail the existing powers of law enforcement officials. These provisions can be interpreted as requiring law enforcement officials to obtain a "no knock" warrant whenever it is feasible to do so, even though exigent circumstances would justify an entry without an announcement under existing law. The officers' failure to obtain such a warrant will give the defendant an additional argument against the legality of their actions and may make the job of the police harder, rather than easier.

(2) More fundamentally, the question is whether Congress should enact such provisions, without a greater showing of need than has so far been made, over the opposition of many law-abiding people in this community. Many people, correctly or incorrectly, believe that these provisions threaten privacy and justify resort to self-help and resistance to entry by law enforcement officers. It is no benefit to law enforcement officers to expose them unnecessarily to greater risks of resistance or attack by citizens. It is easily forgotten that the requirement of an announcement of an officer's authority and purpose is not just to protect the occupant. It is also to protect the officer by giving the occupants of the premises notice and opportunity to comply with his request for entry. Otherwise the citizen may think the intruder is a housebreaker. No responsible person can welcome the prospect of "shoot-outs" between officers and citizens, each acting on the facts as he sees them at the moment.

E. The preventive detention provisions of the House bill also raise grave questions of public policy. Reasonable men may differ as to the constitutionality of the principle of preventive detention. But the absence of certain essential procedural safeguards makes these provisions unsatisfactory on those grounds alone.

(1) The procedural protections of the House bill are deficient. They do not require that the judicial findings in support of detention be supported by admissible evidence and they contemplate detention merely on a proffer of information by the prosecutor. The bill apparently gives the defendant no right of cross-examination at the detention hearing. Pretrial detention evidently can be authorized solely on unsworn hearsay and other materials which no court would consider admissible proof of a defendant's guilt or innocence. It is surely reasonable for the prosecution to present some admissible evidence, subjected to the test of cross-examination, in justification for the pretrial detention of a defendant whose guilt has not yet been proved.

(2) These provisions also make it a felony for a defendant "willfully" to fail to appear in court when required to do so. Yet they allow conviction of this offense on his failure to appear, even if he has not received actual notice of an appearance date. We are aware of no precedent in our legal system and no constitutional principle which would allow conviction of a defendant of a serious felony, involving a guilty state of mind, without requiring proof of that element of the offense. Proper provision should be made to deal with defendants who willfully thwart court processes, but there is little point in enacting self-nullifying statutes which hold out an illusory promise to the community of greater safety.

F. Perhaps the most extraordinary feature of the House bill is the provision that in any civil suit against a police officer for wrongful arrest, the court must order the plaintiff—even if he wins the case—to pay the defendant an attorney's fee. We have never heard of such a requirement anywhere in the English-speaking world. This provision is obviously designed to deter the bringing of such lawsuits, whether they are meritorious or not. It seems as if the framers of this provision assume that Metropolitan Police officers make illegal arrests so frequently that they must be made immune from the law by blocking the free access of citizens to the courts. The insult to the Metropolitan Police Department that is implicit in this provision is sufficient reason to defeat it. And it is a strange concept of law and order that would prevent people from taking their cases to courts of justice.

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Henry H. Jones, Howard University School of Law.

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John P. Schmertz, Jr., 506 E Street, NW.

Mr. ERVIN. Mr. President, I ask unanimous consent that a letter from Robert S. Rankin, of Duke University, stating that the bill which underlies this conference report is unwise and unnecessary, be placed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of Political Science,
Duke University,
Durham, N.C., Sept. 11, 1969.

Hon. Sam J. Ervin, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Ervin: I am pleased to respond to your request for my views on S. 2600; a bill which would allow the consideration of "dangerousness to the community" as a factor in determining conditions of release of persons charged but not convicted of criminal offenses and providing for preventive detention of dangerous persons. The preventive detention part of the bill, § 3146A provides that upon a finding by a judicial officer, after a full hearing, that there is clear and convincing evidence that a person charged with a dangerous crime or a crime of violence, or determined to be a addict, may not be released, because regardless of such conditions of release which the judicial officer could impose, the safety of the community can not reasonably be assured. The bill also provides an appeal procedure from findings at detention hearings and for additional penalties for crimes committed by an accused person while on release. Passage of this bill, in my opinion, would be unwise and is unnecessary.

The motivation behind the preventive detention proposal appears to be the high and growing crime rate in this nation's cities, and in particular, the Capital. We are all deeply concerned with this problem.

In dealing with this intolerable increase of crime, there are many improvements and changes in the system of criminal justice which might be useful. However, preventive detention, which upon its face seems to offer some positive direction, upon closer examination, presents many problems.

The bill assumes that persons who are charged with crimes of violence are more likely to commit additional offenses than others. However, much of the recent research in this area appears to be to the contrary; the most frequent recidivists are generally persons who have committed property offenses, whereas persons charged with crimes of violence are less likely to engage in future criminal behavior. [*The Challenge of Crime in a Free Society;* Report by the President's Commission on Law Enforcement and Administration of Justice, 45 (1967)] Hence, any preventive detention bill should be based on a more thorough study of the characteristics which are most frequently found among persons who recidivate. This would allow courts to have some factual basis upon which to make a release decision.

Another drawback to the entire concept of preventive detention is that it can have a negative effect on the accused's chances in court. In a study of bail, the Vera Institute of Justice's Manhattan Bail Project determined that persons released pre-trial were found not guilty at a rate 2½ times greater than that of persons who were incarcerated pre-trial (National Conference on Bail and Criminal Justice, Report, May 1964 to April 1965). Some correctional experts also maintain that persons incarcerated prior to trial have less of a chance of having their case diverted out of the criminal process (see, e.g. Freed & Wald, *Bail in the United States: 1964,* at 55 (1964)). Preventive detention will also prevent the accused from keeping or obtaining employment. If found guilty, his chances of probation are lessened. In a study done by the District of Columbia Crime Commission, it was determined that . . . "40 percent of the . . . convicted persons who had obtained pre-trial release were placed on probation, whereas only 18 percent of the . . . convicted defendants who had not been released were granted probation." [*Report of the President's Commission on Crime in the District of Columbia,* 505 (1966)]

It is also doubtful whether the Bail Agency, set up by the Bail Reform Act of 1966 in the District of Columbia has had sufficient time and resources to enable it to function effectively. Testimony before this committee indicates that the Agency is understaffed, and that a full use of conditions which can be attached to releases, has not been made. [Statement of Tim Murphy, Judge of the D.C. Court of General Sessions, *Hearing on Amendments to the Bail Reform Act of 1966 Before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary,* 91st Cong. 1st Sess., at 218–220 (1969)] Both of the Experimental Bail Reform Projects which preceded the passage of the 1966 Bail Reform Act had significantly high success rates. The Manhattan Project, for example, had a return rate of 98.4 percent for appearance at court, of people it recommended for release. One can only wonder whether there would be any need to discuss preventive detention at all, if the original plan as embodied by the 1966 Act were to be fully effectuated.

I would be less disturbed by the prospect of preventive detention if some groundwork had been laid for its usefulness. If crimes are being committed by those who have been released pending trial, then a primary step in meeting the problem should be a maximum reduction in the time between arrest and trial. As of 1965, in the District of Columbia, the median time between indictment and disposition in felony cases was 4.8 months. [Report of the President's Commission on Crime in the District of Columbia, 245 (1966)]. A second method would be provision for an "accelerated trial process for presumably high risk defendants." [*The Challenge of Crime in a Free Society*; Report by the President's Commission on Law Enforcement and Administration of Justice, 131 (1967)]. Such a procedure would require a fully operative Bail Agency which would provide the judicial officer with a broad range of facts about the defendants upon which a determination of what constitutes a "high risk" defendant could possibly be made.

If these two methods were used I would expect the amount of crime committed by persons awaiting trial to be reduced substantially. Those who advocate preventive detention should use these methods; if they are unsuccessful, at that time requests for the more drastic measure can be made. Accompanying such a proposal should be statistical proof of the need for and the efficiency of the measure. Such proof is now lacking.

As you, Senator Ervin, are one of the leading constitutional experts in the nation, it is unnecessary for me to present a detailed analysis of the constitutional problems that appear to be inherent in this bill.

The Supreme Court of the United States has not had occasion to specifically rule on preventive detention. A determination of constitutionality will involve a look into the historical context and background of our Constitution. One of the traditional premises of Anglo-American criminal law has been that it is far preferable to free the guilty than to convict the innocent. Predicting future crimes is so difficult that, as Professor Dershowitz points out, "in order to spot a significant proportion of future violent criminals, we would have to reverse the traditional maximum of the criminal law and adopt a philosophy that it is better to confine ten people who would not commit predicted crimes, than to release who would." (A. Dershowitz, *On Preventive Detention,* 12 N.Y. Rev. of Books 22, 24 (Mar. 13, 1969).)

Pre-trial preventive detention conflicts with two basic principles—not always followed—of our criminal law: The threat of subsequent punishment is a method of deterring crime; and imprisonment should not be imposed upon a person *until* he is convicted of a crime. That these principles are sometimes ignored is not a reason for further breach, but a reason for greater vigilance in the future. Given the far less than clear need for preventive detention, and the conflict between such detention and basic principles, it is doubtful whether the preventive detention provision of S. 2600 could meet the requirements of the Eighth Amendment or the Due Process Clause of the Fifth.

Certain features of S. 2600 are open to particular question. Section (1)(e) of the bill provides that persons detained pursuant to the Act "shall be confined, to the extent practicable, in facilities separate from convicted persons awaiting or serving sentences or being held in custody pending appeal." While this provision is beneficial, it does not go far enough. Criminologists maintain that a jail experience for the innocent person can create the future criminal.

Secondly, the proposed 18 U.S.C. § 3146A-(c)(5) provides that "[i]nformation stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law." The rules of evidence are designed to assist in the determination of truth and to prevent unfounded testimony. I do not see the justification for depriving the defendant of such protection in proceedings related to preventive detention.

Thirdly, in its recommendation for preventive detention the President's Commission on Crime in the District of Columbia provided the safeguard that "any evidence taken at such hearing shall not be admissible at the trial either as impeachment or in lieu of *de novo* proof of the facts alleged." This safeguard is partially, and in my opinion unjustifiably, removed by the proposed 18 U.S.C. § 3146A(a)(6), which makes the testimony of the defendant available for impeachment purposes in subsequent proceedings.

As Senator Hruska pointed out when he introduced S. 2600, "although the bill is national in scope it is particularly important to the District of Columbia because of the Federal jurisdiction over all crimes. Over 40 percent of all Federal crimes are committed in the District." I hope that the people of Washington, D.C. will have ample opportunity to be heard on this bill, and that their advice will be given substantial considerations, as they are most directly affected by the bill.

Sincerely yours,
Robert S. Rankin.

Mr. ERVIN. Mr. President, I ask unanimous consent that a letter to me from Lionel H. Frankel, professor of law of the University of Utah, stating that the proposal for preventive detention flies in the face of Anglo-American traditions of fairness and justice and is, as a practical matter, unlikely to afford any additional protection to the public, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The University of Utah,
Salt Lake City, Utah, August 5, 1969.
Senator Sam J. Ervin, Jr.,
Chairman, U.S. Senate, Committee on the Judiciary, Subcommittee on Constitutional Rights, Washington, D.C.

Dear Senator Ervin: My colleague, Professor John Flynn, allowed me to read your letter and enclosures to him concerning S. 2600. I very strongly agree with your position; the bill is unconstitutional, flies in the face of Anglo-American traditions of fairness and justice and is, as a practical matter, unlikely to afford any additional protection to the public.

As you pointed out in debate on July 16, 1969, the bill would be unworkable because of the impossibility, given the present state of knowledge, of predicting which defendants constitute a sufficient danger to justify preventive detention. The inherent unworkability of predictive detention has been demonstrated by Professor Caleb Foote in his article, "The Coming Constitutional Crisis in Bail," in 113 University of Pennsylvania Law Review, pages 959 and 1125 (1965) at pages 1169–1174. The point is also made by Livermore, Malmquest and Meehl in their article, "On the Justifications for Civil Commitment," in Vol. 117 University of Pennsylvania Law Review, page 75 (1968) at pages 84–85.

Given the unavoidable inaccuracies of detention on purely predictive grounds, any system of preventive detention adopted at the present time would require the detention of two or three harmless persons for every dangerous person detained. This is a price in the liberty of American citizens not convicted of crime which we should not and constitutionally may not pay.

Apart from the inherent weaknesses of prediction there are other practical factors which demonstrate that preventive detention will not protect the public. As you indicated in your speech, a major cause of preconviction recidivism is the long delay between arrest and trial caused by court congestion. Even if preventive detention were otherwise constitutional there would be a constitutional requirement for a full adversary hearing before detention could be imposed. This would require that counsel be provided the defendants and that they be furnished psychiatric and other expert assistance to defend against the claim that they were dangerous. The government would have to employ sufficient psychiatrists and other experts to make investigations and reports necessary for accurate determinations as to whether preventive detention should be imposed. All of this would involve great expense and impose a considerable burden on courts, judges, attorneys and expert witnesses. Thus, the adoption of a scheme of preventive detention would require a great increase in the legal resources available or would divert such resources from present judicial proceedings, thereby increasing court delay and aggravating rather than lessening the problem of preconviction recidivism.

I believe a partial answer to preconviction recidivism lies in providing more speedy trials with, perhaps, a right in the prosecution to move for a calendar preference in cases where the defendant is thought to be dangerous. Another approach would be the development of a defense probationary agency to supervise defendants pending trial. A defense attorney could work with such an agency to develop a pretrial supervision program to assure that his client avoided situations which might tempt him to crime pending trial. Defendants and their attorneys would have a considerable stake in the success of such a program of supervision since a defendant who had been successful in staying out of trouble while on pretrial defense probation would have a strong argument for probation or other leniency from the trial judge if he were later convicted of the crime with which he was charged. In addition, by developing a system of supervision and counseling prior to trial, it would be possible to initiate reformative supervision more promptly, thus breaking the chain of causal circumstances and motivation which may have lead to the first crime. By making such services optionally available to the defense, constitutional objectives could be avoided, and the defense could be brought into the rehabilitative and correctional process in a meaningful way at a time when the defendant's motivation to achieve rehabilitation may be at its greatest point, following arrest and before trial.

I must concede that this notion for pretrial defense probation is just an idea I have been toying with—it may or may not be workable, but I am convinced that preventive detention is not the answer; that it would not protect the public and would not lead to more effective correction of offenders. I am also convinced that there are more suitable means well within our constitutional system and the Anglo-American legal tradition which could be developed.

May I express my appreciation for your position with regard to S. 2600 and my willingness to assist in any way possible to defeat this unconstitutional and unwise proposal. Enclosed is a reprint of a recent article by me on the subject of preventive restraints.

Sincerely yours,
Lionel H. Frankel,
Professor of Law.

CHICAGO BAR OPPOSES PREVENTIVE DETENTION

Mr. ERVIN. Mr. President, the Chicago Bar Association recently issued its study of the pretrial detention features of the District of Columbia omnibus crime bill. In opposing preventive detention, the association thoroughly considered some very relevant questions concerning both the constitutional problems and the unacceptable practical effects of such measures.

The study points out that the proposed pretrial detention legislation raises some very grave constitutional issues within the fifth and eighth amendments. While the study realizes that more than one interpretation of these amendments is certainly possible, it further concludes that the drastic measures embodied in the present preventive detention proposals violate any reasonable reading of the Constitution.

The Chicago Bar Association, however, chooses to base its opposition primarily upon other grounds. Principal objections are raised because of a vital need for a more carefully thought-out and factually supported program for improving the administration of criminal justice than is represented by these current legislative proposals. The association feels that detention would further aggravate the situation of court congestion, and a better solution is needed. That solution, as the study suggests, would be more solidly based in the area of expediting criminal justice through a guaranteed speedy trial.

I wholeheartedly agree with the Chicago Bar Association that a better solution than preventive detention is needed. I have recently introduced a "speedy trial bill" which would more fully meet the pressing problems at which pretrial detention is aimed. I ask unanimous consent that the text of this study be printed in the Record.

There being no objection, the study was ordered to be printed in the Record, as follows:

The Chicago Bar Association,
Chicago, Ill., July 7, 1970.
Re S. 2600
Hon. Sam J. Ervin, Jr.,
Chairman, Subcommittee on Constitutional Rights of the Committee on the Judiciary, U.S. Senate, Senate Office Building, Washington, D.C.

Dear Senator Ervin: Enclosed is a copy of a report of the Civil Rights Committee of this Association, which has been approved by the Board of Managers. The report expresses opposition to the provisions originally embodied in S. 2600 for pre-trial detention in criminal proceedings.

The objections to the bill stated in the enclosed report are so important to the administration of criminal justice throughout the country that we urgently request that serious consideration be given to the views expressed.

Very truly yours,
James A. Velde,
President.

Report of Civil Rights Committee on Various Proposals for Pre-trial Detention Embodied in Proposed Amendments to the Bail Reform Act of 1966 and the District of Columbia Omnibus Crime Bill

I. BACKGROUND

Of the many causes cited as contributing to the increase in crime, one which in recent months has been the subject of significant attention—the pre-trial release of criminal defendants—has risen to prominence principally as a result of legislative, rather than judicial, action.

The Bail Reform Act of 1966 enacted by the 89th Congress revised existing eligibility standards for the pre-trial release of defendants in non-capital cases. 18 U.S.C. §§ 3041, 3141–43, 3146–52, 3568 (Supp. III, 1968). The Act provides that any person charged with a non-capital crime shall be released on his personal recognizance or upon the execution of an unsecured appearance bond, unless it is determined that additional safeguards are required to assure the appearance of such a person, whereupon a judicial officer may impose any one or any combination of the following additional conditions:

(1) place the person in the custody of a designated person or organization agreeing to supervise him;

(2) place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security as directed, of a sum not to exceed 10 per centum of the amount of the bond, such deposit to be returned upon the performance of the conditions of release;

(4) require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof; or

(5) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after speci-

fied hours. 18 U.S.C. § 3146(a) (Supp. III, 1968).

Thus, the Act does not permit, in the making of such determination, consideration of possible risk the released defendant might represent to the community. The legislative history of the Act makes this point quite clearly:

"This legislation does not deal with the problem of the preventive detention of the accused because of the possibility that his liberty might endanger the public, either because of the possibility of the commission of further acts of violence by the accused during the pre-trial period, or because of the fact that he is at large might result in the intimidation of witnesses or the destruction of evidence. . . . Obviously, the problem of preventive detention is closely related to the problem of bail reform. A solution goes beyond the scope of the present proposal and involves many difficult and complex problems which require deep study and analysis. The present problem of reform of existing bail procedures demands an immediate solution. It should not be delayed by consideration of the question of preventive detention. Consequently, this legislation is limited to bail reform only." H.R. Rep. No. 1541, 89th Cong., 2d Sess. 18 (1966) (remarks of Congressman Celler).

With the opening of the present 91st Congress it became evident that there was a desire in both Houses to take a further look at the Bail Reform Act. Hearings held by the Subcommittee on Constitutional Rights of the Senate Judiciary Committee indicate that, while many members endorse the objectives of the Act, there is considerable sentiment for providing discretionary authority to judicial officers to consider factors other than likelihood of a defendant's appearing for trial in determining eligibility for release. This attitude was reflected in President's call on January 31, 1969 for legislation to permit pre-trial detention of defendants in non-capital cases whose pre-trial release is considered dangerous to the community at large or to particular individuals. 27 Cong. Q. Weekly Rep. 238 (Feb. 7, 1969). Pursuant to the President's request, the Department of Justice sent the Senate a proposed amendment to the Bail Reform Act of 1966. This proposed amendment, S. 2600, was introduced by Sen. Roman L. Hruska, Neb., R., on July 11, 1969. Congressional Record, vol. 115, pt. 14, pp. 19259–19264.

S. 2600 would amend the Bail Reform Act for the purpose of reducing crime committed by persons released on bail. The principal features of the bill are:

1. Authority to consider danger to the community in setting conditions of pre-trial release;

2. Authority to deny pre-trial release for a sixty day period to specific categories of defendants who are found to be dangerous after an adversary hearing with appropriate procedural safeguards;

3. Authority to revoke pre-trial release and detain defendants who violate release conditions; and

4. Provision for mandatory additional terms of imprisonment to be served consecutively by persons found guilty of bail jumping or of committing an offense while on pre-trial release. Congressional Record, vol. 115, pt. 14, p. 19261.

This report is concerned solely with the most controversial of these provisions—namely those summarized in sub-paragraph 2 above, dealing with pre-trial detention for a period of sixty days. These provisions are also set forth in detail in Appendix A to this report.

The legislative history of these pre-trial detention provisions is further complicated by the following developments. On July 11, 1969, Sen. Hruska and others introduced S. 2601 for the Nixon Administration, proposing a reorganization of the courts of the District of Columbia. Congressional Record, vol. 115, pt. 14, p. 19259. S. 2601 passed the Senate within 70 days of its submission, on September 16, 1969. (See remarks by Sen. Ervin, 116 Cong. Rec. 8914 (March 24, 1970)). On March 19, 1970, the House of Representatives passed H.R. 16196, the "District of Columbia Omnibus Crime" bill, substituting this omnibus bill for the Senate text of S. 2601 and returning S. 2601 to the Senate with a request for a conference. 116 Cong. Rec. 8086–8221. H.R. 16196 includes preventive detention legislation; S. 2601 is entirely devoid of any reference to preventive detention. Moreover, the preventive detention measures contained in H.R. 16196 are identical to the principal features of S. 2600 previously summarized.

On March 24, 1970, the Senate amended S. 2601 as amended by the House, substituting bills previously passed by it and omitting all provisions for preventive detention; the Senate also requested a conference with the House on the disagreeing votes of the two Houses thereon, 116 Cong. Rec. 8975 (March 24, 1970). It is somewhat disturbing to observe that the senators who were most critical of preventive detention (such as Senator Sam Ervin of North Carolina) were not included among those appointed to represent the Senate on the Conference Committee.

II. CONSTITUTIONAL ISSUES

The question whether pre-trial detention of a defendant considered dangerous to the community at large or to particular individuals would be constitutional entails two separate issues: first, whether the "excessive bail" clause of the Eighth Amendment gives or implies an absolute right to bail, and makes its denial unconstitutional; and second, whether the due process clause of the Fifth Amendment prevents the imprisonment of a defendant on the basis of a prediction of future misconduct. Neither of these two issues has been decided by the Supreme Court.

The most recent consideration of the meaning of the Eighth Amendment is *Carlson* v. *Landon*, 342 U.S. 524 (1952), (5–4 decision). In an opinion by Mr. Justice Reed, the Court held that alien members of the Communist Party were not entitled to be released on bail, pending final determination of their deportability. Mr. Justice Reed said:

"The bail clause was lifted with slight changes from the English Bill of Rights Act. 1 Wm. & Mary II, ch. 2, § 1(10). In England that clause has never been thought to accord a right to bail in all cases, Petersdorff, on Bail, 483 et seq., but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different concept. I Annals of Congress 753. The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country. Thus in criminal cases bail is not compulsory where the punishment may be death. I Stat. 91, § 33; Rules of Criminal Procedure, 46(a). Indeed, the very language of the Amendment fails to say all arrests must be bailable. We think, clearly, here that the Eighth Amendment does not require that bail be allowed under the circumstances of these cases." *Carlson* v. *Landon*, 342 U.S. at 545–546.

Although Justice Reed does not *explicitly* say, here, that the only properly bailable cases are those which Congress has defined as bailable, it should be observed that he did say that, "The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country." To illustrate this point, he observed that, "Thus in criminal cases bail is not compulsory where the punishment is death."[1]

Arguing in dissent in *Carlson*, Mr. Justice Black rejected the Court's interpretation of the Eighth Amendment, as expressed by Justice Reed, saying:

"As to (1): The Eighth Amendment is in the American Bill of Rights of 1789, not the English Bill of Rights of 1689. And it is well known that our Bill of Rights was written and adopted to guarantee Americans greater freedom than had been enjoyed by their ancestors who had been driven from Europe by persecution. As to (2): It is true bail has frequently been denied in this country 'when the punishment may be death.' I fail to see where the Court's analogy between deportation and the death penalty advances its argument unless it is also analogizing the offense of indoctrinating talk to the crime of first degree murder." *Carlson* v. *Landon*, p. 557.

The other three dissenting justices (Frankfurther, Douglas and Burton) did not join in Mr. Justice Black's dissent, but Mr. Justice Burton, besides joining in Mr. Justice Frankfurther's dissent, added "the suggestion that the Eighth Amendment lends support to the statutory interpretation he advocated. That Amendment clearly prohibits federal bail that is excessive in amount when seen in the light of all traditionally relevant circumstances. Likewise it must prohibit unreasonable denial of bail." (p. 569)

Stack v. *Boyle*, 342 U.S. 1, is another recent case which considers the meaning of the Eighth Amendment's "excessive bail" clause. In an opinion by Mr. Chief Justice Vinson, the Court held that the constitutional prohibition of excessive bail was violated when a District Court uniformly fixed an amount of $50,000 for each of twelve members of the Communist Party charged with conspiring to teach or advocate the overthrow of the government by force or violence. Speaking for the Court, Mr. Chief Justice Vinson said:

"From the passage of the Judiciary Act of 1789, 1 Stat. 73, 91, to the present Federal Rules of Criminal Procedure, Rule 46(a)(1), federal law has unequivocally provided that a person arrested for a non-capital offense *shall* be admitted to bail." p. 4.

"The right to release before trial is conditioned upon the accused's giving adequate assurance that he will stand trial and submit to sentence if found guilty." pp. 4–5.

"Bail set at a figure higher than an amount reasonably calculated to fulfill this purpose is 'excessive' under the Eighth Amendment." p. 5.

"Since the function of bail is limited, the fixing of bail for any individual defendant must be based upon standards relevant to the purpose of assuring the presence of that defendant. The traditional standards as expressed in the Federal Rules of Criminal Procedure are to be applied in each case to each defendant." p. 5.

In a separate concurring opinion, Mr. Justice Jackson, with whom Mr. Justice Frankfurter joined, agreed with Chief Justice Vinson's understanding of the function of bail adding: "But the judge is not free to make the sky the limit because the Eighth Amendment to the Constitution says: 'Excessive bail shall not be required. . . .' " (p. 8)

Suffice it to say, then, that from the foregoing quotations there are basically two ways of reading the Eighth Amendment: (1) either as guaranteeing an absolute right to bail in non-capital criminal cases; or (2) as a guarantee to a reasonable sum of money calculated according to standards relevant to assuring the defendant will not flee the jurisdiction and based upon provisions of federal law as determined by Congress.

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[1] The rule in point, here, is: (1) *Before Conviction.* A person arrested for an offense not punishable by death shall be admitted to bail. A person arrested for an offense punishable by death may be admitted to bail by any court or judge authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense. Federal Rules of Criminal Procedure, 46(a)(1).

Professor Caleb Foote, in a historical study of the Eighth Amendment and its framers, argues that the right to bail was acknowledged as a primary right that had to exist in a large class of cases and that reference to excessive bail was merely one method of preventing any circumvention of this right. Foote, "The Coming Constitutional Crisis in Bail": I, 113 U. Pa. L. Rev. 959, 965–989 (1965). Foote builds a strong case explaining why the inadequate expression of this intent to have an absolute right to bail was the result of a historical accident. See too his testimony in *Hearings On Amendments To The Bail Reform Act Of 1966*, Before Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary, 91st Cong., 1st Sess., at 357 (1968). But with all due respect for Professor Foote's argument of historical accident, it is certainly true that an explanation of this historical event as an accident appears to be less than immune to attack. See *e.g.*, Mitchell, Bail Reform and the Constitutionality of Pre-trial Detention, 55 Va. L. Rev. 1223 (1969).

In short, the argument for the absolute right to bail interpretation of the Eighth Amendment rests on a shaky foundation. Federal law has always provided for the right to bail by statute; and the statutes have traditionally denied the absolute right to bail in capital cases. Moreover, it would not be taking liberties to deduce from Mr. Chief Justice Vinson's remarks in *Stack* v. *Boyle* that the purpose and function of bail is to assure the presence of the defendant at trial. If this is correct, then it may reasonably be argued that setting bail and the application of the Eighth Amendment to this procedure was not meant to apply to people considered so dangerous to the community that they ought not be released. Whether this would be a worthwhile argument to pursue or not, it is interesting to note that bail is generally discussed in terms of assuring the appearance of the accused for his trial and not in terms of protecting society from dangerous persons.[2] Even the rationale for denying bail in capital cases is based on the idea of assuring the appearance of the accused for his trial, since it is assumed that a man who knows that conviction could mean his life would attempt to flee the jurisdiction. If Congress, consistently with the Eighth Amendment, could enact the statutes which gave the right to bail in non-capital criminal cases and denied this right in capital cases, based upon the ostensible purpose of assuring that the accused would be brought to trial, Congress apparently, with equal consistency, could also pass a new statute denying the right to bail to persons because of predictions about their dangerousness to society.

Even assuming that preventive detention will survive an attack based on the Eighth Amendment, the due process issue must still be faced. Due process problems concerning the nature of the procedural system for administering preventive detention are exceedingly difficult. Aside from the obvious argument that preventive detention would violate due process *ex hypothesi*, since it would deprive the defendant of his liberty before a conviction, the outstanding fact is that we simply do not have available the predictive techniques that an acceptable system would require. As a result of this lack of technical proficiency, would there not be an inevitable tendency to over-detain? This emerged with particular clarity during the 1969 hearings of the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary. See especially testimony of Professor Dershowitz, Hearings on Amendments to Bail Reform Act, pp. 172–185. While it has been argued that the civil commitment of the mentally incompetent to stand trial, sexual psychopaths, narcotics addicts, chronic alcoholics, and the mentally ill provide analogous situations (see Mitchell, *supra* at pp. 1233–1234) the analogies are far from compelling. The essence of the problem is that comparable standards of judgment are unavailable in ordinary criminal cases, prior to full trial. Although some of the proposals for preventive detention try to minimize the dangers of abuse by specifically defining the offenses to which the procedure would be applicable, and by providing for some form of adversary, though summary, proceedings, they do not obviate the basic difficulty of lack of adequate knowledge and standards for judgment. Indeed the closer that the hearing on detention comes to a full trial, the more it accentuates the underlying evil of court congestion and delayed trials.

It has also been argued that pre-trial detention has in effect been authorized, without violation of due process, in the denial of bail in capital cases as well as in the setting of prohibitively high bail in non-capital cases. In response to this argument, it should be noted first that the denial of bail in capital cases is primarily to assure appearance at the trial rather than to prevent danger to the community; and second that setting of prohibitively high bail is an abuse of the bail process which has been increasingly frowned upon both by judicial decisions (*e.g.*, *Stack* v. *Boyle*, *supra*) and by the Bail Reform Act itself. Consequently it is doubtful that such arguments will be very persuasive in countering the due process objection.

III. CONCLUSION

Our opposition to the current proposals for pre-trial detention is not, however, based primarily upon constitutional objections, even though these are serious and might be conclusive. Rather it is based upon the need for a more carefully thought out and factually supported program for improving the administration of criminal justice than is represented by these current legislative proposals. Almost all the experienced and well-informed witnesses at the 1969 Hearings of the Subcommittee on Constitutional Rights agreed that the most fundamental step toward solving the problem of crimes committed by criminal defendants awaiting trial would be the substantial expediting of the processes of criminal justice. It was testimony such as this which convinced Senator Ervin that pre-trial detention, instead of contributing toward such a fundamental solution, might even aggravate the situation by increasing court congestion through the need for additional, adversary pre-trial hearings.

Finally, Senator Ervin was particularly disturbed by the lack of a basic factual study to support the administration proposals. As he said in the last Senate debate on the District of Columbia Omnibus Crime Bill:

"If there was one thing upon which all witnesses were agreed in the January 1969, hearings of the Constitutional Rights Subcommittee, it was that there was inadequate information upon which to judge the necessity for such a gross invasion of the Bill of Rights." 116 Cong. Rec. 8914–8917 (March 24, 1970).

This was especially surprising because a major scientific study was commissioned by the Law Enforcement Assistance Administration and conducted by the National Bureau of Standards to ascertain the amount of pre-trial crime committed, to develop reliable predictive devices, if possible, to support preventive detention, and to search out ways to prevent and control pre-trial crime short of preventive detention. This commissioned study was completed on March 31, 1970, and it is astonishing that the Department did not allow for its completion and utilize its conclusions so that any legislation on preventive detention could be considered objectively on its merits. Senator Ervin has suggested that the study "will refute much of the frantic rhetoric the Department has issued about the need for preventive detention". 116 Cong. Rec. 8914–8917 (March 24, 1970).

In the last analysis, however, the concept of due process must achieve a reasonable balance between essentially protections of the individual and the essential protection of society. In this balancing process, fundamental fairness requires that the less extreme remedies must be explored and tested before going on to the more extreme ones. This has not been done in the situation at hand. Attorney General Mitchell himself admits that alternative methods for dealing with the problem of crimes committed by persons released pending trial, such as speedier trials, better and more complete supervision of such released persons, and prompt revocation of the release in case of violation of such conditions, including of course, any subsequent offenses, have not been either extensively or effectively used. (See Mitchell, *op. cit. supra*, 55 Va. L. Rev. at 1242.) Whatever may be said with respect to the merits of such intermediate proposals, the case has certainly not been made out for proceeding immediately to so drastic a remedy as a pre-trial detention with all its concomittant evils, based on such elusive standards as are now being proposed.[3]

The problems we face in America, today, are exceedingly frustrating; but we must not allow frustration to lead us to extreme and costly overreactions which may undermine our way of life. As Chief Justice Burger has just reminded us.

"In periods of stress there are always some voices raised during that we suspend fundamental guarantees and take shortcuts as a matter of self-protection.

"But this is not our way of doing things short of a giant national emergency. * * *

"In those few periods of our history when we suspended basic guarantees of the individual in times of great national emergency we often found, in retrospect, that we had overreacted." (Speech to the American Law Institute, May 19, 1970, reported in Chicago Daily News, May 20, 1970.)

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[2] This statement does not apply to bail after conviction and pending appeal.

[3] In this connection attention is called to the Report of the Advisory Committee on Pre-trial Proceedings of the American Bar Association Project on Minimum Standards for Criminal Justice, which states in its Introduction:

"After lengthy consideration, and not without misgivings by some members, the Committee proposes new and far-reaching methods of meeting the problem but stops short of recommending outright preventive detention. In essence, the standards provide for revocation of release where the defendant violates the conditions of his release. (Section 5.6 *infra*). If a released defendant is indicted or held to answer for a subsequent serious crime his release will be revoked. (Sections 5.6–5.8 *infra*). While these measures do not, of course, provide absolute protection against crime while on release, the present state of knowledge about the magnitude of the problem, the difficulties of predicting criminal behavior in the immediate future and the fact that measures short of detention have never been tested, persuade the Committee that outright preventive detention could not be proposed." Pp. 6–7.

APPENDIX A. PRETRIAL DETENTION PROVISIONS OF S. 2600

"§ 3146A. Pretrial detention in certain non-capital cases

"(a) Whenever a judicial officer determines that no condition or combination of conditions of release will reasonably assure the safety of any other person or the community, he may, subject to the provisions of this section, order pretrial detention of a person charged with:

"(1) a dangerous crime as defined in section 3152(3) of this title;

"(2) a crime of violence, as defined in section 3152(4) of this title, allegedly committed while on bail or other release, or probation, parole or mandatory release pending completion of a sentence, if the prior charge is a crime of violence, or if the person has been convicted of a crime of violence within the ten-year period immediately preceding the alleged commission of the present offense; or

"(3) an offense who, for the purpose of obstructing or attempting to obstruct justice, threatens, injures, intimidates, or attempts to threaten, injure, or intimidate any prospective witness or juror.

"(b) No person described in subsection (a) of this section shall be ordered detained unless the judicial officer—

"(1) holds a pretrial detention hearing in accordance with the provisions of subsection (c) of this section;

"(2) finds that—

"(A) there is clear and convincing evidence that the person is a person described in subsection (a) of this section;

"(B) based on the factors set out in subsection (b) of section 3146 of this title, there is no condition or combination of conditions of release, which will reasonably assure the safety of any other person or the community; and

"(C) except with respect to a person described in subparagraph (3) of subsection (a) of this section, on the basis of information presented to the judicial officer, there is a substantial probability that the person committed the offense for which he is present before the judicial officer; and

"(3) issues an order of detention accompanied by written findings of fact and the reasons for its entry.

"(c) The following procedures shall apply to pretrial detention hearings held pursuant to this section:

"(1) Whenever the person is before a judicial officer, the hearing may be initiated on oral motion of the United States attorney.

"(2) Whenever the person has been released pursuant to section 3146 of this title and it subsequently appears that such person may be subject to pretrial detention, the United States attorney may initiate a pretrial detention hearing by ex parte written motion. Upon such motion the judicial officer may issue a warrant for the arrest of the person and such person shall be brought before a judicial officer in the district where he is arrested. He shall then be transferred to the district in which his arrest was ordered for proceedings in accordance with this section.

"(3) The pretrial detention hearing shall be held immediately upon the person being brought before the judicial officer for such hearing unless the person or the United States attorney moves for a continuance. A continuance granted on motion of the person shall not exceed five calendar days, in the absence of extenuating circumstances. A continuance on motion of the United States attorney shall be granted upon good cause shown and shall not exceed three calendar days. The person may be detained pending the hearing.

"(4) The person shall be entitled to representation by counsel and shall be entitled to present information, to testify, and to present and cross-examine witnesses.

"(5) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(6) Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, but such testimony shall be admissible in proceedings pursuant to sections 3150, 3150A, and 3150B of this title, in perjury proceedings, and as impeachment in any subsequent proceedings.

"(7) Appeals from orders of detention may be taken pursuant to section 3147 of this title.

"(d) The following shall be applicable to persons detained to this section;

"(1) To the extent practicable, the person shall be given an expedited trial.

"(2) Any person detained shall be treated in accordance with section 3146 of this title—

"(A) upon the expiration of sixty calendar days, unless the trial is in progress or the trial has been delayed at the request of the person; or

"(B) whenever a judicial officer finds that a subsequent event has eliminated the basis for such detention.

"(3) The person shall be deemed detained pursuant to section 3148 of this title if he is convicted.

"(e) The judicial officer may detain for a period not to exceed five calendar days a person who comes before him for a bail determination charged with any offense, if it appears that such person is presently on probation, parole, or mandatory release pending completion of sentence for any offense under State or Federal law and that such person may flee or pose a danger to any other person or the community if released. During the five-day period, the United States attorney or the Corporation Counsel for the District of Columbia shall notify the appropriate State or Federal probation or parole officials. If such officials fail or decline to take the person into custody during such period, the person shall be treated in accordance with section 3146 of this title, unless he is subject to detention pursuant to this section. If the person is subsequently convicted of the offense charged, he shall receive credit toward service of sentence for the time he was detained pursuant to this subsection."

Mr. ERVIN. Mr. President, I also ask unanimous consent that an editorial from the New York Times of March 30, 1970, entitled "D.C. Injustice Bill," also be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 30, 1970]

D.C. INJUSTICE BILL

The District of Columbia omnibus crime bill is a stalking-horse for similar legislation on the national level. If it is permitted to go through a House-Senate conference with its repressive features untouched, Congress will have set precedents that it will be sure to regret later on.

There are useful provisions in this lengthy bill, mainly concerning reorganization and consolidation of the District of Columbia courts. In addition, the Federal Government would assume a greater part of the financial burden of new public safety programs in the District.

The objectionable sections in the House version—following the tough line of the Department of Justice—contain broad wiretapping and "no-knock" search warrant authority, stringent requirements of adult trials for sixteen-year-olds and a change in the burden of proof in juvenile courts, mandatory sentencing and preventive detention. There is a section requiring a citizen suing for false arrest to pay the policeman's attorney—even if the citizen wins the case.

Senator Ervin of North Carolina succinctly describes the Administration-supported House bill as "repressive, nearsighted, intolerant, unfair and vindictive legislation." It contains probable violations of the First, Fourth, Fifth, Sixth and Eighth Amendments.

The District of Columbia crime bill is political legislation with a vengeance. It would inspire new disrespect for the law and seriously interfere with the major function of the courts, which is the administration of justice.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes; that the House receded from its disagreement to the amendment of the Senate numbered 9 to the bill and concurred therein; and that the House receded from its disagreement to the amendments of the Senate numbered 3 and 38 to the bill, and concurred therein, each with an amendment, in which it requested the concurrence of the Senate.

OPPOSITION TO COMPULSORY BUSING OF STUDENTS TO ACHIEVE RACIAL BALANCE

Mr. BYRD of Virginia. Mr. President, I strongly oppose the compulsory busing of students to achieve racial balance. I believe this practice is unfair to students and parents of all races.

The true mission of the schools should be quality education. It is time that we give more emphasis to the education of schoolchildren and less to sociological theory.

There is no logic in requiring students to be transferred many miles from their homes to achieve an artificial racial balance in the schools.

I have spoken against the practice of compulsory busing on many occasions, and I have voted in the Senate against permitting that practice.

At a recent committee hearing, I drew from the Under Secretary of Health, Education, and Welfare the admission that his Department has no legal authority to order compulsory busing for racial balance.

So deeply concerned am I over this problem that I am today sending a telegram to Attorney General Mitchell, asking that the Justice Department enter court cases on behalf of parents and pupils who are, or may be, adversely affected by decisions in these cases.

I have sent a similar telegrams to Secretary Richardson of the Department of Health, Education, and Welfare, asking that representatives of that Department be instructed that school districts are not to be compelled to institute busing to overcome racial imbalance.

Mr. President, I ask unanimous consent that the text of my telegrams to the Attorney General and the Secretary of Health, Education, and Welfare be printed at this point in the RECORD.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

JULY 16, 1970.

Hon. JOHN N. MITCHELL,
Attorney General, Department of Justice, Washington, D.C.:

The Civil Rights Act of 1964 specifically provides that there shall be no assignment of students to schools solely for the purpose of achieving racial balance.

Section 401 of the act defines "desegregation" and states that this term "shall not mean the assignment of students to public schools in order to overcome racial imbalance".

Spokesmen for the administration have stated on several occasions that the policy of the present administration is to honor this requirement of the law.

In February, a spokesman for the White House issued a statement saying: "The President has consistently opposed, and still opposes, compulsory busing of children to achieve racial balance."

During a hearing before the Senate Finance Committee, Mr. John Veneman, the Under Secretary of Health, Education and Welfare, stated in response to questions by me that HEW does not have the right to require school districts to order the busing of students to overcome racial imbalance.

In the light of these statements of policy and the hardship now being imposed on parents and students alike—of all races—I feel it is imperative that your Department take vigorous action to insure that section 401 of the Civil Rights Act of 1964 is upheld.

I urge that representatives of your department be instructed to enter court cases on behalf of parents and pupils who are or may be adversely affected by decisions in these cases.

The administration should take a firm stand against compulsory transfer of pupils to achieve an artificial racial balance by taking the initiative in pending court cases.

HARRY F. BYRD, Jr.,
U.S. Senator.

JULY 15, 1970.

Hon. ELLIOT L. RICHARDSON,
Secretary of the Department of Health, Education and Welfare, Washington, D.C.:

The Civil Rights Act of 1964 specifically provides that there shall be no assignment of students to schools solely for the purpose of achieving racial balance.

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In the light of these statements of policy and the hardship now being imposed on parents and students alike—of all races—I feel it is imperative that your department take vigorous action to insure that Section 401 of the Civil Rights Act of 1964 is upheld.

I urge that all representatives of your department dealing with school desegregation cases be instructed that school districts are not to be compelled to institute busing to overcome racial imbalance.

The administration, I feel, is obligated to take a firm stand against compulsory transfer of pupils to achieve an artificial racial balance.

HARRY F. BYRD, Jr.,
U.S. Senator.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes.

Mr. TYDINGS. Mr. President, just a few comments on the remarks of the Senator from North Carolina and the Senator from New York.

The conference report on the District of Columbia crime bill must stand on its own merits. The broad characterization that the House was successful on the important issues means nothing. One must investigate item by item in any group of issues. With respect to the ones specified by the Senator from North Carolina (Mr. ERVIN) in his remarks before the District of Columbia Committee on the approximately 68 issues which he raised there as being objectionable in the House version, in the conference the Senate's position prevailed in 50 percent of these issues, the House's position in 32 percent, and the others were genuine compromises.

Take the statement of the managers on the part of the House. It will be seen that less than 30 percent of the House's positions remain.

On the no-knock issue the Senate prevailed, as it did on the money, Lorton Reformatory, almost all the mandatory provisions, on tests and experiments on persons, and on many others. But the fact is that the crime bill must stand on its own merits. It is a good proposal. If it can stand on its own merits, on what is in the bill, and not on the clouds of rhetoric going up in all directions, it will pass.

I might say that, despite the parliamentary devices which the Senator from North Carolina has prepared, he is only kidding himself and kidding Members of the Senate if he thinks any other crime measure with respect to the District of Columbia is going to pass in the 91st Congress.

With respect to the remarks of the Senator from New York, the specifics are what we are concerned with, not the generalities. We would have had the signatures of seven of the Senate conferees, including the three Senators who did not sign, had we not included pretrial detention. Pretrial detention is an arguable issue. Positions differ, but the Senate-House conference report is a good, sound measure.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, the debate on this conference report, both in the legislative halls and in the media, reminds me of the man who reported he did not think much of the "Mona Lisa" because there was a nick in the frame. With all the furor over one or two issues, we are in danger of losing sight of the scope and importance of this legislation.

This conference report represents a needed and significant judicial reform in the Nation's Capital. Some of it is uniquely adapted to this city but much of it presents a model for States and cities throughout the country.

This legislation establishes the first truly local court system in the District of Columbia's history. The peculiar mixture of both Federal and local business in the Federal courts is ended, and the Federal courts are freed to devote themselves entirely to Federal matters. The local courts are given full responsibilities for local cases and the manpower to meet these responsibilities. This constitutes a real breakthrough in court administration, in my judgment one of the most important though little publicized aspects of the report.

For the first time the District will have a true family court as a division of the new trial court. The family disintegration and social problems which plague this city as they plague every city can be met in the judicial process with a unified approach aimed at solution rather than a piecemeal processing of the individual in a vacuum. Those outbursts which are symptoms of family problems will be treated as such—not as crimes.

For the first time since this generation of parents was born, the juvenile code has been completely revised and modernized. The vagueness and inadequacy of the existing code is replaced with a comprehensive procedural code designed to protect the child, weed out the youthful criminal, and assure all the necessary flexibility to fashion a treatment and rehabilitation program for the individual child.

Within this basic framework of court reform are a number of related provisions which merit but never seem to receive the proper attention—the transfer to the local courts of the jurisdiction over admission to the local bar, the replacement of the obsolete coroner system with a modern medical examiner, elimination of the concurrent jurisdiction over local tax cases, resolution of some of the confusion surrounding the District of Columbia Administrative Procedure Act, a modern long-arm statute. This report contains more than court reform—it is a reform of the criminal justice system as well. The legal aid project which has long since proved its worth is graduated to a full public defender system. The Bail

Agency, which has not yet reached its full potential, is given expanded power and responsibility to aid and supervise those released while awaiting trial. The criminal procedure code, most of which dates from 1901, is revised and codified.

For the most part, the average newspaper reader is led to believe that this criminal procedure code is all that is contained in the conference report and that it consists solely of three provisions—the so-called no-knock section, pretrial detention, and wiretapping. While it is these provisions that have generated the debate, I believe it is most important that this body consider also the many other provisions relating to criminal procedure in the conference report.

The new criminal procedure code gathers in one title of the District of Columbia Code the statutory provisions scattered throughout the code and fills in the gaps now covered by case law. For the first time it details procedures to be followed when prior convictions leading to increased penalties are to be brought before the court. Without jeopardizing the rights of the accused, it permits appellate resolution of motions to suppress evidence.

In view of the many urgently needed measures in this conference report, I intend to give it my support. To reject the conference report would, in my judgment, result in another year of increasing crime and frustration for the people of the Nation's Capital. I, therefore, urge its adoption.

Mr. KENNEDY. Mr. President, at increasingly regular intervals, the U.S. Senate is called upon to be the conscience of the country, to reassert the Nation's confidence in our Constitution, to prevent the American people from being fooled, or fooling themselves.

Today we are again presented with that challenge and that opportunity. We are told that the question before us is whether we wish to put a stop to crime. But that is not the question at all. Every one of us wants to stop crime, and we will take every appropriate step to do so. The real question today is whether we want to put a stop to the great crime hoax which is being put over on our citizens, the rash promises and rhetoric and irresponsible propaganda that misleads the Nation into believing that there are easy answers to the crime problem, that we can end crime on the streets tomorrow—"if only."

In 1968 it was "we can end crime if only we get a new Attorney General." And so we got a new Attorney General, but murders in the Nation went up twice as fast as they did under the previous Attorney General. We were told crime would end if only we could get a new Chief Justice. And we got a new Chief Justice. But burglaries rose three times as fast as they did under the old Chief Justice. And now we in Congress are the scapegoats. Crime can be stopped, they say, if only Congress passes new laws to dilute the Constitution and shortcircuit the traditions of justice and liberty that have kept us free and strong.

But, of course, once again, the fact is that the promises are empty. Even if every one of the objectionable bills and parts of bills before the Congress is passed, no American will be any safer on the streets or in his shop or at home.

For the fact is that Attorneys General, and Chief Justices, and congressional enactments tampering with court procedures, have very little to do with burglaries and murders and robberies. And the fact is that there are no easy answers. No one bill, no five bills, no 13 bills, are the answer to crime. And anyone who claims that they are is perpetrating a cruel fraud on the public.

What makes this deception even crueler is the fact that it distracts attention from the serious defects in the operations of the Federal anticrime programs which do hold some potential for crime control. The past 18 months have been disastrous for the most promising Federal anticrime programs. The Law Enforcement Assistance Admistration established under the Safe Streets Act is in such such poor shape administratively that Congress has been asked for less than half of the funds which we were probably prepared to offer.

Under the administration request we would have been investing $2.50 less on crime control for every man, woman, and child in America, than we could be investing. I am confident that we will decide to make full investment, but to do so will have to bypass the operational nightmare that has been created downtown. Equally sad the plight of the National Institute of Law Enforcement and Criminal Justice, a tool for the future which held out hope for new answers to old problems, but which has been weakened by lack of executive support and by the turmoil in the Law Enforcement Assistance Administration. Similarly, the juvenile delinquency program went for over a year without a director, and it is in such pitiful shape that it has requested only one-fourth of its authorized funds. And such programs as the Narcotics Addict Rehabilitation Act have been allowed to lie fallow and deteriorate.

These are scandals of the first order. These are truly missed opportunities for a Federal contribution to crime control. These are performance gaps which deserve the attention of the Congress, and the press, and the public.

Yet these have been lost in a smokescreen of rhetoric about the great golden pot of crime control at the end of the legislative rainbow. Rather than worrying about how to make the programs we already have work, the bright lawyers downtown have been spending their time devising and promoting new laws that cannot possibly work. Today we consider the granddaddy of them all, the amalgam of the worst parts of all the other bills, the Christmas tree long dreamed of by the laziest prosecutors, the wastebasket for judicially rejected investigative and prosecutive mistakes and misjudgments of the past decade, the much heralded, and little read, District of Columbia crime bill.

We can get some insights into the nature of the bill, and the attitudes of those who drafted it, from the table of contents which opens the conference report. One looks in vain through its 3 pages and 78 sections for the words "no-knock," or "preventive detention"; or "wiretapping," or anything like them. They appear nowhere in this guide to the bill. Instead there is a cryptic reference to "Codification of Title 23 of District of Columbia Code," without even a hint as to what title 23 is all about. Was this an effort to hide the most controversial provisions? Were the sponsors so ashamed of them that they did not want them easily found? I do not know. But I do know that once they are exposed to the light of day and of public debate, once the Senate understands what they mean, how little they promise, and how dangerous they are, and once we find and ventilate the dozens of other hidden provisions which are equally destructive of our criminal justice system, the Senate will reject the Conference version of the District crime bill and opt for one of the substitute versions which have been introduced.

In fact I doubt that any of us in the Senate, or even more than a handful of lawyers outside the Senate knows precisely all of the ways in which these 200-odd pages of legislation would change present law. The conference report tries to explain those 200 pages in only 20 pages. Moreover, it itemizes only the differences between the House bill and the conference bill, and contains no explanation or justification for the differences between the Senate bill and the conference bill. Nor do we have anywhere a detailed presentation in the usual form of the precise differences between the proposed enactment and existing law. In view of the myriad changes in well established law in this District which the bill entails, I think such a presentation is necessary for intelligent debate, and I hope the managers of the bill will prepare and distribute it.

Mr. President, it is my understanding that this explanation was placed on the desk of each Senator within the last hour or so, and that it will provide at least some description and explanation.

For, what I have heard and read in the 24 hours since the text of the bill became available to us, convinces me that, while there is substantial doubt whether this bill can have any beneficial effect on the crime rate, there can be no doubt that our courts will be clogged up for years unraveling its mysteries and undoing its mischief. Rules of law and procedures which have become settled during years of detailed litigation are arbitrarily overturned, in many cases without there having been any attempt at public justification, or any adequate public or professional discussion and debate. The judicial economies in the court reorganization may thus be totally dissipated as judges are burdened with learning, applying, testing, and in many instances overturning the dozens of minor harassing provisions incorporated in the bill, apart from the serious questions which will be raised under the major controversial provisions.

Of course, however, it is these provisions that are most disturbing. They treat the District of Columbia like a conquered colony. They threaten to create an atmosphere of division and hatred at a time when the community is beginning to achieve some cohesiveness. They threaten to bring the police into distrust and disrepute at a time when the police are beginning to be, and to be respected as, professionals who share community interests.

The pretrial imprisonment provision is probably unconstitutional to begin with. It not only reverses our basic tradition that an accused person is presumed innocent until proven guilty, but it convicts and punishes him for a hypothetical future act which has not even occurred. Even if its words could pass constitutional muster, in practice it would be doomed to failure. For if it is passed, it will invite abuse, and only if it is abused, only if very large numbers of defendants are imprisoned before they are tried, can it conceivably work. The facts before Senator **Ervin's** Judiciary Subcommittee, where this legislation is under the thorough and proper kind of consideration it deserves, demonstrates clearly that the device cannot work to prevent, or postpone, even the minutest amount of crime, unless many accused citizens are kept in jail who do not in fact deserve to be kept in jail. Our proper course in this field is to wait for the Judiciary Committee to complete its detailed assessment of this proposal.

The no-knock situation has become almost a joke. The conference report claims that the bill merely enacts current law. Yet the U.S. attorney in the District of Columbia, and other officials, claim that they cannot now do what the new law will permit them to do, unless the new law is passed. If those who favor the provision cannot get straight among themselves what it does, then I do not think it is ripe for enactment. My reading of the provisions is that it vastly loosens the standards and circumstances for no-knock searches. My fear is that while it may possibly bring about the arrest of a few more bookies or kids smoking pot, that marginal benefit will be at the expense of bloody gun battles and dead policemen and injured innocent citizens. My plea to the Senate is that we reject this kind of lopsided bargain.

As for the wiretap section, I think it raises the most serious technical questions and deserves the most careful scrutiny and analysis in the coming weeks of debate. But for now, I can only point out that this city is already a place where very many innocent people live in constant fear that they are tapped or bugged. For the full force of Federal electronic surveillance is available here to dozens of agencies, whether upon court order in criminal cases, or in the sole discretion of the Attorney General when he feels there is a national security justification. To feed that fear by creating a whole new class of those who may tap and bug, a whole new group of authorizing judges, and a whole new range of justifications for tapping and bugging is to make a hollow shell of liberty and privacy in the city which is the very symbol and center of our constitutional democracy.

Let me stress again that the vote on this conference report will not be a vote for or against crime in the District. The bill before us is not the only alternative. It is one approach. It is basically the House approach. It contains major provisions which a majority of the Senate conference committee is on record against. It is an approach which has engendered opposition from every segment of the community and from leading professional groups elsewhere as well.

There are alternatives, and if we decide against the conference report we can easily adopt one of the alternatives. The chairman of the Senate District Committee has himself written to each of us that, and I quote,

> Court reform is both the heart and the overwhelming bulk of this bill.

If this is so, and if the court reform provision is as constructive as its sponsors assert, then I say pass court reform; pass it now; do not let it be held hostage; do not pay ransom for it. It is ours to pass anytime we wish. We can do so right now, next week, or after we reject the conference report. That is our choice and our power. And that is the only course which meets our duty to the District, to the Nation, and to our own consciences.

Mr. TYDINGS. Mr. President, before the Senator leaves, just for the record, a copy of the draft Senate statement of managers was sent to each Senator's office on Monday night. I hope the Senator will read it. The no-knock version in the conference report is the version which passed the Senate without a dissenting vote. With respect to pretrial detention issue the Senator referred to, we had hearings on it in the District of Columbia Committee last year, in which we had testimony from the third-ranking judicial figure in Great Britain, Lord Denning, Master of the Rolls, former Secretary to the Lord Chancellor Sir George Coldstream, and the Chief Magistrate of the British magistracy, to explain that for some 200 years the issue of dangerousness with respect to the release of a person accused of a crime had been met head on, and the judge had the absolute right to detain until trial a person who he felt would be dangerous if released to the community.

I think the Senator knows that throughout the Nation today, we cloak pretrial detention in the hypocrisy of high bail, that every judge considers dangerousness to the community, and that when he determines not to release an individual, he may set very high bail which the person cannot raise.

What we have offered is basic to the British system, but with much more narrow restrictions—not nearly so broad as theirs—with reference to an adversary hearing, the right of representation by counsel, the right of appeal. If the judge finds serious dangerousness in narrowly prescribed cases, in order to provide for the protection of the community, he may detain the defendant for up to 60 days. The trial must begin within 60 days, however.

The wiretap provision is essentially the Senate version, approximately as it passed the Senate, again without a dissenting vote. It provides a great many protections which the present title III of the 1968 Omnibus Crime and Safe Streets Act does not have. It makes it a felony to intercept any telephone conversation or any conversation electronically without court authorization or approval. Under title III we have to prove interstate commerce. It makes it illegal in the District of Columbia to sell, manufacture, or possess electronic eavesdropping devices. It sets up a special category of protected communications between the attorney and his client, the cleric and his flock, the doctor and his patient, the husband and his wife, with respect to court orders which permit interception of wires, which is not present in the existing law. It provides, in short, for a number of safeguards which are not present in existing law today. It eliminates the so-called national security wiretap for police officers in the District of Columbia.

I would hope that my colleague, as I asked when I sent the Senate statement of the managers to each Senator, will read the statement and the conference report.

Mr. BAYH. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I yield.

Mr. BAYH. As I stated earlier, I have nothing but the highest respect for my good colleague from Maryland, and I do not in any way envy him the arduous turmoil that he has been subjected to in this conference.

Mr. President, I rise to express my opposition to the conference report on the District of Columbia crime bill.

In many ways, the bill is a laudable and necessary step in the fight against crime in the District of Columbia. I am sure every Member of this body wants to do his part in reducing the incidence of crime in the District. I support wholeheartedly many portions of the bill as it is now before us. And I commend our conferees, particularly Senator **Tydings**, for his successful efforts over the past few months, efforts which have resulted in the elimination of some of the most repressive features of the bill passed by the House.

In particular, I wholeheartedly endorse the court reorganization section of the bill. The statement of the Senate managers fully explains those provisions and points out the advantages of creating a new and strengthened court system for the District. Likewise, there is a desperate need for the public defender service which the conference bill would establish. A more vigorous and extensive program of defense for the indigent is essential if we are truely to provide "equal justice under law."

Many of the criminal law and procedure sections of the report also deserve the strong support of this body.

However, despite the pressing need of the District for these improvements, I am unable to support the conference bill as it now stands. Before I explain by opposition, let me make clear that there is a viable alternative to passage of the conference bill in its present form. Along with Senator **Ervin** and eight other Senators, I have introduced legislation which encompasses virtually all of the conference bill. We have only eliminated those provisions of the bill which we considered totally inconsistent with modern concepts of criminology and penology, and those provisions which we felt to be unconstitutional. Furthermore, in nearly all the cases in which we felt it necessary to depart from conference language we introduced similar provisions from bills passed recently by the Senate.

Thus, there is a realistic alternative to accepting this unwise conference bill. The alternative will not result in any further delay in attaching the very real problems of crime in the District of Columbia. Indeed, we intend to press for Senate action on this measure immediately following our defeat of the conference bill. I urge every one of my colleagues to consider this realistic alternative to the "all or nothing" proposal which the House has presented us with. We need not—we must not—sacrifice individual rights and liberties in order to reverse the alarming rate of crime.

I will mention only briefly the three major provisions which compel me to vote against the conference bill: Preventive detention, no-knock searches and arrests, and wiretapping. These are the three major sections which we have eliminated altogether in the alternative proposal. I have previously spoken out against the proposal to establish a program of preventive detention. If we accept the conference report, a judge would be empowered to detain a suspect arrested for a dangerous or violent crime for up to 60 days prior to trial. My objections to this proposal are twofold. Preventive detention at least raises serious constitutional questions when considered in the light of the eighth amendment's guarantee of "reasonable bail," the sixth amendment's guarantees of "access to counsel and the opportunity to participate in the preparation of a defense," and the fifth amendment's requirement of "due process."

It is, of course, quite possible that a very limited form of preventive detention, drafted with careful attention to the real dangers of crimes committed while on bail, might pass constitutional muster. But this is not a limited form of preventive detention. It authorizes detention of almost any criminals, as long as the Government makes a pro forma certification. Indeed, it could include a purse snatcher with no prior criminal record, if he allegedly used force, or the threat of force. No bill with such far-reaching and dangerous consequences should be considered by the Senate until we have had full hearings, committee action, and a chance for debate.

None of the studies which have been done on preventive detention have been able to come up with objective factors which allow anyone to predict which defendants will commit crime while on bail. There simply is no evidence that we can successfully separate, before trial, those who will commit crime on bail from those who will not. That should come as no surprise—we have never contended that we could separate the guilty defendants from the innocent, before trial.

Furthermore, in discussing preventive detention, we should not be misled into equating those rearrested while on bail with those who commit crime while on bail. According to the study done by the National Bureau of Standards, fully 52 percent of those rearrested while on bail were eventually acquitted.

I have pointed out before, and I do so again today, that there is only one answer to the problem of crime committed while awaiting trial. The solution does not lie in confining the innocent and the guilty together in our overcrowded prisons. James V. Bennett, who was director of the Bureau of Prisons for 27 years, recently testified against the administration's "preventive detention" legislation and described Federal jails in the following manner:

> Most of these institutions are madhouses . . . once a boy or a man has been committed to jail for any reason—guilty or innocent—there is at least a 60 percent chance he will go out to become part of the unwanted, the rejected, the unemployable, with no alternative but to resort to crime or join the anti-social subculture.

The only meaningful answer to crime committed while awaiting trial is to guarantee every defendant a speedy trial and final judicial determination. That is why I have joined with the Senator from North Carolina and others in sponsoring S. 3936, which would provide meaningful reform in this area. That is the kind of measure this administration should be introducing.

The conferees have also adopted in essence the no-knock provisions proposed by the House. One of our most sacred rights is the right to be secure in the privacy of our homes. This right, protected by the fourth amendment, is placed in grave jeopardy by the no-knock provision. The conference bill would authorize a policeman, or any person aiding a policeman, to break and enter, even in the nighttime under some circumstances, without any announcement of identity or purpose, when making either arrests or searches. The bill allows such no-knock entry if there is probable cause to believe the evidence is likely to be destroyed, or if such notice would be a "useless gesture," whatever that means.

This no-knock provision has already inflamed popular opinion in the District of Columbia. It creates the danger of violent attacks on police officers by innocent homeowners defending their residences against unwarranted intrusions. That is too great a price to pay.

The Senate conferees have made much of the bill's use of prior judicial approval as a supposed safeguard against abuse of this offensive tactic. But the bill's language only requires prior approval if a warrant was, in fact, sought, and if the individual applying for the warrant personally knew at the time of the application about the circumstances supposedly justifying the no-knock entry. But arrest warrants need not be sought. And even if one is sought, the legality of the entry is related to the personal knowledge of the officer. So this judicial safeguard is, in fact, pitifully little protection.

No-knock has been defended by the conferees as a codification of existing law. At the same time the conferees tell us that the language is neutral, susceptible to the interpretation of the House conferees that no-knock is justifiable in every narcotics or gambling raid. I do not think that such an interpretation by any stretch of the imagination is a codification of existing law. If it is merely a codification, it is useless; if not, it is unconstitutional. In either case it should be rejected.

Our fourth amendment freedoms are further endangered by those sections of the conference bill dealing with wiretapping. At best these provisions are unnecessary, since the FBI already has the power to execute wiretaps in the District. To my mind these provisions may violate the Supreme Court's ruling in Katz against United States.

Our alternative bills also make other improvements. In the interests of brevity I pass over those provisions.

Mr. President, I wish to reiterate that a vote against the conference report is not a vote to delay further a solution to the grave problems of crime in the District of Columbia. It is a vote to reject unwise and unconstitutional encroachments upon individual liberties. It is a vote to stand up for careful and effective legislation aimed at the problems and not the public eye. Only when the conference bill is defeated can the Senate pass the court reform package, and proceed to enact the criminal law reform package, with a chance for reasoned debate on the merits of these difficult issues.

There is a great deal about the conference report that I support. There are two or three items covered by the distinguished Senator from Massachusetts a moment ago that concern me deeply. I have discussed them with my friend the Senator from Maryland and hope to have a chance to discuss them further with him.

The reference he made in the conference report to the no-knock provision might be interpreted to suggest that there was unanimity among the conferees that the bill maintains the effect of the Senate language.

Is it fair to suggest that the House conferees interpret that provision differently than the Senator from Maryand?

Mr. TYDINGS. We were concerned with that in the conference. So, before we concluded the conference, contrary to normal procedure, we had to try and agree on the House statement of the managers with reference to no-knock. So we have both a statement on the part of the managers of the House as well as a statement of the managers on the part of the Senate, binding the House much in the way that we bind ourselves in this debate.

We insisted on certain major aspects of that statement of the managers of the House, just as though it was an important statutory part of the report.

Mr. BAYH. I think the Senator from Maryland realizes what I am driving at. As I recall his statement in yesterday's Congressional Record, he said that the issue was resolved in favor of neutral language adaptable to either the House or the Senate interpretation. What concerned me, as one concerned about the whole no-knock provision, is that if I were a judge and trying to determine exactly what the congressional intent was in passing this measure—if we do indeed pass it—would I be accurate in looking at the Senate provision or would I be accurate in referring to the remarks made earlier in the House?

Mr. TYDINGS. The answer is both.

Let me read it so that there can be no possibility that the House statement of the managers would be considered to be basically different from the statement of Senate managers.

This is an issue which was fought out in actual conference before the conference was agreed to. This is an item that had to be agreed to by us before we had a conference bill. Let me read from page 236:

> The provisions agreed to in the conference substitute do not change existing law but merely put into clear statutory form the current law in effect today in the United States and provide the additional protection of requiring prior judicial approval of an entry without notice when the circumstances which would justify such entry are known at the time application for a warrant is made.

Now, let me turn to page 28 of the statement of the Senate managers. At the bottom of the page it reads:

> Fifthly, the Senate conferees did not recede from their original position that only particular facts, bearing upon any given particular case, may serve as grounds for "no-knocking." The House conferees urged to the contrary that particular facts are unnecessary; they urged, for example, that "no-knocking" would be appropriate in nearly all narcotics or gambling cases, based on the destructibility of the evidence usually involved. The issue was resolved in favor of neutral language, adaptable to either the House or the Senate interpretation; but with the limitation of specific reference to the *Ker* case.

Then if we turn to the last paragraph of the House statement of the managers, we will see on page 237 the following:

> By using the *probable cause* and *is likely to* language, the conference substitute is intended to conform to the standard of the opinion of the Supreme Court in *Ker* v. *California*, 374 U.S. 23 (1963).

Then going back to the statement of the Senate conferees at the bottom of page 28, it reads:

> Just as the Senate conferees are of the view that the particularity requirement is affirmed in *Ker* and rooted in the Constitution, in like manner the Senate conferees contemplate implicit incorporation of the requirement in the S. 2601 provision.

The point I make is that we anticipated that there would be the possibility in the House statement of the managers of different versions. We spelled it out.

Mr. BAYH. Mr. President, as we write this legislative history, I am still concerned that it will not be as clear as my friend the Senator from Maryland thinks it will be.

The Senator from Maryland, as I interpret his remarks, feels that the particularity of the facts and circumstances surrounding a case should be considered in the application of the no-knock. Is that an accurate statement?

Mr. TYDINGS. Mr. President, that is correct. But if there is any question on the interpretation of the no-knock provision there, the binding law is Ker against California. The House managers say so. And we say so.

Mr. BAYH. But as I recall—and the Senator from Maryland can correct me if I am wrong—the way the House conferees interpret the Ker case, the House conferees feel that any drug or gambling case comes within the provisions of the conference bill. But in the Ker case there were particular facts involved that met the test that the Senator from Maryland feels should be adhered to.

Mr. TYDINGS. That is why we required the House to write into the statement of the managers that the Ker case is controlling. That is the law of the land. We did not want any question about it. We required as a condition precedent to agreeing to the bill that that language be written into the House statement of the managers so that the Ker decision is controlling. The language of that decision is controlling.

Mr. BAYH. Mr. President, I would rest a lot more easily if the House managers interpreted the Ker case in the same manner the Senator from Maryland interprets it. The way I interpret the Ker case and the way the Senator from Maryland interprets it are identical.

Mr. TYDINGS. Mr. President, the interpretation of the Ker case will be done by a court. The House managers stated it is controlling. The Senate managers stated that the Ker case is controlling.

Any court passing on it will have to say that the Ker case is controlling. It is up to the court to pass on what it held. In my judgment it is clear as to what it held. And I think that the U.S. Court of Appeals in the District of Columbia will construe the Ker case in the way the Senate intends. We spelled it out. It is in there.

Mr. BAYH. Mr. President, I hope the Senator is right when he talks about neutral language. I think the Senator did as well as one could possibly do in trying to reconcile the differences between the House and Senate on this matter.

I wonder if there is any possibility at all of avoiding ambiguity when the two bodies are as far apart as they were.

I salute the Senator from Maryland for what he has done. I hope that he is right. But I must say that I do not think he is.

Mr. TYDINGS. Mr. President, the House position is the same. One fact that we have to realize is that conflicting language in the original House report is not in the conference bill.

ORDER FOR RECOGNITION OF SENATOR MUSKIE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow morning, following the disposition of the reading of the Journal, the able junior Senator from Maine (Mr. MUSKIE) be recognized for not to exceed 30 minutes.

The PRESIDING OFFICER (Mr. GRAVEL). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW TO MONDAY, JULY 20, 1970, AT 11 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand adjourned until 11 o'clock Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 21 minutes p.m.) the Senate adjourned until tomorrow, Friday, July 17, 1970, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 16, 1970:

IN THE NAVY

Having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, Rear Adm. Fred G. Bennett, U.S. Navy, for appointment to the grade of vice admiral while so serving.

Rear Adm. Dick H. Guinn, U.S. Navy, for appointment as Chief of Naval Personnel for a term of 4 years pursuant to title 10, United States Code, section 5141.

Having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, Rear Adm. Dick H. Guinn, U.S. Navy, for appointment to the grade of vice admiral while so serving.

Having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, Rear Adm. Ralph Weymouth, U.S. Navy, for appointment to the grade of vice admiral while so serving.

Having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, Vice Adm. Ralph W. Cousins, U.S. Navy, for appointment to the grade of admiral while so serving.

Having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, Read Adm. Gerald E. Miller, U.S. Navy, for appointment to the grade of vice admiral while so serving.

EXTENSIONS OF REMARKS

MOVING THE FOOD STAMP REFORM LEGISLATION

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, July 15, 1970

Mr. SCOTT. Mr. President, I strongly urge the House Committee on Agriculture to give serious and immediate consideration to the possibility of separating the food stamp reform legislation from the farm bill.

This past September 24 the Senate passed legislation to reform the food stamp program, which contained my amendment to extend the benefits of the program to elderly persons now denied eligibility because they lack kitchen facilities or because they are physically unable to cook for themselves. My amendment also proposed that private, nonprofit organizations be authorized to accept food stamps in exchange for cooked meals prepared either for home delivery or for consumption in community dining halls.

Identical legislation was introduced in the House of Representatives by Representatives EDWARD G. BIESTER, JR., and JOSEPH M. MCDADE, two of my Pennsylvania colleagues.

Because the proposal to liberalize the food stamp program is a part of the administration's omnibus farm bill, now locked in the House Agriculture Committee, no House action has been taken on the food stamp measure. Therefore, I strongly urge the House Agriculture Committee to separate the food stamp legislation from the farm bill in order to get some House action on it as soon as possible.

I was exceptionally pleased to receive the resolution passed by the city council of the city of Cincinnati endorsing my food stamp legislation. I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Endorsing the amendment to the 1964 Food Stamp Act proposed by Senator Hugh Scott which provides that private, non-profit organizations be authorized to accept food stamps in exchange for cooked meals prepared either for home delivery or for consumption in community dining halls thereby enabling greater numbers of aged men and women to participate in the meals program contemplated by the Federal Food Stamp Act.

Whereas, in approving the 1964 Food Stamp Act, Congress intended to help older citizens with meager incomes to buy more and better food; and

Whereas, under the present law persons who otherwise meet age, residency, and income requirements are still not eligible for food stamps if they do not have cooking facilities in their households, are physically incapacitated or chronically ill so that they cannot buy and prepare food, and if they have no other persons to do this for them; and

Whereas, these people are often among the most isolated and needy in the community; and

Whereas, the proposed amendment would authorize the Secretary of Agriculture to designate specific church and other bona fied non-profit charitable organizations to accept food stamps in exchange for prepared meals; and

Whereas, the stamps would be issued only to needy individuals, the redemption of these stamps would also assist eligible groups in the purchase of food for these individuals who would be the direct beneficiaries of the amendment; now, therefore,

Be it resolved by the Council of the City of Cincinnati, State of Ohio:

That Council hereby endorses and expresses its support of the admendment to the 1964 Food Stamp Act proposed by Senator Hugh Scott which provides that private, non-profit organizations be authorized to accept food stamps in exchange for cooked meals prepared either for home delivery or for consumption in community dining halls thereby enabling greater numbers of aged men and women to participate in the meals program contemplated by the Federal Food Stamp Act.

Be it further resolved that copies of this resolution be sent to the Representatives from the First and Second Districts of Ohio; Mr. Hugh Scott, U.S. Senator, Mrs. Lucile S. Costello, Director of Senior Services, 1428 Vine Street, Cincinnati, Ohio 45210, and Mr. Frederick A. Breyer, Director, Hamilton County Welfare Department.

Passed: May 20, A.D., 1970.

——— ———,
Mayor.

Attest:

——— ———,
Clerk.

KLEPPE COMMENTS

HON. THOMAS S. KLEPPE

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. KLEPPE. Mr. Speaker, I wish at this point to include the text of my July 1970 Newsletter to my constituents of the West District of North Dakota:

WEST DISTRICT CITIZENS VOICE THEIR VIEWS

JULY, 1970.

I want to thank each of the more than 10,000 West District residents who responded to my annual questionnaire which was sent to all postal patrons in the District—about 81,000. I asked the people for their views on several major issues and problems of the day. The replies, in my opinion, present a good cross-section of their current thinking. Here are the questions, together with a percentage tabulation of their responses:

1. Do you believe the government should provide a guaranteed minimum annual income to welfare recipients? Yes 22% No 78% 2. As a means of stopping inflation, would you favor Federal wage, price and credit controls? Yes 68% No 32% 3. Should voting rights for citizens in national elections begin at age 18? Yes 24% No 76% 4. Would you favor a Constitutional Amendment to permit voluntary prayer in our public schools? Yes 85% No 15% 5. If you were a member of the U.S. Senate, would you have voted to confirm the nomination of Judge G. Harrold Carswell for the Supreme Court? Yes 54% No 46% 6. Do you favor strengthening of the ABM (Anti-Ballistic Missile System) as proposed by the President? Yes 63% No 37% 7. Do you believe that college students receiving loans or grants from the government should have such assistance cut off if they actively participate in demonstrations which cause property or physical damage or which interrupt the orderly pursuit of education by other students? Yes 93% No 7% 8. Vice President Spiro T. Agnew has been speaking out on a wide range of subjects. How would you rate his performance? Good 60% Fair 24% Poor 16% 9. Would you favor placing a limitation of $20,000 a year on the amount of government payments an individual farmer could receive? Farmers—Yes 93% No 7% Non Farmers—Yes 97% No 3% 10. Please list in order of importance priorities you feel are most urgent. 1. Ending war in Vietnam, 21%. 2. Controlling inflation, 18%. 3. Crime prevention and control, 17%. 4. Strengthening farm income, 13%. 5. Controlling air, water and land pollution, 12%. 6. Reducing defense spending, 11%. 7. Increasing aid to education, 8%.

INFLATION: OUR NO. 1 DOMESTIC PROBLEM

It is not surprising to me that the thousands of North Dakotans who responded to my questionnaire placed inflation, right after the war in Vietnam, as the problem which concerned them most. Rising costs are placing enormous pressures in the pocketbooks of wage earners, housewives, farmers, retired people and others living on relatively fixed incomes. We call this inflation. But that is a rather non-descriptive word which does not even begin to convey its real meaning. Inflation could better be described as a thief. It steals from every one of us—by day and by night. Unlike Robin Hood who—according to legend—stole from the rich and gave to the poor, inflation steals from everyone and gives nothing to anyone.

I believe inflation can be brought under control by eliminating its primary cause, which is uncontrolled deficit spending by the Federal government itself. We simply can't go on year after year—spending more money than the government collects without forcing up prices for all goods and services, without pushing up interest rates and without skyrocketing the national debt. Some who complain most loudly about inflation also support the very increases in government spending which cause inflation. We must bring our Federal budget into balance. It may hurt a little. But—in the long run—it will be far less painful than the alternatives, which are unending increases in living costs and—eventually—bankruptcy for the people and their government.

ALCOHOL-GASOLINE RESEARCH STUDY

A research project designed to test the feasibility of blending grain alcohol with gasoline to produce a cleaner-burning motor vehicle fuel is getting underway. Wheat growers in North and South Dakota, Colorado, Idaho, Kansas, Montana, Nebraska, Oklahoma, Oregon and Washington have raised funds to underwrite actual testing of a 9 to 1 blend of gasoline with alcohol in an internal combustion engine to measure its performance in comparison with tetraethyl-leaded gasolines. For several months, I have strongly urged Federal agencies concerned with air pollution to conduct further studies along this same line. I continue to believe that a grain alcohol-gasoline blend will reduce air pollution, eliminate surpluses of wheat and other grains, save billions of dollars in farm program costs and improve engine performance. It is most encouraging to me that wheat growers are undertaking their own program to prove these points.

HOW I VOTED

For conference report on H.R. 514, to extend programs of assistance for elementary and secondary education. *Passed*. *For* recommittal of Family Assistance Act to Committee on Ways and Means to restrict benefits in case of refusal of manpower services, training, or employment. *Passed*. *Against* Family Assistance Act on final passage. *Passed*. *For* H.R. 15693, to exclude from the mails certain objectionable material offered for sale to minors. *Passed*. *For* amendment adding $4 million for medical care for veterans. *Passed*. *For* H.R. 14465, providing Federal assistance for expansion of the Nation's airports and airways, and to amend laws relative to taxation of aviation facilities. *Passed*. *For* H.J. Res. 1117, to establish a Joint Committee on the Environment. *Passed*. *Against* H.R. 17867, Foreign Aid Appropriations. *Passed*. *For* H.R. 17255, to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air. *Passed*.

For H.R. 17958, to liberalize Veterans' compensation. *Passed*. *For* H.R. 17070, Postal Reform, to improve and modernize the postal service, to reorganize the Post Office Department. *Passed*. *Against* H.R. 15361, Youth Conservation Corps. *Passed*. *For* H. Res. 914, to extend the Voting Rights Act of 1965. *Adopted*. *Against* overriding President's veto of H.R. 11102, hospital construction. *Passed*. (I co-sponsored legislation to provide the same dollar amounts for this most necessary program but I felt Congress should not tie the President's hands in effecting possible savings). *For* H.R. 17825, Omnibus Crime Control and Safe Streets Act of 1968. *Passed*. *For* S. 3592, to clarify the provisions relating to custom slaughtering operations. *Passed*. *Against* Cooper-Church amendment, regarding Cambodia. *Amendment Defeated*.

BILLS I INTRODUCED

H.R. 16838, to amend the Internal Revenue Code respecting reserves for bad debts of certain agricultural and livestock credit corporations. H.R. 16986, to restore investment tax credit up to $15,000 for farmers and small businessmen. H.R. 16987, to authorize the Secretary of the Interior to construct, operate, and maintain the Minot extension of the Garrison diversion unit of the Missouri River Basin project in North Dakota. H.R. 17477, to provide appropriations for sharing of Federal revenues with States and their local governments. H.R. 17877, to provide for orderly trade in textile articles and articles of leather footwear. H.R. 17987, to limit the sale or distribution of mailing lists by Federal agencies. H.R. 18106, to extend the time for conducting the referendum with respect to the national marketing quota for wheat for 1971. H. Res. 1127, designating January 22 of each year as Ukranian Independence Day.

MENTAL HEALTH INFORMATION SERVICE

North Dakota has established the first state-wide Mental Health Information Service in the Nation, operated by the N.D. Mental Health Association of Bismarck, in cooperation with the State Health Department and the State Hospital at Jamestown. Mrs. R. W. Wheeler, Bismarck, Association President, advises me that the information and referral service is available to all residents of the State who may obtain it, toll free, by dialing 800–342–4706. Callers can receive information concerning all available services, including hospitalization, consultation, education and emergency help. Anyone interested in supporting this most worthwhile project or learning more about its fine work may write N.D. Mental Health Association, Box 160, Bismarck, 58501.

It was a great honor to plant the Emmons County Soil Conservation District's three millionth tree on the grounds of the County Courthouse at Linton. Among those present for the planting were State Senator Bob Chesrown, E. L. "Buck" Worthington, Mandan, retired State forester, and Wilbur VanderVorst, County SCD chairman.

"If the Constitution be picked away by piecemeal, it is gone—and gone as effectively as if some military despot had grasped it at once, trampled it beneath his feet, and scattered its loose leaves in the wild winds."—DANIEL WEBSTER.

HORTON COMMENDS MILDRED W. JOHNSON FOR HER OUTSTANDING SERVICE TO THE ROCHESTER COMMUNITY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. HORTON. Mr. Speaker, an outstanding citizen of Rochester was recently honored as the black citizen who has done the most for the community in the past decade. I would like to share the knowledge of some of her accomplishments with the House of Representatives. She is Mrs. Mildred W. Johnson, executive director of the Virginia Wilson Interracial and Helping Hand Center at 297 Joseph Avenue and is known as a woman who can get things done.

Mrs. Johnson was presented with a Gold Cup Award by the Big Eleven Businessmen's Club at a ball in her honor, and Coleman Faison, business manager of the club, says Mrs. Johnson was chosen because of her service to the community in spite of tremendous odds against her success in her ventures.

Her center runs on private contributions not Community Chest funds. Staffed largely by volunteer help, the center provides help for those who have run out of places to turn to for finding housing, jobs, food, and temporary shelter.

As Sandy Flickner, writer for the Rochester Democrat and Chronicle recently stated in her salute to Mrs. Johnson, the winner of the first Gold Cup Award is often described as the "black matriarch of the city." She started the center in her own home more than 10 years ago because she wanted to help people in trouble. When informed that she was the winner she paused in her work long enough to say she was "tickled" about it but would much rather have someone contribute needed funds to the center.

I have known Mildred Johnson for many years and have always admired her great abilities to overcome any odds in the pursuit of her goals. Hard work and extreme devotion to her cause have brought her the admiration of the community which knows her as a woman tough and unbending before public officials or private wealth in her efforts to help poor people.

There will be other winners down through the years of the Gold Cup Award, but none will be more deserved. Mrs. Johnson is a dynamic person with a ready smile for everyone, and a sense of humor that sees her through many trying moments, but always her selfless determination to help those in need shines forth as her outstanding characteristic. She is indeed an outstanding personality, loved by all with whom she comes in contact and admired by the entire community as a most worthy recipient of the Gold Cup Award.

The Big Eleven Businessmen's Club is composed of members of Laborer's Union, Local 435. They include James Bush, Coleman Faison, Bobby Farley, Larmar Goings, Ray C. Griffin, Willie Jones, Clifford McNeal, Martin Mosley, Ted Reeves, Thomas Riley, and Joe Wyatt.

I congratulate them on their choice of Mildred W. Johnson and I am sure my colleagues join me in saluting this winner of the first Gold Cup Award.

TRIBUTE TO CONGRESSMAN RICHARD D. McCARTHY

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. VANIK. Mr. Speaker, the New York Times today pays a richly deserved tribute to our distinguished colleague from New York, Mr. McCARTHY. It has been my pleasure to serve with Mr. McCARTHY during the 89th, 90th, and 91st Congresses. He is, without question, one of the most outstanding Members of the House. He led the fight for enactment of a whole series of antipollution, anticrime, economic development, and public works measures. We are all familiar with his singular accomplishments in his crusade against chemical and biological warfare. He succeeded in obtaining an abandonment by the United States of germ warfare, deadly toxins, and the birth-deforming defoliant 2,4,5-T. He also obtained administration support for two international arms control agreements. He was instrumental in passage of much needed legislation applying strict curbs on the manufacture, transportation, and disposal of chemical warfare agents.

It would indeed be a tragedy for the House of Representatives and for the Nation itself to lose the services of this dedicated young legislator. Let us hope that a way will be found to utilize the talents and the experience of this brilliant, young legislator.

On Wednesday, July 15, 1970, the New York Times editorially expressed these views in the following editorial:

WASTING A GOOD CONGRESSMAN

A regrettable consequence of last month's otherwise pleasing Democratic primary is the threatened loss of Representative Richard Max McCarthy from the national scene. To run for the Senatorial nomination, Mr. McCarthy had to give up the chance to try for another term in the House of Representatives. His defeat by Representative Richard L. Ottinger, who was our choice among several good candidates, now leaves Mr. McCarthy out in the cold—and deprives this state of an excellent member of its Congressional delegation.

Thomas Flaherty, Democratic nominee for Mr. McCarthy's House seat, is given only an outside chance against a Republican opponent who, aside from his services as a quarterback for the Buffalo Bills, has no public record except coming out for Barry Goldwater in 1964 and subsequently serving as an aide to Governor Reagan of California. Were it not for a peculiar State law, Mr. Flaherty could drop out now, allowing the State Committee to designate in his stead Mr. McCarthy, a seasoned incumbent and formidable local vote-getter, who polled double the tally of his three Senatorial rivals combined in his native Erie County. But the law forbids Mr. Flaherty's replacement on the ticket for any reason except death—or his designation at the September judicial convention as the party's candidate for the State Supreme Court.

Obviously, no one should appear on the ballot for two positions, but why should it be necessary for the party to penalize itself, the candidate, and, above all, the voters by forbidding a nominee to withdraw—voluntarily of course—to make room for an experienced candidate whose only offense was the efforts to serve both party and electorate in a higher office?

THE RAGING BATTLE AGAINST SEX DISCRIMINATION IN UNIVERSITIES AND COLLEGES

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mrs. GRIFFITHS. Mr. Speaker, at this time, I would like to insert in the RECORD a copy of a letter addressed to Senator CRANSTON and written by Dr. Bernice Sandler commenting on a reply sent to the Senator by the Secretary of Labor, George Shultz, concerning sex discrimination in our higher education institutions and the enforcement of Executive Order 11246:

WOMEN'S EQUITY ACTION LEAGUE
Silver Spring, Md., July 8, 1970.

Senator ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: Thank you very much for writing the Secretary of Labor on our behalf, and for sending me a copy of the reply that Secretary of Labor George Shultz wrote you concerning sex discrimination in universities and colleges, and the enforcement of Executive Order 11246, as amended. As you know, the Order forbids Federal contractors from discriminating against women.

The letter contains so many inaccuracies that I am somewhat at a loss as to how to respond. Someone obviously has been feeding the then Secretary of Labor a good deal of misinformation. Let me list some of the major distortions contained in the letter.

1. Secretary Shultz states that the Office of Federal Contract Compliance "consults on a regularly scheduled frequent basis with interested parties such as WEAL." I am not sure just what "regularly scheduled" means but I would not use that term to cover my *one* formal meeting with members of the OFCC staff since WEAL's original January filing. Dr. Ann Scott, my counterpart in the National Organizaiton For Women (N.O.W.) was present at that meeting, and I believe she may have met one other time with an OFCC official. I would welcome *frequent, regularly scheduled meetings* with OFCC officials.

2. The statement that WEAL has not brought up any cases in which the Order was not enforced is an outright denial of the Department of Labor's complete lack of enforcement of Executive Order 11246. In fact, *until* WEAL brought forth its charges, sex was *not* included in *any* compliance review or pre-contract compliance review, despite the fact that the Order went into effect in October *1968*. Every single one of our charges represents a university or college where sex has *never* been included in whatever reviews were done. Furthermore, until WEAL filed, I know of *no affirmative action plan* for women, as required by the Executive Order, that was ever requested, developed, filed, or implemented in *any* institution of higher learning, because Contract Compliance never even asked for this, despite the fact that more than 3.3 billion dollars of Federal money is issued to these institutions. As far as I can tell there has been no attempt, even now, more than 5 months after our initial filing to even notify all universities and colleges that discrimination against women is just as much a violation of the Executive Order as is discrimination against other minorities.

3. A check of our filings would show that we have filed against more than 100 (not 60) colleges and universities.

4. The description of charges being "promptly processed for investigation with a report of findings and recommendations targeted for sixty days from the date of receipt" is a creation of someone's fantasy. Indeed, it has sometimes taken *more than sixty days* for some of our filings to be sent across the Mall from the Department of Labor to the Dept. of H.E.W. for investigation.

I know of no investigation that has been started in response to WEAL's charges other than the University of Maryland. Mr. Louie E. Mathis, the public information officer for the Office for Civil Rights of H.E.W. confirmed this to a *Washington Post* reporter (see enclosed article), and stated that the other reviews currently under way (Harvard and Manhattan Community College) were part of "broader reviews." The only response to our original "class action" complaint asking that all universities and colleges come under review has been a promise from H.E.W. to *now* include sex in every compliance review—an obvious admission that it had been omitted previously. At least in this case H.E.W. is admitting their previous inaction. One cannot say that for the Dept. of Labor.

Let me give you another example of prompt processing." Our complaint against the University of North Carolina (March 16, 1970) has still not been investigated (and it's well over 60 days); moreover, officials at the University of North Carolina have not yet been formally notified that a complaint has even been filed against them (see enclosed clipping).

5. On May 27, 1970, WEAL submitted to the Secretary of Labor an extensive plan of Affirmative Action (copy enclosed) to be used as a model with all universities and colleges that hold Federal contracts. This plan was drawn up in line with the Department of Labor's own guidelines for affimative action plans. Some five weeks later I have not even had the courtesy of an acknowledgment of my letter, let alone a response to my request to discuss this plan with officials of the Department of Labor.

6. The Department of Labor has shown little interest or concern with enforcing the Executive Order with regard to women. The Executive Order 11375 which amended 11246 to include sex was promulgated in October 1967, to be effective October 1968, with the intervening year to be used to develop and issue guidelines. Yet it took nearly three years (from October 1967 to June 1970) for the Department of Labor to finally issue a set of guidelines relating to sex. And even these guidelines are a watered down and weakened version of the original guidelines proposed by the Department of Labor itself.

The Department of Labor has policy responsibility for enforcement of the Executive Order; yet throughout the Federal establishment, other agencies—lacking leadership from the Department of Labor—also ignore those aspects of the Executive Order that apply to sex. For example, in a recent New York meeting (June 18, 1970) conducted by the Department of Defense's Office of Contract Compliance with representatives of some 200 large Federal contractors, Mr. Seymour Maisel, Chief of the New York Regional Office of Contract Compliance for the Department of Defense, stated that Order No. 4 (the Labor Department's guidelines for affirmative action plans) does *not* address itself to the "female problem"; that the definition of "minority" to include women has *not* been reaffirmed; that contractors do *not* have to set goals for female employment, and that if women were excluded from affirmative action programs as defined by Order No. 4 it would not make a bid "unawardable." Such statements are irresponsible and *in direct contradiction* of the Executive Order itself and subsequent Dept. of Labor guidelines, policy statements, and communications to various members of the Congress. This is characteristic of the "vigorous enforcement" that the Department of Labor talks about.

On June 25, the National Organization for Women (N.O.W) filed charges against more than 1300 Federal contractors and subcontractors. NONE of these had ever filed a plan of affirmative action concerning the employment of women, despite the fact that the Executive Order 11375 went into effect in 1968. (The fact that guidelines had not been issued does not in anyway invalidate the applicability of the Executive Order to these companies.)

A recent statement by Mr. Robert Smith, acting director of public affairs for H.E.W. confirms the worst of our suspicions of the complete disregard for women in the enforcement of the Executive Order. As you know, the enforcement of the Order with other minorities has focussed on apprenticeship programs. WEAL is making the point that admission to college at both the undergraduate and graduate level is indeed analogous to the apprenticeship training programs of industry. Without admission to college training, it is virtually impossible to prepare for college teaching. Thus control of the future labor market of faculty is controlled at the entry level, admission. (As with other minorities and employers, universities say they'd be "glad to hire women but there are no qualified women.") Under the Executive Order and all the guidelines issued by the Labor Department, admission is indeed a proper and necessary part of any investigation into employment in the academic community. Our complaint at the University of North Carolina is specifically focused on admission policies, since that university restricts admission of women only to women who are "especially well qualified (about 26% of the women who apply are accepted in contrast to over 50% acceptance of the men who apply).

Mr. Smith stated: "I want to emphasize that the admission of students on the basis of sex is not and has never been under the jurisdiction of any federal agency. In other words, we have absolutely no jurisdiction on student admissions." June 25, 1970, *The Tar Heel*, enclosed. Apparently, while giving lip service to our complaints, the government is trying to keep the scope of what it does so narrow as to be meaningless.

Let me add here that Contract Compliance in H.E.W. has exactly *one* woman on its staff to handle complaints; she was transferred there only after WEAL's initial filing. The Office of Federal Contract Compliance in the Dept. of Labor is similarly lacking in women, as is the case in practically all contract compliance offices. In contrast, all of these offices have made a remarkable and successful attempt to integrate their staff in terms of other minority representation. It is difficult for women to expect (and get) fair treatment from an enforcement agency that has virtually no women on its own staff.

At hearings in June by the House Special Subcommittee on Education concerning sex discrimination in higher education, the OFCC of the Dept. of Labor refused to appear to testify. I was informed by a member of the Washington Press Corps that even Mrs. Elizabeth D. Koontz, Director of the Women's Bureau could not get "White House clearance" to testify at the time scheduled for her to appear. So far not one official from the Department of Labor has testified.

The government officials who did testify rejected aspects of the bill at hand (H.R. 16098) which would help in the struggle against sex discrimination. For example, the U.S. Commission on Civil Rights testified against extending that Commission's jurisdiction to include sex; The U.S. Office of Education testified against extending Title VII of the Civil Rights Act of 1964 to include educational institutions. Thus the Nixon Administration has rejected two of the primary recommendations of the President's Task Force on Women's Rights and Responsibilities.

At the recent 50th Anniversary Conference of the Women's Bureau (June 12, 1970) both the then Secretary-designate Mr. James D. Hodgson, and the Assistant Secretary of Labor, Arthur A. Fletcher publicly stated their concern and willingness to move forward on the problems of sex discrimination As you can see from all of the above there is much to be done.

It is all well and good for Contract Compliance to claim personnel and dollar shortages; we agree that more resources are needed. However, there is no reason why existing resources cannot be reallocated and priorities recorded, particularly since half of every other minority group are women. This kind of action is not dependent upon appropriations action by Congress. Communication to all other government contract compliance agencies and to all Federal contractors that Executive Order 11246 as amended *must* be enforced with regard to women, and that Order No. 4 does indeed apply to women, is essential. Until this is done, all the promises by the Labor Department are meaningless.

We obviously have few friends in this Administration. It is frustrating and discouraging to get lip-service and rhetoric on the one hand, and no action on the other. Anything you can do to get the appropriate government representatives to stop talking and to begin action will be deeply appreciated by the women in America.

Sincerely,

BERNICE SANDLER, Ed. D.,
Chairman, Action Committee for Federal Contract Compliance in Education.

CHAIRMAN CLAUDE PEPPER AND HOUSE CRIME COMMITTEE

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. MADDEN. Mr. Speaker, we are all aware of the seriousness of the challenge of crime to our agencies of criminal justice.

The very real concern of citizens for the escalating frequency of crimes against person and property, generally referred to as street crime, was in part responsible for the establishment last year of the Select Committee on Crime of this body.

I have been extremely impressed with the comprehensive and deliberate approach this committee has been taking under the chairmanship of our able colleague, the Honorable CLAUDE PEPPER.

Chairman PEPPER and the other members of the committee have been engaged in a thorough examination of all elements and aspects of the challenge of crime as was written into the mandate establishing the committee.

The committee has held extensive hearings in the Capital as well as in eight cities across the country. Areas of emphasis have included youth crime, court delay and case backlog, the adequacy of local law enforcement, narcotics addiction, organized crime and the effectiveness of adult and juvenile correctional institutions in prisoner rehabilitation.

On this last point, I was especially pleased with an inspection that the chairman and members of the Select Committee on Crime made to five States in an effort to gauge the effectiveness of rehabilitation programs for young offenders.

One of the States visited was my State of Indiana, where Chairman PEPPER and Congressman ROBERT V. DENNEY examined the Indiana School for Boys at Plainfield and the State Reformatory at Pendleton.

This matter of improving the effectiveness of correctional institutions is an important link in the effort to reduce crime in the country. More than half of all serious crimes committed are by persons under the age of 21. Of these young offenders arrested for criminal acts, it has been estimated that from 50 to 60 percent have been incarcerated before in correctional institutions.

I agree with Chairman PEPPER when he states that if we can cut down on the number of repeaters reentering our correctional institutions, we will have taken a significant step in reducing the frequency of crime in this country.

It is my understanding that the committee plans to issue a report on street crime and its relationship to youth crime which will include information gathered in the inspection of juvenile institutions in Indiana as well as other States. I eagerly await this report.

At this point in the RECORD, Mr. Speaker, I would like to include three of the many articles that appeared in the Indiana press following the committee's inspection there July 9:

[From the Indianapolis News, July 9, 1970]

BOYS SCHOOL HAS OFFICIAL VISITORS

(By David Mannweiler)

PLAINFIELD, IND.—Two fact-seeking U.S. Congressmen came to the Indiana Boys School today to learn how Indiana treats its young offenders and to offer suggestions for new programs.

Representatives Claude Pepper, D-Fla., chairman of the Select Committee on Crime in the House of Representatives, and Robert V. Denney, R-Neb., spent almost 4 hours at the school with Alfred R. Bennett, school superintendent, and Robert Heyne, commissioner of the Indiana Department of Correction.

The lawmakers visited the Indiana Reformatory at Pendleton this afternoon.

Their visit coincided ironically with the escape and capture of six inmates of the Boys School. The youths, ranging in age from 14 to 17, slipped away from the school shortly after 9 p.m. yesterday and were recaptured today about 6 hours before the congressional visitors arrived at the school.

Pepper said he was concerned about the 40 per cent recidivism (repeater) rate at the Boys School although he said it probably is smaller than in similar institutions in other states.

"It appears we are running the same people through the correctional mill. If we can teach these boys something while they are in institutions, and they do not repeat offenses, we can cut crime 50 percent."

MINNESOTA RATE CUT

Pepper and Denney said they were "very impressed" with the Minnesota School for Boys at Red Wing, a school that has attempted many experimental programs and has reduced its repeater rate to 19 per cent.

Pepper said Red Wing's "group thereapy" program, in which nine or ten youths relate and rehash personal problems in group discussion, "is fantastic."

Bennett said his institution started a pilot program using the Red Wing concept about a month ago. "I feel we are at least one year behind them but our institution is considerably larger than theirs."

Red Wing has between 350 and 400 inmates and keeps each youth for at least one year.

The Boys School has between 550 and 600 inmates and keeps most of them only six months.

Pepper said the Red Wing institution cost $7,600 per year for each youth in the institution. Indiana spends about $1,100 per year per inmate.

"That's quite low, as far as most juvenile institutions go," Bennett told Pepper.

A 100 INMATE LEVEL

He added that he would like to see the Federal government create assistance for training personnel for enlarging the Red Wing concept in Indiana. He also told the Florida lawmaker the best size for a juvenile institution would be under 100 inmates but "we would be most satisfied to reach the 350-inmate level."

Denney said he thought the one to 4.5 ratio of staff to inmates at the Boys School is too high and that the Red Wing ratio of one to 1.5 was ideal.

He said it would require up to seven years to switch the Boys School to the Red Wing type of program.

Pepper said the purpose of the committee's tour was not to investigate brutality charges or administrative errors "but to look at how the Federal government can give assistance in the states in helping to stop crime."

He said the omnibus crime bill will offer $250 million to state institutions when it finally passes Congress.

DENNIS TO STUDY HOUSE INQUIRY ON REFORMATORY AT PENDLETON

As a member of the House Committee on the Judiciary, which handles anticrime legislation, 10th District Congressman David W. Dennis said he is looking forward to a full report on the House Special Committee on Crime's investigation at Pendleton today.

The group, chaired by Democrat Rep. Claude Pepper of Florida, is conducting a study regarding the environment and rehabilitation procedures in institutions for youthful offenders through the Midwest in order to determine why there is such a high rate of repeat offenses in that age group.

Pepper and the members of his committee will visit the Indiana Boys' School at Plainfield and the Reformatory at Pendleton today.

Dennis said on a national basis, more than 50 per cent of young persons under 21 in penal institutions are repeat offenders. The combined average is 60 per cent for both young and adult offenders.

"I firmly believe," Dennis continued, "that better correction and rehabilitation programs in our penal institutions, particularly for the young, would be a worthwhile investment. Quite obviously, a reduction in repeat offenders could significantly reduce the country's crime rate. I wish to commend the

House committee for its efforts and for including the Pendleton facility in its nationwide investigation.

"The information gathered should be helpful in furthering anti-crime legislation," Dennis remarked.

The recently passed bill, which Dennis co-sponsored, extending the Crime Control and Safe Streets Act of 1968 required that 25 per cent of the funds in the measure be used for correction and rehabilitation.

Kenneth B. Bays of Anderson, state representative from this district, will accompany the federal legislators on the tour as Dennis' personal representative.

[From the Gary Post-Tribune, July 10, 1970]

Prisons "Tourists" Favor U.S. Grants

Indianapolis.—Two members of the House Select Committee on Crime declared support for federal grants to build decentralized youth correctional facilities as they returned here Thursday from a day of visits to two Central Indiana institutions housing young prisoners.

The reaction came from Rep. Claude Pepper, D-Fla., chairman of the committee, and Rep. Robert V. Denney, R-Neb., after their visit in Indiana during a five-state tour to collect suggestions for new legislation to improve states' correctional systems.

Pepper observed after visits to the overcrowded Indiana Boys School at Plainfield and the Indiana State Reformatory near Pendleton, "It looks like it may be time for the federal government to do for corrections what it has done for the highway systems in the states."

Denney noted, after discovering that a fourth of the boys school population came from Lake County, that "perhaps we should have another school near Lake County, near family and community contacts to facilitate rehabilitation."

He said after viewing some of the domitory cottages at the boys school: "It would be in the public interest if it could burn up."

Pepper and Denney joined later in recommending more regional centers.

"They should be much smaller and closer to the homes of the inmates," Pepper said, urging maximum inmate loads of 250 to permit more individual treatment.

Pepper and Denney spent the last half of their one-day Indiana visit at the reformatory with its 2,200 young male felons after visiting the boys school during the morning. The boys institution houses about 600 juveniles 10 to 18 years old.

Both Denney and Pepper commended the "group therapy" plan in use at the Red Wing (Minn.) Training School which members of the committee visited Wednesday. Both displayed enthusiasm for the group therapy approach as vastly superior to the mass population treatment.

Pepper offered the opinion that Indiana's system is better than many, but typical of those found all over the nation. Both congressmen rated the vocational education facilities at the two institutions as effective, but deplored the low percentage of inmates involved in the programs and the lack of equipment.

The touring lawmakers voiced alarm over the rate of recidivism (repeat terms) among boys school charges and the emphasis on detention rather than training at the reformatory.

"We will just have to make a complete change in the structures and attitudes of our institutions," Pepper said.

Pepper talked with a frail 90-pounder from Gary during a stop at the boys school. The 16-year-old, attending 10th grade classes at the institution's high school, told Pepper he was sent there for a burglary he committed "just to be doing something."

Pepper and Denney quizzed dozens of inmates at each of the institutions visited, but sought only comments to indicate general changes that should be made in the institutions or systems. Pepper clarified for newsmen that his party was not out to investigate specific failures of the systems, such as the riot that occurred at the reformatory last Sept. 26.

In that incident, shotguns fired by guards, ostensibly to terrify brooding inmates into submission, killed two inmates, one of them from Gary, and wounded some 40 others. A survey of the situation conducted by a private Chicago organization for The Post-Tribune concluded that definite racist feelings laced the security staff's conduct in quelling the demonstration.

Pepper recalled the disturbance and said, "It was just the tragic result of a situation that never should have been allowed to continue building."

A Madison County grand jury later ruled that the guards did act improperly in firing their shotguns to control the rioters.

A Christian Science Monitor newsman wrote detailed accounts of brutal treatment of inmates at the boys school after visits there last year. However, the touring congressmen said they found no evidence of brutality at the school.

A Hendricks county grand jury, likewise, ruled after its examination of the institution recently that there was no evidence of officially sanctioned brutality there.

Pepper and Denney criticized the lack of comic books, magazines or newspapers in detention cells and noted that youths were not allowed to sit or lie on their cots during the day, having instead to sit on the floor.

Officials said a "misunderstanding" was to blame and cited a June 17 memorandum giving permission to lie on beds at any time and to bring in reading material.

A staff member said the inmates had been asked to remove comic books, magazines and newspapers "so the place would look nice for the visitors."

Pepper said he also was disturbed to find that 35 boys sleeping in a cottage dormitory had to use the same toilet in plain view of everyone.

"It looks like they could have a private toilet instead of having it right out here in front of everyone," Pepper said.

Both congressmen talked with dozens of inmates they picked at random at each institution. At Pendleton, Pepper caused guards some anxiety as he poked his hand through the bars of numerous cells to shake inmates' hands.

Pepper asked inmates whether they ever had any rehabilitation, and one replied, "We just sit around and plan more crime when we get out."

Denney said he found no athletic equipment except basketballs for the boys to play with.

The lawmakers said Indiana's problems were typical of the nation's.

CONGRESSMAN BEN REIFEL RECEIVES INTERIOR DEPARTMENT COMMENDATION

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. NELSEN. Mr. Speaker, serving in the Congress, we meet many completely likable and outstanding persons. Certainly, standing in the forefront of this category is Congressman Ben Reifel, of South Dakota. His friendly, responsible approach has enabled him to accomplish much for his State and Nation.

So it is my great pleasure to bring to the attention of our membership the fact that our colleague, Ben Reifel, has been presented with a special commendation by the U.S. Department of the Interior. This commendation was announced by Secretary of the Interior Walter J. Hickel at the Department's 38th honor awards convocation here on June 30.

I am sure that I speak for all of us in extending heartiest congratulations to Ben on meriting this fine honor, and I include for the Record the full citation announced by Secretary Hickel at this point in my remarks:

Commendation Presented to Benjamin Reifel

Congressman Reifel served twenty-two years with the Bureau of Indian Affairs. Upon his retirement as Area Director in 1960 he received the highest honor of the Department of the Interior, the Distinguished Service Award.

During his eight years of service on the House of Representatives Appropriations subcommittee for the Department of the Interior and Related Agencies, Congressman Reifel's keen interest in and devotion to the programs of the Department of the Interior has been extremely inspirational and deeply appreciated.

The Nation in the years to come will derive immeasurable benefits from the unselfish efforts of Congressman Reifel in striving towards the proper use and conservation of our country's natural resources. Mr. Reifel's dedication and relentless work on behalf of the American Indian has resulted in the creation of many opportunities which will assist our Indian people in obtaining their proper place in our society.

A CALL FOR REDIRECTED NATIONAL PRIORITIES

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. SYMINGTON. Mr. Speaker, the host of foreign and domestic demands on our national resources, and the extent of public concern about these demands, constitute a mandate to the Congress and the administration to reorder our national priorities. Over the past 18 months a number of congressional attempts to redirect our Nation's resources to domestic needs have been criticized or vetoed by the administration. Our foreign commitments rise, our economy suffers, and our urban areas reach in distress for assistance that is not forthcoming. The following resolution passed by the City Council of University City well expresses the needs of communities throughout this country, and reiterates the call for redirected national priorities. At this point, I insert in the Record this resolution, which was sent to me by one of Missouri's most knowledgeable and dedicated mayors—Mayor Nathan Kaufman of University City:

Resolution

Vast areas of many central cities, suburbs and older neighborhoods are suffering from an accelerated decay and abandonment as exemplified by several thousand vacant and dilapidated buildings in cities adajcent to the City of University City, Missouri.

The spreading deterioration of these urban areas has been causing great economic losses to property owners while intensifying the deprivations of their residents and denying the opportunities for self help to many of these residents.

City governments serving areas where some 70% of the United States citizens reside have been receiving in recent years only about one-half of one percent of the Federal budgetary outlays for the hundreds of aid programs. (1)

On the other hand, in large measure the enormous Federal military expenditures (now over 70 billions annually) are among the prime causes of the inflationary cost pressures—which are strangling city services everywhere—and which are threatening to force reductions in services in University City.

This great Federal commitment to military expenditures also has caused exasperating delays in the implementation of aid programs to University City, and has curtailed heretofore promised federal aid to its programs in housing and urban renewal, as has been the case for hundreds of cities.

We believe the greatest threats to this nation's stability and security come from problems centered in urban areas, such as housing, education, employment, welfare, race, crime and pollution.

Therefore, the City Council of the City of University City, Missouri, urges the President and the Congress to immediately redirect the resources and to reestablish the priorities of the Federal Government so that far greater emphasis is placed on funding domestic needs in order to avoid a national catastrophe of American cities being destroyed by urban decay.

Adopted July 6, 1970.

NATHAN B. KAUFMAN,
Mayor.

Attest:

FRANCIS C. FLYNN,
City Clerk.

QUESTIONNAIRE RESULTS, FOURTH DISTRICT OF WASHINGTON

HON. CATHERINE MAY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mrs. MAY. Mr. Speaker, this spring I sent a special report/questionnaire into virtually every household in the 12-county Fourth Congressional District of the State of Washington.

In response, 22,584 persons filled out the questionnaire and returned it to me, representing a sampling of approximately 10 percent of the district's adult population.

I now report the tabulated results of the questionnaire for the information of my colleagues and all others interested:

CONGRESSWOMAN CATHERINE MAY'S 1970 QUESTIONNAIRE RESULTS, FOURTH DISTRICT, WASHINGTON DISTRICTWIDE TABULATION

WELFARE

One of the most controversial proposals before Congress is the "Family Assistance Plan" which would guarantee a minimum income to every family. The new plan would replace the present welfare program which has often been criticized for encouraging idleness, breaking up families, and robbing people of their dignity and hope for the future. Startup costs of the "Family Assistance Plan" would be higher than the present program, but long-range costs should be less because adult family members would be encouraged to seek jobs and to train for better jobs. Question: Should we scrap the present welfare system and begin the "family assistance plan"?

Yes, 71 percent; No, 22 percent; No opinion, 7 percent.

VOLUNTEER ARMED FORCE

A Presidential Commission has strongly recommended that we permit selective service to expire and return next year to the kind of all-volunteer Army, Navy, and Air Force that we have had in our country through most of our history. As incentives for voluntary service, the Commission recommends better military pay and fringe benefits. A man would have to agree to serve only as long as required to justify the cost of initial training or any advanced training received. Question: Should we follow the commission's advice and move to an-all volunteer Armed Force?

Yes, 78 percent; No. 20 percent; No opinion, 2 percent.

FOREIGN AID

A new approach to foreign assistance, based on the proposals of a Presidential task force, will be recommended as one of our major foreign policy initiatives in the coming years. The new program would place much more emphasis on international cooperation, with the United States acting in partnership with others, rather than going it alone. The primary aim of such new policy would be the forging of a new structure of world stability in which the burden as well as the benefits would be fairly shared. Question: Should we initiate this new approach to foreign assistance?

Yes, 87 percent; No, 8 percent; No opinion, 5 percent.

VOTING AGE

At the present time, voting regulations are set by the individual states and, therefore, each state has it within its power to consider the question of whether the voting age should be lowered. In the State of Washington, the Legislature has decided to submit the question of lowering the voting age to 19 to the voters on the November ballot. More recently, the United States Senate passed a bill to reduce the voting age to 18 nationwide, by direct statute. If approved by the House and signed into law, the change would become effective next January 1. Because the method utilized would bypass the state ratification process of a constitutional amendment, a court test of the constitutional validity of such a direct statute action would be a certainty. Question: Should the U.S. Senate action to lower the voting age to 18 be supported by the House?

	Percent
Yes	28
No	71
No opinion	1

Question: Should the Congress instead submit to the States for ratification a constitutional amendment to lower the voting age?

	Percent
Yes	34
No	49
No opinion	17

Question: Do you favor lowering the voting age in the State of Washington to 19, as submitted to the voters in next November's ballot?

	Percent
Yes	43
No	52
No opinion	5

DRUG CONTROL

In January the U.S. Senate passed the "Drug Control Act" to revise the federal narcotics and dangerous drug laws. Subcommittee hearings were held in the House in February, but no further action has yet been taken. Most of the debate has centered around a controversial "no knock" provision to allow law enforcement officers to enter places without notice in order to seize drugs which would be destroyed if the officer knocked before entering. Opponents argue that the provision authorizes unreasonable search and seizure expressly forbidden by the Constitution. As the bill passed the Senate, the officer would have to obtain a search warrant and the magistrate issuing the warrant would have to be satisfied that evidence will be destroyed or life endangered if advance notice of entry is given. Question: Should the "no knock" provision be included in the final version of the "Drug Control Act"?

	Percent
Yes	61
No	36
No opinion	3

FEDERAL REGULATION OF THE TRAVEL AGENCY INDUSTRY

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BURKE of Massachusetts. Mr. Speaker, today I join with my distinguished colleague from Rhode Island, Congressman ROBERT O. TIERNAN, in cosponsoring legislation to provide for Federal regulation of the travel agency industry. This legislation would protect persons who utilize the service of travel agencies and guard against any repetition of the unfortunate experiences of many students in Europe this summer, due to the financial collapse of certain travel agencies.

The following news item appearing in the Quincy Patriot Ledger calls attention to the personal tragedy of several constituents in the 11th Massachusetts Congressional District:

TOUR HAS SUDDEN END FOR FONTBONNE GIRLS

(By Bruce W. McLain)

MILTON.—Ten girls and a music teacher from Fontbonne Academy are on their way home today from Venice, Italy—the casualties of the ill timed financial collapse of the travel agency that arranged their ill-fated European tour.

BAD NEWS

The mother of one of the girls told The Patriot Ledger yesterday that she had received a phone call from her 17-year-old daughter, Virginia O'Leary, of 71 Waldeck Rd., giving her the bad news.

Mrs. O'Leary said her daughter sounded "very disappointed" that her European holiday, had been cut short by the unexpected and dramatic announcement Monday that the travel agency which arranged the trip, had gone into bankruptcy.

Virginia had saved her earnings as a cashier at the Fruit Basket, Quincy, for over a year to raise the $1000 cost of the tour.

All of the girls had been saving their earnings for some time to pay for the trip, Mrs. O'Leary said.

As if that wasn't enough of a disappointment, five of the girls were forced to drop a music course they were taking at the University of Vienna as the travel agency could not pay their fees. The agency had promised them they could receive music credits for the course at local colleges they plan to attend.

The bankruptcy of the travel agency left no funds for the continued feeding or accommodations for the girls least their return flight home was paid for in advance.

SOME BARGAIN

The students had left New York June 22 expecting to return home July 31. They had only visited France, Germany, and Austria when word came that the rest of their tour—to Austria, Italy and a side trip to Czechoslovakia for those who paid extra for it—had been cancelled.

Initially, the trip to so many European countries and for such an extended period of time for just under $1000 had seemed like a tremendous bargain to the girls. Now, they are having second thoughts, Mrs. O'Leary said.

The local representative for the World Academy Inc., Charles E. Lowman Jr., of 19 Old Forge Road, Scituate, could not be contacted yesterday for comment on the girls' plight.

Eight Whitman and two Hanson students along with a social studies teacher at Whitman-Hanson Regional High School, who were also a part of the World Academy Tour trip, have already returned home.

A total of 3,500 students participating in the tour are now forced to return home. The first wave of them arrived in New York yesterday, some with tears in their eyes, others feeling dejected or just plain mad.

FONTBONNE STUDENTS

Students from Fontbonne Academy who are now on their way back home include Diane DiTullio, 211 Dudley Lane, Milton; Elaine Dolane, 27 Calumet St., Quincy; Katherine Cabral, 91 Louise Road, Canton and Rosemary O'Dea, 40 Rustlewood Rd., Milton, all juniors.

And Annmarie Mullane, 7 Hill Rd., Holbrook; Cynthia Tobin, 731 North Main St., Randolph; Yvonne Sacilotto, 41 Franconia St., Dorchester; Kathleen Kouri, 36 Mossdale Road, Jamaica Plain; and Deborah Goulart, 32 Patten Ave., Braintree, all seniors. The girls were accompanied by Sister Carmella Gambale, a music teacher at Fontbonne Academy.

CONGRESSMAN LOWENSTEIN: AN EFFECTIVE AND RESPECTED IDEALIST AND REFORMER

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. WALDIE. Mr. Speaker, our respected colleague, Mr. ALLARD LOWENSTEIN, in the brief time he has served in this House, has already become noted among his colleagues for his dedication to the principles on which our Nation has been built; for his intelligence in articulating the strengths of this Nation and its people; for his integrity in approaching the problems of our society; and for his unceasing efforts to represent and serve the people of his congressional district.

Congressman LOWENSTEIN, in addition to the reputation for integrity and service that he has acquired in the House, has also enlarged on a national reputation for reform and idealism that preceded his service in the House of Representatives.

Mr. Speaker, the respected national magazine, the New Yorker, recently published an article that featured our colleague, AL LOWENSTEIN, and touched in some detail on many of his activities and on many of his characteristics that have made him the effective and respected Member that he is today.

I am pleased to include this article from the New Yorker as a part of my remarks:

CONGRESSMAN LOWENSTEIN: AN EFFECTIVE AND RESPECTED IDEALIST AND REFORMER

On January 3, 1969, two weeks before his fortieth birthday, Allard K. Lowenstein rose, with four hundred and twenty-nine other persons, on the floor of the House of Representatives and was sworn in as a member of the Ninety-first Congress. For the swearing-in ceremony, Lowenstein, who frequently wears a rumpled beige windbreaker, slacks, and no necktie, was dressed with more care than usual; he had on a freshly pressed gray suit and a plain dark tie, and his hair was neatly combed. This was not the first time that he had come to Capitol Hill to work. In 1949, he had been an aid to Senator Frank Graham, a North Carolina Democrat, and in 1959 he had worked as a foreign-policy assistant to Hubert Humphrey, when Humphrey was a senator from Minnesota. Lowenstein had long been interested in politics, but his appearance on Capitol Hill in 1969 was not the result of any political ambitions developed during his days as a legislative aide. It was, rather, a by-product of a campaign he had engaged in to end the war in Vietnam. In 1967 and 1968, he had led the movement to prevent President Johnson's renomination, first urging Senator Robert F. Kennedy to oppose the President, and then when Senator Kennedy hesitated, urging Senator Eugene J. McCarthy to take on that task. As an additional contribution to the reformist, anti-war movement, Lowenstein decided to run for the House from New York's Fifth Congressional District, which was once a part of the First District, then a part of the Second District, and later a part of the Third District, and which takes in most of the Southern third of Nassau County. In a sense, Republicans might be said to have held the seat from 1914 to 1964, when Herbert Tenzer, a Democrat, won the office, and now, having served two terms, he was retiring, leaving the seat vacant. The local insurgent Democratic anti-war group asked Lowenstein to run in the primary, and after several weeks of wavering he made up his mind to do so. "The most persuasive argument for running was that the direction of the country was wrong, and if we didn't have candidates who said so and won we would have no way of showing that the country wanted to change direction," Lowenstein said later. "The value of running was not just that you could do a good job if you won. It was also the fact of winning an election on the issues of the war and the reordering of national priorities—the phrase was new and sounded sort of highbrow and vague then—in a district that was supposed to be resistant to this point of view."

Lowenstein, having won the nomination by a considerable margin in the primary, defeated the Republican candidate, Mason Hampton, Jr., by 99,193 votes to 96,427 on November 5th. A few days after the election, he told me that, in a sense, he was not prepared to take the seat in Congress. "I have a certain awe about elections," he said. "The fact of being elected is high in the hierarchy of things I was raised to think of as a great honor, and I had never really seen myself as doing that. By the end of the campaign, I expected to win, but I had never sat down and thought about what would happen next. It seemed to me that that was best, because if I didn't win I wouldn't be as disappointed, and if I did—well, there would be plenty of time to think it out afterward. So finding myself in the House had something of an Alice in Wonderland quality about it—something amazing, because it was unexpected and because I felt this great awe for the electoral process."

After his first week in Washington, Lowenstein returned to New York less amazed. He came to my apartment one evening, wearing his windbreaker and a pair of baggy pants. I asked him how the week had gone, and he told me that at the end of his second day in Congress the Majority Leader, Representative Carl Albert, had made him Acting Majority Leader—a job that carries with it the right to adjourn the House. The appointment, which is made almost every day and carries responsibilities that last only for a few minutes, is one of the courtesies that the House leaders extend to their less influential fellow-representatives—a mark of recognition and a sign of welcome. Lowenstein was not as deeply impressed by the gesture as perhaps he was supposed to be until a colleague, congratulating him, mentioned another congressman who had been given a brief turn as Acting Majority Leader—in his case, only after many months in the House. The newspapers of his district—so the story went—had been so struck by this swift rise that they publicized it sufficiently to make it a factor in his subsequent reelection. Lowenstein did recognize a touch of irony in Albert's awarding him a microphone, however. It was Carl Albert who, as chairman of the 1968 Democratic National Convention, had turned off the floor mike when Lowenstein, a delegate from New York, tried to second a motion to recess the Convention while violence was going on in the streets of Chicago. Once Lowenstein had become a member of Congress, Albert made a point of telling him, "You're not a bit like they told me. You're not a long-hair-and-beard type at all." At any rate, it came about that on his second day in Congress Lowenstein spoke his first words there, and spoke them as Acting Majority Leader of the House. He was chided by his wife, Jenny, when he emerged. "How is it that when Carl Albert finally gives you a mike, all you can think of to say is 'I move that this House do now adjourn'?" she demanded. But that was the scope of the appointment, and those first words were the initial gesture in what Lowenstein came to call "the charade."

Later that week, Lowenstein attended a bipartisan briefing session for new representatives. Little was said about legislation or about the purpose and power of the House. The session consisted of a series of tips on the special political etiquette of favors that members expect from each other and should be prepared to repay, on how to get one's name on a bill, on how to impress constituents—in sum, helpful hints about how to get reelected. Lowenstein was both amused and distressed. "That's the trouble with most politicians," he told me. "The slogan that getting yourself reelected is the first rule of politics can lead to a really pernicious attitude. The notion of being elected is inherently virtuous, if you believe in it. We don't believe in royalty and inherited office, or in office as the result of trial by combat. We're raised to think democracy is the best way, and democracy means elections. But if you add the general human ambition to make the most of your own future to the state of mind of people raised to believe in elections, you can end up with a dangerous combination. There is nothing inherently immoral about trying to succeed, and in politics this society's idea of success is to get yourself elected. But once that has become the goal, all the other values and goals can be forgotten. The test of virtue becomes success, and people measure success by whether you get more votes. So why shouldn't you think first about how to get more votes? So that becomes the 'first rule' of that kind of politics. It's also what makes the whole process so much less productive and honest. If you don't want to fall into that trap, you have to say no, you won't accept that view of things. My first rule in Congress is that if I don't do more by being there about the things I care about than I would if I weren't there, then I shouldn't be there. That rule will help make a lot of decisions much easier."

The week of the briefing session, Lowenstein went to the Democratic caucus, the organizational meeting of all House Democrats, at which he hoped to raise a question that he and a number of other representatives had discussed in the interval between the election and the swearing-in. Lowenstein and the others wanted to open the rules of the House to debate and amendment, including those on how committees function, how bills can be brought to the floor, how debating time on the floor is assigned—in effect, the very workings of the institution. He and his friends did not have the slightest expectation of winning, but they did hope to provoke a vote in the caucus on whether or not Democrats should seek a debate on the rules instead of adopting them automatically—the traditional way. When the caucus chairman brought up the question of rules, however, it was simply to say that the rules would be passed. The question of debate was never considered. Lowenstein was astonished. He and his friends hadn't even been defeated—they had just been ignored.

Next, Lowenstein attended a meeting of the Democratic Study Group, a less formal body, consisting of about half the House Democrats, all of whom profess some degree of liberal leaning. There, too, he found that nothing outside the routine happened, or, evidently, could be made to happen.

In the months that followed, I saw Lowenstein from time to time—at an airport, in a snack bar, in the corridors of the Longworth House Office Building, and even at his desk in the Longworth Building, after midnight, but he was always too busy working on his dozens of projects to provide me with any real idea of what they amounted to. He was commuting to Long Island and was also making trips to Biafra, Ethiopia, Vietnam, and Czechoslovakia, and to what seemed to be every state in the Union. By the time we could meet again for a long, uninterrupted talk, he had been in Congress for more than six months and his perspective had changed somewhat. The time for our talk became available when Lowenstein came to New York to pay a long-deferred visit to his mother-in-law, who lives in Sagaponack. I was to meet him at the Westbury station of the Long Island Rail Road one August day around noon. Lowenstein didn't come on the train he was supposed to be on, or the next one. When I went to telephone his home—he lives in Long Beach—all the booths were occupied, and I waited nearby. In one booth, a slim, distraught young woman tried simultaneously to extract information from somebody on the line, keep track of a child, and explain to a young man who was standing beside the booth that there had been a mix-up. "Al is in Albertson," she said to him after completing her call. "No one knows where that is. He's trying to get a taxi, I suppose we'd better wait here."

I guessed that she had something to do with Lowenstein, and introduced myself. The three turned out to be Jenny Lowenstein, the Lowensteins' son Frankie, who is now two years old, and Steven Engstrom, a University of Arkansas student who had heard Lowenstein give a speech at a college in North Carolina, had asked the university if he might use a foundation fellowship to spend the summer as an aide of Lowenstein's, and had eventually been accepted. Engstrom lived in the Lowenstein's house in Long Beach, helped run Lowenstein's district office in Baldwin, drove Lowenstein's car (sometimes as chauffeur), babysat with Frankie, and joined the Lowensteins in such other activities as writing speeches, washing dishes, arranging schedules, and doing research on local issues.

The four of us waited at the station, and at last Lowenstein, wearing windbreaker and slacks, arrived in a rattling taxi. He paid the driver, remarking proudly to his wife that, by a miracle, he had thought to put some money in his pocket the night before. Lowenstein explained to us that he had been delayed at Albertson, a stop on what is surely the slowest of the Long Island Rail Road's runs. We all piled into the family car, and Engstrom drove. Lowenstein and I were in the back seat, and Mrs. Lowenstein sat in front, clutching Frankie, who kept trying to wriggle over the front seat and onto his father's lap. Mrs. Lowenstein asked her husband if he had eaten. He said no, and she peeled wax paper off a squashed cream-cheese-and-jelly sandwich she had brought along for Frankie. Lowenstein ate it hungrily, remarking between bits that Albertson was near his district but, thank goodness, nobody there had recoginzed him. (Presumably, he was grateful to be left alone for an interval.) "That's the advantage of not looking like a congressman," he said.

We all asked at once what a congressman looks like.

"Well, sort of ponderous, I guess—in a good suit," he said. "I never think of myself as a congressman. I'm sometimes surprised when people remind me that I am one. Outside Washington, congressmen aren't a dime a dozen, and people sometimes think it's quite something to meet one. When you go into somebody's house, you have to adjust to the realization that your being there may mean something to people. I think that when you realize that, you should try to be responsive to it. If people act as though they are honored by your being somewhere, you want to try not to let them feel let down or taken advantage of. Some people want to tell you what they're doing for you, how they helped in the campaign—that kind of thing. I've had to work at overcoming a long-standing aversion to publicity. For a long time, it seemed to me that doing things with publicity somehow put the motive for doing them in doubt. When I toured migrant-labor camps on Long Island, I thought I should go alone, but that was the last thing the people who were arranging the tour wanted. They wanted to publicize the conditions in the camps. That's why they wanted me to come—to attract some press and maybe some TV coverage. Often, people who want you to do things want you to do them for the publicity, so if you agree that the cause is a good one you have to work that out and live with it. You can't do much in Congress if you aren't prepared to try to spotlight some of the problems you're concerned with. More often than not, of course, the problem is how to spotlight them effectively. Then, too, you have to get used to a lot of hostile stuff—you know, jealous or bitter people who want to hurt your reputation or get your goat by impugning your motives or inventing malicious tales. If you were to let that sort of thing bother you, you couldn't do very much else. All in all, I'm glad to be in Congress. It's a good time to be there—there's so much that needs to be done. The day-to-day work is a good test of your patience, but I'm used to the long pull—to burrowing along for a while before you can see any results. People make a great distinction between being on 'the inside' and being on 'the outside,' and now I get asked a lot how it feels to be on 'the inside.' Well, I wouldn't know, because where I am is not 'inside' very much, and it hasn't made much difference in the way I try to work. It does make it easier to be heard—at least, outside Washington."

Lowenstein doubts whether he has had much success at being heard in Washington, and, particularly, in the House itself. "My view of how to be an effective congressman has changed a lot since I got there," he told me. "The biggest single difference is that I've learned that all the tests people normally use to decide whether you're a good congressman have almost nothing to do with whether you *are* a good congressman. They are really tests of whether you're keeping up a good facade—things like attending roll calls, getting your name on bills and in the *Congressional Record*, appearing active in the House. If you work at the facade, it can preclude doing what you should be doing; it can determine how you use your time and energy, and even remove the incentive to do the real job. What nobody understands is that the facade is irrelevant to what Congress ought to be and what it ought to be doing. Some people who make a real effort to follow what you're doing take what they read in the *Congressional Record* as evidence of what you've done. Well, it's nothing of the kind, since almost everything that appears in the *Record* has been what is called 'revised and extended.' Or they look at your roll-call attendance, which is in large part a measure of how many times you've interrupted something you should be doing to do something pointless. It means running over to the floor and answering to your name. Which is fine if you are voting on something, but most roll calls are taken to see if a quorum is present—another part of the charade, since people leave as soon as they've answered to their names. Why would you stay to hear everybody else answer to his name? The fact is that even though the House spends more than a quarter of the time it's in session listening to everyone's name being called, there is still no clear record of how members have voted on most things that really matter. Something of great significance may be brought to the floor under what is called a closed rule, which means that you can't offer any amendments and the proposal must be voted up or down precisely as it emerged from committee. That's just plain wrong, and on basic issues like tax legislation it is outrageous. And even when a closed rule is not invoked, the House procedure prevents a recorded vote on many questions of wide interest. For instance, when most of the bills that matter are reported out to the House floor the House sits as a committee of the whole to consider them. And votes in a committee of the whole are not recorded, so on many crucial amendments there is no way to tell how anyone voted. The recorded vote on final passage often tells nothing useful, because by then the bill may have become virtually non-controversial, or may be such a hodgepodge that a simple yes or no becomes a very complicated vote to cast. The basic fault is in the way the House views itself, the way it takes its responsibilities. There ought to be a clear record of how elected representatives vote on great issues. There ought to be a way to vote separately on separate questions—that is, there ought to be a way to offer amendments. And, as far as debate or discussion is concerned, most self-respecting high-school student councils would stage sit-ins rather than operate under rules like the ones that apply a good deal of the time in the House."

Almost from the moment of his swearing-in, Lowenstein allied himself with a bipartisan group of younger members who had been working to bring about fundamental changes in House rules and customs. "It took a while to realize how bad some of the procedures are and how hard it is to change them," he told me. "It also takes a particular kind of guts to challenge what have come to be almost gentlemen's agreements—to risk the disapproval of those who control committee assignments, floor time during debates, and so on." In fact, after his motion to adjourn on the second day he said virtually nothing on the floor of the House for several weeks. "I learned a lot about how the place works," he said, "and my admiration grew for this small group of people who had thrown themselves into the effort to get changes at least considered."

The car was rolling through Suffolk County now, and Lowenstein sighed. "Of course, there would be a revolt if members had no way at all to go on record about things that are important to their constituents," he said. "So there are escape valves, such as unanimous consent that the leadership always gets, just before debate on a legislative proposal ends, for every member of the House to put in the *Record* whatever he'd like to put there, as if he had spoken during the debate. Then, there are what are called the 'one-minute rule' and the 'special order.' Every day that the House meets any member can speak for one minute on any subject. You use your minute to get up and say, 'I ask unanimous consent to revise and extend my remarks and include extraneous matter.' In the *Record*, it looks as if you'd taken on the space program, or pollution, or hunger, or anything else, but you don't have to say a word. You can just hand in a paper. If you're especially conscientious, or you feel very deeply about something, you can actually speak about it for sixty seconds, to an empty House and empty gallery. For a while, I decided never to use the one-minute rule. It seemed phony and somehow deceptive. Gradually, I came to realize that that wasn't a very sensible kind of protest, since it had no effect on anyone but me. And there is, of course, some value in getting things in the *Record*. It is read by some influential people, and it can be distributed widely. The special order is another escape hatch that eases resentments. Any member can ask for a special order to discuss anything that's on his mind when legislative business is finished for the day. This, too, has almost nothing to do with influencing the House, but the speeches go into the *Record*. You can see that, if you play the game and accept the charade, you can give the appearance of being a very diligent congressman with relatively little difficulty. Conversely, if you're doing what you should be doing, it can look as if you were doing nothing. But more important than the effect of all this on individuals is the cumulative effect on the legislative process, and on House morale."

Lowenstein paused to think. "Another thing you have to understand is that the House, in some ways, isn't very representative," he went on. "There's almost never anyone there under thirty. Think what it tells about the place that I'm considered very young! And, of course, there are only nine blacks, when, proportionately, there should be about fifty. Almost a fifth of the population of the South is black, but there are no blacks at all among the hundred-odd Southern members, and on votes that would be of greatest concern to blacks we're lucky if we pick up half a dozen Southern votes for the position the blacks would take if they were there. And this kind of built-in unrepresentativeness is made much worse by the seniority system, which gives enormous extra power to whoever lasts the longest. The people who last the longest, naturally, are the people who come from districts least affected by the two-party system and most removed from the normal swings and political pressures that affect everyone else. The degree of dissatisfaction with all this is a measure of a generation gap as much as anything. The average member now has been in for something over five and a half terms, and that is the line that tends to divide members, more than party or ideology, on questions of congressional reform. And this reminds me of a hopeful political drift in the Congress which hasn't been noticed much yet by the press. There has been a good start toward a kind of spontaneous coalition that is not the traditional conservative one of Northern Republicans and Southern Democrats. In the country at large, this coalition would be regarded as very moderate and rather middle-aged, but in Congress it passes for liberal and young. It's made up largely of newer members from both parties, who don't have much seniority, but if it keeps growing, one of its effects could be to make seniority less significant. That, in turn, could have a very healthy effect on the workings of the committee system. As things stand now, the committee chairmen have enormous power they can pretty much decide on when committees meet, and if and on what it to hold hearings; they create subcommittees, approve members' trips, push whatever bills they want to push, and so on. Since almost everybody on a committee wants favors from the chairman, in most committees he can run things pretty much as he likes. The majority of bills that are important to a member—because they give him prestige and convey the impression that he's doing a good job for his district—are not, in fact, controversial. Out of the more than twenty-nine thousand public and private bills introduced in the last Congress, only six hundred and forty public bills and three hundred and sixty-two private ones were passed, and of those that were actually considered relatively few were fought over. Which of the non-controversial bills that are proposed get to have hearings generally depends on the whim of some committee chairman, and that often means they depend on his good will toward the sponsor of the bill."

Lowenstein went on to discuss what a congressman should be doing, as opposed to what he is expected to appear to be doing. He divided the job into four major parts, the first of which he likened to the functions of an ombudsman. "Since we don't have that kind of official—one who deals with problems that are separate from political and general issues—every elected official has to help communities and individuals with all sorts of difficulties that have to arise in a society as complicated and impersonal as this one," he said. "Some people think that an ombudsman's functions are somehow unworthy of a congressman—that they are kind of a vote-buying device, and cheapen the office. My view is that if you aren't prepared to do that kind of work for people—who should have an ombudsman somewhere—then you shouldn't run for office. Think of what can happen to individuals in a country that suffers from bureaucratic elephantiasis. Like this morning—I was on the phone about a fellow who's in the army. He was shot and hospitalized and hasn't got much of a stomach left. But instead of getting a disability discharge he's on orders to Vietnam. You can't find out why—it's the gigantic military machine grinding away. We got him stopped in Oakland as he was about to board a plane for Vietnam. Now he'll be held back for a month while they make another investigation. If they decide to send him after that you can't do anything. But holding it up this long means that there's a chance this particular absurdity won't go through, and that would be to the advantage of the Army as well as of the boy. When things like this happen—things involving a miscarriage of justice—you should be glad if you can help. Of course, people are sometimes disappointed, because they think you can do more than you really can. And if people want you to do something that is improper, you don't do it if you're working the way you should. But I've found that most of the time, when people know you're committed to a certain view of public functions they don't ask you for improper things. Maybe they're afraid you'll react by exposing them."

We were running through Manorville now, and Lowenstein paused to look out the car window at a group of children at play. Then he resumed. "One big problem is finding time. The second part of a congressman's job—it overlaps with helping individual constituents, but it's a completely separate business—is to do what you can about community problems that come up. If a bridge collapses or some housing doesn't get built or a racial crisis develops, you have to try to help ease the situation. Sometimes that means just being there, because sometimes you can't do much more than that. Holding forums, as we have been doing in my district, can be helpful. It's important at this time in our history for people to have opportunities to express and hear different points of view about things that bother them. In Nassau County, we invite everyone to these forums, and all kinds of people come, either as speakers or just to participate from the audience. Mr. Joseph M. Margiotta, the Republican chairman in Nassau, said that Republicans mustn't come; it would 'lend dignity' if they came, he said. But he's given to making suggestions that nobody pays much attention to. We've had meetings on the war, on taxes, on the ABM, on campus disturbances, on how to finance education, and so forth. They must be interesting, because people keep coming—even Republicans despite poor Mr. Margiotta. Some Republicans come because they believe in the principle of open forums, or, at least, want to use them if they're going to happen anyway; others come because they want you to do something for them, or because they're friends. We have had some bad racial incidents in a number of towns—people beaten up and hospitalized. When something like that happens, you go to the groups and individuals who are the angriest or the most deeply offended and try to help work things out so that difficulties can be eased without further violence. Of course, where the problems cover a wider area it's harder to do anything effective about them. But the city and the suburbs, for example, do have many similar interests, and if someone were to bring people together to work regionally—to lobby in Congress, and so on—that could be helpful. However, most of the time everyone is feuding with everyone else. Politicians are afraid of potential rivals. So there's always the problem of who should lead this kind of effort.

"That gets into the question of how the parties affect government. So many of the complications created by partisanship are pointless, but I guess in our kind of setup they're natural, and maybe unavoidable. Republicans and Democrats both tend to be all for bipartisan or non-partisan efforts to do things they'll get credit for doing, and very unenthusiastic about bipartisan efforts that won't help the party, or some official the party likes. That may seem obvious, but it can make difficulties. For instance, if the Republicans are in power the Democrats will be reluctant to help the Republicans get credit for doing something non-controversial, since that may strengthen the Republicans and enable them to do things that are controversial. There's another twist to the non-partisan business. The White House is very anxious for us Democrats not to criticize Administration policy in Vietnam. Its people want us to help cool everybody down who is upset about the ambiguities and pace of the withdrawal; they say that we should give them time in Vietnam, that we shouldn't be 'partisan' about Governor Rockefeller's trip to Latin America or about the surtax, and so on. You know the argument—we've only got one President, and if we criticize his defense or foreign policy, that's partisan, and politics stops at the water's edge and anything else is not worthy of Americans, et cetera. But when we find Republicans who privately agree with us about problems that ought to be just as non-partisan, like poverty or campus disorders, the Administration all of a sudden discovers the virtues of the two-party system. So it's O.K. for them to put pressure on other Republicans not to work with us for programs the Administration doesn't want, on the ground that Republicans shouldn't be working with Democrats. I guess it's all supposed to be clever politics—to get us to support what the Administration is doing and still try to be sure it doesn't look as if there were bipartisan support for what we're doing. What makes the whole partisan approach especially senseless now is that neither party makes enough sense as a party to justify using the traditional distinction of party label to prevent cooperation among people who essentially agree with each other. Conservatives of both parties generally seem to understand this much better than moderates and liberals. Still, as things stand today, it seems to me there's no real question but that the Democratic Party is worth fighting for. It's come a long way in the last year or so. Do you know anyone who's hankering for a restoration of Johnsonism? I feel more hopeful about the direction of the Democratic Party than I have in a long time, and more loyal to it. On matters of conscience, though, I don't think either community opinion or party should be decisive. You should follow your conscience and do what you think should be done, then try to explain it to the community, which has a right to reject you at the next election if it feels you've gone against what it wants. I get lots of mail saying that my position on the war doesn't represent the district and I should resign, and so on. I wish there were some way the public could express itself directly on a matter as preempting as the war—it would reduce that feeling of being unable to influence policy which is the cause of so much disenchantment with American democracy these days. Perhaps some kind of referendum could be worked out, or an electoral test of some kind. A year is a very long time for people to go before they have a way to say what they want to do about Vietnam and everything that flows from it. Consequently, my office sends out questionnaires periodically to try to find out how people in the district feel about things like troop withdrawals, the federal budget, the draft, student disorders, the surtax—that sort of thing. I can't promise to fit my views to the results, but I do want to know what people are thinking. Then we can discuss why we differ, if we do. Where there's a substantial disagreement between a representative and his constituency, it seems to me important for both to have the chance to rethink their positions, even though no change may result on either side."

Lowenstein leaned back and stretched. "Another thing a congressman finds he should do is attend a lot of functions," he continued. "Some people think it adds prestige to have a congressman present—or, at least, it shows that a congressman is interested. You try to attend, since people usually can't get a senator or a governor to come. That's part of the problem of time. Do you go to one more church function, one more bar mitzvah, one more meeting of a veterans' group, one more historical-society meeting? There's always more to do, so unless you deliberately set yourself to hack out little enclaves, your personal life can become nonexistent. Droopy is going to say we don't hack out enough." Droopy is Lowenstein's nickname for his wife, and also her nickname for him.

Near Riverhead, we stopped at a roadside restaurant for lunch. Lowenstein had canned vegetable soup, a hot dog, a root beer, and an ice-cream cone. "That's the way he eats," his wife said. "He doesn't even notice that it all tastes like plastic." A few minutes later, the Lowensteins dropped me off at a friend's house, and we parted for the day. As it turned out, I had to wait quite a long time to learn what Lowenstein considered the third and fourth parts of a representative's job.

The next morning, I arrived at the home of Mrs. Lowenstein's mother and found all the members of the household except Lowenstein sitting around a back-yard swimming pool. He was indoors, telephoning. When he came out, he was ready to start for his district headquarters in Baldwin, and we had arranged that he would drop me off at the railroad station there. Again Engstrom was at the wheel and I shared the back seat with Lowenstein. As we rode along, the talk turned to money, which for Lowenstein is a problem second only to the problem of time. His parents once owned a series of restaurants in Manhattan, but neither he nor his family is wealthy. He graduated from the University of North Carolina and from Yale Law School, put in two years in the Army, practiced law briefly in New York, and then taught law at Stanford, North Carolina State, and the City College of New York. Now he earns forty-two thousand dollars a year, but he says that not much of his salary stays with him. "I spend a good deal more on office expenses each month than we get in allowances," he said as we drove along. "I paid my own way to Vietnam, Biafra, and so on, so even though neither my wife nor I drink or spend much on clothes, money is not our long suit. I sleep in friends rooms in Washington to save renting an apartment there. The forums I was telling you about cost seven or eight hundred dollars every two weeks, what with the printing, the expenses of whoever speaks, and receptions before and after. I send out a newsletter every few months, so that people know what I'm doing. This costs between thirteen hundred and fifteen hundred dollars each time, and that's without anything fancy. Money is one reason most congressmen don't try to do much about many national issues. They tend to limit themselves to local questions, plus maybe one national issue they can work on through the committee they're assigned to. That's not a criticism. How much can anyone do with limited staff, and all the mail and whatnot to cope with? If you aren't independently wealthy, you can't have a staff that's capable of putting things together much beyond what you can come up with from the source available to everyone—the executive departments, the lobbies, the staffs of congressional committees, the Library of Congress. That's one reason lobbies can be so influential. They have people who are able to spend all their time collecting data on why pollution is good for River X. What congressman can match that? And what are congressmen supposed to do about explaining the intricacies of a tax bill? So most members make their peace with the situation—they get active on some issue that is big in their district and will help them there. Another thing about money. Some members bolster their income by leaving their name on a law firm. I would find that difficult. To my mind the question would arise 'How come you can do both?' If you aren't too busy in the House to maintain a law practice, then it's hard to believe you're doing all you should be doing in Congress. And if you aren't really practicing, why should you have your name on a law firm? Isn't that trading on the name of the Congress? Of course, some men would like to give up outside arrangements of this kind but are afraid that if they did they'd lose their financial independence—they'd be too dependent on staying elected or getting appointed to some political job. I'm not sure I should say all this until I have worked out specific proposals for dealing with the whole mess—conflict of interest, campaign expenses, the adequate financing of staffs, and the rest. It's not just the question of names on law firms. There's the problem of owning stock. Lots of congressmen get money out of things that Congress legislates about. But to limit conflicts of interest between proposed legislation and private sources of income you have to get into everything that is regulated by government agencies. So what should you do? Right now, I have to find some way to meet these expenses—the office, the trips, and so on. You can use a lecture bureau, but I'd hate to wind up speaking to the highest bidder. I made a rule when I entered Congress that I didn't want to know which speech invitations were for a fee, let alone for how much. In the long run, I guess it's better to give lectures than to be in a law firm, and better to be in a law firm than to have a source of income that might influence how you vote. As you can see, this whole problem is very complicated. And it has been ignored too long."

Shortly before we reached the station, Lowenstein, who was dressed much as he had been the day before, rubbed his hand across his chin, which was stubbly, and said, "I can't go into the office like this." He asked Engstrom to drop him at a barbershop for a shave, and we said goodbye.

The next time I saw Lowenstein long enough to have a solid talk with him was at my apartment on a recent Sunday night. He had told me that he had to attend one of his district forums and two other meetings that evening but thought he would be free by eleven-thirty. A little after midnight, Mark Arnold, a Dartmouth senior who had taken Engstrom's place when the summer ended, arrived to pick up Lowenstein and drive him home. I told him that Lowenstein hadn't shown up yet, and asked him to wait. At one-thirty, Lowenstein arrived. When I asked if he had had any dinner or supper, he said no, so I got some food from the refrigerator, and we settled down near a coffee table to talk about what he thought a congressman should do outside his district—the two remaining parts of the four parts of a representative's job, as he saw it. But he had something else he wanted to talk about first. Since our last conversation, he said, the "procedural horrors" of the House has made his earlier comments seem far too mild. Indeed, he seemed a great deal more steamed up than he had been during our discussions in the car. "Do you know that we were not allowed to have a roll-call vote on whether to deploy the ABM?" he asked. "And that on the Vietnam resolution the President wanted passed because it was so vital to his plan for peace, there were no hearings, and discussions was limited to four hours—which averages out to thirty seconds a member—and there was no way to introduce amendments? And we've voted on amendments to bills that appropriate billions of dollars without having amendments *explained,* let alone discussed. Half the votes on bills that matter occur after debates in which most of the newer members get forty-five seconds or a minute to speak. If only the country understood what goes on! But the whole procedure is designed to make that impossible." He pulled some papers out of a briefcase. "Here, I brought you a couple of statements I made in the House," he said. "They're pretty low-key, but they tell a little of what I feel."

I looked at the material he had handed me, which was from the *Congressional Record*. One statement was about the Vietnam resolution. "We mock democracy when we treat this resolution as if it were a footnote to a bill about fishing rights on Mars," it went. "If we do not have the opportunity for adequate debate and to consider amendments on this of all resolutions, we will simply subject these proceedings to further ridicule. Members not permitted to speak here will not thereby be silenced. They will be angered. We are becoming increasingly what we treat ourselves as if we already were . . . second-class citizens with dwindling relevance to the awful events that surround and soon may engulf us."

I asked him if he felt that indignation over such procedures was rising generally in the House, and he said that he thought it was—that the response to statements like the one he showed me had been encouraging. He said that one of his most outspoken protests had come about almost by accident, because he had been recognized unexpectedly at the end of the acrimonious debate on the military-appropriations bill. By then, it was clear that no vote on deploying the ABM would be allowed. House members had begun the chant of "Vote! Vote!" that always arises when the dinner hour is approaching and a roll-call vote remains as a block to leaving the hall. Several friendly members had counseled him not to speak, Lowenstein said, in view of the mood of the House. He could put his remarks in the *Record*, they reminded him, and no one would know he had not spoken them. "But I decided to speak," he told me. "I got up and asked if anyone thought that behaving the way we were behaving would increase respect for the Congress or for the concept of representative democracy. I asked if anyone could justify rules that concealed our position on something as vital as the ABM. I ended up by saying that the House wouldn't dare to go on in its present condition—that basic procedures would have to be revised soon. I thought at the time that what I was saying would mark the beginning of a kind of ostracism in the House, but that hasn't happened. Some of the younger members were enthusiastic, and this was perhaps predictable, but the reaction of several venerable figures was most unexpected—some all but embraced me in the well of the House, and others made a point of phoning later on to congratulate me. Whatever the reason for all that, it's clear that the potential for revolt is far greater than it was a while ago. The groundwork was laid by some really good people over the years, and now it has been reinforced by concern about the war and matters growing out of the war. It looks as if we'll finally get a reform bill out of the Rules Committee sometime soon. There probably won't be much basic reform in the bill, but just getting the whole thing opened up that way will be a start, and if we can build a national awareness of what's at stake in something that sounds as dull as 'reforming Congress' we may really get somewhere eventually. I think lots of members would like to see some changes made."

Lowenstein was nibbling at an apple now, and I managed to get him to discuss the two remaining aspects of his job.

"If you simply deal with individual and local problems, you're not doing a very good job, because you've been elected to a national legislature, and that means you ought to be concerned about national needs and the national direction," he said. "That's especially true at a time like this, when very few local problems can be solved if we don't reverse the country's lockstep toward disaster. In that sense, it was particularly useful to have been elected from a Republican district after taking unequivocal positions against the war and for deep reforms at home. But how can a representative function effectively on great national questions? It's completely inadequate to say, 'Well, I'm going to vote right.' That's not the end of your obligation. It's barely the beginning. You have to be willing to take the fight outside your district, because one district isn't going to change things. You must go wherever you're able to rally support that can affect the way Congress or the President will act on these issues. About student violence, for instance—you have to go to the campuses to try to explain why it's both wrong and damaging. You could put yourself on record as opposing campus violence by denouncing it in Rotary Clubs or in the well of the House, but that would be playing out the charade again. Now, I'm not saying that giving speeches around the country makes you a better congressman. But, if you can, you ought to help to build strength around the country against policies you oppose, so that when a related issue comes to a vote some public opinion has been aroused."

Lowenstein was now sipping a glass of root beer. 'Fourth, you can also do something about things that trouble you inside the Congress itself. It can be useful to talk to members about the war and the national priorities. And you can also talk to them about things that may be more important to your district than they are elsewhere. Take jet noise—not many districts have jet airports to harass them. But the congressional custom of 'You help me on this and I'll help you on that' can be brought into play and a few interested members can build a lot of support for a bill to decrease jet noise. The best place for this kind of lobbying is on the floor of the House. One member got very big on the idea of prohibiting the sale of switchblade knives by mail, and he worked so hard lobbying one by one that he got seventy-five members to back his bill. Rallying public opinion and lobbying individual members are the greatest contributions you can make to influencing the legislative process in your first term. In the House, as elsewhere, personal relations make a great difference if you want to get things done. A member may want you to speak at some function that one of his constituents has organized, or meet a delegation coming to see him, or simply come and have a drink. Then, too, if you're going to somebody's district, you try to tell him ahead of time and perhaps chat with him about your trip afterward. A while ago, when I marched in Charleston with the hospital workers, who were on strike, I called up Representative Mendel Rivers beforehand to tell him what I intended to do. It's no great secret that our political views are about as far apart as views can get, but our relationship has remained cordial. I'm not much good at hating people, and there are lots of people in Congress—and out—whom I like a great deal more than I agree with. One of the unexpected things—to me, anyway—about the House is how affable the leadership is. For instance, Carl Albert and Speaker McCormack show a great deal of interest in the new members and are patient and helpful about the little things that confuse you at the beginning. Of course, if you have a great interest in getting a particular bill passed, you have to have the help of the committee chairman concerned."

I was somewhat surprised by Lowenstein's mention of Representatives Rivers, Albert, and McCormack, because it had seemed to me that throughout our conversations Lowenstein talked about the intimate workings of the House of Representatives as though it were composed of Lowenstein and four hundred and thirty-four nameless members. I asked him about this.

"Well, one of the common-sense customs is that you don't discuss other congressmen in a personal way," he said. "You can see how doing that would undermine the kind of relationships we've been talking about. Sometimes you may have to do it, but the general rule—and I think it's a good one—is to talk about the issue or the approach instead of about individuals."

"At least, one can assess congressmen in general," I suggested.

Lowenstein nodded. "They're more like seismographs than you'd expect," he said. "Most of them are rather timid, considering their relative eminence. There's a real desire to represent their districts accurately on major issues, but there's also a tendency to misread the country, partly because the cumulative effect of being in the House is like that of being in a rather pleasant cocoon. There's a serious underestimation of what leadership, including their own, could do. Most members see themselves as leaders only in local matters, and the result is that that's what they tend to become individually, to the detriment of the House collectively. It's one of the sad consequences of believing the old saw that the first rule of politics is to get reelected. But even if Congress should now start to do much better—if the rules are changed and members begin to show more guts—the quality and direction of the President's leadership would still be the single most critical element at this particular turning point. When President Kennedy died, the country was in relatively good spirits and was moving forward. We had great problems, but people were hopeful, and the spirit of hope was contagious. I was in Mississippi in the summer and fall of 1963, with the civil-rights movement. Life was a nightmare, but nobody doubted that we were going to win—that America would come to the rescue of her downtrodden. America was going to be something good, and even Mississippi would come around. Who feels that way now? The awful change in the national mood is the result of something more than Vietnam and the defense budget. It is the result of President Johnson's over-all conduct as well. People in a democracy get sour if they feel they are being deceived. If the top leaders of a democratic society use words to conceal, or to mislead and divide, a mood of revulsion sets in among the people—revulsion against the government and against each other. So few people are in a position to reach the country quickly, to change this kind of mood. That's why Franklin and Eleanor Roosevelt meant so much—far more than all their specific programs and statements put together. And that's why the double loss of Martin Luther King and Robert Kennedy was so totally devastating. It's why I hoped that Nixon would do well—that he would seize the opportunity presented by succeeding Johnson. It's why I was so reluctant to criticize Nixon once he was elected. Presidential leadership could have made it so much easier to piece things together again after the nightmare of 1968. Everyone wanted to help him. If he had set the right tone and tried to move in the direction we needed to go in, the country would have moved quickly. There was really an eagerness for guidance and impetus from the top. It could have been contagious; it could have touched so many people so quickly. People wanted almost pathetically to trust a President. But Nixon seems to be frittering his moment away. He's buying popularity now at a terrible future price by promising things that are inconsistent and therefore cannot all be delivered. He has started this sad business of saying one thing and then saying another, and is thus risking the same kind of disenchantment that Johnson incurred. All this talk that Nixon can carry this state or that state in 1972 is so silly. The same kind of prophecies were made about Johnson. They mean precisely nothing three years ahead of time. People are going to judge Nixon by whether they feel that the things they are unhappy about have been changed. If he would begin, even now, to tackle the tough things candidly, to move away from the mistakes of the past, a lot of people would rally to help him. I know I would. But the impression is growing that we're all watching a juggling act—a skillful juggling act but still a juggling act—which sooner or later has to end with things crashing to a halt."

Lowenstein leaned back and became silent for a few moments, and then went on. "If the President won't lead the country toward basic change, our job is to put together a majority coalition to work for the kind of changes that will make things better. Change in *some* direction is inevitable. What is not certain is whether it will be in a Robert Kennedy direction or a Spiro Agnew direction. In the Depression, such enormous numbers of people were hungry or out of work that you could put together that kind of coalition, based on the reality of the needs people felt. Now, even with the war, a majority of the country lives comfortably. The people who are disaffected over their economic situation don't come close to a majority. In a sense, this country suffers from its own great material success. The fact is that economic rights and opportunities are withheld from the people who are outnumbered. Out of the frustration of having no way to get things changed, or even to get represented adequately, the unhappy people who are consigned to a permanent minority can turn to upheaval and disruption. We have to make a new majority for change that will include them. And will include the middle class, too, which is miserable about inflation, taxes, overcrowding, pollution. We must make middle-income people understand that solving their problems is related to solving the problems of the poor. It's not the poor who are getting the money out of the middle class—it's the war, the so-called defense budget. The middle class pays a disproportionate amount of taxes not because of welfare but because of oil companies. And what is collected unfairly is spent absurdly. What the McCarthy and Kennedy campaigns were doing—and I think everyone knows this by now—was bringing together the poor, both black and white, and the lower-income middle class, and the Spanish-speaking people, and great numbers of relatively well-off Americans who are upset about the war or discontented with the quality or style of life in this country. All those people together would make up quite a majority, and that was the basis of the 1968 alliances. It was what elected me. If there were effective national leadership for that kind of alliance now, it would carry the country. But, given the urgency of our situation, I am not optimistic about where the country is headed if the President can't soon be made to realize what's going on and to try to do the things that are so desperately needed. First of all, I think we are going to come apart as a people if we don't get out of Vietnam soon, and that would mean paying for this extended national stupidity with an eternity of awfulness. What might be worst of all about that would be realizing how close we came to getting started in the right direction. You might almost say that the margin was one bullet. I wonder what would have happened to us if Franklin Roosevelt had been killed in 1933. Could we have coped with John Nance Garner and the Depression at the same time? It's frightful how much more this country needs and misses Robert Kennedy now than it did even a year and a half ago. But saying that simply underscores how much harder we must work than we have been working."

It was now nearly 4 a.m., and Lowenstein and Arnold had to go. In a few hours, Lowenstein would be back in Washington. Just before he left, he said, I don't know what I will do if the effort to bring change through electoral democracy fails. The far left thinks—really, hopes—that an explosion is inevitable. You know the line: the whole society is hopelessly sick and Vietnam is only a symptom. I think that's untrue. But if enough people came to believe that—came to feel that it no longer mattered what they said or did—the belief could lead to our undoing. The only thing I'm sure about is that we must not fail simply because we didn't try, and try with all the energy and brains we can muster. If we did fail, would I join the revolution? Would I leave the country? After all, I would be obsolete. But I don't engage in the luxury of wondering what I would do if the effort shouldn't work. I'm committed to the notion that it *will* work."

PENN STATE PRESIDENT'S FAREWELL

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. GOODLING. Mr. Speaker, today some of our youth either take for granted or do not fully appreciate the remarkable qualities and accomplishments of their parents and grandparents.

An effort to correct this situation was manifested by Dr. Eric A. Walker when he was president of Penn State University and gave addresses at the university and various other educational institutions.

Dr. Walker retired from Penn State University on July 1 after serving 14 years as president of that institution. Before retiring he spoke to a graduating high school class in Wingate, Pa., and because his remarks contain both a challenge and remainder for our youth of today, I insert Dr. Walker's remarks into the RECORD and commend them to the attention of my colleagues:

PENN STATE PRESIDENT'S FAREWELL: LEGACY OF THE PAST

(Note.—Dr. Eric A. Walker, 60, retiring July 1 after 14 years as president of Penn State University—(presented a challange for the generation leaving school this month. His ideas are taken from talks he made at Penn State and to a recent graduating high school class in Wingate, Pa.)

This ceremony marks the completion of an important phase of your life. It is an occasion in which all who know you can share in your sense of pride and accomplishment. But no one has more pride in your accomplishment than the older generation.

But I am not going to tell that older generation how bright you are. Nor am I going to say we have made a mess of things and you—the younger ones—are the hope of mankind. I would like to reverse that process.

For if you of the graduating class will look into the bleachers, I will re-introduce you to representatives of some of the most remarkable people ever to walk the earth. People you might want to thank on this graduation day.

These are people you already know as your parents and grandparents. And I think you will agree that a remarkable people they are indeed. Let me tell you about them.

Not long ago an educator from Northwestern University by the name of Bergen Evans, a radio performer known to your parents, got together some facts about these two generations—your parents and grandparents. I'd like to share some of these facts with you.

These—your parents and grandparents—are the people who within just five decades have by their work increased your life expectancy by approximately 50 per cent—who, while cutting the working day by a third, have more than doubled per capita output.

These are the people who have given you a healthier world than they found. And because of this you no longer have to fear epidemics of flu, typhus, diphtheria, smallpox, scarlet fever, measles or mumps that they knew in their youth. And the dreaded polio is no longer a medical factor, while TB is almost unheard of.

Let me remind you that these remarkable people lived thru history's greatest depression.

Many of these people know what it is to be poor, what it is to be hungry and cold. And because of this, they determined that it would not happen to you—that you would have a better life, you would have food to eat, milk to drink, vitamins to nourish you, a warm home, better schools and greater opportunities to succeed than they had.

Because they gave you the best, you are the tallest, healthiest, brightest and probably best looking generation to inhabit the land.

These are also the people who fought man's grisliest war. They are the people who defeated the tyranny of Hitler and who, when it was all over, had the compassion to spend millions of dollars to help their former enemies rebuild their homelands.

It was representatives of these two generations who, thru the highest court of the land, fought racial discrimination at every turn to begin a new era in civil rights.

They built thousands of high schools, trained and hired tens of thousands of better teachers and at the same time made higher education a very real possibility for millions of youngsters—where once it was only the dream of a wealthy few.

And they made a start—altho a late one—in healing the scars of the earth and in fighting pollution and the destruction of our natural environment. They also hold the dubious record for paying taxes—altho you will probably exceed them in this.

While they have done all these things, they have had some failures. They have not yet found an alternative for war, nor for racial hatred.

Perhaps you, the members of this graduating class, will perfect the social mechanisms by which all men may follow their ambitions without the threat of force—so that the earth will no longer need police to enforce the laws, nor armies to prevent some men from trespassing against others.

But they—those generations—made more progress by the sweat of their brows than in any previous era, and don't you forget it. And if your generation can make as much progress in as many areas as these two generations have, you should be able to solve a good many of the world's remaining ills.

It is my hope, and I know the hope of these two generations, that you find the answers to many of these problems that plague mankind.

But it won't be easy. And you won't do it by negative thoughts, nor by tearing down or belittling.

You may and can do it by hard work, humility, hope, and faith in mankind. Try it. Goodbye and goodluck to all of you.

PRESIDENT NIXON VISITS LOUISVILLE, KY.

HON. WILLIAM O. COWGER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. COWGER. Mr. Speaker, I would like to take this opportunity to note the occasion of President Nixon's visit to my city, Louisville, Ky., yesterday to meet with the 13 Appalachian Region Conference Governors.

In return for the President taking the Government to the people, my city gave our President a warm and tremendous reception with more than 100,000 Louisvillians turning out for the occasion.

We appreciate the President's statements of high regard for our community and State. I hope he senses the strong support and esteem we have for his effort in the country's behalf.

MINI BLUEPRINT FOR A STATE BAR ASSOCIATION

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. PATTEN. Mr. Speaker, my friend Daniel L. Golden, president of the New Jersey Bar Association, delivered an address at our annual meeting which is really a prescription of progress for all of us and I know my colleagues will profit from reading it.

The address follows:

"A Mini Blueprint for the New Jersey State Bar Association," Address of Daniel L. Golden, President, New Jersey State Bar Association

It is a great privilege to accept the position to which you have elected me.

It is also a great privilege to be a part of the New Jersey State Bar Association, long an institution of stature in the profession we hold so dearly. It is an institution one never really leaves, because its essential character and aims pervade the professional experience of all who are associated with it. The New Jersey Bar Association is alive and vital. There is an air about it that says it is unafraid and that it dares, as it should, as evidenced by events of recent years. This Bar Association cares, and this caring is the essence of this great institution.

At the outset, I want to express sincere thanks to the membership at large for its confidence in elevating me to the office of president. To have earned the respect of one's fellow professionals is a privilege and a signal honor. To my immediate predecessor, the Hon. Charles L. Bertini, I extend thanks for his devotion to the monumental responsibilities which were his burden and which he shouldered well. To my fellow officers and trustees I am especially mindful of their sacrifices in time, effort and expense, but principally I am grateful for their intellectual courage, their forthrightness, and their professional competence. To our executive director, Francis J. Bolduc, and his highly competent staff, I owe monumental gratitude for spending much of their time making my job easier.

Most of all I am grateful to all of my predecessors, whose individual contributions have served to make this Association one of the great professional groups in the nation. The fact that the New Jersey State Bar Association is considered one of the most active and progressive associations is no accident. For as far back as I can remember, each administration added something of value to the Association. Since assuming the exacting position of secretary in 1964, I have been privileged to work closely with Past Presidents Foley, Hillman, Berry, Gibbons, Wharton and Bertini, with Secretaries Lummis and Clifford, and with Treasurer Vail. Each of these men added something of himself and his philosophy to the welfare of the Association.

While each President, his staff, and his Administration might be recalled for a specific contribution, it is no less important a fact that each builds up the efforts of those who preceded him. It is also fact that it is virtually impossible to institute and complete a particular program within the year of one's presidency. No president of this association can take credit to himself for the initiation and completion of a project; it is always the work of past, present and future administrations. The accomplishments of the Association are the results of this continuous process. Preserving that continuity is as great a challenge as the particular objective in mind.

To emphasize this continuity aspect I should like to address myself to some of the accomplishments of the Association in very recent years, as well as to areas which deserve our attention for the present and the future.

Many people are not aware of the positive leadership of the New Jersey State Bar Association as exemplified in the following areas.

1. The establishment of close liaison with the Governor's office in the judicial selection and appointment process.

Within 1 week after his inauguration Governor Cahill, through his counsel and the Attorney General, assured the officers of the Association that he would not appoint a candidate for judicial post or for prosecutor unless the Association found such candidate to be fully qualified for that appointment.

This is real progress and a far cry from the days when politicians "called the shots" while the Bar acted only perfunctorily, if at all.

2. The establishment of close liaison with the Supreme Court. Within the past two years the officers of the Association have met with the entire Supreme Court and the Administrative Director in pre-arranged sessions lasting for hours. On these occasions the Court has told us what it expects of the Bar; we have been given the opportunity to present the Bar's point of view and its problems. There has been a mutually constructive give and take, without publicity, without fanfare—and with good results.

3. The Association was the prime mover in calling to the attention of the Legislature and the public the need for meaningful conflicts of interest legislation.

4. The Association has always been the prime mover in endorsing salary increases for members of the Judiciary. It was also among the first to endorse legislation related to the removal of judges for cause.

5. The Association pioneered in obtaining a meaningful rule related to the unauthorized practice of law.

6. The Association was the first to advocate the use of full time prosecutors.

7. The Association has been a leader in bringing about, or causing to be brought about, the adoption of rules, rules changes, and legislative action in a host of areas from which the public and the profession have benefited.

8. Your Association has been the first and the most vocal in critically focusing attention on the negative aspects of the senatorial courtesy rule. Most recently we received much favorable comment from the press in having asked for automatic approval of a judicial nomination within a stated period of time if the Senate defers action under the odious courtesy practice. John T. McGovern, in the Newark News of May 3, 1970, said of the practice: "Today the Legislature is still deciding the fate of gubernational appointments behind closed doors, just as it did in 1776."

9. In general, your Association, more than any other professional body, has brought to its members a host of professional benefits, and has "gone to bat" for its members whenever the "chips were down".

I should now like to discuss present and future matters which deserve the thoughtful consideration of all citizens, attorneys or laymen, of our State.

I. *Criminal Law Reform*

There is no area in which constructive improvement is more urgently required than in the criminal law process itself. There has been no major revision of New Jersey statutory criminal law in years. In many court houses the length of the criminal calendars exceeds and defies reason. With an ever increasing population, with the expansion of the rights of the accused, adult or juvenile, by reason of precedent shattering decisions, with unrest and disobedience all about us, one can only hope that the obsolescent body of criminal law and procedure will be replaced as quickly as possible. The problem has been recognized by the Criminal Law Revision Commission created in the spring of 1969. In an interim report dated April 15, 1970, that Commission advocated the enactment of a modern, rational penal code as essential to law enforcement. The President's Commission of Law Enforcement and the Administration of Justice drew the following conclusion:

"American criminal codes reflect a broad consensus on the appropriateness of employing the criminal law to protect against major injuries to persons, property, and institutions. But the absence of sustained legislative consideration of criminal codes has resulted in the perpetuation of anomalies and inadequacies which have complicated the duties of police, prosecutor, and court and have hindered the attainment of a rational and just penal system.

"Some examples of these substantive inadequacies are the failure in most cases to treat as crimes highly dangerous conduct which does not produce injury, whether the conduct is undertaken negligently or recklessly; the unsatisfactory delineation of the line that separates innocent preparation from criminal attempt; the absence of laws that make criminal the solicitation to commit crimes; the amphorous doctrines of conspiracy that have grown unguided by considered legislative direction; the inconsistent and irrational doctrines of excuse and justification that govern the right to use force, including deadly force, self-defensively or in the prevention of crime, or in the apprehension of criminals; and the confusion that surrounds the definition of the intent or other culpable mental states required for particular crimes.

"Legislative criteria for distinguishing greater and lesser degrees of criminality are in no less need of reexamination than legislative definitions of criminal conduct. For these criteria determine such matters as eligibility for capital punishment, applicability of mandatory minimum sentences, availability of probation, and length of authorized maximum terms of imprisonment—matters that may be even more significant issues in a particular case than whether the defendant is in fact guilty. Yet here too legislative inattention has been marked.

Our New Jersey Commission has recommended forceful action:

"The problem is particularly acute in New Jersey today. We are in an era of rising crime rates and we must be sure that we are using the law enforcement facilities available as effectively as possible. This includes both confining law to a proper sphere of activity and assuring ourselves that persons appropriately subject to a criminal sanction will not escape because of a poorly defined crime. We are in the midst of a crisis with regard to respect for law. We must be sure our criminal statutes do not add to it, breeding contempt for law and disrespect for the enforcers of it, by being anachronistic or hypocritical. Further, New Jersey has never had a comprehensive penal code. While most states have the problem of an outdated code, we must start virtually from scratch. Our statutes now only define the elements of the offenses. We have almost no statutes relating to the general part of the criminal law, i.e., those relating, for example, to principles of liability, responsibility, justification or excuse. Presently, this is found in our case law. Rationality demands that it be codified."

In short, what we need is our own "Manhattan" project in which crime prevention, apprehension, trial, sentencing, corrections, probation and rehabilitation are merged under what might be termed a "humanist" approach. No easy answer is available. Special grand juries, wire tap evidence, pre-trial detention and severity of sentencing will not provide all the answers. Society itself, with the aid of an enlightened bench and bar, must take an overall view, and prepare a program funded generously. The early consideration and adoption of a new penal code in New Jersey will be a giant step forward.

Much valued work has already been done in this direction by the American Bar Association, the American Law Institute, and of course, the President's Commission. It is for us, the practicing active members of the bar, to encourage and assist their efforts. I am, therefore, asking that our Criminal Law Section give top priority to this pressing problem. Only then, in the words of Chief Justice Burger, can we hope to "close the revolving door of crime, prison, and more crime."

I respectfully submit that a new criminal code for New Jersey with more precise standards of enforcement and sentencing—together with courage—must be a top priority for the profession and for the public. The adoption of such a code can be accomplished within every protection afforded by the Bill of Rights to an accused—while at the same time protecting the public.

II. LAW AND ORDER

That the meaningful participation of the Bar is essential to the maintenance of law and order is elementary. As judges, prosecutors, defense attorneys, government officials at all levels, and primarily as officers of the Court we have a solemn duty to promote the majesty of the law and the necessity for order. To do less would be derelict.

The "Chicago 7" trial. which has been called a "tawdry judicial parody", presented relatively new ramifications of the law and order problem, i.e., the deportment of litigants during the course of a trial; the deportment of their attorneys; even the deportment of the judge.

In a thoughtful article in the New York Times Magazine Section 6 weeks ago, Louis Nizer discusses this very problem. He advocates jail for the defendant who violates decorum, the removal of counsel who deliberately obstructs justice by collaborating with a client's misbehavior, the control of the practice of packing the courtroom with voluble adherents of the defendants, the suspension or disbarment of any lawyer "who engages in unseemingly conduct involving the honor and dignity of the profession", and finally the enactment of federal and state legislation making disruptive conduct in a courtroom a felony—the felony of obstruction of justice.

Mr. Nizer says, "We owe it to accused persons to preserve a trial procedure which is classic and protective . . . Can it be said that taking stronger measures to preserve the judicial system is repressive?"

"To make our democratic institutions effective, within clearly defined legal limits, is the least we can do. It is a noble task—one not to be decreed as repression."

"There is a joke about our legal system: 'This is the only country in which the defendant goes home at night, and the jury is locked up.' "

The attitude of certain highly placed public officials does not help the cause, either. Just over a month ago, the Governor of Florida defied the Federal Courts over school integration. He removed school officials on patently transparent grounds, took over the local schools, and refused to carry out the orders of the court. If a Governor does not treat court decisions as legitimate, how can other citizens be asked to do so?

Some of us try to take the phrase "law and order" as a high ideal, meaning decorous debate about any grievance and peaceful acceptance of decisions reached throughout the processes provided by society and the law in order that grievances may be resolved. The realization of that ideal is a pressing necessity today. The Wall Street Journal in a recent editorial called it "an ideal hard enough to uphold under the best of circumstances, let alone when it is encumbered by the kind of albatross Governor Kirk fashioned for its neck."

The time is here when we must reaffirm our dedication to a system whereby grievances are resolved and decisions are rendered in accordance with a system of living law, in an atmosphere of dignity, decorum and respect.

III. THE LAWYER IN THE QUEST FOR WORLD PEACE

Wars, external and internal, rage on in Asia and the Middle East. Strife is found in Greece, South America, and Africa. The responsibility for these events is shared by politicians, statesmen and military men. But the real hope "for peace, harmony and the joys of life in our time in a truly civilized community lie in great measure with lawyers of the world."

The New Jersey Law Journal in a thoughtful editorial on January 2, 1969 (92 N.J.L.J. 4) stated that "Law as the embodiment of agreed-upon rules of personal and national behavior is the subject of a lawyer's training. Only by living according to adequate law, domestic and international, can there be peace at home and abroad.

"Lawyers, therefore, by training, by experience and by their aptitudes in formulating, administering, and enforcing law as legislators, executors, statesmen, advocates, consultants, advisors and draftsmen are particularly qualified and have a responsibility to promote the cause of law and peace. True, it is, they alone cannot achieve peace through law. But certainly they are better qualified than any other single profession or calling to lead the world in the age-old (but we hope, not eternal) search for peace on earth." This quest is not necessarily an impossible dream.

The American Bar Association helped create the World Peace Through Law Center now in Geneva. Our own association has an extremely active Section on International Law. Our own bar has been represented at conferences of the Inter-American Bar Association. There comes a time—and it is here now—when every lawyer must stretch his mind in making a concerted contribution to the cause of world peace through law through membership in the international associations and in national and state bar sections on the subject.

I have had the fortunate opportunity to travel to many countries under the World Peace Through Law program and under governmental auspices. These travels have reinforced my deep feelings about the contributions we all can make. Under the State Department Cultural Exchanges Program, I have been privileged to study legal systems in the U.S.S.R., Eastern Europe, the Middle East, and the Far East. From these experiences, I have found a number of attributes, common to lawyers worldwide. Lawyers speak the same language of the law, have the same problems with clients, and occasionally with judges, are ——— good advocates, enjoy adequate fees, and have a high regard for their respective systems of justice. In great measure lawyers dominate the law-making bodies of the world, and thus have the singularly important function of making law, interpreting law, and establishing criteria and mores by which their peoples are governed. If, therefore, there can be meaningful dialogue among the lawyers of the world, it follows that the difficult path to world peace can be made a bit easier to navigate.

V. SERVICE TO THE PUBLIC

However else historians may describe the 60's or project the 70's, one major fact which they must acknowledge is the innovative role of the lawyers and the courts. The young men and women who are entering our profession want to turn their talents loose in different and new forums. They want to serve the disadvantaged and the forgotten in new and different ways.

These same young people coming out of the best law schools are not accepting prestigious appointments nor the fat salaries offered by the larger law firms of the nation. They are seeking and accepting appointments in governmental service, in agencies which bring the message of the law to the underprivileged, or in neighborhood law offices where the pay is low but the knowledge that one is making a contribution to his fellow man is high.

It is our responsibility, as established attorneys, to help them do this, and to do some of it ourselves. It should however be noted that, with little flamboyancy and without the spotlight of the communications media, established lawyers have been rendering valuable public service for many years. In the area of civil rights, particularly, our profession must be accorded full credit for much of the past decade's progress.

Much more remains to be done for the public, however. It is not sufficient to concentrate on "bread and butter" work alone. It is not sufficient to be content with the daily tasks of closing titles, planning estates, representing plaintiffs or defendants in negligence cases, or in being exclusively this or that particular type of lawyer. We must go beyond these spheres of professional activity which provide for most of us more than an adequate livelihood. We must be contemporary. Our failure in some instances to be contemporary underlies the so-called generation gap. The young are correct in their dissatisfaction with our too passive attitudes concerning the pressing problems of the day. The public is entitled to our help in meeting the new challenges of the day, whether they be legal, political or social in nature.

To this objective I have announced in the New Jersey Law Journal my intention to appoint new special committees, among others, as follows:

Public Health & Environment Law.
Conservation & Ecology Problems.
Drug Abuse & Narcotic Problems.
Causes & Prevention of Civil Disorder.
Housing & Urban Affairs.
Racial Minorities & Contemporary Law.
Consumer Education & Assistance.
200th Anniversary of Declaration of Indeendence.

Activity in these fields will make us sharply relevant to understanding the tensions that strain the fabric of our society.

A. COURT CALENDARS AND THE BAR

As an organization, through its various sections and committees, and as individuals, we must work with the Courts on the ever present problem of calendar congestion. Nothing confuses the lay person more than the unreasonable and unexplained delays in the judicial process. Nothing is more burdensome to lawyers.

As individuals, we can make a great contribution by the application of common sense, good judgment, effective advocacy with clients, and a less selfish approach. The plaintiff's attorney who deludes his client as to the value of a case, who makes unreasonable demands for settlement, and who is neither candid with client, adversary or the court, is to be blamed as much as the defendant's advocate who, in attempting to impress his carrier with his "toughness," fails to engage in meaningful settlement negotiations, or resorts to delaying tactics of one sort or another by unnecessary motions. In point of fact, most cases (92%) are settled prior to actual trial. If this be so, could not a franker dialogue between opposing counsel result in the settlement of cases which seem to occupy the largest part of our calendars? I am pleased to report that our Section on Civil Procedure has met with the Administrative Director of the Courts and with the Assignment Judges during this convention to review procedures intended to deal with the congestion problem.

Innovative proposals to deal with this problem are being applied at present. In Middlesex County, for example, plaintiffs' and defendants' lawyers have initiated an Early Settlement Program. Panels of leading plaintiffs' and defendants' lawyers, to whom other attorneys submit their cases, have brought about settlement of over 50% of the cases, much in advance of trial. The Court has been cooperative in providing facilities, as have adjusters, clients and counsel in their attitudes toward settlement.

It would be helpful, too, if the Court were always mindful of the problems related to trial practice and to the practice of law generally in these times. It is the lawyer's fondest hope that every judge, notwithstanding the passage of time, will remind himself of his own days as a practicing lawyer, and that he will recognize that the practice of law today is fraught with problems which did not exist just a few years ago. Shakespeare's words in "Julius Caesar" may be appropriate:

> " 'Tis common proof, that lowliness is young ambition's ladder,
> Whereto the climber-upward turns his face;
> But when he once attains the upmost round,
> He then unto the ladder turns his back,
> Looks into the clouds, scorning the base degrees
> By which he did ascend."

B. ESTABLISHMENT OF A FAMILY COURT

This Association, through its Family Law Section and the Committees which preceded it, has for years advocated the creation of a Family Court in New Jersey. Resolutions have been adopted and submitted to the Legislature on a number of occasions. Regrettably, little action of a positive nature has been taken to date. That our present procedures simply are not adequate for coping with the complexities of family discord has become increasingly apparent, and their inadequacy is reflected in the number of marital actions which clog the courts.

The law should be designed to promote family stability by preventing divorce where it is not warranted, and reducing its harmful effects where it is necessary. Perhaps a fresh look at the legal grounds for divorce in our State is in order.

The Family Court would have broad jurisdiction over the many faceted actions, civil and criminal, which relate to the welfare of the family unit. These would include marriage, separation, nullity, dissolution of marriage, child custody and support, alimony, division of property, paternity and legitimization of children, guardianships, and cases generally involving legal relationships within a family.

C. THE SELECTION OF JUDGES

The Association in recent years has had a significant effect on the election of judges. As a result of a series of meetings held with Governor Hughes and President Bernard Segal of the American Bar Association, our Chief Executive stated that he will not submit a judicial nomination to the State Senate without the clearance and approval of our Association. We are pleased to report that within five days of Governor Cahill's inaugural, a joint conference was held with the Honorable Pierre Garvin, Counsel to Governor Cahill, the Honorable George Kugler, Attorney General, and the Executive Committee of the Association. The Governor has made it crystal clear that he will not nominate any person to be a judge or a prosecutor unless the Judicial Appointments Committee affirmatively finds such a person to be fully qualified for the position.

It is apparent that the selection of judges is a primary responsibility of the Governor. It is equally apparent that our system sometimes breaks down because the isolated instances of abuses of the "senatorial courtesy" rule. What is the public to think when a busy county, overloaded with legal cases, finds it necessary to postpone all civil matters for months simply because its limited number of judges have been, by necessity, assigned to criminal cases? What do the citizens of that same county think of the failure to appoint judges to existing vacancies only because a single senator refuses to give his blessing until or unless his particular choices are made?

Your Association has vigorously fought against the senatorial courtesy rule for a number of years. The Board of Trustees of the Association recently adopted a resolution calling for a specific time period in which the Senate must act upon a nomination of the Governor's; failure to act within that time would signify automatic confirmation. Wide and favorable publicity on this action appeared in editorial columns of the papers of this State.

Hopefully, we have passed the day and age when a judgeship was described as a "political plum." It is to be hoped, too, that those members of our State Senate who happen to be lawyers will also rise above the sometimes destructive end results of the unwritten senatorial courtesy rule, and will in fact seek only to work with the Governor in the selection of the best qualified candidates for the bench, for the office of prosecutor, and indeed for all appointments to highly sensitive positions.

D. AN OMBUDSMAN FOR NEW JERSEY

I suggest that the Association study the advisability of having the State create a special office required to handle citizen's complaints—An Ombudsman for New Jersey.

Millions of Americans view government as distant and unresponsive, if not hostile. Though often the targets of the resentment which ensues, government officials are usually not the cause of remoteness, but rather its victims. Improving the means by which individual citizens can voice dissatisfaction with governmental action or inaction will make for a more democratically effective society.

VI. SERVICE TO THE PROFESSION

I have previously alluded to some of the accomplishments of this Association.

This Association is big business. It works for you around the clock. It is responsive to your interests and desires. It is not an "establishment" in the opprobrious overtone often associated with that word. It has been said that the Establishment criticizes but never overturns—and that, incidentally, makes it different from an artistocracy which does not even criticize. Having had the privilege of serving as Secretary to the New Jersey State Bar Association for three years and having also served as Vice-President of our organization, I know what dedication lies behind the growth and stature of the Association. Leading lawyers on the Board of Trustees give of their time unselfishly, as do the committee and section chairmen. Our Association, through its officers, trustees and professional staff, has participated in or initiated over 250 meetings during the past year—meetings which dealt with problems of all lawyers. All members of the Bar are encouraged and invited to join Sections and Committees.

Were you to be as fortunate as I in having worked with these men of vision, with men of viewpoints ranging from conservative to liberal but not to extremes in either direction, from strict constructionists to exponents of change, from the outgoing trial lawyer to the more reticent, quietly probing estate or corporate lawyer—all of whom have had some part in the destiny of your Association, you too would be proud to be part of the Establishment. Once again, I invite you to join us.

To continue our service to the profession, I intend to create several new committees to deal with the following subjects, among others:

Legal Education and Admission to the Bar.

Professional Economics and Law Office Management.

Liaison with Colleges, Law Schools and Law Students.

State Law Revision.

Uniform State Laws.

A. CONTINUING LEGAL EDUCATION

We have had considerable success in continuing legal education, but our efforts must be stronger than ever. These must be geared, not only to the "how-to-do-it" activities, but also to the areas of broader professional responsibilities. Justice Thomas W. Pomeroy of the Pennsylvania Superior Court suggests "we should even expose ourselves to the occult mysteries of science, automation, and cybernetics, so that we can talk the same language as some of our clients." It was John Marshall who said that "no lawyer is entitled to the honorable and conventional epithet of 'learned' if his reading is confined to statutes and law reports."

To dramatize the main concerns of justice we must constantly strive to stretch our minds. We must get involved. To this end, I have announced the formation of new special committees, such as:

Ecology and Conservation
Electronic Surveillance
Environmental Law
The Lawyer's Role in the Search for Peace
Science and the Law
Oceanography Law
Space Law

Your participation is encouraged and invited.

Our Practising Law Institute and Continuing Legal Education programs have been appropriately cited for excellence. My own experience in attending such sessions is the pleasant discovery that one usually sees the busy lawyers present. Perhaps this is what keeps them "on-the-ball." A competent lawyer exudes confidence which is appreciated by the client. The client is then more receptive to advice, and the whole process of litigation profits by the more reasonable and conciliatory viewpoint. Confidence in the judicial process is the end result.

B. FUTURE LAWYERS

As a further service to the profession, and indeed to the public, I suggest a system of attracting good law students to practice in New Jersey. The problems of recruitment are known particularly to our larger firms who are in competition with even larger firms in the metropolitan areas. New Jersey practice has become somewhat overlooked as a result of the glamour packaging offered by firms in New York, Philadelphia, and Washington, D.C., on the East Coast. And yet we have in this busy state every conceivable type of practice to offer the young, interested lawyer. He can enjoy membership in a number of large firms; he can settle in a medium sized firm located in the less densely populated cities. He can pioneer with either young or established lawyers in the many rapidly growing communities of an expanding industrialized and residential state. He can enjoy the rewards of private, personal practice in the smaller communities, perhaps by himself, with the priceless thrill of being needed by many of modest or little means. In all instances mentioned above, he will find that the opportunity to make a decent livelihood is much greater here than in most places in the nation.

How do we sell New Jersey practice to good law students? I propose the creation of teams of two or three practicing lawyers who would be available for consultation at appointed times and places at the law schools in New Jersey, in the metropolitan area, or indeed at any law school which expresses an interest. I also propose a plan which was recently introduced in Wisconsin. Here the lawyers of the Wisconsin State Bar Association work directly with the Law School at the State University, where for example active practicing lawyers have set up courses such as "General Practice." The result is a tying together of the theoretical with the practical. There has long been a need for bridging the gap between pure legal knowledge and what one does when actually engaged in practice. If nothing else occurred, the student will have had the benefit of professional instruction and practical application—long a missing link between admission to law school and admission to the bar.

C. THE BAR AND THE SCHOOLS

I advocate offering our services as an Association and as individuals to the public and private schools of the State, particularly at grade school levels. President Segal of the American Bar Association noted in his Law Day address that "72% of all offenders under 20 years of age are rearrested for another crime within five years after release from custody". And Chief Justice Burger has noted that the majority of all major crimes are being committed by young offenders. Perhaps a meaningful classroom program commencing at the 6th grade level on the meaning of the law, its rights and obligations, and its penalties, would be more indelibly impressed on the young mind in its formative years. These efforts are effective, as evidenced in the successful programs conducted by the Chicago and Cleveland (Ohio) Bar Associations, which have done wonderful work in those areas of their respective cities where respect for law was most needed. Most recently, the Mercer County Bar has initiated a program in the schools on education and the law relating to drugs and drug abuses.

D. THE BAR AND LOCAL LAW ENFORCEMENT AGENCIES

I propose a plan whereby the Bar would send lawyers as instructors to every community agency that requested them. These instructors would expose our local police forces to the proper legal interpretation, the ramifications, and the implication of some of our Supreme Court decisions such as Miranda, Gault, and Escobedo. The effect of such a program, I feel, must result in a better system of law enforcement.

CONCLUSION

At the close of the Judicial Conference held in Newark last May, the Honorable Edward B. McConnell, our distinguished Administrative Director of the Courts, presented a "Blueprint for the Development of the New Jersey Judicial System." His presentation included some of the most significant broad range proposals in our judicial history. It included, among other things, some of the items which I have alluded to in this message. His call was loud and clear "for involvement, for thought, and for action by all Justices, Judges and Lawyers." The New Jersey Law Journal in a fitting editorial on June 5, 1969, said, "All of his blueprint may not be implemented at one time or in a short time, but starts can be made on the transfer from his blueprint to construction. Bar Associations, perhaps led by the State Bar Association, could take Mr. McConnell's Blueprint and commence a program of action immediately on many of his ideas." As to the judges, Mr. McConnell has expressed about all that can be said for their contributions:

"The greatest single incentive that exists is each individual judge's desire to measure up to his own personal standards of excellence."

The same incentive would obviously apply to lawyers.

It was my intention, in a smaller sense, to present in this message a "mini blueprint for the New Jersey State Bar Association," for the same reasons and in the same spirit. Here, too, much time will be required. If we could but start on some of the basic projects, and at the same time continue to build upon the efforts and accomplishments of our predecessors, we shall have acted in the highest traditions of the profession.

I personally believe that a Bar Association should preserve its traditions and rely upon its past experiences in determining its manner of operation for the future. This, however, does not operate against our taking an activist position as an association of professionals when public and professional issues are at stake. We cannot afford to bask in the comfortable sunshine of the status quo. It is my hope that this Association will lead, initiate, innovate, and speak up when circumstances require positive action. It is my belief that an association is derelict if it waits to be asked to take a position in issues of vital importance to the public or to the profession. I would like to see this Association do, for example, what the Association of the Bar of the City of New York did two weeks ago when it suggested that lawyer members of Congress be restrained from practicing law. In these times we may be expected and should be expected, to take positions on the issues of the day—and there are plenty of them. The problems of race, pollution, crime, poverty, hunger, population, corruption, dissent, the right of privacy, strikes, the inadequacy of education, taxes, public indifference, archaic governmental institutions, ethics, and the general difficulties involved with the recurring violations of the dignity of human beings are present manifold today. We cannot afford to be passive. Circuit Court Judge John J. Gibbons, in his acceptance address as the incoming president of this Association, warned us cryptically and to the shock of those resistant to change, that if lawyers did not do anything about many interrelated legal and social problems of the day, somebody else would be doing it for them.

The legal profession must be concerned because the law seeks fairness, equity, and peaceful redress of grievances—these are the benefits of legal order. For many, our institutions have proved inadequate to secure the benefits of equal justice. It is for us to lead in rebutting this proof and in overcoming the failure of our institutions to respond to the legitimate needs of the public.

In these extended remarks, I am reminded of the young lawyer who said to the trial judge, after a long summation, "Your Honor, I apologize for having trespassed upon your time." To which the learned judge said, "Young man, you have not only trespassed upon my time, you have encroached upon eternity." I do hope that you will forgive me. I know that you will understand the spirit in which my talk was presented. Perhaps I could have stated everything that I believe the law is and our profession should be in a brief story about Rabbi Hillel, sage of the generation before Christ. Rabbi Hillel was challenged by an idolater one day to tell him all about Judaism in the brief minutes the questioner could stand on one foot. Hillel replied, "What is hateful to thee, do not do unto thy fellowman. This is the whole law. The rest is mere commentary."

The law is a challenge intellectually; it is a challenge ethically; it is a challenge in terms of human relationships; it is a challenge in a civic sense; and finally, it is a challenge in terms of trying to keep a peaceful world. The late Justice Felix Frankfurter expressed his view of the law in this manner: "The law touches every interest of man. Nothing that is human is alien to it. Its demands are exacting and exhilarating; the satisfactions it affords are rich and enduring. Cast thy bread upon its waters; it shall be returned to you manyfold."

With your help this might conceivably be a Golden year.

LOW-INTEREST LOANS FOR SINGLE-FAMILY HOME CONSTRUCTION AND PURCHASE

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. LUJAN. Mr. Speaker, in introducing this bill to provide a source of low-interest loans for single-family home construction and purchase, I want to point out the need for such legislation and to explain briefly how my proposed program will satisfy that need.

Congress has for decades recognized the duty of the Federal Government to assist American families in the building or acquisition of a decent home. The many programs that have been developed to do this have helped make our country the leading Nation of the world in terms of the percentage of families who own or are buying their own homes. But most of these programs are tied to the availability of money, at reasonable interest rates, in the mortgage market. In times like today, when mortgage money is scarce and interest rates at record high levels, these programs become unworkable and the people are denied access to the capital necessary to build or buy their own homes.

Yet the need for new homes continues to spiral upward as young people marry and seek to establish themselves as permanent and responsible members of their community. It is of no value to them to learn that there are home loan insurance programs available if they can find someone who has the money to lend, because they know that less and less of available loan money is going into the home mortgage market. Nor does it help them to have VA loan programs on the books if they have to pay "points," in dollars that they don't have, in order to obtain such a loan.

Many credit-worthy families today are being denied mortgage financing on reasonable terms, not because of their inability or unwillingness to repay the obligation but because private funds needed for home financing have been diverted into other investment avenues more attractive to the lender. Such funds are available for home mortgages only at rates of interest that are all too often unconscionable. Millons of qualified potential home buyers are forced to "wait out" the tight money and high interest squeeze, and in the meantime the homes the Nation requires are simply not being built.

The bill I have introduced will resolve this dilemma by making available a revolving fund of $10 billion to be loaned to qualified builders or buyers at a reasonable rate of interest. The fund would be administered by a Federal corporation—the Federal Home Mortgage Loan Corporation—which is also created by this legislation.

The $10 billion to be appropriated for this purpose would be channeled into the home construction and buying market through two separate functions of the Corporation:

First. The Corporation would advance funds to qualified private financial institutions for the sole purpose of financing the construction or purchase of new single-family dwellings. The financial institutions would pay the Government 4 percent annual interest on these funds, and would charge the borrowers an interest rate not to exceed 6 percent.

Second. The Corporation will purchase mortgage loans made by qualified financial institutions to finance the construction or purchase of new single-family dwellings. The purchase price to be paid for such mortgages will be established under regulations prescribed by the Corporation but will assure the financial institution a return of two percentage points on its investment.

Mr. Speaker, the details of how this program would operate are contained in the bill itself. At this time, I wish only to call the attention of my colleagues to the extreme urgency of this problem, both from the standpoint of our people who need homes but cannot buy them and from the standpoint of homebuilders who want to construct new homes but cannot obtain construction loan money.

The crisis is upon us. The need is now. The demand of our people for better private housing will not wait. Nor should we. The $10 billion provided by this bill will equal only 3 to 4 percent of the presently outstanding total of mortgages on residential property, but it is nearly half as much as the total of saving and loan associations' new loans made in 1969 for home construction or purchase. If we act now, we can meet the housing crisis head on and avert its potentially disastrous effects.

EXCESSIVE COVERAGE GIVEN "REVOLUTIONARIES" IN OUR SOCIETY

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. LANDGREBE. Mr. Speaker, I wish to call to my colleagues' attention an article which appeared in the Indianapolis Star of July 9, 1970. It was sent to me by a constituent, Mr. Peter J. Ruden of Winamac, Ind., and is written by nationally syndicated columnist Henry J. Taylor, who comments on the excessive coverage given "revolutionaries" in our society. I urge every Member's attention to this article as well as of those officials in the television media:

TV Cameras Focus On Revolutionaries

(By Henry J. Taylor)

New York.—Infiltrated CBS, NBC and ABC still push on us such individuals as William Kunstler, attorney for the convicted Chicago 7, under the subterfuge, as usual, of "news."

Kunstler attended an Oakland (Calif.) conference conducted by the Black Panthers. He stated in reference to the death of white policeman John Gleason in Plainfield, N.J., "The crowd, justifiably without the necessity of a trial, and in the most dramatic way possible, stomped him to death."

The William Kunstlers, et al., pushed into our nation's homes on TV, who proudly proclaim they are revolutionists, are not just hot-headed "generation gap" youngsters. They are adult mobsters with co-ordinated plans and defined goals.

Meanwhile, while criminals and their propaganda are literally featured at every turn by infiltration on CBS, NBC and ABC, the excellent, police-oriented programs, "The FBI" and "Adam 12," have been dropped.

This column has asked several times whether you think it's coincidence that anybody—literally anybody, some anonymous person who is certainly not newsworthy at all—can achieve a nation-wide TV news spot if he is condemning the United States, a university, the ROTC, any of our respected institutions, a judge in some courtroom, the American flag or the forces of law and order. Why?

The anarchy that many people are being taught on TV they are practicing. "Teach anarchy and violence to the young," said Lenin. The respected National Association for Better Broadcasting reports that the average American child during the ages of 5 through 16 is subjected to 21 hours a week under the influence of TV.

The mayhem watched is now so immense that before reaching 16 the average child witnesses some 12,000 TV deaths. In one week, in just one city, TV stations showed nearly 800 acts of violence.

How can so many among us be blind to the profound helpfulness of all this to the Communist masters?

Anarchy—monumental anarchy—is on the planning boards in Moscow. The Kremlin men know that internal demoralization plus external encirclement, reinforced by nuclear blackmail, can equal overt or covert surrender.

The explosion of the first Soviet nuclear bomb in 1949 was the beginning of a redistribution in the balance of power. The Moscow center of world wide Red manipulation has achieved a military stalemate.

Everywhere I go in the world the Communists live on the prestige of violence. Read today's dispatches from anywhere. By their conspiracies, their power grabs, their fifth-column groups, their propaganda of local terror, their clever appeals to people who do not know they are serving the Red cause, they strike at America from the inside. We are the chief target, for the United States is the only country the USSR fears.

Russia does not intend to lick America, or even to fight America. Russia does not want actual war with us. Russia does not intend to have it. War with atomic-armed America would hurt Mother Russia. They are not fools. "They have very canny brains," as President Nixon himself once said.

The Kremlin masters have a better idea. They expect us to lick ourselves. They expect us to knock ourselves out in our own gymnasium.

The Moscow planners are pursuing this idea every hour of the day and night. They know that the key to our world power is our home power. If our home power is lost our world power is lost. Everything the Kremlin masters do and say today is dedicated to cracking America's solidarity and sense of greatness.

This is why the constant, relentless TV featuring of the William Kunstlers, et al., and the steadily repeated TV violence are the greatest things that can happen for the Kremlin masters—really hitting the U.S.A. jackpot, sweeping the board of the winning stakes and breaking the bank all in one.

TV is the most powerful medium any civilization ever had. Don't the TV stations, getting a free ride on the public's airwaves, have any responsibility at all?

SOARING: ONE OF THE WORLD'S FASTEST GROWING SPORTS

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. WHITE. Mr. Speaker, recently the community of Marfa, Tex., in my district, was the focus of worldwide attention as the site of the first world championship soaring contest ever held in the United States. Pilots from 25 countries participated.

Soaring is one of the world's fastest growing sports. In the past 10 years, its participants have increased tenfold, from some 1,500 to an estimated 15,000. But it is much more than a sport. Each year, it contributes sound scientific information to our knowledge of the atmosphere, and develops new techniques of utilizing that information.

The Marfa World Championship Soaring Contest was an outstanding success, due in large measure to the enthusiastic support of the people of west Texas. Last year, Marfa was host to the National Soaring Meet, and the enthusiasm grew toward the international event this year.

Among other matters, I was pleased to help arrange the necessary clearance for many of the foreign pilots, which permitted a large and highly successful competition. I was also able to assist in securing a special postal substation for dispatching mail from the soaring meet. I was greatly pleased when the President sent his greetings after I notified him of the international event.

The significance of the Marfa World Championship Soaring Contest was well told in two fine newspaper articles, one by B. Drummond Ayres, Jr., in the New York Times of July 5, and one by Bruce Bissonette, of El Paso, Tex., who spent 3 weeks in Marfa as press director of the contest, and reported his experiences in the El Paso Times, for which he is aviation editor. So that my colleagues will realize the significance of this event, I include these articles in the Record:

Like Eagles, Glider Enthusiasts Get 'High' by Soaring

(By B. Drummond Ayres Jr.)

Marfa, Tex., July 3.—The eagles that wheel and dive endlessly under the burning sun west of the Pecos were challenged this week.

Men have taken to the air in graceful fiberglass birds that compete on equal terms for space among the clouds.

Even by Texas standards, it has been a good fight.

The invasion of the lofty preserve of the great United States symbol came about because Marfa was chosen as the site for the 12th world gliding tournament, the apex of the sport in which motorless light planes soar about the sky on wind currents.

Few places on earth have a better combination of vertical and horizontal currents than this little cowtown that lies between the Big Bend Mountains and the great Southwestern Plains.

Pilots from 25 countries have been drawn here for the tournament, the first international gliding contest ever held in the United States.

During the past two weeks, Englishmen and Frenchmen, Danes and Chileans have raced one another repeatedly over prescribed courses, hoping to find a medal and a title at the end.

THE AFFLUENT SPORTSMAN

But the tournament is more than a simple manifestation of man's nagging desire to break his earthly bonds and perhaps become a world champion in the process.

It is also a testimonial to the increasing affluence of sportsmen everywhere, particularly in America.

Unlike an eagle, whose value can be computed only by the heart, the worth of a man-made glider is as clear as a starry Texas night—anywhere from $7,500 to $25,000.

Such an investment seems larger still given the fact that a glider has no commercial use. It is only a fun machine.

As in the equally expensive sports of yachting and auto racing, more and more people are enjoying the fun.

Fifteen years ago, according to the Soaring Society of America, the primary United States gliding group, there were only 400 gliders and 1,500 gliding enthusiasts in this country.

Today, the society says, there are about 2,000 gliders and more than 15,000 pilots and enthusiasts.

Significantly from an economic standpoint two of every three American gliders are owned by individuals. The remainder belong to club and rental agencies.

In Europe, where serious gliding started back before World War II, most of the craft are owned by clubs, mainly because of the lower standard of living on the Continent. However, to assure continued growth of the sport, many European governments subsidize clubs, and competitive meets are scheduled regularly.

At first glance, a glider appears to be nothing more than an ordinary light airplane with an extra slim fuselage. But this craft, which usually weighs less than 1,000 pounds and has a wingspan of about 65 feet, deserves more detailed inspection.

Like the eagle, it is a particularly handsome bird, free of engine nacelles, radar pods and struts.

It is also a clean bird, without streaks of soot or clouds of acrid fumes.

And most of all, it is a quiet bird. Up in the air currents, there are no throbbing engines, no keening, only the soft symphony of the wind slipping past.

PILOT'S SPIRITS SOAR

Such music makes the spirit soar, sometimes uncontrollably.

The other day here at Marfa, when George Moffat, one of the best American pilots, landed after a good flight, he seemed in a trance, as though part of him was still up among the clouds.

His English, which he teaches at a private school in Elizabeth, N.J., failed him. He walked away from a crowd of admirers mumbling, "Umm, umm."

(Later, after things had settled down, he told a friend that soaring was enough to make a man want to stay away from Elizabeth forever.)

Men like Mr. Moffat are purists.

The glider pilot relies on a powered plane to tow his craft into the sky but after that he stays up only by his wits and his luck. He must successfully negotiate the invisible gap between one wind current and another or he and his glider will spiral slowly but inexorably to a rough though usually safe landing miles from the nearest airport.

Early this week, a Canadian pilot competing in the Marfa championship "ran out of sky" and had to put down on a desolate stretch of range. He walked 28 miles before seeing another human.

DISTASTE FOR POWERED FLIGHT

An Australian glider force-landed on an interstate highway and had one of its wings clipped by a passing car.

Despite such bad breaks, people who have experienced the narcotic kick of soaring come away with a certain distaste for powered flight.

"Most of us have a hard time articulating just how gliding grabs us," said Bernald Smith, the president of the Soaring Society of America. "For myself, all I know is that I've wanted to soar ever since I knew what birds were. They love it, too, else how can you explain the eagle fooling around at 10,000 feet? There isn't any food up there."

The life style of the gliding set is as distinctive as that of yachtsmen or racing drivers.

Most are over 30 years old, apparently because of the high cost of soaring and because the ephemeral quality of the sport does not seem to attract youngsters hung up on surging horsepower and screaming acid rock.

Like yachtsmen and racers, gliding enthusiasts fall in love with their equipment and spend hours caressing it with polish or tinkering with seemingly insignificant parts.

CAMP FOLLOWERS

The camp followers, in flowery bikinis or low-slung bell bottoms, lounge appealingly in the background, soaking up the sun, planning the next beerblast and peering out at the world from behind huge sunglasses.

At launch time, particularly during competitive meets, ramp areas are covered with long rows of gleaming planes, most of them painted gull white. Pilots in coveralls kneel over maps spread on the steaming tarmac while ground crews in shorts, sneakers and a to-hell-with-it assortment of hats ease the craft to the starting line.

The lucky pilots are sent off into the sky with a kiss, but most just get a pat on the shoulder.

After the tow planes have done their work, the long wait begins. It is that old movie, "Twelve O'Clock High," with little of the fear.

In the air, the pilots fight with the currents. On the ground, the camp followers and mechanics begin to gossip or speed off in cars, trying to parallel the flight of the gliders, just in case one should run out of luck or air currents.

SEVERAL HUNDRED MILES

The flights from Marfa usually have covered several hundred miles over a specified course. Most have been completed in three to five hours at speeds of 50 to 70 knots and at altitudes ranging from 4,000 to 10,000 feet above ground level.

Gliders are capable of much better performances, however. Some have climbed above 45,000 feet, have soared more than 600 miles and have zoomed home at better than 125 knots.

Long before the first craft is due back, eyes begin to turn to the skies. It is a vain search for the first hour or so, but finally the leading bird appears on the horizon and drops in for a landing, wings whistling happily.

In Marfa at the end of such a day, one begins to sense what soaring is all about.

Old flying enemies—Germans and French or Americans and Japanese—slap one another on the back and gesticulate wildly in the common language of pilots the world over.

Everything is beautiful. No Cold War. Just a group of people exultant over having made Icarius's dream come true.

ONCE IN A LIFETIME

(Bruce Bissonette, aviation editor for The El Paso Times, is back on the job after three weeks spent at the 12th World Soaring Championships, in Presidio County, as press director. In a guest column today he tells of his "once in a lifetime" experience.)

(By Bruce Bissonette)

The 12th World Soaring Championships, the first international soaring competitions to be held in the United States, have come to an end.

George Moffat, of Elizabeth, N.J., took top honors for the U.S. team in the Open Class, the third time in the history of the World Championships for the U.S. to be declared a winner and the second consecutive winning.

Back in 1956, before there was a decided class difference, Paul MacCready won for the U.S. in the Sixth World Soaring Championships, held in St. Yan, France. A. J. Smith, Southfield (Detroit), Mich., architect, won the Standard Class in Leszno, Poland in 1968 and was defending champion this year.

From 25 nations, including the U.S. and two Iron Curtain countries, 79 men, 30 of them in the Open Class, traveled to Marfa, Tex., with their planes and ground crews to try their hands at taking home the coveted top awards.

There is no financial gain in the offing for the winners. Only a cup, that heralds the fact that they have accomplished their task, and it is theirs for only two fleeting years before being turned over to another hard working winner if they should fail in their next attempt.

For the next nine best pilots in each class, medallions, emblazoned with an emblem commemorating the event, are presented with nearly the same amount of pomp and ceremony as that accorded the champions. Smaller versions of the same medallion, struck in bronze and silver, are presented to the balance of the contestants and their crews.

MEET LASTS ONLY 2 WEEKS

And then it's all over. The two weeks of hard fought contest, the thousands of miles driven by the ground crews as they followed their pilots and planes by car for retrieve in the event of a landing "out," the good times enjoyed by all, become but a memory. Newfound friends may be joyously greeted at some future international soaring event, or may never be seen again. But lasting friendships were made, even though all of those involved came from strange and far away places.

Perhaps that, above all, is the most important thing about an international sporting event. People of all faiths, opposed principals, varying political beliefs, entirely different ways of life, meet on a common ground with one goal in mind.

That goal is not necessarily to win. All participants fully realize there can be but one top pilot in each class. The goal, an unwritten law one might say, is to do the best you can in the art of soaring, and make friends with all the others who are here to do the same thing. Then, may the better man win.

It was a heartening experience to be press director for the championships. We made hundreds of new acquaintances, friendships which will be of a lasting value.

One touching experience, the memory of which will remain forever, occurred during the last week of the contest. On the last of the three days of rest brought on by poor soaring weather, the members of the press were entertained by Pat Ryan, publisher of Marfa's Big Bend Sentinel, who also was the sponsor of the Hungarian team festivities attending the affair.

Festivities centered around a whopping Texas style barbecue with the Hungarian team singing folksongs in their native tongue after dinner. Later that evening, a man from Yugoslavia, long associated with soaring and well known in European aviation circles, arrived to pay his respects to the captain of the Hungarian team.

LIFELONG DREAM CAME TRUE

He has been in the U.S. for only a couple of days, attending an international symposium on soaring (OSTIV) being held at Sul Ross University, at Alpine. In visiting with him, we learned that this was his first visit to America. During World War II, he had flown as a fighter pilot and later served in the underground following his escape from a prisoner of war camp.

He spoke excellent English and expressed himself beautifully in describing his feelings at being a guest in an American home. A life-long dream had come true . . . at last he was in America, though for only a short stay. Two days later he walked into the press room to bid farewell. He was motoring to California with a friend, then on to Yugoslavia, his brief visit with freedom nearly concluded. He had no momento of the contest. I had little to offer but I readily gave him what I had.

A large poster, proclaiming the event, was removed from the wall and given to the Yugoslavian, together with a blazer emblem bearing the official insignia of the 12th World Soaring Championships. With tears in his eyes the old pilot accepted the token gifts, saying they meant more to him than if they had been jewels. At last he had something he could cherish, to remind him of his brief visit to the contest. Although he was only here for a couple of days, the occasion marked his continuous record of never having missed an international soaring contest.

OTTAWA VERSION OF AN OLD TIME CHILDREN'S TALE

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. SCHMITZ. Mr. Speaker, the American people would do well to learn the lesson contained in the following letter to the editor of the Montreal Gazette. It was printed in the March 26, 1970, issue of that publication:

OTTAWA VERSION OF AN OLD TIME CHILDREN'S TALE

SIR: I find that the philosophy upon which the Ottawa Government is basing their program is well illustrated by the following variation of the tale "The Little Red Hen."

Once upon a time there was a Little Red Hen who scratched about and uncovered some grains of wheat. She called her barnyard neighbors and said, "If we work together and plant this wheat, we will have some fine bread to eat. Who will help me plant the wheat?"

"Not I," said the Cow. "Not I," said the Goose. "Then I will," said the Little Red Hen—and she did.

After the wheat started growing, the ground turned dry and there was no rain in sight. "Who will help me water the wheat?" said the Little Red Hen.

"Not I," said the Cow. "Not I," said the Duck. "Not I," said the Pig. "Equal rights," said the Goose. "Then I will," said the Little Red Hen—and she did.

The wheat grew tall and ripened into golden grain. "Who will help me reap the wheat?" asked the Little Red Hen.

"Not I," said the Cow. "Not I," said the Duck. "Out of my classification," said the Pig. "I'd lose my ADC," said the Goose.

"Then I will," said the Little Red Hen—and she did.

When it came time to grind the flour, "Not I" said the Cow. "I'd lose my unemployment," said the Duck.

When it came time to bake the bread, "That's overtime for me," said the Cow. "I'm a dropout and never learned how," said the Duck. "I'd lose my welfare benefits," said the Pig. "If I'm the only one helping, that's discrimination," said the Goose.

"Then I will," said the Little Red Hen—and she did.

She baked five loaves of fine bread and held them up for her neighbors to see.

"I want some," said the Cow. "I want some," said the Duck. "I want some," said the Pig. "I demand my share," said the Goose.

"No," said the Little Red Hen. "I can rest for a while and eat the five loaves myself."

"Excess profits," cried the Cow. "Capitalistic leech!" screamed the Duck. "Company fink," grunted the Pig. "Equal rights," screamed the Goose.

And they hurriedly painted picket signs and marched around the Little Red Hen singing, "We shall overcome," and they did.

For when the Farmer came to investigate the commotion, he said, "You must not be greedy, Little Red Hen. Look at the oppressed Cow. Look at the disadvantaged Duck. Look at the underprivileged Pig. Look at the less fortunate Goose. You are guilty of making second-class citizens of them!"

"But—but—but—I earned the bread," protested the Little Red Hen.

"Exactly," the wise Farmer said. "That is the wonderful free enterprise system, anybody in the barnyard can earn as much as he wants. You should be happy to have this freedom. In other barnyards, you would have to give all five loaves to the Farmer. Here you give four loaves to your suffering neighbors."

And they lived happily ever after. Including the Little Red Hen, who smiled and smiled and clucked, "I am grateful. I am grateful. I am grateful."

But her neighbors wondered why she never baked any more bread.

The Government never explains what is going to happen, or where our food will come from when they get everybody on the relief rolls.

H. M. JAQUAYS.

THE LIGHTHOUSE AT POINT FERMIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. ANDERSON of California. Mr. Speaker, in an age when more and more of our past is being buried by that relentless machine we call "progress," it is gratifying to be able to report that an effort is being made by some of the citizens in my district to save and restore a beautiful monument of America's seafaring past. The citizens are trying to save the lighthouse at Point Fermin in San Pedro, Calif.

The lighthouse, which will be a hundred years old in 1974, is badly in need of restoration and it is hoped that its centennial will spur the drive to save this monument of the past.

One of the leaders of the movement, John Olguin, director of the Cabrillo Beach Marine Museum, has developed a plan which holds the promise of a bright future for this grand old lady of the sea. The effort is described in an article by William Olesen which appeared in the San Pedro News-Pilot on July 9, 1970.

Mr. Speaker, I would like to share the article with my colleagues for I feel that the effort it describes is the kind that every citizen should put forth in order that our American heritage may be preserved for future generations.

The article follows:

LIGHTHOUSE SHOULD BE SAVED

(By William Olesen)

Those interested in the preservation of local history and landmarks can readily look back and recount the things which have been irrevocably lost either through default or failure to recognize in sufficient time for steps to be taken for preservation.

The only thing which can be salvaged from such contemplation is the fact that it is necsary to be alert and sufficiently forethoughtful to prevent additional inroads on what there is left to preserve. Fortunately, there seems to be quite a resurgence of interest in such matters, both locally and throughout the land.

A high priority item locally is the Point Fermin lighthouse, a fact which may surprise many, because it is rather unobtrusive and apparently well preserved; but here is a typical "sleeper" and one which should not be allowed to some day catch us aback and unprepared.

Somewhat over a year ago, the matter of a restoration project for the lighthouse was brought up at a general meeting of the 30 Year Club. It was decided that soundings should be taken to determine the depth of interest in such a project by other groups.

Whether or not this provided the spark is immaterial, but much encouragement was derived from a story which appeared in the May 20 issue of the News-Pilot. In it John Olguin, director of the Cabrillo Beach Marine Museum and a live sparkplug for many betterments, announced a plan for the lighthouse of a more comprehensive nature than the tentative proposal considered by the 30 Year Club originally.

The history of the lighthouse has been written up a number of times over the years and most recently by Banning Museum's curator Oliver Vickery. Therefore only a brief résumé is called for herein.

In his dreams and schemes for developing a harbor here, it was only natural for Phineas Banning to include a beacon for the guidance of mariners. In seeking an appropriation for a government survey of possibilities, a specific sum was earmarked for the express purpose of selecting a site and laying the groundwork for a lighthouse. Something like 25 years were to elapse before this project became an accomplished fact and the light put into operation in 1874.

Although of modest power, it had no competition in those unilluminated days and must have made a brave showing on the clear and velvety black nights so often experienced here.

The lighthouse retained its original handsome appearance until the outbreak of World War II. Very shortly thereafter the lantern housing and railing were removed, along with the revolving lens, in order to accommodate an ugly though utilitarian henhouse type of superstructure.

It was a very hush-hush project at a time when radar had yet to prove its military advantage in the naval battles of the South Pacific. It was the first radar lookout station here, the very beginnings of what is now an elaborate installation on the crown of San Pedro hill.

Long since vacated and equipment removed, the "henhouse" serves no useful purpose but could conceivably pose a threat to the old tower because of weight and windage.

A whole generation has grown up believing the lighthouse has always looked as at present, unless otherwise informed. This impression has been further perpetuated by illustrations in magazines and brochures so that the time for taking corrective steps is really long past due.

The original structure is an architectural gem of the post Civil War period. Of the examples once to be found at Ballast Point in San Diego, Point Hueneme in Ventura county, and at Santa Barbara, this is the sole survivor; which fact further serves to emphasize its importance historically.

This has long since been recognized by the Native Sons and Daughters of the Golden West as well as the Cultural Heritage Board, but these acts alone do not assure perpetuation nor restoration. Its existence today is probably due to being situated in a city park and given custodial care by the Dept. of Parks and Playgrounds. But for this would probably have gone the way of the others long ago.

For a restoration project of the most limited proportions and expense, the hen coop should be dismantled; the wooden fence type railing replaced, as in the original, and a reasonable outline of the lantern housing erected. This is a job of such simple proportions that the writer has even considered volunteering to do it single handed.

Expanding on this basic proposal is the Olguin plan, not only to restore the lantern housing but possibly to locate and re-install the original lens and its mechanism. Certainly a most entrancing idea. More importantly, he has envisioned the housing of that wonderful collection of early photographs which were displayed under the title: "Miracle of the Mudflats" at the Municipal Building last September and treated in this column at that time.

The most difficult part about any of these proposals is to obtain consent from the various governmental agencies involved but surely the time is ripe for action in restoring Point Fermin Light.

The Olguin plan was unanimously endorsed by the 30 Year Club at the general meeting June 13 and all possible assistance offered. It is to be hoped that other civic minded groups and individuals have done, or will do, likewise. It is essential that steerage way be maintained on this henceforth.

Many present day old timers fondly remember the gatherings enjoyed at the lighthouse when Captain and Mrs. Austin were in charge some 50 years ago. Having seven children of their own, they gladly made it an attractive center for many young classmates and friends.

Both parents passed away in 1925 at a relatively early age, unfortunately. Of the seven children, six are living with three still residing in San Pedro, according to information furnished by Thelma Austin Cunningham.

In 1974, the lighthouse will be 100 years old and it is reasonable to assume that at least basic corrections could be achieved by that appropriate target date.

John Olguin remarked that it might take 20 years to complete the job. If so, it will well be worth the effort but many of us can scarcely afford to wait that long, nor should it be necessary once public interest has become properly activated.

INCREASING THE PROTECTION OF EMPLOYEES COVERED BY PRIVATE PENSION AND WELFARE PLANS

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. ERLENBORN. Mr. Speaker, the General Subcommittee on Labor of which I am the ranking minority member, has recently completed extensive hearings on legislative proposals allegedly designed to increase the protection of employees covered by private pension and welfare plans. Most of the emphasis has been on plans under which employers, either unilaterally or pursuant to a collective-bargaining agreement with a labor union, establish a pension fund to which the employer is the sole contributor, and which qualifies with Internal Revenue Service for the tax deduction which the Federal income tax law and regulations provide for contributions to such funds.

Sometimes, because of the actuarial assumptions on which the size of the employer's contribution is based, these funds are more than sufficient to pay the pension benefits to employees as they vest each year. In other words, after vested benefits are fully paid, there remains a surplus in these funds known as an actuarial excess.

Throughout the hearings the impression was plainly created, both by some members of the subcommittee and by a few of the witnesses, that when a pension plan is terminated such an actuarial excess reverts to the employer and the majority of the employees who have not met the conditions of the plan for receiving a pension, such as sufficient length of service or reaching the minimum age, are denied pension benefits they had a right to expect.

This impression is plainly erroneous. When a pension plan is terminated (the case most frequently mentioned being an employer who goes out of business), all of the employees including those who have not met the conditions of the plan, receive a prorated or proportionate benefit, and only after all of these benefits are paid or provided for, does the "actuarial excess" revert to the employer, a sum incidentally, upon which he must pay a Federal income tax.

To make certain that this was actually so, I communicated with the Internal Revenue Service for a clarification of this issue and received an extensive reply, fully confirming my own view of this particular type of situation. I should like this letter printed in the RECORD so that all may read it. The letter follows:

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., June 22, 1970.

DEAR MR. ERLENBORN: In your letter dated May 22, 1970, you mention that you have participated in recent House committee hearings on proposals concerning private pension and welfare plans. In the course of the hearings questions have arisen with respect to the disposition of an "actuarial excess" remaining in a pension fund which is being finally terminated subject to the requirements for qualification under section 401(a) of the Internal Revenue Code.

To illustrate your inquiry you have offered for consideration the case of a hypothetical employer who establishes a qualified pension plan which covers 1000 employees who will be paid $100 per month upon attaining age 65 after at least 20 years of service. Several years go by and the employer decides to liquidate the business and terminate the pension plan. The plan still covers 1000 employees but only 50 of them have reached age 65 and completed 20 years of service.

The plan has been amply funded over the years at a more rapid rate than anticipated by the actuarial assumptions and the 50 employees are provided their pensions in exact accordance with the provisions of the plan. There then still remains in the pension fund several millions of dollars which you refer to as an "actuarial excess." The question you present based on these factors is: How is this excess disposed of, particularly with respect to the 950 employees who have not met the conditions (age and service) provided in the plan, and the employer himself?

Disposition of the trust funds under such circumstances is subject to section 401(a) (2) of the Code which provides that under the trust instrument it must be impossible (in the taxable year and at any time thereafter before the satisfaction of all liabilities to employees or their beneficiaries covered by the trust) for any part of the trust corpus or income to be used for, or diverted to, purposes other than for the exclusive benefit of such employees or their beneficiaries. In addition, Code section 401(a)(7) requires that the plan of which such trust is a part provide that, upon its termination or upon complete discontinuance of contributions under the plan, the rights of all employees to benefits accrued to the date of such termination or discontinuance, to the extent then funded, or the amounts credited to the employees' accounts are nonforfeitable.

Sections 1.401-2(b)(1) and (2) of the Income Tax Regulations state that the intent and purpose in section 401(a)(2) of the phrase "prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust" is to permit the employer to reserve the right to recover at the termination of the trust, and only at such termination, any balance remaining in the trust which is due to erroneous actuarial computations during the previous life of the trust. The term "liabilities" includes both fixed and contingent obligations to employees.

The regulations illustrate this requirement with an example in which 1,000 employees are covered by a trust forming part of a pension plan. 300 of whom have satisfied all the requirements for a monthly pension while the remaining 700 employees have not yet completed the required period of service. Contingent obligations to such 700 employees have nevertheless arisen which constitute "liabilities" within the meaning of that term. It must be impossible for the employer to recover any amounts other than such amounts as remain in the trust because of "erroneous actuarial computations" after the satisfaction of all fixed and contingent obligations.

In applying these requirements to the example contained in your letter, the employer has already satisfied his fixed liabilities to the 50 employees who have met all of the requirements for a monthly pension by virtue of having reached age 65 and completing 20 years of employment with the company. Next the employer must satisfy his contingent liabilities to the other 950 employees in the plan at the time it is terminated. Thereafter, any funds which remain in the trust may be returned to the employer as a balance due to an "erroneous actuarial computation."

With reference to the employer's contingent liabilities to the 950 employees, Code section 401(a)(7) provides that their rights to benefits accrued to the date of termination, to the extent then funded, or the amounts credited to the employees' accounts are nonforfeitable. This requirement is amplified in section 1.401–6(a)(2) of the regulations which states that a qualified plan must provide for the allocation of any previously unallocated funds to the employees covered by the plan upon its termination. Any provision for such allocation is acceptable if it specifies the method to be used and does not conflict with the non-discrimination provisions of Code section 401(a)(4). However, the allocation of the funds contributed by the employer among the employees need not necessarily benefit all the employees covered by the plan.

Under these requirements and in answer to your question with respect to the 950 employees, the funds may be used, for example, to provide priority benefits for employees over age 60, then for those between ages 50 and 60, then for those with more than 10 years of service, and so on down to younger groups, until either the funds are fully exhausted or all participating employees have been allocated the amount of their accrued benefits. The employer will be entitled to a return of any amounts remaining in the trust because of "erroneous acturial computations" only if any funds still remain on hand after allocations and distributions of the amount of their accrued benefits have been made to all participating employees.

We trust that the foregoing comments will be helpful to you.

Sincerely yours,

T. GOODMAN,
Chief, Pension Trust Branch.

BURKE PRESENTS TESTIMONY BEFORE HOUSE VETERANS COMMITTEE

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BURKE of Florida. Mr. Speaker, on June 3, 1970, I was privileged to have the opportunity to testify before the House Veterans' Affairs Committee's Subcommittee on Compensation and Pension, in support of vital veterans pension legislation pending before that Committee.

The following is the text of my testimony:

Mr. Chairman, I am indeed happy that I am able to appear before this subcommittee to make this simple but deserving request that the veteran, his widow and his children, and his dependent parents receive fair, honest and equitable treatment with respect to their pensions.

In view of the continued rise in the cost-of-living, which was recognized by the Congress when it recently boosted both Social Security and Railroad Retirement benefits, it seems long overdue to equally recognize the need of the veteran and his family. The rising cost of living today is unquestionably a heavy burden for the veteran who receives only a small pension. It certainly does not seem fair that increases in Social Security and Railroad Retirement benefits should place the serviceman in the position of having his pension entirely eliminated or his income reduced.

Mr. Chairman, you have sponsored H.R. 15911—which I was honored to co-sponsor with other Members of Congress—and we have all joined in the hope that some of the inequities might be overcome. Proper action by the Congress on H.R. 15911 will affect nearly 80% of those now receiving non-service-connected benefits or some 1,100,000 veterans and their widows. Nearly 43,000 parents entitled to dependency and indemnity compensation will also be affected. They deserve our concern also, and we should prove to them that this committee and the Congress can and will act in fairness and compassion.

I am sure I do not have to remind you that every Veteran's organization has requested the Congress to take immediate action in this matter. J. Milton Patrick, National Commander of the American Legion has stated that the American people demand of Congress "a veteran's benefits program second to none." I am satisfied that he has properly read the mood of the American people.

Ray Gallagher, National Commander of the Veterans of Foreign Wars has pleaded that no veteran who fought the enemy overseas should return home "to battle inflation here in this country." I agree and am ready to fight this problem of inflation not only for our veterans but I hope for all of us.

I am happy that the Commanders of the Disabled American Veterans, the Jewish War Veterans, the Catholic War Veterans, the Veterans of World War I, and the Veterans of World War II, along with many others, have joined in the fight for our veterans in urging that action be taken to assist those existing on veteran's pensions. I know that this committee has always strived to be fair and has recommended only that legislation in the best interest of the veteran. I would, therefore, like to commend you, Mr. Chairman, and this Subcommittee, as well as the members of your full Committee, for the very valuable legislation you have already recommended in the first session of this 91st Congress. You are indeed aware of the increasing needs of our servicemen brought about by the pinch of inflation. In this hearing you are asked by the bills under discussion to once again respond to a need that is not only critical but most evident.

For the 1,100,000 veterans and widows and their dependents, this bill would raise their monthly benefits by a little over 10 percent—a sum barely sufficient to cover the increased cost of living. In addition to the provision that would allow a $300 increase in the annual income limitations, the bill also keeps any recipient of a non-service-connected pension or those on dependency allotments from losing their VA benefits as a result of the recent general 15 percent increases in Social Security and Railroad Retirement benefits voted by the Congress.

With few exceptions, then, no pensioner or his dependent parents will suffer a net loss in their combined VA and Social Security or other benefits.

How will this come about? Simply because of the general increase and by raising the income limitations from $2,000 for the veteran or widow without dependents to $2,300, and raising those with dependents from $3,200 to $3,500. The bill has an added feature in that it would benefit some 26,000 of the "old pension law" recipients by increasing their limitations from $300 to $1-900 for those without dependents and to $3,200 for those who have dependents thereby saving their pensions for termination because of the increases in Social Security, Railroad Retirement and other payments.

I would also authorize the VA to continue to furnish drugs and medicine to the veteran who is in need of these services and attendance, notwithstanding that his pension might otherwise be terminated because of excessive income so long as it does not exceed $500. I favor this and think this is necessary because of today's high cost of drugs as well as the need for constant care in more and more cases.

It is important to note that all of those covered by these proposals would benefit commencing January 1, 1971, which is the effective date of the most recent Social Security passed by the House.

Mr. Chairman, we are today engaged in another war abroad. Whether we like the war or not is not the question. Our interest should be for those who are committed and serving in our armed forces. I honestly feel it is incumbent that we, the Members of Congress, must, as a matter of right, let the men in our armed services know that we support them. Most of us here today have served in the armed services of our country and are veterans of past wars. But being a veteran does not mean we should abandon those who today stand in the shoes that we once wore.

The provisions in the laws which we enact for the benefit of the needy veteran and his family is only a continuation of our nation's commitment to provide for the serviceman upon his return to civilian life. Our servicemen have entrusted with us their hopes for the future of themselves and their families should they be wounded or disabled by reason of their service to our country. As a matter of conscience and not of charity, and in remembrance of our nation's commitment to her fighting men, I therefore urge the approval of the amendments to the law which are the subject of these hearings.

Congressman Burke's bill is H.R. 16392, to amend title 38 of the United States Code to increase the rates and income limitations relating to payment of pension and parents' dependency and indemnity compensation, and for other purposes.

A COMMENT ON WAGE AND PRICE CONTROLS

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. LANDGREBE. Mr. Speaker, because the issue of wage and price controls is of immediate concern and importance to our current inflationary economy, I would like to insert in the RECORD portions of an interesting and provocative letter from a constituent, Mr. Beryle Burgwald, who comments on this timely subject.

Mr. Burgwald's remarks indicate that not only are direct wage and price controls almost impossible to administer, that they impair important functions of the price system, and are contrary to our ideals of freedom, but they also do not provide a solution to inflation.

I urge every Member's attention to these thoughtful remarks on this important subject:

A Comment on Wage and Price Controls

". . . Last week Senator Fred Harris of Oklahoma demanded that we turn back the clock and return to the days of O.P.A. He has introduced a bill, according to the *News-Dispatch* (May 26), that provides for setting up a National Economic Equity Board with the power to make voluntary price-wage guidelines, to control credit with the Federal Reserve Board, and, "if it found it necessary, to institute price and wage freezes for up to six months to halt the present inflationary spiral" that has developed.

While some mild forms of allocation made through voluntary industrial agreements might be suggested, and while I would certainly favor a bill for firm and independent control by the Federal Reserve over consumer credit, such a proposal setting up a federal bureau to freeze prices and wages for six months means price control against the producer, wage control against the working man, every kind of control over the businessman and it would mean regimenting the life of every family. . . .

George Meany of the AFL–CIO advocated price and wage control programs a year ago as an attempt to fight inflation, and many people are willing to accept them out of a natural desire to have somebody hold down prices of those articles you and I have to buy. But I do not think that we want to socialize and regiment America. I am surely unwilling to accept the philosophy of socialism, that price and wage controls are an essential part, from time to time, of the economy of the U.S. If there had been price and wage controls in the past we would never have had a free economy or the free competition which has brought about the tremendous increase in production, and in the standard of living in the U.S. I feel very strongly that these controls are absolutely contrary to the whole theory of free economy. They have no part in a free society, and should not be made a part of our economic system. Such a measure as proposed by Sen. Harris is not progress, nor is it liberalism; it is reaction, and a step to a completely totalitarian nation. These are police state methods and would be the end of economic freedom.

Apart from theory there are some very practical objections to adopting police state controls. The American people remember the shortages and the black markets during the days of the O.P.A. They know such methods won't work. There are three reasons they don't work.

First, if controls are up against a strong trend to increase prices, we cannot avoid having black markets to meet economic conditions. The black markets spring up over night. These controls will not hold prices down if other conditions are permitted to go on forcing prices up. The truth is that Americans do not like to be regimented and ordered around by federal officials. Our experience with both prohibition and the O.P.A. prove that vast black market operations develop which the federal govt. itself is unable to control. How could the government enforce the controls Sen. Harris is now asking for without a vast army of enforcement agents—or even with such an army?

In the second place, even if it did work and these controls could be enforced, it defeats its own purpose: demands go up, while supply goes down. Wouldn't you really want to do the opposite? Prices are higher because the demand is greater than supply. Controls would stifle production instead of increasing it, when what we want is to produce more to give people what they need and want. More production will accomplish more than controls.

Finally, controls do not reflect true costs and real economic levels. There are probably a billion transactions which occur everyday in the U.S. No one knows how to fix the prices and conditions to govern those sales. In fact, industrial improvement can be bogged down by controls if businessmen have to go to Washington, D.C. in order to get approval for the purchase of new machinery or to try out new methods. General price and wage controls, with the government attempting to regulate a billion transactions a day, have been administered in an arbitrary spirit, without any interest in assuring equal justice. Whenever so-called "freeze" theory is adopted, prices go unchanged, regardless of increased costs, the destruction of many small businesses, and whether or not people in similar circumstances are given equal treatment. So, also, wages have been held on an arbitrary formula and an injustice done to those groups who do not have the political power to enforce increases. . . .

The case against reviving price and wage fixing is summarized by the noted economist, Professor Milton Friedman of the University of Chicago, in the *Reader's Digest* in its May issue. In that article Professor Friedman writes about "the many misguided voices clamoring for compulsory wage and price controls. These controls will not work. They may for a time suppress the symptoms of inflation. But if prices are prevented by law from rising when there is pressures on them, there will be many buyers and few sellers. Result: black markets and distortion of production." Friedman says the way to hold prices down is for the government "to stick with the present policy," which includes spending less money and reducing taxes—and a "continued avoidance of price and wage control." This high-price condition is no accident. As Friedman points out, it has resulted from the policies of the Johnson Administration which resisted any attempt to cut expenses. Every cent the government spends puts more money into the buyer's side of the market.

I am well aware that prices are too high and unreasonable increases in wages may be requested, yet we do not need to surrender liberty to keep this country on an even keel. If we cannot meet problems of this kind within our system of free enterprise and incentive that has developed the greatest, most productive country in the world, then we must regiment prices and wages forever . . .

Today we stand at a crossroads between a free America and a planned economy. This is the last stand of the planners who think they know how to run the peoples affairs better than the people themselves can know. If this effort succeeds, there will never be a time (even in war) when an emergency can't be summoned up to justify the granting of such arbitrary power . . .

The issue before Congress, whose Constitutional power it is to make fundamental changes in the entire economy of the U.S. in connection with maintaining freedom in our country under Constitutional provisions, is: Shall we repudiate our heritage that has made America the greatest producer in the world—and also made it possible for us to help the rest of the world—or the police state methods which brought those other countries as seekers of charity at our door?

B. A. BURGWALD,
Michigan City, Ind.

EDITORIAL ON RECENT SENATE DEBATE

HON. JOE D. WAGGONNER, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. WAGGONNER. Mr. Speaker, during the recent weeks of debate in the other body concerning the rights, powers and prerogatives of the President, the Shreveport Times which is published in my congressional district wrote a most provocative editorial on the subject which I would like to insert here in the RECORD and call to the attention of the Members. This is the editorial:

Hypocrisy of Senate Attack on Nixon Shown by Fulbright, Symington

The endless tirade against President Nixon being conducted by thoroughly radical superliberals in the Senate is purely political. It is basically hypocritical, sometimes repulsively bitter and vicious, at other times, inferentially presenting falsehoods through failure to tell the whole truth—to tell various proven facts.

The purpose is to try to hang onto President Nixon and his administration the responsibility for the Vietnam conflict and the fact that it cannot be suddenly halted now; and to blind people to the fact that everything now existing was inherited from two previous Democratic administrations. President Kennedy first sent combat troops into Vietnam. At the same time he negotiated (through Averell Harriman) an agreement for a coalition Communist-non-Communist government in Laos, which simply meant Communist control in a manner to open that nation to becoming the key link in the Ho Chi Minh trails via which North Vietnam sent troops and supplies, and combat materiel for the South Vietnam Communist Viet Cong, from North Vietnam to South Vietnam in virtually complete security.

Lyndon Johnson escalated the war to more than half a million American combat forces without trying to win the conflict. The net result thus far has been 43,000 Americans dead, close to 300,000 wounded, more than 100 billion dollars spent, a bitterly divided nation, no victory in the war and a Senate majority that moves whenever it can to handicap President Nixon in getting American troops home, whether the return is called "withdrawal" or a massive but slow retreat, which it really is and has been so designated by some of our military experts.

Senators (of both parties) Fulbright, Kennedy, McGovern, Symington, Church, Pell, Goodell, Cooper, Bayh, Gore, Yarborough (recently defeated in Texas for Democratic renomination), Percy and others have been the most vocal anti-Nixon Senators. Let's take a look at the chameleon-like changing of colors of two—Fulbright because he is the loudest and is chairman of the Senate Foreign Relations Committee which he uses repeatedly as a sounding board before TV for anti-Nixon nationwide propaganda, and Symington of Missouri because he is a past cabinet member—Secretary of Air under Truman.

In 1964, when President Johnson was beginning to move up American action in Vietnam, Senator Symington, Missouri Democrat, appeared before a weekly TV network panel where he was questioned by newspapermen, especially Marquis Childs of the St. Louis Post-Dispatch. To Childs' questions, Symington said:

"1. We (the U.S.) should tell North Vietnam we are tired of it invading South Vietnam from Cambodia. (This was six years before the U.S. moved against Communist troops using Cambodia as 'sacred sanctuaries.' Ending of this by Mr. Nixon is what set off the big recent and present barrage among the Senate radicals, including Symington, against him.)"

"2. If North Vietnam does not do this, we should bomb Hanoi's military installations, making Haiphong Harbor unuseable militarily, and invade North Vietnam with ground troops up the eastern Gulf of Tonkin coast, with assistance from the Navy, just offshore."

This is more extreme than what Senator Goldwater advocated at that time. It is what the military advocated. For political reasons it is too late now and Senate radicals want to make Nixon the goat.

Senator Fulbright talks repeatedly of "cutting presidential power" in all foreign affairs and of restoring the constitutional "power of the Senate." In 1961 under Kennedy, the only President with whom Fulbright has had pleasant political relations, he demanded more power for the President, more authority in more fields and in broader fields than theretofore. In a speech at Cornell University Law School in that year, now reprinted in the Cornell Law Review, Fulbright said in part:

"The source of an effective foreign policy under our system is presidential power. This proposition, valid in our own time, is certain to become more, rather than less, compelling in the decades ahead. The pre-eminence of presidential leadership overrides the most logical and ingenious administrative and organizational schemes.

"The essence of our 'policy-making machinery' and of the 'decision-making process'—concepts of current vogue in the academic world—is the President himself . . .

"It is my contention that for the existing requirement of American foreign policy we have hobbled the President by too niggardly a grant of power . . .

"The pre-eminent responsibility of the President for the formulation and conduct of American foreign policy is clear and unalterable . . .

"He possesses sole authority to communicate and negotiate with foreign powers. He controls the external aspects of the nation's power, which can be moved by his will alone—the armed forces, the diplomatic corps, the Central Intelligence Agency and all of the vast executive apparatus. As Commander-in-Chief of the armed forces, the President has full responsibility, which cannot be shared, for military decisions in a world in which the difference between safety and cataclysm can be a matter of hours or even minutes.

"The President is the symbol of the nation to the external world, the leader of a vast alliance of free nations, and the prime mover in shaping a national consensus on foreign policy. It is important to note, however, that while this responsibility is indeed very broad, his authority is often infringed upon or thwarted in practice by unauthorized persons . . .

"It is highly unlikely that we can successfully execute a long-range program for the taming, or containing, of today's aggressive and revolutionary forces by continuing to leave vast and vital decision-making powers in the hands of a decentralized, independent-minded and largely parochial-minded body of legislators . . ."

CAMPUS DISORDERS

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. DEVINE. Mr. Speaker, two items have recently been called to my attention as they relate to tragedies arising from campus disorders this spring.

In the magazine the National Guardsman an article by James J. Kilpatrick is reprinted by permission of the Washington Star syndicate entitled "Looking Behind the Triggers in Ohio." This article follows.

LOOKING BEHIND THE TRIGGERS IN OHIO

(By James J. Kilpatrick)

SAN FRANCISCO.—The Monday afternoon headlines here on the West Coast doubtless were typical of headlines all across the land: "Guardsmen Slay Four Ohio Students," and the impassioned reaction in California is duplicated on campuses everywhere.

Here, is impossible to keep up with the rallies, marches, confrontations and mob violence. At Berkeley, Stanford, Santa Barbara, students are striking and professors are spurring them on. Violence continues in Seattle. The turmoil escalates. "Troops Kill Four."

Let me turn around on one thought only, if I may: the responsibility for these four deaths in Ohio. Where does the responsibility lie?

The least of it lies upon the National Guardsmen whose fingers pulled the fatal triggers. These are civilian soldiers, summoned reluctantly from homes and jobs in obedience to duty. Many of them are as young as the student militants who torment them. They are performing a difficult and dangerous task; and considering the physical and verbal abuse that is heaped upon them, it is a wonder that so few have made the headlines of a Monday.

Who bears the blame for these deaths? Not the Guardsmen, who were but instruments of the state. I suggest that a terrible responsibility lies upon the heads of student revolutionaries who have kindled the wild torches of unreason. "When in doubt, burn," urges Jerry Rubin in his recent book. "Fire is the revolutionary's god. Burn the flag. Burn churches. Burn, burn, burn!" Who created the atmosphere in which this virus spreads? This is the work of the Rubins of our land.

But not of the Jerry Rubins alone. They had help. The blame for these four deaths (I speak generally, not precisely) lies also upon college administrators who failed for years to act on valid student complaints, and then reacted wrongly to them. The blame lies upon faculty members who abdicated their high responsibility to provide examples of maturity and restraint. The blame lies upon the apathetic, nonparticipating students who were too timid to stand up for their rights.

There is plenty of blame to go around. The tragedy at Kent State University, like the tragedy two weeks ago at Santa Barbara where another student died, is a direct and predictable consequence of a certain sickness of permissiveness—that infects our whole society. When old disciplines are abandoned in the home, the church and the elementary school, when big government, big labor, big industry and great courts evade the law, what should rational men expect of college students?

Let me be specific. The rottenness has manifested itself, here on the West Coast, in pornography that startles even the most sophisticated visitors from the East. Here the Chronicle reports routinely upon "the city's 30 dirty movie theatres." A certain regulatory ordinance is opposed by "leaders of the topless and bottomless industry." At the Aquarius, open 11 A.M. to 2 A.M., "you have the right (U.S. Supreme Court says so) to view any kind of film you choose." The customers choose fornication. They get it.

The same prurient fare is offered in Los Angeles. It is offered, for that matter, in New York and Boston. In the bent-glass mirrors of the crazy house, perhaps all this seems an image of "freedom," but it is freedom without restraint. Such freedom is corrupt.

It is a long way from Kent State University in Ohio to the peep-shows of San Francisco, but common symptoms suggest the same illness. The hardest task of a parent, and of those who must administer a free society, is to know when to say "no" and to mean "no." The excesses of democracy, said Polybus, lead straight to mob rule. Now the mobs form, here and everywhere, exploiting the deaths of four young people in Ohio, and it is late in the afternoon for the state to rally its wasting strength to impose belated restraints.

But not too late. I am flying home, high above the brown and green tartan of America in springtime, reflecting anew that a great country lies below. God give us the will and the grace and the wisdom to put it right.

Further, in the current July issue of the American Legion magazine a story appears entitled "The Background of the Tragedy at Kent State University." No attribution is affixed to this article; however, all interested Americans should have the benefit of this expression of viewpoint. The article follows:

THE BACKGROUND OF THE TRAGEDY AT KENT STATE UNIVERSITY

The Students for a Democratic Society got what it wanted on Monday, May 4, 1970, when four students were killed and eleven others injured in a confrontation with the Ohio National Guard at Kent State University. It wanted martyrs and had been seeking an event like this on many campuses, including Kent.

Though not well known nationally until May 4, Kent is a big university, the second largest in Ohio with 21,000 students. The SDS and related organizations—whose objectives follow the world Communist line to the crossing of the last tee and the dotting of the last eye—have striven to make martyrs on American high school and college campuses for many years. They were successful at Kent within less than two years of their opening effort.

Even with the spotlight on Kent since May 4, it is still a sort of well-kept secret that the Kent tragedy was the culmination of a two-year concerted effort, led by SDS, to create a "major confrontation" on the Kent campus.

On May 5, the day after the tragedy, the New York Times reported that ". . . until recently the school's most serious demonstration was a 1958 panty raid on two women's dormitories . . . since then, except for some rowdy Friday nights, the students, mostly middle class . . . maintained peace with local residents and in fact had a distinct reputation for apathy. . . ." The Times headline said that the shooting shattered "60 years of quiet at Kent State."

And if we can believe the New York Times' choice of witnesses and quotes, not even the sanest students at Kent seem to relate the sad events of May 4 to the steady drive of campus and non-campus militants to bring on a violent event there. On May 11, the New York Times published a lengthy interview with eleven students at Kent who *seemed* to have some sense. But if one of them said that they saw any connection between the tragedy of May 4 and the two-year effort of SDS to bring it about, the Times didn't publish it. Nor, in interviewing them, did the Times report any question it put to the eleven students that related the two-year drive of the SDS at Kent to the sad showdown. The tenor of the interview seemed to point to President Nixon as the guilty party.

The Kent Stater (the student newspaper at Kent) had done better a year earlier. On April 21, 1969, it spelled out, point by point, the SDS's stated strategy for whipping the Kent students into a mob state of mind whose goal was "a major confrontation." *The Kent Stater* then showed the students at Kent how events that had already happened by then fitted, step-by-step, into the SDS plan for a coming violent showdown.

If anything hovers over the deaths at Kent State it is those SDS words "major confrontation." It happened at Kent and four students paid for it with their lives. In the weeks that have elapsed since the tragedy, with the country groping to understand it, there has been ample time for all the media—newspapers and major networks—to have told the public from the beginning, the carefully organized plan from the outside that led to May 4. The silence has been fairly enormous. In spite of all the words published about Kent, a country that needs to know what led up to the shooting has been pretty well shielded by its media from what is an open story.

It was on June 24th and 25th, 1969, that the Committee on Internal Security of the U.S. House of Representatives held hearings on SDS activities at Kent State during the 1968–69 school year. The hearings themselves fill a volume larger than this magazine, but in its annual report, the committee digested its Kent hearings into shorter form. Here is the digest, in full, reprinted from pages 43 to 52 of the annual report of the committee:

Students for a Democratic Society was involved in four disturbances—two of them marked by violence—on the campus of Kent State University in Kent, Ohio, during the academic year 1968–69.

The Committee on Internal Security held public hearings June 24 and 25, 1969, to receive testimony regarding the activities and demands of SDS which culminated in attempted and actual disruptions of university functions. The committee also heard testimony on the procedures followed by the university in response to those activities and demands.

Appearing as witnesses were: Dr. Robert I. White, president of the university, accompanied by his assistant, Richard A. Edwards, and Dr. Robert Matson, vice president for student affairs; Margaret A. Murvay, student who attended SDS functions as a reporter for the campus radio station; Lt. Jack R. Crawford of the university police department; Chester A. Williams, university director of safety and public services, accompanied by Security Officer Donald Schwartzmiller and Investigator Thomas Kelley; and Committee Investigator Neil E. Wetterman.

Testimony showed that SDS emerged as an organizational force on campus in the spring of 1968 when individuals who had been operating for several years under the aegis of the Kent Committee To End the War in Vietnam decided they would become "more well known" under the name of SDS.

In response to the group's petition for approval of an "innocuous" constitution that spring, the student government employed the customary procedure in acting on such petitions by granting the Kent State chapter of SDS "provisional" status as a campus organization. This was enough to give SDS access to university facilities. (This status of temporary recognition continued until the university suspended the SDS charter on April 8, 1969.)

Although its constitution provided for a roster of officers and a membership based on payment of dues, there were no known officers and no dues payment. Local SDS'ers could pay $5 to the national office for a "national" membership and subscription to the official newspaper, *New Left Notes*. They might also receive a membership card from the national organization, as one Kent Stater did. The Kent State chapter had no membership applications or membership cards.

The SDS membership locally, therefore, was described as consisting of (1) its leaders and recognized spokesmen and (2) a larger number of individuals who were sympathetic to the movement, supported SDS demands, and participated in SDS activities advocated by the leaders.

University officials estimated that the "hard core" of the Kent State SDS comprised no more than 15 to 25 members in a student enrollment of 21,000. However, this relatively minuscule group of hard-core activists could count on support from 150–200 students for meetings and for most of the incidents on campus. The number of supporters would fluctuate with the issues and the nature of the action. A seasonal fluctuation was also observed, with about 200 students likely to participate in an SDS-sponsored activity in the fall quarter and only about half the number in the spring quarter as "freshmen see that there are other activities on the campus besides SDS."

Members of the staff of the Ohio regional SDS, located in Cleveland, some 30 miles from Kent, also made frequent appearances on the Kent State campus. The staff was identified during the hearings as consisting of Corky Benedict, Lisa Meisel, Terry Robbins, Bobbi Smith, and Charlie Tabasko. This staff engaged in supplying "educational" pamphlets and films to chapters such as Kent's, as well as sending out mimeographed newsletters and directives aimed at getting local SDS members to carry out programs developed by SDS national officers and the national council.

During the 1968–1969 academic year, initial SDS activity revolved around "rap" (discussion) sessions in Kent State dormitories, together with rallies and film showings.

Key attraction at a public affair for which the SDS reserved the Kent State auditorium on October 24, 1968, was Mark Rudd. Rudd as chairman of the SDS chapter at Columbia University won notoriety as a leader in the seizure of campus buildings in the spring of 1968. Rudd also returned for a Kent State SDS rally and march protesting the national elections on November 5, 1968.

At least seven films, made available from the SDS regional office in Cleveland, were offered to Kent State students by the local SDS chapter. The films were among those listed in the catalogue of "Newsreel," a film company with main offices in New York City. Newsreel is engaged through several outlets coast to coast in the acquisition, production, and distribution of films propagandizing the causes of the radical minority and New Left movements. A witness who viewed two of the films—one dealing with the Black Panther Party and another simply titled "Weapons"—testified both reflected unfavorably on law enforcement officers.

The Black Panther film was effectively utilized prior to a sit-in on November 13, 1968, by the combined forces of the SDS and another campus organization, Black United Students.

In the course of several days of propagandizing, SDS had achieved an alliance with the BUS for the purpose of preventing recruiters from the Oakland, Calif., Police Department from conducting interviews on campus on November 13. On the eve of the scheduled appearance of the recruiters, SDS sponsored a meeting in the campus education building attended by members of BUS. A film on the Oakland-based Black Panther Party was shown. The presentation was highly emotional and "geared to make the police look bad," according to an eyewitness.

Oakland police officers portrayed in the film were berated as "racists" by a speaker at the SDS meeting. The speaker further exhorted the audience to action on the following day to insure that no campus recruiting would be conducted by that law enforcement agency.

On the afternoon of November 13, approximately 150 SDS supporters joined with some 200 members of BUS in occupying the student activities center. While nonviolent, the 5-hour sit-in nevertheless forced postponement of some interviews of potential recruits by the Oakland Police Department. The three demands of SDS on this occasion were: a ban on campus recruitment by the Oakland Police Department; the disarming of campus police; an administration agreement not to "infiltrate" organizations in order to keep an eye on them.

The university administration had made an unsuccessful attempt, prior to the sit-in, to establish an on-going communication with the local SDS chapter. Dr. Matson testified that the SDS leadership refused an invitation to meet in his office and demanded instead that he journey to the SDS meeting place. When the official agreed, he found that the SDS leaders had no specific concerns to discuss with him, although their sit-in occurred only 4 days later. One SDS member at the meeting, in fact, derided the official for expecting the organization to keep the administration informed of its plans.

The sit-in failed to accomplish a single SDS demand. It did, however, impel the administration to plunge "into the task of adjusting our student personnel and administrative staff assignments, procedures, and policies in dealing with major student disruptions and disorders," according to Dr. White.

Throughout the winter quarter, the president recalled, meetings were held involving the president's cabinet, the student affairs staff, and the safety and public service division, as well as outside law enforcement agencies on city, county, and State levels. The combined efforts led to the formation of "confidential emergency procedural guides" which set forth "who does what" in the event of further attempts to start campus disruptions.

Concurrently, the administration consulted with the faculty and sought to improve communication with the rest of the student body. University policy, as described by its president, was to protect dissent while rejecting coercive or violent actions and to institute change to meet legitimate student grievances. Cited by the administration in this connection was the fact that the Black United Students ended their alliance with SDS after the November 13 incident and thereafter worked with administration representatives through the normal process of consultation. The BUS has obtained administrative support for developing educational programs with particular relevance for black students.

Kent State officials were alerted during the winter quarter to expect planned disruptions during the spring quarter, which would begin officially on March 30. "The signals coming from the SDS," the president explained, "were so clear that tensions and concerns were evident throughout the entire campus, even to the most casual observer." One of the clearest signals was a 10-page, mimeographed *Organizers' Manual for the Spring Offensive*, copies of which were piled on a table at a campus lecture sponsored by the local SDS chapter.

The manual, which was introduced as an exhibit during the committee's hearings, was an avowed attempt by the SDS regional office in Cleveland to help local chapters implement a spring program to "Smash the Military in the schools." The Ohio region of SDS claimed that its inspiration was a two-part program of the same name adopted early in February at a regional SDS conference at Princeton, N.J., with SDS National Secretary Michael Klonsky serving as one of the authors.

The manual, written by Ohio regional staffer Terry Robbins with assistance from activists in the Kent State SDS chapter, proposed issues and called for a series of escalating actions in their behalf on the campus and in the community. Proposed demands included (1) immediate withdrawal of American military forces from Vietnam and support for the Vietnamese Communist forces; (2) an end to ROTC; (3) an end to counterinsurgency and police training on campus; (4) an end to draft assemblies and tracking in high schools; and (5) open admissions for so-called Third World, black and white "working-class" people.

Demands were to be pursued through a series of "escalating actions" described in the manual as follows:

"During the course of the struggle it will probably be necessary and helpful to carry out a series of escalating 'mini' actions to help build consciousness and dramatize the issue. Beginning with guerrilla theater actions in dorms we can escalate to disrupting classes, street marches, quick assaults on buildings, etc., before moving to the major confrontation of the struggle."

The objective of such actions was also spelled out in the manual. SDS did not seek reforms but creation of a so-called revolutionary class consciousness among students which would enable them to identify with struggles in Vietnam and Cuba while struggling against "capitalism" and "imperialism" at home. SDS members were expected to hold themselves ready "to move, to desanctify, to confront, to escalate, and ultimately to defeat the system we live under."

University officials sought to counteract the proposed SDS "spring offensive" in a number of ways. In addition to the previously described confidential guidelines for procedures in the event of campus disruptions, the university administration on March 7, 1969, issued a statement of policy which warned students, among other things, that: (1) the university would not respond to proposals for change advanced by force or threats of violence; and (2) the university would not tolerate disruptions of university activity.

During a recess at the end of the winter quarter (March 22–26) the administration conferred with State and local legal authorities and set in motion the machinery for issuance of temporary restraining orders when needed.

When students returned to class for the spring quarter on March 30, they were also informed that a new system of immediate suspensions might be applied to those who attempted to disrupt university processes. Before the spring quarter was ended, the university would have an opportunity to test the efficacy of its newly adopted procedures.

Witnesses supplied a detailed account of three disruptions of Kent State University operations planned by SDS and executed with varying effect during the spring quarter.

The first attempted disruption occurred on April 8, 1969, in behalf of demands raised only a day or two prior to the actual demonstration. The demands reflected all of the campus issues proposed in the aforementioned *Organizers' Manual for the Spring Offensive*, with the exception of the manual recommendation on "Open Admissions."

Recommendations in the manual on the subject of the Vietnam war, ROTC, and counterinsurgency and police training on campus were reworded, and the following local SDS demands were then mimeographed in leaflet form and circulated on campus:

(1) abolish ROTC because it supplies leaders for an alleged "imperialist" American action in Vietnam.

(2) abolish the Liquid Crystals Institute. (Engaged in cancer research, the university institute also held a research grant from the U.S. Defense Department, which led SDS to charge it with involvement in a Government counter-insurgency program.)

(3) abolish the Northeast Ohio Crime Lab (an agency of the State of Ohio assigned space on campus).

(4) abolish the Law Enforcement School (a university curriculum which produces professionally trained law enforcement officers).

Events of April 8 began with a rally called by the SDS chapter to advertise the four demands. A spokesman for the university administration offered to meet with three SDS representatives to discuss their complaints, but the offer was rejected. SDS reportedly viewed its demands as nonnegotiable. Its announced intention on April 8 was to organize support for a mass march on the Administration Building for a symbolic nailing of the demands on the door to the meeting room of the board of trustees.

Following the speechmaking in front of the Student Union, 35 to 40 SDS supporters marched through various campus buildings to the chant of "Ho, Ho, Ho, Ho Chi Minh." They disrupted some class sessions as they handed to other students literature spelling out SDS demands. The demonstrators (numbering about 50) continued on to the Administration Building in an attempt to tack their demands to a door. Efforts by the demonstrators to force their way into the building were thwarted by the university police. Police officers, however, were struck by demonstrators. The 15-minute confrontation ended only after SDS leader Howard Emmer ordered the students to "quit for now." The coordinated action of the law enforcement agencies in the area thus foiled SDS's first attempted disruption in its "spring offensive."

The university reacted quickly and firmly. First, it suspended the SDS chapter, pressed assault and battery charges against six demonstrators for attacking police officers, and imposed immediate suspension upon a number of students involved. (All of the charges were still pending at the time of the committee's hearings, with exception of those against Alan DiMarco, who entered a plea of *nolo contendere* and received a fine and jail sentence.) It also obtained temporary restraining orders barring from the campus five demonstrators whom the administration viewed as leaders of SDS activity. They were students, Howard Emmer, Colin Neiburger, and Edward Erickson, and nonstudents, Jeffrey Powell and George Gibeaut.

One of the nonstudents identified as being present on campus April 8 was Terry Robbins of the Ohio regional SDS in Cleveland. This marked the first of several appearances by Robbins during the "spring offensive" at Kent State. He was later joined by other regional staffers. The liaison maintained between the local and regional SDS was also illustrated by the record of telephone toll calls between the Cleveland office and the Kent residence of Edward Erickson. Erickson was identified as a Kent State student, eventually suspended for participation in the campus disorders, whose Kent home had been the base for most of the SDS activity off campus. Toll charges showed a total of 36 phone calls had been made from his residence to the Cleveland regional SDS between February 21 and April 24, 1969.

A university disciplinary proceeding on April 16, involving two students suspended after their participation in the attempted disruption of April 8, provided the issue for another, more violent SDS demonstration.

SDS had sponsored a series of rallies after the April 8 incident and engaged in dormitory "raps" in an acknowledged effort to violate "as much as possible" the administration's ban on SDS's use of university facilities. When the university set the date for its closed disciplinary hearings stemming from the April 8 affair, the SDS chapter added a fifth demand to its original four—"open and collective hearings for all those suspended"—and promised to "open up" the hearing on April 16.

Mimeographed leaflets, headed "Open It Up, or Shut It Down!" were distributed by the Kent State SDS to explain the organization's expanded demands and to solicit supporters for an SDS rally and march on campus April 16. "Open the Hearings!" and "Free All Political Prisoners!" were the slogans for the rally and march.

By the time the SDS rally had concluded, the organization had garnered some 100 supporters for its march on the music and speech building where the disciplinary hearing was underway before the student judicial council. The demonstrators stormed through two sets of locked and chained doors with the aid of such improvised instruments as a 7-foot iron bar from a dismantled coatrack. When SDS supporters reached a third-floor corridor, they were confronted by university police and sheriff's deputies who forestalled any entry into the actual hearing room. The accompanying din nevertheless served the purpose of disrupting the discplinary proceeding.

In accordance with prearranged procedural guides, Ohio State police were summoned to the campus, at which time 58 demonstrators were arrested. Charges filed against them on the same day, which were still pending at the time of the committee's hearings, included trespass, inciting to riot, participating in riot, and malicious destruction of property. Temporary restraining orders had been lifted to permit the five SDS activists barred from campus to appear as witnesses at the disciplinary hearings. As a result of their behavior during the demonstration, they were subsequently found guilty of contempt of court and sentenced to fines and jail sentences, which were being appealed at the time of the committee hearings.

The confrontation between demonstrators and police and the ensuing mass arrests involved no injury to SDS activists, their supporters, or the police. A representative of the Kent State police testified that, in addition to breaking through the barricaded doors, there were oral threats to "kill" directed at the police by SDS members during the confrontation in the third-floor corridor.

The Ohio regional SDS was represented in the April 16 events by Lisa Meisel, who joined in the march on the music and speech building. During scuffles between the demonstrators and some of the approximately 200 students who opposed the SDS march at the door to the building, Lisa Meisel was observed to grab a student by the back of the shirt. Another outsider on campus that day was Jim Mellen, a guest speaker at the rally preceding the march on the disciplinary hearing. Mellen was introduced as a representative of the Radical Education Project at Ann Arbor, Mich., a New Left research and propaganda organization. University officials also discovered that 10 of the 58 demonstrators arrested on April 16 were not actually enrolled at the school.

Subsequently, regional and national SDS officials and other outsiders put in appearances on the Kent State campus during a series of rallies and other publice events avowedly aimed at drumming up support for additional militant SDS actions on the campus.

The organization's strategy was outlined in a pamphlet. "The War Is on at Kent State," which was circulated during campus speech-making by SDS officials, defining the organization's strategy.

The pamphlet, coauthored by Terry Robbins and Lisa Meisel of Ohio Regional SDS, explained that SDS at Kent State had shown tactical flexibility by using rallies, dorm "raps," etc., geared to "increasing the possibility" of struggle. It announced that SDS was working on more elaborate explanations of its demands because the struggle would continue despite the mass arrests of April 16.

Robbins and Mellen were on hand for an SDS rally held in a campus park the day after the mass arrests. The theme of their speeches on April 17 was the immediate need for some kind of militant action to show the university that the SDS was "strong" and was not going to be stopped by "racism," "imperialism," or "political repression." Of the 200 persons attracted to this rally, at least one half were classified as merely curious onlookers.

Another outdoor rally and march on April 20 involved use of the services of Ohio regional staffer Corky Benedict. Benedict returned to join three national and local SDS representatives in a speechfest in Williams Hall on campus on April 28. Handbills gave top billing to Bernadine Dohrn, the organization's national interorganizational secretary, who was to discuss "repression" and SDS demands. Speakers for the banned organization obtained use of a university facility by appearing under the sponsorship of a local Yippie group.

According to testimony from a committee investigator who attended the session Miss Dohrn told the 125 individuals attracted to the meeting that SDS recognized a necessity for an organized revolution to destroy a power structure by which a wealthy few repressed the majority in America. Miss Dohrn justified violence directed at police officers and forecast that both blacks and whites fighting "oppression" would have to carry weapons for the purpose of self-defense.

Speeches by Corky Benedict and SDS member Rick Skirvin, a former student at Kent State, emphasized that they expected power to be wrested from the "ruling class" in America only through the application of force and that an element of revenge would enter into revolutionary violence.

Although the April 28 meeting marked the only known appearance of a current national SDS official on the Kent State campus, local activists maintained telephone contact with the national office in Chicago, according to an examination of toll charges from the Kent residence of the previously mentioned SDS activist, Edward Erickson. Eleven phone calls were made from the Erickson residence to the SDS national office in the period February 21 to April 24, 1969.

Also at the meeting April 28 was Joyce Cecora, local SDS activist and former Kent State student, who spoke on Kent State SDS demands. Her militant observations at another rally May 6 were publicized in the campus newspaper. This rally was sponsored by a campus committee that had been organized to protest the earlier arrests of SDS demonstrators. An eyewitness testified that the following account in the *Kent Stater* was an accurate rendition of Miss Cecora's position:

"Earlier, a Students for a Democratic Society (SDS) spokeswoman called for armed rebellion on the Kent State campus.

"Joyce Cecora, SDS member, speaking to approximately the 200 persons sitting under the searing post-noon sun called for the use of arms to end what she called the 'repressive actions of the administration.' Sitting on the grass in front of the Administration Building is not fighting!' she emphasized. As she spoke, several of her male counterparts stood beside her holding two red SDS banners aloft.

" 'They used guns at Cornell, and they got what they wanted,' she said. 'It will come to that here!' "

A similarly aggressive position was taken by Joyce Cecora in a talk at a Kent State dormitory the previous February 27, witnesses informed the committee. Aroused over the arrest of an SDS activist for distributing literature on campus in violation of State obscenity statutes, Miss Cecora reportedly declared that the SDS would burn and level the campus if the university did not discontinue "politically repressing" the organization.

The strident tone of SDS speakers continued up to May 2, when another SDS rally set the stage for what was to be the final "action" in the spring offensive at Kent State.

A witness testified that speechmaking in front of the Student Union included a declaration by SDS member Rick Skirvin that: "We'll start blowing up buildings, we'll start buying guns, we'll do anything to bring this [obscenity for school]—down."

SDS was able to muster only about 15 persons, however, for the ensuing march aimed at disrupting an ROTC Review Day ceremony on the campus. The demonstrators invaded a chalked-off area on a field where the ROTC cadets awaiting review were standing at attention. Chanting slogans, they pushed their way through the cadet ranks. A university official warned the demonstrators over a public address system that they had entered the equivalent of a classroom area and were subject to university discipline as well as civil arrest. SDS supporters continued demonstrating for another 10 minutes without arousing retaliatory action on the part of the cadets and finally marched off the field.

Warrants were subsequently issued for the arrest of 15 individuals on a charge of disturbing a lawful assemblage.

The demonstration was cited as an example of the special problem which the university administration faced as a result of an influx of organizers and other outsiders. Of the group of 15 individuals who unsuccessfully sought to disrupt the ROTC review on May 22, the university president testified, five had been identified as students, five had definitely been established to be nonstudents, and the others had yet to be identified.

The university administration came to view Students for a Democratic Society—in the words of President White—as "an enemy of democratic procedure, of academic freedom, and of the essential university characteristics of study, discussion, and resolution." At the same time, SDS was classed as only one part of the problem of student unrest.

The dual approach of (1) being prepared to resist proposals for change advanced by force while (2) remaining responsive to change pursued through legitimate procedures had the following positive results, according to witnesses representing the university administration:

(*a*) Incidents provoked by SDS actually "de-escalated" and campus support waned in spite of an SDS program for a series of "escalating actions."

(*b*) Faculty, students, and citizens of the Kent community expressed spontaneous support for university policy, and all major parts of the campus commended the performance of the university's police force.

(*c*) Personal injury and major destruction of university property were avoided.

(*d*) The university completed the academic year "free and unfettered with no shameful compromise and with increased mutual respect among the parts of the campus."

Testifying on the basis of her personal observations at SDS meetings and demonstrations. Student Margaret Murvay stated that the arrests and immediate suspensions of SDS supporters on April 8 and April 16 weakened and, in fact, crippled the Kent State SDS chapter. Many supporters dropped out of SDS activity thereafter in fear of future arrests or the possibility that their parents would learn of their activity. Many other SDS members were deflected from other action by the necessity to raise bail, Miss Murvay reported.

SDS confirmed the findings of Miss Murvay. The previously cited pamphlet, circulated on campus after the mass arrests of April 16, and bearing the title "The War Is On at Kent State," acknowledged that . . . "The repression has clearly hurt us: over sixty of our people have been banned from the campus, at least 11 face heavy charges, with total bail exceeding $120,000, and the Administration has succeeded to some extent in scaring a lot of people and obfuscating our original demands . . ."

That is the end of the House Committee digest of its Kent hearing of June 1969. It seems to end on a promising note of a restoration of the university's function to get on with teaching. No such account exists of events in the 1969–70 school year. There will undoubtedly be hearings in Congress covering agitation for violence at Kent from last September on. Since the news media seem to have no inclination to put such connected stories together the country will probably have to wait for new hearings, and then for someone with an interest in publishing them.

Obviously, the inclination of a nucleus of Kent students to precipitate mob actions with their senseless consequences did not die with the 1969–70 school year. But the public record is vague up to Friday, May 1, 1970. On that day a band of "students" (that's what the press calls them, though invariably non-students and faculty members often seem to be among the leaders) went on a window-smashing, stone throwing spree in the town of Kent, with the military campaign in Cambodia as the excuse, pretext or reason, according to how you look at it. On Saturday, May 2, the ROTC building on the Kent campus was burned to the ground by arsonists.

Students threw rocks at the firemen and chopped the firehoses. Townspeople said that college mobs had terrorized them in the weekend rioting. These events led to the calling out of the National Guard. On Monday, just before the shooting, college mobs taunted and hemmed in Guardsmen, threw large rocks at them. The Guard used tear gas until it was exhausted. One Guardsman said that some collegians had come at them with coathangers in their fists, hooks out. A tape recording, the Guard reports, indicates a lone shot fired some 10 or 11 seconds before the Guard opened fire. After the event, numerous arms were found on the students' premises and one gun was reported found thrown in a stream.

There you have two backgrounds at Kent State to choose from. You have the version of an idyllic, peaceful, panty-raiding campus invaded by brutal authority. Or you have the record.

PROPOSAL FOR A COMMITTEE FOR SIMPLIFICATION OF FEDERAL TAXATION

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BUSH. Mr. Speaker, many of us feel that the tax structure should be simplified. I, for one, do not feel that the Tax Reform Act of 1969 did much to accomplish this objective. Mr. Raymond Hemming, a certified public accountant in San Mateo, Calif., has proposed that a Committee for Simplification of Federal Taxation be established. Frankly, I think the suggestion makes a great deal of sense and would hope all Members of this body will review Mr. Hemming's proposal with care. Mr. Speaker, at this time I include the proposal in the CONGRESSIONAL RECORD, as follows:

PROPOSAL FOR A: COMMITTEE * FOR SIMPLIFICATION OF FEDERAL TAXATION

WHY SUCH A COMMITTEE?

Because no one is presently directly concerned with coordinated simplification of federal tax statutes, regulations, rulings, procedures and forms. Treasury is intersted in raising the maximum amount of revenue in the least painful manner; Congress is interested in raising enough revenue to finance the various appropriations, and the Internal Revenue Service is interested in collecting taxes in accordance with the intent of Congress and the regulations laid down by Treasury.

Because, as maters stand now, the various representatives of the taxpayers in Washington are going their dedicated independent ways, but without coordination on behalf of individual taxpayers.

Because efforts to accomplish simplificaton are going their dedicated independent introduce complexities for another agency. Accomplishment of simplification is going to require coordinated effort.

Because a Committee whose sole focus is to be upon simplification can cut across organization lines and enter into all agencies concerned with federal taxation while leaving undisturbed the basic functions of those agencies.

Because we have had enough ad hoc, fragmented, piecemeal approaches to simplification. United, continuing, long range efforts are going to be required to accomplish simplification.

WHY NOW?

Because a long delay in starting may have more serious consequences than we presently realize.

Because simplification is not going to be accomplished in a short period of time; it will require a continuous long range effort.

Because the sooner we get started, the sooner all levels of government, federal, state and local will have a central repository of tried and proven data to draw upon to guide them in matters of simplified taxation.

Because our present system is becoming progressively unadministrable.

COMMITTEE ORGANIZATION AND FUNCTIONS

The Committee shall be organized and shall function generally as follows:

The objective, and sole focus, of the Committee shall be upon coordinated simplification of tax statutes, regulations, rulings, procedures and forms.

Committee membership:

Elements of committee membership

[Sponsoring Agencies]

	Number of Members
House Ways and Means Committee	2
Senate Finance Committee	2
Joint Committee on Internal Revenue	2
Treasury Department	2
Internal Revenue Service	2
Tax Court of the United States	2
Public at large, attorneys	2
Public at large, CPAs	2
Public at large, Laymen	2
Total	18

The Committee shall be non-partisan. In so far as practicable each representative from a sponsoring agency shall come from a different political party. Each representative shall be of sufficient stature to carry effective influence in his sponsoring agency.

For the foreseeable future, the Committee shall function on a continuing basis.

Since much of the complexity inherent in our system of taxation results from existing statutes and attempts to accomplish equity among taxpayers, the Committee shall begin with an examination of existing statutes (Internal Revenue Code Sections). Concurrently, a review and analysis shall be made of proposed legislation.

The Committee shall have two parts:

(1) A highly qualified professional staff composed of selected attorneys, Congressional staff committeemen, IRS personnel, CPAs and others. The primary function of the professional staff shall be fact finding with respect to simplification.

(2) The decision making Committee, made up of the eighteen members listed above, who shall hear the findings and recommendations of the professional staff. The Committee shall concur in or refer back the recommendations of the professional staff. Upon concurrence, the Committee shall take whatever action is required to translate the particular recommendations into action.

The Committee shall elect a chairman from among their membership.

To divide responsibility and work load and to give each element of the membership an opportunity to direct the Committee, the chairmanship shall be rotated annually.

Because of existing heavy demands upon members' time, the Committee shall meet only so often as appropriate and necessary to accomplish the objective of the Committee.

Committee meetings shall be held in Washington or elsewhere, and shall be of such duration as the Committee considers appropriate and necessary.

Each sponsoring agency shall be represented at each Committee meeting.

Minutes shall be kept of each Committee meeting.

Because of existing Constitutional requirements relating to members' elective or appointive positions, service upon the Committee shall be considered collateral to the members' elective or appointive positions.

Committee members shall report to their sponsoring agencies and to the public at large their conclusions and recommendations with respect to: existing statutes, regulations, rulings, procedures, forms and proposed legislation.

PROFESSIONAL STAFF

The professional staff shall be headed by an Executive Director:

He shall have substantial stature in the tax community.

He shall be simplification minded; rather for example than inclined to the accomplishment of equity amongst taxpayers, a function already well attended to by Main Treasury.

He shall have such staff as is necessary to effectively carry out necessary fact finding, reporting and other functions required by the Committee.

The professional staff shall be situated away from the political pressures, personnel shortages, and other problems of Washington, D.C. The professional staff shall be organized with several sections and subsections to deal with the review, analysis, and evaluation of:

The Internal Revenue Code,
Existing rulings,
Proposed legislation,
Forms,
Internal Revenue Service procedures,
New approaches,
Assistance to States and cities (since increasingly close relationships exist between Federal and State or local income taxes), and
Other matters.

It is likely that the ultimate success of the committee will depend upon the quality of the professional staff, and the effectiveness of the representatives of the sponsoring agencies.

Accordingly, it is recommended that the professional staff be made up of successful practicing attorneys, congressional staff committeemen, IRS personnel, CPA's and other specialists in matters of simplification. It is anticipated that the American Institute of CPA's and the American Bar Association will assist in securing particularly competent individuals for this important work.

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* Committee or Commission.

SHORTAGE OF DOCTORS

HON. JEFFERY COHELAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. COHELAN. Mr. Speaker, it is becoming increasingly obvious to all of us that the health manpower emergency is increasing daily. I insert for the information of my colleagues two recent articles detailing the shortage of doctors.

The first by Don Kirkman from the Washington Daily News of July 7, 1970, reports that Dr. Roger Egeberg soon will ask for an extra $150 million to help alleviate the doctor shortage. The article reports that this sum will be asked for in the 1971 budget—but we have seen no indication that this is going to happen.

The second, by Judith Randall, appeared in the Washington Star on April 23, 1970, suggesting how to train more physicians. The articles follow:

[From the Evening Star, Thursday, Apr. 23, 1970.]

WASHINGTON CLOSEUP: HOW TO TRAIN MORE PHYSICIANS?

(By Judith Randall)

Judging by what he often has said, Dr. Roger O. Egeberg, the assistant HEW secretary for health, has thought long and deeply about solving the doctor shortage. The question is whether the administration's approach to the problem is sufficiently incisive.

The nation now needs 50,000 doctors, and Egeberg calculates that at the present rate of population growth an additional 20,000 will be needed by 1980. With only 100 medical schools and fewer than 9,000 graduates each year, enrollment would have to double by the mid-70s to even approach this goal. The prospects are not bright.

This is not to say that attempts aren't being made. In Shreveport, the local Veterans' Administration hospital has become a teaching hospital for Louisiana State University, enabling it to open a new medical school. More such affiliations apparently are in the talking stage.

Montana, Idaho and Wyoming—all now without medical schools—are considering a tri-state effort that would combine basic science preparation in a university setting with later practical experience in community hospitals. The trouble is that such fledgling ventures, much as they are to be encouraged, are few in number, likely to be underfunded, and—as are nearly all pilot projects of some complexity—slow to get up to speed.

Clearly, then, the bulk of the new physicians will have to come from already established medical schools. In the years since World War II—largely because of steeply rising costs—such schools have come to depend on Washington for about 60 percent of their operating expenses, largely through the instrument of medical research grants. Egeberg's contention is that this has led to a needlessly lavish 1.1–1.6 faculty-student ratio.

The argument undoubtedly contains a germ of truth. But, at the same time, it must be recognized that there is a limit to how many additional students medical school instructors can take on, even if the schools, as they did in World War II, decide to stay open all year. Most students probably don't need as much exposure to research as they may now be getting. But, as Egeberg himself acknowledges, familiarity with experimental methodology is essential if a physician is to be able to assess new scientific thinking.

Besides, research is not superfluous and already has undergone heavy cuts. Given our growing population and the increasing number of people who live into old age, doctors will need all the help science can give them if access to the best which medicine can offer is truly to become a right for all.

How, then, can we turn out more doctors? One way, as Egeberg suggested, is to put teaching on a par with research and encourage educational innovation. The mere instigation of a Mr. Chips tradition, however, will not do the job. Even the most richly endowed school these days depends heavily on government dollars and it is hard to add students or faculty, or plan curriculum changes, when deans cannot be sure how much support they can expect from one year to the next. Some Washington policy mechanism is needed that will enable schools to think ahead.

Another need is coordination. Basic medical education varies little among schools, but a doctor's training barely begins when he graduates, and the typical novice physician faces both an internship and a residency.

A few specialties—notably psychiatry—have shortened the training period by eliminating the internship requirement, but postgraduate medical education, offered as it is at some 1,300 different hospitals, remains needlessly disjointed and prolonged.

If the administration cares about getting more doctors, it should seek to build in incentives that would strengthen the continuum between where medical school leaves off and postgraduate training begins.

Finally, there must be more thought given to what kind of doctors we want. Family practice recently has been dignified as a specialty in itself, and there is a good deal of talk in both government and professional circles about primary physicians. Still, only about 2 percent of medical school graduates become general practitioners, and most doctors who do so are imports from abroad, where they also are needed badly. And while we have a relative oversupply of surgeons, certain other specialists such as ophthalmologists and dermatologists are in desperately short supply.

It has been government tradition not to intentionally interfere with the design of medical education or the general practitioner-specialist "mix." Certainly, no one would wish these matters dictated from above. On the other hand, current federal health policy is as fragmented as the jerry-built system that is medicine today, and the carrot-and-stick approach has barely been tried.

[From the Washington Daily News, July 7, 1970]

SHORTAGE AND "MALDISTRIBUTION" CHARGED—HEW TO ASK MASSIVE AID TO PLUG DOCTOR GAP

(By Don Kirkman)

The Nixon Administration's top doctor, assist. secretary for health Dr. Roger O. Egeberg, soon will ask the White House for an extra $150 million to help solve what he describes as the nation's single most pressing health problems—the shortage of doctors, dentists, nurses and other health personnel.

When he does, Dr. Egeberg undoubtedly will trigger a new round of debate on the quality and distribution of the nation's health care here—a debate that has been building for the last few years in all segments of the medical community.

Scripps-Howard Newspapers have conducted a month-long series of interviews with doctors in and out of government to find out what's wrong with the nation's medical care system and what needs to be done to correct it.

With surprising unanimity, those interviewed agreed that:

The U.S. needs an immediate crash program to increase the number of health workers, with primary emphasis on doctors.

Doctors in the U.S. are overconcentrated in suburbia and most have little desire to practice in ghettos and rural areas.

Many of the nation's medical colleges and other health education institutions are on the verge of bankruptcy.

Medical education is so costly that Negroes, the children of other minority groups and poor whites are prevented from becoming doctors or dentists.

The number of Negro and minority doctors isn't keeping pace with the increase of the nation's Negro and minority populations.

Thus Dr. Egeberg says he will urge the White House and Congress to add $150 million to the Health, Education and Welfare Department (HEW) fiscal 1971 budget to boost financial grants to medical, dental, nursing and other health-related schools and increase the number and amount of federal scholarships and loans to medical and dental students and to trainees for nursing and other health-related professions.

Dr. Egeberg also says this would be only a down payment on a vastly increased federal program of medical education that would extend for many years.

Most health sources agree the U.S. has about 325,000 doctors, 100,000 dentists, 700,000 nurses and three million other workers in the health professions. However, it's estimated the U.S. needs another 50,000 doctors, 150,000 nurses, 10,000 dentists and thousands of additional health-care specialists.

Dr. Egeberg says he is convinced the doctor shortage is the heart of the nation's health-care problem and at least two-thirds of the additional funds he is seeking should be used to correct it.

"I don't care what Congress does with Medicare, Medicaid and all the other (health) programs," he says. "Nothing is going to improve the country's medical system until we get more doctors."

Last month, the nation's 109 medical schols graduated about 9,000 doctors, but the number should be at least 18,000, Dr. Egeberg says, if the nation is to make real headway toward providing good medical care for all Americans regardless of race, income, or ability to pay medical bills.

"If the government doesn't help the medical schools and medical students soon, we'll have a doctor shortage for the next 20 years," Dr. Egeberg warns.

Dr. John A. D. Cooper, president of the Association of American Medical Colleges (AAMC) agrees with Dr. Egeberg, but he points out that in the purest sense the U.S. actually doesn't have a doctor "shortage."

The U.S. is second only to Russia in the total number of practicing doctors (325,000 to the Soviet's 650,000), altho seven nations have proportionately more practicing doctors than the U.S. They are Austria, Australia, Denmark, Israel, Italy, Russia and West Germany.

"MALDISTRIBUTION" CLAIMED

What the U.S. really is suffering from, Dr. Cooper contends, is a serious "maldistribution" of physicians within a system that permits most doctors to practice in suburbia and too few to practice in ghettos and rural areas.

In effect, Dr. Cooper says, this makes the U.S. health-care system like the girl with a curl: Where it's good, it's very, very good and where it's bad it's horrid.

Why American doctors prefer to practice in suburbia is exemplified by Dr. Donald S. Thorn, president of the Fairfax County Medical Society. A specialist in internal medicine, Dr. Thorn has a "fairly substantial practice" in a white, middle-class area that has twice the number of doctors it would have if doctors were spread evenly thruout the population.

Thruout his life, Dr. Thorn has been a member of the middle class (his father was a professor of dentistry) and he wants to continue being a part of a culture and society he was born to, raised in, and has always known.

It is also important to Dr. Thorn to be within a 30-minute drive of Metropolitan Washington with its theaters, concerts, libraries and other cultural outlets, it modern hospitals, medical schools and hundreds of specialists expert in medical problems outside of his field.

"I can't see any reason why I should take myself and my family into the middle of nowhere," Dr. Thorn said, "where I would have to work 80 hours per week, use obsolete medical facilities and inadequate equipment, and, I might add, force my kids to go to second-rate schools.

"What could anyone possibly put in the boondocks that could possibly attract me or thousands of other doctors like me?"

Dr. Thorn is equally opposed to uprooting his family and moving into a crime-ridden ghetto or even bucking traffic jams to drive into a ghetto.

The nation's medical students, tho perhaps more vocally concerned about good health care for all Americans, don't appear ready to flock into the ghettos and rural areas and right the wrongs of their elders.

Robert P. Lewis, 25, a Georgetown University medical student, covered a point Dr. Thorn left unsaid: "I think doctors of all ages simply are too frightened of the ghettos to set-up practices in them."

Mr. Lewis and Cominick Dominick Minotti, another Georgetown medical school senior, say they might be willing to be part of a medical group providing medical care for ghetto residents. But neither has ever considered practicing in the rural areas and both say they almost certainly will begin their medical practice either in a metropolitan area or its environs.

"I think it's important to enjoy the advantages of a city, its schools, culture and the rest and to be near a good medical school," Mr. Lewis noted.

13 YEAR EFFORT

Both agree the 13 years the average medical student now spends learning and earning the right to be a doctor can and should be reduced and that medical students should get more financial aid than they now receive.

The 13-year apprenticeship includes four years of college, four years of medical school, one year of internship, two years of specialized medical residency, and, for most young doctors, two years in military service.

The 13-year medical apprenticeship costs a student and his family at least $50,000 in tuition, fees, books, clothing and equipment and living expenses, they both estimate.

Dr. Frank W. McKee of HEW's Division of Health Manpower says this high cost is the reason most medical students are the children of the middle-class. Only 2.2 per cent of the nation's medical students today are Negroes, Dr. McKee says, and that ratio has been falling steadily in recent years as the costs of medical education have increased and many medical schools have found it increasingly difficult to keep up with their escalating costs or get scholarships and loans for needy students.

Dr. McKee also points out the actual cost of a medical education runs about $15,000 per year per student, of which $5,000 is paid by the student and the remaining $10,000 by funds collected by the medical schools from state and federal sources, endowments, contributions and gifts.

Dr. McKee is the principle HEW official charged with spurring the nation's 109 medical schools to increase their enrollments, tho he knows every new student they add drives them deeper into debt.

Sixty-one of the 109 medical schools today are being given federal "financial distress" grants, Dr. McKee revealed, and some of the schools are on the edge of disaster.

Federal officials report St. Louis University (Mo.), Loyola of Chicago and Credighton University, Omaha, Neb., are in dire financial straits and without massive help may have to close within a year. St. Louis already has closed its dental schools and has had to dip heavily into its capital endowment funds to operate its medical school.

Other medical schools, like Georgetown, George Washington, Tufts University of Boston and New York Medical College, have only three to five years to escape bankruptcy, federal sources add.

Yet many of these schools, including Georgetown and George Washington, are expanding their enrollments in the hope the Nixon Administration will come to the rescue.

Most of those interviewed agree, however, that a simple opening of the government's purse strings won't solve the problem of encouraging doctors to practice in the ghettos and the rural areas.

SMALL CLINICS PROPOSED

Dr. Egeberg says the first effort to solve the doctor shortage in ghetto and rural areas should be the establishment of dozens of small clinics and a call to the nation's doctors to staff them either full- or part-time.

The ghetto clinics, patterned after the successful medical facilities established in the last few years by the Office of Economic Opportunity (OEO), should be manned by groups of private doctors or resident doctors provided by nearby hospitals or medical schools, he says.

To serve rural areas, Dr. Egeberg envisions small-town clinics staffed by nurses who could handle minor illnesses and refer serious cases to medical groups established in larger nearby communities to care for the entire region.

Even as conservative a medical voice as the AMA's new president, Dr. Walter C. Bornemeier, concedes the ghetto clinic and rural group-practice idea now have places in the American medical scene.

Dr. Bornemeier also believes the time has come for the government to provide "full scholarships and maintenance" for Negro, minority and poor white students who want to become doctors.

He says the ghetto clinics should be financed by the government and operated by medical societies, medical schools and private doctors.

"Build them on main streets, put up a good-size fence, provide good lighting and police protection and you'll get doctors to staff them," he predicts.

The new AMA president also agrees that medical students spend too many years in undergraduate and medical school training. "I think we ought to aim at having a doctor six years after he graduates from high school," Dr. Bornemeier said. "He should be out there practicing medicine by the time he's 24 (years old)."

Many medical schools now are reviewing and revising their curriculums, Dr. Bornemeier added, and some, like the University of Illinois, already have reduced their medical school curriculum from four to three years.

Just how many doctors will volunteer to practice in the ghettos and the rural areas is the big question, however, and most of those interviewed doubt that enough will respond.

Dr. Egeberg says he's willing to give "volunteerism" a two-year test and, if the result is unsatisfactory, he may ask for a new approach that would guarantee medical educations to thousands of young medical students in exchange for an agreement to practice their first two years of medicine in ghettos or rural areas.

TWO-YEAR HITCH

"I think everyone who gets a medical education owes somebody something," Dr. Egeberg commented, "whether it's two years in the military or two years in a ghetto clinic."

Dr. Egeberg says the most likely way to carry out this new approach would be to expand the U.S. Public Health Service's Commissioned Corps—the government doctors who now provide medical care to Indians, seamen, and others.

The PHS Commissioned Corps now enrolls doctors after they are graduated from medical school, but under Dr. Egeberg's plan the corps would be expanded by enrolling medical students who would attend medical school, graduate, and serve two years in ghettos or rural areas. Dr. Egeberg estimates 3,000 to 4,000 fully paid government medical scholarships per year probably would provide enough doctors for these areas.

Dr. Egeberg also believes another 5,000 to 6,000 medical students not enrolled in the PHS commissioned Corps should get increased government scholarships and loans to increase the nation's doctor supply.

"I think we've got to get this money and get started. I want to see the nation's medical schools double their student enrollments in the next two years," he said.

STUDENT SENTENCES

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. DORN. Mr. Speaker, last week my colleague and warm personal friend, the Honorable WAYNE L. HAYS, made a very timely and forthright speech to the House regarding the conviction and sentencing of eight Cambridge University students in Great Britain for their part in a violent demonstration earlier this year at a hotel in Cambridge. I have procured a copy of one of the newspaper reports of the trial and sentencing and believe that the details of this case deserves attention.

It is time that we in the United States recognize that a student is a citizen—no more and no less—with rights and responsibilities just like those of every other citizen in our country. Status as a student does not give anyone special privileges, nor does such status exempt young people from legal responsibility for their own acts. We respect the ideas of our students and their right to peacefully express their opinions. We do not and cannot condone violence, destruction, and anarchy on the campus or in the community.

I commend the following article from the July 4 issue of the London Times for the consideration of the Members of Congress and the people of our Nation, and think that the wise and perceptive remarks of Mr. Justice Melford Stevenson deserve particular attention:

GAOL SENTENCES ON SIX CAMBRIDGE STUDENTS

(From a staff reporter)

HERTFORD, July 3.

Terms of imprisonment ranging from nine to 18 months were imposed by Mr. Justice Melford Stevenson at Hertfordshire Assizes today on six of the eight Cambridge students found Guilty yesterday for their part in a riot.

Two other undergraduates were sent for borstal training. Two of those sent to prison, who were born in Brazil and in South Africa, were recommended for deportation.

The crowded court heard the sentences in silence. Later groups of students who had been in the public gallery gathered outside the court in a silent protest.

Mr. Justice Melford Stevenson said: "There is no more painful duty than having to deal with young men of your background and education for serious criminal offences.

"The sentences which I feel I must impose would have been heavier had I not been satisfied that you have been exposed to the evil influence of some senior members of your university, one or two of whom I have seen as witnesses for the defence."

The eight undergraduates are:

Roderick Caird, aged 21, studying oriental languages at Queens' College, who was sentenced to a total of 18 months. He was convicted of causing a riot, unlawful assembly, assaulting a policeman and carrying an offensive weapon.

Phineas Richard John, aged 20, studying English at Downing College, was sentenced to borstal training for riotous assembly and causing malicious damage.

Peter Household, aged 21, studying English at St. John's, was sentenced to nine months' imprisonment. He had been convicted of riotous assembly and assault on the police.

Richard Lagden, aged 25, studying personnel management in industry at Queens', was sentenced to a total of 15 months for riotous assembly and malicious damage.

Nicholas Emley, aged 19, studying French and German at Clare, was sent for borstal training for riotous assembly and assaulting a policeman.

Brian Williams, aged 24, South African-born, studying for his doctorate in physics at King's, was sentenced to nine months for possessing an offensive weapon, a firework, and was recommended for deportation.

Derek Newton, aged 21, studying English at King's, was sentenced to a total of nine months for unlawful assembly and possessing an offensive weapon, a stick.

Miguel Bodea, aged 21, Brazilian-born, studying economics at Christ's, was sentenced to nine months for unlawful assembly and recommended for deportation. He was also sentenced to seven days' imprisonment, to run concurrently with his other sentence, for a breach of a one-year conditional discharge given to him in December last year for failing to notify change of residence as an alien.

The students all took part in a demonstration against the regime in Greece at the Garden House Hotel, Cambridge, on February 13 during a Greek dinner and dance. The event was in connection with a Greek Week holiday-promotion campaign in the town. The students, the court was told, stormed into the hotel, terrifying guests and doing £2,000 of damage.

The judge, sentencing the students said: "I must repeat that this case has nothing whatever to do with peaceful demonstrations; still less has it anything to do with political views, however firmly held.

"They carry no penalty in this country, but violence, destruction of property and intimidation as a means of expressing political or other opinions will be followed so far as this country is concerned, by serious consequences for those who indulge in them."

He went on: "It may be that that indulgence very often flows from sudden and unexpected temptation. The fact that people such as you are vulnerable to it provides no excuse, and you, and all like you, have got to learn that lesson.

"I am sorry to say these offences are not less serious because many of you are living wholly or in part on public money."

Mr. Eric Myers, for the defense of Mr. Caird, Mr. John and Mr. Household, said: "This was intended to be a non-violent, although deeply meaningful, demonstration."

The students admitted without reservation that the demonstration got out of hand. He added: "They recognize fully that the violence ill served the cause they cherish."

Mr. Myers said the students apologized to the guests who were molested and insulted and the staff at the hotel who were intimidated.

Mr. Leonard Caplan, Q.C., for the defense of Mr. Emley and Mr. Lagden, said that what the students had done was a thing of the moment and completely out of character.

The court was told that the case of Richard Lagden was unusual. Only 10 days before his arrest for that offense both his parents had committed suicide.

Mr. Basil Wigoder, Q.C., for the defense of Mr. Bodea, Mr. Williams and Mr. Newton, said the students had acted because of their "passionate beliefs, whether these beliefs were right or wrong".

Detective - Inspector Harry Gelsthorpe, questioned by Mr. Michael Eastham, Q.C., for the prosecution, said there was a possibility that each of the defendants would be sent down from university as a result of the case.

SMALLEST RECESSION IN 24-YEAR POSTWAR PERIOD

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BURTON of Utah. Mr. Speaker, we are all concerned about the economic condition of our country, and are hoping for an early end to the inflationary prices, and recent slowdown in our economy which has resulted in the necessary steps that have been taken to combat inflation. I have been encouraged, therefore, to see indications of progress against inflation, while at the same time, keeping the economy slowdown at a minimum. In two recent articles, "The Trader," in the July 13 issue of Barron's, written by H. J. Nelson; and a section from "Business in Brief," published by the Economic Research Division of the Chase Manhattan Bank, the June issue, the consensus of economists is that the business recession has been one of the least serious of the 24-year postwar period. The article follows:

THE TRADER GIVES HIS VIEWS OF THE MARKET

(By H. J. Nelson)

The stock market went on a roller coaster trip last week. It opened with a 13½-point drop for the Industrial Average on Monday and followed next day with a slide of 6.30 points which carried it below 670. While the two-day slump of 20 points appeared to be the product of the Penn Central bankruptcy and Chrysler heavy going, the brisk upturn Wednesday of 12¾ points resembled spontaneous combustion. Thursday brought another spurt of 10⅝ points. By the Friday close, the Average had recovered all of the Monday-Tuesday drop and had tacked on 11 points additional Crossing the 700 level again, the Index was at the best level since June 22.

BIG PENTAGON ORDERS

Most galvanizing news item was the Wednesday announcement by Governor Evans of Washington that Boeing has been selected over McDonnell Douglas Corp., to develop a new airborne electronic system to guard against enemy bombing. Although initially allotted only $16.5 million of the first stage development costs of $170 million, the Pentagon confirmed Governor Evans' assertion that the ultimate potential expenditure was $2 billion. About the same time, Tenneco Inc. said its subsidiary, Newport News Shipbuilding & Drydock Co., had received a $20.3 million addition to a previous contract from the Navy, making a total of $70 million for construction of the aircraft carrier, USS Dwight D. Eisenhower. With both orders coming on top of the $247.9 million of contracts to McDonnell Douglas to build new jet aircraft for the Navy and Air Force it seemed that the lagging stimulus of military contracts was being pushed to the fore at a time when cheerfulness of any sort was at a heavy discount.

Then after the close came the completely unexpected recommendation by an Interstate Commerce Commission examiner that the Chicago Rock Island & Pacific Railroad merge with the Union Pacific Railroad, and that the southern half of the Rock Island then be sold to the Southern Pacific Railroad. Competing applications by the Chicago and North Western Railway to absorb the Rock Island with the southern part slated for the Sante Fe Railroad was summarily rejected. Fearful of a news leak, the ICC issued the brief summary in advance of a lengthy report due soon. Nothing would help the needlessly distressing railroad problem more than prompt proceedings with the Rock Island-Union Pacific merger.

Some optimistic earnings statements appeared that were sufficiently constructive to dispel the fear that the second quarter earnings, normally due on a large scale by early August, might be dismally below the first-quarter showing. For that period, after-tax corporate profits of $46.5 billion compared with $49 billion in the previous quarter and with $51.7 billion in the opening period of 1969. International Telephone, in reply to stockholder queries, said that second-quarter earnings were above those for the year-ago period, that sales for all 1970 would exceed $6 billion against $5.5 billion in 1969, and that earnings would substantially exceed the $234 million, or $2.90 per share, of last year. Finally, ITT emphasized it was in a "strong financial cash position."

TELEPHONE OPTIMISTIC

To emphasize the improving picture and the costs and difficulties of a wage-cost spiral, Chairman Romnes of American Telephone told Dow Jones that efforts to catch up with the rapidly rising demand in such troubled areas as New York City, Boston and eastern Florida, would require the Bell System companies to spend a record $7 billion on construction this year, as against a previous 1969 spending peak of $5.731 billion. The $7 billion figure, $500 million over earlier estimates, reflects the impact of inflation on construction costs.

Disappointed over earnings gain of only 1% in the first quarter to 98 cents per share, and 1.3% to $1.03 per share in the second quarter, Chairman Romnes declared the impact of inflation on all operating costs was likely to result in new filings by Bell companies to state commissions to seek higher telephone rates and might even force petition for some interstate rate advances. Noting that several states have approved rates of return on invested capital above 8%, Mr. Romnes stated his belief that the company is justified in seeking a 9% return.

Notwithstanding the gloomy atmosphere in investment circles from the date of the Penn Central bankruptcy on June 21 to last midweek, the consensus of economists is that the business recession has been one of the least serious of the 24-year postwar period. The June issue of "business in brief," published bi-monthly by the Economic Research Division of the Chase Manhattan Bank, comments: "The decline in business activity continues to be a relatively mild one. Production and profits have fallen, and unemployment has increased. But the extent of these developments, unwelcome as they are, . . . has fallen far short of the experience during World War II recessions. Industrial production has slipped about 2½% from last July's peak. In 1957–58—the worst postwar recession—the nine-month decline was five times as great. In the mildest postwar recession, 1960–61, industrial production dropped by 4.2% in nine months. The decline is concentrated in durable goods, especially automobiles. Production of many other types of goods has either slipped very little or is still rising."

PLANT SPENDING FALLS

The First National City Bank July "Economic Letter" emphasizes that deflated investment plans of corporation for plant and equipment spending are an important new factor in the economy. The point is made that though businessmen in November and December indicated to the government survey that they intended to spend at an annual rate of $81 billion in the first quarter, by January and February, the projection had dropped to an $80 billion annual rate. When the quarter closed, actual spending turned out to have been only $78.2 billion, nearly $3 billion below the indications of the late 1969 survey. The decline in domestic machine tool orders on a seasonally adjusted basis in May to a level nearly 80% below the April 1969 peak, is another development that was stressed.

Although capital spending may be falling, it is only in the manufacturing field because public utilities, try as they may, are unable to carry out the expansion plans that will ensure a normal reserve supply of electricity this summer to prevent brownouts and restriction of supplies, possibly, to certain consumers. Yet, where an opportunity exists, it is readily seized, and the best example is DuPont, which is planning a multimillion-dollar expansion of its New Johnsonville, Tenn., plan that will increase production of titanium dioxide white pigment by more than 20%, when completed in late 1971. Less than two months ago, DuPont announced a 50% expansion of its Florence, S.C., polyester plant to be completed in 1971 and a $20 million plant abroad in Luxemburg to base.

BIG BOND MARKET

For the fourth week, the rally in bond prices was a feature of financial markets as new issues sold out at declining yields and even advanced to premiums above the offering levels. J. C. Penney set a new pace on Tuesday with an offering of $150 million 8⅞% debentures at a yield to investors of 8.93%, or 27 basis points lower than the preceding bond issue of similar quality. So attractive was the 99½ offering level that the issue was quickly fully subscribed and advanced by the afternoon to 101¼ bid, where the yield had dropped 22 basis points to 8.71%. Star performance was the jump in the $100 million Jersey Bell Telephone 9.35s, sold June 16 at a price of 100 for a 9.35% yield, an all time investment high for Bell System bonds. By Tuesday the price had jumped to 105¾, which meant the yield had dropped from an original 9.35% to 8.89%.

The Big rally in bonds has led to the widespread belief that it is only a question of time when credit is made easier. Salomon Bros. & Hutzler maintain that "if adverse economic trends permit a significant bank credit expansion in the second half year," the treasury will have no difficulty in financing a possible $11.7 billion in net new securities. In their July 2 "Comments on Credit," the firm repeats an earlier prediction that "the Fed may well resort to a reduction in reserve requirements." The rate in the growth of money supply is still receding from the high of early April. The average for the four weeks ended July 1 showed a decrease to $203.5 billion compared with $204.1 billion average in the four weeks ended June 3. But Chairman Arthur F. Burns of the Fed, in a speech July 2 at Tokyo, on the difficulties of getting inflation under control, stated: "We must also be careful to insure that the economic slowdown, which began last fall, does not become more pervasive or continue much longer."

Chief hope for the early revival of business activity still appears to center on the introduction of new automobile models. July schedules will run close to 450,000 cars, up some 5% from 427,000 a year earlier, and the biggest increase in monthly production since last September. So strong are sales, however, notably with General Motors, that the industry expects to enter the 1971 model year with several hundred thousand fewer old models in dealers hands than the year before. Ford will begin building its two new small cars, the Pinto and Mercury Comet in August, and General Motors will initiate production of its new small car, the Vega, this month with possibly 4,000 to 5,000 units.

FALL PICKUP LIKELY

The big increase in consumer income from the July 1 abolition of the surtax and the raising of individual tax exemptions from $600 to $650 is another plus for the coming months. It is conceivable that once wheels of industry are actively turning by fall—new cars will be introduced September 14—the high rate of saving may decline and translate into the normal buying which always occurs when consumer apprehension subsides. Highest-grade stocks and bonds are both still cheap, although plenty of problems exist, and the only question is whether the aggressive move has not already begun. The broad steady surge last week in the stock market speaks for itself in its forward look.

BUSINESS IN BRIEF

Current economic commentary reflects an unusual amount of disagreement about the underlying trend of business. No doubt, Cambodia and student unrest—each with economic consequences that are difficult to foresee—have contributed to the confusion. But the result is a wide range of forecasts, and a similarly wide range of policy recommendations.

Forecasts of the 1970 gross national product made by reputable analysts range from $960 billion to more than $990 billion. And this extreme disparity exists even though more than a third of the year is over, and the GNP figures for the first quarter are already known.

There is fear in some quarters that a severe recession may be under way. This is a condition that would ordinarily call for monetary and fiscal ease. Yet continuing inflation has brought demands for some variety of wage and price controls and for tax increases, which would hardly be appropriate during a recession.

The recent set-back in the stock market is both a source and a consequence of all this confusion. There is a widespread tendency to regard the market as an appropriate proxy for business activity.

On the record, however, the stock market gives about as many false signals of business trends as it does true ones. Perhaps more important, the actual level of market indexes is rarely an accurate indication of the level of business activity, present or prospective. Overstatement is one of the most reliable characteristics of what the stock market says about general business conditions.

The market has correctly indicated the direction of economic activity for the past year. But the extent of the market decline bears no resemblance to the degree of business slowdown that has occurred or that seems likely.

The decline in business activity continues to be a relatively mild one. Production and profits have fallen and unemployment has increased. But the extent of these developments, unwelcome as they are to the individuals and companies that have suffered them, has fallen far short of the experience during post-World War II recessions.

Industrial production has slipped about 2½% from last July's peak. In 1957–58—the worst postwar recession—the nine-month decline was five times as great. In the mildest postwar recession, 1960–61, industrial production dropped by 4.2% in nine months.

The decline is concentrated in durable goods, especially automobiles. Production of many other types of goods has either slipped very little or is still rising.

A significant part of the over-all weakness reflects reduced defense production. And, while lower military procurement does mean lower profits and employment in the affected areas, it obviously does not stem from general economic trends. In the longer run, of course, reduced defense spending will have the positive effect of helping to relieve inflationary pressures.

The economic evidence now available points to some further weakness but not a serious recession. And there is reason to believe that gradual improvement in production and employment trends should appear within the next few months.

The standard leading indicators have behaved in a manner that points to continued mild slowdown, but they have not signaled a sharp decline. In addition:

Recent statistics indicate that industry has already made major progress in cleaning up excess inventory. Without a large overhang of inventories, a severe recession is unlikely.

Increases in government pay and Social Security have added about $7 billion annually to the income stream, with retroactive payments in addition. These increases, along with the further tax relief due in July, should help consumer spending to perk up in the second half of 1970.

Whether it is desirable or not from the viewpoint of the battle against inflation, the Federal budget has moved into deficit and will remain there until renewed economic growth brings in higher tax revenues.

Monetary policy is also geared more toward expansion than it has been since last 1968. Such policy shifts operate on the economy was a considerable lag; they should stimulate growth later in the year.

On balance, these considerations imply a gradual upturn in economic activity, perhaps beginning in the third quarter. At the same time, there is no sign that this renewed growth will be vigorous. And in view of the continuing wage and price inflation, less than normal growth may well be desirable until well into 1971.

AID FOR THE AGED

HON. ALLARD K. LOWENSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. LOWENSTEIN. Mr. Speaker, with the recent extension of the vote to 18-year-olds, this body recognized that our young people have much to offer our country, and that we must do all we can to end their alienation and weave their contributions into the democratic fabric.

Today I would like to talk about another group of Americans who are alienated from the main stream of American life by a subtle, unconscious policy of polarization.

Our older citizens, some 20 million persons over age 65, make up 11 percent of our population—the same percentage of persons whom we have recently enfranchised with the 18-year-old vote. These 20 million persons are being pitifully disenfranchised from productive participation in this society. Although our population of older citizens has increased seven times what it was in 1900, we have been extraordinarily inept at socially advancing to cope with the growth.

To resolve the problems of the aged, the Congress must address itself to two general questions. How do we insure the economic security and personal dignity of our older Americans? How do we elicit what is best from them and best utilize it to meet the gaping needs of this society?

To meet the need of economic security, a series of Federal programs has been established to provide a minimum level of income and health and social services. But existing social security laws, such as old-age, survivors, and disability insurance provide woefully inadequate benefits and tend to enforce a certain level of poverty and indignity. In some cases, the maximum a person may receive from work and benefits is still below the poverty level. In many respects the standards used under the act are unfair and tend to benefit those with higher incomes rather than lower incomes. But the real issue concerning the scheme of laws we have devised is whether or not we will help provide a decent standard of living for our older people—or will we insist on maintaining them at a subsistance level? Unfortunately, Congress has all too often in the past opted for minimal support. That is no longer a tolerable solution.

Earlier in this session I introduced legislation which would provide two 20-percent across-the-board increases in social security benefits, which would eventually raise the minimum benefit to $120 a month. The bill also would provide across-the-board increases in most other categories as well as an automatic adjustment of benefit amounts annually for cost-of-living increases. This increase is a step toward catching up, but itself cannot begin to meet the fundamental economic needs of the aged. In February I also cosponsored legislation which would reduce air fare for senior citizens, so that fixed low incomes will not prevent them from visiting friends and relatives. Hopefully, this measure will help alleviate the terrible isolation that traps so many of our older citizens.

Today I am introducing a bill which would amend the Older Americans Act of 1965, to provide older Americans with low cost, nutritionally sound meals served at strategically located places such as senior citizens centers, schools, community centers, and other appropriate institutions. This bill would authorize Federal grants to States for first, programs to assure older persons one hot meal daily; second, centers for nutritional programs; third, training of personnel to operate nutritional programs for the elderly, and fourth, outreach services to assure maximum participation of eligible persons.

It is my hope that this legislation not only will promote better health among older persons, but will also provide additional opportunities for social contact.

Besides fundamental income needs, the desperate problem of housing for older persons on a fixed income must be solved. For example, Nassau County, N.Y., has estimated it will need 9,000 units of public and publicly assisted housing for the elderly by 1985. In fact, approximately 3,500 units were already needed in 1968, when there were only about 500 units either in operation or under construction. To date, there are 4,000 persons on waiting lists for senior citizen housing. The costs of building and renting housing are skyrocketing. And senior citizens—caught in the trap of rising inflation and rising property taxes while on a fixed income—are probably hurt the worst. Unlike young people, old people spend much of their time in their homes. The economic trap thus becomes a physical one.

Apart from meeting the economic needs of our senior citizens we must insure their personal dignity. Presently, the National Council on the Aging is operating the senior community service project, to develop challenging and innovative jobs to utilize the skills and experience of our older citizens. A sample of these pilot programs includes:

Nineteen aides assigned to community action agencies in nine of the "hunger counties" in Maine worked in surplus food certification and distribution. Some 38,000 people were certified for surplus food in areas where there had been no such program before. This effort is being further strengthened by a plan to train senior community service aides in nutrition counseling, in order to insure the proper use of surplus food.

Bilingual teacher aides. Eight older persons have been assigned to the inner city elementary schools as bilingual teacher aides.

Homemaker assistance for the elderly aides helped other elderly to maintain themselves in their homes thus sparing many from institutional care.

Home repair program. The workers made repairs so that other elderly unable to do the work themselves could stay in their homes.

Under the Older Americans Act of 1965 there are 1,300 operating projects in 46 States and in four territories. More than 900,000 elderly are being served. A sampling of these programs include:

The retired senior volunteer program which provides for the reimbursement for transportation, meals, and out of pocket expenses when doing volunteer work for the elderly.

Operation Mainstream. Participants are offered employment opportunities that are intended to improve the social and physical environment of their communities or where they can serve in a social service capacity. Under this program, Project Green Thumb has improved or built more than 350 roadside parks, planted more than 1 million trees, flowers, and shrubbery, and helped to restore and develop several historical sites. Operation Mainstream also has a community senior service program. Participants work 20 hours a week in a variety of social service positions such as delivering meals to homebound aged persons, acting as escorts to elderly, serving as teachers in Headstart programs and helping to implement the food stamp program.

These programs have received favorable evaluations from all sources affected, including the participants. Some of their comments: "I have been turned down so often when I asked for a job, but now I know that I can work. I really feel like I'm being useful again." Unfortunately, the number of applicants far exceeds the number of positions made available through these programs.

Therefore, in order to expand these programs and services, today I am introducing a bill to establish an older American community service program to foster and promote useful part-time work opportunities in community service activities for unemployed low-income persons who are 55 years old or older and who have poor employment prospects. The bill would authorize $35 million for the fiscal year ending June 30, 1971, and $60 million the following year.

The legislation I am proposing today will by no means put the aged on easy street. It will, however, be a key step toward insuring that those who have contributed so much to our country will not have to endure the indignities of poverty and indifference along with the passing of the years.

SHOELESS NEW ENGLAND?

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to bring to the attention of my colleagues in the U.S. Congress an excellent and well-written analysis of the shoe import problem in the New England area. The following article appearing in the Economist is written by someone well versed in the subject of footwear imports.

[From the Economist, June 27, 1970]

SHOELESS NEW ENGLAND?

With the breakdown in the negotiations with Japan, it seems almost certain that Congress will impose mandatory quotas on textile imports, from that country, at least, whatever the Administration may decide to recommend. Congressmen are almost as anxious to check imports of shoes; in an effort to counter this pressure, the President set up a special task force to report on non-rubber footwear. On Wednesday, after reading this report, Mr. Nixon offered help but little sympathy to the ailing industry. There will be another deeper study, this time by the Tariff Commission. Then there will be schemes for retraining shoe workers, for bringing new industry to the shoe towns and for modernising the industry. The task force found that the problem had complex origins and that much of the shoe industry, like a tired wife, had let itself go to the point where it could not meet any kind of competition. Europeans will be interested that one of the flaws detected was that American manufacturers make shoes in a greater variety of lengths and widths than the consumer really demands.

The recommendations will bring little joy to New England. Our correspondent in Massachusetts explains why.

Once upon a time, the landmarks in small New England towns were the white-steepled church and the shoe factory. Now both are disappearing. Many of the towers have been toppled by hurricanes; the shoe factories have been hit by another kind of whirlwind—the rush of imported shoes which, in the first four months of 1970, accounted for one out of every three pairs on the American market.

In 1960 only 4 per cent of shoes sold in the United States were made abroad. During the decade, however, imports increased dramatically every year so that by 1969 the proportion was 25 per cent. Moreover, the deepest inroads made by imports have been on the market for women's dress shoes and men's better shoes, varieties which the New England industry, with Massachusetts in the lead, had made its specialty. Pennsylvania which has concentrated more on children's shoes, has not suffered as much through the competition from imports.

This is why legislators like Representative James Burke of Massachusetts have been pleading for the imposition of quotas to restrict shoe imports to the levels of 1967 and 1968. Mr. Burke complains about the flooding of "our market with cheap shoes made by people who work for less than 14 cents an hour." But it still has not been established that the American shoe industry as a whole is in jeopardy, nor that New England's troubles are not owing in large measure to antiquated plants, high costs of production and a general change in taste which makes Americans prefer the southern European and Oriental products.

The haranguing in Washington about the undesirability of restrictions on foreign trade does not interest many people in Massachusetts. They see only that the local factory is shut and that there are no new jobs for those turned off. The shoeworkers are a relatively old labour force—their average age is 45—and their skills are not easily adaptable to any other industry. They are reluctant to move away from the small towns and ethnic concentrations formed by their immigrant fathers who were drawn to the shoe factories 50 or 60 years ago. And in general the New England Shoe Manufacturers' Association reports that "the majority are not getting new jobs. They have gone on relief."

The decline of the shoe industry means also the decline of related industries, such as the manufacture of shoe machinery and the processing of leather. The estimates of how many shoe jobs have been lost altogether varies: the shoe workers' trade union puts it at around 50,000 for the whole country. But the main fact is that the factories have been small—a shoe plant with 500 employees is considered large—and they have often been the main source of work in their towns.

It is premature to say that New England will lose its shoe industry altogether just as it has lost its textile industry. There are several hundred shoe plants still operating in the region and a big shoe city like Brockton, Massachusetts, still has seven or eight of them open (although often the workers have to put in short 35-hour weeks which, considering their relatively low wage of about $2.70 an hour, hardly keeps them prosperous). But the trend is ominous. In Massachusetts in 1967, six shoe factories closed, throwing about 1,000 people out of work; in 1968, 15 were closed, making another thousand jobless; by 1969 there were 15 more closings, but the factories were bigger with 4,045 put out of work.

It is astounding to see once-humming shoe towns like Middleboro, Massachusetts, now with no shoe industry at all. The owners of the last company to shut simply packed up their machines and lasts and took them to Europe. They now make the same shoes to the same style and send them back to the United States. "They took everything except the people," someone said. One of the company's executives, one of the rare immigrant's sons to rise to the top now finds his Italian surname a positive asset in his frequent trips abroad; the trouble is that, like good second-generation Italo-Americans, he does not speak Italian.

RESULTS OF QUESTIONNAIRE

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. QUILLEN. Mr. Speaker, the results of my 1970 legislative questionnaire have been tabulated and a copy of the results have been sent out to some 150,000 postal patrons in my congressional district, the First District of Tennessee. I would like to submit a copy of this report for the Record for the benefit of its readers:

Congressman James H. Quillen Reports From Washington

Dear Friends: I am happy to send you this special Report from Washington on the results of my 1970 legislative questionnaire.

This year's questionnaire went in the mail to some 150,000 postal patrons in the First Congressional District. A total of 25,800 was returned—a response of 17.2%. I am extremely pleased with this percentage of returns.

For the first time, I included on the questionnaire a "His" and "Hers" column to record the person's "yes" or "no" vote. I received 22,860 returns from husbands and wives, 1602 questionnaires from men reporting only for themselves, and 1338 returns from women reporting only for themselves.

The question which received the highest level of unanimity of opinion was number eight—"Should the Federal Government refuse grants or loans to students actively engaging in unlawful disorders?" The results revealed that 92.8% "His" and 92.5% "Hers" believed the Government should cut off funds for these students.

An almost identical response was received for question number one with 92.4% "His" and 92.5% "Hers" opposing busing schoolchildren to achieve better racial balance.

President Nixon's Vietnamization plan of gradually withdrawing U.S. troops and replacing them with South Vietnamese forces was favored by 86.0% "His" and 86.5% "Hers."

However, I received no clear-cut majority of opinion to question number four—"Regardless of how you answered the previous question (on Vietnamization), do you feel that the withdrawal of troops is the best means of eventually ending the Vietnam war?" The results revealed that 45.4% "His" and 47.5% "Hers" believed the withdrawal method is the best means of ending the war while an almost equal number, 47.9% "His" and 44.9% "Hers," believed otherwise. It is apparent that opinions on this subject are still in the formative stage because of the number of blank and undecided answers—6.7% "His" and 7.6% "Hers," the highest for any question in the survey.

Almost three-fourths of the responses—74.3% "His" and 77.2% "Hers"—favored imposing wage and price controls.

The question of whether a balanced Federal budget should be given top priority for fiscal year 1970–71 was favored by 74.0% "His" and 70.5% "Hers."

Returns also showed that 78.2% "His" and 77.0% "Hers" were for returning a percentage of Federal tax money to the States to use as they see fit.

The President's comprehensive plan to fight air and water pollution received an affirmative response with 86.3% "His" and 85.9% "Hers" favoring the proposal.

The responses from husbands and wives were tabulated separately but not included in the "His" and "Hers" overall District results which are tabulated below. It was interesting to note that husbands and wives generally agreed with each other. Differences were evident in question number two (wage and price controls) and question number four (troop withdrawal). On question number two, 4.4% of husbands and wives expressed direct disagreement and on question number four, 5.9% disagreed. On the other questions, there were no great differences of opinion.

OVERALL DISTRICT RESULTS

[In percent]

	Yes		No		Undecided	
	His	Hers	His	Hers	His	Hers
1. Do you favor busing schoolchildren to achieve a better racial balance?	6.7	6.5	92.4	92.5	0.9	1.0
2. Should wage and price controls be imposed to stop inflation?	74.3	77.2	22.3	20.0	3.4	2.8
3. Do you approve of President Nixon's plan of gradually withdrawing U.S. troops from Vietnam and replacing them with South Vietnamese forces?	86.0	86.5	11.9	10.7	2.1	2.8
4. Regardless of how you answered the previous question, do you feel that the withdrawal of troops is the best means of eventually ending the Vietnam war?	45.4	47.5	47.9	44.9	6.7	7.6
5. Do you think a balanced Federal budget should have top priority for the next fiscal year (July 1970 to June 1971)?	74.0	70.5	20.6	20.8	5.4	8.7
6. Do you favor returning a percentage of the tax money collected by the Federal Government to States to use us they see fit?	78.2	77.0	16.7	17.7	5.1	5.3
7. Do you favor President Nixon's comprehensive plan to fight air and water pollution?	86.3	85.9	7.1	6.5	6.6	7.6
8. Should the Federal Government refuse grants or loans to students actively engaging in unlawful disorders?	92.8	92.5	6.7	6.6	.5	.9

I want to extend my sincere thanks to each and every one who responded to my questionnaire. I also appreciate receiving the many hundreds of letters from those who wished to clarify and expand their views on the questions.

Your opinion and the views of the other citizens of the First District are of great value to me in representing you.

Sincerely,

James H. Quillen.

CAPTIVE NATIONS

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mrs. GRIFFITHS. Mr. Speaker, this week the Congress observes Captive Nations Week and joins with concerned citizens throughout the world giving voice to the aspirations of 100 million people of East and Central Europe for freedom. For the past 25 years, the once independent countries of Albania, Bulgaria, Czechoslovakia, Hungary, Poland, Rumania, Latvia, Estonia, and Lithuania have been oppressed by Communist domination, with its people suffering the harsh physical, political, cultural, and spiritual repression that comes with the denial of man's most basic rights.

A great portion of America's heritage stems from the Old World of east and central Europe and the many of its people who came to our shores seeking a new and better life. Indeed, we know well their strength and courage as well as their steadfast dedication to the cause of justice and liberty. Therefore, let us take this occasion to remember the fate of those behind the Iron Curtain and their unwavering struggle for national self-determination. And, let us take this occasion to demonstrate the bonds of solidarity that unite mankind everywhere for freedom.

HOUSING AND THE VOTERS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. EDWARDS of California. Mr. Speaker, for nearly 2 years I have been gravely concerned about the housing shortage in the San Francisco Bay area and particularly in San Jose, which is in the heart of the Ninth Congressional District. As in other metropolitan areas of the Nation, the private housing industry in this area has been unable to meet the demand for new housing, particularly for low and moderate income families. Consequently, hundreds and thousands of families have been forced to live in conditions that are disgraceful by modern standards. Yet efforts to relieve this situation with public housing have been thwarted by an anachronistic State constitutional amendment which requires voter approval for public housing development. That law is now being challenged in the highest court in the land. In the following excellent editorial, Louis S. Simon, area vice president of KPIX channel 5 television, defines the issue and its significance for my district:

The Right Decision

Two years ago, San Jose voters rejected low rent housing in their area. After that election, Federal legal agencies received complaints about a lack of adequate housing. The agencies took up the case and filed suit in Federal Court.

A landmark ruling followed. The court struck down a section of the State Constitution that required a majority vote of a community before public housing can be built.

The court said the voting requirement denied low income groups equal protection under the law.

The court noted that California law makes it tougher for state agencies to get Federal Housing assistance for the poor and the minorities. But at the same time, the court said, other state agencies can get Federal funds to build highways, colleges and hospitals. But no one votes on this aid.

Why then require an election for public housing?

We believe the court's decision recognized the unfairness of a statute that's been on the books ever since California approved the voting requirement twenty years ago.

The point is . . . where do people with low incomes turn when a community rejects public housing? In San Jose, the Housing Authority has 500 emergency applications for low income housing, and another 1,200 on a waiting list. It can offer understanding, but not housing.

The dispute over the voting requirement is now before the United States Supreme Court. Its decision is profoundly important.

At stake is the chance to give low income families greater hope to live in a better environment.

THADDEUS MACHROWICZ

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. PUCINSKI. Mr. Speaker, the recent death of U.S. District Judge Thaddeus Machrowicz has deeply saddened all of his colleagues in the Congress, and deprived the American people of a brilliant jurist.

Ted Machrowicz, who served with such distinction in the House of Representatives, was a man of many interests and talents. But his insatiable drive for justice and dignity for his fellowman, and his enormous contribution to social legislation adopted by the Congress, constitutes one of the most splendid records of one man's achievements in this country's history.

Ted's contribution in the field of social justice deserves just as much attention. He was one of the leading forces in establishing a congressional committee which investigated the bizarre Katyn Forest massacre in 1952 where more than 15,000 Polish army officers were murdered by the Soviet NKVD and dumped into mass graves in the Katyn Forest.

This monstrous crime shook the moral conscience of the free world, and since the discovery of the graves in 1944, the Soviet Union has stubbornly denied that it was responsible for this massacre, and in a most clumsy way has tried to blame the Nazis for this crime.

The House of Representatives established a select committee, in 1952, to investigate the Katyn Forest massacre, and our distinguished colleague, the gentleman from Indiana, Congressman Ray Madden, was its chairman. Ted Machrowicz was one of the most forceful members of that select committee, and through his skill and penetrating prodding, he was able to piece together an indescribable chain of evidence which proved to the entire world that there could be no further doubt about Soviet guilt in committing this monstrous crime.

The select committee conducted extensive investigations throughout England and Europe, and through all the hearings, both in England and the European continent, it was the rapier-like questioning of Ted Machrowicz which brought out indescribable testimony of Soviet guilt.

It was my great privilege to serve as chief investigator of that select committee, and I can testify to the House of Representatives today that all sorts of pressures were placed on our committee to tone down our investigation and save the Soviets.

It was Ted Machrowicz, along with Congressman Madden and other members of the committee—both Democrats and Republicans—who refused to yield to these pressures and insisted that the full bizarre details of this massacre must be brought to world attention, and the guilt for this horrendous crime, firmly fixed by indisputable evidence.

Ted Machrowicz had built a lasting monument to his determination by his valuable contribution to the work of the select committee. He was able to bring out the fact that the Soviet Union murdered 15,000 Polish military officers who were driven into Eastern Poland by pursuing Nazi forces in 1939 and placed in three camps near Smolensk, Russia. The Soviets transported these 15,000 Polish officers on the pretext that they were going to regroup the Polish forces and help Poland's struggle against Nazi invasion.

Only after the Polish army officers were taken to the three camps near Katyn, did the monstrous plot against Poland began to take shape. It became apparent that the Polish officers were brought to Russia for the express purpose of being massacred so that they could not rise again in postwar Poland. The Soviets, even then, had a master plan to plunge Poland behind the Iron Curtain and destroy every resistant element within the country that might seriously threaten the new Russian regime.

It was Ted Machrowicz who stubbornly pursed every piece of evidence after piece of evidence to show how the Polish army officers were taken to the Katyn Forest near Smolensk, Russia, murdered there by the NKVD and dumped into mass graves.

His untimely death is an enormous loss to humanity.

Mrs. Pucinski joins me in expressing a continuing sorrow to his widow and family.

A NEW FARM PROGRAM

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. FINDLEY. Mr. Speaker, the deliberations for a new farm program to replace the Agricultural Act of 1965 broke off in the House Committee on Agriculture June 2 in a dispute over program provisions.

Interest in resuming the discussions was revitalized last week when the Senate approved a limit of $20,000 on individual farm program payments. This is the same level which the House approved twice during 1969.

Opponents of limiting giant farm payments suddenly see the handwriting on the wall and are willing to compromise for a payment limit of $165,000 ($55,000 per crop maximum, for participation in each of three basic farm programs) per producer annually. This level of "limitation" makes a mockery of the idea.

Today I have written the 224 Members of the House who on May 27, 1969, supported limiting payments at $20,000. Several Members of the House have called my office recently indicating their support of a $20,000 limit on payments, even though they opposed the idea last year. For their reference I include here a copy of my letter:

> A proposal is being actively promoted from both ends of Independence Avenue to establish a farm program payment limit at $165,000 per person annually ($55,000 maximum for each of three crop programs) rather than at the $20,000 per person level which was approved last week in the Senate and has twice, with your vote, passed the House.
>
> The House should not—and need not—accept a limit one penny higher than the $20,000 Senate version.
>
> The Department of Agriculture and some Members of the House have, commendably, been actively seeking a point of compromise on payment limits which could help assure passage of a new farm program. Payment limits are one of the major unresolved issues facing the House Committee on Agriculture. But the compromise at $165,000 is not really a compromise at all. It's a clever last-ditch effort to side-track the campaign for a responsible limit on farm payments. To me, and I hope to you, a limit of $165,000 is unacceptable.
>
> A payment limit at that level would be an empty victory. The USDA earlier this year (analysis supplied 1-28-70) said a $330,000 limit ($110,000 per crop) will yield savings to the taxpayer of $13 million to $52 million a year, depending on effectiveness of administration. This suggests how modest would be savings at the $165,000 limit. A $165,000 limit would do little to stop the trend under which joint farming interests use big government payment checks to buy up smaller family-type operations.
>
> Some Members may be tempted to accept the $165,000 limit out of conviction that the Congress must pass a farm bill this year at any price. I must disagree. A minor cosmetization of this program without major reform is too high a price for the nation, the farmer, or a political party to pay.
>
> The Agricultural Act of 1965 is a wasteful, high cost, ineffective program that is seriously damaging American agriculture. Feed grain and cotton programs could be drafted in time by the new Congress and wheat growers are scheduled to vote in the next two weeks on their 1971 program.
>
> A limit of $165,000 per person can hardly qualify as major reform. Surely, there are national priorities which must come ahead of $165,000 a year payments to gigantic farm operations.
>
> Sincerely yours,
>
> PAUL FINDLEY,
> *Representative in Congress.*

A SALUTE TO CAPT. WILLIAM KESLER, JR., U.S. COAST GUARD

HON. EDWARD A. GARMATZ

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. GARMATZ. Mr. Speaker, on July 15, 1970, after 3 years as Chief of Legislative Affairs Division for the Coast Guard, Capt. William Kesler, Jr., was transferred to the U.S. Coast Guard Station, Governors Island, N.Y., to be captain of the Port of New York. In terms of ability and qualifications, the assignment is a wise one. "Bill" as he is known on the Hill has demonstrated an uncommon ability to get along with and work with people. He can disagree without being disagreeable. Although confident, he is not enamoured with his own ability and wisdom. He listens to others and does so genuinely, accepting advice and counsel whenever it can advance the Coast Guard.

He has the courage to make tough decisions and it may have been this ability, which he demonstrated on the Hill, that won him the new assignment.

Upon Captain Kesler's transfer, Adm. Chester R. Bender, Commandant, U.S. Coast Guard awarded him the Coast Guard Commendation Medal. The citation reads:

> For meritorious achievement in the performance of duties as Chief, Legislative Affairs Division, Office of Public and International Affairs, U.S. Coast Guard Headquarters from June 1967 to June 1970. Captain Kesler has distinguished himself by his persevering attention to legislation important to the Coast Guard. Through his keen foresight and initiative, he has anticipated the problems incident to the introduction of bills and, by his efforts, has been largely responsible for their expeditious handling. His frequent contacts with members of Congress, their staffs and Department of Transportation officials have been characterized by his aggressive leadership and unhesitating assumption of responsibilities, however great, to accomplish the discharge of his assignments. The highly effective relationship existent between the Coast Guard and legislative officials is testimony of his outstanding loyalty and abilities. Captain Kesler's skill and diplomacy in carrying out a most sensitive assignment have won him the respect and admiration of all those with whom he has been associated. His initiative, diligence and unwavering devotion to duty are in keeping with the highest traditions of the United States Coast Guard.

My colleagues on the Merchant Marine and Fisheries Committee join me in wishing Captain Kesler success in his new assignment.

MAKING HOUSE VOTES ON THE RECORD

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. FRASER. Mr. Speaker, action by the House of Representatives to reform its procedures is long overdue. We want to get on the record the votes on amendments which are crucial to the welfare of this country. The House of Representatives follows the practice today which is borrowed from the British and they, in turn, had adopted the practice of secret or nonrecord votes several centuries ago in order to protect the members from retaliation from the King.

But 140 years ago the British reformed their system to put their votes on the record. When we put our votes on the record on important amendments such as the ABM, the SST and many other important matters, we will have brought the House of Representatives into the 20th century. This reform is long overdue.

EDUCATIONAL FREEDOMS AND RESPONSIBILITY—IN PRINCIPLE, IN PRACTICE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. McCLOSKEY. Mr. Speaker, in this time of criticism, much of it justified, directed at college administrators, I think it is appropriate to include in the RECORD a recent memorandum submitted by one administrator who has earned the confidence and respect of his community. Clifford G. Erickson, chancellor-superintendent of the San Mateo Junior College District, encompassing three junior colleges in San Mateo County, Calif., has set forth an excellent description of administrative action taken under crisis conditions. I hope it will provide some hope to skeptics that there is considerable positive leadership being offered by many of our educational administrators.

The memorandum follows:

> EDUCATIONAL FREEDOMS AND RESPONSIBILITY—IN PRINCIPLE, IN PRACTICE
>
> OFFICE OF THE CHANCELLOR-SUPERINTENDENT,
> *San Mateo Junior College District,*
> *May 13, 1970.*
>
> To: Faculty Members, Students and Administrators, Canada College, College of San Mateo, Skyline College.
>
> From: Clifford G. Erickson, Chancellor-Superintendent.
>
> Following is the text of a statement which I presented as an information item last night to the Board of Trustees at its meeting at College of San Mateo:
>
> IN PRINCIPLE
>
> There are a number of freedoms which must be preserved in higher education in the American open democratic society—among them, the freedom to teach, the freedom to learn, the freedom to dissent peacefully. Each of these freedoms brings with it responsibility for objective scholarship, for extending equal rights to others, and for maintaining the dignity of and respect for all participants in debate.
>
> In times of stress, some advocates of a particular freedom may become inclined, consciously or unconsciously, by reason of the ardency of their cause, to overlook the other freedoms. The advocate of the freedom to dissent may seek subversion of the freedom to teach and to learn, in order to encourage others to dissent. Or he may deliberately turn to violence to create trauma in the system, rather than using the established channels of participation to convey his views.
>
> The advocate of a particular political position may urge the college to embrace his view as an official position, thereby destroying the role of the college in a free society as a marketplace of ideas. Those who advocate college sanction of a *particular* philosophy may forget that the college can and has become an instrument of government in a nondemocratic state. In Germany in the 1930s, the college faculty members and students lost their freedom of dissent, as have students and teachers in the Soviet Union in that and some other decades.
>
> It is important, therefore, that the college community in America remain a place of freedom to teach, to learn and to dissent, rather than a place for indoctrination in particular orthodoxies. In a word, the college

should be nonpolitical as an institution, but it should encourage rational study and discussion of great public questions, as well as the communication of individual views on political and social questions within the established structure for participation and representation in the democratic system.

IN PRACTICE

There are a few who, at this time, advocate closing of classes to devote all of our resources to the study of current international affairs. But the overwhelming majority of faculty and students wish to continue teaching and learning in law, nursing, mathematics, and a hundred or more other professions and fields in order to serve society and the nation more effectively in its future days of peace or stress. These people are mindful of our trust for stewardship of public resources granted for educational purposes (in this district, about $86,000 per class day for the three-college system).

The Board of Trustees has developed a body of policy over the years which is consistent with the statements above. The Board has welcomed participation in its deliberations by students, faculty, administration and community. It has listened attentively and made its decisions on policy after weighing all viewpoints.

In the past week, the students, faculty members, and administrators of our three colleges have shown their commitment to the principles above by the following:

1. When, in accord with Governor Reagan's request, classes were cancelled May 7 and May 8, educational symposiums were held to discuss, in a responsible way, matters of national concern.
2. Private funds have been raised to send a delegation of representatives to Washington to convey the petitions and resolutions from students, teachers and the Board directly to Congress and to President Nixon.
3. Classes were resumed on May 11 on a normal basis. Further symposiums on the matters of public concern have been held outside of classes, with attendance optional.
4. The college presidents have declared the right of teachers and students to follow their individual conscience with respect to class teaching and class attendance, with the understanding that teachers will not be paid for sessions they do not conduct and students will be graded in accord with normal academic standards.

In short, the colleges of this district are meeting their responsibilities by:

1. Continuing instruction of excellence in the many fields developed by the faculty, approved by the Board, and elected by the students;
2. Providing opportunity for discussion on great social and political questions;
3. Assisting students to improve their communication in a participatory democratic process;
4. Protecting the rights to teach and learn and the right to dissent with equal vigor; and
5. Allowing each according to his conscience to withdraw, if he must, from the classroom, with the usual consequences for those who do not meet academic and institutional standards.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

UNIVERSITY CITY, MO., ASKS FOR NEW PRIORITIES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. CLAY. Mr. Speaker, many of my colleagues in the House have addressed themselves to the question and the import of changing the national priorities of this Government. I count myself among them.

We have stressed, spoken out, and voted for a policy whereby the resources of this Nation might be allocated in accordance with the crises which bear down upon our people and which threaten the security of the country.

Many of my colleagues in the House and Senate have taken positions to curb military spending. I count myself among them. We have noted the domestic needs of American citizens, the conditions of our cities, the division among our populace.

This concern for new priorities is not a concern of partisan politics. It is a concern of American citizens.

I call to the attention of my colleagues the following letter and resolution from the mayor and city council of University City, Mo. I call particular attention to those members of the Appropriations Committees who will sit in conference to resolve funds for vital domestic programs and urge that they allocate maximum funds.

The letter follows:

OFFICE OF THE MAYOR,
CITY OF UNIVERSITY CITY, MO.,
July 9, 1970.

Hon. WILLIAM CLAY,
House of Representatives,
Washington, D.C.

DEAR MR. CLAY: Enclosed you will find a Resolution adopted by the unanimous vote of all members present at the City Council meeting of July 6, 1970.

The wording of the Resolution fairly expresses the feeling of the Council members as to the desperate need for changing national priorities and spending patterns.

Sincerely yours,
NATHAN B. KAUFMAN,
Mayor.

RESOLUTION

Vast areas of many central cities, suburbs and older neighborhoods are suffering from an accelerated decay and abandonment as exemplified by several thousand vacant and dilapidated buildings in cities adjacent to the City of University City, Missouri.

The spreading deterioration of these urban areas has been causing great economic losses to property owners while intensifying the deprivations of their residents and denying the opportunities for self help to many of these residents.

City governments serving areas where some 70% of the United States citizens reside have been receiving in recent years only about one-half of one percent of the Federal budgetary outlays for the hundreds of aid programs. (1)

On the other hand, in large measure the enormous Federal military expenditures (now over 70 billions annually) are among the prime causes of the inflationary cost pressures—which are strangling city services everywhere—and which are threatening to force reductions in services in University City.

This great Federal commitment to military expenditures also has caused exasperating delays in the implementation of aid programs to University City, and has curtailed heretofore promised federal aid to its programs in housing and urban renewal, as has been the case for hundreds of cities.

We believe the greatest threats to this nation's stability and security came from problems centered in urban areas, such as housing, education, employment, welfare, race, crime and pollution.

Therefore, the City Council of the City of University City, Missouri, urges the President and the Congress to immediately redirect the resources and to reestablish the priorities of the Federal Government so that far greater emphasis is placed on funding domestic needs in order to avoid a national catastrophe of American cities being destroyed by urban decay.

Adopted July 6, 1970.

NATHAN B. KAUFMAN,
Mayor.

Attest:

FRANCIS C. FLYNN,
City Clerk.

Year	Total direct Federal aid to all 20,000 U.S. city governments (millions)[1]	Year	Total Federal budget outlays (billions)[2]	Aid to cities as a percent of Federal outlays
1965–66	$601	1966	$134.6	0.45
1966–67	803	1967	158.2	.51
1967–68	941	1968	178.8	.52

[1] City Government Finances in 1967–68, series GF 68–No. 4, U.S. Bureau of the Census, p. 5.

[2] The Budget in Brief, Executive Office of the President, fiscal year 1971, p. 72.

CAPTIVE NATIONS WEEK, JULY 15, 1970

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. CONABLE. Mr. Speaker, each year America proudly celebrates the fourth of July, our national independence day. We are reminded of our good fortune to be living in a free nation, protected by constitutional guarantees. Unfortunately, for the past 11 years, we have also participated in another celebration during July: Captive Nations Week. We are sadly reminded of the subjugated peoples of several Eastern and Central European countries who do not possess the rights of free speech, petition, press, or religion. Rather political imprisonment is widely known and few dare to rise in criticism of the Government.

These brave people, the Hungarians, Poles, Lithuanians, Latvians, Estonians, Ukrainians, Bulgars, Czechs, and Slavs refuse to accept these conditions. They continually rededicate themselves to the causes of freedom and independence despite the brutal reaction to such stir-rings in Poland, Hungary, and Czechoslovakia.

It is only appropriate that the United States, a country which cherishes the preservation of individual freedoms and encourages constructive dissent, join with other nations of the free world in denouncing the oppression of the captive nations and in expressing our sympathy and support for their struggles to exercise the right of self-determination and to guarantee basic national liberties to their people.

BRITISH ARMS SALES TO SOUTH AFRICA

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BINGHAM. Mr. Speaker, I am greatly concerned that the already grave situation in southern Africa will further deteriorate if the new government of the United Kingdom carries out its announced intention of resuming arms sales to South Africa.

I include herewith an article dated June 25 from the Observer Foreign News Service by Colin Legum, an acknowledged expert on Africa:

Black Africa's Worries About Conservative Plans

(By Colin Legum)

The new British Conservative Government has started off on the wrong foot in Africa. Its pre-election promises to resume arms sales to South Africa and to reactivate the Simonstown naval agreement to defend the Cape route in the South Atlantic have created the impression that British-South African relations are likely to improve—an impression which Mr. John Vorster's *apartheid* regime is doing its best to promote.

This prospect has immediately raised the anger and suspicions of many African States, vociferously led by Zambia's President, Dr. Kenneth Kaunda. He fears that the arms sale and the Simonstown agreement are only the first of a number of other crucial British decisions that may be taken in southern Africa.

Even while Mr. Wilson's administration was in office, Dr. Kaunda was anxious about the possibility of a deal over Rhodesia with the rebel regime led by Mr. Ian Smith; now that the Tories [Conservatives] are in power his suspicions are much stronger. He is also concerned about the future of Anglo-Portuguese relations in connection with the two Portuguese colonies, Angola and Mozambique, where guerrilla warfare has been on since 1960.

There are three aspects of these relations which most deeply concern Zambia's President. The first is over the naval blockade of Beira, the main Mozambique port through which the Rhodesians operate their sanctions-busting operations. If the Conservatives were to end the blockade—as they promised to do when in Opposition—he would see this as the thin end of the wedge in further weakening the international sanctions campaign against Rhodesia.

Secondly, he is watching to see whether the new British Government will rescind the Labour Government's discouragement of British firms participating in the £170 million Cabora-Bassa hydro-electric project in Mozambique which, in his view, is designed to strengthen the economic and strategic interests of Portugal, South Africa and Rhodesia.

This project has been designed by the Portuguese, in cooperation with the South Africans, to achieve a number of objectives: to strengthen Portugal's economic hold on Mozambique in its struggle with FRELIMO, the leading Mozambique liberation movement, by creating an important new industrial base which will enable the Lisbon Government to fulfill its ambition of sending another one million Portuguese settlers to strengthen its present 100,000 settler population in the territory, and to supply additional electric power to South Africa and Rhodesia.

Apart from Barclays Bank DCO, which is involved in the project through its South African subsidiary, two other British firms have indicated a keen interest to participate in the development of Cabora-Bassa—English Electric and Guest, Keen and Nettlefold (GKN). The Wilson Government advised English Electric that participation in Cabora-Bassa might lay it open to charges under the sanctions laws against Rhodesia; as a result of this warning they withheld their participation. GKN has subsidiaries in South Africa and Rhodesia, as well as holding a controlling interest in a company registered in Zambia.

There is every likelihood that if British firms were to be given the green light at Cabora-Bassa Zambia and other African countries would consider taking action against firms who become involved, as well as against their associates and subsidiaries.

The third aspect of President Kaunda's anxieties is the possibility of Portugal becoming involved with Britain and South Africa in a naval agreement centered on Simonstown.

As the neighbour country to Rhodesia, as well as to the Portuguese territories and South Africa, whose northermost military base is located in the Caprivi Strip—his country is directly exposed to any increased pressures that might build up in Southern Africa. Hence his concern about British policies in that part of the world.

He has become increasingly concerned about the military vulnerability of Zambia, and on his recent European tour held discussions with various leaders about his future defence needs. The Yugoslavs are known to have offered their help. The Italians are already engaged in helping to train Zambia's air force.

President Kaunda is today the most influential African leader in Southern Africa. His country is economically strong and one of Britain's most important African trading partners. Even after the recent nationalisation of the copper industry, the two copper mining giants, American Metal Climax and Mr. Harry Oppenheimer's Anglo-American Company, have a large stake in the country's copper wealth.

Relations between Zambia and Britain cooled considerably even under the Labour Government, and as a result President Kaunda has been trying to diversify the range of foreign firms engaged in developing his country's resources. Any further deterioration in Anglo-Zambian relations could be greatly damaging to British interests.

Nor does President Kaunda stand alone; as chairman of the 14-nation East and Central African Region he is able to play an important leadership role within a group of African countries extending southwards from Ethiopia and Somalia, through East Africa and the Congo, down to Botswana on Zambia's southern flank.

He is also a highly respected and influential member of the Commonwealth of Nations, which is due to hold its next meeting in Singapore next January. His Ambassador at the United Nations has already been given instructions to take an initiative in helping to mobilise the 42 African member-States to challenge British policies at a special meeting of the Security Council.

The very last thing Mr. Heath's new Government could wish for is to start its career by an open confrontation at the United Nations with the African members and their supporters, with its inevitable fallout at the next Commonwealth meeting.

Therefore the task facing Sir Alec Douglas-Home as the new Foreign Secretary is how to fulfil the Conservatives' pro-election pledges to South Africa without creating a new crisis of relations between Britain and the rest of Africa and the Commonwealth.

GONE—BUT NOT FORGOTTEN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. DERWINSKI. Mr. Speaker, the district that I represent in south suburban Cook County is crisscrossed by many of the Nation's greatest railroads and I remind the Members of the fact that the Chicago area remains the railroad capital of the Nation. An extremely pertinent and penetrating editorial in the Blue Island, Ill., Sun-Standard, Thursday, July 9, emphasizes many local factors which apply properly to problems of railroad passenger service across the country. It follows:

Gone—But Not Forgotten

What's in the future for American railroad passenger service?

That question is of interest to residents of Blue Island for this city has been a "railroad town" since years prior to the Civil war.

Old timers of Blue Island have sadly watched crack passenger trains, which for years ran between Chicago and the West Coast, disappear from the scene.

Some 30 to 40 years ago there were a dozen or more passenger trains operating each way on the Rock Island through Blue Island. Today that number has shrunk to where there are now but two inter-city trains operated on the Rock Island.

The Peoria Rocket, put into operation in the early '30s with great fanfare still makes its daily round trip between Peoria and Chicago.

The Rocket leaves Peoria, primarily for the convenience of shoppers and businessmen, in the morning and moves out of the LaSalle street station in Chicago's loop on the return trip in the early evening.

The only other inter-city passenger train operated by the Rock Island makes a round trip each day between Rock Island in the western section of the state and Chicago.

The latest casualty among intercity trains on the Rock Island was No. 7 which was due westbound in Blue Island at 9:58 a.m., bound for Council Bluffs, Ia.

This train ceased operation on May 31 of this year. The case of No. 7 is still pending before the Interstate Commerce Commission which has been conducting public hearings at points along the Rock Island including Chicago, Joliet, Rock Island, Des Moines and Council Bluffs.

Gone forever from the Rock Island passenger trains are the crack trains that thrilled young and old for years as they roared along the rails.

For many years the long string of passenger cars, mail coaches and Pullmans were pulled by giant, shining black, coal fired steam locomotives.

In the latter years of their operation they were hauled by brilliantly colored modern diesel locomotives which, though less picturesque, did away with the tiny cinders which were thrown up from the squat stack of the steam locomotives.

Gone, but not forgotten by the older residents of the area, is the crack Chicago to California flier—the Golden State Limited. This was truly a prestige train. Those named to its crew, be they engineer, fireman, conductor, flagman or porter, considered their assignment a post of distinction and honor. The Golden State made its last run in 1968.

Another crack flier operating on the Rock Island was the Rocky Mountain Limited which made the run between Chicago and Colorado Springs. The Rocky Mountain passed from the scene in 1966.

The average Japanese, not possessing funds for ownership of an automobile, looks to the railroad when he wants to make a trip to visit that cousin in the country. The same is true for the average European. He too is dependent on the railroad for any traveling he has to make.

The factor that really "broke the camel's back" of the American railroads passenger service was the diversion by Uncle Sam of mail carrying contracts from the railroads to other modes of travel—particularly the airlines.

These mail contracts were lost to the railroads in 1967–68. The mail car, long a familiar sight on the fast passenger train is no longer seen. Long haul mail now goes by air. Inter-city mail is carried over shorter distances by truck "star" routes.

What does the future hold for the railroads so far as passenger traffic is concerned? Is there any possibility these trains will be revived?

We are doing a bit of research into this subject and will try to come up with some answers in future issues of the Sun-Standard.

The New York Central's (now Penn-Central) crack Chicago-New York passenger train, the 20th Century Limited, was taken out of service several years ago.

The list of name trains which have ceased operation on the North Western, Burlington, Chicago and Eastern Illinois, Mobile and Ohio, and other lines would make a list longer than your arm.

There are, however, a few crack trains still struggling along in service. The Baltimore and Ohio still has its famed Capital Limited in operation and the Santa Fe Chief trains still run to the west coast.

Just why have these trains dropped out one by one as passenger traffic fell away?

The answer is simple—the private automobile today carries 92 per cent of all intercity passenger travel.

That leaves only eight per cent of all intercity travel available to the competing means of transportation—airlines, railways and buses. There has been intense competition among these three for what little inter-city travel business is available.

The airlines, because of their speed, have a big edge in the long haul business. The rail lines have been forced to give up many short hand passenger trains because of heavy operating losses as travelers take to their privately owned automobiles.

You might ask—how come rail lines in Japan and Europe are operating successfully in the passenger trade?

Here's the answer—In Japan there is but one automobile to every 35 persons. In Europe there are 17 persons per privately owned car. In the United States there is an automobile for every 2.5 persons.

RODNEY E. DONALDSON

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. GOLDWATER. Mr. Speaker, naturally, the crisis on our college campuses concerns each of us; however, whenever I can, I like to present the viewpoints of responsible young Americans and their feelings about our great Nation.

Late this past spring, I had the honor to address a national meeting of the Boy Scouts of America in Denver, Colo. Six young Americans were selected and awarded the 1970 Young American Award. They came from a group of thousands of young people, from ages of 18 to 22.

One of those six award winners was Rodney E. Donaldson, Jr. Rodney, now 19 years old, was the youngest member of the National Board of the YMCA at the time that he won the award and is still the youngest member. He is a political science major at the University of Texas.

I believe his address to the national meeting of the Boy Scouts is an excellent contrast to the violent rhetoric coming from the radicals on our college campuses.

Rodney is now a member of President Nixon's Youth Advisory Board on the Draft and in 1969, he was the youth governor of Texas.

Therefore, I would like to take this opportunity to present the text of his address to my colleagues:

ADDRESS BY RODNEY E. DONALDSON OF SAN ANTONIO, TEX.

Lord Chesterfield once wrote: "You must look into people as well as at them." As a representative of the youth of America, I would like to pass on to you an often unpublicized message which comes from the real future leaders of this nation.

When I received a recent letter, I noticed on the envelope a stamp bearing a picture of the American flag and inscribed with these words: "Our Flag: Love it or Leave." This simple yet poignantly plain statement is a fitting watchword for the high school and college age youth who will in a few short years assume the responsibilities of guiding this land of ours. A few Americans are concerned about the character and morals of today's youth; every day in the newspapers we read of draft-card burning, of irresponsible violence on our campuses, and of a number of other examples of failing youth. Just this past year, a leader of some of these poor examples admitted, and I quote: "Our primary objective is to build a Marxist-Leninist revolutionary movement."

These are our American youth, supposedly. These youth, in their several years of existence, have done much to achieve their goal. They have also performed such "beautiful" tasks as clubbing then-Defense Secretary McNamara when he spoke at Harvard and, to reach the apex of absurdity, even demanded that Duke University reinstate all those students who had flunked out the year before. But most significantly, and most pathetically, these people have burned and defiled the American flag in the name of the free speech and assembly that the Constitution of this country grants them, always concluding their demands with the words "These demands are not negotiable!"

But I can tell you from experience that for every one or two of these no-backboned, violence-bent demonstrators, there are one hundred good, firm-believing, freedom-loving American youth you never read about. And what's even more important, these youth see the fallacies of their demonstrating counterparts.

The campus demonstrator is rebelling for license, not freedom, and the difference between the two is incalculable. History warns us that when the freedom Americans desire most is freedom from responsibility, then this beloved land will fall, and its people will grovel in the slime and stench of failure and despotism.

But while quelling the rebellion for license, we must at the same time never cease to rebel against all oppression of man's essential, God-given liberty, whether it be on foreign shores, or ultimately, God help us, on our own. The freedom so dearly won for us again and again in the past two centuries does not lie idly stagnating; rather, it is a vital, vibrant thing presenting to its possessors challenges unsurpassed in depth and sacrifice by those of any quest in the history of mankind.

You don't make freedom, in fact you don't make a nation, with the flick of a pen. Our freedom is the most valuable and priceless possession on this earth. It was bought with muscle, sweat, and blood by men with an intense love of God and an infinite respect for the individual—men who toiled, bled, and died that later men, like us, with a similar love and respect might dwell in the ecstasy of that precious something we so simply term freedom.

These men dared to stand up for what they believed; they dared to live for an ideal. This is the greatest of freedom's challenges—daring to live for an ideal. What our leaders do, what our various branches of government do—none of this is so important as that which you and I do to keep the dream, the hope, the ideal that is the United States of America a reality. We must stand up for what we believe no matter how overwhelming the opposition. We must dare to defy the crowd, heeding only the voice of the duty that drives deep into the heart of and mind of each individual soul, the duty of making America what it *must* be.

There can be no doubt that peace is one of the most blessed of all life's gifts. But there is something that the youth of America, and all Americans, prize much more highly than peace—the God-given liberty that rightfully belongs to every human being on this earth. If there is anything for us to fight for, in fact if there is anything which the intrinsic truth of our convictions *demands* we fight for, it is this God-given liberty. It seems that the primary aim of our foreign and domestic policy the last few years has been to make all people and nations love us. Well I think it's high time we stopped looking for love and began seeking a more tangible and realistic commodity called respect. And that respect will be ours only when we make it clear that our one unshakably fundamental policy is that we will die before we will surrender our rights or our freedom. And so strong must be this determination to preserve our freedom at all costs that the world, instead of hearing the whimpers of a few cowards crawling on their knees to some enemy sworn to obliterate their freedom, will hear what the determined and uplifted voices of a people who really know what they're fighting for, and what they so desperately need to keep fighting for.

Yes, we're still fighting wars even now; it seems that there are always some groups hungry to take our freedom away from us. But, speaking for the youth of America, I say "by Heaven just let them try!" To be born a free man is an accident, yes, but to live a free man is a responsibility, and to die a free man a solemn obligation. And that responsibility and that obligation refer to far greater struggles than war, also. Right now our enemies are in the midst of a massive attempt to divide our nation's people into separate and irreconcilable factions, on the grounds of the morality of a war, the difference of race, and of the freedom of speech and simple right of authority on college campuses.

The task before us is almost insurmountable. Never has there been such a need for a generation of strong moral fiber, of determination, of character. Never has so much been demanded of a single generation. Never has the yoke of responsibility been heavier. The burning question is whether the young generation will accept that challenge, meet that need, and shoulder that responsibility.

One of the most profound yet simple pieces of advice ever given came from the man who said "Have a purpose in life, and having it, throw such strength of mind and muscle into your work as God has given you." The youth of America have such a purpose, a determination to devote all of whatever capabilities we might possess to keeping the United States of America the respected, God-fearing land I pray it will always be, rather than some antiquated idealism conceived by a fading blur of "old-fashioned" flag-wavers.

If, as the future backbone of our America, we the youth can but further this, our determined and very deeply-felt goal, then I pledge to you with all the faculties granted to us by God and our convictions, that we will. And there is solid proof of this pledge. More young Americans are entering public service in government than ever before, and the day is coming soon when the evils of apathy will be fully realized, and the American people will once again make their freedom their first and full-time business. And as the voice of American youth, I say to everyone who might hear these words: "If you subversives of my generation like Russia, Red China, and Communist Cuba as much as you say you do, then get out of America and stay out! We're not about to let you do to this country what you did to Czechoslovakia. That's not just a piece of cloth; that's our precious and blood-splattered symbol of freedom, the flag of our America! Love it or Leave!"

My fellow Americans, there is nothing these sick people can say or do that will make me ashamed of our land. Oh yes, we have our problems and deficiencies, but they can be corrected and they *will* be corrected—not by destroying America, but through hard work and understanding on the part of each and every one of us. I believe that America still holds the greatest hope for liberty and for mankind. I believe that America is the freest and most livable of all nations. I believe that Americans have the greatest potential of any people on this earth. And I believe that even the humblest of us are born with a privilege that places us ahead of anyone else, anywhere else: the privilege of living and working in America, of repairing and renewing America, and one more privilege no one seems to get much fun out of lately—*the privilege of loving America.*

Thank you.

IS CAPTIVE NATIONS WEEK STILL RELEVANT?

HON. GLENN CUNNINGHAM

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. CUNNINGHAM. Mr. Speaker, this is Captive Nations Week, a rallying point for all who love freedom and defend human rights. President Eisenhower issued the first Captive Nations Week proclamation in 1959. It has become a symbolic manifestation of the solidarity of free people in the United States and elsewhere with their East and Central European brethren living under Communist rule.

Captive Nations Week came into being with a unanimous resolution by the U.S. Congress, passed in June 1959. Known as Public Law 86–90, it designates the third week in July as Captive Nations Week and authorizes and requests the President to issue a proclamation to that effect. After President Eisenhower, Presidents Kennedy, Johnson, and Nixon, as well as scores of Governors and mayors, have brought Captive Nations Week to public attention by calling on the citizenry to initiate, and join in appropriate observations.

The question is: Captive Nations Week may well have been relevant in 1959, but is there a need for such an observance today? Is it not merely a remnant of the cold war? Are the people of East and Central Europe still captive?

Twenty-five years ago this May, the war in Europe came to an end. Yet today its legacy continues to pose a threat to European security and world peace. The once independent countries of Albania, Bulgaria, Czechoslovakia, Hungary, Poland, and Rumania remain under Communist domination—ruled by regimes representing a dictatorial minority. The sovereign Baltic States of Estonia, Latvia, and Lithuania have been forcibly incorporated into the Soviet Union.

The true sentiments of these peoples have been dramatically brought forth in the 1956 Polish October, the Hungarian Revolution of the same year, and the "Czechoslovak Spring" in 1968. In each and every instance, only strong Soviet pressure—outright military aggression in the cases of Hungary and Czechoslovakia—prevented the Communist domination from being swept away by a people clamoring for self-determination.

It was not the free world or the captive people that had initiated the cold war. This ideological confrontation, which is part of the legacy of World War II, has its roots in the declared objective of communism to impose its system of government on other nations of the world. In the Communist orbit, the regimes continue to wage a war of spiritual and moral attrition on the people over whom they rule. Abroad, Communist subversion and infiltration remain one of the instruments of Communist policy in general, and that of the U.S.S.R. in particular.

Expressing solidarity with the captive peoples during Captive Nations Week is, therefore, no artificial revival of yet another phase in the cold war, since the cold war was not of the captive peoples' making. Captive Nations Week observance simply offers dramatic proof that the plight of the 100 million East and Central Europeans has not been forgotten by their more fortunate brethren in the free world. This kind of uplift, symbolic though it may be, is of vital importance for the progressive and reformist forces inside the Communist orbit that are striving for a greater measure of freedom.

Moreover, world public opinion has long condemned all forms of colonialism. It would be inconsistent to call for self-determination for the former territories of the colonial powers while passing in silence over the neocolonialistic policies practiced by the Soviet Union under the provisions of the so-called Brezhnev doctrine. Surely the nine East and Central European countries, with their rich heritage and past contributions to world civilization, are fully entitled to chart their own destiny without outside interference or intervention.

The observance of Captive Nations Week is thus a moral obligation for all who profess their belief in freedom, equality, and equal opportunity—both on national and individual levels.

But, some may ask, are these east and central European countries truly captive? After all, the Stalinist era is long past. Have there not been meaningful improvements, more internal freedom?

There is little doubt that Communist rule in east and central Europe today is less oppressive than during the times of Stalin. This, however, is no reason for abandoning the demands for a full measure of freedom. To a man who is captive of a system, it makes only marginal difference whether he is 100-percent captive or only 80-percent captive. The latter is, of course, preferable, but only as the lesser of two evils.

When can a country or people be considered captive?

When people cannot exercise freely their right to national self-determination, then they are captive of the system that prevents them from doing so. None of the Communist-ruled states in east and central Europe have a truly independent foreign policy. Most of the east and central European nations are traditionally western-oriented, yet they are forced to remain within the mythical Socialist Commonwealth—against their wishes and contrary to their national interests.

When fundamental human rights are violated or suppressed, then people living in such a state are its captive. Violations and outright suppression of fundamental human rights—as set down in the 1948 United Nations Universal Declaration of Human Rights—are a way of life in east and central Europe and have been fully documented in many authoritative reports.

When a minority denies the vast majority the right to express disapproval through bona fide opposition parties, persecutes and prosecutes dissent, new ideas and creativity—then people subject to the rule of such a regime can be considered captive. There have never been free, unfettered elections in any of the countries under Communist domination. Regime censorship and punitive measures against nonconformist writers and poets remain in force.

In short, whenever people with a long tradition of democratic institutions are being summarily stripped of their right to individuality, personal dignity, and free choice, these people are indeed captive, since they live under a totalitarian, regimented system of government.

All this applies to today's East and Central Europe.

Captive Nations Week enables Americans, East-Central Europeans, and other men and women cherishing freedom to demonstrate their support for the captive people of East and Central Europe with conviction. Those people in the Communist orbit are truly captive, and it is incumbent upon us all to manifest our concern and deep commitment with their plight.

Mr. Speaker, to do less would be unthinkable for anyone who prides himself on his dedication to humanitarian ideals and justice for all.

CAPTIVE NATIONS

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BROOMFIELD. Mr. Speaker, once again this month as we have done in the past, this Nation marks the anniversary of the captive nations. It is a reminder that the peoples living today under totalitarian Communist rule are still very much captive and now are numbered in many millions. We wish to pay special tribute to the peoples of some 23 Iron Curtain countries who long ago were robbed of their inherent and inalienable right to share with the captive peoples a common bond of belief in certain basic principles of mankind.

In this Nation we believe in freedom and self-determination. It is because of these beliefs that we celebrate the captive nations anniversary, with the hope that at some date in the near future, these captive peoples, in free and open elections under democratic procedures, will be able to join with other free nations in the world in celebration of true independence.

At this time, we salute those nations which courageously resist Communist domination, and we rededicate ourselves to strongly supporting their just aspirations for recovery of their liberty and independence.

OCCUPATIONAL HEALTH AND SAFETY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. STEIGER of Wisconsin. Mr. Speaker, in order for the Members of the House to be aware of the serious weaknesses and deficiencies of H.R. 16785, as reported recently by the House Committee on Education and Labor, I want to call the attention of my colleagues to the minority views on this legislation, as follows:

MINORITY VIEWS ON H.R. 16785

We had every confidence that in this session of Congress we would see the enactment of effective Federal legislation to bring about safe and more healthful working conditions in this country. That confidence was born of the fact of President Nixon's having recommended this legislation in three separate messages to Congress, including a special one devoted exclusively to the urgent and unique problems of job safety and health.

Our hope was sustained over the months by clear indications from majority members that while reasonable men might differ, any differences could be worked out so that we might achieve the goal of enacting a genuinely effective law to reduce job hazards. These indications of apparent willingness to overcome differences even led us to offer a completely new bill as a substitute for the Administration's original bill. And we were willing to reach further accord with the majority up until the final moments before the Committee reported out its bill.

Unfortunately, our efforts were in vain. In retrospect, the majority's willingness to work out disputed points proved to be illusory. In sum, the Committee had rejected the original Administration bill which had been carefully drafted to take account of the harsh but well deserved lessons learned from the 90th Congress' experience with occupational safety and health legislation. The Committee then rejected the Administration's substitute; and finally, spurning even our eleventh hour endeavors to produce a viable piece of legislation, the Committee reported out a bill which we had to vote against.

The measure as reported by the Committee is unacceptable because in rejecting the concept of an independent Board to set standards, the bill would create a monopoly of functions in the Secretary of Labor. Such a monopoly not only ignores the element of fairness to those required to comply with the Act, but also fails to resolve the jurisdictional division between HEW's responsibility for health and the Labor Department's for safety. In addition, the Committee bill does not overcome the widespread objection to permitting an inspector to close down a plant in imminent-danger situations. We regard this as a serious shortcoming. Lastly, the Committee bill contains a sweeping general duty requirement that employers maintain safe and healthful working conditions. This broad mandate is grossly unfair to employers who may be penalized for situations which they have no way of knowing are in violation of the Act.

I. GENERAL DIFFERENCES

The single most important difference between the Committee bill and the substitute is where and how, each would place the prime responsibility for providing safe and healthful working conditions. The Committee bill follows the stock approach of placing all responsibility in the Secretary of Labor. He would set standards through a time-consuming and complicated procedure involving *ad hoc* advisory committees; he would enforce the standards, prosecute violations before Labor Department hearing examiners; and he again, would be the one to issue corrective orders along with assessing civil penalties.

The substitute bill, on the other hand, refocuses responsibility for job safety and health by distributing these functions. In an effort to stress the importance and nonpartisan nature of occupational safety and health, the substitute bill would create a new, top-echelon independent National Occupational Safety and Health Board to set standards composed of five members who would be appointed by the President solely because they are high-calibre professionals in the field of occupational safety and health. The members would serve at the pleasure of the President so that the independent Board does not become the captive of any special interest and remains responsible to the President.

The fact that the proposed legislation is concerned with working men and women is not sufficient reason for placing the standard-setting function under the Department of Labor. The Federal Mediation and Conciliation Service, the National Mediation Board, and the National Labor Relations Board, for example, are wholly concerned with matters pertaining to labor—nevertheless, they are entirely independent of the Department of Labor. Thus, there is ample statutory precedent for our proposed independent Safety and Health Board.

But even more significant is this. The members of the Board will not be appointed because they are Democrats or Republicans, pro-labor or pro-management, an approach which unfortunately has too often been followed in the making of appointments to Federal positions. The problems to be dealt with are not political, they are not primarily economic, they do not involve issues where there are deep differences concerning policy. To the contrary, these problems are almost entirely technical and technological. The appointment of an independent Board whose members must be highly competent professional experts in a field where the subject matter is almost wholly objective and susceptible to genuinely scientific and technical analysis, judgment, and decision, would inspire the utmost confidence in every segment of the American public.

And finally, the creation of a Board of this kind would more than meet the recommendations for a national advisory commission or for such a Board itself, which were made by the leading professional organizations in the safety and health fields, such as the National Safety Council, the American Industrial Hygiene Association, the American Academy of Occupational Medicine, the Industrial Medical Association, the American Society of Safety Engineers, and several of the State health or industrial safety agencies which testified in the hearings held during the present or immediately preceding Congress.

Aimed at providing both fair and uncomplicated procedures, the substitute bill would thus have the Board set standards, simply using the familiar procedures under the Administrative Procedure Act (APA). The Secretary of Labor would conduct inspections, and in violation cases, he would seek enforcement in the Safety and Health Commission created by the substitute and United States appellate courts in accordance with procedures which would provide appropriate equity remedies and assess civil penalties.

II. SPECIFIC SIGNIFICANT DIFFERENCES

1. Standards

The Administration's substitute bill provides very simply that the Board set standards according to the formal procedures of the APA. This means that a full hearing will be held so that a wide variety of views can be aired; and standards will be based on substantial evidence with an opportunity to cross-examine.

However, the substitute bill also recognizes that out-of-the-ordinary situations will arise in which the Board has to act quickly and should not have to go through a hearing before it can respond to these situations. Therefore, section 6(b) of the substitute bill provides that where it is *essential* to protect the health or safety of employees, national consensus standards or established Federal standards can go into effect *immediately* on publication in the Federal Register, and they will remain in effect until later superseded by standards promulgated through formal APA hearings.

Also, section 6(i) of the substitute bill provides that where employees are exposed to *grave* danger from exposure either to toxic substances or to hazards resulting from new processes, then the Board may issue new "emergency temporary standards". These too would go into effect immediately on publication but would remain in effect until superseded by standards promulgated pursuant to formal APA proceedings. The substitute requires the Board to start formal APA proceedings by publishing the temporary standard as the notice of proposed rule making, as soon as the emergency temporary standards are published. The Board is required to promulgate such standard within six months after the publication of the temporary standard.

The substitute bill provides that where an applicable national consensus standard, or an established Federal standard exists, then the Board would begin with those standards as the proposed rules for the hearings used to set permanent standards. If the standard as finally promulgated by the Board differs from the original proposed rule, then the Board must state its reasons for departing from the original.

The Committee bill would also set permanent standards through formal APA hearings, but before these hearings even begin, it would be necessary to go through an intricate maze of procedures involving assorted advisory committees. Whenever the Secretary wanted to set a standard under the Committee bill, he would have to appoint an advisory committee. This advisory committee has up to nine months to submit its recommendations to the Secretary and the Secretary may not begin any hearings until he has afforded the advisory committee the prescribed time to submit its recommendations. Although the Secretary may shorten this period, the Committee bill also provides that he may lengthen it; but there is an outside time limit of one year and three months.

After this excessive length of time, the Secretary has an additional four-month time period before he is required to hold a formal hearing on the advisory committee's recommendations.

If the committee does not submit recommendations on time (bearing in mind this can be up to well over a year), the Secretary may wait up to four more months before he has to schedule a hearing; the hearing begins 30 days after scheduling.

By simple arithmetic, we compute that under the Committee's bill, the Secretary of Labor might well have to wait close to two years before a formal hearing begins. This means that it may take him all that time just to catch up to the starting point of the Board's standard-setting procedure under the substitute bill.

It is understandable that the Committee bill would have to provide these excessive preliminary time lags. After all, it is going to take time to set up an array of *ad hoc* committees and more time still for each of them to undertake and complete their required assignments before they will be in any position to make their recommendations. However, no such time periods are needed under the substitute bill since a fulltime, top professional National Board would be continually involved in standards-development and therefore needs only to commence a formal APA hearing when it seeks to set permanent standards.

2. Enforcement

The Committee bill's enforcement provisions are as complicated as its standard-setting procedures, but the enforcement provisions present uniquely serious problems because due process is a matter of grave personal concern where enforcement is involved.

Under the Committee bill, the Secretary of Labor conducts inspections, holds hearings before Labor Department hearing examiners, and it is also the Labor Department which issues corrective orders and assesses civil penalties.

Unlike the Committee bill the substitute provides for an *effective* and *fair* method of enforcement. The Secretary of Labor would continue to be responsible for making inspections and investigations. However, a special permanent three-member administrative Occupational Safety and Health Appeals Commission would be appointed to conduct formal hearings on alleged violations which were discovered by the Secretary; and the Commission would issue any necessary corrective orders, as well as assess penalties. The Commission would utilize hearing examiners whose decisions would become final unless an appeal is made to the Commission.

3. General safety and health requirement

We strongly object to the Committee bill's sweeping general requirement that employers furnish safe and healthful working conditions. This was one of the first provisions which this Committee struck when it reported an occupational safety and health bill in the 90th Congress. Why it has not done so again is beyond our comprehension. The argument used in support of the Committee bill's general requirement is that a similar provision is found in the Walsh-Healey Act, the Service Contract Act, the Maritime Safety Act, and in the laws of some 35 States. This argument does not persuade us.

The Walsh-Healey and Service Contract Acts deal with the duties of those who contract with the Government. If a person freely contracts with the Government, then he assumes the responsibility for maintaining safe and sanitary working conditions as provided for in those two-procurement-related statutes. While the language of the requirement in those two laws may be general, its application could hardly be described as "general" since coverage under those Acts extends only to those circumstances to which the supply and service contracts themselves apply. Moreover, we understand that the general safety and health requirements of those two Acts have never been enforced in the absence of specified standards.

In the case of the Maritime Safety Act, the term "general" safety and health requirement is also a misnomer. The Maritime Safety Act applies to a single industry, so by force of circumstances, that Act does not contain a so-called general requirement like the one in the Committee bill which would apply to the whole spectrum of American industry.

States also do not have general safety and health requirements in the same sense as the Committee bill does. Not only do none of the States provide the wide and varied coverage of the Committee bill, but many State laws apply only to limited areas of activity such as boiler and elevator safety.

The objection to the very broad general safety and health requirement is not, of course, that there are no valid arguments to justify it. The offensive feature of such a provision is that it is essentially unfair to employers to require compliance with a vague mandate applied to highly complex industrial circumstances. Under such a mistake, the employer will simply have no way of knowing whether he is complying with the law or not, nor will the inspector have any concrete criteria, either statutory or administrative, to guide him in finding a violation.

On the one hand, the Committee bill recognizes this industrial complexity by providing for specific standards to be developed through the use of any number of advisory committees and public hearings. But the Committee does a turnabout, and requires the employer to follow a mandate which is almost as broad as "do good and avoid evil." We seriously doubt that the Committee bill could be enforced on the basis of this broad requirement; but if it could be, we would be faced with the serious problem that there would be no incentive to develop any standards where such a broad mandate exists.

We recognize, however, that specific standards could not be fashioned to cover every conceivable situation. We would be remiss in our duty, if any worker were killed or seriously injured on the job merely because there was no particular standard applicable to a dangerous situation which was apparent to an employer. Hence, in addition to requiring employers to comply with the specific standards promulgated by the Board, and applicable to them, the substitute bill also requires each covered employer to furnish his employees employment and a place of employment which are free from any hazards which are readily apparent and are causing or are likely to cause death or serious physical harm to his employees.

III. CONCLUSION

Despite our criticism of various provisions of the Committee bill, we do not wish to convey the impression that we object to the bill in its entirety; quite the contrary. Many provisions of the Committee bill are in large part, satisfactory and comparable provisions are found in our substitute. Some examples are the State grants section, the provisions for State participation through the submission of plans, the carefully circumscribed employer-exemption provisions, and the Federal employee safety program. A few provisions, in addition to those discussed herein, are more questionable. Several other provisions of the Committee bill would be acceptable if they were modified.

However, we regard the establishment of an independent Board to promulgate standards and due process as essential provisions which cannot be omitted from any bill which genuinely purports to have the best interests of employees and employers as the basis for its enactment. Hence, we intend to offer our own proposal, which was rejected by the Committee's majority, as a substitute for H.R. 16785 as reported by the Committee.

William H. Ayres.
Albert H. Quie.
John M. Ashbrook.
John N. Erlenborn.
William J. Scherle.
John Dellenback.
Marvin L. Esch.
Edwin D. Eshleman.
William A. Steiger
James M. Collins.
Earl F. Landgrebe.
Orval Hansen.
Earl B. Ruth.

POLISH AMERICANS MARK AN ANNIVERSARY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. EILBERG. Mr. Speaker, this weekend the Polish National Alliance, the largest Polish fraternal organization in America, will observe the 90th anniversary of its founding. Appropriately enough, the ceremonies will be conducted in Philadelphia and its suburbs. For it was in Philadelphia, which I am proud to represent in the Congress, that the Polish National Alliance was founded 90 years ago.

And today, as we in the Congress remind free men throughout the world that many nations still endure bondage, I think it is fitting that these ceremonies be brought to the attention of my distinguished colleagues.

Scheduled for Friday, July 17, is a meeting of the board of directors of the Polish National Alliance; wreath laying ceremonies at the Liberty Bell and a civic ceremony in historic Congress Hall.

On Saturday, July 18, wreaths, blessed at a 10 a.m. Mass for deceased PNA members at St. Laurentius Church in Philadelphia, will be placed on the graves of PNA founders and PNA leaders. This will be followed that evening by a 90th anniversary dinner to be held at the Benjamin Franklin Hotel.

The highlight of the 3-day affair will be the ceremonies on Sunday at the American Czestochowa outside Philadelphia in Doylestown, Bucks County. The day will be devoted to the observance and commemoration of the 90th Jubilee Anniversary of the Polish National Alliance and to the many contributions that the Polish National Alliance has made to America and to the cause of Polonia.

Aloysius A. Mazewski, president of the Polish National Alliance and Polish American Congress, and the Very Reverend Michael M. Zembrzuski, O.S.P., vicar general of the Pauline Fathers and Brothers in America and founder-director of the Doylestown Shrine or honorary cochairmen for PNA Day at the American Czestochowa.

Also serving as honorary members of the PNA Day Committee are the national board of directors and officers of the Polish National Alliance. Significant contributions are being made by the commissioners of the PNA districts in the eastern part of the United States.

Included in this group are commissioners of district 1, Jan Siderski of Lynn, Mass., and Alicja Nahormek of Chicopee, Mass.; Commissioners of district 2, Jozef A. Zduncyk of Plantsville, Conn. and Ewelina Gavalis of Torrington, Conn.; Commissioners of district 3, Leopold K. Bibirecki of New York City and Helena B. Piotrowska of Schenectady, N.Y.; Commissioners of district 4, Jan E. Nowak and Joanna Kowalska of Buffalo, N.Y. Also commissioners of district 5, Eugeniusz Zegar of Sommerville, N.J., and Janina Kozmor of Jersey City, N.J.; commissioners of district 6, August Gorski of Philadelphia, Pa., and Leokadia Misiora of Baltimore, Md.; commissioners of district 7, Ludwik Sliwinski of Kingston, Pa., and Zofia Wojcik of Wilkes Barre, Pa.; and commissioners of district 8, Franciszek Lysakowski of Pittsburgh, Pa.; and Anna Jasionowska of McKees Rocks, Pa.

PNA Director Hilary Czaplicki has emphasized that never before has the attention of the PNA and its entire national membership been so strongly focused on the contributions of PNA districts, lodges, and councils in the eastern part of the United States.

Among the many distinguished citizens and leaders of the Polish American community who will be present at the Sunday ceremonies will be His Eminence John Cardinal Krol, archbishop of the diocese of Philadelphia; Dr. John A. Grounouski, former U.S. Postmaster and U.S. Ambassador to Poland and now dean of the Lyndon B. Johnson School of Public Affairs at the University of Texas; President Mazewski of the Polish National Alliance and the Polish American Congress; Dr. Walter L. Dworakowski, censor of the Polish National Alliance and Vicar General Zembrzuski.

Cardinal Krol will celebrate the 12 noon commemorative PNA Mass in the upper church of the Shrine of Our Lady of Czestochowa and will preside with President Mazewski over the day's activities. The Mass will be sung by the Pulaski Choraleers of Philadelphia.

Dr. Grounouski will be the honored guest and keynote speaker for the day.

The program for PNA Day on Sunday, July 19, will be divided into two parts, morning religious ceremonies and afternoon civic and ceremonial rites.

A procession will precede the 12 noon Mass and will proceed from the monastery of the Pauline Fathers to the upper church of the Basilica. The procession will be led by Cardinal Krol, Vicar General Zembrzuski, PNA chaplains, President Mazewski and the national board of directors of the PNA. Also participating will be distinguished guests and leaders of the PNA youth and cultural groups in Polish dress and costume.

Following the 12 noon Mass, a luncheon honoring the cardinal, Dr. Grounouski, and the board of directors of the PNA will be held in the private Shrine banquet room.

From 2:30 to 3 p.m. the 76-piece Central Bucks East High School Band under the direction of Mr. Charles McNally will perform.

The formal afternoon program will begin at 3 p.m. with the playing and singing of the American and Polish Anthems by the band and the Pulaski Choraleers. President Mazewski will act as master of ceremonies. Following the invocation, PNA Director Czaplicki, acting as coordinator of PNA Day at the American Czestochowa, will give the official greetings.

President Mazewski, honorary cochairman of PNA Day will then speak and introduce Dr. Grounouski.

Closing remarks will be made by Vicar General Zembrzuski, and the afternoon's festivities will end with the band and the Pulaski Choraleers playing and singing "God Bless America" and "Boze Cos Polskie."

PNA Day at the American Czestochowa and the events in Philadelphia on Friday and Saturday are being coordinated by the commissioners of host district 6, August Gorski and Leokadia Misiora, assisted by PNA Director Czaplicki.

I congratulate the Polish National Alliance and Polish Americans in Philadelphia and throughout the country on this historic anniversary and wish them zdar this weekend in Philadelphia.

STUDENT REVOLUTION COULD LEAD TO TYRANNY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BOB WILSON. Mr. Speaker, Dr. Jan Rosciszewski, a distinguished scientist and naturalized citizen, was educated in Communist Poland and is, therefore, particularly well qualified to comment on the ramifications of campus unrest on our Nation's campuses. I know my House colleagues will find his recent letter to the editor of the San Diego Evening Tribune of particular interest. The letter follows:

STUDENT REVOLUTION COULD LEAD TO TYRANNY

EDITOR: I think everybody is concerned about the way of thinking and behaving of our students. Without reasons, students are fed up with the war in Vietnam which consumes so much of our national resources and human lives, and is dragging on so long.

Artificial rules of the game set up by civilian authorities over the military made it what it is, such a striking contrast with Israel's six-day victory over Egpyt. This is the black side of the coin and our students overreact and want not only to get out of war, but to stop our defense research, and disarm ourselves.

To achieve this, some of our students are trying to impose their views on the rest of the Americans by organizing violent protests, etc.

In California, the students and the faculty members are almost entirely supported by taxpayers' money which is now not being used for education as intended, but for political activities. I think it is time for the taxpayers to demand that their money be used for education only.

Let's look on the red side of the coin. Unfortunately, we live in the world where this side exists and we cannot keep our heads in the sand.

Being educated in a Communist-controlled country, I mention only one drastic case where my friend, a top student, privately called the head of the Polish military, who was previously a Russian marshal, "our imported marshal." He got five years in prison and was released after one year, having contracted tuberculosis.

Russia is building up its missile and naval force to exceed ours. Why? I am sure they are not afraid of us now. We had atomic monopoly at one time and we did not attack them. The only logical answer is: To take over the rest of the world and to impose a system like in Poland or Czechslovakia where students have no chance even to open their mouths. The action of our students, without question, is just helping the Soviets to achieve their goal.

There is no question in my mind that Soviets like the slow bleeding of this country in Vietnam, and will do everything to keep it going as long as possible to create more internal trouble, which they like even more.

I hope our students are intelligent enough and will think twice before following professional agitators playing into red hands and taking part in a "spontaneous violent revolutionary activity" which could lead fast to the opposite effect than the one that they are fighting for. History of the Russian revolution and pre-Hitler Germany are the best examples of how violent revolutionary activity leads to a tyranny.

Dr. J. Rosciszewski.

CAPTIVE NATIONS WEEK

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. ROSTENKOWSKI. Mr. Speaker, at this time, I should like to thank my friend and distinguished colleague from Pennsylvania, Dan Flood, for the efforts he has made over the years concerning the commemoration of Captive Nations Week.

We have been observing Captive Nations Week since 1959, when Public Law 86-90 was enacted. I am happy to note that with the succession of these observances, the amount of sympathy and fervor that has been expressed by the American people for our imprisoned brothers in East and Central Europe has increased significantly.

My district in Chicago is comprised of a large amount of Polish-Americans. We are especially aware of the many difficulties imposed on our friends and our relatives in our Mother Country. We are also cognizant of the work which the Assembly of Captive European Nations has done to make these problems known to the free world. This organization has kept the Congress as well as State Governors and mayors abreast of pertinent matters overseas. For this and for their many other noble activities, this assembly deserves our greatest gratitude and commendation.

It must be pointed out, however, that the captive nations include nine different countries. I found much merit in the second of the aims and principles of the Assembly of Captive European Nations, arrived at in 1954. It states:

> We are resolved to remain united in the service of mankind's greatest values: the dignity of man, basic human rights, national independence, and freedom. There will be no possibility of co-existence of the two antagonistic camps in our fold until the true meaning of and respect for these supreme values has been secured everywhere. The experience of the 20th century has shown that no just international order or lasting peace can be established until nations cease to be objects and again become subjects of international life.

In a country such as the United States, we are not given, but we merit certain rights such as freedom of choice and freedom of assembly. We should never let anything infringe upon these rights. The peoples of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland and Rumania have been living in the Orwellian world for a long time. The big brother who watches them is the Secretariat of the Communist Party in Russia. Mr. Speaker, the specter of facism has not vanished. It exists, and will continue to flourish like a parasite for as long as these European nations remain closed behind the Iron Curtain.

In the ninth session of the Assembly of Captive European Nations, held in 1962, there was much said about how the Soviet Union dealt with dissent in the captive nations. I include one such report:

> In 1945 and 1946, the leader of the Polish underground government, Jan Stanislaw Jankowski, Christian Labor Party, and his deputy, Stanislaw Jasiukowicz, National Party, were murdered by the Soviets; the Chief of the Polish Home Army, General Leopold Okulicki, died in a Soviet prison; former President of the Polish Council of National Unity in the underground movement and leader of the Polish Socialist Party, Kazimierz Puzak, the leader of the Polish Christian Labor Party, Reverend Zygmunt Kaczynski; and a leading personality of the Polish Peasant Party, Stanislaw Tabisz, died in prison; Boleslaw Scibiorek and Wladyslaw Kojder, prominent members of the Polish Peasant Party, were murdered.

Faced with murder, prison, and harassment, it is a wonder that our brothers have continued to survive. It is surely a miracle that they continue to hope. Let us hope too, and wait for the day that we may be able to say that the entire world is free from the menace of communism.

UNTYING THE GORDIAN KNOT

HON. DANIEL E. BUTTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. BUTTON. Mr. Speaker, we are all aware of the scope of our Nation's healthcare problems which range from spiraling costs of hospitalization plans to shocking inadequacies in caring for our hospitalized veterans. Fortunately, as recent national publicity on VA hospitals and the subsequent action by Congress testifies, awareness of a problem usually begets earnest attempts for solutions.

Thus, today I hope to bring attention, interest, and action to bear on a little-noticed, but vexing situation, in which America's women doctors find themselves. I would like to bring to the attention of my colleagues an excellent article detailing the difficulties of the physician-mother whose practice suffers because she cannot obtain household help and care for her children to free her for her life-saving duties.

As the article emphasizes, the shortage of household help has been caused, in part, by recently issued stricter regulations by the Department of Labor on immigrants seeking entry to the United States as domestic workers.

Accordingly, I have written to Secretary of Labor Hodgson requesting that he review the possibilities of relaxing these restrictions which are indirectly affecting the time which the physician-mother can devote to her practice.

The article follows:

Household Help—The Woman Doctor's Gordian Knot

(By Mathilda R. Vaschak, M.D.)

One casual question, buried in a mailing about the recent Medical Women's International Association Congress in Australia, has brought an unexpected avalanche of replies. They range from succinct expletives to long dissertations. They reveal a household help problem of extensive proportions and varied dimensions among women physicians. In view of the country's pressing need for more physicians—and patients' need for the attention of these doctors distracted by home complications—this situation must be considered tragic. Solutions must be found.

What many doctors said in many ways is summarized by the one who stated:

"Household help is, in my opinion, a woman physician's greatest problem. All the rest are minuscule by comparison."

The immediate and overwhelming response to the household help problem caught members of the AMWA Medical Education and Research (ME&R) Committee by surprise. Although they have been working on this matter for some time, they were unaware of its extent and the intensity of doctors' feelings about it.

Furthermore, the question had every appearance of an afterthought, placed at the end of a letter from Laura E. Morrow, M.D. then President of AMWA. The reader had to scan a substantial amount of information about programs and travel before discovering it.

The question was simple, a metaphorical finger to test the wind:

"Have household help problems interferred with your medical practice?"

Provision was made for checking "Yes" or "No" and space for a brief comment was available. Of approximately 1,000 doctors responding in some way to the mailing, 788 made identifiable comment or reference to the household help problem. A few additional have been received since the tabulation was completed. Some letters and reports on the subject ran to several pages of detail about the writers' experiences. Every one has been examined and analyzed by a member of the ME&R Committee for whatever light it might shed.

Committee members turned with especial interest to those 274 replies of doctors who responded "No," that they had had no serious household help problem. Here they hoped to find insights which could be passed on to those who have been unable to find any solution.

This expectation was disappointed. From those who commented negatively, the only conclusions reached are that, to avoid the help problem's interfering with one's practice, one should remain unmarried—or at least childless, or be "lucky." The latter are sometimes almost apologetic for having "an understanding husband and housekeeper" or a mother or maiden aunt who acts as substitute in the home. They appear quite aware that other women doctors are less fortunate.

Even the physician-mother who manages to continue practicing full time may be aware that the quality of her practice suffers when home and family responsibilities do not allow her sufficient time for study. Some speak of foregoing opportunities for residencies in specialities because of inability to employ enough good help to relieve them in both regular and off-hours as such appointments require.

From its beginning, when Rosa Lee Nemir, M.D., was chairman, the ME&R Committee has been acutely aware that some women doctors have struggled with the conflicting claims of family and medical profession; that to some extent this was due to the difficulty of finding, employing and keeping substitute homemakers of skill and dedication who would relieve their minds of worry in order that they could concentrate on their patients' needs.

Lacking evidence of the extent, nature, complexity and seriousness of the problem, they have found it difficult to recommend solutions that might lead to action. Women physicians who have taken the trouble to answer this question have removed all doubt about the need, or about whether unmarried as well as married women are concerned.

From 514 women physicians came emphatic "yeses", that they had encountered interference with their medical practice from difficulties in employing adequate help at home. Proportionally, they represented almost 2 to 1 over those who replied "No." Most notable were the strong feelings of those who answered affirmatively. To paraphrase one physician:

Society is not best served when housework deprives a physician of her study time, or when economic pressures force her to hire cheap, inadequate help or to pay good domestics less than their worth.

As a result of such comments, the ME&R Committee has been proceeding with plans for a scientific survey to secure facts and statistics. These can be used to persuade foundations, government and others with sufficient resources to back constructive measures for solving the help problem. With the assistance of Sandoz Pharmaceuticals, Inc., a pilot questionnaire, constructed in accordance with approved research methods has been completed and will shortly be tested in three selected counties.

If this pilot study is effective, it is hoped that financial means will be found to extend the survey to all U.S. women physicians, revealing not only the nature of the problem but the specific areas in which it is the most acute.

Although the question which has already been certain tentative conclusions can be reached, subject to confirmation by the nation-wide study:

1. The problem appears to be nation-wide with the possible exception of some southern areas where multiple generation families still exist.

2. The most extensive problem is that of mothers with small children. For such, finding competent help is not only difficult but as one doctor puts it "almost prohibitively expensive. Either two full-time persons are needed or various unsatisfactory compromises have to be made. At $2 per hour the cost is enormous—instead of scrubbing floors, a physician could perform a service more valuable to society."

3. For many doctors, however, floor-scrubbing-help is not as hard to find as are people trained for more difficult and responsible tasks. Especially, they say, competent, reliable people to whom they can entrust their children with confidence are the most difficult to find. Some suggest a training program is needed on a national basis.

4. Although to some extent all types of professional women share the household help problem, it is particularly acute for women doctors because, as some replies suggest, long hospital hours and the needs of patients in off-hours do not lend themselves to picking up youngsters on schedule from day nurseries. One medical woman found that, in order to continue practice, it was necessary to place her daughter in a boarding school. She reports the financial burden is almost more than she can carry.

"I am completely at the mercy of the health status of my children, plus my maid, plus her eight children," reports another. "My maid is extremely responsible and as reliable as conditions allow her to be."

One Maryland doctor who has always managed to work full time, but "with great difficulty," says her bill for domestic help runs to $8,000 per year and she is still without full coverage.

5. Difficulties with household help are not confined to working mothers. Unmarried as well as married doctors find mothers or other older relatives in good health are valuable assistants on the home front. But when ill and unable to care for themselves, adequate household help becomes a major problem, especially in areas where adequate nursing homes are unavailable. Doctors with helplessly ill or crippled husbands are often in similar predicament. More than one doctor has given up practice under such conditions.

6. Recent Immigration Service regulations appear to have intensified the problem. Maids from Europe, some say, made excellent household managers and child-care personnel, although turnover was a problem. One doctor states that her maid has been with her five years, but she expects her to leave soon because "she is getting no younger and has no opportunity to meet eligible men" in a small-town location. Under the new stricter immigration rules, she despairs of finding a suitable replacement.

7. In some areas even ordinary domestic help is difficult to find. "Where are those unemployed?" asks a New Jersey physician. Homemakers seek factory jobs because they have more opportunities to associate with other people and can command greater wages and generous benefits.

From a study of the doctors' replies, it becomes apparent that:

1. Relaxation of immigration rules for domestics is needed.

2. Training programs are required for professional homemakers who can take over management of the household, maintenance of appliances, preparation of meals and supervision of children. Says one physician, "A woman doctor needs a wife."

3. In order for a woman doctor to be able to pay trained domestic help wages comparable to their skills and responsibilities, she needs to be able to compete, at least financially, with business. Like businesses, she needs to be able to take such expenses as tax deductions—a cost of doing business.

"I can practice medicine without a secretary, without a nurse, but not without a housekeeper," maintains one physician.

Says another:

"I can practice medicine only because my husband subsidizes me heavily."

On these three points women physicians with homemaker problems appear generally to agree. It is the committee's expectation that other solutions may also be indicated when, and if, a comprehensive nation-wide scientific survey is finally conducted.

REPORT TO CONSTITUENTS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. WYDLER. Mr. Speaker, in my capacity as a Congressman, I report to my people and try to keep them informed of my activities. To those people who move into my district for the first time I send a report giving them my background and some of the congressional services that are at their disposal. The latest edition of this report has been prepared and follows:

REPORT FROM YOUR CONGRESSMAN JOHN W. WYDLER TO THE FABULOUS FOURTH CONGRESSIONAL DISTRICT

MY POLITICAL OUTLOOK

Basically, my political outlook is "dynamic." I have endeavored during my eight years of service in the House of Representatives, where I am the senior Congressman from Nassau County, to remain responsive to the needs of my constituents. I am not unduly concerned with political labels on legislation although I am a member of the Republican Party leadership in the House.

I have, on occasion, joined my colleagues on the other side of the aisle to vote for measures I felt merited bi-partisan support. I have also voted negatively on bills that had the endorsement of my own party if I could not conscientiously support them. A recent analysis of my voting record published in the "Congressional Quarterly" documents the fact that in the 90th Congress, only 56% of my votes were cast along what might be called "party lines," giving me the most independent voting record on Long Island.

Each time I have run for Congress I have achieved larger pluralities until in the 1968 election, I received 70% of the entire vote. This demonstrates, I believe, the accepted bipartisan nature of my political outlook. Label it independence, integrity—whatever word you choose. I like to "call 'em as I see 'em," always bearing in mind the best interests of the District I represent as well as the good of the country as a whole.

MEET CONGRESSMAN WYDLER

My family background . . . I was born in Brooklyn. My father was an immigrant. Our family moved to Long Island and I attended Long Beach High School. My college education at Brown University, which I was attending on a scholarship, was interrupted by World War II when I enlisted in the U.S. Army Air Force as a private. After serving in a chemical warfare company in the China-Burma-India theatre, I was discharged as a staff sergeant at the end of the conflict. I returned to Brown University on the G.I. Bill of Rights and was elected to Phi Beta Kappa in my junior year. At the end of that year, I was accepted for transfer to Harvard Law School, where I won Law Forum honors.

After being admitted to the New York State Bar in 1950, and practicing law, I served for six years in the U.S. Attorney's office, prosecuting both civil and criminal cases. In 1959, I headed up a probe of New York City school construction irregularities for the New York State Commission of Investigation. Later that year I returned to the private practice of law in Nassau County. In 1967 I became part of the firm of Wydler, Balin, Pares and Soloway in New Hyde Park.

My wife is the former Brenda O'Sullivan and we have three young children, Christopher, Kathleen and Elizabeth. Mrs. Wydler is active in St. Joseph's Rosary Society and I am a charter member of the Bishop's Men at the Episcopal Cathedral of the Incarnation in Garden City. Our son attends a neighborhood public school.

Insofar as we can, Mrs. Wydler and I have participated in local community-centered affairs. I am a member of the American Legion, the Veterans of Foreign Wars, the Hempstead Elks, the Masonic Lodge of Garden City and the Order of AHEPA. I am proud to be a founding member of the U.S. Capitol Historical Society as well as a sponsor of the Adelphi Octet and of the Pro Arte Symphony Association of Hofstra University.

Over the years, my efforts on behalf of my constituents have been recognized by testimonials and awards from a significant cross-section of organizations. Among the awards which have meant a great deal to me are the Commemorative Medal from the Assembly of Captive European Nations; the citation for the advancement of science and astronautics from the American Institute of Aeronautics and Astronautics; the Torch of Liberty Award from the Anti-Defamation League; and an award from the Elmont Center Civic Association for my fight against jet noise.

My Congressional Committees . . . In Congress I serve on the Science and Astronautics Committee, including the sub-committees on advanced research and technology and oversight, plus the Government Operations Committee (frequently called the Congressional "watch-dog") with responsibilities on the sub-committees dealing with consumer matters and military operations.

MY DISTRICT OFFICE

I maintain a local office for the convenience of my constituents. It is located at 150 Old Country Road, Mineola, New York 11501. The telephone number is CHapel 8-7676. This office is equipped to supply information, handle certain types of problems and set the wheels in motion for action by my Washington office when this is indicated. Please do not hesitate to communicate with me via my district office. Every telephone call and every letter is conscientiously called to my attention for appropriate action or referral. And you'll like my staff!

WELCOME TO WASHINGTON!

Washington is a wonderful place all year round, and if you're planning a trip with the family, why not spend several days in the Nation's Capital? If you will get in touch with my Washington or District Office in Mineola (try to give us two to three weeks notice), we'll arrange for special tours through the White House, the FBI, the Voice of America, and similar places. We can send you a detailed map of the Washington area.

If Congress is in session, I'll be glad to supply special passes to the Galleries in both the House of Representatives and the Senate. And, of course, I hope you will stop at my office and say "hello." Keeping in touch with his constituents is one of a Congressman's most important assignments.

COMMUNITY DAYS

Communication has to be a two-way street and although I like to hear from you, I feel my job as your representative involves going out into the community to meet my constituents in person and to hear their problems first-hand. I have instituted what I call "Community Days" in the various areas in our Congressional District. These get-togethers are held in local post offices on Saturday mornings and are publicized well in advance through civic, fraternal and educational organizations as well as through the local weekly newspapers.

It's kind of like the old-fashioned days when everyone knew his representative by sight and there was an informal give-and-take in the political field. Be sure to watch for the announcement of the "Community Day" for your town and tell it to me "like it is" when we meet each other.

LEGISLATIVE BOX SCORE

I have taken every possible legal step to force the FAA to curb jet aircraft noise.

For eight years I have worked for the passage of a bill which has just become law that creates a commission to streamline the defense department in the executive branch of the government—stepping up efficiency and lowering expenditures.

I have led the legislative fight to channel education funds into programs directly related to the poor.

I have co-sponsored major legislation to create a commission on early childhood education and development which will assemble the necessary facts for intelligent problem-solving in this area instead of continuing the present "grabbing at straws" approach.

Six years ago, long before the postal strike, I proposed relating postal wages to local high-cost-of-living areas instead of to an unrealistic national scale.

I have consistently voted for conservation measures and have been effective in the preservation of our local wetlands.

I have urged repeatedly that social security payments be tied directly to cost-of-living levels and this was just passed by the House of Representatives.

I have supported consumer protection legislation and have been instrumental in calling Congressional hearings on inflated meat prices.

My proposal to create a cabinet level department on environmental affairs to fight pollution has had favorable reaction from the White House.

As a member of the Science and Astronautics Committee of the House of Representatives, I have been able to keep my eye on the moon program and on our local space craft industries as well.

My bill to prohibit the sending of pornographic materials through the mails to minors has been adopted as the Administration's position.

THE "FABULOUS FOURTH" CONGRESSIONAL DISTRICT

Points of Interest Include: 1. Belmont Park. 2. Valley Stream State Park. 3. Hempstead Lake State Park. 4. St. George's Episcopal Church (a national historic landmark). 5. Roosevelt Field. 6. Roosevelt Raceway. 7. Nassau County Museum. 8. Eisenhower Park. 9. Nassau County Children's Shelter. 10. Adelphi University. 11. Hofstra University. 12. Nassau Community College. 13. Friends' World College. 14. A. Holly Patterson Home. 15. Meadowbrook Hospital. 16. Messapequa Park.

FABULOUS "FOURTHERS" ARE "WEALTHY AND WISE"

Residents of the "Fabulous Fourth" Congressional District have every reason to claim this title for themselves. Figures obtained from the Census Bureau of the U.S. Department of Commerce reveal that "Fabulous Fourthers" have higher incomes, more education and less unemployment than the national average.

In relation to the rest of the nation, the median level of years of schooling completed for residents of this Congressional District who are over 25 years old is 12.1 years compared with a national figure of 10.5 years. Four or more years of college have been completed by 11.7% of "Fabulous Fourthers" over 25 years of age in comparison to the national figure of only 7.7% of the population. The national median income (approximately $4000) is only half of the median in the Fourth Congressional District (slightly over $8000). Unemployment on the national level is hovering around 5% of the working age population while in the Fourth Congressional District the percentage is about 2.5%, a figure with which your Congressman is not satisfied even so!

The highly diversified commercial, industrial and mercantile activities which characterize this District today are a far cry from the plain "sixteen miles long and four broad, upon which grows very fine grass," described in 1670 by Daniel Denton, first town clerk of Jamaica.

Eighteen public libraries serve the residents of the "Fabulous Fourth" plus two full-scale universities and two commmunity colleges. Cultural resources include everything from concerts, ballet and little theatre groups to art galleries and lectures on international affairs.

A quick check-up with the Welcome Wagon hostesses confirms our own impression of the area. Newcomers are "delighted" they moved here and find this "the friendliest place" they have ever lived.

CAPTIVE NATIONS WEEK

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. RHODES. Mr. Speaker, I would like to join in the 12th annual observance of Captive Nations Week by speaking out in behalf of the natural alliance for world freedom that exists between the United States and the over two-dozen captive nations under totalitarian Red rule. Between July 12 and 18, the American people again dedicate themselves in support of the aspirations of the peoples of Eastern Europe for freedom and self-determination. Captive Nations Week was inaugurated in 1959 by a joint resolution of the U.S. Congress—Public Law 86-90—and the late President Dwight D. Eisenhower was the first Chief Executive to issue a Presidential proclamation to that effect. This week provides a fitting opportunity for the American people to manifest their continued concern with the plight of the 100 million East and Central Europeans under Communist rule.

Twenty-five years ago this May, the war in Europe came to an end, but for these people in East and Central Europe, Nazi domination has been replaced by harsh Communist rule and Soviet hegemony. The Polish October of 1956, the Hungarian Revolution of 1956, and the "Czechoslovak spring" of 1958 dramatically confirmed the yearnings for freedom among the victims of Soviet imperialism and neocolonialism. The Soviet Union met these challenges to its domination with a brutal determination.

The artificial division of Europe—a legacy of World War II—remains a potent deterrent to any initiative for a lasting peace in Europe. There can be no genuine trust in the peaceful intentions of those who will not hesitate to use any means available to perpetuate themselves in power and keep their own people in bondage.

Expressing solidarity with these peoples—who cannot exercise freely their right to national self-determination—offers dramatic proof that their situation has not been forgotten, and that we are concerned and have a deep commitment with their plight.

I believe a reiteration of U.S. support of the universal application of human rights and national self-determination during Captive Nations Week would serve as an effective answer to all those governments which use force to limit or deny these rights to the people under their rule.

HON. CLIFFORD DAVIS

HON. JULIA BUTLER HANSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mrs. HANSEN of Washington. Mr. Speaker, it is with sorrow and a deep sense of personal sadness that I join today my distinguished colleague, the gentlemen from Tennessee, to pay tribute to my former colleague and friend, Congressman Clifford Davis.

I shall never forget the many courtesies and kindnesses extended to me by Congressman Davis when I first came to the House of Representatives 10 years ago, and when I appeared before his subcommittee on innumerable occasions.

I also have had the pleasure of visiting Congressman Davis' State while he was a Member of the House and I shall never forget his courtesies prior to my trip there. Congressman Davis was a delightful human being, a splendid and conscientious Member of the House of Representatives, a distinguished citizen of Tennessee and of our Nation. We have all lost a great friend.

My deepest and sincerest sympathy to his beloved widow, his family, and friends.

TRIBUTE TO GLOUCESTER COUNTY COLLEGE IN NEW JERSEY

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. HUNT. Mr. Speaker, it is indeed a pleasure for me to recognize and commend the trustees, administration, faculty, and student body at the Gloucester County College in New Jersey's First Congressional District for the fine reputation the college has achieved in its first 2 years of operation.

Indicative of the quality of student Gloucester County College has attracted and provided an educational opportunity is Ramesh Kapur, the student speaker at the commencement exercises for the first graduating class. Mr. Kapur's address reflects the refreshing appreciation of an educational opportunity in an academic community where in the communications gap is bridged by the kind of personalized relationships among the faculty, administration, and student body that reject anonymity and encourage individual initiative and accomplishment. I am pleased to include his remarks at this point in the RECORD:

President Apetz, platform guests, faculty, parents and friends of Gloucester County College.

On behalf of the Class of 1970, I would like to express our appreciation and thanks to those people who have assisted us in reaching this goal of graduation.

There are three groups we, the graduates, owe special thanks. I would like to address myself specifically to each of those groups.

First, our families. I feel this debt of gratitude deeply since I have been separated from my family while attending Gloucester County College. Our families have provided us not only financial assistance but more importantly, years of guidance, years of support, years of stimulation and years of motivation. While we, like most youth, have not often enough openly showed our thanks, for the Class of 1970 I now say thank you to our families.

Next, the Class of 1970 wishes to recognize the help given to us by the college board of trustees. Serving as the directors of Gloucester County College is generally a task not fully recognized. These people, however, are dedicated to youth, dedicated to community, and dedicated to the importance of education in the democratic society. We, the Class of 1970, thank the board of trustees for this dedication.

Next, let one offer our appreciation to the administration and faculty. Their intellectual stimulation, their personal interest, their sincere desire to help us in our pursuit of knowledge can never be forgotten. Let me only ask the administration and faculty to always stay as close to the student body as you were in our experiences. To the administration and faculty of Gloucester County College, we say "well done" and thank you.

Now I would like to compare Gloucester County College with a large university I attended in 1967.

Most of the activities in this midwestern university were administration oriented. They made rules and they carried them out. But at Gloucester County College I found students holding an important voice in the policies of the college. When the issues of controversy were raised, President Apetz sought advice of the students.

The assembly line approach was used extensively in every activity in my first college. I never knew deans or administration, unless some problem arose. Here a continuous diffusion of ideas takes place between students and administration.

Let me offer one personal example which at first might not sound too important. Please examine the concept involved. The first class I cut at Gloucester County College resulted in the following: Upon my return my professor said—"Ramesh, I missed you in class." What does this symbolize? I think it is typical of the personal relationship found here that was missing in my first college experience.

And finally a personal note—let me address my fellow graduates. Please recognize your own personal achievements. Remain proud of them as the years pass by. Remember—there will only be one charter graduating class at Gloucester County College.

May peace be on earth—thank you.

RAMESH KAPUR.

THE 1971 BUDGET SCOREKEEPING REPORT

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. MAHON. Mr. Speaker, the latest issue of the periodic "budget scorekeeping report" prepared by the staff of the Joint Committee on Reduction of Federal Expenditures was mailed to all Members of the Congress on July 14. The report is cumulative through July 9, 1970. It shows what has happened to the fiscal 1971 budget since that budget was submitted to the Congress on February 2, 1970.

As I have done with several previous issues of this report I want to bring to the attention of Members certain factual highlights from the introductory section of the report. These highlights on the status of the fiscal 1971 budget are as follows:

INTRODUCTION

STAFF REPORT ON THE STATUS OF THE 1971 FISCAL YEAR FEDERAL BUDGET

(Highlights and current status of the 1971 budget)

Presidential revisions in the budget

A. New budget authority for fiscal 1971 in the February 2 budget submission was estimated to be $218,030,495,000. By budget amendments, legislative proposals and reestimates (May 19, 1970), the President has increased the estimates for new budget authority for 1971 by $2,538,618,000 to a new total of $220,569,113,000.

B. Budget outlays for fiscal 1971 in the February 2 budget submission were estimated to total $200,771,129,000. By budget amendments, legislative proposals and reestimates (May 19, 1970), the President has increased the estimated budget outlays for fiscal 1971 by $4,571,871,000 to a new total of $205,343,000,000.

C. Budget receipts for fiscal 1971 in the February budget submission were estimated to total $202,103,000,000, including $1,522,000,000 for increased taxes proposed to the Congress. By additional revenue proposals for estate and gift taxes ($1,500,000,000) and leaded gasoline tax ($1,600,000,000) offset by some adjustments downward in his May 19, 1970 reestimates, the President has increased fiscal 1971 estimated receipts by a net of $2,006,000,000 to a new total of $204,109,000,000.

Congressional changes in the budget

A. Budget authority for fiscal 1971:

1. *House* actions to July 9, 1970 on all spending bills—appropriations and legislative—have *increased* the President's requests for fiscal 1971 budget authority by $7,486,977,000.

2. *Senate* actions to July 9, 1970 on all spending bills—appropriations and legislative—have *increased* the President's budget authority requests for fiscal 1971 by $4,335,950,000.

3. *Enactments* of spending bills—appropriations and legislative—to July 9, 1970 have *added* $457,434,000 to the President's budget authority requests for fiscal 1971.

B. Budget outlays for fiscal 1971:

1. *House* actions to July 9, 1970 on all spending bills—appropriations and legislative—have *added* a net of $2,955,063,000 to the President's total estimated outlays for fiscal 1971.

2. *Senate* actions to July 9, 1970 on all spending bills—appropriations and legislative—have *added* a net of $2,555,752,000 to the President's total estimated outlays for fiscal 1971.

3. *Enactments* of spending bills—appropriations and legislative—to July 9, 1970 have *added* $191,934,000 to the President's total estimated outlays for fiscal 1971.

C. Budget receipts requested by the President for fiscal 1971 requiring Congressional actions total $4,622,000,000;

1. *House* actions to July 9 on revenue proposals total $708,000,000 (including a net of $173,000,000 not requested for fiscal 1971 by the President) leaving a balance of $4,087,000,000 additional revenue increases required to meet the President's revised fiscal 1971 budget requests.

2. *Senate* actions to July 9 on revenue proposals total $757,000,000 (including $439,000,000 not requested for fiscal 1971 by the President) leaving a balance of $4,304,000,000 additional revenue increases required to meet the President's revised fiscal 1971 budget requests.

3. *Enactments* of revenue proposals to July 9 total $322,000,000, leaving a balance of $4,300,000,000 additional revenue increases required to meet the President's revised fiscal 1971 budget requests.

Facts on the budget deficit

The budget for fiscal 1971 submitted to Congress February 2, 1970 reflected a unified budget surplus of $1.3 billion, made up of an $8.6 billion surplus from the trust funds and a $7.3 billion deficit in the general Federal funds.

The budget for fiscal 1971 as revised by budget amendments, additional legislative proposals, and reestimates, exclusive of any separate direct Congressional actions on the budget, as announced by the President on May 19, 1970, reflected a unified budget deficit of about $1.2 billion. Including congressional actions, as announced by the President May 19, 1970, the unified budget deficit was estimated to be $1.3 billion, made up of an $8.7 billion surplus from the trust funds and a $10 billion deficit in the general Federal funds.

These surplus and deficit projections are dependent upon various factors of an uncertain nature, such as:

1. Experience shows that actual outlays are likely to increase over earlier projections—thus increasing the deficit.

2. The economic slowdown may decrease actual revenues from the amounts projected—thus increasing the deficit.

3. The budget contains about $2.1 billion in negative outlay estimates for various legislative proposals (such as postal rate increases, etc.) which if not enacted by Congress will automatically increase budget outlays by the amounts not enacted—thus increasing the deficit.

4. The budget reflects reduced outlay estimates in the amount of $2.1 billion for various program terminations, restructuring, and reforms, some requiring congressional enactments, which if not accomplished will automatically increase budget outlays by the amounts estimated—thus increasing the deficit.

5. The budget as revised to May 19, 1970 contains receipt estimates from various revenue producing proposals in the amount of $4.8 billion (including $503 million for trust funds of which $194 million was not requested by the President) which if not enacted by Congress will automatically reduce receipts of the Treasury by the amounts estimated—thus increasing the deficit.

Adding these uncertain budget estimates to the deficit projections made by the President May 19, 1970, the unified budget deficit might be $10.3 billion made up of a $8.2 billion surplus from the trust funds (excluding $500 million from new proposals) and a $18.5 billion deficit in the general Federal funds. Any changes upward in outlays by Presidential or congressional add-ons or reestimates and any changes downward in revenues (and the staff of the Joint Committee on Internal Revenue Taxation has recently estimated that revenues will be about $3.2 billion less than the administration projects for fiscal 1971) will necessarily add to these deficit projections.

EFFECT OF CONGRESSIONAL ACTIONS AND INACTIONS ON THE DEFICIT

Mr. Speaker, various factors make it a bit difficult to readily determine just what the Congress has done to the projected budget deficit for fiscal 1971. While it takes some analysis of the details of the July 9 "budget scorekeeping report" to make this determination, it is, nevertheless, important to know the impact of congressional actions, and inactions, on the President's projected budget deficit at any given time. A determination of this sort is, of course, very tentative and preliminary in nature since the work of the Congress is far from completed. But in briefest summary as of July 9:

First. By its actions to July 9, on both spending and revenue measures, the House has increased the projected deficit for fiscal 1971 by a net of about $2.9 billion. This net increase in the projected deficit reflects House actions such as a $1.5 billion social security increase, a delay in the family assistance proposal, and other mandatory spending authorizations, totaling $2.8 billion in all, and a net increase of about $100 million in spending related to the various appropriation bills.

Second. By its actions to July 9, on both spending and revenue measures, the Senate has increased the projected deficit for fiscal 1971 by a net of about $2.3 billion. This net increase in the projected deficit reflects Senate actions on various mandatory spending authorizations similar to but not corresponding exactly to those reported for the House, totaling $1.2 billion in all, and increased spending related to appropriation bills totaling $1.3 billion, offset by nonbudgeted revenue increases voted by the Senate but not yet acted upon by the House. The Senate has not yet acted on the social security increase or the family assistance proposal, and has acted on only six of the fiscal 1971 appropriation bills in contrast to the 12 passed by the House.

Third. In addition to the actions taken to date, still awaiting action are about $4.4 billion of the President's requests for legislative proposals that are counted in the budget as offsets to spending and new revenue proposals—both of which were counted in arriving at the deficit projected by the President. Involved are such proposals as a new tax on leaded gasoline, accelerated collection of estate and gift taxes, certain user charges, and some spending offset proposals.

SUPPORTING TABLE NO. 1

Mr. Speaker, in addition to the foregoing highlight statements, I am sure Members and others will find supporting table No. 1 of special interest. This is perhaps the key table in the report showing, bill by bill, what Congress is doing to change both the budget authority and the outlay—expenditure—sides of the President's budget. It shows actions in terms of increases or decreases from the budget estimates. I am inserting supporting table No. 1 in the RECORD:

By referring to the various subtotal lines on the table, the cumulative change from the budget estimates can be readily determined.

This table is in several parts.

APPROPRIATION BILLS

The first part of the table shows the effects of actions taken—to July 9—at this session on appropriation bills.

The report indicates that the net effect of House actions in appropriation bills to July 9 have resulted in decreasing 1971 appropriation requests for budget authority by about $665 million, and increasing estimated outlays over the President's budget estimates by about $112 million. Outlays show an increase, because the outlay figure includes the effect in fiscal 1971 of the Labor-HEW-OEO appropriation bill for fiscal 1970 passed at this session—the budget for fiscal 1971 submitted in February did not reflect final congressional action on this appropriation bill, but did reflect final congressional action on all other appropriation bills for fiscal 1970, except, of course, the second general supplemental bill.

BACKDOOR BUDGET AUTHORITY

The second part of this table shows changes in the budget made in the form of new budget authority through the so-called backdoor appropriations process. To July 9, the House has voted or reported $6,892 million in budget authority over the President's budget requests. Since only budget authority is involved, no change is shown for outlays. The figures shown in parentheses are for actions taken during the last session on bills still pending before the Congress.

LEGISLATIVE BILLS MANDATING SPENDING

The third part of this table reflects estimates for budget increases or decreases which result from congressional action on legislation containing mandatory spending authorizations such as pay or pension increases for which spending does not wait until an appropriation is made as is the case for most legislation authorizing new or expanded programs.

The net effect of House actions to July 9 for such legislative items is an increase in 1971 budget authority of $1,260 million and an increase in 1971 budget outlays of about $2,844 million. This does not reflect enacted or pending Federal or postal pay increases which were proposed by the President as increases to his own February budget and therefore not accounted for as congressional increases in the budget. But it does reflect a 6-month delay in the effective date of a postal rate increase and the cost of the retroactive postal pay increase for 2½ months in fiscal 1970 which will be paid in fiscal 1971.

A similar tabulation, giving the details of congressional actions affecting fiscal 1970 estimates, is included at the bottom of this table:

SUPPORTING TABLE NO. 1.—EFFECT OF CONGRESSIONAL ACTIONS DURING THE CURRENT SESSION ON INDIVIDUAL BILLS AFFECTING BUDGET AUTHORITY AND OUTLAYS (EXPENDITURES) (AS OF JULY 9, 1970)

[In thousands of dollars]

Items acted upon	Congressional actions on budget authority (changes from the budget)			Congressional actions on budget outlays (changes from the budget)		
	House (1)	Senate (2)	Enacted (3)	House (4)	Senate (5)	Enacted (6)
Fiscal year 1971:						
Appropriation bills (changes from the 1971 budget):						
Labor, Health, Education, and Welfare, and related agencies, 1970 (H.R. 15931, Public Law 91–204)				[1] +248,000	[1] +248,000	+248,000
Education (H.R. 16916) [2]	+319,590	+966,047	(3)	+215,000	+567,000	(3)
Legislative branch (H.R. 16915)	−9,394	[4] −7,540		−8,750	[4] −7,000	
Treasury, Post Office, and Executive Offices (H.R. 16900)	−73,053			−65,000		

SUPPORTING TABLE NO. 1.—EFFECT OF CONGRESSIONAL ACTIONS DURING THE CURRENT SESSION ON INDIVIDUAL BILLS AFFECTING BUDGET AUTHORITY AND OUTLAYS (EXPENDITURES) (AS OF JULY 9, 1970)—Continued

[In thousands of dollars]

Items acted upon	Congressional actions on budget authority (changes from the budget)			Congressional actions on budget outlays (changes from the budget)		
	House (1)	Senate (2)	Enacted (3)	House (4)	Senate (5)	Enacted (6)
Fiscal year 1971—Continued						
Appropriation bills (changes from the 1971 budget)—Continued						
2d supplemental, 1970 (H.R. 17399 P.L. 91-305)				−19,700	−200,300	−273,000
Independent Offices and Department of Housing and Urban Development (H.R. 17548)	+173,389	+1,186,796	(3)	−114,650	+89,000	(3)
State, Justice, Commerce, the Judiciary and related agencies (H.R. 17575)	−136,949			−50,000		
Interior and related agencies (H.R. 17619)	−731	−4,637	(3)	−3,350	−2,300	(3)
Transportation and related agencies (H.R. 17755)	−36,235			−34,700		
Foreign assistance and related agencies (H.R. 17867)	−655,578			−150,000		
District of Columbia (H.R. 17868)	−150	−150	[5] −150	−150	−150	[5] −150
Agriculture and related agencies (H.R. 17923)	−81,587	+727,581	(3)	+105,800	[6] +635,000	(3)
Military construction (H.R. 17970)	−137,763			−11,000		
Public Works and Atomic Energy (H.R. 18127)	−26,625					
Subtotal, appropriation bills	−665,086	+2,868,097	−150	+111,500	+1,329,250	−25,150
Legislative bills with "backdoor" spending authorizations (changes from the 1971 budget):[7]						
Emergency home financing (S. 3685)	+1,500,000		(3)	(8)		(8)
Alaska Omnibus Act extension (S. 778)		+851			(8)	
Navajo Road (S. 404)		(+5,000)				
Land and water conservation (Public Law 91-308)	+30,000	[1] +30,000	+30,000			
Unemployment trust fund (H.R. 14705)	[1] +194,000	+194,000	[4] +194,000			
Outdoor advertising controls (S. 1442)		(+15,000)				
Federal-aid highways (H.R. 14741)	(+26,000)					
Urban mass transportation (H.R. 18185)	[4] +2,118,000					
NSLI trust fund for veterans home loans (H.R. 9476)				([4] +1,000,000)		
TVA bonds (H.R. 18104)	[4] +3,050,000					
Subtotal, "backdoor"	+6,892,000	+224,851	+224,000			
Legislative bills with mandatory spending authorizations (changes from the 1971 budget):						
Additional district judges (Public Law 91-272)	−2,370	[1] −727	−727	−2,370	[1] −727	−727
Court leave for Federal employees (H.R. 12979)	(8)			(8)		
Uniform relocation assistance (S. 1)		(8)			(8)	
Employee health benefits (H.R. 16968)	+140,000			+140,000		
Wage board pay revision (H.R. 17809)	[4] +230,000			[4] +230,000		
Defense: overseas mailing privileges (H.R. 8434)	(+8,900)			(+8,900)		
Military lawyers retention (H.R. 4296)	(+7,000)			(+7,000)		
Family separation allowance—residence (H.R. 110)	(+17,000)			(+17,000)		
Family separation allowance—POW (H.R. 9486)	(8)			(8)		
Air evacuation subsistence (H.R. 9654)	(+50)			(+50)		
Dependents' health care (H.R. 8413)	+255			+255		
Reserve retirement—Berlin-Vietnam (H.R. 3813)	(8)			(8)		
Reserve retirement—aviation midshipmen (H.R. 11265)	(8)			(8)		
Public Health Service retirement (Public Law 91-253)	+259	[1] +259	+259	+259	[1] +259	+259
Social security (H.R. 17550)				+1,500,000		
Family assistance (H.R. 16311)	−450,000			−350,000		
Federal lands for parks (reduces offsetting receipts) (S. 1708, H.R. 15913)	(4) (8)	(8)		(4) (8)	(8)	
Postal reform (H.R. 17070, S. 3842)	[9] +891,700	[9] +891,700	(3)	[9] +891,700	[9] +891,700	(3)
Foreign Service retirement (Public Law 91-201)	(8)	(8)	(3)	(8)	(8)	(3)
Veterans' hospital care for 70-year-olds (H.R. 693)	(+7,000)	(+7,000)	(3)	(+7,000)	(+7,000)	(3)
Veterans non-service-connected benefits (H.R. 372)	(+8,538)			(+8,538)		
Veterans education assistance (Public Law 91-219)[10]	[1] +185,500	[1] +185,500	+185,500	[1] +169,000	[1] +169,000	+169,000
Veterans additional $5,000 insurance (Public Law 91-291)	+45,000	[1] +45,000	+45,000	+45,000	[1] +45,000	+45,000
Veterans compensation increase (S. 3348)	+226,481	+114,370	(3)	+226,481	+114,370	(3)
Redefine "child"—(dependency compensation) (Public Law 91-262)		+6,900	+3,552		+6,900	+3,552
Veterans auto allowance increase (H.R. 370)	+938			+938		
Railroad retirement (H.R. 15733)	−7,700	(8)	(3)	−7,700	(8)	(3)
Subtotal, mandatory	+1,260,063	+1,243,002	+233,584	+2,843,563	+1,226,502	+217,084
Subtotal, legislative bills	+8,152,063	+1,467,853	+457,584	+2,843,563	+1,226,502	+217,084
Total, fiscal year 1971[11]	+7,486,977	+4,335,950	+457,434	+2,955,063	+2,555,752	+191,934
Fiscal year 1970:						
Appropriation bills (changes from the revised 1970 budget):						
Foreign assistance (Public Law 91-194)	[1] −150	[1] −150	−150	[1] −100	[1] −100	−100
Labor, Health, Education, and Welfare and related agencies (H.R. 15931, Public Law 91-204)	[1] +567,000	[1] +567,000	+567,000	[1] +335,000	[1] +335,000	+335,000
2d supplemental, 1970 (H.R. 17399, Public Law 91-305)	−153,957	[12] +122,203	−558,637	−121,300	−84,800	−99,000
Subtotal, appropriation bills	+412,893	+689,053	+8,213	+213,600	+250,100	+235,900
Legislative bills with spending authorizations (changes from the revised 1970 budget):						
Food for needy children (Public Law 91-207)				[1] +30,000	[1] +30,000	+30,000
Veterans education assistance (Public Law 91-219)	[1] +107,400	[1] +107,400	+107,400	[1] +94,000	[1] +94,000	+94,000
Airports and airways development (Public Law 91-258)			+840,000			(5)
Subtotal, legislative bills	+107,400	+107,400	+947,400	+124,000	+124,000	+124,000
Total, fiscal year 1970	+520,293	+796,453	+955,613	+337,600	+374,100	+359,900

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[1] Reflects conference or final action for comparability.

[2] $425,000,000 budget authority ($212,000,000 outlays) for impacted area school aid, carried in budget as "proposed legislation," is regarded as budget appropriation request for scorekeeping purposes although no formal amendment has been transmitted.

[3] Subject to or in conference.

[4] Committee action.

[5] Pending signature.

[6] Does not reflect outlay effect of $20,000 payment limitation.

[7] "Backdoor" refers to budget authority and outlays provided in basic legislation not requiring further appropriation action.

[8] Not available.

[9] Reflects retroactive pay and ½-year delay in rate increase.

[10] Congressional increase of $185,500,000 subsequently included in budget amendment (H. Doc. 91-312).

[11] Excludes actions taken in previous session, shown in parentheses above.

[12] Does not reflect provision of $300,000,000 for food stamp program to be charged against 1971 Agriculture appropriation bill. Reflects points of order on the floor against foreign military credit sales and emergency school assistance.

RESERVATIONS ABOUT THE PRESIDENT'S TWO REORGANIZATIONAL PLANS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. DINGELL. Mr. Speaker, the President recently submitted to the Congress two reorganizational plans relating to environmental matters. Reorganization Plan No. 3 calls for the establishment of an Environmental Protection Agency and Reorganization Plan No. 4 would create a National Oceanic and Atmospheric Administration in the Department of Commerce.

Frankly, I have the most grave reservations about both of these proposals and I intend to express these reservations in testimony to the Subcommittee on Executive and Legislative Reorganization of the Committee on Government Operations during the subcommittee's forthcoming hearings.

I am in receipt of a copy of a telegram sent to President Nixon on July 8, 1970, by officials of several outstanding organizations dedicated to conservation and environmental protection expressing their strong opposition to Reorganization Plan No. 4.

So that my colleagues may have an opportunity to be familiar with the position taken by these conservation organizations, I insert the telegram in the RECORD:

JULY 8, 1970.

HON. RICHARD M. NIXON,
The White House,
Washington, D.C.:

The undersigned national conservation and environmental organizations endorse the administration's executive reorganization creating an Environmental Protection Agency (EPA) as an independent agency dealing with our Nation's serious environmental depredation problems.

But we are strongly opposed to a national oceanic and atmospheric agency that proposes to transfer research, management, and regulatory functions of a most important renewable resource belonging to all of the people to the Department of Commerce which traditionally represents the industrial and economic viewpoint. Moving commercial fisheries management, research and the anadromous fishery program to the Department of Commerce would split executive jurisdiction of the fisheries resource to the detriment of a growing public use of the resource by sport fishermen.

American Forestry Association, William E. Towell, executive vice president.
American Institute of Biological Sciences, Donald R. Beem, assistant director.
American Scenic and Historic Preservation Association, Richard H. Pough, conservation chairman.
National Association of Conservation Districts, Gordon K. Zimmerman, executive secretary.
National Audubon Society, Charles H. Callison, executive vice president.
National Wildlife Federation, Thomas L. Kimball, executive director.
Sport Fishing Institute, Richard H. Stroud, executive vice president.
Trout Unlimited, Ray A. Kotrla, Washington representative.
Wildlife Management Institute, Daniel A Poole, president.

FREEDOM—THE REVEREND RICHARD D. ELLSWORTH

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. DEVINE. Mr. Speaker, on Sunday, May 31, I attended the regular church service at Central College Presbyterian Church, Westerville, Ohio, and witnessed a wonderfully fine sermon by Rev. Richard D. Ellsworth.

Over the years it has been my pleasure to share many services with Reverend Ellsworth, and I find him to be a highly talented minister dedicated to the teachings in the holy scriptures and one not afraid to mention God in his sermons. It is refreshing these days to find truly sincere members of the clergy who are willing to bring a spiritual message to their congregations and not use the pulpit as a form to espouse political and social views.

This is not to suggest that Reverend Ellsworth does not have a deep concern for the problems and issues of our times but to emphasize that he recognizes his prime function in rendering spiritual guidance and direction to the many people who sorely need someone for these purposes during these critical times.

I think it is important that his sermon on May 31 be shared with those of you who would like to read it.

The sermon follows:

BLESSING TOO PRECIOUS TO LOSE—"FREEDOM"

(Preached by the Reverend Richard D. Ellsworth at the Central College Presbyterian Church, Westerville, Ohio on Memorial Day Sunday, May 31, 1970.)

Scripture—I Samuel 12:1–15

Text—I Samuel 12:7

Our text for this morning is lifted from the context of our scripture lesson and is the statement of Samuel when he spoke to Israel saying: "Now therefore stand still, that I may reason with you before the Lord of all the righteous acts of the Lord, which He did to you and to your fathers." (King James Version)

It was a time of great crisis for the nation of Israel. A little over 200 years had passed since the Israelites had established themselves in Palestine. They had found freedom from slavery in Egypt, they had consolidated themselves as a confederation of tribes; but they were now facing some rather tremendous problems which were threats to the freedom which they cherished.

There was a growing threat of the Philistines who had moved in and occupied the land to the west of the Israelites. The Philistines had a good strong foothold along the shores of the Mediterranean.

There was also the constant threat of the enemies who came from the east, attacking first one place and then another. It was just such an attack on the part of the Ammonites which had caused the various tribes of Israel to gather together under the leadership of Saul. But the people knew that even though the Ammonites had been defeated there were still the enemies that would come and threaten the existence of the nation.

Yes, there was the threat from the west, the threat from the east, and there were also internal problems and conflicts.

Freedom was cherished by everyone, but not everyone was willing to work unselfishly to preserve that freedom. All these things put together—the internal turmoil and confusion as well as the pressure of the enemy from the west and the pressure of the enemy in the east—put a great threat upon the freedom which had been given earlier to the Israelites by God.

And now because of the threats, the Israelites in order to maintain their freedom which was so precious to them, demanded a king. They wanted to go from a theocracy—where God ruled through the word given to His people by the prophets—to a monarchy—where there was a king. Other nations had kings. The Israelites wanted a king. They wanted a king who would provide a continuity of leadership; they wanted a king that they could see and around whom they could rally.

It was an opportune time, then, when the Ammonites invaded the land of Palestine and the cry went out for leadership—it was an opportune time for Saul to assume that role. He was chosen. The prophet Samuel put his hand upon him and said, "If a king is what you must have, then this is the man whom God has chosen.

And the people looked to Saul to preserve and maintain their freedom. The people believed that with a king their troubles would end. He would provide the leadership; he would do all that was necessary to preserve their freedom which they had won even by paying the supreme sacrifice at times. They had endured hardship, they had fought, and they were free. Now they wanted a king to preserve that freedom.

Samuel knew better, however! Samuel had prophesied even before the people had chosen Saul to be king. He had told them that if they demanded a king rather than to accept that rule of God, they would have to pay the price that a king would demand.

Samuel reminded the people of Israel that a king would take their sons and appoint them for himself and for his chariots, and to be his horsemen; and he would appoint captains over thousands and captains over fifties; that he would use the people to get the work done and he would take the fields and the vineyards and demand the best of crops; he would take a tenth of the seed and of the fruit of the vineyard. In other words, there would be taxation and there would be conscription. And so it was.

There had to be. In order for there to be a strong central government there had to be financial support of this. If that is what the people wanted, then God told Samuel not to stand in the way—let the people have the king.

But here was Samuel once again, the king having been chosen in spite of his warnings, in spite of the prophecy, here was Samuel once again warning the people.

He said to them in the words of our text, "Now therefore stand still for a moment, that I may reason with you, that I may recite for you some facts you need to know."

"What is the background for your freedom?" asked Samuel, and then he went ahead and answered, "The background for true freedom is God."

Remember your history; remember your heritage, said Samuel. Jacob had migrated to Egypt and there the people of Israel had been subjected to slavery—slave labor in the camps of the Egyptians.

But God had heard their voices and had come down to them. He had supplied them a leader in Moses and Moses had led the Israelites out from under the bondage of Egypt, across the Red Sea through the barren wilderness until at last, under the leadership of Joshua, they had occupied and secured the Promised Land, the land of Canaan, the land we know today as Palestine.

When there had been enemy uprising against the people, God had raised up a ruler to deliver them. As long as the people put their faith and trust in God and obeyed His commandments, all went well. But when they turned from God and did not follow His guidance and His rulership, which was a rulership of the heart and of the mind and of the soul, then the Israelites lost their freedom.

"Time and time again," reminded Samuel, "You have turned from God; you have forgotten God; you have not followed God's way and God's rule, and things have gone poorly, and you have almost lost your freedom down through the years. Now you have chosen a king! Remember this—it is not the king who is the answer to the problems which face you. He can be useful, but remember that it is still the Lord God who is the center and who is the source of all true freedom. And," added Samuel, "if you will obey the voice of the Lord and not rebel against the commandments of the Lord, then that blessing too precious to lose, that blessing of freedom shall be yours."

Ah, how good it would be at this point to question Samuel for there seems to be a contradiction here. He says as long as there is an allegiance to, a loyalty to, an obedience to God, then there can be freedom.

But is that freedom, Samuel? Is there not a contradiction here? Are you not saying that one has to be a captive before he can be free?

And I wonder if we were able to ask Samuel that question if he might not reply, "Yes, that is true."

In the words of the hymn "Make Me a Captive Lord, Then I Shall Be Free"—this is the heart of freedom.

With some careful thought, perhaps we might come to that same conclusion.

What is freedom? What is this freedom about which we say so much in America? What is this freedom for which men down through the years have yearned and fought and suffered and died?

Freedom is more than just a collection of words. It is more than just an idea.

It is a way of life—a way of life so precious that men have suffered and died. We remember this Sunday morning those who have paid the supreme sacrifice. Many have paid the price in many different fields of battle, not always when a gun and cannon are fired, but sometimes in the courtroom, in the classroom, in the science laboratory the war for freedom is waged.

But this Sunday morning we remember in a particular way those who have been called into the service of our country and who have gone forth to serve in the name of our country. We remember those for whom such names as Verdun, Argonne, Belleau Woods, Chateau-Thierry, Pearl Harbor, Corregidor, Normandy, the Battle of the Bulge, Salerno, Iwo Jima, North Korea, South Vietnam, Cambodia—all have very special meaning.

We remember this day the young men down through the years who responded to the call of this nation. We remember these men and as we do I would suggest in the words of Samuel that we need to stand still for a moment and we need to consider once again what was meant by the word freedom for those who have gone and fought for it. We need to remember this nation and the principles upon which it was established.

Certainly many things have gone wrong; certainly many things are wrong! Certainly there have been times and there are conditions where there is not freedom and equal opportunity. But the particular system of government that has been established here is a system by which and through which freedom can be given and maintained and improved. I know of no other system which has worked as well.

I would suggest that in America today we need to stand still and remember our history. We need to remember that those who have paid the sacrifice paid it for a purpose. We need to remember that to tear down a system which has some faults in it is utterly ridiculous if there is not a better system to replace it.

We need to remember as Samuel reminded the Israelites that there are enemies—from within, yes, that need to be seen clearly—but also enemies from without. We cannot be blind to the Godlessness of communism and to its verbalized intention to destroy America and the freedom that has been purchased and maintained by those who gave themselves so nobly in years gone by.

Stand still and remember the history of this country lest we be guilty of demanding something that will only take away the freedom and put us into slavery.

But I would not leave it on the level of just nationalism, for Samuel did not leave it there; our text will not let us leave it there; a good common sense will not let us leave it there! Samuel reminded the people that true freedom could be achieved only under allegiance to God.

Is this not why the founding fathers established this nation as a nation under God?

I am not suggesting this morning that the role of the church is to evangelize the nation and to make it subservient to the church. I am suggesting to you that the role of the church is to make clear the fact that there has to be allegiance and loyalty before there can be true freedom. Freedom demands discipline; freedom demands a loyalty. And I suggest and submit to you that the only true freedom—the freedom to really be the person that one can become—can only be achieved when ones loyalty is to God.

God has given us a way of life. He has prescribed how man can learn to live with his fellow man. The law is summarized for us in the ten commandments. The first four, tell us of our allegiance to God and when we have that basis of love that God provides, then we are free to live one with another, but within a guided and disciplined way of life.

How often we say that freedom is that condition which enables one to do just as he please. But if I do just as I please, if I am to be subject to every whim and fancy and blowing of the wind, then I shall find myself a slave. It is only when I have the discipline to say "no" that I still have the freedom to say "yes." When there is a discipline then one is free. But when there is no discipline, then a person may not be free any longer to say "no" or "yes."

This is true for the individual. It is also true of the life of our nation. We have a pattern given to us within the form of government, a pattern which has worked, not as effectively perhaps as it should have worked, but a pattern which can work when we choose to remain within that pattern. It is a pattern which recognizes God as the motivating factor and force in life. Perhaps it could be summarized best this morning for us in the words of that great and stirring hymn "The Battle Hymn of the Republic." Remember the lines!

"As Christ died to make men holy
Let us live to make men free."

There is a responsibility that comes to you and to me to so live that those who have died for the cause of freedom will not have died in vain—to live with an allegiance to God and a loyalty to this nation established upon the basic principles of freedom—to work so that the freedom we have inherited may be passed on to those who come after us and may be shared fully with all others in this world which God has created.

"As He died to make men holy, truly let us live to make men free."

IS PROTECTING PERSONAL PRIVACY WORTH $128.30? IS PREPARING A LETTER TO A CONGRESSMAN WORTH $8?

HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. GALLAGHER. Mr. Speaker, I again comment on my two bills, to transplant a human heart and a human brain into computer applications at large credit firms. As I mentioned on June 9 when I inserted parts of some supporting letters I had received, it would be possible to reproduce this documentation of cries of rage at computerized billing at a length only slightly less than that of the collected works of Dickens.

Briefly, my bills would do the following: H.R. 16266 would prohibit creditors from reporting disputed accounts to credit bureaus as delinquent; and H.R. 16267 would provide that the willful and persistent refusal of a creditor to make corrections in the account of a consumer shall relieve the consumer of liability thereon.

Perhaps the most compelling feature of the deluge of correspondence I have seen between computer and consumer has been a disgust elevated into withering sarcasm. Mr. Owen Thomas, however, has taken a slightly different approach to his difficulties with Central Charge Service. As a professional computer consultant and thus subjected to numerous cost/productivity analyses, he has had his time computed to be worth $8 per hour. His wife, also professionally employed, had had her time computed to be worth $4.80 per hour. Mr. Thomas simply deducted from the amount owing to Central Charge a total of $128.30, which represented 7 months of trying to right a wrong.

Among the deductions, Mr. Speaker, is $8 for the hour Mr. Thomas spent in preparing a letter and in forwarding supporting documentation to me. I am highly flattered.

However, Central Charge Service is considerably less than amused and they have declined to accept Mr. Thomas' check, which was less the amount he and his wife expended trying to penetrate the data processing iron curtain. Central Charge sent him a letter on July 13 which clearly admits their procedures were at fault, but they refuse to honor his deductions on the following grounds:

> We have been advised by our counsel that your invoice for $128.30, which you submitted as being representative of the time consumed by you and your wife, expressed in terms of personally assigned values, is not a proper element for damages.

Without interposing myself in the collision course between Mr. Thomas and Central Charge on the issue of whether a mere consumer and citizen can personally assign his own professional values to what should have been his leisure time, I do greatly admire Mr.

Thomas for courageously saying "no" to an outrage. I also admire his flair.

Mr. Speaker, with Mr. Thomas' full permission, I insert in the Record two letters to Central Charge, his time sheet, and Central Charge's recent reply. However, I do not intend to share Mr. Thomas' letter to me with the readers of the Record. Frankly, it is worth a lot more than $8 to me:

McLean, Va.,
March 20, 1970.

Central Charge Service,
Washington, D.C.

Gentlemen: Please refer to my letters of 25 January 1970 and 9 February 1970, enclosed.

After repeated attempts to have Central Charge Service administer the errors identified and forward a correct statement, I continue to receive billings and overdue statements.

I resent having to provide you consulting service when I am paid a considerable hourly sum for similar advice. However, your inaction or inability, as the case might be, obligates me to do so to protect my credit rating. However, you must also assume some obligation and, therefore, deductions in my total account, once properly administered, will be made.

1. Instruct the Computer Operator to provide a "dump" on Account Nos. 91 0515 774 (my true account) and 915 0516 095 (illegally assigned by CCS). This should make you visually aware that two account numbers are assigned.

2. Advise your systems analyst or programmer to prepare a simple instruction which will block further access to these accounts. This will eliminate further billing statements until you resolve this problem. It will also minimize my antagonism.

3. The object of the above actions is to manually audit this problem and when you realize there is no other method you may prohibit further problems.

Lack of response to my actions to date are considered willful and persistent refusal to make corrections in my account. Continued dereliction on your part will cause me to take a position that I am fully relieved of further liability due to failure in your internal procedures.

Recognizing that your lack of responsibility could damage my well established credit rating, I have provided a carbon copy of all correspondence to the Credit Bureau and the Better Business Bureau.

While I should expect an immediate response, your past inaction leaves me in considerable doubt.

I do not intend replying or advising you further until such time as all correspondence has been answered in detail. Moreover, when you finally see the need and take proper action for final reconciliation, I will:

1. Deduct from my statement a reasonable amount for my services and time;

2. Never again use Central Charge Service;

3. Reveal to all my friends the full contents of all correspondence exchanged so that they may make individual judgments regarding the ability of CCS to function as a professional/credit service.

Owen Thomas.

McLean, Va.,
July 6, 1970.

Mr. J. P. Stedehouder,
President, Central Charge Service,
Washington, D.C.

Dear Mr. Stedehouder: Please refer to the following correspondence and our most recent telephone conversation in which I have attempted to have my account reconciled:

1. Letter to Central Charge Service, January 25, 1970—No reply

2. Letter to Central Charge Service, February 9, 1970—No reply

3. Letter to Central Charge Service, March 20, 1970—No reply

In addition to the above actions I have made repeated telephone calls to 783-6201 and 393-7330 plus one personal visit (refer to enclosures) all to no avail.

Central Charge Service has provided sufficient evidence that they lack either the capability or the inclination to resolve this matter. Therefore, I am enclosing an itemized list of time and rate required to administer this problem which will be deducted from the total reflected in the last statement (6-28-70). I have enclosed a check for the difference which is the final payment. Please close Account No. 91 0515 774.

I have sent copies of all correspondence to the Better Business Bureau, the Credit Bureau, and Representative C. Gallagher. The latter will find this a prime example which will lend credence to supporting his bill, H.R. 16267.

Sincerely,

Owen Thomas.

DEDUCTIONS FROM APR. 28, 1970, BILLING

Account No.	Billing date	Amount
1. Finance charges:		
91-0516-095	Dec. 28, 1969	$2.34
91-0515-774	Jan. 28, 1970	.38
91-0516-095	do	2.26
91-0515-774	Feb. 28, 1970	.93
91-0515-774	Mar. 28, 1970	.94
91-0515-774	Apr. 28, 1970	3.25
91-0515-774	May 28, 1970	3.30
91-0515-774	June 28, 1970	3.35
Total deductions		16.75

2. Unexplained transfer from Jelleffs which appeared on billing dated Nov. 28, 1969 for account No. 91-0516-095 $28.78

3. Charges for my time (at $8 per hour) and my wife's time (at $4.80 per hour) spent in attempting to resolve the differences in my account:

Date	Time consumed and rate	Item	Amount
January 1970	1 hr. at $4.80	My wife placed 3 telephone calls to 783-6201 notifying your office of errors in our account and asking for assistance.	$4.80
Jan. 25, 1970	1 hr. at $8	Letter to CCS	8.00
Feb. 6, 1970	3½ hrs. at $8	Interview with Mr. Isenhart. I spent 3½ hrs. away from my office on this matter, including travel time.	28.00
		Round trip taxi fare	2.70
Feb. 9, 1970	1 hr. at $8	Letter to CCS	8.00
Mar. 20, 1970	do	do	8.00
Do	do	Letter to Better Business Bureau	8.00
Mar. 23, 1970	do	Letter to Credit Bureau	8.00
May 24, 1970	1 hr. at $4.80	Computation of amounts owed and deductible to date	4.80
May 25, 1970	1 hr. at $8	Letter to CCS	8.00
June 6, 22, 27, and 29, 1970	do	1 hr. telephone calls; no answer (393-7330)	8.00
July 6, 1970	do	Letter to CCS	8.00
July 2, 1970	do	Letter to Hon. C. Gallagher	8.00
July 6, 1970	do	Letter to Better Business Bureau	8.00
July 6, 1970	do	Letter to Credit Bureau	8.00
Total charges for time consumed on the matter			128.30
Total deductions			173.83

Central Charge Service,
Washington, D.C., July 13, 1970.

Mr. Owen Thomas,
McLean, Va.

Dear Mr. Thomas: Your letter of July 6, 1970 was referred to me by our President, Mr. J. P. Stedehouder, with his personal request that I investigate the matter completely and inform you of my findings.

After reviewing your excellent documentation, I know that a keen analysis has been made. Frankly, if members of our staff had even a modicum of this skill, we would have been able to quickly identify the salient points of your letter of January 25, 1970.

With respect to the items which you questioned:

a. The issuance of a duplicate number #91-0516-095 was, of course, incorrect. It occurred when Frank R. Jelleff Inc. discontinued the billing of their own accounts and transferred that function to us. This duplication was regrettable, a fact which our employee, Mrs. Isenhart, endeavored to convey to you. It was she who subsequently arranged to have the improper billing transferred to your regular account #91-0515-774.

b. In regard to the $28.78 charge, which was transferred to us from Jelleff's, as evidenced by the enclosed photostat, we improperly assumed that a similar copy, having been forwarded to you on March 16, 1970, had sufficiently covered your request for proper documentation. In reviewing this charge with Jelleff's today, I learned, for the first time, that they had improperly transferred a balance to you which belonged to another customer whose name, in their files, approximated your own. Thus, a correction was made, today, to remove this item from your account.

c. The payments of $20.74 dated October 30, 1969 and $25.00 dated November 17, 1969 were received but, because of the duplication of accounts were not properly reflected on the statements transmitted to you.

In the summary below, I have consolidated into one account #91-0515-774, the valid charges and payments only, having made full allowance for the accumulated inappropriate finance charges and arranging to transfer the $28.78 to the proper account.

91-0515-774

Date	Charges	Payment	Balance
November 1969	$144.81	$20.74	$124.07
December 1969	53.04	25.00	152.11
January 1970	49.19	10.00	191.30
February 1970		10.00	181.30
March 1970			181.30
April 1970			181.30
May 1970			181.30
June 1970			181.30

Enclosed is your check No. 338, dated July 6, 1970 for $53.00. This item cannot be accepted as final settlement of your obligation. We have been advised by our counsel that your invoice for $128.30, which you submitted as being representative of the time consumed by you and your wife, expressed in terms of personally assigned values, is not a proper element for damages.

You may be assured that this delay, which may be attributed to our own shortcomings in coping with a new method of computer billing, in resolving a complex matter, has not prejudiced, in any manner, your excellent credit reputation. Our own credit records, as well as those of the Credit Bureau confirm this statement.

Sincerely,

W. N. Talkes,
Vice President, Credit Operations.

TAX REFORM

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. PRICE of Texas. Mr. Speaker, next Monday the House is scheduled to consider on the suspension calendar H.R. 1002, a bill to adjust the rate of tax on cigars.

While this bill lacks the glamour of legislation dealing with a proposed moon shot, and while it lacks the significance of legislation dealing with our state of military preparedness it is an important bill, a worthwhile bill, a bill that merits careful consideration by this body.

The bill, H.R. 1002, would change the present bracket system of taxing cigars on the basis of their intended retail price to a single ad valorem tax of 6½ percent of the intended wholesale price. More specifically the bill, first, replaces the present tax on large cigars with a flat ad valorem tax of 6½ percent of the wholesale price—retaining the present law upper limit of $20 per thousand—and, second, defines wholesale price as the manufacturer's or importer's suggested price at which cigars are to be sold to retailers.

The changes made by this bill would take effect on the first day of the month which begins more than 90 days after the date of enactment of this bill.

Passage of this legislation would have three major beneficial effects. It would equalize the tax burdens presently unfairly borne by purchasers of the less expensive cigars, it would simplify the payment and administration of the tax by cigar dealers, and it would foster more of a direct relationship between the tax rates and the price of cigars at the retail level.

Mr. Speaker, these are essentially the conclusions drawn by the Ways and Means Committee after considering this bill. They also mirror the uniform sentiments of the cigar dealers in the 18th Congressional District of Texas who have been most diligent in pointing out to me the salutary effects of this legislation. I urge my colleagues to give this bill their unequivocal support.

A MINI BLUEPRINT FOR THE NEW JERSEY STATE BAR ASSOCIATION —ADDRESS BY DANIEL L. GOLDEN, PRESIDENT, NEW JERSEY STATE BAR ASSOCIATION

HON. CLIFFORD P. CASE

OF NEW JERSEY

IN THE SENATE OF THE UNITED STATES

Thursday, July 16, 1970

Mr. CASE. Mr. President, Daniel Golden, in his inaugural address as president of the New Jersey State Bar Association, has comprehensively reviewed many of the most significant problems facing our legal system.

Mr. Golden's "prescription for progress" emphasizes criminal law reform, courtroom decorum, and efforts toward world peace. He points out that the objective of our legal system is service to the public. To render this service effectively, Mr. Golden recommends that one's approach to problem analysis be of a "contemporary" nature, not a passive one.

Mr. President, I ask unanimous consent that Mr. Golden's address be printed in the Extensions of Remarks.

There being no objection, the address was ordered to be printed in the Record, as follows:

"A Mini Blueprint for the New Jersey State Bar Association"

(Address* of Daniel L. Golden, President, New Jersey State Bar Association.)

It is a great privilege to accept the position to which you have elected me.

It is also a great privilege to be a part of the New Jersey State Bar Association, long an institution of stature in the profession we hold so dearly. It is an institution one never really leaves, because its essential character and aims pervade the professional experience of all who are associated with it. The New Jersey State Bar Association is alive and vital. There is an air about it that says it is unafraid and that it dares, as it should, as evidenced by events of recent years. This Bar Association cares, and this caring is the essence of this great institution.

At the outset, I want to express sincere thanks to the membership at large for its confidence in elevating me to the office of president. To have earned the respect of one's fellow professionals is a privilege and a signal honor. To my immediate predecessor, the Hon. Charles L. Bertini, I extend thanks for his devotion to the monumental responsibilities which were his burden and which he shouldered well. To my fellow officers and trustees I am especially mindful of their sacrifices in time, effort and expense, but principally I am grateful for their intellectual courage, their forthrightness, and their professional competence. To our executive director, Francis J. Bolduc, and his highly competent staff, I owe monumental gratitude for spending much of their time making my job easier.

Most of all I am grateful to all of my predecessors, whose individual contributions have served to make this Association one of the great professional groups in the nation. The fact that the New Jersey State Bar Association is considered one of the most active and progressive associations is no accident. For as far back as I can remember, each administration added something of value to the Association. Since assuming the exacting position of secretary in 1964, I have been privileged to work closely with Past Presidents Foley, Hillman, Berry, Gibbons, Wharton and Bertini, with Secretaries Lummis and Clifford, and with Treasurer Vail. Each of these men added something of himself and his philosophy to the welfare of the Association.

While each President, his staff, and his Administration might be recalled for a specific contribution, it is no less important a fact that each builds upon the efforts of those who preceded him. It is also a fact that it is virutally impossible to institute and complete a particular program within the year of one's presidency. No president of this association can take credit to himself for the initiation and completion of a project; it is always the work of past, present and future administrations. The accomplishments of the Association are the results of this continuous process. Preserving that continuity is as great a challenge as the particular objective in mind.

To emphasize this continuity aspect I should like to address myself to some of the accomplishments of the Association in very recent years, as well as to areas which deserve our attention for the present and the future.

Many people are not aware of the positive leadership of the New Jersey State Bar Association as exemplified in the following areas.

1. The establishment of close liaison with the Governor's office in the judicial selection and appointment process.

Within 1 week after his inauguration Governor Cahill, through his counsel and the Attorney General, assured the officers of the Association that he would not appoint a candidate for judicial post or for prosecutor unless the Association found such candidate to be fully qualified for that appointment.

This is real progress and a far cry from the days when politicians "called the shots" while the Bar acted only perfunctorily, if at all.

2. The establishment of close liaison with the Supreme Court. Within the past two years the officers of the Association have met with the entire Supreme Court and the Administrative Director in pre-arranged sessions lasting for hours. On these occasions the Court has told us what it expects of the Bar; we have been given the opportunity to present the Bar's point of view and its problems. There has been a mutually constructive give and take, without publicity, without fan-fare—and with good results.

3. The Association was the prime mover in calling to the attention of the Legislature and the public the need for meaningful conflicts of interest legislation.

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* Before being edited for delivery.

4. The Association has always been the prime mover in endorsing salary increases for members of the Judiciary. It was also among the first to endorse legislation related to the removal of judges for cause.

5. The Association pioneered in obtaining a meaningful rule related to the unauthorized practice of law.

6. The Association was the first to advocate the use of full time prosecutors.

7. The Association has been a leader in bringing about, or causing to be brought about, the adoption of rules, rules changes, and legislative action in a host of areas from which the public and the profession have benefited.

8. Your Association has been the first and the most vocal in critically focusing attention on the negative aspects of the senatorial courtesy rule. Most recently we received much favorable comment from the press in having asked for automatic approval of a judicial nomination within a stated period of time if the Senate defers action under the odious courtesy practice. John T. McGovern, in the Newark News of May 3, 1970, said of the practice: "Today the Legislature is still deciding the fate of gubernatorial appointments behind closed doors, just as it did in 1776."

9. In general, your Association, more than any other professional body, has brought to its members a host of professional benefits, and has "gone to bat" for its members whenever the "chips were down".

I should now like to discuss present and future matters which deserve the thoughtful consideration of all citizens, attorneys or laymen, of our State.

I. CRIME LAW REFORM

There is no area in which constructive improvement is more urgently required than in the criminal law process itself. There has been no major revision of New Jersey statutory criminal law in years. In many court houses the length of the criminal calendars exceeds and defies reason. iWth an ever increasing population, with the expasion of the rights of the accused, adult or juvenile, by reason of precedent shattering decisions, with unrest and disobedience all about us, one can only hope that the obsolescent body of criminal law and procedure will be replaced as quickly as possible. The problem has been recognized by the Criminal Law Revision Commission created in the spring of 1969. In an interim report dated April 15, 1970. that Commission advocated the enactment of a modern, rational penal code as essential to law enforcement. The President's Commission of Law Enforcement and the Administration of Justice drew the following conclusion:

"American criminal codes reflect a broad consensus on the appropriateness of employing the criminal law to protect against major injuries to persons, property, and institutions. But the absence of sustained legislative consideration of criminal codes has resulted in the perpetuation of anomalies and inadequacies which have complicated the duties of police, prosecutor, and court and have hindered the attainment of a rational and just penal system.

"Some examples of these substantive inadequacies are the failure in most cases to treat as crimes highly dangerous conduct which does not produce injury, whether the conduct is undertaken negligently or recklessly; the unsatisfactory delineation of the line that separates innocent preparation from criminal attempt; the absence of laws that make criminal the solicitation to commit crimes; the amorphous doctrines of conspiracy that have grown unguided by considered legislative direction; the inconsistent and irrational doctrines of excuse and justification that govern the right to use force, including deadly force, self-defensively or in the prevention of crime, or in the apprehension of criminals; and the confusion that surrounds the definition of the intent or other culpable mental states required for particular crimes.

"Legislative criteria for distinguishing greater and lesser degrees of criminality are in no less need of reexamination than legislative definitions of criminal conduct. For these criteria determine such matters as eligibility for capital punishment, applicability of mandatory minimum sentences, availability of probation, and length of authorized maximum terms of imprisonment—matters that may be even more significant issues in a particular case than whether the defendant is in fact guilty. Yet here too legislative inattention has been marked.

Our New Jersey Commission has recommended forceful action:

"The problem is particularly acute in New Jersey today. We are in an era of rising crime rates and we must be sure that we are using the law enforcement facilities available as effectively as possible. This includes both confining law to a proper sphere of activity and assuring ourselves that persons appropriately subject to a criminal sanction will not escape because of a poorly defined crime. We are in the midst of a crisis with regard to respect for law. We must be sure our criminal statutes do not add to it, breeding contempt for law and disrespect for the enforcers of it, by being anachronistic or hypocritical. Further, New Jersey has never had a comprehensive penal code. While most states have the problem of an outdated code, we must start virtually from scratch. Our statutes now only define the elements of the offenses. We have almost no statutes relating to the general part of the criminal law, i.e., those relating, for example, to principles of liability, responsibility, justification or excuse. Presently, this is found in our case law. Rationality demands that it be codified."

In short, what we need is our own "Manhattan" project in which crime prevention, apprehension, trial, sentencing, corrections, probation and rehabilitation are merged under what might be termed a "humanist" approach. No easy answer is available. Special grand juries, wire tap evidence, pretrial detention and severity of sentencing will not provide all the answers. Society itself, with the aid of an enlightened bench and bar, must take an overall view, and prepare a program funded generously. The early consideration and adoption of a new penal code in New Jersey will be a giant step forward.

Much valued work has already been done in this direction by the American Bar Association, the American Law Institute, and of course, the President's Commission. It is for us, the practicing active members of the bar, to encourage and assist their efforts. I am, therefore, asking that our Criminal Law Section give top priority to this pressing problem. Only then, in the words of Chief Justice Burger, can we hope to "close the revolving door of crime, prison, and more crime."

I respectfully submit that a new criminal code for New Jersey with more precise standards of enforcement and sentencing—together with courage—must be a top priority for the profession and for the public. The adoption of such a code can be accomplished within every protection afforded by the Bill of Rights to an accused—while at the same time protecting the public.

II. LAW AND ORDER

That the meaningful participation of the Bar is essential to the maintenance of law and order is elementary. As judges, prosecutors, defense attorneys, government officials at all levels, and primarily as officers of the Court we have a solemn duty to promote the majesty of the law and the necessity for order. To do less would be derelict.

The "Chicago 7" trial, which has been called a "tawdry judicial parody", presented relatively new ramifications of the law and order problem, i.e., the deportment of litigants during the course of a trial; the deportment of their attorneys; even the deportment of the judge.

In a thoughtful article in the New York Times Magazine Section 6 weeks ago, Louis Nizer discusses this very problem. He advocates jail for the defendant who violates decorum, the removal of counsel who deliberately obstructs justice by collaborating with a client's misbehavior, the control of the practice of packing the courtroom with voluble adherent of the defendants, the suspension or disbarment of any lawyer "who engages in unseemly conduct involving the honor and dignity of the profession", and finally the enactment of federal and state legislation making disruptive conduct in a courtroom a felony—the felony of obstruction of justice.

Mr. Nizer says, "We owe it to accused persons to preserve a trial procedure which is classic and protective . . . Can it be said that taking stronger measures to preserve the judicial system is repressive?"

"To make our democratic institutions effective, within clearly defined legal limits, is the least we can do. It is a noble task—one not to be decreed as repression."

"There is a joke about our legal system: 'This is the only country in which the defendant goes home at night, and the jury is locked up.' "

The attitude of certain highly placed public officials does not help the cause, either. Just over a month ago, the Governor of Florida defied the Federal Courts over school integration. He removed school officials on patently transparent grounds, took over the local schools, and refused to carry out the orders of the Court. If a Governor does not treat court decisions as legitimate, how can other citizens be asked to do so?

Some of us try to take the phrase "law and order" as a high ideal, meaning decorous debate about any grievances and peaceful acceptance of decisions reached throughout the processes provided by society and the law in order that grievances may be resolved. The realization of that ideal is a pressing necessity today. The Wall Street Journal in a recent editorial called it "an ideal hard enough to uphold under the best of circumstances, let alone when it is encumbered by the kind of albatross Governor Kirk fashioned for its neck."

The time is here when we must reaffirm our dedication to a system whereby grievances are resolved and decisions are rendered in accordance with a system of living law, in an atmosphere of dignity, decorum and respect.

III. THE LAWYER IN THE QUEST FOR WORLD PEACE

Wars, external and internal, rage on in Asia and the Middle East. Strife is found in Greece, South America, and Africa. The responsibility for these events is shared by politicians, statesmen and military men. But the real hope "for peace, harmony and the joys of life in our time in a truly civilized community lie in great measure with lawyers of the world."

The New Jersey Law Journal in a thoughtful editorial on January 2, 1969 (92 N.J.L.J. 4) stated that "Law as the embodiment of agreed-upon rules of personal and national behavior is the subject of a lawyer's training. Only by living according to adequate law, domestic and international, can there be peace at home and abroad.

"Lawyers, therefore, by training, by experience and by their aptitudes in formulating, administering, and enforcing law as legislators, executors, statesmen, advocates, consultants, advisors and draftsmen are particularly qualified and have a responsibility to promote the cause of law and peace. True it is, they alone cannot achieve peace through law. But certainly they are better qualified than any other single profession or calling to lead the world in the age-old (but we hope, not eternal) search for peace on earth." This quest is not necessarily an impossible dream.

The American Bar Association helped create the World Peace Through Law Center now in Geneva. Our own association has an extremely active Section on International Law. Our own bar has been represented at conferences of the Inter-American Bar Association. There comes a time—and it is here now—when every lawyer must stretch his mind in making a concerted contribution to the cause of world peace through law through membership in the international associations and in national and state bar sections on the subject.

I have had the fortunate opportunity to travel to many countries under the World Peace Through Law program and under governmental auspices. These travels have reinforced my deep feelings about the contributions we all can make. Under the State Department Cultural Exchanges Program, I have been privileged to study legal systems in the U.S.S.R., Eastern Europe, the Middle East, and the Far East. From these experiences, I have found a number of attributes, common to lawyers worldwide. Lawyers speak the same language of the law, have the same problems with clients, and occasionally with judges, are generally good advocates, enjoy adequate fees, and have a high regard for their respective systems of justice. In great measure lawyers dominate the law-making bodies of the world, and thus have the singularly important function of making law, interpreting law, and establishing criteria and mores by which their peoples are governed. If, therefore, there can be meaningful dialogue among the lawyers of the world, it follows that the difficult path to world peace can be made a bit easier to navigate.

V. SERVICE TO THE PUBLIC

However else historians may describe the 60's or project the 70's, one major fact which they must acknowledge is the innovative role of the lawyers and the courts. The young men and women who are entering our profession want to turn their talents loose in different and new forums. They want to serve the disadvantaged and the forgotten in new and different ways.

These same young people coming out of the best law schools are not accepting prestigious appointments nor the fat salaries offered by the larger law firms of the nation. They are seeking and accepting appointments in governmental service, in agencies which bring the message of the law to the underprivileged, or in neighborhood law offices where the pay is low but the knowledge that one is making a contribution to his fellow man is high.

It is our responsibility, as established attorneys, to help them do this, and to do some of it ourselves. It should however be noted that, with little flamboyancy and without the spotlight of the communications media, established lawyers have been rendering valuable public service for many years. In the area of civil rights, particularly, our profession must be accorded full credit for much of the past decade's progress.

Much more remains to be done for the public, however. It is not sufficient to concentrate on "bread and butter" work alone. It is not sufficient to be content with the daily tasks of closing titles, planning estates, representing plaintiffs or defendants in negligence cases, or in being exclusively this or that particular type of lawyer. We must go beyond these spheres of professional activity which provide for most of us more than an adequate livelihood. We must be contemporary. Our failure in some instances to be contemporary underlies the so-called generation gap. The young are correct in their dissatisfaction with our too passive attitudes concerning the pressing problems of the day. The public is entitled to our help in meeting the new challenges of the day, whether they be legal, political or social in nature.

To this objective I have announced in the New Jersey Law Journal my intention to appoint new special committees, among others, as follows:

Public Health & Environment Law.
Conservation & Ecology Problems.
Drug Abuse & Narcotic Problems.
Causes & Prevention of Civil Disorder.
Housing & Urban Affairs.
Racial Minorities & Contemporary Law.
Consumer Education & Assistance.
200th Anniversary of Declaration of Independence.

Activity in these fields will make us sharply relevant to understanding the tensions that strain the fabric of our society.

A. COURT CALENDARS AND THE BAR

As an organization, through its various sections and committees, and as individuals, we must work with the Courts on the ever present problems of calendar congestion. Nothing confuses the lay person more than the unreasonable and unexplained delays in the judicial process. Nothing is more burdensome to lawyers.

As individuals, we can make a great contribution by the application of common sense, good judgment, effective advocacy with clients, and a less selfish approach. The plaintiff's attorney who deludes his client as to the value of a case, who makes unreasonable demands for settlement, and who is neither candid with client, adversary or the court, is to be blamed as much as the defendant's advocate who, in attempting to impress his carrier with his "toughness," fails to engage in meaningful settlement negotiations, or resorts to delaying tactics of one sort or another by unnecessary motions. In point of fact, most cases (92%) are settled prior to actual trial. If this be so, could not a franker dialogue between opposing counsel result in the settlement of cases which seem to occupy the largest part of our calendars? I am pleased to report that our Section on Civil Procedure has met with the Administrative Director of the Courts and with the Assignment Judges during this convention to review procedures intended to deal with the congestion problem.

Innovative proposals to deal with this problem are being applied at present. In Middlesex County, for example, plaintiffs' and defendants' lawyers have initiated an Early Settlement Program. Panels of leading plaintiffs' and defendants' lawyers, to whom other attorneys submit their cases, have brought about settlement of over 50% of the cases, much in advance of trial. The Court has been cooperative in providing facilities, as have adjusters, clients and counsel in their attitudes toward settlement.

It would be helpful, too, if the Court were always mindful of the problems related to trial practice and to the practice of law generally in these times. It is the lawyer's fondest hope that every judge, notwithstanding the passage of time, will remind himself of his own days as a practicing lawyer, and that he will recognize that the practice of law today is fraught with problems which did not exist just a few years ago. Shakespeare's words in "Julius Caesar" may be appropriate:

> " 'Tis common proof, that lowliness is young ambition's ladder,
> Whereto the climber-upward turns his face;
> But when he once attains the upmost round,
> He then unto the ladder turns his back,
> Looks in the clouds, scorning the base degrees
> By which he did ascend."

B. ESTABLISHMENT OF A FAMILY COURT

This Association, through its Family Law Section and the Committees which preceded it, has for years advocated the creation of a Family Court in New Jersey. Resolutions have been adopted and submitted to the Legislature on a number of occasions. Regrettably, little action of a positive nature has been taken to date. That our present procedures simply are not adequate for coping with the complexities of family discord has become increasingly apparent, and their inadequacy is reflected in the number of marital actions which clog the courts.

The law should be designed to promote family stability by preventing divorce where it is not warranted, and reducing its harmful effects where it is necessary. Perhaps a fresh look at the legal grounds for divorce in our State is in order.

The Family Court would have broad jurisdiction over the many faceted actions, civil and criminal, which relate to the welfare of the family unit. These would include marriage, separation, nullity, dissolution of marriage, child custody and support, alimony, division of property, paternity and legitimization of children, guardianships and cases generally involving legal relationships within a family.

C. THE SELECTION OF JUDGES

The Association in recent years has had a significant effect on the selection of judges. As a result of a series of meetings held with Governor Hughes and President Bernard Segal of the American Bar Association, our Chief Executive stated that he will not submit a judicial nomination to the State Senate without the clearance and approval of our Association. We are pleased to report that within five days of Governor Cahill's inaugural, a joint conference was held with the Honorable Pierre Garvin, Counsel to Governor Cahill, the Honorable George Kugler, Attorney General, and the Executive Committee of the Association. The Governor has made it crystal clear that he will not nominate any person to be a judge or a prosecutor unless the Judicial Appointments Committee affirmatively finds such person to be qualified for the position.

It is apparent that the selection of judges is a primary responsibility of the Governor. It is equally apparent that our system sometimes breaks down because of the isolated instances of abuses of the "senatorial courtesy" rule. What is the public to think when a busy county, overloaded with legal cases, finds it necessary to postpone all civil matters for months simply because its limited number of judges have been, by necessity, assigned to criminal cases? What do the citizens of that same county think of the failure to appoint judges to existing vacancies only because a single senator refuses to give his blessing until or unless his particular choices are made?

Your Association has vigorously fought against the senatorial courtesy rule for a number of years. The Board of Trustees of the Association recently adopted a resolution calling for a specific time period in which the Senate must act upon a nomination of the Governor's; failure to act within that time would signify automatic confirmation. Wide and favorable publicity on this action appeared in editorial columns of the papers of this State.

Hopefully, we have passed the day and age when a judgeship was described as a "political plum." It is to be hoped, too, that those members of our State Senate who happen to be lawyers will also rise above the sometimes destructive end results of the unwritten senatorial courtesy rule, and will in fact seek only to work with the Governor in the selection of the best qualified candidates for the bench, for the office of prosecutor, and indeed for all appointments to highly sensitive positions.

D. AN OMBUDSMAN FOR NEW JERSEY

I suggest that the Association study the advisability of having the State create a special office required to handle citizen's complaints—An Ombudsman for New Jersey.

Millions of Americans view government as distant and unresponsive, if not hostile. Though often the targets of the resentment which ensues, government officials are usually not the cause of remoteness, but rather its victims. Improving the means by which individual citizens can voice dissatisfaction with governmental action or inaction will make for a more democratically effective society.

VI. SERVICE TO THE PROFESSION

I have previously alluded to some of the accomplishments of this Association.

This Association is big business. It works for you around the clock. It is responsive to your interests and desires. It is not an "establishment" in the opprobrious overtone often associated with that word. It has been said that the Establishment criticizes but never overturns—and that, incidentally, makes it different from an aristocracy which does not even criticize. Having had the privilege of serving as Secretary to the New Jersey State Bar Association for three years and having also served as Vice-President of our organization, I know what dedication lies behind the growth and stature of the Association. Leading lawyers on the Board of Trustees give of their time unselfishly, as do the committee and section chairmen. Our Association, through its officers, trustees and professional staff, has participated in or initiated over 250 meetings during the past year—meetings which dealt with problems of all lawyers. All members of the Bar are encouraged and invited to join Sections and Committees.

Were you to be as fortunate as I in having worked with these men of vision, with men of viewpoints ranging from conservative to liberal but not extremes in either direction, from strict constructionists to exponents of change, from the outgoing trial lawyer to the more reticent, quietly probing estate or corporate lawyer—all of whom have had some part in the destiny of your Association, you too would be proud to be part of the Establishment. Once again, I invite you to join us.

To continue our service to the profession, I intend to create several new committees to deal with the following subjects, among others:

Legal Education and Admission to the Bar.
Professional Economics and Law Office Management.
Liaison with Colleges, Law Schools and Law Students.
State Law Revision.
Uniform State Laws.

A. CONTINUING LEGAL EDUCATION

We have had considerable success in continuing legal education, but our efforts must be stronger than ever. These must be geared, not only to the "how-to-do-it" activities, but also to the areas of broader professional responsibilities. Justice Thomas W. Pomeroy of the Pennsylvania Superior Court suggests "we should even expose ourselves to the occult mysteries of science, automation and cybernetics, so that we can talk the same language as some of our clients." It was John Marshall who said that "no lawyer is entitled to the honorable and conventional epithet of 'learned' if his reading is confined to statutes and law reports."

To dramatize the main concerns of justice we must constantly strive to stretch our minds. We must get involved. To this end, I have announced the formation of new special committees, such as:

Ecology and Conservation.
Electronic Surveillance.
Environmental Law.
The Lawyer's Role in the Search for Peace.
Science and the Law.
Oceanography Law.
Space Law.

Your participation is encouraged and invited.

Our Practising Law Institute and Continuing Legal Education programs have been appropriately cited for excellence. My own experience in attending such sessions is the pleasant discovery that one usually sees the busy lawyers present. Perhaps this is what keeps them "on-the-ball." A competent lawyer exudes confidence which is appreciated by the client. The client is then more receptive to advice, and the whole process of litigation profits by the more reasonable and conciliatory viewpoint. Confidence in the judicial process is the end result.

B. FUTURE LAWYERS

As a further service to the profession, and indeed to the public, I suggest a system of attracting good law students to practice in New Jersey. The problems of recruitment are known particularly to our larger firms who are in competition with even larger firms in the metropolitan areas. New Jersey practice has become somewhat overlooked as a result of the glamour packaging offered by firms in New York, Philadelphia, and Washington, D.C., on the East Coast. And yet we have in this busy state every conceivable type of practice to offer the young, interested lawyer. He can enjoy membership in a number of large firms; he can settle in a medium sized firm located in the less densely populated cities. He can pioneer with either young or established lawyers in the many rapidly growing communities of an expanding industrialized and residential state. He can enjoy the rewards of private, personal practice in the smaller communities, perhaps by himself, with the priceless thrill of being needed by many of modest or little means. In all instances mentioned above, he will find that the opportunity to make a decent livelihood is much greater here than in most places in the nation.

How do we sell New Jersey practice to good law students? I propose the creation of teams of two or three practicing lawyers who would be available for consultation at appointed times and places at the law schools in New Jersey, in the metropolitan area, or indeed at any law school which expresses an interest. I also propose a plan which was recently introduced in Wisconsin. Here the lawyers of the Wisconsin State Bar Association work directly with the Law School at the State University, where for example active practicing lawyers have set up courses such as "General Practice." The result is a tying together of the theoretical with the practical. There has long been a need for bridging the gap between pure legal knowledge and what one does when actually engaged in practice. If nothing else occurred, the student will have had the benefit of professional instruction and practical application—long a missing link between admission to law school and admission to the bar.

C. THE BAR AND THE SCHOOLS

I advocate offering our services as an Association and as individuals to the public and private schools of the State, particularly at grade school levels. President Segal of the American Bar Association noted in his Law Day address that "72% of all offenders under 20 years of age are rearrested for another crime within five years after release from custody." And Chief Justice Burger has noted that the majority of all major crimes are being committed by young offenders. Perhaps a meaningful classroom program commencing at the 6th grade level on the meaning of the law, its rights and obligations, and its penalties, would be more indelibly impressed on the young mind in its formative years. These efforts are effective, as evidenced in the successful programs conducted by the Chicago and Cleveland (Ohio) Bar Associations, which have done wonderful work in those areas of their respective cities where respect for law was most needed. Most recently, the Mercer County Bar has initiated a program in the schools on education and the law relating to drugs and drug abuses.

D. THE BAR AND LOCAL LAW ENFORCEMENT AGENCIES

I propose a plan whereby the Bar would send lawyers as instructors to every community agency that requested them. These instructors would expose our local police forces to the proper legal interpretation, the ramifications, and the implication of some of our Supreme Court decisions such as Miranda, Gault, and Escobeda. The effect of such a program, I feel, must result in a better system of law enforcement.

CONCLUSION

At the close of the Judicial Conference held in Newark last May, the Honorable Edward B. McConnell, our distinguished Administrative Director of the Courts, presented a "Blueprint for the Development of the New Jersey Judicial System". His presentation included some of the most significant broad range proposals in our judicial history. It included, among other things, some of the items which I have alluded to in this message. His call was loud and clear "for involvement, for thought, and for action by all Justices, Judges and Lawyers". The New Jersey Law Journal in a fitting editorial on June 5, 1969, said, "All of his blueprint may not be implemented at one time or in a short time, but starts can be made on the transfer from his blueprint to construction. Bar Associations, perhaps led by the State Bar Association, could take Mr. McConnell's Blueprint and commence a program of action immediately on many of his ideas." As to the judges, Mr. McConnell has expressed about all that can be said for their contributions:

> "The greatest single incentive that exists is each individual judge's desire to measure up to his own personal standards of excellence."

The same incentive would obviously apply to lawyers.

It was my intention, in a smaller sense, to present in this message a "mini blueprint for the New Jersey State Bar Association", for the same reasons and in the same spirit. Here, too, much time will be required. If we could but start on some of the basic projects, and at the same time continue to build upon the efforts and accomplishments of our predecessors, we shall have acted in the highest traditions of the profession.

I personally believe that a Bar Association should preserve its traditions and rely upon its past experiences in determining its manner of operation for the future. This, however, does not operate against our taking an activist position as an association of professionals when public and professional issue are at stake. We cannot afford to bask in the comfortable sunshine of the status quo. It is my hope that this Association will lead, initiate, innovate, and speak up when circumstances require positive action. It is my belief that an association is derelict if it waits to be asked to take a position in issues of vital importance to the public or to the profession. I would like to see this Association do, for example, what the Association of the Bar of the City of New York did two weeks ago when it suggested that lawyer members of Congress be restrained from practicing law. In these times we may be expected and should be expected, to take positions on the issues of the day—and there are plenty of them. The problems of race, pollution, crime, poverty, hunger, population, corruption, dissent, the right of privacy, strikes, the inadequacy of education, taxes, public indifference, archaic governmental institutions, ethics, and the general difficulties involved with the recurring violations of the dignity of human beings are present manifold today. We cannot afford to be passive. Circuit Court Judge John J. Gibbons, in his acceptance address as the incoming president of this Association, warned us cryptically and to the shock of those resistant to change, that if lawyers did not do anything about many interrelated legal and social problems of the day, somebody else would be doing it for them.

The legal profession must be concerned because the law seeks fairness, equity, and peaceful redress of grievances—these are the benefits of legal order. For many, our institutions have proved inadequate to secure the benefits of equal justice. It is for us to lead in rebutting this proof and in overcoming the failure of our institutions to respond to the legitimate needs of the public.

In these extended remarks, I am reminded of the young lawyer who said to the trial judge, after a long summation, "Your Honor, I apologize for having trespassed upon your time." To which the learned judge said, "Young man, you have not only trespassed upon my time, you have encroached upon eternity." I do hope that you will forgive me. I know that you will understand the spirit in which my talk was presented. Perhaps I could have stated everything that I believe the law is and our profession should be in a brief story about Rabbi Hillel, sage of the generation before Christ. Rabbi Hillel was challenged by an idolater one day to tell him all about Judaism in the brief minutes the questioner could stand on one foot. Hillel replied, "What is hateful to three, do not do unto thy fellowman. This is the whole law. The rest is mere commentary."

The law is a challenge intellectually; it is a challenge ethically; it is a challenge in terms of human reationships; it is a challenge in a civic sense; and finally, it is a challenge in terms of trying to keep a peaceful world. The late Justice Felix Frankfurter expressed his view of the law in this manner: "The law touches every interest of man. Nothing that is human is alien to it. Its demands are exacting and exhilarating; the satisfactions it affords are rich and enduring. Cast thy bread upon its waters; it shall be returned to you manifold."

With your help this might conceivably be a Golden year.

THE 12TH OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. FASCELL. Mr. Speaker, in a joint congressional resolution and by Presidential proclamation, Captive Nations Week was established in 1959. This week marks the 12th observance of Captive Nations Week.

For a quarter of a century the Soviet Union has established and maintained the Iron Curtain, enslaving tens of millions of people in Eastern Europe.

It had been hoped by many that this barrier would be softened with time and diplomacy but it has been intensified by the Soviet Union's reluctance to negotiate and its insistence on the domination and oppression of the captive nations. A clear example of the U.S.S.R.'s determination was the invasion of Czechoslovakia two summers ago. Too, it is obvious that the Soviet Union supports and encourages aggression in Southeast Asia and the Middle East.

It is appropriate that we, as free people who frequently take our individual liberties for granted, take time to express our concern, sympathy, and dedication to the people in those nations where personal liberties are nonexistent. We should strive to open new frontiers in helping those people regain their freedom.

With hope that this cause will be successful I am happy to participate in this observance of the Captive Nations Week.

IN DEFENSE OF PATRIOTISM

HON. FRANK E. MOSS

OF UTAH

IN THE SENATE OF THE UNITED STATES

Thursday, July 16, 1970

Mr. MOSS. Mr. President, Stanley Frankel of Scarsdale, New York, is a personal friend of mine. He has written for the Scarsdale Inquirer a guest editorial entitled, "In Defense of Patriotism." It represents a viewpoint which should be called to the attention of us all. I ask unanimous consent that it be printed in the Extensions of Remarks.

There being no objection, the editorial was included in the RECORD, as follows:

IN DEFENSE OF PATRIOTISM

Samuel Johnson wrote that patriotism is the last refuge of a scoundrel.

Johnson did not mean that all patriots were scoundrels. Rather, he suggests that some scoundrels wrap themselves up in the beautiful American flag and in the name of love of country, commit all kinds of sins which, under any other disguise, would be grounds for impeachment or jail.

These are the scoundrels who appropriate the American flag and wave it while they throw rocks at Negroes, while they hurl epithets at Peace Marchers; while they bust the heads of youthful dissenters. And all in the name of patriotism—or law and order.

These might be the same scoundrels who fly the American flag from the tallest pole in their plants while their smokestacks spew poison into the clean American air; who pledge allegiance to the flag while their sewage wastes our streams; who hoist the flag up while oil leaking from the bow fouls our beaches and kills our wildlife.

Some of these scoundrels are fond of quoting Stephen Decatur's "My Country, right or wrong," but fail to follow up with "When right to keep her right, and when wrong to put her right."

These self-proclaimed patriots would blindly follow their temporary leadership into wrong wars which wrongly kill 40,000 American boys . . . hundreds of thousands of North and South Vietnamese men, women, and children, and which threaten, wrongly the peace of the world. For the time is now upon us when the wrong course could lead to nuclear anihilation. The true patriot's course is away from obscene wars, away from pollution, away from poverty and hunger, and, if our country, through its temporary leaders, is wrong, then the patriot's obligation is to put our country, and her leaders, right. Time has long passed for blind and unquestioning lockstep, for the precipice is near and oblivion is ahead . . . dead ahead.

I much prefer Adlai Stevenson's definition of patriotism.

"What do we mean by patriotism? A patriotism that puts country ahead of self; a patriotism that is not the short, frenzied outburst of emotion but the tranquil and steady dedication of a lifetime. These are words that are easy to utter, but it is often easier to talk for principles than to live up to them.

"When an American says he loves his country, he means not only that he loves the New England hills, the prairie glistening in the sun, the wide and rising plains, the great mountains, and the sea. He means that he loves an inner air, an inner light in which freedom lives and in which a man can draw the breath of self-respect."

I may sound corny, but, because our flag is the symbol for our great nation, I am proud of that flag, proud to march behind it, to salute it, and to wear it. I am not proud that it has been appropriated by those hard of hat, heart, and head who would use its shining presence to defile the Bill of Rights, to shortcut the Constitution, and to substitute brutality for beauty. These are the self-proclaimed patriots who equate dissent over the war with treason. These are the flag wavers and wearers who fail to understand that the safety of our soldiers in Viet Nam depends on our getting them out, not on forcing them in. These are the blind who cannot see that the most patriotic course to save our torn nation and our beloved sons is to march those boys off the ships behind the billowing red-white-and-blue, not to carry them off wrapped in it.

PARSONS COLLEGE INAUGURATED POLITICAL ACTION SEMINAR

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. SCHWENGEL. Mr. Speaker, Parsons College at Fairfield, Iowa, located in Iowa's First Congressional District, has inaugurated a new political action program.

Parsons College students will be given the opportunity to receive credit for working on the campaigns of candidates this fall.

Students will work a minimum of 12 hours a week during the months of August and September for the candidate of their choice.

Mr. Speaker, I applaud Parsons College for inaugurating this innovative program. On many occasions I have expressed my conviction that we must do what we can to open the political system to our young people. A program such as is underway at Parsons College helps achieve this goal.

At this point in the RECORD, I include additional information on the Parsons College program:

NEW POLITICAL ACTION SEMINAR FOR STUDENT INVOLVEMENT

Parsons College today announced a new and innovative program for students to participate in political action during the upcoming campaign at the state and local levels and receiving college credits for their efforts. Students enrolling in this program will be assisting candidates of their choice in any part of the nation during the months of August and September. The first two weeks of the fall trimester the students will attend seminar sessions on the Parsons College campus to share their experiences and make recommendations for further opportunity for student participation in political activity.

The course is open to all Parsons students enrolled for the fall trimester at Parsons or students enrolled in the last session of the summer trimester. The program is under supervision of the Department of Political Science at Parsons College but the administration and coordination of the program will be in the hands of a student committee.

Subject: Summer course—political action seminar.

1. Parsons College, in order to meet a need for its students to participate in political activity at the "grass roots" level, has approved a new course in the Department of Political Science for the summer of 1970.

2. The course, Political Action Seminar, Political Science 400, will consist of the following:

a. Eight weeks in practical political action assisting a bonafied candidate of the student's choice. (Practical experience August 1–September 30.)

(1) Candidate will sign an agreement to accept the student on his staff. (Minimum of 12 hours per week.)

(2) Student must report each two weeks on his activity.

(3) The candidate must indicate on the form the student's effectiveness and note areas of needed improvement.

b. Two weeks of evening seminars—two three hour evening meetings per week for two weeks (weeks of October 5th and October 12th).

(1) Students will report on summer activity.

(2) Students will share ideas and discuss experiences.

(3) Selected students will conduct panel discussion for the students, faculty, and staff of Parsons College. (Voluntary faculty seminar leaders.)

c. Students completing the course (including seminar) will receive three hours credit.

d. Enrollment may be arranged by mail by completing the enclosed application form and making a deposit of fifty dollars ($50.00). Upon the student's return to the campus, an additional fifty dollars ($50.00) will be due for him to participate in the seminar.

To: Department of Political Science, Parsons College, Fairfield, Iowa.

Subject: Political action seminar.

1. I understand that ———— (Student's Name) will be working on my staff for college credit in Political Action Seminar, Political Science 400.

2. I understand that the above-named student must work at least twelve hours a week on my staff.

3. I understand that the above-named student must submit reports every two weeks for eight weeks of the practical portion of the course, and that it will be necessary for me, or a member of my staff, to evaluate the student's activity as to effectiveness each reporting period.

——— ———.

MATHEW H. TINKHAM

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. WILLIAM D. FORD. Mr. Speaker, I am very proud to call the attention of my colleagues to one of the outstanding senior citizens in my district, the 15th of Michigan.

Mr. Mathew H. Tinkham, of Wayne, who will celebrate his 82d birthday in November, has been awarded an inscribed gold certificate by the American Bar Association upon completion of 50 years' membership.

Mr. Tinkham, a long-time friend of mine and a lifelong resident of Wayne County, Mich., was admitted to the Michigan bar in 1941, and joined the American Bar Association in 1920. In addition to practicing law, he has served as attorney for several communities and school districts over the past half century.

Mr. Bernard G. Segal, president of the American Bar Association, praised Mr. Tinkham for "long and devoted support to the work of the association and the organized bar." He noted that Mr. Tinkham was one of only 71 attorneys in the Nation who qualified this year for the ABA 50-Year Award.

I am especially proud of Mr. Tinkham's long and distinguished record, and of the wonderful example it sets for America's older community. Mr. Tinkham is living proof that senior citizens can enjoy active and productive lives and do not have to retire to a rocking chair at such arbitrary retirement ages at 60, 65, or 70.

SATCHMO: "MAY HIS HORN SOUND FORTH WITH SPLENDOR, MAY HIS SOUL GO SWINGING ON"

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. NELSEN. Mr. Speaker, over the Fourth of July weekend I happened to read a delightful New York Times service feature about the great Louis Armstrong. Maybe old Satchmo's English is not the best, but his philosophy of life is hard to beat. In the words of the Times—

> May his horn sound forth with splendor, may his voice rasp on with joy, may his soul go swinging on.

I include for the RECORD the text of the Times article as reprinted by the Minneapolis Tribune on July 5:

SATCHMO ON 70TH BIRTHDAY: "EVERYTHING MAKES ME HAPPY"

NEW YORK, N.Y.—To the roar of fireworks on this Fourth of July, add one sweet sound of trumpet: It is Louis Armstrong's 70th birthday.

Welcome the echoes of independence, and sing a song for Satchmo: May his horn sound forth with splendor, may his voice rasp on with joy, may his soul go swinging on.

"I don't grief for nobody or nothing, no malice or nothing—just plain old Satchmo," Armstrong said in an interview at his home in Queens. "I don't bother nobody and they don't bother me. I respect the world and they respect me. That's all that's necessary.

"I think I had a beautiful life. I didn't wish for anything I couldn't get, and I got pretty near everything I wanted because I worked for it. I don't keep nothing that I can't use right now, so everything I have I still enjoying it.

"I don't play stock market so I don't care what they do. I never was interested in stock market. Of course, I played the craps market and the cards, and I stopped that 'cause I figured it out. Every time I went to Las Vegas I'd lose my money. Even if I get lucky I can't never catch the money back no way. I put it down.

"Now I live for Louis Armstrong and Lucille—nobody but my wife and I. We don't have no big bills to pay and a whole lot of put-on airs like some people. We live a normal, good life. It's enough.

"Everything makes me happy. My wife, for one. After her, then I got to think. She call me 'Darling' if I'm nice. 'Darling'—round in that category. She got other names there I ain't going to tell you—but I mean not every day I don't get them.

"Now I have time to be at home, which I never did have—traveling all day long, buses, and going to airports, waiting all day for a plane, gets you there just in time to do the concert, no supper, no anything. Fifty-four years traveled—I started when I was 14. Well, I ain't going to do that no more.

"I needs the rest, anyway. What's a better vacation than this? I'm indexing my reels, which will take me another year—I've so many. I still done but one shelf, but I've got five or six shelves with nothing but reels, and I'm in all of them. I want to hear me, that's what keeps me up to the time."

His appraisal of his oldest records is forthright. "Great! Ain't nobody played nothing like it since, and can't nobody play nothing like it now. My oldest record, can't nobody touch it. And if they say, 'Which record do you like best?' I like them all, because I didn't hit no bad notes on any of them.

"I believe in myself, and I know what I can do when I pick up the horn."

Using his birthright has won him honors here—and enthusiastic audiences abroad. "I play the trumpet in any language," he said. "If they understand it, that's any language. A note's a note in any language, and if you hit it—beautiful—they dig it.

"Music is music. It's two kinds—good and bad. You got to listen to all music to appreciate yours. The new music, it's got a tempo, a beat, and what they're singing, it makes sense. There's nothing wrong with it, but I wouldn't want to go through all that, and I can't do it. Rock groups today—they make one record and they're millionaires. So why should they worry about playing it right?

"Every generation is different. My time coming up is much different from these kids. When you sum, it's all the same—some survive and others don't. If it's not in them they don't make it, that's all.

"We kids, even in our teens, we would hang around the honky-tonks all night—afraid we going to miss something.

"'I used to sing tenor when I was 12 years old—with my hat around my ears—hit those big high notes like Caruso. We used to go around and pass the hat, because I had to pay my mother's rent. Things were awfully rough—they were called the Boll Weevil Days.

"'Fore I left New Orleans couldn't nobody tell my mother about her boy couldn't blow that cornet. We were so close together. The only time I cried was when they put that top on my mother's coffin."

As he said this he hesitated—as though unwilling to find words to recall the occasion. Then he smiled his broad, toothsome smile.

"In New Orleans I played at as many funerals as I could get, and cats died like flies, so I got a lot of nice little gigs out of that," he said. "It's business. They going to enjoy blowing over me, ain't they? Cats will be coming from California and everywhere else just to play.

"If anybody plays a bad note, Lucille'll slap 'em right in the face. She'll take care of that for me. I don't want no part of it. Once I cut out, forget it.

"It'll be good I get to the pearly gate upstairs. St. Peter will have all those good things written down. He ain't got no business with the bad things up there. Why should he tax me? We both in the same boat if we both up there. We all got a memory of some kind that was sort of devilish.

"When I go to the gate, I'll play a duet with Gabriel. Yeah, we'll play 'Sleepy Time Down South' and 'Hello, Dolly!' Then he can blow a couple that he's been playing up there all the time.

"He wants to be remembered for his music, just like I do. They'll take it from there whether I was a good fellow or a bad fellow."

PERSPECTIVE ON CAMPUS UNREST AND DISSENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. BROWN of California. Mr. Speaker, this week the President's Commission on Campus Unrest opened an important and timely series of hearings here in Washington.

One of the initial panel members testifying before the Scranton Commission was Charles F. Palmer, a current president of the U.S. National Students Association.

Mr. Palmer's statement provides a clear and thorough analysis dealing with the wide range of problems and factors which result in alienation and strife on the Nation's campuses.

I believe Mr. Palmer's testimony to be of wide interest, and I recommend that my colleagues and the public as a whole pay close attention to this important perspective.

The statement follows:

STATEMENT BY CHARLES F. PALMER

I have been President of the United States National Student Association since last August. During that time NSA has been asked for assistance by students at hundreds of campuses across the country. We have tried to help students find constructive solutions, working in university channels when possible, seeking justice in the courts when such channels were blocked, and raising their grievances through protest when all else fails.

More than 500 student governments belong to the National Student Association. They are a broad sampling of campuses—state universities and large private institutions as well as several hundred smaller schools—sectarian, non-sectarian, and state operated. Some of these schools saw little or no disruption this past year but they are still plagued with the problems of more active campuses, and are more than ripe for unrest during the coming year.

The frustration and disappointment on all compuses cannot be ignored this fall as it was last year at this time. The method used last year was to push the "Quiet Year" theory. The Nixon Administration and other officials continually told us that campuses would not erupt and were not erupting. This failure to regard what was happening on campuses as important was an attempt to see if a problem would go away if ignored long enough. The "Quiet Year" gained credibility as press reports carried fewer accounts of student unrest. But it was a bootstrap operation. The scarcity of reports of campus unrest was due primarily to the reluctance of the press to report anything after administration attacks on them for drawing attention to discontent on campus. But the theory could not be maintained as the year wore on, for obvious reasons.

I think that many students suspect that the "Quiet Year" theory may have been replaced by the "Commission Plan." I think many students see this commission as a possible vehicle for change, but believe your recommendations will be only superficially followed and that your report will join the Kerner and Eisenhower Commissions' statements on some dusty shelves.

A great deal of responsibility has been placed in your hands, a responsibility not merely for the campuses where student outrage has been violent and sustained, but responsibility for the vast majority of campuses where frustrations and injustices make for unrest.

You can focus your attention on the handful of campuses where death has tragically marked student protest. Or you can look at the broad picture of thousands of campuses and millions of students where mere circumstance has prevented similiar tragedy.

I understand that this commission is to report to the President by October 1st. By that time you can sort out some of the complexities of Kent State and Jackson State. But to understand and to report on "student unrest" in that period of time is impossible.

Gentlemen, as you are filing your report next Fall the very frustrations and anxieties that have produced this year's outbreak will be there, on campus, building and smoldering for the next year. And this coming year will not be a quiet year on campus. That almost any student in the country can tell you.

If we could generalize the concerns of students during the coming year, several trends and issues could be identified:

As long as there is substantial American military involvement in Indochina, students will continue to oppose it actively.

There will be demands that the university dissociate itself from war related and other antisocial programs.

There will be increasing repression as administrators and trustees knee-jerk when faced with student dissent. This trend is already evident. In California, one state college trustee apparently believes the student problem can be solved by banning all political activities on campus and forbidding recourse to the courts in disciplinary matters. There and similar repressive efforts will not end anything. Instead, they will only drive more moderate students to the wall and, perhaps, to violent activism.

Next November there may be thousands of disillusioned and bitter students returning to campuses if their excursion into the famed channels of the establishment produces little or no fruit.

There will be continued student protest concerning the non-responsiveness of the schools themselves to demands for change in curricula and governance of the institution. Not all problems at a campus are created externally. Ending the war and reforming the draft are not going to end dissent on campus, We can anticipate continued unrest as long as institutions of learning do not respond constructively and positively to pressures for change.

Finally, none of these trends or issues can be separated from the context in which national figures place them. The harsh, insensitive, and needlessly divisive speeches made by some politicians have created a social acceptability for violence against students. This past year we have heard diatribes by demagogues against the transgressions of students, and have seen these same politicians dismiss police violence as if saying, "those bums had it coming." One only need look at who has suffered fatalities to see where the violence has been committed.

These are the problems—I would like now to discuss my reactions and suggestions to the principle duties of this commission as listed by the President. It is impossible in the limited time available to present an in-depth discussion of each directive of the Presidential order. Instead I shall concentrate on important concepts in each, and matters that are within the experience of my organization.

One preliminary matter. The language and assumptions of the order to the commission merit criticism because they evidence both an official paranoia caused by student dissent and a misunderstanding of its nature. I take direct issue with the clear implication that the Nixon administration appears to make, that the problems on the campus will be solved by provision for olderly expression of dissent and mechanisms to control violence.

There is a gross misunderstanding: the official belief that the problems of the university are caused by nothing more than the failure to undertake dissent properly. This anal preoccupation with the pursuit of proper channels, to the exclusion of any consideration for the substantive merits of a proposal has caused more problems than you may realize. Dissent has causes. If this commission is to make any useful recommendations, it must address itself to the causes of dissent and disruption and not waste its time with a superficial treatment of the symptoms.

I take specific issue with the President's use of the phrases "orderly expression," "improper interference," "peaceful dissent." Let us be frank. School administrators and government officials define what is orderly. To them, "orderly" means pursuit of clogged and non-responsive channels; channels which are, of course, established by administrators and faculties among whom the object of the game often appears to be lengthy delay to see if the impetus will dissipate before they must act. "Orderly" means something that makes no waves and therefore is something to be ignored. "Orderly" has rightfully become a code-word among students that means dissent that is doomed by definition to failure.

CAUSES OF CAMPUS DISSENT

The first task of this commission, as outlined by the President, is to address itself to "the breakdown of orderly expression of dissent on the campus."

I would say the primary cause of violence on the campus is the inability of the institutions themselves or of society to respond to legitimate pressures for change. A second cause concerns the propensity of many schools to treat their students summarily, highhandedly and with no sensitivity to the student's basic desire to be, above all else, a human being.

Throughout our schooling, young people are taught that this is a democratic society and that as members of a democrtaic society they have a stake in its decision-making process. With respect to the society at large, young people soon discover that their effect on the political system is limited at best. They enter a political arena in which dissent becomes unpatriotic, their movements suspect and carefully scrutinized by internal security agencies, and in which their search for an end to an "unpopular-war-by-mistake" makes them an object of vice-presidential demagoguery.

In short, the establishment has given young people two choices: Dissent outside the system is bad: dissent inside the system is ineffective or unpatriotic. Two choices and neither of them work. Given that choice, it is not really surprising that frustration soon turns to violence.

Students have a similar choice on their campuses, and since it is more within the everyday experience of the National Student Association, I should like to document it with more detail. Violence on most campuses occurs only as the culmination of a long series of developments. At the beginning there are polite student requests for redress of some grievance; these are generally ignored. Then comes a more strongly worded request. Still nothing happens. Then there may be a protest meeting, perhaps a sit-in, and so on. Violence on the campus is documentation that the institution failed in its responsibilities long before the outbreak.

There is a second aspect of the causes of violence on the campus. It is characterized by what I would call mounting frustration by students over their treatment and status on the campus. Each individual grievance may be small and highly unlikely as a singular cause of disruption. But institutional inaction on each, building over a period of time, causes the explosion. In many cases it is the non-responsiveness of establishment-defined "orderly" processes that are the cause of the confrontation.

During the course of the year, my staff and I have had called to our attention situations on campuses that are at least intolerable and at most go beyond the ridiculous and stupid. Let me cite some examples:

On one campus, typical of the many small schools in financial straits this year, the school administration summarily and permanently shut-down the student newspaper after it published an editorial opposing a $400 expenditure for academic gowns on Rededication Day.

At another school, the college president was unsure whether the dismissal of charges by a hearing committee also meant that the temporary suspensions of the students should be lifted. In other words, should the punishment of students be continued even though they were found innocent.

At a midwestern university, the president agreed with the students that a disciplinary ruling could not withstand a due process test in court. Still, he told them they would have to get a court order before he would modify his decision.

One school, not far from Washington, considers the ACLU to be a threat to the campus and will not permit the formation of a student chapter.

Administrators at a southern school refused to implement a series of student requests endorsed by a student-administration committee. A peaceful protest following the refusal resulted in the mass arrest of 894 students. With the cooperation and assistance of the U.S. Department of Justice, local police closed off the campus to newsmen, systematically arrested the students and put them on busses bound for the state penitentiary one hundred miles away. After a judge ordered their release, the school discovered that its busses could not be used to transport the students back to campus.

At that same school, the president summarily cancelled the semester in progress and announced his intention to selectively re-admit students.

Even these extreme examples are eclipsed by the daily indignities suffered by students on many campuses. These include:

Depersonalizing and unwarranted intrusions upon student privacy in their dormitory rooms;

Use of grading systems to punish students where due process in disciplinary systems does not result in the desired expulsion;

Censorship of student publications to remove any critical comments about the school administration;

Control of registration of student organizations to permit only "desirable" organizations on campus;

Dormitory regulations that treat students as cattle to be herded in and out of cubicles at hours and on conditions established by people who haven't been students for maybe forty years;

Disciplinary procedures that permit and encourage the operation of base prejudice by administrators who are allowed to expel students on vague and non-existent regulations, or for any reason they personally find adequate.

Classes that students are required to attend, but that are poorly and incompetently taught.

How can experienced adults such as those in charge of our schools believe that people can be taught to be critical thinkers when they cannot write what they think in their publications, cannot say what they think in public meetings and cannot advocate constructive change without being expelled as trouble-makers. How can people learn responsibility when every minute of their lives is regulated by inflexible rules, telling them who they may or may not see, what time they must be in at night? How can we expect that young people will believe in a system that condemns them to perpetual childhood, with no privacy, and in which their activities are criticized as immature when they protest a war, the draft, research into efficient killing, high rents, and merchants with no social responsibility?

The primary cause of violence is a system that treats people as less than human and in which legitimate protest is condemned as un-American.

GRIEVANCE RESOLUTION

It may seem that I am taking the easy way out when I suggest that a highly efficient means of grievance resolution is to eliminate the cause of the grievance. This should be done in the many instances where grievances concern campus issues that are not central to the purpose of an institution of higher learning. I refer to censorship, curfews and parietals in the dormitories, and similar regulations meant only to control the personal lives of students but which have marginal or no educational value.

Many disputes on campuses concern the decision-making process and not necessarily the substance of any particular decision. It is still not unusual to find people in charge of our schools who think they rule by divine right. Students become incensed when decisions directly affecting them are made without advance notice or consultation by persons who appear to have inadequate factual foundations for their decisions and who refuse to offer reasons, discuss their decision, or are able only to offer unsatisfactory rationale. This is the way a majority of colleges are governed.

At one school the students consulted us about a request they were going to submit to the administration. After we advised them that their proposal was reasonable and in line with many other schools, they asked how they could best achieve adoption. We advised them to research the decision-making procedure at their school, including the charter and by-laws of that institution. They were told, falsely, by the school administration that the charter was a private document and they had no right to see it. These students cannot be blamed for not following proper channels when no one will tell them what these channels are.

At other schools the decision-making process is highly informal and prone to change without notice. The student body president at one mid-western school retained our general counsel to represent his student government in on-going negotiations with the school. He was frustrated because he had diligently attempted to follow channels. He had been advised by the college president that he should follow a certain procedure. Within the next four weeks, the procedures changed no less than four times.

Finally, it is with some hesitance that I suggest the use of conflict resolution techniques, such as mediation, arbitration and conciliation. These do offer some hope for rational, reasonable dispute settlement on the campus. There are some organizations concerned with developing and refining these techniques on the campus. Our National Student Congress in August will concentrate on familiarizing the delegates with some of those techniques.

But I hesitate for two reasons. First, these conflict resolution skills are learned primarily through long experience. Most students have not had this experience. Negotiation requires that all parties understand the process. Failure by one may result in a solution that will not stand the test of time or review by the respective constituency. Unless the students are skilled or represented by labor negotiators or lawyers, the process may be destined to failure and the students to further frustration.

Second, my hesitation is based on the fact that the administration, trustees and faculty must also enter a conflict resolution procedure with a genuine desire for a settlement, which may involve some compromise. But compromise is unacceptable to those who do not have the personal sense of security to feel that they can modify their position or undertake frank discussions of their rationale.

PROTECTION OF ACADEMIC FREEDOM AND THE RIGHT TO DISSENT

In discussing this section, I find that it is necessary to become somewhat abstract for a moment. The phrasing of the third charge to this commission merits some examination. In order to discover what is meant by "improper interference" with education we must first understand what is involved in a modern education. In order to understand what is peaceful dissent, we must take into account the nature of the First Amendment that grants those rights.

Education necessarily involves discussions, research and teaching. It also encompasses more than that. Many educators now realize that education does include free universities, work in political campaigns, mass rallies, guerrilla theatre and other student initiated learning activities. These methods, outside, beyond the walls of the traditional classroom, challenge the student body to think in new and innovative patterns. This concept of education is necessarily more tumultuous—but it is no less an education. As a consultant to one recent commission on student unrest put it: "If there were not tensions on campus there should be a committee established to create some, because a campus without tensions is intellectually moribund."

I would add that at the same time, there is a realization that new forms of education are appropriate and valid, there is also the breakdown of the traditional line between teacher and the taught. Let me read something:

"The institution must provide an educational program that is adequate by the standards of students, teachers, the community, and the administration."

"The range of objectives selected should be limited only by the availability of teachers, facilities, and funds."

"Every student has the right to select his own learning activities and teachers."

"Each individual or group studying a particular topic should determine, jointly with their teacher, the purpose and content of the learning activity, means of attaining the goals in behavioral terms, and means of evaluating individual progress. In selecting means of evaluation, students and teachers should bear in mind the arbitrary nature of curve grading and the doubtful validity of multiple-point grading and should give serious consideration to the pass-fail system. Students should be individually responsible for attempting to reach stated goals."

This was not written by a bunch of radical students. It is contained in a proposed code of student rights submitted by a National Education Association task force to its convention earlier this month.

What this all means is simply this: The evolution of the educational process from past forms, necessarily means that our educational system will have some of what traditionalists and diehards will call "improper interference."

With respect to the right of dissent on campus, this Commission has a considerable debunking task before it. Too many people erroneously believe that free speech on a campus is a right only when no one—and I emphasize "no one"—will be disturbed by the speech activity. That is patently absurd. When anyone speaks his activity necessarily interferes with the ability of others to communicate at the same time. Some interference is to be expected and permitted on a campus dedicated to the pursuit of knowledge and critical thought.

Freedom of expression also means that publications that criticize be distributed, that controversial speakers be heard, and that people be allowed to assemble in locations and at times appropriate to the object of their dissent.

Free speech means that people may get upset over what they hear and arguments may result. That should be permitted. Many times it is not.

This Commission must educate the country that, in the words of Justice Douglas, "The First Amendment was not designed to protect just the handing out of sedatives."

This Commission must not accelerate the political repression already unleashed on many campuses. A federal judge said in a decision handed down last week:

"The remedy for today's alienation and disorder among the youth is not less but more freedom of expression of ideas."

PRACTICAL STEPS TO MINIMIZE THE DANGERS ATTENDANT UPON EXPRESSIONS OF DISSENT

I shall assume that this section of the President's directive refers equally to the dangers of violence, as well as to the dangers that individual rights may be repressed as a punishment for involvement in dissent.

Let me suggest that schools must recognize and adopt due process in their disciplinary procedures. Due process must include: Notice of changes prior to the imposition of discipline, opportunity for a hearing before an impartial tribunal, a decision based on substantial evidence, the rights to hear the prosecutions's evidence before being required to submit a defense, to testify and present witnesses, cross-examine witnesses and rebut unfavorable evidence. A student also should have the right to a hearing transcript, to be free from unreasonable coercion and be assisted by an attorney.

Further, the meaning of the First Amendment on campus must be understood and must be interpreted to include the following concepts:

That censorship of publications, speakers and organizations has no place in a learning institution;

That the First Amendment exercise involves some disruption and interference which must be tolerated;

That dissent ought not to be stifled because a college official cannot tolerate criticism, or because speech might cause some dissent or confrontation among students. With respect to the latter, let me say that the dissent activities of many students are forbidden because the college administration suspects that other students might become upset and cause a confrontation. In the case of a controversial speaker, his right to speak, students' right to hear him cannot be denied merely because there is a possibility of some disruption.

I would suggest that the presence of police on campus cause considerable and unnecessary violence. Police are sometimes an "incitement to violence by the students," in the words of a recent federal court decision. The escalation of the campus situation by the deployment of law enforcement officials and state militia—inadequately trained, armed, and inexperienced with campus situations and personnel—many times creates a dangerous situation where none had existed.

The use of police on the campus must be a last resort. It cannot be a decision made in haste and for the political enhancement of some public official.

With all this said, it is important for you to understand one thing very clearly: student activism and noisy dissent will not stop until its causes stop. As long as the war in Indochina continues with no end in sight; as long as there is repression of black, brown and red people; as long as women are denied equal opportunity; as long as the desires and problems of working men are bypassed; as long as there is poverty in this country; as long as the United States continues on its collision path with its environment; students and young people will continue to make noise. Until these things are changed, we will continue to make life uncomfortable and at times, unlivable for the men in positions of power and influence in this country. That I can promise you.

PROBLEMS WITH MOTHERS ON WELFARE

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. LANDGREBE. Mr. Speaker, I want to include at this point in the RECORD a letter I have received from the director of the department of public welfare for White County, Ind. Mr. John B. Troncin describes in his letter some of the problems welfare departments in Indiana are having with current regulations, particularly as they relate to mothers on welfare.

I urge all my colleagues to give their attention to Mr. Troncin's remarks:

WHITE COUNTY,
DEPARTMENT OF PUBLIC WELFARE,
Monticello, Ind., July 10, 1970.

Representative EARL LANDGREBE,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE LANDGREBE: In a recent U.S. Supreme Court decision, a welfare mother with children, whose husband may be incarcerated, deceased or just a runaway from home, may have an able bodied man in her home and continue to receive welfare. What kind of an example is this for her children? Frequently, teenage girls are in the home. I have had parolees in the home who were not related to the family. One man is reported to have said that "Sometimes you have to milk the old cow dry in order to get to the heifers."

Welfare departments in Indiana are in contempt of court if they refuse payment to mothers with a man in the home, and at the same time we cannot help a poor honorable married man, who has lost his job, cannot find employment and is able bodied. This is nonsense and should be corrected immediately. Perhaps prostitutes and their children should be cared for but why board their customers?

In the case of Mrs. Esther A. Grubb, et al., vs. William R. Sterrett, State Welfare Director, et al., Judge Eschbach held that stepparents are not liable for their stepchildren. Welfare departments are directed to make retroactive payments to August 8, 1968, to Welfare mothers who married and were removed from the Welfare payroll.

It is almost impossible to get runaway or divorced fathers to pay support as ordered by the court. I have had known addresses of the runaway father, who were as near as Lafayette and Indianapolis, and could not get the papers served because of negligence of the law enforcement officers. I believe millions of dollars could be saved the taxpayer if F.B.I. were allowed to help return runaway fathers. It is almost impossible to return a runaway father who is out of Indiana.

If some of these corrections could be made, Welfare would not receive so much criticism from the taxpayers. The average taxpayer wants to take care of the old and unfortunate, but are opposed to some foolish regulations.

I believe in good care for the poor and unfortunate, but I also believe that some of the foolish regulations and decisions should be changed.

Very truly yours,

JOHN B. TRONCIN,
Director.

WELL DONE

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. NELSEN. Mr. Speaker, as we all know, the reputation of American young people has been taking a beating because of the destructive antics of a very small portion of their total number. So it was good to read Jim Frick's recent editorial in the Fulda Free Press, Fulda, Minn., concerning the splendid showing made abroad on behalf of our country by a group of Illinois high school students. I include the editorial at this point in my remarks, with thanks to Mr. Frick, who is editor and publisher of the Free Press, for running it in his paper:

WELL DONE

While rioters were stealing the headlines in the United States a group of high school students from Flossmoor, Illinois, stole the hearts of Russians during a singing tour that included not only the USSR but The Netherlands and Austria. The group is the Viking Choir of the Homewood-Flossmoor High School. Mr. Frank Starr, Chief of the Moscow Bureau of the Chicago Tribune Press Service, said of the 108 members of the Viking Choir, "They came to Russia to sing. And sing they did . . . With gusto, spirit, and sensitivity, the choir sang spirituals, pop songs, gypsy songs, and songs from the musical show, 'Hair'." According to Mr. Starr, the group even sang Russian songs to the Russians in Russian.

The Vikings made their trip to the USSR during Easter vacation at their own expense and are believed to be the first American high school choir to tour the Soviet Union. The tour was termed a great success, and an official of the Institute for Soviet-American Relations called the young singers "great little ambassadors of your great and proud country." The students themselves came home with a new appreciation of their own country. One young member of the singing group seemed to express the general feeling when he said, "Anybody that says anything's wrong with America in the next six months gets a punch in the nose."

The Vikings were welcomed home with expressions of praise for a job well done. Although they may not be fully aware of it, they won the gratitude of Americans for the manner in which they represented their country in what must have been a difficult undertaking.

NEWSLETTER: WASHINGTON REPORT

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. KEITH. Mr. Speaker, at this time I would like to provide the readers of the RECORD with the text of my most recent newsletter. Included is commentary on many of the main issues of the day that are important to my constituents and to the Nation:

WASHINGTON REPORT—CONGRESSMAN HASTINGS KEITH, 12TH DISTRICT, MASSACHUSETTS, JUNE 1970

VOLPE'S DEPARTMENT OF TRANSPORTATION ON THE MOVE

John Volpe's transportation plans received congressional attention and support since the publication of our last newsletter. The Supersonic Transport (SST) plane ran into stormy weather, but the fog and flack were dissipated in the debate which carried the day for the Department of Transportation.

Opponents of the SST charged, for example, that the noise pollution would shatter the peace and quiet of the surrounding suburbs. The fact is that the angle of ascent is so steep that the noise at take-off, although greater, is confined to a considerably smaller area than that affected by conventional jet departures.

The so-called "luxury liner for the jet set" argument turned out to be false, according to the airlines who already have ordered 122 SSTs with plans to purchase about 600 eventually. The plane will provide even lower cost intercontinental transportation than present jets.

Finally by this action, our aerospace industry will get their share of this billion dollar market which otherwise would have gone to France, Great Britain or the U.S.S.R—all of whom have already flown supersonic transports.

As the President of PanAm said in testimony, the SST is here to stay.

The Transportation Department is not neglecting either mass transit or high-speed ground transportation. The House Banking and Currency Committee has before it a $5 billion bill to help cities with their mass transit systems (MBTA in our area). And the House Interstate and Foreign Commerce Committee, on which I serve, is working on the Railpax plan which will permit the federal government to assume some of the costs of intercity passenger trains.

Mrs. Bess Myerson Grant, a former Miss America, paid me a visit recently to discuss the urgent need for consumer protection legislation. Currently consumer affairs advisor to New York Mayor John Lindsay, she particularly sought support for the consumer class action bill discussed in my last newsletter.

LYKES SEABEE BARGE SHIP—THE MOST COMPLEX CARGO SHIP TO DATE

I will be serving as the official federal representative at keel-laying ceremonies for a ship similar to that pictured above (not printed in RECORD), Wednesday, July 15, at 9:30 a.m. in General Dynamic Quincy Yards.

FOUR YEARS AGO

"(We must) stop neglecting our merchant marine and recognize that it has a major role to play as part of our national transportation system and in our national defense. Our neglect becomes more serious in the light of the Soviet buildup and progress toward their goal of mastering the seas.

"We must give our merchant marine the support it deserves or we may one day find ourselves having to depend on Soviet shipping.

"(We must) give immediate attention to solving the policy dispute within the government so that we can proceed with a program to support our merchant marine.—"The Soviets and the Seas," Report of a Congressional Delegation, August 4, 1966.—House Report No. 1809, Representative Hastings Keith.

AND TODAY

With the cutback in defense spending, the future of Fore River Shipyard has been bleak. But the Nixon Administration, reversing previous government policy, has sponsored legislation intended to restore our competitive position in world shipping.

Fore River has the in-house capability to capitalize on this program which calls for construction of 300 ships over the next ten years.

If the Senate concurs with the House-passed legislation, it will help pick up the slack in the employment picture.

The Merchant Marine Act, if enacted substantially in its present form, could be the most significant piece of maritime legislation in over 40 years.

THE STUDENTS

In May I was visited here in Washington by hundreds of college students concerned about the Cambodian invasion and the tragedy at Kent State. And, in turn, I talked with students at SMU and at Cape Cod Community College. These young people displayed considerable knowledge and genuine concern about the state of our Nation. Their energy and idealism should be channeled into our political system. With this in mind, I voted to lower the voting age to 18.

THE SPEAKER RETIRES

John McCormack, Speaker of the House and senior member of the Massachusetts delegation, retired last month after 42 years as congressman from the Ninth District. His illustrious political career started when he was chosen a delegate to the state constitutional convention in 1917. He served successively as State Representative, Senator and Congressman.

Although he never finished high school, he has received 11 honorary doctor of law degrees and has been decorated by numerous foreign states. His presence in Congress will be greatly missed by all Americans and, of course, by his colleagues on both sides of the aisle.

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 25, 1970.

DEAR MR. SPEAKER: Just a brief note to supplement my remarks on the floor on the occassion of your retirement.

History and the Congressional Record will reflect your great contribution to our country—its progress and prosperity. But in my mind and memory you will always remain a man for whom I have the deepest of respect, admiration and affection.

It has been an "honor and great personal pleasure" to have known and served with you these many years.

Louise joins me in wishing you and Mrs. McCormack the happiness in retirement that you so richly deserve.

Sincerely,

HASTINGS.

[From the CONGRESSIONAL RECORD, June 8, 1970]

AUTHORIZING SELECT COMMITTEE TO STUDY RECENT DEVELOPMENTS IN SOUTHEAST ASIA AND TO REPORT ITS FINDINGS

Mr. ANDERSON of Tennessee. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 976 and ask for its immediate consideration.

The Clerk read the resolution as follows:

"*Resolved*, That

"(1) The Speaker of the House shall appoint a select committee of eleven Members of the House, two from the Armed Services Committee, two from the Foreign Affairs Committee, and seven from the House at large and shall designate one Member to serve as chairman, which select committee shall immediately proceed to Southeast Asia to investigate all aspects of the United States military involvement in Southeast Asia. The select committee shall, within thirty days of the adoption of this resolution, report to the House the results of its investigation.

"(2) For the purpose of carrying out this resolution the committee is authorized to sit and act during the present Congress at such times and places whether the House is sitting, has recessed, or has adjourned."

Mr. ANDERSON of Tennessee. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 976 provides for the establishment of a select committee of 12 members, six from each side of the aisle, to go to Southeast Asia as soon as practicable on a high priority fact finding mission and to report back its detailed observations to the full membership of the House within 45 days of the adoption of the resolution. The members of the select committee would be appointed by the Speaker, with two being from the Committee on Armed Services, two from the Committee on Foreign Affairs, and the remainder from the membership generally.

Mr. Speaker, I do not need to elaborate to this body on the acute, urgent responsibilities we all face relative to Southeast Asia—as individual Members and as the legislative body in closest contact with the people. I believe this is an excellent resolution, a very timely resolution, a very important resolution, and one which should be passed by an overwhelming majority this afternoon. To do otherwise, I believe, would be a keen disappointment to most Americans who are so seriously concerned and so very considerably divided over our involvement in the war in Southeast Asia and what the future course of that involvement will be.

I am impressed by the fact that the proposed select committee would not come back with briefcases full of recommendations. Rather, its function would be to report accurate, detailed, objective observations and facts which I believe would be of great value to each individual Member in deciding his own approach to the problems of Southeast Asia. While I am sure the special Presidential task force will do a good job, nothing can replace a firsthand report from one's own colleagues. While each of us may differ very much as to viewpoints, we stand on one great area of common ground in that we each represent and are directly responsible to 470,000 constituent American citizens. Thus, I believe a report from a small committee of the House would be of greater value than a report from any other group.

I am confident that our great Speaker would see that this committee would be composed of Members of varied viewpoints that no one could validly label it a committee of hawks or a committee of doves. He has always been most fair and prudent in these matters.

[From the CONGRESSIONAL RECORD, June 15, 1970]

APPOINTMENT AS MEMBERS OF SELECT COMMITTEE TO STUDY FIRSTHAND THE RECENT DEVELOPMENTS IN SOUTHEAST ASIA

The SPEAKER. Pursuant to the provisions of House Resolution 796, 91st Congress, the

Chair appoints as members of the Select Committee To Study Firsthand the Recent Developments in Southeast Asia the following Members of the House.

Mr. MONTGOMERY, from Mississippi, chairman, Mr. SMITH from Iowa; Mr. HAWKINS, from California; Mr. ANDERSON from Tennessee; Mr. HAMILTON from Indiana; Mr. MOLLOHAN, from West Virginia; Mr. ADAIR, from Indiana; Mr. ROBISON, from New York; Mr. KEITH, from Massachusetts; Mr. CLANCY, from Ohio; Mr. WATSON, from South Carolina; and Mr. HANSEN from Idaho.

For too long, Congress has based its evaluation of the Vietnam War and efforts to end the conflict on information provided almost exclusively by executive agencies of government. In an effort to restore the independent role of Congress in foreign policy and the conduct of war, the House, by resolution, recently created a select committee to conduct an in-depth investigation of the Indochina situation. While no commission could in such a short period of time formulate a plan to end the war, our committee's report will hopefully provide valuable new perspectives on the conflict.

CAPTIVE NATIONS OBSERVANCE

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. HOGAN. Mr. Speaker, this week marks the 12th annual observance of Captive Nations Week in this country and in 17 other nations. These observances renew the hope and faith of thousands of Americans whose relatives and friends still live under Communist domination and oppression. This week should, however, serve as more than just a token reminder to all Americans of the plight of the 100 million Europeans and Asians living in captivity under the tyranny of Communist rule. This week should only be the highlight of an ongoing, year-in and year-out, American determination to work toward the restoration of freedom and self-determination for all peoples.

Because of this country's involvement in Southeast Asia, there has been a growing awareness in the last few years on the part of the American people of the basic strategic importance of the captive nations to U.S. national security and to the security of the free world. I am, however, still appalled at the many misconceptions which prevail among the American people about the captive nations concept. Despite the worldwide publicity given to the U.S. Captive Nations Week resolution 10 years ago and the annual reports on it since, it still remains a mystery why so few in the free world comprehend the concept.

To enumerate the captive nations accurately and historically one must begin in 1920 with the subjugation of Byelorussia, Ukraine, Georgia, Armenia, and several others in the Soviet Union. The second wave of Communist aggression reduced Latvia, Estonia, and Lithuania to captivity in the early 1940's. The third wave in the late 1940's enslaved a whole new group of nations, including Hungary, Poland, Czechoslovakia, Albania, and many others. And, in the last decade, we have watched the curtain of totalitarianism drop over the peoples of mainland China, North Korea, North Vietnam, and Cuba.

The leading question which comes to mind after a review of this list is, of course, "who is next?" Rather than debate at this point the merits and demerits of the domino theory, however, I would like to call attention to some of the ironies and paradoxes of the captive nations concept and America's response to it.

It strikes me as being very ironical that the free Asian peoples have come to understand the meaning and significance of the captive nations concept far more perceptively than our own people. This awareness on the part of the Asians was most evident to me during my tour last year of several Southeast Asian countries. I was impressed with their grasp on this problem while so many Americans, who should espouse freedom and self-determination more than any other people in the world, openly scoff at the sincere warnings of those Americans who have witnessed tyranny firsthand. The answer to this paradox, of course, lies in the fact that when your very life and existence is directly threatened, as it is in all of free Asia, you cannot but view the total situation of the struggle more acutely, more sharply, and with greater insight.

This, Mr. Speaker, I think should be the focal point of this week's captive nations observance: To revitalize the credibility of the first-hand observer of Communist tyranny in the eyes of the American people and to reaffirm our conviction that America will not acquiesce to the tyranny suffered by the people of the captive nations.

TRIBUTE TO THE LATE HONORABLE CLIFFORD DAVIS

HON. W. R. POAGE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. POAGE. Mr. Speaker, it was my privilege to serve with the Honorable Clifford Davis of Memphis during his entire membership in the House of Representatives. He was an honorable and worthy representative of his district. He and his wife, Carrie, contributed much to the fellowship and other good feeling between Members of this body. They were both enthusiastic and friendly people. We are happy that Carrie is still with us and serving to make life better in Washington. For many years Cliff made life better for all of us who served in the House. I was glad that I had the opportunity to call him my friend, and I feel that not only Memphis and Washington but our whole country has suffered a loss in his passing.

JUDICIAL CONDUCT

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. McCLOSKEY. Mr. Speaker, in recent months many of us have expressed concern over how we might best restore the faith of Americans in their legislative and judicial representatives through higher standards of conduct for public servants.

I have always felt the bar associations of this country have provided exemplary leadership in the Canons of Ethics, both for lawyers and judges, which have traditionally been the basis for self-discipline in the great profession of the law.

Next month, the American Bar Association will meet to consider an interim report of its special committee on standards of judicial conduct. This report contains several conclusions, particularly on permissible nongovernmental activities and compensation, which would appear to be worthy of our own consideration as guidelines to the future conduct we may expect of Federal judges, and they may also be instructive as to similar standards we might impose on ourselves if we are to seek the public trust our high office should have.

The interim report is set out below:

INTERIM REPORT OF THE SPECIAL COMMITTEE ON STANDARDS OF JUDICIAL CONDUCT

Subject to re-examination in the light of suggestions received after publication of this report, the Committee has reached specific conclusions on certain central issues concerning full-time judges. These conclusions are expressed as follows:

1. *Judicial duties.*—A judge's primary duty is to perform competently all the duties of office imposed on him by constitution, statute, court rule, and the common law. All his other activities are subordinate to his obligation to carry out his judicial duties.

2. *Quasi-judicial activities.*—Subject to his primary duty, a judge may engage in the following quasi-judicial activities, provided that in doing so he does not take a position that would affect his impartiality on specific issues before his court or on substantive issues likely to come before his court:

(a) He may speak, write, lecture, teach, or participate in seminars on matters pertaining to the law and the legal system;

(b) He may consult with legislative and executive bodies and officials on matters of judicial administration;

(c) He may participate, under the auspices of a bar association, judicial conference or other non-partisan organization, in drafting legislation and in other activities directed to improvement of the law, the legal profession, and the administration of justice. In this connection he may appear before legislative committees to testify for or against proposed legislation.

3. *Civic and charitable activities.*—A judge may participate in civic and charitable activities so long as they do not reflect adversely on his impartiality or interfere with fulfillment of his judicial duties. A judge may serve as an officer, director, trustee, or advisor of a non-profit organization—educational, religious, charitable, fraternal, or civic—subject to the following limitations:

(a) He should not serve if it is likely that the organization will be substantially engaged in proceedings in his court;

(b) He should not serve if doing so will divert substantial time from his judicial duties;

(c) He should not engage in raising or investing funds, except that he may endorse efforts to obtain funds for an organization devoted to the improvement of the law or the administration of justice.

4. *Fiduciary relationships.*—A judge should not serve as an executor, administrator, trustee, or other fiduciary, except for the estate or person of a member of his family. As a family fiduciary he is subject to the following limitations:

(a) He should not serve if it is likely that as a fiduciary he will be engaged in any proceedings in his court;

(b) He should not serve if doing so will divert substantial time from his judicial duties; and

(c) In administering an estate as a fiduciary, a judge is subject to the same restrictions on financial activities that apply to him in his personal capacity.

5. *Personal relationships.*—A judge should not allow his social relations or friendships to influence, or appear to influence, his judicial conduct. He should not knowingly permit others to trade on the impression that they have special influence with him. He should not testify as a character witness unless he is convinced that his testimony is essential to a just result.

6. *Financial activities.*—A judge should refrain from financial and business dealings that tend to reflect adversely upon his impartiality or integrity, or which interfere with fulfillment of his judicial duties.

(a) He should not engage in business or serve as an officer, director, or advisor of any business organization.

(b) He should not hold any investment or other financial interest in an enterprise that is likely to be involved in proceedings in his court.

(c) He should not accept gifts or loans from lawyers or litigants, or any gift of a value in excess of $100 unless it is from a member of his family or is reported by him in the same manner as receipt of outside compensation.

(d) He should not use information obtained by him in his judicial capacity for the purpose of financial dealings or any other purpose not related to his judicial duties.

(e) Except in connection with his being disqualified in a particular proceeding, a judge is not required to disclose the identity or extent of his investments or his income therefrom.

7. *Compensation and expenses.*—A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extra-judicial activities permitted by these standards, subject to the following limitations:

(a) Compensation should be no more than reasonable in amount, no more than a nonjudge would be paid for the same activity, and from a proper source.

(b) Expense reimbursement is limited to travel, food, and lodging expenses reasonably incurred by the judge and his spouse.

(c) A judge should report the compensation received from a person or organization other than the governmental agency paying his salary, indicating the name of each such person or organization making the payment, the amount or value, the date and place of the activity, and the purpose or event for which it was made.

(d) He should report the name of each such person or organization paying or reimbursing his expenses, and those of his wife if she accompanies him, the date and place of the activity, the purpose or event for which it was made, and, if the payment exceeds actual expenses, the amount of the excess.

(e) The report should be made regularly, within not more than six months after payments are received, and should be filed as public documents with the clerk of his court or in such other place as is designated by rule of court.

8. *Disqualification.*—A judge should disqualify himself in any proceeding in his court in which he knows or should know that he, individually or as a fiduciary, or any member of his family residing in his household, has an interest in the matter in controversy or the affairs of a party to the proceeding.

(a) An "interest" for the purpose of this standard includes any legal or equitable interest, no matter how small, in a party or in the *res* or issue in litigation, or any directorial, advisory, or other active participation in any enterprise involved in the litigation. Ownership of shares in a mutual fund or other entity is also an "interest" if the mutual fund or other entity holds a substantial interest in a party to the litigation.

(b) Disqualification should be by full disclosure of record as to the nature and extent of the judge's interest. When such disclosure indicates that a judge's interest is insubstantial, he may upon written request by all parties to the proceeding withdraw his disqualification and participate in the proceeding.

9. *Legal and political activity.*—A judge should not practice law, and may serve as an arbitrator only under extraordinary circumstances. He should not engage in political activity except to the extent necessarily involved in obtaining or retaining judicial office through an elective political process. A judge may represent his country, state or locality on ceremonial occasions and in connection with educational and cultural exchanges.

10. *Effective date of compliance.*—A person to whom these standards become applicable should, with all reasonable speed, arrange his affairs to comply with them. A person who holds judicial office on the date these standards become effective as to him may nevertheless:

(a) Continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of his family if the interests involved and the time demands are not substantial;

(b) Continue to act as an officer, director, or advisor of a family business if he was acting in that capacity at the time he became a judge, and if the interests involved and the time demands are not substantial.

Submitted by the Special Committee on Standards of Judicial Conduct.

Roger J. Traynor, Chairman, E. Dixie Beggs, Edward T. Gignoux, Ivan Lee Holt, Jr., Irving R. Kaufman, Robert A. Leflar, William L. Marbury, George H. Revelle, Whitney North Seymour, Potter Stewart, E. Wayne Thode, Reporter.

UNIVERSITIES: UNREAL PLACES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. DERWINSKI. Mr. Speaker, we are properly concerned with the future of our universities and are especially concerned over the situation which will prevail on campuses this fall when this generation of students return to the ivory towers. A very penetrating and profound column in the "New World," the official publication of the Catholic Archdiocese of Chicago of Friday, July 10, by Father Andrew M. Greeley, is, I believe, of special significance and merits the attention of the Members. May I add that Father Greeley is a consistent and thoroughly legitimate liberal in his political philosophy which makes his views even more interesting. The column follows:

UNIVERSITIES: UNREAL PLACES

(By Fr. Andrew M. Greeley)

One might well ask why many college professors and their students are so totally unaware of the realities of American politics. Why do they engage in behavior which almost certainly is going to be injurious to the causes they support? Perhaps the best answer is to say that universities are very unreal places.

They have been made unreal for certain highly specific and important social purposes, but such unreality can be a disaster if the citizens of the university community decide they are going to engage in political activity. The principal business of the university is words and ideas.

Those who work at the university are essentially men who deal with the manipulation of words and ideas and they are terribly skillful at it. But an apparently inevitable consequence of this skill is a lack of respect for any other kind of human activity and a feeling of vast intellectual and moral superiority over those who engage in other activities.

As my friend, Prof. Arthur Mann, once remarked, "It is the usual practice for intellectuals to write biographies of politicians. They usually find faults with politicians that they as intellectuals have. One wonders what would happen if politicians wrote biographies of intellectuals; presumably, they would criticize intellectuals for lacking the skills of politicians."

With their immense intellectual skills college professors are strongly tempted to assume a pose of superior morality. They know what's wrong with the world and they have solutions to what is wrong. If others do not agree with these solutions, it is either because they are stupid or immoral; in either case they should repent of their sins and follow the advice of their betters.

It may seem like a harsh caricature, and of course many, perhaps even most college men, are not of this sort; but enough are to have considerable influence on the intellectual and moral atmosphere of a college campus. I remember recently one such academic saying on television, "The public must be made to understand that students are angry. The public must be made to understand that the blacks must have justice. The public must be made to understand that the war is immoral."

Who is going to make the public understand he did not say, nor obviously had it occurred to him, that there was even a question of persuasion, of dialogue, of political rhetoric, or fashioning coalitions and alliances. This sort of activity was beneath the academic's dignity. It was the kind of thing that low types like politicians engage in, but for an academic to analyze the issue and to present the obvious moral solution was enough. Others should just fall into line.

Because of his superior intelligence, his great skills at manipulating words, and his presumption to moral superiority, the average academic is apt to have a greatly exaggerated idea of his own importance. He therefore is persuaded that the things he says and the resolutions he votes on are taken seriously by those beyond the university campus.

Thus, many faculty members agonized at great length over the exact wording of their resolution decrying the Cambodian involvement. Many who were opposed to the involvement were also opposed to the resolution on the grounds that it involved the university in a political position which was foreign to its nature as a place of detached and disinterested research. Others argued that such academic detachment was immoral and that it was time that the university became involved and relevant.

It apparently occurred to a very few that as far as the rest of the country was concerned, any stance that the university faculty took was strictly academic

The typical faculty member also takes great delight in hearing the sound of his own voice. Faculty meetings are frequently nothing more than a parade of statements, narcissistically delivered by professors convinced of their intellectual and verbal superiorities and moral excellence.

One of the unexpected impacts of letting students attend faculty meetings is that the students, not yet being full-fledged academics, frequently see through the unreality of faculty verbalizations. (One young person said to me, "Good heavens, they're dumb.") Hence, a great deal of time is consumed on the college campus in talk.

An immense amount of time was spent arguing about the exact wording of resolutions which nobody was going to take seriously, not even the voters themselves, the day after the resolution was passed. One colleague of mine informed me that he didn't vote aye or nay on a single resolution because he felt that the vote for or against foolishness was to endorse the principle of foolishness.

Finally, the academic believes that he is a privileged person and is utterly horrified at the thought that anyone would object to his using the university as a center for overkilling society. In other words, the faculty member is astonished when he is told that if he bites the hand that feeds him, the hand might be withdrawn.

Of course he is going to be paid his salary even if there is a strike, and of course the students are going to get grades even if they don't attend class (it might be noted that it is a strange kind of revolution in which the revolutionaries worry about their grade point average).

And of course the state legislators are going to continue to expand higher educational budgets even though a faculty member has announced that the university is now a center for revolution. And of course private contributors are going to continue their contributions even though students burn down buildings and block highways. Why in the world should they behave any differently?

Those whom the gods destroy they first make mad.

"30" FOR JOURNALIST HARRY BENGE CROZIER

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. PICKLE. Mr. Speaker, the "Fourth Estate" has lost one of its most renowned members at the passing of Harry Benge Crozier, who died this week in Austin, Tex. Not only has his chosen profession of over 50 years in the journalism field lost one of its most distinguished and beloved colleagues, but also the many people whose lives he has touched in the political and civic fields of our country. He had friends in all walks of life, which was evidenced by an appropriate dinner held for him in Austin in 1965, attended by more than 500 people who knew and loved Harry through the years for his interest in and compassion for them.

His assignments were many and varied, and he had no peer in his coverage of human events.

Since 1957, Harry Crozier had fought cancer, and true to the great man he was, he devoted the last 13 years of his life to bringing to public attention the hope which is offered through the knowledge and skill of the medical profession to those stricken with this disease, feeling that he would be satisfied if he could encourage more people to obtain early treatment.

The story which follows from the Austin American newspaper tells in detail many of the lovable and interesting characteristics of this great man. Added to these, there could be countless others, known only to the people who were privileged to have been included in Harry Crozier's numberless friends.

DEATH COMES AT 78 TO HARRY CROZIER

Harry Benge Crozier, widely-known Texas newspaperman, died Tuesday in a local hospital. He finally lost a 13-year fight against cancer. He would have been 79 years old July 27.

Funeral services will be at 5:30 p.m. Wednesday at Cook Funeral Home. Burial will be in State Cemetery.

The family has suggested that friends may wish to make memorial contributions to establish a Harry Benge Crozier scholarship fund at Southwestern University in Georgetown, which he attended.

The service will be conducted by Chaplain Clinton Kersey, chaplain of the Texas House of Representatives.

Though he was a political writer who covered the scene for a large part of the last 50 years, Crozier was more than a reporter. He was also an aide and confidant of political leaders; a publicist; a public servant; a courageous example to others fighting a long battle against cancer; and a friend to many at every level of life.

In August 1965 these friends gave "A Dinner for Harry" in Austin and more than 500 attended. The notables included every kind of figure from a United States senator to a Texas Capitol bootblack, and Harry would have been the last man to name them in descending order.

Harry Crozier was born in Paint Rock, Concho County, and went to Southwestern University at Georgetown for the purpose of studying law. But he wound up as an assistant in English to a professor named John H. McGinnis who later, like Crozier, worked years for the Dallas Morning News.

Crozier did not finish Southwestern, where he was a classmate of Frank Dobie, who did. Crozier went to San Antonio and in the fall of 1912 got a job as a cub reporter with the Express, thanks to the help of a local politician who had been a cow-puncher with Crozier's dad in West Texas.

In the winter of 1913 Crozier came to Austin to cover his first session of the Legislature (the 33rd). Thereafter in a political and general reporting career that took him from the Express to the Galveston News, the Fort Worth Record and then the Dallas Record and then the Dallas News, he covered nearly every legislative session to the 42nd in 1931. Then he went to New York as director of public relations for the American Petroleum Institute.

Crozier returned to Texas later to become director of information for the state health department but left that post after a year to work for Coke Stevenson who was then lieutenant governor. In 1941, Stevenson appointed him as employer representative on the Texas Employment Commission, and he stepped up to the chairmanship in 1945. He served the commission until a new administration came in in the early 1950s. Then he returned to public relations.

In between stints on the Dallas News he was the paper's city editor for a period and served as its Fort Worth correspondent during the oil booms of Burkburneet and Ranger, he and Tad Moses took over and modernized the Cattleman magazine. In later years he would say that the Cattleman was the greatest compliment ever paid him because it kept for 30 years the format he brought it.

After leaving public service in 1953, Crozier returned to public relations, principally in the political field where he had had much experience.

In 1928 he was with Tom Connally in his successful race for the U.S. Senate, but then was with a loser when Al Smith was defeated for President. He worked in the Willkie campaign in Texas because, while he admired Roosevelt, he was opposed to a third term in principle.

In 1957 the doctors discovered that Crozier had cancer. He underwent nearly 12 hours of surgery on his throat at M.D. Anderson in Houston and for 30 days afterward he couldn't swallow.

Crozier said later that prompt treatment saved his life. "If I can help the cancer society to get more people to seek prompt treatment, I'll be satisfied," he said.

For the past decade Crozier had been a journalist again, as he was for so many years earlier in the century. He went to work for Stuart Long's news service at the Capitol in 1961 to cover the Senate and write a weekly column, much of it reminiscences of his earlier newspapering days.

Always cheerful though not always well (he had been bothered by ulcers since before he saw military service in World War I), Crozier was never happier than when writing. He continued to contribute to the Long News Service until early this summer when he entered a hospital here. The doctors found that his old foe, cancer had returned and now was in his lungs.

Twice he was married, to Grace Younger in a union that ended in divorce, and to Ruth Hey, who died in 1965. A son, Kelly, by his first marriage died after an operation in December 1967.

His only survivor is a sister Mrs. Horace P. Smith of Miami, Fla.

In his last years, Crozier lived at his farm, Hickory Acres, east of Austin, with his dog, Suzie Q and various unnamed cats, ducks and chickens.

OLD PATTERN: LEGENDARY REPORTER WAS HARRY

(By Homer Olsen)

Harry Benge Crozier was a legendary Texas newspaper reporter in the Richard Harding Davis pattern.

As a matter of fact, they were contemporaries and their paths crossed at least once in the early professional years of the Texan and the later period of the more widely known journalist.

Crozier was working on the Galveston News in 1915 when Gen. Frederick Funston sailed into harbor in the transport Kilpatrick. Carrying troops bound for possible trouble in Veracruz, Mexico.

Also on board the Kilpatrick, it so happened, were two newspapermen who were perhaps the most illustrious Americans in the business—Richard Harding Davis and Jack London.

They were accompanying Funston to Mexico on the chance that another war might break out. There was no war, of course, but the Galveston visit of the troopship made good copy for Crozier and other Texas reporters on the scene.

As for the distinguished journalistic visitors, Crozier couldn't recall afterward that there had been anything special about them except that both were resplendently dressed.

In those days reporters didn't interview other reporters even if they were celebrities (a word hardly applicable to newspapermen of the time), and the Kilpatrick eventually departed without the local reporters writing much if anything about them.

Crozier, while primarily a political writer, was a widely experienced journalist who could cover any kind of story. He began on the San Antonio Express and thereafter worked for the Galveston News, the Fort Worth Record (absorbed by the Star-Telegram in 1925) and the Dallas Morning News. He was associated with the Dallas paper longer than any other and did some of his most notable work for it.

As a young reporter on the Express he wrote the story about how the Texas Senate one night in 1913, without formal action of adjournment or notice to hardly anyone at all, packed up and went home. The reason for the exodus was an outbreak of meningitis among the members.

The story of the school fire on Christmas Eve 1924 in Babb's Switch, Okla., in which more than 30 persons died, was considered by Crozier to have been the most dramatic he ever worked on. He covered the assignment for the Fort Worth Record.

Crozier was still on the Record when he was assigned to go to Denison one Saturday to meet a trainload of Eastern manufacturing tycoons on their way to Mexico City. His purpose was to beat (or "scoop") the papers in Dallas where the nabobs were to spend Sunday before proceeding south.

The star reporter met the Easterners who were so captivated by him on the ride into Dallas that they insisted that he accompany them to Mexico at their expense. Crozier had with him only the clothes on his back but the president of a large Dallas department store was persuaded to open up his establishment and call in tailors and fitters on their day off; and the reporter was completely turned out (including dinner clothes) for the week's visit to Mexico City.

Crozier was of less than medium size but possessed a large and exceedingly warm heart, and was well known for his genuine courtliness and flair for style in clothes.

Though he left newspapering for years to do public relations and serve as aide to political leaders, Crozier returned to it in the last decade. But he was never far away from newspaper people and his friends among them were many.

At the famous "Dinner for Harry" in the middle 1960s, in truth, it seemed that about half of the hundreds of people present were newspapermen, though that was not really the case.

For Harry had more friends than the ordinary man acquaintances; and they are the ones who are saddened now by his passing.

PAT'S QUIET DIGNITY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. RHODES. Mr. Speaker, the recent earthquake in Peru which took so many lives and brought extreme hardship to thousands of Peruvian families generated a genuine sympathy on the part of Americans as shown by the vast outpouring of relief assistance.

To convey our country's concern, Mrs. Richard Nixon went to Peru with a plane carrying relief supplies and toured Peru's stricken areas. A number of editorials have noted the First Lady's able representation of the United States through her errand of mercy. In particular, I would like to bring to the attention of my colleagues the Knoxville Journal editorial entitled "Pat's Quiet Dignity," which points out the gracious way in which she carried out her mission. I include this editorial in the RECORD:

PAT'S QUIET DIGNITY

Mrs. Richard Nixon made one of her rare ventures into the limelight this week by accompanying a load of relief supplies to earthquakestricken Peru.

So seldom does Mrs. Nixon thrust herself before public view that her role as First Lady has become a marked contrast to the widely publicized performances of wives of other recent presidents.

Mrs. Nixon has been no shrinking violet. She has done all the things that First Ladies used to do—but without the jet set fever that has been associated with the While House in recent years.

One has but to recall the extensive exposure on magazine covers and television screens that was accorded Mrs. Jacqueline Kennedy Onassis when she was First Lady to realize how different Mrs. Nixon's image is.

The latter obviously does not intend to follow the footsteps of the former in any way, as was evidenced by a recent television tour of White House living quarters. It wasn't Mrs. Nixon but her daughter Tricia who conducted the tour. Years earlier "Jackie" gained considerable publicity by leading a similar visit.

Mrs. Nixon is fulfilling her role as First Lady in her natural manner of quiet dignity. It would be out of character for her to go dashing off on an extended vacation aboard a Greek billionaire's yacht. But going on a mercy mission to South America is just her cup of tea.

VIETNAM: ONE MEMBER'S VIEW

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. HAMILTON. Mr. Speaker, though the report of the Select Commitee on U.S. Involvement in Southeast Asia is now available. I wish to bring my supplemental views to the attention of my colleagues, as follows:

SUPPLEMENTAL VIEWS TO THE REPORT BY THE SELECT COMMITTEE ON UNITED STATES INVOLVEMENT IN SOUTHEAST ASIA, JULY 9, 1970, LEE H. HAMILTON

You find in Vietnam evidence to support the point of view you had when you arrived. The complexity and the variety of the scene is such that the "hawk" and the "dove" will each observe, investigate and leave, assured of the wisdom of the view he had when he arrived.

Thus, I make no claim to an objective report. I add this supplemental view to the report filed by the Select Committee Chairman simply to pass on to my colleagues several of my observations about this unhappy land which has in recent years been too much with us.

CAMBODIA

The Cambodian venture has relieved the enemy pressure in the III and IV Corps areas. In each of these areas, the number of enemy-initiated incidents is sharply down. So far as I could determine, there has been little impact from Cambodia felt in I and II Corps.

Almost everyone with whom we talked in Vietnam, including critics of the war, readily admitted that the enemy caches discovered have been significant. The Cambodian venture disrupted the supply and communication lines of the enemy, caused much equipment to be captured, relieved the pressure in the South, increased the confidence of the South Vietnamese, and provided a breathing space of uncertain duration for many provinces.

It did not, however, accomplish all its objectives. The Communist headquarters was not found and negotiations were not advanced.

The final judgment on the crucial question of whether the Cambodian venture will speed U.S. disengagement must await political developments.

Apart from the rapid progress the enemy has made in extending control over large areas of Cambodia since the United States incursion into Cambodia, serious questions remain in my mind about the impact of the U.S. move, among them, these:

Has it hindered a negotiated settlement because Hanoi's suspicion is deepened that the U.S. does not intend to leave, and Saigon, in its new found military confidence, is more resistant to negotiation?

If it has been such an outstanding success, why cannot the schedule of troop withdrawals announced before the venture be accelerated?

If South Vietnamese troops have difficulty making their homeland secure, will they be spread too thin to take on the burden of defending Cambodia? The more area there is to defend, the more advantage to the practitioners of guerrilla warfare.

To what extent is the United States now "committed" to Cambodia? As small weapons are supplied, air strikes continued, and economic assistance planned, the risk is that the United States is being drawn into another unpromising commitment and caught in a whole new set of problems.

What is the danger of an outbreak between the South Vietnamese and the Cambodians, long-standing enemies?

Has the United States, by going into Cambodia, proved itself unpredictable and able to strike at the enemy, or has the U.S. domestic upheaval over Cambodia signaled to Hanoi that the President's options in Southeast Asia do not permit escalation?

Could the undoubted beneficial results of the Cambodian venture been achieved without the high political cost at home, if South Vietnamese troops had been exclusively used to search the sanctuaries?

These questions will be debated endlessly. Suffice it to say they cause me serious enough doubt to discount the euphoric rhetoric of success that has come from high places.

At every turn we were told that the enemy can take all of Cambodia, if he wants it, and nothing short of massive United States intervention could stop him. If he does not want it, and the weight of opinion, at least for the moment, apparently is that he does not, current levels of American and South Vietnamese assistance are sufficient to enable a non-Communist government to survive. The fragility of the Lon Nol government confronts the United States with some very hard options. My own view is that the United States should not introduce troops into Cambodia, and should avoid massive aid or other steps leading to a new and continuing involvement. The vital interests of the United States are not directly threatened in Cambodia.

SOUTH VIETNAMESE GOVERNMENT

The Thieu government is in firm control politically. However, I saw little evidence that he is popular and little indication of a serious challenge to him.

Politics in South Vietnam is controlled by a military oligarchy. President Thieu appoints the province chiefs and the district chiefs, and almost all of them are military personnel.

President Thieu controls the military, or vice versa, and it is difficult to determine which is the case.

We should not deceive ourselves about the nature of the South Vietnamese government. It is not a democracy, and we should not pretend that it is. There has been much arbitrary use of power.

Truong Dinh Dzu, who finished second to Thieu in the Presidential race, was sentenced to five years in prison for advocating a coalition government. A military court has sentenced Thich Thien Minh, a leader of a Buddhist faction, to ten years at hard labor for concealing weapons and illegal documents. Thieu has demanded that the parliamentary immunity of two deputies be revoked because of Communist activities, and his handling of these cases has been severely critized. Newspapers are frequently suspended for publishing offensive material.

My suspicion is that this arbitrariness will probably not abate, and might even get worse as the economic and political pressures become more acute.

Corruption has not been eliminated from the South Vietnamese government and there is very little prospect that it will be. Several American province and district advisers pointed out to me that a district chief, for example, simply cannot live on his salary and it is expected that he will "cheat" here and there.

The political and economic problems of the Thieu government are very severe and the prospect is for no relief. At the moment inflation is severe and the people of Saigon are as much concerned about it as about anything else.

In recent months the opposition to the government from militant Buddhists, students who feel they have no future, veterans who feel they have been shabbily treated, numerous politicians and several newspaper editors has become much more vociferous. However, none of these groups has been able to develop a formidable, united challenge to the present government.

One of the political pressures building up on the South Vietnamese government is the density of population. Saigon, for example, now has an estimated 2.2 million people and the resulting density is approximately twice that of Tokyo. The urban problems that result create enormous political and social unrest.

All these matters create an explosive political situation.

There are some encouraging signs that a representative government can be developed. One official spoke to me about the astonishing interest in the provincial elections. I visited several political meetings occurring in the provinces and they are not dissimilar to those I attend in the United States. Candidates spoke and urged the local populace to vote for them in the election. The high percentage of voter turnout in local elections should be appraised carefully. Pressure is exerted to turn out, and the elections tend only to ratify existing authority. It might even be a sign of maturity in the democratic process if the percentage of voters dropped.

But this democracy, rudimentary although it may be, has in it the seeds of promise.

The political developments, then, are a mixed bag. Democracy is struggling to be born and I would like to believe it will prevail, but no one can make that assurance.

(ARMY OF THE REPUBLIC OF VIETNAM ARVN)

I was continually impressed with the importance of the role, actual and potential, of the ARVN. They must bear the burden of local defense and security, but beyond that they are the primary available instrument of political, economic, and social reconstruction.

There has been improvement in the ARVN forces. Their confidence after Cambodia almost approaches a state of euphoria.

Although American military officials generally are pleased with their progress and have high praise for the performance of several units, they observe that in certain critical areas—for example, in helicopter capability—the ARVN is far short of proficiency.

PACIFICATION

Pacification has had its ups and downs, but in 1969 rapid progress was made.

Although there has been some slowing in the rate of progress in recent months, the general feeling, especially in the III and IV Corps areas, is that pacification will continue to improve. Virtually everyone with whom I talked, American and Vietnamese alike, felt the program is better organized and is generating real progress. My own travels in three of the four Corps areas by jeep and helicopter, often without the presence of security guards, is evidence of this progress.

The Hamlet Evaluation System (HES) has measured progress in pacification since 1967. It was frequently criticized for presenting an overly optimistic view, and in early 1970 was revised to reduce the optimistic bias.

Most officials think it is a useful device. President Thieu, for example, uses it to put pressure on his province chiefs, because he regards it as a definite measure of their performance.

Several key American officials suggested that one of the most heartening signs in Vietnam is the continual improvement in the quality of the province chiefs. The province chief is, of course, an absolutely crucial local figure. I met with several province chiefs and discussed their problems at some length. I was impressed with their grasp of local problems, their sense of urgency for development and nation-building. My impressions tend to confirm the observations of the American officials.

I found among the Vietnamese people both respect and fear for the Viet Cong. They respect their discipline, but they fear their brutality, their heavy taxes and the fact that they draft their sons, who are often never heard from again. More and more, the indication is that the South Vietnamese dislike the Viet Cong and see that they do not tell the truth about the government of South Vietnam or the United States. More and more, South Vietnamese believe that if the Viet Cong would go away they could lead better lives. This is a healthy and an encouraging development.

We must continue to push South Vietnam hard in the area of land reform, local self-government and the protection of basic human rights. We cannot expect too much. Vietnam just is not the kind of a country where democracy is going to operate without problems.

It is critical that the government's land reform program, now announced, be implemented successfully. It would transfer ownership to 2.5 to 3 million acres of land to peasants who now cultivate it, and would affect 800,000 families. It could do more than any single thing to stabilize government control in the countryside. The land reform program constitutes a basic factor in the peasant's attitude toward the war.

THE UNITED STATES ROLE IN VIETNAM AND IN ASIA

The United States must consider Vietnam in the context of Asian policy. I believe we should downgrade United States interest in Southeast Asia, and certainly subordinate it to our interest in Japan. We should be interested in the long range development of the nations of Southeast Asia, but our immediate, vital interests are limited.

I came away from Vietnam with a keen appreciation of what we cannot do. In a word, we cannot build a nation for the South Vietnamese. By the expenditure of enormous resources, we have given South Vietnam a chance to survive, and that's probably the best we can do. Their severe political and economic problems can only be solved by them. We can do our best to assist them through economic and technological aid, but as much as we would like to, we cannot assure their security, their prosperity or their democracy.

A key to our future Asian policy is to recognize our limitations in bringing about development in Asia. I was impressed by the amazing visibility of the American presence in Vietnam, Thailand, Okinawa and Japan. It is bound to be, and is, a point of friction. Our policy should be to adopt a lower profile or posture than has been the case in the past.

The United States should do all it can to encourage and support an Asian collective security system, and supply economic and technical assistance, but we should be most reluctant to commit American troops. We must look to the nations that are threatened to provide the manpower.

An important step in the future of the United States in Asia is to end in an orderly way our involvement in Vietnam. This will be a task calling for the utmost skill. The nervousness of friendly Asian leaders about the U.S. role in Asia is apparent. They genuinely fear that the United States will desert them. They accept the fact of U.S. disengagement reluctantly. One of the things I tried to do in my conversations with South Vietnamese citizens was to persuade them that the United States is withdrawing and moving out. Although they invariably nodded their heads in assent, I wondered whether they actually believed it with the still-massive American presence all around them.

We are in better shape in Vietnam than we have ever been before, and after five years of major combat, we have done about all we can do. We ought to accelerate withdrawal if at all possible, being careful to protect the United States position in world affairs, to insure the safety of United States forces and to encourage the safe return of American prisoners of war.

CON SON PRISON

I commend my two colleagues for their investigation of Con Son Island prison, and I share their shock at the inhumane conditions they found. American officials should take immediate steps to advise the Saigon government that we will not support a system which tolerates that kind of treatment of persons.

The gravity of their disclosure extends beyond humanitarian considerations. United States policy in Vietnam depends upon the stability of the South Vietnamese government. The conditions at Con Son raise fundamental questions about the nature of that government and its capacity to deal with dissent and opposition, and to make the kind of political adjustments necessary to keep the country from exploding.

MISCELLANEOUS

(1) *Appreciation for U.S. personnel*

My observations would be incomplete without a word of appreciation to United States military and civilian personnel. They are not the policymakers, and should not be held responsible for the errors of policy. I was impressed again and again with their competence and dedication. Many of them serve voluntarily at great personal sacrifice and all of us owe them a debt of gratitude.

(2) *Negotiations*

Vietnamization, despite its success in several respects, has clearly failed thus far to spur serious negotiations in Paris. I didn't speak to any American or South Vietnamese official who brought up the subject of negotiations.

(3) *Prisoners of war*

The American prisoners of war create a special problem. Pressure should be kept up by the Congress to push at every conceivable opportunity for the identification of all prisoners, the establishment of regular communication between them and their families, the prompt repatriation of the seriously sick and wounded, the observation and inspection of prisoner of war camps by impartial observers, and their eventual release.

(4) *Physical appearance*

I was impressed by the relatively untouched physical appearance of South Vietnam. There were, in places, many craters left from bombings. There also was evidence of Rome plows which had cut through the jungle, clearing it. (One American general commented that the Rome plow was, next to the helicopter, the most important piece of equipment in Vietnam.) In several instances, cattle were grazing where the plows had been through. In some few areas there was defoliation, but it was quickly coming back. Some instances of defoliation have undoubtedly been unwise and I would strongly oppose it in certain areas, for example, near the rubber plantations. But over all, the impression is one of the fertility of the land, which is everywhere apparent, and heightens the tragedy of the country because of the loss of potential productivity.

(5) *Reconciliation*

I was often struck with the thought that someone must get on with the task of reconciliation of the North and South. This war will end some day if only because the people wear out. These people have suffered so greatly. Private groups and governments must begin now to work at the immensely difficult task of reconciliation. These efforts must concentrate on the overwhelming human problems. If progress can be made with them, the larger political and social problems may become more manageable.

(6) *People of South Vietnam*

I was greatly moved by the incredible hardships the people of South Vietnam have endured. They have had staggering casualties, and many of them lead sub-human lives today.

I admire the very special strengths of the South Vietnamese which have made them remarkably resilient to tragedy.

I could not help but reflect on their future, and I cannot see any real relief. It seems to me they are set for an unrelenting struggle for long years ahead.

OUTLOOK

I return less optimistic than many of our officials. North Vietnam is a highly organized, patient, disciplined society and South Vietnam is a highly inefficient; fragmented society. The United States can, and indeed has, given the South Vietnamese a chance to survive. As the United States withdraws from South Vietnam, we must be very firm—even tough—with the South Vietnamese in order to give them an opportunity to survive.

CAPTIVE NATIONS WEEK IS STILL RELEVANT

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. MURPHY of New York. Mr. Speaker, Captive Nations Week, a rallying point for all who love freedom and defend fundamental rights, is being observed this year between July 12 and 18. Since its inauguration in 1959, Captive Nations Week has also been a symbolic manifestation of the solidarity of free people in the United States and elsewhere with their East and Central European brethren living under Communist rule. Under the leave to extend my remarks in the RECORD, I would like to show that Captive Nations Week is, indeed, more relevant today than ever before by presenting a brief history of Communist domination in East and Central Europe and by calling to the attention of all the mockery the Soviet Union and its Red allies have made of the term liberation.

Captive Nations Week came into being with a unanimous resolution by the U.S. Congress, passed in June 1959. Known as Public Law 86–90, it designates the third week in July as Captive Nations Week and authorizes and requests the President to issue a proclamation to that effect. Presidents Eisenhower, Kennedy, Johnson, and Nixon, as well as scores of Governors and mayors, had over the past 11 years brought Captive Nations Week to public attention by calling on the citizenry to initiate, and join in, appropriate observations. The U.S. Congress, too, has helped dramatize the plight of the captive East and Central European peoples in annual Captive Nations Week debates.

The question is: Captive Nations Week may well have been relevant in 1959, but is there a need for such an observance today? Is it not merely a remnant of the cold war? Are the people of East and Central Europe still captive?

Twenty-five years ago this May, the war in Europe came to an end. Yet today its legacy continues to pose a threat to European security and world peace. The once independent countries of Albania, Bulgaria, Czechoslovakia, Hungary, Poland, and Rumania remain under Communist domination—ruled by regimes representing a dictatorial minority. The sovereign Baltic States of Estonia, Latvia, and Lithuania have been forcibly incorporated into the Soviet Union.

The true sentiments of these peoples have been dramatically brought forth in the 1956 Polish October, the Hungarian Revolution of the same year, and the "Czechoslovak Spring" in 1968. In each and every instance, only strong Soviet pressure—outright military aggression in the cases of Hungary and Czechoslovakia—prevented the Communist domination from being swept away by a people clamoring for self-determination.

It was not the free world or the captive people that had initiated the cold war. This ideological confrontation, which is part of the legacy of World War II, has its roots in the declared objective of communism to impose its system of government on other nations of the world. In the Communist orbit, the regimes continue to wage a war of spiritual and moral attrition on the people over whom they rule. Abroad, Communist subversion and infiltration remain one of the instruments of Communist policy in general, and that of the U.S.S.R. in particular.

Expressing solidarity with the captive peoples during Captive Nations Week is, therefore, no artificial revival of yet another phase in the cold war, since the cold war was not of the captive peoples' making. Captive Nations Week observance simply offers dramatic proof that the plight of the 100 million East and Central Europeans has been forgotten by their more fortunate brethren in the free world. This kind of uplift, symbolic though it may be, is of vital importance for the progressive and reformist forces inside the Communist orbit that are striving for a greater measure of freedom.

Moreover, world public opinion has long condemned all forms of colonialism. It would be inconsistent to call for self-determination for the former territories of the colonial powers while passing in silence over the neocolonialistic policies practiced by the Soviet Union under the provisions of the so-called Brezhnev Doctrine. Surely the nine East and Central European countries, with their rich heritage and past contributions to world civilization, are fully entitled to chart their own destiny without outside interference or intervention.

The observance of Captive Nations Week is thus a moral obligation for all who profess their belief in freedom, equality and equal opportunity—both on national and individual levels.

And what a mockery the Soviet Union and its Communist allies have made of this term "liberation."

Communists claim that they are in the vanguard of the liberation of peoples. As the evangels of Marxism-Leninism, they claim to be the sole instrument for the freedom of mankind. This is their message to the emerging peoples of Asia and Africa; this is their plea to the discontented of Latin America; this is their argument to the confused people of Vietnam and Southeast Asia; this is, indeed, the cornerstone of Communist policy in every corner of the globe.

But what is the reality?

What is "freedom" in the world of communism?

What is "national liberation" Communist style?

Here again, one only has to look to the nine east and central European nations, for here we see the classic Communist case study of subversion, terror, conquest to achieve the diabolical purposes of communism.

What is being done in east and central Europe is not according to the wishes of the people; it is rather according to the desires and will of the leadership in Moscow. And what they are trying to do is to transform that area, reshaping it according to the principles of communism; this is prime force that generates this Soviet engine of tyranny.

On this day, it is fitting that we Americans pause in our daily tasks to pay tribute to these captive people.

On this occasion we all honor a truly, gallant, heroic, resourceful people, a people who are most deserving of all the words of praise that can be expressed.

However, on this occasion, I think it is also very important to call the attention of the other peoples in the free world to this anniversary week and to retell the story of submergence as captive nations in the universe of Communist tyranny, a tyranny that has clothed itself in the lexicon of democracy by claiming to bring freedom and national liberation.

In retelling this story, perhaps we and other peoples in the world can understand more clearly what is at stake in Vietnam, Cambodia, Thailand, Laos—all of Southeast Asia—for in those very troubled countries we are again witnessing the attempts of a Communist conquest under the guise of national liberation. Vietnam is a concern of all of us, and our concerns enlarge with each step that deepens our involvement. This is a problem not easily understood; but in its simplest form we are here again observing in a distant land and within a complex political setting, the tragedy of East and Central Europe.

In all our jousts with the Communist powers, we must never forget our commitment to the cause of freedom; we must never forget our commitment to the principle of self-determination; we cannot, we dare not deny our heritage, our national tradition, our tradition as a democratic nation; and we ought never forget that our own freedom shall never be wholly assured until this principle of self-determination has been universally accepted and respected by all mankind.

S. 2108—FAMILY PLANNING LEGISLATION

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. BUSH. Mr. Speaker, 2 days ago the Senate passed by unanimous consent S. 2108. This is a bill to expand, improve, and better coordinate the family planning services and population research activities of the Federal Government. I commend the action of the other body in its unanimous support of this legislation and its early enactment this session in order for the House to have time to conduct hearings and pass this legislation for the President's signature this year.

Exactly 1 year ago this week, President Nixon presented his message on population to the American people. In this message he proposed a 5-year goal of providing family planning services to all those American women, an estimated 5.3 million, who wanted these services but cannot afford them through private sources. The enactment of this legislation will insure the success of this legislation.

There are many persons responsible for the success of this legislation. Particular credit should go to Senators TYDINGS, YARBOROUGH, JAVITS, and EAGLETON for their initiative and leadership as well as many persons in the private sector of our society who have lent their moral support and spent many years in creating the proper attitude among legislators to recognize the great need for this legislation. I want to pay special tribute to the Honorable Ernest Gruening and General William Draper for their unrelenting work involving this legislation.

Now the onus is on the Members of this body to act and pass this legislation. The House Republican Task Force on Earth Resources and Population, of which I am chairman, has spent the last year studying the problems of population growth. We released a report in December of last year on Federal Government family planning programs—domestic and international. We released a report last week on Earth Resources and Population—Problems and Directions. We held over 40 hearings that included over 60 witnesses. We learned a great deal. We know and understand the complexities of these interrelated problems. We know that this family planning legislation is desirable and very badly needed as the most essential component in solving the inherent problems of population growth.

This legislation is not by any stretch of the imagination a population control measure. Population control is not a proper function of any government. Family planning is a component of maternal and child health care services and is a great deal more than merely the dispensing of birth control information and devices. Birth control is an accepted norm in American families. No one has to feel timid about discussing birth control any more. The facts are in and undisputable that millions of American women desire to limit their fertility but do not know the first thing about how to accomplish this and if they did they cannot afford the medical advice and assistance they need. This legislation is a big step in providing decent and respectable health care services to the poor. It is a big step in providing the research dollars needed to find more effective and more safe contraceptive devices and techniques that will provide acceptable alternatives to birth control methods that exist today. It will provide education to the public in general about the consequences of population growth.

I ask my colleagues not to shy from this legislation. I urge the Committee on Interstate and Foreign Commerce to hold early hearings on this legislation and bring it to the floor for an early vote. The success of the OEO family planning programs is testimony of the desire and acceptance for these services among the poor women of this country who are mostly white and so this is not a race issue. It is a health care issue that emphasizes fertility regulation putting this aspect of health care in its proper order of concern with the other aspects of health care we practice.

A PROUD AMERICAN WAVES HIS FLAG

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. QUILLEN. Mr. Speaker, this past Fourth of July a poignant and moving story appeared in the Greeneville Sun, a daily newspaper in Greeneville, Tenn., concerning one of its fine citizens, Mr. John H. Tipton.

It is no ordinary story in any true sense of the word. It reveals a virtue in a man that some persons in this country do not possess, and that virtue is patriotism.

Mr. Tipton enjoys raising his flag on a special pole which is erected in front of his home, although he never sees it wave in the breeze. Mr. Tipton is blind.

He knows it is there and he knows what it symbolizes. In the newspaper story Mr. Tipton explains to reporter Bob Hurley, a very capable reporter, exactly what Old Glory means to him on Independence Day.

It is my opinion that if there were more people of his character in this world, it would certainly be a better place in which to live.

I submit the newspaper article for readers of the RECORD.

A PROUD AMERICAN WAVES HIS FLAG THIS JULY FOURTH

(By Bob Hurley)

Today, July 4, 1970, 174 years after the first Independence Day, the flag is taken from its hanging place over his bed and draped around his shoulders while he uses his hands to find his way out of the bedroom, down the hall, through the living room, out the front door, down the steps, across the driveway, and finally, reaching the base of his flag pole, the Stars and Stripes are raised above 104 Rankin Drive and Tusculum Heights in all of their glory.

AN OLD PATRIOT

For John H. Tipton, who will be 80 October 5, this is the zenith of patriotism. For most folks, this chore seems simple enough. For others, it seems so simple that it never gains a thought. But John Henry Tipton gladly raises his flag even though he will never see it whipping in the breeze. Neither will he enjoy the greenery or the proud flowers around his home on this July Fourth because his world has been one of darkness since 1936. John Henry Tipton is blind.

TWO PREACHERS

The son of a Methodist preacher and "a goodly, God-fearing mother that is responsible for everything that I am or ever will be," John H. Tipton was born October 5, 1890, in Mitchell County, North Carolina.

He attended school through the sixth grade before he had to quit to help support a large family after his father died. "But that don't mean that I quit being a student because I still am. I still learn all the time," he says.

While in Mitchell County, he served, at one time, seven churches as an ordained Methodist preacher, served on the school board, and, for one term, represented his beloved Mitchell County in the state's General Assembly in Raleigh.

TO TENNESSEE

John Henry Tipton, his wife, Rose, and their seven children, Jewell, Betty Jo Ann, LeRoy, Jay, Austin, Roger, and Maurice came to Greene County, Tennessee, in 1936.

"Doctors and eye specialists have compared my eyes to a candle. They say that since I was a child, my eyes have been steadily deteriorating, and, like the candle, they eventually quit burning or quit functioning," he recalls of how he lost his sight.

Around the time that the decision was made to come to Tennessee, he recalls that he realized, at that time, that he would have to move to more suitable farm land, "more level", where his sons would be in less danger of farming accidents because he knew the responsibility would lie more and more on them because he was, for all practical purposes, already blind. He says that the Mitchell County terrain is steep and very difficult to cultivate, "especially for my boys."

He points out the fact that Mitchell County has three of the highest mountain peaks in eastern America in Roan Mountain, the Unaka Range, and Iron Mountain.

SETTLED AT MOSHEIM

The Tiptons settled on a Lick Creek farm near Mosheim. There they lived until around twelve years ago. It was here that four of his sons grew into manhood and volunteered for the armed forces. Two sons remain in the U.S. Air Force as Master Sergeants. One son, Roger, has been decorated several times recently for his outstanding performance of duty while serving in Vietnam and in Mississippi when killer hurricane, Camille, wrought havoc to the Gulf Coast States in 1968. He is now serving his second extended tour of duty in Vietnam.

BACK TO CHILDHOOD

John H. Tipton's love for his flag and the way of life that it represents goes back to childhood. He says that his parents instilled in him a love for God and Country that has lasted through the years.

The flag pole that rises high above his home on Rankin Drive is a product mostly of his own hand. He designed it and did most of the work but had to have help in pouring the concrete for the large base and getting the pipes set. In the base, he imprinted "J.H.T., 1970", with a set of wooden stencils that he carved out himself.

DEDICATED TO NEIGHBORS

Of his flag pole, he said, "On this Independence Day, 1970, I would like to dedicate this flag pole to the city of Greeneville and, more especially, to my neighbors of Tusculum Heights since it stands at the gateway to this subdivision. I would be pleased to have people think of it, not as a blind man's flag, or as the old man Tipton's flag, but as OUR flag."

His love for God and Country has been expressed in verse form in hundreds of poems that he has written over the years.

He recalls that one of his poems, "That Little Boy of Mine" was written on a Sunday morning shortly after his son, LeRoy, went to sea with the U.S. Navy. The poem reads:

That little boy of mine,
That once did set upon my knee,
And talked of the man that he wanted to be,
Now a man is he.

And gone away upon the sea,
He sailed to where,
I know not where,
But surely his good ship is sailing there.

Amid the breakers and the foam,
Away from native land and home,
May God stay the powers of death,
That lurks beneath and above the waves.

Out there among the gallant and the brave,
He sails beneath his country's flag,
A glorious banner, not just a rag,
With 48 glowing stars.

And 13 bright shining bars,
And floats in honor near and far,
It bears many a ghastly wound,
But not a single dishonorable scar.

IN GOOD HEALTH

Other than his sight handicap, John H. Tipton remains in excellent health. He gets through his home and to his flag pole with ease. He makes his home with his son, Maurice. His wife, Rose, passed away last week. She was buried Tuesday, June 30, in Mitchell County.

Though blind for 36 years, he has read over 4,000 books and has written many poems. He has worn out six record reading machines. This machine, which is loaned to him by the National Library of Congress, simply plays the recorded words of books and other writings.

Other times may find him in his basement working at the bench that he made himself recently. He uses power tools as he needs to.

Though in a world of darkness, John Henry Tipton sees many things very clearly. He knows the price that has been paid to keep "my native land free." He often speaks of those who would bring discredit upon our flag and reproach upon our nation.

"Love for God and native land begins at home," he says. "My mother and father taught us this from the first time I can remember. This is what is needed today."

LOCALITIES SHOULD BE REIMBURSED BY THE FEDERAL GOVERNMENT FOR LOSSES BECAUSE OF THE TAX-EXEMPT STATUS OF FOREIGN RESIDENCES AND OFFICES, OR BECAUSE OF THE VOLUNTARY WAIVING OF SUCH TAXATION BY LOCALITIES

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. WOLFF. Mr. Speaker, yesterday I introduced legislation to authorize payment to local governments by the U.S. Government to reimburse them for the property taxes lost because of diplomatic tax exemption or because of the voluntary waiving of taxation on certain real property owned by foreign governments.

Among the privileges granted to diplomatic representatives of foreign nations by the States and by the United States on property owned by foreign governments is freedom from real property taxation by localities on ambassadorial residences and offices. Obviously, such tax losses to localities are a problem peculiar to metropolitan areas like New York and Washington where foreign missions are maintained.

I think that if it is in the national interest of the United States to grant such tax exemptions to foreign governments, then it is equally in the interest of the United States to reimburse the localities involved for such losses. The city of Glen Cove, located within the congressional district I represent, acceded to the request of the United States delegation to the United Nations in 1966 to waive real property taxes on an estate which is a weekend retreat for the Russian representative to the United Nations and, as a consequence, the substantial sums of $30,000 and $10,000 have been lost to the city and to Nassau County respectively every year since that time.

These considerable revenue losses are intolerable for such a small town and I have been advised by Mayor DiPaola of Glen Cove that the town feels that it must go forward with legal proceedings in an effort to collect the needed taxes on this particular property.

Mr. Speaker, I believe we would all agree that tax exemptions for essential office and residential facilities make sense. Especially so, when one realizes that the visitor countries reciprocate on such exemptions. However, in this instance, we are faced with a situation in which the property being exempted from local taxes falls within a nonessential category and is used exclusively on weekends for rest and recreation by the Soviet legation to the United Nations.

The fine people of Glen Cove have been good neighbors and they do not wish to be the cause of international friction. However, inasmuch as it was a U.S. Representative to the United Nations who represented our Government in its original plea for a waiver on local taxes, it seems to me in the interest of the town of Glen Cove and the Government of the United States that legislative relief be offered to this town, and others in similar circumstances, that have acted so responsively and responsibly to requests from our National Government.

It is abundantly clear, Mr. Speaker, that if a tax loss is in the interest of the United States in our relationships with foreign nations, then such tax losses should be borne by all the people of the United States and should not be a penalty to be borne only by the community which the foreign nation selects for an office or residence.

Therefore, such reimbursement should be made, not only to communities within which a clearly tax-exempt facility is located, but also for those communities like Glen Cove who have in the past generously and unselfishly waived their clear rights to such taxation when requested to do so by the U.S. Government in the greater interest of the United States and her position among the other nations of the world.

CAPTIVE NATIONS WEEK, 1970

HON. DANIEL E. BUTTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BUTTON. Mr. Speaker, as a member of the free world of nations, the United States has committed herself to the doctrine of self-determination for all peoples. In recognition of that principle, this week has been set aside for the observance of Captive Nations Week, a memorial to the captive peoples of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Romania.

This observance began 11 years ago when President Eisenhower proclaimed the first Captive Nations Week inaugurated by a joint resolution of Congress. The Presidential proclamation was offered in recognition of these nations and their struggle for freedom, a struggle dramatized by the bloody Russian move into Hungary a scant 3 years earlier.

And for those who would wonder at the significance of this observance in 1970, some 25 years after the last World War and Russia's occupation of the East European and Baltic States, the recent Russian invasion of Czechoslovakia serves as ample reinforcement.

It is hoped that the recognition given to Captive Nations Week will focus world attention on the fate of these nations and on efforts to restore them to the body of the free world states. As residents of a nation that enjoys the greatest political and social freedom in the world, we can do no less than to observe this week on behalf of the captive nations of East Europe and the Baltic states.

SENATE—*Friday, July 17, 1970*

The Senate met at 11 a.m. and was called to order by the Vice President.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, our Father, come to us now with such a vivid sense of Thy presence that we may meet the duties of this day with the mastery and majesty befitting men who acknowledge Thy sovereignty. When the way is hard, when pressures mount, and tension is high, light up the way to wise solutions to every problem.

Keep us growing in the manly graces of the Master of Life. By kind words, gentle disposition, and firm resolution may we identify ourselves sympathetically with suffering humanity. Give us faith and perseverance, sensitive and generous hearts, so as to bring healing to a troubled world.

As we pray for ourselves, so we pray also for our countrymen that the life of the Republic may be incandescent with righteousness and justice.

In the Master's name. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting a nomination and withdrawing a nomination were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Vice President laid before the Senate messages from the President of the United States submitting the nomination of Brig. Gen. Roy M. Terry (colonel, Regular Air Force, chaplain), U.S. Air Force, for temporary promotion to the grade of major general in the U.S. Air Force, and withdrawing the nomination of J. Richard Lucas, of Virginia, to be Director of the Bureau of Mines, which nominating message was referred to the Committee on Armed Services.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, July 16, 1970, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

VACATING OF ORDER FOR RECOGNITION OF SENATOR MUSKIE TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the special order for the distinguished Senator from Maine (Mr. Muskie) to speak today for not to exceed 30 minutes be vacated.

The VICE PRESIDENT. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to limit statements to 3 minutes in relation to the transaction of routine morning business.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

LABOR DAY RECESS AND PROGRAM

Mr. SCOTT. Mr. President, I rise to ask the distinguished majority leader to comment on the proposed and very limited recess which is all, I understand, that we can manage over the Labor Day period; also to inquire as to the schedule for next week.

Mr. MANSFIELD. Mr. President, in response to the questions raised by the distinguished minority leader, if it meets with his approval, and the Senate's, I would suggest that the Senate stand in adjournment from the conclusion of business on Wednesday, September 2, 1970, until Tuesday at noon, September 8, 1970.

Mr. SCOTT. That would meet with my approval, and I have so advised the Senate Republican Members.

Mr. MANSFIELD. I shall advise the Senate Democratic Members. This will be a tentative agreement, subject to approval by our groups and the adoption of an appropriate resolution. The Senator's side has already approved it, and I am sure that ours will, also.

Mr. SCOTT. Yes. While everyone would like more time off, especially in an election year, we must put the public's business first. There is still a great deal of unfinished work to be done.

Mr. MANSFIELD. To recapitulate, the Labor Day recess will begin at the conclusion of the Senate's business on Wednesday, September 2, 1970, and the Senate will then stand in adjournment until noon on Tuesday, September 8, 1970.

Mr. SCOTT. Yes. That is understood.

Mr. MANSFIELD. So far as consideration of proposed legislation is concerned, it is the desire of the joint leadership at this time to take up unobjected-to bills on the calendar and then, at the conclusion of routine morning business, to turn to the consideration of the District of Columbia Court Reform and Criminal Procedure Act of 1970; and when that is finished—evidently not before Monday or Tuesday next week at the earliest—to take up the military procurement bill.

Mr. SCOTT. Mr. President, I appreciate that statement and thank the distinguished majority leader. I hope that we can finish the District of Columbia crime bill with reasonable expedition, in consideration of its importance. The crime clock does not stop running for us. This bill is much needed.

Mr. MANSFIELD. It is, indeed.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of unobjected-to bills, beginning with Calendar No. 1021.

The VICE PRESIDENT. Without objection, it is so ordered; and the clerk will state the first message.

JAMES E. MILLER

The bill (S. 878) for the relief of James E. Miller was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That James E. Miller, of Washington, District of Columbia, is relieved of liability to pay to the United States the sum of $1,374.79, representing the aggregate amount of the loss resulting from the robbery of his cashier's cage at the National Bureau of Standards, Gaithersburg, Maryland, on July 11, 1966. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91–1017), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the bill is to relieve the claimant of liability to pay the sum of $1,374.79, representing the aggregate amount of the loss from his cashier's cage resulting from a robbery of the National Bureau of Standards.

STATEMENT

The Department of Commerce has no objection to the enactment of the bill.

In its favorable report on the bill, the Department of Commerce sets forth the facts in the case as follows:

"This bill would relieve James E. Miller, of Washington, D.C., of liability to the United States in the sum of $1,374.79, which represents the aggregate amount of the loss resulting from a theft from his cashier's cage at the National Bureau of Standards, Gaithersburg, Md., on July 11, 1966.

"Mr. Miller was employed by the Department of Commerce as a cashier in the National Bureau of Standards. On July 11, 1966, $1,374.79 in Treasury funds was stolen from his office. The circumstances surrounding this theft were investigated by the Secret Service and the FBI, and Mr. Miller was found not to have been implicated. The General Accounting Office denied a request that Mr. Miller be relieved of liability in this matter on the basis that the office was unattended at the time, was not reasonably secure against theft, and that failure to lock the money in a drawer provided for that purpose was a negligent omission which made the theft possible.

"Mr. Miller retired on disability on December 10, 1967, at which time he was in step 10 of grade GS–5. He had been transferred subsequent to the theft to a position at this grade from his former position of cashier at step 7 of grade GS–6.

"In view of the circumstances and Mr. Miller's otherwise unblemished record, we believe it would be unduly harsh to require him to reimburse the United States for the amount of this loss.

"We would, therefore, have no objection to the enactment of S. 878.

"We have been advised by the Bureau of the Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the administration's program."

The committee believes that the bill is meritorious and recommends it favorably.

DONAL E. McGONEGAL

The bill (S. 1422) for the relief of Donal E. McGonegal was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That Donal E. McGonegal, of Springfield, Virginia, is hereby relieved of all liability for repayment to the United States of the sum of $728.37, representing the amount of overpayments of per diem he received, as the result of administrative error, from the United States Navy during the period from June 26, 1966, through November 22, 1966, while the said Donal E. McGonegal was serving on active duty with the United States Navy. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Donal E. McGonegal, the sum of any amount received or withheld from him on account of the overpayment referred to in the first section of this Act.

(b) No part of any amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1018), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to relieve the claimant of all liability for repayment to the United States of the sum of $728.37, representing the amount of overpayments of per diem he received, as the result of administrative error, from the U.S. Navy during the period from June 26, 1966 through November 22, 1966, while he was serving on active duty.

STATEMENT

The Department of the Navy has no objection to the enactment of the bill.

In its favorable report on the bill, the Department of the Navy set forth the facts of the case as follows:

"The proposal would relieve Mr. Donal E. McGonegal, a former lieutenant commander in the U.S. Navy, of liability to repay to the United States the amount of $728.37, the sum he was overpaid per diem for the period June 26, 1966 through November 22, 1966, while he was serving on active duty with the U.S. Navy.

"The records of this Department show that during the period of the overpayment Mr. McGonegal was on temporary duty at Bangkok, Thailand. The disbursing officer for the U.S.S. *Intrepid* (CVS–11) erroneously computed the per diem for this period at the $23 special rate rather than the $18 travel per diem rate established by volume 1 of the Joint Travel Regulations. The difference between the amount paid, $3,426.25, and the amount allowable, $2,697.88, represents the overpayment of $728.37.

"The special per diem rates authorized under the Joint Travel Regulations must be specifically authorized in advance by a special determination issued by the Per Diem, Travel, and Transportation Allowance Committee, or the committee which is authorized by statute to publish the Joint Travel Regulations. The records in this case reveal that no application was submitted for a special per diem allowance.

"It would appear that the overpayment in this case was the result of an administrative error on the part of the disbursing officer for the U.S.S. *Intrepid* in using the wrong standard in determining the proper rate of per diem for Mr. McGonegal. There is no indication that the overpayment was the result of fault or negligence on the part of Mr. McGonegal.

"In view of the foregoing, the Department of the Navy would interpose no objection to the enactment of S. 1422.

"The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee."

The committee believes that the bill is meritorious and recommends it favorably.

Attached and made a part of this report is a letter dated September 23, 1970, from the Department of the Navy.

WILLIAM H. MORNING

The bill (S. 1804) for the relief of William H. Morning was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Civil Service Retirement Act, William H. Morning, Silver Spring, Maryland, who was voluntarily separated from his employment with the Department of the Navy on December 30, 1965, for purposes of his retirement, shall be held and considered to have performed thirty years of service creditable for retirement purposes at the time of his separation. The said William H. Morning was voluntarily separated from the service for retirement purposes as a result of his reliance on erroneous information, through administrative error and without fault on his part, that he had performed the thirty years of creditable service requisite for his retirement on December 30, 1965, whereas he had in fact performed twenty-nine years, eleven months, and sixteen days of such service at such time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1019), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is that for the purposes of the Civil Service Retirement Act, William H. Morning, Silver Spring, Md., who was voluntarily separated from his employment with the Department of the Navy on December 30, 1965, for purposes of his retirement, shall be held and considered to have performed 30 years of service creditable for retirement purposes at the time of his separation. The said William H. Morning was voluntarily separated from the service for retirement purposes as a result of his reliance on erroneous information, through administrative error and without fault on his part, that he had performed the 30 years of creditable service requisite for his retirement on December 30, 1965, whereas he had in fact performed 29 years, 11 months, and 16 days of such service at such time.

STATEMENT

The facts of the case are found in the Department of the Navy report as follows:

"Mr. Morning applied for optional retirement with 30 years of creditable service to be effective December 30, 1965, as supply command management officer, Logistics Division, Bureau of Ships (NAVSHIPSYSCOM), Washington, D.C. He was advised by the personnel office of the Bureau of Ships that he was eligible for optional retirement with 30 years of creditable service. However, the Civil Service Commission on reviewing Mr. Morning's claim for optional retirement, discovered that service rendered in the U.S. Maritime Service intermittently for the period from January 30, 1945, to August 9, 1946, was erroneously credited for retirement purposes. Without such service, the total service creditable for retirement purposes was only 29 years, 4 months, and 19 days. This was offset by crediting 6 months, 25 days of creditable service with the Board of Public Welfare of the District of Columbia, Public Assistance Division. With this service credited, Mr. Morning at the time of his retirement application had performed 29 years, 11 months, and 16 days of creditable service; 14 days short of the 30 years of creditable service required for an annuity based on optional retirement. The administrative error and Mr. Morning's reliance on erroneous information were without fault on his part.

"In view of the above, the Department of the Navy interposes no objection to the enactment of S. 1804."

In agreement with the views of the Navy, the committee recommends the bill favorably. Attached hereto and made a part hereof is the favorable report of the Department of the Navy.

BILL PASSED OVER

The bill (S. 2104) for the relief of Milton Kyhos was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The VICE PRESIDENT. The bill will be passed over.

RUTH E. CALVERT

The bill (S. 3138) for the relief of Ruth E. Calvert was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs is authorized and directed to pay, out of money appropriated for the payment of veterans' benefits, to Ruth E. Calvert, of Stirling, New Jersey, the sum of $1,600, representing the amount of an allowance erroneously authorized by the Veterans' Administration on behalf of her late husband, Ben Sassin Calvert, a disabled veteran, for the purchase of a specially equipped automobile, the payment of such allowance having been disallowed after the purchase of the automobile had been made by the said veteran.

Sec. 2. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91–102), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the proposed legislation is to direct the Administrator of Veterans' Affairs to pay $1,600 to Ruth E. Calvert, of Stirling, N.J., representing the amount of an allowance toward the purchase price of a specially equipped automobile that the Veterans' Administration erroneously authorized for her late husband, Ben Sassin Calvert, the payment of which was disallowed after the veteran had purchased the automobile.

STATEMENT

In its favorable report on the bill, the Veterans' Administration set forth the facts of the case as follows:

"Ben Sassin Calvert (XC–8666773) served honorably in the U.S. Armed Forces from September 7, 1940 through August 20, 1945, and from August 20, 1946, through November 30, 1961. In a rating decision of July 23, 1964, the Veterans' Administration established peacetime service-connection for Mr. Calvert's condition of metastatic carcinoma which, it was determined, had its inception in 1961. He was accordingly awarded disability compensation for total disability. A subsequent rating of March 23, 1967, found him entitled to a higher statutory rate of compensation on account of the loss of use of both lower extremities at a level preventing natural knee action with prostheses in place, effective from August 4, 1966.

"In May 1967, Mr. Calvert filed an application for an award of monetary assistance toward the purchase of an automobile. The law (38 U.S.C. 1901, et seq.) authorizes monetary assistance, not to exceed $1,600, to veterans who incurred the loss or permanent loss of use of one or both feet (among other specified losses) from disability incurred in or aggravated by World War II or Korean conflict service. The benefit is also payable where the disability was incurred in or aggravated by service after January 31, 1955 and where "the injury was incurred or the disease was contracted in line of duty as the direct result of the performance of military duty." Mr. Calvert was not entitled to this benefit since his disability, stemming from service after January 31, 1955, was not incurred as the "direct result of the performance of military duty." However, through error, Mr. Calvert was certified as entitled to the benefit. Before the error was discovered and the veteran notified, he had contracted for the purchase of an automobile, had taken delivery of the new car, and had surrendered his old car which had been resold. The veteran filed an appeal from the decision denying him the $1,600 allowance. The Board of Veterans' Appeals, in its decision of March 28, 1968, denied the appeal holding that the veteran did not meet the criteria of law governing the grant of assistance on the purchase price of an automobile.

"Following the veteran's death, Mrs. Calvert satisfied the contractual obligation by paying the $1,600 due on the automobile. She requested that she be afforded relief by the Veterans' Administration under 38 U.S.C. 210(c) (2). That statutory provision authorizes the Administrator to grant equitable relief where benefits "have not been provided by reason of administrative error on the part of the Federal Government or any of its employees." This request was denied by letter of November 1, 1968. While recognizing that the Veterans' Administration had made an error in the case in issuing a certificate of eligibilty to the veteran, the letter pointed out that the reason the benefits in question had not been provided was not because of that error but because Mr. Calvert did not have basic eligibility for the monetary assistance. Hence, the case did not come within the scope of 38 U.S.C. 210(c) (2) and the relief requested by Mrs. Calvert could not be granted.

"It is obvious that Mr. Calvert quite properly acted under the semblance of authority provided by the erroneous certificate of eligibility and was misled by it to his, and Mrs. Calvert's, detriment. In view of the nature of the disease from which he was suffering, it is quite reasonable to assume that if he had been aware of his nonentitlement to the $1,600 allowance he would not have contracted for the purchase of a new automobile with special controls and relinquished his old automobile.

"Accordingly, while we generally do not favor the enactment of private relief legislation, in view of the facts and equities in this case, we recommend the favorable consideration of S. 3138 by your committee."

The committee, after a review of the foregoing, believes that the bill is meritorious and recommends favorable consideration of S. 3138, without amendment.

DONAL N. O'CALLAGHAN

The Senate proceeded to consider the bill (S. 2755) for the relief of Donal N. O'Callaghan which had been reported from the Committee on the Judiciary with an amendment on page 1, line 6, after the word "sum", strike out "of $1,650.85", and insert "to which he would be entitled under section 5724(a) (4), title 5 of the United States Code and the regulations issued thereunder without regard to section 4.1d of the Bureau of the Budget Circular Numbered A–56, Revised, October 12, 1966."; so as to make the bill read:

S. 2755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Donal N. O'Callaghan of Carson City, Nevada, the sum to which he would be entitled under section 5724(a) (4), title 5 of the United States Code and the regulations issued thereunder without regard to section 4.1d of the Bureau of the Budget Circular Numbered A–56, Revised, October 12, 1966. Such sum represents the amount of expenses the said Donal N. O'Callaghan incurred in selling his residence in Carson City, Nevada, incident to his transfer in June 1967, as an employee of the Office of Emergency Preparedness, from one location to another for the convenience of the Government, the said Donal N. O'Callaghan having been unable, due to circumstances beyond his control, to comply with a Government regulation permitting reimbursement of such expenses only in the case of sales completed within one year after transfer.

Sec. 2. No part of the amount appropriated in this Act in excess of 20 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this section is a misdemeanor punishable by a fine not to exceed $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91–1022), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF AMENDMENT

The amendment is inserted at the request of the Comptroller General and has the effect of requiring the claimant to prove his loss was the amount claimed in the bill as introduced.

PURPOSE

The purpose of the bill is to authorize and direct the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to Donal N. O'Callaghan of Carson City, Nev., the sum of his losses on a Government move. Such sum represents the amount of expenses the said Donal N. O'Callaghan incurred in selling his residence in Carson City, Nev., incident to his transfer in June 1967, as an employee of the Office of Emergency Preparedness, from one location to another for the convenience of the Government, the said Donal N. O'Callaghan having been unable, due to circumstances beyond his control, to comply with a Government regulation permitting reimbursement of such expenses only in the case of sales completed within 1 year after transfer.

STATEMENT

Public Law 89–516 provides, in part, that under regulations promulgated by the President, funds available to the departments for their administrative expenses shall be available for the reimbursement of all or part of the expenses of the sale and acquisition of their residences (or the settlement of unexpired leases) by certain Federal officers and employees transferred to new locations incident to their employment. Such reimbursement is made pursuant to regulations promulgated for the President by the Bureau of the Budget.

Bureau of the Budget regulations (section 4.1 of Circular No. A–56) permit such reimbursement only when "the settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 year after the date on which the employee reported for duty at the new official station, except that an appropriate extension of time be authorized by the head of the department or his designee when settlement is necessarily delayed because of litigation."

Evidently the pendency of litigation is the only valid reason for granting extensions of time.

Mr. O'Callaghan entered on duty as regional director of his agency on June 1, 1967, at Santa Rosa, Calif., leaving his family at his last official residence in Carson City, Nev., where efforts were underway to sell the subject dwelling. On January 30, 1968, Mr. O'Callaghan moved his family to Santa Rosa, and left sales efforts to a real estate agency.

By letter dated November 7, 1968, the regional director of the Federal Housing Administration supports Mr. O'Callaghan's claim that homes in Carson City, were "very difficult to sell during the period of June 1967 to August 1968." He states that "our records show that very few new homes were built and sold in the area during this time. Likewise, the market was very slow for the sale of existing homes."

When Mr. O'Callaghan finally sold his house on August 14, 1968, he did so by taking a down payment of only $700 and a second mortgage of $2,588.48, an arrangement which Mr. O'Callaghan states worked a hardship on him but which nevertheless, had to be made in view of rental payments and mortgage payments he was making on his new and old residences.

Mr. O'Callaghan did all he could to comply with the regulations at considerable hardship to his financial situation. Under the foregoing circumstances the committee believes the bill is meritorious and accordingly recommends favorable consideration of S. 2755, as amended.

JOHN BORBRIDGE, JR.

The Senate proceeded to consider the bill (S. 2834) for the relief of John Borbridge, Jr., which had been reported from the Committee on the Judiciary with an amendment on page 1, line 5, after the word "of", strike out "$1,639.61," and insert "$1,584.61,"; so as to make the bill read:

S. 2834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John Borbridge, Junior, of Anchorage, Alaska, is relieved of all liability for repayment to the United States of the sum of $1,584.61, representing the amount of costs erroneously paid by the United States to move the said John Borbridge, Junior, his dependents, and his household goods in 1967 from Juneau, Alaska, to Anchorage, Alaska, the said John Borbridge, Junior, having made such move to accept a civilian position with the Public Health Service after having been erroneously advised that the Department of Health, Education, and Welfare had authorization to pay such costs. In the audit and settlement of any accounts in regard to such liability, full credit shall be given for the amount for which liability is relieved by this Act.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said John Borbridge, Junior, the sum of any amount received or withheld from him on account of the liability referred to in the first section of this Act.

(b) No part of any amount appropriated under this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of this subsection is a misdemeanor punishable by a fine not to exceed $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1023), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

STATEMENT

The U.S. Civil Service Commission has no objection to the bill as amended.

In its report to the committee on the claim, the Civil Service Commission has said:

"The proposed legislation would relieve Mr. Borbridge of all liability for the repayment to the United States of the $1,639.61 erroneously paid by the United States to move him, his dependents, and his household goods in 1967 from Juneau, Alaska, to Anchorage, Alaska, to accept a civilian position with the Public Health Service.

"Mr. Borbridge was hired by the Government for the position of native affairs officer with the Alaska Area Native Health Service of the Department of Health, Education, and Welfare at Anchorage, Alaska. The personnel or administrative officer who did the hiring advised Mr. Borbridge that he would be entitled to travel and transportation expenses for himself, his immediate family, and his household goods, and personal effects. Payment was later made by the Government for Mr. Borbridge's expenses incurred in moving from his place of residence in Juneau, Alaska, to his first post of duty in Anchorage, Alaska. Mr. Borbridge was subsequently advised that the payment was made in error and that he would be required to repay the Government.

"On February 26, 1969, Mr. Borbridge filed a claim with the Comptroller General for repayment of the transportation expenses. On July 9, 1969, the Comptroller General, in claim No. Z–2379211, ruled that since Mr. Borbridge was not a Federal Government employee when he accepted the position with Public Health Service, and since the position of native affairs officer was not one for which the Civil Service Commission had determined a manpower shortage existed under 5 U.S.C. 5723, Mr. Borbridge was not entitled to payment of travel and transportation expenses to his first post of duty. The Comptroller General further stated that the Government was not bound by the negligence or erroneous acts of its officers or agents and that no authority existed to waive recovery of the erroneous payment.

"It is evident that when Mr. Borbridge accepted the position with the Government he did so with the belief that he would incur no expenses in moving his family from their place of residence to his first post of duty. A new employee being hired by the Government for the first time could not be expected to know all the technicalities of the travel, transportation, and appointment regulations. To require him to repay the Government under these circumstances would impose an unfair and unnecessary burden on him.

"We have been informally advised by the Department of Health, Education, and Welfare that the proper amount of relief should be $1,584.61 since Mr. Borbridge did not in fact use a $55 authorization for air shipment of personal effects. The Commission would have no objection to the enactment of S. 2834 provided it is amended to grant relief of $1,584.61."

JAMES GLEN RAMSAY

The Senate proceeded to consider the bill (S. 311) for the relief of James Glen Ramsay which had been reported from the Committee on the Judiciary with amendments on page 1, line 7, after the word "approve", insert "in the amount not to exceed $286.50"; at the beginning of line 10, strike out "Ramsey" and insert "Ramsay"; on page 2, line 2, after the word "Glen", strike out "Ramsey" and insert "Ramsay"; and in line 3, after the word "Ann", strike out "Ramsey" and insert "Ramsay"; so as to make the bill read:

S. 311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of the first section of the Act entitled "An Act providing for the barring of claims against the United States", approved October 9, 1940 (54 Stat. 1061; 31 U.S.C. 71a(1)), the Secretary of the Army is authorized to receive, consider, and approve in the amount not to exceed $286.50 any claim filed within six months after the date of enactment of this Act by James Glen Ramsay (Army Serial Number 224186) of 114 North 11th Street, Miles City, Montana, for a refund of deductions which were made in 1918 and 1919 from the military pay of the said James Glen Ramsay for the support of his mother, Ann Ramsay, and which were not paid to his mother.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of James Glen Ramsay."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1024), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF AMENDMENTS

The purpose of the amendments is to correct the spelling of the claimant's name and insert a definite monetary amount of the claim in accordance with the available governmental records.

PURPOSE OF THE BILL AS AMENDED

The purpose of the bill as amended is that notwithstanding the provisions of the first section of the act entitled "An act providing for the barring of claims against the United States", approved October 9, 1940 (54 Stat. 1061; 31 U.S.C. 71a(1)), the Secretary of the Army is authorized to receive, consider, and approve in an amount not to exceed $286.50, any claim filed within 6 months after the date of enactment of this act by James Glen Ramsay (Army Serial No. 224186) of 114 North 11th Street, Miles City, Mont., for a refund of deductions which were made in 1918 and 1919 from the military pay of the said James Glen Ramsay for the support of his mother, Ann Ramsay, and which were not paid to his mother.

SMITHSONIAN INSTITUTION PLANS AND CONSTRUCTION OF MUSEUM SUPPORT AND DEPOSITORY FACILITIES

The Senate proceeded to consider the bill (S. 209) to amend the act of August 22, 1949 (63 Stat. 623), so as to authorize the Board of Regents of the Smithsonian Institution to plan and construct museum support and depository facilities which had been reported from the Committee on Rules and Administration with an amendment on page 2, line 4, after the word "publications;", strike out "and further, appropriations are hereby authorized to plan and construct museum support and depository facilities, and these appropriations shall remain available until expended." and, in lieu thereof, insert "and further, appropriations not to exceed $500,000 are hereby authorized for preliminary planning and design of museum support and depository facilities proposed to be constructed on land presently owned by the Federal Government within the metropolitan area of the District of Columbia, such funds to be considered a part of the total design cost of the proposed facilities, and to remain available until expended."; so as to make the bill read:

S. 209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of August 22, 1949, is amended to read as follows:

"Sec. 2. Appropriations are hereby authorized to the Board of Regents for the maintenance of the Astrophysical Observation and the making of solar observations at high altitudes; for repairs and alterations of buildings and grounds occupied by the Smithsonian Institution in the District of Columbia and elsewhere; and for preparation of manuscripts, drawings, and illustrations for publications; and further, appropriations not to exceed $500,000 are hereby authorized for preliminary planning and design of museum support and depository facilities proposed to be constructed on land presently owned by the Federal Government within the metropolitan area of the District of Columbia, such funds to be considered a part of the total design cost of the proposed facilities, and to remain available until expended."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91-1030), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

S. 209 as referred would authorize appropriations to the Smithsonian Institution for planning and construction of museum support and depository facilities.

COMMITTEE AMENDMENTS

The Committee on Rules and Administration adopted an amendment to S. 209 to limit the authorized appropriation to $500,000, to specify that the proposed museum support and depository facilities be constructed on land presently owned by the Federal Government within the metropolitan area of the District of Columbia, and to limit the use of the appropriated funds to preliminary planning and design of the facilities.

BACKGROUND

S. 209, as amended, is intended as a first step toward providing adequate storage and support facilities for the large and growing national collections committed to the care of the Smithsonian Institution.

The collections under the care of the Smithsonian now number in excess of 60 million objects. The total includes items sought by the Smithsonian for historical or scientific value, gifts from foreign countries, and donations of valuable items from individuals. These items vary in size from specimens a few millimeters in diameter to full-scale examples of American rocketry and aircraft.

The problem of storing these items when they are not on public display is becoming increasingly critical. The national collection has been increasing at the rate of 1 million items a year for the past 10 years.

The Subcommittee on the Smithsonian Institution of the Committee on Rules and Administration conducted a joint hearing on S. 209 on September 23, 1969, together with the Subcommittee on Library and Memorials of the Committee on House Administration.

The subcommittee examined in detail the storage needs of the Smithsonian, the Institution's efforts to control the growth of the collections, and the projected costs of the proposed storage and support facilities.

Officials of the Smithsonian Institution testified that additions to the collections are screened carefully to limit accessions to materials valuable for exhibition, research, or historical purposes. The committee was assured that existing collections are, in addition, periodically reviewed and unnecessary items in the collections removed. Proper care, full utilization, and adequate review of the existing collections are hampered however by existing crowded storage conditions.

Nearly all of the national collections are now stored either in the complex of Smithsonian buildings on the Mall in the District of Columbia, or in temporary, obsolete metal buildings at a 20-acre storage site in Silver Hill, Md.

The committee believes that use of space in buildings on the Mall for storage is undesirable. The Mall buildings were constructed primarily for display in an area convenient to visitors. Space on the Mall is far too limited and valuable to be devoted to any substantial extent to warehouse functions. On the other hand, the existing structures at Silver Hill do not provide adequate, secure, modern storage.

Smithsonian officials informed the committee that they envision a 10-year construction program to provide 600,000 square feet of depository and support facility space. The current estimated cost of these facilities, including allowances for cost escalation during the 10-year period, is $19,980,000.

COMMITTEE ACTION

The Committee on Rules and Administration believes that the need for modern depository and support facilities for the Smithsonian has been demonstrated. The committee believes further that the Smithsonian should be encouraged to make the maximum use of existing buildings on the Mall for public display purposes, and utilize less expensive buildings, less centrally located, for storage and support functions.

The committee is concerned, however, that the expenditures for new depository and support facilities be held at the lowest possible level, particularly at a time when Federal Government expenditures must be restrained. Accordingly, the committee has limited the current authorization to $500,000 for preliminary planning and design of the proposed facilities. The Congress thus will have an opportunity to review the plans before funding for construction is authorized.

The committee believes further that the proposed facilities should be planned for a site already owned by the Federal Government, and within the metropolitan area of the District of Columbia, and has amended the bill accordingly.

BILL PASSED OVER

The bill (H.R. 14213), to amend sections 5580 and 5581 of the revised statutes to provide for additional members of the Board of Regents of the Smithsonian Institution, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The VICE PRESIDENT. The bill will be passed over.

SPECIAL POLICEMEN AT THE GOVERNMENT PRINTING OFFICE

The bill (H.R. 14452) to provide for the designation of special policemen at the Government Printing Office, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the record an excerpt from the report (No. 91-1026), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

H.R. 14452 would authorize the Public Printer or his delegate to designate employees of the Government Printing Office to serve as special policemen to protect persons and property in premises and adjacent areas occupied by or under the control of the Government Printing Office. Under regulations which would be prescribed by the Public Printer, employees designated as special policemen would be authorized to bear and use arms in the performance of their duties; to make arrest for violations of laws of the United States, the several States, and the District of Columbia; and to enforce the regulations of the Public Printer, including the removal from Government Printing Office premises of individuals who violate such regulations. The jurisdiction of special policemen in premises occupied by or under the control of the Government Printing Office and adjacent areas would be concurrent with the jurisdiction of the respective law enforcement agencies where the premises are located.

TIME OFF AS COMPENSATION FOR OVERTIME WORKED BY CERTAIN EMPLOYEES OF THE GOVERNMENT PRINTING OFFICE

The bill (H.R. 14453) to authorize the Public Printer to grant time off as compensation for overtime worked by certain employees of the Government Printing Office, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91-1027), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

H.R. 14453 would authorize the Public Printer to grant employees paid on an annual basis compensatory time off from duty instead of overtime pay for overtime work. Additional information on the purpose and background of H.R. 14453, excerpted from the accompanying House report (H. Rept. 91-1121), is as follows:

"PURPOSE

"The purpose of this bill is to grant legislative sanctions for the longstanding policy of the Public Printer which permits, as a substitute for paid overtime, the granting of an equivalent amount of time off from duty to annual salaried employees who are required to work overtime. The proposal, which is patterned after an authorization to the Architect of the Capitol (5 U.S.C. 5543(b)), is submitted in accordance with a recommendation by the Assistant Comptroller General of the United States and with the concurrence of the Joint Committee on Printing."

AIR POLLUTION ABATEMENT BY FEDERAL FACILITIES

The resolution (S. Res. 421) to print as a Senate document the report of the Secretary of Health, Education, and Welfare entitled "Air Pollution Abatement by Federal Facilities" was considered and agreed to, as follows:

S. Res. 421

Resolved, That there be printed, with illustrations, as a Senate document, the report of the Secretary of Health, Education, and Welfare, entitled, "Air Pollution Abatement by Federal Facilities", submitted to the Congress in accordance with section 111(b) of the Clean Air Act, as amended, and that there be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1028), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 421 would provide (1) that there be printed, with illustrations, as a Senate document, the report of the Secretary of Health, Education, and Welfare entitled "Air Pollution Abatement by Federal Facilities," submitted to the Congress in accordance with section 111(b) of the Clean Air Act, as amended, and (2) that there be printed 2,500 additional copies of such document for the use of the Committee on Public Works.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$1,535.54
2,500 additional copies, at $72.34 per thousand	180.85
Total estimated cost, Senate Resolution 421	1,716.39

THE 1970 ANNUAL REPORT ON URBAN AREA TRAFFIC OPERATIONS IMPROVEMENT PROGRAMS

The resolution (S. Res. 427) to print as a Senate document the report of the Secretary of Transportation, "The 1970 Annual Report on Urban Area Traffic Operations Improvement Programs" was considered and agreed to, as follows:

S. Res. 427

Resolved, That there be printed, with illustrations, as a Senate document, the report of the Secretary of Transportation, entitled, "The 1970 Annual Report on Urban Area Traffic Operations Improvement Programs (TOPICS)", submitted to the Congress in accordance with section 10 of the Federal-Aid Highway Act of 1968 (Public Law 90-495), and that there be printed two thousands five hundred additional copies for the use of the Committee on Public Works.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1029), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senate Resolution 427 would provide (1) that there be printed, with illustrations, as a Senate document, the report of the Secretary of Transportation, entitled "The 1970 Annual Report on Urban Area Traffic Operations Improvement Programs (TOPICS)", submitted to the Congres in accordance with section 10 of the Federal-Aid Highway Act of 1968 (Public Law 90-495); and (2) that there be printed 2,500 additional copies of such document for the use of the Committee on Public Works.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$1,896.61
2,500 additional copies, at $76.47 per thousand	191.18
Total estimated cost, Senate Resolution 427	2,087.79

BILL PASSED OVER

The bill (S. 734) to revise the Federal election laws, and for other purposes, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The VICE PRESIDENT. The bill will be passed over.

SYLVIA M. COLEMAN

The resolution (S. Res. 430) to pay a gratuity to Sylvia M. Coleman was considered and agreed to, as follows:

S. Res. 430

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Sylvia M. Coleman, widow of Raleigh S. Coleman, Junior, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

REPORT ON OCEANOGRAPHIC SHIP OPERATING SCHEDULES

A letter from the Oceanographer of the Navy, transmitting, for the information of the Senate, a report on oceanographic ship operating schedules dated June 1970 (with an accompanying report); to the Committee on Commerce.

HEALTH PROFESSIONALS AND NURSES

A letter from the Secretary of Health, Education, and Welfare, informing the Senate the report on health educational assistance and nurse training due prior to July 1, 1970, under the Public Health Service Act, will be delayed; to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION TO PROVIDE EMPLOYMENT WITHIN THE ENVIRONMENTAL PROTECTION OF COMMISSIONED OFFICERS OF THE HEALTH SERVICE

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide for employment within the Environmental Protection Agency of commissioned officers of the Public Health Service, and for other purposes (with accompanying papers); to the Committee on Post Office and Civil Service.

REPORT ON SALE AND EXCHANGE OF PAINTINGS

A letter from the Comptroller General of the United States, transmitting, for the information of the Senate, a copy of a letter report to Congressman HASTINGS KEITH on the sale and exchange of paintings by the National Collection of Fine Arts of the Smithsonian Institution (with accompanying papers); to the Committee on Rules and Administration.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The VICE PRESIDENT announced that on today, July 17, 1970, he signed the following enrolled bills and joint resolution, which had previously been signed by the Speaker of the House of Representatives.

S. 980. An act to provide courts of the United States with jurisdiction over contract claims against nonappropriated fund activities of the United States, and for other purposes;

S. 1520. An act to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers;

H.R. 7517. An act to amend the Canal Zone Code to provide cost-of-living adjustments in cash relief payments to certain former employees of the Canal Zone Government, and for other purposes;

H.R. 11766. An act to amend title II of the Marine Resources and Engineering Development Act of 1966;

H.R. 12758. An act to authorize the Secretary of the Interior to establish a volunteers in the park program, and for other purposes;

H.R. 16595. An act to authorize appropriations for activities of the National Science Foundation, and for other purposes; and

S.J. Res. 88. Joint resolution to create a commission to study the bankruptcy laws of the United States.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. RANDOLPH, from the Committee on Public Works, without amendment:

S. 3192. A bill to designate the navigation lock on the Sacramento deepwater ship channel in the State of California as the William G. Stone navigation lock (Rept. No. 91-1032).

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of a nomination was submitted:

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

Glenn T. Seaborg, of California, to be a member of the Atomic Energy Commission.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. MOSS:

S. 4097. A bill to preserve and stabilize the domestic gold mining industry on public, Indian, and other lands within the United States and to increase the domestic production of gold to meet the needs of industry and national defense; to the Committee on Interior and Insular Affairs.

By Mr. HARTKE:

S. 4098. A bill entitled "Policeman's Salary Supplemental Act"; to the Committee on the Judiciary.

(The remarks of Mr. HARTKE when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. MILLER:

S. 4099. A bill to amend section 2771 of title 10, United States Code, relating to final settlement of accounts of deceased members of the Armed Forces; to the Committee on Armed Services.

(The remarks of Mr. MILLER when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 4098—INTRODUCTION OF THE POLICEMAN'S SALARY SUPPLEMENT ACT

Mr. HARTKE. Mr. President, there is a crisis in law enforcement in this country. Last year, this domestic war resulted in 200,000 casualties and huge property losses. I believe this crisis stems, in part, from an increasing demand for highly qualified police officers combined with a seeming reluctance on government's part to pay our policemen an adequate salary. For this reason, I am today introducing legislation to provide a minimum annual salary of $10,000 for full-time police officers.

Though the estimates of the cost of crime in this country range upwards of $35 billion, the President's Crime Commission reports that the 420,000 policemen in America are operating on an annual budget of $2½ billion. Out of every tax dollar, only a penny goes for law enforcement. The nationwide average pay for a police officer is less than $7,000, a figure which constitutes in J. Edgar Hoover's words, "a national disgrace." When one compares the average patrolman's maximum weekly pay of $149 with the $233 a man can earn in most construction trades, it is not difficult to see one of the sources of our crisis in law enforcement. Inflation chips away at the policeman's standard of living; while, far more ominously, the rising crime rate makes the policeman's job increasingly dangerous. The income necessary for a family of four to maintain a moderate standard of living, as given by the Bureau of Labor Statistics, now stands at $10,077; we are forcing our policemen to moonlight in order to provide for their families.

A man willing to accept the low pay and risk that attends being a policeman is given little incentive to do his best. Since the average maximum pay for a policeman is only about $1,200 more than the average starting salary, most policemen receive little financial reward for showing unusual ability. Indianapolis patrolmen, for example, start at $7,000; all they have to set their sights on is a maximum salary of $7,500.

In the past, law enforcement has received a low budget priority; the result is that today we face a critical shortage of police in America. Across the country, police chiefs of medium size and big cities report their departments are below their authorized strength by an average of 10 percent. We would need 50,000 new policemen just to bring all the police departments in the country up to their 1967 authorized strength. More policemen will be needed to cope with demographic trends; the most crime-prone segment of the population—poor urban youths aged 15 to 24—will increase disproportionately until 1975.

The effect of the growing population in urban areas and the accompanying rise in the crime rate on police manpower requirements will be further exacerbated by a sharp rise in the retirement rate of police officers presently serving. The end of World War II saw a rapid upsurge in police recruitments; 25 years later, these men are reaching pension eligibility. Now 40 percent of the Los Angeles police force is eligible for retirement. Soon we will have to replace these men besides adding men to meet the growing demands of an urban society.

It is more than just a question of numbers; today we need a new breed of law enforcement officer, with specialized knowledge in everything from law to crowd psychology. Existing pay scales have proved incapable of attracting men who can meet the high standards our times require. The Los Angeles Police Department, one of the Nation's finest, is forced to turn away all but 3 percent of its applicants for police service, because they lack the necessary qualifications. Pay raises do bring definite results in recruiting qualified personnel; the high motivation and fierce competition for entry which is associated with the FBI is due in no small part to the fact that FBI agents start at $8,400 and eventually advance to salaries of $17,000 in the same assignments.

Some people fear that a bill to guarantee a minimum salary for policemen would be the first step toward a Federal police force. This is a gross exaggeration. All this bill seeks is to attract qualified men into police service. The Safe Streets Act is an acceptable vehicle for channeling Federal funds to the States for increasing the pay of policemen. I think opponents of this measure lose sight of its primary purpose—to provide assistance to hard-pressed State and local agencies, to help them improve their administration of justice. One simply cannot get around the fact that 90 percent of the costs of law enforcement are salaries to personnel. If the Federal Government is going to have a serious role in combating crime, subsidizing the salaries of law enforcement officers must be part of that role.

At the beginning of my statement, I spoke of domestic war in which we are engaged. This war is very familiar to the residents of Washington, D.C. If last week was an average week, there were five homicides, six rapes, 200 auto thefts, 238 robberies, and 447 burglaries. Well trained police cannot defeat crime alone but an adequate, efficient police force is an imperative first step. Unless policemen receive the adequate pay this bill guarantees, the war against crime will continue to be as unwinnable as the one in Indochina.

The PRESIDING OFFICER (Mr. MATHIAS). The bill will be received and appropriately referred.

The bill (S. 4098) entitled "Policeman's Salary Supplement Act," was received, read twice by its title and referred to the Committee on the Judiciary.

S. 4099—INTRODUCTION OF A BILL RELATING TO FINAL SETTLEMENT OF ACCOUNTS OF DECEASED MEMBERS OF THE ARMED FORCES

Mr. MILLER. Mr. President, I introduce a bill to cancel any indebtedness for excess leave of a serviceman who is killed in action. A situation has come to my attention which needs legislative correction. Several of my constituents have notified me of a case where an Iowa serviceman had used 9 days more leave than he had accumulated at the time, and when he was subsequently killed in action in Vietnam, his final paycheck was reduced to recoup the excess leave.

Under present law, the Secretary of the Army has the authority to cancel an enlisted member's indebtedness to the United States. However, the Comptroller General has ruled that this authority may be exercised only with respect to a member who is on active duty, and may not be used for the remission or cancellation of an enlisted man's indebtedness to the Government after his status as an enlisted man has terminated—even when this results from being killed in action.

I ask unanimous consent that a letter from Mr. R. F. Keller, Assistant Comptroller General of the United States, concerning this matter be printed in the RECORD at the conclusion of my remarks.

The bill I am introducing would simply provide that a setoff may not be made against an amount for pay and allowances due a serviceman whose termination of service resulted from his being killed by enemy action. The bill would be retroactive to January 1, 1964, which conforms with Executive Order 11216 by which the President designated Vietnam and the waters adjacent thereto as a combat zone for the purposes of section 112 of the Internal Revenue Code, with January 1, 1964, being the date combat activities began in that zone.

I urge that prompt consideration be given to this bill.

The PRESIDING OFFICER (Mr. MATHIAS). The bill will be received and appropriately referred; and, without objection the letter will be printed in the RECORD.

The bill (S. 4099) to amend section 2771 of title 10, United States Code, relating to final settlement of accounts of deceased members of the Armed Forces, introduced by Mr. Miller, was received, read twice by its title and referred to the Committee on Armed Services.

The letter presented by Mr. MILLER is as follows:

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C., July 16, 1970.

HON. JACK MILLER,
U.S. Senate.

DEAR SENATOR MILLER: This is in further reference to your letter of June 17, 1970, requesting an opinion whether the armed services have authority to administratively waive changes for excess leave granted to a member of the armed services who is subsequently killed while on active duty.

Sections 4837(d) 6161 and 9837(d) of title 10, U.S. Code, provide for the remitting or cancelling of an "enlisted member's" debts remaining unpaid before or at the time of his honorable "discharge," if the Secretary concerned considers such action to be in the best interest of the United States. This authority extends to debts resulting from overpayments of pay and allowances.

Section 4837(d), cited above, is applicable to the Army and provides:

"(d) If he considers it in the best interest of the United States, the Secretary may have remitted or cancelled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before, or at the time of, that member's honorable discharge."

We have held that all the statute apparently requires before remission action may be taken is an indebtedness to the United States over which the Department concerned has jurisdiction and a current status for the debtor as an enlisted man. See 38 Comp. Gen. 788 (1959). In 39 Comp. Gen. 415, 418 (1959), which you state you have studied, we held that once the member's status on the active list is terminated a debt cannot be remitted or cancelled under the authority of section 4837(d) or section 9837(d). That conclusion was based on the legislative history of sections 4837(d) and 9837(d), which indicated that the primary purpose of those statutory enactments was to alleviate a serious morale problem of indebted enlisted men on active duty.

While an indebted enlisted man on active duty would be vitally interested in the possibility that his indebtedness might be cancelled prior to or at the time of his discharge and thus he could return to private life free of such indebtedness, we find nothing in the law which would permit cancellation of such an indebtedness after his active service is terminated. The statutes are phrased in terms of "an enlisted number's indebtedness" and authorize action "before, or at the time of" a member's discharge, all of which seem to contemplate action while the enlisted man is under active military control. Hence, it is our view that those provisions of law furnish no authority for the remission or cancellation of an enlisted man's indebtedness to the Government after his status as an enlisted man has terminated upon his death.

We trust this will serve the purpose of your inquiry.

Sincerely yours,

R. F. KELLER,
Assistant Comptroller General of the United States.

ADDITIONAL COSPONSORS OF BILLS

S. 4080 AND S. 4081

Mr. ERVIN. Mr. President, I ask unanimous consent that, at the next printing, the distinguished Senator from New Mexico (Mr. ANDERSON) and the distinguished Senator from New Jersey (Mr. CASE) be made cosponsors of two bills, S. 4080, to reorganize the courts of the District of Columbia, improve the District of Columbia Bail Agency, authorize a District of Columbia Public Defender Agency, allow the District of Columbia to participate in the Interstate Compact on Juveniles, and for other purposes; and S. 4081, to revise the laws of the District of Columbia relating to juvenile proceedings, to revise the laws of the District of Columbia relating to criminal law and procedure, and to extend the life of the Commission on Revision of Criminal Laws, and for other purposes.

The PRESIDING OFFICER (Mr. BELLMON). Without objection, it is so ordered.

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENTS

AMENDMENT NO. 786

Mr. HARTKE submitted amendments, intended to be proposed by him, to the bill (H.R. 17550) to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes, which were referred to the Committee on Finance and ordered to be printed.

INVESTIGATION AND STUDY WITH RESPECT TO DRILLING AND OIL PRODUCTION UNDER LEASES ISSUED PURSUANT TO THE OUTER CONTINENTAL SHELF LANDS ACT—AMENDMENTS

AMENDMENT NO. 787

SANTA BARBARA OIL POLLUTION

Mr. CRANSTON. Mr. President, I sumit, for appropriate reference, an amendment to S. 1219, a bill which I introduced on February 28, 1969, to terminate drilling for oil in the Santa Barbara Channel.

I believe there has been a growing consensus that no further leases should be put into production in the Santa Barbara Channel. Therefore, I propose to amend S. 1219, to provide for termination of the 68 Federal leases on which there are no drilling platforms or producing wells. This was the intent of S. 1219 in its original version.

However, since at that time the idea of terminating a lease was so novel, I then proposed only to suspend the leases and to make a study of how to terminate them. I believe that a legislative termination, which has always been the most appropriate action, is now much more acceptable. Legislative termination has now been accepted for oil leases by President Nixon as evidenced by S. 4017, the administration bill. In addition, my amendment makes provision for circumstances under which the three leases upon which drilling platforms have been installed may be terminated. Finally, my amendment provides consent for the lessees to bring suit for just compensation, if any, while making clear that there is no implication of liability on the part of the United States.

I feel that this approach is the simplest yet the most comprehensive proposal to end drilling in the Santa Barbara Channel. It makes no reference to the Elk Hills trade proposal, thus leaving the question of opening Elk Hills or other Naval petroleum reserves up to the committee after its hearings on S. 2516 and S. 4017, the two bills by Senator MURPHY which include the Elk Hills plan. It would terminate all 68 undeveloped leases, instead of selecting just 20 such leases, as does the administration bill, or 16, as does S. 3351.

The Subcommittee on Minerals, Materials, and Fuels, under the patient and diligent leadership of its distinguished chairman, the junior Senator from Utah (Mr. MOSS), will hold its third set of hearings on July 21 and 22. In testimony before the committee, I intend to urge the members to accept this amendment.

I am particularly pleased that I have been joined by Senators GOODELL, MONDALE, NELSON, TYDINGS, WILLIAMS of New Jersey, and YOUNG of Ohio in submitting this amendment.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. MATHIAS). The amendment will be received and printed, and will be appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 787) was referred to the Committee on Interior and Insular Affairs, as follows:

AMENDMENT NO. 787

Strike out all after the enacting clause and insert in lieu thereof the following:

"That, except as provided in section 2, effective on the date of enactment of this Act (1) all lease and rights thereunder issued pursuant to the Outer Continental Shelf Lands Act with respect to lands in the Santa Barbara Channel offshore of the State of California are terminated, and (2) all authority under such Act to issue leases with respect to lands in such channel is terminated.

"SEC. 2. (a) The provisions of the first section of this Act shall not apply to the leases designated as P–0166, P–0240, and P–0241.

"(b) The Secretary of the Interior shall terminate such lease designated as P–0166 at such time as the State of California terminates the lease, designated as PRC–3150, granted by such State with respect to adjoining lands in the Carpinteria Offshore Oil Field.

"(c) The Secretary of the Interior shall terminate such leases designated as P–0240 and P–0241 at such time as he determines that production of oil under such leases can be terminated without undue risk of pollution from resulting oil seepage. Prior to any such termination the Secretary shall take such action as is necessary to prevent or decrease any oil seepage in areas under such leases.

"SEC. 3. Jurisdiction is conferred upon the United States District Court for the Central District of California to hear, determine the just compensation if any, and render judgment upon any claim against the United States on account of the termination of any lease by or pursuant to this Act filed by the holder of such lease at any time within one year after the date of such termination. Nothing in this section shall be construed as an inference of liability on the part of the United States. Except as otherwise provided herein, proceedings for the determinations of such claim, and review and payment of any judgment or judgments thereon shall be had in the same manner as in the case of claims over which such court has jurisdiction under section 1346(a)(1) of title 28, United States Code, but the amount limitation in such section shall not apply."

Amend the title to read as follows: "A bill to terminate certain leases issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel offshore of the State of California, and for other purposes."

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, July 17, 1970, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 980. An act to provide courts of the United States with jurisdiction over contract claims against non-appropriated fund activities of the United States, and for other purposes;

S. 1520. An act to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers; and

S.J. Res. 88. Joint resolution to create a commission to study the bankruptcy laws of the United States.

ADDITIONAL STATEMENTS OF SENATORS

PROPOSED CONTRACT AWARD BY NASA FOR PROCUREMENT OF APPLICATIONS TECHNOLOGY SATELLITES F AND G

Mr. ANDERSON. Mr. President, last month, on June 12, as shown on page S 8935 of the Record, I reported to the Senate on the proposed contract award by NASA for the procurement of Applications Technology Satellites F and G, such award having been made on April 8 to the General Electric Co. and then protested by Fairchild-Hiller Corp. At that time, I noted that NASA had requested the GAO to review the selection of the General Electric Co., reviewed the actions taken by the Aeronautical and Space Sciences Committee and assured the Senate that the committee was fulfilling its responsibilities to the Senate in exercising oversight on this matter.

The committee was kept currently advised by both GAO and by NASA on this matter and on July 2 received copies of the GAO report in the form of a letter to the Administrator of NASA, Dr. Thomas O. Paine, which stated that the award to General Electric should be reconsidered in view of an ambiguity in NASA's instruction to the competitors and a 1-week extension granted General Electric to submit its revised proposal. The committee was advised on the same day that NASA would reopen the competition and on Friday, July 10, the committee was notified that the Administrator of NASA had appointed a top level ATS Procurment Review Committee, of people not previously associated in any way this procurement of these application technology satellites, to review the selection of last April of General Electric for the Applications Technology Satellites F and G procurement.

The committee, headed by Mr. Bruce Lundin, Director of NASA's Lewis Research Center, will consider the facts and circumstances known to have existed on April 7, 1970, based on work done by General Electric or Fairchild-Hiller on or before this date. The review committee's reconsideration, of course, will include the information set forth in the Comptroller General's letter report of July 2, 1970. The Lundin Review Committee has been instructed to complete its work no later than August 3, 1970, and to recommend to an entirely new NASA selection panel whether the April 7 selection of General Electric should be confirmed or reversed in favor of Fairchild-Hiller.

The new selection panel is composed of Dr. Homer Newell, NASA's Associate Administrator, Willis Shapley, Associate Deputy Administrator, and Bernard Moritz, Acting Associate Administrator for Organization and Management. This panel will review the work of the Lundin Review Committee and make the decision on behalf of the Administrator as to who should be awarded the contract to build the applications technology satellites F and G. It should be pointed out that this is not the same as the usual procedure of evaluation and selection. The Lundin Review Committee will reconsider the previous proposals, their evaluation, and that selection. It is, therefore, more investigatory in nature than the ordinary Source Evaluation Board and has the added major responsibility to recommend whether the April 7 selection of General Electric should be confirmed or reversed.

It is understood that this new procedure was established following an agreement between NASA, Fairchild-Hiller, and General Electric that a reconsideration of the selection made on April 7 is preferable rather than a recompetition.

Mr. President, the Administrator of NASA has assured me that he will keep the committee fully advised of further developments in their review of the ATS F and G procurement.

REWARDS TO DECEASED SERVICEMEN'S FAMILIES

Mr. MATHIAS. Mr. President, I was distressed to read about what appears to be an unwarranted hardship on the survivors of members of the Armed Forces killed in action this morning, July 17, 1970, in the Washington Post, Jack Anderson published the following item:

> HERO'S REWARD
>
> Sergeant Major James H. Palmer skimmed in his helicopter 100 feet over the Vietnam jungle on April 27 to draw fire from Communist troops so his men on the ground could attack.
>
> The strategy worked too well. Deadly fire from the ground struck the helicopter, which banked, tumbled and exploded, killing him instantly.
>
> A grateful government recommended Palmer for the Silver Star for gallantry and, at the same time, abruptly ended payments to help keep his son in a special school for children with learning difficulties.
>
> Mrs. Palmer, with two other children to raise by herself now, must pay $205 a month to keep her 15-year-old son in a special school in Falls Church, Va. If her hero husband had lived, they would need to pay only $65.
>
> "I hope and pray you will print my story," she pleaded.
>
> Our investigation shows there are 55 wives like Mrs. Palmer who have lost government aid for their handicapped children because their husbands were killed in action. Payments to help 110 retarded children were cut off the day their fathers died for their country.
>
> This cruelty is the result of a legislative goof. When the law was passed setting up the Civilian Health and Medical Program of the Uniformed Services, the payments were restricted to men still on active duty.
>
> The 165 wives and children who have been suddenly stricken from the program could be put back on the rolls for only about $250,000 a year, mere chicken feed in Pentagon parlance.

I would hope that the 91st Congress, which has done so much to provide benefits to our servicemen, both during and after active duty, would correct this unfortunate situation.

To those in a serviceman's family who must carry on after his death in the line of duty, the need for medical care and special educational opportunities does not diminish but, in fact, becomes increasingly difficult.

I believe that we should expand our program for special training for all children with learning difficulties. But it is intolerable that the program should contract under the tragic circumstances of a father's combat death.

It is my intention to introduce during the coming week appropriate legislation to end this problem.

SENATE VA HOSPITAL APPROPRIATIONS INCREASE

Mr. CRANSTON. Mr. President, the other day, my good friend in the other body, Olin E. Teague, chairman of the Veterans' Affairs Committee, sent me a copy of a letter he had sent to Chairman Mahon of the House Appropriations Committee with a copy to all other House Members. In the letter, Chairman Teague called for the House to support the $100 million additional for VA hospital and medical programs which the Senate adopted on July 7 in H.R. 17548.

The unqualified support of "Tiger" Teague is great news to all supporters of the urgently needed $100 million increase voted by the Senate. He is a notable and historically most successful fighter for the treatment our veterans deserve and to which they are entitled. He has been a constant ally and colleague in efforts to uncover the true facts about VA medical care during the last half year or so. Now, through his great efforts and those of the veterans organizations and others, and with the stanch insistence of our Senate conferees on the bill (Mr. Pastore, Mr. Magnuson, Mr. Ellender, Mr. Holland, Mr. Anderson, Mr. Allott, Mrs. Smith, Mr. Hruska, and Mr. Young), I am hopeful that we will be successful in appropriating and ultimately spending the full $100 million for the betterment of medical care for our disabled veterans.

Mr. President, I ask unanimous consent that the text of Chairman Teague's July 8 letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Committee on Veterans' Affairs,
Washington, D.C., July 8, 1970.

Hon. George H. Mahon,
Chairman, Committee on Appropriations,
House of Representatives,
Washington, D.C.

Dear Mr. Chairman: I am seeking your support of the Senate action which added $100 million additional funds for the Veterans Administration Medical Program for fiscal year 1971 in H.R. 17548. In April of 1969 the Administration sought to reduce funds for the VA Medical Program and Construction and Modernization of VA hospitals by about $68 million. The Appropriations Committee very wisely restored all of the funds for Medical Care and most of the funds for Construction and Modernization although the major portion of the construction funds were frozen by Presidential Order and not obligated in 1970. It is particularly fortunate that the Medical Care funds were totally restored in the 1970 budget, because on April 2, 1970, it became necessary for the Administration to ask the Congress for an additional $15 million for Medical Care in 1970 and ask for a further amendment of $50 million for Medical Care in the 1971 budget. Almost $10 million of the 1970 request was needed to partially clear up an intolerable dental backlog involving hundreds of thousands of returning Vietnam veterans who were having to wait from four to eight months to have their teeth fixed. These funds did not meet the need and there are over 75,000 pending cases as of the close of the 1970 fiscal year which did not receive treatment because of lack of funds. The dental workload has shown sharp increases in recent months and with the escalation of troop withdrawals from Vietnam, there is every reason to believe that the magnitude of the total VA Medical Program workload in 1971 has been vastly underestimated in the budget requests which the Bureau of the Budget permitted the Veterans Administration to present to the Congress.

For several years the Veterans' Administration has been caught in an impossible budget squeeze between higher medical and drug costs and rising workloads without receiving proportionately higher fund and staffing allocations. Needed equipment and maintenance and repair projects have been deferred and many hospital directors have been unable to fill critically needed positions on their hospital staff, which are recruitable, because they lacked the funds to do so. The average staff ratio in private sector hospitals is about 2.72 employees for each patient. In the Veterans Administration, the nationwide average in its general medical and surgical hospitals is about 1.5 staff for each patient. This means that the VA is trying to render "second to none" medical care with about one-half of the pensive modern equipment was installed but the hospital directors lacked funds to properly staff the units resulting in indequate care for veterans in intensive care units and other special care units for seriously ill veterans.

I realize that in recent years your Committee has appropriated whatever funds the Veterans' Administration was permitted by the Bureau of the Budget to request for the VA Medical Program. In May of this year, the House of Representatives, on recommendation of the Appropriations Committee, added $97 million more to the original requests of the VA Medical Care Appropriations for 1970 and 1971. The funds which the House voted were sufficient to meet some of the most emergent and critical needs which the Veterans' Affairs Committee's six-month long investigation disclosed. These funds will help retain personnel who hospital directors had scheduled to RIF; these funds will prevent some of the closing of wards with over 11,000 beds scheduled for closing in fiscal years 1970 and 1971; these funds will permit the replacement of some of the outmoded patient care and diagnostic equipment with equipment which will render faster and better care; and they will help reduce some of the dental, pharmacy, and other backlogs which presently exist in the VA hospital system.

When the Senate Appropriations Committee considered the House-passed appropriations bill it heard testimony from the Chairman of the Senate Subcommittee on Veterans' Affairs which confirmed and underscored the deficiencies which our Committee found during its investigation. Accordingly, the Senate Appropriations Committee added $100 million more—$80 million for Medical Care and $20 million to proceed at a faster pace with the modernization and air conditioning of 43 hospitals. An example of how this program has lagged is demonstrated in the two attached newspaper clippings which I have had in my files for twenty years concerning the number of outmoded hospital facilities in the VA system. In one of the articles you will note that the Bronx VA hospital, which was the subject of a recent article in Life Magazine, was then listed as in need of "complete renovation." After the Life article was published I personally visited this hospital, as did Chairman Jim Haley of our Hospital Subcommittee and several Members of the Committee. Many Members of the New York Congressional Delegation also accompanied the Committee. While it has been air conditioned, it is far from being completely renovated so that it can efficiently and properly render the care veterans deserve. This hospital alone has reported a 1971 operating budget deficiency of $3,216,942, and they need over $7 million to complete the modernization which was mentioned 20 years ago. Of course, what is really needed is a completely new replacement hospital. The VA construction and modernization program funds have been deferred twice in the last five years even though Congress, during the Eisenhower Administration, agreed to an orderly appropriation of funds over a 10-year period for construction and modernization programs to update the VA medical facilities.

I agree with the Senate action in appropriating $20 million in additional funds to step-up the pace of the hospital construction program. And, I am wholeheartedly in favor of the addition of the $80 million which has been added by the Senate for Medical Care, as these funds are badly needed to start immediate recruitment of much needed hospital personnel. Our Committee investigation disclosed that over 85% of the needed personnel are recruitable and I have introduced legislation which will soon be reported for Floor action to make the Veterans Administration more competitive in recruiting personnel with private sector hospitals.

The simple facts are that the VA Medical Program has fallen woefully behind in its ability to properly and promptly care for America's disabled veterans. It is time to catch up! Even the additional funding voted by the Senate will not enable the Veterans Administration to do all that should be done to modernize its medical system and to take care of the large segment of our aging World War II veterans, plus the increased load from the Vietnam war. But, this will be a significant step. It will be an indicator to both the veterans of this nation and the dedicated corps of hospital personnel, many of whom have become fatigued physically and demoralized mentally because they have tried to do the work of two people, that Congress is raising the priority of funding the medical needs of the Veterans Administration to the level it deserves. Considerable detail is available in the Veterans Affairs Committee on the hospitals of your state if you are interested in seeing it.

I urge your support of the Senate increase of $100 million for the VA Medical Program.

Sincerely,

OLIN E. TEAGUE,
Chairman.

HOUSE STUDIES VA HOSPITAL MODERNIZING

(By James Daniel)

WASHINGTON, March 26.—The House Appropriations Committee is expected to decide momentarily whether to start a huge modernization program for elderly Veterans Administration hospitals.

Rep. Albert Thomas (D., Tex.) points out that there are more than 50 VA hospitals requiring major improvement, plus 16 that are so bad they ought to be replaced entirely.

It is planned to ask for $15,000,000 to start the improvement. The total cost, it is figured, would be at least $150,000,000, and if the replacement institutions were built, possibly $600,000,000—all over seven or eight years.

Some of the VA hospitals are characterized as little better than firetraps.

The average age of veterans hospitals is distinctly in the twilight years for efficient administration. Rep. Olin E. Teague (D., Tex.) reported that 1800 buildings presently used for hospital and medical purposes were erected before 1940.

Some 341 were built between 1880 and 1920—many in the Spanish-American War class. Another 1035 were built between 1920 and 1940, or from President Harding's time on.

OLD VA HOSPITALS CALLED NEGLECTED

WASHINGTON, March. 26.—The House Veterans Committee reported last night that the Veterans Administration has apparently neglected its old hospitals while seeking to build new ones.

As a result Chairman Olin E. Teague (D., Tex.) said a committee survey showed that 56 of VA's 172 hospitals need major modernization.

This work would cost $150,000,000 and would take seven years, Mr. Teague said. Summarizing the committee's findings, based mostly on reports from hospital managers, he said:

"The Veterans Administration has been preoccupied with its new building program, which is coming to an end, and . . . apparently very little funds or attention have been given the need for major renovation and replacement of older hospitals."

Of 4755 buildings in use at VA hospitals, 1800 are at least 15 years old and 341 were built before 1900, Mr. Teague said. Many of the older buildings are so designed as to preclude a modern medical program unless major alterations are made, he asserted.

The report listed as in need of complete renovation and modernization VA hospitals in the Bronx, at Lyons, N.J.; Newington, Conn., and Northport, L.I.

FIFTEENTH ANNIVERSARY OF DISNEYLAND

Mr. MURPHY. Mr. President, in this world with its fast-moving pace, daily trauma, horror stories, and continual strife among people everwhere, it is always good to take notice of what is right with America, as our President just recently asked us to do.

One of the most "right" and good things I know about America is Disneyland, in Anaheim, Calif. I believe that the world of reality is a far nicer place today as a result of the imagination and fantasy so admirably projected by the late beloved Walt Disney. The dream of this one man has done more than any one single act I know to promote good will and happiness throughout the entire world. Consequently, on this the 15th anniversary of Disneyland, I should like to offer my congratulations on this auspicious occasion and extend my best wishes for the continued success of this all-America institution.

I feel certain that millions of folks everywhere would wish to join me in saying "Thank you, Walt Disney"—you have truly made this world a better place in which to live."

RESOLUTION OF TEXAS POSTMASTERS COMMENDING SENATOR YARBOROUGH

Mr. HARTKE. Mr. President, at their State convention in San Antonio in June of 1970, the Texas Chapter No. 18, National Association of Postmasters of the United States, expressed its thankfulness and appreciation to Senator YARBOROUGH for his inexhaustable efforts to better the conditions of the postal service. The postmasters lauded in their commendatory resolution the immense interest in, and devotion to, the improvement of postal affairs that the senior Senator from Texas has demonstrated in his terms of office.

In recognition of the fine accomplishments and contributions that Senator YARBOROUGH has made while on the Post Office Committee, I ask unanimous consent that the following resolution be printed in the RECORD:

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

COMMENDATORY RESOLUTION

Whereas, The Honorable Ralph W. Yarborough, the Senior Senator from Texas, has represented all of the people of the State of Texas, capably and zealously; and,

Whereas, He has always exerted his abilities and untiring efforts in promoting and advocating better relations between the citizens of our country and in our government and all other peace-loving countries of the world; and,

Whereas, He has capably served as United States Senator for several years and has always demonstrated immense interest in Postmasters and their problems; and,

Whereas, He has always been interested in bettering the conditions of the service and has always cooperated with the Post Office Department and Postmasters towards this and, be it therefore

Resolved: That an expression of thankfulness and appreciation to Senator Yarborough for this inexhaustable efforts on behalf of the Postmasters, Postal Service, and Post Office Employees, as well as of our Country, be sent by the Texas Chapter No. 18, National Association of Postmasters of the United States, assembled in San Antonio, Texas, June 21–23, 1970, and

Be it further resolved: That with our best wishes for his success and continued good health, we pledge our continued appreciation and support of him, and

Be it further resolved: That Senator Yarborough be furnished a copy of this resolution so that he will know of our appreciation of him as well as his efforts and the manner in which he discharges and fulfills the heavy responsibilities which are entrusted to him.

Submitted by Resolutions Committee.

OLIVER N. BRUCK,
Chairman.

AUSTIN, TEX.

THE BOWIE, MD., POST OFFICE

Mr. MATHIAS. Mr. President, today, criticism appears to be in vogue. It is encouraging to receive from a constituent a letter commending the work of Government employees. In this case, the much beleaguered Post Office received the thanks of Mr. R. L. Wright, of Bowie, Md.

The civil servants of the Bowie Post Office took the initiative to find one gentleman's address. Their work is only one example of the dedicated service of public workers throughout the Nation.

I am pleased to be able to join in paying the debt of public recognition to these civil servants.

I ask unanimous consent that the text of Mr. R. L. Wright's letter to the Postmaster General be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BOWIE, MD.,
July 7, 1970.

POSTMASTER GENERAL,
Washington, D.C.:

I would like to commend the Bowie Post Office and express my appreciation for the excellent job they do. There is too much criticism today of Government employees in general and Post Office employees in particular.

I am involved in some research very important to me and today received two letters of significant value. The letters came from a remote area of Southern Ohio addressed only to R. L. Wright, Bowie, Maryland. In some way your "marvelous mailmen" got these letters to me.

I sincerely appreciate the efforts of the individuals involved in seeking out my address and assuring delivery to me. I apologize for my correspondents who had no way of obtaining a complete address for me.

Please transmit my expression of appreciation to the Bowie Post Office with the realization that it is long overdue recognition and only illustrative of the exemplary attitude and service of the Bowie mailmen.

Respectfully,

R. L. WRIGHT.

COLLAPSE OF WORLD ACADEMY FOR SCHOOLS OF FOREIGN SERVICE

Mr. MOSS. Mr. President, like many others I have been disturbed by the financial collapse of the World Academy Schools for Foreign Studies which left thousands of young Americans stranded in Europe. Many of these students had saved their own money for years in order to afford this summer in Europe. The bitter disappointment felt by these unfortunate young people is well expressed in the following newspaper article. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOUR AGENCY GOES BELLY-UP—STRANDED STUDENTS FLY FOR HOME, LEAVE TRAVEL DREAMS IN EUROPE

(By Stanley Johnson)

NEW YORK.—An emergency airlift bringing home 3,500 students temporarily stranded in Europe by the financial collapse of a travel agency began arriving Tuesday.

"It was bedlam" when the students heard that their summer study tours had been cut short, said Debbie Monk, 16, Newport News, Va.

"It was like the beginning of World War III," added Mary Storm, 16, also of Newport News.

The two girls were among 185 persons arriving at Kennedy Airport on a World Airways Inc. charter flight from Geneva, Switzerland.

The cost for the summer abroad was from $1,200 up.

IT WAS HEARTBREAKING

"Most of the students raised the money for the trip by themselves," said Sister Celeste Marie Reichert of St. Edmund's High School, Brooklyn. She chaperoned a group of 13 girls from that school.

"They worked after school and on Saturdays and Sundays. That's what's so sad. It was heartbreaking."

World Academy Inc., which arranged the trips, filed bankruptcy petitions in federal court, Cincinnati, along with four of its subsidiaries. They were World Academy Schools for Foreign Studies, the Institute for Cultural Education, International School for Young Americans and Travel-Rite Inc.

The Provident Bank of Cincinnati, saying the scope of the situation was too great, declined Tuesday to become receiver in bankruptcy for the companies.

PROBLEM IN HAND

"This means that we'll have to start over again as far as the bankruptcy agreement is concerned, but we have the student problem in hand," said Lawrence Kane, Jr., attorney for World Academy.

Kane said the U.S. District Court in Cincinnati would act as receiver until one is found to replace the bank.

Meanwhile, Kane said, the court permitted a company representative to take $5,000 to Europe and "the students have room and board now."

In Salt Lake City, Dr. Lynn M. Hilton, superintendent of the Foreign Study League, said he was "concerned and grieved to hear of the collapse of World Academy."

He told newsmen his league, the nation's largest foreign study service, was on a "firm financial footing." He said the FSL had 14,000 students and teachers enrolled for study abroad this year—roughly equal to the combined total of all competitors.

Hilton said the planned departure of some 160 students from Salt Lake City on Saturday will go ahead as scheduled.

Sister Celeste said her group had only two hours notice they were being flown home.

OGDENITE INVOLVED

Joe Dixon, Ogden, Utah, a tour leader for World Academy, was in Cologne, West Germany when news of the stranded students broke.

Charles Brogdon, a teacher from Broward Junior College in Fort Lauderdale, Fla., said: "The students received the news of the tour's end with dismay, but they cooperated to the fullest extent."

World Academy contracted with Capitol International Airways of Nashville, Tenn., to bring the students home.

Capitol's vice president, Frank Roach, said the line was using its entire fleet of eight planes and subcontracting with other charter lines to help with the job.

More flights from Paris, Amsterdam and Bonn-Cologne, were expected early Wednesday.

The less fortunate students had been in Europe only five or six days.

Groups were caught in France, Italy, Switzerland, Austria, Yugoslavia, Greece and Germany.

NOT WEALTHY

"Most of them don't come from wealthy families," said Dr. William Forel, vice president of Miracosta Academy at Oceanside, Calif., who escorted a group from his own school.

"It was a bitter disappointment for them, of course, but they took it marvelously well. There was surprisingly little griping."

Dr. Forel said he learned of the collapse of World Academy early Sunday when he woke up "hearing a lot of commotion outside in the corridor" of a French university center 20 miles southwest of Paris where some 600 of the students were staying.

"We spent the whole day trying to decide what to do," he recalled. "Some of the students wanted to continue, but the majority could not have raised the funds. It was quite out of the question to continue at our own expense."

Blonde Candy Meek, 18, of Firebaugh, Calif., had tears in her eyes. "I've worked practically all my life in my parents' shoe store to save for this trip," she said. "I wonder if I'll be able to come back again."

In the plane on the way to Europe, Candy said, the organizers collected an extra five dollars from each student "in case we break anything."

"I never broke a thing," she added. "I wonder if I'll ever even get my five dollars back."

ARMY NEXT TIME

Valarie Rich, 18, of Mount Clemens, Mich., was among those who filed sadly into buses in the 90-degree afternoon heat on their way to Le Bourget airport and a plane to New York.

Mr. MOSS. Mr. President, also mentioned in this newspaper story is the Foreign Study League based in my hometown of Salt Lake City. Like the World Academy, it offers a packaged foreign study program where for one basic tuition fee, the student is provided with round trip jet transporation to Europe, board, and lodging, and a general educational program involving classroom time of 20 hours a week for 6 weeks. Educators have given these programs high marks.

But unlike the bankrupt World Academy, the Foreign Study League is in no financial danger primarily because it is backed by the huge resources of Transamerican Corp., which owns all of the league's stock. Students, parents, and educators can have confidence in the Foreign Study League because they know it is a subsidiary of a well established conglomerate.

I have learned, however, that the Civil Aeronautics Board through its hearing examiner has ordered Transamerica to divest itself of the Foreign Study League. Forcing the Foreign Study League to give up the financial security of the Transamerica relationship would, in my opinion, be a grave mistake. It may well be reasonable to restrict the business transactions between the Foreign Study League and Trans International Airlines, another wholly owned subsidiary of Transamerica. But the CAB should act with caution when a forced divestiture could jeopardize the opportunity for thousands of young Americans to study and travel abroad. Unless such organizations as the Foreign Study League are financially secure, we will eventually see only more heartbreak and hardship.

DISTRICT OF COLUMBIA CRIME

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to have printed in the Record a list of crimes committed within the District yesterday, as reported by the Washington Post. Whether the list grows longer or shorter depends on Congress.

There being no objection, the article was ordered to be printed in the Record, as follows:

Woman Charged in Man's Slaying

A 48-year-old Washington man found Tuesday night in his apartment with a gunshot wound in his head died yesterday, police reported.

The resident manager of the apartment house, at 1334 Fairmont Street NW, told police he discovered the victim, T. C. Thomas, about 9:20 p.m. Thomas was pronounced dead at Washington Hospital Center at 3:45 a.m. Thursday.

Police arrested Macie Lee Parks, 50, of 5574 B St. SE, at the apartment and charged her with homicide.

In other serious crimes reported by area police up to 6 p.m. yesterday:

ROBBED

DeWitt Moore Jr., of Washington, a driver for the Canada Dry Co., of Silver Spring, was held up about 2:20 a.m. Wednesday at 46th Street and Hunt Place NE by two men with revolvers. "Give us the money," ordered one. Moore told them the cash was in the safe and he did not have a key to unlock it. The men removed his wallet and fled east on Jay Street.

Paul Daniel Danish, of Washington, was beaten and robbed about 11:10 p.m. Wednesday by six men who attacked him at 3d and C Streets NE. The men surrounded Danish, knocked him to the ground and fled with the money from his wallet.

Ahmad Batouir, of Washington, was held up about 2:50 p.m. Wednesday by two young men who attacked him from behind in the 1800 block of Kendall Street NE. The men, both displaying revolvers, threatened, "Give us all your money or we'll kill you." One of them took the bills from one of Batouir's pockets while his partner removed a change purse from another pocket and the pair drove east on Capitol Avenue in a black car.

Oliver W. Johnson, of Washington, was beaten and robbed by two youths in the 100 block of 18th Street SE. The two hit him until he fell to the ground and took his wallet and keys.

Lucille E. Brown and Edna Mae Thorton, both of Washington, were held up about 11:30 p.m. Wednesday by two men, one wielding a revolver, near their apartment building in the 5000 block of 1st Street NW. "All right. Give it to me," the gunman demanded. His companion took their pocketbooks.

Donald Major, of Washington, was beaten and robbed shortly after midnight Wednesday by two youths who approached him from behind at 19th and East Capitol Streets NE. One struck him over the head with an unidentified object, threatened him and demanded his money. After taking his wallet, the pair ran south on 19th Street.

James A. Thomas, of Washington, was beaten and robbed about 7:25 p.m. Wednesday by two youths on 16th Street NE between Gales and Rosedale Streets near his home. The youths forced Thomas into an alley where he began struggling with one of them. The youth drew a gun and knocked Thomas to the ground. The other youth took a six-pack of beer and a large amount of bills and change.

Caroline Allen, of Washington, was beaten and robbed about 9:45 p.m. Wednesday by two youths in the 500 block of Valley Avenue SE. One of them struck her over the head while the other one forced her to release her pocketbook.

Greta Renee Graham, of Washington, was held up about 5:20 p.m. Wednesday inside the Woodward & Lothrop store in the 1000 block of F Street NW by two youths. One drew a long-bladed knife and warned, "Be quiet." The other youth grabbed her pocketbook, removed her wallet and tossed the purse to the ground. The pair then ran up the stairs.

William Brockington, of Washington, was held up about 12:35 p.m. Wednesday while he was parked in his car at the corner of 24th and Douglas Streets NE by two young men. One held a pistol at Brockington's head and said, "Give it up." Brockington handed a large amount of money to the gunman, who warned, "Do not turn around for five minutes," and escaped with his partner in a bronze car.

Allen B. Wilson, of Washington, was beaten and held up about 4:30 p.m. Wednesday at 46th Street and Sheriff Road NE by two youths who asked if he had any money. When Wilson said he did not, one of the youths grabbed his arms and the other hit him. The pair took the money from Wilson's pockets.

William O. Hickey, of Glen Burnie, was held up shortly after 3 p.m. Wednesday by a youth who approached him in his truck at North Capitol and O Streets NW. He entered the passenger's side of the truck and ordered Hickey to drive to New York Avenue. The youth then drew a gun and forced the driver to hand over his watch, money and diamond ring. The gunman forced Hickey to stop and pick up a second youth, then fired one shot, which missed, and fled.

Mary Linder, of Canton, Ohio, was robbed by two men about 6:30 p.m. Wednesday as she was getting out of her car in the 700 block of Monroe Street NE. One man grabbed Miss Linder by the neck while the other one took her pocketbook.

Johnnie Johnson, of Washington, a driver for the Good Humor Co., was held up about 9:30 p.m. Wednesday while he was vending at 17th Street and Potomac Avenue SE. A young man approached Johnson and asked for some ice cream. As he was filling the order, another man, displaying a gun, told him, "This is a stickup." The pair took Johnson's money and fled west in the 1600 block of Potomac Avenue.

Wilbert Ross, of 460 N St. NW, was held up about 7:15 a.m. by two men who opened his apartment door and demanded, "Where's the money?" One showed Ross the revolver in his coat pocket, searched his pockets and took his watch and money. "You come out and we will blow you away," the pair threatened, and fled.

Matt's Liquor Store, 3203 Naylor Road, Silver Hill, was robbed about 6:40 a.m. yesterday of an undetermined amount of money by a man armed with a .45 caliber automatic who walked behind the counter and demanded the cash from the register.

Edwin Marshall, of Washington, was held up about 9:45 a.m. Tuesday by a man wielding a gun who approached him in a parking lot in the 6500 block of Chillum Pl. NW, and ordered him to face the wall of the adjacent building. The gunman frisked Marshall, took the money from his pockets and fled toward the railroad tracks.

Tower of Pizza, 2916 Nichols Ave. SE, was held up by two men who entered the shop Tuesday night. One of them, displaying a gun, told the owner, "Give me the money and put it in a paper bag." The pair escaped in an alley beside the shop.

Pauline Ellis, of Washington, was beaten and robbed shortly after 8 p.m. Tuesday by two youths who attacked her in the 600 block of Condon Terrace SE. After knocking her to the ground, the assailants took her pocketbook and fled into the 400 block of Atlantic Street NE.

Murry's Steaks, 4019 South Capitol St. SW, was held up about 9:15 p.m. Tuesday by two youths who ordered a steak sandwich. One of them pointed a pistol at the clerk while his companion opened the cash register and scooped out the money. The pair then ran out of the store.

William Violette, of Brentwood, a taxi driver was robbed about 11:40 p.m. Tuesday by a young man wielding a gun who asked the driver to take him to the 1300 block of Independence Avenue SE. At 7th Street and Independence Avenue, the passenger ordered Violette to stop and said, "Give me your money or I'll kill you." Taking his watch and cash, the gunman escaped into a park near the intersection.

Frederick Eugene Underwood, of Washington, was held up about 9:15 p.m. Tuesday at the corner of Summit Pl. and U Street NE, by three young men carrying guns in their pockets who warned, "Don't run or we shoot. Give us your money." Underwood gave the gunmen his bills and change and they escaped.

Floyd Minor, of Ravenna, Ohio, a truck driver for Continental Oil Co., was beaten and robbed about 3:30 a.m. by two men and a woman who carried him to the second floor of a building in the 1000 block of Massachusetts Avenue NW. After the men hit him in the head and body, the trio frisked him and fled with his money and watch.

Wyatt Langford, of Washington, was held up about 6:20 p.m. Tuesday by four youths as he was entering his car in the 700 block of 3d Street NW. One of them held a revolver at Langford's side while the others searched him and removed his wallet. The youths then fled into an alley towards 4th Street.

Sanford Jameson, of Darien, Conn., was beaten and robbed shortly after 10 p.m. Monday by two men who attacked him on 19th Street NW, struck him on his head and face until he fell to the ground. The pair then removed his wallet from his pocket and fled.

STOLEN

A canvas bag containing $700 in cash was stolen between 3 and 9:30 a.m. Monday from the Good Guys Restaurant, 2311 Wisconsin Ave. N.W.

Typewriters and other office equipment, with a total value of $700, were stolen between 6 p.m. Monday and 8 a.m. Tuesday from Tecnifax, 6200 Kansas Ave. NW.

Four typewriters valued at $1500 were stolen between 6 and 10 p.m. June 22 from a classroom at Roosevelt High School, 4301 13th St. NW.

An $800 calculator was stolen sometime before 4:20 p.m. Monday from a car belonging to Daniel Keller, of Maryland, while it was parked in the 1020 block of O Street NW.

A typewriter and a record player were stolen between 3:30 p.m. Monday and 9:30 a.m. Tuesday from Elliott Junior High School, 19th Street and Constitution Avenue NE.

A trailer carrying a 14-foot boat with a 50 horsepower engine valued at $900 was stolen between 9 a.m. Monday and 11:40 Tuesday from E. A. Page, of Norfolk, Va., when it was separated from his car at 10th and K Streets NE.

An adding machine and an IBM typewriter were stolen between 5 p.m. Tuesday and 7 a.m. Wednesday from an office in the administration building at Catholic University, 620 Michigan Ave. SE.

OIL RESTRICTION LAID TO NIXON

Mr. McINTYRE. Mr. President, Frank Porter, writing in Friday's Washington Post, reports that Capitol Hill sources said President Nixon actually sought a measure which would tie his hands on oil import policy and take him off the hook with northeastern legislators and consumers who are pressuring for an easing of quotas to get lower priced fuel oil.

Mr. President, if this report is true, if Mr. Nixon did, indeed, solict the House measure which would bar him from abandoning oil import quotas for the tariff recommended by the Cabinet advisory committee, then the oil-starved, overcharged people of New England should flood the White House with letters of indignant protest.

I am sure this bit of subterfuge will not fool the people of my region who are sick and tired of paying needlessly inflated prices for the oil to heat their homes and businesses.

These people are fully aware, Mr. President, that the present oil import quota system is costing consumers from $4.5 billion to $7 billion a year that they should not have to pay.

Mr. President, I ask unanimous consent that Mr. Porter's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Oil Quota Support Attributed to Nixon

(By Frank C. Porter)

President Nixon actually solicited the support of Rep. Wilbur D. Mills (D-Ark.) for a measure that would tie his hands on oil import policy, a Capitol Hill source said yesterday.

The revelation came in the wake of tentative agreement Wednesday by the House Ways and Means Committee on the provision which would bar the President from abandoning oil import quotas for a tariff recommended by a cabinet advisory group. Mills is chairman of the committee.

Ironically, Mr. Nixon's own special representative for trade negotiations, Carl J. Gilbert, told the committee in closed session that the administration was opposed to the provision, an amendment to the omnibus trade bill.

An aide to Gilbert said he had no knowledge of the President's plea to Mills or of his support of the measure.

One person privy to the action said Mr. Nixon solicited Mills' backing for the measure "to get him off the hook."

The President received strong campaign support in 1968 from the oil industry, which in general is satisfied with the status quo and regards the present quota system as more favorable to its interests than the proposed tariff. The staff could result in increased imports and lower domestic prices for crude petroleum and probably its derivative products.

When the cabinet task force, by a vote of 5 to 2, advised the switch to a tariff system last winter, Mr. Nixon took no action on the recommendations. Instead, he appointed another commission to study them. The administration indicated there would be no decision at least until after the election.

If the oil quota amendment becomes law, Mr. Nixon would thus be insulated from strong political pressures from the other side—from legislators from the oil-hungry Northeast and consumer groups in particular—to shift to a tariff system.

There were also reports yesterday that Chairman Mills received a pledge from Mr. Nixon before the latter's inauguration that as President he would not recommend legislated import quotas for textiles, which also have been tentatively approved in the trade bill.

Mr. Nixon had promised help to textile interests in their plea for relief from rising imports. His hope was to negotiate an international agreement setting voluntary import quotas on man-made and wool textile products similar to the existing pact covering cotton textiles.

Having received the President's asurances that he would not seek legislated quotas, Mills introduced a bill providing for precisely those quotas in the event a voluntary agreement was not reached. Its ostensible purpose was to give the United States greater bargaining power in those negotiations.

When the negotiations collapsed, the administration suddenly came out in support of the Mills bill. Sources close to the chairman, long a liberal trade advocate, say he felt the rug was pulled from under him.

Meanwhile, the oil quota amendment was greeted with cries of outrage from many lawmakers.

Rep. Charles A. Vanik (D-Ohio), one of five Ways and Means members who voted against it, claimed the measure had been hastily rammed through without time for adequate consideration.

"This ill-conceived action puts the slimy hand of oil on the trade bill, converting it into a gargantua of greed," he said. Vanik said the action freezes a program which costs the American consumer $4.5 billion to $7 billion a year.

"I am ashamed of the trade bill and the process under which it was conceived and developed," Vanik said. "It is ugly, it is oppressive, it is Rosemary's Baby."

A source close to the committee said the other negative votes were cast by Reps. Martha W. Griffiths (D-Mich.), James A. Burke (D-Mass.), William J. Green (D-Pa.) and Sam Gibbons (D-Fla.).

CAPTIVE NATIONS WEEK

Mr. CURTIS. Mr. President, 25 years ago the flames of freedom that had smoldered for so many years flared up and shone brightly once again. Americans had played a great part in rekindling these fires. Many thousands of Americans had died in the process. Many more thousands were wounded.

Americans had given freely of their resources—both in material things and in human lives to help achieve this grea and noble rebirth of freedom.

We rejoiced that the war was over in Europe. Our joy was made more sweet by the knowledge that we had fought for a great and noble purpose—the destruction of tyranny and the betterment of our fellow men—and that these noble ambitions had been achieved. All through the land the churches were filled with prayers of thanksgiving, and the streets with joyfully dancing people.

But there were those among us who, though they shared our joy that war was at an end, still tempered that joy with a sense of foreboding. They held then the knowledge that we all share now:

Freedom in Europe was by no means all encompassing.

They knew that, while we were helping to destroy the great prison bastion that was Nazi Europe, the walls were being rebuilt by yet another tyranny—that of Communist Russia.

I refer to that great body of fine Americans whose origins were in Eastern Europe—in that part of the continent which was being—and I use this word in quotes—"liberated" by the armies of the Soviet Union.

Many millions of Americans have relatives, some close, some more distant, living in that area of Europe. Their families migrated to America from those countries: from Poland, from Rumania, from Czechoslovakia, from Hungary, from Bulgaria, from Latvia, Lithuania, Estonia; from Germany east of the Elbe.

For generations their ancestors lived under the threat of the Russian power to the east. And they passed along these fears—well-grounded fears they were, too—generation to generation.

So it was that these Americans held within themselves the knowledge and the fear that all was not well, though the battlefields were now quiet, Hitler was dead, and nazism had been destroyed.

It is of no solace to them now to know that they were right and that elsewhere in America this knowledge has had to be accepted.

The lesson we Americans can and must learn from this tragic episode in the history of mankind is that freedom cannot be taken for granted. Having won a battle against one form of oppression, we cannot supinely expect that freedom will automatically become a universal state of man, or even replace the tyranny just destroyed.

That we won the battle of Europe cannot be denied.

But in winning that battle, we did not achieve our basic goal—freedom of choice and opportunity for all Europeans.

It has been said before, here and elsewhere, that freedom is like a fragile vase—difficult to achieve, beautiful when accomplished, but oh so easy to shatter.

It has also been said many times, but I feel it is worth reiterating, that no man is completely free unless all men, everywhere, are free.

It may also be said here that freedom can be smothered and subdued, but so long as there is one free man in the world freedom cannot be killed.

Therefore, Mr. President, I urge Americans to guard their own freedom jealously, not only to preserve it for themselves but to give hope to men and women everywhere who live in bondage.

We must live our own freedom. We must be willing to fight for its preservation.

Only thus can we hope to keep the fires of freedom burning so that they provide a beacon for the rest of the world, and provide at least a small glimmer of warmth for those upon whom the chill hand of tyranny has been clamped.

We can rightfully rejoice in our liberty. We gladly share it with all others regardless of background, regardless of place of origin, regardless of color or creed.

Because in this sharing, this giving, we strengthen and broaden our own freedom.

It is important that we remember this as we end the observance today of Captive Nations Week for 1970.

FUNDS FOR NASA

Mr. ANDERSON. Mr. President, last week the Senate passed an appropriation for the National Aeronautics and Space Administration which was recommended by the Appropriations Committee and supports the earlier authorization for the fiscal year 1971 program. The Washington Post, on Sunday, July 12 published an excellent editorial on this matter. The editorial argues eloquently that the Senate acted prudently in not curtailing NASA's funds. In part, the editorial says:

> The country has so many problems, the argument goes, that it must divert the money that might be spent on manned space flights to programs that will aid more directly and more quickly the people who now inhabit the earth.
>
> This is a hard argument to answer for to answer it fully and logically (or, for that matter, to make it fully and logically) requires a prescience that none of us has. No one really knows what is to be gained by going on with manned space flights and no one really knows what is to be lost by stopping them. There is a universe out there that we don't know about. There is, of course, the argument that unmanned space probes can tell us all we need to know about it for as far into the future as we now care to think. But it is difficult, if not clearly wrong, to accept the idea that machines can totally replace men in so delicate a task of exploration.
>
> We raise this now because the debate in the Senate last week, while cast in terms of merely slowing down the pace of the manned space program, was in fact a debate over halting it. The cuts already made in NASA's budget have built in a halt to manned space activities from 1975 to, probably, 1978. To expand that period of inactivity to four or five years, it seems to us, is to kill the program. So long a pause would mean the dismantling of the teams of experts and probably of the equipment that put Apollo together and controlled its flights. Rebuilding those teams would be a long, arduous and costly process.
>
> Thus we were pleased that the Senate did not go along with its liberal bloc which voted almost to a man to curtail NASA's funds even more.

Mr. President, traditionally, liberals are regarded as forward-lookers, men of progress, supporters of the new and innovative, men with faith that a progressive world now will provide a better future world for all mankind. Well, that is what the space program is all about, and that is why it is distressing to see so many of my liberal colleagues consistently lining themselves up in opposition to the space program, which, as the editorial states, "may well hold the key to man's future." I would urge my liberal friends to look at the facts, search their minds, and reexamine their position. It just does not seem right for the liberals to be against the future.

Mr. President, I ask unanimous consent that the Washington Post editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE CADILLAC IN THE SKIES

Just a year ago, the manned space program was riding high. Apollo 11 was waiting on the launch pad at Cape Kennedy for its crew and the world was waiting for the most spectacular trip in history to begin. The excitement and the glamor passed quickly and the manned space program is now in trouble. It came within a handful of votes last week of being strangled by the Senate and if the debate there is any indication more troubles are ahead. The psychology that sustained the program during its heydays of the 60s has been reversed and manned space flight is now regarded by many people as the Cadillac in the skies.

This psychological shift is understandable. To many of those who are deeply concerned about the quality of life at home, about the educational level of our children, the housing conditions of our poor, the pollution of our surroundings, supporting manned space flight is as provocative as riding in a chauffeured limousine through the slums. The country has so many problems, the argument goes, that it must divert the money that might be spent on manned space flights to programs that will aid more directly and more quickly the people who now inhabit the earth.

This is a hard argument to answer for to answer it fully and logically (or, for that matter, to make it fully and logically) requires a prescience that none of us has. No one really knows what is to be gained by going on with manned space flights and no one really knows what is to be lost by stopping them. There is a universe out there that we don't know about. There is, of course, the argument that unmanned space probes can tell us all we need to know about it for as far into the future as we now care to think. But it is difficult, if not clearly wrong, to accept the idea that machines can totally replace men in so delicate a task of exploration.

We raise this now because the debate in the Senate last week, while cast in terms of merely slowing down the pace of the manned space program, was in fact a debate over halting it. The cuts already made in NASA's budget have built in a halt to manned space activities from 1975 to, probably, 1978. To expand that period of inactivity to four or five years, it seems to us, is to kill the program. So long a pause would mean the dismantling of the teams of experts and probably of the equipment that put Apollo together and controlled its flights. Rebuilding those teams would be a long, arduous and costly process.

Thus we were pleased that the Senate did not go along with its liberal bloc which voted almost to a man to curtail NASA's funds even more. Many of the arguments made by NASA's supporters seem to us quite irrelevant—curtailment would mean unemployment in the aerospace industry, the Russians will be out there, and so on. But so did the basic argument made by the programs critics—that the funds should be used at home. We all know that cutting NASA's budget by $100 million or $500 million or $1 billion does not mean that the government is going to spend that much more on pollution control, education, housing, urban renewal and all the things that we ourselves place high on the list of national priorities. The fact is that if Congress really wanted to do all the things its members talk about, and postpone each year because of fiscal restraints, it wouldn't have turned last year's tax-reform bill into a tax-reduction bill.

The basic issue involved in NASA's appropriations this year, as it will be next year and for many years to come, is whether this country should give up something it has done and which is going well, something that has brought it great international prestige and internal pride, and something that we believe may well hold the key to man's future.

AGRICULTURAL PAYMENT LIMITATIONS

Mr. MURPHY. Mr. President, my purpose in speaking today is to discuss agricultural payment limitations, particularly as these limitations affect cotton. Last week, the Senate passed an amendment to the Department of Agriculture and related agencies appropriations bill (H.R. 17923), that limited to $20,000 price-support payments for any crop, except sugar. In addition, the House Committee on Agriculture is currently developing the farm bill, and here in the Senate the Committee on Agriculture has completed its hearings on the farm program, and is awaiting action by the House.

There is a lot of emotionalism about the current support programs, in part, because like any artificial program, there are abuses and inequities. Senators are all aware of these as they have been thoroughly documented on the Senate floor by the distinguished senior Senator from Delaware (Mr. WILLIAMS). In spite of these, I want to call on my colleagues, both in the Senate and in the other body, especially those on the House Committee on Agriculture, to avoid this emotionalism and find a workable and practical solution to the problem. Our farm programs are far too complex to tinker with by payments ceilings alone, without careful consideration of the effects on the entire agricultural industry.

Let me make it clear that I am in favor of eliminating support payments entirely, and thus cosponsored S. 2524, introduced by our late beloved minority leader, Senator Dirksen. This measure would phase out farm payments over a 5-year period.

I think we in Congress are, in part, responsible for the situation since we have developed over the years this involved, technical, and complicated program. Certainly no Philadelphia lawyer understands it, and only a few from Des Moines or Fresno. It is unfair for us virtually to eliminate in 1 year a program we have led the farmer to rely on and, indeed, to develop the economics of his whole industry around. It is not a question of whether the limitations should be $20,000, $55,000, or $110,000, but rather fairness to a segment of our Nation whose continued production is so important to the well-being of our national economy.

Let me make it clear, as well, that my interest is not in continuing payments to the large growers for whom it makes little or no difference whether the amount is $20,000 or $110,000. These growers will leave the program under any circumstances and attempt to compete elsewhere. I am, however, worried about the smaller growers who are the ones whose continued ability to compete is threatened. It might well be that those who are pushing for payment limitations because they are concerned about the increasing concentration of farming in the hands of large agribusinesses are the very ones who will accelerate this concentration by forcing the small grower out of business.

In short, unless we in Congress take a long look at the farm program in its entirety, we could well see the demise of our ability to produce so well at such a relatively low cost.

It is my deep desire that in these days of continued confusion, government by crisis, and the pressures of instant communications, we in Congress always make certain of the overall effect while we are rectifying a few special cases.

RECESSION CAN'T CURE INFLATION

Mr. HARTKE. Mr. President, the Consumer Price Index posted its 41st consecutive advance this May. This is the longest inflationary stretch in the 57 years the index has been compiled. Presidential statements that the administration's "game plan" is working obviously lack value.

In the July issue of Dun's, Mr. Max Shapiro argues that the policies pursued at present are doomed to failure and, what is worse, there is not the slightest sign that the administration is contemplating a policy change. The only thing that has been changed is that the target date for ending inflation has been moved to 1973.

The administration still pins its hopes for braking the soaring cost of living on a minirecession. Though it is inconceivable to me how the administration could be willing to tolerate an unemployment rate of 6 percent, Mr. Shapiro gives clear evidence to demonstrate that even a 6-percent rate of unemployment will be insufficient to halt inflation.

Nevertheless, inflation must be arrested. To do nothing is to stand by while the inflationary whirlwind increases in fury. In 1967, the cost of living rose 3.5 percent; in 1968, 4.7 percent; and in 1969 there was a 6-percent increase with no letup in sight.

Clearly what is needed is a new approach to the inflation problem, but first we must discard the inadequate thinking of the past. Mr. Shapiro's article goes a long way toward dispelling the shibboleths that seem to haunt administration policymakers.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RECESSION CAN'T CURE INFLATION

(By Max Shapiro)

"There is no cause for concern," President Herbert Hoover assured the nation a few weeks after the Great Crash of 1929. "Conditions are fundamentally sound."

With these soothing words, the Hoover Administration launched its ritualistic exercise in reassurance. In January 1930, Secretary of the Treasury Andrew Mellon announced a "revival of economic activity in the spring." And a few days later, Secretary of Commerce Robert R. Lamont told the country, "There are grounds for assuming that this is about a normal year."

By this time, the rot of Depression was spreading over the land. Thousands of farmers, unable to hold out until spring, abandoned their properties; in the cities, the breadlines lengthened. But as matters grew worse, government officials intensified their "confidence-restoring" efforts and promised that improvement was "just around the corner."

The Hoover Administration, it seemed, was bent on following the nostrums of Emile Coue, a French psychotherapist who wielded a considerable influence during the 1920s and early 1930s. According to Coue, patients could be cured by "positive autosuggestion" and by the constant repetition of the phrase, "Every day in every way, I am getting better and better." Until the full tide of events overwhelmed the country, Hoover and his aides continued to cling to the motion that good times would return if only people would have faith in their return.

Now, forty years later, in the midst of another economic crisis, the rites of reassurance have been revived. In a steady stream of "confidence-building" pronouncements over the past eighteen months, key members of the Nixon Administration have heralded the coming triumph over the nation's most crucial domestic problem: inflation.

At first, the public was given the impression that the Administration's "game plan" against soaring living costs would attain its objective in a short period of time. In April 1969, Herbert Stein, one of the President's most trusted economic advisers, asserted that "the underlying causes for inflation" were being stemmed. But the Consumer Price Index did not respond to Stein's optimism. It rose to new highs in April, May and June.

Undeterred, President Nixon in a message to Congress on June 20, 1969 said that the Administration's program of "fiscal responsibility and monetary restraint" would achieve results in several months. Once again, living costs vaulted to new levels in July, August and September—the "target date" President Nixon had set for visible "effects."

The next Hoover-like pronouncement came on August 11, 1969 from the University of Chicago's Milton Friedman, the President's most influential outside economic adviser. Said Friedman as he pushed ahead the day of victory once again: "We should not despair that the fight against inflation has not brought prices down. There is a considerable lead time between acts and results on prices." Friedman forecasts specifically that the rise in the Consumer Price Index would be slowed to an annual rate of about 4% by the end of 1969 and that it would be slowed still further in early 1970.

Then in November, Commerce Secretary Maurice Stans told DUN'S ("Can They Really Stop Inflation?" DUN'S, *December 1969*) that "by spring we will have a very perceptible decrease in the rate of inflation."

Events, of course, have made a mockery of all these Coué-like predictions. The rate of inflation has not fallen at all, but has persisted at an alarming 6% annual rate month after month. And final confirmation that the battle against inflation is far from won came in the "Economic Report of the President," published in February. The Report indicated that although some moderation of prices could be expected in 1970 and 1971, the fires of inflation would not be fully quenched before 1973.

The new "target date" of 1973, is, of course, a far cry from the original forecast for 1969. But a close reading of the Report reveals an even more disturbing fact: Despite the continuing failure of the anti-inflation program, there was nowhere evident in the 284-page document the slightest indication that a policy change was being considered.

And most disquieting of all is the fact that the Report's new projections on inflation for 1970–1972 have already proved inaccurate. In one section, the Council of Economic Advisers asserted: "With continued slow increase of GNP in the early months of 1970, the growth of real output would remain close to zero and there should be some decline in the rate of inflation." There has, of course, been no decline in the early months of 1970; instead, we have witnessed another increase. The regrettable conclusion is that we have received another spate of incantatory rhetoric that holds out the promise that things will get better—only to have them become worse.

THE GAME PLAN HAS FAILED

And there is a strong likelihood that matters will deteriorate even further. The Administration's game plan has failed—and will continue to fail—because it is rooted in a basic fallacy. The core of the program rests on the supposition that wages and prices will gradually come down in an economy characterized by a "moderate" amount of unemployment.

No exact unemployment rate has been projected, but on a number of occasions top Administration officials have indicated that "a 6% unemployment rate would not be tolerated," and while the Report does not explicity include a projected maximum rate of unemployment for 1970–1973, it clearly implies that it will lie somewhat under 6%.

The Administration rests its policy on the assumpiton that this rate and the resulting slide in profits will cool off our hot cost-push inflation. "Disinflation," according to the Economic Report, can be expected to develop in the following manner: "As profits per unit weakened, employers would become more resistant to granting wage increases. At the same time, a softening labor market would lessen workers' insistence on large wage increases. As a consequence, the average rate of wage increase would ultimately begin to diminish."

To expect such a deflationary process to occur while the unemployment rate is only 5% to 6% is to disregard a considerable amount of contrary empirical evidence. In each of the three postwar recession years (1949, 1958 and 1961), unemployment was higher than the rate the Administration projects for 1970–1972 (*see Table A*). Yet hourly wage rates and average weekly earnings rose each year. The average unemployment rate for the three periods came to 6½%. Yet hourly wage rates rose by 3.3%, and the average rise in weekly wages came to almost 4%.

Even more striking is the fact that wage rates in the United States have increased in every year since 1933—even during the Great Depression. The average unemployment rate for the 1934–1939 period, for example, was 18%. Yet weekly wages rose at an average annual rate of 7%. Moreover, these wage increases took place in an era of relatively weak unionism, of price stability and a time when the expectation of automatic wage hikes had not yet become a way of life.

If wages continued to rise under such dire economic conditions, how could they conceivably be held in check in today's business climate? The combination of inflation, an unemployment rate of under 6%, inordinately powerful labor unions and an ingrained expectation of automatic pay hikes virtually insures an upward spiral in labor costs. To expect labor to "diminish" its demands under such conditions is to engage in another exercise in Couéism.

Nor are the Administration's hopes for a significant lowering of prices likely to materialize. From time to time, marginal producers or retailers caught temporarily with surplus inventories may reduce prices, but such occurrences will be temporary and nonpervasive. For the most part, there will be a resistance to price reduction by business because: 1) wages will rise; 2) with wage costs increasing and production falling, executives will attempt to sustain vanishing profit margins by maintaining prices; 3) a growing number of businessmen will conclude—with good reason—that the present "disinflationary" efforts by government will be abandoned for political, social or economic reasons.

High prices will also be perpetuated by the growing purchasing power of government employees. The number of government workers (federal, local and state) has risen from approximately three million in 1929 to over twelve million in 1969. Today, over 16% of all salaried workers are employed in government. And the annual wages for these government employees have increased from about $5 billion in 1929 to $104.5 billion in 1969.

Wage boosts for government employees continued even in the recession years of 1949, 1958 and 1961. And in this slowdown year, federal employees have been given a substantial wage hike. Given the growing power of public employee unions, the salaries of government employees are sure to grow at an even greater rate in the years immediately ahead.

WAGE PUSH FROM THE SERVICE SECTOR

An almost parallel situation exists in the service industries. The wages of workers in the services have increased year by year during the past three decades and have gone up even during the recession years of 1949, 1958 and 1961. In 1949, total service salaries rose by $700 million; in 1958, by $2 billion; and in 1961, by $3.5 billion. Last year, the $88 billion received by service employees represented a 13% increase over 1968. This trend is almost certain to continue.

The mushrooming growth of purchases made via "time payments" will also sustain high living costs. In 1940, total consumer credit outstanding amounted to only $8 billion; by the end of 1969, it had skyrocketed to $122 billion. And the amount of goods bought "on the cuff" keeps rising year after year, even in slack periods. In each of the three recession years of 1949, 1958 and 1961, total consumer expenditures, fueled by expanding consumer credit, showed a sharp gain despite a 6% unemployment rate (*see Table B*). These increased expenditures were the chief underlying cause for the rise of living costs in 1958 and 1961. In 1949 there was a decline of less than 2% in the Consumer Price Index, which was brought about by a sudden worldwide collapse in farm prices. Had this unusual event not occurred, the Index would have reflected a substantial rise.

Increased consumer expenditures are likely to offset the slowing effects of a moderate unemployment rate, but expanded outlays by business will also propel inflation.

In previous periods of rising unemployment, although consumer and government expenditures increased, the business sector acted as a braking element by reducing its plant outlays (*see Table B*).

A reversal of this historic trend is about to occur this year. According to private and government surveys made late in 1969, corporations planned to increase expenditures for new plants in 1970 by about 10%, or $7.5 billion. Tight money conditions and a profit squeeze in some companies have lowered this estimate, but an increase of at least $6.5 billion is a minimum expectation. So while the major inflationary impetus will come from consumers, these increased expenditures by business will go far toward minimizing any deflationary trends that will develop.

BUSINESS IS BETTING ON INFLATION

Why is this reversal occurring? Because the business sector has little confidence that present deflationary efforts will succeed. Corporate officials are becoming increasingly convinced that an unemployment rate of 5% to 6% will not cool off inflation and that government officials cannot embark on a program that will raise unemployment substantially beyond that level.

The business community has concluded, moreover, that the Fed's tight money policies are fast being abandoned to meet the borrowing needs of both government and industry. Consequently, most businessmen reason that inflation will get even worse and it would therefore be foolish to hold back on capital expenditures, which will only be more costly later on.

All of this adds up to the strong likelihood that the Administration's game plan, based predominantly on a moderate rate of unemployment, will not meet its objectives. Neither prices nor wages will decline meaningfully.

What, then, are our alternatives? The Administration could embark on a program that would bring about a 10%–12% unemployment rate. This would cause a depression and prices would fall. But such a program would be intolerable. Our nation, already rent by dissention, would be ripped apart by a government-induced massive depression.

Another alternative—the most likely one—would be to drift along with the game plan in the hope that the situation will not get out of hand. But this would be courting the whirlwind. A continuing inflation is like a cyclone. At first there is a mild disturbance. Next, the wind intensifies and then dies down a little. For a while it seems as if the gathering storm will blow itself out. Then suddenly, with deathlike swiftness, the cyclone strikes, smashing everything in its way.

We are now in the precyclonic stage. In order to grasp fully how dangerous and insidious inflation has become, we need only put the current situation into historic perspective. In April 1970, the Consumer Price Index posted its fortieth consecutive monthly advance. Unbroken since January 1967, this string of month-to-month advances is, by far, the longest in the 57-year history of the Index. In the 54 years from January 1913 through December 1966, there were only eleven cycles in which consecutive rises in living costs went beyond six months. The longest interval, created by the vast inflationary pressures of World War II, lasted 22 months and was only brought to an end by wage and price controls. But the average cycle of consecutive monthly rises lasted only four months, or only one-tenth the duration of the present span.

Moreover, the wind has ominously begun to pick up force. In 1967 the increase in the cost of living amounted to 3.5%, in 1968 it was 4.7%, and in 1969 just under 6%. During the first four months of 1970, the gain gradually crept beyond 6%.

This alarming situation has brought forth calls for some kind of an incomes policy from such leaders of the business establishment as Chairman Thomas J. Watson of IBM and Chairman David Rockefeller of The Chase Manhattan Bank. And even Federal Reserve Chairman Arthur Burns, a long-time critic of even indirect government intervention in the wage-price process, has begun to change his mind.

While an incomes or guideposts policy might have a temporary effect, the hour is already too late for such half-way measures. We must pass quickly from a failing policy, whose defects are obscured by beguiling assurances, to action that meets the problem head-on. That action—undesirable and unwelcome in a free society—is the adoption of mandatory wage and price controls. At this point, we have no other acceptable alternative.

Controls open a hornet's nest; they are onerous, difficult to administer and present all sorts of problems in implementation. But it is better to have controls than to have the destruction that a continuing inflation is bound to cause. It is no longer a matter of choices; it is a matter of survival.

TABLE A

[In percent]

Year	Unemployment rate	Percentage rise in hourly wage rates	Percentage rise in average weekly earnings
1949	5.9	+4	+2½
1958	6.8	+3	+2½
1961	6.7	+3	+6

TABLE B

[Dollars in billions]

Year	Unemployment rate (percent)	Change in consumer price index (percent)	Change in consumer expenditures	Change in Government expenditures	Change in new plant expenditures
1949	5.9	−2	+$3.2	+$8.8	−$2.3
1958	6.8	+2	+9.8	+12.3	−4.1
1961	6.7	+1	+10.0	+12.9	−0.69

OIL IMPORTS

Mr. HANSEN. Mr. President, a committee of the other body has tentatively approved an amendment to a trade bill that will help insure this Nation's self-sufficiency in oil, our most vital and important source of energy.

In voting to amend the national security clause of the Trade Expansion Act upon which the mandatory oil import program is based, the committee wisely froze the program into a quota system.

President Nixon had also wisely refused to implement a tariff plan recommended by a task force he had appointed to study the problem of mounting imports and applications for further exemptions and exceptions to the program.

But the advocates of more and more cheap foreign oil kept up the drum beat.

Within the last few weeks, and after additional import allocations were made for heating oil for New England, my good friends and colleagues from that area contended that the 40,000 barrels per day increase was merely a "drop in the bucket" and they needed much more.

But now I detect a sudden silence. The drums are stilled. Why?

Well, almost overnight that cheap foreign oil became more expensive than our own.

Mr. President, for the past several months several of us have been attempting to warn the Senate of the dangers inherent in becoming overly dependent upon imported oil.

In answer to those who demanded more cheap foreign oil, we have warned that this oil would remain cheap only as long as we were not dependent on it.

The chickens have now come home to roost, and that cheap oil delivered to our east and west coasts is now priced higher than the delivered price of our own domestic crude.

We have repeatedly pointed to the explosive situation in the Middle East and North Africa and the dangers of dependence on oil from that area. Western Europe and Japan are almost entirely dependent on oil from those sources and are now suffering the consequences.

In order that Senators may fully understand the background and series of events that led up to this dilemma and the implications, I ask unanimous consent that an article published in the Wall Street Journal of July 15 and an editorial from the Oil and Gas Journal of July 13 be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SOARING TANKER RATES DAMP OIL IMPORTS AND MAY FORCE U.S. GASOLINE PRICES UP

Motorists in the U.S. and Western Europe may soon be paying more for gasoline because a pipeline closedown in Syria and forced production cutbacks in Libya have sent oil tanker charter rates zooming to near records.

The tanker charges, which have doubled since April and quadrupled since this time last year, have bloated the delivered cost of Middle Eastern and African crude oil at U.S. East Coast refineries to 75 cents a barrel higher than the cost of delivered U.S. oil.

Normally the price edge is on the other side. The imported crude usually costs $1.45 a barrel less than U.S. oil.

As might be expected, the price distortion has sharply reduced U.S. imports of foreign oil. And it has narrowed the profit outlook for some inland refiners who customarily obtain a windfall by trading off their oil import "tickets."

But it has sharply raised the profit outlook for such independent ship owners as Aristotle Onassis and Stavros Niarchos of Greece and Daniel K. Ludwig of the U.S., operators of the world's largest private tanker fleets.

The impact is mirrored in domestic production plans. The Texas Railroad Commission, that state's oil regulatory agency, is expected today to raise sharply the amount of oil that Texas wells will be allowed to produce next month.

Louisiana's oil regulatory body, the Conservation Department, has already acted to open up the August flow. Last Friday it announced that the August per-well oil production rate will be the highest since the Suez Canal crisis snuffed off the flow of foreign oil in 1956.

Canada, too, is rushing in more crude. U.S. imports from Canada in the first week of July ran at nearly double the year-earlier rate.

PIPELINE RUPTURE

This latest oil crisis had its beginnings May 3, when a bulldozer under mysterious circumstances rammed into the Trans Arabian Pipe Line in Syria, knocking out the line, which normally carries about 475,000 barrels of oil a day from Saudi Arabian fields to the Mediterranean port of Sidon, Lebanon.

The line carried only about one-sixth of the oil output of Arabian American Oil Co., which is owned 30% each by Standard Oil Co. of California, Texaco Inc. and Standard Oil Co. (New Jersey) and 10% by Mobil Oil Corp. But this was oil that was close to Europe, only a short tanker's run away from Continental refiners.

Fixing the line would be simple enough, company officials asserted in New York. A spokesman said the job could be done "in about 24 hours." But so far, he stated, the Syrian government has adamantly refused to allow company technicians to do any repair work, and the line still sits idle.

Though Arabian American Oil officials are loathe to speculate about Syria's refusal, other Middle East specialists view the government stand as another ploy in the Arab-Israeli war. The line had often been attacked in the past by Arab guerrillas; one section of it goes through the Israeli-occupied Golan Heights. Evidently, by the analysis of some Middle East sources, Syria hopes to pressure the U.S., through the oil companies, to cut off Israeli aid.

Syria, though, was only the starting point for the current oil crisis. Libya has compounded the woes in the past month by ordering seven producers in that country to slash their output some 550,000 barrels a day, or about 15% of Libya's total output. Companies hit there are Occidental Petroleum Corp., Continental Oil Co., Marathon Oil Co., Amerada Hess Corp., the Royal Dutch-Shell Group, Texaco and California Standard.

The issue, by Libyan government account, is conservation. But some oil experts, see this, too, as a ploy, not in the war with Israel but in the war with the oil companies over tax payments.

Europe, as the Middle East's most immediate customer, has made up some of the almost one million barrels a day lost in Syria and Lybia by shortstopping oil from Libya and Nigeria that normally would have gone to the U.S.

But Europe has had to do most of its emergency shopping in the Persian Gulf, and therein lies the cause of the tanker rate surge. Because the Suez Canal remains closed by the Arab-Israeli war, all Persian Gulf oil destined for Europe must take the long-trek around Africa, a six-times-longer journey than the voyage across the Mediterranean from Lebanon to Europe.

The resulting sudden jump in tanker demand has quickly eliminated what had been a traditional summer surplus. And it has sent spot charter rates for a single voyage soaring close to levels prevalent during the Suez crisis of 1956. They are more than half again higher than during the six-day Arab-Israeli war of 1967.

The cost of moving a barrel of oil from the Persian Gulf to the U.S. East Coast has skyrocketed to about $3.25 a barrel; the oil itself in the Persion Gulf area costs only $1.25 a barrel, producing a total cost in the U.S. of about $4.50 a barrel. A barrel of crude oil from Louisiana, by contrast, costs only $3.75 delivered to an East Coast refiner, or 75 cents less.

On the West Coast, too, "Persion Gulf crude is quite a bit more costly than California crude," a California Standard spokesman says.

PEDDLING IMPORT "TICKETS"

The effect of the high tanker rates has been to render temporarily worthless a "ticket" to import foreign oil. In normal times, inland refineries, which are too far from ports to economically utilize foreign oil, work out exchange agreements with East Coast refiners. They deliver low-cost foreign oil to the East Coast refinery in exchange for receiving an equal amount of high-cost domestic oil at the inland refinery. The value of this swap can be a windfall as high as $1.75 a barrel to the inland refiner.

This gain "often means the difference between a profit and loss" for an inland refiner, said one oil executive. And the smaller the refinery, the greater the impact, under a so-called "sliding scale" that provides quotas of up to 40% of a small refinery's total crude oil processing rate, compared with a big-refinery average of only about 7%.

J. Avery Rush, president of Diamond Shamrock Corp.'s oil and gas unit, said in Amarillo, Texas, his company was having increased difficulty arranging trades for about half its second half oil import quota of about 4,000 barrels a day. "The amount of our quota which we haven't placed yet is large enough for us to be concerned" about its potential effect on second half earnings, he said.

Clark Oil & Refining Co., Milwaukee, said "everything is still up in the air" in its efforts to work out exchange agreements for its second half quotas.

SEEKING TO EXTEND QUOTAS

"A number of companies holding unused tickets are likely to be hot-footing it to Washington in the next few weeks to seek an extension of their quotas," one oil executive said. The quotas are due to expire Dec. 31. During the 1967 world oil supply crisis, however, the Government permitted unused quotas to be used during the following two years.

Some inland companies also have protected themselves against the present situation with long-term exchange agreements. American Petrofina Inc., controlled by Petrofina S.A. of Brussels, said in Dallas it made "most of our deals on a full-year basis" good until next Jan. 1, so it doesn't expect to be hit too hard by the current difficulties.

As the foreign crude costs mounts ever higher, meantime, the big international oil companies continue to cut back on their use of foreign oil at U.S. refineries. "East Coast crude oil imports could fall to as little as 300,000 barrels a day from a normal level about 700,000 barrels daily," one major company predicted. Total U.S. imports of foreign oil other than that from Canada fell to 520,000 barrels a day in the week ended July 3 from 850,000 barrels daily a year earlier, the American Petroleum Institute said.

In the same period, imports of Canadian oil jumped to 609,000 barrels daily from 316,000 barrels a day a year earlier. This was despite the fact that Canadian oil was placed under an official U.S. quota for the first time July 1, limiting imports to an average of 395,000 barrels a day for the last six months of the year. "Companies are borrowing from future quotas to boost Canadian imports now at the expense of November or December," one oilman declared.

Some oilmen were hopeful the U.S. Government could be persuaded to ease restrictions on Canadian oil. Ashland Oil Inc. said in Ashland, Ky., it hopes the Government will foresee the possibility of a U.S. crude oil shortage and allow freer access to Canadian crude.

Watching Washington

(By Gene Kinney)

LOOK WHO'S IN FAVOR OF RESTRICTING IMPORTS NOW

Events have a way of confounding policy-makers and would-be policy-makers, and nowhere is this more evident today than in oil-import controls.

New England consumers and politicians still look to increased imports under a tariff system as the key to lower product prices. But the tide seems to be turning against the tariff scheme recommended by the Cabinet Task Force on Oil Import Controls. This despite the fact that the chairman of the President's Oil Policy Committee and the chief White House aide on the subject are still in the tariff camp.

There are two main reasons for changing attitudes. One is the growing problem of energy supply, now properly considered a crisis.

It has brought home the folly of some past policies—premature reliance on atomic energy at the expense of coal, and restriction of natural-gas prices until supply has dried up.

The other reason is the dangerous situation in the Middle East. Arab-Israeli tensions and government-industry conflicts make insecure sources seem still less certain.

Together, these developments have had a sobering effect on public officials. The need to encourage development of domestic energy sources sticks out more obviously than ever.

In the present tight tanker market, advocates of imports as a means of breaking U.S. prices are getting an education. Past imports of No. 2 oil haven't lowered prices. The grant of 40,000 b/d in regular quotas to terminal operators probably won't either. Indeed, these terminal operators may have trouble finding a foreign supply this winter—especially at cut-rate prices they were expecting.

And, who would ever believe that the delivered cost of foreign oil on the East Coast would exceed domestic prices? But that's the present situation, lending weight to the arguments of those who say cheap foreign oil will remain cheap only so long as we don't have to depend on it.

In this atmosphere, the key staff members who wrote the task-force report have taken pains to tell petroleum economists privately that they have been badly misunderstood. Professors Phillip Areeda and James McKie stress the report's finding that imports should be limited to protect national security—although their first proposal was for unlimited imports. And drive prices down? They favored no such thing, despite clear language in the report to the contrary. Would they support an increase in domestic prices to $4/bbl if necessary to develop reserves? Why, yes.

As we say, events have a way of confounding policy-makers, and to an even greater extent, would-be policy-makers.

WALTER HELLER CRITICIZES NIXONIAN HANDS-OFF POLICY IN THE WAGE-PRICE FIELD

Mr. PROXMIRE. Mr. President, yesterday the Joint Economic Committee heard from three eminent economists—Walter Heller, Robert Solow, and Raymond Saulnier. One of the most important comments about the administration's attitude toward an incomes policy or wage-price guidelines was given by Mr. Heller in his statement.

While he welcomed the establishment of the Productivity Commission and the price watchdog committee, Mr. Heller expressed great concern that the inflation alert is to be administered by those who do not believe in guidance, leadership, and intervention in the wage-price process.

Mr. Heller also points out that very important international observers; namely those at the OECD, at the IMF, and other bodies have expressed a similar concern.

I ask unanimous consent that that part of his statement on this subject be printed in full in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Remarks of Walter Heller Before the Joint Economic Committee July 16, 1970, on Wage-Price Guidelines

First, I should note that I welcome the in-house price watch-dog committee that the President has set up. Also, I hope that the Productivity Commission will do some good in the long run, and I am glad that the Council of Economic Advisers is going to give us an inflation alert from time to time. All of this adds up to a recognition of the facets of the inflation problem that the Nixon Administration had previously ignored or neglected, and this is all to the good.

But I am concerned that the inflation alert is being administered by economists who are declared disbelievers in government guidance, leadership, and intervention in the wage-price process. Being first-rate economists and dedicated public servants, they will do their job in a responsible way. But unless the National Commission on Productivity "takes it from there" and expresses public outrage over things like that 13% truckers' settlement or unwarranted price boosts (and the composition of the Commission is almost an irony-clad guarantee against such a development), there is simply going to be little or no moral restraint, no effective self-restraint, in the wage-price field.

A considerable part of the trouble stems from the surprisingly dogmatic, almost theological, Nixonian adherence to a hands-off policy in the wage-price field—a policy that delights labor, pleases business, puzzles the financial community both here and abroad, and shortchanges the public. Lest that strikes you as a partisan comment, let me recall that important international observers in the OECD, IMF, Bank for International Settlements, and other bodies, have made pointed statements urging the United States to adopt a meaningful incomes policy. *Fortune* magazine, and more recently *Business Week*, have devoted pointed editorials to the same end. Why should government intervention in the trucking settlement have been confined to the mediation service, with its approach of "peace at any price level"?

Direct intervention and leadership—not a straightjacket of mandatory controls—is needed to flank appropriate fiscal and monetary policies for stabilization.

A TIME OF GLOOM FOR AMERICAN PRISONERS OF WAR

Mr. SAXBE. Mr. President, dismal weeks of rain and heat have closed in on North Vietnam, making existence even more uncomfortable for those Americans being held prisoner by the Communist North Vietnamese Government.

Spirits already weakened by up to 5 or 6 years of imprisonment are being further dampened by the gloom of the weather, and the apparent hopelessness of their grim situation.

For the families of these men this is a time of deep sorrow and frustration. Although their wives have attempted to keep up the appearance of cheerfulness for the sake of their children, we know how deep is their anguish—not only in the knowledge that their husbands are prisoners but also at the fact they do not have any accurate or recent information as to the conditions under which they are being held. They do not know, for instance, whether their men are well or wounded, whether they are starving or fed, whether they are ill-treated or not. Some do not know even whether the men are alive or dead.

I say again that we must do all in our capability at every turn to induce the North Vietnamese Government to treat the men in a more humane manner and to abide by the Geneva Convention on prisoners of war. We must make these efforts both as elected officials and in our capacity as private citizens. We cannot rest until the lot of these prisoners is made easier, and until their families can learn their whereabouts and their condition from the men themselves.

CASPER W. WEINBERGER, BUDGET OVERSEER

Mr. MURPHY. Mr. President, the Washington Evening Star of last evening, July 16, contains an article about President Nixon's new budget overseer, Casper W. Weinberger, who acknowledged yesterday that he will be seeking to balance the 1972 fiscal budget, which is being prepared now.

Cap Weinberger, who is the top budget man at the White House, is an extremely capable, practical, and talented economist in the true sense of the word. I am sure if there is anyone who can balance the next fiscal budget, Cap Weinberger is the man.

I ask unanimous consent that the article to which I am referring, written by Paul Hope, Star staff writer, be printed in the Record. I sincerely hope that it will be widely read. It is the most refreshing and practical statement that I have read since I came to Washington 6 years ago.

I take great pride that Cap Weinberger is not only a constituent, but a long respected friend. I congratulate him most sincerely.

There being no objection, the article was ordered to be printed in the Record, as follows:

Weinberger Gives Views: He's Not for Pump-Priming

(By Paul Hope)

Star Staff Writer

President Nixon's new budget overseer, Caspar W. Weinberger, came off today as a non-pump-priming low-tax, balanced-budget man.

Weinberger acknowledged at a breakfast meeting that some of his views may seem heretical under modern theories that the budget should be used to influence the economy, but he is not convinced that means he's wrong.

Weinberger, a lawyer, became top budget man in a White House shift that sent former Secretary of Labor George P. Shultz to a new post, director of the Office of Management and Budget, and moved former Federal Trade Commission Chairman Weinberger in as Shultz's deputy, with primary responsibility for the budget.

He disputed statements made by some economists that a budget deficit would be a good thing now to reverse the economic downturn.

"I don't think deficits help anybody. The federal budget should be managed like any other budget. We should live within our income and let other forces manage the economy," Weinberger said.

"We shouldn't deliberately court a deficit to influence the economy. It might work for a year or two but in the long run you really pay the piper. You can do it for a while and hope to get out of office before you have to take a wheelbarrow full of money to the grocery store."

Under the Keynesian theory of economics, the federal budget should be used to "prime the pump" in times of economic downturns by pouring money into the economy.

One reporter commented that Weinberger is not an economist and that his views are almost "heretical" in these times.

"I'm not concerned that they are heretical," Weinberger smiled, "but I'd be concerned if they are wrong." He clearly didn't think so.

He hastened to add, though, that he was offering his own views and not necessarily those of anyone else in the administration.

He is in favor of making every attempt to balance the fiscal 1972 budget, which is being prepared now. There has been speculation that unless expenditures are cut or revenues increased, the deficit could run to $15 billion to $20 billion.

"I don't know if we can succeed, but the try ought to be made. We should use the same Puritan ethic to balance the federal budget as you do your own," he said.

He said he would favor an increase in taxes only as a last resort to balance the budget indicating he expects to use some heavy pruning shears on the expenditure side.

In a discussion of taxes and the return to a peacetime economy once the war in Vietnam is over, Weinberger said if there is a "peace dividend" one of the things that should be given serious consideration is lowering taxes.

"I don't think there is any requirement that we spend $200 billion a year. Taxes ought to be based on needs. I don't think there should be a feeling that we need to develop programs to keep taxes high.

"One of the goals should be to have as many decisions left to the individual as possible. The more the government spends for him, the fewer decisions he has left to make. I believe there is a tremendous philosophic need for government spending to be held down."

He said some system needs to be devised in Congress to give Senators and House Members a better over-all view of the budget.

"There is no way for Congress to see the whole picture. There is no machine adding up the total, with lights flashing. They should know the results of each action. It would produce a better result if they could know the result from each specific vote."

PRESIDENTIAL ACCESS

Weinberger also said the President needs more access to specific information.

He suggested establishment in the White House of a "domestic situation room" similar to that run by Henry A. Kissinger on the foreign side. He said a lot of the government's capability to produce more specific information is not being used.

On the political front, Weinberger, who was Republican party chairman in California in 1961–62 and was California finance director before he came to Washington, tried to knock down reports that California Gov. Ronald Reagan is interested in the presidency in 1972.

"I don't think he ever really had the presidential bug. I have heard him say many times he is supporting Nixon for renomination. I don't think he has any intention of seeking the nomination. He is as good a party man as anyone I know. I don't think he would do anything to interfere with Republican unity."

WCBS–TV EDITORIAL BACKS GOODELL-PROXMIRE AMENDMENT FOR ANNUAL MILITARY EXPENDITURES REPORT

Mr. PROXMIRE. Mr. President, in an editorial entitled "Defense Watchdogs" WCBS–TV in New York City has supported the amendment the Senator from New York (Mr. GOODELL) and I have introduced calling for an annual report on military expenditures from the President.

In our amendment we ask for the President to supply the projected military budget costs for 5 years, the specific costs of the war in Southeast Asia, and the short-term effects military spending will have on individual communities.

With the local disruption which a long overdue cut in military spending will bring, we believe our amendment is both sensible and long overdue.

As the editorial states:

> We can't expect Congress to control military spending if it doesn't understand the costs involved.

I ask unanimous consent that the editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WCBS–TV EDITORIAL—DEFENSE WATCHDOGS, JULY 10, 1970

Most of us know someone who has bought a bad bargain, who has gotten in over his head. Maybe in a foolish moment, that someone bought a used luxury car, something that seemed to be a bargain at first, but later proved to be a financial disaster.

And what so many have learned so painfully is this: the true cost of an item cannot be reckoned in terms of the downpayment, even the total purchase price. The true cost of a big car must be reckoned in the total cost of maintenance and operation: how much gasoline it burns; how much it costs to repair power windows that break down.

Now Congress is beginning to recognize these financial facts of life, too. Some legislative leaders have begun to realize that Congress puts itself in the position of a yokel in a used-car lot when it goes about buying billions of dollars worth of weapons systems. For, in fact, Congressmen do not have all the facts at their command when they agree to buy billions of dollars worth of new ships, missiles and planes. They can only guess at how much these new weapons will cost in the long run. They can only guess at the total purchase price, which at times exceeds estimates by billions of dollars. They can only guess at operating and maintenance costs, which can exceed the purchase price within a decade.

Now, obviously, to make a rational decision about whether to vote for or against a weapons system, a Congressman needs reliable information about the total purchase price, and the costs of maintenance and operation.

An amendment now before the Senate would go a long way toward doing that. The measure is sponsored by Senator William Proxmire, Democrat of Wisconsin, and Senator Charles Goodell, Republican of New York. It would require the President to give Congress an annual report on military expenditures that would project defense costs over a five-year period. Among other things, the amendment would also require the President to relate the level of future defense spending to the economy as a whole, revealing what steps would be taken to ease unemployment from defense cutbacks.

On the whole, we think the Goodell-Proxmire amendment is a useful one, one that merits approval. We can't expect Congress to control military spending if it doesn't understand the costs involved.

PRIVATE DATA IN PUBLIC FILES

Mr. MATHIAS. Mr. President, one of modern man's most frequent and frustrating battles is his fight to keep personal information to himself. Every citizen who has ever opened a charge account, applied for a loan, bought a house, served in the Armed Forces, worked for the Government, or come into contact with a law-enforcement agency knows that the private information which he may keep in a strongbox is also stored in the maw of some computer over which he has virtually no control. He does not know who has access to this very personal data, when, or for what purposes. Often he does not even know what is there, and whether it is accurate, in fact or implication.

As Tom Wicker pointed out in a perceptive column published in the New York Times of July 7, the problem of controlling computers is especially challenging and urgent where criminal justice data is involved. The record of an arrest, for instance, may find its way into the files of a dozen Federal and State law-enforcement agencies and follow an individual around for years, although the individual may have been released immediately after the arrest and never actually charged, much less found guilty of any crime. A case now pending in the District of Columbia hinges on the propriety of maintaining FBI files on just such an incident.

Obviously we need clear and consistent rules to protect individuals by controlling the types of information to be stored, the uses to be made of it, and the extent to which it should be disseminated. Such regulations are especially urgent because we are rapidly moving toward the creation of what Mr. Wicker called "an ominous national network" of computers. In fiscal 1969 alone, the Law Enforcement Assistance Administration made grants under the Safe Streets Act totaling almost $1 million to a total of 11 States for the development and testing of various types of computerized criminal justice data and intelligence networks. As this work proceeds, we must be sure that the legitimate needs of law enforcement are balanced by recognition and protection of the rights of the individuals.

In 1967, while a member of the House Committee on the Judiciary, I proposed an amendment to the original version of the Safe Streets Act which would have required the Department of Justice to submit to Congress a confidential annual report detailing the types of automated data processing systems being used or developed, the volume of personal information contained in them, and the safeguards being employed to limit access to this data, insure that all information was accurate, and generally protect individual rights. Unfortunately this amendment was not included in the 1968 act, which required only a very general annual report on activities under the Safe Streets Act.

Mr. President, I intend to renew this effort to secure for Congress the basic information which we need in order to control computers and protect American citizens. As a first step, I am today asking the Administrator of LEAA for a full report to me on all criminal justice data systems which have received LEAA funding, the volume and types of information involved, and the regulations, if any, governing access, sharing of information, updating, and general accuracy.

I am also asking the Attorney General for a similar report on each of the criminal justice data systems operated by agencies in the Department of Justice other than LEAA.

On the basis of this preliminary information, I will be exploring the types of legislative controls which are necessary to promote both efficient law enforcement and effective protection of individual rights.

I ask unanimous consent to have printed in the RECORD the column, "In the Nation: A Right Not To Be Data-Banked?" published in the New York Times of July 7.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN THE NATION: A RIGHT NOT TO BE DATA-BANKED?

(By Tom Wicker)

WASHINGTON, July 6.—Do you have a right not to be stored in a computer, where you can be called up for instant investigation by any bureaucrat or law officer who considers you a "person of interest" or who may want to provide someone else—maybe your employer—with "facts" about you? If you haven't thought about that, it's high time you did.

Ben A. Franklin detailed in The New York Times of June 28, for example, how Government "data banks" are mushrooming out of computer wizardry. Literally hundreds of thousands of individual dossiers now are being stored on tape by various agencies. The tape can be fed to computers with instant recall; and the computers and tapes can be interconnected from one agency or region to another in an ominous national network. Numerous state agencies have easy access to the material in this computer network, and are under little or no pressure to keep it confidential.

At the very least, therefore, some guidelines on the compilation of these banks and some safeguards on disseminating the material appear in order. An interesting case pending in Federal court here (*Menard v. Mitchell and Hoover*) may help provide them.

A Maryland man was arrested in California in 1965 on suspicion of burglary, held for two days, then released when police found no basis for charging him with a crime. Subsequently, a brief record of the detention, together with the Maryland man's fingerprints, appeared in F.B.I. criminal files.

Maintaining that the record is misleading and incomplete and that it is not properly a "criminal record," the Maryland man moved in Federal District Court here to have it purged from the F.B.I. files.

COURT CONCERN INDICATED

The court denied this motion, and the man appealed. On June 19, the Court of Appeals for the District of Columbia, while finding no fault with the district court's ruling on the motion, ordered the case remanded for trial and "more complete factual development." The supporting opinion, although limited to the case, suggests the circuit court's concern about what ought to go into Government files, under what rules, and whether proper safeguards surround its dissemination.

The judges (Bazelon, McGowan and Robinson) pointed out that the fact that the police had been "unable to connect" the Maryland man with a crime did not necessarily acquit him of having committed one, and they conceded that certain arrests not followed by a charge or a conviction might be a proper part of someone's criminal record. But, they asked, did the mere fact that a man had been picked up and held for two days justify the F.B.I. in retaining the record in its criminal identification files?

An arrest record (the distinction between a "detention" and an "arrest" is considerably less than a difference) can be terribly damaging to one's opportunities for schooling, employment, advancement, professional licensing; it may lead to subsequent arrests on suspicion, damage the credibility of witnesses and defendants, or be used by judges in determining how severely to sentence. Moreover, thousands of arrests are made every year without any further action against the arrested person, usually for lack of evidence.

DISSEMINATION ISSUE

Thus, the court asked, if a person is arrested, even properly, but no probable cause for charging him is developed, should he "be subject to continuing punishment by adverse use of his 'criminal record' "?

This has particular point because of the lack of established safeguards on dissemination. The Maryland man's record, for instance, could be made available by statutory authority to "authorized officials of the Federal Government, the states, cities, and penal and other institutions" and also, by an Attorney General's regulation, to government agencies in general, most banks, insurance companies, and railroad police.

When New York recently passed a law requiring employes of securities firms to be fingerprinted, several hundred were dismissed for "criminal records," but about half of them had only arrests, not convictions, on their records. The Appeals Court, noting this, reasoned that F.B.I. records had been passed directly to the securities firms involved.

As data banks proliferate, so will the indiscriminate use of the material they contain. And that raises the question whether an American citizen has a constitutional or legal right *not* to be data-banked, computerized, stored, exchanged and possibly damaged—materially or in reputation—by the process.

THE INCREASE OF CRIME

Mr. HANSEN. Mr. President, during much of the discussion which took place yesterday on the conference report for the District of Columbia Court Reform and Criminal Procedure Act of 1970, I was in the chair as the Presiding Officer.

I was impressed by the statements which were presented, and I intend to support the conference report.

During 1969, some 56,000 felonies were reported in the District of Columbia. The number of felonies reported in the District has risen 122 percent over the past 5 years.

It has become a way of life for those of us who live in the District to avoid whenever possible, venturing out on the streets at night.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the District of Columbia crime report, published in the Washington Post this morning.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WOMAN CHARGED IN MAN'S SLAYING

A 48-year-old Washington man found Tuesday night in his apartment with a gunshot wound in his head died yesterday, police reported.

The resident manager of the apartment house, at 1334 Fairmont Street NW, told police he discovered the victim, T. C. Thomas, about 9:20 p.m. Thomas was pronounced dead at Washington Hospital Center at 3:45 a.m. Thursday.

Police arrested Macie Lee Parks, 50, of 5574 B St. SE, at the apartment, and charged her with homicide.

In other serious crimes reported by area police up to 6 p.m. yesterday:

ROBBED

DeWitt Moore Jr., of Washington, a driver for the Canada Dry Co., of Silver Spring, was held up about 2:20 p.m. Wednesday at 46th Street and Hunt Place NE by two men with revolvers. "Give us the money," ordered one. Moore told them the cash was in the safe and he did not have a key to unlock it. The men removed his wallet and fled east on Jay Street.

Paul Daniel Danish, of Washington, was beaten and robbed about 11:10 p.m. Wednesday by six men who attacked him at 3d and C Streets NE. The men surrounded Danish, knocked him to the ground and fled with the money from his wallet.

Ahmad Batouir, of Washington, was held up about 2:50 p.m. Wednesday by two young men who attacked him from behind in the 1800 block of Kendall Street NE. The men, both displaying revolvers, threatened, "Give us all your money or we'll kill you." One of them took the bills from one of Batouir's pockets while his partner removed a change purse from another pocket and the pair drove east on Capitol Avenue in a black car.

Oliver W. Johnson, of Washington, was beaten and robbed by two youths in the 100 block of 18th Street SE. The two hit him until he fell to the ground and took his wallet and keys.

Lucille E. Brown and Edna Mae Thorton, both of Washington, were held up about 11:30 p.m. Wednesday by two men, one wielding a revolver, near their apartment building in the 5000 block of 1st Street NW. "All right. Give it to me," the gunman demanded. His companion took their pocketbooks.

Donald Major, of Washington, was beaten and robbed shortly after midnight Wednesday by two youths who approached him from behind at 19th and East Capitol Streets NE. One struck him over the head with an unidentified object, threatened him and demanded his money. After taking his wallet, the pair ran south on 19th Street.

James A. Thomas, of Washington, was beaten and robbed about 7:25 p.m. Wednesday by two youths on 16th Street NE between Gales and Rosedale Streets near his home. The youths forced Thomas into an alley where he began struggling with one of them. The youth drew a gun and knocked Thomas to the ground. The other youth took a six-pack of beer and a large amount of bills and change.

Caroline Allen, of Washington, was beaten and robbed about 9:45 p.m. Wednesday by two youths in the 500 block of Valley Avenue SE. One of them struck her over the head while the other one forced her to release her pocketbook.

Greta Renee Graham, of Washington, was held up about 5:20 p.m. Wednesday inside the Woodward & Lothrop store in the 1000 block of F Street NW by two youths. One drew a long-bladed knife and warned, "Be quiet." The other youth grabbed her pocketbook, removed her wallet and tossed the purse to the ground. The pair then ran up the stairs.

William Brockington, of Washington, was held up about 12:35 p.m. Wednesday while he was parked in his car at the corner of 24th and Douglas Streets NE by two young men. One held a pistol at Brockington's head and said "Give it up." Brockington handed a large amount of money to the gunman, who warned, "Do not turn around for five minutes," and escaped with his partner in a bronze car.

Allen B. Wilson, of Washington, was beaten and held up about 4:30 p.m. Wednesday at 46th Street and Sheriff Road NE by two youths who asked if he had any money. When Wilson said he did not, one of the youths grabbed his arms and the other hit him. The pair took the money from Wilson's pockets.

William O. Hickey, of Glen Burnie, was held up shortly after 3 p.m. Wednesday by a youth who approached him in his truck at North Capitol and O Streets NW. He entered the passenger's side of the truck and ordered Hickey to drive to New York Avenue. The youth then drew a gun and forced the driver to hand over his watch, money and diamond ring. The gunman forced Hickey to stop and pick up a second youth, then fired one shot, which missed, and fled.

Mary Linder, of Canton, Ohio, was robbed by two men about 6:30 p.m. Wednesday as she was getting out of her car in the 700 block of Monroe Street NE. One man grabbed Miss Linder by the neck while the other one took her pocketbook.

Johnnie Johnson, of Washington, a driver for the Good Humor Co., was held up about 9:30 p.m. Wednesday while he was vending at 17th Street and Potomac Avenue SE. A young man approached Johnson and asked for some ice cream. As he was filling the order, another man, displaying a gun, told him, "This is a stickup." The pair took Johnson's money and fled west in the 1600 block of Potomac Avenue.

Wilbert Ross, of 460 N St. NW., was held up about 7:15 a.m. by two men who opened his apartment door and demanded, "Where's the money?" One showed Ross the revolver in his coat pocket, searched his pockets and took his watch and money. "You come out and we will blow you away," the pair threatened, and fled.

Matt's Liquor Store, 3203 Naylor Road, Silver Hill, was robbed about 6:40 a.m. yesterday of an undetermined amount of money by a man armed with a .45 caliber automatic who walked behind the counter and demanded the cash from the register.

Edwin Marshall, of Washington, was held up about 9:45 a.m. Tuesday by a man wielding a gun who approached him in a parking lot in the 6500 block of Chillum Pl. NW, and ordered him to face the wall of the adjacent building. The gunman frisked Marshall, took the money from his pockets and fled toward the railroad tracks.

Tower of Pizza, 2916 Nichols Ave. SE, was held up by two men who entered the shop Tuesday night. One of them, displaying a gun, told the owner, "Give me the money and put it in a paper bag." The pair escaped in an alley beside the shop.

Pauline Ellis, of Washington, was beaten and robbed shortly after 8 p.m. Tuesday by two youths who attacked her in the 600 block of Condon Terrace SE. After knocking her to the ground, the assailants took her pocketbook and fled into the 400 block of Atlantic Street NE.

Murry's Steaks, 4019 South Capitol St. SW, was held up about 9:15 p.m. Tuesday by two youths who ordered a steak sandwich. One of them pointed a pistol at the clerk while his companion opened the cash register and scooped out the money. The pair then ran out of the store.

William Violette, of Brentwood, a taxi driver was robbed about 11:40 p.m. Tuesday by a young man wielding a gun who asked the driver to take him to the 1300 block of Independence Avenue SE. At 7th Street and Independence Avenue, the passenger ordered Violette to stop and said, "Give me your money or I'll kill you." Taking his watch and cash, the gunman escaped into a park near the intersection.

Frederick Eugene Underwood, of Washington, was held up about 9:15 p.m. Tuesday at the corner of Summit Pl. and U Street NE, by three young men carrying guns in their pockets who warned, "Don't run or we will shoot. Give us your money." Underwood gave the gunmen his bills and change and they escaped.

Floyd Minor, of Ravenna, Ohio, a truck driver for Continental Oil Co., was beaten and robbed about 3:30 a.m. by two men and a woman who carried him to the second floor of a building in the 1000 block of Massachusetts Avenue NW. After the men hit him in the head and body, the trio frisked him and fled with his money and watch.

Wyatt Langford, of Washington was held up about 6:20 p.m. Tuesday by four youths as he was entering his car in the 700 block of 3d Street NW. One of them held a revolver at Langford's side while the others searched him and removed his wallet. The youths then fled into an alley towards 4th Street.

Sanford Jameson, of Darien, Conn., was beaten and robbed shortly after 10 p.m. Monday by two men who attacked him on 19th Street NW, struck him on his head and face until he fell to the ground. The pair then removed his wallet from his pocket and fled.

STOLEN

A canvas bag containing $700 in cash was stolen between 3 and 9:30 a.m. Monday from the Good Guys Restaurant, 2311 Wisconsin Ave. NW.

Typewriters and other office equipment, with a total value of $700, were stolen between 6 p.m. Monday and 8 a.m. Tuesday from Tecnifax, 6200 Kansas Ave. NW.

Four typewriters valued at $1500 were stolen between 6 and 10 p.m. June 22 from a classroom at Roosevelt High School, 4301 13th St. NW.

An $800 calculator was stolen sometime before 4:20 p.m. Monday from a car belonging to Daniel Keller, of Maryland, while it was parked in the 1000 block of O Street NW.

A typewriter and a record player were stolen between 3.30 p.m. Monday and 9:30 a.m. Tuesday from Elliott Junior High School, 19th Street and Constitution Avenue NE.

A trailer carrying a 14-foot boat with a 50 horsepower engine valued at $900, was stolen between 9 a.m. Monday and 11:40 Tuesday from E. A. Page, of Norfolk, Va., when it was separated from his car at 10th and K Streets NE.

An adding machine and an IBM typewriter were stolen between 5 p.m. Tuesday and 7 a.m. Wednesday from an office in the administration building at Catholic University, 620 Michigan Ave. NE.

Mr. HANSEN. According to my count, there were 32 serious crimes committed in the 24-hour period ending 6 p.m. yesterday.

In an average week in the Nation's Capital, there are five homicides, six rapes, 200 auto thefts, 238 robberies, and 442 burglaries.

During the first quarter of 1970, crime in the Capital rose 21.7 percent. This is substantially above the Nation's rate of increase.

Mr. President, many major issues are facing Congress this year. Certainly one of the most important of all issues which we face is to stem the increase of crime.

Statistics prove that crime in the District of Columbia is on the increase. The decision whether or not we will allow this crime to continue to increase rests with the Senate.

The conference report now before us will help determine whether we will continue to let this crime run rampant.

We have an authorized limit of 5,100 policemen here in the District. Without a doubt, the sidewalk policeman has to do the basic work with the offenders; however, once the arrest has been made, the judicial system must have the tools to proceed to convict and punish those who have committed a crime.

It is alarming for me to note that the existing rules of criminal procedure allow up to a 10-month delay between arrest and trial here in the District of Columbia. The problem which results is that many of those who are awaiting trial are released and allowed to commit another crime.

A study undertaken in the District in 1968 indicates that 60 to 70 percent of the defendants released on bail while awaiting their trial were rearrested while on bail.

Mr. President, the District of Columbia crime bill has been in conference for over 3 months. It goes without saying that if we are to get a crime bill during this session of Congress, we are going to have to accept this conference report. The choice which each of us faces is whether we are going to allow the crime to continue to run rampant for another 2 years before we can get another crime bill, or are going to face up to the responsibility of crime here in the Capital City now.

Mr. President, the charge has been made by some who oppose this bill that it is antiblack legislation—that the bill discriminates against the black individual in the District. I feel this is a false and misleading charge.

The truth is that over 70 percent of the residents here in the city are black. The bill that is before us today is not antiblack but, rather, designed to protect black population.

Eighty-six percent of all District of Columbia murder victims are black; 86 percent of all aggravated assault victims are black; 80 percent of all rape victims are black; 66 percent of all auto theft victims are black; and 60 percent of all burglary victims are black.

These figures make it clear that those who claim that the bill is racial in nature simply do not recognize the fact that the black is the most frequent victim of crime in the District, and so it will be the black who will benefit from any decrease in the crime rate.

I realize fully that the present District of Columbia crime bill contains many changes in criminal procedure. I personally do not have the problems with the no-knock and preventive detention provisions which some of the opponents to this bill have. However, the important thing to realize in this regard is that the general law-abiding public is entitled to some protection also. I believe there has to be some reasonable balance between protecting the rights of an individual and protecting the rights of the general public. The public deserves protection from the individual criminal. We seem to have overlooked or forgotten this fact.

I am not a constitutional scholar, but I do believe the provisions in this bill are constitutional. It is the feeling of the House of Representatives that the provisions in this conference report are constitutional. I believe that the majority of the Senate share this belief.

Be that as it may, the Senate has the responsibility of facing up to the problem of crime in the District.

If the Supreme Court determines that there are provisions of the existing bill which are unconstitutional, those sections will become inoperative, but the Congress of the United States has a responsibility to the citizens of the District of Columbia, as well as the entire United States, to make the Nation's Capital a safe place in which to live and visit.

The present legislation represents a giant step in this direction and I intend to vote in favor of the conference report.

SENATOR JAVITS ANSWERS MAIN CONSTITUTIONAL OBJECTIONS TO RATIFICATION OF GENOCIDE CONVENTION III

Mr. PROXMIRE. Mr. President, during the last 2 days I have quoted certain statements made by Senator JAVITS in reply to arguments made against the ratification of the Genocide Convention. Today, I would like to examine the major constitutional objection to ratification of the convention.

This argument says that whether or not the provisions of the convention are self-executing, they would immediately supersede all State laws and practices inconsistent with them and thereby deprive the States of the power to prosecute and punish in their courts acts condemned by articles II and III of the convention. In other words, the States would be deprived of jurisdiction over certain offenses of the convention.

Senator JAVITS' answer is very convincing:

> The Convention is clearly non-self-executing in view of the requirement of article V to enact the necessary implementing legislation. The administration intends to await enactment of such legislation by the Congress before depositing our ratification and thus becoming a party of the Convention. If there is supersession of any inconsistent State laws, it will be by the Federal legislation, not by the Convention. It is difficult to imagine in what way any existing state law or practice could be inconsistent with the Convention.
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> The enactment of the implementing legislation for the Genocide Convention by the Congress need not automatically preclude the States from prosecuting the acts proscribed by the Convention. Whether or not a congressional act preempts an area of law depends on the intent of Congress. If, as could be reasonably argued, Congress did not intend completely to fill this area of law, States would be free to continue to act in this area. To ensure that States would still have such freedom the Congress could provide in its implementing legislation that nothing in that legislation should be construed as indicating an intent on the part of Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the legislation operate.

Mr. President, I think this is an excellent rebuttal to the major constitutional argument against ratification. Clearly, Congress has the power to make sure that no infringements are made on State jurisdiction.

The time for further delay on ratification of the Genocide Convention is over. Let us move now and give this treaty speedy consideration.

DOMESTIC APPLICATIONS OF DEFENSE RESEARCH

Mr. BELLMON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared for delivery in the Senate by the distinguished Senator from Massachusetts (Mr. BROOKE), who is unable to be present today.

There being no objection, the statement by Senator BROOKE was ordered to be printed in the RECORD, as follows:

AN IMPORTANT START ON THE CONVERSION PROBLEM: DOMESTIC APPLICATIONS OF DEFENSE RESEARCH

Mr. BROOKE. Mr. President, a year ago in the debate on the Defense authorization bill the distinguished Junior Senator from California and I proposed an amendment aimed at promoting increased domestic benefits from the sizeable program of defense research. Since that time our amendment has been considered further by the Committee on Armed Services and I am pleased to report that this promising provision has been included in the fiscal year of 1971 Defense Procurement Authorization Bill. This measure will come before the Senate shortly, but in advance of the full debate on that occasion, I wish to call the Senate's attention to this particular title.

It has become increasingly clear to those of us concerned about national priorities that we must maximize the return on our heavy investment in defense programs. Many of these expenditures amount to contingency expenses; we buy weapons and support many programs on the ground that by acquiring them we will reduce the need for ever having to use them. Yet economists recognize that defense expenditures are primarily an economic drain rather than a productive investment, since they rarely contribute directly to increasing the nation's productive capacity. Thus, there is all the more reason to identify and take advantage of those elements of the defense budget which promise valuable returns to the society as a whole.

Few areas are so promising in this respect as the large program of defense research which often has led to useful technology for other factors of the economy. Yet the spin-off from defense research to other applications has been substantially less than could have been the case. There has been too little systematic effort to insure maximum civilian benefit from the vast sums spent on defense research and development.

At the same time, in a period when the defense budget is shrinking and resources previously devoted to national security are being freed for new missions, it is important that we make better provision for steering such capabilities into fruitful new applications. Many institutions now doing defense research are seeking an opportunity to apply their skills to the nation's pressing domestic needs. Presently, there is no good mechanism for encouraging the re-orientation of such capabilities. As the Congress begins to narrow the margin of operations of the Department of Defense, I believe the course of responsibility is to make a special effort to preserve and redirect useful military research capabilities, rather than see them merely perish for want of alternative sponsorship.

This requires thorough advance planning and intense effort. It is but one of many instances of the conversion problem, the mammoth task we shall face in converting an increasing share of our economic resource from war time to peace time functions.

In Massachusetts we have recently experienced an analogous and fortunately, successful re-orientation of a principal space research center to the urgent mission of advance transportation research. Yet, this significant achievement is, sad to say, the exception rather than the rule. In coping with the problem on a national scale, something more than ad hoc arrangements will be required.

The bill reported by the Armed Services Committee makes a small beginning toward meeting this large and long-range challenge. It creates an Interagency Advisory Council on Domestic Applications of Defense Research. The Council will draw its membership from the Defense Department and the principal domestic agencies likely to make use of the fruits of such research, namely, the Departments of Health, Education and Welfare, Housing and Urban Development, Transportation, Labor, Interior, NASA and the Office of Economic Opportunity. Under the chairmanship of the HUD member, the Council will evaluate research proposals submitted to it and advise the Department of Defense of opportunities to generate useful domestic applications within the framework of the ongoing defense research programs. It will attempt both to identify useful spin-offs from existing defense projects and to suggest specific ways in which additional non-defense applications can be realized from such projects.

Final decisions on such proposals, will, of course, remain the responsibility of the Secretary of Defense and will be subject to the requirement that the research be directed toward a specific mission of the Department. The focus, in short, will be on appropriate military research of *mutual interest to DOD and other agencies*.

Examples of such work are numerous. Military radar and computer technology have direct possibilities for serving the current needs of domestic air traffic control. Defense work on basic materials offers many opportunities for innovations in civilian industrial processes, as illustrated by the development of titanium processing methods for defense purposes in recent years. Many transportation technologies and components—external combustion engines, turbines, and other components, for instance—are appropriate objects of defense research and could provide the basis for alleviating the high-pollution output of present civilian automobiles. Defense work on fuel cells, as has been true of the space agency's development of such systems, can be of value in a variety of civilian programs.

The Defense Department also has a continuing program to develop improved housing for service personnel and their dependents; work has now begun to use the Defense housing programs for experimental purposes, since housing built on military bases can be erected without the limitations of archaic housing codes and other restrictions that impede such experiments elsewhere. Modular construction and other techniques can be explored thoroughly on these bases. They could well be a principal interest of the Council, which can build on the preliminary work now in progress.

With a multi-billion dollar manpower and training program, the Department of Defense also engages in many studies to improve its educational and training systems. Such endeavors promise real benefit to the growing manpower programs in the domestic sector and the Council will afford a continuing mechanism for cross-fertilization between the DOD and these programs. Similarly the growing concern for improved delivery of health services and medical care to the population at large can be met in part through better experimental use of the elaborate health system now operating in the military establishment. The Department itself believes that many of the most important domestic applications may grow from defense programs in the life, behavioral, and environmental sciences.

But these are but a few examples of the many opportunities the Council will be able to identify as deserving special attention. This provision of the bill will provide limited authority to the Secretary of Defense to focus resources on especially promising ventures which promise maximum results to the Department and to the domestic sector. Grants under this authority will be governed, I repeat, by the fundamental standard that DOD research must relate to a valid military requirement. But the important thing to realize is the broad scope of activities which have great potential value both to DOD and its domestic counterparts. It is noteworthy that the National Aeronautics and Space Administration has long had an office specifically devoted to insuring domestic spinoffs from space research. The proposed Council would perform much the same function for defense research and development.

This proposal is compatible with other efforts under way in the Department to employ the large resources it commands in ways which assist other sectors of other society. Discussions with prominent members of the research community have revealed substantial interest in this kind of idea, both as a means of realizing important short-term benefits and as a method of re-allocating over a period of time some fraction of our defense capabilities to non-defense applications. The intent would be that, as non-defense research programs expand in the coming years, sponsorship and supervision of work begun under the auspices of the Council would shift to other departments.

I consider the Committee's approval of this provision an important and constructive initiative. I will have more to say as discussion of the measure proceeds but would like to take this opportunity to call the Senate's attention to this significant element of the Committee bill.

POLITICS AND PRIVATE SCHOOLS

Mr. THURMOND. Mr. President, the cornerstone of the foundation on which this great Nation was built is the principle that we are a government of laws and not of men. This means that the law remains constant until changed through constitutionally permissible procedures. This principle guarantees that the standards by which our society lives cannot be arbitrarily changed or withdrawn because of the personal preference of one man or small influential pressure groups.

Mr. President, I am deeply concerned when this Government even hints that this principle will not be strictly followed, for, without strict adherence to it, individual rights and liberties can be curtailed overnight without due process of law.

In the July 13 edition of the Evening Star a very fine editorial by David Lawrence appeared, in which this principle of government was discussed and aptly applied to the recent announcement by the Internal Revenue Service regarding the restriction of the tax exempt status of private schools. I commend David Lawrence, not only for his intellectual ability, but also for his dedication to sound principles of government.

Mr. President, I ask unanimous consent that the editorial, entitled "Politics and the Private Schools," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLITICS AND THE PRIVATE SCHOOLS

(By David Lawrence)

Government by law and the Constitution or government by political expediency—that's the choice which the Nixon administration faced, and it took the latter course when it ordered white private schools to open their doors to all, regardless of race, or lose their tax exemptions.

The hypocrisy of this action was revealed when it was announced that private schools which admit persons of only one religion and other tax-exempt organizations—such as fraternal clubs which limit their membership to one race—would not be affected.

It might be asked how tax deductions can be justified for gifts to an organization known as the "National Association for the Advancement of Colored People" and yet be denied when made to organizations which seek to advance the education of white people.

In one of the cases filed in May, the Department of Justice submitted a brief supporting the tax-exempt status of private schools of all kinds and the deductibility of contributions as well. But in recent days an internal squabble in the administration resulted in a change of heart. One White House aide told the press last Friday that the President "believes that ultimately the tax status of racially discriminatory private schools will be determined by the courts and that this is desirable."

This is, in effect, passing the buck to the courts. But, in the meantime, the administration presumably is to escape criticism from the Negro groups because it has changed position.

The Supreme Court of the United States has rendered many decisions on segregation since its historic opinion in 1954 declaring that the "equal protection" clause of the Fourteenth Amendment bars racial discrimination in public schools. But no opinion of the court has said that the federal government may penalize citizens in one group while citizens in other groups are given privileges in their financing of educational projects.

Parochial schools, for example, teach religion and attract students on certain religions. This has long been recognized by the courts and by the American people as a legitimate practice and not a violation of of any part of the Constitution. But now the present administration is arguing that a group of citizens who wish to exercise their freedom of association and help to maintain schools where whites can enjoy their own educational environment cannot have the same tax-exempt status or tax deductibility for contributions as is granted to citizens who contribute to religious schools. Tuition fees, incidentally, are not involved, as they are not deductible.

"Private schools" are, of course, private institutions. Each school has its own admission policy, and the government heretofore has never interfered, if anybody wished to challenge the tax exemption, the proper way would have been to file suit in the courts, and the administration need not have taken any part in the controversy. Also, dissenting citizens, could have had a bill introduced in Congress with the hope of getting a law passed setting forth specifically the conditions under which the federal government could withhold tax exemption or tax deductibility.

But the chances are that no such legislation would be enacted because the proposal encroaches on the rights of privacy of American citizens. If these privileges can arbitrarily be withdrawn at the whim of any administration, irrespective of the constitutional principles that are involved, it can mean that individual rights can be suddenly curtailed by the government for in a penalty through income-tax regulations.

If the government now is to step in and pass judgment on the whole system of charitable giving in America and raise doubts as to whether particular organizations which receive aid are satisfactory politically to the administration in power, the whole edifice of philanthropic operation in America will be weakened. Contributors will be scared off, and there will be a slowdown in the growth of the rather sizeable private-welfare program that exists. Politics can go too far, and the government's intrusion into the charitable help given private schools is a flagrant example of mistaken judgment.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

Mr. ERVIN. Mr. President, I move that the Senate proceed to the consideration of the conference report on S. 2601.

The PRESIDING OFFICER. The clerk will please state the conference report by title.

The assistant legislative clerk read as follows:

> Report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina.

The motion was agreed to; and the Senate proceeded to consider the report.

Mr. ERVIN. Mr. President, it has been urged that we should adopt the conference report in order to get a bill. We can get a bill without adopting the conference report. If we adopt the conference report, we will get a bill which is unconstitutional, which is unfair, which is unjust, and which is unworkable in many respects. If we vote down the conference report we can get enacted speedily into law every provision of the conference report which is in harmony with the principles which ought to prevail in a civilized system of criminal justice. We can get a bill which would reorganize the courts of the District of Columbia and a bill which would do something toward coping, in a practical, just, fair, and constitutional way, with the crime problem.

I have given the solution for the crime problem in the District of Columbia and every other district in the United States in a bill which I introduced, with a number of cosponsors, to require the speedy trial of cases in the Federal courts of this Nation and in the courts of the District of Columbia.

According to figures recently released by the Judicial Council, it takes 8 months, on an average, to dispose of a criminal case in the District of Columbia on a plea of guilty. It takes more than 10 months on the average in the District of Columbia to dispose of a case upon a trial by jury.

What this means is that men are not brought to trial for a year or a year and a half; and this delay is the way to bring the laws into contempt. The passage of a bill like this to remedy a condition like that makes a mockery of justice. It brings the laws into contempt because the people of the United States and the people of the District of Columbia are not going to have any respect for a law—and I add, they ought not to have any respect for a law—which says officers of the law shall have the right to enter the dwelling houses of citizens of the District of Columbia in the same way that burglars now enter those dwelling houses.

I have told how to remedy this situation, and there is only one way to remedy it. It will require hard work on the part of law-enforcement officers, prosecuting attorneys, and judges.

What we need is to pass the parts of this bill that reorganize the courts and provide an adequate number of judges and prosecuting attorneys, and then we need this: We need to detain prosecuting attorneys in their offices long enough for them to prepare cases for trial. Courts cannot try cases without their first being prepared for trial by prosecuting attorneys. Then, after the prosecuting attorneys are detained in their offices long enough to prepare cases for trial, we need to have an adequate number of judges, and detain them in the courthouse long enough to try the cases.

When the District of Columbia has enough prosecuting attorneys to prepare cases for trial and enough judges to try cases, we will not need a law to preventively detain the accused, and we will not need a law to knock down people's doors with sledge hammers in order for officers of the law to gain admittance.

Mr. President, the supreme value of civilization is the freedom of the individual, which is simply the right of the individual to be free from governmental tyranny. As the late Justice George Sutherland so well said:

> Freedom is not a mere intellectual abstraction, and is not merely a word to adorn an oration upon occasions of patriotic rejoicing. It is an intensely practical reality, capable of concrete enjoyment in a multitude of ways day by day.

The Founding Fathers who drew the Constitution of the United States certainly entertained the abiding conviction that the supreme value of civilization is the freedom of the individual. As express testimony of this conviction, they stated in its preamble that they drafted the Constitution to secure the blessings of liberty to themselves and their posterity.

With due deference to all other men in all generations, I confess my belief that the world has never known any other group as well qualified as the Founding Fathers to write organic law for a people dedicated to the freedom of the individual. They were versed in the heartbreaking history of man's fight for freedom, and knew that a nation which ignores the lessons taught by such history is doomed to repeat the mistakes of the past. They had studied the legal philosophy of Blackstone and the political philosophy of Hobbes, Locke, and Montesquieu.

They had observed much tyranny, both in the colonies and in the lands beyond the seas. They had meditated upon these things. As a consequence, they had discovered this shocking but everlasting truth: Nothing short of tyranny can quench the insatiable search of government for power, and in its ardor to extend and multiply its authority, government will extinguish the freedom of the individual unless it is restrained from so doing by fundamental law which it alone can neither repeal nor amend.

For this reason, as Justice David Davis declared in his courageous and illuminating opinion in *Ex parte Milligan* (71 U.S., page 121) the Founding Fathers "foresaw that troublous times would arise," when the Government would "seek, by sharp and decisive measures, to accomplish ends deemed just and proper," and in so doing would put the freedom of the individual in peril, unless such freedom were "established by irrepealable law." To forestall this calamity in such times, they devised the Constitution to define and limit the powers of the Federal Government, and to protect the freedom of the individual from destruction at its hands.

The best statement as to why the Constitution of the United States was written and raified by the American people appears in this opinion of Justice David Davis. After pointing out that the Founding Fathers had incorporated certain basic principles in the Constitution, put them in writing, and provided that every public officer from President down to township constable should take an oath to support this Constitution, he made this remark:

> Time has proven the discernment of our ancestors, for even these provisions—

He was there discussing provisions about the right of indictment by grand jury and trial by a jury—

> For even these provisions, expressed in such plain English words that it would seem the ingenuity of man could not evade them, are now, after the lapse of more than seventy years, sought to be avoided. Those great and good men foresaw that troublous times would arise, when rulers and people would become restive under restraint and seek, by sharp and decisive measures, to accomplish ends deemed just and proper, and that the principles of constitutional liberty would be imperiled unless established by irrepealable law. The history of the world had taught them that what was done in the past might be attempted in the future.
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> The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men at all times under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false, for the Government, within the Constitution, has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority.

What we have here today is the same thing that was said there, at the time they tried to try a civilian in Indiana before a military commission and to deny him his right to be indicted by a grand jury, before he was placed on trial, and his right to have his guilt determined by a petit jury in a civil court rather than by the commissioners of the military commission. They said in justification: "It is necessary to do this."

One of the Senators whom I hold in highest regard, the distinguished Senator from Nebraska (Mr. HRUSKA), repeated the same argument of necessity here the other day. He said it is necessary, on account of the crime situation in the District of Columbia, that we abandon the traditions that have prevailed in this country since it became a Republic and give the officers of the law the right to break into people's private homes the way burglars now break into them; that it is necessary to imprison men under a preventive detention process for crimes which they have not committed and may never commit. It is necessary. It is a necessity.

It is queer how the old argument—necessity—is constantly repeated when we undertake to deprive people of basic rights. We have to abandon the traditions of every generation of Americans since George Washington took his first oath of office as President of the United States, on account of the crime situation in the District of Columbia.

All that needs to be said about the word "necessity" as justifying actions such as that proposed in this conference report was said by one of the greatest English-speaking statesmen of all time, William Pitt, in a speech in the House of Commons on November 18, 1783. He said this:

> Necessity is the plea for every infringement of human freedom. It is the argument of tyrants. It is the creed of slaves.

Yet, despite that fact, we have here one of the troublous times in the history of our Nation, when crime is rampant and rising—one of the troublous times that Justice David Davis was warning us about, when people would seek, by sharp and decisive measures, to achieve ends they deemed to be just.

So, here, in the name of law and order, we have the demand made on the floor of the Senate to pass a crime bill for the District of Columbia which is unconstitutional in many respects, which is unfair in many respects, which is unjust in many respects, and which is not workable, as a practical matter, insofar as the provisions for preventive detention are concerned.

The constitution of my State contains two things which ought to be emblazoned indelibly upon the mind of every man who exercises public authority within the borders of the United States: that "eternal vigilance is the price of liberty," and "that frequent recurrence to fundamental principles is essential to the preservation of the blessings of liberty."

It takes a good amount of vigilance to study a bill such as that embodied in the 243 pages of small print in the conference report now pending before the Senate. When one reads this bill, he finds some legal curiosities, some constitutional curiosities, that ought not be made a part of the law applicable to the District of Columbia but ought to be removed from this bill and transferred to the Smithsonian Institution, to manifest some of the greatest legal curiosities that ever have been evolved by the mind of man on the North American Continent.

The case of Ex parte Milligan pointed out why the Constitution was written. The Justice who wrote the majority opinion did that. But there is an equally remarkable statement by one of the great lawyers who argued that case, Jeremiah S. Black. He told us how the Constitution of the United States was written. He pointed out the method by which the words were found to place in the Constitution.

I should like to assert here that behind every great judicial opinion of a great judge lies the great argument of a great lawyer. Nowhere is that better illustrated than by the argument made by Mr. Black in presenting to the court, at a time when it took courage on his part to present the contention, that even a man suspected of disloyalty to the Union was entitled to the protection of the Constitution of the United States. Mr. Black, the counsel for Milligan, said this, which appears at pages 66 and 67 of the report of that case, in 71 U.S. Reports. The report begins at page 2. This is what Jeremiah Black said:

> If the men who fought out our Revolutionary contest, when they came to frame a government for themselves and their posterity, had failed to insert a provision making the trial by jury perpetual and universal, they would have proved themselves recreant to the principles of that liberty of which they professed to be the special champions. But they were guilty of no such thing. They not only took care of the trial by jury, but they regulated every step to be taken in a criminal trial. They knew very well that no people could be free under a government which had the power to punish without restraint. Hamilton expressed, in the Federalist, the universal sentiment of his time, when he said, that the arbitrary power of conviction and punishment for pretended offences, had been the great engine of despotism in all ages and all countries. The existence of such a power is incompatible with freedom.

Following that statement, Jeremiah Black discussed exactly how the Constitution of the United States came into being as a written document.

He said:

> But our fathers were not absurd enough to put unlimited power in the hands of the ruler and take away the protection of law from the rights of individuals It was not thus that they meant "to secure the blessings of liberty to themselves and their posterity." They determined that not one drop of the blood which had been shed on the other side of the Atlantic, during seven centuries of contest with arbitrary power, should sink into the ground; but the fruits of every popular victory should be garnered up in this new government. Of all the great rights already won they threw not an atom away. They went over *Magna Charta*, the *Petition of Right*, the *Bill of Rights*, and the rules of the *common law*, and whatever was found there to favor individual liberty they carefully inserted in their own system, improved by clearer expression, strengthened by heavier sanctions, and extended by a more universal application. They put all those provisions into the organic law, so that neither tyranny in the executive, nor party rage in the legislature, could change them without destroying the government itself.

Mr. President, we have heard a great deal of discussion here about the no-knock and preventive detention provisions in the bill, but there are some other inequities in the bill which merit the attention of the Senate.

MULTIPLE OFFENDER PROCEDURES

One particular section I call attention to at this time is the provision dealing with habitual criminals, on pages 142 and 143 of the conference report.

To save time, I shall not read the major provisions of the report which deal with the sentencing of multiple offenders—that is, habitual offenders, sometimes called habitual criminals—as found in section 201.

In the interest of time, so that it may be available to anyone who reads the CONGRESSIONAL RECORD and wishes to test the soundness of the assertions I am going to make with regard to these provisions relating to habitual criminals, I ask unanimous consent that section 201 on pages 142 and 143 of the conference report be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

TITLE II—CRIMINAL LAW AND PROCEDURE

SENTENCING OF MULTIPLE OFFENDERS

SEC. 201. (a) Section 907 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code, sec. 22–104), is amended to read as follows:

SEC. 907. (a) If any person—

"(1) is convicted of a criminal offense (other than a non-moving traffic offense) under a law applicable exclusively to the District of Columbia, and

"(2) was previously convicted of a criminal offense under any law of the United States or of a State or territory of the United States which offense, at the time of the conviction referred to in paragraph (1), is the same as, constitutes, or necessarily includes, the offense referred to in that paragraph,

such person may be sentenced to pay a fine in an amount not more than one and one-half times the maximum fine prescribed for the conviction referred to in paragraph (1) and sentenced to imprisonment for a term not more than one and one-half times the maximum terms of imprisonment prescribed for that conviction. If such person was previously convicted more than once of an offense described in paragraph (2), he may be sentenced to pay a fine in an amount not more than three times the maximum fine prescribed for the conviction referred to in paragraph (1) and sentenced to imprisonment for a term not more than three times the maximum term of imprisonment prescribed for that conviction. No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account is applying this section.

"(b) This section shall not apply in the event of conflict with any other provision of law which provides an increased penalty for a specific offense by reason of a prior conviction of the same or any other offense."

(b) Such Act is amended by adding after section 907 the following new section:

"SEC. 907A. (a) If—

"(1) any person (A) is convicted in the District of Columbia of a felony, and (B) before the commission of such felony, was convicted of at least two felonies; and

"(2) the court is of the opinion that the history and character of such person and the nature and circumstances of his criminal conduct indicate that extended incarceration or lifetime supervision, or both, will best serve the public interest,

the court may, in lieu of any sentence otherwise authorized for the felony referred to in clause (A) of paragraph (1), impose such greater sentence as it deems necessary, including imprisonment for the natural life of such person.

"(b) For purposes of paragraph (1) of subsection (a)—

"(1) a person shall be considered as having been convicted of a felony if he was convicted (A) of a felony in a court of the District of Columbia or of the United States, or (B) in any other jurisdiction of a crime classified as a felony under the law of that jurisdiction or punishable by imprisonment for more than two years; and

"(2) a person shall be considered as having been convicted of two felonies if his initial sentencing under a conviction of one felony preceded the commission of the second felony for which he was convicted.

No conviction with respect to which a person has been pardoned on the ground of innocence shall be taken into account in applying this section."

Mr. ERVIN. Mr. President, this section provides drastic penalties for habitual criminals, which range from terms of years up to life imprisonment, upon their conviction of a third or subsequent offense.

The provisions of the bill which deal with the implementation of this provision appear on pages 154 and 155 of the conference report, which is subsection 23–111.

In the interest of time, I ask unanimous consent to have it printed in the RECORD verbatim.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

"§ 23–111. Proceedings to establish previous convictions

"(a) (1) No person who stands convicted of an offense under the laws of the District of Columbia shall be sentenced to increased punishment by reason of one or more previous convictions, unless prior to trial or before entry of a plea of guilty, the United States attorney or the Corporation Counsel, as the case may be, files an information with the clerk of the court, and serves a copy of such information on the person or counsel for the person, stating in writing the previous convictions to be relied upon. Upon a showing by the Government that facts regarding previous convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information may be amended at any time prior to the pronouncement of sentence.

"(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years, unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

"(b) If the prosecutor files an information under this section, the court shall, after conviction but before pronouncement of sentence, inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a previous conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

"(c) (1) If the person denies any allegation of the information of previous conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the prosecutor. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the Government to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidating the notice given in the information required by subsection (a) (1). The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the prosecuting authority shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

"(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a previous conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

"(d) (1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of previous convictions, the court shall proceed to impose sentence upon him as provided by law.

"(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the request of the prosecutor, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by law. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered."

Mr. ERVIN. Mr. President, I invite the attention of the Senate to the fact that this has nothing to do with the no-knock or preventive dentention provisions but has much to do with many parts of the Constitution.

Some of the things that our forefathers asserted in the Constitution, in order to protect the liberty of the individual against the Federal Government, are found in amendment No. 5, which reads as follows:

AMENDMENT [V]

No person shall be held to answer for a capital, or other wise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Mr. President, under this provision of the Constitution, the Supreme Court has held in many cases that a person is charged with an infamous crime when he is charged with a crime punishable by death or a crime punishable by more than 1 year's imprisonment. Congress has sanctioned that interpretation of this provision of amendment V of the Constitution by decreeing that every crime which is punishable by death, or by more than 1 year's imprisonment, constitutes a felony under Federal law.

Subsection 23–111, as incorporated in the conference report, provides that instead of prosecuting these persons as habitual offenders for second or subsequent crimes on a bill of indictment found by a grand jury, they can be prosecuted upon an information except in cases where the increased punishment which may be imposed is imprisonment for a term in excess of 3 years.

In other words, under this provision of the bill, the prosecuting attorney in the District of Columbia can prosecute by information rather than by indictment an infamous offense or a felony which is punishable by imprisonment up to as much as 3 years imprisonment. That is in direct contradiction of the provisions of the fifth amendment providing that no man can be placed on trial for an infamous crime—that is for a felony—except upon indictment by a grand jury.

The distinguished Senator from Maryland yesterday paid high tribute to the criminal procedure laws of England. Evidently those who wrote this conference report had a very high admiration for the laws of England. Indeed, they manifested in this section I am discussing their high opinion of the Court of Star Chamber of England which is held in abhorrence by every other American since it permitted people to be tried in secret and compelled them to be witnesses against themselves on their trial.

It was as a result of this practice in the Court of Star Chamber that the Founding Fathers placed in the Constitution the provision of the fifth amendment which declares that no person shall be compelled in any criminal case to be a witness against himself.

That is a very simple statement. It means exactly what it says, that no person charged with a crime in the courts of the United States can be required to give testimony or make a confession which can be used as one of the chains of events or chains of elements necessary to his conviction.

Under the provisions of this bill dealing with habitual criminals, a person can be given increased punishment if he commits a second or a subsequent serious offense. In order for the court to be able to impose this increased punishment on him it is necessary under the Constitution, but not under this bill, for the Government to prove two things—that he is guilty of the offense presently charged against him and that prior to committing that offense, he was convicted of other offenses. Then such increased punishment is to be imposed upon him.

This provision, section 23–111, actually says that the prosecutor shall prosecute him as a habitual criminal upon information, even in those cases where he can be imprisoned for between 1 and 3 years if adjudged guilty. That is not the most remarkable thing in it. It says that this information charging the accused with having committed prior offenses—that is offenses prior to the present offense—shall be served upon the accused or his lawyer. Then it says, and I read verbatim this portion of section 23–111:

> If the person—

That is the accused—

> denies any allegation of the information of previous conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information.

Then it proceeds further:

> If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of previous convictions, the court shall proceed to impose sentence upon him as provided by law.

In other words, under that everything he does not deny he admits. So, we have a statute here, section 23–111, which actually requires a defendant, instead of pleading not guilty or instead of standing mute, to file a written response and admit or deny that he is the man who was previously convicted as alleged in the Government's pleading.

In other words, this statute compels a man to be a witness against himself in violation of the self-incrimination clause of the fifth amendment to the Constitution. So it is not surprising that the people who admire the English system to such an extent that they even admire the Court of Star Chamber should write a bill with such inequities as that in it.

What I have said thus far shows that this section violates the provision of the fifth amendment which says that no man can be placed on trial for an infamous crime or subjected to infamous punishment unless he is first indicted by a grand jury. Then it violates the clause that says that no man shall be compelled to be a witness against himself.

I was surprised to find those things in this provision. But I was also surprised to find two other things which, if it is possible for anything to be worse than those two provisions, are worse than those two provisions.

Section 23–111 says:

> The hearing shall be before a court without a jury and either party may introduce evidence.

That is a hearing upon the information and the defendant's response to the information which he is required to make in violation of his rights not to be required to be a witness against himself.

In other words, here is a man being tried upon a charge that he is an habitual offender, that he has been convicted of prior offenses, and he can be imprisoned under some of the provisions of the bill incorporated in the conference report for as much as life, and instead of being allowed a trial by jury on the issues of fact, it expressly says that the trial shall be before the court without a jury.

That is a clear violation of section 2 of article III of the original Constitution which declares this:

> The trial of all Crimes, except in Cases of Impeachment shall be by Jury; and such Trials shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

So that provision providing for trial by a judge rather than a jury upon an accusation which can result in sending an accused to prison for years or even for life, is an offense against that provision of the Constitution. It is also in direct violation of this provision of the Constitution, and I now read amendment VI:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law . . .

In this one section of the bill there are four separate and distinct violations of four separate provisions of the Constitution.

We are informed by the distinguished senior Senator from Maryland that we must swallow this lock, stock, and barrel or we are not going to get a crime bill for the District of Columbia.

I have difficulty accepting the proposition that the Members of the House of Representatives are so irresponsible and so alien to their oaths to support the Constitution that they will defeat any bill unless that bill violates the Constitution at least four times in just one section, and I shall point out a fifth time in just a minute.

Another provision of the Constitution is embodied in the fifth amendment which states:

> No person shall be . . . deprived of life, liberty, or property, without due process of law.

This provision of the Constitution has been interpreted, and rightly interpreted, to require that before a man can be convicted and punished for criminal conduct, his guilt must be established; that the burden of proof is upon the prosecution; and that the burden on the prosecution requires it to prove his guilt beyond a reasonable doubt—which means to prove it fully—by evidence in the case other than evidence extorted from the defendant in violation of the self-incrimination clause.

But, Mr. President, I want you to see what this miraculous section 23–111 has to say about burden of proof. It states in subsection (c)(1) that—

> Except as otherwise provided in paragraph (2) of this subsection, the prosecuting authority shall have the burden of proof beyond a reasonable doubt on any issue of fact.

The next subsection annuls the lipservice paid to the Constitution by subsection (c)(1). The next subsection—(c) (2)—states:

> The person—

The person before the court upon an accusation which involves whether he shall be imprisoned for many years or even for life—

> * * * shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response.

In other words, that is the exception which destroys the lipservice which the previous subsection had paid to the requirement of the due process clause of the fifth amendment that issues of fact must be established beyond a reasonable doubt.

Here it takes the negative of that section and states that a man who files a response to an information, which charges him with previous offenses and with being a habitual criminal, has the burden of proof to prove he was not the man who committed the previous offenses, and he is required to show it by the greater weight of the evidence.

What I have said makes it as clear as the noonday sun in a cloudless sky that section 23–111 of the bill incorporated in the conference report violates at least five different provisions of the Constitution governing trials of persons who are charged with being habitual offenders and who have enhanced punishment placed upon them when they are found to be persons who committed previous offenses.

I have a high respect for the Congress of the United States, but this is one case where I say, "Thank God that the Congress of the United States, acting through the conference committee, is not the supreme ruler of the American people and that we have courts in which a man can invoke the constitutional rights which Congress may undertake to rob him of."

There are many decisions on this point.

I discovered these five violations of the Constitution in section 23–111 of the bill only a short time ago by burning the midnight oil. I found that this matter has been passed on in virtually every State that has a habitual criminal statute, and that every State which has passed upon the matter has the same requirement, with the exception of one State, which has a very peculiar rule which I think is probably unconstitutional since the Supreme Court last May held that the sixth amendment right of trial by a jury now applies to the States. That decision was rendered last May or thereabouts in the Bloom case from Illinois and a case from Louisiana. One State has ruled that whether a man has been previously convicted is a matter for the court and not for the jury. But every other State that has ruled on the matter has held exactly to the contrary.

The general rule on this subject is laid down in the following words in 25 American Jurisprudence. The subject is "Habitual Criminals," section 33, page 379. It declares that on a charge of second or subsequent offenses it is generally held that the question of prior conviction is an issue of fact to be determined by a jury.

Then, Corpus Juris Secundum has something to say on this subject.

I read this from 24 Corpus Juris Secundum, the subject "Criminal Law," page 278, subject, "Habitual Criminals," section 31:

> The defendant has the same rights to a speedy trial, to time for preparation, to assistance of counsel, to be confronted with the witnesses against him, to require proof beyond a reasonable doubt, and to all other rights enjoyed by defendant on trial for a criminal offense.

Then, in the recent revision of American Jurisprudence, 39 American Jurisprudence—second series—page 322, subject "Habitual Criminals," section 18 states:

> One who is charged with crime as a second or subsequent offender is entitled to the rights enjoyed by all criminal defendants, including the right to a speedy trial and an appropriate hearing, a time for preparation of his defense, of assistance of counsel, and of compulsory process for witnesses. The accused is also entitled to be confronted by the witnesses against him, to require proof of guilt beyond a reasonable doubt, and to be exempt from adverse presumption on account of failure to testify as a witness in his own behalf.

Despite the last clause I have just read, this bill provides that the defendant admits everything that he does not deny, he is required to make a written response, and they not only can comment on it, but can convict him on account of his failure to make a response.

I have pointed out these general text statements. I never got hold of a copy of this provision, and I never saw it until about 3 days ago, and I almost had apoplexy to find any bill proposed to the Senate of the United States that a man could be tried for a felony or punished as an infamous criminal without indictment by a grand jury, that a man could be required to incriminate himself, that a man could be denied the right of trial by jury and have the issues of fact determined by a judge, that the burden of proof could be shifted from the prosecution to the accused, to require the accused to establish that he was not the man who had committed the previous offenses and for that reason was not subject to the increased punishment and was not an habitual offender. But I started to investigate when I read these provisions despite the shock they gave me.

I could not bring all the cases here. I did not have time even to record them all. But I found that the decisions hold that on a charge of a second or subsequent offense under a habitual criminal statute such as incorporated in the conference report, the question of whether there was a prior conviction is an issue of fact to be determined by a jury.

State v. *Beaudoin*, 131 Me. 31, 158 A Reporter 863, 85 ALR 1101; *State* v. *Findling*, 123 Minn. 413, 144 NW 142, LRA (NS 449); *People* v. *Gowasky*, 244 N.Y. 451, 155 N.E. 737, 58 ALR 9; *People* v. *Reese*, 258 N.Y. 89, 179 N.E. 305, 79 ALR 1329; *State* v. *Durham*, 177 Or. 574, 164 P. 2d 448, 162 ALR 422; *State* v. *Cardwell*, 332 Mo. 790, 60 S.W. 2d 28; *Burnham* v. *State*, 127 Neb. 370, 255 N.W. 48; *Metzger* v.

State, 214 Ind. 113, 13 N.E. 2d 519; *State* v. *Delano*, 189 Wash. 230, 64 P. 2d 511; *State* v. *Held*, a Missouri decision, 148 SW 2d 508; *Millwood* v. *State*, *a* Mississippi decision, 1 So. 2d 582; *Singletary* v. *State*, a Mississippi decision, 4 So. 2d 234; and *State* v. *Furth*, a Washington decision, 195 P. 2d 925.

Now I want to call attention to some of these cases and put them in the RECORD.

These cases are State cases involving the trial of habitual criminals. Each of them holds that under a State constitution guaranteeing the right of trial by jury in criminal cases, every person charged with being a habitual criminal has the right to trial before a jury instead of a trial before a judge.

They also require that his guilt be established beyond a reasonable doubt—requirement which is absolutely contradicted by this section of the crime bill as reported.

I call the attention of the Senate to the Missouri case of State against Cardwell, reported in 60 S.W. 2d at page 28. I wish to read just one sentence from that. It says:

> Missouri has no statute regulating the procedure in such cases. The question of a former conviction must, therefore, be submitted to a jury.

I ask unanimous consent that the decision of the Supreme Court of Missouri on this issue in the case of State against Cardwell be printed in the RECORD at this point.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

[Supreme Court of Missouri, Division No. 2,
April 20, 1933]

STATE v. CARDWELL—No. 32721

1. CRIMINAL LAW—1202(4)

Instruction that if accused stole automobile maximum penalty should be assessed *held* error, where jury were not required to find prior conviction and discharge, though admitted by accused (Rev. St. 1929, §§ 4065, 4461).

2. CRIMINAL LAW—823(1)

Instruction that prior conviction could be considered as bearing on punishment to be assessed did not cure erroneous instruction directing maximum punishment in case of guilt where prior conviction and discharge were not submitted (Rev. St. 1929, § 4461).

3. CRIMINAL LAW—1202(4)

Better practice is to submit prior conviction distinct from guilt or innocence of crime charged and to frame verdict so that it will show jury passed on each proposition (Rev. St. 1929, § 4461).

4. CRIMINAL LAW—695(2)

Whether accused has attempted to plead guilty to charge involved was so incompetent that general objection was good.

5. CRIMINAL LAW—1169(1)

Admitting evidence of accused's offer to plead guilty is reversible error.

6. CRIMINAL LAW—730(3)

Court should have reprimanded prosecuting attorney and admonished jury to disregard question whether accused had offered to plead guilty.

7. CRIMINAL LAW—508(8)

Admission of testimony of one charged in separate information of same crime was not error, particularly where no objection was made (Rev. St. 1929, § 3691).

Appeal from Circuit Court, Taney County; Robert L. Gideon, Judge.

Glen (Buck) Cardwell was convicted of grand larceny, and he appeals.

Reversed and remanded.

Stratton Shartel, Atty. Gen., and C. A. Powell, Asst. Atty. Gen., for the State.

Westhues, Commissioner.

On April 21, 1932, appellant was convicted in the circuit court of Taney county, Mo., on a charge of grand larcency, the stealing of an automobile. The punishment was fixed at ten years imprisonment in the penitentiary, the maximum prescribed for the offense. Section 4065, R. S. Mo. 1929 (Mo. St. Ann. §4065). After appellant's motion for a new trial had been overruled, he was sentenced. From this sentence he has appealed. The information upon which appellant was tried was based upon section 4461, R. S. Mo. 1929 (Mo. St. Ann. § 4461), in that in addition to the charge of grand larceny it charged that appellant had previously been convicted of burglary and sentenced to serve a term in the Missouri penitentiary therefor, and that he had been discharged from the sentence imposed.

The evidence, on part of the state, was ample to sustain a verdict of guilty. It tended to prove that on a certain night of August, 1931, an automobile, belonging to Daisy Mayden, was stolen. This occurred near a church at Kissee Mills, Taney county, Mo. The car was later found in Oklahoma. Appellant was arrested in Oklahoma, brought back to Missouri, and charged with the theft. The state offered evidence that appellant had made statements admitting that he had taken the car and driven it to Oklahoma. There was other evidence introduced tending to connect appellant with the theft. It was admitted in evidence that on October 21, 1929, appellant entered a plea of guilty to a crime of burglary in the circuit court of Taney county and was sentenced to serve a term of two years imprisonment in the penitentiary, and that he was released under the merit system, on the 5th day of June, 1931.

[1] Apellant has filed no brief in this case. The assignments of error discussed are found in the motion for new trial filed by appellant. The giving of instruction No. 1, on part of the state, was assigned as error. It reads as follows:

"The court instructs the Jury that if you believe and find from the evidence herein that the defendant, Glen (Buck) Cardwell, in the County of Taney and the State of Missouri, on or about the ——— day of August, 1931, did wrongfully and feloniously take, steal and carry away the property described in the information, with the intent to fraudulently convert the same to his own use and deprive the owner thereof permanently, without her consent, and that the same was the property of Daisy Mayden, you will find the defendant guilty of grand larceny and assess his punishment at imprisonment in the State Penitentiary for a term of ten years; and unless you do so find the facts to be, you will acquit the defendant.

" 'Feloniously' means wickedly and against the admonition of the law."

The particular objection to the instruction was that the only punishment authorized was ten years imprisonment in the penitentiary, the maximum prescribed for the offense. The learned Attorney General in his brief attempts to justify the giving of this instruction on the theory that the defendant admitted that he had been previously convicted of a crime and had been discharged from the sentence imposed, as alleged in the information; that, therefore, if the jury found defendant guilty of the crime for which he was on trial the punishment would be the maximum. This contention is untenable for the reason that the instruction does not refer to, or mention, the previous conviction. A previous conviction and a discharge from the punishment imposed are made a condition precedent by the statute to the infliction of the maximum punishment for a subsequent offense. State v. Schneider, 325 (Mo. 486, 29 S.W.(2d) 698; State v. Dalton (Mo. Sup.) 23 S.W.(2d) 1, loc. cit. 5 (13); State v. Bresse, 326 Mo. 885, 33 S.W. (2d) 919, 922. Even though this fact be admitted it must be submitted to the jury in a proper instruction. An analysis of the cases cited in the state's brief will disclose that the giving of instruction No. 1, supra, constituted reversible error.

In the case of State v. McBroom, 238 Mo. 495, 141 S.W. 1120, 1121, a pawnbroker was charged with receiving goods from a minor without the written consent of the minor's parents. It was also charged that defendant had been previously convicted of a similar offense. The state offered evidence of the previous conviction, which was not denied. However, the previous conviction was not admitted by the defendant. The trial court submitted the case to the jury, authorizing them to either convict defendant and assess the increased punishment provided for a second offense, or to acquit. This court held that the trial court should also have submitted the case to the jury on the theory that defendant had not been previously convicted, so as to permit the jury to assess the punishment provided for a first offense. This, on the theory that it was necessary for the state to allege and prove the prior conviction. This court also held that since defendant did not admit the prior conviction, it was a question for the jury to determine and not for the court to assume. In the case of State v. Asher (Mo. Sup.) 246 S.W. 911, the defendant was charged with robbery in the first degree. The information alleged a prior conviction and a discharge from the sentence imposed. This court held that the defendant had admitted his previous conviction and had offered evidence that he had been pardoned by the Governor; that, therefore, an instruction, which assumed the fact that defendant had been discharged from the prior sentence, was not erroneous. The case does not disclose whether the court submitted the case to the jury in the alternative so it could return a verdict of guilty without finding defendant had been previously convicted. However, this question was presented to this court and decided in State v. English, 308 Mo. 695, 274 S.W. 470, loc. cit. 473 (7, 8). English was charged with stealing chickens during the night. This information also charged a previous conviction and a discharge from the sentence. The case was submitted to the jury upon the sole proposition that they would either acquit defendant or find him guilty under what is now section 4461, and assess the maximum penalty. The opinion disposed of the question thus:

"The defendant claims instruction No. 1 was error because the jury was not given an opportunity to find the defendant guilty of the crime charged without finding him guilty of the former crime. As instruction No. 1 reads, the jury could not find the defendant guilty at all, unless he had been formerly convicted, and had served a term in the penitentiary. If they failed to find that, as well as that he was guilty of the present crime, they would have to acquit him. They were properly instructed as to the punishment because if they found him guilty of the present crime and of the former offense, the only punishment they could inflict upon him was five years in the penitentiary. Section 3314 and section 3702, R.S. 1919. Besides the record of the former conviction was conclusive of that matter, and the fact was not denied. Defendant's counsel objected, when defendant was asked on cross-examination about the former conviction, on the ground that the record was the best evidence."

In all of the above cases the allegations of the information, with reference to the former conviction and discharge from the sentence imposed, were embodied in the instruction submitting the case to the jury. We have been unable to find any where it was not so submitted.

In 16 C. J., page 1348, § 3177, we find the following statement of the general rule: "Where defendant confesses the prior conviction alleged in the indictment, in accordance with a statute conferring such right, it is not necessary for the jury to pass upon the question of previous conviction in order to authorize a sentence for the enhanced penalty. However, in the absence of such statute, or of other statutory provisions regulating the procedure in such case, the jury must find specially as to the fact of prior conviction even though confessed by defendant."

Missouri has no statute regulating the procedure in such cases. The question of a former conviction must, therefore, be submitted to a jury. In the case of State v. Bresse, supra, the defendant offered to admit to the court his previous conviction and discharge from the sentence imposed. He requested the court, however, to require the state's attorney to refrain from reading that part of the information and from informing the jury of the former conviction. Defendant also offered that in case the jury should convict him of the charge for which he was on trial the maximum penalty should be assessed against him. This court in answer to that proposition said:

"Defendant was on trial for a felony, that of participating in the theft of a motor car. It is true that section 3702 of itself creates no offense, but, if its essential elements are present and proved, it does prescribe a greater punishment upon the jury finding defendant guilty of the offense on trial.

"The finding of facts, under our procedure, is the function of the jury, and this includes the ultimate finding of guilt, and primarily the assessment of the punishment. In a felony case, a defendant cannot consent to a trial before the court without the intervention of a jury. State v. Talken, 316 Mo. 596, 292 S. W. 32. In effect, the court's assent to defendant's offer would have been tantamount to a trial in part before the court and an usurpation of the function of the jury. It would have resulted in the cause being tried partly by the court and partly by the jury. Notwithstanding defendant's tentative admission, it was the function of the jury to pass upon defendant's previous conviction, and the court's consent to the offer would have usurped that function. To sustain a conviction under section 3702, supra, it was necessary for the state to plead and prove the essential elements of said section, and it was necessary for the jury to find them."

Instruction No. 1, in the case before us, made no reference whatever to the previous conviction. The instruction made it mandatory on the jury to assess the maximum penalty for grand larceny without requiring the jury to find that defendant had been previously convicted. If a defendant is not to be permitted to admit his previous conviction before the court and to offer, in case of conviction of the crime charged, to take the maximum penalty therefor, without having the fact of the previous conviction disclosed before a jury, then certainly the state ought not to have the right to submit the case to the jury, without requiring the jury to find that defendant had been previously convicted, before inflicting the maximum penalty for the offense for which defendant is on trial. Why should the fact of a former conviction be made known to a jury if it can be taken into consideration by the court in its instructions on the punishment to be assessed without making any reference thereto, or requiring a finding thereon? It would serve no purpose other than to prejudice the jury against defendant.

[2] Instruction No. 2, given by the court, correctly instructed the jury not to consider the former conviction as any evidence of defendant's guilt. Instruction No. 2 further told the jury that it could consider the former conviction as bearing upon the question of the amount of punishment to be assessed. This was a useless admonition, since, under instruction No. 1, the jury was authorized to assess only the maximum punishment without any reference to the prior conviction. Admonishing the jury not to consider the former conviction in determining the guilt of the defendant of the charge for which he was on trial did not cure the defect in instruction No. 1. The jury should be required to find the essential facts as set forth in section 4461, supra, before being authorized to assess only the maximum punishment for the offense of which the jury finds the defendant guilty.

[3] The record discloses that when the jury read its verdict the foreman addressed the court as follows: "We all feel under the law we couldn't make any other sentence except what you instruct; and, we thought it was a little stiff; and we didn't think we had any right to change the terms, and thought we would leave that to you and thought perhaps you could."

The court thereupon informed the jury that, under the law, defendant could only be assessed the maximum penalty for grand larceny because it was his second offense. A number of jurors, in answer to questions by the attorney for the defendant, said that had they known the court was powerless to reduce the punishment they would not have returned a verdict of guilty. Defendant contends that at this point the court erred in not sending the jurors to their juryroom with further instructions that they might assess a lesser punishment. Since the case must be reversed and remanded, we will forego a discussion of this assignment of error. However, it demonstrates that in practice it sometimes happens that a guilty man escapes punishment because under the instructions of the court the jury are limited to inflict a penalty which in their judgment is too severe. Section 4461, the habitual criminal act, if properly applied, is a most effective weapon whereby a prosecutor may rid his community of professional criminals. In State v. English we held that the trial court was authorized to submit to the jury the sole question of conviction or acquitting a defendant under section 4461. This, because the instruction required the jury to either acquit the defendant or to find as a fact that defendant had been previously convicted, and to further find him to be guilty of the crime for which he was on trial and then to assess the maximum penalty. However, we think the better practice to be followed in prosecutions under section 4461 is that prescribed in State v. McBroom, supra, where it is advised as follows: "In our judgment, the instructions should present to the jury, in the alternative, the issue of former conviction, so that the jury could find for or against the defendant on that issue, as distinct from the question of guilt or innocence of the crime charged, and the verdict should be so framed as to show that the jury passed upon each proposition."

Because of the error in instruction No. 1, the case must be reversed and remanded for a new trial.

[4–6] Error is assigned because the trial court refused to reprimand counsel for the state and to discharge the jury for an improper question asked by the prosecutor. The matter can be best presented by quoting from the record the cross-examination relied on for error.

" 'Q. How many times have you been convicted of a crime of any kind? A. I never was convicted; I always plead guilty when they got me for anything.

" 'Q. You tried to plead guilty in this?

" 'By Mr. Ingenthron: We object to that.

" 'By the Court: Objection sustained.

" 'By Mr. Ingenthron: We ask that the Prosecuting Attorney be reprimanded and the jury discharged.

" 'By the Court: It will be refused.'

"To which action of the court in refusing to reprimand the Prosecuting Attorney and discharge the jury in said cause, the defendant, by his counsel, duly objected and excepted at the time.

" 'By Mr. Blunk: That remark was thrown in by the Prosecuting Attorney for the purpose of poisoning the minds of the jury.' "

The question, "You tried to plead guilty in this?" was highly improper. It will be noted that no reason was advanced for the objection. However, the answer to the question could not have been relevant to any issue in the trial. Its incompetency was so apparent that a general objection was good. State v. Baldwin, 317 Mo. 759, 297 S. W. 10. The trial court evidently so thought, as the objection was promptly sustained. It is reversible error to admit in evidence the offer of a defendant to plead guilty. State v. Abel, 320 Mo. 445, 8 S.W.(2d) 55, and cases there cited. The trial court should have reprimanded the prosecuting attorney and admonished the jury to disregard the improper question. Since the case must be remanded for a new trial, we will refrain from deciding whether or not the error justified a retrial.

[7] It is charged that the court erred in permitting witness Lyman Cardwell to testify for the state against appellant, when said witness "was a co-defendant charged with the commission of the same crime, his case not disposed of either by plea, trial or dismissal." This assignment is without merit. Lyman Cardwell was not jointly charged with appellant, but was charged in a separate information. Nor was objection made to his testifying. State v. Black, 143 Mo. 166, 44 S. W. 340. Section 3691, R. S. Mo. 1929 (Mo. St. Ann. § 3691), applies only to persons jointly indicted or prosecuted. State v. Braden (Mo. Sup.) 295 S. W. 784, syl. 2; State v. Lackmann (Mo. Sup.) 12 S.W.(2d) 424.

Other assignments have been examined and found to be without merit. The record proper discloses no reversible error. The judgment of the trial court is reversed and the cause remanded for a new trial.

Cooley and Fitzsimmons, CC., concur.

Per Curiam.

The foregoing opinion by Westhues, C., is adopted as the opinion of the court. All concur.

Mr. ERVIN. I wish to read certain extracts from an opinion of one of the greatest judges this Nation has ever known, Chief Judge Benjamin N. Cardozo, speaking for the Court of Appeals of New York in the case of People against Reese, which is reported in 258 N.Y. 39, 179 N.E. 305.

Headnote 5 summarizes the holding of the court very accurately, as follows:

> Identity of defendant as person previously convicted must be established beyond reasonable doubt on accusation of prior convictions.

I call the attention of the Senate to this extract from the opinion on page 307. Justice Cardozo said:

> Other objections to the judgment are made by the defendant, and should be considered at this time, for they are certain to recur.
>
> [5] 2. The defendant assigns as error a ruling of the trial court that the case for the people did not require proof beyond a reasonable doubt, but would be sufficiently made out by a preponderance of evidence, and also a ruling that in determining the defendant's identity the jury might properly consider the defendant's failure to take the stand as a circumstance against him.

Justice Cardozo sustained the defendant's position on both of these points. Reading now from page 308, he says:

> To justify a verdict that the defendant charged in the information is the person previously convicted, the jury should be sat-

isfied of his identity beyond a reasonable doubt.

It is a far cry from that holding to the provisions of this proposed statute, that not only is the prosecution not required to show the defendant to be a habitual offender, by evidence beyond a reasonable doubt but the defendant is required to show that he is not such a person by the greater weight of the evidence.

Justice Cardozo pointed out further about these habitual criminal statutes:

> Unquestionably this inquiry is a criminal case, and not a civil one. Unquestionably it was so conceived by the lawmakers, for by the terms of the statute it is made the duty of the district attorney to file an information "accusing" the defendant of the previous convictions. The section from beginning to end speaks the language of the criminal law. Not only is the proceeding punitive in form, it is punitive also in effect. The answer made to the "accusation" by the verdict of the jury may mean that the defendant will be a free man after a brief term of confinement, or may mean, on the other hand, that he will be a prisoner for life. If the previous convictions had been charged in an indictment, there is no doubt that they must have been proved beyond a reasonable doubt, for they would then have been elements affecting the grade of the offense.

Mr. President, I ask unanimous consent that the opinion in People against Reese, written by that great jurist, Chief Judge Benjamin Cardozo, be printed in full at this point in the body of the Record.

There being no objection, the opinion was ordered to be printed in the Record, as follows:

[Court of Appeals of New York, Jan. 5, 1932]

PEOPLE V. REESE

1. CRIMINAL LAW—1202(3)

Statute making certificate of custodian of fingerprint records presumptive evidence of prior conviction *held* inapplicable to certificate by custodian in another state (Code Cr. Proc. § 482–b, as added by Laws 1927, c. 356).

Code Cr. Proc. § 482–b, as added by Laws 1927, c. 356, should be held inapplicable, to custodians of fingerprints in other states, since foreign custodian of fingerprint records, though he knows about prints of convicts in prison in his state, is unable to identify fingerprint records taken in the state, purporting to be those of defendant, which are put in to be those of defendant, which are put in custodian's hands for comparison.

2. CRIMINAL LAW—1202(3)

Certificate of purported custodian of fingerprint records in another state *held* incompetent, both for comparison with local records and for identifying foreign records, where certificate was not authenticated, nor official character shown, nor genuineness of signature attested (Code Cr. Proc. § 482–b, as added by Laws 1927, c. 356).

There was nothing in the records to show whether any such office as that of custodian of fingerprints existed in Oregon where the certificate was given, and there was nothing to show whether the person whose name was affixed to the certificate was incumbent of such office, or to show that his signature was genuine.

3. CRIMINAL LAW—304(17)

Boundaries of judicial notice as to officer's authority are narrower when officer who certifies instrument acts under laws of another state.

4. CRIMINAL LAW—403

Implication of authority of custodian of records to certify copy is dependent on showing that person is custodian.

5. CRIMINAL LAW—1202(3)

Identify of defendant as person previously convicted must be established beyond reasonable doubt on accusation of prior convictions (*Penal Law,* § 1943, Code Cr. Proc. § 389).

6. CRIMINAL LAW—1202(3)

On trial of information charging prior convictions, no adverse presumption arises from defendant's failure to testify, and instruction authorizing jury's consideration of such circumstance was erroneous (Penal Law, § 1943; Code Cr. Proc. §§ 2, 393).

7. JURY—135

Provisions regulating peremptory challenges must be viewed on background furnished by history of criminal law.

8. JURY—135

Defendant charged with prior convictions *held* not entitled to peremptory challenges, since proceeding was merely collateral or supplementary (Pen. Law, § 1943; Code Cr. Proc. §§ 2, 359, 370, 373).

Appeal from Supreme Court, Appellate Division, First Department.

Howard B. Reese was convicted of attempted forgery in the third degree, and sentenced to life imprisonment as a fourth offender. From the judgment of the Appellate Division (232 App. Div. 624, 250 N. Y. S. 392) affirming the conviction, defendant appeals by permission.

Judgment of the Appellate Division and of Court of General Sessions reversed, and new trial ordered.

Caesar B. F. Barra and Ralph J. Barra, both of New York City, for appellant.

Thomas C. T. Crain, Dist. Atty., of New York City (Felix C. Benvenga and A. A. De Vito, both of New York City, of counsel), for the People.

Upon a plea of guilty, the defendant was convicted in the Court of General Sessions, county of New York, of attempted forgery in the third degree. Thereafter, before sentence was imposed, the district attorney filed an information, in accordance with Penal Law (Consol. Laws, c. 40) § 1943, accusing him of having been convicted of three crimes which would have been felonies if committed in New York. He was accused of having been convicted of forgery under the name of E. F. Lathrop in Spokane county, Wash., of having been convicted of the crime of false pretenses under the name of E. E. Lewiston in Larimer county, Colo., and of having been convicted of forgery under the name of Earl Freeman Lathrop in Multnomah county, Oregon.

Arraigned in response to this information, and cautioned as to his rights, the defendant stood mute. A jury, which was thereupon impaneled to determine his identity, found him to be the same person previously convicted. He was sentenced as a fourth offender to imprisonment for life.

1. The defendant makes the claim that the evidence offered by the people to establish his identity is insufficient and incompetent.

The form of proof was the same as to each of the three felonies. The conviction of forgery in Oregon will illustrate them all. A police officer who had taken the defendant's fingerprints after his conviction in the Court of General Sessions in this state, produced the prints then made. There was then produced an exemplified copy of an indictment of Earl Freeman Lathrop for forgery, and of the conviction and sentence thereunder in a court of competent jurisdiction in Multnomah county, Or., with the warrant of commitment. Next there was received a certificate signed, or purporting to be signed, by the custodian of fingerprint records in the Oregon state penitentiary, certifying that the records in his custody show "a previous conviction of a person whose fingerprints are identical with those hereto attached," adding a description of the crime and the sentence. Two sets of fingerprints were attached: one a set of fingerprints displayed upon a sheet of paper with the printed heading of the bureau of criminal identification of the city of New York; the other a set of prints purporting to have been made at the state penitentiary in Oregon. On the production of this certificate, a member of the police force of the city of New York, who qualified as an expert, testified that the defendant's fingerprints taken in this state and the fingerprints attached to the certificate from Oregon were those of the same person.

Code Criminal Procedure, § 482-b, enacted in 1927 (Laws 1927, c. 356), provides as follows: "The report of a person charged with the custody of finger print records of persons convicted of crime, who shall certify in writing that the records in his custody show certain previous convictions of persons whose finger prints, are identical with those of a defendant shall be presumptive evidence of the fact of such previous convictions of such defendant."

(1) The defendant argues, and we think correctly, that this statute does not apply to a certificate by a custodian of fingerprints in a state other than our own. No doubt a foreign custodian, annexing fingerprints to his certificate, would be competent to certify without the aid of any statute that they were prints or copies of prints kept upon his files in conformity with law, and to state, after comparison with the warrant of commitment, the name of the prisoner whose prints were so recorded. 3 Wigmore on Evidence, § 1677, p. 552. There would be a presumption in such circumstances that the prisoner fingerprinted was the prisoner committed; the presumption being merely an instance of the more general presumption of official regularity. 3 Wigmore on Evidence, § 1635, p. 401; § 1636, pp. 402, 403; Chesapeake & Delaware Canal Co. v. United States [C. C. A.] 240 F. 903, 907; Gaines v. Relf, 12 How. 472, 570, 13 L. Ed. 1071; Evanston v. Gunn, 99 U.S. 660, 25 L. Ed. 306; Commonwealth v. Slavski, 245 Mass. 405, 415, 140 N. E. 465, 29 A. L. R. 281, and cases there cited. People v. Bromwich, 200 N. Y. 385, 93 N. E. 933, is not a decision to the contrary. It rests upon the ground that the so-called rule of confrontation forbids the introduction of a certificate by a foreign officer that a record does not exist, a certificate wholly negative. Cf. 3 Wigmore on Evidence, § 1678, p. 560. The decision goes to an extreme limit of strictness, but it does not touch the admissibility of a certificate, affirmative in tenor, annexing copies of the records and attesting their correctness. The rule of confrontation which in this state is purely statutory (Civil Rights Law [Consol. Laws, c. 6], § 12; Code Cr. Proc. § 8) has never been deemed to require the exclusion of certificates or records made by a public officer in the course of his official duty. 3 Wigmore on Evidence, § 1398, p. 109; Commonwealth v. Slavski, 245 Mass. 405, 414, 415, 417, 140 N. E. 465, 29 A. L. R. 281; Heike v. United States (C. C. A.) 192 F. 83. If the certificate under the Code were merely one attesting the identity of records in the custody of the certifying officer, there would be little difficulty in applying the Code provisions to officers in other states. Upon proof that a person bearing the same name (5 Wigmore on Evidence, § 2529, p. 531; R. v. Levy, 8 Cox Cr. 73; Bayha v. Mumford, 58 Kan. 445, 49 P. 601; Ayers v. Ratshesky, 213 Mass. 589, 101 N. E. 78) had been convicted by a court of competent jurisdiction, a certificate, so framed, would be admissible in evidence, if properly authenticated. Identity of name is not always sufficient in a criminal prosecution to show identity of person (Ayers v. Ratshesky, supra), but it may be accepted as sufficient if fortified by circumstances, as, for example, by

reasonable coincidence of time between the conviction and the prints, and by the duty of the officer, presumably discharged, to ascertain that the person fingerprinted is the one described in the commitment. The certificate being received, comparison of the prints annexed, with the prints of the defendant on file in this state could then be made in open court by a witness qualified to testify. People v. Roach, 215 N. Y. 592, 604, 109 N. E. 618, Ann. Cas. 1917A, 410.

The difficulty in this case has its origin chiefly in the fact that section 482–b of the Code of Criminal Procedure does not limit the custodian to a certificate as to the genuineness of the prints and a statement from the warrant of commitment of the name of the prisoner whose prints have been recorded. He is to certify to much besides. He is to certify to his opinion that the prints which he attaches to his certificate are identical with those of the defendant, and the opinion is to be taken as presumptively correct. Plainly a custodian of foreign records is in no position to make the comparison or to venture the opinion which the statute has in view. The data necessary to the formation of a judgment are not in his possession. If the certificate sanctioned by the Code is confined to fingerprints taken in this state, the statute becomes workable. The domestic custodian has upon the files of his bureau the prints of defendants convicted in our courts, prints presumably taken in conformity with law. Cf. Code Cr. Proc. §§ 940–949, as amended by Laws of 1928, c. 875. He is thus in a position to make the comparison permitted by the statute and to express an opinion, that the prints are the same. If the defendant challenges the opinion, the maker of the certificate is here, and can be produced and cross-examined. None of these tests is available in the case of a custodian absent from the state. Such a custodian when he expresses an opinion that two sets of prints are those of the defendant is making a comparison without knowledge of one of the two things which he is expected to compare. He knows something about the prints of a convict imprisoned in his state. He knows nothing about any others except that a group of prints, bearing a heading which indicates that they have been transmitted to him by the police department of New York, but not otherwise authenticated, are in his hands for comparison. He does not know when or where or by whom they were made or whether they are genuine or fictitious. How is it possible for him to certify in the language of the statute "that the records in his custody show certain previous convictions of persons whose fingerprints are identical with those of a defendant"?

[2–4] The argument may be made that so much of the foreign certificate as expresses a comparison between the foreign prints and others may be rejected as surplusage, and the certificate accepted as identifying the foreign ones only. In that view, the effective comparison would be the one made upon the witness stand. At this point, however, another difficulty confronts us. The foreign certificate is not so authenticated as to the evidence of anything. All that is given us is a document signed by a person who describes himself as the custodian of the fingerprint records of persons convicted of crime. Neither the official character of the signer nor the genuineness of his seal and signature nor the regularity of his certificate is vouched for or attested by any one. We take judicial notice of the authority, and at times even of the signatures, of public officers acting in this state in accordance with our laws. The boundaries of judicial notice are narrower when the officer who certifies is acting under the laws of another state or country. 3 Wigmore on Evidence, § 1679, p. 563. We assume that a custodian of a record has authority, by implication of his office, to certify a copy. 3 Wigmore on Evidence, § 1677, p. 552; United States 1. Percheman, 7 Pet. 51, 86, 8 L. Ed. 604. Whether there is such a custodian is, however, the pivotal fact upon which implication is dependent. 3 Wigmore on Evidence, § 1677, p. 553. There is nothing in this record to inform us whether any such office as that of custodian of fingerprints exists in the state where the certificate was given. There is nothing to inform us whether the person whose name is affixed to the certificate is the incumbent of such an office. There is nothing to inform us (if he is the incumbent) whether his signature is genuine. Authentification is not merely defective. It is lacking altogether. 3 Wigmore on Evidence, § 1679, pp. 561, 563; cf. U.S. Code, tit. 28; § 688 (28 USCA § 688). Civil Practice Act, § 344.

Other objections to the judgment are made by the defendant, and should be considered at this time, for they are certain to recur.

[5] 2. The defendant assigns as error a ruling of the trial court that the case for the people did not require proof beyond a reasonable doubt, but would be sufficiently made out by a preponderance of evidence, and also a ruling that in determining the defendant's identity the jury might properly consider the defendant's failure to take the stand as a circumstance against him.

The procedure upon an inquiry such as the one before us is regulated by section 1943 of the Penal Law as follows: "If at any time, either after sentence or conviction, it shall appear that a person convicted of a felony has previously been convicted of crimes as set forth either in section nineteen hundred and forty-one or nineteen hundred and forty-two, it shall be the duty of the district attorney of the county in which such conviction was had to file an information accusing the said person of such previous convictions. Whereupon, the court in which such conviction was had shall cause the said person, whether confined in prison or otherwise, to be brought before it and shall inform him of the allegations contained in such information and of his right to be tried as to the truth thereof according to law, and shall require such offender to say whether he is the same person as charged in such information or not. If he says he is not the same person or refuses to answer, or remains silent, his plea, or the fact of his silence, shall be entered of record and a jury shall be empanelled to inquire whether the offender is the same person mentioned in the several records as set forth in such information. If the jury finds that he is the same person or if he acknowledges or confesses in open court, after being cautioned as to his rights, that he is the same person, the court shall sentence him to the punishment prescribed in said sections nineteen hundred and forty-one and nineteen hundred and forty-two, as the case may be, and shall vacate the previous sentence, deducting from the new sentence all time actually served on the sentence so vacated. Whenever it shall become known to any warden or prison, probation, parole, or police officer or other peace officer that any person charged with or convicted of a felony has been previously convicted within the meaning of said sections nineteen hundred and forty-one or nineteen hundred and forty-two, it shall become his duty forthwith to report the facts to the district attorney of the county."

To justify a verdict that the defendant charged in the information is the person previously convicted, the jury should be satisfied of his identity beyond a reasonable doubt.

We are not required to hold that the persuasiveness of proof essential at such a time is governed by section 389 of the Code of Criminal Procedures, whereby "a defendant in a criminal action is presumed to be innocent, until the contrary be proved; and in case of reasonable doubt whether his guilt is satisfactorily shown, he is entitled to an acquittal." That section is part of title 7 of part 4 of the Code of Criminal Procedure (section 388 et seq.), which has to do with the trial of indictments. An inquiry as to identity after guilt has been established is not the trial as an indictment. People v. Gowasky, 244 N.Y. 451, 155 N.E. 737, 58 A. L. R. 9. To say this is not equivalent, however, to solving the whole problem. The necessity of proof beyond a reasonable doubt is not limited to cases within the letter of section 389. If it were, there would be no such requirement in prosecutions begun by an information, and triable, as many misdemeanors are triable, by a court without a jury. The necessity for a higher degree of persuasiveness than a mere preponderance of evidence exists at common law in criminal cases generally (5 Wigmore on Evidence, § 2497), and would supply the governing rule even though section 389 of the Code of Criminal Procedure had never been enacted. Unquestionably this inquiry is a criminal case and not a civil one. Unquestionably it was so conceived of by the lawmakers, for by the terms of the statute it is made the duty of the district attorney to file an information "accusing" the defendant of the previous convictions. The section from beginning to end speaks the language of the criminal law. Not only is the proceeding punitive in form, it is punitive also in effect. The answer made to the "accusation" by the verdict of the jury may mean that the defendant will be a free man after a brief term of confinement, or may mean, on the other hand, that he will be a prisoner for life. If the previous convictions had been charged in an indictment, there is no doubt that they must have been proved beyond a reasonable doubt, for they would then have been elements affecting the grade of the offense. People v. Gowasky, supra; People v. Sickles, 156 N.Y. 541, 51 N. E. 288. We find no token of a purpose to abate the measures of the proof upon an inquiry as to the same elements after guilt has been adjudged. The genius of our criminal law is violated when punishment is enhanced in the face of a reasonable doubt as to the facts leading to enhancement. If that genius is to be expelled, there should be a clear announcement of the purpose to drive it forth from the dwelling it has inhabited so long.

There are conflicting decisions on the subject in the courts below. The Appellate Division for the first department has held in a case decided without opinion that a preponderance of evidence suffices (People v. Rocco, 229 App. Div. 847, 243 N. Y. S. 847); the Appellate Division for the Fourth Department in an opinion by Sears, P. J., has held the opposite (People v. Brennan, 229 App. Div. 378, 242 N. Y. S. 692).

[6] Error, we think, there also was in the instructions to the jury that upon the trial of an information under Penal Law, § 1943, the failure of the defendant to take the stand may be considered by the jury to be a circumstance against him.

We have no thought in thus holding to intimate a belief that a statute permitting adverse comment in such circumstances would impair the constitutional privilege against self-incrimination (cf. Hiscock, Criminal Law and Procedure in New York, 26 Columbia Law Rev. 259, 260). In our view of the case, no such question is before us. We deal with the question solely in the aspect of statutory construction, and, so viewing it, we are satisfied that the comment is forbidden. By the express terms of section 1943 of the Penal Law, the defendant against whom the information is presented must be "cautioned as to his rights." This can only mean that he may speak or be silent as he prefers, and that silence, if preferred, will not tend to his prejudice. "The defendant in all cases may testify as a witness in his own behalf, but his neglect or refusal to testify does not create any presumption against him." Code Cr. Proc. § 393. It is far too narrow a reading of this section to limit it by force of its position in title 7, part 4, of the Code, to a privilege arising upon the trial of an "indictment." Cf. Code Cr. Proc. § 2. If that were its full meaning, a failure to take the stand might give rise to a presumption against a defendant whenever an information was the basis of a charge against him. Even the privilege to testify, which is conferred by the same section, would be subject in that view to a like restriction. The common understanding of the bench and bar is a sufficient answer to an attempt so to circumscribe the field of these procedural reforms. Irrespective of its place in the divisions of the Code, section 393 applies, by its very terms, "in all cases," i.e., in all criminal cases, without reference to the manner in which the prosecution was begun. We have seen that an inquiry to ascertain the previous convictions of one found guilty of a felony is to be treated as a criminal case. The whole structure of section 1943 of the Penal Law shows that this was its dominant quality in the thought of the framers of the statute. If so it is to be viewed, the incidents of a criminal case must be held to go along with it, including both the privilege to testify and the exemption from adverse presumption in the event of unwillingness to testify. If the Legislature desires to abrogate that exemption, it must speak with a clearer voice.

[7, 8] 3. The defendant assigns as error a ruling of the trial court that there were to be no preemptory challenges, and that any challenges to be allowed must be made for cause.

The provisions of the Criminal Code regulating peremptory challenges must be viewed upon the background furnished by the history of the criminal law. For centuries the privilege of such a challenge has been denied whenever the proceeding, though triable by a jury, has been collateral to the general issue of the defendant's guilt or innocence. Rex v. Okey (1674) 1 Lev. 61; Johnson's Case (1728) Foster's Crown Law, 46; Rex v. Radcliffe, 1 W. Bl. 3; Brooks v. Commonwealth, 41 Va. (2 Rob.) 845; People v. Youngs, 1 Caines, 37; Freeman v. People, 4 Denio, 9, 47 Am. Dec. 216; People v. Schaller, 224 App. Div. 3, 229 N. Y. S. 492. The present inquiry, though a criminal proceeding rather than a civil one, is collateral or supplementary within the meaning of the ancient rule. People v. Gowasky, supra.

If the sections as to peremptory challenges are read with literal strictness, they do not touch this case. They have been placed in the part and title of the Code governing proceedings after indictment and before trial. Code Cr. Proc. § 2, and part 4, tit. 6, c. 3, §§ 359, 370, 373. This position might not be controlling if an intention to extend the privilege to other criminal proceedings were otherwise revealed. It is significant, if not wholly decisive, where such evidence is lacking.

We are unable to discover in the statute an indication of a purpose to reverse the course of history, and clothe the defendant with a privilege so consistently denied.

The court did not err in its limitation of the right of challenge.

The judgment of the Appellate Division and that of the Court of General Sessions should be reversed and a new trial ordered.

Pound, Crane, Lehman, Kellogg, O'Brien, and Hubbs, JJ., concur.

Judgments reversed, etc.

Mr. ERVIN. I call the attention of the Senate to a certain statement in the opinion of the court in the case of State against Durham, an Oregon case reported 177 Or. 574.

This was another case involving the question of whether the defendant was a habitual offender. To be guilty of being a habitual offender, as I have previously stated, the person must be guilty of the crime with which he presently stands charged, and second, he must have committed previous crimes in times past.

Sometimes this proceeding is tried all at once, and sometimes the question of his guilt in the present trial is determined and then the question of whether he is a previous offender is tried separately.

In this case, they were tried separately, and the court said this:

> Although the jury in this special proceeding is not determining the guilt or innocence of the defendant on the main charge—

Because it was determining whether he was a previous offender—

> it is nevertheless well established that it is a criminal proceeding. 24 C.J.S., Criminal Law, § 1969, page 1168. As said in 25 Am. Jur. 278, Habitual Criminals, § 31: "The defendant has the same rights to a speedy trial, to time for preparation, to assistance of counsel, to compulsory process for witnesses, to be confronted with the witnesses against him, to require proof beyond a reasonable doubt, and to all other rights enjoyed by a defendant on trial for a criminal offense."

I ask unanimous consent that the decision of the Oregon court in State against Durham be printed in the Record at this point.

There being no objection, the decision was ordered to be printed in the Record, as follows:

[Supreme Court of Oregon, Dec. 12, 1945]

State *v.* Durham

1. CRIMINAL LAW—1202(6)

Trial court was not required to sentence defendant on main charge before proceeding with habitual criminal charge. O.C.L.A. §§ 26–2803, 26–2804.

2. CRIMINAL LAW—1202(7)

Failure to sentence defendant upon main charge before proceeding with habitual criminal charge did not deprive defendant of right to appeal, but, when trial court disposed of habitual criminal proceeding and entered final judgment of conviction, defendant had right to appeal therefrom and could review entire proceedings commencing with the original prosecution. O.C.L.A. §§ 26–2803, 26–2804.

3. JURY—135

At common law, peremptory challenges in selection of jury in criminal cases were confined to main issue and did not extend to trial of collateral issues.

4. JURY—135

Defendant charged with prior convictions should have been given right to exercise peremptory challenges in selection of jury in habitual criminal proceedings, though proceeding was merely collateral to main issue, since proceeding was a "criminal case" within the common-law rule permitting peremptory challenges. O.C.L.A. §§ 26–919, 26–2803, 26–2804.

See Words and Phrases, Permanent Edition, for all other definitions of "Criminal Case".

5. CRIMINAL LAW—163

The plea of former jeopardy has no application to an habitual criminal proceeding, since being an habitual criminal is not an offense but merely a status. O.C.L.A. §§ 26–2803, 26–2804.

6. CRIMINAL LAW—1202(1)

Final judgments convicting defendant of having a pistol in his possession after having been convicted of a felony and of receiving stolen property could be relied upon by state in proceeding to establish charge that defendant was an habitual criminal, notwithstanding that trial court, subsequent to imposition of concurrent sentences and during absence of defendant while he was in prison, purported to change judgments relative thereto so as to make sentences run consecutively. O.C.L.A. § 25–112; Laws 1941, c. 330; O.C. L.A. §§ 26–2803, 26–2804.

Appeal from Circuit Court, Union County; R. J. Green, Judge.

George Washington Durham was convicted of having a pistol in his possession after having been previously convicted of a felony and sentenced to life imprisonment as an habitual criminal, and he appeals.

Reversed and remanded.

Boon Cason, of Portland (Irvin Goodman and Leo Levenson, both of Portland, on the brief), for appellant.

Colon R. Eberhard, Dist. Atty., pro tem., of La Grande, for respondent.

Before Belt, C. J., and Rossman, Bailey, Lusk and Hay, JJ.

Belt, Chief Justice.

On February 24, 1945, the defendant, George Washington Durham, was convicted in Union County of the crime of having a pistol in his possession after having been previously convicted of a felony. The possession of a pistol under such circumstances is punishable as a felony under § 25–112, O.C.L.A., as amended by Chapter 330, Laws of Oregon for 1941. After verdict was returned and before sentence was imposed on such charge, the District Attorney filed an information on March 22, 1945, charging the defendant with being an habitual criminal in that previous to his last conviction he had been convicted of four felonies, to wit: (1) On December 10, 1928, in the State of Kansas, the defendant was convicted upon an indictment containing three counts (a) burglary in the second degree; (b) larceny committed at the time and upon the occasion of a burglary; (c) larceny of an automobile. (2) On June 12, 1934, in Multnomah County, Oregon, the crime of burglary not in a dwelling house. (3) On April 18, 1938, in Multnomah, County, Oregon, the crime of having a pistol in his possession after having been convicted of a felony. (4) On May 13, 1938, in Multnomah County, Oregon, the crime of receiving stolen property. Defendant, upon being duly arraigned upon such charge, stood mute and thereupon the court entered a plea of not guilty. A jury was empaneled and, after hearing the evidence, the instructions of the court, and the argument of counsel, returned a verdict in the form of special findings, establishing the identity of the defendant and his previous convictions of felonies specified in the information. Based upon such verdict, the court imposed a sentence upon the defendant that he be confined in the penitentiary for the term of his natural life. From this judgment of convictions the defendant has appealed.

[1] It is assigned as error that the court refused to sentence the defendant on the main charge, namely, of having a pistol in his possession, before proceeding with the habitual criminal charge. We do not agree with this contention. It would have been premature and in violation of the purpose and spirit of the Habitual Criminal Act to have imposed sentence on the main charge before determining whether the defendant was a fourth offender as charged in the information. Indeed, the court had no authority to impose sentence on the main charge after this information had been filed and while it was pending. Had the court done so, such sentence could have been vacated in the event the defendant was found to have been an habitual criminal. Ex parte Towne, 14 Wash. 2d 633, 129 P. 2d 230, State ex rel. Edelstin v. Huneke, 138 Wash. 495, 244 P. 721.

The Habitual Criminal Act, so far as material herein, provides:

§ 26–2803, O.C.L.A. "A person who, after having been three times convicted within this state of felonies or attempts to commit felonies, or, under the law of any other state, government or country, of crimes which, if committed within this state would be felonious, commits a felony within this state, shall be sentenced, upon conviction of such fourth, or subsequent, offense, to imprisonment in a state prison for the term of his natural life."

§ 26–2804, O.C.L.A. If at any time, either after sentence or conviction, it shall appear that a person convicted of a felony has previously been convicted of crimes as set forth in this act, it shall be the duty of the district attorney of the county in which said conviction was had to file an information, accusing the said person of such previous convictions. Whereupon, the court in which such conviction was had shall cause the said person, whether confined in prison or otherwise, to be brought before it and shall inform him of the allegations contained in such information and of his right to be tried as to the truth thereof according to law, and shall require such offender to say whether he is the same person as charged in such information or not. If he says he is not the same person or refuses to answer, or remains silent, his plea, or the fact of his silence, shall be entered of record and a jury shall be empaneled to inquire whether the offender is the same person mentioned in the several records as set forth in such information. If the jury finds that he is the same person or if he acknowledges or confesses in open court, after being duly cautioned as to his right, that he is the same person, the court shall sentence him to the punishment hereinbefore provided, and shall vacate the previous sentence, deducting from the new sentence all time actually served on the sentence so vacated.

"Whenever it shall become known to any warden or prison, probation, parole or police officer or other peace officer that any person charged with or convicted of a felony has been previously convicted within the meaning of said sections hereinbefore set forth, it shall become his duty forthwith to report the facts to the district attorney of the county from which he was sentenced."

If the defendant was found not to have been previously convicted of the four felonies as charged, then no life imprisonment sentence could be imposed. The act provides for a separate and supplementary proceeding in order to enable the court to determine the kind and character of man upon whom sentence is to be imposed. It is a continuation of the original prosecution. If he is a second or subsequent offender then he must suffer an enhanced penalty. If it is shown that the defendant has been convicted of four felonies, including that of the main charge, then it is deemed under the act that he is hopeless, so far as reformation is concerned, and must, for the protection of society, be perpetually confined. No error was committed by the court in continuing the imposition of sentence during the pendency of the habitual criminal charge.

[2] It is argued that the failure to sentence defendant upon the main charge deprived him of the right of appeal. In our opinion, when the court disposed of the habitual criminal proceeding and entered final judgment of conviction, the defendant had the right of appeal therefrom and could review the entire proceedings commencing with the original prosecution. The separate and supplementary proceeding does not involve a new and independent charge of the commission of a crime. It is a proceeding merely to determine the penalty to be imposed in the main charge. As said in State ex rel. Edelstin v. Huneke, supra [138 Wash. 495, 244 p. 722], "It is no crime to be one 'who has been previously convicted' no matter how many times."

[3, 4] The serious question is whether the court erred in denying defendant the right to exercise any preemptory challenge in the selection of the jury in this special proceeding. The court allowed defendant the right to challenge any juror for cause, but definitely held that he was not entitled to any peremptory challenge.

People v. Reese, 258 N.Y. 89, 179 N.E. 305, 309, 79 A.L.R. 1329, supports the trial court. It was there held that the issue in such proceeding was collateral to the defendant's guilt or innocence, and, by reason thereof, no right of peremptory challenge existed. The New York court nevertheless held—and we think properly so—that such "inquiry to ascertain the previous convictions of one found guilty of a felony is to be treated as a criminal case." Indeed, the court said: "Unquestionably this inquiry is a criminal case, and not a civil one" and that "if so it is to be viewed, the incidents of a criminal case must be held to go along with it." We agree. The court further said: "To justify a verdict that a defendant charged in the information is the person previously convicted, the jury should be satisfied of his identity beyond a reasonable doubt." We agree. With all deference to the New York court, it is difficult to reconcile its conclusion, relative to peremptory challenges, with the view of the court that such proceeding is a criminal case and that it has all the incidents of such.

We are not unmindful of the fact that at common law peremptory challenges in criminal cases were confined to the main issue and did not extend to the trial of collateral issues. Wharton's Crim.Proc. (Vol. III) §§ 1548–1551, Chitty's Crim.Law 535, 35 C.J. 407, Bishop's New Crim.Proc. § 942. It is clear that the question of whether defendant is an habitual criminal is collateral to the main issue of his guilt or innocence of the principal charge, but we think it is not collateral to the question as to the kind of judgment of conviction to be entered against him. The direct and vital issue involved in this separate proceeding—its being a continuation of the original prosecution—was whether the defendant was to serve a term in the penitentiary for the rest of his natural life or whether the sentence would be for a much shorter term. No final judgment of conviction could be entered until sentence had been imposed. When the jury found that the defendant was one and the same person as named in the records of previous convictions, it, in effect, fixed the penalty for the last offense. It only remained, then, for the court to enter the final judgment of conviction.

Whatever may be the common-law rule relative to peremptory challenges, we think that when the legislature enacted § 26–2804, O.C.L.A., in 1927, giving the defendant an absolute right to a jury trial, it had in mind the kind of jury trial then in practice. It was not concerned with a jury trial under ancient common-law rules. We think there was no intention to impair the right to a jury trial in a proceeding involving such extreme penalties. Although the jury in this special proceeding is not determining the guilt or innocence of the defendant on the main charge, it is nevertheless well established that it is a criminal proceeding. 24 C.J.S., Criminal Law, § 1969, page 1168. As said in 25 Am.Jur. 278, Habitual Criminals, § 31: "The defendant has the same rights to a speedy trial, to time for preparation, to assistance of counsel, to compulsory process for witnesses, to be confronted with the witnesses against him, to require proof beyond a reasonable doubt, and to all other rights enjoyed by a defendant on trial for a criminal offense." True, in the same section it is said that peremptory challenges are not permitted in habitual criminal proceedings, citing in support of the text, People v. Reese, supra.

At the time of the enactment of § 26–2804, O.C.L.A., relative to the right of a jury trial, a defendant charged with a crime punishable with death or life imprisonment was entitled to twelve peremptory challenges. § 26–919, O.C.L.A. Since 1864, a defendant in a criminal action has always had the right of peremptory challenge. Is it not reasonable to assume that the legislature, in the enactment of the Habitual Criminal Act, had no intention of restricting such right where the penalty of life imprisonment was involved? Can it be that in a civil action to recover on a promissory note each party has three peremptory challenges, but in a proceeding involving life imprisonment none are allowed! We think it is far more in keeping with the proper administration of justice that there be no such impairment of the right of trial by jury, and that reversible error was committed in denying defendant the right of peremptory challenge.

[5] Defendant assigns error because the court refused to dismiss the habitual criminal proceeding on the ground of former jeopardy. The defendant asserts that he was acquitted in Multnomah County, Oregon, on June 7, 1944, of the charge of being an habitual criminal and the previous convictions then relied upon by the State are the same as those in the instant proceeding, with the exception of the last conviction had in Union County. Plea of former jeopardy has no application to this kind of a proceeding. It is not an offense to be an habitual criminal; it is merely a status. Furthermore, there is no showing of any adjudication that the defendant was not the same person as named in the previous convictions relied upon by the State in this special proceeding.

[6] The fourth and last assignment of error is based upon the admission in evidence of certified copies of records of convictions in Multnomah County, Oregon. It is asserted that these judgments of conviction had been set aside by a subsequent judgment of the court. It appears that the defendant was convicted in Multnomah County in April, 1938, of the crime of having a pistol in possession after having been convicted of a felony and was sentenced to serve a term in the penitentiary without limitation of time not to exceed five years. In May of the same year, he was convicted in Multnomah County of the crime of receiving stolen property and was sentenced to serve a similar period of time in the penitentiary. These sentences were to run concurrently. It is claimed that the court, subsequent to the imposition of these sentences and during the absence of the defendant while he was imprisoned in the penitentiary, changed the judgment relative thereto so as to make the sentences run consecutively. Defendant asserts that this alteration of the judgments during his absence was a null and void proceeding. Assuming such to be true, it does not follow that the sentences as originally imposed are null and void. Suffice it to say that the final judgments of conviction may be relied upon by the State in this proceeding to establish the charge that the defendant was an habitual criminal.

Based solely on the refusal of the court to allow the defendant the right to peremptory challenge, the judgment of conviction is reversed and the cause remanded for a new trial.

Mr. ERVIN. These cases establish beyond the peradventure of a doubt that when a defendant is charged in any proceeding with being a habitual criminal or a second or subsequent offender for the purpose of imposing upon him enhanced judgment, he is entitled to all of the rights belonging to a defendant in any criminal trial.

So I say that under the fifth amendment, a person cannot be charged with an infamous crime, punishable by more than 1 year's imprisonment, unless he is first indicted by a grand jury. And when he is indicted by a grand jury, the burden falls upon the prosecution to prove his guilt, and not upon him to prove that he is not guilty of the previous offenses.

I also say that when a person is charged, under these constitutional provisions, he cannot be required to incriminate himself. I assert that unless his guilt is proved beyond a reasonable doubt, by evidence independent of his coerced testimony, he is entitled to an acquittal.

Despite this, one section of the D.C. Crime bill—section 23-111—undertakes to rob some persons charged with being habitual criminals of their right to be indicted by a grand jury before being placed on trial. Moreover, the same section undertakes to rob all of them of their constitutional right to be tried before a petit jury. In addition, it undertakes to make them incriminate themselves in violation of the fifth amendment, and to place upon them the burden of disproving their guilt.

I wish to invite attention to one other case in this connection, the case of State against Furth, a Washington decision, reported in 195 Pacific 2d 925. In the interest of time, I will merely read certain headnotes. Headnote 3:

3. CRIMINAL LAW—1202(2)

The state which charged accused, convicted of petit larceny, with being an habitual criminal was required to prove the fact that the prior convictions had been rendered and that the accused was the person previously convicted, the question of identity of accused being one of fact. Rem. Rev. Stat. § 2286.

Headnote 6:

6. CRIMINAL LAW—737(1)

It is the function of the jury and not the court to settle disputed issues of fact and the court cannot intrench upon the province of the jury upon such issues. Const. art. 1, § 21.

Headnote 7:

7. CRIMINAL LAW—1202(4)

Where the state charged accused, convicted of petit larceny, with being an habitual criminal, the question of whether there were prior convictions and whether the person convicted was accused, were questions of fact for the jury and could not be determined by the court. Rem. Rev. Stat. § 2286; Const. art. 1, § 21.

Mr. President (Mr. METCALF), I ask unanimous consent to have printed at this point in the RECORD the opinion of the supreme court of the State of Washington in State against Furth.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[Supreme Court of Washington, Aug. 1, 1940]

STATE *v.* FURTH—No. 27956

1. CRIMINAL LAW—1202(4)

In determining whether accused who had been convicted of petit larceny should be sentenced under habitual criminal statute because of conviction of third-degree burglary in Utah, question whether third-degree burglary was a felony in Washington was required to be determined by Washington law and if the information on which accused was convicted in Utah stated facts sufficient to constitute a felony in Washington the conviction would come within the habitual criminal statute. Rem. Rev. Stat. § 2286.

2. CRIMINAL LAW—1202(1)

The crime of burglary in third degree in the state of Utah is the same as the crime of burglary in the second degree in Washington and if accused had been convicted of third-degree burglary in Utah, he was guilty of crime constituting a "felony" in Washington and upon conviction of petit larceny in Washington was subject to punishment under habitual criminal statute. Rem. Rev. Stat. § 2286.

See Words and Phrases, Permanent Edition, for all other definitions of "Felony".

3. CRIMINAL LAW—1202(2)

The state which charged accused, convicted of petit larceny, with being an habitual criminal was required to prove the fact that the prior convictions had been rendered and that the accused was the person previously convicted, the question of identity of accused being one of fact. Rem. Rev. Stat. § 2286.

4. CRIMINAL LAW 1202(3)

Where previous convictions are charged in information for purposes of enhancing punishment of accused, the convictions must be proved beyond a reasonable doubt, since fact of prior convictions must be taken as an essential element of the offenses charged, at least to the extent of aggravating it and authorizing an increased punishment. Rem. Rev. Stat. § 2286.

5. JURY 31(1)

The word "inviolate" as used in constitutional provision that right of trial by jury shall remain inviolate means freedom from substantial impairment and does not prohibit modification of the details of administration which does not affect enjoyment of the right of jury trial. Const. art. 1, § 21.

See Words and Phrases, Permanent Edition, for all other definitions of "Inviolate".

6. CRIMINAL LAW 737(1)

It is the function of the jury and not the court to settle disputed issues of fact and the court cannot intrench upon the province of the jury upon such issues. Const. art. 1, § 21.

7. CRIMINAL LAW 1202(4)

Where the state charged accused, convicted of petit larceny, with being an habitual criminal, the question of whether there were prior convictions and whether the person convicted was accused, were questions of fact for the jury and could not be determined by the court. Rem. Rev. Stat. § 2286; Const. art. 1, § 21.

8. JURY 21(5)

Inclusion in prior habitual criminal statute of provision for jury trial on question of prior conviction was merely declaratory of an existing right of accused and the omission from subsequent habitual criminal statute of provision for jury trial did not divest the accused of right to such a trial on disputed issues of fact. Rem. & Bal. Code, §§ 2177, 2178; Rem. Rev. Stat. § 2286.

9. CRIMINAL LAW 1202(3)

Where accused who was convicted of petit larceny and was charged under habitual criminal statute of having previously been convicted of third-degree burglary in Utah, the court did not err in failing to require proof that accused had been released from Utah penitentiary, in view of fact that accused's presence in court constituted prima facie evidence of his release. Rem. Rev. Stat. § 2286.

Department 1.

Appeal from Superior Court, King County; Donald A. McDonald, Judge.

Oscar Furth was convicted of petit larceny and was sentenced as an habitual criminal, and he appeals.

Reversed.

Maurice Kadish, of Seattle, for appellant.

B. Gray Warner and John C. Merkel, both of Seattle, for respondent.

Millard, Justice.

The prosecuting attorney of King county filed an information April 22, 1939, charging Oscar Furth with commission of the crime of petit larceny in King county, April 19, 1939. Trial of the defendant to a jury resulted in verdict June 12, 1939, of guilty as charged. The prosecuting attorney filed supplemental information August 18, 1939, charging defendant was an habitual criminal by reason of two prior convictions of crime. The cause was stricken from the trial calendar and an amended supplemental information filed November 20, 1939, accusing Oscar Furth, as follows, of being an habitual criminal:

"He, said Oscar Furth, under the name of Joe Webber, in the District Court for the State of Utah, on the 14th day of August, 1925, was duly and legally convicted of the crime of Burglary in the Third Degree, said crime amounting to and being a felony at that time and at all times since under the laws of the State of Washington.

"He, said Oscar Furth, under the name of Oscar Furth, in the United States District Court for the Western District of Washington, Northern Division, on the 7th day of February, 1936, was duly and legally convicted of Unlawful Possession of Narcotics, said crime amounting to and being a felony at that time and at all times since under the laws of the State of Washington.

"He, said Oscar Furth, under the name of Oscar Furth, in the Superior Court of the State of California, City and County of San Francisco, on the 10th day of June, 1922, was duly and legally convicted of the crime of Unlawful Possession of Narcotics, said crime amounting to and being a felony at that time and at all times since under the laws of the state of Washington."

To the amended supplemental information the defendent pleaded not guilty and requested trial by jury. The defendant's request for trial by jury on the charge of being an habitual criminal was denied on the ground that, while issues of fact were raised, the defendant was not charged with a crime. The court said:

"If the habitual criminal angle of this case was required to be submitted to a jury, that would end it. That matter goes merely to the penalty. The man had a trial by jury on the crime. There are two issues, of course, whether there were previous convictions, and if this is the man that was convicted. Your right to a jury of course is unquestioned where there is a charge of crime, but this merely goes to the matter of punishment.

"In the absence of any supplemental information the statute provides the penalty, but when brought to the attention of the court there have been these previous convictions, then the court imposes the augmented penalty.

"* * * The man will be given a chance to defend himself and to offer evidence. In other words, there are two issues here, the previous convictions must be established, and is this the man who was convicted in these previous judgments, and on that, of course, he is entitled to have a hearing."

Our first habitual criminal statute (chapter 86, Laws of 1903, p. 125, Rem. & Bal. Code, §§ 2177, 2178) provided for trial by jury of "the fact of such former conviction or convictions." Our present habitual criminal statute (chapter 249, Laws of 1909, p. 899, § 34, Rem. Rev. Stat. § 2286), which repealed chapter 86, Laws of 1903, reads as follows:

"Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been convicted, whether in this state or elsewhere, of any crime which under the laws of this state would amount to a felony, or who shall previously have been twice convicted, whether in this state or elsewhere, or petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be adjudged to be an habitual criminal and shall be punished by imprisonment in the state penitentiary for not less than ten years.

"Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been twice convicted, whether in this state or elsewhere, of any crime which under the laws of this state would amount to a felony, or who shall previously have been four times convicted, whether in this state or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be punished by imprisonment in the state penitentiary for life."

Trial was had to the court sitting without a jury. A witness from the identification bureau of the office of the sheriff of King county by comparison of the finger prints of defendant with finger prints from the records of the Utah state penitentiary identified defendant as the Oscar Furth, alias Joe Webber, who was convicted in the state of Utah of the crime of burglary in the third degree and confined therefor in the Utah state penitentiary. Defendant objected to the evidence on the ground that no showing was made of defendant's commitment to, or release from, the Utah state penitentiary. The court found that defendant was duly and legally convicted in the state of Utah of the crime of burglary in the third degree; that said crime then and at all times since amounted to a felony in this state, and that defendant is an habitual criminal. Judgment and sentence were entered accordingly. Defendant appealed.

Counsel for appellant first contends that no showing was made that appellant was convicted of a crime elsewhere which under the laws of this state would amount to a felony, therefore the court erred in holding that the crime of third degree burglary—there is no crime so designated in this state—in the state of Utah is a felony in this state.

[1] Whether burglary in the third degree is a felony in this state is determined by the laws of this state. If the indictment or information on which one is convicted states facts sufficient to constitute a felony within this state the conviction comes within the meaning of Rem. Rev. Stat. § 2286, which reads in part as follows, and the pertinent portion of which we have italicized: "Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been convicted, whether in this state or elsewhere, of *any crime which under the laws of this state would amount to a felony,* * * * shall be adjudged to be an habitual criminal * * *."

The information on which Joe Webber, an alias of defendant, was convicted charges the accused with the "crime of Burglary in Third Degree, committed as follows, to-wit:" "The said defendant on August 11, 1925, in the day time, at the county of Weber, state of Utah, wilfully, unlawfully, feloniously and burglariously broke and entered the room of one George Fotos, said room being in the Panama Rooming House, situate at No. 2514 Lincoln Avenue, Ogden, Utah, with intent to commit larceny * * *."

[2] A comparison of the foregoing information with our statute, reading as follows, discloses that the crime of burglary in the third degree in the state of Utah is the same as the crime of burglary in the second degree, a felony, in this state: "Every person who, with intent to commit some crime therein shall, under circumstances not amounting to burglary in the first degree, enter the dwelling-house of another or break and enter, or, having committed a crime therein, shall break out of, any building or part thereof, or a room or other structure wherein any property is kept for use, sale or deposit, shall be guilty of burglary in the second degree and shall be punished by imprisonment in the state penitentiary for not more than fifteen years." Rem. Rev. Stat. § 2579.

Error is next assigned on denial of appellant's request for trial by jury on the charge of being an habitual criminal.

Counsel for the State argue that the original habitual criminal statute (chapter 86, Laws of 1903, Rem. & Bal. Code, §§ 2177, 2178), which provide for trial by jury of the habitual criminal charge, was repealed by our present habitual criminal statute (section 34, chapter 249, Laws of 1909, Rem. Rev. Stat. § 2286), in which there is no provision for trial by jury of the charge of being an habitual criminal, therefore appellant was not entitled to a trial by jury. It is insisted that appellant was not entitled to a trial by jury under section 22, Article I, of the state constitution, which guarantees the right to trial by jury where the defendant is charged with the commission of an "offense," inasmuch as being an habitual criminal is not a criminal offense. This position, urges counsel for the state, is in harmony with the concurring opinion in State v. Cotz, 94 Wash. 163, 161 P. 1191, which was incorporated into the opinion in State v. Kelch, 114 Wash. 601, 605, 195 P. 1023, to the effect that the habitual criminal statute does not require a charge of a substantive crime necessitating submission of the question of prior convictions to a jury, but that the only question involved is a state of the record, either in the court where the charge is made, or some other court, and that the only plea open to one so charged is that of nul tiel record, or that the judgment has been satisfied in some way recognized by law.

State v. Cotz, supra, is inapposite. The only question raised on that appeal was as to the sufficiency of the information which charged the crime substantially in the language of the statute.

Appellant urged, unsuccessfully, that the information was insufficient in that it failed to affirmatively allege that the prior convictions were had in a court or courts of competent jurisdiction, and in that each step in the procedure from indictment or information to final judgment was not formally pleaded. The concurring opinion was addressed to a question not before the court in that case.

Neither is State v. Kelch, supra, in point. In that case the defendant was convicted of grand larceny after trial before one judge sitting with a jury. Prior to being sentenced upon the conviction of grand larceny, he was convicted on a second or supplemental information charging him with being an habitual criminal, from having been three times convicted of crime. Upon this second information the defendant was tried before another judge of the superior court for King county. Upon his plea to the second information *he was placed upon trial before a jury,* and upon the record was convicted. He was then taken before the first judge, who had tried him upon the grand larceny charge, and was by that judge sentenced, as the law requires, to life imprisonment. We stated that the statute (Rem.Rev.Stat. § 2286) providing for the punishment of habitual criminals who have twice before been convicted of felony, is not a supplemental but a cumulative proceeding and does not require the charge of a substantive crime; that the charge of being an habitual criminal was an independent charge and not a continuation of the previous prosecution for grand larceny, except that there had to be a previous conviction of grand larceny or some such charge before the subsequent charge would lie. The questions, which we decided in the affirmative, presented on that appeal were: (1) May the charge of being an habitual criminal be tried before a judge of another department of the court, before sentence on the third felony charge; and (2) after conviction of being an habitual criminal, may the accused be sent back for sentence to the judge who tried the last felony charge? There was no question in that case of the right to trial by jury of the charge of being an habitual criminal; in fact, the defendant was placed upon trial before a jury on the charge of being an habitual criminal.

Contrast Rex v. Hunter [1921] 1 K.B. 555, C.C.A., in which it was held that the charge of being an habitual criminal was not a charge of a substantive offense; it was only for the purpose of enhancing the punishment for the principal offense. The court said that it followed, therefore, that there could not be separate juries trying the two issues, but that the same jury which tried the principal offense must also try the issue of the previous conviction.

Counsel for the state cite State v. LePitre, 54 Wash. 166, 103 P. 27, 18 Ann. Cas. 922, which is cited with approval in State v. Johnson, 194 Wash. 438, 78 P. 2d 561, to the effect that the charge of being an habitual criminal does not constitute an offense in itself, but merely provides an increased punishment for the last offense.

In State v. LePitre, supra, the supplementary information was filed under the habitual criminal statute of 1903 (chapter 86, Laws of 1903, Rem. & Bal. Code, §§ 2177, 2178) which provided for trial by jury. The following language from the opinion in State v. LePitre, supra [54 Wash. 166, 103 P. 28, 18 Ann. Cas. 922], written by the author of the concurring opinion in State v. Cotz, supra, is interesting and informative, particularly that portion which stresses the preservation within the statute of the right of trial by jury on the charge of being an habitual criminal: "The habitual criminal statute is a thing of modern creation, and, while there are many rules of law which may seem inconsistent with its purpose and the procedure adopted to compass it, it is nevertheless sound in principle and sustained by reason. * * * it does no violence to any constitutional guaranty for the state to rid itself of depravity when its efforts to reform have failed. The act is not ex post facto. It does not deny the right of trial by jury. It does not put the offender twice in jeopardy. It does not inflict a double punishment for the same offense * * *. It merely provides an increased punishment for the last offense."

All that we held in State ex rel. Edelstein v. Huneke, 138 Wash. 495, 244 P. 721, was that upon the last conviction of one accused of being an habitual criminal, it is premature for the court to sentence the accused for the last offense before trial and determination of the habitual criminal charge; and that the accused has no right to insist upon such sentence and appeal therefrom before the other charge is determined. On hearing en banc we held (State ex rel. Edelstein v. Huneke, 140 Wash. 385, 249 P. 784, 250 P. 469) that under the habitual criminal statute (Ren.Rev.Stat. § 2286), which makes no provision for the procedure, no constitutional right of the accused is violated by charging and trying the two issues separately; in view of the long established practice in this state, and the fact that a separate trial for the offense committed is saved from the danger of prejudice through combining it with an habitual criminal charge.

In State v. Kirkpatrick, 181 Wash. 313, 43 P.2d 44, we held that where defendant is charged in one information with the crimes of burglary, grand larceny and of being an habitual criminal, it is prejudicial error to place before the jury the habitual criminal charge during the trial of the substantive offenses. See, also, State v. Fowler, 187 Wash. 450, 60 P.2d 83.

In State v. Delano, 189 Wash. 230, 64 P.2d 511, the defendant appealed from a conviction of the crime of forgery and being an habitual criminal. We held that, under Rem. Rev.Stat. § 2286, an habitual criminal charge may be joined in the same information charging the substantive offense, if upon a separate paper and not called to the attention of the jury until after verdict, when, if convicted on the substantive charge, the accused may be tried on the habitual criminal charge before the same jury.

On a charge of being an habitual criminal, is the question of defendant's prior conviction an issue of fact to be determined by the jury? The weight of authority answers that question, which is one of first impression in this state, in the affirmative.

[3] The trial court recognized that by appellant's plea of not guilty to the charge of being an habitual criminal two issues of fact were presented: (1) Were there previous convictions? (2) Was appellant the man who was the subject of those convictions? It was incumbent upon the state to prove the necessary elements of the charge—that prior judgments of conviction had been rendered and that the person named therein was the same person who was on trial for being an habitual criminal. The question of identity, it will hardly be disputed, is a question of fact. State v. Harkness, 1 Wash. 2d 530, 96 P. 2d 460.

[4] Where previous convictions are charged in an information for the purpose of enhancing the punishment of the defendant, such convictions must be proved beyond a reasonable doubt, since the fact of the prior convictions is to be taken as an essential element of the offense charged, at least to the extent of aggravating it and authorizing an increased punishment. People v. Reese, 258 N.Y. 89, 179 N.E. 305, 79 A.L.R. 1329.

Commencing at page 59 of vol. 58 A.L.R., the authorities are collected in support of the editor's statement that on a charge of a second or subsequent offense the question of a prior conviction is an essential element of the offense charged and is an issue of fact to be determined by the jury. The authorities cited are the highest courts of Alabama, Connecticut, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maryland, Minnesota, Montana, Nebraska, New York, Pennsylvania, Utah and Wisconsin.

In State v. O'Neill, 76 Mont. 526, 248 P. 215, it was held that in order to convict the defendant of a subsequent offense and to authorize the enhanced punishment under the Montana statute, it was necessary for the jury to pass on the question of the prior conviction which constituted a part of the offense charged and this had to be done even if the defendant confessed the fact of the prior conviction. It is stated that the reason for this is that by the Montana statute the jury is required to fix the punishment within the limits set down by the legislature; and the further reason is that no section of the statute provided that on confession of the prior conviction all knowledge and evidence thereof must be kept from the jury.

In Rex v. Norman [1924], 2K.B. 315, C.C.A., it was held that where an offender was charged with being an habitual criminal, and did not admit the charge, it was always a question for the jury to determine whether he was an habitual criminal.

In Green Bay Fish Co. v. State, 186 Wis. 330, 202 N.W. 667, it was held that, in order to impose a sentence for the enhanced punishment, there must be proof of prior convictions and the question must be tried by the jury; the court can not take judicial knowledge of such fact, and to do so would be inconsistent with the right of the accused to meet his witnesses face to face.

In State v. Smith, 129 Iowa 709, 106 N.W. 187, 4 L.R.A.N.S., 539, 6 Ann. Cas, 1023, it was held that the fact of the two prior convictions was a part and element of the present action, and that it constituted an issue of fact to be passed on by the jury as any other issue of fact, and required a return by the jury of a special finding as to that issue.

In State v. Bailey, 165 La. 341, 115 So. 613, 58 A.L.R. 1, it was held, under the Louisiana statute providing that the judge may sentence any person convicted for a second or subsequent offense to a double or triple penalty or to perpetual imprisonment for the fourth offense, that the proof of the former convictions must be heard and passed on by the jury, since the jury alone has authority to subject an accused party to a greater penalty for the subsequent conviction.

In State v. Compagno, 125 La. 669, 51 So. 681, it was held that the fact of a prior conviction was an essential element of the offense charged, for it was the basis of the sentence for increasing the punishment; and it had to be tried and proved before a jury as any other issue of fact.

We note that, in a later opinion (State v. Guidry, 169 La. 215, 217, 124 So. 832, 835) the supreme court of Louisiana (without noticing its prior holdings) held that the statute, providing for increased punishment for second offenders, does not require that proceeding to so punish be tried by a jury, since, though the questions involved are purely questions of fact, they do not relate to the question of the guilt or innocence of the defendant. The court said: "The act itself does not expressly require, nor does the language by fair implication authorize, the submission to a jury of the fact as to whether the defendant was a second offender."

In Hall v. State, 121 Md. 577, 89 A. 111, in construing a statute providing for an enhanced punishment for subsequent offenders, the court held that the jury must find specially as to the fact of a prior conviction; that it was the province of the jury to consider only the identity of accused with the person named in the former conviction; that the question of guilt or innocence of the accused as to the prior conviction was not in issue.

Under § 5486 of the Rev.Gen.Stats., Laws of Florida, a first offense was a misdemeanor and a second offense a felony. In State ex rel. Lockmiller v. Mayor, 88 Fla. 96, 101 So. 228, the court said that, whether the section intended to prescribe merely increased punishment for habitual offenders, or create a new offense, a felony for a second violation of the act, the allegation of a prior conviction was a necessary element in the so-called felony; that the prior conviction was an element in the sense that the defendant's guilt or innocence of the first violation of the act was subject to inquiry of and determination by the jury. It was also held that the jury should find on each issue, the alleged principal offense, and the prior conviction.

In Osborne v. State, 115 Neb. 65, 211 N.W. 179, it was held that the alleged fact of prior convictions was an issue for the consideration of and determination by the jury and that the identity of the accused also had to be determined.

Alabama subscribes to the minority rule. In Lyles v. State, 18 Ala.App. 62, 88 So. 375, it was held that the evidence of a prior conviction should not be submitted to the jury; that the proper and only thing to do after defendant's conviction for the second or subsequent offense is for that fact to be brought to the attention of the court; for the court only has the right, and it is the duty of the court, in determining what hard labor punishment it will inflict upon defendant to ascertain for itself, from the records or other legitimate source, whether the defendant had been previously convicted of violation of the prohibition law.

The supreme court of Kansas held in Levell v. Simpson, 142 Kan. 892, 52 P.2d 372, and in Glover v. Simpson, 144 Kan., 153, 48 P.2d 73, that after a verdict of guilty is rendered against a person on trial for a crime, and when fact of his former conviction is under judicial ascertainment in order to impose the proper sentence upon him, he is not entitled to a jury trial on the question whether he had theretofore been convicted of such prior felony.

Commencing at page 365, vol. 82, A.L.R., is a supplement to the annotation in 58 A.L.R. 59, respecting the right of trial to a jury of the issue of prior conviction. The following recent cases are cited in support of the rule that on a charge of subsequent offense the question of a prior conviction is an essential element of the offense charged and is an issue of fact to be determined by the jury: State v. McGee, 207 Iowa, 334, 221 N.W. 556; State v. Dalton, Mo.Sup., 23 S.W.2d 1; State v. Schneider, 325 Mo. 486, 29 SW. 2d 698; State v. Breese, 326 Mo. 885, 33 S.W.2d 919; Johnston v. State, 46 Okl. Cr. 431, 287 P. 1068; Grider v. State, 49 Okl.Cr. 151, 295 P. 400; Tipton v. State, 160 Tenn. 664, 28 S.W.2d 635.

In State v. Cardwell, 332 Mo. 790, 60 S. W.2d 28, cited at page 228 of 116 A.L.R., supplementing annotations in 58 A.L.R. 59, and 82 A.L.R. 365, it is recited that the supreme court of Missouri held that the issue of defendant's prior conviction must be submitted to the jury notwithstanding the defendant's admission as to such prior conviction.

The general rule that on a charge of a second or subsequent offense the question of a prior conviction is an issue of fact to be determined by the jury was followed in State v. Beaudoin, 131 Me. 31, 158 A. 863, 85 A.L.R. 1101, and Burnham v. State, 127 Neb. 370, 255 N.W. 48.

In Metzger v. State, decided in 1938, 214 Ind. 113, 13 N.E.2d 519, it was held that, charging a jury that it must find beyond a reasonable doubt that the defendant was the same person charged to have been previously convicted, and also that the evidence of such conviction must be beyond reasonable doubt, was not erroneous.

Page 1107 et seq. of 85 A.L.R. lists the authorities sustaining the position that the question of identity is one of fact for the jury.

"The record of a former conviction is not sufficient alone to show that defendant in the present prosecution was formerly convicted. It must be shown by evidence independent of the record of the former conviction that the person whose former conviction is proved is the defendant in the present prosecution. The state has the burden of producing evidence to prove such identity. A transcript of former conviction which fails to show jurisdiction of the person will not sustain charge of former conviction. The question whether the person who was convicted at the former trial is identical with the person who is now accused, and who is now on trial, is for the jury." Underhill's Crim. Evidence, 4th Ed., pages 1500, 1501, § 829.

In support of the text that the question of identity is for the jury, cases of the courts of the United States Supreme Court, United States District Courts and the supreme courts of Georgia, Illinois, Iowa, Maine, Minnesota, Montana, Nebraska, New York, Tennessee, Vermont, Virginia and this state are cited.

The habitual criminal statute of the state of Missouri which does not authorize a conviction on a charge of being an habitual criminal and itself creates no offense, but only prescribes additional punishment based on the offender's crime reads as follows: "If any person convicted of any offense punishable by imprisonment in the penitentiary, or of any attempt to commit an offense which, if perpetrated, would be punishable by imprisonment in the penitentiary, shall be discharged, either upon pardon or upon compliance with the sentence, and shall subsequently be convicted of any offense committed after such pardon or discharge, he shall be punished as follows: First, if such subsequent offense be such that, upon a first conviction, the offender would be punishable by imprisonment in the penitentiary for life, or for a term which under the provisions of this law might extend to imprisonment for life, then such person shall be punished by imprisonment in the penitentiary for life; second, if such subsequent offense be such that, upon a first conviction, the offender would be punished by imprisonment for a limited term of years, then such person shall be punished by imprisonment in the penitentiary for the longest term prescribed upon a conviction for such first offense; third, if such subsequent conviction be for an attempt to commit an offense which, if perpetrated, would be punishable by imprisonment in the penitentiary, the person convicted of such subsequent offense shall be punished by imprisonment in the penitentiary for a term not exceeding five years." Mo.Rev.Stats. 1919, § 3702, Mo.St.Ann. § 4461, p. 3063.

It will be noted that the Missouri statute, like ours, contains no provision for trial by jury of the charge of being an habitual criminal.

In State v. Breese, 326 Mo. 885, 33 S.W. 2d 919, 922, an information was filed charging the defendant with the theft of a Ford automobile and a prior conviction of burglary and larceny. The supreme court held that the habitual criminal act quoted above does not authorize a conviction on a charge of being an habitual criminal or of itself create a crime, but if its essential elements are present and proved it prescribes a greater punishment upon a finding by the jury that defendant is guilty of the offense on trial; and that the issue of the defendant's prior conviction must be submitted to the jury notwithstanding his admission as to it. The court said:

"Section 3702, Revised Statutes 1919, is known as the Habitual Criminal Act. However, it does not authorize a conviction on a charge of being an habitual criminal, and itself creates no offense, but only prescribes additional punishment based on the offender's crime. State v. Collins, 266 Mo. 93, 180 S.W. 866.

"With the above section and our interpretation of it probably in mind, the defendant, after the swearing of the jury and without their presence, prior to the state's opening statement, offered to admit the previous conviction of defendant as charged, his sentence and compliance therewith and discharge from the penitentiary, and, in pursuance to said offer, requested the court to require the state's attorneys to refrain from informing the jury of said former conviction by mentioning it in their opening statement or by reading the portion of the information referring to it or by introducing evidence relative thereto, and authorized the court to instruct the jury that, if he was found guilty on the charge of stealing Townsend's car, they were to assess defendant's punishment at twenty-five years' imprisonment in the state penitentiary. The theory of defendant was that his offer to the court covered all that the State expected to prove, and that evidence as to his former conviction would only prejudice and inflame their minds against defendant as to the charge on trial.

"Defendant was on trial for a felony, that of participating in the theft of a motor car. It is true that section 3702 of itself creates no offense, but, if its essential elements are present and proved, it does prescribe a greater punishment upon the jury finding defendant guilty of the offense on trial.

"The finding of facts, under our procedure, is the function of the jury, and this includes the ultimate finding of guilt, and primarily the assessment of the punishment. In a felony case, a defendant cannot consent to a trial before the court without the intervention of a jury. State v. Talken, 316 Mo. 596, 292 S.W. 32. In effect, the court's assent to defendant's offer would have been tantamount to a trial in part before the court and an usurpation of the function of the jury. It would have resulted in the cause being tried partly by the court and partly by the jury. Notwithstanding defendant's tentative admission, it was the function of the jury to pass upon defendant's previous conviction, and the court's consent to the offer would have usurped that function. To sustain a conviction under section 3702, supra, it was necessary for the state to plead and prove the essential elements of said section, and it was necessary for the jury to find them. State v. Schneider [325 Mo. 486] 29 S.W. (2d) 698; State v. Dalton (Mo. Sup.) 23 S.W. (2d) 1. The assessment of the punishment was primarily a function of the jury, subject to their discretion and finding within the limits fixed by the statute, and we think the jury were entitled to know and have before them every essential fact that would tend to aid them in determining the punishment." State v. Breese, 326 Mo. 885, 33 S.W.2d 919.

The constitution (Art. I, § 21, State Constitution) guarantees that the "right of trial by jury shall remain inviolate," but the legislature may provide for waiving of the jury in civil cases where the consent of the parties interested is given thereto.

[5] It is unnecessary to cite authority in support of the statement that the word "inviolate," as used in the above-quoted constitutional provision, means freedom from substantial impairment. The question whether the legislature may provide for waiving of the jury in criminal cases is not before us. Neither are we confronted by the question whether a defendant in a criminal case may waive trial by jury. The word "inviolate," as employed in the above-quoted section, does not prohibit modification of the details of administration which does not affect enjoyment of the right of trial by jury, a right some times figuratively designated as "the jewel of Anglo-Saxon jurisprudence."

[6, 7] Under the above-quoted section of our constitution the courts cannot trench on the province of the jury upon questions of fact. It is the function of the jury—not the court—to settle disputed issues of fact. The jury does not determine the guilt or innocence of the accused of the previous crimes charged. The issues of fact were whether there were previous convictions and whether appellant was the subject of those convictions. On a charge of a second or subsequent offense, the question of a prior conviction is an issue of fact to be determined by the jury.

[8] The inclusion in the 1903 habitual criminal statute (Rem. & Bal. Code, §§ 2177, 2178) of a provision for trial by jury was merely declaratory of the right the defendant had. When that statute was repealed in 1909 (Rem.Rev.Stat. § 2286) the omission from the present habitual criminal statute (Rem.Rev.Stat. § 2286) of the provision for trial by jury of the charge of being an habitual criminal did not thereby divest the appellant of his right to trial by jury of the disputed issues of fact.

[9] Finally, it is contended that the court erred in not requiring proof that appellant had been released from the Utah state penitentiary. The assignment is without substantial merit. It can not be denied that appellant was present in court, which is prima facie evidence of his release; however, if appellant is again placed on trial, doubtless satisfactory evidence to prove appellant's confinement in and discharge from the Utah state penitentiary will be forthcoming.

The judgment is reversed.

Blake, C. J., and Steinert, Robinson, and Simpson, JJ., concur.

Mr. ERVIN. I have discussed one section of this bill and the conference report—namely, section 23-111. When I first saw the original version of the bill, I said that it was just as full of injustices and of unconstitutional provisions as a mangy hound dog is of fleas. I think I have demonstrated here this morning, in my discussion of section 23-111, that that statement is just as true now, at the time the Senate is asked to place its stamp of approval on this section, as it was when the bill was in the form in which it was originally introduced.

To be sure, after about a year's discussion of matters of this kind and after 3 months' deliberations on the part of the conference committee, some of the iniquitous provisions of this bill have been removed. But here is one section which is inconsistent with the provision of the Constitution that says that no man can be punished as an infamous criminal unless he first has been indicted by a grand jury; that no man can be convicted of a crime or punished as a criminal unless he is first convicted by the verdict of a petit jury. This section not only contradicts these two provisions of the Constitution but also says that the burden of proving the innocence of the man is on the man—the accused and not the prosecution—and it says that he is to be compelled to be a witness against himself.

I have discussed this section at length, to show that the no-knock provisions and the preventive detention provisions are not the only inequities in this bill.

NO-KNOCK SEARCHES

I wish to discuss at this time the provisions about no-knock. In my judgment, the fourth amendment and the doctrine that every man's home is or should be his castle arise out of what may be correctly described as the greatest longing of the human heart. In all the countries and all the generations of the people from whom we draw our blood and our laws and our literature and our religion, we have found that one of the great hungers of the human heart has been for a place where a man could flee from the world, where he could communicate with the members of his family, and where he could converse with his God, free from molestation by any individual or by government itself. So we find in the early days of the common law that the principle was laid down, hundreds of years ago, that a man's home was his castle, that a man had a right to use any means necessary to prevent anyone from intruding on his home without his consent.

The principles of the common law lay it down that a man commits only justifiable homicide when he kills another to prevent him from forcibly intruding himself into his home. Of course, this rule is subject to certain actions on the part of the law; but this common law said that even an officer of the law had no right and had no power to intrude into a man's home against the will of that man, unless he first knocked at the door of that house, identified himself as an officer of the law, advised the occupants of the house of his purpose in being there, and gave them a reasonable opportunity to open the door and admit him.

The desire to have a place to which one can flee from the world is one of the most passionate hungers of the human heart. Let us go back to the Prophet Micah, for he had something to say on this subject on the day when the people were going to go up the mountain to the House of the Lord. I read from chapter 4.

> But in the last days it shall come to pass, *that* the mountain of the house of the Lord shall be established in the top of the mountains, and it shall be exalted above the hills; and people shall flow unto it.
>
> 2 And many nations shall come, and say, Come, and let us go up to the mountain of the Lord, and to the house of the God of Jacob; and he will teach us of his ways, and we will walk in his paths: for the law shall go forth of Zion, and the word of the Lord from Jerusalem.
>
> 3 And he shall judge among many people, and rebuke strong nations afar off; and they shall beat their swords into plowshares, and their spears into pruninghooks: nation shall not lift up a sword against nation, neither shall they learn war any more.

I come now to the words of the Prophet Micah to which I wish to call attention:

> 4 But they shall sit every man under his vine and under his fig tree; and none shall make *them* afraid: for the mouth of the Lord of hosts hath spoken *it*.

So according to the Prophet Micah, "the mouth of the Lord of Hosts hath spoken it." He has said that every man shall have a right to "sit under his vine and under his fig tree, and none shall make them afraid."

That is what religion has to say on this subject.

Some time ago, I mentioned that the excuse being made for passage of this bill containing the no-knock provision is the same excuse which is always made for every infringement upon human liberty. I have quoted the remark which the distinguished statesman William Pitt made on the floor of the House of Commons several generations ago, and now I should like to quote another remark of his which is apropos to this subject of the no-knock provision.

On another occasion, William Pitt stood upon the floor of Parliament and opposed a no-knock bill. The British Parliament had placed an excise tax on cider and those charged with collecting the revenues of the realm had reported that it was difficult to enforce the excise tax on cider and the only way to enforce it was to let them enter a man's house without knocking, to let them enter the house like burglars, to let them enter the house like law-enforcement officers of the District of Columbia will be able to enter, if the District of Columbia crime bill becomes law.

William Pitt was a man who recognized that eternal vigilance is the price of liberty and he stood up on the floor of Parliament and opposed the proposal that would allow no-knock entry because it was necessary to enforce the tax laws of England.

At the close of his speech in opposition to that proposal, William Pitt had this to say—and if I had the power I would write these words indelibly upon the hearts of every legislator in this Nation, including the Members of the U.S. Senate as they consider the District of Columbia crime bill.

He said:

> The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement.

In these words, William Pitt was proclaiming what has always been one of the proudest boasts made by our law, that every man's home is his castle. That has been the law of the United States, not only at the Federal level but also at the State level ever since George Washington took his first oath of office as President of the United States.

Mr. President, here we have a proposal, made in the good year of our Lord 1970, that a man's home shall no longer be his castle, that any officer of the law having the power to make an arrest or to execute a search warrant, shall have the legal power to enter the home of any citizen of the District of Columbia, in like manner in which a burglar now illegally enters the homes of people to rob them—in other words, by threat or stealth or by force.

Mr. President, I hold in my hand a newspaper clipping, and it reads:

> NO-KNOCK RAIDERS: ARMED PRINCE GEORGES DEPUTIES SMASH INTO WRONG HOME
>
> A Prince Georges County woman was awakened about 1 a.m. yesterday by a crew of armed county deputy sheriffs who had broken into her apartment with a sledge hammer.
>
> Maj. Daniel D. Ballard of the Prince Georges County sheriff's office yesterday confirmed the incident but said it was all a mistake.
>
> He said that a squad from the sheriff's office conducting a drug raid had divided into three sections in order to assure surprise.

That is what no-knock is for, all right, to assure surprise.

It surely must have been a surprise to the lady, to have someone knock down her door at 1 a.m. in the morning with a sledge hammer.

I am sure that Senators need not bother with the thought that their doors will be knocked down with a sledge hammer at 1 o'clock in the morning, if the District of Columbia crime bill becomes law, because everyone knows whose doors are going to be knocked down.

They are going to be the poor, the humble, and the helpless, not persons of affluence or political power.

I continue to read:

> He said that a squad from the sheriff's office conducting a drug raid had divided into three sections in order to assure surprise and to cover all entrances to a nearby apartment that was the actual target of the raid.
>
> Ballard said that one section blundered into the apartment of Margaret O. Malloy. That section had been assigned to enter through the rear of the apartment that was to be raided and erred because there were no numeral markers there, Ballard said.
>
> Mrs. Malloy, 58, who lives at 7308 Forest Rd. with her son John, 23, came into the living room to find a half-dozen men armed with pistols and with blackjacks protruding from their rear pockets. They were wearing civilian clothes, not uniforms.

I guess that was another way they had of surprising people.

I continue to read:

> As Mrs. Malloy recounted the incident yesterday, she said she found herself staring down the barrel of a rifle held by a crouching man who wore a bandolier across his sports shirt.
>
> "My God, what's happened?" asked Mrs. Malloy, shaking, as she later said, "like a leaf."
>
> "This is a raid. We're Prince George's County sheriffs," a spokesman for the group told her, she said.
>
> "Isn't this 7302 Forest Rd.?" he asked.
>
> "No," answered Mrs. Malloy's son. "This is 7308," she recounted.
>
> "We've got the wrong apartment. I'll be right back and explain," the spokesman told her.

If we pass this District of Columbia crime bill, they will have a better explanation to give for raids when they knock people's doors down with sledge hammers. They can say that this honorable body, this guardian of the rights of the people, the U.S. Senate, authorized them to do it. They will have a better explanation in the eyes of some people. But in my opinion, it will be worse. I would a whole lot rather not have Prince Georges County sheriffs or law-enforcement officers of the District of Columbia break into the homes of people with sledge hammers at 1 o'clock in the morning without any consent, and as a Member of the U.S. Senate I affirm here and now that they will not get my consent to do so.

So, if they tell the truth in the future, they will have to say that the Senator from North Carolina attempted to prevent episodes of this kind.

I continue to read:

> Mrs. Malloy and her thoroughly awakened neighbors then watched the group make its way to the nearby apartment.
>
> They saw the search party go to 7302 Forest Rd. to a third floor apartment similar to Mrs. Malloy's.
>
> Mrs. Malloy and her neighbors said they could hear screams and an unexplained shot as they saw pictures being removed from the walls and vases smashed, she said.
>
> Ballard said that at the second address eight arrests were made and that $2,500 worth of heroin and other illegal drugs were seized. After the raid, a deputy returned to apologize to Mrs. Malloy, she said.
>
> Mrs. Malloy said she believes in upholding the law but that she hopes the sheriff will be more careful next time.
>
> "I have high blood pressure," she said.

I am afraid I will acquire high blood pressure, because it almost gives me high blood pressure to hear it solemnly advocated in the Congress of the United States that we do away with the boast of our law that a man's home is his castle and that we allow officers of the law and make it legal for officers of the law to enter houses of our citizens in like manner to that in which burglars now and have always entered them.

Mr. President, I would like to point out, of course, that they say these are bad men and that we are after bad men. Of course, sometimes they are good ladies like Mrs. Malloy.

I will read from the opinion of the

Supreme Court of the United States in Miller against United States, reported in volume 2, lawyers' edition of the Supreme Court reports, second series, at page 1332 as to what the law says. It is also reported in the official edition of the reports of the U.S. Supreme Court, 357 U.S. at page 301.

Speaking of an act of Congress applicable to the District of Columbia which is to be done away with by the District of Columbia crime bill—this statute which requires an officer to notify occupants of the house of his presence and purpose before he enters—the Supreme Court says:

> "Congress, codifying a tradition embedded in Anglo-American law, has declared in § 3109 the reverence of the law for the individual's right of privacy in his house.[13] Every householder, the good and the bad, the guilty and the innocent, is entitled to the protection designed to secure the common interest against unlawful invasion of the house. The petitioner could not be lawfully arrested in his home by officers breaking in without first giving him notice of their authority and purpose. Because the petitioner did not receive that notice before the officers broke the door to invade his home, the arrest was unlawful, and the evidence seized should have been suppressed.

This decision of the Supreme Court has much to say about the boast of our law that every man's home in his castle. For this reason, I ask unanimous consent that a complete copy of the opinion in Minner against United States be printed at this point in the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[357 US 301, 2 L ed 2d 1332, 78 S Ct 1190, No. 126]

WILLIAM MILLER, PETITIONER, *v.* UNITED STATES OF AMERICA

Argued January 28, 1958—Decided June 23, 1958

SUMMARY

Petitioner was convicted of federal narcotics offenses in the District Court for the District of Columbia, following a prosecution in which he sought unsuccessfully to suppress evidence consisting of marked currency found in his apartment after his arrest. Petitioner's contention was that the currency was unlawfully seized, since its seizure followed the breaking of his door by police officers who sought to arrest him without warrant, and the officers, before breaking the door, had not informed him of their purpose in demanding admission. The conviction was affirmed by the United States Court of Appeals for the District of Columbia Circuit (100 App DC 302, 244 F2d 750).

On certiorari, the United States Supreme Court reversed the judgment below. BRENNAN, J., speaking for six members of the court, held that the arrest was unlawful, and the currency seized thereafter inadmissible in evidence, since the police officers had not expressly demanded admission or stated the purpose for their presence before breaking defendant's door, and the evidence did not warrant a finding that the facts known to the officers justified them in being virtually certain that defendant knew their purpose so that an announcement thereof would have been a useless gesture.

Harlan, J., concurred in the result.

CLARK, J., joined by BURTON, J., dissented, asserting that the evidence supported the finding of the court below that defendant, at the time the police entered his apartment, already fully understood who the officers were and that they sought to arrest him.

HEADNOTES

Classified to U.S. Supreme Court Digest, Annotated.

Arrest § 2—without warrant

1. Under the law of the District of Columbia, peace officers having probable cause to believe that a felony is being, or has been, committed, are empowered to arrest without a warrant.

Courts §§ 625, 782—arrest without warrant—law governing

2. The lawfulness of an arrest, without warrant, for violation of federal law, by state peace officers, or by peace officers of the District of Columbia, is to be determined by reference to state law, or the law of the District of Columbia, respectively.

District of Columbia § 7—local laws

3. It is the policy of the United States Supreme Court not to interfere with local rules of law fashioned by the courts of the District of Columbia.

Appeal and Error § 380—from District of Columbia court—arrest without warrant

4. The United States Supreme Court will review a judgment of the United States Court of Appeals for the District of Columbia Circuit, affirming a conviction of crime in the District Court following the admission of evidence obtained by District of Columbia peace officers who, defendant alleges, illegally entered his apartment to execute an arrest without warrant for violation of federal law, where the government concedes that the validity of the entry to execute the arrest must be tested by criteria identical with those embodied in the provisions of 18 USC § 3109, dealing with entry to execute a search warrant, and these statutory requirements are substantially identical to those judicially developed by the Court of Appeals for the District of Columbia Circuit.

Arrest § 1—breaking door

5. At common law, the authority of law officers to break the door of a house to effect an arrest was drastically limited.

Arrest § 1—breaking door

6. Law officers cannot break the door of a house to effect an arrest where they do not first state their authority and purpose for demanding admission.

Arrest §§ 1, 2—breaking door

7. The requirement that, for the breaking of a door to effect an arrest to be lawful, the officer must first state his authority and purpose for demanding admission, is applicable whether the arrest is to be made by virtue of a warrant, or the officers are authorized to make an arrest for a felony without a warrant.

Arrest § 1—breaking of door—sufficiency of announcement

8. Although the rule that if an arrest following the breaking of a door is to be lawful the officer must first state his authority and purpose for demanding admission requires notice in the form of an express announcement by the officer of his purpose for demanding admission, the burden of making an express announcement is slight.

Arrest § 1—breaking door—suffcency of announcement

9. To the extent that the requirement that if an arrest following the breaking of a door is to be lawful the arresting officers must previously have announced the purpose of their demand for admission is satisfied when the facts known to the arresting officers justify them in being virtually certain that the person to be arrested already knows their purpose so that an announcement would be a useless gesture, no such satisfaction of the requirement is shown by proof that police officers broke defendant's door and arrested him following his attempt to bar their entry after they had identified themselves as police, where (1) defendant's act is interpretable as the expected reaction of any citizen to a demand for entry by persons who are not shown to have been in uniform and who spoke the word "police" in very low tones; (2) the arresting officers were aware of defendant's ignorance of the events leading to their attempt to arrest him; and (3) although currency marked by the police was found in defendant's apartment following the entry, defendant did not know that it was marked.

Search and seizure § 3—legality

10. A search is not to be made legal by what it turns up; in law it is good or bad when it starts and does not change character from its success.

Criminal law § 46—rights of accused—fair procedure

11. Insistence upon observance by law officers of traditional fair procedural requirements is, from the long point of view, best calculated to contribute to achieving law and order; however much in a particular case insistence upon such requirements may appear as a technicality that insures to the benefit of a guilty person, the history of the criminal law proves that tolerance of shortcut methods in law enforcement impairs its enduring effectiveness.

Search and seizure § 3—invasion of house

12. Every householder, the good and the bad, the guilty and the innocent, is entitled to the protection designed to secure the common interest against unlawful invasion of the house.

Evidence § 681—wrongful seizure—arrest without warrant—breaking door

13. In a prosecution for federal crime in the District of Columbia, it is error to admit in evidence marked currency found in the defendant's apartment where the currency was seized by police officers who entered the apartment in order to effect an arrest of defendant without warrant, the entry was made by the breaking of defendant's door, and the police officers, before breaking the door, did nothing to inform the defendant of their purpose in demanding admission other than to identify themselves as police [*See annotation reference*]

APPEARANCES OF COUNSEL

De Long Harris, of Washington, D.C., argued the cause for petitioner.

Leonard B. Sand, of Washington, D.C., argued the cause for respondent.

Briefs of Counsel, p. 2126, infra.

ANNOTATION REFERENCE

Admissibility of evidence obtained by illegal search and seizure, 93 L ed 1797, 90 L ed 145, 98 L ed 581, 100 L ed 239, 50 ALR2d 581.

OPINION OF THE COURT

[357 US 302] Mr. Justice Brennan delivered the opinion of the Court.

Petitioner, William Miller, together with Bessie Byrd and her brother, Arthur R. Shepherd, was tried and convicted in the District Court for the District of Columbia for conspiracy to commit violations, and violations, of the federal narcotics laws. 26 USC § 4707a; 21 USC § 174; 18 USC § 371. The Court of Appeals for the District of Columbia Circuit affirmed, one judge dissenting, 100 App DC 302, 244 F2d 750. We granted certiorari, 353 US 957, 1 L ed 2d 908, 77 S Ct 867, to determine whether evidence seized at the time of petitioner's arrest was properly admitted against the petitioner. The evidence was $100 of marked currency which was seized by the federal officers who arrested the petitioner and Bessie Byrd at their apartment.

On March 25, 1955, at 1:35 a.m., Clifford

Reed was arrested, under an arrest warrant, on a Washington, D.C. street on suspicion of narcotics offenses. Reed revealed to Wilson, a federal narcotics agent, that he purchased heroin in 100-capsule quantities from the petitioner through Shepherd. Agent Wilson knew of the petitioner as one who had trafficked in narcotics and had been convicted for a narcotics offense in 1953. Reed said that he was to meet Shepherd later that morning to make a purchase. Agent Wilson enlisted his aid to apprehend Shepherd and the petitioner. About 3 a.m. another federal narcotics agent, Lewis, carrying $100 of marked currency, went with Reed in a taxicab to Shepherd's home. Reed introduced Lewis to Shepherd as a buyer. Shepherd accepted the $100 and agreed to secure 100 capsules of heroin from the petitioner and deliver them to Lewis at Reed's apartment. Shepherd proceeded alone in the taxicab to the petitioner's apartment.

[357 US 303] The taxicab was followed by agent Wilson, officer Wurms of the Metropolitan Police Department, and other officers in police cars.[1] Shepherd was seen to leave the taxicab in front of the apartment house where the petitioner and Bessie Byrd occupied a two-room-and-bath basement apartment. The taxicab waited. Shepherd entered the basement but agent Wilson, who looked into the basement hall, could not see where he went. Shepherd came out of the basement within a few minutes and re-entered the taxicab. The taxicab was proceeding toward Reed's apartment when the officers following in the police cars intercepted it. Shepherd was arrested and searched. He did not have the marked bills on his person but admitted to agent Wilson and officer Wurms that a package of 100 capsules of narcotics found under the taxicab's front seat was put there by him when the police cars stopped the taxicab. He said that he had taken the package from behind a fire extinguisher in the basement hall where he had been sent by a "fellow" with Reed who had promised him $10 for getting it.

The federal officers returned immediately to the apartment building. About 3:45 a.m. agent Wilson and officer Wurms went to the door of the petitioner's apartment. Officer Wurms knocked and, upon the inquiry from within—"Who's there?"—replied in a low voice, "Police." The petitioner opened the door on an attached door chain and asked what the officers were doing there. Before either responded, he attempted to close the door. Thereupon, according to officer Wurms, "we put our hands inside the door and pulled and ripped the chain off, [357 US 304] and entered."[2] The officers had no arrest or search warrant. They did not expressly demand admission or state their purpose for their presence,[3] nor did they place the petitioner under arrest until after they entered the apartment.

Bessie Byrd was also arrested in the apartment and turned over the cash she had in her housecoat. The cash included $34 of the marked currency. After an extended search the remaining $66 of marked currency was found, some in a hatbox in a closet, and the rest within the covers of a bed in the bedroom.

The Government contends that there was probable cause for arresting the petitioner and that the marked currency [357 US 305] was properly admitted in evidence because it was seized as an incident to a lawful arrest. Harris v United States, 331 US 145, 91 L ed 1399, 67 S Ct 1098. The petitioner's argument breaks down into three contentions: (1) that the officers had no probable cause to arrest the petitioner without a warrant; (2) that the search was not justified as being an incident of a lawful arrest; (3) that the arrest, and therefore the search, was in any event unlawful because the officers broke the door of petitioner's home without first giving notice of their authority and purpose in demanding admission. If any one of these contentions prevails, it is agreed that the marked money was inadmissible in evidence. In the view we take, we need consider only petitioner's third contention.

The lawfulness of the arrest of petitioner depends upon the power of the arresting officers to "break" the doors of a home in order to arrest without warrant persons suspected of having committed narcotics offenses. Agent Wilson did not have statutory authority to arrest without a warrant although officer Wurms, as a member of the Metropolitan Police Department (Headnote 2), did have such authority.[4] This Court has said, in the similar circumstance of an arrest for violation of federal law by state peace officers, that the lawfulness of the arrest without warrant is to be determined by reference to state law. United States v Di Re, 332 US 581, 589, 92 L ed 210, 217, 68 S Ct 222; Johnson v United States, 333 US 10, 15, 92 L ed 436, 441, 68 S Ct 367. By like reasoning the validity of the arrest [357 US 306] of petitioner is to be determined by reference to the law of the District of Columbia.

In making reference to that law we are mindful of our policy of not interfering (Headnote 3) with local rules of law fashioned by the courts of the District of Columbia. Fisher v United States, 328 US 463, 476, 90 L ed 1382, 1391, 66 S Ct 1318; Griffin v United States, 336 US 704, 715, 93 L ed 993, 999, 69 S Ct 814. But the Government agrees with petitioner that the validity of the entry to execute the arrest without warrant must be tested by criteria identical with those embodied in 18 USC § 3109, which deals with entry to execute a search warrant.[5] That section provides that an officer, executing a search warrant, may break open a door only if, "after notice of his authority and purpose," he is denied admittance. The Government states in its brief that, "where an arrest is made on probable cause rather than a warrant, these statutory requirements must be met before an officer can force entry into an apartment." These statutory requirements are substantially identical to those judicially developed by the Court of Appeals for the District of Columbia in Accarino v United States, 85 App DC 394, 179 F2d 456, 465. Since the rule of Accarino (Headnote 4) bears such a close relationship to a statute which is not confined in operation to the District of Columbia, we believe that review is warranted here. Cf. Del Vecchio v Bowers, 296 US 280, 80 L ed 229, 56 S Ct 190; Carroll v United States, 354 US 394, 414, 1 L ed 2d 1442, 1454. 77 S Ct 1332.

From earliest days, the common law drastically limited the authority of law officers (Headnote 5) to break the door of a house [357 US 307] to effect an arrest.[6] Such action invades the precious interest of privacy summed up in the ancient adage that a man's house is his castle. As early as the 13th Yearbook of Edward IV (1461–1483), at folio 9, there is a recorded holding that it was unlawful for the sheriff to break the doors of a man's house to arrest him in a civil suit in debt or trespass, for the arrest was then only for the private interest of a party. Remarks attributed[7] to William Pitt, Earl of Chatham, on the occasion of debate in Parliament on the searches incident to the enforcement of an excise on cider, eloquently expressed the principle:

> "The poorest man may in his cottage bid defiance to all the forces of the crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England cannot enter—all his forces dares not cross the threshold of the ruined tenement!"

But the common law recognized some authority in law officers to break the door of a dwelling to arrest for felony. The common-law authorities differ, however, as to the circumstances in which this was the case. Hawkins says: "where one lies under a probable Suspicion only, and is not indicted, it seems the better Opinion at this Day, That no one can justify the Breaking open Doors in Order to [357 US 308] apprehend him." 2 Hawkins, Pleas of the Crown, c. 14 § 7 (1762); see also Foster, Crown Law, 321 (2d ed. 1776). Coke appears to have been of the same view, and to have thought that the breaking of a house was limited to cases in which a writ, now our warrant, had issued. Co. 4th Inst. 177. On the other hand, Hale says that "A man, that arrests upon suspicion of felony, may break open doors, if the party refuse upon demand to open them . . . ." 1 Hale, Pleas of the Crown, 583 (1736).

Whatever the circumstances under which breaking a door to arrest for felony (Headnote 6) might be lawful, however, the breaking was unlawful where the officer failed first to state his authority and purpose for demanding admission. The requirement was pronounced in 1603 in Semayne's Case, 5 Coke 91, 11 ERC 629, 77 Eng Reprint 194: "In all cases where the King is party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the K[ing]'s process, if otherwise he cannot enter. *But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors . . . .*" (Emphasis supplied.)

The requirement stated in Semayne's Case still obtains. It is reflected in 18 U.S.C. § 3109, in the statutes of a large number of States,[8] and in the American Law [357 US 309] Institute's proposed Code of Criminal Procedure, §28.[9] It applies, as the Government here concedes (Headnote 7), whether the arrest is to be made by virtue of a warrant, or when officers are authorized to make an arrest for a felony without a warrant. There are some state decisions holding that justification for noncompliance exists in exigent circumstances, as, for example, when the officers may in good faith believe that they or someone within are in peril of bodily harm, Read v Case, 4 Conn 166, 10 Am Dec 110, or that the person to be arrested is fleeing or attempting to destroy evidence. People v Maddox, 46 Cal2d 301, 294 P2d 6.

But whether the unqualified requirements of the rule admit of an exception justifying noncompliance in exigent circumstances is not a question we are called upon to decide in this case. The Government makes no claim here of the existence of circumstances excusing compliance. The Government concedes that compliance was required but argues that "compliance is evident from the events immediately preceding the officers' forced entry."

The rule seems to require notice (Headnote 8) in the form of an express announcement by the officers of their purpose for demanding admission. The burden of making an express announcement is certainly slight. A few more words by [357 US 310] the officers would have satisfied the requirement in this case. It may be that, without an express announcement of purpose, the facts known to officers would justify them in being virtually certain that the petitioner already knows their purpose so that an announcement would be a useles gesture. Cf. People v Martin, 45 Cal2d 755, 290 P2d 855; Wilgus, Arrest Without a Warrant, 22 Mich L Rev 798, 802 (1924).[10] But even by that test the evidence upon which the Government relies (Headnote 9) was not sufficient to justify the officers' failure expressly to notify the petitioner that they demanded admission to his apartment for the purpose of arresting him.

The single fact known to the officers upon which the Government relies is the "split-second" occurrence in which the petitioner evinced "instantaneous resistance to their entry," an "almost instinctive attempt to bar their entry after they [the officers] had identified themselves as police . . . ." It is

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Footnotes at end of article.

argued that this occurrence "certainly points up that he knew their purpose immediately . . . [and], at once, realized that he had been detected and that the officers were there to arrest him"; [357 US 311] that "[i]t would be wholly unrealistic to say that the officers had not made their purpose known because they did not more formally announce that they were there to arrest him."

But, first, the fact that petitioner attempted to close the door did not of itself prove that he knew their purpose to arrest him. It was an ambiguous act. It could have been merely the expected reaction of any citizen having this experience at that hour of the morning, particularly since it does not appear that the officers were in uniform, cf. Accarino v United States, supra 85 App DC at 403, 179 F2d at 465, and the answer "Police" was spoken "in a low voice" and might not have been heard by the petitioner so far as the officers could tell.

Second, petitioner's reaction upon opening the door could only have created doubt in the officers' minds that he knew they were police intent on arresting him. On the motion to suppress, Agent Wilson testified that "he wanted to know what we were doing there." This query, which went unanswered, is on its face inconsistent with knowledge. The majority of the Court of Appeals denied the import of the query by inferring that Miller knew Wilson and Wurms personally and recognized them as soon as he opened the door. That inference has no support in the record.[11] But even if this inference were [357 US 312] supportable, Miller's recognition of Wilson and Wurms as police officers would not have justified them, in light of other facts known to them, in being virtually certain that Miller actually knew the reason for their presence. The officers knew that petitioner was unaware of Shepherd's arrest; they knew that he was unaware that the currency was marked; they knew that he was unaware that their presence was pursuant to a plan, initiated by Reed's disclosures, to catch the petitioner in a criminal act. Moreover, they did not actually know that petitioner had made a sale to Shepherd and received the marked money, for Shepherd had not talked and had not been seen to enter petitioner's apartment. The fact that the marked money was found in the apartment has no bearing upon the petitioner's knowledge of the officers' purpose since he did not know that the money was marked. This Court said in United States v Di Re, supra (332 US at 595): "We have had frequent occasion to point out that a search is not to be made legal by what it turns up (Headnote 10). In law it is good or bad when it starts and does not change character from its success." The most that can be said is that the petitioner's act in attempting to close the door might be the basis for the officers being virtually certain that the petitioner knew there were police at his door conducting an investigation. This, however, falls short of a [357 US 313] virtual certainty that the petitioner knew of their purpose to arrest him. The requirement is not met except by notice of that purpose, for the Government admits that the officers had no authority to break the petitioner's door except to arrest him. We must, therefore, conclude (Headnote 9) that the petitioner did not receive the required notice of authority and purpose.

We are duly mindful of the reliance that society must place for achieving law and order upon the enforcing agencies of the criminal law. But insistence on observance by law officers (Headnote 11) of traditional fair procedural requirements is, from the long point of view, best calculated to contribute to that end. However much in a particular case insistence upon such rules may appear as a technicality that inures to the benefit of a guilty person, the history of the criminal law proves that tolerance of short-cut methods in law enforcement impairs its enduring effectiveness. The requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our heritage and should not be given grudging application. Congress, codifying a tradition embedded in Anglo-American law, has declared in § 3109 the reverence of the law for the individual's right of privacy in his house.[12] Every householder (Headnote 12), the good and the bad, the guilty and the innocent, is entitled to the protection designed to secure the common interest against unlawful invasion of the house. The petitioner (Headnote 13) could not be lawfully arrested in his home by officers breaking in without first giving him notice of their authority and purpose. Because the petitioner did not receive that [357 US 314] notice before the officers broke the door to invade his home, the arrest was unlawful, and the evidence seized should have been suppressed.

Reversed.

Mr. Justice Harlan concurs in the result.

SEPARATE OPINION

Mr. Justice Clark, with whom Mr. Justice Burton concurs, dissenting.

I agree that a requirement of prior notice of authority and purpose should not be given a "grudging" application. But by the same token it should not be reduced to an absurdity. A majority of the Court of Appeals has concluded that petitioner, at the time the police entered his apartment, "already fully understood who the officers were and that they sought to arrest him." 100 App DC 302, 244 F2d 750, 758. The entry, therefore, was held valid under District of Columbia law.[13] [357 US 315] This Court now superimposes upon the local rule of the District an artificial and unrealistic requirement that, even under the circumstances found here, police must make "an express announcement" in unmistakable words that they are the police and have come to make an arrest.

The Court attempts to justify interference in local law by what it terms a "concession" of the Government that validity of the entry must be tested by a federal statute relating to forcible entry to execute a search warrant.[14] But the fact that the Government seeks clarification of a general federal statute, possibly to serve its purposes in prosecutions elsewhere, is no reason for us to oblige, especially when the result is to subvert existing local law. In the process, the Court reverses the conviction of a wholesale narcotics violator with a previous record in the traffic who carries on his abominable trade by using a juvenile as his dope peddler and co-conspirator.

The facts on which the Court of Appeals found the entry valid were these: Officers trailed Shepherd as he proceeded by taxicab to purchase heroin for Lewis, a narcotics agent. Shepherd went to the apartment occupied by his sister, Mrs. Byrd, and by petitioner. The officers saw him enter the apartment building. Agent Wilson followed him to the basement entrance and saw him disappear down a lighted hall about "as long as the jury box." Other than the entrance, there were only two [357 US 316] doors into the hall, one leading into petitioner's apartment, the other into a furnace room. No one lived in the basement except petitioner and Mrs. Byrd. Wilson then withdrew to a location across the street. He saw a light go on in the furnace room, remain on shortly, and then go out. Shepherd soon emerged, re-entered the taxicab and drove away. The officers followed, arrested Shepherd, and seized 100 capsules of heroin found in the taxicab.

The opinion of the Court of Appeals graphically described the subsequent events:

"After the arrest of Shepherd, the officers, having found the 100 capsules of heroin, immediately went back to the apartment occupied by Mrs. Byrd and Miller, and, a few minutes later, knocked on the door and announced their identity. Thereupon Miller, known to the officers as a narcotics violator, having opened his door part way, recognized the officers of the narcotics squad and attempted to close the door. As he pulled the door to, the officers resisted his effort to close it, a chain bolt broke, and the officers arrested Miller and Mrs. Byrd." 100 App DC at 304, 244 F2d, at 752.

This summary is amply supported by the evidence. Wilson testified that petitioner previously met him when he was an agent with the Federal Bureau of Narcotics. He also knew petitioner in connection with a narcotics case. Officer Wurms testified that he too knew petitioner officially.[15] As to their entry into the apartment, Wurms testified: "I knocked on the front door . . . somebody [357 US 317] asked, 'Who's there?' I said 'Blue'—in a low voice, I said 'Police.' I repeated it two or three times in that manner. The door opened. There was a chain on the door. Blue Miller saw me, Agent Wilson, and I don't know who else he saw but he tried to close the door. . . ." Wilson described the entry this way: "There was a short struggle there between Wurms and Miller to open the door and finally the door was forced open and we got ourselves into the apartment." The officers found the marked currency and a carton of one thousand unfilled gelatin capsules. Three hundred and eighty-one such capsules filled with heroin were found in the furnace room across the hall.

At a pretrail hearing petitioner moved to suppress the marked currency, alleging that the officers had neither warrant nor probable cause for arrest. This motion was denied. At trial before a jury and a different judge the motion was renewed. In denying the motion the judge said, "I will give you the right to make another motion. You certainly have a right at the end of the testimony." Petitioner never availed himself of this opportunity.

On appeal petitioner shifted his ground, emphasizing that even if the officers had probable cause to arrest him, such authority was improperly exercised because they did not formally announce their purpose before entry. The Court of Appeals held:

"Against the background of the facts as noted and the law as summarized, we find the officers at Miller's door, knowing that a felony had been committed and having probable cause to believe it was continuing. The statute spelled out their clear duty to arrest." 100 App DC 302, 309, 244 F2d 750, 757.

The court agreed with the trial judge "that the attempt of the officers to arrest Miller at his doorway under the circumstances of this case was not unreasonable," and found [357 US 318] that the breaking of the door chain "in the course of his resistance [was] immaterial and his arrest, immediately made, was justified." 100 App DC at 310, 244 F2d, at 758. Concluding that Miller without doubt was aware both of the officers' identity and purpose, the court upheld the refusal of the trial court to suppress the evidence, and found the proof of guilt "overwhelming and unanswerable."

The majority, however, brushes aside these conclusions, explaining petitioner's action in slamming the door as "the expected reaction of any citizen." This is something entirely foreign to my concept of the respect a law-abiding citizenry pays to its law-enforcement officers. Nor can I accept the conclusion of the Court that the circumstances found by the Court of Appeals fall "short of a virtual certainty that the petitioner knew of [the officers'] purpose to arrest him." His knowledge—in the absence of an express admission by him—can never be a "virtual certainty." Rather than attempting to psy-

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Footnotes at end of article.

choanalyze petitioner, we should measure his understanding by his outward acts. The Court of Appeals found that they indisputably established petitioner's awareness of the police purpose. We should not disturb that finding.

The majority does not deal with the "exigent circumstances" of the case because the Government makes no claim for thus "excusing compliance" with the statute. It is to be noted, however, that the Court of Appeals expressly based its opinion on the fact that the officers "were confronted by the need for a decision arising from the necessitous circumstances of the situation." The position of the Government does not excuse us from evaluating the circumstances of the whole case. I believe that the Court of Appeals was eminently correct in its conclusion that "necessitous circumstances" here warranted the officers in entering the apartment. As that court pointed out, petitioner might have fled or hidden [357 US 319] himself or destroyed the fruits of his crime, particularly in view of his background and the visit of his brother-in-law Shepherd only a few moments before. Certainly he soon would have learned of Shepherd's arrest. Moreover, his attempt to forcibly prevent the entry of the officers into his apartment required their immediate action. Any delay might well have precluded the arrest. Destruction of the marked money might have prevented the establishment of petitioner's guilt. As the Government points out, "split-second action [was] necessary."

I would affirm the judgment on the basis of the District of Columbia rule in Accarino, 85 App DC 394, 179 F2d 456, supra, which I believe this Court should honor.[16]

FOOTNOTES

The group included two Federal Bureau of Narcotics agents, Wilson and Pappas, officer Wurms of the District of Columbia Metropolitan Police Department, and officers Bowman and Thompson of the Virginia State Police, who were trainees in the narcotics program of the State of Virginia.

[2] Officer Wurms testified:

"The Witness: Agent Wilson and I were at the front door of the apartment No. 1, 1337 Columbia Road. I knocked on the front door. I said—somebody asked, 'Who's there? I said, 'Blue' [the petitioner's nickname]—in a low voice, I said 'Police.'

"I repeated it two or three times, in that manner.

"The door opened. There was a chain on the door. Blue Miller saw me, Agent Wilson, and I don't know who else he saw but he tried to close the door and at that time we put our hands inside the door and pulled and ripped the chain off, and entered."

[3] At the trial, but not at the hearing on the motion to suppress, agent Wilson testified, "He said, 'What do you-all want?' And we says, 'Police, you are under arrest, we want in.' He says he was not going to let us in, or something like that, and so Officer Wurms took ahold of the door and pulled it open." But apparently the Government is satisfied that agent Wilson was mistaken in saying that there was mention of the purpose to arrest. His testimony on the motion to suppress as well as the testimony of officer Wurms, both on the motion and at the trial, is contrary. The Government in its brief refers to this testimony merely in footnotes. Its brief accepts the petitioner's premise that the case should be decided upon the basis that the evidence shows that the officers did not formally announce their purpose. The Court of Appeals decided the case on the basis that Wilson did not make the statement. 100 App DC 294, 244 F2d 750, 754.

[4] Narcotics agents were subsequently given authority by 26 USC § 7607, added July 18, 1956, to make an arrest where the agents have "reasonable grounds to believe that the person to be arrested has committed" a narcotics offense. In the District of Columbia peace officers (Headnote 1) having probable cause to believe that a felony is being, or has been, committed are empowered to arrest without a warrant. Wrighton v. United States, 98 App DC 377, 379, 222 F2d 556, 558.

[5] 18 USC § 3109.

"The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant."

The petitioner does not raise a question of the application of DC Code, 1951, § 4-141. See also § 4-145.

[6] Judge Prettyman's opinion for the Court of Appeals in Accarino v. United States, 85 App DC 394, 179 F2d 456, discusses comprehensively the development of the law. See also the exhaustive article, Wilgus, Arrest Without a Warrant, 22 Mich L Rev 541, 673, 798 (1924).

[7] The Oxford Dictionary of Quotations (2d ed. 1953), 379. In Hansard, Parliamentary History of England (1813), vol 15, column 1307, under the proceedings in the Commons on the cider tax in March, 1763, we find: "Mr. Pitt spoke against this measure, particularly against the dangerous precedent of admitting the officers of excise into private houses. Every man's house was his castle, he said."

[8] Ala Code, 1940, Tit 15, § 155; Ariz Rev Stat, 1955, Tit 13, § 1411; Deering's Cal Penal Code, § 844; Fla Stat, 1957, § 901.17; Idaho Code, 1947, § 19-611; Burns' Ind Ann Stat, 1956, Replacement Vol, § 9-1009; Iowa Code Ann, 1949, § 755.9; Kan Gen Stat, 1949, § 62-1819; Ky Rev Stat, 1953, § 70.078; Dart's La Crim Code, 1943, Art 72; Mich Stat Ann, 1954, § 28.880; Minn Stat, 1945, § 629.34; Miss Code, 1942, § 2471; Mo Rev Stat Ann, 1949, § 544.210; Mont Rev Codes, 1947, § 94-6011; Nebr Rev Stat, 1943, § 29-411; Nev Rev Stat, 1957, § 171.305; Clevenger-Gilbert's NY Crim Code, 1956, § 178; NC Gen Stat, 1943, § 142-36; Page's Ohio Rev Code, 1953, § 2935.15; Okla Stat Ann, Tit 22, § 194; Ore Comp Laws, 1940, § 26-1530; SC Code, 1952, § 53-198; SD Code, 1939, § 34.1606; Tenn Code, 1955, § 40-807; Utah Code Ann, 1953, 77-13-12; Remington's Wash Rev Stat. 1932, § 2082; Wyo Comp Stat, 1945, § 10-309.

[9] Code of Crim Proc, American Law Institute, Official Draft, § 28 (1930).

"*Right of officer to break into building.* An officer, in order to make an arrest either by virtue of a warrant, or when authorized to make such arrest for a felony without a warrant, as provided in section 21, may break open a door or window of any building in which the person to be arrested is or is reasonably believed to be, if he is refused admittance after he has announced his authority and purpose."

[10] Professor Wilgus sums up his discussion of the breaking of doors thus: "Because doors are broken, there must be a necessity for so doing, and notice of the authority and purpose to make the arrest must be given and a demand and refusal of admission must be made, unless this is already understood, or the peril would be increased." 22 Mich L Rev 798, 802. [Footnotes omitted.] The dissenting opinion herein, in footnote 1, mistakenly refers to this passage as if it were a holding "enunciated" by the Court of Appeals. In fact, this passage was merely quoted without approval. The holding was: "Upon one topic there appears to be no dispute in the authorities. Before an officer can break open a door to a home, he must make known the cause of his demand for entry. There is no claim in the case at bar that the officers advised the suspect of the cause of their demand before they broke down the door." Accarino v United States, 85 App DC 394, 403, 179 F2d 456, 463.

[11] Judge Holtzoff heard the motion to suppress over two months before the trial. Our examination of the record made at that time brings us into complete agreement with Judge Edgerton, who, dissenting in the Court of Appeals, said, "I find no evidence, and the court cites no evidence, that supports an inference that Miller even recognized the officers as the narcotics squad." 100 App DC 302, 311, 244 F2d 750, 759. Even if petitioner could have seen the officers sufficiently to make out their faces, there is no evidence that he knew them personally. The record at best supports an inference, not that either officer personally knew Miller, or that Miller had met, or even heard of, either officer, but only that the officers knew *of him* as a reputed narcotics violator. Judge Youngdahl presided at the trial and refused to hear a renewed motion to suppress because he considered the matter settled by Judge Holtzoff's ruling. Agent Wilson's testimony at the trial was again at variance with his testimony before Judge Holtzoff as it had been on the question whether the officers had communicated their purpose to arrest. At the trial he testified that Miller had met him on one occasion before the night of the arrest. Apparently unwilling to rely on this testimony, in the face of its inconsistency, the majority of the Court of Appeals did not allude to it as the basis for its conclusion that Miller recognized the officers.

[12] Compliance is also a safeguard for the police themselves who might be mistaken for prowlers and be shot down by a fearful householder. See concurring opinion in McDonald v United States, 335 US 451, 460, 461, 93 L ed 153, 160, 161, 69 S Ct 191.

[13] The rule in the District with which the Court of Appeals found compliance was enunciated in Accarino v United States, 85 App DC 394, 179 F2d 456 (opinion by Judge Prettyman). Rehearing en banc in the instant case was denied without dissent, with the author of Accarino participating.

In discussing the local rule, Judge Prettyman in Accarino quoted with approval from Wilgus, Arrest Without a Warrant, 22 Mich L Rev. 798, 802: "Before doors are broken, there must be a necessity for so doing, and notice of the authority and purpose to make the arrest must be given and a demand and refusal of admission must be made, *unless this is already understood, or the peril would be increased.*" (Emphasis added.) 85 App DC, at 401, 179 F2d, at 463. The Court of Appeals in the instant case recognized this language as the embodiment of the local rule, 100 App DC, at 309, 244 F2d, at 757, and in finding that petitioner "already fully understood who the officers were and that they sought to arrest him." Id., 100 App DC, at 310, 244 F2d, at 758, applied that rule in affirming the conviction.

This Court now concludes that the rule "judicially developed" in the District is "substantially identical" to 18 USC § 3109, which concerns entry to execute a search warrant. It is important to note, however, that certain language, set out in italics above, is peculiar to the local "judicially developed" rule. The latter is not respected in the interpretation of § 3109 by the Court today.

[14] While the Government in its brief agrees "that the validity of the entry should be tested under the standard of 18 USC 3109," it joins that position with the contention that "[u]nder these circumstances, [the police] entry complied with the teaching in Accarino v. United States [85 App DC 394, 401], 179 F2d 456, 463." See note 1, supra.

[15] Q. "How did you know [Miller]?" A. "Previous knowledge, and I have seen him before." Furthermore, petitioner in his affidavit supporting his motion to suppress swore "that officers Wilson, Pappas and four others did break the chain off the door," and further that Wilson physically assaulted him in his apartment.

[16] See Fisher v United States, 328 US 463, 476, 90 L ed 1382, 1390, 66 S Ct 1318, 166 ALR

1176 (1946), where the Court said, "Our policy is not to interfere with the local rules of law which [District of Columbia courts] fashion, save in exceptional situations where egregious error has been committed."

In Griffin v United States, 336 US 704, 93 L ed 993, 69 S Ct 814 (1949), the Court determined that there was no "federal rule" on the issue in the case. But it added that even if there were such a rule, it would not necessarily control in the District of Columbia: "This Court, in its decisions, and Congress, in its enactment of statutes, have often recognized the appropriateness of one rule for the District and another for other jurisdictions so far as they are subject to federal law." Id. 336 US at 712. The Court noted that it was the "special function" of the Court of Appeals to decide questions of local law. "Only in exceptional cases will this Court review a determination of such a question by the Court of Appeals for the District." Id., 336 US at 718.

Mr. ERVIN. Mr. President, I think perhaps it was very appropriate for me to speak of the Prophet Micah because this bill depends so much on prophecy and the power of prophecy.

I wish to commend the distinguished senior Senator from Maryland for the great work he has done in this field, and I disclaim any purpose to criticize him on account of the fact that this bill contains the no-knock and preventive detention provisions. He has frankly stated all of the time that he favors such provisions. He has just the same right to favor preventive detention as I do to oppose putting people in jail for crimes they have not committed and may never commit. He has exactly the same right to say that officers of the law should be given the authority to enter people's houses without prior notice as I do to maintain the right that a man's home is his castle and that it is a sacred right that should be protected.

But I do agree with the Senator on one point. He used football language to describe my efforts and the efforts of my colleagues to get a really good bill here, without these inequities, as an "end run." It was well to engage in football parlance in discussing this bill and this conference report because this conference report certainly does "kick" the Constitution all over the District of Columbia. So it is well to refer to football where so much kicking is done as in this bill. I think it was a very appropriate metaphor or simile, as one may see fit to describe it.

I wish to call attention to the no-knock provisions of this bill. They appear on pages 160 and 177. The provision on page 177 states:

"(a) Any officer authorized by law to make arrests, or to execute search warrants, or any person aiding such an officer, may break and enter any premises, any outer or inner door or window of a dwelling house or other building, or any part thereof, any vehicle, or anything within such dwelling house, building, or vehicle, or otherwise enter to execute search or arrest warrants, to make an arrest where authorized by law without a warrant, or where necessary to liberate himself or a person aiding him in the execution of such warrant or in making such arrest.

"(b) Breaking and entry shall not be made until after such officer or person makes an announcement of his identity and purpose and the officer reasonably believes that admittance to the dwelling house or other building or vehicle is being denied or unreasonably delayed.

"(c) An announcement of identity and purpose shall not be required prior to such breaking and entry—

"(1) if the warrant expressly authorizes breaking and entry without such a prior announcement, or

"(2) if circumstances known to such officer or person at the time of breaking and entry, but, in the case of the execution of a warrant, unknown to the applicant when applying for such warrant, give him probable cause to believe that—

"(A) such notice is likely to result in the evidence subject to seizure being easily and quickly destroyed or disposed of,

"(B) such notice is likely to endanger the life or safety of the officer or another person,

"(C) such notice is likely to enable the party to be arrested to escape, or

"(D) such notice would be a useless gesture.

Mr. President, the Supreme Court had occasion to consider the question of the meaning of the Fourth Amendment in respect to matters of this kind. I shall return in a few minutes to discuss this particular provision, but I wish to lay some emphasis on my belief about what Micah called the right of a man to dwell under his own vine and under his own fig tree without being afraid, and what an important right it is.

One of the recent commentaries upon the Constitution was written by Bernard Schwartz. Two of the volumes of this commentary are entitled "The Rights of the Person." These two volumes deal with these fundamental rights, which Jeremiah Black stated in his argument in Ex parte Milligan, that the Founding Fathers had garnered from the basic principles of our law, such as the Magna Charta, the Bill of Rights, and the Principles of Common Law. They deal with the importance of these rights which are necessary for the individual to retain if he is to be a free man and is to live in a free society.

In volume 1 of "Rights of the Person" Mr. Schwartz stated as follows, as shown at pages 178, 179, and 180:

PRIVACY OF THE HOME

When we think of a right of privacy, constitutionally guaranteed against governmental invasions, we naturally think first of the privacy of the home, for it is such privacy that is most plainly safeguarded by explicit provisions in the basic document.

In protecting the privacy of the home, the Constitution does "but embody a principle of English liberty, a principle old, yet newly won, that finds another expression in the maxim, 'every man's home is his castle.' " As early as 1603 *Coke's Reports* could declare "That the house of every one is to him as his castle and fortress, as well for his defense against injury and violence, as for his repose."

Certainly the notion of the home as a privileged place whose privacy may not be disrupted by governmental intrusions is one that is basic in a free society: "A sane, decent, civilized society must provide some such oasis, some shelter from public scrutiny, some insulated enclosure, some enclave, some inviolate place which is a man's castle.

The Framers themselves were deeply concerned with the problem of search by public officials. They were well aware of the abusive attempts by Crown officers, both in Britain and the Colonies, to exceed the narrow limits within which the law confined governmental powers of search. Such attempts called forth both the enduring judgment in *Entick v. Carrington* (1765), which imposed fundamental limitations on the power of search that are still valid, and appeals to the colonial courts, which culminated in the famous attack by James Otis against general writs of assistance in *Paxton's Case* (1761).

What Otis was concerned with was essentially (to use his own phrase), "the freedom of one's house," which he characterized as "one of the most essential branches of English liberty." The general writs at issue, declared Otis, "would totally annihilate this privilege.

* * * * *

It may thus be seen that it is statutes and the law of torts—not constitutional guaranties—which forbid invasions of privacy by private individuals. The constitutional guaranties, from which (we saw in the last section) a constitutional right of privacy may be derived, are directed against government action alone. To the extent that the Constitution does confer a right of privacy, it is a right against governmental invasions. It is to the principles governing such invasions that the remainder of this chapter will be devoted, dealing first with the privacy of the home and then with other aspects of the constitutional right of privacy.

All this bill requires for a no-knock warrant is a bare suspicion of the applying officer as to what is going to happen in the future. You know, Mr. President, I think if officers of the law have the uncanny capacity to prophesy what is going to happen in the future, they ought to be given the job of running our Government, because they might keep us from involving ourselves in such problems as we are now confronted with in Vietnam. This bill requires them to be prophets if they are going to discharge the duties imposed upon them and exercise the powers it vests in them. This bill permits them to break bars and locks just as James Otis said the British customs officers in Boston were doing at the time the American people decided they would seek freedom so that they could keep their homes for their castles and not have officers of the law breaking into their houses all day and all night, as this bill would authorize them to do. Continuing to read from Schwartz' book:

To be sure, the Otis appeal on behalf of the fundamental safeguard for the liberty of the people to the colonial court, staffed as it was with judges subservient to the Crown's pleasure, failed. But a higher tribunal was ultimately to resolve the issue, The debate in *Paxton's Case,* we are told by the highest Court, "was perhaps the most prominent event which inaugurated the resistance of the colonies to the oppressions of the mother country." The Otis argument, exclaimed John Adams in a famous comment over half a century after the event, "breathed into this nation the breath of life," and, "Then and there the child Independence was born."

The abuses against which Otis declaimed were part of the living experience of the men who founded the American Republic. They wrote that experience directly into the Fourth Amendment. "With the fresh recollection of those stirring discussions [respecting writs of assistance], and of the revolution which followed them, the article in the Bill of Rights, respecting searches and seizures was framed and adopted."

The Fourth Amendment categorically proclaims that, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." So basic to liberty is such protection against governmental search and seizure deemed, that every state in the Union has a similar constitutional safeguard.

In section 359, we saw that the Fourth Amendment prohibition (barring, as it does, unreasonable arrests) is a basic security for the Sanctity of the Person. There can, at the same time, be no doubt that, preoccupied as the Framers were with abusive exercises of powers of search—abuses so deeply felt by them as to be one of the potent causes of the Revolution—the amendment was primarily intended "to prevent . . . unlawful invasion of the sanctity of the home." At the very core of the Fourth Amendment, the highest Court tells us, "stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion."

The Constitution, in thus safeguarding the sanctity of the home from unlawful governmental intrusion, ensures to the person a privileged sanctuary within which he can live his own life, sheltered from public supervision and scrutiny—a place where he can enjoy what William Faulkner has called that "last vestige of privacy without which man cannot be an individual." So long as such oases of privacy exist, there is still room for exercise of that individuality that distinguishes not only our species, but each of us from the other. "A man can still control a small part of his environment, his house; he can retreat thence from outsiders, secure in the knowledge that they cannot get at him without disobeying the Constitution. That is still a sizable hunk of liberty—worth protecting from encroachment.

Mr. President, that is exactly what I am trying to do. In opposing the adoption of the conference report, I am trying to preserve for the benefit of the people of the District of Columbia, who have no one here to speak in their behalf, a liberty worth protecting from encroachment. That is precisely what the District of Columbia crime bill proposes to take from every man, woman, and child who happens to have a residence or place of business in the District of Columbia.

It would seem to me that, if Congress should be solicitous about the basic liberties and the basic constitutional rights of any of the American people, it should be solicitous about the liberties and basic constitutional rights of the people of the District of Columbia, who live here in the shadow of the Capitol which bears a flag we like to call Old Glory; the Capitol of a country which was created by men, as they stated in the Preamble to the Constitution, for the purpose of preserving to themselves and their posterity the blessings of liberty.

It is really passing strange to see this proposal for a no-knock provision. It authorizes exactly the same kind of conduct toward the people residing in the District of Columbia that the British customs officers exercised in the days of James Otis, Samuel Adams, and John Adams in respect to the people of the city of Boston.

John Adams was certainly right when he said that this abuse by the officers of the Crown of the privilege of invading the homes of the people of the city of Boston was the thing which breathed the breath of life into our Nation and gave birth to the child Independence.

Yet we have it seriously proposed in this bill that this basic right—a right which the people of America deemed so precious that they went to war to secure it—be taken from the people of the District of Columbia.

I shall come to the preventive detention question after a while, but we know that preventive detention is like the provision of this bill with relation to the swearing out of a search warrant by an officer, in that it requires a prophetic foresight, the gift of prophecy, the ability to foretell the future. And not only the future, but the future behavior of an individual. That makes it even worse. We can come nearer foretelling what the forces of nature will do than what individual human beings are going to do, because individual human beings are very much like Josh Billings' mule, in one respect. Josh Billings, in speaking of his mule, said, "It don't kick according to no rules whatever."

I do not believe any law which depends upon the ability to prophesy individual behavior will work.

It is a strange thing, here in the year of our Lord 1970, that a serious proposal is made in the Congress of the United States—and, I might add, at the recommendation of the President of the United States and at the insistence of the Department of Justice of the United States—that Congress make sacrosanct, by law, an abuse which prompted the American people to rebel against England and seek independence from England. That shows that the behavior of men cannot be predicted—even that of Senators and Representatives.

We had a very fine poet in North Carolina some years ago named John Charles McNeill. He wrote one little poem in which he said:

> How teasing truth a thousand
> faces claims,
> As in a broken mirror;
> And what the father died for
> in the flames
> His own son scorns as error.

American patriots died in the flames for the privilege of having their home regarded as their castle. They died in the flames of the revolution to secure the right which the prophet Micah called the right to sit under their own vines and under their own fig trees, where none could make them afraid.

Yet we see their descendants asking that we legitimize something which was so bad in the eyes of our ancestors that they rebelled against the mother country and obtained their freedom in order to escape from such tyranny. Now we have the President of the United States and the Department of Justice urging that this tyranny be given the sanction of Congress in the form of the District of Columbia crime bill.

I mentioned a moment ago the decision of the Supreme Court of the United States in the case of *Ker* v. *the State of California*, reported in 374 U.S. 23, 10 L.ed 2d726, 83 S.Ct. 1623. I am going to discuss this case.

There were three opinions in the case, which involved the question of whether or not the action of officers in the State of California in entering a man's house without knocking constituted a violation of the fourth amendment.

We had one opinion written by Justice Clark, in which three other Justices concurred, making it the opinion of four Justices. Those four all agreed that the requirement that an officer of the law notify the occupants of the house of their purpose and presence, and call on them to admit them before entering the house, is normally an inseparable part of the fourth amendment.

There was another opinion, written by Justice Brennan, in which three other Justices joined, and those four Justices concurred in the ruling of the other four Justices that the obligation to knock at the door of the house and announce their presence and purpose to make an arrest or to execute a search warrant is an inseparable part of the fourth amendment, subject only to limited exceptions.

The reason the opinion written by Justice Clark became the law of the case was because Justice Harlan wrote a separate concurring opinion. Justice Harlan does not accept the theory that the due process clause of the 14th amendment made the fourth amendment applicable to the States. He contends that the action of State officers, when they enter the house of a citizen for the purpose of making an arrest or a search without first acquainting the citizen with their presence and purpose, is to be governed solely by the due process clause, and not by the fourth amendment.

So, by reason of this separate concurring opinion of Justice Harlan, who concurred in the result reached by the opinion of Justice Clark, Justice Clark's opinion became the judgment of the Court, although it was concurred in by only four Justices out of the nine.

Since I am going to discuss this opinion, I ask unanimous consent at this point that all of the opinions and rulings made by the Supreme Court of the United States, including the dissenting opinions and the concurring opinions, in the case of Ker against State of California, be printed in the RECORD at this point.

There being no objection, the decision was ordered to be printed in the RECORD, as follows:

[374 US 23, 10 L ed 2d 726, 83 S Ct 1623, No. 53]

GEORGE D. KER ET AL., PETITIONERS, *v.* STATE OF CALIFORNIA

Argued December 11, 1962—Decided June 10, 1963

SUMMARY

On the day following a California police officer's encounter with a known marijuana dealer, including the purchase from the dealer of a package of marijuana, other police officers observed an encounter between the dealer and the defendant husband, which occurred under identical surrounding circumstances except that the officers did not see any substance passing between the two men. The officers following the defendant lost contact with him when he made a U-turn in the middle of a block. Without securing a search warrant, the officers, among them one having information that the defendant husband was selling from his apartment marijuana possibly secured from the dealer, obtained from the building manager a passkey to defendants' apartment, and entered the apartment, where they found the defendant husband in the living room. The defendant wife emerged from the kitchen, and one of the officers, after identifying himself, observed through the open doorway of the kitchen a package of marijuana on a scale atop the kitchen sink. The officers then arrested both defendants and searched the apartment, finding additional marijuana in the kitchen cupboard and atop the bedroom dresser.

The defendants were convicted in the Superior Court of Los Angeles County of possessing marijuana. Their convictions were affirmed by the California District Court of Appeal on the grounds that there was probable cause for the arrests, that the officers' entry into the apartment was for the purpose of arrest and was not unlawful, and that the search, being incident to the arrests, was likewise lawful and its fruits admissible in evidence against the defendants. (195 Cal App 2d 246, 15 Cal Rptr 767.)

On certiorari, the United States Supreme Court affirmed. The ultimate issue before the Court concerned the admissibility, in defendants' trial, of the marijuana seized in their apartment. Eight members of the Court agreed on the nature of the standards applicable to determine the reasonableness of a state search and seizure, but split 4 to 4 as to whether these standards were violated under the circumstances of the present case. The remaining member—Mr. Justice Harlan—concurred in the affirmance of the judgment below.

In an opinion by Clark, J., expressing the views of eight members of the Court, it was held that the question of reasonableness of a state search and seizure is governed by federal constitutional standards, as expressed in the Fourth Amendment and the decisions of the Court applying that amendment. On the other hand, Harlan, J., expressed the view that state searches and seizures should be judged by the more flexible concept of "fundamental" fairness, or rights "basic to a free society," embraced in the due process clause of the Fourteenth Amendment.

The question whether federal constitutional standards of reasonableness were violated by the search in the present case was answered in the negative in an opinion by Clark, J., joined by Black, Stewart, and White, JJ. These justices held that the search without warrant was valid as incident to a lawful arrest, made upon probable cause, and that the officers' method of entry was not unreasonable. On the other hand, Brennan, J., joined by Warren, Ch. J., and Douglas and Goldberg, JJ., expressed the view that federal constitutional standards were violated because the unannounced instrusion of the arresting officers into defendants' apartment violated the Fourth Amendment.

HEADNOTES

Classified to U.S. Supreme Court Digest, Annotated.

Evidence § 681; Search and Seizure § 5—restrictions on states—admissibility of evidence illegally obtained

1. The Fourth Amendment is enforceable against the states by the same sanction of exclusion of evidence as is used against the federal government and through the application of the same constitutional standard prohibiting "unreasonable searches and seizures." [*See annotation references* 1, 2.]

Evidence § 859; Supreme Court of the United States § 9—rules of evidence in federal criminal trials

2. The principles governing the admissibility of evidence in federal criminal trials are not restricted to those derived solely from the Federal Constitution; in the exercise of its supervisory authority over the administration of criminal justice in the federal courts, the United States Supreme Court has formulated rules of evidence to be applied in federal criminal prosecutions, but the Court assumes no supervisory authority over state courts.

Courts § 683—federal and state—conflicts

3. The very essence of a healthy federalism depends upon the avoidance of needless conflicts between state and federal courts.

Search and seizure § 4—constitutional prohibitions

4. Implicit in the Fourth Amendment's protection from unreasonable searches and seizures is its recognition of individual freedoms; that safeguard is of the very essence of constitutional liberty the guaranty of which is as important and as imperative as the guaranties of the other fundamental rights of the individual citizens.

Search and Seizure § 6—persons protected

5. The Fourth Amendment forbids every search that is unreasonable, and protects those suspected or known to be offenders as well as the innocent.

Search and Seizure § 8—place of search

6. The Fourth Amendment's prohibition of unreasonable searches and seizures extends to the premises where the search was made.

Search and Seizure § 5—standards governing reasonableness

7. The principle that standards of reasonableness of searches and seizures are not susceptible of Procrustean application is carried forward when the Fourth Amendment's proscriptions are enforced against the states through the Fourteenth Amendment. [*See annotation reference* 2.]

Evidence § 681; Search and Seizure § 5; Supreme Court of the United States § 9—obtained through unlawful search and seizure—distinctions

8. Although the standard of reasonableness of searches and seizures is the same under the Fourth and Fourteenth Amendments, there is a distinction between evidence held inadmissible because of the United States Supreme Court's supervisory powers over federal courts and evidence held inadmissible because prohibited by the United States Constitution. [*See annotation references* 1, 2.]

Search and Seizure § 5—unreasonableness—determination by trial court

9. The reasonableness of a search is in the first instance a substantive determination to be made by the trial court from the facts and circumstances of the case and in the light of the fundmental criteria laid down by the Fourth Amendment and in opinions of the United States Supreme Cout applying that amendment.

Appeal and Error § 806.5—state court findings—United States Supreme Court review

10. On review of a state court judgment of conviction of crime, the United States Supreme Court will respect the state court's findings of reasonableness of a search and seizure only insofar as the finding is consistent with federal constitutional guaranties.

Appeal and Error § 806.5— United States Supreme Court review of state court findings—federal constitutional rights

11. On review by the United States Supreme Court of state court judgments of conviction of crime, findings of state courts involving federal constitutional rights are by no means insulated against examination by the United States Supreme Court; while the Court does not sit as in nisi prius to appraise contradictory factual questions, it will, where necessary to the determination of constitutional rights, make an independent examination of the facts, the findings, and the record so that it can determine for itself whether in the state court findings, such as a finding as to the reasonableness of a search and seizure, the constitutional criteria established by the Supreme Court have been respected.

Arrest § 1; evidence § 681; search and seizure § 4—power of state

12. The states have power to develop workable rules governing arrests, and searches and seizures, to meet the practical demands of effective criminal investigation and law enforcement in the states, provided that those rules do not violate the Fourth Amendment's proscription of unreasonable searches and seizures, and the concomitant command that evidence so seized is inadmissible against one who has standing to complain. [*See annotation reference 1.*]

Evidence § 681; Search and Seizure § 12—search as incident to lawful arrest

13. Evidence obtained by a search without search warrant is admissible only if the search was incident to a lawful arrest. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 3.]

Arrest § 2—without warrant—probable cause

14. The lawfulness of an arrest without warrant, which exists where the facts and circumstances within the arresting officers knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Arrest § 2—without warrant—for narcotics offense—reasonable grounds

15. Information within the knowledge of state narcotics officers at the time they arrested a suspect at his apartment furnishes grounds for a reasonable belief that the suspect had committed and was committing the offense of possession of marijuana where some of the officers observed an encounter between a known marijuana dealer and the suspect on the evening of the arrest and, although the officers did not see any substance pass between the two men, their encounter was a virtual re-enactment of the previous night's encounter between the dealer and another narcotics officer, including the sale by the dealer to that officer of a pound of marijuana, the virtual identity of the surrounding circumstances warranting a strong suspicion that the one remaining element, a sale of narcotics, was a part of the encounter preceding the arrest, as it was the previous night, and where, moreover, the office had information from a reliable informer as well as from other sources, not only that the suspect had been selling marijuana from his apartment but also that his likely source of supply was the dealer. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference 4.*]

Arrest § 2—without warrant—probable cause—hearsay information

16. That information in possession of a police officer is hearsay does not destroy its role in establishing probable cause supporting an arrest without warrant. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Arrest § 2—without warrant—for narcotics offense—probable cause

17. Probable cause for the arrest, without warrant, of the wife of a narcotics suspect, and a reasonable ground for the belief of state narcotics officers that the wife was in joint possession of marijuana with her husband, exist where, upon the officers' entry into the spouse's apartment and announcement of their identity, one of the officers, walking to the doorway of the kitchen, from which the wife had emerged, and without entering the kitchen, observed a package of marijuana in plain view on a scale atop the kitchen sink and moreover the officers had reliable information that the husband had

been using his apartment as a base of operations for his narcotics activities. [From separate opinion by Clark, Black, Stewart and White, JJ.] [*See annotation reference 4*]

Courts § 625—arrest without warrant—governing law

18. In cases under the Fourth Amendment the lawfulness of arrests for federal offenses is to be determined by reference to state law insofar as it is not violative of the Federal Constitution, a fortiori, the lawfulness of an arrest made by a state officer for a state offense is to be determined by state law. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Courts § 625; Search and Seizure § 12—search in connection with arrest—governing law

19. Where a person's federal constitutional protection from unreasonable searches and seizures by state police officers for a state offense is to be determined by whether the search was determined by whether the search was incident to a lawful arrest, the United States Supreme Court is warranted in examining that arrest to determine whether, notwithstanding its legality under state law, the method of entering the home may offend federal constitutional standards of reasonableness and therefore vitiate the legality of an accompanying search. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference 3.*]

Arrest § 1—"breaking"

20. The common law recognizes that under certain circumstances breaking a person's house is permissible in executing an arrest. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Search and Seizure §29—execution of search warrant

21. Under California law the presence of exigent circumstances constitutes an exception to the notice requirement of a statute authorizing a police officer to break open any part of a house to execute a search warrant if, after notice of his authority and purpose, he is refused admittance. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Arrest § 2—without warrant—probable cause

22. In determining the lawfulness of entry and the existence of probable cause supporting an arrest without warrant, the court concerns itself only with what the arresting officers had reason to believe at the time of their entry. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Search and seizure § 3—legality of search—result

23. A search is not to be made legal by what it turns up; in law it is good or bad when it starts and does not change character from its success. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Arrest § 1; search and seizure § 12—searches incident to lawful arrest—officers' method of entry

24. Notwithstanding the failure of state narcotics officers to give notice of their authority and purpose to a narcotics suspect prior to his arrest and the search of his apartment, their method of entry, sanctioned by state law, by obtaining a passkey from the manager of the building is not unreasonable under the standards of the Fourth Amendment as applied to the states through the Fourteenth Amendment, where, in addition to the officers' belief that the suspect was in possession of narcotics, which could be quickly and easily destroyed, his furtive conduct in eluding them shortly before the arrest was ground for the belief that he might well have been expecting the police. [From separate opinion by Clark, Black, Stewart, and White, JJ. Contra: separate opinion by Brennan, J., Warren, Ch. J., and Douglas and Goldberg, JJ.] [*See annotation references* 2, 3.]

Search and seizure § 12—in connection with arrest

25. The doctrine that a search without warrant may be lawfully conducted if incident to a lawful arrest is consistent with the Fourth Amendment's protection against unreasonable searches and seizures. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 3.]

Search and seizure § 12—in connection with arrest—practicability of obtaining warrant

26. The practicability of obtaining a warrant is not the controlling factor when a search is sought to be justified as incident to arrest. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 3.]

Search and seizure § 12—In connection with arrest—Practicability of obtaining search warrant

27. A search without warrant, incident to a lawful arrest, is not unreasonable, and hence not violative of the Fourth Amendment in that the state narcotics officers involved could practicably have obtained a search warrant, where the officers' observations and their corroboration, which furnished probable cause for the suspect's arrest, occurred at about 9 p.m., approximately one hour before the time of arrest, and the officers had reason to act quickly because of the suspect's furtive conduct and the likelihood that the marijuana in his possession would be distributed or hidden before a warrant could be obtained at that time of night. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference 3.*]

Search and seizure § 12—In connection with arrest—Extent of premises searched

28. The search, as an incident to a narcotics suspect's lawful arrest, of the kitchen and bedroom of his apartment, is within the rule that such search may, under appropriate circumstances, extend beyond the person of the one arrested to include the premises under his immediate control. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 3.]

Search and seizure § 12—In connection with arrest

29. The rule that an arrest may not be used merely as the pretext for a search without warrant is not violated where the record shows that the arresting officers entered the suspect's apartment for the purpose of arresting him and that they had probable cause to make that arrest prior to the entry. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 3.]

Search and seizure § 2—What constitutes search

30. The discovery by a police officer entering a suspect's apartment of a brick of marijuana on a scale atop the kitchen sink does not constitute a search, since the officer merely saw what was placed before him in full view. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Search and seizure § 12—As an incident to arrest

31. California law does not require that an arrest precede an incidental search as long as probable cause exists at the outset. [From separate opinion by Clark, Black, Stewart, and White, JJ.] [*See annotation reference* 3.]

Appeal and error §§ 1084(2), 1088, 1123—questions not properly raised

32. On review of a state court judgment of conviction of crime, the United States Supreme Court will not reach the question of the reasonableness of the search of defendant's automobile on the day subsequent to his arrest where that question was not raised in the petition for certiorari, nor discussed in the brief filed in the United States Supreme Court, nor in the state trial court nor in the state appellate court, and the latter court did not adjudicate it. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Appeal and error § 1104; courts § 95.3—scope of review—questions not raised

33. Ordinarily the United States Supreme Court does not reach for constitutional questions not raised by the parties, nor extend its review beyond those specific federal questions properly raised in the state court. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Appeal and error § 431—from state court—federal question

34. There can be no question as to the proper presentation of a federal claim when the highest state court passes on it. [From separate opinion by Clark, Black, Stewart, and White, JJ.]

Arrest § 1; search and seizure § 12—search as incident to arrest—prerequisites of validity

35. Even if probable cause exists for the arrest of a person within, the Fourth Amendment's prohibition of unreasonable searches and seizures is violated by an unannounced police intrusion into a private home, with or without an arrest warrant, except (1) where the persons within already know of the officers' authority and purpose, or (2) where the officers are justified in the belief that persons within are in imminent peril of bodily harm, or (3) where those within, made aware of the presence of someone outside (because, for example, there has been a knock at the door) are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence is being attempted. [From separate opinion by Brennan, J., Warren, Ch. J., and Douglas and Goldberg, JJ.]

Search and seizure § 5—constitutional protection—lawful entry

36. A lawful entry is the indispensable predicate of a reasonable search within the meaning of the Fourth Amendment guaranteeing the right of the people to be secure against unreasonable searches and seizures. [From separate opinion by Brenan, J., Warren, Ch. J., and Douglas and Goldberg, JJ.]

Courts § 95.3—constitutional question

37. The United States Supreme Court will not decide constitutional questions when a nonconstitutional basis for decision is available. [From separate opinion by Brennan, J., Warren, Ch. J., and Douglas and Goldberg, JJ.]

ANNOTATION REFERENCES

1. As to the rules governing, prior to the Mapp Case, the admissibility of evidence obtained by illegal search, see 24 ALR 1408, 32 ALR 408, 41 ALR 1145, 52 ALR 477, 88 ALR 348, 134 ALR 819, 150 ALR 566, 50 ALR2d 531. See also 93 L ed 1797, 96 L ed 145, 98 L ed 581, 100 L ed 239, 6 L ed 2d 1544 (dealing with United States Supreme Court cases in point). For the law developed on the same subject in and after the Mapp Case, see 84 ALR2d 959.

2. Federal constitution as a limitation upon the powers of the states in respect of search and seizure. 19 ALR 644.

3. Right of search and seizure incident to lawful arrest without a search warrant, 32 ALR 680, 51 ALR 424, 74 ALR 1387, 82 ALR

782. See 4 L ed 2d 1982 (collecting Supreme Court cases in point).

4. What constitutes "probable cause" or "reasonable grounds" justifying arrest of narcotics suspect without warrant. 3 L ed 2d 1736.

APPEARANCES OF COUNSEL

Robert W. Stanley argued the cause for petitioners.

Gordon Ringer argued the cause for respondent.

Briefs of Counsel, p. 1312, infra.

OPINION OF THE COURT

[374 US 24] Mr. Justice Clark delivered the opinion of the Court with reference to the standard by which state searches and seizures must be evaluated (Part I), together with an opinion applying that standard, in which Mr. Justice Black, Mr. Justice Stewart and Mr. Justice White join (Parts II–V), and announced the judgment of the Court.

This case raises search and seizure questions under the rule of Mapp v Ohio, 367 US 643, 6 L ed 2d 1081, 81 S Ct 1684, 84 ALR2d 933 (1961). Petitioners, husband and wife, were convicted of possession of marijuana in violation of § 11530 of the California Health and Safety Code. The California District Court of Appeal affirmed, 195 Cal App 2d 246, 15 Cal Rptr 767, despite the contention of petitioners that their arrests in their [374 US 25] apartment without warrants lacked probable cause[1] and the evidence seized incident thereto and introduced at their trial was therefore inadmissible. The California Supreme Court denied without opinion a petition for hearing. This being the first case arriving here since our opinion in Mapp which would afford suitable opportunity for further explication of that holding in the light of intervening experience, we granted certiorari. 368 US 974, 7 L ed 2d 437, 82 S Ct 480. We affirm the judgment before us.

The state courts' conviction and affirmance are based on these events, which culminated in the petitioners' arrests. Sergeant Cook of the Los Angeles County Sheriff's Office, in negotiating the purchase of marijuana from one Terrhagen, accompanied him to a bowling alley about 7 p.m. on July 26, 1960, where they were to meet Terrhagen's "connection." Terrhagen went inside and returned shortly, pointing to a 1946 DeSoto as his "connection's" automobile and explaining that they were to meet him "up by the oil fields" near Fairfax and Slauson Avenues in Los Angeles. As they neared that location, Terrhagen again pointed out the DeSoto traveling ahead of them, stating that the "connection" kept his supply of narcotics "somewhere up in the hills." They parked near some vacant fields in the vicinity of the intersection of Fairfax and Slauson, and, shortly thereafter, the DeSoto reappeared and pulled up beside them. The deputy then recognized the driver as one Roland Murphy, whose "mug" photograph he had seen and whom he knew from other narcotics officers to be a large-scale seller of marijuana currently out on bail in connection with narcotics charges.

[374 US 26] Terrhagen entered the DeSoto and drove off toward the oil fields with Murphy, while the Sergeant waited. They returned shortly. Terrhagen left Murphy's car carrying a package of marijuana and entered his own vehicle, and they drove to Terrhagen's residence. There Terrhagen cut one pound of marijuana and gave it to Sergeant Cook, who had previously paid him. The Sergeant later reported this occurrence to Los Angeles County Officers Berman and Warthen, the latter of whom had observed the occurrences as well.

On the following day, July 27, Murphy was placed under surveillance. Officer Warthen, who had observed the Terrhagen-Murphy episode the previous night, and Officer Markman were assigned this duty. At about 7 p.m. that evening they followed Murphy's DeSoto as he drove to the same bowling alley in which he had met Terrhagen on the previous evening. Murphy went inside, emerged in about 10 minutes and drove to a house where he made a brief visit. The officers continued to follow him but, upon losing sight of his vehicle, proceeded to the vicinity of Fairfax and Slauson Avenues where they parked. There, immediately across the street from the location at which Terrhagen and Sergeant Cook had met Murphy on the previous evening, the officers observed a parked automobile whose lone occupant he later determined to be the petitioner George Douglas Ker.

The officers then saw Murphy drive past them. They followed him but lost sight of him when he extinguished his lights and entered the oil fields. The officers returned to their vantage point and, shortly thereafter, observed Murphy return and park behind Ker. From their location approximately 1,000 feet from the two vehicles, they watched through field glasses. Murphy was seen leaving his DeSoto and walking up to the driver's side of Ker's car, where he "appeared to have conversation with him." It was shortly before 9 p.m. and the distance in the [374 US 27] twilight was too great for the officers to see anything pass between Murphy and Kerr or whether the former had anything in his hands as he approached.

While Murphy and Ker were talking, the officers had driven past them in order to see their faces closely and in order to take the license number from Ker's vehicle. Soon thereafter Ker drove away and the officers followed him but lost him when he made a U-turn in the middle of the block and drove in the opposite direction. Now, having lost contact with Ker, they checked the registration with the Department of Motor Vehicles and ascertained that the automobile was registered to Douglas Ker at 4801 Slauson. They then communicated this information to Officer Berman, within 15 to 30 minutes after observing the meeting between Ker and Murphy. Though officers Warthen and Markman had no previous knowledge of Ker, Berman had received information at various times beginning in November of 1959 that Ker was selling marijuana from his apartment and that "he was possibly securing this Marijuana from Ronnie Murphy who is the alias of Roland Murphy." In early 1960 Officer Berman had received a "mug" photograph of Ker from the Inglewood Police Department. He further testified that between May and July 27, 1960, he had received information as to Ker from one Robert Black, who had previously given information leading to at least three arrests and whose information was believed by Berman to be reliable. According to Officer Berman, Black had told him on four or five occasions after May 1960 that Ker and others, including himself, had purchased marijuana from Murphy.[2]

[374 US 28] Armed with the knowledge of the meeting between Ker and Murphy and with Berman's information as to Ker's dealings with Murphy, the three officers and a fourth, Officer Love, proceeded immediately to the address which they had obtained through Ker's license number. They found the automobile which they had been following—and which they had learned was Ker's—in the parking lot of the multiple-apartment building and also ascertained that there was someone in the Kers' apartment. They then went to the office of the building manager and obtained from him a passkey to the apartment. Officer Markman was stationed outside the window to intercept any evidence which might be ejected, and the other three officers entered the apartment. Officer Berman unlocked and opened the door, proceeding quietly, he testified, in order to prevent the destruction of evidence,[3] and found petitioner George Ker sitting in the living room. Just as he identified himself, stating that "We are Sheriff's Narcotics Officers, conducting a narcotics investigation," petitioner Diane Ker emerged from the kitchen. Berman testified that he repeated his identification to her and immediately walked to the kitchen.

Without entering, he observed through the open doorway a small scale atop the kitchen sink, upon which lay a "brick-like—brick-shaped package containing the green leafy substance" which he recognized as marijuana. He beckoned the petitioners into the kitchen where, following their denial of knowledge of the contents of the two and two-tenths pound package and [374 US 29] failure to answer a question as to its ownership, he placed them under arrest for suspicion of violating the State Narcotic Law. Officer Markman testified that he entered the apartment approximately "a minute, minute and a half" after the other officers, at which time Officer Berman was placing the petitioners under arrest. As to the sequence of events, petitioner George Ker testified that his arrest took place immediately upon the officers' entry and before they saw the brick of marijuana in the kitchen.

Subsequent to the arrest and the petitioners' denial of possession of any other narcotics, the officers, proceeding without search warrants, found a half-ounce package of marijuana in the kitchen cupboard and another atop the bedroom dresser. Petitioners were asked if they had any automobile other than the one observed by the officers, and George Ker replied in the negative, while Diane remained silent. On the next day, having learned that an automobile was registered in the name of Diane Ker, Officer Warthen searched this car without a warrant, finding marijuana and marijuana seeds in the glove compartment and under the rear seat. The marijuana found on the kitchen scale, that found in the kitchen cupboard and in the bedroom, and that found in Diane Ker's automobile[4] were all introduced into evidence against the petitioners.

The California District Court of Appeals in affirming the convictions found that there was probable cause for the arrests; that the entry into the apartment was for the purpose of arrest and was not unlawful; and that the search being incident to the arrests was likewise lawful and its fruits admissible in evidence against petitioners. These conclusions were essential to the affirmance, since the California Supreme Court in 1955 had held that evidence [374 US 30] obtained by means of unlawful searches and seizures was inadmissible in criminal trials. People v. Cahan, 44 Cal 2d 434, 282 P2d 905, 50 ALR2d 513. The court concluded that in view of its findings and the implied findings of the trial court, this Court's intervening decision in Mapp v. Ohio, 367 US 643, 6 L ed 2d 1081, 81 S Ct 1684, 84 ALR2d 933, supra, did "not justify a change in our original conclusion." 195 Cal App 2d, at 257, 15 Cal Rptr, at 773.

I.

In Mapp v Ohio, 367 US at 646, 647, 657, we followed Boyd v United States, 116 US 616, 630, 29 L ed 746, 651, 6 S Ct 524 (1886) which held that the Fourth Amendment,[5] implemented by the self-incrimination clause of the Fifth,[6] forbids the Federal Government to convict a man of crime by using testimony or papers obtained from him by unreasonable searches and seizures as defined in the Fourth Amendment. We specifically held in Mapp that this constitutional prohibition is enforceable against the States through the Fourteenth Amendment.[7] This means, as we said in Mapp (Headnote 1), that the Fourth Amendment "is enforceable against them [the states] by the same sanction of exclusion as is used against the Federal Government," by the application of the same constitutional standard prohibiting "unreason-

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Footnotes at end of article.

able [374 US 31] searches and seizures." 367 US, at 655. We now face the specific question as to whether Mapp requires the exclusion of evidence in this case which the California District Court of Appeal has held to be lawfully seized. It is perhaps ironic that the initial test under the Mapp holding comes from California, whose decision voluntarily to adopt the exclusionary rule in 1955 has been commended by us previously. See Mapp v Ohio, supra (367 US at 651, 652); Elkins v United States, 364 US 206, 220, 4 L ed 2d 1669, 1679, 80 S Ct 1437 (1960).

Preliminary to our examination of the search and seizures involved here, it might be helpful for us to indicate what was not decided in Mapp. First, it must be recognized (Headnote 2) that the "principles governing the admissibility of evidence in federal criminal trials have not been restricted . . . to those derived solely from the Constitution. In the exercise of its supervisory authority over the administration of criminal justice in the federal courts . . . this Court has . . . formulated rules of evidence to be applied in federal criminal prosecutions." McNabb v United States, 318 US 332, 341, 87 L ed 819, 824–63 S Ct 608 (1943); cf. Miller v United States, 357 US 301, 2 L ed 2d 1332, 78 S Ct 1190 (1958); Nardone v United States, 302 US 379, 82 L ed 314, 58 S Ct 275 (1937). Mapp, however, established no assumption by this Court of supervisory authority over state courts, cf. Cleary v Bolger, 371 US 392, 401, L ed 2d 390, 396, 83 S Ct 385 (1963), and, consequently, it implied no total obliteration of state laws relating to arrests and searches in favor of federal law. Mapp sounded no death knell for our federalism; rather, it echoed the sentiment of Elkins v. United States, supra (364 at 221), that (Headnote 3) "a healthy federalism depends upon the avoidance of needless conflict between state and federal courts" by itself urging that "[f]ederal-state cooperation in the solution of crime under constitutional standards will be promoted, if only by recognition of their now mutual obligation to respect *the same fundamental criteria* in their approaches." 367 US, at 658, (Emphasis added.) Second, Mapp did not attempt the impossible task of laying (374 US 32) down a "fixed formula" for the application in specific cases of the constitutional prohibition against unreasonable searches and seizures; it recognized that we would be "met with 'recurring questions of the reasonableness of searches'" and that, "at any rate, '[r]easonableness is in the first instance for the [trial court] . . . to determine,'" id. 367 US at 653, thus indicating that the usual weight be given to findings of trial courts.

Mapp, of course, did not lend itself to a detailed explication of standards, since the search involved there was clearly unreasonable and bore no stamp of legality even from the Ohio Supreme Court. Id. 367 US at 643–645. This is true also of Elkins v United States, where all of the courts assumed the unreasonableness of the search in question and this Court "invoked" its "supervisory power over the administration of criminal justice in the federal courts," 364 U.S. at 216, in declaring that the evidence so seized by state officers was inadmissible in a federal prosecution. The prosecution being in a federal court, this Court of course announced that "[t]he test is one of federal law, neither enlarged by what one state court may have countenanced, nor diminished by what another may have colorably suppressed." Id. 364 U.S. at 224. Significant in the Elkins holding is the statement, apposite here, that "it can fairly be said that in applying the Fourth Amendment this Court has seldom shown itself unaware of the practical demands of effective criminal investigation and law enforcement." Id. 364 U.S. at 222.

Implicit in the Fourth Amendment's protection from unreasonable searches and seizures (Headnote 4) is its recognition of individual freedom. That safeguard has been declared to be "as of the very essence of constitutional liberty" the guaranty of which "is as important and as imperative as are the guaranties of the other fundamental rights of the individual citizen. . . ." Gouled v United States, 255 U.S. 298, 304, 65 L ed 647, 650, 41 S Ct 261 (1921); cf. Powell v Alabama, 287 U.S.* 45, 65–68, 77 L ed 158, 168–170, 53 S Ct 55, 84 ALR 527 (1932). While the language of the Amendment (Headnotes 5 and 6) is "general," it "forbids every search that is unreasonable; it protects all, those suspected or known to be offenders as well as the innocent, and unquestionably extends to the premises where the search was made. . . ." GoBart Importing Co. v United States, 282 U.S. 344, 357, 75 L ed 374, 382, 51 S Ct 153 (1931). Mr. Justice Butler there stated for the Court that "[t]he Amendment is to be liberally construed and all owe the duty of vigilance for its effective enforcement lest there shall be impairment of the rights for the protection of which it was adopted." Ibid. He also recognized that "[t]here is no formula for the determination of reasonableness. Each case is to be decided on its own facts and circumstances." Ibid; see United States v Rabinowitz, 339 U.S. 56, 63, 94 L ed 653, 658, 70 S Ct 430 (1950); Rios v United States, 364 U.S. 253, 255, 4 L ed 2d 1688, 1690, 80 S Ct 1431 (1960).

This Court's long-established recognition that standards of reasonableness under the Fourth Amendment (Headnote 7) are not susceptible of Procrustean application is carried forward when that Amendment's proscriptions are enforced against the States through the Fourteenth Amendment. And, although the standard of reasonableness (Headnote 8) is the same under the Fourth and Fourteenth Amendments, the demands of our federal system compel us to distinguish between evidence held inadmissible because of our supervisory powers over federal courts and that held inadmissible because prohibited by the United States Constitution. We reiterate that the reasonableness of a search (Headnotes 9 and 10) is in the first instance a substantive determination to be made by the trial court from the facts and circumstances of the case and in the light of the "fundamental criteria" laid down by the Fourth Amendment and in opinions of this Court applying that Amendment. Findings of reasonableness, of course, are respected only insofar as consistent with federal constitutional guarantees. As we have stated above and in other cases involving [374 US 34] federal constitutional rights, findings of state courts (Headnote 11) are by no means insulated against examination here. See, e.g., Spano v New York, 360 US 315, 316, 3 L ed 2d 1265, 1267, 79 S Ct. 1202 (1959; Thomas v Arizona, 356 US 390, 393, 2 L ed 2d 863, 866, 78 S Ct 885 (1958); Pierre v Louisiana, 306 US 354, 358, 83 L ed 751, 760, 59 S Ct 536 (1939). While this Court does not sit as in nisi prius to appraise contradictory factual questions, it will, where necessary to the determination of constitutional rights, make an independent examination of the facts, the findings, and the record so that it can determine for itself whether in the decision as to reasonableness the fundamental—i.e., constitutional—criteria established by this Court have been respected. The States are not thereby precluded (Headnote 12) from developing workable rules governing arrests, searches and seizures to meet "the practical demands of effective criminal investigation and law enforcement" in the States, provided that those rules do not violate the constitutional proscription of unreasonable searches and seizures and the concomitant command that evidence so seized is inadmissible against one who has standing to complain. See Jones v United States, 362 US 257, 4 L ed 2d 697, 80 S Ct 725, 78 ALR2d 233 (1960). Such a standard implies no derogation of uniformity in applying federal constitutional guarantees but is only a recognition that conditions and circumstances vary just as do investigative and enforcement techniques.

Applying this federal constitutional standard we proceed to examine the entire record including the findings of California's courts to determine whether the evidence seized from petitioners were constitutionally admissible under the circumstances of this case.

SEPARATE OPINION

(EDITOR'S NOTE.—As stated on p. 732, supra, Parts II–V hereof represent the separate opinion of Clark, Black, Stewart, and White, JJ.)

II.

The evidence at issue, in order to be admissible, must be the product of a search incident to a lawful arrest (headnotes 13 and 14), since the officers had no search warrant. The lawfulness of the arrest without warrant, in turn, must be based upon [374 US 35] probable cause, which exists "where 'the facts and circumstances within their [the officers'] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed." Brinegar v United States, 338 US 160, 175, 176, 93 L ed 1879, 1890, 69 S Ct 1302 (1949), quoting from Carroll v United States, 267 US 132, 162, 69 L ed 543, 555, 45 S Ct 280, 39 ALR (1925); accord, People v Fischer, 49 Cal 2d 442, 317 P2d 967 (1957); Bompensiero v Superior Court of San Diego County, 44 Cal 2d 178, 281 P2d 250 (1955). The information (headnote 15) within the knowledge of the officers at the time they arrived at the Kers' apartment, as California's courts specifically found, clearly furnished grounds for a reasonable belief that petitioner George Ker had committed and was committing the offense of possession of marijuana. Officers Markman and Warthen observed a rendezvous between Murphy and Ker on the evening of the arrest which was a virtual reenactment of the previous night's encounter between Murphy, Terrhagen and Sergeant Cook, which concluded in the sale by Murphy to Terrhagen and the Sergeant of a package of marijuana of which the latter had paid Terrhagen for one pound which he received from Terrhagen after the encounter with Murphy. To be sure, the distance and lack of light prevented the officers from seeing and they did not see any substance pass between the two men, but the virtual identity of the surrounding circumstances warranted a strong suspicion that the one remaining element—a sale of narcotics—was a part of this encounter as it was the previous night.

But Ker's arrest does not depend upon this single episode with Murphy. When Ker's U-turn thwarted the officer's pursuit, they learned his name and address from the Department of Motor Vehicles and reported the occurrence to Officer Berman. Berman, in turn, revealed information from an informer whose reliability had been tested previously, as [374 US 36] well as from other sources, not only that Ker had been selling marijuana from his apartment but also that his likely source of supply was Murphy himself. That this information was hearsay (Headnote 16) does not destroy its role in establishing probable cause. Brinegar v. United States, 338 US 160, 93 L. ed. 1879, 69 S. Ct. 1302, supra. In Draper v. United States, 358 U.S. 307, 3 L. ed. 2d 327, 79 S. Ct. 329 (1959), we held that information from a reliable informer, corroborated by the agents' observations as to the accuracy of the informer's description of

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Footnotes at end of article.

*[374 U.S. 33].

the accused and of his presence at a particular place, was sufficient to establish probable cause for an arrest without warrant.[8] The corroborative elements in Draper were innocuous in themselves, but here both the informer's tip and the personal observations connected Ker with specific illegal activities involving the same man, Murphy, a known marijuana dealer. To say that this coincidence of information was sufficient to support a reasonable belief of the officers that Ker was illegally in possession of marijuana is to indulge in understatement.

Probable cause for the arrest of petitioner Diane Ker (Headnote 17), while not present at the time the officers entered the apartment to arrest her husband, was nevertheless present at the time of her arrest. Upon their entry and announcement of their identity, the officers were met not only by George Ker but also by Diane Ker, who was emerging from the kitchen. Officer Berman immediately walked to the doorway from which she emerged and, without entering, observed the brick-shaped package of marijuana in plain view. Even assuming that her presence [374 US 37] in a small room with the contraband in a prominent position on the kitchen sink would not alone establish a reasonable ground for the officers' belief that she was in joint possession with her husband, that fact was accompanied by the officers' information that Ker had been using his apartment as a base of operations for his narcotics activities. Therefore, we cannot say that at the time of her arrest there were not sufficient grounds for a reasonable belief that Diane Ker, as well as her husband, was committing the offense of possession of marijuana in the presence of the officers.

III.

It is contended that the lawfulness of the petitioners' arrests, even if they were based upon probable cause, was vitiated by the method of entry. This Court, in cases under the Fourth Amendment (Headnote 18), has long recognized that the lawfulness of arrests for federal offenses is to be determined by reference to state law insofar as it is not violative of the Federal Constitution. Miller v United States, 357 US 301, 2 L ed 2d 1332, 78 S Ct 1190, supra; United States v Di Re, 332 US 581, 92 L ed 210, 68 S Ct 222 (1948); Johnson v United States, 333 US 10, 15, note 5, 92 L ed 436, 441, 68 S Ct 367 (1948). A fortiori, the lawfulness of these arrests by state officers for state offenses is to be determined by California law. California Penal Code, § 844,[9] permits peace officers to break into a dwelling place for the purpose of arrest after demanding admittance and explaining their purpose. Admittedly the officers did not comply with the terms of this statute since they entered quietly and without announcement, in order to prevent the destruction of contraband. The California District Court of Appeal [374 US 38], however, held that the circumstances here came within a judicial exception which had been engrafted upon the statute by a series of decisions, see, e.g., People v Ruiz, 146 Cal App 2d 630, 304 P2d 175 (1956); People v Maddox, 46 Cal 2d 301, 294 P2d 6, cer. den 352 US 856, 1 L ed 2d 65, 77 S Ct 81 (1956), and that the noncompliance was therefore lawful.

Since the petitioners' federal constitutional protection from unreasonable searches and seizures by police officers (Headnote 19) is here to be determined by whether the search was incident to a lawful arrest, we are warranted in examining that arrest to determine whether, notwithstanding its legality under state law, the method of entering the home may offend federal constitutional standards of reasonableness and therefore violate the legality of an accompanying search. We find no such offensiveness on the facts here. Assuming that the officers' entry by use of a key obtained from the manager is the legal equivalent of a "breaking," see Keiningham v United States, 109 App. DC 272, 276, 287 F2d 126, 130 (1960), it has been recognized from the early common law (Headnote 20) that such breaking is permissible in executing an arrest under certain circumstances.

See Wilgus, Arrest Without a Warrant, 22 Mich L Rev 541, 798, 800–806 (1924). Indeed, 18 USC § 3109,[10] dealing with the execution of search warrants by federal officers, authorizes breaking of doors in words very similar to those of the California statute, both statutes including a requirement of notice of authority and purpose. In Miller v United States, 357 US 301, 2 L ed 2d 1332, 78 S Ct 1190, supra, this Court held unlawful an arrest, and therefore its accompanying search, on the ground that the District of [374 US 39] Columbia officers before entering a dwelling did not fully satisfy the requirement of disclosing their identity and purpose. The Court stated that "the lawfulness of the arrest without warrant is to be determined by reference to state law. . . . By like reasoning the validity of the arrest of petitioner is to be determined by reference to the law of the District of Columbia." 357 US, at 305, 306. The parties there conceded and the Court accepted that the criteria for testing the arrest under District of Columbia law were "substantially identical" to the requirements of § 3109. Id. 357 US at 306. Here, however, the criteria under California law (Headnote 21) clearly include an exception to the notice requirement where exigent circumstances are present. Moreover, insofar as violation of a federal statute required the exclusion of evidence in Miller, the case is inapposite for state prosecutions, where admissibility is governed by constitutional standards. Finally, the basis of the judicial exception to the California statute, as expressed by Justice Traynor in People v Maddox, supra (46 Cal 2d at 306), effectively answers the petitioners' contention:

"It must be borne in mind that the primary purpose of the constitutional guarantees is to prevent unreasonable invasions of the security of the people in their persons, houses, papers, and effects, and when an officer has reasonable cause to enter a dwelling to make an arrest and as an incident to that arrest is authorized to make a reasonable search, his entry and his search are not unreasonable. Suspects have no constitutional right to destroy or dispose of evidence, and no basic constitutional guarantees are violated because an officer succeeds in getting to a place where he is entitled to be more quickly than he would, had he complied with section 844. Moreover, since the demand and explanation requirements [374 US 40] of section 844 are a codification of the common law, they may reasonably be interpreted as limited by the common law rules that compliance is not required if the officer's peril would have been increased or the arrest frustrated had he demanded entrance and stated his purpose. (Read v. Case, 4 Conn. 166, 170 [10 Am. Dec. 110]; see Rest., Torts, § 206, com. d.) Without the benefit of hindsight and ordinarily on the spur of the moment, the officer must decide these questions in the first instance."

No such exigent circumstances as would authorize noncompliance with the California statute were argued in Miller, and the Court expressly refrained from discussing the question, citing the *Maddox Case* without disapproval. 357 U.S., at 309.[11] Here justification for the officers' failure to give notice is uniquely present. In addition to the officers' belief that Ker was in possession of narcotics, which could be quickly and easily destroyed, Ker's furtive conduct in eluding them shortly before the arrest was ground for the belief that he might well have been expecting the police.[12] We therefore hold that in the particular [374 U.S. 41] circumstances of this case (Headnote 24) the officers' method of entry, sanctioned by the law of California, was not unreasonable under the standards of the Fourth Amendment as applied to the States through the Fourteenth Amendment.

IV.

Having held the petitioners' arrests lawful, it remains only to consider whether the search which produced the evidence leading to their convictions was lawful as incident to those arrests. The doctrine that a search without warrant may be lawfully conducted (Headnote 25) if incident to a lawful arrest has long been recognized as consistent with the Fourth Amendment's protection against unreasonable searches and seizures. See Marron v United States, 275 U.S. 192, 72 L ed 231, 48 S Ct. 74 (1927); Harris v United States, 331 U.S. 145, 91 L ed 1399, 67 S Ct 1098 (1947); Abel v United States, 362 U.S. 217, 4 L ed 2d 668, 80 S Ct 683 (1960); Kaplan, Search and Seizure: A No-Man's Land in the Criminal Law, 49 Cal L Rev 474, 490–493 (1961). The cases have imposed no requirement that the arrest be under authority of an arrest warrant, but only that it be lawful. See Marron v United States, supra (275 U.S. at 198, 199); United States v Rabinowitz, supra (339 U.S. at 61); cf. Agnello v United States, 269 U.S. 20, 30, 31, 70 L ed 145, 148, 46 S Ct 4, 51 ALR 409 (1925). The question remains whether the officers' action here exceeded the recognized bounds of an incidental search.

Petitioners contend that the search was unreasonable in that the officers could practicably have obtained a search warrant. The practicability of obtaining a warrant (Headnote 26 and 27) is not the controlling factor when a search is sought to be justified as incident to arrest, United States v Rabinowitz, 339 US 56, 94 L ed 653, 70 S Ct 430, supra; (374 US 42) but we need not rest the validity of the search here on Rabinowitz, since we agree with the California court that time clearly was of the essence. The officers' observations and their corroboration, which furnished probable cause for George Ker's arrest, occurred at about 9 p.m., approximately one hour before the time of arrest. The officers had reason to act quickly because of Ker's furtive conduct and the likelihood that the marijuana would be distributed or hidden before a warrant could be obtained at that time of night.[13] Thus the facts bear no resemblance to those in Trupiano v United States, 334 US 699, 92 L ed 1663, 68 S Ct 1229 (1948), where federal agents for three weeks had been in possession of knowledge sufficient to secure a search warrant.

The search of the petitioners' apartment (Headnote 28) was well within the limits upheld in Harris v United States, 331 US 145, 91 L ed 1399, 67 S Ct 1098, supra, which also concerned a private apartment dwelling. The evidence here, unlike that in Harris, was the instrumentality of the very crime for which petitioners were arrested, and the record does not indicate that the search here was as extensive in time or in area as that upheld in Harris.

The petitioners' only remaining contention is that the discovery of the brick of marijuana cannot be justified as incidental to arrest since it preceded the arrest. This contention is of course contrary to George Ker's testimony, but we reject it in any event. While an arrest may not be used merely as the pretext for a search without warrant (Headnote 29), the California court specifically found and the record supports both that the officers entered the apartment for (374 US 43) the purpose of arresting George Ker and that they had probable cause to make that arrest prior to the entry.[14] We cannot say that it was unreasonable for Officer Berman, upon seeing Diane Ker

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Footnotes at end of article.

emerge from the kitchen, merely to walk to the doorway of that adjacent room.

We thus agree with the California court's holding (Headnote 30) that the discovery of the brick of marijuana did not constitute a search, since the officer merely saw what was placed before him in full view. United States v Lee, 274 US 559, 71 L ed 1202, 47 S Ct 746 (1927); United States v Lefkowitz, 285 US 452, 465, 76 L ed 877, 882, 52 S Ct 420, 82 ALR 775 (1932); People v West, 144 Cal App 2d 214, 300 P2d 729 (1956). Therefore, while California law (Headnote 31) does not require that an arrest precede an incidental search as long as probable cause exists at the outset, Willson v Superior Court of San Diego County, 46 Cal 2d 291, 294 P2d 36 (1956), the California court did not rely on that rule and we need not reach the question of its status under the Federal Constitution.

V.

The petitioners state and the record bears out that the officers searched Diane Ker's automobile on the day subsequent to her arrest. The reasonableness of that search (Headnotes 32 and 33), however, was not raised in the petition for certiorari nor was it discussed in the brief here. Ordinarily "[w]e do not reach for constitutional questions not raised by the parties," Mazer v Stein, 347 US 201, 206, 98 L ed 630, 636, 74 S Ct 460 note 5 (1954), nor extend our review beyond those specific federal questions [374 US 44] properly raised in the state court. The record gives no indication that the issue was raised in the trial court or in the District Court of Appeal, the latter court did not adjudicate it and we therefore find no reason to reach it on the record.[15]

For these reasons the judgment of the California District Court of Appeal is

Affirmed.

ADDITIONAL SEPARATE OPINIONS

Mr. Justice Harlan, concurring in the result.

Heretofore there has been a well-established line of demarcation between the constitutional principles governing the standards for state searches and seizures and those controlling federal activity of this kind. Federal searches and seizures have been subject to the requirement of "reasonableness" contained in the Fourth Amendment, as that requirement has been elaborated over the years in federal litigation. State searches and seizures, on the other hand, have been judged, and in my view properly so, by the more flexible concept of "fundamental" fairness, or rights "basic to a free society," embraced in the Due Process Clause of the Fourteenth Amendment. [374 US 45] See Wolf v Colorado, 338 US 25, 27, 93 L ed 1782, 1785, 69 S Ct 1359; [16] cf. Rochin v California, 342 US 165, 96 L ed 183, 72 S Ct 205, 25 ALR2d 1396; Palko v Connecticut, 302 US 319, 82 L ed 288, 58 S Ct 149. Today this distinction in constitutional principle is abandoned. Henceforth state searches and seizures are to be judged by the same constitutional standards as apply in the federal system.

In my opinion this further extension of federal power over state criminal cases, cf. Fay v Noia, 372 US 391, 9 L ed 2d 837, 83 S Ct 822; Douglas v California, 372 US 353, 9 L ed 2d 811, 83 S Ct 814; Draper v Washington, 372 US 487, 9 L ed 2d 899, 83 S Ct 774—all decided only a few weeks ago, is quite uncalled for and unwise. It is uncalled for because the States generally, and more particularly California, are increasingly evidencing concern about improving their own criminal procedures, as this Court itself has recently observed on more than one occasion (see Gideon v Wainwright, 372 US 335, 345, 9 L ed 2d 799, 806, 83 S Ct 792; ante, p. 736, and because the Fourteenth Amendment's requirements of fundamental fairness stand as a bulwark against serious local shortcomings in this field. The rule is unwise because the States, with their differing law enforcement problems, should not be put in a constitutional straitjacket and also because the States, more likely than not, will be placed in an atmosphere of uncertainty since this Court's decisions in the realm of search and seizure are hardly notable for their predictability. Cf Harris v United States, 331 US 145, 175–181, 91 L ed 2d 1399, 1419–1422, 67 S Ct 1098 (Appendix to dissenting opinion of Mr. Justice Frankfurter). (The latter point is indeed forcefully illustrated by the fact that in the first application of its new constitutional rule the majority finds itself equally divided.) And if the Court is prepared to relax Fourth Amendment standards in order to avoid unduly fettering the States, this would be in [374 US 46] derogation of law enforcement standards in the federal system—unless the Fourth Amendment is to mean one thing for the States and something else for the Federal Government.

I can see no good coming from this constitutional adventure. In judging state searches and seizures I would continue to adhere to establish Fourteenth Amendment concepts of fundamental fairness. So judging this case, I concur in the result.

Mr. Justice Brennan, with whom The Chief Justice, Mr. Justice Douglas and Mr. Justice Goldberg join.

I join Part I of Mr. Justice Clark's opinion and the holding therein that "as we said in Mapp . . . the Fourth Amendment 'is enforceable against . . . [the States] by the same sanction of exclusion as is used against the Federal Government,' by the application of the same constitutional standard prohibiting 'unreasonable searches and seizures.'" Only our Brother Harlan dissents from that holding; he would judge state searches and seizures "by the more flexible concept of 'fundamental' fairness, of rights 'basic to a free society,' embraced in the Due Process Clause of the Fourteenth Amendment."

However, Mr. Justice Clark, Mr. Justice Black, Mr. Justice Stewart and Mr. Justice White do not believe that the federal requirement of reasonableness contained in the Fourth Amendment was violated in this case. The Chief Justice, Mr. Justice Douglas, Mr. Justice Goldberg and I have the contrary view. For even on the premise that there was probable cause by federal standards for the arrest of George Ker, the arrests of these petitioners were nevertheless illegal, because the unannounced intrusion of the arresting officers into their apartment violated the Fourth Amendment. Since the [374 US 47] arrests were illegal, Mapp v Ohio, 367 US 643, 6 L ed 2d 1081, 81 S Ct 1684, 84 ALR2d 933, requires the exclusion of the evidence which was the product of the search incident to those arrests.

Even if probable cause exists for the arrest of a person within, the Fourth Amendment (Headnote 35) is violated by an unannounced police intrusion into a private home, with or without an arrest warrant, except (1) where the persons within already known of the officers' authority and purpose, or (2) where the officers are justified in the belief that persons within are in imminent peril of bodily harm, or (3) where those within, made aware of the presence of someone outside (because, for example, there has been a knock at the door), are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence is being attempted.

I

It was firmly established long before the adoption of the Bill of Rights that the fundamental liberty of the individual includes protection against unannounced police entries. "[T]he Fourth Amendment did but embody a principle of English liberty, a principle old, yet newly won, that finds another expression in the maxim 'every man's home is his castle.'" Fraenkel, Concerning Searches and Seizures, 34 Harv L Rev 361, 365 (1921); Frank v Maryland, 359 US 360, 376–382, 3 L ed 2d 877, 887–891, 79 S Ct 804 (dissenting opinion). As early as Semayne's Case, 5 Co Rep 91a, 91b, 77 Eng Rep 194, 195 (1603), it was declared that "[i]n all cases when the King is party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the K[ing]'s process, if otherwise he cannot enter. *But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors* . . . ." (Emphasis supplied.) Over a century later the leading commentators upon the English criminal law affirmed the continuing vitality of [374 US 48] that principle. 1 Hale, Pleas of the Crown (1736), 583; see also 2 Hawkins, Pleas of the Crown (6th ed 1787), c. 14, § 1; Foster Crown Law (1762), 320–321.[17] Perhaps its most emphatic confirmation was supplied only 35 years before the ratification of the Bill of Rights. In Curtis' Case, Fost, 135, 168 Eng Rep 67, decided in 1756, the defendant, on trial for the murder of a Crown officer who was attempting an entry to serve an arrest warrant, pleaded that because the officer had failed adequately to announce himself and his mission before breaking the doors, forceful resistance to his entry was justified and the killing was therefore justifiable homicide. In recognizing the defense the court repeated the principle that "peace-officers, having a legal warrant to arrest for a breach of the peace, may break open doors, *after having demanded admittance and given due notice of their warrant*"; the court continued that "no precise form of words is required in a case of this kind" because "[i]t is sufficient that the party hath notice, that the officer cometh not as a mere trespasser, but claiming to act under a proper authority. . . ." Fost., at 136–137, 168 Eng Rep, at 68. (Emphasis supplied.) The principle was again confirmed not long after the Fourth Amendment became part of our Constitution. Abbott, C. J., said in Launock v Brown, 2 B & Ald 592, 593–594, 106 Eng Rep 482, 483 (1819):

> ". . . I am clearly of opinion that, in the case of a misdemeanour, such previous demand is requisite. . . . It is reasonable that the law should be so; for if no [374 US 49] previous demand is made, how is it possible for a party to know what the object of the person breaking open the door may be? He has a right to consider it as an aggression on his private property, which he will be justified in resisting to the utmost." [18]

The protections of individual freedom carried into the Fourth Amendment, Boyd v United States, 116 US 616, 630, 29 L ed 746, 751, 6 S Ct 524, undoubtedly included this firmly established requirement of an announcement by police officers of purpose and authority before breaking into an individual's home. The requirement is no mere procedural nicety or formality attendant upon the service of a warrant. Decisions in both the federal and state courts have recognized, as did the English courts, that the requirement is of the essence of the substantive protections which safeguard individual liberty.[19] The Court of Appeals for the District of Columbia Circuit has said: ". . . there is no division of opinion among the learned authors . . . that even where an officer may [374 US 50] have power to break open a door without a warrant, he cannot lawfully do so unless he first notifies the occupants as to the purpose of his demand for entry." Accarino v United States, 85 App DC 394, 400, 179 F2d 456, 462.

Similarly, the Supreme Judicial Court of Massachusetts declared in 1852:

> "The maxim of law that every man's house is his castle . . . has not the effect to restrain an officer of the law from breaking and entering a dwelling-house for the purpose of serving a criminal process upon the occupant. In such case the house of the party is no sanctuary for him, and the same may be forcibly

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Footnotes at end of article.

entered by such officer after a proper notification of the purpose of the entry, and a demand upon the inmates to open the house, and a refusal by them to do so." Barnard v Bartlett, 64 Mass (10 Cush) 501, 502, 503; cf. State v Smith, 1 NH 346.

Courts of the frontier States also enforced the requirement. For example, Tennessee's high court recognized that a police officer might break into a home to serve an arrest warrant only "after demand for admittance and notice of his purpose," McCaslin v McCord, 116 Tenn 690, 708, 94 SW 79, 83; cf. Hawkins v Commonwealth, 53 Ky (14 B Mon) 395. Indeed, a majority of the States have enacted the requirement in statutes substantially similar to California Penal Code § 844 and the federal statute, 18 USC § 3109.[20]

[374 US 51] Moreover, in addition to carrying forward the protections already afforded by English law, the Framers also meant by the Fourth Amendment to eliminate once and for all the odious practice of searches under general warrants and writs of assistance against which English law had generally left them helpless. The colonial experience under the writs was unmistakably "fresh in the memories of those who achieved our independence and established our form of government."[21] Boyd v United States, supra (116 US at 625). The problem of entry under a general warrant was not, of course, exactly that of unannounced intrusion to arrest with a warrant or upon probable cause, but the two practices clearly invited common abuses. One of the grounds of James Otis' eloquent indictment of the writs bears repetition here:

"Now one of the most essential branches of English liberty is the freedom of one's house. A man's house is his castle; and whilst he is quiet, he is as well [374 US 52] guarded as a prince in his castle. This writ, if it should be declared legal, would totally annihilate his privilege. Custom-house officers may enter our houses when they please; we are commanded to permit their entry. Their menial servants may enter, may break locks, bars, and everything in their way: and whether they break through malice or revenge, no man, no court, can inquire. Bare suspicion without oath is sufficient." Tudor, Life of James Otis (1823), 66–67.

Similar, if not the same, dangers to individual liberty are involved in unannounced intrusions of the police into the homes of citizens. Indeed in two respects such intrusions are even more offensive to the sanctity and privacy of the home. In the first place service of the general warrants and writs of assistance was usually preceded at least by some form of notice or demand for admission. In the second place the writs of assistance by their very terms might be served only during daylight hours.[22] By significant contrast, the unannounced entry of the Ker apartment occurred after dark, and such timing appears to be common police practice, at least in California.[23]

[374 US 53] It is much too late in the day to deny that a lawful entry is as essential to vindication of the protections of the Fourth Amendment as, for example, probable cause to arrest or a search warrant for a search not incidental to an arrest. This Court settled (Headnote 36) in Gouled v United States, 255 US 298, 305, 306, 65 L ed 647, 651, 41 S Ct 261, that a lawful entry is the indispensable predicate of a reasonable search. We held there that a search would violate the Fourth Amendment if the entry were illegal whether accomplished "by force or by an illegal threat or show of force" or "obtained by stealth instead of by force or coercion." Similarly, rigid restrictions upon unannounced entries are essential if the Fourth Amendment's prohibition against invasion of the security and privacy of the home is to have any meaning.

It is true, of course, that the only decision of this Court which forbids federal officers to arrest and search after an unannounced entry, Miller v United States, 357 US 301, 2 L ed 2d 1332, 78 S Ct 1190, did not rest upon constitutional doctrine but rather upon an exercise of this Court's supervisory powers. But that disposition in no way implied that the same result was not compelled by the Fourth Amendment.

Miller is simply an instance of the usual practice of the Court (Headnote 37) not to decide constitutional questions when a nonconstitutional basis for decision is available. See International Asso. of Machinists v Street, 367 US 740, 749, 750, 6 L ed 2d 1141, 1149, 1150, 81 S Ct 1784. The result there drew upon analogy to a federal statute, similar in its terms to § 844, with which the federal officers concededly had not complied in entering to make an arrest. Nothing we said in Miller so much as intimated that, without such a basis for decision, the Fourth Amendment would not have required the same result. The implication, indeed, is quite to the contrary. For the history adduced in Miller in support of the nonconstitutional ground persuasively demonstrates that the Fourth Amendment's protections include the security of the householder against unannounced invasions by the police.

II

[374 US 54] The command of the Fourth Amendment reflects the lesson of history that "the breaking an outer door is, in general, so violent, obnoxious and dangerous a proceeding, that it should be adopted only in extreme cases, where an immediate arrest is requisite." 1 Burn, Justice of the Peace (28th ed 1837), 275–276.

I have found no English decision which clearly recognizes any exception to the requirement that the police first give notice of their authority and purpose before forcibly entering a home. Exceptions were early sanctioned in American cases, e.g., Read v Case, 4 Conn 166, but these were rigidly and narrowly confined to situations not within the reason and spirit of the general requirement. Specifically, exceptional circumstances have been thought to exist only when, as one element, the facts surrounding the particular entry support a finding that those within actually knew or must have known of the officer's presence and purpose to seek admission. Cf. Miller v United States, supra (357 US at 311–313). For example, the earliest exception seems to have been that "[i]n the case of an *escape* after arrest, the officer, on fresh pursuit of the offender to a house in which he takes refuge, may break the doors to recapture him, in the case of felony, without a warrant, and without notice or demand for admission to the house of the offender."[24] Wilgus, Arrest Without [374 US 55] a Warrant, 22 Mich L Rev 541, 798, 804 (1924). The rationale of such an exception is clear, and serves to underscore the consistency and the purpose of the general requirement of notice: Where such circumstances as an escape and hot pursuit by the arresting officer leave no doubt that the fleeing felon is aware of the officer's presence and purpose, pausing at the threshold to make the ordinarily requisite announcement and demand would be a superfluous act which the law does not require.[25] But no exceptions have heretofore permitted unannounced entries in the absence of such awareness on the part of the occupants—unless possibly where the officers are justified in the belief that someone within is in immediate danger of bodily harm.

Two reasons rooted in the Constitution clearly compel the courts to refuse to recognize exceptions in other situations [374 US 56] when there is no showing that those within were or had been made aware of the officers' presence. The first is that any exception not requiring a showing of such awareness necessarily implies a rejection of the inviolable presumption of innocence. The excuse for failing to knock or announce the officer's mission where the occupants are oblivious to his presence can only be an almost automatic assumption that the suspect within will resist the officer's attempt to enter peacefully, or will frustrate the arrest by an attempt to escape, or will attempt to destroy whatever possibly incriminating evidence he may have. Such assumptions do obvious violence to the presumption of innocence. Indeed, the violence is compounded by another assumption, also necessarily involved, that a suspect to whom the officer first makes known his presence will further violate the law. It need hardly be said that not every suspect is in fact guilty of the offense of which he is suspected, and that not everyone who is in fact guilty will forcibly resist arrest or attempt to escape or destroy evidence.[26]

[374 US 57] The second reason is that in the absence of a showing of awareness by the occupants of the officers' presence and purpose, "loud noises" or "running" within would amount, ordinarily, at least, only to ambiguous conduct. Our decisions in related contexts have held that ambiguous conduct cannot form the basis for a belief of the officers that an escape or the destruction of evidence is being attempted. Wong Sun v United States, 371 US 471, 483, 484, 9 L ed 2d 441, 452, 453, 83 S Ct 407; Miller v United States, supra (357 US at 311).

Beyond these constitutional considerations, practical hazards of law enforcement militate strongly against any relaxation of the requirement of awareness. First, cases of mistaken identity are surely not novel in the investigation of crime. The possibility is very real that the police may be misinformed as to the name or address of a suspect, or as to other material information. That possibility is itself a good reason for holding a tight rein against judicial approval of unannounced police entries into private homes. Innocent citizens should not suffer the shock, fright or embarrassment attendant upon an unannounced police intrusion.[27]

Second, the requirement [374 US 58] of awareness also serves to minimize the hazards of the officers' dangerous calling. We expressly recognized in Miller v United States, supra (357 US at 313, note 12), that compliance with the federal notice statute "is also a safeguard for the police themselves who might be mistaken for prowlers and be shot down by a fearful householder."[28] Indeed, one of the principal objectives of the English requirement of announcement of authority and purpose was to protect the arresting officers from being shot as trespassers, ". . . for if no previous demand is made, how is it possible for a party to know what the object of the person breaking open the door may be? He has a right to consider it as an aggression on his private property, which he will be justified in resisting to the utmost." Launock v Brown, 2 B & Ald 592, 594, 106 Eng Rep 482, 483 (1819).

These compelling considerations underlie the constitutional barrier against recognition of exceptions not predicated on knowledge or awareness of the officers' presence. State and federal officers have the common obligation to respect this basic constitutional limitation upon their police activities. I reject the contention that the courts, in enforcing such respect on the part of all officers, state or federal, create serious obstacles to effective law enforcement. Federal officers have operated for five years under [374 US 59] the Miller rule with no discernible impairment of their ability to make effective arrests and obtain important narcotics convictions.

Even if it were true that state and city police are generally less experienced or less resourceful than their federal counterparts (and the experience of the very police force

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Footnotes at end of article.

involved in this case, under California's general exclusionary rule adopted judicially in 1955, goes very far toward refuting any such suggestion,[29] see Elkins v United States, 364 US 206, 220, 221, 4 L ed 2d 1669, 1679, 80 S Ct 1437), the Fourth Amendment's protections against unlawful search and seizure do not contract or expand depending upon the relative experience and resourcefulness of different groups of law-enforcement officers. When we declared in Mapp that, because the rights of the Fourth Amendment were of no lesser dignity than those of the other liberties of the Bill of Rights absorbed in the Fourteenth, ". . . . we can no longer permit . . . [them] to be revocable at the whim of any police officer who, in the name of law enforcement itself, chooses to suspend [their] . . . enjoyment," 367 US, at 660—I thought by these words we had laid to rest the very problems of constitutional dissonance which I fear the present case so soon revives.[30]

III

[374 US 60] I turn now to my reasons for believing that the arrests of these petitioners were illegal. My Brother Clark apparently recognizes that the element of the Kers' prior awareness of the officers' presence was essential, or at least highly relevant, to the validity of the officers' unannounced entry into the Ker apartment, for he says, "Ker's furtive conduct including them shortly before the arrest was ground for the belief that he *might well have been* expecting the police." (Emphasis supplied.) But the test under the "fresh pursuit" exception which my Brother Clark apparently seeks to invoke depends not, of course, upon mere conjecture whether those within "might well have been" expecting the police, but upon whether there is evidence which shows that the occupants were in fact aware that the police were about to visit them. That the Kers were wholly oblivious to the officers' presence is the only possible inference on the uncontradicted facts; the "fresh pursuit" exception is therefore clearly unavailable.

When the officers let themselves in with the passkey, "proceeding quietly," as my Brother Clark says, George Ker was sitting in his living room reading a newspaper, and his wife was busy in the kitchen. The marijuana, moreover, was in full view on the top of the kitchen sink. More convincing evidence of the complete unawareness of an imminent police visit can hardly be imagined. Indeed, even the conjecture that the Kers "might well have been expecting the police" has no support in the record. That conjecture is made to rest entirely upon the unexplained U-turn made by Ker's car when the officers lost him after the rendezvous at the oil fields. But surely the U-turn must be disregarded as wholly ambiguous conduct; there is absolutely no proof that the driver of the Ker car knew that the officers were [374 U.S. 61]* following it. Cf. Miller v United States, supra (357 U.S. at 311); Wong Sun v United States, supra (371 U.S. at 483, 484).

My Brother Clark invokes chiefly, however, the exception allowing an unannounced entry when officers have reason to believe that someone within is attempting to destroy evidence. But the minimal conditions for the application of that exception are not present in this case. On the uncontradicted record, not only were the Kers completely unaware of the officers' presence, but, again on the uncontradicted record, there was absolutely no activity within the apartment to justify the officers in the belief that anyone within was attempting to destroy evidence. Plainly enough, the Kers left the marijuana in full view on top of the sink because they were wholly oblivious that the police were on their trail. My Brother Clark recognizes that there is no evidence whatever of activity in the apartment, and is thus forced to find the requisite support for this element of the exception in the officers' testimony that, in their experience in the investigation of narcotics violations, *other* narcotics suspects had responded to police announcements by attempting to destroy evidence. Clearly such a basis for the exception fails to meet the requirements of the Fourth Amendment; if police experience in pursuing other narcotics suspects justified an unannounced police intrusion into a home the Fourth Amendment would afford no protection at all.

The recognition of exceptions to great principles always creates, of course, the hazard that the exceptions will devour the rule. If mere police experience that some offenders have attempted to destroy contraband justifies unannounced entry in *any* case, and cures the total absence of evidence not only of awareness of the officers' presence but even of such an attempt in the *particular* case, I perceive no logical basis for distinguishing unannounced police entries into homes *[374 U.S. 62] to make *arrests for *any* crime involving evidence of a kind which police experience indicates might be quickly destroyed or jettisoned. Moreover, if such experience, without more, completely excuses the failure of arresting officers before entry, at any hour of the day or night, either to announce their purpose at the threshold or to ascertain that the occupant already knows of their presence, then there is likewise no logical ground for distinguishing between the stealthy manner in which the entry in this case was effected, and the more violent manner usually associated with totalitarian police of breaking down the door or smashing the lock.[31]

My Brother Clark correctly states that only when state law "is not violative of the Federal Constitution" may we defer to state law in gauging the validity of an arrest under the Fourth Amendment. Since the California [374 U.S. 63] law of arrest here called in question patently violates the Fourth Amendment, that law cannot constitutionally provide the basis for affirming those convictions. This is not a case of conflicting testimony pro and con the existence of the elements requisite for finding a basis for the application of the exception. I agree that we should ordinarily be constrained to accept the state fact-finder's resolution of such factual conflicts.

Here, however, the facts are uncontradicted: the Kers were completely oblivious of the presence of the officers and were engaged in no activity of any kind indicating that they were attempting to destroy narcotics. Our duty then is only to decide whether the officers' testimony—that in their general experience narcotics suspects destroy evidence when forewarned of the officers' presence—satisfies the constitutional test for application of the exception. Manifestly we should hold that such testimony does not satisfy the constitutional test. The subjective judgment of the police officers cannot constitutionally be a substitute for what has always been considered a necessarily objective inquiry,[32] namely, whether circumstances exist in the *particular* case which allow an unannounced police entry.[33]

[374 US 64] We have no occasion here to decide how many of the situations in which, by the exercise of our supervisory power over the conduct of federal officers, we would exclude evidence, are also situations which would require the exclusion of evidence from state criminal proceedings under the constitutional principles extended to the States by Mapp. But where the conduct effecting an arrest so clearly transgresses those rights guaranteed by the Fourth Amendment as does the conduct which brought about the arrest of these petitioners, we would surely reverse the judgment if this were a federal prosecution involving federal officers. Since our decision in Mapp has made the guarantees of the Fourteenth Amendment coextensive with those of the Fourth we should pronounce precisely the same judgment upon the conduct of these state officers.

FOOTNOTES

[1] This contention was initially raised prior to the trial. Section 995, California Penal Code, provides for a motion to set aside the information on the ground that the defendant has been committed without probable cause. Evidence on that issue was presented out of the presence of the jury, and, following the court's denial of the motion, the petitioners were tried and convicted by the jury.

[2] During the hearing on the § 995 motion, see note 1, supra, Black testified for the defense, admitting that he knew the petitioners but denying that he gave Officer Berman information about George Ker. Black first denied but then admitted that he had met with Officer Berman and another officer in whose presence Berman said the information about Ker was given.

[3] Arresting Officers Berman and Warthen had been attached to the narcotics detail of the Los Angeles County Sheriff's office for three and four years, respectively. Each had participated in hundreds of arrests involving marijuana. Warthen testified that on "many, many occasions" in his experience with narcotics arrests "persons have flushed narcotics down toilets, pushed them down drains and sinks and many other methods of getting rid of them prior to my entrance . . . ."

[4] For the reasons discussed in § V of this opinion, we find that the validity of the search of the automobile is not before us and we therefore do not pass on it.

[5] "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

[6] "No person . . . shall be compelled in any criminal case to be a witness against himself . . . ."

[7] Our holding as to enforceability of this federal constitutional rule against the States had its source in the following declaration in Wolf v Colorado, 338 US 25, 27, 28, 93 L ed 1782, 1785, 69 S Ct 1359 (1949):

"The security of one's privacy against arbitrary intrusion by the police—which is at the core of the Fourth Amendment—is . . . implicit in 'the concept of ordered liberty' and as such enforceable against the States through the Due Process Clause."

[8] In Draper the arrest upon probable cause was authorized under 26 USC § 7607, authorizing narcotics agents to make an arrest without warrant if they have "reasonable grounds to believe that the person to be arrested has committed or is committing such violation." Under § 836, California Penal Code, an officer may arrest without a warrant if he has "reasonable cause to believe that the person to be arrested has committed a felony . . ."

[9] "To make an arrest, . . . in all cases a peace officer, may break open the door or window of the house in which the person to be arrested is, or in which . . . [he has] reasonable grounds for believing him to be, after having demanded admittance and explained the purpose for which admittance is desired."

[10] "The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant."

[11] Nor has the Court rejected the proposition that noncompliance may be reasonable in exigent circumstances subsequent to Miller. In Wong Sun v United States, 371 U.S. 471, 9 L ed 2d 441, 83 S Ct 407 (1963), the

Court held that federal officers had not complied with § 3109 in executing an arrest. There the Court noted that in Miller it had reserved the question of an exception in exigent circumstances and stated that "[h]ere, as in Miller, the Government claims no extraordinary circumstances—such as the imminent destruction of vital evidence, or the need to rescue a victim in peril—. . . which excused the officer's failure truthfully to state his mission before he broke in." Id. 371 U.S. at 483, 484.

[12] A search of the record with the aid of hindsight (Headnotes 22 and 23) may lend some support to the conclusion that, contra the reasonable belief of the officers, petitioners may not have been prepared for an imminent visit from the police. It goes without saying that in determining the lawfulness of entry and the existence of probable cause we may concern ourselves only with what the officers had reason to believe *at the time of their entry.* Johnson v United States, 333 U.S. 10, 17, 92 L ed 436, 442, 68 S Ct 367 (1948). As the Court said in United States v Di Re, 332 U.S. 581, 595, 92 L ed 210, 220, 68 S Ct 222 (1948), "a search is not to be made legal by what it turns up. In law it is good *or bad* when it starts and does not change character from" what is dug up subsequently. (Emphasis added.)

[13] In cases in which a search could not be regarded as incident to arrest because the petitioner was not present at the time of the entry and search, the absence of compelling circumstances, such as the threat of destruction of evidence, supported the Court's holdings that searches without warrants were unconstitutional. See Chapman v United States, 365 U.S. 610, 615, 5 L ed 2d 828, 832, S Ct 776 (1961); United States v Jeffers, 342 U.S. 48, 52, 96 L ed 59, 64, 72 S Ct 93 (1951); Taylor v United States, 286 U.S. 1, 5, 76 L ed 951, 953, 52 S Ct 466 (1932).

[14] Compare Johnson v United States, note 12, supra (333 U.S. at 40). There the Court held that a search could not be justified as incident to arrest since the officers, prior to their entry into a hotel room, had no probable cause for the arrest of the occupant. The Court stated that "[a]n officer gaining access to private living quarters under color of his office and of the law which he personifies must then have some valid basis in law for the intrusion." Here, of course, probable cause for the arrest of petitioner George Ker provided that valid basis.

[15] The record shows that petitioners made no objection to the admission of any of the evidence, thus failing to observe a state procedural requirement, People v Brittain, 149 Cal App 2d 201, 308 P2d 38 (1957); see Mapp v Ohio, supra (367 U.S. at 659, note 9). However, the District Court of Appeal passed on the issue of the narcotics seized in the apartment, presumably on the ground that petitioners preserved that question by their motion under § 995, California Penal Code, which was directed toward the principal objection to that search—the alleged lack of probable cause. While "[t]here can be no question as to the proper presentation of a federal claim (Headnote 34) when the highest state court passes on it," Raley v Ohio, 360 U.S. 423, 436, 3 L ed 2d 1344, 1354, 79 S Ct 1257 (1959), there is no indication in the court's opinion that it passed on the issue of the search of the automobile, nor is there any indication in the petitioners' briefs in that court that the issue was presented.

[16] Mapp 1. Ohio, 367 US. 643, 6 L ed 2d 1081, 81 S Ct 1684, 84 ALR2d 933, did not purport to change the standards by which state searches and seizures were to be judged; rather it held only that the "exclusionary" rule of Weeks v United States, 232 US 383, 58 L ed 652, 34 S Ct 341, LRA1915B 834, was applicable to the States.

[17] Hale's view was representative: "A man, that arrests upon suspicion of felony, may break open doors, if the party refuse upon demand to open them . . . ." 1 Hale, Pleas of the Crown (1736), 583. See generally Miller v United States, 357 US 301, 306–310—2 L ed 2d 1332, 1336–1338, 78 S Ct 1190; Accarino v United States, 85 App DC 394, 398–402, 170 F2d 456, 460–464; Thomas, The Execution of Warrants of Arrest, ([1962] Crim L Rev 520, 597, 601–604.

[18] Compare also the statement of Bayley, J., in Burdett v Abbot, 14 East 1, 162–163, 104 Eng Rep 501, 563 (1811);

"Now in every breach of the peace the public are considered as interested, and the execution of process against the offender is the assertion of a public right; and in all such cases, I apprehend that the officer has a right to break open the outer door, provided there is a request of admission first made for the purpose, and a denial of the parties who are within."

See also Ratcliffe v Burton, 3 Bos & Pul 223, 127 Eng Rep 123 (1802); Kerbey v Denby, 1 M & W 336, 150 Eng Rep 463 (1836); cf. Park v Evans, Hob 62, 80 Eng Rep 211; Penton v Brown, 1 Keble 698, 83 Eng Rep 1193; Percival v Stamp, 9 Ex 167, 156 Eng Rep 71 (1853).

[19] See generally Gatewood v United States, 93 App DC 226, 229, 209 F2d 789, 791; 1 Bishop, New Criminal Procedure (2d ed 1913), § 201; 1 Varon, Searches, Seizures and Immunities (1961), 399–401; Day and Berkman, Search and Seizure and the Exclusionary Rule: A Re-Examination in the Wake of Mapp v Ohio, 13 West Res L Rev 56, 79–80 (1961).

[20] Ala Code, Tit 15 § 155; Ariz Rev Stat Ann § 13–1411; Deering's Cal Penal Code § 844; Fla Stat Ann § 901.19(1); Idaho Code § 19–611; Burns' Ind Ann Stat § 9–1009; Iowa Code Ann § 755.9; Kan Gen Stat § 62–1819; Ky Rev Stat § 70.078; Dart's La Crim Code, Art 72; Mich Stat Ann § 28.880; Minn Stat Ann § 629.34; Miss Code § 2471; Mo Rev Stat § 544.200; Mont Rev Code § 94–6011; Neb Rev Stat § 29–411; Nev Rev Stat § 171.275; McKinney's NY Crim Code § 178; NC Gen Stat § 15–44; Page's Ohio Rev Code Ann § 2935.15; Okla Stat Ann, Tit 22, § 194; Ore Rev Stat § 133.320; SC Code § 53–198; SD Code § 34.1606; Tenn Code Ann § 40–807; Utah Code Ann 77–13–12; Wash Rev Code § 10.31.040; Wyo Comp Stat § 10–309.

Compare Code of Crim Proc, American Law Institute, Official Draft (1930), § 28:

"Right of Officer to break into building. An officer, in order to make an arrest either by virtue of a warrant, or when authorized to make such arrest for a felony without a warrant, as provided in section 21, may break open a door or window of any building in which the person to be arrested is or is reasonably believed to be, if he is refused admittance after he has announced his authority and purpose."

[21] See also Henry v United States, 361 US 98, 100, 101, 4 L ed 2d 134, 137, 138, 80 S Ct 168; Lasson, The History and Development of the Fourth Amendment to the United States Constitution (1937), c. II; Barrett, Personal Rights, Property Rights, and the Fourth Amendment, 1960 Supreme Court Review 46, 70–71; Comment, Search and Seizure in the Supreme Court: Shadows on the Fourth Amendment, 28 U of Chi L Rev 664, 678–679 (1961). Compare East-India Co. v Skinner, Comb 342, 90 Eng Rep 516.

[22] Lasson, The History and Development of the Fourth Amendment to the United States Constitution (1937), 54.

[23] In these two respects, the practice of unannounced police entries by night is also considerably more offensive to the rights protected by the Fourth Amendment than the use of health-inspection and other administrative powers of entry, concerning the constitutionality of which this Court has divided sharply, Frank v Maryland, 359 US 360, 3 L ed 2d 877, 79 S Ct 804, supra; Ohio ex rel. Eaton v Price, 364 US 263, 4 L ed 2d 1708, 80 S Ct 1463. Since my Brother Clark does not rely upon either of those decisions, I have no occasion to discuss further the applicability of either to the case at bar. For further consideration of problems raised by those cases, see generally, Waters, Rights of Entry in Administrative Officers, 27 U of Chi L Rev 79 (1959); Comment, State Health Inspections and "Unreasonable Search": The Frank Exclusion of Civil Searches, 44 Minn L Rev 513 (1960).

[24] It is not clear whether the English law ever recognized such an exception to the requirement of notice or awareness. See, e.g., Genner v Sparks, 6 Mod 173, 87 Eng Rep 928. It is stated in an English annotator's note to Semayne's Case, supra, that "if a man being legally arrested, escapeth from the officer, and taketh shelter though in his own house, the officer may upon fresh pursuit break open doors in order to retake him, having first given due notice of his business and demanded admission, and been refused." 77 Eng Rep. at 196. The views of other commentators are ambiguous on this point. See, e.g., 2 Hawkins, Pleas of the Crown (6th ed 1787), c. 14, § 8. Blackstone's view was that "in case of felony *actually* committed, or a dangerous wounding, whereby felony is like to ensue . . . [a constable] may upon probable suspicion arrest the felon; and for that purpose is authorized (as upon a justice's warrant) to break open doors, and even to kill the felon if he cannot otherwise be taken. . . ." Commentaries 292.

[25] See Professor Wilgus' comment: "Before doors are broken, there must be a necessity for so doing, and notice of the authority and purpose to make the arrest must be given and a demand and refusal of admission must be made, *unless this is already understood, or the peril would be increased.*" Wilgus Arrest Without a Warrant, 22 Mich L Rev 541, 798, 802 (1924). (Emphasis supplied.) Cf. Accarino v United States, 85 App DC 394, 398–402, 179 F2d 456, 460–464.

Compare Lord Mansfield's statement, in 1774, of the rationale for the requirement of announcement and demand for admission: "The ground of it is this; that otherwise the consequences would be fatal: for it would leave the family within, naked and exposed to thieves and robbers. It is much better therefore, says the law, that you should wait for another opportunity, than do an act of violence, which may probably be attended with such dangerous consequences." Lee v Gansel, 1 Cowp 1, 6–7, 98 Eng Rep 935, 938.

[26] The comment of Rooke, J., in Ratcliffe v Burton, 3 Bos & Pul 223, 230, 127 Eng Rep 123, 127 (1802), is relevant here: "What a privilege will be allowed to sheriffs' officers if they are permitted to effect their search by violence, without making that demand which possibly will be complied with, and consequently violence be rendered unnecessary!" This view of the requirement of notice or awareness has its parallel in the historic English requirement that an arresting officer must give notice of his authority and purpose to one whom he is about to arrest. In the absence of such notice, unless the person arrested already knew of the officer's authority and mission, he was justified in resisting by force, and might not be charged with an additional crime if injury to the officer resulted. The origin of this doctrine appears to be Mackalley's Case, 9 Co Rep 65b, 69a, 77 Eng Rep 828, 835. See also Rex v George, [1935] 2 DLR 516 (BC Ct App); Regina v Beaudette, 118 Can Crim Cases 295 (Ont Ct App). Compare, e.g., People v Potter, 144 Cal App 2d 350, 300 P2d 889, in which noncompliance with § 844 was excused because the defendant was known to have been convicted of three previous robberies and was suspected of a fourth—though in fact, upon entering his hotel room unannounced and by means of a key obtained from the manager, the officers found the defendant in

bed, with the lights off, and unarmed. The entry occurred after midnight.

[27] The importance of this consideration was aptly expressed long ago by Heath, J., in Ratcliffe v Burton, 3 Bos & Pul 223, 230, 127 Eng Rep 123, 126–127 (1802):

"The law of England, which is founded on reason, never authorises such outrageous acts as the breaking open every door and lock in a man's house without any declaration of the authority under which it is done. Such conduct must tend to create fear and dismay, and breaches of the peace by provoking resistance. This doctrine would not only be attended with great mischief to the persons against whom process is issued, but to other persons also, since it must equally hold good in cases of process upon escape, where the party has taken refuge in the house of a stranger. Shall it be said that in such case the officer may break open the outer door of a stranger's house without declaring the authority under which he acts, or making any demand of admittance? No entry from the books of pleading has been cited in support of this justification, and Semayne's case is a direct authority against it."

[28] See also McDonald v United States, 335 US 451, 460, 461, 93 L ed 153, 160, 161 69 S Ct 191 (concurring opinion) for Mr. Justice Jackson's comment: "Many homeowners in this crime-beset city doubtless are armed. When a woman sees a strange man, in plain clothes, prying up her bedroom window and climbing in, her natural impulse would be to shoot."

[29] See, e.g., Kamisar, Public Safety v Individual Liberties: Some "Facts" and "Theories," 53 J Crim L, Criminology and Police Science 171, 188–190 (1962); Rogge, Book Review, 76 Harv L Rev 1516, 1522–1523 (1963).

[30] Compare Justice Traynor's recent comment:

"Nevertheless the United States Supreme Court still confronts a special new responsibility of its own. Sooner or later it must establish ground rules of unreasonableness to counter whatever local pressure there might be to spare the evidence that would spoil the exclusionary rule. Its responsibility thus to exercise a restraining influence looms as a heavy one. It is no mean task to formulate far-sighted constitutional standards of what is unreasonable that lend themselves readily to nation-wide application." Traynor, Mapp v Ohio at Large in the Fifty States, 1962 Duke LJ 319, 328.

[31] The problems raised by this case are certainly not novel in the history of law enforcement. One of the very earliest cases in this field, decided more than three centuries ago, involved facts strikingly similar to those of the instant case. The case of Waterhouse v Saltmarsh, Hob 263, 80 Eng Rep 409, arose out of the service by a sheriff and several bailiffs of execution upon a bankrupt. These officers, having entered the outer door of the house by means not described, "'ran up to the chamber, where the plaintiff and his wife were in bed and the doors locked, and knocking a little, without telling what they were, or wherefore they came, brake open the door and took him. . . .'" The sheriff was fined the substantial sum of £200 for what the court later described in a collateral proceeding as "the unnecessary outrage and terror of this arrest, and for not signifying that he was sheriff, that the door might have been opened without violence. . . ." Hob, at 264, 80 Eng Rep, at 409. Compare another early case involving similar problems, Park v Evans, Hob 62, 80 Eng Rep 211, in which the Star Chamber held unlawful an entry effected by force after the entering officers had knocked but failed to identify their authority or purpose. The Star Chamber concluded that "the opening of the door was occasioned by them by craft, and then used to the violence, which they intended."

[32] Any doubt concerning the scope of the California test which may have survived People v Maddox, 46 Cal 2d 301, 294 P2d 6, must have been removed by the later case of People v Hammond, 54 Cal 2d 846, 854, 855, 9 Cal Rptr 233, 357 P2d 289, 294:

"When there is reasonable cause to make an arrest, and the facts known to the arresting officer before his entry are not inconsistent with a good faith belief on his part that compliance with the formal requirements of . . . section [844] is excused, a failure to comply therewith does not invalidate the search and seizure made as an incident to the ensuing arrest."

[33] I think it is unfortunate that this Court accepts the judgment of the intermediate California appellate court on a crucial question of California law—for it is by no means certain that the Supreme Court of California, the final arbiter of questions of California law, would have condoned the willingness of the District Court of Appeal to excuse noncompliance with the California statute under the facts of this case. For the view of the California Supreme Court on the scope of the exception under § 844, see e.g., People v. Martin, 45 Cal 2d 755, 290 P2d 855; People v. Carswell, 51 Cal 2d 602, 335 P2d 99; People v. Hammond, 54 Cal 2d 846, 9 Cal Rptr 233, 357, P2d 289.

An examination of the California decisions which have excused noncompliance with § 844 reveals the narrow scope of the exceptions heretofore recognized—confined for the most part to cases in which officers entered in response to cries of a victim apparently in imminent danger, e.g., People v Roberts, 47 Cal 2d 374, 303 P2d 721; or in which they first knocked at the door, or knew they had been seen at the door, and then actually heard or observed destruction of evidence of the very crime for which they had come to arrest the occupants, see e.g., People v Moore, 140 Cal App 2d 870, 295 P2d 969; People v. Steinberg, 148 Cal App 2d 855, 307 P2d 634; People v Williams, 175 Cal App 2d 774, 1 Cal Rptr 44; People v Fisher, 184 Cal App 2d 308, 7 Cal Rptr 461. See generally, for summary and discussion of California cases involving various grounds for noncompliance with § 844, Fricke, California Criminal Evidence (5th ed 1960), 432–433; Comment, Two Years With the Cahan Rule, 9 Stan L Rev 515, 528–529 (1957).

Mr. ERVIN. I am not going to belabor this decision at length. I do wish to emphasize again the fact that eight of the Justices of the Supreme Court—that is, Justice Clark and the three who concurred in his opinion and Justice Brennan and the three who concurred in his opinion—agreed that the obligation of an officer of the law to inform the occupants of the house of his presence and purpose, and to give them a reasonable time to admit him before breaking into the house, constitutes a part, and an integral part, of the fourth amendment.

Mr. President (Mr. Mathias), what I assert is the decision of these eight Justices is pretty well summarized in the opinion of Justice Brennan, in which he says:

Mr. Justice Clark, Mr. Justice Black, Mr. Justice Stewart, and Mr. Justice White do not believe that the Federal requirement of reasonableness contained in the Fourth Amendment was violated in this case. The Chief Justice, Mr. Justice Douglas, Mr. Justice Goldberg, and I have the contrary view. For even on the premise that there was probable cause by Federal standards for the arrest of George Ker, the arrests of these petitioners were nevertheless illegal, because the unannounced intrusion of the arresting officers into their apartment violated the Fourth Amendment. Since the arrests were illegal, *Mapp* v *Ohio,* 367 U.S. 643, 6th Law Edition 2d 1081, 81 Supreme Court Reporter 1684, 84 ALR 2d 933, requires the exclusion of the evidence which was the product of the search incident to those arrests.

Here is the crux of the opinion:

Even if probable cause exists for the arrest of a person within, the Fourth Amendment is violated by an unannounced police intrusion into a private home, with or without an arrest warrant, except (1) where the persons within already know of the officers' authority and purpose, or (2) where the officers are justified in the belief that persons within are in imminent peril of bodily harm, or (3) where those within, made aware of the presence of someone outside (because, for example, there has been a knock at the door), are then engaged in activity which justifies the officers in the belief that an escape or destruction of evidence is being attempted.

Justice Brennan proceeds and says these three exceptions, which he enumerates, only come into play from facts and circumstances known to the officer at the time he breaks in without announcing his presence or purpose. One of these is where the people in the house already know the officer is there—know his presence and purpose. There is no necessity in that case to give notice. Or where the officer knows, at the time he breaks and enters without notice, that someone in the house is in peril of bodily harm; or where, because they are made aware of the presence of someone outside the house, the officer knows from the activity inside the house at the time that the occupants of the house would escape or destroy evidence. Manifestly, an officer cannot know in advance whether these conditions exist.

Mr. President, the Lord's Prayer says: "Lead me not into temptation."

One of the arguments against the District of Columbia crime bill is that that provision of the crime bill violates the injunction of the Lord's Prayer and leads the officers of the law into a temptation to make false affidavits or to indulge in false prophecies, without any basis for them.

The provisions of the District of Columbia crime bill about search warrants are found in section 23–522, which appears on page 160. In order to save time, I ask unanimous consent that section 23–522, as it appears on page 160 of the conference report, be printed in full at this point in the Record.

There being no objection, the section was ordered to be printed in the Record, as follows:

"§ 23–522. Applications for search warrants

"(a) Each application for a search warrant shall be made in writing upon oath or affirmation to a judicial officer.

"(b) Each application shall include—

"(1) the name and title of the applicant;

"(2) a statement that there is probable cause to believe that property of a kind or character described in section 23–521(d) is likely to be found in a designated premise, in a designated vehicle or object, or upon designated persons;

"(3) allegations of fact supporting such statement; and

"(4) a request that the judicial officer issue a search warrant directing a search for and seizure of the property in question.

The applicant may also submit depositions or affidavits of other persons containing allegations of fact supporting or tending to support those contained in the application.

"(c) The application may also contain—

"(1) a request that the search warrant be

> made executable at any hour of the day or night, upon the ground that there is probable cause to believe that (A) it cannot be executed during the hours of daylight, (B) the property sought is likely to be removed or destroyed if not seized forthwith, or (C) the property sought is not likely to be found except at certain times or in certain circumstances; and.
>
> "(2) a request that the search warrant authorize the executing officer to break and enter dwelling houses or other buildings or vehicles to be searched without giving notice of his identity and purpose, upon probable cause to believe that one of the conditions set forth in subparagraph (A), (B), or (D) of section 23-591(c)(2) is likely to exist at the time and place at which warrant is to be executed.
>
> Any request made pursuant to this subsection must be accompanied and supported by allegations of fact supporting such request.

Mr. ERVIN. Section 23-591, which I have already mentioned, provides that an officer can break into a house without knocking, without advising the occupants of the house of his presence and purpose, and without giving them an opportunity to open the house to him, if the warrant expressly authorizes breaking and entering without such a prior announcement. How does an officer get a warrant such as that? The only way he can do it is to succumb to the temptation which is presented to him by section 23-522. So how does he get a warrant to authorize him to break in without notice or warning? He has to apply for a search warrant. Of course, under the fourth amendment, his application must be supported by an oath or affirmation. The bill says that he can request that the search warrant authorize him to break and enter the house or building or vehicles to be searched without giving notice of his identity and purpose, if he has probable cause to believe that one of the conditions set forth in subparagraphs (A), (B), or (D) of section 23-591 is likely to exist at the time and place at which such warrant is to be executed. The provisions in subparagraphs (A), (B), and (D) of section 23-591 attempt to embody the exceptions to the announcement provisions of the fourth amendment as laid down substantially in the Ker case.

How does an officer who goes to get a search warrant from a U.S. judge or from a U.S. magistrate, miles away from the place he wants to search, know in advance that it is likely that at the time he undertakes to execute that search warrant miles away, one of these exceptions may exist. It says—and this is just an exercise, for all practical purposes, in linguistic hypocrisy—"Any request made pursuant to this subsection will be accompanied and supported by allegations of facts supporting such request."

How is an officer who makes application to a judge to obtain a no-knock warrant to search my apartment to know that when he gets to my apartment sometime later that I am going to be engaged in disposing of some contraband, or that somebody in my apartment is in imminent peril of bodily harm, or that I am going to know that he is outside my door when he has not knocked, or done anything to apprise me of his presence and purpose to search my apartment?

The truth is, he cannot know. There is no possibility of his knowing any of these things. So he goes and gets a search warrant, which he can only get on the basis of false prophecies; and no amount of sophistry can convert a false prophecy into a fact. Yet, to get the search warrant to enter a house, such as Mrs. Mallory's was entered, why he has to be able to establish the facts showing that at some subsequent time, things of which he is necessarily ignorant will be existing at the place where he undertakes to execute the search warrant.

The simple truth of it is that the no-knock provision of the bill leads U.S. magistrates and leads U.S. judges, who may be great law and order men in the most acceptable sense of that term, and law-enforcement officers, into the temptation to concoct false prophecies and foretell things that no human being on earth can foretell, in order to get what I call a no-knock warrant.

I do not believe that the law should lead an officer of the law into the temptation to lie, but that is precisely what the no-knock provision of this bill would do, because it would authorize the issuance of a warrant to be executed at some future time without announcement of the officer's presence or purpose.

Mr. President, I should like to emphasize what Associate Justice Brennan had to say in this opinion. He pointed out that this rule, that an officer should announce his presence and purpose before entering the home of a citizen, was not only adopted to make the citizen's home his castle, but was also adopted for the protection of the officer of the law.

Mr. ALLEN. Mr. President, will the senior Senator from North Carolina yield to the junior Senator from Alabama at some convenient place?

Mr. ERVIN. I am happy to yield to the Senator right now.

Mr. ALLEN. It is the opinion of the junior Senator from Alabama that the distinguished senior Senator from North Carolina is the greatest living constitutional lawyer in the United States bar none.

Although the junior Senator from Alabama always enjoys the discussion by the distinguished senior Senator from North Carolina of any constitutional issue, or any point of law, he would like the distinguished senior Senator from North Carolina to recall the occasion when he was speaking against the no-knock provision in the drug control law, and he recited an argument made in a similar controversy, I believe, in the British Parliament where a similar provision was under discussion. I believe it possibly was the great William Pitt who said something about the sanctity and inviolability of the Englishman's home, that it was his castle.

I was very much impressed with the Senator's statement wherein he quoted William Pitt as saying that the elements could come into an Englishman's home, the rain, the snow, the sleet, but that the King of England could not.

Would the distinguished senior Senator from North Carolina refresh the recollection of the junior Senator from Alabama on that point?

Mr. ERVIN. Yes, I am delighted to do so. I was referring to a speech which William Pitt made in the House of Commons against the proposal of English officials who had been charged with the duty of collecting excise taxes on cider, that they believed they should have the right to enter the homes of people without apprising them of their presence or purpose; in other words, a no-knock provision back there was being advocated in the British Parliament.

In speaking in opposition to the proposal, William Pitt had this to say:

> The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of the ruined tenement.

Mr. ALLEN. I would say to the distinguished senior Senator from North Carolina that is a great and stirring statement of the common law upon which the law of the various States in this country is based. Certainly that same argument would apply now just as it applied more than 200 years ago.

Mr. ERVIN. It would seem to be even stronger now because at that time people did have some veneration for the power of the King of England. The King was supposed to have some autocratic powers which our U.S. Constitution, of course, denies to our Government.

Mr. ALLEN. I thank the distinguished senior Senator from North Carolina and would like to recall to him that the junior Senator from Alabama followed his leadership in opposition to the no-knock provision in the drug control bill that was passed by the Senate, in voting against the no-knock provision; and he wishes to state that he wishes again to vote against the no-knock provision, that he feels it is obnoxious, that it is inadvisable, that it is unfair, that it would be dangerous for police officers, that it does invade the homes of our people, and he would like very much to be able to vote again against the no-knock provision.

Is there any way in which the junior Senator from Alabama will be able to vote against the no-knock provision and at the same time vote in favor of all other provisions of the bill?

Mr. ERVIN. The Senator from Alabama can do that in the event, and only in the event, the Senate rejects the conference report. The conference report cannot be amended.

The only way the Senator from Alabama can vote in that fashion is to vote against the conference report. In the event the conference report is rejected, he can then vote for the bill which has been introduced by 19 other Senators and me which will make law every provision of the conference report that is worthy of a place in any system of civilized justice.

Mr. ALLEN. Mr. President, under the parliamentary procedure then, as the Senator from North Carolina has explained it, there will be no opportunity to vote yes or no on the no-knock provision.

Mr. ERVIN. No. And I will say to the Senator that I am a very trusting person and I do not look unfavorably on other people. However, at the same time, this whole thing has been more or less strange.

The Senate has never yet been given an opportunity to vote up or down on any provision for preventive detention. The bill we passed that came from the House District Committee had no provision for preventive detention.

We have been conducting hearings in the Subcommittee on Constitutional Rights on the proposal of the administration and certain other proposals that preventive detention be made Federal law applicable throughout the 50 States. But the Department of Justice, I suspect, came to the conclusion that Senators were not going to impose that. They might vote to impose preventive detention on the people of the District of Columbia, but they were not going to be willing to vote preventive detention upon the people of their States.

After the Senate bill had passed the Senate without any preventive detention provision in it, it was sent to the House. There it slept and slept and slept for many weeks. Then suddenly, according to what Representative Brock Adams of Washington—a man who entertains views similar to those of the Senator from Alabama and myself and who is not willing to sell the everlasting liberties of the American people for the purpose of some temporary thing like getting a few people in jail without being tried—testified before my committee that on the day the House District Committee approved the provision, it had announced in advance that the only thing the committee would consider was some provision to aid police officers.

On that day those who were opposed to preventive detention, assured that no preventive detention was being suggested, absented themselves from the committee in order to attend other official duties. And in their absence a representative of the Department of Justice came there and presented the recommendations of the Department of Justice for a preventive detention provision.

Under those circumstances it was adopted. The representative of the Department of Justice was the only man permitted to be heard on that subject before the District Committee. Those were the circumstances. It was put in the bill.

I might state that the bill as it came from the House so outraged the Members of the Senate that on the motion of the senior Senator from Maryland, it rejected the House bill by a unanimous voice vote.

It then went back to the House. Now we are being asked to swallow this thing lock, stock, and barrel, the no-knock provision and everything else, without ever being given the opportunity to vote on these things separately.

Why the House District Committee could not find anyone except one representative from the Department of Justice to testify, I do not know. As chairman of the Subcommittee on Constitutional Rights, I found literally hundreds of liberty-loving Americans who have been willing to appear before the Constitutional Rights Subcommittee to testify against preventive detention.

We are now told that unless we bow down obsequiously and permit all of these constitutional inequities to be perpetrated on the people of the District, we will not have any bill.

I find it difficult to accept the proposition that House Members take the position that we have no right to exercise our intelligence but must swallow the medicine they have concocted over there on these matters no matter how distasteful it is, no matter how unconstitutional it is, no matter how unwise it might be, no matter how unfair it might be, and no matter how unworkable it might be.

I will not take any medicine like that. I think that my oath to support the Constitution of the United States requires me to stand on the floor of the Senate and fight for the preservation of the liberty of all people of the United States as guaranteed to them by the Constitution, whether they live in the District of Columbia or somewhere else.

Mr. ALLEN. Mr. President, I greatly admire the distinguished Senator from North Carolina. I appreciate his statement. I admire him for his ability, knowledge, and courage to stand here and speak out for his convictions and for the freedoms that the people of the United States are guaranteed under the Constitution.

The junior Senator from Alabama would welcome once again the opportunity of voting against the no-knock provision. He regrets that this issue is not going to be presented to the Senate so that the Senate can meet it head on.

In that event, the junior Senator from Alabama would cast his vote against the no-knock provision which he regards as being an invasion of the liberties and freedom that the people are guaranteed under the Constitution.

Mr. ERVIN. Mr. President, I thank the Senator from Alabama. I would say that if I were not a trusting person who is not inclined to think evil of others, I might succumb to the temptation to believe there was a little bit of legal chicanery in the House committee, the House committee being aided and abetted by the Department of Justice. But being a trusting person who thinks no evil of another person, I will not make that accusation on the floor of the Senate.

But I will absolve any Senator from any part in it.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from North Carolina on his trusting nature. However, having seen some of the legislative proceedings and enactments that take place here, it is doubtful that the junior Senator from Alabama would go as far as the distinguished Senator from North Carolina has gone in this connection.

Mr. ERVIN. Mr. President, in the future I may be wiser. I always hope to be wiser tomorrow than I am today. It may be that the next time I will follow that old proverb that says, "'If you fool me once, it is your fault; if you fool me twice, it is mine."

Mr. ALLEN. Mr. President, it having happened three, four, or five times now, I wonder that the Senator can continue to be so trustful.

Mr. ERVIN. It is very difficult.

I thank the Senator from Alabama for his contribution to the argument. I further say that the Senator from North Carolina entertains a very high admiration for the Senator from Alabama.

The Senator from North Carolina has noted during the service of the Senator from Alabama in this body that the Senator from Alabama has never succumbed to the temptation to sell the constitutional truth to serve the political hour.

Mr. ALLEN. I thank the distinguished Senator.

Mr. ERVIN. I know of no higher tribute I can pay any man than that, because sometimes that temptation is very strong, all of us being political animals.

Mr. ALLEN. I thank the Senator.

Mr. ERVIN. Mr. President, I was emphasizing what Justice Brennan emphasized in the Ker case, that this requirement that a police officer shall inform the occupants of a house of his presence and purpose before he enters and gives them an opportunity to open the house to him is designed to protect the life of the officer as well as to protect the occupants of the house in the enjoyment of their rights of privacy.

In the Ker case he pointed out this situation. He stated in his opinion:

> It was firmly established long before the adoption of the Bill of Rights that the fundamental liberty of the individual includes protection against unannounced police entries. "[T]he Fourth Amendment did but embody a principle of English liberty, a principle old, yet newly won, that finds another expression in the maxim 'every man's home is his castle.'" Fraenkel, Concerning Searches and Seizures, 34 Harv L Rev 361, 365 (1921); Frank v Maryland, 359 US 360, 376–382, 3 L ed 2d 877, 887–891, 79 S Ct 804 (dissenting opinion). As early as Semayne's Case, 5 Co Rep 91a, 91b, 77 Eng Rep 194, 195 (1603), it was declared that "[i]n all cases when the King is party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the K[ing]'s process, if otherwise he cannot enter. *But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors . . . .*" (Emphasis supplied.) Over a century later the leading commentators upon the English criminal law affirmed the [374 US 48] continuing vitality of *that principle. 1 Hale, Pleas of the Crown (1736), 583; see also 2 Hawkins, Pleas of the Crown (6th ed 1787), c. 14, § 1; Foster, Crown Law (1762), 320–321. Perhaps its most emphatic confirmation was supplied only 35 years before the ratification of the Bill of Rights. In Curtis' Case, Fost, 135, 168 Eng Rep 67, decided in 1756, the defendant, on trial for the murder of a Crown officer who was attempting an entry to serve an arrest warrant, pleaded that because the officer had failed adequately to announce himself and his mission before breaking the doors, forceful resistance to his entry was justified and the killing was therefore justifiable homicide. In recognizing the defense the court repeated the principle that "peace-officers, having a legal warrant to arrest for a breach of the peace, may break open doors, *after having demanded admittance and given due notice of their warrant*"; the court continued that "no precise form of words is required in a case of this kind" because "[i]t is sufficient that the party hath notice, that the officer cometh not as a mere trespasser, but claiming to act under a proper authority. . . ." Fost., at 136–137, 168 Eng Rep, at 68. (Emphasis supplied.) The principle was again confirmed not long after the Fourth Amendment became part of our Constitu-

> tion. Abbott, C. J., said in Launock v Brown, 483 (1819): ". . . I am clearly of opinion that, in the case of a misdemeanour, such previous demand is requisite. . . . It is reasonable that the law should be so; for if no previous demand is made, how is it possible for a party to know what the object of the person breaking open the door may be? He has a right to consider it as an aggression on his private property, which he will be justified in resisting to the utmost."

This holding of the English law is the law in virtually every American common law jurisdiction. When the officer undertakes to enter the house of a person without announcing his presence and without announcing his purpose and without giving the person a reasonable opportunity to open the doors to him, he runs the risk of being killed by the householder who has the right to protect his home against what he understands to be unwarranted intrusion; and the killing of an officer under these circumstances, under this decision and a multitude of decisions in this country, is justifiable homicide.

Congress should not by law put officers in a position of running the risk of being justifiably killed in their efforts to enter homes of our citizens without acquainting those citizens of their presence and purpose.

The Supreme Court had occasion to talk about some of these things some time ago in the case of *McDonald* v. *United States*, 335 U.S. 451.

In that case, the accused was a roomer in a boarding house operated by a woman in the District of Columbia. For some days plain clothes officers of the law had suspected that the accused was operating an illegal lottery. They kept the house under surveillance long enough to convince themselves that their suspicion was well founded. Instead of procuring a search warrant, they undertook to enter the house and apprehend the accused by prying open the woman's bedroom window. The accused was convicted in the District Court of operating an illegal lottery on the basis of evidence seized by the officers at that time. The Supreme Court reversed his conviction on the ground that the entry made by the officers was illegal. The Court said:

> The right of privacy was deemed too precious to entrust to the discretion of those whose job is the detection of crime and the arrest of criminals. Power is a heady thing; and history shows that the police acting on their own cannot be trusted.

The Court said that was the reason the fourth amendment was written. They said:

> We cannot be true to that constitutional requirement and excuse the absence of a search warrant without a showing by those who seek exemption from the constitutional mandate that the exigencies of the situation made that course imperative.

Justice Jackson had something to say about exceptions existing in circumstances like those. He said this in agreeing with the holding of the Court that this was an illegal search and seizure, in violation of the fourth amendment, in his concurring opinion, which appears on pages 457 to 461. I will read from his opinion on pages 460 and 461:

> I am the less reluctant to reach this conclusion—

Says Justice Jackson; that is, that it was an illegal search and seizure—

> because the method of enforcing the law exemplified by this search is one which not only violates legal rights of defendant but is certain to involve the police in grave troubles if continued. That it did not do so on this occasion was due to luck more than to foresight. Many homeowners in this crime-beset city doubtless are armed. When a woman sees a strange man, in plain clothes, prying up her bedroom window and climbing in, her natural impulse would be to shoot. A plea of justifiable homicide might result awkwardly for enforcement officers. But an officer seeing a gun being drawn on him might shoot first. Under the circumstances of this case, I should not want the task of convincing a jury that it was not murder. I have no reluctance in condemning as unconstitutional a method of law enforcement so reckless and so fraught with danger and discredit to the law enforcement agencies themselves.

In other words, Justice Jackson intimates that this woman, seeing a man attempting to enter her house, would have been justified in shooting him, and he also intimates that if the officer, seeing her draw the gun to shoot him, shot her, the officer would be guilty of murder.

Why should the Congress of the United States adopt laws which, as Justice Jackson observed, are a discredit to law enforcement agencies and which are so reckless as this?

Justice Jackson condemned the officers for prying open the bedroom window and climbing in, and yet that is exactly what the no-knock provision in the D.C. Crime Bill would authorize law enforcement officers to do. It would make it legal for them to pry open windows and enter the bedrooms of women in the District. In lieu of so doing they could break down the door with a sledgehammer.

PREVENTIVE DETENTION

Well, Mr. President, at long last I have reached a point where I want to talk a little about preventive detention.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request with the understanding that he does not lose his right to the floor?

Mr. ERVIN. I am delighted to yield with that understanding.

ORDER FOR RECOGNITION OF SENATOR McGOVERN ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, upon the disposition of the reading of the Journal, the able Senator from South Dakota (Mr. McGOVERN) be recognized for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes.

Mr. ERVIN. Mr. President, when America was established there was a great deal of ferment in another nation of the earth, that is, France. The ferment arose out of the fact that France had a prison known as the Bastille and that the government threw people in there for preventive detention purposes. They arrested people and confined them in the Bastille. Instead of trying them, they just left them in the Bastille. The French people stood this suppression as long as they could, and finally they rebelled and stormed the Bastille and destroyed it, and Lafayette sent to his good friend, George Washington, the key to the Bastille. And to this day the French people celebrate as their national holiday July 14, the day on which the Bastille was stormed and destroyed by the French people, thus starting what we call the French Revolution.

The purpose of the bill before us is to convert places of imprisonment in the District of Columbia into Bastilles. It is ironic that on July 14, the anniversary of the storming of the Bastille, the conference recommended a preventive detention provision which would transform American jails into Bastilles.

We hear a great deal said to the effect that an accused, under this bill, is to be imprisoned only for 60 days. I challenge that statement. I assert that notwithstanding the fact that the bill is 243 pages long—that is, the conference report and the bill it incorporates—not only is there no word, but there is no syllable in it that says whoever is preventively detained under the provisions of this bill is going to be released after he has been imprisoned for 60 days if he has not been tried.

What happens after 60 days? The provision of the bill dealing with that subject appears on page 194. Here is what is says:

> Upon the expiration of sixty calendar days . . . such person—

That is, the person who has been preventively detained—this is in section 23-1322, subsection (d) and subsection (2):

> Such person shall be treated in accordance with section 23-1321—
>
> (A) Upon the expiration of sixty calendar days.

In other words, upon the expiration of 60 days, they return him to the point where he got on the merry-go-round for the first 60 days. This is section 23-1321. It appears on pages 191 and 192 of the conference report.

What happens then? They put him back exactly where he was when he was first arrested. They take him before the judge or the magistrate——

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. ERVIN. Yes.

Mr. TYDINGS. On page 194, the report specifies and requires, upon the expiration of 60 days, that, if the trial is not in progress, then the defendant must be treated under the general release section, 23-1321, not the pretrial detention section, 23-1322. Specification of section

23-1321 was put in there for that purpose.

Mr. ERVIN. Where does it say that, I ask the Senator?

Mr. TYDINGS. It says that right on page 194, in the middle of the page, subparagraph (d)(2):

> The following shall be applicable to persons detained pusuant to this section:

Mr. ERVIN. Yes.

Mr. TYDINGS. It continues:

> Upon the expiration of sixty calendar days, unless the trial is in progress or the trial has been delayed at the request of the person other than by the filing of timely motions (excluding motions for continuances);

It says:

> Such person shall be treated in accordance with section 23-1321—

Mr. ERVIN. Yes.

Mr. TYDINGS. And section 23-1321 is the section in subchapter II which deals with the release conditions in noncapital cases, with the setting of conditions of release. That is a person held every night——

Mr. ERVIN. And also——

Mr. TYDINGS. And permitted to go and work during the day. It spells it out:

> (1) Place the person in the custody of a designated person or organization agreeing to supervise him.

And so forth.

Subsection 23-1322(d)(2) does not mention section 23-1322, or any part thereof, or section 23-1323. The reference is to 23-1321 and not to 23-1322. If the purpose had been to start the whole procedure over again, we would have said "in accordance with the provisions of subchapter II, including subsection 23-1322," the detention prior to trial provision. But we did not.

Mr. ERVIN. Mr. President, I challenge the Senator from Maryland to show anywhere in here that says he is to be released.

Mr. TYDINGS. The whole section 23-1321 deals with release. It is entitled "Release in Noncapital Cases Prior to Trial." The whole section deals with conditional release—the entire section, every word and condition in there. The plain meaning of "section 23-1321" is "release."

Mr. ERVIN. Mr. President, I still reiterate my statement that there is not a single syllable, much less a sentence, in this whole conference report, 243 pages long, that provides a man is to be released after he has been preventively detained for 60 days.

What the Senator from Maryland has just read is what I read just before him. Here is what it says. This is the only provision that has any reference to what is to happen to the man after he has been preventively detained. It says, on page 194, subsection 23-1322, that:

> Such person shall be treated in accordance with section 23-1321—
>
> (A) upon the expiration of 60 calendar days.

Now, what does that mean? You take him back to where he started.

Mr. TYDINGS. What is 23-1321?

Mr. ERVIN. It is the one which says if he is dangerous he is not to be released.

Mr. TYDINGS. No, it is not, either. That is 23-1322. Section 23-1321 is "Release in Noncapital Cases Prior to Trial." It deals with conditions of release which a judge may set in the event he does not wish to detain a person prior to trial. Section 23-1322, "Detention Prior to Trial," is the section which deals with the 60-day pretrial detention.

Mr. ERVIN. I say again, the third time, that there is not a syllable in the 243 pages of this conference report which says anywhere that a man is to be released after the expiration of 60 days.

Let me read what the bill says—and I read it for the third time—

> Such person—

That is, the person who has been preventively detained under this bill—

> shall be treated in accordance with section 23-1321—
>
> (A) upon the expiration of 60 calendar days.

Now let us go see what section 23-1321 says. That is where he started. Here is what it says:

> Any person charged with an offense—

This man is still charged with an offense. He has not been tried; he has just been held in jail 60 days on pretrial detention, so he is to be dealt with as provided here. What does it say?

> Any person charged with an offense, other than an offense punishable by death, shall, at his appearance before a judicial officer—

This is the second time we have sent him there—

> be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer—

If they had stopped there, the Senator from Maryland would have been right and the Senator from North Carolina would have been wrong. But it does not stop there. It says he shall be released upon his personal recognizance or an appearance bond—

> unless the officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required or the safety of any other person or the community.

Now, it says there, in the first sentence, that he shall be released on a personal recognizance or on a bond unless—

Mr. TYDINGS. Do not stop there. Read the rest of the paragraph.

Mr. ERVIN. I shall get down to that in just a minute.

Mr. TYDINGS. Read the rest of the paragraph.

Mr. ERVIN. Yes. In the first sentence, it says that he shall be released on his personal recognizance or on an appearance bond unless the judge finds that such release will not assure his appearance at the trial, or the safety of any person or the community.

So he is not to be released after the expiration of 60 days and returned to where he started, if the judge finds that his release will not secure the safety of any person or the community. The judge has already found against him one time, and I do not think the judge is going to reverse his previous finding. That is the first sentence.

To turn it around, it says that at the expiration of 60 days, when he is returned to the judicial officer, he is not to be released upon his personal recognizance or upon the appearance bond if the judge finds that his release will not assure the safety of any person or of the community. So he is not to be released, under the first sentence of this section, if the judge so finds.

Now I will read the second sentence:

> When such determination is made—

That is, when the judge finds it will not secure the safety of any person or the community—

> the judicial officer shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure appearance of the person for trial or the safety of any other person or the community, or, if no single condition gives that assurance, any combination of the following conditions:

What does that mean, in plain English? The judge has already found, 60 days before, that this is a dangerous man and he cannot be released and assure the safety of any person or the community. So they preventively detain him.

The second sentence says that if the judge finds that release under personal recognizance or on an appearance bond will not reasonably assure the safety of any person or the community—exactly what was found before—he shall not release him on a personal recognizance or an appearance bond, but he will proceed then to determine which of the conditions if any will reasonably assure the safety of any other person or the community.

That means, by implication—if not by express words—that the judge is not going to release him under the second sentence unless he finds that the conditions or a combination of the conditions will reasonably assure the safety of any other person or the community. So the judge cannot release him on conditions unless those conditions assure the safety of any other person or the community. The judge has already found that none of the conditions will give that assurance. Subsection (b) also uses the words "if any," which surely implies there may be no release conditions at all which will assure the safety of the community.

So one continues to read through section 23-1321 and pages 191 and 192, and nothing there says that the man gets released. Then you get back to the detention prior to trial. So you have section 23-1323, which prohibits the judge from releasing the man upon his own recognizance or upon an appearance bond or upon any conditions which do not reasonably assure the safety of any individual or the community. You read all these sections and you get down to the second section that put him in jail without a bond, section 23-1322, detention prior to trial.

So it is just as clear as the noonday sun in a cloudless sky that at the end of 60 days a man is returned to the judicial officer, and the judicial officer is required to do exactly what he did before—to deny him release if his release threatens the safety of any person in the community.

So you have a merry-go-round. You put the man on the merry-go-round with the first provision, and he rides for 60 days; and you put him on the merry-go-round again and he rides 60 days more; and you put him on the merry-go-round again and he rides 60 days more; and he keeps riding the merry-go-round until the last, lingering echo of Gabriel's horn trembles into the ultimate silence. Not one provision in this bill says he is ever going to be released before trial if he is found to be dangerous.

Furthermore, I called this to the attention of the Deputy Attorney General back in May. I raised the point that there is a provision here for a regular old merry-go-round of preventive detention. The man never gets off the merry-go-round, except that he gets off at the place he started and gets back on, and takes another 60 days. The Deputy Attorney General said he did not think it meant that, and he promised that he would show me something in this bill that would indicate that my interpretation was incorrect. He has not done so.

Now the distinguished Senator from Maryland has attempted to do so, and all he has referred to is that the man goes back to where he started; and then the provision where he started says that the judge cannot release him at all on his personal recognizance or on an appearance bond or upon any conditions unless they assure the safety of other people or of the community. So the preventive detention just goes on, like Tennyson's brook, forever.

As I said earlier, this bill authorizes preventive detention as long as this man is still charged with an offense and as long as his life lasts, and not one syllable in the entire bill is susceptible to an intelligent construction to the contrary. It is putting a man in jail forever and preventively detaining him.

The proponents of the D.C. Crime Bill are not as merciful as the South Carolinian who said that he hated Senator Ben Tillman more than anything which walked or crawled on earth, but he would not send Ben Tillman to hell for more than 30 years.

I do not think a man will get off this preventive detention machine in 30 years, according to its terms, unless he gets tried or gets some kind of pardon. So we have a bill authorizing preventive detention forever.

I do not mean to discuss too long the matter of preventive detention, but I may have made it apparent that I have some very profound convictions on preventive detention and no-knocks. I am not going to discuss no-knocks any more at this time, but I am going to invite attention to the eighth amendment and to the Judiciary Act of 1789.

George Washington took his oath of office as President of the United States in 1789, and the first Congress assembled in 1789. One of the first things Congress did was to submit the Bill of Rights, including the eighth amendment, to the States for ratification. The eighth amendment says that excessive bail shall not be required nor excessive fines imposed nor cruel and unusual punishments inflicted.

Congress did something else in 1789; it passed the Judiciary Act of 1789. In that act, the first Congress of the United States provided that every person charged by the Federal Government with a noncapital crime should have an absolute right to release on bail pending his trial. Why did Congress do that? The Supreme Court of the United States had something to say on this subject in the case of Stack versus Boyle, reported in 342 U.S. 2. The Court declared that bail was to be taken only for the purpose of assuring the presence of the accused at the trial, and that a judicial officer violated the eighth amendment whenever he required an accused to give bail in excess of the amount reasonably necessary to accomplish that purpose.

Chief Justice Vinson, who wrote the opinion in Stack against Boyle, said on page 4:

> From the passage of the Judiciary Act of 1789, 1 Stat. 73, 91, to the present Federal Rules of Criminal Procedure, Rule 46(a)(1), federal law has unequivocably provided that a person arrested for a non-capital offense *shall* be admitted to bail. This traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction. See *Hudson* v. *Parker*, 156 U.S. 277, 285 (1895). Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning.
>
> The right to release before trial is conditioned upon the accused's giving adequate assurance that he will stand trial and submit to sentence if found guilty. *Ex parte Milburn*, 9 Pet. 704, 710 (1835). Like the ancient practice of securing the oaths of responsible persons to stand as sureties for the accused, the modern practice of requiring a bail bond or the deposit of a sum of money subject to forfeiture serves as additional assurance of the presence of an accused. Bail set at a figure higher than an amount reasonably calculated to fulfill this purpose is "excessive" under the Eighth Amendment. See *United States* v. *Motlow*, 10 F. 2d 657 (1926, opinion by Mr. Justice Butler as Circuit Justice of the Seventh Circuit).
>
> Since the function of bail is limited, the fixing of bail for any individual defendant must be based upon standards relevant to the purpose of assuring the presence of that defendant.

In other words, Judge Vinson said that we have had this right ever since 1789.

I would assert, without fear of successful contradiction, that any person who undertakes to change a law that has been the uniform law of this Nation since 1789, the year in which George Washington took his first oath of office as President of the United States, the year in which the First Congress met, has a great burden to show that that law should be changed. That is what the preventive detention provision would undertake to do.

I am not going to discuss the eighth amendment at any great length, but I am going to say that I do not believe the Constitution undertakes to secure a man merely against excessive bail and then provides that the Congress could abolish all bail. Yet, that is the argument to which those advocating preventive detention necessarily have to resort to, in the final analysis.

Let us see what some of the judges have said. I wish to make it clear that I do not contend, and I do not think that anyone can contend, that there is any decision of the Supreme Court which fully states the meaning of the eighth amendment; but I will call attention to the case of Carlson versus Langdon in 342 U.S.C. page 5, 24, which was a case involving a proceeding seeking to deport certain aliens, and in which Justice Reed, the writer of the majority opinion, said by way of dicta that there was no absolute right to bail in noncapital cases under the Federal system under the eighth amendment.

I also point out that Justice Burton who dissented in that case said:

> I join the dissenting opinion of Mr. Justice Frankfurter and add the suggestion that the Eighth Amendment lends support to the statutory interpretation he advocates. That Amendment clearly prohibits federal bail that is excessive in amount when seen in the light of all traditionally relevant circumstances. Likewise, it must prohibit unreasonable denial of bail. The Amendment cannot well mean that, on the one hand, it prohibits the requirement of bail so excessive in amount as to be unattainable yet, on the other hand, under like circumstances, it does not prohibit the denial of bail, which comes to the same thing. The same circumstances are relevant to both procedures. It is difficult to believe that Congress now has attempted to give the Attorney General authority to disregard those considerations in the denial of bail.

Mr. President, I think that one of the best discussions on the meaning of the eighth amendment was that of Prof. Lawrence H. Tribe of the Harvard Law School.

Incidentally, I received a telegram from him and a number of other members of the faculty of the Harvard Law School, which stated that the pending conference report contained many unconstitutional and unwise provisions and should not be adopted by the Senate.

Later, Mr. President, I shall place that telegram in the RECORD, for the information of Members of the Senate.

Professor Tribe testified before our subcommittee and wrote a most illuminating article for the Virginia Law Review entitled "An Ounce of Detention: Preventive Justice in the World of John Mitchell." In his testimony before the Subcommittee on Constitutional Rights in opposition to the pending measure, which is incorporated in other bills before the committee, he had this to say and I think it is the most lucid interpretation of the eighth amendment that I have been able to find:

He says:

> In my researching through the statutory and case law on the bail system and its antecedents from the 13th to late 18th century convinces me the eighth amendment should be construed as a mandate directed to all branches of Government to grant pretrial liberty unless the risk of flight or other interference with prosecution requires detention.
>
> The Supreme Court explored this question only once in *Stack* v. *Boyle*, 342 U.S. 1 (1951). That opinion is often cited, but it is much less often understood. The Supreme Court said in *Stack* that unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning.
>
> The Court concluded, although the "right to release before trial is conditioned upon the accused's giving adequate assurance that

he will stand trial and submit to sentence if found guilty," bail "set at a figure higher than an amount reasonably calculated to fulfill this purpose is 'excessive' under the eighth amendment."

Now, it is vital to understand the basic rationale underlying that conclusion. It is simply this: to secure the public interest in preventing certain forms of conduct, our society has established a system of sanctions, calculated to deter outlawed behavior. That system cannot function at all if the threatened sanctions are not effectively imposed.

Thus, various restraints on liberty—from arrest to pretial detention—may be needed to provide assurance that a reliable trial can be held and society may justly demand this assurance, even if the defendant is innocent.

It is critical to notice the imposition of pretrial detention to prevent flight implies no judgment of guilt. An innocent man as well as a guilty man might be motivated to flee. But apart from the restraints needed to assure a trial will proceed, a person accused of crime has as great a right to liberty as any other citizen.

Viewed in this perspective, the presumption of innocence, of which the Supreme Court spoke in *Stack* v. *Boyle*, represents far more than a rule of evidence or procedural technicality applicable only to the trial itself. The presumption of innocence, of which the Court spoke, represents a constitutional commitment by this society to the basic proposition that a man who stands accused of crime is no less entitled than his accuser to freedom and respect as a member of the community. Only those deprivations necessary to assure the progress of the proceeding pending against him—deprivations which do not rest on any assumption of guilt—may be squared with this basis postulate of dignity and equality.

Mr. President, I submit that is a total interpretation of the purpose of our Founding Fathers in inserting the eighth amendment into the Constitution.

Mr. President, I ask unanimous consent to have printed in the Record the article written by Laurence Tribe, to which I earlier referred.

There being no objection, the article was ordered to be printed in the Record, as follows:

An Ounce of Detention: Preventive Justice in the World of John Mitchell

(By Laurence H. Tribe, Assistant Professor of Law, Harvard University, A.B., 1962; LL.B., 1966, Harvard University)

In the land of Erewhon, punishment was replaced with social hygiene, and all those with criminal tendencies were committed for indefinite periods of cure. Moved perhaps by his own small vision of utopia, President Nixon recently proposed legislation "whereby dangerous hard core recidivists could be held in temporary pretrial detention when they have been charged with crimes and when their continued pretrial release presents a clear danger to the community."[1]

More recently, Attorney General John Mitchell published a constitutional defense of the President's proposal in the *Virginia Law Review*.[2] That the Administration's chief legal officer should think it necessary to take so unusual a step may seem strange in light of the dubious ability of pretrial preventive detention to contribute to the control of crime. Offenses committed by persons awaiting trial represent only a small component of the total crime problem.[3] Indeed, if sensible steps were taken to shorten the delays between arrest and trial, impose additional penalties for crimes committed during the pretrial period, and more closely supervise the behavior of those released, this component would become even smaller.[4] Many judges have tried to deal with the problem of practicing a *sub rosa* form of preventive detention in bail determinations, but the practice has met with little success in separating likely offenders from safe risks.[5] Given the present state of the predictive art, codification of this practice would probably not measurably enhance the safety of the community.[6]

The proposed legislation's capacity to reduce crime is, however, a poor indicator of its political popularity. Its adoption would create the impression that the Administration was taking substantial steps to restore safety to our communities. Since such a delusion might ease the frustration and fear of those who feel helpless in the face of mounting violence, even a false impression of progress would have some value. But the legislation would operate as a dangerous palliative by relieving public pressure for the less dramatic and more expensive types of reform that alone might restore peace to urban life. And, although the Administration's proposal might purchase psychological comfort for the silent majority, its costs would include the heightened insecurity of the many minorities, both racial and political, who would view themselves as the new law's primary targets.[7] Furthermore, this insecurity would eventually spread beyond these groups, for the approach underlying the proposed legislation threatens the fundamental security provided for all of society by a system that guarantees that no one need fear prolonged imprisonment as a criminal until it is proved beyond a reasonable doubt that he has engaged in clearly prohibited conduct.[8]

Mr. Mitchell has defended the President's proposal in a scholarly journal in part, no doubt, because the Administration sees the legislation as an opportunity to create the image of a vigorous assault on crime. But Mr. Mitchell may also understand more to be at stake in the controversy than the fate of this particular law. For while the Attorney General stresses the supposed narrowness of the pending measures,[9] the demands of the not-so-silent majority for security would make a further expansion of preventive incarceration too attractive to resist.

The appeal of preventive imprisonment is as old as it is seductive. Witness this classic exchange in Lewis Carroll's *Through the Looking Glass:*[10] The Queen observes that the King's Messenger is "in prison now, being punished; and the trial doesn't even begin till next Wednesday; and of course the crime comes last of all." Perplexed, Alice asks, "Suppose he never commits the crime?" "That would be all the better, wouldn't it?" the Queen replies. Indeed it would, and for that very reason we can hardly expect either the Queen or the constituency the Attorney General represents to limit its logic to narrow categories of defendants.

Even as an experiment, the Administration's proposal has the distinct air of an episode from Alice's Wonderland, for it is an experiment that can only confirm and never rebut the experimenter's hypothesis. Once the government has instituted a system of imprisonment openly calculated to prevent crimes committed by persons awaiting trial, the system will appear to be malfunctioning only when it releases persons who prove to be worse risks than anticipated. The pretrial misconduct of these persons will seem to validate, and will indeed augment, the fear and insecurity that the system is calculated to appease. But when the system detains persons who could safely have been released, its errors will be invisible. Since no detained defendant will commit a public offense, each decision to detain fulfills the prophecy that is thought to warrant it, while any decision to release may be refuted by its results.

The inevitable consequence is a continuing pressure to broaden the system in order to reach ever more potential detainees. Indeed, this pressure will be generated by the same fears that made preventive detention seem attractive in the first place. What begins as an ounce of detention, therefore, may well become the first step of a profound shift in our system of criminal justice—a system that, at least until now, has operated on the premise that crime should normally be prevented by the threat of subsequent punishment rather than the imposition of prior imprisonment.

Apart from its inherent capacity for unrestrained growth, an equally significant implication of the President's proposal is its inevitable reliance on a mode of constitutional discourse exceptionally hospitable to the authoritarian values of "order" and dangerously inimical to the libertarian values of "law." The Attorney General's constitutional *apologia* for the President's legislative program furnishes an ideal illustration of this thinking. "The test," says Mr. Mitchell, "is one of reasonableness, which inevitably involves a weighing of the individual's interest in freedom against society's just demands for varying degrees of restraint under particular circumstances."[11] Applying this "test," the Attorney General unsurprisingly concludes that the President's proposal is "reasonable." Mr. Mitchell's guide, as he explains elsewhere, has been "the ancient common law guide of the 'reasonable man' whom our forefathers established as the enlightened compromiser in a pluralistic society."[12] Hence, the constitutional position of the Justice Department has been, "in general, to negotiate a practical middle-of-the-road solution."[13] But the Constitution does not always straddle dead center, and its compromises are not always dictated by a utilitarian calculus. The general thesis of this Article is that the Constitution mandates more than Mr. Mitchell's willingness to take certain individual interests into account when striking a pragmatic balance among the conflicting goals and values; that the basic function of constitutional limitations is to set constraints of moral principle upon the extent to which society may pursue collective aims at the expense of unwilling individuals; that the President's proposal violates several such constraints; and that the acceptance of the proposal, particularly in terms of the defense offered by the Attorney General, would undermine the role of the Constitution as an embodiment of principled restraints on Government.

THE ADMINISTRATION'S PROPOSAL AND BASIC CONCEPTS OF CRIMINAL JUSTICE

Throughout history, governments have been tempted to establish order by identifying and imprisoning in advance all likely troublemakers. Our society, however, has made the basic decision not to entrust such sweeping power to the state. We have relied instead upon the moral and deterrent effects of laws which define particular acts as criminal and which punish all who violate their proscriptions. For those believed dangerously ill and hence incapable of controlling their behavior in response to this system of deterrents, we have devised programs of civil commitment. For the rest, we have relied on the threat of sanctions. Recognizing that this threat will not deter all those who can control their behavior, we have accepted some risk of crime as the inevitable price of a system that promises to punish no man until it is shown beyond a reasonable doubt that he has committed a specific illegal act.

At the same time, we have realized that a deterrent system cannot function at all unless society can successfully prosecute lawbreakers. Hence we have traditionally detained individuals likely to flee or otherwise avoid prosecution. This limited form of pretral detention is considered essential to the preservation of a system that seeks to control crime by threatening subsequent punish-

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ment rather than by imposing prior imprisonment. It does not, however, provide precedent for the proposed legislation. On the contrary, detention to insure prosecution for a past crime is the antithesis of detention to prevent the commission of a future crime.

The Attorney General denies that the President's proposal represents so sharp a break from our legal traditions. He argues that there is ample precedent for imprisoning unconvicted citizens to prevent future offenses.[14] To support his thesis, he repeatedly stresses that alleged capital offenders have traditionally been denied pretrial liberty.[15] Expressing an opinion shared by others,[16] the Attorney General claims that such defedants have ordinarily been subjected to pretrial detention because of their "anticipated danger to other persons or the community."[17] Mr. Mitchell offers no evidence, however, to support his contention. The most plausible explanation for pretrial detention of alleged capital offenders is the assumption that few men facing the death penalty can be trusted to appear for trial.[18] As the Attorney General himself points out, "[t]he common law . . . imposed capital punishment for most felonies,"[19] not simply those indicating particularly dangerous tendencies. It is doubtful that very many people, even in the eighteenth century, thought that persons charged with larceny of goods valued at over $50 or forging United States currency were too dangerous to release into the community before trial. Yet under the Federal Crimes Act of 1790,[20] both of those offenses were punishable by death and hence nonbailable. Furthermore, the same treatment was applicable in a number of states to such offenses as horse theft[21] and sodomy.[22]

The classic capital offense, premeditated murder, may provide the strongest refutation of the Attorney General's thesis. Having argued early in his article that alleged capital offenders are routinely detained pending trial "because of danger to the community,"[23] Mr. Mitchell later observes that "most persons who are charged with [premeditated murder] murder family members or paramours and therefore are the least likely of all offenders to be recidivists."[24] Precisely. There could be no better proof that fear of flight, not assumed dangerousness, accounts for the exceptional treatment of persons awaiting trial on capital charges.

As another justification for pretrial detention, the Attorney General emphasizes the fact that civil commitment has been widely authorized for sexual psychopaths, narcotics addicts, chronic alcoholics, and other mentally disturbed persons, in part to prevent future behavior dangerous to the community.[25] To the limited extent that medical science furnishes techniques capable of objectively ascertaining the presence of dangerously incapacitating illness,[26] these precedents are obviously inapposite to the Attorney General's position, for neither a comparable body of knowledge nor a comparable technology of prediction is yet available for dealing with criminal behavior generally.

In addition to its role as a predictive device, the requirement of a medically identifiable affliction raises another, more fundamental objection to the Attorney General's thesis. Mr. Mitchell notes that several decades ago the Supreme Court sustained a state sexual psychopath statute authorizing commitment of persons "likely to attack or otherwise inflict injury" on others.[27] In sustaining that law, however, the Court carefully observed that the statute required the existence of a condition that rendered the individual wholly unable to control his impulses.[28] There is a striking difference between the involuntary confinement of an individual who is considered dangerous for reasons beyond his control and the involuntary confinement of one who is thought to be capable of conforming his conduct to the requirements of law but is suspected of being unwilling to do so. The Administration's proposal goes beyond involuntary detention of the uncontrollably dangerous and would imprison persons presumptively able to choose between violating and obeying the proscriptions of the criminal law. To imprison such persons on the assumption that they will make the wrong choice impairs personal autonomy in a way that incarceration of the dangerously ill does not. More importantly, since our jurisprudence proceeds on the normative premise that certain cases of antisocial conduct result from morally culpable choices,[29] the preventive detention of an individual believed capable of conforming to society's demands entails a peculiarly offensive anticipatory condemnation. For if such an individual were released, and if he were to engage in the behavior predicted, he would be confined not as a sick man but as the author of a morally reprehensible act. To imprison a man because he might choose to break society's rules is to condemn and therefore punish[30] him for nothing more than his supposed intentions—something for which civil commitment, at least, furnishes no model.

Thus, although the desire to prevent future offenses obviously informs much of our law,[31] there are important respects in which the Administration's proposal goes beyond any of the precedents cited in its support. The crucial question is whether, in so doing, it goes beyond what the Constitution allows.

THE DUE PROCESS CHALLENGE

Any assessment of the constitutional validity of pretrial detention that is designed to prevent anticipated crimes must confront the due process challenge to such confinement. Since the Petition of Right of 1628,[32] it has been clear that the promise of the Magna Charta "that no man . . . shall be . . . taken nor imprisoned . . . without being brought in answer by due process of law."[33] applies to imprisonment before, as well as after conviction.[34]

Application of the Attorney General's test

Even under the Attorney General's conception of due process as no more than a mandate for reasonable compromise, it is difficult to regard the proposed legislation as a serious effort to balance the interests of the accused with the claims of society. Mr. Mitchell concedes that due process requires "value judgments . . . concerning the degree of harm to be anticipated from particular categories of defendants."[35] Surely he is correct—yet the President's proposal says absolutely nothing about the sort of harm the defendant must be found likely to commit before he can be imprisoned pending trial. Once it is predicted that "on condition or combination of conditions of release will reasonably assure the safety of any other person or the community,"[36] confinement is authorized so long as the accused falls into any detainable category. Under this standard, the fear of political disruptions[37] or of trivial property offenses may be deemed sufficiently threatening to warrant preventive imprisonment. No tenable concept of due process could condone a balance that gives so little weight to the accused's interest in pretrial liberty.

Moreover, even the Attorney General's notion of due process as the embodiment of enlightened compromise concedes the critical importance of minimizing "the chance that an innocent defendant who is not dangerous will be detained."[38] Yet the proposed legislation's safeguards of reliability are more illusory than real.[39] Although the proposal purports to reduce the risk of preventive detention based on a groundless accusation by providing that the judge must first find "a substantial probability that the person committed the offense [charged],"[40] it imposes no such requirement when the accused is claimed to have attempted to threaten, injure, or intimidate any prospective witness or juror.[41] In no case would the proposal require that an indictment be returned prior to the decision to detain, or that the judge find conviction to be likely. Particularly in light of the long tradition of judicial deference to prosecutorial discretion at the charging stage, requiring a judicial finding of a "substantial probability" of guilt is unlikely to provide any real protection for the individual who finds himself unjustly accused. Indeed, such a finding might well be detrimental to him, for it would induce the public to perceive his pretrial incarceration as "beginning what is in substance a mandate of punishment."[42]

Even if a defendant is certain to be convicted, this certainty does not imply ipso facto that he is likely to constitute a danger to the community if released. In obvious recognition of the inability to predict with even the slightest confidence which defendants would pose such a threat, the Administration's proposal does not attempt to deal with every defendant, but focuses instead on selected categories of defendants considered especially high risks because of their prior records or present charges. Of course, there would be a tendency to resolve doubts within these categories in favor of detention, in part because judges could thereby make fewer demonstrable mistakes, and in part because it would be extraordinarily difficult to make predictive distinctions among persons with similar records and charges. Indeed, it has been noted that "nothing in the D.C. statistics or any others now available indicate [*sic*] that those defendants who did commit crimes while released were distinguishable beforehand from other defendants who had similar records and charges but who did not commit crimes while released."[43] Nor does an examination of the categories created by the proposed legislation yield much basis for confidence.

The President's proposal would make it possible to detain any person charged with "a crime of violence" who is a narcotics addict,[44] or who is alleged to have committed his offense while he "was, with respect to another crime of violence, on bail or other relase,"[45] or who "has been convicted of a crime of violence within the ten-year period immediately preceding the alleged crime of violence for which he is presently charged."[46]

But the proposed law fails to require any finding concerning the strength of the evidence on the prior charge in the case of an offense alleged to have been committed while on bail, and it includes as "crimes of violence" such offenses as "attempting to take immoral, improper, or indecent liberties" with a person under sixteen, all attempted robberies, and "assault with intent to commit any offense."[47] Thus, a person convicted of indecent exposure in 1960 and charged with purse-snatching in 1970 is among the President's "hard-core recidivists."

And the proposal is not limited to recidivists alone. It also provides that a defendant never before charged or convicted of any offense may be detained if the present charge is for a "dangerous crime,"[48] a category including such offenses as "attempting to take property from another by . . . threat of force," "unlawfully . . . attempting to enter any [dwelling or place of business] with the intent to commit an offense therein," "attempting to take immoral, improper, or indecent liberties" with a person under sixteen, and unlawfully selling "a narcotic or depressant or stimulant drug."[49]

Those who wonder why a first offender in such cases should be deemed particularly threatening are assured by Mr. Mitchell that the lack of a criminal record in these categories probably signifies that the accused managed to elude apprehension during his earlier ventures into crime.[50] One is reminded of General DeWitt's remarkable argument that the subversive threat posed by Ameri-

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cans of Japanese descent on the West Coast after Pearl Harbor was confirmed by the sinister absence of any overtly subversive activities in that area.[51] One might also recall the King's reply to the Knave in *Wonderland* who, denying that he had written a certain document, pointed to the absence of any "name signed at the end." "If you didn't sign it," the King answered, "that only makes the matter worse. You *must* have meant some mischief, or else you'd have signed your name like an honest man." [52] Any detention scheme spun on this sort of logic reflects less than a responsible concern for minimizing the incidence of erroneous imprisonment.

Finally, the proposed legislation fails to satisfy the last criterion that the Attorney General concedes is implicit in due process: It does not "minimize, as far as practicable, the burdens of pretrial detention." [53] Those burdens not only include deprivation of liberty, but they also encompass the diminished ability to prepare one's defense, the public stigma of having been found too dangerous to release (a stigma that could itself prejudice subsequent proceedings) and, more often than not, severe economic hardships for the accused and his family.[54] Although the proposal allows private consultation between the accused and his counsel [55] and permits the temporary release of the accused to prepare his defense, it does so only "for good cause shown" and "in the custody of . . . [an] appropriate person." [56] These limitations could easily be applied to frustrate the defendant's ability to seek out witnesses unhampered by the presence of a conspicuous federal agent and unconditioned by the required disclosure of defense strategy.

The proposal suggests that persons preventively detained might be confined "in facilities separate from convicted persons," but it does not guarantee such treatment and simply indicates that separate facilities will be employed "to the extent practicable." [57] And, although an existing statute allows defendants to credit their period of pretrial detention towards service of their sentences if they are convicted,[58] the proposed act does not provide for the compensation of unjustly detained defendants who are ultimately acquitted. If the Government were truly concerned with striking a fair balance between costs to the accused and benefits to the community, one would expect at least some recognition of the need to pay for an erroneous deprivation of liberty, not only to redress the wrong done, but also to discourage excessive use of the preventive scheme.[59]

In sum, even the Attorney General's utilitarian concept of due process demands significantly more than the President's legislation provides—more care to tailor the instances of preventive confinement to the specific kinds of danger anticipated, more assurance that neither innocent nor harmless persons will be detained, and more effort to mitigate the burdens of imprisonment for those who are eventually acquitted as well as those who, are ultimately convicted.

Suppose, then, that after appropriate study and experimentation the proposed legislation were markedly improved in these deficient areas. The Administration might then contend that it had finally struck a constitutionally acceptable balance between the personal costs and social benefits of its proposal. At that juncture, it would be necessary to ask a more fundamental question: Does due process permit the *kind* of balancing on which event a greatly improved system of pretrial preventive detention would have to rest?

Analysis of the Attorney General's view of due process

The Attorney General's affirmative reply to the question just posed is premised on the view that, considering the nature of the harms prevented and the extent of the hardship inflicted, due process requires only an acceptably low ratio of erroneous to correct confinements. At first, this position may not seem controversial. Indeed, scholars sensitive to questions of personal liberty have taken a similar approach in assessing the justifiability of preventive detention. For example, Professor Alan Dershowitz recently framed the issue in terms of "how many defendants we should be willing to confine erroneously in order to prevent how many acts of violence." [60]

Implicit in this formulation, however, is the assumption that the answer will be something more than zero. After all, Mr. Mitchell argues, "due process of law requires fundamental fairness, not perfect accuracy." [61] And Professor Dershowitz points out that even when "we establish rules for convicting the guilty, we do not require certainty; we only require that guilt be proved 'beyond a reasonable doubt.' " [62] This may suggest that society is "willing to tolerate the conviction of some innocent suspects in order to assure the confinement of a vastly larger number of guilty criminals." [63] The obvious corollary is that society should be willing to tolerate the preventive imprisonment of some innocent individuals in order to avoid the occurrence of an appropriately larger number of violent offenses.

But in precisely what sense does our society willingly tolerate the conviction of innocent individuals in order to confine the guilty? When we say "better that ten (or a hundred) guilty men go free than that one innocent man be condemned," do we thereby suggest that we would countenance the deliberate conviction of one innocent man to prevent the erroneous acquittal of twenty (or two hundred) guilty ones? Surely these celebrated formulas [64] do not mean that society may knowingly sacrifice innocent men so long as the terms of the trade are sufficiently favorable to the community as a whole. These aphorisms speak in the language of ratios, but we mistake their significance if we understand them to deny the fundamental postulate that deliberately to punish a man of whose guilt we feel unsure is wrong. Whatever the resulting social gain, such action is morally and constitutionally reprehensible. Given a system known to contain imperfections, there is a qualitative difference between the outcome of erroneously convicting a man when the trier has been fully convinced of his guilt and the outcome of erroneously convicting a man when the trier has reason to believe that he may be innocent. In the first of these situations, the trier is not called upon to make an explicit decision to risk morally condemning and punishing an innocent man. In the second situation such a decision is required, it cannot be made without greatly undermining society's commitment to the dignity of the individual as an end in himself.[65]

Thus one cannot adequately describe the characteristics of a criminal process by comparing its frequency of erroneous imprisonments to its frequency of erroneous releases. Indeed, of several possible systems of criminal justice, the one that yields the fewest erroneous confinements might still be the most unjust: if its errors were to reflect deliberate decisions to ignore doubts as to guilt, the system would be no more tolerable than if those errors reflect a systematic bias against racial or political minorities. The final balance sheet obviously matters, but the *process* by which it is achieved matters more. Indeed, the very enterprise of formulating a tolerable ratio of false convictions to false acquittals puts an explicit price on an innocent man's liberty and defeats the concept of a human person as an entity with claims that cannot be extinguished, however great the payoff to society.[66]

This argument does not imply that we do or should insist on absolute certainty; we properly instruct juries to convict if they believe that guilt has been established "beyond a reasonable doubt" rather than "beyond all doubt." We do so, however, only because total certainty is incompatible with the human condition, and we do not wish to immobilize the system by demanding the impossible.[67] Thus, guilt beyond a reasonable doubt represents not a lawyer's fumbling substitute for a specific percentage, but a standard that seeks to come as close to certainty as human knowledge allows—one that refuses to take a deliberate risk of punishing any innocent man.

The first time it was squarely confronted with the issue,[68] the Supreme Court explicitly held that "the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." [69] The Court reached this conclusion in a juvenile case that resembled preventive detention in that the state had denominated the proceeding civil rather than criminal and had not conceived its design as inflicting punishment. The Court insisted that, these factors notwithstanding, "a society that values the good name and freedom of every individual should not condemn a man for commisison of a crime when there is reasonable doubt about his guilt." [70] The Court found it critical that people not be left "in doubt whether innocent men are being condemned," in part because such doubt would dilute "the moral force of the criminal law" and in part because it would impair the confidence of "every individual going about his ordinary affairs . . . that his government cannot adjudge him . . . a criminal . . . without convincing a proper factfinder of his guilt with utmost certainty." [71] The Court evidently recognized that it would be incompative with these purposes to treat the reasonable doubt standard as a mere probabilistic device to assure a sufficiently low frequency of erroneous convictions, for it expressly rejected any concept of reasonable doubt that would call for an "abstract weighing of the evidence" [72] without regard to its effect in bringing the trier of fact to a "subjective state of certitude on the facts in issue." [73] If due process stood for less than this demand for "moral certainty," [74] there would be no stopping point to the principle of sacrificing innocent individuals and the basic security conferred by a system that promises never to punish in the face of real doubt would be irreparably eroded.

Yet the President's proposal, however carefully administered and imaginatively refined, would inevitably imprison a significant number of innocent individuals who would, if released before trial, have been completely harmless. Indeed, in *every* case, a substantial risk of erroneous condemnation would be inescapably clear to those with authority to confine the accused. Their only uncertainty would be precisely how often this risk would result in mistaken punishment. Part of the uncertainty would be resolved by the system's operation; society would witness the ultimate acquittals of men who had been wrongly imprisoned for weeks or months before they could finally establish their innocence at trial. A significant part of the uncertainty would remain unresolved, however, for no one could ever feel wholly satisfied that even those detained men who were eventually convicted had not been imprisoned before trial on the basis of erroneous predictions of futurecriminality. A dip in the crime rate cannot justify such calculated and obvious injustice. To institute a scheme that condemns and incarcerates unconvicted defendants in order to prevent unspecified crimes, in the face of what will inevitably be a grave doubt *in each case*, is to approve the proposition that deliberately risking the punish-

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ment of some individuals who have committed no offense, and would commit none even if released, is an acceptable means to the end of reducing crime. Due process of law should not tolerate that compromise.

Individualized criminality

Apart from the statute's calculated sacrifice of innocent individuals, the factual determinations involved in pretrial detention raise other preplexing questions under the due process clause. These determinations at first appear to treat the suspect more as a member of a class than as a unique person. To be detained, the accused must be found representative of a particularly recidivous category, inevitably defined in such terms as prior record, present charge, economic status or educational level. As Professor Ronald Dworkin has stated: "The prediction . . . must be actuarial, like the prediction an insurance company makes about the likelihood of teenagers to have automobile accidents." [75] Professor Dworkin's conclusion is that pretrial preventive detention is necessarily unjust; it is wrong "to put someone in jail on the basis of a judgment about a class, however accurate, because that denies his claim to respect and treatment as an individual." [76]

At first, this position appears to be an attractive one, deeply consonant with the values of personal dignity and individual worth. On closer analysis, however, it becomes clear that Professor Dworkin's argument is untenable in the form stated here, for the peculiar and paradoxical vice of preventive detention is that it treats the suspect too *much* as an individual, and not *enough* as a member of a class.

The broad principle that it is wrong to treat persons collectively rather than as unique individuals cannot be maintained. No legal system could function without often disregarding individual distinctions; no injustice inheres in treating a person in some contexts as a nonresident, in others as a teenage driver, in still others as a male employee, disregarding in each instance all those personal characteristics which are reasonably deemed irrelevant to the law's purpose. Even in the criminal law, with moral condemnation at stake, we almost always treat people as members of groups, deliberately disregarding many, if not most, of their unique characteristics as individuals. We decide, for example, that most persons who attempt robbery unsuccessfully are so likely to pose a continued threat that all persons in this category should be regarded as criminals,[77] although some undoubtedly would pose no threat at all. We decide that so many of the persons who possess burglar's tools are likely to make antisocial use of them that possession itself should be a crime,[78] although we thereby treat the well-meaning possessor as a member of a class whose features he does not wholly share. And we adopt laws that penalize repeaters more heavily than first offenders [79] on the basis of certain assumptions about the characteristics of recidivists as a class, assumptions that might prove false as applied to particular individuals.

Some will protest that, when we find a man guilty of a crime, we at least make an additional "judgment entirely about what [that] particular person did," [80] a judgment different in kind from the preliminary legislative conclusion about the class of people who engage in the proscribed category of conduct. But this final judgment typically represents little more than an effort to determine whether the facts make the person charged a member of the class punishable by law—something the Administration's proposal does as well.[81]

Additionally, we often base sentencing judgments on information about how the class of people who share the defendant's prior record and general background are likely to behave. But sentencing is instructive for another reason, for the decision of how to treat a person already convicted of a criminal offense is one that we frequently attempt to personalize by taking into account all we know about the individual.[82] Yet one must not conclude too quickly that such attempts reflect a general ideal of personalized treatment. There is a world of difference between making the *punishment* fit the criminal in this way and making the *crime* fit the criminal by fully personalizing the grounds on which we decide whether to regard a man as an offender in the first instance.

Nevertheless, Professor Dworkin is right when he says that a criminal conviction traditionally entails "a judgment entirely about what a particular person did." [83] Stressing the word "did" rather than the word "particular" reveals the heart of a major objection to preventive justice of the sort advocated by the President and Mr. Mitchell. Because imprisonment on grounds of dangerousness is predicated on a finding about the sort of person the defendant *is* rather than a finding about the sort of thing he has *done*, it has all the vices inherent in a law that makes the crime fit the criminal—a law that is too personal in application to meet the fundamental requirement that punishment may be inflicted only if it has been made clear in advance precisely what one must do to trigger its imposition and precisely how one can avoid doing so.

Problems of proof

To every man, the suggested system of preventive detention makes this threat: Even if you have never before been charged or convicted of any offense, you may be jailed for sixty days [84] as a criminal menace to public safety simply because a judge finds a "substantial probability" [85] that you have committed any of nine "dangerous crimes" [86] and finds that "no . . . conditions of release will reasonably assure the safety of any other person or the community." [87] If at the end of sixty days you are not ready to present your defense, your confinement will last as long as you find it necessary to delay your trial.[88] If you are tried and acquitted, you may be subject to the same process again on a new charge.[89] And if you have been convicted of any of fifteen "crimes of violence" at any time in the past decade, your liability to such incarceration becomes broader still.[90]

The real vice of the accusation of dangerousness underlying this proposed statutory scheme is not that it looks to the future but that its content is so amorphous. Imagine again the impact on the accused. He is told: There is a substantial probability that you have committed a crime and that your release would endanger the community in some unspecified way. We know you can control your behavior, for we are about to try you as a criminal, but we do not trust you to refrain from crime. How could the accused possibly respond? Would he not feel, with Kafka's bewildered hero in *The Trial*, that the completion of a responsive "plea was a sheer impossibility?" [91] For the accused to meet this open-ended and ultimately personalized sort of "accusation . . . the whole of [his] life would have to be recalled to mind, down to the smallest actions and accidents, clearly formulated and examined from every angle." [92]

Mr. Mitchell contends that "[t]he burden of proof of dangerousness would, of course, rest upon the Government." [93] The proposed statute, however, says no such thing, and even if it did the words would be meaningless. Once the Government shows that the accused may well be guilty of the pending charge and has previously been charged with a similar crime, it has made a plausible case for suspecting possible danger. The burden will, for all practical purposes, shift to the accused, who will be able to offer nothing more than general assurances of his own good intentions. If those assurances are believed and the accused released, the manner is forgotten unless he is implicated in a future crime. But if the accusation of dangerousness is accepted and the accused detained, he can never fully establish that it would in fact have been safe to release him, even if he is later acquitted. Any law that places defendants in so hopeless a procedural posture while holding out the promise that they can somehow win their freedom seems inconsistent with due process.

Punishment of status

The consequences of the proposed law outside the courtroom raise even more fundamental objections. The proposed statute would undercut each man's control over his own fate and substitute the oppressive control of discretionary authority, for every man would have cause to fear that he might be labeled a likely criminal and imprisoned for at least two months for reasons ultimately beyond his control. Although one who is willing to obey society's commands can so order his life as to be virtually certain that he will never be found guilty beyond a reasonabe doubt of any specific criminal act, a man cannot possibly achieve the same measure of assurance that no judge will ever find a "substantial probability" that he has committed an offense, and no man can so pattern his conduct as to feel secure that he will never be thought to pose a danger to "any other person or the community."

If the proposed statute required clear and convincing evidence that the potential detainee would commit a specific crime involving a specified victim, accusations under it would be easier to meet, and its impact on primary conduct would be less oppressive. Presumably such evidence would have to include repeated attempts or explicit threats; most men can conduct their lives so as to prevent such evidence from arising.[94] But cases in which the likely commission of a specified crime can be demonstrated are rare in the extreme and represent a miniscule fraction of the situations to which the Administration's proposal would apply. Typically, the only charge would be that the defendant seems to have committed a crime and is probably too dangerous to release.

A world in which any man, through his own misstep or another's malice, could find himself entangled in a degrading trial and ultimately imprisoned as a criminal would be intolerable. For precisely that reason, we insist upon limiting the criminal law to enforceable rules about the specific conduct in which men may or may not engage rather that confining all persons with criminal propensities before their deeds are done.[95] The Administration's proposal departs from this tradition by permitting punishment to be triggered by circumstances other than convincing proof of conduct whose criminal consequences the actor could have known.

In a variety of settings, the Supreme Court has found constitutional infirmities in laws sharing this basic vice. In *Robinson v. California*,[96] for example, the Court held it cruel and unusual punishment violative of the eighth amendment and the due process clause of the fourteenth amendment for a state to make it a crime to be a narcotics addict. The majority opinion discussed the inhumanity of treating the sick as criminals,[97] but the soundest explanation of the result is the proposition that "the criminal law ought to be presented to the citizen in such a form that he can mold his conduct by it, that he can, in short, obey it." [98] Due process forbids punishment that one has no assured way to avoid.

In *Lanzetta v. New Jersey*,[99] the Supreme Court overturned a law condemning as a criminal "[a]ny person not engaged in any

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lawful occupation, known to be a member of any gang consisting of two or more persons, who have been convicted at least three times of being a disorderly person, or who has been convicted of any crime in this or in any other State."[100] Noting that "[a]ll are entitled to be informed as to what the State commands or forbids,"[101] and that the challenged provision condemned no clearly defined act or omission, the Court concluded that conviction under the law could not be squared with the due process clause.[102] Again, the principle underlying the result is that a man should be condemned only for specific actions the criminal consequences of which he could have predicted.

It is important to recall that the proposed system of pretrial preventive detention would inflict punishment rather than merely impose a restraint, for it would imprison persons on the basis of a finding that, if given the opportunity, they would make a morally culpable choice to commit a crime.[103] Because the system would inflict such punishment on persons who could not have avoided it by conforming their conduct to laws clearly promulgated in advance, that system would deprive defendants of liberty without due process of law.

EIGHTH AMENDMENT

The preceding arguments need not invalidate the Government's right to detain a defendant on the basis of persuasive reasons to believe that, if released, he would frustrate the proceedings against him by fleeing, destroying evidence or intimidating witnesses or jurors. So long as the Government's fears relate to a particular anticipated event and are based upon highly specific evidence, a prediction of such activities would be analogous to a highly particularized claim that the defendant threatens to commit a specific crime.[104] However, courts have long inferred at least the risk of flight from evidence substantially less specific than is contemplated here,[105] and the question arises whether their having done so can be squared with the due process argument of the preceding section.

To some extent, the detention of a person as likely to flee or otherwise interfere with the proceedings against him entails far less a moral condemnation than a recognition of human frailty. Several years ago the Supreme Court employed an analogous rationale to distinguish a law prohibiting Communists from holding union office from conflict-of-interest statutes, reasoning that the latter, insofar as they expressed condemnation of anyone, condemned all men.[106] If this argument were truly persuasive, it might be used to justify detention to prevent flight or interference on the theory that such detention resembles civil commitment more than criminal punishment. By making bail-jumping or witness-intimidation a crime, however, we express the ultimate judgment that the accused is to be blamed if he chooses to frustrate the government's efforts to prosecute him. To that extent, the practice of pretrial detention to prevent flight or other interference in the absence of highly particularized evidence appears in conflict with the principles so far explored.

A partial reconcilation may be possible if one looks beyond due process to the one constitutional provision explicitly concerned with the problem of pretrial liberty—the excessive bail clause of the eighth amendment.[107] Operating in part to qualify and in part to amplify the general demands of due process, the constitutional prohibition against excessive bail points the way to a rounded doctrine of permissible and forbidden restraints between arrest and trial.

The eighth amendment's reference to bail implies a constitutional recognition of the Government's special interest in securing the presence of the accused at trial.[108] That interest has always been thought to justify the denial of bail in capital cases on the theory that persons on trial for their lives are under such pressure to flee that no further evidence of their likelihood to do so is necessary.[109] To the extent that the excessive bail clause imported this historic assumption into the eighth amendment, persons charged with capital offenses may be entitled to a less particularized showing of probable flight than other defendants may claim as a matter of due process.

For purposes of this Article, however, the central problem is expressed by the converse question: To what extent, if at all, does the excessive bail clause impose limits *beyond* those of due process on the exercise of governmental authority to detain non-capital defendants in order to prevent crimes between arrest and trial? The language of the eighth amendment is not particularly informative in this regard. The relevant part provides simply that "excessive bail shall not be required." Furthermore, the history of its adoption is not in the least illuminating. We know only that one Congressman found the proposed text curiously opaque: "The clause seems to express a great deal of humanity, on which account I have no objection to it; but as it seems to have no meaning in it, I do not think it necessary. What is meant by the terms excessive bail? Who are to be the judges?[110] Beyond these forty-nine words, the proceedings of the First Congress record no discussion of the excessive bail clause. The same Congress enacted a statutory right to bail in non-capital cases,[111] but again no debate is recorded in either chamber.

The statutory right to bail and the constitutional prohibition against excessiveness seem to represent the culmination of two distinct lines of evolution. The statutory right may be traced through the Northwest Ordinance of 1787[112] to the Massachusetts Body of Liberties of 1641;[113] the constitutional prohibition is traceable through the Virginia Declaration of Rights of 1776[114] to the English Bill of Rights of 1689.[115] Why these two strands of history failed to converge in the First Congress remains something of a mystery.[116]

Given the murkiness of the constitutional text and its origins, it is not surprising that several distinct interpretations of the provision should have evolved. One view has been that the prohibition against excessive bail implies an underlying right to be admitted to bail in all cases, or at least all non-capital cases.[117] The principal competing view has been that the prohibition simply limits judicial abuse of the power to set bail in those cases where Congress has authorized that it be set.[118] Mr. Mitchell argues that "[w]hile the first of these two interpretations would prohibit pretrial detention of criminal defendants, the second would not."[119] But there remains a third possibility, more plausible than either of these. Before that possibility can be explored,[120] it is necessary to look more closely at Mr. Mitchell's argument.

Noting that persons charged with a wide variety of offenses were not entitled to release on bail under applicable state or federal laws when the eighth amendment was adopted, the Attorney General properly concludes that the excessive bail clause cannot be read to imply an absolute right to pretrial release for all defendants.[121] This conclusion implies only that some governmental interests may justify the denial of pretrial liberty, and leaves open the question of which interests have this character. It is plainly a *non sequitur* to conclude, as does the Attorney General,[122] that the excessive bail clause leaves Congress entirely free to establish the circumstances under which pretrial release may be withheld. Under Mr. Mitchell's view, the excessive bail clause may be invoked by a defendant whose pretrial detention Congress has forbidden, and who claims that a judge is thwarting Congress' will by detaining him, but not by one whose pretrial detention Congress has required, and who claims that Congress has no valid reason to deprive him of his liberty. It makes functional sense to give the clause this meaning, for the interests at stake, both the government's and the individual's, are identical whether a legislature or a court has made the basic decision resulting in the defendant's pretrial imprisonment. Moreover, this reading would render the excessive bail clause superfluous, since the due process clause standing alone would forbid the judicial imprisonment of a man specifically entitled to release under the congressional "law of the land." Furthermore, although an unlimited legislative power to define the boundaries of the citizen's rights may be consistent enough with the English theory of civil liberties,[123] in which Parliament is the ultimate authority, such power would be totally inconsistent with a Bill of Rights concerned almost exclusively with curtailing the powers of Congress. Finally, the other clauses of the eighth amendment, those prohibiting cruel and unusual punishments and excessive fines, have traditionally been construed as limitations on legislative abuse.[124] In the absence of any historical or functional reason to construe it otherwise, the excessive bail clause should be interpreted to limit the circumstances in which pretrial liberty may be denied, by whatever branch of government.

Such an interpretation permits one to focus immediately upon what must, under any view of the clause, be the central inquiry: Precisely what limits should the excessive bail clause impose on governmental power to incarcerate a man between arrest and trial? To answer that question, the Attorney General turns to English and colonial history, observes that persons charged with certain felonies were not admitted to release on bail at the end of the eighteenth century,[125] asserts without proof that the non-bailable offenses were "those which posed a substantial danger of injury or death to others,"[126] and concludes that "anticipated danger to other persons or the community was a substantial motivating factor in legislative decisions to make bail unavailable to certain classes of dangerous offenders."[127] Just as the Attorney General's parallel argument with respect to capital offenses proved to be lacking in historical support,[128] the view here quoted finds support neither in the historical materials cited by the Attorney General nor in any others thus far examined.

The most comprehensive compilation of the statutory and case law on the English bail system in the late eighteenth century nowhere suggests that fear of danger to the community before trial motivated the distinctions typically made between bailable and non-bailable offenses.[129] On the contrary, the underlying assumpton seems to have been that certain classes of offenders, particularly those whose lives were at stake, ought to be detained simply to assure their presence at trial.[130] Pretrial release was more readily denied during this periods in cases of particularly heinous crimes,[131] but the reason, apart from the fact that such offenses carried heavier penalties and therefore involved a greater temptation to flee, was the fear that persons guilty of especially atrocious offenses might well be killed before they could appear for trial.[132]

Nor do the more ancient origins of the bill system support the hypothesis that pretrial detention was employed to protect the community from repeated crimes. The institution of requiring financial security of criminal defendants awaiting trial derives in part from

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a system of private contractual arrangements designed to assure that the victim's relatives would receive payment (wergeld),[133] and in part from a network of collective agreements whereby members of a community undertook to arrest any of their number who broke the law (frankpledge) and to secure the presence of such violators at trial (bail surety).[134] Nothing in this older history indicates a concern to prevent lawbreakers from causing further harm, as distinct from the desire to asure that they be brought to justice. On the contrary, even offenders who could not be bailed by local authority could be, and often were, released by order of the King when it was thought that private sureties would be more likely than the frequently corrupt local sheriffs to produce the accused for trial.[135]

The absence of any explicit reference to the fear of pretrial misconduct between the 13th and 18th centuries can hardly reflect an oversight. A fourteenth century English statute,[136] absorbed into the common law of the colonies and now reflected in many state statutes,[137] authorized judges to require, of all persons whose past behavior gave just reason to fear future misconduct, a secured pledge (peace bond) that they would behave lawfully. If the pledge was broken, the bond would be forfeited to the King, and if the required security was provided, the person could not be imprisoned. Given the availability of this explicit method of deterring misconduct, the conspicuous absence of any similar concern in the contemporaneous materials dealing with pretrial detention can only be taken to reflect an assumption that no special measures to prevent crime were thought warranted by the mere pendency of a criminal charge.

The history of bail therefore suggests that, for a substantial period lasting at least until the adoption of the excessive bail clause, the only legitimate function of pretrial incarceration was to provide assurance that the accused could be prosecuted and, if guilty, sentenced. But our incomplete knowledge of the social and legal history of bail, coupled with our ignorance of the expectations of those who wrote the eighth amendment, would make exceedingly hazardous any attempt to deduce from history the appropriate scope of the right conferred by the excessive bail clause.

An examination of the contemporary purposes of the clause would prove more fruitful. The Supreme Court has explored those purposes only one, in *Stack v. Boyle*.[138] The twelve petitioners in that case had been charged with conspiring to violate the Smith Act. Bail had been fixed at $50,000 for each, and they were detained pending trial because they could not raise that amount. Holding that the bail fixed by the district court was excessive under the eighth amendment,[139] the Court began its analysis by noting that the "traditional rights to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction." [140] The Court added that "[u]nless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning." [141] Although the "right to release before trial is conditioned upon the accused's giving adequate assurance that he will stand trial and submit to sentence if found guilty," bail "set at a figure higher than an amount reasonably calculated to fulfill this purpose its 'excessive' under the Eighth Amendment." [142] Because there was not showing that amounts less than $50,000 could not have assured the presence of each accused at trial, the Court remanded the case for a new bail determination proceeding.[143]

Oddly enough, the Attorney General fails even to discuss the holding of *Stack v. Boyle* in his review of the excessive bail clause.[144] Instead he dwells at length on a dictum in *Carlson v. Landon* [145] to the effect that the "Eighth Amendment has not prevented Congress from defining the classes of cases in which bail should be allowed," since the English Bill of Rights Act, from which the eighth amendment provision was adopted, was never thought to provide a right to bail in all cases, but merely to provide "that bail shall not be excessive in those cases where it is proper to grant bail." [146] The word "proper" is sufficiently ambiguous to beg the question involved here, and the bare majority in *Carlson*, in upholding the denial of bail to prevent sabotage by alien Communists pending deportation, indicated that it did not even regard the eighth amendment as clearly applicable to civil proceedings of the sort there involved.[147] Given the majority's emphasis, however misguided, on Congress' special power over resident aliens in cases touching the national security,[148] the opinion's brief remarks cannot be said to determine the reach of the excessive bail clause in criminal cases. Moreover, as Professor Caleb Foote has shown, the majority clearly misunderstood the historical material to which it referred.[149] In any event, a decision denying the claims of Communists during the heyday of the McCarthy era is unlikely to give rise to enduring constitutional doctrine.

In sharp contrast to his extended discussion of *Carlson*, the Attorney General refers to *Stack* only in connection with his mention of the presumption of innocence, dismissing the Court's reliance on that presumption in Stack as "dictum." [150] In Mr. Mitchell's view, that presumption simply has no application to pretrial proceedings; if it did, he reasons, the practices of arrest, presentment and pretrial detention for those found likely to flee, intimidate witnesses or jurors, or otherwise interfere with the trial, would be impermissible. [151] This argument completely ignores the basic rationale underlying the decision in *Stack*. To secure the public interest in preventing certain forms of conduct, we have established a system of sanctions calculated to deter outlawed behavior. That system cannot function at all if the threatened sanctions are not effectively imposed, and various restraints on liberty, from arrest to detention, may at times be needed to provide assurance that a reliable trial can be held. Moreover, society may justly demand this assurance even if the defendant is innocent. Apart from the restraints needed to provide this basic assurance, however, a person awaiting trial has as great a right to liberty as any other citizen. [152]

Viewed in this perspective, the presumption of innocence of which the Supreme Court spoke in *Stack v. Boyle* represents far more than a rule of evidence. It represents a commitment to the proposition that a man who stands accused of crime is no less entitled than his accuser to freedom and respect as an innocent member of the community. Only those deprivations necessary to assure the progress of the proceedings pending against him—deprivations which do not rest on any assumption of guilt—may be squared with this basic postulate of dignity and equality.[153] If a defendant is to be subjected to preventive restraints beyond those necessitated by the pendency of criminal proceedings, they must be restraints to which all citizens are subject. The defendant's special status as an accused must not be allowed to trigger imprisonment that is not needed to effectuate the government's interest in prosecuting him to determine his guilt or innocence.[154]

To this extent, the excessive bail clause imposes more severe restraints on pretrial imprisonment than those imposed by the due process clause alone. Although due process might well permit preventive detention to restrain dangerously ill individuals,[155] or to restrain persons from committing specific crimes in circumstances of reiterated threats or attempts,[156] the prohibition against excessive bail should prevent the state from similarly restraining individuals simply because they are awaiting trial on criminal charges.

Indeed, it is difficult to imagine any governmental interest unrelated to the integrity of pending proceedings that might justify singling out for special disabilities those persons charged with crime. It may be asserted that this group is more likely, as a class, to pose a threat of future criminal behavior. Certainly, however, there are persons not charged with any crime who give every indication of being at least as dangerous as anyone awaiting trial on a pending charge. If two men appear equally likely to commit a violent crime, it is arbitrary to imprison the man who is about to be tried for a past offense while imposing no restraint on the man who is not facing trial. Nor is it easy to explain why a man subjected to preventive confinement before trial should suddenly become immune to such detention upon acquittal. When a preventively detained defendant has been acquitted, either because critical evidence against him was ruled inadmissible, or because the jury failed to agree or found a reasonable doubt as to his guilt, the grounds on which he was imprisoned before trial ordinarily remain unchanged. There may still be a "substantial probability" that he committed the offense charged, and whatever reasons previously existed for thinking him likely to commit a further crime are as valid after trial as before. Yet such a defendant will be released under the Administration's proposal, as of course he must be,[157] because criminal charges are no longer pending against him. A system so organized simply makes no sense. The only bases for detention that can rationally be said to arise with a criminal charge and vanish with an acquittal are those directly related to the demands of judicial administration—a risk of flight, witness or jury intimidation, evidence destruction, or other interference with trial.[158]

There may be other valid reasons for preventive detention, such as convincing evidence that an individual is uncontrollably dangerous, or repeated attempts or threats to perform specific criminal acts. But the uncontrollably dangerous are by hypothesis undeterrable and should not be tried as criminals, whereas those who threaten specific crimes, either verbally or by repeated efforts, present a separate problem unrelated to the pendency of a criminal charge and not requiring the creation of sweeping governmental authority to detain for generalized dangerousness. Persons awaiting trial should not be immune to whatever lawful procedures may be devised to deal with individuals who clearly threaten specific crimes;[159] but to carve out a special form of imprisonment applicable only to the criminally accused and yet not demanded by the needs of holding a trial is to give the state a wholly unwarranted power over those it chooses to charge with crime, a power that the eighth amendment should be held to forbid.

CONCLUSION

The proposed bill violations the basic principle that an accusation of crime should not subject any man to imprisonment unless the government's need to prosecute him compels incarceration. The bill creates a regime in which no man can be assured that his conduct, however lawful, will protect him from the stigma of imprisonment as a probable criminal. Perplexed by the accusations this bill authorizes, a suspect can never fully prove them false. And whenever the sequel to a successful plea is a further crime, the pressure to expand the system mounts. At every stage of its growth, its calculated sacrifice of innocent defendants

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would be intolerable even if it could promise a significant reduction in crime. The great irony is that Attorney General Mitchell, "the enlightened compromiser in a pluralistic society,"[100] has offered us not even that. He has offered us instead a pound of detention for an ounce of cure.

FOOTNOTES

[1] 27 Cong. Q. Weekly Rep. 238 (Feb. 7, 1969). The proposal passed the House of Representatives on March 19, 1970, 28 Cong. Q. Weekly Rep. 847 (Mar. 27, 1970), as part of the District of Columbia Court Reform and Criminal Procedure Act of 1970, H.R. 16196, 91st Cong., 2d Sess. §§ 23–1321 to 1331 (1970). The text of the proposal appears in Congressional Record, vol. 115, pt. 14, p. 19261. The Senate's D.C. crime bill did not provide for preventive detention, *see* 28 Cong. Q. Weekly Rep. 848, 849 (Mar. 27, 1970), and the bills are now before a conference committee, *see* Wash. Post, Apr. 13, 1970, at 1, col. 3. The Administration is also apparently interested in the proposal of Dr. Arnold Hutschnecker for the identification, compulsory "treatment" and preventive incarceration of children who evidence criminal tendencies. *See* Time, Apr. 20, 1970, at 8.

[2] Mitchell, *Bail Reform and the Constitutionality of Pretrial Detention*, 55 Va. L. Rev. 1223 (1969) [hereinafter cited as Mitchell].

[3] Only 5.9% of all persons indicted in the United States District Court for the District of Columbia in 1968 allegedly committed an offense while on bail awaiting another charge. Judicial Council Committee to Study the Operation of the Bail Reform Act in the District of Columbia, Report 19 (May 1969) [hereinafter cited as Report of the Judicial Council Committee]. Less than 9.2% of all defendants released between arrest and trial through the D.C. Bail Project during the 2½ years of its operation were charged with committing offenses (including the most trivial) during the period of release. Of these charges, 35.4% had been dismissed, nolled, ignored by the grand jury or inadequately proven at trial as of July 1, 1966, leaving a conviction rate of under 6%. Bail Reform in the Nation's Capital: Final Report of the D.C. Bail Project 44 (1966). A study by the District of Columbia Crime Commission found that 7.5% of all persons released while awaiting trial on felony charges were arrested and held for grand jury action for other offenses allegedly committed prior to trial. President's Commission on Crime in the District of Columbia, Report 515 (1966), but only 4.5% of the defendants studied were arrested for crimes of actual or potential violence. *Id.* at 931.

The Attorney General attempts to paint a more serious picture with respect to a single offense by pointing out that "of 557 persons indicted for robbery in 1968 [in the District of Columbia], 70.1 percent of the persons released prior to trial were rearrested while on bail." Mitchell, *supra* note 2, at 1236. The Attorney General fails to note, however, that the report he cites contains, after the quoted figure, a footnote stating that five of its eleven authors found "little probative value in a figure which measures only rearrests without regard to conviction or acquittal. . . ." Report of the Judicial Council Commission, *supra*, at 20 n.2. Moreover, the Administration's proposal does not require any indictment as a prerequisite to preventive detention. Chief Judge Greene of the District of Columbia Court of General Sessions has cautioned that studies that compare (a) the number of persons arrested while on bail to (b) the number of persons originally indicted greatly inflate the relevant ratio, which is that between (a) the number arrested while on bail and (b) the total number *originally arrested. Hearings on Amendments to the Bail Reform Act of 1966 Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary*, 91st Cong., 1st Sess. 42 (1969) (testimony of Chief Judge Harold H. Greene) [hereinafter cited as *1969 Hearings*]. Chief Judge Greene doubted that such a "study really shows anything much beyond what the author . . . was looking for." *Id.*

[4] All the figures cited in note 3, *supra*, could be reduced to less than half their present magnitude, if only the time lag between arrest and trial could be held to under 60 days, quite apart from the further reductions in pretrial crime that could be achieved by closer supervision and additional penalties. *See* Report of the Judical Council Committee, *supra* note 3, at 23; *1969 Hearings, supra* note 3, at 22–23 (testimony of Judge George L. Hart, Jr.); McCarthy, *Practical Results of Bail Reform*, 29 Fed. Probation 10, 12 (Sept. 1965); Note, *Preventive Detention Before Trial*, 79 Harv. L. Rev. 1489, 1508 (1966).

[5] It is widely acknowledged that bail determinations are frequently influenced, however illegitimately, by an unarticulated desire to imprison particular defendants to prevent them from committing crimes before trial. *See, e.g.*, ABA Project on Minimum Standards for Criminal Justice: Standards Relating to Pretrial Release 6 (Tent. Draft, Mar. 1968) [hereinafter cited as ABA Standards Report]; Proceedings of the National Conference on Bail and Criminal Justice 151 (April 1965); Foote, *Compelling Appearance in Court: Administration of Bail in Philadelphia*, 102 U. Pa. L. Rev. 1031, 1083–43 (1954). People v. Melville, 6 Crim. L. Rep. 2442 (N.Y. County Crim. Ct., Mar. 11, 1970), is the only case to recognize preventive detention explicitly as a ground for denial of bail prior to trial. Bringing the *sub rosa* practice to the surface, the court declared that "bail may be denied for two reasons. First, where it is reasonable to assume that the defendant will flee the jurisdiction and avoid trial if admitted to bail. Secondly, if his release on bail poses a threat to the welfare and safety of the community."

Id. at 2443.

The *sub rosa* approach has generated much dissatisfaction, not least because it has enjoyed no conspicuous success in detaining the right individuals. *See, e.g., 1969 Hearings, supra* note 3, at 69–71 (testimony of Bruce D. Beaudin, Director, District of Columbia Bail Agency), comparing the pretrial conduct (pretrial offense rate of 8%) of the defendants released by a judge who gave great weight to the risk of crime in his release decisions, and therefore detained 51% of all defendants, with the pretrial conduct (pretrial offense rate of 9%) of the defendants released by a judge who regarded the risk of future crime as essentially immaterial, and therefore detained under 21% of all defendants.

[6] There is no basis for the assumption that bringing dangerousness to the surface as a criterion for pretrial detention would significantly improve the predictive performance of the judges administering the system. Although dangerousness has always been recognized as a legitimate basis for denying bail on appeal, *see, e.g.*, Carbo v. United States, 82 S. Ct. 662, 666 (Douglas, Circuit Justice, 1962) (dictum); Leigh v. United States, 82 S. Ct. 994, 996 (Warren, Circuit Justice, 1962) (dictum); Hansford v. United States, 353 F. 2d 858 (D.C. Cir. 1965); United States v. Wilson, 257 F. 2d 796 (2d Cir. 1958); 18 U.S.C. § 3148 (Supp. IV, 1969), the fact that the real reasons for detention pending appeal have been candidly exposed and subject to appellate review has not made judicial predictions of dangerousness after conviction any more accurate than such predictions before trial. On the contrary, it appears that judges release a significantly higher percentage of bad risks on appeal, where the recidivism rate for defendants on bail in the District of Columbia is roughly 15%, than they do before trial, where the rate is under 9%. *See 1969 Hearings, supra* note 3, at 81 (testimony of Senator Joseph D. Tydings). A similar phenomenon may be observed in the juvenile field, where a recidivism rate of 11% persists despite an openly recognized judicial authority to detain for dangerousness. *See 1969 Hearings, supra* note 3, at 131 (testimony of Mrs. Patricia M. Wald). Openness and candor may be desirable, but they will not turn judges into prophets.

[7] The apprehensions of these groups were hardly alleviated by the recent decision of District Judge Julius Hoffman to imprison the Chicago Seven pending appeal of their convictions for crossing state lines with intent to incite a riot. Explaining his denial of their motion for bail, Judge Hoffman reasoned that the defendants, if released, might continue the sorts of political activities for which they had been tried, and that the resulting "danger to . . . the community," 18 U.S.C. § 3148 (Supp. IV, 1969), warranted the denial of bail as they pursued their appeals, even though one of the major questions on appeal would be the constitutionality of punishing the very conduct at issue. *But see* Roth v. United States, 77 S. Ct. 17, 19 (Harlan, Circuit Justice, 1956) (when the constitutionality of a statute is at issue, the likelihood that a defendant might continue to violate it if released cannot be used to justify his imprisonment pending appeal); *cf.* Carbo v. United States, 82 St. Ct. 662, 667 (Douglas Circuit Justice, 1962) (dictum). The Seventh Circuit Court of Appeals later reversed Judge Hoffman's ruling, N.Y. Times, Mar. 1, 1970, at 1, col. 5, but the Justice Department's willingness to press Hoffman's position is difficult to ignore in any assessment of how the Administration might employ the power the proposed bill would confer.

[8] See text at notes 71, 95 *infra*.

[9] Mitchell, *supra* note 2, at 1235, 1237.

[10] L. Carroll, Through the Looking Glass 88 (Harper & Bros. ed. 1902).

[11] Mitchell, *supra* note 2, at 1232 (footnote omitted).

[12] Mitchell, *Wiretapping and Pretrial Detention—Balancing the Rights of the Individual with the Rights of Society*, 53 J. Am. Jud. Soc'y 188 (1969).

[13] *Id.*

[14] Mitchell, *supra* note 2, at 1225–30, 1232–36, 1240–41.

[15] *Id.* at 1225, 1227, 1232, 1235–36, 1240.

[16] *See, e.g., 1969 Hearings, supra* note 3, at 86 (testimony of Senator Joseph D. Tydings); Address by Deputy Attorney General Richard G. Kleindienst, "The Case for Pretrial Detention," Mid-Winter Meeting of the American Trial Lawyer's Association, Freeport, Grand Bahama Island, Jan. 30, 1970, at 26; Address by Daniel J. Freed, then Acting Director of the United States Office of Criminal Justice, Institute on the Operation of Pretrial Release Projects, New York City, Oct. 14, 1965.

[17] Mitchell, *supra* note 2, at 1225; *cf.* People v. Melville, 6 Crim. L. Rep. 2442 (N.Y. County Crim. Ct., Mar. 11, 1970).

[18] The underlying motive for denying bail in the prescribed type of capital offenses is to assure the accused's presence at trial. In a choice between hazarding his life before a jury and forfeiting his or his sureties' property, the framers of the *Constitution* obviously reacted to man's undoubted urge to prefer the latter.

State v. Konigsberg, 33 N.J. 367, 373, 164 A.2d 740, 743 (1960).

[19] Mitchell, *supra* note 2, at 1229 (footnote omitted).

[20] Ch. 9, Stat. 112.

[21] Mitchell, *supra* note 2, at 1226 n.17.

[22] *Id.* at 1228–29 n.24.

[23] *Id.* at 1230.

[24] *Id.* at 1236.

[25] *Id.* at 1233–34, 1241.

[26] *See* P. Briggs & R. Wirt, Prediction, Juvenile Delinquency, Research and

Theory 170 (1965); S. Glueck & E. Glueck, Predicting Delinquency and Crime (1959); Wirt & Briggs, *The Efficacy of Ten of the Gluecks' Predictors,* 50 J. Crim. L.C. & P.S. 478 (1960). There is serious skepticism, however, about the ability to predict dangerousness, and sizable empirical data suggest the inadequacy of available techniques. *See* Livermore, Malmquist & Meehl, *On the Justifications for Civil Commitment,* 117 U. Pa. L. Rev. 75, 77 (1968); Sawyer, *Measurement and Prediction, Clinical and Statistical,* 66 Psych. Bull. 178 (1966).

[27] Minnesota *ex rel.* Pearson v. Probate Court, 309 U.S. 270, 273 (1940).

[28] *Id.* See *In re* Williams, 157 F. Supp. 871, 876 (D.D.C.), *aff'd per curiam,* 252 F. 2d 629 (D.C. Cir. 1958), relied on by Goldstein & Katz, *Dangerousness and Mental Illness,* 70 Yale L.J. 225, 237–38 (1960), for the proposition that, as a matter of due process, only an individual's illness can justify a deprivation of liberty predicated on potential dangerousness.

[29] Chief Justice, then Judge, Burger, concurring in Blocker v. United States, 288 F. 2d 853, 865 (D.C. Cir. 1961), expressed the matter thusly:

> "While philosophers, theologians, scientists and lawyers have debated for centuries whether such a thing as "free will" really exists, society and the law have no choice in the matter. We must proceed, until a firm alternative is available, on the scientifically unprovable assumption that human beings make choices in the regulation of their conduct and that they are influenced by society's standards as well as by personal standards."

[30] This Article describes the Administration's proposed treatment of detained defendants as "punishment," for it is the expression of community condemnation rather than any necessarily retributive purpose that characterizes a particular disability as punishment. As the Supreme Court said in striking down Congress' attempt to prohibit Communists from holding union office:

> "It would be archaic to limit the definition of "punishment" to "retribution." Punishment serves several purposes: retributive, rehabilitative, deterrent—and preventive. One of the reasons society imprisons those convicted of crimes is to keep them from inflicting future harm, but that does not make imprisonment any the less punishment."

United States v. Brown, 381 U.S. 437, 458 (1965). *See also* Hart, *The Aims of the Criminal Law,* 23 Law & Contemp. Prob. 401 (1958).

[31] A preventive purpose is evident in the substantive definitions of many offenses "so defined that their commission does not rest on proof of the occurrence of the evil that is the object of the law to prevent." Model Penal Code art. V, Comment 24 (Tent. Draft No. 10, 1960). A similar purpose is at work in criminal legislation penalizing recidivists more heavily than first offenders. *See* Note, *Court Treatment of General Recidivist Statutes,* 48 Colum. L. Rev. 238 (1948). And, as Blackstone put it, "[I]f we consider all . . . punishments in a large and extended view, we shall find them all rather calculated to prevent future crimes than to expiate the past." 4 W. Blackstone, Commentaries *251–52.

[32] 3 Car. 1, c. 1.

[33] Confirmation of Magna Charta, 28 Edw. 3, c. 1 (1354).

[34] The Petition of Rights emerged from the Parliamentary debates that followed the decision in Darnel's Case, 3 How. St. Tr. 1 (1627) (the debates appear immediately following, *id.* at 59–234 (1628), where the King's Beach had denied pretrial release to five knights committed by command of Charles I. The judges had accepted the Attorney General's argument that only imprisonment pursuant to final prosecution must be by "due process of law" within the meaning of Magna Charta. The argument of Lord Coke prevailed in Parliament, however, and it was resolved that henceforth "no freeman in any such manner . . . [shall] be imprisoned or detained." *Id.* at 224, ¶X. Thus the period between arrest and trial, which the United States Supreme Court has long recognized as "perhaps the most critical period of the proceedings," Powell v. Alabama, 287 U.S. 45, 57 (1932), came within the purview of the Great Charter. Pretrial liberty could no longer be denied without "due process of law."

[35] Mitchell, *supra* note 2, at 1235.

[36] H.R. 16196, 91st Cong., 2d Sess. § 23–1322 (a) (1970).

[37] See note 7 *supra.*

[38] Mitchell, *supra* note 2, at 1239.

[39] Whether the procedures established by the proposed legislation are constitutionally deficient in other respects, *cf. In re* Gault, 387 U.S. 1 (1967); Specht v. Patterson, 386 U.S. 605, 610 (1967), is beyond the scope of this Article.

[40] H.R. 16196, 91st Cong., 2d Sess. § 23–1322 (b) (2) (C) (1970).

[41] *Id.* § 23–1322(a) (3).

[42] United States v. Alston, 420 F.2d 176, 180 (D.C. Cir. 1969). See note 30 *supra.*

[43] ABA Standards Report, supra note 5, at 68.

[44] H.R. 16196, 91st Cong., 2d Sess. § 23–1323 (1970).

[45] *Id.* § 23–1322(a) (2) (ii).

[46] *Id.* § 23–1322(a) (2) (i).

[47] *Id.* § 23–1331(4).

[48] *Id.* § 23–1322(a) (1).

[49] *Id.* § 23–1331(3).

[50] Mitchell, *supra* note 2, at 1236.

[51] J. DeWitt, Final Report, Japanese Evacuation From the West Coast, 1942, at 34 (1943, released 1944).

[52] L. Carroll, Alice's Adventures in Wonderland 182 (MacMillan & Co. ed. 1866).

[53] Mitchell, *supra* note 2, at 1235.

[54] *See* ABA Standards Report, *supra* note 5, at 2–3.

[55] H.R. 16196, 91st Cong., 2d Sess. § 13–1321 (h) (2) (1970).

[56] *Id.*

[57] *Id.* § 23–1321(h) (1).

[58] 18 U.S.C. (Supp. IV, 1969), *amending* 18 U.S.C. § 3568 (1964).

[59] *See generally Frankel, Preventive Restraints and Just Compensation: Toward a Sanction Law of the Future,* 78 Yale L.J. 229, 256–67 (1968).

[60] Dershowitz, *Preventive Detention: Social Threat,* Trial, Dec.-Jan. 1969–70, at 22, 24. *See also 1969 Hearings, supra* note 3, at 174, referring to the "constitutional ratio" of erroneous to correct confinements.

[61] Mitchell, *supra* note 2, at 1242.

[62] Dershowitz, *supra* note 60, at 22.

[63] *Id.*

[64] Hale remarked that five guilty men should be acquitted before one innocent man is convicted. 2 M. Hale, Pleas of the Crown * 289 (1694). Blackstone raised the ratio to ten to one. 4 W. Blackstone, Commentaries * 358. Others have favored still higher ratios. *See generally* G. Williams, Proof of Guilt 186–90 (3d ed. 1963).

[65] The distinction between these two outcomes is in some ways related to a distinction that has received attention with respect to

> "the apparent anomoly that we are prepared to expand far greater resources in saving the lives of known persons in present peril [e.g., a few men trapped in a mine shaft], than we are prepared to devote to measures that will avert future dangers to persons perhaps unkown or not yet even in existence."

Fried, *The Value of Life,* 82 Harv. L. Rev. 1415, 1416 (1969). In the setting of the criminal trial, the analagous proposition would be that we try harder to avoid the punishment of a particular innocent defendant in visible peril of imminent erroneous conviction than we do to avert future dangers to innocent persons generally, including prospective defendants as well as prospective victims of crime. Even if one accepts Professor Fried's conclusion that a preference for allocating life-saving resources to known persons in present peril can only be justified to the extent that it in fact maximizes total lives saved in the long run (discounting future lives as appropriate in light of increasing uncertainty), one must be wary of applying in the present context Professor Fried's rejection of the argument "that in showing some preference in the case of the person in immediate peril, we demonstrate the value we place on human life." *Id.* at 1425. *See* Calabresi, *Reflections on Medical Experimentation in Humans,* Daedalus 387 (Spring 1969); Schelling, *The Life You Save May Be Your Own,* in Problems in Public Expenditure Analysis 127-62 (S.B. Chase ed. 1968).

Professor Fried's view is that one cannot justify as symbolizing the concern for human life a strategy that does less than it might to maximize lives saved or spends more on human life than it is in fact worth in relation to other values. Fried, *supra,* at 1425. But at least in the context of a criminal trial, one can justify some such strategy. If a refusal to convict in the face of visible uncertainty subjects a few more innocent individuals to injury in the long run than would a more tough-minded attitude toward criminal trials, the great virtue of such a refusal is that it reinforces society's ability to resist the temptation to treat innocent individuals as ultimately expendible when the "total good" can be enhanced by their sacrifice—the sort of treatment that transgresses first principles of mutual respect and common humanity. And if a refusal to run a calculated risk of punishing an individual whose guilt seems in doubt costs society more than the liberty of innocent men is in fact "worth" in some objective sense, one cannot ignore the problem of the typical, imperceptive observer who will regard a visible decision to condemn in the face of such doubt as a lesson that the sacrifice of an innocent man is not so serious a matter, however clearly he may be told that a strategy of minimizing total injuries to the innocent is in fact being pursued.

[66] The misleading tendency to regard the concept of "guilt beyond a reasonable doubt" as an inarticulate effort to express an essentially mathematical measure of how many innocent men we are willing to convict, *see, eg.,* Finkelstein & Fairley, *A Bayesian Approach to Identification Evidence,* 83 Harv. L. Rev. 489, 504 (1970); *see also* Ashford & Risinger, *Presumptions, Assumptions, and Due Process in Criminal Cases: A Theoretical Overview,* 79 Yale L.J. 165, 183 (1969), finds its most recent and sophisticated expression in several attempts to apply to the factfinding process the methods of an emerging field known as statistical decision theory. The most readable account of the basic theory is H. Raiffa, Decision Analysis (1968).

Using decision theory, a number of legal scholars have tried to formulate a more rationale model of the criminal trial than the less formalized, more intuitive materials familiar to lawyers seem to have provided. They propose that a criminal trial can usefully be viewed as analagous to any process in which one must chose between two or more courses of action on the basis of a body of data which reduces, but does not wholly eliminate, the decision-maker's uncertainty about the "true state of the world," and about the consequences in that world of any chosen strategy of conduct. *See, e.g.,* Cullison, *Probability Analysis of Judicial Factfinding: A Preliminary Outline of the Subjective Approach,* 1969 Toledo L. Rev. 538, 563–68; Kaplan, *Decision Theory and the Factfinding Process,* 20 Stan. L. Rev. 1065, 1066–83 (1968).

Building on this model, these scholars suggest that the rational trier would vote to convict (or detain) rather than acquit (or release) whenever the "expected utility" of the former action would exceed the "expected utility" of the latter, much as a rational gambler would prefer the bet that would maximize his expected gains, taking into account his present position, his needs and his attitudes toward risk. Thus the trier would first decide how much he would like or dislike each of the four possible outcomes of the proceeding (convicting or acquitting a guilty man, convicting or acquitting an innocent man). After assigning quantitative "utilities" to each of these four outcomes, the trier would arrive at a measure of the regret he would feel at convicting an innocent man (the difference between the utility of acquitting him and the utility of convicting him) and the regret he would feel at acquitting a guilty man (the difference between the utility of convicting him and the utility of acquitting him). According to the proposed model, the trier would then convict if and only if he regarded the probability of the defendant's guilt (P) as sufficiently high that this probability, when multiplied by the trier regret at erroneous acquittal, would yield a product exceeding the corresponding probability of innocence (1–P) multiplied by the trier's regret at erroneous conviction.

If the utility of convicting a guilty man is designated U(C,G); the utility of convicting an innocent man, U(C,I); the utility of acquitting a guilty man, U(A,G); and the utility of acquitting an innocent man, U(A,I), then the decision-maker in this model would prefer conviction to acquittal if and only if $P(U(C,G)—U(A,G))$ exceeds $(1-P)(U(A,I)—U(C,I))$, which is the case if and only if P exceeds the quotient.

$$\frac{1}{\dfrac{U(C,G)-U(A,G)}{1+U(A,I)-U(C,I)}}.$$

The most glaring of the many difficulties with this model is its assumption that the decision-maker should have some fixed attitude toward an event like "convicting an innocent man" or "acquitting a guilty man," events that cannot be evaluated apart from the process that produces them. Furthermore, the model can be shown to posit the wrong decision-maker, to confuse ends with means, and to ignore a variety of crucial values. These and related problems will be explored in a more extensive essay by the author on the potentialities and dangers of mathematical methods and models in the trial process.

[67] *See generally* G. Williams, The Proof of Guilt 154 (2d ed. 1958); Fridman, *Standards of Proof*, 33 Can. B. Rev. 665, 670–72 (1955); McBaine, *Burden of Proof: Degrees of Belief*, 32 Calif. L. Rev. 242, 257–58, 264–68 (1944).

[68] *In re* Winship, 397 U.S. 358 (1970).

[69] *Id.* at 364.

[70] *Id.* at 363–64.

[71] *Id.* at 364.

[72] *Id.* at 368, *quoting* Dorsen & Rezneck, *In re Gault and the Future of the Criminal Law,* 1 Family L.Q. No. 4, at 26–27 (1967).

[73] *Id.* at 366, *quoting* Dorsen & Rezneck, *supra* note 72, at 26. Although Mr. Justice Harlan's concurring opinion did stress the impossibility of ever acquiring "unassailably accurate knowledge of what [in fact] happened," *id.* at 370, and did emphasize the statistical importance of the reasonable doubt standard in influencing "the comparative frequency of [the] two types of erroneous outcomes," *id.* at 371 there was no suggestion in that opinion, and certainly none in Mr. Justice Brennan's opinion for the Court, that due process would be satisfied by a standard that directed the trier to convict whenever the evidence was such that sufficiently few innocent men would be erroneously condemned if guilty verdicts were returned each time the evidence seemed as strong.

[74] *See* Wilson v. United States, 232 U.S. 563, 569–70 (1914).

[75] Dworkin, *Morality and the Law,* N.Y. Rev. of Books, May 22, 1969, at 29, 33.

[76] *Id.*

[77] *E.g.*, D.C. Code Ann. § 22–2902 (1967); *cf.* Ohio Rev. Code Ann. § 2901.24 (Page Supp. 1969) (assault with intent to commit robbery).

[78] *E.g.*, Ark. Stat. Ann. § 41–1006 (1964) (possession or manufacture); *cf.* N.Y. Penal Law § 265.05 (McKinney 1967) (possession of machine gun or like weapons a felony).

[79] *E.g.*, D.C. Code Ann. § 22–104 (1967); Mass. Gen. Laws Ann. ch. 279, § 25 (1968)

[80] Dworkin, *supra* note 75, at 33.

[81] H.R. 16196, 91st Cong., 2d Sess. § 23–1322 (b) (1970).

[82] *See, e.g.*, Williams v. New York, 337 U.S. 241, 247–48 (1949).

[83] Dworkin, *supra* note 75, at 33.

[84] H.R. 16196, 91st Cong., 2d Sess. § 23–1322 (d)(2) (1970).

[85] *Id.* § 23–1322(b)(2)(C).

[86] *Id.* §§ 23–1322(a)(1), 23–1331(3).

[87] *Id.* § 23–1322(a).

[88] Any detained person is entitled to be processed under the bail provisions of the new act, *id.* § 23–1321, "upon the expiration of sixty calendar days, *unless the trial . . . has been delayed at the request of the person.*" *Id.* § 23–1322(d)(2)(A) (emphasis added).

[89] Nothing in H.R. 16196 would limit the number of times a defendant could be detained, apart from the requirement that each charge reflect "a substantial probability that the person committed the offense for which he is present before the judicial officer." *Id.* §23–1322(b)(2)(C).

[90] *Id.* §§ 23–1322(a)(2)(1), –1331(4).

[91] F. Kafka, The Trial 161 (W. Muir & E. Muir transl. 1957).

[92] *Id.*

[93] Mitchell, *supra* note 2, at 1238.

[94] Such evidence was present in the case of a Texas defendant who, while under indictment on at least eight offenses and out on bail, had not only threatened to kill a number of people but had shown his sincerity by shooting one in the eye and another in the back. Jailed because he was unable to raise a $35,000 peace bond, see text at notes 136–37 *infra,* he challenged the bond as excessive. Rejecting his claim, the appellate court recounted the story told by one lady to the trial judge. The lady had described the accused's threat to kill her and his behavior in firing upon several people in her home. Her equanimity was truly remarkable: "I didn't take it he meant he was going to kill me," she explained, "until he threw the bomb in my window." *Ex parte* Whatley, 136 Tex. Crim. 144, 146, 124 S.W.2d 357, 358 (1939).

[95] *See* H. Packer, The Limits of the Criminal Sanction 73–102 (1968). *See also* H.L.A. Hart, Punishment and Responsibility: Essays in the Philosophy of Law 23, 47, 181–83 (1968).

[96] 370 U.S. 660 (1962).

[97] *Id.* at 666–67.

[98] L. Fuller, The Morality of Law 105 (1964). The Supreme Court's recent refusal to extend *Robinson* to the case of a chronic alcoholic convicted of public intoxication rested on an explicit recognition that *Robinson* implies not a broad immunity to punishment for disease-based behavior but simply a limitation of criminal penalties to *overt conduct* which society has an interest in preventing and which a specific law has prohibited. *See* Powell v. Texas, 392 U.S. 514, 533 (1968) (Marshall, J); *id.* at 542–44 (Black, J., concurring). *See generally* Fingarette, *The Period of Powell: In Search of a Factual Foundation for the "Disease Concept of Alcoholism,"* 83 Harv. L. Rev. 793 (1970).

[99] 306 U.S. 451 (1939).

[100] *Id.* at 452.

[101] *Id.* at 453.

[102] *id.* at 458; *cf.* Stoutenburgh v. Frazier, 16 App. D.C. 229 (D.C. Cir. 1900) (invalidating a law making it a crime to be a "suspicious person"). *See also* Ricks v. District of Columbia, 414 F. 2d 1097 (D.C. Cir. 1968) (invalidating a vagrancy statute as impermissibly vague).

[103] See note 29 *supra.*

[104] See text at note 94 *supra.*

[105] *Cf.* United States v. Melville, 306 F. Supp. 124 (S.D.N.Y. 1969). The routine denial of bail in capital cases, for example, has reflected a willingness to infer risk of flight from the possibility of a death sentence without any further evidence about the defendant's background or previous conduct. See text at notes 16–24 *supra.*

[106] United States v. Brown, 381 U.S. 437, 454 (1965).

[107] "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII.

[108] This interest is recognized as so compelling that bail probably cannot be deemed excessive simply because it exceeds the financial ability of the accused, so long as no lesser amount could reasonably assure his presence at trial. *See* Stack v. Boyle, 342 U.S. 1, 10 (1951) (Jackon, J., concurring); White v. United States, 330 F.2d 811, 814 (8th Cir.), *cert. denied,* 379 U.S. 855 (1964); United States v. Hinton, 238 F. Supp. 230 (D.D.C. 1965).

[109] See text at notes 15–24 *supra.*

[110] 1 Annals of Cong. 754 (1789) (remarks of Representative Livermore).

[111] Judiciary Act of 1789, ch. 20, § 33(b), 1 Stat. 91: "[U]pon all arrests in criminal cases, bail shall be admitted, except where the punishment may be death. . . ." The rule has long been embodied in Fed. R. Crim. P. 46(a)(1): "A person arrested for an offense not punishable by death shall be admitted to bail."

[112] An Ordinance for the Government of the Territory of the United States North-West of the River Ohio, enacted July 13, 1787, provided in article II that "all persons shall be bailable, unless for capital offenses, where the proof shall be evident, or the presumption great; all fines shall be moderate; and no cruel or unusual punishments shall be inflicted."

[113] "18. No mans person shall be restrained or imprisoned by any Authority whatsoever, before the law hath sentenced him thereto, if he can put in sufficient securitie, bayle or mainprise, for his appearance, and good behaviour in the meane time, unlesse it be in Crimes Capital, and Contempts in open Court, and in such cases where some expresse act of Court doth allow it." Colonial Laws of Mass. 37 (Whitmore ed. 1889).

[114] The Virginia Declaration of Rights, in clause 9, adopted verbatim the standard of the English Bill of Rights. See note 115 *infra.*

[115] 1 W. & M., c. 36, § 10, at 69 ("Excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted").

[116] For a persuasive suggestion that the difference in phraseology between the excessive bail clause of the eighth amendment and the right to bail embodied in federal statute was entirely accidental, see Foote, *The Coming Constitutional Crisis in Bail: I,* 113 U. Pa. L. Rev. 959, 971–79, 982–89 (1965).

[117] *See, e.g.*, Trimble v. Stone, 187 F. Supp. 483, 484 (D.D.C. 1960). *See also* United States v. Motlow, 10 F.2d 657, 659 (7th Cir. 1926) (dictum); Dye v. Cox, 125 F. Supp. 714, 715 (E.D. Va. 1954); United States v. Fah Chung, 132 F. 109, 110 (S.D. Ga. 1904) (dictum); Foote, *supra* note 116, at 965–89.

[118] *See, e.g.,* Carlson v. Landon, 342 U.S. 524, 545–46 (1952) (dictum); Mastrian v. Hedman, 326 F.2d 708, 710–11, (8th Cir.) (dictum), *cert, denied,* 376 U.S. 965 (1964); People *ex rel.* Shapiro v. Keeper of City Prison, 290 N.Y. 393, 397–98, 49 N.E.2d 498,

500 (1943); Vanderford v. Brand, 126 Ga. 67, 69, 54 S.E. 822, 823 (1906) (dictum).

[119] Mitchell, *supra* note 2, at 1224.

[120] See text at notes 138–56 *infra*.

[121] Mitchell, *supra* note 2, at 1230.

[122] *Id*. at 1224, 1230.

[123] *See* Foote, *supra* note 116, at 969.

[124] *Id*. & n.46

[125] Mitchell, *supra* note 2, at 1225–30.

[126] *Id*. at 1225.

[127] *Id*.

[128] See text at notes 14–24 *supra*.

[129] A, Highmore, A Digest of the Doctrine of Bail; in Civil and Criminal Cases (1783).

[130] *See id*. at 153, 156, 170, 199.

[131] *Id*. at 191.

[132] *Id*.

[133] E. de Haa:, Antiquities of Bail 11–12 (1940).

[134] *Id*. at 12–27, 30–50.

[135] *Id*. at 51–57.

[136] The Statute of Westminster, 1361, 34 Edw. 3, c. 1, § 6, at 135 (1360), empowered the justices "to take of all them that be not of good fame, where they shall be found, sufficient surety and mainprise for their good behavior towards the King and his people . . . to the intent that the people be not by such rioters troubled nor endamaged, not the peace blemished." *See* 4 W. Blackstone, Commentaries *252.

[137] *See* Note, *"Preventive Justice"—Bonds to Keep the Peace and For Good Behavior,* 88 U. Pa. L. Rev. 331 (1940); Note, *Peace and Behavior Bonds—Summary Punishment for Uncommitted Offenses,* 52 Va. L Rev. 914 (1966). *See also* 18 U.S.C. § 3043 (1964), assimilating the peace bond provisions of the several states into federal law. The only reported cases invoking § 3043 or its predecessor, the Judiciary Act of 1789, ch. 20, § 33, 1 Stat. 73, are United States v. Greiner, 26 F. Cas. 36 (No. 15,262) (E.D. Pa. 1861), and *In re* Mineau, 45 F. 188 (D. Vt. 1891).

[138] 342 U.S. 1 (1951).

[139] *Id*. at 5–7.

[140] *Id*. at 4.

[141] *Id*.

[142] *Id*. at 4–5. *See also* United States v. Foster, 79 F. Supp. 422, 423 (S.D.N.Y. 1948).

[143] 342 U.S. at 5–7.

[144] Mitchell, *supra* note 2, at 1224–31.

[145] 342 U.S. 524 (1952).

[146] *Id*. at 545.

[147] *See id*. at 537, 544–45 & n.41.

[148] *Id. at* 534–37, 541, 544.

[149] See Foote, *supra* note 116, at 979 & nn. 104–05.

[150] Mitchell, *supra* note 2, at 1231.

[151] *Id*. at 1231–33.

[152] It is possible to argue, although the Attorney General does not, that pretrial detention to prevent future crimes furthers several of the functions of the pending prosecution—incapacitation, rehabilitation, even retribution and general deterrence—and thereby helps to effectuate the purposes of the conviction the government is seeking. But if the presumption of innocence of which the Court spoke in *Stack* is to mean anything, it must point to a fundamental distinction between restraints without which there could be no meaningful prosecution at all—restraints to which even the innocent may justly be subjected—and restraints that merely further the aims of convicting persons found to be guilty. It should not be surprising, therefore, that those courts that have been confronted with it have rejected any suggestion that, even pending appeal, bail may be denied for the purpose of inflicting a punitive sanction or deterring similar misconduct, both of which are broadly ancillary to the aims of the pending prosecution. *See, e.g.,* Reynolds v. United States. 80 S. Ct. 30 (Douglas, Circuit Justice, 1959); Davis v. United States, 345 F.2d 441, 444 (D.C. Cir. 1965) (Bazelon, C.J., concurring), *cert, denied,* 385 U.S. 868 (1966).

[153] A similar value helps to explain the fourth amendment requirement that a search of a person or his premises instituted in connection with a lawful stop, arrest or other seizure must not go beyond the intrusion necessary to effectuate the purposes of the seizure that justified its initiation. *See* Chimel v. California, 395 U S 752, 762–68 (1969); Terry v. Ohio, 392 U.S. 1, 20–21, 23, 25, 26, 29 (1968); Sibron v. New York, 392 U.S. 40, 65–66 (1968).

[154] Compare the Supreme Court's unanimous conclusion that a man's status as a convicted state prisoner cannot constitutionally trigger civil commitment for dangerousness without the safeguards provided by statute for all other persons civilly committed in the same state. Baxstrom v. Herold, 383 U.S. 107 (1966) (denial of equal protection).

[155] See notes 25–31 *supra* and accompanying text.

[156] See text at note 94 *supra*.

[157] There is no federal statutory power to commit as potentially dangerous a sane defendant acquitted of the charge against him. *See In re* Williams, 157 F. Supp. 871, 876 (D.D.C.), *aff'd per curiam,* 252 F.2d 629 (D.C. Cir. 1958). Although one court has held that it would be unconstitutional to require a peace bond of an acquitted defendant, Commonwealth v. Franklin, 172 Pa. Super. 152, 182, 92 A.2d 272, 287 (1952), there is no obvious reason why a device for preventing individuals from carrying out specific criminal threats could not constitutionally be applied to an acquitted defendant if it were deemed constitutional in other contexts.

[158] That all these risks may justify detention notwithstanding the eighth amendment is not open to serious doubt. *See, e.g.,* Fernandez v. United States, 81 S. Ct. 642, 644–45 (Harlan, Circuit Justice, 1961); United States v. Bentvena, 288 F.2d 442, 444 (2d Cir. 1961); United States v. Rice, 192 F. 720 (S.D.N.Y. 1911).

[159] When Mr. Justice Jackson, sitting as Circuit Justice, refused to imprison defendants "to protect society from predicted but unconsummated offenses" pending appeal of their conspiracy convictions under the Smith Act, he took care to note that such devices as peace bonds, see text at notes 136–37 *supra,* remain available as "ways of dealing with certain threats to commit crime." Williamson v. United States, 184 F.2d 280, 282 & n.7 (2d Cir. 1950).

[160] Mitchell, *Wiretapping and Pretrial Detention—Balancing the Rights of the Individual with the Rights of Society,* 53 J. Am. Jud. Soc'y 188 (1969).

Mr. ERVIN. Mr. President, let me read, for emphasis, the conclusion of the article:

> The proposed bill violates the basic principle that an accusation of crime should not subject any man to imprisonment unless the government's need to prosecute him compels incarceration. The bill creates a regime in which no man can be assured that his conduct, however lawful, will protect him from the stigma of imprisonment as a probable criminal. Perplexed by the accusations this bill authorizes, a suspect can never fully prove them false. And whenever the sequel to a successful plea is a further crime, the pressure to expand the system mounts. At every stage of its growth, its calculated sacrifice of innocent defendants would be intolerable even if it could promise a significant reduction in crime. The great irony is that Attorney General Mitchell, "the enlightened compromiser in a pluralistic society," has offered us not even that. He has offered us instead a pound of detention—for an ounce of cure.

Let us see what preventive detention does to a man. In the first place, it takes a man and puts him in jail for a crime he has not committed and which he may never commit, because the provisions for preventive detention do not detain the man for the crime he has committed or for a crime of which he has been convicted. It puts him in jail for fear he may commit another crime if he is permitted to be free.

Incidentally, one of the most illuminating interpretations of this act was made by my good friend, Don Santarelli. I do not know whether to accuse Don of being the putative father of this provision or the midwife. But he was present at its conception and he was present at its delivery.

I asked him when he appeared before the Subcommittee on Constitutional Rights if it had to be prophesied that a man would commit another violent crime as defined in the preventive detention proposal or another dangerous crime as defined in the preventive detention proposal.

He answered that question with an emphatic "No." He said that if the judge that passed on the question considered he might do anything, whether it was a crime or not, that might injure some person, the judge had a right to preventively detain him, that the judge did not have to fear that he would commit another dangerous crime or another violent crime as defined in the preventive detention proposal.

All he had to find was that in the judge's opinion he would do something in the future if he was released prior to his trial that would be dangerous to an individual or a community.

If I recall his testimony correctly, he stated in substance that the judge could detain him if he was afraid that he might go out and drive an automobile while drunk, because that would be a dangerous thing to do.

He said the law did not undertake to describe the danger that the man might be prone to commit or cause, that anything the judge out of his own head or imagination thought might be a danger to any individual or the community could be used as the basis for the judge to preventively detain him.

During the hearings of the Subcommittee on Constitutional Rights, we had a most illuminating witness who testified as to the danger of authorizing preventive detention because of the impossibility of predicting with any accuracy what would happen. I refer to the testimony of Prof. Alan M. Dershowitz, professor of law at Harvard University. That testimony appears at pages 172 through 185 of the 1969 hearings before the Subcommittee on Constitutional Rights of the Committee on the Judiciary when considering amendments to the Bail Reform Act of 1966.

This article is very illuminating and should be read by every Member of the Senate, for it points out the fact that the science of prediction has not reached the point where any judge or any other person can predict accurately the subsequent behavior of any human being.

For that reason, I ask unanimous consent that the entire article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Senator ERVIN. Professor Dershowitz, we are delighted to have you with us and we appreciate very much your willingness to appear and give us the benefit of your observations on what I consider some very serious questions dealing with the rights of persons charged with crimes and also with the interests of society. At this point in the record I shall insert a short biographical statement on Professor Dershowitz.

Name: Mr. Allen M. Dershowitz.

Assistant Professor, Harvard University Law School; AB, 1959 Brooklyn University; LLB, Yale University 1962; Editor and Chief, Yale Law Journal; Law Clerk, Justice Goldberg and Judge David Bazelon.

Teaches: Criminal Law, Psychopathic Theory and the Law, Legal Status of the Mentally Ill, and Family Law.

STATEMENT OF ALAN M. DERSHOWITZ, PROFESSOR OF LAW, HARVARD UNIVERSITY, CAMBRIDGE, MASS.

Mr. DERSHOWITZ. Thank you very much, Senator, for the opportunity to appear before this committee on this very important subject.

The general issues raised by problems of preventive detention are of course not new ones. Many years ago they were captured most perceptively in a dialog between Lewis Carroll's Alice in Wonderland and the Queen. The Queen said:

"Here is the King's messenger. He is in prison now being punished and the trial does not even begin until next Wednesday, and of course the crime comes last of all."

"But suppose he never commits the crime," asked Alice.

"That would be all the better, wouldn't it?" the Queen responded.

Alice felt there was no denying that. "Of course it would be all the better," she said, "but it wouldn't be all the better his being punished."

"You are wrong," said the Queen. "Were you ever punished?"

"Only for faults," said Alice.

"And you were all the better for it I know," the Queen said triumphantly.

"Yes, but I had done the thing I was punished for," said Alice. "That makes all the difference."

"But if you hadn't done them," the Queen said, "that would have been better still, better better and better."

Her voice went higher with each better until it got to quite a squeak.

Alice thought "There is a mistake somewhere."

But is there a mistake? That is the question that I would like to explore this morning.

Preventive detention, broadly defined, is not a novel problem. In fact it is widespread throughout this country and throughout the world. Though, as Mr. Speiser mentioned, Justice Jackson said that preventive detention was foreign to our system, and that he was loath to resort to it, perhaps a justice of the Burma Supreme Court came closer to the truth than Justice Jackson when he observed some years ago that "preventive justice which consists of restraining a man from committing a crime which he may commit but has not yet committed is common to all systems of jurisprudence."

My research suggests that no society has ever relied exclusively on the threat of punishment to deter all crime. Predicted criminals have been confined in this country and throughout the world by a variety of devices including commitment of the dangerously mentally ill, a subject which this committee paid attention to some years ago, material witness statutes, sex psychopath laws, juvenile laws, preventive arrests, and of course denial of pretrial release, the subject of today's hearings. Each of these devices rests upon the felt need to detain persons whom we feel sure would otherwise commit serious crime and on the assumption that there are experts capable of making accurate predictions of such crimes.

The need is understandable. The assumption is far more questionable.

Predictions of human conduct are generally difficult to make, and this should not be surprising, for man is complex, and the world he inhabits is full of unexpected occurrences. Predictions of rare human events are even more difficult. And predictions that a rare human event will occur within a short span of time are the most difficult of all. Acts of violence committed by persons released pending trial are rare events, and the relevant time span is realtively short. Accordingly, the kind of predictions under consideration here begin with heavy odds against their accuracy. A predictor is likely to be able to spot a large number of true positives (that is, persons who would, if released, in fact commit acts of violence) only if he is willing also to include a very much larger number of false positives (that is, persons who seem to have similar characteristics to the true positives, but who would not, in fact, engage in the predicted violence if they were released).

It should be added here that in order to evaluate the accuracy of predictions, you have to have data about both sides of the coin. You must know how many and what percentage of the target events of violent crimes were actually spotted, and you must also know how many and what percentage of the predictions were false positives. Either of these alone tells you very little indeed. It is no trick at all to spot a very high percentage of defendants who would commit acts of violence while awaiting trial. You simply predict that all of them or almost all of them would commit crimes. Of course the number of false positives would be extremely high, perhaps 10 or 20 to 1, but most or all of the target acts would in fact have been spotted. Conversely, it is very easy to avoid false positives, if that is your only aim. You simply predict that few or none of the defendants would engage in violence pending trial. In that case, you would spot very few if any of the target acts, the violent crimes, but the number of false positives would be minimal or nonexistent.

The difficult task is to select the category which includes the largest possible number of the target acts, in this case defendants who engage in violence pending trial, and also the smallest number of false positives. If it were possible to select a category which included all the target acts and few false positives, there would be little problem. Since this—or any approximation of it—is impossible, a value choice must be made. It must be decided how many false positives—that is, defendants who would be confined on the basis of an erroneous prediction that they would engage in violence—we should be willing to confine in order to prevent how many true positives, people who would actually commit violence, from committing such acts.

It is very surprising how little jurisprudential thought has been devoted to this critical issue. Every schoolboy knows the maxim: "Better 10—some say 100—guilty men go free, than one innocent man be wrongly imprisoned." But that goes to the issue of proof that a crime has been committed. We have no similar maxim—or common law—about the permissible ratio of erroneous confinements when its issue is whether a crime of violence will be committed.

Before an effective and just system of pretrial preventive detention can be implemented, two important issues must be faced. It must first be decided what ratio of erroneous confinements to correct confinements is morally acceptable, whether a 10-to-1 ratio, whether a 2-to-1 ratio is acceptable, whether we want 80 percent to be true positives. This is a normative question of policy and I, submit, constitutionality, because I think the constitutionality of the statute would very much depend on the accuracy required of the predictions. But then it must be learned whether this optimum ratio, whether this constitutional ratio, or anything approximating it, can be achieved under the present state of the art. This is an empirical question subject to validation or invalidation.

It is this second question—the state of the art of prediction today—to which I would like to address the remainder of my remarks. I have done a considerable amount of research and thinking about predictions of violence made by one type of expert, the psychiatrist. I have done this in connection with some writing and with some courses I have been teaching at Harvard Law School on the prediction of crime. My conclusions, which are stated elsewhere in detail, are that psychiatric predictions of violence generally include a very large number of false positives. The reasons for this overprediction of violence are varied. Some inhere in the psychiatric technique itself, others in the nature of mental illness. But there is one reason, and the single most important reason in my view, which has critical relevance to the subject under consideration here. The psychiatrist almost never learns about his erroneous predictions of violence. The reason he never learns about them is because predicted assailants are generally incarcerated on the basis of his prediction and have little opportunity to prove or disprove the prediction itself. But the psychiatrist always learns about his erroneous predictions of nonviolence, often from newspaper headlines announcing the crime. This higher visibility of erroneous predictions of nonviolence inclines the psychiatrist, whether consciously or unconsciously to overpredict rather than underpredict violent behavior, to resolve all doubts in favor of confinement; and I submit that this phenomenon will be equally true of judicial decisions to confine predicted violence-doers pending trial. Judges, like psychiatrists, will rarely learn about their erroneous predictions of violence, because these defendants will be confined on the basis of these judicial predictions and will not have an opportunity to demonstrate that they would not in fact have committed the predicted crimes if released. But every time a judge makes an erroneous prediction of nonviolence, every time he decides to release somebody who then does commit a violent act, he will learn about his mistakes swiftly and dramatically.

Thus if a statute is enacted authorizing pretrial preventive detention on the basis of judicial predictions of violence, we will never know how much overprediction is being authorized. And as more and more information is accumulated—all or at least most of it concerning defendants who were erroneously released—judges will include more and more false positives in the category of defendants detained.

Now it may well be that eventually criteria for confinement can be refined to the point that overprediction is minimized. Perhaps the high rate of violent crime by certain categories of released defendants will permit a high level of spotting without too much overprediction. I notice Senator Tydings' bill specifies armed robberies. But if a statute were to be enacted now authorizing the confinement pending trial of all persons who, on the basis of specified criteria, were predicted to commit violent crime, then the development of such refined criteria would be seriously retarded. It must never be forgotten that many years of experience administering an untested system will not always increase the accuracy of that system. Many years of experience is often only 1 year of experience repeated many times. The unknown mistake of the past becomes the foundation for a confident, but erroneous, prediction of the future. This was demonstrated many years ago in a famous, and humorous, "experiment" conducted by the Harvard psychologist Thorndike who had a student throw darts repeatedly at a board to test the thesis that aim improves with "experience"; but he blindfolded the student and never told him when he hit or missed the target. Needless to say, his aim did not improve with "experience." Nor I suspect would the accuracy of judicial predictions necessarily improve as a result of spending more and more years meting out preventive detention of predicted violence-doers without any accurate feedback on the accuracy of their predictions.

The time is simply not yet ripe for definitive legislative resolution of the dilemma of pretrial preventive detention. We have just begun to understand what the problem is, but we do not yet have enough information to know what the optimum solutions are—or whether there are any optimum solutions. What must be avoided is a solution which freezes knowledge at its existing low state. And this is precisely what would occur if there were enacted a statute authorizing confinement of all defendants predicted to commit acts of violence pending trial. What must be encouraged is an approach that is tentative; that continues to gather information; and that is in the nature of an experiment.

What I proposed is that tentative criteria for confinement be devised—for example, the criteria suggested by Senator Tydings—and that these critera be tested to determine how accurate—or inaccurate—they are in predicting violence. Specifically, I suggest that an experiment be conducted whereby defendants who are predicted to engage in violence on the basis of certain criteria, say those in the statute proposed, actually be released in the face of these predictions. This suggestion is not free of all difficulties, for the status of experimentation under law is far from clear, especially if some are released while others are detained, but I am confident that a workable and constitutional approach can be devised. Then we can see how many of these defendants would, in fact, fulfill the predictions. We would see whether it is 4 percent or 20 percent or 10 percent or 60 percent or perhaps 90 percent.

We would learn other things as well. Do judges differ in the accuracy of their predictions? I suspect they do. Does the quantity of informational input into the prediction increase its accuracy? How do the various professional experts—psychiatrists, psychologists, probation officers, judges—compare with each other and with laymen in their ability to predict violence? Do we know enough today to devise criteria which spot a high percentage of violent criminals, without also including an inordinate number of false positives? What we learn may be discouraging, but it is far better to know the discouraging truth than to build a house, especially a house with bars, on a foundation of untested assumptions.

Senator ERVIN. Professor, I have had one or two things on my mind that have caused me to have grave misgivings about preventive detention, and your statement on the whole corroborates my misgivings.

In my hometown we have one of North Carolina's institutions for the mentally ill. A number of years ago the medical staff released a man, a young man who had been a patient there for some time, and about 2 weeks later he killed his sweetheart, just outside the door of a church on Sunday. Prior to that time the medical staff had been rather liberal in releasing patients from confinement, permitting their return to home. After that time, it was virtually impossible to ever persuade them to release anybody, and as a consequence anyone who wanted to get a discharge from confinement in the hospital would have to apply for a writ of habeas corpus. On one occasion I applied for a writ of habeas corpus for a man, and had a hearing on it before one of our very wise, very experienced judges, Judge James L. Webb. The superintendent of the hospital was a witness. He testified in the course of his testimony that the applicant for the writ was no more insane in his judgment than a lot of people who were walking around free in North Carolina, and the judge put this question to him. He said, The responsibility for releasing this man devolves on me since the hospital board has not seen fit to release him and I want to ask you what would you predict about his future behavior? I don't want to turn loose on society a dangerous man. Do you think I could safely release him with reasonable assurance that he would not commit any crime of violence in the future, or give trouble to the community?" The physician, who was very cautious as a result of this experience, told the judge, "Judge, you might release him, and he might return to the community from which he came and be a very peaceful citizen, live a long, long time and give nobody any trouble." He said, "On the contrary you might release him and he might become violent and insane tomorrow and kill his best friend." The judge said, "Doctor, can't you say the same thing about me?"

We have testimony here from Senator Tydings to the effect that he has studied the English system and the law of England vests in the judges discretionary power to detain persons charged with felonies until their trial. He also testified, as I recall, that the judges exercise this power and detain persons charged with felonies in virtually all cases. All of us are appalled by crimes of violence, and I fear that if we authorized preventive detention at this uncertain state of our capacity for judges and other human beings to predict future behavior, that the judges would naturally want to do the safe thing and would tend to detain persons prior to trial in all cases where the charge under the law permitted him to do so. I think that would be the conservative, safe course of action for them to take. And if they did not take it, they would be under grave temptation all the time to take it, and that is what makes me fear preventive detention. I fear it is an effort to find a very simple solution for a very complex problem.

Mr. DERSHOWITZ. There is a related issue as well which is a serious one, and that is any system of preventive detention always seems to be working well, even if it is working poorly, because you reduce the number of crimes by jailing a large number of people. For example, the way in which mental hospitals work. Many people thought that mental hospitals were working very satisfactorily for years. The assumption was that when a psychiatrist predicted that a person was dangerous he was indeed dangerous. In the last few years a few events have occurred which have shaken that belief very fundamentally. The Supreme Court for example rendered its decision in *Baxtrum* v. *Herold* which released hundreds and hundreds of dangerous criminals found to be insane, from the hospitals of New York. It was thought that these alleged mentally ill and dangerous criminals would engage in very violent and very serious conduct, because phychiatrists had predicted that they would. Well, followup studies conducted 2 years after the *Baxtrum* decision showed that there was very little basis in that, that very few indeed of the predicted violent criminals in fact engaged in violence. In Baltimore also there were two recent studies of people who were predicted to be dangerous by psychiatrists, and in one case they evaluated escaped mental patients and found that they engaged in no more violence than the general population, and also they evaluated people who had been released on "legal technicalities" in the face of psychiatric predictions of dangerousness and found that they, too, with one or two minor deviations, engaged in few acts of violence.

I think the problem with the system of preventive detention is it will seem to work. The crime rate probably will go down slightly, and perhaps might be traceable to preventive detention; but what we won't know is how many, what proportion, of the people confined would actually not commit the crimes. That dark side of the moon is the hard one to evaluate, and that is why I take very little comfort in claims that the English system has worked well, that Norwegians system has worked well, the continental European systems have worked well. They only work well if one looks at one side of the coin, because there is rarely an opportunity to look at the other side, unless some kind of experiment is conducted whereby people who are predicted to be dangerous, not all perhaps but some, a large enough sampling, are released in the face of these predictions and we actually see how many of them would commit the crimes that they are predicted to commit.

Senator ERVIN. Sometimes we reduce the thing to an absurdity. Of course I think it is undoubtedly true that if you can find some way to incarcerate everybody, there would not be any crimes committed anywhere except in prison. In other words, our streets would probably be safe except in rare cases where persons escaped from custody; but if they did, in that case there would be nobody to commit a crime on.

You have written several articles dealing with the subject of predictability, and we would like to have your permission to review them and put some of them in the record for the benefit of the Senate when it considers these questions.

Mr. DERSHOWITZ. By all means.

(The articles referred to appear in the appendix of these hearings.)

Senator HRUSKA. Mr. Chairman, I join you in thanking the witness for being here. In your testimony, Professor Dershowitz, you of course raised the proposition that judges rarely learn about their erroneous predictions of violence because if they put the defendent away, he has no chance to commit violence, and therefore they never know. The fact never becomes known.

Isn't the basis of the habitual offenders acts the proposition that after a man has engaged in a certain type of conduct, two or three or four times, and has been convicted and served his time, and then he does it again, meeting the required number of times under the act, that there is a reasonable probability, in fact such a high probability, of his repeating his criminal conduct, that he ought to be put away for a longer time? Isn't that the basis of the habitual offender acts?

Mr. DERSHOWITZ. I think that is the basis.

Senator HRUSKA. Is it good or bad?

Mr. DERSHOWITZ. Well, I think its application is certainly bad, as anybody who has studied habitual offender acts knows, it is used primarily as a plea-bargaining tool. It is not used primarily to prevent recidivism among habitual offenders by incarcerating them for a long time, but used primarily against one class of offenders, those who are arrogant enough to challenge their most recent conviction. Prosecutors throughout the country are willing to waive the habitual offender treatment of those defendants who are willing to plead to the offense. So we do not get a complete sampling of how habitual offender acts work. However, as they do apply they are based on a prediction that a person who, say, committed three or four violent acts or acts of certain category, is likly, not certain, is likely, to commit another one over a long period of time, over a lifetime or over a period of 5 or 10 years. I think they do not rest on any claim of being able to predict that a person will recidivate within, say, a 6-month period. There is simply no predictions that have been proved accurate which are limited in time to that extent.

Now I am not claiming it cannot be done. The evidence seems to suggest that certain categories of armed robbers and burglars do recidivate within a short period of time. I am simply saying that the data upon which the habitual offender acts are based upon much longer range predictions, over 5, 10, 20 years, and not on a claim that one can predict violence within a short period of time between arrest and bail.

Senator HRUSKA. We have had our attention called to instances where, within a period of a year, a year and a half, a man under indictment and awaiting trial is indicted may be three or four additional times for similar acts, and it is not over a long period of time. What justification would there be for requiring a judge, after he had been confronted with such a record, to say, "Very well, you are indicted, now get on your way. We are going to get to your trial one of these days, and if you commit another act, come back here and we will indict you again and we will put your name on the calendar the sixth time." What justification would there be for that?

Mr. DERSHOWITZ. I think the justification is that he is more likely to be right if he releases them than he is if he holds them. If the judge were able to say with confidence backed up by followup studies, "You are a man who fits into a class of people in which it is 80 percent likely that within the next 6 months you will in fact recidivate," I would think there would be a basis, certainly a basis in policy. Whether there would be a basis in policy in my view in holding him. But today I do not think it can be predicted accurately that anybody will commit an offense within 4 or 6 months.

My research suggests that a judge is generally going to be correct more often if he says that a man will not commit a crime within 6 months than if he says that a man will commit a crime in 6 months. What I am suggesting is that my thesis be tested. Perhaps your thesis is correct. Perhaps a judge can be more correct if he says confine him than if he says release him. Perhaps it is more likely that certain categories of criminals will in fact commit crimes. I would like to see that thesis tested. I would like to see somebody administer and apply criteria. I would like to see a judge say, "Now, you, defendant, I really think that there is more than a 50-percent likelihood that you will commit a crime in 6 months," and then have a large enough sampling of those defendants, perhaps all, perhaps just some, released in the face of those predictions, and then after 6 months let us see how often the judges were right when they predicted crime within 6 months, and how often they were wrong. If they were right more often than they were wrong perhaps there would be a basis in policy for this kind of detention.

Senator HRUSKA. You yourself have stated they will never know it, because if they find they are wrong and they start confining these people or detaining them, they are not in a position to engage in violence so you never know. But after all we live in a practical world, most of us do. Some people don't, and they engage in a lot of theories and a lot of reasoning and rationalization, but we live in a practical world.

After a while, a judge and a prosecutor kind of get the hang of these things, and they form a basis for a high probability that the man, if he is turned loose, is going to engage in more of the same kind of crime. There are some people such as Senator Tydings, who believe that when that situation confronts us we ought to have powers in the judge to do something about it.

Mr. DERSHOWITZ. You mentioned that judges and prosecutors after a while kind of get the hang of things. Well, that is precisely what we don't know. For example, in something I have written which I will send a copy along, there was a judge in Illinois who had been sitting as a sentencing judge for 20 years and he really felt strongly that he knew what made defendants tick and which defendants would recidivate and which would not. He had before him four defendants, three of whom had pleaded guilty to the crime and one of whom had not pleaded guilty to the crime. The judge said, "I really think this man who has pleaded not guilty does not have remorse and is going to go out and attack society and be very bad. The other three defendants on the basis of my 20 years experience I really think won't ever commit crimes again," and he imposed sentences accordingly. I have been following up these kinds of sentences and I followed this up by writing a letter to the Department of Justice, Bureau of Prisons and I found out—and probably the judge to this day does not know this—that he was wrong in every respect. The defendants who he said would not recidivate recidivated, some of them up to six times in 5 years. All of them have been in trouble. But the defendant who had pleaded not guilty and who the experienced judge thought would engage in many further crimes in fact had had no confrontations with the law at all.

I think very often prosecutors and judges think they get the hang of things on the basis of experience, but because there are rarely opportunities to followup the kinds of predictions they make, it may very well be that they are not getting the hang at all. Of course it may very well be that they are. But we have not been able to separate out those judges and prosecutors that are getting the hang of things from those who simply are not learning from experience.

Senator HRUSKA. Of course by imposing a standard of absolute certainty, we do violence to, and deny the use of, such things as parole, such things as the habitual offenders acts, and probation, even suspended sentence. We do not know, you say, and we must be positively sure, and that is not the way life goes, because we go on the basis, don't we, of probable cause, reasonable cause, degrees of probability, in many areas of human activity. We will never know, and if we are going to proceed on that basis, what can we do? Is there anything we can do?

Mr. DERSHOWITZ. I certainly could not agree with you more. I believe that all human conduct is always taken on conditions of uncertainty and probability. That is the thesis of the course I teach at the Harvard Law School. I think even when we try to decide whether a man has committed a crime, we are doing it on probabilities. Our rule of burden of proof is not that it must be proved to a certainty but only beyond a reasonable doubt. I believe for every say 100 or 200 people that are convicted we are willing to convict a certain percentage of innocent people as well.

What I am saying is not that we should act on certainty but that we should act on where the likelihoods fall. We should act on what is more likely, and we simply do not know today whether a judge who predicts that a man will commit a crime when he is on bail is going to be right or going to be wrong, not going to be certainly right or certainly wrong but whether he is more likely to be right or more likely to be wrong and I think we simply need a lot more information that we have or are likely to get if we enact a statute of this kind now.

Senator HRUSKA. Of course you are saying, in other words, that in the trial of criminal cases the burden of proof is that one must prove beyond the shadow of a doubt, and in most cases that is the burden.

Senator ERVIN. Reasonable doubt.

Senator HRUSKA. Reasonable doubt, that is the burden, and we never know, but we go forward. We go forward, and it is at a price. Of course it is at a price. But in this instance, you say no, we do not know for sure, so I advise you not to pass a bill or a law of preventive detention. Is that the burden of your thrust?

Mr. DERSHOWITZ. No, that totally misunderstands my argument. What I am saying is that we should not wait for certainty. We should know enough for us to be able to decide whether a judge is more likely to be right or more likely to be wrong. We have to know more about the range.

Senator HRUSKA. Well, how will you ever know that because judges change. Will you ever know that? Is there any possibility that it can be known?

Mr. DERSHOWITZ. Yes, I think there is.

Senator HRUSKA. Judges change. The person changes. Sometimes the personality of a judge changes. Will you ever know if he is going to be right?

Mr. DERSHOWITZ. That is why one has to always have a large enough sample to account for these kinds of changes, to account for changes in personnel.

Senator HRUSKA. What value are they as against judges who are going to be there 5 years from now? Of what value are they?

Mr. DERSHOWITZ. I think they are of great value. One can in a general way know how judges are going to behave. For example, you talk about proof beyond a reasonable doubt. There is a pattern to the way judges react. Some are more liberal, some more conservatime. There is a spectrum, but within the range of that spectrum every judge has had something in common, a law school education, some practice in the world. They are going to react in similar ways.

What I am suggesting is that we have enough judges today administering criteria which you think perhaps are valid criteria. We release people, some, perhaps all, in the face of predictions of dangerousness and then, not over a long period of time, but in 6 months, 12 months, perhaps 2 years at the outside, we will know how accurate these predictions are. We will know how to devise criteria which become more accurate. Then I think we will be able to seriously consider whether or not the policies of preventive confinement, valued against the policies of freedom, require or permit the enactment of this kind of statute.

Senator HRUSKA. You make an interesting argument and I look forward to reading some of those articles which you will put in the record.

Mr. DERSHOWITZ. Fine.

Senator ERVIN. A man goes to the doctor suffering with a headache. Now if the doctor takes a pistol and shoots him through the head and kills him, he won't suffer with the headache any longer. If the doctor gives him some aspirin tablets, why, he may clear up his headache without resorting to such a drastic remedy as the first one I suggested.

We have before us evidence that the time of the average trial of a person charged with a crime in the District of Columbia is 8 months, and the evidence is that that means that some of the trials are not had until fifteen months or a year after the crime is alleged to have been committed. We also have testimony, from a committee headed by Judge George L. Hart, Jr., a very experienced judge of the District of Columbia, much experienced in holding criming trials, that as near as they could figure out, the Commission after much study, that about 9 per cent of the persons granted pretrial release in the District, if I recall his testimony right, commit a crime while out on bail. There is testimony from others indicating that the percentage may be as little as 7 or 7½ per cent.

Now wouldn't the best thing to do, rather than impose preventive release at this time in the absence of more accurate data than we have, wouldn't it be better for the Congress to make arrangements to grant speedy trials, put enough judicial manpower in and add enough people to the District Attorney's staff to enable them to process cases within a relatively short period of time? In other words, if you could bring all cases to trial within a period of 3 months, that is, the average case in a period of 3 months and even less in the case of misdemeanors, and the man was tried and convicted and given adequate punishment, he would not likely be repeating his crime time after time over a period of 6 or 8 or 10 months or a year or a few years. It seems to me that we ought to resort to aspirin to try to cure this headache in the District before we go to more drastic methods.

Mr. DERSHOWITZ. I certainly agree.

Mr. WOODARD. Professor Dershowitz, we had a judge testify before this subcommittee yesterday who told this subcommittee that he had gotten the hang of it, that he could pick out the bad eggs and the good eggs.

Mr. DERSHOWITZ. That is wonderful. Perhaps he would be willing to submit to the experiment I have suggested.

Mr. WOODARD. He already has submitted to it, although he did not know it. In anticipation of his testimony, we had asked the Bail Agency to pick out a couple of periods in early 1968 for him and a couple for another judge who follows the Bail Reform Act rather explicitly and has a very lenient release policy. We asked the agency to follow the defendants dealt with by both judges through the system and find out how many of them did in fact commit more crimes. The statistics they gave us showed that out of 285 defendants who were presented before the judge who "had the hang of it," he found 144 bad risks. Out of that group of 285, 144 bad risks were detained by high money bond, and 141 good risks were released. The other judge, Judge A, out of 226 defendants, found only 46 bad risks.

He released 180 good risks, 79 percent. Judge A, the tough judge, had detained over 50 percent.

Of those two groups of defendants, of the large group released by the lenient judge, there were 16 more offenses while on bail, including both misdemeanors and felonies. Of the much smaller group released by Judge B, there were 12 bail offenses. The difference in the recidivist rate was 8 percent for the judge who had weeded out all the bad risks and 9 percent for the judge who released almost everybody a difference of 1 percent.

On the other hand, of the 144 bad risks who were detained by Judge B, 36 subsequently had their cases dismissed before trial. Another large percentage of them, which is not shown here, were acquitted. And of the ones who were tried and convicted, very few of them received any time in jail after being convicted.

How do these figures square with your balancing of the true positives and false positives?

Mr. DERSHOWITZ. I think these figures confirm what I have come up with in the psychiatric area, that is, in order to spot say four extra criminals, which is what the judge in this case did, he had to make erroneous decisions about what, 50 or 60?

Mr. WOODARD. More like 80 or 90.

Mr. DERSHOWITZ. Perhaps 80 or 90, and included in that amount were what you call double false positives in the sense that they were not even guilty of the crime for which they were initially charged, or at least the process so concluded. I would think that if the experiment of the kind that I am suggesting were to turn up data like this, that there would be little chance for the constitutionality of preventive detention to succeed, and there would be no reason and policy for enacting preventive detention.

Mr. SANTARELLI. Mr. Dershowitz, let us put the constitutional issue aside and speak to this policy question. It seems to me you are saying criminal conduct is not sufficiently predictable. Is that a fair statement of your position?

Mr. DERSHOWITZ. Yes.

Mr. SANTARELLI. If we could find a category of defendants in which there was a significant degree of predictability possible, what degree of predictability would satisfy you on the policy question? Fifty per cent, 60 per cent, 80, 40, what percentage area, roughly, would satisfy you?

Mr. DERSHOWITZ. Well, I would think, at the minimum, one would want it to be more likely than not that a person would engage in a crime. That would be more than 50 percent. I am not saying that is a satisfactory criterion. Perhaps one might want to use the criterion in criminal cases of beyond a reasonable doubt. Now, I might convert that in mathematical term say to 75 or 80 percent. I am not certain. All I am clear on is that we ought to find out what the likelihood of percentages are, and then we can focus the debate in more realistic terms. I think there is range for disagreement here. I think it is very possible for some people to feel strongly that 50 percent likelihood is enough, for others to say that it is not even enough if there is 90 percent accuracy. I think this is an area for legislative resolution subject to judicial supervision. I would suspect that the courts would sustain the constitutionality, to get back to that subject for a minute, if it were beyond 50 or 60 or 70 percent. But I just do not think we are anywhere near that today. Now we may get there. It may be that one can come up with a category of criminals and criteria which when combined by a sensible and sensitive judge would result in a high percentage of spotting and a low percentage of false positives. But, again, I think one really has to have the data to do that. One cannot speculate about that kind of thing.

Mr. SANTARELLI. My question is posited on having the data. That is what I am saying. Let us strike a median figure. If we could find a category of crimes or those who commit them that would produce a 75 percent degree of accuracy in prediction of subsequent offenses, that would probably not be troublesome to you, is that correct?

Mr. DERSHOWITZ. It would depend on what you were predicting. Let me make another point. It is very much easier to predict frequent events than rare events. If what you are looking to predict is simply will the person get into trouble, then I think 75 pecent accuracy would be possible to achieve, but for me that would not be enough. If what you are trying to do is predict violent crimes, then I think 75 percent, this is a personal view, would be enough for me. But as you get more narrow in your definition of the crime, as the event becomes rarer and rarer, it becomes harder and harder to predict it and that is the paradox of preventive detention. It is easy to predict frequent events, but you do not much want to do that and it is very hard to predict infrequent events and that is precisely what you want to do.

Mr. SANTARELLI. I understand you find it hard to predict, but I am asking a hypothetical question. If we could predict, notwithstanding the fact that it is hard to predict, I understand that, if we could predict in a category up to 75 percent probability that the defendant will commit a subsequent serious unlawful act, then we would probably not be too troubled with the policy question, is that what you are saying?

Mr. DERSHOWITZ. I am always troubled with the policy question. I would resolve the policy question then in favor of confinement.

Mr. SANTARELLI. We had testimony yesterday from a trial judge that narcotics offenders constituted an almost certain probability of repeat offenses of one kind or another. His testimony was that a man who is addicted to narcotics and who is impecunious, the second condition, to support his narcotics habit, will with certainty, to quote the judge, engage in unlawful conduct, probably of a violent nature, to satisfy that habit, usually larceny or robbery, crimes which involve getting some material goods that he can convert into money to satisfy his habit. Now aside from relying on what that judge said, is your experience that narcotics addicts constitute a category that could be as high as 75 percent predictability for future serious unlawful acts?

Mr. DERSHOWITZ. I would suspect that narcotics offenders under the existing state of the law in the United States today probably come closest to constituting a class of offenders with a high percentage of predictable crimes. I would very much doubt that one could predict violent crimes with 75 percent accuracy even among that class.

I notice that you included larceny; I suspect there are a lot of acquisitive property crimes. After all, we know narcotics, especially heroin, does not make anybody more violent. All it does is make him want more heroin and since under American law the price is artifically raised to hundreds or thousands times its natural price, the law itself prompts people to go out and acquire property. There are many ways of acquiring property. I would suspect that most narcotics addicts use violence as a last resort, and again I would be willing to test the thesis that 75 percent of narcotics addicts released on bail engage in acts of violence. I would seriously doubt that we would come anywhere near that figure but I would suspect that we would come up to 75 percent if one included all kinds of acquisitive illegal behavior for narcotics addicts who were impecunious as well as seriously addicted to heroin.

Mr. SANTARELLI. That is serious enough. Would that risk of harm to society by acquisitive property crimes, if it could be predicted to a 75 percent certainty, be sufficient to satisfy you on policy?

Mr. DERSHOWITZ. If you are asking me a personal question, the answer has to be no with respect to narcotics offenders, because I simply think we are going about the issue of controlling narcotics in this country in an incredibly barbarous and inefficient way. It is the law that causes the offender to go out and steal and then it is the law that punishes him for stealing. There are so many easier ways, more sensible ways, more humane ways of getting at this problem. People are citing the English approach to preventive detention. Why not adopt the English approach to heroin addiction? Once a person becomes an addict, once he has this insatiable craving for drugs, they recognize that as a fact of life and they give him the drugs at 25 cents a day which is its natural market price rather than elevating it by force of the law to $40 or $50 a day, which requires that he go out and steal. Were I a resident of the District of Columbia or the City of New York or any city which had a high narcotic heroin problem, the first order of priority I would have, as a person afraid of crime, would be to start giving out heroin free. Make it available free to all addicts who are going to commit crimes. That is the aspirin in this case, and the pistol to the head is the present approach we have to narcotics violations. Therefore, I simply cannot subscribe to a system of preventively detaining a category of criminals that we have in effect created.

Mr. SANTARELLI. Thank you.

Senator ERVIN. If you are going to have preventive detention for narcotic addicts, should not that preventive detention be for the purpose of trying to see if you can rehabilitate them and give them the strength to refrain from the use of the drugs, rather than to restrain them from committing crimes?

Mr. DERSHOWITZ. I would certainly prefer that, and there are some experiments, as you probably know, going on in New York with outpatient treatment of narcotics offenders which seem to show some indication of success. Surely if you are going to detain

> them, the purpose ought to be to try to break them of the habit rather than to try in this very artificial way to keep them from raising the money which we force them to raise.
>
> Senator **Ervin**. And I certainly agree with you in your observation about narcotics. It seems to me that if a person has become—I hate to abandon hope for anybody but if he has become—a hopeless addict, it would be much better to recognize him as a medical or psychiatric problem and even give him what he actually requires at a reasonable price that enables him to stay on a fairly even keel, rather than adopting these more drastic measures which our law does.
>
> Mr. **Dershowitz**. I certainly agree.
>
> Senator **Ervin**. I think we try to treat as a criminal law problem something which is fundamentally a medical or psychiatric problem in our treatment of addicts in this country.
>
> Thank you very much, Professor Dershowitz. We certainly will appreciate receiving the articles you have written on the subject.
>
> Mr. **Dershowitz**. Thank you for the opportunity and I will certainly send them.
>
> Mr. **Woodard**. Mr. Chairman, the next witness is Major General Charles L. Decker, Director of the national defender project of the National Legal Aid and Defender Association. General Decker, will you come up, please?
>
> Senator **Ervin**. General, I am delighted to welcome you to the subcommittee. I wish to express my regret that your path and mine do not cross as often nowadays as they did before your retirement from the service.

Mr. ERVIN. Mr. President, the preventive detention provision is absolutely inconsistent with the policies that have prevailed in this Nation since it became a republic. The demand for preventive detention is based upon figures which are not available, which have been plucked out of the air by the imaginations of people. And when this attempt to establish the law of preventive detention in the United States was first broached, I insisted that there were no figures available—that is, figures of a reliable nature—which would justify preventive detention.

As the result in part of my heckling the Department of Justice on that point, the Department of Justice commissioned the Bureau of Standards to make a study of this question. The Bureau of Standards took the names of every person who entered the criminal court system of the District of Columbia during 4 selected weeks during the first half of the year 1968.

One of these weeks was in January. Another was in February. Another was in the last part of May or first part of June. The fourth was the last week of June.

The Bureau of Standards traced the subsequent records of all of these persons who had entered the criminal court system of the District of Columbia during these 4 selected weeks. They followed them through the fall of 1968. They followed them throughout 1969. In some cases, as I recall, they followed them down to the early part of 1970.

They then filed a report which was most illuminating. It showed that of these people they actually traced, that of those persons charged with violent crimes and dangerous crimes in the District of Columbia during the 4 weeks, only 5 percent were rearrested—not convicted, but rearrested—for violent or dangerous crimes during the period of time covered by their study.

What does this mean? It means that a judge, in order to make a preventive detention system work, would have to be gifted with enough prophetic power to determine which five out of each 100 persons arrested for violent or dangerous crimes as defined in this bill would be likely to be rearrested for another crime of that character within a period of 2 years or thereabouts.

No judge has enough prophetic foresight to do that. During his appearance before my subcommittee on a preventive detention proposal, the Deputy Attorney General asserted that the rate of recidivism was nearer 40 percent than the 5 percent reported by the Bureau of Standards. To sustain his position, he declared that we must take into consideration the fact that many people who commit crimes are never apprehended, and that many crimes are never reported or discovered. He inferred from this that if it were possible to apprehend all persons who commit crimes, and it were further possible to discover all of the crimes which are perpetuated, we would find that the rate of recidivism would be at least 40 percent.

I addressed this question to the distinguished Deputy Attorney General:

> Please tell me how you are going to make a preventive detention law applicable to men who commit crimes and are never apprehended for those crimes.

I have never received an answer to that question yet.

I asked him the further question:

> How are you going to have a preventive detention law that would detain the people for crimes not reported and never discovered?

He has not answered that question yet.

So the fact still remains that one of the scientific agencies of the Government, the Bureau of Standards, has made an actual investigation in the District of Columbia and has found that we can reasonably anticipate that only five men out of every 100 who are arrested for a volent crime or a dangerous crime, as defined in this act, are likely to repeat that crime. That is what is involved in this preventive detention.

Mr. President, I would ask, Where are you going to put these people who are preventively detained? We find on page 192 this pious hope expressed. I might state that this pious hope is set out in section 23-1321, subsection (h) and subsection (1):

> The person shall be confined, to the extent practicable, in facilities separate from convicted persons awaiting or serving sentences or being held in custody pending appeal.

In other words, they are going to be confined in facilities separate from criminals. That is the pious hope. I would like to ask how that is going to be done in the District of Columbia in view of the fact there is no room in our jails now. That is somewhat like an insolvable problem of how to preventively detain people never apprehended or how to preventively detain men who commit crimes that are never discovered.

In May we had an investigation made to learn something about the capacity of the jails, the bastilles, of the District of Columbia. We found that the combined District of Columbia detention facilities have a capacity of 3,053 inmates, which on May 15, 1970, housed 3,275 inmates. Out of that total of 1,408, more than 80 percent were in jail awaiting trial at that time. Of these 934 had been awaiting trial 30 days or more; nearly one-half, 675 or 48 percent, had been incarcerated without trial for more than 60 days; over 10 percent or 149 had been in prison for more than 1 year with no trial. Incredibly, 20 had been there more than 2 years and 4 had been there for more than 3 years.

Mr. President, how are you going to preventively detain people for 60 days and try them within that 60 days in a governmental agency that has jails where over 10 percent of the inmates have been in jail awaiting trial for more than 1 year?

Then, a few days ago we had another investigation made of this question. We found that of 1,408 inmates, some of them had been awaiting trial, namely four, for more than 36 months; one had been awaiting trial for more than 35 months; two had been awaiting trial for more than 34 months; two had been awaiting trial for more than 33 months, and so on.

Mr. President, I ask unanimous consent that a chart reflecting this information be printed in the Record at this point.

The PRESIDING OFFICER (Mr. Bellmon). Without objection, it is so ordered.

The table ordered to be printed in the Record, is as follows:

District of Columbia Department of Corrections, Data Processing Division—Inmates awaiting trial—Reporting date—May 2, 1970

Number of months awaiting:	*Number of inmates*
Less than 1	474
1	143
2	116
3	118
4	97
5	77
6	35
7	69
8	41
9	26
10	22
11	20
12	21
13	25
14	18
15	22
16	22
17	5
18	10
19	5
20	7
21	5
22	5
23	1
24	4
25	5
26	1
27	1
28	2
31	2
33	2
34	2
35	1
More than 36	4
Total inmates	1408
Average number of months awaiting	4.3

Mr. ERVIN. Mr. President, it is absurd to talk about filling the jails of the District of Columbia with preventively detained people for crimes they never committed and may never commit when there are people in the jails who have been there now for months on end awaiting trial and who have not been tried.

Why is preventive detention wrong? In the first place, preventive detention places a man in jail, not for a crime he committed, not for a crime of which he has been convicted, but for a crime which he has never committed and which he may never commit. It puts the stigma of the jailbird on a man who may be innocent. A very substantial percentage of people arrested in the District of Columbia and in all other jurisdictions on charges of crime are acquitted.

When a man is placed in jail, a stigma is placed on him of being a jailbird when, perhaps, he was never convicted of anything. This bill provides the man who is charged with a dangerous crime does not have to have a prior record to be preventively detained; in crimes of violence he has to have a record of prior conviction some time within 10-years before the present case arises. Just an assault with a deadly weapon where no one was hurt and no one was injured would constitute a crime of violence. Under this bill originally it was a crime of violence to be armed with a toy pistol at the time the man committed the crime of violence.

Under the D.C. Crime Bill as originally proposed, it was declared burglary in the second degree to rob a vending machine. Under this provision, a 16-year-old juvenile, who jiggled a few pennies out of a gum vending machine on three occasions, would be subject to a mandatory life sentence without eligibility for probation or parole until he had served 20 years. There are still penal provisions in this bill which cannot be reconciled with any civilized system of criminal justice.

When men are put in jail, we handicap them, because most people who are arrested for crime are poor. They do not have much in the way of financial resources. The average lawyer who appears for the average person charged with crime has to depend, in the nature of things, upon his client to assist him in preparing his case for trial. He would be denied the right to assist the lawyer in preparing his case for trial. When he is preventively detained, he is deprived of his job, because an employer is not going to keep a job open for a man who is in jail.

So he is deprived of his liberty for a crime he has not committed, he is deprived of the opportunity to aid his counsel in the preparation of his trial, he is deprived of his job, his family is deprived of his efforts to earn a livelihood, and all of that is done not because he has been convicted of a crime, but because some judge thinks he might do something dangerous if he is admitted to bail and permitted to remain with his family.

Those of us who have spent long years in the practice of criminal law know that any man who is in custody at the time of his trial is heavily prejudiced when it comes to getting a fair trial, because a jury cannot help but think that if he is in jail, he is unworthy in the eyes of the public to have his freedom. He has a much better chance to be acquitted, or at least to get a more lenient sentence, if he is permitted to remain with his family instead of being incarcerated, not for a crime he has already committed, but for a crime which he has not committed and which he may never commit.

A former Judge Advocate, one of the finest lawyers I have been privileged to know, supervised the work of a foundation which made funds available to certain bail agencies and provided some assistance in the defense of persons charged with crime. He testified before the Subcommittee on Constitutional Rights that the estimate of those who worked for this project was that a man's chance of being convicted was increased at least 20 percent by the fact that he was incarcerated during the time preceding his trial.

Mr. President, I have talked longer than I intended to. I mentioned the fact that the constitution of my State says that eternal vigilance is the price of liberty and that frequent recurrence to fundamental principles is essential to the preservation of the blessings of liberty.

I believe that this bill ought not to become law. We have provided the mechanism by which we can reject the provisions of the bill which are objectionable, the provisions that try to destroy a man's right to be indicted by a grand jury, the right to be tried by a petit jury, the right not to incriminate himself, the right to be released on reasonable bail pending his trial, and the right not to have officers knocking one's door down and entering his house as burglars now make their entries.

We have taken every good provision out of this bill and put it in two other bills. I want to assure the Senate that, in the event the Senate does what I think it should do in order to protect our basic liberties, and that is to vote down this conference report, we will ask unanimous consent to proceed to the immediate consideration of the two bills which we have introduced and which embody all the sound provisions of the conference report, and have them placed before the Senate for prompt passage. If there is objection to that unanimous-consent request, we propose to make a motion to discharge the committee and bring the bills before the Senate for immediate consideration, a motion which I understand requires a vote of only a majority of the Members of the Senate. Under the rules of the Senate, we can vote on that motion the following day.

I implore the Senate not to enact a bill which contains provisions which are absolutely hostile to the traditions which have prevailed in our country ever since it became a republic, not to adopt a bill which will deprive men of the right to be free pending their trial, not to adopt a bill that will allow men to be incarcerated for crimes which they have never committed and which they may never commit, and not to adopt a bill which destroys in the District of Columbia the ancient boast of our law that every man's home is his castle.

These liberties, once gone, are gone forever.

I implore the Senate to see that they are continued here.

In closing, I assert, as I have asserted several times, there is not a single sentence in the whole bill that provides that a man who is preventively detained under its provisions will be released after 60 days; but, on the contrary, he will go through the same merry-go-round at the expiration of 60 days, and at the expiration of 120 days, unless he is tried in the meantime.

I say the thing to do is to preventively detain prosecutors long enough to prepare the cases for trial and preventively detain judges long enough to try these cases rather than put the accused in preventive detention awaiting trial. Then you will go back to the only sound method of enforcing the criminal law, namely, swift trials for those accused of crime and quick judgments for those who are convicted. Do not swap that kind of system for a system where officers of the law can enter the homes of private individuals, as burglars now do, and a system under which men are jailed, not for crimes which they have committed or for which they have been convicted, but for crimes they have not committed and may never commit.

Just remember that the price of liberty is eternal vigilance, and the way to exercise eternal vigilance in a case of this kind is to vote against the adoption of a conference report containing a bill which has these inequities in it.

ORDER FOR RECOGNITION OF SENATOR TALMADGE ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, at the request of the junior Senator from Georgia (Mr. TALMADGE), I ask unanimous consent that following the remarks by the able junior Senator from South Dakota (Mr. MCGOVERN) on Monday next, the able Senator from Georgia (Mr. TALMADGE) be recognized for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR REPORTING SENATE JOINT RESOLUTION 207

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time for reporting Senate Joint Resolution 207 be extended from July 15 to July 22, 1970.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 2601) to reorganize the courts of the District of Columbia and for other purposes.

THE FACTS ABOUT NO-KNOCK

Mr. TYDINGS. Mr. President, as I have at some length already made clear in the Senate debate yesterday on behalf of the managers on the part of the Senate, the conference resolution of the so-called no-knock issue represents a major victory for the Senate position.

Specifically in the interest of safeguarding the individual rights of the residents of the National Capital and of forestalling repressive practices in the name of improved law enforcement, the Senate conferees insisted upon what I have for convenience summed up as five critical points:

First. The statutory exceptions to the knock-and-wait rule are strictly limited so as to confine no knocking to those few circumstances where it is already permitted under existing law.

Second. Existing law is substantially improved by requiring that, when grounds constituting exceptions to the knock-and-wait rule are known in advance, then a police officer can no-knock only after obtaining court permission in advance.

Third. The conference report restores the classic standard of "probable cause," derived from the Federal Constitution, for testing the sufficiency of the grounds for police conduct in the no-knock area.

Fourth. It is expressly set forth in the statement of managers on the part of the House, as it is stated likewise in similar reports to the Senate, that advance permission is required, not only when the applicant literally knows of facts in advance falling within the exceptions to the knock-and-wait rule; advance permission is also required when the applicant should know of such facts, in the sense that minimal ordinary diligence on the part of the police would have alerted the applicant to the facts.

Fifth. It is also expressly set forth in the House statement of managers that the no-knock provision is not to be bound by or otherwise construed in light of the House District of Columbia crime the mere destructibility of the evidence being sought might be grounds for departing from the knock-and-wait rule.

It is true that the conference substitute on no-knock—like the existing common law approved by the Supreme Court, and unlike the much more limited Seante version—applies to arrests as well as searches. Nevertheless, by insisting on the five points just mentioned, the Senate conferees have seen to it that the conference substitute contains nearly every safeguard in the original Senate version. We have seen to it that the conference substitute surpasses existing case law in the number and scope of the safeguards provided. In point of fact, the conference report conforms quite precisely to the recommendations of the Bar Association of the District of Columbia and is well within the parameters of the no-knock legislation supported by the District of Columbia government.

In all candor, I must inform you that the Senate conferees were not only mindful of the depth of opposition in the Washington community to the enactment of legislation touching upon the knock-and-wait rule; the Senate conferees were for a while, in fact, inclined to defer to that opposition. We entertained for a while the notion that little good could come of the legislation—no matter how just on the merits—if it had to be advanced in an unreceptive, hostile atmosphere. In time we chose another course, however; and determined to perfect the legislation, and to change that atmosphere through the process of public education. The need for stabilizing police practices in the no-knock area is too great, the safeguards of the conference substitute are too valuable and too many, for us to abandon the issue or temper our resolve.

In the judgment of the Senate conferees, it is far better to have the limited exceptions to the knock-and-wait rule spelled out and frozen on the statute books, instead of leaving the exceptions to grow in a disordered fashion and to change in Federal and local court case law. It is far better to have the limited exceptions spelled out clearly, statutorily, for the police to observe, instead of leaving police officers as at present to their own devices.

Similiarly, in the judgment of the Senate conferees, any police encroachment on the privacy of the individual should issue where possible upon express judicial authority only. It is in the best interest of a just and ordered society that the conference substitute relieves the police officer in most situations of having to make the difficult decision of whether to no-knock. As protection for the individual residents of the National Capital, the decision whether to no-knock is placed at the very outset in the hands of a judge.

What is equally important, at present the courts can supervise and limit police no-knocking only by means of the exclusion of evidence at a criminal trial. In contrast, by requiring judicial approval in advance for no-knock, the conference substitute promises to add court supervision in the myriad cases where the defendant pleads guilty and there is no trial, or where there is no trial because the evidence is insufficient or simply not found. Under the conference substitute, in other words, court supervision is required on two separate occasions—at the time of the request for no-knock authority and at the time of the motion to exclude the fruits of any no-knock search. Likewise defense counsel, under the conference substitute, can move to exclude evidence on two grounds—the absence of facts comprising an exception to the knock-and-wait rule, and the failure of the police to ask the court for no-knock authority in advance.

Again, in many, many respects the conference substitute on the so-called no-knock issue—like the Senate-passed amendment to the crime bill—represents an important advance in both the stability of the law and in the protection afforded the individual under the criminal law of the National Capital.

Now that the conferees on S. 2601 are no longer enjoined from discussing the work of the conference, I am especially anxious to dispel the wealth of misinformation which has circulated in the past few months on the subject of no-knock and S. 2601. Time and time again, I heard it said that the District of Columbia crime bill gives the police the power to conduct no-knock searches and arrests. Once and for all, this statement as understood by most nonlawyers is 100-percent untrue; even as understood by lawyers the statement is misleading at the very least. The power to no-knock does not derive from this legislation or any other. No-knock searches and arrests have been permissible, have been authorized, since common law times, and have expressly been allowed in American criminal jurisprudence for 150 years. Regardless of what may have been in the House version of S. 2601, the Senate version and the similar conference substitute merely continue existing authority and add to it reasonable further safeguards.

Time and time again, I heard it said that the so-called no-knock provision in the District of Columbia crime bill experiments with the rights of the residents of the District and treats them as guinea pigs for the Nation. In this same vein, it has been charged time and time again that no-knock is designed to establish a precedent for the States. Again, nothing could be farther from the truth. An overwhelming majority of the States already have no-knock authority spelled out in their case law, and perhaps as many as a dozen or so of the States have no-knock provisions in their criminal statutes as well.

The no-knock law in my own State of Maryland was spelled out not long ago by the court of appeals of the State. In the case of *Henson* v. *State*, 236 Md. 518, 204 A. 2d 516 (1964), the police had probable cause to believe, on the basis of extensive, personal experience, that certain narcotics evidence would be flushed down the toilet or otherwise irretrievably thrown out if they were to adhere to the knock-and-wait rule; the police indeed had had the premises under surveillance for a week, during which time 43 known addicts had visited the premises often comporting themselves in a manner bespeaking the transaction of sales of narcotics. The Maryland court ruled unanimously in the Henson case that the police had authority to no-knock. The conference version of S. 2601 is intended merely to codify this and similar court rulings, and to add the further safeguard of a requirement of prior judicial scrutiny.

Lastly, it should be noted that the no-knock warrant provision in the conference report on S. 2601 is patterned after the equivalent no-knock warrant provision in the New York Code of Criminal Procedure, as well as comparable provisions in the codes of Nebraska, South Dakota, South Carolina, and Utah.

It has been suggested that the inclusion of the "useless gesture" in the list of exceptions to the knock-and-wait rule creates a loophole, permitting the police to take the law into their own hands, to no-knock pellmell. Again, however, it must be understood that at least under the conference substitute the "useless gesture" exception positively has no such meaning. The term "useless gesture" under the conference substitute is specifically utilized as a legal term of art, with narrow and exclusive reference to prevailing case law. In this way the term is restricted to situations as where the officer's identity and purpose are already known to the occupant of the premises to be searched, or as where the occupant has failed to respond to a knock on the door and is known to be asleep and incapable of being given notice. (See *Miller* v. *United States* (357 U.S. 301 (1958)); and *Bosley* v. *United States,* decided April 9, 1970, No. 21,513, U.S. Court of Appeals, District of Columbia circuit.)

To the question, "Does the no-knock provision give the police the power to enter over the occupant's objection?" the answer is decidedly, "No." Already the police may enter, even break and enter, over the occupant's objection, under a Federal statute applicable throughout the country (18 U.S.C. 3109). Similarly, under the time-honored common law of warrants, when a court issues a warrant, it decides quite specifically that the interests of the public are such as to make entrance requisite regardless of the occupant's wishes. The complementary knock-and-wait and no-knock rules, to be exact, have nothing to do with whether or if the police may break and enter uninvited. Rather, they affect only the procedures by which the police execute said breaking and entering; the rules under discussion affect only the manner in which the police go about their rightful business.

Next, I have heard it argued that the exceptions to the knock-and-wait rule, the so-called exigent circumstances, do not admit of being known in advance. Despite its theoretical appeal, this objection finds no support in commonsense or actual practice. In a gambling case, if it is known, for example, that the prospective defendants regularly use water soluble paper, that they conduct their operations near a disposal facility, that they have defeated searches previously by immediately and effectively disposing of all evidence upon receiving preentry notice from the police, and that the prospective defendants are aware of the police surveillance and are primed to effect the disposal of the necessary evidence—if these so-called exigent circumstances are known at the time of the execution of the search warrant, they are almost invariably also known at least 1 hour in advance of the execution, in time for the police to apply for court permission to depart from the knock-and-wait rule.

Let me give another example: in a case involving both armed robbery and murder, if it is known that the prospective defendant is armed and will shoot it out rather than surrender to the police, for example he has just shot and killed a police officer in the process of escaping, if his recent conduct in escaping has made it evident that he knows the police are hot on his trail—if these so-called exigent circumstances are known at the time of the execution of the arrest warrant, they are almost invariably also known the 1 hour or so in advance, in time for the court to rule on whether complete surprise is warranted and on whether the knock-and-wait rule must be complied with strictly.

S. 2601 as reported by the House-Senate conference does not itself authorize no-knock in cases like those I have described. No-knocking in such cases is fully and clearly authorized under the law today as it has been for many years. What S. 2601 does is to continue that existing authorization in clearer, statutory language, all the while enhancing the protection afforded in the interest of individual privacy by stipulating that where possible a judge and not the policeman in the street must make the no-knock or knock-and-wait decision. I submit that this course is both advisable as a matter of public policy, and, as my examples demonstrate, also feasible in actual practice.

Without question the most troubling criticism that has been leveled on the subject of the so-called no-knock issue in S. 2601 is the suggestion that the legislation will heighten the level of violence in this community. Critics have suggested that when police officers depart from the knock-and-wait rule, occupants of the premises to be searched will, and perhaps should respond with a blast from a rifle. Mr. President, if I believed that the net effect of the conference substitute would be an increase in shoot-outs with the police, I would immediately align myself in opposition to this bill. My support of the conference substitute, however, reflects my firm conviction that the effect of the legislation will not be what the critics have supposed; indeed, I am amply convinced that most of the critics address an issue not now before the Congress.

First, it is a simple fact, as well as a matter of commonsense, that the danger of shot-outs arises more out of strict adherance to the knock-and-wait rule, rather than out of the limited no-knock authority in existing law codified in S. 2601. Shoot-outs, violence, death, occur more frequently when the police signal their presence and purpose, and give a dangerous suspect time to get his weapon—not when the police take the dangerous suspect by surprise before he can arm himself to shoot. We need only reflect on the recent, publicized case of the local bank robber, Billy Austin Bryant. Bryant killed two FBI agents at the door of his wife's apartment after the agents identified themselves as police—and clearly not because he mistook them for burglars. Again, I am convinced that on balance the consequence of limited no-knocking is less violence, not more. And I am equally confident that the police, especially with increased court supervision, will continue to utilize their law enforcement tools so as not to endanger human lives, including their own.

Next, it is essential that we keep in mind what the basic issue is now before the Congress. Opposition to the concept of no-knocking is deep and widespread, in the Congress and in the community. What we have pending before us, however, is not the general question of whether police officers may or should ever execute warrants without knocking and waiting. That question was settled long ago in the recesses of our legal history, and has been reaffirmed and reaffirmed by the Supreme Court of the United States. Despite our cautious reservation, no-knock has been for years now a fact of American life and law.

The issues that are before us, Mr. President, are whether the exception to the knock-and-wait rule should be stabilized, clarified, in legislative form, and whether prior judicial approval is feasible and well-advised. On these, the genuine issues before us, the Senate conferees have expressed their view and ask the concurrence of the Senate; public order and individual privacy merit the safeguards of codification and prior approval; prior approval, moreover, not only constitutes valuable protection, but also is practicable in fact. While I tend to disfavor, and fully know the dangers of the broad concept and practice of no-knocking, I count myself among the most vigorous supporters of reform of the manner of statement and procedures surrounding the knock-and-wait rule. Notwithstanding the no-knock slogans, disavowals, threats, and misstatements, the public must understand that it is only this reform that is to be found in the conference report on the District of Columbia Court Reform and Criminal Procedures Act, only codification and further protection by substituting an objective judge to make vital decisions in place of the police.

Mr. President, I invite attention to the opinion of the Supreme Court in the case of *Ker* v. *California,* 374 U.S. 23, which was printed in the RECORD earlier today.

Mr. TYDINGS. Mr. President, I ask unanimous consent that the opinion of the United States Court of Appeals for the District of Columbia in the case of *Bosley* v. *United States,* No. 21,513, decided April 9, 1970, be printed in the RECORD.

There being no objection, the opinion was ordered to be printed in the RECORD, as follows:

[U.S. Court of Appeals for the District of Columbia Circuit, No. 21,513]

DAVID E. BOSLEY, APPELLANT *v.* UNITED STATES OF AMERICA, APPELLEE—APPEAL FROM THE U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Decided April 9, 1970]

Mr. R. Timothy Hanlon, with whom *Mr. Murdaugh Stuart Madden* (both appointed by this court) was on the brief, for appellant.

Mr. Donald T. Bucklin, Assistant United States Attorney, with whom *Messrs. Thomas A. Flannery,* United States Attorney, *Roger E. Zuckerman* and *Victor W. Caputy,* Assistant United States Attorneys, were on the brief, for appellee. *Messrs. David G. Bress,* United States Attorney at the time the record was filed, and *John A. Terry,* Assistant United States Attorney, also entered appearances for appellee.

Before WILBUR K. MILLER, *Senior Circuit Judge,* and WRIGHT and MACKINNON, *Circuit Judges.*

MACKINNON, *Circuit Judge:* Appellant was charged in a three count indictment with housebreaking (D.C. CODE § 22–1801), rape (D.C. CODE § 22–2801), and sodomy (D.C. CODE § 22–3502). He was found guilty by a jury of housebreaking and sodomy as charged and of the lesser included offense of assult with intent to commit rape. He was sentenced to four to twelve years for housebreaking, four to twelve years for assault with intent to commit rape, and three to nine years for sodomy, the sentences for the assault with intent to commit rape and sodomy to run concurrently but consecutively to the sentence for housebreaking.

The Government's evidence may be briefly summarized. The complaining witness, a young lady, testified that she resided by herself in an apartment on Connecticut Avenue, N.W. in Washington, D.C. She testified that on the night of March 16, 1966, she went to bed around 11:30 P.M., having locked both the door and window to her apartment. She testified that she was awakened later that night by a man standing over her bed. Her testimony that Bosley entered her apartment without her consent is corroborated by a broken window glass in her apartment opposite the fire escape. Both complainant and a girl friend testified this was not broken earlier in the evening. Thus the fact that the window was broken in a manner to permit unlatching the lock from the outside is corroborative of the Government's contention that Bosley had gained admission to the apartment in this manner. Also corroborative of an outside entrance by Bosley into the apartment is complainant's testimony that he was wearing gloves when she first noticed him standing by her bedside. Bosley admitted he had gloves with him at the time.

The complaining witness recognized the intruder as appellant, whom she had met on two previous occasions,[1] and who lived in the apartment above her. She screamed and was told by appellant that he would kill her if she continued to scream. She testified that appellant then raped her and forced her to engage in oral sodomy. She testified that a cycle of rape and sodomy continued throughout the night. Her description of the rape and sodomy can only be described as bestial. She further testified that appellant left her apartment by way of the fire escape the next morning, and she then promptly went to a girl friend's apartment and called the police.

A detective of the Metropolitan Police arrived at her girl friend's apartment in answer to her call, and together they proceeded to her apartment. Shortly thereafter, another detective arrived at complainant's apartment and the two officers then went upstairs to appellant's apartment. As testified to by the detective:

"We knocked on the door. The door was a little bit ajar. We knocked on the door. No answer. We could look through and see someone laying on the couch. So we just pushed the door open and walked in." The officers then shook the appellant awake,[2] placed him under arrest, and took him to the police station. Here certain items of appellant's clothing were seized and a sample of his pubic hair was taken.[3] Apparently no evidence was taken from the appellant's apartment.

Appellant defendant on the claim of consent. He testified that he had twice met the complaining witness in or about their apartment building,[4] that preceding the early morning hours of March 17th he had been to a bar and, upon returning to his apartment, had felt lonely. The girl in whose apartment he was staying was out of the city. He further testified he went downstairs to the apartment of the complainant, knocked on the door, was admitted and that after some conversation, he made advances which were accepted by her, after which he fell asleep, that when he awoke the next morning, complainant was upset about the possibility of pregnancy and about her fiance learning of the episode; that he was feeling poorly and could offer her little sympathy, so he left her apartment by the window and returned to the upstairs apartment where he was staying by way of the fire escape. He stated he took this route because he had left the keys to his apartment in his apartment. When he found there was no food in his apartment, he went to a nearby store and picked up some groceries, then returned and fell asleep on the couch, and the next thing he remembered was being awakened by the police.

I

The appellant first argues that the trial court erred in admitting, over objection, a certain statement allegedly made by him while in police custody and before he had been advised of his rights as required by *Miranda* v. *Arizona,* 384 U.S. 436 (1966).

The statement in question was allegedly made by appellant in his apartment after the police had entered and shaken him awake. The detective was allowed to testify that after they had awakened him they first informed him that the girl downstairs had charged him with rape and appellant stated that he had not been in the apartment of the complainant witness but rather had been in a tavern until 2:00 A.M., at which time he had come home and gone to bed. The appellant denied making this statement; rather he testified as follows:

"As far as I can recall, when they came in, he said the girl downstairs . . . complained I had broken into her apartment and raped her.

"The only thing I can recall telling him was I didn't know what he was talking about, that I did not break in and I had not raped anybody."

Appellant was next arrested and taken to the police station.

The Government first argues that the trial court properly admitted the detective's testimony as impeachment evidence; the defense argues that the statement was used to discredit appellant's consent defense. In any event, we need not dwell long on this point since *Miranda,* if violated, under our decisions would prohibit the introduction of the statement even if it were used only for impeachment purposes. *Miranda* v. *Arizona, supra,* 384 U.S. at 477; *see also Proctor* v. *United States,* 131 U.S. App. D.C. 241, 404 F 2d 819 (1968); *Blair and Suggs* v. *United States,* 130 U.S. App. D.C. 322, 401 F. 2d 337 (1968).

The Government next argues that appellant's statement was voluntary and as such comes within the "volunteered statement" exception to *Miranda.* On this point *Miranda* states:

"[T]he prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination." 384 U.S. at 444.

We note that the Court drew on distinction between voluntary and involuntary statements, and we may assume that *Miranda* applies to all statements that come within its purview whether volunteered or not.

However, the Court also made it clear that not all statements come within the purview of its rule. We quote (384 U.S. at 478):

"In dealing wtih statements obtained through interrogation, we do not purport to find all confessions inadmissable. Confessions remain a proper element in law enforcement. Any statement given freely and voluntarily without any compelling influences is, of course, admissible in evidence. The fundamental import of the privilege while an individual is in custody is not whether he is allowed to talk to the police without the benefit of warnings and counsel, but whether he can be interrogated. There is no requirement that police stop a person who enters a police station and states that he wishes to confess to a crime, or a person who calls the police to offer a confession or any other statement he desires to make. Volunteered statements of any kind are not barred by the Fifth Amendment and their admissibility is not affected by our holding today." (Emphasis added).

The emphasized portion of the quote shows that the question to be asked is not solely whether the statement was voluntary, but rather in what circumstances was the voluntary statement made.[5] The rest of the quote sheds light on this question. It would indeed be a harsh rule with respect to a volunteered statement made by one who walked into the police station in order to confess, or who volunteered his confession over the telephone, to prohibit its admission in evidence because the volunteered statement was offered before the police could give the required warning. In these situations, there would be no opportunity for overreaching or other abusive practices on the part of the police and consequently one of the main purposes of the *Miranda* decision—the deterence of such police practices—would not be involved. Exclusion in such situations would serve no useful purpose and the Court wisely limited its rule to those statements "stemming from custodial interrogation."[6]

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[1] At the first meeting, the complaining witness had locked herself out of her apartment. She went upstairs to the apartment of another girl she knew and was surprised to find appellant staying there also. The appellant then assisted her in gaining entry by climbing from the upstairs apartment via the fire escape to her apartment, going in through the window, and opening the locked door. The second meeting was apparently a brief enconter in front of the building, more properly described as a rooming house than as an apartment building. It was an older home that had been subjected to some remodeling. Appellant testified that he was invited to the complainant's apartment during this encounter but this was denied by her.

[2] An indication of how soundly appellant was sleeping can be gained from the testimony that the police awakened him at about 8:45 A.M. on March 18th and that he had a hangover at the time; that from 10 P.M. of the day previous he had been out celebrating his birthday and had consumed 13 cans of beer, a couple of mixed drinks and some sherry; engaged in three acts of sexual intercourse and several acts of sodomy and had been awake until about 7:45 A.M. when he went to sleep. He had about one hour's sleep according to this version. His own testimony reduced the instances of sexual intercourse to one and stated he had slept from about 3:00 A.M. to 6:00 A.M. The jury did not believe his testimony in other particulars and the other version of his night's activity seems to be the most reliable.

[3] The items taken from the appellant at the police station included a shirt, T-shirt, undershorts, handkerchief, sweater and trousers. This property was turned over to the FBI for analysis. This analysis revealed that the fibers taken from appellant's trousers and sweater were similar to those found on the complainant's sheets, nightgown, and panties. Pubic hairs which matched the sample taken from appellant were found on complainant's nightgown and sheets. Evidence of these and similar analyses were introduced into evidence by stipulation. Appellant here challenges the introduction of this evidence. *See note 8 infra.*

[4] *See* note 1 *supra.*

[5] In Orozco v. Texas, 394 U.S. 324, 326 (1969), the police "officers questioned petitioner about incriminating facts" in his own room without advising him of his rights. The facts there are thus distinguishable from this case because here the police never questioned Bosley about the crime either at his own room or at the police station and no evidence was offered or admitted as to any response Bosley gave to any question by the police.

Turning to the case at bar, we note that appellant's statement whatever its exact content[7] was a spontaneous denial of guilt which he volunteered when the police informed him of the charges levelled against him. We consider the reasoning of *Miranda* is applicable here which allows the admission of a voluntary statement that is not the result of "in-custody interrogation." We note here that there was no opportunity for the police to employ any abusive practice in order to obtain an incriminating statement. At the time the statement was made, there had been no interrogation whatsoever, and thus appellant's statement could not have been one "stemming from custodial interrogation." And no claim is made that appellant was subjected to any custodial interrogation.

We are not ready to condemn the police practice of announcing to a person they may seek to arrest the charges against him as early as possible in the encounter. In this instance the police were only doing what was required of them by 18 U.S.C. § 3109. Upon learning the charges, the arrested person may quite naturally make a spontaneous statement of innocence or noninvolvement. At this point, the police may have had no opportunity to give the *Miranda* warnings or to prevent the statement from being made. They had no such opportunity here. Exclusion of a statement made in these circumstances would not effectuate the purposes of the *Miranda* decision.

We recognize that at some point in time during the course of the arrest it could no longer be contended that the police were without opportunity to give the *Miranda* warning. We believe that *Miranda* does require the police to warn an arrested suspect of his rights as immediately as practicable after arresting him. A heavy burden rests on the Government to prove any contention that the arrested suspect volunteered a statement without any "interrogation," explicit or implicit, on the part of the police and before he could be warned of his rights. *See Miranda* v. *Arizona, supra,* 384 U.S. at 475. We also recognize that the case before us would be quite different had the police interrogated the appellant in conjunction with informing him of the charges against him, *i.e.*, had the police informed the appellant of the charges and then *asked* him to respond to these charges. But the case at bar is not such a case. Here the appellant's statement was a spontaneous denial of guilt which he volunteered in response to the announcement of the charges levelled against him before the police had an opportunity to give the usual warning. We do not think the *Miranda* decision was intended to apply to such facts. Its entire thrust, as it reiterates so many times, is at "in-custody interrogation."

The appellant next argues that the statement allegedly made by him, along with certain physical evidence,[8] should not have been admitted on the grounds that they were obtained following his arrest which was in violation of 18 U.S.C. § 3109 (1964). That statute provides:

> "The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant."

It is clear that appellant's point does not raise constitutional issues because it is unquestioned that the police did have probable cause to enter to arrest Bosley for felonies. What is raised is the application of the statute to the entry and its effects on certain evidentiary matters. In *Miller* v. *United States,* 357 U.S. 301 (1958), the Supreme Court held section 3109 to be applicable to arrests,[9] and the Court has since broadly construed the section to proscribe an "unannounced intrusion," *Sabbath* v. *United States,* 391 U.S. 585, 590 (1968).

On the other hand, the Supreme Court has left open the question of whether there may be exceptions to the requirements of section 3109 in certain circumstances. *See Sabbath* v. *United States, supra,* 391 U.S. at 591; *Ker* v. *California,* 374 U.S. 23, 40 (1963); *Wong Sun* v. *United States,* 371 U.S. 471, 482–83 (1963); *Miller* v. *United States, supra,* 357 U.S. at 309–10. Mr. Justice Brennan was clearly of the opinion there would be certain exceptions to any constitutional ruling on the subject, *Ker* v. *California, supra,* 374 U.S. at 47, and Mr. Justice Marshall has suggested that these exceptions may be applicable to section 3109, *Sabbath* v. *United States, supra,* 391 U.S. at 591 n.8. Lower courts have, in fact, engrafted certain exceptions onto section 3109. One of these may be termed the "useless gesture" exception. *Cf. Miller* v. *United States, supra,* 357 U.S. at 310; *Hair* v. *United States,* 110 U.S. App. D.C. 153, 155 n.9, 289 F.2d 894, 896 n.9 (1961). In the past it has been applied when the arresting officers were justified in being virtually certain that the person to be arrested knew their purpose, and hence compliance with section 3109 would be a "useless gesture." *See, e.g., Wittner* v. *United States,* 406 F.2d 1165, 1166 (5th Cir. 1969); *Der Garabedian* v. *United States,* 372 F.2d 697, 699 (5th Cir. 1966); *Chappell* v. *United States,* 119 U.S. App. D.C. 356, 358–59, 342 F.2d 935, 937–38 (1965).

We think application of the "useless gesture" exception to the case at bar is appropriate. We note that the officers originally attempted to comply with section 3109 by knocking on the partially open door. They received no response and apparently knocked again. Then, noting that appellant was asleep on the couch they entered the apartment through the open door, awakened appellant and announced their purpose. Since appellant had not been awakened by their knocking, the officers could reasonably have concluded that further knocking or verbal announcement would be a "useless gesture." Indeed, it appears that at this point the most practical means available to the officers to carry out their duty of giving notice of their authority and purpose was to enter the apartment and awaken the appellant. We note that the officers, after they had awakened the appellant, did immediately state their purpose (and impliedly their authority) by informing the appellant of the charge levelled against him. To have done so before entry would have been useless gesture as the person the statute is designed to protect, the occupant, was asleep and the indications to the officers were that he was not capable of hearing them as he had not been awakened by their knocking. We conclude that the entry through the open door in these circumstances did not violate section 3109.

Affirmed.

Mr. TYDINGS. Mr. President, the thrust of the remarks I have just completed is that the so-called no-knock provisions in the Senate bill in no way enlarge existing law with respect to the circumstances under which a police officer is justified in following the common law exceptions to the normal knock-and-wait procedure in executing an arrest under a search warrant.

One of the great problems with this issue is that the average citizen, indeed, the average lawyer, indeed, the average, I am afraid, Member of Congress, does not know what the common law exceptions to the knock-and-wait rule of executing an arrest under a search warrant are; most, I am afraid, have no knowledge of the decisions, laws, statutes, either of the United States, of the District of Columbia, or of the several States. It is for that reason that I have placed in the RECORD the leading Supreme Court case, Ker against California, and the most recent District of Columbia case, Bosle against United States, which set forth basically the common law exceptions to the basic requirement that a police officer must knock and wait before executing a search warrant or an arrest warrant.

In the case of Ker against California, the situation involved entering and seizing illegally obtained marihuana without knocking, stating the purpose, or following the normal procedure in executing a search or an arrest warrant. Of course, in that case there was not even an arrest or a search warrant, but the Supreme Court found that the circumstances were sufficient to justify the arrest. The issue with which we are concerned, of course, is whether the seizure was justified because it was a breaking without following the normal knock-and-wait procedure.

The issue in the California case was that the California statute specifically codified the whole knock-and-wait principle, namely, that in the execution of a warrant a police officer must knock and wait prior to the actual entry.

I shall read from page 38 of the Supreme Court decision in Ker against California, as follows:

> Since the petitioners' federal constitutional protection from unreasonable searches and seizures by police officers is here to be determined by whether the search was incident to a lawful arrest, we are warranted in examining that arrest to determine whether, notwithstanding its legality under state law, the method of entering the home may offend federal constitutional standards of reasonableness and therefore vitiate the legality of an accompanying search. We find no such offensiveness on the facts here. Assuming that the officers' entry by use of a key obtained from the manager is the legal equivalent of a "breaking," see *Keiningham* v. *United States,* 109 U.S. App. D.C. 272, 276, 287 F. 2d 126, 130 (C.A. D.C. Cir. 1960), it has been recognized from the early common law that such breaking is permissible in executing an arrest under certain circumstances. See Wilgus, Arrest Without a Warrant, 22 Mich. L. Rev. 541, 798, 800–806 (1924). Indeed, 18 U.S.C. § 3109,[10] dealing with the execution of search warrants by federal officers, authorizes breaking of doors in words very similar to those of the California statute, both statutes including a requirement of notice of authority and purpose.

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[6] Miranda v. Arizona, 384 U.S. 436, 444. (1966).

[7] *See* p. 4, *supra.*

[8] See note 3, *supra.* We note that this physical evidence was not seized at the appellant's apartment, but rather was taken from him at the police station after his arrest. Appellant argues that this evidence should have been suppressed as "fruits of the poisonous tree" under Wong Sun v. United States, 371 U.S. 471, 487–88 (1963). However, granting *arguendo* the primary illegality, we are far from clear that the seizure of this evidence was not so remote so as to be "purged of the primary trait." *Id.* In any event, our disposition on the merits of the § 3109 question renders decision of this question unnecessary.

[9] This circuit had reached a similar result prior to *Miller* in Accarino v. United States, 85 U.S. app. D.C. 394, 179 F. 2d 456 (1949).

I continue by reading from page 39:

> Here, however, the criteria under California law clearly include an exception to the notice requirement where exigent circumstances are present. Moreover, insofar as violation of a federal statute required the exclusion of evidence in *Miller*, the case is inapposite for state prosecutions, where admissibility is governed by constitutional standards. Finally, the basis of the judicial exception to the California statute, as expressed by Justice Traynor in *People* v. *Maddox*, 46 Cal. 2d, at 306, 294 P. 2d, at 9, effectively answers the petitioners' contention:
>
> "It must be borne in mind that the primary purpose of the constitutional guarantees is to prevent unreasonable invasions of the security of the people in their persons, houses, papers, and effects, and when an officer has reasonable cause to enter a dwelling to make an arrest and as an incident to that arrest is authorized to make a reasonable search, his entry and his search are not unreasonable. Suspects have no constitutional right to destroy or dispose of evidense, and no basic constitutional guarantees are violated because an officer succeeds in getting to a place where he is entitled to be more quickly than he would, had he complied with section 844.

Section 844 is the basic California search and warrant law, which requires an officer to knock and identify himself and his purpose before entering. I continue to read:

> Moreover, since the demand and explanation requirements of section 844 are a codification of the common law, they may reasonably be interpreted as limited by the common law rules that compliance is not required if the officer's peril would have been increased or the arrest frustrated had he demanded entrance and stated his purpose. (*Read* v. *Case*, 4 Conn. 166, 170 [10 Am. Doc. 110]; See Rest., Torts, § 206, com. d.) Without the benefit of hindsight and ordinarily on the spur of the moment, the officer must decide these questions in the first instance.

Mr. President, one of the most difficult problems confronting the criminal justice system is how to handle a dangerous criminal defendant whom a judge believes will commit another crime if released pending trial on a criminal charge.

In many Western countries, the problem is resolved by an open process in which the defendant has a chance to show why he ought not to be detained, but in which the judge has the power to protect society from defendants who are deemed to be dangerous. In our country, historically and today, we have handled the same situation through a hypocritical system of high money bond which imprisons poor defendants, who may not be dangerous, but releases the more affluent defendants, who may be the most dangerous of all, when they post their money bail.

The District of Columbia crime bill conference report now pending before the Senate contains provisions for reform of this hypocritical practice and conforms it to the practice of other nations in the Western world. It is called pretrial detention. I would call it bail reform.

While considerable difference of opinion characterizes the various interpretations of statistical evidence on the subject, recent studies have demonstrated, at least, that crime committed by persons on court-ordered release, or bail recidivism, is of large enough proportions to be considered of major consequence to law enforcement. The National Bureau of Standards report indicate that 25 percent of persons charged with dangerous crimes and 17 percent of those charged with violent crimes can be expected to be rearrested for further crime while on pretrial release. These figures must be further adjusted to reflect the fact that many crimes are not reported to the police, and that only 30 percent of reported crimes, even, result in arrest and criminal charges.

The conference report provides several solutions to this problem in addition to the pretrial detention alternative: court reorganization to promote speedy trials and increased bail supervision by an expanded bail agency should have an especial impact. Pretrial detention remains as an essential technique, however, for dealing with certain incorrigible criminals who feel they have little to lose by committing more crimes while on bail or for controlling compulsive narcotics addicts who must engage in crime to support their habits.

The Bail Reform Act of 1966, while partially achieving its goal of decreasing reliance upon money bond as a condition for release, also deprived the courts of any legal authority to consider potential dangerousness in setting conditions of release. Examples of increased bail recidivism under the current law are familiar to nearly every citizen in the District of Columbia. The recent publicized shoot-out—discussed on the floor of the Senate—between a police officer and two armed robbers, which resulted in serious injury to the patrolman and death to one of the suspects, is but one of many such cases. Franklin Moyler had previously been convicted of one robbery and, at the time of the most recent holdup in which he met his death, was on bail in connection with two other armed robbery charges. A narrowly confined and adequately safeguarded pretrial detention alternative, as approved by the conference, constitutes a significant part of the needed response to cases such as this one.

Equally, if not more important, however, is the fact that enactment of the conference report will constitute a major reform in existing bail practices which, in conjunction with the bail agency expansion, will clearly result in a net decrease in the percentage of persons who are detained prior to trial. Historically, danger to the community has always been considered by trial courts in setting money bond which could be manipulated to effect complete detention prior to trial, unencumbered by procedural safeguards. Pretrial detention is not a new concept, the thousands of persons who have waited in the District of Columbia Jail, often as long as a year or more, for the trial dates to come can testify that pretrial detention is a daily reality. In spite of the Bail Reform Act of 1966 the practice of pretrial detention through high money bond persists on a large scale in the National Capital. This irony is attributable in large part to two shortcomings in existing law: First, the failure of Congress to implement the Bail Reform Act by providing resources for supervision of persons who would be eligible for release were such supervision readily available, and second, the prohibition against consideration of dangerousness in setting release conditions—which have forced actual and inevitable consideration of dangerousness to be shrouded in hypocrisy.

Recent studies of the bail practices in the District of Columbia show that over 30 percent of persons charged with criminal offenses are currently being detained because of their inability to post a money bond. The detention rate for felony suspects is 40 percent. Nor does money bond need to be high to be unreachable for the indigent defendant. These studies show that a sizable portion of these detained defendants were merely charged with misdemeanors. These persons were held, not on grounds of dangerousness, but simply because court and counsel were not able to devise adequate release conditions. The expansion of the bail agency's functions to include supervision of persons on court-ordered release will provide an adequate release alternative in the vast number of marginal cases where personal recognizance is counterindicated, and will free other, more rigorously policed supervision resources for the more difficult cases.

The 30-percent figure for all arrests and the 40-percent figure in felony cases also represent, however, many persons who are currently detained on the basis of their dangerousness. Today when a trial judge is faced with a bail decision involving an extremely dangerous suspect, the judge is forced to choose between ignoring his better judgment and the consequence to the community upon the release of the suspect or engaging in the subterfuge of setting an intentionally high and unreachable money bond. Nominally the money bond is calculated to assure appearance at trial, but in reality it is designed to detain the defendant in order to protect the community from his dangerous or violent behavior. This practice can no longer be tolerated. It permits an approach to pretrial detention that is both overinclusive and underinclusive in effect. It is overinclusive because the process is committed solely to the unreviewable discretion of the trial judge's mental processes. As a result, through the lack of procedural safeguards many persons who should be released are often detained. It is underinclusive because the hypocrisy of present bail practices does not permit the courts to focus directly, forthrightly, and in an adversary proceeding upon the question of dangerousness. As a result, many persons are being released to commit new crimes while on bail. In both instances, in addition to being arbitrary, the present practice is totally discriminatory, since it permits the detention of the poor but allows the rich defendant to be released regardless of what may be his greater danger to society.

Any objective appraisal of the bail policies currently in effect in the District of Columbia would dictate that another major reform if the bail laws is essential. The provisions approved in the conference report represent an important step in that direction. Reform is achieved first by making visible the consideration of dangerousness in setting release conditions or in ordering detention. Henceforth, the pretrial detention provisions of this legislation, not financial conditions, will be imposed to assure the safety of the community, and conversely, high money bond may not be used as a means to deny release on the untested assumption of dangerousness. Second, if release is to be denied, it must be denied forthrightly in an adversary proceeding which fulfills the constitutional promise of due process of law. The detention decision is surrounded by a panoply of safeguards including limits relating to detention eligibility, procedural due process, and the actual detention itself.

First, detention can be ordered for a limited number of categories of defendants of the type which available evidence demonstrates pose an appreciable danger to society. If charged with a crime of violence, a defendant is not eligible for detention unless he is currently on bail, probation or parole, or has recently been convicted of another crime of violence. The Senate conferees furthermore insisted that persons who are charged with an extremely dangerous crime—limited to forcible robbery, first degree burglary, arson, forcible rape, and felonious sale of narcotics—must be shown to have a prior pattern of dangerous behavior. A confined narcotics addict charged with a crime of violence may be held for treatment, and any defendant who threatens or injures witnesses or jurors in order to obstruct justice may be held. None of these defendants may be detained unless, after a thorough and exhaustive exploration of alternative release conditions, the court finds that no condition would reasonably assure the safety of the community. Most important, with the exception of the obstructor of justice, the Government must establish in each case that there is a substantial probability of the defendant's ultimate conviction.

Second, procedural due process is assured by the requirement that these findings be made after an adversary hearing of record with the defendant represented by counsel and with the right to present witnesses on his own behalf and to cross-examine witnesses presented against him. The Government must bear the burden of proof, and a prompt appellate resolution of any detention order is provided.

Finally, additional safeguards are required in the event detention is ordered. The Senate conferees receded to the House limitation of any detention order to 60 days, but insisted upon an expedited trial calendar and an agreement to urge budgetary appropriation for 25 new prosecutors for the District, to assure that the time limits will be met and in most cases met in substantially less than 60 days. To this end the Senate conferees also insisted that the time limits not be extended by virtue of the filing and resolution of pretrial defense motions. In addition, during his confinement, the defendant should be set apart from convicted offenders, have liberal access to counsel, and be released for short periods in custody to secure witnesses and prepare his defense.

It bears mentioning that the Senate conferees were not unmindful of the serious constitutional questions raised by any legislatively sanctioned pretrial detention on grounds of dangerousness. This concern should be fully aired in the decision to adopt the conference report; however, on the basis of existing authority the conferees could not locate persuasive evidence that a narrowly limited and fully protected detention alternative violates either the due process clause or the eighth amendment. The prohibition against excessive bail cannot be read to mandate bail in all cases; it merely forbids the imposition of high money bail in cases where the defendant has a right to statutory bail. This reading is supported by the Judiciary Act of 1789, passed by the same Congress that adopted the Bill of Rights, which limited the right to bail to noncapital cases. Moreover, in the early days of the Republic capital offenses included murder, burglary, arson, forcible rape, and many other offenses. The eighth amendment does not speak of exceptions for capital cases, nor does it authorize the detention of a defendant when witnesses or jurors are threatened or when a defendant is charged with an offense while on probation or parole or pending extradition. Yet these exceptions have repeatedly been approved.

In *Carlson* v. *Landon*, 342 U.S. 524 (1952), the Supreme Court observed:

> The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different concept. The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country. Thus in criminal cases bail is not compulsory where the punishment may be death. Indeed, the very language of the Amendment fails to say all arrests must be bailable.

This interpretation was reaffirmed in the recent District Court case of *United States ex rel. Covington* v. *Coparo*, 297 F. Supp. 203 (S.D.N.Y. 1969), in which the court said:

> Congress could, without running afoul of the Eighth Amendment, . . . provide . . . that persons accused of kidnapping, bank robbery with force and violence, or other serious non-capital crimes are not entitled to bail as a matter of right.

The ultimate test of constitutionality is due process of law. It is inconceivable that for decades de facto detention through high money bond and absent any procedural protections could avoid constitutional condemnation, while a measured response to bail recidivism fully surrounded by due process protections, the net result of which will guarantee the release of many persons wrongfully detained, will not pass constitutional muster. The amendment to the Bail Reform Act, as approved in conference, is such a measured response. The pretrial detention alternative, approved in the conference report, in fact, is much more carefully limited than the actual practice in the Federal system or the practice as it has existed in virtually every State and most countries of the Western World. Dangerousness is a typical consideration in setting bail in France, West Germany, Sweden, Norway, the Netherlands, most states of Australia, and most provinces of Canada.

The British success with pretrial detention over hundreds of years demonstrates that a carefully safeguarded system can be consistent with the concept of the Bill of Rights and still meet the public safety needs of a modern society.

As the Right Honorable Lord Denning, Master of the Rolls (third-ranking member of the judicial system in England) has said:

> Be it murder, rape, bank raid, or the like, in England we do not allow that man out on bail; we keep him imprisoned pending his trial. It isn't necessary to show that he may abscond. If there is reason to think that he may make another offense, we do not let him out so that he may do it pending trial. We keep him in prison until he is tried.
>
> But I believe here, and I have heard the controversy, that it is an unfair procedure; you are imprisoning him without trial; he has not been convicted; what right have you to imprison him like this pending trial?
>
> In England we do. I think it is right, myself, but this is important: We make sure that he is tried speedily. In England, every man, after his arrest, we arrange for him to be tried within 8 weeks, the greatest length between arrest and trial.
>
> I have been most interested to hear of the bill now before Congress in which proposals are made for preventive detention in this country providing always that the man is tried within 60 days. To my mind, our experience in England, we would have thought that very desirable. It is a matter of controversy for you, but I let out that thought because in our experience in England it is better for society that criminals or potential criminals should not be let loose pending trial. We do not let them out on bail, although we have in our bill of rights, like you, the prohibition against excessive bail being demanded.

As we consider the provisions for pretrial detention, remember the District of Columbia busdriver who on the night of March 12, 1968, was threatened with having his throat slashed by a robber who, only 10 days before, had been released without bail after he robbed another busdriver only a few blocks away. Subsequently, the culprit was convicted of both offenses.

Recall the downtown bank teller who, on the morning of May 4, 1968, faced down the barrel of a pistol held by a thug who had robbed a Safeway store 4 months earlier, but had been released without bond. He was subsequently convicted of both crimes.

Consider the young woman who was choked and raped in her own apartment near Capitol Hill on June 11, 1968, by an assailant who, three weeks later, after he was released without bond on the rape case, appeared at his victim's place of work, fired five shots at her, and struck her down with a bullet in the shoulder.

The revision of the District's bail laws will provide a visible, reliable, and fully safeguarded procedure for dealing with cases such as these, and, at the same time hasten the prompt release of many persons who are presently being needlessly detained. I urge the Senate to approve this important reform measure.

Mr. ERVIN. Mr. President, in my remarks earlier I mentioned a telegram I had received from members of the Harvard Law School faculty. I have located the telegram, and I ask unanimous consent to have it printed at this point in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

> CAMBRIDGE, MASS., JULY 16, 1970.
>
> Senator SAMUEL ERVIN,
> *Washington, D.C.*
>
> The undersigned members of the Harvard Law School faculty believe that a number of provisions of the conference version of the District Crime bill including those on mandatory sentencing and preventive detention are unfair and undesirable and would be a bad precedent for other jurisdiction.
>
> Ervin we support your efforts.
>
> James Vorenberg, Frank E. A. Sander, Laurence Tribe, Allan A. Stone, Albert M. Sacks, Vern Countyman, Leonard M. Ross, John T. Dawson, Lloyd E. Ohlin, Robert E. Keeton, Oliver Oldman.

PRETRIAL DETENTION

Mr. DOLE. Mr. President, in recent months there has been a great outcry about the various legislative proposals in Congress to authorize the limited pretrial detention of dangerous defendants. Inasmuch as these proposals raise important issues of public policy and constitutional law, debate and controversy are quite in order.

To date, however, most public criticism of pretrial detention has been marked by strident rhetoric and an almost complete unwillingness to acknowledge the merit in opposing arguments. When criticism of this nature springs from partisan sources, as it usually does, one questions whether the critic is trying to enlighten or trying to inflame—whether his purpose is to resolve the issues reasonably or berate the administration.

What is particularly unfortunate is the tendency of some newspapers to accept and repeat the misstatements and exaggerations of these critics as gospel truth.

Just 2 weeks ago, the Solicitor General of the United States, a man whose record of distinction as dean of the Harvard Law School and in his present post is well known, had something to say about this phenomenon. Commenting on the difficulty the Department of Justice has encountered in getting a balanced account before the public, Dean Erwin Griswold said:

> I might mention the considerable furor which is raised about a proposal which the press and others attack as the "preventive detention" bill. Now, if one will read this proposal, he will find that it might just as fairly be called the "prompt trial" bill.

Then the Solicitor General went on to say:

> I keep hoping that some truly scholarly person, genuinely interested in the sound development of our criminal law, in this period when it confronts very difficult problems, will give this proposal full and fair consideration. More consideration might well be given to the history of the bail provision, to long accepted practices in this country, and to the methods followed in other countries, particularly in Great Britain, Canada, and Australia where there is high regard for civil liberties, as there is here. Instead the approach is almost entirely in terms of shibboleths, and the efforts of department officers to deal with the problems generally receive short shrift.

Mr. President, I am glad to report that a truly scholarly person, genuinely interested in the sound development of our criminal law, has given pretrial detention a full and fair consideration.

Paul E. Wilson, Kane professor of law at the University of Kansas, is recognized in my State and throughout the country as a distinguished scholar with an impressive commitment to public service. A former assistant attorney general of Kansas, he has taught criminal law at the University of Kansas School of Law since 1957 and is now an editor of the American Criminal Law Quarterly, which is published by the section on criminal law of the American Bar Association.

Writing in the spring issue of the Journal of the Kansas Bar Association, Professor Wilson examined the full range of issues in bail reform, including pretrial detention. His treatment of these issues reflects a balance and perspective that is all too often lacking in discussions on this subject.

He can say, for example, that "pretrial detention imposes burdens both on the accused and on the community." He can outline those burdens in detail.

Yet he can conclude that "pretrial detention and the conditions of pretrial release ought to be available to protect the integrity of the criminal process as well as to protect the community against extraordinary risks of danger from a defendant's future crimes."

While observing candidly that there are constitutional arguments on both sides of pretrial detention, Professor Wilson nonetheless states:

> I have no difficulty in accepting the proposition that when there has been a sufficient showing, in a proceeding involving adequate procedural safeguards, that the release of one accused of crime poses an extraordinary danger to the community, the Government has the power to deny pre-trial release to one charged with crime. . . . I take the view that the Congress may constitutionally authorize a court to find in a proper judicial proceeding that the hazards of an accused person's release in the community pending trial are sufficiently great to justify his detention and the denial of bail.

The plain alternative to professor Wilson's position is that Congress may not constitutionally authorize a court to detain a defendant before trial, regardless of the fairness of the proceedings or the danger the defendant's release would pose to others.

In my view, this alternative is unrealistic, unreasonable, and unacceptable. It does not square with the traditional power to hold capital defendants before trial; and it does not accommodate the legitimate interests of society at large. As Deputy Attorney General Richard Kleindienst has put it:

> Society has the inherent right to protect its members, for limited periods through due process procedures, from persons who pose a serious threat to life and safety.

Congress must face up to the problem of crime on bail. It is not a myth. It is a fact of life in every metropolitan area, particularly in the District of Columbia. We must come to grips with defendants who are so reckless and so dangerous that they cannot be released without seriously jeopardizing the public safety. Such defendants include:

First. Professional armed criminals whose sole occupation is to break into homes or stage holdups on the street;

Second. Narcotics addicts who resort to serious felonies and crimes of violence to support their habits;

Third. Incorrigible troublemakers with long records and demonstrable streaks of viciousness;

Fourth. Compulsive sex offenders and arsonists; and

Fifth. Persons with special motives to engage in crime.

Speedy trials are not the whole answer to the problems posed by these people, because as long as we live in a society that affords criminal defendants important procedural protections, there will always be a gap between arrest and trial. During this period, some defendants cannot be trusted to conform to lawful behavior.

When the release of a defendant before trial would create a clear and obvious danger to the public safety, a court should have the power to deny release for a limited period until a prompt trial can be held.

I ask unanimous consent to have printed in the RECORD the article by Prof. Paul Wilson on pretrial detention, published in the spring 1970 journal of the Kansas Bar Association.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW APPROACHES TO PRETRIAL DETENTION

(By Paul E. Wilson)

INTRODUCTION

In 1969 I was invited to testify before the Subcommittee on Constitutional Rights of the United States Senate Committee on the Judiciary with reference to the proposed amendments to the federal Bail Reform Act of 1966.[1] This article is an adaptation of my statement to the Subcommittee.[2] As the pre-trial release provisions of the proposed Kansas Code of Criminal Procedure [3]—which may have been enacted by the time this is published—are substantially like the present federal statute, the views that I expressed to the Subcommittee may be quite revelant to current Kansas concerns. I admit that my statement is polemic—an argument for bail reform. In summary, I take the position that money bail, as the exclusive criterion of pre-trial release, is an inadequate and irrational standard. To the extent that bail imposes a burden upon persons whose appearance for trial can be assured by other, less onerous means, it places too high a price upon justice. To the extent that money bail permits the release of dangerous persons, whose propensities to commit other violent crimes can be demonstrated, it affords the community an insufficient measure of protection.

THE CASE FOR BAIL REFORM

The Bail Reform Act of 1966 and its state counterparts represent significant steps toward the realization of the goal of equal justice. Perhaps, in view of the widespread commitment to the idea of bail reform, arguments in its support are no longer timely or appropriate. But skeptics remain. Many jurisdictions adhere to the traditional concepts. Also, I am aware that deficiencies and imperfections of the acts and their administration have been commented on by law

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Footnotes at end of article.

enforcement officers, prosecutors, judges, and indeed, by members of the Congress. As in the case of all new legislation, experience has demonstrated a need for amendment and for additional implementation. I should hope, however, that any amendments will be carefully devised and will reflect a determination not to retreat from the basic purposes expressed.

The use of money bail as the pervasive means of securing the appearance of persons charged with crime is an anachronism. Without questioning its historical soundness, I would suggest that presently the practice of conditioning pre-trial release upon the supplying of monetary security, fixed in accordance with a pre-devised schedule, is an inadequate approach to most pre-trial detention and release problems.

Any statute dealing with pre-trial detention must be drawn with a view to reconciling important, yet conflicting, social interests. The interest of the accused person in his freedom so that he may pursue the normal course of his life, assist in the unhampered preparation of his defense and be free of punitive restraints while he is yet presumed to be innocent must be reconciled with the interest of society in bringing the accused to trial and preserving the orderly administration of justice. Notwithstanding the efforts at bail reform during the current decade, I am inclined to feel that still in the typical case when an accused is brought by the police before a committing magistrate or judge, bail is routinely set in a monetary sum based solely upon the crime charged and reference to a standard schedule. If the accused person is financially solvent, or is able to pay a bondsman to post bail for him, he is released. If he is financially unable to make bail, he is detained in jail pending trial. Those who go free on bail are released, not because they appear to be more innocent than those jailed, or because they are more likely to appear at the time appointed for trial, but because they can pay for their liberty. Those who remain in jail are detained not because they are guilty or are unlikely to appear, but because they are poor. Such a result is repugnant to our idea of equal protection of the laws.

The prejudice that is incident to detention in jail is obvious. The jailed person loses his liberty, his job, his status in the community, the companionship of his family who may become public charges and he suffers serious impediments to the preparation of his defense. And he may be innocent of the crime charged.

Numerous empirical studies have established the validity of these propositions. Perhaps it might be useful to illustrate the points by reference to a study conducted by one of my students. An examination was made of one hundred consecutive felony cases in a Kansas County.[4] The cases examined involved charges of larceny, burglary, robbery and felonious assault. The objective of the survey was to gain some insight into the relationship between pre-trial detention and the probability of subsequent conviction and imprisonment. The following table summarizes the findings.

DISPOSITION OF 100 FELONY CASES

[In percent]

Case disposition	Bailed accused 67 cases	Jailed accused 33 cases
Dismissed by prosecutor	38	18
Plea of guilty	41	60
Trial and conviction	5	12
Trial and acquittal	16	10
Granted probation [1]	54	26
Sentenced to penitentiary	46	74

[1] Includes 59 convicted, 33 bailed, and 26 jailed.

Footnotes at end of article.

Conceding the existence of variables not shown, we cannot escape the significant fact that at each stage the chance of a favorable disposition is substantially greater for the person admitted to bail than for the accused who remained in custody pending trial. Fifty-four percent of the bailed cases were disposed of by dismissal or acquittal, while only twenty-eight percent of the persons detained in jail had similar success. Seventy-four percent of those who were convicted after having been detained prior to trial went to prison, while only forty-six percent of those convicted after being bailed were actually committed to the penitentiary. A possible inference is that the convicted accused who has been at liberty on bail has twice as good an opportunity to be granted probation as does the accused who has been detained pending disposition of his case. While unknown factors, such as a prior criminal record, may help to produce this difference the fact is that the jailed accused will usually have lost his job and thus be deprived of a very strong argument for probation which the bailed accused may still have. It is indeed difficult to escape the conclusion that pre-trial incarceration creates a disadvantage to the accused even at the point of sentence.

Pre-trial detention imposes burdens both on the accused and on the community. Some of its more obvious consequences are these.

(1) The accused in custody who is not working will likely lack the resources necessary to finance an adequate pre-trial investigation of his case. He is not free to locate and induce reluctant witnesses to come forward, a task which often only he can perform effectively. Detention may impede the lawyer's contacts with his client. It is often difficult for a defense counsel to travel to the place of detention and the facilities available there for interviewing are often inadequate.

(2) The accused who has been released prior to trial and who has been able to retain his job and continue his family relationships is a much more likely candidate for probation. An accused who has been subject to the debilitating experience of pre-trial detention somehow seems less ammenable to rehabilitation via probation than the accused who has not been subject to such deleterious contacts and influences.

(3) The governmental expense of maintaining detention facilities is an important factor. In an urban area, where the jail population is high, these costs amount to many thousands of dollars each year. Another public cost which should not be overlooked is that of providing assistance to families of the accused who is not at liberty and cannot provide for his dependents.

(4) Many detention facilities are overcrowded, lack proper santitation equipment and recreational facilities and indiscriminately mix offenders of all kinds. Persons awaiting trial ordinarily are not confined separately from, or treated differently than, those who have been convicted. Conditions in these local jails are far inferior than those in state penitentiaries. It is ironic that the innocent accused may be confined under conditions more oppressive and restrictive than those applied to persons convicted of crimes.

(5) Finally there is the economic and social burden that detention imposes on both the detained person and his family. The accused in custody may lose his job or at least lose pay during his absence from work during the time when his need for financial resources is greatest. His family is humiliated and his relationship with his wife and children may be severely damaged.

By these criticisms of money bail which are by no means original, I do not propose the abolition of the bail system. If we could divorce ourselves from our history and devise a wholly new system of standards for pre-trial release, I suspect that we might omit the historic institution of bail. However, the concept is deeply imbedded in our thinking about criminal justice and, I suspect, has a considerable amount of public confidence and support. Moreover, in some cases it is a feasible means of assuring the appearance of the defendant at the time appointed for trial. To the extent that the secured bail bond contributes to an effective and just system of pre-trial release it has a legitimate place in our courts. To the extent that the requirement of money bail does not facilitate the appearance of the accused for trial, and results in the unnecessary detention of the accused, its continued use is indefensible.

An adequate pre-trial release system ought to be designed to allow to the accused person the maximum amount of personal freedom consistent with the interests of society and ought to require detention only when society's interests demand such drastic measures.

OBJECTIVES OF PRE-TRIAL DETENTION

A spirited, and not entirely fruitful, debate continues as to the purposes of bail. The most visible purpose, and, indeed, the only one recognized by the Supreme Court is to assure the presence of the defendant for trial.[5] However, other interests of society are relevant and ought to be regarded as legitimate concerns of the system of pre-trial detention. Pre-trial detention and the conditions of pre-trial release ought to be available to protect the integrity of the criminal process as well as to protect the community against extraordinary risks of danger from a defendant's future crimes. Conceding that *Stack v. Boyle* may not seem to lend support to this proposition, I would suggest that the Supreme Court was there concerned only with money bail and the question raised was whether bail had been fixed in an excessive amount. I would argue that regardless of the traditional understanding of bail, implicit in the system of criminal justice of which bail is a part is the power of the state to take effective measures to protect the judicial process and to protect the community from the acts of predators. The entire concept of pre-trial detention and release has been in a period of evolution since the beginning of the last decade. The range of alternatives for release and the conditions of release has been greatly expanded. I would urge that the system is now sufficiently mature to recognize that it may have functions other than the narrow purpose of assuring the presence of the accused for trial. An equally justifiable objective is to protect the public from further crime where the risk is patently very great.

Although I take an expanded view of the proper uses of pre-trial detention, I hasten to condemn its use for punitive purposes. Outrage at an accused's alleged crime or the belief that he may be able to evade conviction and should, therefore, be confined until acquittal requires his release, can never justify pre-trial detention and safeguards against that result should be provided by law.

ALTERNATIVES TO DETENTION

Recent bail reform legislation has been characterized by the recognition that circumstances other than money bail be relied on to assure the appearance of an accused for trial.[6] When an investigation indicates that an accused person has firm roots in his community, that he has stable family relationships and job commitments, that he has no history of default—in short, if he appears to be a good risk for appearance when required, his release upon his promise to appear or upon an unsecured appearance bond is favored. Pre-trial detention is minimized and secured appearance bonds are required only when circumstances are not persuasive that he is likely to appear.

The basis of an effective system of pre-trial release is the individual evaluation of cases. To accomplish the kind of individual evaluation required, adequate and competent personnel must be supplied to and utilized by the courts. Only thus can we be assured that the most appropriate pre-trial release conditions are imposed in each case.

Citation and Summons in Lieu of Arrest. A paramount objective of the procedure for the pre-trial processing of criminal cases is to reduce custody pending court appearance. As I have suggested, such custody is costly, both in monetary and human terms. In addition to the expansion and implementation of practices for the pre-trial release of accused persons upon conditions other than money bail, attention should be given to a more extensive use of the citation and summons in lieu of arrest, particularly in the case of minor offenses. The idea is not new.[7] The District of Columbia Code now authorizes an officer of the Metropolitan Police Force to issue a citation requiring appearance before an appropriate judicial officer instead of arresting without a warrant for a misdemeanor. Also, in the event of the arrest of a person without a warrant for a misdemeanor, after he is booked and processed according to law, the clerk of the Court of General Sessions may issue him a citation for an appearance at a specified time and place and release him from custody. The power conferred upon the officer and upon the clerk of the court is limited to cases of arrests for misdemeanors without warrants and the power may be exercised when the officer has reason to believe that the arrested person will not cause injury to persons or damage to property and will make an appearance in answer to the citation. Failure to comply with the citation subjects the offender to the maximum fine provided for the misdemeanor for which the citation was issued or imprisonment for not more than one year, or both.

Consideration ought to be given to legislation or rules amendments that will accomplish the following:

(a) Authorize all law enforcement officers to issue citations in lieu of arrest without a warrant under appropriate conditions;

(b) Require the issuance of summons in lieu of arrest in misdemeanor cases, unless a warrant is requested by the attorney for the government. In other cases the summons may be issued upon request of the attorney for the government;

(c) Both the citation and summons procedure ought to be available in cases other than misdemeanors.

Pattern legislation along these lines may be found in Sections 3.02 and 6.04 of Tentative Draft No. 1, model Code of Pre-Arraignment Procedure, prepared by a drafting committee of the American Law Institute. The first section cited authorizes the issuance of citations both in lieu of arrests and after arrests. It permits the issuance of a citation in cases where the officer is not empowered to make an arrest without a warrant. When an officer arrives at the place where a misdemeanor has already been committed he is precluded from arresting without a warrant inasmuch as the misdemeanor has not been committed in his view. In such an instance, the officer may properly issue a formal citation requiring the suspected offender to appear and respond to the accusation to be made against him. The proposal extends the discretion to issue citations in lieu of arrests without warrants to all crimes, subject to administrative regulations designed to provide the maximum use of citations. Persons believed to have committed offenses are to be taken into custody only when necessary to protect the public interest. In the other section cited, the drafters of the Model Pre-Arraignment Code propose that judicial officers before whom complaints are filed may issue a summons for the defendant in lieu of a warrant for his arrest. A summons must issue if requested by the prosecuting attorney, although the judge has authority to issue a summons even over the objection of the prosecutor. He is required to issue a summons when the crime charged is a minor one or belongs to a specified class unless he has reasonable grounds to believe that the defendant will not respond to the summons. The prosecutor is required to request a summons whenever he is satisfied that there is no substantial risk of nonappearance.

Reform in pre-trial detention practice compels a re-evaluation of the laws relating to arrest. The traditional purposes of arrest are quite like those of bail—to assure the presence of the defendant in court. Indeed, a classic definition of arrest, as found in the statutes of Kansas, is "Arrest is the taking of a person into custody, that he may be held to answer for a public offense."[8] The paramount purpose of arrest, like bail, is to assure that the accused may be accessible to the court where he is charged. The result of arrest is detention. When less drastic means are sufficient to assure the presence of the accused, reason and justice suggest that such means should be used. Still, the almost universal action of the policeman who has grounds for arrest is formally to arrest the accused. "Almost no thought is given to the question, whether, in any given case, there is a *need* for custody or whether, on the other hand, society's interests might be just as well or better served if the accused were to be issued a citation. It makes little sense to jail a man, who, when he appears before the judge, will be clearly qualified for release without bail."[9]

In cases involving serious crimes arrest may be necessary in order to carry out an adequate investigation. Where a search of the person arrested is deemed necessary, where interrogation is proposed, when it is necessary to fingerprint and photograph the accused, or where considerations of public safety or the well-being of the accused indicate the necessity for arrest, such action is imperative. On the other hand where these considerations are not present and there is every reason to believe that the accused will appear in court when wanted, the formal arrest would appear to be unnecessarily oppressive to the arrested person and to impose an undue burden upon the public. Use of the citation under such circumstances avoids detention; the cited person has no record of arrest; the officer does not risk possible liability for false arrest; and it is advantageous to the public in that it enables the conservation of the community's personnel and physical resources for law enforcement.

Supervision of Releasees. The Bail Reform Act of 1966 provides a broad spectrum of options from which the court may select appropriate conditions of release for an accused person. Assuming that the magistrate in authorizing pre-trial release has the benefit of the staff and other resources necessary to make an adequate evaluation of the person concerned, he should be able to impose such conditions of release as will be most likely to assure the appearance of the accused for trial and protect society's interests. The requirement of money bail is the exception and not the rule. Whatever conditions of release may be imposed, compliance with their terms can be best assured by maintaining an effective liaison between the accused person and the court during the pre-trial period and by keeping him aware that failure to appear or other violation of the conditions of his release will certainly result in the imposition of additional penalties.

Probation and parole systems have demonstrated the importance of effective supervision in accomplishing the objectives of probation and parole. The same considerations are applicable here. Supervision may be expedited by frequent reporting to designated offices, release to the custody, control and supervision of third persons, imposition of conditions designed to encourage a lawful pattern of conduct, part-time jail custody, and other circumstances which may be specifically adapted to the person concerned. Obviously conditions imposed upon pre-trial release must be realistic and have relevance to the purpose for which they are imposed. It is imperative that significant punishments be imposed by statute or upon citation for contempt for the breach of conditions of the release. Particular attention should be given by law enforcement agencies to the apprehension of bail violators and by the prosecutor's offices to the prosecution of such offenders. Penalties for bail jumping should be substantial and, in event of conviction for the principal offense, the penalties for bail jumping should be in addition to the penalties provided for the principal offense.

Review of Conditions of Release. Section 3146(d) of the Bail Reform Act provides that one who is unable to meet the condition of his release shall, upon application, be entitled to have the conditions reviewed after the lapse of twenty-four hours from the time of the release hearing. It appears that this provision has not been wholly effective because of the frequent failure of counsel to file the application required to call the matter to the court's attention. The accused person who is unable to supply bail or otherwise to satisfy the conditions of pre-trial release is also likely to be dependent upon the services of assigned counsel. It is probably safe to say that in most instances the pre-trial services provided by such counsel are minimal. The fact is that counsel does not routinely seek the review authorized by statute with the result that the accused who is unable to obtain his release at the initial bail hearing does not have a subsequent opportunity for his release status to be considered. A proposal for an automatic seventy-two hour review has been suggested.[10] This would seem an important step in the direction of assuring that every detained person would have the conditions of his detention re-examined in the light of circumstances that might be disclosed by a more deliberate investigation process. Prior to the first hearing, time limitations may have prevented the development of evidence which would justify release. Seventy-two hours is adequate in most cases to complete the investigation necessary to make a sound release decision. The requirement of an automatic review after seventy-two hours of detention would assure consideration of all facts and produce a more mature determination. In order that automatic review might be a meaningful procedure, legislation or court rule ought to identify the persons responsible for making the further investigation and define the extent of that responsibility. Perhaps the probation staff or other court personnel could be used for this purpose. Presumably the responsibility for preparing an adequate showing at the bail hearing rests upon counsel assigned to represent the accused. Perhaps it is appropriate to consider legislation emphasizing this responsibility. Also it might be appropriate to consider amendments to the Criminal Justice Act which would authorize assigned counsel more adequate compensation for his pre-trial services to indigent defendants.

Crimes by Releasees—Expediting Trials. A necessary complement to an effective system of pre-trial release is the expeditious disposition of criminal cases. This involves management of trial dockets and calendars. Both the accused and the public have high interest in the prompt disposition of criminal cases. The ABA Project on Minimum Standards for Criminal Justice suggests:

"To effectuate the right of the accused to a speedy trial and the interest of the public in prompt disposition of criminal cases, insofar as is practicable:

Footnotes at end of article.

(a) The trial of criminal cases should be given preference over civil cases; and

(b) The trial of defendants in custody and defendants whose pre-trial liberty is reasonably believed to present unusual risks should be given preference over other criminal cases."[11]

Without a statute or rule on the subject this standard is partially complied with in most jurisdictions. The trials of criminal cases are usually expedited and disposed of more readily than civil cases. In assigning criminal cases for trial those defendants who are in custody are usually tried earlier than defendants who are at liberty under some form of pre-trial release. Apparently less attention has been given to the matter of expediting the trial of bailed persons who are thought likely to flee or to commit another crime. It is unnecessary to point out that the longer the period between the pre-trial release of the accused and the disposition of his case, the more chances he has to flee or commit another crime. Speaking at the National Conference on Bail and Criminal Justice in 1965, Edward Bennett Williams of the District of Columbia Bar, made this statement:

"Giving priority on the trial calendar to those cases (the high risk recidivist) would narrow the potential for harm to the community to a point, I suggest, of insignificance. I don't think that any advocate of preventive detention can point to a single federal case in the last few years where a defendant has committed a crime within thirty days of his release on bail. The crimes that are committed are crimes that are committed by defendants who are on a congested calendar, and who are waiting four, five, six and seven months for their trial."[12]

While Mr. Williams' statement may not be wholly substantiated by other surveys,[13] it cannot be denied that delay increases opportunity for violation. Coupling a speedy trial requirement for the high risk accused with an effective system of liaison and communication between the accused and the court ought materially to decrease the incidence of crime committed by persons at liberty on bail.

The problems of expediting the trials of criminal cases are broader than the matters now under consideration. Elimination of delay is a function of judicial administration and may involve new methods of scheduling and monitoring cases. Alleviation of delay may require more money and manpower to deal with case loads. Because the circumstances of criminal cases vary greatly from one case to another and because the resources for the processing of cases differ from one jurisdiction to another it may not be wise to attempt to impose a statutory system of deadlines upon criminal proceedings.[14]

It would seem appropriate to include in the statute a provision requiring the early disposition of cases involving custody or high risk. An illustration of one aspect of what I am talking about is the Montana provision which states, "Prosecutions against defendants held in custody must be disposed of in advance of prosecution against defendants on bail unless for good cause the court shall direct that an action be tried out of its order."[15] To this might be added additional provisions requiring the early trial of those accused persons who are at liberty under pretrial release conditions when acceleration is recommended by the prosecutor or police and it is shown that there is likelihood that the accused may flee or commit another crime. Also it would seem appropriate to advance for trial cases of any persons who after release may be charged with subsequently committed crimes. Perhaps this might be accomplished by court rule. However, I am inclined to feel that legislative encouragement might help to accomplish the objective.

PREVENTIVE DETENTION

A particular problem in current pre-trial detention is the use of bail, or rather the denial of bail, to prevent the commission of further crimes by persons who might be expected to commit other crimes while at liberty on bail. A proposed amendment to the federal act would authorize the magistrate who prescribes conditions of release to deny bail on the grounds that the release of the person for whom pre-trial release is sought "will pose a danger to other persons or to the community" and to take into consideration the objective of providing "the necessary protection against such danger in fixing the conditions of release."[16]

Another proposal would permit the denial of bail to any person "who is charged with a crime of violence other than an offense punishable by death and who previously was convicted by a court of competent jurisdiction of the United States or of any State of any crime of violence and such previous conviction has not been reversed or set aside."[17] "Crimes of violence include voluntary manslaughter, murder, rape, mayhem, kidnapping, robbery, burglary, house breaking, extortion accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any felony, arson punishable as a felony, or an attempt to commit any of the foregoing." Apparently the incidence of crime committed by persons on bail is not insignificant, as some persons have contended in the past. A survey[18] indicates that in 1967 about fifteen per cent of the persons released on bail pending appeal to the United States Court of Appeals for the District of Columbia were indicted for crimes allegedly committed while on appeal bail. During the first half of 1967 about nine per cent of the persons released on bail pending trial in the United States District Court for the District of Columbia were indicted for offenses allegedly committed within six months after pretrial-release. Interesting but admittedly incomplete data suggest that conditions of release being used in the District of Columbia are not sufficiently effective in controlling crime. They also indicate that robbery is the most frequent offense for which persons on bail are re-indicted; that narcotics offenders are most frequently charged with crime on bail; and that many of the offenses are charged within ninety days of release.

The proposed amendments raise obvious issues of constitutionality as well as questions concerning the policy of preventive detention. Insofar as I am able to determine, the federal constitutional issue remains open. There are strong arguments to be found on both sides of the problem. However, I have no difficulty in accepting the proposition that when there has been a sufficient showing, in a proceeding involving adequate procedural safeguards, that the release of one accused of crime poses an extraordinary danger to the community, the government has the power to deny pre-trial release to one charged with crime. It seems to me that the considerations involved in the Eighth Amendment right to bail are not determinative of the issue raised in these situations. Conceding that the Eighth Amendment[19] prohibition against excessive bail guarantees a right to have bail fixed if the offense with which the accused is charged is a bailable one, I take the view that the Congress may constitutionally authorize a court to find in a proper judicial proceeding that the hazards of an accused person's release in the community pending trial are sufficiently great to justify his detention and the denial of bail.

A more difficult constitutional question may arise under the Kansas constitution which, in addition to the prohibition against excessive bail, states "All persons shall be bailable by sufficient sureties except for capital offenses, where proof is evident or presumption great."[20] It may be argued that any person charged with a non-capital crime has a constitutional right to be released on bail. Patently, this is not so. Consider the case of a person who has been convicted and imprisoned for Crime A but is also subject to an untried charge of Crime B. He may be bailable on Charge B but he is not entitled to release. He is detained because of his conviction of Crime A. Or consider the case of the accused person who is found to lack capacity to stand trial and committed to a hospital. He is not bailable, notwithstanding the constitutional guarantee. The conclusion is that while all persons are bailable, under special circumstances a particular accused may be detained when other overriding social considerations require his detention. The question is not one of right to bail. It is a question of society's ability to protect itself.

It is an accepted fact that notwithstanding the limited purpose of bail, most magistrates commonly take into consideration the likelihood that the defendant will commit another crime and frequently use high bail as a practical means of preventive detention.[21] This procedure is not honest, visible, controllable or subject to effective review. Moreover, I suspect that it is ineffective in that insofar as money supplies the condition upon which the release is granted, the system may result in the detention of some people who are less dangerous than others who are released. Also, the decreased reliance on money bail embodied in bail reform would appear to diminish the opportunities for judges to practice preventive detention in the guise of bail fixing. I agree with those authorities who suggest that the system should face up squarely to the question of whether the courts ought to be authorized to deny release to potentially dangerous offenders, and whether magistrates should be authorized to exercise their power to detain openly so that it may be reviewed and controlled.

Authorizations for the non-punitive detention of persons when their presence in the community creates a hazard to significant social interests are common in our law. Mentally ill persons may be involuntarily confined when their presence in the community would be dangerous to themselves and to others. Persons suffering from certain infectious diseases may be committed or quarantined as the public health requires. Aliens may be detained pending deportation and extradition determinations. I find nothing in the idea of limited preventive detention which is offensive to the presumption of innocence. As I understand it, the main function of the presumption of innocence is to cast upon the government the burden of proving beyond a reasonable doubt all elements of the crime charged and to require that the accused be acquitted if the government fails to carry that burden.

The presumption of innocence does not preclude denying bail in capital cases nor does it prevent the court from ordering any defendant held in custody if he does not supply money bail for his appearance or comply with other pre-release conditions. I should think that nothing in the presumption of innocence would forestall the detention of one who has shown a capacity and disposition to do serious injury to society and whose continued presence in the community constitutes a demonstrable threat to the public safety. Nor do I feel that a procedure that is properly limited and safeguarded with procedural standards would violate due process of law simply because it may result in depriving the defendant of his liberty prior to conviction.

Many of those who agree that abstractly a limited kind of preventive detention is constitutionally permissible are still inclined to oppose the grant of such power for policy

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Footnotes at end of article.

consideration. This position has been eloquently stated by Professor Foote:

"The addition of the label 'preventive' does not cleanse the detention of its vices: pretrial punishment and impairment of a fair trial. The overwhelming objection to such detention is that the kinds of precise prediction of future conduct which it requires cannot be made with significant reliability even under the best of fact finding and diagnostic circumstances. As it would have to be administered on a mass scale for the lowest level judiciary with no practical possibility of fast effective appellate review, it would deteriorate into the worst kind of uncontrolled discretion.

"The impossibility of individualized preventive prediction in this area and the statistical demonstration that the least number of mistakes will be made by releasing everyone is a convincing modern vindication of the wisdom of the absolute right to bail which has been an important part of our history since the Massachusetts Body of Liberties in 1641."[22]

Although I reach a different conclusion about the problem than does Professor Foote, I think that his statement emphasizes the difficulties that must be recognized and overcome if the validity of such legislation is to be sustained.

Certainly a serious problem concerns the lack of techniques for prediction of future conduct. However, there are criteria for prediction that would, I believe, have some validity. I have been informed by my associates in the field of psychiatry that given the proper opportunity for diagnosis they can in many cases make a judgment as to whether an individual will commit a crime within a period of six months. The preliminary studies in the District of Columbia indicate that with respect to certain kinds of criminals—those who commit robberies and narcotic offenses—the likelihood of recidivism is greater than in cases of other kinds of offenses. Continuing empirical studies will, I think, produce additional criteria upon which predictions can be based. I suppose there will always be misgivings in cases where detention is ordered. We can never be certain that the detained person would have committed a crime if released. Conceding that the prediction of specific future conduct is impossible, there is evidence that judgments may be made as to probability. Similar judgments are necessarily made in the administration of parole and probation systems. Elsewhere in the administration of justice we deal in probabilities. Moreover, the paramount interest of society in its own safety may require the toleration of a limited possibility of error in individual cases. Despite our effort to avoid such a result, we are aware that innocent men are occasionally convicted of crimes and are sentenced to terms of imprisonment.

This fact is one that we accept as a necessary incident of a system of criminal justice administered by men, in whom the capacity to err is inherent. Conviction is obviously more detrimental to the individual than detention, yet the possibility of error does not require that we abandon the process. It only requires that we employ all feasible methods of avoiding erroneous results.

If pre-trial release is to be denied and detention ordered in the interest of the public safety, it is imperative that attention be given to procedural safeguards adequate to protect the individual. The detention order should be made only by a court of general jurisdiction, upon application by the prosecuting attorney after notice to the accused and an evidentiary hearing. Counsel should be provided to the accused and the prosecution should have the burden of proving the allegations of its application by clear and convincing evidence. A prompt review should be afforded.[23]

It seems appropriate that there should be a statutory declaration of the rights to which an accused is entitled while in custody before trial. As his detention is for the dual purpose of protecting the interests of society and assuring his appearance at his trial, and not for the purpose of punishment, the elements of punishment which inevitably accompany any deprivation of liberty should be minimized insofar as possible. Ideally this would involve separate detention facilities where the only restrictions would be those necessarily required by considerations of custody. However, the expense incident to such a system may make it impracticable. Also, ideal detention facilities are susceptible of being used to punish the untried defendant and prejudice his efforts to prepare a defense. Therefore, in such cases every effort should be made to guarantee free communication between the untried defendant and the outside world.

Legislation pertaining to this matter should include the following guarantees to any person who is detained pending trial: (1) Use of the telephone with reasonable frequency during the entire period of detention and particularly upon being booked at the police station or being admitted to jail or prison; if the accused is an indigent person, calls should be made at state or government expense. (2) The privilege of writing and receiving an unlimited number of letters relevant to the charges against him; the indigent accused should be supplied with free stationery and postage for this purpose. (3) The privilege of talking with any visitor who comes to see him at reasonable hours, subject only to such minimum limitations as may be needed to assure the prisoner's security. Visits by counsel and others concerned with the preparation of the defense should be allowed at any time, unless precluded by considerations of necessity. (4) Freedom from police surveillance and censorship of letters, telephone calls, and conferences with visitors. (5) Employment of an effective sanction to enforce compliance. The problem posed here is difficult. Criminal and civil sanctions against anyone who willfully deprives the accused of his rights under the statutes should be provided, although such remedies are often ineffective when as in this situation, they must be applied against law enforcement officers. The civil cause of action would be more effective if it were designed to reach a joint liability of the government and the offending officer.

While the statutorily defined standards suggested above may be difficult to implement, a declaration of this nature seems important in seeking improvement of the conditions under which untried defendants are confined.

FOOTNOTES

[1] 18 U.S.C. Secs. 3141 to 3152.

[2] The statement presented appears in Hearings, Subcommittee on Constitutional Rights Committee on Judiciary, U.S. Senate, 91st Congress, 1st Session, *Amendments to the Bail Reform Act of 1966*, 1969, pp. 407–417.

[3] See *Kan. Jud. Council Bull.* Oct. 1969, pp. 45–50.

[4] The findings are shown by a survey conducted in Wyandotte County by Roger L. Sherman who was graduated from the University of Kansas School of Law in 1966.

[5] *Stack v. Boyle*, 342 U.S. 1 (1951).

[6] This approach is illustrated by 18 U.S.C. Sec. 3146, and its state counterparts.

[7] See Title VII, Public Law 9–226, 89th Congress.

[8] K.S.A. 62–1201.

[9] ABA Project on Minimum Standards for Criminal Justice, *Standards Relating to Pre-Trial Release*, 2.1, Commentary.

[10] Report of *Judicial Council Committee to Study the Operation of the Bail Reform Act in the District of Columbia*, D.C. Circuit, 1968, p. 14.

[11] *Standards Relating to Speedy Trial*, 1.1.

[12] Proceedings National Conference on Bail and Criminal Justice, 1965, p. 173.

[13] *Report of the Judicial Council Committee to Study the Operation of the Bail Reform Act in the District of Columbia*, D.C. Circuit, 1968.

[14] See Model Time Table for the Processing of Criminal Cases, *Task Force Report on the Courts, President's Comm. on Law Enforcement and Criminal Justice*, 1968, pp. 84, 86.

[15] Mont. Code of Crim. Proc. Sec. 95–1006.

[16] § 3551, 91st Congress, 1st Sess.

[17] § 3552, 91st Congress, 1st Sess.

[18] *Report of the Judicial Council Committee to Study the Operations of the Bail Reform Act in the District of Columbia*, D.C. Circuit, 1968, app. ct.

[19] "Excessive bail shall not be required—." Amend. 8, *U.S. Const.*

[20] *Kan. Const.*, B. of R., Sec. 9.

[21] The New York Times, Jan. 4, 1970, reports the following:

"A Federal judge yesterday doubled the $50,000 bail of a man accused of conspiring to bomb government buildings when friends and acquaintances appeared to post bond for his release.

"In doubling the bail to $100,000, Judge Milton Pollack said that those putting up the money were not responsible and would not mind forfeiting the sum to insure "the freedom of their friend and ally'."

The judge continued saying that the defense had " 'failed to establish ties or roots' within the community that would tend to make the defendant be on hand for his trial."

[22] Foote, "The Coming Constitutional Crisis in Bail," 113 *U. Pa. L. Rev.* 1125, 1183 (1965).

[23] Illustrative of the necessary procedural safeguards are those found in the Draft Proposal for Preventive Detention, Appendix C, *Standards Relating to Pretrial Release*, ABA Project on Minimum Standards for Criminal Justice, Pars. 1.4 through 1.10. The draft was not recommended by the advisory committee on Pre-trial Release.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that further consideration of the pending conference report be temporarily laid aside and that the Senate proceed to the consideration of the conference report on S. 3685.

The PRESIDING OFFICER (Mr. BELLMON). Without objection, it is so ordered.

EMERGENCY HOME FINANCE ACT OF 1970—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3685) to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. BELLMON). The report will be stated.

The report is as follows:

CONFERENCE REPORT (S. REPT. NO. ———)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3685) to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Emergency Home Finance Act of 1970".

TITLE I—REDUCTION OF INTEREST CHARGES FOR MEMBERS OF THE FEDERAL HOME LOAN BANK SYSTEM

SEC. 101. (a) There is authorized to be appropriated not to exceed $250,000,000, without fiscal year limitation, to be used by the Federal Home Loan Bank Board for disbursement to Federal home loan banks for the purpose of adjusting the effective interest charged by such banks on short-term and long-term borrowing to promote an orderly flow of funds into residential construction. The disbursement of sums appropriated hereunder shall be made under such terms and conditions as may be prescribed by the Board to assure that such sums are used to assist in the provision of housing for low- and middle-income families, and that such families share fully in the benefits resulting from the disbursement of such sums. No member of a Federal home loan bank shall use funds the interest charges on which have been adjusted pursuant to the provisions of this section to make any loan, if—

(1) the effective rate of interest on such loan exceeds the effective rate of interest on such funds payable by such member by a percentile amount which is in excess of such amount as the Board determines to be appropriate in furtherance of the purposes of this section; or

(2) the principal obligation of any such loan which is secured by a mortgage on a residential structure exceeds the dollar limitations on the maximum mortgage amount, in effect on the date the mortgage was originated, which would be applicable if the mortgage was insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act.

(b) Not more than 20 per centum of the sums appropriated pursuant to subsection (a) shall be disbursed in any one Federal home loan bank district.

TITLE II—AUTHORITY FOR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION TO PROVIDE A SECONDARY MARKET FOR CONVENTIONAL MORTGAGES

Section 201. (a) Section 302(b) of the National Housing Act is amended—

(1) by inserting "(1)" immediately following "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) For the purposes set forth in section 301(a), and with the approval of the Secretary of Housing and Urban Development, the corporation is authorized, pursuant to commitments or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in mortgages which are not insured or guaranteed as provided in paragraph (1) (such mortgages referred to hereinafter as 'conventional mortgages'). No such purchase of a conventional mortgage shall be made if the outstanding principal balance of the mortgage at the time of purchase exceeds 75 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 75 per centum is guaranteed or insured by a qualified private insurer as determined by the corporation. The corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation which were originated more than one year prior to the date of purchase does not exceed 10 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation. The corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it which are comparable to the limitations which would be applicable if the mortgage were insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act."

(b) Section 5202 of the Revised Statutes (12 U.S.C. 82) is amended by adding at the end thereof the following:

"Eleventh. Liabilities incurred in connection with sales of mortgages, or participations therein, to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.".

TITLE III—FEDERAL HOME LOAN MORTGAGE CORPORATION

SHORT TITLE

SEC. 301. This title may be cited as the "Federal Home Loan Mortgage Corporation Act".

DEFINITIONS

SEC. 302. As used in this title—

(a) The term "Board of Directors" means the Board of Directors of the Corporation.

(b) The term "Corporation" means the Federal Home Loan Mortgage Corporation created by this title.

(c) The term "law" includes any law of the United States or of any State (including any rule of law or of equity).

(d) The term "mortgage" includes such classes of liens as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby, and includes interests in mortgages.

(e) The term "organization" means any corporation, partnership, association, business trust, or business entity.

(f) The term "prescribe" means to prescribe by regulations or otherwise.

(g) The term "property" includes any property, whether real, personal, mixed, or otherwise, including without limitation on the generality of the foregoing choses in action and mortgages, and includes any interest in any of the foregoing.

(h) The term "residential mortgage" means a mortgage which (1) is a mortgage on real estate, in fee simple or under a leasehold having such term as may be prescribed by the Corporation, upon which there is located a structure or structures designed in whole or in part for residential use, or which comprises or includes one or more condominium units or dwelling units (as defined by the Corporation) and (2) has such characteristics and meets such requirements as to amount, term, repayment provisions, number of families, status as a first lien on such real estate, and otherwise, as may be prescribed by the Corporation.

(i) The term "conventional mortgage" means a mortgage other than a mortgage as to which the Corporation has the benefit of any guaranty, insurance or other obligation by the United States or a State or an agency or instrumentality of either.

(j) The term "security" has the meaning ascribed to it by section 2 of the Securities Act of 1933.

(k) The term "State", whether used as a noun or otherwise, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

ESTABLISHMENT OF THE CORPORATION

SEC. 303. (a) There is created the Federal Home Loan Mortgage Corporation, which shall be a body corporate and shall be under the direction of a Board of Directors composed of the members of the Federal Home Loan Bank Board, who shall serve as such without additional compensation. The Chairman of the Federal Home Loan Bank Board shall be the Chairman of the Board of Directors. The principal office of the Corporation shall be in the District of Columbia or at such other place as the Corporation may from time to time prescribe. The Corporation shall be a member of each Federal home loan bank and, except as otherwise provided by the Federal Home Loan Bank Board, shall have all the benefits, power, and privileges, and in the exercise thereof shall be subject to all liabilities, conditions, and limitations (except those relating to Federal home loan bank stock and subscriptions thereto and those under provisions of the Federal Home Loan Bank Act preceding section 9) which are provided by the terms of such Act or other Federal statute for members of any such bank.

(b) The Corporation shall have power (1) to adopt, alter, and use a corporate seal; (2) to have succession until dissolved by Act of Congress; (3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this title; (4) to make and perform contracts, agreements, and commitments; (5) to prescribe and impose fees and charges for services by the Corporation; (6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation; (7) to sue and be sued, complain and defend, in any State, Federal, or other court; (8) to acquire, take, hold, and own, and to deal with and dispose of any property; and (9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents, all without regard to any other law except as may be provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of this sentence. Nothing in this title or any other law shall be construed to provent the appointment, employment, and provision for compensation and benetfis as an officer, employee, attorney, or agent of the Corporation, of any officer, employee, attorney, or agent of any department, establishment, or corporate or other instrumentality of the Government, including any Federal home loan bank or member thereof. The Corporation, with the consent of any such department, establishment, or instrumentality, including any field services thereof, may utilize and act through any such department, establishment, or instrumentality and may avail itself of the use of information, services, facilities, and personnel thereof, and may pay compensation therefor, and all of the foregoing are hereby authorized to provide the same to the Corporation as it may request.

(c) Funds of the Corporation may be invested in such investments as the Board of Directors may prescribe. Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Corporation there is outstanding a designation by the Secretary of the Treasury as a general or other depositary of public money, may be designated by the Corporation as a depositary or custodian or as a fiscal or other agent of the Corporation, and is hereby authorized to act as such depositary, custodian, or agent. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depositary of public money, under such regulations as may be prescribed by the Secretary of the Treasury, and may also be employed as fiscal or other agent of the United States, and it shall perform all such reasonable duties as such depositary or agent as may be required of it.

(d) The Corporation, including its franchise, activities, capital, reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. The provisions of this subsection shall be applicable without regard to any other law, including without limitation on the generality of the foregoing section 3301 of the Internal Revenue Code of 1954, except laws hereafter enacted by Congress expressly in limitation of this subsection.

(e) Notwithstanding section 1349 of title 28 of the United States Code or any other provison of law, (1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28; (2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions without regard to amount or value; and (3) any civil or other action, case or controversy in a court of a State, or in any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation, without the giving of any bond or security, to the district court of the United States for the district and division embracing the place where the same is pending, or, if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

CAPITAL STOCK

SEC. 304. (a) The capital stock of the Corporation shall consist of nonvoting common stock which shall be issued only to Federal home loan banks and shall have such par value and such other characteristics as the Corporation prescribes. Stock of the Corporation shall be evidenced in such manner and shall be transferable only to such extent, to such transferees, and in such manner, as the Corporation prescribes.

(b) The Federal home loan banks shall from time to time subscribe, at such price not less than par as the Corporation shall from time to time fix, for such amounts of common stock as the Corporation prescribes, and such banks shall pay therefor at such time or times and in such amount or amounts as may from time to time be fixed by call of the Corporation. The amount of the payments for which such banks may be obligated under such subscriptions shall not exceed a cumulative total of $100,000,000.

(c) Subscriptions of the respective Federal home loan banks to such stock shall be allocated by the Corporation.

(d) The Corporation may retire at any time all or any part of the stock of the Corporation, or may call for retirement all or any part of the stock of the Corporation by (1) publishing a notice of the call in the Federal Register or providing such notice in such other manner as the Corporation may determine to be appropriate, and (2) depositing with the Treasurer of the United States, for the purpose of such retirement, funds sufficient to effect such retirement. No call for the retirement of any stock shall be made, and no stock shall be retired without call, if immediately after such action, the total of the stock not called for retirement and of the reserves and surplus of the Corporation would be less than $100,000,000. The retirement of stock shall be at the par value thereof, or at the price at which such stock was issued if such price is greater than par value. No declaration of any dividend on stock of the Corporation shall be effective with respect to stock which at the time of such declaration is the subject of an outstanding retirement call the effective date of which has arrived.

MORTGAGE OPERATIONS

SEC. 305. (a)(1) The Corporation is authorized to purchase, and make commitments to purchase, residential, mortgages from any Federal home loan bank, the Federal Savings and Loan Insurance Corporation, any member of a Federal home loan bank, or any other financial institution the deposits or accounts of which are insured by an agency of the United States, and to hold and deal with, and sell or otherwise dispose of, pursuant to commitments or otherwise, any such mortgage or interest therein. The operations of the Corporation under this section shall be confined so far as practicable to residential mortgages which are deemed by the Corporation to be of such quality, type, and class as to meet generally the purchase standards imposed by private institutional mortgage investors.

(2) No conventional mortgage shall be purchased under this section if the outstanding principal balance of the mortgage at the time of purchase exceeds 75 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the Corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the Corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 75 per centum is guaranteed or insured by a qualified private insurer as determined by the Corporation. The Corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The Corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation which were originated more than one year prior to the date of purchase does not exceed 10 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation. The Corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it which are comparable to the limitations which would be applicable if the mortgage were insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act.

(3) The sale or other disposition by the Corporation of a mortgage under this section may be with or without recourse, and shall be upon such terms and conditions relating to resale, repurchase, guaranty, substitution, replacement, or otherwise as the Corporation may prescribe.

(b) Notwithstanding any other law, authority to enter into and to perform and carry out any transactions or matter referred to in this section is conferred on any Federal home loan bank, the Federal Savings and Loan Insurance Corporation, any Federal savings and loan association, any Federal home loan bank member, and any other financial institution the deposits or accounts of which are insured by an agency of the United States to the extent that Congress has the power to confer such authority.

OBLIGATIONS AND SECURITIES

SEC. 306. (a) The Corporation is authorized, upon such terms and conditions as it may prescribe, to borrow, to give security, to pay interest or other return, and to issue notes, debentures, bonds, or other obligations, or other securities, including without limitation mortgage-backed securities guaranteed by the Government National Mortgage Association in the manner provided in section 306(g) of the National Housing Act. Any obligation or security of the Corporation shall be valid and binding notwithstanding that a person or persons purporting to have executed or attested the same may have died, become under disability, or ceased to hold office or employment before the issuance thereof.

(b) The Corporation may, by regulation or by writing executed by the Corporation, establish prohibitions or restrictions upon the creation of indebtedness or obligations of the Corporation or of liens or charges upon property of the Corporation, including after-acquired property, and create liens and charges, which may be floating liens or charges, upon all or any part or parts of the property of the Corporation, including after-acquired property. Such prohibitions, restrictions, liens, and charges shall have such effect, including without limitation on the generality of the foregoing such rank and priority, as may be provided by regulations of the Corporation or by writings executed by the Corporation, and shall create causes of action which may be enforced by action in the United States District Court for the District of Columbia or in the United States district court for any judicial district in which any of the property affected is located. Process in any such action may run to and be served in any judicial district or any place subject to the jurisdiction of the United States.

(c) The Federal home loan banks shall, to such extent as the Board of Directors may prescribe, guarantee the faithful and timely performance by the Corporation of any obligation or undertaking of the Corporation on or with respect to any security (which term as used in this sentence shall not include the capital stock referred to in section 304 of this title).

(d) The provisions of this section and of any restriction, prohibition, lien, or charge referred to in subsection (b) shall be fully effective notwithstanding any other law, including without limitation on the generality of the foregoing any law of or relating to sovereign immunity or priority.

MISCELLANEOUS PROVISIONS

SEC. 307. (a) All rights and remedies of the Corporation, including without limitation on the generality of the foregoing any rights and remedies of the Corporation on, under, or with respect to any mortgage or any obligation secured thereby, shall be immune from impairment, limitation, or restriction by or under (1) any law (except laws enacted by the Congress expressly in limitation of this sentence) which becomes effective after the acquisition by the Corporation of the subject or property on, under, or with respect to which such right or remedy arises or exists or would so arise or exist in the absence of such law, or (2) any administrative or other action which becomes effective after such acquisition. The Corporation shall be entitled to all immunities and priorities, including without limitation on the generality of the foregoing all immunities and priorities under any such law or action, to which it would be entitled if it were the United States or if it were an unincorporated agency of the United States.

(b) The financial transactions of the Corporation shall be subject to audit by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The Corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.

PENAL PROVISION

SEC. 308. (a) Except as expressly authorized by statute of the United States, no individual or organization (except the Corporation) shall use the term "Federal Home Loan Mortgage Corporation", or any combination of words including the words "Federal", and "Home Loan", and "Mortgage", as a name or part thereof under which any individual or organization does any business, but this sentence shall not make unlawful the use of any name under which business is being done on the date of the enactment of this Act. No individual or organization shall use or display (1) any sign, device, or insigne prescribed or approved by the Corporation for use or display by the Corporation or by members of the Federal home loan banks, (2) any copy, reproduction, or colorable imitation of any such sign, device, or insigne, or (3) any sign, device, or insigne reasonably calculated to convey the impression that it is a sign, device, or insigne used by the Corporation or prescribed or approved by the Corporation, contrary to regulations of the Corporation prohibiting, or limiting or restricting, such use or display by such individual or organization. An organization violating this subsection shall for each violation be punished by a fine of not more than $10,000. An officer or member of an organization participating or knowingly acquiescing in any violation of this subsection shall be punished by a fine of not more than $5,000 or imprisonment for not more than one year, or both. An individual violating this subsection shall for each violation be punished as set forth in the sentence next preceding this sentence.

(b) The provisions of sections 215, 607, 658, 1011, and 1014 of title 18 of the United States Code are extended to apply to and with respect to the Corporation, and for the purposes of such section 658 the term "any property mortgaged or pledged", as used therein, shall without limitation on its generality include any property subject to mortgage, pledge, or lien acquired by the Corporation by assignment or otherwise.

(c) The term "bank examiner or assistant examiner", as used in section 655 of such title 18, shall include any examiner or assistant examiner who is an officer or employee of the Corporation and any person who makes or participates in the making of any examination of or for the Corporation.

(d) The term "bank", as used in subsection (f) of section 2113 of such title 18, shall be deemed to include the Corporation, and any building used in whole or in part by the Corporation shall be deemed to be used in whole or in part as a bank, within the meaning of such section 2113.

(e) The terms "agency" and "agencies" shall be deemed to include the Corporation wherever used with reference to an agency or agencies of the United States in sections 201, 202, 203, 205, 207, 208, 209, 286, 287, 371, 506, 595, 602, 641, 654, 701, 872, 1001, 1002, 1016, 1017, 1361, 1505, and 2073 of such title 18. Any officer or employee of the Corporation shall be deemed to be a person mentioned in section 602 of such title 18 within the meaning of sections 603 and 606 of such title.

(f) The terms "obligation or other security" and "obligations or other securities", wherever used (with or without the words "of the United States") in sections 471 to 476, both inclusive, and section 492 of such title 18, are extended to include any obligation or other security of or issued by the Corporation. Any reference in sections 474, 494, 495, and 642 of such title 18 to the United States Code, except in a territorial sense, or to the Secretary of the Treasury is hereby extended to include the Corporation. Section 477 of such title 18 is extended to apply with respect to section 476 of such title as extended by the first sentence of this subsection (f), and for this purpose the term "United States" as used in such section 476 shall include the Corporation.

TERRITORIAL APPLICABILITY

SEC. 309. Notwithstanding any other law, this title shall be applicable to the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

CONSTRUCTION AND SEPARABILITY

SEC. 310. Except as otherwise provided in this title, or as otherwise provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of provisions of this title, the powers and functions of the Corporation and of the Board of Directors shall be exercisable, and the provisions of this title shall be applicable and effective, without regard to any other law. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remainder of this title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE IV—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION SPECIAL ASSISTANCE FUNDS

SEC. 401. (a) Section 305(c) of the National Housing Act is amended by striking out "by $500,000,000 on July 1, 1969" and inserting in lieu thereof "by $2,000,000,000 on July 1, 1969".

(b) Section 305(g) of such Act is amended—

(1) by striking out "$2,500,000,000" and inserting in lieu thereof "$1,750,000,000";

(2) by striking out "at par"; and

(3) by striking out in the first sentence all that follows the word "exceed" and inserting in lieu thereof "the dollar limitation on maximum principal obligation that would be applicable to such mortgage if insured under section 235(i) of the National Housing Act."

SEC. 402. The second sentence of section 302(b)(1) of the National Housing Act (as redesignated by section 201 of this Act) is amended by inserting after "(1)" the following: "is insured under section 236 or".

TITLE V—FUNDS FOR FINANCING MIDDLE-INCOME HOUSING

FINDINGS AND PURPOSE

SEC. 501. The Congress finds that—

(1) periodic episodes of monetary stringency and high interest rates make it extremely difficult for families of middle income to obtain mortgage credit at rates which they can afford to pay;

(2) periods of monetary stringency and high interest rates are directly related to the Government's monetary and fiscal policies;

(3) a disproportionate share of the burden of sustaining these anti-inflationary policies of the Government falls on families of middle income who are buyers or prospective buyers of homes; and

(4) the Government has a responsibility to lessen the disproportionate burden which such families bear as a result of such policies. It is the purpose of this title to provide, during periods of high mortgage interest rates, a source of mortgage credit for such families which is within their financial means.

MORTGAGE CREDIT FOR MIDDLE-INCOME FAMILIES

SEC. 502. Title II of the National Housing Act is amended by adding a new section 243 as follows:

"HOMEOWNERSHIP FOR MIDDLE-INCOME FAMILIES

"SEC. 243. (a) Whenever he determines such action to be necessary in furtherance of the purposes set forth in section 501 of the Emergency Home Finance Act of 1970, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of families of middle income. The assistance shall be accomplished through interest subsidy payments to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation (hereinafter referred to as 'the investor') with respect to mortgages meeting the special requirements specified in this section and made after the date of enactment of the Emergency Home Finance Act of 1970.

"(b) To qualify for assistance payments a middle-income family shall be a mortgagor under a mortgage which is (1) insured under subsection (j) of this section, (2) guaranteed under chapter 37 of title 38, United States Code, or (3) a conventional mortgage meeting the requirements of subsection (j)(3) of this section. In addition to the foregoing requirement, the Secretary may require that the mortgagor have an income, at the time of acquisition of the property, of not more than the median income for the area in which the property is located, as determined by the Secretary, with appropriate adjustments for smaller and larger families.

"(c) The interest subsidy payments authorized by this section shall cease when (1) the mortgagor no longer occupies the property which secures the mortgage, (2) the mortgages are no longer held by the investor, or (3) the rate of interest paid by the mortgagor reaches the rate of interest specified on the mortgage.

"(d)(1) Interest subsidy payments shall be on mortgages on which the mortgagor makes monthly payments towards principal and interest equal to an amount which would be required if the mortgage bore an effective interest rate of 7 per centum per annum including any discounts or charges in the nature of points or otherwise (but not including premiums, if any, for mortgage insurance) or such higher rate (not to exceed the rate specified in the mortgage), which the mortgagor could pay by applying at least 20 per centum of his income towards homeownership expenses. As used in this subsection, the term 'monthly homeownership expense' includes the monthly payment for principal, interest, mortgage insurance premium, insurance, and taxes due under the mortgage.

"(2) In addition to the mortgages eligible for assistance under paragraph (1) of this subsection, the Secretary is authorized to make periodic assistance payments on behalf of cooperative members of middle income. Such assistance payments shall be accomplished through interest subsidy payments to the investor with respect to mortgages insured (subsequent to the effective date of this section) under section 213 which are executed by cooperatives, the membership in which is limited to middle-income families. For purposes of this paragraph—

"(1) the term 'mortgagor', when used in subsection (b) in the case of a mortgage covering a cooperative housing project, means a member of the cooperative;

"(2) the term 'acquisition of the property', when used in subsection (b), means the family's application for a dwelling unit; and

"(3) in the case of a cooperative mortgagor, subsection (c) shall not apply and the interest subsidy payments shall cease when the mortgage is no longer held by the investor or the cooperative fails to limit membership to families whose incomes at the time of their application for a dwelling unit meets such requirements as are laid down by the Secretary pursuant to subsection (b).

"(e) The interest subsidy payments shall be in an amount equal to the difference, as determined by the Secretary, between the total amount of interest per calendar quarter received by the investor on mortgages assisted under this section and purchased by it and the total amount of interest which the investor would have received if the yield on such mortgages was equal to the sum of (1) the average costs (expressed as an annual percentage rate) to it of all borrowed funds outstanding in the immediately preceding calendar quarter, and (2) such per centum per annum as will provide for administrative and other expenses of the investor and a reasonable economic return, as determined by the Secretary to be necessary and appropriate taking into account the purpose of this section to provide additional mortgage credit at reasonable rates of interest to middle-income families.

"(f) Procedures shall be adopted by the Secretary for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of the mortgagor's payments pursuant to subsection (d).

"(g) The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

"(h) (1) There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make interest subsidy payments under contracts entered into under this section, The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $105,000,000 during the first year of such contracts prior to July 1, 1971, which amount shall be increased by an additional $105,000,000 during the first year of an additional number of such contracts on July 1 of each of the years 1971 and 1972.

"(2) No interest subsidy payments under this section shall be made after June 30, 1973, except pursuant to contracts entered into on or before such date.

"(i) In determining the income of any family for the purposes of this section, income from all sources of each member of the family in the household shall be included, except that the Secretary shall exclude income earned by any minor person.

"(j) (1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

"(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements of section 221(d) (2) or 234(c), except as such requirements are modified by this subsection: *Provided, however,* That in the discretion of the Secretary 25 per centum of the authority conferred by this section and subject to all the terms thereof may be used for mortgages on existing housing.

"(3) A mortgage to be insured under this section shall—

"(i) involve a single-family dwelling which has been approved by the Secretary prior to the beginning of construction, or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multifamily project, the construction of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit shall have had no previous occupant other than the mortgagor;

"(ii) involve a single-family dwelling whose appraised value, as determined by the Secretary, is not in excess of $20,000 (which amount may be increased by not more than 50 per centum in any geographical area where the Secretary authorizes an increase on the basis of a finding that the cost level so requires).

"(iii) be executed by a mortgagor who shall have paid in cash or its equivalent on account of the property (A) 3 per centum of the first $15,000 of the appraised value of the property, (B) 10 per centum of such value in excess of $15,000 but not in excess of $25,000, and (C) 20 per centum of such value in excess of $25,000."

CONFORMING AMENDMENTS

Sec. 503. Section 238 of the National Housing Act is amended by—

(1) striking out "section 235(i), 235(j) (4), or 237" each place it appears in subsection (a) and inserting in lieu thereof "section 235(i), 235(j) (4), 237, or 243"; and

(2) striking out "235, 236, and 237" each place it appears in subsection (b) and inserting in lieu thereof "235, 236, 237, and 243".

AMENDMENT TO THE FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT

Sec. 504. Section 304(a) (1) of the National Housing Act is amended by adding at the end thereof the following: "Nothing in this title shall prohibit the corporation from purchasing, and making commitments to purchase, any mortgage with respect to which the Secretary of Housing and Urban Development has entered into a contract with the corporation to make interest subsidy payments under section 502 of the Emergency Home Finance Act of 1970.".

TITLE VI—FLEXIBLE INTEREST RATE AUTHORITY

Sec. 601. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, is amended by striking out "October 1, 1970" and inserting in lieu thereof "January 1, 1972".

TITLE VII—MISCELLANEOUS

SETTLEMENT COSTS IN THE FINANCING OF FEDERAL HOUSING ADMINISTRATION AND VETERANS' ADMINISTRATION ASSISTED HOUSING

Sec. 701. (a) With respect to housing built, rehabilitated, or sold with assistance provided under the National Housing Act or under chapter 37 of title 38, United States Code, the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs are respectively authorized and directed to prescribe standards governing the amounts of settlement costs allowable in connection with the financing of such housing in any such area. Such standards shall—

(1) be established after consultation between the Secretary and the Administrator:

(2) be consistent in any area for housing assisted under the National Housing Act and housing assisted under chapter 37 of title 38, United States Code; and

(3) be based on the Secretary's and the Administrator's estimates of the reasonable charge for necessary services involved in settlements for particular classes of mortgages and loans.

(b) The Secretary and the Administrator shall undertake a joint study and make recommendations to the Congress not later than one year after the date of enactment of this Act with respect to legislative and administrative actions which should be taken to reduce mortgage settlement costs and to standardize these costs for all geographic areas.

EMERGENCY RELIEF FROM INTEREST RATE CONFLICT BETWEEN FEDERAL LAW AND STATE LAW

Sec. 702. Notwithstanding any other law, from the date of enactment of this title until July 1, 1972, loans to local public agencies under title I of the Housing Act of 1949 and to local public housing agencies under the United States Housing Act of 1937 may, when determined by the Secretary of Housing and Urban Development to be necessary because of interest rate limitations of State laws, bear interest at a rate less than the applicable going Federal rate but not less than 6 per centum per annum.

TREASURY BORROWING AUTHORITY FOR NEW COMMUNITIES PROGRAM

Sec. 703. Section 407(a) of the Housing and Urban Development Act of 1968 is amended by adding at the end thereof the following: "The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by this title. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under such Act are extended to include purchases of the Secretary's obligations hereunder."

REAL ESTATE LOANS BY NATIONAL BANKS

Sec. 704. Section 24 of the Federal Reserve Act (12 U.S.C. 371) is amended—

(1) by striking out "80 per centum" and "twenty-five years" in clause (3) of the third paragraph and inserting in lieu thereof third sentence of the first paragraph and inserting in lieu thereof "90 per centum" and "thirty years", respectively; and

(2) by striking out "thirty-six months", each place it appears in the first sentence of the third paragraph, and inserting in lieu thereof "sixty months".

EXTENSION OF TIME FOR CONTINUANCE OF CERTAIN ACTIVITIES

Sec. 705. Section 408(c) (2) of the National Housing Act (12 U.S.C. 1730a(c)(2)) is amended by striking "two" and inserting in lieu thereof "five".

STATEWIDE LENDING FOR FEDERAL SAVINGS AND LOAN ASSOCIATIONS

Sec. 706. Section 5(c) of the Home Owner's Loan Act of 1933 is amended (1) by adding after "their home office" in the first sentence the following: "or within the State in which such home office is located"; and (2) by substituting the word "section" for the word "proviso" used in the last clause of the second proviso.

RESERVES OF INSURED INSTITUTIONS

Sec. 707. Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended by inserting after "*Provided*, That" the second place the term appears the following: "the Corporation may extend the twenty-year limitation hereinabove prescribed by not more than ten years in the case of any insured institution if it determines such action to be necessary to meet mortgage needs: *Provided further*, That".

SAVINGS AND LOAN ASSOCIATIONS AS PENSION TRUSTEES

Sec. 708. Section 5(c) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by inserting before the next to the last paragraph a new paragraph as follows:

"Any such association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954, if the funds of such trust are invested only in savings accounts or deposits in such association or in obligations or securities issued by such association. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this paragraph."

MAXIMUM LOAN ON SINGLE-FAMILY DWELLING

Sec. 709. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by striking out "$40,000" in the first proviso and inserting in lieu thereof "$45,000".

COLLEGE HOUSING GRANT AUTHORIZATION

Sec. 710. Section 401(f)(2) of the Housing Act of 1950 is amended by striking out all that follows "increased by" and inserting in lieu thereof "$6,300,000 on July 1, 1970".

NATIONAL HOUSING PARTNERSHIPS

Sec. 711. Title IX of the Housing and Urban Development Act of 1968 is amended by adding after section 911 the following new section:

"STATE REGULATION

"Sec. 912. Nothing contained in this title shall preclude a State or other local jurisdiction from imposing, in accordance with the laws of such State or other local jurisdiction, any valid nondiscriminatory tax, obligation, or regulation on the partnership as a taxable and or legal entity, but no limited partner of the partnership not otherwise subject to taxation or regulation by or judicial process of a State or other local jurisdiction shall be subject to taxation or regulation by or subject to or denied access to judicial process of such State or other local jurisdiction, or be so subject or denied access to any greater extent, because of activities of the corporation or partnership within such State or other local jurisdiction."

And the House agree to the same.

John Sparkman,
William Proxmire,
Harrison A. Williams, Jr.,
Wallace F. Bennett,
John Tower,
Managers on the Part of the Senate.

Wright Patman,
William A. Barrett,
Leonor K. Sullivan,
Henry S. Reuss,
William B. Widnall,
Florence P. Dwyer,
Albert W. Johnson,
Managers on the Part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. SPARKMAN. Mr. President, I should like to make a statement on the conference report on the housing bill.

Before I comment on the details, I want to say how pleased I am with the fine job done by the members of the conference committee of both Houses of Congress.

In resolving the differences, the conference committee worked together with speed, and a spirit of good will and cooperation. However, as conferees usually do, there were compromises between the two sides. On the part of the Senate, we remained adamant on several items, and the same thing was true with the House. All in all, the conferees were satisfied that the final product represented the best interests of all concerned, and I am pleased to report that every member of the conference committee signed the report.

The Senate conferees were quite satisfied with the results of the conference. Although the Senate conferees receded in a few more items than the House conferees, there is only one provision of major significance in the Senate bill which the conference committee did not agree to. This is section 601(3) of S. 3685 of the Senate passed bill which would have established a dual interest rate program for FHA and VA mortgages. The House conferees were adamantly opposed to this and we had no choice but to recede.

The dual interest rate proposed would have established an experimental dual-interest-rate system for FHA and VA assisted mortgages. At present the ceiling on FHA and VA mortgages is established administratively by the Secretary of Housing and Urban Development. The new proposal would have given a lender and a borrower the option of agreeing on a rate without limit provided there were no discount points charged in connection with the transaction. This plan was recommended by the Commission on Mortgage Interest Rates which made its report to Congress last year.

I regret that the conferees did not agree to this provision. It will mean that we must continue the existing plan which permits discounts.

I hope that someday we can develop a workable plan to rid ourselves of discounts because I consider them most reprehensible and a hidden charge that adds greatly to the cost of housing.

Mr. President, this is a bill which has been developed by the Banking and Currency Committees of the Senate and House of Representatives in an attempt to bring relief to the homebuilding and mortgage credit industries and, further, to provide more housing for our moderate-income people. It is true that the President requested title I of the bill, that is, that portion of the bill which provides a $250 million subsidy to be used by the Federal home loan banks to reduce interest charges on advances to savings and loan associations. The remainder of the bill, some six titles, was all developed by the Banking and Currency Committees of the Senate and the House of Representatives.

The bill has the potential for the stimulation of new mortgage credit amounting to $20 billion. This could finance over 1 million housing units. Whether or not this will in fact be done depends greatly on the will and aggressiveness of the administration in implementing the provisions of the bill.

Our slump in homebuilding has had widespread impact on many facets of our economy and our national life. Housing starts in 1969 were at the low level of 1.5 million, and so far this year, starts are running at 15 to 20 percent less than last year. When compared with the national housing goal which calls for a level of 2 million housing starts this year, the current situation is intolerable. Its effect is widespread—rents are going up—house prices are going up—families are being forced to continue living in slums and substandard units and the job of rebuilding our cities is at virtual standstill.

The basic cause of this is the shortage and high cost of mortgage finance. Despite all the promises of the administration and the monetary authorities, interest rates continue at an intolerably high level. A house sold today under FHA financing requires not only a contract rate of 8½ percent, but in addition, the bank or mortgage lender demands a discount of five and six points, making the effective rate more like 9¼ percent. This is a heavy burden for any family to pay, particularly those of low and moderate income. Furthermore, a larger and larger percent of our middle-income families are coming to the Government for financial assistance to meet these high interest rates, through the interest-subsidy programs approved by Congress as stopgap measures to ease the impact of high interest rates. It is making subsidy seekers out of families who have always carried their own weight and involving them in the redtape of Government and the onerous burden of submitting personal income data to the Government and all that entails in bureaucratic complexities.

High interest rates are inextricably tied in with the availability and use of long-term credit. Mortgage finance needs must compete with other capital needs in our economy. Without government intervention and the appropriate financial institutions, mortgage finance cannot compete favorably with other users such as corporate borrowings.

The bill, S. 3685, contains provisions to remedy the current situation by establishing new institutions and direct Federal assistance to place mortgage credit in a better competitive position with credit for other purposes. Title I of the bill will help by providing a direct subsidy amounting to $250 million to enable Federal home loan banks to reduce their interest charges on advances to savings and loan associations. The congressional intent is well spelled out in the bill that the resulting benefit of this should go to home mortgage borrowers rather than to the participating savings and loan association. To insure that the benefits go to the home buyer, the bill requires the Federal Home Loan Bank Board to establish a maximum "spread" between the rate charged by the home loan bank and that charged by the savings and loan association.

Titles II and III of the bill would also help increase the flow of mortgage credit for home purchases by establishing expanded secondary market facilities for both federally insured mortgage and conventional mortgages. The secondary market for conventional mortgages is a new endeavor and much needs to be learned about it. To start off, the loan limits the type of mortgages than can be purchased by these new institutions. Basically the eligible mortgage must be limited to one with a loan-to-value ratio of not more than 75 percent. This restriction would not apply to any mortgage: First, if the seller retains a participation of at least 10 percent, second, if the seller agrees to repurchase the mortgage within a stipulated time, and third, if the excess above 75 percent is privately insured.

I believe that this is the first time in our housing laws that private mortgage insurance is recognized. The law specifies that such private insurers are to be "qualified" under regulations to be established by the secondary market corporations. In writing the regulations, the conferees furthermore stated that they expect "both FNMA and the Federal Home Loan Mortgage Corporation to take the necessary steps to assure the prohibition of such conflict-of-interest practices as payment of rebates and commissions or other forms of compensation to officers, directors, or employees of mortgage lenders or groups of mortgage lenders."

Title IV contains new GNMA special assistance authority amounting to $750 million and transfers another $750 million from the congressional authority to Presidential authority. Furthermore the conferees agreed to remove an existing par purchase restriction on the use of the $2.0 billion balance of funds now in program 14 under congressional authority of the GNMA. The net effect of this action is to free up for immediate use a total of $2.750 billion which can be used by the President to purchase mortgages under the Presidential or congressional GNMA authority.

I believe that if the President uses this title, this can be the most effective provision in the bill to improve the flow of mortgage funds for FHA and VA mortgages.

Title V would establish a new program of interest subsidy for middle-income housing. This would establish a subsidy program to reduce the effective interest rate for middle-income borrowers to 7 percent. The borrowers would have to qualify by income and to the extent that the family's income rose above a certain level the subsidy would be reduced and eventually be removed.

Title VI is the miscellaneous title to the bill and contains a number of helpful provisions to encourage more funds to flow into mortagages.

Mr. President, the bill consists of six different titles which represent provisions that were written into the bill largely on the floor of the Senate in the early part of April of this year. I think this is a good bill and that it will mean much toward financing home mortgages for American families. I move the adoption of the conference report.

Mr. PROXMIRE. Mr. President, I want to compliment the members of the House-Senate Conference Committee on their prompt action on the Emergency Home Financing Act of 1970. The Congress and indeed the country is grateful for the leadership shown by Senator SPARKMAN and Congressman PATMAN on this far-reaching measure. In view of the current crisis in the housing market, it is absolutely imperative that this legislation be put into effect.

According to my calculations the bill will stimulate an additional $12.2 billion in mortgage credit from the private sector of the economy. This should result in the construction of an additional 512,000 housing units if fully implemented. When one considers the housing industry is already building 600,000 fewer units than it should be building to meet our national housing goals, the legislation before us goes a long way to remedy the situation.

If this legislation is swiftly implemented by the administration, the impact on unemployment should not be overlooked. According to my calculations, the construction activity stimulated by the bill would result in an additional 429,000 onsite construction jobs. However, this is not the final story. The addition of 429,000 onsite construction jobs will have secondary effects in other industries including building materials and equipment, transportation, trade and related services. When these secondary effects are taken into account, an additional 797,000 jobs should be created for a total of 1,226,000 jobs.

In view of the fact that 3.4 million men are already out of work, this legislation alone, if fully implemented, would reduce unemployment by nearly 33 percent. One unemployed man out of three could be put back to work if the authority in this legislation is used.

Mr. President, I ask unanimous consent to include in the RECORD a table setting forth the estimates on housing starts, mortgage credit, and employment which I have just mentioned.

ECONOMIC IMPACT OF THE EMERGENCY HOME FINANCE ACT

	Number of mortgage loans	Amount of mortgage credit (billions of dollars)	Onsite construction jobs	Total jobs
Title I (Federal Home Loan Bank Board subsidy)	150, 000.	4. 2	147, 000	420, 000
Title IV (GNMA special assistance authorization)	112, 000	2. 2	90, 000	255, 000
Title V (middle income mortgage credit)	250, 000	5. 8	192, 000	551, 000
Total	512, 000	12. 2	429, 000	1, 226, 000

Mr. President, I want to call particular attention to title V of the bill which I offered on the floor of the Senate on April 16 and which is included in the final legislation. This title is aimed at the plight of the middle income home buyer who is squeezed out of the housing market because of tight money and high interest rates. During 1969, middle-income housing was cut back 23 percent from 1968, whereas upper-income housing and federally subsidized housing for low-income families rose substantially. As in the case of many other Government programs, it is the middle-income family who pays the bill but who receives none of the benefits.

The program under title V would reduce mortgage interest rates for middle income home buyers to 7 percent. These 7-percent mortgage loans could be extended to approximately 300,000 middle-income home buyers a year over a 3-year period for a total of 900,000 mortgage loans.

The assistance would be available on homes costing less than $20,000 in low-cost areas or less than $30,000 in high-cost areas. The home buyer would be required to allocate at least 20 percent of his income toward paying off the mortgage. If his income rose in subsequent years, he would be required to increase his mortgage payments until he paid the full mortgage interest rate at the time the mortgage loan was made.

The impact of this program on the typical family budget can be substantial. For many families, it can mean a difference between owning a home and not owning a home. A reduction in interest rates from the current rate of 9 to 7 percent will reduce a family's monthly payments by an average of $30 a month. It means that for the first time the Government has decided that the middle-income home buyer will not bear the brunt of anti-inflationary policy. High interest rates are not the fault of the home buyer; they are the result of the Government's economic policy. Therefore, the Federal Government has a responsibility to alleviate at least some of the hardship which its policies are afflicting on middle-income home buyers.

Mr. President, it is expected that this program will not be a permanent or continuing subsidy to middle income home buyers. Under the program, the subsidies would come into play only when mortgage interest rates were in excess of 7 percent. If mortgage interest rates decline, the program will be gradually phased out. Since administration officials are predicting that mortgage interest rates will decline to 6 percent by the end of 1972, I am hopeful that the program can be phased out after a few years.

Mr. President, under title V the 7-percent mortgage loans to middle-income families would be made by existing financial institutions, such as commercial banks, savings and loan associations, mutual savings banks, or mortgage banking firms. These mortgages would in turn be sold to the Federal National Mortgage Administration or the newly created Federal Home Loan Mortgage Corporation.

These two agencies would receive a

subsidy from the Department of Housing and Urban Development to compensate them for the difference between their yield on the mortgage and their current average borrowing cost. The bill authorizes new contract authority of $105 million a year over a 3-year period to finance these subsidy payments. If their current cost of borrowing declines, the subsidy would correspondently decline. Thus, we have enacted a flexible subsidy formula which is tailored to current credit market conditions.

Mr. President, this legislation was carefully worked out with the administration, and the Department of Housing and Urban Development. It was fully supported by the administration, and I am hopeful that the necessary funds can be appropriated at the earliest possible date.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to adopt the conference report.

The motion was agreed to.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT DURING ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate until 11 o'clock on Monday morning next, the Secretary of the Senate be authorized to receive messages from the President of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SPONG FOLLOWING THE REMARKS OF SENATOR TALMADGE ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, immediately following the remarks of the able Senator from Georgia (Mr. TALMADGE), the able Senator from Virginia (Mr. SPONG) be recognized for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACTION BY NIXON ADMINISTRATION REGARDING PRIVATE AND PUBLIC SCHOOLS

Mr. THURMOND. Mr. President, when I was a Democrat, I did not hesitate to condemn any actions of the Democratic administration which I felt were not in the best interests of the South and of the Nation. As a Republican, my policy is the same: I shall not hesitate to condemn the actions of a Republican administration which are not in the best interests of the people of the South and of the United States as a whole.

In the past week, the Nixon administration has taken two actions which are wholly unnecessary, and which cast grave doubt upon the Nixon administration's commitment to treat all sections of the country with an equal hand. The people of the South are a people of great forbearance, and have great respect for the law. They have abided by court decisions with which they do not agree for the sake of law and order, even though such decisions have been destructive of social custom and traditions. However, they are not willing to accept arbitrary and discriminatory actions by the executive branch, calculated to appease the anti-South elements of the Nation.

In this category, I place the action of the Internal Revenue Service in threatening the tax exemption of private schools. In the same category, I place the proposed invasion by 100 carpetbagging Justice Department lawyers for the purpose of assuring forced integration of the public schools. These actions are arbitrary and discriminatory. They are not required by law or the Constitution, nor by the edicts of any court. These actions were taken on the initiative of the administration itself.

Mr. President, I condemn these actions; I strongly condemn them; without end, I condemn them. They are wrong as social policy, and they are wrong as law. This is the sort of program which we would expect to get from a Democratic administration. They are a breach of faith with the people of the South, who are making many sacrifices to comply with the law. They indicate a distrust of the people of the South. No school district in my State has refused to obey the law, even in its latest twisted interpretation. The overwhelming majority of the school districts in South Carolina have filed desegregation plans that have been accepted by HEW. Why is it necessary to break faith with their good intentions? Why is it necessary to indict them before the act and to presume their misconduct?

Mr. President, the situation was summed up by David Lawrence in his recent column commenting on the IRS action. Mr. Lawrence says:

> Government by law and the Constitution or government by political expediency—that's the choice which the Nixon Administration faced, and it took the *latter* course when it ordered white private schools to open their doors to all, regardless of race, or lose their tax exemptions.

These are strong words, but they are justified by the situation. As Mr. Lawrence points out, other forms of discrimination are permitted under the IRS regulations—discrimination by religion for example. Nor is the tax status of the NAACP threatened. However, the rights of those citizens who wish to achieve quality education through separate educational systems are threatened.

Mr. President, this IRS ruling is vindictive. It is no secret that a major reason for the development of the private school phenomenon throughout the South is that many, if not most, of the white people wish to have the freedom of choice to send their children to school with those of their own cultural group. It is simply the natural and wholesome desire to perpetuate cherished traditions and customs, since, whenever people of either race have a choice, they choose to educate their children among their own kind. This phenomenon is not confined to the South. It is the same throughout the country. The statistics are well known. Chicago has achieved only 3.2 percent desegregation, as defined by HEW. Gary, Ind., which has a Negro mayor, has achieved only 3.1 percent desegregation. St. Louis has only 7.1 percent desegregation. New York City has only 19.7 percent desegregation.

People throughout this Nation make the choice generally in two ways. They either move to a white neighborhood, or they send their children to private schools. When people move, we have the phenomenon of resegregation, such as has taken place in Charleston, Atlanta, Richmond, and Washington, D.C., not to speak of nearly every northern city. In Washington, D.C., which was to be the model for the Nation, the public school system is now 5.8 percent white and 94.2 percent black. But in the smaller towns of the South, particularly because whites and blacks have always been good neighbors, it is not possible to move in order to find a white school. Instead, the whites leave the public school system if possible and establish a private school.

The IRS decision will be an additional burden upon those who are trying to maintain their freedom of choice. It will not defeat them, but it will make the task harder. What is most ominous is that it sets a precedent for depriving private schools of their private status. When a vindictive policy decision is once made, it sets the pattern for other decisions designed to punish those who do not accept certain political theories.

But there is a far more serious matter involved. This decision breaks faith with the people of the South. As recently as February 19, 1970, the President assured me positively that he supported the continuance of the tax-exempt status of private schools. The people of the South were counting upon the President's word. I can only conclude that a group of liberal advisers around the President are misleading him, and that their advice will bring disruption to this Nation.

I am warning the Nixon administration—I repeat, I am warning the Nixon administration today—that the people of the South and the people of the Nation will not support such unreasonable policies. I remind the Chief Executive that the Presidency is an elective office, and that what the people give, the people can also take away.

The private schools are an important resource for freedom of choice today. The people must not be deprived of this alternative. The social structure of this Nation must not be an object of Federal policy, if freedom in our everyday actions is to be preserved. The only fair requirement under law is that everyone be treated the same in Government actions. If private acts come under the same rigid regulation, then the Federal Government will be intruding upon every step we take and every breath we breathe.

The South does not like forced integration any more than the North. It is well known that the former New York Commissioner of Education, Dr. James E. Allen was a strong proponent of forced integration in the face of the parents' wishes. Dr. Allen was rebuffed by the State Legislature of New York, one of the most liberal legislatures in the country. The New York antibusing law provided the essence of freedom of choice. It said that no one could prevent a child from going to a given school nor can any one force a child to go to a given school.

Thus blocked, Dr. Allen quit his post and became U.S. Commissioner of Education. To the great relief of most sensible people he was fired a few weeks ago, but his spirit apparently lingers on. We now have Allenism without Allen.

If the administration does not use reason and patience, it will destroy both the public and private school systems. I have always supported the public school system, and I shall continue to do so. In the same way, I will uphold the private school system, as a significant contribution to American freedom. As Mr. Lawrence said:

> If these privileges can arbitrarily be withdrawn at the whim of any administration, it can mean that individual rights can suddenly be curtailed by the government for almost any reason by imposing a penalty through income tax regulation.

I have been watching the administration since it came into power a year and a half ago. I have noticed that since the President has been in office he has become surrounded by liberal and ultraliberal advisers. The advice that these people give is not in the best interest of either President Nixon or the country. The philosophy which these people espouse and which they give to the President is a sectional philosophy—the philosophy of the Northeast. It is not the philosophy of the South or of the West or of the Midwest. Those who support the philosophy of the Northeast did not support the President in 1968, and they will not support him in 1972.

If President Nixon is to be successful in 1972, he must listen to the voice of the great majority. He must take the pulse of America's broad heartland. He must keep faith with those who put their trust in him.

When the President is right, I shall say he is right; when he is wrong, I shall not hesitate to say so. My desire is to help the administration in every proper way, but my first obligation is to the people of my State, and of the South, and of the Nation. I would be less than a friend if I did not point out the error of the President's actions. I trust that he will understand my statements. We have worked together in the past for the good of the country, and I hope to be able to do so in the future. But the South cannot and will not stand for the unjustified and arbitrary invasion of the rights guaranteed to all people under the Constitution.

RELEASE OF REPORT ON MILITARY SPENDING BY "MEMBERS OF CONGRESS FOR PEACE THROUGH LAW"

Mr. THURMOND. Mr. President, the "Members of Congress for Peace Through Law" group have made a public release of their report on military spending. I have been advised by the Department of Defense that this report contains highly classified information.

Mr. President, this is shocking information. In my judgment, it represents irresponsibility. This report is another effort to condemn the Defense Department at a risk to our national security. Handing the Soviets our military secrets on a silver platter is an inexcusable act against our national interest.

I am informed that a member of this peace group was advised in writing on July 8, 1970, by the office of the Secretary of Defense, prior to publication of the Peace group's report, that portions of it were classified, and that the Defense Department offered to assist the group in providing a security review of the report prior to the report's release. I understand this offer was not accepted by the group, who appear to be determined to downgrade the U.S. military capability, even at a risk to our security. The Peace group report, which was released on Wednesday, still contains classified information, in spite of the advanced warning by the Department of Defense that it contained classified information.

Mr. President, the American people should know that there are those in Congress who deliberately release classified information, in the face of a warning from the Department of Defense that it could damage our national security.

It must be realized that the Defense Department is the judge of what is classified. The "Peace" group alleged that unclassified sources were used for the report. Nevertheless, this report compounds bad judgment not in our national interest.

In the interest of our national security, I strongly urge those responsible to withdraw immediately all copies of this report. If they wish to make a point about defense spending, then they should remove the classified portions before releasing the report. I will strongly oppose any effort to place this report in the CONGRESSIONAL RECORD if the sponsors attempt to take this action. Such an action would give much greater credibility to classified information which would be detrimental to our Nation.

It was noted in the Evening Star yesterday, July 17, 1970, that Mr. Orr Kelly, staff writer, disclosed this breach of security in his newspaper column.

Mr. President, I ask unanimous consent to have this article by Mr. Orr, entitled, "Report Violated U.S. Security, Pentagon Says," and a letter from the Office of the Secretary of Defense to a U.S. Senator who is a member of this group, dated July 8, 1970, be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT VIOLATED U.S. SECURITY, PENTAGON SAYS

(By Orr Kelly)

The Pentagon accused a congressional group today of violating national security in a report on military spending.

The report, prepared by the Members of Congress for Peace through Law, was made public at a press conference yesterday by Sen. Mark Hatfield, R-Ore.

Pentagon press spokesman Jerry W. Friedheim said the Pentagon had obtained a working draft of the report more than a week ago. On July 8, he said, Richard G. Capen Jr., assistant to the defense secretary, wrote to Hatfield suggesting the report be submitted for security review.

"I have been advised that a preliminary review of a draft document prepared by your committee indicates that there is classified information included," Capen told Hatfield.

HATFIELD STATEMENT

Hatfield was not immediately available for comment today, but at yesterday's press conference he said all the material in the report had come from public, non-classified sources.

Wes Michaelson, an assistant to Hatfield, repeated today that the material, submitted by a number of congressional offices, was all from unclassified sources.

Capen's letter did not arrive until the final report was being printed, he said.

Hatfield replied to the letter Tuesday evening or yesterday morning, he said. Friedheim said the reply from Hatfield had not been received this morning.

Friedheim refused to pinpoint the classified information in the report and he would not say what classification it bore, although he implied that it was "secret" or "top secret."

The information, he said, had to do with the "characteristics of weapons."

"While many figures in the report were not sufficiently accurate, there were some that were sufficiently accurate that if the report had been submitted for review we would have advised them to change those figures," Friedheim said.

Friedheim said he was not aware of any plans for legal action against any of those involved in preparing or publishing the report. To do so, he said, would draw attention to the material the Pentagon wished had not been published.

The report is probably the most ambitious effort ever undertaken by a congressional group to analyze and comment on the military spending and the defense establishment, aside from the annual reviews by the defense and appropriations committees.

Hatfield is chairman of the group's military spending committee. Also on the committee are 10 other senators and 16 representatives.

The 150-page report called for cuts of $4.4 to $5.4 billion in the Pentagon's budget request for 1971.

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, D.C., July 8, 1970.

Hon. MARK O. HATFIELD,
Chairman, Committee on Military Spending, Members of Congress for Peace Through Law, Washington, D.C.

DEAR SENATOR HATFIELD: A copy of the draft Report on Military Spending, as compiled by the Members of Congress for Peace through Law (Committee on Military Spending) has been brought to my attention.

I can assure you that the Department of Defense welcomes thorough and constructive understanding of important issues affecting national security.

Assuming that this report will be published and distributed to Members of Congress, as well as other interested citizens, I would like to offer the assistance of the Defense Department in providing a security review of those sections included in the draft copy.

I have been advised that a preliminary review of a draft document prepared by your Committee indicates that there is classified information included.

I will await your instructions as to how the Peace through Law Committee wishes to proceed prior to publication and dissemination of its final report.

Sincerely,

Richard G. Capen, Jr.,
Assistant to the Secretary for Legislative Affairs.

Mr. THURMOND. Mr. President, I notified the distinguished Senator from Oregon that I intended to make these remarks so that he could be present if he desired to do so. I see the Senator is in the Chamber now and possibly he would care to respond.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. THURMOND. I am pleased to yield to the distinguished Senator from Oregon.

Mr. HATFIELD. Mr. President, I am grateful to the Senator from South Carolina for giving me notification that he planned to make comments relating to the report on military spending issued by Members of Congress for Peace Through Law.

I say to the distinguished Senator from South Carolina that even though it is within his rights to make these observations, I certainly feel that they are not well-founded observations and I would like to ask if he would yield first for this particular question.

Mr. THURMOND. I yield.

Mr. HATFIELD. First of all, has the Senator read the report?

Mr. THURMOND. I have not read the report but I have been told what the report contains; and the Department of Defense is most disturbed over the report, especially in view of the fact that they wrote the Senator a letter and told the Senator it contained classified information, but in spite of their request to the Senator that they be allowed to work with the Senator and go through this report and remove those classified portions, the Senator did not agree to do so.

Mr. HATFIELD. Mr. President, will the Senator yield further?

Mr. THURMOND. I am happy to yield to the Senator from Oregon.

Mr. HATFIELD. Did either the Defense Department or a staff member of the Committee on Armed Services, on which the Senator from South Carolina serves with great distinction, list for the Senator an item or identify the classified material in this particular report?

Mr. THURMOND. I have not gone over in detail the classified information, but I am told it contains a great deal of classified information, and they were very anxious that that be removed before this report was made public.

Mr. HATFIELD. Do I understand correctly that the Senator was not given any identification or listing of any classified information as to the exact specifics?

Mr. THURMOND. The Defense Department has gone through this report and they say it contains a great deal of classified information. They are experts in this field; they have jurisdiction in this field; and I accept their statement.

Mr. HATFIELD. I see. So the Senator does not have a list of such classification violations, as charged by the Pentagon.

Mr. THURMOND. I do not have that at the moment.

Mr. HATFIELD. Will the Senator yield further for a question?

Mr. THURMOND. I yield.

Mr. HATFIELD. If this report, which I hold in my hand, could be shown to the Senator page by page and item by item to be information from other publications and sources available to the public, such as the New York Times, trade journals and professional journals, would the Senator from South Carolina consider that a violation of classification?

Mr. THURMOND. I would consider it a violation of the classification law if the Senator was put on notice, as the Senator from Oregon was put on notice, about the report, which he formulated I understand, that was to be disseminated and he went ahead and disseminated it anyway.

Mr. HATFIELD. I do not think the Senator answered the question. Let me restate it more clearly. If the Senator could be shown that the information in this report has appeared in public in some way or another, whether it be newspapers, or trade publications, or professional journals, or what, and that, therefore, the general public had access to everything in this report and every evaluation in this report, would he consider that a violation of the classification system?

Mr. THURMOND. I think it is a violation of the classified information law when the Senator or others are put on notice that it is classified information; but even if it were not a violation, if the Department of Defense notified a Member of the Congress of the United States that a report that some outside committee was about to release contained information which would be detrimental to our country, I would be amazed that such a committee would go ahead and print that information anyway.

Mr. HATFIELD. I would certainly agree with the Senator 100 percent. There was no such information given to any member of this committee that we had information that, if published, would be detrimental to the United States.

Mr. President, I ask unanimous consent that the letter I received from Mr. Richard G. Capen, Jr., Assistant to the Secretary for Legislative Affairs, and my answer to that letter be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Office of the
Secretary of Defense,
Washington, D.C., July 8, 1970.

Hon. Mark O. Hatfield,
Chairman, Committee on Military Spending, Members of Congress for Peace Through Law, Washington, D.C.

Dear Senator Hatfield: A copy of the draft Report on Military Spending, as compiled by the Members of Congress for Peace through Law (Committee on Military Spending) has been brought to my attention.

I can assure you that the Department of Defense welcomes thorough and constructive understanding of important issues affecting national security.

Assuming that this report will be published and distributed to Members of Congress, as well as other interested citizens, I would like to offer the assistance of the Defense Department in providing a security review of those sections included in the draft copy.

I have been advised that a preliminary review of a draft document prepared by your Committee indicates that there is classified information included.

I will await your instructions as to how the Peace through Law Committee wishes to proceed prior to publication and dissemination of its final report.

Sincerely,

Richard G. Capen, Jr.,
Assistant to the Secretary for Legislative Affairs.

U.S. Senate,
Washington, D.C., July 15, 1970.

Hon. Richard G. Capen, Jr.,
Assistant to the Secretary for Legislative Affairs, Office of the Secretary of Defense, Washington, D.C.

Dear Mr. Capen: I have received your letter of July 8th, offering the assistance of the Department of Defense in reviewing the 1970 Military Spending Report.

The Draft to which you refer was a working copy distributed only to the participating offices. Significant modifications were made in this working Draft and the final version has been printed. It will be released on Wednesday, July 15.

Let me assure you, however, that at no time was classified information used during the research and production of this report. As you may have noted, some sections are footnoted for documentation and in all other cases, citations can be supplied from unclassified sources such as the press, Congressional hearings, trade journals, and various magazines.

I quite agree with you that a thorough and constructive understanding of national security issues is in the best interest of the nation. The 1970 Military Spending Report certainly contributes to this discourse.

Sincerely,

Mark O. Hatfield,
U.S. Senator.

Mr. THURMOND. Mr. President, I might say for the Senator's information that that was the letter I just placed in the Record.

Mr. HATFIELD. I would like to have my answer printed in the Record also.

Mr. President, I ask unanimous consent to have printed in the Record from the Evening Star of Friday, July 17, 1970, an article which would be a response to the one the Senator from South Carolina placed in the Record a few moments ago.

There being no objection, the article was ordered to be printed in the Record, as follows:

Hatfield Denies Secret Data Use

Sen. Mark O. Hatfield, R-Ore., staunchly denied today that any part of a congressional report on military spending was based on secret information vital to the national security.

Accusing the Pentagon of "irrationality," Hatfield said a Defense spokesman's contention yesterday that the report contained secret material indicated the department had no realistic defense against growing congressional demands for spending reductions.

Hatfield heads an informal alliance of congressional defense critics which issued a 150-page report Wednesday recommending cutbacks in 14 major weapons systems.

Jerry W. Friedheim, a public relations official for the Defense Department, said some of the information in the report was classified "above confidential"—meaning secret or top secret.

But Hatfield and others who worked on the report said every line was drawn from newspapers, trade journals, congressional hearings

> and other publications and sources in the public domain.
>
> The problem, he said, was that the Pentagon regularly keeps the "secret" stamp on information even after it appears in public print.
>
> The Pentagon's quarrel apparently was with the report's disclosure of yields for the Sprint and Spartan antiballistic missiles—components of the controversial Safeguard ABM system.
>
> A spokesman for Hatfield said this information came from public documents but he could not immediately identify them.
>
> Friedheim said Richard G. Capen Jr., assistant secretary for legislative affairs, had sent Hatfield a letter July 8 asking that the report be submitted to the Pentagon for deletion of classified material. He said Hatfield never replied to the letter.

Mr. HATFIELD. Mr. President, for the benefit of the Senator from South Carolina I would like to give an example of the type of thing we have at hand. I know the Senator is very sincere in his feelings and his expressions, but I think he is sincerely wrong. I think we have to consider what we are dealing with in the entire classification system.

First of all, let me make clear I have asked the Department of Defense for a specification of the items they claim in this report are violating the classification system. I have not received any reply to my request, and I have asked not once but twice for an itemized listing. They say it is a violation of the classification but they have not answered. However, they have seen fit to call a public press conference and make this charge through a press conference.

If the security of this country were really in jeopardy I suggest they would have had a person on my doorstep pretty fast because, let me also indicate to the Senator, they had obtained a working copy of this report very early, and this working copy was published only for the staff people on June 11.

When one considers the fact that they had a working copy at least 2 to 3 weeks, I think it is very peculiar that they were not on my doorstep indicating to me some concern if we were violating security.

Second, let me point out that they have refused to give me a list of specifications, and the only thing I can find out is through press statements and press publications. Let me quote:

> The Pentagon's quarrel apparently was with the report's disclosure of yields for the Sprint and Spartan antiballistic missiles—components of the controversial Safeguard ABM system.

All right. We went back to our staff work. Let me say for the record that these other matters that are alluded to as a concern of the Pentagon one could have read about on May 4, 1969, in the New York Times which stated that the Sprint warhead has about one-tenth the force of the Hiroshima bomb. The force of the Hiroshima damage was about 20 kilotons, and therefore the Sprint missile's is about 2 kilotons. That is the report, which one could have read about in the CONGRESSIONAL RECORD, also, because that article was placed in the CONGRESSIONAL RECORD by Senator TYDINGS, of Maryland, on May 13. Or one could have read about the same subject in a bulletin of the Atomic Science Bulletin in June 1970 by Ralph Lapp, page 106, which gives the yield of the Spartan warheads. Or one could have read about it in the speech by Mr. Ralph Lapp given to the American Physical Society, titled, "ABM and MIRV," on April 29, 1970.

All I am saying is that in three earlier specific publications and in the CONGRESSIONAL RECORD are the very facts about those points as far as we can determine, where the objections lie.

I think it is quite well known that the Pentagon has maintained the classification of "secret" even after it has appeared in publications around the country. I believe, therefore, we ought to review the classification technique or the application of the classification system.

I would like to add, further, that with respect to every person who worked on this report, on each item and weapons system, the ones who had access to classified material, because of security clearance, can list the reports they used for their work, which all came from unclassified sources.

In other words, I am saying simply this: Each member of the staff knew exactly where he would get the information, and he can cite it by chapter and verse, page by page in this report, and none of it was under classification.

I think the point should be made clear that our committee had no intention of violating classification. I think the Senator from South Carolina knows me well enough to know that I would not be a party to putting my country under jeopardy or putting my country under the gun, so to speak, by violating classification. It is almost impugning the integrity of the Senator from Oregon to even imply that, somehow, we have put our country in grave danger by the publication of this report. All I am saying is I can cite, chapter and verse, page by page, where every one of these items was published in some kind of publication or source open to the public and not classified.

I would further say this, because this might have some political implication rather than military implication—not by the Senator from South Carolina, but by the Pentagon. I feel they are complimenting this report, because this report has raised sensitive and important issues, and therefore they have been trying, by political tactics, to demean or detract from that report. So I wonder if it is military security that is being watched, or perhaps political security.

This report does not attempt to downgrade the military. It is not an attack upon the Pentagon. If one would read and study the report, he would know we have several specific proposals that offer, suggest, and recommend improvement and strengthening of our military weapons systems. We ask for continuation of the Poseidon program, as long as there is no SALT agreement. We ask for continued research on ABM. We ask for increases in this whole base of technology, science, and education, which is the foundation of our future security. We ask for a refiguring of the B–52's. We urge full expenditure for the development of the ULMS program. We ask for a better design for the F–15. We ask for continued extensive research on antisubmarine warfare, urging that systems be deployed when they have been proven to be effective.

This is not a report against the Pentagon. It is an effort to try to show some balance to justify the expenditures of the Pentagon.

Let me close by saying that perhaps this is the best way to get a focus on this report, by what the Senator from South Carolina has done today, by asking these questions, so that we can clarify and explain, but perhaps more important, draw attention to important recommendations in this report.

Let me say again that no violation was intended and no violation could have taken place, because of the fact that we secured all of this information from public materials and publications that are open to the general public.

Mr. THURMOND. Mr. President, in response to the Senator, I would like to say this: If the Defense Department warned the Senator that the report did contain classified material and Mr. Jerry W. Friedheim, Pentagon press spokesman, said it did contain secret and top secret material, does not the Senator think it would have been the part of wisdom to have met with the Defense Department officials and considered screening those portions that did contain classified material, even though the Senator and his colleagues had obtained information from one magazine or another or one newspaper or another, or if someone had stolen it from the Pentagon and gotten it to him somehow. I do not imply that this did happen. But the point is, suppose it did contain secret or top secret material and the Defense Department, as it did in its letter, requested that they be allowed to meet with the Senator before that report was published and disseminated, then I question the wisdom of releasing the information. I believe in the letter to the Senator from Oregon dated July 8, it read:

> I have been advised that preliminary review of draft documents prepared by your committee indicates that there is classified material included. I will await your instructions as to how your committee desires to consult before the publication and dissemination of your final report.

Does the Senator feel that if the Pentagon, which is sensitive to classified material, felt so strongly about this and went so far as to put the Senator on notice that they did feel strongly about this, regardless of where the information came from, it was wise to repeat it and repeat it again if it was classified information? Would it not have been the better part of good judgment and security for the Senator to have worked with the Defense Department and eliminated those portions rather than go ahead with a press conference?

Mr. HATFIELD. Does the Senator want a response to that?

Mr. THURMOND. I am glad to yield for that purpose.

Mr. HATFIELD. My office called Mr.

Jerry Friedheim and asked for specifics of where there had been violations of classification. Upon discussing this material with Mr. Jerry Friedheim of the Defense Department—he said, "Well, we just would have preferred that certain sections not be used in that report."

Again, we asked for specifications of item by item of where we were violating security. Even though they have found time to have press conferences and engage in press releases and discussions, they have yet, up to this date, to relate to us, even though we have requested it, exactly what material they would like us to delete or what material was classified material.

Mr. THURMOND. In response, I still say that the Department of Defense felt so strongly about this matter that they contacted the distinguished Senator from Oregon, wanting to meet with him to talk these matters over. We would not expect the Defense Department officials to tell him over the phone what was top secret. That would not make sense. They wanted to meet with the Senator from Oregon in person and discuss these matters, to tell him they were classified, and to see if they could not induce him to withdraw them. Why could not that have been done, rather than to go ahead and have a news conference and release the information to the public?

Mr. HATFIELD. Mr. President, I have been in my office. I am willing, able, and eager to meet with representatives of the Defense Department at any time. I did not ask them for specifications over the telephone. It would be ridiculous to ask the Defense Department to supply them over the phone. I do not know whether my phone is tapped or not. But, by the same token, I have to say that I have had no indication that the Defense Department was interested in communicating with me, other than through a news conference. I think that is not the way to handle a serious matter. If there had been serious thought about this whole report by the Defense Department, they should have been on the telephone, so to speak, seeking an appointment or seeking to counsel with me, rather than to communicate with me through a news conference.

Mr. THURMOND. I respond by saying that they asked for a conference with the Senator. They did not get a conference. The Senator went ahead and held a press conference, and the Defense Department said the report contained classified information. They wanted to point that out to him. I am informed now that the Department of Defense has detailed these security violations. If the Senator had had a meeting with them, they could probably have resolved the situation. It is my belief that the Senator might have agreed not to publish this report after the Pentagon had pointed out the classified portions which should not have been published.

Mr. HATFIELD. Mr. President, in reviewing the letter again—I suggest that the Senator reread it—there is no request at all for a conference.

Mr. THURMOND. That letter informed the Senator that the report contained classified information, and it also said that the Department hoped the Senator would await instructions before proceeding with the publication and dissemination of this report. But the Senator went ahead and disseminated it in a press conference without conferring with Defense Department officials.

Mr. HATFIELD. Mr. President, I think we have made our points. I am not going to belabor the issue. I think, again, that basically the problem of the Defense Department is its medieval system of classification, trying to say something is classified when it has already been published in the newspapers or published in a journal. I do not think it is up to Congress to determine whether published materials are classified. If a Member of Congress who is doing research can find something in a publication of this kind, I do not think it is necessary for him to ask permission from the Defense Department to make a report to his Senate colleagues.

This is not the first time this has happened. It has happened a number of times with Senators. I think that after a while the Defense Department might get a little notice that their system is not functioning correctly.

There is no intention, no desire, to violate classification. I think, again, that the Defense Department is acting more in a political manner than with concern for the security of the Nation, because had they been deeply concerned, they would not have waited to exchange letters; they would not have waited to exchange press releases; they would have had an immediate confrontation.

I have had representatives of the military call at my office before. They know they are welcome and can come at any time for a conference or discussion or to ask for an appointment.

I question the real concern of the Department for the security of the country in this case, because I can prove, by chapter and verse, that every word of this report came out of publications available to the general public.

I would urge the Senator from South Carolina, as a member of the Committee on Armed Services, to perhaps make it an item on the agenda of that committee to review the classified system of the U.S. Department of Defense. I think it might prove to be a worthwhile undertaking. Then we will not have to get into the question of challenging or repudiating the patriotism of any Senator. I think it would be better if the question were studied by the committee and made a committee project.

I urge the Senator from South Carolina, if he is deeply concerned, to have this question taken up as an item of agenda by the committee.

Mr. THURMOND. I think what is most needed is not a new system but to observe the present system.

ADJOURNMENT TO 11 A.M. MONDAY, JULY 20, 1970

Mr. BYRD of West Virginia. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate adjourn until 11 o'clock, Monday morning next.

The motion was agreed to; and (at 4 o'clock and 46 minutes p.m.) the Senate adjourned until Monday, July 20, 1970, at 11 a.m.

NOMINATION

Executive nomination received by the Senate July 17, 1970:

IN THE AIR FORCE

The following-named officer for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be major general

Brig. Gen. Roy M. Terry, 134–10–6944FR (colonel, Regular Air Force, chaplain) U.S. Air Force.

WITHDRAWAL

Executive nomination withdrawn from the Senate July 17, 1970:

BUREAU OF MINES

J. Richard Lucas, of Virginia, to be Director of the Bureau of Mines, which was sent to the Senate on May 6, 1970.

EXTENSIONS OF REMARKS

CAPTIVE NATIONS

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. MINSHALL. Mr. Speaker, in a recent letter from Dr. Lev E. Dobriansky, of Georgetown University and the distinguished chairman of the National Captive Nations Committee, I was particularly struck by his comments:

> Ironically enough, as all reports at this stage show, the captive nations in Eastern Europe, the USSR, Asia and Cuba, not to speak of the near-captives in Southeast Asia and elsewhere, have far more faith in the historic role of America than some segments of our populace. Congress can responsibly and assertively rectify this lag by (1) creating a Special House Committee on the Captive Nations, which would unquestionably offset the appalling ignorance of our youth and others regarding the captive nations and (2) moving for reconsideration of the Freedom Academy bill in view of the intensification of Red political warfare on our own terrain.

I could not agree more with Dr. Dobriansky's views. For years I have introduced and reintroduced the resolution to create the Special Committee on the Captive Nations. In this Congress it is House Resolution 77. If we in Congress do not take the initiative or have the moral courage to act on this simple resolution, which has so many cosponsors in the House, how, indeed, can we expect our confused and uninformed youth to understand the true nature of the plight of the captive nations and the depredations they suffer under Communist imperialism? Except by contrast with the harsh realities of what communism is actually doing to millions of human beings around the globe, how can we teach them that only in a society which respects the rights of each individual can they flourish and grow?

Toward that end, both for the goal of self-determination of the enslaved captive nations and the enlightenment of a segment of our own young people, let us act now on the resolution to create the Captive Nations Committee.

PSYCHOLOGICAL ANALYSIS OF THE FACTORS LEADING TO AND MAINTAINING AMERICAN INTERVENTION IN VIETNAM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. BROWN of California. Mr. Speaker, the long list of studies detailing America's entrance and maintenance of its tragic adventurism in Southeast Asia still grows, and with each new analysis, I perceive an immense and extremely complex jigsaw puzzle beginning to fall into place.

One of the more fascinating studies was first published back in April 1967 in the American Journal of Orthopsychiatry. That study was entitled "Psychological Habituation to War: A Sociopsychological Case Study" and is the work of Dr. Isidore Ziferstein, an associate clinical professor of psychiatry at UCLA.

Despite its rather academic title, Dr. Ziferstein's study avoids overuse of jargon, and I found it quite readable—and extremely informative. I am impressed by this type analysis, and I believe it has great merit.

Briefly, what Dr. Ziferstein says that over a period of years the U.S. Government has employed public relations techniques to sell to the American people a war they never wanted. Heavy reliance has been placed on the technique of psychological habituation—a means of psychologically incremental moves aiming to show that whatever was done was right and within a set logic. The end result is that the individual citizen eventually acquiesces with no feeling that his right to disagree is being suppressed.

Recently, Dr. Ziferstein added an epilog to his original study, and, as with the first paper, I find his perception and application of theory to be most valuable.

I highly recommend these studies, and I now place them in the RECORD at this point:

PSYCHOLOGICAL HABITATION TO WAR: A SOCIOPSYCHOLOGICAL CASE STUDY

(By Isidore Ziferstein, M.D.)

In a comprehensive essay on adolescence, George E. Gardner lists as a major and most difficult task confronting the child as he enters adolescence, the giving up of the security that is predicated upon the "all-knowingness" and the "all-powerfulness" of his mother and father. In this connection Gardner emphasizes . . . the extreme vulnerability of all adolescents (or of adults who are still essentially adolescent) to the cry and to the seductive voice of the false leader or the leader with the false ideolgoy or intent. That adolescent (of whatever chronological age) are appealed to—and respond to—such leaders, is accounted for by the fact that that the latter always promise, among other things, a omniscient who can do their thinking and an omnipotent who will be their power.[10]

There is a parallelism between these growing pains of adolesence and the growing pains of a developing democratic society. In both instances, there is the danger of regression to an earlier phase of development, where security is sought by relying on an omniscient and omnipotent authority. The success of the democratic process requires citizens who are psychologically ready and willing to think creatively, to make choices, to make decisions as adults, not only in their family and other interpersonal relations but also in matters affecting their community and the nation. The democratic process, to be successful, also requires elected representatives who are able to resist the occupational hazards of their positions of leadership—the temptation to feel and act omniscient and omnipotent.

Too often there is a polarization, a division of labor, a division of society into two castes: the leaders and the led. Too often the ordinary citizen beset by the cares and demands of everyday living, is relieved and content to leave the business of governing to the leaders. And too often the professional "governors" are men who are attracted to this profession by their need to wield power, the need to feel and be omnipotent.

One of the situations that bring this division into sharp relief is the state of war. The men who govern in time of war quite openly arrogate to themselves special powers over the governed. The reason given for this arrogation is the need to "maintain unity on the home front in time of crisis." This phrase means simply that the government feels it can not tolerate, in wartime, expressions or actions that may turn public opinion against the war effort.

In past wars, our government, like other governments, has employed forceful means and appeals to jingoism to achieve the required suppression of dissent. For example, in 1917, during World War I, the Congress enacted a Sedition Act under which more than 1,900 persons were convicted for such crimes as . . . making a movie of the American Revolution showing Britain and America at war; saying that war drove men mad; urging people to vote against Congressmen who had voted for conscription; and writing a pamphlet which said that war is contrary to the teachings of Christ.[12]

In any upsurge of superpatriotism, an interest in anything German was considered unpatriotic. Sauerkraut became liberty cabbage; opera companies stopped performing Wagner; and symphony orchestras eliminated works by German composers from their repertoires.

The current war in Vietnam has to date been relatively free of such phenomena. In fact, high government officials, including the President, Vice President, and Secretary of State, have made a point on several occasions of defending the right of dissenters to protest. They have even pointed with pride to these proofs of freedom of speech in an America at war.

It may be that the government is not employing the gross techniques of suppression of former wars because there has not been a declaration of war by Congress. The government might therefore be on precarious legal ground if it attempted to invoke wartime powers of suppression. A more likely explanation, however, is that the gross suppressive techniques of previous wars have been replaced by more subtle methods which are effective without being offensive, methods whose effectiveness is enhanced by the refinements of the new "science" of public relations and by the all-pervasiveness of the mass media.

A major element in the new, "Public relations" approach is the very gradual escalation of the war effort. In this process of graduated escalation, each new step toward greater involvement is in itself small and seemingly insignificant. Each step appears to evolve as a logical consequence of a previous small and seemingly insignificant step toward greater involvement. And the new step equally logically prepares the ground for the next small and seemingly insignificant step.

The smallness of each step, and its logical evolution out of previous steps, make it acceptable. The gradualness of the process produces a habituation to the involvement. The end result is that the people find themselves deeply committed to large-scale war, without being able to tell how it came about, when and how it all began.

This point was dramatically illustrated at the hearings on the war in Vietnam of the Senate Foreign Relations Committee. On February 17, 1966 the following interchange took place:

> Senator HICKENLOOPER. When was the commitment made for us to actively participate in the military operations of the war with American personnel?
>
> General MAXWELL TAYLOR. Insofar as the use of our combat ground forces are concerned, that took place, of course, only in the spring of 1965. In the air, we had been participating more actively over two or three years.[23]

The fact that General Taylor, who was personal military representative of President Kennedy in 1961–62, Chairman of the Joint Chiefs of Staff in 1962–64, Ambassador to South Vietnam in 1964–65, and now Special Consultant to the President, could only say vaguely, "In the air we had been participating more actively over two or three years" is characteristic of the confusion and uncertainty produced by this kind of gradual escalation.

At this juncture, with the nation already deeply involved in actual fighting, other seemingly cogent arguments take over; e.g.: The nation is in danger. Our boys are fighting and dying. Now is not the time for doubting, questioning, hesitating, debating. We must give full support to our boys at the front. Those who refuse full support, or who hesitate, give comfort to the enemy and are directly responsible for unnecessary deaths at the front. All we can do now is to rally 'round the flag, support our Commander-in-Chief. Etc.

Under these conditions, there is no longer any need for direct suppressive measures to guarantee a pro-war consensus. Instead one can employ appeals to "maturity," to concern for one's country, to concern for our boys fighting and dying at the front.

A classic example of this technique appears in a *New York Times* report of a speech delivered by President Johnson on May 17, 1966:

> President Johnson, in his most outspoken attacks on the opponents of his Vietnam policy so far, called on all Americans to unite behind him.
>
> Mr. Johnson, gibing at "nervous Nellies," seemed almost to call for an end to criticism of the Administration's actions in Vietnam and to question his critics' patriotism.
>
> Mr. Johnson said, "I ask you and I ask every American to put our country first if we want to keep it first. . . . Put away all the childish divisive things if you want the maturity and the unity that is the mortar of a nation's greatness. I do not think that those men who are out there fighting for

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Footnotes at end of article.

us tonight think we should enjoy the luxury of fighting each other back home."[18]

Here the President skillfully appeals to the regressive wish of his audience to be good little children and surrender their critical faculties, but couches it as an appeal to maturity. He is lecturing his audience as a benevolently despotic father might lecture a naughty child. In the process, the democratic responsibility of the mature citizen to question, to examine, to criticize, is stood on its head and gibed at as the "childish divisive things" indulged in by "nervous Nellies."

These latter-day techniques are far more difficult to counteract psychologically than are techniques of direct suppression. The individual no longer experiences the suppression as coming from outside himself. The suppression seems rather to come from within, as a logical response to the situation that the country is in. The individual citizen himself, in response to the President's appeals for unity and maturity, suppresses any wish he may have to think critically, to evaluate objectively, to dissent. The suppressing forces are no longer regarded as ego-alien.

This tendency to self-censorship is reinforced by another factor. Since he does not understand how the country got so deeply involved in the war, and feels quite confused about it, the average citizen concludes that the problems of war and peace in general, and of the Vietnam war in particular, are much too complicated for his average mind to encompass. This self-depreciation facilitates a regressive process, where the confused and helpless infant-citizen finds comfort in leaving all decisions to the father-figures, the all-powerful President and his all-knowing expert advisers.

Once the citizen has accepted the policy of war, psychological processes come into play which induce him to distort reality by ignoring or minimizing those facts which contradict the policy, while giving undue weight to facts which tend to validate the policy. Charles E. Osgood has described these processes under his "congruity hypothesis" as the strain toward consistency.[20, 21] Leon Festinger has described them as "the reduction of cognitive dissonance."[7, 8, 9] These theories submit the proposition that when people know things that are not psychologically consistent with one another, they will try to make them consistent by various means. Osgood points out that the individual is mostly likely to change that element in the incongruity to which he has the least intense attachment and will maintain that element about which he has the most intense conviction.

To illustrate: When Stephen Decatur made his famous toast "My country right or wrong," he was in fact saying that he was capable of tolerating the cognitive dissonance between the strong positive valence of "my country," and the negative valence of "wrong." The average citizen cannot tolerate the dissonance and must change the positive valence of one of the elements to a negative one, or vice versa. He will find it extremely difficult to go through the emotionally painful reevaluation of values and the enormous intellectual efforts that would be involved in admitting to consciousness the idea that his country is engaged in policies and actions that are basically wrong. He will find it easier to eliminate the dissonance by justifying, for example, the bombing and napalming of enemy civilians on such grounds as: the enemy, even civilians, are cruel, ruthless, cunning, fanatical, and none of them can be trusted.

Having achieved this regressive reduction or elimination of dissonance, the citizen experiences a sense of relief from anxiety and from the pressure of having to think about these complex questions. Henceforth, even if it may seem to him at times that his government's policies are palpably wrong, he can fall back on the comforting thought that there must be some top-secret information to which he has no access, and to which he is not entitled to have access, which can explain everything and make everything all right; and that the father-figures surely know what they are doing.

It seems clear to the behavioral scientist that this situation of habituation, confusion, self-devaluation, and regression to an infantile state of helplessness is unhealthy and should be corrected. Some behavioral scientists also feel that their life-long training and professional skills should enable them to make a contribution toward ameliorating or "curing" this state of sociopathological ill health. Unfortunately, the situation becomes much less clear when the specific questions are asked: What can behavioral scientists do? What contribution can they make?

Jules Masserman concludes an essay on "Psychological Medicine and World Affairs" (in which he writes prophetically as early as 1948 about "the dread prodromata of war") with the question: "What, then, can we as scientists, physicians and men of good will do?" After apologizing for the fact that "as is usual in medical treatises, the section on therapy must be regrettably brief," Masserman answers his own question:

> First, let us raise our voices to cry havoc and, since our puny professional and academic "securities" would in any case become meaningless should catastrophe break, dare to use every means of communication at our command to rouse the world to its danger. [And second,] let us leave our crumbling ivory towers and use every podium and influence we have to secure a voice on policy-making and governing bodies.[16]

The writer agrees with Masserman's two proposals. He would suggest, in addition, a third way that a contribution could be made by behavioral scientists. In the case described in this paper of the public habituation to war, an effort could be made to counteract it by confronting the public with the existence of habituation and helping the average citizen gain insight into its genesis. The gaining of intellectual and emotional insight is an important tool in dynamic psychotherapy. It should be tried in sociotherapy. Perhaps the average citizen can be helped to feel less bewildered, less helpless, if he is helped to understand, step by step, how the present confused situation came about. Perhaps he can gain confidence in his own ability to think and to understand if he can be helped to perceive the subtle techniques by which his ability to think has been undermined. Perhaps, as in individual psychotherapy, a gaining of insight into the processes, external and intrapsychic, which led to the citizen's regression, may be the first step toward developing greater maturity and self-confidence.

What follows is offered as a sample of an attempt at such elucidation—an effort at counteracting the habituation to war by retracing some of the early steps in the gradual escalation by which the habituation was established.

HABITUATION BY GRADUAL INVOLVEMENT—A CASE STUDY

It is not easy to determine just when, how, and why the United States became committed to intervene in Vietnam. The involvement began quite indirectly, and seemingly without premeditation or intent. It began as an indirect consequence of the efforts of the United States government, under the Marshall Plan, to help the countries of Europe recover from the devastation of World War II.

The French became recipients of Marshall Plan aid soon after World War II ended. When, in 1946, the French began their war against the Viet Minh in an effort to reestablish their colonial rule in Indochina, Marshall Plan dollars enabled the French government to release francs for expenditures in that war.[11] This first indirect involvement, and the sympathy of American government officials for the role of the French as "the defenders of the cause of human freedom" in Southeast Asia,[4] led inexorably (although in steps barely visible to the unaided human eye) to the present full-scale involvement with over 400,000 American ground troops and all the latest paraphernalia of war.

The indirect involvement continued from 1946 until 1950. Then it became direct. This next step was taken in May 1950, with the announcement that the U.S. would give direct economic aid and military equipment to the French in Vietnam and to the emperor Bao Dai, who had been appointed by the French to rule Vietnam under their tutelage.[1] This step seemed insignificant at the time (merely a shift from indirect aid to direct aid), and logical (since the French were our NATO allies).

The sending of American military equipment to Indochina led logically to another step—the sending of American experts to teach the French how to use the equipment. This was another fateful step—the first commitment of American manpower. President Eisenhower wrote in his memoirs:

> It is true that certain legislators have expressed uneasiness concerning any use of American maintenance personnel in Indochina. They fear that this may be opening the door to increased and unwise introduction of American troops into that area. [As indeed it proved to be. *I.Z.*] The Administration has given assurances to guard against such developments.[5]

By May 1954, when the French suffered their conclusive defeat at Dienbienphu, there were 684 such American experts, maintenance personnel, and advisers. The French left (in April 1956) but the Americans stayed on, to build up the army of Bao Dai, later of Diem, and still later of the succession of military juntas that followed the overthrow and assassination of Diem.

These American advisers not only stayed on but multiplied, although very slowly at first. At the end of the Eisenhower Administration in 1960, there were about 750 American military personnel in South Vietnam.[26] Although they were military men, they wore civilian clothes, because the Geneva Accords of 1954 forbade "the introduction into Vietnam of any troop reinforcements and additional military personnel."[27]

The next step was also a seemingly unimportant one, but it was perhaps crucial. The American advisers began to appear on the streets of Saigon in American military uniforms. This "surfacing" of the American military in Vietnam was also very gradual. Here, for the first time, was established a palpable, visible American military presence in South Vietnam. Once this was established, all that followed seemed logical and inevitable.

The increase in American troop involvement was considerably accelerated during the Kennedy Administration. By the end of 1961, the newly elected President had more than quadrupled the number of troops to over 3,000. This number tripled in 1962; and by October 1963 there were about 17,000 American "advisers" in South Vietnam. Many of them accompanied their South Vietnamese "advisees" on combat missions, and they were authorized "to fire when fired upon."

In retrospect it is clear that at this stage of the involvement, Americans were engaging in combat—killing and being killed. But this was glossed over by public assurances that there had been "no change in the quality of our support, but only an increase in the quantity of it," and that American military personnel were serving, and would con-

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Footnotes at end of article.

tinue to serve, in South Vietnam in a purely advisory and training capacity.[25]

Furthermore, on October 2, 1963 Secretary of Defense Robert McNamara and General Maxwell Taylor made the reassuring announcement that "the major part of the U.S. military task can be completed by the end of 1965, although there may be a continuing requirement for a limited number of training personnel." This was backed up by a statement that 300 American troops would leave Vietnam by December 3, while another 1,000 would depart before the end of the year.[26]

Despite these assurances, American involvement continued to increase, in numbers, in intensity, and in overtness. But by this time, the habituation had taken hold. As late as November 1964, with more than 20,000 American ground troops in South Vietnam and with total American casualties close to 2,000, the American people still believed they were voting for a President who had kept us out of war.

A story in the *Los Angeles Times* in April 1965 described the satisfaction of American airmen that "the wraps have at long last been taken off the Air Force." Previously, every American helicopter pilot had to be accompanied by a South Vietnamese "even if the South Vietnamese was a mail clerk," so that in case the helicopter crashed or was shot down, it could be claimed that the Vietnamese mail clerk was the pilot and the American pilot was only an adviser. All this pretense could now finally be discarded, the report in the *Los Angeles Times* continued with obvious satisfaction.

It took 19 years of very gradual escalation for our involvement to reach the point where "the fight is now predominantly an American war," as Walter Lippmann points out. But it should be noted that in the past two years, since "the wraps have been off" and all pretense finally discarded, the escalation has been accelerated precipitously. By November 1965 there were more than 150,000 American soldiers in South Vietnam. In November 1966 there were 360,000 American fighting men on Vietnamese soil.

One might ask whether the gradual escalation was deliberately planned by government leaders as a subtle and effective public relations technique, or was the haphazard result of historical factors outside the control of our government. Since both history and human motivation are never a matter of black-or-white, the question can be posed more meaningfully as follows: to what extent was the gradual habituation deliberately planned and predetermined, and to what extent did it just happen?

It is doubtful that anyone, including the leaders themselves, could answer these questions categorically. However, the weight of the historical evidence goes to show that the government of the United States was determined, from the very beginning, to do everything it could to keep Ho Chi Minh and the Viet Minh from coming to power in Vietnam. For example, Chalmers W. Roberts, Chief of the National News Bureau of the Washington Post, and Times-Herald, reported that on March 25, 1954 the National Security Council took a firm position that the United States could not afford the loss of Indochina to the Communists, and that if it were necessary to prevent the loss, the United States would intervene in the war. This decision was approved by President Eisenhower.[22] On April 16, 1954 Vice President Nixon sent up a public trial-balloon in a speech before the American Society of Newspaper Editors, in which he said:

> If to avoid further Communist expansion in Asia and Indochina, we must take the risk now by putting our boys in, I think the Executive has to take the politically unpopular decision and do it.[6]

A few days previously, on April 3, 1954, Secretary of State John Foster Dulles and Admiral Arthur W. Radford, Chairman of the Joint Chiefs of Staff, had urged upon a secret meeting of eight leaders of the Senate and the House the necessity of a joint resolution by Congress to permit President Eisenhower to use air and naval power in Indochina. Admiral Radford's plan was to relieve the French at Dienbienphu by striking at the Vietminh forces with hundreds of American planes from Navy carriers and from the Philippines. Roberts writes:

> Some of those at the meeting came away with the feeling that if they had agreed that Saturday to the resolution, *planes would have been winging toward Dienbienphu without waiting for a vote of Congress—or without a word in advance to the American people.* [Emphasis mine I.Z.]

Secretary Dulles tried to interest some of America's allies in his plans. "In these talks Dulles ran into one rock of opposition—Britain."[23] The reaction of another ally is described by Roscoe Drummond and Gaston Coblentz in their book about Secretary of State John Foster Dulles, *Duel at the Brink*. They write:

> The main figure with whom he [John Foster Dulles] negotiated in Paris, shortly before the [Geneva] conference and during its early weeks, was [French] Foreign Minister Georges Bidault.
>
> As the collapse of Dienbienphu approached, Dulles told Bidault that a battle lost was not a war lost. The discouraged Bidault replied that General de Gaulle had said the same thing in 1940, but that it was something one says in the first year of a war, not in the eighth, as in Indochina.
>
> Bidault's recollection of the talks, as recounted to these reporters, introduces into the Dulles record a new element which, at present, reposes solely on the French statesman's testimony. *Bidault understood Dulles, on two separate occasions, to have offered him the use of American atomic bombs by French forces in the Indochina war.*
>
> By Bidault's account both offers were made before the fall of Dienbienphu; prior, that is, to the Geneva Conference. According to Bidault, both offers were made to him personally by Dulles in Paris.
>
> The first is recalled by Bidault as an offer of one or more atomic bombs to be dropped on Communist Chinese territory near the Indochina border in a cuntermove against the Chinese supply lines to the Vietminh Communists.
>
> The second is recalled as an offer of two atomic bombs against the Vietminh forces at Dienbienphu.
>
> Bidault, by his account, declined both offers. He told Dulles that it would be impossible to predict where the use of nuclear weapons against Red China would end, that it could lead to Russian intervention and a world-wide holocaust. In the case of the second offer, he considered the French and Vietminh forces to be by then too closely engaged at Dienbienphu to permit the use of atomic weapons.
>
> There is no doubt in Bidault's mind that these offers were made to him by Dulles.[3] [Emphasis mine. *I.Z.*]

These facts point to the conclusion that the Administration would have plunged the United States into the Indochina war much more precipitously if it could have. But it encountered two obstacles: Our Allies, especially Britain and France refused to go along. And Nixon's trial-balloon brought forth an avalanche of negative letters and telegrams to the President, and a great deal of negative reaction in the press. The time was not ripe for total intervention. The American people would have to undergo a prolonged process of habituation before they would be ready for total intervention.

It is, of course, quite likely that, having embarked on a course of gradual escalation, the leaders themselves became conditioned and habituated—they became the victims of their own techniques. The strain toward consistency and elimination of cognitive dissonance described by Osgood, Festinger, and others applies not only to ordinary citizens but also to leaders. The leaders are constrained to find rationalizations which will justify their decisions to themselves, as well as to their followers. Former President Eisenhower recently exemplified one such technique in high places, a technique to justify the killing of civilians in underdeveloped nations. In a televised speech on September 18, 1966, he argued against "the fear of using a weapon [nuclear] that the free world might need in some outlying place where people or life seems to be cheap, and they want to have their way."[26]

It is also probable that the original planners of our Southeast Asia strategy did not anticipate in 1950–54 either the duration or the extent of the ultimate involvement. They grossly underestimated the determination, stamina, and dedication of the guerrillas. The performance of the Viet Minh against the French should have alerted our decision-makers, but here another factor entered, which is operative to this day. The American leaders felt vastly superior both to the French and to their rag-tag guerrilla opponents. The leaders were the victims of the parochial tendency to feel that "one American is as good as any 10 foreigners," (especially if the foreigners are non-white).

Since then, much habituation has taken place. In June 1954 a Gallup Poll showed that 72% of the American people opposed sending American troops to Indochina. By 1966, 60–70% were going along with Administration policy. The process of habituation has been eminently successful. It has achieved a 180 degree shift in American public opinion in the space of 12 years.

The habituation has been reinforced by techniques of news management and manipulation of public opinion. The President's televised press conference of July 28, 1965 is a classic example. It furnishes an instructive case study of the psychological preparation and manipulation of the American public:

Several weeks before the press conference took place, Secretary of Defense McNamara made a highly dramatized and thoroughly publicized "fact-finding" tour of South Vietnam. Newspaper dispatches stressed the dangerous nature of this mission. The Viet Cong, it was reported, spared no efforts to "get" McNamara. On one occasion, a mine was discovered in the nick of time under a bridge that McNamara was to cross. (No one asked why such a dangerous mission was given so much advance publicity. Would it not have been safer for Mr. McNamara to slip into Vietnam incognito and with no fanfare?)

Upon his return from Vietnam to Washington, Secretary McNamara and his fact-finding mission continued to capture the headlines. For several days, these front page stories in the news media reported that the President was closeted with Mr. McNamara and several top-level advisers in day-long, continuous top-secret consultations. The purpose of these conferences was to determine, on the basis of Mr. McNamara's findings, the future course of the war. Strangely enough, at the end of each day's "secret" session information was "leaked" to the news media which indicated that there would be a very rapid increase in U.S. combat forces in Vietnam, a marked rise in draft quotas, mobilization of the reserves, and a request that the Congress make a supplemental war appropriation of 12 billion dollars. With each day, as preparations were reported for a Presidential press conference, tension rose and public apprehension mounted that the country would be placed on a total war footing.

Footnotes at end of article.

So well was the public prepared by the press "leaks" to expect the worst, that there was a general expression of relief when, on July 28, the President asked for "only" 1.7 billion dollars, a draft quota of "only" 35,000 by November, an increase in troop strength to "only" 125,000, and greatest concession of all, did not call out the reserves. However, the *Wall Street Journal* of August 4, 1965, reported that . . . the President had announced one plan for public consumption, but was pushing, behind the scenes, for a much larger involvement in the war.

In connection with this concealed program, the *Wall Street Journal* continued, Secretary of Defense McNamara appeared before a closed session of the Senate Armed Services Committee to project a far heavier commitment of manpower and funds.

By January 20, 1966, the *Los Angeles Times* was reporting that the President "appeals to Congress to provide $12 billion more to support expanded Vietnam action." (The precise figure mentioned in the press leaks of July 1965.) By February 12, 1966, the President was stating that the time may come when he will have to summon the reserves. Several months after that, a bill was passed giving the President authority to do so. And, of course, the number of combat troops rapidly rose above 125,000 figure projected in the July 28 press conference.

It is clear, in retrospect, that the skillfully stage-managed, televised press conference of July 28, 1965 marked a new phase of open, headlong escalation of the war—now that the "wraps were off." But an adverse public reaction to this new development was averted by skillful manipulation of information. The formula is simple, but effective: First step: highly alarming rumors about escalation are "leaked." Second step: the President officially and dramatically sets the anxieties to rest by announcing a much more moderate rate of escalation, and accompanies this announcement with assurances of the government's peaceful intentions. Third step: after the general sigh of relief, the originally rumored escalation is gradually put into effect, after all.

This technique of psychological backing and filling has two effects: (1) By the time the originally leaked figure of, say, $12 billion, is officially presented by the President in January 1966, the citizen has the comfortable feeling of familiarity with it, of being knowledgeable about it. Somewhere, sometime he has seen and heard this figure before, as indeed he had—in July 1965. It has been robbed of its shock effect. The citizen has become habituated to it. (2) The succession of "leaks," denials of leaks, and denials of denials, thoroughly confuses the individual. He is left bewildered, helpless, apathetic.

The habituation is further reinforced by what is politely called "news management," but what some newsmen have referred to more frankly as the withholding of information or the giving out of misinformation by the government. In February 1965, U.N. Secretary General U Thant bluntly stated that the American people were not getting the true facts about the war in Vietnam, particularly about peace feelers from Hanoi.[13] Australian correspondents in Vietnam have charged American military public relations men with misrepresenting casualty figures in order to make them less stark for the American public.[19] American newsmen have similarly complained about misleading news and misinformation. In a front page news article headed "U.S. Command Less Than Candid in Reporting Vietnam Battle Action," Jack Foisie, Bureau Chief in Saigon for the *Washington Post* and the *Los Angeles Times*, writes:

> Even in a minor defeat, or a minor error in contrast to the bigness of the war, spokesmen try to minimize the setback, distort the fact. They do their best to sweep the dirt under the tent.[14]

Professor Thomas A. Bailey writes in the *New York Times* about President Johnson's "warping, sugar-coating or falsification of the news."[2]

News management is not a new phenonemon. It is probably as old as politics itself. In the United States, as Professor Bailey puts it, "news management dates back to George Washington's Administration."[2] What is new, in our democracy, is the quantity, the degree of news management. What is new is the fact that high government officials openly admit it, and that the large majority of the American people have accepted it as one of the facts of life. William Touhy, the *Los Angeles Times* correspondent in Saigon, writes:

> Sylvester [Assistant Secretary of Defense for Public Affairs Authur Sylvester] has said he favors government news management, including lying to the press in times of crisis. On a trip to Vietnam, he declared the press ought to be the handmaiden of the government, as far as reporting the war went.[15]

And *Newsweek* quoted the official spokesman for the United States mission in Saigon as stating: "My directive says that our policy is one of minimum candor."[17]

The open advocacy by governmental leaders of policies of "minimum candor" and lying to the people undermines "the right to know." The restrictions on his right to know the truth mesh neatly with the citizen's regressive wish to remain unknowing, and further facilitate his regression to the preadolescent phase of seeking security in the omniscience and omnipotence of the authority figures.

CONCLUSIONS

The techniques employed by government to reduce opposition to the war in Vietnam rely heavily on phychological habituation by gradual involvement. Each small new step in the escalation is presented as a logical, unavoidable result of a commitment made by a previous small step. The result is acquiescence by the individual, with no feeling that his right to disagree is being suppressed.

The acquiescence resulting from phychological habituation to the war could prepare the ground for eventual acceptance of the use of nuclear weapons, if such use developed as a "logical" next step. Senator Richard B. Russell, Chairman of the Senate Armed Services Committee, has advocated using small nuclear weapons in Vietnam, increasing the size of the nuclear bombs when necessary. This foreshadows a kind of nuclear escalation similiar to the gradual escalation described above.

The gradual habituation, the "management" of news and information, and the manipulation of public opinion produce in the American people a sense of confusion. They undermine the average American's confidence in his own ability to think clearly and cope with important issues. They foster in the average American a feeling of helplessness and passivity. All this bodes ill for the democratic process: an ill-informed and misinformed people may be unable to participate intelligently in decision-making. It bodes ill for the prospects of human survival: a habituated people may be unable to stop the drift toward a third, thermonuclear, world war. It bodes ill for the emotional health of the American people.

And all this is a matter of serious concern to behavioral scientists, as citizens and as specialists.

FOOTNOTES

[1] ACHESON, D. 1950. Statement at Ministerial Level Meeting in Paris. Department of State Bulletin. May 22: 821.

[2] BAILEY, T. A. 1966. Johnson and Kennedy—the two thousand days. New York Times Magazine. November 6, 1966: 139.

[3] DRUMMOND, R. and G. COBLENTZ. 1960. Duel at the Brink—John Foster Dulles' Command of American Power. Doubleday and Co., Garden City, New York: 121–122.

[4] EISENHOWER, D. D. 1965. Mandate for Change. Signet Books, New York: 430.

[5] EISENHOWER, D. D. 1965. Op. cit.: 416.

[6] EISENHOWER, D. D. 1965. Op. cit.: 427.

[7] FESTINGER, L. 1957. A Theory of Cognitive Dissonance. Row, Peterson, New York.

[8] FESTINGER, L. AND D. BRAMEL. 1962. Cognitive dissonance. *In* Experimental Foundations of Clinical Psychology, A. J. Bachrach (Ed.). Basic Books, New York.

[9] FESTINGER, L. 1964. Conflict, Decision and Dissonance. Stanford University Press, Stanford, California.

[10] GARDNER, G. E. 1959. Psychiartic Problems of Adolescence. *In* Handbook of Psychiatry, Silvano Arieti (Ed.). Basic Books, New York 1: 870–871.

[11] GETTLEMAN, M. E. (Ed.). 1965. Viet Nam—History, Documents, and Opinions on a Major World Crisis. Fawcett Publications, New York: 78.

[12] KASTENMEIER, R. W. 1963. Speech on floor of House of Representatives. New York Times. July 17, 1963.

[13] Los Angeles Times. Nov. 16, 1965.

[14] Los Angeles Times. Oct. 3, 1965.

[15] Los Angeles Times. Aug. 11, 1966.

[16] MASSERMAN, J. H. 1948. Psychological medicine and world affairs. *In* Modern Trends in Psychological Medicine. Butterworth and Company, London.

[17] Newsweek. Aug. 2, 1965.

[18] New York Times. May 18, 1966.

[19] New York Times. Dec. 8 and 15, 1965.

[20] OSGOOD, C. E., G. J. SUCI, AND P. H. TANNENBAUM. 1957. The Measurement of Meaning. University of Illinois Press, Urbana, Illinois.

[21] OSGOOD, C. E. 1960. Cognitive dynamics in the conduct of human affairs. Public Opinion Quarterly. 24(2): 341–365.

[22] ROBERTS, C. M. 1954. The day we didn't go to war. The Reporter. Sept. 14, 1954.

[23] ROBINSON, F. M., AND E. KEMP (Eds.). 1966. Report on the U.S. Senate Hearings—The Truth About Vietnam. Greenleaf Classics, San Diego, California: 268.

[24] ROBINSON, F. M., AND E. KEMP. 1966. Op. cit.: 268.

[25] ROBINSON, F. M., AND E. KEMP. 1966. Op. cit. 265–266.

[26] STONE, I. F. 1966. Ike would use A-bombs. I. F. Stone's Weekly. Sept. 2, 1966: 4.

[27] The Geneva Agreements (complete text). 1965. Viet Report. Aug.-Sept. 1965: 18.

[28] U.S. News and World Report. July 25, 1966: 36.

EPILOGUE—JULY, 1970

(By Isidore Ziferstein, M.D.)

The techniques of psychological habituation to the acceptance of war are being continued by the Nixon administration, as may be seen in the escalation of American involvement in Laos and the extension of the war into Cambodia.

Let us analyze briefly the anatomy of the public-relations techniques employed in putting across the Cambodian venture. Here, too, as in the case of our original involvement in the Vietnam war, the involvement was at first seemingly indirect. Late in April, it became known that our South Vietnamese "allies" were invading, the sanctuaries of the Viet Cong and the North Vietnamese just inside Cambodia. It was announced that no American combat troops were involved. The next step occurred on April 30, with the announcement by President Nixon of a massive invasion of the sanctuaries by American troops. It was stressed that the purpose of the incursion was solely to destroy the sanctuaries, and that American troop would not venture deeper into Combodia, nor would they fight to defend or support the Lon Nol government.

A few days later, this was modified to state that American forces would not penetrate Cambodia beyond a line 21.7 miles from the border. This was taken to apply not only to ground forces, but also to air and naval forces. The President also pledged to pull all U.S. troops *and advisers* out of Cambodia by June 30.

At his May 8 news conference President Nixon was asked whether the South Vietnamese subscribe to the American pullout deadline, and he answered: "No, they do not. I would expect that the South Vietnamese would come out at approximately the same time that we do, because, when we come out, our logistical support and air support will also come out." However, by May 24, Secretary of State Rogers was indicating to newsmen that South Vietnamese operations in Cambodia will have U.S. support, including air support, after American troops pulled out. (Los Angeles Times, May 25, 1970.)

And by June 24, it was announced that U.S. war-planes struck deep into Cambodian territory to help the Lon Nol government troops break the month-long siege of Kampong Thom. This air-strike was 140 miles inside Cambodia, about 120 miles past the 21.7 mile limit set by President Nixon. At the same time, a Defense Department spokesman maintained that President Nixon and Secretary of Defense Laird had ruled out United States combat air support for South Vietnamese forces operating more than 21.7 miles inside Cambodia. (Los Angeles Times, June 24, 1970.)

Similar double-talk (or psyhcological backing and filling) was demonstrated when Herbert Klein, the President's communications director, said that U.S. troops would be pulled out of Cambodia by June 30, but that they would return to Cambodia if necessary. A correspondent asked: "When might they return? Could they return July 1?" Mr. Klein replied, "Could be!"

In his July 1 "conversation" with three TV commentators, President Nixon stated unequivocally: "All Americans are out [of Cambodia]" and "We have no plans to send any advisers into Cambodia." However, on July 1, a dispatch by Jack Foisie in the Los Angeles Times reported:

"But there is evidence that some American military men continue to participate in the Cambodian war. Some are in civilian clothes and most of them commute daily from Vietnam bases and return before dark. They thus may technically fulfill the White House declaration that no American combatants other than aircraft crews remain involved in the Cambodian struggle."

And Foisie reports further:

"Although Pentagon spokesmen have denied that U.S. ground crews are present to service these air craft [at the Phnom Penh airport,] there is evidence to the contrary reported by correspondents on the scene."

A later report in Life (July 10, 1970) datelined Phnom Penh, states: "The seed of U.S. involvement has taken and is burgeoning with all the apparatus of military, political and economic aid . . . [At the Phnom Penh airport] six Westerners are loading an olive-green truck with a large olive-green container. They wear civilian clothes, but U.S. combat boots show beneath their trousers. Short haircuts and the nice moves of the man trying to hide his walkie-talkie indicate the imminent surfacing of more American presence in Cambodia. Fresh-sprayed paint shrouds every official marking but one on the truck door. It reads, 'For Official Use Only.' Embarrassed and close-mouthed, two of the party concede they are U.S. airmen, in Phnom Penh—way beyond the 21.7-mile limit—to install 'navigational equipment'. . . . The war is settling in for a long stay."

As one reads these reports, he gets a feeling of déjà-vu. The same news-management, the same manipulation and confusion of public opinion by double-talk and psychological backing and filling, that took place over the years in the Vietnam adventure, is now being repeated in Cambodia. And there is grave danger that at some point Mr. Nixon and his military advisers will decide that American public opinion is sufficiently confused, divided, polarized, and therefore helpless, to warrant an all-out massive effort to achieve a military victory.

All these techniques and all these events continue to take their toll of the emotional health of the American people. It was this fact that moved the American Psychoanalytic Association, which had always carefully refrained from taking any political position, to state:

"At a time when this country's leadership has stated a commitment to disengagement from Viet Nam, we are suddenly and without warning confronted with an extension of military involvement. This has resulted in a dramatic increase in anxiety, turbulence and conflict, involving crucial segments of our population" and to protest the extension of the war into Cambodia.

BIOGRAPHICAL NOTE

Isidore Ziferstein, M.D., has been engaged in the practice of psychiatry and psychoanalysis, and in research and teaching, for more than thirty years. He is a member of the faculty of the Southern California Psychoanalytic Institute, and a Research Consultant at the Postgraduate Center for Mental Health, New York; Associate Clinical Professor of Psychiatry at the University of California at Los Angeles.

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From 1955 until 1965, he was engaged in a research project, "A Study of the Psychotherapeutic Process" at the Psychiatric and Psychosomatic Research Institute, Mt. Sinai Hospital, Los Angeles (Franz Alexander, Director). Then, for a period of fifteen months in 1963 and 1964, he made comparative direct observations of psychotherapy in the Soviet Union, as a Research Fellow of the Foundations' Fund for Research in Psychiatry, New Haven.

The National Institute of Mental Health has awarded him a grant, to enable him to continue his studies of Soviet psychotherapy, and to write a monograph on the subject.

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M.D.–1935-College of Physicians & Surgeons, Columbia University, New York.

1935–1937: Rotating Internship—Jewish Hospital of Brooklyn, New York.

1937–1941-Staff Psychiatrist—Mt. Pleasant State Hospital, Iowa. Psychiatric Consultant—Iowa State Penitentiary, Fort Madison.

1941–1944-Chief Psychiatric Resident—Psychiatric Institute of Grasslands Hospital, Valhalla, New York.

1947–1951-Psychoanalytic training in Southern California Psychoanalytic Institute.

1951–: Member of the faculty, Southern California Psychoanalytic Institute.

1954–1963: Attending psychiatrist, Los Angeles Psychiatric Services.

1955–1965: Research Project "A Study of the Psychotherapeutic Process" at the Psychiatric and Psychosomatic Research Institute, Mount Sinai Hospital, Los Angeles.

1960–1964: Associate Clinical Professor of Psychiatry, University of Southern California.

1962–: Research Associate, Postgraduate Center for Mental Health, New York.

1963–1965: Research Fellow, Foundations' Fund for Research in Psychiatry, New Haven.

1970: Associate Clinical Professor of Psychiatry, University of California at Los Angeles.

Scientific and Professional Societies:

Fellow, American Psychiatric Association, American Psychoanalytic Association.

Fellow, Academy of Psychoanalysis, International Psychoanalytical Association.

Fellow, American Association for the Advancement of Science, Federation of American Scientists, American Medical Association.

Past-President, Los Angeles Group Psychotherapy Society, Association for the Advancement of Psychotherapy, World Federation of Mental Health, New York Academy of Science, American Academy of Political and Social Science.

Member, Board of Directors—Viewer Sponsored Television Foundation.

Member, Board of Directors—National Association for Better Broadcasting.

Member, Advisory Board—Crenshaw House (A Quaker residential center for reorientation of discharged prisoners).

Member, Executive Committee, Californians Against State Executions.

Member, Board of Directors—American Civil Liberties Union, Southern California Chapter.

Member, National Board, National Committee for a SANE Nuclear Policy.

NATIONAL AIRPORT AND A MODEL POTOMAC ESTUARY

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. GUDE. Mr. Speaker, residents of the Potomac Valley continue to be harassed nightly by jet air traffic departing National Airport after the 10 p.m. curfew which was carefully negotiated last year by the responsible authorities. According to information provided to my office by the Federal Aviation Administration, delays due to mechanical difficulties seem to be the chief cause for the exception permitted in scheduling flights authorized for departure following the curfew.

There was a relaxation of the curfew along with lifting of the ban on the use of the large stretch jets at National last winter during the air controllers' operational "slowdown." At the time, the FAA stated that its action was in the "best public interest." I cannot understand how the overcrowding of National Airport with larger jets and failure to thoroughly adhere to the nighttime curfew can be in the best public interest. The continued scheduling of larger planes in the form of the stretch jets into National can only lead to increased congestion at National and pressure for expansion of the airport and terminal facilities there.

Local planning officials have called for a halt to any further expansion of these facilities at National, and have recommended the most efficient use of Dulles Airport which was designed and built with taxpayers money to serve the Washington air traffic needs. These Washington area planners have now been joined by the Department of Interior in expressions of concern with the increased concentration of airport traffic at National. The Department's recent report, "The Potomac—A Model Estuary" speaks to this point and I am submitting here today for the benefit of my colleagues, a pertinent section of the Interior Department's report:

NATIONAL AIRPORT

Work toward the phasing out of major commercial air traffic at Washington National Airport concurrent with development of rapid public transit from downtown areas to Dulles and Friendship Airports. Waterfront portions of this facility should then be considered for recreation use. Noncommercial airport facilities could be retained and portions could be converted to other use.

While regulation and control of public air traffic is a function of the Department of Transportation, it is within the province of this Department and this report to point out the great recreation and open space needs which this installation could meet and also to call attention to the increasing air and noise pollution that a major airport almost within the city presents and its serious adverse effect upon recreation use of the river. Airport traffic could be accommodated at Dulles Airport in Virginia and Friendship Airport in Maryland, and rights-of-way for rapid access from downtown Washington to these airports are already in public ownership.

ANOTHER FOURTH

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. WYDLER. Mr. Speaker, Thomas Jefferson said:

> When the press is free and every man able to read, all is safe.

The weekly community newspaper is one of the backbones of the American way of life. It is, in essence, a small business with the problem of making ends meet and in maintaining employment for others. As such, the paper shares the problems involved in running a business and yet performs a service for the community.

One of the leading weekly newspapers in Nassau County is the Valley Stream MAILeader. In its edition of Thursday, July 2 it editorialized on the importance of the Fourth of July to our Nation in a way that struck me as touching an important aspect of the greatness of our country. The editorial follows:

ANOTHER FOURTH

It has often been said that U. S. citizens have lived in a condition of freedom so long they have forgotten the evils of oppression. We take for granted the individual worth of a person, equal rights under the law, acceptance of government as a protector and referee for all citizens and the presumption of innocence until proven guilty.

With the approach of another Fourth of July, the words of Dr. John A. Howard, president of Rockford College, as he views these matters, should have a special meaning: "Having grown up with these concepts as the conditions of our living, we cannot comprehend, we cannot register upon how they were when first proclaimed, nor do we realize how they contrast with what exists in the police state nations, nor how they differ from contemporary democracies that carry still the deep-rooted psychological mind-set of their monarchical heritage. The existence of a House of Lords and a House of Commons maintains the message that the common man, even risen to the highest position, remains a commoner. By contrast, in our country, with our inheritance of assumptions, the phrase 'second-class citizen' very rightly stirs indignation. . . ." We should think about these things on this Fourth of July, 1970.

THE CHASM AHEAD

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. ROBISON. Mr. Speaker, I am pleased to include in the RECORD the second in the series on the creation of an Atlantic Union written by Aurelio Peccei. The suggestion that an Atlantic Union be formed is one which merits much consideration. I am advised that currently there are 110 House sponsors of the Atlantic Union resolution, and I am hopeful that soon this propcsal will come before the House.

The world—although both large and diverse—grows smaller and smaller as more countries realize that isolationism is no longer a viable national policy. A myriad of common problems could be solved by a joint effort if Atlantic unionism develops. I look forward to the day when our country joins with others in seeking such common solutions.

Dr. Peccei's article follows:

[From Freedom and Union magazine, May 1970]

THE CHASM AHEAD: AN URGENT CALL FROM EUROPE FOR ATLANTIC UNION—II

(By Aurelio Peccei)

The need to assert the principles of priority and Atlantic interdependence is quite as pressing for Europe. However, one should not lose sight that Europe's *primum vivere* requirement is rightly to exist as Europe. Like Hamlet, Europe faces the dilemma: To be or not to be. In this respect, hope is pegged mainly to the preservation, strengthening, and expansion of the 1957 Treaty of Rome, by which the six signatories sought to end their historical hostilities and rivalries, and established an unprecedented partnership among sovereign states—the European Economic Community.

We have seen that much pessimism prevails nowadays about the future of the Community. Despite all misgivings and delays, a point of no return in its evolution has now been reached. And lamentable though the present state of European affairs is, there is reason to hope that the goal, the actual economic and political unity of the continent, is after all not as remote as it may appear. There is a steady march forward in the implementation of the Treaty of Rome.

The catalyst of Europe's unification cannot be other than the Community. Though its current membership is still only six, and some of its postures are self-centered and inward-looking, it represents a nucleus capable of eventually attracting all other European nations. There is no alternative to it. It is the Community that embodies the ideal of economic integration, conductive to the ultimate goal of political unity, and it is the Community that may have in the European Continent a function similar to what one would imagine for the Atlantic community in the wider world.

Of course, there is no basis to presume that the process of giving birth to a continent by amalgamation and conviction, not conquest and dictatorship, is an easy one. Whatever the desire and rationale of more effective progress, one should not forget how deeply Europe is implicated in history and how its unification is contrary to age-old traditions, memories, feuds, interests, and taboos deeply set in its psyche.

Therefore, to achieve a stronger community—this prerequisite of unification in Europe—the obvious strategy is to rally all elements, the active, dormant, lukewarm, or still unconvinced ones in the Community itself and in all the other Atlantic nations, including the United States, and induce them to support this Community-centered process as the only method now available of building Europe.

Everyone must be prepared to pay a price, even a high price, for this first step toward one Europe to be made. The orthodox "Europeist" must accept that Europe will consolidate itself somewhat erratically, *à la carte*, rather than assume at once the majestic and harmonious shape conceived by its early political designers. The advocates of the quick entry of the United Kingdom must be patient while that momentous event is postponed for a few years more. In the meantime, they should aim at consolidating the present Community of Six and its external ties with the U.K. and the other EFTA countries. And the "Atlanticists" of the two shores must absorb and placate the sprinkling of anti-Americanism occurring in Europe as an inevitable byproduct of this belabored process, and obtain forbearance and restraint in the United States in the face of it.

However, even if their high hopes and spirits are maintained against the difficult hurdles still to come, there is no way out for Europeans but to recognize the principles of priority and Atlantic interdependence. Europe's inferior potential dramatically underscores this imperative. It is principally in this sense that I said that Europe should reject all temptations to become a carbon copy of the United States. Instead of being hypnotized by the United States' successes in applied science and advanced technology and trying to ape and duplicate them without a critical assessment of their consistence with a set of over-all European objectives, Europe must first define these objectives.

It is again a question, also in the case of Europe, of starting with the right approach. Once Europe has decided what are the goals and priorities that best respond to its genius and needs, then it can launch programs that are feasible with its human and material resources. Against this, the objection may be raised that if a rational study of national objectives and priorities is so difficult in Washington, the magnitude of this difficulty will be much greater in Europe, where, besides at least equally muddled issues, in the absence of unified institutions, there is still a great measure of nationalistic tug-of-war between Paris, Rome, Bonn, London, etc. But this is really still more reason for considering the definition of priorities itself as a high-priority question.

As to the selection of European priorities, I would for example, suggest that information technology and its applications, a sector where very little coordinated effort is made, but good results could easily be obtained—are more important than nucleonics, a sector where the excellent qualitative results obtained do not, however, compensate the effort and money lavished. I would also suggest that a sustained aerospace effort is justified at this stage only when directed towards developing directly usable civilian applications.

Preferential attention should be given to the conservation and development of Europe's cities, most of which have been in the past high expressions of erstwhile technology, but now must be enabled to absorb the technology of modern times rather than be crushed by it, and remain one of the great patrimonies of mankind. I would enlarge this concept to that of safeguarding the "quality of Europe," a continent of high and ancient civilization, dense population, and a unique heritage of historical, artistic, and sacred monuments. This objective should probably take precedence over new ventures in oceanography, and certainly should be strenuously upheld against, for instance, the temptation of competing in advanced weaponry with the United States or the Soviet Union.

With his usual expertise, Christopher Layton in the not yet published book *Europe's Advanced Technology*, outlines a tentative institutional framework for Europe with a Directorate of Science and Technology, a Science Foundation, a Technology Fund, and several Management Agencies. In my own view, much essential work can also be done well before these or other formal European institutions are established.

Pierre Piganiol too outlines the basis of a unified science policy for Europe, and considers the prime need to be the creation of a European Science Foundation, whose initial task would be to take stock of existing facilities, means and programs, and provide cross-references to the situation in the United States and the Soviet Union.

Although I do not share all the views held by these two friends of mine, they, and a growing number of dedicated Europeans, point out the right direction. And it is this growing willingness to unite in the face of the gap that may produce the embryo of a science policy even before Europe is born. If this prediction is fulfilled, and also an industrial policy that would be designed to foster the development of truly European corporations is eventually adopted, great headway will be made toward all the objectives we have indicated. These will be two momentous breakthroughs, because they will cause tens of thousands of government and corporate decision-makers not only in Europe, but also in the United States, to redirect their minds and activities toward longer-term, wider-horizon, future-oriented goals—which means that they will inevitably work for, and not against, further European unity and Atlantic cooperation. The outcome will be a new renaissance, and a galvanization of energies throughout the old Continent.

In the process, Europe will find that it cannot alone accomplish all its immense tasks and objectives. For this reason, those who want to build the new Europe should always aim at making it not an autarchic continent, but an outward and forward looking "Europe plus," as it is sometimes called, projected onto the Atlantic platform of cooperation and mutual fulfillment.

In Europe's case the principle of interdependence has become quite imperative at this stage, when European industry is deeply infiltrated by American investment or is dependent upon American patents and production, distribution, and managerial knowhow. Whatever beliefs its leaders may hold about Europe's goals, they have no alternative for their attainment but long-range cross-fertilization and ties with America.

However, a weightier reason will become apparent for Europe to combine with the United States. It is that the outside world, although mesmerized by American might and bewitching technology, expects from Europe something that Europe in self-interest cannot refuse and has the capacity to conceive, something which it has the vocation to offer, but not the power to produce alone: *How to organize peace*.

The United States is not considered, by and large, to be engaged on this path. *Pax Americana*, whatever it may be, and despite its merits, sounds more a catchword than a convincing way of spreading peace across the planet. In world public opinion, the United States and the Soviet Union have been too busy watching each other and responding to mutual threat by arming to the teeth and dragging others in their wake, and in particular the United States has considered herself too powerful to be interested in making the supreme effort necessary to create the conditions, and undertake the organization, of a stable peace situation over the world. Conversely, the credibility of Europe, in my opinion, is not by and large questioned in this respect—notwithstanding some militarist regurgitation, here and there. Therefore, a united and respected Europe may bring into the Atlantic community this invaluable new component. And this role of Europe will be a determinant in the definition of its own and Atlantic objectives.

Europeans must not shirk facing these realities and new responsibilities for another, overriding reason. The sooner they realize that closer complementation with the United States is inescapable, the sooner they will discover that in the *quid pro quo* game with the Americans they still hold unexploited cards. After all, in advanced societies—and I would say this particularly of modern American society—people are becoming more sophisticated and strive for a higher quality of life. In its interplay with America, Europe is especially capable of making original contributions toward this end. Traits of its multiple civilization—aesthetic, ethic, spiritual, philosophical, and generally humanistic—will bend with the present triumphant techno-scientific mainstream, pouring out mainly from its great fountainhead in America.

In conclusion, if the perspective of a continuum of European-American cooperation and interdependence, leading to some form of stricter union of the two sides of the Atlantic, gains acceptability, then many serious problems—from the brain drain to the balance of payments—will look less serious even before being diluted in a wider area when the Atlantic institutions are in place; at any rate, their inconvenience will become much more bearable.

In this perspective of an Atlantic community, federation or commonwealth, whatever this closer European-American nexus will eventually come to be in the next decades, asymmetry across the Atlantic and the disparities among its component peoples will not matter very much—in technological achievements, in productivity, techno-structure, institutions, and even ways of life.

Indeed, considerable degrees of diversification among them may be considered a healthy feature of the mass society we are going to have, as they will enrich it with multiple experiences and foster the research of alternative solutions. Thus they will permit it to grow more versatile and creative, and offer a more interesting spectrum of opportunities to its people, and enhance the intercourse and mobility of their talent, entrepreneurship and capital all over the Atlantic area.

Only by purposeful research, study, and implementation of the tenets of priority and interdependence, coordinately by America and Europe, can the technological gap and its consequences be overcome. This is indeed the strategy that will automatically, I would say naturally, stop the two continents from drifting apart.

With this approach and this change of direction in the conduct of their own affairs, Europeans and Americans will then be able to devote much more attention to the outside world, from which the future threats and challenges will come.

THE PRINCIPLE OF LEADERSHIP

These observations bring us to the third principle beside those of priority and interdependence: that of *leadership*. If only this principle were understood, both the United States and Europe would promptly set aside their other differences and devote more energy to bridging the technological and other gaps that hinder the exercise of leadership.

To understand the full import of the consequences of the Atlantic split in the years to come, we must envisage the Atlantic platform as the very middle of the great stage rocked by the forces of the contemporary world. For the Atlantic platform is indeed the epicenter of movement in today's world system. In other epochs the center was in the heartlands of Asia or the Mediterranean, and from there, by foot, horse, or sail, trade and crafts moved and invasions started, and by word of mouth and by script, the wall of the powerful and the faith and ideas of the sage irradiated, and in time, conquered the known world.

In our own era, when time and distance no longer cushion the impact of change, what happens in the world largely depends on events occurring, decisions taken, or signals called in the central Atlantic area. Trade and traffic, technology and information, currencies and values, arms and fashion, hope and delusion, boom and slump: All in great measure originate from, head toward, or are controlled by, the Atlantic nations. As a consequence, the fate of the whole world hinges to a great extent on the policy and action of the Atlantic nations. In turn, the United States and Europe are no longer in a position to isolate themselves from either friend or foe. It is these new situations that have altogether changed their relationship with the rest of the world, and have thrown at them an extremely demanding burden of leadership.

In a world system characterized by uncontrolled growth and imbalance, the Atlantic nations not only ought to realize that they cannot possibly discharge these new heavy responsibilities if they are not united, but they must be well and quickly convinced that they cannot renounce this role of leadership even if they wish to do so.

Three principal circumstances in my opinion oblige them to accept this role. First, their own interests are basically affected by what happens in the outside world. Therefore, they cannot possibly sit back aloof, but are forced to step forward and take a good hand in controlling and directing what happens elsewhere on our planet. Second, the peoples and nations of the world who are friendly to them are, at the same time, weak in the contemporary world. The need for help of these less advanced friendly nations will probably grow, not diminish, as their economies and institutions become more complex and interpenetrated with the stronger and more sophisticated ones. Third, if the Atlantic nations demonstrate that they possess true qualities of world leadership in this difficult time, they can progressively win over the nations that are less friendly, and eventually even those presently openly antagonistic.

Now, what are the indications that the Atlantic peoples will be able to understand and resolve the problems they have to face—and actually exert leadership?

Again, I have no assured answer. But this book, I hope, may serve to clarify some of the issues, and contribute to building up the resolve to meet them. As the reader proceeds to Parts II and III, he will see that the nature and proportions of the problems that are thrown at the Atlantic nations and the world are discussed at some length, and the general framework required to reach valid solutions outlined. Here are a few introductory remarks to show some of the lights and shadows of the task ahead.

Since World War II the advanced nations have found ways of largely governing the politico-economic stability and growth of their own individual systems. They have achieved this by means of complex mechanisms and policies, conceived empirically rather than doctrinally, which combine market automatism with government planning and control—plus a modicum of international solidarity when need is matched by goodwill. Because of the imperatives created by the onrush of technology, their governments and corporations have grown in stature—both in dimensions and functions—their spheres of action overlapping with each other.

Government and business have joined together, with the participation sometimes of the academia and the unions, in developing new forms of organization and management of such elements as the economy, market, demand, output, wages, prices, R and D, and up to a certain point higher education. This has been accomplished by means of an interweaving of corporate and state decision centers, executive agencies, planning boards, think tanks and their operative dependencies. This new form of governmental-productive-financial-scientific establishment more or less represents what is now being called a modern nation's "techno-structure."

Here is the secret of power and efficiency of the advanced nations and the fundamental and cumulative difference between them and the countries below the take-off point. These mechanisms and procedures and the entire techno-structural buildup are continuously evolving to adjust to changing conditions. Until recently we were proud of our techno-structure, even if we somehow resented that what was once called the "invisible hand" regulating our marketplace and economy was now superseded by a more exacting power which took hold of most reins in the nation and society. However, we had the certainty that nothing better had ever been conceived.

Now, our advanced nations are in the grip of a crisis whose origin and consequences are deeper than those of an economic recession, though a recession may be one of the forms in which it will manifest itself.

Consequently, we are assailed by a new kind of doubt and are inclined to question whether our techniques and our mechanisms and our entire art of governing ourselves can actually keep pace with the high-speed and bewildering transformations happening in our modern industrial societies. A symptom of some malfunctioning in our system as it operates at increased pressure is the technological gap itself, it is similar to what happens with complex mechanisms, when a minor flaw, tolerable in itself, may provoke major disarrangements, necessitating a complex revision and overhaul of the entire system.

Other signs also indicate that our mechanism does not function well and is far from being under firm control. I have already indicated some malfunctioning of a social and political nature. There are examples also in fields related to the economy:

The difficult negotiations of the Kennedy Round to liberalize trade, and subsequent wave of protectionism that threatened and partially succeeded in offsetting the results obtained in the round;

The difficulty of reaching and now implementing the Rio de Janeiro agreement, aimed at increasing international liquidity by means of new reserve instruments;

The unsuccessful defense of the British pound, and its devaluation;

The chronic difficulties of the United States balance of payments, then the run on gold and its uncertain final outcome;

The historic step of the United States away from international liberalism as represented by her imposition of curbs on capital exports, and the other proposed measures, which were once the necessities of the weaker economies, not the prerogative of the greatest world power—the list could continue.

Even if, for a moment, we escape the air of crisis hanging over the strong nations of the world, the need for leadership remains dominant. It is appropriate to quote here a statement, which invites reflection made by Hasan Ozbekhan, the noted mathematician and economist, in a recent paper for the Massachusetts Institute of Technology: "When our situation is viewed in its current immediacy, its most striking aspect is complexity. When we try to imagine it in terms of the future what strikes us most are the *uncertainties* it unfolds in the mind. Thus we stand, perhaps more conscious and knowing than ever before, in the grip of present worldwide complexities and future uncertainties trying to define those modes of action that will best order the one and reduce the other."

If this is the predicament of the advanced Western nations, the reader may well imagine, then, what under these prevailing conditions is the situation of the other nations and peoples of the world system—how fragile and defenseless today, and how hopeless tomorrow. Never forget that they are the great majority, and that—leaving aside for one moment the communist countries—they gravitate in one way or another toward the Atlantic platform, even though they belong to geopolitical areas and probably also socio-political systems different from ours. Their development record during the 1950's and the 1960's is not altogether negative, but it is by no means encouraging.

We must not delude ourselves that this passably acceptable past experience is likely to repeat itself in the 1970's. In the years to come their condition and the over-all condition of the world will be substantially worse, the struggle for life harsher, the expectations of people higher, the impact of technology even more brutal, and the capacity of these nations to move ahead far below requirements.

These nations will need and request a great deal more permanent or long-haul economic aid and technical assistance, which can be offered only by the industrialized world. They will also require as well some kind of long-term planning support and guidance to set their course in the right direction. Only the Atlantic nations as a bloc can give them this combination of leadership and aid, and they ought to remain ready to provide it. Should they fail, several of the needy nations, which are already in danger of breaking down now, will drift toward chaos and anarchy, thus further disrupting the entire international system.

Where, then do we stand? The world is at a crossroads, and so are the Atlantic nations.

The revolution of our time is gaining momentum, and the signs indicate that during the next decade it will gather speed and force. It is up to the Atlantic peoples, and only to them, to unite and take the lead in an unprecedented movement to face the future. Their leadership in thinking, in devising new approaches, and in action is indispensable for the world to solve its problems.

For the first time in the history of man, many of the major problems have become truly global and represent a challenge and a threat to the whole of humanity.

LASTING PEACE

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. WYDLER. Mr. Speaker, for many years I have received informed and interesting letters from a gentleman in my district, Mr. David J. Hofer of Garden City, N.Y.

Recently he has sent me a copy of a letter written by him and published in the Nassau Illustrated News—Nassau County—on June 2, 1970. In this letter Mr. Hofer, as a citizen of the United States, sets forth his program for a lasting peace.

He has asked me to include it in the CONGRESSIONAL RECORD, and I am pleased to read it into the RECORD at this point:

LASTING PEACE

LETTER TO THE EDITORS:

Never in my recollection has there been so much tumult within and outside our nation, the United States of America, as in this present day and age.

What is the reason for it all and what can we as individuals do about it?

The Reason: The reason may be summed up in one word—selfishness. There is today indication that even well ordered persons think in terms of "What do I get?" rather than "What can I give in order to make this a better world?" (not necessarily money, but service).

What can we do about it: In order to decide this, we must first consider what attempts have been made in the past in the hope of attaining lasting peace. We remember first the League of Nations which failed. Now we have the "United Nations Organization" a debating society. The "stuffed shirts" at the head of some centralized Church Organizations say "we want peace" but what are they doing beside unjustly criticizing our beloved President for making a very hard decision, and just, about the Cambodia situation. Legislators in all nations have passed all kinds of acts in the hope of forcing people to be law abiding citizens.

When all is said and done, all of the foregoing, however well intended, has been a mere temporary makeshift device.

Nothing of a lasting nature will ever take place until you and I and everyone persuade people throughout the world to follow the principles expounded in the teachings of the "Prince of Peace" (Jesus Christ). If your religious belief is of a different order I'm sure it comprehends the practice of unselfishness.

A good start in the U.S. will be to reinstate prayer and Bible reading in our schools and colleges and to get rid of any teacher or other educational representative if we can prove that he is a Communist sympathizer.

To sum up—the solution to Lasting Peace is unselfishness and love of God and his commandments throughout the World.

There is no other way. Unless every nation follows along these lines each will disintegrate in time. When? I do not know.

Let's all start doing something decisive today—don't wait till tomorrow, you may be dead by then.

DAVID J. HOFER,
A citizen of the United States.

BROTHER SHOOTING SISTER ON ORDERS—IT COULD HAPPEN

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. LEGGETT. Mr. Speaker, when we think of the Civil War, one of the most poignant images is that of one brother in gray and another in blue fighting to the death. But the tension between the generations—and the regrettable eagerness of some public officeholders to capitalize on it—has created the possibility that this situation could face us tomorrow.

I have recently received a letter from a constituent who has a daughter at Berkeley and a son in the California National Guard. She says:

> DEAR SIR: I have nightmares. My son is in the National Guard and my daughter is a student at Berkeley. I am haunted by the thought that Jerry could be ordered to shoot his sister. For the first time in my 50 years, I'm afraid of my government. Each day brings more rabid hate statements from men of supposed authority. This is horror that will lead to civil war.
>
> LUCILE E. CASE.

Let us hope Mrs. Case is wrong. But as I listen to the statements of the Vice President of the United States, I see little reason for confidence.

WHAT IS RIGHT ABOUT AMERICA

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. BURTON of Utah. Mr. Speaker, I agree with the President that rather than criticizing and tearing down our country, we should be spending more time standing up for and speaking about what is right about America. I am one of the majority of Americans who still believes in the American promise that Thomas Wolfe talked about:

To every man his chance
To every man regardless of his birth, his shining, golden opportunity
To every man the right to be himself and to become whatever his manhood and his vision can combine to make him
This seeker, is the promise of America

You really do not have to look far for examples of this promise. The opportunity that makes careers such as H. Ross Perot's possible is one of them, obviously. Recently, Mr. Perot was asked to write on the theme of "What's Right With America," for the Nation's Business magazine. I commend to the attention of my colleagues the article he wrote:

WHAT'S RIGHT WITH AMERICA

(By H. Ross Perot)

In spite of the cacophonous criticism of the "system" these days, you don't really have to look for examples of what's right with America. The opportunity that makes careers such as H. Ross Perot's possible is one of them, obviously.

A Texarkana, Tex., cotton broker's son whose first experience as a businessman involved breaking horses at $1 a head (at age seven), Ross Perot founded Electronic Data Systems Corp. in Dallas with $1,000 of his savings in 1962. EDS profits have doubled every year since then, and his net worth today (he's just turned 40) is in the many millions, even after a stock price nose dive.

Mr. Perot, an energetic, articulate philanthropist who preaches that more Americans must become involved in public affairs, has been particularly concerned about freeing, or at least helping, U.S. prisoners in North Viet Nam. At one point he offered, in vain, to ransom them. At Christmastime he tried to bring supplies to them, but got no closer than Laos. To show sincerety, at Eastertime he visted POW camps in South Viet Nam and tried to pass on to Hanoi information about the well-being of its captured men. He was rebuffed again, but he's still trying to help our POW's.

When NATION'S BUSINESS asked Mr. Perot to write for it on the theme headlined here, he took pencil in hand while on a business trip, and produced this article.

The greatest thing about America is that its people are free.

The concept of freedom has a new, special meaning for me, after having visited refugee camps in Laos. Like most Americans, I just assumed freedom was my birthright and did not think much about it until I talked with the refugees in Laos and saw the awful sacrifices these primitive, illiterate, tribal people were willing to make to be free—to protect their families and keep them together.

I asked every refugee I talked with, "Why did you flee the North Vietnamese?" I had read that the refugees were fleeing the bombing. I was unable to find a single refugee who was doing so.

The refugees in Laos flee the North Vietnamese to keep them from impressing the boys and men as slaves to carry goods down the Ho Chi Minh Trail. They flee to keep them from sending the girls and women to North Viet Nam into other forms of slavery. Freedom assumes a new dimension when you learn of the absolute brutality of North Viet Nam in dealing with these people.

The next time you read about the North Vietnamese taking another village in Laos or pursuing refugee groups through the jungles, realize that they are simply capturing slaves. As you sit comfortably in your home, surrounded by your family, try to picture yourself and your family fleeing through dense jungle, trying to run ahead of the North Vietnamese, knowing that if you are overtaken your family will be broken up, put into bondage and lost.

That does not happen in America, but it is happening every day throughout the world in cultures where human life is subjugated to national goals.

The American society's concept of concern for others is another thing that is right about America.

THE BEAUTIFUL AMERICANS

One of my finest experiences has been meeting the "Beautiful Americans" scattered all over the world who have dedicated their lives to helping people less fortunate than we are.

Some of these people are missionaries in the classic sense. Others are carrying out missions of medicine, education, agriculture and construction, just to name a few. I wish every American could get to know these people as I have, and could actually watch them working to help others. What other society has ever produced selfless people in such great numbers?

What other government or culture would want to—or could—produce men willing to fly, day after day, into North Vietnamese antiaircraft fire, to drop rice—not bombs—to Laotians fleeing the North Vietnamese?

Only America produces men like that. These pilots who risk their lives daily to bring food to helpless people are missionaries of the air, willing to face death to keep life and freedom alive among people who can offer them nothing in return.

What other nation in the history of man has produced men willing to fly through North Vietnamese gunfire, land on dirt strips and absorb gunfire while on the ground, to pick up planeloads of Laotian refugees about to be captured by North Viet Nam—to rescue them from slavery? This is happening every day in Laos.

Cynics might ask, "What is in it for us?" The answer—nothing but preserving the lives and freedom of a very primitive people. Our country produces men and women who will risk and give their lives to help others. What other nation can claim that?

When my group went to Southeast Asia in an effort to aid American prisoners in North Viet Nam, the most difficult thing for the North Vietnamese to understand in dealing with us was that any private citizen could be free to do the things we were doing. Having the freedom to do such things was far more impressive to them than having the economic resources.

The paramount importance of the individual, the uniqueness and preciousness of each life in our country, is a great American strength. The North Vietnamese just cannot understand why anyone, particularly a capitalist, would be concerned about "just 1,500 men"—a phrase they use repeatedly when referring to the prisoners. I have tried to convince them that, in our country, the entire nation can become concerned over one person in need.

They just cannot accept this, because in North Viet Nam people are merely instruments to further national policy. The individual is subordinated to the national goals of North Viet Nam—he is a tool to be used by the state.

The North Vietnamese see our country as "inherently weak," because the people select the leaders, and the leaders are the servants, not the masters, of the people. North Viet Nam feels that having the people determine the future is a great weakness. I feel that this is one of our greatest strengths.

It is great to live in a country where the government can be changed by its people to adapt to changing conditions. It is difficult for the North Vietnamese, or any other closed society, even to comprehend that concept.

Speaking of closed societies, after having seen them, I have an even deeper appreciation for our open society. The North Vietnamese do not understand the concept of public opinion, since there is no public opinion in North Viet Nam—only the official position. Dissent is not tolerated. There are no demonstrations in North Viet Nam.

An exchange of differing views, and respect for another's position on an issue, are basic to our society. I was amazed to learn that the North Vietnamese could not argue. They would take the official position but become ineffective when asked, "What is your reasoning behind this position?" There was no reasoning. It was policy—not to be questioned or debated, just carried out. Contrast that to our society.

PRACTICAL DREAMERS

It is great to bring up a family in a nation where each person decides what type of work he will do, where he will live and what his goals are. In our country, one person can move mountains. We have a nation that provides a climate that produces practical dreamers—men and women who have great dreams and the desires, discipline, capacity and freedom to make these dreams materialize.

Compare that to societies that are indoctrinating children instead of educating them. The children are trained to be loyal to the state—not the family. The child's life is planned for him by the state. The child may want to be a composer, but the state needs scientists, so he becomes a scientist.

This is a more subtle form of slavery than that imposed on the Laotians, but nevertheless, it is slavery.

Take a minute; think about your children. Would you want some bureaucrat, armed with aptitude tests and national manpower quotas, determining your child's fate? That is another thing that is right with America.

You have probably noticed I have not mentioned that we provide our people with a standard of living that is unique in the world, and in the history of man. I have not pointed out that persons living in poverty in this country would be upper-middle-class in most of the world. I have not boasted about our highways, schools, medicine, industry and technological, prowess.

I have confined myself to the real American Dream, the one the Pilgrims had—the dream of freedom.

TRUE RICHES

When we boast that America is the richest nation on earth, we should only be boasting of our true riches—our freedom, our people and our concern for others.

In this article, I have limited my examples to personal experiences of recent months. If I were to include all the pertinent examples from just my personal experiences, this article would become an encyclopedia. The neighbors, friends, teachers, children's organization leaders, Sunday school teachers, businessmen, policemen, firemen, military and religious leaders and elected officials who touch our lives and build our nation are intertwined in a magnificent web that represents the strongest society ever devised by man. It is bound togegther with powerful glue—concern for one another and a dedication to building an even better nation and world.

I would like to describe my own American Dream to you. I dream of an America that has a strong family unit and deep religious conviction in each home. I dream of an America made up of families who have a great sense of destiny for their nation, and a deep, unabashed love for it. I dream of these families developing great men and women, who will have the wisdom to manage our vast resources and technology, and direct them toward the best interests of our nation and the world.

These families will produce leaders who are honest, intelligent, disciplined and concerned enough to melt away the problems facing us today. They will keep us free.

I plan to spend the rest of my life as a private citizen and a practical dreamer, working to make that dream materialize. Only in America could a private citizen have such a dream, and the freedom to direct his energies toward it.

EACH GENERATION'S CHALLENGE

The challenge for each generation is to preserve and enhance our great freedoms, passing them on to the next generation, stronger and better, never forgetting that they are precious and fragile, and require continuing care by each of us.

This article is a love story—the story of one man's deep love for his country, and his dreams for its future. I hope you share my dreams for this great country.

The key to our future is for millions of private citizens, like you and me, to start once again to act like proud part owners of our country.

We will not always agree, and that is not important. We will be involved in doing everything we can to see that the things we feel need to be done are done. We can be the generation that made the real American Dream come true. We can deliver the constitutional guarantees to our people—to our children.

Let's stop talking, accusing and fretting. Let's get to work!

THE LATE HONORABLE CLIFFORD DAVIS

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. ROONEY of New York. Mr. Speaker, I am saddened to learn of the passing of the Honorable Clifford Davis of Tennessee, who, for 24 years, represented the people of Memphis and Shelby County here in the U.S. House of Representatives. I knew Cliff Davis for most of those years, having first served with him on the House Committee on Military Affairs when I came here in the 78th Congress. During World War II and in November and December of 1944, with other members of that committee, we visited the Western and Italian Fronts in Europe and formed on that trip a close and lasting friendship. Cliff Davis spent most of his adult life in public service, first as a city judge in Memphis and then as vice mayor and commissioner of public safety. He was a hard working and devoted man and a friend to many of us here. To his wife, Carrie, his family, and his many friends I express our deepest sympathy.

A SENSIBLE EDUCATIONAL POLICY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. ASHBROOK. Mr. Speaker, in the many campus disruptions which have plagued the Nation in recent years it is not unusual to read of members of faculties working right along with students engaged in illegal activities. The State of California has taken steps to prevent the hiring of future teachers who as students had been arrested in connection with campus disruptions. The committee of credentials of the California Department of Education is the body which screens applications and weeds out proven troublemakers. This precautionary policy should in the future be a source of reassurance to parents whose children were not intended by them to be the target of radical philosophies and activities served up by persuasive, accredited teachers. The next step, of course, is how to get rid of the characters with tenure who are presently infecting impressionable minds in the classroom.

The Philadelphia Inquirer of July 16 carried an article reporting on this sensible and much needed policy, and I insert it in the RECORD at this point:

ACTIVISTS' RECORDS BAR FACULTY JOBS TO SOME SENIORS

(By Noel Greenwood)

LOS ANGELES.—An increasing number of college graduates face being barred from teaching in California because of their arrests in connection with campus disruptions while they were still students.

"How many we've got going right now I don't know," H. Richard Shipp said. "But I think the committee is taking a harder line on any acts that involve violence on campus."

The committee Shipp refers to is the Committee of Credentials, an arm of the California Department of Education. It screens prospective teachers, and Shipp is its executive secretary.

The committee is not bound by court action that cleared a student of a charge against him.

Instead, it makes its own investigation of the incident. If it is displeased by what it finds, the credentials are denied.

"There are many other kinds of incidents which are unacceptable conduct but not criminal," Shipp said. "We're judging professional and moral conduct."

Once denied by the committee, the applicant for credentials has 30 days in which to appeal the decision—either to the committee itself or through an administrative process that eventually ends with the state Board of Education.

But usually the committee's action is upheld and the denial is made final.

All prospective teachers run the risk of being refused credentials if they have arrest records and the charges are serious. But only in the past few years have campus-connected arrests entered the picture.

Dr. Carl Larson, committee chairman and chief of the Bureau of Teacher Education and Certification, said that in such cases the committee denies credentials only when the student is guilty of a violent act.

"There's a difference between being told to disperse and doing something violent," Larson said.

He said the committee recognizes that some students arrested during demonstrations "take part in a very innocuous way" or are innocent bystanders.

"The big question that's always asked is, 'is he really violent? Does he do harm to someone? Does he really do destruction of property as much?' " Larson said.

In the past, he added, the committee has granted credentials "to people who have been in demonstrations, have been arrested have been fined and in the estimation of the committee really aren't violent persons."

College placement officers confirm that this has happened.

But there are indications that the committee is now taking a much sterner approach toward student applicants who have disruption-connected arrests.

OUR SOUTHEAST ASIA COMMITMENT

HON. JEFFERY COHELAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. COHELAN. Mr. Speaker, I have been constantly concerned that the Nixon administration would be mired in Southeast Asia. The President's Cambodia decision did nothing to allay this fear. Recent reports of U.S. air cover for Cambodian troops under the guise of protecting American troops reconfirms my gravest fears. Now there are reliable reports that our military leaders in Southeast Asia are counseling a continued American presence involving 200,000 U.S. troops for the indefinite future.

On numerous occasions, I have pointed out that the Nixon Vietnamization plans required an indefinite commitment of 150,000 to 200,000 U.S. troops. On those occasions, I pointed out that the semantic definition of "ground combat" or "support" troops did little in the way of ending our direct military commitment in Southeast Asia. This should be the short term goal of our foreign policy.

We are now receiving reports, with increasing frequency, that our military mission is exerting pressure to assure a large U.S. military presence in Southeast Asia for the foreseeable future. I urge the President to reject this counsel. The internal division in our Nation—the ravaged nations of Southeast Asia—are all eloquent and tragic testimony of the bankruptcy of our policy in Southeast Asia. This counsel—that there is "light at the end of the tunnel," or "just a few more years to solidify our gains" has involved us in this quagmire.

There is another important factor. I do not think that the Thieu-Ky regime will be required to seek a negotiated peace when they can rely on a massive U.S. presence. To keep a massive U.S. presence will prolong the war and suffering without any reason.

I urge my colleagues to read the article by Neil Sheehan which I am including in my remarks. It summarizes the latest developments and describes some of the pressures being exerted on the President. I hope the President rejects the fallacious reasoning that serves only to prolong our direct military commitment in Southeast Asia.

The article follows:

OFFICERS DOUBT A SPEEDY PULLOUT—EXPECT 150,000 TO STAY AFTER 1971 TO BOLSTER SAIGON

(By Neil Sheehan)

WASHINGTON.—Knowledgeable military sources here believe that the Nixon Administration's Vietnam strategy may require it to keep a large American military contingent in South Vietnam, roughly 150,000 to 200,000 men, as late as 1972.

One experienced officer derided as "a pipedream" recent reports that the Government hoped to draw the forces in Vietnam down to 50,000 by the end of 1971.

In a meeting with newsmen yesterday, Mike Mansfield, the Senate Majority leader, even said that President Nixon had told him privately he intended to "get out" before the 1972 elections. Senator Mansfield said he believed the President meant "all out, air cover, support troops, everything."

Currently scheduled withdrawals and those expected in the future will reduce American troops in Vietnam to 200,000 or 240,000 men by mid-1971, military sources say.

What Gen. Creighton W. Abrams Jr., the United States commander, will have left, in the view of the sources, will be a minimum contingent that still has enough power to protect itself and to come to the aid of the South Vietnamese in the event of surprises.

U.S. FORCES ARE DETAILED

This force will consist of helicopter, artillery and logistics units, to take care of the Saigon Government until the United States can train and equip sufficient South Vietnamese units of this type, and the equivalent of two or three American combat divisions.

Once the level goes much below 200,000, those Americans left will become dependent upon the South Vietnamese to protect them against North Vietcong attacks and this dependence will grow as the number of Americans decreases.

The implication of this military assessment is that President Nixon may well have to face the electorate in 1972 with a sizeable war still under way in Vietnam and significant numbers of American casualties, barring a dramatic breakthrough in the Paris negotiations or a lowered aim for the Administration's Vietnamization program.

The sources base their calculation on the assumption that Mr. Nixon has an ambitious objective for Vietnamization—building a Saigon Government and an army that can sustain itself against both the Viet-Cong guerillas and the North Vietnamese.

The President's incursion into Cambodia to protect this aim is interpreted by these officers as evidence that he is serious about accomplishing it.

LAIRD FAVORS PULLOUT

They acknowledge that Mr. Nixon and his civilian advisers could "force-feed" troops out of South Vietnam in 1972 for domestic political reasons regardless of the state of the Vietnamization program.

Secretary of Defense Melvin R. Laird, for example, is known to be intent on pulling out troops as quickly as possible. General Abrams and other military leaders would have preferred a slower schedule.

Military sources fear the consequences of troop withdrawals after mid-1971 that are not matched by progress in Vietnamization. Their fear is that the pullouts would cause the unraveling of the Saigon Government and its armed forces and produce a military and political collapse.

The period after mid-1971 is thus viewed as the crucial test of Vietnamization.

"After next July," one source said, "you will pretty well have to play things by ear and take out Americans only as the South Vietnamese can replace them."

Even if the program goes well between now and mid-1971, the officers do not see the probability of pushing Vietnamization fast enough to go below roughly 150,000 American troops by the late summer and fall of 1972.

TRAINING TAKES TIME

Just to train the South Vietnamese is time-consuming. By the end of this year, the United States will have trained 1,200 helicopter pilots, but the need has been determined so great that the training programs for civilian administrators and pacification workers are also not scheduled to end until then.

Besides these training programs, the South Vietnamese military leadership on the senior and middle levels will have to be developed and tested.

Some military sources do not expect General Abrams, or his successor, to accept rapid withdrawals after mid-1971 if the risk appears too great.

"No general wants to preside over a disaster," one officer said.

And the officers insist that General Abrams is not committed to any preset schedule of withdrawals after next July. "He'd quit if they tried to make him agree to them," one source said.

TRIBUTE TO ALVIN G. LUGG

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. HELSTOSKI. Mr. Speaker, too often in these days people overlook the goodness that surrounds them and likely because violence and evil are provoking of more attention and headlines.

However, some good deeds that are taking place do not go unnoticed because of enterprising news reporters and concerned publications. Fitting fully into those classifications are Mr. Michael Stearns and the daily newspaper for which he writes, the Record of Hackensack, N.J.

In its effort to let people know of the good deeds taking place in its area, the Record regularly reports on the thoughtful and dedicated work of individuals in Bergen County, N.J., of which my congressional district is a part.

Thus, I proudly place in the CONGRESSIONAL RECORD an article written by Mr. Stearns about the life and activities of Mr. Alvin G. Lugg, a hero of World War I and now chaplain of Bergen County District 2 of the Veterans of Foreign Wars.

I know all of you will join me in expressing warm appreciation to Mr. Lugg for his outstanding deeds, thoughtfulness, and kindnesses to so many and wish for him a speedy recovery from his own illness.

TRIBUTE TO ALVIN C. LUGG

(By Michael Stearns)

Alvin C. Lugg is a World War I hero who has visited thousands of injured veterans and, in his 75th year, has learned firsthand what it's like to be a hospital patient himself.

Lugg, who estimates he has driven more than 138,000 miles to visit hospitalized veterans since becoming visiting chaplain of Bergen County District 2 of the Veterans of Foreign Wars in 1961, is recuperating at his home at 207 Eastern Way, Rutherford, after undergoing an eye operation at Hackensack Hospital.

He plans to get right on with his hospital visits as soon as he's better.

Since 1932, Lugg not only has visited ill veterans, but has taken them books, magazines, and puzzles to keep them occupied.

In one report filed with the district VFW commander, Lugg said he made 1,257 visits, delivered over 19,000 books and magazines, and drove almost 25,000 miles between April 1969 and February 1970.

Since he became district visiting chaplain, he estimates that he has made over 5,000 visits. He is not paid and thus donates his time and car.

One VFW member in Rutherford remembered one of Lugg's visit to a fellow veteran three years ago. Lugg took three buses to visit a man in a Point Pleasant hospital, recovering from a heart attack.

Up until recent years, Lugg would take multiple sclerosis patients from their homes to hospitals for treatment and bring them back. He stopped this only after his doctor ordered him to.

In the last year, the district VFW commander estimates that he has received more than 100 cards and letters from local hospitals praising and thanking Lugg for his work.

Lugg, an active member of the Rutherford Methodist Church, also visits ill members of all the Rutherford churches.

Both local VFW posts and churches tell Lugg of those who are ill and also donate most of the reading matter that he delivers. Right now, he says he has stacks of the National Geographic magazine piled in his garage, waiting to be delivered.

Lugg says, "I will keep it up as long as I can."

Lugg, a retired corporal, who won a Silver Star for World War I heroism, was recently honored by being grand marshal in the VFW of New Jersey Convention Parade at Wildwood.

Last November, the Rutherford Chamber of Commerce named Lugg an outstanding citizen.

Lugg holds six other war medals, which include the Purple Heart, the Croix de Guerre, and a citation from Gen. John J. Pershing, commander of U.S. troops in World War I.

In 1960, Lugg retired from the Erie Lackawanna Railroad after 40 years of service. His last position was to keep tabs on all passenger trains in the railroad's New York division.

Lugg was born Feb. 6, 1895, in Bristol, Conn. He was a planter before enlisting in the First Connecticut Infantry on July 12, 1917. He was soon sent to the trenches in France, where he was wounded in July 1918, and sent home to recover.

Lugg has lived in Rutherford for 40 years and is a long-time member of the VFW Post 227 in that borough.

QUANG NGAI PRISON

HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. ANDERSON of Tennessee. Mr. Speaker, under previous unanimous-consent request, I submit for the RECORD a letter I received from Dr. Marjorie Nelson of Connecticut. I have discussed the letter at some length with Dr. Nelson by telephone. It is a most revealing letter, giving further explicit evidence of the outrageous treatment of political prisoners by the Saigon government. Dr. Nelson has advised me that the children of whom she speaks generally range from infants to youngsters of 10, crowded with their mothers into 15-by-15 feet cells—as many as 50 in a cell. Are these children "Communist criminals"?

Dr. Nelson proved to my satisfaction that her reporting is objective by pointing out in our telephone conversation that the head of Quang Ngai Prison was a very humane, understanding, and helpful man, concerned about the conditions in the prison under his direction, but unable to alleviate conditions because of the lack of physical resources available to him.

The letter follows:

JULY 8, 1970.

Hon. WILLIAM R. ANDERSON,
House Office Building,
Washington, D.C.

DEAR MR. ANDERSON: I have read with more than casual interest the accounts in the *New York Times*, July 7, and July 8, of your visit to Con Son Island prison in the first week of July. I worked as a doctor with the American Friends Service Committee Project in Quang Ngai from October, 1967, to October, 1969. From September, 1968, to October, 1969, as part of my work there, I made regular visits once or twice a week to the Quang Ngai civilian prison where I examined and treated prisoners. I would like to share my experiences with you as I feel it is directly related to your own brief visit.

The prison in Quang Ngai was built by the French to house approximately 500 prisoners. During the time I worked there, the prison population ranged from 800 to 1300—usually between 150–300 of them women. Many of these women had their children with them—40–120 children. Crowding was compounded by the fact that in August, 1967, the NLF troops attacked and overran the prison (releasing some 1000 prisoners) and damaged several buildings. At least two of these large buildings were still partially or completely roofless in the fall of 1969. I quote from a letter I sent to the American Friends Service Committee in Philadelphia in February, 1969, shortly after I had returned from a furlough to my work in Quang Ngai:

"In addition to the room I described to you in [a previous letter], I found the following: two small square rooms approximately 15x15 at most with only small slit windows at the top of three walls held respectively 50 and 40 women and children. No beds provided in either one. A large room approximately 45x15 with two-tiered wooden bunks filling the room leaving an aisle between housed 200 women. They sleep on the floor as well as on both tiers. Another room, slightly smaller, houses 75 women and 3 children, but contains only a couple tables and no beds. Two other small rooms, perhaps 12x30 housed a total of 74 women—also with no beds. These latter two rooms have now been emptied and another large building without a roof is now being occupied by an undetermined no. of women. Large tarpaulin tents have been spread over the rafters to provide a roof of sorts.

"My first visit after I returned, I found widespread colds and diarrhea among the patients, especially the children, which is to be expected when a lot of people get thrown together like this. The dispensary was completely out of all cough medicine and diarrhea preparations and had been for several days."

We were invited by the Prison Chief in the summer of 1968 to make regular medical visits to the prison because he had many sick prisoners. Successive Prison Chiefs were very helpful to us and eager for us to continue our work. We were given free access to the prison by day and cooperation from the Prison Chief on several occasions when our work required it. We were informed both by prison officials and by prisoners that 80% or more of the inmates were "political prisoners". Personal conversations with prisoners seemed to indicate that in many cases their "political crime" was improper or incomplete papers, presence in an "unauthorized place", or, in the case of the women, inability to account for the whereabouts of their husbands who were therefore assumed to be NLF guerrillas. In addition, many prisoners paid bribes to gain their release and on several occasions the assertion was made to me that they had been arrested for the sole purpose of extorting money from them.

We were told by officials that this was a minimum security prison and no one was supposed to stay who had a sentence of more than four to six months. However, prisoners never met their accusers (except in the Province Interrogation Center), never had a trial, and never knew the length of their sentences. I talked with several who were in for as long as a year.

It is my understanding that regulations provide for a nurse to be assigned to the province prison. However, the nurse assigned to Quang Ngai prison was an opium addict and I only met him in the dispensary once in my 13 months there. Prisoners themselves manned the dispensary using whatever knowledge had been passed on to them about administration of drugs and treatment of disease. In addition to crowding, there was neither running water nor latrines in any of the rooms where prisoners were confined from 6:00 p.m. to 6:00 a.m., and food and water were both provided in unsanitary if not contaminated condition.

In addition to treating the common ailments and the infectious diseases and malnutrition occasioned by these conditions, I also regularly examined and treated prisoners who had been tortured. This seems not to have occurred in the prison itself but in the Province Interrogation Center. I saw dozens of patients with bruises of varying severity. I also examined patients who had coughed up, vomited, or urinated blood after being beaten about the chest, back, and stomach. On at least two occasions I was able to document by x-rays fractures of bones following beatings. Prisoners also told me of being tortured by electricity with wires attached to ears, nipples, and genitalia; by being forced to drink concoctions containing powdered lime and other noxious substances, and by being tied up and suspended by ropes often upside down from the rafters for hours. On at least three occasions, patients seriously ill or injured and under my care were removed to the Province Interrogation Center without my knowledge for further interrogation.

In April, 1969, another team member and I presented this situation to the American Province Senior Advisor asking his advice as to how to seek to stop these practices. He shared our distress at this and promised to speak to the man in charge of the Province Interrogation Center—a project started by the U.S. to teach "enlightened intelligence and interrogation procedures." In a subsequent visit he informed us that the Province Interrogation Center was no longer under U.S. control but had been turned over to the Vietnamese and therefore he would encourage us to go directly to Coloniel Khien, the Province Chief. On April 20, 1969, we spent approximately thirty-five minutes with Colonel Khien and I presented my experience and we expressed our conviction that this was self-defeating on political grounds as well as unacceptable on humanitarian grounds. He essentially acknowledged that some beating did take place and that he was aware of it; that some prisoners were "very hard" and refuse to talk and in such situations physical force was necessary and was employed to get information. However, he said, "there are limits." We suggested that he might need to intervene with the Province Interrogation Center authorities to see that this was adhered to, but my impression was that he was not willing or not able to substantially alter the practices.

In August, 1969, in my prenatal clinic in the prison, I examined a woman, seven months pregnant, who had been badly beaten the previous week. This was the worst example of the beatings which I continued to see so I again called on the American Province Senior Advisor and brought this latest case to his attention. He promised to raise it with the Province Chief again. He went on to say, due to a recent directive from Saigon to free prisoners whose guilt was only suspected and the general pressure about the treatment of prisoners, that quite a few prisoners had been released (the census at that time was down slightly—about 1100). He also said that the Americans had been sending fewer people into the interrogation center. He seemed to imply that the Americans were largely responsible for sending detainees to the Province Interrogation Center although they did not control the center itself. There were very few going through it then compared to the one hundred per month previously, he stated. He said, "That means at least fewer people will be getting 'the treatment' and supposedly only those people most likely to be 'productive'." I replied that in my opinion even if that woman, for example, was a known NLF cadre, I didn't consider it acceptable to beat a pregnant woman.

Since returning to the United States I have shared my experience with a few Senators and Congressmen or their aides. My concern and that of the American Friends Service Committee has always been to alleviate the suffering of these prisoners. I urge you to do whatever you can to end these inhuman practices and I am ready to offer you any further help that I can.

Sincerely,

MARJORIE NELSON, M.D.

THE "ESTABLISHMENT"

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. WYMAN. Mr. Speaker, the so-called establishment is not so bad after all. Freedoms that prevail in this country under our system exceed those available in other places and under other systems of Government. As David Lawrence points out so well in the following editorial appearing in yesterday's Evening Star, the "facts of life in America today themselves refute charges of 'repression'."

The article follows:

FREE EXPRESSION ALMOST UNLIMITED

(By David Lawrence)

Despite the extremes to which open dissent on public questions has gone in demonstrations and marches in recent months, critics on the so-called "New Left" side are beginning to argue that there is a new "repression" arising in the land. But the truth is that never before has freedom of expression had so much license as it has been given in the past two years.

Antiwar demonstrations have been carried on in unprecedented size and scope. Free expression has been almost unlimited on the campuses, in auditoriums, in open spaces in the national capital at the very edge of the White House grounds, at the doors of draft offices and in the halls of Congress.

Unfortunately, regrettable incidents have arisen when free dissent has been transformed into physical violence. Yet even violence has met with relatively little repressive punishment. During the past college year, there were 73 efforts to burn or bomb reserve officers training corps buildings, and there were 281 attacks on ROTC units with injury to persons or property. Although these are part of the equipment of the armed services of the United States and it is a criminal offense to destroy or injure any part thereof, few persons have been brought to trial. Those who have were dealt with leniently.

There were 1,785 campus demonstrations and 313 "sit-ins" or seizures of buildings, according to the annual report of the Federal Bureau of Investigation just issued.

But marches have taken place in many other schools and universities, and these were concerned primarily with questions other than the Vietnam war. University administrators have tried to reason with the protesters and have yielded some of their power to the students, who have been given not only control of housekeeping affairs but an influential voice in the government and important policies of the institutions.

Boards of trustees have been restructured, and curriculums have been "modernized" to meet demands for "relevance." Recommendations from school youth are getting the attention of school boards and superintendents of education, and community school control is being introduced in some of the big cities.

So it is apparent that the dissent has had some success, even though there are continuing complaints about discrimniation against minorities.

Altogether, there are 51 mayors who are black, as well as 173 state legislators, 701 city and county officials other than mayors, 9 U.S. representatives and one U.S. senator. The total is expected to be larger after the next election. So progress is being made for the removal of racial barriers.

Whites have to a large extent encouraged the "freedom march." By legislation and private action, employment has been opened up for Negroes in unions that have hitherto been all-white. Government jobs are increasing, and many corporations are making efforts to enroll a larger number of black employes and to promote able workers. College officials are going out of their way to recruit and increase the proportion of black students.

Under the current administration, which has been accused of slowing the integration process, the number of blacks in integrated schools in 11 Southern states at the beginning of the next school year is expected to be more than five times what it was in June a year ago.

There have been many incidents where violence has been provoked but has not been handled with "police brutality" or severe measures of repression. The big question is really how long the majority of the American people will tolerate mild steps in dealing with acts of violence.

Extremists will undoubtedly continue to be defended as having become embittered or else to have been subjected to acts of hostility which they are merely trying to counter. But the truth is that today freedom of expression is being given more leeway than ever before and that the complaints voiced in the protest movement are getting plenty of attention.

On the whole, governmental authorities have exercised restraint, and while there is every intention to provide adequate police to guard against disorders when huge gatherings assemble, the facts of life in America today themselves refute charges of "repression."

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. BOB WILSON. Mr. Speaker, this is the age of Aquarius in the parlance of the younger set. It now is also the age of Aquarius for the Nation, and I am pleased that President Nixon has started this country toward a full, functional program of oceanography. It will pay big dividends—in scientific knowledge, in better defenses, and in development of rich resources now untouched.

The President's Executive order, which creates a new National Oceanic and Atmospheric Administration—NOAA—within the Department of Commerce, is a small step for Government, but a giant step for oceanography. I first introduced such legislation in Congress in 1964 and many of my colleagues and I have been working since to gain recognition for oceanography as one of our national priorities. President Nixon and Vice President AGNEW have been keenly aware of the importance to our Nation of a full-scale program for the oceans. Now, under the authority of the Reorganization Act, the President has established a home for the many and varied functions of oceanography.

The Stratton Commission's report on reorganization was detailed and proposed considerable change in the form of administrative function. The President's action in setting up NOAA, is a beginning toward putting some of these worthwhile innovations into Government. I am hopeful that this Congress will recognize the wisdom of the President's decision, and can proceed with improvements and growth for NOAA as a reality, a fully functioning branch of the Department of Commerce, devoting full time and effort toward setting national goals for oceanography.

The 1970's promise to be a decade of great progress for our Nation. As we begin to concentrate on the pursuits of peace, oceanography will loom large as an intelligent investment of our tax dollars. The benefits will touch the lives of millions of Americans. Studies of the oceans' marine life, tides, currents, and their effect on atmospheric conditions will help us improve our environment. Oceanography is essentially an environmental program, and will mesh with the President's desire to restore our natural surroundings to beauty and usefulness.

When I first began, along with several of my colleagues, to stress the need for an oceanographic program, it was little more than a big new word in the American vocabulary. The path has been long and bumpy, but I feel certain that with President Nixon's action, his interest and cooperation, along with recognition by Congress that we have a new national priority, we stand on the threshold of an exciting and rewarding decade in which we will learn to understand and use the seas around us.

NATIONAL SERVICE ACT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. BINGHAM. Mr. Speaker, once again, I would like to reprint some of the letters I have received commenting on the National Service Act. Letters are still coming into my office at the rate of 10 to 1 in support of this measure.

The letters I have selected are written by people with different backgrounds ranging from the president of La Salle College to a student from Wayne, Pa. These are thoughtful letters, written by people genuinely concerned about the draft's detrimental effect on young people.

The text of the letters follow:

THE DIOCESE OF NEW YORK OF THE
PROTESTANT EPISCOPAL CHURCH,
New York, N.Y., June 29, 1970.

Hon. JONATHAN B. BINGHAM,
House Office Building,
Washington, D.C.

DEAR MR. BINGHAM: It was a pleasure to read your letter on alternatives to the draft which was published in today's New York Times. I would wish to assure you of my support of your position and of the bill which you have introduced, about which I would be pleased to know more.

There is no question in my mind but that loyalty to one's country (or indeed to one's own family) stems from some direct, personal contribution to it in terms of service. Your recommendations and proposals would seem to underline that point of view in large measure. I would hope that your bill will receive prompt approval and that it can be effectively implemented.

In another area, but related to the general problem, I would hope that in any revision of the Selective Service classifications the IV–D category for ministerial students will be abandoned. As one with some responsibility for theological students in this Diocese, I am constantly embarrassed by those who would appear to be taking refuge from national service under this classification not only with little sense of the vocation of the ministry, but who, even with ordination as their goal, would be quite content to belong to a special group of citizens exempt from selective service and yet who would presumably minister to those who faced their national obligation without such protection. In my opinion the ministry is much the loser by this kind of double-standard, and many seminary deans agree.

Thank you again for your letter in the New York Times.

Sincerely yours,
CANON PETER CHASE,
Secretary,
Board of Examining Chaplains.

CHARLOTTE, N.C., *July 8, 1970.*

Hon. JONATHAN B. BINGHAM,
House Office Building,
Washington, D.C.

DEAR MR. BINGHAM: I am very much interested in the National Service System bill which I understand you and others have recently introduced in the House. The newspaper article I saw gave a survey of public opinion from the American Institute of Public Opinion poll but did not list the bill number or give much specific information.

I would greatly appreciate it if you would send me a copy of this bill or let me know where it is available as I believe it deserves public support and there are many in this district who would be glad to support it if they had more information.

Thank you for your concern for our young men.

Very truly yours,

Mrs. Warren H. Linde.

La Salle College,
Philadelphia, Pa., June 30, 1970.

Representative Jonathan Bingham,
House Office Building,
Washington, D.C.

Dear Representative Bingham: I would be most grateful if you could send me a copy of the bill you introduced (H.R. 18025) concerning a voluntary civilian service as an alternative to military service. Your thinking seems to parallel my own on the matter and I would like to see the bill in its entirety.

Since we are so concerned with the same problems I am enclosing a copy of a letter sent to George Alexander Heard which might interest you.

Sincerely,

Daniel Burke, F.S.C.,
President.

La Salle College,
Philadelphia, Pa., May 26, 1970.

George Alexander Heard,
Washington, D.C.

Dear Dr. Heard: It is difficult to know whether to congratulate you on your courage or to commiserate with you on the problems you face in your new position. A little of each, perhaps.

The difficulties are so involved and directed at you from both sides of the spectrum, that I hesitate to add to them, but in the considerations being made, could some thought be given to allowing those of draft age—students in particular since they seem the most involved and concerned about the issues—a wider latitude of choice in the manner in which they fulfill their national duty? Should not the question of National Service be taken up again seriously? Could there be more options open to young people, could the Peace Corps, Vista, social work, medical research and other necessary and vital (and appealing) elements be introduced to satisfy the requirements? Between now and 1976 when we celebrate the 200th anniversary of our "noble experiment" might not some experimental ways be found which would allow each man's obligation to this country to be fulfilled and each man's honor to be kept intact? It seems a more fitting method of realizing the American dream.

Sincerely,

Daniel Burke, F.S.C.,
President.

Dearborn Heights, Mich.,
July 7, 1970.

Representative J. B. Bingham,
Washington, D.C.

Dear Representative Bingham: Thank you so much for sponsoring a bill to give our young men a choice of service in this war. There are many of them who would be very willing to serve in a civilian capacity but who feel so strongly that they do not want to be a part of any war. Please keep pushing, and urging your co-sponsors to do likewise. May God please you.

Mrs. A. Valentine.

Wayne, Pa., *July 9, 1970.*

Hon. Jonathan B. Bingham,
House of Representatives,
Washintgon, D.C.

Dear Mr. Bingham: I read in the paper several weeks ago, of a bill co-sponsored by a bi-partisan group of representatives, led by you. The bill dealt with reforming the draft laws so that a young man could have a truly free choice in the way that he is to serve his country. I know of many people who are opposed to President Nixon's idea of a volunteer army, because there would be no liberal faction in the military to control things a bit. Your bill seems to have gotten around that problem by maintaining the lottery as one choice. Your bill also would serve a great need by putting a lot of our Youth power into civilian service so that we could work to fix this country up, which it needs desperately. Right now all I really have to choose between is Viet Nam, jail or Canada; not a very good choice. Your bill would provide me and my friends with a real choice, which should be our right.

One thing puzzles me about your bill, though. After that one article, I have heard nothing. I have met no one here in Pennsylvania who had heard of it before I told them. I don't know whether it has been killed or put into committee or what, but I would appreciate knowing what happened to it.

I know you are not my representative and have no obligation to me, but I have written my representative, Mr. Watkins, and he only said he would consider it. This bill needs more than consideration, it needs to be passed. Millions of kids, myself included, have recently seen their birthdays pulled out of a drum and placed on a board. This game of chance is ruling our lives. We are allowed no voice. We want a voice. Please notify me of what has happened to your bill, and push to get it passed. There isn't a minute to lose. We are waiting on you, and I'm not sure how long some people can wait.

Sincerely,

Michael M. Denniston.

Chicago, Ill., *June 22, 1970.*

Dear Mr. Bingham: Thank you for introducing a bill which suggests that something besides war can be an honorable activity.

If mankind survives it will be because the rulers finally decided that people not guns make a country.

Gratefully,

Charlotte Loverde.

Forest Hills, N.Y.,
June 16, 1970.

Representative Jonathan B. Bingham,
House of Representatives,
Washington, D.C.

Dear Sir: An item in the New York Times refers to a bill introduced in the House on June 10th that "would replace the current draft law with a system allowing young men to choose between military and civilian service." As a "dove," I would like to support such a bill. May I have further information?

Sincerely,

Margaret B. Brehmer.

Cicero, Ill.,
June 13, 1970.

Hon. Jonathan B. Bingham,
U.S. House of Representatives,
Washington, D.C.

Sir: I am writing in response to an article printed in the Chicago Tribune on June 13, 1970.

The article concerns the bill you sponsor and introduced which would replace the current draft law with a system allowing young men such as myself, to choose between military and civilian service.

I have done research in the past, and, I am still doing research on conscientious objection. I was brought up in the Catholic religion and believe it is religiously and morally wrong to kill. I feel that I qualify for a C.O. classification, but because of the trials and tribulations where a group of men have and do now unjustly decide on the sincerity of one's beliefs, I strongly support your bill.

I give much thought to the future and, being a member of the Future Teachers of America club at my school, I plan to teach because I think it is the profession I would best succeed in, and an opportunity whereby I could better advance our society. Under the proposed bill, I would qualify as a volunteer for civilian service, and would not have to waste time missing school to go to lengthy court sessions to determine my military classification.

I would like more information, and if possible a copy of the bill. Please respond and inform me of ways that I could help the passing of this bill. I am sure many people will support your bill.

Very truly yours,

Matthew Ebbing.

Bloomington, Ind., *July 4, 1970.*

Dear Mr. Bingham: I read with great interest and approval of your recent letter in the New York Times concerning your sponsorship of a national service act.

I am an enthusiastic supporter of such an approach, and I believe many young Americans would also consider it a great positive step.

A year of two ago, at a dinner at the University of Notre Dame, Father Theodore Hesburgh and Congressman John Brademas both supported the idea. I should think that a man like Father Hesburgh, with his role in civil rights and his national position as a university leader, would be eager to play an important role in pressing for such an act.

Sincerely yours,

Robert F. Byrnes.

Vista, Calif., *June 10, 1970.*

Jonathan B. Bingham,
Washington, D.C.

Dear Sir: your bill concerning a change of the draft law undoubtedly will have a big appeal to millions of our people. But, I suggest that you introduce a bill which will require all members of the United States Senate and House of Representatives including yourself, who are not opposed to war, regardless of age, physical and mental health to be inducted into the ground forces of our military and sent to the front in Vietnam. If they are so blockheaded, after all these years, that they still don't know war is a big money making racket to benefit a comparative few at the expense of the many, they should be choice cannon fodder.

Ed Welch.

NEXT TIME TRY THE TRAIN? MAYBE

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. LEGGETT. Mr. Speaker, I note an article in the U.S. Transport publication this month consisting of a caption under a picture of the New York Metroliner that reads as follows:

> While the Penn Central system is suffering from the financial staggers, one bright penny is the Metroliner, a forerunner of an advanced rail passenger national transportation service to be operated by the proposed Federal Rail Passenger Corporation now under study in Congress. Penn Central and DOT presently are negotiating the terms of a two-year demonstration of the Metroliner. But its promise already has been proclaimed in Penn Central figures showing a 70 per cent occupancy compared to 50 percent on conventional trains. "Public response has exceeded our expectations," the railroad said.

Being a curious fellow and formerly a strong supporter of subsidized rail traffic, I took my family to New York last weekend on the Metroliner.

The trip began trying to find a place to park in the proximity of Union Station. This effort ended leaving the car in a metered zone. We next summoned our courage and entered a filthy, dilapidated un-air-conditioned station that contained accouterments to match.

Having purchased our one-way tickets, I determined to purchase the return reservation. Two automatic control data ticket machines were marked "out of service." A long line in front of a single window staffed by one man operating another control data machine with a "hunt-and-peck" methodology marked the only available ticket facility. Being resourceful, I called Penn Central on the telephone, made return reservations that could be picked up in New York.

The train embarked on schedule. In place of airline multiple choice free breakfast in first class, served by attractive stewardesses, we were given "take it or leave it" French toast for $1.75 plus tip by pullman porters that could stand retraining.

In place of the smooth trackbed of the Tokyo to Osaka express, we lurched to and fro balancing our coffee for the full trip.

No magazines, no music. In place of the parkways and beautiful freeways, we traversed the slums and filthy rail stations of Baltimore, Wilmington, Trenton, and Philadelphia.

The lavatory facilities failed to include the flush toilets of the 1960's, but included the splash toilets of the 1940's.

A stalled train on the track ahead converted a 3-hour trip to a 3¾-hour effort after a 4-mile reverse ride.

On arrival, we found the same efficient control data machines operated by a scowling railroad clerk. In New York we could only elicit two return tickets—somehow losing the third in the electronic process between Washington and New York. A frustrated, reluctant clerk finally wrote by hand the elusive third ticket after a 30-minute effort.

The return trip was unremarkable save for an emergency stop that discovered we had an arcing pantagraph—a defective overhead electric connection—and an announcement by the engineer "that due to engine trouble we were stopped for an indefinite delay."

We limped back into Washington again after 3¾ hours.

A few days later at 6 minutes to 8 a.m., I boarded the Eastern Shuttle that had wheels up by 8:06 a.m. and wheels down at LaGuardia at 8:40 a.m. after a ticket was purchased en route.

I have not lately seen a sign, "Next time try the train" and it's no wonder.

MY YOUNGER GENERATION

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. HALPERN. Mr. Speaker, a most significant and topical article, "My Younger Generation," appeared in the May 13 edition of the page 1 magazine of the Newspaper Guild of New York. Because of the timeliness and appropriateness of its contents, I would like to share this piece with my colleagues in the House.

The article was written by a noted publicist and writer from my district in Queens, N.Y., Robert I. Queen, a resident of Flushing. Some of the Members of this House may recall Bob Queen when he served as an assistant to Congressman Alfred E. Santangelo from 1960 to 1963.

Mr. Queen has enjoyed a most enviable record in the field of public relations and has authored many books, a recent one being "Creative PR for Your Special Events," which is currently a reference text at a large number of universities throughout the country. Robert Queen has also written for such dramatic productions as "Suspense," "The Green Hornet," "The Web," and for Greater New York Fund panel shows and interview programs.

Besides his literary achievements, Bob Queen serves as public relations counsel to the distinguished and able State senator from Nassau County, N.Y., John R. Dunne, and has performed public relations activities for the New York City Transit Police Patrolman's Benevolent Association, the Housing Police PBA, the Police Athletic League, and the New York City Health and Hospitals Corporation Task Force.

This is surely a most commendable record of activity, experience, and achievement and I am pleased to extend my heartiest compliments to Mr. Queen.

The article follows:

MY YOUNGER GENERATION

(By Robert I. Queen)

In the last few years much emphasis has been placed on encouraging creativity and individuality in children. With absolutely no encouragement of that sort, we seem to have landed in the forefront of the movement.

We are raising three individualists with no effort on our part, though we have to admit that our nerves are shot.

Our apprenticeship started early with our first born, Alan. Once he had finished "peopling" our home with a score of imaginary persons and animals, he faced the realities of life seriously. At age four he announced that when he grew up he planned to be a "turtle doctor" and a "thinker."

At seven he decided to be an "inventor" and he refers to himself as "Con Edison Jr." When not inventing, he plans to be an artist.

Meanwhile a good part of all level surfaces in the apartment are covered with his inventions, paintings and sculptures, all of which are expected to be preserved indefinitely.

Our younger son, Joseph, who at time of writing is almost five, is in love with the English language. He plays with words as other children play with toys. In addition, he is a genuine wit and something of a philosopher.

Joseph's approach to getting into a locked bathroom is simple. First he knocks. When told to wait a few minutes, he resorts to words. He tries "abbacadrabbra," "dump truck," "tiger" and "Winnie the Pooh." When these fail, he gives up and just kicks at the door.

From the time he learned to talk, Joseph never used a one syllable word when a multi-syllable word would do as well. At two, his excuse for doing something that he wasn't supposed to do was that he was doing it "tempowarilly."

At three, he informed his nursery school teacher that he was wet because he was "aspiring." At four, he made a mistake in writing his name because he was "abstracted" in the course of his endeavor.

Ann Claire, who is fifteen months old, shows every indication of being as much of a character as her brothers. Her approach to picture books, for example, is strictly in terms of individualized research. She sits off by herself and pores over her books until she finds something of special interest. Then she comes to one of her sources of information and points.

Told that she was pointing at a "doggy" who goes "bow wow," she goes off again and ponders the implications of this scientific information.

When shelves were put into her room recently, her first act was to gather up all her books and put them on the one shelf she could reach.

What she will be like at age 15 staggers our imagination.

She definitely prefers red tights to mundane white ones and when not "researching" likes to dance in front of a mirror. This we accept as a hopeful sign.

All three children have entered into a solemn mutual assistance pact against parents. They quickly drop all internecine arguments to resist the common parental enemy.

CAPTIVE NATIONS WEEK
JULY 12–18, 1970

HON. LEONARD FARBSTEIN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. FARBSTEIN. Mr. Speaker, all participants and peoples lost in the last war. But some peoples lost more than others, and the most grievous loss was suffered by the helpless peoples of small states in central and eastern Europe. Their loss consisted not only in worldly possessions and in several millions of lives, but they were robbed of their freedom—their most cherished heritage and inalienable right. This situation was brought about by the Soviet Government's aggressive posture policy—an understandable but exaggerated reaction to Nazi treachery, which had reinforced the historic Russian fear and suspicion of foreign peoples and preoccupation in the security of Russia's borders.

Even before the victory of democracies over Axis totalitarianism was assured, the Soviet Union had occupied and annexed a number of hitherto independent countries in Europe. At the time, however, these moves on the part of the U.S.S.R. were not regarded too seriously; they seemed partly justified by the Soviet Union's apprehensions. Moreover, the governments of the West hoped that these excesses could be corrected amicably in calm negotiations. This tolerant and patient attitude on the part of the West toward the Soviet Union proved illusory and, as we ruefully admit today, a grievous mistake. For the past 25 years the governments of the free world have been trying to correct that mistake and undo the resulting mischief but without much success, drastic action has been out of the question—nobody wants to start world war III.

The captive nations, occupying lands

between the Bay of Finland and the Black Sea, include the Estonians, Latvians, Lithuanians, Poles, and Germans in the Soviet zone of Germany, and the peoples of Czechoslovakia, Hungary, Bulgaria, and Rumania. They number more than 100 million. Some of them could boast of highly developed political and economic institutions while others were, until recently, somewhat underdeveloped and lived under severe handicaps. But all of them had managed to attain their freedom and independence by the end of the First World War and to institute their own democratic governments. Now that is past history; they live under Communist totalitarianism, imposed and mostly maintained by the presence of the Red army.

One might suppose that having endured hardships and privations, and having lived without freedom for 25 years, these people would be reconciled to their lot. As we well know, however, from resistance shown against heavy odds in East Germany, Hungary, Poland, and Czechoslovakia, they are not reconciled. They may accept socialism, but they want humanity with it.

We in the free world offer our wholehearted sympathy to these gallant people in their quest for humanitarian forms of government. We wish that international conditions made it possible for us to be of effective aid to them. For the present, however, the most—but also the least—we can do is to encourage them to keep up the spirit of freedom and independence. Thus it is by way of providing moral support that we annually observe Captive Nations Week. I am indeed happy to voice my sympathy for these peoples on this annual occasion.

E. PERRY SPINK OF BUFFALO, A LEADING CITIZEN

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. **DULSKI**. Mr. Speaker, one of my home city's leading citizens, E. Perry Spink of Buffalo, N.Y., is stepping aside as chief executive officer of the bank he has headed actively since 1956.

While giving up the reins as chief executive officer, he will continue as chairman of the board and chairman of the executive committee of the Liberty National Bank and Trust Co.

In playing his outstanding role in revitalizing Liberty National, Mr. Spink still has taken considerable time to show active and vigorous concern with general affairs of our community.

One activity which I particularly desire to call to the attention of my colleagues is Mr. Spink's key role in saving the historic Ansley Wilcox House, the home in which Theodore Roosevelt took the oath as President in 1901 following the assassination of William McKinley.

DESTINED FOR DEMOLITION

An imposing edifice, the Wilcox House had had a varied career of usage over the years—more recently as a restaurant—when the owner decided to tear it down.

Our history-minded citizenry in Buffalo was appalled at the prospect that this historic structure was to be destroyed, but it was Perry Spink who halted the bulldozers. Mr. Spink, whose bank has a branch next door, arranged to purchase the property and hold it for the historians.

The bulldozers having been stopped, I sponsored legislation in Congress—now known as Public Law 89-708—which set the stage for making the Wilcox House a national historic site.

Indeed, it was just last month that the Interior Department officially took over the property and the final restoration work is now well underway.

SAVED FOR ANOTHER DAY

Mr. Spink's bank sold the property to the Government for the bank's purchase price, because Mr. Spink was and is convinced that the Wilcox House is a piece of American history that deserves to be preserved for future generations.

It was indeed an extreme pleasure for me to work with Mr. Spink, clearly a man of foresight, and other citizens in this community project which has enjoyed the strong support of all media in our city.

Regrettably, two of those who also played important roles in this project did not live to see it come to fruition. One was the late Senator Robert F. Kennedy, who was a key factor in getting my bill through the Senate after it became stymied in committee. The other was the late Owen B. Augspurger, prominent civic leader, who headed the organized community effort.

Mr. Speaker, as part of my remarks, I include a profile of Mr. Spink which was published in the Buffalo, N.Y., Courier-Express last week:

SPINK LED BANK TO GOOD HEALTH

(By Peter C. Andrews)

The names E. Perry Spink and the Liberty National Bank have become almost synonymous during the more than 13 years since Spink took over Buffalo's third largest commercial bank.

When Spink took over the reins at Liberty on Oct. 17, 1956, the bank was in a pretty sickly situation.

It had recently been turned down in an attempt to merge with the Manufacturers and Traders Trust Co. and its former president, Edward F. McGinley, had been fired by the bank's board of directors. It had total resources of about $156 million, and 315 employees.

It had opened only one new branch since 1929. The bank's stock was selling at $27 per share and total dividends paid out that year amounted to $315,000.

With the election of Avery H. Fonda as chief executive officer, Spink is stepping down from the top job at Liberty, but he will still fill an active role as chairman of the board and chairman of the executive committee.

In contrast to the day he took over, today the bank is in good health.

FIGURES TELL THE STORY

The proof of Spink's and Liberty's success is shown by the fact that the bank's total resources now stand at $464 million, almost three times what they were when he took over. The number of employes has increased to 924. The bank has opened or acquired 17 new offices, but since four offices have been consolidated, the total number stands at 33 branches now as against 20 when Spink took over.

From an investor's standpoint, the progress of Liberty has been magnificent. The stock is now trading at about $48 per share (down somewhat from its all time high in the mid-50's).

When two stock dividends of 25 per cent and 10 per cent respectively that were granted in the intervening years are taken into account, Liberty stock has a relative value now of $65 per share for the same $27 per share of stock of 1956. Best of all, Liberty has increased its dividends over the years so that last year it paid out $1,898,000 in dividends, compared to the $315,000 paid out in 1956.

HARD WORKING EXECUTIVE

Spink has been one of the hardest working executives ever seen on the Buffalo scene. Although he has in the past taken a few days off for brief Florida trips, frequently the real purpose of the trips was the working out of prospective deals with other bankers.

Liberty was converted from a state bank to a national bank by Spink and during his tenure as its head made eight acquisitions which substantially improved its competitive position in the area.

Spink also tried to make the major merger with a New York bank that would have brought the bank into full competitive equality with Buffalo's other two major banks. Unfortunately for Spink and Liberty, both these proposed mergers, one with the huge Chase Manhattan Bank and the other with the smaller, but still substantial Bankers Trust Co. were turned down by regulatory authorities.

In addition to not allowing Liberty to obtain a meaningful New York connection these reverses had the drawback of preventing the bank from making any other moves while the proposed deal was being considered. Despite these disappointments, Spink today is not a bitter man. On the contrary, he is glowingly optimistic about the prospects of his bank.

ATTRACTIVE MERGER PARTNER

If the banking authorities will unplug the logjam that is preventing effective statewide banking operations by other than the Marine Midland Banks, Liberty's future looks rosy indeed, since it would be one of the most attractive merger partners available in the entire upstate area.

He said that a recent two-month holiday he and his wife took in Spain, Portugal and England—his first real vacation in more than 15 years—convinced him that his new management team is excellent. "I found the bank in such good shape when I returned that I decided it was now time to turn the reins over completely."

Reminiscing over what he considered the turning point in his administration of the bank, he cited the sale of the bank's building in 1957 for $5,650,000 as the key to his later success. "We were able to get the bank back into really sound shape by that move and could start operating the way we wanted to," he commented.

CAPITAL, RESERVES INCREASE

Today his bank has more than $30 million in capital funds compared to only a little more than $9 million when he took over, and total reserves have more than doubled from $3.3 million in 1956 to $6.7 million now.

Spink, who joined the bank 46 years ago, has held every position in the entire organization at one time or other during his career. He is now just a shade over 66 years old, and despite his change in status, feels in no way that he is turning out to pasture.

He is the picture of a man who looks back with pride in his and his bank's accomplishments, and is happy to have found someone else to carry on the job he held for so long and did so well.

It was with an intimate knowledge of the problems ahead and the problems that have been overcome in the past that he recently commented "We have always tried to be flexible and liquid. I feel this bank now is in as strong or stronger position as any other bank in the state that I know of."

Coming from "Mr. Liberty", that means a lot.

VIETNAM TROOP WITHDRAWALS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. FRASER. Mr. Speaker, I am one of those who is not satisfied with the pace of our troop withdrawals from Vietnam.

The President's policy of troop withdrawal, reversing the policy of troop buildup initiated by the Johnson administration, is the correct policy. The fact that troop strength has been reduced from a high of 543,500—April 30, 1969—to 411,500 as of July 9, 1970, represents progress. But, I cannot be a silent supporter of the present withdrawal policy when the most optimistic prediction is that there still will be over a quarter-million U.S. troops in Vietnam next summer.

Mr. Speaker, I hesitate to get into a numbers game over troop withdrawal figures. The important issue is total withdrawal of our troops and not whether news media are conned into putting a better face on existing withdrawal plans than these plans deserve.

However, the Secretary of Defense, at his July 9, 1970, news conference repeatedly made the point that troop withdrawals "will beat" the President's "troop ceiling which is 384,000" by October 15, 1970. On July 14, the Washington Post reprinted a Los Angeles Times dispatch from Saigon indicating that 60,000 troops will be withdrawn between April 15 and October 15, rather than the 50,000 President Nixon announced on June 3.

The important point to remember is that troop ceilings always exceed troop strengths by 1 or 2 percent. With this in mind, the 60,000 troop figure becomes suspect.

The Post story quotes "responsible sources" as saying the troop level—read this "troop strength," not "troop ceiling"—after the October 15 withdrawals will stand at 374,000. On April 16, 1970, the troop strength was 425,500. Thus, when one compares troop strengths with troop strengths, it becomes apparent 51,500 men will be withdrawn between April 15 and October 15. The troop ceiling will be reduced from 434,000 to 384,000.

Secretary Laird is not inaccurate when he says that "we will beat" the President's announced withdrawal goal. I sincerely hope he will beat it by a good deal more than 1,500 or even 10,000. But before newsmen engage in the withdrawal numbers game, the ground rules must be firmly understood.

The Post story follows:

NEXT VIET WITHDRAWAL MAY TOTAL 60,000 MEN

(By George McArthur)

SAIGON, July 13.—Various American military sources indicated today that the next troop withdrawal from South Vietnam would amount to about 60,000 men instead of the 50,000 originally projected by President Nixon.

Defense Secretary Melvin R. Laird announced Thursday that the withdrawal would be quickened, but he did not give precise figures. He said, however, that the troop level after the next withdrawal would approximate that of the November-December period of 1966.

On Nov. 1, 1966 the troop level was 351,000. On Nov. 30 it was 362,000. On Dec. 31 it was 385,000, the last figure being practically the official goal of the latest Nixon projection for this year.

Responsible sources said, however, that it is expected the troop level after the Oct. 15 withdrawals will stand at 374,000 men—down 60,000 from the 434,000 men here when the President made his April 20 speech.

On that date, Mr. Nixon announced that 150,000 troops would be pulled out by spring of 1971. On June 4 the President said 50,000 of those men would be out by October.

To achieve the 60,000-man goal, at least one division-sized ground unit and possibly two would have to be withdrawn.

There has long been speculation that the U.S. 1st Marine Division, now in the northern I Corps area, would be among the next major units to be withdrawn. This would enable the Marines to pull back to their traditional role as a mobile amphibious strike force ready for deployment anywhere in the Pacific.

It is also expected that the 50,000-man Air Force contingent in Vietnam will undergo sizable cuts in the Oct. 15 withdrawal, but this reduction has probably been modified because of the spread of the war into Cambodia.

(U.S. troop strength in Vietnam decreased by 2,400 men last week to its lowest level since February 1967, the U.S. Command reported today, according to wire services. The command said 411,500 American troops were on duty here.)

CONGRESSIONAL REPORT TO THE NINTH DISTRICT RESIDENTS, JULY 13, 1970

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following excerpts from my supplemental report to the Congress on the U.S. military involvement in Southeast Asia:

(EDITOR'S NOTE.—The following are excerpts from Congressman Lee H. Hamilton's supplemental report to the Congress on the U.S. military involvement in Southeast Asia. The Ninth District Congressman was one of 12 picked by the House Speaker for the fact-finding mission, and he filed a separate report to that filed by the committee as a whole.)

You will find in Vietnam evidence to support the view you had before you arrived. The complexity and variety of the scene is such that the "hawk" and the "dove" will each observe, investigate and leave assured of the wisdom of the view he had when he arrived.

I came away from Vietnam with a keen appreciation of what we cannot do. In a word, we cannot build a nation for the South Vietnamese. By the expenditure of enormous resources, we have given South Vietnam a chance to survive, and that's probably the best we can do. Their severe political and economic problems can only be solved by them. We can do our best to assist them through economic and technological aid, but much as we would like to, we cannot assure their security, their prosperity, or their democracy.

The United States must consider Vietnam in the context of Asian policy. I believe we should downgrade the U.S. interest in Southeast Asia, and certainly subordinate it to our interest in Japan. We should be interested in the long-range development of the nations of Southeast Asia, but our immediate, vital interests are limited.

A key to our future Asian policy is to recognize our limitations in bringing about development in Asia. The United States should do all it can to encourage and support an Asian collective security system, supplying economic and technical assistance, but we should be most reluctant to commit American troops. We must look, instead, to the nations which are threatened to provide the manpower.

An important step in the future of the United States in Asia is to end, in an orderly way, our involvement in Vietnam. This will be a task calling for the utmost skill. The nervousness of friendly Asian leaders about the U.S. role in Asia is apparent. They genuinely fear that the United States will desert them. They accept the fact of U.S. disengagement reluctantly.

One of the things I tried to do in my conversations with South Vietnamese citizens was to persuade them that the United States is withdrawing. Although they invariably nodded their heads in assent, I wondered whether they actually believed it with the still-massive American presence all around them.

We are in better shape in Vietnam than we have ever been before, and after five years of major combat, we have done about all we can do. We ought to accelerate withdrawal if at all possible, being careful to protect the U.S. position in world affairs, to insure the safety of U.S. forces, and to encourage the safe return of American prisoners of war.

The American prisoners of war create a special problem. Pressure must be kept up by the Congress to push at every conceivable opportunity for the identification of all prisoners, the establishment of regular communication between them and their families, the prompt repatriation of the seriously sick and wounded, the observation and inspection of prisoner of war camps by impartial observers, and the eventual release of all prisoners of war.

I returned less optimistic than many of our officials. North Vietnam is a highly organized, patient, disciplined society and South Vietnam is a highly inefficient, fragmented society. The United States can—and indeed has—given the South Vietnamese a chance to survive. As the United States withdraws from South Vietnam, we must be very firm—even tough—with the South Vietnamese in order to give them an opportunity to survive.

YOUNG WORLD DEVELOPMENT

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. HALPERN. Mr. Speaker, today, while modern technology has landed man on the moon and developed weapons powerful enough to destroy his earthly existence, it has pitifully failed to provide freedom from hunger and malnutrition for nearly half the earth's population, including 2 million Americans. Realizing the complexity of current social problems, it is indeed frightening to look ahead 30 years when there will be 7 billion mouths, twice as many as there are today, competing for food.

Action is needed, and fortunately numerous organizations, newspapers, magaiznes, public officials, and private citizens have become aware of the gravity of the situation. But it is necessary to turn more people around to speak out strongly in favor of corrective policies.

Young World Development, a national organization of concerned individuals is playing a significant role in this national awareness campaign. And so they are educating the public to the need for legislative action and making them feel the urgency of the situation. I would like to call the attention of my fellow colleagues to their goals and activities.

Young World Development, part of the American Freedom From Hunger Foundation, is an organization dedicated to fighting poverty and malnutrition. In addition to sponsoring discussion groups, films, fasts, disseminating information, and other activities, this group walks to feed the hungry—literally, it is youth on the march. Such constructive treks have turned to be excellent catalysts for responsible community involvement—both time and money—in many areas. A recent newsletter summarized this walk for development.

> Such walks began in this country about a year ago, under the auspices of the American Freedom from Hunger Foundation in Washington, D.C., a private, nonprofit organization supported by leaders in business, labor, social welfare, agriculture and education. Since then, an estimated 150,000 largely-middle class young people, from 35 communities, ranging in size from Aurora, Iowa (population 600) to Los Angeles, have turned their "sole power" into dollars for the needy.
>
> Each walker recruits "sponsors" to pay him, from a few cents to several dollars, for every mile he hikes over a charted 26- to 32-mile course. So the youngsters not only draw public attention to the problem of hunger but earn hard cash for a variety of imaginative self-help anti-poverty projects in the United States and abroad. Thus far, youthful walkers have raised almost $1,000,000, with more walks scheduled for this fall.
>
> Although the Foundation offers some basic guidelines for conducting a walk, the teens themselves handle the details planning, organizing and problem solving. They learn first hand how to cope successfully with the adult system, from slow-moving city governments to vicious extremist groups. And in the end, they have the satisfaction of having helped bring meaningful change to a world they never made.

I commend the efforts and determination of these young people and feel that they have left a challenge for our Congress to take up. Solving the hunger-population-pollution problems will largely depend upon governmental action—it is time that our national priorities are changed if the world is to be spared the terrible consequences of massive famine and social chaos.

HARRIMAN CHARTS U.S. FOREIGN POLICY FOR THE SEVENTIES

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. BINGHAM. Mr. Speaker, the House Foreign Affairs Committee held hearings in May and June on "U.S. Foreign Policy for the Seventies" to review the President's state of the world message. We heard testimony from many distinguished experts in the field who evaluated the Nixon policy and where it was taking this country in the 1970's. One of the most outstanding statements was made by W. Averell Harriman, whose record of service to this country is unequalled.

I commend Governor Harriman's testimony to all my colleagues and to other readers of the CONGRESSIONAL RECORD, especially to those who are concerned about our policies in Indochina. The text of the statement follows:

STATEMENT BY W. AVERELL HARRIMAN

Mr. Chairman, with your permission I would like to discuss first the most pressing and overpowering problem that affects all the aspects of foreign policy. I refer to the war in Vietnam.

It is important that we analyze how we got into this tragic war. President Roosevelt stated in my presence on several occasions during the war that he had no intention of allowing the French to return to Indochina. He sent an order to the Pentagon not to make plans for this area after the defeat of Japan, but he did not outline the political moves he had in mind.

Unfortunately the French were allowed back and failed in their attempt to come to an agreement for the independence of Indochina. As the French war in Indochina grew, we gave them increasing military assistance.

Even more unfortunately, when French military efforts failed and Ho Chi Minh's forces got control of North Vietnam through the Geneva Accords of 1954, we took over from France in South Vietnam and undertook political, economic and military responsibilities to support the Diem regime. To do our military justice, I understood that General J. Lawton Collins, former Chief of Staff of the United States Army, cautioned that the situation in South Vietnam might not be militarily viable. But step by step we became more and more involved, and we are now in an untenable position.

When the new Administration took over in January of 1969, agreement had been finally reached between the two sides to commence negotiations for a peaceful settlement. As publicly stated by Secretary of Defense Clark Clifford, the first order of business should be the reduction in the level of combat and violence. We were encouraged to believe that progress in this direction could be made. In late October and early November the North Vietnamese had taken 90% of their troops out of the northern two provinces of I Corps, half of which had been withdrawn above the 20th parallel—some two hundred miles to the north. Fighting almost stopped in this area which had been previously one of the most active. Because of this, General Abrams was able to take the First Air Cavalry Division from I Corps to the III Corps, to strengthen our position there.

However, the new Administration permitted President Thieu to pull the rug out from under the negotiations. President Thieu announced that he would not sit down in the private meetings that had been arranged for, although he knew full well that it was only in the private meetings that any progress could be made. Two months later he was finally persuaded to participate, but at the same time he announced that he would not in any circumstances agree to a coalition government or permit the NLF to become a political party in South Vietnam. By then the NLF refused to sit down privately with his representatives. No progress has been made in Paris since.

The plan for Vietnamization of the war is not, in my opinion, a plan for peace; it is a plan that will perpetuate the war. At best, we can only hope for a reduction of less than half our forces in South Vietnam two and a half years after this Administration took office. After that there is no assurance whether or when the balance of our forces will be withdrawn. Although South Vietnamese troops are able to take on more combat, they cannot continue to operate successfully without American air, artillery and logistic support.

Furthermore, Vietnamization is dependent on an unpopular and repressive military government. With all of the military influence, President Thieu and Vice President Ky got less than 35% of the votes cast in 1967, whereas over 60% of the votes were cast for civilian candidates with some kind of peace plank in their platform. This election confirms the judgment that the people of South Vietnam want peace and not a continuation of the war.

While the Vietnamization plan is reducing American casualties, South Vietnamese losses are increasing, with up to 800 killed a week and with many civilian casualties as well. Clearly, our concern should be to put an end to the violence, not prolong it.

Our political objectives in Vietnam cannot be achieved by military means. We can expand the war to include Cambodia, Laos, North Vietnam and then China, and even the Soviet Union, but we cannot win the war. Unfortunately, this Administration refuses to learn from the mistakes of the past or to listen. They have closed their ears to outside opinion. The Administration is concentrating on military action, not negotiations.

On April 20th, the President held out hope that a just peace was in sight, yet since then the war has been expanded. There seems to be an idea that military blows can force the other side to negotiate on our terms. All our past experience in Vietnam shows that this is a delusion.

Our participation in the war in Vietnam must be ended and our troops brought home. The simple truth is that there is no way of achieving our political objectives in Vietnam through military action. That is not the fault of the United States but the nature of the problem that exists there.

The withdrawal of all of our troops from Vietnam should be on a fixed schedule. This will compel the Thieu government to undertake serious negotiations for a responsible settlement.

Our withdrawal must be responsible, and I believe that it can be—without delaying the return of our troops. We helped set this country on fire, and we must help put it out. I am convinced that the other side will agree on one point at least—that there be no reprisals by either side, with international supervision.

Meaningful negotiation will require a decision by the Administration to compel President Thieu to bring into his government political elements which wish a negotiated settlement and to send a team to Paris that is willing and capable of negotiating with the NLF for a compromise. Of course, the President himself must appoint a high-level negotiator. Until he does, it is hard for people around the world to believe he is really interested in negotiations. If these actions are taken on our side, I believe the other side will join in serious negotiations.

We have been told that "not our power but our will and character" are being tested in world opinon. This appraisal is not correct. What is being tested in our judgment and the wisdom of our actions.

With regard to the North Vietnamese, in the many discussions I had with them, there is one thing that I learned. They are fiercely nationalistic. They particularly want to be independent of China. With this in mind, they established friendly relations with the French after the war with France ended. Now if our war can be ended, they have indicated they want similar relations with the United States and other non-Communist countries. Like Tito, they recognize the need for an alternative to being compelled to rely on their powerful communist neighbor.

I therefore believe that it is important for us to come to an understanding with Hanoi. We must recognize that the North Vietnamese did not keep the Laos Agreement for a single day and some understanding must be reached which is to their interest to keep for a period of years. If we are to have peace in Southeast Asia some understanding must be arrived at along the lines of President Johnson's Johns Hopkins speech of April 1965 for the reconstruction and cooperative development of Southeast Asia with the participation of the North Vietnamese.

Recent events have made this more difficult. Peking has consistently taken a negative position on a peaceful solution in the area. Peking's influence, I believe, was at its lowest point in 1968. Recent Cambodian developments have, I believe, increased their position to a new high. I am satisfied the Soviet Union would like to see a non-aligned Southeast Asia, strong enough and independent enough to check extension of Chinese influence in the South. They helped us in Paris both in October and in January to overcome certain obstacles. The Soviet influence has today been reduced while the Chinese influence has increased.

Southeast Asia is in some respects similar to the Sub-continent. It is significant that both the Soviet Union and we have been giving assistance to India and Pakistan. We have found ourselves in parallel positions.

The Soviet Union, however, will continue to give military support to North Vietnam which it considers its "sister Socialist State". There is no doubt she believes this is necessary in order to maintain her prestige with other communist countries and communist parties elsewhere in the world. No temporary military gain resulting from the destruction of North Vietnamese and Vietcong weapons in Cambodia will offset the far greater complications in the international political situation.

Mr. Chairman, in my opinion this Administration has made serious mistakes in Indochina during the past sixteen months. I am heartened that members of Congress have been indicating their grave concern. Specific action is being proposed in the Senate to control military expenditures in the area. I agree with the fixed schedule of withdrawals as proposed by Mr. Clark Clifford, former Secretary of Defense. I earnestly hope that this committee will give profound consideration to all of these proposals. I strongly believe the crisis, which affects profoundly our national interests at home and abroad is so grave that the Congress should assert its constitutional authority. It should act to bring to an end the waste of human and material resources in Indochina so desperately required for the pressing needs of our country.

In my opinion, Mr. Chairman, the negotiations of greatest significance in the long run are the SALT talks on nuclear arms restraint. President Nixon has expressed his strong desire for progress in this field, and most Americans are hoping for success in Vienna. Recent press reports indicate the talks are proceeding in a serious manner.

Unfortunately, during its first 15 months the Administration showed little sense of the urgency demanded by the rapid developments in the arms race. The Administration disregarded recommendations that we take the initiative by deferring MIRV testing and further deployment of offensive and defensive missile systems providing the Soviet Union took similar measures of restraint.

The announcement that MIRV deployment would begin next month was deeply distubing, as was the decision to seek Congressional authorization for a second stage of ABM. Such steps seem to invite reciprocal escalation instead of mutual restraint during negotiations.

President Kennedy successfully concluded the Nuclear Test Ban Treaty with the Soviets by taking the initiative. He made a speech at American University on June 10, 1963, that was quite conciliatory. He announced he would stop nuclear testing as long as the other side did the same. That was a signal that our intentions were serious, and Premier Khrushchev responded. As a result, in spite of the years of fruitless discussion, our delegation went to Moscow and negotiated a treaty in two weeks time.

In dealing with the Soviet Union, we must recognize that we cannot have an overall detente. Their ultimate objectives and ours are still in conflict. However, there are some areas where important understandings can be reached.

I believe the United States should welcome and support Mr. Brandt's initiatives for improving relations with the nations of Eastern Europe and with the Soviet Union. Furthermore, the European Security Conference between the NATO and Warsaw Pact countries presents an opportunity to reduce tensions in Europe now.

I am concerned by indications that the Administration considers that the conference should be postponed for at least a year. There are important issues to be discussed such as the mutual reduction of force levels. A NATO-Warsaw Pact agreement on balanced reductions in force levels is the soundest way to reduce the number of American troops stationed in Europe.

Expanded East-West trade in non-strategic goods could be a commercial profitable step toward better relations. Today it has wider support in the business community than ever before. However, the language of the "State of the World" message suggested that the Soviets must pay with political concessions for the right to buy from us. Yet the bulk of what they wish to purchase here they can already obtain in large quantities from Western Europe and Japan.

This approach in my opinion is not merely fruitless but harmful. This idea of "linkage" is badly mistaken. It seems to me we should make progress where we can and, when an agreement is reached it makes it easier to negotiate others.

The Administration has taken constructive steps in several important areas. The President's actions in the field of chemical and biological warfare, including the elimination of biological-toxin weapons and his submission of the 1925 Geneva Protocol prohibiting use of such weapons, have been highly commendable. I would hope the Senate acts speedily to ratify this treaty.

The resumption of the American-Chinese discussions in Warsaw and the initiatives towards relaxing barriers to commerce and travel between the United States and Mainland China are in my opinion modest steps in the right direction.

Among the casualties of the Vietnam has been our aid program. We have fallen behind other industrial nations in terms of our capability. In 1968 we ranked eighth among the sixteen principal Western donor countries in percentage of GNP devoted to development assistance.

Recognizing the problem, President Nixon appointed last autumn a Presidential Task Force on International Development with Rudolph A. Peterson as chairman. Your Committee is undoubtedly familiar with its report, and I will not review it. I wish, however, to strongly endorse the basic findings of this group. I trust that your Committee will also give attention to the report of the United Nations Commission on International Development, headed by The Honorable Lester Pearson. Many of its recommendations deserve serious consideration in our national interest.

We must continue our concern for and our assistance to the developing nations, first of all, because it is our moral obligation. We have been endowed with resources which have made it possible for us to achieve a prosperity unheard of in history, and surely we have an obligation to give a helping hand to the less fortunate.

Secondly, our own economic life can be strengthened and expanded as other nations develop. Expanding trade and markets will add greatly to our own continuing prosperity.

Lastly, the very survival of our civilization is at stake. It is not conceivable that a few countries can live indefinitely as islands of luxury in a sea of poverty.

NUCLEAR ENERGY

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. DADDARIO. Mr. Speaker, 25 years ago today, the world's first atomic bomb was tested at Alamorgordo Air Base, N. Mex. This marked man's unleashing of the first nuclear device and the creation of a force unequal in potential to anything he had previously conceived. At the close of World War II in 1945, the United States was virtually the only nation in the world able to assign a substantial part of its scientific manpower and equipment to nuclear sciences. When an immediate end to World War II was viewed as an imperative by the United States in 1945, President Truman determined to use the atomic bomb to avoid the necessity for an invasion of Japan. A little more than 3 weeks after the first test, an atomic bomb was used in warfare by the United States in the raid on Hiroshima. Shortly thereafter, the city of Nagasaki was destroyed by a larger nuclear device. We cannot hide the horrors of Hiroshima and Nagasaki which resulted from the atomic discovery. However, today, we look with hope toward the beneficial qualities of atomic energy which have been unveiled and are being constantly improved.

With nuclear powerplants in 31 States, it is not difficult to realize the possibilities of nuclear energy as it affects all our lives. Some of the ways in which nuclear energy has been applied positively to scientific development have been seen with the application of radioisotopes in the fields of agriculture, industry and medicine. In agriculture, irradiation research has been used to determine the possibilities for the preservation of food. Nutritionists have also benefited from the discoveries of the researchers as to the life of various food.

With the problems of our environment seemingly now in the forefront of scientific development, nuclear power has been assigned to aid the desalinization process to meet the requirements of clean water. In addition to research and industry, the atom has been used in space programs. The Atomic Energy Commission has developed shielded units containing high concentrations of radioisotopes which generate heat. This energy is then converted to electric power for use in space flights.

The restraint which man has used in handling the atom for destructive purposes since Japan, and the benefit of the vast positive contributions afforded by the continued research of fundamental nuclear energy are products of the atomic age. I would like to take this opportunity to praise the scientists, technicians, and engineers, and all those involved with atomic research for their accomplishments in the first quarter century of the nuclear age.

The far reaching powers of the atom have been found powerful to the extent of total world annihilation. This possibility of total destruction looms over the heads of the world, and the decisions that can result in that destruction reside in the hands of a few. We can only hope that the responsible leadership of this country and the other nuclear powers will direct their policies toward peace in an atomic age.

CZECH AND SLOVAK REFUGEES

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. COLLIER. Mr. Speaker, there could hardly be a more appropriate time than Captive Nations Week to say a few words in behalf of political refugees who seek asylum in the United States and to discuss practical means for assisting them. On January 27 I introduced H.R. 15541, which would, if enacted into law, amend section 203(a)(7) of the Immigration and Nationality Act to make available annually an additional 10,200 conditional entries for certain refugees.

My primary reason for sponsoring this measure was a desire to at least partly alleviate the plight of the large number of Czechs and Slovaks who were driven from their homeland by the Soviet invasion of August 1968. Many of these refugees would like to come to the United States but they are prevented from doing so because of oversubscribed quotas.

The people to whom H.R. 15541 would give special consideration would neither swell the ranks of the unemployed nor add to the relief burdens of local communities, because they would have to be sponsored by American families and organizations that would assume responsibility for them. A large number of those who would become eligible for admittance to the United States under my bill possess special skills that are desperately needed in key industries, including vital defense installations. They would neither displace domestic workers nor keep the unemployed from obtaining work.

Many of those who are presently jobless either do not have the special skills that are required for positions that employers find difficulty in filling or they are reluctant to move from their present homes to distant cities where their skills are in demand. The refugees from Czechoslovakia who have acquired unusual skills are not only willing but anxious to journey several thousand miles in order to begin new careers in America.

Certainly these would-be immigrants would receive tremendous benefits in freedom and opportunity if they were permitted to come to the United States, but they would also make numerous worthwhile and lasting contributions by way of compensation. For example, among them is an engineer who holds over a dozen patents for air purifying processes. He would be of inestimable help in our war on pollution.

We are all too often inclined to feel that the day of immigration is over and that the United States no longer needs transfusions of new blood. Certainly the day when millions of people left overpopulated European countries for the wide open spaces of America has ended, but our gates ought to remain at least slightly ajar for immigrants of unusually high quality.

As I speak here this afternoon on behalf of a comparative handful of refugees, I cannot help but recall a few outstanding examples of great Americans of our generation who began life as Europeans. Great inventors include Alexander Graham Bell and Charles P. Steinmetz. Eminent scientists were Albert Einstein, Enrico Fermi, and Edward Teller. Outstanding business leaders include William S. Knudsen and David Sarnoff, while Samuel Gompers and Philip Murray were distinguished leaders of labor.

Aircraft designers Alexander de Seversky and Igor Sikorsky helped to accelerate the progress of aviation. Numerous immigrants became prominent at all levels of government, including Felix Frankfurter, an Associate Justice of the U.S. Supreme Court. Great names in music include Irving Berlin, Lauritz Melchior, Leopold Stokowski, Igor Stravinsky, Arturo Toscanini, and Bruno Walter, while literature is represented by George Santayana and Hendrik Willem Van Loon.

These are, of course, but a few illustrious examples of the many prominent Americans of foreign birth who have lightened our burdens, enriched our lives, and helped make our dreams become realities. We would have been poor indeed had harshly restrictive immigration statutes kept them from sharing our God-given liberties and our material blessings.

Let us not make it too easy for immigrants to enter America, but let us not make it too difficult, either. We should keep out those who are anxious to come here only because of the loaves and fishes, but we must not slam the door in the faces of those who are willing to work in the heat of the day in order to help us solve our problems.

Mr. Speaker, I hope that the Committee on the Judiciary will schedule early hearings on H.R. 15541, which means so much to the Czechs and Slovaks who would prefer life in free America to coexistence in Communist-dominated Czechoslovakia. I am confident that these people, who have suffered much under both national socialist and Communist tyrannies, would make America richer by their presence.

CAPTIVE NATIONS WEEK

HON. WILLIAM T. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. MURPHY of Illinois. Mr. Speaker, I wish to join with my colleagues in commemorating the 12th annual observance of Captive Nations Week.

During this week each year, citizens across the country pay tribute to the courage of the people of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Rumania. Throughout the many years of oppression and subjugation that these people have endured, they have continually displayed their courage to the world. It is important that in observing Captive Nations Week we should honor and remember these enslaved people suffering under totalitarian forms of government. But it is also a time for us to reaffirm our own commitment to freedom and the principles of democratic government. As citizens of a free and independent country, it is sometimes difficult for us to imagine the hardships which these people have had to undergo since World War II.

On this occasion, Mr. Speaker, we express our deep concern over the plight of these countries and hope the time will soon come when freedom and self-determination will be restored to the captive nations.

HON. CLIFFORD DAVIS

HON. PHILIP J. PHILBIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. PHILBIN. I am deeply saddened to learn of the passing of my dearly beloved friend and outstanding former colleague, Hon. Clifford Davis of Tennessee.

I saw Cliff not long ago here in the Capitol when he was here for a visit, and I thought he looked very well. News of his passing, therefore, was shocking and surprising to me, as it must have been to his many friends.

Cliff Davis was a very fine, highly esteemed Member of this House for years, with many warm admiring friends on both sides of the aisle. His outstanding services here were in the best traditions of his historic State of Tennessee and our country.

He was a man of deep convictions and strong opinions on public questions, and he always stood up for them with great ability, firmness, and resolution. He was especially well informed on public questions, and endowed with an alert, active mind, and spirit of dedication and loyalty to his friends, and the many great causes in which he believed that commanded for him the respect, admiration, and affection of every man in this famous Chamber.

Cliff was endowed with many amiable personal qualities that endeared him to those who knew him, especially to his colleagues here, who always found him a delightful companion, a most cooperative, helpful colleague, and dear friend, who was deeply committed to his service in the House, and willing at all times to lend a hand to those who might need his assistance.

His great contributions to the people of his district, State, and this country, which he loved so much, and served with such deep patriotism and fidelity, will long be remembered by those who had the privilege and honor of serving with him, and by his constituents and a grateful American people, for his devotion to duty, his brilliant career in the House, and for his unflinching interest and efforts for the cause of the great, inarticulate masses of people who benefited so greatly from the splendid services that he rendered them in this great free, representative body of national leaders.

The House has lost an esteemed friend and former colleague, the Nation has lost a great distinguished patriot and the illustrious State of Tennessee has lost one of its ablest, dedicated and most famous sons.

To his sorrowfully bereaved wife and family and all his dear ones, I extend most heartfelt sympathy for the truly great irreparable loss they have sustained in the passing of this great American, our beloved friend, and which I and other Members who served with him here so sorrowfully share with them.

Our prayers will be with all his dear ones, and we humbly ask that the good Lord bring them the strength to bear their sad bereavement with true spiritual resignation, and bless them with reconciliation and "that peace that passeth all understanding."

May our dear friend and valued colleague Cliff, find eternal rest in his heavenly home.

TRIBUTE TO THE LATE HON. CLIFFORD DAVIS

HON. WAYNE N. ASPINALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. ASPINALL. Mr. Speaker, one of the most rewarding experiences of being a Member of the Congress of the United States is to form valuable personal associations with one's colleagues. Such was my good fortune when soon after coming to Congress I made the acquaintanceship with Congressman Clifford Davis of Memphis, Tenn. He preceded me in Congress by some 10 years and I was the recipient of much good advice from him.

Clifford Davis was a pleasant and honest friend with all of his colleagues who sought such a fortunate relationship with him. He was always willing to take the time to advise his colleagues and help them wherever possible.

One of the memories that I have of his membership in the Federal Legislature was the time of the shooting on March 1, 1954, by the Puerto Ricans. After helping with the care of one of my colleagues who was unfortunate enough to be hit, I walked down the aisle to where our colleague, Clifford Davis, was sitting. He had been shot through the calf of the leg and was sitting in his seat contemplating what had happened to him. As usual, he was most cool and self-poised.

Our late colleague possessed a most pleasant personality and one always enjoyed being in his company. After his retirement from Congress, he visited in the House Chamber several times and he was always surrounded by his friends who never tired of his company.

He shall be sorely missed by all of us and I extend to his charming companion of many years, Carrie Davis, and to the others of his family and friends my most sincere sympathy in the passing of their loved one.

ST. JOSEPH COUNTY URBAN COALITION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. BRADEMAS. Mr. Speaker, the National Urban Coalition, founded by former Secretary of Health, Education, and Welfare, the Honorable John W. Gardner, attempts through its national program and through local coalitions to encourage Americans in a wide range of vocations to join together in working on the problems of our Nation's cities.

One of the local coalitions endorsed by the National Urban Coalition is the Urban Coalition of St. Joseph County, Ind., on whose board of advisers I am privileged to serve.

Mr. Speaker, a unique feature of the St. Joseph County Coalition is its affiliation with the Youth Coalition of St. Joseph County. Under the guidance of Joseph Dickey of the South Bend YMCA and the chairmanship of Alvin Levy, the Youth Coalition seeks to enhance opportunities for recreation, employment, and education for the community's young people.

Mr. Speaker, we all know that many of our cities are faced this summer with inadequate recreational facilities and, perhaps more important, too few summer jobs for young people.

In this regard, the Youth Coalition's Recreational Task Force, chaired by Tom Beck, approached the local Urban Coalition with a proposal to open more recreational facilities this summer to the entire community.

The St. Joseph County Urban Coalition approved the Youth Coalition's plan and appointed a committee of three men to pursue it. This committee consisted of John J. Powers, coalition board and executive committee member and managing editor of the South Bend Tribune; Robert Laven, coalition executive committee member and president of the common council of the city of South Bend; and Rev. Milton Willford, coalition board member and executive secretary of the Council of Churches of St. Joseph County.

Under this committee's guidance, and especially with the initiative of Mr. Powers, all high school gymnasiums and swimming pools in the city of South Bend have been opened for public use this summer.

Mr. Speaker, the activities of the St. Joseph County Urban and Youth Coalitions are an outstanding example of what young and old, working together, can accomplish in their community.

Mr. Speaker, I include an article and editorial from the South Bend Tribune on July 5 and 8, which describe the successful summer recreation program which I have discussed, be printed in the Record at this point:

[From the South Bend Tribune, Sunday, July 5, 1970]

Open Schools to Family Recreation

PROGRAM SCHEDULED TO START MONDAY

Recreational facilities at the city's five high schools will be opened to the public for a complete family-type recreation program starting Monday and continuing daily from 6 to 9 p.m.

The program is the result of a well coordinated effort by several governmental agencies and civic-minded organizations.

Ed "Moose" Krause, chairman of the Recreation Commission, a five-member body representing the city, the Park Department and the South Bend Community School Corp., announced the recreational facilities to be opened to the public include the swimming pools at Adams, Jackson, LaSalle, Riley and Washington, and the gymnasiums at Adams, Jackson, Riley, Washington and Coquillard. Due to construction now underway at LaSalle High School, the Coquillard Junior High School gymnasium has been opened to serve the northwest area.

RESULTS FROM REQUEST

The program is the result of a request of the Youth Coalition of St. Joseph County. The group last May contacted the Urban Coalition regarding the possible use of the recreational facilities in the South Bend school system for a pilot project for two weeks during the summer months. The presentation was met with enthusiasm by the Urban Coalition's board of directors and a special committee, headed by John J. Powers as chairman, assisted by Councilman Robert Laven and Rev. Milton Willford, executive secretary of the St. Joseph County Council of Churches, was formed to pursue the matter.

The result of the special committee's work is a recreational program geared for the entire family.

SCHOOL POOLS AVAILABLE

Swimming will be available at the five high school pools. The swimming program is intended for accomplished young and adult swimmers. No instructional swimming programs will be offered. These same pools are used daily from 9 a.m. to 5 p.m. for instructional purposes.

Three qualified lifeguards will be on duty at each pool at all times.

Basketball will be available in the five school gymnasiums, but the program will not include organized games due to a ruling by the Indiana High School Athletic Assn. The IHSAA prohibits organized basketball for high school athletes. No attempt will be made to provide official games or coaching.

Two paid supervisors will be in the gymnasiums at all times and will be assisted by two volunteers from the University of Notre Dame's varsity basketball team. The Notre Dame varsity members, all of whom are attending summer school, are among the athletes who provided supervision for the basketball program known as "Reach Up" for the past two summers. The "Reach Up" program will not be a part of this summer's program because of the restrictions imposed by the IHSAA against participation of high school athletes.

Among the other indoor activities available will be table tennis and volleyball. Running or jogging will be available on the high school tracks. The exception will be at Coquillard, where there is no track.

The program will be financed in its experimental stage by the Public Recreation Commission, with the total program to be evaluated at the end of a two-week period.

Mayor Lloyd M. Allen has applied for federal funds which, if they become available, will enable the program to be continued through Aug. 14.

Among the agencies co-operating in the program are the Public Recreation Commission, the city administration, the Urban Coalition Committee, the Youth Coalition of St. Joseph County and the South Bend Community School Corp.

SUMMER PROGRAMS NEW

Paul Boehm, director of public recreation of the South Bend Park Department, explained that public schools have been heavily used in the recreation programs during the winter season, but this is the first time they have been opened as recreation centers during the summer season.

"Such a program is in keeping with the recommendation that unites the school corporation and the park department in providing available facilities for community recreation," Boehm said.

There will be no charge for any of the recreational activities.

Persons are free to come and go according to their personal plans. Among the rules which will apply for all participants are: gym shoes must be worn in the gymnasium, swimmers must take a soap shower before entering the pool, swimmers must wear regulation swimming suits, and towels must be provided by participants. Basketball players will not be permitted to bring their own basketballs into the gym.

Persons are urged not to bring valuables with them because there will be no checking or locker service available.

[From the South Bend Tribune]

EXPANDED RECREATION PROGRAM

The Youth Coalition of St. Joseph County started something last spring when it approached the Urban Coalition with the idea of expanded use of the recreational facilities of the South Bend school system. The latter took up the idea with enthusiasm.

The result is the development of a wholesome complete family-type recreation program making better use of the facilities than ever before.

The pools at Jackson, Adams, Riley, Washington and LaSalle High Schools and the gymnasiums at all except LaSalle, where construction work is under way, plus the gymnasium at Coquillard, are open daily from 6 to 9 p.m. Lifeguards and other supervision are provided. Use of the facilities is free.

The program is a sensible extension of the use of the facilities. Our hats are off to those who pushed the idea and all who cooperated in bringing the idea to fruition.

CAPTIVE NATIONS WEEK

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. DADDARIO. Today, as free men all over the world observe Captive Nations Week, let us pause for a moment to remind ourselves of the continuing plight of millions of the world's peoples, still suffering under the domination of the Soviet Union and China.

Perhaps the greatest allies of the free world are these very peoples, muzzled at present, but determined to one day reassert their rights as human beings and to redeem the proud histories of their native lands. Just as they have not forgotten that heritage nor abandoned their dreams of liberation, let us not forget them nor abandon our progress toward the day when all men everywhere will enjoy their "inalienable rights."

If any in our country had forgotten the plight of the captive nations of Eastern Europe or minimized its seriousness, the invasion of Czechoslovakia in the summer of 1968 came as a rude shock and a grim reminder. That attack should serve as eloquent testimony to the hard realities of Soviet authoritarian rule. In Eastern Asia, in Europe, in scattered points all over the globe, millions of people, alien to the Soviets and the Chinese, but subservient to their powers, await the day when their captivity will become an unpleasant memory, when they can begin anew to determine their own destinies and shape their own societies.

And so, this week, the free world honors the courage and fortitude of all these dominated people, hoping and working for their liberation, confident that that goal will soon become reality.

ANOTHER WARNING AGAINST REPRESSION

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. DADDARIO. Mr. Speaker, it is with deep concern that I have witnessed the gradual erosion of the most basic of American rights—the right to hold a dissenting belief. There have been frequent attacks on this and other fundamental freedoms, in an attempt to silence those who would criticize our Nation's policies. Such political or ideological repression, anathema as it is to a system based on recognition of individual rights, can only result in a generation of cowed conformists.

A recent editorial, appearing in the July 13, 1970, Hartford Courant, discusses this grave threat to our American democracy. I commend this editorial to the attention of my colleagues:

ANOTHER WARNING AGAINST REPRESSION

Mayor Lindsay of New York recently warned that the nation appears to be headed for a new period of repression. An extension of this view is held by Henry Steele Commager, who says in a Look magazine article that we are already in such a period, and it is more formidable than before because it has official sanction and is encouraged by popular indifference.

In his view, the most ominous development is the erosion of due process of law, a concept that has been upheld by the courts but has suffered many setbacks in politics and public opinion. Equally flagrant, he says, is the attack on the First Amendment freedoms of speech, press, petition and assembly, an attack that takes the form of harassment rather than overt repudiation.

He admits that it would be an exaggeration to say that the United States is a garrison state, but none to say that it is in danger of becoming one. He believes the purpose of the broad attack on American freedoms is to silence criticism and to encourage the attitude that the government knows best.

The philosophy behind all this, he says, is that government belongs to the President and Vice President; that they are the masters and the people the subjects. But in the American system the people are the masters and all officials are the servants. The fundamental question, as he understands it, is that many leaders today are mistaken because they don't understand the relation of freedom to security, to order and to law. In his view freedom is a necessity for justice, progress and survival. And society has an interest in the rights of the individual because without them it would decay.

We foster freedom, he reminds us, in order to avoid error and discover truth. A nation that penalizes criticism is left with passive acquiescence in error.

Professor Commager reminds that American history is one of rebellion against authority; we have a long history of experimentation in politics, social relations and science. Since we have not found final truth in politics or law, he asks what will be the consequence of policies that repress freedom, discourage independence and impair justice? This is worth thinking about, as is his warning that it is not ideas that are subversive, but the lack of them.

CAPTIVE NATIONS WEEK

SPEECH OF

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mrs. CHISHOLM. Mr. Speaker, I rise today in recognition of Captive Nations Week, which has been proclaimed as July 12 to 18. Americans have been urged to express their concern for the future of individual rights in Central and Eastern Europe and wherever else those rights are being violated and threatened.

I acknowledge this occasion and, in rising, I remind America that I am a representative of the black people, an American captive. There can no longer be any thinking and aware person who does not understand the reality of my position, Bedford-Stuyvesant and Harlem in New York, Chicago's South Side, Roxbury in Boston, Watts in Los Angeles, all these are "ghettos." A resident of one of these or a similar area seems to have no rights that anyone is bound to respect. Every action of an individual must have the approval of an outside authority.

The killings of innocent students at Jackson, the shootings of black men in Augusta, these, and more recorded infamous deeds, make it impossible for black people to determine and realize any of their own goals. In most areas, the old saying about the black neighborhood being on the other side of the tracks remains true.

While black people are the largest "ghetto," they are by no means the only racial or economic group to be subject to America's whims or to be set apart from the mainstream. Mexican-Americans, or as they prefer, Chicanos, white migrant workers, Puerto Ricans, and, still the American Indians are in the same predicament. Indeed, women are also a captive nation.

These six groups can do nothing that the Americans have not officially approved. Indians are forced to live on reservations; migrant farm workers—white and Chicano—are forced to work for next to nothing on a precarious seasonal basis in miserable conditions; Puerto Ricans are confined to the lowest menial jobs in the cities where they abound.

Mr. Speaker, Chinatown, Harlem, and El Barrio are not historical, different, exciting, or flavorful places to visit. They

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are the preserves for the United States captive nations.

LEIGH STEINBERG

HON. JEFFERY COHELAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. COHELAN. Mr. Speaker, I have on a number of occasions over the past few weeks commented on the distressing events which threaten to destroy our universities as sanctuaries of free inquiry.

I am pleased to learn of the election of Mr. Leigh Steinberg to the office of student body president at the University of California, Berkeley. The newly elected president has clearly stated the need for reform and change, but reformation within the system, not destruction from without.

I am hopeful that Mr. Steinberg will be able to rally the student body at Berkeley to effect the much needed reforms while at the same time insuring the continued function of the university as a bastion of free intellectual inquiry and search for truth.

I enclose for the benefit of my colleagues a statement by Mr. Steinberg and a recent news article commenting on the election:

STATEMENT OF LEIGH STEINBERG, ASUC PRESIDENT

Two months ago, amidst the teargas and windowbreaking of the anti-ROTC demonstrations, a group of students got together and decided that there had to be a better way for the achievement of social justice. It became clear to us that the current round of skirmishes was not only morally reprehensible, but that they were counterproductive. We formed the nonviolent action party and pledged ourselves to find a creative alternative to the endless cycle of violent confrontation. These efforts culminated in the recent ASUC elections in which we were able to elect all five of our executive candidates and seven of our ten Senate candidates. On that ballot was a referendum which we sponsored by gathering 3,000 signatures, which reads: "It is the sense of the associated students of the University of California, Berkeley, that we do not support those violent actions that have recently taken place on campus and in the community and that such violent acts are wholly unrepresentative of the will of this student body." This referendum passed by a three-to-one margin.

But it is not enough to simply condemn violence. There is a new resolve today at Berkeley, powered by a vision of a more ideal society, one without foreign wars, racism, or poverty, a world of harmony and equity. To achieve this dream we are calling for a partnership between the people of the State of California and their sons and daughters on its campuses, a partnership for progress.

We are still convinced that this dream can be achieved through the existing system. We are determined to make this system work. And we will try to the best of our abilities to see that rationality and persuasion prevail over rock and bottle throwing, that nonviolent, creative, constructive talent is harnessed in productive ways. We see electoral politics, lobbying, and canvassing as the proper arena for these energies.

Being over thirty is a malady which will strike all of us some day, and we feel that it is not the calendar but the spirit which is the true gauge of youth. And so, we ask today for your help, your brains, your skills, your experience, and yes, your money, to help us live up to the ideals which you instilled in us.

[From the Washington Post, July 16, 1970]

BERKELEY STUDENT HEAD IS A MODERATE

BERKELEY, CALIF., July 15.—The University of California's new student body president is clean cut, deplores violence and says campus militants have been guilty of "incredible arrogance."

"The radicals cry 'Power to the people'—but the people would like to see them shot,' says Leigh Steinberg, 21.

The Berkeley campus has been torn periodcally by student-police clashes since 1964 and violent demonstrations against ROTC and the U.S. move into Cambodia were going on when Steinberg's Nonviolent Action Party swept the student elections last spring.

Steinberg, who says he prefers to work within "the system" for change, defeated a coalition of blacks and Mexican-Americans and a third party of white radicals by a 3-to-1 margin.

In a typical turnout 3,900 of the school's 27,500 students voted.

"If someone wanted to end the war in Vietnam, the right way to do it would be to go into middle America and convince them," he said in an interview.

"You don't do it by throwing excrement at their cars, or spitting on the flag, or burning down the universitly.

"You sit down and try to reason, find things in common."

Steinberg, son of a Los Angeles high school principal, will be attending law school in the fall. He succeeds Dan Seigel, 23, fiery orator who was formally prevented from taking office by the campus administration.

Although acquited of an inciting-to-riot charge, Siegel was suspended last year for his role in the "People's Park" riot on May 15, 1969.

"There's not going to be a revolution in our country within our lifetime," Steinberg said. "The people don't want a revolution.

"The majority of the people in this country have never heard a real argument against the war. All they've seen is placards and demonstrations."

"I have more in common with them than with the people working for the revolution," Steinberg said, although he added he opposes the war.

His election victory, he said, indicates that Berkeley students believe "society is far from ideal, but they are sick of confrontation."

THE PLIGHT OF THE VETERANS ADMINISTRATION HOSPITALS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. WOLFF. Mr. Speaker, our soldiers in uniform have always received the finest medical care possible. In the field and on our bases we have insured our men proper medical attention. But, the heroes of battlefields who take off their uniforms and become veterans return to a different story. They return to a situation in which their vast contributions to society are ignored. We have relegated them to a second class citizenship as evidenced by the medical treatment we offer them in VA hospitals.

In the first 4 months of the war this year we lost over $166,500,000 worth of helicopters. But Congress will barely allot enough money to provide $1.20 worth of food per day per patient.

Considering the nature of many VA hospitals, it may well take more courage to be a VA hospital patient than to have fought in the war.

VA patients and staff cannot keep battling such bad odds any longer.

HOUSE OF REPRESENTATIVES—*Monday, July 20, 1970*

The House met at 12 o'clock noon.

The Chaplain, the Reverend Edward G. Latch, D.D., offered the following prayer:

Let the peace of God rule in your hearts and be ye thankful.—Colossians, 3:15.

O God, our Father, we rejoice in the dawning of another week and pray that we may be so conscious of Thy presence and so receptive to the leading of Thy spirit that we may walk more worthily in Thy wholesome ways. We know that Thou art with us and we want to feel that we are with Thee.

Deepen our faith, increase our love, strengthen our hands that we may be faithful to Thee, devoted to our country, and true to the best within us. We do not ask Thee to remove our temptations but to give us power to meet them courageously, to manage them confidently, and to master them creatively. We do not pray for tasks equal to our strength but for strength equal to our tasks; not for responsibilities we can carry easily but for an inner spirit to carry our responsibilities, however heavy.

Grant unto us such greatness of soul, such gentleness of spirit, such goodness of heart that we may do our duties with due regard for the rights of others. So may we be just and kind in all our ways and honest and straightforward through all our days.

In the Master's name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, July 16, 1970, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 14452. An act to provide for the designation of special policemen at the Government Printing Office, and for other purposes; and

H.R. 14453. An act to authorize the Public Printer to grant time off as compensation for overtime worked by certain employees of the Government Printing Office, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 1046. An act to protect consumers by providing a civil remedy for misrepresentation of the quality of articles composed in whole or in part of gold or silver, and for other purposes; and

S. 3274. An act to implement the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3685) entitled "An act to increase the availability of mortgage credit for the financing of urgently needed housing and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to a bill (S. 885) entitled: "An act to authorize the preparation of a roll of persons whose lineal ancestors were members of the Confederated Tribes of Weas, Piankashaws, Peorias, and Kaskaskias merged under the Treaty of May 30, 1854 (10 Stat. 1082), and to provide for the disposition of funds appropriated to pay a judgment in Indian Claims Commission Dockets No. 314, amended, 314-E and 65, and for other purposes," with an amendment in which the concurrence of the House is requested.

The message also announced that the Senate had passed bills of the following titles in which the concurrence of the House is requested:

S. 209. An act to amend the act of August 22, 1949 (63 Stat. 623), so as to authorize the Board of Regents of the Smithsonian Institution to plan and construct museum support and depository facilities.

S. 311. An act for the relief of James Glen Ramsey;

S. 878. An act for the relief of James E. Miller;

S. 1422. An act for the relief of Donal E. McGonegal;

S. 1804. An act for the relief of William H. Morning;

S. 1830. An act to provide for the settlement of certain land claims of Alaska natives, and for other purposes;

S. 2755. An act for the relief of Donald N. O'Callaghan;

S. 2834. An act for the relief of John Borbridge, Jr.; and

S. 3138. An act for the relief of Ruth E. Calvert.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON AGRICULTURE

The SPEAKER laid before the House the following communication from the chairman of the Committee on Agriculture, which was read, and, together with accompanying papers, referred to the Committee on Appropriations.

WASHINGTON, D.C.,
July 16, 1970.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Agriculture today considered and unanimously approved the work plans transmitted to you by Executive Communication and referred to this Committee. the work plans involved are, by watershed, State, and Executive communication number:

Panther Creek, Mississippi, 1741, 91st Congress;
Grand Prairie, Oregon, 2171 91st Congress;
Moorhead Bayou, Mississippi, 2171 91st Congress;
Mount Hope, Kansas, 2171, 91st Congress;
Simon Run, Iowa, 2171, 91st Congress;
Spring Brook, Wisconsin, 2171, 91st Congress;
Starkweather, North Dakota, 2171, 91st Congress; and
Upper Bay River, North Carolina, 2171, 91st Congress.

Yours sincerely,

W. R. POAGE,
Chairman.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works, which was read and referred to the Committee on Appropriations:

WASHINGTON, D.C.,
July 16, 1970.

Hon. JOHN W. MCCORMACK,
Speaker of the House,
The Capitol,
Washington, D.C.

MY DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, the Committee on Public Works of the House of Representatives on July 9, 1970, approved the following public building project:

Potomac Annex, Building 6, Washington, D.C. (Alteration).

Sincerely yours,

GEORGE H. FALLON,
Chairman.

WHO WILL PROSECUTE?

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VAN DEERLIN. Mr. Speaker, we now have a prohibition against disclosure of airline ticket taxes—but who is going to enforce it?

In theory, at least, violations are punishable by $100 fines.

But my staff has been frustrated in trying to find an office in our sprawling Federal bureaucracy which is willing to stand up as the enforcer.

Maybe the agencies recognize the inherent injustice of this ban, the blatant contravention of the public's right to know how much tax it must pay for air travel.

Travel agents are understandably outraged by the restriction, which took effect 19 days ago. I have just received a letter from one agent, David Peters, president of Timely Travel, Inc., of Beverly Hills, Calif., who is determined to test the constitutionality of this secrecy requirement.

On July 1, the day this restriction took effect, Mr. Peters carefully noted both the tax and the fare on a ticket he wrote for one J. Gluecksman, a passenger flying from Los Angeles to San Francisco.

Mr. Peters, who would like to know which U.S. agency is now going to charge him with this heinous offense, has graciously sent me a copy of the technically illegal ticket form.

I will try to help him out by relaying the incriminating evidence to Randolph Thrower, Commissioner of the Internal Revenue Service.

Mr. Peters would very much like to be taken to court—because he thinks this is a fight the Government could not win.

I am confident that Commissioner Thrower will know just who it is in his sprawling agency that can accommodate Mr. Peters by taking him to court for what is technically a violation of the law but is in actuality a commendable public service.

PERMISSION FOR SELECT COMMITTEE ON SMALL BUSINESS TO SIT DURING GENERAL DEBATE TODAY, TUESDAY, AND WEDNESDAY

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent that the Select Committee on Small Business may be permitted to sit this afternoon and also on Tuesday and Wednesday during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

Mr. GROSS. Mr. Speaker, reserving the right to object, is it contemplated that we will get back to the reorganization bill this afternoon?

Mr. EVINS of Tennessee. Will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. EVINS of Tennessee. We have a number of scheduled witnesses who are invited to appear coming from a number of different places. We felt, in order to expedite the business of the committee, that we would like to have permission to have these witnesses appear and testify.

In answer to the question of the gentleman with regard to the reorganization bill, I understand it is scheduled to come up today.

I hope the gentleman will permit us to meet.

The SPEAKER. The Chair understands the request is during general debate. Is that correct?

Mr. EVINS of Tennessee. That is correct.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

JUANO HERNÁNDEZ

(Mr. CÓRDOVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. CÓRDOVA. Mr. Speaker, I regret to announce the death of a distinguished Puerto Rican, Juan G. Hernández, better known under the stage name of Juano Hernández, last Friday. Juano Hernández first achieved national stature in the leading role of the movie based on William Faulkner's "Intruder in the Dust." A leading film critic of the time wrote this comment on his performance:

> Mr. Hernández, who plays the condemned Negro in Mr. Faulkner's savage story . . . gives a staunch and magnificent integrity to his role. His carriage, manner and expression becomes the bulwark of all the

deep compassion and ironic comment in this film.

Juano followed this success with many others in Hollywood and on Broadway. He won the admiration of all of us in Puerto Rico for his work as an actor, even as he won our affection with his nobility and kindness. May his soul rest in peace.

TO AUTHORIZE PREPARATION OF ROLL OF LINEAL ANCESTORS OF CONFEDERATED TRIBES

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 885) to authorize the preparation of a roll of persons whose lineal ancestors were members of the Confederated Tribes of Weas, Piankashaws, Peorias, and Kaskaskias, merged under the treaty of May 30, 1854 (10 Stat. 1082), and to provide for the disposition of funds appropriated to pay a judgment in Indian Claims Commission dockets Nos. 314, amended, 314–E and 65, and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Strike out the matter proposed to be inserted by amendment numbered 3 of the House engrossed amendments and insert in lieu thereof the following:

"Sec. 6. Any per capita share whether payable to a living enrollee or to the heirs or legatees of a deceased enrollee, which the Secretary of the Interior is unable to deliver within two years after the date the check is issued, and all unexpended tribal and judgment funds set aside for tribal roll preparation and distribution, shall revert to the Peoria Tribe, and all claims for such per capita shall thereafter be barred forever."

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. SAYLOR. Mr. Speaker, reserving the right to object, and I will not object, I ask the chairman of the Committee on Interior and Insular Affairs whether or not the amendment adopted by the Senate is germane to the bill.

Mr. ASPINALL. Will the gentleman yield to me?

Mr. SAYLOR. I yield.

Mr. ASPINALL. Mr. Speaker, if the gentleman will yield, may I say it was germane to the bill in my judgment and in the judgment of the members of the committee. It is not only germane, but it is in order to this particular legislation.

Mr. SAYLOR. As far as I am personally concerned it improves the bill because it applies not just to the first judgment but to any other judgment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Senate amendment to the House amendment was concurred in.

A motion to reconsider was laid on the table.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

U.S. PARTICIPATION IN THE 1972 UNITED NATIONS CONFERENCE ON HUMAN ENVIRONMENT

The Clerk called House Resolution 562, expressing the sense of the House of Representatives that the United States should actively participate in the 1972 United Nations Conference on Human Environment.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

AMENDING THE 1964 AMENDMENTS TO THE ALASKA OMNIBUS ACT

The Clerk called the bill (S. 778) to amend the 1964 amendments to the Alaska Omnibus Act.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. ASPINALL. Mr. Speaker, I rise in support of S. 778, as reported by the Committee on Interior and Insular Affairs. The purpose of this legislation is to authorize the expenditure of $850,628 of appropriated funds which were not allocated or expended prior to the expiration of the obligational authority.

The bill, S. 778, authorizes this expenditure by amending the act of August 19, 1964, Public Law 88–451, more popularly known as the 1964 Amendments to the Alaska Omnibus Act. That 1964 law, provided special measures to assist the State of Alaska in its efforts to reconstruct and rehabilitate areas devastated by the earthquake and subsequent seismic waves of March 27, 1964. One of the special measures under that law was a $25 million Federal grant for urban renewal projects in communities damaged by the earthquake.

The need for this legislation arises as a result of a misunderstanding on the financial planning for these urban renewal projects. The Alaska State Housing Authority, in response to a request of the Department of Housing and Urban Development, submitted a plan for project financing showing a partial allocation of the $25 million and requesting the balance to be held in "reserve" for closeout accounting and contingencies.

The Department of Housing and Urban Development regional office informed the Alaska State Housing Authority that it had some reservations concerning the financial planning, but agreed with the approach outlined and recommended approval by the central office. The Alaska State Housing authority, on the basis of that endorsement, proceeded to obligate and commit all but $850,628 of the $25 million authorized for urban renewal projects.

Early in 1968, the Alaska State Housing Authority submitted an application calling for a portion of the funds being held in reserve. The Department of Housing and Urban Development denied the application on the basis that the authorization and authority under Public Law 88–451 expired on June 30, 1967. The Department of Housing and Urban Development takes the position that this legislation is necessary to authorize the sums already appropriated to remain available for obligation on urban renewal projects authorized under Public Law 88–451.

Only two of the eight urban renewal projects listed in the legislation require substantial work for completion. The funds involved in this legislation are urgently needed to complete these projects. Release of these funds will assist in the release of funds under the required 10 percent matching grant by the State of Alaska. In addition, the release of these funds will help to unburden a severe financial position which has resulted from the rising costs on uncompleted construction and the accruing interest on outstanding loans.

The Committee on Interior and Insular Affairs in reporting this legislation took the position that the funds made available by this bill may be expended only on the projects specifically referred to in the bill.

Mr. Speaker, S. 778 will provide the sums already appropriated and urgently needed to carry out the intent and purpose of Public Law 88–451, although not committed by contract prior to June 30, 1967, to remain available for obligation on eight specific urban renewal projects in Alaska until completed.

Mr. Speaker, I urge and support the passage of the legislation.

Mr. HALL. Mr. Speaker, reserving the right to object, I would like to ask how much in the form of actual appropriations have been forwarded to the great State of Alaska following the expiration of the funds that this bill would resurrect.

Mr. ASPINALL. Mr. Speaker, will my distinguished friend from Missouri yield?

Mr. HALL. I am delighted to yield to the distinguished chairman of the Committee on Interior.

Mr. ASPINALL. Mr. Speaker, the gentleman from Missouri asks his question rather in the reverse.

The House authorized Federal grants up to $25 million for urban renewal projects. The House appropriated the whole amount but of that amount $850,648 was not spent and it cannot be spent unless we have this new authorization, because of certain conditions surrounding the authorization and the appropriation namely, that this authority expired on June 30, 1967.

Mr. HALL. Mr. Speaker, the distinguished chairman states well the purpose of this bill. However, my question was not asked in reverse nor directed toward that question as of yet. I intended to ask that question later.

Let me rephrase my question.

If I recall correctly, the Congress has properly been very generous with the State of Alaska following this bad accident of nature that they had in 1964. I have since visited the State of Alaska. I am familiar with the geological makeup that allowed this disaster to occur

I am one of those who thinks that they should have been helped. To specifically rephrase my question, and it is based upon my memory and I am seeking confirmation, we did authorize an appropriation of additional funds beyond the $25 million in 1964, some of which were made available after the expiration date—which was in 1967—of that particular appropriation which I understand we now seek to "resurrect" by reauthorization.

Now, my question is, how many or how much additional funds were appropriated for the relief of the State of Alaska since this unfunded portion of $850,000 presumably reverted to the United States Treasury?

Mr. ASPINALL. Mr. Speaker, if the gentleman will yield further, the gentleman is absolutely correct. Other programs were authorized and they were activated under the 1964 act. On the other hand, this is the only authorization that came under the jurisdiction of the Committee on Interior and Insular Affairs.

Of this amount we have the remaining $850,628. Now, as far as the total amount of the other, I cannot answer my colleague, but the gentleman is correct, other programs authorizing appropriations were included in the 1964 act.

Mr. HALL. I simply thought that should be made a matter of legislative record, and I am glad the distinguished Chairman of the Committee on Interior and Insular Affairs agrees with me, even though it did not happen by the committee he chairs, or under their jurisdiction.

My next question is: Did the $850,000 that was unexpended for any reason, revert to the U.S. Treasury as required by the original law in 1967?

Mr. ASPINALL. If my colleague will yield further, it is my understanding that they did revert to the Treasury, but being an integral part of the original authorization, and since it could not be used for other purposes, but only for those for which it was authorized, this calls for the new authorization to take care of the remaining program that specifically relates to Housing and Urban Development.

Mr. HALL. Mr. Speaker, I appreciate the statement made by the gentleman, and I am glad that the funds did in fact revert back to the U.S. Treasury. I have read the bill carefully. I have read the report in detail, and I understand that this reauthorizes the "unexpended portion," and indeed that it will make even more funds available because of the matching basis, Federal versus State, and other things under the Alaska Omnibus Act that might accrue to them in addition to the $850,000; but, my concern and the reason for asking the questions in this order is dual. First, are we not establishing a dangerous precedent for retroactivity, or as I said in the beginning, resurrecting such an authorization and making in order appropriation therefor from funds that have actually in fact reverted to the Treasury? And second, if so, why not simply authorize and appropriate new funds for this purpose?

Mr. ASPINALL. If my colleague will yield again, in fact, this is a new authorization. I think my colleague will admit that.

As far as the funds in the original authorization, the original $25 million have all been spent except for these, and had it been possible to spend this additional $850,628, as the Alaska authorities had planned, these funds which are urgently needed to complete the projects would have been completed in time and before the authorization expired. It seems to me we are not establishing a precedent. We would be establishing a precedent if we tried to spend those moneys without a new authorization, but inasmuch as essentially all we are doing is we are going to use the funds for the original intent and purposes, but which could not be done at the present time under the existing statute, and it seems to me that we are only being honest with ourselves and the people of Alaska in handling it in this manner.

Mr. HALL. Mr. Speaker, I certainly agree with the distinguished gentleman, and I know we will always be honest with ourselves. And I full well realize that we cannot appropriate these funds which have reverted if we did not under the wise aegis and oversight of the legislative Committee on Interior and Insular Affairs have the authorization for the expenditure of these funds.

But in some of the explanatory information such remarks are made, "In order to bring about the release of the remaining funds," such and such a bill was introduced, was passed by the other body, and this will complete that action, and so forth and so on. I hasten to say that this is not the distinguished gentleman's committee report from which I read. It is a letter of supplication and a statement of need from the Representative from Alaska to which I refer, and I wanted to establish the fact that this is not a release of funds which have in fact reverted to the Treasury, but is the addition of further authorization, albeit it may tie in to lack of ability to use the funds by the time limit wisely established by the previous Congress.

Is that a correct statement?

Mr. ASPINALL. If my colleague will yield, that is a fair statement. Our committee took the position that these funds were to be made available only for the specific projects referred to in the bill. In other words, we made this very specific so that it would not go in the authorization previously made.

Mr. HALL. Mr. Speaker, I know the situation there. I have no particular objection as to that.

I wonder if the committee has again placed a termination date on the new bill. If so, specifically, when is that termination date for the expenditure of these funds and their related funds?

Mr. ASPINALL. As I remember, the way that is written and the way that is set forth, when these particular projects are completed, and these projects are underway at the present time, and they must be completed within a reasonable time, and this is the reason for this particular sum of money.

Mr. HALL. In other words, Mr. Speaker, it would be open ended so far as the remainder of these funds as to improved renewal capacity of these particular cities are concerned, and there would not again be a reversion to the Treasury?

Mr. ASPINALL. The gentleman is correct with this exception—our committee will continue its oversight to see that this is not left to be an indefinite program.

Mr. HALL. That is very reassuring and I hope we never pass open-ended legislation again.

I commend the gentleman for the original omnibus act which did set an expiration date and also the fact that these funds did return to the Treasury.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HALL. I am glad to yield to the gentleman from Iowa.

Mr. GROSS. If I may ask the gentleman from Colorado a question. Did not Alaska have 3 years in which to obligate these funds?

Mr. ASPINALL. Yes. As I remember the legislation, it was a 3-year period so far as that is concerned. But only two of the eight urban renewal projects listed in the legislation require substantial work and completion.

In other words, we were able under the program formerly authorized to take care of those projects that were planned but two of those were not finished.

Mr. GROSS. Yes, they had three years in which to obligate the $25 million which was exclusively for urban renewal and it is beyond comprehension that they did not obligate these funds in that period of time.

Mr. ASPINALL. The gentleman is correct, if he refers to the matter of planning for projects, but the federal agency never notified the State of Alaska that the 3-year period that had been provided would run out before these two projects were finished.

Mr. GROSS. I am surprised that the State of Alaska did not inquire as to when the deadline would be for the use of this money.

Mr. ASPINALL. I think perhaps the State of Alaska did not do so because they understood that this money could be held in reserve to continue with development work that had been set forth in the planning stage.

Mr. HALL. Mr. Speaker, further reserving the right to object, I will say that in addition to the information supplied by the distinguished chairman of the Committee on Interior and Insular Affairs to the gentleman from Iowa, that the Alaska State Housing Authority did write to the then Department of Housing and Urban Development on April 1, 1966, and asked that the funds for those two cities be reserved pending final plans for their utilization.

I think there is perhaps reasonable room to believe that they were being reserved, because in April 1966 the Department of HUD stated:

> Accordingly, while certain unanswered questions still exist, we agree with the approach outlined in your letter and are prepared to recommend it to our regional office.

Hearing nothing further beyond the date of expiration which, as I recall, was June 30, 1967, they presumed it was reserved, and presumably this is the basis for the committee action.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

S. 778

An act to amend the 1964 amendments to the Alaska Omnibus Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 5 of the 1964 amendments to the Alaska Omnibus Act (78 Stat. 505) is amended by striking out the period and inserting in lieu thereof the following: ", except that any sums so appropriated to carry out section 53 of the Alaska Omnibus Act shall be available after such date for obligation in connection with one or more of the following urban renewal projects authorized for execution prior to June 30, 1967: Alaska R-8, Westchester; Alaska R-19, Kodiak; Alaska R-20, downtown Anchorage; Alaska R-21, Seward; Alaska R-22, Valdez; Alaska R-25, Mineral Creek; Alaska R-26, Seldovia; Alaska R-28, Cordova."

SEC. 2. Section 6 of the 1964 amendments to the Alaska Omnibus Act is amended to read as follows:

"TERMINATION DATE

"SEC. 6. The authority contained in this Act shall expire on June 30, 1967, except that such expiration shall not affect—

"(1) the authority conferred by section 53 of the Alaska Omnibus Act until the completion of the following urban renewal projects authorized for execution prior to June 30, 1967: Alaska R-8, Westchester; Alaska R-19, Kodiak; Alaska R-20, downtown Anchorage; Alaska R-21, Seaward; Alaska R-22, Valdez; Alaska R-25, Mineral Creek; Alaska R-26, Seldovia; Alaska R-28, Cordova; or

"(2) the payment of expenditures for any obligation or commitment entered into under this Act prior to June 30, 1967."

Mr. POLLOCK. Mr. Speaker, I rise in strong support of S. 778, a bill to amend the 1964 amendments to the Alaska Omnibus Act.

In 1964, many areas of Alaska were severely damaged by a large earthquake. Responding to the need for urgent remedial action, the U.S. Congress enacted certain amendments to the Alaska Omnibus Act. Section 4 of the 1964 amendments contained a wholly new provision—section 53—authorizing the Department of Housing and Urban Development to enter into contracts for urban renewal projects in certain communities damaged by the earthquake. The obligational authority granted in the 1964 amendments expired on June 30, 1967. As of that date, all but $850,000 of the $25,000,000 authorized in section 53 had been committed. In order to bring about the release of the remaining funds, S. 778 was introduced in the Senate on January 31, 1969. It was my pleasure to introduce identical legislation in the House. In November 1969, hearings were held on S. 778 before the Senate Committee on Interior and Insular Affairs. Both the administration and the committee supported this measure, and it was subsequently passed by the full Senate. In early May, S. 778 was considered by the Subcommittee on Territorial and Insular Affairs of the House Interior Committee and was unanimously recommended to the full committee. Later, the Interior Committee, meeting in executive session, unanimously reported S. 778 to the full House.

The chronology which I have just traced raises a question that must be faced squarely; that is, why was the full $25,000,000 not authorized in the 1964 amendments committed before the obligational authority expired in June 1967? It is my opinion that a completely satisfactory answer can be given to this question. In a letter dated April 1, 1968, the Department of Housing and Urban Development requested the Alaska State Housing Authority to clarify its plans relative to the composite financing and allocation of the $25,000,000. About a week later, the Authority responded by submitting a prepared chart indicating a partial allocation of the funds and setting forth the amount of surplus money to be held in reserve for close-out accounting, or if necessary, to finance unforeseen exigencies. In late April of 1966, HUD acknowledged this report and stated: "Accordingly, while certain unanswered questions still exist, we agree with the approach outlined in your letter and are prepared to recommend it to our central office."

As a consequence of HUD's endorsement, the Alaska Housing Authority assumed the availability of the entire $25,000,000 authorized by Congress. In view of the fact that the establishment of a reserve fund was clearly indicated in the Housing Authority's finance program, I believe that it was logical and reasonable for the Authority to assume that the funds were fully committed and, therefore, not subject to the June 30, 1967, termination date specified in the 1964 amendments. If the Housing Authority had thought for a moment that the reserve fund would be treated as if it were uncommitted, it would have been a simple matter for the Authority to allocate the remaining $850,000 to specific urban renewal projects prior to the termination date. Given the requirements of certain project financing plans, such an allocation could certainly have been justified.

If the remaining balance of the $25,000,000 authorized in 1964 is not soon released, part of the laudatory purpose of the Congress in coming to the assistance of Alaska's disaster stricken communities will be frustrated. Three of the original disaster projects have not yet been completed. In order to make use of Alaska's very short construction season, further work must be undertaken almost immediately. Otherwise, many of the benefits envisioned by HUD and the Housing Authority will not be realized. The remaining work includes the performance of essential tasks, such as site improvement and the acquisition of certain remaining parcels of land. These tasks must be completed if satisfactory building structures are to be provided for all persons and businesses displaced by the 1964 earthquake.

One other very important factor should also be mentioned. In actuality, we are considering a sum of money significantly in excess of the $850,000 which remained uncommitted as of June 30, 1967. Since the State of Alaska was required to furnish a 10 percent matching grant under the 1964 amendment to the Omnibus Act, the release of the $850,000 would result in an additional contribution of $94,514, according to figures compiled by the Alaska Housing Authority. While the total sum of $945,142 would still not be sufficient to complete all the remaining work and to pay the accruing interest on outstanding loans, this money would help to alleviate the presently severe financial situation. In addition, it is expected that supplemental funds can be obtained through the use of a financing plan based on a 75 percent Federal-25 percent local division. Such a plan could yield an additional $580,085. Thus, the release of the initial $850,000 could generate as much as $675,000 in further funding. I understand that without the $850,000, it would not be possible for the cities of Kodiak and Valdez to complete the essential work which remains on the urban renewal projects already begun in these cities.

Mr. Speaker, for the reasons outlined above, I respectfully urge the prompt passage of S. 778. The enactment of this measure will go a long way toward improving the economic and social conditions of many Alaskan citizens who still suffer from the ravages of the 1964 earthquake.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TO PERMIT USE FOR PUBLIC PURPOSE OF CERTAIN REAL PROPERTY IN THE STATE OF GEORGIA

The Clerk called the bill (H.R. 9164) to require the conveyance of all right, title, and interest of the United States in and to certain real property in the State of Georgia in order to remove a limitation on the use of such property.

There being no objection, the Clerk read the bill as follows:

H.R. 9164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the Act entitled "An Act to provide for the conveyance of certain historic properties to the State of Georgia, and for other purposes", approved September 21, 1950 (64 Stat. 896), the Secretary of the Interior shall convey to the State of Georgia all right, title, and interest of the United States in and to the real property referred to in paragraph (a) of such Act of September 21, 1950, as the "Rocky Face Ridge Site" and more particularly described as that certain tract or parcel of land lying or being in land lot numbered 148, in the twelfth district and third section of Whitfield County, Georgia, containing six and four tenths acres, more or less; being the same land conveyed to the United States of America by Mattie Springfield under deed dated September 12, 1939, recorded in book 26, folio 527, in the records of Whitfield County, Georgia. The conveyance authorized by this Act shall be made subject to the condition that the State of Georgia use the property described therein for public purpose.

With the following committee amendment:

Page 1, beginning on line 3, strike all after the enacting clause and insert in lieu thereof the following:

"That the United States hereby consents to the use of the land described as the 'Rocky Face Ridge Site' in the quitclaim deed to the State of Georgia executed by the Secretary of the Interior pursuant to the Act of September 21, 1950 (64 Stat. 896), for any public purpose, notwithstanding the provisions of said Act and deed limiting the use of the land to use as a part of the park system of the State. Said deed shall be deemed to be corrected accordingly, and an appropriate reference to this Act shall be noted on the records of the county in which said deed is recorded.

The committee amendment was agreed to.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, H.R. 9164, as amended, permits the State of Georgia to use, for any public purpose, certain lands previously conveyed to it for use as a part of its park system.

The bill involves 6.4 acres of land in Whitfield County that was designated in 1944 as a part of the Atlantic Campaign National Historic Site. Subsequently, in 1950, the site was conveyed to the State of Georgia without consideration for public use as a part of the park system. The site has been partially developed as a park and historic site and is now maintained by the State highway department, but is in poor condition and is not attractive to the general public for park purposes.

The State wishes to transfer the 6.4 acres to the State highway patrol for use as a highway patrol headquarters. Barracks and other facilities would be constructed on the site but at locations sufficiently removed from the highway so as not to detract from its park and recreational uses. The area would be renovated and maintained in a condition more attractive to the public.

To permit this use by the State highway patrol, legislation would be required because of the 1950 statutory restriction limiting the use of the area "as a part of the park system." The construction of police barracks and the use of a significant portion of the tract for these purposes would be inconsistent with that restriction.

The amendment adopted by the committee is technical in nature and accomplishes the same objective as that suggested by the Department of the Interior.

There appears to be no good reason to retain the use restriction imposed on the lands by the 1950 act, and the committee recommends enactment of H.R. 9164 to permit full utilization of the land. This would benefit both the State of Georgia and the general public.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

The title was amended so as to read:

To permit the use for any public purpose of certain real property in the State of Georgia.

A motion to reconsider was laid on the table.

PROVIDING FOR CONVEYANCE TO PIMA AND MARICOPA COUNTIES, ARIZ., AND TO THE CITY OF ALBUQUERQUE, N. MEX., OF CERTAIN LANDS FOR RECREATIONAL PURPOSES

The Clerk called the bill (H.R. 10837) to provide for the conveyance to Pima and Maricopa Counties, Ariz., and to the city of Albuquerque, N. Mex., of certain lands for recreational purposes under the provisions of the Recreation and Public Purposes Act of 1926.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, may I be assured, first, that there will be restrictions on the use of this land; second, that there will be a reverter clause in favor of the U.S. Government in the event the land is not so used, but is used for other than recreation; and, third, and finally, that this will not be a means of conveying property through other than the General Services Act, for housing development or by the use of entrepreneurs?

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the chairman of the committee.

Mr. ASPINALL. I can assure the gentleman that the answer is affirmative in all three instances. The basic law in this particular governs this amendment to the same.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. ASPINALL. Mr. Speaker, the need for additional recreational land is well known and is common throughout this Nation. The purpose of H.R. 10837, as amended, is to permit three local governmental units to acquire tracts of public land, under provisions of the Recreation and Public Purposes Act, and then through their own efforts and financial resources to develop those lands to meet the ever-increasing recreational needs.

The Recreation and Public Purposes Act permits the lease and sale of public lands to States, counties, and municipalities for recreational purposes, at reduced prices. However, that act also places an annual limitation of 640 acres upon sales to any political subdivision of a State.

In the situation before us, the counties of Pima and Maricopa in Arizona and the city of Albuquerque, N. Mex., have had large acreages of public lands under lease for several years. They now wish to further develop these lands for recreational purposes and to place upon them improvements and facilities that will involve several hundred thousand dollars of locally raised public funds. Naturally they wish to acquire title to these lands, rather than continue the present lease arrangement before committing the public money that is now available.

Maricopa County now has under lease 68,758 acres; Pima County, 3,840 acres; and the city of Albuquerque, 7,042 acres. At the present rate of acquisition—640 acres per year—it would take Maricopa County over 100 years, and Pima County, with the smallest acreage, over 6 years to acquire title to the land that is needed.

The present proposal would remove this acreage limitation and permit the two Arizona counties and the city of Albuquerque to acquire the lands without regard to this annual limitation. This would permit the orderly development of the recreational potential of the lands and would also permit these local communities to meet their growing recreational demands.

The committee adopted an amendment which would authorize the sale to Maricopa County of certain lands in adjacent Yavapai County. This land has been under lease for recreational purposes by Maricopa County for several years, and there is agreement on the matter between the two counties.

Mr. Speaker, it is gratifying to see local communities take the lead in satisfying their own recreational needs. Each of the three governmental units have firm and well developed plans for these lands, and they also have the funds available to carry out those plans.

I commend these local governments for their initiative and foresight and strongly recommend enactment of H.R. 10837, as amended.

Mr. GROSS. Mr. Speaker, further reserving the right to object, will an amendment be offered to the bill during its consideration today to provide a reverter clause, or is one contained in the bill? If so, I did not discover it.

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. Yes, of course, I yield to the gentleman from Colorado.

Mr. ASPINALL. As I understand, that provision is contained in the original legislation. The reverter clause is in the original legislation, and also the provision to the effect that the lands involved are to be used for recreational purposes by the agencies involved forever. It is in the basic law.

Mr. GROSS. So then there is a protection as to reversion?

Mr. ASPINALL. Yes.

Mr. GROSS. What is the total value of this land?

Mr. ASPINALL. It would be very difficult to give an exact answer on the total value of the land. Part of this land, of course, is a desert land, which has come to have more value with the passing of the years. But it is part of the original area that was granted under the basic law that applies. I wish the gentleman would ask the gentleman from Arizona (Mr. RHODES) that question.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Arizona.

Mr. RHODES. As the gentleman from Colorado states, it is very difficult to state the value of the land for use as park land. For park purposes the value is certainly quite a bit different than it would be for speculative housing or something of that nature. But the land is fairly close to the metropolitan area.

It is usual, and it is desired, and I think its highest and best use is for our purposes.

I would not want to leave the impression the land is not valuable. It is. If it were sold for any purpose whatsoever, it would certainly bring a rather considerable sum of money. However, I propose to the gentleman this situation too. In the event this land were sold—as the gentleman knows, there are other programs by which the Federal Government helps people to buy green spaces and so on for belts around the cities—I am sure the Federal Government would put more money out of other pockets in order to buy other land for these purposes if we do not go ahead and do it in this way.

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Mr. GROSS. Is there any reason for the formula of the fair market value being used or, on the other hand, excluded from this legislation?

Mr. RHODES. Of course, if the fair market value were to be used—incidentally the land is already under use and being used for park purposes by these municipalities—the municipalities would not be able, in my opinion, to buy this land at the fair market value, because it would have to be a speculative thing. It is to be used for a park. There will be a reverter, I assure the gentleman of this. The deed will carry a reversion that in the event the land is not used for park purposes, it will revert to the Federal Government.

Mr. GROSS. The gentleman said there will be a reverter. Does he mean the basic law will take care of the reversion?

Mr. RHODES. The basic law provides that the deed must carry a reverter clause. I assure the gentleman this will be done.

Mr. GROSS. Mr. Speaker, I thank the gentleman from Arizona.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I think there is one question that still needs answering. Are these counties or municipalities going to reimburse the Government for this land?

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Colorado.

Mr. ASPINALL. Mr. Speaker, the original basic law provides for this contract between the Federal Government and the counties involved. All this legislation does is to provide that more than 640 acres can be deeded in 1 year. The basic law provided that only 640 acres can be deeded in 1 year for the purposes set forth, and the rest of that would be under lease.

This provides for the deeding and transfer of title with the reverter clause for more than 640 acres in any particular year, so these communities can plan and develop their recreation in accordance with the best business practices possible. That is all this legislation does.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, what we are attempting to do is to provide that in 1 year more than 640 acres can be purchased. The 640 acres, based at $2.60 an acre is all this law now says. We will buy the 7,000 acres, and we are going to buy them at the rate of 640 acres per year, but all we are saying is, do not make us wait 9 years to buy all this land, but give us permission to buy it all at one time.

Mr. GROSS. When was the price of $2.60 an acre established?

Mr. LUJAN. It is under the basic act.

Mr. GROSS. But when was that basic act enacted?

Mr. HALL. In 1926.

Mr. LUJAN. I am sure the price does not make any difference. It is just a way of conveying it from the Federal Government to the municipalities.

Mr. GROSS. The price does not make any difference? The price certainly ought to make a great deal of difference.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, the gentleman from Iowa knows if they were to take a fee simple for this land they would be paying much more for it, but all the communities are getting is the right to use it for park purposes. If they do not use it for that purpose, the fee simple reverts. Under these conditions, it would be difficult to get the communities to pay the full market value, because they do not get the full use of it.

Mr. GROSS. I think the gentleman would have to agree with me that they are geting this land at bargain prices, based on the 1926 price of $2.60 per acre.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER.** Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 10837

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the acreage limitation in section 1(b) of the Act of June 14, 1926 (44 Stat. 741), as amended (43 U.S.C. 869(b)), the Secretary of the Interior may convey to Pima County or Maricopa County, Arizona, or to the city of Aubuquerque, New Mexico, for recreational purposes in accordance with the other provisions of that Act, all or any part of the lands that were under lease to such county or city on January 1, 1969.

With the following committee amendment:

Page 1, following line 10, add a new section 2 as follows:

SEC. 2. Notwithstanding the limitation in Section 2 of the said Act of June 14, 1926, as amended (43 U.S.C. 689–1), with respect to the location of the land, the Secretary of the Interior may convey to Maricopa County for the purpose of establishing and maintaining the Lake Carl Pleasant Regional Park, in accordance with the other provisions of that Act, the following described lands in Yavapai County:

Township 7 north, range 1 west, section 25, southeast quarter, 160 acres,

Township 6 north, range 1 east, section 5, north half southwest quarter, southeast quarter, southwest quarter, and southwest quarter southeast quarter; 160 acres; section 8, those portions of the east half northwest quarter and the west half northeast quarter which lie in Yavapai County, about 24.60 acres.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF THE INTERIOR TO CONVEY LANDS IN NEW MEXICO TO CUBA INDEPENDENT SCHOOLS AND VILLAGE OF CUBA

The Clerk called the bill (S. 417) to authorize the Secretary of the Interior to convey certain lands in New Mexico to the Cuba Independent Schools and to the village of Cuba.

There being no objection, the Clerk read the bill as follows:

S. 417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to convey to the Cuba Independent Schools, District 20, Sandoval County, Cuba, New Mexico under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869—869–4) the following lands: Township 21 north, range 1 west, New Mexico principal meridian, section 21, lots 4, 5, and 6; section 28, northeast quarter northeast quarter and lot 1;

SEC. 2. The Secretary of the Interior is authorized to convey to the Village of Cuba, Sandoval County, Cuba, New Mexico, under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869—869–4) the following lands:

Township 21 north, range 1 west, New Mexico principal meridian, section 22, northwest quarter southwest quarter.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, the proposal before us today, S. 417, would permit a school district in New Mexico and an adjoining village to purchase, under the provisions of the Recreation and Public Purposes Act, certain lands now held by the Federal Government. The Recreation and Public Purposes Act permits public lands to be sold at reduced prices if used for certain specific public purposes. However, these lands are not public lands within the meaning of that act as they were acquired by the Federal Government under the Bankhead-Jones Farm Tenant Act.

Originally, the Department of Agriculture, and subsequently the Department of the Interior, issued a special land use permit to the Cuba Independent School District for the use of these lands. The school district now has a capital investment of over $800,000 on the land and wishes to make additional capital investment in buildings and other facilities. However, before making any further investment of public funds on improvements on land that it does not own, the school district wishes to obtain title to the land. The village of Cuba wishes to develop a park and a recreation facility on some of the land.

S. 417 would authorize the conveyance of 185.99 acres to the school district for school purposes and 40 acres to the village of Cuba for a park.

The lands would be sold at a reduced price because they would be used for public purposes.

Present authority does not permit the disposal of these lands except through exchange; therefore, enactment of S. 417 is necessary to permit purchase by the school district and the village.

The lands are not valuable for minerals and are not needed for any Federal program. The highest and best use of these lands is for school and recreational purposes, and enactment of S. 417 would permit this use with assurance to the school district that its very substantial investment would be protected.

The bill was ordered to be read a third time, was read the third time, and passed and a motion to reconsider was laid on the table.

PROVIDING THAT THE SECRETARY OF TRANSPORTATION BE A MEMBER OF THE NATIONAL AERONAUTICS AND SPACE COUNCIL

The Clerk called the bill (H.R. 16539) to amend the National Aeronautics and Space Act of 1958 to provide that the Secretary of Transportation shall be a member of the National Aeronautics and Space Council.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, reserving the right to object, I should like to ask someone in connection with this bill the real purpose of it?

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. The Department of Transportation was not established until 1966. The National Aeronautics and Space Council came into existence in 1958, with the passage of the National Aeronautics and Space Act. Therefore, the Secretary of Transportation, of course, has not been a regular member of the Council because of the fact that the Department was not established until 1966. However, he has actively participated as an invited member of the Council.

There are increasing activities in the field of civil aviation which are pertinent to the functions of the National Aeronautics and Space Council, which require the Secretary of Transportation at present to be an invited member to sit with the Council. This legislation merely formalizes a procedure which is already going on.

Mr. GROSS. The main transportation activity of the National Aeronautics and Space Administration seems to be trips to the moon. What can the Secretary of Transportation contribute to that? Apparently he is having difficulty keeping surface transportation going without indulging in any kind of consultation over trips to the moon.

More importantly, is this going to require an additional staff for the Secretary of Transportation?

Mr. HECHLER of West Virginia. This will not require any additional staff or any additional cost, I would advise my friend from Iowa.

I might also add, with respect to what the gentleman observed, that the National Aeronautics and Space Council deals with aeronautics as well as space. It is in the growing area of responsibility for aeronautics that the Secretary of Transportation's legal presence on the Council would be of considerable value.

Mr. William Anders, Executive Secretary of the National Aeronautics and Space Council, indicated in testimony before our committee that he plans to put increasing stress on aeronautics in the activities of the Council. It would be extremely valuable and in fact necessary for the Secretary of Transportation to be present at these discussions.

Mr. GROSS. To sum this up, would the gentleman say that the Secretary of Transportation is being put on the National Aeronautics and Space Council simply to satisfy the ego of one Cabinet member who has been somehow left out up to this point?

Mr. HECHLER of West Virginia. Absolutely not. He has been sitting on the Council.

Mr. GROSS. In a consultative capacity?

Mr. HECHLER of West Virginia. That is correct, as a nonstatutory member. This merely gives legal and formal authority for what is now being done on an informal basis.

Mr. GROSS. I am glad this does more than merely satisfy his ego.

Mr. Speaker, I withdraw my reservation.

Mr. HECHLER of West Virginia. Mr. Speaker, a few minutes ago someone facetiously remarked that perhaps the real reason the Secretary of Transportation was being placed on the National Aeronautics and Space Council was so that he could sell tickets to the moon. I dare say that when the Wright brothers made their historic flight at Kitty Hawk, N.C., in 1903, if anyone had suggested at that time that tickets would one day be sold on airplanes, he would have been laughed out of court. Seriously, I have been disturbed for some time that the first "A" in NASA—aeronautics—has not been accorded the attention which it deserves. The Subcommittee on Advanced Research and Technology, which I chair, has held a series of hearings in 1968 and 1969 on the subject of aeronautical research and development. We are concerned that this vital area receive increased attention.

This legislation has nothing to do with anybody's ego, but it is in fact a necessity that as the National Aeronautics and Space Council gets increasingly involved in civil aviation, the Secretary of Transportation should have a voice in the deliberations. The Council now consists of the Vice President of the United States, who serves as Chairman; the Secretary of Defense, Secretary of State, Administrator of the National Aeronautics and Space Administration, and Chairman of the Atomic Energy Commission. The Council advises the President on aeronautics and space programs, assists the President with respect to the policies and performance of aeronautics and space activities, designates and fixes responsibilities and helps in the coordination of aeronautical and space programs, resolves differences among agencies and provides for effective leadership and cooperation among the agencies responsible in these fields. The staff of the Council, led by its hard-working Executive Secretary, the Honorable William A. Anders, is very small, and consists of only 18 members. We hope they can obtain additional staff to assist in the area of aeronautics. I believe it would be very helpful to empower the Secretary of Transportation to become a statutory member of the National Aeronautics and Space Council.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 16539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2471(a)) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) the Secretary of Transportation;".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING RENEWAL OF CERTAIN FOREST SERVICE CONTRACTS

The Clerk called the bill (H.R. 11953) to amend section 205 of the Act of September 21, 1944 (58 Stat. 736), as amended.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, I fully well understand that the primary thrust of this legislation is to simply clear an uncertainty in the law. My only question is, will this in perpetuity eliminate competitive bidding?

Mr. TEAGUE of California. Mr. Speaker, will the gentleman yield?

Mr. HALL. I am glad to yield to my colleague from California.

Mr. TEAGUE of California. It is certainly not intended to accomplish that purpose at all. It is merely to allow the Forest Service to contract for fighting fires by means of the use of chemicals dispensed from airplanes; to extend what it is doing now with planes, to chemical plants on the ground.

Mr. HALL. I thank the gentleman, and Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 11953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 205 of the Department of Agriculture Organic Act of 1944, approved September 21, 1944 (58 Stat. 736), as amended by the Act of April 24, 1950 (64 Stat. 82), is hereby further amended to read as follows:

"Sec. 205. The Forest Service by contract or otherwise may provide for procurement and operation of aerial facilities and services for the protection and management of the national forests and other lands administered by it, including the furnishing, at the airbase, of facilities, equipment, materials and the preparation, mixing and loading into aircraft, with authority to renew any contract for such purpose annually, not more than twice, without additional advertising."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

CONFERENCE REPORT ON S. 3685, EMERGENCY HOME FINANCE ACT OF 1970

Mr. PATMAN submitted the following conference report (H. Rept. No. 91-1311) and statement on the bill (S. 3685), to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 91-1311)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3685) to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Emergency Home Finance Act of 1970".

TITLE I—REDUCTION OF INTEREST CHARGES FOR MEMBERS OF THE FEDERAL HOME LOAN BANK SYSTEM

SEC. 101. (a) There is authorized to be appropriated not to exceed $250,000,000, without fiscal year limitation, to be used by the Federal Home Loan Bank Board for disbursement to Federal home loan banks for the purpose of adjusting the effective interest charged by such banks on short-term and long-term borrowing to promote an orderly flow of funds into residential construction. The disbursement of sums appropriated hereunder shall be made under such terms and conditions as may be prescribed by the Board to assure that such sums are used to assist in the provision of housing for low- and middle-income families, and that such families share fully in the benefits resulting from the disbursement of such sums. No member of a Federal home loan bank shall use funds the interest charges on which have been adjusted pursuant to the provisions of this section to make any loan, if—

(1) the effective rate of interest on such loan exceeds the effective rate of interest on such funds payable by such member by a percentile amount which is in excess of such amount as the Board determines to be appropriate in furtherance of the purposes of this section; or

(2) the principal obligation of any such loan which is secured by a mortgage on a residential structure exceeds the dollar limitations on the maximum mortgage amount, in effect on the date the mortgage was originated, which would be applicable if the mortgage was insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act.

(b) Not more than 20 per centum of the sums appropriated pursuant to subsection (a) shall be disbursed in any one Federal home loan bank district.

TITLE II—AUTHORITY FOR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION TO PROVIDE A SECONDARY MARKET FOR CONVENTIONAL MORTGAGES

SECTION 201. (a) Section 302(b) of the National Housing Act is amended—

(1) by inserting "(1)" immediately following "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) For the purposes set forth in section 301(a), and with the approval of the Secretary of Housing and Urban Development, the corporation is authorized, pursuant to commitments or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in mortgages which are not insured or guaranteed as provided in paragraph (1) (such mortgages referred to hereinafter as 'conventional mortgages'). No such purchase of a conventional mortgage shall be made if the outstanding principal balance of the mortgage at the time of purchase exceeds 75 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 75 per-centum is guaranteed or insured by a qualified private insurer as determined by the corporation. The corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation which were originated more than one year prior to the date of purchase does not exceed 10 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation. The corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it which are comparable to the limitations which would be applicable if the mortgage were insured by the Secretary of Housing and Urban Development under section 203 (b) or 207 of the National Housing Act."

(b) Section 5202 of the Revised Statutes (12 U.S.C. 82) is amended by adding at the end thereof the following:

"Eleventh. Liabilities incurred in connection with sales of mortgages, or participations therein, to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.".

TITLE III—FEDERAL HOME LOAN MORTGAGE CORPORATION

SHORT TITLE

SEC. 301. This title may be cited as the "Federal Home Loan Mortgage Corporation Act".

DEFINITIONS

SEC. 302. As used in this title—

(a) The term "Board of Directors" means the Board of Directors of the Corporation.

(b) The term "Corporation" means the Federal Home Loan Mortgage Corporation created by this title.

(c) The term "law" includes any law of the United States or of any State (including any rule of law or of equity).

(d) The term "mortgage" includes such classes of liens as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby, and includes interests in mortgages.

(e) The term "organization" means any corporation, partnership, association, business trust, or business entity.

(f) The term "prescribe" means to prescribe by regulations or otherwise.

(g) The term "property" includes any property, whether real, personal, mixed, or otherwise, including without limitation on the generality of the foregoing choses in action and mortgages, and includes any interest in any of the foregoing.

(h) The term "residential mortgage" means a mortgage which (1) is a mortgage on real estate, in fee simple or under a leasehold having such term as may be prescribed by the Corporation, upon which there is located a structure or structures designed in whole or in part for residential use, or which comprises or includes one or more condominium units or dwelling units (as defined by the Corporation) and (2) has such characteristics and meets such requirements as to amount, term, repayment provisions, number of families, status as a first lien on such real estate, and otherwise, as may be prescribed by the Corporation.

(i) The term "conventional mortgage" means a mortgage other than a mortgage as to which the Corporation has the benefit of any guaranty, insurance or other obligation by the United States or a State or an agency or instrumentality of either.

(j) The term "security" has the meaning ascribed to it by section 2 of the Securities Act of 1933.

(k) The term "State", whether used as a noun or otherwise, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

ESTABLISHMENT OF THE CORPORATION

SEC. 303. (a) There is created the Federal Home Loan Mortgage Corporation, which shall be a body corporate and shall be under the direction of a Board of Directors composed of the members of the Federal Home Loan Bank Board, who shall serve as such without additional compensation. The Chairman of the Federal Home Loan Bank Board shall be the Chairman of the Board of Directors. The principal office of the Corporation shall be in the District of Columbia or at such other place as the Corporation may from time to time prescribe. The Corporation shall be a member of each Federal home loan bank and, except as otherwise provided by the Federal Home Loan Bank Board, shall have all the benefits, powers, and privileges, and in the exercise thereof shall be subject to all liabilities, conditions, and limitations (except those relating to Federal home loan bank stock and subscriptions thereto and those under provisions of the Federal Home Loan Bank Act preceding section 9) which are provided by the terms of such Act or other Federal statute for members of any such bank.

(b) The Corporation shall have power (1) to adopt, alter, and use a corporate seal; (2) to have succession until dissolved by Act of Congress; (3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this title; (4) to make and perform contracts, agreements, and commitments; (5) to prescribe and impose fees and charges for services by the Corporation; (6) to settle, adjust, and compromise, and with or without consideration, or benefit to the Corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation; (7) to sue and be sued, complain and defend, in any State, Federal, or other court; (8) to acquire, take, hold, and own, and to deal with and dispose of any property; and (9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents, all without regard to any other law except as may be provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of this sentence. Nothing in this title or any other law shall be construed to prevent the appointment, employment, and provision for compensation and benefits as an officer, employee, attorney, or agent of the Corporation, of any officer, employee, attorney, or agent of any department, establishment, or corporate or other instrumentality of the Government, including any Federal home loan bank or member thereof. The Corporation, with the consent of any such department, establishment, or instrumentality, including any field services thereof, may utilize and act through any such department, establishment, or instrumentality and may avail itself of the use of information, services, facilities, and personnel thereof, and may pay compensation therefor, and all of the foregoing are hereby authorized to provide the same to the Corporation as it may request.

(c) Funds of the Corporation may be invested in such investments as the Board of Directors may prescribe. Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Corporation there is outstanding a designation by the Secretary of the Treasury as a general or other depositary of pubic money, may be designated by the Corporation as a depositary or custodian or as a fiscal or other agent of the Corporation, and is hereby authorized to act as such depositary, custodian, or agent. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depositary of public money, under such regulations as may be prescribed by the Secretary of the Treasury, and may also be employed as fiscal or other agent of the United States, and it shall perform all such reasonable duties as such depositary or agent as may be required of it.

(d) The Corporation, including its franchise, activities, capital, reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. The provisions of this subsection shall be applicable without regard to any other law, including without limitation on the generality of the foregoing section 3301 of the Internal Revenue Code of 1954, except laws hereafter enacted by Congress expressly in limitation of this subsection.

(e) Notwithstanding section 1349 of title 28 of the United States Code or any other provision of law, (1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28; (2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions without regard to amount or value; and (3) any civil or other action, case or controversy in a court of a State, or in any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation, without the giving of any bond or security, to the district court of the United States for the district and division embracing the place where the same is pending, or, if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

CAPITAL STOCK

SEC. 304. (a) The capital stock of the Corporation shall consist of nonvoting common stock which shall be issued only to Federal home loan banks and shall have such par value and such other characteristics as the Corporation prescribes. Stock of the Corporation shall be evidenced in such manner and shall be transferable only to such extent, to such transferees, and in such manner, as the Corporation prescribes.

(b) The Federal home loan banks shall from time to time subscribe, at such price not less than par as the Corporation shall from time to time fix, for such amounts of common stock as the Corporation prescribes, and such banks shall pay therefor at such time or times and in such amount or amounts as may from time to time be fixed by call of the Corporation. The amount of the payments for which such banks may be obligated under such subscriptions shall not exceed a cumulative total of $100,000,000.

(c) Subscriptions of the respective Federal home loan banks to such stock shall be allocated by the Corporation.

(d) The Corporation may retire at any time all or any part of the stock of the Corporation, or may call for retirement all or any part of the stock of the Corporation by (1) publishing a notice of the call in the Federal Register or providing such notice in such other manner as the Corporation may determine to be appropriate, and (2) depositing with the Treasurer of the United States, for the purpose of such retirement, funds sufficient to effect such retirement. No call for the retirement of any stock shall be made, and no stock shall be retired without call, if immediately after such action, the total of the stock not called for retirement and of the reserves and surplus of the Corporation would be less than $100,000,000. The retirement of stock shall be at the par value thereof, or at the price at which such stock was issued if such price is greater than par value. No declaration of any dividend on stock of the Corporation shall be effective with respect to stock which at the time of such declaration is the subject of an outstanding retirement call the effective date of which has arrived.

MORTGAGE OPERATIONS

SEC. 305. (a)(1) The Corporation is authorized to purchase, and make commitments to purchase, residential, mortgages from any Federal home loan bank, the Federal Savings and Loan Insurance Corporation, any member of a Federal home loan bank, or any other financial institution the deposits or accounts of which are insured by an agency of the United States, and to hold and deal with, and sell or otherwise dispose of, pursuant to commitments or otherwise, any such mortgage or interest therein. The operations of the Corporation under this section shall be confined so far as practicable to residential mortgages which are deemed by the Corporation to be of such quality, type, and class as to meet generally the purchase standards imposed by private institutional mortgage investors.

(2) No conventional mortgage shall be purchased under this section if the outstanding principal balance of the mortgage at the time of purchase exceeds 75 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the Corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the Corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 75 per centum is guaranteed or insured by a qualified private insurer as determined by the Corporation. The Corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance wtih the requirements of clause (A) of such sentence. The Corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation which were originated more than one year prior to the date of purchase does not exceed 10 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation. The Corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it which are comparable to the limitations which would be applicable if the mortgage were insured by the Secretary of Housing and Urban Development under section 203 (b) or 207 of the National Housing Act.

(3) The sale or other disposition by the Corporation of a mortgage under this section may be with or without recourse, and shall be upon such terms and conditions relating to resale, repurchase, guaranty, substitution, replacement, or otherwise as the Corporation may prescribe.

(b) Nothwithstanding any other law, authority to enter into and to perform and carry out any transactions or matter referred to in this section is conferred on any Federal home loan bank, the Federal Savings and Loan Insurance Corporation, any Federal savings and loan association, any Federal home loan bank member, and any other financial institution the deposits or accounts of which are insured by an agency of the United States to the extent that Congress has the power to confer such authority.

OBLIGATIONS AND SECURITIES

SEC. 306. (a) The Corporation is authorized, upon such terms and conditions as it may prescribe, to borrow, to give security, to pay interest or other return, and to issue notes, debentures, bonds, or other obligations, or other securities, including without limitation mortgage-backed securities guaranteed by the Government National Mortgage Association in the manner provided in section 306(g) of the National Housing Act. Any obligation or security of the Corporation shall be valid and binding notwithstanding that a person or persons purporting to have executed or attested the same may have died, become under disability, or ceased to hold office or employment before the issuance thereof.

(b) The Corporation may, by regulation or by writing executed by the Corporation, establish prohibitions or restrictions upon the creation of indebtedness or obligations of the Corporation or of liens or charges upon property of the Corporation, including after-acquired property, and create liens and charges, which may be floating liens or charges, upon all or any part or parts of the property of the Corporation, including after-acquired property. Such prohibitions, restrictions, liens, and charges shall have such effect, including without limitation on the generality of the foregoing such rank and priority, as may be provided by regulations of the Corporation or by writings executed by the Corporation, and shall create causes of action which may be enforced by action in the United States District Court for the District of Columbia or in the United States district court for any judicial district in which any of the property affected is located. Process in any such action may run to and be served in any judicial district or any place subject to the jurisdiction of the United States.

(c) The Federal home loan banks shall, to such extent as the Board of Directors may prescribe, guarantee the faithful and timely performance by the Corporation of any obligation or undertaking of the Corporation on or with respect to any security (which term as used in this sentence shall not include the capital stock referred to in section 304 of this title).

(d) The provisions of this section and of any restriction, prohibition, lien, or charge referred to in subsection (b) shall be fully

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effective notwithstanding any other law, including without limitation on the generality of the foregoing any law of or relating to sovereign immunity or priority.

MISCELLANEOUS PROVISIONS

Sec. 307. (a) All rights and remedies of the Corporation, including without limitation on the generality of the foregoing any rights and remedies of the Corporation on, under, or with respect to any mortgage or any obligation secured thereby, shall be immune from impairment, limitation, or restriction by or under (1) any law (except laws enacted by the Congress expressly in limitation of this sentence) which becomes effective after the acquisition by the Corporation of the subject or property on, under, or with respect to which such right or remedy arises or exists or would so arise or exist in the absence of such law, or (2) any administrative or other action which becomes effective after such acquisition. The Corporation shall be entitled to all immunities and priorities, including without limitation on the generality of the foregoing all immunities and priorities under any such law or action, to which it would be entitled if it were the United States or if it were an unincorporated agency of the United States.

(b) The financial transactions of the Corporation shall be subject to audit by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The Corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.

PENAL PROVISION

Sec. 308. (a) Except as expressly authorized by statute of the United States, no individual or organization (except the Corporation) shall use the term "Federal Home Loan Mortgage Corporation", or any combination of words including the words "Federal", and "Home Loan", and "Mortgage", as a name or part thereof under which any individual or organization does any business, but this sentence shall not make unlawful the use of any name under which business is being done on the date of the enactment of this Act. No individual or organization shall use or display (1) any sign, device, or insigne prescribed or approved by the Corporation for use or display by the Corporation or by members of the Federal home loan banks, (2) any copy, reproduction, or colorable imitation of any such sign, device, or insigne, or (3) any sign, device, or insigne reasonably calculated to convey the impression that it is a sign, device, or insigne used by the Corporation or prescribed or approved by the Corporation, contrary to regulations of the Corporation prohibiting, or limiting or restricting, such use or display by such individual or organization. An organization violating this subsection shall for each violation be punished by a fine of not more than $10,000. An officer or member of an organization participating or knowingly acquiescing in any violation of this subsection shall be punished by a fine of not more than $5,000 or imprisonment for not more than one year, or both. An individual violating this subsection shall for each violation be punished as set forth in the sentence next preceding this sentence.

(b) The provisions of sections 215, 607, 658, 1011, and 1014 of title 18 of the United States Code are extended to apply to and with respect to the Corporation, and for the purposes of such section 658 the term "any property mortgaged or pledged", as used therein, shall without limitation on its generality include any property subject to mortgage, pledge, or lien acquired by the Corporation by assignment or otherwise.

(c) The term "bank examiner or assistant examiner", as used in section 655 of such title 18, shall include any examiner or assistant examiner who is an officer or employee of the Corporation and any person who makes or participates in the making of any examination of or for the Corporation.

(d) The term "bank", as used in subsection (f) of section 2113 of such title 18, shall be deemed to include the Corporation, and any building used in whole or in part by the Corporation shall be deemed to be used in whole or in part as a bank, within the meaning of such section 2113.

(e) The terms "agency" and "agencies" shall be deemed to include the Corporation wherever used with reference to an agency or agencies of the United States in sections 201, 202, 203, 205, 207, 208, 209, 286, 287, 371, 506, 595, 602, 641, 654, 701, 872, 1001, 1002, 1016, 1017, 1361, 1505, and 2073 of such title 18. Any officer or employee of the Corporation shall be deemed to be a person mentioned in section 602 of such title 18 within the meaning of sections 603 and 606 of such title.

(f) The terms "obligation or other security" and "obligations or other securities", wherever used (with or without the words "of the United States") in sections 471 to 476, both inclusive, and section 492 of such title 18, are extended to include any obligation or other security of or issued by the Corporation. Any reference in sections 474, 494, 495, and 642 of such title 18 to the United States Code, except in a territorial sense, or to the Secretary of the Treasury is hereby extended to include the Corporation. Section 477 of such title 18 is extended to apply with respect to section 476 of such title as extended by the first sentence of this subsection (f), and for this purpose the term "United States" as used in such section 476 shall include the Corporation.

TERRITORIAL APPLICABILITY

Sec. 309. Notwithstanding any other law, this title shall be applicable to the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

CONSTRUCTION AND SEPARABILITY

Sec. 310. Except as otherwise provided in this title, or as otherwise provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of provisions of this title, the powers and junctions of the Corporation and of the Board of Directors shall be exercisable, and the provisions of this title shall be applicable and effective, without regard to any other law. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remainder of this title, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE IV—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION SPECIAL ASSISTANCE FUNDS

Sec. 401. (a) Section 305(c) of the National Housing Act is amended by striking out "by $500,000,000 on July 1, 1969" and inserting in lieu thereof "by $2,000,000,000 on July 1, 1969".

(b) Section 305(g) of such Act is amended—

(1) by striking out "$2,500,000,000" and inserting in lieu thereof "$1,750,000,000";

(2) by striking out "at par"; and

(3) by striking out in the first sentence all that follows the word "exceed" and inserting in lieu thereof "the dollar limitation on maximum principal obligation that would be applicable to such mortgage if insured under section 235(i) of the National Housing Act."

Sec. 402. The second sentence of section 302(b)(1) of the National Housing Act (as redesignated by section 201 of this Act) is amended by inserting after "(1)" the following: "is insured under section 236 or".

TITLE V—FUNDS FOR FINANCING MIDDLE-INCOME HOUSING

FINDINGS AND PURPOSE

Sec. 501. The Congress finds that—

(1) periodic episodes of monetary stringency and high interest rates make it extremely difficult for families of middle income to obtain mortgage credit at rates which they can afford to pay;

(2) periods of monetary stringency and high interest rates are directly related to the Government's monetary and fiscal policies;

(3) a disproportionate share of the burden of sustaining these anti-inflationary policies of the Government falls on families of middle income who are buyers or prospective buyers of homes; and

(4) the Government has a responsibility to lessen the disproportionate burden which such families bear as a result of such policies. It is the purpose of this title to provide, during periods of high mortgage interest rates, a source of mortgage credit for such families which is within their financial means.

MORTGAGE CREDIT FOR MIDDLE-INCOME FAMILIES

Sec. 502. Title II of the National Housing Act is amended by adding a new section 243 as follows:

"HOMEOWNERSHIP FOR MIDDLE-INCOME FAMILIES

"Sec. 243. (a) Whenever he determines such action to be necessary in furtherance of the purposes set forth in section 501 of the Emergency Home Finance Act of 1970, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of families of middle income. The assistance shall be accomplished through interest subsidy payments to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation (hereinafter referred to as 'the investor') with respect to mortgages meeting the special requirements specified in this section and made after the date of enactment of the Emergency Home Finance Act of 1970.

"(b) To qualify for assistance payments a middle-income family shall be a mortgagor under a mortgage which is (1) insured under subsection (j) of this section, (2) guaranteed under chapter 37 of title 38, United States Code, or (3) a conventional mortgage meeting the requirements of subsection (j)(3) of this section. In addition to the foregoing requirement, the Secretary may require that the mortgagor have an income, at the time of acquisition of the property, of not more than the median income for the area in which the property is located, as determined by the Secretary, with appropriate adjustments for smaller and larger families.

"(c) The interest subsidy payments authorized by this section shall cease when (1) the mortgagor no longer occupies the property which secures the mortgage, (2) the mortgages are no longer held by the investor, or (3) the rate of interest paid by the mortgagor reaches the rate of interest specified on the mortgage.

"(d)(1) Interest subsidy payments shall be on mortgages on which the mortgagor makes monthly payments towards principal and interest equal to an amount which would be required if the mortgage bore an effective interest rate of 7 per centum per annum including any discounts or charges in the nature of points or otherwise (but not including premiums, if any, for mortgage insurance) or such higher rate (not to exceed the rate specified in the mortgage), which the mortgagor could pay by applying at least 20 per centum of his income towards homeownership expenses. As used in this subsection, the term 'monthly homeownership expense' includes the monthly payment for principal, interest, mortgage insurance premium, insurance, and taxes due under the mortgage.

"(2) In addition to the mortgages eligible for assistance under paragraph (1) of this subsection, the Secretary is authorized to make periodic assistance payments on behalf of cooperative members of middle income. Such assistance payments shall be accomplished through interest subsidy payments to the investor with respect to mortgages insured (subsequent to the effective date of this section) under section 213 which are executed by cooperatives, the membership in which is limited to middle-income families. For purposes of this paragraph—

"(1) the term 'mortgagor', when used in subsection (b) in the case of a mortgage covering a cooperative housing project, means a member of the cooperative;

"(2) the term 'acquisition of the property', when used in subsection (b), means the family's application for a dwelling unit; and

"(3) in the case of a cooperative mortgagor, subsection (c) shall not apply and the interest subsidy payments shall cease when the mortgage is no longer held by the investor or the cooperative fails to limit membership to families whose incomes at the time of their application for a dwelling unit meets such requirements as are laid down by the Secretary pursuant to subsection (b).

"(e) The interest subsidy payments shall be in an amount equal to the difference, as determined by the Secretary, between the total amount of interest per calendar quarter received by the investor on mortgages assisted under this section and purchased by it and the total amount of interest which the investor would have received if the yield on such mortgages was equal to the sum of (1) the average costs (expressed as an annual percentage rate) to it of all borrowed funds outstanding in the immediately preceding calendar quarter, and (2) such per centum per annum as will provide for administrative and other expenses of the investor and a reasonable economic return, as determined by the Secretary to be necessary and appropriate taking into account the purpose of this section to provide additional mortgage credit at reasonable rates of interest to middle-income families.

"(f) Procedures shall be adopted by the Secretary for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of the mortgagor's payments pursuant to subsection (d).

"(g) The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

"(h)(1) There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make interest subsidy payments under contracts entered into under this section. The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $105,000,000 during the first year of such contracts prior to July 1, 1971, which amount shall be increased by an additional $105,000,000 during the first year of an additional number of such contracts on July 1 of each of the years 1971 and 1972.

"(2) No interest subsidy payments under this section shall be made after June 30, 1973, except pursuant to contracts entered into on or before such date.

"(i) In determining the income of any family for the purposes of this section, income from all sources of each member of the family in the household shall be included, except that the Secretary shall exclude income earned by any minor person.

"(j)(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

"(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements of section 221(d)(2) or 234(c), except as such requirements are modified by this subsection: *Provided, however,* That in the discretion of the Secretary 25 per centum of the authority conferred by this section and subject to all the terms thereof may be used for mortgages on existing housing.

"(3) A mortgage to be insured under this section shall—

"(i) involve a single-family dwelling which has been approved by the Secretary prior to the beginning of construction, or a one-family unit in a condominium project (together with an undivided interest in the comon areas and facilities serving the project) which is released from a multifamily project, the construction of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit shall have had no previous occupant other than the mortgagor;

"(ii) involve a single-family dwelling whose appraised value, as determined by the Secretary, is not in excess of $20,000 (which amounts may be increased by not more than 50 per centum in any geographical area where the Secretary authorizes an increase on the absis of a finding that the cost level so requires).

"(iii) be executed by a mortgagor who shall have paid in cash or its equivalent on account of the property (A) 3 per centum of the first $15,000 of the appraised value of the property, (B) 10 pre centum of such value in excess of $15,000 but not in excess of $25,000, and (C) 20 per centum of such value in excess of $25,000."

CONFORMING AMENDMENTS

SEC. 503. Section 238 of the National Housing Act is amended by—

(1) striking out "section 235(i), 235(j)(4), or 237" each place it appears in subsection (a) and inserting in lieu thereof "section 235(i), 235(j)(4), 237, or 243"; and

(2) striking out "235, 236, and 237" each place it appears in subsection (b) and inserting in lieu thereof "235, 236, 237, and 243".

AMENDMENT TO THE FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT

SEC. 504. Section 304(a)(1) of the National Housing Act is amended by adding at the end thereof the following: "Nothing in this title shall prohibit the corporation from purchasing, and making commitments to purchase, any mortgage wtih respect to which the Secretary of Housing and Urban Development has entered into a contract with the corporation to make interest subsidy payments under section 502 of the Emergency Home Finance Act of 1970."

TITLE VI—FLEXIBLE INTEREST RATE AUTHORITY

SEC. 601. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, is amended by striking out "October 1, 1970" and inserting in lieu thereof "January 1, 1972".

TITLE VII—MISCELLANEOUS

SETTLEMENT COSTS IN THE FINANCING OF FEDERAL HOUSING ADMINISTRATION AND VETERANS' ADMINISTRATION ASSISTED HOUSING

SEC. 701. (a) With respect to housing built, rehabilitated, or sold with assistance provided under the National Housing Act or under chapter 37 of title 38, United States Code, the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs are respectively authorized and directed to prescribe standards governing the amounts of settlement costs allowable in connection with the financing of such housing in any such area. Such standards shall—

(1) be established after consultation between the Secretary and the Administrator;

(2) be consistent in any area for housing assisted under the National Housing Act and housing assisted under chapter 37 of title 38, United States Code; and

(3) be based on the Secretary's and the Administrator's estimates of the reasonable charge for necessary services involved in settlements for particular classes of mortgages and loans.

(b) The Secretary and the Administrator shall undertake a joint study and make recommendations to the Congress not later than one year after the date of enactment of this Act with respect to legislative and administrative actions which should be taken to reduce mortgage settlement costs and to standardize these costs for all geographic areas.

EMERGENCY RELIEF FROM INTEREST RATE CONFLICT BETWEEN FEDERAL LAW AND STATE LAW

SEC. 702. Notwithstanding any other law, from the date of enactment of this title until July 1, 1972, loans to local public agencies under title I of the Housing Act of 1949 and to local public housing agencies under the United States Housing Act of 1937 may, when determined by the Secretary of Housing and Urban Development to be necessary because of interest rate limitations of State laws, bear interest at a rate less than the applicable going Federal rate but not less than 6 per centum per annum.

TREASURY BORROWING AUTHORITY FOR NEW COMMUNITIES PROGRAM

SEC. 703. Section 407(a) of the Housing and Urban Development Act of 1968 is amended by adding at the end thereof the following: "The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by this title. The obligations issued under the subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this subsection, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under such Act are

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extended to include purchases of the Secretary's obligations hereunder."

REAL ESTATE LOANS BY NATIONAL BANKS

Sec. 704. Section 24 of the Federal Reserve Act (12 U.S.C. 371) is amended—

(1) by striking out "80 per centum" and "twenty-five years" in clause (3) of the third paragraph and inserting in lieu thereof third sentence of the first paragraph and inserting in lieu thereof "90 per centum" and "thirty years", respectively; and

(2) by striking out "thirty-six months", each place it appears in the first sentence of the third paragraph, and inserting in lieu thereof "sixty months".

EXTENSION OF TIME FOR CONTINUANCE OF CERTAIN ACTIVITIES

Sec. 705. Section 408(c)(2) of the National Housing Act (12 U.S.C. 1730a(c)(2)) is amended by striking "two" and inserting in lieu thereof "five".

STATE-WIDE LENDING FOR FEDERAL SAVINGS AND LOAN ASSOCIATIONS

Sec. 706. Section 5(c) of the Home Owner's Loan Act of 1933 is amended (1) by adding after "their home office" in the first sentence the following: "or within the State in which such home office is located"; and (2) by substituting the word "section" for the word "proviso" used in the last clause of the second proviso.

RESERVES OF INSURED INSTITUTIONS

Sec. 707. Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended by inserting after "*Provided*, That" the second place the term appears the following: "the Corporation may extend the twenty-year limitation hereinabove prescribed by not more than ten years in the case of any insured institution if it determines such action to be necessary to meet mortgage needs: *Provided further*, That".

SAVINGS AND LOAN ASSOCIATION AS PENSION TRUSTEES

Sec. 708. Section 5(c) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by inserting before the next to the last paragraph a new paragraph as follows:

"Any such association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954, if the funds of such trust are invested only in savings accounts or deposits in such association or in obligations or securities issued by such association. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this paragraph."

MAXIMUM LOAN ON SINGLE-FAMILY DWELLING

Sec. 709. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by striking out "$40,000" in the first proviso and inserting in lieu thereof "$45,000".

COLLEGE HOUSING GRANT AUTHORIZATION

Sec. 710. Section 401(f)(2) of the Housing Act of 1950 is amended by striking out all that follows "increased by" and inserting in lieu thereof "$6,300,000 on July 1, 1970".

NATIONAL HOUSING PARTNERSHIPS

Sec. 711. Title IX of the Housing and Urban Development Act of 1968 is amended by adding after section 911 the following new section:

"STATE REGULATION

"Sec. 912. Nothing contained in this title shall preclude a State or other local jurisdiction from imposing, in accordance with the laws of such State or other local jurisdiction, any valid nondiscriminatory tax, obligation, or regulation on the partnership as a taxable and or legal entity, but no limited partner of the partnership not otherwise subject to taxation or regulation by or judicial process of a State or other local jurisdiction shall be subject to taxation or regulation by or subject to or denied access to judicial process of such State or other local jurisdiction, or be so subject or denied access to any greater extent, because of activities of the corporation or partnership within such State or other local jurisdiction."

And the House agree to the same.

John Sparkman,
William Proxmire,
Harrison A. Williams, Jr.,
Wallace F. Bennett,
John Tower,
Managers on the Part of the Senate.
Wright Patman,
William A. Barrett,
Leonor K. Sullivan,
Henry S. Reuss,
William B. Widnall,
Florence P. Dwyer,
Albert W. Johnson,
Managers on the Part of the House.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3685) to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House struck out all of the Senate bill after the enacting clause and inserted a substitute amendment. The committee of conference has agreed to a substitute for both the House amendment and the Senate bill. Except for technical, clarifying, and conforming changes, the following statement explains the differences between the House amendment and the substitute agreed to in conference.

TITLE II—AUTHORITY FOR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION TO PROVIDE A SECONDARY MARKET FOR CONVENTIONAL MORTGAGES

HUD regulation of FNMA conventional mortgage activities

The House amendment prohibited FNMA from offering securities to finance conventional secondary market operations when the Secretary of HUD determined that such borrowing would unduly inhibit the financing of GNMA special assistance functions. The Senate bill contained no similar provision. No comparable provision is contained in the conference substitute. However, the conferees intend that in approving FNMA borrowings under the FNMA Charter Act, the Secretary of HUD should exercise his authority to prohibit FNMA borrowings at any time that such borrowings for conventional secondary market operations would unduly inhibit the financing of GNMA special assistance functions.

TITLE III—FEDERAL HOME LOAN MORTGAGE CORPORATION

Tax exemption for corporation obligations

The House amendment provided that income derived from notes, bonds, debentures, and obligations of the Corporation would be exempt from state and local taxation. The Senate bill contained no such provision and none is contained in the conference substitute.

HUD regulation of conventional mortgage activities

The House amendment prohibited the Federal Home Loan Mortgage Corporation from offering securities to finance conventional secondary market operations when the Secretary of HUD determined that such borrowings would unduly inhibit the financing of GNMA special assistance functions. The Senate bill contained no such provision and none is contained in the conference substitute. However, the conferees intend that, in approving borrowings for the home loan bank system, the Secretary of the Treasury should exercise his authority to prohibit FHLBB borrowings at any time that FHLBB borrowings for conventional secondary market operations would unduly inhibit the financing of GNMA special assistance functions.

GAO audit budget review of conventional mortgage activities

The House amendment contained provisions eliminating GAO audit authority over the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board, eliminating the existing requirement that the FSLIC and the FHLBB submit an annual budget to the Bureau of the Budget, and removing the application of Federal Civil Service laws to employees of the FSLIC and the FHLBB. The Senate bill contained no such provision and none is contained in the conference substitute.

The conferees understand that both the FHLBB and the FSLIC are encountering difficulty in obtaining and keeping competent employees necessary for the examination and supervision of savings and loan associations. The conferees urge the Chairman of the Federal Home Loan Bank Board to request from the appropriate committees of Congress additional funds and higher employee classification levels in order to upgrade and strengthen examination and supervision functions. The conferees strongly urge the appropriate committees of Congress to give full and favorable consideration to such a request.

The conferees believe that private mortgage insurance can play an important role in developing an effective secondary market in conventional mortgage loans. We urge FNMA and the Federal Home Loan Mortgage Corporation to encourage their participation, under terms and conditions that require sound and ethical practices. Specifically, the conferees expect both FNMA and the FHLMC to take necessary steps by the issuance of rules and regulations and appropriate examination procedures to assure the prohibition of such conflict of interest practices as payment of rebates and commissions or other forms of compensation to officers, directors, or employees of mortgage lenders or groups of mortgage lenders.

TITLE IV—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION SPECIAL ASSISTANCE FUNDS

The Senate bill reallocated $750 million in GNMA special assistance funds from the section 305(c) Presidential authority. The House amendment increased by $1.5 billion the GNMA special assistance funds under section 305(c). The conference substitute retains both provisions, with an amendment reducing the $1.5 billion new 305(c) authority in the House amendment to $750 million.

Removal of par purchase requirement

The Senate bill removed the requirement in section 305(g) of the FNMA Charter Act that mortgage purchases under the Congressional program be made at par. The House amendment contained no such provision. The conference substitute contains the Senate provision.

Increase in section 236 mortgage limits

The Senate bill permitted GNMA to purchase FHA section 236 mortgages in excess of the existing $22,000 per unit statutory limit where such mortgages have the benefit of a local abatement program. The House amendment contains no such provision. The conference substitute contains the Senate provision.

TITLE V—FUNDS FOR MIDDLE-INCOME HOUSING

The Senate bill authorized a new interest subsidy program for single-family housing for middle-income families. Housing units assisted under the program must have an appraised value of not more than $20,000 (or up to $30,000 in high-cost areas determined by the HUD Secretary), and eligible families would be limited to those whose income is not more than the median for the area in which the property is located. HUD would subsidize interest rates in order to achieve an effective borrowing rate as low as 7 percent per year, or a higher rate as can be supported by payment of at least 20 percent of the mortgagor's income. $60 million would be authorized annually for subsidy payments for a 3-year period, with not more than 10 percent of the funds being available for existing housing.

The House amendment contained no such provisions.

The conference substitute contains the Senate provisions, with the following amendments:

(1) the interest subsidy payments are also made available for the financing of cooperative housing;

(2) conventional mortgages meeting the requirements of mortgages insured under the new section 243 program and mortgages guaranteed by the Veterans Administration are made eligible for the interest subsidy payments;

(3) HUD subsidy payments would include an amount adequate to cover the administrative and other expenses of the mortgage investor (FNMA and FHMLC) and a reasonable economic return, taking into account the purpose of the title to provide additional mortgage credit at reasonable rates of interest to middle-income families;

(4) 25 percent, rather than 10 percent, of the funds available under the title may be used to subsidize interest payments on existing housing; and

(5) $105 million, rather than $60 million, would be authorized to be appropriated annually for a three-year period.

TITLE VI—FLEXIBLE INTEREST RATE AUTHORITY

Extension of HUD authority to establish maximum interest rate on FHA-VA mortgages

The Senate bill, among other things, extended to January 1, 1972, the authority of the Secretary of HUD (under P.L. 90–301) to set maximum interest rates on FHA–VA mortgages as necessary to meet mortgage market conditions. The House amendment extended this authority to October 1, 1971. The conference substitute contains the Senate provision, only with respect to the extension of the Secretary's authority to set maximum interest rates on FHA–VA mortgages.

TITLE VII—COMMERCIAL BANK RESERVES—INVESTMENT IN HOUSING

The House amendment provided discretionary authority to the Board of Governors of the Federal Reserve System to permit member banks to use a portion of their required reserves as investments in obligations specified by the Board which are issued by Federal agencies for the purpose of directly or indirectly financing the construction or acquisition of residential real property. The Senate bill contained no such provision and none is contained in the conference substitute.

TITLE VIII—MISCELLANEOUS

Lending limit on single-family homes

The Senate bill removed the statutory lending limit of $40,000 per single family dwelling for savings and loan associations. The House amendment contained no comparable provision. The conference substitute increases the lending limit for savings and loan associations from $40,000 to $45,000 per single family dwelling.

Collateral security for public funds

The House amendment authorized savings and loan associations to provide collateral security for deposits of public funds. The Senate bill contained no such provision and none is contained in the conference substitute.

The House conferees were informed by the Senate conferees that in the opinion of the Home Loan Bank Board, existing law was adequate to authorize savings and loan associations to provide collateral security for deposits of public funds. The conferees accepted this opinion and consequently agreed that statutory language would not be necessary. In any case, the conferees expect the FHLBB to move expeditiously to implement this desirable authority.

Savings and loan holding comany service corporations

The House amendment authorized savings and loan holding company subsidiaries to make loans to their affiliates for the purpose of financing low- and moderate-income housing. The Senate bill contained no such provision and none is contained in the conference report.

Extension of time for establishing reserves

The House bill increased from 20 to 30 years the time that savings and loan associations may be given to build up their reserves to 5 percent. The Senate bill contained no such provision. The conference substitute contains the House provision with an amendment making clear that increases from 20 to up to 30 years in the case of any insured association may be given only in exceptional cases where the FSLIC determines the extension to be necessary to meet mortgage credit needs.

National bank real estate loans

The Senate bill authorized national banks to make 90 percent 30-year mortgage loans and 60-month construction loans (instead of 80 percent 25-year mortgages and 36-month construction loans). The House amendment contained no such provision. The conference substitute contains the Senate provision.

Wright Patman,
William A. Barrett,
Leonor K. Sullivan,
Henry S. Reuss,
William B. Widnall,
Florence P. Dwyer,
Albert W. Johnson,
Managers on the Part of the House.

ADDITIONAL LEGISLATIVE PROGRAM

(Mr. ALBERT asked and was given permission to address the House for 1 minute.)

Mr. ALBERT. Mr. Speaker, I take this time to advise the House that after consultation with the distinguished minority leader, the distinguished chairman of the Committee on Agriculture, Mr. Poage, and the distinguished ranking Republican member, Mr. Belcher, we are adding to the program for Tuesday, following the consideration of the Department of Labor and the Department of Health, Education, and Welfare appropriation bill for 1971, the bill (S. 3978) to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971, which will be considered under an open rule with 1 hour of general debate.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. ALBERT. I am glad to yield to the distinguished gentleman from California.

Mr. SISK. Mr. Speaker, I asked the gentleman to yield in order to raise the question that, in view of my understanding of the scheduling for tomorrow, the first order of business is an appropriation bill.

Mr. ALBERT. The gentleman is correct.

Mr. SISK. Which may take 2 hours, and this will come in addition to that. Is that correct?

Mr. ALBERT. Yes. Of course, we will also have the call of the Private Calendar tomorrow.

Mr. SISK. I was wondering, for the purposes of enlightening the membership and so on, in connection with the reorganization bill, if it might not be advisable if we would not attempt to call up the reorganization bill on Tuesday. I have had calls from Members concerned about arranging for their own schedules because of their interest in the reorganization bill. I asked the gentleman to yield merely to raise this question. I am sorry I did not have an opportunity to contact him personally on it.

Mr. ALBERT. If I may say so, the gentleman is familiar with this bill. It is in the nature of a referendum.

Mr. SISK. I am not opposing that bill.

Mr. ALBERT. I cannot answer the gentleman as to how much controversy is involved in it or how long it will take. Of course, the gentleman from California is the manager of the reorganization bill, and if he requests to go over, I am sure, without having consulted with the distinguished Speaker, we would, of course, be desirous of accommodating the gentleman's request.

Mr. SISK. Mr. Speaker, I appreciate the comments of the gentleman.

Mr. ALBERT. If agreeable to the gentleman, can we answer this more definitely later in the day?

Mr. SISK. I think we can discuss it further.

I thank the gentleman for yielding.

TO INCREASE AVAILABILITY OF GUARANTEED HOME LOAN FINANCING FOR VETERANS

Mr. TEAGUE of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 18253) to increase the availability of guaranteed home loan financing for veterans and to increase the income of the national service life insurance fund.

The Clerk read as follows:

H.R. 18253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 1828. Investment of funds of the national service life insurance fund in first mortgage loans guaranteed under section 1810 of this chapter

"(a) When issuing a commitment to guarantee a proposed home mortgage loan under section 1810 of this chapter the Administrator is authorized and is hereby directed to issue, if such is requested by the lender-mortgagee, a non-assignable commitment to purchase the completed loan from such lender-mortgagee. For each such commit-

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ment the lender-mortgagee shall pay a nonrefundable fee of not in excess of one-half per centum of the amount of the commitment. Such commitment shall provide for the purchase of the loan from the lender-mortgagee for the price specified in the commitment (which price shall be specified as a percentage of par) if the lender-mortgagee certifies to the Administrator, subsequent to the disbursement of the loan proceeds but not later than one hundred and eighty days from the date of the Administrator's issuance of the loan guaranty evidence, that—

"(1) it has not been successful in effecting a sale of the loan to a private investor at a price equal to or in excess of that specified in the Administrator's commitment;

"(2) it has not charged or collected from and will not charge or collect from the seller or builder of the property, or from any third person or entity, directly or indirectly, any discount (points) in excess of the difference between the face amount of the loan and the price specified in the Administrator's purchase commitment plus the commitment fee specified in this subsection (a);

"(3) the loan is not in default.

The purchase price specified in any purchase commitment issued under this subsection shall not be less than the average price for which one-hundred-and-eighty-day purchase commitments were auctioned by the Federal National Mortgage Association at the last Association auction preceding the issuance of the Administrator's purchase commitment, but in no instance shall the Administrator agree to pay more than par (unpaid principal balance plus accrued interest) nor less than 96 per centum of par for any loan purchased under this subsection. If an auction of purchase commitments by the Federal National Mortgage Association has not been conducted during the three months immediately preceding the issuance of a commitment under this subsection the price to be specified in such commitment shall be determined by the Administrator but any such price determination by the Administrator shall not exceed par nor be less than 96 per centum of par. Upon the purchase of a guaranteed loan pursuant to a commitment issued under this subsection the Administrator's guaranty of the loan shall continue in full force and effect and shall inure to the investment fund established in subsection (b) of this section. Insofar as practicable the Administrator shall utilize the purchase authorization in this subsection in those localities where the discount levels are determined by him to be substantially in excess of the discounts entailed in the Federal National Mortgage Association average auction prices for its one-hundred-and-eighty-day purchase commitments.

"(b) There is hereby established in the Treasury of the United States a revolving fund to be known as the national service life insurance investment fund (hereinafter called the investment fund). The investment fund shall be available to the Administrator for all operations under this section, including the payment of expenses and losses, except administrative expenses. To provide the Administrator with the funds necessary to purchase loans as the consequence of commitments issued or to be issued pursuant to subsection (a) of this section, the Secretary shall, as authorized by section 720(c) of this title, transfer such funds from the national service life insurance fund (hereinafter called the insurance fund) to the investment fund, except that the aggregate of transfers pursuant to this subsection shall not, in the period between the enactment of this section and June 30, 1974, exceed $5,000,000,000, and such transfers of funds during any fiscal year within such period—

"(1) may not exceed the sum of the investments of the insurance fund which mature in that fiscal year, and

"(2) may not be in an amount greater than authorized in an appropriation Act.

"(c) The Administrator shall utilize the funds transferred to the investment fund as provided in subsection (b) of this section to purchase loans pursuant to commitments issued as provided by subsection (a) of this section. Wherever the Administrator determines that the effective yield on loans eligible for purchase at any given time would be less than that which would be obtained from an alternative investment in special securities of the Treasury Department, he shall direct that sums then available in the investment fund for purchases of loans shall be invested in such special Treasury securities. The insurance fund shall be paid interest on all funds transferred to the investment fund at the same rate as the average interest rate on loans purchased and special Treasury securities held by the investment fund less 1 per centum but in no event less than the average return on the other invested portion of the insurance fund. All moneys received by the Administrator from the repayment of such loans shall be deposited in the investment fund and shall also be available, until June 30, 1975, for the purchase of loans as provided in this section, except that if the Administrator at any time determines that the balance in the investment fund is in excess of anticipated needs for the purchase of loans, he may so notify the Secretary of the Treasury, who shall then transfer such excess to the insurance fund. To assure against the impairment of the insurance fund on account of expenses and losses resulting from the purchase of loans under this section, the Administrator shall establish and retain within the investment fund an adequate reserve for such expenses and losses. All collections of interest on loans purchased and all nonrefundable commitment fees received pursuant to the authority in subsection (a) of this section shall be deposited in the investment fund by the Administrator, who shall, after determining the amount to be retained in the investment fund as a reserve for expenses and losses, periodically notify the Secretary as to the amount of such interest collections available for transfer to the insurance fund and the Secretary thereupon shall effect such transfers. Such transfers shall constitute the payment of interest to the insurance fund. The Administrator is authorized to invest on an interim basis unexpended balances of the investment fund, including the reserve for expenses and losses, in obligations of the United States Government or agencies thereof. After June 30, 1975, all moneys received in the repayment of loans purchased pursuant to subsection (a) of this section and all interest collections on such loans, except for such sums which the Administrator determines to be necessary for retention in the investment fund as a reserve for losses, shall be deposited in the insurance fund. Such deposits shall be continued until the funds transferred to the investment fund by the insurance fund are repaid in full with interest.

"(d) In the event of a deficiency in the investment fund reserves for expenses and losses, the Administrator is hereby authorized and directed to guarantee the investment fund against loss of interest or principal and shall discharge such guarantee by transferring to the investment fund from available funds of the loan guaranty revolving fund such sum or sums as may be necessary to defray such deficiency. Any deficiency in the investment fund defrayed by the loan guaranty revolving fund shall be paid to such fund by the investment fund as soon as such payment becomes feasible.

"(e) The Administrator may sell, and shall offer for sale, any loan purchased under the authority of this section at a price determined by the Administrator, but not less than the price paid by the Administrator to purchase the loan (that is, the percentage of the unpaid balance of the loan), plus accrued interest. The Administrator may, in respect to loans thus sold, guarantee any such loans subject to the same conditions, terms, and limitations as would be applicable in the case of loans guaranteed under section 1810 of this chapter. The proceeds of any such sales shall be deposited in the investment fund.

"(f) Notwithstanding any of the foregoing provisions of this section, the Administrator, when authorized by appropriation Acts so to do, may set aside first mortgage loan assets of the investment fund as the basis for the sale of participation certificates pursuant to and in accordance with the provisions of the Participation Sales Act of 1966 (Public Law 89–429), and until June 30, 1974, the proceeds of any sale of such participation certificates shall be deposited in the investment fund and be available for the purposes of that fund. After June 30, 1974, the proceeds of any sales of such participation certificates shall be deposited in the insurance fund.

"(g) In the administration and management of the investment fund the Administrator shall, to the extent feasible, invest the funds thereof in loans which will represent a broad spectrum of the veteran home-buying population in respect to age, income, and location of the properties which will constitute the loan securites. In order to facilitate a more adequate supply of mortgage financing for veterans in the lower and middle income brackets the Administrator shall purchase only loans not in excess of $30,000 which are secured by single-family dwellings only. The Administrator is authorized to adopt such standards, policies, and procedures and to promulgate such regulations as he considers necessary or appropriate for carrying out his functions and responsibilities under this section. In carrying out such functions and responsibilities the Administrator may contract with private entities for the servicing of any loans purchased by him for the investment fund provided that the servicing fee payable pursuant to any such contract shall not exceed the Administrator's estimate of the cost of the direct servicing of such loans by agency employees."

(b) The analysis of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following:

"1828. Investment of funds of the national service life insurance fund in first mortgage loans guaranteed under section 1810 of this chapter."

SEC. 2. Paragraph (1) of section 1811(c) of title 38, United States Code, is amended to read as follows:

"(1) he is unable to obtain from a private lender in such housing credit shortage area, a loan for such purpose for which he is qualified under section 1810 of this title, at an interest rate not in excess of the rate authorized for guaranteed home loans and at a discount charge to the seller or builder not in excess of the discount (if any) determined to be reasonable by the Administrator who shall, whenever feasible to do so, base such determination on the discount involved in the latest average auction price for the Federal National Mortgage Association purchase commitments but not in excess of a 4 per centum discount in any event; and".

SEC. 3. Section 720 of title 38, United States Code, is amended by adding at the end thereof the following new subsection (c):

"(c) The Secretary of the Treasury is authorized and directed to transfer from time to time from such fund to the Investment Fund established under section 1828 of this title such amounts as are necessary to purchase loans as a consequence of commitments issued or to be issued by the Administrator pursuant to subsection (a) of section 1828 of this title, and shall transfer from the investment fund to the national service life insurance fund, upon notification by the Administrator, such amounts as the Administrator determines are available for such transfer pursuant to the provisions of section 1828. The funds transferred from the national service life insurance fund under this section to the investment fund, together with the interest thereon as computed under section 1828(c) of this title, shall be guaranteed as to principal and interest by the United States."

The SPEAKER. Is a second demanded?

Mr. TEAGUE of California. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. TEAGUE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would accomplish two simple results. It would provide $3 billion from the national service life insurance trust fund for the purpose of making guaranteeed home loans and, second, it would increase the interest yield to such trust fund. The interest going into the trust fund from such investments would be at the rate of 7½ percent. At the present time, the fund is receiving an average of 4.23 percent return in interest.

The bill has been amended in a form which I understand is acceptable to the minority members who have raised objection against the original proposal and I desire at this time to express my particular appreciation to the gentleman from Pennsylvania (Mr. SAYLOR) and to the gentleman from California (Mr. TEAGUE), who have done considerable work in this field in order to present the bill in this favorable form today.

The bill as we present it here today incorporates two amendments suggested by the ranking minority members of the committee which I am willing to accept. These two amendments would:

First, make the bill subject to annual appropriation action and remove any question of a point of order; and

Second, employ a more conservative funding formula which would make $3 billion available in the next 5 years instead of $5 billion as was originally contemplated.

The bill was reported from the Subcommittee on Housing, headed by the gentleman from Nevada (Mr. BARING). The subcommittee held hearings over a year ago on this proposal and have done a lot of work on this legislation. The other members of the Subcommittee on Housing are the gentleman from Texas (Mr. ROBERTS), the gentleman from Virginia (Mr. SATTERFIELD), the gentleman from New Jersey (Mr. HELSTOSKI), the gentleman from California (Mr. EDWARDS), the gentleman from California (Mr. ROYBAL), the gentleman from Ohio (Mr. AYRES), the gentleman from New York (Mr. HALPERN), the gentleman from Tennessee (Mr. DUNCAN), and the gentlewoman from Massachusetts (Mrs. HECKLER).

The purpose of this bill is to increase the availability of Veterans' Administration-guaranteed home loan financing for veterans desiring to purchase homes and at the same time to increase the income of the national service life insurance fund. The measure would establish on a revolving fund basis in an amount not to exceed $5 billion, an investment fund from which home loan financing would be available through commercial sources with the proceeds being repaid into the fund as the loans are repaid each month.

The current interest rate on Veterans' Administration-guaranteed home loans is 8½ percent. Due to higher interest rates in some areas and to the prevalence of "points," there is a dearth of money available for financing of home purchases generally, and for veterans in particular.

The national service life insurance trust fund is a trust fund created from the proceeds of premiums paid, largely by World War II veterans, on their insurance policies. There are now 5,350,178 such policies with a face value of $36,931,145,000. Generally these policies cover individuals who served on or after October 8, 1940, and before April 26, 1951, when this insurance program ceased receiving new applications. The fund is today invested in interest-bearing obligations of the U.S. Government which has a yield as indicated in the table which follows. The overall yield as of June 30, 1970 is 4.22 percent.

The table follows:

INVESTMENTS IN NATIONAL SERVICE LIFE INSURANCE TRUST FUND

Date (1)	Amount of U.S. (or U.S. guaranteed) securities held at end of period (billions) (2)	Average rate of interest on securities in col. (2) (percent) (3)	Amount of U.S. securities purchased or refinanced in the 6 months ending with date in col. (1) (millions) (4)	Average rate of interest on investment in col. (4) (percent) (5)
Dec. 31, 1959	$5.7	3.00		
June 30, 1960	5.8	3.06	$598	3.81
Dec. 31, 1960	5.8	3.07	(1)	
June 30, 1961	5.8	3.07	367	3.12
Dec. 31, 1961	5.7	3.07	28	3.38
June 30, 1962	5.8	3.09	445	3.25
Dec. 31, 1962	5.8	3.09	5	3.27
June 30, 1963	5.7	3.11	315	3.37
Dec. 31, 1963	5.8	3.11	41	3.46
June 30, 1964	5.8	3.16	483	3.63
Dec. 31, 1964	5.8	3.16	56	3.59
June 30, 1965	5.9	3.21	558	3.63
Dec. 31, 1965	6.0	3.21	64	3.80
June 30, 1966	6.1	3.33	599	4.38
Dec. 31, 1966	6.1	3.43	200	6.03
June 30, 1967	6.1	3.51	512	4.61
Dec. 31, 1967	6.1	3.53	167	5.46
June 30, 1968	6.2	3.65	444	5.65
Dec. 31, 1968	6.2	3.77	211	6.11
June 30, 1969	6.3	3.89	347	6.22
Dec. 31, 1969	6.2	3.93	109	6.73
June 30, 1970	6.3	4.23	633	7.51

(1) None.

It is estimated that with the availability of $5 billion from the NSLI reserves, there would be 256,300 loans guaranteed and purchased. Based on recent VA experience, about 30 percent, or 77,000, would be on newly constructed homes and the remaining 70 percent, or 179,300, would be on existing homes.

If this bill is enacted, the yield will be increased to 7½ percent—8½ percent interest less 1 percent administration fee. The national service life insurance fund would continue to be fully guaranteed by the U.S. Government with no possible loss to a policyholder or his beneficiary.

Thus there would be two simple results flowing from enactment of this legislation; namely, the availability of $5 billion of mortgage money in yearly increments, and an increase in the interest yield to the national service life insurance trust fund.

Hearings were held on this measure before the subcommittee on housing on May 21 and 22, 1969. All the testimony received—homebuilders, bankers, real estate board—with the exception of the Veterans' Administration, was favorable.

Pertinent statistics on the loan guarantee program follows:

GI LOAN APPLICATIONS

	1967	1968	1969	1970
January to March	40,649	51,050	53,304	38,672
April to June	68,300	62,471	65,870	48,375
July to September	78,667	69,496	62,808	
October to December	61,600	65,649	51,093	
Total	249,216	248,666	233,075	

GI LOANS

	1967	1968	1969	1970
January to March	34,495	50,628	53,216	39,504
April to June	40,943	44,527	50,170	41,914
July to September	58,461	55,625	57,356	
October to December	66,523	60,437	53,226	
Total	200,422	211,217	213,968	

COMPARISON OF USE OF LOAN ENTITLEMENT BY VETERANS OF DIFFERENT SERVICE PERIOD IN YEARS IMMEDIATELY FOLLOWING ELIGIBILITY

Fiscal year	Loans closed	Eligible veterans at beginning of year	Percent of eligible veterans using entitlement
World War II:			
1946	176,000	2,374,000	7.4
1947	635,000	12,110,000	5.2
1948	521,000	13,074,000	4.0
1949	279,000	13,059,000	2.1
Korean conflict:			
1954	48,000	1,865,000	2.6
1955	120,000	2,740,000	4.4
1956	159,000	3,731,000	4.3
1957	149,000	4,239,000	3.5
Post-Korean veterans: [1]			
1967	73,000	3,682,000	2.0
1968	113,000	4,052,000	2.8
1969 [2]	131,000	4,585,000	2.9
1970	120,000	5,459,000	2.2

[1] Veterans with all service after January 1955 (excludes active duty servicemen).

[2] Eleven months actual, 1 month estimated.

SECONDARY MARKET PRICE NO DOWNPAYMENT GI LOANS (NEW AND EXISTING)

Date	Contract rate (percent)	Price	Yield
July 1955	5¼	99.3	5.32
February 1966	5¼	95.7	5.73
March 1966	5½	95.6	5.99
April 1966	5¾	95.5	6.27
September 1966	5¾	92.8	6.59
October 1966	6	92.9	6.84
April 1967	6	97.0	6.35
April 1968	6	92.5	6.89
May 1968	6¾	94.9	7.36
September 1968	6¾	95.8	7.25
December 1968	6¾	94.3	7.44
January 1969	7½	97.3	7.83
February 1969	7½	96.9	7.88
March 1969	7½	96.3	7.96
April 1969	7½	96.1	7.99
May 1969	7½	96.0	8.00
June 1969	7½	94.3	8.22
July 1969	7½	93.9	8.27
August 1969	7½	93.8	8.28
September 1969	7½	93.6	8.31
October 1969	7½	93.0	8.39
November 1969	7½	92.8	8.42
December 1969	7½	92.3	8.48
January 1970	8½	94.5	9.22
February 1970	8½	94.6	9.21
March 1970	8½	95.1	9.15
April 1970	8½	95.8	9.05
May 1970	8½	95.8	9.05
June 1970	8½	95.6	9.08

The amendment which is a complete substitute for the bill as reported preserves the original intent of the bill but provides that only that portion of the fund which matures each year may be used for the purpose of making home loans and only when such amounts have been appropriated.

The Veterans' Administration report indicates that, during the first year of operations, this bill would "increase Veterans' Administration general operating expenses by $2,650,000." This is not a cost, it is an advance, since the administrative costs of the program would be met by the previously described 1 percent fee. Loans would be made at 8½ percent; 1 percent would be given to the agency for administration, and 7½ percent would go into the national service life insurance trust fund. Thus no cost to the Government because of the enactment of this bill.

I include the following table:

NATIONAL SERVICE LIFE INSURANCE TRUST FUND (ESTIMATED CASH INCOME AND OUTGO)

Year	Interest income (1)	Government securities maturing (2)	Cash needs in excess of premium income (3)	Net available [(1)+(2)−(3)] (4)
1970	$262,000,000	$325,000,000	$175,000,000	$412,000,000
1971	280,000,000	1,008,000,000	185,000,000	1,103,000,000
1972	299,000,000	419,000,000	195,000,000	523,000,000
1973	320,000,000	394,000,000	210,000,000	504,000,000
1974	349,000,000	394,000,000	225,000,000	518,000,000
1975	361,000,000	726,000,000	240,000,000	847,000,000
1976	372,000,000	699,000,000	260,000,000	811,000,000
1977	383,000,000	469,000,000	285,000,000	567,000,000
1978	392,000,000	494,000,000	310,000,000	576,000,000
1979	400,000,000	394,000,000	340,000,000	454,000,000
1980	407,000,000	394,000,000	375,000,000	426,000,000

Note: If the amounts in col. (4) are invested in mortgages, any principal repayments from such mortgages would become available for further investment in the same medium. However, the extent of such repayments is indeterminable.

Mr. Speaker, I would like to further state that we have an information sheet on this bill from the veterans' organizations, if any Members would like to have one.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE of Texas. I would be glad to yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, my inquiry is very simple. Is the bill that we have under consideration similar to H.R. 9476, which was scheduled under suspensions for today?

Mr. TEAGUE of Texas. The bill is exactly the same, except for two amendments, which satisfied the Members who signed the minority report.

These two amendments would make the money available to be appropriated upon maturity of the securities, and make it come through the Appropriations Committee.

Mr. HALL. Well, Mr. Speaker, if the gentleman will yield further, I think that is very noteworthy and, certainly, a subject for commendation, but the procedure is a little bit disconcerting, and the reason for my basic question is: First, we were supplied a report on the bill, H.R. 9476, and some of us who do our homework were prepared to discuss and support it on the floor, along with the questions involving the individual and minority views.

Mr. Speaker, the gentleman from Missouri is not naive about the way to get needed legislation hastily through the Congress.

I now understand about the amendments that are agreed to by those who signed the minority report. But in the meantime information was received by many of us who interest ourselves in the suspensions and in the Consent Calendar that the bill had been "pulled" from the program today, insofar as H.R. 9476 was concerned, and no further word was available to the effect that we were going to consider a "clean bill" with no report or committee hearings, but the distinguished gentleman from Texas has answered my question and I thank the gentleman for yielding.

Mr. TEAGUE of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to state that while I still have some reluctance about supporting this bill, I shall vote for it, largely due to the efforts of the gentleman from Pennsylvania (Mr. SAYLOR) and the chairman of the Committee on Veterans' Affairs. Their efforts have improved the bill over its original form.

Mr. Speaker, I will support this bill, although I have reservations about some of its provisions. I am supporting it because its proponents state that it will make funds available for mortgage financing of veterans' housing under the G.I. bill. I have some doubt that the legislation will produce as much mortgage capital as proponents claim. If, however, it will help one single veteran purchase a home that he would not otherwise be able to buy because of the shortage of funds, then I am willing to give it a try. Certainly, the Vietnam veteran should have the same opportunity to buy the home of his choice as his counterpart in earlier conflicts. The legislation that authorized Government guaranteed housing loans for veterans represents an empty gesture when the unavailability of financing prevents them from utilizing this benefit.

Still, Mr. Speaker, I must express my serious reservations about the manner in which mortgage financing would be made available under the terms of the legislation. This bill would authorize the use of national service life insurance trust funds for the purchase of GI mortgages. This trust fund is made up of monthly premiums paid by World War II veterans on their Government life insurance, and the interest that has been earned thereon. It is presently invested in interest-bearing Government securities.

I fear that, in disturbing this fund, it will be increasingly difficult to resist pressures to finance other, perhaps equally pressing, programs by the same, seemingly painless, means. Federal trust funds now have approximately $75 billion in assets. The social security trust fund with $35 billion and the civil service retirement fund with $22 billion are the largest Federal trusts with their assets invested in Government securities. If we are setting the precedent today for the use of such funds to finance other equally deserving needs of our Nation, then we are traveling full speed down the road to disaster.

A similar bill, Mr. Speaker, when reported by the Committee on Veterans' Affairs on December 12 was opposed by some members of the committee. Their opposition is set forth in the minority views that follow:

MINORITY VIEWS

We oppose the enactment of H.R. 9476.

It is our carefully considered opinion that this legislation will not accomplish its principal purpose—that of increasing the availability of guaranteed home loan financing for veterans. Instead, its contribution to a massive inflationary increase in the budget and in Treasury borrowing from the public will adversely affect the personal finances of the very group it is designed to help—the Nation's veterans.

The bill will require the investment of $5 billion of the national service life insurance trust fund in home mortgages guaranteed under the GI bill. This fund, with assets totaling more than $7 billion, represents the reserve funds on GI life insurance policies. Unfortunately, the trust fund is not a cash fund sitting in the U.S. Treasury waiting to be expended. It is already invested in interest-bearing securities. It therefore follows that should these funds be required for the madatory purchase of housing mortgages, the Treasury would have to raise new funds to replace the special issues now held by the trust accounts.

This procedure would increase the cost of living for everyone, and its greatest impact would be upon the seriously disabled veteran, the veteran pensioner, and others living on fixed incomes. Veterans, as taxpaying citizens, are concerned about the size of the Federal budget and about the inflation which consumes their income and their savings. Yet this bill, reported to benefit the veteran, would increase the Federal budget by $5 billion at the rate of $1 billion per year.

The Congress has told the President to hold spending this year at $192.9 billion, in order to control this inflation. The President has stated on several occasions that he intends to adhere to a ceiling of $192.9 billion of expenditures in order to slow inflationary pressures in our economy. The enactment of this bill would make a mockery of that ceiling. Not only would it add $1 billion per year for 5 years of uncontrolled, unplanned expenditures to the budget, but it would remove these massive outlays from the approproiations process in one of the largest backdoor spending proposals ever made.

The report of the Commission on Mortgage Interest Rates made to the President and to the Congress on August 13, 1969, after almost a full year of study, explored the use of Federal trust funds to increase the availability of mortgage capital for Federal housing programs. In commenting thereon, the Commission said:

"It should be emphasized that use of this type of mechanism to assist in the financing of housing makes all the more imperative the need to maintain an appropriate balance in overall fiscal policy. The times when special assistance for the mortgage market is needed are likely to be the times when general inflationary pressures are calling for economic restraint. Any steps taken then to make more mortgage funds available and increase housing production would add only more fuel to the inflationary fire and thus be highly irresponsible from an aggregate policy point of view—unless offsetting actions are taken to cut other Federal expenditures or raise taxes, or both. Without such offsetting actions, the resulting inflation and increased Federal deficit would only drive interest rates up further, curtail the availability of mortgage credit even more, and thus further frustrate housing production. There simply is no way to get more housing production out of an economy already operating at full capacity unless some other sector is restrained to make room for the additional housing."

Proponents of this measure, in justifying this legislation, state that there is a shortage of money available for financing of home purchases generally, and for veterans in particular. The statistics of the Veterans' Administration relating to home loan activity dispute this statement. Far from suffering disproportionately from a shortage of mortgage funds, 220,000 veterans are obtaining GI home loans this year, a figure unequaled in any year since 1957. Additionally, the following statistics on Veterans' Administration loan activities annually since 1957 reveal that the number of guaranteed home loans closed have increased significantly in each of the last 3 years.

Calendar year	Number	Amount (thousands)
1957	302,047	3,752,651
1958	143,519	1,859,826
1959	210,511	2,781,695
1960	143,287	1,981,691
1961	132,889	1,828,313
1962	187,077	2,648,977
1963	187,889	2,798,223
1964	177,594	2,764,588
1965	159,582	2,615,362
1966	156,918	2,597,284
1967	200,018	3,395,349
1968	210,946	3,771,674
1969	220,000	4,200,000

This record of increasing GI home loans activity is not an accident, but results from the creation by Congress of the Federal National Mortgage Association (FNMA), a private institution designed to assure an adequate supply of funds for GI and FHA loans. It is doing so very effectively. This calendar year alone, FNMA will provide $1.2 billion or more to finance GI loans, and is now providing funds at an annual rate well above costing a dollar in budget outlays. H.R. 9476, on the other hand, will increase the budget by $1 billion each year for the next 5 years.

Proponents of this measure have estimated that the $5 billion from the NSLI reserves will permit 256,300 loans to be guaranteed and purchased. This represents 51,260 GI loans for each of the next 5 years. Unfortunately, these loans will not be in addition to the current number of loans being closed. In fact, NSLI trust fund purchases of new VA guaranteed mortgages under the provisions of H.R. 9476 would not add significantly to the total availability of VA guaranteed mortgages.

FNMA presently is committing to buy new guaranteed and insured one- to four-family mortgages at an annual rate of $6 billion, which under the auction technique closely reflects the new supply of mortgages. The annual rate has been as high as $8 billion and is lower now only because of lack of offers. Thirty percent of FNMA's holdings of these mortgages are VA-guaranteed mortgages. Commitment prices, however, currently range down to 93 percent of par, reflecting the cost of financing for FNMA. Since H.R. 9476 makes it mandatory that the NSLI trust fund purchase GI guaranteed mortgages at a price of not less than 96 percent of par, it is highly unlikely that any lended or mortgage originator would continue to offer the same mortgages to FNMA at 93 percent of par.

Because of its costs of financing and the extreme pressure to support FHA-insured mortgages, FNMA would welcome this shift of some part of the burden of financing VA-guaranteed mortgages to the NSLI trust fund. Accordingly, we believe that FNMA commitments to purchase VA-guaranteed mortgages.

Another reported purpose of H.R. 9476 is to increase the income of the NSLI trust fund. This objective, though laudable, hardly represents sufficient justification for the enactment of this legislation. If the Congress wishes to increase the income to the fund, a fairly simple change in the existing arrangements would achieve this without confusing it with the objective of providing mortgage support. In this connection, it should be noted that the special issue formula under which national service life insurance funds are currently invested reflects a higher current investment of trust funds than contemplated by H.R. 9476. The amount of the interest earned on trust fund investments will continue to rise as long as current market yields are above 3 percent. The statutory formula under which trust funds are invested protects them against any decline below this figure.

H.R. 9476 provides that the national service life insurance fund would be paid interest at the average rate of interest on loans purchased, less 1 percent. Since the interest rate now applicable to VA guaranteed loans is 7½ percent, the rate of interest realized by the trust fund would be 6½ percent. The following table reflecting yields on current investments on a monthly basis since July 1968 reveals that the rate of interest earned on current trust fund investments is greater than the rate of interest the trust fund would earn under the provisions of the bill.

National service life insurance fund

Date	*Percent* [1]
1968:	
July	5¼
August	5
September	5⅛
October	5⅛
November	5¼
December	5⅜
1969:	
January	5⅞
February	5⅞
March	6
April	6
May	5⅞
June	6¼
July	6½
August	6⅜
September	6⅝
October	7⅜
November	6¾
December	7

[1] Special issue formula rate.

Should the Congress approve the use of trust fund moneys for the acquisition of VA mortgages, it will be increasingly difficult to resist pressures to finance other, perhaps equally pressing, programs by the same, seemingly painless means. This could quickly become an exercise in self-delusion. This bill would set the precedent for the uncontrolled back door spending of up to $75 billion from the special security trust fund with $35 billion of assets; the civil service retirement fund with $22 billion of assets; the unemployment insurance fund with $13 billion of assets and the railroad retirement fund with $5 billion of assets. The enactment of H.R. 9476 would be the first, not the last of a series of similar proposals, each designed from good intentions, but leading to serious damage to our economy, and ultimately, to veterans and other groups we are trying to help.

In summary, we oppose H.R. 9476 because:

(1) It would not increase the flow of mortgage financing into veterans housing.

(2) We believe FNMA commitments to purchase VA guaranteed mortgages will decrease in an amount proportionate to the NSLI trust fund's commitment to purchase VA mortgages.

(3) It will bring a massive inflationary increase in the budget and in Treasury borrowing from the public, thus having an adverse effect upon the personal finances of all citizens, especially those on fixed incomes, such as seriously disabled veterans and pensioners.

(4) More veterans (220,000) are obtaining GI home loans this year than in any year since 1957.

(5) Current investments of NSLI trust funds earn a greater rate of interest than the earnings contemplated by H.R. 9476.

(6) Enactment of this measure will set a precedent for the utilization of up to $75 billion in other Federal trust funds to finance equally pressing needs through this back door spending method, thus bypassing the established congressional appropriation process.

Charles M. Teague.
William H. Ayres.
John P. Saylor.
John Paul Hammerschmidt.
William Lloyd Scott.

Since the reporting of the similar bill, the gentleman from Pennsylvania (Mr. Saylor), has worked long and arduously to perfect a compromise that would be acceptable to all interested parties. The Saylor amendments are embodied in the substitute bill being considered today. These amendments improve the bill.

The bill insures that trust funds cannot be expended in an amount greater than authorized in an appropriation act and that, in any one year, they may not exceed the sum of the trust fund investments maturing in that fiscal year.

The new bill also contains language that protects the trust fund against lower earnings should the yield on investment in housing mortgages be less than the yield on special securities of the Treasury Department. The bill further provides that an adequate reserve be maintained to insure the trust against expenses and losses resulting from the purchase of loans.

Because the bill has a most laudable objective—to increase the availability of guaranteed home loan financing for veterans—and because it has been improved by the amendments drafted by the gentleman from Pennsylvania, I shall support the bill.

Mr. Speaker, on March 19, I received the following communication from Mr. Paul W. Eggers, General Counsel of the Treasury, which very briefly and succinctly sums up the administration's position on similar legislation:

The General Counsel of the Treasury,
Washington, D.C., March 19, 1970.

Hon. Charles M. Teague,
Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

Dear Mr. Teague: This is in reply to your letter of March 11 to Secretary Kennedy requesting further comments on H.R. 9476, a bill "to increase the availability of guaranteed home loan financing for veterans and to increase the income of the National Service Life Insurance Fund."

The Treasury Department's opposition to H.R. 9476 was expressed in detail in my letter of May 21, 1969 to Chairman of the House Committee on Veterans' Affairs, in my letter of November 17, 1969 to the Chairman of the Senate Finance Committee on a similar measure, S. 3008, and in Under Secretary's Volcker's testimony on S. 3008 before the Senate Finance Committee on November 19, 1969.

The Department's opposition to H.R. 9476 may be summarized as follows:

1. The bill would rely on increased Federal budget outlays and increased Treasury borrowings from the public, rather than encourage private investment in VA guaranteed mortgages.

2. It would add to inflationary pressures in the economy unless the additional budget outlays required by the bill were offset by spending reductions in other Federal programs.

3. It would bypass the normal Congressional appropriations process through backdoor spending.

4. It would be an inefficient and inequitable means of increasing the earnings of the National Service Life Insurance Fund.

5. It would set an undesirable precedent for future use of all Federal trust funds.

6. It would confuse the objectives of the veterans' housing and insurance programs, which have quite different classes of beneficiaries.

7. It would make a fundamental change in Federal credit program and trust fund policies in order to deal with a very limited problem arising from temporary disruptions of the flow of funds from private financial institutions.

8. It would accomplish nothing which could not be accomplished more efficiently and more equitably under programs and procedures already authorized by the Congress.

The Treasury Department remains firmly opposed to H.R. 9476.

Sincerely yours,

Paul W. Eggers,
General Counsel.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. Saylor).

Mr. SAYLOR. Mr. Speaker, I rise in support of this bill. I am supporting it because it represents a distinct improvement over the bill reported by the Committee on Veterans' Affairs last December.

I am supporting the new bill because it removes an extremely objectionable feature of the reported bill—that of so-called back door spending.

I am supporting it because it eliminates any possibility that current trust fund investments be liquidated prior to maturity.

I am supporting it because the new bill, unlike the committee reported bill, contains language that protects the trust fund against any loss of interest income resulting from the mandatory purchase of GI housing mortgages.

Finally, I am supporting it because it will assist in making mortgage financing available to veterans desiring to purchase homes under the GI bill.

The bill reported by committee, Mr. Speaker, was not acceptable to some members. As a result, I, together with other members of the Committee on Veterans' Affairs, opposed the bill. After considerable discussion and painstaking analysis, I suggested a series of amendments designed to eliminate the undesirable features of the reported bill. The gentleman from Texas, the distinguished chairman of the Committee on Veterans' Affairs, has indicated that these amendments are acceptable to him. The bill before the House today contains the text of the reported bill as modified by the amendments suggested by the gentleman from Pennsylvania.

The committee reported bill, Mr. Speaker, in effect directed the Administrator of Veterans' Affairs to transfer $1 billion per year for each of the next 5 years from the national service life insurance trust fund to a newly created investment fund. The bill then required the Administrator to purchase GI home loan mortgages with the funds transferred to the investment fund. The executive branch had no control over the expenditures, nor did the Appropriations Committees of Congress. To me, this was back door spending at its finest. The bill before you today makes the transfer of such funds subject to affirmative action by the Appropriations Committees of the Congress.

The revised bill contains a further limitation, in that funds transferred from the insurance trust to the investment fund in any one year may not be greater than the sum of the securities presently held by the trust fund maturing in that particular year. The committee reported bill would have authorized the mandatory transfer of $1 billion each year, even if it required the liquidation prior to maturity of currently invested securities.

The mandatory features of the committee reported bill created the possibility of a situation in which the Administrator would be required to purchase GI housing mortgages despite the fact that the yield or interest income from Government securities in which the balance of the trust fund is currently invested was greater than the yield from GI mortgages. This possibility has been eliminated in the bill before you by requiring that whenever the Administrator determines that the effective yield on loans eligible for purchase at any given time is less than that which would be obtained from an alternative investment in special securities of the Treasury Department, then he shall direct the purchase of such special Treasury securities.

Finally, the revised bill contains the added protection to the insurance trust fund against losses or expenses resulting from the purchase of housing loans by requiring that an adequate reserve against such expenses and losses be maintained at all times in the investment fund.

To sum up, the amendments to the committee reported bill and now contained in the bill before the House are these:

First. Requires that the utilization of insurance trust funds for investment in housing mortgages shall be subject to the appropriations process.

Second. The transfer of such funds may not exceed the sum of the investments of the insurance fund which mature in any one fiscal year.

Third. Funds transferred from the insurance trust shall be used to purchase special securities of the Treasury Department, when the yield thereon is greater than the yield on GI home mortgages.

Fourth. Requires that an adequate reserve against expenses and possible losses be maintained in the investment fund.

Mr. Speaker, this revised bill requires action by the Appropriations Committees of Congress before any of the trust funds can be expended. It protects the insurance trust fund against impairment. Its purpose is to make additional mortgage capital available in the GI loan program.

I urge that it be passed.

Mr. TEAGUE of California. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. Gross).

Mr. GROSS. Mr. Speaker, I simply asked the gentleman to yield a moment ago to ascertain exactly what we are dealing with. The gentleman says "when this bill was reported out of committee"; that is, H.R. 18253. It is my information that the bill before the House, H.R. 18253, was never reported out of committee.

Then the gentleman proceeded to talk about H.R. 9476. I simply want the House to know that they are not considering a bill that has been reported out of committee; that is all.

It is a strange procedure that we are called upon here today to act upon a bill which has never been reported out of committee.

Mr. Speaker, I yield back the balance of my time.

Mr. BARING. Mr. Speaker, I rise in support of this bill. The Housing Subcommittee, which I have the honor to chair, has been concerned about housing opportunities for returning Vietnam and other eligible veterans. The housing benefit is one of the major benefits of the GI bill of rights, but in view of the tight money situation which has prevailed for the past several years, returning war veterans have had only limited opportunity to avail themselves of the home loan benefit. Those that have been successful in obtaining a guaranteed loan have been involved in transactions where the seller has been required to pay an excessive discount in the form of points. About two-thirds of the housing activity in the veterans program for the past several years has been in resale of old or existing houses. In earlier days the reverse was true, about two-thirds of the activity was in new housing and only one-third was in old housing. Unfortunately, there has been a very limited opportunity in recent years for veterans to obtain financing for the purchase of a new home.

This bill which we have before us will certainly not solve all of the problems, but it would make available a rather substantial amount of money in the next few years which should improve opportunities for veterans to obtain new housinp. We all hope that in the near future the general interest rate picture will improve and that more money can become available from the investors of the Nation to flow into the housing market.

The bill which we are considering would improve the interest rate return to the national service life insurance trust fund. That fund is presently receiving an average interest yield of 4.23 percent. Funds invested in housing as authorized by this bill would yield the fund 7⅕ percent. There would be no danger to the trust fund because it would continue to be protected by the full faith and credit of the U.S. Government as is now the case since these funds are invested in special Government bonds. I hope that this legislation can be enacted speedily because I believe it will give badly needed help to the sagging housing industry in this country and permit that industry to meet the needs of returning war veterans as it has done in the past.

Mr. HALEY. Mr. Speaker, I rise in support of the bill, H.R. 18253, which would authorize the use of up to $5 billion over the next several years from the national service life insurance trust fund for the purpose of providing financing for veterans' home loans.

One of the basic benefits of the GI bill of rights which has been available to veterans of World War II, Korea, and now Vietnam, is the home loan program. Because of the shortage of mortgage financing during the last few years and the high interest rates which are involved, the home loan benefit has increasingly become of less use to returning veterans, particularly young veterans whose income is still at a lower level. Most of the loans which the Veterans' Administration has been guaranteeing have been on old houses which are being resold. Only about one-third VA loans are on new houses. It is hoped that the financing made available by this bill would create an expanded opportunity for new housing.

This bill would increase the interest yield to the national service life insurance policyholders. That fund would continue to enjoy the same protection which it has now, that is, the backing of the full faith and credit of the U.S. Government. At the present time, the fund is invested in the public debt. This bill would permit part of the fund to be invested in VA-guaranteed and direct-housing loans. I believe the priority needs of veterans for housing are sufficiently high to justify this change.

Mr. REID of New York. Mr. Speaker, I rise in support of H.R. 18253, to increase the availability of guaranteed home loan financing for veterans and to increase the income of the national service life insurance fund.

This legislation would establish an investment fund of $5 billion, to be transferred from the national service life insurance fund over a 5-year period and used to purchase both guaranteed and direct loans. The interest rate would be that which is currently applicable—presently 8½ percent, of which 1 percent would go to the Veterans' Administration to pay the costs of administering the program, and the remainder would be returned to the national service life insurance fund for future investments. At the going interest rate, this would mean a return of 7½ percent from this program. The national service life insurance fund currently invests in special Treasury obligations at an average interest rate of less than 4 percent, so this would be a significant increase of return on investment.

It is argued that 220,000 veterans obtained GI home loans in 1969—more than any year since 1957—through Federal National Mortgage Association—FNMA—commitments and this figure is expected to be met if not increased in 1970. However, the significance of this figure pales when one takes into account that in 1957, 302,047 guaranteed home loans were financed—82,047 more than in 1969—yet the number of living veterans that might be interested in receiving such loans has increased by some 4 million in those 13 years. And in the last 6 months approximately 495,000 members of our armed services have been released from active duty—over twice the number of all veterans receiving loans in 1969.

H.R. 18253 will require an initial outlay of approximately $1 billion per year in its first 5 years of operation, and increase VA general operating expenses by $2,650,000 in its first year of operation. However, as the Veterans' Committee has previously stated, this $2,650,000 figure is merely an advance of funds, and would soon be reimbursed by the 1 percent fee.

It is my opinion that in the long run the financing of such home loans would be a sound investment program. It will also allow an additional 256,300 veterans over the next 5 years to secure guaranteed and direct home loans in this period of tight mortgage money. This is the least we can do for these individuals who have given productive years of their lives to the service of their country, and for this reason I strongly support H.R. 18253.

Mr. HALPERN. Mr. Speaker, the veterans' guaranteed loan program is subject to a limit of 8½ percent. It is set indirectly, by the requirement that veterans guaranteed rates shall not exceed those of FHA insured home mortgage loans, which are subject to a statutory 8½-percent limit.

This bill would establish a 6-percent per annum limit on the interest rate charged on Veterans' Administration guaranteed mortgage loans.

Is there any prospect that loan funds will be forthcoming at 6 percent this year? The prospect is slight, unless the funds are derived from some source where returns are even lower. For example, commercial banks reserves might be required to be held in VA or FHA mortgages, instead of at the Federal Reserve bank, where they draw no interest, or instead of in conventional mortgages where they probably would draw around 9 percent.

But in the absence of such redirection of funds from lower yielding investment, the 6-percent limit would be consistent with movement to funds into VA mortgages under certain conditions which are not beyond possibility.

A reduction of the rate of return demanded by institutional lenders would be prompted by an increased safety preference—a feeling that Government guaranteed mortgages are safer immediately and later than are term loans to businesses; by a reduced demand for business loans due to continuing recession; and by anticipation that the decline in purchasing power of current income and of savings has almost come to an end. A forecast of continued recession without inflation, and without war, should make lower mortgage rates attractive to some investors.

The enactment of a statutory 6-percent limit should reinforce expectations, arising from optimism about ending war and inflation, of declining interest rates. The volume of VA loans at reasonable interest rates consequently should grow.

But the enactment would be more than a signal of what the Congress and the Executive think is the likely course of interest rates. It would be a commitment of the Government to take action to achieve lower rates of interest on VA mortgages. The statutory statement of that commitment would become a consideration in the policy decisions of Federal Reserve authorities, in expanding the base on which banks extend credit.

But reinforcing some private expectations, and committing the Government to a goal without prescribing the means, are not necessarily sure-fire routes to lower interest rates and more home loans. The essential aim, to which these are subordinate, is to improve the quantity of adequate housing available for veterans. It is not enough to create some of the conditions which could assist veterans to get housing. The Congress needs to make sure that low-cost financing is available for veterans' housing. To achieve that goal, the Congress should enlarge the VA direct loan program, and provide low-interest-rate loans.

If the guaranteed loan program does not find adequate financing, at the permanent rate established by statute for both VA and FHA loans, then an alternative should be ready.

The Congress should authorize the funds necessary to overcome through direct loans whatever shortages of capital develop in the guaranteed loan program. If, as the economy develops more stability, more VA guaranteed loans are available, the flow of credit through the direct loans can be curbed if guaranteed loan totals rise enough to cover current demand. But the matter which demands attention now, is to enlarge the direct program to finance veterans housing at rates which will be reasonable in future years, rather than the exorbitant rates which must be paid on guaranteed loans in today's critical credit conditions.

Mr. Speaker, my second bill relating to the veterans home loan programs is required if the first is to become fully effective. Money available for direct loans will not move veterans into homes of their own if the amount available per house is suited to home prices of some other time and place.

The bill would make the maximum direct loan $25,000, rather than $21,000.

The maximum direct loan is suited better to the small town than to the urban center of even a metropolitan area. It would not pay for a large house in almost any area of the United States. But

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it would pay for a house, even in Montgomery County, Md., which would provide comfortable shelter for a family, and be located well enough with respect to schools and community facilities of all sorts to warrant support through a Federal loan program.

The $25,000 maximum is about the median sales prices of mortgage financed homes in 1969. The median ranged from $24,800 to $25,900 during the year.

The $25,000 maximum would cover the sales price on about three-quarters of the homes sold on VA guarantee in 1969.

A $25,000 direct loan to a veteran would not finance his purchase of a home comparable to the average which is financed by conventional mortgage. Sales prices on new homes sold with conventional mortgage financing in 1969 ranged from $30,300 to $30,700 median price. Approximately 70 to 74 percent of new homes with conventional financing were priced above $25,000.

VA guaranteed financing has been an important part of the market for homes selling at $20,000 to $25,000. VA guaranteed mortgages rise very sharply relative to FHA as a source of financing in this price class, and continue to rise in the $25,000 to $30,000 class.

The point of the figures is that veterans find homes which suit their needs and financing capacity in price classes which exceed the present dollar limit on direct home loans by VA. To assure veterans of housing, it will be necessary to enlarge the direct loan program. With mortgage money available to them at 6 percent, they will be able not only to buy houses which they could not buy otherwise because no money was available; but they will be able to afford much better housing on a given income. If direct loans were made at 6 percent, while other mortgages cost 8 percent—and money can be borrowed at that low rate in a few metropolitan areas, such as Philadelphia, New York, and Baltimore, but not in others—the veterans who borrowed at 6 percent could pay principal and interest on say a 25-year loan for $25,000 with no more monthly outlay than on a $20,870 loan at 8 percent.

To restate the argument briefly. An increase in the limit on direct home loans to veterans from $21,000 to $25,000 would enable veterans to buy homes in the median price range, where builders are experienced in building homes for veterans; it would enable veterans to buy adequate housing, even though they did not compete in the price range where conventional financing is more common; it would enable veterans to buy larger and more satisfactory homes, and to continue to buy even when construction costs and land prices rise somewhat higher, because it would raise the limit price and would reduce the debt service cost per dollar of mortgage enough to permit the veteran to carry the larger mortgage without larger dollar outlay.

Mr. DONOHUE. Mr. Speaker, I intend to support this bill, H.R. 9476, providing for the use of national service life insurance funds to guarantee home loans to our war veterans, and most earnestly hope it is overwhelmingly approved by the House.

The purpose of this bill is to increase the availability of Veterans' Administration-guaranteed home loan financing for veterans desiring to purchase homes and at the same time to increase the income of the national service life insurance fund.

The provisions of this measure would establish on a revolving fund basis an investment fund, in an amount not to exceed $5 billion, from which home loan financing would be available through commercial sources with the proceeds being repaid into the fund as the loans are repaid each month.

The national service life insurance trust fund arises out of the proceeds of premiums paid by World War II and other veterans, on their insurance policies.

The fund is now invested in interest-bearing obligations of the United States and it has an overall current yield of 3.92 percent. If this measure is approved, that yield will be increased to 6½ percent and the fund would continue to be fully guaranteed by the U.S. Government with no possible loss to a policyholder or his beneficiary.

It is authoritatively estimated that the availability of an additional $5 billion would make it possible to project 256,300 guaranteed loans and purchases, of which about 30 percent would be on newly constructed homes and the remaining 70 percent on existing homes.

In summary, it is clear that the basic objectives of this bill, to increase the amount of mortgage money available to veterans for home financing, to increase the interest yield in the national service life insurance reserve fund and to stimulate the housing and related industries, particularly at this time, would be in the national interest, and I hope this bill is resoundingly adopted.

Mr. HAMMERSCHMIDT. Mr. Speaker, since this bill is designed to make funds available for mortgage financing for veterans housing under the GI bill, I support it. Despite this commendable purpose, I have serious reservations about the propriety of attempting to solve the veterans housing problem by the use of insurance trust funds.

When the Committee on Veterans' Affairs reported a similar bill last December, H.R. 9476, I joined with those who expressed opposition to this bill by signing the minority views thereon. These views are set forth in House Report No. 91–751.

There were two principal reasons for my objection to the original bill. First, the legislation sanctioned back-door spending; that is, spending money not authorized by the appropriations process. Second, the legislation set the precedent for the utilization of possibly $75 billion in other Federal trust funds, such as social security, railroad retirement, and civil service retirement, in solving other equally critical needs of our Nation.

The bill before the House today eliminates my first objection to the original legislation, that of back-door spending. Therefore, I shall support the bill. I must, however, express my deep concern at this unprecedented utilization of Federal trust funds for this purpose. Since the use of such funds will require actions by the Appropriations Committee, however, and since it reportedly will make mortgage financing available for veterans' housing, I will support the bill.

Mr. SATTERFIELD. Mr. Speaker, I am aware of the commendable objective sought by the bill, H.R. 18253. I must confess, however, that I have serious reservations about the manner in which this objective would be achieved under the terms of the bill.

Although the bill before the House today has eliminated one of my principal objections to a related bill, H.R. 9476, in that it no longer bypasses the regular authorization-appropriations process, it does, however, adversely affect our Nation's efforts to curb inflation and would set an unwise precedent for the use of other Federal trust funds to solve other pressing problems confronting us.

Because the bill before the House eliminates the so-called back-door spending by making the expenditures subject to the normal appropriations process and because it will alleviate, hopefully, the veterans' housing problem, I shall support the bill. In the interest of clarification, however, I am setting forth my dissenting views expressed in the committee report on H.R. 9476, a similar bill reported by the Committee on Veterans' Affairs last December. The views expressed herein express my thoughts with respect to the inflationary aspects of this legislation:

DISSENTING VIEWS OF HON. DAVID E. SATTERFIELD III

I oppose the enactment of H.R. 9476 because it imposes additional fixed Federal expenditures during a 5-year period while bypassing the regular authorization-appropriations process and because under existing circumstances it will adversely affect our Nation's efforts to curb inflation.

I am fully aware of the unfortunate problem that confronts the veteran today who wishes to purchase a home and realize that it is a direct result of the pressures of inflation which have reduced the ready supply of private capital. Although I share the desire to increase the availability of guaranteed home financing for veterans, I am of the opinion that the mischief which this measure will create outweighs by far whatever assistance it may provide to veterans seeking to purchase a home.

Ostensibly the bill would transfer $5 billion from trust fund reserves maintained against national service life insurance policies to an investment fund created by the bill which would be used to finance home mortgages guaranted under the GI bill. Difficulty arises however, by virtue of the fact that the NSLI trust account does not contain funds which can be readily transferred from it to the investment fund. In fact the funds deposited to that account have already been loaned to the Treasury so that its assets now consist of interest-bearing Government securities. The requirement of H.R. 9476 calling for a transfer of funds from this trust account would in turn require the Treasury to raise new funds, not previously anticipated, in order to replace the securities in question.

This bill will clearly impose upon the Treasury, therefore, a requirement to provide an additional $1 billion a year for the next 5 years for payment into the NSLI thrust account. Under the circumstances this requirement which bypasses the regular, established authorization-appropriation process becomes nothing more nor less than a method via the backdoor of the Treasury of financing the investment fund. In my view this approach is not in keeping with responsible budgeting practices.

Furthermore, it is a fact, based upon current projections of expenditures for this fiscal year, that the Federal Government will be forced to borrow several billion dollars from the general public. This bill will increase the amount thus to be borrowed this year by $1 billion and will impose the additional burden of raising $4 billion for this purpose during the next 4 years. In all probability additional borrowing will be required each year in order to raise the funds in question. Quite obviously, this will serve to feed the fires of inflation, which grip this Nation, at a time when we should exert every effort to extinguish them in order to avoid disaster. We should actively seek to lessen the impact of Federal demands upon private capital available in our Nation's money markets rather than increase those demands by enactment of this bill. We will accomplish little indeed if by this attempt to help one segment of our population we contribute to further increases in the cost of living to the detriment of all our citizens, especially those living on fixed income and including those we seek to help.

It is my belief that the undesirable features of H.R. 9476, together with the effects it will have upon our Federal budget, our Nation's economy, and the well-being of our Nation's citizens are of sufficient proportion to warrant rejection of this measure by the House.

DAVID E. SATTERFIELD III.

The **SPEAKER** pro tempore (Mr. SISK). The question is on the motion of the gentleman from Texas that the House suspend the rules and pass the bill H.R. 18253.

The question was taken.

Mr. **TAFT**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 326, nays 0, not voting 105, as follows:

[Roll No. 221]

YEAS—326

Abbitt
Abernethy
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Aspinall
Ayres
Baring
Barrett
Beall, Md.
Belcher
Bell, Calif.
Bennett
Betts
Bevill
Biester
Bingham
Blackburn
Blanton
Boland
Bolling
Bow
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burlison, Mo.
Burton, Calif.
Byrne, Pa.
Byrnes, Wis.
Carter
Cederberg
Celler
Chamberlain
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohelan
Collins
Colmer
Conable
Conte
Corman
Coughlin
Cowger
Cramer
Cunningham
Daniel, Va.
Daniels, N.J.
Davis, Ga.
Davis, Wis.
Dellenback
Denney
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Dowdy
Downing
Dulski
Duncan
Dwyer
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Evins, Tenn.
Fallon
Fascell
Feighan
Findley
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Foreman
Fountain
Fraser
Frey
Friedel
Fulton, Pa.
Fuqua
Galifianakis
Garmatz
Gaydos
Gettys
Gibbons
Goldwater
Gonzalez
Goodling
Green, Pa.
Griffin
Griffiths
Gross
Grover
Gubser
Gude
Hagan
Haley
Hall
Hamilton
Hammerschmidt
Hanna
Hansen, Wash.
Harsha
Hathaway
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kee
Keith
King
Kleppe
Kluczynski
Koch
Kuykendall
Kyl
Kyros
Landgrebe
Langen
Latta
Leggett
Lennon
Lloyd
Long, Md.
Lujan
McCarthy
McCloskey
McClure
McDade
McDonald, Mich.
McFall
McKneally
McMillan
Mahon
Mailliard
Mann
Marsh
Martin
Mathias
Matsunaga
May
Mayne
Meeds
Michel
Mikva
Miller, Ohio
Mills
Minish
Mink
Mize
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Morse
Morton
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Konski
Olsen
O'Neal, Ga.
O'Neill, Mass.
Passman
Patman
Patten
Pelly
Perkins
Pettis
Philbin
Pickle
Pike
Poage
Poff
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Reid, Ill.
Reid, N.Y.
Reifel
Reuss
Rhodes
Riegle
Rivers
Roberts
Robison
Rodino
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rosenthal
Roth
Ruth
Sandman
Satterfield
Saylor
Scherle
Scheuer
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Stafford
Staggers
Stanton
Steed
Steiger, Ariz.
Steiger, Wis.
Stokes
Stratton
Stubblefield
Sullivan
Taft
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Tiernan
Udall
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Wampler
Watson
Whalen
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wold
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young
Zablocki
Zion

NAYS—0

NOT VOTING—105

Adair
Anderson, Tenn.
Ashbrook
Berry
Biaggi
Blatnik
Boggs
Brademas
Brasco
Brock
Brown, Mich.
Burke, Fla.
Burleson, Tex.
Burton, Utah
Bush
Button
Cabell
Caffery
Camp
Carey
Casey
Chappell
Chisholm
Collier
Conyers
Corbett
Crane
Culver
Daddario
Dawson
de la Garza
Delaney
Diggs
Edwards, La.
Esch
Eshleman
Farbstein
Fish
Frelinghuysen
Fulton, Tenn.
Gallagher
Giaimo
Gilbert
Gray
Green, Oreg.
Halpern
Hanley
Hansen, Idaho
Harrington
Harvey
Hastings
Hawkins
Hébert
Hungate
Ichord
Karth
Kirwan
Landrum
Long, La.
Lowenstein
Lukens
McClory
McCulloch
McEwen
Macdonald, Mass.
MacGregor
Madden
Melcher
Meskill
Miller, Calif.
Minshall
Nelsen
Ottinger
Pepper
Pirnie
Podell
Pollock
Powell
Pryor, Ark.
Rarick
Rees
Roe
Rooney, Pa.
Rostenkowski
Roudebush
Rousselot
Roybal
Ruppe
Ryan
St Germain
Schadeberg
Stephens
Stuckey
Symington
Tunney
Ullman
Vander Jagt
Watkins
Watts
Weicker
Whalley
Wiggins
Wolff
Wylie
Zwach

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Frelinghuysen.
Mr. Rostenkowski with Mr. Watkins.
Mr. Giaimo with Mr. Eshleman.
Mr. Daddario with Mr. Meskill.
Mr. Miller of California with Mr. Wiggins.
Mr. Long of Louisiana with Mr. Minshall.
Mr. Brasco with Mr. Button.
Mr. Edwards of Louisiana with Mr. Burton of Utah.
Mr. Biaggi with Mr. Fish.
Mr. Rarick with Mr. Berry.
Mrs. Green of Oregon with Mr. Roudebush.
Mr. Pryor of Arkansas with Mr. Ashbrook.
Mr. Delaney with Mr. Pirnie.
Mr. Macdonald of Massachusetts with Mr. McCulloch.
Mr. Boggs with Mr. Corbett.
Mr. Blatnik with Mr. Brown of Michigan.
Mr. Burleson of Texas with Mr. Crane.
Mr. Carey with Mr. McEwen.
Mr. Rooney of Pennsylvania with Mr. Hawkins.
Mr. St Germain with Mr. Camp.
Mr. Hanley with Mr. Hastings.
Mr. Podell with Mr. Pollock.
Mr. Madden with Mr. Esch.
Mr. Cabell with Mr. Bush.
Mr. Caffery with Mr. Burke.
Mr. Brademas with Mr. Adair.
Mr. Watts with Mr. Collier.
Mr. Wolff with Mr. Halpern.
Mr. Melcher with Mr. McClory.
Mr. Stephens with Mr. Hansen of Idaho.
Mr. Gray with Mr. Powell.
Mr. Gallagher with Mr. Nelsen.
Mr. Fulton of Tennessee with Mr. Brock.
Mr. Culver with Mr. Harvey.
Mr. Chappell with Mr. Lukens.
Mr. Gilbert with Mr. MacGregor.
Mr. Landrum with Mr. Rees.
Mr. Tunney with Mr. Conyers.
Mr. Lowenstein with Mrs. Chisholm.
Mr. Anderson of Tennessee with Mr. Wylie.
Mr. de la Garza with Mr. Rousselot.
Mr. Kirwan with Mr. Diggs.
Mr. Ottinger with Mr. Ruppe.
Mr. Pepper with Mr. Whalley.
Mr. Ichord with Mr. Schadeberg.
Mr. Karth with Mr. Vander Jagt.
Mr. Hungate with Mr. Weicker.
Mr. Ullman with Mr. Zwach.
Mr. Casey with Mr. Roe.
Mr. Roybal with Mr. Stuckey.
Mr. Harrington with Mr. Ryan.
Mr. Farbstein with Mr. Symington.

Messrs. HOSMER and SCHMITZ changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 9476) was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. **TEAGUE** of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks in the RECORD on the bill H.R. 18253.

The **SPEAKER**. Is there objection to

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the request of the gentleman from Texas?

There was no objection.

TO AMEND SECTION 14(b) OF THE FEDERAL RESERVE ACT

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that the Committee on Banking and Currency be discharged from further consideration of the Senate bill (S. 3889) to amend section 14(b) of the Federal Reserve Act, as amended, to extend for 2 years the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Speaker, reserving the right to object, there is so much noise and confusion that I am unable to ascertain just what is being proposed by the gentleman from Texas.

Will the gentleman from Texas again state his request?

Mr. PATMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill, S. 3889, and to pass it with the following amendments—and I believe the amendments have already been read.

The SPEAKER pro tempore. The Chair will state that the title of the bill has been read, but the amendments have not been read.

The gentleman from Iowa (Mr. GROSS) has reserved the right to object.

Mr. PATMAN. I might say that this just extends it for 1 year instead of 2 years.

Mr. GROSS. What are you extending? The $5 billion cushion for the Treasury and authority to issue securities of one kind or another in that amount?

Mr. PATMAN. Yes.

It is the same bill that has passed here each 2 years since the beginning of World War II to let the Federal Reserve under certain circumstances buy certain amounts of Treasury obligations up to a certain amount, $5 billion. They have never used that much. It usually runs around half a billion a year, sometimes it runs up to a billion. But it is very handy for the Government in its financing program.

I was called by a representative of the administration the other day, and was told that they need this badly now, and they asked me and asked the gentleman from New Jersey (Mr. WIDNALL) to try to get it through now. We did not want to pass it without a hearing, except that we would pass it for a 1-year period, and that is the agreement now, to have it for 1 year only.

Mr. GROSS. If the unanimous-consent request is granted, it will permit the Treasury to have outstanding at the expiration of the next year, since it is a 1-year bill, $5 billion in what could well be printing press money. And the only way to get that $5 billion out of the channels of trade, once pumped in through abuse of this law, would be to tax the people of this country.

In other words, without any further sanction on the part of the Congress, the Treasury could have outstanding $5 billion worth of additional debt at the end of next year, and this could be in what amounts to printing press money.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman.

Mr. PATMAN. Of course, the gentleman stated the facts correctly, but we have an experience of about 28 years.

Mr. GROSS. Yes; I understand.

Mr. PATMAN. And during those 28 years they never did abuse the law.

It is usually smaller sums like $25 million or $100 million or something like that.

But there is no danger in this because it has been used for 28 years by both parties, Democrats and Republicans.

Mr. GROSS. I understand. And used with frugality and reason, it provides a cushion for the Treasury. But the Members ought to be aware that they could wake up the end of next year with $5 billion outstanding and it would be their responsibility.

Mr. PATMAN. We are going to have full and complete hearings on this that we have not had for years and years. Many of our Members do not know as much about it as they should. But we are going to have full and complete hearings during the next year that I think will be helpful because we realize, and as the gentleman says, and I am glad he is cautious about it. I am glad when he raises objection to these things if he feels that there is danger and I congratulate him for doing so. But I do not feel that there is the least danger.

Mr. GROSS. Now to get to the bill, the gentleman is asking for an extension of one year?

Mr. PATMAN. Yes; instead of 2.

Mr. GROSS. And that is all?

Mr. PATMAN. That is all.

Mr. GROSS. There is no other change in the law as it has been extended through the years?

Mr. PATMAN. That is right. The extension is for exactly 1 year.

Mr. GROSS. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection, but before I do let me say that I am opposed to this proposal today as I have been opposed in the past. I continue to insist that this Government ought to conduct its financial affairs in such manner as to make unnecessary such authority, which, while it apparently has not been abused to date could very well leave the country with a big financial headache.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3889

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(b) of the Federal Reserve Act, as amended (12 U.S.C. 355), is amended by striking out "July 1, 1970" and inserting in lieu thereof "July 1, 1972" and by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1972".

AMENDMENT OFFERED BY MR. PATMAN

Mr. PATMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PATMAN: On Page 1, line 5, strike "1972" and insert "1971", and on Page 1, line 7, strike "1972" and insert "1971".

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend section 14(b) of the Federal Reserve Act, as amended, to extend for 1 year the authority of Federal Reserve banks to purchase U.S. obligations directly from the Treasury."

A motion to reconsider was laid on the table.

ADMINISTRATION OF THE NATIONAL PARK SYSTEM

Mr. TAYLOR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14114) to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes, as amended.

The Clerk read as follows:

H.R. 14114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their interrelated purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the system.

SEC. 2. (a) Section 1 of the Act of August 8, 1953 (67 Stat. 496; 16 U.S.C. 1b), is amended by deleting "and miscellaneous areas administered in connection therewith" and "and miscellaneous areas" wherever they appear.

(b) Section 2 of the Act of August 8, 1953 (67 Stat. 496; 16 U.S.C. 1c), is amended to read as follows:

"SEC. 2. (a) The 'national park system' shall include any area of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes.

"(b) Each area within the national park system shall be administered in accordance with the provisions of any statute made specifically applicable to that area. In addition, the provisions of this Act, and the various authorities relating to the administration and protection of areas under the administration of the Secretary of the Interior through the National Park Service, including but not limited to the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2–4), the Act of March 4, 1911 (36 Stat. 253), as amended (16 U.S.C. 5) relating to rights-of-way, the Act of June 5, 1920

(41 Stat. 917), as amended (16 U.S.C. 6), relating to donation of land and money, sections 1, 4, 5, and 6 of the Act of April 9, 1924 (43 Stat. 90), as amended (16 U.S.C. 8 and 8a–8c), relating to roads and trails, the Act of March 4, 1931 (46 Stat. 1570; 16 U.S.C. 8d) relating to approach roads to national monuments, the Act of June 3, 1948 (62 Stat. 334), as amended (16 U.S.C. 8e–8f), relating to conveyance of roads to States, the Act of August 31, 1954 (68 Stat. 1037), as amended (16 U.S.C. 452a), relating to acquisitions of inholdings, section 1 of the Act of July 3, 1926 (44 Stat. 900), as amended (16 U.S.C. 12), relating to aid to visitors in emergencies, the Act of March 3, 1905 (33 Stat. 873; 16 U.S.C. 10), relating to arrests, sections 3, 4, 5, and 6 of the Act of May 26, 1930 (46 Stat. 381), as amended (16 U.S.C. 17b, 17c, 17d, and 17e), relating to services or other accommodations for the public, emergency supplies and services to concessioners, acceptability of travelers checks, care and removal of indigents, the Act of October 9, 1965 (79 Stat. 696; 16 U.S.C. 20–20g), relating to concessions, the Land and Water Conservation Fund Act of 1965, as amended, and the Act of July 15, 1968 (82 Stat. 355), shall, to the extent such provisions are not in conflict with any such specific provision, be applicable to all areas within the national park system and any reference in such Act to national Parks, monuments, recreation areas, historic monuments, or parkways shall hereinafter not be construed as limiting such Acts to those areas."

SEC. 3. In order to facilitate the administration of the national park system, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to carry out the following activities:

(a) provide transportation of employees located at isolated areas of the national park system and to members of their families, where (1) such areas are not adequately served by commercial transportation, and (2) such transportation is incidental to official transportation services;

(b) provide recreation facilities, equipment, and services for use by employees and their families located at isolated areas of the national park system;

(c) appoint and establish such advisory committees in regard to the functions of the National Park Service as he may deem advisable, members of which shall receive no compensation for their services as such but who shall be allowed necessary travel expenses as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 5703);

(d) purchase field and special purpose equipment required by employees for the performance of assigned functions which shall be regarded and listed as park equipment;

(e) enter into contracts which provide for the sale or lease to persons, States, or their political subdivisions, of services, resources, water available within an area of the national park system, if such person, State, or its political subdivision—

(1) provides public accommodations or services within the immediate vicinity of an area of the national park system to persons visiting the area; and

(2) has demonstrated to the Secretary that there are no reasonable alternatives by which to acquire or perform the necessary services, resources, or water;

(f) acquire, and have installed, air-conditioning units for any Government-owned passenger motor vehicles used by the National Park Service, where assigned duties necessitate long periods in automobiles or in regions of the United States where high temperatures and humidity are common and prolonged;

(g) sell at fair market value without regard to the requirements of the Federal Property and Administrative Services Act of 1949, as amended, products and services produced in the conduct of living exhibits and interpretive demonstrations in areas of the national park system, to enter into contracts including cooperative arrangements with respect to such living exhibits and interpretive demonstrations and park programs and to credit the proceeds therefrom to the appropriation bearing the cost of such exhibits and demonstrations.

SEC. 4. The Act of March 17, 1948 (62 Stat. 81), is amended by deleting from section 1 thereof the words "over which the United States has, or hereafter acquires, exclusive or concurrent criminal jurisdiction," and changing section 3 to read as follows:

"SEC. 3. For the purposes of this Act, the environs of the District of Columbia are hereby defined as embracing Arlington, Fairfax, Loudoun, Prince William, and Stafford Counties and the city of Alexandria in Virginia, and Prince Georges, Charles, Anne Arundel, and Montgomery Counties in Maryland."

The SPEAKER pro tempore (Mr. SISK). Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. TAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. ASPINALL).

Mr. ASPINALL. Mr. Speaker, H.R. 14114 is a general measure dealing with the administration of the national park system. It is the result of an executive communication transmitted to the Congress by the Secretary of the Interior last year, but even before that time members of the committee and members of our staff had discussed some of the problems with which it deals.

The bill now before the House represents an important measure insofar as the day-to-day operations of the Park Service are concerned. It is no glamorous bill. No one will receive any trophies or awards or be acclaimed an outstanding statesman in the field of conservation because of its enactment, but it is an important part of the mechanism that makes all of the more glamorous legislative enactments work.

The Subcommittee on National Parks and Recreation conducted hearings on this legislation during the last session and it has been carefully reviewed and perfected since that time. Essentially, the bill aims at one target; to clarify the authority granted by the Congress with respect to the activities of the National Park Service.

As everyone in this House knows, the past dozen years have been among the most productive years in the 100-year history of the national park system. We have expanded the concept of the system to include outdoor recreation as a major consideration for new areas. And, at the same time, we have stretched the idea that significant areas of the public domain should be reserved for public use and enjoyment to comprehend the reacquisition of remaining nationally significant areas for the public. In accomplishing these ends, the Congress has established some of the traditional types of areas in the national park system, but we have also added some new categories like national recreation areas, national lakeshores, and national seashores.

With the changes that have evolved, some anachronisms have developed in the general administrative authority. To correct them and update the general law, H.R. 14114 redefines "national park system" to comprehend all of the different types of areas involved so that the administrative authority applicable to a national park, for example, extends uniformly to a national seashore, and so forth.

In addition to clarifying the existing general authority, H.R. 14114 authorizes certain functions for which there has previously been no clear statutory authority. These new authorities are needed in order to improve the administration of the units of the national park system. Very briefly, I want to itemize these features of the bill:

First. It authorizes the Secretary to provide transportation for employees and their dependents to and from isolated areas when commercial transportation is not available and when such transportation is incidental to official transportation.

Second. It authorizes the Secretary to provide simple recreation facilities for employees and their families at isolated locations.

Third. It authorizes him to expand citizen participation in the park program by allowing him to appoint advisory committees to serve without compensation except for travel and per diem expenses.

Fourth. It authorizes the Secretary to purchase specialized equipment for employees needed for particular areas where such equipment is essential to the proper administration of a park.

Fifth. It authorizes him to contract for the sale or use of resources—particularly water—to public or private persons providing public accommodations to park visitors outside the park boundaries.

Sixth. It permits him to install air-conditioning units in Government-owned passenger vehicles which are used in areas where high temperatures or high humidity makes their prolonged use extremely uncomfortable. Obviously, these units will not be needed in all vehicles, but they should be installed in patrol vehicles in hot desert areas and in Park Police vehicles in the National Capital region.

Seventh. It allows him to dispose of products produced at "living exhibits" without regard to the usual rules applicable to the disposal of Federal property.

Mr. Speaker, all of these items are reasonable extensions of the existing general authority of the Secretary. We feel that they will enable him to carry out the responsibilities which have been assigned to him.

The amendments adopted by the committee make it clear that the new authorities are not without reasonable limitations and that adequate provisions should be available to carry out the functions intended at such "living exhibits" as Ford's Theatre and Wolf Trap Farm Park. The committee deleted language contained in the bill which authorized

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the Secretary to provide transportation of children to park areas because it was generally agreed that the language was too imprecise and the concept too broad to be included in this legislation.

In conclusion, I want to say that this bill does not specifically authorize any expenditures but some of its provisions will result in some costs to the Government. Naturally, any outlays will have to be included in the budget requests of the National Park Service and they will be subject to the usual thorough scrutiny of our Appropriations Committee. In addition, I can assure my colleagues that the authorizing committee will maintain careful surveillance over the programs involved.

As chairman of the Committee on Interior and Insular Affairs, I urge the approval of H.R. 14114, as amended.

Mr. SCOTT. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Speaker, I wonder if the gentleman would explain the last paragraph of the bill that has to do with the nearby counties in Virginia and Maryland being included within the Washington Metropolitan area. I believe this relates to the authority of the Park Police to make arrests in nearby parks, but as it is in my district, and I would like to have the gentleman explain this portion of the measure.

Mr. ASPINALL. Only in those areas over which the National Park Service has jurisdiction, this is a general authority which permits the National Park System of the Capital to perform such services.

Mr. SCOTT. What is the change, if the gentleman will, between the present law and the proposals under this bill?

Mr. ASPINALL. As I understand it, it incorporates the general law, but it also incorporates all the different categories of the National Park System which will be included under the provisions of this bill.

Mr. SCOTT. This authorizes the Park Police to make arrests in national parks within the named counties?

Mr. ASPINALL. That is correct.

Mr. SCOTT. Whether or not there has been a cession of jurisdiction by the States?

Mr. ASPINALL. The gentleman is correct, and it is because of the fact that these are so closely situate to the National Capital and the facilities involved are really a part of the National Capital Park System.

Mr. SCOTT. Would that be for a violation of Federal law or State law?

Mr. ASPINALL. It would be for violation of the Federal law.

Mr. SCOTT. I thank the gentleman.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

The purposes of this bill are to improve the administration of the national park system, to clarify the general authorities applicable to the system, and to provide new authorities to assist in the administration of the system.

Our first national park, Yellowstone National Park, was created in 1872. The National Park Service was created some 44 years later, in 1916. Since that time, the growth and development of our national park system has brought together a combination of interrelated resources, which are a cumulative expression of our heritage. Today, our national park system is world renowned. It is the finest in the world.

Today, the Committee on Interior and Insular Affairs is asking the House to pass legislation which will keep our national park system the best in the world. H.R. 14114 will do this, and I ask your support for this legislation.

Specifically, H.R. 14114, as amended, redefines the national park system to include all areas administered by the National Park Service. At the present time, the national park system is defined only in terms of six specific types of areas. Section 2 of the bill unifies all the areas administered by the National Park Service and clarifies the extent to which existing specific administrative authorities are applicable to all areas administered by the National Park Service.

Section 3 of the bill provides new authorities to assist in the administration of the national park system. Included among the new authorities are: Transportation for employees and families in isolated areas; recreation facilities for employees and their families in isolated areas; the appointment of advisory committees; authority to purchase special purpose and safety equipment; authority to contract for services and resources outside national park areas which will enhance the Federal facility; installation of air-conditioning equipment in Park Service vehicles; and authority to dispose of items produced at "living farms" or "live" intepretive exhibits, shows, and so forth, at fair market value, and which are surplus to the needs of the Federal Government.

Section 4 of the bill removes the requirement of exclusive or concurrent jurisdiction as to the arrest authority of the Park Police and redefines the environs of the District of Columbia over which the Park Police previously had no arrest authority.

Mr. Speaker, this legislation will greatly assist the administrators of our national park system in their efforts to preserve, interpret, and protect our natural heritage for the benefit and enjoyment of this and future generations of Americans.

I urge my colleagues to suspend the rules and pass this legislaton.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise today in full support of H.R. 14114, to improve the administration of the National Park Service and for other purposes.

First of all, I would like to compliment the distinguished chairman of the House Interior and Insular Affairs Committee, the gentleman from Colorado (Mr. ASPINALL), and the ranking minority member, the gentleman from Pennsylvania (Mr. SAYLOR), for advancing this legislation to assist in making the administration of the National Park Service more efficient and responsive to the times.

As we are all aware, the National Park Service is dedicated to preserving and conserving those areas in our country that are of great national significance. However, there has been no updating of the statutes since the Act of August 8, 1953, and the time has come to revise those statutes that are applicable to the Park Service.

As a consequence, there is, at present, a great variance in practice and statute in different areas around the Nation, and between parks, recreation areas, and so forth. This legislation is designed to reduce the variance and make the applicable laws and regulations more uniform in nature and, at the same time, create a uniform set of rules and regulations that will apply to future authorizations.

In addition, this legislation provides the Secretary of the Interior with the authority to further facilitate the administration of the national park system by authorizing him to provide necessary transportation and recreation facilities for employees who work in isolated areas, appoint committees to make possible more participation by local citizenry in park policies and programs, and offer products or services produced at national parks at fair market value.

We cannot operate a 1970 park system with outdated or outmoded rules and regulations; thus, the need for this legislation designed to provide statutes that will be more efficient and responsive to the needs of the 1970's—and the future.

Mr. HOSMER. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman from California.

Mr. HOSMER. Mr. Speaker, I wish to congratulate the gentleman on his remarks and the committee upon this bill.

Mr. Speaker, I express my hope that this bill will pass as has been requested.

Mr. TAYLOR. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, as chairman of the Subcommittee on National Parks and Recreation, I support H.R. 14114 which was introduced by the gentleman from Colorado (Mr. ASPINALL). A companion bill is being introduced by the gentleman from Pennsylvania (Mr. SAYLOR).

This bill is one which the Director of the National Park Service gives high priority and which the subcommittee recognized as important to the overall administration of our parklands. It is this kind of legislation which makes the national park system work from day to day. Without measures such as this, which bring the law into conformity with the progress which we have made, the administration of the units of the national park system could be severely handicapped.

The gentleman from Colorado has said that this is not a "glamorous" bill. It is a housekeeping bill. It will bring no one fame or fortune, but it will assure the uniform application of general law throughout the national park system and it will enable the Park Service to solve and accommodate some of the special problems associated with the operation of our national treasures.

Mr. Speaker, it is no accident that our chairman is the principal sponsor of the bill now before the House. As everyone in this body knows, he is one of the most conscientious conservationists in the Congress. He does not look for the easy way or the popular way out of a controversy, he looks for the right way to resolve it. He is a strong leader and a knowledgeable legislator who is respected by his colleagues and, silently, admired by many of the Nation's leading conservationists.

It is just like our chairman to be the sponsor of this bill, because he wants the park system which he has nurtured and promoted to operate effectively in the public interest. No other committee chairman in the history of this country has done more for the national park system than WAYNE ASPINALL. I have been on his committee since I first came to Congress 10 years ago. Day in and day out, he is there helping us to perfect the national park legislation which we bring before the House. Through his guidance and leadership, we have authorized the greatest expansion of the national park system since the days of Teddy Roosevelt and William Howard Taft. As a fellow committee member and as a fellow Democrat, I am proud to be associated with this great American.

H.R. 14114 typifies the concern of our colleague for the more mundane, but no less important, affairs of the National Park Service. Its enactment will update the general law as it applies to the national park system and it will make the law uniformly applicable to all types of units of the system.

The bill also adds some continuing authority to the general law which is considered necessary. Some of these provisions will effectively enhance employee relations and morale; namely, the authority to provide transportation and limited recreation facilities and equipment for park personnel and their families at isolated locations. Needless to say, the installation of air-conditioning units in Park Service vehicles which are almost constant use in both arid and humid regions will make those assignments more desirable and acceptable. Some other provisions deal with specific problems which occur at park areas from time to time and which should be handled in a general way rather than in specific authorizations.

Mr. Speaker, the chairman of the full committee and the ranking minority member have made a thorough explanation of the legislation which I need not repeat, but I do want to recommend H.R. 14114, as amended, to the Members of the House.

The SPEAKER pro tempore. (Mr. SISK). The question is on the motion of the gentleman from North Carolina that the House suspend the rules and pass the bill H.R. 14114, as amended.

The question was taken.

Mr. HOSMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 325, nays 0, not voting 106, as follows:

[Roll No. 222]

YEAS—325

Abbitt
Abernethy
Adams
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Aspinall
Ayres
Baring
Barrett
Beall, Md.
Belcher
Bell, Calif.
Bennett
Betts
Bevill
Biester
Bingham
Blackburn
Blanton
Boggs
Boland
Bolling
Bow
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Mass.
Burlison, Mo.
Burton, Calif.
Byrne, Pa.
Byrnes, Wis.
Carter
Cederberg
Celler
Chamberlain
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohelan
Collins
Colmer
Conable
Conte
Corman
Coughlin
Cowger
Cramer
Cunningham
Daniel, Va.
Daniels, N.J.
Davis, Wis.
Dellenback
Denney
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Dowdy
Downing
Dulski
Duncan
Dwyer
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Fallon
Fascell
Feighan
Findley

Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Foreman
Fountain
Fraser
Frey
Friedel
Fulton, Pa.
Fuqua
Galifianakis
Garmatz
Gaydos
Gettys
Gibbons
Goldwater
Gonzalez
Goodling
Green, Pa.
Griffin
Griffiths
Gross
Grover
Gubser
Gude
Hagan
Haley
Hall
Hamilton
Hammerschmidt
Hanna
Harsha
Hathaway
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Hunt
Hutchinson
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kee
Keith
King
Kleppe
Kluczynski
Koch
Kuykendall
Kyl
Kyros
Landgrebe
Langen
Latta
Leggett
Lennon
Lloyd
Long, Md.
Lujan
McCarthy
McCloskey
McClure
McDade
McDonald, Mich.
McFall
McKneally
McMillan
Mahon
Mailliard
Mann
Marsh
Martin
Mathias
Matsunaga
May

Mayne
Meeds
Michel
Mikva
Miller, Ohio
Mills
Minish
Mink
Mize
Mizell
Mollohan
Monagan
Montgomery
Moorhead
Morgan
Morse
Morton
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Konski
Olsen
O'Neal, Ga.
O'Neill, Mass.
Passman
Patman
Patten
Pelly
Perkins
Pettis
Philbin
Pickle
Pike
Poage
Podell
Poff
Pollock
Preyer, N.C.
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rees
Reid, Ill.
Reid, N.Y.
Reifel
Reuss
Rhodes
Riegle
Rivers
Roberts
Robison
Rodino
Rogers, Colo.
Rogers, Fla.
Rooney, N.Y.
Rosenthal
Roth
Ruth
Sandman
Satterfield
Saylor
Scherle
Scheuer
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Stafford
Staggers
Stanton
Steed
Steiger, Ariz.

Steiger, Wis.
Stokes
Stratton
Stubblefield
Sullivan
Taft
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Tiernan

Udall
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Wampler
Watson
Whalen
White
Whitehurst
Whitten
Widnall
Williams

Wilson, Bob
Winn
Wold
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young
Zablocki
Zion

NAYS—0

NOT VOTING—106

Adair
Addabbo
Anderson, Tenn.
Ashbrook
Berry
Biaggi
Blatnik
Brademas
Brasco
Brock
Brown, Mich.
Burke, Fla.
Burleson, Tex.
Burton, Utah
Bush
Button
Cabell
Caffery
Camp
Carey
Casey
Chappell
Chisholm
Collier
Conyers
Corbett
Crane
Culver
Daddario
Davis, Ga.
Dawson
de la Garza
Delaney
Diggs
Edwards, La.
Esch

Eshleman
Evins, Tenn.
Farbstein
Fish
Frelinghuysen
Fulton, Tenn.
Gallagher
Giaimo
Gilbert
Gray
Green, Oreg.
Halpern
Hanley
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hastings
Hawkins
Hébert
Hungate
Ichord
Karth
Kirwan
Landrum
Long, La.
Lowenstein
Lukens
McClory
McCulloch
McEwen
Macdonald, Mass.
MacGregor
Madden
Melcher
Meskill

Miller, Calif.
Minshall
Nelsen
Ottinger
Pepper
Pirnie
Powell
Pryor, Ark.
Rarick
Roe
Rooney, Pa.
Rostenkowski
Roudebush
Rousselot
Roybal
Ruppe
Ryan
St Germain
Schadeberg
Stephens
Stuckey
Symington
Tunney
Ullman
Vander Jagt
Watkins
Watts
Weicker
Whalley
Wiggins
Wilson, Charles H.
Wolff
Wylie
Zwach

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Frelinghuysen.

Mr. Rostenkowski with Mr. Watkins.

Mr. Giaimo with Mr. Eshleman.

Mr. Daddario with Mr. Meskill.

Mr. Miller of California with Mr. Wiggins.

Mr. Long of Louisiana with Mr. Minshall.

Mr. Brasco with Mr. Button.

Mr. Edward of Louisiana with Mr. Burton of Utah.

Mr. Biaggi with Mr. Fish.

Mr. Rarick with Mr. Berry.

Mrs. Green of Oregon with Mr. Roudebush.

Mr. Pryor of Arkansas with Mr. Ashbrook.

Mr. Delaney with Mr. Pirnie.

Mr. Macdonald of Massachusetts with Mr. McCulloch.

Mr. Addabbo with Mr. Corbett.

Mr. Blatnik with Mr. Brown of Michigan.

Mr. Burleson of Texas with Mr. Crane.

Mr. Carey with Mr. McEwen.

Mr. Rooney of Pennsylvania with Mr. Hawkins.

Mr. St Germain with Mr. Camp.

Mr. Hanley with Mr. Hastings.

Mr. Evins of Tennesseee with Mr. Davis of Georgia.

Mr. Madden with Mr. Esch.

Mr. Cabell with Mr. Bush.

Mr. Caffery with Mr. Burke.

Mr. Brademas with Mr. Adair.

Mr. Watts with Mr. Collier.

Mr. Wolff with Mr. Halpern.

Mr. Melcher with Mr. McClory.

Mr. Stephens with Mr. Hansen of Idaho.

Mr. Gray with Mr. Powell.

Mr. Gallagher with Mr. Nelsen.

Mr. Fulton of Tennessee with Mr. Brock.

Mr. Culver with Mr. Harvey.
Mr. Chappell with Mr. Lukens.
Mr. Gilbert with Mr. MacGregor.
Mr. Landrum with Mr. Charles H. Wilson.
Mr. Tunney with Mr. Conyers.
Mr. Lowenstein with Mrs. Chisholm.
Mr. Anderson of Tennessee with Mr. Wylie.
Mr. de la Garza with Mr. Rousselot.
Mr. Kirwan with Mr. Diggs.
Mr. Ottinger with Mr. Ruppe.
Mr. Pepper with Mr. Whalley.
Mr. Ichord with Mr. Schadeberg.
Mr. Karth with Mr. Vander Jagt.
Mr. Hungate with Mr. Weicker.
Mr. Ullman with Mr. Zwach.
Mr. Casey with Mr. Roe.
Mr. Roybal with Mr. Stuckey.
Mr. Harrington with Mr. Ryan.
Mr. Farbstein with Mr. Symington.
Mrs. Hansen of Washington with Mr. Dawson.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I ask unanimous consent that the Committee on Rules may have until midnight to file certain privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

EXTENDING BOUNDARIES OF TOIYABE NATIONAL FOREST, NEV.

Mr. ASPINALL. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3279) to extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes, as amended.

The Clerk read as follows:

S. 3279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to aid in the protection and management of the various resources of the area, including the protection, improvement, and maintenance of the watershed, wildlife, recreation, and natural environment values of the lands in the Lake Tahoe Basin, and to promote the management and protection of these lands under principles of multiple use and sustained yield, the boundaries of the Toiyabe National Forest are hereby extended to include the area described in section 2 hereof. Subject to any valid claims now existing and hereafter maintained, any lands of the United States within such area are hereby added to such national forest and shall be subject to laws and regulations applicable to the national forests.

SEC. 2. This Act shall be applicable to the following described lands:

Mount Diablo Meridian, Nevada

Township 13 north range 18 east: Section 2, lot 1 of the northeast quarter, lot 1 of the northwest quarter, south half; section 3, lots 1 and 2 of northeast quarter, lots 5, 6, and 7, northeast quarter southwest quarter, southeast quarter; section 10, lot 1, east half; section 11, all; section 14, north half, southwest quarter, north half southeast quarter, southwest quarter southeast quarter; section 23, west half northeast quarter, northeast quarter northwest quarter; section 24, north half north half, south half northwest quarter, northwest quarter southwest quarter.

Township 14 north, range 18 east: Sections 1 and 2, all; section 3, lots 1 and 2 of northeast quarter, lots 1 and 2 of northwest quarter, northeast quarter southeast quarter; section 4, lots 1 and 2; section 11, northeast quarter, north half northwest quarter, southeast quarter northwest quarter, east half southwest quarter, southeast quarter; section 12, all; section 14, west half; section 15, east half northeast quarter, northeast quarter southeast quarter; section 22, lots 2, 3, and 4, east half southeast quarter; section 23, west half; section 26, west half; section 34, southeast quarter; section 35, northeast quarter northwest quarter.

Township 15 north, range 18 east: Section 13, south half; section 14, lots 3 and 4, east half southwest quarter, southeast quarter; sections 22, 23, 24, 25, 26, 27, 33, 34, 35, and 36, all.

Township 15 north, range 19 east: Section 18, lot 2 of the southwest quarter; section 19, lot 2 of the northwest quarter, lots 1 and 2 of the southwest quarter; section 30, lot 2 of the northwest quarter.

The area described aggregates 12,919.78 acres, more or less.

SEC. 3. Not to exceed $12,500,000 of the funds appropriated and available for acquisition of lands, waters, and interests therein, in the National Forest System pursuant to section 6 of the Act of September 3, 1964 (78 Stat. 903), shall be available for the acquisition of any lands, waters, and interests therein, within the area described in section 2 of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ASPINALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of S. 3279, as amended, is to extend the boundaries of the Toiyabe National Forest to include some 12,920 acres along the Nevada side of Lake Tahoe. This extension of the boundaries would assist in the protection of the land and permits its management under the principles of multiple use and sustained yield.

Besides giving added protection to the lake and its surrounding land area, the acquisition of the new acreage would increase the lake frontage in public ownership by 50 percent and would provide additional badly needed recreational facilities.

Population pressures are at work in the Lake Tahoe area as they are in many other areas. However, here these pressures could be even more harmful to the natural beauty and environment than in areas more able to absorb the expansion. The population of the Nevada portion of the basin has increased from 213 in 1950 to 8,000 by 1969 and in the last 5 years 99 subdivision developments have been filed and approved. The population of the entire basin is now about 28,000 with summertime peaks of over 100,000.

This activity has resulted in siltation and pollution of the lake water from fertilizers, insecticides, salts for ice and snow control, and other soluble chemicals used in our everyday activities. As a result the color and clarity of the lake is being adversely affected, and there is the beginning of algae and aquatic plant growth in the lake. Enactment of S. 3279 would be a step in the right direction to control this gradual degradation of this area and its environment.

The proposal, as amended, by the Committee on Interior and Insular Affairs, places an acquisition ceiling of $12,500,000 on the land to be included. This is the amount estimated as necessary by the Department of Agriculture in testimony before the committee.

Mr. Speaker, I recommend enactment of S. 3279.

Mr. ASPINALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada (Mr. BARING).

Mr. BARING. Mr. Speaker, as chairman of the House Interior Committee Public Lands Subcommittee, I want to urge favorable action today on S. 3279, a bill to extend the boundaries of the Toiyabe National Forest at Lake Tahoe in Nevada.

This is an excellent bill of vital importance to, not just the people in my State of Nevada, but for all Americans who desire the preservation of the scenic wonders of this Nation and the proper utilization of natural resources in our ever-growing United States.

I wish to note to the Members of the House that this bill has already passed the Senate, where it had strong support.

The bill calls for the inclusion of 12,920 acres of beautiful forested and lakefront land on the Nevada side of this high Sierra Mountain lake. This bill will allow proper protection and management of the area under the principles of multiple use and sustained yield.

This bill further enhances the efforts to protect the crystalline waters of Lake Tahoe.

The American public is the benefactor in this bill as an expanded recreation area will result. I especially want to point out that 6 miles of Lake Tahoe shoreline frontage will be included.

The bill also states, Mr. Speaker, that the limit of $12,500,000 will be spent for acquisition by the Department of Agriculture of the additional park lands with the funds to come from the land and water conservation fund act.

This bill surely helps protect the natural environmental qualities of the Lake Tahoe area and all of the related natural resources within the expanded Toiyabe National Forest.

I urge passage of this measure.

Mr. SAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 3279, to extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes.

The purpose of this legislation is to protect the environment, natural beauty, and watershed of Lake Tahoe in Nevada. This will be done by authorizing the Forest Service to acquire approximately 12,920 acres of land along the Nevada side of Lake Tahoe. These lands would then become part of the Toiyabe National Forest by extension of the national forest boundaries to include these lands.

The total cost for acquisition of lands are estimated at $12,500,000 and the

Forest Service proposes to promote the management and protection of these lands under the principles of multiple use and sustained yield.

Once again, we are called upon to face the threat of an environmental factor—the threat of uncontrolled population. Once again, an area of unusual beauty with a unique body of water is threatened with imbalance and possible destruction because of the neglect of our environment. And, once again, we run to fill the breach with piecemeal land use measures.

Mr. Speaker, this type of legislation clearly demonstrates the need for a national land use policy. In the absence of a national land use policy, I urge the rules be suspended and S. 3279 be passed.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I shall be happy to yield to the gentleman from Iowa.

Mr. GROSS. Do I understand that the land will be obtained at a cost of something like $1,200 an acre?

Mr. SAYLOR. It would be in that amount in reference to some of it, but right down at the lake, it would cost more than that.

Mr. GROSS. Well, I do not doubt that the land on or within a reasonable distance of the lake would be quite expensive. However, what makes the remainder of the land, located at a distance from the lake, worth $1,250 per acre or somewhere near that price?

Mr. SAYLOR. I might say to my colleague from Iowa that I happen to know of my own knowledge certain tracts of land on the lake which sold for more than $12,000 per acre not too long ago. I can also tell my colleague that the land that is removed about 12 miles from the lake also sold for over $1,000 per acre not too long ago.

Mr. GROSS. Mr. Speaker, if the gentleman will yield further, is that based on timber yield or any other enhancement other than the location of the land in close proximity to the lake?

Mr. SAYLOR. It is based upon the location of the land, and the proximity to the land to the lake. Land in that area is in tremendous demand for summer homes. It is a tremendous recreation area. One of the reasons that some of this land is being bought away from the lake is in order to protect the lake itself. It just so happens that I went to this lake a short time ago and observed this area. I can remember I will say to my friend from Iowa the time when Lake Tahoe was a gem of beauty, with no pollution at all. However, now observing the area from a height one can see where large areas of this lake are already polluted, and unless something is done to prevent further pollution of it the gem not only recognized by this country but by people throughout the world is about to be lost because of pollution.

Mr. GROSS. Is that because of lack of State enforcement of antipollution measures, or does the State have any jurisdiction?

Mr. SAYLOR. Well, the pollution is on both sides, on the California side as well as on the Nevada side. I might say that both States are moving rapidly to upgrade their antipollution rules and regulations based upon plans which they have formulated for that immediate area.

Mr. GROSS. I thank the gentleman for his explanation.

The **SPEAKER** pro tempore (Mr. SISK). The question is on the motion of the gentleman from Colorado that the House suspend the rules and pass the bill S. 3279, as amended.

The question was taken; and (two-thirds having voted in favor threof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL AID TO FISH AND WILDLIFE RESTORATION ACTS

Mr. GARMATZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12475) to revise and clarify the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish Restoration Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FEDERAL AID IN WILDLIFE RESTORATION

SEC. 101. The first sentence of section 3 of the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669b), is amended to read as follows: "An amount equal to all revenues accruing each fiscal year (beginning with the fiscal year 1971) from any tax imposed on specified articles by section 4181 of the Internal Revenue Code of 1954 (26 U.S.C. 4181) shall, subject to the exemptions in section 4182 of such Code, be covered into the Federal aid to wildlife restoration fund in the Treasury (hereinafter referred to as the 'fund') and is authorized to be appropriated and made available until expended to carry out the purposes of this Act."

SEC. 102. Sections 4, 5, 6, 7, 8, and 8(a) of the Federal Aid in Wildlife Restoration Act of September 2, 1937 (16 U.S.C. 669c—669g–1), are amended to read as follows:

"SEC. 4. (a) So much, not to exceed 8 per centum of the revenues covered into said fund in each fiscal year as the Secretary of the Interior may estimate to be necessary for his expenses in the administration and execution of this Act and the Migratory Bird Conservation Act shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within sixty days after the close of such fiscal year the Secretary of the Interior shall apportion such part thereof as remains unexpended by him, if any, and make certificate thereof to the Secretary of the Treasury and to the State fish and game departments on the same basis and in the same manner as is provided as to other amounts authorized by this Act to be apportioned among the States for such current fiscal year. The Secretary of the Interior, after making the aforesaid deduction, shall apportion, except as provided in subsection (b) of this section, the remainder of the revenue in said fund for each fiscal year among the several States in the following manner: One-half in the ratio which the area of each State bears to the total area of all the States, and one-half in the ratio which the number of paid hunting license holders of each State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the total number of paid hunting-license holders of all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than one-half of 1 per centum nor more than 5 per centum of the total amount apportioned. The term fiscal year as used in this Act shall be a period of twelve consecutive months from July 1 through the succeeding June 30, except that the period of enumeration of paid hunting-license holders shall be a State's fiscal or license year.

"(b) One-half of the revenues accruing to the fund under this Act each fiscal year (beginning with the fiscal year 1971) from any tax imposed on pistols and revolvers shall be apportioned among the States in proportion to the ratio that the population of each State bears to the population of all the States. Provided, That each State shall be apportioned not more than 3 per centum and not less than 1 per centum of such revenues. For the purpose of this subsection, population shall be determined on the basis of the latest decennial census for which figures are available, as certified by the Secretary of Commerce.

"SEC. 5. For each fiscal year, the Secretary of the Interior shall certify to the Secretary of the Treasury and to each State fish and game department the sum which he has estimated to be deducted for administering and executing this Act and the Migratory Bird Conservation Act and the sum which he has apportioned to each State. Any State desiring to avail itself of the benefits of this Act shall notify the Secretary of the Interior to this effect within sixty days after it has received the certification referred to in this section. The sum apportioned to any State which fails to notify the Secretary of the Interior as herein provided is authorized to be made available for expenditure by the Secretary of the Interior in carrying out the provisions of the Migratory Bird Conservation Act.

"SEC. 6. (a) Any State desiring to avail itself of the benefits of this Act shall, by its State fish and game department, submit programs or projects for wildlife restoration in either of the following two ways:

"(1) The State shall prepare and submit to the Secretary of the Interior a comprehensive fish and wildlife resource management plan which shall insure the perpetuation of these resources for the economic, scientific, and recreational enrichment of the people. Such plan shall be for a period of not less than five years and be based on projections of desires and needs of the people for a period of not less than fifteen years. It shall include provisions for updating at intervals of not more than three years and be provided in a format as may be required by the Secretary of the Interior. If the Secretary of the Interior finds that such plans conform to standards established by him and approves such plans, he may finance up to 75 per centum of the cost of implementing segments of those plans meeting the purposes of this Act from funds apportioned under this Act upon his approval of an annual agreement submitted to him.

"(2) A State may elect to avail itself of the benefits of this Act by its State fish and game department submitting to the Secretary of the Interior full and detailed statements of any wildlife-restoration project proposed for that State. If the Secretary of the Interior finds that such project meets with the standards set by him and approves said project, the State fish and game department shall furnish to him such surveys, plans, specifications, and estimates therefor as he may require. If the Secretary of the Interior approves the plans, specifications, and estimates for the project, he shall notify the State fish and game department and immediately set aside so much of said fund as represents the share of the United States payable under this Act

XUM

on account of such project, which sum so set aside shall not exceed 75 per centum of the total estimated cost thereof.

The Secretary of the Interior shall approve only such comprehensive plans or projects as may be substantial in character and design and the expenditure of funds hereby authorized shall be applied only to such approved comprehensive wildlife plans or projects and if otherwise applied they shall be replaced by the State before it may participate in any further apportionment under this Act. No payment of any money apportioned under this Act shall be made on any comprehensive wildlife plan or project until an agreement to participate therein shall have been submitted to and approved by the Secretary of the Interior.

"(b) If the State elects to avail itself of the benefits of this Act by preparing a comprehensive fish and wildlife plan under option (1) of subsection (a) of this section, then the term 'project' may be defined by the purposes of this Act as a wildlife program, all other definitions notwithstanding.

"(c) Administrative costs in the form of overhead or indirect costs for services provided by State central service activities outside of the State agency having primary jurisdiction over the wildlife resources of the State which may be charged against programs or projects supported by the fund established by section 3 of this Act shall not exceed in any one fiscal year 3 per centum of the annual apportionment to the State.

"SEC. 7. (a) When the Secretary of the Interior shall find that any project approved by him has been completed or, if involving research relating to wildlife, is being conducted, in compliance with said plans and specifications, he shall cause to be paid to the proper authority of said State the amount set aside for said project. The Secretary of the Interior may, in his discretion, from time to time, make payments on said project as the same progresses; but these payments, including previous payments, if any, shall not be more than the United States pro rata share of the project in conformity with said plans and specifications. If a State has elected to avail itself of the benefits of this Act by preparing a comprehensive fish and wildlife plan as provided for under option (1) of subsection (a) of section 6 of this Act, and this plan has been approved by the Secretary of the Interior, then the Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon between the State fish and game department and the Secretary.

"(b) Any construction work and labor in each State shall be performed in accordance with its laws and under the direct supervision of the State fish and game department, subject to the inspection and approval of the Secretary of the Interior and in accordance with rules and regulations made pursuant to this Act. The Secretary of the Interior and the State fish and game department of each State may jointly determine at which times and in what amounts payments shall be made under this Act. Such payments shall be made by the Secretary of the Treasury, on warrants drawn by the Secretary of the Interior against the said fund to such official or officials, or depository, as may be designated by the State fish and game department and authorized under the laws of the State to receive public funds of the State.

"SEC. 8. (a) Maintenance of wildlife-restoration projects established under the provisions of this Act shall be the duty of the States in accordance with their respective laws. Beginning July 1, 1945, the term 'wildlife-restoration project,' as defined in section 2 of this Act, shall include maintenance of completed projects. Notwithstanding any other provisions of this Act, funds apportioned to a State under this Act may be expended by the State for management (exclusive of law enforcement and public relations) of wildlife areas and resources.

"(b) Each State may use the funds apportioned to it under section 4(h) of this Act to pay up to 50 per centum of the costs of a hunter safety program and the construction, operation, and maintenance of public outdoor target ranges, as a part of such program. The non-Federal share of such costs may be derived from license fees paid by hunters, but not from other Federal grant programs. The Secretary shall issue not later than the 120th day after the effective date of this subsection such regulations as he deems advisable relative to the criteria for the establishment of hunter safety programs and public outdoor target ranges under this subsection.

"SEC. 8A. The Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture of Puerto Rico, the Governor of Guam, and the Governor of the Virgin Islands, in the conduct of wildlife-restoration projects, as defined in section 2 of this Act, upon such terms and conditions as he shall deem fair, just, and equitable, and is authorized to apportion to Puerto Rico, Guam, and the Virgin Islands, out of the money available for apportionment under this Act, such sums as he shall determine, not exceeding for Puerto Rico one-half of 1 per centum, for Guam one-sixth of 1 per centum, and for the Virgin Islands one-sixth of 1 per centum of the total amount apportioned, in any one year, but the Secretary shall in no event require any of said cooperating agencies to pay an amount which will exceed 25 per centum of the cost of any project. Any unexpended or unobligated balance of any apportionment made pursuant to this section shall be available for expenditure in Puerto Rico, Guam, or the Virgin Islands, as the case may be, in the succeeding year, on any approved project, and if unexpended or unobligated at the end of such year is authorized to be made available for expenditure by the Secretary of the Interior in carrying out the provisions of the Migratory Bird Conservation Act."

SEC. 103. This title may be cited as the "Federal Aid in Wildlife Restoration Act Amendments of 1970."

TITLE II—FEDERAL AID IN SPORT FISH RESTORATION

SEC. 201. Section 4 of the Federal Aid in Fish Restoration Act of 1950 (16 U.S.C. 777c) is amended to read as follows:

"SEC. 4. So much, not to exceed 8 per centum, of each annual appropriation made in pursuance of the provisions of section 3 of this Act as the Secretary of the Interior may estimate to be necessary for his expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or fresh waters shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year. The Secretary of the Interior, after making the aforesaid deduction, shall apportion the remainder of the appropriation for each fiscal year among the several States in the following manner: 40 per centum in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States, and 60 per centum in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than 1 per centum nor more than 5 per centum of the total amount apportioned. Where the apportionment to any State under this section is less than $4,500 annully, the Secretary of the Interior may allocate not more than $4,500 of said appropriation to said State to carry out the purposes of this Act when said State certifies to the Secretary of the Interior that it has set aside not less than $1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount for said purposes. So much of any sum not allocated under the provisions of this section for any fiscal year is hereby authorized to be made available for expenditure to carry out the purposes of this Act until the close of the succeeding fiscal year, and if unexpended or unobligated at the end of such year, such sum is hereby authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation. The term fiscal year as used in this section shall be a period of twelve consecutive months from July 1 through the succeeding June 30, except that the period for enumeration of persons holding licenses to fish shall be a State's fiscal or license year."

SEC. 202. Sections 6, 7, and 8 of the Federal Aid in Fish Restoration Act of 1950 (16 U.S.C. 777e–777g) are amended to read as follows:

"SEC. 6. (a) Any State desiring to avail itself of the benefits of this Act shall, by its State fish and game department, submit programs or projects for fish restoration in either of the following two ways:

"(1) The State shall prepare and submit to the Secretary of the Interior a comprehensive fish and wildlife resource management plan which shall insure the perpetuation of these resources for the economic, scientific, and recreational enrichment of the people. Such plan shall be for a period of not less than five years and be based on projections of desires and needs of the people for a period of not less than fifteen years. It shall include provisions for updating at intervals of not more than three years and be provided in a format as may be required by the Secretary of the Interior. If the Secretary of the Interior finds that such plans conform to standards established by him and approves such plans, he may finance up to 75 per centum of the cost of implementing segments of those plans meeting the purposes of this Act from funds apportioned under this Act upon his approval of an annual agreement submitted to him.

"(2) A State may elect to avail itself of the benefits of this Act by its State fish and game department submitting to the Secretary of the Interior full and detailed statements of any fish restoration and management project proposed for that State. If the Secretary of the Interior finds that such project meets with the standards set by him and approves said project, the State fish and game department shall furnish to him such surveys, plans, specifications, and estimates therefor as he may require. If the Secretary of the Interior approves the plans, specifications, and estimates for the project, he shall notify the State fish and game department and immediately set aside so much of said appropriation as represents the share of the United States payable under this Act on account of such project, which sum so set aside shall not exceed 75 per centum of the total estimated cost thereof.

"The Secretary of the Interior shall approve only such comprehensive plans or projects as may be substantial in character and design and the expenditure of funds hereby authorized shall be applied only to such approved comprehensive fishery plan or projects and if otherwise applied they shall be replaced by the State before it may participate in any further apportionment under this Act. No payment of any money apportioned under this Act shall be made on any comprehensive fishery plan or project until an agreement to participate therein shall have been submitted to and approved by the Secretary of the Interior.

"(b) If the State elects to avail itself of the benefits of this Act by preparing a comprehensive fish and wildlife plan under option (1) of subsection (a) of this section, then the term 'project' may be defined for the purpose of this Act as a fishery program, all other definitions notwithstanding.

"(c) Administrative costs in the form of overhead or indirect costs for services provided by State central service activities outside of the State fish and game department charged against programs or projects supported by funds made available under this Act shall not exceed in any one fiscal year 3 per centum of the annual apportionment to the State.

"Sec. 7. (a) When the Secretary of the Interior shall find that any project approved by him has been completed or, if involving research relating to fish, is being conducted, in compliance with said plans and specifications, he shall cause to be paid to the proper authority of said State the amount set aside for said project. The Secretary of the Interior may, in his discretion, from time to time, make payments on said project as the same progresses; but these payments, including previous payments, if any, shall not be more than the United States' pro rata share of the project in conformity with said plans and specifications. If a State has elected to avail itself of the benefits of this Act by preparing a comprehensive fish and wildlife plan as provided for under option (1) of subsection (a) of section 6 of this Act, and this plan has been approved by the Secretary of the Interior, then the Secretary may, in his discretion, and under such rules and regulations, as he may prescribe, advance funds to the State for financing the United States' pro rata share agreed upon between the State fish and game department and the Secretary.

"(b) Any construction work and labor in each State shall be performed in accordance with its laws and under the direct supervision of the State fish and game department, subject to the inspection and approval of the Secretary of the Interior and in accordance with the rules and regulations made pursuant to this Act. The Secretary of the Interior and the State fish and game department of each State may jointly determine at what times and in what amounts payments shall be made under this Act. Such payments shall be made against the said appropriation to such official or officials, or depository, as may be designated by the State fish and game department and authorized under the laws of the State to receive public funds of the State.

"Sec. 8. To maintain fish-restoration and management projects established under the provisions of this Act shall be the duty of the States according to their respective laws. Beginning July 1, 1953, maintenance of projects heretofore completed under the provisions of this Act may be considered as projects under this Act. Title to any real or personal property acquired by any State, and to improvements placed on State-owned lands through the use of funds paid to the State under the provisions of this Act, shall be vested in such State."

Sec. 203. Section 12 of the Federal Aid in Fish Restoration Act of 1950 (16 U.S.C. 777k) is amended to read as follows:

"Sec. 12. The Secretary of the Interior is authorized to cooperate with the Secretary of Agriculture of Puerto Rico, the Governor of Guam, and the Governor of the Virgin Islands, in the conduct of fish restoration and management projects, as defined in section 2 of this Act, upon such terms and conditions as he shall deem fair, just, and equitable, and is authorized to apportion to Puerto Rico, Guam, and the Virgin Islands, out of money available for apportionment under this Act, such sums as he shall determine, not exceeding for Puerto Rico 1 per centum, for Guam one-third of 1 per centum and for the Virgin Islands one-third of 1 per centum of the total amount apportioned in any one year, but the Secretary shall in no event require any of said cooperating agencies to pay an amount which will exceed 25 per centum of the cost of any project. Any unexpended or unobligated balance of any apportionment made pursuant to this section shall be made available for expenditure in Puerto Rico, Guam, or the Virgin Islands, as the case may be, in the succeeding year, on any approved projects, and if unexpended or unobligated at the end of such year is authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation."

Sec. 204. This title may be cited as the "Federal Aid in Fish Restoration Act Amendments of 1970".

The SPEAKER pro tempore. Is a second demanded?

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. GARMATZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, the main purpose of H.R. 12475 is to revise and clarify the administration of the Fish and Wildlife Restoration Acts. It also has as its purpose to encourage comprehensive planning by the State fish and game departments, to increase revenues available to the States for wildlife restoration projects, and to provide funds to be used by the States to carry out hunter safety programs.

Mr. Speaker, the sports of fishing and hunting are among the most popular forms of outdoor recreation known to man today. Over 30 million citizens of this country participate in these forms of recreation each year. The activities of these sportsmen are made possible mainly through the invaluable assistance provided by the Federal aid in wildlife restoration—known as the Pittman-Robertson Act—and the Federal Aid in Fish Restoration—known as the Dingell-Johnson Act.

The Pittman-Robertson Act was enacted in 1937, and has made available to the States since that time over $355 million. The funds are used by the States on a 75–25 matching fund basis to carry out wildlife restoration projects, including the purchase and improvement of land and water areas and the management of such areas and its resources. The funds to carry out this program are derived from the 11 percent tax on firearms, shells, and cartridges. The annual nationwide benefits derived from this program include an estimated 50 million man-days of hunting and 33 million man-days of associated recreation such as camping, birdwatching, fishing, and picnicking.

The Dingell-Johnson Act was enacted in 1950 and has made available to the States in excess of $100 million since its inception. The annual nationwide public benefits derived from this program include an estimated 65 million man-days of fishing and 15 million man-days of associated recreation. Like the Pittman-Robertson Act, the Dingell-Johnson Act programs are carried out on a 75–25 matching fund basis with the States. The funds to finance this act are derived from the 10 percent tax on fishing rods, creels, and artificial lures and flies.

Mr. Speaker, as previously indicated, H.R. 12475 would provide numerous amendments to the Pittman-Robertson and Dingell-Johnson Acts. Many of the amendments deal with administrative details and would result in reducing considerably certain activities that have been financially burdensome to both the Federal and State governments in the past. I am sure my colleagues will find them relatively minor in nature and noncontroversial. I might add that all of the amendments have the strong endorsement of the International Association of Game, Fish, and Conservation Commissioners. This association is made up mainly of State fish and game directors, the ones charged with the administration of these two programs.

Mr. Speaker, there are three major changes that would be provided by the legislation and I would like to briefly discuss them at this time.

The first of these major changes would affect both the Pittman-Robertson and Dingell-Johnson Acts. Section 6 of both acts would be rewritten to give the States the option of using comprehensive long-range plans as compared to plans on a project-by-project basis, which has been the practice in the past.

The comprehensive plan would be required to be based on projections of at least 15 years and to be updated every 3 years. To take advantage of this option, the plan would have to be for a period of 5 years. In view of the projected demand for future urban programs, transportation corridors, forest products, and outdoor recreational uses not related to fish and wildlife, it is imperative that the State fish and game departments enter into the planning process at every level of government and at the earliest possible date. H.R. 12475 would provide the added inducement to mount this concerted planning effort.

The second major change that would be provided by the legislation would involve the Pittman-Robertson Act. This change is designed to increase the revenues available to the States for wildlife restoration projects and at the same time provide funds to be used by the States for carrying out hunter safety programs. Section 101 of the bill would provide that the 10-percent tax on pistols and revolvers now deposited in the general fund of the Treasury would be deposited in the future in the Federal aid in wildlife restoration fund. The revenues derived from this tax would be apportioned among the States in proportion to the ratio that the population of each State bears to the population of all States. It

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would provide that no State would be apportioned more than 3 percent nor less than 1 percent of the amount of revenues apportioned for any fiscal year under this subsection. Of the funds apportioned the States would have the option of using up to one-half of the revenues to carry out a hunter safety program, including as a part of such program the construction, operation, and maintenance of public outdoor target ranges. Any projects approved by the Secretary of the Interior could receive up to 50-percent financing from such apportioned funds. The remainder of the cost would be paid for by the State from other non-Federal grant programs.

If a State elects not to carry out a hunter safety program then all of the apportioned funds to that State would be available to carry out regular wildlife restoration projects on a 75–25 matching fund basis.

Mr. Speaker, I would like to point out at this time that the evidence at the hearings on the legislation revealed that the States strongly endorse this provision of the bill. There are over 14 million licensed hunters in this country today. Of those that hunt, over 2 million are under 18 years of age. Today, over 40 States have some form of hunter safety training courses. Approximately 400,000 youths are successfully completing a hunter safety training course each year. Fifteen of those States require graduation from hunter safety programs as a prerequisite to purchasing the first hunting license. Thus, it becomes apparent that a substantial portion of the hunting population is being sold hunting licenses without having received this training. Testimony at the hearings further revealed that with meaningful hunter safety programs in every State, casualties and deaths from firearms accidents could be reduced as much as 80 percent.

Mr. Speaker, every effort should be made to increase hunter safety training activities. H.R. 12475 would provide the greatly needed financial assistance to the States for carrying out such a program. It is hoped that more States will intensify their efforts in this direction.

Mr. Speaker, the third major change that would be provided by the legislation involves a circular issued in May of 1968 by the Bureau of the Budget known as "Circular No. A–87." The circular established rules and regulations for determining costs applicable to Federal grants and contracts with State and local governments. It applied to all Federal agencies responsible for administering such programs and was designed to provide the basis for a uniform approach to the problem of determining costs. Upon investigation, it was determined that under the new regulations indirect costs could amount to as much as 15 to 20 percent of the total costs of a project. Naturally, this would result in Federal funds being used for administrative costs that ordinarily would have been used for acquisition of lands and field work. Upon further investigation, it was discovered that there had been little experience on which to measure the effects of this circular. Several of the States polled indicated that indirect costs were running around 1 percent of the total funds apportioned and one State indicated its rate was a flat 2 percent of such funds.

In view of this, it was determined that a reasonable limitation should be placed on the amount of overhead or indirect costs that may be charged against such programs or projects.

Accordingly, the Committee on Merchant Marine and Fisheries amended section 6 of both acts to provide that indirect charges could not exceed 3 percent of the annual apportionments of such funds to the States in any one fiscal year.

Mr. Speaker, the legislation was reported unanimously by the Merchant Marine and Fisheries Committee. All witnesses testifying at the hearings wholeheartedly endorsed the objectives of the legislation and urged its prompt enactment. The Department of the Interior witness urged prompt enactment provided the bill was appropriately amended. The Committee on Merchant Marine and Fisheries adopted all of the amendments suggested by the Interior Department, except for the ones relating to the earmarking of funds—from taxes on pistols and revolvers—for the wildlife restoration fund. Mr. Speaker, the Treasury Department also raised this same objection, the reasoning being that such earmarking would violate the principle that where earmarking is justified, those who pay the taxes should benefit from the programs financed by the earmarked taxes and purchasers of pistols and revolvers would not appear to be the primary beneficiaries of these programs.

Mr. Speaker, the committee hearings on the legislation revealed evidence to the contrary. The testimony indicated that without question, far more ammunition is expended for the purpose of target shooting in practice or competition than is expended in the hunting of game and yet no part of the revenue collected from the excise tax on sales of firearms or ammunition can be used for firearm safety or range construction programs.

Mr. Speaker, as previously stated, the Committee on Merchant Marine and Fisheries reported the legislation unanimously and I would like at this time to urge its prompt enactment.

Mr. GROSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. KEITH).

Mr. KEITH. Mr. Speaker, I rise in support of H.R. 12475, which my distinguished colleague from Michigan (Mr. DINGELL) has so clearly explained.

The fish and wildlife restoration acts are complimentary methods of channeling Federal excise taxes on sporting equipment to the States in an equitable manner to promote the development and management of our fish and wildlife resources.

Title I of this bill amends the Wildlife Restoration Act to add the 10-percent excise tax on handguns to the existing 11-percent tax on firearms and ammunition for deposit in a special fund for distribution under the act.

Title I will also simplify administration of the Wildlife Restoration Act and permit the States to qualify for funds on the basis of a 5-year management plan rather than as heretofore on a project-by-project basis only. This should insure more comprehensive State planning and a greater utilization of the fund.

Title II of the bill similarly amends the administrative provisions of the Fish Restoration Act. This act earmarks the 10-percent excise tax on fishing equipment for State lake and stream restoration programs.

Mr. Speaker, the fish and wildlife restoration acts have been a major factor in the development of our State management programs. They form an intelligent approach to the utilization of tax revenues and insure that the user of these natural resources contribute substantially to their maintenance.

These programs are insurance that future generations of Americans can enjoy such wildlife abundance as is now available for us to enjoy.

Mr. Speaker, I urge the passage of H.R. 12475.

Mr. GROSS. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion of the gentleman from Maryland that the House suspend the rules and pass the bill H.R. 12475, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FISHERIES LOAN PROGRAM

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14124) to amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the Act, as amended.

The Clerk read as follows:

H.R. 14124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(c) of the Fish and Wildlife Act of 1956 (70 Stat. 1121), as amended (16 U.S.C. 742c (c)), is further amended by changing the date "June 30, 1970" to "June 30, 1980" where it appears three times.

SEC. 2. Section 4(b) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c(b)) is amended by striking out paragraphs (7) and (8) and inserting in lieu thereof the following:

"(7) An applicant for a fishery loan must be a citizen or national of the United States.

"(8) Within the meaning of this section, a corporation, partnership, or association shall not be deemed to be a citizen of the United States unless the Secretary determines that it satisfactorily meets all of the requirements set forth in section 2 of the Shipping Act, 1916, as amended, for determining the United States citizenship of a corporation, partnership, or association operating a vessel in the coastwise trade.

"(9)(A) The nationality of an applicant shall be established to the satisfaction of the Secretary. Within the meaning of this section, no corporation, partnership, or association organized under the laws of American Samoa shall be deemed a national of the United States unless 75 per centum of the interest therein is owned by nationals of the United States, citizens of the United States, or both, and in the case of a corporation, unless its president or other chief executive officer and the chairman of its board are nationals or citizens of the United States and unless no more of its directors than a minority of the number necessary to constitute a quorum are nonnationals and noncitizens.

"(B) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by nationals of the United States, citizens of the United States, or both, (i) if the title to 75 per centum of its stock is not vested in such nationals and citizens free from any trust or fiduciary obligation in favor of any person not a national or citizen of the United States; or (ii) if 75 per centum of the voting power in such corporation is not vested in nationals of the United States, citizens of the United States, or both; or (iii) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a national or citizen of the United States; or (iv) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a national or citizen of the United States."

SEC. 3. The provisions of this Act shall be effective July 1, 1970. Notwithstanding the provisions of section 4(c) of the Fish and Wildlife Act of 1956, as amended, any balance remaining in the fisheries loan fund at the close of June 30, 1970, shall be available to make loans for the purposes of section 4 of said Act from July 1, 1970, to the close of June 30, 1980.

The SPEAKER. Is a second demanded?

Mr. KEITH. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 14124 is to extend an existing program to provide financial assistance to commercial fishermen.

The authority for making fisheries loans was originally provided in 1956 because long-term financing was not readily available to owners of fishing vessels. Banks, private institutions, and the Small Business Administration believed that the fishing industry was generally too unstable for loans that were based solely on fishing operations as collateral and as a source of earnings for repayment.

The situation is even more critical now than it was in 1956. Interest rates are as high as 7⅝ percent and loans are difficult to obtain for almost any purpose. Therefore, a commercial fisherman is faced with a hopeless situation unless he has access to a loan such as that provided by this legislation.

Mr. Speaker, as previously stated, the fisheries loan fund was established in 1956. The revolving fund initially had an authorization of $10 million, but in 1958 it was increased to $20 million. In 1965 the program was extended for an additional 5 years—until June 30, 1970—at the same level of funding. Only $13 million, out of the $20 million authorization, has actually been appropriated to the fund.

Under the program, the Secretary of the Interior is authorized to make loans for financing of the cost of purchasing, repairing, or operating new or used commercial fishing vessels or gear. Ordinarily loans are authorized to be made for not longer than 10 years. Where new ship construction is involved, loans can be made for periods up to 14 years.

To date, over 1,000 loans totalling approximately $28 million have been made. Losses from bad debts have been held to less than 1 percent of the average annual outstanding balance of loans. This amounts to approximately $40,000 per year.

Mr. Speaker, the outstanding success of the program speaks for itself.

H.R. 14124, as introduced would merely extend the program for an additional period of 10 years—until June 30, 1980—and at the same level of funding and upon the same terms and conditions.

Mr. Speaker, the committee reported H.R. 14124, with amendments. When reporting H.R. 14124, the committee did add two new sections to the bill.

New section 2 of the bill, which is explained in detail in the committee report, would merely broaden the program to permit American Samoan fishermen to take advantage of the program. Under present law loans are authorized to be made to citizens of the United States, which include inhabitants of Puerto Rico, the Virgin Islands, and Guam.

The committee felt that the extension of this program to American Samoa would be of valuable assistance in developing that territory's fishing industry and this extension could be made without appreciably affecting the fisheries loan fund.

Mr. Speaker, when the committee ordered H.R. 14124 reported to the House, it anticipated that the legislation would have been enacted into law by this time. Unfortunately, the old law expired June 30. Under that law there was a provision that would require the balance on hand in the fisheries loan fund as of that date to revert to the Treasury. To prevent this balance from reverting to the Treasury—which amounts to approximately $1 million—a conforming technical amendment is needed to be made to the bill.

This would be accomplished by the language contained in new section 3 of the bill, which was recommended by the chairman, after clearance with members of the committee, to be included in the committee motion.

Mr. Speaker, the bill was unanimously reported by the Committee on Merchant Marine and Fisheries. All witnesses testifying at the hearings were in support of the bill and there were no Government agencies opposing the legislation. There would be no additional cost to the Federal Government if the legislation is enacted since the bill does not directly amend the authorization for appropriations, set at $20 million in 1958.

Mr. Speaker, I urge prompt enactment of H.R. 14124, as amended.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to my good friend, the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

What is the rate of interest that these loans now carry?

Mr. DINGELL. I yield to the gentleman from Massachusetts (Mr. KEITH).

Mr. KEITH. The present rate of interest, I believe, is approximately 7½ percent, plus whatever administration cost is necessary to break even. The cost of administration would be added to the amount of the normal yield of Treasury Bonds.

Mr. DINGELL. The gentleman from Massachusetts has said it correctly. Actually loans under the act shall bear an interest rate of not less than—at a rate of not less than (a) a rate determined by the Secretary of the Treasury after taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (b) a reasonable charge to cover administrative costs. We are trying to give these people the best possible break on interest but still not subsidizing the interest rate.

Mr. KEITH. Mr. Speaker, I rise to join my distinguished colleague, the chairman of the Subcommittee on Fish and Wildlife Conservation, Mr. DINGELL, in support of H.R. 14124.

I am sure I need not remind my colleagues of the plight of the U.S. fishing industry which is faced with every growing competition from abroad.

This legislation extends for 10 years a highly successful program which enables our fishermen to obtain loans at reasonable rates of interest. These loans are used principally for upgrading vessels with new engines, and to obtain more modern fishing gear.

The Fisheries Loan Fund was established in 1956, in recognition of the widespread inability of fishermen to obtain commercial loans. Bankers do not favor loans to those engaged in fishing, apparently viewing this industry as too fraught with risk.

The record does not support this unwillingness, however. The loss rate for the Fisheries Loan Fund has been comparable to other Federal loan programs. Nevertheless our fishermen must continue to look to this fund for needed capital.

Since this is a revolving fund with interest rates tied to the Treasury borrowing rate, enactment of the legislation will have no adverse impact on the budget.

Section 2 of the bill simply extends the availability of this program to residents of American Samoa who are nationals of the United States rather than citizens. American Samoa is attempting to build up its fishing industry in conjunction with other efforts to improve the local economy. The Fisheries Loan Fund will provide a modest boost to this effort.

Over 1,000 loans have now been made, totaling nearly $28 million. The $13 million appropriated for the fund thus has been used twice, and has now started on a third round.

Mr. Speaker, H.R. 14124 has the unanimous support of your Committee on Merchant Marine and Fisheries, and I urge its passage.

Mr. DINGELL. Mr. Speaker, I yield to the distinguished chairman of the committee, the gentleman from Maryland.

Mr. GARMATZ. Mr. Speaker, the

United States ranks fifth among the fishing nations of the world. The four top-ranking nations, in order of prominence, are: Japan, Peru, U.S.S.R., and Mainland China.

The United States was the leading fishing nation of the world just prior to World War II. Since that time, our Nation's commercial fisheries has experienced a steady deterioration. It now faces overwhelming competition and pressure from modern and aggressive foreign fishing fleets. America's commercial fleets are unable to compete because the equipment, techniques, and vessels are obsolete.

Obviously, our fishing industry needs help, and my bill—H.R. 14124—which seeks to extend the fisheries loan program for an additional 10 years, has provided an extremely valuable form of Federal aid to this vital industry.

The original fisheries loan program was contained in the Fish and Wildlife Act of 1956. Its primary objective was to help maintain and upgrade our commercial fishing fleet, by providing longterm financing, which is not otherwise available, to the industry.

When enacted in 1956, the act provided an authorization of $10 million, but this was increased in 1958 to $20 million. The program was extended again in 1965, at the same level of funding, and it expired as of June 30 of this year.

As I already noted, H.R. 14124 would extend this program for an additional 10 years, at the same $20 million level. This program authorizes the Secretary of the Interior to make loans which would be used to finance or refinance the cost of purchasing, constructing, equipping, maintaining or operating new or used commercial fishing vessels or gear. In the past, the industry has had difficulty obtaining loans from the normal sources, because banks and other financial institutions—as well as the Small Business Administration—have felt the fishing industry is a risky investment.

There is an even more critical need for providing Federal assistance in this area now, since interest rates are extremely high and loans are even difficult to obtain for the well-established businesses.

In addition to providing aid to the larger fishery industries, the loan program has also helped the small, individual fishermen, especially the one-boat owner—such as the shell fishermen in the lower Chesapeake Bay. There are times when an entire fishery industry may need emergency loans, because of a severe slump or a crisis, in order to remain in existence.

Mr. Speaker, the Department of the Interior's Bureau of Commercial Fisheries has often emphasized that the fisheries loan program has been one of the most successful fishery assistance programs carried out by the Federal Government. I concur with that feeling, and I urge enactment of this worthwhile program.

The SPEAKER. The question is on the motion of the gentleman from Michigan that the House suspend the rules and pass the bill H.R. 14124, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read:

A bill to amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the Act, and for other purposes.

A motion to reconsider was laid on the table.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of a similar Senate bill (S. 3102) to amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(c) of the Fish and Wildlife Act of 1956 (70 Stat. 1121), as amended (16 U.S.C. 742c (c)), is further amended by changing the date "June 30, 1970" to "June 30, 1980" where it appears three times.

MOTION OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DINGELL moves to strike out all after the enacting clause of S. 3102 and insert the provisions of H.R. 14124 as passed.

The motion was agreed to.

The Senate bill, as amended, was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read:

A bill to amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the Act, and for other purposes.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 14124) was laid on the table.

AUTHORIZING ADDITIONAL FUNDS FOR THE FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

Mr. THOMPSON of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 15351) to authorize additional funds for the operation of the Franklin Delano Roosevelt Memorial Commission, as amended.

The Clerk read as follows:

H.R. 15351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the joint resolution entitled "Joint resolution to establish a commission to formulate plans for a memorial to Franklin Delano Roosevelt", approved August 11, 1955 (69 Stat. 694), is amended to read as follows:

"SEC. 3. In addition to any other funds authorized to be appropriated for the purpose of this joint resolution, there is authorized to be appropriated $75,000 to carry out the provisions of this joint resolution."

The SPEAKER. Is a second demanded?

Mr. SCHWENGEL. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House bill H.R. 15351 would authorize $75,000 for the continued operation of the Franklin Delano Roosevelt Memorial Commission.

The Commission was established in August 1955, pursuant to Public Law 372 to consider formulating plans for the design, construction, and location of a permanent memorial to Franklin Delano Roosevelt. The Commission is composed of 12 members appointed as follows: four persons by the President of the United States, four Senators by the President of the Senate, and four Members of the House of Representatives by the Speaker of the House of Representatives. The Commissioners serve without compensation, but are reimbursed for expenses incurred by them in carrying out the duties of the Commission.

In 1959, Public Law 86–214, a 27-acre portion of West Potomac Park between Independence Avenue and the inlet bridge was reserved for the site of the proposed memorial.

Public Law 86–214 also authorized a national competition to be conducted to bring forward memorial designs which would be appropriate and harmonious as to location, design, and land use with the Washington Monument, the Jefferson Memorial and the Lincoln Memorial.

The winning design proved to be controversial to the extent that it was not accepted.

Public Law 87–842, adopted in 1962, directed the Commission to attempt to produce an acceptable modification of the original prize winning design. If the original design could not be modified in an acceptable manner, then the commission should select another design from among those already submitted, or consider a living memorial.

The Commission has struggled through the years with this important and difficult task. The major portion of the funds allocated, to date, has gone toward the development of an acceptable point where it is felt that the final design weeding out process has proceeded to the point where it is felt that the final design approval is within reach. These additional funds are needed to consummate what is believed to be the concluding chapter of the 15-year history of the Franklin Delano Roosevelt Commission's effort to provide a suitable and overdue memorial to a great American.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I appreciate the gentleman yielding.

I wonder if the gentleman could advise the House by whom the design was rejected. According to the committee report, it is not clear. Was it rejected by this commission sitting as an official body of the Congress?

Mr. THOMPSON of New Jersey. The original design, I might say, awarded as the result of a competition, was brought to the floor of the House by the gentleman from New Jersey under suspension of the rules and was rather decisively turned down—thanks, I might say, to the efforts of my good friend, the gentleman from Iowa.

Mr. HALL. Mr. Speaker, if the gentleman will yield further, I did not mean to open an old healed wound, and I certainly do not want to rub any salt in it, but I want to understand the further function of this commission. I understand that they work without compensation except for expenses, and I think the report, as short as it is, has broken down adequately the expenditure of funds to date. Who would determine what is an acceptable design?

Mr. THOMPSON of New Jersey. The House of Representatives.

Mr. HALL. In other words, this commission will report back finally to the House or to the Congress, and by action of the bodies we will have final approval or not.

Mr. THOMPSON of New Jersey. Yes.

Mr. HALL. Does the gentleman feel in any sense, since he is a student of history and of culture, that one of the reasons for the House rejection was the mammoth obelisks and the amount of time and the opinion of the family—did that have anything to do with the original rejection of the plan?

Mr. THOMPSON of New Jersey. I might say to my friend, the gentleman from Missouri, that the design which the House rejected was euphemistically called "the Stonehenge design." It consisted of a number of rather enormous tablets on which were to be inscribed quotations from the late great President Franklin Delano Roosevelt.

With respect to the family—and I say this in due deference to them—there was something less than unanimity among them as to the design. James Roosevelt of California was our colleague at that time. His feelings were ambivalent as were those of other members of the family. So that design was rejected.

Subsequently, but without another contest, the Commission undertook to obtain a design, this time by the distinguished architect in New York, Mr. Marcel Breuer. The Breuer design was not brought to the floor of the House, because the Fine Arts Commission rejected it. This does not mean that the Fine Arts Commission has final say, but obviously what they do have to say is of great consequence.

A majority of the Commission felt, in the light of the opposition to the Breuer design, that there ought to be further consideration.

I might say to the gentleman at this point, the Commission has at least on a tentative basis and with the support of those in the family with whom we have been able to communicate decided on an infinitely more modest proposition. It is not final, but it will be a rose garden with a modest statute in it, as of our present plan.

Mr. HALL. Mr. Speaker, obviously the gentleman is doing his homework and has worked hard on this.

As I understand it, there have been no more designs put in any of the office building halls for us to ponder over and cogitate on before the next vote comes up, and the Fine Arts Commission itself has rejected the second finding or suggestion as to this memorial.

Mr. THOMPSON of New Jersey. Yes.

Mr. HALL. I will ask the gentleman, based on his being a student of history, is he saying that perhaps we are rushing this thing a little too fast and that we should await the objectivity of history before determining what is most appropriate for this past President?

Mr. THOMPSON of New Jersey. I would say to my friend from Missouri that just this past April, 25 years elapsed between the death of President Roosevelt and April of this year. In a sense, controversial though he may be to some people, President Roosevelt's place in history is secure enough that I, for one, believe—and I believe those on the Commission share the view—that a suitable and modest memorial would be appropriate.

The legislative process is such that the Commission is authorized to solicit funds, but if any public funds are to be asked for the ultimate design—assuming for the moment it is a rose garden with a statue—it would have to be considered. It would be necessary for the Subcommittee on Library and Memorials, of which I am chairman, to have hearings on it and to report it to the Committee on House Administration, and then in turn to bring the legislation to the floor of the House for final approval.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I am glad to yield to my friend from Iowa.

Mr. GROSS. I was interested to hear my friend from Missouri call this an ornamentation, or whatever. I have never been able to find the word to adequately describe what he just called obelisks or something of that kind. I believe the gentleman from New Jersey came near to describing what is the purpose for this memorial.

Mr. THOMPSON of New Jersey. With all due respect to our mutual friend Dr. HALL, I do not believe obelisks is as accurate as Stonehenge.

Mr. GROSS. I believe the gentleman is correct.

The gentleman will remember we had quite a time trying to find some words which would adequately describe what was proposed for this memorial.

Mr. THOMPSON of New Jersey. I remember extremely well, especially in view of the fact that I brought the design to the floor needing, under a suspension of the rules procedure, a two-thirds vote, and nearly achieved getting one-third. It is a very painful memory.

I might pay tribute to the gentleman from Iowa for his part. I know he intended nothing personal. This was, in respect to the few matters on which we have, shall I say, cultural differences, one where the gentleman from Iowa won all 10 rounds.

Mr. GROSS. I thank the gentleman.

Let me ask the gentleman this question: $285,000 has been expended up to this point. The bill calls for another $75,000, which would bring it to $360,000. Can we have any assurance here today that with the expenditure of an additional $75,000 the plans for this memorial will have been completed?

Mr. THOMPSON of New Jersey. I would say to the gentleman from Iowa that again, as a member of the FDR Commission, I think I do speak for a majority of the Members when I say that unless we can come up with a final design either involving no further Federal funds or being a final design to the floor, that this would be the last expenditure represented by this money. I will say further that it is requested in anticipation of a final design that we do not come back with any further housekeeping moneys. I can assure the gentleman that they are being very judiciously used.

Mr. GROSS. Has there been some contribution to this preliminary planning from private sources?

Mr. THOMPSON of New Jersey. Yes. There has been a considerable amount. I do not have the figures available at the moment, but there are approximately $18,000 to $20,000 in a trust fund to be used when a final design is approved for that purpose, and, of course, we would go to the public for the contributions necessary.

Mr. GROSS. It seems to me that with this $75,000 added to the money already spent we have gone about far enough with the planning for this memorial. I am pleased to have the gentleman's statement, which seems to indicate that this will be the last.

Mr. THOMPSON of New Jersey. The gentleman from New Jersey will say that as far as he is concerned he will not be back to the floor for further housekeeping moneys without a final and absolute and acceptable design.

Mr. GROSS. I thank the gentleman.

Mr. SCHWENGEL. Mr. Speaker, the distinguished gentleman from New Jersey (Mr. THOMPSON), has presented to the House a full and accurate account of the activities of the Franklin Delano Roosevelt Memorial Commission and concerning the basis for the request for an additional authorization of appropriations to carry its work forward.

As has been pointed out, H.R. 15351 as introduced called for increasing the authorization of $150,000. The House Administration Committee studied the request and determined that it could safely be reduced to $75,000 without in any way impairing the work of the FDR Memorial Commission in its efforts to produce design for a FDR memorial which will be generally acceptable. I concur in the committee's action reducing the amount car-

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ried in the bill and reporting it to the House.

I agree with the comments of Mr. THOMPSON on the significance of this bill and its need. It certainly is my conviction too that it is entirely appropriate that we proceed in an orderly fashion on the work of selecting a suitable monument to our distinguished and memorable former President, President Franklin D. Roosevelt, and I would urge the House to grant its approval to this bill.

The SPEAKER. The question is on the motion of the gentleman from New Jersey that the House suspend the rules and pass the bill H.R. 15351, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that I and others who have spoken may revise and extend their remarks and that all Members may have 3 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONFERENCE REPORT ON S. 3685, EMERGENCY HOME FINANCE ACT OF 1970

Mr. PATMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (S. 3685) to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see prior proceedings of the House today.)

Mr. PATMAN (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PATMAN. Mr. Speaker, I wish to point out at the beginning of our consideration that this conference report leaves the Emergency Home Finance Act of 1970 essentially in the same form and content as H.R. 17495, the emergency housing act which was approved by this Chamber several weeks ago. To be sure compromise required changes, but I believe that these changes rather than weakening the measure, have worked to strengthen it in terms of its application to the national housing crisis.

In its present form, the measure authorizes appropriation of $1.2 billion to fund three mortgage interest rate subsidy programs. Two of these programs are established in this bill and are designed to aid middle income families which are made to shoulder most of the burden of the present housing crisis created largely by the tight money-high interest rate policies now being applied to the Nation's economy. The bill also establishes two secondary markets for conventional as well as federally insured and guaranteed mortgages.

Housing experts estimate that about 512,000 mortgage loans can be made for low, moderate, and middle income families if the provisions of the act are fully funded and utilized.

Mr. Speaker, it should be stressed that this will constitute a very large and favorable impact not only in terms of meeting our housing needs but also in terms of helping the nearly crippled housing industry and greatly reducing unemployment.

The mortgage assistance provided by the measure could enable the Nation to produce nearly 2 million housing starts. Housing starts are now at an annual rate of 1.3 million units. Another 512,000 units will bring us close to the 2 million mark, something the Nation has not approached since 1950.

Unemployment throughout the Nation now averages 4.7 percent—3.4 million people are out of work. As bad as this is, unemployment in the construction industry is far worse. The rate of joblessness in the construction industry has climbed to nearly 12 percent of the labor force in that sector of the economy which is another way of indicating the disaster confronting homebuilders.

A study conducted for the U.S. Savings and Loan League indicates the enormous benefits that could be achieved through the construction and sale of 512,000 new homes. Data in the study shows that construction of 500,000 new homes, for example, would mean an injection of $11.3 billion for the housing industry as a whole, ranging from the homebuilder to those people involved in related retail sales.

When the multiplier effect of this amount of money is applied to the total economy, the full impact of this investment amounts to twice that figure, $22.7 billion. The multiplier effect can be described as income that appears again and again in the economy in the form of income to others as each set of recipients pays it out in consumption expenditure or taxes.

This same study also indicates that construction of 500,000 new homes would result in 475,000 on site construction jobs and 635,000 offsite jobs for people involved in industries providing necessary materials and services.

The total number of jobs that could be created through this legislation then amounts to 1.1 billion, one-third the number of people who are now out of work.

Mr. Speaker, a brief review of the Emergency Home Finance Act as reported by the conference committee is in order at this point.

Title I remains unchanged. It authorizes an appropriation of $250 million to subsidize the interest of loans made by the Federal home loan banks to savings and loan associations and other member borrowers of the FHLBB system. The conference report directs the Federal Home Loan Bank Board to make certain that this section of the bill does not result in simply subsidizing savings and loan association profits. It requires maximum benefits possible to be passed to the home buyer.

Titles II and III of the conference report on the bill also remain identical to corresponding sections in the House-passed bill. Title II would expand the scope of the Federal National Mortgage Association to include conventional as well as federally insured and guaranteed mortgages in its secondary market operations. Title III would establish an identical secondary market institution through the Federal Home Loan Bank Board for conventional and federally insured and guaranteed mortgages. Both secondary market operations are designed to provide outlets for the sale of mortgages originated by conventional lending institutions so that a greater volume of mortgage money is available for home loans.

Title IV in the conference report reflects a change in funding for the Government National Mortgage Association special assistance program. The Emergency Home Finance Act, as it passed the House, authorized $1.5 billion in new funding for the GNMA special assistance, presidential authority. The Senate version of the bill did not authorize any new money. It merely called for transfer of $750 million from congressional authority to presidential authority. The compromise reached in conference now recommends authorization of $750 million in new funds and transfer of a like amount from congressional to presidential authority. Appropriation and utilization of this money, when added to the unused balance in GNMA, will mean that a total of $2.7 billion would be available for immediate use for federally assisted low and moderate income housing.

Title V also represents a compromise between the Senate and House versions of the Emergency Home Finance Act. In substance it represents acceptance by the House conference committee of a Senate proposal to authorize funds to subsidize the interest rate on mortgages for middle income families through FNMA. The proposal as it came from the other chamber called for $60 million a year for 3 years to enable families whose incomes did not exceed the median for the areas in which they reside to obtain home ownership loans at a 7-percent interest rate. The section provides that the interest rate on such loans will increase as the income of the home owner increases until a market rate is reached at which point the subsidy would cease.

House conference committee members won acceptance of their proposal to increase the amount of the authorization to $105 million annually.

Mr. Speaker, mortgage assistance provided under title V would be restricted to the purchase of $20,000 homes in low-cost areas and $30,000 homes in high-cost areas. Borrowers would be required to allocate at least 20 percent of their income for mortgage payments.

Title VI which provides for renewal of authority of the Secretary of Housing and Urban Development to set the maximum allowable interest rates for FHA and VA mortgages remained as it was approved by the House. The Senate had proposed establishment of the so-called dual interest rate structure which would, in effect, have destroyed this authority and eliminated the statutory 6 percent interest rate ceiling on federally insured and guaranteed mortgages.

Mr. Speaker, there is one final section of the conference report that requires explanation. The House conference committee members agreed to recommend elimination of title VII in the original House-passed bill and to move title VIII of the bill into this position. Title VII as it passed the House authorized the Federal Reserve Board to allow member banks of the Federal Reserve System to count as part of their required reserves federally insured and guaranteed housing paper which would promote the construction and ownership of housing.

This proposal was admantly opposed by Federal Reserve Board Chairman Arthur Burns. As a result it became perfectly clear that this proposal even if it was approved, would not be utilized to provide funds to meet the current housing crisis. Rather than insisting on acceptance of what came to be an academic point, the House conference committee members made and won acceptance of a counter proposal to increase from $60 to $105 million a year the funds that would be available for middle-income family mortgage assistance under title V of the report.

Title VII of the conference report is a miscellaneous section comprised almost entirely of technical changes designed to assist savings and loan associations to increase their deposits and thus make more mortgage funds available to the housing market.

Mr. Speaker, the conference report on the Emergency Home Finance Act of 1970 reflects bipartisan support in both Houses of Congress for every section of the measure. There is nothing in the report that represents domination either by the Senate or House conference committees or domination by members of one party over the other. Moreover, the conference report closely follows the Emergency Home Finance Act approved unanimously in the Senate and endorsed by the administration. Consequently, there is not a reason in the world why the funds authorized in the measure should not be quickly appropriated by Congress and quickly utilized by the administration to help meet the housing crisis.

I urge the House to live up to its responsibility not only to approve the conference report but to provide full funding to make it effective. I urge the President to clear any obstacle hindering utilization of these funds.

Mr. BARRETT. Mr. Speaker, I rise in support of the conference report on S. 3685, the Emergency Home Finance Act of 1970. This bill represents an attempt by Congress to provide some assistance to the mortgage credit market and to the prospective American homeowner. There are many items in this conference report that will provide some assistance to the mortgage market and to the homebuilding industry. The basic element in this bill will be Government subsidies to the Federal Home Loan Bank System and subsidies for median income families to assist them in obtaining mortgages at reasonable interest rates.

There are seven titles to the bill. Title I of the bill was the only provision that was recommended by the administration. The remaining titles were all developed by the House and Senate Banking and Currency Committees. Whether or not this bill will accomplish its goal of stimulating mortgage credit will depend on the will and aggressiveness of the administration in implementing the provisions of the bill. I would like to also emphasize again that this conference report represents congressional action to assist the mortgage credit market and the homebuilding industry.

There were approximately 30 items in disagreement in the conference. I would say that the House receded on half of these items and the Senate receded on the other half. The conferees met for 2 days, and I believe this report represents an even compromise.

The Congress is providing for the first time a subsidy amounting to $250 million to the Federal Home Loan Bank System to subsidize their obligations so that the home loan banks may make advances to member savings and loan associations to continue to make mortgage credit available to prospective homeowners. The Congress expects the Chairman of the Home Loan Bank Board to see that these subsidized obligations are applied to those families he determines to be in the median income range.

Title II and III of this bill sets up a secondary market for conventional mortgages to be operated by both the Federal National Mortgage Association and the Federal Home Loan Bank System. We hope that this is a first step towards simplifying the complicated procedures that are involved in mortgage credit transactions. I was pleased that the provision in the House-passed bill to exempt the Federal Home Loan Bank Board from the budget review of the Bureau of the Budget, to exempt them from GAO audit, and to exempt Board employees from the Civil Service Classification Act was dropped in conference. I was particularly disturbed with the provision which would exempt the Board and the FSLIC from the Classification Act. I feel that it was a brazen attempt to take this important agency out of the civil service system.

The conferees urge that the directors of the corporation being established by title III exercise their discretion to apply Federal civil service laws to their employees and to submit an annual budget, in the same manner as are now required of the Board and the FSLIC.

Title IV of the House-passed bill provided a new authorization of $1.5 billion for the Government National Mortgage Association's special assistance functions. The conferees cut this figure in half to $750 million in new authorizations for the presidential authority under the GNMA special assistance funds, and also accepted the Senate provision, which reallocated $750 million in existing authorizations under the congressional program of GNMA, so that this title provides $1.5 billion in funds which the President can use immediately. I would hope that the President lives up to his promise and uses these vitally needed funds. The conferees also agreed to remove the existing par-purchase requirement under the congressional authority of GNMA. The net effect of this action in Title IV is to free up for immediate use a total of $2.750 billion, which can be used by the President to purchase mortgages under the Presidential and congressional GNMA authority. I believe that this is the most effective provision in this bill.

Title V of the Senate-passed bill was not a part of the House bill. As Members recall we had a provision in the committee reported bill which set up a National Development Bank to provide direct funds for the mortgage market. This provision unfortunately was defeated on the floor. I believe that this National Development Bank proposal would have gone a long way toward solving the problems of providing the needed housing for American families. Title V, the Proxmire amendment, would establish a new program of interest subsidies for middle income housing. This subsidy would reduce the effective interest rate for middle income borrowers to approximately 7 percent. The borrowers would have to qualify by income and to the extent that the family's income rose above a certain level, the subsidy would be reduced and eventually be removed. Since the House never considered this proposal, a number of changes were made by the conferees to include veterans housing under this new program, to make cooperative housing qualify, and to increase the amount of subsidy to be provided from $60 million a year for 3 years to $105 million for 3 years. I have some reservations concerning this new program, and I hope that the Secretary of Housing and Urban Development will report back to the Congress after the program has been in operation for a reasonable period.

The House conferees refused to accept the Senate provision providing for a dual interest rate for FHA and VA mortgages. The House provision extending the existing authority to set the interest rate levels prevailed. This bill extends this authority to January 1, 1972.

The most glaring omission in the conference report was the exclusion of title VII of the House bill, the provision to authorize the Federal Reserve Board to permit commercial banks to use part of their reserves to purchase Federal agency obligations for housing. This provision offered by the gentleman from California (Mr. REES) was an excellent proposal which I supported from the beginning—in committee and on the House floor—to the very last day in the conference. I was sorry that most of the members of the conference committee rejected this proposal, and I hope that it will be considered again in the future.

The various savings and loan amendments in the House passed bill were retained in most cases with some changes. The provision which would have authorized savings and loan associations to provide collateral security for deposits of public funds was dropped in conference when the Federal Home Loan Bank Board told us that they could, under regulation, permit the same authority that we were providing by law. I would hope that the Chairman of the Federal Home Loan Bank Board would issue regulations immediately to implement his measure. I believe that savings and loan associations should have the same authority to provide collateral security for public deposits as the commercial banks do. The House conferees also accepted the Senate provision which authorizes national banks to make 90-percent 30-year mortgage loans and 60-month construction loans. Again, I would hope that commercial banks would make immediate use of this new authority. We are giving the commercial banks the impetus to make a greater contribution to the mortgage market. Mr. Speaker, I urge the adoption of this conference report.

Mrs. SULLIVAN. Mr. Speaker, I reluctantly joined in signing the conference report on S. 3685, the so-called Emergency Home Finance Act of 1970. I will now reluctantly vote for it as the best we were able to do in conference on a bill on which the House had earlier tied our hands by refusing to pass title V of the House bill which had called for direct mortgage loans to middle income families at rates of 6½ percent or less.

A much different title V of the conference bill authorizes appropriations of $315,000,000 over the next 3 years to subsidize, down to a minimum of 7 percent, the interest rates paid by eligible families in obtaining mortgages at the going market rate of interest. Thus, if the going rate is 8½ or 9 percent, the Government would pay 1½ or 2 percent per year of the outstanding balance as an interest rate subsidy. Eligible families under the conference bill would be those whose total income is at or below the "median" level in their localities.

So, for the first time in our housing programs, we will be paying a subsidy to average income families to buy homes, using their taxes to give them a new type of Federal assistance previously given only to low income families in buying homes.

Unfortunately, the subsidy is not intended to help bring down interest rates generally, but rather will enable the lending institutions to charge whatever the market will bear and receive the full return, with the Government, in effect, adopting a mortgage interest rate "price support" program for savings and loans and banks. This is not what we had hoped to achieve when the Democratic majority of the House Committee on Banking and Currency set out this year to do something forthright and affirmative about bringing down the intolerable level of interest rates on home mortgages.

HOUSE CONFEREES' HANDS TIED BY HOUSE REJECTION OF TITLE V

As I said, however, the House tied the conferees' hands on this by a rollcall vote of 214 to 113 on June 25, rejecting title V of the House bill, H.R. 17495. Our title V had represented an amalgamation of two major approaches within the Banking Committee to the mortgage famine for middle income families: one, the proposal of Banking and Currency Committee Chairman PATMAN to establish a National Development Bank to obtain mortgage funds by requiring compulsory investment in mortgage instruments of 2½ percent of the assets of pension funds and foundations; and the other approach as contained in H.R. 13694, the Sullivan-Barrett bill for direct loans by the Government to families earning up to $12,000 a year for 30-year mortgages up to $24,000 at 6½ percent or less. The Sullivan-Barrett bill would have created the Home Owners Mortgage Loan Corporation to make such loans out of a revolving fund created by appropriations of $2 billion a year for 5 years. In the form in which the Democratic caucus of the House Banking Committee put the two proposals together in title V of H.R. 17495, the proposed National Development Bank would have made the direct loans to families of median income for mortgages up to $20,000 at 6½ percent or less. This is the proposal which was then killed in the House on June 25.

SENATE'S TITLE V EXPANDED SOMEWHAT IN CONFERENCE

In conference, therefore, all we had to work from in carrying out some of the objectives we had set out to achieve in our title V was a far less ambitious program contained in the Senate bill's title V which permitted appropriations of up to $60,000,000 to subsidize the mortgage rates for a limited number of such families. We were able to expand this in conference into a $315,000,000 3-year program, but the loans will be made at prevailing rates of interest, with the Government then paying part of the cost, as it does now on subsidized mortgages for the lowest income families, and as it does also on college tuition insured loans.

Now, eligible families will have to pay at least 7 percent for their mortgages—how much more depending upon how much of a subsidy is necessary to enable them to meet the amortization costs of principal and interest by devoting 20 percent of their incomes to their purpose. There will be periodic certifications of the incomes of the eligible families so that after 2 years, if a participating family's income has risen, it may then have the subsidy reduced to zero, and it will be paying the 8½ or 9 percent or whatever rate the mortgage calls for. So this will do nothing to bring down the level of interest rates—just permit a limited number of families to get Federal assistance now in buying a home at today's outrageously high interest rates.

MORE THAN HALF BILLION OF INTEREST RATE SUBSIDIES TO LENDERS

Along with another $250,000,000 of subsidies in this bill for the savings and loans to enable them to borrow money at prevailing rates and lend it out at the FHA ceiling rate of 8½ percent, this bill now represents a total of more than half a billion dollars in subsidies for supporting the present interest rate level of residential real estate loans.

Not a cent of this money will come back to the Treasury in repayments by anyone.

In contrast, the cost of direct Federal loans which had been proposed in title V of the House bill, and which the House had rejected, would all have come back to the Treasury—every cent—in repayments by the mortgagors. There would have been no subsidy as such for middle-income families, if we assume—as I do—that interest rates paid by the Government on money it borrows over the next 30 years will eventually come down below their present levels, and below 6½ percent. But our title V lost and 6 months of effort in the House Banking Committee to solve the mortgage crisis was "washed out" in this far-from-adequate substitute scheme in which the Nation's middle-income taxpayers, or some of them, will obtain mortgage subsidies paid for through their own taxes.

I will vote for the bill because it is better than no bill; it will assist some middle-income families to obtain homes they can afford to pay for. But it is no long-range solution for the unconscionable level of mortgage rates.

There are other features of the conference bill which are worthwhile, including, for example, a secondary mortgage market for conventional loans, which we had agreed to in the House last year only to have the Senate disagree to it. The conference bill also enables national banks to enter the home mortgage market competitively—another feature we had agreed to in the House bill last year, but which the Senate conferees had rejected in December. At this rate of gradual improvement of our housing laws, we undoubtedly will eventually achieve the kind of direct loan program which the Sullivan-Barrett bill for a Home Owners Mortgage Loan Corporation had proposed. But progress is painfully slow.

CLOSING COSTS

The conference bill also deals at least partly with some of the problems spotlighted by my Ad Hoc subcommittee on Home Financing Practices and Procedures of the House Committee on Banking and Currency, involving closing costs on residential real estate. The bill calls for studies to be made by the appropriate Government agencies into the current practices in these fields and the adoption of corrective steps to prevent gouging of the home purchaser through excessive closing costs. These represent abuses the home-buying public has been subjected to for years, even on Government-insured mortgages on which regulatory authority has already existed to cope with these matters.

DISMAL RECORD OF THE NIXON ADMINISTRATION ON HOUSING

The bill before us, Mr. Speaker, represents largely congressional, not executive department, attempts to deal effectively with the housing depression. The Nixon administration gave us virtually no help. Its philosophic approach to the problem has been to advise moderate income families to "wait a year" to buy homes in the hope that mortgage rates might come down. When pressed for more immediate solutions, the administration came forward with what are now the provisions of title I of the bill, subsidizing the lenders in obtaining funds, so that they could continue to extend mortgage loans at market rates and then immediately discount the paper to the secondary markets. The $250 million in subsidies contained in title I goes not to home buyers but to lenders. And this, as I said, is the major administration contribution to the provisions of this bill.

I am deeply disappointed at how little we were able to do in this bill in really solving the problems of home financing. But I am glad that we at least were able to do substantially more than the administration felt had to be done or should be done. The administration record on housing has been a dismal one, indeed.

Mr. PATMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATIVE REORGANIZATION ACT OF 1970

Mr. SISK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 17654, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, July 16, 1970, the Clerk had read through section 115, ending on page 30, line 4 of the bill.

If there are no amendments to this section, the Clerk will read.

The Clerk read as follows:

BROADCASTING OF COMMITTEE HEARINGS

SEC. 116. Section 133A(b) of the Legislative Reorganization Act of 1946, as enacted by section 112(a) of this Act, is amended by adding at the end thereof the following: "Whenever any such hearing is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee may adopt.".

(b) Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"33. (a) It is the purpose of this clause to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings which are open to the public may be covered, by television broadcast, radio broadcast, and still photography, or by and of such methods of coverage—

"(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

"(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution of the United States as an organ of the Federal Government.

"(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause shall not be used, or made available for use, as partisan political compaign material to promote or oppose the candidacy of any person for elective public office.

"(c) It is, further, the intent of this clause that the general conduct of each meeting of any hearing or hearings covered, under authority of this clause, by television broadcast, radio broadcast, and still photography, or any of such methods of coverage, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations and shall not be such as to—

"(A) distort the objects and purposes of the hearing or the activities of committee members in connection with that hearing or in connection with the general work of the committee or of the House; or

"(B) cast discredit or dishonor on the House, the committee, or any Member or bring the House, the committee, or any Member into disrepute.

"(d) The coverage of committee hearings by television broadcast, radio broadcast, or still photography is a privilege made available by the House and shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

"(e) Whenever any hearing conducted by any committee of the House is open to the public, that committee may permit, by majority vote of the committee, that hearing to be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, but only under such written rules as the committee may adopt in accordance with the purposes, provisions, and requirements of this clause.

"(f) The written rules which may be adopted by a committee under paragraph (e) of this clause shall contain provisions to the following effect:

"(1) If the television or radio coverage of the hearing is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

"(2) No witness served with a subpena by the committee shall be required against his will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to paragraph (m) of clause 27 of this rule, relating to the protection of the rights of witnesses.

"(3) Not more than four television cameras, operating from fixed positions, shall be permitted in a hearing room. The allocation among the television media of the positions of the number of television cameras permitted in a hearing room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

"(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

"(5) Television cameras shall not be placed in positions which obstruct unnecessarily the coverage of the hearing by the other media.

"(6) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing room while the committee is in session.

"(7) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing, except that the television media may install additional lighting in the hearing room, without cost to the Government, in order to raise the ambient lighting level in the hearing room to the lowest level necessary to provide adequate television coverage of the hearing at the then current state of the art of television coverage.

"(8) Not more than five press photographers shall be permitted to cover a hearing by still photography. In the selection of these photographers, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If request is made by more than five of the media for coverage of the hearing by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

"(9) Photographers shall not position themselves, at any time during the course of the hearing, between the witness table and the members of the committee.

"(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

"(11) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

"(12) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

"(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.".

Mr. HALEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

XUM

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 223]

Abbitt
Adair
Addabbo
Anderson, Tenn.
Ashbrook
Baring
Barrett
Berry
Biaggi
Blatnik
Boland
Brademas
Brasco
Brock
Brown, Calif.
Brown, Mich.
Buchanan
Burke, Fla.
Burleson, Tex.
Burton, Utah
Bush
Button
Cabell
Caffery
Camp
Carey
Casey
Celler
Chappell
Clark
Clausen, Don H.
Clay
Collier
Conyers
Corman
Crane
Culver
Cunningham
Daddario
Davis, Ga.
Dawson
de la Garza
Delaney
Derwinski
Diggs
Edwards, La.
Esch
Eshleman
Evins, Tenn.
Fallon
Farbstein
Fish
Ford, William D.
Fulton, Tenn.
Gallagher
Giaimo
Gilbert
Gray
Green, Oreg.
Gubser
Halpern
Hanley
Hansen, Idaho
Harrington
Harsha
Hawkins
Hébert
Hungate
Ichord
Karth
Kirwan
Kluczynski
Landrum
Long, La.
Lowenstein
Lukens
McClory
McCulloch
McEwen
Macdonald, Mass.
MacGregor
Madden
Mayne
Melcher
Meskill
Mikva
Miller, Calif.
Minshall
Murphy, N.Y.
Nelsen
Ottinger
Patman
Pepper
Pirnie
Powell
Pryor, Ark.
Rarick
Reid, N.Y.
Roe
Rooney, Pa.
Rosenthal
Rostenkowski
Roudebush
Rousselot
Roybal
Ruppe
Ryan
St Germain
Schadeberg
Stephens
Symington
Tunney
Ullman
Vander Jagt
Watkins
Watts
Weicker
Whalley
Wiggins
Wilson, Bob
Wolff
Wright
Zwach

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that Committee, having had under consideration the bill H.R. 17654, and finding itself without a quorum, he had directed the roll to be called, when 308 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

COMMITTEE AMENDMENT

Mr. SISK. Mr. Chairman, I offer a committee amendment which is a technical amendment to section 116.

The Clerk read as follows:

Committee amendment: On page 30, line 6, insert "(a)" immediately after "Sec. 116."

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. DENNIS

Mr. DENNIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENNIS: Page 30, line 5: strike out line 5, page 30, through line 20 on page 35, both inclusive.

Mr. DENNIS. Mr. Chairman and members of the Committee, this is a very simple although far-reaching amendment.

It simply strikes out of the bill all provision for television, radio, and still photography, and broadcasting of committee meetings.

I am in favor of this bill; not only that, I am in favor of most of the so-called reform amendments which have been offered from the floor, and particularly those which go to the reporting and making public of votes in committee, and likewise of teller votes, an amendment which is coming up later on, and so on.

I believe in adequate publicity. But I do not believe in television in the committee hearings. And for several reasons. In the first place, I object to the physical disruption which television entails. I am asked occasionally, as many of us are, to go upstairs and be interviewed on television, and I always like being asked and I enjoy the interview, but I do not like those bright lights in my eyes even for a few moments. I certainly do not want to sit for a couple of hours in a committee room with those bright lights in my eyes. I do not like the commotion all over the place. I do not like photographers stepping in between the committee and the witness during the testimony of the witness, and all the rest of the physical disruption that you are necessarily going to have in the committee.

You can have publicity by means of ordinary newspaper reporting without all that kind of trouble.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I am glad to yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman yielding. My question is technical only. Does the gentleman's amendment start at line 5, page 30, or line 12 on page 30?

Mr. DENNIS. On line 5.

Mr. HALL. Is the gentleman aware that that involves the other body, that is—line 5 through line 11 on page 30?

Mr. DENNIS. I think the gentleman is correct. But I was advised it was desirable to strike the entire section.

Mr. HALL. I thank the gentleman.

Mr. DENNIS. In the second place, television by the nature of the instrumentality itself overemphasizes because it cannot get all of the action, and it is bound to give an undue prominence to and to emphasize a rather small part of the action that it is going to get.

Some of us, or perhaps all of us, are, in varying degrees, prima donnas. We tend to act, sometimes.

I have been in committee meetings not only in the House of Representatives but in the past in the legislature of my own State and it is my judgment, and I think some of you cannot help but agree with me, that if we really want to transact the people's business and get it dispatched, we do not want a lot of television cameras around. Some of us will be spending more time, in my opinion, making hay on the television camera than they will in doing the business that we are there to transact. That is just one of the facts of political life to which we are all heir.

Therefore, Mr. Chairman, it is my submission to the committee that this is a public interest amendment. This is an amendment to help to get the public business transacted in an efficient manner. I think in the interest of the orderly transaction of the public's business, television would be the wrong type of publicity, and we would be better off, and the public would be better off, if we dispensed with television cameras in the committee hearings.

Mr. FRASER. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman.

Mr. FRASER. Assuming for purposes of discussion that the gentleman's description was right, that on occasion if not most of the time, to have television cameras might make the committee work go in something other than an orderly way, if this language stays in the bill, would a committee be compelled to admit television cameras or would it then have the discretion to do so?

Mr. DENNIS. The gentleman has a perfectly valid point. As I read the language, it would merely give the committee the opportunity to do this under certain rules, if it wants to. My answer to that is that the pressure of the media is going to be so strong and so unremitting that either we will have television in all the committees, or we will continually have a struggle back and forth on this subject. I do not think that would help us much.

PERFECTING AMENDMENT OFFERED BY MR. HARVEY

Mr. HARVEY. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Amendment offered by Mr. HARVEY: Page 30, strike out line 12 and all that follows down through page 35, line 20 and insert in lieu thereof the following:

"(b) Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

" '33. Whenever any hearing conducted by a standing, select, or special committee of the House is opened to the public, the committee may permit, as a public service and solely under such rules as the committee may adopt, the broadcasting, telecasting, and photographing by still and motion pictures of that hearing, or the recording and filming of that hearing for later broadcasting or telecasting except that—

" '(1) no witness may be required, against his will, to give evidence or testimony while the broadcasting or telecasting of that hearing is being conducted or while a recording or filming of that hearing is being made for later broadcasting or telecasting. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off; and

" '(2) no on-the-spot broadcasting or telecasting of that hearing may be conducted under commercial sponsorship, but this prohibition shall not be construed to prevent the broadcasting or telecasting of that hearing as a part of regularly scheduled news broadcasts or telecasts under commercial sponsorship.

The foregoing provisions of this clause do not apply to the Committee on Appropriations or the Committee on Rules.' "

Mr. HARVEY. Mr. Chairman, my perfecting amendment would, first of all strike all of the present language of this section of the bill insofar as it pertains to the House, and second it would turn over a discretionary power to the committee, on the simple theory that a committee that is adequately enough informed to enact legislation which will affect the entire Nation, certainly has enough knowledge on its own to decide under what rules it should be covered insofar as the electronic media is concerned. My amendment would, however, turn over this discretionary power with two safeguards: the first safeguard which was read by the Clerk would require that no witness be required against his will to give evidence or testimony while telecasting or broadcasting was taking place.

The second safeguard, of course, would be that no broadcast or no telecast could be conducted under commercial sponsorship.

Mr. Chairman, we in the House realize, I am sure, that the other body has permitted televising of its proceedings for years. This has had a considerable effect on America. This is a means of educating the public.

We do not do any lesser work here in the House nor perform any lesser task. We are not beneath the stature of the other body in any regard whatsoever. Yet we say to the American people, Mr. Chairman, "If you have money and can come to Washington, you can sit in on the Ways and Means Committee or any other committee and you can listen to the witnesses give testimony. But if you do not have the money, we will not permit you to stay home and watch it on the electronic media."

So what we are saying really is that we do not want the American people to learn the views of the House of Representatives. If we take this view, Mr. Chairman, the House of Representatives is missing a good bet. I do not quarrel with what the committee has done in pages 30 to 35 here, but I disagree with the great detail in which they have written this.

I serve on the Interstate and Foreign Commerce Committee, on the Communications Subcommittee, and, believe me, telecasting is an advancing art. It is changing every day. For us to provide so specifically for the number of decibels of sound, the amount of light, where the cameras are going to be situated, the number of AP and UPI who can be admitted, in the rules of the House, to me makes no sense whatsoever.

I think the House has an obligation to educate the American people, and, further, the American people deserve to know what is taking place in our hearings.

My objection is to writing such details into the Rules of the House of Representatives.

First, the rules are general and leave their interpretation and application to the committee in accordance with established precedents. They ordinarily do not include minutia or attempt to foresee every possible situation that may arise and provide for it in advance.

Second, rules of the House are difficult to amend. Should experience show that one or several of the rules are unworkable or unnecessary, the only way to get rid of it would be to get a resolution out of the Rules Committee and have it adopted by the House.

Third, rules are enforced by a point of order, a powerful and peremptory sanction going to the validity of the proceedings.

Fourth, such rigid and detailed provisions are an onerous and unnecessary restriction on committee discretion and its capacity to conduct its hearings. It is an indication of doubt that committees are not competent to conduct televised hearings fairly without detailed instruction.

Mr. Chairman, my confidence in present and future committees is such that I would give them the same latitude over the conduct of televised hearings that they now have over the management of their other business. If committees are as incompetent as the writing of detailed instructions in House rules implies, God save the country from the legislation they provide.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. HARVEY of Michigan was allowed to proceed for 2 additional minutes.)

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. HARVEY. Mr. Chairman, I will yield in 1 minute. I will say for the benefit of the gentleman from Indiana that if we turn over a complete delegation of power to the committees themselves to decide whether they want television coverage, and, if they want television coverage, just under what rules they will have television coverage, then I think we will not have to worry about bright lights, because each committee can decide for itself what sort of lights are suitable in what room; or whether they will permit photographers in a room without flash cameras. As I say, television is a rapidly advancing art and to try to spell out those things in the bill will not work.

I do not think we shall have to worry about television cameramen coming between the Congressmen and the witnesses, but we can do that in the committee rules and not in the House rules.

As far as prima donnas or demagogues in the House are concerned—well, I would not say that about the colleagues with whom I serve. I think if we have in the House of Representatives some of those who would take advantage of the electronic media in this fashion, the American public will soon take care of them.

But I do say the American public has the right to know what takes place in the House of Representatives hearing rooms, just as they do now in the Senate hearing rooms. This is a process of education, and we are putting ourselves in a secondary position—secondary to the Senate, and secondary to the Chief Executive, as far as educating the American people is concerned—unless we adopt an amendment such as I offer here, to turn the power over to the committees.

Mr. MARTIN. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, in response to the statements made just a moment ago by the gentleman from Michigan and also the gentleman from Indiana who preceded him, I wish to state that the gentleman from Michigan in his statements is arguing against himself. First he made the statement that the committee bill, this section, was too general in nature. Then, on the other hand, he proceeded to make several points that it was too restrictive.

I should like to point out that, as shown on page 32, lines 13 through 20, any committee of the House has the right to set up written rules for the coverage by radio or TV, as provided for in this section. Then it sets forth under this part of the legislation some 13 points, which definitely sets regulations and controls over how the TV coverage in committee shall be handled.

One of these points, to which the gentleman from Michigan alluded and which is included, I believe, in his amendment, provides that there shall be no TV coverage, nor radio coverage, under commercial sponsorship. That is already taken care of in the bill. This was one of the gentleman's points in his amendment.

The gentleman from Indiana brought up the point that he did not want any television cameras intervening between members of the committee and witnesses, obstructing their view and interfering with the testimony.

I should like to point out, on point 4, on page 33 of this section, a quote from the bill to the gentleman from Indiana:

> Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

So the gentleman's objections are taken care of in the legislation.

This section has been carefully thought out by the subcommittee and the Committee on Rules. I believe it is a good section. It sets forth certain fundamental rules and regulations for conducting these hearings before television cameras or radio, yet it also gives to the committee concerned full power to set any additional written rules that the committee may wish to set.

I oppose both the substitute and the amendment.

Mr. HARVEY. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Michigan.

Mr. HARVEY. I thank the gentleman for yielding.

When the gentleman mentioned my name he indicated I was being inconsistent. I certainly hope I was not inconsistent.

If I left the impression that my criticism as to what is in the pages between 30 and 35 was that it was too general, then I am sorry. On the contrary, it is too specific. It spells out in minute detail. It spells out the number of press photographers who shall be available and even says that preference shall be given to the Associated Press, the United Press, and so forth.

Who are we to provide in the written rules of the House of Representatives what specific photographers are going to cover these meetings?

On the contrary, I should like to turn that authority over to each individual committee. Then they can do this in the committee rules.

I thank the gentleman for yielding.

Mr. MARTIN. Would not the gentleman say that the 13 regulations set up in here are fair to all of the news media, to the television industry and the radio industry, and that adequate coverage would be given to all segments? It seems to me that the Committee on Rules has come up with a most fair solution in setting forth these regulations.

Mr. HARVEY. Mr. Chairman, will the gentleman yield further?

Mr. MARTIN. I am happy to yield further.

Mr. HARVEY. I believe the Rules Committee was very fair. I certainly would not want to leave the contrary impression. I commend the committee for what it has done.

I just believe that rather than being so specific and writing all of these things into the rules we would be a lot better off if we let each committee handle this matter itself under its own rules.

Mr. MARTIN. I should like to point out to the gentleman that the subcommittee had extensive testimony from the industry, both the radio and television industries, and these regulations were written into the legislation as a result of the expert testimony from the people who are probably the most knowledgeable in this field, more knowledgeable than anyone else.

I believe it still accomplishes what the House would like to see accomplished.

Mr. SISK. Mr. Chairman, I rise in opposition to the amendment and the substitute.

Mr. Chairman, as has already been indicated by my good friend from Nebraska (Mr. MARTIN), this was a subject that was before your subcommittee throughout the 15 months we worked on this legislation. The proposition of opening up committee hearings to radio and television coverage has long been a subject of controversy and of discussion in connection with the House. Certainly your committee recognized that this was a matter of importance. We did do a great deal of study and investigation into the background and into the rulings by previous Speakers of the House in connection with how far the present rules go in this matter. After a great deal of thought and study we proposed some language that would make it possible for coverage of this kind in committees.

During the time we were working on this language and during the time we were proposing the revisions before you here today, we were in touch with the radio and television industries. We did discuss it at great length in meetings with the networks and with individual station people and so on. So far as I know, we used all of the expertise available to us. I recognize that your committee did not have all of the wisdom available, and I am sure the language is not entirely perfect, but we were faced with a situation where a great many Members in the introduction of their bills provided for radio and television coverage. Some went much further than others. We recognize that there was concern on the part of a good many Members as to whether or not this kind of coverage was in the best interests of good procedure as to its effect on the writing of good legislation and upon looking after the public's business.

In an attempt, frankly, to meet a number of objections that were raised by what you might call outright opponents of opening committees to radio and television, we did draw some pretty strict regulations and set up some rather stiff requirements. We have set some definite guidelines, as has already been indicated, in connection with the number of cameras in the room and the matter of setting up or taking down of equipment during the hearing or the time that the hearing is going on, and at the same time we left it up to the committees themselves to make a determination as to other regulations or any restriction they might see fit to impose. However, it was the subcommittee's frank opinion that unless we did draw the lines fairly tightly there would be a very good likelihood that we would not have the support necessary to provide for the coverage of committees.

Now, I for one for a good many years have felt that this was not in the best interest of good business on behalf of the people. However, I have come to the conclusion that here is a part of the media that has been too long denied access to our committee hearings.

Mr. Chairman, in the final analysis, the right of the public to know supersedes such reservations as we might have about some of the problems involved. The language makes it very clear that if the committee does have problems in connection with some particular reporter, photographer or other individual who might be covering for the networks or individual stations, that that committee can take care of that situation.

There is again language that permits them to do so by withdrawing that privilege from that part or portion of the media.

Further, Mr. Chairman, the committee has the right at all times to restrict its coverage and not permit radio or television in the hearing rooms.

And, as I say again in conclusion, Mr. Chairman, I think that the time has come when we should give this program an opportunity to work. I think it is in the best interest of the House for a variety of reasons.

Mr. Chairman, I would hope the Members read the provision on this in connection with our report because I think it is quite explanatory as to the decisions arrived at by this subcommittee.

Mr. DENNIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Harvey amendment.

Mr. Chairman, I just think that the committee should be cognizant of the fact that there is really no serious difference between the Harvey amendment and the committee bill. The committee bill provides for no commercialism. The committee bill provides for protection of witnesses under certain circumstances. It provides that the committees may write their rules. So, all of the essential things contained in the Harvey amendment and in the committee bill are the same.

The quarrel between them is merely one of detail. The gentleman from Michigan feels that the committee has sought to write too extensive and too detailed protections with reference to television broadcasting into the bill and he would write fewer and leave the rest of it up to practical operation later on.

So, Mr. Chairman, the real argument here is between those who want television broadcasting of committee hearings and those who do not. The rest is not the true or crucial issue.

Therefore, I would suggest that the Harvey amendment should be voted down and that we should vote on the merits of the question presented by the amendment which I have proposed. I submit again that, simply looking at the facts of life as they exist and refusing to be pressured by clamor by certain media, clamor as to how we should discharge our functions, that if we want the committees to do their job, as they should, and still have adequate publicity as to what is done, that this amendment, which removes the circus atmosphere of television cameras from the committee hearings, ought to be adopted.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Michigan (Mr. HARVEY).

Mr. HALL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Ninety-five Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 224]

Abbitt
Adair
Alexander
Anderson, Tenn.
Ashbrook
Ashley
Baring
Barrett
Berry
Biaggi
Brademas
Brasco
Brock
Broomfield
Brown, Mich.
Brown, Ohio
Burke, Fla.
Burleson, Tex.
Burton, Utah
Bush
Button
Cabell
Caffery
Camp
Carey
Casey
Celler
Chappell
Clancy
Clark
Cohelan
Collier
Conyers
Cramer
Crane
Culver
Cunningham
Daddario
Davis, Ga.
Dawson
de la Garza
Delaney
Diggs
Edwards, Calif.
Edwards, La.
Esch
Eshleman
Evins, Tenn.
Farbstein
Fish
Fulton, Tenn.
Gallagher
Garmatz
Gilbert
Gray
Green, Oreg.
Hagan
Halpern
Hanley
Hansen, Idaho
Harrington
Harsha
Hawkins
Hébert
Holifield
Hungate
Ichord
Karth
Keith
Kirwan
Landrum
Long, La.
Lowenstein
Lukens
McClory
McCulloch
McDonald, Mich.
McEwen
MacGregor
Madden
Melcher
Meskill
Mikva
Minshall
Morton
Murphy, Ill.
Murphy, N.Y.
Nelsen
Ottinger
Pepper
Pirnie
Powell
Price, Tex.
Pryor, Ark.
Pucinski
Quie
Rarick
Reid, N.Y.
Rodino
Roe
Rooney, N.Y.
Rooney, Pa.
Rostenkowski
Roudebush
Rousselot
Roybal
Ruppe
Ryan
St Germain
Schadeberg
Scheuer
Sebelius
Stephens
Symington
Taft
Teague, Tex.
Tunney
Ullman
Vander Jagt
Watkins
Watts
Weicker
Whalley
Whitten
Wiggins
Wilson, Bob
Zwach

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 17654, and finding itself without a quorum, he had directed the roll to be called, when 304 members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. CLEVELAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, during the debate on this bill, the Legislative Reorganization Act of 1970, last week on several occasions I availed myself of the opportunity to remind the Members of the House that 4 years ago there was a Joint Committee on the Organization of the Congress that had studied in depth many of the issues that we are debating now. In this particular instance I think it is only fair to point out that, as a member of that joint committee, I believe in this particular area the Rules Committee bill is better than was our offering. It permits, under carefully prescribed and carefully drafted rules, regulations and conditions the televising and broadcasting of certain committee hearings. In this area I feel the Committee on Rules has done a better job than the Joint Committee on the Organization of the Congress did. I think their recommendations are excellent. I think the committee is to be commended because of the obvious care with which this particular section, that the gentleman from Indiana (Mr. DENNIS) is attempting to delete from the bill, was drafted.

The Joint Committee on Organization of the Congress unanimously recommended that the televising and broadcasting of some committee proceedings be permitted. The reason we did it was in recognition of the fact that more than half the people in the United States of America have as their primary source of news either television or radio. We felt that because of this, and because some Senate hearings were being broadcast, and because the executive could obtain and control radio and television time so easily, that the House was not performing its functions as a coordinate, co-equal branch of our government by denying the people access to our activities by these modern techniques of the electronic media.

Mr. Chairman, earlier in this debate I referred to the Republican task force on congressional reform and the book it published, "We Propose: A Modern Congress." In that book, there was a chapter on the subject matter of this amendment, written by Congressman Bob Ellsworth.

Since that time, many Congressmen have supported and reintroduced the Ellsworth proposals. We have noted that there is in fact much television and broadcasting permitted in the Halls of Congress, as for example when the President addresses Congress. The people have for too long been denied the right to look or listen as their representatives conduct the business of the Nation. In my opinion this is wrong. The electronic media, in the interests of elementary democracy, should be permitted to bring to the public the debates which will decide their future.

I might also point out, the gentleman from West Virginia (Mr. HECHLER) in supplemental and minority views which are concurred in by the gentleman from Missouri (Mr. HALL) as well as myself went a step farther and recommended that under certain circumstances sessions of this House could be televised and broadcast.

We have had historic debates here that should have been televised and broadcast provided, of course——

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from West Virginia (Mr. HECHLER) who, as I said earlier, had written supplemental views to the report of the Joint Committee on the Organization of Congress, urging in addition to broadcasting committee hearings that we have the same for some sessions of the House.

Mr. HECHLER of West Virginia. I am pleased that the gentleman from New Hampshire, my colleague on the Joint Committee on the Organization of Congress, is supporting the televising of committee hearings.

If it were germane and in order, I would offer an amendment at this point to televise all sessions of the Congress. I believe that that would focus attention on and stimulate new interest on the part of the people in the Nation in the debates of the House of Representatives. It has been argued that this might result in "acting" for the cameras, but the camera is a merciless mirror of reality.

I think, and I hope, that this day will come when all sessions of Congress can be open to television and radio broadcasting. But I would not expect such an amendment would pass at this point, and therefore I will strongly support the televising of committee hearings.

Mr. CLEVELAND. The gentleman makes a good point. Of course, as the gentleman knows and Members know, much of what we are trying to do in this legislative reorganization act can already be done under our existing rules. I do not think that is fully appreciated. No House rule says that you cannot. All that the committee is suggesting is a rule that says you can and then prescribes certain circumstances. As I said, I think they have done an excellent job in drafting this section of the bill and in drawing up certain standards under which this part of the bill would come into effect.

Mr. OLSEN. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman.

Mr. OLSEN. Mr. Chairman, I commend the gentleman for his statement and join him in supporting the televising of committee hearings.

Mr. CLEVELAND. For the benefit of those who came in late, if that is the way you feel and if you agree with the gentleman from Montana, you will vote "no" on the two amendments that are about to come up and leave what the committee did intact.

The CHAIRMAN. The time of the gentleman has expired.

(Mr. CLEVELAND, at the request of Mr. DENNIS, was granted permission by unanimous consent to proceed for 1 additional minute.)

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman.

Mr. DENNIS. I would like to suggest to the gentleman from New Hampshire that the Constitution has always provided that trials in courts shall be public, and yet almost universally the courts have rejected the television broadcasting and the reason for that is because it interferes with the orderly transaction of the public business in the courts. I am suggesting that if we permit it in the committees, it would interfere with the orderly transaction of the business of the committee. That is the reason for my amendment which strikes from the bill those provisions which would permit the televising of committee hearings.

Mr. CLEVELAND. The point of the gentleman is well taken, but proceedings in the courts are adversary proceedings whereas in many of our hearings they are for the purpose of getting information not only for the members of the committee but for the people of the country, who are after all our ultimate court, certainly our jury.

Mr. HOGAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Indiana (Mr. DENNIS) inasmuch as I am strongly opposed to those provisions of the bill which would permit the televising, broadcasting and photographing of committee hearings. My fear is that the presence of TV cameras would interfere with the orderly conduct of hearings. The temptation would be too great for politicians to be more concerned about how they will appear on TV to their constituents rather than the legislative purpose of the hearing. Committee Members might avoid asking important questions because they might not be well received by television viewers. Contrariwise, they might phrase other questions for their dramatic value and the favorable impression they might make on viewers rather than on their probative value.

In addition, I do not see how we could avoid the circus-like atmosphere which always accompanies the presence of photographers and television and radio crews. No matter what rules and restrictions we adopt, disruption and confusion will inevitably result. I do not feel this atmosphere is conducive to the orderly conduct of congressional business.

Mr. HAGAN. Mr. Chairman, I move to strike the last word.

RETIREMENT OF CARTHA D. "DEKE" DELOACH

(By unanimous consent, Mr. HAGAN was allowed to speak out of order.)

Mr. HAGAN. Mr. Chairman, today, July 20, a man I am proud to call my good friend, a constituent, and a highly devoted public servant, Cartha D. "Deke" DeLoach, commences a well deserved retirement after 28 years of tireless and

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dedicated service with the Federal Bureau of Investigation. "Deke" is planning to enter private industry at this time, in a furtherance of his most outstanding career.

Some time ago, "Deke" indicated to some of his friends that he was considering such a move, that it would be with deep regret, but of his own volition, after much soul-searching and out of consideration of his fine family.

"Deke," as Claxton, Ga.'s foremost native son and renowned national figure, has risen from the ranks of the Federal Bureau of Investigation to become Assistant to Director J. Edgar Hoover in 1965, in which position he has been in direct charge of all criminal investigations and counterspy operations.

I personally am confident that a man of the caliber of "Deke" DeLoach will be a real success in his new endeavor also. Every facet of his impressive background testifies to his strong perseverance and adaptability.

From the time he was an active member of the American Legion and his service as department commander and national vice commander to his present roll as chairman of the national public relations commission, there was no doubt that this able and devoted Legion member would earn further plaudits from his peers.

In 1963, "Deke" DeLoach was named man of the year in the Legion by the State Commanders Society of the Legion's national convention. And in September 1964, "Deke" received the annual president's award of the National Association of State Directors of Veterans' Affairs for distinguished public service.

On May 12, 1967, the president of St. John's College in the Nation's Capital presented "Deke" DeLoach the president's medal of St. John's College. And "Deke" was presented the George Washington honor medal by Freedoms Foundation of Valley Forge, Pa., in 1967, 1968, and 1969.

He was selected for membership in the International Platform Association in September 1967, by the board of governors of that organization, and selected to be a member of the board of directors of the Ophthalmic Research Foundation in 1968.

The man who was born in Claxton, Ga., and attended Gordon Military College, Barnesville, Ga., South Georgia College, Douglas, Ga., and Stetson University, Deland, Fla.—the young man who played varsity football and received a bachelor of arts degree from Stetson and later attended its law school—the young man who was given a distinguished alumni award by that institution in November 1958, and a similar award by Stetson's Alumni Association in February, 1966—the young man who received an award in 1966 from the Pi Kappa Phi fraternity of which he was a member and honorary doctor of laws degrees from Stetson University in 1966 and Lincoln College, Lincoln, Ill., in 1968—this is Cartha D. DeLoach whom we his friends call "Deke."

He will no doubt go on to even greater heights in his new position in private industry and I feel my colleagues will unanimously join me in wishing him well and Godspeed in his quest for a place in the business world.

The high esteem in which he is held in the First District of Georgia is attested to by tributes in his hometown newspaper, the Claxton Enterprise, the Savannah Morning News and Evening Press, the Augusta Chronicle, the Evening Star, the Chicago Tribune and by national columnist Ray McHugh.

Mr. SPRINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know that since the rollcall, there have been many Members here who did not hear the discussion of the two amendments, the Dennis amendment and the Harvey amendment to the committee bill, which provides for televising of committee hearings.

I repeat again, the committee bill provides for committee hearings to be televised and provides for radio coverage to be regulated by the bill itself. The Dennis amendment strikes out all television and radio. The Harvey amendment, so its author said, was a perfecting amendment but in the nature of allowing the committees themselves to set the conditions under which they would have radio and TV.

I would like to ask the gentleman from Indiana if he has anything further he would like to add, so that those of the committee who were not here will understand what is at stake.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would say what the gentleman from Illinois says is essentially correct. I have tendered an amendment which would strike section 116, the section providing for televising committee hearings. It merely takes out everything from line 5 on page 30 through line 20 on page 35, my amendment being that televising committee hearings makes for disruption of the orderly business of the committee. Really the things which will be picked out by the media will just be certain things they want and not what the committee or what the chairman wants or what Congress has anything to do with. I believe we will transact our business better without that type of distraction.

The gentleman from Michigan has offered a clarifying amendment which I understand will be voted on first. Essentially it leaves the committee bill intact, the difference being that the gentleman from Michigan (Mr. HARVEY) lays down only a very few basic rules but leaves the rest to the committees themselves, but it does permit televising. If that is disposed of negatively—as I hope it will be—we will come then to the main issue, which is my amendment to strike television provisions from the measure.

Mr. SPRINGER. Mr. Chairman, I ask the gentleman from Michigan, a member of our Committee on Interstate and Foreign Commerce, if I have represented his amendment correctly?

Mr. HARVEY. Mr. Chairman, if the gentleman will yield, basically I would say yes. My amendment is predicated on the theory that if any of our committees of the House are adequately informed enough to enact legislation, certainly they are adequately informed enough to get out their own rules without all these provisions on pages 30 to 35.

I just believe television is such an advancing art that we cannot possibly spell it out in the rules of the House, that it should be done in the rules of the committee instead, with the safeguards that have been written into my amendment.

Mr. VAN DEERLIN. Mr. Chairman, I move to strike the requisite number of words.

I take this time to address two or three questions to my fellow Californian who has handled this bill through the Rules Committee and on the floor of the House for some 6 days now.

I ask my colleague, the gentleman from California (Mr. SISK), in the preparation of this legislation, did the Committee on Rules work with representatives of the radio and television industry, specifically to ascertain what their needs would be to prevent a circus atmosphere within the committees under broadcast conditions?

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. VAN DEERLIN. I yield to my colleague from California.

Mr. SISK. The answer to that question, of course, is "Yes." We did work with experts in the field of radio broadcasting as well as television. We discussed the subjects that we were involved in with experts in lighting, with people in the electronics field, and with representatives of the networks as well as individuals and still photographers.

This was worked out rather carefully. The restrictions were drawn to give them an opportunity to do a job from their standpoint but at the same time to restrict it in such a manner as to keep it from becoming a hindrance to the committee in doing its job. This was rather carefully considered, and it is a rather well-balanced, we believe, series of regulations.

Mr. VAN DEERLIN. Does the gentleman have any expectation that our committee rooms would be taken over by a lot of strewn cables, or that we would be so obstructed by cameramen or directors or prop men that we could not conduct normal committee business?

Mr. SISK. If the gentleman will yield further, it is my opinion that this will not be the case. This again is the reason for the rather restrictive sentences in connection with these provisions; the requirement that they set up ahead of time, the requirement that they not break down their equipment during the time the committee is proceeding with its sessions, the requirement that the cameras be so located as not to obstruct the view of the spectators, of the committee, or of the witness; and so on and so on. These matters were carefully considered. It is my opinion it will not become a circus and it will not derogate from the ability of the committee to do its business.

Mr. VAN DEERLIN. Is it not true that the allowance for at least five cameras is to take care of the needs of regional representatives of the broadcast media, who are not concerned with matters that interest the networks, but are assigned to cover news of specific concern to localities, involving Members whose districts are represented within the localities?

Mr. SISK. If the gentleman will yield further, the answer would be "yes." We attempted here to give that kind of coverage. If we had limited it, for example, to only three cameras, and if we had ABC, CBS, and NBC all desiring to cover, then the independents selecting their own material, doing special kinds of studies, would have been precluded from serving their particular portion of the public. We feel that the number of cameras permitted would adequately serve the purposes the public expects and demands.

Mr. VAN DEERLIN. I do thank the gentleman for this clarification of the legislation before the Committee of the Whole and for his effort in support of increasing public knowledge of Government. It seems rather strange, more than 50 years after radio has been in a majority of American homes and more than two decades after the majority of American homes have television, that we are even discussing the proper role of electronic journalism here on the Hill.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman.

Mr. WOLFF. I would like to associate myself with the remarks of the gentleman from California and say that if the public is entitled to see the results of the operations of the President of the United States that we did some years ago, I think they are entitled to see the operation of the Congress as well.

Mr. BROYHILL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman.

Mr. BROYHILL of North Carolina. I would like to associate myself with the remarks of the gentleman from California. I think we should permit the televising of our committee hearings, and personally I want to support the amendment offered by the gentleman from Michigan. I feel I will vote to support the committee action.

Mr. VAN DEERLIN. Thank you, Mr. Chairman, if the House of Representatives wishes to remain for all time a secondary body in the Congress of the United States, the way to do it is to adopt the amendment offered by the gentleman from Indiana.

Mr. MIZE. Mr. Chairman, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman.

Mr. MIZE. I think there is some difference in it, though. In the Senate they have much smaller committees. Suppose we get the House of Representatives televised and we get a hot issue before the Committee on Banking and Currency, on which I serve. There are 35 members on this committee. What chance do you suppose some of us down the line will have to interrogate witnesses and get our point across?

Mr. VAN DEERLIN. I say to the gentleman from Kansas (Mr. MIZE), that could be taken care of adequately by provisions already in this bill.

Mr. MIZE. I agree. But then what we will start doing is making TV productions out of our committee meetings.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not propose to use my 5 minutes, but I just want to ask the $64 question. I was here during one Congress when we had television. Is there any regulation in the committee bill that will prohibit television from covering a hearing, let us say, for one station and then clipping out a few clips here and there of the film for showing on nationwide television to produce whatever effect they desire?

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman.

Mr. SISK. Let me say that I think the easy or the correct answer would have to be no. There is no provision that would preclude this from happening. We have attempted, if the gentleman will yield further, to be as strict as we can. We have required that live television will not be commercially sponsored. We have put in regulations in connection with the partisan use of this film. On the other hand, if a newsman, an independent station, or a network wishes to be so capricious and so lacking in meeting their responsibilities to the American public as to do the kind of thing that the gentleman indicated, then I think the thing to do is to throw them out, and that is what I expect and hope the committees will do. Of course, the committee retains that right.

Mr. HAYS. Perhaps the solution would be to say that if you televise a committee hearing, you have to televise it all. I think perhaps that would be something that might discourage the sensationalists.

Mr. VIGORITO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to take the 5 minutes except that I would like to make one remark.

Two or three weeks ago I was approaching my automobile and as I was getting in three teen-age girls were walking by. One looked at me and said, "Hey, I know you. I have seen your picture a lot on television." Another girl said, "Yeah. What show are you on?"

I think that is the answer. If we permit television proceedings of the House and the committees, this will become one gigantic show.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Michigan (Mr. HARVEY).

The perfecting amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

Mr. BOLLING. Mr. Chairman, on that I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. DENNIS and Mr. SISK.

The Committee divided, and the tellers reported that there were—ayes 93, noes 96.

So the amendment was rejected.

Mr. DONOHUE. Mr. Chairman, I very strongly support and urge the adoption of this Legislative Reorganization Act of 1970, H.R. 17654, with the addition of strengthening amendments.

In a number of past instances, I and many other Members here have felt there was good reason to question the soundness of some House regulations and procedures that can be projected to prevent full Chamber discussion of major issues, deny the opportunity to offer amendments, and require voting action without giving Members a chance to study informative committee reports.

Together with this persistent questioning by Members themselves, there has now developed, especially among our youth, increasingly widespread public doubt about the full openness, fairness, and effectiveness of the legislative process in the Congress. Obviously, no branch of our Federal Government, executive, judicial, or legislative, can effectively operate in the national interest without the confidence and backing of a majority of our people.

This reorganization bill is very timely designed to restore the public confidence and respond to the longstanding desires of a great number of our Members to improve the discussion and determination methods of the legislative processes in the Congress. A doubting public can be given reassurance of the integrity of congressional operations by the adoption of this bill because, among other things, it will provide our people with more complete and accurate information about voting actions in the Chamber and in committee; it will also give the public a greatly needed opportunity to see and hear what actually goes on in ordinary committee proceedings and special House-Senate conferences; it will further afford all House Members a much fairer chance to express our views for or against important legislation; and it will permit desired changes to be made in the selection of committee chairmanships.

Of course, there is no easy way or readily acceptable formula to always and in every instance guarantee perfect order, fairness, and efficiency in a legislative body composed of 435 human beings of varied backgrounds, personalities, and convictions, but we are obliged to make every effort to reasonably accomplish that objective. That is the basic purpose of this bill.

The real challenge that confronts this Congress in these critical days of our national life is to prove to the American people, and to the world, that our form of representative government can truly and effectively legislate in the public interest, and that it can truly and effectively perform its work in full and open public view.

Let us meet that challenge now, by registering our resounding approval of this urgently needed reorganization measure.

Mr. STOKES. Mr. Chairman, I think the following five editorials, selected from many that have been brought

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to my attention, argue eloquently for the need to incorporate some meaningful reform in the legislative reorganization bill we are considering this week. The editorials come from newspapers serving north, south, east, and west—and areas in between. These papers serve every variety of community to be found in our land, urban, suburban, and rural. Mr. Chairman, the people demand change.

All of the editorials deal with secret House procedures and operations, and all urge that we abolish such procedures and operations. I intend to support the bipartisan antisecrecy amendments as they are offered this week, because without them any legislative reorganization bill would be a sham. I commend these editorials to any of my colleagues who may be in doubt as to the need for such reforms, and include them at this point in the Record. The editorials appeared in the Lynn Daily Evening Item, the Tampa Tribune, the Spokane Daily Chronicle, the Detroit News, and the Wichita Eagle and the Beacon:

[From the Lynn (Mass.) Daily Evening Item, July 14, 1970]

Legislative Secrecy

Those who gather and edit the news for American newspapers—and for other media, as well—have long been concerned over unnecessary secrecy among the committees of Congress.

Secrecy undermines the democratic process and saps public confidence, particularly in the House, as a responsive and effective legislative body.

Now, the concern of newspaper people is being shared by members of Congress themselves, Republican and Democratic, liberal and conservative.

Twenty-two members of the House (unfortunately there are no Massachusetts representatives among them) are sponsoring a series of antisecrecy amendments to H.R. 17654, the Legislative Reorganization Act of 1970, which is due for action in the House this week.

These amendments include recording how members vote on major issues, both in committee and on the House floor, opening committee hearings and meetings to the press and public, and requiring the availability of committee reports and hearings before final House action on legislation.

The democratic process cannot function without the free flow of information. These amendments should pass. The public should demand that they pass. Write to your Congressman.

[From the Tampa Tribune, Friday, May 22, 1970]

The Old Order Passes; or Does It?

When John W. McCormack came to the U.S. House of Representatives in 1929, he was known as "that Bolshevik." When, in accord with his announcement this week, he leaves it at the end of the current term, he will take with him the nickname "the Archbishop."

The change represents less transformation in the retiring Speaker than in the times and political temper of the nation. Despite his 78 years, he told a press conference at which he disclosed his retirement, "I don't feel old, . . . I'm still trying to look 10 years into the future."

Perhaps so. But the reason it is well that McCormack is now stepping aside (and that some of his elderly colleagues should do likewise) is that his point of view for looking 10 years into the future has remained that of 1928, or 1938, not that of 1970.

He denied that either age or the pressures of younger House members had anything to do with his decision. He would have announced retirement two years ago, he said, except that he did not want to appear to be leaving his party in the lurch after its 1968 election defeat; and his reason was not age, but simply to devote more time to his ailing wife.

Yet, despite his expressed admiration for most of today's youth, the times have passed him by. Two recent events especially make the point—as many more might.

In 1965 a Joint Committee on the Organization of Congress proposed important changes to modernize the operation of the House and Senate, which had gone untouched since 1946. In 1967 the Senate overwhelmingly approved most of them, and sent the bill doing so to the House. McCormack was reminded that the 1946 reorganization bill got to the House floor only because the then Speaker bypassed the archaic, power-conscious Rules Committee. McCormack's response was to send the new bill to the Rules Committee, where for almost a thousand days it languished.

Last fall, Speaker McCormack was visibly shaken by disclosure that his principal aide, Dr. Martin Sweig, and an old friend, Nathan Voloshen, a lobbyist, had been using the power of the Speaker's office in efforts to influence Federal agencies in behalf of Voloshen's clients. No one suggested McCormack knew what was going on—but it was clear many of his colleagues and constituents thought that he should have.

The major change that can come from McCormack's retirement is a new attitude in the House leadership toward reform of Congressional operations, by restoring to the Senate-passed bill many of the items the Rules Committee deleted before belatedly ordering to the floor what to many Representatives is a window-dressing with no substance.

Among the deletions are a provision for a permanent Joint Committee on Congressional Operations (which might keep old-timers and outdated practices always on the defensive); a requirement making public how individual committee members vote on all matters; a lessening of the evils of the seniority system, and greater independence and staffing for minority party committee members.

President Nixon, in commenting on Speaker McCormack's decision to step down, praised him as a man who always "put country above party—the national good above self."

That the appraisal is apt does not alter the fact that McCormack's view of the country and of the national good was that of an old order of politics anachronistic and inappropriate for the complexities of 1970's political environment.

It is extremely likely that his successor will be the man he handpicked for the job, Oklahoma's Carl Albert, 62. Whether McCormack's departure really will mark the passing of the old order in the House will best be indicated by the fate of reform of Congressional operations along the lines approved by the more forwardlooking Senate.

[From the Spokane Daily Chronicle, July 13, 1970]

Votes Should be Public

Important decisions will be made in the U.S. House of Representatives this week on proposals which would give the public more access to information about the work of the House.

H.R. 17654, which would reorganize the House's information operations, will be up for consideration. But the important votes will be on anti-secrecy amendments proposed by a Republican-Democratic coalition.

The public has a big stake in the outcome, because it is entitled to more information about how important legislation goes through the House and how its members vote.

The anti-secrecy amendments would:

Require that "teller" votes cast during House debates be put on the public record on the demand of 20 members. Now the House does most of its important business in a Committee of the Whole where votes are cast by members walking through aye and nay "teller" lines but with no official record kept.

Require that votes on legislation in committees and subcommittees be put on the public record. The bill itself would require only a report on the total votes for and against an issue.

Require that all House committee and subcommittee meetings be open to the public unless the committee votes each time, in public and on the record, to close a meeting. At present half of all committee meetings are closed.

Require that each year, 30 days after the budget is presented to Congress, the House Appropriations Committee hold public hearings on the over-all spending program. Hearings now are piecemeal, agency by agency, and in secret.

Require that every committee announce publicly the date, place and subject of every hearing, even if the session is closed.

The congressmen are dealing with the public's business, and the public is entitled to know about it. For example, if a representative votes on an amendment during House debate, the voters in his district have a right to know how he voted. The same is true of votes on legislation in committee.

The anti-secrecy amendment should be approved. There has been too much "secret government" behind the doors of congressional committees.

[From the Detroit News, Saturday, July 11, 1970]

Congress Should Open Its Doors—Why the Secrecy?

More often than the public realizes, the U.S. Congress conducts its business—your business—anonymously and behind closed doors.

Members who demand a strict accounting from the executive and judicial branches regularly conceal their own deliberations and actions.

A chance for reform is at hand.

This month, the House of Representatives will act on a bill to reorganize Congress. The bill offers an opportunity, one which comes along infrequently, to write amendments stripping away some of the secrecy that cloaks the federal legislative process.

One proposed amendment strikes at the practice by the House of converting itself into a Committee of the Whole and casting unrecorded votes. This practice provides politicians a haven of anonymity and denies constituents the right to know how their representatives ballot on important and sensitive issues. In the legislative body of a democratic system, voting should be a matter of public record.

Another proposed amendment would require disclosure of voting on committee and subcommittee roll calls. Under present rules, House committees keep a record of how each member votes but that record is not released to constituents or the general public.

In fact, many committee sessions are closed entirely to press and public. About half the hearings and meetings of House committees are closed. The House Appropriations Committee, which has so much to say about the spending of those billions of taxpayer dollars, holds all its meetings and hearings in secret.

Secrecy may be dictated on occasion by national security but in general the committee meetings and the voting should be open and on the record, accountable to the public, which foots the bill and to which the Congress owes its very existence.

The purpoes of the reforms, of course, is to make the House a more responsible body. Paradoxically, the fate of the reforms depends on whether the House is responsible enough to approve them. Confronted by an ethical dilemma of this sort, men often need outside guidance. So this is one of those occasions when a letter to your congressman would be particularly appropriate.

[From the Wichita Eagle and the Beacon, July 12, 1970]

CONGRESSMEN SHOULD VOTE AGAINST SECRECY

This week in the House of Representatives they're going to be voting on H.R. 17654, the Legislative Reorganization Act of 1970. A great many members of Congress are inclined to regard this matter of legislative reform as a mere housekeeping affair—really nobody's business but theirs.

Nothing could be farther from the truth.

Fortunately a group of congressmen of both parties have sponsored some amendments to the resolution which would abolish secrecy in a number of important proceedings.

These amendments, among other things, include recording how members vote on major issues both in committee and on the House floor; opening committee hearings and meetings to the press and public, and requiring the availability of committee reports and hearings before final House action on legislation.

Perhaps one of the most important parts of the amendments is that of so-called "teller votes." The House does most of its important business in a committee of the whole where votes are cast by members walking through aye or nay "teller" lines with no official record of the vote. During the past year key votes cast on this basis included the anti-ballistic missile, supersonic transport, right to work laws, money for education and anti-pollution programs, school desegregation and limitation of the Indo-China war.

That's bad enough. What's worse is that all appropriations committee meetings at present are closed to press and public, and that's where taxpayer money is spent by the billions of dollars. Particularly at a time such as this when there is a real money crunch it is vital for people to know the rationale for federal spending, and this can be learned only in these appropriations committee hearings.

All this secrecy is bad in principle. It can be even worse in practice. A congressman may take a public position on one side of an issue and vote on the other side without fear of discovery. It is, indeed, impossible sometimes to learn how he voted on some very important issues if he doesn't care to say.

About 50 congressmen have sponsored the anti-secrecy amendments. That isn't enough to pass them, and unfortunately, the vote on them probably will not be on the record.

So we can only entreat the members of the Kansas delegation to vote as a man in favor of freedom of information—to support the amendments.

To do anything less is to tell the public it isn't entitled to know how its business is being conducted.

The CHAIRMAN. The Clerk will read.

Mr. SISK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE TO EXTEND

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend and revise their remarks on the reorganization bill, H.R. 17654.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR ADJOURNMENT FROM FRIDAY, AUGUST 14, TO WEDNESDAY, SEPTEMBER 9

Mr. ALBERT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 689) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 689

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Friday, August 14, 1970, it shall stand adjourned until 12 o'clock on Wednesday, September 9, 1970, or until 12 o'clock meridian on the third day after Members are notified to reassemble pursuant to provisions of section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. At any time during this adjournment of the House, whenever the Speaker of the House determines that legislative expediency so warrants, he shall notify the Members of the House to reassemble.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER LEGISLATIVE PROGRAM

(Mr. ALBERT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ALBERT. Mr. Speaker, I take this time because I have been requested by the distinguished chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. MILLS), to inform the House that on Thursday of this week he will call up the conference report on the bill H.R. 14705, the Employment Security Amendments of 1970.

PLAQUES COMMEMORATING SERVICE OF CONGRESSMEN

(Mr. WHITE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITE. Mr. Speaker, the Capitol is the national home of the American people. Here its leaders through its almost 200 glorious and colorful years assembled to help develop the legislation that has made this country great. Here some of the most fateful events of history have been debated by the great, the near great, and lesser lights. Their deeds contributed mightily in making the United States of America the leader of the free world and the citadel of liberty.

Every day visitors to the Capitol are inspired by the statues of the selected great of each State, but nowhere can they read the collective names of the several thousand men and women who also served and served well these almost 200 years of our constitutional history.

Was it meant that they would be relegated to anonymity and the Nation honor but a few? Just as the greatness of this Nation is a composite of hundreds of thousands of deeds of sacrifice throughout our history, the stability of this Nation in war and peace was also achieved through these several thousand dedicated representatives of the people over the course of our history, and I believe are worthy to be remembered. My colleagues of today are deserving of respect and remembrance, by future generations.

I believe that our present generations and generations to come should know of these men and women who have preceded and who shall follow. They are the bricks that make a mighty fortress of democracy. I propose that the congressional districts throughout this land, through the auspices of their various historical societies or their respective legislative bodies, or by private donation, give a small bronze plaque of prescribed size and type of wording to the Congress commemorating each and all Representatives and Senators who have served the State and the congressional districts, and who are now deceased. On the plaque I would recommend that the wording include the name of the person commemorated, the years of his service, party and State, possibly any congressional offices he or she held, and possibly the name of the sponsor of the plaque in very small print. These plaques would then be embedded in an appropriate place, such as the walkways on the east side of the Capitol on a prearranged plan and design. Thereafter, this point of interest would be known as the Walkway of Congress or some such words.

Thereafter, when a Member, or former Member is deceased, his name would then be eligible to be placed on the roll of honor on the walkway, by donation from his district.

Mr. Speaker, I shall introduce a proper resolution calling for a joint committee of the House and the Senate to be appointed to study the feasibility and execution of this project, with a view to having the names of deceased members in place by the celebration of the independence of our Nation, by 1976. Then would the Capitol be a further living embodiment of its own history. Then America each day could pay tribute to those who also served.

GOOD YEAR IN GRAIN EXPORTS

(Mr. MIZE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

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Mr. MIZE. Mr. Speaker, all Kansans are aware that their prospects for continuing prosperity depend upon grain exports as much as any other single factor. The huge carryover of wheat in Canada and Australia has made grain export a very competitive business the past 2 years, but fortunately for Kansas and other grain-producing States, the administration has made progress in developing good export markets for our crops.

Mr. Charles Pence, raised on a farm near Topeka, is head of the Grain Division of the Export Marketing Service of the Department of Agriculture. Mr. Pence has been county agent of Saline County, Kans., and an executive of Great Plains Wheat, Inc. He has been a key member of the USDA team in charge of building dependable export markets.

I am very pleased to note that this past marketing year—June 30, 1969–June 30, 1970—was a good export year for U.S. wheat after an extremely disappointing one a year earlier.

U.S. wheat exports—excluding flour and wheat products—for the year amounted to 535 million bushels—about equal to the combined production of Kansas, Nebraska, and North Dakota. This was an increase of 15 percent from the 465 million bushels exported in 1968–69. Both commercial and food for peace exports increased, and commercial sales accounted for nearly 60 percent of the 1969–70 total. Exports of flour and wheat products increased about 10 percent to make the fiscal year total approximately 610 million bushels compared to 543.8 million last year.

U.S. corn exports also increased during the past year, reaching 590 million bushels, which is more than the production of any Corn Belt State except Illinois and Iowa. This was a gain of more than 20 percent from the approximately 490 million bushels exported a year earlier.

Grain sorghum exports also increased with shipments reaching 116 million bushels—nearly as much as the State of Kansas produces and more than any other State except Texas. This compares with exports of slightly over 100 million bushels a year earlier, a gain of about 13 percent.

Several actions taken by the U.S. Department of Agriculture which contributed to this successful record deserve to be mentioned.

One was the establishment of a new agency, the Export Marketing Service, headed by the General Sales Manager of the Department. This centralized the export operations of the Department and has greatly contributed to its effectiveness.

The Department also was a prime mover in bringing about competitive pricing among world wheat exporters after a minimum price schedule of the international grains arrangement had brought world wheat trade to a virtual standstill.

Improvements were made in the CCC export credit sales program, and export sales under this program nearly doubled as a result. This is a commercial export financing program for dollars that bridges the gap between cash sales and concessional sales under the food for peace program.

The barter program also enjoyed a fine year as a result of improvements made in its operation. Under this program, U.S. commodities are bartered for goods and services which the Department of Defense, AID, and other Federal agencies need for use abroad and would otherwise have to procure for dollars. Thus, it is a major aid to our balance of payments.

Prospects are bright for another good export year in fiscal year 1971, particularly for wheat. There will be a decrease in the supply of wheat for export in several exporting countries—the European Community, Eastern Europe, Spain, and Argentina. This deficit will be made up by the United States, Canada, and Australia.

The U.S. share of this business will depend on our ability to maintain competitive prices and the necessary credit terms to meet the strong competition of Canada and Australia. The record of the past year is a good indication of our determination to do so.

BIG SPENDERS SHIRK RESPONSIBILITY

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, well, not unpredictably, the big spenders in this Congress are weeping crocodile tears and screaming like a wounded banshee because the President of the United States puts the saddle right on them where it belongs.

The Democrat leadership, as well as most of their other rank-and-file candidates for reelection, piously vote for every emotional spending program that comes along, and generously add hundreds of millions of dollars, unbudgeted dollars as you well know, then turn to the electorate with smug satisfaction, and like little Jack Horner, say, "Look what I have done for you—what a good boy am I."

Mr. Speaker, demagoguery was not invented by this Congress, but many more performances like those we have witnessed in the past couple of months will put a label on the 91st that will not be forgotten. Maybe some of our colleagues think they can have it both ways, but the people back home are smart enough to know they are the ones who will ultimately be required to pick up the check—pay the bills, for the indiscretions and excesses of those here who have a compulsion for spending, but lack the courage to enact the tax legislation to pay the bill.

To put it another way, politics seems to cloud their vision, particularly in an election year; thus, the boys use the carrot-on-the-stick approach, dangling all types of budget-busting programs before the "grateful" electorate, portraying great do-gooding, humanitarian postures for health and hospitals, education and children, welfare and the poverty-stricken.

It is no wonder, Mr. Speaker, once or twice each year the Congress is prevailed upon to increase the national debt ceiling. The Congress has been controlled by the Democrat Party for 34 of the past 38 years—every Congress except two in nearly four decades—probably a clue why our public debt is $380 billion.

And what are the Democrat leaders saying? Over the weekend, the President literally took the Congress to the woodshed, and scolded those big spenders who lack the courage to enact the taxes to pay for the programs they promote—then the majority leader is quoted as saying the President's statement is "an ill-advised cover-up of the administration's economic shortcomings—and obvious political gimmickry designed to disguise Presidential neglect in such fields as health, education, and housing." All I can say is "hogwash."

Mr. Speaker, such a statement would be laughable if it did not deal with such serious and critical issues. Everyone is suffering from inflation, and as long as the big spenders inflate the dollar by voting to spend more without generating the funds with which to pay, the problem will continue to be compounded.

For example, take the President's veto of the Hill-Burton hospital extension. From a personal standpoint, I voted for Hill-Burton in committee; I voted for Hill-Burton in the House; I voted for the Hill-Burton conference report, but when the President vetoed it and pointed out the mandatory spending provisions, plus the busting of the budget by $350 million, I agreed with him and voted to sustain him. Does this make me antihospital? No, just to the demagogues and uninformed.

Last week the Health, Education, and Welfare appropriation bill zipped by the House with only 25 votes against. Do you know this bill ravished the budget by nearly a half billion dollars, but because of the fear of being labeled anti-education, our Members marched down the line of fiscal irresponsibility—how they moaned when a record vote was demanded.

Mr. Speaker, these chickens have a way of coming home to roost, and it may well be this November, when people will want to know just who is responsible for inflation and big debts. As Honest Abe said:

> You can fool some of the people some of the time.

THE AMERICAN WOMAN THEN AND NOW

(Mr. TEAGUE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. TEAGUE of California. Mr. Speaker, I commend to the attention of my colleagues the following article written by my constituent, Mrs. Marjorie Longwell of Malibu, Calif.:

THE AMERICAN WOMAN THEN AND NOW

(By Marjorie Longwell)

(NOTE.—Serving as California chairman and national vice-president of the National Woman's Party, Mrs. Longwell has been interested for a long period of time in the role of women in America. She has written various articles that have been published in previous issues of the Bulletin and has authored a book on women in America. Her pertinent comments on "women, past and present" were given at a recent meeting of Phi Chapter.)

Nearly two hundred years ago, when our Founding Fathers were drawing up a code of laws, one Founding Father, John Adams, received a letter from his wife, Abigail, saying:

> "MY DEAR JOHN:
>
> By the way, in the new code of laws, I desire you would remember the ladies and be more generous and favorable to them than were your ancestors. Do not put such unlimited power in the hands of husbands. Remember, all men would be tyrants if they could.
>
> Your loving wife,
>
> "ABIGAIL".

Not many people are aware of John Adams' answer. He wrote: "Depend upon it, my dear wife, we men know better than to repeal our masculine systems."

Thus were women left out of the Constitution, and have been left out ever since, except on voting days. In 1920 women of the U.S.A. were given the right to vote.

As someone has wisely said: "Behind every man, as a man, stands the Constitution; but behind every woman stands the Old English Common Law which places upon her the stigma of inferiority and bondage."

It is vitally important to remember that our Founding Fathers wrote the U. S. Constitution in the light of the old English common law, and the old English common law did not recognize women as persons.

But lest we tend to blame our Founding Fathers unjustly, we must remember that their world of almost 200 years ago no more resembled today's world than an ox cart resembles a rocket ship.

The 1786 woman, spinning and weaving by candlelight, cooking at an open hearth, making clothes for all 14 of her children, could scarcely read or write. Her daughters, attending a hickory stick school, were not taught long division—that mathematical area being reserved for boys.

Daily needs in 1786 were woman-supplied. Did the family need a new blanket? She wove it. Did a child have an aching tooth? She rode with him on horseback to the doctor who, by dint of pliers, turned dentist. Was a neighbor ill? The 1786 woman willingly shouldered the duty of nurse.

To the 1786 woman, gazing out her curtained window at horsedrawn carriages on cobbled streets, our modern woman would have seemed more improbable than Gulliver's tallest tale. How could she visualize 30 million women marching each morning to jobs outside the home, attending college, becoming lawyers, doctors, scientists? How could she know that women would someday drive their own cars, fly their own planes?

The point to remember is that our Constitution, written in 1786 for men and women, still serves today for men and women, with the exception of the 19th amendment which gives women voting rights.

The 14th and 15th amendments, written in 1868 and 1870, said: "All persons born or naturalized in the U.S. are citizens and have the right to vote."

Susan B. Anthony, considering herself to be a person, registered and voted in 1872. She was arrested, brought to trial, convicted of the crime of voting—because she was a woman, and the word persons mentioned in the 14th and 15th amendments to our Constitution did not mean women.

It is a vital truth that the word persons mentioned in our Constitution does not mean women, because the Constitution itself was written in the light of the old English common law which did not recognize women as persons.

If she were alive today, Susan B. Anthony might vote, but she would still see 1000 legal discriminations against women upon various State statute books. This is because in all other legal respects except the right to vote, women of U.S.A. still live under State Laws.

Let us remember that men are in charge of Congress. Today in the U.S. Senate there are 99 men and one woman: Senator Margaret Chase Smith of Maine. (She became Congressman on the death of her husband, Congressman Smith). She later won election to the Senate.

In the House of Representatives are 425 men and ten women.

Perhaps we can excuse our Founding Fathers for leaving women out of the Constitution, the world being what it was then; but can we excuse today's Senators and Congressmen for keeping women out?

Of course we will not list all 1000 legal discriminations against women on various State Statute Books, but let us glance at a few.

What of Discrimination in Education?

In 1958 the U.S. Supreme Court upheld the decision of the Texas Supreme Court in denying the admission of two women to the Texas A. and M. College, solely on the basis of sex.

In 1960 three women were denied admission there—they wanted courses in floriculture not given in other colleges.

The Texas A. and M. is supported by taxes. (In the payment of taxes there's no trace of sex discrimination.)

On February 6, 1964 the CONGRESSIONAL RECORD had an article that said qualified women had been refused admission to Virginia colleges at the rate of 7,000 a year since 1960. Thus, in the State of Virginia's tax-supported schools, 21,000 qualified women had been denied an education while men students were admitted.

What of Discrimination in Divorce Laws?

In Kentucky a husband may obtain a divorce on suspicion of misconduct on his wife's part. He does not have to prove it. She not only must prove he has been unfaithful, but also must prove that his unfaithfulness is habitual.

In Texas a man may win a divorce because of his wife's unfaithfulness, but she must prove he not only is unfaithful but also has abandoned her. If he continues to live with her, even though unfaithful, she may not secure a divorce.

What of Discrimination in Marriage Laws?

In many states a wife may not enter into a business contract without her husband's consent. She may not sign a promissory note, nor give a deed or mortgage without his sanction.

In New Mexico when the husband and wife own common property, the husband may will away his half but while the husband lives the wife cannot leave one dollar of her half to anyone—not even to her own children.

What of Discrimination in Employment?

Title VII of the 1964 Civil Rights Act forbids discrimination in employment on the grounds of race, creed, color, national origin or sex, but this has been carelessly enforced, and working women have been required to take their employment cases to court—an expensive procedure.

The State of Delaware has repealed all laws regulating working women so Title VII now governs there.

But all over the country, protective legislation is being used as a tool to circumvent Title VII.

You know about protective legislation. It protects women out of the better paying jobs and gives these jobs to men. It began in 1836 when the New England Association of Farmers and Merchants and other working men expressed the male viewpoint in a resolution which reads: "Whereas labor is a physical and moral injury to women and a competitive menace to men, we recommend legislation to restrict women in industry."

New York State passed a law forbidding women to work after midnight. This affected telephone operators, proofreaders, and waitresses. The latter lost the better tips—at night. Women who scrubbed offices at night were not affected.

If women work only eight daily hours, and men may work as long as they please, who collects the overtime? With millions of women now heads of families, how do you think they feel, having to watch men take home that overtime pay that would have bought better food, more food, for their children?

Protective legislation—health laws—should apply to both sexes.

You may say that the Supreme Court should today take a new look at the Constitution and declare that women are persons. But this is not legally possible because it is the intent of the lawmakers that counts; and it was the intent of the writers of the Constitution to leave women out because they were writing it in the light of the Old English Common Law wherein women were not considered to be persons.

And now we come to the solution of the problem of giving women 100 per cent protection of the Constitution, and that is the adoption of the Equal Rights for Women Amendment which reads: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

The word "women" does not appear in the text of the amendment and women would be given no special privileges. The amendment merely forbids discrimination on the basis of sex, and special laws may still be enacted for citizens in need of special laws. No one today questions special laws for veterans, the blind, etc. Thus, under the amendment, women may still enjoy special laws for mothers, or mothers-to-be.

The National Women's Party has long had as its sole aim the adoption of the Equal Rights Amendment, and other women's organizations, representing approximately ten million women, have endorsed the measure. Ten state legislatures have petitioned Congress for the amendment's adoption, and during the last Presidential campaign every Presidential candidate endorsed the amendment in writing. President Richard M. Nixon recently wrote: "It is my hope that there will be widespread support for the Equal Rights for Women Amendment to our Constitution, which would add equality between the sexes to the freedoms and liberties guaranteed to all Americans."

Many congressmen have promised to vote "yes" when the Equal Rights Amendment comes up for a vote in the House of Representatives, and many senators have endorsed it. Once the Amendment passes the House and Senate, it must be ratified by three quarters of the state legislatures. After that, our country's women will enjoy full citizenship.

PUBLICATION OF CLASSIFIED MATERIAL BY PEACE THROUGH LAW GROUP

(Mr. ARENDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARENDS. Mr. Speaker, I want to bring to the attention of all Members of the House of Representatives an unfortunate—and perhaps unprecedented—

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disregard of the system of classification of defense information which exists to assure the security of our country.

An informal and unofficial organization of certain Members of both the House and Senate has been established which calls itself Members of Congress for Peace Through Law. I know little of the operation of this organization, but I understand from the press that the reports issued in its name largely result from contributions of former employees of the Department of Defense under the prior administration.

This group released to the press on July 15 a report analyzing, and proposing reductions in, the defense program for the current fiscal year.

Let me say that it is highly desirable that defense programs be given searching critical scrutiny and that proposals for modification, particularly those that offer savings without sacrificing security, be aired and considered. For undertaking an exercise of this kind, the Members who belong to this group have my commendation and approval.

In the events leading to the release of this report and in the decision to make it public in its present form, however, these Members have shown cavalier disregard for the system of information classification which the Congress authorizes the Department of Defense to employ in order to protect our country.

One week before the release of this report by the Peace Through Law group, a top official of the Defense Department—Richard G. Capen, Jr., Assistant to Secretary Laird for Legislative Affairs—wrote to the appropriate member of the group warning that "a preliminary review of a draft document prepared by your committee indicates that there is classified information included." Mr. Capen offered the Peace Through Law Commitee assistance of the Department of Defense in providing a security review of the document prior to publication.

I am told the response to this warning and invitation was dated July 15—the day on which the report was in fact released to the press and public. It simply asserted that the report was prepared from unclassified sources.

The procedure followed in releasing this report, despite the warning that it contained classified information, is shocking. What is at issue here is not simply a question of comity between the legislative and the executive branches of Government. It is much more than that. It is the security of our country.

This matter was the subject of a colloquy on the floor of the Senate on July 17. It is noted that the Senator who released the report on behalf of the Peace Through Law group did not deny that the report revealed classified information. He asserted only that it was drawn entirely from unclassified sources—from newspapers, magazines, and trade journals, and the like. And he complained that the Pentagon often overclassified information.

This is not an adequate defense. Unfortunately, classified information sometimes does find its way into print. By one means or another, the press sometimes obtains and publishes information which executive agencies have classified secret and top secret. Sometimes, reporters and writers publish speculative stories in which they unwittingly report classified information.

Where breaches of security of this kind occur, they do not justify repetition and confirmation of this information by Members of Congress. As long as the information is presented only on the authority of a private citizen who has no special access to classified information—and perhaps as nothing more than speculation on his part, this information remains unconfirmed. Those who are aware of it cannot be sure that it is accurate.

When a group of Members of the Congress report such information, on the other hand, the information comes to the attention of a wider public audience. It is thereby confirmed. It is certified by men who have access to classified information as accurate.

I regret deeply the unwillingness of the Peace Through Law group to follow the customary and responsible course of action when the Defense Department notified them that their report contained classified information. The access to such information which a Member of Congress enjoys carries with it a heavy responsibility to avoid even inadvertent disclosure.

I serve notice that I shall oppose any attempt to place this report in the Congressional Record. I, for one, will not be a party to an action that would give greater attention to the disclosure of information when such disclosure is detrimental to our Nation.

It is now too late to make amends for the breach of security that occurred when this report was released. I plead with all my colleagues to avoid any action of this kind in the future.

ENVIRONMENTAL PROTECTION

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, the President has submitted a reorganizaton plan of major importance. The plan would establish an Environmental Protection Agency with unified responsibility for assuring environmental quality. Today, agencies with authority to deal with problems such as air and water pollution, solid waste disposal, radiation, and pesticides are scattered among the various departments of the executive.

The regulation and study of chemical inputs into the environment such as pesticides is a prime example of divided, but overlapping responsibilities. The Department of the Interior conducts studies of the effects of insecticides, herbicides, and pesticides on the fish and wildlife resources of the United States, while the Department of Health, Education, and Welfare establishes tolerances for pesticide chemicals in foods for human consumption. Meanwhile, the Department of Agriculture has important responsibilities for assuring that chemicals needed to protect crops are available, without posing unacceptable hazards to the environment. It seems clear that combining these functions in one agency will improve coordination and insure that all aspects of the problem receive fair consideration.

I also support the enforcement of radiation standards affecting the environment through the proposed new agency. The Atomic Energy Commission has long maintaind that its responsibility for assuring that atomic energy plants meet health, safety and national security standards does not directly encompass consideration of environmental factors. Since the AEC has been charged with promoting atomic energy for peaceful purposes and licensing the plants, there is additional justification for vesting the establishment of environmental standards in a separate agency.

I believe that approval of the President's reorganization plan is a must if we are serious about arresting the deterioration of our environment. There will of course, be some controversy about some of the changes and some temporary dislocations while the transition is made to a unified agency. It seems clear, however, that an Environmental Protection Agency will do a more efficient and effective job than a series of uncoordinated bureaus. It will give new force and focus to the work of Government in making the 1970's the decade of the environment.

THE YOUNG BUILDERS

(Mr. BEVILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BEVILL. Mr. Speaker, far too often in the past attention has focused on the small minority of young dissenters and rioters in this country. Too often we have failed to recognize the builders. Recently, the Sand Mountain Reporter, of Albertville, Ala., published an excellent editorial dedicated to the young builders of this Nation. I am placing this article in the Record and urge my colleagues to read how one segment of the younger generation views its role in the future of America:

The Young Builders

The young dissenters and rioters and burners have been so much in the news in recent months that we have been inclined to forget that most of today's American young people are builders rather than burners and rioters.

There are approximately 3600 major college campuses in this country, and only 60 of these had riots or serious disruptive disturbances last year. Even on these 60 campuses, only a small percentage of the students were actually involved in most cases.

To be sure, even this is too many. But somehow we need to turn more of the spotlight on the builders rather than on the burners—on the vast numbers of responsible and serious-minded young people who are determined to prepare themselves for responsible leadership and productive citizenship. Many of them disagree with some of the trends of the times just as much as the rioters do, but they know that our society provides for orderly processes of registering such dissent.

We were much impressed with the remarks made by young Joe Lane, who was elected governor of Boys State recently in Montgomery. Here are some of the things he had to say to his 600 youthful peers as he addressed the Boys State Legislature:

"Much too often it is the person who advocates radical change and uses violent means to express himself who steals the headlines from the industrious hard working person trying to improve himself and his community.

"I have seen this past week 610 young men who are working hard to make improvements as they see fit in a constructive manner. I sincerely hope that the people of our state look to this program and consider these builders as the typical Americans taking an active interest in an orderly fashion.

"This week we have undergone a transition—probably one of the greatest steps in our lives toward graduating from boyhood into manhood. In meeting, knowing and exchanging ideas with young men from all over the state, we now have a better understanding of the true principles of today's youth.

"After today's session we will have a challenge to meet, a challenge offered us by the unending generosity of the American Legion, which is responsible for the Boys State program. Our challenge is to take what we have learned and to take our experiences and put them to good use.

"I have confidence in you, confidence in the young people of today, that when they are needed, they will be ready."

This year there are 75,000 other Legion Boys State citizens like these throughout the United States. And we think they better represent the majority of American young people today than do the few thousands of civil disturbers.

We need to encourage and assist this more sensible and responsible segment of our young generation as they prepare for future leadership and worthy citizenship!

BLACK PANTHERS

(Mr. SCHERLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHERLE. Mr. Speaker, if, up to now, there have been any real doubts as to where the loyalties of the Black Panthers lie, they should certainly be cleared up by reading a telegram recently sent by the Black Panther Party to the Communist dictator of North Korea, Kim Ill Sung. In their message, the Panthers praised the barbaric torturer of the *Pueblo* crew as a "sagacious and great leader" and accused the United States of provoking the Korean war. I include in the RECORD the text of the telegram as broadcast over Radio Pyongyang in English:

MESSAGE OF SUPPORT SENT BY U.S. BLACK PANTHER PARTY

PYONGYANG, July 10th (KCNA).—Comrade Kim Ill Sung, premier of the Cabinet of the Democratic People's Republic of Korea, received a telegram from the Central Committee of the Black Panther Party of the U.S.A. in connection with the 20 years after the U.S. imperialist aggressors provoked the war of aggression against the Democratic People's Republic of Korea.

The telegram reads:

Comrade Kim Ill Sung, Premier of the Cabinet Democratic People's Republic of Korea: June 25 marks the 20 years after the U.S. imperialist aggressors provoked a war of aggression against the Democratic People's Republic of Korea in 1950. On this day the Black Panther Party pays its regards to Comrade Kim Ill Sung, the sagacious and great leader of the 40 million Korean people, and the Democratic People's Republic of Korea. We know well the long history and victory of the struggle in which Comrade Kim Ill Sung has contributed to the world-wide struggle against imperialism and fascism, by leading the 40 million Korean people, the brilliant example of socialist construction set by him under the difficult conditions of the U.S. imperialists' provocative manoeuvres and aggression, a great many outstanding ideological contributions he has made to the socialist camp and particularly his idea of juche, and we set store by them. [as received]

We have keenly realized through the historic experiences in the United States, the criminal nature and brigandish logic of the U.S. ruling class, and that there are only two roads, extermination or liberation. The negroes are made victims of an ever more undisguised military aggression and the U.S. imperialists attempt to stamp out our liberation struggle. Under this condition, we have become further conscious that the expulsion of the U.S. imperialists, the robber, from the territory of Korea and the unification will be a victory not only of the Korean people but also of the world oppressed peoples. We know clearly that the question of Korea's unification is not a matter alien to the struggle for rescuing us Negroes in the fascist United States and other oppressed peoples.

Nixon, the boss of gangsters, and his band of criminals are intensifying murderous suppression of Negroes in the United States while stepping up the moves to plunder Asia. These attacks of the brutes, however, will run up against the revolutionary solidarity manifested in an action of a-match-for-a-hundred fighters in the whole world. In the United States, the den of robbers, and in Asia, Africa, Latin America, and North America, and the U.S. imperialists are bound to be judged by the people.

All powers to the people:

CENTRAL COMMITTEE, BLACK PANTHER PARTY OF THE U.S.A.

"NO" VOTES ON S. 3279 AND H.R. 15351

(Mr. SCHMITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHMITZ. Mr. Speaker, although I did not wish to delay the proceedings of the House by requesting a quorum call and a record vote on S. 3279, I am opposed to this measure and gave a voice vote against it.

This bill would add 12,920 acres along the Nevada shore of Lake Tahoe to the Toiyabe National Forest, at a cost of $12.5 million. Not only is this a large expenditure of the taxpayers' money, but the reasons given for making this purchase do not, in my opinion, justify it.

During the period when I served as its chairman, the Local Government Committee of the California State Senate held an extensive hearing—February 19, 1968—on attempts to supersede local, by regional, government in California. Testimony taken at that hearing, and on subsequent legislation pertaining to the subject of the hearing, clearly showed that the Lake Tahoe area is being used as a testing ground for programs to take control of land use out of the hands of local government and to transfer it to higher levels of government, not directly responsive to the will of the people in the area under their authority.

This is done in the name of preventing pollution of Lake Tahoe and the Tahoe basin. I strongly support strict laws against pollution, especially in this scenic area. Many such laws are already on the books in California and more may be needed. But pollution can and ought to be curbed without having the Government take over land now in private ownership.

The whole recent history of Federal and State legislation pertaining to the Lake Tahoe basin suggests that S. 3279 is another step toward administration of this entire region, and restriction or displacement of its private property owners, by governmental agencies not subject to local control. Statements made in support of S. 3279 on the floor of the House further confirmed indications in the bill itself and the committee report on it, that it assumes that pollution control requires large-scale confiscation of privately owned land. I reject this thesis and favor retention of land use control in the hands of local government; consequently, I cannot support this bill.

I am also opposed to the expenditure of public funds for the construction of the Franklin Delano Roosevelt Memorial, as provided for in H.R. 15351 also passed by voice vote today, and did not vote for this measure.

THE ASSASSINATION OF TWO CHICAGO POLICEMEN

(Mr. PUCINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PUCINSKI. Mr. Speaker, the cruel and barbaric assassination of two Chicago policemen over the weekend should arouse the outrage of every citizen in this country. It is true that Police Sgt. James Severin, 38 years of age, one of my constituents, and Patrolman Anthony Rizzato, 35 years of age, in a nearby district, lived in Chicago. But this kind of wanton, brutal attacks on the police is happening all over America and should be of concern to all Americans.

The law has lost its meaning. The assassins of these two policemen were responding to a most evil, barbaric and unconscionable type of conduct one can ever imagine because they have no fear of the consequences the law should provide.

Two rival gangs wrote a pact, a nonaggression pact, on the near north side of Chicago. Then to celebrate that pact they decided to mow down two white policemen as a tribute to their agreement. This was racism at its highest and must not be overlooked.

This needless crime must arouse the outrage of every American in this country, and certainly it ought to arouse every Member of this Congress.

Somewhere along the line we must restore meaning to the law. The first place, in my judgment, is with the judiciary. We must launch a nationwide crusade which will make the judiciary realize any further coddling of these criminals must not be tolerated.

In another event that has taken place today, a trial began in Michigan. A young

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woman was brutally murdered in Ann Arbor, Mich., 1 year ago, and only today her murderer is coming to trial. Justice delayed is justice denied, yet all over this country we see crimes being committed and the criminals spending 2 or 3 or 4 years waiting for prosecution, and in the process of court-condoned delays, wearing out the witnesses and wearing out the whole judicial system. The criminal trial in Michigan again shows how long delays tend to frustrate the machinery of prosecuting criminals for their crimes.

The murder of these two policemen is not only a Chicago affair. It is a tragedy that should concern every citizen in this country and Congress itself. I hope the appropriate committees of Congress will look into the effectiveness of laws we have passed. We have enough laws. No more legislation is necessary.

One thing is certain in the Chicago massacre. Poverty cannot be pleaded. Cabrini Green housing project is one of the most modern and one of the finest in the country. They cannot come around here poor-mouthing that somehow or other society is to blame for this crime. These youthful criminals cannot defend themselves on the grounds that society has failed them. They are barbarians and must pay the price or else we will see this country go down and go the way of other civilizations that failed to realize the keystone of society has to be law and order. When law and order break down, the whole society breaks down with them.

Mr. Speaker, the most amazing thing about this crime is the revulsion the Negro community has shown for this wanton murder of two white policemen. The Negroes in Chicago are the most tragic and frequent victims of crime by fellow Negroes. I was interested to see that it was the Negro community of the Cabrini Green project that was most outraged against the Negro boys who killed these two policemen. My liberal friends here in Congress must understand that this wanton crime is most bitterly denounced by the black people of Chicago for they too want the streets free for their children from barbaric gang warfare. I pray, Mr. Speaker, that we can find some way to deal with the menace of gang murders in America.

PROTECTION OF OUR ENVIRONMENT IS PRESSING ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MESKILL) is recognized for 5 minutes.

Mr. MESKILL. Mr. Speaker, we all realize that protection of our environment is the pressing issue of the seventies. The threat of man making his earth uninhabitable becomes more credible with each passing day. Every effort must be expended to protect and reclaim our natural resources.

It is to this purpose that I am introducing today legislation to establish a 15-member Intergovernmental Commission on Long Island Sound. This independent commission, consisting of representatives of Federal, State, and local governments, and the many private interests involved in the future development of the sound, would be authorized to study the sound and adjacent shoreline as well as survey the public and private programs contemplated for its development. With a life span of 3 years, the commission would submit to the President annual interim reports and a final report formulating a comprehensive plan for the future development, protection, and administration of the natural resources of the area.

I am greatly concerned about the future of the Long Island Sound, not only as a public official with a responsibility to safeguard the public interest, but as one who has spent every summer of his life along the Connecticut shoreline. Connecticut is most fortunate to have this great resource span the distance of its southern shore. Few States are blessed with such a valuable asset offering vast potential for multiple uses. But when I think back to my childhood summers and remember the beautiful shoreline landscape, the clean waters, the wonderful fishing just off the shore, I am saddened by what I perceive to be a great threat looming over this natural resource.

Much has changed and it has not been to the benefit or advantage of those who wish to use the sound for recreational purposes. Our very limited knowledge tells us that man's use of this natural playground has had detrimental effects. But what kind of detrimental effects, to what extent, and how lasting are they? These are the unknowns. The bill I am introducing today would set up the mechanism to help us find the answers.

In the years ahead, greater and greater demands will be placed on the Sound, the largest protected expanse of salt water available to this Nation. Serving 11 million people with 15 miles of this shore, in the most highly developed and heavily concentrated metropolitan area in the entire Nation, the potential demands to be placed on this resource in the years ahead boggle the imagination.

Just imagine a huge floating jetport in the sound; an atomic power plant heating the sound's waters to raise the atmospheric temperatures, thereby cutting heating costs during the winter months; a long bridge spanning the Sound and connecting mainland Connecticut to Long Island. These are not the dreams or imaginations of a Jules Verne. These are proposals that have been discussed on the drawing boards.

The question we must ask is whether we will be willing to use all the resources of government, technology, and public spirit to prevent the permanent destruction of this water wonderland. Will we use our knowledge to employ the assets of the Sound prudently?

The answer must be that we cannot afford not to. Already we have delayed too long.

I believe there is universal agreement on the part of government, industry and the public that we must understand what the Sound is if we are to use it wisely in the public interest. But I also believe that few people understand the depth and scope of the investigation that is required.

Ecology, or the science of the interrelationship of living organisms to the environment, is a science which is rapidly gaining in importance as we daily become more and more concerned with the problems of our environment.

It is this science and experts in the field of this science which must be at the heart of the study of Long Island Sound if we are to learn what is essential for the protection of this expanse.

The Intergovernmental Commission on Long Island Sound would devote its attention to the protection and enhancement of the scenic, scientific, historic, and recreational values of the natural environment; the preservation of existing landscape; the elimination of water pollution and protection against increasing thermal effects on the water resources; the protection of wildlife and marine life; and the protection of adequate open spaces for future generations.

The commission would have a mandate to study the potential alternative beneficial uses of the land and water resources and make recommendations to promote the greatest public benefits. Particular emphasis would be placed on consideration of the long-range goals and priorities of governmental and private programs which affect the Sound.

Finally, the commission would recommend the means to implement its blueprint.

Mr. Speaker, as perhaps you are aware, my bill is almost identical to one previously introduced in the Senate by the distinguished Senator from Connecticut, ABRAHAM RIBICOFF. Senator RIBICOFF has performed an invaluable service to the Nation by initiating this movement to protect the natural assets of the Long Island Sound. But I believe that his proposed legislation could be strengthened in three aspects and this is my intent in introducing my bill.

I am concerned that the composition of the Commission the Senator proposes—11 members, two from New York, two from Connecticut, and seven to be appointed from various agencies of the Federal Government—would be too heavily weighted in the direction of the Federal Government. Although I believe the cooperation, participation and support of the Federal Government is absolutely essential to any comprehensive program for the preservation and balanced development of the sound, I believe it is the States, namely Connecticut, New York, and Rhode Island, which have the greatest involvement and which will have to bear the heaviest burden in the implementation of the Commission's recommendations.

Under the Senator's bill, the representatives of the Federal Government would constitute over one-half of the Commission's membership. I believe more representation should be allocated to the States and that representatives from Rhode Island should be included because of that State's proximity to Long Island Sound.

The Commission composition I propose would be weighted in favor of the States rather than the Federal Government. Consisting of 15 members, the Commission would have three individuals from each of the three States, to be appointed by the Governors of the respective States, and six Presidential appointees.

The success of this project will be largely determined by the Commission's members and therefore it is imperative that at least two of the Presidential appointees be representatives of conservation interests. The proposal of an independent Commission consisting of members representing the Federal, State, and local governments and the many varied private interests involved in the sound's future development acknowledges realistically the need for cooperation between all levels of government and between government and the private sector. But there must be a guarantee that experts in this complex field of ecology be represented on the Commission itself as well as among the staff. If the study is to be properly directed, coordinated, and supervised, we must have the most highly qualified and expertly trained individuals on the Commission itself and this I have provided for in my bill.

The commission, in addition to having local, State, and Federal representation, is instructed to seek out the advice and participation of State and local groups as well as private interests. The views of all who have a legitimate interest in the sound—conservationists, industry, commerce, municipal and transportation planners, and recreational enthusiasts—must be considered.

It is also essential that we utilize the studies that have already been conducted. There have been a number of independent studies made, delving into limited aspects of the ecology of the sound. We should not overlook the source material which can provide us with a head start. The commission should draw upon the academic communities in New York, Connecticut, and Rhode Island for expertise and technology. Our universities, both public and private, many of which have specialized departments in marine biology and environmental studies, are aware of the specific problems of the area and are able to offer us a wealth of knowledge and information.

If the Long Island Sound is to be anything more than a stagnant cesspool, we must act now to protect it. We must take aggressive action to develop and implement a program designed to insure its protection and balanced use.

The Intergovernmental Commission on Long Island Sound would play an integral role in preventing further devastation of the sound. Congress must take the lead in providing coordination and foresight in the development of this Nation's natural resources. Swift congressional action on my bill would set an important precedent.

Mr. Speaker, I insert the bill in full at this point in the RECORD:

H.R. 18533

A bill to establish an Intergovernmental Commission on Long Island Sound

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS OF FACT AND DECLARATION OF POLICY

SECTION 1. (a) The Congress finds that several executive departments and agencies of the Federal Government have an interest in and jurisdiction over the future development and use of the natural resources of Long Island Sound and adjacent areas. The Congress further finds that the States of Connecticut and New York and local governmental units have similar interests and jurisdiction.

The Congress finds that action to develop and preserve the natural resources of Long Island Sound and adjacent areas is of the utmost importance to the United States, and that, as a matter of national policy, these resources should be developed in a manner consistent with greatest public benefits.

The Congress declares that in order to promote the most beneficial uses of these natural resources, the Congress has a responsibility to promote effective coordination in future planning among the interested governing agencies.

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) For the purposes of carrying out this policy, there is hereby established an Intergovernmental Commission on Long Island Sound (hereinafter referred to as the "Commission") which shall be composed of fifteen members as follows:

(1) six appointed by the President, two of whom shall be actively engaged in conservation activities; and

(2) nine appointed to represent the States of New York, Connecticut, and Rhode Island, three appointed by the Governor of each such State, at least one of whom shall be a resident of a shoreline area adjacent to Long Island Sound.

(b) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) The Commission shall elect a Chairman, and a Vice Chairman from among its members.

(d) Eight members of the Commission shall constitute a quorum.

DUTIES OF THE COMMISSION

SEC. 3. (a) The Commission shall make a full and complete study of Long Island Sound and the adjacent shoreline area in the States of New York and Connecticut and a survey of all Federal, State, and local programs existing or contemplated affecting the sound and shoreline for the purpose of formulating a comprehensive plan providing for the future development, protection, and administration of the natural assets of the area.

(b) The study and plan shall include but be limited to findings and recommendations with respect to—

(1) the protection and enhancement of the scenic, scientific, historic, and recreational values of the natural environment;

(2) the protection of existing landscape, including estuarine and marshland areas;

(3) the elimination of water pollution and protection against increasing thermal effects on the water resources, including a determination of the advisability of discontinuing all refuse dumping in the sound;

(4) the protection of wildlife and marine life of the sound and adjacent areas;

(5) potential alternative beneficial uses of land and water resources, including off-shore islands, taking into account present and proposed future uses for industrial, commercial, transportation, residential, and other purposes:

(a) particular emphasis should be given to a study and consideration of the long-range goals and priorities of all Federal programs affecting the sound and the adjacent shoreline and recommendations made to effect coordination of such programs, goals, and priorities;

(6) protection of adequate open spaces for future generations taking into account potential effects of increased building and urbanization of the shoreline, and the extent to which land or interests therein and scenic or other easements will need to be acquired by the Federal, State, or local governments and the estimated cost of acquiring, developing, and administering such land or interests therein and scenic or other easements, for public use and benefit;

(7) the type of Federal, State, local, or coordinated action necessary to carry out such plan and otherwise to preserve and enhance the desirable values of the area, including consideration of appropriate and governmental apparatus to administer the area.

(c) The Commission shall consult with and seek the participation of appropriate State, county, town, and village officials as well as other interested groups in formulating the plan.

(d) The Commission shall consult with institutions of higher education in New York, Connecticut, and Rhode Island for the purpose of utilizing their expertise and resources, particularly with respect to their activities and programs in the fields of marine biology and environmental study.

(e) The Commission shall submit to the President, and to the Congress annual interim reports with respect to its study and investigation, and a final report with respect to its findings and recommendations not later than three years after the Commission has been fully organized.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 4. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this joint resolution, hold such hearings, take such testimony, and sit and act at such times and places as the Commission, subcommittee, or member deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee or member thereof.

(b) Each department, agency and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this joint resolution.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power—

(1) to appoint and fix the compensation of such staff personnel as he deems necessary, including an executive director who may be compensated at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code, and

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

COMPENSATION OF MEMBERS

SEC. 5. (a) Any member of the Commission who is appointed from the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of duties vested in the Commission.

(b) Members of the Commission, other than those referred to in subsection (2), shall receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

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EXPENSES OF THE COMMISSION

SEC. 6. There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out this joint resolution.

EXPIRATION OF THE COMMISSION

SEC. 7. The Commission shall cease to exist ninety days after the submission of its final report.

CONGRESSIONAL REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 20 minutes.

Mr. HOGAN. Mr. Speaker, as a new Member of Congress not acclimated to the practices and procedures of the House, I soon became aware of the fact that congressional reform should be one of the most important issues facing the 91st Congress. Without being presumptuous as a newcomer, I consider reform in the operations of Congress essential if we are to deal adequately with the many complex problems facing the Nation.

The last major reorganization of the Congress occurred in 1946 with the passage of the Legislative Reorganization Act. Since that time, there have been some piecemeal reforms, but, they have not been sufficient.

Recognizing the need for reform, the Congress created the Joint Committee on the Organization of Congress in 1965, the purpose of which was to develop recommendations for "strengthening the Congress, simplifying its operations, improving its relations with other branches of the U.S. Government, and enabling it to better meet its responsibilities under the Constitution." The joint committee, after hearing nearly 200 witnesses producing 15 volumes of hearings, submitted its recommendations to Congress in 1966, many of which are contained in H.R. 17654 before us.

After thoroughly analyzing its provisions, it is my feeling that the thrust of the bill before us is very desirable although it does not go as far as I would like in certain areas.

Briefly, I would like to point out those areas of change which I consider highly desirable, as well as additional changes I would like to see made and for which I will or have supported amendments to the bill.

COMMITTEE PROCEDURES

I am pleased to the the cloak of secrecy removed from committee meetings during which the vital elements of any legislation are shaped. I believe that all committee votes should be open to public scrutiny. I have supported an amendment to require a rollcall majority vote in open session to close any meeting and to make such a vote apply to only one meeting, as well as an amendment to require that a record of all rollcall votes in committees be available to the public on request.

However, I am strongly opposed to the provisions of the bill which would permit the televising, broadcasting, and photographing of committee hearings. My fear is that the presence of TV cameras would interfere with the orderly conduct of hearings. The temptation would be too great for politicians to be more concerned about how they will appear on TV to their constituents rather than the legislative purpose of the hearing. Committee members might avoid asking important questions because they might not be well received by television viewers. Contrariwise, they might phrase other questions for their dramatic value and the favorable impression they might make on viewers rather than on their probative value.

In addition, I do not see how we could avoid the circuslike atmosphere which always accompanies the presence of photographers and television and radio crews. No matter what rules and restrictions we adopt, disruption and confusion will inevitably result. I do not feel this atmosphere is conducive to the orderly conduct of congressional business.

Being a Member of the minority party in Congress, I particularly applaud those provisions designed to protect the rights of the minority and all individual Members to participate in a meaningful way in committee deliberations and to have their views considered both in committee and in the House. I, personally, have been very fortunate in serving on committees and subcommittees where minority Members and junior Members are afforded every possible opportunity to participate. Furthermore, I am sure that such rights are now practiced by many committees to varying degrees. However, I strongly feel that the rules of the House should contain and standardize a certain minimum guarantee of participation to such Members. Among the guarantees in the bill is the entitlement of minority committee members to be allocated at least 1 day of hearings on a matter to call as witnesses persons they select.

On most committees the numbers of staff employees which may be chosen by and for the assistance of the minority Members have been strictly limited, while in a few instances the minority Members are given ample help. I firmly believe that a lack of staff assistance has often handicapped the minority party in developing and presenting its position on matters. Therefore, I support the provisions of this bill which would at least assure a minimum number of staff to the minority members of a committee upon their request.

In addition, I will support amendments offered to permit the minority committee staff to be hired and fired solely by the minority Members of a committee, and to also assure the minority Members at least one-third of the funds appropriated for the committee's operation.

The bill before us provides that three committee members may petition the chairman in writing for the calling of a special committee meeting. I also support a provision allowing a majority of committee members to force the filing of a report within 7 calendar days on legislation assigned to their committee.

The requirements that printed hearings on Appropriation Committee measures be available at least 3 working days prior to a vote and the recommendation that other committees observe similar practices would be of great assistance to Members. Also, the requirement that committee hearings must be announced at least 1 week in advance will better enable the Members to prepare their statements in connection therewith.

PROCEDURES OF THE HOUSE

Although several desirable changes in the procedures of the House are included in the bill, I am disappointed to find no change in the rules regulating voting procedures which would either speed up the present process or permit greater public disclosure and recording of votes. Of necessity these matters go hand in hand. Without improvements in the existing method of recording votes, the recording of votes beyond the present practice will result in further slowing down the already snail pace of the Congress in considering legislation.

For this reason I am supporting an amendment which I believe will greatly improve the House's efficiency and ability to carry out its legislative responsibilities—an amendment to provide for the recording of rollcall and teller votes and quorum calls by electronic equipment. Figures from the reading clerks reflect that the House spends nearly 25 percent of its time just recording votes. This time could be put to better use considering and debating other legislation.

I will also support an amendment which would authorize record teller votes. This procedure would put on record votes on important amendments which are adopted or rejected upon demand by one-fifth of a quorum, but would only require 12 minutes compared to 30 minutes for a regular rollcall vote. I will also support an amendment to shorten the time required for quorum calls by dispersing procedings as soon as a quorum is established. Even so, however, each Member would be given a period of 30 minutes to be recorded as present.

I consider it in the best interest of the American people that all important votes be recorded for public information, and I am hopeful that my colleagues will take positive action at this time to accomplish this.

CONGRESSIONAL AIDS

In considering legislation, the House of Representatives and the Senate rely upon resource information from the Government agencies and particularly from the Library of Congress, the research and reference arm of the legislative branch. Similarly the GAO performs oversight functions of Government programs and activities for the Members of Congress. Each repository has accumulated a wealth of information and performs a great service to the Members within their present capabilities to do so. To permit them to be of greater service the bill expands the authority and ability of GAO and the Legislative Reference Service, to be known as the Congressional Reference Service, in order that they may better assist Congress in assessing the administration and accomplishment of existing programs, and the need for changes or even abolishment of such programs. It would also assist the Members in evaluating legislation, estimating proposal results and alternatives.

The bill would create a Joint Committee on Data Processing which would have broad authority to coordinate and supervise the utilization of all the computer systems available to Congress and the agencies responsible for developing and supplying information for Congress. That committee will also be responsible for exploring and developing the capabilities of computerization on order that it may be used to the best possible advantage of Congress. This is the direction in which we must go if Congress is to be equipped to handle the increasing burden being placed on its shoulders.

TOURIST AIDS

Although they do not fall into the category of legislative reform, two provisions of the bill are of particular interest to me and my constituents. One of these will provide for free guided tours for all visitors to the Capitol, whereas in the past those desiring a guided tour were required to pay for it. The bill provides for a Capitol Guide Board and the employment of guides who will be congressional employees with full entitlement to employee benefits.

The other provision proposes a new method of informing visitors about what is happening on the floor during their visit as well as giving them some basic information concerning House procedures and methods of business. The bill proposes that the House galleries be glassed in, that sound equipment be provided which will permit visitors to hear floor proceedings and additionally, that facilities be provided whereby an appropriate commentary and explanation may be made available to gallery visitors.

I hope when this body's consideration of legislative reform is completed that all or most of these provisions will prevail. I have every confidence that the majority of the Members feel as I do that a good sound reform bill will result, for the benefit of Congress and the American public.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The value of the chemical production in the United States in 1968 was $52.5 billion. This exceeded the production of the Soviet Union, the second-ranked nation, by more than three times.

THE VETERANS' MEDICAL CARE ACT OF 1970

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH), is recognized for 10 minutes.

Mr. MINISH. Mr. Chairman, on July 15 I introduced the Veterans' Medical Care Act of 1970, H.R. 18484. This legislation is intended to provide needed improvements in veterans' medical care Furthermore, this bill would also extend hospital care services to the wife or children of persons having total and permanent service-connected disability, as well as to widows and children who are entitled to death compensation or dependency.

Moreover, this legislation would insure that certain minimum ratios of staff to patients are maintained in veterans hospitals, so that patients are assured the proper attention and care.

The measure is intended also to improve the operation and personnel practices of the departments of medicine and surgery in VA hospitals, and would upgrade health personnel positions to maintain a competitive stance with private hospitals. The bill also provides for higher maximum rates of pay for health personnel, pay differentials, and other miscellaneous administrative changes.

Our veterans are entitled to first-class medical care, and I believe that the Veterans' Medical Care Act of 1970 is a big step toward that goal.

THE ACADEMIC COMMUNITY IN CRISIS: DR. HAROLD HYDE REPLIES TO DR. MILLER UPTON

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, the Cambodian undertaking aroused great feelings on both sides of the Indochina issue, and there has been much heated debate concerning the actions of the academic community at that time. In an open letter to President Nixon, Dr. Miller Upton, president of Beloit College, Beloit, Wis., attempted to apologize for the actions of the academic community in the wake of the Cambodian invasion. I am sure that many of my colleagues have seen this widely circulated letter, indeed, it has already appeared in the RECORD. Dr. Upton strongly attacks the use of violence and the threat of violence on college campuses. He apologizes for what he says has been a pandering to youth and an undue tolerance of intimidation. Much of what Dr. Upton says merits careful consideration, regardless of which side of the Southeast Asia question a person is on. Dr. Upton, a conscientious objector, is opposed to our involvement in Indochina, yet he does not hesitate to condemn the tactics of many of those with whom he agrees on this issue.

Shortly after reading Dr. Upton's open letter, I received a similar open letter from Dr. Harold E. Hyde, president of Plymouth State College, Plymouth, N.H., who takes issue with Dr. Upton's apologia. Dr. Hyde argues that there is a great need for adjustment by the academic community to the changing situation, and he says that what Dr. Upton calls a "grotesque failure of the academic community at this hour of national trial and turmoil" is in reality a needed adaptation by that community. Dr. Hyde's remarks seem to cover the problem from a rather different angle, and there is substantial logic in much of his argument.

I believe that these two letters form a unit; a person who reads them comes away with a deeper understanding of the academic community's reaction to a crisis. I would like to thank my friend, Dr. Harold Hyde, for contributing to the continuation of a meaningful dialog on this most vital subject. I believe that he deserves sincere congratulations for the fine job he has done in dealing with the problems of today's campuses. He has been successful where others of more nationwide renown have failed, and it is a tribute to his leadership that dissent and reason have peacefully coexisted on the Plymouth State campus.

In fact, it is with some pride that I note the relative calmness that prevailed over New Hampshire college campuses this past year, particularly when compared to the rest of the country.

I plan to submit copies of these two letters to Gov. William Scranton, Chairman of the President's Commission on Campus Unrest. I would suggest that the Commission might call Dr. Hyde as a witness during its studies of the college problem. I am sure that Dr. Hyde would add significantly to their deliberations, given his obviously fine qualifications and the fact that he comes from a State where campus problems have by and large been successfully dealt with.

The letters referred to follow:

AN OPEN LETTER TO PRESIDENT RICHARD M. NIXON

BELOIT COLLEGE,
Beloit, Wis., May 11, 1970.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As a college president, a past scholar-teacher, and one who has consciously devoted his whole life to the cause of higher education in the conviction that it offers the greatest hope for social progress and the elevation of man to his highest potential, I wish to apologize to you and the nation for the grotesque failure of the academic community at this hour of national trial and turmoil.

I am fully aware of how extremely presumptuous it is for one to represent himself to apologize for the many, but I am constrained to do so nonetheless for the shame I feel for the community with which I have been so intimately related for so long and in which I have placed so much confidence in the past. Those who do not agree with me will, of course, be able and willing to speak for themselves.

Let me establish a point about myself at the outset so that my position can be more accurately interpreted. I was a conscientious objector during World War II, and were I of draft age now I would be a conscientious objector again. But my moral opposition to war, however deeply and conscientiously held, does not entitle me on any ethical or moral grounds to take violent action against those who disagree. I must bear witness to truth as I see it, but I must also respect the right of the other person to do the same. Certainly, I must never hurt or demean another simply because he won't go along with my own conviction.

This commitment to respect for the individual, intellectual openness, and freedom of inquiry is the transcendent value to which an academic community must be subservient. In fact, it is the only value to which the academy can pledge allegiance if it is to be consistent with itself. To elevate any other value is to break faith with this transcendent value and it is at this point that we have violated our public trust as professional educators: we have given in to violence and

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threats of violence in support of a particular point of view, and in doing so we have allowed the academic integrity of our individual institutions and the academic community at large to be violated.

Being a conscientious objector to war and one who would issue such an open letter as this, I clearly am not opposed to dissent and protest. But I am vigorously opposed to violence in any form and for any reason, and most of all I am opposed to would-be leaders capitulating to intimidation and violence. Those who respect violence when used against them will inevitably employ violence when it suits their cause.

We in the colleges and universities have tolerated unspeakable intimidation and thought control on the part of radical students, faculty and others, and yet when Vice President Agnew speaks out forcefully against such the only voices that are heard from the academy are those who castigate him and you for repressing dissent. There are few colleges campuses, if any, where Vice President Agnew, or any member of your cabinet for that matter, could speak without disruption and even physical abuse and intimidation. But a convicted murderer, dope peddler, or one committed to the forceful overthrow of the government will receive not only a respectful hearing, but will be paid a handsome honorarium in addition. In the light of his position, I have been embarrassed by some of the Vice President's intemperate language. But surely he has as much right to dissent and to be given a respectful hearing as any of the criminal element of our society.

.Much of the academic community is now telling you how to settle the war in Vietnam and being critical of your effort to protect lives and shorten the war by moving troops into Cambodia. I find it highly unbecoming of us to presume to tell you how to fight the war in Vietnam when we aren't even able to settle the wars on our own campuses. Nor do I use the word *war* in this context lightly. The throwing of missiles to do physical harm, the throwing of firebombs to burn buildings, the use of guerrilla tactics via arson and vandalism, the shooting and killing of combatants and noncombatants is every bit as much war as that which prevails in Vietnam, Cambodia, and the Near East. I have often wondered sardonically how many protestors of napalm have themselves thrown fire bombs or engaged in arson.

I have also been appalled by a certain arrogance and inconsistency on our part with regard to the way we are free to tell you and others how to handle your jobs but become deeply resentful, insulted, and even hostile when there is any suggestion of your intrusion into "our" domain. I am quite sure that I am able to run Beloit College better than you, but by the same token I am sure that you are able to deal with the issues of the Presidency of the United States, including fighting the war in Vietnam, better than I. The widespread propensity of members of the "intellectual" community to make judgments without benefit of facts is one of my greatest disillusionments and embarrassments.

As a matter of fact, my early naivete led me to embrace the academic life because of my belief that members therein were committed to intellectual honesty, rational behavior and humanistic concern and compassion. Recent incidents have merely confirmed all the more what my life's experiences have suggested. Academic man is as much motivated by vested interest, is as much controlled by base emotion, and reasons as much from prejudice as any other mortal. My readings of Ecclesiastes, the New Testament and the life of Mahatma Gandhi should have prepared me for this, but they didn't.

We who work closely with young people and should know and understand them best have not been very helpful to them or to you and others of the adult community in serving as a vehicle of communication. We have too often taken sides ourselves and been critical of one group or the other and not been sufficiently discriminating in our communicative role.

Maybe we can be forgiven on the grounds that the task is such a difficult one. I know that the great bulk of college students are genuinely concerned about the inhumanity and futility of war and deeply question the legitimacy of a life that sanctions and even glorifies indiscriminate killing and maiming. I also know that the great bulk of adults and members of the establishment are sincere, dedicated individuals with the same hopes and aspirations as the young. But I also know that in each group there are examples that support the worst stereotype of each. The great frustration of the day is that despite this great community of interest and concern there is a growing separation based upon the sinful tendency to judge by stereotype and preconception. We in the academic community are frequently party to this sin even though our training should particularly help us to know better.

Although my own sentiments are basically with the young people, I must admit that there is a general pandering to the young at the present time that is both disgusting and irresponsible, disgusting because it prostitutes normal respect and affection. Irresponsible because it is creating an unrealistic cleavage between age groups.

Of course, young people on the whole are wonderful, but what's new about that? The great reward of college work is the opportunity it affords to associate regularly with this age group. The idealism, absolutism, intellectual honesty and great aspiration of the young are the eternal attributes of this age group upon which society is dependent to preserve its vital, dynamic quality. These attributes are the standards of behavior to be expected, not glorified as unique in any narrow time span of human history.

Young people are first and foremost people. Those who are young today will be old tomorrow and having to relate to those who are younger then. As people they represent all types, some taller than others, some fatter than others, some with higher IQs than others, some more criminally inclined than others, some more saintly than others, some more hostile than others, some more vocal than others, etc. There is no general virtue attributable to youth any more than there is general evil. We have done all young people a great disservice in recent years by suggesting to them that they are of a different breed from the rest of us and beyond reproach. They are nothing more than the fresh blood being pumped into the human society, just as we were in the past and their children will be in the future. We in Academe should have known this better than anyone else and not have failed them and you in your common need for understanding.

We have been quick to tell you that you are alienating the youth of America, but we seem to pay little attention to the way we are alienating our own constituencies by our failure to protect the authentic academic integrity of our institutions. Implicitly we are also alienating the youth of America over the long run by our failure to be faithful to our leadership responsibilities.

The pain that hurts most of all is the realization that I bear partial responsibility for the unnecessary deaths of four young people on the campus of Kent State University. The National Guard troops should never have been there in the first place, because we should never have permitted the conditions to develop which necessitated the presence of troops. Once this die was cast, it was simply a matter of time before tragedy would strike. If fault lies anywhere for the Kent State deaths it lies not with you and the Vietnam War but with the radical acts and excesses we have tolerated in the name of dissent.

I am sure you know, Mr. President, that I do not say these things with tongue in cheek to placate others, to curry favor, to advance partisan interest, or to defend your war policies. Last fall I joined with a number of other college presidents to urge your rapid withdrawal of troops from Vietnam. I reaffirm this plea. But when I consider the whole matter fully and objectively, I have to concede that you have been more faithful to your leadership responsibilities than we in Academe have been to our own.

With respect for the tremendous burdens you must bear for the rest of us and the conscientious way you are bearing them and with apology for the cruel injustices that have been foisted upon you by the professional community of which I am a part, I remain,

Respectfully yours,

Miller Upton.

Plymouth State College,
Plymouth, N.H., June 18, 1970.

President Richard M. Nixon,
The White House,
Washington, D.C.

Dear Mr. President: I have just read the open letter of May 11, 1970 to you from President Miller Upton of Beloit College. This was circulated to educators by Senator Hugh Scott.

I cannot accept President Upton's apology on behalf of the academic community for what he terms its "grotesque failure" at this time of national trial and turmoil.

I would agree that we have many problems in our country and that many of them are being brought into sharp focus on college campuses. Many of us as college presidents would have preferred that some of these problems had been dealt with or settled more satisfactorily by many elements of our total country, but they haven't been. The fact that many of us who prepared for careers as academicians now have to become overnight experts in guerilla warfare tactics, constitutional and local civil and criminal law, the effects of narcotics, the enlargement of the base for college governance, public relations tactics with the mass media, "relevant" education of a continuous nature, etc. does not seem to me to constitute a grotesque failure. It does point up that a group of conscientious and dedicated administrators, hard working boards of trustees, and by far the great majority of faculty and students find an almost overwhelming task facing us. We, in the overwhelming majority, love and are loyal to our country and its duly elected representative government. Because the rights of freedom of speech and assembly, judicial due process, conscientious objection to war, and other rights to liberty and freedom which we have granted our people make the going rough, we should not falter, retreat, or apologize. We do have to adapt, to concede on some previously legally uncontested points, and use our energies and our intelligence to do the best we can, just as I feel confident that you are doing.

On this campus, slightly larger than Beloit, we have had our share of discussion, debate, protest, and other actions by concerned young Americans especially after the Kent State incident. You could have spoken here, as did Elliott Richardson at the 1969 Commencement, and received respectful attention from an audience of loyal Americans. I am sure that this situation would have prevailed at more of our colleges and universities than would the reverse.

We in this usually quiet little state recently had a considerable disagreement about the right of the notorious character from the recent Chicago trials to speak on the main campus of our university system. I do want to point out that it was to uphold a right of freedom of speech that the meeting was allowed. I would point out further that the decision, a very hard one to make, was made in cooperation and conjunction with this state's chief governmental executive by an intelligent and thoughtful board of trustees who were not free to ignore either the state or federal constitution. When we act as though the academic community is in a world by itself, free to make its own decisions without reference to many other constituencies, we delude ourselves. I, therefore, do not subscribe to the thrust of President Upton's apology for the academic community. We are all deeply involved in a crisis that is demanding our best informed responses as we go along in a very fluid situation.

As one of the directors of the American Association of State Colleges and Universities, I can assure you that it is my personal privilege to meet and discuss with some of the most dedicated, concerned, responsive, and responsible men in America today—the presidents of its 270 different institutions. We have offered our help in a consultant capacity at any time you would consider it to be worthwhile. As a president with nineteen years of experience in helping to guide this institution, I cannot sit idly by when the academic community is thus indicted. We have been doing our best to maintain communication, to give liberty without license, to preserve our historical functions while being increasingly responsive to requests to act in the national interest. The way ahead is by no means clear, nor are the answers simple. Please believe that we have been doing and will continue to do our best.

Most respectfully,

HAROLD E. HYDE,
President.

MERCURY CONTAMINATION DANGERS

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, on three occasions, November 26, 1969, December 23, 1969, and July 9, 1970, I brought to the attention of the House the potential danger of mercury compounds to human health and safety. I pointed out on the latest occasion the fact of the pervasiveness of mercury contamination in our water—lakes, bayous, rivers, streams, and reservoirs—air and soil together with the potential danger of this substantial and long enduring problem. In this connection I am submitting for the record the editorial entitled "Methyl Mercury," which appeared in the July 17, 1970, issue of Science.

METHYL MERCURY

During this century, in the United States, about 75 million kilograms of mercury have been consumed; little information is available on its final disposition or on the concentration of the element at specific points in the environment. Recently, it has become clear that compounds of mercury present a substantial hazard. Of particular significance is methyl mercury, a highly toxic substance that causes neurological damage, produces chromosomal aberrations, and has teratogenic effects. It is mainly in this form that mercury is found in food fishes. Recent studies have elucidated some of the steps in the accumulation.

Industrial wastes containing inorganic mercury or phenyl mercury find their way into bottom muds of lakes. There they are converted by anaerobes into CH_3Hg+ or $(CH_3)_2Hg$. The latter compound is volatile, and it escapes into the water column from the sediment. Though quite stable in alkaline solutions, $(CH_3)_2Hg$ is converted to CH_3HG+ at low pH. This ion is soluble in water, and it is concentrated by living things, usually appearing in the body lipids. In part, the concentration may come by way of the food chain, but apparently fishes may also accumulate the toxic ion directly. The concentration factor from water to pike is of the order of 3000 or more.

Substantial mercury pollution in the Great Lakes became apparent in March of this year. Mercury concentrations as high as 5 parts per million were reported in some pickerel shipped from Canada. Typical concentrations in fish taken from Lake Erie were 1 part per million or less. Further investigations have confirmed the existence of a major environmental problem traceable to the dumping of large amounts of mercury-containing liquid wastes. This discovery comes as a surprise to most scientists and apparently to federal authorities. However, there was ample reason for looking for such a phenomenon. Episodes in Sweden and Japan had pointed to dangers arising when large quantities of mercury are discharged into the environment. In Sweden the use of methyl mercury in a seed dressing had led to a drastic decrease in wild bird populations. Near Minamata, Japan, between 1953 and 1960, 111 persons were reported to have been killed or to have suffered serious neurological damage as a result of eating fish and shellfish caught in mercury-contaminated areas. Among the 111 were 19 congenitally defective babies born of mothers who had eaten the fish and shellfish. Later, at Niigata, Japan, 26 cases of methyl mercury poisoning were noted. The affected persons and their families ate fish with a frequency of 0.5 time to 3 times a day; the fish contained mercury at concentrations of about 5 to 20 parts per million.

Physiological and cytological studies have revealed some of the behavior of methyl mercury. It tends to be associated with red blood cells and nervous tissue, and it easily passes the placental barrier, becoming moderately concentrated in the fetus. It can cause chromosomal disorders. Fruit flies consuming food containing methyl mercury at a concentration of 0.25 part per million had offspring carrying one extra chromosome.

It seems unlikely that anything approaching the Japanese observations will be seen in the region of the Great Lakes. There the concentrations of methyl mercury in fish are lower and fish are a less important part of the diet. Nevertheless, we have a substantial and long-enduring problem; even if fresh pollution were stopped, it would be many years before natural processes could cleanse the lakes.

This episode has not led to demonstrable tragedy, but it should remind us how much we risk when we convert our rivers to sewers and our lakes to cesspools.—PHILIP H. ABELSON.

LITTER ON OUR HIGHWAYS: INDUSTRY MUST HELP

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, in recent months there has been great emphasis placed on the problem of cleaning up and protecting our environment. Though public clamoring has waned somewhat, the problem of pollution and waste is greater than ever. In figuring ways to deal with this situation, it seems to me that modern industry, with its technology and ingenuity, should be willing and able to design features into their products that would facilitate waste disposal and prevent unsightly litter on our countrysides. I have suggested on numerous occasions that automobile companies should build little containers into their cars, without results, unfortunately. This idea would certainly help to cut down on the amount of debris on our highways. In addition, oil companies could make it part of their service to empty these litter containers at their service stations. If auto makers and oil companies could get together on a litter-prevention program, I think that we would see far less trash around our roadways.

Probably the greatest eyesore on our roads is the large number of bottles and cans that people throw away carelessly. Besides causing an obvious safety hazard for motorists, these disposable containers scattered on highways are very unsightly and are a great nuisance to clean. The widespread use of nonreturnable bottles is responsible for much of the trouble. Whereas the built-in litter container would do much to alleviate the problem of disposing of these bottles, I feel that something must be done to control their use. It might be helpful for beverage manufacturers to return to the use of deposit bottles; besides being cheaper for them in the long run, this system would enable the companies to show their concern for the environment, a boon for public relations.

I have received much correspondence during the past few months on the subject of pollution and our environment. One of the more interesting letters was from Mr. Carl Hilgenberg, of Franconia, N.H. Since the problem of roadside litter is a complex one, there are many possible angles from which it may be viewed. Mr. Hilgenberg's letter is written from the viewpoint of an innkeeper in the White Mountains of New Hampshire, and it approaches the problem in an interesting manner. I recommend this letter, which follows, to my colleagues and friends who are concerned with keeping our roads and highways beautiful.

INTERNATIONAL HOUSE MOTOR LODGE,
Franconia Village, N.H., April 11, 1970.

Representative JAMES CLEVELAND,
House Office Building,
Washington, D.C.

DEAR SIR: Roadside litter in New Hampshire is again worse than any other year and consumer packaging is one of the chief causes. Most of the litter seems to be beverage containers which come to the consumer in a wrap package that must be completely opened in order to extract one container.

The manufacturer likes a wrap around package because it is fast to machine pack and more economical to produce as well as a lower incident of before consumer breakage.

The consumer and the country don't need this form of wrap as it is literally impossible to replace empty containers in the original package. As no one likes to have a "empty" rolling about it is thrown out the window.

This problem is the same for cans as well as bottles, soft drinks as well as beer.

I think that legislation to correct this situation would have popular support and be a massive step forward to help lick the roadside litter.

Sincerely,

CARL HILGENBERG.

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EXCESSIVE GOVERNMENT SPENDING

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, last Saturday the President issued a timely warning on excessive Government spending.

He noted his concern over a persistent and growing tendency by the Congress to approve increased expenditures without providing adequate revenue to pay for them. This, President Nixon pointed out, could produce a massive deficit if not corrected by the Congress.

The President accepted the spending ceiling we imposed upon him. He very logically called upon the Congress to observe it without numerous exceptions and mandatory spending provisions.

Mr. Speaker, the text of the President's statement follows:

STATEMENT BY THE PRESIDENT ON CONGRESSIONAL ACTION AND GOVERNMENT SPENDING, JULY 18, 1970

I am issuing this statement today because I view with deepening concern the course of events in the Congress affecting the expenditure of the taxpayer's money. There is a persistent and growing tendency on Capitol Hill to approve increases in expenditures without providing the revenue to pay the costs. For just one example, the Congress seems on the verge of approving an education appropriation bill that provides nearly half a billion dollars more than I requested.

Given this situation, it is time to face some hard figures and some troublesome possibilities and to strive for solutions.

Our Federal budget totals over $200 billion. If we allow these outlays to overshoot the basic revenue-producing capacity of our tax system—as happened particularly in 1967 and 1968—we will produce the same result: inflation of a magnitude that will take difficult and painful measures to eliminate.

In Fiscal Year 1970, which ended June 30, we worked very hard and effectively—in the midst of continuing controversy—to hold the expenditure line. As a result, any deficit will largely reflect a short-fall of revenues from the adjustment of the economy to policies designed to combat inflation.

For Fiscal Year 1971, which began July 1, this Administration transmitted to the Congress a budget calling for expenditures of $200 billion, and estimating revenues at $202 billion. If the Congress continues in its present pattern of proposed increases in expenditures, the total for this fical year will actually reach a substantially larger figure.

Some $3.5 billion of increases are caused by mandatory and virtually uncontrollable rises in costs—such as increases in the interest on the national debt ($1.8 billion) and in public assistance (over $500 million). The major pay increase for Federal employees added $1.4 billion over the amount originally budgeted. Some increases are the result of necessary new programs. But much of the total increase is due to threatened Congressional action or inaction.

On the receipts side of the ledger, the Congress has failed to provide necessary revenue. By its action on the tax bill last year, the Congress had already reduced projected revenue for Fiscal Year 1971 by $3 billion and for Fiscal Year 1972 by $5 billion below my request. Beyond this, the Congress has as yet failed to take action on my proposals for a tax on lead used in gasoline, an advance in the time of collection of estate and gift taxes and an increase in postal rates. The Congress must produce action on these measures, or we can expect to collect much less than the $202 billion estimated in February.

And that is not all. The 1971 expenditures are an inevitable springboard for the budget of 1972. Unless the present trend is corrected by the Congress, the resulting 1972 spending could produce a massive deficit.

It has become almost a cliche to say that all we need do to resolve this dilemma with regard to our Federal budget is to cut space and defense outlays and "change our national priorities." Let's set the record straight. We *have* changed our national priorities.

In the budget that I proposed for fiscal 1971, spending for defense is exceeded by spending for human resources for the first time in 20 years. In all of the last three administrations, military spending ran far above spending for other purposes. In 1962 under President Kennedy the Federal government spent 48 percent of its budget for defense and only 29 percent for human resources. By 1968, the comparison was 45 per cent to 32 percent. My budget for 1971 sharply reversed these priorities. It calls for spending 37 percent for defense and 41 percent for human resources programs. To accomplish this massive change in emphasis, military and space expenditures were cut by some $6 billion.

As a former member of the House and the Senate, I fully understand that the members consider appropriations and spending bills one at a time. The trouble is that the total of the parts, each in itself atttractive and even meritorious, is too large a figure. Unless the Congress makes a very special effort to look at the total picture, the members may not fully appreciate the overall effect of their fiscal actions.

In raising the issue of budget deficits, I am not suggesting that the Federal government should necessarily adhere to a strict pattern of a balanced budget every year. At times the economic situation permits—even calls for—a budget deficit. There is one basic guideline for the budget, however, which we should never violate: except in emergency conditions, expenditures must never be allowed to outrun the revenues that the tax system would produce at reasonably full employment. When the Federal government's spending actions over an extended period push outlays sharply higher, increased tax rates or inflation inevitably follow. We had such a period in the 1960s. We have been paying the high price—and higher prices—for that recently.

We must not let that happen again. It need not happen. Responsible government cannot let it happen. This is a time when the taxpayers of the United States will not tolerate irresponsible spending. The Congress should ask itself in every case: Will this new expenditure, when tied to all the others, require increased taxes or cause a deficit which would bring about an increase in prices. The Congress must examine with special care those spending programs which benefit some of the people but which really raise taxes and prices for all the people.

Recently I signed into law a bill fixing a "ceiling" on Federal spending for the current fiscal year. I accept that ceiling and intend to live under it. But the Congress, by making exceptions and approving measures made a travesty of this legislation.

I now ask the Congress to establish a *firm* ceiling on total expenditures — a ceiling from which only specific and genuine "uncontrollables" such as interest on the public debt would be exempt—a ceiling within which the President can determine priorities—a ceiling that would apply to *the Congress* as well as to the Executive. This will require of the Congress—as well as the President—the hard task of adjusting and pruning individual program outlays to hold their total within this ceiling. With this we can reassure citizens generally that Washington will not take spending actions that will impose on their future incomes the burdens of ever increasing tax rates. With this we can pursue vigorous policies of expansion to achieve full employment, rapid improvements in our material levels of living, and a more stable dollar.

"MEET THE MEMBER"—WYOMING'S CONGRESSMAN AT LARGE, JOHN WOLD

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, Wyoming's freshman Congressman, and Senate candidate, JOHN WOLD, was honored recently by the distinguished Washington newscaster, Joseph McCaffrey. Our colleague was the subject of Mr. McCaffrey's "Meet the Member" broadcast.

Mr. McCaffrey pointed out that our colleague "brought an unmatched record with him when he entered the House of Representatives a year ago—the largest margin of votes, 63 percent, ever cast in a race for the Wyoming at-large House seat."

Our colleague has been vice president of the 91st Club.

Mr. McCaffrey addressed not only our colleague's broad political experience, but his professional and educational background as well and, wrote the newscaster, "Wold is a Wyomingite by choice, not chance."

Mr. Speaker, I include the script of Mr. McCaffrey's "Meet the Member" broadcast carried over radio station WMAL in Washington, D.C., in the RECORD with my remarks:

MEET THE MEMBER

Congressman John Wold brought an unmatched record with him when he entered the House of Representatives a year ago. He came to Washington with the largest margin of votes (63 percent) ever cast in a race for the Wyoming at-large House seat. His 31,000 vote plurality is the record in the state's Congressional history.

The new Congressman immediately fulfilled his campaign pledge by actively seeking and gaining assignment to the Committee on Interior and Insular Affairs. There he set a precedent by gaining appointment to five of the Committee's six subcommittees: Public Lands, Territorial and Insular Affairs, Indian Affairs, Mines and Mining, and Irrigation and Reclamation. He was also given seniority over his freshmen colleagues on the Committee.

Winning elections did not stop last November. Congressman Wold's drive and initiative won him election as a vice president of the 91st Club—the newly elected members of the 91st Congress—and he now is director of the Club's activities relating to the six states of the western region of the United States.

Long active in Republican politics and a past member of the exclusive Executive Committee of the Republican National Committee on Committees, the prestigious body which makes committee assignments, and to the Congressional Campaign Committee.

Wold's political experience has been varied and considerable. While serving in the Wyoming House, he chaired the Labor Committee. He was elected to the Legislature in 1956 by the largest margin of any Republican up for legislative office.

As a two-term GOP Chairman from 1960–64, Wold led the party to some of its most sweeping victories. Under his leadership in 1962, all seven Republican nominees on the state and national level were elected. He also served as precinct committeeman, county vice chairman and state secretary. A past chairman of the Western States' Republican State Chairman's Association, his political leadership has become recognized across the country.

Wold's only defeat came in 1964 when he ran for the United States Senate. Despite the loss, he ran some 10,000 votes ahead of the GOP Presidential candidate in the Lyndon Johnson landslide.

Wold was born in New Jersey in 1916. He permanently moved to Wyoming in 1948 after a first trip to the Equality State in 1934. The Congressman took his Bachelor of Arts degree from Union College and received his Master's degree in geology from Cornell University. He was an exchange student at St. Andrews University in Scotland and also did geological field work at the University of Iowa.

Wold served 54 months aboard a destroyer escort in both the North Atlantic and South Pacific during World War II as a commissioned officer.

Governor Stan Hathaway of Wyoming appointed him a director of the Federation of Rocky Mountain States—an organization of the seven Rocky Mountain states dedicated to joint efforts for cultural, social, agricultural and developmental improvement. He was also a vice president of the Rocky Mountain Oil and Gas Association for the states of Wyoming and South Dakota.

Wold is a Wyomingite by choice, not chance and his election to the United States Congress has not diminished this back-home involvement. As he puts it, "I'm still a Wyomingite—just working for the state a few miles away in a different city."

CHAIRMAN PATMAN PRAISES HALE BOGGS FOR FOREIGN ECONOMIC POLICY STUDIES

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, one of the great satisfactions of being chairman of the Joint Economic Committee is the great competence of my colleagues from both Houses who serve on that committee. I believe that the Joint Economic Committee is making an extremely valuable contribution to the Congress on a continuing basis. One such outstanding contribution is the excellent work done by our assistant majority leader, the gentleman from New Orleans, Mr. HALE BOGGS, who heads the Subcommittee on Foreign Economic Policy. Under Mr. BOGGS' leadership, that subcommittee has been working for the better part of a year to formulate a positive foreign economic international policy for the United States during the decade of the 1970's.

On Friday, July 17, Mr. BOGGS testified before the full Joint Economic Committee on the outlook for foreign trade. In a most informative and incisive statement he has provided an insight into the international trade picture on a broad perspective that should prove very useful to Members of this body. In addition to his Joint Economic Committee responsibilities, the gentleman is also ranking member of the Ways and Means Committee which is currently considering extensive foreign trade legislation. So, it would be most difficult if not impossible for anyone to equal him in knowledge and wisdom about the international economic policies of the United States. Accordingly, I include it in the RECORD:

THE COURSE OF U.S. TRADE POLICY IN THE 1970's

(Statement of Hon. HALE BOGGS, Congressman from Louisiana, chairman of the Subcommittee on Foreign Economic Policy, before the Joint Economic Committee, July 17, 1970)

I am gratified to have this opportunity to present my views on U.S. trade policy. A number of current problems and the lack of any well-defined program for the future threaten to alter the course of trade liberalization and international cooperation we have pursued since 1934. At least some of our current difficulties are temporary, and these can be expected to subside now that excess demand has disappeared. A further improvement should occur when the pace of inflation hopefully slows in the coming months. Even so, the validity and utility of our international trade policies are today being questioned with greater skepticism than I can recall in many years.

RETHINKING THE DIRECTION OF TRADE POLICY

Following the hard-won Kennedy Round Agreement to further reduce tariff barriers, the results of these negotiations had to be digested before we could begin to consider seriously further initiatives in trade policy. The last of the phased tariff reductions agreed to during the Kennedy Round will be implemented on January 1, 1972. It is therefore appropriate to be thinking now about what the direction of U.S. foreign economic policy should be in the 1970s if we are to continue our efforts of the last decade to expand world trade for the common benefit of all nations.

As part of the process of developing new initiatives, the Subcommittee on Foreign Economic Policy is conducting a series of hearings to establish goals for the 1970s. Our objective is to outline an approach that will appropriately integrate U.S. policies regarding trade, foreign direct investment, and economic development assistance. As you know, the President earlier this year received a report recommending reorganization and reorientation of the foreign aid program, but he has not yet transmitted to the Congress his own recommendations to restructure foreign aid. A Presidential Commission on World Trade and Investment Policy has also been appointed recently. The report of our Subcommittee should be available before the conclusions of this commission are published next year.

THE ROLE OF TRADE IN THE U.S. ECONOMY

During the interim when we are deciding what course to follow in foreign economic policy, the danger arises that current difficulties over imports of particular products or concern over the deterioration in the total U.S. trade balance might cause us to adopt policies that we may subsequently regret. During the hearings recently concluded by the House Ways and Means Committee, over seventy different industries appealed for quota protection from imports. With the exception of only two of these industries—textiles and shoes—the trade bill shortly to be reported out by the committee leaves the implementation of quotas entirely at the discretion of the President.

We must remember the long-term importance of international trade for the United States. For these reasons, before turning to more specific considerations, I would like to put into perspective the role of international trade in the U.S. economy. I will not elaborate on the importance of trade and investment in international political relations and in the conduct of U.S. foreign policy as broadly conceived. These considerations are obviously important—occasionally more important than strictly economic calculations. Instead, I will let the economics stand alone.

A projection of the U.S. economy in 1980 compiled by the Bureau of Labor Statistics dramatically indicates the relative roles of purely domestic economic activity and international trade. In 1968 six out of every ten workers in the United States were engaged in the production of services rather than goods, and by 1980 close to seven out of every ten workers will be employed in service-producing occupations. Services are consumed where they are produced, and thus the workers producing them have no fear of competition from imports.

By the end of this decade the proportion of workers engaged in the output of goods will have fallen to three of every ten employees. Goods-producing industries include construction, agriculture, mining, and manufacturing. The construction industry does not compete against imports, and most of U.S. agriculture is so highly efficient that it has no fear of foreign producers. Indeed, our farmers need expanding foreign markets to take full advantage of our superior agricultural productivity. Imported ores might to some extent substitute for domestic mining production, but mining is the smallest of the goods-producing industries. Manufacturing is the largest of this group, and while many manufacturers must be concerned about maintaining a competitive edge vis-a-vis imports, other manufacturers—employing almost as many persons—have an important stake in foreign markets for our exports.

By 1980 approximately eight of every ten workers in this country will be producing services or goods that cannot be imported. Eighty percent of the U.S. labor force will face no threat of losing their jobs as a consequence of import competition. Instead, the chief economic concern of these workers and their families will be to obtain the goods and services they desire at the lowest possible cost.

Imports cannot provide cheap services, but they do offer American consumers goods at lower prices than available from domestic producers and, in addition, help hold down the cost of domestically produced goods by offering the purchaser an alternative to the output of American factories. Both the ability to purchase imports and U.S. industries' reactions in the marketplace to import competition benefit the consumer. In the future a steadily increasing proportion of the American labor force and their families will be concerned about the availability of goods at the lowest possible prices regardless of whether these products are domestically produced or imported.

WHAT WILL THE UNITED STATES EXPORT?

The deterioration of the U.S. trade balance has raised serious questions about the ability of the United States to export in the future, participate if we are to participate in the continued liberalization of world trade.

In the face of the particularly rapid growth of imports during 1968 and the slow recovery from the precipitous deterioration in our trade balance that year, policymakers and academic economists have expressed concern about what will happen if the United States fails to have a substantial net export surplus in the future. These persons have pointed to the reserve-currency role of the dollar, to our security commitments abroad and to the desirability of making goods and services available to the developing countries. In each case an export surplus is necessary to support these activities.

To stimulate and insure our capability to export, the bill drafted by the Ways and

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Means Committee provides for Domestic International Sales Corporations. Companies establishing such corporations will be able to defer taxes on the income from export sales as long as this income is retained by their DISC subsidiaries and used to promote further export expansion. This tax deferral scheme will place the export activities of firms in the United States on an equal footing—in terms of income taxation—with the foreign subsidiaries of American corporations. Thus, in addition to increasing domestic employment in the production of exports, the DISC provision will discourage the transfer of manufacturing operations to other countries.

Over the long run, however, if the United States is to fulfill its international monetary responsibilities, is to carry a substantial international security burden, and is also to provide goods and services for development, other countries must help create an environment in which we can successfully carry out these functions.

The devaluation bias of the existing international monetary system makes it more difficult for this country to play its expected role. Since 1949 the currency of every other major industrial country in the world has been devalued one or more times, but only three upward changes in exchange rates have occurred. Therefore, the competitive position of the United States has tended to become gradually undermined.

This devaluation bias as another undesirable effect which I feel we are experiencing at this time. To the individual U.S. exporter or producer competing against imports, the consequences of this bias materialize as a threat to his current market position. Thus, what is actually a general problem of exchange rate misalignment may be perceived in this country as a rash of individual problems giving rise to pleas for protection and intensified demands for the removal of trade restrictions not sanctioned by GATT. As their difficulties have intensified, American producers and workers have looked around for the source of their plight; it is understandable that they have pointed to "adverse foreign wage differentials," "unfair labor standards abroad," and sophisticated trade barriers used by other countries that violate the spirit, if not the actual letter, of the GATT. Certainly many of these complaints are justified, but I believe we should investigate further when they swell into a general cry for protection.

The criterion we should always keep in mind is the level of world trade and the efficiency with which various productive activities are located around the globe—not the net balance of payments or trade balance of any particular country, not even that of the United States. If the industrial nations of the world cooperate, pursue liberal and open-minded policies regarding trade and international investment, and press for continuing international monetary reform, the balance of payments for each country will tend to fluctuate around zero or, allowing for the growth of reserves through special drawing rights, register a small surplus.

But if the United States resorts to protectionism and other countries continue to ignore the principle of reciprocity in admitting imports into their markets, the outcome in terms of net balances will not be significantly different. Each individual nation will end up with approximately the same net position it had initially. The major difference would be a substantial decline in the level of world trade. Thus, opportunities for efficient specialization would be forgone, and the developing countries particularly would suffer from their inability to find markets abroad. If the industrial countries fall into the trap of protectionism and trade restriction, the real incomes of everyone will be lower than they otherwise would be.

Through the use of monetary and fiscal policies, the United States can—and I am confident will—return to full employment. But the real earning power of American workers, just like those in any other country, depends upon their skill and efficiency—in the simplest possible terms—on their relative ability to produce. By restricting imports and subsidizing exports, we will tend to anesthetize our productive capabilities.

When Secretary of Commerce Stans appeared before the Ways and Means Committee to announce the failure of the negotiations with the Japanese, Chairman Wilbur Mills made an observation about the export capabilities of the Japanese which no one can dispute. He said, "They must be doing something right." The Chairman went on to mention a number of techniques the Japanese have used to increase their capability to export, such as easy access to bank financing and price cutting to maintain capacity output. I would like to mention one technique that he did not.

Japanese businessmen and political leaders have understood that they cannot keep an unchanging proportion of their industrial capability in the same industries forever. In the post-war decades, they have continually striven—with the aid of government planning and assistance—to increase the quality of their output and to move into more sophisticated lines of production. They understood well that if their incomes were to increase, they could not go on producing firecrackers, toys, and cheap textiles. These industries are gradually being phased out in Japan and transferred to other Asian countries where labor is more plentiful, such as Korea and Taiwan. Similarly the industrial structure of the United States cannot remain static if the welfare of our workers is to improve. We can initiate such an effort from a much higher base than the Japanese did, and we can achieve our goals without unilaterally resorting to protectionism. Indeed, the needs of our society threaten to swamp its ability to fulfill these needs. Continued improvement in the quality of American life demands that we meet these challenges aggressively.

THE PROBLEMS OF INDIVIDUAL INDUSTRIES, FIRMS, AND COMMUNITIES

Individual firms and communities producing a variety of products are today experiencing severe difficulties as a consequence of import expansion. In considering how to respond, it is obviously unfair to take any action easing the hardships of producers in one industry without making the same type of consideration available to firms and workers manufacturing other products. The same standards should be applied throughout the economy, and the same remedies should be available to all enterprises, communities, and groups of workers.

The solution to these difficulties must be found in an appropriate combination of adjustment assistance and import restraint. During the past year the Tariff Commission has adopted a somewhat easier attitude towards eligibility for adjustment assistance, and the trade bill drafted by the Ways and Means Committee includes provisions to further expand the Commission's latitude for action in recommending such assistance. I heartily approve of assistance to firms and communities demonstrably suffering from import competition; liberalization of the criteria that must be satisfied to qualify would bring the operations of these programs closer to the intent of Congress in the 1962 Act. Training and relocation benefits to workers, financial and technical advice for communities to help them attract new industry, and loans to firms for retooling and the development of new product lines must all be considered as possible options. Blanket industry-wide assistance must, however, be regarded with more caution. To grant such aid to an entire industry is likely to raise a protective umbrella over the more efficient firms and permit them to reap excessive profits while other enterprises deserving assistance are attempting to strengthen their competitive positions.

Fundamentally the type of adjustment that workers, firms, and communities must make in response to an increased flow of imports is no different from the type of adjustment they have to make in response to wholly domestic changes in consumer taste, technology, and market structure. Also each year our economy must grow to provide jobs for young workers entering the labor force in numbers several times as large as the number of workers displaced by import competition. Thus the problems arising from international trade are minor in comparison with the challenges of fostering competition domestically and of keeping the U.S. economy growing at a healthy rate without excessive inflation. If we have appropriate domestic economic policies, any additional problems arising from imports will certainly be manageable.

In rare instances it may be necessary to temporarily restrict imports for the benefits of domestic interests. When such an extreme measure is utilized, we should do so only following a demonstration of serious injury before the Tariff Commission. The Standards used to determine the seriousness of any such injury must be objective and acceptable to the community of trading nations. In adopting a set of standards specifying when a nation can legitimately restrict imports, the United States has an opportunity to set a responsible example rather than act in a nationalistically protectionist manner.

I believe it would be useful to broaden within the GATT the standards under which firms or groups of workers manufacturing selected products may be judged to have been injured to a degree sufficient to warrant the temporary imposition of import restrictions. Currently, Article XIX of the GATT permits such relief only when the difficulties stem from a previously negotiated trade concession. But I feel that American producers should be able to obtain temporary relief from import competition on the same basis as the proposed liberalized criteria for extending adjustment assistance. Specifically, the GATT should allow for the temporary restriction of imports that cause severe domestic injury regardless of whether these imports enter as a consequence of tariff reductions or other factors.

These expanded GATT criteria would include limitations over the time during which imports could be curtailed and supplementary actions required of the government of any nation curtailing imports. By necessary supplementary actions I am thinking of any type of adjustment assistance needed to eliminate import curbs as soon as possible. Any country whose exports were curtailed as the result of temporary import restrictions could challenge within the GATT the justifiability of these limitations. If the nation imposing the temporary restrictions could not demonstrate their legitimacy according to internationally accepted standards it would be required either to abolish the restriction or compensate the injured country.

I believe that the development of such criteria within the GATT and the use of this organization as an international forum to oversee their application would bring important benefits to the United States and to trading nations generally. First, an objective criteria would be established under which we could challenge the actions of other countries. Such challenges have not been raised effectively to date. Multilateral agreement on realistic and up-to-date criteria to determine when nations may legitimately restrict imports would lead to a more equitable application of GATT standards and less tolerance for special exceptions. The United States would then be able to insist with greater force on the removal of trade barriers now maintained by the Japanese and the Common Market nations in violation of the GATT. Second, American industries facing the steady growth of foreign competitive ability would know the rate at which they will be required to adjust and the circumstances under which they can qualify for relief. Third, if each country continues to be the judge of its own actions and restricts imports when it alone sees fit, the risks of a retaliation counter-retaliation cycle are substantial. A restrictionist slugging match would collapse the network of multi-lateral trade that has been built up over more than three decades and impair the real incomes of American workers and consumers.

CONTINUING ISSUES

While problems will continue to afflict selected firms and communities, a number of general issues will also remain with us.

Substantial liberalization of trade in agricultural products must probably await reform of the various schemes governments employ to support the incomes of rural populations. We should nevertheless work towards an economically rational distribution of agricultural production and guard against the introduction of new trade restrictions. Special vigilance is required to insure that any arrangement to admit Britain to the Common Marekt does not create additional discrimination against exports of U.S. farm products.

The activities of multinational corporations in promoting a more rapid international transfer of technology could conceivably impair the future ability of the United States to export. On the other hand, such firms remit a growing stream of foreign earnings to their head offices here. More should be learned about the effects of these organizations before we attempt to influence their decisions. To this end, the Subcommittee on Foreign Economic Policy has scheduled hearings for later this month on the growth of direct investment and the operations of multinational corporations.

The developing countries will continue to plead for expanded access to our markets and, so long as the industrialized nations do not admit their goods on a nondiscriminatory basis, our expressions of concern for their welfare will ring hollow. Moreover, any plan to provide for easier access of imports from developing countries must include all industrial countries on an equal basis.

Although the Common Market nations recently announced their resolve to limit the geographical extent of the additional preferential arrangements they will conclude with nonmember states, the precise extent of these limits has not yet been decided and the existing preferences remain in violation of GATT. Moreover, it remains to be seen whether an arrangement to admit Britain, if successfully negotiated, will discriminate against imports of manufactures from the United States and other nonmembers.

In dealing with these issues, I strongly believe that the United States must maintain the initiative it first evidenced with the passage of the Reciprocal Trade Agreements Act in 1934 and carried forward with the Trade Expansion Act of 1962. If the U.S. initiative is not maintained, none of our major trading partners can be expected to seize it and press forward for continued trade liberalizations. The Common Market has not consistently adopted policies in keeping with free trade, and some of its decisions have injured the United States. Likewise, the Japanese use licensing and credit rationing to discriminate against imports. They also prohibit foreign investment in a number of major industries. Thus, a basis does exist for rationalizing a shift in our policies.

But I do not see how the United States can expect its industrial counterparts to perform better than we do in encouraging a continued expansion of multilateral trade. If this country deviates from its previous course of *reciprocal* trade liberalization, that action will be taken as an excuse for others to do likewise. We cannot be assured that others will readily follow constructive U.S. leadership and, to achieve any success, we must be prepared for persistent hard bargaining. But as the country with the effective authority to push the tenor of world trading relationships in one direction or another, we must accept the responsibilities of our pre-eminent position.

CHAIRMAN PATMAN CALLS ATTENTION TO TESTIMONY OF DR. WALTER HELLER BEFORE THE JOINT ECONOMIC COMMITTEE

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, the Joint Economic Committee is conducting extensive hearings on the state of the economy. In my opinion, our economy is in very serious condition and is in need of positive and resolute action by the administration if we are going to avoid further difficulty. One of the witnesses heard was the former Chairman of President Kennedy's Council of Economic Advisers, Dr. Walter Heller, of the University of Minnesota. Dr. Heller's statement provides an excellent analysis of what is wrong with the economic policies of the administration and what should be done to correct them.

I might add that in subsequent colloquy, Mr. Heller approved a proposal which appeals to me very much and which I have urged many times—namely, establishment of a public bank to lend money for housing at low interest rates, particularly for the lower income groups.

I submit Dr. Heller's prepared statement for the RECORD:

OPENING STATEMENT OF WALTER W. HELLER, REGENTS' PROFESSOR OF ECONOMICS, UNIVERSITY OF MINNESOTA, BEFORE THE JOINT ECONOMIC COMMITTEE, JULY 16, 1970

Mr. Chairman and Members of the Committee, as we struggle to break out of the shadows of inflationary recession and back into the sunlight of non-inflationary expansion, we are well advised to remind ourselves that there are no magic formulas, no pat solutions, no easy ways to reconcile full employment and price stability. No modern, free economy has yet found the combination of policies that can deliver sustained high employment and high growth side by side with sustained price stability. This is not meant to be a counsel of despair, inaction, or overreaction.

On the contrary, it is a plea to recognize that there *is* a tradeoff between jobs and prices. In the last analysis, economic policy involves a conscious choice between the human and social costs of more unemployment on one hand and the inequities and distortions of inflation on the other. In today's terms, this requires the policy maker

First, to take stock of our progress in the battle against inflation and prospects, under present policies, of breaking out of our economic slump;

Second, in the light of this stock-taking, to adjust policy so as to strike a better balance between the large and growing cost of unemployment and lost production on one hand and the further anti-inflationary payoff of a continued economic squeeze on the other.

I submit that such a review yields some clear and unmistakable signals for the policy maker.

ECONOMIC PROSPECTS TODAY

As we take stock of the U.S. economy in mid-1970, the dominant facts of economic life (skipping qualifications and details for the moment) are these:

Even if the economy managed a little uptick in the second quarter or rises a bit in the third and fourth, *economic sluggishness and growing economic slack will be the order of the day for the rest of 1970, and our GNP gap will grow sharply.* If we average out to a no-growth year, our annual loss in production would reach $40 billion by the end of 1970. If we settle for a snail's-pace recovery in 1971, that loss could rise to a billion dollars a week a year from now.

Even if the unemployment rate dropped a bit in June, *the employment picture is still weakening, and the human costs of unemployment continue to rise.*

If the Administration honors its pledges to de-escalate in Vietnam, *there is a danger under present policies that the resources thus freed may run to waste in continued economic slack* instead of finding prompt constructive use in an expanding economy.

Even if the cost of living index doesn't show it yet, *inflation is at last on the wane* and will take a diminishing toll in economic distortion and inequity as the year progresses.

Let me take a moment to back up each of these assertions about our economic prospects.

ECONOMIC SLACK

First, as I assess the contending forces—those that would mire us more deeply in recession versus those that would pull us out—I see more or less of a stand-off for the rest of the year. With the steam going out of the boom in plant and equipment investment, with government spending providing no great thrust, with housing just about holding its own at a low level (though not as low as most observers expected), with most surveys showing the consumer in a subdued frame of mind, and with the prospect of serious strikes hanging over the economy, the fires of recovery seem pretty well banked for the rest of 1970. At the same time, there are few signs that the weaknesses in the economy will accumulate into a downward spiral. All in all, we seem to be going through the least severe but most sustained recession (or "recessionary adjustment" if euphemisms are needed) of the post-war period.

This picture could change for the better—

If the consumer unexpectedly casts off his apprehensions and pessimism, snaps out of his lethargy, and starts spending a more normal (higher) percentage of his income;

If the Nixon Administration and the Federal Reserve unexpectedly move to a distinctly more expansionary monetary-fiscal policy.

What emerges from this brief rundown is that we should not become preoccupied with the question of whether the economy moves up a bit, down a bit, or sideways. The much more telling consideration is that if the U.S. economy essentially marks time in 1970, its unused potential—the gap between actual and potential output—will reach $40 billion by the end of the year.

This projection takes as its point of departure the Council of Economic Advisers' analysis of actual and potential GNP (as shown in Chart 8 on page 85 of the *Economic Report of the President*, February 1970). The Council analysis shows actual and potential GNP coinciding in the fourth quarter of 1969 and projects "about a 4.3% rate of growth of potential real GNP." At prevailing levels of GNP, this means approximately a $10 billion quarterly growth in GNP potential. Little or no real growth throughout 1970 would therefore open the gap to about $40 billion by the end of the year. If one further assumes sluggish growth at a 2% rate in the first half of 1971, the gap would be roughly $50 billion by mid-year.

To put this in operational terms: a continuation of unduly restrictive economic policies runs the risk of letting as much as $1 billion a week of American productive potential run to waste by the second half of 1971. That is the key point on which employment and output policy should focus. Let me drive this point home by noting that this could occur even without experiencing what, by traditional standards, we would call a "recession." Thus, in an economy whose potential growth is 4.3% annually, four quarters of zero real growth in 1970 and two quarters of 2% growth in 1971 would be enough to produce a $50 billion gap.

UNEMPLOYMENT

Second, the employment implication of this picture should, in general terms, be self-evident: an economy that stagnates for several quarters and then grows sluggishly for a time will simply not generate job opportunities fast enough to absorb new entrants into the labor force and offset the growth in productivity per man-hour. Without a shift to a more expansionary policy, unemployment will rise substantially in the coming year, to a peak of between 5.5 and 6%. This percentage does not count those who drop out of the labor market or are discouraged from entering it because of limited job opportunities. Nor does it reflect the great concentration of joblessness in certain groups. On that score, one need only remember that at a 4.7% overall unemployment rate last month, the unemployment rate for blacks was twice as high and for black teenagers was a staggering 34%.

VIETNAM DEESCALATION

Third, it is in this context that one should consider the human resources made available by troop pullouts from Vietnam and the associated reductions in military manpower requirements. If economic policy, in effect, continues to dump returning veterans into a soft job market, it would incur not only unnecessary economic costs but grave social risks. Part of the cost would be in the temporary loss of these human resources to the programs that so desperately need them. But beyond this, we would have to count the cost not just in the indignity and hardship of the individual, but in the heightened social tension, militancy, and crime which breed in the atmosphere of idleness and injustice labeled "unemployment."

EBBING INFLATION

Fourth, since the risks and costs we have been reviewing here are being incurred in the name of conquering inflation, we have to consider two further questions before deciding which way and how far monetary-fiscal policy should move:

Are inflationary pressures ebbing as a result of previous restrictive policy and, if so, how much relief is already in sight?

How big a cost in further loss of jobs and output is the country prepared to suffer to bring the inflation rate down below the rates now in prospect?

With respect to the near-term inflationary prospects, I believe that significant, if still not satisfactory, relief is in sight, based on the following considerations:

Moderately restrictive fiscal policy in 1968–69 and brutally tight money in 1969 and early 1970 have replaced excess demand and drum-tight labor markets with excess capacity and wide-spread unemployment, an environment in which price competition and price cutting take on new meaning and huge wage increases will eventually be harder to come by.

As output begins to move up again and operating rates rise, increases in productivity will slow down the rise in unit costs of labor.

There's plenty of evidence at hand that basic materials prices are easing, wholesale prices are rising less rapidly than they did, and some key food prices are likely to fall.

In short, we seem to be moving out of the *epidemic* phase of our current inflation. A 4% rate of inflation (in terms of the GNP deflator) by the end of the year is a reasonably good bet. As a consequence of the slowdown and slack already generated in the U.S. economy, I would expect further improvement in 1971 even if, as I would urge, monetary policy becomes considerably easier.

Let me make clear, however, that in an economy that has a basic bipartisan commitment to high growth and high employment, I continue to see inflation as an *endemic* problem that must be faced for the longer run. Unless we condemn ourselves to a chronically slack or stagnant economy, I don't see how we can expect to average much less than 3% annual inflation in the next five years. Just as current prospects permit a move toward more expansionary monetary policy, so the longer-term prospects call for the most serious efforts on the structural policy front.

At the same time, for those who fear that a return to expansionary economic policy spells a quick return to epidemic inflation, one should recall that it took a $25 billion federal budget deficit and sustained 7% to 8% growth in the money supply—in an economy that was operating at or above its potential—to generate the "Vietnam inflation." I doubt that we are in danger of repeating that mistake.

STABILIZATION POLICY

Short run

As we turn more explicitly to policy measures and policy mix, we should keep in mind that the 1970 slowdown or recession is not something that "just happened." It is our first consciously induced, managed, and engineered economic downswing. The same tools that were used to engineer the downswing can engineer a renewed expansion.

Let's make no mistake about this: in spite of the President's statistics which associated the growth in unemployment with the winding down of war in Vietnam, our present unemployment and slack are the direct outgrowth of a combination of moderate fiscal and harsh monetary restriction, not a result of military cutbacks. With the modern tools of fiscal and monetary policies at its command, the economy as a whole has nothing to fear from military de-escalation (in spite of painful adjustments in certain areas and industries).

As one looks at the actual unfolding of fiscal-monetary policy for our engineered slowdown, one can discern two distinct stages to date. The first was the restrictive stage, begun in 1968 and sharply intensified in 1969. The second stage, initiated early this year, might be called the "let up" stage. Consciously in the case of monetary policy, semiconsciously in the case of fiscal policy, the monetary and fiscal brakes were somewhat eased.

It is now time to enter stage 3, moving from a policy of less restriction to a positive policy for expansion. This requires prompt and decisive action on the monetary front, together with a wary eye cocked on the fiscal policy front lest the automatic growth in revenue potential generate too large a full-employment surplus in 1971.

This recommendation will affront those who demand the unconditional surrender of inflation, those who insist on pressing restrictive monetary-fiscal policy to the point not only of breaking the back of excess demand—as it already has—but of breaking the will of strong unions and strong management through the "discipline" of unemployment, low profits, and ferociously high interest rates. To this group, one should counter with two reminders:

That "discipline" involves costs, both economic and social, that range from large to catastrophic. One should not forget that the unconditional surrender of inflation in the late 1950's was bought at the cost of 7% unemployment, a GNP gap of $50 billion (which was 10% of GNP ten years ago, as against 5% today), and profit plunges of 20 to 30%.

These costs are imposed on *all* segments of the community in order to get at the relatively few with strong market power. Ironically, these few are among the last to be hit by cutbacks in aggregate demand. With respect to the fiscal-monetary mix, I have repeatedly in the past year and a half urged greater reliance on fiscal restriction and less reliance on excruciatingly tight monetary policy. Early in 1969, prompt and full extension of the surtax as President Johnson recommended would have been the right policy medicine for the continued fever of inflation. Again, extension of the surtax this year would have allowed a better policy mix. Indeed, as late as two months ago, I was arguing for a federal tax increase coupled with a flexible and easier monetary policy, *not for additional restriction of consumer demand*, but to take some of the pressure off of our money and capital markets and reduce the unduly severe policy burden borne by the Federal Reserve System; to meet our aching social needs in a more adequate and responsible way with particular emphasis, in the immediate context, on taking out policy insurance for the victims of our fight against inflation, i.e., the unemployed.

If such a change in mix had been made, we would have been far better off, both economically and socially. Also, if we could will it into being instantaneously, I would continue to urge it. But in the realistic political and economic context which confronts us today—a reluctant or unwilling White House and Congress on one hand and a sluggish economy on the other—the risks of embarking on that course probably exceed the gains. In the face of longer-run needs of a better policy mix and, more important, of more adequate financing of our huge and pressing social needs, I should make very clear that I would now put this proposal temporarily on the back burner, not take it off the stove.

In part, my caution on any immediate moves on the tax front is based on a projection of the probable course of the federal budget surplus in terms of high employment. Even while the actual unified budget bids fair to develop a deficit of over $10 billion for Fiscal 1971, one has to keep two facts clearly in mind in assessing the budget's impact on the economy:

The annual rate of deficit in the actual federal budget (NIA basis) will probably peak in the current quarter—at $13 to $14 billion—and then diminish to less than $5 billion by the second quarter of 1971.

Meanwhile, the budget surplus in full, or high employment terms, after reaching a low of perhaps $3 billion in the current quarter, will rise steadily to something like $10 billion in the second quarter of 1971.

In connection with the foregoing numbers, I should emphasize that I'm factoring in judgments concerning the most likely fate of Administration tax and expenditure proposals in Congress this year and am also taking into account of the short-fall in revenues owing to economic weakness.

Given the prospects for a sluggish economy, rising unemployment, waning inflationary pressures, and a swing toward fiscal restraint during the coming twelve months, one can offer some pointed and positive recommendations for ease in monetary policy. We already have welcome assurances that the Federal Reserve System is alert to the liquidity needs of the economy, will not leave borrowers in the lurch and will serve as a lender of last resort. Indeed, the Federal Reserve must feel just a bit shell-shocked after its first few months of target practice focusing on the new targets of bank credit and money supply, the monetary aggregates. In the face of a foundering Treasury debt operation and a scramble for liquidity in the private financial markets, the Fed was forced to return to its more traditional targets of money market conditions and interest rates. Without abandoning some broad guidelines with respect to the aggregates, monetary policy would be well advised to continue to emphasize interest rates and money market conditions in its targetry.

There are those who argue that the rapid expansion of the money supply—at a rate of nearly 10% for three months this spring—requires an offsetting pull-back and tightening of monetary policy. This conclusion is wrong from every point of view:

For the first six months of 1970, the growth in money supply averages out to somewhat less than half the 10% spurt of the three spring months.

When we move from myopic preoccupation with money *supply* and take into account also the *demand* for money, it is perfectly clear that the 10% jump in the money supply was quickly absorbed in the hunger for liquidity. Looking at interest rates, which reflect *both* supply and demand, one finds the price of money staying very high during those three months of spurting supply. Every indication in the financial and business sector today suggests that the hunger for liquidity is strong and continuing, that it will take an unusual increase in money supply to meet the ready demand.

Putting the money supply picture into still longer perspective, one must remember that the first half of 1969 saw a rate of increase of just a little more than 4%, the next six months at a zero rate of increase, and the last six months again a bit above 4%. So we are still well behind schedule in terms of the normal requirements for real expansion in the economy. There is *still* a lot of catching up to do.

Finally, the economic picture sketched early in this paper suggests that the increase in money supply should now be stepped up *beyond* the requirements of normal real expansion in the economy. Using a fall in interest rates and a rise in liquidity as the appropriate targets in the present economic situation, and taking into account the large risks and costs of failure to turn our sluggish economy back toward expansion, I'm confident that the relevant monetary signals call for a significant step-up in the rate of increase in the money supply in the next six months.

Although I understand that my main focus today is to be on fiscal and monetary policy, I cannot resist a comment or two about a favorite subject of mine, namely, voluntary wage-price restraints and government guideposts. By now, I'm afraid that any repitition of my general views on this would be monotonous, but I hope that a comment or two about the recent Nixon innovations in anti-inflationary policy might not be amiss.

First, I should note that I welcome the in-house price watch-dog committee that the President has set up. Also, I hope that the Productivity Commission will do some good in the long run, and I am glad that the Council of Economic Advisers is going to give us an inflation alert from time to time. All of this adds up to a recognition of the facets of the inflation problem that the Nixon Administration had previously ignored or neglected, and this is all to the good.

But I am concerned that the inflation alert is being administered by economists who are declared disbelievers in government guidance, leadership, and intervention in the wage-price process. Being first-rate economists and dedicated public servants, they will do their job in a responsible way. But unless the National Commission on Productivity "takes it from there" and expresses public outrage over things like that 13% truckers' settlement or unwarranted price boosts (and the composition of the Commission is almost an iron-clad guarantee against such a development), there is simply going to be little or no moral restraint, no effective self-restraint, in the wage-price field.

A considerable part of the trouble stems from the surprisingly dogmatic, almost theological, Nixonian adherence to a hands-off policy in the wage-price field—a policy that delights labor, pleases business, puzzles the financial community both here and abroad, and shortchanges the public. Lest that strikes you as a partisan comment, let me recall that important international observers in the OECD, IMF, Bank for International Settlements, and other bodies, have made pointed statements urging the United States to adopt a meaningful incomes policy. *Fortune* magazine, and more recently *Business Week*, have devoted pointed editorials to the same end. Why should government intervention in the trucking settlement have been confined to the mediation service, with its approach of "peace at any price level"?

Direct intervention and leadership—not a straightjacket of mandatory controls—is needed to flank appropriate fiscal and monetary policies for stabilization.

Long run

In pondering the problems of proper policy mix, we should break out of the confines of the 1970 context to consider whether fiscal-monetary policy has been the victim of persistent or recurrent biases or imbalances and what changes might be helpful in striking a better balance in the future. The most conspicuous lesson of recent fiscal history is that failure to act promptly and decisively on the fiscal front in the battle against inflation throws an undue burden on the monetary authorities and, through them, an unbearable burden of tight money on housing, small business, and state and local governments.

Had there been standby authority for temporary income tax increases, subject to Congressional veto, on the books in 1966—in other words, if President Johnson could have activated an anti-inflationary tax increase without a bruising battle in Congress, not only over taxes as such, but over Vietnam—I think the odds are reasonably good that we would have had a surtax in 1966 and a correspondingly less stringent monetary crunch. Or even if such standby authority would have meant that the President could have activated a temporary surtax promptly in August of 1967, rather than going through ten months of fiscal fiddling while the inflationary fires burned, we would have been vastly better off in our battle against inflation.

The reluctance of Congress to give up any part of its fiscal prerogatives is understandable. Its refusal even to consider President Kennedy's request in 1952 to give him limited standby authority to reduce taxes in the face of recession is perhaps even more understandable. But what is more difficult to understand is the unwillingness to consider a carefully circumscribed grant of Congressional authority to Presidents to *increase* taxes temporarily, always subject to Congressional veto, to help subdue inflation.

Indeed, I'm surprised that the Congress is unwilling to put the anti-inflationary tax monkey precisely where it belongs, namely, on the back of the President. Let's face it, we live in an inflation-prone economy. If the President is to deal effectively with recurrent upsurges of inflationary pressure in a responsible way—i.e., without passing the buck to the Federal Reserve System and forcing it to turn the monetary screw far too tight—he must be given the power to put on the fiscal brakes in a hurry, not just on the budget but on the tax side.

Even with this power in hand, Presidents may be reluctant to use it. But if they are, the responsibility for failure to cope with inflationary pressures will be clear and unmistakable. And if this failure leads to excruciatingly tight money, again, this blame will be placed where it belongs.

Effective policy calls for sharply focused responsibility. In stabilization policy, that responsibility should be vested in the White House in a clear and unequivocal way. It is not clear how else we are to get the right policy mix and to avoid continued over-reliance on monetary tools to fight inflation—an over-reliance that inevitably hurts home building, the weak and small members of the business community, and the school districts and other state and local governments that find themselves at the far end of the queue in the capital markets.

A direct grant of standby authority to the White House would be the best way to implement the foregoing recommendations. But if the Congress would be less reluctant to lodge the authority in the hands of a special commission or council including, among others, the chairman of the Federal Reserve Board, this route would be more than acceptable.

It is so important to overcome the too-little-too-late syndrome of fiscal policy that one should try one formula after another in the hope of overcoming Congressional reluctance to yield its authority on this front. If it adamantly refuses to do so, there are a couple of other routes that might be tried:

One would be to have the Congress itself prepare a "pre-cooked" tax increase or tax cut that could be activated quickly by joint Congressional resolution at the request of the President.

Another possibility, suggested by Herbert Stein, would be to have the President each January call for a positive or negative income surtax to be the first order of business for the Congressional taxing committees.

CONCLUSION

The balance of risks in today's economy has clearly shifted. The pressures of inflation are beginning to subside while the perils of idleness and slack continue to mount. It is high time for economic policy—especially monetary policy—to respond to this shift with a decisive and sustained move toward expansion. This is not a plea to open the expansionary throttle wide, but to stop "riding the brake" and start using the accelerator again.

CREDIT UNION ASKS, "CAN WE WAVE OR DISPLAY THE FLAG TOO MUCH?"

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, the nearly 24,000 credit unions in this country are living examples of one of the things that have made our country great—people getting together to help one another. This was how America was built and the credit unions, through their neighbor-lending-to-neighbor philosophy, are continuing that spirit of pioneer America.

The very concept of a credit union is highly patriotic in itself, and the Des Moines Telco Credit Union has added to that display of patriotism. The credit union has sent all of its members and friends of the credit union a miniature flag decal, as well as a reproduction of the Constitution of the United States of America. Accompanying the two items is a letter printed on red, white, and blue stationery, signed by Mr. Lyle E. Johnson, manager/assistant treasury of the credit union. In his letter, Mr. Johnson says:

> We wish to emphasize that there are no political connotations connected with this letter. We simply feel that the great events of our past, present and future are wrapped up in our flag. It means many things to many people, but most important of all it should mean something right and good to all of us. It is a symbol of this great nation. Join with us. Thank God for our great, free country. Display our flag proudly.
>
> Can we display or wave it too much? You be the judge.

Credit unions are not allowed behind the Iron Curtain. We are very proud of credit unions in the United States.

Mr. Speaker, I salute the Des Moines Telco Credit Union for furthering the cause of patriotism and for helping to build a greater America.

CREDIT UNIONS ONCE AGAIN GET THE CALL TO HELP THE LITTLE MAN

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, last week the Department of Housing and Urban Development announced that a grant of nearly $200,000 was being awarded to the National Association of Housing and Redevelopment officials to provide training for credit union leaders in the housing areas. The housing officials will work in cooperation with the National Credit Union Administration in training credit union leaders who, after returning to their public housing areas, will train other volunteers in the area.

This type of program has been highly successful in the past in training hundreds of credit union volunteers in low-income areas. The initial program, Project Moneywise, was established under a grant from the Office of Economic Opportunity and later authorization was obtained for funding of the training program through the Office of Health, Education, and Welfare. Unfortunately, funds were not appropriated for this worthwhile project during the current fiscal year and it appears that there is a strong possibility that no funds will be appropriated in the coming fiscal year.

The grant by HUD will help keep Project Moneywise, or a similar version of the program, going but will not provide enough funds to allow the program to operate on a wide-enough basis.

Mr. Speaker, the program of training credit union volunteers has been one of the most outstanding weapons in the war against poverty, for it is a program of self-help and does not represent a handout. Because of this, additional funds should be appropriated for programs such as Project Moneywise.

SURVEY RESULTS

(Mr. BROYHILL of North Carolina asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. BROYHILL of North Carolina. Mr. Speaker, during the 8 years it has been my privilege to serve as a Member of the House of Representatives, it has been my practice to seek opinions and comments of the residents of my district through formal public opinion polls. These surveys have afforded a quick and effective means for residents to make known their views on a wide variety of national issues and have been very useful to me in my efforts to speak for the people of the district. Earlier this year, such a poll was taken of the 10th Congressional District of North Carolina and I should like to bring to the attention of the Congress the tabulation of the survey.

The poll consisted of 18 questions and was widely distributed by mail and through newspapers. There was no effort to restrict the distribution of the poll or to affect the results by limiting it to any particular interest or economic group. This tabulation represents, then, I believe, a broad sample of prevailing opinion in the eight counties of my district.

There were 5,452 responses tabulated in these results. In addition, I made the poll broadly available this year for the first time to the district's high schools. It has been strongly indicated to me that students have a deep and continuing involvement in national affairs and I wished to provide them with a chance to express themselves fully. A total of 5,124 students availed themselves of this opportunity and their views are tabulated separately below so that these opinions can be readily compared with the attitudes of the adult population of the district. While the young people, in general, tended to agree with their parents, it was clear from the results of the survey that they have strong and independent views of their own.

Although the issues represented in the poll cover a wide variety of topics, it was clear that thousands of those participating were not satisfied with a declaration of views on a simple "yes" or "no" basis. The thoughtful comments they added provided an understanding of their opinions in far greater depth than would have been possible otherwise. Summarizing these comments statistically is not possible, but I would like to discuss some of the more obvious trends which these explanatory remarks have made possible.

It was clear in the poll that President Nixon's policy of gradual withdrawal of American forces from Southeast Asia and the Vietnamization of the war has had overwhelming support of the people of the district. A total of 90 percent of the adults responded in support of the policy while 72 percent of the students indicated approval. Six percent of the adults expressed disapproval, most of these advocating immediate withdrawal. At the same time, 15 percent of the students disapproved of the policy. There was a marked undecided factor of 13 percent among the students, although there was less indecision about the question of the war than on any other issue among the young people.

A great majority of the expressions of opinion about the war in this survey were made before the U.S. military operation against the Communist sanctuaries in Cambodia. What effect this event and the subsequent disorders would have had on the outcome of this question is speculative. However, there have been broad and continuing assertions of support for the Nixon policy since that time, as well.

The views in the poll showed concern about inflation to be second only to the war in Vietnam in assessing the problems facing the American people. Congress was criticized for its insistence upon adding additional appropriations which will assure continuing deficit financing. Fifty-seven percent of the adults believed that spending for even the most desirable Federal programs should be cut back until inflation is brought under control. This view was not shared by the student group where cuts in important or essential programs were opposed.

Recognizing the serious threat of increasing textile imports, 77 percent of the adults favored legislation to regulate imports based upon a share of the U.S. domestic market. It is this concept which is part of the Mills bill which is about to be debated in the House of Representatives as a means for assuring the healthy development of our domestic markets. Free trade without restrictions was more strongly supported by the student group, where only 43 percent supported import-curbing legislation.

Pay-TV found a majority of opposition among both adults and students, with older citizens particularly fearful that the fee television will destroy quality programing now available without charge. A broadened school lunch program drew general support so long as additional aid was directed toward children from needy families. For the first time in these polls, however, there was considerable dissatisfaction expressed with Federal subsidies for children from families which can afford to defray all or a greater share of the cost.

Adults and students opposed the plan for public operation of railroad passenger service. Outlawing farm strikes and a settlement of labor disputes by a Farm Labor Relations Board was given strong support, and the question drew particularly sharp comment about what was alleged to be a growing misuse of the right to strike against the public interest.

Reform of the welfare system drew a heavy endorsement. Still, so many of those responding so vigorously opposed the concept of the guaranteed annual income that the results of this question are in doubt. Anticrime laws should also be strengthened to provide the Federal Government jurisdiction in the prosecution of charges of bribery of State and local officials in illegal gambling matters. Such an anti-Mafia measure received the most overwhelming support of all the issues in the poll.

Far less support was given to the abolition of occupational and educational deferments from the Selective Service System. Only 47 percent of the adults and 24 percent of the students agreed with the plan to do away with these deferments. Still, there were large undecided factors with large numbers of comments recognizing the inequities of the draft which fall most heavily upon children of poor families. Such remarks indicated strong support for an all-volunteer Army as a possible means for coping with the unfairness in the present system of involuntary military service.

Antiwater pollution programs received strong support as did measures for dealing with air pollution. Mandatory retirement of Federal judges was approved by a large majority, as the increasing powers of the Federal courts were viewed with concern and disapproval in a large number of comments. A majority of the people in the poll want less spending for space exploration and support studies of population control measures in future years.

Stronger police authority received support as 62 percent of the adults participating and 54 percent of the students would allow entry into premises without knocking where narcotics law violations are suspected.

The detailed results of the poll are as follows:

[In percent]

	Adults			Students		
	Yes	No	Undecided	Yes	No	Undecided
1. Do you support the present policy of gradual withdrawal of U.S. troops from Vietnam and turning over to the South Vietnamese responsibility for their own defense?	90	6	4	72	15	13
2. Do you favor legislation regulating imported products based upon a percentage of the U.S. domestic market?	77	10	13	43	17	40
3. Do you believe inflation requires broad reductions in Federal spending extending even to such fields as education, medical research, and library assistance?	57	31	12	35	42	23
4. Should the United States withdraw all or a substantial percentage of our troops from Western Europe?	50	34	16	43	36	21
5. Do you believe Congress should act to prohibit pay–TV?	60	27	13	55	28	17
6. Would you support a bill to provide free or reduced-price school lunches to an additional 3,200,000 needy children costing $100,000,000 a year?	56	33	11	66	17	17
7. Should a public corporation be established to take over railroad passenger service to assure that such service continues?	35	43	22	39	26	35
8 Do you favor legislation establishing a Farm Labor Relations Board to review farm labor disputes while outlawing strikes that would cause permanent loss or damage to crops?	64	21	15	59	16	25
9. Do you favor reform of the public welfare program to provide incentives to work and a minimum welfare payment from the Federal Government?	80	11	9	60	16	24
10. Should it be a Federal crime to bribe State and local government officials in matters dealing with illegal gambling?	85	9	6	71	15	14
11. Should changes in the Selective Service Act eliminate occupational and educational deferments except for students of medicine, dentistry, and the ministry?	47	40	13	24	50	26
12. Do you feel the Federal Government should increase spending to acquire park lands for recreational and conservation purposes?	51	38	11	61	20	19
13. Do you favor a program to combat water pollution by constructing municipal waste treatment facilities costing $4,000,000,000 in Federal funds and $6,000,000,000 in State and local funds over 5 years?	79	10	11	69	9	22
14. Should the Constitution be amended to provide a mandatory age for the retirement of Federal judges?	75	15	10	47	24	29
15. Do you believe spending for the space program should be reduced?	65	26	9	54	30	16
16. Do you favor a Federal study on U.S. population growth and possible methods of control?	64	24	12	59	19	22
17. Should judges be empowered to issue search warrants allowing entry into premises without knocking in cases where violation of narcotics laws is suspected?	62	32	6	54	28	18
18. Do you favor increased Federal authority and financial assistance in the establishment and enforcement of air quality standards?	70	15	15	53	34	13

SUPPORT FOR PRESIDENT

(Mr. BROYHILL of North Carolina asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. BROYHILL of North Carolina. Mr. Speaker, in these days of bitter argument concerning the war in Vietnam, the human values of this tragic conflict are often in question. Too often, it seems to me, expert propagandists cast serious aspersions upon the purposes of our involvement and a distorted view is left with the American people.

A short time ago, Mr. Noah A. Pitts of Morganton, N.C., a young veteran of Vietnam service who is now attending college in North Carolina, wrote a letter of sincere support of the Nixon administration's policies in Southeast Asia. There is no doubt that his views have been strongly influenced by a deeply impressed personal experience with the people of one village in Vietnam. I want to share this young man's letter with the Congress since, as he puts it, it tells another side of the Vietnam story. It is a story of tragedy, persistence, and hope which may be far more typical of the strains in this conflict than many Americans have believed. Mr. Pitts' letter is as follows:

Congressman BROYHILL: I am a senior at Pfeiffer College and I would like to reaffirm my support for the Administration's policy in Viet Nam and President Nixon's decision to send American troops into Cambodia. I went to Washington last November along with 50 other Pfeiffer College students to sound our support for the Administration's Viet Nam policy then, and I would like to again show my support by letter.

During these past months, especially these past weeks in which the President sent our troops into Cambodia, I have become increasingly despondent over the reaction to the President's decision by the students, the news media, and certain political factions. As a Viet Nam veteran I can assure you that I have seen the other side of the Viet Nam story that few if any Americans know exists. Another side that consists not of Mai Lai, not of the black market, but of a people fighting no less than a battle of survival. These people, the peasants and small farmers of South Vietnam, have shown me such an indomitable spirit under such to an American unimaginable conditions that I feel nothing but despair and shame when I see and hear certain factions demand an early Viet Nam pullout before President Nixons' Vietnamization policy has been fully carried to its conclusion.

I would like to cite one example of this spirit. In February of 1969 my battalion, the 7th of the 15th Artillery in the Bong Son area, learned of a small village in Viet Cong controlled territory that wanted to build a schoolhouse. The old schoolhouse had been destroyed by Viet Cong raiders a year before, and the new schoolteacher, a former villager just returned from the university, contacted our security officer concerning the villagers' wish. Our security officer on his own initiative secured a truckload of cement and other building materials from the 2nd Battalion, 173rd AB Brigade, and several volunteers, myself among them, to take the supplies out to the villagers.

We did this, and within a few weeks their beautiful new schoolhouse was a reality. This should have been the happy end to a minor incident but as we found out it was only the beginning. Within a week after its completion, the school lay in ruins, four women and six children were dead, decapitated, and strung upside down on poles in the village square, and several other boys missing as hostages. The Viet Cong, under cover of darkness and a withering mortar barrage, had invaded the village, wrought this destruction, and warned the villagers that further co-operation with Americans would bring new reprisals.

Again the schoolteacher asked only for new materials for a school, and again we brought the necessary goods, and again the new schoolhouse took shape, and again the Viet Cong struck with horrifying results. This process was repeated a third time, and as we entered the village for the third time, I fully expected to see at least a reluctance at our presence. Instead these stoic and courageous people greeted us almost as brothers. The schoolteacher, himself a doomed man with a $200.00 Viet Cong price on his head, pleaded with me to tell my people how it is over there when I got home, and I am doing so now. I hope you will tell those who really count how it is over there.

I urge you, sir, to do all in your power to defeat any legislation that curtails President Nixon's powers in South Vietnam and in Cambodia. We have given much, but if we stop giving before the South Vietnamese are fully ready to assume their own defense, then we, the American people will be guilty of the death of a people, not hundreds, not thousands, but hundreds of thousands of them.

Very respectfully yours,

NOAH A. PITTS.

LIMITATION ON PRESIDENT'S POWER TO MAKE WAR

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am today introducing a bill to limit the authority of the President of the United States to intervene abroad or to make war without the express consent of the Congress. A number of bills have already been introduced on this subject in recent months, including particularly H.R. 17598 by the gentleman from Florida (Mr. Fascell), with a number of cosponsors, and H.R. 18205 by the gentleman from Illinois (Mr. Findley), also with a number of cosponsors.

I am in agreement with the sponsors of these measures that it is esential for the Congress to reassert its authority in this area. This is so not only because of our experience in Indochina, but also because in recent weeks President Nixon seems to be asserting that the President, in his role as Commander in Chief of the Armed Forces, has full authority to carry on hostilities abroad and that this authority is not subject to limitation by the Congress. This assertion of power by the President seems to be in direct contravention of the authority to declare war which was granted to the Congress in the Constitution, and which should not become a nullity simply because declarations of war have in recent decades gone out of fashion.

Upon first examination of the Fascell bill, H.R. 17598, I was much impressed by it, and indeed I introduced an identical bill, H.R. 17915. However, after further reflection and after studying the testimony of a number of witnesses who have appeared before the Subcommittee on National Security Policy and Scientific Development in its hearings on the Fascell bill and like measures, I have come to the reluctant conclusion that what the Fascell bill attempts to do is impossible.

The basic thrust of the Fascell bill is to attempt to define the situations in which the President shall have the authority to deploy Armed Forces of the United States outside the United States or any territory for "other than peaceful purposes." The bill specifically states that "the President of the United States shall not deploy Armed Forces of the United States outside the United States or any territory subject to its jurisdiction" except as provided in the bill.

There are two difficulties with this approach. First, I believe it is simply impossible to spell out all the contingencies in which the President ought to be able to move quickly without the specific authorization of the Congress. As legislators—indeed as human beings—we are simply not wise to enough to be able to think of all the contingencies that might arise. Of course, one could readily draw up a list of contingencies that would be more complete than the ones set forth in the Fascell bill, but the Congress and the American people could never be sure that the list was complete.

The second problem with the Fascell bill approach is that, once the President finds that he has authority to deploy American forces—and presumably engage in hostilities—abroad, all he has to do is to notify Congress to that effect. From then on, he has a blank check to do whatever he pleases. This situation is all too reminiscent of the one that followed the passage of the Tonkin Gulf resolution.

In other words, the Fascell bill, while intending to limit the authority of the President, might in the end greatly broaden it and leave Congress with no mechanism whereby the authority granted to the President might be withdrawn or revoked.

The Findley-Javits bill also attempts to specify the circumstances under which the President may engage in hostilities in the absence of a declaration of war, but provides that the authority so granted may be promptly terminated by joint resolution of the Congress and in any case shall not extend beyond 30 days unless specifically approved in "affirmative legislative action" by the Congress. The bill contains provisions designed to assure that the action of the Congress, either to affirmatively approve what the President has done or to disapprove it, may not be frustrated by use of a filibuster.

Again, the attempt to set forth the contingencies under which the President is authorized to initiate hostilities is, in my judgment, unsuccessful, in the sense that the President's hands might be tied under circumstances that could prove tragic. For example, it is not at all clear that President Truman could have acted as fast as he did in Korea in 1950 if the Findley bill—or the Fascell bill—had been previously enacted into law. It is easy to imagine a similar situation developing in the Middle East if Israel were to be the victim of a sudden attack by the Soviet Union and the Arab States together; I doubt that many Members of the House would want to see the President unable to react immediately. Yet neither the Findley-Javits bill nor the Fascell bill covers such a contingency.

The Findley-Javits bill suffers from another grave drawback, to wit, that, if the Congress does act during the 30-day period to authorize the President to carry on the hostilities in question, then, as in the case of the Fascell bill, the President has a blank check to proceed as he sees fit from there on out. The Congress might well be swept up in the enthusiasm of the moment to give the President authority that it might later regret. Again, our dismal experience under the Tonkin resolution comes to mind.

Bearing in mind what seems to me the shortcomings of the Fascell bill and of the Findley-Javits bill, I have with some trepidation attempted to draft a bill which draws upon both but differs from both. The essential idea of my bill is to give to the President broad authority to move quickly under a variety of circumstances, but to provide that this authority can be annulled at any time by adverse action in either House of the Congress.

I have attempted to draw up a series of contingencies under which the President would be authorized to engage in hostile action which is broader than the set of contingencies contained either in the Fascell bill or the Findley-Javits bill.

In my bill the President would not be required to obtain affirmative authorization from the Congress within 30 days as provided in the Findley-Javits bill. The main reason for this is to avoid the open-ended authority thereafter that strikes me as so dangerous.

The idea that either House of the Congress should have the authority to annul the President's temporary authority to conduct hostilities has a precedent in the Executive Reorganization Act. There are, of course, differences. First, under the Executive Reorganization Act, the President merely submits a proposal to the Congress which he cannot carry out if either House disapproves, and second, the disapproval by either House must come within 60 days.

Obviously in the case of military hostilities, the President would be unduly restricted if he could only submit a proposal. The question of whether a time limit should be imposed on the power of either House to disapprove is more difficult. I have come to the conclusion that there should be no such time limit. In doing so, I have again had in mind the experience we have had in Indochina under the Tonkin Gulf resolution.

In effect, what my bill is saying is that the Congress should be in a position to change its mind about the desirability of the continuation of certain hostilities at any point in time. Clearly the President has that right. The Congress should have no less.

The question will no doubt be posed, why would it not be sufficient to provide that the Congress acting through joint or concurrent resolution would be able to annul the authority of the President? My feeling about this is that the authority of the President to carry on hostilities against a foreign power is so far reaching and so extraordinary that it should not be extended beyond the point at which one House of the Congress decides by a majority vote that it should be terminated. There is, I believe, a sound rationale for this conclusion.

What we are talking about here is the question to what extent the President should have authority to deploy armed forces overseas and carry on hostilities without a declaration of war or a specific authorization by the Congress. Now either a declaration of war or a specific authorization would require the concurrence of both Houses. If either House decided that it was unwise to give the President such authority that would be sufficient to prevent the authority from being exercised. It follows that, where no express authorization is conferred by the Congress, disapproval by one House should be sufficient to terminate the temporary authority granted under the law to provide for emergency contingencies.

The text of the bill I am introducing is as follows:

H.R. 18539

A bill to limit the authority of the President of the United States to intervene abroad or to make war without the express consent of the Congress

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States, in the absence of a declaration of war or specific authorization of the Congress, shall not deploy Armed Forces of the United States outside the United States or any territory subject to its jurisdiction for other than peaceful purposes and shall not direct or authorize Armed Forces of the U.S. to engage in any hostile action against the Armed Forces, territory or nationals of any foreign power, except that the President is authorized to take such action—

(1) When he finds that the United States or any territory subject to its jurisdiction is under attack or imminent threat of attack; or

(2) When he finds that such action is necessary to protect the lives of United States nationals; or

(3) When he finds that such action is necessary to repulse an attack or imminently threatened attack upon Armed Forces of the United States; or

(4) When he finds that such action is necessary to comply with an obligation of the United States contained in a duly ratified treaty or agreement approved by the Congress; or

(5) When he finds that such action is necessary to prevent the destruction of a friendly state as a result of aggression by hostile forces and that timely collective action pursuant to the Charter of the United Nations or other international organization cannot reasonably be anticipated.

As soon as possible, and not later than twenty-four hours, after making such finding, the President shall notify the Congress of his finding and of all action he has taken pursuant to it, together with the reasons therefor. In the event the Congress is not in session, the President shall convene the Congress in extraordinary session.

Sec. 2. (a) The authority conferred upon the President under Section 1 to deploy Armed Forces of the United States and to direct or authorize such Armed Forces to engage in hostile action, in the absence of a declaration of war or specific authorization of the Congress, shall terminate upon the adoption by either House of the Congress of a resolution disapproving continuance of the action taken.

(b) Any such resolution of disapproval shall, if sponsored or cosponsored by one-third of the Members of the House of Congress in which it originates, be considered reported to the floor of such House no later than one day following its introduction, unless the Members of such House otherwise determine by yeas and nays and any resolution so reported shall immediately become the pending business of the House to which it is reported, and shall be voted upon within three days after such report, unless such House shall otherwise determine by yeas and nays.

(c) Upon the adoption of any such resolution of disapproval, the President shall proceed at once to effectuate the immediate withdrawal to the U.S. or any territory subject to its jurisdiction of the U.S. forces involved, having due regard to the need to protect such forces from attack while in the process of withdrawal.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Burke of Florida (at the request of Mr. Gerald R. Ford), for the week of July 20, 1970, on account of official business.

Mr. Ryan of New York (at the request of Mr. Koch) for week of July 20, 1970, on account of illness.

Mr. Pepper of Florida (at the request of Mr. Albert) for today on account of official business.

Mr. Gray of Illinois (at the request of Mr. Boggs) for today and the balance of the week on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Railsback) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. Halpern, for 5 minutes, today.

Mr. Meskill, for 5 minutes, today.

Mr. Hogan, for 20 minutes, today.

Mr. Miller of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. Patten) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. Minish, for 10 minutes, today.

Mr. Leggett, for 60 minutes, on July 23.

EXTENSION OF REMARKS

By unanimous consent, to revise and extend remarks was granted to:

Mr. Pollock to revise and extend his remarks before passage of S. 778.

(The following Members (at the request of Mr. Railsback) and to include extraneous matter:)

Mr. Vander Jagt.
Mr. Scherle in five instances.
Mr. Halpern
Mr. Horton in four instances.
Mr. Burton of Utah in five instances.
Mr. Carter.
Mr. Springer.
Mr. Burke of Florida.
Mr. Clancy.
Mr. Broyhill of Virginia in two instances.
Mr. Ashbrook.
Mr. Wyman in two instances.
Mr. King in two instances.
Mr. Hunt in two instances.
Mr. Minshall in two instances.
Mr. Foreman.
Mr. Snyder in two instances.
Mr. Keith in two instances.
Mr. Robison.
Mr. Morse.
Mr. Fulton of Pennsylvania in 10 instances.
Mr. Shadeberg.
Mr. Biester.
Mr. Landgrebe.
Mr. Lukens.
Mr. Hogan.

(The following Members (at the request of Mr. Pattern) and to include extraneous matter:)

Mr. Waldie in three instances.
Mr. Montgomery.
Mr. Monagan in two instances.
Mr. Stokes in three instances.
Mr. Long of Maryland.
Mr. Adams.
Mr. Eilberg in three instances.
Mr. O'Neill of Massachusetts in two instances.
Mr. Jacobs.
Mr. Burke of Massachusetts in two instances.
Mr. Griffin in three instances.
Mr. Anderson of California.
Mr. Murphy of New York.
Mr. Bingham in four instances.
Mr. Rees in three instances.
Mr. Fountain in three instances.
Mr. Kluczynski in two instances.
Mr. Fisher in four instances.
Mr. Hébert.
Mr. Harrington in two instances.
Mr. Teague of Texas in 10 instances.
Mr. Holifield.
Mr. Podell.
Mr. Scheuer.
Mr. Baring in two instances.
Mr. Reuss in six instances.
Mr. Tiernan.
Mr. Conyers in five instances.
Mr. Rodino.
Mr. Wolff in two instances.
Mr. Eckhardt.
Mr. Hathaway.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 311. An act for the relief of James Glen Ramsay; to the Committee on the Judiciary.

S. 878. An act for the relief of James E. Miller; to the Committee on the Judiciary.

S. 1422. An act for the relief of Donal E. McGonegal; to the Committee on the Judiciary.

S. 1804. An act for the relief of William H. Morning; to the Committee on the Judiciary.

S. 1830. An act to provide for the settlement of certain land claims of Alaska natives, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2755. An act for the relief of Donal N. O'Callaghan; to the Committee on the Judiciary.

S. 2834. An act for the relief of John Borbridge, Jr.; to the Committee on the Judiciary.

S. 3138. An act for the relief of Ruth E. Calvert; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that the committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 14452. An act to provide for the designation of special policemen at the Government Printing Office, and for other purposes; and

H.R. 14453. An act to authorize the Public Printer to grant time off as compensation for overtime worked by certain employees of the Government Printing Office, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The Speaker announced his signature to enrolled bills of the Senate of the following titles:

S. 759. An act to declare that the United States holds in trust for the Washoe Tribe of Indians certain lands in Alpine County, Calif.;

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S. 1046. An act to protect consumers by providing a civil remedy for misrepresentation of the quality of articles composed in whole or part of gold or silver and for other purposes;

S. 1456. An act to amend section 8c(I) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, so as to permit marketing orders applicable to apples to provide for paid advertising; and

S. 3274. An act to implement the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

BILLS PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration reported that that committee did on July 16, 1970, present to the President for his approval bills of the House of the following titles:

H.R. 7517. An act to amend the Canal Zone Code to provide cost-of-living adjustments in cash relief payments to certain former employees of the Canal Zone Government, and for other purposes;

H.R. 11766. An act to amend title II of the Marine Resources and Engineering Development Act of 1966;

H.R. 12758. An act to authorize the Secretary of the Interior to establish a volunteers in the park program, and for other purposes; and

H.R. 16595. An act to authorize appropriations for activities of the National Science Foundation and for other purposes.

ADJOURNMENT

Mr. PATTEN. Mr. Speaker I move that the House do now adjourn.

The motion was agreed to; accordingly, at 5 o'clock and 54 minutes p.m., the House adjourned until tomorrow, Tuesday, June 21, 1970, at 12 o'clock noon.

MOTION TO DISCHARGE COMMITTEE

JUNE 11, 1970.

TO THE CLERK OF THE HOUSE OF REPRESENTATIVES:

Pursuant to clause 4 of rule XXVII (see rule on page 7), I, MARTHA W. GRIFFITHS, move to discharge the Committee on the Judiciary from the consideration of the joint resolution (H.J. Res. 264) entitled "A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women," which was referred to said committee January 16, 1969, in support of which motion the undersigned Members of the House of Representatives affix their signatures, to wit:

1. Martha W. Griffiths.
2. Thomas M. Rees.
3. Charles A. Vanik.
4. Henry B. Gonzalez.
5. Lloyd Meeds.
6. Edith Green.
7. Roman C. Pucsinki.
8. Abner J. Mikva.
9. Richard T. Hanna.
10. Margaret M. Heckler.
11. Claude Pepper.
12. William L. Clay.
13. Samuel N. Friedel
14. Clarence D. Long.
15. Richard L. Ottinger.
16. Henry Helstoski.
17. Shirley Chisholm.
18. Augustus F. Hawkins.
19. John E. Moss.
20. Frank Annunzio.
21. Edwin W. Edwards.
22. Allard K. Lowenstein.
23. Donald M. Fraser.
24. Lionel Van Deerlin.
25. John Buchanan.
26. George H. Fallon.
27. Florence P. Dwyer.
28. Benjamin S. Rosenthal.
29. Harley O. Staggers.
30. James A. Byrne.
31. Floyd V. Hicks.
32. Harold R. Collier.
33. Glenn M. Anderson.
34. Harold T. Johnson.
35. Wayne L. Hays.
36. Mario Biaggi.
37. Thomas E. Morgan.
38. William S. Moorhead.
39. William T. Murphy.
40. Edward I. Koch.
41. Kenneth J. Gray.
42. Jeffery Cohelan.
43. Robert H. Mollohan.
44. Brock Adams.
45. Arnold Olsen.
46. Frank E. Evans.
47. Robert N. C. Nix.
48. Edward P. Boland.
49. Ray J. Madden.
50. David R. Obey.
51. Richard H. Fulton.
52. Joseph P. Addabbo.
53. Spark M. Matsunaga.
54. Cornelius E. Gallagher.
55. Robert W. Kastenmeier.
56. Walter S. Baring.
57. George E. Brown, Jr.
58. Sam Gibbons.
59. Charles H. Griffin.
60. James A. Burke.
61. Don Edwards.
62. John Jarman.
63. Charles W. Whalen, Jr.
64. Samuel S. Stratton.
65. Frank Horton.
66. James G. Fulton.
67. Harold D. Donohue.
68. Philip J. Philbin.
69. Edward A. Garmatz.
70. Andrew Jacobs, Jr.
71. Lester L. Wolff.
72. Joseph G. Minish.
73. Joe L. Evins.
74. Keith G. Sebelius.
75. John Wold.
76. Edwin D. Eshleman.
77. Paul Findley.
78. William S. Broomfield.
79. Earle Cabell.
80. Richardson Preyer.
81. William A. Barrett.
82. John C. Kluczynski.
83. James Kee.
84. Wilbur D. Mills.
85. Robert M. Giaimo.
86. Tom Steed.
87. William L. Springer.
88. John V. Tunney.
89. Morris K. Udall.
90. Julia Butler Hansen.
91. Glenn Cunningham.
92. Richard L. Roudebush.
93. Wayne N. Aspinall.
94. Seymour Halpern.
95. Tom S. Gettys.
96. John J. McFall.
97. Walter B. Jones.
98. Martin B. McKneally.
99. Robert L. F. Sikes.
100. John E. Hunt.
101. Clark MacGregor.
102. Jonathan B. Bingham.
103. B. F. Sisk.
104. Michael Harrington.
105. Ogden R. Reid.
106. Frank M. Clark.
107. James C. Corman.
108. Thomas P. O'Neill Jr.
109. Alton Lennon.
110. Torbert H. MacDonald.
111. Melvin Price.
112. Carleton J. King.
113. Donald E. Lukens.
114. John M. Slack.
115. John Brademas.
116. Catherine May.
117. Joseph E. Karth.
118. Tom Bevill.
119. Otto E. Passman.
120. W. C. Daniel.
121. George E. Shipley.
122. Chet. Holifield.
123. John W. Davis.
124. Robert E. Jones.
125. Charles S. Gubser.
126. Gilbert Gude.
127. Barry M. Goldwater, Jr.
128. Frank J. Brasco.
129. John Melcher.
130. Carl D. Perkins.
131. Dante B. Fascell.
132. Thomas S. Foley.
133. Joseph M. Gaydos.
134. Nick Galifianakis.
135. David Pryor.
136. Brad Morse.
137. Phil M. Landrum.
138. J. J. Pickle.
139. John H. Dent.
140. Bill Nichols.
141. Paul G. Rogers.
142. Al Ullman.
143. Frank A. Stubblefield.
144. Charles C. Diggs, Jr.
145. Dominick V. Daniels.
146. Joseph P. Vigorito.
147. Robert O. Tiernan.
148. Bill D. Burlison.
149. Jack Brinkley.
150. William F. Ryan.
151. Barber B. Conable, Jr.
152. Don H. Clausen.
153. Philip M. Crane.
154. Bob Eckhardt.
155. Ed Edmondson.
156. Daniel J. Flood.
157. Edward R. Roybal.
158. Mendel Rivers.
159. Wright Patman.
160. Bill Alexander.
161. John M. Murphy.
162. Thomas L. Ashley.
163. John M. Zwach.
164. Fred Schwengel.
165. Richard D. McCarthy.
166. William D. Widnall.
167. Richard Bolling.
168. Henry S. Reuss.
169. Jerry L. Pettis.
170. Jacob H. Gilbert.
171. William R. Anderson.
172. Lee H. Hamilton.
173. John Conyers, Jr.
174. William H. Natcher.
175. Charles M. Teague.

176. Thaddeus J. Dulski.
177. Ray Blanton.
178. Leonard Farbstein.
179. John L. McMillan.
180. Jack McDonald.
181. Philip E. Ruppe.
182. Guy Vander Jagt.
183. John Young.
184. Lowell P. Weicker, Jr.
185. Daniel E. Button.
186. John Dowdy.
187. Silvio O. Conte.
188. James M. Hanley.
189. John H. Rousselot.
190. J. Irving Whalley.
191. John C. Culver.
192. Watkins M. Abbitt.
193. Peter Kyros.
194. Jim Wright.
195. Thomas M. Pelly.
196. Joel T. Broyhill.
197. James C. Cleveland.
198. Howard W. Robison.
199. Tim Lee Carter.
200. Hale Boggs.
201. Ben Reifel.
202. Charles H. Wilson.
203. G. William Whitehurst.
204. Dan Kuykendall.
205. Wilmer D. Mizell.
206. Charlotte T. Reid.
207. Alvin E. O'Konski.
208. Louis Frey, Jr.
209. James F. Hastings.
210. Sam Steiger.
211. R. L. Coughlin.
212. John J. Duncan.
213. John T. Rhodes.
214. Albert H. Quie.
215. John O. Marsh.
216. Rogers C. B. Morton.
217. Charles A Mosher.
218. John Dellenback.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2221. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report of a third-country transfer of U.S. origin defense articles to which the U.S. Government has given consent under the provisions of section 505(a)(4) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

2222. A letter from the Assistant Secretary of the Interior, transmitting a report on the Closed Basin division, San Luis Valley project, Colorado, pursuant to section 9(a) of the Reclamation Project Act of 1939 (53 Stat. 1187) (H. Doc. 91–369); to the Committee on Interior and Insular Affairs and ordered to be printed with illustrations.

2223. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according to certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2224. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated November 12, 1969, submitting a report, together with accompanying papers and illustrations, on Choptank River, Caroline County, Md., requested by a resolution of the Committee on Public Works, House of Representatives, adopted June 3, 1959. No. authorization by Congress is recommended as the desired improvement has been approved by the Chief of Engineers for accomplishment under the provisions of section 107 of the River and Harbor Act of 1960; to the Committee on Public Works.

2225. A letter from the Secretary of the Interior, transmitting the annual report on the National Visitor Center and all other visitor facilities authorized in accordance with Public Law 90–264; to the Committee on Public Works.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PATMAN: Committee of conference. Conference report on S. 3685 (Rept. No. 91–1311). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 18110. A bill to amend the Public Health Service Act to extend the programs of assistance to the States and localities for comprehensive health planning; with an amendment (Rept. No. 91–1312). Referred to the Committee of the Whole House on the State of the Union.

Mr. DAWSON: Committee on Government Operations. H.R. 18275. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the disposal of surplus Federal property for park and recreational uses, and for other purposes (Rept. No. 91–1313). Referred to the Committee of the Whole House on the State of the Union.

Mr. DULSKI: Committee on Post Office and Civil Service. Decennial Population Census and Congressional apportionment (Rept. No. 91–1314). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 1148. Resolution for consideration of S. 3978, an act to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971 (Rept. No. 91–1315). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1149. Resolution for consideration of H.R. 15913, a bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes (Rept. No. 91–1316). Referred to the House Calendar.

Mr. YOUNG: Committee on Rules. House Resolution 1150. Resolution for consideration of H.R. 18104, a bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to increase the amount of bonds which may be issued by the Tennessee Valley Authority (Rept. No. 91–1317). Referred to the House Calendar.

Mr. YOUNG. Committee on Rules. House Resolution 1151. Resolution waiving points of order against H.R. 18515, a bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1971, and for other purposes (Rept. No. 91–1318). Referred to the House Calendar.

Mr. STAGGERS: Network news documentary practices (Rept. No. 91–1319). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOLAND:

H.R. 18516. A bill to amend section 7275 of the Internal Revenue Code of 1954 (as added by the Airport and Airway Revenue Act of 1970) to permit airline tickets, with respect to the transportation of persons by air which is subject to Federal tax, as well as the advertising related thereto, to show the amount of such tax separately from the cost of the transportation involved; to the Committee on Ways and Means.

By Mr. CLANCY:

H.R. 18517. A bill relating to the control of organized crime in the United States; to the Committee on the Judiciary.

By Mr. CORMAN:

H.R. 18518. A bill to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FULTON of Pennsylvania:

H.R. 18519. A bill to amend the Internal Revenue Code of 1954 and title II of the Social Security Act to provide a full exemption (through credit or refund) from the employees' tax under the Federal Insurance Contributions Act, and an equivalent reduction in the self-employment tax, in the case of individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. MEEDS:

H.R. 18520. A bill to amend the Older Americans Act of 1965 to provide grants to States for the establishment, maintenance, operation, and expansion of low-cost meal programs, nutrition training and education programs, opportunity for social contacts, and for other purposes; to the Committee on Education and Labor.

By Mr. MICHEL:

H.R. 18521. A bill to repeal certain provisions of the Airport and Airway Development Act of 1970; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 18522. A bill to provide for a voluntary system of meeting the military manpower needs of the Nation; to the Committee on Armed Services.

H.R. 18523. A bill to provide Federal financial assistance to help cities and communities of the United States to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning, and to require an effective plan for the elimination of lead-based paint poisoning as a condition of Federal assistance under certain other programs; to the Committee on Banking and Currency.

By Mr. O'NEILL of Massachusetts:

H.R. 18524. A bill to repeal certain provisions of the Airport and Airway Development Act of 1970; to the Committee on Ways and Means.

By Mr. RODINO (for himself and Mrs. CHISHOLM):

H.R. 18525. A bill to amend section 620 of the Foreign Assistance Act of 1961 to suspend, in whole or in part, economic and military assistance and certain sales to any country which fails to take appropriate steps to prevent narcotic drugs produced or processed, in whole or in part, in such country from entering the United States unlawfully, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BOW:

H.R. 18526. A bill to assure performance of obligations undertaken by operators of international tour groups; to the Committee on Interstate and Foreign Commerce.

By Mr. ECKHARDT:

H.R. 18527. A bill to authorize the establishment of the Big Thicket National Park in the State of Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

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By Mr. FOLEY:

H.R. 18528. A bill to amend section 4182 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. FOREMAN:

H.R. 18529. A bill to repeal certain laws relating to Indians; to the Committee on Interior and Insular Affairs.

By Mr. FUQUA:

H.R. 18530. A bill to amend the Agricultural Adjustment Act of 1938 to authorize the sale of tobacco acreage allotments under certain conditions; to the Committee on Agriculture.

By Mr. HAGAN:

H.R. 18531. A bill to authorize the Secretary of Commerce to transfer surplus Liberty ships to States for use in marine life conservation and fishery programs; to the Committee on Merchant Marine and Fisheries.

By Mr. HECHLER of West Virginia:

H.R. 18532. A bill to end conscription under the Military Selective Service Act of 1967, to provide increased military pay and other benefits necessary to effect a voluntary system of meeting the military manpower requirements of the United States, and for other purposes; to the Committee on Armed Services.

By Mr. MESKILL:

H.R. 18533. A bill to establish an Intergovernmental Commission on Long Island Sound; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of Ohio:

H.R. 18534. A bill to amend the National Environmental Policy Act of 1969 to provide a program for honoring industry and other private efforts to contribute to the maintenance and enhancement of environmental quality; to the Commission on Merchant Marine and Fisheries.

By Mr. RIVERS:

H.R. 18535. A bill to amend title 10, United States Code, to authorize the Secretary of a military department to adjust the legislative jurisdiction exercised by the United States over lands or interests under his control; to the Committee on Armed Services.

By Mr. STUBBLEFIELD:

H.R. 18536. A bill to amend appropriate section of Omnibus Rivers and Harbors bill with respect to western Kentucky tributaries, Kentucky; to the Committee on Public Works.

By Mr. VANIK:

H.R. 18537. A bill to amend section 7275 of the Internal Revenue Code of 1954 (as added by the Airport and Airway Revenue Act of 1970) to require that airline tickets, with respect to the transportation of persons by air which is subject to Federal tax, show the amount of such tax separately from the cost of the transportation involved; to the Committee on Ways and Means.

By Mr. WATSON:

H.R. 18538. A bill to amend title IV of the Higher Education Act of 1965 to establish a Student Loan Marketing Association; to the Committee on Education and Labor.

By Mr. BINGHAM:

H.R. 18539. A bill to limit the authority of the President of the United States to intervene abroad or to make war without the express consent of the Congress; to the Committee on Foreign Affairs.

By Mr. HOWARD:

H.R. 18540. A bill to permit actions against the United States for damage to the good name and reputation of members of the Armed Forces wrongfully charged with committing certain crimes against civilians in combat zones, and for other purposes; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 18541. A bill to authorize the coinage of 50-cent pieces to commemorate the Apollo Moon Landing and to assist in the construction of the National Air and Space Museum; to the Committee on Banking and Currency.

By Mr. CHARLES H. WILSON (by request):

H.R. 18542. A bill to amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government; to the Committee on Government Operations.

By Mr. GERALD R. FORD:

H.J. Res. 1312. Joint resolution proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older; to the mittee on the Judiciary.

By Mr. KLEPPE:

H.J. Res. 1313. Joint resolution proposing an amendment to the Constitution of the United States extending the right to vote citizens 18 years of age or older; to the Committee on the Judiciary.

By Mrs. MAY:

H.J. Res. 1314. Joint resolution proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older; to the Committee on the Judiciary.

By Mr. MILLER of Ohio:

H.J. Res. 1315. Joint resolution proposing an amendment to the Constitution of the United States extending the right to vote to citizens 19 years of age or older; to the Committee on the Judiciary.

By Mr. RHODES:

H.J. Res. 1316. Joint resolution proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older; to the Committee on the Judiciary.

By Mr. WYATT:

H.J. Res. 1317. Joint resolution proposing and amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 18543. A bill for the relief of Mrs. Waclawa Tosta; to the Committee on the Judiciary.

By Mr. VANIK:

H.R. 18544. A bill for the relief of Dulcie Beatrice Morgan; to the Committee on the Judiciary.

By Mr. WYATT:

H.R. 18545. A bill for the relief of Clyde W. Deal; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

425. By the SPEAKER: A memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to an international conference to discuss the exploitation of fishery resources in international waters adjacent to the Atlantic shoreline; to the Committee on Foreign Affairs.

426. Also, a memorial of the Legislature of the State of California, relative to a national wildlife refuge for South San Francisco Bay; to the Committee on Merchant Marine and Fisheries.

427. Also, a memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to reimposition of the excess profits tax; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

547. By the SPEAKER: Petition of the 182d General Assembly, United Presbyterian Church in the United States of America, relative to equal rights for men and women; to the Committee on the Judiciary.

548. Also, petition of the Association for Grand Jury Action, Inc., Rochester, N.Y., relative to impeachment proceedings; to the Committee on the Judiciary.

549. Also, petition of Andrew Huggins, Avon Park, Fla., relative to redress of grievances; to the Committee on the Judiciary.

SENATE—*Monday, July 20, 1970*

The Senate met at 11 a.m. and was called to order by Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, infinite and eternal, who orders our daily walk and to whom all history belongs, speak to our hearts as we undertake the tasks of this new week. Send us to our waiting work with fresh vigor, high purpose and new wisdom. In all we do make us aware of Thy rulership, knowing that apart from Thee nothing endures. Make strong our faith in the omnipotence of good and the invincibility of righteousness. Keep us from satisfaction with the second best when perseverance and faith can achieve the very best. As we work lift our eyes to behold beyond the things which are seen and temporal, the things which are unseen and eternal.

In the name of the Sovereign Lord. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore of the Senate (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 20, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. ERNEST F. HOLLINGS, a Senator from the State of South Carolina, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. HOLLINGS thereupon took the chair as Acting President pro tempore.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HOLLINGS) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations received today, see the end of Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, July 17, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks by the distinguished Senator from Virginia (Mr. SPONG), there be a period for the transaction of routine morning business, with a time limitation of 3 minutes on statements made therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro temmore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on tomorrow, following the disposition of the Journal, the distinguished Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 20 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the executive calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination on the executive calendar will be stated.

The assistant legislative Clerk read the nomination of Glenn T. Seaborg, of California, to be a member of the Atomic Energy Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

MILTON KYHOS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1024, S. 2104.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. S. 2104, for the relief of Milton Kyhos.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Milton Kyhos, of Bladensburg, Maryland, the sum of $1,205 in full settlement of his claims against the United States arising out of costs incurred with respect to the termination of a lease by him incident to a change of official station required by his employment by the Government of the United States.

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1020), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to pay to Milton Kyhos, of Bladensburg, Md., the sum of $1,205 in full settlement of his claims against the United States arising out of costs incurred with respect to the termination of a lease by him incident to a change of official station required by his employment by the Government of the United States.

STATEMENT

The Department of the Treasury is opposed to enactment of the bill. In its report on the bill, the Treasury Department has said:

"The proposed legislation would authorize and direct the Secretary of the Treasury to pay the sum of $1,205 to Milton Kyhos in full settlement of his claims against the United States arising out of costs incurred with respect to the termination of a lease incident to a change of official status required by his employment by the Government of the United States.

Milton Kyhos is and was at the time in question a special agent in the Intelligence Division of the Internal Revenue Service. In 1967 he was stationed in Cumberland, Md., under the jurisdiction of the district director, Baltimore. Mr. Kyhos alleged that he was informed by Kenneth L. Wilson, his group supervisor, that the Cumberland office would close around July 1, 1967. (The group supervisor denied this allegation.) Mr. Kyhos stated that he relied on the group supervisor's alleged statement and engaged a real estate agent to sell his home in Cumberland. A buyer was found and a contract was signed on May 26, 1967. Mr. Kyhos alleged that shortly after signing the contract to sell the house he was informed by Elmer M. Stapleton, who at the time was the Chief, Intelligence Division, Baltimore, that the Cumberland office would not close before December 1, 1967. (This statement is the only evidence offered to prove that Mr. Kyhos was informed by the Chief, Intelligence Division, Baltimore, that the Cumberland office would not close before December 1, 1967. Our records do not indicate this statement was either affirmed or denied by Mr. Stapleton.) On June 10, 1967, Mr. Kyhos signed a lease for 1 year on a townhouse in Cumberland, Md. He alleged that leases for less than 1 year were not available. On June 28, 1967, the contract to sell the house in Cumberland was settled.

The Chief, Intelligence Division, notified Mr. Kyhos by telephone on July 17, 1967, that the Cumberland office would be closed and that he would be reassigned to the Washington, D.C. office. This telephone call was followed on July 28, 1967, by a letter from the district director, Baltimore. The letter notified Mr. Kyhos that he was reassigned to the Washington office starting October 1, 1967.

Mr. Kyhos filed a claim for reimbursement of the expenses of moving from Cumberland to Washington, including $1,100.75 for expenses related to selling his house. The claim for reimbursement of the expenses incident to selling the house was initially disallowed under the Internal Revenue Service's regulations governing employees' moving expenses. Under section 21.023 of the Internal Revenue Service's Manual Supplement 17G-124 (dated January 30, 1967) an employee claiming reimbursement for the expenses of selling a former residence must have been living in the residence at the time he was officially notified of his transfer. Mr. Kyhos appealed the decision to the Comptroller General. The Internal Revenue Service was reversed and Mr. Kyhos was reimbursed $1,100.75 for the expenses of selling the house. (Decision of the Comptroller General No. B-163043, dated January 31, 1968.) The decision stated that "* * * Mr. Kyhos sold his

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residence in Cumberland only because he believed that his transfer from that place had been definitely decided upon and * * * his transfer was officially ordered shortly thereafter * * *."

Mr. Kyhos later filed a claim for $1,320 for reimbursement of the expenses of terminating the lease on the townhouse in Cumberland. These expenses were $820 for damages for unpaid rent awarded in a lawsuit to Mr. Kyhos' former landlord and $500 for Mr. Kyhos' attorneys fees. This claim was disallowed under the Internal Revenue Service's regulations governing employees' moving expenses. Under section 21.01 of Internal Revenue Service's Manual Supplement 17G–124 (dated January 30, 1967) an employee is allowed reimbursement of "* * * expenses * * * in connection with the sale of one residence at [the] old duty station * * * or the settlement of an unexpired lease at [the] place of residence at the old station * * *." These regulations were issued pursuant to 5 U.S.C. Supp. IV, 5724a(a)(4), which allows reimbursement of "* * * expenses of the sale of the residence (or the settlement of an unexpired lease) * * *"

This decision was affirmed by the Claims Division of the General Accounting Office. A letter to Mr. Kyhos dated March 11, 1969, from the General Accounting Office explained that the regulations issued under 5 U.S.C. Supp. IV, 5724a(a)(4) allowed reimbursement of either the expenses of selling a former residence or the expenses of settling an unexpired lease at the old station. The letter concluded that "* * * since you elected reimbursement for the expenses required to be paid by you in connection with the sale of your residence at your old official station, there is no basis for the payment of expenses alleged to have been incurred in the settlement of your lease. * * *." In addition, the letter noted "* * * your decision to employ counsel does not obligate the United States to reimburse you for the legal services so obtained since such expenses are considered personal and advisory in nature."

Specific authority to issue regulations is contained in the same legislation providing for rembursement of the expenses in question. The regulations issued under this authority permit reimbursement of either (but not both) the expenses of selling a former residence or the expenses of settling an unexpired lease. These regulations are not an unreasonable interpretation of 5 U.S.C. Supp. IV, 5724a(a)(4), which is phrased in the disjunctive. Under the statue reimbursement is permitted for "* * * expenses of the sale of the residence (or the settlement of an unexpired lease) * * *."

Moreover, the same regulations, issued pursuant to the same statutory authority, require an employe to be living in the residence at the time he was officially notified of his transfer. These regulations are not unreasonable in providing for official notification as a prerequisite for reimbursement. Official notification is essential in order to prevent the type of confusion illustrated by the events in this case. Even assuming all of his allegations are correct, Mr. Kyhos incurred additional expenses because he acted before he received official notice of the closing of the Cumberland office.

Enactment of the proposed legislation would encourage any employee who felt that the particular circumstances of his situation merited special relief to seek legislative redress of a seemingly inequitable administrative determination even though the decision is consistent with uniform standards previously announced by Congress.

In addition, enactment of the proposed legislation would be unfair to other employees who have accepted administrative decisions as final adjudications of their claims. In the future, these employees, as well as other employees, would be reluctant to accept an administrative decision as a final determination of a claim.

Finally, ad hoc review and reversal of administrative decisions which are consistent with the legislation and regulations governing employees' moving expenses would yield arbitrary and inconsistent results. The resulting lack of certainty regarding the rules governing employees' moving expenses would make the management of employees more difficult.

The sponsor of the bill, the Honorable Joseph D. Tydings has written the committee as follows:

"Mr. Kyhos was ordered to move from Cumberland, Md., to Washington, D.C., in the spring of 1967 by his superiors in the IRS. Accordingly, he sold his home in Cumberland and was reimbursed for the expenses suffered in the process of sale as provided for by Federal law. Shortly thereafter the IRS reversed itself and requested that Mr. Kyhos remain in Cumberland. Mr. Kyhos rented an apartment with a lease of one year in order to remain in Cumberland. Then, in July, the IRS changed its mind again, ordering Mr. Kyhos to report to Washington. Mr. Kyhos did report to Washington, as ordered, forcing him to leave the lease 8 months before it expired.

"The relevant Federal law does not permit reimbursement for losses due to moving of Federal employees more than once per year. Thus, although Mr. Kyhos would have been compensated for the losses involving the sale of his house or the losses connected with the apartment, both could not be covered within the same year. Because I feel that the intent of Congress was to reimburse employees under such circumstances and because Mr. Kyhos incurred these losses following the mandatory instructions of his superiors, I introduced the bill to compensate Mr. Kyhos for this unfair situation."

The committee believes that the bill is meritorious and recommends it favorably.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Pastore rule of germaneness be not applied to S. 2104 just passed.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

DISTRICT OF COLUMBIA CRIME CONFERENCE REPORT—TIME FOR A VOTE

Mr. SCOTT. Mr. President, I should like to ask the distinguished majority leader when he anticipates that we may reach a vote on the District of Columbia crime conference report.

Mr. MANSFIELD. In response to the question raised by the distinguished minority leader, on Thursday last I thought it might be possible to reach a vote on the conference report today. On Friday last, I thought it might be possible to reach a vote on the conference report tomorrow, Tuesday. On Saturday, I was talking with some of the Senators who are in opposition to the conference report and the best I could determine was that there would be a possibility of a vote on Wednesday next.

I would hope that we could get to a vote tomorrow or Wednesday at the latest, because I understand that, following on the heels of this conference report, the Senate may well have to consider the conference report on the education appropriation bill. If that procedure is followed, it means that the military procurement bill, which we are all eager to face up to, may be delayed. As the minority leader knows a conference report does have a privileged position under Senate rules and can be called up at any time.

Mr. SCOTT. I should like to point out that in some quarters there is considerable pressure to get to the military procurement bill because there are many Senators who feel that some of their amendments would be useful in accelerating the decision regarding ending the war. I have some personal reservations on that, but I can only point out that if Senators feel compelled to debate the pending District of Columbia crime bill too long, they are perhaps defeating their own purposes with regard to the military procurement bill, since the urgency expressed regarding the military procurement bill does seem to apply when we get into debate on other bills.

It is, of course, the right of every Senator to take positions that seem to other Senators to be a little inconsistent. In fact, it is not only a right and a privilege but at times perhaps a duty to do so. But I hope that we can agree to the District of Columbia crime conference report promptly, because the crime clock never stops running. There will be murders, rapes, robberies, and burglaries in the District of Columbia today, tomorrow, and the next day, and all the time Congress—not the Senate, and with all due respect to the other body—has been handling this matter with something less than due deliberate speed.

I should like very much to see it disposed of so that we could accommodate those Senators who believe they can end the war by legislative fiat, and I would like to get on to the military procurement bill, to see whether they can or not.

Mr. MANSFIELD. I am delighted that the distinguished minority leader has spoken up as he has. We are all too prone to talk about the war on crime and all too reluctant to act on it.

I would hope that the vote on this measure would occur soon so that we could have the opportunity to express our views in open session and to be on record. I hope that the disposition of this conference report would be followed by other crime legislation as well.

Crime stops for no one. It is a factor, especially in the urban areas, which must be faced up to. This measure will not prove to be a cure-all by a long shot. But we must continue to seek to bring about an end to the crime wave. It is sweeping the country today and every effort must be made to stem the tide. Other proposals should include broad and sweeping prison reforms and enough support to local law enforcement agencies to bring about effective controls.

HEALTH AND SANITATION INSPECTION OF ALL LIVESTOCK PRODUCTS IMPORTED INTO THE UNITED STATES

Mr. MANSFIELD. Mr. President, on June 2, 1970, I introduced a bill to provide for the thorough health and sanitation inspection of all livestock products imported into the United States, and for other purposes.

On July 16, last week, I appeared before the Subcommittee on Agriculture and Forestry, to testify in support of this measure. I should say that in reality, this measure is the Melcher bill. Originally it was introduced in the House by Representative JOHN MELCHER from Montana's Second District—a man known as one of the best veterinarians in the Northwest.

I have received a copy of a letter dated July 16, sent to the Honorable ALLEN J. ELLENDER, chairman of the Committee on Agriculture and Forestry, by the Department of Agriculture. This letter flatly indicates Agriculture's opposition to the passage of the legislation.

I cannot understand the administration's position against health and sanitation inspection of all livestock products imported into the United States. It is a position that is clearly indefensible.

I hope sincerely that the Committee on Agriculture and Forestry will look into this most important question and consider the matter on its merits. It has much to commend it and it is a proposal that should be enacted.

Mr. President, I ask unanimous consent that a copy of the bill, and a copy of my remarks before the subcommittee, and the letter from the Department of Agriculture recommending against passage of this legislation, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3942

A bill to provide for thorough health and sanitation inspection of all livestock products imported into the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is directed to establish a system of thorough examination and inspection of all livestock products imported into the United States, including all fresh and frozen or chilled meats after thawing, providing for such examination at the time of entry or before any processing or offering for sale to consumers, to prevent the entry of any disease or distribution of any unwholesome products. The Commissioner of Customs shall levy on such animal products entering the United States, in addition to any tariffs, a charge or charges set by the Secretary of Agriculture, sufficient to defray the cost of such examinations and inspections and of United States surveillance of all establishments abroad slaughtering animals or processing animal products for export to the United States.

S. 3942—INSPECTION OF IMPORTED MEATS

Thank you, Mr. Chairman and members of the Committee, for this opportunity to appear before you in behalf of the Melcher bill, S. 3942, on inspection of imported meat.

There is nothing more important to consumers and to those who produce meat in this country—and we have both in Montana—than the maintenance of absolute confidence in the purity, wholesomeness and sanitary quality of the meat and animal products offered consumers.

Per capita consumption of beef has grown from 85 pounds in 1960 to 110 pounds last year, and of all meats from 161 pounds to 183 pounds per person. The Department of Agriculture is forecasting continued growth, and this is all because American consumers have confidence in our system of inspection and, therefore, in the quality of the meat allowed to be offered to the public at stores.

In recent years, when proof was offered that some slipshod practices existed in handling of meat, Congress has promptly provided for poultry inspection and for improved meat inspection. We have voted the most rigid requirements considered desirable on our own meat packing and processing establishments, and we have voted to require that meat imported into the United States be produced under equally sanitary conditions so it will meet standards of wholesomeness equal to ours.

My confidence in the quality and thoroughness of inspection of imported meat was shaken when Dr. Joseph Melcher, a Montana veterinarian who was elected to Congress just a year ago at a special election, described to me what he had learned as a result of a personal investigation into the nature of our inspection of foreign meat plants and of meat as it comes into the United States.

We have only 14 or 15 men who travel the globe to make sure that more than 1,100 foreign packing plants are designed and operated to meet our sanitation requirements, and that the day-to-day inspection of meat as it moves down the packing house lines is equal to the inspection standards and requirements we maintain. The annual report of the inspection branch at USDA shows that one of these men frequently inspects three plants a day, which certainly isn't much of an inspection of the plant, the pre-mortem or post-mortem procedures, the boning, cooking or freezing, packing and handling of meat destined for the United States. In his hour or two visit, he cannot, of course, assure himself that there is pre-mortem examination of all animals butchered around the year, or that there is thorough post-mortem inspection of every carcass on the packing line 365 days a year—that has to be taken on faith that the governments in Central and South America, Oceania, Europe and the East all provide rigid day-to-day inspection equal to ours.

We run a check on the results of the inspection on foreign plants when meat arrives in the United States. The equivalent of about 75 man years is devoted to sampling the 1.6 billion pounds of meat shipped to us to make sure that the defects in it do not exceed certain tolerances: one minor defect per 30 pounds, one major defect per 400 pounds, and one critical defect per 4,000 pounds. Congressman Melcher will discuss those defects and their classification.

It is my understanding—and if it is not correct we should make it so—that as meat moves down processing lines in an American packing plant, if any defect is discovered which affects the absolute wholesomeness of a piece of meat, that piece of meat is pulled off the line and the defect eliminated or the meat "tanked" and removed completely from any possibility of human use.

The bill which I introduced in the Senate, a companion to Congress Melcher's H.R. 17444, provides for thorough inspection of all animal products imported into the United States, and that means piece by piece inspection, after thawing, of the fresh and frozen meat which arrives at our ports of entry.

We cannot provide hundreds or even thousands of United States inspectors in foreign plants to maintain daily vigilance over meat produced in each of them which may be shipped to us. We can inspect these products thoroughly which are offered for our markets, and that is what the bill proposes be done.

I am concerned about the volume of meat and animal products being imported into the United States. Unregulated, it can have extremely serious consequences for our domestic producers, upon whom we must rely for the great bulk of our meat, dairy products and other animal foods. We deal with the problem of volume in separate import quota legislation. With other members, I authored the Meat Import Law of 1965.

This question of thorough inspection is a separate question, just as important as any import quota, for failure to guarantee American consumers that imported meat—which is mixed with our own in ground and processed products and is unidentifiable as imported meat except in rare instances where it comes in consumer packages—is absolutely wholesome and sanitary can destroy confidence in the meat and animal products on the shelves and in the coolers of our stores.

Congressman Melcher will testify today. As a veterinarian he can discuss with you in some detail the existing inspection procedures, and such problems as the failure of Australia to eliminate certain defects in shipments to us. The aspect of the problem is very technical and I defer to my colleague, Dr. Melcher, who is a very thorough person. At least, we have found him to be as a veterinarian in Forsyth, Montana; as a Congressional candidate from the Second District, and as a Congressman.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 16, 1970.

Hon. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry, U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for your requests for the views of this Department on S. 3942 and S. 3987, identical bills "To provide for thorough health and sanitation inspection of all livestock products imported into the United States, and for other purposes."

The Department does not recommend passage of this legislation.

The Department supports the goal of ensuring a wholesome meat supply to the public. However, these bills would not significantly improve the Department's capacity to do so. For several reasons, they might make inspection of imported meat and meat products more difficult.

First, the language is too broadly drawn. It would direct the Secretary to provide a system of ". . . thorough health and sanitation inspection of all livestock products imported into the United States. . . ." [emphasis supplied] This provision would apply in three ways. It would require inspections for animal disease, for which this Department already has sufficient authority (Attachment A describes existing statutes and activities in detail). It also would require inspection of edible livestock products other than meat or meat products, such as butter, nonfat dry milk, cheese, and so forth. Finally, it would require inspection of indelible animal by-products. Such breadth of language would make the proposed legislation very difficult to administer.

Next, the wording of these bills is unclear as to intent. The bills direct inspection of imported livestock products, ". . . including all fresh and frozen or chilled meats after thawing. . . ." This phrase could be interpreted as requiring that *every piece* of imported meat be individually defrosted and inspected. Such defrosting of large quantities of frozen meat would actually add to potential problems of unwholesomeness. On the other hand, it could be interpreted as requiring only that a sound statistical sample of imported meats be defrosted and inspected. This is the procedure now used under the authority of the Wholesome Meat Act of 1967.

Additionally, we have concluded that this legislation directs itself only to the examination and inspection of imported products within the United States. The bills appear not to contemplate increased surveillance of overseas slaughtering or processing establishments.

Finally, the system of reimbursement charges proposed in these bills could lead to inequities if such charges were based on volume of imports. For example, a foreign country with an excellent inspection system requiring little foreign review, but having relatively large exports to the U.S. would pay a disproportionate share of the cost. On the other hand, a foreign country with a poor system of inspection—and hence high costs to the Department due to the intensive foreign review needed—but relatively low exports to the U.S. would pay very little. Also, such charges could be viewed as an indirect constraint on foreign trade. However, if such charges are to be levied, they should be based on the actual cost of surveillance in each foreign country.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

USDA STATEMENT ON STATUTES AND ACTIVITIES FOR PREVENTING INTRODUCTION OF ANIMAL DISEASES

The Tariff Act of 1930, as amended (19 U.S.C. 1306) contains an absolute prohibition against the importation of all ruminants and swine (except wild zoo animals) and fresh, chilled or frozen meats of such animals from countries declared by this Department to be infected with foot-and-mouth disease. Under very stringent restrictions including authority for permanent post-entry quarantine, wild ruminants and swine may be permitted entry under the Act when such animals are solely for exhibition at an approved zoological park from which they cannot be moved except to another approved zoological park.

Provisions in the Act of February 2, 1903, as amended (21 U.S.C. 111) and the Act of July 2, 1962 (21 U.S.C. 134 *et seq.*) provide additional authority to prohibit or restrict importation of livestock and poultry, meat, and other articles in order to prevent the introduction and dissemination of foot-and-mouth disease and other destructive animal diseases and pests such as African swine fever, rinderpest, exotic ticks, and African horse sickness.

These statutes are implemented by extensive and strict regulations in 9 CFR Parts 92, 94, 95 and 96, with respect to importation of animals, meats, animal by-products and related materials such as hay, straw, forage, etc., from countries of the world where foot-and-mouth disease exists, as well as other countries. These regulations are based on the best scientific information available, including the research being done at our Plum Island Animal Disease Laboratory, Long Island, New York.

During the 91st Congress, 2nd Session, the Congress passed S. 2306, which became Public Law 91–239 on May 6, 1970. This Act provides the authority for establishing and operating an off-shore animal quarantine station. The above described statutes notwithstanding, animals could be imported through such station, under adequate safeguards for the purpose of improving livestock breeds in this country. The station would be under the complete control of this Department.

Foot-and-mouth disease is one of the principal foreign animal diseases against which these statutes afford protection. North America, Central America, some of the Islands in the Caribbean area, Greenland, Iceland, Norway, Ireland, Northern Ireland, Channel Islands, New Zealand, Japan and Australia are the only major land areas which this Department considers to be free of foot-and-mouth disease. The disease is widespread in Europe, Asia, Africa, and South America. Under the Tariff Act of 1930, this Department established and maintains continuously through public notice a list of countries declared infected with foot-and-mouth disease.

A country is removed from the prohibited list only when this Department is convinced that foot-and-mouth disease has been eradicated in a given country. In making this determination, we consider the length of time elapsed since an outbreak of the disease last occurred; trade association with other countries still infected; presence or absence of the disease in neighboring countries; availability of adequate veterinary services; whether or not foot-and-mouth vaccine was used; disposition of infected animals, etc. We do not rely solely on data and evidence obtained from any given country in question. Additional data and views are obtained from International trade and health organizations, veterinary officials of other foreign countries and from other sources. Finally, on-site inspections are conducted by scientific personnel of this Department before an infected country is declared free of foot-and-mouth disease. We do not take lightly the removal of a country from the list of those countries which have been declared infected with foot-and-mouth disease. If a country is removed, the first report of a recurrence of the disease immediately places the country back on the prohibited list.

We are waging a day-by-day battle to prevent the introduction of destructive animal diseases and pests from foreign countries, including foot-and-mouth disease. An inspection force of professional and trained inspectors is on duty at air, ocean, and land ports-of-entry, enforcing agricultural inspection and quarantine measures designed to prevent the introduction from abroad of diseases and pests capable of causing severe economic damage to livestock production in this country. In addition, the Bureau of Customs, the Immigration and Naturalization Service, the Public Health Service, and the Military Services are cooperating in the neverending struggle to keep out unwanted diseases and pests.

Constant vigilance is the price that must be paid to keep the United States free of the dreaded animal plague—foot-and-mouth disease. The expansion of world trade and travel adds to the importance of remaining ever alert to the increasing threat of the disease gaining entry into the United States. The Congress has supported this Department in these efforts by making available additional appropriations to strengthen and expand the inspection force at ports-of-entry to meet increased inspection workload.

CONCERN OVER CAMBODIAN INCURSION

Mr. MANSFIELD. Mr. President, some weeks ago I was visited by a group of Harvard University teachers who came to see me to express their concern at what had transpired in Cambodia. One of them, Prof. T. C. Schelling, has just forwarded to me a paper which reflects their retrospective appraisal of the Cambodian adventure in the light of the pullout of June 30.

The paper is a careful, thoughtful, and reasonable commentary on the implications of the so-called incursion into Cambodia and its aftermath. I commend it, therefore, to the attention of the Senate and ask unanimous consent that it be included in the RECORD, and also that an editorial entitled "The Greater Danger," published in the Independent Record, of Helena, Mont., on June 29, 1970, an editorial entitled "Betrayed Ideology," published in the Missoulian, of Missoula, Mont., on July 8, 1970, and an editorial entitled "The Cambodian Temptation," published in the Los Angeles Times of was ordered to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DRAFT ASSESSMENT OF THE CAMBODIAN CAMPAIGN

On June 30, sixty-one days after the President announced the ground offensive across the Cambodian border, the local action was complete and American troops withdrawn. It is time to assess where we are, what lies ahead, and whether our Cambodian involvement is safely over. The President made his initial assessment as early as the fifth week—"the most successful operation of this long and difficult war"—and reconfirmed that assessment in early July on the basis of materials confiscated, base areas cleared, and enemy killed.

But what are the prospects now in Cambodia?

Has North Vietnam at last been deterred from increased activity in Indochina?

Has North Vietnam been brought closer to the bargaining table?

Has world-wide respect for American wisdom, resolve, and leadership been enhanced?

Has the United States incurred new obligations or issued new warnings that may have to be fulfilled in months to come?

Have the military achievements in the enemy base areas been of such magnitude as to justify, when all else is considered, greater confidence in speedy withdrawal, lower casualties, and a "just peace" in Indochina?

And is the Cambodian campaign now a finished episode, a local security operation in which "all our major military objectives have been achieved"?

The purpose of these questions is not to score the President on his decision two months ago but to anticipate decisions that may confront him yet. He *is* pledged to the withdrawal of a large number of troops, including virtually all U.S. ground-combat troops by the anniversary of his April announcement in spite of the recent delay. And he *has* pledged himself to unspecified but decisive moves of the enemy does anything to endanger the troops that remain in defense of South Vietnam.

The North Vietnamese disregarded the President's explicit warnings of April 20 and earlier. He has emphasized that their disregard was a reason for the action announced April 30. He reiterated those warnings April 30, and again in May, June, and July. It is not evident yet that the enemy is heeding those repeated warnings. Whatever was at stake April 30, when the President felt the situation so grave, may be repeatedly at stake as American ground strength diminishes over the coming months.

Where have we come since April 30?

First Cambodia. The President said April 30 that thousands of North Vietnamese soldiers were invading Cambodia. "If North Vietnam also occupied this whole band"—indicated by a gesture of his hand toward the map—"it would mean that South Vietnam was completely outflanked and the forces of Americans in this area as well as the South Vietnamese would be in an untenable military position." That situation appears little better than it was in late April.

The President then said that the enemy was moving to encircle Phnom Penh. Today's newspaper says the enemy may be encircling Phnom Penh. Names on the maps in early May were Parrot's Beak and Fishhook; now it is towns to the north and west of Phnom

Penh as well. The question how the Communists could supply themselves cut off from Sihanoukville is now paralleled by the question, how Phnom Penh will get oil with Sihanoukville cut off. The northeastern part of the country is conceded to be under North Vietnamese control. However much the enemy has been weakened in his attack westward toward Phnom Penh and the rest of Cambodia, he has not been crippled. The country is menaced. One goes back with apprehension to the President's address and reads again that if the enemy succeeds in Cambodia, South Vietnam will be outflanked and American troops there in an untenable position.

Second, deterring North Vietnam. On April 20 the President explicitly warned the enemy from taking advantage of troop withdrawals. On April 30 he began by reminding us, "At that time I warned against enemy activity in Laos, Cambodia or South Vietnam and, despite that warning, North Vietnam has increased military aggression in all these areas and particularly in Cambodia." He went on, "Tonight I again warn the North Vietmanese," and, "if the enemy response is to increase its attacks and humiliate us, we shall react accordingly." May 8 he again referred to his warning that went unheeded and said his action "puts the enemy on warning that if it escalates while we are trying to de-escalate, we will move decisively and not step by step."

Have we, in the last two months, at last deterred Hanoi from an effort to conquer Cambodia, and from all future efforts in South Vietnam and elsewhere to take advantage of diminishing American ground strength Have we shown them the risks they run, shown the risks to be too great to accept, and shown them clearly how to avoid those risks by staying within the bounds the President set for them?

Evidently not in Cambodia. There is no conspicuous holding back. Consolidation of supply routs in southern Laos and northeast Cambodia has been undeterred. Occupation of towns and airstrips north and west of Phnom Penh has been attempted. Perhaps what we witness is not enemy strength but Cambodian weakness; but whatever the enemy was attempting in Cambodia on April 30 he is still attempting, undeterred, in July.

The enemy may be confused, as Americans are, about just what the President intended, what he hoped to demonstrate, and how his decisions related to North Vietnamese activity. The President personally said that he had to act as he did to put the enemy on warning for the future and to preserve American credibility in the eyes of the world. Defense officials repeatedly gave a different interpretation—that the events in Cambodia during March and April provided an "opportunity" to attack the base areas there, North Vietnamese activity having relieved us of any obligation to respect the neutrality of Cambodia.

If Americans were confused by the apparent confusion within their own government about the purpose of the enterprise—whether this was a local military opportunity or a grave national crisis—maybe the North Vietnamese are confused, too. And confused, too, may be those in the Middle East, Latin America and Europe, whose judgment of American character or policy is influenced by our response. Just what *is* the warning that the President keeps reiterating—is it clear at last to the enemy—and how is he going to carry out his threat as the day approaches when the actions available to him no longer include ground combat?

Third, the bargaining table. Have the last two months changed Hanoi's assessment of what it stands to gain or lose in Paris? Is Hanoi more fearful now of letting events take their military course in Indochina? Has Vietnamization been so advanced during these last two months as to leave the enemy no hopes outside a negotiated settlement? Has the President taught them the dangers of stepped-up military activity that they would be deterred from any military success that might otherwise look achievable?

It is too soon to tell. Taking Cambodia into account, Hanoi may estimate that victory will take longer, but encompass more, as a result of all the recent events in Cambodia. They may prefer to "outflank" South Vietnam, as the President feared, rather than negotiate a settlement as the Americans withdraw. Must we wait for them to be either wholly successful or wholly discouraged in Cambodia before they turn to negotiation over South Vietnam? Or is it that, however forthcoming the President wishes to be about a just political settlement in South Vietnam, the North Vietnamese have, and have had all along, no real interest in negotiation? Whatever the answer, there is little sign that our strategy can now rest more confidently than two months ago on Hanoi's eagerness to speed our departure through negotiation of a "just" settlement.

Fourth, American prestige. On April 30 the President said, "If we fail to meet this challenge, all of the nations will be on notice that despite its overwhelming power the United States when a real crisis comes will be found wanting." Again on June 3, "Carried out in the face of explicit warning from this government, failure to deal with this enemy action would have eroded the credibility of the United States before the entire world." And he asked, "if an American President had failed to meet this threat," "would those nations and people who rely on America's power and treaty commitments for their security . . . retain any confidence in the United States?"

This question is hard to assess on short notice. It has less to do with popular respect for American courage than with the estimates of particular governments about particular actions in particular contingencies—support for Berlin, maintenance of a U.S. "presence" in Europe, arms sales in the Middle East, successful strategic talks in Vienna, or whatever it may be. The President did, though, invite the world to judge him by his response to Hanoi's refusal to heed his warnings. He has repeatedly refreshed those warnings. The world may still be watching. One has to hope that with the return of American troops from Cambodia on June 30, the world may watch less closely and forget those repeated warnings, unless Hanoi does at last heed the warnings and stops obliging the President either to retaliate fearsomely or to be caught bluffing. To the extent that the warnings themselves forced the President's hand, and made North Vietnamese activity a provocation in the eyes of the world, there is a cautionary lesson to be drawn.

Fifth, new commitments. Spokesmen for the Administration tell us that the United States is not committed to the defense of Cambodia. The President told us April 30, though, that Phnom Penh was threatened, that the government of Cambodia had asked for aid, that for the safety of U.S. troops we could not let Cambodia become controlled by the Communists. However careful the President has been to avoid formal commitments, he may have given the appearance of commitment or resolve; and when the President is so concerned to show allies and enemies alike what to expect of the United States in meeting challenges and fulfilling commitments, appearances can be almost as binding as reality.

Furthermore, by action and statement the Government of South Vietnam has occasionally shown intent to include Phnom Penh, if not all of Cambodia, within its theater of action. It has never been made clear whether it is American policy that allied troops remain indefinitely deployed in Cambodia, or is an independent policy of South Vietnam. What is clear is that any diversion of South Vietnamese military resources will be at the expense of American withdrawals.

Though the American intrusion into Cambodia was temporary, it is permanently of record that the United States, with ambiguous acquiescence from a government to which no formal commitment was acknowledged, crossed a boundary with a large ground force to conduct violent military activity. It did so under strong provocation and with legal excuse. But after a decade of resistance right there in Indochina to the violation of international boundaries by armed force, and as a country that undoubtedly has a long-run interest in inhibiting the crossing of boundaries, the United States may have paid a high price for the crossing. It clearly ended anybody else's inhibitions about Cambodia's borders. The prompt withdrawal and limited territorial scope of American ground action may not succeed in limiting the responsibility attributed to us for what occurs henceforth in Cambodia.

Sixth, the local military action. The President has said that it is "the most successful operation of this long and difficult war." So be it; the comparison does it but modest credit. More than three hundred Americans died, and many more were injured in Cambodia; how many would have been killed in III Corps and IV Corps, where the war was already being Vietnamized, by the rockets and mortar and artillery shells that were captured and that cannot be replaced? How many North Vietnamese soldiers or Viet Cong guerrillas will go hungry for want of that rice (and how many Cambodians, as the rice is replaced)? We were promised COSVN—"the headquarters for the entire Communist military operation in South Vietnam"—and settled for something less. Did earlier offensive sweeps in southern South Vietnam have such lasting effects on enemy capabilities as to insure that this one will deny enough ammunition and other supplies to buy enough time to be worth not only the uproar at home and abroad, but the American dead in Cambodia, to say nothing of dead Cambodians?

The events of these past two months and the President's explanations have somewhat clarified the President's strategy in Indochina.

Until April 30 it was easy to think of troop withdrawals as the very embodiment of de-escalation, and of a commitment to withdraw as a commitment to de-escalate the violence, the casualties, the geographical scope and the weapons. In two-and-a-quarter years the United States reduced and then virtually discontinued the bombing of North Vietnam, withdrew ground troops, reduced offensive action, got casualties down to half the earlier rate, discontinued defoliants (as we have already told), offered political compromise, and generally displayed a pattern of determined de-escalation. Some of us heard, but didn't listen, when the President repeatedly emphasized that North Vietnam should not take advantage of our de-escalation—implying that they probably could if they dared—or else they would find the United States ready to deal effectively and decisively.

The North Vietnamese may not have been the only ones who gave little heed to the President's warnings of April 20, selectively hearing the news that 150,000 troops were to be withdrawn and passing over, as perfunctory, the warning that went with this announcement (as with earlier announcements). The President has now shown that he meant it. He says he still means it. When a threat fails, it is hard to tell whether our government communicated badly or the enemy listened poorly (or, hearing, was still undeterred). Between the two parties, though, there was either failure of communication, a misjudgment by the President of what it would take to deter Hanoi as events unfolded in March and April, or misjudgment by Hanoi

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of what the President would do and of whether he would remain continually pledged to repeated escalation if they continued heedless of his renewed warnings.

Punctuated by the attack on the Cambodian bases, the more recent warnings—these threats of decisive but unspecified measures—are less likely to go unnoticed in this country. We now understand, as he quite clearly told us, that the President's program for Vietnamization and withdrawal is balanced by a deterrent threat of enlarged violence. De-escalation of troop strength has been balanced by an escalation of threats. While the *contents* of the threats—renewed bombing, return of troops to Indochina, or whatever the President might choose in the event—are left to conjecture, the *role* that these threats play in the President's strategy has become unmistakably clear. "If the enemy response to our most conciliatory offers for peaceful negotiations continues to be to increase its attacks and humiliate and defeat us, we shall react accordingly." (April 30)

His first warning having failed, the President (as he told us in his June 30 report) "concluded that, regardless of the success of Communist assaults on the Cambodian government, the destruction of the enemy's sanctuaries would . . . emphasize to the enemy whether in Southeast Asia or elsewhere that the word of the United States—whether given in a promise or a warning—was still good." Does the enemy believe him now? Does the enemy get his message? Does the enemy understand it? Is the enemy impressed? If so, how rapidly can we withdraw the rest of the American troops?

If not, has the President committed us to carrying out his threat? What does he intend to use, and where does he intend to use it, when ground-combat troops have been withdrawn? If this second threat fails as the first one did, and if the President then feels obliged to go through with it, will we then have gained or lost—in Indochina, in the eyes of the world, in our relations with bigger potential enemies than North Vietnam, in American lives, and in the confidence that American citizens and legislators have in our Indochina strategy?

It has also become increasingly clear that "Vietnamization" can have two quite different interpretations. One is an open-ended commitment to support South Vietnam indefinitely in pursuit of what the President calls a "just peace." The other is a commitment to a terminal program that offers South Vietnam a "fair chance." In his most recent statements the Preisdent appears to be resolving the earlier ambiguity in terms of the more open-ended commitment. "Vietnamization" is thus not so much a program as a permanent criterion for the degree of American involvement in South Vietnam's defense.

The open-ended commitment—corresponding to the preceding administration's strategy—may so discourage Hanoi as to bring them into negotiation. If Hanoi thinks that the President—any American President—will indeed keep forces in the theater and keep escalatory threats alive indefinitely, Hanoi may so behave that the President does not have to. But we have the President's word that they show no sign of overcoming their disdain for our offers.

And the open-ended version of "Vietnamization" has two disadvantages. One is that we cannot "honorably" depart on a fixed schedule, taking a fair chance on what happens afterward, unless we convince ourselves and others that that is all we have obliged ourselves to do. The second is that Saigon's interest in assuming responsibility and avoiding diversionary commitments depends on its being clear to that government that it cannot delay in assuming those responsibilities. If South Vietnam can spend its own resources on new commitments, or avoid the internal pains of reform and responsibility, knowing that we have to stay on hand to make up the deficit, its interests will not be ours and we shall not get out so promptly or so safely.

The *Los Angeles Times* recently concluded that "this nation has—bravely and honorably—done everything and more, that could reasonably have been expected of it. American men prevented Communist forces from precipitately seizing South Vietnam. American men, at an enormous cost in lives, have secured for the South Vietnamese a reasonable length of time for improvement of their army and consolidation of their country and government. Short of permanent occupation, there is no more America can reasonably be expected to do for Vietnam."

This sentiment provides a decent basis for a terminal program of Vietnamization and withdrawal, but only if the President explicitly makes it his own. Otherwise, Vietnamization as an open-ended commitment is but another name for the the *Los Angeles Times* bluntly called "permanent occupation."

[From the Independent Record, June 29, 1970]

The Greater Danger

By sometime tomorrow, President Nixon has promised, all American ground troops will be out of Cambodia.

The United States will have said, in effect, "We've won and we're pulling out."

We won't have won, of course. We have cleaned out some Communist sanctuaries, captured a lot of weapons, killed a lot of Viet Cong and North Vietnamese (and probably a lot of other people, too). Thus we have handed the enemy a temporary setback. We have temporarily pushed him out of his sanctuaries on the Cambodian side of the Vietnamese border, and he has diverted his attack toward the Cambodian capital, which is in extreme danger of capture.

President Nixon holds that the foray into Cambodia was necessary to assure the withdrawal of another 150,000 U.S. troops from Vietnam by November, as he had previously pledged. He should now declare that the Cambodian expedition was so successful that all American troops will be withdrawn from Vietnam by November.

He should now declare that Vietnamization has been far more successful than he had ever dreamed—that if South Vietnamese can continue to fight in Cambodia after we have pulled out, they surely are capable of defending their homeland.

In other words, he should say of Vietnam as he has said of Cambodia: "We've won and we're pulling out." Even if it is no more true of Vietnam than it is of Cambodia, the President surely must recognize by now that the danger to the United States is far greater within our borders than it is in Southeast Asia.

Without debating the nobility of our intentions in Indochina, the longer we stay there the more this country is being torn apart internally.

Our involvement in Indochina is the leading cause of student disorder, of civil unrest, of inflation. It is deterring programs of such urgency as housing, aid to cities, cleansing the environment, controlling crime.

President Nixon must face the facts—whatever benefits there may be in prolonging our involvement in Indochina are no longer worth the cost of what is happening in the United States. If America must honor its commitments, the first commitment must be to Americans.

[From the Missoulian, July 8, 1970]

Betrayed Ideology

If there is such a thing as an American ideology, it is a belief in our own fundamental goodness—in our generosity and dedication to fair play and to individual freedom.

It was largely that feeling that got the United States into South Vietnam. Big-hearted America did not want communism rammed down the throats of people who did not want it.

But where is that feeling as far as Cambodia is concerned? As the gloomy material on this page today indicates, it apparently doesn't figure in our thinking about that small and now tragic land.

Our motive for entering Cambodia, according to President Nixon, was to help us disengage our troops in South Vietnam. According to the President, that objective was fulfilled.

Whether time proves the President right or wrong about that specific proposition, the questions remain: What effect did our invasion have on Cambodia, and how did our big-hearted ideology fit in, if at all?

The effects so far have been to destroy rubber production, disrupt rice production and distribution, drive up prices, drive down imports, drive up Cambodian government spending, and bring widespread devastation to the land. The Cambodian economy is headed toward chaos. The Cambodian army is headed toward defeat and the nation cannot expect permanent military or economic help from either Thailand or South Vietnam.

What the U.S. achieved if anything, was to strengthen its ability to bring troops home more swiftly. It did this by helping to sow chaos in a small and helpless land.

While that might placate some unrest at home, it cannot be said to be in line with the old, altruistic, big-hearted American ideology. The general and even official U.S. attitude now seems to be that we should make bleating protests and send some aid and arrange other measures in behalf of Cambodia, but that is all. If Cambodia falls to the Communists, why tough luck, and we're sorry, but that's the way the cookie crumbles if it helps us vacate Vietnam.

It is impossible to make our Cambodian intervention conform to the ideological or strategic reasons that caused the U.S. intervention in South Vietnam, or even to make it conform with the domino theory which President Nixon asserted only last week.

Cambodia is in danger of a Communist takeover. If South Vietnam has strategic value, so does Cambodia. It is a domino. It contains a popular majority opposed to communism. Yet if it is in danger of falling, we will let it fall.

That reflects a chastened, hardened, more selfish ideology, altogether different from the generosity of spirit in which we took such pride when we entered Vietnam. In our brutal haste to get out, we will victimize the helpless and leave them to their fate.

Irony of ironies, it was to preserve others from that fate that caused us first to get involved in Indochina.

[From the Los Angeles Times, July 12, 1970]

The Cambodian Temptation

(Issue: How much support should the United States give to the Lon Nol regime in view of the necessity of quitting Indochina?)

As in Vietnam, the Cambodian problem for the United States is how long to stay, and how to get out.

Not as to troops: the President has taken out the American troops he sent in, and he has said we do not intend to send more American troops back. The question is rather that of the American commitment to the current government of Cambodia.

For the United States has a commitment of a sort to that government, and that commitment is growing.

Washington is now putting together for Cambodia a new package of military aid estimated at $50 million or $60 million. This aid, in addition to the $7.9 million worth of small arms and ammunition already sent to Cambodia, will be in the form of small arms, jeeps, trucks, communications equipment and the like.

American military officials hope thereby to double the weak, 30,000-man Cambodian army and make it a fighting force capable of resisting the Communist forces which now range through the country.

A small but recently increased group of U.S. military advisers is in Phnom Penh to oversee this aid, under Jonathan F. Ladd, the former Special Service chief in Vietnam who was called back from retirement for his present task. A force of Cambodian guerrillas trained by the United States in South Vietnam has been sent to Cambodia.

The Administration is said to be also considering some economic aid, for the fighting in the last three months crippled Cambodia's principal export, rubber, and damaged its rice crop.

In northern and eastern Cambodia, American bombers are hitting the Communist supply lines that feed from the lower reaches of the Ho Chi Minh Trail into South Vietnam.

The South Vietnamese are still operating in Cambodia, in reduced numbers and chiefly, though not entirely, in the Communist sanctuary areas along the border. South Vietnamese ships patrol the Cambodian coast to prevent the shipment of Communist supplies. A small group of Thais has apparently ventured into Cambodia.

Where will all this lead?

One need not doubt the President's intentions to have grave misgivings, as we do, about the possible consequences of his actions.

Granted that the United States has no treaty with Cambodia and does not intend to make one; granted that American officials have said that the American operations in Cambodia have largely discounted such effect as a Communist takeover of Cambodia might have, we nevertheless believe that the growing American involvement in Cambodia, limited as it is, may some day put to the United States the difficult, unnecessary choice of either going to the rescue of a country we have supported, or seeing it slip away to the Communists.

We believe that the basic purpose of American policy in Indochina should be the withdrawal, during the next year and a half, of all American forces.

What the United States does in Cambodia should be in support of that purpose. Nothing the United States does should entangle, as what we are doing already threatens to entangle, American prestige with the survival of the Cambodian government.

It would, of course, assist the orderly and safe withdrawal of American troops from Vietnam if the Communists were prevented from launching heavy attacks across the border.

The President should be taken at his word that their ability to do so was damaged by the recent fighting. The South Vietnamese ought to be able to keep them off balance by making limited forays into the sanctuary areas, and by maintaining a blockade of the Cambodian coast. Bombing of the Ho Chi Minh Trail—strictly confined to harassing supply movements in areas where no civilians live—would serve the same end.

If the South Vietnamese and maybe the Thais can on their own prevent the Communists from taking all Cambodia, so much the better for them; and, if done at not too great a cost in Cambodian lives, so much the better for the pathetic Cambodians, caught in a war they did not seek.

But we see nothing but trouble ahead for this country if the United States proceeds with a substantial military aid program for Cambodia.

It would tend to draw us deeper into a war from which it is urgently necessary to get out.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair now recognizes the Senator from South Dakota (Mr. McGOVERN) for 20 minutes.

MIDDLE EAST POLICY

Mr. McGOVERN. Mr. President, the situation in the Middle East, where the Soviet presence has added to the existing tensions between Arabs and Israelis, is inherently unstable and explosive. Such a perilous state of affairs may persist for some time, threatening to turn into an all-out conflict at any moment.

The objectives of American policy in the Middle East must remain what they have always been. The United States seeks peace in the area not as a way of sanctifying the status quo, but as the only way that the countries of the Middle East can satisfactorily develop politically, economically, and socially. In addition, the United States seeks to maintain the traditionally good relations it has had over the past decades with all countries—Israel and the Arab nations alike.

The Nixon administration has now put forward suggestions for bringing Israel and the Arab nations to the negotiating table. I sincerely hope that these proposals will help move the countries of that area back from the brink of war toward more stable relations.

But the present proposals are limited largely to tactics for getting both sides to negotiate. They appear to be running into tough obstacles. I submit that if the United States made know the kind of equitable solutions of the major issues in the Middle East, it would be prepared to support, chances would be markedly improved for acceptance of our suggested steps for opening the talks.

The debate over American policy in the Middle East appears to have crystallized around the single question: Should we sell aircraft to Israel? This is, of course, the most immediate problem requiring an answer now. But its resolution will not, in itself, bring peace or nurture good relations with the Middle Eastern countries.

I have joined with three-quarters of the Members of the Senate in urging the administration to sell Israel the planes needed to insure its defense in the face of the continued buildup of armed forces in the Arab nations and the appearance of Soviet military personnel in Egypt.

The delivery of planes to Israel may help lessen the likelihood of war resulting from a miscalculation of the relative strength of Arab and Israel forces. If the well-trained Israel Air Force is given sufficient airpower to make it clear that Israel could repel any attack that might be launched against it, the chances of such an attack should be lessened. This is the fundamental reason for which the United States should sell aircraft to Israel. Such aircraft should not be made available for forays over Arab territory for the purpose of sustaining the limited but real war which has persisted since the 6-day conflict in 1967.

The question has been asked whether the sale of aircraft to Israel would be consistent with the necessary and long-overdue withdrawal of American forces from Southeast Asia. It has been argued that if the United States sold aircraft to Israel to support a nation that was faced with a threat by Soviet forces in Eygpt, it should be prepared to continue defending the South Vietnamese Government from its enemies.

The situations in the Middle East and in Southeast Asia are sharply different. In the Middle East, a democratic state is seeking to assure its security with its own fighting men. It asks only that it be permitted to purchase essential aircraft from the United States. In Vietnam, a government which does not even enjoy the support of its own people, is asking American troops to continue fighting in its defense and in addition to supply billions of dollars of assistance.

The sale of American planes to Israel may help convince the Arab leadership that there is no point in escalating a costly armaments race. They might better understand that the only path to a settlement of the outstanding problem in the Middle East is through peaceful means.

A balanced arms race does not, in itself, lead to lasting peace. As a result, the United States should not limit its policy to a simple decision to sell aircraft to Israel. Instead, it should move simultaneously to make clear its commitment to some traditional policies in the Middle East and its resolution to evolve new policies which could help bring peace there. These are some of the policies I would propose:

First. The United States is committed to aid in the preservation of the State of Israel. This has been American policy for more than two decades. At the same time, the United States is committed to the preservation of all Arab States in the area. One of the purposes of peace in the Middle East is to insure that no Arab country should be threatened with dismemberment and collapse because of the aggression of any other country or because of wholesale domestic subversion resulting from a continuing state of war and turbulence in the area.

Second. The state of war that exists between Israel and the Arab States must be brought to an end. Both sides have seen in the past 3 years that there is nothing to be gained, except the maintenance of a status quo of terrorism, by armed incursions across the battlelines which separate them. Thus, these incursions should be halted. The United States should express clearly its wish that the aircraft sold to Israel should not be used for such incursions to extend the area of combat. Such a declaration would signal to the Arab leaders the American intention to seek directly some restraint on the part of Israel. This would help restore credibility in American policy. Though it would cost them nothing in strategic terms, the Arabs should reciprocate by ending the formal state of war between the two sides, which might have an important psychological effect. At the

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very least, if Israel reduced or halted military action across the battlelines, the Arabs would be subjected to considerable pressure to do the same.

Third. Negotiations among the nations of the Middle East are the only method by which tensions may be reduced. These negotiations should begin at the earliest possible date. In view of the tinderbox situation, both sides should be willing to negotiate in any way feasible—directly, through intermediaries, in the open or in secret. The unfortunate "Goldmann affair" in which Israel seemed to have missed the opportunity for informal direct contacts with the Arab leaders should not be repeated. If both the Arabs and Israelis make it clear that they are sincerely ready to talk about any problem, that would represent a powerful impetus toward negotiations. Should the Arab nations so desire, representatives of the Palestinian Arab organizations should be permitted to participate in the negotiations.

Fourth. Before the Arab governments can be expected to gain full credence in any negotiations, they should recognize the fundamental rule of international law which requires each country to accept the responsibility for acts of aggression committed from bases in its own territory. As long as the Arab governments admit, in effect, that they cannot control activities taking place on their own territories, they are not in a position to guarantee that they will keep any commitments they might make in negotiations with Israel.

Fifth. The policies of the nations of the Middle East have been plagued by the insistence of both sides on basing their position on some past wrongs done to them. Both sides can point to United Nations resolutions that they have been willing to accept but which have been rejected by the other side. This kind of debate is sterile and fruitless. It may represent one of the major obstacles to acceptance of the administration's present proposals. Instead, attention should be focused on the present and future, on achieving the reasonable goals of all the parties. By the same token, the United States itself should pursue such a forward-looking policy. This would not mean that there was no merit in many of the claims arising from the past, but that it is impossible to move forward by looking back. If all debate about Middle East policy continues to be cloaked in historical rhetoric, however justified, there can be little hope of a peaceful settlement.

Sixth. The need to look ahead is especially apparent in solving the problem of the Arab refugees, the question to which the senior Senator from Oregon (Mr. HATFIELD) addressed himself thoughtfully a few days ago. The present situation is quite clear. Israel was created as a Jewish state. As a result, it cannot accept a large, hostile population in its midst. If Israel were to admit all Arabs who wished to return to their homes and property on its territory, it would have to accept just such a disaffected group. At the same time, it is undeniable that thousands of Palestinians sincerely feel that they have been unjustly barred from their homes. Since repatriation is not possible, reparations are necessary. Some Palestinians might be able to enter Israel, to return to their former homelands, but most could find new homes in underpopulated Arab nations.

Israel has already said that it is willing to compensate the Palestinian Arabs. Since such compensation is an inevitable part of any possible settlement, Israel might now proceed a step further as a token of its willingness to negotiate an agreement with the Arab nations. It could allocate a specific sum of money for compensation and place it in an escrow account for the Palestinian Arabs. The amount to be placed in the account could cover not only the losses in real property but an adequate indemnity for the psychological loss suffered by Arab people who have no prospect of ever returning to their homes. Even if the total amount eventually to be placed in escrow account were beyond the present resources of the Israel Government, the total goal could be publicly designated and regular contributions could be made to the account. In the interest of creating the conditions of peace in the Middle East, other nations including the United States and European countries could contribute to this Palestinian refugee account.

The feeling of the Palestinians that they have unjustly lost their homes and property is perhaps the most important source of tension and conflict in the Middle East. A unilateral act of Israel recognizing this to be the case could be the greatest single step toward peace in the Middle East.

Seventh. Because Israel wants to maintain its integrity as an essentially Jewish state, it cannot, in the long run, continue to occupy vast territories in which a sizable Arab population lives. Hundreds of thousands of Arabs are now under Israel jurisdiction as a result of the June 1967 war. Thus, for this reason alone, Israel must be prepared to yield much of the territory gained in that war.

Naturally, the question of Israel withdrawal from occupied territories will be one of the key elements in any negotiations. Israel will almost certainly have to indicate its acceptance of this point in order for negotiations to have any real chance of success. The ultimate demarcation of boundaries will, of course, have to be settled between the parties directly affected. All of us understand the importance of guaranteeing the borders of Israel in any such negotiated settlement. Boundaries cannot be imposed by the United Nations or by other governments. As in any negotiations, both sides will have to recognize the need for concessions.

Eighth. Although the international community cannot impose its will in the setting of boundaries, it can help to guarantee the security of those boundaries. A new United Nations peace force could be stationed along the borders. Because the maintenance of security and peace there would be in the interest of all nations, this force could be financed through the United Nations. Because it was a truly international force, serving the needs of the world community, its withdrawal could be made contingent on decisions by the appropriate organs of the United Nations. It should be recalled that the sudden withdrawal of the U.N. forces in 1967 at the request of Egypt alone, led directly to the outbreak of those disastrous hostilities.

Finally, in the spirit of mutual concessions, to bring about a peaceful settlement, Israel, as well as the Arab States, should be willing to accept the presence of the U.N. forces of their territories. In the past, Israel has not welcomed U.N. troops.

These steps would, I believe, contribute to a substantial reduction of tensions in the Middle East. They would remove many of the causes for the present arms race. They would enable the United States to begin the restoration of friendly relations with the Arab nations. They would help demonstrate that, while the United States is not a contestant in any popularity contest for the affection of the peoples of the Middle East, it can exercise its influence there in ways designed to meet the real and legitimate needs of all countries there. If American moves are sincerely directed to this end, American influence cannot help but increase.

These steps would reduce those very tensions which have created a situation ripe for Soviet intervention. If they are taken soon, they would reduce the opportunity for further Soviet penetration.

The chances for a mediatory role shared by the United States and the Soviet Union in the Middle East are not very good to say the least, because of the differing objectives of the two major powers.

The Soviet Union seeks to take advantage of political and military instability in the area; the United States seeks to lessen that instability and defuse a potential time bomb that could lead to a conflict beyond the confines of the Middle East.

The United States has traditionally sought to maintain friendly relations with all nations of the Middle East. It need not await the approval and cooperation of the Soviet Union to play the role of peacemaker. It can now extend the hand of conciliation to those elements in the Middle East that support the steps I have outlined, or similar steps. And it must move to a vigorous pursuit of its own national interests—a Middle East peace which can be sustained without direct American military intervention.

For if we do not now employ all of our best diplomatic efforts in support of a settlement based on these eight steps, we run the risk of eventual involvement in a new war, one which could be far more disastrous than even the Indochina conflict.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I ask unanimous consent that there be an extension of 5 minutes beyond the Senator's time allotment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I commend the Senator from South Dakota (Mr. McGovern) for bringing this very important subject before the Senate and for discussing it with relevance and, certainly, with great skill. I would hope all Senators would make a special effort to read these comments, without asking that they agree with the comments, because there are many points of view held on this subject. I think it behooves Members of the Senate to undertake a better understanding of the problems of the Middle East then we have thus far exhibited in floor debate and public discussion. I believe that if we do not, we will be sucked into a situation where we will be dealing with the matter after the fact rather than at a time when we could deploy our consitutional and senatorial responsibilities only to not be completely familiar but also to be ready to take a stand and attempt to influence public opinion—not in any one direction, perhaps, as much as it would be to influence public opinion to a better understanding.

That is why I commend the Senator from South Dakota, for taking the time this morning for it is very significant in assisting in the undertanding we must have, both in this body and in the general public.

It is not a simple matter. It is not an easy "yes" or "no" or one of black or white, but it is filled with complexities. I think the Senator, in outlining the number of points he has, has illustrated its complexities. We are dealing not only with variations in the so-called Arab world, which is not a monolithic structure, but, also we are dealing with problems in the Israel world, which is a democracy as well as a Jewish State, wherein people who are not Jews are not going to have the full rights of citizenship. They do not have now, and this creates internal problems for the people of Israel; it also creates problems for those of us who want to support Israel, because of our desire to see equal rights for the people in this country, whether black or white, Catholic, Jew, or Protestant, or whatever their background or origin.

We therefore want to help a country which is a democracy in the general governmental structure, but which still withholds from certain of its people who live within the borders of Israel the full rights the Jews hold because they are Jews.

So we are dealing with that particular problem, which is a different problem.

We also are dealing with the complexities of the Palestinian force. We are dealing with the question of the Palestinian force because those people owned that land and occupied the land for generations before Israel came into being as a state. There were generations of people there, and in numbers which outnumbered the Jews who live in the mandated country of Palestine. Many were driven from their homes. Others left because of fear or because they felt their cause was lost. Whatever the case, we are dealing with human problems of a sense of injustice, human problems of a sense of fear, and they are not easy to resolve.

But I think the Senator from South Dakota (Mr. McGovern) has certainly added to our understanding this morning by his very thoughtful presentation, and I certainly urge upon Senators, especially those who have not been privileged to hear his presentation, to study carefully the Senator's points, and to carefully evaluate his presentation.

We should undertake a more careful scrutiny of the conditions that are evolving, including the growing presence of the Russians and the filling of the vacuum or void that we have permitted to exist there because of our unwise commitment to Southeast Asia. I think it adds much to the complexity as well—that is, our own inaction has added to the complications in the Middle East.

I feel, as does the Senator from South Dakota, that we are committed to Israel, and I will do all I can to support that commitment. By the same token, we must be careful to understand the injustices others feel in the Mideastern area. I think we can move toward trying to solve some of these injustices at least through some of the points the Senator from South Dakota has outlined this morning.

I hope all people, including the general public, will have access to the full text of the speech. I welcome the Senator's suggestions. I have attempted to make a presentation of my own. The suggestions do not completely coincide with those of the Senator from South Dakota, but basically they are the same.

I certainly thank the Senator from South Dakota for the great contribution he has made this morning.

Mr. McGOVERN. I thank the Senator for his encouraging comments. As he knows, I have read his earlier statements on the Middle East crisis with great interest and profit. While there are some differing points of emphasis in our two positions, what we both seek is a policy of the United States that will contribute to peace in the Middle East rather than aggravate an already dangerous situation that exists there.

As he knows, it is impossible to look at the crisis in the Middle East in a vacuum. I have not the slightest doubt that Soviet penetration in that area is an indirect outgrowth of their recognition that we are so heavily involved in a very costly and damaging war in Southeast Asia that it is very difficult for either our Government or the people of the United States to focus objectively on the crisis in the Middle East, and this has given the Soviets an opportunity to cause great difficulty in the Middle East. It is another reason why I am very hopeful that we can move to an early resolution of the problem in Southeast Asia.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. McGOVERN. Mr. President, I ask unanimous consent to have 2 additional minutes on another matter.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ARMY NEUROSURGEON RESIGNS AFTER TREATING AMERICAN WOUNDED

Mr. McGOVERN. Mr. President, the current issue of Look magazine contains a lengthy open letter to the President of the United States, written by a distinguished surgeon of the Army Medical Corps, who has resigned his commission after several years of service, treating critically wounded patients from the Vietnam war. Maj. Murray H. Helfant, of the U.S. Army Medical Corps, who signed this letter, worked for some 2 years as a neurosurgeon treating patients at the 249th General Hospital, located in Osaka, Japan, north of Tokyo, a 1,000-bed hospital which received on the average of 1,000 new patients every month coming in from the conflict in Indochina—Vietnam, Cambodia, Laos, and elsewhere—who are the most critically wounded of our patients from that war.

This lengthy letter to the President of the United States is accompanied by photographs that are designed to bring home, both to American policymakers from the President on down, and also to the American people the enormous sacrifice that young Americans are making in the war. The major concludes the letter with these words:

> Caring for the wounded is indeed a privilege; but I was never able to convince myself that they had been wounded for any good end. They were, after wounding, and I'm certain before wounding also, the finest men I've seen. But I cannot help but point out my feeling that this war was unworthy of them. They gave too much in that far-off place—and we should not have sent them there.

It was that conviction on the part of this distinguished surgeon in the Army Medical Corps that led him to resign and led to his disapproval of American policies in this unique way.

In the hope that Members of Congress will not only read the article but will look at accompanying photographs of the terribly injured, blasted, and broken young men, I ask unanimous consent that the article be reprinted in the Record. I understand that photographs cannot be reproduced, so I hope Members of Congress will look at the July 28th issue of Look magazine and see the wreckage of this war in terms of what it is doing to these young men who have been so horribly crippled and maimed—men without faces, some without legs, some with the loss of both arms and legs, some with brain damage that has left them without their mental facilities for the rest of their lives. Perhaps as we think on matters of that kind it will introduce a new note of urgency in bringing the war to an end.

If we could save one of these young men from that kind of a state—a state which, in many respects, is worse than death—it would justify every additional sense of urgency we could bring to bear upon putting an end to this war.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Letter to the President

Boston, Mass.
July 1970.

Dear Mr. President: I apologize for not writing sooner, but it was the difficulty I had in resuming the care of civilian patients that delayed this letter. I had never completed an assignment before without stopping by the boss's office to check out and say good-bye. However, I hope this note will in some way make up for what may seem to you the discourtesy of relinquishing a commission be-

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fore completing the job. I know that you've been busy, and even though I once found myself in Washington this past winter, I didn't try to see you. Instead, I'm hoping that these notes and pictures will get my thoughts straight through to you better than I could if we had talked at the White House.

I've tried several times now to explain or describe my past few years to others, but I must admit that I've never felt satisfied with the results. Whether it was the distance in miles between there and here, or just the passage of months that blunted my sensibilities. I do not know. But I've inevitably been chagrined and depressed after trying to make my points. I still awaken at night, confronting scenes that cannot be obliterated. But maybe someday they will be gone. I'm beginning to forget some of my recent patients' names by now, and I'm hoping that in a few years, all my reminiscences will be fainter. Nevertheless, I think I owe it to you, and certainly to the boys and men who were once my patients, to see that this letter somehow reaches you. I want to provide you with the most straightforward view of what it was like by letting some pictures speak for themselves.

I had been practicing neurosurgery before my commissioning, and naturally enough assumed I'd soon be in Vietnam. The Army does move in strange ways at times, and I found myself outside Tokyo for somewhat less than two years. C–141 transport planes would pick up our patients at various staging facilities in South Vietnam, wherever large enough airfields were secure, and would fly them to the next hospital in the evacuation chain. This meant the Philippines, Japan, occasionally Okinawa or the United States. It was never clear how the evacuation system worked. We had been told that a computer in Saigon controlled the disposition of those who were evacuated, but at times it seemed that the Vietcong were feeding data into the computer. Yet we were privileged at the 249th General Hospital in Japan to see the majority of seriously injured patients with wounds of the central nervous system, and thus had a fair overview of how things were in military neurosurgery during this time.

I'm certain that many of our patients would not have survived long after initial wounding in previous wars. It was not unusual for us to receive gravely brain-injured men who had their initial brain surgery within one to two hours of wounding. Needless to say, because of the tactical situation, it was sometimes impossible for a helicopter to reach a man for twenty-four hours or more, but these isolated delays were more the exception than the rule. I do not know much about how the North Vietnamese handle the problem of their wounded, but I do not think their medical-evacuation system or the early care of their seriously ill is as sophisticated or efficient as ours.

I assume you've never seen the 249th General Hospital, where I worked. It's located in Osaka, just northwest of Tokyo, and it's a one-thousand-bed general hospital. We received about one thousand wounded each month and either evacuated or returned to duty slightly less than that number. The hospital gates were manned by local Japanese security guards, and the hospital complex was protected by a high wire fence. I may be mistaken, but to the best of my knowledge, during none of the demonstrations while I was there did any of the local Japanese succeed in breaking into the camp or the hospital itself. Security was indeed excellent, not only that provided by the guards but also that by the riot-trained police who came into the camp during the more violent demonstrations. I couldn't help thinking that we could have used some of their know-how during the riots at home that we were hearing about.

Each ward in the hospital had its own medical flavor, and one could tell at a glance which subspecialty was represented. We had a full service hospital of course and did just about anything you could think of, except for heart transplants. Things were sort of topsy-turvey over there, contrasted with our transplant centers back home; we had lots of potential donors but no recipients.

The two neurosurgical wards had between sixty and eighty beds, and the evacuation system kept our census fairly high. We had two fully trained neurosurgeons, myself and an awfully nice fellow from the southwest of Worcester, Mass. All our patients had something wrong with one part or another of their nervous system—usually something was missing after injury. Although we usually kept patients between five days and several weeks, the turnover could be quite brisk. During times of stress—for instance, during Tet when the enemy was acquiring its psychological victory—we continued our patient's evacuations to the United States as briskly as possible. I would usually write out the patient's discharge and transfer summary at the same time that I did his admission history and physical.

May I suggest that if another "Tet-like" period occurs in this non-war, it would save a lot of time and effort if patients were sent directly back to the United States from Southeast Asia rather than to Japan. Undeniably, Japan is a wonderful land, and its culture is fascinating, but so few of our patients really enjoyed the time they spent there. Mostly, they wanted to know why they had come to Japan, and what were they doing in that part of the world. I never really did find the answer to that question in my one year, eleven months and twenty-eight days of active duty, and must further confess that I never heard a very reasonable explanation of what any American was doing over there.

I wonder if you ever got that report from the costs analyst who visited with us in Japan. He evidently came from the Department of Defense and was an awfully pleasant fellow. I tabulated a list of patients on our ward about that time, and tried to determine from a medical point of view what percentage actually benefited in their treatment by coming to Japan instead of taking an extra five or six hours to go directly home. We had somewhat more than sixty patients on the two wards then, and I could honestly say that two or perhaps three of them might have benefited by not taking the more direct route. I'm not quite certain of the final figure the Pentagon was given, but I was told that the costs analyst received from our medical command in Japan the statement that fifty to fifty-five percent of our men benefited from their time with us. It is interesting to see how the assessment of the situation varies depending on what level in the chain of command you are watching from.

This young fellow has a fairly typical wound. What he's lost are his maxillary sinus, both eyes, and both frontal parts of the brain. We saw a lot of this type of injury, and it was handled very well in Vietnam. It involved the combined services of ear, nose and throat, ophthalmology and neurosurgery. Fortunately, the loss of both frontal lobes of the brain dulls one's emotions somewhat, and these patients were not as distressed at their plight as would be a similar patient without associated brain injury.

Many of our patients with this degree of brain injury showed very little resentment against the circumstances that found them in Vietnam. It was, of course, not feasible to consider the question of the possible effects of lobotomies on large numbers of patients who were also wounded but were more resentful and angry. In one sense, the more severely brain-injured were fortunate in that they were less aware of their deficits and certainly experienced less anguish. I doubt the same would hold true of their families.

I was never entirely satisfied with treating a slightly more severe type of problem. Briefly, the difficulty arises because such a large amount of nose, middle face and base of skull are destroyed, along with brain substance. Infection and continued leaking of spinal fluid were most difficult to manage. I do not think we have found an ideal way yet of treating this type of injury.

The loss of tissue in land-mine injuries is rather common. Such wounds are extensively debrided in Vietnam, and after five to seven days of care, they are either further debrided of dead and necrotic tissue or sutured. Many of our men had multiple-fragment wounds from rockets, land mines, booby traps or mortars. When the brain or spinal cord was also damaged, they'd be assigned to our neurosurgical service and we'd have an opportunity to extend and broaden our general surgical experience with caring for their associated injuries.

Injuries such as the ones I photographed in my operating room are really what prompted me to write you the letter. The burden of what's on my mind these days is really about patients such as these. I admit I'm not terribly interested in dominoes, or in Laos, or in who's threatening whom in Cambodia or Thailand. My background is not in power politics, or in Southeast Asian culture; it's in caring for patients and in trying to make sick people well. I must admit I've had a terribly difficult time trying to understand why these young kids were being mashed in Vietnam when I thought they should be back home growing up a little or with their wives and children, or with parents and friends.

This particular patient has had a penetrating wound of the brain. Many of our patients had such wounds. Their course after injury covered a fairly wide spectrum. Some men died in hospitals in Vietnam, some died in the Philippines or in Japan, and some died back in the States. Some survived to reach veterans' hospitals, and some returned to civilian life. There are some brain-injured men who will one day resume the support of their families and eventually return to ways of living pretty much the same as before they went off to non-war. These are the luckier ones who'll bear only a few scars. Their less lucky comrades will have a paralyzed limb, or two or three or four. Some will be quite bright and alert again, but some will not be able to speak, reason, protest or assent. It's for these, a sort of silent majority, that I'm writing you.

If you had visited our ward, you might have seen young soldiers on their sides and facing down so that they will not aspirate or breathe into their lungs any excess secretions or vomit that would make their situation more precarious. Tubes carry moist air through small holes cut in their windpipes, and this makes it easier for the staff to aspirate secretions and prevent pneumonia. With a large number of unconscious patients, these measures greatly reduced the incidence of pulmonary complications. As you can appreciate, these patients are unable to cough if they are deeply comatose, and they're not aware of the need to empty their bladders or evacuate their bowels.

The Vice President's recent remarks that if we had shown a little more backbone in the Republic of Vietnam we would have won the war sooner reminded me of one young man I had treated. He had had a complete loss of spinalcord substance in his midback with resultant inability to feel or move his legs. A small amount of bone protruded through his surgical incision and this was obviously infected, as was the surrounding tissue. We discovered that the whole vertebral body, a fairly vital part of this boy's backbone, was infected. When I grasped the bone itself and pulled gently, the entire segment released from its surroundings. This is a fairly easy maneuver in the autopsy room on a cadaver, but I confess I had never before done this or heard of it being done to a living person.

The Red Cross and other girl workers were awfully helpful to our troops as they returned from the combat zones. In cases like this boy's, for instance, they would write home and let the Stateside family know how the young soldier, soon to be veteran, was getting along. Their aid was invaluable with the sightless, paralyzed, amputated and mentally subdued, of course. In our ward, these girls often helped with patients confined to CircOlectric beds. These beds were so useful that I often thought the Veterans Administration should see to it that each quadriplegic patient who reached home received one along with his discharge papers. These powered beds were most useful at our hospital in Japan, as the staff could adjust a patient's position not only for comfort but also for nursing wounds other than crippling spinal injuries. As you may realize, one of the biggest problems in these cases is that not only do the patients have no movement of their limbs, but they also have no sensation of their paralyzed parts, and these areas may break down, become necrotic and thus rather difficult to manage.

The wounds could be quite devastating to the brain. I was impressed by the amount of brain one could lose and still live, in a way. As I'm sure you know, in most people, the brain is a fairly important organ, and when mortar fragments, or dirt, or splinters of bone scatter through the head, it's pretty hard not to cause some fairly extensive injury. One boy with a very damaged head was so ill when he reached Japan that it was apparent he was not going to survive to make the trip home. His parents came over to spend his last days with him. I might just mention the local problem with the wound. You see, he had lost a great deal of skull and brain covering along with his scalp, and the wound and underlying brain were infected and under very increased tension.

Well, in any event, Christmas Eve arrived, and the children from one of the local schools were serenading the wards of the hospital while this boy's parents maintained their vigil. As the youngsters came onto the ward, you could have hoped for a little bit of a miracle, but instead, the patient passed on at that moment. We all celebrated Christmas in different ways that year.

I must sadly confess that from my vantage point, we weren't winning very much. Clearly, it was a long time ago that we were told we'd soon be done with it. We were assured and reassured that victory was almost in sight. Now, I wouldn't presume to contradict men who were my military superiors, and I wouldn't for a moment question the statements of either the elected representatives of the South Vietnamese people, or of our own field commanders and generals in the Republic of Vietnam, but I would in all humility submit that these boys and men who came under my care were not cheered by the thought that we were winning. These boys felt that they had lost; and, of course, in a simplistic sense, I guess that they had lost—an arm, a few legs, some brain, a little bone, a kidney, a lung or spleen, perhaps some liver. I must sadly observe that despite our cheery casualty figures and the statistic that we've killed fifteen times as many North Vietnamese and Vietcong as they've killed of us, the fact remains that many of my patients felt that they had lost.

Still, I have nothing but praise for your attempts to extricate us from that part of the world. If I could ever help in any way, short of reentering the military, please feel safe to call on me. But back to the main substance of why I wanted to write you.

I guess it's difficult to avoid giving you the impression that I'm sort of an anti-war kind of person. I admit that I didn't feel too strongly one way or the other before putting on my uniform. It really took very little time to realize that there were better ways of dying for one's country than the ways we devised for our younger brothers and neighbors. Not all my patients were draftees or short-termers who were anxious to serve their hitch and get out; we often had patients on the ward who were career soldiers, and at times we even had some officers.

My own ward was fairly characteristic. Comatose patients certainly can be seen wherever much neurosurgery is being done but we had a rather large volume of them. The Army cared for its paraplegic and quadriplegic patients with Stryker frames and CircOlectric beds that provided movements and changes of position the men could not provide themselves. In our ward, we had quite a bit of difficulty trying to decide who should continue evacuation back to the States and who should return to combat. I'm glad to hear that the burden of making this decision has been eased, and that all patients who reach Japan are now able to continue home. I must confess this seems quite reasonable; the other way seemed somewhat cruel—almost like sending men back to combat because they hadn't been hurt badly enough the first time.

Enlisted men or officers, the most common problem we had was the patient who had his skull and brain and overlying scalp debrided and repairs in Vietnam. After some days, if there was much tension on the wound margins, and sometimes even if there wasn't, the margins would begin to separate, and blood, pus or brain tissue would extrude through the original incision. We'd treat such problem by reopening, carefully cleaning and resuturing and leaving a few tubes and drains under the scalp through which the staff would insert antibiotics in the postoperative period. With the aid of these drugs and excellent nursing care, many of these potentially lethal wounds were healed.

I'd like just once more to reemphasize that I do not intend this letter as criticism or expression of disapproval. Why, you weren't even my Commander-in-Chief during most of this time, and the President who preceded you was being reassured that the enemy was on his last legs, that we had just to buckle down a little longer and the coonskin would be on our wall, etc.

I was happy to read not long ago that the Army Chief of Staff has stated that the Vietnam war has technologically been a great success. I assumed he must have in mind such developments as a MUST unit. This is a Medical Unit Self-contained Transportable and will certainly be useful in situations where a small hospital must be rapidly set up near a large disaster area. If I understand the concept correctly, the idea is to send the hospital to any area where large numbers of casualties are being generated. I must apologize at this point for a temporary diversion.

I had never before thought of sick or wounded people as being generated. It's a concept I learned during my indoctrination period at Fort Sam Houston in Texas. You will agree, surely, that it is a modern way of thinking about these problems. It's clearly much nicer to sit in conference and hear about five hundred or five thousand casualties being generated in a given situation. It's a much nicer way to think of large groups of people in this manner, somewhat like electricity being generated at some power plant or other. Well, in any event, I just could never get it into my own head, or discipline myself to think of my patients in this fashion—being generated here, stored there, transported, re-stored, etc. This probably accounts for my hesitancy in being more outspoken with that costs analyst from the Pentagon. I just couldn't convince him that we were dealing with patients, not packages.

I must confess that despite the nice commendation the country has given me, and despite your enthusiastic support during this conflict, I didn't ever come to feel that being part of the Army team was really my cup of tea. I just never managed to get into the spirit of it. Perhaps for future doctor-draftees, you might have someone in the Pentagon devise a drill somewhat like the one they use in the military chaplain's school—something to get the men in mood. If my sources are correct, and I believe they are, then the young chaplains at one stage in their training were expected to join in the ritual chanting of "kill, kill, kill."

This letter has far exceeded my original intention of just jotting down a quick note; but if it's provided you with any information or a viewpoint somewhat different from what has reached you through more standard and orthodox channels, then it has certainly been worth my time. I do hope I have not bored you, either, with my thoughts or these photographs.

When I left active duty and was being discharged through Oakland, I was gratified to see a welcoming sign in the corridor. I regretted only that my own patients who had been evacuated through medical channels were unable to see this concrete expression of their nation's gratitude.

I appreciated the opportunity of visiting Japan and of broadening my medical experience during that time. I regret that we lost so many men, not only in Vietnam, but also in our overseas hospitals. Some of the casualties were more difficult to retrieve or repair than others. Caring for the wounded is indeed a privilege; but I was never able to convince myself that they had been wounded for any good end. They were, after wounding, and I'm certain before wounding also, the finest men I've seen. But I cannot help but point out my feeling that this war was unworthy of them. They gave too much in that far-off place—and we should not have sent them there.

I know that you deplore this conflict as much and as intensely as I, perhaps for different reasons. I did hope that sharing these few pictures and thoughts with you would in some way explain why I felt compelled to submit my resignation as I did, rather than to extend my time in the Army. There are, happily enough, younger men now available to carry on the neurosurgical tradition in and after combat. I do hope that they are made of stronger stuff inside than I, and that their tours of duty will not remain in their minds quite so indelibly as has mine.

Knowing how the military operates, I'm certain that neither you nor your predecessors have had the opportunity to see these scenes. We who were fortunate enough to be brought into active service as two-year doctors have, of course. When we reported for duty, the threats that our orders would be changed for Vietnam if we didn't extend for a third year seemed somewhat hollow. None of our group being indoctrinated at San Antonio was cowed. Things evidently later changed, for we had several men appear in Japan this past year after having extended their tours of duty for that very reason. I must admit that I was never terribly impressed by the personnel procedures or procurement policies of the Army. But if the courts allow this practice to continue, then I suspect the military may have found a way to get one-and-one-half times as much wear out of this former group of two-year doctors. I congratulate your planners.

I really had hoped to send you this note while I was still on active duty, but we were somewhat busy most of the time, and my colleagues and superiors cautioned me that it might be more appropriate to allow a seemly interval to pass before trying to record my recollections for you. I'm afraid I'm leaving out a great deal that seemed important to me at the time, but I'm nevertheless able to recall a few glimpses of what

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was occurring. I had been told that if I waited long enough, perhaps the war would go away. I did wait, but it didn't seem to go away at all.

Yours very truly,
MURRAY H. HELFANT,
Major (Resigned) U.S. Army Medical Corps.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Georgia (Mr. TALMADGE) is recognized for not to exceed 30 minutes

SUBMISSION OF AMENDMENT TO H.R. 16311, THE FAMILY ASSISTANCE ACT

AMENDMENT NO. 788

Mr. TALMADGE. Mr. President, on several previous occasions I have spoken out against certain aspects of H.R. 16311, the administration's Family Assistance Act.

I have expressed doubts about the cost figures given by the administration.

I have expressed grave reservations about the work incentive aspects of the bill.

I have shown the weaknesses of the evidence produced by the "New Jersey experiment," which is the only proof that this administration has presented to show that its family assistance plan will work.

On May 14, I introduced an amendment to change the name of H.R. 16311 from "The Family Assistance Act of 1970" to "The Welfare Expansion Act of 1970." This was done to clarify the true issues involved in the Finance Committee's consideration of this legislation.

Although the administration's bill has been widely touted as welfare reform, the chief characteristic of the bill which passed the House of Representatives is not welfare reform. It is welfare expansion. The most noticeable feature of this legislation is to extend welfare benefits to 15 million additional Americans.

I had hoped that the revised version of H.R. 16311, which the administration recently sent back to the Finance Committee, would make meaningful improvements which would add substance to administration rhetoric. Unfortunately, I have been disappointed.

The purpose of the amendment I offer today is to strengthen the work incentive, job training, and job placement features of the administration bill so that the administration slogan about "workfare rather than welfare" will have an element of truth.

When President Nixon first announced in August 1969 that he would seek major welfare legislation, he selected as his major theme his intention to "turn welfare into workfare." Listening to the kind of publicity given to the President's proposals, you would get the impression that Congress had never turned its attention to the problems involved in making welfare recipients independent.

As my colleagues in the Senate know, this is simply not the case. Eight years ago, Congress passed the Public Welfare Amendments of 1962, which were aimed at preventing or reducing dependency by offering rehabilitative and other social services to welfare recipients and other persons likely to become dependent.

This approach was not sufficient, however, and as the welfare rolls began increasing at an accelerated rate, the Committee on Finance in 1967 designed the work incentive program which subsequently became law. I supported the establishment of the work incentive program at that time, and I still feel that it is good basic legislation.

The Labor Department in administering it, however, has failed to meet the promise of the legislation to lead welfare recipients to useful productive lives.

All too often petty jealousy between the Labor Department and the Department of Health, Education, and Welfare, on the local as well as the national level, has undermined the program's sound intent, and both Departments have generously provided funds to the National Welfare Rights Organization, whose stated goal is to defeat the purposes of the work incentive program.

The result is understandable. Although there are about 10 million people who receive welfare in this country, only about 50,000 are currently enrolled in a work incentive program. Inept administration of the WIN program has made it a dismal failure.

Mr. President, in view of this record of dismal failure, one would think that the administration would have given highest priority to strengthening and reforming job training and job placement programs in any proposed welfare reform bill.

But what does the administration's welfare bill do? It repeals the present program, replacing it with vague provisions allowing the Secretary of Labor to provide any kind of training he may feel like providing to any person registered under the family assistance plan in whatever order of priority he deems appropriate.

Since the bill requires the registration of persons already working full time, the Secretary may decide not to train persons whose sole income is from welfare, but only to take people out of work who are now working and to train them for other jobs. Because the bill would extend what amounts to a military pay raise to 50,000 military families, the Secretary of Labor could decide to provide training only to privates on KP.

The examples I have named may sound ridiculous, Mr. President, but this could happen under the vague language of the President's welfare bill now pending in the Senate Committee on Finance.

The past record of the Department of Labor and the Department of Health, Education, and Welfare in administering the work incentive program convinces me that such ridiculous examples are not beyond the realm of possibility.

On April 29 and 30, and May 1, the Committee on Finance began its hearings on the President's welfare bill. We recessed them after 2½ days, after hearing from former Secretary of Health, Education, and Welfare Robert Finch, because it became clear that the administration knew very little about its bill and its impact.

In fact, today, 2½ months later, the Department is still working on the answers to questions we raised at the end of April about the bill. For example, present law has since July 1969 required States to disregard a portion of earnings in determining need for welfare as a work incentive.

I asked the Secretary on April 29 how many welfare recipients have benefited from these earned income disregard provisions, and to what extent earnings of welfare recipients have increased as a result of this provision. This seemed to me a very basic question in view of the fact the Department was recommending substantial changes in the earned income exemption. I found to my surprise that they had no idea of the answer of this question. To this date they have not submitted the answer to my question of 2½ months ago, and this is but one of many examples.

Mr. President, in a way I am sorry that the committee did not have a chance to interrogate the Secretary of Labor before the hearings were recessed in the beginning of May. For if we had questioned him, I am sure that the Department of Labor would have taken more seriously the committee's directive that the bill be rewritten to provide a meaningful work incentive program.

In looking through the administration's revised bill, I find that they have made no substantive change of note in the work incentive provisions.

Mr. President, the Labor Department last year contracted with the Auerbach Corp. to review and evaluate operations under the work incentive program. That firm conducted on-site visits in 23 cities and reviewed the programs there in depth. The report of the Auerbach Corp. states that:

> The basic idea of WIN is workable—though some aspects of the legislation require modification.

The Auerbach report details the administrative, and in some cases legislative changes which are needed in the light of experience to improve the sound legislation Congress enacted in 1967.

Unfortunately, the administration has largely ignored the conclusions of the Auerbach report and has gone off in another direction in the legislative proposals it has incorporated in both the original welfare bill and in the administration revision.

Today, Mr. President, I am submitting an amendment to the welfare bill designed to improve the present work incentive program along the lines that experience has shown are necessary. I would like to outline here what my amendment would do.

First, it would mandate coordination between the Departments of Labor and Health, Education, and Welfare on the national, regional and local levels. Today, certain regulations of the Department of Health, Education, and Welfare on the work incentive program conflict with regulations of the Department of Labor. My amendment would require that all regulations on the work incentive program be issued jointly by both agencies, and that they be issued within 6 months of enactment of the bill.

Second, it requires that a joint HEW-Labor committee be set up to assure that forms, reports, and other matters are handled consistently between the two departments. It is imperative that the work incentive program be operated under one set of guidelines, policies, and administrative procedures.

Third, under present law the welfare agency is supposed to prepare an employability plan for each appropriate case and make referrals to the Department of Labor. The Department of Labor is then to prepare an employability plan and place the individual in employment, on-the-job training, institutional training, or public service employment. Problems have arisen in this process.

In some cases, the welfare agency has not referred sufficient numbers of persons, while in other cases they have referred too many persons, without first arranging for the supportive services, such as day care, needed for the welfare recipient to participate in the work incentive program. Due to lack of coordination between the welfare agency and the Labor Department, persons have sometimes been referred who do not match the training or employment opportunities available in the area.

My amendment would solve this problem by requiring the welfare agency to set up a unit with the responsibility of arranging for supportive services so that the welfare recipients may participate in the work incentive program. Furthermore, it would require that the welfare agency and the Labor Department on the local level enter into a joint agreement on an operational plan—that is, the kinds of training they will arrange for, the kinds of job development the Labor Department will undertake, and the kinds of job opportunities both agencies will have to prepare persons for during the period covered by the plan. In addition, both agencies will jointly develop employability plans for individuals, consistent with the overall operational plan, which will assure that individuals will receive the necessary supportive services and preparation for employment without unnecessary waiting.

Fourth, on-the-job training and public service employment have been virtually nonexistent under the work incentive program as administered by the Department of Labor. Instead, that Department has spent most of the work incentive program appropriations on institutional training, which often did not lead to employment, particularly in today's rising unemployment. What is lacking is job development, through utilization of both on-the-job training with private employers, and public service employment.

My amendment would require that 40 percent of the funds spent under the work incentive program appropriation be for on-the-job training and public service employment. If at least this amount is not spent on programs which in effect guarantee placement, it seems to me that we are wasting money if we spend it on institutional training.

Fifth, as an incentive for employers in the private market to hire individuals who are placed in their employment through the work incentive program, my amendment would provide a tax credit equal to 20 percent of the wages and salaries of these individuals. The credit would apply to wages paid to these employees during their first 12 months of employment. The tax credit would be recaptured if the employer terminated the employment of the individual during the first 12 months of his employment or before the end of the following 12 months. This recapture provision would not apply if the employee became disabled or left work voluntarily.

This tax incentive approach is an adaptation of a bill I have introduced previously, S. 3156, the Employment Opportunity Act of 1969. That bill provides for a tax credit for job training and for employees who are hired from a work incentive program.

The tax incentive is a key provision of my amendment. No work incentive or job training program can ever be successful unless we have the full cooperation of private business interests. In many cases, welfare recipients will be very poor employment risks. They will need a great deal of costly training and special consideration before they can achieve full productivity. It is unfair and unrealistic to expect a profit-motivated businessman to undertake this responsibility without some compensation. My tax incentive provision is designed to bridge the gap between a government program and productive employment.

Sixth, my amendment would simplify funding arrangements for public service employment under the work incentive program by providing 100 percent Federal funding for the first year, and a 90-percent Federal sharing of the costs in subsequent years.

Seventh, my amendment would establish clear priority among persons registering for employment and training by requiring the Secretary of Labor to accord priority in the following order:

First. Unemployed fathers;

Second. Dependent children and relatives age 16 and over who are not in school, working, or in training;

Third. Mothers who volunteer for participation;

Fourth. Individuals working full-time who wish to participate; and

Fifth. All other persons.

My amendment would not require persons working full time to register for employment and training, although they could volunteer to upgrade their skills if they wished. Under my amendment, no mother would be required to undergo work and training until every single person who volunteered for work and training was first placed. The evidence shows that there are many more persons who wish to participate voluntarily than the program can reasonably handle in the foreseeable future.

Eighth, my amendment would require, on a State-by-State basis, that at least 15 percent of the registrants for the work incentive program be enrolled in the program each year. If the State falls below this level, Federal matching for State supplementary payments would be reduced.

Ninth, operations under the work incentive program have often failed to meet the objective of the program because too little attention was paid to the actual labor market conditions and requirements in the geographic area. My amendment would require the establishment of local labor-market advisory councils whose function it would be to identify present and future local labor-market needs. The findings of this council would serve as the basis for the work incentive program operational plans on the local level.

Finally, my amendment would specify that appropriations for the work incentive program be allocated among the States in proportion to the number of registrants for employment and training in the States.

Mr. President, my amendment would make basic and fundamental changes in the work incentive provisions of the President's family assistance plan. However, it would not solve all the problems that are inherent in H.R. 16311. I know that other members of the Finance Committee have their own ideas as to how to correct some of the deficiencies and inequities in the administration's revised bill. We will resume hearings on the family assistance plan tomorrow.

I would not care to predict whether the Family Assistance Act will receive the approval of the Finance Committee and the Senate during the current session. I do, however, want to emphasize that I consider my amendment vital, whether we have a family assistance plan this year or in the distant future.

No one is more aware than I that the Government has a responsibility to provide for individuals who are unable to care for themselves—the aged, blind, disabled, and the very young. My legislative record in this session and in past sessions of Congress will show that I have consistently supported and sometimes introduced measures to benefit this group.

However, I feel equally strong that we can never solve the social problems of this Nation by guaranteeing able-bodied individuals a minimum standard of living. The chief thrust of any reform effort must be directed at providing job training and job placement for those individuals who are able and willing to work.

Mr. President, I believe that this amendment will provide a constructive alternative to the very deficient provisions in the welfare bill before the Finance Committee.

I ask unanimous consent that the text of my amendment be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore (Mr. HOLLINGS). The amendment will be received and printed, appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 788) was referred to the Committee on Finance, as follows:

On page 19, line 7, strike out "or".

On page 19, line 10, strike out the period and insert in lieu thereof "; or".

On page 19, between lines 10 and 11, insert the following:

"(6) (A) working at least 40 hours per week, or (B) is working at least 35 hours per week and earning at least $64 per week."

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On page 19, after the period on line 13, insert the following new sentence: "Any individual referred to in clause (2) or (3) of the first sentence of this subsection shall be advised of her option to register, if she so desires, pursuant to subsection (a), and shall be informed of the child care services (if any) which will be available to her in the event she should decide so to register."

On page 27, line 11, insert "(subject to paragraph (3))" immediately after "pay".

On page 28, between lines 6 and 7, insert the following:

"(3) Notwithstanding the provisions of paragraph (I), the 30 per centum referred to in such paragraph shall be reduced (but not to less than 15 per centum) with respect to any State for any fiscal year by one percentage point for each percentage point by which the number of individuals referred, under the program of such State established pursuant to section 402(a) (17), to the local employment office of the State as being ready for employment is less than 15 per centum of the average number of individuals in such State who, during such year, are registered pursuant to section 447."

On page 30, strike out lines 3 through 14.

On page 30, line 15, strike out "(b)" and insert in lieu thereof "Sec. 461.".

On page 30, line 15, strike out "also".

Beginning on page 34, line 8, strike out all through page 41, line 18, and insert in lieu thereof the following:

"AMENDMENTS TO WORK INCENTIVE PROGRAM ESTABLISHED BY PART C OF TITLE IV OF THE SOCIAL SECURITY ACT

"Sec. 102. (a) The heading to part C of title IV of the Social Security Act is amended by striking out "of Aid Under State Plan Approved Under Part A" and inserting in lieu thereof "or Family Assistance Benefits or Supplementary Payment".

(b) The first sentence of section 430 of such Act is amended—

(1) by striking out "Aid to Families with dependent children" and inserting in lieu thereof "family assistance benefits under part D or supplementary payments pursuant to part E"; and

(2) by striking out "special work projects" and inserting in lieu thereof "public service employment".

(c) Section 431 of such Act is amended (1) by inserting "(a)" immediately after "Sec. 431.", and (2) by adding at the end thereof the following new subsections:

"(b) Of the amounts expended from funds appropriated pursuant to subsection (a) for any fiscal year (commencing with the fiscal year ending June 30, 1972), not less than 40 per centum thereof shall be expended for carrying out the program of on-the-job training referred to in section 432(b) (1) (B) and for carrying out the program of public service employment referred to in section 432(b) (3).

"(c) (1) For the purpose of carrying out the provisions of this part in any State for any fiscal year (commencing with the fiscal year ending June 30, 1972), there shall be available (from the sums appropriated pursuant to subsection (a) for such fiscal year) for expenditure in such State an amount equal to the allotment of such State for such year (as determined pursuant to paragraph (2) of this subsection).

"(2) Sums appropriated pursuant to subsection (a) for the fiscal year ending June 30, 1972, or for any fiscal year thereafter, shall be allotted among the States as follows: Each State shall be allotted from such sums an amount which bears the same ratio to the total of such sums as—

"(A) in the case of the fiscal year ending June 30, 1972, the average number of recipients of aid to families with dependent children in such State during the month of January last preceding the commencement of such fiscal year bears to the average number of such recipients during such month in all the States; and

"(B) in the case of the fiscal year ending June 30, 1973, or in the case of any fiscal year thereafter, the average number of individuals in such State who, during the month of January last preceding the commencement of such fiscal year, are registered pursuant to section 447 bears to the average number of individuals in all States who, during such month, are so registered."

(d) (1) Section 432(a) of such Act is amended by striking out "aid to families with dependent children" and inserting in lieu thereof "family assistance benefits or supplementary payments".

(2) (A) Clause (1) of section 432(b) of such Act is amended—

(i) by inserting "(A)" immediately after "(1)"; and

(ii) by striking out "and utilizing and inserting in lieu thereof "and (B) a program utilizing".

(B) Clause (3) of section 432(b) of such Act is amended by striking out "special work projects" and inserting in lieu thereof "public service employment".

(3) Section 432(d) of such Act is amended to read as follows:

"(d) In providing the manpower training and employment services and opportunities required by this part, the Secretary of Labor shall, to the maximum extent feasible, assure that such services and opportunities are provided by using all authority available to him under this or any other Act. In order to assure that the services and opportunities so required are provided, the Secretary of Labor may use the funds appropriated to him under this part to provide programs required by this part through such other Act, to the same extent and under the same conditions as if appropriated under such other Act and, in making use of the programs of other Federal, State, or local agencies (public or private), the Secretary of Labor may reimburse such agencies for services rendered to persons under this part to the extent such services and opportunities are not otherwise available on a nonreimbursable basis."

(4) Section 432(e) of such Act is amended by striking out "aid to families with dependent children" and inserting in lieu thereof "family assistance benefits or supplementary benefits".

(5) Section 432 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) (1) The Secretary of Labor shall establish in each State, municipality, or other appropriate geographic areas with a significant number of persons registered pursuant to section 447 a Labor Market Advisory Council the function of which will be to identify and advise the Secretary of the types of jobs available or likely to become available in the area served by the Council; except that if there is already located in any area an appropriate body to perform such function, the Secretary may designate such body as the Labor Market Advisory Council for such area.

"(2) Any such Council shall include representatives of industry, labor, and public service employers from the area to be served by the Council.

"(3) The Secretary shall not conduct, in any area, institutional training under any program established pursuant to subsection (b) of any type which is not related to jobs of the type which are or are likely to become available in such area as determined by the Secretary after taking into account information provided by the Labor Market Advisory Council for such area."

(e) (1) Section 433(a) of such Act is amended—

(A) by striking out "section 402" and inserting in lieu thereof "section 402(a) (17)"; and

(B) by adding at the end thereof the following new sentence: "The Secretary, in carrying out such program for individuals so referred to him by a State, shall accord priority to such individuals in the following order: first, unemployed fathers; second, dependent children and relatives who have attained age 16 and who are not in school, or engaged in work or manpower training; third, mothers, whether or not required to register pursuant to section 447, who volunteer for participation under a work incentive program; fourth, individuals who are employed at least 40 hours per week or at least 35 hours a week and have earnings of at least $64 per week, who are not required to register pursuant to section 447, and who volunteer so to register; and fifth, all other individuals so referred to him."

(2) Section 433(b) of such Act is amended to read as follows:

"(b) (1) For each State the Secretary shall develop jointly with the administrative unit of such State administering the special program referred to in section 402(a) (17) a State-wide operational plan.

"(2) The State-wide operational plan shall prescribe how the work incentive program established by this part will be operated at the local level, and shall indicate (i) for each area within the State the number and type of positions which will be provided for training, for on-the-job training, and for public service employment, (ii) the manner in which information provided by the Labor Market Advisory Council (established pursuant to section 432(f)) for any such area will be utilized in the operation of such program, and (iii) the particular State agency or administrative unit thereof which will be responsible for each of the various activities and functions to be performed under such program. Any such operational plan for any State must be approved by the Secretary, the administrative unit of such State administering the special program referred to in section 402(a) (17), and the regional joint committee (established pursuant to section 439) for the area in which such State is located.

"(3) In carrying out any such State-wide operational plan of any State, there shall be developed jointly by the Secretary and the administrative unit of the State administering the special program referred to in section 402(a) (17) in each area of the State an employability plan for each individual residing in such area who is participating in the work incentive program established by this part. Such employability plan for any such individual shall (i) conform with the State-wide operational plan of such State, (ii) provide that the separate administrative unit referred to in section 402(a) (17) (B) will provide the services referred to in section 402 (a) (17) (B), and (iii) provide that the Secretary shall be responsible for providing the training, placement, and related services authorized under this part."

(3) (A) Section 433(e) (1) of such Act is amended by striking out special work projects and inserting in lieu thereof public service employment.

(B) Section 433(e) (2) (A) of such Act is amended by striking out "a portion" and inserting in lieu thereof "100 per centum (in the case of the first year that such agreement is in effect if such agreement is in effect at least 3 years) and 90 per centum (if such agreement is in effect less than three years; or, if such agreement is in effect at least 3 years, in the case of any year after the first year that such agreement is in effect)".

(C) Section 433(e) (2) (B) of such Act is amended by striking out "on special work projects of" and inserting in lieu thereof "in public service employment for."

(D) Section 433(e) (3) of such Act is hereby repealed.

(4) Section 433(f) of such Act is amended

by striking out "any of the programs established by this part" and inserting in lieu thereof "section 432(b) (3)".

(5) Section 433(g) of such Act is amended by striking out "section 402(a)(19)(A)(i) and (ii)" and inserting in lieu thereof "section 402(a)(17)".

(6) Section 433 (h) of such Act is amended by striking out "special work projects" and inserting in lieu thereof "public service employment".

(7) Section 434 of such Act is amended—

(A) by inserting "(a)" immediately after "Sec. 434."; and

(B) by adding at the end thereof the following new subsection:

"(b) The Secretary of Labor is also authorized to pay, to any member of a family participating in manpower training under this part, allowances for transportation and other costs incurred by such member, to the extent such costs are necessary to and directly related to the participation by such member in such training."

(f)(1) Section 435 (a) of such Act is amended by striking out "80 per centum and inserting in lieu thereof "90 per centum".

(2) Section 435 (b) of such is amended by striking out "; except that with respect to special work projects under the program established by section 432(b)(3), the costs of carrying out this part shall include only the costs of administration".

(g) Section 436(b) of such Act is amended—

(1) by striking out "by the Secretary after consultation with" and inserting in lieu thereof "jointly by him and", and

(2) by striking out "under a State plan approved under section 402" and inserting in lieu thereof "under part D of this title or under an agreement entered into pursuant to part E of this title".

(h) Section 437 of such Act is amended to read as follows:

"Sec. 437. The Secretary is authorized to provide to an individual who is registered pursuant to section 447 and who is unemployed relocation assistance (including grants, loans, and the furnishing of such services as will aid an involuntarily unemployed individual who desires to relocate to do so in an area where there is assurance of regular suitable employment, offered through the public employment offices of the State in such area, which will lead to the earning of income sufficient to make such individual and his family ineligible for benefits under part D and supplementary payments under part E)."

(i) Section 438 of such Act is amended by striking out "projects under".

(j) Section 439 of such Act is amended to read as follows:

"Sec. 439. The Secretary and the Secretary of Health, Education, and Welfare shall, not later than 6 months after the date of enactment of the Family Assistance Act of 1970, issue regulations to carry out the purposes of this part, as amended by the Family Assistance Act of 1970. Such regulations shall provide for the establishment, jointly by the Secretary and the Secretary of Health, Education, and Welfare, of (1) a national coordination committee the duty of which shall be uniform reporting and similar requirements for the administration of this part, and (2) a regional coordination committee for each region which shall be responsible for review and approval of State-wide operational plans developed pursuant to section 433(b)."

(k) Section 444 of such Act is hereby repealed and sections 441, 442, and 443 of such Act are hereby redesignated as sections 440a, 440b, and 440c, respectively.

(l) Section 440a of such Act (as redesignated by subsection (k) of this section) is amended—

(1) by inserting "(a)" immediately after "Sec. 440a.".

(2) by striking out "443" and inserting in lieu thereof "440c";

(3) by adding immediately after the last sentence thereof the following sentence: "Nothing in this section shall be construed as authorizing the Secretary to enter into any contract with any organization after June 1, 1970, for the dissemination by such organization of information about programs authorized to be carried on under this part."; and

(4) by adding after and below such section the following new subsection:

"(b) The Secretary shall collect and publish monthly, by State, by age group, and by sex, the following information with respect to individuals registered pursuant to section 447—

"(1) the number of individuals so registered, the number receiving family assistance benefits, the number receiving supplementary benefits, the number of individuals receiving each particular type of work training services, and the number of individuals receiving no such services;

"(2) the number of individuals placed in jobs by the Secretary under section 432(b)(1)(A), and the average wages of the individuals so placed;

"(3) the number of individuals who begin but fail to complete training, and the reasons for the failure of such individuals to complete training; and the number of individuals who register voluntarily but do not receive training or placement;

"(4) the number of individuals who obtain employment following the completion of training, and the number of such individuals whose employment is in fields related to the particular type of training received;

"(5) of the individuals who obtain employment following the completion of training, the average wages of such individuals, the number retaining such employment 3 months, 6 months, and 12 months, following the date of completion of such training;

"(6) the number of individuals in public service employment, by type of employment, and the average wages of such individuals, and

"(7) the amount of savings, under the family assistance and supplementary payments programs, realized by reason of the operation of each of the programs established pursuant to this part."

(m) Section 440b (as redesignated by subsection (k) of this section) is amended to read as follows:

"TECHNICAL ASSISTANCE FOR PROVIDERS OF EMPLOYMENT OR TRAINING

"Sec. 440b. The Secretary is authorized to provide technical assistance to providers of employment or training to enable them to participate in the establishment and operation of programs authorized to be established by section 432 (b)."

(n) Section 440c (as redesignated by subsection (k) of this section) is amended—

(1) by striking out "20 per centum" wherever it appears therein and inserting in lieu thereof "10 per centum.".

(2) by striking out "(as specified in section 402(a))" and inserting in lieu thereof "(as required by section 402(a)(13))";

(3) by striking out "sections 3(a), 403 (a), 1003(a), 1403(a), 1603(a), and 1903 (a)" and inserting in lieu thereof "sections 403(a), 453, 1604, and 1903(a)", and

(4) by striking out "section 402(a)(19) (C)" and inserting in lieu thereof "section 402(a)(13)".

On page 41, between lines 18 and 19, insert the following:

"Sec. 102a. Part A of title IV of the Social Security Act is amended by adding after the section thereof redesignated (by section 103 (m) of this Act) as section 407 the following new section:"

On page 41, line 20, strike out "436" and insert in lieu thereof "408".

On page 44, line 2, strike out "ability" and all that follows and insert in lieu thereof "ability.".

Beginning on page 44, line 3, strike out all through page 46, line 21, and insert in lieu thereof the following:

"Sec. 102b. Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 40 as section 41, and by inserting after section 39 the following new section:"

"'Sec. 40. Expenses of Employee Ttraining and Work Incentive Programs

"'(a) General Rule.—There shall be allowed, as a credit against the tax imposed by this chapter, the amount determined under subpart C of this part.

"'(b) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section and subpart C.'"

"Sec. 102c. Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by adding at the end thereof the following new subpart:"

"Subpart C—Rules for Computing Credit for Expenses of Work Incentive Programs

"Sec. 51. Amount of credit.

"Sec. 52. Definitions; special rules.

"Sec. 51. Amount of Credit.

"(a) Determination of Amount.—

"(1) General Rule.—The amount of the credit allowed by section 40 for the taxable year shall be equal to 20 percent of the work incentive program expenses (as defined in section 52 (a)).

"(2) Limitation based on amount of tax.—Notwithstanding paragraph (1), the credit allowed by section 40 for the taxable year shall not exceed—

"(A) so much of the liability for the taxable year as does not exceed $25,000, plus

"(B) 50 percent of so much of the liability for tax for the taxable year as exceeds $25,000.

"(3) Liability for tax.—For purposes of paragraph (2), the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 35 (relating to partially tax exempt interest),

"(C) section 37 (relating to retirement income), and

"(D) section 38 (relating to investment in certain depreciable property).

For purposes of this paragraph, any tax imposed for the taxable year by section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351 (d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(4) Married individuals.—In the case of a husband or wife who files a separate return, the amount specified under subparagraphs (A) and (B) of paragraph (2) shall be $12,500 in lieu of $25,000. This paragraph shall not apply if the spouse of the taxpayer has no work incentive program expenses for, and no unused credit carryback or carryover to, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(5) Affiliated groups.—In the case of an affiliated group, the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (2) shall be reduced for each member of the group by apportioning $25,000 among the members of such group in such manner as the Secretary or his delegate shall by regulation prescribe. For purposes of the preced-

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ing sentence, the term 'affiliated group' has the meaning assigned to such term by section 1504(a), except that all corporations shall be treated as includible corporations (without any exclusion under section 1504 (b)).

"(b) Carryback and Carryover of Unused Credit.—

"(1) Allowance of credit.—If the amount of the credit determined under subsection (a)(1) for any taxable year exceeds the limitation provided by subsection (a)(2) for such taxable year (hereinafter in this subsection referred to as 'unused credit year'), such excess shall be—

"(A) a work incentive program credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a work incentive program credit carryover to each of the 7 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by section 40 for such years, except that such excess may be a carryback only to a taxable year beginning after December 31, 1968. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(2) Limitation.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (a)(2) for such taxable year exceeds the sum of—

"(A) the credit allowable under subsection (a)(1) for such taxable year, and

"(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused credit year.

"(c) Early Termination of Employment by Employer, Etc.—

"(1) General Rule.—Under regulations prescribed by the Secretary or his delegate—

"(A) Work incentive program expenses.—If the taxpayer terminates the employment of any employee with respect to whom work incentive program expenses are taken into account under subsection (a) at any time during the first 12 months of such employment (whether or not consecutive) or before the close of the 12th calendar month after the calendar month in which such employee completes 12 months of employment with the taxpayer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credits allowed under section 40 for such taxable year and all prior taxable years attributable to work incentive program expenses paid or incurred with respect to such employee.

"(B) Carrybacks and Carryovers Adjusted.—In the case of any termination of employment to which subparagraph (A) applies, the carrybacks and carryovers under subsection (b) shall be properly adjusted.

"(2) Subsection not to apply in certain cases.—

"(A) In general.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer, or

"(ii) a termination of employment of an individual who, before the close of the 12-month period referred to in paragraph (1)(A)(i) or (B), becomes disabled to perform the services of such employment, unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual.

"(B) Change in Form of Business, Etc.—For purposes of paragraph (1), the employment relationship between the taxpayer and an emloyee shall not be treated as terminated—

"(i) by a transaction to which section 381 (a) applies, if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(3) Special rule.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

"Sec. 52. Definitions; Special Rules.

"(a) Work Incentive Program Expenses.—For purposes of this subpart, the term 'work incentive program expenses' means the wages and salaries of employees who are placed in employment under a work incentive program established under section 432 (b) (1) (B) of the Social Security Act which are paid or incurred for services rendered by such employees during the first 12 months of such employment (whether or not consecutive).

"(b) Limitations.—

"(1) trade or business expenses.—No item shall be taken into account under subsection (a) unless such item is allowable as a deduction under section 162 (relating to trade or business expenses).

"(2) reimbursed expenses.—No item shall be taken into account under subsection (a) to the extent that the taxpayer is reimbursed for such item.

"(3) geographical limitation.—No item shall be taken into account under subsection (a) with respect to any expense paid or incurred by the taxpayer for training conducted outside of the territory of the United States.

"(4) maximum period of training or instruction.—No wages or salary of an employee shall be taken into account under subsection (a) after the end of the 24-month period beginning with the date of initial employment of such employee by the taxpayer.

"(5) Ineligible individuals.—No item shall be taken into account under subsection (a) with respect to an individual who—

"(A) bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c)), or

"(B) if the taxpayer is an estate or trust, is a grantor, beneficiary, or a fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust.

"(c) Subchapter S Corporations.—In case of an electing small business corporation (as defined in section 1371)—

"(1) the work incentive program expenses for each taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

"(2) any person to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses.

"(d) Estates and Trusts.—In the case of an estate or trust—

"(1) the work incentive program expenses for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

"(2) any beneficiary to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses, and

"(3) the $25,000 amount specified under subparagraphs (A) and (B) of section 51 (a)(2) applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $25,000 as the amount of the expenses allocated to the trust under paragraph (1) bears to the entire amount of such expenses.

"(e) Limitations With Respect to Certain Persons.—In the case of—

"(1) an organization to which section 593 applies,

"(2) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following), and

"(3) a cooperative organization described in section 1381 (a),

rules similar to the rules provided in section 46 (d) shall apply under regulations prescribed by the Secretary or his delegate.

"(f) Cross Reference.—

"For application of this subpart to certain acquiring corporations, see section 381 (c) (24)."

"Sec. 102d. (a) The table of subparts for part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

"Subpart C. Rules for Computing Credit for Expenses of Work Incentive Programs."

(b) The table of sections of subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 40. Expenses of work incentive programs.

"Sec. 41. Overpayments of tax."

(c) Part V of subchapter A of chapter 1 of such Code (relating to tax surcharge) is amended—

(1) by renumbering section 51 as 56, and

(2) by striking out "51" in the table of sections for such part and inserting in lieu thereof "56".

(d) Section 381 (c) of such Code (relating to items taken into account in certain corporated acquisitions) is amended by adding at the end thereof the following new paragraph:

"(24) credit under section 40 for work incentive program expenses.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 40, and under such regulations as may be prescribed by the Secretary or his delegate) the items required to be taken into account for purposes of section 40 in respect of the distributor or transferor corporation."

"Sec. 102e. The amendments made by sections 102b, 102c, and 102d of this Act shall apply with respect to taxable years beginning after December 31 of the year in which this Act is enacted."

On page 52, between lines 12 and 13, insert the following:

"(3) Section 402 (a) of such Act (as amended by the preceding provisions of this subsection) is further amended by inserting immediately before the period at the end thereof the following: '; and (17) provide that the State agency will have in effect a special program which (A) will be administered by a separate administrative unit and the employees of which will, to the maximum extent feasible, perform services only in connection with the administration of such program, (B) will provide (through arrangements with others or otherwise) for individuals who have been registered pursuant to part D such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept employment or receive manpower training provided under part C, and will, when such individuals are prepared to accept employment or receive manpower training, refer such individuals to the Secretary of Labor for employment or training under part C, and (C) will participate in the development of operational and employability plans under section 433 (b).'

On page 54, between lines 24 and 25, insert the following:

"(E) by striking out 'plus' at the end of clause (iii) of subparagraph (A) of such paragraph and inserting in lieu thereof 'or';

"(F) by inserting after clause (iii) of subparagraph (A) of such paragraph the following new clause:

"'(iv) administration of and services (other than child care services and medical and hospital services) provided under the program established pursuant to section 402 (a) (17); plus';

"(G) by inserting immediately after the first sentence of such paragraph (3) the following new sentence:

"'Notwithstanding the provisions of the preceding sentence, the per centum applicable with respect to expenditures referred to in subparagraph (A) shall, if such expenditures are for medical or hospital services provided under the program established pursuant to section 402(a)(17), be equal to the Federal medical assistance percentage (as defined in section 1905 (b)) of the State making such expenditures.'"

On page 54, line 25, strike out "(E)" and insert in lieu thereof "(H)".

On page 55, line 3, strike out "(F)" and insert in lieu thereof "(I)".

On page 55, line 6, strike out "(G)" and insert in lieu thereof "(J)".

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. Young of Ohio). Under the previous order, the Senator from Virginia (Mr. Spong) is now recognized for 30 minutes.

ORDER FOR THE RECOGNITION OF SENATOR THURMOND TOMORROW

Mr. SPONG. Mr. President, I ask unanimous consent that on tomorrow, the distinguished Senator from South Carolina (Mr. Thurmond) be allowed to speak for 20 minutes immediately following the remarks of the distinguished Senator from Ohio (Mr. Young).

The PRESIDING OFFICER (Mr. Young of Ohio). Is there objection? The Chair hears none, and it is so ordered.

SCHOOL DESEGREGATION—THE UNANSWERED QUESTIONS

Mr. SPONG. Mr. President, on last Friday I noted on the wire service that the school board of Little Rock, Ark., had requested a special summer convening of the Supreme Court of the United States to help resolve a dilemma brought about by conflicting judicial decisions regarding school desegregation. I am not familiar with either the situation in Little Rock or the decisions under which the school district is presently bound. I do believe that the hour is late for many questions to be answered, if not by the Supreme Court then certainly by Congress.

Sixteen years after Brown against Board of Education, parents, schoolchildren, school administrators, litigants, and our lower courts remain confused with respect to the constitutional requirements touching the desegregation or integration of public schools.

In March of this year in a special concurring opinion in *Northcross* v. *Board of Education of Memphis*, 397 U.S. 232, Chief Justice Burger stated:

> As soon as possible, however, we ought to resolve some of the basic practical problems when they are appropriately presented including whether, as a constitutional matter, any particular racial balance must be achieved in the schools; to what extent transportation may or must be provided to achieve the ends sought by prior holdings of the Court. Other related issues may emerge . . . .

On last Monday, before the Select Committee on Equal Educational Opportunity, I examined Mr. Jerris Leonard, Assistant Attorney General of the United States. I believe it fair to summarize the thrust of my inquiry by saying that it related to the lack of a national policy on school desegregation. I advised Mr. Leonard that statistics for the past school year show only 2.8 percent black students attended predominantly white schools in the city of Chicago, 8.2 percent black students attended predominantly white schools in the city of Philadelphia, and 4 percent black students attended predominantly white schools in the city of Cleveland, and that these percentages were declining, while in the South, HEW and Justice Department officials were seeking at an early date to have 40 percent of black students attending predominantly white schools. I reminded Mr. Leonard that there were seven suits now pending in the State of Virginia, one more than the Department of Justice has filed in all the rest of the United States outside of the South.

Mr. Leonard's response was standard. He stated, first, that the Justice Department could not bring suits unless there was a complaint, and second, that I should examine Deal against Cincinnati, decided in the Sixth Circuit Court of Appeals in December of 1966. I have read this case reported in 369 F. 2d 55. On page 61, the court stated:

> We hold that there is no constitutional duty on the part of the Board to bus Negro and white children out of their neighborhoods or to transfer classes for the sole purpose of alleviating racial imbalance that it did not cause, nor is there a like duty to select new school sites solely in furtherance of such a purpose.
>
> The busing of pupils away from the neighborhoods of their residences may create many special problems for boards of education. These include the providing of adequate transportation and proper facilities and personnel for the supervision, education and well-being of *all* pupils. All of this must be accomplished within the Board's budget.

The Deal case in large measure relied upon *Bell* v. *School, City of Gary, Indiana*, 324 F. 2d 309, decided in October of 1963, where the court declined to approve a plan involving the busing of 6,000 pupils on each schoolday, having considered the costs and safety of the children and the city's residential patterns.

Another case which relied upon Bell is *Downs* v. *Board of Education of Kansas City*, 336 F. 2d 988, decided in September of 1964.

Mr. Leonard's reliance upon Deal is that this is de facto segregation, coming about solely and completely as a result of racial isolation in housing patterns. He advised me that until the law is changed, either by the Congress or by the courts, nothing will be done. The Supreme Court denied certiorari in the Bell case on May 1, 1964, denied certiorari in the Downs case on March 1, 1965, and denied certiorari in the Deal case on October 9, 1967. This means that in those years the Court declined to hear appeals of these cases, probably because it did not deem them of sufficient national importance.

When I questioned Mr. Leonard about the New York freedom of choice plan or a recent statute enacted by the Michigan Legislature, which by allowing freedom of choice had the effect of upsetting a Detroit plan to achieve racial balance, he advised me that racial balance is not a legal requirement. I told him I believed freedom of choice should mean the same in Michigan that it means in Virginia. Mr. Leonard referred me to *Green* v. *County School Board*, 391 U.S. 430 (1968). I am, of course, familiar with the Green case, a Virginia case, and I am in agreement with an article in Harvard Law Review, volume 82:63, page 111, which says on page 114:

> In more difficult cases, where not all the factors point the same way, the Court will have to refine its analysis of the concepts "dual system," "unitary system," "segregated," "integrated," and "racially unidentifiable." And it will have to begin facing some of the hard questions involved in implementing *Brown:* in formulating desegregation plans, what weight is to be given to sound policies of education and school administration; what weight to wishes of southern black nationalists for separation, even where by the lights of the larger community the result will be "inferior" education; what weight to such evidence exists that once the ratio of Negro pupils to whites passes beyond a critical point the educational benefits from integration are reduced or lost altogether? Since *Brown*, the lower courts have been grappling with these issues largely without guidance from the Supreme Court. In *Green* the Court missed an important opportunity to provide guidance by re-articulating the reasons for and the very meaning of "desegregation."

Perhaps it is oversimplification to say that Mr. Leonard professed no double standard toward desegregation in the United States because of the distinction between de jure and de facto situations—that enforced busing and racial balance may be for Charlotte and Norfolk, but not for Chicago and Philadelphia, because the former were once de jure situations, the latter de facto—that, for the same reason, freedom of choice language may have different applications in different parts of our country.

Just 10 days ago former Attorney General Ramsey Clark testified before the same committee that there is no difference between de jure and de facto segregation. Former Secretary Finch has been quoted as saying:

> (The Courts) still cling to the distinction between *de jure* (by law or former regulation) and *de facto* segregation, which I happen to believe as a lawyer is no longer valid . . . I think segregation or racial isolation wherever it appears is one and the same.

In *Beckett* v. *School Board of City of Norfolk,* 308 Fed. Sup. 1274, the memorandum of the able trial judge, Walter E. Hoffman, includes, beginning at page 1302, a section entitled "De Facto Versus De Jure Segregation."

After observing it had been argued "that de jure segregation exists in Virginia by operation of law solely because Virginia, among many other States, had statutes on its books which required segregation of public schools prior to Brown I," Judge Hoffman wrote:

> In sum, the proponents of racial balancing insist that *de jure* segregation continues to exist throughout Virginia, regardless of good faith efforts on the part of any school board to eradicate it, until a totally "unitary system" is attained. That Norfolk is now completely free of discriminatory practices in housing and schools is best evidenced by the rapidly changing housing patterns which, in turn, are leading to resegregated schools.
>
> As mentioned in footnote (5), we entertain grave doubts that there can be an avoidance of any constitutional mandate merely because *de facto* and not *de jure*, segregation existed in 1954. The Supreme Court has not spoken on the subject. We believe that an analysis of the entire matter will demonstrate rather effectively that there were many discriminatory acts by state officials and/or discriminatory state laws prior to 1954 which prompted segregated housing patterns and, in turn, brought about a neighborhood school which was segregated.
>
> If the Constitution requires complete disestablishment in the sense that racial balancing is required in each individual school and classroom wherever the state at any time required segregation of public schools, then there is no need to go further; there is no necessity for complex plans; and much of the elapsed time since the 1954 decision in *Brown I* has been wasted.

Later Judge Hoffman said:

> Assuming arguendo that *de jure* segregation is the result of either discriminatory public laws or actions by public officials, we have great difficulty in determining how any segregation can actually be *de facto*. Research discloses that practically every State, outside the so-called "Deep South," at some point in history had either (1) mandatory segregation of public schools, (2) permissive segregation, (3) anti-Negro voting laws, (4) miscegenation statutes, or (5) local practices, as revealed by judicial decisions or articles, regardless of state laws. Whether such state action required or merely permitted school segregation should be irrelevant if the result was segregation of the races. Even where such statutes were repealed prior to 1954, the pattern of segregation may have been so well established that its continued existence could only be *de jure*.

Judge Hoffman said later:

> We cannot believe that the Constitution may be interpreted one way for a group of states, and still another way for the remaining states. While we do not believe that the mandate of the Constitution goes beyond the *affirmative* mandate mentioned in the earlier portion of this opinion, we think it obvious that, whatever may be correct interpretation of the Constitution, the same construction must apply to all 50 states. Certainly it must be applied to any state where any discriminatory statute, judicial decision, or official act existed for many years prior to 1954.
>
> Attached hereto as Appendix C will be found, on a state-by-state basis, the extensiveness of state statutes and/or judicial decisions. The list is not intended to be inclusive: for example, where there was mandatory segregation in public schools, other segregation or discriminatory laws were not included. It does not refer to housing ordinances and deed restrictions legalized in many states. Furthermore, it is impossible, through research of the cases and statutes alone, to uncover all examples of discriminatory action by public officials regardless of what the state laws required.
>
> We conclude that the *de facto-de jure* issue is not a determinative factor in arriving at what is required under *Brown I* and the subsequent cases. We believe that the *affirmative* mandate mentioned herein applies to all states, but that it must be reasonably and feasibly construed consistent with the circumstances confronting the local school board in each area.

We are attaching Judge Hoffman's "appendix C" to these remarks, and I ask unanimous consent that it be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER (Mr. YOUNG of Ohio). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPONG. Mr. President, this attachment shows every State of the Union except five to, at some time, have had discriminatory statutes or judicial decisions sustaining segregation.

The Fourth Circuit reversed Judge Hoffman's holding that good-faith implementation of constitutional principles did not require racial balancing in each individual school throughout a school system comprised of many different schools where it was freely conceded that massive compulsory busing would be required to accomplish such racial balancing.

Just before leaving for its summer recess, the Supreme Court denied certiorari. This is regrettable because, in my judgment, the learned memorandum by Judge Hoffman posed the very questions Chief Justice Burger said should be resolved "as soon as possible."

Allow me to return to Mr. Leonard's testimony of last Monday. He referred me to the Deal case concerning the city of Cincinnati. In 1933, according to Judge Hoffman's appendix, separation of races on an educational level under the separate but equal theory was upheld by the highest court in Ohio. As I have said, the Deal opinion cited by precedent, the Bell case, involving the city of Gary, Ind. Judge Hoffman's appendix shows that the State of Indiana had a separate school law that was not repealed until 1949. Statistics for the 1968–69 school year show only 3.1 percent of black students in Gary attended predominantly white schools that year.

On the day after the Norfolk case was reversed and remanded, Mayor Roy B. Martin of that city wrote and asked where the money was coming from to transport the additional 16,000 Norfolk schoolchildren, should that be required. It had been estimated in the testimony that this would require $4 million in capital outlay and $800 thousand additional annual expenditure.

While some Federal money may be available, a large portion of the added transportation costs must be borne by the taxpayers of the city of Norfolk and Virginia. Is it equal treatment under the law for the citizens of Virginia to be taxed to pay for enforced busing to achieve racial balance because Virginia had a segregation statute in 1955, while the citizens of Indiana are subject to no such burden because that State repealed its statute in 1949? I do not believe any fairminded person will appreciate that distinction. I do not believe one can easily explain that you are formerly de jure if you had a law in 1955, but not formerly de jure if you had one in 1949. I do not believe that parents, black and white, of Charlotte and Norfolk will understand why 6- and 7-year-old children must be bused out of their neighborhoods long distances while no such requirement is imposed upon elementary children in cities outside the South where there is more racial isolation today than there was at the time the Brown case was decided.

One of our colleagues, Senator ABRAHAM RIBICOFF, has described the present double standard of desegregation as monumental hypocrisy. I view it as morally indefensible.

I believe in an equal educational opportunity for every child. I believe it is wrong to classify men by race. But I also believe in the educational soundness of the neighborhood school, and I have seen the resegregation that has already taken place in the larger cities of Virginia. I know that massive enforced busing in those cities, particularly of elementary school children, can only result in accelerating the mass exodus into the suburbs from the core cities of Virginia, leaving behind the low-income and alienated blacks and whites.

In April of this year, Dr. James S. Coleman of Johns Hopkins University, the principal author of Equality of Educational Opportunity, an extensive study of the effects of segregation and desegregation on the educational experiences of schoolchildren, testified before the Senate Select Committee on Equal Educational Opportunity to the effect that a child's achievement in school, especially in the cognitive skills, is determined more by the cultural background of his classmates than by the educational resources of the school.

Dr. Coleman, on page 22 of his study, wrote:

> If a white pupil from a home that is strongly and effectively supportive of education is put in a school where most pupils do not come from such homes, his achievement will be little different than if he were in a school composed of others like himself. But, if a minority pupil from a home without much educational strength is put with schoolmates with strong educational backgrounds, his achievement is likely to increase.

Under questioning, Dr. Coleman noted that the same findings applied to deprived and alienated white children as applied to minority children. He and Dr. Thomas Pettigrew of Harvard University, who testified later, told the committee that there was a tipping point at which the number of minority group or deprived children in a classroom could negate the positive educational effects which having middle- and upper-class children in the classroom would have. While estimates vary to some extent, this tipping point is usually considered to be in the 35 to 50 percent range; that is, when the number of children from deprived homes exceeds this percentage, the positive effects of having other children present are nullified.

If we are to accept the findings of these two men and others who are expert in their fields, we can only view the resegregation which is occurring with concern. In the first place, these findings mean that the deprived child in Chicago, in Gary, in Cleveland is just as educationally deprived, or perhaps more so in terms of percentages, than the deprived child in certain southern cities. Second, it means that unless the resegregation of southern and other urban areas throughout our Nation can be halted or at least slowed, then the difficulties of providing a sound education—from both the cognitive and more social aspects—will be almost impossible in our cities.

There has been the charge that the busing being required now is no greater than the busing used to maintain some dual school systems. In some cases, this may be true. In numerous cases currently before the courts, it is not. And, in such situations, I believe that we must be reasonable—insofar as the educational system is concerned and insofar as the financial resources of the community are concerned. The massive busing which has been proposed in some of our southern cities, particularly Charlotte, Richmond, and Norfolk will, I believe, rather than contribute to achievement of sound education, within the guidelines of the Coleman report, Equality of Educational Opportunity, move many school systems in the opposite direction. In other words, enforced massive busing will set in motion events which will make it almost impossible to provide sound public education.

It is not difficult to appreciate the dilemma of the Little Rock School Board. I know something of the problems presently faced by school boards in every major city in Virginia. There have been occasions when court proceedings and HEW directives seemed in conflict. There have been occasions when it was difficult to determine if the Department of Justice and HEW were part of the same Government. Almost anything would be better than the present state of tension, uncertainty and doubt.

In observing that there remain many unanswered questions by the Supreme Court I do not wish to absolve Congress of any responsibility. I believe we must address ourselves to a national policy of desegregation which will be applicable throughout the United States. I shall speak to this in the near future. Meanwhile, I believe it is necessary that the Supreme Court give more direction in school cases—and soon. The Court has insisted upon speed, but it has not said how desegregation is to be accomplished. It has said we must have only unitary school systems, but it has not defined a unitary school system. The Court has not indicated whether racial balance of any dimension must be achieved in each school. The Court has not said whether the continuation of wholly black or white schools is unconstitutional. The Court has not ruled whether massive compulsory busing is required to achieve racial balance. And lastly, the Court has not faced up to the question of de facto and de jure segregation and the need for an interpretation of the law that will have equal application throughout the United States.

Exhibit 1

Judge Hoffman's Appendix

A list of states with discriminatory laws or judicial decisions, excluding Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, in which mandatory school segregation laws existed on May 17, 1954.

ALASKA

In *Davis* v. *Sitka School Board*, 3 Alas. 481 (1908), it was held that semi-civilized Indians did not have to be admitted to public schools. It went on to find that the stepchildren of "an industrious, law-abiding, intelligent native" Indian, who operated a store "according to civilized methods," and had adopted the white man's style of dress; spoke, read and wrote the English language; and was a member of the Presbyterian Church; were not civilized enough to attend white schools because they still lived with other members of their tribe.

Sing v. *Sitka* School Board, 7 Alas. 616 (1927), upheld separate but equal schools for Indians.

ARIZONA

Arizona Code Ann. (1939), section 54–416, provided for mandatory segregation in *elementary* schools. Under section 54–918, there was permissive segregation in *high* schools, where there were more than 25 blacks in the high school district and if approved by a majority vote of the electorate. By an amendment in 1951, section 54–416 was made permissive and section 54–918 was repealed.

ARKANSAS

Ark. Stat. Ann. (1947), section 80–509(c). required the establishment of separate schools for white and colored.

CALIFORNIA

While laws enacted in 1869–70 and 1880–81 provided (1) mandatory separate schools for Negro and Indian children, and (2) permissive separate schools for children of Mongolian or Chinese descent, a statute enacted in 1943 but repealed in 1947 reenacted the permissive separate school provision and provided that, if separate schools were established for Indian children or children of Chinese, Japanese or Mongolian parentage, they could not be admitted to any other school. *Cal. Educational Code,* section 8003 (Deering's 1944.) *See* also: *Cal. Laws* 1869–70, p. 838; *Cal. Political Code,* section 1662 (Deering's 1885.)

COLORADO

Miscegenation statute, *Col. Stats. Ann.* c. 107, sections 2, 3 (1935.) Jackson v. Denver, 109 Col. 196, 124 P. (2d) 240 (1909) holds that an otherwise valid common law marriage between a black and a white was declared to be "immoral" and justified a conviction under a vagrancy statute defining same to include leading an "immoral course of life."

CONNECTICUT

Conn. Const., Art. VI, section 2 (1818), limited the electorate to white male citizens owning property. In 1845 the property qualification was deleted. In 1876 the Constitution was amended by removing the requirement that electors be white.

DELAWARE

Del. Const., Art. X, section 2 (1915) provided for separate schools. By the Del. Rev. Code, Ch. 71, section 9 (1935), two kinds of separate schools were authorized; "those for white children and those for colored children."

DISTRICT OF COLUMBIA

D.C. Code, title 7, sections 249, 252 (1939 Supp.), authorizes separate schools for white and colored in the District.

IDAHO

Idaho Const., Art. 6, section 3 (1890), prohibits Chinese or Mongolians, not born in the United States, from voting, serving as jurors, or holding civil offices.

Miscegenation statute: 1867, p. 71, section 3; R. S. section 2425, reenacted Rev. Code section 2616; amended 1921, Ch. 115, section 1, p. 291.

ILLINOIS

Ill. Const., Art. II, section 27 (1919), limited the electorate to white males.

Although no statute respecting school segregation has been located, history is replete with evidence of discriminatory practices in operating separate schools for many years. *See* Ming, *The Elimination of Segregation in the Public Schools of the North and West,* 21 J. Negro Ed. 265, 268 (1952); B. H. Vallen, *Racial Desegregation of the Public Schools in Southern Illinois,* 23 J. Negro Ed. 303 (1954); Shagoloff, *A Study of Community Acceptance of Desegregation in Two Selected Areas,* 23 J. Negro Ed. 330 (1954). *See* also: *United States v. School District 151 of Cook County, Ill.,* 301 F. Supp. 201, 217 (1969).

Thus, Illinois, without a specific statute, practiced segregation in public schools prior to 1954, almost as much as in the "Deep South."

INDIANA

Ind. Stat. Ann., section 28–5104 (Burns 1933), provided for the establishment of separate schools for Negroes if the school authorities believed it to be necessary or proper but, if no separate schools were established, Negroes could attend white schools. In 1949, the separate school law was repealed, *Laws,* 1949, Ch. 186, section 11.

IOWA

Iowa Laws, Ch. 99, section 6 (1846), provided that schools were to be open to all white persons.

Iowa Laws, Ch. 52, section 30 (1858), called for the education of colored children in separate schools except where there was unanimous consent of all attending the school to allow Negroes to attend the white school. This act was declared unconstitutional in *District v. City of Dubuque,* 7 Iowa 262 (1858), on the ground that the Constitution gave the power to legislate with regard to education to the Board of Education and not to the General Assembly. Thereafter, the Board of Education provided education for all "youth" and in *Clark v. The Board of Directors,* 24 Iowa 266 (1868), this was construed as requiring admission of Negroes into white schools.

The *Iowa Const.*, Art. II, section 1 (1858), provided that only white males could be electors. Iowa Code, Ch. 130, section 2388 ff. (1859). stated that no colored person could be a witness.

KANSAS

Kan. Gen. Stat., Section 72–1724 (1949), gave authority to establish and maintain separate primary schools for whites and Negroes throughout the state, and separate high schools in Kansas City. See: *Brown v. Board of Education,* 347 U.S. 483 (1954).

KENTUCKY

Ky. Const., Section 187, *Ky. Rev. Stat.*, Section 158.020 (1946), required separate schools for white and colored children.

XUM

MARYLAND

Md. Code Ann., Art. 77, Sections 124, 207 (1951) required the county boards of education to establish one or more separate schools for Negroes, provided that the colored population of any such district warranted, in the board's judgment, an establishment of separate colored educational facilities.

MASSACHUSETTS

In *Roberts v. City of Boston*, 59 Mass. 198 (1849), the court stated that separate schools had been maintained for colored children "for half a century."

The court upheld the school committee in denying admission to a white school by a Negro child. However, six years later Massachusetts by statute abolished the practice of excluding on account of race, color or religion.

MICHIGAN

A dissenting opinion in *The People v. The Board of Education of Detroit*, 18 Mich. 400 (1869), states that in 1841 separate schools for colored were established in Detroit. The court was construing an amendment to the general school law which provided that all residents had an equal right to attend schools and the statute was held to apply to Detroit.

In *Day v. Owen*, 5 Mich. 520 (1858), the court upheld a regulation excluding a Negro from the cabin of a steamer solely for the reason of his race.

People v. Dean, 14 Mich. 406 (1866), held that only whites, or those at least three-fourths white, could vote.

Miscegenation statute, C. L. 1857, 3209, C. L. 1871, 4724, prohibited marriages between whites and Negroes until the statute was amended in 1883.

MINNESOTA

Minn. Rev. Stat., Ch. 5, section 1 (1851), and Minn. Const., Art. VII, section 1 (1858), excluded Negroes from voting until amendment of November 3, 1868.

MISSOURI

Mo. Const., Art. XI, sections 1, 3 (1875), and *Mo. Rev. Stat.*, section 163.130 (1949), required separate schools and "it shall be unlawful for any colored child to attend any white school or for any white child to attend a colored school." These provisions were repealed in 1957, three years *after Brown I.*

MONTANA

Mont. Ter. Laws, 1872, p. 627, provided for separate schools of children of African descent when requested by at least ten such children. This statute was repealed in 1895.

Miscegenation statute, *Mont. Rev. Code*, section 5700, (1935).

NEBRASKA

Neb Rev. Stat., Ch. 48, section 8 (1866), imposed upon the local school directors the duty of taking an annuel census of unmarried *white* youth between the ages of five and twenty-one for the purpose of school assignments. *Neb. Rev. Stat.*, Ch. 48, section (1866), establishing the school system states that it is "for the purpose of affording the advantage of a free education to all *white* youth of this territory," and further provides that all colored persons shall be "exempted from taxation for school purposes." These laws were repealed in 1869.

Miscegenation statute. *Neb. Rev. Stat.*, section 42-103 (1943).

NEW JERSEY

N. J. Com. Stat., pp. 4791-92, Schools sections 201-204, pp. 4814-16, Schools sections 262-267 (1911), established as industrial school for blacks.

In M. T. Wright, *Racial Integration in the Public Schools in New Jersey*, 23 J. Negro Ed. 282 (1954), there is reference to an 1850 statute permitting a township in Morris County to establish separate schools for colored children.

In Williams and Ryan, *Schools in Transition*, p. 122 (1954), it is said: "A survey of 62 school districts, initiated in the spring of 1948, revealed that two-thirds had segregated schools sanctioned by local custom and practice."

N.J. Const., Art. II, section 1 (1844), limited suffrage to white males.

NEW MEXICO

N.M. Stat., section 55-1201 (1941 Annot.) allowed school boards to place children of African descent in separate schools if the facilities were equal.

NEW YORK

N.Y. Consol, Laws, c. 15, section 921 (Cahill 1930), provided that trustees of any union school district organized under a special act "may establish separate schools for colored children provided that the facilities are equal." On March 25, 1938, this law was repealed.

NORTH DAKOTA

Miscegenation states, N.D. Rev. Code, section 14-0304 (1943)

OHIO

Under *Ohio Stat.*, Ch. 101, section 31 (1854), separate schools for colored children were authorized and required when there were more than thirty school-aged colored children in a township. This statute was repealed in 1887. It was held in *Garnes* v. *McCann*, 21 Ohio St. Rep. 198 (1871) that the existing statute deprived the Negroes of the right to admission at white schools.

Separation of races on an educational level under the separate but equal theory was upheld in *State ex rel. Weaver* v. *Trustees*, 126 Ohio St. Rep. 290 (1933).

OKLAHOMA

Mandatory separate but equal schools required for black and white children. *Okla. Const.*, Art. I, section 5, Art. XIII, section 3; *Okla. Stat.*, Title 70, Section 5-1 (1949 Supp.).

OREGON

Miscegenation statute. *Ore. Comp. Laws Ann.*, section 63-102 (1940). Statute repealed 1951.

PENNSYLVANIA

In *Hobbs* v. *Fogg*, 6 Watts 553 (Pa. 1837), the Court held that a free male Negro was not a freeman entitled to vote under the Pennsylvania Constitution providing that all freemen could vote. In 1838, the *Pennsylvania Constitution*, Art. I, restricted voters to white freemen. In 1874 this restriction was removed.

While unable to locate the statute, H. M. Bond, *The Education of the Negro in the American Social Order*, p. 378 (1934), states that in 1854 Pennsylvania enacted an optional separate school law where there were more than twenty Negroes in a district. This law was reportedly repealed in 1881.

RHODE ISLAND

Ammons v. *Charlestown School District*, 7 R.I. 596 (1964), held that Indian tribes were not entitled to send their children to local public schools since the state had provided schools for Indians through a special state appropriation.

SOUTH DAKOTA

Indians were required to attend federal schools established for them whenever such schools were available. S.D. Laws Ch. 138, sections 290-293 (1931): S.D. Code, Section 15.3501 (1939).

TENNESSEE

Mandatory separate schools for colored children. *Tenn. Const.*, Art. XI. Section 12; *Tenn. Code*. Section 2377, 2393-9 (1932).

TEXAS

Mandatory separate schools for colored children. *Tex. Const.*, Art. VII, section 7; *Tex. Ann. Rev. Civ. Stat.*, Articles 2719, 2900 (1925).

UTAH

Utah Laws and Ordinances, 1851, An Ordinance to Incorporate Great Salt Lake City, section 6, provided "all free white male inhabitants are entitled to vote. . ."

Miscegenation statute. *Utah Code Ann.*, Section 40-1-2 (1943).

WEST VIRGINIA

Mandatory separate schools for colored children. *W.Va. Code*, ch. 18, Art. 5, Section 14 (1931)

WISCONSIN

Indians required to attend separate schools where such schools were available. *Wisc. Stat.*, section 40. 71, (1949). Repealed in 1951.

Under *Wisc. Stat.*, section 75. 14(4), restrictions surviving the issuance of tax deeds (after tax sales) which were valid and enforceable included those regarding the "character, race, and nationality of the owners." Statute repealed in 1951.

WYOMING

Wyo. Comp. Stat. Ann., section 67-624 (1945, but originally enacted in 1876), provided that the school boards could establish separate but equal schools for Negroes.

SUMMARY

Only as to the states of Maine, New Hampshire, Vermont, Washington, Nevada, and Hawaii does it appear from this nonexhaustive research that no discriminatory laws apeared on the books at one time or another. No consideration has been given to Puerto Rico, Virgin Islands, Canal Zone or Guam.

Mr. HOLLAND. Mr. President, I congratulate my distinguished friend from Virginia (Mr. SPONG) upon an exceedingly clear, informative, and I thought well stated and accurate picture of what confronts us in our Nation.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. YOUNG of Ohio). Pursuant to the previous order, there will be a period for the transaction of routine morning business with a 3-minute limitation on statements.

TITLES OF ROYALTY—VISIT TO WASHINGTON BY PRINCE CHARLES AND PRINCESS ANNE

Mr. HOLLAND. Mr. President, I took particular pride yesterday in seeing on the front page of the editorial section of the Washington Post an article from the pen of Dr. Thomas V. DiBacco entitled "Keeping Our Presidents Humble." Aside from the historical interest of the article my own interest grew from the fact that Thomas DiBacco is a Florida boy who, after going to grade school and high school in Sarasota, took his bachelor's degree at Rollins College, then came here to Washington and served, on my nomination, as a Capitol policeman or as an elevator operator for the several years that were necessary to enable him to complete his master's degree and his doctorate at American University. He is now associate professor of history at American University. I have followed his career with a great deal of interest and pride.

I might add that his wife is a native of Winter Haven in my own county, a daughter of my longtime friends. When they came here to Washington they had one youngster and they were enriched by another while he was completing his graduate work at American University as an employee of the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD the article entitled "Keeping Our Presidents Humble."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KEEPING OUR PRESIDENTS HUMBLE

(By Thomas V. DiBacco)

The American people are really monarchists at heart. Their history is spotted with references to the servile deference they have accorded their President since 1789. And even the most recent examples—highlighted by the almost obsequious treatment of President Nixon in his interview by three television commentators—are so flagrant as to justify the celebration of William Maclay's birthday (July 20, 1737) by Americans who sincerely believe that the Chief Executive should not be immune to "hard" explanations of his conduct of the nation's domestic and foreign policies.

Maclay's name is not a household word—even in the homes of historians. He was born in New Garden, Pa., and spent his early adulthood studying law, surveying and fighting in the French and Indian War. After holding military and political positions in his state during the Revolution, Maclay began his most notable public service March 4, 1789, when the first Congress under the Constitution met.

Serving in the Senate for the next two years, Maclay kept a detailed journal in which he recorded his view of the debates in the upper house. Often caustic, witty and secret (publication was not permitted until 1880), Maclay's journal has a refreshing "tell-it-like-it-is" approach that the often fawning official documents of his time (and ours) lacked.

TRUANT HANDS

For example, President Washington was not first in everything—at least not in his inaugural address, according to Maclay:

"This great man was agitated and embarrassed more than ever he was by the leveled cannon or pointed musket. He trembled, and several times could scarce make out to read, though it must be supposed he had often read it before. He put part of the fingers of his left hand into the side of what I think the tailors call the fall of the breeches [side pocket], changing the paper into his left [right] hand. After some time, he then did the same with some of the fingers of his right hand. When he came to the words 'all the world,' he made a flourish with his right hand which left rather an ungainly impression."

Maclay disdained the attempts of contemporaries to establish a deferential cloak of references, immunities and titles around the President. When Vice President John Adams, presiding over the Senate, called Washington's inaugural address "his most gracious speech," Maclay blew his cool:

". . . I looked all around the Senate. Every countenance seemed to wear a blank. The Secretary was going on; I must speak or nobody would:

" 'Mr. President [of the Senate, Vice President Adams], we have lately had a hard struggle for our liberty against kingly authority. The minds of men are still heated; everything related to that species of government is odious to the people. The words prefixed to the President's speech are the same that are usually placed before the speech of his Brittannic majesty. I know they will give offense. I consider them as improper. I therefore move that they be struck out and that it stand simply address or speech, as may be judged most suitable.'

"Mr. Adams rose in his chair and expressed the greatest surprise that anything should be objected to on account of its being taken from the practice of that government under which we had lived so long and happily formerly; that he was for a dignified and respectable government, and as far as he knew the sentiments of people, they thought as he did; that for his part, he was one of the first in the late contest [the Revolution], and, if he could have thought of this, he never would have drawn his sword."

Maclay locked horns with Adams over this issue, and when other senators used such words as "excellency," "highness" and "elective highness" in speaking of the President, Maclay writhed again, attributing all the "fooleries, fopperies, fineries and pomp of royal etiquette" to the Vice President.

A DESPICABLE TITLE

Maclay's finest moment came in debate over the title "His Highness the President of the United States of America and Protector of the Rights of the Same." Although agreed upon by a Senate committee, the title has generally been ascribed to Adams' genius. Maclay first recorded Adams' defense and then his own position:

"Gentlemen [said Adams], I must tell you that it is you and the President that have been making of titles. Suppose the President to have the appointment of Mr. Jefferson at the court of France. Mr. Jefferson is, in virtue of that appointment, the most illustrious, the most powerful and what not. But the President must be himself something that includes all the dignities of the diplomatic corps and something greater still. What will the common people of foreign countries, what will the sailors and soldiers say, 'George Washington, President of the United States'? They will despise him *to all eternity*. This is all nonsense to the philosopher, but so is all government whatever."

"The above," wrote Maclay, "I recollect with great precision, but he said 50 more things, equally injudicious, which I do not think worth minuting. . . . Having experienced relief by the interference of sundry members, I had determined not to say another word, but this new leaf appeared so absurd I could not help some animadversions on it. I rose:

" 'Mr. President, the Constitution of the United States has designated our Chief Magistrate by the appellation of the *President of the United States of America*. This is his title of office, nor can we alter, add to or diminish it without infringing the Constitution. . . . As to what the common people, soldiers and sailors of foreign countries may think of us, I do not think it imports us much. Perhaps the less they think, or have occasion to think of us, the better.' "

Happy birthday, Bill!

Mr. HOLLAND. Mr. President, the article that I speak of is particularly interesting because it relates some difficulties that arose just after the Constitution of our country was adopted and during the first session of the First Congress of the United States. The article refers to the position of one of the two first Senators from Pennsylvania, whose name was William Maclay. He found fault with the fact that the Senate, and particularly the then Vice President, who later became a President—and he was a distinguished American, the elder Adams—wanted to retain many of the terms, titles, and lordly words that applied in the old days of recognition of royalty by the Colonies.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HOLLAND. Mr. President, I ask unanimous consent that I may have 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLAND. Particularly Senator Maclay objected to such words as "excellency" and "highness" and "elective highness." Mr. President, I think it is historically interesting to note that when a committee of the Senate reported that this, in their opinion, should be the title of the President, "His Highness the President of the United States of America and Protector of the Rights of the Same," old Senator Maclay arose and protested so vigorously that his ideas finally prevailed and the formal title of the President of the United States became what the Constitution had called him, the President of the United States of America, and it has been such ever since.

The article is a very interesting historical one, but I thought it appeared at a particularly interesting time because of the presence here, at the very time of its publication, of two young persons from the royal family of England, Prince Charles and Princess Anne, whose activities are very liberally reported in the same issue of the Washington Post of yesterday.

I may say, Mr. President, that I followed their activities with much interest, because it seemed to me that these two young people showed themselves to be very fine examples of what we in America regard as splendid modern youth.

Various activities of these two fine, handsome young people were reported. Reported were social activities at the White House, where they were the unofficial guests of President and Mrs. Nixon and their family; also their other activities, such as the visit to the Capitol, where Princess Anne, exactly as was the case with one of my dearly loved cousins, expressed wonderment that the bald eagle, the American eagle, should have been recognized as the American emblem. She did not know it but she had a marvelous precedent in the attitude of Benjamin Franklin. Of course, we almost venerate the bald eagle, but I thought it was interesting that this youngster spoke frankly of her own wonderment and her own ideas about the American bald eagle.

I noted that later, when she went about her sightseeing she wanted to see the rack and ruin along 14th Street, about which we all know, and which followed the riot of a couple of years ago. But she also wanted to see the beautiful edifices along Massachusetts Avenue and to drive along the George Washington Parkway and, from the heights of the palisades of the Potomac, to look upon our beautiful city and area from that vantage point.

I noted that the young Prince, in addition to his other activities, wanted to go to the Patuxent Wildlife Reserve, and he was particularly interested in the vanishing species which are being safeguarded there—especially the whooping cranes.

Then they went together with some of the White House young people to see a baseball game Saturday afternoon, one of the rare occasions when the Washington Senators came out victoriously in a game with the California Angels. I thought the whole report of their attitude toward that game, which was foreign to them, and the questions they asked and the comments they made were very fine indeed and showed these two young people to be typical modern youngsters of the type of whom we can all be very proud.

I think probably the closing sentence in the news article about the game might be interesting to record, and I read it for the RECORD. The article, by the way, is entitled "Charles, Anne Watch Game; Fans, Players Watch Them"—and that was the case. And here is this final comment:

> Reaction to the royal party was unanimously favorable in the stands.
>
> "Real cool," said 8-year-old Mark Malone of Falls Church. "Out of sight," said hot dog vendor Charles Johnson. "Very suave," said Mrs. Charles Hunt, of Fairfax, a fan.
>
> The Senators' Epstein summarized it for the players. "Very British," he said.

I think the two articles I mentioned and the two occasions which happened to coincide here at the Capitol show very clearly that as we have become more democratic and have come away from the colonial days and ways here in America, so have the British become distinctly more democratic, as exemplified by the conduct of these two very fine representatives of the British royal family.

I think this shows again what all of us know, that Britain is our oldest, closest, and dearest friend, just as I am sure the United States is the closest and dearest friend of Britain and the British people.

Mr. President, I yield the floor.

AMERICAN PRISONERS STILL BRUTALLY TREATED

Mr. HATFIELD. Mr. President, among the grimmest aspects of an altogether grim war in Vietnam is the treatment of those Americans who have been captured and are being held by the North Vietnamese. These prisoners of war face untold hardships; they are beaten and tortured; they are deprived of food and sleep; they are displayed as public spectacles; their wounds go untended; and they are denied the basic rights of war prisoners, including the right to communicate with their families.

This gross brutality and unconcern on the part of the Communists has been going on for over 5 years now. There appears little to indicate the Communists have changed one whit in their approach to the prisoner problem.

As Members of this body, we cannot allow this brutality and callousness to go unnoted. We must as Americans do all within our power at every possible level to bring to an end this evil chapter of history. We cannot rest until those men are reunited with their families.

The PRESIDING OFFICER. Is there further morning business?

Mr. HATFIELD. Mr. President, I suggest the absent of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 759. An act to declare that the United States holds in trust for the Washoe Tribe of Indians certain lands in Alpine County, California;

S. 1046. An act to protect consumers by providing a civil remedy for misrepresentation of the quality of articles composed in whole or part of gold or silver and for other purposes;

S. 1456. An act to amend section 8c(I) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and subsequent legislation, so as to permit marketing orders applicable to apples to provide for paid advertising;

S. 3274. An act to implement the Convention on the Recognition and Enforcement of Foreign Arbitral Awards;

H.R. 14452. An act to provide for the designation of special policemen at the Government Printing Office, and for other purposes; and

H.R. 14453. An act to authorize the Public Printer to grant time off as compensation for overtime worked by certain employees of the Government Printing Office, and for other purposes.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. HOLLINGS):

Resolutions of the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Finance:

"THE COMMONWEALTH OF MASSACHUSETTS, OFFICE OF THE SECRETARY,
State House, Boston, July 14, 1970

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ADOPT LEGISLATION REIMPOSING THE EXCESS PROFITS TAX

"*Whereas,* Emergency wartime measures for raising revenues were enacted during World War II and the Korean War; and

"*Whereas,* In view of the tremendous financial burden imposed by the Vietnam Conflict on the taxpayers of the Commonwealth and of the United States, and for the purpose of alleviating this burden, the emergency wartime measures for raising revenue by imposing the Excess Profits Tax on manufacturers of war materiel should be reenacted for the duration of the Vietnam Conflict; therefore be it

"*Resolved,* That the Massachusetts House of Representatives respectfully urges the Congress of the United States to enact legislation imposing the Excess Profits Tax on manufacturers of war materiel; and be it further

"*Resolved,* That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth.

"House of Representative, adopted, July 7, 1970.

"WALLACE C. MILLS, *Clerk.*

"A true copy.
"Attest:

"JOHN F. X. DAVOREN,
"*Secretary of the Commonwealth.*"

Resolutions of House of Representatives of the Commonwealth of Massachusetts; to the Committee on Foreign Relations:

"THE COMMONWEALTH OF MASSACHUSETTS, OFFICE OF THE SECRETARY,
"*State House, Boston, July 14, 1970.*

"RESOLUTION MEMORALIZING CONGRESS TO REQUEST THE PRESIDENT OF THE UNITED STATES TO TAKE THE NECESSARY STEPS TO CONVENE AN INTERNATIONAL CONFERENCE TO DISCUSS THE UNRESTRAINED EXPLOITATION OF THE FISHERY RESOURCES IN INTERNATIONAL WATERS ADJACENT TO OUR ATLANTIC SHORELINE

"*Whereas,* The New England fishing banks have been seriously depleted by the unrestrained exploitation of this resource by the European mobile fishing fleet; and

Whereas, The International Commission for the Northwest Atlantic Fisheries has been unable to contain this exploitation; and

"*Whereas,* The traditional employment of the Massachusettts fisherman is threatened with extinction because of this exploitation; therefore, be it

"*Resolved,* That the Massachusetts House of Representatives urges the Congress of the United States to request the President of the United States to take the necessary steps to convene an international conference to establish the rights of its nationals to the fishery resources of the super-adjacent waters of the continental shelf adjacent to our shores and to establish such rules and procedures as are necessary to conserve, protect and perpetuate these fishery resources for the benefit of the citizens of the United States; and be it further

"*Resolved,* That a copy of these resolutions be sent by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from this Commonwealth.

"House of Representatives, adopted, July 6, 1970.

"WALLACE C. MILLS,
"*Clerk.*

"Attest:

"JOHN F. X. DAVOREN,
"*Secretary of the Commonwealth.*"

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. CURTIS:

S. 4100. A bill for the relief of Theodoros Paniotis Hiliotis; to the Committee on the Judiciary.

By Mr. LONG:

S. 4101. A bill to add a new title XX to the Social Security Act to establish a Federal Child Care Corporation which will have the responsibility and authority to meet the Nation's needs for adequate child care services; to the Committee on Finance.

(The remarks of Mr. LONG when he introduced the bill appear later in the RECORD under the appropriate heading.)

ADDITIONAL COSPONSOR OF A BILL

S. 4002

Mr. MATHIAS. Mr. President, on behalf of the Senator from Kansas (Mr. Dole), I ask unanimous consent that, at the next printing, the name of the Senator from Iowa (Mr. Miller) be added as a cosponsor of S. 4002, to establish a National Information and Resource Center for the Handicapped.

The PRESIDING OFFICER (Mr. Dole). Without objection, it is so ordered.

FAMILY ASSISTANCE ACT OF 1970—AMENDMENTS

AMENDMENT NO. 788

Mr. TALMADGE submitted amendments, intended to be proposed by him, to the bill (H.R. 16311) to authorize a family assistance plan providing basic benefits to low-income families with children, to provide incentives for employment and training to improve the capacity for employment of members of such families, to achieve greater uniformity of treatment of recipients under the Federal-State public assistance programs and to otherwise improve such programs, and for other purposes, which were referred to the Committee on Finance and ordered to be printed.

(The remarks of Mr. Talmadge when he submitted the amendments appear earlier in the Record under the appropriate heading.)

NOTICE OF HEARINGS BEFORE THE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES ON AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

Mr. McCLELLAN. Mr. President, I wish to announce that the Special Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary will resume hearings on bills to amend the Omnibus Crime Control and Safe Streets Act of 1968 and related measures on Thursday, July 30, 1970.

The hearings will begin at 10 a.m. in room 2228, New Senate Office Building. Persons wishing to testify or submit a statement for the record should contact the staff of the subcommittee in room 2204, telephone extension 3281.

ADDITIONAL STATEMENTS OF SENATORS

FIRST ANNIVERSARY OF LUNAR LANDING

Mr. ANDERSON. Mr. President, 1 year ago today two men first stepped onto the surface of the moon while another kept a lonely vigil in lunar orbit. That first lunar landing is one of the great events in the history of mankind. It was the result of the close cooperation and dedicated efforts of hundreds of thousands of people working together mostly in this country but some located in many other parts of the world. I salute all these people and especially Astronauts Armstrong, Aldrin, and Collins. Theirs was the job of carrying out to a successful conclusion the final task. They did it admirably. I doubt that any of us who were listening that night can forget the words:

> Tranquillity base here—the Eagle has landed.

And then a short time later:

> That's one small step for a man, one giant leap for mankind.

Those words, Mr. President, and the brave men who accomplished this unbelievable task, will be remembered as long as there is a recorded history. That is something of which we should all be proud.

PRESIDENT NIXON URGES RESTRAINT ON SPENDING

Mr. GRIFFIN. Mr. President, in a statement issued by the White House last Saturday, July 18, President Nixon called upon Congress to practice restraint with respect to Government spending and to impose a firm ceiling on Federal expenditures in order to avoid a large deficit in the current fiscal year.

I ask unanimous consent that the President's statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by the President on Congressional Action and Government Spending

I am issuing this statement today because I view with deepening concern the course of events in the Congress affecting the expenditure of the taxpayers' money. There is a persistent and growing tendency on Capitol Hill to approve increases in expenditures without providing the revenue to pay the costs. For just one example, the Congress seems on the verge of approving an education appropriation bill that provides nearly half a billion dollars more than I requested.

Given this situation, it is time to face some hard figures and some troublesome possibilities and to strive for solutions.

Our Federal budget totals over $200 billion. If we allow these outlays to overshoot the basic revenue-producing capacity of our tax system—as happened particularly in 1967 and 1968—we will produce the same result; inflation of a magnitude that will take difficult and painful measures to eliminate.

In Fiscal Year 1970, which ended June 30, we worked very hard and effectively—in the midst of continuing controversy—to hold the expenditure line. As a result, any deficit will largely reflect a short-fall of revenues from the adjustment of the economy to policies designed to combat inflation.

For Fiscal Year 1971, which began July 1, this Administration transmitted to the Congress a budget calling for expenditures of $200 billion, and estimating revenues at $202 billion. If the Congress continues in its present pattern of proposed increases in expenditures, the total for this fiscal year will actually reach a substantially larger figure.

Some $3.5 billion of increases are caused by mandatory and virtually uncontrollable rises in costs—such as increases in the interest on the national debt ($1.8 billion) and in public assistance (over $500 million). The major pay increase for Federal employees added $1.4 billion over the amount originally budgeted. Some increases are the result of necessary new programs. But much of the total increase is due to threatened Congressional action or inaction.

On the receipts side of the ledger, the Congress has failed to provide necessary revenue. By its action on the tax bill last year, the Congress had already reduced projected revenue for Fiscal Year 1971 by $3 billion and for Fiscal Year 1972 by $5 billion below my request. Beyond this, the Congress has as yet failed to take action on my proposals for a tax on lead used in gasoline, an advance in the time of collection of estate and gift taxes and an increase in postal rates. The Congress must produce action on these measures, or we can expect to collect much less than the $202 billion estimated in February.

And that is not all. The 1971 expenditures are an inevitable springboard for the budget of 1972. Unless the present trend is corrected by the Congress, the resulting 1972 spending could produce a massive deficit.

It has become almost a cliche to say that all we need do to resolve this dilemma with regard to our Federal budget is to cut space and defense outlays and "change our national priorities." Let's set the record straight. We *have* changed our national priorities.

In the budget that I proposed for fiscal 1971, spending for defense is exceeded by spending for human resources for the first time in 20 years. In all of the last three administrations, military spending ran far above spending for other purposes. In 1962 under President Kennedy the Federal government spent 48 percent of its budget for defense and only 29 percent for human resources. By 1968, the comparison was 45 percent to 32 percent. My budget for 1971 sharply reversed these priorities. It calls for spending 37 percent for defense and 41 percent for human resources programs. To accomplish this massive change in emphasis, military and space expenditures were cut by some $6 billion.

As a former member of the House and the Senate, I fully understand that the members consider appropriations and spending bills one at a time. The trouble is that the total of the parts, each in itself attractive and even meritorious, is too large a figure. Unless the Congress makes a very special effort to look at the total picture, the members may not fully appreciate the overall effect of their fiscal actions.

In raising the issue of budget deficits, I am not suggesting that the Federal government should necessarily adhere to a strict pattern of a balanced budget every year. At times the economic situation permits—even calls for—a budget deficit. There is one basic guideline for the budget, however, which we should never violate: except in emergency conditions, expenditures must never be allowed to outrun the revenues that the tax system would produce at reasonably full employment. When the Federal government's spending actions over an extended period push outlays sharply higher, increased tax rates or inflation inevitably follow. We had such a period in the 1960s. We have been paying the high price—and higher prices—for that recently.

We must not let that happen again. It need not happen. Responsible government cannot let it happen. This is a time when the taxpayers of the United States will not tolerate irresponsible spending. The Congress should ask itself in every case: Will this new expenditure, when tied to all the others, require increased taxes or cause a deficit which would bring about an increase in prices. The Congress must examine with special care those spending programs which benefit some of the people but which really raise taxes and prices for all the people.

Recently I signed into law a bill fixing a "ceiling" on Federal spending for the current fiscal year. I accept that ceiling and intend to live under it. But the Congress, by making exceptions and approving measures with mandatory spending provisions, has made a travesty of this legislation.

I now ask the Congress to establish a *firm* ceiling on total expenditures—a ceiling from which only specific and genuine "uncontrollables" such as interest on the public debt would be exempt—a ceiling within which the President can determine priorities—a ceiling that would apply to *the Congress* as well as to the Executive. This will require of the Congress—as well as the President—the hard task of adjusting and pruning individual program outlays to hold their total within this ceiling. With this we can reassure citizens generally that Washington will not take spending actions that will impose on their future incomes the burdens of ever increasing tax rates. With this we can pursue vigorous policies of expansion to achieve full employment, rapid improvements in our material levels of living, and a more stable dollar.

PROPOSED SCHOOL LUNCH GUIDELINES OF CONFERENCE SPONSORED BY CHILDREN'S FOUNDATION

Mr. McGOVERN. Mr. President, on May 14, 1970, the recently enacted school lunch legislation was signed into law. The new act makes vast changes in both the structure and content of child nutrition legislation, basically through many administrative changes.

In order to assist the Department in the development of appropriate regulations, the Children's Foundation of Washington held a workshop on June 15 and 16, 1970. At the workshop were members of congressional staffs, representatives of the Department of Agriculture, and the Bureau of the Budget, State and city school lunch directors, representatives of national groups concerned with the problem of hunger, and lawyers specializing in this area of the law. The recommendations which were developed in this workshop offer lucid explanation of the intent of Congress in enacting this legislation, and they provide a reasonable guidepost upon which the regulations for the National School Lunch Act may be based.

If we are soon to reach our goal of feeding every needy child, then we would be wise to heed the counsel of such truly representative groups as this one.

I ask unanimous consent that these recommendations, a list of participants in the workshop, and the text of a copy of a letter from me to Secretary Hardin transmitting these recommendations be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS

New child nutrition legislation will require basic changes in administration management procedures if the congressional mandate is to be obeyed. The legislation (P.L. 91-248) is intended to provide free and reduced price lunches for all needy school children.

The need for strengthened operation procedures was the subject of a workshop convened on June 15 by The Children's Foundation of Washington, D.C. The workshop had been proposed by U.S. Senator George McGovern, Chairman of the Select Senate Committee on Nutrition and Human Needs.

Participants (list attached) included members of various congressional staffs, state and community school lunch directors, representatives of national groups concerned with hunger in the United States and lawyers specializing in this area of the law. The U.S. Department of Agriculture (USDA), which has the responsibility for writing the new regulations, and the Bureau of the Budget, which reviews the allocation of funds to Federal programs, were represented.

The significant conclusions which developed in the workshop were:

National standards based on family size and income should be established to determine the eligibility for free or reduced price lunches. These standards should be the same as those used by OEO to determine *poverty* levels.

The national standards should be considered as a floor. States and school districts should be allowed to set other standards based on geographical, social and economic characteristics of the area or community only if such changes enlarge participation.

Determination of a child's eligibility should be made by an adult member of the household, or by an official in the school system. The method of determining eligibility should be a signed statement declaring the child is qualified under the household standards published for the particular community. The child should begin receiving free or reduced price lunches immediately upon certification.

An eligibility affidavit should be accepted when filed at any time during the school year, or during registration prior to the start of a school year.

The affidavit form should state the income eligibility level in annual terms, according to household size. The applicant should not be required to state his own exact household's income level. The only information required should be an affirmative statement that the household meets the eligibility standards. The only blanks to be filled out on the form should be the name of the child, or children, the name of the adult member of the household, the address and telephone number of the household.

An impartial appeals board should be established locally to hear complaints from school officials or other persons who submit charges that a child does not qualify for the free or reduced price lunch he or she is receiving. The appeals mechanism should be considered a procedure to protect school administrators.

Appeals boards should be established on a larger than school district basis. The committees should be publicly announced, have some knowledge of the program, and be easily accessable to any school district; i.e., they should be within commuting distance by public conveyance.

Regulations on the appeals mechanism should spell out procedural safeguards, including the right to:

1. Call witnesses.
2. Cross-examine other witnesses.
3. Counsel, either a lawyer or friend.
4. A hearing at a convenient time.
5. An adequate notice.

Decisions by the appeals board should be made on the record alone, and should deal with the single question of eligibility. The decisions should be written and transcripts of the hearing should be made available to the parties involved.

The cost of the appeals boards should be considered a normal administrative expense of the Federal agency responsible for the program operation.

School districts and states should be allowed to claim up to 100 percent of the cost of school food and food service, less the payment received from children, rather than 100 percent of food costs as current regulations provide. In effect, State directors should be able to fund poor schools on districts up to 100 percent of the cost of the complete lunch program. The maximum reimbursement rate from Section 11 or Section 32 should be increased to 40 cents per lunch, except where 100 percent funding is required in the judgment of the State director.

Schools which allow candy, soft drinks and other snacks to be sold when regular food service programs are in operation should be required to put the full income from these enterprises into school food service programs.

Standards for a Type A lunch, which determine the availability of Federal funding, should be based on nutritional characteristics rather than on arbitrary food groups. School districts with the professional competence to devise menu patterns of adequate nutritional quality should be permitted maximum flexibility in developing food programs for the community.

THE CHILDREN'S FOUNDATION—CONFIDENCE PARTICIPANTS

Barbara Bode, Community Coordinator, The Children's Foundation.

Gerald Cassidy, Senate Select Committee on Nutrition and Human Needs, Senate Office Building, Washington, D.C.

George Dalley, Staff Attorney, The Children's Foundation.

Charles U. Daly, President, The Children's Foundation.

Donald DeFoe, Executive Director, Council of Chief State School Officers, 1201 Sixteenth Street N.W., Washington, D.C.

Thomas J. Farley, Director, School Food Services Division, Milwaukee Public Schools, 5225 West Vliet Street, P.O. Drawer 10-K, Milwaukee, Wisconsin.

Pat Fitzpatrick, Washington Research Project, 1826 Jefferson Place N.W., Washington, D.C.

Thelma Flanagan, Assistant Director, National School Lunch Survey, 216 South Duval, Tallahassee, Florida.

Louise A. K. Frolich, Field Coordinator, American School Food Service Association, 4101 East Illiff Avenue, Denver, Colorado.

Sister Dolores Girault, Division for the Spanish Speaking, National Catholic Conference, 401 International Building, San Antonio, Texas.

Bernard Gladieux, Bureau of the Budget, Executive Office Building, Washington, D.C.

Dr. Richard Granger, Child Study Center, Yale University, 333 Cedar Street, New Haven, Connecticut.

Mary Harris, Director, School Lunch Program, Independent School District #1, Tulsa, Oklahoma.

Betty Hight, United States Department of Agriculture, Washington, D.C.

Julius Jacobs, Director, Department of Food Services, Presidential Building, Room 806, 415 Twelfth Street N.W., Washington, D.C.

Hulbert James, National Council of Churches, 475 Riverside Drive, New York, New York.

John R. Kramer, Executive Director, National Council on Hunger and Malnutrition in the United States, 1000 Wisconsin Avenue N.W., Washington, D.C.

Earl M. Langkop, Director, School Lunch Section, State Department of Education, Jefferson Building, P.O. Box 480, Jefferson City, Missouri.

Rodney E. Leonard, Consultant, The Children's Foundation.

Jay Lipner, Attorney, VISTA, 1520 Broadway, Little Rock, Arkansas.

Josephine Martin, Chief Consultant, School Food Service Program, State Department of Education, Room 21, State Annex Building, 156 Trinity Avenue, S.W., Atlanta, Georgia.

Barbara McGarry, Executive Director, American Parents Committee, 20 E Street N.W., Washington, D.C.

Clarence McKee, Assistant to Senator Jacob K. Javits (R. New York), Room 320, Old Senate Office Building, Washington, D.C.

Michael McLeod, Assistant to Senator Herman E. Talmadge (D. Georgia), Senate Office Building, Washington, D.C.

Thomas O'Shaughnessy, Food Consultant,

Philadelphia School District, 735 Schuylkill Avenue, Philadelphia, Pennsylvania.

Ronald Pollack, Columbia University Center on Social Welfare Policy and Law, 401 West 117th Street, New York, New York.

Jack Quinn, Senate Select Committee on Nutrition and Human Needs, Senate Office Building, Washington, D.C.

Vee Tinnin, National Council of Negro Women, 1342 Connecticut Avenue, Suite 832, Washington, D.C.

Sam Vanneman, House Committee on Education and Labor, 316 Riley Street, Falls Church, Virginia.

Pohle H. Wolfe, Consultant, School Food Services, State Department of Education, 520 State Office Building, Denver, Colorado.

JUNE 29, 1970.

Hon. CLIFFORD HARDIN,
Secretary, U.S. Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: As you know, on June 15 and 16, 1970, the Children's Foundation of Washington sponsored a workshop on the school lunch legislation which was recently signed into law. At the workshop were members of Congressional staffs, representatives of your Department and of the Bureau of the Budget, state and community school lunch directors, and representatives of national groups concerned with hunger in the United States and lawyers specializing in this area of the law.

Enclosed you will find the recommendations for the Department regulations developed in the workshop. It is my opinion that these recommendations fully represent the intent of Congress in the passage of the school lunch legislation. I trust they will be of great use to you in the development of the new regulations.

Sincerely yours,

GEORGE MCGOVERN,
Chairman.

PROF. BRUCE RUSSETT ON NATIONAL DEFENSE SPENDING

Mr. HATFIELD. Mr. President, Prof. Bruce Russett, of Yale University has recently published a book entitled "What Price Vigilance: The Burden of National Defense," which discusses, in an objective manner, the causes and consequences of military spending in this country.

In addressing the question of who pays for defense, Professor Russett presents the results of a statistical analysis that shows that "guns do come partly at the expense of butter." In the first place, he shows that over the period 1939 to 1968, a dollar increase in defense spending resulted in a 42-cent decrease in personal consumption, most of this in consumer durables and services. Second, he says:

> Proportionately, investment is much harder hit by an expansion of the military establishment than is consumption.

And among investment categories—

> Residential structures (housing) . . . takes the greatest proportionate damage.

Third, he shows that expenditures for education, health, and welfare are quite sensitive to defense spending. He says:

> Education suffered immediately when the military needed to expand sharply for World War II and Korea . . . it recovered its share only slowly after defense spending had peaked.

The greatest effect was on State and local spending for primary and secondary education. Fourth, he shows that—

> Public expenditures for health and hospitals are only a little less sensitive to the pressures of defense than are dollars for education.

Finally, Mr. President, Professor Russett concludes with—

> It is too soon to know how damaging the Vietnam War will be, but in view of past regularities one would anticipate significant costs. The inability to make investments will leave the nation poorer, more ignorant, and less healthy than would otherwise be the case.

COMMENCEMENT ADDRESS BY DR. JOSEPH C. ROBERT

Mr. BYRD of Virginia. Mr. President, at the commencement ceremonies of Christchurch School, Christchurch, Va., an eloquent commencement address was delivered by Dr. Joseph C. Robert, professor of history at the University of Richmond.

Dr. Robert made many sage observations, both about the role of youth in our Nation and the proper function of our educational institutions.

Mr. President, I ask unanimous consent that the text of Dr. Robert's address be included in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY DR. JOSEPH C. ROBERT

Thank you, Mr. Yarbrough . . . Ladies and gentlemen of the Christchurch family: In my lifetime I, too, have had to suffer through commencement addresses, a lot of them! Virtually all begin with the same sentence, "I am indeed happy to be with you today." Incidentally, nobody ever asks the audience if *it* is happy to have to listen to the speaker; it's safer not to put that question to a vote.

I now say to you, "I am indeed happy to be with you today." It happens that I really am, this for several reasons. Your announcement of several weeks ago in THE SEAHORSE indicated that I am a former patron. The word may be technically correct, but in truth I am a former beneficiary. I underscore my admiration for your administrators and faculty, my interest in and affection for this community which is the home of my wife's ancestors, and my joy in seeing old and new friends among the parents here today.

So much for my feelings, but how about yours? Your health will improve, I know, when I tell you that Mr. Yarbrough, in his straightforward way which you graduates know so well, told me to take just as much time as I wanted, *provided* I didn't talk over fifteen minutes. He also said that I could make the same address I made here several years ago. I'm not quite sure whether he meant that nobody paid any attention to it anyway and thus wouldn't remember it, or whether he meant I had a new audience which hadn't heard it. But the situation in education is quite different today from what it was even four or five years ago, and thus the old manuscript wouldn't do (even if it ever had done!). However, it is available for the curious in Mr. Yarbrough's files, if it hasn't disintegrated from the dry rot.

Young gentlemen, for I speak to you, I acknowledge that you are in full charge of your mental television sets, and that you can turn me off—or switch channels to delightful visions of convertibles, electric guitars, outboard motors and such, without batting an eye, all the time looking me straight in the face. This is part of the normal protective armor of an audience, and the only device which permits us to survive the relentless oratory of school assemblies.

But just before you switch stations I would like to work in a public service message: If you are at all interested in money, a little hard-thinking just now might increase your future earning power by several hundred thousand dollars, and indeed it might keep you out of trouble. And there are more idealistic reasons for pausing and reflecting.

Today I especially wish to be useful rather than humorous, functional rather than facetious. My dual theme is the importance of *planning*, and of a proper definition of *freedom*. These are the two main items in your survival kit.

I understand that all of you graduates intend going to college. I say parenthetically that I am not certain all secondary school graduates in the nation should go to college. Some of the very best educated, most successful men I know never finished high school; they educated themselves. There are many avenues to education, and college is only one of them. Occasionally I find a secondary school senior who thinks he wants to go to college, when really he wants to have *been* to college in order that this fact can be put on his job application, in the announcement of his marriage, or—if he is that foresighted—in his obituary. A rough test of a man's readiness for college is an honest answer to the one-sentence questionnaire: Are you trying to get *to* something, or to get *away* from something?

Let's assume that you pass the test, then I congratulate you. College *can be* the most glorious episode in a man's life. In college you may claim a share in a great tradition; you are bidding for membership in a worldwide fraternity of peculiar splendor.

If you want to predict your success or failure in the great enterprise on which you are embarking beginning next September, you can privately read your academic horoscope by facing a couple of preliminary questions: (1) What is your attitude? and (2) Do you have enough intellect to plan, and enough character to adhere to your plan?

Your *attitude* is to your academic operation what your engine is to your automobile. It is the thing which powers you. The first phase of attitude testing is your reaction to the shocking statement which sooner or later will be made by a professor, a dean, or a president. "My young friend," he will say, "did you know that you are a charity patient in this institution?" In fact you will *not* be paying your own way, even if you are assessed so-called full fees. You will be the beneficiary of taxes painfully surrendered by citizens, or more likely, of endowments sacrificially accumulated because of many ordinary folks: some lean and some hungry old preachers, some widows who dreamed of a better world, or some philanthropist who wanted you to have a better chance than he did as a boy. In this life your head ought to be held high, but your spirit daily must bow before this fact of *beneficiary*, parental and philanthropic, and if you miss that gratitude you are on the wrong track.

The next suggestion, still under the topic of attitude, sounds commonplace to me, and no doubt to you, but strangely enough, it is a novel thought to some students. (I must pause here long enough to remind you that I am, all along, talking about colleges and universities in general—not any particular one. Please keep that fact in mind.) The key point is that presumably a person comes to college to learn something from people who are doing their level best to summarize the experiences of the ages, the lessons of past generations.

However, today, in academic villages over the land, there is a new romanticism which is built on the thesis that a nineteen-year-old boy by inspiration of the moment—instant wisdom as it were—knows more than those trying to present the hard-earned fruits of the past to him. I repeat: I am confident that the new romanticism is not characteristic of those of you who have benefited from Christchurch.

Now as to judicious planning and timely execution of plans: Young gentlemen I beg that you substitute these words of mine for time-losing and perhaps disastrous experimentation. If you could have heard the agonizing wails over my desk for several decades, you would consistently plan, plan, plan, and not get behind. The boy who is failing will characteristically say to me with that wonderful honesty which I have always seen in my own students, "Professor, I just got behind and never could catch up." Time is not available for me to elaborate the point, but if you develop the habit of *creative listening* in class (keep that private TV tuned to the proper channel!)—if you force yourself to keep a relevant question in your mind *ahead of* the lecture or the discussion—and if you cultivate the habit of single-minded study with pre-reading of the subject matter (none of this nonsense about having to listen to a radio while "studying" in quotation marks)—if you have these efficient study habits you will have enough time left for either goofing off a bit (as I believe the saying still is) or time for that extra exploration which is the heart of advanced scholarship.

In a sense I suppose I have been avoiding my main concern up to now. It is my desire to be honest with you about your new *liberty*. College has always been a place of relative freedom, but within the last several years there has evolved a new intensity in the clamor for options. Herein, my young friends, lies both your grandest opportunity and your greatest risks. First, your options in the way of the curriculum are vastly greater than they were even five years ago—this in the typical college. The old rule-of-thumb of about two years of *designated* and then about two years of optional courses is pretty well gone under the deluge of electives, which often leave the oldtimers with heads aching and shaking. My point is that, earlier than ever before, you must exercise wisdom in choosing your courses. There is an ancient wiscrack to the effect that the elective system means no class earlier than ten a.m., none higher than the second floor (unless there is an elevator), and none demanding more written work than a two-page essay! To be sure, there is an advisory system, but the emphasis is an *advice*, not compulsion. From the bottom of my heart I hope that I am not wasting my breath when I urge that you enroll—insofar as you have the choice—in courses which you *need*, even if (and sometimes solely because) they are difficult for you.

Your options nowadays are more than in the courses you take. For better or for worse, there are social options, freedom of the person, far removed from the old concept of *in loco parentis*. To be sure you have had tastes of freedom up to now, maybe even a few swallows. But today there is a breadth to collegiate freedom without precedent in America. And there is a concurrent disappearance of the *sanctuary* concept. Now this is not of your doing, but you inherit the whirlwind, in a sense. I mean that once upon a time a college boy was protected in his foolishness by the phrase, "Oh, he's just a college boy, and this is a college-boy prank. Forget it." Not now. The day of the escapade is over. As the college boy is demanding the privileges of the adult world (and I am afraid prematurely), he is (often without realizing it) at the same time automatically surrendering a protective concept which he once enjoyed. When he goes to a civil court demanding what he considers due process, as an offender he must appear before those same courts to answer for his deeds. Litigation is a two-edged sword. Frankly, with mass demonstrations there is the hazard of the common-law concept of conspiracy and the guilt of all when affairs get out of hand. I have seen very few people who gracefully wear police court records. Please forgive me for my bluntness in these matters of college life, but I have in my time wept with both parents and students.

I have referred to a sense of the past, to a sense of history which is the main ingredient of a sound education. And truly it is extravagant for mankind to have to relearn by painful experience what his ancestors learned for him. Imperfect as we may be today in society, there has been tremendous progress under our systems of representative democracy and of individual initiative in economic matters. Surely we must improve, and you must be critical, critical in the best sense of the word. There *is* unfinished business, but on the hard anvil of experience the body politic has hammered out a system whereby basic decisions can best be made by counting votes under a representative government, and not by counting the decibels which come from the chanting on the streets.

Social services must be given but all vitality will be drained from our economy when rewards for risk and effort disappear. What I am trying to say is that when in your academic world you are given freedom to think and to debate (as you *should* be), you will be foolish to assume that you are back in the Garden of Eden again, that you are primitive man devoid of the experiences of the centuries. Values and procedures are passed down to you and are yours for the asking. You will soon be in the academic Tower of Babel with confused tongues; listen to the voice of mankind's total history: you can't get something for nothing and have a sane society; heroes have lived and have died that you might enjoy your present liberties. And in that Tower of Babel, listen to the still small voice of conscience.

You have read of our dwindling natural resources. And I too am apprehensive. The natural resource which, as it dwindles, concerns me the most is our national character. Boldness, courage, patriotism, imagination, sacrifice, hard work, a willingness to think of generations to come, these have brought us to where we are.

Before I left Richmond a wise-looking dean reminded me that newspaper reports of the colleges don't always present the correct picture of academic life. If two percent of the students misbehave, this is news; the fact that ninety-eight percent don't and are going about their business doesn't normally get into the papers. And he is right.

And I must add a sort of personal postscript. If colleges seem to be changing, you are getting there in time to help see to it that the changes are in new techniques, and not in surrendering the ancient values. Your voice can be heard and legitimately. There is a you-power, "YOU" not to be ignored. Exercise your option wisely.

To you graduates I say, bless the men of Christchurch who in academic acrobatics at the same time held your feet to the fire and your nose to the grindstone. They have given you what Seymour St. John of Choate School years ago called the Fifth Freedom, the freedom to be one's best. They have made the way easier for you in that wonderful, mysterious, exciting season just ahead of you. My congratulations to students and parents, teachers and administrators of this noble institution, Christchurch School.

NIXONOMICS

Mr. CURTIS. Mr. President, I am sure that every Senator here has seen the good news on the economic front—the stabilization of the gross national product, the continued rally of the stock market, and the fact that housing starts in June were 11 percent over those in May.

The thought occurs to me, however, that many who had predicted and even hoped for the worst in order to see the President embarassed and his party defeated will not, now that we have an economic upturn, be coming forth to give credit where credit is due.

For that reason I would like to take just a minute to point out that when he took office, one of the President's avowed intentions and chief goals was to stop inflation without a major recession.

There is every indication that he has done this. At the start of the month we saw a decline in the jobless rate. Now these other economic indicators have come along to add optimism and confidence.

It looks like the second half of 1970 is going to be a pretty good year, economically speaking, for all Americans.

Mr. President, just one more comment. The Chairman of the Democratic National Committee recently coined a new word—Nixonomics—and tried to make it synonomous with recession, inflation, unemployment, and deficit spending.

I suspect that he will find that Nixonomics really is the art of ending a Democrat inflation without a major recession or economic disruption. Nixonomics—a word for a sound and sensible economic policy that leads to stable prices and high employment.

Mr President, I buy that word and that definition. I think the Nation will, too, come November.

END THE WAR CAMPAIGN

Mr. McGOVERN. Mr. President, the distinguished Senator from Oregon (Mr. HATFIELD) and I would like to clarify matters concerning the funds raised by a television broadcast by five Senators on NBC on May 12 in favor of the so-called amendment to end the war.

On July 16, a Member of the House asked some questions about those funds. Answers to some of these questions involve differing opinions about the Indochina war and the merits of the amendment to end the war. We shall not enter into debate on those questions at this time. But some of the questions call for factual answers and we are pleased to be able to provide them at this time. Had Representative WILLIAMS addressed these questions directly to us, we should have been glad at any time to have provided him the information he seeks.

He asks:

> Are these gentlemen arranging for a full accounting of the funds which, by public solicitation, they are raising?

A full accounting is available to any person on request. In the interests of making this accounting widely available, it was placed in the CONGRESSIONAL RECORD on June 29, 1970 on page 21917. Additional reports will be made until all funds are expended.

We believe this response also answers the question:

> If they are, to whom, and how, will they make such an accounting?"

We are asked:

Are contributions tax deductible for the contributor?"

This is, of course, a matter to be determined between the contributor and the Internal Revenue Service. We have never claimed nor do we believe that such contributions are tax deductible.

Are these contributions taxable items for the recipient? Exactly who, or what, is the actual recipient of these funds?

The funds received are channeled through the Amendment to End the War Committee, which, in many ways is similar to political campaign committees, which are not taxed on their receipts. The funds pass through this committee mainly to the media for the purchase of time and space. As such these funds become earned income of the ultimate recipients for which taxes are paid.

Have these gentlemen formed a nonprofit nontaxable organization to effect and protect this action?

The answer is that we have not formed any such organization, as was explained in the answer to the earlier question.

What is the view of the Internal Revenue Service?

The Representative should address his inquiry to that agency.

According to legal counsel we have consulted, the handling of funds contributed to support the amendment to end the war is in conformity with IRS regulations. No specific action has been taken to clear the handling of these funds with the IRS, because sufficient precedents appear to exist on the matter.

Senator HATFIELD and I would add that the use of short television announcements and newspaper advertising to solicit public support for the amendment is in the nature of an experiment, based on previous experience in the use of such techniques in the support of political candidates. In many ways, the record of a candidate is a good deal more complex than the presentation of a choice whether or not we should fix a deadline for withdrawal from Indochina. Since the candidate uses short television announcements with considerable effect, we and our colleagues considered it worthwhile to use the same technique on an issue.

We believe that no short announcement can, however, be a substitute for a longer, rational discussion for which we have sought to purchase time on the three major networks. Thus far, their refusal to sell or give us such time has, in fact, limited our activities to the campaign now underway.

RESPONSE TO CBS PRACTICES

Mr. DOLE. Mr. President, shortly after the President's decision to invade the Cambodian hideouts of the North Vietnamese, Mr. Gary Sheppard of CBS did an interview with some American soldiers just before they went into battle.

I said then, and repeat now, that that interview was intended to sow fear, uncertainty, and discord among our troops.

In response to a newspaper article concerning my statement, I received a letter from Mrs. Bruce R. Wilson who indicates she is a former CBS press representative, an advocate of a free press and the wife of a Navy officer.

I ask unanimous consent that Mrs. Wilson's letter, in part, be printed in the RECORD, because it is pertinent to the broad subject of responsibility and reliability in the press.

There being no objection, the portions of the letter were ordered to be printed in the RECORD, as follows:

NEW YORK, *June 17, 1970.*

Senator ROBERT DOLE,
Senate Office Building
Washington, D.C.

DEAR SENATOR DOLE: I would like to thank you for bringing to my attention via ***Human Events the Gary Sheppard interview with U.S.*** troops about to enter Cambodia. My husband (a Lt. (jg) in the Navy) and I have been stationed in Greece since February and consequently were not aware of this televised report until your statement.

As a former CBS press representative, I am well aware of political bias in the television news area. I have grown accustomed to non-objective reporting and occasionally dishonest reporting. In spite of this, I remain firmly committed to the principle of freedom of the press and would object to any limitation on their rights to speak freely. Jefferson's dictum about toleration of error is applicable here and will serve to protect everyone's right to speak freely, limited only by libel laws and other laws prohibiting incitement to riot or panic. I welcome the opportunity for the free interplay of ideas as long as all sides have an equal chance to obtain the rights to televise, broadcast, or publish.

I do object with a very deep and angry conviction to efforts by a reporter to inspire fear and doubt in our troops when they are about to enter battle. This transcends freedom of the press, it transcends the boundaries of decency, and indeed, transcends the limits of treason. CBS, by televising this interview, demonstrated their approval of his actions and is consequently equally to blame. The network should have immediately recalled Sheppard and fired him for his blatantly inhumane, treasonous, and scurrilous report.

My oldest brother flew bombers at the age of 17 in World War II and another brother was at Inchon in Korea. I thank God that Mr. Sheppard was not spinning his webs of doubt beside them. I don't fear that my brothers or other courageous men like them would have heeded his message. However, hearing Tokyo Rose on the radio was bad enough. Sharing a trench with her or having her in the co-pilot seat would have been intolerable.

I intend to write to CBS, some of her sponsors, and anyone else that can prevent this type of activity from happening again. I encourage you to keep up your efforts to expose and criticise such fifth column activities.

Cordially,

MRS. BRUCE R. WILSON.

DISTRICT OF COLUMBIA CRIME

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to have printed in the RECORD a list of crimes committed within the District yesterday as reported by the Washington Post. Whether the list grows longer or shorter depends on Congress.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

INTRUDER RAPES SOUTHEAST WOMAN

A 44-year-old woman was raped and robbed at knife-point early Saturday by a man wearing a stocking mask who forced his way into her Southeast Washington home, police said.

The woman told police that when she was awakened at 5 a.m. by her alarm clock, she saw a man standing in her bedroom doorway. Holding a knife at his victim's throat, the intruder warned, "If you scream, I will kill you." Then he raped her, police said.

After the assault, the women said she freed herself, ran to the front door and called for help. Her assailant chased the woman, grabbed her by the neck and dragged her back upstairs.

Cursing and threatening her, the man took bills and $3 in dimes from his victim's pocketbook and ran out of the rear door.

The woman was examined at D.C. General Hospital and released.

In other serious crimes reported by area police up to 6 p.m. yesterday:

ROBBED

Carl's Sunoco Station, 2510 Pennsylvania Ave. SE, was held up about 6:50 p.m. Saturday by a young man displaying a revolver who approached the attendant, William Patrick Hamilton, and demanded money. After Hamilton handed the gunman his change carrier, the man said, "Give me the bills," and took a roll of bills from the attendant's shirt pocket. "Where do you keep the other bills?" he then asked and Hamilton explained that the rest of the money was locked in a safe inside the station which he could not open. "Is there a gun kept around here?" the gunman demanded and when Hamilton said there was not, the man ordered him to walk to the rear of the station and fled.

Frederico Canuto, of Washington, was beaten and robbed about 2:35 a.m. by two young men who attacked him at 18th and Church Streets NW, knocked him to the ground and escaped with the money from his wallet.

Ruth Fowler, of Washington, was treated at Freedmen's Hospital for injuries she suffered during a robbery in the 1200 block of O Street NW. Three youths and two girls attacked her about 9:30 a.m., Saturday, knocked her to the ground and forced her to give them her money.

Cecil H. Brathwaite, of Washington, was held up about 10:30 p.m. Saturday by three men, one brandishing a sawed-off shotgun, who approached him near his home in the 7700 block of Eastern Avenue NW. "Give me your money," the gunman ordered, and removed Brathwaite's wallet from his pocket. After taking the cash, the trio returned the wallet, entered a black and white car and drove east.

Georgia Carey, of Washington, was beaten and robbed shortly after midnight Saturday by an unseen assailant who struck her from behind in the 2700 block of 14th Street NW, knocking her to the ground, and fled with her pocketbook containing cash and personal papers.

Ray W. Dent, of 1620 C St. SE, and Eleanor Andrews, of Washington, were held up about 4:35 p.m. Saturday by two men who knocked on Dent's front door. When he answered their knock, one of them pointed an automatic at him and warned, "Just keep quiet and no one will get hurt. All we want is money." While the gunmen held the victims at bay, the other man took a large amount of money from the bedroom dresser, Dent's wallet and a purse belonging to Miss Andrews which was on a kitchen table. The pair then fled.

Elizabeth Benton, of Washington, was

treated at Freedmen's hospital for injuries she suffered shortly after 8 p.m. Saturday during a robbery in the 2300 block of 18th Street NW. Three men dragged Miss Benton into an alley where they hit her on the head and body and forced her to release her pocketbook.

Madline Hill, of New York, was robbed about 11:50 p.m. Saturday by a youth who approached her while she was making a telephone call in the basement of the Greyhound Bus Terminal, grabbed her pocketbook and ran out of the building.

Sterling Carl Marsh, of Arlington, was beaten and robbed about 10:50 p.m. Saturday while he was walking with two companions, James Francis Fisher and Jon Harry Heiden, both of Washington, at East Capitol Street and Kentucky Avenue SE. About 12 men surrounded them and asked for a cigarette. When the victims said they had none, the men attacked them, knocking them to the ground. After taking Marsh's wallet containing a large amount of money, the group dispersed.

Christopher Casmir Cicoski, of Trenton, N.J., and Judith Ann O'Donovich, of Laurel, were beaten and robbed about 11:50 p.m. Saturday by two youths who approached them in the 2100 block of Bancroft Place NW and asked what time it was. When Cicoski told them, the pair attacked both victims and threw them to the ground. After removing Cicoski's wallet and grabbing Miss O'Donovich's purse, the youths fled on foot.

Joseph Q. Lewis, Jr., of Washington, was held up about 5:45 a.m. Saturday by two young men who approached him in the doorway of a building in the 1100 block of 7th Street NW. "You got any money," they asked and one of them drew a pistol. While the gunman held him at bay, the other man searched Lewis and took a large amount of cash from his pocket. "Face the wall and don't turn around or I'll kill you," the gunman threatened and ran out of the front door with his accomplice.

James Edward Clayton, of Washington, was treated at Rogers Memorial Hospital for facial injuries he suffered about 9:30 p.m. Saturday. Three men approached him in the rear of 9th Street NE, hit him in the face and forced him to surrender his money. He was treated for lip and jaw wounds and released.

Enrique Martinez, of Washington, was beaten and robbed about 1:45 p.m. Saturday by two men who attacked him in the 1500 block of O Street NW and knocked him to the ground. After taking the money from Martinez' pockets, the pair fled on foot.

Gregory Lewis, of Washington, was held up about 1:45 a.m. by two men with handguns who confronted him in the 1300 block of Morris Road SE and struck him in the head and face with their weapons. Following the attack, the gunmen took Lewis' money and fled on foot.

James Jones, of Washington, was beaten and robbed about 4:45 p.m. Saturday by two men who attacked him from behind at 5th and Morse Streets NE. The assailants hit Jones over the head until he lost consciousness. When he recovered, he found his money had been stolen.

Larry Kelly, of Fairmont Heights, was held up about 11:45 p.m. Saturday by a young man who approached him from behind in the 4200 block of Grant Street NE. "Don't move. Give me your money," the man told Kelly, pointing a handgun at him. After grabbing his wallet, the gunman, fled on foot.

Jose Esquibel, of Kensington, and Micheal Ferri, of 1801 16th St. NW., were held up about 3:30 a.m. by two teen-agers who approached them in the elevator at the 16th Street address. One of them placed a knife at Esquibel's side and demanded, "Give us your money." The pair took his wallet and money from Ferri and ran out of the building.

Charles A. Tillman, of Washington, was held up about 8:30 p.m. Saturday by two youths who confronted him at Naylor Road and Gainesville Street NE. One of the youths ordered, "Give me the money," and pointed a gun at Tillman. The other youth frisked him and took his money and papers.

Levi Harris Jr., of Washington, an ice cream vendor, was held up about 10:15 p.m. while he was at 16th Street and Morris Road SE. Two men, one displaying a revolver, approached Harris from behind and one ordered, "Give me the money." The men then climbed into the truck, took a large amount of money and escaped in a car.

Harry Courtney, a painter from Sumter, S.C., was treated at D.C. General Hospital for facial wounds he suffered shortly after midnight during a robbery. Two men attacked Courtney at 12th Street and Constitution Avenue NW and hit him in the face and jaw while a third man took his wallet.

Ivan Randolph Elmore, of Washington, was held up Saturday in front of his home in the 2400 block of 17th Place SE by three youths, one of them brandishing a handgun. "Give me your money," demanded the gunman, who held Elmore at bay while his companions took the cash from his pockets.

Percy Gibson, of Washington, a driver for Capitol Cab Co., was held up about 12:45 a.m. Saturday by a youth who confronted him in the 300 block of 54th Street SE. "Give me your money," the youth ordered, displaying a revolver. He took Gibson's change carrier and wallet and fled.

Bell May Isaac, of Washington, was robbed about noon Saturday as she was alighting from a bus at 3d Street and Rhode Island Avenue NW. A youth blocked the bus door while another youth reached into her pocketbook and removed her change purse. The pair then fled.

Dewey L. Mims, of Washington, was held up by three young men in a car who stopped him at the curb in the 900 block of Ingraham Street NW and asked for a match. When Mims told them he didn't have one, the driver asked, "Where can we get some drugs?" After Mims replied he did not know, the driver drew a revolver and a man in the rear seat pointed a shotgun at him. The gunmen ordered Mims to get into their car, took his wallet and told him to get back on the street.

STABBED

Earl Marshaw, of Washington, was admitted to George Washington University Hospital in undetermined condition after he was stabbed in the back when he resisted a holdup attempt. A young man wielding a knife approached Marshaw at 19th Street and Wyoming Avenue NW and demanded money. When Marshaw refused, the man stabbed him and fled.

Joe L. Boulware, of Washington, was treated at Washington Hospital Center for stab wounds he suffered during a fight with a man armed with a knife about 3 a.m. at 3d and F Streets NE.

ASSAULTED

Pat Weavglis, of Washington, was treated at George Washington University Hospital for injuries she suffered during an attempted robbery in the 1100 block of M Street NW. A man approached her about 10:10 p.m. Saturday and asked for a cigarette. When she refused, the man tried to grab her pocketbook and knocked her to the ground during the struggle.

Steve Small, of 1825 13th St. NW, was shot in the left leg during a fight about 2:45 p.m. Saturday with a woman armed with a gun who fired at him inside his apartment.

Charles Edward Tucker, of 1423 Harvard St. NW, was treated at George Washington University Hospital for head and facial injuries he suffered about 4:05 p.m. Saturday when a man struck him with a lead pipe during a quarrel in his home.

Robert Latimore, of Washington, was treated at D.C. General Hospital after he was shot in the right hand about 2:35 a.m. during a fight with a man wielding a gun at 9th and U Streets NW.

Edward Eugene Palmer, 30, of Washington, was treated at Washington Hospital Center for a gunshot wound in the shoulder he received during a fight at 10:25 a.m. with a man wielding a gun in the 1300 block of Monroe Street NW.

SENATOR JAVITS ANSWERS MAJOR OBJECTIONS TO RATIFICATION OF THE GENOCIDE CONVENTION III

Mr. PROXMIRE. Mr. President, in recent days I have reprinted a number of replies made by the Senator from New York (Mr. Javits) to major objections to the ratification of the Genocide Convention. Today I would like to continue this examination of the remaining objections to ratification of the convention.

One of the most persistent fears of those who have opposed ratification of the treaty is that under article III (c) which makes direct and public incitement to commit genocide punishable, public officials might be deprived of free speech. Senator Javits' reply is illuminating:

> Under current law, while mere advocacy of illegal activities may well be protected by the first amendment, direct and public incitement to commit illegal activity is surely not protected. See, for example, *Brandenburg v. Ohio,* 395 U.S. 444, 447 (1969). Incitement crosses the bounds between protected and unprotected speech. The provision of the Genocide Convention therefore does not violate the Constitution. Moreover, were there any conflict, the first amendment clearly would control.

Second, it has been argued that the Genocide Convention would make American soldiers fighting abroad triable in the courts of our enemies for killing or seriously wounding members of the enemies' military forces. In reply Senator Javits points out:

> First, it should be made clear that combat actions of American troops against enemies do not constitute genocide. For example, it is difficult to conceive that acts committed by U.S. troops in Vietnam could fall within the definition of genocide in Article II. The article requires an "intent to destroy, in whole or in part, national, ethnical, racial, or religious groups, as such." Our soldiers are fighting to help the South Vietnamese defend themselves and therefore acts committed against other Vietnamese would not constitute genocide.
>
> Of course, American soldiers who are captive in the country of an enemy of the United States could be subjected to prosecution by the enemy country regardless of whether the United States has ratified the Genocide convention. Although we would feel such treatment entirely unjustified, we would be powerless to do anything about it other than to protest to the country or to the U.N. The action of the Senate, in giving its advice and consent to ratification, would therefore have no relevance to this question."

Mr. President, I think Senator Javits has shown clearly that most of the objections to ratification of the Genocide Convention are groundless. They are simply not supported by the facts. The time has come to look at the realities of the treaty, not the myths which have grown up over 20 years of controversy. The time for action on this treaty is now.

THE CASE AGAINST CBS

Mr. DOLE. Mr. President, the Columbia Broadcasting System has initiated a policy of furnishing free time in prime hours on its television and radio networks to those who wish to make partisan political attacks against the President of the United States.

The Republican National Committee, believing this CBS policy to be unfair and illegal, has initiated proceedings against CBS before the Federal Communications Commission.

While the raw partisanship and common bias of the attacks on the President aired courtesy of CBS are evident, the quasi-judicial nature of the FCC proceedings involves a substantial body of statutory and precedental authority, as well as significant considerations of public policy.

It is important that the position of the Republican National Committee in these matters and the full range of issues which have been raised be fully understood. Therefore, I ask unanimous consent that a statement of the Honorable ROGERS C. B. MORTON, Chairman of the Republican National Committee, and the RNC petition to the Federal Communications Commission with attached exhibits and appendix, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CASE AGAINST CBS

(Rogers C. B. Morton, Chairman, Republican National Committee)

Last Tuesday night, in an action unprecedented in television history, the Columbia Broadcasting System gave the Democrat National Committee, free of charge, one half hour of prime time for a partisan political attack upon the President of the United States.

CBS has further announced that this half hour is only the first in a series of four annual grants to be made to the Democrat National Committee each year of the Nixon Presidency to be used as the DNC sees fit.

Our two telegrams of protest to CBS have to date gone unanswered. It appears, therefore, that no comparable time is to be provided for the Republican National Committee.

CBS' arbitrary and arrogant action amounts to open collaboration between a major network and one of the major political parties. CBS' action is grossly unfair under our two party system and, in our Counsel's view, illegal under Federal law. The Republican National Committee is thus forced to file suit with the FCC against CBS. The Committee has retained as Special Counsel, W. Theodore Pierson of Pierson, Ball and Dowd.

When a President speaks through radio and television to the nation, as President of all the people, as FDR did in the Fireside Chats, as President Kennedy and Johnson did in frequent use of TV, the opposition party's national committee has no legitimate claim to equal time. *No such political grant was made during the Administrations of President Kennedy, a Democrat and President Johnson, a Democrat—and no such time should be granted free by CBS under President Nixon.* Because the President of the United States is a Republican, should the ground rules be changed?

This issue transcends partisan politics. A President is, of course, the leader of his party. But he is much more than that. Above all, he is the Chief of State of the United States, the head of Government, the Commander in Chief of the Armed Forces, the only nationally elected leader of the American people.

CBS' decision, if allowed to stand, will result in the continuous politicizing of an office that must at all times remain above politics. With this decision, CBS has put the Presidency permanently on the political firing line. There is a time for Presidential campaigns every four years; if allowed to stand, however, this precedent would convert every President's full term into one continuous four-year-long political campaign.

Dr. Stanton of CBS attempts to justify his action on the grounds that President Nixon has made extensive use of prime time. While it is true that the President has on several occasions used prime time to address the nation on issues of great moment, the fact is that *in the first eighteen months of his Presidency, John F. Kennedy was on network television twice the number of hours as Richard Nixon.*

The networks have an editorial responsibility to provide time for the presentation of different views on all sides of controversial issues. That is the heart of the "Fairness Doctrine" which is established law. The Republican National Committee has always supported this guiding principle of broadcasting.

But to dole out free time to one of the two major political parties in the guise of a public service to be used for whatever partisan political purpose that committee wishes should be clearly offensive to the American public's sense of fairness.

In making this free gift, CBS—

Completely abdicated its editorial judgment and responsibility regarding what material would be allowed on the program.

Allowed the Democrat Party to run an advertisement for funds at the end of what CBS had supposedly pledged would be a "public service" program—possibly a violation of law, certainly a violation of journalistic ethics and clearly misleading to the veiwing public.

Placed the appointed partisan spokesman of a political committee on a par with the President of the United States, ignoring the Congress, an equal coordinate branch of the Government, presently controlled by the Democrat Party.

Violated the "Fairness Doctrine" for networks by allowing a personal assault on the President and by allowing his past record to be considered as an "issue" response to current Presidential statements on issues of importance to the nation.

This arbitrary decision by CBS management is part of a recent pattern of this network's irresponsibility that has been condemned by many members of the Congress and brought under scrutiny by the FCC. Even Senator Mansfield, Democrat Leader in the Senate, has expressed doubts about the wisdom of the CBS policy.

With this statement I am calling on all fair-minded Americans to personally protest the gross unfairness of this CBS decision; we intend to fight it and to see to it that CBS meets its responsibilities to the American public.

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, D.C.

PETITION OF THE REPUBLICAN NATIONAL COMMITTEE FOR RELIEF AGAINST CBS

This Petition is filed on behalf of the Republican National Committee (RNC) to obtain relief from the failure of the Columbia Broadcasting System (CBS) to grant the request[1] of RNC for time over the network to respond to the CBS network appearance on July 7, 1970 of Lawrence F. O'Brien on behalf of the Democratic National Committee (DNC).

We have received no reply to our requests for time, but public statements by the President of CBS imply a negative response will be forthcoming if, indeed, any reply is forthcoming.

As a preliminary matter we first wish to emphasize the need for expeditious action on this matter. If the RNC is to be given a meaningful opportunity to respond to the broad issues raised by the DNC program of July 7, it must be proximate in time else the issues will dim in the minds of the public.

We will briefly state the background of events which gave rise to this controversy and then explicate our position with respect to the issues presented.

BACKGROUND

On May 19, 1970 the Democratic National Committee filed a Request for Declaratory Ruling requesting the Federal Communications Commission to rule that "A broadcaster may not, as a general policy, refuse to sell time to responsible entitles, such as DNC, for the solicitation of funds and for comment on public issues." The DNC Request, which is still pending before the Commission, was opposed by CBS in Comments filed on June 22, 1970, on grounds, among others, that it would violate the Communications Act and repudiate the Fairness Doctrine.

Simultaneously, on June 22, 1970, CBS by telegram[2] offered DNC 25 minutes of free time on the CBS television and radio networks to be used at 10 p.m., EDT, on July 7, 1970, for "presentation of the Committee's views" coupled with notice that it would accept paid announcements from DNC for fund-raising purposes. CBS further notified DNC that it would from time to time during the course of the year make available additional free time. Thus the offer was not specifically directed to balancing the discussion of controversial public issues which might have been raised by President Nixon during his broadcast appearances, as the CBS-message-to-O'Brien seemed to imply. Rather, the offer permitted DNC to use the time for any purpose, including mere partisan advocacy and party propaganda.

On July 7, 1970 Democratic Party Chairman Lawrence F. O'Brien broadcast a 25-minute program in response to the CBS offer of free time. Mr. O'Brien's speech was not devoted to giving the other side of issues discussed by President Nixon in his recent broadcasts.[3] On the whole, it was a political attack on the President and his party, coupled with a closing commercial that funds be contributed to support DNC's goal of ousting Republicans from office. It directly raised the fresh issue not specifically treated by any Presidential speech: *which political party should hold power.*

The six presidential addresses carried by CBS between 11/3/69 and 6/30/70 did not address themselves to the issue of "which party?". They did not attack the Democratic Party or the Democratically-controlled Congress. Rather, they dealt with the State of the Union, viz: the President's analysis of the problems, the programs he had adopted to meet the problems and his explanation of actions he had taken or would take. He did not mention the Democratic Party. Rather, in the April 30th speech the President made clear that the Presidential actions were taken in spite of the possible adverse effects upon his political fortunes or those of his party. In none of these did he deal with the purely partisan issue as to which party should hold power. His purpose, confirmed by the per-

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Footnotes at end of article.

formance, was to report, as Chief Executive, on the state of things in the nation, not to boast of the virtues of the Grand Old Party.

DISCUSSION

Since CBS has exercised its journalistic freedom to permit DNC to propagandize on the broad issue as to which major party should hold power, CBS has the ensuing duty under the Fairness Doctrine to seek out an appropriate spokesman to respond. We assume that CBS could not hold in good faith that RNC is an inappropriate counter-spokesman or that someone else is a more appropriate spokesman on the broad issue as to whether Republicans or Democrats should hold power. In any event CBS needs to search no further. RNC is eager and ready. This is the rather unique case where the appropriate respondent is so conclusively and exclusively elected that for CBS to search further for another would constitute behavior so outrageous and biased as to utterly negate its qualifications as a "public trustee". It is beyond doubt that the Commission has the power "to conclude that the objective of adequate presentation of all sides may be best served by allowing those most closely affected to make the response." *Red Lion Broadcasting Co., Inc.* v. *FCC*, 395 U.S. 367, 379.

While the national committees of the Democratic and Republican parties are undoubtedly appropriate spokesmen to argue the issue of which of the major parties should be in power and to "sell" prospective contributors, they are not necessarily appropriate spokesmen to discuss specific political, economic and social issues—the "gut issues". National Committees are not policy spokesmen or policy-setting organizations. Their primary functions are to hold conventions, raise money and to get the candidates of their party elected regardless of the candidate's position on particular issues. The Democratic party, qua party, is not monolithic on policy. Its members vary widely regarding practically any given issue.[4] It is also well known that disagreement with any President on particular issues is not the peculiar province of the opposition party—such disagreement oftentimes comes from Congressional members of the President's own party.[5]

We refer to these circumstances for several reasons. There are always appropriate spokesmen available from either within or without the President's party to express views contrary to those expressed by the President. Indeed, a serious question is raised whether CBS can assign to DNC the role of "appropriate spokesman" of the "loyal opposition" under all circumstances. See *Golden West Broadcasters*, 8 FCC 2d 987, 10 RR 2d 523 (1967). Where a national committee is permitted to express views, these views will be inherently partisan in nature and, out of practical necessity, issue-dodging to a high degree since the national committee itself does not establish, control or represent the views of its members on the issues of the day. It is solely interested in getting back in power—a goal it must promote no matter how much its members and candidates are divided on the "gut issues" facing the nation.

We do not question the right of any national party to broadcast its partisan propaganda. We merely contend that, since all views expressed by DNC were, and out of practical necessity must almost always be, directed primarily to the "which party?" issue, it is an event that should only be countered by national committees seeking a contrary result.

We make no claim here that the Commission should interfere with the CBS's journalistic decision to grant time to the DNC to be used as that party sees fit for propaganda and fund-raising purposes. It deserves notice, however, that on the same day that CBS announced the grant of time, it self-righteously condemned the very type of action it took as being contrary to the standards of journalism it so frequently vaunts.

In a lengthy document filed at the FCC on June 22, 1970,[6] the day it notified DNC of the grant of time and in response to a request of the DNC for a declaratory ruling concerning access to time on broadcast stations, CBS declared as follows:

"CBS has long maintained policies which in general provide that broadcasts dealing with current controversial issues be produced under the supervision and control of CBS News or a CBS Owned Station. Only by lodging these responsibilities with our own personnel can we effectively insure that objectively and fairness will actually be achieved. . . . CBS has concluded that as a licensee in a medium with a finite amount of time to provide news, information and entertainment, we best serve the public by presenting issues and viewpoints with a balanced program schedule utilizing newsworthiness as the sole criterion." *Id.* at 3, 4. footnote omitted.

Then, after stating that the appearances of outsiders on its programs "are not permitted to become the instrument of partisan advocacy" (*Id.* at 7), CBS endorsed the following quotation from *The Report of the Twentieth Century Commission on Campaign Costs in the Electronic Era* as aptly describing "the dangers in the political sphere of substituting partisan program control for professional news responsibility" and as applicable to a political party as well as to a political candidate:

"Advances in broadcasting technology have made it possible to present a candidate in the best possible light, with all inept answers to hard questions edited out of the tape, with false starts and all uncertainties and human failings eliminated, all warts and blemishes removed, a single smooth image alone remaining. It is no criticism of television or radio to say that some day it may be possible to offer a wholly plausible and wholly false impression of a candidate. Broadcasting would become an impenetrable shield for a candidate, would not open a window on him through which the public could see him clearly." *Id.* at 7, footnote omitted.

In the O'Brien appearance on July 7, 1970, CBS allowed "partisan program control" which permitted the program "to become the instrument of partisan advocacy" with the consequent closing of the window on DNC through which the public otherwise could see it clearly.[7]

One could regard it as merely farcical that CBS was thus hoist with its own petard were it not for the fact that such caprice was practiced by persons whose responsible performance is so vital to our democratic system. We agree with what CBS told the Commission on June 22, 1970 and not with what it offered to Mr. O'Brien on that day. Because we believe in journalistic freedom, we do not ask the Commission to recall CBS's gratuity to DNC. Let CBS sit where it is hoist. We do insist that, having opened its programs for "partisan control" to become instruments of partisan advocacy, we, as DNC's major partisan antagonist must equally share this privileged exception to CBS's professed articles of journalistic faith. This is elemental fairness. Only a CBS bias against the Republican Party could explain a rejection of our request.[8]

We have no quarrel with the principle that presidential discussions of controversial issues fall within the Fairness Doctrine since we believe that, if there is another side, to know it is the public's right. As the *Red Lion* case emphasized, the underlying justification for the Fairness Doctrine "is the First Amendment goal of producing an informed public".[9] In this regard the Commission has recognized the extraordinary value of presidential reports to the public.[10] However, it is readily apparent that, if every broadcast report to his constituents by an incumbent president, governor, mayor, senator or congressman is to be subjected to "partisan" rather than to an "issue" oriented response by the opposite party without granting the incumbent's own party a right to reply, this will tend to have an inhibiting effect upon the making of such reports by public officeholders.

Knowing that a sincere serious report [11] on the state of things in the city, district, state or nation will evoke almost as a matter of right, a purely partisan response from the incumbent's opposition party to "throw the rascal out", without more, leaves the incumbent with two practical options: (1) to convert his report from an effort to inform and explain the state of things in his policy to a purely partisan propagandizing effort, or (2) to give no report at all. In either case the profound and critical importance of an officeholder communicating, in a serious and non-propagandizing mode, with his constituents will be a thing of the past, which, by comparison, will dwarf to virtual nothingness the "credibility gaps" of which much has been made in the recent past. If, on the other hand, the officeholder is assured that the partisan and propagandizing efforts of the opposing party can be met in kind by his own party, then he can devote his reports to the vital purpose of informing on the state of things.

It is simply not in the public interest for a broadcaster to deliberately pursue a course which will tend inevitably either to block an elected leader from communicating via broadcasting with his constituents or to turn those communications into unadulterated partisan propagandizing pieces.

CONCLUSION

As we have heretofore indicated, CBS has allowed DNC an opportunity, as a party-advocate-and-propagandist, to directly raise the broad issue as to which of the two major political parties should be in power, irrespective of the internal divisions on each of the "gut-issues". Elementary fairness demands that the RNC be permitted to express a contrary view. We therefore respectfully request that the Commission at its earliest convenience make its views known to CBS that their failure to afford forthwith RNC such an opportunity would constitute a violation of the Fairness Doctrine and CBS's obligations as a licensee of broadcast stations.

Respectfully submitted,
W. THEODORE PIERSON,
PIERSON, BALL & DOWD,
Attorneys for Republican National Committee.

FOOTNOTES

[1] Attached are two telegraphic messages by RNC to CBS dated July 3, 1970 and July 8, 1970, to which CBS has not responded.

[2] Attached is a CBS press release dated June 22, 1970, which contains the telegraphic message. (Exhibit 2).

[3] Script attached as Appendix A. It is pertinent in this regard that President Nixon's most recent broadcast appearance had been his news conference the week before with network anchormen limited by agreement solely to foreign affairs, including the Viet Nam-Cambodia situation. Mr. O'Brien's speech devoted approximately 2 of his 25 minutes to this issue.

[4] For instance, on the Cooper-Church Amendment (Amendment to Foreign Military Sales Act HR 15628), 42 Democratic Senators voted in favor and 11 against the Amendment. (*Congressional Quarterly*, July 3, 1970, at 1713). In the House of Representatives on the same subject (motion to tally,

roll call—208) 99 Democrats voted one way and 121 Democrats voted the other way. (Washington Post, July 10, 1970, at A–11). A study by *Congressional Quarterly* indicates that in 1969 Democrats in Congress divided along North-South lines on 36% of all roll call votes. Such split, *Congressional Quarterly* tabulated, occurred most frequently in the very sensitive areas of government spending and taxes. (*Congressional Quarterly Almanac*, 1969, at 1071.) Similarly, on the Voting Rights Act (HR 4249) the vote on one crucial acceptance of the Senate amendments (H. Res. 914) saw the Democrats in one House split 172–56. (*Congressional Quarterly*, June 26, 1970, at 1666.) We are citing these statistics, not as a criticism of the Democratic party, not in any partisan sense, since similar splits have occurred on these and other issues within the Republican party. These facts, however, strongly indicate that a party qua party is not the vehicle for the discussion of issues.

[5] Thus, for instance, one co-sponsor of the Cooper-Church Amendment is Senator Sherman Cooper, Republican of Kentucky. The co-sponsor of the McGovern-Hatfield Amendment is Senator Mark Hatfield, Republican of Oregon.

[6] Commission Reference 8330, C5–1344.

[7] In contrast, the June 30, 1970 appearance of the President was live and unedited, the first of such in history.

[8] To suspect CBS of such conduct would put down as sheer sophistry the following moving paragraph taken from the testimony of Dr. Frank Stanton, President of CBS in testimony before a Congressional Subcommittee:

"As for the possible biases of broadcasters, I have no doubt that, like all citizens, they have their loyalties and preferences as individuals. But to indulge these personal attitudes in the conduct of the public service function of their stations would be a very risky business. A broadcasting franchise is a very precious thing. Nobody knows this better than a broadcaster. That the general devotion of the American people to the principles of fair play apply to the way broadcasters exercise their franchise has been made amply clear. No broadcaster worth his salt would risk amassing a record of biased treatment of candidates or parties." Hearings Before The Special Subcommittee On Investigations Of the House Committee on Interstate and Foreign Commerce, 90th Cong., 2d Sess., Panel Discussion On The Fairness Doctrine and Related Subjects, ser. 90–33 (1968).

[9] Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 393 (1969).

[10] For example, the Commission has held that under such circumstances, such presidential reports are so important to the public as to even over-ride so-called "equal time" considerations. Columbia Broadcasting System — FCC —, 14 RR 720 (1956); Republican National Committee, — FCC —, 3 RR2d 647 (1964), *review denied by equally divided Court of Appeals, cert. denied sub nom.* Goldwater v. Federal Communications Commission 379 US 893.

"It is open to anyone to doubt the sincerity and purpose of the non-partisan reports of officeholders to constituents, just as it is rather hard to square the CBS contradictions of June 22, 1970 with its vaunted responsibility and sincerity as another type of public servant. But these perplexities do not justify, and cannot justify, the conclusion that all acts of either class of fiduciary are devious and insincere. Such despair is wholly unwarranted.

CERTIFICATE OF SERVICE

I, Joseph F. Miller, do hereby certify that I have this 13th day of July, 1970, delivered by hand copies of the foregoing "Petition of the Republican National Committee for Relief Against CBS" to:

Joseph DeFranco, Esq., 2020 M Street, NW., Washington, D.C., Counsel for the Columbia Broadcasting System, Inc.

Roger J. Wollenberg, Esq., Wilmer, Cutler & Pickering, 900 17th Street, NW., Washington, D.C., Counsel for the Columbia Broadcasting System, Inc.

Joseph A. Califano, Jr., Esq., Arnold & Porter, 1229 19th Street, NW., Washington, D.C., Counsel for the Democratic National Committee.

JOSEPH F. MILLER.

EXHIBIT 1

JULY 3, 1970.

DR. FRANK STANTON,
President, CBS,
New York, N.Y.

Your decision to grant the Democratic National Committee time "to express its views" on CBS television and radio networks raises a number of far-reaching policy questions. The Republican National Committee would very much appreciate your clarification of the following points:

When will these programs be aired and how many such programs are envisioned? How will such programming be determined?

Is this an unrestricted grant of time to the Democratic National Committee? If so, does it constitute a delegation to the Democratic National Committee of your "journalistic judgment" under the Fairness Doctrine? You have vigorously argued in many briefs before the FCC that the Fairness Doctrine should be determined by the journalistic judgment of the network involved.

Has CBS changed its position since the Dewey, *Paul E. Fitzpatric,* 6 RR 543(1950), Stevenson, *California Democratic State Central Committee,* 20 RR 687(1960), and Goldwater, *RNC,* 3 RR2d 767(1964) cases? The contention of CBS in *Paul E. Fitzpatric,* supra, in substance, was "that it was necessary to distinguish between the reports made by holders of office to the people whom they represented and the partisan political activities of the individuals holding office" (29 Fed. Reg. 10417). Do you feel that this policy is no longer valid?

In your brief of June 22, 1970 pertaining to *In Re Licenses of Columbia Broadcasting Systems, Inc. and Broadcast-Plaza, Inc.,* it was stated that "The very complexity of the problem commends the feasibility of an *ad hoc* approach." p. 12. The predetermined time periods set aside for the Democratic National Committee would appear to be contrary to this position.

Further, it would appear that this is an unrestricted grant of time for whatever purpose the Democratic National Committee desires. If the Democratic National Committee does have this time to address any subject it wishes, whether or not under the restriction of the Fairness Doctrine, should not the Republican National Committee have equal time? We do not seek to deny the access of any person to time to discuss any issue. If in fact, the Democratic Committee is entitled to time for *any purpose,* I am sure you would agree that the other major, duly constituted political party is similarly entitled to equal time. This also raises the question of possible third parties.

If the Democratic National Committee does not have this time to address any subject it wishes, what content and format guidelines have been formulated? Who, for example, determines which issues will be presented during the time provided and what assurance have you that the spokesman for the Democratic National Committee will address specific issues to which he may be entitled time under the Fairness Doctrine? Are Democrat candidates for Senate to appear while Republicans are excluded? This raises serious section 315 A problems.

Are we to assume that other groups will also be provided with a regular opportunity to present their views on controversial public issues? Why should such a policy be limited to political committees?

According to press reports which may or may not represent your point of view, it has been asserted that this time will be used to answer the President of the United States. Surely you do not believe that a political committee with no official governmental responsibility should be the appropriate political counterpart to the Chief Executive Officer of the United States Government. The Congress, of course, is a coordinate and equal branch of the government. Under the Fairness Doctrine, one might argue that the leadership of the Congress could be entitled, depending again on journalistic judgment, to offer a reply. If so, it would be logical also to assume that both parties in Congress should be given appropriate time to discuss any issues on which the President offered controversial views. Disagreement with the President is not the peculiar province of one party.

All of these unanswered questions should be clarified before any blanket decision is made to grant time either to the Democrat and Republican committees. Your telegram of June 22, 1970 seems to represent a very major departure from what we believe to be well established decisional law under the Federal Communications Act.

We are studying what our position should be in light of your new policy. We, therefore, hope to receive your reply to these questions at the earliest possible time.

ROGERS C. B. MORTON,
Chairman, Republican National Committee.

EXHIBIT 2

DR. FRANK STANTON,
President, Columbia Broadcasting System, Inc., New York, N.Y.

DEAR DR. STANTON: The Democratic National Committee Chairman's partisan attack on the Nixon Administration last evening answers many of the questions posed in my telegram of July 2 to which I have still received no reply.

Judging from the format and the content of last night's half-hour, CBS has abandoned journalistic judgment and responsibility and has made no attempt to establish guidelines as to the format and content of this type of program. Is there any precedent for any program which is allowed on the air with this lack of responsible restriction?

This show amounted to an unprecedented, inaccurate, personal attack on the President of the United States; yet your network promoted it as a "public service".

Rather than airing constructive differing views concerning controversial issues about which the President had addressed the nation, the program was a mere display of old-line partisan politics.

Not only were were excerpts used of the President's addresses to the nation on issues which one might argue fall within the Fairness Doctrine, but excerpts of his acceptance speech, inaugural speech, and press conferences were also shown, which clearly do not come within the Fairness Doctrine, or as to which rebuttal or equal time had already been donated by the networks.

Ethical questions have been raised by CBS's granting access to past tapes of the President, tapes that were questionably cut for partisan purposes. Ethical, as well as legal, questions also arise concerning the placement of a paid political appeal for donations immediately following what was promoted by CBS as a public service program. The appeal for funds at the close of that 30-minute segment made this "supposed" public service broadcast a half-hour free advertisement and was clearly misleading to the public.

These same ethical and legal questions arise concerning the right of a political party to invite requests for party propaganda and material during the coures of a supposedly public service broadcast.

CBS in May refused to accept paid spot advertising from a responsible private group on a current issue of great national significance. Is it now saying it will do so? How does CBS decide which group may purchase spot advertising to appeal for funds?

Further, both CBS and the Democratic National Committee seem to be confused concerning the application of the equal time rule. The President is not a candidate. He is Chief Executive of the United States Government. Roger Mudd's commentary after the program shows a clear misunderstanding of the equal time provisions. So, too, does the Democratic National Committee's appeal to prevent the re-election of President Nixon in a paid political advertisement led up to by a partisan half-hour program.

While CBS works hand-in-glove with the Democratic National Committee on this unprecedented attack, it refuses to answer the legal and ethical questions posed in my earlier telegram. We insist upon comparable free time on the grounds of the Fairness Doctrine. If we do not receive your reply in 48 hours, appropriate legal action will be taken to require your compliance with the law—and to prevent future abuse of your responsibility to the public.

ROGERS C. B. MORTON,
Chairman, Republican National Committee.

EXHIBIT 3

JUNE 22, 1970.

CBS OFFERS 25 MINUTES OF FREE TIME TO DEMOCRATIC NATIONAL COMMITTEE

WILL ALSO ACCEPT PAID SPOT ANNOUNCEMENTS FROM POLITICAL PARTIES FOR FUND RAISING IN NON-CAMPAIGN PERIODS

Following is the text of a telegram from CBS President Frank Stanton to Lawrence F. O'Brien of the Democratic National Committee, offering the Committee 25 minutes of free time on the CBS Television and Radio Networks and informing the Committee that CBS will now accept paid spot announcements from political parties for fund raising purposes without confining these announcements to campaign periods. A copy of the telegram was sent to Senator Mike Mansfield (D., Mont.), Senate Majority Leader. The text of Dr. Stanton's letter to Senator Mansfield also follows.

JUNE 22, 1970.

The Honorable LAWRENCE F. O'BRIEN,
Executive Motor Inn,
Louisville, Ky.

DEAR MR. CHAIRMAN: The purpose of this telegram is twofold: (one) to offer the Democratic National Committee 25 minutes of free time on the CBS television and radio networks, at 10 p.m. e.d.t. July 7, for presentation of the committee's views: And (two) to inform the committee that we will accept paid announcements from political parties for fund raising purposes without confining these announcements to campaign periods.

The offer of the 25 minute free time period (followed by a 5 minute CBS news analysis) is in keeping with longstanding CBS policy to achieve fairness and balance in the treatment of public issues, including the disparity between Presidential appearances and the opportunities available to the principal opposition party. Our offer to accept announcements (up to 1 minute in length) to raise funds during *non-campaign* periods broadens CBS policy which already provides for solicitation of funds for candidates during *campaign* periods.

These steps are intended to stimulate a free flow of ideas on the one hand, and to encourage greater participation by the body politic on the other. They are not advanced in response to the committee's petition for a declaratory ruling by the FCC that "a broadcaster may not as a general policy refuse to sell time to responsible entities such as the Democratic National Committee for the solicitation of funds and for comment on public issues." In fact, CBS will urge the FCC to deny the committee's petition on grounds, among others, that it would violate the communications act and repudiate the fairness doctrine.

While we reject your proposal to compel the sale of time, we are fully aware of the cumulative impact of broadcast appearances of representatives of the party in office because of their inherent newsworthiness. This is particularly true of the President. Historically, the major party not occupying the Presidency has complained about what it has considered an inequity in terms of accessibility to television (and radio). At the same time, as we all recognize, the President has certain constitutional duties whose performance is enhanced by his ability to communicate directly with the people.

For these reasons we employ a variety of journalistic techniques: First, we endeavor in our regularly scheduled news broadcasts, for example, to provide appropriate opportunity not only for the views of the administration whose actions make news but also for those who have different views. Second, we present additional coverage of points at issue—either in the regularly scheduled Tuesday evening CBS news hour, the Sunday Face the Nation or specially scheduled preemptive broadcasts such as those within recent weeks on the Cambodian controversy. Third, from time to time during the course of the year we will make available free time to the principal opposition party—as we did with respect to the President's State of the Union address earlier this year—under the overall title "The Loyal Opposition."

Central to our policy is the concept that no single procedure can afford a complete answer to the problem of assuring fairness and balance in the treatment of public issues. With all good wishes.

FRANK STANTON,
President, CBS.

JUNE 22, 1970.

The Honorable MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: This letter is in reply to your June 18 telegram in which you request, as leader of the majority party in the Senate, time on the CBS Television Network to comment on the nation's economic outlook in response to the President's June 17 address.

CBS has today offered the Democratic National Committee 25 minutes of free time on the CBS Television and Radio Networks, at 10 PM EDT July 7, for presentation of the Committee's views. We also reviewed our policies and procedures for insuring the major opposition party's accessibility to television and radio, citing our three main approaches: "First, we endeavor in our regularly scheduled news broadcasts, for example, to provide appropriate opportunity not only for the views of the administration whose actions make news but also for those who have different views. Second, we present additional coverage of points at issue—either in the regularly scheduled Tuesday evening CBS News Hour, the Sunday Face the Nation or specially scheduled preemptive broadcasts such as those within recent weeks on the Cambodian controversy. Third, from time to time during the course of the year we will make available free time to the principal opposition party—as we did with respect to the President's State of the Union address earlier this year—under the overall title, 'The Loyal Opposition.'"

A copy of my telegram to Lawrence F. O'Brien, Chairman of the Democratic National Committee, in regard to these matters is enclosed. I trust that the measures we have taken and the policies we intend to pursue in the future will satisfy the purpose of your request for time. Moreover, I hope you will find that our policies provide a sound framework for the presentation of the views of the major opposition party.

With all good wishes.

Sincerely,

/s/ FRANK STANTON.

APPENDIX A

THE DEMOCRATS RESPOND: PART 1

WASHINGTON, D.C., July 7.—Following is the transcript of "The Democrats Respond: Part One," a 25-minute broadcast-telecast presented by the Democratic National Committee over the Columbia Broadcasting System, which granted the time free to the Democratic Party:

President NIXON: "In these difficult years, America has suffered from a fever of words; from inflated rhetoric that promises more than it can deliver; from angry rhetoric that fans discontents into hatreds; from bombastic rhetoric that postures instead of persuading.

"We cannot learn from one another until we stop shouting at one another—until we speak quietly enough so that our words can be heard as well as our voices." (Inaugural Address, Jan. 20, 1969)

DEMOCRATIC NATIONAL CHAIRMAN LAWRENCE F. O'BRIEN

Like most of you, I applauded the appeal for lowered voices and national unity when Richard Nixon assumed the Presidency 18 months ago.

Good evening. I'm Larry O'Brien, national Chairman of the Democratic Party. I managed the Democratic campaign for President in 1968. And I recognized after the election that we all had to turn away from the narrow confines of partisanship and work in the active pursuits of national reconciliation.

But today the divisions within our society are far greater than they were 18 months ago.

I don't have any easy answers. But the American people are not afraid to face problems squarely, and I know you want facts.

In this spirit, then, the loyal opposition has the responsibility to ask: How, in fact, are we being governed? What progress are we making as a nation? How can we do better? How can the nation and our two-party system meet the challenge of the '70's? How can we achieve the goals the new President set forth in his Inaugural Address 18 months ago?

NIXON: In pursuing our goals of full employment, better housing, excellence in education; in rebuilding our cities and improving our rural areas; in protecting our environment and enhancing the quality of life—in all these and more, we will and must press urgently forward. (Inaugural Address, Jan. 20, 1969).

O'BRIEN: Those were the promises, no less urgent today than when the President spoke them on the Capitol steps 18 months ago. In a few areas—such as reform of the outdated welfare system and the antiquated postal system—the Nixon Administration has come forward with proposals that could make a lasting contribution to the fabric of American life.

But unfortunately, in most areas we see little or no progress; we share the concern of all Americans with the decline in our economy. Every housewife, every wage earner, every stock holder, every farmer, every small businessman—yes and many big businessmen know that our economy is lagging far behind its potential.

A reporter asked the President about this at a news conference earlier this year, one year after Mr. Nixon's *Inaugural Address.*

Reporter: The question is, how, sir, do you assess the possibility that we may be in for perhaps the worst possible sort of economic conditions—inflation and recession?

Nixon: Well, Mr. Cornell, the major purpose of our economic policy since we came into office a year ago has been to stop the inflation which had been going on for 5 years without doing it so quickly that it brought on a recession.

Now, as a result, we are now in a position the critical position, in which the decisions made in the next month or two will determine whether we win this battle.

I would simply say that I do not expect a recession to occur. (*News Conference,* Jan. 30, 1970)

O'Brien: Regrettably, the President's expectations have not materialized, and, as so many of you are painfully aware, we have inflation and recession at the same time.

We call it Nixonomics: everything that is supposed to go up—your income, productivity, housing construction, profits, the stock market—is going down. Everything that is supposed to go down—unemployment, interest rates, the cost of living—is rising.

Every housewife is alarmed over the constant rises in food prices—hot dogs up 14 cents a pound, hamburger up 12 cents a pound, potatoes up a third—you know your grocery bill and how much it has gone up in the last year.

Do you know of a family earning less than $13,000 annually that has been able to buy a home this past year? And even those able to borrow money for a new home know that a $20,000 house costs an additional $35,000 for interest charges alone—the highest interest rates in 100 years.

In recent weeks Democrats and Republicans alike have been pleading with President Nixon to use the great powers of his office to stop this recession and inflation now, before more damage is done.

The President must use his great personal influence to roll back inflationary wage and price decisions, just as President Kennedy and President Johnson did on many occasions.

Right now—tonight—Mr. Nixon could direct the lowering of interest rates on home mortgages, car loans, and the clothes you buy on credit from a department store.

A Democratic Congress gave him this power last year, but unfortunately, he has refused to use it.

I urge the President to act immediately. Please don't wait any longer for our economy to decline even further.

There is probably nothing of greater worry to the American family than the threat of unemployment. At a news conference two months ago a reporter asked the President about this problem.

Reporter. "On a domestic subject, the economy, sir. Unemployment is up, the stock market is down, things look generally discouraging. Do you have any views on that, and do you have any plans?"

Nixon. "Yes. Unemployment reached the point of 4.8, I noticed, this last month. In order to keep it in perspective, it should be noted that in 1961, 1962, 1963, 1964, and 1965 the average unemployment was 5.7. 5.7 is too high. 4.8, I think, is also too high. But the unemployment we presently have is the result of the cooling of the economy and our fight against inflation." (News Conference, May 8, 1970)

O'Brien. As the President said, it is partly a matter of perspective that 5.7 percent unemployment rate mentioned in the early 1960s reflected a steadily declining rate of unemployment, a decline from the high of 7 percent which President Kennedy inherited from the Eisenhower-Nixon Administration of the 1950s.

The fact is that unemployment fell during the 1960s and it was down to 3.3 percent in December, 1968. It has climbed steadily since President Nixon took office. Since last December, we have experienced the fastest five-month rise in unemployment since the recession in the late 1950's. But beyond this, instead of talking statistics and percentages, let's remember that more than four million seven hundred thousand Americans are out of work tonight.

Let's look at another major concern and see what candidate Nixon promised—what has happened since he took office.

Nixon: "And if we are to restore order and respect for law in this country, there's one place we're going to begin. We're going to have a new Attorney General of the United States of America . . .

"The wave of crime is not going to be the wave of the future in the United States of America." (Nomination Acceptance Speech, August 8, 1968)

O'Brien: Of course every new President has the power to appoint his own Attorney General, but what has been the record of the Attorney General President Nixon appointed?

Eighteen months have passed. The crime rate in this country has not gone down. In the first three months of this year it rose 15 percent over the same period last year. And it is especially alarming that the fastest rates of increase are now in the suburbs and in rural areas of our country.

The way to stop rising crime is not to blame others, such as Congress. The way to stop the rising crime rate is to help local and state law enforcement agencies who carry the major burden.

Nixon: "While it is true that State and local law enforcement agencies are the cutting edge in the effort to eliminate street crime, burglaries, murder, my proposals to you have embodied my belief that the Federal Government should play a greater role in working in partnership with these agencies.

"That is why 1971 Federal spending for local law enforcement will double that budget for 1971." (State of the Union Message, Jan. 22, 1970)

O'Brien: That's how the President addressed the crime problem in his State of the Union Message last January. What action has followed those farsighted words?

The facts are that the Nixon Administration budget requires one thousand dollars from every one of you—every American—to run the government. Of that one thousand dollars, the Administration has earmarked only $2.40 to assist state and local governments in the fight against crime—cutting the Democratic program in half.

And, while I am sure the President and the Attorney General want to reduce crime, I cannot understand why they have refused to support further improvements in the Safe Streets Act advocated by a Democratic President and enacted by a Democratic Congress in 1968—our major federal anti-crime program. They are improvements that would give cities with the greatest crime problems the most help.

I regret that so many of the top law enforcement experts brought to Washington by the Nixon Administration last year have now resigned, because, as they said, Attorney General Mitchell has refused to do what must be done to control the growing crime rate in America.

President Nixon's own anti-crime proposals have not been primarily directed at the national crime problem, but rather at Washington, D.C., and many people believe that some of these proposals are unconstitutional.

For the past generation both major political parties have stood together in the struggle for equal rights and opportunities for all of our citizens. In his acceptance speech, Mr. Nixon seemed to recognize the human stakes involved in the next urgent steps that must be taken in this continuing struggle.

Nixon: "They want the pride and the self-respect and the dignity that can only come if they have an equal chance to own their own homes, to own their own businesses, to be managers and executives as well as workers, to have a piece of the action in the exciting ventures of private enterprise.

"I pledge to you tonight that we shall have new programs which will provide the equal chance . . ." (Nomination Acceptance Speech, August 8, 1968)

"Now I know all the words. I know all the gimmicks and the phrases that would win the applause of black audiences and professional civil rights leaders. I am not going to use them. I am interested in deeds. I am interested in closing the performance gap." (News Conference, Jan. 30, 1970)

O'Brien: One of the biggest disappointments of the first 18 months of the Nixon Administration has been precisely this failure to match its words with deeds—to provide new opportunities for minority citizens, opportunities that must ultimately benefit all Americans.

Again, a number of experts brought to Washington by the Nixon Administration have resigned. They recognized this performance gap.

The failure to define clearly the policy for school desegregation has led to confusion in local school systems, and growing resentment and discouragement by families seeking equal educational opportunities for their children.

Above all, in the past 18 months we have been denied the strong moral leadership on this issue which only the White House can provide—that is *must* provide. We have lacked a President speaking forthrightly about the moral rightness of making the guarantees of the Constitution a reality for every American.

Again, Congress has had to take the lead—in overcoming the Administration's obstacles to renewing the Voting Rights Act, a law that provides *all* Americans with the most basic of democratic rights as well as extending the right to vote to 18-year-olds.

The times call for a new vision of our priorities. The President seemed to understand this when he addressed the nation last month.

Nixon: For the first time in 20 years, the Federal Government is spending more on human resource programs than on national defense.

"This year we are spending $1.7 billion less on defense than we were a year ago; in the next year, we plan to spend $5.2 billion less. This is more than a redirection of resources. This is an historic reordering of our national priorities." (Address to the Nation, June 17, 1970.)

O'Brien: The President says he favors this change in our priorities. But it was Congress, not the President, that cut five-and-a-half billion dollars from the Pentagon budget. And when Congress tried to channel less than a quarter of that money into educational and health programs—libraries, books, student loans—the President responded with a nationally televised veto message.

Nixon: "Now, if I approved the increased spending contained in this bill, I would win the approval of many fine people who are demanding more spending by the Federal Government for education and health. But I would be surrendering in the battle to stop the rise in the cost of living, a battle we must fight and win for the benefit of every family in this Nation." (Hew Veto Message, Jan. 26, 1970.)

O'Brien: In that same week when Mr. Nixon vetoed the education and health bill as inflationary, he announced a new multi-billion dollar spiral in the nuclear arms race.

Why wasn't this just as inflationary, if not more so?

Only a few days ago Congress overrode another Nixon veto and so restored funds to build desperately needed hospitals and mental health facilities for the nation's sick people. The President turned down this bill because he said it was inflationary. But more than two-thirds of Congress—including a majority of the members of the Republican Party—voted to allocate for hospitals some of the money cut from the budget.

National priorities? Let's consider again each American's thousand dollar share of the nation's budget: $4.50 for air and water pollution; $5.00 for urban renewal for our cities; $7.50 for elementary and secondary education; 50 cents for training the handicapped—and $375.00 for the military.

Once again, we must look to Congress for leadership.

It was Congress that more than doubled President Nixon's initial request for an increase in social security, providing a badly needed 15 percent increase. And just this week, your paychecks will be larger because a Democratic Congress voted to increase personal tax emptions and eliminate the 5 percent surtax.

So I ask you tonight: Who is really engaged in a "historic reordering of our national priorities"—the Congress or the President?

One of our most urgent priorities for this decade is cleaning up our environment. Most of you heard the President speaking to this problem in his State of the Union Message this past January.

Nixon. "The program I shall propose to Congress will be the most comprehensive and costly program in this field in America's history.

"It is not a program for just one year. A year's plan in this field is no plan at all. This is a time to look ahead not a year, but 5 years or 10 years—whatever time is required to do the job.

"I shall propose to this Congress a $10 billion nationwide clean waters program to put modern municipal waste treatment plants in every place in America where they are needed to make our waters clean again, and do it now." (State of the Union Message, Jan. 22, 1970)

O'Brien: That is what President Nixon said he would propose, and to many it seemed an impressive call for action. But the fact is that the 10 billion dollar program he promised calls for federal spending of only four billion dollars. The amount Mr. Nixon proposed for the first year of his new program to fight water pollution turned out to be *less* than Congress had already authorized.

And so, 18 months later, the pattern of the Nixon Administration's domestic program is abundantly clear—ringing calls for action, but few results, except when Congress takes the initiative and calls the shots.

But our attention to our critical domestic priorities continues to be diverted by the seemingly endless struggle in Indochina, about which the President addressed the nation on April 30.

Nixon: "Tonight, American and South Vietnamese units will attack the headquarters for the entire Communist military operation in South Vietnam. This key control center has been occupied by the North Vietnamese and Vietcong for 5 years in blatant violation of Cambodia's neutrality." (Address to Nation, April 30, 1970)

O'Brien: I have no intention of "taking on" the President in difficult decisions about military strategy, but I do want the President to level with all of us.

I share the relief of all Americans that our troops have crossed back into South Vietnam, but I also share the confusion of most Americans who wonder what Cambodia is really all about.

The President never consulted with his Cabinet or with Congress before he expanded the Indochina war. He has never told the American people that the Communist headquarters he said would be attacked was never attacked and apparently never even located.

Instead Mr. Nixon now has given other reasons to justify his surprise move of American troops into a neutral country, among them the preservation of a new Cambodian government.

And now we have become involved, whether or not we like it, in that new government. Now—although our ground troops are out—our bombers and our artillery continue to bomb the Cambodian nation. Now the South Vietnamese army continues to sustain a full scale military operation in Cambodia.

Before our military incursion, as this map shows, Communist activity in Cambodia was primarily limited to border sanctuaries.

But now, just two months later, Communist control has expanded to half the land area of Cambodia and Communists have infiltrated over a large part of the rest of that beleagured country.

The question must be asked: Has our action actually saved Cambodia, or put its survival in greater jeopardy?

To be a patriotic American is to question and probe the activities of those who govern us. That is our duty and our right.

The newly elected President promised to "bring us together again." But the opposite of that is occurring, polarization, unfortunately encouraged by Vice President Agnew in speech after speech across the country.

Agnew: "You can't bring 200 million people together. Let's stop talking in technicalities and look at the President's figure of speech—was a plea for national unity to bring the responsible elements of our society together. But let's never overlook the fact that there are also irresponsible elements of our society and instead of attempting to dignify and condone what they're doing, let's polarize—let's get rid of these undesirable people by recognizing that they cannot participate in our legitimate processes of government unless they play the rules." (Washington Window, UPI Interview, November 16, 1969)

O'Brien: The words and thoughts of Vice President Agnew leave me saddened and disheartened. While I realize there are many who support Mr. Agnew, I deeply believe his road can only lead to further division and mistrust among our people.

In attacking the loyalty of millions who sincerely question the course of the present Adminstration, the Vice President is himself questioning and jeopardizing the very democratic tradition that has made us strong.

Is this the way we are to be brought together again? Is this the lowered voice President Nixon urged upon all of us eighteen months ago?

This is a time for healing, not for wounding, for trust and understanding, not for hatred and suspicion.

For 14 years, I was a friend and close associate of a man who could express these feelings far better than I. One bright, wintry day the world seemed full of promise as he reached out to us and summoned forth the best we Americans had to offer.

Kennedy: "All of this will not be finished in the first one hundred days. Nor will it be finished in the first one thousand days, nor in the life of this Administration, nor even perhaps in our lifetime on this planet. But let us begin . . ." (Kennedy Inaugural Address, Jan. 20, 1961)

O'Brien: The Democratic Party, and the Democrats in Congress accepted that challenge a decade ago—and we rededicate ourselves today.

SST IS HARDLY ESSENTIAL TO U.S. ECONOMY

Mr. PROXMIRE. Mr. President, the White House staff report released this past weekend contains little in the way of encouraging news as far as the American environment is concerned. According to an article published yesterday in the Milwaukee Journal, the central theme of the report is that "despite severe deterioration of the American environment, the United States must continue to seek substantial economic growth in order to solve the problems of millions of its poor people."

Mr. President, while I am deeply concerned about the problems of the poor, and what we can do to alleviate these problems, I am troubled by the way this report presents alleviating poverty and environmental control in an either—or posture. I submit, Mr. President, that just this kind of attitude has been responsible for a great deal of our air pollution, water pollution, solid waste pollution, and noise pollution. There may, in fact, be instances where we face a difficult choice between social and economic gains on the one hand and preventing degradation of the environment on the other. But in most cases we face no such choice.

The SST is just one example. Here is a project which will create very serious noise pollution—not only from the sonic boom but also from the deafening sideline noise it will generate at our airports. Here is a project which can damage our protective layer of ozone—the Department of Transportation says "only" by 7 percent—and our ozone is all the protection we have against the sun's otherwise lethal ultraviolet radiation. Here is a project which will leave behind trails of water vapor in the upper atmosphere—trails which experts predict will substantially increase the earth's cloud cover and which in turn may affect our weather patterns. Clearly, Mr. President, the SST has an enormous potential for damaging the environment.

But is this counterbalanced by the SST's social and economic benefits? Are we faced with the difficult choice which the White House report envisions? Hardly.

The SST, if and when it flies, will be of use only to a very small fraction of our population. The SST's principal use will be on overseas routes,—routes which are flown by fewer than 1 percent of our population on a regular basis. And there is a good chance that for the SST to make any kind of a return for the airlines, the fare will have to be set at first-class rates—rates which would make the SST prohibitive for all but a handful of businessmen and the wealthiest of tourists.

Mr. President, this is hardly the kind of project "the United States must continue to seek" in order to "solve the problems of millions of its poor people". This administration continues to use this kind of justification for projects such as the SST, but when it comes to building hospitals, providing for education, or putting up new low and moderate income housing, it accuses the Congress of being fiscally irresponsible.

Mr. President, who is kidding whom?

Mr. President, I ask unanimous consent that the article entitled "Growth Called Essential to U.S.," written by Jack Kole, and published in the Milwaukee Journal of Sunday, July 19, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GROWTH CALLED ESSENTIAL TO UNITED STATES

(By John W. Kole)

WASHINGTON, D.C.—Despite severe deterioration of the American environment, the United States must continue to seek substantial economic growth in order to solve the problems of millions of its poor people, a White House staff report declared Saturday.

That central theme was presented to President Nixon in a 228 page report submitted by his national goals research staff, which is headed by Leonard Garment, a special consultant to the president.

The problems of the environment, to which Nixon gave his No. 1 domestic priority in his first State of the Union message last January, were discussed in almost every section of the report, which was entitled "Toward Balanced Growth: Quantity With Quality."

Although the stated purpose of the report was to define problems and goals and not to select solutions, it was clearly committed to a high rate of economic expansion.

"An extreme solution would be intentionally to lower the rate of conventional economic growth," it said. "Such a proposal assumes that growth is the cause of environmental degradation and therefore that the cure is to soften the cause.

"But degradation of the environment is not a necessary consequence of economic expansion, and improving the environment will itself require new equipment—equipment that will be available only from increased output or from diverting resources from other users."

Moreover, the report continued, there is no guarantee that restricting growth would, by itself, reduce pollution.

"Restricting growth would also run counter to other policy objectives," the report said. "Slowing the rate of expansion would jeopardize full employment and would hinder the efforts of minority groups in poverty to increase their income.

"Thus, while it may be true that pollution can be associated with growth, it does not follow that consciously curtailing growth represents sound policy."

The conclusions are certain to be attacked by environmentalists, who feel that a slowdown of economic expansion is necessary to avert disaster.

The report was ordered a year ago by Nixon as he looked forward to the 200th anniversary of the U.S. in 1976.

"It is time we addressed ourselves, consciously and systematically, to the question of what kind of a nation we want to be as we begin our third century," he said then. "We can no longer afford to approach the longer range future haphazardly."

The report noted: "One of the cherished assumptions of Western civilization is that, by and large, people and institutions can and should be left to run themselves and that the results of their actions will be to the general good."

While this assumption is being seriously challenged and the government is exercising more controls than ever, it said, there must be extreme caution.

"Excessive continued public involvement in the guidance of such institutions can produce undesirable instability," the report said. "Excessive reliance on administrative controls will increase public costs, breed inflexibility or prove ineffective—if experience is any guide."

MUST SEEK BOTH

Despite the serious questions that have been raised about economic growth in recent years, the report declared that pitting quantity against quality was "a false phrasing of the issue."

"The new qualitative goals being proposed and the old goals yet unmet can be achieved only if we have continued economic growth," it said. "The issue is better put as one of how we can insure continued economic growth while directeing our resources more deliberately to filling our new values."

The national goals of staff was clearly at odds with "some scientists and other anxious citizens (who) assume a doomsday model of the future in which increased economic production will drive us to our destruction."

GROWTH MAY SLOW

On population growth, the report strongly implied that those who were warning about disastrous consequences for the US were exaggerating.

"More recent projections suggest that the increase in our population over the next 30 years may be considerably less than the additional 100 million that had generally been forecast," the report said.

"In fact, it may even be that the present rate of increase will slacken off so that we will reach the zero growth rate that some demographers have been advocating."

But it did see the massing of American population in 12 major urban conglomerates as a serious problem that had to be dealt with by encouraging the growth of new, self-contained communities of 25,000 or more.

These new towns, the report said, could provide only minor relief because the construction of the necessary facilities was a huge undertaking.

"Another complicating consideration is that new towns, if improperly designed, could aggravate the problems of the cities by siphoning off primarily middle and upper income residents, leaving the poor behind in cities stripped of their tax base," he said.

The American educational system must do a considerably better job of educating the underprivileged children of minority groups.

The leveling off of federal aid has created serious money shortages in the field of basic natural science.

Some other points made in the report:

America must find ways to continue technological advances while protecting the environment from new incursions.

Consumer groups are convinced that they need stronger government controls but the movement already has had "an important and beneficial influence on business practice."

The report said the definition of the gross national product (GNP) probably should be changed to reflect environmental improvements.

"It is therefore possible to conceive of some lowering of the conventional growth rate but at the same time some increase in real wealth if GNP were adjusted for the quality improvement being newly purchased," it said.

NO NEW FEATURE

But this would not be a new feature in American life, the recipient argued.

"The sacrifice of income in favor of leisure and the large portion of current output that is used instead of invested show that quality (leisure) and current enjoyment (consumption) have demonstrated that sheer economic growth for its own sake is not and has not been an absolute concern," it said.

"Therefore, caring for the wholesomeness of our environment can be considered an extension of America's historical concern for quality."

CONGRESS AND ITS FISCAL RECORD—STRAIGHT

Mr. MANSFIELD. Mr. President, certain questions have again been raised through the press about the reductions effected by Congress on the spending requests contained in the budget submitted by the administration. It is becoming increasingly clear that the message simply has not gotten through. So to set the record straight once again, I must point out that acting on administration budget requests for the fiscal year just concluded, Congress cut a total of $6.37 billion. At the same time Congress saved an additional $1.4 billion that was requested for the fiscal year just begun. Some of that advance savings, fortunately, may be available for areas where additional funds are vitally needed.

The record of Congress on this score has been most responsible, particularly in the light of our current economic difficulties. It is a record for which every Member may be proud. I ask unanimous consent that a table prepared by the Committee on Appropriations be printed in the RECORD. The table shows in detail where Congress cut items that were felt to have been unnecessarily bloated by the administration.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[SENATE APPROPRIATIONS COMMITTEE PRINT]

ACTIONS ON BUDGET ESTIMATES OF NEW BUDGET (OBLIGATIONAL) AUTHORITY IN APPROPRIATION BILLS, 91ST CONG., 1ST SESS. AND 91ST CONG., 2D SESS. AS TO LABOR-HEW APPROPRIATION BILL, H.R. 15931, AND FOREIGN AID APPROPRIATION BILL, H.R. 15149—AS OF MAR. 5, 1970

[Does not include any "back-door" type budget authority; or any permanent (Federal or trust) authority, under earlier or "permanent" law,[1] without further or annual action by the Congress]

Bill and fiscal year (1)	Budget requests considered by House (2)	Approved by House (3)	Budget requests considered by Senate (4)	Approved by Senate (5)	Public Law (6)	(+) or (−), Public Law amounts compared with budget requests to Senate (7)
Bills for fiscal 1970:						
1. Treasury-Post Office (H.R. 11582) (net of estimated postal revenues appropriated)	$2, 314, 714, 000	$2, 272, 332, 000	$2, 314, 714, 000	$2, 280, 195, 000	$2, 276, 232, 000	−$38, 482, 000
(Memoranda: Total, including authorizations out of postal funds)	(8, 821, 727, 000)	(8, 779, 345, 000)	(8, 821, 727, 000)	(8, 787, 208, 000)	(8, 783, 245, 000)	(−38, 482, 00)

Footnotes at end of table.

Bill and fiscal year (1)	Budget requests considered by House (2)	Approved by House (3)	Budget requests considered by Senate (4)	Approved by Senate (5)	Public Law (6)	(+)or (−) Public Law amounts compared with budget requests to Senate (7)
Bills for fiscal 1970—Continued						
2. Agriculture (H.R. 11612)	$6,967,562,050	$6,806,655,000	$7,237,562,050	$7,642,797,650	$7,488,903,150	+$251,341,100
3. Independent offices-HUD (H.R. 12307) (including 1971 advance)	15,380,413,600	14,909,089,000	15,512,969,600	[2] 14,985,449,000	15,111,870,500	−401,099,100
(Fiscal year 1970 amounts only)	(15,205,413,600)	(14,734,089,000)	(15,337,969,600)	[2] (14,985,449,000)	(15,111,870,500)	(−226,099,100)
4. Interior (H.R. 12781)	1,390,096,500	1,374,286,700	1,390,856,500	1,382,766,900	1,380,375,300	−10,481,200
5. State, Justice, Commerce, and Judiciary (H.R. 12964)	2,475,704,600	2,335,634,200	2,475,704,600	2,382,354,700	2,354,432,700	−121,271,900
6. Labor-HEW (H.R. 13111 vetoed by the President, Jan. 26, 1970)	(16,495,237,700)	(17,573,602,700)	(19,834,125,700)	(21,363,391,700)	(19,747,153,200)	[4] (−86,972,500)
(Fiscal year 1970 amounts only)	(16,495,237,700)	(17,573,602,700)	(18,608,125,700)	(20,245,811,700)	(19,747,153,200)	[4] (+1,139,027,500)
7. Labor-HEW (H.R. 15931 signed by President March 5, 1970)	18,608,125,700	19,381,920,200	19,834,125,700	19,381,920,200	19,381,920,200	[5] −452,205,500
Senator Cotton amendment Sec. 410; 2 percent reduction				−346,776,624	−346,776,624	−346,776,624
(Fiscal year 1970 amounts only)	(18,608,125,700)	(19,381,920,200)	(18,608,125,700)	(19,381,920,200)	(19,381,920,200)	(+773,794,500)
8. Legislative (H.R. 13763)	311,374,273	284,524,057	372,152,949	342,310,817	344,326,817	−27,826,132
9. Public works (and AEC) (H.R. 14159)	4,203,978,000	4,505,446,500	4,203,978,000	4,993,428,500	4,756,007,500	+552,029,500
10. Military construction (H.R. 14751)	1,917,300,000	1,450,559,000	1,917,300,000	1,603,446,000	1,560,456,000	−356,844,000
11. Transportation (H.R. 14794) (including 1971 advances)	2,090,473,630	2,095,019,630	2,090,473,630	2,147,152,630	2,143,738,630	+53,265,000
(Fiscal year 1970 amounts only)	(1,840,473,630)	(1,875,019,630)	(1,840,473,630)	(1,947,152,630)	(1,929,738,630)	(+89,265,000)
12. District of Columbia (H.R. 14916) (Federal funds)	228,842,000	188,691,000	228,842,000	173,547,000	168,510,000	−60,332,000
(District of Columbia funds)	(751,575,300)	(683,106,300)	(752,944,300)	(657,064,600)	(650,249,600)	(−102,694,700)
13. Defense (H.R. 15090)	75,278,200,000	69,960,048,000	75,278,200,000	69,322,656,000	69,640,568,000	−5,637,632,000
14. Foreign assistance (H.R. 15149)	3,679,564,000	2,608,020,000	3,679,564,000	2,718,785,000	2,504,260,000	−1,175,304,000
15. Supplemental (H.R. 15209)	298,547,261	244,225,933	314,597,852	296,877,318	278,281,318	−36,316,534
Total, these bills—						
As to fiscal 1970	134,719,895,614	128,021,451,220	135,200,040,881	[6] 129,106,910,091	[6] 128,829,105,491	[6] −6,370,935,390
As to fiscal 1971	425,000,000	395,000,000	1,651,000,000	200,200,000	214,000,000	−1,437,000,000
Total, 1970 bills including 1971 amounts	135,144,895,614	128,416,451,220	136,851,040,881	[6] 129,306,910,091	[6] 129,043,105,491	[6] −7,807,935,390
Bills for fiscal 1969:						
1. Unemployment compensation (H.J. Res. 414)	36,000,000	36,000,000	36,000,000	36,000,000	36,000,000	
2. Commodity Credit Corporation (H.J. Res. 584)	[3] 1,000,000,000	[3] 1,000,000,000	[3] 1,000,000,000	[3] 1,000,000,000	[3] 1,000,000,000	
3. 2d supplemental (H.R. 11400)	4,364,006,956	3,783,212,766	4,814,305,334	4,459,669,644	4,352,357,644	−461,947,690
Release of reserves (under Public Law 90–364)	(82,463,000)	(82,766,000)	(79,999,000)	(80,230,000)	(80,230,000)	(+231,000)
Total, 1969 bills	5,400,006,956	4,819,212,766	5,850,305,334	5,495,669,644	5,388,357,644	−461,947,690
Cumulative totals	140,544,902,570	133,235,663,986	142,701,346,215	[6] 134,802,579,735	[6] 134,431,463,135	[6] −8,269,883,080

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[1] In round amounts, the revised (April) budget for fiscal 1970 tentatively estimated total new budget (obligational) authority for 1970 at $219,600,000,000 gross ($205,900,000,000 net of certain offsets made for budget summary purposes only), of which about $80,700,000,000 would become available, through so-called permanent authorizations, without further action by Congress, and about $138,900,000,000 would require "current" action by Congress (mostly in the appropriation bills). Also, the April Review of the Budget contemplates budget requests for advance fiscal 1971 funding in 4 items totaling $1,661,000,000.

[2] Reflects reduction of $175,000,000 for Appalachian highway program for 1970 and $175,000,000 for advance funding for 1971. Authorization Act provided for contract authority in lieu of new obligational authority, with payments for liquidation to be appropriated later.

[3] Shifted from fiscal 1970 budget, a portion of which is technically classified in the budget as "liquidation of contract authorization" rather than as new budget (obligational) authority.

[4] Although a reduction in the budget estimate of $86,972,500 is reflected in the total column of the bill, it must be made clear that the budget estimate column to the Senate includes $1,226,000,000 advance funding for ESEA for 1971 whereas none of these funds were included in the conference agreement. Deducting the $1,226,000,000, from the budget estimate column gives a comparison for fiscal year 1970 only and reflects the conference agreement over the budget estimates in the amount of $1,139,027,500.

[5] The budget estimate column to the Senate includes $1,226,000,000 advance funding for fiscal year 1971 for ESEA denied by the Congress.

[6] Includes reduction of $346,776,624 in the Cotton amendment, section 410 of Labor-HEW appropriation bill, H.R. 15931.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? if not, morning business is concluded.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The clerk will state the unfinished business.

The BILL CLERK. The report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll, and the following Senators answered to their names:

[No. 247 Leg.]

Aiken
Allen
Anderson
Bible
Boggs
Byrd, W. Va.
Church
Cooper
Cranston
Curtis
Ervin
Goodell
Griffin
Hatfield
Hruska
Jordan, N.C.
Jordan, Idaho
Mansfield
McGovern
Metcalf
Prouty
Scott
Sparkman
Stennis
Tydings
Young, N. Dak.
Young, Ohio

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New MEXICO (Mr. MONTOYA), the Senators from Rhode Island (Mr. PASTORE and Mr. PELL), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from California (Mr. MURPHY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Alaska (Mr. STEVENS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) are absent because of illness.

The PRESIDING OFFICER (Mr. CRANSTON). A quorum is not present.

Mr. BYRD of West Virginia. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Allott
Bellmon
Bennett
Burdick
Byrd, Va.
Case
Dole
Fannin
Fulbright
Goldwater
Hansen
Hart
Hartke
Holland
Hollings

Jackson
Long
Magnuson
Mathias
McCarthy
McClellan
McGee
McIntyre
Miller
Mondale
Moss
Muskie
Nelson
Packwood
Pearson
Percy
Proxmire
Randolph
Russell
Saxbe
Smith, Ill.
Spong
Symington
Talmadge
Tower
Williams, N.J.
Williams, Del.
Yarborough

The PRESIDING OFFICER. A quorum is present.

THE ABSENCE OF AN EXPRESS SEVERABILITY CLAUSE IN THE CONFERENCE VERSION OF THE DISTRICT OF COLUMBIA CRIME BILL

Mr. TYDINGS. Mr. President, while it is my personal conviction that every element of the conference report on S. 2601, the District of Columbia crime bill now before the Senate, is 100 percent in conformity with the U.S. Constitution, some of my colleagues in the Senate have expressed concern that the few close constitutional questions might warrant the inclusion of an express severability clause in the legislation itself.

It is my understanding, Mr. President, that the law implies such a clause—that such a clause is not needed. Moreover, it is the clear intent of the conferees on S. 2601 that, if the provisions of any part of the District of Columbia Court Reform and Criminal Procedure Act of 1970 or any amendments made thereby or the application thereof to any person or circumstance be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby. No negative intent is to be implied from the omission of such a clause in the conference report.

To clarify the law on this issue, I have asked the U.S. Department of Justice to advise me, and in turn the Senate, as to the need for a severability clause. Today I am in receipt of the reply of the Attorney General as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., July 20, 1970.

Hon. JOSEPH TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: In response to your inquiry as to the necessity of a severability clause in legislation, let me point out that it has long been the law in this country that, if any part of a statute is held invalid, all of the remaining portions which are capable of standing alone remain valid.

The Supreme Court has stated clearly:

"The general proposition must be conceded, that in a statute which contains invalid or unconstitutional provisions, that which is unaffected by these provisions, or which can stand without them, must remain. If the valid and invalid are capable of separation, only the latter are to be disregarded." *Supervisors* v. *Stanley,* 105 U.S. 305, 312 (1881).

When the severability clause is included in the legislation itself a presumption of severability is raised but "the ultimate determination of severability will rarely turn on the presence or absence of such a clause." *United States* v. *Jackson,* 390 U.S. 570, 585 (1968). In *Jackson,* the Supreme Court held that the invalidity of the death penalty provision in the Federal Kidnapping Act, contrary to the view of the lower court, did not require invalidation of the entire provision even though Congress had included no severability clause.

In view of the long-standing principle of statutory construction repeatedly upheld by the Court, it seems perfectly clear that the absence of a severability clause in the District of Columbia Court Reform and Criminal Procedure Act of 1970 poses no difficulty.

Sincerely,

JOHN N. MITCHELL,
Attorney General.

Mr. GOODELL. Mr. President, like many of my colleagues, and like all the residents of this city, I, too, am subject to the fears that pervade this city. I, too, have watched with horror as the crime rate of this city, a city which should be setting an example for the rest of the country, and the world, increases at appalling rates. I, too, wish to institute measures which will somehow stop that crime so that once again we will not be afraid to allow our children to go out at night. But I am not willing to institute this District of Columbia conference report—a report which contains provisions that are in some cases unconstitutional and in other cases clearly undesirable, and deleterious to effective crimefighting and to the rehabilitation of criminals.

I have heard many of my colleagues say that although they do not support one or two provisions contained in the crime bill, they will support it for fear that, should it be defeated, there will be no crime bill. I implore my colleagues to abandon this line of thought. Firstly, I believe that with ample time to study this 243-page report, my fellow Senators would find more than just one or two provisions which are undesirable or unconstitutional. Second, we can have a crime bill for the District of Columbia should the conference report be voted down. Should it be rejected, there is a bipartisan substitute District of Columbia crime package upon which this body can immediately act.

I have introduced this substitute measure with 21 cosponsors—including two other members of the District of Columbia Committee, and five members of the Judiciary Committee—in the form of two bills, S. 4080 and S. 4081. The substitute measure has also been introduced by the Senator from North Carolina, also with the cosponsorship of 21 Senators, in the form of amendments 776 and 777 to H.R. 914, a House-passed private claims bill now pending on the Senate Calendar.

The first portion of the substitute measure contains provisions for court reorganization, the District of Columbia Bail agency, the interstate compact on juveniles, the public defender service, and a Federal payment to the District of Columbia to pay for this legislation; this first part is, in almost all aspects, exactly like the corresponding provisions in the conference report.

We did, however, make two changes from the conference language which, I believe, are clearly superior to the provisions of the conference report. These changes deal with confidentiality of Bail Agency records, and representations by the public defender service.

I. CONFIDENTIALITY OF INFORMATION GIVEN TO BAIL AGENCY

The conferees, I believe, wisely accepted provisions which will substantially enlarge the positive role that the Bail Agency can take in regard to the bail process; as such the agency will not only provide prebail information on arrested suspects to guide the judicial officer in setting release conditions, but will also supervise, or coordinate supervision by other persons, suspects released on conditions other than money bond.

Although wisely expanding the functions of the agency, the conferees also accepted a provision which was in the House-passed bill which, unwisely, would allow information gathered by the bail agency to be used in perjury proceedings, and for the purposes of impeachment in any subsequent proceedings. If the protection of confidentiality is removed as provided in the conference report, prisoners would be subject to penalties, which, as a result of what they say in the original interview with the bail agency, will be drastically changed. The bail agency would no longer be the neutral intermediary between the prisoner and the court that is now operating to the benefit of both, but it potentially will become an accuser and witness against the prisoner in future criminal trials. Prisoners have the right to be advised of their rights and to have counsel appointed and present at their interview with the bail agency. Although interviewing is done prior to the appointment of counsel for the prisoners involved, the prisoners interviewed now waive their right to counsel because nothing they say in the interview can be used against them under the provisions of the present law. However, should the protection of confidentiality be removed, it can be expected that counsel will have to be appointed and that prisoners will be advised not to submit themselves to interviews with the agency, in many instances. Thus, the provisions of the conference report will make it extremely difficult for the agency to obtain information for their report; will undermine the confidence with the accused that the agency has built up since it began operations in 1965; and will deprive the courts of information that is extremely helpful to them in the administration of justice. Clearly the change from existing law, and from the bill passed by the Senate earlier this year, made by the conferees is unwise; the substitute package retains the protection of confidentiality which clearly will make the bail agency more able not only to carry out its duties but to carry them out in a responsible and efficient manner.

II. PUBLIC DEFENDER REPRESENTATION

The other major change in the noncontroversial first portion of the alternative District of Columbia crime measure, S. 4080, and amendment 777 to H.R. 914, deals with representation by the public defender service. The conference report states that representation may be furnished at every stage of proceeding—including appellate, ancillary, and collateral—whereas the substitute states that representation shall be furnished at every stage of a proceeding, including ancillary, trial appellate, and collateral proceedings, where the person to be represented has a right to counsel under the prevailing law of the District of Columbia and where representation for such person is otherwise not provided.

Rather than maintain the permissive language of the conference report, the substitute measure, in adopting mandatory language, will protect the individual defendant by mandating representation at all stages. Once representation is undertaken, the service is bound to see the case through to the conclusion in the same manner as any other attorney would be bound.

III. COURT REORGANIZATION

Previous debate on the Senate floor during the last few days, and testimony before the Senate District Committee, has made one fact unalterably clear. That is, the best way to fight crime is to provide speedy trials. The conference report now before us will go a long way to insure speedy trials in the District of Columbia by its proposals for court reorganization. I support these court reorganization provisions—which make up over 90 percent of the report before us—as I would venture to guess, do all of my colleagues. Over and over again Senator TYDINGS, the distinguished chairman on the District of Columbia Committee, has asked that we in the Senate decide this bill on the merits, and not in the heat of emotion surrounding a few of the provisions like preventive detention and no knock.

No knock, preventive detention, and other objectionable provisions of the conference bill are an integral part of it, however, and a decision must be made on the merits of each of those issues. Should the Senate decide that the excess baggage which the administration and the conference report seek to tack onto court reorganization is poor policy and poor law, then the option of voting for court reorganization alone will, through the substitute which Senator ERVIN and I have introduced, remain available to us.

Let us scotch once and for all the argument that a vote against the District of Columbia conference report is a vote against vigorous anticrime legislation, a vote which will doom the possibilities for District of Columbia crime legislation to be passed in the near future. That is simply not true. A vote against the conference report is a vote against no knock, or against preventive detention, or against some or all of the 45 other antilibertarian measures which the conference bill includes. Let it be quite clear that we do have an alternative District of Columbia crime bill waiting in the wings, and that the Senate can exercise its option of passing that bill—and of giving the District the court reorganization which it so badly needs—immediately after rejection of the conference report.

Let me mention, before getting to the brunt of my argument on the no-knock provision, some of the 45 other provisions which I find so objectionable in the conference report.

IV. RESISTING ARREST

The conferees decided to accept a provision of the House which would forbid a citizen—any citizen—to resist arrest, even if such an arrest is unlawful, by an individual who the citizen has reason to believe is a law enforcement officer. This provision would further promote the ability of criminals posing as police—not uncommon in the District of Columbia—to prey on citizens.

In a far larger sense it is unwise and ill-conceived. This provision is based on the assumption that the "self-help remedy to resist unlawful arrest is unnecessary in today's society where the individual is fully protected by: First, the ability to obtain prompt release before a magistrate where probable cause for arrest is lacking and second, when the existence of civil remedies for unlawful arrest. As for the first assumption I have, unfortunately, not been able to uncover any indication that police superiors ever rigorously attempt to discipline police officers who make arrest without probable cause. And as to the second point regarding the adequacy of civil remedies for the person that is unlawfully arrested—they just do not exist. The statement of managers, in defending this provision, can say only that civil remedies are being developed by the courts. It is common knowledge, nevertheless, that recovery of money damages for unlawful arrest is a realistic remedy only in the most outrageous of cases.

Inclusion of this provision in the District of Columbia Code would affect us all. And one of us could be walking down the street and stopped on the pretension of arrest, and not daring to resist because we know it is unlawful we might find ourselves the easy victim of a robber; knowingly or unknowingly—just as bad, this law could be abused by actual policemen for a variety of reasons, none of them based on fact.

V. OTHER NOMINAL PROCEDURES

Another provision contained in the conference report which I consider to be entirely ill conceived is the provision which would abolish the Commission on Revision of the Criminal Laws of the District of Columbia and charge the Senate and House of Representatives with this task of making a comprehensive revision of the Criminal Code of the District Code of the District of Columbia. Inasmuch as the District of Columbia Criminal Code now consists of an unofficial compilation of disparate and largely ad hoc criminal measures this revision is of utmost importance; however, it should not be done by Congress if only because the months of deliberation and agreement over the present conference report show, changes in criminal law procedure are not apt to be quickly agreed upon here.

In addition the task of revising the Criminal Code of systematic law revision—requires both the advice and the painstaking, technical supervision of experts—something which is not generally available to the District Committees of the respective Houses.

The Senate statement of managers admit the superiority or desirability of having the provision included in the substitute when they say that although the Senate conferees gave in to the House they did so only under persistent insistence by the House. But they receded under the assumption that the respective committees would seek and listen to the advice of experts "in changing the District of Columbia Criminal Code," as would have been institutionalized under the bar association's proposal for the reconstituted committee.

The Commission on Revision of Criminal Laws of the District of Columbia was created by the act of December 27, 1967, for a period of 3 years. However, the Commission was not funded until the 1970 District of Columbia appropriations Act and as such has not been operating until this year. The Commission needs 2 additional years to adequately complete its task, and as such the District of Columbia crime bills would change the conference provision back to that which was originally passed by this body. That is, the Commission would make an interim report on May 1, 1972, and its final report on a date not later than May 1, 1973.

Another provision which I find particularly appalling is that provision, adopted by the conferees, which would increase the penalty for tampering with vending machines from the existing misdemeanor to a 3-year felony. It should be well noted, however, that no matter what the value of the sum or property involved, anyone who now steals from a vending machine is subject to a year's imprisonment under present law; and if the value of the money or property amounts to $100 or more, the penalty ranges up to 10 years; or if the value of the machine is over $200, which is usually the case, that the penalty ranges up to 10 years. There has been no showing to the effect that the larceny laws of the District are not adequate to the task of adequately punishing those who break into vending machines.

The statement of managers on behalf of the Senate justified this change by stating that "higher penalties should be available to deal with professional criminals," unfortunately the proposed treatment of vending machine theft, as adopted by the conferees, would severely punish the ghetto youth who break into a candy machine, while not noticeably altering the present punishment that now can be invoked against the experienced vending machine thief who is repeatedly robbing and destroying all sorts of coin-operated machines.

JUVENILE PROVISIONS

The honorable junior Senator from Maryland (Mr. MATHIAS) will soon call the attention of the Senate to many of the juvenile provisions contained in the conference report which were changed in the conference report. I have read a copy of the Senator from Maryland's statement, and I would like to express my concurrence with his thoughts and analysis. However, I would like to briefly advise my fellow Senators of three provisions contained in the juvenile section of the conference report which I find particularly odious.

The definition of a child as adopted by the conferees would allow a juvenile of 16 or 17 to be tried as an adult if he has been charged with certain numerated offenses. Although this definition, as adopted by the conferees, somewhat limits the number of crimes when this can occur, as opposed to the original House provision, it still flies in the face of every expert who testified before the Senate District Committee in regard to juvenile proceedings. In fact it is interesting to note that the only witness to speak out in favor of the House proposal was the Justice Department.

The District of Columbia crime substitute package goes back to the definition of child that was previously passed by the Senate as part of S. 2981; in so doing our substitute closely conforms to the definitions recommended by recognized juvenile authorities. These experts have continually stressed that lowering the age limit at which a person could be tried as a child is not in the interests of improved law enforcement; what's more, in lowering the age limit we do not recognize that the potential rehabilitative nature of young people—even those who are guilty of more serious crimes—will be ignored in the adult correction system.

Another aspect of the juvenile proceedings section adopted by the conferees which I find particularly bothersome is the lack of time limits for factfinding and disposition hearings. It is true that the conferees did set time limits for various other aspects of juvenile proceedings, but what good does it do if all the proceedings surrounding one child's arrest go very quickly, and then when it is time for the factfinding hearing, it is not held for an indeterminate amount of time. Obviously, not imposing time limits for all stages can entirely undo the good that will come out of time limits at some stages.

It is unfortunate that the conferees, by not going all the way, missed the boat entirely as far as time limits for juveniles are concerned. This is especially unfortunate inasmuch as expedition in juvenile proceedings is the key to deterrence and effective therapy.

In S. 4081, and in amendment 776 to H.R. 914, time limits are imposed on all requisite stages of juvenile proceedings. In instituting a comprehensive scheme of statutory limitations, the District of Columbia crime conference substitute, as opposed to the conference report, adopts the unanimous recommendations of the American Bar Association's Minimal Standards for Criminal Justice Relating to Speedy Trial, the model acts of Illinois and New York, and, most notably, the President's Commission on Crime in the District of Columbia.

Another aspect of the conference report regarding juvenile procedures has to do with the right of a juvenile to a trial: Under the conference report they would be denied that right. I must recall to Senators that in the juvenile procedure bill passed this year there was no such jury trial, either—the denial of a jury trial afforded to a child was compensated for by requiring very high standards of proof in both delinquency and need of supervision cases. Unfortunately, not only did the conferees not see fit to provide adolescents charged with trials by jury, but also, they lowered the standard of proof for persons in need of supervision to "preponderence of the evidence" rather than beyond a reasonable doubt.

I believe that it is ill-advised to have such a standard of proof when no jury trial is provided. After all, such a finding requires some confinement—whatever purpose that confinement may be thought to serve—and a loss of liberty. Therefore, it seems manifestly unfair and constitutionally unsound to permit such a finding to be made upon a showing of evidence which amounts to anything less than proof beyond a reasonable doubt. After all, as Chief Justice Warren said:

> What we are striving for is not merely "equal" justice for juveniles. They deserve much more than being afforded only the privileges and protections that are applied to their elders.

Another very unwise provision adopted by the conferees would require that when a defendant's insanity is an element of the alleged crime, he establish his insanity by a preponderance of evidence. I think that is a mistake. This is contrary to present law which provides that the defendant has the burden of going forward with some evidence to put his mental condition in issue; but the Government still has the ultimate burden of proof on the issue of sanity or criminal responsibility, just as it does with every other element of an offense.

The shift of the burden of proof made by the conferees ignores the recent Supreme Court decision In re Winship which holds that the prosecution must shoulder the burden of proof beyond a reasonable doubt on "every fact necessary to constitute the crime charged." In addition, the practical effects of such a charge would make a sham of the insanity defense for indigent defendants who lack adequate representation or resources to establish the defense. But probably the most significant aspect of the inclusion of this provision in the conference report is this: The element of intent is fundamental to most crimes, and proof of intent is inseparable from proof of criminal responsibility; if the Government can be relieved of the burden of proof on this fundamental element of the crime, then there is nothing that cannot be shifted to the accused and the presumption of innocence is destroyed.

NO-KNOCK PROVISIONS

The conference bill authorizes a no-knock seizure and arrest under new and broader circumstances than those which have up to now been recognized as justifying an exception to the notice requirement at common law. Let it be clear that, despite protestations to the contrary by the distinguished senior Senator from Maryland, the no-knock provision of the conference bill does not merely codify existing law.

The conference bill authorizes a no-knock entry where circumstances at the time of breaking and entry give an executing officer probable cause to believe that:

First. Notice is likely to result in the evidence subject to seizure being easily and quickly destroyed or disposed of; or

Second. Notice is likely to endanger the life or safety of the officer or another person; or

Third. Notice is likely to enable the party to be arrested to escape; or

Fourth. Notice would be a useless gesture.

A comparison of the original Senate and House no-knock proposals with the final conference version indicates that the District Committee conferees followed substantially the House version of no knock. The only significant respect in which the conference bill reflects the Senate version rather than the House is the requirement of an application for a no-knock warrant where circumstances justifying such an entry are known at the time of application.

A. COMMON LAW REQUIREMENT OF NOTICE AND THE EXCEPTIONS

English and American courts have both cited the 1603 Semayne's case as being the leading judicial interpretation and application of the maxim that "Every man's house is his castle." In that case the court said:

> The Sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the King's process, if otherwise he cannot enter. But before he breaks it, he ought to signify the cause of his coming, and to make request to open the doors.

The early American cases touching upon the question of illegal entry have frequently referred to the language of Semayne's case as setting forth the general rule requiring notice prior to entry. However, these cases have also recognized certain exceptions to the general requirement of notice. These exceptions have been recognized where notice would have been "useless," where it would constitute a "senseless ceremony," where no one was evidently present to hear it, or where the officer was invited into the house. In the case of *Read* v. *Case*, 4 Conn. 166 (1822), the court recognized an exception to the requirement of notice where there exists the possibility of imminent danger to human life. G. Robert Blakey, in "The Rule of Announcement and Unlawful Entry," 112 U. Penn. L. Rev. 499, suggests that the paucity of State and Federal court decisions concerning unlawful entry is due to the universal practice of giving notice before entry.

A large number of States and the Federal Government have enacted legislation expressly requiring notice before entry. Only one State, Georgia, has a statute governing forcible entry which does not expressly condition such entry upon due notice. No State has as yet attempted to codify any common law exceptions to the general requirement of notice.

B. SUPREME COURT DECISIONS CONCERNING NO-KNOCK ENTRIES

The Supreme Court of the United States has addressed itself to the problem of the no-knock entry on only two occasions. *Miller* v. *United States*, 337 U.S. 301 (1958); *Ker* v. *California*, 374 U.S. 23 (1962). Prior to these two decisions, the District of Columbia Circuit, in *Accarino* v. *U.S.*, 179 F. 2d 456 (D.C. Cir. 1949) rendered "the first judicial decision in Anglo-American law invalidating an arrest on the independent ground that an announcment of purpose was not made prior to forcible entry." Blakey, p. 512.

In *Miller* v. *United States*, 356 U.S. 301 (1958), the Supreme Court held unlawful a breaking and entering by arresting police officers where proper notice was not given. While the Court's decision turned on its application of the governing Federal statute, 18 U.S.C. 3109, and not expressly upon constitutional standards, the Court discussed the history of the requirement of notice. Mr. Justice Brennan wrote for the majority:

> From the earliest days, the common law drastically limited the authority of law officers to break the door of a house to effect an arrest. Such action invades the precious interest of privacy summed up in the ancient adage that a man's house is his castle.

Mr. Justice Brennan cited Semayne's case as setting forth the common law rule concerning breaking and entering. He concluded his opinion by writing:

> The requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our heritage and should not be given grudging application.

In *Ker* v. *California*, 374 U.S. 23 (1962), the Supreme Court for the first time directed itself to the question of the constitutionality of a no-knock entry. It appears that at least eight Justices on the Supreme Court at the time of the Ker decision subscribed to the view that the fourth amendment implicitly prohibits unannounced entry in the execution of a search or arrest. The decision of the Court in Ker against California—affirming a State court's rejection of a contention that officers' failure to give notice was violative of the fourth amendment—also pointed to common law exceptions to the rule of announcement. It is the basis for and scope of the exceptions to the universally acknowleged general rule of notice that is specifically at issue in the various legislative proposals for no-knock entry.

In this case, the Supreme Court affirmed a California court decision which found sufficient circumstances to justify an exception to the constitutional requirement of notice, held to be incorporated in a California statute. Mr. Justice Clark quoted from *People* v. *Maddox*, 46 Cal. 2d 301 P. 2d 6:

> Since the demand and explanation requirements of section 844 are a codification of the common law, they may reasonably be interpreted as limited by the common law rules that *compliance is not required if the officer's peril would have been increased or the arrest frustrated had he demanded entrance and stated his purpose.*

Finally, the majority held:

> Here justification for the officers' failure to give notice is uniquely present. In addition to the officers' belief that Ker was in possession of narcotics, which could be quickly and easily destroyed, Ker's furtive conduct in eluding them shortly before the arrest was ground for the belief that he might well have been expecting the police. We therefore hold that in the particular circumstances of this case the officers' method of entry, sanctioned by the law of California, was not unreasonable under the standards of the Fourth Amendment as applied to the States through the Fourteenth Amendment.

The significance of the majority decision in Ker against California is diminished by the close 5-to-4 vote. Three other Justices joined Mr. Justice Brennan's dissent which rejected the majority's holding that the fourth amendment's protection against unreasonable searches and seizures had not been violated by the arresting officers in this case. Brennan contends that the majority has recognized a new and unsupportable exception to the common law and constitutional requirement of notice. Mr. Justice Brennan wrote:

> I have found no English decision which clearly recognizes any exception to the requirement that the police first give notice of their authority and purpose before forcibly entering a home. Exceptions were early sanctioned in American cases, *e.g. Read* v. *Case*, 4 Conn. 166, but these were rigidly and narrowly confined to situations not within the reason and spirit of the general requirement. Specifically, exceptional circumstances have been thought to exist only when, as one element, the facts surrounding the particular entry support a finding that those within actually know or must have known of the officer's presence and purpose to seek admission. Cf. *Miller* v. *United States, supra,* at 311–313. For example, the earliest exception seems to have been that "(i)n the case of an *escape* after arrest, the officer, on fresh pursuit of the offender to a house in which he takes refuge, may break the doors to recapture him, in the case of felony, without a warrant, and without notice or demand for admission to the house of the offender." Wilgus, Arrest Without a Warrant, 22 Mich. L. Rev. 541, 798, 804 (1924). The rationale of such an exception is clear, and serves to underscore the consistency and the purpose of the general requirement of notice: Where such circumstances as an escape and hot pursuit by the arresting officer leave no doubt that the fleeing felon is aware of the officer's presence and purpose, pausing at the threshold to make the ordinarily requisite announcement and demand would be a superfluous act which the law does not require. But no exceptions have heretofore permitted unannounced entries in the absence of such awareness on the part of the occupants—unless possibly where the officers are justified in the belief that someone within is in immediate danger of bodily harm.
>
> Two reasons rooted in the Constitution clearly compel the courts to refuse to recognize exceptions in other situations when there is no showing that those within were or had been made aware of the officers' presence. The first is that any exception not requiring a showing of such awareness necessarily implies a rejection of the inviolable presumption of innocence. The excuse for failing to knock or announce the officer's mission where the occupants are oblivious to his presence can only be an almost automatic assumption that the suspect within will resist the officer's attempt to enter peacefully, or will frustrate the arrest by an attempt to escape, or will attempt to destroy whatever possible incriminating evidence he may have. Such assumptions do obvious violence to the presumption of innocence. Indeed, the violence is compounded by another assumption, also necessarily involved, that a suspect to whom the officer first makes known his presence will further violate the law. It need hardly be said that not every suspect is in fact guilty of the offense of which he is suspected, and that not everyone who is in fact guilty will forcibly resist arrest or attempt to escape or destroy evidence.
>
> The second reason is that in the absence of a showing of awareness by the occupants of the officers' presence and purpose, "loud noises" or "running" within would amount, ordinarily, at least, only to ambiguous conduct. Our decisions in related contexts have held that ambiguous conduct cannot form the basis for a belief of the officers that an escape or the destruction of evidence is being attempted. *Wong Sun* v. *United States*, 371 U.S. 471, 483–484; *Miller* v. *United States, supra*, at 311.

PRIOR AUTHORIZATION OF NO-KNOCK ENTRY

With respect to the authority in the conference bill for the issuance of a no-knock warrant, it is significant to note that the traditional "exigent" circumstances justifying a no-knock entry have been circumstances existing at the time and place of the search. Any attempt at prior determination of the existence of such circumstances by a judicial officer miles from the scene and up to 10 days prior to execution of the warrant departs radically and unreasonably from this traditional approach.

There are absolutely no court precedents approving advance no-knock warrants. As demonstrated in Ker against California, the traditional common law principles are aimed at "exigent" circumstances occurring at the time of entry.

The Ker decision, moreover, is limited on its facts to the situation in which an officer perceives exigency upon the scene just prior to entry; Ker does not rule constitutional any no-knock search not based upon such an on-the-scene perception of exigency.

It is imperative to note that the conference measure, in authorizing prior judicial authorization, does not provide the extra protection to civil liberties which its Senate managers claim. First, since an officer may under the conference measure, as he could before, engage in a no-knock entry without applying for a warrant, he has no incentive to request the authority which he can exercise on his own. The supposed judicial check is, therefore, potentially ineffectual.

Should the officer in fact apply for a warrant, the situation becomes worse and the conference bill reaches far beyond the standards of Ker. "Exigent" circumstances, by their very nature, cannot be known with any exactitude in advance of the actual execution of a search or arrest.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. GOODELL. I should prefer to yield to the Senator when I have concluded this thought.

Mr. Justice Brennan, in his Ker dissent, defines an essential element of exigency as follows:

> The facts surrounding the *particular* entry support a finding that those within actually know or must have known of the officer's presence and purpose to seek admission.

The exigent circumstances as defined in the Brennan dissent cannot be known in advance of arrival at the dwelling place, for unannounced entry is justified when "those within are then engaged in activity which justified officers in the behalf that an escape or destruction of evidence is being attempted." Similarly, unannounced entry is authorized when officers are justified in their belief that "persons within are in imminent peril of bodily harm."

Prior judicial review necessarily involves a component of speculation less certain than the perception of the officer on the scene, and therefore necessarily involves a less stringent definition of exigency.

Mr. President, I am delighted to yield now to the Senator from Maryland.

Mr. TYDINGS. I am interested in the Senator's comment to the effect that prior judicial approval would lessen the degree of exigency. Has the Senator had any complaints about the codification of the New York law on executing search or arrest warrants without knocking?

Mr. GOODELL. I am aware that the New York law is not to my liking in these cases. I practice law in New York.

Mr. TYDINGS. Has the Senator ever had any complaints?

Mr. GOODELL. Have I had complaints?

Mr. TYDINGS. Yes.

Mr. GOODELL. Yes. I have made complaints myself.

Mr. TYDINGS. But has the Senator ever had any citizen complaints about the codification, section 799 of the Code of Criminal Procedure in the State of New York?

Mr. GOODELL. Yes. As I say, not only have I had complaints; I have made them myself as a defense attorney practicing in New York.

Mr. TYDINGS. Is the Senator aware that the New York codification with respect to no knock does not even use the language "is likely"; that it not only gives a judge authority beforehand to issue a warrant, but uses the language "may"?

Mr. President, I ask unanimous consent to have printed at this point in the Record section 799 of the New York Code of Criminal Procedure and also the decision of the New York Court of Appeals in the case of the *People of the State of New York* v. *Anthony DeLago,* 16 New York 2d 289, upholding the New York codification.

There being no objection, the items were ordered to be printed in the Record, as follows:

New York Code of Criminal Procedure

§ 799. Officer may break open door or window, to execute warrant

The officer may break open an outer or inner door or window of a building, or any part of the building, or any thing therein, to execute the warrant, (a) if, after notice of his authority and purpose, he be refused admittance, or (b) without notice of his authority and purpose, if the judge, justice or magistrate issuing the warrant has inserted a direction therein that the officer executing it shall not be required to give such notice. The judge, justice or magistrate may so direct only upon proof under oath, to his satisfaction, that the property sought may be easily and quickly destroyed or disposed of, or that danger to the life or limb of the officer or another may result, if such notice were to be given. As amended L.1964, c. 85, eff. July 1, 1964.

[Points of Counsel]

The People of the State of New York, Respondent, v. Anthony De Lago, Appellant

Argued December 1, 1965; decided December 30, 1965

Crimes—search warrant—execution without notice—warrant commanding search of premises containing four apartments is ambiguous but is clarified and validated by caption limiting search to first-floor apartment occupied by defendant—inclusion of clause in search warrant that officer is not required to give notice of his authority and purpose prior to executing same, as permitted by Code of Criminal Procedure (§ 799, as amd.), is proper—such provision is constitutional.

1. A warrant commanding search of "the structure, located at premises 2 and 3 Abendroth Place, Port Chester, New York, believed to be the * * * dwelling occupied by one Anthony De Lago", which structure contains four apartments is ambiguous but is clarified by the caption of the warrant which limits the search to "The first floor apartment at 2 Abendroth Place" which was occupied by appellant. As so clarified the warrant was not constitutionally deficient.

2. Where it was represented to the court by affidavit that gambling materials were likely to be found at the premises, the court could take judicial notice that contraband of this nature is easily secreted or destroyed and could infer as a fact that they would be and therefore could include in the search warrant, as permitted by section 799 of the Code of Criminal Procedure (as amd. by L. 1964, ch. 85), a provision that "the executing peace officer is not required to give notice of his authority and purpose prior to executing this order". That portion of section 799 of the Code of Criminal Procedure authorizing the inclusion of this provision in the search warrant complies with the Fourth Amendment to the United States Constitution.

Appeal, by permission of an Associate Judge of the Court of Appeals, from a judgment and order of the Appellate Term of the Supreme Court in the Second Judicial Department, entered July 30, 1965, affirming (1) a judgment of the Westchester County Court (John H. Galloway, Jr., J.) convicting defendant, on his plea of guilty, of the crimes of book-making and possession of policy slips, and (2) an order of said court denying a motion by defendant to suppress as evidence certain property seized by the police during a search of defendant's apartment pursuant to a search warrant.

Michael I. Winter for appellant. I. The direction in the search warrant at bar to search an identified building or structure consisting of four separately tenanted apartments, on the basis of an attempted showing of probable cause for the search of only one of such apartments, is violative of constitutional and statutory requirements that the place to be searched be particularly described. (*People* v. *Marshall,* 13 N Y 2d 28; *United States* v. *Barkouskas,* 38 F. 2d 837; *Tyman* v. *United States,* 297 F. 177; *United States* v. *Hinton,* 219 F. 2d 324; *People* v. *Holcomb,* 3 Parker Cr. Rep. 656; *People* v. *Rainey,* 14 N Y 2d 35; *People* v. *Feliciano,* 23 A D 2d 806; *Weinstein* v. *New York State Thruway Auth.,* 27 Misc 2d 503; *United States* v. *Ventresca,* 380 U. S. 102; *People* v. *Hendricks,* 45 Misc 2d 7.) II. The search warrant at bar is legally deficient by reason of the provision therein contained relieving its executing officer of the constitutional obligation to give notice of his authority and purpose before entering to execute the warrant. (*Ker* v. *California,* 374 U. S. 23; *Accarino* v. *United States,* 179 F. 2d 456; *People* v. *Goldfarb,* 34 Misc 2d 866; *People* v. *Mills,* 18 A D 2d 960; *People* v. *Duell,* 1 N Y 2d 132; *Persky* v. *Bank of America Nat. Assn.,* 261 N. Y. 212.)

Leonard Rubenfeld, District Attorney (*James J. Duggan* of counsel), for respondent. I. The warrant in this case is an entirely valid one. (*People* v. *Rainey,* 14 N Y 2d 35; *People* v. *Feliciano,* 23 A D 2d 806; *United States* v. *Ventresca,* 380 U. S. 102; *People* v. *Rogers,* 15 N Y 2d 422.) II. There is no deficiency in the warrant by reason of the inclusion of the "no-knock" authority. (*Ker* v. *California,* 374 U. S. 23; *People* v. *Maddox,* 46 Cal. 2d 301; *People* v. *Mirasola,* 35 Misc 2d 886; *People* v. *Friola,* 11 N Y 2d 157.)

Van Voorhis, J. Appellant occupied one apartment in a four-apartment structure known as 2 and 3 Abendroth Place, Port Chester, New York. Policy slips and other gambling paraphernalia were found in his apartment in a search thereof by the police made pursuant to a warrant commanding the search of "the structure, located at premises 2 and 3 Abendroth Place, Port Chester, New York, believed to be the framed [*sic*] dwelling occupied by one Anthony De Lago". We regard this phraseology as sufficiently ambiguous to justify looking to the caption of the warrant for clarification (*People* v. *Martell,* 16 NY 2d 245; *Squadrito* v. *Griebsch,* 1 NY 2d 471, 475). The caption limits the search to the area described in the application for the warrant, namely, "The first floor apartment at 2 Abendroth Place, Port Chester," which was the living unit occupied by Anthony De Lago, the appellant herein. This was enough to sustain the warrant against the attack made upon it under *People* v. *Rainey* (14 NY 2d 35) that it was constitutionally deficient for "not 'particularly describing the place to be searched'" (N.Y. Const., art. I, § 12; U.S. Const., 4th Amdt.).

The search warrant is attacked upon the further ground that the Fourth Amendment to the United States Constitution requires an announcement by police officers of their purpose and authority before breaking into an individual's home (*Boyd* v. *United States,* 116 U.S. 616), and that the warrant is, therefore, void for dispensing with the need for such notification.

Section 799 of the Code of Criminal Procedure, as amended by chapter 85 of the Laws of 1964, authorizes an officer to break open an outer or inner door or window, or any part of a building "without notice of his authority and purpose, if the judge * * * issuing the warrant has inserted a direction therein that the officer executing it shall not be required to give such notice." That section continues by stating that the Judge may so direct "only upon proof under oath, to his satisfaction, that the property sought may be easily and quickly destroyed or disposed of, * * * if such notice were to be given."

Boyd v. *United States* (*supra*), *Accarino* v. *United States* (179 F. 2d 456, 465) and other cases are cited in support of appellant's contention.

Although the need for notification as a general constitutional requirement was reaffirmed in *Ker* v. *California* (374 U.S. 23), which is the leading case upon the subject, the Supreme Court upheld the lawfulness of a search (even without a warrant) where police officers entered quietly and without announcement in order to prevent the destruction of contraband, adding (pp. 37–38): "The California District Court of Appeal * * * held that the circumstances here came within a judicial exception which had been engrafted upon the statute by a series of decisions, see, *e.g., People* v. *Ruiz,* 146 Cal. App. 2d 630, 304 P. 2d 175 (1956); *People* v. *Maddox,* 46 Cal. 2d 301, 294 P. 2d 6, cert. denied, 352 U.S. 858 (1956), and the noncompliance was therefore lawful."

The Supreme Court examined whether, notwithstanding its legality under State law, the method of entering Ker's home offended Federal constitutional standards of reasonableness. The court found no violation, even assuming that the officers' entry by use of a key was the legal equivalent of a "break". The California case of *People* v. *Maddox* (46 Cal. 2d 301, 306) was followed to the effect that the Fourth Amendment is not violated by an unannounced police intrusion, with or without an arrest warrant, where those within, made aware of the presence of someone outside, are then engaged in activity which justifies the belief than an escape or the destruction of evidence is being attempted.

Although the validity of a warrant is determined as of the time of its issuance (*People* v. *Rainey, supra*), in this instance it was represented to the court by affidavit that gambling materials were likely to be found at this location, and in issuing the warrant the court could take judicial notice that contraband of that nature is easily secreted or destroyed if persons unlawfully in the possession thereof are notified in advance that the premises are about to be searched.

For this reason we consider that it was reasonable to include in this search warrant the provision under attack that "Sufficient proof having been given under oath that the gambling records and other paraphernalia sought may easily and quickly be destroyed and disposed of, the executing peace officer is not required to give notice of his authority and purpose prior to executing this order." Even though there is nothing in the affidavit to show specifically how or where these gambling materials would be likely to be destroyed or removed, the likelihood that they would be was an inference of fact which the Judge signing the warrant might draw. The portion of section 799 of the Code of Criminal Procedure authorizing the inclusion of this provision in the search warrant is held to comply with the Fourth Amendment to the Constitution of the United States.

The judgment of conviction and the order denying the motion to suppress should be affirmed.

Chief Judge Desmond and Judges Dye, Fuld, Burke, Scileppi and Bergan concur.

Judgment and order affirmed.

Mr. GOODELL. The upholding was at the State and the district court level. The question has never gone to the U.S. Supreme Court.

Mr. TYDINGS. Is the Senator aware that it has been held constitutional?

Mr. GOODELL. Yes, I am.

Mr. TYDINGS. On what ground?

Mr. GOODELL. I feel that the New York law is unconstitutional because it has not been decided through the Supreme Court.

Mr. TYDINGS. Will the Senator from New York admit that the conference report on the Senate bill provides much safer protection and a much higher degree of protection to the individual than does the New York statute?

Mr. GOODELL. I would question the word "much."

Mr. TYDINGS. A higher degree?

Mr. GOODELL. I think it does provide a higher degree of protection. I feel that the New York law as written, as a practical matter, would permit grants of no-knock permission at whim. I oppose that. There is nothing holy or pure about New York law. We have made many mistakes. I am proud that New York leads the Nation in many areas—in social legislation, for example—but I also recognize that legislatures and Governors in the past undoubtedly—not consciously—could have made mistakes.

There is, of course, an area of division as to what is constitutional and what is not; what rights are secured for the protection of an accused and what are not. The Senator makes a nice point, which is a whimsical point, perhaps to put me in an awkward position of defending a New York law which I do not favor.

Mr. TYDINGS. The Senator does agree, does he not, that our proposal provides a higher degree of protection and safeguards than in the present, existing New York law?

Mr. GOODELL. I agree to that. Yes; I have made that statement.

Mr. TYDINGS. One other question I should like to direct to the Senator relates to whether or not a police officer would know at the time he sought an original arrest or search warrant that the exigent circumstances are going to exist, circumstances which would make it dangerous to announce the execution of a search warrant.

As a former U.S. attorney, I cannot conceive of more than 1 or 2 percent of situations where, at the time a search warrant was issued, the officer asking for the search warrant or arrest warrant would not know at that time, and under the conference report on S. 2601 be required to divulge, the exigent circumstances, if any, that would require a no-knock entry.

I should like to make the point that the Senate provision clearly provides a much higher degree of safety than the present case law in the District of Columbia and the case law across the Nation. It provide another cause or another reason for the quashing of any search warrant or arrest warrant where a police officer fails to request permission of the court at the time the original search warrant or arrest warrant is issued. Of course, in the New York law there is a complete option on the part of the police officer, similar to the original bill. The police officer might or might not get court approval for "no-knocking," depending on how he felt.

Mr. GOODELL. I strenuously disagree with the Senator from Maryland on that point. I think the very phrase "under all exigent circumstances" not only implies but requires that a decision be made urgently on the spot, because of things arising right there to make it clear that there must be an entry without notice for very limited reasons, which have been defined in the case law. Such a grant of authority, in this case, carries with it, to me, the requirement that exigent circumstances are any circumstances that arise immediately, on the spot—viewing, witnesses, seizure by the officer—which could not be authorized by the court in advance.

I dispute the Senator's statement that only 1 or 2 percent of cases of exigent circumstances which might arise could be anticipated by the court, because that implies a very particular definition of exigent circumstances; that 99 or 98 percent of the cases would be permissible, with the officer coming in advance and saying, "This is a bad egg. We know they are involved in narcotics traffic, and if we go to that response, they are going to destroy the evidence."

The implication is that the courts are going to be granting a good many approvals of no-knock.

Mr. TYDINGS. Or that they are going to be turning them down as they do in requests for search warrants. The whole thrust is that it would be better to have a court pass on "no-knocking" in connection with arrest or search warrants, rather than an ordinary police officer.

Mr. GOODELL. The point of the search warrant is different. That request can be presented to the court in advance with respect to the need to search the premises. The search warrant normally has to be served by knocking by telling the individual who is there and the authority. The no-knock is uniquely interpreted in constitutional law as requiring exigent circumstances.

Mr. TYDINGS. Take the search warrant. The exigent circumstances where you would not be required to knock with a search warrant are very clearly spelled out—if in the particular case the evidence is likely to be destroyed. Can the Senator conceive of a case where an officer is getting a search warrant to search a premise for contraband or fruits of a crime, and where he would not know of the particular likelihood in that case of the gambling slips being burned or the narcotics going down the drain?

Mr. GOODELL. The point about exigent circumstances is that you have to be there on the spot at the time the circumstances arise. I do not know how the Senator defines "exigent," but if he will look in the dictionary he will find it means urgent, requiring immediate aid or action or attention on the spot. It is not something probable in advance.

If the Senator is asking if I would prefer to have a judge out there making the decision as to whether they are exigent circumstances existing, I would, but that is unrealistic. The theory here is that there are very few exceptions to no-knock, but nevertheless there are circumstances on the scene with which the arresting officer has to cope.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. GOODELL. I yield.

Mr. ERVIN. Mr. President, I wish to ask the Senator from Maryland if the opinion of Justice Brennan in the case of Ker against California does not make crystal clear that the only way an officer can lawfully enter a dwelling without knocking—that is, acquainting the individual in the building of his purpose and presence—is on the basis of what occurs at the time he attempts to enter.

Mr. TYDINGS. Is the Senator asking me a question?

Mr. ERVIN. I am asking the Senator from New York.

Mr. TYDINGS. The Senator said the Senator from Maryland. I thought the Senator was going to let me have a chance.

Mr. GOODELL. The Senator is absolutely correct.

Mr. ERVIN. Justice Brennan——

Mr. TYDINGS. Is that not the minority view? Justice Brennan wrote the minority opinion. That is not the law of the land.

Mr. ERVIN. It is the view of eight judges.

Mr. TYDINGS. It is the minority view in Ker against California.

Mr. ERVIN. Technically, yes; actually, no. All of the Justices except Justice Harlan agreed on the constitutional principle involved, but split on the facts 4 to 4.

I want to call to the attention of the Senator from New York that the first exception is this: Where persons within already know of the officer's authority and purpose. How can the person within know of the person's presence until he is present just outside the door?

Mr. TYDINGS. Mr. President, will the Senator yield? I would like to respond.

Mr. ERVIN. Will the Senator from Maryland permit the Senator from North Carolina to propound some interrogatories to the Senator from New York?

Mr. GOODELL. Mr. President, I am delighted to yield to the Senator from Maryland after the procedure of the interrogatories is completed.

Mr. ERVIN. Does the Senator from New York agree with the Senator from North Carolina about this first exception; that is, to knocking, where the person within already knows of the person's authority and purpose? How can they know of that until the officer gets to the door?

Mr. GOODELL. I agree with the Senator completely. The only way I conceive of this goes back to the May case.

I refer to the instance where an officer is chasing an individual and he ran into the house and locked the door. The individual knows the officer is coming. That was another exception, but there are very few circumstances of that nature that would occur.

Mr. ERVIN. Unless the occupant of the house is informed in advance, he cannot possibly know of the officer's purpose to search his house until the officer gets there; can he?

Mr. GOODELL. The Senator is correct.

Mr. ERVIN. That is an exigency which can only exist at the moment the officer undertakes to enter. The second is where the officers are justified in the belief that persons within are in peril of bodily harm. How can an officer who goes and gets a search warrant on the basis of the information, know that somebody in the house is in imminent peril of bodily harm at the time he swears out the search warrant perhaps miles away? Is it not true that knowledge must be gained at the moment he seeks to enter or just before?

Mr. GOODELL. It shows how impossible it is for the judge to make a determination of exigent circumstances.

Mr. ERVIN. I invite the Senator's attention to the third statement by Justice Brennan: Where those within are made aware of the presence of someone outside, and are engaged in an activity which justifies the officer in the belief that escape or destruction of evidence is being attempted? That requires those within to know the presence of somebody outside, according to his express statement.

Mr. GOODELL. It does. I express agreement with the Senator. I think this point was not in dispute between the minority and the majority in the opinion in the Ker case.

Mr. ERVIN. Does the Senator from New York agree with the Senator from North Carolina that it is a virtual impossibility for an officer to know when he solicits the issuance of a search warrant at some time and distance before he gets to the House what the condition will be when he gets there?

Mr. GOODELL. I do agree.

Mr. ERVIN. Does the Senator agree that even if the language of this measure could be construed to harmonize with the fourth amendment, the application of that language in a particular case would be unconstitutional in virtually every case simply because the officer could not know until he got to the house what the exigent circumstances were?

Mr. GOODELL. I agree. That is the whole point of my argument, and I think the Senator makes the point very effectively.

Mr. ERVIN. I am sorry our good friend, the Senator from Maryland, stepped off the floor because I wanted to ask the Senator from New York about some provisions of the Constitution which undertake to protect people. This bill undertakes to take those protections away from them.

Mr. GOODELL. I will yield to the Senator from North Carolina as soon as the Senator from Maryland returns, if he wishes.

Mr. ERVIN. I thank the Senator.

Mr. GOODELL. Mr. President, if this colloquy shows anything, I think it demonstrates that the exceptions to the requirement of knocking, indicating presence and authority for entering, are limited to a very narrow sphere. That sphere is described as exigent circumstances, circumstances which arise on the spot where an officer can make the assessment. Of course his assessment must, in retrospect, be shown to have been accurate, if his entry is to be adjudged legal. Prior judicial review necessarily involves the component of speculation, less certain than the perception of the officer on the scene. Therefore, necessarily it involves a less stringent definition of exigent.

There is, moreover, a lack of clarity as to what kind of showing of facts is sufficient to justify authorization by the court of no-knock entry.

The Senate conferees argue that specific facts relating to a particular case are necessary for a showing of likelihood. The House conferees are satisfied, however, that a showing of mere destructibility of evidence is sufficient. Under the House interpretation, therefore, a showing that someone has flash cards on the premises would in and of itself, without more reference to the specific facts of the case, justify issuance of a warrant for no-knock entry.

The language of the bill is sufficiently broad to accommodate both interpretations with the result that the definition of "exigency" may be broadened.

It seems clear then that the provision in the conference bill for prior judicial authorization departs from the Ker delineation of the criterion for no-knock entry. There is moreover the question of whether judicial review in effect undermines the existing safeguard of the suppression motion.

Under the bill there is no provision for a motion of suppression. If common law grants one it is likely that a suppression motion will have to be based on a challenge to the appropriateness of the issuance of the no-knock authorization rather than its execution. Thus post hoc judicial review will be of a decision made by a brother judge rather than of one made by a police officer. It is probable that the judge engaging in post hoc review will be more loathe to suppress evidence gathered in a no-knock search pursuant to judicial warrant than he would be if the decisions had been made by a police officer. The result therefore is that the suppression remedy is weakened and post hoc review is made less rigorous than under present law.

It is interesting to hark back to the debate upon the no-knock provision in the Controlled Dangerous Substance Act for enlightenment upon the meaning of the provision in the conference bill. During the debate on that act S. 3246, Senator ERVIN objected to the language of section 702(b) on constitutional grounds. Senator DODD responded—January 26, 1970, RECORD page 1164—that under the language of that act a general showing that the evidence sought is easily destructible would not satisfy the constitutional burden of proof needed to get a no-knock warrant. Specific facts on the search in question Senator DODD asserted, would be necessary to meet the constitutional criteria for no-knock entry. Pursuant to the House debate on the conference bill, and particularly Mr. HOGAN'S statements—pages 24470–24471—and from a reading of the language of the conference bill itself, it seems clear that the language of the conference bill does not meet the constitutional test propounded by Senator DODD and Senator ERVIN.

Notwithstanding the assertion to the contrary by the Senate manager's report, the language of the conference bill's no-knock provision would authorize a no-knock entry, with or without a warrant, merely because of the destructible or disposable nature of the evidence. There is simply no line of court decisions which requires a more limited interpretation of this broad language, as is hopefully suggested by the supporters of the conference bill.

Mr. President, I believe it is very apparent that, although superficially it is normally a good thing to have a court approve in advance action to be taken by the police, this situation is quite the opposite. In the case of a search and seizure, it is clear that police officers can present to a judge evidence, well in advance, that indicates a desirability of searching a given dwelling. There is no problem with that. It is easily done. But even when a search warrant is issued by the court, there is a requirement that the officer serving that search warrant knock on the door and identify himself as an officer of the law. The issuance of a search warrant does not justify the officer's breaking in without notice. It does not justify a no-knock entry.

So the raising of the issues of a search warrant by the Senator from Maryland is obfuscation. It avoids the issue. The issue here is whether, with or without a search warrant, an officer can enter the premises without knocking.

I might say to my colleagues, we had better tread in this area with great caution.

I wonder what some of our suburban citizens, fearful of crime, who call for more law enforcement, would do if suddenly someone broke their front door down without ringing the bell. Might they not resort to their weapons, to find themselves shooting an officer of the law?

It is quite likely that those who urge this kind of provision tend to think in terms of something happening "down in the city," something that only happens to criminals who deserve it, anyway.

This is not the way a system of rights in this country operates. If you violate the rights of an accused who may have committed 30 crimes and may be guilty in this case, you violate your own rights. You violate the rights of every citizen. You cannot justify an open rule of entering without knocking in some cases, against certain individuals, and then defend against no-knock for the average citizen. That is a matter of great importance.

The District of Columbia crime bill will set a pattern nationally. It is true that if the Senator from North Carolina, and I, and others are correct that this is an unconstitutional provision in the conference report, eventually the courts will rule it unconstitutional. In the meanwhile many no-knock entries will be made. We cannot wash our consciences by simply saying, if it is unconstitutional let the courts take care of it in 2 or 3 or 4 years. It is up to us to assess not only that it is unconstitutional but that it is undesirable, whether technically a court would rule in a given fact situation that the no-knock entry was or was not unconstitutional.

NO-KNOCK BY PRIVATE CITIZENS

The conference has adopted the House provision that not only an officer executing a search warrant or making an arrest, but also any person aiding such officer may conduct a no-knock search. No need has been demonstrated for extending whatever right of intrusion there may be to private persons, and, moreover, the language of the conference bill leaves open the possibility of a self-labeled assistant to an officer breaking and entering alone on the barest suggestion from an officer or on the basis of what he alone interprets as an implied suggestion.

Mr. ERVIN. Mr. President, will the Senator yield so I may read into the RECORD a letter from a former officer of the District of Columbia indicating that no-knock is unwise as a matter of policy?

Mr. GOODELL. I am glad to yield for that purpose.

Mr. ERVIN. This is a letter written to me by David Paul, whose address is given as 1927 Byrd Road, Vienna, Va. He gives me his telephone number, area 703, 893–1762. The letter reads as follows:

> I should first state that until my retirement in 1968 I was a Detective Sergeant in the Narcotics Section of the Metropolitan Police Department. I spent a total of nineteen years on the department, the last twelve with the Narcotic Squad, and at the time of my early retirement I was the second ranking member of the squad. During my time on the department I participated in the execution of thousands of search warrants, and was certified as an expert in the field of narcotics in both the United States District Court and the Court of General Sessions.
>
> My strongest opposition to the crime bill is the "no-knock" provision. This section is useless, and creates new dangers to the safety of police officers. On the numerous occasions when I stood outside of a door waiting to execute a search warrant I always wanted the people inside to know that I was a police officer. Since most drug peddlers are constantly being robbed by other peddlers and addicts, they are a nervous lot, and my experience was that many of them were armed for protection against holdups, as they could hardly call the police and report that someone was attempting to rob them of their narcotics. During the thousands of executions I can only recall a dozen or so times when the peddler was able to dispose of the drugs before we gained entry to the premises. There are numerous ways in which the officer can gain swift entry into the premises after he has alerted the occupant of his presence. Many peddlers have their doors fortified, and even with the no-knock the evidence could most certainly be disposed of before the officers finally gained entry. There are certain methods which the police could use to gain entry to fortified premises without resorting to the no-knock.

I wanted to invite the Senator's particular attention to this:

> Most of the officers who I know are opposed to the no-knock provision because it would lead to the justification of anyone who shot an officer during the execution of such a warrant.

Does not the Senator from New York agree with the Senator from North Carolina that the fear voiced by this former police sergeant of the District of Columbia police that officers would be in danger of being shot by the occupants of the house is a fear based on solid reasoning?

Mr. GOODELL. I do agree. I make that point most emphatically. I think if we authorize no-knocks under these circumstances, with advance determination by a court, perhaps 10 days in advance, we shall be opening a Pandora's box. It will broaden the whole concept, at least temporarily until the courts decree it unconstitutional, of the limitation on no-knock entries.

By definition, a court cannot, in advance, determine exigent circumstances. Exigent circumstances are circumstances that arise on the spot, observed and assessed by the officer on the spot.

I am sure that officers can go before judges and make a pretty good case that they may have trouble. They can anticipate that in many instances. They can make a pretty good case that "this fellow has been picked up four times before, though perhaps never convicted; they never were able to get the evidence on him. So we will go in there with no-knock, and get it."

Is that an exigent circumstance?

(E) STANDARD OF CONJOINED "PROBABLE CAUSE" AND "LIKELIHOOD"

The Senate conferees assert that they consented to language implying "likelihood," not "certainty," that evidence will be destroyed if a no-knock search is not made "only with the clear understanding that the language is not to be construed literally but rather, in conformity with the Constitution and Ker against California." Nonetheless, the clear language of the Senate bill does state that an officer may conduct a no-knock search if he has probable cause to believe that evidence is "likely" to be destroyed—not "will" be destroyed—otherwise. The conjunction of "probable cause" and "likely" in effect allows an officer to conduct a no-knock search at whim.

Let it be clear that the standard created by the conjoining of "probable cause" with "likelihood" is a new one, a weaker one than that of "probable cause" conjoined with "will," and a departure from the intent of Ker.

It is instructive here, once again, to return to the debate upon the Controlled Dangerous Substances Act of 1969. That no-knock standard stipulated in that act before floor debate was one of showing probable cause that a justification for no-knock entry "may" exist. Senator ERVIN noted on the floor—January 26, 1970, RECORD page 1167—that there was a great difference between that language and the language of the Senate-passed District of Columbia crime bill no-knock provision, which stipulated a requirement of showing probable cause that a justification for no-knock entry "will" exist. Senator DODD then agreed to change the language of the Controlled Dangerous Substances Act to conform with the District of Columbia crime legislation language, reported out of the committee chaired by the distinguished senior Senator from Maryland.

The next day, the Senator from Michigan (Mr. GRIFFIN), formally moved that that change be made—January 26, 1970, RECORD page 1174. Mr. GRIFFIN entered into the RECORD an excerpt from the report issued by Mr. TYDINGS in connection with S. 2869, the District of Columbia crime bill. In pertinent part, that report reads:

> It was suggested that the standard be one of (A) probable cause (B) to believe that the property (C) *may* be destroyed (or that some person (C) may be endangered). The District Committee opted to substitute (A) probable cause (B) to believe that the property (C) *will* be destroyed (or that some person (C) will be endangered), as conforming more closely to the *Ker* case as described above—including its holding, dicta, facts and case lay background—and in order to avoid *a seeming unintended further pyramiding of uncertainties* (C) upon (A) and (B). That is to say, the committee was fearful lest it be argued that (A) probable cause for (B) belief as to (C) a possibility (indicated by the further "*may*") constitutes, with the three levels of uncertainty (A), (B), and (C), in fact no reasonable grounds at all. (Jan. 26, 1970, CONG. REC., p. 1175.)

The Senator from Connecticut (Mr. DODD) endorsed the amendment, and the Senator from Maryland (Mr. TYDINGS) then spoke as follows:

> Mr. President, I am delighted that the Senator from Michigan is offering this amendment. I intend to support the amendment of the Senator from Michigan. His amendment, in my judgment, makes the provision fit within the language of Justice Brennan's opinion in Ker against California.
>
> I was prepared to support the motion of the Senator from North Carolina to strike, because section 702 on page 72 of S. 3246, especially the use of the word "may", is unconstitutional, just as it similarly was unconstitutional in the District of Columbia crime bill which we received from the Department of Justice. The District of Columbia Committee studied it a great deal, and decided it could be made constitutional by amendment of the language originally submitted, just as the Senator from Michigan has done here, and changing the pertinent word from "may" to "will".
>
> The Fourth amendment requires that the executing officer have knowledge of particular facts, not just a general impression, to justify breaking and entering without notice. To substitute the word "will" for the word "may", in my judgment, makes the provision constitutional, and therefore I support it.

The contributions of Senators GRIFFIN and DODD, and particularly of the distinguished chairman of the District Committee, Senator TYDINGS, to the debate, as well as the Senate's final passage of the "will" language, make it quite clear to me that the Senate in January of this year, regarded as unconstitutional and inconsistent with the Ker decision any no-knock standard weaker than the conjunction of "probable cause" and "will."

I am particularly grateful to the senior Senator from Maryland for the illumination which I gained upon this question from a reading of his contribution to that debate. The report sections which Senator GRIFFIN inserted into the RECORD make it clear that the District Committee read Ker narrowly, and that any departure from the "will" language would make any no-knock provision unconstitutional. The distinguished chairman of the District Committee himself made that point in floor debate. The distinguished chairman and the distinguished Senator from Michigan (Mr. GRIFFIN) agreed at that time in floor debate that "will" language, and that language alone, precludes an authorization of no-knock entry on the basis of a general showing of the destructibility of evidence, and requires a specific showing on the facts of that particular case. It is unfortunate that the House managers interpret the "likely" language in the conference bill before us now as not requiring such a specific showing.

A reading of the floor debate on the no-knock provision in the Controlled Dangerous Substances Act of 1969, and particularly of the sound legal commentary at that time of the distinguished chairman of the District Committee, lead me clearly to the conclusion that the "likely" language of the conference bill before us—language which conforms far more to the probability implied by "may" than to the certainty connoted by "will"—is unconstitutional and inconsistent with the standards stipulated by Ker.

CONCLUSION

Let it be clear that the no-knock provision in the conference report is poor policy which may apply in the future to those advocates of law and order who now so vigorously back it. Law and order is safeguarded by the provisions of the substitute District of Columbia crime legislation which Senator ERVIN and I have introduced, while civil liberties are preserved. It should be clear to those who now back the no-knock provision that they can get an anticrime bill without that provision if the conference report is voted down by the Senate. It should be clear, moreover, that that no-knock authority which they now intend to have used against the perpetrators of crime may someday be used, under a different administration, against them by those who would deny their elementary rights to dissent. This no-knock legislation, which serves as the potential prototype for national no-knock legislation, can be used to suppress the right of a citizen legitimately to keep arms, and to suppress the right of dissent of one who perceives his government drifting too much toward either the right or the left. The elimination of civil liberties, as Milton Friedman and the distinguished Senator from Arizona (Mr. GOLDWATER) have noted, is a two-edged sword.

I urge all Senators to read that January floor debate at the pages in the RECORD which I have noted, to recognize that the "likely" language in the present bill conforms far more to the probability implied by "may" than to the certainty denotated by "will," and to recognize that a vote against this conference report is necessary if for no other reason than that the no-knock provision establishes obnoxious policy and bad law, which is likely to be unconstitutional.

Mr. President, there are other provisions in this enormous conference report which should be troublesome to us all. It is a very big bill. It is very complicated. It heaps together a great many significant changes. It presents a great many significant approaches toward constitutional law, toward criminal law. I should like to name a few of the other provisions of this bill which I find obnoxious and which I must oppose.

AUTOMATIC MENTAL COMMITMENT

The conference bill in section 207(5) reverses existing law by requiring that a defendant who is acquitted by reason of insanity shall be automatically committed to a mental hospital, regardless of his present mental condition and without a new judicial inquiry into his sanity at the end of the trial. At a hearing to be held within 50 days, the defendant must then establish by a preponderance of the evidence that he is entitled to release.

Under the conference provision, therefore, a sane person may be automatically confined in a mental hospital solely because he has raised a reasonable doubt as to his sanity at the time of an offense for which he was tried and acquitted. This automatic commitment will take place even though the offense occurred so many years before the trial that any connection between his mental state at the time of the offense and at the time of trial has become remote and attenuated.

The 1968 Bolton case requires that a defendant acquitted by reason of insanity at the time of the offense have a separate hearing to determine whether he should then be committed to a mental hospital. There are a number of bases for this practice:

First. A defendant may have been insane at the time of commission of the offense for which he is acquitted and be sane by the time of his acquittal.

Second. The evidence may not establish a defendant's sanity beyond a reasonable doubt, yet there may not be enough evidence to prove insanity by a preponderance of the evidence.

Third. The Supreme Court in Baxtrom against Herold—1966—ruled that the equal protection clause prohibits commitment of persons acquitted by reason of insanity by procedures substantially different from civil commitments. If Bolton had not read the separate hearing requirement into the present District of Columbia statute, it would have been patently unconstitutional.

Moreover, although defendants acquitted by reason of insanity will thus be automatically committed, all other persons in the community are entitled to a wide panoply of rights, including trial by jury, before they can be committed to a mental institution. There is no justification for this disparity in the procedural rights of persons acquitted by reason of insanity and all other persons. Furthermore, this mandatory commitment provision has the effect of discouraging resort to the insanity defense. It is not in the tradition of this country to charge and convict people of crimes without giving them a full and unhampered opportunity to defend themselves.

MANDATORY MINIMUM SENTENCES

The conference bill in section 205 provides that any person twice convicted of a crime of violence while armed with a weapon, including an imitation pistol, must be sentenced to a minimum of 5 years' imprisonment and may not be released on parole until having served the minimum sentence.

Mandatory sentencing provisions are contrary to experience in penology and are likely to be counterproductive from the standpoint of law enforcement and corrections. The report on "Standards for Criminal Justice" of the American Bar Association has concluded:

> The legislature should not specify a mandatory sentence for *any sentence category* or for *any particular offense*. (ABA Standards Relating to Sentencing Alternatives and Procedures, p. 48.)

Such provisions express a distrust of the ability of trial judges to protect the community in sentencing convicted offenders. Mandatory sentences deprive trial judges of discretion to make the punishment fit the crime and the criminal. Moreover, mandatory sentencing provisions discourage guilty pleas and force more defendants to take their chances at trial, even though they actually are guilty and would prefer to plead. There is no reason to plead guilty if the judge has no discretion to take a guilty plea into account and impose a lighter sentence. Mandatory sentencing provisions also can create serious disciplinary problems for the prison authorities. Since such provisions preclude a prisoner from shortening his time, they impede correction and rehabilitation by destroying his principal incentive for good behavior and self-improvement.

In summary, enlightened corrections practice disdains legislative determination of minimum sentences because they encourage prosecutors to dismiss and juries to acquit; they prevent the judge from tailoring penalties to fit each case; they remove prisoner incentive for rehabilitation; they encourage further crime pending trial; and they tend to exacerbate present overcrowding of the court system.

LIFE IMPRISONMENT FOR THREE FELONIES

The conference bill provides that any person convicted of any three felonies, whether violent or not, may be sentenced to life imprisonment, if such imprisonment is justified in the opinion of the court—section 201. This provision lacks the procedural safeguards which were contained in the Senate bill and are in the compromise. They require a judicial determination not just an "opinion," with the assistance of psychiatric and psychological experts, that the defendant is beyond rehabilitation before a life sentence could be imposed. If an individual may be imprisoned for life, it is surely reasonable to require a formal judicial inquiry, backed by relevant factual information as to the necessity for such a sentence. The compromise would provide this protection to the defendant and assurance to the community that a life is not being needlessly thrown away—S. 4081, section 301.

SHIFTING THE BURDEN ON INSANITY

The conference bill in section 207 takes the burden of proof on the issue of insanity from the prosecution—where it has been for hundreds of years—and places it on the defendant. The prosecution will no longer have to prove the defendant's capacity to commit the crime beyond a reasonable doubt, as it does every other essential element of a crime. Instead the defendant will have to prove that he lacked capacity to commit the crime.

This provision creates a serious constitutional problem and a serious problem for effective law enforcement where none existed before. The statistics on cases tried in the District of Columbia in recent years show that the insanity defense is not a threat to successful prosecution under present law. There are only a handful of acquittals every year by reason of insanity. Trial lawyers know that it is very hard for a defendant to win such a case. There is no evidence that defendants are thwarting the criminal justice system by phony pleas of insanity.

Under the conference provision, however, difficulties are certain to arise. There is a high probability that the provision will be declared unconstitutional. The Supreme Court has held that the standard of proof of all elements of a criminal offense beyond a reasonable doubt is constitutionally required as an aspect of due process of law. Shifting the burden of proof to the defendant on an essential element—capacity to commit the offense—appears to violate this principle. If the provision is held unconstitutional, the result is plain: every defendant convicted after raising the insanity defense, no matter how frivolous his claim of insanity is, will have to be given a new trial, since every one will have been tried and convicted under an unconstitutional provision. The prosecution will be unable to retry some of these defendants because witnesses or evidence have disappeared. The effect will be to upset convictions which would otherwise have been perfectly valid. This provision thus is self-defeating.

S. 4081 follows the presently existing approach of placing the burden of proof on the issue of insanity on the prosecution—section 304.

INTERLOCUTORY APPEALS

The conference bill in section 210(a) provides for an appeal by the prosecution from certain rulings during trial and authorizes the trial court to adjourn the trial for up to 4 days until an appeal is determined. It permits the Government to make an interlocutory appeal, interrupting the main trial, if the defendant wins a motion to suppress illegally seized evidence. It also permits such an appeal on any ruling made during trial which the prosecutor deems a "substantial and recurring question of law which requires appellate resolution." No such interlocutory appeal has heretofore been provided in the Federal courts, and the bill confers this interlocutory appeal, with its attendant disruption of the trial, only on the prosecution. No limit is placed on the number of such appeals which may be taken during trial. Adjourning a criminal trial for up to 4 days while an appeal is taken is a threat to a fair trial. In most criminal cases, the jurors' impressions of the witnesses and recollections of the testimony are critical to the outcome. This provision leaves those impressions and recollections to grow dim while the trial is suspended. Continuity in the presentation of evidence is interrupted and the possibility of an interlocutory appeal during trial provides another element of strategic jockeying in a process that should not be an exercise in gamesmanship but a search for truth.

CONSECUTIVE SENTENCES

The conference bill creates a presumption that sentences for two or more offenses shall run consecutively, even if the offenses arise out of the same transaction. This is contrary to the leading authorities on sentencing, such as the ABA's comprehensive study which states:

> Consecutive sentences are rarely appropriate. (ABA Standards Relating to Sentencing Alternatives and Procedures, p. 171.)

If the judge intends to impose consecutive sentences, it is not too much to ask that he do so explicitly, as present law and the compromise version require. Under the conference bill, an oversight by a judge who does not intend to impose consecutive sentences but neglects to say so, will automatically work to the defendant's detriment. There is no justification for visiting the defendant with the consequences of such a judicial error.

RESISTANCE TO AN ARREST BY SOMEONE IMPERSONATING AN OFFICER

Section 206 of the conference bill accepts a House bill provision forbidding a citizen to resist an unlawful arrest by an individual who the citizen "has reason to believe is a law-enforcement officer."

As to unlawful arrests by actual police officers, this provision would immunize sloppy practice in effecting arrests. It would further promote the ability of criminals posing as police—not uncommon in the District of Columbia—to prey on citizens. Needless to say, it would aggravate police-community relations in the city.

Taking away a citizen's power to resist an unlawful arrest leaves only his civil remedies, which are neither presently adequate nor provided in the conference bill.

IMPEACHMENT OF WITNESSES (ESPECIALLY DEFENDANTS) BY EVIDENCE OF PRIOR CONVICTIONS

When a criminal defendant decides to testify on his own behalf, he runs the risk of having evidence of prior criminal convictions introduced. This may deter him from taking the stand. If he does testify, evidence of such convictions may be introduced for a limited purpose. That purpose is to impeach the defendant's testimony as a witness; that is, to attempt to convince the jury to disbelieve his testimony. In admitting evidence of such past convictions, the judge instructs the jury not to use it for any other purpose—such as to conclude the defendant is a bad guy who must be guilty of the crime charged. It is unnecessary to add that, even properly instructed, many jurors are unable to perform the mental gymnastics called for.

Present District of Columbia law, *Luck* v. *United States*, 348 F. 2d 763 (1966), recognizing these problems, allows the trial judge discretion in admitting evidence of past convictions. Specifically, it allows the judge to decide either, first, that truth would best be served by excluding the evidence, thus allowing the defendant to tell his story, or, second, that the risk of undue prejudice to the defendant is so great that it outweighs the positive evidentiary impeachment value of the conviction.

In section 14-305(b), the conference bill overturns the Luck rule by requiring that the judge admit all felony convictions and all misdemeanor convictions reflecting on honesty and veracity if the prosecutor offers them. This flies in the face of the Luck rationale. The compromise reinstates Luck.

Under present law, only convictions of crimes which reflect on honesty or veracity are admissible for impeachment purposes. Convictions for crimes such as assault with a deadly weapon do not mean the guilty party has a tendency to give false testimony. The logic of this position is supported by the ALI model code of evidence, the uniform rules of evidence approved by the ABA, and the original administration version of S. 2601.

The conference bill recognizes the validity of the honesty or veracity requirement as to misdemeanor convictions but omits it for felony convictions. The compromise retains the full "honesty or veracity" requirement.

WIRETAPPING AND ELECTRONIC SURVEILLANCE

The conference bill follows the House provisions in significantly expanding the crimes in connection with which wiretapping and surveillance is authorized. A detailed comparison of the wiretapping and electronic surveillance provisions of the House, Senate and Conference bills follows:

Section 23–542—*Prohibitions:* adopts Senate version which makes interception, disclosure or use of illegally obtained information a felony, except where such information has become public knowledge.

Section 23–543—*Prohibitions:* adopts Senate version which makes sale, distribution, manufacture, and advertising of an intercepting device a felony.

Section 23–544—*Confiscation:* adopts Senate version which authorizes the confiscation of intercepting devices; adds new material concerning what is to be done with all confiscated material.

Section 23–545—*Immunity of Witnesses:* adopts Senate version which prescribes immunity of witnesses before a grand jury or court in the District of Columbia.

Section 23–546—*Enumerated Offenses:* adopts the House list of offenses with the omission of "abortion." This adds arson, burglary, destruction of property over $200, receiving stolen property over $100, and robbery to the Senate version.

Section 23–547—*Public Facilities:* has no provision mentioning the wiretapping of public facilities. The Senate version requires "special need" in order to wiretap such facilities. The House bill has no similar provision.

Privileged Relationships: represents a compromise; with regard to all four relationships and using both wiretapping and bugging, the conference report requires a new determination. The court must determine that (1) the facilities are being used in connection with conspiratorial activities characteristic of organized crime, and (2) the interceptions will be conducted as to minimize the number of interceptions. The conference bill contains no prohibitions.

The Senate bill requires "special need" in order to wiretap the three areas of physician, attorney, and clergymen, and to bug the place of habitation of a husband and wife. It prohibited the bugging of the business premises of the initial three relationships.

Emergency Situations: adopts the Senate provision which allows subsequent authorization in only one situation—that characteristic of organized crime.

The House bill allows one additional situation—that in which national security is involved.

Section 23–550—*Civil Remedy*: adopts the Senate provision providing for a civil remedy and eliminating the governmental immunity of the District of Columbia.

The House bill has no similar provision.

Section 23–551—Reports: adopts the Senates provision requiring a report with each wiretapping authorization and an annual report. The Conference Report omits the annual report which the Senate required to be made public.

The House bill has no similar provision.

Mr. President, many other provisions of the conference report should give each of us pause. It is not a matter of agreeing or disagreeing to just a few provisions and having a little doubt about some others.

We all know that the process of legislating inevitably involves compromise. We must accept imperfect legislation, from our own view, in most cases, because our views differ from those of our colleagues. This is not merely a case of a reasonable compromise. The conference report includes provisions that should not become law; provisions that, if understood by all Senators, would not become law.

Other Senators will speak in detail on specific provisions of the report which concern me very deeply, but I have not touched on them today. One of them is the issue of preventive detention.

I may say only that I recognize that preventive detention does exist today, as a pragmatic matter. It exists through the distortion of the bail system. I devoutly hope for a measure that can protect the constitutional rights of individuals charged with crime, and yet avoid the massive preventive detention that exists today; a measure that will still provide the courts with a reasonable opportunity to protect society in the interim between accusation and trial. That is not an easy matter.

We can differ on specific provisions that might guarantee the rights of individuals pending trial more effectively than the present operation of the bail system protects those rights. But I think it is clear that the provisions of the conference report for preventive detention do not do that. They are dangerous; they cover a wide variety of crimes; they cover first offenses. An individual charged for the first time is subjected to preventive detention. We have a limitation of detention that requires trial within 60 days, with nothing preventing renewal for several more 60-day periods. That is not enough protection. There is the definite probability that under the preventive detention section of the conference report innocent persons will be mixed with convicted criminals who are being held for extended periods of time pending trial.

The very minimum that should be required in any provision for civil custody pending trial should be that the detention facilities be separate; that the custody or guardianship be civil, for therapeutic treatment, not criminal custody. Such criminal custody could happen to any individual.

Some months ago, I toured the so-called Tombs in New York City. The Tombs are used for the holding of accused citizens prior to trial. There are no convicted criminals in the Tombs, except for a few who are employed there through the prison employment system. There are almost 2,000 inmates of the Tombs who are awaiting trial. Half of them are held under $500 bail, and they cannot make it. Half of them, as a matter of fact, are narcotics addicts. Until recently, they received no treatment at all for their addiction. Individuals who were picked up late at night in New York City and accused of crime but were unable to get a lawyer were taken down to the Tombs and kept there for perhaps prolonged periods of time before they could even get their bail and get out.

Many others, of course, were unable to raise bail. In the Tombs are individuals who have been awaiting trial for up to 2 years. That is massive preventive detention as it exists today under the bail system. We ought to do something about it. It is not enough to argue theory and constitutionality.

I think it is vital that we protect the constitutional rights of all citizens, but it is a little hard to say that we are protecting the rights of those citizens who are in the Tombs and in other jails throughout the country, awaiting trial, and kept there through a distortion of the bail system. There must be a better alternative. The ideal alternative is the one offered by the distinguished Senator from North Carolina (Mr. ERVIN) and other Senators. I certainly embrace that alternative—that is, a reform of the court structure so as to permit speedy trials. But that is a long way down the road. We all know it. Are we really going to disregard completely the rights of innocent citizens who are incarcerated and detained for prolonged periods prior to trial, in many cases with convicted criminals?

The measure before us was placed in the District of Columbia crime package over my objections. I refer to the provision for preventive detention. I had proposed some alternate approaches to eliminate the massive preventive detention that exists today and perhaps protect the rights of individuals pending trial as well as society. Those proposals have been subjected to hearings before the Subcommittee on Constitutional Rights, of which the Senator from North Carolina is the chairman.

I believe, before we enter into any kind of detention provision or experiment, if in fact we do, the Committee on the Judiciary and this body should debate the overall issue of preventive detention and the constitutional rights that are involved therein. That debate has not taken place. There was no debate whatever on preventive detention when the District of Columbia crime bill was passed in the Senate. The preventive detention provision was inserted in the House of Representatives. The Committee on the Judiciary and Senators themselves have not looked closely at this issue and we should not back into a preventive detention law. This proposal affects very deeply the rights of individuals of this country.

JUVENILE PROVISIONS

1. JURISDICTION

The conference report excludes from the jurisdiction of the proposed family division of the Superior Court individuals between the ages of 16 and 18 years who are charged with murder, forcible rape, burglary in the first degree, armed robbery, or assault with intent to commit any such offense. Section 16–2301 (3)(A). This constitutes a significant departure from the Senate bill which requires, in addition to a charge of a serious crime, a prior finding of deliquency for a serious crime. The Senate rejects the mandatory first-offender transfer contained in the House and conference bill.

In contrast, the juvenile proceedings section of S. 4081 requires not only a prior determination of delinquency, but also a finding of probable cause or indictment before a person under 18 years is automatically subject to the adult criminal process. This additional requirement is included to prevent the waiver of juvenile court jurisdiction merely on the prosecutor's whim in framing the charge.

Requiring waiver to adult court without requiring a prior finding of delinquency on the juvenile's record denies him a chance to be rehabilitated through the specialized juvenile court, and thus may well constitute a denial of equal protection of the laws. There has been no showing that the juvenile court and judges are not equipped to handle these cases; and with the unproved court procedures and safeguards to insure prompt processing of cases set forth in this code, it is likely that the juvenile court would be better equipped than ever before to handle them. There has been no showing that juveniles of this age will be more amenable to ultimate rehabilitation incarcerated with adult criminals in adult penal institutions than in specialized juvenile facilities. The evidence in fact is to the contrary. Therefore, a child should at least be given a first chance to be rehabilitated through juvenile court and juvenile facilities, and the juvenile rehabilitation-oriented correctional system. Once a juvenile who has already been found to be delinquent commits another crime, and has demonstrated an inability to profit from juvenile court treatment, waiver to adult court would make sense.

2. TRANSFER OF CHILD FOR CRIMINAL PROSECUTION

Despite an apparent gesture to avoid the House language respecting the transfer of juveniles to the criminal process, which unwisely placed on the child the burden of proving his susceptibility to rehabilitation, the conference language did not follow the Senate version which clearly repudiated this regressive approach to jurisdiction over youthful offenders. Section 16–2307(d). While the conference report says that the Government has the burden, it also requires a transfer unless the court finds there are reasonable prospects for rehabilitation. Despite the gesture, the real burden is still on the child.

S. 4081 follows the Senate language which requires that the family division judge make an affirmative determination that there are no reasonable prospects for rehabilitation before it can order a transfer of the child to the criminal process. This would have the practical effect of requiring the prosecutor to persuade the court that no rehabilitation is likely.

3. PREVENTIVE DETENTION OF CHILD

The conference bill authorizes the prehearing detention or shelter care of a child alleged to be "delinquent" or "in need of supervision" merely if it appears "from available information" that detention or shelter care is required. Section 16–2310. Only the most meager procedural safeguards are provided for such detention and shelter care hearings. Section 16–2301(15); section 16–2310. The conference bill does not include any standard of proof as to the truth of the allegation's against the child.

The explicit authority for preventive detention of juveniles is new, and in conformity with the approach of preventive detention for adults. While juvenile court practice has permitted detention of the child, it has done so on the theory this is for the child's benefit. The bill, on the other hand, authorizes detention for the protection of others, or of property.

While S. 4081 does allow detention, it does so only for the protection of the child, and requires a hearing in which probable cause of the truth of the allegation must be shown.

4. TRANSFER TO JUVENILE PROCESS WHERE CHILD IS MISTAKENLY PROSECUTED IN THE CRIMINAL PROCESS

The conference bill authorizes continued jurisdiction by the criminal process, without a hearing, where the minor defendant was a child at the time of the offense but such fact was not discovered until after jeopardy attached—beginning of trial—but before judgment. Section 16–2302(b). The criminal court is given authority to determine, on the basis of criteria set forth for determining the reasonable prospects for rehabilitation (section 16–2307(e)), whether to enter judgment of its own or to refer the case for disposition by the family division. Section 16–2302(b).

S. 4081 again follows the Senate approach by requiring a hearing to determine whether, under these circumstances it should proceed to judgment or refer the case to the Family Division. This permitted any time up to actual judgment. The Senate bill (S. 4081), approach contrasts with the House-Justice Department-conference view which favors adult trial of juveniles, and tries to discourage transfer to juvenile court once the trial has begun.

5. JURY TRIAL

The conference bill eliminates the presently existing and longstanding right of a child to demand a jury trial on the adjudication of delinquency. Section 16–2316(a). The right to jury has recently been held to constitute an indispensable element of due process in criminal trials, binding on the States. The conference bill departs from the clearly established trend of court decisions making applicable to juvenile proceedings the fundamental elements of American due process.

S. 4081 preserves the right of a child to demand a jury trial on a deliquency adjudication. It does not require a jury trial, thus providing for flexibility and assuring that the child's own best interests can be secured. However, in giving the child a right to demand a jury trial, S. 4081 recognizes the traditional value of the jury as summarized recently by an outstanding group of District of Columbia practitioners:

> Jury trial may not be infallible, but the jury is the best factfinding mechanism our system of justice has been able to devise. In factual disputes as to whether or not a child actually committed an alleged offense he, like an adult, should be entitled to its safeguards.

6. RIGHT TO COUNSEL

The language of the conference bill does not make certain the right of a child to be represented by counsel at every stage where such representation may be important to a fair and thorough adjudication of the case. It suggests that the right attaches only at the factfinding or trial stage. Neither does it require the family division to appoint counsel when the child is financially unable to secure his own. Section 16–2304.

S. 4081 requires, without reservation or condition, that a child have the benefit of representation by counsel at all critical stages of the proceedings beginning at least with the first court appearance. A broad right to counsel is crucial to the realization of all other rights, and for this reason it is crucial that it be given at the earliest possible times. The right to counsel should be granted at intake since important rights are at stake there as at any other stage. It is doubtful whether any child should ever be considered legally competent to appear in complex legal proceedings involving the future course of his life without representation. Many children are too young, unsophisticated, or ill-informed to even understand the point of purpose of representation by counsel or to make an informed decision regarding the necessity of counsel.

7. TIME LIMITS

The conference bill eliminates the provision in the Senate version requiring dismissal of a petition of delinquency, need of supervision, or neglect on motion when time limitations as to the factfinding hearing are not met. Instead, it includes only the vague standard that time limitations shall be reasonably construed by the Division without any prescribed consequence no matter how gross or unjustified the delay in the juvenile process. It sets absolutely no time limits for the dispositional hearing.

The importance of prompt disposition of juvenile cases has been recognized by the American Bar Association standards and the HEW model juvenile act, which set forth time limits for each stage of juvenile proceedings. Such provisions have proved effective in jurisdictions such as New York, California, and Illinois. Time limits have been recommended in studies of the District of Columbia Juvenile Court by the Committee on the Administration of Justice and the District of Columbia Crime Commission.

S. 4081 incorporates the time limitations of the Senate bill. It recognizes that these limits will be effective only if there are sanctions to enforce compliance. S. 4081 requires that the factfinding hearing be commenced within 30 days of the filing of the petition if the child is not in custody, and 10 days when he is taken into custody. It imposes the Senate limits of 15 days when the child is in custody and 30 days when not as to the dispositional hearing. It should be remembered that in adult court a defendant must be brought before the court for the equivalent hearing within a matter of hours and undue delay is grounds for constitutional attack—see Mallory.

8. STANDARD OF PROOF AS TO "IN NEED OF SUPERVISION CASES"

The conference bill departs from the Senate version which requires that in both "delinquency" and "in need of supervision" cases, the charges of misconduct be proved "beyond a reasonable doubt" at the factfinding hearing. The conference bill substitutes a standard of "preponderance of the evidence" for "in need of supervision" petitions.

There is no reason to justify a departure from the "beyond a reasonable doubt" standard in "need of supervision" cases. These cases involve children charged with truancy, being beyond control of his parents, or committing offenses committable only by children—such as drinking under age. Despite the apparently innocuous character of many of the "in need of supervision" charges, the ultimate disposition in these cases can result in incarceration in an institution for delinquents—a deprivation of liberty" which the Supreme Court found to be equivalent to penal servitude under due process standards in re Gault.

S. 4081 recognizes that the stigma and loss of freedom on the part of a child determined to be "in need of supervision" constitutes such a significant effect upon his life as to require the "beyond a reasonable doubt" standard. It thus takes into account the thrust of the Supreme Court's recent decision in the Winship case that those due process safeguards designed to protect innocent adults should also apply to innocent children.

9. PROOF OF "NEED FOR CARE AND REHABILITATION" AT THE DISPOSITIONAL HEARINGS

The conference bill follows the House provision that a finding at the factfinding hearing of the commission of any crime is sufficient to sustain a finding of "need for care and rehabilitation" in delinquency and need of supervision cases at the dispositional hearing. Section 16-2317(c)(2).

S. 4081, on the other hand, incorporates the Senate language which presumes a "need for care and rehabilitation" only where the factfinding hearing reaches a determination that the child has committed a felony. This is important so that minor crimes and technical offenses, where the juvenile does not need the rehabilitation or treatment offered by the juvenile court, do not automatically require that the court commit the child for treatment or rehabilitation. The purpose of the juvenile court is not to sweep in all possible juvenile offenders, but rather those that require its services.

10. DETENTION OR DISCHARGE OF THE CHILD FOLLOWING THE DISPOSITIONAL HEARING

The language of the conference bill follows the House version which appears to give the court authority to detain a child after a dispositional hearing without an affirmative determination of a "need for care and rehabilitation" unless it affirmatively determines that the child does not need such care and rehabilitation. Section 16-2317(d).

S. 4081, like the Senate language, makes absolutely clear the right of the child to discharge unless the court makes an affirmative determination that he is in "need of care or rehabilitation."

11. CONFIDENTIALITY OF FAMILY DISPUTES

The conference bill deleted the Senate confidentiality rule governing statements made to the social services agency in any subsequent criminal case.

S. 4081 retains the confidentiality rule to protect the agency's functions, and to guard against unconstitutional use of incriminating statements made without benefit of counsel.

The conference also rejected Senate language requiring that the social services agency first make a finding of a threat to commit a family offense before permitting him to testify in family court. The compromise keeps the Senate provision.

MULTIPLE OFFENDER PROCEDURES

Section 23-111—page 154—sets forth the procedure for establishing prior convictions for the purpose of imposing additional penalties.

The prosecution must file an information before trial or entry of plea listing the convictions to be relied upon. Upon a showing that they could not be obtained with due diligence, the trial may be postponed or the taking of plea postponed to obtain the record. An information is permitted if the additional penalty is up to 3 years; otherwise an indictment is required unless one was waived. Clerical mistakes and omissions beyond the record of convictions need not be presented.

Upon the filing of an information, the judge must inquire of the defendant whether he affirms or denies the convictions alleged. If he denies, he must submit his position in writing. Issues of fact raised by the written denial must be stated with particularity. The burden of proof is on the prosecution; but the exception in subsection (c)(2) reads that denials by the defendant in his response must be proved by him by a preponderance of the evidence, and that he waives challenges not raised in his response. It is unclear whether these two latter requirements pertain only to challenges on constitutional grounds, or to all issues raised by the defense. The language supports the latter interpretation.

The hearing is before the court without jury. If no response is filed, or the judge holds against the defendant in the hearing, the additional penalties apply. If the court holds against the prosecution, it must defer sentencing on the prosecution's motion, and must permit an appeal. No corresponding right of interlocutory appeal is permitted the defendant, and it is an open question whether he can appeal the sentence thereafter, or if so, to what extent. An appeal of the postponement of sentencing is permitted, however.

OBJECTIONS

This is substantially new statutory language on procedures to establish prior convictions. It appears to contain at least 6 violations of the Constitution. (See Senator Ervin's speech of July 17, Congressional Record, p. 24837.)

First. Since the prosecution need only give the fact of convictions, and errors and omissions are excused, the warning to the defendant is inadequate. Parole, suspension, successful appeals, pardons all may be pertinent, and the prosecution is under no burden to provide this information.

Second. The permission to suspend the trial or plea means that the defendant can be surprised at any time. It also means that the crime for which he is charged—that part involving the penalty—may change after trial begins and certainly after indictment. In effect, the defendant will be tried for a different—more severe—crime than that which he was aware of before.

Third. The permission to file an information instead of an indictment when the additional penalty is up to 3 years, violates the constitutional requirement of an indictment for felonies.

Fourth. Since the indictment is not needed if the penalty is more than 3 years and if the defendant has previously waived indictment, that waiver will have been made on an open-ended charge, which the defendant could have had no prior notice of when he originally waived.

Fifth. The requirement that the defendant answer the inquiry of the judge and file a written statement of his objections violates the constitutional prohibition against self-incrimination.

Sixth. The requirement that all objections not raised are waived for appeal may violate due process, especially under the procedures of this hearing.

Seventh. If the shift of the burden of proof to the defendant on issues of fact he raises is the proper interpretation, then this violates due process.

Eighth. The permission of the Government to appeal on demand during trial is an unwarranted extension of prosecution appeal. It is further unique in that it permits an appeal by the Government on the sentencing. Since it is a one-sided appeal, it is even more unjust, and probably violates due process.

Mr. ERVIN. Mr. President, I wish to commend the able and distinguished Senator from New York on a most excellent speech and a very profound analysis of the District of Columbia crime conference report.

Mr. GOODELL. I thank the Senator from North Carolina.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I am about to propound a unanimous-consent agreement. It has been cleared with the leadership on both sides. It has also been cleared with the able manager in charge of the conference report and the distinguished Senator from North Carolina (Mr. ERVIN), as well as with the distinguished Senator from Nebraska (Mr. HRUSKA), and others.

I ask unanimous consent that the vote on the pending conference report occur at 3 p.m. on Thursday next; that there be 2 hours of controlled time beginning at 1 p.m. on Thursday next, with the time to be equally divided between the manager of the conference report, the Senator from Maryland (Mr. TYDINGS) and the Senator from North Carolina (Mr. ERVIN).

Mr. HRUSKA. I concur in the unanimous-consent request just propounded by the distinguished Senator from West Virginia as discussed among those on both sides of the aisle.

I would add, however, the name of the Senator from Vermont (Mr. PROUTY), the ranking Republican on the District of Columbia Committee. While he would have preferred a different hour on Thursday, nevertheless he goes along with the unanimous-consent request.

The PRESIDING OFFICER (Mr. BOGGS). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The unanimous-consent agreement, later reduced to writing, is as follows:

> *Ordered,* That the Senate proceed to vote at 3 o'clock p.m. on Thursday, July 23, 1970 on the adoption of the conference report on S. 2601, omnibus D.C. crime bill, with the two hours for debate preceding the vote to be equally divided and controlled by the Senator from Maryland (Mr. TYDINGS) and the Senator from North Carolina (Mr. ERVIN).

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

> S. 417. An act to authorize the Secretary of the Interior to convey certain lands in New Mexico to the Cuba Independent Schools and to the village of Cuba; and
>
> S. 778. An act to amend the 1964 amendments to the Alaska Omnibus Act.

The message also announced that the House had agreed to the amendment of the Senate to the amendments of the House to the bill (S. 885) to authorize the preparation of a roll of persons whose lineal ancestors were members of the Confederated Tribes of Weas, Piankashaws, Peorias, and Kaskaskias, merged under the Treaty of May 30, 1854 (10 Stat. 1082), and to provide for the disposition of funds appropriated to pay a judgment in Indian Claims Commission dockets Nos. 314, amended, 314-E and 65, and for other purposes.

DISTRICT OF COLUMBIA COURT REFORM AND CRIMINAL PROCEDURE ACT OF 1970

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 2601) to reorganize the courts of the District of Columbia, and for other purposes.

Mr. MATHIAS. Mr. President, it is with considerable regret that I rise to oppose the adoption of the conference report on S. 2601, the District of Columbia omnibus anticrime bill.

Eleven days after taking office 18 months ago, President Nixon outlined a program for "curbing crime and improving the conditions of life in the city of Washington." At the very top of his agenda for attacking crime was the goal of "reorganization and restructuring of our present court system toward the eventual goal of creating one local court of general civil, criminal, and juvenile jurisdiction for the District of Columbia."

I had hoped that long before now, the Congress could have completed and sent to the President a bill responding to this first priority of his January 1969 message.

The right to a speedy and fair trial is steeped in our history. It is in our Bill of Rights as one of the key provisions sought by the Founding Fathers in light of the disregard for individual rights which they had endured as subjects of a tyrannical government. And it is in many of the earlier declarations of rights adopted by individual American colonies. For example, the original Maryland declaration of rights, adopted in 1776—when the District of Columbia was still part of Maryland—stated:

> That every free man, for any injury done to him in his person, or property, ought to have remedy by the court of the law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without any delay, according to the law of the land.

Indeed, court reform was one of the first priorities of our own District Committee, which, after a comprehensive series of hearings, reported a reorganization bill which the Senate passed in September 1969, just 2 months after the administration's detailed recommendations had been submitted. Nor is it the conference report's court reform section which gives rise to my inability to support it.

Through no fault of this body and despite its efforts, the desperately needed court reorganization provisions have been woven into an omnibus measure filled with controversial juvenile and criminal law provisions. Some of those provisions are unworkable and unwise. Constitutionality aside, they simply will not stem the tide of crime in the District of Columbia.

The technique of embodying in an omnibus bill the good and the bad, that which is palatable and that which is unpalatable, is an old legislative mechanism.

But in this case it is not simply a case of what is palatable and what is unpalatable. It is a case of what may be palatable and what is positively inedible.

I recognize and vehemently support the need for court reorganization. As Police Chief Wilson recently told the Senate District Committee, it is fundamental structural change which will ultimately secure for law-abiding citizens the ground recently gained in the war on District of Columbia crime.

We must clear criminal court backlogs and secure for defendants and for society the speedy trial promised by the sixth amendment. Society can no longer endure the delays of the law. Delays of a year or more before trial of criminal cases are common. In that length of time cases go cold. The witnesses may die, move away, or simply disappear. The chance of conviction rapidly diminishes. The accused loses his respect for the law and his apprehension of ultimate conviction and punishment. If we are to have law and order, we must have speedy and fair justice.

It is a tragedy that court reorganization, which will go so far in insuring prompt disposition of criminal cases and about which there is practically no debate, has been denied to the people of the District of Columbia for all these months. We must not let honest disagreement over the controversial aspects of this legislation delay court reform any longer.

Conference procedure, of course, does not allow us to amend the 217-page conference bill. We must swallow it whole or not at all. I for one find the conference bill unacceptable beyond a reasonable doubt and I therefore did not sign the conference report.

In an effort to reestablish priorities and regain perspective, I have joined nearly two dozen other Senators in sponsoring an alternative District of Columbia crime package. The first segment of the package retains virtually intact the language of the conference bill on first, court reorganization; second, the District of Columbia Bail Agency; third, creation of a full-time public defender for the District; and fourth, adoption of the Interstate Compact on Juveniles by the District. This substitute includes all the noncontroversial parts of the conference measure. It has been introduced as S. 4080 and as amendment 777 to H.R. 914, a House-passed private claims bill now on the Senate calendar.

The second segment of the package deals with criminal and juvenile law and procedure. Introduced as S. 4081 and amendment 776 to H.R. 914, it eliminates the controversial conference provisions on first, preventative detention; second, no-knock searches; third, wiretapping; and fourth, mandatory minimum sentences. It also conforms the juvenile code section with previous Senate action and modifies a few other criminal law provisions.

This package answers the fears of those who anticipate that the rejection of the conference report will mean no action this year. If the conference report is rejected, we thus have an immediate bipartisan substitute which answers the President's initial call for action and which enables us to give court reform the unanimity it deserves and to give the juvenile and criminal provisions the individual scrutiny and separate votes they deserve.

After passage of the court reorganization substitute, which has wide backing in this body, we can take up the areas of controversy. Supporters of no-knock and other controversial provisions will be able to offer them as amendments to the second segment of our substitute package. Regardless of the outcome in these areas of honest disagreement, vitally needed court reform will be freed of the baggage which has delayed it so long and the Senate will be able to exercise its judgment on matters too important to accept as "riders" on court reform.

I now want to turn to one of the major areas in which I find the conference report seriously deficient, that of juvenile law and procedure.

One of the most unfortunate aspects of the crime problem in the District of Columbia is at the juvenile level. Police Chief Wilson has estimated that as much as 45 percent of serious crime in the District is committed by persons under 18. Testimony before the Senate District Committee indicates that serious crime referrals of 16- and 17-year-olds to juvenile court have skyrocketed. In the year ending June 30, 1969, cases involving 29 homicides, 37 rapes, 780 robberies, 1,115 burglaries, and 537 assaults were referred to juvenile court. The juvenile system, like its adult counterparts, suffers from recidivism; one-third of the juveniles referred in that period had previously been adjudicated delinquent.

In response to this drastic need, the Senate District Committee unanimously reported S. 2981, which passed the Senate December 22, 1969, nearly 7 months ago.

As the Senate report on the bill stated:

> S. 2981 as amended in Committee constitutes a vital measure for the reduction of crime committed in the National Capital, as the bill's principal purpose is to break the crime cycle whereby juvenile offenders graduate from the juvenile system as adult criminals.
>
> More specifically, the bill S. 2981 as reported has the following objectives: to expedite the adjudication of juveniles and enhance their rehabilitation, and to improve court procedures for juveniles so as to provide them their due process of law.

The Senate bill would have gone far to improve our capability to deal promptly, effectively, and intelligently with the youthful offender. I was proud to cosponsor that measure and to work actively on refining it into the form in which it emerged from committee and passed.

I, therefore, regret to say that the conference report retreats from a number of crucial and enlightened positions adopted by the Senate.

In comparing the Senate-passed juvenile provisions with those of the conference bill, I am reminded of a passage from Lewis Carroll's "Alice in Wonderland":

> "And who are *these*?" said the Queen, pointing to the three gardeners who were lying round the rose tree; for, you see, as they were lying on their faces, and the pattern on their backs was the same as the rest of the pack, she could not tell whether they were gardeners, or soldiers, or courtiers, or three of her own children.
>
> "How should *I* know?" said Alice, surprised at her own courage. "It's no business of *mine.*"
>
> The Queen turned crimson with fury, and, after glaring at her for a moment like a wild beast, began screaming, "Off with her head! Off—"
>
> "Nonsense!" said Alice, very loudly and decidedly, and the Queen was silent.
>
> The King laid his hand upon her arm, and timidly said, "Consider, my dear; she is only a child!"

DEFINITION OF CHILD

In the first instance, it is the legislature which determines which young people are eligible to receive the benefits of the juvenile system and which are remitted to adult courts and prisons. The impact on youth of borderline age behooves us to consider the question of family division (juvenile) jurisdiction with great care.

The decision whether or not to send a 16- or 17-year-old automatically to adult court is crucial not only for the child, but also for society. We cannot afford to give up on a youth who, through the juvenile process, can be rescued from a life of crime.

The British courts went through a long and painful period of self-examination and reform in this area 100 years ago. One of the motivations for that reform and that review was the widespread popularity of the novels of Charles Dickens. One of those novels, "Oliver Twist," relates how Oliver, although innocent, is arrested for picking a pocket. As Dickens pictured the scene:

> Now, Young Gallows! This was an invitation for Oliver to enter through a door which he unlocked as he spoke and which led into a stone cell. Here he was searched; and nothing being found upon him, locked up.

Oliver then was brought before the judge, Magistrate Fang. Dickens further unfolds Oliver's plight:

> At this point of the inquiry, Oliver raised his head and, looking round with imploring eyes, murmured a feeble prayer for a draught of water.
>
> "Stuff and nonsense," replied Fang. "Don't try to make a fool of me."
>
> "I think he really is ill, your worship," remonstrated the officer.
>
> "I know better," said Fang.
>
> "Take care of him, officer," said the gentleman . . . "he'll fall down."
>
> "Stand away, officer," cried Fang; "let him if he likes."
>
> Oliver availed himself of the kind permission and fell to the floor in a fainting fit. The men in the office looked at each other, but no one dared to stir.
>
> "I knew he was shamming," said Fang, as if this were incontestable proof of the fact. "Let him lie there; he'll soon be tired of that."
>
> "How do you propose to deal with the case, sir?" inquired the clerk in a low voice.
>
> "Summarily," replied Fang. "He stands committed for three months—hard labour, of course. Clear the office."

Those familiar with Dickens will recall that Oliver was saved from this conviction by the dramatic entrance of a shopkeeper who swore the boy was innocent. But the sad fact was that this 11-year-old boy could not prove this to the court himself.

Our decision to remit a 16- or 17-year-old offender to adult courts and prisons is irrevocable. All versions of pending juvenile legislation provide a transfer process which enables the government to demonstrate a specific child's lack of susceptibility to juvenile handling and obtain his transfer to adult court.

The original version of S. 2981 defined "child" for purposes of juvenile court jurisdiction as persons under 18, except those aged 16 or 17 who were charged with certain enumerated serious crimes. It thus removed many first-time offenders from juvenile court.

This provision was opposed in hearings among others, the District of Columbia government, the Department of Public Welfare (the agency most intimately acquainted with problems and treatment of juveniles), the District of Columbia Bar Association, Juvenile Court Committee, and Professor Ferster, director of the juvenile offender and the law project at George Washington University. It was discovered to be widely divergent from the Department of Health, Education, and Welfare model juvenile act, the Uniform Juvenile Court Act, and the vast majority of State laws. The District of Columbia Crime Commission had likewise recommended that the age jurisdiction of the juvenile court should remain at its present level, so that the court will continue to assume jurisdiction over children up to 18 years of age. The original definition was favored by only one hearing witness. He was a representative from the Justice Department, although it is not clear to me whether his views were his own or those of the Department.

In order to bring the definition into accord with sound juvenile court practice, the District Committee reported and the Senate passed a provision which required that a 16- or 17-year-old charged with an enumerated serious crime also have been previously adjudicated delinquent before he could be treated as an adult.

This addition reflected at least two conclusions carefully drawn by the committee:

First. First-time offenders aged 16 and 17 should not be legislatively excluded from juvenile jurisdiction and its stress on rehabilitation. Only in those cases where a prior adjudication of delinquency is followed by a serious later charge is it appropriate to concluude that the juvenile process will not work.

Second. Although there may be a high incidence of crime committed by 16- and 17-year-olds, that fact does not indicate that 16- and 17-year-old first offenders are not susceptible to juvenile rehabilitation. Those 16- and 17-year-old first offenders who are not susceptible to juvenile rehabilitation should be transferred to adult court on a case-by-case basis, but a flat exclusion is unjustifiable.

As the report on S. 2981 stated, the committee:

> Was mindful of the principal rationale underlying the maintaining of a juvenile court system, and appreciates the wisdom of the objective for punishment in cases of rehabilitation for as yet uniformed youths. The committee was not inclined, therefore, to approve a lowering of the jurisdictional age limit (for the Family Division) in simple reaction to statistics indicating a greater incidence of crime committed by juveniles aged 16 to 18.

The historic distinction between juvenile and adults is based on the assumption that, until a certain age, a youth—although he may commit an offense against society—is not yet locked into a life of antisocial behavior. It assumes that his personality is still somewhat unformed, that his habits have not yet solidified, and that sincere, sustained rehabilitative programs can have a lasting impact.

Society's stake in keeping a youth from developing from a youthful offender into a hardened adult criminal dictates that we pursue this assumption in all appropriate cases.

Juvenile law and practice in the 1970's must also recognize that many youths by their midteens have gained a tragically high degree of sophistication on the streets. They have been exposed to drug traffic, to older offenders, and to the ins and outs of law enforcement; they may have become either so experienced or so cynical that they outgrow most if not all juvenile services.

At the same time, adult correctional systems have improved, and we have expanded rehabilitative programs, job training, and treatment for narcotics addicts. Prisons are becoming more than mere custodial institutions. Although a tremendous job lies ahead, the District of Columbia Department of Corrections has made great strides which are reflected in its relatively low recidivism rate.

Yet a third factor we must recognize is the present inadequacy of juvenile services. In the District of Columbia, as in many cities, facilities are overcrowded and understaffed. Programs for youth in various neighborhoods are, with some exceptions, fragmented, underfunded, and not fully effective. In general, we are simply not able to provide juveniles with the counseling, guidance, and personal attention which such troubled youths should have.

None of these factors, however, should cause us to abandon or even substantially curtail our efforts to help juveniles as such.

If we are going to protect society from evolution of these individuals into hardened criminals, we must start as early as we can. There is, of course, always the possibility that juvenile services will have no constructive impact on the 16- or 17-year-old first offender. But we must weigh that possibility against the probability that such a youth, if thrown into adult courts and adult jails, will receive a swift education in crime and mature beyond the reach of rehabilitation. The interests of both youth and society, in my judgment, dictate giving juvenile services and programs at least one try in the vast majority of cases. This is particularly so in the light of the improvements in juvenile court administration and procedure which court reorganization provides.

In contrast to the conference report, the substitute version of the bill adopts the Senate requirement of a previous adjudication of delinquency and also requires a determination of probable cause of the truth of the allegations in the petition. The latter safeguard is designed as a judicial check on the prosecution's otherwise unfettered discretion to exclude any first-time offender from juvenile court merely by charging him with one of the enumerated serious crimes.

TIME LIMITS

Sadly, cases in juvenile court presently undergo intolerable delays. A youth may well wait a year for adjudication if he is released into the community. Even if he is detained pending adjudication, he may wait several months. The 7,000 or more cases referred to the court annually, plus its 6,000-case backlog, contribute to the problem.

Under such circumstances, deterrence and rehabilitation become accidental byproducts of the system rather than carefully sought results. Delay is especially tragic in the case of the young offender. He is the one upon whom therapy is most likely to work and for whom deterrence must be swift to be effective. As we are beginning to recognize in the context of adult offenders, rehabilitation is society's most formidable weapon in the war against crime. Because the vast majority of persons in our juvenile and criminal courts are ultimately released because they eventually return to the streets—rehabilitation should be viewed as a right demanded by society rather than as a privilege of the individual violator.

The special urgency of prompt disposition of juvenile cases has been recognized by American Bar Association standards and the HEW model juvenile act, which specify time limits for each stage of juvenile proceedings. Such provisions have proved effective in jurisdictions such as New York, California, and Illinois. Time limits were also recommended in studies of the District of Columbia juvenile court by the Committee on the Administration of Justice, and the District of Columbia Crime Commission. In fact, Mrs. Patricia M. Wald, a well-known Washington lawyer, who has been with the Justice Department and is now with Neighborhood Legal Services, and who served on the District of Columbia Crime Commission, told the Senate District Committee that the Commission's time limits recommendation was its "single unanimous" and "single strongest" juvenile court recommendation.

Hearings before the Senate committee have further demonstrated that the additional manpower provided by court reorganization is only part of the answer.

The Senate wisely added its voice to the virtual unanimity in favor of time limits in passing S. 2981, which included an eminently workable comprehensive time scheme for the various stages of juvenile proceedings.

I ask unanimous consent that a brief chart of the Senate time limit provisions be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. In defending the time limits in the Senate bill against charges that they were unnecessary and unworkable, the distinguished chairman of the Senate District Committee remarked on the Senate floor last December 22 that:

> In fact, the deadlines for disposition of juvenile court cases imposed by this bill follow the model New York Family Court Act and are less restrictive on the court than the deadlines which the Juvenile Delinquency Service recommends.
>
> The simple fact is that these guidlines have greatly improved the situation in New York, without detriment to the administration of the juvenile jurisdiction there.
>
> What is unworkable, in my view, is the present intolerable situation, in which in the absence of time limits, cases grow stale and the possibility of rehabilitation is lost. The public is burdened with enormous expense engendered by the delays which have arisen because time limitations have not existed before now. . .

And Mr. President, the chairman was right.

The conference bill, by eliminating time limitations on the two major stages of juvenile proceedings—factfinding and dispositional hearings—represents a serious retreat in the effort to permanently eliminate the present backlog.

Under the conference bill, therefore, a young man's case could proceed expeditiously to the factfinding stage, only to be stalled there for months while the youth stagnated in an institution or matured, unsupervised, on the streets. I particularly fear this is so in light of a statement made during House debate on the conference bill. One member of the House District of Columbia Committee, speaking "on behalf of all the House conferees" and "for purposes of legislative history," stated that the conference bill:

> While adopting a number of time limits for juvenile proceedings, specifically rejected time limits for the factfinding and dispositional hearings. The conferees did suggest in the House statement of managers, general goals to be sought by the courts in reaching the factfinding and dispositional hearings. However, these goals are not obligatory in any way and must not be construed to create any rights on behalf of the child to have his case heard within a specified time period.

Expediting certain phases of juvenile proceedings merely to allow delay in more crucial phases is not a promising way to eradicate the staggering 6,000-case juvenile backlog in the District of Columbia.

S. 4081, on the other hand, retains the Senate bill's full complement of time requirements.

STANDARDS OF PROOF

Under the provisions of court reorganization, three categories of juveniles are created—"delinquent," "persons in need of supervision" (PINS), and "neglected." The former two categories each involve misconduct by the juvenile, though delinquent behavior is the more serious. In each instance, a factfinding hearing is held to determine whether the charges against the juvenile are true. Where such truth is established, a dispositional hearing is held to determine whether the child is "in need of care or rehabilitation" and, if so, what order of disposition should be made. The factfinding and dispositional hearings roughly correspond, then, to adult trial and sentencing, respectively.

A critical question in any criminal or juvenile proceeding is the standard of proof required of the government.

It has been traditional in America that every element of an adult criminal offense be proved "beyond a reasonable doubt" before a defendant may be found guilty and sentenced. The Supreme Court has recently confirmed, in the Winship case, that this longstanding practice is required by the due process clause of the Constitution. The Court there stated that:

> A society that values the good name and freedom of every individual should not condemn a man for commission of a crime when there is a reasonable doubt about his guilt.

The reasonable doubt standard is, of course, a term of art which denotes a very high certainty of correctness. It is to be contrasted with the lower proof by "clear and convincing evidence" and the even lower standard of proof by a "preponderance of the evidence." The latter standard is considered acceptable for a plaintiff in civil proceedings, on the basis that the defendant is not so likely to lose his liberty or his reputation as in a criminal prosecution.

The Court went on in Winship to state that:

> The same considerations that demand extreme caution in factfinding to protect the innocent adult apply as well to the innocent child.

It held that the beyond a reasonable doubt standard is required of the government in a delinquency factfinding hearing. The Court did not reach the question of the standard required for PINS factfinding hearings or for delinquency or PINS dispositional hearings.

The Senate juvenile code bill accurately forecast the rationale of the Winship decision. Such delinquency and PINS cases both involve stigmatization of the child—unlike neglect cases—and possible loss of the child's freedom, the Senate bill required proof beyond a reasonable doubt in both types of factfinding hearing. The Senate thus recognized that the essential difference between delinquency and PINS cases lies in treatment, but that both involve a judgment of wrongdoing and possible loss of freedom.

A further basis for requiring a high degree of certainty of proof of involvement was outlined in the District Committee report on S. 2981:

> The Committee is advised that a juvenile's involvement in fact—the actual commitment by the juvenile of the alleged acts—constitutes a therapeutic prerequisite, without which treatment may be entirely fruitless and even affirmatively harmful. A child cannot be effectively treated, it is suggested, unless he first is convinced that he has acted wrongly.

The Senate bill set out a somewhat lower standard of proof—clear and convincing evidence—for dispositional hearings in delinquency and PINS cases and for factfinding in neglect cases.

The Senate standards followed the HEW model juvenile act, the Uniform Juvenile Court Act, and recent changes in many of the States.

The conference bill requires only that the Government establish its case by a preponderance of the evidence in PINS factfinding hearings. There is no sufficient reason for requiring the traditional high criminal burden in delinquency cases and lowering the burden all the way to the traditional civil level in supervision cases. The substitute retains the Senate's adoption of an enlightened position, and reflects the Supreme Court's injunction that safeguards to protect innocent adults also apply to innocent children.

OTHER PROBLEMS

There are a number of other retreats from enlightened practice—some in clearer language than others—in the conference bill. The substitute bill corrects and clarifies these deficiencies. I ask unanimous consent that a chart of these deficiences marked appendix 2, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MATHIAS. Mr. President, I will review each of seven areas briefly. Overbroad detention provisions. Preventive detention of juvenile "to protect the person or property of others" prior to the factfinding hearing is authorized by the conference bill. The conference bill also promotes unwarranted detention by eliminating from the Senate bill's definition of detention or shelter care hearing any explicit inquiry into probable cause of the truth of the charges against the child, something even the adult preventive detention provisions of the conference bill require. The conference measure further allows detention after the dispositional hearing unless the court finds that the child is not "in need of care or rehabilitation." The Senate version required release in the absence of an affirmative finding of need of care or rehabilitation.

The substitute bill strikes preventive detention of juveniles and avoids unwarranted provisions for detention by adopting Senate language defining detention or shelter care hearing and requiring release after dispositional hearing where appropriate.

Right to counsel. The substitute version makes it perfectly clear that a child shall be represented by counsel at all "critical stages" of proceedings, a term which will be further defined over time by the courts.

Burden of proof in transfer from juvenile to adult court. The conference bill contains an odd hybrid of Senate language—which properly placed the burden of transfer cases on the Government—and House language—which improperly placed it on the child. The substitute bill follows the Senate bill exactly to avoid the objectionable House result.

Jury trial. The substitute version retains the present waivable right to jury trial in delinquency cases. As a noted group of District of Columbia court experts have stated:

> Jury trial may not be infallible, but the jury is the best factfinding mechanism our system of justice has been able to devise. In factual disputes as to whether or not a child actually committed an alleged offense he, like an adult, should be entitled to its safeguards.

Sanction for failure to bring a child before a judge. The requirement that the "initial appearance" before a judge be within 5 days of filing of a petition is substantially undermined in the conference report by a requirement that failure to hold the appearance on time shall not be grounds for dismissal. This insulates the most careless and negligent government practice. It is appropriate to permit the courts, by rule or case law, to prescribe sanctions for violations of time limits. Like the Senate version, the substitute omits this unnecessary limit on sound judicial discretion.

Presumption of need for care or rehabilitation. Once a juvenile's involvement has been determined in a factfinding hearing, a dispositional hearing is held to determine whether he is "in need of care or rehabilitation" and, if so, what disposition should be made.

The conference bill adopts House language establishing a presumption that commission of an act which would be either an adult felony or misdemeanor is sufficient, absent contrary evidence, for a finding of need for care or rehabilitation. The substitute adopts the Senate bill standard requiring commission of an act which would be an adult felony.

Transfer to juvenile court of child mistakenly prosecuted in criminal court. Where it appears that a criminal defendant should have been in juvenile court, but jeopardy has attached in the criminal proceeding and judgment has not been entered, the substitute bill retains the Senate requirement of a hearing to determine whether the court should proceed to judgment or refer the case to juvenile court.

CONCLUSION

During this debate we have heard, and unhappily we must hear, a great deal about the tremendous growth in juvenile crime, about the rapid spread of drug traffic in the local schools, and about the inability of present juvenile processes to keep first offenders from becoming second offenders. These facts are sobering. They are more than sobering; they are frightening. But they are not, however, an indictment of a whole generation of young men and women. Rather, they are an indictment of the past performance of the system—and, I submit, an indictment of Congress as the overseer of that system in the District of Columbia.

The question before us today is whether we are going to meet our responsibilities for the present generation of youth and for the next. The conference bill is, in its thrust, a pessimistic and in many ways fatalistic approach which I for one am not prepared to endorse. I am hopeful that the Senate will see fit to adopt a similar course and will enact the noncontroversial aspect of court reorganization at the earliest possible date.

EXHIBIT 1

APPENDIX 1

Time limitations in S. 2981:

1. Motion to transfer juvenile for criminal prosecution; within 5 days of filing of petition.

2. Hearing on transfer motion; (a) for children in detention, within 7 days of filing of motion; (b) for children released into

community, within 15 days of filing of motion.

3. Background report for transfer hearing made available to counsel for child; 2 days before transfer hearing.

4. Filing of petition (charges) by Corporation Counsel (Subject to #6 below.); within 5 days after complaint referred by Director of Social Services to Corporation Counsel.

5. Initial appearance (for children released into community only); within 5 days after filing of petition.

6. Detention or shelter care hearing (for children in detention only); on or before the next day after arrest, with a maximum 5-day continuance for *probable cause determination only* (*i.e., no* postponement allowed for application of *detention* criteria).

7. Notice of interlocutory appeal from transfer or detention order; within 2 days after order.

8. Decision on interlocutory appeal from transfer or detention order; within 72 hours after filing of notice.

9. Factfinding hearing: (a) for children in detention, within 15 days after detention hearing; (b) for children released into community, within 30 days after detention hearing.

10. Dispositional hearing; (a) for children in detention, within 15 days after conclusion of factfinding; (b) for children released into community, within 30 days after conclusion of factfinding.

11. Commitment for mental or physical observation and examination; for up to 30 days with possibility of 2 extensions for additional 30-day periods.

EXHIBIT 2

APPENDIX II—COMPARISON OF SELECTED JUVENILE SECTIONS—HOUSE-SENATE, CONFERENCE, AND SUBSTITUTE D.C. CRIME LEGISLATION

Issue	House	Senate	Conference	Substitute
Definition of child:				
16- and 17-year old first offenders irrevocably sent to adult court?	Yes	No	Yes	No.
Time limits:				
Time limits established for crucial factfinding and dispositional hearings?	No	Yes	No	Yes.
Standards of proof:				
Rationale of Winship case accepted in supervision case factfinding hearings?	No	Yes	No	Yes.
Overbroad detention:				
Preventive detention permitted prior to factfinding?	Yes	Yes	Yes	No.
Inquiry into probable cause of truth of charges required at detention or shelter care hearing?	No	Yes	No	Yes.
Affirmative finding of need for care or rehabilitation required for dentention after dispositional hearing?	No	Yes	No	Yes.
Right to counsel:				
Counsel clearly required at all critical stages of case	No			Yes.
Burden of proof in transfer to adult court:				
Burden properly placed on the government to establish lack of prospects for child's rehabilitation in juvenile system?	No	Yes		Yes.
Jury trial:				
Present waivable right to jury trial retained?	No	No	No	Yes.
Sanction for delay in initial appearance:				
Court permitted to dismiss charges for gross government neglect in securing first appearance of youth before judge?	Yes	Yes	No	Yes.
Presumption of need for care and rehabilitation:				
Commission of "felony" required to activate presumption of need for care and rehabilitation?	No	Yes	No	Yes.
Transfer of juvenile from adult court:				
Hearing on referral to juvenile court required where juvenile mistakenly in adult court and jeopardy has attached?	No	Yes	No	Yes.

Note: Official designations of the bills analyzed: House bill, H.R. 16196; Senate bill, S. 2981; Conference bill, S. 2601; Substitute bill, S. 4081.

Mr. MATHIAS. Mr. President, I yield the floor.

Mr. ERVIN. Mr. President, I should like to commend the able and distinguished Senator from Maryland (Mr. MATHIAS) on his very fine speech, in which he points out how the Senate Committee on the District of Columbia in reporting the original bill and the Senate itself in the passage of that bill undertook to do something constructive to save juveniles from becoming habitual criminals. But the conference report nullifies those wise efforts on the part of the Senate Committee on the District of Columbia and the Senate itself with respect to the original bill.

Mr. DOLE. Mr. President, today, after over a year of debate, controversy, and compromise, the Senate has before it the Omnibus District of Columbia crime bill for final action. Our vote of approval will send this long needed and important legislative item to President Nixon's desk for signature. By passing the bill we will give the courts and the police the weapons they need to turn back the crime wave in the Nation's Capital.

COURT REORGANIZATION

While I wish to stress the subject of pretrial detention, by no means is that or the other issues that have caused such prolonged and heated controversy the most important feature of S. 2601. This bill is, at heart, a court reorganization proposal. For years it has been an open scandal that due to their archaic structure and jurisdictional maze the courts in the District of Columbia have been almost totally paralyzed and unable to dispense adequate justice. For example, it takes from 9 months to 1 year to bring a felony defendant to trial in the local U.S. district court.

The present system, with misdemeanor jurisdiction in one understaffed court and felony jurisdiction in another equally understaffed court, has led to chaos. The juvenile court system is in an even worse situation. Three juvenile court judges are expected to handle a backlog of cases that exceed 6,000 in number and there are 2,000 new cases coming in every 3 months.

S. 2601 seeks to remedy this situation by reforming the local court structure and thus providing the one sure remedy for crime—swift and certain justice.

The basic features of the court reorganization are the consolidation of local courts, the gradual transfer of all jurisdiction to the new updated and adequately staffed local courts, the creation of a new family division to include juvenile matters, new provisions to ensure quality judges, and extensive provisions for modern court administration.

The new basic local court, to be called the Superior Court, will have five separate divisions—civil, criminal, family, probate, and tax. The present District of Columbia Court of Appeals will be raised to the status of the highest court of the jurisdiction. At the same time the Federal court system, presently handling not only Federal business but the bulk of local jurisdiction as well, will be returned to its proper role as a federal court hearing only truly Federal cases—not purely local cases.

In addition the legislation will create 17 new judgeships. This alone will strike a major blow for the goal for swift and certain justice. In sum, the court reorganization package in S. 2601 will provide the Nation's Capital with a fully integrated and vastly more efficient system for administering justice in the city.

No court reorganization program will be complete in the District of Columbia without two other items—A public defender system and a new revised bail agency. S. 2601 contains both.

In January 1969 President Nixon said that it was time to convert the pilot project called the Legal Aid Agency of the District of Columbia into a full-fledged public defender program. The bill now before us creates such a service with authority to represent up to 60 percent of the adult and juvenile defendants who are unable to obtain adequate representation. In addition, the service will assist the private bar and the court in coordinating the appointment of private counsel.

The representation provided by the public defender service will be at every step of the proceedings. Perhaps the most important result of this expanded program will be to provide the indigent with an experienced attorney. This will have the added advantage of speeding the entire criminal process which often is slowed by the lack of knowledge of criminal law possessed by appointed counsel from the private bar.

BAIL REFORM

S. 2601 also contains amendments to the District of Columbia Bail Agency Act to increase its responsibilities and enable it to expand beyond its present unrealistic appropriations ceiling of $130,000. The agency is presently authorized to recommend release on personal recognizance, personal bond, or on other nonfinancial release conditions. Under the proposal the agency will be authorized to recommend whether the defendant should be released, to verify new information, and to modify and supplement its original reports. In addition, it will now supervise all persons on nonsurety release as well as serve as coordinator of third party custodians. S. 2601 will thus create a truly effective bail agency able for the first time to exercise some degree of control over persons released pending their trials.

Included in an extensive new Code of Criminal Procedure within S. 2601 is an important proposal—that of pretrial detention. I should like to concentrate the remainder of my remarks on that proposal.

PRETRIAL DETENTION

Mr. President, no more misunderstood provision has been before this Congress than that of pretrial detention. One of the central attacks on the proposal is that it is a new concept, unknown to our traditions and system of laws. This attack is grossly inaccurate, for pretrial detention has always been with us and always will. The reason is simple. There are some defendants who, when apprehended, present clear dangers to the maintenance of community safety and who must be detained.

We in this country practice pretrial detention in all our major cities every day of the week. Often a judge who is faced with a dangerous felon seeking pretrial release will set a bail sum too high for the defendant to meet. This is done on the alleged grounds of danger of flight. In most cases of high bond there is no real danger of flight. In reality this is pretrial detention and it is hypocrisy, for the defendant is really being held because the judge considers him dangerous and because the law forbids that as a ground for pretrial detention in noncapital cases.

The pretrial release provisions of S. 2601 will bring this hypocritical practice to light. Detention will be possible but only for the truly dangerous defendant and only after the true issue—that of potential dangerousness—is openly litigated at a hearing where the defendant is represented by counsel, given an opportunity to testify in his own behalf, and a chance to cross-examine any witnesses presented against him.

We practice pretrial detention in other ways also under our laws. For instance, ever since 1789 anyone charged with a capital offense can legally be held without bail The Bail Reform Act of 1966 itself permits danger to the community to be used as the basis for pretrial detention in capital cases. We also detain, prior to trial, those who need mental examinations or who are alcoholics.

Moreover, every country that shares our common law heritage and our devotion to civil liberties, practices pretrial detention of those deemed dangerous. I am speaking of Great Britain, Canada, Australia, and New Zealand.

Mr. President, I will not take the Senate's time to discuss the pretrial release provisions of S. 2601 in detail. Suffice it to say that is a very carefully drawn and precise statute. It seeks, on the one hand, to limit those eligible for pretrial detention by careful and restrictive wording of the detention categories. Efforts in the Senate-House conference have resulted in even more restrictive categories. The net result is that only the truly hardcore dangerous defendant can be held. On the other hand, the provision affords the person detained the full panoply of due process protections from an open hearing and written findings of fact to an expedited trial and a strictly limited detention period of 60 days. Mr. President, no person held today in jail or a high money bond, and there are hundreds of them, is afforded anything close to the rights that this proposal grants to those who will, under S. 2601, be detained.

Mr. President, S. 2601 is a vast and comprehensive bill ranging from court reorganization to pretrial detention. It will be a major step on the part of the Congress in the war on street crime in our Nation's Capital. I urge an affirmative vote on S. 2601.

Mr. BYRD of West Virginia. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SHOOTING OF CHICAGO POLICE OFFICERS

Mr. PERCY. Mr. President, last Friday many Chicagoans were shocked and have since been deeply concerned at the murders of Patrolman Anthony Rizzato and Sergeant James Severin of the walk and talk Community Relations Arm from the Damen Avenue Task Force. Both were shot down outside the Cabrini Green Highrise complex Friday evening.

The vast majority of black citizens have welcomed police protection that brings with it a greater degree of sensitivity to and understanding of the special problems of the community. Both patrolman Rizzato and Sergeant Severin had committed themselves to this end.

Such a wanton action can only be self-defeating in terms of solving neighborhood and local problems. In addition, it silences the very voice of compassion and earnest reconciliation between police and community. I deplore this tragic and unprovoked assault. Over the weekend I talked with Mrs. Rizzato as well as members of Sergeant James Severin's family to express my heartfelt sympathy. I talked with Mrs. Rizzato again this afternoon and I plan to attend Sergeant Severin's funeral with Mrs. Rizzato, on Tuesday.

Certainly this kind of action does nothing to solve the basic problems we are facing.

We all extend our deepest sympathies to the families of these law enforcement officials, both of whom were trying every possible way to better understand the community they were trying to serve.

SOYBEAN INDUSTRY HAVING GOOD YEAR BUT COULD BE THREATENED BY U.S. TRADE POLICY

Mr. PERCY. Mr. President, I am making this special report to the Senate on behalf of everyone in the State of Illinois directly or indirectly involved with one of our most important agricultural crops, soybeans and soybean products.

In the spirit of full disclosure for public officials, farming interests in Livingston County, Ill., that have been in my wife's family for over 100 years yielded to Mrs. Percy and me $2,523 in 1969 on the sale of soybeans but did not involve the receipt of any Government price supports.

U.S. soybean growers are selling more beans at favorable prices in 1970. By the end of this year, soybean crushers will have bought some $2.7 billion worth of soybeans from farmers and the Commodity Credit Corporation—about $300 million more than they bought last year.

Exporters' purchases will be up to an estimated $1.5 billion—$325 million more than last year and a 29-percent increase. Total soybean demand has increased from 945 million bushels to an estimated 1,200 million bushels. The increase represents the production from an additional 9½ million acres.

The turnaround in soybean sales began last year, and a good share of the credit must go to determined actions on the part of the Nixon administration to expand demand for U.S. agricultural products. First, Secretary of Agriculture Clifford Hardin reduced the price support on soybeans from $2.50 to $2.25 per bushel. Second, the administration was able to get the Japanese Government to install a soybean tariff reduction that had been worked out in the Kennedy round of tariff negotiations a year earlier. Third, we convinced the Common Market that a threatened levy on soybeans was contrary to the General Agreement on Tariffs and Trade and would bring swift U.S. retaliation against Common Market exports. I worked with the administration on all these steps and fully supported them.

The soybean price support had been at $2.50 since 1966—and our soybeans had lost their competitive edge. U.S. bean markets, which had been growing rapidly and steadily before the increase, suddenly went stagnant. Competitors' sales shot up. World sunflower seed exports tripled from 1965 to 1968. Fishmeal exports went from 2.2 million metric tons to 3.5 million in the same period; rapeseed exports increased 64 percent. Brazil's soybean production went from 19 million bushels in 1965 to an estimated 50 million in 1970.

This year, we removed the high guaranteed price that our competitors had been counting on in the past. At the same time, we have had less foreign competition. For instance, the Russians have, temporarily at least, dropped out of the sunflower-seed export picture, and the South Americans have found fewer and smaller fish in their nets. Other factors have worked in our favor, like flooded rape-seed fields in Eastern Europe.

As a result, U.S. soybean sales this year will be up about 225 million bushels over last year. Prices, which started the crop year around $2.23 a bushel, were up to $2.52 in May, and over $2.60 in June. Bids for new crop beans are ranging as high as $2.67 for delivery this fall.

Demand has been so strong, in fact, that the market is taking all of the record-large 1969 soybean crop, and will probably absorb about 85 million bushels of the big carryover stocks that were built up during 1966–68.

Growers are marketing the production from an extra million acres of soybeans at higher prices than they got last year. Experts estimate the extra acres will add about $100 million to U.S. farmers' incomes.

Growers put about 180 million bushels of 1969-crop soybeans under CCC loans—the third-highest total on record. Many of them have thus been in position to take full advantage of prices which have risen as the season progressed. Getting soybean stocks reduced also benefits the growers, since it relieves some latent supply pressure, and helps reduce politically sensitive storage costs.

We are regaining the foreign market penetration that we lost during 1966–68. And we are providing that U.S. soybeans are more reliable than other sources. There should be little reason for customers to switch back to other commodities if we continue to keep our prices competitive.

Soybean exports this year are expected to total 415 million bushels, 128 million bushels more than last year—a major agricultural contribution to our balance of payments. The export value of U.S. soybeans in fiscal year 1968–69 was $1.123 billion. Based on the first 10 months the export value for fiscal year 1969–70 is estimated at $1.450 billion—a 29 percent increase and equivalent to our entire NATO balance-of-payment deficit.

The whole U.S. soybean industry has done well this year. Growers have sold more beans at favorable prices. Exporters have found ready markets for larger volumes. Crushers have been running their plants at 93 percent of capacity—a record high level that leaves little time for maintenance and repairs—and still have not been able to fully meet their demand.

Crushers have invested over $60 million in new capacity to handle the increased soybean crops being produced by U.S. farmers. The current expansion in crush facilities should produce a 15-percent increase in crushing capacity—raising it from the 770 million bushels of 1969 to 885 million bushels by next spring.

There is one pending action, however, which could have severe adverse effects on this continuing success story of soybeans. Should Congress enact quota legislation on textiles alone or textiles plus other commodities, the export market for soybeans could be severely affected.

The problem of textiles is not just one that concerns United States-Japanese relations. Synthetic fibers are also imported from Europe. The Common Market has made it clear that should textile quotas be enacted in the United States, the Common Market would take counteraction to protect its own trade interests. I was personally warned again in Brussels 2 weeks ago by Ambassador Robert Schaetzel of this threatened retaliation. Edmund Wellenstein, the Common Market's Director General of Foreign Trade, made it clear in the NATO North Atlantic Assembly meetings at the same time that one logical candidate for retaliatory action would be U.S. soybean exports to Europe. The United States exports over $500 million of soybeans to the Common Market annually. The loss of this market would be a severe blow to the success story of American soybeans.

This threat to U.S. soybean exports was clearly seen by Mr. Leslie Tindal, president of the American Soybean Association, in testimony before the House Ways and Means Committee on June 16. He said that:

> We recognize this committee and Congress have a difficult job weighing the threat to employment in the textile and shoe industries against the possible loss of sales to our major trading partners.

But, he went on to say:

> The tremendous overseas demand for soybeans and soybean products means jobs for hundreds of thousands of Americans, creates billions of dollars of new wealth in our rural areas and our cities, and contributes more to the U.S. balance of payments than any other agricultural commodity.

Mr. Tindal also noted that Japan has cut in half her tariff on soybeans under the Kennedy Round of GATT but has postponed total elimination of the tariff while waiting to see what the action may be taken by Congress against Japanese textiles.

Thus, Mr. President, quota legislation on textiles and other products will severely harm those sections of the country that grow soybeans. This would particularly hurt Illinois, which is the largest grower and exporter of soybeans, but would also harm other Midwestern and Southern States.

The picture for soybeans looks generally good at the moment, but the enactment of quota legislation could make the soybean picture look very bleak indeed. The midwest and southern soybean farmer should realize that if trade restrictions are enacted, his income in all probability will be reduced sharply and quickly. For this reason I am unalterably opposed to the imposition of absolute quotas by Congress on the wide variety of products now being proposed for Senate action.

TESTIMONY OF DR. McCRACKEN AND MR. SHULTZ BEFORE THE JOINT ECONOMIC COMMITTEE

Mr. PERCY. Mr. President, this morning before the Joint Economic Committee we heard testimony from both Dr. Paul W. McCracken, Chairman of the Council of Economic Advisers, and George P. Shultz, Director of the Office of Management and Budget.

During the course of the testimony and questions that followed, a number of very important points were brought out. First, in response to a question that I asked. I inquired whether or not the $60 billion deficit that had accrued in the first approximately 8 years of the 1960's did not have a great impact upon the problems we are now facing in the economy—the problem of inflation, the problem of high interest costs, and the problems of resultant unemployment that we have now experienced as a result of efforts to dampen the economy and the boom, in order to fight inflation. Both of them responded in the affirmative. In years of high prosperity in the late sixties—1967 and years of that type—when we had the war going on in Vietnam, when we were unwilling to pay for that war with increased taxes, and we ran a deficit of $20 billion to $25 billion, certainly this was the cause for the boom getting out of hand; and that brought about the necessity of the present administration to try to stabilize the economy through fiscal and monetary policies.

Dr. McCracken pointed out that we estimate that our trade surpluses this year—exports over imports—will be on the order of about $3.8 billion.

I asked whether or not the imposition of quotas might not bring about retaliation and a trade war. Both witnesses indicated this possibility existed, and if it did come about U.S. production would be hurt because we are in a surplus position.

Mr. Shultz indicated in response to a question that in his judgment we could get additional budget relief as a result of our NATO allies having accepted the principle of burden sharing so that more of our expenses in Europe incurred for the common defense would be paid for by our European allies.

The testimony was exceedingly valuable, and it is my hope also that, by some time in August, we can have a revised estimate from the administration as to what the revised deficit is expected to be for fiscal year 1971.

The last figures that we had came from the President in May, when, instead of the hoped for $1.3 billion budget surplus, it was anticipated that we might have a $1.3 billion deficit.

It is my opinion that the deficit we face in fiscal year 1971 is substantially higher than that figure. It could be of the order of $6 billion to $10 billion, and the potential deficit for the year 1972 might be even greater.

I am hopeful we can have a firmer estimate from the administration, so that Congress can be guided in the next few months as to what we need to do to increase our revenues and what we need to do to hold back and restrain expenditures.

I wish to commend the administration for the strong statement by the President last Saturday, when he indicated that Congress should impose the same kind of ceiling on its expenditures that the Congress has imposed on the President and the executive branch of Government.

At this time I ask unanimous consent to have printed in the RECORD the excellent statements of Mr. Shultz and Dr. McCracken.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

Statement of George P. Shultz, Director of the Office of Management and Budget, Before the Joint Economic Committee

Mr. Chairman and Members of the Committee:

My first appearance before a Congressional Committee as Secretary of Labor was in this distinguished forum and this is my first appearance in my new job of Director of the Office of Management and Budget. As an economist and an observer and admirer of the work of the Joint Economic Committee over the years, I am honored to participate again in these initiation rites, although I have noticed that the proper meaning of that word as applied to economic affairs, let alone its spelling, has often been in dispute in your discussions. That is to be expected in such a controversial area. I enter the discussion in the spirit of exchanging ideas and information and in the hope that issues may be clarified, if not resolved, and that what differences there are may be more carefully defined and perhaps narrowed.

The focus of my testimony is the Federal Budget, leaving to others, including the various Administration witnesses, responsibility for the review of other aspects of the economic scene, including its present contours and probable lines of development.

SOME GENERAL OBSERVATIONS

The President's Budget is simultaneously a financial expression of his objectives and priorities, an assessment of the proper role of Federal revenues and expenditures in economic developments, and a detailed and unified accounting of program costs and sources of funds.

The budget process itself must be a continuous one, since there are strong interrelationships among actions appearing at widely separated time periods. Actions in 1970 and 1971 affect developments in 1972 and beyond, just as objectives for future years must be reflected in immediate budgets if these objectives are to be realized effectively. For this reason, in considering our present budget situation, we must look at the year just completed and the years ahead, as well as at the budget of the current year.

Further, the continuing budget process, with its vast financial and economic implications, imposes a continuing obligation to keep the total picture in mind, while working on the many and highly varying parts. As Adam Smith noted, specialization increases with the size of the market. Both the Legislative and Executive Branches of Government are elaborately organized for such specialization, which encourages a preoccupation with the individual parts of the Budget.

But the very creation, let alone the work of this Committee, emphasizes the need for a continuing review of what these parts are adding up to in total and what the economic implications of these totals are. This midyear review is certainly appropriate, since it brings attention to the totals at a time when we might otherwise be overly preoccupied with the parts.

SHIFTING PRIORITIES

An overriding and universal objective is the attainment of a stable peace and a return of resources to peacetime and civilian purposes. Budget developments over the past three years reflect a dramatic movement in this direction and stand as a statement of Presidential objectives and priorities. Between fiscal years 1968 and 1971, defense expenditures will have declined from 9.7 percent of the Gross National Product to about 7.5 percent and from 45 percent of budget outlays to a projected 37 percent. By sharp contrast, the budget outlays allocated to human resources programs[1] rose from 32 percent in 1968 to a projected 41 percent in 1971. This dramatic shift in priorities is underscored by recognition that expenditures by State and Local governments concentrate on the human resources area and that, as private individuals and groups, we devote a a large proportion of our incomes to these objectives.

This shift in priorities, desirable though it is, does have transition costs, as individuals, industry and labor groups, and particular communities are directly affected by reductions in military personnel and in defense contracts, with consequent layoffs of employees.

We must recognize our present situation for what it is: a mild slowing of the economy, as necessary to curb the inflation, combined with a movement away from defense-related activities. This movement may have a direct impact on as many as 2,000,000 people during the period from early 1969 to mid-1971, with over 700,000 already affected. Of course, many others have been and will be indirectly affected, varying with the dependence of particular communities and industries on defense activity.

If the beginning of wisdom is to recognize the problem, the outcome of our analysis must be action to help people through transition problems. There is no doubt that the problems can be solved and that a healthy economy is our most important program for doing so. But we must apply the further principle that those who bear this cost most directly deserve help from all of us, who share the social gains achieved by the transition.

Secretary Hodgson will be discussing this point in some detail so I will not labor it further. I must mention, however, two proposals of special relevance to this problem, proposals that were put before the Congress by the President about one year ago. I urge the Congress to complete action to strengthen and extend the system of unemployment insurance and to move on the proposed Manpower Training Act. As you know, both these pieces of legislation contain automatic trigger formulas that would, respectively, extend the period of unemployment compensation and increase appropriations for work and training programs in the event that unemployment reaches specified levels.

THE BUDGET AND THE ECONOMY

The President in his Statement of July 18, 1970, put forward the general principles that should guide our thinking about revenue and expenditure totals and their meaning for the economy.

"In raising the issue of budget deficits, I am not suggesting that the Federal government should necessarily adhere to a strict pattern of a balanced budget every year. At times the economic situation permits—even calls for—a budget deficit. There is one basic guideline for the budget, however, which we should never violate: except in emergency conditions, expenditures must never be allowed to outrun the revenues that the tax system would produce at reasonably full employment. When the Federal government's spending actions over an extended period push outlays sharply higher, increased tax rates or inflation inevitably follow. We had such a period in the 1960s. We have been paying the high price—and higher prices—for that recently."

This general guide, while it does not lend itself to precise point estimates for future periods, nevertheless provides a method of crucial importance to the assessment of where we are and where we are going. We know, for example, that revenues fell short of their full employment potential in fiscal year 1970. A small deficit created thereby does not have a major inflationary potential, and indeed, is part of the automatic and desirable system of fiscal stabilizers. By contrast, the deficit of fiscal year 1968 represented a large expenditure overrun, beyond the revenue producing capacity of the tax system. It thereby contributed heavily to the inflationary problems we have since been trying to cure. There is a lesson of immediate relevance in these contrasts as we consider the Budgets for fiscal year 1971 and 1972.

We know, of course, that fiscal policy is not the full story in the management of economic policy. As this Committee has well recognized in the past, monetary policy is also of critical importance. Here it may be noted that, while the President is charged by the Employment Act of 1946 with responsibility for "setting forth . . . a program for carrying out the policy declared in Section 2", he has no authority over the operation of the Federal Reserve, with its statutory and traditional independence. Conversation, yes, but that is as far as it goes.

We know also that wage and price movements in individual industries must be addressed as a part of the overall strategy of economic policy. It was this realization that led the President to create over a year ago a committee on lumber prices and subsequently another on copper prices. Both these efforts have been fruitful. More recently, in this same vein but with a broader and continuing responsibility, the President created a Regulations and Purchasing Review Board to "determine where Federal purchasing and regulations drive up costs and prices." Further, the Council of Economic Advisers will prepare a periodic Inflation Alert to "spotlight the significant areas of wage and price increases and objectively analyze their impact on the price level."

A National Commission on Productivity has also been appointed, with an outstanding membership (list appended to this statement). Its major responsibility will be to develop and recommend new ideas, initiatives, and policies to encourage continued productivity growth both now and in the long run.

Productivity is a key link between wages and prices. Its growth in the United States has been poor in recent years by both historical and international standards. The slow growth of productivity in 1969 and the decrease in the first quarter of 1970 is one important explanation of the long lag between the cooling of demand pressures and the improvement in price performance. The rate of wage increases in the total economy did not appear to accelerate very much during this period.

Near term prospects for productivity growth are much better than the 1969 experience. While complete data are not yet available, it appears that the annual rate of growth in productivity in the second quarter of 1970 was at least 3 percent, which is close to its historical level. This and subsequent improvements will contribute significantly to the improved price performance that is expected in the last half of this year.

THE BUDGET OUTLOOK

Having in mind the linkages in budget flows from one year to the next, the necessity for relating the parts to the totals, and the President's guide to the relation of total revenues and expenditures to economic developments, let us turn to the budgets for fiscal years 1970, 1971, and 1972.

In February the President proposed budgets for fiscal years 1970 and 1971 with surpluses of $1.5 billion and $1.3 billion, respectively. A combination of events since February has, as reported in the May estimates, pushed both budgets from surplus into deficit.

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[1] Human resources programs are those included in the functional categories, income security, education and manpower, health, and veterans benefits and services. Almost all of the outlays for veterans benefits and services can be identified with the preceding three categories.

The revised estimates for fiscal year 1970 showed that the shift from a $1.5 billion surplus to a $1.8 billion deficit resulted almost entirely from a shortfall in estimated receipts rather than from an overrun in spending. Preliminary figures for 1970 will be published before the month is out. For this reason, I shall not speculate about what the specific results for the year will be. Data for the first 11 months suggest strongly, however, that outlays have been held within the May estimate of $198.2 billion.

This is despite significant and continued pressure from some uncontrollable costs, the increase over the proposed budget of education and veterans programs, and Congressional inaction on postal rate increases.

Any deficit will result from a shortfall in revenues below those that would have been generated at full employment. In May, as you recall, receipts were estimated at $196.4 billion.

The outlook for the current year—1971—is clouded with uncertainty and for the most part the clouds are dark and threatening. It was concern with these threats that prompted the President's Statement of July 18, a Statement calling attention to problems when there is ample time to do something about them.

On the revenue side of the budget, problems are of two types. On the one hand, Congressional action or inaction has reduced potential revenues. The Tax Reform Act of 1969 reduced estimated receipts below the President's April tax proposals by about $3 billion for 1971 and by about $5½ billion in 1972. Moreover, no action has been taken on the President's proposals for a tax on lead in gasoline, a speedup of estate and gift tax collections, and an increase in postal rates.[3] These three items together would yield revenues of about $4.5 billion in 1971.

On the other hand, though the economy is expected to be expanding throughout fiscal 1971, it will not be operating at a level sufficient to generate revenues to the full potential of the present tax system.

Both potential and actual revenues can be affected by prompt Congressional action on the President's revenue proposals. We will need these expanded boundaries if expenditures are to be contained within the revenue producing capacity of the tax system.

The expenditure side also presents a mixed picture. The May revision showed a rise from the original estimate of $200.8 billion to $205.6 billion, the result in significant part ($2.1 billion) of increased estimates for mandatory payments: interest on the debt, unemployment compensation, public assistance, and a miscellany of other items. These mandatory items may well call for somewhat higher outlays, perhaps by a total of $3.5 billion rather than $2.1 billion. These increases and Presidential and Congressional changes identified in the May review are carrying the expenditure total upwards.

The major uncertainty, of course, is the outcome of the appropriations process. This matter deserves our closest attention since it poses problems of great concern and potential damage to the long term economic outlook.

The two largest appropriations bills—Defense and HEW-Labor-OEO—have not yet cleared the House. But many others have passed both House and Senate and are in Conference or awaiting Conference. The Education bill needs only action by the Senate and it will be on its way to the President.

A tabulation of some of the actions involved here suggests the nature of the problem:

[In millions of dollars]

	1971 request	Changes from request: House	Senate	Conference
Appropriation bills:				
Education	3,967	+320	+701	+453
Independent offices and HUD	17,293	−78	+1,187	
Agriculture	7,748	−298	+728	
Labor-HEW-OEO	18,732	+93		
(Deletion of social services limit may add $200 in outlays.)				
Foreign assistance	2,977	−756		
Interior	1,840	−230	−5	
Other bills passed by House	16,748	−515		
Defense	68,746			
Major changes from request in substantive bills:				
Social security (H.R. 17550)		+1,500		
Veterans education (Public Law 91–219)		+169	+169	+169
Veterans compensation (S. 3348)		+226	+114	
Employee health benefits (H.R. 16968)		+140		
Emergency home financing (S. 3685)		+1,500	+60	
Food stamp program (S. 2547)			+750	
National service life insurance (permit use to purchase mortgages, H.R. 9476)		+750		

What will emerge from the appropriations process, of course, remains to be seen. In view of these uncertainties, added to those on the revenue side, we do not offer any further reestimation of the 1971 Budget beyond that identified in May.

But the problem is clear, as is the need for care and caution at both ends of Pennsylvania Avenue. Dedication to and fascination with parts of the budget cannot be allowed to obscure the sum-total to which the parts must finally add.

The perspective of the longer run also urges prudence and responsibility by the Congress in acting on fiscal year 1971 appropriations requests and substantive legislation. We have begun to assemble data preparatory to developing a budget for fiscal year 1972. Just as the 1970 actions are now adding to 1971 outlays, legislation currently being considered by the Congress would boost 1972 outlays significantly. In our preliminary look at possible expenditure levels in 1972, we have examined with care these and other factors. We simply cannot accept the result to which the path of least resistance takes us.

We are on the threshold now of getting control of a problem that has proven stubborn and resistant. We know what caused the inflation, we know how difficult it is to rein in inflation once it starts running, and we know the pains that accompany such an effort. We must keep the momentum of Federal expenditures from carrying them again, as in 1967 and 1968, beyond the revenues produced by the tax system at full employment. We would surely pay fully for such expenditures—whether in higher tax rates or higher prices.

Thus, the quality of Congressional action in the weeks immediately ahead on both the revenue and expenditure sides of the Budget is of critical importance, not only to this year, but to next year and the years ahead; not only to the Federal Budget, but to our continuing effort for a healthy and expanding economy, reaching full employment with reasonable stability of prices.

AN EXPENDITURE CEILING

The Congress passed and the President signed only weeks ago a bill that imposed on him a ceiling on expenditures. The Congress, however, has placed no such limitation on itself. Such a ceiling, with necessary discretion to reallocate funds within the total, can be an important tool in the effort to relate action on parts of the Budget to its overall dimension. The President in his July 18 Statement, reaffirmed his intention to live within that ceiling and he suggested that Congress bind itself to that ceiling as well.

I hope that this Committee, with its special concern for economic aggregates and for guidance on economic policy, will want to endorse this suggestion and carry it to your colleagues with a sense of its genuine merit and urgency.

MEMBERS OF THE NATIONAL COMMISSION ON PRODUCTIVITY

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Howard W. Johnson, President, Massachusetts Institute of Technology.

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Arjay Miller, Dean, Graduate School of Business, Stanford University.

W. Allen Wallis, Chancellor, University of Rochester.

Government

David M. Kennedy, Secretary of the Treasury.

Maurice H. Stans, Secretary of Commerce.

Paul W. McCracken, Chairman of the Council of Economic Advisers.

George P. Shultz, Director of the Office of Management and Budget.

STATEMENT OF PAUL MCCRACKEN, CHAIRMAN OF THE COUNCIL OF ECONOMIC ADVISERS, BEFORE THE JOINT ECONOMIC COMMITTEE

I appreciate the opportunity to appear again before this Committee for its mid-year review of economic developments and their implications for policy. The past few months since I was last before the Committee have been a period of great uncertainty about where the economy was going and of unusual volatility in sentiment. Recent developments and information, however, have made the main elements in our situation somewhat clearer.

First, the economic decline has not cumulated, but appears to be bottoming out and at worst is unlikely to proceed much further. Its maximum dimension will be far short of the experience in any of the postwar recessions.

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[3] Technically, postal rate changes are treated in the unified budget as a change in outlays.

Second, signs of the expected slowdown in the rate of inflation are becoming stronger, and there is little doubt that continuation of economic policy on its planned course will reduce the rate of inflation further. The inflation rate has proved to be more stubborn than was commonly expected, but it has not been immune to changing economic policies and conditions.

Third, attention should now focus on the requirements for assuring that the upturn will carry through steadily to full employment but not so rapidly as to cause inflation to speed up once more.

ECONOMIC DEVELOPMENTS IN THE FIRST HALF OF 1970

Let me now turn to economic developments during the first half of 1970, partly against the background of expectations held at the beginning of the year.

The slowdown of demand

A major factor in the change that has occurred in the economy in the past year has been the reduction in the rate at which total expenditures (private and public) for goods and services increased. Reducing the rate of increase in this money demand for output was one of the key steps in the policy of reducing the rate of inflation. It was obvious at the beginning of 1969 that with the economy crowding capacity and with total output capable of growing by around 4 percent a year, continued increases of expenditure much in excess of that rate inevitably meant continued rapid inflation. The objective of fiscal and monetary restraint was to check the growth of total expenditures for output, but not so sharply as to trip off a downward spiral of incomes and output.

The rate of increase in these total expenditures declined by almost 50 percent from the three quarters ended in July–September 1969 to the three quarters ended in April–June 1970. The dollar amounts of these changes in total expenditures and in its main components are shown in the accompanying table.

CHANGE IN THE ANNUAL RATE OF TOTAL EXPENDITURES (GNP), BY COMPONENTS

[Seasonally adjusted annual rates in billions]

Component	1968–IV to 1969–III	1969–III to 1970–II
Total	$51.2	$27.5
Federal purchases	.6	−2.9
Defense	(.6)	(−2.7)
All other	50.6	30.4
Change in business inventories	2.0	−8.7
Final sales (excluding Federal purchases)	48.6	39.1
Consumption expenditures	31.3	32.1
Nonresidential fixed investment	9.9	1.2
Residential construction	−.7	−2.5
Net exports	1.2	1.2
State and local purchases	6.9	7.1

Source: Department of Commerce.

The complex interaction among components of GNP makes it impossible to say how much of this slowdown in spending was due to policy actions and how much to spontaneous forces, or to isolate the separate effects of different policy measures. Nevertheless, it seems reasonable to conclude, since it conforms to expectations based on past experience, that the reduction in the rate of monetary expansion had a general and pervasive influence. The money supply, which had grown at highly inflationary rates in 1968 and set the stage for further overheating the economy in 1969, increased only moderately in the first half of last year, and in the second half of 1969 there was virtually no expansion. Indeed, the money supply broadly defined to include time deposits actually declined slightly in that half-year period.

The influence of monetary policy was supplemented and to some extent directed into specific channels by the fiscal actions which accompanied it. The shift from increasing to decreasing defense production has clearly exerted an independent influence, and it was on a larger scale than is indicated by defense purchases alone because some part of the reduction in inventory accumulation was also the result of lower defense production. At the same time budgetary actions—the tax reduction and the social security benefit increase especially—were helping to sustain the increase of consumption expenditures in the face of a much reduced increase of earned personal income. But these budgetary actions helped to shift the budget position, as measured in the national income accounts, from a surplus at the annual rate of about $7 billion in the second half of calendar 1969 to a deficit of about the same size in the first half of calendar 1970. This contributed to the continued tightness of capital markets and to the lag of housing.

ANNUAL RATE OF INCREASE IN THE MONEY SUPPLY AND TIME DEPOSITS

[Seasonally adjusted; in percent]

Period	Money supply	Money supply plus time deposits
December 1967 to June 1968	7.3	6.4
June to December 1968	7.1	12.5
December 1968 to June 1969	4.4	.1
June to December 1969	.6	−.3
December 1969 to June 1970	4.2	5.7

Source: Board of Governors of the Federal Reserve System

Although the increase of total expenditures for output has been markedly less in the past three quarters than earlier, the increase was larger in the second quarter of 1970 than in the previous quarter or in the fourth quarter of 1969. This is part of the evidence of an emergent economic expansion.

That the rate of increase of total spending for output should slow down was, as I have already indicated, both expected and desired, in order to reduce the inflation. The actual increase in the rate of spending from the third quarter of 1969 to the second quarter of 1970 was $6 billion below the increase expected when we made our projection for the year in January. This difference is largely accounted for by an unexpectedly sharp reduction in the rate of inventory accumulation. Final sales, *i.e.*, total expenditures less additions to inventories, have risen about $1 billion more than we had projected.

THE DECLINE OF REAL OUTPUT

A slowdown in the rise of real output was an inevitable part of the disinflationary process. The rate of inflation would not respond immediately to the slower growth of total expenditures, and this lag would adversely affect the rise of real output. Real output would move below its potential, but this would be essential as a part of altering the balance of market pressures against wage and price increases.

It was part of the strategy of policy that a sharp decline of output was to be avoided and that the gap between actual and potential output be kept small. The reason for this was to limit adverse effects on incomes, production, and employment, and to reduce the danger that the slowdown would set off a cumulative downward spiral. It was recognized that caution on that side implied some willingness to accept delay in seeing anti-inflationary results.

In fact, total production, as measured by the gross national product in constant dollars, has declined 0.9 percent from its peak in the third quarter of 1969 to the second quarter of 1970. For perspective, this may be compared with 3.2 percent in the corresponding period after the peak in 1953, 3.4 percent after 1957, and 1.3 percent after 1960.

Industrial production has declined 3.4 percent from its peak in July 1969 to June 1970. Industrial production is typically more variable than total output. The current decline of industrial production has also been smaller than the decline over an equal interval in postwar recessions.

We consider it important to note that real output showed no sign of a cumulative decline. The largest decline came in the first quarter and, according to preliminary estimates, total output was essentially unchanged in the second quarter. Industrial production continued to fall through June, but the percentage decline in June was less than in May or April.

In our Annual Report at the beginning of the year, we indicated our belief that total real output would be approximately level in the first half of 1970. Instead, the decline in the first quarter and leveling in the second quarter left second quarter output about 0.7 percent below the fourth quarter rate.

Employment and unemployment

The slowdown in the increases in demand and output have, of course, affected the employment and unemployment picture. By the end of the first half of 1970, total civilian employment, although one-half million greater than a year earlier, was one-half million less than in December 1969. We expected that the demand for labor would be weak in the first half when real output was edging down.

The unemployment rate increased markedly in the first half of 1970, from 3.6 percent in the fourth quarter of 1969 to 4.1 percent in the first quarter and to 4.8 percent in the second. The increase in unemployment during the first quarter was in part a consequence of an unusually rapid growth in the labor force. On a seasonally adjusted basis, the civilian labor force grew at a 5.9 percent annual rate from December to March, far in excess of its normal rate. However, some correction of this extraordinary growth occurred in the second quarter, when the labor force contracted. By June the labor force was only 2.0 percent above its level a year earlier, a growth rate much more in line with normal expectations.

At the beginning of 1970, we expected some increase in unemployment during the year. The greater than expected increase in unemployment was a result of several factors in addition to the very large increase in the labor force in the first part of the year. Output was more sluggish in the first half than we had expected, and employment growth was consequently weaker. In addition, strikes in the trucking industry, particularly in the Midwest, led to widespread temporary layoffs.

Cutbacks in the defense industry also contributed significantly to job loss, particularly among highly specialized workers in certain parts of the country. The extent of this and its economic implications are inadequately recognized. From the last quarter of 1968 to the second quarter of 1970, the annual rate of defense purchases, of goods and services, declined by about $13 billion in real terms (at mid-1970 prices). Further significant decline may be expected during the remainder of this year. As I pointed out earlier, the decline in defense production is undoubtedly larger than the decline in defense purchases because as defense orders fall more and more deliveries are made out of inventories rather than out of production. The armed forces have been reduced 423,000 from their peak, and employment in defense product industries has declined 320,000 over the past 2 years.

The unemployment problem normally associated with such a transition from defense to civilian production and employment comes on top of the unemployment problem associated with the ending of an inflation. In other circumstances, a stronger general demand for labor might have existed or been created, which would have speeded up the absorption of former defense workers into other employment.

The number of persons counted as unemployed increased by 1,137,000 from June 1969 to June 1970. The common picture of this as meaning that 1,137,000 persons once permanently employed are now permanently unemployed is, of course, incorrect. In any year large numbers of people experience some unemployment, most of them for very short periods, such as four or five weeks or less. An increase of unemployment is almost always made up of some increase in the number of people experiencing unemployment and of some increase in the average duration of unemployment before a job is resumed. Although figures for 1970 will not be available until next year, both parts of this process are clearly going on now, and a large part of the increase of unemployment is due to a rather moderate increase in the median duration of unemployment, from 4.4 weeks in June 1969 to 5.1 weeks in June 1970. This is not, however, to belittle the grave problems that these developments have posed for those whose employment has been interrupted. I want to emphasize what I have stated in the past that so long as anyone is unable to find a job, we have unfinished business.

Prices and wages

At the start of the year we expected that the gap between the economy's actual and potential output would bring about conditions making for a slower price rise. With jobs harder to find, labor would find it more difficult to make the kind of wage bargains it had during periods of low unemployment. Businesses in turn, facing more competitive markets, would be less likely to grant large wage increases if they believed that it would be difficult to recover higher costs in the form of higher prices. Furthermore, business would take more vigorous steps to cut costs by eliminating the inefficiencies that had grown up over the long period of inflation. This change in behavior was not expected to come all at once; we could not expect to root out in a few months problems of an inflation of long standing.

Specific signs of progress in the fight against inflation are not as numerous as we had hoped but they are now emerging. They should increase in number as 1970 progresses because the gap between our actual and potential production will persist.

The most comprehensive measure of price increases, the GNP deflator, showed a clear-cut slowdown in the second quarter. The 4.2 percent increase was smaller than in any quarter of 1969 and approximately matched the annual increase from 1967 to 1968. This slowdown is good news for all of us even though the improvement was greatly influenced by changes in the composition of GNP. (Some of the earlier recorded increases in the deflator, of course, also reflected obverse shifts in composition).

We do have final figures on the wholesale price index and here there is unmistakable evidence of a slower rise in prices in the first half of 1970. From December to June, the WPI rose at a seasonally adjusted annual rate of 2.6 percent, which was well below the average quarterly gain of 1969. In the second quarter, the rise came to only 1 percent. All of the improvement this year as compared with 1969 has occurred in prices of farm products and processed foods. On a seasonally adjusted basis, the rise in industrial commodities is about the same as the quarterly average last year. However, the price rise for both producer and consumer (nonfood) finished goods has been smaller from December to June than it was from June to December, 1969.

Two further points should be made here. The decline in food prices is extremely important and should be reflected with the usual lag at the retail level. Second, there is some reason to believe that some price cutting is going on in industrial markets that is not being picked up in the official prices indexes, which tend to reflect list prices only.

Unfortunately, the declines at the wholesale level have yet to be felt at retail. We have no evidence as yet of a slowdown in the consumer price index. However, with more favorable movements in wholesale food prices and with some slowdown in wholesale prices of other consumer finished goods, some response at retail should be forthcoming.

Data for the first half of 1970 indicate that average wage increases for the whole economy have slowed down somewhat during this period. The annual rate of increase in average hourly earnings in all private industries from the fourth quarter of 1969 to the second quarter of 1970 was only 5.2 percent as compared with an increase of 6.3 percent in the corresponding quarters one year earlier. From the first to the second quarters of 1970, average hourly earnings increased at an annual rate of 6.5 percent, while the increase was 6.9 percent for the same period in 1969. The slowdown in the rate of increase appears to be related to the elimination of overtime and changes in industry mix.

Wage increases negotiated under major collective bargaining agreements have not slowed down in the first half of 1970. The highly publicized large collective bargaining settlements, however, can give a distorted view of overall wage developments. Although the calendar for these collective bargaining negotiations is heavy in 1970, only about 6 percent of the total labor force will be covered by settlements reached under major agreements. Furthermore, most of the extremely high settlements have been in construction and trucking, which partially reflect symptoms of continuing structural problems in these industries. The high settlements in construction, for example, appear to result in part from a combination of the rapid expansion of demand for nonresidential construction in the late 1960's and union limitations on entry to the industry.

The relationship between wages and prices depends heavily on the behavior of productivity, of output per man-hour. It is only when the recent pace of wage increases is combined with the absence of gains in productivity that we can understand the rapid increase of unit labor costs which has contributed to the persistance of inflation. For example, from the fourth quarter of 1968 to the first quarter of 1970, compensation per man-hour in the private nonfarm economy rose at the annual rate of 6.4 percent, but productivity actually declined at the annual rate of 0.8 percent, with the result that labor costs for unit of output rose at an annual rate of 7.2 percent. This, of course, had a great deal to do with the fact that prices of private nonfarm output rose at an annual rate of 4.9 percent in the same period.

Preliminary information for the second quarter of 1970 suggests that productivity began to rise again, and may have increased at the annual rate of as much as 3 percent. This in turn may be related to early evidence suggesting that profits were somewhat better in the second quarter that many had feared earlier. Whether or not that turns out to have been true, all the conditions seem present for a rise of productivity in the future.

Balance of payments

Our international transactions during the first half of 1970 have shown both favorable and unfavorable developments. On the favorable side there is a significant improvement in our current transactions. Our merchandise trade surplus, in particular, has shown a fairly steady increase from the low figures of late 1968 and early 1969. In 1968 our merchandise balance had declined to a monthly rate of only $70 million. In 1969 it was $105 million. And in the first five months of 1970 it was $226 million (seasonally adjusted).

Taking goods and services (including factor income) together, our exports for the second quarter of 1970 are provisionally estimated at a seasonally adjusted annual rate of $62.5 billion, or 23.5 percent above the average rate for 1968, and 12.6 percent above the average for 1969. Our imports of goods and services in the second quarter are tentatively put at $58.7 billion, or 22.0 percent above 1968 and 9.5 percent above 1969. The surplus on goods and services of $3.8 billion, if confirmed by later estimates, would be the largest since the end of 1967. This improvement is due in part to strong demand for our exports and a continued growth in income on investments abroad, and also to some slowdown in the growth of imports.

Developments have been less reassuring in our capital accounts. Second-quarter estimates will not be available for some months, but in the first quarter U.S. private long-term capital flowed out at a record rate. Despite controls on direct investment of U.S. corporations, there was a net outflow at a seasonally adjusted annual rate of $5.2 billion. Portfolio investment by U.S. residents was also at a high level, while the net inflow of foreign private capital was much less than in the years 1968 and 1969. There was a small reduction in U.S. Government grants and capital, to an annual rate of $3.3 billion.

The net result of these diverse developments in the current and the capital account was a liquidity deficit at an annual rate of $6.2 billion, including the first allocation of Special Drawing Rights at an annual rate of $0.9 billion. This is a large deficit by historical standards, though it was exceeded in the second and third quarter of 1969. The official settlements balance, again including SDR's, turned from a sizable surplus in 1969 to a large deficit of $11.4 billion in the first quarter of 1970, reflecting primarily the accumulation of dollars in the hands of foreign official institutions. Tentative indications suggest that the liquidity and official settlements deficits continued into the second quarter but at a significantly lower rate.

PROSPECTS FOR THE REMAINDER OF 1970

We have behind us a moderate decline in the real economy and the first signs of a decline in the rate of inflation.

What lies ahead?

With economy activity bottoming out in the second quarter of 1970, it is reasonable to expect a resumption of growth in real GNP in the second half, accompanies by a better price performance. As we stated in our Economic Report, the existence of slack in the economy means that increases in demand can be translated primarily into output increases rather than price increases. At the same time we are likely to experience a further moderate rise in unemployment rates over the average level that prevailed in the second quarter. The unemployment rate will start to level out and decline only after the recovery is vigorous enough to diminish the gap between actual and potential output.

At the start of 1970 it was recognized that in order for the economy to resume its expansion in the second half, it would be necessary to relax monetary policy at the beginning of the year. A change in monetary policy occurred around mid-winter. Growth of the money supply from December to June averaged 4.2 percent at an annual rate, as compared with 0.6 percent for the preceding half year.

In capital markets, the change in policy first produced easier credit conditions. Short-term interest rates declined sharply. Although U.S. Government and municipal bond yields also receded, corporate yields only leveled off and in May they began to rise again. With pessimism about profits and with a continuing need to refinance short-term indebtedness incurred in earlier months, corporate demand for long-term credit remained intense. Corporate bond issues, which had totaled $9.3 billion in the first half of 1969 and $9.1 billion in the second, were $14.1 billion in the first half of 1970. However, the early weeks of July brought signs that these pressures have abated, and bond yields have backed down from the peaks of June.

At the turn of the year, deposit flows into savings institutions recovered dramatically from the severe decline of 1969. The net change in mortgage holdings of all financial institutions, which had fallen sharply after the middle of 1969, reached a low point in March and showed a definite improvement in April and May.

The increase in the money supply and improvement in credit market conditions should be felt throughout the economy but should be most noticeable in the case of homebuilding and State and local expenditures. There have already been some signs of an imminent upturn in homebuilding; building permits rose in April and May to their best levels in about a year. Housing starts rose sharply in June. A very considerable backlog demand for housing has built up as a result of the low volume of housing starts in the past several years, and the easing of credit ought to find a reasonably prompt response in housing starts.

Fiscal policy also became more expansive in the first half of 1970, and we have by no means felt all of the effects of this stimulus. That is suggested by the unusually high savings rate (7½ percent) in the second quarter, indicating that consumers have not yet fully adjusted outlays to increases in their after-tax incomes. Furthermore, starting in July, there was the complete elimination of the surtax as well as the increases in personal exemptions that were part of the Tax Reform and Relief Act of 1969. These provisions will add an estimated $5 billion to consumer disposable income in the third quarter. Altogether, the elimination of the surtax, the rise in Social Security benefits, the Federal pay raise and the reform and relief provisions of the tax law have added over $16 billion to consumer disposable income since the final quarter of 1969. We have already seen some positive results in consumer spending in the first half, and it is reasonable to expect more in the second as consumers adjust more fully to these income changes.

Federal expenditures are not likely to show much change over the current half year. Cutbacks in defense purchases will continue, offset by rising expenditures of other types.

Finally, plant and equipment outlays ought to be a little higher in the second half than in the first. This is not inconsistent with a further scaling back of the plans reported in the June Commerce-SEC survey. Inventory accumulation should also rise after unusually low figures of the past half-year.

When we put these figures together, they add to increases in real GNP of moderate size in the second half. This assumes no interruptions from major strikes, about which I have no special knowledge. We should also see for the first time a slower price rise at the consumer level. Prospects are particularly favorable for retail food prices to change relatively little in the second half because of larger supplies coming to market.

THE PROBLEM OF LIQUIDITY

The Chairman of the Committee requested that I comment on the liquidity problem. This is an important matter. It is a factor thought by some to cloud the prespect for economic revival and even to hold potential danger that a decline might resume.

A liquidity problem in the sense of disorganized financial markets clearly does not exist. If there were a generalized scramble for funds, interest rates, particularly short-term rates, would be rising sharply. In fact, they have been declining. Our banks are strong. Consumer credit is not out of line with incomes, and delinquency rates are well within the range of normal expectation.

Certain statistical measures of average liquidity have shown substantial declines. The ratio of quick assets (cash and U.S. Government securities) to current liabilities for nonfinancial corporations declined from 0.33 at the end of 1964 to 0.19 at the end of 1969, and to 0.18 in the first quarter of 1970. For manufacturing corporations in this five-year period, the decline was from 0.43 to 0.23. These declines seemed to come heavily in two spurts, one from 1964 to 1966 and the other from 1968 to date.

These declining measures of liquidity reflect many things. There has been a long-run trend toward holding smaller reserves of cash and marketable securities, as companies have been attracted by the increased profits obtainable from investing such funds in inventories and other forms of working assets. Modern techniques of short-term portfolio management have also encouraged this development.

LIQUIDITY RATIOS OF U.S. CORPORATIONS

Year (end of period)	Nonfinancial corporations[1]		Manufacturing corporations[2]	
	Current ratio[2]	Quick ratio[3]	Current ratio[2]	Quick ratio[3]
1964	1.84	0.33	2.39	0.43
1965	1.79	.29	2.27	.37
1966	1.74	.25	2.16	.30
1967	1.75	.24	2.20	.29
1968	1.72	.23	2.14	.28
1969	1.64	.19	2.01	.23
1970 (1st quarter)	1.63	.18	1.99	.21

Sources: F.T.C., S.E.C. Quarterly financial reports for manufacturing corporations, S.E.C. Statistical Bulletin.

[1] Excludes banks, insurance companies, and savings and loan associations.

[2] Total current assets divided by current liabilities.

[3] Cash plus Government securities divided by current liabilities.

In addition to these long-run trends, two further developments seemed to become more evident in recent years. Both were related to the persisting inflation that began to gather momentum in 1966. As the inflation persisted, and after 1967 accelerated, firms began to shift from cash and financial assets to inventories and physical capital assets. This was presumably a preventive measure reflecting fears about an erosion of the real value of assets from continuing inflation. In their endeavor to minimize this risk, some businesses may have come to give inadequate weight to the normal risks and contingencies for which quick assets and a strong current position are a part of prudent financial management.

Moreover, business capital demands were intense in 1969, as projected increases in outlays for plant and equipment rose to the 12–14 percent range, this is an economy capable of increasing real output by roughly 4 percent per year. There was in many of these capital budgets also a strong component of inflation-mindedness. These developments began to crowd against a flow of internal funds adversely affected by declining profits. Heavy demands were, therefore, thrown into credit markets also under growing pressure from restrictive monetary policies. Financial markets tightened and interest rates rose sharply. In the face of high bond yields and falling equity prices, many companies borrowed short-term funds last year with the intention of converting to long-term financing at a more opportune time later. This year many firms were faced with converting this short-term indebtedness into longer-term maturities. As a result, the demand for long-term funds continued to be intense this year, and the bond market has been forced to handle a tremendous volume of new issues. In the intense competition for funds, some borrowers have inevitably been squeezed out.

We are now engaged in a more detailed study of the liquidity problems of corporations and hope to be able to submit its results to this Committee soon. However, our study of this problem to date has led us to three main conclusions.

First, the financial institutions of the country are in sound condition and financial markets are working effectively. The ability of the banking system to meet demands upon it has been strengthened by accessibility of the Federal Reserve discount window and by the new ability of banks to attract funds through certificates of deposit.

Second, although the liquidity of nonfinancial corporations on the average has declined by almost any measure, it is only in quite exceptional cases that serious difficulties exist. These cases do not constitute a problem for the economy as a whole. At the same time we must be alert to these situations, and have the capability and will to handle them decisively, in order to minimize the danger of adverse secondary effects.

Third, the overall supply of liquidity, as measured by the supply of money and the availability of credit, is on the low side of what is needed, especially for a period which we expect to be the beginning of renewed economic expansion. Assurance of a sustained rise in the economy would be improved by more rapid strengthening of the economy's general liquidity position.

MANAGING A NONINFLATIONARY EXPANSION

There is strong and increasing basis for confidence that the decline of the economy is about over and that we will soon be seeing the signs of an upturn. While there is, as usual, disagreement about the precise dates and quantities involved, it is timely for us to look beyond the turn as such and explore the problems of managing an orderly recovery to full utilization of our productive capacity.

The word "managing" deserves emphasis. Having come this far along the road of reestablishing the basis for a more stable price level, we must resist the temptations of overly expansionist policies. There is too much viscosity in our economy for an immediate and dramatic rebound, and in trying to achieve this we would court the risk of reactivating inflationary pressures and inflationary fears.

At the same time we can now begin a more expansionist course for the economy and still continue to make progress against the inflation. Price developments in the period ahead will heavily reflect the emergence of slack in recent quarters. Price-making forces move slowly through the economy. We have already incubated disinflationary pressures whose results on the price level are still largely to come into the picture.

Moreover, even when the economy has turned the corner, we cannot assume an automatic return to full employment. In 1958 the economy began a strong recovery from its low point, but that did not continue long enough to eliminate its slack. The 1960–61 recession was the mildest of postwar history, but four years after its low point the unemployment rate was still 5 percent, and another year was required to achieve 4 percent. Certainly our goal must be to regain full employment more promptly this time.

We must begin now to think in terms of the magnitudes that will be required in the period ahead. They are large. Potential real output rises by at least 4 percent per year as a result of the growing labor force and the various factors that increase productivity. In addition to this we now have some arrearages to make up in a reasonable period. Total output was probably running about 4 percent below its potential, in the second quarter of 1970, as conventionally defined; that is, it was about 4 percent below the output we would have produced if unemployment had been 4 percent and productivity had been on its long-term trend. And the price level in the period ahead will have some upward drift even though the inflation continues to decelerate. Therefore, the rates of increase of money GNP required for recovery to full employment will be somewhat higher than the needed rates of increase of real output alone. These figures suggest that even for the economy to move along an essentially noninflationary growth path, needed rates of growth in the money demand for output must be large.

Such rates of increase of total output would also involve unusually large increases in productivity—in output per man hour. The possibility of achieving a large increase of productivity is implicit in the estimate that, while employment in the second quarter of 1970 was roughly 1 percentage point below full employment, real output was 4 percent below potential. A rapid increase of productivity has been our normal experience when the economy was in the early stages of recovery from a slowdown, and there is no reason why it should not occur now.

The rapid rise of productivity would, of course, make a substantial contribution to the reduction of inflation, reversing a factor which has been making a major contribution to the continuation of inflation. If productivity should now rise for a time at the rate of 4 or even 5 percent, which is not impossible, the rise of unit labor costs would be dramatically reduced, and so would cost pressures on the price level.

In the management of fiscal and monetary policy it will be essential to keep in mind that a rate of expansion which is appropriate if we are moving along the path of reasonably full employment is not adequate when we begin from a position substantially below that path. This is doubly important when we bear in mind that it is also an economy needing some strengthening of its liquidity condition.

The problem of fiscal management in the period ahead is particularly complex. The basic task of fiscal policy is always to assure that we make provision for the most important national needs which should be met through the Federal budget and that resources and finance are left available for those important public and private needs that must be met outside the Federal budget. The overwhelming requirements of this task, and of the political process through which it is performed, leave little room for flexible variation of the budget to meet changing requirements of economic stabilization. In fact, as experience demonstrates, just to keep the budget from being a destabilizing force in the system is difficult.

Probably the basic contribution fiscal policy can make to the orderly and expeditious recovery of the economy is that it should not place upon either monetary policy or on private market forces the need to adapt to sharp changes of conditions. We should achieve at least a balance and hopefully a moderate surplus in the budget when the economy regains full employment, because after this present multifaceted transition the demand for captal to finance housing, State and local investments, and business investment will be high, and a strong budget will help to meet those demands. The transition from today's deficit to the desired full-employment balance or surplus should be made smoothly as the economy rises to its potential. Particularly we should avoid falling off this path into significantly larger deficits. One of the most serious consequences of such a development would be to interrupt the emergent recovery of housing.

The recovery of the economy added to its normal growth will greatly increase the revenue-yielding base. But what is truly amazing is the extent to which this increase is already committed, by tax reductions scheduled under the 1969 Act and by a seemingly irresistible flood of expenditure increases built into existing legislation. The dominant, persistent budgetary problem of our time will be to hold expenditures in line with what the people are willing to pay for. We cannot afford to be diverted from that task.

The Administration relies basically on the combination of fiscal and monetary policy, with the spontaneous adaptive forces of the private economy, to move us along the path to full employment with less inflation. Still we have been anxious, as any Administration would be, to find supplementary measures that would really help to speed the disinflationary process. To this purpose we began considering in March, 1969 a wide rang of possible actions falling within the category loosely called price-wage policy of incomes policy. We have not lacked suggestions in this area.

Our objective was to isolate those elements of such possible actions that held promise of success. In this consideration, it was necessary to get behind the labels pinned on policies to discover what they really consisted of and were likely to perform. The conclusion of considerable study and discussion within the Administration was that the following steps would be useful:

1. To mount a major cooperative effort of the private sector and the government to increase productivity.
2. To provide a forum within which leaders of the private sector and of the government can discuss the requirements of a stable and growing economy.
3. To provide the public with more information about the consequences for the course of the inflation of private wage and price decisions.
4. To assure that in the exercise of the Federal Government's procurement and regulatory functions more weight be given to the objective of restraining inflation.

The President announced in his address on June 17 that these steps would be taken. Since then we have been engaged in putting them into effect. A National Commission on Productivity has been established. It will hold its first meeting on August 6. At that time the Council of Economic Advisers will submit to the Commission its first Inflation Alert, outlining the consequences of major price and wage decisions for changes in the price level. A Regulations and Purchasing Review Board has also been established to determine where these Federal activities tend to drive up prices, and this Board is now also functioning.

These measures have been carefully chosen. They are an effort to assure that, within the logic of a free economy, we leave nothing undone to assist the country through the difficult transition we must now make. We will pursue this effort as diligently as possible and are hopeful it will make a contribution.

CUSHIONING ADJUSTMENT HARDSHIPS

During this period of transition we need measures to cushion the adverse effects of adjustment. The unemployment insurance system has been a support to hundreds of thousands of workers during interruptions of employment. Last year the Administration proposed legislation that would have extended unemployment insurance coverage to millions of workers now uncovered, and improved the system in other respects. It is to be hoped that this can soon become legislation.

The Administration has also proposed an automatic increase of 10 percent in funds allocated to manpower training programs when the unemployment rate rises above 4.5 percent for 3 consecutive months. Had this legislation been enacted, this increase would already have taken effect. Unemployed workers could take advantage of these increased opportunities for training and upgrading of skill levels during interruptions of employment. Higher skill levels of the work force have been an important source of productivity growth, and the increased training opportunities under the Manpower Training Act would enable these workers to obtain better jobs and lay the basis for future improvements in their earnings capacity and in national productivity.

CONCLUSION

This review of recent economic developments, evidence about our prospects, and the implications of these for the management of economic policies has led me to four major conclusions.

First, the adjustment of the economy to needed measures of disinflation though painful has produced no cumulative decline in business activity. In overall terms it has established itself as discernibly less severe than the 1960–61 decline, which itself was the mildest recession of the postwar period.

Second, an evaluation of basic forces which will be shaping the course of the economy in the period ahead leads to cautious optimism about an improvement in business conditions during the second half of the year.

Third, in our understandable desire to regain full employment promptly, we must not undo the substantial progress that has been made in establishing the basis for a more stable price level.

Fourth, mindful of the need to move in an orderly way, we must now face up to managing the resumption of an expansion that in a reasonable period can bring the economy back to the zone of full employment. The magnitudes are large because the basic capacity of the economy is growing rapidly, we set out on the return to full employment from a position that is below the basic path, and some strengthening of the economy's liquidity resources commends itself now as a prudent consideration of policy.

MEN ON THE MOON—1 YEAR LATER

Mr. GRIFFIN. Mr. President, 1 year ago, Astronauts Neil Armstrong and Edwin Aldrin made man's first landing on the surface of the moon.

As we all recall, this was a moment of great national pride and elation. We remained by our television sets and rejoiced as Neil Armstrong took man's first steps on the moon.

And now, 1 year later, what is the Nation's attitude? In today's edition, the Washington Daily News has some pertinent observations on that score and I ask unanimous consent that its editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE FIRST MOON MEN

Outside of a few modest celebrations like the one today in Jefferson City, Mo., the first anniversary of man's landing on the moon will be largely ignored by most Americans.

This must seem incredible to anyone who remembers the national elation on the night of July 20, 1969, when astronaut Neil Armstrong and Edwin Aldrin planted the stars and stripes on the lunar surface.

But times have changed—and the Apollo program is not the popular darling it used to be.

There have been two moon missions since Apollo 11, one successful and the other ending in near-tragedy three months ago. The next flight has been delayed at least until January to correct the defects that plagued Apollo 13.

Meanwhile, in the past year, cuts in the Apollo budget have eliminated 7000 jobs at the Kennedy Space Center in Florida. And the U.S. Senate came very close this month to chopping even more millions from the already truncated $3.3 billion space budget for 1970–71.

In short, the nation seems to be going

from one extreme to another—from lunar bliss to lunar boredom.

This is unfortunate for several reasons, one of which is that the quest for scientific excellence is not something that should be turned on or off at the whim of the moment.

The exploration of space must be continued—not just for the national pride involved, but for the benefits that knowledge can bring.

Neil Armstrong called it "one giant leap for mankind." Or have we forgotten so soon?

Mr. GRIFFIN. Mr. President, most Americans, including this one, believe there must be a reordering of our national priorities. But at the same time it is important to recognize that scientific excellence such as that developed in the space program is "not something that should be turned on or off at the whim of the moment."

Mr. President in the midst of changing attitudes in this country my attention has been called to another editorial which appeared in the July—and final—issue of Armed Forces Management magazine—a publication which has been suspended after 16 years.

One need not agree with all the conclusions in that editorial to recognize that it presents a thoughtful assessment of some of the changes in attitude taking place. I ask unanimous consent that this editorial also printed in the Record.

There being no objection the editorial was ordered to be printed in the Record, as follows:

THIRTY

To a newsman, "thirty" means the end of a story, and this is, indeed, the end of Armed Forces Management's story. After sixteen years, AFM will suspend publication with this issue. So, too, will another Ziff-Davis publication Space/Astronautics magazine.

For reasons best left to a businessman to explain rather than an editor, it would take a bit of a miracle in the trade publishing field to reverse those decisions. But at the root of such a miracle would have to be a substantial shift away from the antimilitary mood that has so heavily infected this country in recent years. There is no such shift anywhere in sight.

The demise of these two privately owned publications leaves only one major, independent trade magazine—as opposed to those sponsored by special interest groups or service associations—to cover continually, and hopefully objectively, an industrial and governmental complex of vital importance to this nation. Though business in defense and aerospace publishing has probably never been worse, the need for solid, objective reportage, analysis and commentary in this field has never been greater.

To be sure, the disappearance of two more magazines will cause no more than a tiny ripple in the already troubled waters of the defense establishment. It does, however, at least provide a moment to reflect upon a malaise which has caught hold in this sector or national affairs and which seemingly will continue to spread unchecked. A feeling grows, almost daily, that the nation's defense and aerospace establishment—the uniformed military, the civilian government workers, the industrial managers and metal workers—is being more than just trimmed. Dismantled. Both physically and mentally, may turn out to be a better description.

For more than 150,000 engineers, technicians and laborers who chose to sail on Jack Kennedy's "new ocean" of space, the journey has ended with a "For Sale" sign on their small patch of grass at Cape Kennedy, or Huntington Beach, or a dozen other places. That sign is usually about 25 yards from their neighbor's sign. For additional hundreds of thousands of those uncomplicated souls who believed the service recruitment posters, or the government's drive to bring fresh talent into public service, or whose conscience didn't seem to be upset by work in a defense plant, there suddenly is not much left but a dozen years of nontransferable experience.

Actually, there is not much disagreement, even within the highest levels of the military-industrial complex, that the U.S. defense establishment had grown too large, that costs in some cases had gotten out of hand, that we were stretched too thin militarily, that some reordering of American priorities was badly needed. Nor was there much surprise among the spaceniks that landing men on the moon was going to be an extremely tough act to follow.

But what gnaws on those who are concerned not just about jobs or advertising is the feeling that a steamroller—a crushing yet imprecise tool—has bullied its way into the operating room; that while the nation's defense and technology have not yet become inferior, traditional national attitudes in both areas are giving way to weariness and unreason and that we are now merely passing through a point on the way down where we cannot yet prove that we are in any real danger.

What we can prove, or at least infer, is that the intensity of our soul-searching and demand for change is unmatched among our most important military and technological rivals;

That an aerospace industry which had become the nation's largest manufacturing employer just a few years ago now has some 500,000 people out of work;

That pride in uniform and in military career is badly and unfairly eroded; that a soldier home on leave or an ROTC cadet on summer recess can count on little acceptance from his contemporaries;

That the far-sighted attitude toward investment in advanced technology that nurtured the great economic surge of the Sixties and which kept the U.S. balance of payments from going completely out of whack is now at the mercy of short-term gain seekers;

That some of our most important institutions—MIT's Instrumentation Lab, Stanford's Electronics Lab and the Bell Telephone Laboratory, for example, each with vital defense skills that remain unduplicated elsewhere, are all too easily being forced out of contributing to national security;

That dozens of defense contractors face grim and immediate financial pressures while the question of where the fault and responsibility lies, in-house or with the customer, remains unanswered; and

That honorable and productive corporations who see nothing immoral about producing defense material are being forced to hold stockholder meetings behind police barricades.

Even as hopeful a sign as a national movement to clean our environment is infected with sizable doses of irrationality and political opportunism aimed at blindly tipping over segments of industry.

Sour grapes? Perhaps. But it is not within this reporter's admittedly short memory, nor reflected in the notes of interviews with older, wiser men, that so few traditionally optimistic citizens could look ahead as they have always done with that feeling of certainty that the future would always bring a wiser and stronger America.

S. 4101—INTRODUCTION OF THE FEDERAL CHILD CARE CORPORATION ACT

Mr. LONG. Mr. President, there is probably no parent in this country who has not felt at one time or another the need to have in his community a trusted resource for helping him find adequate care for a child, either on a temporary or a long-range basis. And yet, despite this almost universal need, our society has not produced any mechanism, either private or public, which can respond to more than a very small portion of the demand.

The result is that both families and children are being hurt. Mothers who want and need employment or study are often either unable to undertake them, or are forced to rely on inadequate child care arrangements. Children who would benefit greatly from good child care are often being damaged by poor care or no care at all.

The need for child care resources is great and is growing, and it reflects the increasing participation of mothers in our Nation's labor force. The number of working mothers has increased more than seven times since 1940, and has more than doubled since 1950. There are, at the present time, approximately 13 million women with children under age 18 who are in the labor force. More than four million of these women have children under age 6.

Furthermore, the number of women workers is expected to grow rapidly in the years to come, and in fact is expected to increase faster than the number of men workers. It is estimated that by 1980, the labor force will include more than 5 million mothers between the ages of 20 and 44 who have children under age 5. This would represent an increase of more than 40 percent in the number of such mothers just over the next decade.

We know that at the present time there are many mothers who would be working if they could arrange adequate care for their children. This is as true of mothers in low-income families as it is of middle-class mothers. A recent study of welfare mothers in New York City showed that seven out of 10 would prefer to work if they could find care for their children. Similarly, studies and statistics relating to the work incentive program for recipients of aid to families with dependent children have shown that lack of child care is a major impediment preventing mothers from participating in employment and training programs.

The facts and figures document the very great demand by parents at all economic levels for child care resources. Unfortunately, we can also document the very poor supply of resources available to meet this demand.

Recent statistics indicate that licensed child care facilities today can accommodate only between 600,000 and 700,000 children. This is, of course, only a fraction of the children who now need child care services.

Perhaps even more serious is the fact that in spite of greatly increased willingness to pay for child care services by both governmental institutions and by private individuals, the supply of child care services is not increasing rapidly. In 1967, when the Congress established the work incentive program, we authorized unlimited Federal matching funds for child care for mothers in work and training. Despite a Federal appropriation of $25 million in fiscal year 1969, only $4 million was actually used to purchase child care. A major reason for this failure to utilize the funds available was the lack of administrative organization, initiative and know-how to create and provide child care services, as well as barriers at the local level through licensing and other requirements. In other words, the present method of simply providing matching funds to the States and hoping that child care will become available is not working. It is not resulting in the necessary increase in supply.

The States themselves have had very limited resources to devote to child care, and for many of them child care services have been given a low priority. A number of State governments are simply not staffed to handle child care services, even on a minor scale. Many States which have established licensing requirements do not have the staff to constructively help organizations wishing to establish child care facilities to meet the licensing requirements.

In very few instances is there strong State initiative in promoting the development of child care resources. Private voluntary organizations will never be capable of meeting the magnitude of need for child care services, however admirable a job they are able to do in individual instances. Local governments have shown themselves generally to be incapable of providing leadership in this area, and in many cases, unnecessarily restrictive and complex local ordinances make it difficult for any group to establish a licensed child care facility.

Private enterprise has begun to move into the gap, and in some areas is doing an excellent job in providing needed child care. On its own, however, we cannot expect private enterprise to do the whole job of organizing and providing a wide range of child care services wherever they are needed in the Nation.

In my view, Mr. President, we need a new mechanism in facing this problem, a single organization which has both the responsibility and the capability of meeting this Nation's child care needs. It must be an organization which has the welfare of families and children at the forefront, an organization which, though national in scope, will be able to respond to individual needs and desires on the local level. It must be an organization which will be able both to make use of the child care resources which now exist and to promote the creation of new resources. It must be able to utilize the efforts of governmental agencies, private voluntary organizations, and private enterprise.

The new Federal Child Care Corporation, which would be created under the bill I am introducing today, would be such an organization.

The creation of the Corporation would represent a new milestone in the concern of the Congress and of the Committee on Finance in the field of child care services. The Committee on Finance, on which I have had the privilege of serving for 18 years, has long been involved in issues relating to child care. The Committee on Finance has been dealing with child care as a segment of the child welfare program of the Social Security Act since the original enactment of the legislation in 1935. Over the years, authorizations for child welfare funds were increased in legislation acted on by the committee.

A new emphasis began with the Public Welfare Amendments of 1962, in which the committee placed increased stress on child care services through a specific earmarking of child welfare funds for the provision of child care for working mothers. In the 1967 Social Security Amendments, the committee made what it believed to be a monumental commitment to the expansion of child care services as part of the work incentive program. Although our legislative hopes have not been met, and much less child care has been provided than we anticipated, it is a fact that child care provided under the Social Security Act constitutes the major Federal support for the care of children of working parents today. Through its support of child welfare legislation and programs, the committee has shown its interest, too, in the quality of care which children receive. Yet, despite our concern, child care services are so inadequate today that we are allowing children to be without child care services altogether, or to suffer the consequences of substandard care. We know of the existence of latchkey children, who have no supervision whatsoever. We know also of the existence of child care programs which do not even provide custodial care of adequate quality, much less the kind of care we would like to have to meet the child's individual needs for healthy development.

The bill I am introducing today would change this situation. Mr. President, I would like to outline how the bill would meet our national need for adequate child care services.

The bill would establish a new Federal Child Care Corporation. The basic goal of the Corporation would be to arrange for making child care services available throughout the Nation to the extent they are needed.

To provide the Corporation with initial working capital, the Secretary of the Treasury would be required to lend the Corporation one-half billion dollars, to be placed in a revolving fund. With these funds the Corporation would begin arranging for day care services. Initially, the Corporation would contract with existing public, nonprofit private, or proprietary facilities providing child care services. The Corporation would also provide technical assistance and advice to groups and organizations interested in setting up day care facilities under contractual relationship with the Corporation. In addition, the Corporation would provide child care services directly in its own facilities.

The Corporation would charge fees for all child care services provided or arranged for; these fees would go into the revolving fund to provide capital for further expansion of child care services. The fees would have to be set at a reasonable level so that parents desiring to purchase child care can afford them; but the fees would have to be high enough to fully cover the Corporation's costs in arranging for the care.

If after its first 2 years the Corporation felt it needed funds for capital investment in the construction of new child care facilities or the remodeling of old ones, it would be authorized to issue bonds backed by its future fee collections. Up to $50 million in bonds could be issued each year beginning with the third year after the Corporation's establishment, with an overall limit of $250 million on bonds outstanding.

Mr. President, my bill is carefully designed so that the Corporation's operation's and capital expenditures over the long run would not cost the taxpayers a penny. The Corporation would pay interest on the initial $500 million loan from the Treasury, interest which each year would match the average interest paid by the Treasury on its borrowings. The Corporation would further be required to amortize the loan over a 50-year period by paying back principal at the rate of $10 million annually. Finally, the Corporation's capital bonds would be sold directly to the public and would not be guaranteed by the Government, but only by the future revenues of the Corporation.

From the standpoint of parents, the Corporation would provide a convenient source of all kinds of child care services, at reasonable fees. Like the Social Security Administration, the Corporation would maintain offices in all larger communities of the Nation, where parents desiring child care services would be able to obtain them through the Corporation either directly in Corporation facilities or in facilities under contract with the Corporation. In either case, the parents could be confident that the child care services were under the supervision of the Corporation and met the standards set forth in the bill.

The bill would require the Corporation to make available a wide variety of child care services, some already well known and some unavailable in most places today. For example:

Parents primarily interested in an intensive educational experience for their preschool age children would be able to send their children to nursery schools, kindergartens (where these are not already provided by the school system), or child development centers such as those under the Headstart program.

Parents seeking full-day child care in a facility offering a balanced program of education and recreation for preschool-age children would be able to send their children to a child care center.

Parents wishing to have their preschool-age child cared for in a home setting among a small group of children under the supervision of a trained adult would be able to select a family day care home.

Parents of school-age children would be able to choose a facility whose hours and programs were patterned to complement the child's day in school. School-age child care could take the form of a recreational program run by the school itself, or it could be offered, like preschool-age child care, in a center or under trained adult supervision in a home.

Parents seeking child care during the summer vacation would be able to send their children to day camps or summer camps.

The Corporation would be required to establish temporary or drop-in child care facilities for the parent who requires child care services from time to time while taking courses at a school or university, shopping, or otherwise engaged.

The Corporation would be required to arrange for at-home child care, or babysitting. This would enable a parent to continue at work if the child became sick or had a brief school vacation. It would also assure the parent of the availability of babysitting during the day as well as in the evening when the parent was absent.

Parents requiring child care services regularly at night would be able to send them to night care facilities, primarily designed to care for the child during sleeping hours. Nurses, maintenance staff, and persons in other nighttime jobs now find it almost impossible to arrange for child care services while they work.

Parents requiring care for their children 24 hours a day for less than a month would be able to arrange for the care at a boarding facility. This kind of facility, which could be a summer camp, would provide care if the parents planned to be away for a weekend or for a vacation. If a welfare agency were purchasing care on the child's behalf, provision could be made for a disadvantaged child in a city to be sent to summer camp.

Now, Mr. President, let me turn to the major issue of improving the quality of child care services. As I have already pointed out, of the millions of children who are not cared for by their parents during the day, well under 1 million receive care in licensed child care facilities. One of the major goals of my bill is to insure that the facilities providing care under the Corporation's auspices meet national child care quality standards which are set forth in the bill.

Just recently, Dr. Edward Zigler, the new head of the Office of Child Development in the Department of Health, Education, and Welfare, was before the Committee on Finance for hearings on his confirmation. I asked Dr. Zigler if he agreed that it was unnecessarily difficult to set up a licensed child care facility in a large city. Dr. Zigler replied:

> I think it is probably true that there have been so many demands placed on both profit and non-profit groups that in certain instances it is becoming ridiculous because there is overlapping responsibility on the part of local people, State people, and so forth. I think if we are serious about setting up a worthwhile social institution such as day care for working mothers we may have to develop guidelines at a national level which would have some nationwide application. It would be a standard process because now it is too difficult and it is too rigid, and I am very much afraid the professionals have overdone themselves here. They have bent so far backwards in protecting the physical welfare at the expense of psychological well-being that I do not find myself in great sympathy with some of the statutes.

As Dr. Zigler points out, overly rigid licensing requirements in general have relegated children to unsupervised and unlicensed care, if indeed any care, while their parents work.

The problem is highlighted in a recent report entitled "Day Care Centers—The Case for Prompt Expansion," which explains why day care facilities and programs in New York City have lagged greatly behind the demand for them:

> The City's Health Code governs all aspects of day care center operations and activities. Few sections of the Code are more detailed and complex than those which set forth standards for day care centers. The applicable sections are extremely detailed, contain over 7,000 words of text and an equal volume of footnotes, and stretch over two articles and twenty printed pages.
>
> The provisions of the City's Health Code that apply to day care center facilities constitute the greatest single obstacle to development of new day care center facilities. The highly detailed, and sometimes very difficult-to-meet, specifications for day care facilities inhibit the development of new facilities. Obviously there must be certain minimum fire, health, and safety standards for the protection of children in day care centers. The provisions of the Health Code go far beyond this point. Indeed, some sections of the Code are a welter of complex detail that encourages inflexibility in interpretation and discourage compliance.
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> Section 45. 11(1) of the Health Code, for example, reads: "Toilets shall be provided convenient to playrooms, classrooms and dormitories and the number of such toilets shall be prescribed by section 47.13 for a day care service, 49.07 for a school, or 51.09 for a children's institution. In a lavatory for boys six years of age and over, urinals may be substituted for not more than one-third of the number of toilets required. When such substitution is made, one urinal shall replace one toilet so that the total number of toilets and urinals shall in no case be less than the number of required toilets. Toilets and urinals shall be of such height and size as to be usable by the children without assistance."
>
> Subsection 6 of Section 45.11 of the Health Code is another example. It prescribes lighting standards for day care centers, as follows:
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> (1) Fifty foot candles of light in drafting, typing, or sewing rooms and in all classrooms used for partially sighted children;
>
> (2) Thirty foot candles of light in all other classrooms, study halls or libraries;
>
> (3) Twenty foot candles of light in recreation rooms;
>
> (4) Ten foot candles of light in auditoriums, cafeterias, locker rooms, washrooms, corridors containing lockers; and
>
> (5) Five foot candles of light in open corridors and store rooms.
>
> Legally, only those centers that conform to the Health Code may be licensed. Faced with Health Code requirements of such detail, personnel of the Divisions concerned in the Department of Health and in the Department of Social Services have had to choose between considering the regulations as prerequisites to the licensing of new day care centers or merely as goals toward which to work.
>
> In general, the choice is made in favor of strict interpretation notwithstanding the fact that this severely handicaps the efforts of groups attempting to form centers in substandard areas.

My bill clearly sets forth standards requiring child care facilities to have adequate space, adequate staffing, and adequate health requirements. The bill avoids overly rigid requirements, so as to allow the Corporation the maximum amount of discretion in evaluating the suitability of an individual facility. The Corporation would have to assure the adequacy of each facility in the context of its location, the type of care provided by the facility, and the age group served by it.

I am concerned that we assure the physical safety of child care facilities. The bill therefore requires that facilities meet the Life Safety Code of the National Fire Protection Association. Today, millions of children are cared for somehow, while their parents work, in unlicensed facilities whose safety is simply unknown. The bill will assure that children receive child care in safe buildings.

Any facility in which child care was provided by the Corporation, whether directly or under contract, would have to meet the Federal standards in the law, but they would not be subject to any licensing or other requirements imposed by States or localities. This provision would make it possible for many groups and organizations to establish child care facilities under contract with the Corporation where they cannot now do so because of overly rigid State and local requirements. From the standpoint of the group or individual wishing to establish the facility, this provision would end an administrative nightmare. Today, it can take months to obtain a license for even a perfect child care facility, by the time clearance is obtained from agency after agency at the local level. Under the bill, persons and groups wishing to establish a child care care facility would be able to obtain technical assistance from the Corporation; they would have to meet the Federal standards and they would have to be willing to accept children whose fees were partially or wholly paid from Federal funds, in order to contract with the Corporation.

In summary, Mr. President, my bill would accomplish the following goals:

It would greatly expand the availability of child care services all over the Nation while utilizing suitable facilities now available.

It would make available many different kinds of child care.

It would improve the quality of care for those millions of children who do not now receive care in any kind of licensed facility.

It would enable the establishment of child care facilities by many groups and organizations who are now hampered in their efforts to do so.

Mr. President, it would be my hope that persons and organizations interested in child care would study the bill and present their views to the Committee on Finance at the same time as they testify or submit their views on the Family Assistance Act.

I may say, Mr. President, that while this is offered on behalf of myself as a bill, to bear its own number, it is my intention to offer it as an amendment to the Family Assistance Act, because it seems to me that this is an essential part of any work-fare bill. When we expect to ask mothers to help themselves by going to work, someone has to take care of their children while they are working. Because of the almost complete failure of the Federal Government to effectively use the money the Congress has appropriated for child care in the past, there is little hope that sufficient child care will be provided unless something along the lines I am suggesting is done.

I envisage the measure I am introducing today as an essential improvement for the rather defective and deficient welfare bill which is presently in the Finance Committee and on which we resume hearings tomorrow.

I am aware of the fact that earlier today the Senator from Georgia (Mr. TALMADGE) introduced a significant amendment relating to the work incentive program. While I do not pass judgment on the Senator's suggestions at this time, there is no doubt that amendments along that line designed to strengthen the work incentive phases of that measure are an absolute must if we are to enact a workfare bill instead of a welfare bill. Tomorrow we expect to show the Secretary of Health, Education, and Welfare some very serious defects in the administration revision of the family assistance bill when he appears before the Committee on Finance. But the committee is not simply trying to throw sand in his eyes; we want to work with him in proposing a bill that meets the national interest and advances a solution for national needs.

The concern of the committee is not so much the cost of the bill, which would exceed $4 billion a year in additional Federal spending. Our concern is to see that the Federal Government receives value for the investment in terms of helping people to become independent. If we are able to assure that the $4 billion is a very good investment of Federal funds, this Senator will enthusiastically support a measure that might cost that much money. But the Senator from Louisiana, along with the majority of those on the Finance Committee, is very reluctant to support anything so costly as the proposal presently before the committee unless we have some indication that it will amount to an efficient and effective investment to advance national interests.

I ask unanimous consent that the bill I have just introduced be referred to the Committee on Finance and that it be printed in the RECORD.

The PRESIDING OFFICER (Mr. GRIFFIN). Without objection, the bill will be received and referred to the Committee on Finance; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4101) to add a new title XX to the Social Security Act to establish a Federal Child Care Corporation which will have the responsibility and authority to meet the Nation's needs for adequate child care services introduced by Mr. LONG, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 4101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Child Care Corporation Act".

AMENDMENTS TO SOCIAL SECURITY ACT

SEC. 2. (a) The Social Security Act is amended by adding after title XIX thereof the following new title:

"TITLE XX—PROVISION OF CHILD CARE SERVICES

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 2001. (a) The Congress finds and declares that—

"(1) the present lack of adequate child care services is detrimental to the welfare of families and children in that it limits opportunities of parents for employment or self-improvement, and often results in inadequate care arrangements for children whose parents are unable to find appropriate care for them;

"(2) low income families and dependent families are severely handicapped in their efforts to attain or maintain economic independence by the unavailability of adequate child care services;

"(3) many other families, especially those in which the mother is employed, have need for child care services, either on a regular basis or from time to time; and

"(4) there is presently no agency or organization, public or private, which can assume the responsibility of meeting the Nation's needs for adequate child care services.

"(b) It is therefore the purpose of this title to promote the availability of adequate child care services throughout the Nation by providing for the establishment of a Federal Child Care Corporation which shall have the responsibility and authority to meet the Nation's needs for adequate child care services, and which, in meeting such needs, will give special consideration to the needs for such services by families in which the mother is employed or preparing for employment, and will promote the well-being of all children by assuring that the child care services provided will be appropriate to the particular needs of the individuals receiving such services.

"ESTABLISHMENT AND ORGANIZATION OF CORPORATION

"SEC. 2002. (a) In order to carry out the purposes of this title, there is hereby created a body corporate to be known as the 'Federal Child Care Corporation' (hereinafter in this title referred to as the 'Corporation').

"(b)(1) The powers and duties of the Corporation shall be vested in a Board of Directors (hereinafter in this title referred to as the 'Board').

"(2) The Board shall consist of 3 members, to be appointed by the President, by and with the advice and consent of the Senate. One member of the Board shall, at the time of his appointment, be designated by the President as Chairman of the Board.

"(3) Not more than 2 members of the Board shall be members of the same political party.

"(4) Each member of the Board shall hold office for a term of 3 years, except that any member appointed to fill a vacancy which occurs prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the President at the time of appointment, one on June 30, 1972, one on June 30, 1973, and one on June 30, 1974.

"(c) Vacancies in the Board shall not impair the powers of the remaining members of the Board to exercise the powers vested in, and carry out the duties imposed upon the Corporation.

"(d) Each member of the Board shall, during his tenure in office, devote himself to the work of the Corporation and shall not during such tenure, engage in any other business or employment.

"(e)(1) The Board shall have the power to appoint (in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service) and fix the compensation (in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates) such personnel as it deems necessary to enable the Corporation to carry out its functions under this title.

"(2) The Board is authorized to obtain the services of experts and consultants on a temporary of intermittent basis in accordance with the provisions of section 3109 of title 5, United States Code, but at rates for individuals not to exceed the per diem equivalent of the rate authorized for GS-18 by section 5332 of such title.

"DUTIES OF CORPORATION

"SEC. 2003. (a) It shall be the duty and function of the Corporation to meet, to the maximum extent economically feasible, the needs of the Nation for child care services.

"(b)(1) In carrying out such duty and function, the Corporation shall, through utilization of existing facilities for child care and otherwise, provide (or arrange for the provision of) child care service in the various communities of each State. Such child care services shall include the various types of care included in the term 'child care services' (as defined in section 2018(b)) to the extent that the needs of the various communities may require.

"(2) The Corporation shall charge and collect a reasonable fee for the child care services provided by it (whether directly or through arrangements with others). The fee so charged for any particular type of child care services provided in any facility shall be uniform for all children receiving such type of services in such facility. Any such fee so charged may be paid in whole or in part by any person (including any public agency) which agrees to pay such fee or a part thereof.

"(3) The Corporation shall not enter into any arrangement with any person under which the facilities or services of such person will be utilized by the Corporation to provide child care services unless such person agrees to accept payment of all or any part of the fee imposed for such services from any public agency which shall agree to pay such fee or a part thereof from Federal funds.

"(c) In providing child care services in the various communities of the Nation, the Corporation shall accord first priority to the needs for child care services of families on behalf of whom child care services will be paid in whole or in part from funds appropriated to carry out title IV and who are in need of such services to enable a member thereof to accept or continue in employment or participate in training to prepare such member for employment.

"STANDARDS FOR CHILD CARE

"SEC. 2004. (a) The Corporation shall not provide or arrange for the provision of child care of any type or in any facility unless the applicable requirements set forth in the succeeding provisions of this section are met with respect to such care and the facility in which such care is offered.

"(b)(1) The ratio of the number of children receiving child care to the number of qualified staff members providing such care shall not normally be greater than—

"(A) 8 to 1, in case such care is provided in a home child care facility; or

"(B) 10 to 1, in case such care is provided in a day nursery facility, nursery school, child development center, play group facility, or preschool child care center.

"(2) In the case of any facility (other than a facility to which pargaraph (1) is applicable) the ratio of the number of children receiving child care therein to the number of qualified staff members providing such care shall not be greater than such ratio as the Board may determine to be appropriate to the type of child care provided and the age of the children involved, except that such ratio shall not be greater than 25 to 1.

"(3) As used in this subsection, the term 'qualified staff member' means an individual who has received training in, or demonstrated ability in, the care of children.

"(c) (1) Any facility in which the Corporation provides child care (whether directly or through arrangements with others) must—

"(A) Meet such provisions of the Life Safety Code of the National Fire Protection Association (21st Edition, 1967) as are applicable to the type of facility; except that the Corporation may waive for such periods as it deems appropriate, specific provisions of such code which, if rigidly applied, would result in unreasonable hardship upon the facility, but only if the Corporation makes a determination (and keeps a written record setting forth the basis of such determination) that such waiver will not adversely affect the health and safety of the children receiving care in such facility:

"(B) contain (or have available to it for use) adequate indoor and outdoor space for children for the number and ages of the children served by such facility; and must have separate rooms or areas for cooking, toilets, and other purposes;

"(C) have floors and walls of a type which can be thoroughly cleaned and maintained and which contain or are covered with no substance which is hazardous to the health or clothing of children;

"(D) have such ventilation and temperature control facilities as may be necessary to assure the safety and comfort of each child receiving care therein;

"(E) provide safe and comfortable facilities for naps for young children receiving care therein;

"(F) provide special accommodations, for children who become ill, which are designed to provide rest and quiet for ill children while protecting other children from the risk of infection or contagion; and

"(G) make available to children receiving care therein such toys, games, books, equipment, and other material as are appropriate to the type of facility involved and the ages of the children receiving care therein.

"(2) The Board, in determining whether any particular facility meets minimum requirements imposed by paragraph (1) of this subsection, shall evaluate such facility separately and shall make a determination with respect to such facility after taking into account the location and type of care provided by such facility as well as the age group served by it.

"(d) The Corporation shall not provide (directly or through arrangements with other persons) child care in a child care facility or home child care facility unless—

"(1) such facility requires that, in order to receive child care provided by such facility, a child must have been determined by a physician (after a physical examination) to be in good health and must have been immunized against such diseases and within such prior period as the Board may prescribe in order adequately to protect the children receiving care in such facility from communicable disease;

"(2) such facility provides for the daily evaluation of each child receiving care therein for indications of illness;

"(3) such facility provides adequate and nutritious (though not necessarily hot) meals and snacks, which are prepared in a safe and sanitary manner;

"(4) such facility has in effect procedures designed to assure that each staff member thereof is fully advised of the hazards to children of infection and accidents and is instructed with respect to measures designed to avoid or reduce the incidence or severity of such hazards;

"(5) such facility has in effect procedures under which the staff members of such facility (including voluntary and part-time staff members) are required to undergo periodic assessments of their physical and mental competance to provide child care;

"(6) such facility keeps and maintains adequate health records on each child receiving care in such facility and on each staff member (including any voluntary or part-time staff member) of such facility who has contact with children receiving care in such facility; and

"(7) such facility has in effect, for the children receiving child care services provided by such facility, a program under which emergency medical care or first aid will be provided to any such child who sustains injury or becomes ill while receiving such services from such facility, the parent of such child (or other proper person) will be promptly notified of such injury or illness, and other children receiving such serivces in such facility will be adequately protected from contagious disease.

"PHYSICAL STRUCTURE AND LOCATION OF CHILD CARE FACILITIES

"SEC. 2005. (a) There may be utilized, to provide child care authorized by this title, new buildings especially constructed as child care facilities, as well as existing buildings which are appropriate for such purpose (including, but not limited to, schools, churches, social centers, apartment houses, public housing units, office buildings, and factories).

"(b) The Board, in selecting the location of any facility to provide child care under this title, shall, to the maximum extent feasible, approve only a site which—

"(1) is conveniently accessible to the children to be served by such facility, in terms of distance from the homes of such children as well as the length of travel time (on the part of such children and their parents) involved;

"(2) is sufficiently accessible from the place of employment of the parents of such children so as to enable such parents to participate in such programs, if any, as are offered to parents by such facility; and

"(3) is conveniently accessible to other facilities, programs, or resources which are related to, or beneficial in, the development of the children of the age group served by such facility.

"EXCLUSIVENESS OF FEDERAL STANDARDS

"SEC. 2006. Any facility in which child care services are provided by the Corporation (whether directly or through arrangements with other persons) shall not be subject to any licensing or similar requirements imposed by any State (or political subdivision thereof), and shall not be subject to any health, fire, safety, sanitary, or other requirements imposed by any State (or political subdivision thereof) with respect to facilities providing child cart.

"GENERAL POWERS OF CORPORATION

"SEC. 2007. (a) The Corporation shall have power—

"(1) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

"(2) to adopt, amend, and repeal bylaws designed to enable it to carry out the duties and functions imposed on it by this title;

"(3) in its corporate name, to sue and be sued and to complain and to defend, in any court of competent jurisdiction (State or Federal), but not attachment, injunction, or similar process, mesne or final, shall be issued against the property of the Corporation or against the Corporation with respect to its property;

"(4) to conduct its business in any State of the United States and in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam;

"(5) to enter into and perform contracts, leases, cooperative agreements, or other transactions, on such terms as it may deem appropriate, with (i) any agency or instrumentality of the United States, (ii) any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam, (or any agency, instrumentality, or political subdivision thereof), or (iii) any person or agency;

"(6) to execute, in accordance with its bylaws, all instruments necessary or appropriate to the exercise of its powers;

"(7) to acquire (by purchase, gift, devise, lease, or sublease), and to accept jurisdiction over and to hold and own, and dispose of by sale, lease or sublease, real or personal property, including but not limited to a facility for child care, or any interest therein for its corporate purposes;

"(8) to accept gifts or donations of services, or of property (whether real, personal, or mixed, or whether tangible or intangible), in aid of any of the purposes of this title;

"(9) to operate, manage, superintend, and control any facility for child care under its jurisdiction and to repair, maintain, and otherwise keep up any such facility; and to establish and collect fees, rentals or other charges, for the use of such facility or the receipt of child care services provided therein;

"(10) to provide child care services for the public directly or by agreement or lease with any person, agency, or organization, through and in the facilities for child care of the Corporation and to make rules and regulations concerning the handling of referrals and applications for the admission of children to receive such services; and to establish and collect fees and other charges, including reimbursement allowances, for the provision of child care services;

"(11) to provide advice and technical assistance to persons desiring to enter into an arrangement with the Corporation for the provision of child care services to assist them in developing their capabilities to provide such services under such an arrangement;

"(12) to prepare, or cause to be prepared, plans, specifications, designs and estimates of costs for the construction and equipment of facilities for child care services in which the Corporation provides child care directly;

"(13) to construct and equip, or by contract cause to be constructed and equipped, facilities (other than home child care facilities) for child care services;

"(14) to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the Board, in obligations of the United States or obligations the principal and interest on which are guaranteed by the United States;

"(15) to procure insurance, or obtain indemnification, against any loss in connection with the assets of the Corporation or any liability in connection with the activities of the Corporation, such insurance or indemnification to be procured or obtained in such amounts, and from such sources, as the Board deems to be appropriate;

"(16) to cooperate with any organization, public or private, the objectives of which are similar to the purposes of this title; and

"(17) to do any and all things necessary, convenient, or desirable to carry out the purposes of this title, and for the exercise of the powers conferred upon the Corporation in this title.

"(b) Funds of the Corporation shall not be invested in any obligation or security other than obligations of the United States or obligations the principal and interest on which are guaranteed by the United States; and any obligations or securities (other than obligations of the United States or obligations the principal and interest on which are guaranteed by the United States) acquired by the Corporation by way of gift or otherwise shall be sold at the earliest practicable date after they are so acquired.

"REVOLVING FUND

"SEC. 2008. (a) There is hereby established in the Treasury a revolving fund to be known as the 'Federal Child Care Corporation Fund' (hereinafter in this title referred to as the 'Fund'), which shall be available to the Corporation without fiscal year limitation to carry out the purposes, functions, and powers of the Corporation under this title.

"(b) There shall be deposited in the Fund—

"(1) funds loaned to the Corporation by the Treasury pursuant to subsection (d); and

"(2) the proceeds of all fees, rentals, charges, interest, or other receipts (including gifts) received by the Corporation.

"(c) Except for expenditures from the Federal child care corporation capital fund (established by section 2009 (d)) and expenditures from appropriated funds, all expenses of the Corporation (including salaries and other personnel expenses) shall be paid from the Fund.

"(d) The Secretary of the Treasury shall, from time to time, in accordance with requests submitted to him by the Board, deposit, as a loan to the Corporation, in the Fund such amounts (the aggregate of which shall not exceed $500,000,000). Beginning with the fiscal year ending June 30, 1975, the principal on such loan shall be repaid by the Corporation in annual installments of $10,000,000. The Corporation shall pay interest on any moneys so deposited in the Fund for periods, during any fiscal year, that such moneys have been in such Fund. Interest on such moneys for any fiscal year shall be paid on July 1 following the close of such fiscal year and shall be paid at a rate equal to the average rate of interest paid by the Treasury on long-term obligations during such fiscal year.

"(e) If the Corporation determines that the moneys in the Fund are in excess of current needs, it may invest such amounts therefrom as it deems advisable in obligations of the United States or obligations the payment of principal and interest of which is guaranteed by the United States.

"REVENUE BONDS OF CORPORATION

"SEC. 2009. (a) The Corporation is authorized (after consultation with the Secretary of the Treasury) to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter in this section collectively referred to as 'bonds') whenever the Board determines that the proceeds of such bonds are necessary, together with other moneys available to the Corporation from the Federal Child Care Corporation Fund, to provide funds sufficient to enable the Corporation to carry out its purposes and functions under this title with respect to the acquisition, planning, construction, remodeling, or renovation of facilities for child care or sites for such facilities; except that (1) no such bonds shall be sold prior to July 1, 1973, (2) not more than $50,000,000 of such bonds shall be issued and sold during any fiscal year, and (3) the outstanding balance of all bonds so issued and sold shall not at any one time exceed $250,000,000.

"(b) Any such bonds may be secured by assets of the Corporation, including, but not limited to, fees, rentals, or other charges which the Corporation receives for the use of any facility for child care which the Corporation owns or in which the Corporation has an interest. Any such bonds are not, and shall not for any purpose be regarded as, obligations of the United States.

"(c) Any such bonds shall bear such rate of interest, have such dates of maturity, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable on such terms, conditions and at such place or places, and be subject to such other terms and conditions, as the Board may prescribe.

"(d)(1) There is hereby established in the Treasury a fund to be known as the 'Federal Child Care Corporation Capital Fund' (hereinafter in this title referred to as the 'Capital Fund'), which shall be available to the Corporation without fiscal year limitation to carry out the purposes and functions of the Corporation with respect to the acquisition, planning, construction, remodeling, renovation, or initial equipping of facilities for child care services, or sites for such facilities.

"(2) The proceeds of any bonds issued and sold pursuant to this section shall be deposited in the Capital Fund and shall be available only for the purposes and functions referred to in paragraph (1) of this subsection.

"CORPORATE OFFICES

"SEC. 2010. (a) The principal office of the Corporation shall be in the District of Columbia. For purposes of venue in civil actions, the Corporation shall be deemed to be a resident of the District of Columbia.

"(b) The Corporation shall establish offices in each major urban area and in such other areas as it deems necessary to carry out its duties as set forth in section 2003.

"TAXATION

"SEC. 2011. The Corporation, its property, assets, and income shall be exempt from taxation in any manner or form by the United States, a State (or political subdivision thereof).

"REPORTS TO CONGRESS

"SEC. 2012. The Corporation shall not later than January 30 following the close of the second session of each Congress (commencing with January 30, 1973), submit to the Congress a written report on its activities during the period ending with the close of the session of Congress last preceding the submission of the report and beginning, in the case of the first such report so submitted, with the date of enactment of this title, and in the case of any such report thereafter, with the day after the last day covered by the last preceding report so submitted. As a separate part of any such report, there shall be included such data and information as may be required fully to apprise the Congress of the actions which the Corporation has taken to improve the quality of child care services, together with a statement regarding the future plans (if any) of the Corporation to improve the quality of such services.

"APPLICABILITY OF OTHER LAWS

"SEC. 2013. (a) Except as otherwise provided by this title, the Corporation, as a wholly-owned Government corporation, shall be subject to the Government Corporation Control Act (31 U.S.C. 841–871).

"(b) The provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), relating to advances of public moneys and certain other payments, shall not be applicable to the Corporation.

"(c) The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or other provisions of law relating to competitive bidding, shall not be applicable to the Corporation.

"(d) Except as otherwise provided in this title, all Federal laws dealing generally with agencies of the United States shall be deemed to be applicable to the Corporation, and all laws dealing generally with officers and employees of the United States shall be deemed to be applicable to officers and employees of the Corporation.

"(e) The provisions of the Public Buildings Act of 1959 (40 U.S.C. 601–615) shall not apply to the acquisition, construction, remodeling, renovation, alteration, or repair of any building of the Corporation or to the acquisition of any site for any such building.

"(f) All general Federal penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of moneys or property of the United States shall apply to the moneys and property of the Corporation.

"COLLECTION AND PUBLICATION OF STATISTICAL DATA

"SEC. 2014. The Corporation shall collect, classify, and publish, on a monthly and annual basis, statistical data relating to its operations and child care provided (directly or indirectly) by the Corporation together with such other data as may be relevant to the purposes and functions of the Corporation.

"RESEARCH AND TRAINING

"SEC. 2015. (a) The Secretary, in the administration of section 426, shall consult with and cooperate with the Corporation with a view to providing for the conduct of research and training which will be applicable to child care services.

"(b) The Secretary of Labor, in the administration of part C of title IV, shall consult with and cooperate with the Corporation with a view to providing for the conduct of training which will be applicable to child care services.

"(c) The Corporation shall have the authority to conduct directly or by way of contract programs of in-service training in day care services.

"NATIONAL ADVISORY COUNCIL ON CHILD CARE

"SEC. 2016. (a)(1) For the purpose of providing advice and recommendations for the consideration of the Board in matters of general policy in carrying out the purposes and functions of the Corporation, and with respect to improvements in the administration by the Corporation of its purposes and functions, there is hereby created a National Advisory Council on Child Care (hereinafter in this section referred to as the 'Council').

"(2) The Council shall be composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Secretary of Housing and Urban Development, and 12 individuals, who shall be appointed by the Board (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service), and who are not otherwise in the employ of the United States.

"(3) Of the appointed members of the Council, not more than 3 shall be selected from individuals who are representatives of social workers or child welfare workers, or are from the field of education, and the remaining appointed members shall be selected from individuals who are representatives of consumers of child care (but not including more than one individual who is either a recipient of public assistance or a representative of any organization which is composed of or represents recipients of such assistance).

"(b) Each appointed member of the Council shall hold office for a term of 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his successor was appointed shall be appointed for the remainder of such term, and except that the terms of office of the appointed members first taking office shall expire, as designated by the Board at the time of appointment, 4 on June 30, 1972, 4 on June 30, 1973, and 4 on June 30, 1974.

"(c) The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Board shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such pertinent data prepared by the Corporation as the Council may require to carry out its functions.

"(d) Appointed members of the Council shall, while serving on the business of the Council, be entitled to receive compensation at the rate of $100 per day, including travel time; and while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"COOPERATION WITH OTHER AGENCIES

"SEC. 2017. (a) The Corporation is authorized to enter into agreements with public and other nonprofit agencies or organizations whereby children receiving child care provided by the Corporation (whether directly or through arrangements with other persons) will be provided other services conducive to their health, education, recreation, or development.

"(b) Any such agreement with any such agency or organization shall provide that such agency or organization shall pay the Corporation in advance or by way of reimbursement, for any expenses incurred by it in providing any services pursuant to such agreement.

"DEFINITIONS

"SEC. 2018. For purposes of this title—

"(a) The term 'Corporation' means the Federal Child Care Corporation established pursuant to section 2002.

"(b) The term 'child care services' means the provision, by the person undertaking to care for any child, of such personal care, protection, and supervision of each child receiving such care as may be required to meet the child care needs of such child, including services provided by—

"(1) a child care facility;

"(2) a home child care facility;

"(3) a temporary child care facility;

"(4) an individual as a provider of at-home child care;

"(5) a night care facility; or

"(6) a boarding facility.

"(c) The term 'child care facility' means any of the following facilities:

"(1) day nursery facility;

"(2) nursery school;

"(3) kindergarten;

"(4) child development center;

"(5) play group facility;

"(6) preschool child care center;

"(7) school-age child care center;

"(8) summer day care program facility; but only if such facility offers child care services to not less than 6 children; and in the case of a kindergarten, nursery school, or other daytime program, such facility is not a facility which is operated by a public school system, and the services of which are generally available without charge throughout a school district of such system;

"(d) The term 'home child care facility' means—

"(1) a family day care home;

"(2) a group day care home;

"(3) a family school age day care home; or

"(4) a group school age day care home.

"(e) The term 'temporary child care facility' means—

"(1) a temporary child care home;

"(2) a temporary child care center; or

"(3) other facility (including a family home, or extended or modified family home) which provides care, on a temporary basis, to transient children.

"(f) The term 'at-home child care' means the provision, to a child in his own home, of child care services, by an individual, who is not a member of such child's family or a relative of such child, while such child's parents are absent from the home.

"(g) The term 'night care facility' means—

"(1) a night care home;

"(2) a night care center; or

"(3) other facility (including a family home, or extended or modified home) which provides child care, during the night, of children whose parents are absent from their home and who need supervision during sleeping hours in order for their parents to be gainfully employed.

"(h) The term 'boarding facility' means a facility (including a boarding home, a boarding center, family home, or extended or modified family home) which provides child care for children on a 24 hour per day basis (except for periods when the children are attending school) for periods, in the case of any child, not longer than one month.

"(i) The term 'day nursery' means a facility which, during not less than 5 days each week, provides child care to children of preschool age.

"(j) The term 'nursery school' means a school, which accepts for enrollment therein only children between 2 and 6 years of age, which is established and operated primarily for educational purposes to meet the developmental needs of the children enrolled therein.

"(k) The term 'kindergarten' means a facility which accepts for enrollment therein only children between 4 and 6 years of age, which is established and operated primarily for educational purposes to meet the developmental needs of the children enrolled therein.

"(l) The term 'child development center' means a facility, which accepts for enrollment therein only children of preschool age, which is established and operated primarily for educational purposes to meet the developmental needs of the children enrolled therein, and which provides for the children enrolled therein care, services, or instruction for not less than 5 days each week.

"(m) The term 'play group facility' means a facility, which accepts as members thereof children of preschool age, which provides care or services to the members thereof for not more than 3 hours in any day, and which is established and operated primarily for recreational purposes.

"(n) The term 'preschool child care center' means a facility, which accepts for enrollment therein children of preschool age, and which provides child care to children enrolled therein on a full-day basis for at least 5 days each week.

"(o) The term 'school age child care center' means a facility, which accepts for enrollment therein only children of school age, and which provides child care for the children enrolled therein during the portion of the day when they are not attending school for at least 5 days each week.

"(p) The term 'summer day care program' means a facility, which provides child care for children during summer vacation periods, and which is established and operated primarily for recreational purposes; but such term does not include any program which is operated by any public agency, if participation in such program is without charge and is generally available to residents of any political subdivision.

"(q) The term 'family day care home' means a family home in which child care is provided, during the day, for not more than 8 children (including any children under age 14 who are members of the family living in such home or who reside in such home on a full-time basis).

"(r) The term 'group day care home' means an extended or modified family residence which offers, during all or part of the day, child care for not less than 7 children (not including any child or children who are members of the family, if any, offering such services).

"(s) The term 'family school age day care home' means a family home which offers child care for not more than 8 children, all of school age, during portions of the day when such children are not attending school.

"(t) The term 'group school age day care home' means an extended or modified family residence which offers family-like child care for not less than 7 children (not counting any child or children who are members of the family, if any, offering such services) during portions of the day when such children are not attending school.

"(u) The term 'temporary child care home' means a family home which offers child care, on a temporary basis, for not more than 8 children (including any children under age 14 who are members of the family, if any, offering such care).

"(v) The term 'temporary child care center' means a facility (other than a family home) which offers child care, on a temporary basis, to not less than 7 children.

"(w) The term 'night care home' means a family home which offers child care, during the night, for not more than 8 children (including any children under age 14 who are members of the family offering such care).

"(x) The term 'boarding home' means a family home which provides child care (including room and board) to not more than 6 children (including any children under age 14 who are members of the family offering such care).

"(y) The term 'boarding center' means a summer camp or other facility (other than a family home) which offers child care (including room and board) to not less than 7 children."

(b)(1) Section 402(a)(15)(B)(i) of the Social Security Act is amended by striking out "is furnished child-care services" and inserting in lieu thereof "is referred to the Federal Child Care Corporation for needed child care services".

(2) Section 422(a)(1) of such Act is amended by striking out subparagraph (C) thereof.

(3) Section 425 of such Act is amended by striking out "or day-care or other child-care facilities".

(4) The amendments made by this section shall take effect July 1, 1972.

(c) Section 1101(a)(1) of the Social Security Act is amended by striking out "and XIX" and inserting in lieu thereof "XIX, and XX".

AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 3. (a) Section 5316 of title 5, United States Code (relating to executive schedule pay rates at level V) is amended by adding at the end thereof—

"(130) Chairman of the Board of Directors of the Federal Child Care Corporation.

"(131) Member of Board of Directors of the Federal Child Care Corporation."

COST INCREASES OF MAJOR WEAPONS SYSTEMS

Mr. PROXMIRE. Mr. President, I am unhappy to report that our major weapons programs are continuing to overrun the planned costs. A pundit stated not too long ago that while weapons programs performance is poor and deliveries are late, costs are overrunning on schedule. The latest data indicate that the cost overruns are not only on schedule, they are ahead of schedule.

The costs of 38 selected major weapons systems are now $23.8 billion above the planning estimates for those programs. This total represents a $3.6 billion net increase for the 38 systems between June 30, 1969, and March 31, 1970.

The major cost increases occurred on four programs—Safeguard ABM, the P-3-C aircraft, Minuteman II, and Minuteman III. A list of the programs and the corresponding increases follow:

[In millions]

Safeguard ABM	$1,754.0
P-3-C	291.1
Minuteman II	464.4
Minuteman III	1,142.8

In only one of these four systems, Minuteman III, was the cost overrun attributable to any extent to an increase in the number of units purchased. Even in the case of that program, a major portion of the added costs was caused by reasons unrelated to the change of the number of units.

Substantial cost increases for several

other programs also occurred between June 1969 and March 1970. There was an almost $2 billion increase for the F–14 program and increases of over $1 billion for two missile programs—the Sparrow F and Phoenix. However, in these cases, the purchase of an increased quantity of units explains the high costs, according to the Department of Defense.

Significant as are the cost overruns indicated by these figures, they would have been much higher were it not for almost $3 billion in decreased costs for five programs. But in every case, the decreases were attributable to reductions in the quantity of units to be purchased. For example, the Pentagon states that the costs of the F–111 decreased by over $1 billion. This decrease is entirely the result of a decision to cut back on the number of F–111's. The cutback itself, it will be recalled, was caused by cost overruns in the program and pressures to reduce F–111 funds.

Similarly, a $521.9 million decrease is being attributed to the C–5A. This decrease was brought about by huge overruns, resulting in the decision to cut back the program from 120 to 81 planes.

Had the Department of Defense not reduced the numbers of weapons it is buying, cost increases for the 38 programs would have totaled over $26.5 billion—in other words, a $3.6 billion increase in the last 9 months alone.

What these disturbing figures indicate to me is that the Department of Defense has not yet learned how to control the costs of major weapons programs. In my judgment, the cost overruns in these programs are largely the result of waste and mismanagement. They represent public funds that are being used foolishly and that probably ought not to be spent by the Department of Defense at all.

The figures I have recited were taken from a report by the Comptroller General of the United States requested by me in hearings held by the Subcommittee on Economy in Government on May 26, 1970. As chairman of the Subcommittee on Economy in Government, I can assure my colleagues in the Senate that we will continue to inquire into military procurement and problems such as cost overruns.

I ask unanimous consent to have printed in the RECORD a complete schedule of program data for the 38 weapons systems included in the General Accounting Office's review, and a summary of the estimated cost data as of March 31, 1970.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

SUMMARY OF ESTIMATED COST DATA AS OF MARCH 31, 1970

[Dollars in millions]

Number of systems	Planning estimate	Contract definition estimate	Earlier estimates adjusted for quantity changes (note a)	Current estimate through program completion
Army (8)	$5,933.2	$6,087.2	$7,206.5	$9,654.0
Navy (22)	18,278.4	21,998.8	26,245.8	31,948.1
Air Force (8)	18,479.0	22,136.9	17,386.8	24,877.2
Total (38)	42,690.6	50,222.9	50,839.1	66,479.3

SCHEDULE OF PROGRAM COST DATA APPEARING ON MAR. 31, 1970, SARs FOR 38 SYSTEMS [1] INCLUDED IN GAO REPORT ON STATUS OF THE ACQUISITION OF SELECTED MAJOR WEAPON SYSTEMS, B–163058 DATED FEB. 6, 1970

[Dollars in millions]

	Planning estimates	Contract definition cost estimates	Earlier estimates adjusted for quantity changes	Current estimates through program completion
ARMY				
Dragon	$382.2	$425.4	$191.7	$284.2
Shillelagh	357.4	357.4	332.7	495.8
AH–10 [1]	49.8	70.7	466.2	561.0
Safeguard	4,185.0	4,185.0	4,185.0	5,939.0
Gama Goat [2]	69.1	173.5	368.4	438.7
Sheridan Tank	422.5	408.0	395.7	498.1
Cheyenne [3]	125.9	125.9	125.9	201.8
UH–IH [1]	341.3	341.3	1,140.9	1,235.4
NAVY				
P–3C	1,294.2	1,294.2	2,265.3	2,552.8
AN/BQQ2 [1]	126.9	179.0	178.5	269.9
Sparrow E	687.2	740.7	280.9	290.7
Sparrow F	139.8	453.6	680.1	1,002.5
Phoenix	370.8	677.4	903.4	1 501.0
Mark 46–Mod 1 [1]	347.0	1,033.6	1,021.6	1,039.9
Mark 43–Mod 0	682.4	642.4	678.5	3,570.0
EA6B	689.7	817.7	767.0	1,058.6
Walleye II	345.3	345.0	337.1	271.6
F–14	6,166.0	6,166.0	8,492.0	8,279.1
Standard Arm	180.3	241.6	200.2	223.7
S–3A	1,763.8	2,891.1	2,891.1	2,931.7
AN/SQQ–23	157.1	170.5	89.1	230.8
A–7E	1,465.6	1,465.6	1,080.3	1,569.6
Mark 48–Mod 1	70.7	71.6	64.9	185.4
Condor	356.3	441.0	220.1	351.4
F–4J [1]	770.0	770.0	2,509.6	2,743.7
AN/SQS–26CX	95.7	83.8	88.3	119.6
CH46 E/F helicopter [1]	323.6	589.0	577.1	550.6
LHA	651.0	1,380.3	1,380.3	1,427.8
DE–1052	1,285.0	1,259.7	1,259.9	1,469.9
CVA–67 [1]	310.0	280.0	280.0	307.8
AIR FORCE [4]				
Minuteman II	$3,223.4	$4,515.1	$4,519.1	$4,745.1
Minuteman III	2,752.7	4,413.6	4,375.9	5,368.8
C–5A	3,466.6	3,413.2	2,677.0	4,310.1
Maverick	257.9	383.4	310.4	337.5
A–7D	1,378.1	1,379.1	1,096.5	1,397.5
Titan III [1]	932.2	745.5	745.5	1,130.5
F–111A/C/D/E	4,686.6	5,505.5	2,924.2	6,380.8
FB–111A	1,781.5	1,781.5	738.2	1,206.9

[1] These systems are not on the SAR system. The figures appearing in this schedule are therefore the June 30, 1969, figures prepared on a one time basis for GAO by the Department of Defense.

[2] These estimates represent those reported as of Dec. 31, 1969, due to the fact that the Mar. 31, 1970, SAR was not approved as of the time this schedule was prepared.

[3] These estimates represent development costs only. Due to pending litigation, the Army's production liability is unknown.

[4] The Mar. 31, 1970, Air Force SAR's did not reflect the planning estimates. These figures were obtained for comparison purposes from the June 30, 1969, SAR's. The planning estimates for the Minutemen II, Minuteman III, and the C–5A were increased to include the military construction costs not originally reported.

STILL NO ACTION FROM JUSTICE DEPARTMENT ON THE FITZGERALD CASE—239 DAYS

Mr. PROXMIRE. Mr. President, 239 days ago, I wrote to Attorney General General Mitchell asking the Justice Department to investigate the intimidation and firing of A. Ernest Fitzgerald. The United States Code makes it a crime, punishable by up to 5 years in jail, to "injure," to "intimidate," or to "impede" a witness who appears before a congressional committee.

Ernest Fitzgerald testified before the Joint Economic Committee in November of 1968. He told us of the vest overruns occurring on the C–5A transport plane. Perhaps more than any other individual, he has made it possible for Congress to take a close look at military weapons procurement, and to begin making cuts which were long overdue.

Mr. President, Ernest Fitzgerald has done a great service to his country. For this service, Fitzgerald was rewarded with threats, intimidation, reprisals, and ultimately, loss of his job. If this does not constitute "injury" within the terms of the statute, I do not know what would.

But the Justice Department keeps dragging its feet. Perhaps if they wait another 2½ years, we will have a different administration in Washington, and the present leadership at the Justice Department can wash their hands of the whole affair.

Is this how long the Justice Department intends to wait?

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER** (Mr. GRIFFIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL WEDNESDAY, JULY 22, 1970, AT 11 A.M.

Mr. LONG. Mr. President, I ask unanimous consent that, when the Senate has concluded its business tomorrow, it stand in adjournment until 11 a.m. on Wednesday.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BYRD OF WEST VIRGINIA ON WEDNESDAY NEXT

Mr. LONG. Mr. President, I ask unanimous consent that on Wednesday morning next, immediately after the disposition of the Journal, the Senator from West Virginia (Mr. BYRD) be recognized for not to exceed 1 hour.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. LONG. Mr. President, if there be no further business to come before the Senate, I move, under the previous order, that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to and (at 5 o'clock and 2 minutes p.m.) the Senate adjourned until tomorrow, July 21, 1970, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 20, 1970:

IN THE NAVY

Having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, Rear Adm. James F. Calvert, U.S. Navy, for appointment to the grade of vice admiral while so serving.

Having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, Rear Adm. Raymond E. Peet, U.S. Navy, for appointment to the grade of vice admiral while so serving.

CONFIRMATION

Executive nominations confirmed by the Senate July 20, 1970:

ATOMIC ENERGY COMMISSION

Glenn T. Seaborg, of California, to be a member of the Atomic Energy Commission for a term of 5 years expiring June 30, 1975.

EXTENSIONS OF REMARKS

CONTINUATION OF HIGHWAY TRUST FUND

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, July 20, 1970

Mr. BYRD of Virginia. Mr. President, the Board of Directors of the Virginia Dairy Products Association at Virginia Beach, Va., on July 10 adopted a resolution endorsing the continuation of the Highway Trust Fund concept as a means of financing an adequate highway program.

I ask unanimous consent that the resolution be printed in the Extensions of Remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, high quality and economical highway transportation is the essential factor to modern economic progress, especially as it relates to the dairy industry and the dairy distribution segment of the industry, and;

Whereas, the Interstate Highway program has proven that modern highway design is one of the most effective means of reducing the death toll on the highway, and;

Whereas, in 1956 Congress established the Highway Trust Fund as a means of financing the Federal-aid highway program including the System of Interstate and Defense Highways and the primary and secondary urban programs, and;

Whereas, said Fund is entirely self-liquidating, debt-free and has as its source of revenue only special taxes levied on motor vehicle owners and users thereby affecting no other federal program in any adverse way, and;

Whereas, proposals have been advanced in Congress that would terminate the trust fund concept of highway financing and permit the diversion of federal highway user taxes to non-highway purposes after the legal expiration of the present Highway Trust Fund in 1972;

Now therefore be it resolved, that the Virginia Dairy Products Association, Inc. is vigorously opposed to the use of highway funds for any non-highway purpose, and;

Be it further resolved, it heartily endorses the highway trust fund concept as a proven means of funding a balanced and adequate highway program, and that we urge Congress to enact legislation that would establish a Highway Trust Fund in its present form as a permanent instrument of financing the federal portion of our National highway program, and;

Be it further resolved, that copies of this resolution be sent to members of Congress from Virginia and the Governor of the Commonwealth.

I certify the above resolution is a true and accurate excerpt from the minutes of the Board of Directors Meeting of Virginia Dairy Products Association, Inc., held July 10, 1970

W. M. GAUNT, Jr.,
Executive V. P. and Secretary.

THE FOURTH GENERATION: INTIMATIONS OF REALITY

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. ADAMS. Mr. Speaker, on June 23–26, the 1970 International Data Processing Conference and Business Exposition was held at the Seattle Center in Seattle, Wash. The sessions featured 12 separate seminar series covering areas of wide-ranging technical and general management interest. Topics covered a broad spectrum, from "The Human Element in the Information Processing Community" to "Computing Equipment—Today and Tomorrow."

At the latter session, a paper was delivered by Robert L. Chartrand, the specialist in information sciences for the legislative reference service at the Library of Congress. Mr. Chartrand, in his presentation on "The Fourth Generation: Intimations of Reality," noted the impact of yet more powerful computer and microform tools and techniques on management. Many of his comments are germane at a time when the House of Representatives has undertaken a study of its information requirements, and has contracted to have a design prepared for an improved information handling system. I would like to have his remarks included in the RECORD at this time:

THE FOURTH GENERATION: INTIMATIONS OF REALITY

THE CONTEMPORARY CONTEXT

Computer technology occupies a prominent position in the pageantry of American scientific achievement, and all indications point to an enhancement of this posture during the remainder of the twentieth century. In our time we are accustomed to lauding or blaspheming the impact of automatic data processing (ADP) on all aspects of our lives: political, cultural, economic, private. And yet man's insatiable need for—and generation of—information has created an unprecedented crisis! This must be viewed and responded to as a challenge of the highest priority, for the mechanisms by which our civilization functions are threatened by the inexorable deluge of information media.

Within the span of its brief existence, the computer has emerged from its tentative, experimental beginnings to an impressive and often essential role. As one computer "generation" has succeeded another, with a fanfare usually reserved for coronations and cinematic colossus, man has begun to ascribe superhuman attributes to his creation. Such is the vanity of those who innovate, and while today's logic circuits do react 2½ million times faster than human nerve cells, the "beast" does not possess an artificial intelligence. There are, of course, numerous well-proven areas where its massive manipulative power has proven to be of inestimable value but all too often the more imaginative uses of the computer has been ignored or deprecated. The Data Process Management Association has both the opportunity and the responsibility to seize the initiative and hasten the intellectual development of those who use the computer in functions pedestrian or exotic.

The evidence of growth in the data processing field is more than ample, and allows some perception of certain key trends:

The number of computers in operation fast approaches the 100,000 mark (based on an annual increase of more than 15%).

The emphasis on quick-time access in an on-line mode is reflected in the spectacular growth in numbers of various types of terminals: time-sharing terminals increased from 500 in 1966 to more than 20,000 in 1970; CRT devices are experiencing a projected growth that will raise the total from 17,000 in 1969 to an estimated ten-fold figure in 1975.

A question has been raised which merits our consideration: are we unduly hastening the obsolescence of equipment and software long before it has mastered and gainfully utilized? The companion query must be: is a fourth generation really necessary; and can we successfully synchronize our development of the requisite technological elements?

The significance of these questions should not be taken lightly, and will be discussed hereafter within the context of three major areas:

1. The responsibility of management in responding to the more stringent demands on its time and judgment, as imposed by the ever more sophisticated technology.

2. The role of microform in the information systems of the future, and in particular its promising integration with computer technology.

3. The continuing evolution of ADP machinery and software, and the advent of a "fourth generation."

THE MANAGEMENT RESPONSE SYNDROME

The ubiquitous presence of the computer is changing man's intellectual interface with his environment, with the foreseeable result that he must rethink virtually every aspect of his day-to-day existence. Management groups, striving to cope with problems of unequalled complexity and broad-ranging consequence, continue to search for those tools and techniques which will abet the analysis-decision function.

The ability of American management to raise its performance in order to meet any challenge is a hallowed tradition in the annals of our private enterprise system. In this day and age, management has recognized that there are critical matters which must be addressed, and positive reforms which must be instituted:

Management has accepted and begun to refine the role of cybernetics in controlling the operation of an office or plant; in particular, the manager should be receiving both positive and negative feedback concerning corporate operations.

The imaginative use of computer technology and systems analysis can allow the manager to examine in detail management information reports; access to selective "cuts" of data can allow the manager to more effectively utilize his time.

A willingness on the part of management to depart from the mundane use of computers—inventory, payroll, accounts payable and receivable—into exploratory experiments with simulation and variable manipulation can lead to improved management performance.

Management must undertake to educate itself in the power and potential of the computer, for the importance of this instrument and its service to the company no longer may be left to technical personnel.

The onus, then, is on management as never before, to grasp the possibilities inherent in the burgeoning technology. Now as never before the manager has a responsibility to play the visionary, *and* he has at hand the array of magic devices which can help fulfill his objectives! There will be no penalty for creativity, which was perceptively defined by Myron Tribus as "the ability to generate alternatives which enhance the value of a set of acts—and, by extension, the representation of acts."

What can the fourth generation of computers specifically offer the manager? First, man-machine management functions can be enhanced through the availability of high performance access devices offering videoscreen narrative and graphic presentation options, image overlay, on-line correction and alternative manipulation, and retrieval from a variety of storage media. Second, the computer-modeling of certain categories of problems will be more achievable with systems in development. Finally, as character and pattern recognition systems evolve, management will be able to scrutinize its behavior and take corrective action. Never before has there been such an opportunity for the development of creative management.

THE ROLE OF MICROMATION

It would be unconscionable, in considering the information technology developments of the future, to omit the essential role to be fulfilled by microform. This mass-memory medium allows the storage of multitudes of words, symbols, numbers, and diverse graphic forms. The technology features "packing" densities many times that of magnetic tape, for example, and allows rapid retrieval and display of selected data elements or pages of information.

The mood, within government and industry, is to reduce the amount of hard copy and turn to other record media for space and cost savings. The Archivist of the United States, Dr. James B. Rhoads, recently opinioned that by the year 2000 no more than 50 per cent of those records would be some form of paper, as compared to 95 percent in 1950. Among the non-paper forms to be utilized in the forthcoming quarter-century are:

Photochromatic image forming materials, the only commercial product at this time being the PCMI (Photochromaic Micro Image) which allows high order reductions from 115X to 150X.

Photopolymers, featuring an "amplification factor" allowing a higher density to be achieved with a small amount of light; these are heavily used in storing engineering drawings, for which the consumption of sensitized film has increased almost 825 per cent over 1957 levels.

Electrostatic micro-images are under development, allowing high resolution (120 lines per millimeter) at 30X reduction.

Holography, meaning "whole writing," offers a host of possibilities; even now three-dimensional color pictures can be produced; not only can the subject image be viewed from both sides and front as one changes his vantage point, but the hologram can be broken into smaller pieces, each of which retains the entire image.

Dry silver film, which has been successfully used with reference type prints.

Diazo films continue to be improved and are used in microfilm enlarging processes, with the advantage of producing positive (rather than negative) copy.

Thermoplastic recording, whereby an eye legible micro-image is placed on a plastic surface using electron beam technology; an example is "Frost" xerography.

Some of the new techniques have reached the production stage. The Department of Housing and Urban Development has placed in operation the first "Video File," featuring electron beam technology employing a plastic medium. UNICON (laser beam technology using a metallic-fused plastic) produced by Precision Instruments, Inc. allows ultra high data compaction: 16,000 feet of magnetic tape (one-inch width) is compressed into 16 inches of four-inch UNICON tape.

As the fourth generation ADP hardware evolves, COM—for Computer Output Microfilm—will provide the necessary added dimension and flexibility required by the users of information technology.

MACHINE AND SOFTWARE EVOLUTION

As the Nation's computer users struggle to assimilate the multifaceted devices and software packages of the third generation of ADP technology, their credibility and endurance are strained to the utmost as they listen to the harbingers of the impending *new* generation. It would be accurate to report that the consensus views any fourth generation as arriving in an evolutionary fashion. And perhaps the great expectations of the tireless enthuiasts will be tempered to some degree by the responses still being elicited, and the lessons learned, from matching often exploratory software with admittedly conglomerate configurations in an attempt to satisfy naive, strident users.

Characteristic of the innovations identified as fourth generation components or systems:

Development of semiconductors, involving large scale integration of many circuits on a single silicon chip.

Improvement in display technology, including the transfer of alphanumeric and graphic data within the hard copy-microform-ADP triad.

Memory development—from primary core to discs, drums, bulk core or mobile storage media (tapes, etc.); the implementation of high speed "look ahead" memories and scratch pads, and special microprogram and control memories.

The establishment of multi-processor computer utility systems, with various level processors ranging from minicomputers in a transmission-control role to array or pipeline models.

Creation of highly flexible computer terminals offering input-storage-editing-retrieval capabilities and allowing final output through printers, plotters or ancillary data output stations.

Development of microprogram packages, providing control sequencing for small computers or monitoring stations for large configurations; conceivably this may take the form of a variable microprogram storage unit.

Increased computer-communications interaction and, in some cases, interdependence.

Few specifications on the proposed hardware are available as the computer manufacturers are understandably reluctant to share their secrets prematurely. A recent feature article in *Computerworld* (May 20, 1970) was devoted, however, to a discussion of the rumored IBM "fourth generation" of equipment. Reportedly the principal characteristics of the new series include:

Variable micrologic used for both instruction and execution processing alterable through software.

Built-in communication capabilities.

Cost/performance ratios improved by a factor of from 6 to 12 over similarly priced IBM 360s.

Inclusion in all models of high-speed buffer memories similar to those introduced for the 360/195.

No machine language compatibility, but much simpler conversion than that required by the move to the 360.

One of the significant trends is that of giving the user more for his money. The IBM new series allegedly will provide three times as much computational power per dollar and four times as much storage.

* * * * *

As thought-provoking as these projections may be, there is still room for a great deal of original research and uninhibited application of new devices and software. Future systems must have increased flexibility and speed—already there are problems which require processing speeds from 500 to 1,000 times faster than now is possible. Input and output constraints, particularly the latter, often deter users from employing the more elaborate processors which they sorely need. A constraint which will pose a severe challenge for the systems innovators and designers involves the formulation and writing of the software. Even at this point, the user community is hard-pressed to staff its facilities, and with each succeeding generation the shortage of trained personnel becomes more acute. Managers must be created out of scarce, senior project leaders ranks, leaving all too few experienced designers to confront the imposingly complex problems born of our own ingenuity.

Paramount in the thinking of those concerned with "things yet to be" is the concept of a computer utility. The Federal Communications Commission has evinced increasing concern about the manifold interactions between computer services and common carriers. This oversight may well have to be supplemented by legislative action leading to formal, more encompassing regulations.

Even on an *a priori* basis, certain improvements are sought through the development of fourth generation technology: an upgrading of cost performance, improved hardware-software reliability based on better diagnostic capabilities, enhanced control through equipment improvements, and more efficient use of hardware through better programing.

A COMPELLING FUTURE

In the volume *The Year 2000*, the authors are far from skeptical about the role of the computer at the end of the century:

By the year 2000, computers are likely to match, simulate, or surpass some of man's most "human-like" intellectual abilities, including perhaps some of his aesthetic and creative capacities, in addition to having some new kinds of capabilities that human beings do not have.

The difficulty in anticipating the future also is noted by the same group of eminent logicians, who recall that in 1937 the computer was not even foreseen by an equally prestigious group of prognosticators.

The opportunities for expanding and improving computer services to persons in all walks of life are virtually unlimited. Those responsible for governing the Nation, the States, and our cities will have access to planning and program information which can be used not by one, but several, governmental decision-makers. An international technical data network already is being conceived of, and the benefits to be derived from this by the scientific community and the peoples of the world are immeasurable. Analog and digital devices, capable of accepting and dispensing variable forms of data (including audio and translations) are in the process of moving from conceptualization to refinement through testing. Small computers of extraordinary power will be available for a host of uses.

Thus, the magnitude of the support to be provided by computer technology to our civilization in such that those responsible for its nature and scope share a unique opportunity and responsibility. The capability to provide guidance exists within the Data Processing Management Association, which can perform a critical advisory function in the years ahead.

HON. JEROME H. HOLLAND, AMBASSADOR TO SWEDEN

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Monday, July 20, 1970

Mr. BOGGS. Mr. President, earlier this year, President Nixon appointed Jerome H. Holland as our Ambassador to Sweden. Since that time, Ambassador Holland has served our Nation with great distinction in that post. He has traveled throughout Sweden to meet and get to know the people of Sweden, and he has been most helpful to numerous Americans visiting that country. Despite an occasional personal insult, Ambassador Holland has become one of our most valued representatives abroad.

Recently, the Wall Street Journal carried a most provocative and penetrating article describing, in considerable detail, Ambassador Holland's work during a single day. Mr. President, I ask unanimous consent that the article be printed in the Extensions of Remarks for two purposes: To demonstrate the important work of our embassies abroad, and more importantly, to indicate the devotion and effort to Ambassador Holland.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 8, 1970]

IN SWEDEN, U.S. ENVOY PLAYS IT COOL

(By Felix Kessler)

STOCKHOLM.—Like many other Swedes, Kristian Svenberg is personally impressed by U.S. Ambassador Jerome H. Holland. "He's really trying to move around this country to find out what the people are like," says the 23-year-old medical student.

But Mr. Svenberg says he'll still throw eggs at the new American envoy to Sweden any chance he gets.

"That's not personal," says Mr. Svenberg. "We look on Mr. Holland as the representative of U.S. imperialism. Our aim is to get him out of the country."

So far, the aim of radical young egg-throwing demonstrators hasn't been too good; They've scored no direct hits on the tall black ambassador and the State Department says it has no intention of recalling him—as it did his predecessor for five weeks in 1968—in protest against the Swedish government's pro-Hanoi leanings.

In fact, the egg-throwing and name calling demonstrations—Mr. Holland has been taunted with shouts of "nigger"—have gained him considerable sympathy. This is no mean feat in a nation where, Swedish officials estimate, at least 80% of the people oppose America's Vietnam war policies, and where, in the U.S. view, a policy of "active neutrality" amounts to support for North Vietnam. Under such conditions, what is life like for a U.S. ambassador?

A day spent in the company of Mr. Holland, who arrived here three months ago, reveals that it is pretty much the predictable round of conferences and social engagements—some important and some not so important—and all enlivened a bit by the delicate state of U.S.-Swedish relations.

The U.S. has had 20 consuls or ambassadors in Sweden starting with a bearded gentleman named William Widgery Thomas in 1863. Mr. Holland, a rugged 54-year-old former All American end at Cornell, is the first black U.S. ambassador to serve here. (In its 116 embassies around the world, the U.S. currently has five black ambassadors. The other four are assigned to Haiti, Uganda, Chad and Liberia, which received the first black American ambassador in 1949.)

EASYGOING AND ACCESSIBLE

An easygoing manner, willingness to talk and a conscious attempt to make himself as accessible as possible all seem to characterize Mr. Holland's approach to his problem of dealing with a country whose relations with the U.S. are often strained. Mr. Holland has already met formally three times with Swedish Prime Minister Olaf Palme, and he has also met with practically all segments of Sweden's population—except with the demonstrators, who won't meet with him.

"An ambassador has to go out, to meet people in the big cities and the small towns," says Mr. Holland. "Visit housing projects, churches, homes, shops. It's important for gathering information—and at the same time imparting it."

To date, the approach seems to be paying off. The radicals may still want to throw eggs, but Swedish government officials are known to regard Mr. Holland favorably as "more mature" than his predecessor, who was considered isolated and remote.

On a recent day, Mr. Holland began setting the pace for the 42 American civilians, 17 military attaches, 5 Marine guards and 81 Swedish and other nationals assigned to this medium-sized embassy by arriving at his fourth-floor office shortly after 8:30 a.m., as is his custom. Having browsed through news wires and other overnight messages at home, he quickly tackles the mail with his secretary, Marguerite Spreitzer.

"I believe it's important that every letter gets a personal reply," he says.

Shortly before 9, the embassy's Political Attache, C. Arthur Borg, drops in to analyze the morning newspapers. Mr. Holland, the previous day had toured an important Swedish industrial group's plant, and the newspaper Dagens Nyheter implies he was "not exposed to any egg-throwing" because the visit "was surrounded by great secrecy to avoid demonstrations. . . . To play safe, the dinner which followed was given in a very secret place."

"There was nothing secret," snorts Mr. Holland. "I had dinner at the managing director's home, just as planned."

Hostile treatment in the press and elsewhere is something the U.S. ambassador has to get used to in Sweden, however. During his first months in the country, Mr. Holland observes diplomatically, "the time has been full": 14 demonstrations, at least three egg-throwing occasions, and two times when he's heard himself called "nigger." A Swedish press spokesman disputes this last charge by claiming that an American Black Panther derisively shouted "house nigger" at only one demonstration. "That's laughable," exclaims Mr. Holland. "I'm a black man—and I don't know when people call me names?"

A tour of the embassy reveals a number of "combat souvenirs" of Sweden, decorating the walls of embassy officials. A paper Vietcong flag that had been planted in an embassy geranium pot and a chain with which a demonstrator had fastened himself to a railing hang on a relief-map of Sweden in the office of Turner Cameron, the embassy's Deputy Chief. A picture of a demonstrator's placard politely requesting "Mr. Bodde go home" hangs in the room of Political Officer William Bodde Jr. (He is, in fact, being routinely reassigned to Washington.)

Mr. Holland considers the more extreme protest, such as egg-throwing and personal abuse, "an embarrassment to Sweden." But he believes that the demonstrators nevertheless are only a small percentage of the population and the Swedes, are happy with his presence. The 50 letters he's been receiving daily express support in the form of "apologies for the Swedish people," invitations to dinner, cocktail parties and informal gatherings.

A MEETING WITH BUSINESSMEN

Speedily reading letters as he signs them with a black Government issue ballpoint, Mr. Holland says that his past 17 years as a college president (at Delaware State College and Hampton Institute) have proved good experience for his ambassadorial tasks.

At 10 a.m., four embassy officials enter the ambassador's office to discuss a meeting he will have the next day with 30 managing directors of American concerns established in Sweden. After settling down on a couch and chairs in his modest office, the officials decide the businessmen will be most interested in Sweden's fall election prospects. "Everybody thinks an embassay has inside information," someone observes.

Other points that will be covered as Sweden's economy, its dependence on exports and the possibility that an American Chamber of Commerce will be formed in Stockholm.

After the 40-minute meeting, Mr. Holland flicks through some more mail. "Just want you to know I'm pulling for you," writes an American superior. Another says that "I am Swedish and in your corner." Still another bears greetings from "one of the people living in little houses in the big forest."

At 11, two teenagers from the Anglo-American school—a Bulgarian girl and Mr. Borg's daughter—are ushered into Mr. Holland's office to receive scholastic awards: "Well, let me congratulate you two ladies on your achievements in English," says Mr. Holland easily. He then poses for photographs with the girls. "Speaking as an old educator," he says, "I'm sure it would help if the principal got in the picture." After an unhurried five minutes, he's back at his desk reviewing more mail and wire messages.

Col. Harry Tyndahl of Sweden's Salvation Army enters diffidently at 11:25. Mr. Holland immediately puts him at ease by asking detailed questions about the Army's operations. After 10 minutes, Col. Tyndahl places his hands together as if in prayer and beseeches Mr. Holland: "Could you please meet with our international head and Swedish head?" Without hesitation, Mr. Holland says he'd be delighted and offers to bring everyone to his home for coffee.

Shortly before noon, the embassy's Public Affairs Officer, Patrick Nieburg, enters to discuss a Washington directive and to brief Mr. Holland on the people with whom the ambassador is lunching at Sweden's state-owned television center. "Mostly administrators, not journalists," says Mr. Nieburg.

Mr. Nieburg is followed by William Zavis, the Press Attache, who checks on arrangements for a four-day trip the Ambassador is making to central Sweden over the weekend.

Mr. Zavis is concerned that a scheduled police strike will leave Mr. Holland unprotected. It's Mr. Holland's fourth such country swing and he's previously taken his wife, Laura, and two youngsters, Joseph, 13, and Lucy 14. "Protecting me is their (the Swede's) business," he says. "I'll go alone if need be but I'm not calling off the trip."

Mr. Holland is, however, sympathetic to Swedish police on their demands for more overtime pay, partially because demonstrations against the U.S. have contributed heavily to their working long hours. "Police all over the world have been left behind on pay," he says. And he finds the bearded, mustachioed or long-haired Swedish police not much different from their American colleagues. "I've got a brother-in-law who's a member of the New York police," he says. "I don't go along with those who call them pigs."

Shortly, Mr. Holland's wife picks him up for the broadcasting lunch. The lunch lasts two hours and Mr. Holland, on his return, terms it "friendly," with discussion involving differences between American and Swedish approaches to the media. Back in his office, he signs a few more letters before a conference with an executive of International Business Machines.

The IBM official insists he has a "private" matter to discuss with Mr. Holland and overstays his appointment; he's followed by a clergyman who also has "something personal" on his mind. Outside, Miss Spreitzer's phone rings constantly with calls from bridge players (involved in a big tournament held in Stockholm), business men and tourists who've lost passports or otherwise seeks the ambassador's help.

During the afternoon, a Swedish caller tries to enlist Miss Spreitzer's aid in helping establish a Wild West exhibit. A woman calling from Wisconsin wants to know which Swedish hospital will perform an abortion on her granddaughter. (The embassy obliged her request.)

All afternoon embassy officers buttonhole Mr. Holland briefly to discuss policy. (Three days a week he has more formal meetings with various staff members.) At 4:30 he emerges, is cornered separately by Mr. Borg and Mr. Cameron, and finally makes his getaway.

He receives a snappy salute from a Marine in the lobby, steps into his Cadillac limousine and is driven to his nearby home.

Mr. Holland gets home a few minutes before some guests begin to arrive. They include sociologists Eli Ginsburg, Dr. John Cooper, president of the Association of American Medical Colleges, two Ford Foundation visitors touring Sweden, an American television producer and various embassy and Swedish officials.

AN IMPRESSIVE RESIDENCE

The residence, the former home of a wealthy publisher, is considered one of the finest owned by the American Government. It includes a sauna, a squash court and an indoor swimming pool. One room is now lined with African carvings and busts that the Hollands acquired during their travels.

Mr. Holland introduces guests and makes small talk with ease. By 6:30, everyone has gone except a late-arrival, a self-assured television newsman with a hot idea. "What we want to do," says the American TV man poking a finger at Mr. Holland, "is hang a mike around your neck and follow you around for a day or so. You know, go everywhere with you except the bathroom."

The newsman promises that he, the cameraman and sound technician will be unobtrusive. "You'd be surprised how soon you'll forget we're here," he says. "The first thing I want is not interfere with what you're doing." Then he corrects himself goodnaturedly. "No, the first thing I really want is to shoot a lot of good film."

Mr. Holland agrees amiably and ten minutes later everyone has gone. At 6:50, Mr. and Mrs. Holland leave to attend a small private dinner with a Swedish medical college president, some academics and several social welfare officials—people whose professional background isn't very different from that of Mr. Holland.

Although the Hollands have eaten dinner at home only once in the past two weeks, he says they've always had breakfast together. He also finds time to play ball or Ping Pong with his son, whose major complaint is acute sports deprivation, though he plays on three Swedish basketball teams.

Except for a lack of confrontations with angry protesters, it's been a normal day for America's Ambassador to Sweden. "Not heavy, not light," says Mr. Holland, "just average."

CRADLE OF THE CONFEDERACY

HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. FLOWERS. Mr. Speaker, I have just read the cover story appearing in the July 1970 issue of the American Bar Association Journal and take this opportunity to offer the same for inclusion in the RECORD. Written by Milo B. Howard, the very able director of archives and history of the State of Alabama and, incidentally, an old and treasured friend of mine, the article traces the history of State government in Alabama, culminating in location of the capital in Montgomery over a century ago. The cover of the ABA Journal further honors our great State with a beautiful night scene picture of the capitol building itself. I commend the article to my colleagues and others who might be interested:

"CRADLE OF THE CONFEDERACY"

Few buildings in the United States can boast of having served as a nation's capital; only two can claim to have served as a convention hall where a national constitution was written. The State Capitol at Montgomery, Alabama, has both distinctions.

Before the eyes of the world came to rest on the "Cradle of the Confederacy" during the momentous days of 1861, the capital had been moved five times between 1817 and 1846, when it finally came to rest on a hill set aside for that purpose in 1817 by Andrew Dexter, the founder of Montgomery.

The territorial government moved from St. Stephens to Huntsville, where the first constitution was written and where Cahawba, at the confluence of the Alabama and Cahawba Rivers, was chosen as the first permanent capital of the state. Flood waters and a population shift caused the removal of the capital to Tuscaloosa, but another population shift following the final extinction of the Creek Indian claims resulted in the selection of Montgomery as a more central location. In the general assembly, the vote on removal was hotly contested. But Montgomery had sent her ablest sons to the legislative session of 1846; moreover, it could offer free land on the most commanding of the town's seven hills and a readiness to raise $75,000 for building the state house.

Stephen Button, an able architect from Pennsylvania, was engaged to design the new building, which was occupied in November, 1847. The town took on a prosperous air. Along with the Capitol, numerous fine homes in the classical and Italianate style and solid commercial structures were begun. Then, suddenly, on the thirtieth anniversary of Alabama statehood, December 14, 1849, the future hopes of Montgomery appeared to go up in smoke. At 1:20 p.m. the roof over the house of representatives was discovered to be on fire. The state senate, then in session, adjourned promptly, but the house members, over whose heads the fire was blazing, waited for no such formal action. In spite of heroic fire-fighting efforts, within three hours all that remained of the handsome new building was the blackened ruins of the outer walls.

Fending off suggestions to move the capital again, Montgomery persuaded the legislature to appropriate $60,000 to rebuild on the same site. The original design was followed closely in the building depicted on the cover of this month's *Journal,* which has served Alabama since 1851.

Ten years after the Capitol was rebuilt another fire was started in it, but this one spared the building, consuming instead a civilization. In 1860 the general assembly directed the governor, in the event of the election of a President of the United States hostile to the interests of Alabama, to call a convention to consider what appropriate course the state should follow. On January 7, 1861 a convention met in the house chamber; on January 11 it withdrew Alabama from the Union and invited representatives of other seceding states to meet in Montgomery on February 4 to consult together for their mutual protection and benefit. Accordingly, at noon in the senate chamber, the Provisional Congress of the Confederate States of America was organized. By February 8 the provisional constitution was adopted, and the next day Jefferson Davis was elected president of the new government. Seven days later he arrived in Montgomery, and on the 18th, standing between the center columns on the front portico of the building, he took the oath of office with his hand resting on the State Bible, purchased in 1853 and used at the inauguration of every Governor of Alabama since.

The Confederate Government remained in Montgomery only until the end of May, but during that time the Confederate president and congress had created a nation. The permanent constitution was drafted in the senate chamber and on March 4 the "Stars and Bars" was first flung to the Southern breeze, hoisted above the Capitol by Letitia Tyler, the young granddaughter of former President John Tyler. Four years later, on April 12, 1865, three days after Robert E. Lee surrendered the Army of Northern Virginia, General James H. Wilson entered Montgomery, and at the foot of the Capitol steps a proclamation was read placing Montgomery under martial law.

For the second time in five years a convention was called in the house chamber to draw up a new state constitution, an action that was to be repeated in 1867, 1875 and 1901. Hence, four of the state's five constitutions have been written in the house chamber, which remains basically as it was in 1851.

As the state government grew, the Capitol was expanded. A rear wing to house the Supreme Court Library was added in 1885, and the Capitol grounds were improved by the planting of additional trees and the paving of walks. Next year Jefferson Davis laid the cornerstone on the Capitol grounds for a Confederate monument that was completed finally in 1898 and remains the tallest Confederate monument in the world. An over-all plan for expansion of the Capitol was begun in 1905 in accordance with a design by Frank Lockwood that called for the addition of wings on the north and south ends of the historic building.

The corridors of the main floor are lined with portraits of the former governors of Alabama, while the dome, which rises 190 feet above the ground level, is adorned with eight murals painted by Roderick MacKenzie depicting the development of Alabama.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

SENATOR SCOTT'S RECORD ON MONETARY AND FISCAL POLICY

HON. WALLACE F. BENNETT

OF UTAH

IN THE SENATE OF THE UNITED STATES

Monday, July 20, 1970

Mr. BENNETT. Mr. President, while the Nixon administration is making a gallant and successful effort to bring our economy under control, they are aided in the Senate by our able minority leader, the distinguished Senator from Pennsylvania (Mr. SCOTT).

His record on monetary and fiscal policy is outstanding and certainly indicates a clear understanding of the issues and the need to bring our inflation under control and thereafter move forward with steady and sustained growth.

His record, likewise, shows full support for tax reforms that will benefit the working man in America and those who have been most in need of tax relief. I ask unanimous consent that a statement outlining his outstanding record be printed in the Extensions of Remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SENATOR SCOTT'S RECORD ON MONETARY AND FISCAL POLICY

With our economy seemingly at the mercy of an inflationary spiral, Senator Hugh Scott knows that government spending must be controlled. Efforts are being made to reduce or eliminate entirely, nonessential Federal expenditures.

Following a fifteen year lapse, the Congress finally got around to reforming our complex tax structure. Senator Scott approached this comprehensive overhaul with two objectives in mind—to give tax relief to low- and middle-income taxpayers, and to bring tax reform. The final tax bill was essentially a good one. It provides for genuine tax relief and reform but still leaves open the incentive for charity and investment, two very important stabilizers in our economy.

The following summary outlines Senator Scott's position on monetary and fiscal policy:

THE 91ST CONGRESS

Legislation

S. 35—To extend head-of-household benefits under the Internal Revenue Code to unremarried widows and widowers, and individuals age 35 and over who have never been married or who have been separated or divorced for three years or more, and who maintain their own households.

S. 50—Federal Revenue Sharing Act.

S. 1285—To establish a National Economic Conversion Commission.

S. 2259—To amend the Federal Credit Union Act to assist savings and credit needs of low-income persons.

S. 3077—To amend the IRS Code of 1954 to allow credit against income tax to individuals for expenses in providing higher education.

Votes

Voted to reduce the oil and gas depletion allowance to the 23% level recommended by the Senate Finance Committee.

Voted to increase the personal income tax exemption $750 by 1972 (a similar plan was included in the final Tax Reform Bill approved by the President).

Voted for Scott-Yarborough amendment to provide that funds of private foundations may be used to influence the outcome of specific public elections or in voter registration drives under certain conditions.

Voted to delete provisions requiring private foundations to terminate their tax-favored status after 40 years.

Voted to provide for a tax credit for expenses of higher education.

Voted to allow charities, educational institutions and art museums to continue receiving contributions without undue tax burden, and to not unduly restrict those who make these beneficial contributions.

Voted to liberalize the restrictions on rental housing and rehabilitation expenses.

Voted for the Tax Reform Act of 1969.

THE 90TH CONGRESS

Legislation

S. 1744—To provide Federal controls over foreign banking corporations operating within the United States.

Votes

Voted to allow income tax credit to individuals for higher education.

Voted to restore the investment tax credit and allowance of accelerated depreciation in the case of certain real property.

Voted to exempt from tax the profits from advertising in publications of certain tax exempt organizations.

THE 89TH CONGRESS

Legislation

S. 1130—To allow employers income tax credit for providing employee training programs.

S. 1635—To require annual approval by Congress of aggregate amounts of expenditure authorizations contained in general appropriation acts.

S. 2311—To provide for deduction of certain education expenses of teachers.

S. 3014—To allow income tax credit for contributions by individuals to National and State committees of political parties.

Votes

Voted against a two-year suspension of the 7-percent investment tax credit applicable to certain depreciable property.

Voted to provide a sliding scale income tax credit up to a maximum of $325 for college tuition and other costs.

Voted to exempt railroad rolling stock from the suspension of the investment tax credit.

Voted to exempt aircraft acquired pursuant to exercise of option under contract binding as of October 9, 1966, from suspension of the investment tax credit.

THE 88TH CONGRESS

Votes

Voted to provide liberalized treatment of certain long-term capital gains.

Voted to provide a sliding scale income tax *credit* for college costs up to a maximum of $325.

Voted to provide a tax deduction from earned income by a working college student.

Voted to retain the 4 percent dividend tax credit but to limit it to a maximum of $300.

Voted to repeal retail excise tax on jewelry and furs costing less than $100, and all such tax on luggage, handbags and cosmetics.

Voted to repeal manufacturer's 10-percent excise tax on mechanical pens and pencils.

Voted to reduce from 10 to 3 percent the so-called cabaret tax.

Voted to repeal the 10 percent tax on live theater dramatic and musical performances.

Voted to reduce the tax on general telephone service.

Voted to provide tax deductions for expenses of transportation to and from one's place of business or employment.

THE 87TH CONGRESS

Legislation

S. 2—To provide tax deduction for small businesses, for additional investment in depreciable assets, inventory and accounts receivable.

S. 3384—To provide income tax deduction for taxpayer supporting dependents handicapped so as to be unable to care for themselves.

Votes

Voted *not* to eliminate the 7 percent tax credit to segments of business for investments in new machinery and equipment.

Voted to permit deduction of certain entertainment expenses "associated" with the active conduct of the taxpayer's business.

Voted to encourage the establishment of voluntary pension plans by self-employed individuals.

Voted to reduce oil and gas depletion allowance from 27½ to 15 percent on a sliding scale based on gross income.

THE 86TH CONGRESS

Legislation

S. 526 To prohibit deduction of expenses or losses incurred in illegal wagering.

S. 564 To increase personal income tax exemption to $1,000 for any year dependent is student at college level or above.

S. 566 To allow income tax deduction for vocation transportation for disabled persons.

S.J. Res. 113 To establish Committee on Taxation of Interstate Commerce in order to bring about greater uniformity in state taxation of business income derived from interstate commerce.

S. Con. Res. 70 To create a Joint Committee on Federal-State Economic Relations.

Votes

Voted *against* repealing credit against income tax for certain dividends received by individuals.

Voted not to deny deductions in excess of $1,000 annually for (1) entertainment expenses, (2) gifts, (3) dues or initiation fees, and (4) travel to places outside the U.S., Canada and Mexico to attend conventions for advertising purposes.

Voted not to repeal the 4 percent credit for dividends received from domestic corporations.

Voted not to withhold income tax on interest and dividends.

Voted not to deny as trade or business expense deduction expenditures made for entertainment, gifts and club dues.

As the Republican Leader, Senator Scott expects to continue his fight for controlled government spending as one means to end the inflationary trend of our economy. Because of Senator Scott's efforts, Pennsylvania's citizens are getting more equal treatment under our tax laws than ever before.

SCHOOL DESEGREGATION POLICIES

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, July 20, 1970

Mr. BYRD of Virginia. Mr. President, the Newport News Daily Press of July 9 contains a thoughtful editorial on the school desegregation policies of the Department of Health, Education, and Welfare and the Department of Justice.

I ask unanimous consent that the editorial, entitled "More Federal Flim-Flam," be printed in the Extensions of Remarks.

The editor of the Newport News Daily Press is Mrs. Dorothy R. Bottom.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MORE FEDERAL FLIM-FLAM

Sometimes and too often, the actions of the federal government resemble the old flim-flam game—great expectations turn out to be nothing but a wad of worthless paper. This has been the situation in regard to school integration ever since it ceased to be a civil rights issue and became a political one.

It has also been true of the Newport News school integration problem. First, the HEW Department labored mightily to produce a mouse suffering from the malnutrition of inadequate study, but then seemed well on the way to recovered health through a process which every schoolchild knows as reasonable reflection. Even the federal courts, which are not distinguished by their consistency in school integration matters, had even mentioned the word "reasonableness" once in a while.

Now, the Justice Department has become a new irritant in an already delicate situation by sending a letter to the State Board of Education demanding further school integration in five Virginia localities, including Newport News. Just what impulse compelled Justice to make this move at this time remains unclear, but it quite obviously is a situation where the department did not do its homework. As First District Rep. Thomas N. Downing observed, it appeared Newport News and HEW were on the verge of reaching a solution to the problem and the Justice Department onslaught came as a surprise. However, Congressman Downing added that he found Justice ready to call off the attack on Newport News if HEW will certify the city as a proper scholar of its methods.

That certainly is good news, coming at a time when it appears possible that HEW will remember that education is part of its title, too. The problem is acute enough—Norfolk parents are having to organize in hopes of preserving some rights over treatment of their children and a federal judge in another section of the state wants to restructure the entire school system to accommodate integration—without another debilitating factor.

HELP SAVE THE WILD HORSES

HON. WALTER S. BARING

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. BARING. Mr. Speaker, many of Nevada's schoolchildren have written me over the last couple of years urging my help in protecting the wild horses for they know that I have been a champion of the wild mustang for many years and thus I am enclosing an article which appeared in the Wall Street Journal, June 25, 1970, written by Mr. P. F. Kluge, which I believe will be of interest to all horse lovers.

Preservation of the wild horse is as much a part of the American heritage as protection of the buffalo, and I sincerely hope that the BLM will take heed and help in establishment of proper wild refuges for these fast disappearing animals.

The article follows:

WILD HORSES DISAPPEARING FAST, BUT THEY ARE STILL KILLED AS PESTS, USED IN PET FOOD

(By P. F. Kluge)

CALIENTE, NEV.—The wild bay stallion panics as the strangers approach. Eyes rolling, he races desperately around the corral that is his prison, tripping over wires, crashing against the fence.

He had come down from the arid mountains near here and was drawn to a familiar salt lick that had been fenced, its gate left open. Entering, he tripped a wire and the gate slammed behind him. When the gate opened again it would lead to the back of a truck. There would be other corrals then, and finally, the last stop at a pet-food plant.

Trapped and sold for six cents a pound on the hoof, shot and left to rot on the range, driven off cliffs, the mustang is a slowly vanishing symbol of the American West. Descended from stock brought to the New World by the Spanish conquistadors and the settlers who came after, mustangs once roamed the Great Plains by the hundreds of thousands. No more.

As barbed wire and the plow marched across the grasslands, the mustang retreated farther and farther west. Exterminated as a pest by ranchers, driven into dry country where pasturage is hard to find, his numbers dwindled. Today about 17,000 mustangs are left in 11 Western states, about half of them in Nevada, many in the arid moonscape of that state's southern region.

Conservationists—and some repentant "mustangers" who have slain many of the animals in the past—are now working to preserve those that are left. They will have to work fast; Stan Routson, Nevada state inspector of brands, expects the mustang to survive only about eight years more in his state. . . .

If the mustangs do disappear, it will be because of economics and the animal's lack of status as an endangered species. The Federal government doesn't recognize it as such because, strictly speaking, the mustang is not a distinct species, just a horse of mixed parentage. Old mustang hunters, however, view him as a wild animal in the truest sense of the word; they have seen mustangs leap over cliffs rather than be caught or starve themselves to death when trapped in corrals rather than eat the food proffered by captors.

Mrs. Velma (Wild Horse Annie) Johnston, a Reno secretary who has been a strong champion of the mustang, says: "No one wants to be responsible for them. They're not an edible animal and they're not a trophy animal. They're in limbo."

Mrs. Johnston was instrumental in obtaining a 1959 Federal law that forbids the use of planes and motor vehicles in rounding up mustangs on Federal land (86% of Nevada is Federally owned). A bill introduced in Congress earlier this year would give the Secretary of the Interior authority to set up and maintain preserves for mustangs and burros, but the fate of that is uncertain and the 1959 law is the principal protection now available.

HOLES IN THE LAW

The 1959 law has ended the massive roundups of the past, when hundreds of mustangs were driven over cliffs or rounded up and sold by teams of hunters in jeeps, trucks, and airplanes; about 100,000 of the wild horses were removed from Nevada in the four years after the end of World War II, for example. Still, the 1959 law is poorly enforced and has holes in it.

"You're not going to get the FBI out here to enforce it," says Mr. Routson, the Nevada brand inspector. "And the county commissioners are elected by ranchers, who want that land for cattle."

Many ranchers lease grazing rights from the U.S. Bureau of Land Management, paying a fee based on how many cattle the bureau estimates can be supported on a given tract. In the Nevada badlands, where cattlemen joke that a cow has to graze at 20 m.p.h. to get enough to say alive, every tuft of green is precious—and the mustang is a wide-ranging rival for available pasturage.

So ranchers and others still trap and kill mustangs legally and illegally. The anti-motor vehicle provision of the 1959 law is evaded by mustang hunters who release their own branded horses into a mustang herd and then chase and round up the whole lot using jeeps and trucks. If anyone gets curious, the hunter can argue that he was just after old dobbin . . .

Ellis (Cougar Lefevre, a grizzled mustanger who says he was personally involved in the capture and extermination of some 10,000 of the animals, says he repented years ago when it struck him that his children might never see a mustang. Retired rancher Holland, the Mustang Association president, recalls a similar change of heart.

"Back in the fifties," he says, "there was one horse, a white mare. We chased her for three years. We got to calling her Native Dancer. The last year we chased her, she was with a colt. We finally caught her, but it took three relays of men and horses and an eight-mile run. Now, that horse was the goingest concern I ever come across, and it about broke my heart when we shipped her out for pet food."

SUPERSONIC TRANSPORT SYSTEM

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. WALDIE. Mr. Speaker, Mr. James Sorenson of Walnut Creek, Calif., has pointed out the apparent negative aspects of the SST aircraft.

In pursuing the construction of the SST aircraft, the airline industry is illustrating the overenthusiasm of many businesses to build the biggest and the best equipment without taking into consideration the effects on the public in terms of safety, cost, quality, and pollution.

Mr. Speaker, as Mr. Sorenson points out, it would be wiser to spend public money on improving air traffic-control than to subsidize corporations to build unneeded aircraft. It seems that technology will again be allowed to jump so far ahead in certain areas that the effect it will have cannot be handled in other areas such as safety, and pollution. Not only are many of the technological gains dubious in worth because of the other technological difficulties they create, but the gains often help to destroy the environment.

His letter follows:

JUNE 30, 1970.

Representative JEROME R. WALDIE,
House Office Building,
Washington, D.C.

DEAR MR. WALDIE: Enclosed please find a copy of the letters my wife and I sent to Senators Cranston and Murphy on the SST. The note you sent us in response to your questionaire was much appreciated. We also needed the spur to write on the SST, it was our first such letter. I wish it could be our last.

Keep up the fight against the peripheral canal, and thank you again.

Cordially,

JAMES SORENSEN.

DEAR SIR: Soon you will have before you a bill to appropriate funds for the supersonic transport. We strongly urge you to campaign against its passing in the Senate and to vote no when the opportunity arrives.

The two of us earn our livings by flying for a major airline, as a pilot and a stewardess. As a young pilot with the prospect of a long and rewarding career ahead of me, I see the SST as a very personal threat as well as a waste of taxpayers money. Let me explain.

Everyone is aware by now of the overburdened and understaffed air traffic control system we operate in everyday. You may not be aware that our airline (as well as others) operates into airports such as Visalia and Merced, with jet aircraft, where there is no controlled traffic separation. Surely it makes more sense to appropriate money to alleviate these substandard areas in our present system and give the passengers and crews alike the safety they deserve. Why add an aircraft to the system whose speed envelope is incompatible with present aircraft?

Our company, in a cost analysis, has already determined that at a $100 per seat fare to Hawaii from the mainland the Concorde, coach configuration, would require something on the order of 119% capacity to merely break even! Needless to say we will not get the Concorde, in fact whether to go into production or not is still undecided. So who will benefit from the SST? Boeing certainly. The airlines? Hardly, if no profit can be shown from its use. The Taxpayers? We do not wish to subsidize a company to build an aircraft of dubious qualities and then possibly have to subsidize the airlines to use it.

Economics aside, what are the environmental implications? This aircraft will be a Super Polluter. Airports will be bombarded with complaints of noise on takeoff and landing. Copious quantities of waste material will swirl around in its wake. And there is the sonic boom. Do we really need to be bombarded wtih explosions at regular intervals of the day and night so that a few can travel so fast they experience indigestion and other disorders due to their "body clocks" getting out of phase (already a subsonic problem)? Not to mention the environment that waits for us at 60,000 feet.

We again urge you to do all in your power to defeat the appropriations for the supersonic transport.

Respectfully.

"IRRESPONSIBLE" SPENDING BY CONGRESS

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HUNT. Mr. Speaker, once again it is an election year and once again my colleagues in the other party have decided that controlling inflation for everyone is secondary to attempting to buy votes through massive overspending program.

The President was kind on Saturday when he referred to irresponsible spending by the Congress.

Mr. Speaker, I think there is a deliberate move afoot by the Democrats to play fast and loose with the Nation's economy in the hopes of retaining control of the Congress.

They seriously believe that you can fool enough of the people enough of the time.

For that reason they continue to spend money we do not have while refusing to raise taxes to finance that spending. They continue to vote appropriations that lead to inflation while criticizing the President for not controlling inflation.

They continue to demand cuts in defense spending and criticize the President when defense spending cuts put some defense workers out of work.

Mr. Speaker, the Democrats are determined to have their political cake and eat it, too, regardless of how much indigestion they give an entire nation.

JULY FOURTH REMARKS OF REV. ALBIN H. RATERMANN

HON. DONALD D. CLANCY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. CLANCY. Mr. Speaker, although the Fourth of July has passed, I thought it appropriate to present the comments of a sincere dedicated American about the Stars and Stripes on that occasion. The words of Rev. Albin H. Ratermann, pastor of St. Vivian's Church in Cincinnati, Ohio, reflect a deep sense of pride in this wonderful country of ours and a true reverence for our flag.

I am sure that all of the Members of the House of Representatives will find his words most inspiring:

THE GLORIOUS FOURTH

Exactly 194 years ago this Saturday the greatest nation in the world was born. Most of us first opened our eyes in this great land of ours over which Old Glory flies aloft "o'er the land of the free and the home of the brave." We are secure and protected in a land carved out for us by the bravery and the sacrifice of young Americans who have gone before us. Ours is a proud and glorious heritage to be Americans, and ours, too, is a correspondingly tremendous responsibility, for we indeed are America's present and future. Into our hands has passed the Torch of Freedom. Let us never let it down, or blow it out, or snuff its flame. Let us be always conscious of the fact that to this glorious Country of ours we have a sacred duty. Seldom within the history of this fair Country has there ever dawned a day when loyalty and submission to civil authority has ever been more needed than in this very day of ours. For the spirit of rebellion and unrest and defiance of authority have invaded the ranks of some of our citizens. But to us who have been taught our sacred duty of submission to lawful civil authority and loyalty to our flag, to us do our forefathers look to uphold the ideals of our Country and to hold the flag second in sacredness alone to the Cross of Christ. Most unfortunately today, however, to some radical traitors in our midst the Stars and Stripes have become, instead of a sacred symbol, an object of scorn. They have dared to desecrate our flag by trampling upon it, or shredding it, or even burning it. More than ever before, then, must we loyal Americans rally to the defense of those Christian, American ideals pronounced 194 years ago, and respect that glorious flag of ours as a cherished symbol of truest freedom. May the white of her stripes, then, be ever a symbol of the purity of our Country's ideals, may her blue be in earnest of her devotion to her sons, and may the luster of her red remind us of the blood that has been shed that we might be free.

ROCKY MOUNTAIN COAL MINING INSTITUTE RESOLUTIONS

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. BURTON of Utah. Mr. Speaker, some time ago I introduced legislation to help alleviate the burden placed on the small mine operators, particularly in Health and Safety Act. Congress, in its giving them more time in which to meet requirements of the 1969 Coal Mine desire to enact strong protection for the miners, may not have taken into account the extreme burden the act would place on the small operators, many of which now face heavy fines for installation of equipment they are presently unable to acquire economically. Therefore, I was interested in the following resolution passed by the Rocky Mountain Coal Mining Institute in the recent meeting at Aspen, Colo.:

RESOLUTION

Whereas, The Federal Coal Mine Health and Safety Act contains many provisions that are virtually impossible for many operators to meet which do not materially add to the first and primary objective of safety,

And, whereas, the Coal Operators and Mining Industry are equally concerned with the miners, their labor representatives, the U.S. Bureau of Mines and the Members of Congress, with the basic objectives of the Act, to insure safety and to prevent damage to the health of miners, but have the considered judgment that safety can be achieved without the enormous economic waste and in the case of many small operators, economic ruin, that will result from the Act as presently written,

Therefore be it resolved, That The Rocky Mountain Coal Mining Institute does urge that the U.S. Bureau of Mines, the appropriate Congressional Committees, and representatives of industry and labor immediately engage in a full, frank and cooperative effort to agree upon changes in the Federal Coal Mine Health and Safety Act that will retain, enhance and insure its basic objective, the health and safety of the miners, but at the same time, will avoid economic waste, financial ruin to many small operators, and will encourage better operating practices and economies of operation by the Coal Mining Industry.

Be it further resolved, That we express our appreciation to the many officials in the U.S. Bureau of Mines and also to the Congressional Committees who have expressed concern over the problems created by the Act and have endeavored to cooperate toward carrying out its basic objectives without diminishing its health or safety requirements.

CONGRESSMAN FLOOD SPEAKS TO CONGRESSMAN PRAYER BREAKFAST GROUP

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MONTGOMERY. Mr. Speaker, on Thursday morning of last week our distinguished colleague from Pennsylvania, Congressman DANIEL FLOOD, inspired and informed the Members of the congressional prayer breakfast group with some outstanding remarks entitled "Doldrums and Storms." I share those remarks with the other Members of the House:

DOLDRUMS AND STORMS

There is a curious relationship in life between calm and storm. You can see this vividly and dramatically in the world about us—for example, in the process which results in formation of a hurricane, a process at work during these pleasant months of Summer, months which spell relaxation for millions but which also have a menacing aspect to many because of the destructive power of the hurricane.

A recent study of hurricanes observes that, "Meteorologists cannot explain down to the last detail what causes a hurricane"—this, in spite of the fact that the National Hurricane Research Project has been in operation since 1956, that it owns DC 6's, that these planes fly into tropical storms, record their pressures, wind speeds, water content. In spite of all this, a full understanding of what causes a hurricane continues to elude us. So we are reminded that there are some things scientists do not know.

I say this not in any way to depreciate science and its achievements, but, rather, because in the popular mind there is often the feeling that science knows everything and has all the answers to all the questions. Science, for good reason, in the last hundred years has achieved a prestige and authority so that, when it speaks, the ordinary person automatically believes that it has all the answers to all the questions.

Of course, the great scientists of the world would never dream of saying anything like this. They would be willing, and more than willing, to grant that while science may now know something of how life developed from amoeba to man, *why* it developed remains a mystery. Life will always have some secrets it will jealously guard. Just as a real person never reveals all of himself, so the likelihood is that life will never reveal all of its ways to any of us. What causes a hurricane? Some day, no doubt, we will find out. But what makes one man good and another bad, or why some have so hard a time of it and others so relatively easy a time, we may never know. The password comes from a poet who at the age of 80 published her third book of poems and by these three slim volumes has attained a distinctive place among American poets—Abbie Huston Evans:

"We have come through the edge of the continent; we know it.
We are through with solid ground.
The world of substance is dissolved in force,
In charge, in energies commensurate
With nothing that we know.
And *Humble* is the password of the wise."

The study, to which I have referred, concluded that hurricanes "require certain conditions—most prevalent in late summer and autumn." Hurricanes which strike the eastern United States, it continued, "are born in the Atlantic Ocean . . . in the calm, warm, moist air of the doldrums." We think immediately of popular folk-sayings in which we speak of ourselves as "in the doldrums"—dejected, low in spirit, spiritually empty. You begin to think of storms of quite a different kind—not those that come in the sky and shatter the landscape—but storms that come into a person's life and may wreck the work of a lifetime. Most of these storms, too, begin in the doldrums.

Exactly the same thing is true of those big storms that rip the world apart. Think of the First World War and the conditions of the western world just before it. Britain ruled the waves, and a large part of the world as well, and did it better than most. Let them rule, most people said, unless they happened to live in India or Africa or Ireland or some other part of the world where they wanted to be free of any foreign domination. The United States was safe and happy, surrounded by seas which, it was thought, protected it from every sort of physical attack. And, finally, the Christian Church was on the march. The motto of the Student Christian Movement in 1912, two years before the outbreak of the war, was "The Kingdom of God in this generation"! I call that state of affairs the doldrums—such complacency, such lack of awareness, such blindness to the facts, a static, lifeless time, "the calm, moist air" in which a hurricane is born.

Think of the Second World War. Our attention is concentrated on Germany and her situation: defeated, humiliated, ground into the dust. It was in just this defeat, in disgrace and in debt, into just these doldrums, that Hitler came and stirred up such a storm as the world had never seen before.

Then we come to the present. I suggest to you (and I speak out of love for my Country) that the United States of America has been in the doldrums—and that the storms we are encountering in this troubled time are the product of the doldrums, not of defeat and poverty, but of success and abundance. We have had too much—too much money, too much comfort and ease, too much freedom with too little sense of National purpose or mission. Freedom apart from purpose is anarchy. Certainly there are many exceptions—and we thank God for them—but it is hard to avoid the reality of our present condition. We are generous as a Nation, often to an incredible degree, but people who have never had anything need more than generosity. They need understanding, companionship, patience, and guidance. There is a tragic distortion in our sense of values, a distortion which can be documented in almost every area of life.

So the word of the prophet comes to our land from this simple fact about storms: hurricanes are born in the doldrums. A small but significant and disturbing evidence of this may be seen in the recent Harris Survey, a comprehensive in-depth study of attitudes among a cross-section of 820 under-graduates in 50 four-year colleges. The results reveal a lack of faith in the leadership of our country. By 78 to 20 percent, students believe "the real trouble with U.S. society is that it lacks a sense of values—it is conformist and materialistic." I am not concerned for the moment with how valid this judgment may be; we may well feel that it is exaggerated and out of balance, not wholly justified. Nevertheless, it represents an emerging storm from the doldrums of academic life, a growing alienation and polarization on the American scene.

However, there is another aspect to what I have been saying, a dimension which carries us beyond both the doldrums of the storms: it is this—the doldrums near the Equator are *un*-like the doldrums of the human spirit in one important respect. The doldrums near the Equator, so far as we know, cannot be changed, whereas the doldrums of the human spirit can be changed. While we may not know the cause of the storms that threaten to destroy humanity, we *do* know the climate in which the storms are bred, and we know that that climate can be changed—and if any people under the sun can change it, it is those who are gathered together as we here are met to turn in prayer to Strength and Purpose greater than all our striving.

There is a sense in which we cannot stop the storms, we cannot turn the clock back. We cannot stop the development of nuclear physics nor, indeed, of nuclear weapons. We cannot make this Nation a Nation that is poor in material things, and I doubt that we can bring about by the activity of a religious group any significant disarmament. What we *can* do is to change the climate in which a storm might be bred. And this is something we can do as individuals and together to heal and restore the common good.

We can help to change our attitude toward the government—by which I mean not any particular administration or agency, but all those chosen by us to manage and administer the system which orders our life and makes it possible. We can change our attitude toward money—or, rather, toward the things that money can buy. And, finally, we can help to change the climate of this Country by the power of faith and in the spirit of words spoken long ago, "If you love me, keep my commandments." Our prayer here today is for our Country and for our world. We ask for protection, but even more for guidance; for knowledge, but even more for imagination; for power, but even more for grace—to do and to be the kind of people who change the climate, meet the storm head on, and avert its impact. In the words of a great American theologian and prophet, Reinhold Niebuhr, "O God give us serenity to accept what cannot be changed, courage to change what can be changed, and wisdom to know the one from the other."

TRIBUTE TO REAR ADM. JOSEPH L. HOWARD

HON. CHET HOLIFIELD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HOLIFIELD. Mr. Speaker, we hear much in the Halls of Congress and we read in the daily newspapers about cost overruns and deficiencies in defense procurement. We do not hear or read often enough about those dedicated public servants who work tirelessly but without fanfare toward efficiency and economy in the Government's business. Rear Adm. Joseph L. Howard, Deputy Director of the Defense Supply Agency, is one of these dedicated public servants.

It was Admiral Howard's duty, as Deputy Director, to take charge of the Defense Contract Administration Services—DCAS. This agency performs a vital function in procurement which is not too well understood. Understandably, contract administration gets less congressional and public attention than the initial procurement action, where interest centers on the bidding contest and who gets the award. Contract administration is concerned with how well the contractor performs, his accountability for Government property, and the like. The many activities encompassed in contract administration are necessary to determine whether the taxpayer is getting a full return on the dollars expended.

In 1968 Admiral Howard took command of DCAS as a large but relatively young organization and quickly developed it into a superior administrative unit responsible for more than 235,000 contracts and a large portion of the $55 billion defense budget.

Admiral Howard made significant contributions in revitalization of value engineering, prompt payments to contractors, use of packaging services contracts, and standardization of product quality assurance methods.

His management ability and the performance of his organization have earned frequent praise. Further, the stimulus provided by his professional testimony before the Military Operations Subcommittee in support of H.R. 474 to establish a Commission on Government Procurement was recognized and appreciated by members of the committee.

From the beginning of his assignment, Admiral Howard sounded the keynote of efficiency and responsiveness and through exceptional intellectual dimension has given his organization a new sense of identity and dedication.

The support of our military forces and the accomplishment of the programs of our Federal Government at minimum cost depend heavily upon effective management effort by senior executive personnel. It is a privilege to record special recognition of Admiral Howard's ability and effectiveness and to note that he will be tendered the Legion of Merit—gold star—citation for his outstanding performance.

Within a few weeks, Admiral Howard will assume command of the Naval Supply Center at Charleston, S.C., in the district of our distinguished colleague and chairman of the Armed Services Committee, Congressman MENDEL RIVERS. I know I speak for the members and staff of my Military Operations Subcommittee in wishing Admiral Howard success in his new and challenging command.

HORTON PRAISES ANDREW D. WOLFE'S FEATURE STORY ON 1970 HIGH SCHOOL GRADUATES, "A CLASS PORTRAIT"

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HORTON. Mr. Speaker, there is much speculation on the part of the older adults as to the frame of mind of today's teenage students. After January 1, 1971, the minimum age for voting will be 18, due to the actions of the 91st Congress. This new responsibility for many young Americans causes wonder among the older generations, and questions are being asked about the teenagers' ability to handle in a mature fashion this very important privilege.

Recently the editor and publisher of the Brighton-Pittsford Post and the Henrietta Post, Andrew D. Wolfe, decided to answer some of those questions by having his reporters interview a cross section of high school students in his area.

As their Representative in the U.S. Congress, I was especially interested in their answers. I found each interview stimulating, inspiring, and sometimes awesome. The depth of their thinking, the perception of their curiosity, the boldness with which each confronts tomorrow, all tended to make me even more confident that the future of this great land of ours will be in good hands.

Editor Wolfe approached these 1970 high school graduates to find out what they are thinking, where they are going, and how they would change things. He reminded his readers that graduation is usually a time for contemplation of the past and future, so he set out to record their views on everything from education to environment, from personal philosophy to political positions.

I would like to share with my colleagues the very revealing thoughts of some of today's young people. I also would like to thank each one of them for giving us an opportunity of looking into their minds and getting a better idea of their thinking, their plans for the future, and their abilities to cope with the problems they believe will confront them.

Here now are the answers of 11 of these splendid young people, to the questions posed by the inquiring reporters. They truly do give us a class portrait of some 1970 graduates:

Larry Stoler, 103 Meadow Dr., Brighton, son of welding supply salesman; National Honor Society; president of his junior class, honorable mention All-County baseball player and co-captain of the Soccer team; will attend Oberlin college

Career.—No decision, studying toward Ph.D.

Concerns.—I don't see why people are surprised by student unrest. Education encourages you to think and then people get upset when we do. Students sometimes expect too much. They can get a lot done by talking to people instead of using violent means. I don't approve of violence. It seems to get more publicity but it's not the only way to accomplish an end. It's very important to be responsible and patient.

Overpopulation and the tension it creates is our worst social problem. It is responsible for just about every other problem. It can be solved by birth control education. There is no place for a big family and it is smart to limit size to two. I would rather prevent a life than erase an existing one, as in war.

One change I'd like to see is more concern for the individual. The government should be more responsible to the individual and in general should be set up on a people to people basis instead of a people to money basis. I don't like the aligment of the government with big business and the military. The justice and equality of the system is brought to question in the military.

I am confused to the purpose of the government in fighting a war in Vietnam. I am forced to admit the South Vietnam government is not democratic and we are not stopping communism. I don't see why we have to kill to build up—there must be some way to just build up.

Taking drugs should be left up to the individual. Personally I don't drink or take drugs. I play my baritone horn for an hour but that may not be the answer for everyone.

The Future.—Idealistically, if I can make money doing something I enjoy I'll be happy. I don't plan to stop learning. I hope to travel—the more you see, the more you can appreciate.

Philosophy.—There is nothing I value most in life but I place great value on the concept of man living harmoniously with nature. Religion satisfies a need in man. It provides him with answers and gives him a place. I am still searching for what my religion means to me.

My life had been quite protected in experience and outlook but my high school experience has helped me accept people as they are. I'm generally happy with my education.

John (Randy) Lane, 913 S. Lincoln Rd., East Rochester, son of area salesman; president of East Rochester High School class; captain of football and basketball teams; will attend Waynesburg University.

Career.—Undecided, possibly in sports.

Concerns.—I would go to Vietnam if asked because I believe in world peace and the threat that communism poses to it. I won't try drugs. I have better things to do. Prejudice is a two sided problem which only communication can solve. I'm a good Catholic. I'll condone student protest until someone trys to push me around. I won't stand for that.

The Future.—I never plan too far ahead. I'd like a family and a place in the country, but I enjoy the suburban atmosphere here in East Rochester with my friends close by.

Philosophy.—The thing I value most in life is friendship.

Pam Little, 9, Countryside Rd., Fairport, daughter of director of quality control at Eastman Kodak Co.; in top 10 percent of her class at Pittsford High School; recording secretary of Student Council; active in Girls Leaders club and gymnastics; will attend Duke University.

Career.—Undecided.

Concerns.—Society's basic problem is a lack of communication and willingness of people to listen to each other. Other problems seem to stem from this. I'm tired of hearing people say that it's up to government to handle the environment problem. It is everyone's responsibility. My education has been most rewarding when a teacher has shown a personal interest in my work. Teachers who aren't interested in helping a student guide himself and instead turning to rules and detention for incentive, are in the wrong profession. If someone skips a class he's the one who loses, and no amount of detention will change that attitude. I wish there were less "mickey mouse" courses required and more courses available which I enjoy.

The Future.—I want to be happy and married to a man I love very much. I don't want any children. The overpopulation situation is too dangerous to allow it. I'd like to go to Europe and work after college.

Philosophy.—I value most in life my own sense of happiness and being alive. I wouldn't say I was deeply religious. Religion to me is how you treat other people.

Robert Huizenga, 51 Huntington Meadow, Penfield, son of University of Rochester science professor; valedictorian of Penfield High School; Harvard Book award, Kiwanis Athletics Excellence award; captain of this year's football team; section 5 wrestling champion; will attend the University of Michigan

Career: Scientist.

Concern.—I can't decide which is the worst another. Poverty tends to be self-generating, making the poor immune from progress. social problem, because one seems to cause Elimination of regressive taxes, reform of the social security system and appropriate housing are part of the solution. Frankly I'm at a loss to find answers for those judging a man by the color of his skin. Politically, I sometimes get a helpless feeling regarding the system. For example, the phenomenon that money is a prerequisite to political power and/or office and that key Senate and House positions go to the man of highest seniority and not necessarily to the man of greatest ability is disillusioning.

We should declare a victory in Vietnam and pull out. Student unrest is closely linked with the War and the ho-hum responses the establishment has given their pleas. As the menace of pollution grows, so does the need for effective legislation against it and for some sort of national enforcement agency.

The Future.—At 30 I want a place to live free from pollution and overcrowding: a place where my talents would be encouraged, not suppressed; a place where I could find happiness and live in peace. At 45 I still want the same thing. At 65 I'd like to be assured that my descendants would live in prosperity and peace. I plan to have a family of no more than 2 or 3 children.

Philosophy.—If I were to change the educational system I would loosen the rules so that names such as bore, prison and cage become nonexistent. Presently I value sports most in life. Life can be only what I put into it so I try to put into it as much as I am able.

Michael Iannessa, 39 East Park Rd., Pittsford, son of Williamson High School French teacher; in the top 10 per cent of Pittsford High School class; president of the student council; will attend St. Michael's College of the University of Toronto

Career.—Physician.

Concerns.—The Vietnam War is a complete waste of life, energy, time and money. Like all wars, it is unreasonable and everyone loses. I'm glad students are taking an active role in world affairs—this type of unrest is constructive. Some changes I would like to see in education include more links between the students, faculty, administration and the community; curriculums should be enlarged to provide a wider choice of subjects; teachers should take refresher courses in their subject matter to be better qualified.

The Future.—I don't plan. I like to take life a day at a time—to involve myself totally.

Philosophy.—I value my family most in life—I'm really proud of it. I am a Roman Catholic and having a close relationship with God is the most important thing in my life.

Mary Kay Rudman, 2 Ludlow Way, Penfield, daughter of Penfield High School English teacher; ranked 54th in class of 360 at Penfield High School; academic average 86; D.A.R. and V.F.W. awards for citizenship; 1968 Harvest Queen of Penfield High School; will attend Hiram College

Career.—Spanish interpreter.

Concerns.—Pollution is society's worst problem because it is a threat to the life of every human. To solve the problem one should start with himself then work with groups and industry. Over population is also a problem. People should limit the size of their families. I plan to have two children of my own and adopt two.

The Future.—When I am 30, I plan to be married and have had a job. When 45, I hope to live in the suburbs of a city in New York State. At 65 I want to be healthy and have a big house for grandchildren.

Philosophy.—I value most my family and friends who are my source of happiness. I am Catholic and go to church on Sundays. I have become much more outgoing in high school and have never felt happier. I think the schools should be integrated more. Children live a sheltered life in Penfield—it's all white and rich.

Deborah Greenlaw, 132 Taylor Rd., Mendon, daughter of comptroller of Kodak Park; student at Columbia School; involved in dramatics, gymnastics, art and singing activities, will attend Transylvania University

Career.—Elementary Education.

Concerns.—People don't care enough to communicate with each other or work at problems which they complain about. Education and teaching are the quickest and best ways of implementing change. Violence closes lines of communication and is the poorest solution to a problem. Drugs are an escape mechanism and ruin many more lives than they help. Need for them shows an individual's inability to cope with his problems.

I trust the nation's leaders more than myself in making policy decisions, because I am uninformed about the situations. I would have to know much more in order to take a stand with which I could live confidently.

The Future.—I believe in God, and reincarnation of the soul. I'm more relaxed in a daisy field than I am in a stuffy church. I want a family of no more than four children. At 65 I want to have read the whole Bible and traveled in all 50 states. Then I'm going to start my second life—helping younger generations in any way I can.

Philosophy.—I love nature and wide open spaces. Whenever I do anything I ask myself if I'll be able to live with myself or if I'll ever have cause to regret it.

Lorraine Yu, 651 Claybourne Rd., Brighton, daughter of University of Rochester professor, physician (father) and physician (mother); editor of Brighton High School yearbook; National Honor Society; big sister in Rochester Community Involvement program; will attend Wesleyan University

Career.—Undecided.

Concerns.—Society's worst problem is man's inhumanity to man—including wars, pollution and over population. Maybe through education people will develop concern for their fellow man. I think students have a valid reason for the unrest they cause. They are fighting for change and are frustrated and have to do something. They are turning a lot of people off, but they are also educating them. Penalties on marijuana are much too strict. Hard drugs scare me—what they might do to my mind.

The future.—I'd like to live in a country of which I would be proud—sometimes I'm ashamed of this country. I'd like to adopt a large family. Can't think of anything material that I want. I just want happiness. I haven't thought much of the future; I just live from day to day. That way you don't worry very much.

Philosophy.—I value most the feeling that I'm doing something to help someone else—a self-satisfaction in doing something not for myself. I have no need now for religion. Maybe later I'll find one which I can believe in.

Donna Pettipas, 71 Kenwick Dr., Henrietta, daughter of printer (father) and manager of motel (mother); ranked 6th out of 457 at Sperry High School; editor-in-chief of the 1970 yearbook; 1969–70 Harvest Queen alternate; will attend Elmira College

Career.—Uncertain, possibly a career in media.

Concerns.—Society's major problem is the disregard for individuality and pressure to conform. It encourages hypocrisy and artificiality. Social injustices such as war, poverty and racism are unnecessary, unjust and inexcusable. Vietnam War: "Out Now!" Students have a right to protest, but destroying the campuses accomplishes nothing. Change should be done from within the system.

The future.—I want to be happy. Who knows what will bring me security when I'm 30, 45, or 65-years-old. At 65 I ask only to have learned from my mistakes and to feel that I have done with my life what I was capable of doing.

Philosophy.—I value communication and understanding most in life. I am Catholic by birth and am just now becoming Catholic by choice. At present I have many doubts about the existence of God.

Richard Garrett, 405 Allens Creek Rd., Brighton, son of general contractor; ranked 4th in class of 16 at Allendale School; academic average of 80; Allendale Alumni Cup Varsity basketball co-captain; senior class president; student council vice president; will attend University of Denver.

Career.—General contractor.

Concerns.—The War is the greatest problem today because there is little true backing. We must, however, fulfill our commitments. I agree with President Nixon's method of solving the problem. People should change their attitudes about the youth of today, who often are unfairly stereotyped. A few have made many look bad by their violent action. The problem can be solved by having discussions with adults about the problems of today, not taking violent action. Drugs are a terrible problem and the student of today should learn not to become so involved with drugs that he can find no way out.

The Future.—When 30 I hope to be married with a nice home and beginning to raise children. At 45 I want to be successful in business and in raising my children. When 65, I want to be able to look back on my life and see happiness and see some worthwhile contributions I have made to life.

Philosophy.—I value people most and what is gained by being with different kinds of people. Religion is not a formal thing to me. Church seems unnatural to me because of the formality. I have not really changed for I still believe the same things I did a few years ago and I will probably stay the same.

Robert McKee, 110 Clearview Dr., Pittsford; son of athletic director at Rush-Henrietta High school; National Honor Society; president of Sperry High School senior class; Senior All-Around athlete; football, basketball and tennis teams; will attend Harvard College

Career.—Undecided, interested in the ministry.

Concerns.—Society's major problem is that it has turned away from and rejected God. The absence of His love working through people has been the cause of hate, prejudice, violence and unrest present in America today. The churches have to wake up and start preaching the Bible, not just the social gospel which has become so common in American churches. Change must come only through the use of the present legal system and must be non-violent. There is great social prejudice of minorities who have been economically forced into a ghetto existence. The wealthy people in America are able to exploit the less well-off classes by influencing legislation and government officials. The problem could be solved by legislation. Otherwise change will only be caused by a change in man's attitudes which comes from within. It was wrong to become involved in the War in the first place, but now that we are there and have pledged our support we have to remain there until the South Vietnamese are capable of defending themselves.

The Future.—I plan to have a family but no more than two children because of the population problem.

Philosophy.—I value most my relationship with Jesus Christ. It is something lasting in contrast to the impermanence of material goods and superficial relationships in life.

I am very satisfied with my education. I am looking forward to more schooling because I'd like to develop myself intellectually and because I am interested in becoming informed in areas of life about which I know little.

My philosophy of life would be a testimony of my religious convictions.

THE NEED FOR VETERINARY MANPOWER IN OUR COUNTRY TODAY

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. LANDGREBE. Mr. Speaker, I would like to place in the RECORD a statement from the dean of Purdue University's School of Veterinary Science and Medicine, Dr. Erskine V. Morse, relating to the need for veterinary manpower in our country today. As this appropriation bill will be before the House this week, I urge my colleagues to give it their careful attention and consideration:

STATEMENT IN SUPPORT OF HEALTH MANPOWER LEGISLATION BEFORE THE U.S. SENATE

The School of Veterinary Science and Medicine of Purdue University has received an NIH Institutional Grant of $126,026 for one year (P.L. 90–490). The support will permit the School to admit five more students in the entering class of 1970. Unless the Grant is continued in 1971, we cannot continue the increased enrollment policy.

There is a critical shortage of veterinary manpower in our country today. In addition, the School submitted a request for several NIH Special Project Grants (P.L. 90–490) which would enable revision and improvement of the veterinary curriculum and its implementation in 1970 and 1971. Greater freedom in students' choice of electives to meet today's demands of the veterinary profession and its expertise would be the ultimate impact. Ways and means of improving pedagogical methodology were incorporated in the request for Special Project Grants. Without these grants the School will be forced to continue offering the rather traditional curriculum.

Veterinary medical students do not come, in general, from affluent income groups. Much of their education ($6,000 or more/year) is financed by part-time employment, loans, scholarships, as well as from funds provided by their working wives. The average age of our students is approximately 23 years, and ⅓ to ½ are married. Loan and scholarship funds received from the Health Professions Education Act have had a beneficial and critically needed effect on the support of our students. In 1969–70 a total of $84,500 was received; more was needed! With inflationary trends and tight money, considerable hardship is placed upon our young people and their families to finance their education. Inclusion of the veterinary medical students' educational support (loans and scholarships) in Health Professions Educational Act is an imperative matter.

Programs to increase the pool of veterinary faculty for existing schools (nearly all schools are increasing enrollment), and for the contemplated new schools requires faculty salary assistance. Presently, there are at least 10 faculty positions vacant at each one of the 18 U.S. colleges. There are 1922 veterinarians employed at universities in veterinary colleges. More teachers are needed to meet enrollment increases and fill current vacancies.

Why are veterinarians important in today's national economy and national welfare? The veterinary profession, numerically, is the smallest of the health professions, and one of the most poorly supported! There are approximately 26,400 D.V.M.'s in the U.S.; of these 25,000 are active, non-retired practitioners of the veterinary science and art. Contributions are made by service in the U.S. Public Health Service, Federal Food and Drug Administration, and both state and local health departments (2% of the profession). Some 4.3% of our veterinarians are on duty as veterinary officers in the Armed Forces; approximately 20% of Purdue's 326 graduates have served or are serving in either the U.S. Army or USAF Veterinary Corps. Approximately 9.1% of the U.S. veterinarians make and have made great contributions to consumer protection through their meat and poultry inspection activities.

Nearly 9,000 of the U.S. practicing veterinarians minister to the health of the nation's livestock and poultry. Without their expertise and aid, U.S. food costs would be even greater due to disease losses.

Veterinary research work by approximately 7% of our profession is conducted upon a host of livestock maladies which could decimate our food producing animals.

The regulatory veterinarian (7.1% of the profession) is the guardian of our multibillion dollar livestock industries. One has only to look at the eradication of the plagues of the food producing animals to realize the important work of the veterinary medical doctor, i.e., tuberculosis, brucellosis, hog cholera, pullorum of poultry are a few costly infections which have been brought under control and in some cases nearly eradicated by the efforts of USDA and state regulatory specialists. In addition, these specialists protect the industry by excluding the entry of exotic animal diseases from foreign lands, i.e., foot and mouth, rinderpest, African swine fever, etc.

Over 200 animal diseases are directly transmissible to man; more are being encountered each day. The interrelationship of these diseases to human health is becoming ever more apparent. The "slow" viruses of scrapie and mink encephalopathy bear close resemblance to Kuru and multiple sclerosis (MS) of man. These findings, coupled with the significance of the virus cancers and their interrelationships, stress the need for great input from veterinary researchers. There are a number of conditions or diseases of a non-infectious nature which may be of a genetic, nutritional or environmental nature. These animal diseases may serve as models for the study of similar or comparable human maladies. It is not always possible to utilize the human being for valid, controlled experimental procedures, therefore, animal disease models may bring knowledge to solve today's human, as well as animal, health problems.

It is of the utmost importance that colleges of veterinary medicine receive continued support under proposed Public Laws relating to Health Manpower such as: the Institutional Grant Program, the Special Project Grants Program, the Student Assistance Loans and Scholarships Program, as well as the Construction Grants Programs of the USPHS, NIH. The inclusion of veterinary medicine was previously approved under Public Law 90–490. Veterinary educators express great concern that a reduction in federal funds for the operation of our veterinary medical colleges will decrease the number of critically needed veterinary graduates, lead to a less adequate progressive professional education, and in some cases might even force closing of some schools of veterinary medicine.

LOUIS ARMSTRONG HONORED AT NEWPORT JAZZ FESTIVAL

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. TIERNAN. Mr. Speaker, the 17th annual Newport Jazz Festival has recently come to a successful conclusion. The 3-day event featured such renowned performers as Ella Fitzgerald, Mahalia Jackson, Dizzie Gillespie, and Bobby Hackett. This year's special performer was Louis Armstrong, who celebrated his 70th birthday on July 4.

The Newport Jazz Festival annually draws thousands and thousands of music lovers from across the country. This year was no exception, as over 40,000 persons were treated to some of the finest jazz singers and musicians in the world.

Needless to say, the festival receives excellent coverage by some of the leading newspapers in the country, including Rhode Island's Providence Journal and Evening Bulletin. This year I was particularly pleased that the Washington Post sent a reporter, Hollie I. West, to personally cover the jazz festival. At this point in the RECORD, I include the three excellent articles written by Miss West:

TEN THOUSAND HONOR "SATCH" AT NEWPORT JAZZ FESTIVAL

(By Hollie I. West)

NEWPORT, R.I.—Louis Armstrong brought 10,000 shouting clapping persons to their feet last night as he walked on stage to open the 17th annual Newport Jazz Festival.

It was a happy crowd, vociferous in its admiration. The night was all Satchmo's.

Musicians from all over the country were on hand to pay tribute to Armstrong, who turned 70 on July 4. Celebrations have been held in several cities since his birthday and others are planned.

The world's best-known jazzman and frequently called America's greatest ambassador of good will, Armstrong sang three songs, "When It's Sleepy Time Down South" (his theme song), "Pennies From Heaven" and "Blueberry Hill."

He came back to close the program with Mahalia Jackson. As they sang "Just a Closer Walk With Thee," there was a torrential cloudburst.

The downpour lasted five minutes. The crowd, soaking wet, stood fast and shouted for more. A jubilant Satchmo, joined by a host of New Orleans musicians, gave them "Hello Dolly" and "Mack the Knife."

He performed all with a gusto that belied the kidney infection he suffered almost two years ago and that has kept him from appearing in public recently. As expected, he did not play his trumpet because of his convalescence.

Armstrong looked trim and immaculate—conservatively cut brown suit, yellow shirt, a rust tie.

Accompanying him were cornetist Bobby Hackett, pianist Dave McKenna, Bassist Jack Lesberg, and drummer Oliver Jackson.

Hackett described himself as the "number one Louis Armstrong fan" before playing "Thanks a Million," an Armstrong hit.

Joining him in a trumpet tribute were Dizzy Gillespie, Wild Bill Davison, Jimmy Owens and Ray Nance, all of whom played two pieces, each associated with or written by Armstrong.

Gillespie said: "Louis Armstrong's station in jazz is unimpeachable. If it hadn't been for him there wouldn't be none of us."

The formal program got underway last night with the Eureka Brass Band, a New Orleans street and funeral ensemble, marching on stage. The group, led by trumpeter Percy Humphrey, performed "St. Louis Blues," "High Society" and several other classics in jazz history.

The New Orleans jazz tradition, in which Armstrong started performing more than 50 years ago, held center stage. Armstrong was born in the Crescent City, as was Mahalia Jackson who joined in the salute last night.

Also performing were the Preservation Hall Jazz Band, the New Orleans Classic Ragtime Band and the Cap't. John Handy Band.

The skies above the festival field were heavily overcast this morning, but George Wein, the show's producer, brushed off a gloomy weather forecast of rain.

In a quip that augured the enthusiastic response of the crowd last night, Wein declared: "Even if it does, those will be just tears of happiness from heaven for Satch."

TINA AT NEWPORT

(By Hollie I. West)

NEWPORT, R.I.—"We never do anything nice and easy—we always do it nice and rough," Tina Turner announced Saturday at the second night of the 17th-annual Newport Jazz Festival.

Sure enough, the Ike and Tina Turner Revue, one of the hottest-selling soul acts today, exploded in a program of passion that had all the grunts, moans and moves of the fiercest of sex. The nine-piece band (including guitarist Ike Turner, husband of Tina) screamed a riff, and Tina and the Ikettes, three sensuous women, broke into an impassioned dance.

The crowd of 18,000 surged forward and roared its approval. Predominantly young, most of the audience had come to see this act.

Tina Turner, slender, shapely and in her mid-30's, is the personification of raunchy sex—lovemaking on display in an open-air market. She dares her listeners—especially men—to engage in vicarious sex with her.

Tina stands wide-legged, and when she twirls her body she reveals the briefest of undergarments. She forms her lips invitingly and throws her long hair with abandon. But it is not cheap sex—it is bold.

Her rendition of "I've Been Loving You Too Long" is a sensual experience. She sings it slowly and dramatically. The lyrics were frankly sexual.

She followed with a shouting rendition of "Who's Making Love to Your Old Lady While You're Out Making Love?" The crowd screamed with delight.

Despite such frankness, Tina gave a mild performance Saturday night. Her singing and dancing were restrained compared with the heat she usually generates, and the band did not stir much excitement.

Earlier, the audience came to its feet several times during the performance of singer Nina Simone, whose drama and charisma were in sharp contrast to the sex of the Turners.

She danced on the stage, bobbing and weaving to the rhythm the four percussionists played. She chanted a sad melody that led into "West Wind," a Miriam Makeba song about buyers and injustice.

Miss Simone, who frequently sings of black brotherhood and the need for international peace, performed a compelling version of "Someday," a song that looks to a brighter future for man. She also sang "To be Young, Gifted and Black," an anthem she has popularized recently.

Although Miss Simone and the Turners were given ample time, tenor saxophonists Dexter Gordan and Don Byas were cut short during their separate appearances because of a crowded program (eight acts were scheduled). Both men, among the greatest on their instruments, are expatriate Americans. Byas, a resident of Amsterdam, returned to this country on July 3 for the first time in 24 years. Gordon has lived in Copenhagen and Paris for the last five years.

Gordon, limited to two pieces, played an easy-swinging version of "Boston Bernie" and a deeply moving "Darn That Dream," the latter containing a marvelously constructed cadenza at the end.

Byas, performing with Dizzy Gillespie's rhythm section, played three pieces, the most notable of which was a lyrical version of "Round Midnight," during which his cavernous tone roared.

Rain fell for the second straight night at the festival. A downpour came during Gillespie's appearance, scattering most of the crowd. It returned moments later for Byas' performance.

Flutist Herbie Mann's group also performed briefly Saturday night.

On Saturday afternoon, trumpet, drum and violin workshops were held. Among the trumpeters were Gillespie, Joe Newman, Jimmie Owens and Ray Nance. The drummers included Elvin Jones, Chico Hamilton, Jo Jones and Philly Jo Jones. The violinists were Jean-Luc Ponty and Mike White.

Also performing during the afternoon were the Sadao Watanabe Quartet from Japan, the Elvin Jones Quartet and the Chico Hamilton Quartet.

NEWPORT: A SUCCESS

(By Hollie I. West)

NEWPORT, R.I.—"We're in the black," producer George Wein said early Monday when he ended the 17th annual Newport Jazz Festival.

"We didn't draw as many people as we did last year, but we didn't spend as much. The image is success. There will definitely be a festival next year. Woodstock lasted one year—we're in our 17th and we're still going strong."

The three-day event drew a total of 40,400 persons, compared with 80,000 in 1969 when the festival went in the direction of rock music for the first time. Police and festival officials did not encounter the problems with boisterous young people they experienced last year.

The largest crowd last weekend—18,000 persons—turned out Saturday night, attracted primarily by the non-jazz acts of Nina Simone and the Ike and Tina Turner Revue.

Wein, who produces jazz festivals all over the world, got a resounding "yes" when he asked the audience of 7,500 persons if it wanted the 1971 festival to revert to the weekend of July 4, a date around which the 16 previous fetes were scheduled.

Not so happy were many people who expressed bitterness at the way many motels in the resort city raised room rates during the festival period. According to several guests who made reservations far in advance at a downtown Newport motor inn, they learned upon arriving that they would be charged $50 a day for a single room that ordinarily cost $30 during the festival and $12 to $15 in non-tourist seasons.

Single room rates at other mid-city motels were reportedly between $35 and $40.

Closing the festival on Sunday night was singer Ella Fitzgerald who received several standing ovations for her dazzling artistry.

Her impressive array of material included older songs such as "Crazy Rhythm" and "Satin Doll" and the contemporary "Spinning Wheel" and "This Girl's In Love With You."

Miss Fitzgerald was in exquisite form on "Crazy He Calls Me," a ballad associated with Billie Holiday. While soaring through "Raindrops Keep Falling' On My Head," she brilliantly interpolated the "Oh Happy Day" melody and a lyric saying rain didn't bother her.

George Wein responded by putting his hands to his shaking head and looked at the cloudy skies that had sent down torrential rain on each night of the festival.

Preceding Miss Fitzgerald was the Buddy Rich Orchestra, a powerful, brass-dominated 15-piece ensemble that moved with throbbing energy through a suite based on the movie score of "Midnight Cowboy."

Also performing Sunday night were singer Leon Thomas and pianist-singer Les McCann. Vocalist-songwriter Gene McDaniels performed "Silent Majority," his sharply worded song of social comment.

Roberta Flack was enthralling on the Sunday afternoon program. The Washington singer performed deeply moving versions of "Reverend Lee" and "Let It Be."

Also appearing that afternoon was comedian Bill Cosby who, using the pseudonym Badfoot Brown, conducted his Bradford Bunions Marching and Funeral Band, a 12-piece rock-blues group that swung powerfully and used heavy amplification.

NEW SAFETY REGULATIONS FOR LONGSHOREMEN

HON. WILLIAM S. MAILLIARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MAILLIARD. Mr. Speaker, once again the present administration is showing its concern for the safety of America's working people. Taking note of growing containerization in our ports, outgoing Secretary of Labor George Shultz, on June 26, issued proposed new rules regarding longshore safety as authorized under section 41 of the Longshoremen and Harbor Workers' Compensation Act.

The proposed rules, which would be administered as part of the Bureau of Labor Standards' longshore safety program, provide that cranes be equipped with load-indicating devices enabling the operator to know at once if a load is too heavy and therefore unsafe. This is a creative example of adapting new technology to the benefit of our workers.

Proposed container regulations call for the permanent marking on containers with the weight of the empty, the intended cargo weight, and the sum of the two, and provide that containers may not be hoisted unless the actual gross weight has been certified by an approved weighing station. Under the proposed rules, no container can be hoisted if its certified weight exceeds the maximum intended weight, or if it exceeds the capacity of the crane. Visibly defective containers would have to receive special, safe handling.

These forward-looking proposals are intended to meet the challenge to on-the-job safety created by advancing technology in our second most hazardous industry. The Bureau of Labor Standards is to be commended for preparing the proposals, and the administration credited for once again moving to protect the lives and limbs of America's working people.

ON YOUTH: "OLD MYTHS AND NEW REALITIES"

HON. EDWARD G. BIESTER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. BIESTER. Mr. Speaker, I would like to bring to the attention of my colleagues a speech delivered by Stephen Hess, National Chairman of the White House Conference on Children and Youth.

I found his remarks sobering and worthy of attention, and I commend it to my colleagues:

ON YOUTH: "OLD MYTHS AND NEW REALITIES"

(By Stephen Hess)

We are a nation fervently committed to George Bernard Shaw's adage that "youth is wasted on the very young."

It is perhaps for this reason that Americans annually spend $5 to 7 billion on cosmetics; that middle-age men drive little red sports cars at excessive speeds; that antique women wear miniskirts; and that TV commercials suggest your hands will be as lovely as your teenage daughter's if only you use Joy.

This may also be, in part, why we are so outraged by the manifest alienation of today's youth and perhaps it is also a reason why we have constructed at least four myths about our children which allow us some unwarranted comfort in our old age.

The first part of my remarks shall be addressed to these myths and to some new realities.

Myth No. 1 is that the alienation of American youth is a college or elite phenomenon; that it is merely a byproduct of a pampered generation, economically protected from the realities of "the real world."

Myth No. 2 is that the end of the war in Indochina will signal an end to youth protest; that a return to normalcy will be in direct proportion to the number of troops withdrawn from Viet Nam; and that after the war, young people will again behave as we would like to believe that we behaved when we were young.

Myth No. 3 is that youth alienation is a fad. It too shall pass. Remember flagpole sitting, gold fish swallowing, panty raids?

Myth No. 4 is that young people will "settle down" just as soon as they leave school, get married, and start to support families. In other words, that alienation is a product of youth which will end when youth ends.

Let's now turn to the first myth . . . the college phenomenon.

There are some 40 million youth between the ages of 14 and 24 in the United States. Fifty-four per cent are in school. And of these, 7 million or 33 per cent attend colleges and universities.

Not all students, of course, are engaged in sit-ins, lie-ins, and shout-ins. A great many are neither disruptive nor rebellious. These are "the good kids" for whom being chosen cheerleader or quarterback or "most likely to succeed" is still a worthy aspiration.

Yet clearly we and our mass media have become infatuated with the dissenters on our campuses. One explanation for this obsession is that the protesters are the children of those who manage the news media. They are also the children of those who teach, write books, do research, run our businesses and industries, and determine our social policy. In short, they are *our* children. Of course they concern us. There has been a drug problem for years, but it used to be primarily confined to the ghetto. The seriousness of drugs was only recognized when "grass came to the suburbs." So too is it with youth alienation.

Numerous explanations have been offered for the dramatic increase in dissatisfaction among middle class youth. Briefly, they include: *industrialization*, which leads to an increase in the amount of time young people must spend in the holding stage of adolescense: *affluence*, which gives more and more youth more and more freedom to deal with what they think is wrong with our society; *the education system*, which many perceive as having changed little in the past 25 years although the world has changed much; *the mass media*, which not only brings the news faster, but in more traumatic fashion; *violence*, which seems to occur with growing frequency and tends to convince many youth that there is no sense to dialogue; and *government policy*, which makes supreme calls upon youth without their consent.

We must recognize, however, that there are other types of youth and other types of youth alienation. There are some 5½ million young people who are not white and many others who are white and poor. During the first quarter of this year, 32.7% of minority group teenagers in the labor market were unemployed; 12% of white youth could not find jobs.

These are the children of poverty who cannot afford the luxury of involvement in what many college youth see as relevant. The needs of poor youth are of a more immediate and less abstract nature. Rather than the pollution of our streams, they are concerned with the pollution of their neighborhoods and homes; rather than concern with the governance of educational institutions they are concerned with how one finds work without the required academic credentials; rather than concern with the legalization of marijuana, there is a concern with how one avoids pushers and dope addiction; rather than a concern with how one changes the system or removes oneself from it, there is a desperate effort to gain access to the system.

In many instances, unlike their middle class counterparts, poor youngsters do not seek to opt out. They do not appear to reject the very style which many affluent youth ridicule. There are many blacks, Chicanos, Indians, Puerto Ricans, and Appalachian youth who no doubt would be glad to change places with those who are seeking relevance. Unfortunately, many of the poor feel that despite their effort to abide by societal ground rules the system has abandoned them. Their increased militancy reflects a need to establish counter institutions and new ground rules. Their frustration is often grounded in the belief that the institutions now governiing their lives are actively committed to keeping them on the outside, always looking in. This too is youth alienation.

Then there is in the youth population another 12 million or 33% who are employed. And another 14% who are primarily teeenage housewives. And another 8% who are in the military.

These working class youth, the "hard-hat-blue-collar" youngsters, often stand in the middle between the poor and the affluent. They feel that they are the only ones who follow the rules, work hard, and appreciate their country. They see the middle class and the poor (particularly minority youth) as being coddled and overly supported. They see the groups on either side of them as not appreciating what has been done for them. In reaction, they often become openly hostile toward these other youth as well as toward the institutions which they perceive as neglecting them in favor of those who most reject the traditional norms of our society. And this too is youth alienation.

My purpose in stressing the need to recognize that youth alienation goes beyond the more articulate and affluent college student is not to negate or ridicule their concerns and apprehensions. Rather it is to make very clear that youth alienation is not limited to any one segment of youth, which is an important consideration for all of us in the business of trying to relate youth to our social institutions, and which makes the job of bridging the generation gap, as Theodore Roosevelt once said in another context, as difficult as trying to nail currant jelly to the wall.

In turning to myth No. 2—that the end to the war in Indochina will signal an end to youth protest—I do not mean to question the depth of feeling among youth about our involvement in Viet Nam or the degree to which the war has helped create a protest ethos among the young. Obviously the war is not only a major factor in youth alienation, but it is doubtful that we can truly attempt to rebuild confidence in our national institutions until young people come to believe that the government is seriously trying to extricate itself from Southeast Asia.

Nevertheless the concerns of youth go well beyond the boundaries of any one issue or social institution. In order to highlight this point I would like to share with you the results of a youth survey just completed last week for the White House Conference on Children and Youth as a public service by the Gilbert Youth Research Corporation. It should be kept in mind that this data was collected in March of this year prior to the events of Cambodia, Kent State and Jackson State.

The survey is a national representative sample of 3,000 youth between the ages of 14 and 24. It includes males and females, youth in school and out of school, and youth from every section of this country.

In response to the question, "Do you believe there is a so-called generation gap between you and your parents?"—40% of the youth sampled answered in the affirmative.

The feeling of generation gap is not limited to parents. A total of 42% believe that our constitutional form of government needs considerable change. Over a third believe they would not have volunteered for military service in World War II. Six per cent state they would have refused to serve if drafted. And 17% of the total group chose the Don't Know category in answering the question dealing with what they would do if they were called for military service.

The survey also suggests that many young people are accepting violence as part of the American life style. Almost half (47%) believe it will require drastic action on the part of individuals and groups in order to achieve equal rights for minority groups. Eighteen per cent do not believe that equal rights can be achieved without violent revolution. A fourth do not believe that equal rights can be achieved under our present form of government. Again, another 23% feel that violence is sometimes justified in order to attain social or political goals.

The 1,154 young people who felt violence was sometimes justified set the following conditions: 523 felt violence was appropriate in order to dramatize a vital issue; 935 felt it was justified when all other means failed; 521 felt it was acceptable in order to bring about government reform; and 263 believed it was justified in efforts to overthrow the present form of government.

In studies dealing with drug use among youth, there is general agreement in two areas: First, that drug use represents a form of defiance and alienation; and second, that there is a tendency among youth not to admit to using drugs. As a result, estimates of drug use based on personal admission are considered conservative at best. It was for these reasons that I was impressed with the following data:

Over a fourth of the young people in this sample admit they have used drugs at some time.

One-fifth of those under 17 years of age report they have tried drugs. The proportion experiencing drugs increases as youth move from high school into college.

Sixty per cent believe that at least half their age group have used drugs.

These and other data of the Gilbert Survey graphically underscore that the growing alienation of our young is not tied to one issue and will not evaporate—"like the evanescent morning clouds over San Clemente" as the political poet Daniel P. Moynihan once said—when Johnny comes marching home.

For the third myth—that youth alienation is a fad—one might usefully look beyond the present college students to their younger brothers and sisters in junior and senior high schools.

During the 1968–69 academic year well over 300 incidents of high school disruptions were reported in the press. In a survey of junior high school principals 56% indicated some type of protest or confrontation in their schools. (And these were not student pranks or horseplay.) Moreover, some 500 high schools now have underground newspapers.

There is indeed a significance in the degree to which "young youth" are being politicized, even radicalized. This shows up in the number of high school students who have been involved in war moratoriums, in the number who have been working in political campaigns, and in the degree to which high school students are getting into hard drugs.

Last week I received a letter from a woman in Galena, Illinois, enclosing a remarkable essay by her 13-year-old daughter. It began, "I am still in grade school, and today's youth are old folks to me." And it ended, "Hang on world! Here comes my generation!" This I do believe.

Thus I feel it would be folly to think that we are witnessing a youth fad and that this too shall pass. Equally, as in myth number four, it is wishful thinking to expect that once this current crop of youth enters the "real world" of adult life, their alienation—and our problems—will be over. If we are to accept the reasons given by social scientists for the mood of today's youth, we cannot anticipate a decline in alienation and unrest unless there are serious changes in how we deal with you.

Nor do I believe that once this generation of youth enters adulthood will they become just like the rest of us. Obviously, they will have new roles and responsibilities. They will need to provide for their families. They will need to operate schools, industries, and other institutions. At the same time I believe there will be significant differences in how they go about the business of adulthood. I would speculate that there will be less emphasis on economic security and more on personal growth and development. The status of occupation will be of less importance than the nature and quality of the work. There will be more women working and an equaling out of parental roles. Traditional notions of a man's rights and prerogatives will be challenged and modified. There will be a retreatism to self and to family, while, paradoxically, at the same time there will be a more overt commitment to work in the social and political arena.

Our political parties will have to make the adjustment from "the politics of distribution" to what Robert Wood, the new President of the University of Massachusetts, has called, "the politics of innovation." Instead of "satisfying needs for goods and services, allocating scarce resources, mediating between conflicting classes or ideologies (business and labor, farm and city), as in the present "politics of distribution," the focus of concern in the new "politics of innovation" will become nothing less than "the quality of national life." Raising minimum wage levels and providing farm price supports are the staples of the old politics; combating pollution, building community colleges and art centers will be the staples of the new politics.

As the attitudes and behavior of youth have been changing, so have those of adults. At a time when working toward understanding each other is so imperative, we seem to be growing apart. Too many adults are turning away from their responsibilities of reasoned leadership and guidance. Too many adults are trying to out-shout, out-intimidate, and out-confront the very youth who they accuse of shouting, intimidation, and confrontation. They are offering youth few examples to follow and little in the way of an opportunity for much needed discussion. Too many adults have been so offended by the form of youth protest that they fail to heed the content or the reasons for the protest.

Despite the urgency of the problem and the visibility given to it, generational polarization increases. It is cause for reflection that adult support for corporal punishment in our schools has more than doubled (to over two-thirds) since the 1940's, according to a series of Gallup polls.

In Pennsylvania several members of the state legislature have proposed that all public schools be classified in the same category as penal institutions and hospitals for the mentally ill, thus shifting the status of youth from student to "inmate." A recent survey conducted by Mervin Field in California indicates that a number of significant changes have occured over the past two years in how citizens of this state feel about the behavior of college students. Increases have occurred in:

1. The number who favor expelling students who challenge authorities.

2. The number who oppose greater student voice in deciding campus rules.

3. The number opposed to increasing enrollment of black students.

4. The number who do not believe that calling in the police radicalize moderate students.

5. The number who do not believe professors should have the freedom to speak and teach as they see fit.

6. The number who feel that campuses should not be free of political control.

My purpose in dealing with each of these issues is to emphasize the depth and complexity of the problem of youth and our society. My purpose is to impress you with what it has taken me some time to believe: that there are no simple solutions, no quick remedies; no one single group of American youth, no one single issue, no one institution associated with youth dissent; that there is a general doubting and questioning of traditional values and expected behaviors; and finally that unless we do come together—youth and adults—we will see an increase in confrontation, protest, alienation, polarization, and oppression.

Whatever steps we take must be the joint effort of youth and adults. We must force ourselves to lay aside suspicions and hostility. We must accept the fact that there will be critical judgments made on all sides. Both youth and adults must enter into some kind of working consensus with a willingness to explore all issues affecting youth and our society. It must be an effort of sincerity, integrity, and commitment. It must be recognized that no matter what avenue we pursue in order to bring youth and adults together that it will be only a beginning—the start of a process that must continue.

During the course of the past several months my staff has been exploring alternatives in bringing youth and adults together through the mechanism of a national White House Conference on Youth. We have met with youth, we have met with adults who deal with youth on a professional basis, we have met with parents; and we have met with numerous youth policy and program people.

During this period we have developed several different plans. Each was given serious consideration and each was rejected.

They were rejected because no plan would be credible or could fulfill its objectives unless youth themselves played the major and most critical role in the development and implementation of the plan.

Therefore, the White House Conference on Youth that I am announcing today is deliberately not a plan but an *outline*—an outline in which young people and others outside the Federal Establishment will have the mandate to fill in the details.

To get the process started, we have established just five basic "givens":

1. That there shall be convened a White House Conference on Youth next February in Washington.

2. That it shall be composed of two-thirds youth and one-third adults. (Young people have repeatedly told us that a youth conference must not be all youth, that they don't want to meet in a vacuum and just talk to each other, but rather that they want the opportunity to relate to the adult leadership of the country.)

3. That the Conference shall be issue-oriented and Task Forces shall be created in those areas in which youth have expressed greatest concern, such as Foreign Relations, Environment, Race Relations, Drugs, and Education.

4. That a planning meeting of the Task Forces shall be held in late August at which time they shall determine how they wish to formulate their reports, set the agenda for the Youth Conference, and decide on the delegate-selection process.

5. That the February Conference shall not be an end in itself, but must lead to a process of implementation that will involve all of our major social institutions and a large body of the citizenry.

We as a staff, of course, have some strong views on what the Conference should be, and what it should accomplish. For example, we feel that this should be a youth conference, not a student's conference, i.e., it should involve all types of young people—working youth, poor youth, youth in the military, teenage mothers, as well as students.

We feel that the Task Forces should review each issue as it presently relates to youth; that it should make predictions for the coming decade; that it should attempt to point out the consequences for youth and society if various policy actions are taken or not taken; that it should identify the goals we should seek to achieve; and that it should examine how to broaden youth participation in the decision-making process.

But these shall be suggestions, not directives. The Task Forces—two-thirds youth, one-third adults—shall tell us how they plan to proceed.

To prepare background material for these groups, we have brought 45 young people to Washington this summer. They are presently compiling the existing empirical data on youth attitudes on each issue; cataloguing programs, both public and private; and interviewing policymakers about what plans they have on the drawing boards. These materials, along with reports from state committees on youth and national organizations, will be presented to the Task Forces at their meeting in late August.

As you can see, we are trying to make the White House Conference on Youth as credible as possible. We have been told by the young that they want to deal with the issues—and they will deal with the issues. We have been told by the young that they want to meet with the people that count—and they shall. We have been told that they want to define the Conference in their own way—and we intend to allow them to do just that.

In many ways what is being proposed here is an experiment. We recognize the probability that our plans will need to be modified. We recognize that there are many potential areas for disagreement and confrontation. At the same time we are convinced that the risks are well worth the potential gains. We must begin somewhere and this is a start. Hopefully, others will learn from our difficulties and from our achievements. Perhaps from this convening of youth and adults we will have the foundation for other efforts. We have talked much of coming together—of listening to one another—of understanding one another. The attainment of such a goal cannot be the work of any one man, of any one group, of any one institution or political party.

It is my hope that no matter what is the outcome of the proposed Conference, others will seek other ways in which to bring youth and adults together. From this first National Conference should come similar efforts on the part of those who influence the policies of education, business, labor, religion, law enforcement, local and state government, and other major institutions.

From such efforts may come a realization that some of the norms, values, and procedures of the past are no longer adequate or appropriate; we may find, as many youth have indicated, that parts of the system must be altered. Most importantly, we may stumble upon a process by which we can combine our technological achievements with the energy and altruism of youth in order to bring about a society free of poverty, injustice, and inequality. We take but a solitary step in that direction, but I think an important one. It is a step away from myths and toward reality and it will hopefully be the first of many such steps.

LINCOLN'S LETTER TO HERNDON

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. JACOBS. Mr. Speaker, I insert a letter written by Abraham Lincoln on February 15, 1848, to Mr. William Herndon:

DEAR WILLIAM: Let me first state what I understand to be your position. It is, that if it shall become necessary to repel invasion, the President may, without violation of the Constitution, cross the line, and invade the territory of another country, and that whether such necessity exists in any given case, the President is to be the sole judge.

Before going further, consider well whether this is, or is not your position. If it is, it is a position that neither the President himself, not any friend of his, so far as I know, has ever taken. Their only positions are first, that the soil was ours where hostilities commenced, and second, that whether it was rightfully ours or not, Congress had annexed it, and the President, for that reason was bound to defend it, both of which are as clearly proved to be false in fact, as you can prove that your house is not mine. That soil was not ours; and Congress did not annex or attempt to annex it. But to return to your position. Allow the President to invade a neighboring nation, whenever he shall deem it necessary to repel an invasion, and you allow him to do so, whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect, after you have given him so much as you propose. If, today, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, "I see no probability of the British invading us," but he will say to you "be silent; I see it, if you don't."

The provision of the Constitution giving the war-making power to Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our convention understood to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us. But your view destroys the whole matter, and places our President where Kings have always stood.

Yours truly,

A. LINCOLN.

A SPECIAL REPORT ON DRUGS

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. BURKE of Florida. Mr. Speaker, as an American citizen and as a parent of two children, I am sure I share with you a deep awareness and concern over the acute problem of drug traffic and drug addiction in our country.

Today the use of drugs is not confined solely to the ghetto areas, but it has infiltrated into every class of our society and it now poses a serious threat to almost every family and citizen in our Nation.

It is difficult to accurately quote the actual number of people involved in the use of dangerous drugs or those actually addicted, but the Bureau or Narcotics and Dangerous Drugs has compiled statistics of actual hard core addicts and reveals that between 1960 and 1969 the number has risen nationally by 51.6 percent, while in Florida it has risen by 264.3 percent.

When considering those using marihuana, pep pills, or other forms of hallucinary drugs, experts estimate that from 5 to 7 million Americans have used, or are using, drugs in one form or another. Instead of allowing these statistics to continue rising, we must all declare war to stop it.

Everything from marihuana and pep pills to heroin is being sold today in the schools of our Nation and, there is no doubt, to the children in the schools of the 10th Congressional District—perhaps the very school that your child is attending.

It is estimated that today 35 percent of all students in high schools and colleges use marihuana. Is one of these students your boy or girl, or a child of your neighbor?

Each of us must be aware of the seriousness of this situation since it has become apparent that no child is immune from the problem. It is indifference and apathy that are the weapons needed by the pushers to make addicts of our children.

The tragic part of all this is the number of deaths caused by drug abuse in Broward and Dade Counties in recent years. I refer you to the table below.

We, as citizens, must stop ignoring the problem until it reaches into our own personal families. We must become aware.

No child, no school, no home is safe from this sickness that is rapidly prevading every element of our society.

I prepared this special report to aid and to better acquaint you with facts concerning drugs which your children, perhaps, may already know. Please study the material for your sake, for your children's sake and for the sake of America's future.

Deaths caused by drugs

Dade County:	
1956–1967	4
1968	14
1969	37
1970 (five mts.)	22
Broward County:	
1968	4
1969	6
1970	3

GLOSSARY OF NARCOTICS TERMS

Following is a list of major illegal drugs, how they are used, their popular names and the effects:

Marihuana—Called "pot" or "grass." Derived from female hemp plant. Usually smoked. A mild hallucinogen that distorts perceptions of time and space and coordination. Strong doses can cause short term psychotic reactions. Long term effects are not known. To use marihuana is to "get high," "turn on," or "get stoned." Marihuana cigarettes are called "joints."

Hashish—Called "hash," same as marihuana, except more potent.

Amphetamines—Stimulants used to combat fatigue. Taken in pill form, although some stronger forms are dissolved in a liquid and injected with a needle. They speed action of the heart and metabolism. Called "bennies," "pep pills," "diet pills," and in strong doses, "speed." Not addictive physically, but psychological dependence is common. Larger doses are required for the same effect after a while.

Barbituates—Sedatives, called "goofballs" or "downs." They relax the nervous system, slow the heart rate, lower blood pressure and slow down breathing. Effects can resemble drunkenness and users sometimes become irritable and angry. Physically addictive, like heroin, barbiturates are a leading cause of accidental deaths in the country.

LSD—A powerful hallucinogen called "acid." It causes sharp changes in perception. Nonaddictive, but can cause panic, paranoia, and hallucinations. Can also produce permanent derangement and physical defects. Mescaline, DMT, psylocybin are similar, but less potent substances.

Heroin—Called "junk," "stuff," "scag." Derivative of opium. Usually injected under the skin or "mainlined," injected directly into a vein, it depresses certain areas of the brain and nerves, causes physical and psychological dependence, and gradually takes greater quantities to achieve the same effect. Cocaine is similar.

If we are to save our young people from a life of horror, we must prevent their initial use of narcotics. If this is impossible and they have already started using narcotics then we must use firm efforts to help them stop. There are not enough doctors, or police to locate and examine each and every possible user, but there are enough parents and citizens if they will become concerned.

If you suspect your child is using narcotics call your family physician, your local police department, or the sheriff's office of either Broward or Dade County.

If you need further detailed information concerning drug abuse, write to the National Clearinghouse for Drug Abuse Information, 5454 Wisconsin Avenue, Chevy Chase, Maryland 20015; or write to me as your Congressman at 1127 Longworth Building, Washington, D.C. 20515, and my office will lend such assistance as either I or my staff are able to do.

I have prepared this brochure in order to alert my constituents, many of whom are parents, to the various symptoms that drugs produce. Your interest in personally observing your children in any unusual changes in their normal behavior may prevent them from a life of horror.

Drug used	Physical symptoms	Look for	Dangers
Glue sniffing	Violence, drunk appearance, dreamy or blank expression.	Tubes of glue, glue smears, large paper bags or handkerchiefs.	Lung/brain damage, death through suffocation or choking, anemia.
Heroin morphine codeine	Stupor/drowsiness, needle marks on body, watery eyes, loss of appetite, blood stain on shirt sleeve.	Needle or hypodermic syringe, cotton, tourniquet—string, rope, belt, burnt bottle, caps or spoons, glassine envelopes.	Death from overdose, mental deterioration, destruction of brain and liver.
Cough medicine containing codeine and opium	Drunk appearance, lack of coordination, confusion, excessive itching.	Empty bottles of cough medicine	Causes addiction.
Marihuana, pot, grass	Sleepiness, wandering mind, enlarged eye pupils, lack of coordination, craving for sweets, increased appetite.	Strong odor of burnt leaves, small seeds in pocket lining, cigarette paper, discolored fingers.	Damage to liver, inducement to take stronger narcotics.
LSD, DMT, STP	Severe hallucinations, feelings of detachment, incoherent speech, cold hands and feet, vomiting, laughing and crying.	Cube sugar with discoloration in center, strong body odor, small tube of liquid.	Suicidal tendencies, unpredictable behavior, chronic exposure causes brain damage.
Pep pills, ups, amphetamines	Aggressive behavior, giggling, silliness, rapid speech, confused thinking, no appetite, extreme fatigue, dry mouth, shakiness.	Jar of pills of varying colors, chain smoking	Death from overdose, hallucinations.
Goof balls, downs, barbiturates	Drowiness, stupor, dullness, slurred speech, drunk appearance, vomiting.	Pills of varying colors	Death from overdose, unconscious.

DEKLE DeLOACH TO LEAVE HIGH FBI POST

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HAGAN. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

DEKLE DELOACH TO LEAVE HIGH FBI POST

WASHINGTON.—Cartha Deke DeLoach, third-ranking official of the Federal Bureau of Investigation and a native of Claxton, will retire from the FBI July 20, The Atlanta Journal has learned.

DeLoach, a 28-year veteran of the bureau, has been mentioned prominently as a likely successor to the 75-year-old director, J. Edgar Hoover.

DeLoach's retirement is set to go in effect on his 50th birthday.

The Georgian said Friday he will join Pepsico, Inc., a diversified food and soft drink firm in New York, as a vice president.

His position as assistant to the FBI director pays $36,000 a year. DeLoach said his salary has not been established but "you can be sure that I will improve myself financially."

Confirming his retirement Friday, DeLoach said, "It's sort of an emotional thing after 28 years."

Pepsico President Donald M. Kendall said in New York Friday that DeLoach will be in charge of a broad range of activities particularly corporate affairs.

He said the company is "fortunate to be able to attract a man of DeLoach's caliber.

As one of two assistants to Hoover, DeLoach supervises the bureau's four investigative divisions: general criminal investigations, special investigations, domestic investigations and criminal records.

He reads and approves scripts for all "FBI" television programs and is generally in charge of the bureau's image-building machinery.

DeLoach was born in Claxton in 1920. He attended Gordon Military College at Barnesville, South Georgia College at Douglas and Stetson University at DeLand, Fla.

In December 1942 he joined the FBI as a special agent, spent 1944 and 1946 in the Navy and then returned to the bureau.

He became an inspector in October 1951 and in 1959 was appointed inspector in charge of the Crime Records Division of the FBI. He was elevated to his present position in 1965.

DeLoach's retirement is likely to renew speculation on the most likely man to succeed Hoover who is already five years over the mandatory retirement age of 70.

Aside from financial reward, DeLoach gave no reason for his retirement other than he wants to spend more time with his family. He has seven children.

His exit from the FBI coincides with his reaching age 50 when he becomes eligible for pension.

Close friends here in Claxton said that DeLoach has been considering the change quietly for several months. He had been prominently considered as Mr. Hoover's choice to succeed him as head of the federal bureau, should he retire.

DeLoach has visited in Claxton many times in recent years, and has been keynote speaker for many historic occasions here. He was named as a member of the Board of Directors of the Claxton Bank some months ago, and has retained an active interest in his home town.

[From the Savannah Morning News-Evening Press, June 7, 1970]

DELOACH TO RETIRE

(By William H. Whitten)

CAXTON.—Cartha D. DeLoach, a top assistant to FBI director J. Edgar Hoover, and several times rumored to be his successor, instead will retire July 20 after 28 years with the bureau.

The youngest of the top men in the FBI (Hoover is 75), DeLoach will retire on his 50th birthday from government service to accept a management position with Pepsico, Inc.

Terming his retirement "an emotional thing," he said, however, in accepting his new job "you can be sure that I will improve myself financially." As Hoover's assistant, his salary is $36,000 a year.

His FBI duties include supervising the bureau's four investigative divisions: general criminal investigations, special investigations, domestic investigations and criminal records.

He is also greatly responsible for keeping a good image of the bureau before the public. In addition to accepting speaking engagements himself, he reads and approves any television program inscripts involving the FBI.

Joining the bureau in 1942 as a special agent, he returned to the FBI after spending two years in the Navy. Named an inspector in 1951, he was promoted to inspector in charge of the crime records division in 1959. He became an assistant to Hoover in 1965.

He told reporters that he wants to be able to spend more time with his family (he has seven children) and that he also becomes eligible for a pension on his 50th birthday.

An active member of the American Legion, he has held a number of state and national posts. In 1964 he was named Georgia's "Man of the Year" in the Legion.

He was born in Claxton and attended Gordon Military College, South Georgia College at Douglas and Stetson University in DeLand, Fla. He received a distinguished alumni award from Stetson in 1958.

[From the Savannah Evening Press, June 9, 1970]

DELOACH TO RETIRE

The town of Claxton has long been proud of its native son Cartha D. DeLoach, who rose through the ranks of the Federal Bureau of Investigation to become assistant to J. Edgar Hoover.

Now the former Stetson University football star has announced that he is going to retire as an FBI official and enter private business.

Cartha DeLoach first joined the FBI in 1944. He became assistant to FBI Director Hoover in 1965 and has been in direct charge of all criminal investigations and counter spy operations of the agency. He served the FBI and the nation well, and we commend him for his record. We also wish him well as he begins his new assignment in the business world. South Georgians feel that he has been an outstanding credit to our area.

[From the Augusta Chronicle, June 14, 1970]

FBI LOSES A GOOD MAN

(By Louis Harris)

So far as I am concerned, the Federal Bureau of Investigation will never again be the same. Deke DeLoach is leaving.

We published a notice of his forthcoming departure a few days ago. Ran his picture, and everything. Even so, the announcement probably raised but few eyebrows and, with the possible exception of his local agents, myself, and some miscellaneous and sundry crooks hereabouts, held little personal significance for Chronicle and Herald readers.

Down the road a few miles—however—down around Evans County, and even Bulloch and Candler, in all likelihood—I'd wager the reception of that information was something else again. Around those parts of the state most of the good folks know Deke DeLoach, if not all of them personally, at least by reputation. And they are mighty proud of him. Down there he is more than the man who is third in command of the fabled FBI; he is a neighbor. Moreover, he is to the folks in that area a community product, a man born and raised in Claxton, and a Georgian still happy to call it home.

That is Deke. Or, if one wants to be formal. Cartha D. DeLoach, a most extraordinary fellow who has the happy faculty for getting the job done. That holds whether it is as a football player for Stetson University, which he was; as a Navy man in World War II, which he was; or as a tough, hard-working crime-fighter, trusted assistant to Director J. Edgar Hoover, dedicated family man and fun-loving, constant friend, which he is.

Over the years I am proud to have had him as a warm friend. It has been the sort of friendship a guy like me treasures because, basically, it provides a good feeling. It has been a meaningful one in so many ways, and it's been fun, too. I have proof of the latter.

Deke invited me to his home just outside Washington on a couple of occasions. Upon entering his family room on the first visit I noted a life-like mechanical parrot in a cage on a table, an "on" and "off" button conspicuously showing on the "bird." As you might suspect—and as Deke obviously knew I would—I pressed the button marked "on." Croaked the parrot: "Harris is a jerk! Harris is a jerk! Harris is a jerk!" If I hadn't pressed "off," I guess the darn thing would still be announcing a fact which the discerning G-Man had earlier detected and had dictated onto a tape concealed inside the parrot.

The second time I arrived at the DeLoach home, not only was I greeted by the name of the house and his lovely wife, Barbara—and, as well, by most of their seven children—but by widely displayed and very real looking "Wanted by the FBI" flyers on which were imprinted by picture and description. along with my "criminal record."

As yet another time, at a meeting of newsmen in Washington and just after I had been named chairman of tourism for the Augusta Chamber of Commerce, a huge picture of me standing by a dilapidated wooden shack bearing a sign "Chamber of Commerce Tourist Office" was shown the assembly.

The most outlandish practical joke irrepressible Mr. DeLoach ever perpetrated on me—he denied it, but I never believed him—came when he had someone leave in my hotel bed a real, live chicken. I got rid of the critter by putting it in another fellow's room, and the latter did the practical thing by putting it on the hotel elevator. What happened to it after that probably is known only to a bellboy or the hotel chef.

Playing jokes on friends, however, is far from being Deke DeLoach's only activity.

A Washington Star staffer gave a right good summary of his duties when he wrote the other day that, by title, DeLoach is the third ranking FBI official behind Hoover and associate director Clyde A. Tolson, but in effect the functional chief of four major divisions of the Bureau: Domestic Intelligence, General Investigative, Special Investigative and Crime Records.

In this role, the former Georgian has headed up all criminal investigations and FBI counter-spy operations. He has been one of the chief liaison men between the Bureau and Congress, the White House, other federal agencies, some of the top people in the Justice Department—and with the press.

Deke was a key man in briefings given President Johnson. He played the major role in the FBI probe of the White Knights of the Ku Klux Klan in Mississippi after the murder of three civil rights workers. He also headed the international manhunt which led in the apprehension of James Earl Ray, who later was convicted of murdering Dr. Martin Luther King, Jr.

In the words of the Star reporter, Deke is known as a "Take-charge guy" who has no fear of responsibility, a man perfectly willing to tackle the intricate detailed work involved in FBI cases, yet readily acknowledging the ultimate authority of his two immediate superiors.

In his early years with the FBI—he joined the Bureau in 1942 but was away in WW II from 1944 until 1946—he established a reputation as a hard-hitting, hard-working special agent. He worked on bank robberies, kidnappings, car theft and cases involving national security. He was named an inspector in 1951 and later was promoted to assistant director while still in his thirties.

Since the war, Deke has been active as an official of the American Legion and, in his capacity as first-line public relations man for the Bureau, a public speaker.

Now he is leaving the FBI, a decision—as he said in a letter a couple of days ago—which did not come easy. He must, however, have good reasons for accepting the position of vice president with Pepsico, not the least one of which is that it will undoubtedly allow him more time to be with his attractive family.

So this man, of whom Georgians, specifically, and Americans, generally, can be proud—and to whom they also should be grateful—is turning in his badge and calling quits to an exciting and rewarding crime-fighting career spanning a total of 28 years.

The date set for his retirement from the Bureau is July 20. It is a date which also will mark his 50th birthday.

[From the (Washington, D.C.) Evening Star, June 5, 1970]

THIRD-RANKING FBI OFFICIAL RETIRING TO TAKE BUSINESS POST

(By Jeremiah O'Leary)

Cartha D. (Deke) De Loach, veteran FBI official and operating chief of the bureau in recent years as assistant to director J. Edgar Hoover, is retiring next month to enter private business.

De Loach, who will be 50 July 20, leaves on that date to become a vice president of Pepsico Corp.

There was no indication at FBI headquarters as to who will step into the post of assistant to the director, although there is speculation that the vacancy will be filled by one of 10 assistant directors.

By title, De Loach is the third-ranking official in the FBI behind Hoover and associate director Clyde A. Tolson, but in effect he has been the functional chief of four major divisions of the bureau: Domestic Intelligence, General Investigative, Special Investigative and Crime Records.

In this role, he has been in direct charge of all criminal investigations and FBI counterspy operations. He also has played a major part in representing the bureau in relations with Congress, the White House, other federal agencies, the Justice Department of which the FBI is part, and with the press.

LIAISON WITH WHITE HOUSE

During the five years of the administration of President Lyndon B. Johnson, De Loach was Hoover's liaison man with the White House and frequently briefed Johnson and his aides on cases involving national security, racial problems and FBI background checks on potential nominees for high office.

De Loach played key roles in a number of top priority cases, including the strenuous FBI effort to eliminate the Ku Klux Klan in Mississippi after the murder of three civil rights workers in Neshoba County and the international manhunt that led to the apprehension of James Earl Ray, later convicted as the assassin of Dr. Martin Luther King Jr.

De Loach's office on the fifth floor of the Justice Department building became the command center for hundreds of cases for which the FBI had jurisdiction. Hoover and Tolson, although retaining final authority in all matters affecting administration of the bureau, gave De Loach a long tether in day-to-day operations after he was appointed to his present job on Dec. 31, 1965.

De Loach has been known as a "take-charge guy" with no fear of responsibility, but at the same time reflecting the general viewpoint of Hoover, the man known to De Loach and everyone else in the FBI as "the Boss." His role under Hoover and Tolson was to take on the intricate detailed work involved in FBI cases, with the two older men continuing to exercise ultimate control.

His relations with a succession of Justice Department officials and attorneys general, like those of Hoover, were sometimes less than cordial. Before the CIA and the FBI worked out an amicable division of responsibility, De Loach figured in collisions between Hoover and the CIA over FBI operations overseas and CIA operations inside the continental U.S.

JOINED FBI IN 1942

De Loach, a native of Claxton, Ga., and a star football player at Stetson University, joined the FBI in 1942. He was in the Navy from 1944 until 1946, when he returned to the FBI. He established a reputation as a tough, hard-working special agent, working on the whole gamut of FBI cases—bank robberies, kidnappings, car thefts, national security—in several field offices.

In 1951 he was promoted to inspector, transferred to Washington and assigned to the Domestic Intelligence Division. In 1953, he was transferred to Crime Records, the section which not only keeps track of national crime statistics and trends, but also acts as the FBI's public relations and press office. He was promoted to assistant director before he was 40.

De Loach became known as a skilled public speaker and a prominent official of the American Legion. He also holds a number of honorary degrees and awards and is a prominent Catholic layman in St. Mary's Parish, Alexandria, Va.

De Loach and the former Barbara Owens were married in 1945. They have seven children and make their home in Fairfax County, Va.

[From the Chicago Tribune, July 15, 1970]

FBI'S NO. 2 MAN ENDS PUBLIC LIFE

(By Walter Trohan)

WASHINGTON.—Next Monday marks the first day in private life of a good and faithful public servant—Cartha D. (Deke) De Loach, the assistant to FBI Director J. Edgar Hoover, and a member of the Federal Bureau of Investigation, with time out for Navy service during the war, for 28 years.

No doubt he will be a fish out of water for a time—but a goldfish, as a top executive with the Pepsi-Cola Co.—because the FBI has been a way of life for him for so long. He was a son to J. Edgar and a brother to every good FBI man, and there have been few bad ones, largely malcontents.

When Deke announced his impending retirement, which came on his 50th birthday yesterday, there was a splashing of speculation in liberal circles as to what this might mean to the world's No. 1 law enforcement agency. Many of the deep thinkers on the Left agreed that this could only mean that the FBI was turning in their direction, as tho Deke were responsible for FBI policy.

Nothing could have been more ridiculous, but this nonsense was widely accepted. So long as Director Hoover runs the FBI—and make no mistake about it, he does—the organization will continue to let none but

Americans stand guard over our safety to the best of its ability. Deke would be the first to say this, but he did not choose to become embroiled with men who are forever lunging into thought and generally missing.

The heavy thinkers said De Loach was ruling himself out as a successor to Hoover. Yet there is no reason why Mr. Nixon or any other President could not pluck De Loach from private life, if he considered his appointment as serving the best interests of the country, and he couldn't be far wrong.

Deke is leaving, as he had planned, for eight reasons—his beautiful wife and their seven children, including one in the U.S. Air Force. One can hardly raise and educate seven children on an FBI salary. So when he became eligible for his FBI pension, after more than 25 years of service and on his 50th birthday, he elected to accept a post which Donald McIntosh Kendall had been holding open for him for some five years.

This day is not entirely Deke's, because much of him will always belong to the FBI and to Hoover. He is the embodiment of the loyalty, the sportsmanship, the personnal presence and the devotion to duty that mark the FBI man generallly. It is true that he had some fine qualities in a greater degree than his fellows, or he would have gone so far so fast and enjoyed the trust and confidence of three Presidents and any number of Supreme Court justices, members of the cabinet, senators, representatives and a host of lesser officials.

For his farewell salute at the American Legion, where he has been chairman of the national public relations committee since 1959, men came from all walks of life, from all faiths and of all races. In the interests of accuracy it must be noted there wasn't a single Communist present, nor anyone left of center.

Deke is gone but the FBI is carrying on. His post is being filled by William Cornelius Sullivan, another man of ability and charm. And, if Sullivan should go, Hoover has ranks of dedicated and competent men to choose from. This is the way every good organization should be run but too frequently isn't. There is only one indispensible man in the FBI, and he is the FBI. But we can be thankful he is continuing to make so many capable heirs.

CAPITAL IDEAS

(By Ray McHugh, Chief, Washington Bureau, Copley News Service)

WASHINGTON.—Newsmen are always warned not to become "personal" in their columns. It's a good rule. But today I'm going to break it.

I want to salute the best G-man in J. Edgar Hoover's Federal Bureau of Investigation before he retires July 20.

How do I know that C. D. "Deke" Deloach, assistant to Mr. Hoover, is the best G-man? Easy.

My daughter, 5, tells me so at every opportunity. Deke is her Godfather. She could be right.

With the obvious exception of Mr. Hoover who looms like a colossus over the agency he has directed for more than 40 years, There are few men who can match the stature of this soft-spoken, fun-loving Claxton, Ga., product, who also can be a strict, no-nonsense disciplinarian.

Even in an organization where excellence is a common virtue, Deloach has stood out.

He ranks third in the FBI behind Mr. Hoover and associate director Clyde Tolson, but he commands four of the bureau's most important and sensitive divisions: Domestic intelligence, general investigative, special investigative and criminal records.

For the last five years he has personally supervised every major FBI criminal, civil rights and counter espionage investigation.

He commanded the trans-Atlantic manhunt that netted James Ray, the convicted slayer of the Rev. Martin Luther King, Jr. He had personal charge of the probe into the murders of United Mineworkers official Jock Yablonski, his wife and daughter, across his desk every day go orders affecting the apprehension of bank robbers, kidnapers, killers, car thieves, civil rights violators, embezzlers, confidence men and spies.

Deloach qualifies for any "10 most unwanted" list in the underworld, but with friends he qualifies as one of Washington's best-liked officials and its most notorious practical jokester.

On an airplane trip, complying with law, he will calmly notify the stewardess and the pilot that he is an FBI agent, that he is carrying a gun . . . And that his unsuspecting companion is "my prisoner."

(That does wonders for your personal popularity on an airliner!)

Friends also have discovered that a stay in the same hotel with Deloach can be an ordeal. Some have awakened to find live chickens in their room, some have been rolled out at 5 a.m. by a siren tucked under their mattress and carefully wired to Deloach's room, across 100 feet of hotel front.

A visit to his home is no less risky. With his wife Barbara and his seven children playing willing accomplices, more than one guest. has suddenly been confronted with huge "wanted" posters bearing their picture and a gory criminal record.

Deloach joined the FBI in 1942 after Stetson University where he was a football star and the University of Georgia Law School. He served in the navy during World War II and was called to FBI headquarters in Washington in 1950.

From 1951 to 1959 he was inspector. The rank millions of television fans recognize who follow the Sunday night exploits of Efrem Zimbalist, Jr., on the popular "The FBI" show. (Deloach is credited inside the Bureau with having created the series. He and his associates screen every episode.)

In 1959 Mr. Hoover named Deloach an assistant director, tightening the personal bond between the two men. It won't appear in any official record, but friends describe Deloach's retirement meeting with "The Boss" as "an emotional thing."

"Emotional" is a word they don't like in the FBI. Mr. Hoover's organization is built on loyalty, dedication, performance and the solid premise that the Bureau is bigger than any agent or executive. Its success is based on the ability of well-trained men to move easily, almost unnoticed, from assignment to assignment.

William Sullivan, a competent, professor-like man who has concentrated in the field of Communist subversion, is already slipping into Deloach's duties. Like the tall, raw-boned Georgian, Sullivan is known for his fierce dedication to Hoover and the FBI.

But Washington is going to miss Deke Deloach.

Most of the men in Congress call him by his first name. He is a personal friend of President Nixon. He was a frequent guest of President Johnson in the private Presidential apartment in the White House. He knows virtually every police chief in the United States and his official duties and his work as voluntary national public relations chairman of the American Legion has won him friends in every State of the Union and a score of foerign countries.

Deloach has his critics, too. But they sing in a weak chorus.

Some have tried to brand him as "political" or as "a creature of Hoover." His vigorous stand alongside the Director against policies of Attorney General Robert Kennedy and Ramsey Clark made him a target for some Liberals in Congress. They liked it even less when he developed a close working relationship with President Nixon's Atty. Gen. John Mitchell and Deputy Atty. Gen. Richard Kleindeinst.

Like Mr. Hoover, Deloach for years has been a vehement foe of lax bail bond practices, light or suspended sentences and easy parole policies and he has fought suggesting from any quarter to change the Bureau into a "National Police Force."

If he isn't sympathetic with today's permissive society or the theory that protestors can ignore laws which curb their personal desires, it's not surprising.

There wasn't much room for compromise in the poor Southern red clay country where he was raised by a widowed mother who ran a boarding house to help send her son to college.

And there isn't much room for compromise in Mr. Hoover's FBI.

The law is an impartial thing to men in the Bureau. Their arrest record proves it.

Maybe Deke Deloach isn't the greatest man who ever served under Mr. Hoover. But he's the kind of man who has made every American proud of the FBI.

I didn't think he should leave Washington without a lot of people knowing about it.

Besides, if I didn't write this column, my daughter wouldn't speak to me.

OUTSTANDING LEGISLATOR

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. HARSHA. Mr. Speaker, it was with much sadness and a sense of personal loss that I heard of the passing of my good friend and former colleague, Cliff Davis of Tennessee.

Cliff Davis served the people of his district with great distinction as a Member of the House for 24 years. I consider it a great privilege to have known him and to have served with him not only in the House but also as a member of the House Public Works Committee.

Judge Davis was an outstanding legislator, and among his many legislative accomplishments were sponsorship of the Appalachian Regional Development Act, the TVA Self-Financing Act, the Federal Interstate Highway Act, and the Tennessee-Tombigbee project.

Although he made outstanding contributions in many areas, he was possessed of particular expertise in the field of public works. As chairman of the Public Works Subcommittee on Flood Control, he was a champion of water resource development and made substantial contributions to water resource development, not only in the Tennessee Valley, but throughout the country. Many of these projects will serve as permanent monuments to his foresight and dedication.

In addition to his legislative ability, the judge had many endearing qualities which made him one of the most genial and popular Members of the House. He was always a most helpful and cooperative colleague, and he will not soon be forgotten by those of us who had the honor of knowing and working with him here in the House.

I wish to join with my colleagues in expressing deepest sympathy to his wife and all the members of his family in their great loss.

FUEL CRISIS IN NEW ENGLAND

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. BURKE of Massachusetts. Mr. Speaker, at this time I would like to call attention to the critical residual fuel shortage in the New England area. I have received numerous and urgent telegrams stating that unless Federal assistance is secured to procure fuel oil, power shortages will result in many towns in New England.

Not only are there oil shortages but also liquid asphalt, necessary for road building projects, is in low supply in Massachusetts.

In effort to bring relief to Massachusetts and New England, I have contacted the President, Secretary of Interior Hickel, and Gen. George A. Lincoln of the Office of Emergency Preparedness.

I am hopeful that these officials will provide prompt remedies to this serious problem.

I submit for the record various news items and communications I have received outlining the fuel crisis in New England:

[From the Patriot Ledger, July 17, 1970]

AREA TOWNS REPORT FUEL OIL SHORTAGE

A shortage of low sulphur oil, increasingly required in the U.S. and Europe as an anti-pollution measure, and the failure of oil companies to expand production capacities fast enough have caused a fuel oil crisis in New England.

PRICE UP 30 PERCENT

Several area communities have already reported an inability to get oil companies to bid on heating oil contracts and where bids have been received, the price has gone up 30 per cent.

Nationwide, production of residual fuel oil grades 5 and 6 (the basic heating oils) to running 20 million barrels behind last year's rate.

The major oil companies have cut back the amount of heating oil shipped to New England distributors 20 per cent.

Each oil company took a different tack, some cutting back the quantity shipped to customers by 20 per cent; others eliminated 20 per cent of their customers.

In addition to the oil shortages, liquid asphalt, a key road-building material, is in extremely short supply in Massachusetts.

"What you've got is a real fuel oil crisis," said a Washington spokesman for the oil companies.

The first indications of the problem came when area school systems found it extremely difficult—and expensive—to purchase number 5 and number 6 grade oil.

NO BIDDERS

The Holbrook, Milton and Randolph school systems have been unable to find anyone to bid on their 1970–71 heating oil contract.

While Milton was seeking to purchase special "anti-pollution" oil with a low sulphur content, the other two towns were seeking only to buy conventional heating fuel. Nevertheless, Holbrook and Randolph received no bids.

Other towns have received bids, but at extremely high prices.

In Hingham, the school system expects fuel oil costs to go up 30 per cent. The town budgeted $35,000 for heating fuel, and the school department now expects that an emergency transfer from the reserve fund will be necessary.

In Sharon, the bids received for number 5 and 6 oil were so high that they were rejected. The lowest bid was 30 per cent higher than the $31,200 spent last year.

Stoughton reported a similar increase.

HOMEOWNER PROBLEM

The situation will not hit the average homeowner until fall when he prepares to purchase heating fuel for the winter. Some experts have predicted that many homeowners may not be able to find an oil supplier.

It seems there are two basic reasons for the problem: a shortage of oil with low sulphur content and the failure of the oil companies to expand their fuel oil production capacities fast enough.

Low sulphur fuel is becoming required in both the United States and Europe as an anti-pollution measure.

Most number 5 and 6 oil presently available has a 2.2 per cent sulphur content. Pollution fighters want to cut this back to 1 per cent. This would reduce the amount of sulphur dioxide (SO_2) produced by oil burning.

LARGEST MARKET

New York City is perhaps the largest market now requiring the low sulphur oil.

Massachusetts was to have instituted a 1 per cent sulphur requirement in Boston and suburbs. But, owing to lack of low sulphur fuel, the state Department of Public Health has rescinded the ban for one year in the suburbs. The regulation is in effect, however, in the City of Boston.

The lack of low-sulphur fuel results from the growth of the European market for low sulphur fuel, from political crises in Libya, Syria, and Nigeria, and from the nature of the oil produced in Venezuela.

Venezuela supplies virtually all of the heating oil consumed in New England but the oil is the high sulphur variety.

The lack of import quotas on residual fuels and the expense of U.S. oils have been the cause of this dependence on the South American oil.

Shell and Esso are building plants that will remove sulphur from the Venezuelan oil but they will not be ready until 1971 at the earliest.

As an interim measure the oil companies planned to mix the Venezuelan oil with the sulphur-free oil now being produced in Libya, the Persian Gulf, and Nigeria.

But international crises have virtually destroyed this strategy.

CUTBACK ORDERED

The Libyan government fell in a coup and the new government nationalized several oil companies. Occidental Petroleum, which has vast oil holdings in Libya, was ordered to cut back its production from 800,000 barrels per day to 500,000. Moreover, the Libyan government has been predisposed to sell oil to Europe rather than to the United States.

The Nigerian Civil War was fought in part over the oil wells in Biafra and production in the war-torn nation has been slow to resume.

The continuing war in the Middle East has further caused a shortage of fuel oil. A major pipeline carrying residual oil was sabotaged in Syria and the Syrian government has not permitted the line to be repaired.

In addition to the international situation, Europe has adopted the goal of 1 per cent sulphur fuel oil for its factories. The demand for the product has increased sharply on the continent.

But the lack of low-sulphur oil is only part of the problem.

NUCLEAR POWER

In making their projections about oil needs in the seventies, the oil companies assumed that electric generating stations, a major consumer of fuel oil, would be switching to nuclear energy. This, the oil companies reasoned, would reduce the need for residual oil.

However, nuclear power has yet to prove 100 per cent successful and many utilities are returning to oil fueled plants. The consumption of oil for electric generating purposes, in fact, increased nine per cent last year.

Said a Washington official, "We are in for a year or two of a major energy crisis."

The crisis has led Sen. Edward M. Kennedy to call upon the White House and the Department of the Interior to see if anything can be done to ease the problem.

Several people have suggested delaying the start of low-sulphur requirements for at least a year until production capacity begins to meet the demand.

This is, obviously a less than satisfactory solution but no other suggestions have been offered to date.

New refineries producing low-sulphur fuel are now under construction in Venezuela and elsewhere. They will be finished next year. That should bring the crisis under control.

Until, then, however, a nervous—and possibly cold—winter looms ahead in New England.

PLEA FOR ASPHALT SENT TO NIXON

[From the Boston Globe, July 17, 1970]

(By Paul Sawin and Jack Gallant)

Calling the asphalt situation in Massachusetts "desperate," Gov. Sargent yesterday wired President Nixon to take action that would "avert layoffs of thousands of workers."

Sargent asked that restrictions on imported asphalt be lifted since "domestic suppliers cannot supply" enough.

One of the largest suppliers in New England laid off 250 workers for two days.

Thomas F. O'Donnell, president of Trimount Bituminous Products Co. of Everett, said it was the second time in the company's 50-year history that workers were laid off because of a shortage.

"I've been in business since 1920," O'Donnell said "and have never had a situation like this. We had to lay off today. We are going back to work Monday and see how long we can go."

The company is involved in runways, ramps and taxiways at Logan Airport and surfacing on Rte. 2 in Cambridge and Arlington and the Massachusetts Turnpike.

In Washington, Secretary of the Interior Walter J. Hickel has been under pressure from the Massachusetts Congressional delegation to ease import quotas.

"There is every hope," a department spokesman said yesterday, "that the situation will be eased in the next few days."

Both Sen. Edward M. Kennedy and Rep. Torbert Macdonald have advised Hickel that Massachusetts' road resurfacing projects are being endangered and have asked immediate release of more oil imports.

After a closed-door meeting yesterday with Commerce Commr. Carroll P. Sheehan, Sargent wired the President:

"I urge your immediate action to lift restrictions on the importation of asphalt, necessary to end critical shortage in Massachusetts and avert layoffs of thousands of workers. Canadian supply available. Lifting these import restrictions will have no adverse effect on domestic oil industry. Vital public and private constructions projects being brought to a standstill."

"If the Government would stay out of it," O'Donnell said, "and let them import crude and finished asphalt we would be all right. We had to lay off one day last week and two days this week.

"I don't know how much that is in dollar value but it means a lot to us."

The 72-year-old executive said the shortage of asphalt is the worst he has seen.

One of his major suppliers, Humble Oil and Refining Co. presently has some No. 6 fuel oil used in making asphalt. O'Donnell said he is now waiting for his company is directly involved with the shortage of crude oil. This in turn is scarce because of the growing demand for a low-sulphur fuel that will conform to anti-pollution regulations. Oil companies are changing their refining processes and there is less petroleum byproduct for making asphalt.

Warren Brothers of Cambridge is another large asphalt producer feeling the pinch.

A spokesman for the company said there had been no layoff but that the "situation is serious. The oil companies have put all customers on a quota that is 75 per cent of what they bought last year."

QUINCY, MASS.,
July 17, 1970.

Congressman JAMES BURKE,
House of Representatives,
Washington, D.C.

Am advising you of potential critical situation in town of Braintree. Desperately need your assistance. Federal assistance is necessary in order to procure necessary supply of fuel oil for Braintree power supply. Braintree contract for heavy fuel oil expires July 31, 1970. At that time Braintree will only have two weeks supply on hand for power. Public safety a necessity demands immediate action from United States Government and your assistance is urgently requested to alleviate serious crisis in Braintree. For further information contact Alban G. Spurrel, Braintree Electric Light Dept., 44 Allen St., Braintree, Mass.

JAMES R. MACINTYRE,
State Senator.

BRAINTREE, MASS.,
July 14, 1970.

Congressman JAMES BURKE,
Washington., D.C.

Braintree Light Department advertised on June 17, 1970, for bids on 350,000 barrels #6 oil. At the bid opening on July 13, 1970, no bids were received. Notices from four suppliers of #6 fuel stated that they were unable to obtain the fuel necessary to submit a bid.

Braintree's contract for heavy fuel oil expires on July 31, 1970, and at that time we will have about two weeks supply on hand. Failure to obtain a fuel supply will result in shutdown of the town generating facilities. Shortage of power in the area is already critcal and curtailment of even this small generating system will add to the serious power shortage problem now facing the New England area.

Your immediate attention to this serious problem coupled with firm action necessary for its correction is urgently needed and most respectfully requested.

Respectfully yours,
ALBAN G. SPURRELL,
Manager, Braintree Electric Light Dept.

MASSACHUSETTS TURNPIKE AUTHORITY,
Boston, Mass., July 9, 1970.

Hon. JAMES A. BURKE,
Member of Congress,
Washington, D.C.

DEAR JIM: As you perhaps know, we have a massive resurfacing and repair program in progress on the Massachusetts Turnpike.

I have just been informed by our asphalt suppliers that, due to shortage of crude oil, there will be only limited quantities of asphalt available to complete our fast-moving and well-organized resurfacing operation.

I am informed that the only way to make this necessary asphalt available is through an increase in import allowances of crude oil. We will appreciate your assistance in this matter with the President and the Secretary of the Interior.

Very truly yours,
JOHN T. DRISCOLL.

TRIMOUNT BITUMINOUS PRODUCTS CO.,
Everett, Mass., July 8, 1970.

JOHN T. DRISCOLL,
Chairman, Massachusetts Turnpike Authority, Boston, Mass.

DEAR MR. DRISCOLL: We enclose report indicating our application for an import quota to relieve the present shortage of liquid asphalt.

Unless the Government allows more asphalt to come in, paving programs are in serious jeopardy.

Very truly yours,
THOMAS F. O'DONNELL,
President.

OLD COLONY CONSTRUCTION
CO. OF QUINCY,
Quincy, Mass., July 7,1970.

Hon. JAMES BURKE,
Quincy Post Office, Washington Street,
Quincy, Mass.

DEAR CONGRESSMAN BURKE: Enclosed for your information please find notice regarding Asphalt shortage and possible Oil shortage.

Very truly yours,
JOSEPH F. CAHILL,
Vice President, Sales.

EXTRACT FROM PLATT'S OILGRAM, DATED WEDNESDAY, JULY 1, 1970

INTERIOR DEPARTMENT SEEKS TO RELAX ASPHALT IMPORTS

Oil Policy Committee working group plan to liberalize asphalt import controls in effort to meet current supply problems.

Interior's proposal, worked out in Oil Import Administration, is being kept under wraps pending review of several other proposals now before OFC.

Interior's argument reportedly is that imports policy involving asphalt shouldn't be made by Oil Imports Appeals Board which now has before it eight petitions for relief allocations on grounds of exceptional hardship.

At least three petitioners are based in New England. Guyot Co., New Haven, Conn., asked OIAB for "quota" to import 715,000 bbl of asphalt immediately, or its equivalent in crude tickets. Guyot said in 1969 it sold 29.8-million gal asphalt, whereas this year it has been able to purchase only 4.7-million gal.

Guyot said its suppliers—Mobil, Shell and Chevron—have informed company of "an absolute shortage of finished-product asphalt not only in New England, but on the entire Eastern seaboard." Company also said new antipollution ordinances have had "damaging effect" on asphalt supply. Guyot isn't "historical" importer; hence, is ineligible under existing control program.

Trimont Bituminous Products, Everett, Mass., petitioned for 1,600,000 bbl of asphalt immediately, or alternatively its equivalent in crude.

In other petitions, Seroc Inc., Sherbrooke, Que., doing business in Vermont, asked for 5,000 tons of asphalt allocations; Belcher Oil, Miami, 2,212 b/d, and Southern Missouri Oil Co., with terminal at Springfield, Mo., 2,500 b/d.

BOSTON HOUSING AUTHORITY,
Boston, Mass., June 5, 1970.

Hon. JAMES A. BURKE,
U.S. House of Representatives,
Washington, D.C.

Subject: Increased cost of Nos. 5 and 6 fuel oil—Boston area.

DEAR REPRESENTATIVE BURKE: We wish to report that No. 5 fuel oil has increased five times since our fuel oil contract became effective July 1, 1969. This increased totalled 67 cents per barrel and this was an increase of 28% above the contract price effective July 1, 1969. The No. 6 fuel oil has been increased six times since July 1, 1969 and the total increase amounts to 73 cents per barrel which is an increase of 40% over the contract price of July 1, 1969.

It is hoped that some relief will be found for residents of the Boston area in the near future to reduce the cost of fuel oil and bring it more in line with other areas of the country.

Very truly yours,
LEO J. DONOVAN,
Director of Management.

MEETING RURAL HOUSING NEEDS

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. ECKHARDT. Mr. Speaker, two-thirds of the bad housing in this country is in small towns and rural areas, the result of decades of neglect by government. The National Rural Housing Coalition is a group of concerned Americans who are attempting to focus the attention of the American people and their leaders on this fact.

Clay Cochran, the chairman of the coalition, recently discussed the role of private and public groups in meeting the housing problem in small towns and rural areas. I commend his speech to the attention of my colleagues and other readers of the RECORD:

MEETING RURAL HOUSING NEEDS

(By Clay L. Cochran)

Casting about for as much cheer as possible last night, it occurred to me that 27 years ago I was a Field Examiner for FEPC under Clarence Mitchell, and one night in Dallas, we skipped dinner so we could continue talking since there was no place in the town to eat where both of us would be welcome. The changes that have occurred since then have not given any of us a fear sensation, like flying too fast, and our achievements leave us somewhere short of utopia, but they are sufficiently tangible to whet our appetites for more and soon.

In the fourth grade in school, I learned that food, clothing, and shelter are the three essentials for human survival. Not a word about conquering the world or dumping $20 billion into moonshots. Here we are the richest industrial nation on earth, so rich we are polluting the whole planet with our industrial wastes and the carcinogenic gasses that flow from our overpowered automobiles, yet millions of families live in indecent shelter, jeopardizing health and disregarding their sense of personal worth and alienating the children.

We could discuss housing in small towns and rural areas from a dozen viewpoints, but I will dispose of several of them, and get down to what I consider to be most essential.

The NAACP I do not need to amplify upon or prove that all men have a right to decent shelter, including sanitation and clean water.

I assume that I need not spend my time laying out the statistics of need. Two thirds of the bad housing in this nation is in small towns and rural areas, and we need government subsidies to build 7 million dwellings there in the next 10 years. We said that last year, but I can assure you that what has been accomplished since does not alter the figure.

I could impress or bore you with details on the inadequacy of the present housing programs designed to meet the needs of low income people, the poverty and apathy of FmHA, the continuing evidence of discrimination, the appalling failure of public housing to function in these areas, the incapacity of most of the HUD agencies to function in small towns and rural areas because most of the programs are operated to serve existing lending and real estate interests rather than the family that needs a house. Suffice it to say that the existing housing programs, as they are currently financed and operated are not going to come anywhere near meeting rural and small town housing needs.

People do have a right to decent housing; the need in small towns and rural areas is ⅔ of the national total; and the Congress, the President, and the Executive Agencies have failed in their responsibilities to get programs under way to meet this need.

So what should we do? First, there is the absolute necessity for an end to the stupid waste of money and human lives in Viet Nam and the callous waste of funds on games like moon junkets for the military industrial complex because decent housing for all Americans is going to call for the expenditure of funds which are currently going to the military and the technology gamemanship of recent years. The housing problem will not be solved without a decrease in military and militarily-justified expenditures as we toy with the "buzz saw of races and hatred" and the intriguing game of empire building.

But more than money is required. We must create the institutions necessary, not just to build roofs and bathrooms, not just housing, but decent communities. These must be activist institutions with participation by those whose needs are to be served. The housing programs we have which pander to the needs of the builders and bankers on an if, as, and when needed basis must be replaced by programs whose operators are expected to serve people. Never fear, the money lenders and builders will not suffer, indeed they will make more money, but they must make it by building more and better housing and communities.

This nation needs a National Housing Bank, financed from tax funds. The function of that bank is to make an increasing flow of credit available for housing on terms which the family needing the housing can pay. For low income people, there should be a Federal representative at the community level, as FmHA has today, so that the person needing the house can deal directly with the bank and not have to go to law school to learn how to hustle the housing racket and then run the gauntlet of contractor, lender, realtor, lawyer, and all of the other hurdles presently in the way. Few people seem to realize the difficulty a poor man with limited formal education has in hustling the housing racket.

We believe that a family should have a right to own its home if it so desires, but that adequate rental facilities should be available for those who cannot or do not wish ownership. This means a tremendous increase in the rental housing program, particularly public housing with the possibility of ownership built in on a strictly voluntary basis. We have no stomach for any program to unload old public housing on the tenants, individually or collectively.

The Federal government has no right, moral or constitutional, to establish programs like public housing and then allow state or local governments to deny the benefits by apathy, stupidy, or bias against race or class. The Federal government must not only be the lender of last resort, and not too far down the hall, but it must also be the builder of decent housing where private enterprise and state and local government fail.

In short, we are going to have to make a much more uninhibited and disrespectful and creative assault on the problem if we are to succeed.

There are a great many specific items I wish I had the time to discuss, but I will close by just running quickly through some of them:

Farmers Home Administration's administrative funds must be increased many times over to enable them to do what we insist be done. They not only cannot handle the volume needed, but a shortage of manpower absolutely inevitably results in discrimination against the less affluent and minority groups. In the process FmHA is going to have to recapture its old crusading drive to serve people which it lost, more or less, twenty years ago or it must be replaced by a more creative, forceful agency.

HUD agencies are either going to have to prove they can function, under present policies in rural areas or small towns, or call for new legislation, or just admit that they are not going to serve these areas. We do not need any more task forces or tandem plans or any other gobble-de-gook from HUD. Let's have a program, new legislation, or an honest withdrawal from the field.

We must insist that the Federal government, through public or nonprofit housing prepare to eliminate this problem in the next ten years in a creative, democratic way.

Manpower programs should stress building skills and utilize their training programs to build housing for low income people.

OEO should quit dawdling around, and admit that it has a responsibility for housing the poor. Every CAP agency should have housing as a major item on its agenda and do whatever is necessary to get housing from organizing tenants, to putting a burr under the tail of the housing authority, waking up a sleepy FmHA supervisor—anything the local situation dictates.

HUD, FmHA, and OEO—prodded by the Congress—should establish a major self-help housing program along the lines of the Puerto Rican program so that local people can help themselves if the rest of the machinery grinds too slowly or not at all.

The private foundations should do some real pioneering for people and quit playing the game of nice, safe, overfinanced research programs like cancer research and spend some money getting a roof and clean water for those still alive.

The list is long, but the essentials are clear: Adequate funds at low rates of interest, or no rates at all, or grants to subsidize the cost of housing to the level the family can afford; the creation of people-oriented institutions to furnish guidance, technical assistance, and even housing at the local level; an end to kidding ourselves that technology will provide housing so cheap we all can afford it, without pain; a recognition of the fact that income-support programs are not enough. If we could put money into the hands of the poor, they could buy food—it is there to be bought; they could buy quite a bit of medical care, some of it is there to be bought; they could buy clothing, it is there. But until we do something about the housing supply, the poor could not rent or buy decent housing even if they ceased to be so poor. The additional funds would only provide a dandy fiesta for the speculator and slum landlords as we all bid up the price of the existing supply of houses.

The housing problem is not basically an economic problem; it is not a problem of technology. Basically, it is a political problem, a problem of forcing a commitment upon ourselves and our government to meet this need. To this, we must dedicate ourselves for such time as is necessary for this nation cannot long exist in anything like its present form—the good part—if we insist on segregated slums, ditch bank shacks, dirt mounded, dirt floor Navajo hogans, children infested with worms from human filth, water that infects more people with disease than the medical facilities can cure.

Right On!

SOME MORE OR LESS RELEVANT NUMBERS

I. ON NEED

1. '68 sample survey (most recent data) indicated 4.7 million households in substandard units, even by Census' very restrictive definition of the term; two thirds of those were outside the metropolitan areas; one third of them (in both metro and non-metro areas) were occupied by non-white households (though only 11% of all households are non-white).

2. What it boils down to is that over half of all black households living in non-metro areas occupy substandard housing.

3. Looked at another way, if you are a white household living in a non-metro area, you are more than 3 times as likely to be in substandard housing as a white household living in a metro area; if you are a *black* household living in a non-metro area, you are 5 times as likely to be in substandard housing as a non-white familly in a metro area or a white family in a non-metro area, and almost 12 times as likely as a white household in a metro area.

4. One of the few groups blacks might feel sorry for are the Indians, more than two thirds of whose households are occupying substandard units. In the remote areas of Alaska, it is estimated that something over 95% of the native housing is substandard.

II. ON INADEQUACY OF CURRENT EFFORT

1. Public housing is our oldest, largest, and lowest-reaching program of assisted housing, and it has a pitiful record. OEO personnel have estimated that there are about 10½ million households with incomes equivalent to $4,800 less for a family of four. If anything, this would understate the need for public housing, but using it as a measure of need, public housing—with less than 778,000 units under management—has yet to meet 10% of that need after more than three decades! In the non-metropolitan areas, it has not met 3% of the need!

2. Other HUD programs of assisted housing are even less in evidence in non-metro counties. Our best estimate is that less than 10% of FHA's assisted units are in the areas with 67% of the bad housing.

3. As a measure of non-commitment, let us look again at the Indians—at the rate of progress made by the BIA in the last two years (and this is spectacularly more than they had made in the decade before), it would take them two to three centuries to eliminate housing need on Indian reservations.

4. Congress set a 10-year goal two years ago, of 26 million units, with 6 million of them subsidized. We think—and Secretary Romney agrees—that the goal is probably too low. But even it is far beyond our present willingness to act. In the first two years of the goal period, total starts were less than 60% of the implied average, and subsidized starts only 42% of the implied average. Since we figure that nearly twice as many subsidized units are needed as the goal calls for, we are only doing one-fifth of the job.

ITALIAN AMERICAN WAR VETERANS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. RODINO. Mr. Speaker, the Italian American War Veterans Association, founded in the wake of the Second

World War, has continued to serve this Nation and its people. At the conclusion of the 22d year of the association, one is indeed impressed with its dedication and service. I congratulate the association for its commendable work in aiding the widows and orphans of war victims and the rehabilitation of veterans which has been expanded to other laudable endeavors such as hospital work, youth programs and many other worthy deeds in the community.

I commend the Italian American War Veterans for serving the human needs of so many in the past and for their continued service to the community.

DEALING WITH DEMONSTRATORS

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MOLLOHAN. Mr. Speaker, for the past several years this country has seen college campus demonstrations grow from innocent protests to violence-packed riots where lives are lost and buildings are destroyed.

West Virginia University experienced its first serious student disturbance last May 7. State police were called in and some damage was done.

As the enclosed editorial from the Wheeling News Register, edited by Mr. Harry Hamm, indicates, the question of what to do with those demonstrators who took uncalled for action during the protest is still up in the air.

If nothing is done in the end, then West Virginia University should not be too surprised to find itself with similar protest demonstrations on its hands this fall. If violators of university, State or Federal laws are allowed to go free, they undoubtedly will return to cause more trouble. If they are dealt with as dictated by law then students seeking to force their views on others by violence will think twice before acting in a similar vein again.

The editorial follows:

DEALING WITH DEMONSTRATORS

U.S. District Attorney Paul C. Camilletti has told West Virginia University officials that federal statutes apparently were not violated during the May 7 campus demonstrations at Morgantown.

Thus the District Attorney advises that further efforts to prosecute participants in the demonstrations "would only dignify an immature and irresponsible test of University disciplinary procedure."

On the basis of what we have read about this incident we would agree with the District Attorney. State Police investigation of the demonstrations found no basis for prosecution and this was the same finding of the Monongalia County prosecuting attorney. Federal officials and Mr. Camilletti were in Morgantown at the time of the demonstrations and reported they found no violation of federal statutes which would lend itself to meaningful prosecution.

Under the circumstances we believe it is up to University officials to take whatever disciplinary actions found necessary against those students who violated the rules and regulations of the institution. Now as for "non-students" who participated in the demonstrations, it is the duty of law enforcement authorities in cooperation with University officials to determine whether any state or federal laws were broken. If so, charges should be filed and the suspects prosecuted.

If West Virginia University hopes to prevent future trouble in the next school term officials cannot walk away from the May 7 demonstrations without any action whatsoever. Those who violated University regulations should be dealt with sternly and we mean expulsion from WVU.

SPEECH BEFORE RICHMOND MASONIC CONVOCATION AND CONCLAVE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MURPHY of New York. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the remarks I was privileged to make before the Richmond Masonic convocation and conclave at Richmondtown, Staten Island, on June 14 of this year:

REMARKS OF REPRESENTATIVE JOHN M. MURPHY OF NEW YORK, RICHMOND MASONIC CONVOCATION AND CONCLAVE

Who first built houses and temples of stone? History does not say, but the early Egyptians knew much of stone building and their art in architecture still influences the world of builders. Freemasonry began with the cathedral builders of the middle ages. Architecture made Freemasonry, but, in its higher form, Freemasons made architecture.

So today, let me humbly pay special tribute to all Masons in the District. And let me just add a special note of praise for Beacon Light Lodge No. 701 which is celebrating its Centennial year with us here today. And I hope that your Masonic Museum and Library will someday rival the George Washington Masonic Memorial in Alexandria, Virginia.

The philosopher Santayana once offered the simple but difficult truism that if democracy is to succeed, the common citizen must be something of a saint and something of a hero. How apropos of today's chaotic clime. For a citizen must be a hero to maintain restraint and a saint in his unlimited patience.

As I gaze across the patriotic portrait of themes presented today, I see more than the colorful costumes of the members of the Empire Chapter of Demolay and two Triangles of young ladies. I see flags—American flags—their banners and standards. What could be more fitting than a Masonic convocation on our official Flag Day?

I see these flags and I think back with pride to only last year when the first moon pioneer—an American—landed on that lonely and forbidding celestial body to plant an American flag—the emblem of our unity, our power, our thought, and our purpose as a nation.

A nation's flag is no more than an emblem, a symbol. It has no other character than that which we give it. Our flag symbolizes the spirit of this nation and its people. As such, it is deserving of the respect we render to it today.

It is doubly fitting, then, that we pause on this special day, set aside each year to honor our flag, to reflect for a moment about the nation it represents.

We are living in troubled and often violent times. The nation is undergoing a painful and dangerous upheaval, a spiritual upheaval.

Alienation of the young, enmity between black and white, and a weakening of many of our traditional values and institutions all conspire to trouble the spirit of the nation.

This troubled spirit, as we have too often seen of late, has manifested itself in displays of disrespect and scorn of our nation's flag. It provides a convenient way to strike out and show distaste for the direction of our nation.

Our flag is spat upon and shredded while the flags of nations bent upon our demise as a world leader and democratic institution are used as rallying standards by some of our own, misguided or frustrated citizenry.

These kinds of inane and childish actions, whether taken in the name of greater voices for students, peace in Southeast Asia, aid for the impoverished, or civil rights, contribute nothing. You do not build a new and more responsive society by mindlessly demolishing the existing society, villifying its leaders, and spreading violence and havoc throughout its fabric.

Crimes against the flag are crimes against society, the nation.

Our nation will not solve its many problems and continue to enjoy its many successes if we permit an atmosphere of unreason, violence and fear to persist. We will reap what we sow and a society bred on chaos will live in chaos.

What can we do? There are many of us—indeed most of us here—who still feel a surge of pride and patriotism when we see the flag because we know it represents the most successful experiment in free government ever achieved on this planet.

We can rededicate ourselves to those things which have made our nation great. We are living in a time of heightened awareness and sensitivity to the nation and world around us. So suppose we resolve today to make every time we see the American flag an occasion for reflection and rededication.

Surely the nation that can land a man on the moon, a nation that has defended and fed half the world, a nation that has unbounded technical and educational skills can achieve peace and understanding here at home. We must reflect on our greatness rather than rebel against it.

Let me close by saying that I am greatly honored to be with you on this Flag Day—to salute our flag, the nation for which it stands and all of you Free and Accepted Masons who have helped make it the greatest nation in the world.

FLAG DAY IN WEST ORANGE, N.J.

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MINISH. Mr. Speaker, on June 14, the West Orange Junior Women's Club sponsored a successful Flag Day rally in West Orange.

I had the honor of attending and speaking on this occasion, which included a combined Boy and Girl Scout chorus, together with Brownies and Cub Scouts, on the program. Additionally, the West Orange Junior Woman's Club Chorus, conducted by Mrs. Francis Montuori, presented selected musical numbers in which the audience participated. Also in conjunction with the rally was a creative writing contest held in the West Orange elementary schools on the topic "What the American Flag Means to Me." Rounding out the program was the recitation by Kenneth W. Robertshaw, commander-elect of VFW Post 2856, of an original writing entitled "The American Dream."

Mrs. John J. Rush, resident of the West Orange Juniors, served as moderator along with Mrs. Michael Degnan, chairman of the day.

I was proud of both the attendance and the spirit of the audience on this occasion, and believe that Flag Day was most appropriately marked in West Orange. N.J.

CONGRATULATIONS TO RICHARD RODGERS ON 50TH ANNIVERSARY

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. WOLFF. Mr. Speaker, this year marks the 50th anniversary of the professional career of Richard Rodgers, one of America's most esteemed and beloved composers.

It was in 1703 that Andrew Fletcher, the Scottish political leader, penned those frequently quoted lines:

> Give me the making of the songs of a nation, and I care not who makes its laws.

There is certainly no doubt that we who are concerned with making laws would, to a man, happily echo that sentiment—provided, of course, that the songs would all sound exactly like the ones Richard Rodgers has been making for half a century. These, surely, are the songs of a nation. They have mirrored our hopes and our dreams, our vigor and our sensitivity, our good times and our bad. By their sheer melodic richness and compelling rhythm, they inspire even the most unmusical among us to burst into song. Or at least whistle.

Fifty years is a long time for any man to devote himself to any occupation. In the area of music it is especially noteworthy when changes in public taste make any career lasting longer than a decade seem like a miracle. But quality is always durable. Time never dims true works of art, it only enhances them. The creative output of Richard Rodgers has certainly stood this test; not only does he continue to produce music of unrivalled distinctiveness, his earliest creations still sound just as fresh and as captivating as the day they were first introduced.

Actually, Richard Rodgers has been writing songs for an even longer period of time than 50 years. When a television interviewer once asked him what he had done before becoming a composer, Rodgers replied simply, "I was a baby." At the age of 6, he had taught himself to play piano with both hands, and it was not long before he was able to pick out original tunes. He wrote his first songs at a summer camp in Maine when he was 14. The following year Rodgers composed the score—all 10 songs—for an amateur show. Two years later he heard his first professional song interpolated in a Broadway musical. Then, in 1920, Richard Rodgers made his official entry into the ranks of composers for the musical theater. Early in the year he had become the first freshman in the history of Columbia University to be chosen to compose the score for a varsity show. This effort so impressed a Broadway producer that he signed Rodgers to write all the music for his upcoming production, "Poor Little Ritz Girl." Rodgers was all of 17 at the time. Even though, at almost the last minute, the producer decided to augment the score with music by a more experienced composer, it was the Rodgers' contributions that caught the attention of both audience and critics.

For the first 40 years of his career, Richard Rodgers had but two lyric-writing partners, Lorenz Hart and Oscar Hammerstein II. Both associations were terminated by death: Hart in 1943, Hammerstein in 1960. Rodgers' "collaborative fidelity," Oscar Hammerstein once wrote, "is significant, I think, because it illustrates a sense of pattern and constructive purpose which never leaves him. This is not just a professional habit but a view of life." Since Hammerstein's death, Rodgers has supplied his own words to his music, as well as writing with such talented lyricists as Stephen Sondheim and Martin Charnin.

The great influence of Richard Rodgers in the development of the American musical theater has been apparent to everyone. Almost from the very beginning of his career he has been an experimenter and an innovator, continually striking out in directions that had never been attempted before. In dramatic subjects, he and his collaborators have been concerned with an almost staggering variety of meaty themes—including the American Revolution, the adventures of a Connecticut Yankee at the Court of King Arthur, the rise and fall of a dancing heel known as Pal Joey, the development of the Oklahoma Territory, wartime heroism in the South Pacific, the need for greater understanding between East and West, and the struggle of an Austrian family to combat the evils of naziism.

These were themes of substance requiring music of equal substance to enhance their emotional appeal. Rodgers has met the challenge of every production with a continuous flow of unforgettable musical expressions. There is, for example, no gapping of generations in the world of Richard Rodgers. When we listen to "It Might as Well Be Spring," it is hard to imagine any other composer capturing so perfectly both the gaiety and melancholy of adolescence. When Rodgers deals with young love, as in the ardent "Younger Than Springtime" or in the bubbly "Sixteen Going on Seventeen," he knows exactly how to bring out the feeling of innocence in his music. When, as in "I Have Confidence in Me" from the film version of "The Sound of Music," he expresses the fear, uncertainty and final determination of the young Marie Von Trapp, we are all completely under the spell of the spunky girl. And for those who think that doing one's own thing is a relatively recent phenomenon, it may come as a surprise to learn that Rodgers, along with lyricist Hart, created a buoyant theme song for female individualists over 30 years ago. They called it "The Lady Is a Tramp."

Songs of faith and inspiration have been written by many composers for many occasions. Yet when Rodgers and Hammerstein created "You'll Never Walk Alone" and "Climb Ev'ry Mountain" for two Broadway musicals, they produced works of such towering impact that they immediately became accepted as genuine hymns. Today they are part of academic and religious ceremonies all over the country.

Once Richard Rodgers has sung the praises of a particular locale, whether real or imagined, it remains his property forever; anyone else attempting a song about the same territory does so at his own risk. In fact, it probably would not surprise anyone in the least if children in Bangkok paraded to school to the stately beat of the "March of the Siamese Children," or if Tyroleans became misty-eyed over the tender strains of "Edelweiss," or if adventurous souls searched in vain for that hypnotic special island known as "Bali Ha'i." "Manhattan" was first heard on Broadway as long ago as 1925; its lilting theme is still recognized as the unofficial anthem of New York whenever it is played. The rousing, rushing ode to the great outdoors called "Oklahoma" captured the spirit of the Sooner State so perfectly that it is now the official State song. Rodgers has also offered us a highstepping "Kansas City," showed his appreciation for "The Little Things in Texas," confided that "Mainly I Do Like Maine," and happily paid his debt to the Hawkeye State in "All I Owe Ioway." We can almost map our country through the beat of Richard Rodgers' musical inspirations.

It was primarily in his collaboration with Oscar Hammerstein that Rodgers was given the opportunity of creating music that conveyed the wonder and the majesty of nature. A mere line or two is enough to recall the melody and to show how expertly the music evokes the proper feeling. "It's a grand night for singing." "Oklahoma—where the wind comes sweepin' down the plain." "Oh, what a beautiful mornin', Oh, what a beautiful day." "June is bustin' out all over." "The hills are alive with the sound of music."

Few composers possess Rodgers' skill when it comes to giving wings to a romantic emotion. What girl could possibly remain aloof once she is serenaded by a phrase as soaring as "With a Song in My Heart"? Or described in a graceful waltz as "The Most Beautiful Girl in the World"? What boy dares resist so tender a sentiment as "My Funny Valentine"? Or spurn the exuberant declaration, "I'm in love, I'm in love, I'm in love, I'm in love, I'm in love with a wonderful guy." One cannot help wondering, too, how many wedding receptions have been launched to the joyful strains of "I Married an Angel"—followed, of course, by a honeymoon at a small hotel and a life of bliss in a "blue room, far away upstairs."

Oscar Hammerstein once wrote:

> Rodgers composes in order to make words fly higher or cut deeper than they would without the aid of his music.

That he has been able to do this with such constant brilliance is what makes Richard Rodgers the peerless composer that he is. Fortunately for all of us, the spark of genius that first lit up our musical sky 50 years ago is still blazing—as incandescent as ever.

ORGANIZED CRIME

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. KEITH. Mr. Speaker, a few months ago, at the opening of a new district office, I was visited by Mr. Bjorn Andersen of Norwell, Mass., who is a retired Federal law enforcement official. Mr. Andersen was deeply concerned with the efficacy of our Federal machinery dealing with the threat of organized crime.

At my suggestion, he wrote down his analysis of the situation and some recommendations for streamlining Federal action. Mr. Andersen's comments shed a great deal of light on the current problems in this area of law enforcement. I have brought Mr. Andersen's views to the attention of Assistant Attorney General Will Wilson of the Criminal Division of the Justice Department. In order to share them with my colleagues, I include Mr. Andersen's memorandum at this point in the RECORD, along with Assistant Attorney General Wilson's letter commenting on them:

MARCH 2, 1970.

HON. HASTINGS KEITH,
Representative in Congress,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KEITH: Thank you very much for your letter relating to our conversation at your Norwell office on February 21st. It was very pleasant to meet with you again and to discuss briefly the increasingly important crime problem and possible means of increasing the effectiveness and overall impacts of federal and local law enforcement agencies.

You request that I reduce my general proposal to writing and I shall do my very best to present my views in a clear, concise manner. However, that is easier said than done, especially in view of the fact that a meaningful presentation must of necessity include some consideration of inter-relationship between the subject matter, the federal court system, present interpretation of federal law, method of imposing sentence, role and function of the attorney general, U.S. Attorneys and Assistant U.S. Attorneys etc.

I simply wish to create a reader awareness that a reasonable evaluation of this proposal is not possible without total consideration of the entire spectrum of criminal justice. I am of the opinion that our court system is deliberately being undermined by people like Kunstler and the Chicago rioters. I agree with Judge Hoffman that these men are dangerous (even vicious). Had Kunstler been in jail, where he belongs, I seriously doubt that the student riots in Santa Barbara would have occurred.

I suggest that the Black Panther Party trial(s) will be patterned along the lines of the Chicago trial, and that underground subversives are in effect testing the strength of the system. The ultimate aim obviously is to destroy the effectiveness of the courts and the law enforcement agencies—the classical prelude to break-down of other government functions. Tactics of present day radicals are very reminiscent of the Roosevelt Regime, when a virtual state of civil war existed at the Kohler and Auto-Lite Plants, and during the Chicago Bus Strike. Will we ever learn?

As I view it, law enforcement is extremely complex and to present an in depth analysis might be very time consuming both for you and for me. If I can work on the premise that the present discussion merely expounds an idea, I would prefer to attach an outline as a document separate from this letter. I only hope that this attempt at brevity will not obscure the intended meaning or becloud the basic thougths.

Thank you again for your interest in this matter,

Very truly yours,
BJORN H. ANDERSEN.

MEMORANDUM

SUBJECT

Outline of a proposal for more effective use of existing federal law enforcement agencies in the fight against organized crime and Mafia Syndicates.

OBJECT

To stimulate interest in a centrally directed utilization of the full potential of federally controlled law enforcement agencies and through a logical progression of investigative effort, to collect information, intelligence and sufficiency of evidence to convict known racketeers and mobsters.

INTRODUCTION

This outline is submitted for information of and evaluation by Hon. Hastings Keith, Representative in Congress. In the interest of brevity, discussion of specifics has been confined to areas necessary to reasonable exploration of the concept presented. If the suggestions presented have any merit whatsoever, the basic outline may be supplemented as required for development of a more detailed plan of implementation.

HISTORICAL

Without going into details of the origin of the Sicilian Mafiosi, it should suffice for our present purpose to consider the evolution and development of the Mafia "family" as it existed during the early part of the present century, principally in New York City, and the subsequent branching-out of the organization's infiltration into various rackets such as prostitution, narcotics, bootlegging, labor racketeering and countless other enterprises. World War I and Prohibition contributed much to the rapid development of the Mafia and its control of the rackets.

The social and economic changes which followed World War II, resulted in considerable refinement of the methods used by Mafiosi in conducting their various operations. The climate was conducive to exploration of completely new and vast sources of revenue such as Union insurance funds, organized gambling, night clubs, motels, call-girls and what not.

Jurisdictional disputes erupted within the various "families", resulting in liquidation of those who did not respect the unwritten "code". These little "family" quarrels resulted in a lot of unfavorable publicity and a few of the better known "Dons" (heads of families) decided that the Mafia needed a new image. The open war-fare subsided substantially and territorial disputes were "arbitrated" by a Board of Directors consisting of "family" heads (Dons). The business prospered and some aspects of it assumed an air of legitimacy by establishment of ostensibly legitimate "fronts". Financial control extended into Real Estate Trusts, Motels, the Entertainment World, Automobile Sales, Loan Companies, Institutional Laundries, Service Business, etc.

Production of illicit alcohol continued to be a big revenue producer in certain geographical areas and strange as it may seem, almost every one of the more prominent "dons" have arrest records for bootlegging, mostly during their early careers. Business had never been better, the coffers were bulging and the "Board of Directors" decided to extend their grubby little fingers into the courts, government agencies and local politics.

ENFORCEMENT

The principal law enforcement agencies of the federal government are briefly as follows:

1. The Secret Service.
2. The Alcohol & Tobacco Tax Division (IRS).
3. The Intelligence Division (IRS).
4. The Bureau of Narcotics.
5. The Customs Service.
6. The Federal Bureau of Investigation.

The task of developing evidence against criminal violators rests primarily with the six agencies mentioned. To a relatively small degree, some of these agencies have experienced corruption from within, scandal and a few convictions. However, as a general statement of fact, the federal law enforcement agencies have functioned reasonably well in the past and, generally, there has been an absence of direct political interference. However, there are a few well remembered exceptions to this.

Basically, each agency was originally created with a specific function in mind and each agency has attempted to function within its assigned area or sphere of operation. By this I mean that a Secret Service agent, for example, would not normally pursue the investigation of a suspected narcotics peddler, even though the suspect is also known as a "passer" of counterfeit money.

What probably would happen is that information relating to narcotics would be referred for action to the Narcotics Bureau. This gives rise to the distinct possibility that two agencies may conduct simultaneous investigations of the one and same individual. The logic of this contention can be extended to include all of the six agencies mentioned plus the Postal Inspectors and the Internal Security Division of the State Department.

Obviously this situation presents a wasteful expenditure of investigative effort, and much worse, interference by one or more of the agencies concerned. (*Note*: The writer is aware of the fact that a "coordinator" was created a few years ago, for the purpose of bringing order to the apparent confusion, but there is much disagreement regarding the value of the coordinator's efforts).

Theoretically, the various enforcement agencies are one, big, happy family—all for one, one for all. This is not the fact. Some agencies play their cards very close to the chest and under some circumstances, it has been impossible for two agencies to "work together". Whatever the cause may be, the net result is that the enforcement effort suffers. Petty mid-level management officials who lack the intelligence or experience to really know what they should be doing, have in some instances totally destroyed vigorous enforcement effort. Such men gear their work to filling in the little squares on the "Monthly Statistical Report", which in turn is used as an evaluation tool by the next management level.

In substance, each enforcement agency tries to sweep its own front porch clean and does not necessarily concern itself with the litter on the adjoining agency's premises. Certainly no one is going to rock the boat by investigating crime areas not clearly defined in the "manual" (of procedure), a document so dear to the heart of the incompetent, the career loafer and the political hack.

PROSECUTION

The majority of cases referred to the U.S. District Courts by federal enforcement agencies are substantive violations. Only a very small percentage of federal criminal investigators have occasion to perfect conspiracy cases.

The presumed dedication of Assistant United States Attorneys leaves much to be desired. Preparation for trial very often consists of calling in the agent or special agent in charge of the case and "reviewing the facts", very often a day, or an hour, prior to actual trial.

The roll-call of Assistant United States Attorneys who have utilized the United States Attorney's office for personal gain as opposed to public service, is long and indeed impressive.

THE COURTS

The wisdom of meting out suspended sentences and a slap on the wrist to a recidivist or major violator (professional mobster) has always escaped me. I absolutely fail to see the justification for the total effort and expense involved in securing a conviction.

In a very broad sense, the sentence should be in direct proportion to the seriousness of the crime (and the frequency of it).

Sentences which are inconsistent with the nature of the crime, should be subject to review by a higher authority. There may be many reasons for suspended sentences, but I question the legitimacy of some of these reasons.

THE ATTORNEY GENERAL

As a cabinet member and highest law enforcement officer of the land, the attorney general has a binding obligation to proceed against violators. The record of organized crime prosecutions initiated by the office of the attorney general's office. is not impressive. If the attorney general is either incapable or unwilling to fully exercise the duties and powers of his office, he should be removed.

SUMMARY AND DISCUSSION

Although this presentation may appear disjointed and very loosely knit, I shall now attempt to join the loose ends together. I address myself primarily to syndicated mob operations, as distinguished from street crimes and subversive activities.

In most instances, mob operations are usually most vulnerable to conspiracy charges. In order to perfect a solid conspiracy case, it may be necessary to tie together a continuing series of related substantive offenses having a common purpose. In some instances, substantive cases may already have been prepared by one or more of the principal law enforcement agencies. It then becomes a question of how to incorporate the substantive violations into the frame-work of the conspiracy and to develop evidence against the principals. To facilitate this work and to make available all information, intelligence and evidence on file in the various agencies, I would partially re-organize some of the agencies and centralize management control.

In a hypothetical case, the sequence of events would run something like this:

The Attorney General identifies the subject(s) of investigation.

A special prosecutor is assigned to the case.

A highly skilled investigative technician is assigned to the special prosecutor.

Collection of basic information begins.

An investigative plan is developed.

Investigative plan is implemented by support personnel drawn from participating agencies.

Investigative reports are collated and evaluated by the special prosecutor and h's staff adviser.

Collection of evidence is expanded to meet requirements of the case at hand. (This would include substantive case prosecutions, development of informers and witnesses and whatever is required to produce a sufficiency of evidence).

The special prosecutor will have over-all responsibility for conduct of the investigation and presentation of the evidence to the court.

Control of support personnel will revert to the parent agency at the conclusion of the investigation or trial.

All out application of this concept removes most of the inherent obstacles as they exist under the present organization and assures a continuing investigation effort directed toward one objective—conviction.

The writer is well aware that this may be an over-simplification of an extremely complex problem. I contend that there *is* a solution, but that the solution will NOT come from the breed of law enforcement people who justify their existence (and incidently salary) by sticking colored pins in large office charts bearing the names of alleged "Principal Violators."

I personally recall a chart on which the same pins were stuck in the same names, over a period of three or four years, indicating that none of the alleged major violators were prosecuted or convicted.

That type of thing has convinced me that the time has come for deft surgery to remove a few cancers and much superfluous fat.

In substance, I am proposing a more effective utilization of existing law enforcement resources and a re-alignment of the tables of organization.

I am sure there will be much wailing and many tears. However, tears *do* wash the dust out of the eyes.

BJORN H. ANDERSEN.

DEPARTMENT OF JUSTICE,
Washington,, June 9, 1970.

Hon. HASTINGS KEITH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: Thank you for your communication transmitting a letter from Mr. Bjorn H. Andersen in which he expresses concern about the activities and statements of William Kunstler, one of the defense attorneys for the Chicago 7, and submits a proposal outlining more effective use of existing Federal law enforcement agencies in the fight against organized crime.

The Department of Justice has a continuing responsibility to be alert to individuals and organizations advocating, encouraging or participating in illegal violence in possible violation of Federal law. You may be assured that in those instances where there is evidence of a violation of Federal law we intend to take affirmative prosecutive action.

On April 23, 1969, President Nixon warned that the threat of organized crime can no longer be ignored or tolerated. He decreed its eventual elimination by carefully conceived, well-funded and well-executed action plans.

The President asked Congress for a substantial increase in the Department of Justice budget to strengthen the effort against organized crime. The Attorney General has been authorized to intercept wire and oral communications in the investigation of organized racketeering and to establish Federal racketeering field offices across the nation. Consideration is also being given to invoking the antitrust laws to discourage organized crime involvement in legitimate business. The Department of Justice has already taken steps to facilitate unprecedented cooperation between state and Federal agencies in the investigation, prosecution and technical analysis of organized crime activities.

In this effort Federal strike forces have been established. A typical strike force consists of attorneys from the Organized Crime and Racketeering Section of this Division working in conjunction with investigators from the Bureau of Narcotics and Dangerous Drugs, the Customs Bureau, the Secret Service, the Department of Labor, and the Internal Revenue Service. In addition, we have the cooperation of the Federal Bureau of Investigation.

The first strike force was put into operation in Buffalo in late 1966 and resulted in the indictment and conviction of significant Cosa Nostra figures. Twelve other strike forces now operate throughout the country.

Arrangements have been made for Federal financial assistance to the states in order that local agencies can more effectively address themselves to the task.

Congress is considering legislation which would improve Federal investigation and prosecution techniques. In addition, the Congress has been urged to extend immunity laws so that a witness can be compelled to testify in organized crime prosecutions. Legislation which would increase the Federal role with respect to gamblers and provide Federal penalties for the operation of large scale illicit gambling enterprises and for the bribery of local government officials and police officers has been submitted to Congress.

Your constituent's concern in this matter is appreciated. As the President cautioned, the success of such a program will require the help of Congress and state and local governments, but will first depend on the support of responsible citizens.

Please express our appreciation to Mr. Andersen for the interest which prompted his attached outline.

I hope the foregoing information will be of assistance. Your enclosure is returned herewith.

Sincerely,

WILL WILSON,
Assistant Attorney General.

MR. FARMER, TAKE A BOW

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. QUILLEN. Mr. Speaker, the American farmer contributes a very valuable service to the people of this country, but somehow his efforts are rarely ever singled out for the recognition he deserves.

An editorial concerning the American farmer appeared in the Johnson City Press-Chronicle, Johnson City, Tenn., one of the outstanding daily newspapers in my congressional district, on July 16.

I would like to submit the editorial, which points out some interesting statistics, for readers of the RECORD:

MR. FARMER TAKES A BOW

The American farmer ought to take a bow.

Much of the time Mr. Farmer is pretty much in the background. No press agents herald his achievements. And he is largely taken for granted.

Yet, as Secretary of Agriculture Clifford Hardin said recently, the farmer's productivity has been climbing more than five per cent a year—and that's "roughly twice the rate of industry."

Consider these facts:

In 1969 American farmers produced 20 per cent more products on six per cent fewer acres than in 1957.

At the turn of the century, a farmer produced enough for himself and six others. But in 1968 he was producing enough for himself and 42 others—with the help of supply and marketing industries.

In the latest year for which figures are available, the marketing of farm food and fiber alone provided 5,000,000 non-farm jobs running into payroll and fringe benefits totaling $25 billion.

Besides being a major supplier of the economy, agriculture is a major customer—to the tune of $50 billion a year. Farmers buy 6.5 million tons of steel in the form of tractors, other motor vehicles, machinery and equipment—and they use more petroleum than any other single industry and more electricity than Chicago, Boston, Baltimore, Washington and Detroit.

NEW TEETH IN POLLUTION LAW

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. LONG of Maryland. Mr. Speaker, pollution in all its forms is an ever-increasing problem, and Maryland residents have been particularly shocked by two recent water pollution incidents at Curtis Bay. I have just read a fine editorial in the Havre de Grace record presenting the advantages of Maryland House Bill 882, a bill which contains provisions for reducing the frequency of such occurrences. I should like to share Mr. J. Samuel's perceptive article with my colleagues by including it in the RECORD:

NEW TEETH IN POLLUTION LAW

One of the most constructive and far-reaching measures passed during the recent session of the General Assembly was House Bill 882, which called for the strengthening and streamlining of water pollution abatement procedures.

These new procedures, which were effective July first, now enable the Maryland Department of Water Resources to move rapidly to correct many water polluting conditions. These new procedures can reduce from several months to several weeks or days, and in some instances to one day, the time span in which the Water Resources Department can act to enforce water quality laws and achieve compliance.

In the past, we are told, there could be a six or seven month delay between the first issuance of a violation notice to an offender and corrective action. Formerly the department issued a violation notice. A hearing was scheduled. The individual or company notified of a violation had thirty days in which to complete and submit a compliance plan. A method of abatement was worked out between the violator and the department, and finally an order was issued directing the violator to correct the condition. Most steps in the old procedure took thirty or more days each.

Now the department can issue a notice of violation and order simulataneously resulting in corrective measures within thirty days. Accidental oil or chemical spills can be attacked at once.

Violation of water pollution abatement provisions is a misdemeanor punishable by a fine of not more than $10,000 or imprisonment not to exceed one year or both. Each day upon which the violation occurs constitutes a new offense.

With new teeth in the pollution regulations, we may now see speedier results in the state's determination to fight pollution on all fronts.

MEDICARE WOES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. EILBERG. Mr. Speaker, I am concerned over the fact that uncertainties surrounding the eligibility of medicare patients have prompted a number of extended care facilities to pull out of the medicare program altogether, including some in my own community of Philadelphia.

It is hard not to believe, in view of the recent Presidential position, that the basic motive is not a budgetary decision by the Nixon administration to hold down medicare spending. Just how medicare is being denied many people is set forth in the very illuminating article which appeared in the Wall Street Journal on Wednesday, April 8, 1970, which follows:

MEDICARE WOES—ELDERLY PATIENTS FIND NURSING HOME BENEFITS GROW HARDER TO COLLECT

(By Jim Hyatt, Staff Reporter of The Wall Street Journal)

Mrs. Henry Nelson, 77, spent 31 days in a Milwaukee hospital last year undergoing treatment for a stroke. Medicare paid the entire bill.

Then a social worker at the hospital suggested that Mrs. Nelson be moved to a nursing home where she could receive round-the-clock nursing care and the therapy she needed to learn to walk and talk again. Medicare can pay for up to 100 days of such "extended care."

But it didn't work out that way for Mrs. Nelson. "After she was there two months, Medicare wrote me and said they weren't going to pay the bill," says her husband, a retired foundry worker. "I owed them $1,616.75."

The Social Security Administration, which administers the Medicare program of national health insurance for the elderly, had decided that Mrs. Nelson needed only custodial or minimal care rather than skilled nursing care. Mr. Nelson, who receives $130 a month in Social Security benefits, is paying the bill off at $50 a month. His wife, still a convalescent, is now at home.

AN ABRUPT CRACKDOWN

Unpleasant shocks like the one received by the Nelsons are becoming increasingly common among elderly patients who had thought all the financial woes associated with illness had ended when they became eligible for Medicare. They're learning that an abrupt crackdown on claims payments has made the widely heralded 100 days of extended care after hospital treatment far from an automatic benefit.

What's more, there's no way for a patient to learn for certain whether he will qualify for Medicare extended care benefits when he seeks admission to a nursing home. A medical panel at the home gives an initial judgment, but this may be rejected later by Medicare authorities. Consequently, some families have been billed unexpectedly for thousands of dollars weeks after patients have been dismissed or have died. Other patients wind up in second-rate homes with minimal or clearly inadequate care because they can't afford private rates for better equipped homes.

In the long run, some critics contend, the crackdown on extended-care benefits may be costing Social Security taxpayers more. Many doctors are keeping patients longer in expensive hospital beds, where Medicare coverage is almost certain, rather than risk rejection of extended-care claims. Hospital care can cost up to six times as much as treatment in an extended-care facility.

SURGE IN REJECTIONS

The crackdown is reflected in Social Security records. They show that rejections of extended care claims more than tripled to 7.2% of all claims filed in the last quarter of 1969 from 2% during 1968. Some nursing home operators say, moreover, that their own rejection rates are much higher than this.

Nursing home operators say Social Security rejection figures also don't reflect the numbers of patients who don't even bother to submit claims now because they don't want to take a chance on being rejected and stuck with a large bill. Nor do the figures reflect the fact that even when claims are accepted, the length of time Medicare will pay for extended coverage has been shortened in many cases.

"In the early days, a fractured hip would be covered for 70 or 80 days," says an official of Nationwide Insurance Co., which processes some claims for Medicare. "Now that's down to 30 or 40 days." He estimates that tighter rules have pared the average covered length of stay for all illnesses by 25%.

The reasons behind the sharp increase in rejected claims are a matter of dispute. The insurance concerns that actually process the claims as agents for Medicare say the denials are due to more stringent Medicare regulations aimed at weeding out abuses. Social Security officials insist, however, that the rules haven't changed but are merely being applied more carefully. "We have gotten better understanding of what an extended care benefit should be," says a spokesman.

A BUDGETARY DECISION

But some nursing administrators insist the basic motive is a budgetary decision by the Nixon Administration to hold down Medicare spending for political reasons—an accusation that's categorically denied by Social Security officials.

Whatever the reason, some observers find the situation ironic in light of a widespread belief in Congress that it had arranged the ideal marriage when it joined low-cost, skilled extended care with hospitalization under Medicare. The aim was to eliminate the high cost of unnecessarily intensive hospital care for recuperating patients while insuring that they would nonetheless receive skilled attention as long as needed. (Extended care benefits were never intended to pay for long-term custodial care of elderly invalids.)

To qualify for extended care benefits, a patient must spend at least three days in a hospital, then enter a Government-certified extended care facility within 14 days after hospital discharge. The patient must require skilled, round-the-clock nursing for a condition related to the illness for which he was hospitalized. Medicare will pay a maximum of 100 days for each "benefit period," though after the first 20 days the patient must contribute $6.50 a day himself.

Conflicts arise chiefly over the question of whether a patient's condition requires the skilled, round-the-clock care of a nursing home. In February, for instance, an Indiana insurance company denied a Medicare claim for a 90-year-old man on grounds that he didn't need extended care. The action drew a heated protest to the Social Security Administration from a doctor familiar with the case.

The doctor wrote that the patient "was seriously ill and needed continuous skilled nursing care. He was, in other words, ill enough to die and in fact died on Feb. 10." The claim finally was accepted two weeks after the death.

David A. Jones, chairman of Extendicare Inc., a Louisville, Ky., nursing home chain, says 61 Medicare claims were rejected at one time for two of his company's homes. One of the patients had terminal cancer and died at the nursing home four days after leaving a hospital. Medicare allowed only one day's coverage.

"We got up on our hind legs and raised holy hell," says Mr. Jones. Eventually, all 61 claims were approved.

"The pendulum has swung too far," says an Ohio internist. "We're asked to get people out of this hospital as quickly as possible and then we find they aren't covered."

To avoid paying high bills for extended care out of their own pockets, some patients denied Medicare prevail on their doctors to readmit them to a hospital, where their bills almost certainly will be covered by Medicare.

Critics of Medicare's extended-care program say the crackdown on claims has been facilitiated by a lack of flexibility in Medicare regulations. They say the rules often fail to allow coverage where it would seem to be clearly indicated.

Besides barring payments for mere custodial care, Medicare won't cover care that could be provided by nonprofessionals. A senile elderly diabetic might need regular insulin shots, but he wouldn't qualify for extended care benefits because the regulations assume a non-skilled person could give the shots. The fact that the patient is incapable of giving himself shots and hasn't any relatives to help wouldn't change the ruling.

James Halick, an 83-year-old immigrant from Czechoslovakia, was hospitalized in Cleveland last year for fluid in the lungs, heart trouble and diabetes. Later he entered a Cleveland nursing home on his doctor's advice. Medicare paid the hospital bills but cut off extended care coverage after two weeks on the ground that Mr. Halick no longer needed the continuous attention of skilled nurses.

Mr. Halick paid for two more weeks as a private patient, then left the nursing home to live with friends. Last fall he suffered a relapse, reentered the hospital, then again sought nursing home benefits. They were denied.

A family friend, Mrs. Marie-Anne Frindt, bristles when she describes Mr. Halick's lengthy correspondence with Government and insurance officials over the case. She's particularly upset, she says, over a letter from the Social Security Administration suggesting that Mr. Halick appear in person if he wants to make an appeal. "How can a man who is already half dead go to an office?" she asks.

Mr. Halick has moved to a less expensive nursing home, where he pays $375 a month out of his savings. But the savings soon will be exhausted, and he expects to seek Medicaid, the Federal-state program of health care for the poor, as an indigent.

One reason nursing home operators are bitter about the crackdown in Medicare payouts is that it has reduced the number of their patients. Many have made large investments in modern facilities and highly trained staff to gain accreditation as extended care facilities under Medicare.

A recent tour of Pavilion Nursing Home, a modern $1,250,000 extended care facility in Cleveland, found only 104 of the 150 beds occupied, down sharply from an average of around 140 last year. Administrator Peter Sukernek says the home can't break even at the present level. In February Pavilion had 31 Medicare patients, compared with 74 in October 1968.

Mr. Jones of Extendicare, the Kentucky chain of nursing homes, says his firm's Medicare cases have dropped by half in the past year and now amount to only 17% of the patients.

The uncertainties surrounding the eligibility of Medicare patients have prompted a number of extended care facilities to pull out of the Medicare program altogether. Some 750 Medicare-certified homes have dropped out so far, including 460 last year, and hundreds of others have practically stopped accepting Medicare patients though they retain Medicare extendedcare certification. Just last Saturday 40 of the 45 extended care homes on Long Island announced they would no longer accept Medicare patients because it's too much trouble trying to collect payment after patients run up bills and then learn they're not eligible for Medicare.

THE CADILLAC IN THE SKIES

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. TEAGUE of Texas. Mr. Speaker, the Sunday, July 12, 1970, edition of the Washington Post carried an informative editorial reviewing the conflicting views surrounding our national space program. This editorial does much to place in perspective the overriding need to support our national space program because of its technological potential and long-term benefit to mankind. The editorial follows:

The Cadillac In The Skies

Just a year ago, the manned space program was riding high. Apollo 11 was waiting on the launch pad at Cape Kennedy for its crew and the world was waiting for the most spectacular trip in history to begin. The excitement and the glamor passed quickly and the manned space program is now in trouble. It came within a handful of votes last week of being strangled by the Senate and if the debate there is any indication more troubles are ahead. The psychology that sustained the program during its heydays of the 60s has been reversed and manned space flight is now regarded by many people as the Cadillac in the skies.

This psychological shift is understandable. To many of those who are deeply concerned about the quality of life at home, about the educational level of our children, the housing conditions of our poor, the pollution of our surroundings, supporting manned space flight is as provocative as riding in a chauffeured limousine through the slums. The country has so many problems, the argument goes, that it must divert the money that might be spent on manned space flights to programs that will aid more directly and more quickly the people who now inhabit the earth.

This is a hard argument to answer for to answer it fully and logically (or, for that matter, to make it fully and logically) requires a prescience that none of us has. No one really knows what is to be gained by going on with manned space flights and no one really knows what is to be lost by stopping them. There is a universe out there that we don't know about. There is, of course, the argument that unmanned space probes can tell us all we need to know about it for as far into the future as we now care to think. But it is difficult, if not clearly wrong, to accept the idea that machines can totally replace men in so delicate a task of exploration.

We raise this now because the debate in the Senate last week, while cast in terms of merely slowing down the pace of the manned space program, was in fact a debate over halting it. The cuts already made in NASA's budget have built in a halt to manned space activities from 1975 to, probably, 1978. To expand that period of inactivity to four or five years, it seems to us, is to kill the program. So long a pause would mean the dismantling of the teams of experts and probably of the equipment that put Apollo together and controlled its flights. Rebuilding those teams would be a long, arduous and costly process.

Thus we were pleased that the Senate did not go along with its liberal bloc which voted almost to a man to curtail NASA's funds even more. Many of the arguments made by NASA's supporters seem to us quite irrelevant—curtailment would mean unemployment in the aerospace industry, the Russians will be out there, and so on. But so did the basic argument made by the program's critics—that the funds should be used at home. We all know that cutting NASA's budget by $100 million or $500 million or $1 billion does not mean that the government is going to spend that much more on pollution control, education, housing, urban renewal and all the things that we ourselves place high on the list of national priorities. The fact is that if Congress really wanted to do all the things its members talk about, and postpone each year because of fiscal restraints, it wouldn't have turned last year's tax-reform bill into a tax-reduction bill.

The basic issue involved in NASA's appropriations this year, as it will be next year and for many years to come, is whether this country should give up something it has done and which is going well, something that has brought it great international prestige and internal pride, and something that we believe may well hold the key to man's future.

HON. CLIFFORD DAVIS

HON. FRANK M. CLARK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. CLARK. Mr. Speaker, when Cliff Davis passed away, I lost more than a close personal friend. I lost a most helpful colleague who went out of his way to befriend me when I came to the House of Representatives 16 years ago.

Cliff and I were members of the Flood Control Subcommittee of the Public Works Committee. As chairman—and as many of the older Members know—Cliff had a lot to say about what projects were approved.

I was having difficulty winning approval of a worthy project in my district. Cliff not only helped get it through for me, he came to my district and attended a hearing on the project and boosted my candidacy for reelection.

He always had time to listen to the problems of others and to try to help solve them. He was always pleasant and affable. He will be sorely missed by those who knew him well.

MANPOWER INC.'S SUMMER ACTION 1970 COMPETITION STIMULATING COMMUNITY BETTERMENT THROUGH CREATIVE YOUTH ACTION

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. REUSS. Mr. Speaker, Manpower's Summer Action 1970 is a national competition designed to achieve community betterment through creative action by young people.

A description of this worthwhile project by Elmer L. Winter president of Manpower, Inc., follows:

STATEMENT BY ELMER L. WINTER, PRESIDENT, MANPOWER, INC., ANNOUNCING THE SUMMER ACTION 1970 COMPETITION

We at Manpower, Inc. well realize that this summer will be a difficult one for young people looking for summer work.

Traditionally, we have helped young people in their summer job search through our free Youthpower program. In the past six years, this program has placed young people in almost 50,000 summer jobs. This effort will continue this summer in 17 cities across the country.

We are cautiously optimistic about the ability of our Youthpower program to again place thousands of young people in summer jobs, despite the recent downturn in the nation's economy. We say this because our Youthpower offices depend for their job orders, in large measure, upon the small businessman and the homeowner who often rely on young people to perform chores during the summer months.

While our Youthpower program will continue full throttle, we are not unmindful of the fact that many, many youngsters across the country will not find jobs as easy to come by this summer as they have in past years. From the reports we have received from our 468 offices across the country, there is every indication that there is a very serious shortage of jobs in the private sector, as well as in the public sector. These reports are based on such indicators as a sharp drop in "Help Wanted" newspaper ads, a jump in the number of applicants for civil service jobs, and the availability of workers for jobs hard to fill in the past. Layoffs and cost-cutting programs in industry are taking their toll, particularly on young people seeking summer employment.

I think all of us have to be deeply concerned with the increased needs of young people for jobs and the diminishing number of jobs available for them to fill.

It is because of this concern that we at Manpower, Inc., while continuing our sponsorship of Youthpower this summer, feel that even more must be done in summer, 1970. We are convinced that new encouragement is needed to stimulate desire on the part of our young people to find or create their own meaningful summer activity and not rely as heavily as before on government, business and industry.

We think we have just such an incentive in Manpower's Summer Action '70, a nationwide competition, offering $10,000 in cash prizes, designed to achieve community betterment through creative action by young people.

The competition offers a first prize of $3,000 for the top community action program organized this summer by young people, aged 21 or under, working either as an individual or as a member of an organization or informal group.

Also to be awarded are a $2,000 second prize, a $1,000 third prize and 40 $100 merit awards.

An independent panel of recognized authorities in such fields as education, business, government, natural sciences and human resources will judge the competition.

Evaluation of entries will be based upon (1) community need and benefit, (2) demonstrated initiative of participant(s), (3) originality of project and methods, and (4) the project's potential for application elsewhere.

At the conclusion of the contest, Manpower, Inc. will assemble a record of the best programs that are entered and make this information available to interested groups throughout the country. We believe that we can perform a real service to the public by disseminating information about programs that have worked—programs that have benefited individual communities.

We believe that the youth of America will respond to Manpower's Summer Action '70 and put any idle hours they might have to constructive use. The country certainly can use their efforts this summer in the areas of anti-pollution, assisting the handicapped, cleaning up central city areas, to list only a few of the many, many areas of possible community action.

What makes us think that the youth of America will respond?

Last summer alone, young people volunteered a total of more than 45,000 hours of time to make our Youthpower program work. As a result, it became a valuable and enriching experience for them, which is documented by the many letters of appreciation we have received. These young people could not have been more pleased at the chance to become meaningfully involved in solving serious community problems.

I could cite numerous examples of youth involvement in meaningful community action programs. Such efforts, we feel, should be rewarded. We at Manpower, Inc. plan to accomplish this through our Summer Action '70 Youth Awards.

Entry forms for this competition are available at all Manpower offices throughout the country and can also be obtained by writing Manpower, Inc., Summer Action '70, 820 N. Plankington Ave., Milwaukee, Wis. 53203. On a nationwide basis, we have also asked our local managers to contact key area youth groups and urge their members to enter the competition.

Not too long ago, I read an article in the press which quoted Vince Lombardi as saying, "We publicize dissidence too much, and here I think we're greatly at fault in the media. We've got too much sympathy in this country for the misfit, for the maladjusted, for the criminal and for the loser. I'm not saying we shouldn't try to help them. But we no longer recognize excellence. I think it's time for a pat on the back to someone who goes out and does something, the achiever."

We at Manpower, Inc. also believe such pats on the back to achievers, backed by cold, hard cash, will be very welcome to our young people this summer. We intend to do our part through Summer Action '70 to see that they are given.

HUNTLEY EXPLAINS

HON. ED FOREMAN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. FOREMAN. Mr. Speaker, as a final bit of help to his liberal cohorts, Chet Huntley of the Huntley-Brinkley propaganda show took off on both the President and the Vice President.

Perhaps the most important thing Mr. Huntley said in his diatribe was in comparing himself to the Vice President. He said, and I quote, "I've had more cow manure on my boots than he ever thought about."

Mr. Speaker, I wish to make two points. First, I am glad the Vice President has more important things on his mind. And, second, Mr. Huntley's remark explains now why we have been getting all that stuff in our living rooms.

HEROIN EPIDEMIC

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HALPERN. Mr. Speaker, I would like to call to the attention of my colleagues a problem that is of vital concern not only to New York City, but to the entire Nation. I am speaking of the heroin epidemic, which is rapidly ravaging our American society, especially the Nation's youth. Most shocking is the evidence that narcotic abuse is the greatest single cause of death in the 15 to 35 age group.

Our citizens cannot escape the effects of addiction; the cost to the individual and to our society is unmeasurable. It is well known that in order to support the fabulously expensive narcotic habit, the addict is forced to resort to crime. Mayor Lindsay has stated that heroin is chiefly responsible for the majority of muggings and burglaries in New York City. Perhaps it is an even greater tragedy that many addicts spread their disease through pushing drugs to innocent people, especially children in our schools.

As drug abuse has been brought to the attention of a great number of Americans recently, many theories have emerged regarding which area of attack should receive the greatest concentration. With a view to New York's particularly serious problem with heroin addiction, it is my feeling that all of these must be given due consideration and financial assistance if the victims of narcotics are not to be forgotten and are given every opportunity to be rehabilitated.

New York has taken great strides in providing public facilities for its vast addict population, with the establishment of addiction services agencies and State sponsored methadone maintenance programs. But more effort and money is needed if these programs are to be sustained and expanded.

Leonard Victor, Long Island Press national award-winning writer, in an in-depth analysis of methadone treatment, brought this issue before the public. In a series of three detailed articles, he has probed the terrifying world of the addict, and has revealed the vital importance of immediate action to help the many thousands in New York alone in desperate need of aid. As a public service, this series is noteworthy in its attempt to turn the public on to the pressing situation and I feel that this commendable effort should be brought to the attention of my colleagues:

METHADONE FOR ADDICTS: HOPE OR DISILLUSION?

(By Leonard Victor)

Methadone is one of the most controversial drugs in medicine today.

Many doctors are dead-set against its use. Others say treatment with it should be swiftly and widely expanded. Still others are for expanded, but restrained, use.

This may bewilder the layman who has read of wonderful successes with the drug in such projects as the pioneering five-year test program at Beth Israel Hospital in Manhattan.

In that program, which is constantly under intensive, expert outside evaluation, methadone has turned many hardened heroin addicts from anti-social individuals into useful members of society.

If it works what's the fuss about using it?

Dr. Henry Brill, a world-famous expert on narcotics addiction and head of the Pilgrim State Hospital in Brentwood, is chairman of the independent Columbia University blue-ribbon panel which checks Beth Israel's program and issues twice-yearly reports on it.

He says that "I am completely convinced that a properly run methadone maintenance program like Beth Israel's—with the full backup of social and therapeutic services that must be part of such a program—is of tremendous value for many heroin addicts."

But he also warns: "An improperly run or incomplete program without rigid controls and constant evaluation would be extremely dangerous."

Why? Methadone, like heroin, is an addicting narcotic. "Mainlined" into a vein like heroin, methadone can produce that temporary "high" the addict craves.

But properly given—a daily dose dissolved in orange juice and drunk under a doctor's or trained nurse's eyes in an expert treatment center—methadone does not produce a high.

The man or woman who gulps down the dose is usually in a hurry. Most have a steady job, school or housework waiting for them.

Despite these successes which have returned many hard-core addicts to a useful place in society, there are serious medical men who object to the treatment. They say "it is no cure, merely the exchanging of one addiction for another."

Dr. Brill—long-term adviser to Gov. Rockefeller on narcotics problems—and many other medical men fear immediate widespread expansion of the treatment system would lead to these problems:

A flood of the substitute drug onto the narcotics market. There have already been reports of this in connection with some loosely-run experimental methadone treatment centers.

A discrediting of the carefully-checked, long-term results of the few highly regulated well-run treatment centers that have proved the drugs so valuable with certain types of heroin addicts.

A new wave of methadone addicts resulting from inadequate or inexpert medical examination before treatment.

The Federal Government agrees with Dr. Brill's and other medical men's fears about the loosely regulated use of methadone.

Recently proposed new regulations encourage methadone maintenance by organizations willing to follow stiff standards, continue research and allow impartial scrutiny of the results.

The same new rules will also make it impossible for those clinics without expert staffs and on-going research and evaluation to operate.

Methadone, synthesized in Germany during World War II as a substitute for morphine, has been used by doctors here for many years to ease the agony of a patient's withdrawal from heroin.

A dramatic breakthrough in its use began seven years ago. That was when Dr. Marie Nyswander, a psychiatrist trained in narcotics addiction treatment, joined Dr. Vincent Dole, an MD famous for work in metabolic research, in the hunt for a heroin addiction cure.

They found, not a cure, but a remarkable substitute.

Their work at Rockefeller University led to the discovery that a carefully controlled dose of methadone blocked the addict's craving for heroin without getting him high. It also prevented the ex-junkie from getting a "high" if he did try heroin again.

They also learned that once a "stabilized" dose point was reached, no larger amount of methadone ever had to be used.

This stabilized dose is a dramatic contrast to the evergrowing "habit" of the hard-core junkie—like the six volunteers in the original cautious Dole-Nyswander methadone tests.

These six, like any "heavy" addict, needed more and more heroin all the time to reach that brief period of Nirvana for which the junkie steals and even murders.

With their two years of carefully documented results, the research team went to Dr. Ray Trussell, then New York City's Commissioner of Hospitals. He became enthusiastic and got Mayor Wagner's help to enlarge the program, at Beth Israel Hospital.

That was five years ago and much has been learned as the program was enlarged, re-enlarged and expanded first to Harlem and Cumberland Hospitals and then to area clinics.

In the beginning only "tough cases," those over 21, with an addiction record of five years or more and a long arrest record were accepted. And at the start, all patients spent a month living in the hospital before being allowed to come in once a day for their methadone, medical questioning, counseling if needed and to leave a fresh urine sample.

Lab tests of that urine sample quickly show if the patient has tried heroin again, or is using any other drug, since mixing other narcotics with methadone can be dangerous or even fatal.

Today, the admission rules have been eased as the result of the years of experience. Those down to age 18, with only a 2-year addiction record, are now being accepted.

Half the new patients start "on their feet" without spending any "build-up time" in the hospital's special methadone section. That's especially true of those who have jobs, are in school or have someone at home whom the center considers responsible.

One thing hasn't changed: The vast string of back-up social services that everyone agrees are so vital to the success of methadone maintenance.

If a man or woman needs schooling to get a job, or needs help getting back into his old school, he gets it. Social service workers see to family problems, such as getting a patient and his family on welfare until he gets work.

Counseling is always available to the patient. Parents, wives or husbands are brought in for sessions to help them understand their part in helping the former heroin addict.

Sincere critics of the methadone maintenance program say that the test and its exceptional results at Beth Israel are because the program is too specialized and too selective to be proof that it will work elsewhere.

Dr. Brill differs. "It will work elsewhere, in the right hands—and with patients who can't take the nightmare any more and want the monkey off their back."

How do the methadone addicts themselves feel about being addicts, perhaps forever?

"Look," he said. "Make believe I have diabetes and need insulin every day. I wouldn't gamble and quit using it.

"For the first time since I was a kid I have a steady job and no parole officer on my back. I'm married and have a lovely kid. And I own my own car—not one I stole.

"For all of this, I'm ready to stay a methadone addict for the rest of my life!"

LONG ISLAND METHADONE CLINICS FOR AT LEAST 35,000 ADDICTS

(By Leonard Victor)

The heroin epidemic has spread across the length of Long Island. In this second of a series on methadone—a hopeful weapon against the junkie's plight—Press writer Leonard Victor tells of the few facilities using the new treatment and of the army of hardcore addicts who need help.

How many hard-core heroin addicts—many of whom might benefit from methadone maintenance—are there on Long Island?

The most conservative guess for the addict population from Brooklyn to Montauk is 35,000.

A veteran narcotics detective—who doesn't want his name published—thinks that guess is far too low. But he's far more interested in a simple piece of arithmetic he figured out after studying the outside evaluation reports of the methadone program at Beth Israel Hospital, Manhattan.

He said, "Look, let's suppose they keep a heavy addict 'clean' (free of his heroin craving) for a year before he leaves the methadone program. (So far, only about 12 per cent of those accepted have dropped out or been expelled from the 5-year-old program).

"If he is a heavy junkie roaming the streets, he has to do a lot of stealing to pay for those nickel ($5) bags of heroin he needs for his habit.

"Let's assume he has a $50 daily habit—and what with time in court, jail, hospitals and some free fixes from friends, he only steals 100 days a year.

"The junkie gets 20 to 25 cents on the dollar from fences (who buy stolen property) or street peddling. So he has to steal $200 a day from stores, cars and homes. Multiply that $200 per day by 100 days and it comes out to $20,000. And you've still got to add to that the cost for police and parole officers, courts, jails and hospital treatment.

"Its a helluva lot cheaper to keep him on methadone. "For God's sake, give it to those who will take it!"

Methadone doesn't work for all hard-core addicts, the experts know. The junkie, though there have been a few notable exceptions, must be at the point where he or she honestly wants to get off the dizzying spiral staircase of the habit to become a successful methadone patient.

What do we have on Long Island for the man or woman who wants the help of methadone maintenance?

Suffolk, according to police estimates, has at least 3,000 hard-core heroin addicts. To serve them, there is just one walk-in methadone clinic in Bayshore.

The director of the program, Dr. Julius Rice, is no complete convert to methadone, though he concedes that "we may need it for about 25 percent of our toughest patients."

As "the word" of success at Beth Israel got around among Manhattan's addicts a few years ago, applications soared to a flood, with a current wating list of two years for some patients.

That may be why Suffolk's Narcotics Commission has plans "in the early stages" to set up two more small ambulatory methadone clinics, one in the east, the other in the west end of the vast county with a million population.

Nassau police won't even make an estimate of the heroin addict population in the county. But Mrs. Lois Blum, acting director of the county program says that "a guess of 5,000 to 7,500, probably nearer 7,500, would be pretty accurate."

There are now absolutely no methadone treatment clinics in Nassau, though plans are in the works for one center that could handle a maximum of 150 patients.

The tiny program planned calls for early "in-house" treatment and an experimental attempt to slowly wean patients off methadone over a period of several years.

How many heavy junkies are there in Queens? One index is the Health Department's Narcotic Registry. The latest figures available—for 1968—show 3,000 listed addicts.

That was a 49 percent increase from 1967!

The rule of thumb is to triple the registry figure for a reasonably accurate number. How much higher has that 1968 addict number of 9,000 soared since? No one knows, but one frightening index is that police made more than twice as many narcotics arrests in April of this year than they did in the same month last year.

For all these potential methadone candidates, Queens has one walk-in clinic for 100 patients, just going into use now under control of Beth Israel in-quarters at the Tri-Boro Hospital, Jamaica.

Since the State Legislature and Gov. Rockefeller are giving the Beth Israel program $6 million for expansion this year, there is some hope for another small Queens clinic, perhaps at the Elmhurst General Hospital.

Brooklyn fares worst in the number of addicts, with few methadone treatment facilities. The Narcotics Register for '68 showed close to 10,000 addicts listed in Long Island's westernmost county.

With that three-time multiplication index, that meant 30,000 hard addicts then. No one can guess how many more there are today.

Between a clinic at Cumberland Hospital, operated in conjunction with Beth Israel, a controversial new program called The Addiction and Treatment Corp., and a few walk-in clinics, Brooklyn has facilities for less than 1,000 methadone walk-in patients.

The New York State Narcotics Commission is opening one hospital in Howard Beach for in-patient treatment leading to methoden maintenance. It now has 70 patients, according to a commission spokesman.

But these patients are from all over the state, not just Queens, and any who are in the Metropolitan area will have to go to a clinic in the Bushwick section of Brooklyn daily once they become walking patients.

Dr. Philip Kaufmann, chairman of the Narcotics Committee of the Queens Medical Society, thinks the Howard Beach arrangement for walk-in patients is "a perfect example of why the state's own program was such a failure."

He says, "Let's assume that a family man from Laurelton goes through Howard Beach and becomes a walk-in patient. That man may be lucky enough to get a job at Grumann's Calverton plant, nearly a four hour a day round trip.

"How can he be expected to travel to Bushwick five mornings or nights a week for a dose of methadone? It's ridiculous."

Mayor Lindsay—who recently had another narcotics commissioner resign from city service—also recently announced that he expects to get $9.7 million in state funds for expanded addict treatment facilities. But no one in his organization could give any specific details about what kind of facilities are planned, or where they will go.

It was also impossible to get an immediate explanation of how he expects to get $9.7 million out of the state's total methadone allocation of $15 million, since $6 million has already been committed to the Beth Israel program and other areas from Nassau to Buffalo will demand their share.

Long Island's police are hoping that many clinics will spring into being.

New York Police Commissioner Howard Leary points out that "there is no doubt that law enforcement is only a partial answer to drug addiction. "We have doubled our arrests without any sign that the problem has lessened," he said.

That's why he firmly believes that "one area that should be explored more thoroughly is the use of methadone."

Nassau police are for methadone treatment too—and any other program that will lessen narcotic crime.

Suffolk Police Commissioner John Barry also thinks that methadone maintenance should be expanded, "but with extreme caution so we don't start a new addiction."

Controversial though it still is, the impartial Columbia Medical College evaluations of Beth Israel's methadone program has led to many converts.

The continuing studies show that men who have stayed in the program four years show a current near-zero arrest record. These twice-a-year compilations also show that employment soared from a "before" point of 22 per cent to 84 per cent now, while cases on welfare dwindled proportionally.

Roughly the same figures hold true for women who have been in the program for three years.

Those figures were the reason Gov. Rockefeller rescued the Manhattan program with a $1.8 million grant when the current administration's next-to-last narcotics commissioner disapproved of it.

And that is why the Governor is suprring the addiction of more clinics, which will benefit Manhattan and the Bronx the most, Brooklyn to a lesser degree—and even provide on clinic on Staten Island. Mayor Lindsay promises more of the same.

But, as Dr. Ray Trussell, director of Beth Israel, points out, "Our problem is trained people. We're rushing everyone we can find that is suitable into courses and practical training. But we can't rush the training, because methadone maintenance depends as much on the right backup people as it does on the drug.

The question now is, will the help ever catch up with the still-growing epidemic? For Long Island, the picture isn't good.

Private Doctors Handcuffed On Methadone Treatment

(By Leonard Victor)

Long Island's doctors want to help in the war against heroin addiction, but federal law prevents them from providing methadone maintenance treatment, a proved-out aid to some addicts. In this final article of a series, Press staffer Leonard Victor—who has won many awards for his articles about medical fields—tells of the doctors' offer of help and a change of heart by some of the top specialists in the field.

Each week-day morning at 7 a.m. a Long Island doctor risks his license when a young man sneaks through his back door for a dose of methadone.

The physician takes no fee for his services, which include the measured dose of methadone in orange juice, the taking of a fresh urine specimen (to check for any drug use) and a question and an answer session about matters physical and emotional.

The list of questions is almost identical to the one a doctor might ask at the Methadone Clinic in Beth Israel Hospital, Manhattan.

That's the place where a five-year research program—checked by impartial outside expert—has proved methadone in many cases can be used as a harmless substitute that allows some types of hardcore heroin addicts to return to a normal life.

It is a violation of an archaic Federal law, the Harris Act, which says an MD may use a sustaining narcotic drug only for a "reasonable" period of time "until proper treatment is available."

"Reasonable time" has been legally construed as no more than two months.

Beside the legal aspect, some experts in methadone treatment fear that the heroin addict would be too dangerous in the private office, though the Beth Israel program accepts only those who are already completely off heroin.

Others, like the famed narcotics abuse expert, Dr. Henry Brill, warn that the ex-addict is such a superb con man and Grade-A liar that it takes a treatment expert or ex-addict to spot him.

Waiting time at Harlem Hospital ran four months or more for ambulatory methadone patients—until the project was closed for lack of nurses.

That MD with the 7 a.m. patient—whom he had known since he delivered him into the world almost a quarter-century before—would have settled for four months as "reasonable time." But he couldn't find any methadone maintenance to fit his patient's needs, because there is virtually none on Long Island, as detailed yesterday, and the young man lives outside New York City.

Since the young man had been in jail twice, "flunked out" with both a good psychiatrist and group therapy and been thrown out of one of the sheltered addict rehabilitation dwellings, the doctor reluctantly tried methadone maintenance.

At the same time, he got his patient into the hands of a psychiatrist again.

Results: The young man's back in college trying to make up his lost years—has stayed out of trouble and got decent marks this past semester.

Another result: The doctor, who has been "maintaining him for a year and a half, is a criminal in the eyes of the law.

He's even turned two other doctors into Federal offenders so the student can always get help, even if his own doctor's ill or on vacation.

There are some clear signs that others in practice, unable to get urgently needed help for their patients, are reading texts, asking medical questions and taking the "reasonable" methadone law into their own hands.

The feelings of many medical men—though there are others who disagree strongly—can be summed up in an angry question from Dr. Phillip Kaufman, chairman of the Queens Medical Society's Committee on Drug Abuse.

"We can treat lepers, walking tuberculosis cases and we'd all be called to help if a typhoid epidemic swept Long Island. Why can't we help clean up the heroin epidemic," he asks.

Dr. Kaufman's is not a voice crying in the wilderness.

His demand that the general medical profession be allowed to treat ambulatory methadone maintenance patients has the full official backing of the more than 2,000 doctors in the Queens Medical Society.

And the 2,200 physicians who make up the Nassau Medical Society's membership have also fully approved the idea. Their Drug Abuse Committee chairman, Dr. Leonard Brahen, says that, like Queens, the Nassau group is willing to help with doctors' training and "do anything we can to help set up clinics—and man them."

Dr. Stanley Stark, president-elect of the Kings County Medical Society, says his group hasn't gone as far, but that "I'll be very surprised if we don't join the ranks this year. The private doctor should be involved."

The Suffolk Medical Society, for now, has adopted a "wait and see" policy. But Dr. Hyman S. Barahal, their Drug Abuse Committee chairman and director of the Hempstead Psychiatric Hospital, speaking as an individual, says that he "believes the general practitioner is needed to help now."

Every one of the medical men mentioned earlier insisted on two identical things: Good training for the MDs willing to handle methadone maintenance and a string of real back-up programs, like the Beth Israel system of social services for patients.

Dr. Mandel Weinstein, chief surgeon of Boulevard Hospital, Astoria, and chairman of Queens DA Thomas Mackell's Physician's Task Force on Narcotics, pointed out that "we physicians are always in the learning process.

"There are new drugs, new techniques, turning up every day and we have to cope with and master them. Give us the texts, the right instructors and we can handle methadone maintenance the same as any other medical problem."

He emphasized that the medical man knows better than most professionals "not to always be positive," adding that "if we run up against a puzzle, we are not proud about consulting—asking for help.

"We know we're dealing with human lives."

Dr. Weinstein used virtually the same language as most other physicians interviewed when he stressed that the physician "Can't go it alone with methadone" any more than with many other medical problems.

He said that it was up to New York City, as well as the other counties of Long Island, to provide those ancilliary services that make methadone treatment such a hopeful program.

"Promises, promises, won't do it," he warned. "We'll need nurses and social services in neighborhood clinics to handle the non-medical problems."

Two men vitally concerned with the progress of the pioneer Beth Israel methadone program are reluctant to see the general practitioners of medicine rush into the treatment field.

But both have veered from the Columbia Medical College evaluation report which says it is still premature for the man in private practice to become involved.

Dr. Vincent P. Doyle, discoverer of the treatment method along with Dr. Marie Nyswander, now says that "in view of the long waiting periods for admission to a treatment program, the G.P. who is willing to train should be allowed to administer blockage doses."

Dr. Ray Trussell, director of Beth Israel Hospital, has changed his viewpoint too. Also because of the backlog of people waiting for room in the program, he too feels that men in private medicine should be allowed to administer maintenance doses.

And he goes one step further. Dr. Trussell believes that the mass of the medical profession could serve an important function with Phase III methadone patients.

These are the ones who have been on the program without trouble for at least two years and have a record that proves they can be trusted with a week's supply or even larger dosages for vacations.

New, stiffer methadone use regulations are being proposed.

Vast sums are being poured into new methadone clinics—only on Long Island almost all the money is going to Brooklyn.

With changes in the offing, it now remains to be seen whether the doctor in private practice will be allowed to train and join the battle against the heroin epidemic.

The waiting time for many types of patients seeking to enter the Beth Israel methadone maintenance program—as mentioned before—is still two years.

TRIBUTE TO MIKE GRILIKHES

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. REES. Mr. Speaker, Mickey Mouse, Pluto, The Three Little Pigs—they have all become a beloved part of America. You might call them American folklore. Now these lovely Walt Disney characters, whom we have all met on the screen and some of us have seen in person at the Disneyland Kingdom, are traveling to our homes and cities across America through the efforts of one of our current great showmen, Michel M. (Mike) Grilikhes.

As the executive in charge of production on a giant entertainment spectacular called Disney On Parade, Mike Grilikhes is bringing the wholesome Disney characters to families all over our country. Thousands of youngsters are thrilling to the live show, one of the biggest spectaculars ever to be staged out of Hollywood.

The show is typical of the work of Mr. Grilikhes who, along with his actress wife Laraine Day, has been a stalwart producer of family entertainment. Through his efforts, beautiful nature works of the Polynesian cultures have been brought to our country. He has won a Peabody award for his stirring television special, Let Freedom Ring and has been involved for more than 15 years in film, television and stage projects aimed at bettering the education and communications needs of the public. Miss Day, for instance, is currently the ambassadress for the make America better project, for which she travels throughout the Nation to present awards to communities who have made strides toward providing their citizens with a better environment.

What should, additionally, prove of great interest to the entertainment industry itself are the employment benefits of a show such as Disney On Parade. Grilikhes and his company offer long-term employment to more than 100 performers, as well as dozens of technicians and behind-the-scenes people, providing another and important service to industry as well as to the community.

THE CAPTIVE NATIONS—A WEEK TO REMEMBER

HON. JOHN O. MARSH, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. MARSH. Mr. Speaker, for too many years, it has been our custom here to take note, during a specified week, of the continuing repression affecting the peoples of countries in which the light of freedom is in eclipse.

It is important that we continue to do this, even though the annual recollection of the cruel realities must suggest to us that we should be doing more.

During Captive Nations Week, the Iron Curtain comes first to mind, and we think of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Rumania. We need to remember, also, however, that the freedom of dissent so vigorously exercised in our country is denied not only to the formerly free peoples of Eastern Europe but also to the many millions living under Communist dictators in the Soviet Union, Red China and—close to home—in Cuba.

It has proven easy to lapse into acceptance of the status quo in some of these situations—to observe that strictures seemingly have been relaxed and that the people appear to be leading reasonably relaxed lives. Then, as in Hungary and Czechoslovakia, events have forced us against the bitter realization that the dark shadows have not dissolved and that attempts at free expression are rewarded still with prison or death.

The National Captive Nations Committee, the Assembly of Captive European Nations, and the individual nationality organizations of the countries under dictatorial regimes of the Communist bloc merit our ear, therefore, more regularly than once a year. What has happened and is happening to less fortunate peoples must remind us that we have no perpetual immunity from aggression.

NATIONAL WELFARE RIGHTS ORGANIZATION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. STOKES. Mr. Speaker, the National Welfare Rights Organization has prepared a critical analysis of President Nixon's latest version of welfare reform. They have also developed their own alternative proposal which would establish a national income floor at the $5,500 per family of four level which the U.S. Department of Labor considers to be the minimum income necessary to meet the basic requirements of health, safety, and decency.

Since our colleagues in the Senate are apparently going to pass legislation in this area substantially different from our own, welfare reform cannot be considered a "dead issue" in the House. I include, therefore, NWRO's analysis and legislation in the RECORD for the consideration of my colleagues:

NATIONAL WELFARE RIGHTS ORGANIZATION

BACKGROUND: THE NIXON PLAN

The Nixon Administration has just proposed a series of amendments to its Family Assistance Plan. The bill passed the House of Representatives, went to the Senate Finance Committee and was sent back to the Nixon Administration because the Senators wanted some changes made in it. The bill is now back in the Senate and hearings in the Finance Committee will begin again soon.

The Senators wanted the bill changed because it did not succeed in forcing people to work and this upset the Senators to no end. The version of the bill that passed the House really did not have any provisions that made it worthwhile for people on welfare to go to work.

The Nixon Administration could solve this problem in two ways. It could increase benefits for people who work and thereby encourage people to get jobs, or it could reduce benefits for people who are on welfare and force them to find work. Nixon's crew at HEW proposed to make a few things better for working people, but for the most part it hurt welfare recipients.

Here are some of the things the Nixon Administration amendments propose:

(1) The AFDC–UP program would be cut out. AFDC–UP aids families where there are two parents who are unemployed or work part time and it operates in 23 states. By eliminating welfare benefits for these families the unemployed father would be forced to work. This is what Nixon and the Senators wanted to do. But since families receiving regular AFDC would not be cut off, the families on AFDC–UP might switch to AFDC and stay on welfare. This could happen if

the father leaves the home since AFDC is a program that benefits mothers and children. Therefore, the government may try to force people to work, but it may actually force families to split up.

The Nixon Administration could have kept AFDC–UP for unemployed parents and increased benefits for working parents, but Nixon rejected this idea because it would cost one billion dollars—we spend $25 billion a year in Vietnam but $1 is too much for working poor here.

(2) Rents in public housing would be raised. Under the present system if your income goes up above a certain point you can become ineligible for public housing. You can be forced to move to private housing where the rents are higher. The administration proposed to solve this problem by making the amount of rent you pay a percentage of your income: 25% for people above the poverty line and 20% for people below the poverty line. There would no longer be a point when you would be forced out of public housing.

But there is another problem. Rents in public housing now are only 16 to 19% of income on the average. Since the lowest rent level under the Nixon plan is 20% many if not most people would be paying higher rents.

(3) Emergency grants would probably be eliminated. Under the new Nixon amendments grant levels would be frozen at their present levels except for the seven southern states where payments would rise to $133 a month or $1600 a year for a family of four. The definition of present grant level would supposedly include some determination of how much a family gets a year in emergency grants. But since the amount of emergency grants would be spread out over all recipient families, those recipients who know their legal rights and get emergency grants would get less money than they get now.

(4) The administration proposed to eliminate the surplus food program which poor people prefer and make food stamps more automatic thereby moving away from the idea of giving people cash instead of bits of funny colored paper which brand recipients as "poor, uneducated" and imply that recipients can not be trusted with real money.

Recipients will be given a form they can sign which would mean stamps would come automatically and the cost would be deducted from the regular welfare checks. One positive change is that recipients could sign up to buy a smaller amount of stamps than the maximum. Under the present system recipients must buy a fixed amount of stamps each month if they buy at all.

(5) Under the so called Family Health Insurance Plan, people who now get medicaid would have to pay some portion of their medical bills and the cost would be deducted from the welfare checks, whether the family wants the health insurance or not. This violated and would abolish, the present money payments principle.

(6) States would no longer be required to set a standard of need. If this were approved by Congress the number of working people who would be eligible for benefits would be reduced in those states that set high standards of need above the welfare payment level.

These changes are happening—and it looks like they will happen if any bill is passed—because no one except poor people is interested in making life better for poor. Nixon and the Governors of the states are concerned about the rising costs of welfare and Congressmen are worried about welfare cheaters.

No one knows that people are on welfare because they have no other choice. No one knows that recipients cheat less than income tax payers. No one thinks about the fact that welfare recipients cannot work.

It is up to the National Welfare Rights Organization to make people understand the truth about welfare. It is up to NWRO to convince people that the solution is ADEQUATE INCOME NOW and not forced work and lower grants. This is why NWRO is fighting for $5500 a year for a family of four. This is why we have our own bill, the Adequate Income Bill, which was introduced into the Senate by Senator Eugene McCarthy of Minnesota. This is why when we have local demonstrations to get our rights we should also talk about adequate income, $5500.

$5500 is not just an amount of money. $5500 means changing the welfare system from repression to freedom for poor people. $5500 means decency, dignity and democracy for all Americans, not just those able to support themselves.

S. 3760 A Bill To Provide an Adequate Income for All Americans: Introduced in the United States Senate by Senator Eugene McCarthy

Section 1. Short Title. This Act may be cited as the "Adequate Income Act of 1970".

Sec. 2. Findings and declaration of policy.

(A) (1) Approximately three-fourths of the people receiving welfare today are either children, the aged, disabled, or blind. Few of the rest can become self-supporting.

(2) Employment does not provide adequate income for poor people.

(B) Congress must ensure every poor person adequate income so he may freely express his Constitutional rights and liberties.

(C) (1) The Poverty Line is an inadequate objective standard of measure in determining real need.

(2) The Agriculture Department's Low-Cost Food Plan must also be rejected as a reasonable standard.

(3) The Moderate Food Plan is the minimum standard from which to determine adequate income.

(4) The Bureau of Labor Statistics, using the Moderate Food Plan demonstrates that a family of four needs $5,500 a year for food, housing, clothing, and other basic necessities.

(D) Therefore this Act shall guarantee a minimum income of $5500 for a family of four.

(E) Programs known as Public Assistance shall be replaced with an Adequate Income Plan. They shall not:

(1) deny benefits through harassment.

(2) interfere with legal rights and entitlements.

(3) exclude catagories of people from receiving benefits.

(4) fail to provide adequate income.

Sec. 3. Appropriations:

A sum is authorized sufficient to carry out the Act.

Sec. 4. Right to Adequate Income:

Anyone who is eligible may file.

Sec. 5. Eligibility:

Any resident of the United States who is not confined to a penal institution is eligible.

Sec. 6. Filers and members of unit:

A family unit is one or more individuals. The person who files a claim for benefits is called a filer.

(A) Male Filers.

(1) At least 18 years old or married.

(2) Must include wife, or woman with whom he is living and is the mother of one or more of his children.

(3) May include any person living with him under 18 years of age.

(B) Female Filers:

(1) Must be at least 16 years old and a mother, or at least 18 years old.

(2) Must include in unit any man living with her and the father of one of her children.

(3) Must include husband under 6(E)(1).

(4) May include any person living with her under 18 years of age.

(C) Informal separation defined.

(D) A person responsible for the care of incompetents, stepchildren, children confined to public institutions, etc., may file claims and receive benefits in their behalf.

(E) Miscellaneous provisions.

(2) No person may be a member of more than one unit.

Sec. 7. Benefit Level and reduction rate:

(A) (1) The amount paid to each filer shall equal the amounts prescribed in 7(B) and 7(C) or subsection 7(A) reduced by two-thirds of the positive net income of all members of the unit.

(B) (1) Without reductions by virtue of income each unit will be entitled to payments at the following rate:

(a) for the filer, $2000.

(b) for the second member of the family unit, $1500.

(c) for each additional member of the unit, $1000.

(2) Amounts shall be increased or decreased by the same percentage as the increase or decrease in the median family income.

(3) Amounts shall further be increased or decreased according to the local cost-of-living index.

(C) In addition to amounts determined under subsection 7(A), each unit shall be entitled to amounts necessary to meet basic needs of a unique or non-recurring nature, such as furniture, special medical, nutritional or instructional needs when they become eligible and in the event of fire, flood or other disaster.

(D) In lieu of amounts determined under 7(B), a unit may establish a benefit level based upon an itemized statement, pursuant to regulations prescribed by the Secretary.

Sec. 8. Definition of Income:

(A) A person's available income shall be his adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1954, with the modifications provided by subsections (B) through (H).

(B) Amounts added to adjusted gross income. (There follow 24 categories to be included in the computation of adjusted gross income.)

(C) Deductions Allowed.

Adjusted gross income may be reduced by the amount of the items under this subsection.

(D) Losses.

Losses defined in this subsection may be deducted from adjusted gross income.

(E) Interest.

Deductible and non-deductible interest defined.

(F) Depreciation and Depletion. Deductions defined.

(G) Deductions Disallowed.

Deductions not specifically allowed in this section are disallowed.

(H) Subchapter S Corporations.

(I) Internal Revenue Code Applicable.

Sec. 9. Reporting and Accounting:

(A) Definitions.

(B) Accounting Period. One calendar month.

(C) Reports. Beginning of each month.

(D) Payments. Semi-monthly, based on net income for the preceding period.

(E) Filer's accounting method.

(F) Allocation of items computed yearly.

(G) Positive carryover defined.

(H) Negative carryover defined.

(I) Use of carryover.

(J) Latest carryover used first.

(K) Unit Membership.

(L) Initial enrollment and new units.

(M) Payment and Recovery.

Sec. 10. Records, Information and Returns. Determinations and Review by the Secretary.

(A) Information required to determine eligibility shall be supplied on such forms as may be provided by the Secretary, without violation of the right to privacy.

(B) To verify the accuracy of reports the Secretary may conduct audits and investigations on the basis of random selection. The Secretary may audit when he has reason to believe that the filer is not entitled to receive the allowance for which he has applied.

Sec. 11. Procedural Rights and Review.

(A) All Rules and Regulations shall be made on the record, and they shall be reviewable in a Federal court.

(B) Organizations with a membership of more than 50 filers shall have standing to participate in any public hearing held to review a rule or regulation or challenge a proposed rule in a Federal court.

(C) The Secretary shall publicize the provisions of this Act, and fully inform all applicants and filers of their rights.

(D) The Secretary shall afford an opportunity for a full due process hearing before an examiner with respect to any action of the Secretary denying, withholding, or modifying a person's allowance.

(E) The Secretary shall establish a Board of Appeals which shall review the decisions of the examiner upon the request of any party thereto.

(F) Decisions of the Secretary, denying, withholding or modifying allowances shall be reviewable by a civil action commenced in the United States district court.

(G) If the Secretary fails to commence a hearing, the aggrieved individual shall be entitled to the allowance or may commence a civil action in the United States district court.

(H) All persons shall be entitled to reasonable expenses incurred in any administrative or judicial hearing.

(I) The Secretary shall establish a Complaint Review Board to review complaints against an employee of the Secretary who is not performing his functions properly.

(J) All records kept by the Secretary shall remain strictly confidential.

Sec. 12. Claims Against Allowances Prohibited.

Sec. 13. Administration of Adequate Income Plan.

(A) Administration shall be performed under the supervision of the Secretary of the Department of Health, Education and Welfare, using where possible the administrative and technical facilities of the Internal Revenue Service.

Sec. 14. Reports, Evaluation, Research and Demonstrations, and Training, and Technical Assistance.

FIRST ANNIVERSARY OF MOON LANDING

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. DADDARIO. Mr. Speaker, today marks the first anniversary of the historic flight of Apollo 11 and the "giant leap for mankind" by astronaut Neil Armstrong, the first man to walk on the lunar surface.

During the past year the Apollo 11 crew, Commander Armstrong, command module pilot Edwin E. (Buzz) Aldrin, Jr., and Michael Collins have appeared before millions of people around the world. Their activities in space and their appearance on earth brought the world community closer together for a brief time. Today we should pause to remember the spirit of world brotherhood kindled by Apollo 11.

One of the aims of the American space program is to encourage greater international cooperation in space. Unfortunately, the history of the American-Soviet race into space is filled with excessive nationalism and chauvinism, and is marked by far too few periods of international cooperation. Hopefully, this trend will reverse itself as we continue our efforts, and space exploration will indeed become "an investment in tomorrow" both in technology and in human relations.

I would hope that as we Americans mark the first anniversary of the moon landing, we will share not only our achievements but all our findings in the space field with the nations of the world, and as we extend our efforts towards international cooperation in space we also encourage greater cooperation in other areas of foreign relations.

THE GLORY CLOTH

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MINSHALL. Mr. Speaker, the Stars and Stripes all too often in recent years have been the subject of incredible disrespect on the part of a small segment of American citizens. All of us have been shocked and saddened by the mockery some would try to make of our Nation's flag. I think the views of most all Americans are well expressed in a splendid poem written by Mr. Ernest R. Kubasek of Parma, Ohio, whose unabashed patriotism shines through every line. I most earnestly associate myself with the sentiments he expresses so eloquently and would like to share his work with my colleagues in Congress:

THE GLORY FLAG

(By Ernest R. Kubasek)

I see her there high overhead
wondering where she has bled;
wondering her silence there,
wondering—I stand in prayer
for this Glory Cloth.

I see her there, she's really mine
flying on the end of line,
fastened from the reckless winds,
waving off the thoughtless sins,
of this Glory Cloth.

I see her there, this treasured cloak,
her strongest seams will lift our yoke
and she will free the last of us,
standing high—or in the dust.
This lovely Glory Cloth.

I see her there, red, white and blue
she's sure to stay though others who
would rip her into strands of rags
and plunge her into dirt-filled bags
or toss her to the fire's wrath
or trample her beneath their path.

I see her still, high over head,
she's really mine—I'm what she's bred,
this lovely Glory Flag.

JAKE HERSHEY SPEAKS

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. KEITH. Mr. Speaker, Jake Hershey, president of American Commercial Lines, Inc., has sent me a copy of a speech which he recently delivered before the Association of Interstate Commerce Commission Practitioners.

Although the speech was given before the Penn Central crisis broke, it was somewhat prophetic and remains timely for those of us charged with the task of legislative oversight of railroad regulation. As Mr. Hershey points out, reasonable return on investment and profitability are essential if our Nation's railroads are to continue serving the public adequately in the years ahead.

His is a fresh point of view, and I commend Mr. Hershey's speech to my colleagues:

SPEECH BY J. V. HERSHEY BEFORE THE ASSOCIATION OF INTERSTATE COMMERCE COMMISSION PRACTITIONERS, JUNE 17, 1970

"Conglomerate" is, of course, a dirty word. So dirty in fact that a reader of reports issued by business enterprises has about as much chance of seeing it in print as any of the four-letter words only recently accepted into the vocabulary of the modern writers. It is, of course, derived from the Latin conglomerare which means "to roll together", a fitting meaning in the context of today's discussion of transportation. Webster defines the noun "conglomerate" as "that which is heaped together in a mass or compacted from various sources". It would be hard to find a less definitive word in the English language. At the risk of drawing criticism from so erudite an assembly, I shall try to be more specific as to the term for the purpose of this discussion, and use it as its meaning here "a group of business enterprises, substantially dissimiliar in functions under common ownership and management".

In examining this type of corporate creature as it relates to transportation, we discover that there are two fairly different types, or perhaps more accurately, two separate paths which have led to the construction of the conglomerates which embody one or more transportation enterprises. The ones which have received the most attention are those in which the course has been to use the resources of a transportation enterprise as a means of entering a completely different kind of business either through acquisitions or promotion internally. The resources may include cash flow from operations, surplus cash accumulated during the past, balance sheet strength resulting in borrowing power, and management teams with substantial depth which can undertake the expanded executive and administration functions. Among those who have elected this route toward formation of a diversified company from the base of transportation, the railroad companies are the outstanding examples, and I think it is fair to say, the principal cause of concern among certain elements in the public sector.

A partial list of activities of railroad companies and their holding companies not directly railroad-related include operations of television stations, investment services, life insurance companies and banks, oil producing companies, timber and lumber activities, airmotive services, hotels, pipe lines, motor carriers, foundries and a great variety of real estate developments. They manufacture steel, chemicals, shoes, underwear, shirts, hydraulic and electric controls, electric motors and a variety of industrial hardware.

The other path to involvement of transportation in a diversified corporate family is in the reverse direction from the course originating with transportation. There have been a number of instances of so-called conglomerates acquiring or pursuing carriers, especially air lines and motor carriers. The recent activities of International Utilities, a diversified company, in acquiring Ryder Truck Lines and through them a large auto transporter, coupled with a substantial purchase of the shares of Pacific Intermountain Express, reflects a desire to include transportation as a major part of its corporate operations. Chromalloy Corporation acquired The Valley Line, a major water carrier, another example of a transportation company being the object rather than the source of expansion. In reverse direction is the expansion of Pott Industries, whose resources were originally limited to barge transportation and shipbuilding, now expanded into non-transport related fields.

If any general underlying pattern can be discerned from this fence jumping to greener pastures, (frequently illusory), it is a movement away from capital intensive transportation enterprises which during the recent era has produced a low rate of return on investment into fields where reasonable profits have been the general rule. To test this conclusion it is worthwhile to examine some numbers.

During 1969 the fifty largest transportation companies included 21 railroads, 14 air lines, 10 motor carriers, 3 steamship companies, 1 bus company and 1 motor vehicle leasing company. The aggregate profit after income taxes of the group equalled 3.8% of its total equity; that is, total capital plus surplus plus retained earnings. Nine of the fifty posted losses for the year. All of the domestic carriers were regulated by either the Interstate Commerce Commission or the Civil Aeronautics Board. Turning our attention to another group of regulated enterprises, the statistics for a group of the fifty largest utilities, 48 in electrical or gas energy and two in communications, the rate of return is 10%. For the fifty leaders in retailing and commercial banking, the comparable figures are, respectively, 11.4% and 12.0%, with no losers. On a much broader comparison, the transportation leaders as a group looked just as bad, for the 500 largest industrial companies produced a combined profit of $24.7-billion on equity capital of $214.7-billion, or 11.3%. Eleven of these 500, or 2.2%, posted losses versus 14% for the transportation group.

One year's financial results are admittedly inconclusive. However, Forbes magazine in January of this year published average rates of return on equity for 566 major corporations over the preceding 5-year period, listing them in order of declining yields. They included 24 carriers. The mean position of the transportation companies was 491 out of 566. Twelve carriers were above 491 and twelve below. Of the last 6 places, 5 were carriers. The poor showing of carriers, though worse in 1969 than the previous year, is nothing new.

The explanation for the extension of a conglomerate's activities into the transportation field lies in the fact that selectively there are some carriers which have been consistently making profits comparable to other industries. Included in the top 50 transportation companies are four truck lines whose return on equity averaged 18%. These performances make selected carriers just as tempting to acquisition-minded conglomerates as an industrial company would be since the return is considerably higher than the industrial mean of 11.3%. Another factor which in my opinion makes well managed truck lines attractive as acquisitions is the long term pattern of past growth in revenues which have increased over the past 10 years from $31.6-billion to $54.8-billion. Another consideration enhancing the desirability of motor carriers is the short economic life of its rolling assets. In periods of abnormally high interest rates and a high degree of inflation this factor becomes one of pressing importance, as it facilitates debt financing.

Barge lines, though not attaining the profitability of the star motor carrier performers, show growth of 5 to 6% annually in tonnage, and being the lowest cost bulk carriers serving the principal industrial and agricultural areas of the nation have a fairly secure service market and demonstrate increasing economy of scale. Moreover, significant expansion of the waterway system such as the Arkansas River and Cross-Florida Canal will accelerate the growth of this mode. These factors have led to several important acquisitions such as that of my own company, American Commercial Lines, which is now a subsidiary of Texas Gas Transmission Corporation.

There does not appear any conflict with the public interest in this type of conglomerate activity in the field of transportation. I know of no cases where diversion of resources out of transportation for the benefit of another member of the corporate family has taken place following an acquisition of a carrier by a multi-industry company. On the contrary, the tendency seems to be for the superior financial strength of the parent, or group as a whole, to be employed for the benefit of the acquired carrier. Certainly, since carriers are generally not cash-heavy, they do not tempt the corporate "raider" for liquidation purposes.

The other type of so-called conglomerate activity, the use of a transportation business as a base from which to build a group of enterprises outside of transportation, has implications of a different order and raises questions which urgently require answers in the nature of public policy. Transportation as represented by all modes, if considered as a single economic activity, is the biggest business in the nation. If, as was the case during last year when our G.N.P. reached its highest to date, it returns in earnings only one-third as much per dollar invested by its owners as industry generally, the expectation must be for removal of capital resources and re-dedication of cash flow into investment areas of more fertility. Any alert manager will exert every effort in this general direction. His first duty is to the owners of the business, not to tradition. He knows that if he can convert the resources of his pipe line company, railroad, or other carrier to a pharmaceutical company of average profitability, he can expect 18% instead of 3.8%, or to an industrial machinery company, 12%. Even the relatively poorer textile industry averaged 8% on equity in 1968 and 1969.

However, the manager in the predicament of achieving only the average transport profits for his company has a rather unsaleable item. In the case of railroads, the depressed earnings in many instances have reduced the public's valuation of the company as measured in the market for its shares to less than half of their book value. Nevertheless, he must use the resources with which to spring into another pasture. In fact, he may well be propelled over the fence by determined and vocal stockholders.

He has the strongest imaginable motivation to diversity. In many instances, particularly in the case of railroads, the size of the company and the magnitude of cash flow aided in the past by investment credit tax relief, and currently by accelerated depreciation, makes possible the acquisition of important units in the industries which I mentioned earlier, or provides the initial capital for the formation of a holding company which can grow to a full-size conglomerate. The development of this trend to its ultimate conclusion can be observed in the case of Northwest Industries, Inc., which is perhaps the most widely diversified railroad-based conglomerate. It proposes to sell the railroad properties to its own employees, thereby making the metamorphosis complete.

The phenomenon of the creation of transportation-based diversified companies is, therefore, a logical exercise in the traditional depolyment of capital when its rewards can be improved. The only surprising thing about these occurrences is that they have been so long coming. When one considers that the railroads were granted nearly 180,000,000 acres of lands by Federal and State Governments, containing substantial quantities of oil, timber and minerals, in addition to 660,000 acres of right-of-way, there has been a base of non-railway operating assets on which to build ever since 1874. Their earnings have been unsatisfactory for at least twenty years. One can only admire their endurance.

I have spoken of the deployment of capital from one area to another as a natural development. Generally it is. It customarily reflects a reduction in the demand for the goods or services into the production of which capital has been dedicated. In some instances the product becomes obsolete requiring the capital to be shifted to an enterprise needing it. This clearly is not the case with transportation of goods. The profit deficiency does not result from lack of demand. So we finally arrive at the question which I am sure each of you have asked yourselves many times—"How can the business of transportation be managed so as to produce a profit sufficient to justify retention of invested capital in the enterprise?" What is wrong? Is it the level or relationships of freight rates? It could be. Is it unusually severe labor problems? This certainly is a factor. Is it improper regulation? Many think so. Is it in part due to the refusal of shippers, including the United States government itself, to pay a fair price for transportation? Probably; the shippers are certainly organized as the greatest protest group still considered respectable. I don't know these answers, though naturally I have my own opinions.

I do strongly feel, getting to the matter of the public interest in transportation-included conglomerate formation, that the incentive for carriers to go afield must be removed. This can only be done by insuring that there are opportunities in all essential modes of transport for equivalent profit measured against returns in other industry of similar risk. Privately owned transportation, whether by pipe line, railroad, truck or marine vessel, can not survive if its profits are not generally equivalent to that of business generally. It is obvious that the removal of capital from a needed carrier is not in the public interest. But what is a needed carrier? One which works for 3% return on its owners investment? Is the same carrier needed at rates which produce 10%?

There has been talk among legislators of prohibiting or limiting the free flow of economic resources out of carrier operation into another enterprise, commonly held. Nothing could more quickly destroy private ownership of carriers. Investors do not put their financial corpus behind bars. Slave capital is incompatible with our system, and any hint of it drives capital away. Since investment funds must remain fluid, it can be controlled only by insuring a satisfactory relationship among its users, and this is measured by profit.

In my opinion, the possibilities of avoiding government ownership of important segments of our transportation systems have become less favorable during the past several years. Unless private and government attitudes affecting freight rates and regulation change in favor of improving the rate of return in the transportation industry, the public treasury will be called upon first to supplement, then supplant private investment. The handwriting is on the wall in a language we can all understand.

THIS RIVER COULD DIE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. CARTER. Mr. Speaker, Kentucky has been well known for the beauty and purity of its mountain streams. However, many of them are in danger of being destroyed.

Many of the streams are polluted, and within the near future headwaters of the Kentucky River and the river itself may lose the purity and beauty for which it is noted.

Unrestricted strip mining, unregulated timber cutting, and failure to properly dispose of the liquid and solid wastes are causes of the present polluted state of the upper reaches of the Kentucky.

John Fetterman recently wrote an excellent article, entitled "This River Could Die." I enclose it for perusal of the Members of this body:

THIS RIVER COULD DIE

Is it too early to be concerned about the Kentucky River?

The Kentucky is a "clean" river as it winds through the booming Bluegrass region of the state, a river steeped in legend and history, holding the key to bold industrial hopes, offering a unique scenic playground.

In this nation suddenly awash in curbstone ecologists it is fashionable to join in mass hand-wringing and wailing over already degraded streams—the Cuyahoga, the Hudson, the Potomac.

But the Kentucky? Should we concern ourselves with a river which is not yet degraded?

The heart of the Kentucky, as in all rivers, lies in its headwaters and the watershed which they drain. There lie the hundreds of tiny streams and rivulets which make up the three main forks of the Kentucky and which will ultimately determine its character. I have just traveled for many miles up those creeks, across the ridges of the watershed, and looked at the many secret places where the river is born. I have talked with people who are supposed to know what happens to rivers and why.

The stewardship of those who watch over the headwaters is not all good. There are scars of abuse and the seeping of mistreated water into the streams.

But that is not yet evident when you observe the mainstream of the Kentucky down in the Bluegrass. One can only wonder whether someday the Bluegrass will have to pay for the negligence far upstream in the headwaters, negligence which is largely concealed by folded mountains and almost inaccessible hollows.

Down in the Bluegrass, the heartland of the commonwealth, the river, which is the product of all those tiny beginnings in the mountains, is a vital force. Without the river, the booming population and industrial growth would stop in cities such as Frankfort and Lexington. The latter, one of the nation's fastest-growing towns, draws its water from the river, and needs more and more water of good quality. Lexington now has a population of some 154,000, including unannexed suburbs. Ray Gillespie, executive director of the Greater Lexington Area Chamber of Commerce, says that estimates of a population of between 230,000 and 260,000 by 1980 are "extremely conservative."

The area is going to need a river of dependable flow and quality to survive. Water for the Bluegrass was one of the arguments advanced for the controversial Red River Gorge dam. Such impoundments, as the U.S. Army Corps of Engineers and others insist, may someday be necessary to save the Bluegrass. But the Red River is far downstream from the vital headwaters. The more the headwaters are abused, the more often such attempts will be made to heal the river elsewhere. When you look at the whole length of the river, there is a tendency to agree with the critic of downstream impoundments who said, "It is like trying to cure diarrhea with a band-aid."

But the Kentucky River mainstream appears healthy. The U.S. Geological Survey checks the water regularly at Frankfort. Its findings show that the river carries safe levels of all chemicals measured, amounts far below U.S. Public Health Service standards. The amounts are increasing very slowly over the years—but nothing to worry about yet. It is only one of the subtle changes that occur over the decades.

The total of all dissolved solids in the river, for instance, has risen from 104 parts per million in 1907, to 150 parts per million in the "water year" ending in October of 1968. The U.S. Public Health Service says 500 parts per million is acceptable under its drinking-water standards.

The river does seem to get "muddier" from time to time. At Frankfort, it has drained a watershed of around 5,412 square miles. The muddy water is caused by the 1.9 million tons of sediment the river carries past Frankfort in the average year. That average varies widely, depending upon the relationship of rain, mining, timbering, farming and road building upstream. The flow of the river is measured in "cubic foot per second days." That means the total water flow for a year is expressed as cubic feet per second.

The flow, then, has a bearing on the sediment, and sediment may be regarded as the initial signal of malfunction of the watershed somewhere upstream. In 1954, the cubic foot per second flow fell to 892,417, and 317,000 tons of sediment were measured at Frankfort. The year 1962 was a year of heavy flow—more than 3 million cubic feet per second and nearly 3.5 million tons of sediment washed by.

The sediment load is one symptom of the high vulnerability of the river to what happens upstream.

The amount of water moving in the river at any one time is vital. And the even flow of a river depends largely upon the condition of the intricate network of streams which make up its headwaters and which give it life. A good watershed holds back heavy rains, releasing the water later in what otherwise could be disastrous droughts.

Lexington now takes some 31 million gallons of water a day from the Kentucky. Estimates are that by the year 2000 the city will require 140 million gallons a day. At least six times since 1960 the flow of the river at the point where Lexington takes its water has been below that projected requirement. And this does not take into consideration all the other communities which use the Kentucky, including Frankfort, Richmond, Winchester, Nicholasville, Lancaster, Harrodsburg, Versailles and Lawrenceburg.

The estimates are that in the year 2000 all these communities will require some 200 million gallons of water a day. The total water-needs estimates and the water available are converging at an alarming rate.

Fewer than 700,000 people now live in the counties which use the three main forks and the mainstream of the Kentucky. State population projections put this figure at 1.2 million in the year 2020.

Looking at what is happening upstream makes one suspect that the planners in the Bluegrass should be doing likewise. All is not well. And since water always runs downhill—in this case from the mountains to the Bluegrass—any problem in the watershed is germane to the future of the Bluegrass.

The Kentucky is formed by three large forks—North, Middle and South—which meet at Beattyville. Here is a sampling of what goes on up there:

NORTH FORK

This long leg of the Kentucky meanders past Hazard and begins in the northern corner of Letcher County near Jenkins. It long has been the eyesore of the mountain river system, long dead from mine acid and other pollutants. It and its tributaries are festooned with defiant banners of toilet tissue and the almost indestructible plastic containers for food distributed under the surplus-commodities program. Robert Collins, supervisor of the Daniel Boone National Forest calls it a sewer with a mud bottom. Bernie Carter, director of the division of fisheries in the Kentucky Department of Fish & Wildlife Resources, says the "North Fork has been completely degraded."

The extent of the degradation was driven home on a recent warm day when Sam King, ranger of the Boone Forest's Red Bird Purchase District, and I began looking for a "nice" spot to eat a lunch brought along in sacks. After an hour or so of easing a Jeep past sullen outhouses, creeks stained by acid and iron precipitate from mines, stream beds littered with refuse and junked autos, we gave up. It is not the way it appears in the tourist guides—all mountain streams and flowers and serene vistas. The North Fork is an unholy mess. And it represents one-third of the beginning of the Kentucky River.

King, as ranger of the Red Bird District, heads a Forest Service program aimed at buying tracts on the Middle and South Forks to be put under management. The primary concern, King says, is to protect the watershed. The Forest Service has no holdings on the North Fork and after this, his first look, King said wryly: "It's the first river I ever saw I'm not sure I want."

Tributary after tributary bears witness to this despoiling. On Potters Fork, the stream begins in a once-wooded cove which has become the city dump for the town of Jenkins. Refuse smolders and smokes and rots and stinks and eventually is washed into the watershed. Local people find it a good place to hunt rats with .22-caliber rifles.

Millstone Creek, a larger tributary, is no better, despite roadside "experimental" plantings by a firm which has strip mined much of it. Things are little better on the other creeks which ooze into the North Fork above Hazard: Thornton Creek, for instance, where refuse and silt vie for space in the limited stream bed.

Below Whitesburg, in the area where the Carr Fork Dam is being built, the creeks fairly shout their outrage as they run yellowish orange or black, depending on the whims of the coal operators who work at the headwaters. Montgomery Creek is yellow and a creek aptly named Yellow Creek lives up to its name admirably. Both contribute to the ruin of Carr Fork, which in turn passes the pollution along to the North Fork.

MIDDLE FORK

This fork, formed by the junction of two of the best streams in the mountains, still shows signs of how a good mountain stream can look. One leg, Greasy Creek, is considered by many to be the last clean stream of any size in all of Eastern Kentucky. It is a wide, beautiful creek and few people live along it, since much of the watershed is owned by large companies and the U.S. Forest Service. Of Greasy Creek, Carter says flatly: "Greasy is the only really good stream in East Kentucky from the Big Sandy to the Tennessee line . . . everything else is degraded."

But disturbing things are beginning to happen to Greasy. There is talk of stripping the hills to get at the coal and on at least one tributary, Laurel Fork, muddy water pours into the stream with each rain, water laden with silt from the scars left by timber cutters. The silt sweeps down the hillsides along the bare "skid roads," the routes used for dragging down the logs.

There are wild and beautiful stretches along the Middle Fork—occasionally marred by the scars of forest fires or the creeping pollution of a strip mine.

On Rockhouse Creek, a clumsily constructed haul road to a strip-mine site gushes silt, and the creek at spots has become a dump.

SOUTH FORK

This fork is formed by two long streams, the Red Bird River and Goose Creek. The Red Bird begins with two trickles called Mud Lick Branch and Cow Fork, both of which are devastated by stripmining. On lesser tributaries such as Blue Hole Creek, Ashers Fork and Darbs Branch, the silt is delivered to the larger streams in steady doses, much of it from fireravaged hillsides and from the sites of logging operations. Elk Creek strives to disgorge a gult of garbage and refuse into the Red Bird—and sometimes succeeds with the help of a heavy rainfall.

Silt streams down the beds of Blue Hole Creek and Phillips Creek. Part of the watershed in Phillips Creek still suffers the effects of a devastating forest fire in 1963. The cover is gone and the hillsides can no longer check the rapid runoff from heavy rains.

The Forest Service is studying the streams in all of Appalachia and headquarters for this project, called Strip Mine Area Restoration Project, is in Berea. There, Great Davis, the project leader, and Willie Curtis, a hydrologist, discussed the Kentucky.

They say that most streams in Appalachia are acid and if enough goes into the headwaters it can change the total watershed.

"How much it will change the whole stream life we really don't know yet," Davis said. "That is what we want to find out. We don't know much about long-life effect."

The Berea scientists made measurements in three small watersheds in Breathitt County, each about 1,500 acres. One was about 50 per cent disturbed by stripmining, and was being mined at the time. It was mined earlier, in 1968, and the suspended sediment in the stream rose quickly during that mining period from less than 200 parts per million to above 46,000 parts per million. The mining stopped and the stream cleared, with the suspended sediment dropping to around 200 parts per million again. But a heavy rainfall came one day and the sediment load leaped above 4,000 parts per million. Tons of dislocated earth lie there now, awaiting the rains to flush them into the streams.

Curtis also checked the erosion rate in two small watersheds of similar size and characteristics. One was partially stripped. The average erosion rate there, he found, was 5.9 tons of sediment per acre per year. In the second watershed, which had not been mined, the average rate was .7 of a ton per acre per year.

The picture on all the watersheds studied was similar. During mining, the sediment load skyrocketed and headed downstream. Later rains produced new flows of silt and mud.

Silt, Collins says, is the most insidious pollutant there is. The rocky shoals become mud slicks, game fish leave, the entire character of the stream changes. And it all gradually inches downstream. Stream beds filled with silt become swamps and their ability to hold floods is impaired. Sediment increases the cost of filtering water for use in the towns. It interferes with the efficiency of hydroelectric plants and industries.

But all of this is far from the Bluegrass. Is it too early to be concerned?

Carter says, "What happens in the headwaters will happen downstream. We already have had complaints in the Irvin area. It will be here (Frankfort). You can't stop the river." Carter says the primary problem is siltation, which destroys the aquatic environment. "Fish and plants have no place to live."

Collins calls the Kentucky the "lifeline of the Bluegrass region" and points out that benefits of protecting a watershed are reaped downstream. But protecting a watershed to benefit someone else downstream does not always appeal to landowners in the headwaters.

The forest soil, or "duff," built up over thousands of years of natural organic deposits often is destroyed by stripping, fire or timber abuse. The duff then is no longer there to retain water from the rainy seasons and release it gradually during the dry season, thus protecting the even flow of streams. Collins thinks that it is going to cost more to restore the watersheds than the amount of profits which are being realized by their exploitation. "But the taxpayers are going to have to pick up the tab someday if they want to keep on drinking water."

What, then, should we do to insure that such rivers as the Kentucky do not become the cesspools that many other rivers have become?

First, we must have effective, rigidly enforced laws to protect the rivers. Second, we must revise our own attitudes toward the rivers.

We need a sweeping federal watershed law that would supersede and replace the confusing and inept maze of local, state and federal regulations, directives and decrees. Such a law would stop pollution abuses by industry, municipalities, even individuals. In effect, the law must provide that whoever uses the river must leave it in the same condition in which he found it. Industry could not unload its chemical and thermal pollution; sewage plants could not disgorge into the rivers; agriculturists could not contribute pesticides, soil from improper cultivation and animal wastes. Such a federal law also would make up for a political reluctance to act, as in the case of the Kentucky General Assembly which refused to stop logging operators from overcutting and from leaving roads which become silt-laden gullies.

We must develop a more intelligent and wholesome attitude toward the rivers.

We all live on one watershed or another and depend upon that watershed as the lifeblood of commerce, health, recreation and general well-being. We must rethink our traditional "right" to do what we please with our own land and water. All the land in a watershed and all the streams which flow through it carry a responsibility to all the people in the watershed. We must abandon the colonial philosophy that if we ruin one stream we can move on to another. There are no more streams. Increasing population intensifies the urgency.

There is a saying among the folks who live in the mountains of East Kentucky:

"Everybody can't live at the head of the creek."

In other words, only one fortunate person can put his outhouse there, dispose of his garbage there, begin the pollution there. The rest of us must live downstream, hope for the best, and join the voices raised in protest along the filthy streams.

We need the law; we need the change in attitude; we need the rivers.

THE RISKS OF ATOMIC POWER

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HATHAWAY. Mr. Speaker, the increasing possibility of power blackouts and brownouts makes apparent the woeful inadequacy of our national power resources. The problem demands immediate congressional consideration. Many still regard nuclear power as the panacea to our national power ills. In committee, on the House floor, and in previous statements to the RECORD, I have outlined the reasons underlying my opposition to this essentially erroneous premise. It is my firm belief that hydroelectric plants present the most viable solution to our Nation's power crisis.

Although the Dickey-Lincoln hydroelectric project for northern Maine was denied the requested $807,000 for preconstruction funds in the House, I am confident that the Senate Appropriations Committee will reinsert that amount and that this action will receive full Senate endorsement. In conference, however, Dickey will encounter private power's all too familiar arguments, arguments that have been refuted by the Army Corps of Engineers, scholastic specialists, journalists, and private utilities' past record. The evidence overwhelmingly favors hydroelectric power as the most feasible and pragmatic solution.

Recently, Anthony Lewis, writing in the New York Times, described the dangers involved in the "peaceful" uses of atomic energy; that is, its potentially disastrous effect upon the environment. In the hope that my colleagues find it both interesting and informative, I am submitting Mr. Lewis' article for the RECORD:

THE RISKS OF ATOMIC POWER

(By Anthony Lewis)

LONDON.—Scientific administrators are not immune from the hucksterism that seems to afflict so many bureaucrats—the urge to promote their specialty. Just as airport authorities think more and bigger airports are man's most urgent need, and the road people consider highways more satisfying than cities, so those who administer atomic-energy programs have been powerful advocates for the wider use of atomic energy in society.

In the United States and Britain, especially, atomic power has been promoted as a conserver of scarce fuel resources and an economic boon. In Britain, plans call for nuclear plants to produce nearly a third of the country's electricity by 1985. In the United States, the Atomic Energy Commission has been a Babbit booster of nuclear power, brushing aside concerns about health and safety in its zeal.

Only now have we begun to appreciate how valid the expressed concerns are. Fission as a source of power for ships or for the production of electricity carries risks that rank high among all the terrible things we are in danger of doing to ourselves and our surroundings.

A new British magazine called The Ecologist—a most informative and unhysterical publication—gives a graphic picture of the problem in its first issue. It starts by explaining the extreme sensitivity of all living beings to radioactivity, and showing how radioactive versions of such elements as zinc and iodine and strontium can become incredibly concentrated by nature.

A study of the Columbia River, for example, indicates how radioactivity multiplies alarmingly as it progresses up the food chain. In the water itself there were low concentrations of radioactive substances. The amount in the river plankton was 2,000 times greater, in ducks feeding in the plankton 40,000 times, in young birds fed by their parents on insects from the river 500,000 times and in the egg yolks of water birds one million times.

The Ecologist magazine tells of a Nevada nuclear test in 1962 that sent a radioactive dust cloud over Utah, introducing large amounts of radioactive iodine into milk. Worries about health effects were waved aside, but in fact thyroid disease of children—and death from congenital malformations—have markedly increased.

The dangers of so-called peaceful uses of atomic energy stem from two sources: the possibility of accident and the disposal of nuclear waste products.

Accidents, with serious release of radioactive material into the atmosphere, have occurred at one nuclear power plant in England and one in America. The loss of the nuclear submarine Thresher in 1963 had its radioactive effects.

An American doctor and physicist, Jerold M. Lowenstein, said at the recent Malta conference on pollution of the seas: "With ships, accidents are inevitable and can be expected to become increasingly frequent as more and more vessels are nuclear powered." Dr. Lowenstein noted the inadvertent irony of one nuclear ship booster who, writing in 1965, said the discharge of atomic material into the sea would appear to be a hazardous possibility, but "similar problems concerning the discharge of fuel oil have been faced with considerable success."

The handling of atomic waste products is already a serious problem. They have to be buried far underground or held in tanks as corrosive liquids that will boil for more than 100 years. The Ecologist notes that, of 183 atomic waste storage tanks in the states of Washington, South Carolina and Idaho, nine have failed so far.

"These failures have occurred after less than twenty years," the magazine says, "and yet the contents of the tanks are utterly lethal for thousands of years."

At the very minimum, without any doomsday visions, all this advises caution in the use of nuclear power. For while the evidence of damage has grown, scientists have progressively lowered their estimates of the amount of radiation to which humans can safely be exposed. It appears that there is no absolutely safe dose: the risk is proportional to the dose.

"What is an acceptable risk?" Dr. Lowenstein asked. "It seems to me that there is a critical difference between a risk which one chooses in order to get a larger benefit, such as having an X-ray, and (the risk of having) every living thing poisoned with radioactive wastes because some decision makers, in some countries, have decided that their people must have . . . atomic power regardless of the consequences."

CAPTIVE NATIONS WEEK

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. ROBISON. Mr. Speaker, Captive Nations Week was proclaimed in 1959 in order to "show American solidarity with their captive brethren in eastern and central Europe." This expression serves a dual role. It allows Americans to reacclaim our own liberty and to express our concern for those who remain in subjugation throughout the world.

Captive Nations Week also demonstrates to those people who live under Russian dominion that their plight does not go unnoticed in the West. The annual broadcast of the Captive Nations Week message over Radio Free Europe is, we trust, a source of hope and support to those behind the Iron Curtain.

Captive Nations Week messages have brought, in the past, angry responses from the Russian Government. They have answered our condemnation of "Soviet colonialism" with countercharges of what they term "American imperialism" in Southeast Asia and elsewhere. It is noteworthy, however, that this form of accusation and counteraccusation seems to be diminishing of late. Perhaps we are entering a period of more reasonable discourse in our diplomacy than has been the case since the cold war has raged.

Nevertheless, Captive Nations Week will always serve an important purpose. It stands a reminder that the overriding goal of American foreign policy must be to establish an atmosphere for peace in a world in which the people of both Communist and Western nations will have the right of self-determination in establishing their government and in choosing their life styles.

PRIDE IN AMERICA

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. GRIFFIN. Mr. Speaker, recently I received a letter from one of my constituents, Mrs. C. L. Jackson. Rarely have I read a simpler or more eloquent expression of patriotism than this letter. I think the thing that impresses me most about this letter, Mr. Speaker, is that it does not shout its conviction. It states it plainly, but firmly, and with the absolute assurance that comes from faith in the inner goodness of one's country. I strongly recommend it to my colleague's attention:

DEAR MR. GRIFFIN: It is with regret that I look upon the youth of our nation. Surely these children do not come from Christian homes, or homes where order and discipline were a part of their lives. I have five children, one son who left three weeks ago for Officer's training at Lackland A.F.B., Texas. Since he is an only son our hearts were sad that he was leaving (as all separations are sad) but we are proud of him and of our country. My husband served 12 years with the Air Force through two wars and we are grateful to our country for all it has given us. I believe this feeling has overflowed to our children. For we have a married daughter whose husband will probably be drafted this summer. They are both working and planning for the time he will be gone, not fussing about the job he'll have to do. I have three teenage daughters. One will enter college in the fall. The other two will go to *public* school. If this sounds like I'm rambling, its just to let you know that there are still people in these United States that haven't lost their heads and are proud to be Americans and to serve our country as best we can.

MRS. C. L. JACKSON.

WHAT YOU CAN DO FOR AMERICAN PRISONERS IN VIETNAM

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HÉBERT. Mr. Speaker, my good friend Louis R. Stockstill has done much in behalf of our servicemen who are prisoners of war in North Vietnam.

It is imperative that the American people unite in an effort to get these patriotic men released or at least get the enemy to stop its inhumane treatment. I don't see how any American could object to such a cause.

Mr. Stockstill wrote an article for the Air Force and Space Digest on the subject, and it was condensed and used in Reader's Digest.

I want to insert the condensed version in the RECORD for every American to read. The article, which speaks for itself, follows:

WHAT YOU CAN DO FOR AMERICAN PRISONERS IN VIETNAM

(By Louis R. Stockstill)

Once a month from her apartment in Arlington, Va., Gloria Netherland walks down a long hallway to the mail chute and deposits a letter. She watches it drop from sight on the first leg of a journey into an unknown void halfway round the world. The letter begins "Dear Dutch." Whether Dutch will receive it is impossible to say.

Gloria and Dutch have been married 18 years, but she doesn't know whether he is alive or dead. For more than two years she has written the monthly letters—six lines each, according to current communist rules. None is answered; none is returned. But, in the pattern of "dreadful uncertainty" that characterizes her life, she never fails to write.

Capt. Roger M. Netherland, shot down over North Vietnam in May 1967, is officially "missing in action"; fliers reconnoitering the site where his plane plunged to the ground believe they heard his voice, but no word has come through since.

Gloria Netherland is but one of hundreds of American wives and parents whose husbands and sons are the forgotten men of the Vietnam war—approximately 1400 men captured or missing and possibly in enemy hands. Most of the known captives are imprisoned in North Vietnam. Others are held by the Vietcong in the South. A few are interned in Laos and Red China.

On the shoddy pretext that these captives are "criminals," not POWs, Hanoi will not allow neutral inspections of its prisons—inspections required under the Geneva Convention, ratified by North Vietnam in 1957 and by 119 other governments since the origination of the Conventions in 1949. In blatant disregard of international rules, Hanoi refuses even to identify the prisoners it holds, to release the sick and wounded, or to allow proper flow of letters and packages, though the Red Cross has tackled the problem again and again.

Evelyn Grubb's only knowledge of her husband, for example, has come from a Hanoi propaganda gesture. An unarmed reconnaissance aircraft, piloted by Maj. Wilmer "Newk" Grubb, was shot down in January

1966. Hanoi gloatingly publicized his capture. Each time Evelyn writes, she sends photographs of their four sons—stapled to the letter so that Newk will know if they have been removed. She doesn't know whether he has received a single photograph or letter. In almost four years, she has received no further official word of her husband.

Until recently, the American public has been provided scant information about American POWs in Vietnam. Now, for the first time, our officials are waging an open fight for the prisoners. The diplomatic maneuverings which previously shielded many aspects of the situation from public view—although perhaps right for that period—have been partially cast aside. The United States is speaking out. Yet, in order for the tough and forthright new policies to produce desired results, citizens must join the attack. Our assistance could be crucial.

Here, then, are the sobering facts about the prisoners—the way they are used and abused by Hanoi.

MISERY AND MALNUTRITION

The armed forces have been able to positively identify 401 men as captured (Air Force, 192; Navy, 140; Army, 46; Marine Corps, 23). Some intelligence about these men must be kept secret or couched in guarded language to protect them. Nevertheless, accounts of inhumane treatment have emerged. Consider Navy Lt. (j.g.) Dieter Dengler, who was taken by the Pathet Lao in 1966 and turned over to North Vietnamese soldiers. He was spread-eagled by his captors and left at night to the mercy of jungle insects, repeatedly beaten with sticks for refusing to sign a statement condemning the United States, and tied behind a water buffalo and dragged through the bush. The once 157-pound flier weighed 98 pounds following his escape and rescue.

Other escaped prisoners have told of similar maltreatment in Pathet Lao and Vietcong jungle camps. Prisoners are fed little but rice, and many suffer from malnutrition. Some are afflicted with intestinal parasites. Except when allowed out to empty toilet pails, prisoners are confined in huts, often locked in wooden foot blocks or handcuffs. Barbaric treatment is not unusual. In Hanoi's prisons, men have been kept in a pitch-black room for more than a year, hung from ceilings by their arms, tied with ropes until they developed infected scars, and burned with cigarettes. At least one has had his fingernails ripped from his hands. The broken bones of another, set by communist doctors and still in casts, were rebroken by guards.

Prisoner treatment varies, of course. North Vietnam operates its best-known prison camp—known as the "Hanoi Hilton"—in central Hanoi. Here prisoners are wakened between 5 and 6 a.m. by a gong, followed by a 30-minute Radio Hanoi English-language broadcast of propaganda piped into their cells. At mid-morning they are taken out to empty toilet buckets. At 11 a.m., as much as 19 hours after they last ate, they are fed. Food—picked up on a wooden tray and eaten in the individual cells—consists mainly of pumpkin or squash, pork fat, a vegetable resembling wild onion tops, and bread or rice. Then, prisoners may "nap" on their bare board bunks until two in the afternoon, when their cells are flooded with another half-hour Radio Hanoi broadcast. Between 4 and 6 p.m. they are fed the second and final meal of the day.

Prisoners generally are isolated from communication with more than one or two other prisoners. Many are kept in solitary. Certain prisoners have been allowed on occasion to write to their families, but few letters ever reach home. U.S. officials, with reasonable suspicion, regard the "Hanoi Hilton" as a propaganda showplace. It is the lone prison that foreign journalists have been allowed to enter.

PATTERNED RELEASE

To date, only a handful of Americans have been released: 16 by the Vietcong, nine by Hanoi. The releases by Hanoi—on two occasions last year and one this August—have all followed a disturbing pattern. First, just three men have been let out at a time, and always accompanied by blatant propaganda. Second, the names of the men to be freed have been withheld for periods of more than a month after the intention to release was announced, thus creating untold agony for thousands of hopeful next of kin. Third, releases are carried out via dissident Americans instead of through the International Committee of the Red Cross.

The release last August illustrates how completely Hanoi milks the prisoner situation for its own purposes. To begin with, it was carried out via a group of eight dissenting Americans—a pacifist, two members of the Students for a Democratic Society, a member of anti-war organizations, a man who had served a stockade sentence for refusing to fight in Vietnam, and three cameramen from an underground movie-making outfit. All but one went to North Vietnam, where they were solicitously entertained for a couple of weeks.

Finally, on August 4, Hanoi named the men who were to be freed. Two were Navy men (Lt. Robert F. Frishman, captured 21 months earlier; and Seaman Douglas B. Hegdahl, imprisoned for two years and four months); the third was Air Force Capt. Wesley L. Rumble, a prisoner for 15 months.

At an airport press conference in Vientiane, Laos, U.S. newsmen described the men as "pale and gaunt." Lieutenant Frishman, acting as spokesman for the prisoners, selected his words carefully. He said only that he was "happy to be returning home."

"How was the treatment you received while a prisoner?" he was asked.

"I received adequate food, clothing and housing," Frishman replied.

View From the Side. When the three men arrived at Kennedy International Airport in New York, I was there to see them for myself. To television audiences, the returning prisoners may have looked reasonably well cared for. But their appearance as they disembarked was deeply saddening. Frishman and Hegdahl were first off the plane. Rumble, ill, stooped, pale, was assisted down the steps, helped into a police car, and rushed to a waiting medical-evacuation plane.

The two Navy men were ashen. Their eyes were deep, hollow circles of darker gray, much like the exaggerated eyes of starving children. Frishman had been seriously wounded. The North Vietnamese doctors had removed his elbow and tied the muscles together. "I am glad to still have my arm," he said. It hung at his left side, the loose sleeve of his jacket emphasizing that the arm was terribly wasted.

A reporter asked Hegdahl how much weight he had lost. He had "no comment." But then Frishman addressed the microphones: "I lost 45 pounds. Seaman Hegdahl lost 60 pounds."

What about the welfare of the other prisoners still held by Hanoi?

"No comment."

As Frishman turned to leave, I saw him for the first time from the side. His shoulders were incredibly thin. The collar of his shirt hung loosely about his neck. The lines of his nose, his cheeks, his chin were sharply drawn, haggard. So were Hegdahl's. Their tightly stretched, almost translucent skin had a corpse-like pallor.

Their "escorts" had nothing but praise for what they had seen in North Vietnam, including Hanoi's "humane" treatment of prisoners. "How many prison camps did you visit?" I asked. After repeated evasions, their leader admitted that he had "no information at all" about any of the prison camps. Nor had they brought any hint that North Vietnam might consider changing its policy on prisoners.

The Prisoners Talk. Twenty-five days later, I saw Frishman and Hegdahl at Bethesda Naval Hospital in Maryland. Sunshine had improved their color; they had regained some weight. They were ready to open up.

Frishman recounted how he had been blindfolded after his capture and despite serious injuries, driven in a truck to other locations, where he was stoned by the populace. When he reached the prison, he was refused medical treatment and told he was "going to die in four hours" unless he talked. When he passed out, he was taken to a hospital. "Then, even with my bad arm, they tied me up with ropes."

Doctors operated on his arm, but failed to remove missile fragments; so it was six months before the incision healed over. 'I would wake up and find my arm stuck to the blankets . . . The scab would come off . . . The wound would drain again.'

Hegdahl, too, had been subjected to solitary confinement for more than a year. He was permitted occasional mail, but the letters were rifled of enclosures (including money) sent by his parents. The lone package he was allowed had been plundered before he got it. For propaganda purposes he was photographed "reading" a U.S. magazine which he was allowed to hold "just long enough for them to take the picture."

Frishman was cautioned before his release not to forget that 'we still have hundreds of your buddies." But those still imprisoned want the facts out in the open, he said. As one prisoner said to him, "Don't worry about telling the truth. If it means more torture, at least we'll know why we're getting it. It will be worth the sacrifice."

Plan for Action. Hanoi's continued lack of compassion has brought rising anger in Congress. In August, 42 Senators banded together in a strong statement condemning North Vietnam for its cruel treatment of the prisoners and their families. The declaration, sponsored by two opponents of our Vietnam policies, Charles Goodell (R., N.Y.,) and Alan Cranston (D., Calif.), says that if North Vietnam thinks it can "influence the policy of the United States toward the Vietnam conflict" through its intransigent position on the prisoners, it is "doomed to failure." Those signing the statement included both Democrats and Republicans, and represented 33 of the 50 states.*

This sort of initiative is helpful, but only full and continuing exposure of the plight of the prisoners and their families, together with relentless public pressure at home and abroad, is likely to produce action. A business-as-usual attitude on the part of the American public can only indicate to Hanoi that these men who have given so much to their country have indeed been forgotten.

In my interviews with numerous government officials, with representatives of the Red Cross, members of the armed forces and next of kin of the prisoners, I have asked each person what would be the most effective attack that could be launched. They agreed that dramatic results could come from a vigorous letter campaign directed to 1) representatives of foreign nations and the press of those nations; 2) your Congressmen; and 3) Xuan Thuy, chief North Vietnam negotiator in Paris.

The mail to the foreign nations should urge that pressure be brought to bear on Hanoi to live up to the "spirit" of the Geneva Conventions by putting into practice the Conventions' rules on the treatment of war prisoners.

The letters to Xuan Thuy should make the same demands. And those individuals who are not in sympathy with the war itself should make it clear that proper treatment of the prisoners is an overriding consideration. All should note that continued intransigence on the part of Hanoi will stiffen the resolve of the American public, not weaken it.

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* On August 21, the North Vietnamese delegation in Paris vehemently rejected the protest as "slander" and an attempt "to deceive public opinion."

Letters to members of Congress should call for a joint resolution demanding proper treatment for the prisoners and missing men.

There is a chance—possibly a good chance—that world opinion might force Hanoi to honor basic codes of human decency.

"By any human standards" the position of North Vietnam is "totally inexcusable," says Secretary of State William P. Rogers. "I don't understand why we have not become more excited about the prisoner question."

The Secretary is telling the people of the United States that their concern is important. The rest is up to you. If you want to help the men whom many Americans have forgotten, you can. Your letter could be the one that spells the difference.

SAN PEDRO: NEW SEASON FOR AN OLD SALT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. ANDERSON of California. Mr. Speaker, San Pedro, Calif., a bustling community of 85,000 citizens, is renowned for its productivity. This beautiful seaport is the leading west coast port in terms of tonnage and proudly claims to be the largest tuna canning center in the world.

In addition, San Pedro is a tourist center. While the seaport activity continues, the tourists and vacationers come to delight in this unique city.

Mr. Robert Bobrow, however, complains with a hint of nostalgia that—

> They're making a dude town of San Pedro . . . They are sissifying what used to be a hard, crusty old sailors' town . . ."

To an "old salt" who remembers one of his favorite places as it used to be, San Pedro's transformation is regarded with mixed emotions.

Mr. Speaker, I include Mr. Bobrow's delightful and enlightening article from Westways magazine, entitled "San Pedro: New Season for an Old Salt," in the RECORD:

SAN PEDRO: NEW SEASON FOR AN OLD SALT

(By Robert Bobrow)

They're making a dude town of San Pedro. Turning an Old Salt into a Fancy Dan. They're giving it that sexy, touristy, come hither look and dressing it long, lean and hungry. They're manicuring its fingernails, restyling its hair and, not to be half safe, they're spraying it with rosewater to take the worry out of being close. In plain words, they are sissifying what used to be a hard, crusty old sailors' town, where, if you walked two blocks up Beacon Street and made it back with anything resembling your original features, you *proved* you were a man!—unless you happened to be a woman, in which case your chances were approximately 60–40.

Since San Pedro has always been one of my favorite places, I reserve the right to regard its transformation with mixed emotions. It may boggle the mind of an old San Pedro lover like me, but the town seems to *like* its new image.

On Harbor Boulevard (which once was plain old Front Street), a leathery ex-seaman explained it this way: "The stuff they used to preach in the old Missions must have gone to the town's brain." Indeed, that's the impression you might get on your own, the way San Pedro keeps eyeing itself in a full-length public relations mirror. Its biggest problem these days appears to be deciding what new refinement is likely to go best with what old refinement—say, a Cabrillo Marina with a Cabrillo Museum; a freeway access with a Terminal Island bridge; a New England village with a Ports of Call; a Northwest Village with a *Princess Louise. A Princess Louise?* Yes, sir, it certainly does look as though San Pedro has undergone a change. At least, that's how it looks on Harbor Boulevard.

On Seventh near Gaffey I heard a different theory, however. Here, a solid-citizen-local-booster type told me that San Pedro, a crafty old bachelor town, was just making a grandstand play for that ever-popular dowager, the Tourist Buck. "Apart from that," he said, "nothing basic has changed. San Pedro is still the leading West Coast port in terms of tonnage. It is still the largest tuna port in the country and the largest tuna canning center in the world. Get beyond the tourist frippery, and you can still smell honest salt and taste the flavor of a seaport's hurly-burly."

Thus reassured, I made the rounds and here is how Mod San Pedro seems to shape up.

Ships still sail into port the old way, through Angel's Gate and, usually, up the Main Channel. In 1967, for instance, 3,807 vessels called at San Pedro (and its neighbor Wilmington). Of these 2,260 vessels arrived under foreign flags.

With few exceptions, though, they are not the old ships. Nor are their cargoes, generally speaking, worked in the old way. The longshoreman with the broad back, a baling hook in his hand and sweat on his brow, has gradually given way to automation. Today, gantry conveyors, great mechanized monsters of steel, reach into the bowels of specially designed ships, snatch out their cargo and never even show the strain.

Another innovation of recent years is the shipping of fully loaded truck trailers. When these arrive at their destination, they are wafted off by massive cranes, hooked onto waiting trucks and sent on their way.

Finally, some modern ships couldn't make it up the Main Channel if they wanted to, owing to their size. Designed for bulk loading of either liquids (oil, etc.) or solids (iron ore, etc.), they tie up in the Outer Harbor, where their cargo is simply pumped or dumped. Fantastic amounts of tonnage go in and out this way—on equally fantastic ships. Some supertankers, indeed, exceed three football fields in length and have displacements greater than any passenger liner afloat. So, change is the underlying factor. But though shipping techniques have changed, San Pedro has changed with them, and therefore retains its preeminence as an international port of call.

What may have changed more than shipping techniques is the eye of San Pedro's beholder—perhaps even the beholder himself. The boy who used to daydream on a greasy piling, spinning fantasies of perilous voyages to far-off places, has grown into a man (not that much of a change, really) who now spins more or less the same fantasies from the comfort of an upholstered bar. Along the Main Channel there is no end of comfortable places wherefrom to fashion dreams of romance.

There is, for instance, the *Princess Louise* on the Terminal Island side. (Easy, mate! In some quarters, Terminal Island is now called East San Pedro—mostly, I suspect, in West San Pedro.) The *Princess*, a one-time Canadian Pacific steamship (which was finally deactivated by means of a total mechanical hysterectomy) is tied up at a berth between the old Ferry Building and the Bethlehem Shipyards. A plush old scow, she now caters to a distinguished clientele, especially to daydreaming boys grown affluent. Its gallery can serve practically anything a boy can name, from Murghi Curry ($5.25) to Bosun's Steak ($6.45), not excluding continental ecstacies like *quenelles en brioche.* Best of all, when a boy boards or leaves the *Princess,* he hears the eerie creaking of the gangplank, a nostalgic reminder of the sound of the tide against a greasy piling. . . .

Back on the mainland (I just can't bring myself to say West San Pedro again), there is something for everyone, whatever his nautical bag may be. Norm's Landing, for instance, is for deep-sea fishermen and would-be fishermen. There is also a boat hoist for folks whose thing is keeping their boats locked in garages. Strung along the edge of the Channel, south of Norm's Landing, are the Ports of Call and the New England village. Here one can browse for hours—days, in fact—among antiques and boutiques, crocks and clocks, maps, books, decanters and the like, not to mention the assorted calories. If it's calories one is after, this is certainly the place to get them, whether the plan is to carry them home in a sack or on one's person. Smoked cheese, candy-coated almonds, waffles, imported hams and frogs' legs are only a few of the goodies that can be purchased here. Besides, there is the usual array of hot dog, hamburger and pizza stands (some located on a former San Francisco Bay ferryboat), as well as such classy eateries as the Ports of Call Restaurant. Here, as on the *Princess Louise* you dine graciously to the music of passing foghorns, spinning gossamer dreams while imbibing a Passionate Virgin which, you discover when the bubble bursts and you pay the bill, is only a $2.00 drink. What all this has to do with San Pedro's intrinsic character, I'm at loss to explain.

Adjacent to Ports of Call, across what only seems an endless parking lot, is Berth 73, or as it is better known, Fisherman's Wharf. Since word has reached uptown about the *New* San Pedro, a couple of Scandinavian furniture companies have opened posh retail shops in nearby warehouses—but I don't know how to explain that either. I only know that between the tourists and the dudes, the comparison shoppers and the miniskirts, it is a wonder that the hardworking fishermen can get their nets mended and their decks swabbed.

To be sure, San Pedro is still the largest tuna port in the country, though only a fraction of the actual fleet is based at Fisherman's Wharf. Most of it is based in San Diego. But nearly all the tuna caught by this fleet is deposited at Fish Harbor, on Terminal Island. To cite 1967 statistics again, 203,572,000 pounds of tuna, representing about 70 percent of the fleet's total fish catch, was delivered to the processors along Terminal Island's Cannery Row. And if you can stand some more statistics, in 1967 the processors turned out over 10 million cases of canned fish—48 cans to the case!

As in the shipping business, however, the fisherman's trade is undergoing changes. Despite a general upswing in commercial fishing, a perceptible decline has set in locally. The interplay of various factors is responsible. For one thing, sardines in California waters used to be highly important to the fisherman's livelihood, but their schools have been diminishing of late and they have been put under temporary restriction. Then there is the intense international competition. Peru is the chief competitor in the fish meal market, while Japan is a strong adversary in the tuna market. To these and other factors must be added the rising costs of commercial fishing. Nowadays, a tuna boat *has* to be a purse seiner with large, refrigerated holds. Each boat goes out on the high seas for periods averaging 20 to 40 days, and each carries a crew of between nine and 12 men. It takes a bountiful catch, indeed, to pay out worthwhile shares to all concerned and make the voyage profitable, too. Still, men continue to cast off for the high seas; they continue to return loaded, and, despite the gawkers, they even manage to get their nets mended while in port.

It is a wonder to a lot of people, myself included, that tourist San Pedro and workaday San Pedro manage to keep out of one another's hair while coexisting cheek to cheek. No sooner does a new Customs House come into being on Terminal Island than someone gets a brainstorm for a new Space Needle. No sooner is the Vincent Thomas Bridge constructed to replace the old ferry than the pressure comes to restore the ferry, in order to take the strain off the bridge traffic, and to provide an additional kick for tourists. The bridge, by the way, was originally expected to have about 6,000 daily crossings. It now has upwards of 12,000—at a quarter a throw. For every natural waterfront enterprise—for instance, a kelp processing plant—there is a reflection of affluent leisure—for instance, a pleasure boat harbor, where scores of would-be sailors seem headed for the day when they bring the business of the port to a complete standstill.

The pressures of the times seem to have their own logic. To drum up more trade for the *Princess Louise* (which is doing over $2 million business a year!) the owners are planning to construct a Northwest Village on their outsized parking lot, a Village to compete with the Ports of Call complex. And that's only the *first* phase of the plan. The second is to construct a sightseeing monorail, which will enable tourists to look over cannery workers' shoulders and to eavesdrop on the ten-minute breaks of shipyard workers, machinists and others.

One waterfront installation that happily combines business and pleasure is the Catalina Island Terminal, at the foot of the Vincent Thomas Bridge. The new, all-encompassing terminal is now home for four companies engaged in helping folks leave their hearts in Avalon; the MGRS Company, which used to run the Big White Steamship (soon to be replaced by two smaller but speedier ships); the Avalon Navigation Company, which carries 350 passengers at a clip; the Catalina Motor Cruises, which runs four boats with an average capacity of 85; and for people in a hurry, the Catalina Seaplanes Company, which carries 11 passengers to Avalon in something like 12 minutes.

But there comes a time, alas, when even a confirmed wool-gatherer, to do right by his favorite town, must temporarily abandon the waterfront and check out the new uptown scene.

One of the wildest discoveries I made was a comparatively new enterprise in San Pedro, doing business behind a modest storefront on Seventh Street. The Blue Engravers is run by Bill Marron, a former machinist for the Shell Oil Company; it is in the business of making square dance badges, and, what is more, has cornered practically the whole world market! It started as a favor, several years ago, when Marron was asked to make identification tags for the square dance club a friend of his belonged to. Pretty soon, word got out to other square dance clubs in the community. It got out all over California, all over the 50 states, in fact, and to some 20 foreign countries! Now Marron's company turns out over 15,000 pretty plastic badges a month, and has 9,000 square dance organizations as customers. At an average of about $1.50 a badge (depending on cuteness), that's not bad for a business that didn't exist before 1955! The badges come in all sizes, shapes, colors and inscriptions—from "Bucks & Does, Fayette, Mo." to "C'est Magnifique, Fontainebleau, France." In a way, business has gotten too good. Marron, a portly, middle-aged man who seems happiest at a pantograph or tool grinder, has even had to take up square dancing himself to keep up his public relations!

At this point, I feel I should digress to correct what may well be, by now, a wrong impression. I've been blithely calling San Pedro a town, when it really isn't that at all. (Nor should anyone be misled by its fierce sense of identity, which would do credit to *any* proper town.) Strictly speaking, San Pedro is a part of the city of Los Angeles and has been since 1909, connected to the central core by a long, thin umbilical cord. It is a moot point, however, whether the umbilical cord is Los Angeles' or San Pedro's. As a matter of record, there was a San Pedro before there was a Los Angeles, Father Serra's cohorts having established an embarcadero there as early as 1769. On the other hand, it was San Pedro that joined Los Angeles, not vice versa. So, have it your own way.

But here's the upshot. Never, until now, has San Pedro shown a hint of the Los Angeles influence. I'm referring to character, of course, not economics, politics and the like. Even today, San Pedro remains choosy as to which of the Big City's customs it will adopt, and which it won't.

San Pedro is (as far as I can say from personal observation at this writing) the most happily integrated community in Los Angeles. No fuss, no fanfare, just mutual respect among men. The Yugoslav fisherman has come to regard the Italian fisherman as his brother (which may be the greatest integration feat of all). Scandinavian seamen seem to get along with Mexican and Negro cannery workers. And I don't mind saying that it warms my heart to see, on a typical San Pedro street overlooking the harbor, a bunch of neighbor kids—black, white, brown—playing, not as white or colored, but as *kids*, and apparently enjoying themselves thoroughly.

To a large extent, this is probably an outgrowth of San Pedro's strong union tradition. San Pedro was a union town when labor organization was still regarded as subversive in Los Angeles. Much of its tradition arose in the bloody battles of the 'thirties. Some San Pedrans, like realtor Al Atchison, still remember what the town was like before the unions. "A seaman's life was rough—and rough is a mild word for it," he told me. "Since San Francisco used to be the home port for most shipping companies, such outrages as shanghaiing occurred mostly up there. But if a ship still needed crew members by the time it hit Pedro, men could easily be shanghaied in the dives on Beacon Street. Sailors and longshoremen would shape up in fink halls, and the apple polishers would get what jobs there were while the rest went hungry. Kickbacks and discrimination were the rule, not the exception." The wave of union organization that swept San Pedro in the 'thirties, with seamen and longshoremen in the fore, put an end to the fink halls and the shape-up. It put an end to favoritism and discrimination in hiring.

A man can do a lot of gracious living in San Pedro and without a lot of accompanying pretensions. I pulled my car up, as I usually do when I am in the neighborhood, on modest Bluff Place, where simple, ordinary homes look out over the whole Port of Los Angeles. I could see all the seaport hurly-burly, as well as all the tourist frippery. Directly below me were the Cabrillo Museum, Cabrillo Beach and the San Pedro breakwater, which stretched out in the haze to Angel's Gate and beyond. What a great place to live, I mused, if only the sordid considerations of livelihood did not dictate that I live elsewhere. I'd even gladly put up with a Cabrillo Marina (about which there are differences of opinion in San Pedro), since it seems to be the concensus that relocating small boat harbors in this fashion would keep Sunday Sailors from gumming up the operations of the port. Yes, mates, San Pedro, for all its changes, is still a town to daydream in. . . .

But progress calls!

As new developments take shape on high, along San Pedro's side of the Palos Verdes hills, older, lower-class blights are becoming meat for the bulldozer. Some 65 downtown acres, including the riper blocks of Beacon Street, are in the process of redevelopment, and the password nowadays among the hock shop men is Urban Renewal. This is also the password among bail bondsmen, Rotarians and other hail-fellows-well-met. Nobody seems to know, as yet, what will replace the derelict old buildings whose sagging walls no longer can contain the romance, intrigue, debauchery and plain, unvarnished tragedy they've seen.

On the corner of Fifth and Centre, across the street from where San Pedro keeps its one and only (so far) high-rise building, the town is about to get a new courthouse. When I last saw it, the courthouse was just barely not ready, though the judges, dedicators, public personages and ribbon-cutters were. What is important is that the courthouse could easily have turned out to be just another courthouse—square and mundane—if not for its courtrooms, which happen to be round.

From what I have been able to learn, the round courtroom idea (with the judge right in the middle of things) was imported from Fresno, a comparatively sedate city, where it seems to be working out nicely. But in San Pedro, such an innovation is bound to stimulate a lot of lively, active interest. I wouldn't be surprised, in fact, if there occurs a sudden rise in harmless misdemeanors among normally law-abiding folk who merely want to get into a round courtroom, one way or another. With justice coming full circle, as it were, one can only hope they remember to provide a swivel chair for the judge.

I regret to report that in my wanderings about San Pedro, I was able to find only one remaining old house with a genuine, honest-to-goodness Widow's Walk. For those who may not know, a Widow's Walk once signified more status than inside plumbing in a seafarer's home. A special sort of attic enclosed by a small porch and always facing towards incoming vessels, it used to be the place from which a sea captain's wife (or, at least, a first officer's wife) would first greet the return of her husband's vessel. I couldn't find out how many Widow's Walks San Pedro had when the vogue was at its height. But the Los Angeles Cultural Heritage Board may consider its attention called to one of the last of the breed, at 324 Tenth Street, San Pedro.

I always leave San Pedro with reluctance, vowing to come back next week. The last time (a month ago) was no exception. Coming off the hill, I drove down Sixth Street, past shlock stores and Antique Shoppes—one needs a printed guide to tell the difference. Turning on Front Street—pardon, Harbor Boulevard—I drove past berths that looked embarrassingly new and efficient. I drove past newer berths, still under construction, past warehouses and lumber yards, past the sprawling Todd Shipyards. I drove under the Vincent Thomas Bridge and, stalled in creeping traffic, I turned around to ask San Pedro a final question: What *else* was new, besides the square dance badge business? How, after all, was it *doing* in its courtship of the Tourist Dollar?

But, looking rather like Popeye in a nance's costume, San Pedro only winked.

THE LATE HONORABLE CLIFFORD DAVIS

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. FISHER. Mr. Speaker, I share the many good things that have been said about our departed friend and colleague, the late and lamented Clifford Davis of Tennessee. He will be remembered as a man of the highest honor and integrity. He was a great orator and was a very able legislator. His contribution to the cause of good government will long be recognized and appreciated.

Always affable and friendly, Cliff enjoyed life and he thoroughly enjoyed his friends—of whom he had many. The country has suffered a great loss in the passing of this good man. I extend to his surviving wife and to other members of the family my deepest sympathy in their bereavement.

A GI'S LETTER TO THE FOLKS BACK HOME

HON. HENRY C. SCHADEBERG

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. SCHADEBERG. Mr. Speaker, a young soldier in Vietnam, Sgt. Winter S. Hess, whose parents live in Lake Geneva, Wis., recently wrote them a graphic letter giving his strong views on the division existing in our country over the Southeast Asian involvement.

The sergeant's comments on the war, the campus disorders and the need to support our President, are worthy of further attention.

I insert a portion of his letter in the RECORD:

A GI'S LETTER TO THE FOLKS BACK HOME

Everyone is following the Cambodia push in the newspapers and on radio. We all are cheering Nixon on and the troops as well. It is really the best thing that has ever been done over here. The Dinks are really in a world of hurt. The Cambodian troops and Vietnamese troops are combining their forces and efforts against a common enemy. The Dinks won't be able to fight or resupply for a long time due to the Monsoon season in the south. It is just so great to know the war is really not in vain. It really makes me sick about all the demonstrations and protesters and Congress trying to cut off the funds. I can't believe that the country can't see and understand the tremendous significance of the Cambodian Invasion. It seems that they all would have us stand up and say, "Peace, Brother" to Charlie while he blows your head off. It truly scares me that my Countrymen are trying to get me killed by giving aid to the N.V.A. and V.C. I am almost afraid to come home for fear of being confronted by some long haired guy who carries a V.C. flag or tears down the Stars and Stripes. I think I'd become involved in a situation that would only turn out bad.

Honest to God, it is too bad that the N.G.'s at Kent or Madison didn't have a mini gun like is used over here. They would have gotten about 400 instead of only 4 b-------.

How dare one of those punks think they are so right and headstrong that they can sit 9000 miles away, read a newspaper, hear a speech, or imagine what the world is all about, and then demand the world be run as they dictate.

God Bless Nixon for having the sheer guts to do what he knows is right and stand by his beliefs. I believe all the service men and Viet Nam are behind him and wish that somehow the country they fight for would come to its senses. I find it hard to believe that the majority of the country is so sick that it can't control the demonstrators. Is the whole country against winning this war or is the majority being led around by the nose? I am astonished that you and others like you would allow the demonstrators to go unchecked. If my kid was part of a demonstration I'd jerk him out of school so fast his head would swim. The bum could then try to make a go of life without the one big thing the country offers—education. When they take life so much for granted, then maybe the loss of that life means very little. Their only justification for existence is the mere fact that they exist. They offer nothing, give nothing, and take all.

Another thing, taking for granted that the U.S. is still run on a Democratic system, that Congress represents the people, and does what the public majority want, I must assume that the majority of the public is against providing funds for the Cambodian Offensive. I realize that it hasn't passed yet, but, if it does, am I to assume that you, the majority, don't support Nixon and us in Viet Nam, or is it that the Congressmen and Senators just never got the word? I think it is most likely the latter, and, if so, damn everyone of the "silent majority" for being so complacent if the funds are cut off.

I really get worked up over this thing but I mean exactly what I say. I don't mean to vent my anger on you but at the United States that I knew back in the mid-sixties which you happen to represent and be a part of. They say that your generation gave us the world such as the mid-sixties and it was good. Who the Hell gave us this world we have now. I think my generation. Makes me sick.

I'll write a nice, friendly letter another day. Have a nice Memorial Day and keep that flag out in the front yard. . . .

PUT NONE BUT AMERICANS ON GUARD

HON. M. G. (GENE) SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. SNYDER. Mr. Speaker, last Saturday afternoon, I was sitting in the yard back in Kentucky reading a Sports magazine when my father—who lives up the road—came down and handed me a periodical entitled "The Bible Friend" and suggested that I read an article therein entitled "Put None But Americans on Guard."

I believe the material would be of value to my colleagues:

PUT NONE BUT AMERICANS ON GUARD

"Put none but Americans on guard tonight." This command of General Washington's to his officers at Valley Forge echoes and re-echoes down the corridors of time, but never so clearly as today.

All of Washington's army were Americans. What did he mean? Twenty miles away in Philadelphia was Gen. Howe's army of English and Hessian troops, quartered in the warmth and comfort of American homes and public buildings, well-fed by American farmers driving in herds of cattle, sheep, hogs, along with wagonloads of grain, fruit and vegetables at considerable profit to themselves; however General Washington's patriot army was starved, half-clothed, without shoes, in huts hastily built in the snow-covered woods and open spaces of Valley Forge, disheartened, some ready to go home.

Washington knew that he had two types of Americans to deal with—one willing to sell their country to England for money; the other ready to die to hold it.

We have two types of Americans today; the one willing to sell our birthright inherited from those men who offered their lives, their fortunes, that this nation might live, with a heritage of freedom for the future. They would sell it for what? These Americans who have had the opportunity to develop every God-given talent they possess, in the free-est country ever dreamed of throughout the ages, built upon the foundation of Christian civilization, under a Constitution five centuries ahead of its time, with individual responsibility, the test of good citizenship—these Americans would sell out to a United Nation's World government, a combination of governments and lack of them, all stages of civilization and lack of it, with cannibalism rampant in Congo "states" with fewer inhabitants than Columbus, Ohio, each holding one vote as do we: the U.S.A. with 200 million people.

Russia's three votes plus seven satellite votes, all Communist, all atheist, dominate this police-State. When will our turn come?

Shakespeare's lines best describe our plight: "Ingratitude, stronger than traitors' arms, quite vanquished him.—Great Caesar fell.—Then you and I, and all of us fell down, whilst bloody treason flourished over us." Is such to be our fate?

These salesmen of America can be found, not only in Washington, but in our colleges, schoolrooms and pulpits. In instructions to his Reds, Lenin said: "These people are the most gullible of all. Work with them for best results."

Members of Congress, voting for disarmament in a sovietized armed world; for foreign aid to our Communist enemies; Federal aid to schools, the better to control them; reciprocal trade and not protective tariff, placed in the hands of the president, not the Congress where it was placed by the Constitution; income taxes to pay for these evils; welfare rackets, formerly called socialism, to undermine individual responsibility—these are the types of Americans Washington had in mind when he said: "Put none but Americans on guard." By their votes ye shall know them.

We have no room in this country for 50-50 Americans. He who is not with us absolutely, is against us and should be treated as an alien and sent out of the country."

These professors, instructors, ministers of the gospel of Jesus Christ, who preach and teach our students the virtues of an atheistic United Nations with its goal—world government, are pleased to be referred to as "intellectuals," the "intelligensia." Both terms imply intellect, the ability to think clearly. Will Rogers dubbed them "intellectual illiterates." These men who see nothing to lose in a national sell-out, are not thinkers—they have merely been to school, a counterpart of the European School-men centuries ago. Of 401 petition signers to abolish House un-American Activities Committee, 81 were prominent clergymen, 135 were the great—near great in our colleges and universities totaling 216 or 54 per cent.

Our Constitution says: "No titles of nobility shall be granted." But instead of a caste system based upon titles, we make gods and half-gods of these un-American schoolmen and pulpit orators who tell the "masses" what to think. Did they ever fight for the liberty they enjoy? The question answers itself. No one ever gives away what he has offered his life to possess.

Washington, the founder of this nation; Dr. Franklin, Constitution builder, acclaimed a doctor of philosophy in European capitals; Lincoln, who saved the nation from fragmentation, "writer of the greatest short speech in the English language" the Gettysburg address; Edison, creator of this push-button age thru discoveries and inventions in electricity; Wilbur and Orville Wright who conquered air and space with the airplane, when scientists proclaimed that nothing heavier than air could fly—none of these great Americans had degrees—they had brains.

"Religion, morality, and knowledge being necessary to free government, schools and means of education shall forever be encouraged," said our Founders (but not abused). Freedom of religion is guaranteed by our Constitution, but not to teach disloyalty to the giver, the nation.

Let us not be confused by the confusions of such as these. Lincoln once said, "No one ever got lost on a straight road." Our straight road is mapped out for us in our Constitution, which, when followed, produced the most advanced nation in moral and economic standards, the mightiest the world has ever known. Why not go back to our own thinking with the Constitution for guide?

To the would-be salesmen of our country, whether they sit in the White House, on Capitol Hill, on the Supreme Court Bench, wherever they appear, let us follow the order of our first great commander, George Washington. Henceforth "Put none but Americans on guard."

Do you recall the memorial engraving by the artist, John McCrea, of a scene at Valley Forge, witnessed by the Quaker, Isaac Potts, depicting General Washington, with his horse tethered to a nearby tree, on his knees in the snow in prayer to "God, who governs in the affairs of men", through Whose guidance he and his patriot American army defeated the most powerful nation of his day?

While following Washington's orders to "Put none but Americans on guard" at our Capitol on the Potomac, we, his countrymen would serve our country best, by turning for guidance to God Who gave victory to him, for we fight not only communism embodied in the strongest nation in the world today; but godless communism within our gates, whose World Capitol is the United Nations.

RESOLUTION OF ALLEGIANCE

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MOLLOHAN. Mr. Speaker, the Loyal Order of Moose is an organization dedicated to "purity, aid, and progress," three words which are aptly expressed in a resolution unanimously passed at the Moose international convention last month.

As Carl A. Weis, supreme secretary of the Moose, said in a recent letter to me, the resolution "expresses a few principles which not only touched the hearts of our members of the order in attendance at the convention, but prompted them to a unanimous action acclamation."

Carl said that since the convention, he and other Moose officers have "had an abundance of favorable comments reflecting considerable credit to and respect for the order."

The resolution expresses the feeling of all freedom-loving men: a love of country, a belief in the worth of fellow men, an abhorence of violence, a respect for law, and a "dedication to the means through which we can achieve universal peace."

I present the resolution at this time in the hope by colleagues in the House and in the Senate can profit in some measure from its message:

RESOLUTION OF ALLEGIANCE

Be it known that the members of the Supreme Lodge of the World, Loyal Order of Moose here assembled for the Eighty-Second International Convention of our order, do hereby publicly proclaim and reaffirm our allegiance to God and to the country in which we live.

Whereas, our fraternity demands of us a life of faith and instills within us the desire to strengthen and preserve that for which our forefathers have died and,

Whereas, the principles of our fraternity, those being, "Purity, Aid and Progress" have historically become the means through which the greatest of free nations were conceived and have grown, matured and abundantly prospered and,

Whereas, we presently recognize the potential destructive consequences of both a domestic and international nature which tend to destroy and eventually devour nations which are less than strong and,

Whereas, we are a patriotic and humanitarian fraternal order comprised of American and Canadian citizens and subsequently recognize that our loyalties far exceed those owed to our families and our fraternity.

It is our desire, and we firmely resolve, that our energies, both individually and collectively as gathered through the Loyal Order of Moose, are dedicated to and aspire to remain dedicated to God, to our brotherhood and to our respective countries.

Henceforward therefore, be it known that as members of a fraternal order consisting of God-fearing, dedicated citizens:

We firmly believe in the dignity and worth of our fellowman.

We believe in the history and traditions of our country and in the solidarity and unification of local provincial, state and federal governments.

We openly and voluntarily support the constitution and the civil laws which govern our homeland and we stand behind those entrusted with their enforcement.

We have great faith in the honesty and integrity of our selected public servants and support fully the policies adopted by our legislative bodies.

We abhor violence, civil disobedience, anarchy, desecration of our national flag, willful infringement upon the rights of others and all factions who advocate the overthrow of our governments.

We respect law and order and endeavor to instill within others the desire to maintain that respect.

We are dedicated to the means through which we can achieve universal peace but we shall always, above all else, honor our freedom.

As a member of the Loyal Order of Moose, these things I do solemly resolve.

Be it further resolved, that this resolution be distributed to all lodges of our Order where it shall be read on the floor of the lodge at an appropriate session, posted on the lodge bulletin boards and reproduced in lodge bulletins. It may be given publicity through the local news media so that not only we the members here assembled, but other citizens of our countries will know that the Loyal Order of Moose respects and openly gives our allegiance to God and the Country in which we live.

Adopted by acclamation, June 18, 1970 at Chicago, Ill.

CARL A. WEIS,
Supreme Secretary.

U.S. PRISONERS OF WAR

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MONAGAN. Mr. Speaker, I have received many letters expressing concern over the treatment of Americans held as prisoners of war by the North Vietnamese. I have been deeply moved by all these letters and appreciate just how much some news of the condition of American prisoners would mean to their wives, children, parents, and friends. On September 17, 1969 I cosponsored House Congressional Resolution 360 calling upon North Vietnam and the National Liberation Front of South Vietnam to comply with the terms of the Geneva convention relative to the treatment of U.S. prisoners of war. The substance of that resolution was adopted by the House on December 2 as an amendent to House Resolution 613, supporting President Nixon's efforts to obtain peace with justice in Vietnam. I would again urge the North Vietnamese and the National Liberation Front of South Vietnam to show compassion in this most urgent matter by releasing the names of Americans now held as prisoners.

On July 5, 1970 the following article by Ethel Beckwith appeared in the Connecticut Sunday Herald and eloquently expressed the pain and sorrow which constituents of mine, Mr. and Mrs. LeGrande C. Cole, Sr., of Danbury, have endured for 3 years because of inability to learn the condition of their son.

The article follows:

SON MISSING IN VIETNAM, THEY ASK ALL TO WRITE

(By Ethel Beckwith)

DANBURY.—Because it is three years, exactly, since their pilot son in the Viet war was shot down and taken prisoner, Mr. and Mrs. LeGrando G. Cole, Sr. are making a new request of good Americans everywhere:

"Send letters to Hanoi. Plead with them to reveal at least one thing—whether our son is alive."

Scores of strangers and friends have done so in the past. Mayor Gino Aronti wrote. It hasn't worked. Nor has the Balmforth Ave. family's walled-in grief been lessened.

The not-happy anniversary finds, however, that new and active today is the League of Families of Prisoners of War. Wives and sweethearts of missing men—missing, but believed to be on the Vietcong POW list—have found their way to television and press. Recently they learned that 1,500 Americans are on that list. Like Danbury's Coles, their first concern is to know that their men are alive.

The Herald will do its part on behalf of the Coles, although to date all the effort has been along a path of oblivion.

Three years ago this week, two officers rang the Cole doorbell. Gently as possible they recited these statistics: that on June 30, 1967, at Vinn in North Vietnam, a bomber jet was shot down and its pilot, Navy Lt. Le Grande Ogden Cole, Jr., was captured.

The same news shocked the pilot's wife, with his little son who is four years old this month at her home in Florida.

The boy is Kenneth Mark Cole. Nine months olds on his father's last visit, Kenneth can hardly recall his father's face, but he constantly studies every photo, and unfailingly asks "When is my daddy coming home?"

Two days after the fateful June 30, the Danbury Coles had their last letter from the pilot. He was to make a bombing mission, he wrote, flying an A–4 Skyhawk off the USS "Intrepid". By then he had vanished.

Then came a wire from Vice Admiral B. H. Semmes. He advised the Coles against discussing their son's capture publicly. "The area in which your son became missing," he said, "presents the possibility he could be held by hostile forces against his will." Since then, the League, and the Coles, have decided to talk. The League's meeting was held in Washington's Constitution Hall.

"Lee" enlisted in '61, after graduation from Abbott Tech and after receiving an applied science degree at Wesconn. While training at Pensacola, he met and married Billie Joe Botts of that city.

The bombing mission he wrote his parents about occurred during his second tour of duty. During the first, he had flown 100 missions. His second tour was only 10 days old when he was shot down. Six months before, he was awarded the Distinguished Service Flying Cross for combat duty over Phy Ly in North Vietnam.

Now 28, the Navy pilot is the oldest of three children of Le Grande and Hazel Tilquist Cole. His father is employed at Fairfield Hills Hospital. "Lee" is the brother of Donald, with the phone company, married to Jill Rowland and father of Don, Jr., and of Cynthia Cole, a junior at Danbury High School.

"In the name of human decency and justice", wrote Mayor Arconti in his letter addressed To The President of the Republic of North Vietnam." There was no reply. If Lt. Cole is alive, he is not allowed to write.

At the Paris conference, when next of kin make their appeals for news or release or both, the Danbury pilot's name is listed.

The Coles' own church, St. James Episcopal, in Danbury, was first to send letters to Hanoi. Abbott Tech students filled a large mailbag with their letters. So did Bethel's Methodist Church, The Navy Mothers, Legion and VFW, and many others. The Coles ask them: please write again. It is their one hope. The Cole telephone is 748–7347.

In the letters the Coles suggest this phrase: "We ask only for recognition of the commitment made by both our nations at the 1957 Geneva Convention regarding treatment of prisoners of war." Postage to Hanoi is 25 cents.

EFFECTS ON PENNSYLVANIA OF SECTION 225 OF H.R. 17550

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. EILBERG. Mr. Speaker, H.R. 17550 contains the Social Security Amendments of 1970. Many provisions in the bill are commendable in their purpose and effect, however, section 225 could have a disastrous effect upon Pennsylvania and other States as well.

Section 225 is intended to provide incentives for the States to emphasize outpatient care under medicaid programs by increasing the percentage by 25 percent. According to the formula of this section, the Federal percentage for acute hospital care after 60 days is reduced 33⅓ percent, the Federal percentage for skilled nursing home services after 90 days is reduced 33⅓ percent, the Federal percentage for mental hospital care after 90 days is reduced 33⅓ percent, and the Federal percentage is eliminated totally when 275 benefit-days have been provided during a lifetime. Section 225 also authorizes the Department of Health, Education, and Welfare to reduce the Federal payment to the States by an amount which is equivalent to the difference between the State intermediate care rate and the amount of the rate if there had been a reasonable differential between the rate of skilled nursing home services.

The effect of this provision on Pennsylvania in fiscal year 1970–71 will be a reduction of Federal participation of $13,000,000. The reduction will increase to $21,000,000 in fiscal year 1971–72. This may result in needed health care services being denied to between 10,000 and 15,000 elderly and chronically ill persons in Pennsylvania.

Gov. Raymond P. Shafer has obtained appropriations for assistance amounting to $308,000,000 in fiscal 1970–71. The department of public welfare had requested $338,000,000. This means that we must be prepared to experience a cutback of services and no growth in our program, due to this $30 million slash.

When this $30 million deficit is added to the reduction of $13 million under H.R. 17550, a total deficit of $43 million will befall the poor and needy of Pennsylvania.

The corrections in the social security system sought under H.R. 17550 can be effected in other and sounder ways, through utilization review, implementation of levels of care—under title XIX—and proper classification and assignment of patients to proper facilities.

SOUTH BAYANS SAIL THREE SEAS

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. REES. Mr. Speaker, this summer, as millions of young Americans left their classrooms to work and to travel, I am reminded of a unique adventure undertaken last summer by 20 youths from the Los Angeles area, a trip which took them around the world and aroused the admiration of our entire community.

I believe that my colleagues in the House of Representatives would be interested in reading of these young men and their adventures crossing the seas in the *Prince Louis*, a 96-foot three-masted square-rigged schooner.

The two owners, Charles Arreola and Eugene Klakovich, both of San Pedro, selected and purchased a 1921 schooner built in Marstel, Denmark. Outfitting the ship took another 6½ weeks.

Friends from the South Bay area were invited to sign on as volunteer crew and, finally, a total of 20 persons were enlisted for the voyage. After paying their own plane fare to Denmark, the youthful sailors cast off anchor and began their historic voyage, which was to take 2½ months.

Learning, they quickly discovered, is not only confined to land. As they departed from Denmark and separated themselves from the 9-to-5 society, the newsreading, television-viewing civilization of Los Angeles, they learned to extract their food from the waters and to survive the elements and the ocean.

A description of their perilous adventure and triumphant arrival in Los Angeles Harbor is given in an interview appearing in the South Bay Daily Breeze by staff writer Jonathan Beaty:

BAYANS SAIL THREE SEAS

Early morning fishermen and dock workers shook their heads in disbelief as the Prince Louis sailed majestically into the Los Angeles Harbor, completing a two and a half month transoceanic voyage.

Proudly coming in under full sail, the 96-foot, three-masted, square-rigged schooner—manned by a bearded, ragged crew of South Bayans—looked as if it had just sailed in out of another century.

With her paint curled by the Caribbean sun, and battered by the Atlantic storms, the wooden ship slipped into her berth on Terminal Island as her young crew whooped, laughed and waved.

The seven sailors on board—from San Pedro, Redondo Beach, Torrance and Denmark—were the last of the original crew of twenty. The missing crewmen, some of them students and school teachers from the South Bay, had left the ship and flown home from Panama and Barbados to be back to school in September.

Charles Arreola, 28, co-owner and captain of the Prince Louis; Robert Wallace, 19, Robert Robinson, 17, Frank Canetti, 22, Anthony Ostoich, 22, Robert Trombari, 25, and 19-year-old Ole Hansen from Denmark completed the trip.

They were glad to be home, but their voyage had been a happy one.

"We didn't have a single personality problem the whole voyage," said Robert Trombari, the ship's engineer.

"The whole crew was really just one big happy family."

They had to be, since they all lived together in the roughly converted cargo hold which became their home for 73 days.

Raymond Wallace, captain of the ship from Denmark to Panama, sailed with his wife Barbara, and his 8-year-old daughter, Mari. They and another couple left the ship in Panama, but Wallace was on hand to greet the ship in Los Angeles.

His son Robert was still on board.

Wallace, a special effects designer who designed some of the ships at Disneyland and the conversion of the Princess Louise Restaurant at the harbor, acted as mentor and teacher for the first part of the cruise.

"We held classes in seamanship and navigation every day," Wallace said.

The elder Wallace was well qualified for the job—he first went to sea at the age of 15, and was a master mariner by the age of 18. "And I've been sailing ever since," he added.

Trombari, who lives in Redondo Beach, said the most exciting part of the journey came when the ship's steering system broke during the height of a storm off the coast of France.

"I guess you might say I was really concerned," the engineer said in what appeared to be a pretty big understatement.

"The wind was blowing over 65 knots per hour, and the waves were 20, maybe 22 feet high, when the chain block that controls the steering pulled out of the deck."

"The skipper, two men on watch, and myself were the only ones on deck—everybody else was sick."

But they managed to rig a block and tackle on the tiller to hold the ship against the wind, and the steering gear was repaired.

"The only other time we were scared," Trombari added, "was the Saint Elmo's fire thing."

Another young crew member told of the weird and frightening play of green fire about the ship off the coast of Mexico.

"We were in the middle of a big thunderstorm," he explained. In the light of one of the lightning flashes he saw the ghostly green and blue fireballs racing around the steel rigging, and illuminating the anchor chain and mast.

"Just then a peal of thunder went off in my ear, and I said, that's it—that's all—I'm going to get off the ship in Acapulco."

The three-master was built in 1921 in Marstel, Denmark, and had been used for hauling cargo until she was purchased by her new American owners.

The Prince Louis, once named the Lillaebelt—which means "small sound" in Danish—sailed out of the famous Ring Anderson Shipyard in Denmark on July 20.

The captain sailed under engine power most of the way, since there was only enough wind for the sails for 10 days out of the cruise. The 150 horsepower diesel engine pushed the schooner along at a steady eight knots, night and day, as the ship traversed the Atlantic, the Carribean, and the Pacific oceans.

Their best speed logged on the voyage, however, was under sail—a churning 12 knots an hour—with the entire crew laughing and urging their weathered and creaking ship onward.

After leaving Denmark, the Prince sailed through the Kiel Canal in Germany, and docked in Portsmouth, England.

"We were there for three days, and did the whole London scene," Robinson said.

They sailed from Portsmouth to Vigo, Spain, and then to Funchal on Madeira Island. From there they made an 18-day crossing to Bridgetown on the Island of Barbados, stopping to explore and skindive in the crystal clear waters of the Windward Island Chain.

After going through the Panama Canal they headed for Acapulco, Mexico, but ran into a fuel problem.

"We were mixing lube oil in with the diesel fuel to stretch it out, but we couldn't make it," Trombari said.

They had to anchor in the tiny harbor of Port Angeles, Mexico, and travel cross country to the next village to get fuel.

"It took us two days to haul it back in drums and bring it aboard in the skiff," Trombari recalled.

With fuel for the engine, the Prince made it to Acapulco, and then to Mazatian to obtain a visa for their Danish cook.

The last leg of the adventure lasted six days and brought them home again—into the Port of Los Angeles with the American flag waving proudly at their battered stern.

BOMBS AWAY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. ROSENTHAL. Mr. Speaker, the U.S. Navy is continuing a questionable policy against the wishes of 726 American inhabitants of the Puerto Rican municipality of Culebra.

These people live constantly in fear of bodily harm from the use of part of their home island for missile weaponry practice.

The Navy's principal justification for perpetuating its activity on Culebra is that the island has been historically assigned such a role.

This rigidity is not in the spirit of our democratic traditions which counsel flexibility and accommodation to meet the changing times. The Navy's intransigence is also contrary to its own proud and meritorious traditions and a blight on the compassionate nature we consider part of our national ethos.

I am in complete accord with the New York Times editorial of July 10, 1970, and that of the Washington Post of July 14, 1970, both of which follow:

CULEBRA AND GOLIATH

Can anyone really believe that the only suitable target area in the entire Atlantic Ocean for testing a new generation of guided missiles and glide bombs is a 7,000-acre island off Puerto Rico which 726 American citizens call home? So says the United States Navy, which already owns a third of the island of Culebra and now intends to lease and eventually buy another third.

What the Navy has really wanted to do for fifteen years is to buy all of Culebra and resettle the island's residents elsewhere. But Culebra is a municipality of Puerto Rico and can be dissolved under the Commonwealth's Constitution only by vote of its residents. A survey indicates that 95 percent of the Culebrans oppose the Navy's current expansion plan and at least 75 per cent want the Navy to pull out altogether.

Under existing conditions, Culebrans must cope with a nerve-wracking noise-pollution problem from shelling, bombing and low-flying Navy jets. Culebrans find their freedom of movement curtailed by Navy maneuvers and security requirements, their economy and development menaced by the Navy's expansion plan.

As part of what the Navy calls the "inner range portion" of the Atlantic Fleet Weapons Range complex, Culebra unquestionably offers substantial advantages for the development of new systems. What is equally obvious is that the Navy for a long time remained insensitive to the rising resentment of the Culebrans and dragged its feet on examining possible alternatives to the use of this inhabited island.

It would be a salutary example of what one likes to think the United States is still all about if the mightiest Navy in the world now decided on its own to weigh anchor and go elsewhere to explode its new arsenal, leaving 726 poor islanders in peace and quiet.

WHY BOMB AN INHABITED ISLAND?

It is time that high-level attention be paid to the controversy over Culebra. The Navy, which already owns about one third of this 7,000-acre island in the Commonwealth of Puerto Rico, is trying to obtain another third of it so as to expand its training operations there, with the installation of a Walleye missile target on the immediately adjacent small island of Culebrita. The move is bitterly resisted by most of the 726 inhabitants and many other Puerto Ricans on the ground that the use of the island as a target has already made life there almost intolerable.

The Puerto Rican Civil Rights Commission has described the military training operations on Culebra as "excessively intense, continuous, irregular and dangerous." The cattle business on the island is said to have been virtually ruined. Fishing has been gravely impaired, and since these two industries have been the chief source of income for the families living on the island, the economic impact of the shelling and bombardment has been severe. Equally troublesome is the effect on education. One teacher reports that the school buildings "tremble with every explosion" and that the children are too frightened, distracted by noise and plagued by loss of sleep (from the night bombing) to give serious attention to their studies.

Repercussions from this use of an inhabited island as a target have spread far beyond Culebra itself. Many Puerto Ricans see in it evidence of a general lack of sensitivity in Washington to commonwealth problems. Tensions on the island have risen notably since the shelling and bombing on Culebra have been stepped up. A columnist for the San Juan Star recently suggested that if Congress should grant the Navy's request to take over more of the island it "could swing popular sentiment toward independence or at least away from statehood more effectively than anything else."

Aside from the injustice of inflicting conditions akin to warfare on the people of Culebra, therefore, the Navy's policy threatens to complicate the relations between the United States and the commonwealth. Just now these relations are in a delicate state. Sentiment in favor of independence has been growing along with sentiment for statehood, although a substantial percentage of the people still seem to favor the existing commonwealth status. It would be most unfortunate if the government in Washington should unduly influence the outcome of the debate now going on in regard to Puerto Rico's future by continuing a shortsighted and inhumane policy in Culebra.

The need for good relations between Puerto Rico and the United States will remain an imperative of the future whether the commonwealth is retained or statehood is requested. For one thing, the Roosevelt Roads Naval Base is the second most important naval installation in the Caribbean. For another, the relations between Washington and San Juan are enormously influential in our dealings with the rest of Latin America. Even though the Navy finds Culebra a convenient area for its training operations, we simply cannot afford as a nation to get into the posture of putting bombs ahead of people.

HORTON COMMENDS HUMANITARIAN SPIRIT OF C. RAYMOND NARAMORE AND THE ROLE OF THE HUMANE SOCIETY OF ROCHESTER AND MONROE COUNTY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HORTON. Mr. Speaker, this past Sunday, it was my honor and privilege to attend the dedication of the C. Raymond Naramore memorial painting at the Humane Society's Lollypop Farm in Fairport, N.Y.

C. Raymond Naramore was executive vice president of the Humane Society of Rochester and Monroe County, and for 17 years, he dedicated himself to the work of the society. I knew him for years before his sudden death on March 28, 1969. I personally knew of his kindness and love for all living things. He had a tremendous love for his cause and he dedicated himself to the prevention of cruelty to all mankind and animals. He was a true humanitarian.

Ray Naramore was a teacher for 35 years at West High School before he started full-time work with the Humane Society. He immediately began to make the Humane Society an active part of the community. Ray's work became widely known, and soon the public started to donate money to the Humane Society. He purchased the first animals which children could view and pet. They were three llamas, five deer, two burrows, and five Persian caracul lambs.

It was largely due to Ray's efforts that the present Lollypop Farm came into existence. I was present at the 1966 dedication of Lollypop Farm which was the start of Ray's dreams coming true. Stray and injured animals find a home at the farm and the public can then adopt them.

It is indeed fitting that a memorial painting should be dedicated to Ray. It was painted by an outstanding local artist, Stanley J. Gordon.

The ceremony was especially moving. The program included Mr. Chester Champion who introduced Mr. Henri Projanski. Mr. Projanski gave the invocation. Speakers included Mayor Stephen May, Dr. Stanley Jacobs, president of the board of directors of the Rochester Humane Society, and Mr. Thomas Justice, president of the American Humane Association. Mr. Frank M. Rogers, executive director, introduced Dr. Jacobs. Dr. Jacobs presented the painting of C. Raymond Naramore of the Humane Society of Rochester and Monroe County and Mrs. Naramore accepted and unveiled it. The memorial plaque was unveiled for the renaming of the Concourse Hall to Naramore Hall.

Mr. Speaker, at this time, I would like to share with my colleagues the names of the officers of the Humane Society because they have contributed so much to the cause against cruelty to animals.

They include:

Bruce Percy, chairman of the board; Dr. Stanley B. Jacobs, president; Vice Presidents Frank W. Allen, Schuyler Baldwin, Mrs. Emil Brown, Chester C. Champion, Mr. Raniet Miner; Henry R. Dutcher, Jr., secretary; Miss Katherine G. Love, treasurer; Bruce Percy, treasurer permanent fund; Frank M. Rogers, executive director; Sharon I. Anderson, director of humane education.

Board of directors—Charles Andrus, George Beinetti, Mrs. James L. Berigan, Donald Bilgore, Mrs. Mercer Brugler, Mrs. Phillip Burrill, Realto E. Cherne, John D. Cockcroft, M. John Corson, Mrs. William H. DeWitt, Mrs. Martin Donahoe, Jr., Miss Vivian Evans, Mrs. Richard Garrett, Dr. Eric S. Green, Mrs. J. Lawrence Kennedy, John H. Kitchen, Mrs. Macy L. Lerner, Clarence S. Lunt, Glenn E. Matthews, Mrs. C. Raymond Naramore, Gilbert A. Nusbaum, Mrs. Frederick T. Pierson, Jr., Henri P. Projansky, Frank M. Rogers, William F. Rust, Herman H. Schwartz, William F. Sheppard, L. B. Skeffington, W. Stephen Thomas, Mrs. Harry P. Toppin, and Mrs. George Todd.

The program booklet contained a very comprehensive history of the Humane Society of Rochester and Monroe County from 1873 to 1970, which I include in my remarks:

History of the Humane Society of Rochester and Monroe County From 1873 to 1970

The Humane Society of Rochester and Monroe County was founded by J. B. Werner in 1873 because of his great concern for horses and mules that pulled barges on the canal. Fifteen years later in 1888 it became necessary to protect other animals. After some work the Humane Society became a legal organization by the New York State Legislative Branch.

The Humane Society became a part of the City pound and was not widely known until in 1952, C. Raymond Naramore, a teacher for 35 year in West High School and known for his humane work with people as well as animals, started full time work for the Humane Society.

Mr. Naramore immediately started to work to make the Humane Society an active part of the Community life of Monroe County. He first made up a well organized program to present to the public. He formed Committees and a larger Board of Directors and spoke to assemblies in public schools; Scout troops; and any group who would listen to him. He moved the Society from the pound to an old barn on South Clinton Ave. His work soon became widely known and the public began to donate money for this project. Soon able to purchase 4 acres of land with the help of friends he purchased the first animals for children to come and see and pet. They were—three llamas, five deer, two burros and five persian caracul lambs. Later goats were added.

Ray continued to plan and build always looking ahead to the future. Food Huts were established so that people could feed the animals.

In 1964 Hiram Marks gave the Humane Society 140 acres on Victor Road, Fairport, N.Y. Many days, weeks and months of hard work obtaining pledges, contributions and donations until in 1966 ground was broken for our present "Lollypop Farm." Here at Lollypop Farm some of Ray's dreams came true. Strays, injured animals were picked up and the public could adopt dogs and cats from us.

Humane Societies cost money; Labor, Staff members, food for our animals, fuel, electricity and many other expenses that occur. We are ever expanding and growing.

Mr. C. Raymond Naramore, our Executive Vice-President, after 17 years passed away very suddenly on March 28th, 1969. Hundreds of heart warming letters have been received by his family and many tributes have been paid him. This beautiful painting that we are dedicating today is his final tribute. This beautiful painting was made possible by the gifts to the C. Raymond Naramore Memorial Fund from Ray's friends. We here at the Farm are striving each day to make our Society one that Ray would be proud of. With your help we will succeed.

Mr. Speaker, at the unveiling of the memorial painting, Mr. Thomas Justice, executive vice president of the Humane Society of Columbus, Ohio, was the guest speaker. For many years, Mr. Justice has been the president of the board of directors of the American Humane Association which has a membership of over 1,000 societies.

He knew Ray Naramore well, and I would like to share with my colleagues his speech which so finely captures the dedication of Ray.

The speech follows:

The Dedication of the Memorial Portrait of C. Raymond Naramore

One of the great privileges and pleasures of my thirty year career in humane work took place here when I was invited to participate in the dedication of these beautiful and modern animal facilities on July 9th, 1967.

As president of the American Humane Association I was proud to honor a fellow humanitarian, a fellow association board member, and a close personal friend, in the dedication of this humane complex, which had been a long time dream and cherished ambition of your then most esteemed and beloved, executive vice president, the late C. Raymond Naramore.

Today, three short years later, I return. I return with the same great privilege, the same pleasure, and the same fidelity of purpose to join with you in paying honor and tribute with deep and abiding love to the memory of this great but very humble benefactor.

I remember eighteen years ago when that man, who was new to formal and professional humane work, began his upward climb in our campaign against cruelty. A man, who had earlier in his life devoted himself to educating and encouraging children and who, when at the age of fifty-five threw himself into a new career, that embraced not only children but all living creatures.

I first met Ray Naramore eighteen years ago. I quickly learned that here was a man, who refused to approach any challenge without first having ammunition to meet that challenge, and here was a man, who refused to compromise any position or condition that was basically and fundamentally inhumane. Having once accepted the assignment to head the Humane Society of Rochester and Monroe county, he determined to learn first hand—how other humane organizations were operated and so—he came to Columbus.

He came to Columbus to observe the operation of my society. This was our first meeting. Ray stayed a week with me, and it was to me a very memorable week, with Ray working very hard to learn the intricacies of humane work, a field of endeavor he had not previously known from the inside. While he observed and learned, he also shared with me his hopes, his ambitions, and his philosophy for a better world—a world that would embrace kindness and compassion as a way of life.

When he left Columbus to return to Rochester, he took with him a commitment that his humane society would always offer succor to all helpless creatures, and that the humane education of the children would be of paramount importance in furthering the end toward kindness to all of God's animal's. He spent the rest of his life working toward that goal. I am sure that somewhere, somehow, he must know that this work, his work, is being carried forward as he had planned that it would.

Ray told me many times during the years that followed our first meeting how much he loved children and animals. It was that love that first brought him into this work and it was that love which sustained him over the difficult times he encountered while building this fine humane society into its rightful place of prominence on the local, regional, and national scenes.

Ray had, after all, devoted thirty-five years of teaching the youth of this community. As a classroom teacher and a student advisor he came in contact with all types of young people. He worked with boy scouts, girl scouts, and many other young peoples groups, and even before he turned himself to humane work he had exposed these young friends of his to his love for animals.

During his years as an educator, Ray Naramore, still had time to enjoy his animals, especially the horses and dogs he raised. When he retired from his formal education chores he eagerly accepted his new challenge with this society, and in so doing he implemented his educational know-how into a far reaching program of humane education, inculcating in the hearts and minds of all of this community's citizenry—a feeling of kindness and compassion toward all their animals. His efforts were successful.

Those of us who knew him intimately, also knew how much he gave of himself to that success. No matter what difficulty he faced, and no matter what the time of day the difficulty occurred, he was ready, willing and confidently able to meet and overcome any obstacle.

Ray Naramore was totally committed to humane work. His concerns encompassed not only those on the local scene but far more than Rochester and Monroe County. They encompassed the nation, and indeed problems of the world. Make no mistake those on your local scene were enough for any ordinary man to handle, but Ray Naramore was no ordinary man. By showing those larger concerns, Ray was forced to give even more of himself to the cause. He did so willingly and without hesitation. To do otherwise would have been unthinkable and so he gave of himself completely.

When Ray was invited to serve as a member of the board of directors of the American Humane Association he accepted without hesitation. We who worked with him on the association's board knew and understood his devotion. We admired him and loved him for his sincerity and for his enthusiasm.

We miss Ray Naramore and I miss Ray Naramore, as I know you do. His death last year left a place in your community and in our National Humane Movement that cannot be filled—but remembering him, as we are doing here today, with the dedication of this memorial portrait, will be an everlasting tribute to his devotion, his dedication, his love, and his enormous zeal for the protection of the helpless, and the prevention of cruelty to all mankind and his animals.

Let us all rededicate ourselves to the cause which Ray Naramore so fervently espoused and pray for the repose of his soul in everlasting peace, with the knowledge that his contributions toward the creation of kindlier attitudes, the protection of the helpless, and the prevention of cruelty were not in vain.

VIETNAMIZATION AND REPRESSION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 16, 1970

Mr. CONYERS. Mr. Speaker, I highly commend my colleagues, the gentleman from California, Mr. Augustus Hawkins, and the gentleman from Tennessee, Mr. William R. Anderson, for their diligence and perseverance during their recent factfinding tour of Indochina. The shocking disclosure of the treatment of prisoners in Con Son National Prison in South Vietnam points up once again the brutal and repressive nature of the regime which the Nixon administration maintains in power in Saigon. The most discouraging part of the whole episode is that this finding is only one blatant example of the pervasive police state tactics that govern the people of South Vietnam. For over a year, the present administration, including both the State Department and Dr. Henry Kissinger's office in the White House have had at their disposal a report issued by a U.S. study team on political and religious freedom in Vietnam which late last spring visited four South Vietnamese prisons and detailed the terrible conditions inside them, including the use of tiger cages at Con Son.

As one who was privileged to be a member of that study team I called for an investigation on the House floor, June 19, 1969. It was not acted upon despite the fact that our Government was at the time financing a $1.3 million expansion of the Con Son facilities.

In the meantime there have been at least four other reports calling attention to these conditions. One is the study by the Vietnamese journalist, Pham Tam, which I inserted into the Congressional Record on July 9, 1969. Another is based on the personal inspection of Con Son prison by a delegate of the International Committee of the Red Cross in Saigon, and was made available to both the Nixon and Thieu administrations. Finally, both houses of the South Vietnamese legislature have issued reports alleging torture of students in government prisons.

Notwithstanding these repeated disclosures, the chief American adviser on public safety in Saigon, Frank Walton, compared the Con Son prison to a Boy Scout recreation camp. Even after Congressmen Hawkins and Anderson had seen the tiger cages at Con Son with their own eyes, the American AID advisers for South Vietnamese prisons were insisting that conditions were not bad. But the situation goes far beyond the inhuman conditions which exist at Con Son or any of the other detention centers in the provinces of Vietnam. Con Son is not an isolated incident which minimal corrective action will erase. It is symptomatic of the continuing and brutal deprivation of freedom in South Vietnam. This charge hits fundamentally at the Nixon administration's Vietnamization plan to end the war. How can we expect the Thieu-Ky dictatorship to preserve itself in power if in the absence of terror and American muscle it is totally bereft of the popular support of its people?

I join today in sponsoring the concurrent resolution introduced by the gentleman from Tennessee (Mr. Anderson). This bill relates to the treatment and exchange of civilian and military prisoners in Vietnam and urges the President to impress upon the Thieu-Ky regime that we will not condone a continuation of their present violations of their own citizens' civil rights and liberties. But in my judgment the President must go further. He must seriously examine the Vietnamization program and honestly face up to the reality of the corrupt government we continue to support in Vietnam.

LEGACY OF THE COLD WAR IN INDOCHINA

HON. MICHAEL J. HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HARRINGTON. Mr. Speaker, in light of the continuing and heightened debate over the role of the United States in Southeast Asia I find an article by Townsend Hoopes in the July 1970 issue of Foreign Affairs extremely timely.

Mr. Hoopes, in explaining the basic rationale behind both the initial involvement of the United States in South Vietnam and the justifications for our continued presence in the country, points to a "cold war syndrome," which he describes as "alive and well and living in Washington." The author believes the policymakers of the Nixon administration tend to see "every local uprising as a mortal test of wills between a Communist octopus and the free world coalition."

It would appear to me that the deep division and emotional reaction to the Cambodian invasion was but an example of the rejection of this cold war syndrome by an increasing percentage of the American public. This article by Mr. Hoopes points out the archaic nature of the cold war syndrome and the pressing need for the President and a "small, influential segment of the foreign-military bureaucracy" to recognize that there is "no reason why our rich and powerful country cannot extricate itself from Indochina with reasonable poise and dignity, without a traumatic loss of self-confidence, and without a lapse into mindless isolation."

I find such observations by the former Under Secretary of the Air Force and distinquished author of "The Limits of Intervention" to be both pertinent and telling. I hereby insert "The Legacy of the Cold War in Indochina" which appeared in the July 1970 issue of Foreign Affairs into the Record:

LEGACY OF THE COLD WAR IN INDOCHINA

(By Townsend Hoopes)

A question recently posed by a distinguished colleague is central for anyone who earnestly seeks to understand how an entire generation of American political leaders, with the best will in the world, pushed the country onto the slippery slope that led ever downward into the engulfing morass of Indochina. The question is this: "Why did so many intelligent, experienced and humane men in government fail to grasp the immorality of our intervention in Vietnam and the cancerous division it was producing at home, long after this was instinctively evident to their wives and children?"

As a nation we are still only beginning to address this prickly and uncomfortable question. The New Left has of course long since rendered its own verdict: namely, that the entire leadership was venal, and was moreover acting within the compulsions of an imperialist system. For those, however, who still value reason and believe in factual, proportioned discourse as the most reliable road to approximate truth, the question is serious and compelling; ultimately it is inescapable. While we remain at some distance from a complete answer, it seems certain that an important part of the answer lies in what has been called the cold-war syndrome and in its ramified legacy. Every American over 40 (especially those between 40 and 60) shares involuntarily in this legacy, to a greater or lesser degree, because the cold war was the pervasive reality of the years in which that generation came to its political maturity. By cold war I mean, of course, the highly charged and dangerous power struggle that billowed up out of World War II between a monolithic communist structure directed by Stalin and a rather more loose, hastily reassembled coalition of nations led by the United States.

There is a tendency today, especially among younger people, to denigrate the Stalinist threat, to discount the challenge and the perils it presented, and by various efforts at historical revisionism to conclude that the cold war was an unnecessary happening provoked by American imperialists and militarists. The evidence of those who helped to formulate the democratic response, or who merely lived through the period, is of course quite different. The cold war was a real and bitter struggle touched off by Stalin's utterly serious efforts to subvert and capture Western Europe, to penetrate the Mediterranean basin, and to gain a major influence in the strategic Asian anchor, Japan. No doubt, U.S. insistence on free elections in Eastern Europe confirmed the worst suspicions of Soviet leaders that a universalist American capitalism intended to deny Russian paramountcy in the belt of states through which Hitler's terrible invading force had marched, a buffer zone regarded by Stalin as the minimal requirement of Russian security. But it was not merely the case of a Kremlin leadership understandably paranoid in the aftermath of unprecedented human loss and physical devastation inside its homeland; it was also the case of a leadership impelled by the iron logic of a messianic ideology, a fact that made the Soviet Union compulsively expansionist and thus something quite different from the classic nation-state. Through his far-flung operative Stalin discerned, in the war-bred chaos beyond his borders, new opportunities to extend Soviet power.

Disciplined, activist communist parties all over the world were almost instantly responsive to central direction from the Kremlin; and they were bent upon widespread disruption and seizure, stimulated by the brute fact that much of the civilized world lay physically and economically prostrate in the immediate wake of World War II. To meet and turn back a fundamental challenge to the power balance which we had fought that war to restore, we were thrust by irresistible logic into a series of dramatic salvage operations—to aid the Greeks and Turks, rebuild Europe through the Marshall Plan, establish the North Atlantic Treaty Organization, stand in Berlin, fight in Korea. As the one free nation with the necessary strength and coherence to lead the resistance, we were forced by the steady pressure of postwar crises to exertions of a scale and character that seemed to make our universal involvement a permanent necessity. While, in fact, the restoration of Western Europe and Japan, and the effective blunting of Moscow's ideological-military thrust, required only about eight years, the effort was totally absorbing. Combined with the harsh lesson in power realities taught by World War II, its effect was to shape the thinking of an entire American generation with respect to the way power is organized in the world and with respect to the requirements of U.S. security.

II

The Korean war in particular shaped our national attitudes about the developing situation in Vietnam and thus made probable, as early as 1954, our ultimate military intervention 11 years later. For the attack on South Korea was a Russian decision—a command by Stalin to send a Russian-trained puppet army across an established international boundary line. Washington saw the attack as a naked, centrally directed aggression, a bold attempt to upset the precarious postwar balance, a dagger aimed straight at our vital interest in Japan. This grave view only in resolutions, but in sending to battle was confirmed by the United Nations, not combat forces from 14 member nations. Such a vigorous response, mingling free-world idealism with a practical determination to defend the global power balance, was a singular triumph for the collective security idea. As it redeemed the dismal failures of the League, so also it confirmed the suspicion that the communist menace excluded no means in pursuing its expansionist aims.

Washington had thought it discerned the Russian hand in Southeast Asia even before this event. A month before the attack on Korea, the United States extended military and economic aid to those three petty states to which France had in 1948 granted a nominal independence within the French Union. Announcing the new policy from Paris, May 8, 1950, Secretary Acheson said in part: "The United States, convinced that neither national independence nor democratic evolution exists in any area dominated by Soviet imperialism, considers the situation to be such as to warrant its according economic aid and military equipment to the Associated States of Indochina and to France in order to assist them in restoring stability. . . ." While the policy reflected, in part, a price demanded by France for her cooperation with NATO, it seems fair to assume that the language was of American choosing. As the Korean war deepened, so did our assistance to the French forces in Indochina. A joint statement in September 1951 by high diplomatic and military officials of the two governments expressed "complete agreement that the successful defense of Indochina is of great importance to the defense of all Southeast Asia," and emphasized that American and French policies in Indochina "are not at variance." The United States promised faster deliveries of military equipment. A similar communiqué of June 30, 1952, expressed "unanimous satisfaction over the vigorous and successful course of military operations;" it added that the "excellent performance of the Associated States' forces in battle was found to be a source of particular encouragement." Already underwriting one-third of the total cost of the Indochinese war, we proceeded further to expand our military aid to "the French Union."

In 1954, we were just a year beyond a painfully achieved Korean truce, after three years of bloody fighting. The communists had won the civil war in China, a result which brought severe psychological shock to Americans, who had nurtured sentimental notions of the Chinese people and of U.S.-Chinese relations. Mao was consolidating his control over that vast land mass and its population then numbering 600 million people. Chinese communist intervention in the Korean war, brought on by a serious misreading of diplomatic signals on both sides and by the Truman-MacArthur decision to march to the Yalu, had highly charged America's fears of the Yellow Peril; more broadly, it had reinforced our perception of a precarious coalition of free states under assault across the entire globe by a seamless international conspiracy. In the circumstances, it was almost inevitable that the United States would view the impending French departure from Indochina as merely the opening of another avenue for communist expansion in Asia.

The possibility of local, independent communist action lay outside the range of our cold-war vision. As Secretary Dulles said in June 1954: "At the moment, Indochina is the area where international Communism most vigorously seeks expansion. . . . The problem is one of restoring tranquillity in an area where disturbances are fomented from Communist China, but where there is no invasion by Communist China." From the penetrating analyses of George Kennan, the leading Russian expert of his time, the somewhat undiscriminating inference was drawn that *every* form of communism flowed without limit into power vacuums and open crevices wherever they presented themselves. And Indochina without the French seemed to fit that interpretation almost precisely, with Ho Chi Minh dominant in North Vietnam and the Chinese land mass controlled by Mao.

America's policy, engineered by President Eisenhower and Secretary Dulles, thus set about building an anti-communist counterforce in the South—first by helping to establish the de facto reality of a new sovereign nation, next by finding and installing a new national leader (Diem), and then by endowing him with abundant economic and military assistance. The United States was not a signatory to the Geneva Agreements (nor to the Final Declaration of the conference which spelled out the agreement to all-Vietnam elections in 1956); as President Eisenhower explained it on July 21, 1954, the agreement "contains features which we do not like." In a separate statement at Geneva, the United States declared that, while it would refrain from the threat or the use of force to upset the terms of the settlement, it would take a grave view of any renewal of communist aggression in the area. It then moved urgently to conclude the SEATO alliance and to bring under its protection Cambodia, Laos and one-half of Vietnam, *i.e.* "the free territory under the jurisdiction of the State of Vietnam."

In July 1955, the new government in Saigon took, with U.S. encouragement, the next logical step; it rejected the North Vietnamese invitation to discuss elections, on grounds that were above suspicion in the West, given the context of total struggle against "International Communism." Saigon argued that the people in the North would be unable to express their will freely, and that falsified votes in the North could outweigh genuine votes in the South. Underlying every specific move was the firmest American determination to prevent any further communist advance.

It is significant that these policies and actions were strongly supported by the American people; there was no dissent from within government, very little from Congress or the press, and nothing significant from scholars or other close observers of foreign affairs. As a nation we had little perception that we might be frustrating a widely supported national independence movement by lending our aid and our prestige to what were at best colonial puppets, who suffered an innate incapacity to win over any sizable segment of the Vietnamese people to their side, and who, as it turned out, could not govern at all without the direct presence and support of a very large U.S. expeditionary force. What we saw predominantly was another disagreeable, but utterly necessary, effort to plug the dike against further communist expansion in Asia.

III

It is very difficult to argue today that that judgment did not reflect the historical and political truth for America at the time, for it was based on direct, chilling and bloody encounters with Stalinism at many strategic points on the globe. The trouble and the tragedy have been that the American response to the cold war generated its own momentum and, in doing so, led us progressively to actions beyond the rational requirements of our national security. Looking back, one can see why men of good conscience—even men with a sense of history—were vulnerable to the developing *hubris*, for the major elements of our national response had roots in some of the noblest American traditions. From Woodrow Wilson down through Franklin Roosevelt we were bequeathed the legacy of America's democratizing mission in the world. And whatever retrospective cynicism Americans might have felt at having fought in 1918 "to make the world safe for democracy," it did not make the "Four Freedoms" or the "Atlantic Charter" any less compelling as political aims in 1945. From Woodrow Wilson and Henry Stimson came the strong belief in the need for collective security against aggression, a conviction reinforced by the disastrous failures of the League of Nations in the 1930s which had led us to the holocaust of World War II. From the tense confrontation with Stalinism came a semiofficial, increasingly dogmatic anti-communism.

Each of these strands of policy was legitimate and useful, if applied with a sense of proportion. But what began happening after, and as a result of, the Korean war can be seen with the benefit of hindsight as extension pressed to the point of distortion.

Stimson's doctrine held that collective action was required to prevent rather clear-cut aggressions by great powers against the *vital* interests of other great powers, in order to maintain or restore a working balance of power among those leading states. But John Foster Dulles, who practiced a devil theory of communism, began to apply the collective security idea to cases where great power involvement was merely speculative or tenuous, or where the U.S. interest, seen in proportion, was only marginal. The Central Treaty Organization (CENTO), viewed by Dulles as a barrier to a Soviet military attack southward into the Middle East, merely generated improvements in the road network and other communications linking Iran, Afghanistan and Pakistan; it also provided Pakistan with arms in order to balance off India.

CENTO did not, however, prevent Soviet penetration into the Middle East; that feat was accomplished bloodlessly by the proven Western stratagem of offering military equipment—in this case to Egypt, Syria and Yemen. The South-East Asia Treaty Organization (SEATO), created in response to what was seen as the danger of communist Chinese hordes pouring down through Southeast Asia and on into Malaya, Burma and Indonesia, brought together a strange collection of physically weak or politically disabled partners. Indeed the unlikelihood that they could or would ever act effectively in concert was so apparent that the alliance provided only the thinnest cloak for what was privately understood to be its underlying purpose; namely, the protective exercise of U.S. power. Six months before the treaty was signed, Secretary Dulles had warned of a possible communist Chinese invasion of Southeast Asia. "If such overt military aggression occurred," he said on June 11, 1954, "that would be a deliberate threat to the United States itself. The United States would of course invoke the processes of the United Nations and consult with its allies. But we could not escape ultimate responsibility for decisions closely touching our own security and self-defense."

By these and similar pronouncements the Chinese communist menace was inflated, and the American defense line drawn through the heart of Southeast Asia. Thus were distortions of threat and interest progressively embedded in the unspoken suppositions of policy formulation, accepted by both political parties and sustained by American public opinion. From 1950 onward, we underwrote, for example, a large Nationalist Chinese Army on Taiwan, a policy based partly on the rationale that it was necessary to guard against a large-scale invasion from the communist mainland; more objective analysis showed in 1965 (when Mao's armed forces were better organized and equipped) that his chances of sending a sizable amphibious force across 120 miles of open water in the face of Nationalist aerial surveillance, the Seventh Fleet, and quickly available U.S. combat airpower was approximately zero.

By a similar process of inflation, the proportioned impulse that produced the Marshall Plan led later to the delusion of "nation-building" in Vietnam, and Lyndon Johnson's expressed hope of bringing the full fruits of the Great Society to the Mekong. Prudent and rational anti-communism, which recognized Moscow and Peking as major adversaries in the international arena, but understood that ideology is transient while national interests endure, degenerated for a time into a sort of religious obsession which saw the threat as a changeless, all-encompassing evil; the result was to becloud clear thought. The pressures thus arising from a combination of real and spurious threats and from our assumption of vast responsibility in a world seething with change and discontent, moved U.S. policy—and American opinion—toward a Pavlovian tendency to see every local uprising as a mortal test of wills between a communist octopus and the free world coalition. The trouble was, of course, that this view of our various adversaries as a monolith persisted long after the facts on which it was based had begun to shift.

The sea changes in the communist situation that occurred in the late 1950s and the 1960s are now well known; one needs therefore to cite only the major developments as reference points: (1) the Sino- Soviet breach, which split the vaunted unity of communist doctrine and thus progressively undermined the Soviet position as Mother Church; (2) developments within the U.S.S.R. itself—caused by years of effective NATO containment, the aging process, and the effects of affluence—which moved Russia toward the posture of a status quo power and noticeably reduced Soviet revolutionary fervor in relation to the underdeveloped world; (3) Moscow's progressive loss of appeal to and control over communist parties throughout the world that lie beyond the physical reach of Russian military power; and (4) the growing uneasiness of the Soviet position in Eastern Europe, brought about by broader economic and cultural relations with the West and the radiated effects of de-Stalinization in Russia. The latter process led, of course, over a period of years, not only to signs of public criticism of the official system in Russia, but also to varying kinds of self-assertion in Eastern Europe, where latent nationalism needed only opportunity to be rekindled. The invasion of Czechoslovakia in 1968 seemed to mark the end of officially tolerated post-Stalin liberalism, but it did not end Russian uncertainties in Eastern Europe; moreover, it once again showed the world a siege mentality that could hardly enhance the attraction of communism in other places.

Notwithstanding these developments—which between 1954 and 1964 were of course unevenly paced, partially disguised, and incomplete—every American policy action in Vietnam during that period, under three Presidents and ranging from economic aid to military training to military supply to the sending of advisers, continued to be based on what seemed a self-evident proposition: namely, that the expansion of "International Communism" presented everywhere, and in nearly every form, a direct menace to U.S. security that had to be stopped—in the last resort by whatever means were necessary.

We thus embarked upon large-scale military intervention in 1965 because the President's advisers, and the President who accepted their advice, remained the prisoners of their cold war experience at a time when communist power had in fact ceased to be monolithic and was breaking up into ideological and political fragments. Intellectually aware of this fragmentation, American leaders were nevertheless unable to acknowledge and apply the implications of that process for either "International Communism" or the U.S. interest in Southeast Asia. Still impelled by the long shock wave produced by the communist victory in China and the French collapse in Vietnam, they saw instability in that area as primarily the consequence of alien subversion; they also saw it as intolerable—and remediable.

The cold-war syndrome prevailing in Washington in 1965 thus represented no break with the Eisenhower and Kennedy periods. None of those responsible perceived the necessity—or the possibility—of redefining our interests or our role in the world in ways that would permit the drawing of more careful distinctions between those commitments and involvements that are in fact vital to our national security, and those that spring more or less from our deeply held view of what the world "ought" to be and of how it "ought" to be organized. A few viewed the prospect of a protracted testing of wills in insurgent-counterinsurgent combat with missionary zeal, accepting as an article of faith the dubious notion that an insurgency blocked in Vietnam would deter an insurgency planned in Jordan or Trinidad. Convinced absolutely of America's altruism, they were persuaded that only through the application of American-guided "nation-building," American counter-guerrilla doctrine and, if need be, American military forces could backward nations be saved from the scourge of instability and brought to their rightful place in the modern world.

Our efforts on behalf of South Vietnam through 1964 are not, I believe, fairly construed as immoral, if one thus understands the origins of the governing U.S. attitudes and the formidable new strength and dimension they were given by the relentless pressures of the cold war. Though flawed by progressive misconceptions, U.S. policies toward Southeast Asia were well intentioned and pursued in the earnest belief that we were defending freedom. Yet at each of several critical junctures—in 1962 when President Kennedy (at the prompting of General Maxwell Taylor and Walt Rostow) introduced artillery and fighter-bomber aircraft into South Vietnam and raised U.S. advisory strengths from 700 to 16,000; after the overthrow of Diem in November 1963; in the autumn of 1964 when the collapse of the cardboard regime in Saigon seemed imminent—American leadership failed to grasp the central truth: namely, that the U.S. interest in Southeast Asia is limited, not vital; that while a limited effort to shore up South Vietnam was warranted, a total effort to save a government founded at low tide upon the receding sands of the French colonial empire was both alien to our interest and destructive of our reputation. The sudden discontinuity in the American presidency may well have been the decisive factor after 1963.

In any event, the chances for restraint, for acknowledging mistakes with reasonable grace, and for an intelligent cutting of losses were missed. The nation went over the brink and down the slippery slope. We failed to see that the realization of our ostensibly limited objectives in Vietnam required in fact the total frustration of the other side's aims, and thus might well involve a wholly open-ended commitment. North Vietnam's unexpected tenacity, deriving from the fact that the war was for Hanoi a vital struggle, led us in the event to the application of progressively unlimited means. This loss of proportion led to wanton destruction, to a gross disparity between ends and means, and therein lies the immorality.

It would be, of course, incorrect and unfair to place all of the blame on President Johnson and his advisers, for, as is evident, we are dealing with what has been a national state of mind. It is well to remember that the advisers were widely regarded when they entered government as among the ablest, the best-informed, the most humane and liberal men who could be found for public trust. And that was a true assessment. President Johnson himself reflected a fateful duality, with overtones of personal tragedy. In late 1964, before the decision to insert American combat forces was taken, there is evidence that he clung to very real doubts concerning the wisdom of further U.S. military involvement in Vietnam, and that he resisted the contrary advice of major cabinet officers. But once he was overborne by the felt pressure of events or the collective weight of his advisers' experience, once he was committed, then his visceral preference for victory came into the open. From that point onward, his domineering personality and his strong allergy to dissent within the bosom of his official family made it almost certain that advice to him would continue to be homogeneous.

Three years later—with a half-million Americans waging no better than a military stalemate, with physical and human destruction in Vietnam on a rising scale, with our domestic scene punctuated by protests, draft resistance and the fateful merging of anti-war and racial dissension—it still required a near cataclysmic event to arrest a policy of open-ended escalation. To put the matter more precisely, it required the dramatic, undisguisable shock of the Tet offensive to knock the props out from under the contrived structure of official optimism, to create heavy public pressures for change, and thus to enable a few well-placed and determined men within the government to restore a measure of proportion to our policy in Vietnam.

IV

What are the outlines of the situation today, a little more than two years after the Johnson decisions that put a ceiling on the war? They suggest the tenacity of the legacy. Shopworn, altered by circumstance, lacking the full confidence of old, the cold war syndrome appears nevertheless to be alive and well and living in Washington.

One perceives that President Nixon had the opportunity (like President Eisenhower with respect to Korea in 1953) to take definitive steps toward liquidating the war during his first months in office, without political risks for himself, indeed with political benefit for both his own party and the cause of national unity. In fact, his opportunity was broader. It was no less than the chance to lead the nation firmly away from a decade of self-deception in Indochina, to admit a national mistake and by that cleansing act begin to uncoil the contradictions and restore the national balance. He could have set himself the task of demonstrating that, after five years of major fighting, we had done as much as we could do to assist South Vietnam, and that our proper course should now be an orderly but unswerving withdrawal, recognizing two central realities: that the tangled political issues which torture and divide Vietnam, growing as they do out of long colonial repression and the consequent struggle to define a national identity, can be settled only among the Vietnamese themselves; and that contrary to the erroneous assumption on which U.S. military intervention was based, the particular constitutional form and ideological orientation of Vietnamese politics do *not* affect the vital interests of the United States.

It is significant that the new President did not take that road, but meditated upon the problem until the honeymoon period was over and the war had become unmistakably his responsibility and that of the Republican Party. Why did he do this? One is drawn by his actions and utterances to the conclusion that he personifies the ambivalence of his generation, which is now in uneasy transition from the ingrained certitudes of the cold-war syndrome toward somewhat unpalatable new truths. He is somewhere between believing in the essential rightness of this war and understanding that the American interest requires its liquidation. He has evolved a policy that seems aimed at substantially reducing and possibly ending the American role, but so conditionally and gradually as to make the process almost imperceptible. At the same time, he has been unwilling to abandon either the rhetoric that supported our intervention in the first place or the implicit insistence that our proxy must prevail even if we depart. Like his immediate predecessor, he appears to lack the scale of mind and the inner security required to risk even a transient loss of national prestige for the sake of a healthy national adjustment to reality in Southeast Asia.

On November 3, 1969, Mr. Nixon said he was proceeding on two fronts: "a peace settlement through negotiations or, if that fails, ending the war through Vietnamization." Negotiations have thus far failed—chiefly because the U.S. negotiating position does not reflect current realities. With minor embellishments, this position still rests on the President's proposals of May 14, 1969, calling for mutual withdrawal of United States and North Vietnamese forces followed by internationally supervised elections, which would be arranged by a special commission in which the National Liberation Front would participate. But Hanoi has never been prepared to accept arrangements for elections worked out under the auspices of the Thieu government and in which the winner would take all; and the U.S.—South Vietnam military position (now affected by the withdrawal of 110,000 American troops and the announced intention to remove another 150,000) is not sufficient to compel the withdrawal of North Vietnamese forces. The resulting deadlock at Paris ought not to be surprising; it reflects the fact that our present political aims exceed our bargaining power.

To put it bluntly, the one thing we can negotiate at this stage of the war is the manner of our going. Averell Harriman, who speaks with a special authority on the subject of negotiations with the North Vietnamese, appears to believe that if we would declare our intention to leave South Vietnam, we could negotiate not only the return of our prisoners, but also the formation of a neutral government in the South, including but not dominated by the National Liberation Front, and committed to settlement and cordial relations but not merger with North Vietnam. According to Mr. Harriman, an unambiguous American declaration of departure could bring the Russians into a cooperating position, and could thus establish the preconditions for international guarantees of the negotiated arrangements, including, after a reasonable period, international supervision of all-Vietnam elections.

It does not seem impossible that a clear-minded President could lead American opinion to an understanding that firm action along this line need not be cause for a national nervous breakdown; in fact, the military and economic, as well as the psychological, advantages of removing our leg from the quicksand are fully demonstrable. Our power and influence would not evaporate. We would not be rendered incapable of defining and defending our vital and legitimate interests. On the contrary, our ability to reassure our NATO and Japanese treaty partners, and our capacity to exert a firm and steadying influence on the dangers in the Middle East, could only be enhanced by the restoration of our global poise. Our industrial, technical and cultural achievements would continue to astound and attract the world.

President Nixon remains convinced, however, that American prestige in Asia rides on the survival of an anti-communist régime in Saigon. He thus sees an approach such as the Harriman proposal as leading to "humiliation and defeat for the United States." He employs the scarce tactic of a "bloodbath" if we should depart under conditions that would leave the survival of the Thieu régime in doubt. In this he misrepresents the known facts concerning Hanoi's treatment of Catholics in the North since 1954, and ignores: (a) the clear reality that an announced U.S. intention to depart would create a strong incentive for compromise settlement among virtually all South Vietnamese, except the inner circles of the Thieu régime; (b) the marked Vietnamese capacity and penchant for accommodation; and (c) the fact that a bloodbath exists in Vietnam *here and now*—in the form of indiscriminate killing and destruction produced by B-52 saturation raids, search-and-destroy operations, "free fire" zones, and atrocities such as those perpetuated at Song My. From such a perspective, the President was not moved to modify his negotiating position at Paris, but to invade Cambodia in what most experienced observers regard as an illusory attempt to force Hanoi to negotiate on his terms.

Thus strapped to a negotiating position that cannot succeed, he is thrown back upon the policy of Vietnamization. This is a policy of a certain virtue, but it is important to understand what it can and cannot accomplish. If linked to a definite deadline for total withdrawal, it can be a vehicle for the relatively rapid extrication of American forces; if not so linked, it can become the deliberate or inadvertent centerpiece of an argument designed to show that the permanent retention of sizable American forces in South Vietnam is an inescapable necessity if we are to avoid "humiliation and defeat." In neither case, however, is Vietnamization likely to lead to an ending of the war through political settlement. For by enlarging and strengthening South Vietnamese armed forces, it buttresses Saigon's natural resistance to compromise negotiation; on the other hand, it cannot change the military balance sufficiently to modify Hanoi's refusal to negotiate on Saigon's terms. Unfortunately, President Nixon is trying to leave the impression that Vietnamization is somehow equivalent to negotiations, in the sense that it leads to 'a just peace;" in fact, it moves in the opposite direction—toward making the war interminable.

The Nixon policy thus comes down to a continuation of the strategy of attrition, hopefully at lower and therefore politically acceptable levels of violence, and ending hopefully at some distant date in a sort of triumph by survival for the Thieu régime. It is a policy built on the gossamer dream that the Thieu forces can in fact be enabled to stand alone against North Vietnam within the time-frame defined by American domestic pressures for the withdrawal of U.S. forces. It is a policy which seeks to control events in Southeast Asia, while at the same time reducing U.S. forces and thus U.S. bargaining power and influence in the area. It is a policy which declines to come to grips with the hard choices that must be made if U.S. forces are to be protected as their numbers decline and the war continues.

In particular, the insistence on a very gradual, very conditional departure creates vulnerabilities that are potentially grave. The lingering nature of the process makes it vulnerable to unanticipated intervening events—like the Lon Nol coup in Cambodia—which knock it off balance, create new pressures for compensatory military action, and thus further confound an already complicated set of equations. At the same time, the conditional nature of the process—the uncertainty over whether we intend to leave totally or only partially—precludes a negotiated settlement and works against the development of even a tacit understanding with the other side with regard to lowering the level of violence. It thus increases the jeopardy of U.S. forces. It also keeps alive the hopes of those who, erroneously believing the 38th and 17th parallels present analogous issues, want to "do a Korea;" that is apply indefinitely whatever American muscle is required to transform South Vietnam into an anti-communist bastion.

It is reasonable to suppose that the perception of some or all of these weaknesses in present U.S. policy, and a desire to escape their consequences, was what led President Nixon to his watershed invasion of Cambodia. That decision, taken virtually without consulting any person or institution that shares his Constitutional responsibility, brought to a climax an already growing crisis of confidence in the national leadership. It showed how seriously the President had underestimated the risks of his policy for the continued cohesion of our own society. It showed that the Indochina issue is more than ever a virulent poison in the national bloodstream, reaching now to all segments of the population, but permeating those citizens under 25 years of age who are called upon to do the actual fighting and who by 1975 will comprise nearly half the population. It made blindingly clear the grave peril of extending our national preoccupation with the Indochina war for an indefinite period.

These are somber indicators of the prospect before us; yet the shocked and impassioned general reaction to the Cambodian adventure may in fact point the way to more hopeful developments. For that reaction seems to show that, while the President and a small, influential segment of the foreign-military bureaucracy remain residually hooked on the cold-war syndrome, there is rapidly widening agreement in the Congress, the press, the intelligentsia, and even in the putative silent majority on these propositions: (1) the United States does not and cannot control events in Southeast Asia, either at the present level of effort or with a much larger commitment, and neither can the Russians or the Chinese; (2) the United States has no *vital* interest at stake in Indochina; we can accept and adjust to whatever outcome is arrived at by the people who live there; (3) the United States must wholly terminate its military role in Indochina within a short time (by the end of 1971 at the very latest) or else accept grave risks of our own national disintegration; and (4) if our elected leaders will cease their appeals to the emotionalism that unavoidably surrounds the concepts of "national commitment" and "national prestige," and will deal in true proportion with the real choices facing us in Southeast Asia, there is no reason why our rich and powerful country cannot extricate itself with reasonable poise and dignity, without a traumatic loss of self-confidence, and without a lapse into mindless isolation.

The highest test of character is to learn from the past, to admit one's mistakes, and to act on that admission. This remains the course of honor and reason and sanity for United States policy in Indochina. Any other course can only compound the present contradictions and lead us to the kind of trauma that could quite literally dissolve the bonds of our political union.

PREVENTIVE DETENTION VI: THE CHICAGO BAR ASSOCIATION SAYS NO

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MIKVA. Mr. Speaker, I commend to the attention of my colleagues the recently issued report of the Civil Rights Committee of the Illinois Bar Association opposing the preventive detention provision of the District of Columbia omnibus crime bill. Those of us who are both concerned with the grave problem of crime prevention and the protection of individual liberties welcome the support of this distinguished organization's forceful report on this important issue.

The report thoughtfully expresses both the constitutional and practical dangers of preventive detention to the American system of justice. It states that the Nixon administration's bill might compound the existing problem of administering justice in the District of Columbia by adding to the burden of the courts. Furthermore, the Bar association's report criticizes the Justice Department for not adequately researching the objective value of preventive detention.

In opposing the short-sighted and potentially dangerous measure proposed by the administration, the report calls for less extreme measures, and a more thoughtful and factually based approach to the frustrating problem of crime control.

The report follows:

REPORT OF CIVIL RIGHTS COMMITTEE

I. BACKGROUND

Of the many causes cited as contributing to the increase in crime, one which in recent months has been the subject of significant attention—the pre-trial release of criminal defendants—has risen to prominence principally as a result of legislative, rather than judicial, action.

The Bail Reform Act of 1966 enacted by the 89th Congress revised existing eligibility standards for the pre-trial release of defendants in non-capital cases. 18 U.S.C. §§ 3041, 3141–43, 3146–52, 3568 (Supp. III, 1968). The Act provides that any person charged with a non-capital crime shall be released on his personal recognizance or upon the execution of an unsecured appearance bond, unless it is determined that additional safeguards are required to assure the appearance of such a person, whereupon a judicial officer may impose any one or any combination of the following additional conditions:

"(1) place the person in the custody of a designated person or organization agreeing to supervise him;

"(2) place restrictions on the travel, association, or place of abode of the person during the period of release;

"(3) require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security as directed, of a sum not to exceed 10 per centum of the amount of the bond, such deposit to be returned upon the performance of the conditions of release;

"(4) require, the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof; or

"(5) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours. 18 U.S.C. § 3146 (a) (Supp. III, 1968)."

Thus, the Act does not permit, in the making of such determination, consideration of possible risk the released defendant might represent to the community. The legislative history of the Act makes this point quite clearly:

"This legislation does not deal with the problem of the preventive detention of the accused because of the possibility that his liberty might endanger the public, either because of the possibility of the commission of further acts of violence by the accused during the pre-trial period, or because of the fact that he is at large might result in the intimidation of witnesses or the destruction of evidence. . . . Obviously, the problem of preventive detention is closely related to the problem of bail reform. A solution goes beyond the scope of the present proposal and involves many difficult and complex problems which require deep study and analysis. The present problem of reform of existing bail procedures demands an immediate solution. It should not be delayed by consideration of the question of preventive detention. Consequently, this legislation is limited to bail reform only. H.R. Rep. No. 1541, 89th Cong., 2d Sess. 18 (1966) (remarks of Congressman Celler)."

With the opening of the present 91st Congress it became evident that there was a desire in both Houses to take a further look at the Bail Reform Act. Hearings held by the Subcommittee on Constitutional Rights of the Senate Judiciary Committee indicate that, while many members endorse the objectives of the Act, there is considerable sentiment for providing discretionary authority to judicial officers to consider factors other than likelihood of a defendant's appearing for trial in determining eligibility for release. This attitude was reflected in President's call on January 31, 1969 for legislation to permit pre-trial detention of defendants in non-capital cases whose pre-trial release is considered dangerous to the community at large or to particular individuals. 27 Cong. Q. Weekly Rep. 238 (Feb. 7 1969). Pursuant to the President's request, the Department of Justice sent the Senate a proposed amendment to the Bail Reform Act of 1966. This proposed amendment, S. 2600, was introduced by Sen. Roman L. Hruska, Neb., R., on July 11, 1969. 115 Cong. Rec. S7906–11.

S. 2600 would amend the Bail Reform Act for the purpose of reducing crime committed by persons released on bail. The principle features of the bill are:

"1. Authority to consider danger to the community in setting conditions of pre-trial release;

"2. Authority to deny pre-trial release for a sixty day period to specific categories of defendants who are found to be dangerous after an adversary hearing with appropriate procedural safeguards;

"3. Authority to revoke pre-trial release and detain defendants who violate release conditions; and

"4. Provision for mandatory additional terms of imprisonment to be served consecutively by persons found guilty of bail jumping or of committing an offense while on pre-trial release. 115 Cong. Rec. 7909 (1969)."

This report is concerned solely with the most controversial of these provisions—namely those summarized in sub-paragraph 2 above, dealing with pre-trial detention for a period of sixty days. These provisions are also set forth in detail in Appendix A to this report.

The legislative history of these pre-trial detention provisions is further complicated by the following developments. On July 11, 1969, Sen. Hruska and others introduced S. 2601 for the Nixon Administration, proposing reorganization of the courts of the District of Columbia. 115 Cong. Rec. S7906. S. 2601 passed the Senate within 70 days of its submission, on September 16, 1969. (See remarks by Sen. Ervin, 116 Cong. Rec. S4387 (March 24, 1970)). On March 19, 1970, the House of Representatives passed H.R. 16196, the "District of Columbia Omnibus Crime" bill, substituting this omnibus bill for the Senate text of S. 2601 and returning S. 2601 to the Senate with a request for a conference. 116 Cong. Rec. H1956–H2090. H.R. 16196 includes preventive detention legislation; S. 2601 is entirely devoid of any reference to preventive detention. Moreover, the preventive detention measures contained in H.R. 16196 are identical to the principal features of S. 2600 previously summarized.

On March 24, 1970, the Senate amended S. 2601 as amended by the House, substituting bills previously passed by it and omitting all provisions for preventive detention; the Senate also requested a conference with the House on the disagreeing votes of the two Houses thereon. 116 Cong. Rec. S4392 (March 24, 1970). It is somewhat disturbing to observe that the senators who were most critical of preventive detention (such as Senator Sam Ervin of North Carolina) were not included among those appointed to represent the Senate on the Conference Committee.

II. CONSTITUTIONAL ISSUES

The question whether pre-trial detention of a defendant considered dangerous to the community at large or to particular individuals would be constitutional entails two separate issues: first, whether the "excessive bail" clause of the Eighth Amendment gives or implies an absolute right to bail, and makes its denial unconstitutional; and second, whether the due process clause of the Fifth Amendment prevents the imprisonment of a defendant on the basis of a prediction of future misconduct. Neither of these two issues has been decided by the Supreme Court.

The most recent consideration of the meaning of the Eighth Amendment is *Carlson* v. *Landon*, 342 U.S. 524 (1952), (5–4 decision). In an opinion by Mr. Justice Reed, the Court held that alien members of the Communist Party were not entitled to be released on bail, pending final determination of their deportability. Mr. Justice Reed said:

"The bail clause was lifted with slight changes with the English Bill of Rights Act. 1 Wm. & Mary II, ch. 2, § 1 (10). In England that clause has never been thought to accord a right to bail in all cases, Petersdorff, on Bail, 483 et seq., but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different concept. I Annals of Congress 753. The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country. Thus in criminal cases bail is not compulsory where the punishment may be death. I Stat. 91, § 33; Rules of Criminal Procedure, 46(a). Indeed, the very language of the Amendment fails to say all arrests must be bailable. We think, clearly, here that the Eighth Amendment does not require that bail be allowed under the circumstances of these cases. *Carlson* v. *Landon*, 342 U.S. at 545–546."

Although Justice Reed does not *explicitly* say, here, that the only properly bailable cases are those which Congress has defined as bailable, it should be observed that he did say that, "The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country." To illustrate this point, he observed that, "Thus in criminal cases bail is not compulsory where the punishment is death."[1]

Arguing in dissent in *Carlson*, Mr. Justice Black rejected the Court's interpretation of the Eighth Amendment, as expressed by Justice Reed, saying:

"As to (1): The Eighth Amendment is in the American Bill of Rights of 1789, not the English Bill of Rights of 1689. And it is well known that our Bill of Rights was written and adopted to guarantee Americans greater freedom than had been enjoyed by their ancestors who had been driven from Europe by persecution. As to (2): It is true bail has frequently been denied in this country 'when the punishment may be death.' I fail to see where the Court's analogy between deportation and the death penalty advances its argument unless it is also analogizing the offense of indoctrinating talk to the crime of first degree murder. *Carlson* v. *Landon*, p. 557."

The other three dissenting justices (Frankfurter, Douglas and Burton) did not join in Mr. Justice Black's dissent, but Mr. Justice Burton, besides joining in Mr. Justice Frankfurter's dissent, added "the suggestion that the Eighth Amendment lends support to the statutory interpretation he advocated. That Amendment clearly prohibits federal bail that is excessive in amount when seen in the light of all traditionally relevant circumstances. Likewise it must prohibit unreasonable denial of bail." (p. 569).

Stack v. *Boyle*, 342 U.S. 1, is another recent case which considers the meaning of the Eighth Amendment's "excessive bail" clause. In an opinion by Mr. Chief Justice Vinson, the Court held that the constitutional prohibition of excessive bail was violated when a District Court uniformly fixed an amount of $50,000 for each of twelve members of the Communist Party charged with conspiring to teach or advocate the overthrow of the government by force or violence. Speaking for the Court, Mr. Chief Justice Vinson said:

"From the passage of the Judiciary Act of 1789, 1 Stat. 73, 91, to the present Federal Rules of Criminal Procedure, Rule 46 (a) (1), federal law has unequivocally provided that a person arrested for a non-capital offense *shall* be admitted to bail. p. 4.

"The right to release before trial is conditioned upon the accused's giving adequate assurance that he will stand trial and submit to sentence if found guilty. pp. 4–5.

"Bail set at a figure higher than an amount reasonably calculated to fulfill this purpose is 'excessive' under the Eighth Amendment. p. 5.

"Since the function of bail is limited, the fixing of bail for any individual defendant must be based upon standards relevant to the purpose of assuring the presence of that defendant. The traditional standards as expressed in the Federal Rules of Criminal Procedure are to be applied in each case to each defendant. p. 5."

In a separate concurring opinion, Mr. Justice Jackson, with whom Mr. Justice Frankfurter joined, agreed with Chief Justice Vinson's understanding of the function of bail adding: "But the judge is not free to make the sky the limit because the Eighth Amendment to the Constitution says: 'Excessive bail shall not be required. . . .'" (p. 8)

Suffice it to say, then, that from the foregoing quotations there are basically two ways of reading the Eighth Amendment: (1) either as guaranteeing an absolute right to bail in non-capital criminal cases; or (2) as a guarantee to reasonable sums of money calculated according to standards relevant to assuring the defendant will not flee the jurisdiction and based upon provisions of federal law as determined by Congress.

Professor Caleb Foote, in a historical study of the Eighth Amendment and its framers, argues that the right to bail was acknowledged as a primary right that had to exist in a large class of cases and that reference to excessive bail was merely one method of preventing any circumvention of this right. Foote, "The Coming Constitutional Crisis in Bail": I, 113 U. Pa. L. Rev. 959, 965–989 (1965). Foote builds a strong case explaining why the inadequate expression of this intent to have an absolute right to bail was the result of a historical accident. See too his testimony in *Hearings On Amendments To The Bail Reform Act Of 1966*, Before Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary, 91st Cong., 1st Sess., at 357 (1968). But with all due respect for Professor Foote's argument of historical accident, it is certainly true that an explanation of this historical event as an accident appears to be less than immune to attack. See *e.g.*, Mitchell, Bail Reform and the Constitutionality of Pre-trial Detention, 55 Va L. Rev. 1223 (1969).

In short, the argument for the absolute right to bail interpretation of the Eighth Amendment rests on a shaky foundation. Federal law has always provided for the right to bail by statute; and the statutes have traditionally denied the absolute right to bail in capital cases. Moreover, it would not be taking liberties to deduce from Mr. Chief Justice Vinson's remarks in *Stack* v. *Boyle* that the purpose and function of bail is to assure the presence of the defendant at trial. If this is correct, then it may reasonably be argued that setting bail and the application of the Eighth Amendment to this procedure was not meant to apply to people considered so dangerous to the community that they ought be released. Whether this would be a worthwhile argument to pursue or not, it is interesting to note that bail is generally discussed in terms of assuring the appearance of the accused for his trial and not in terms of protecting society from dangerous persons.[2]

Even the rationale for denying bail in capital cases is based on the idea of assuring the appearance of the accused for his trial, since it is assumed that a man who knows that conviction could mean his life would attempt to flee the jurisdiction. If Congress, consistently with the Eighth Amendment, could enact the statutes which gave the right to bail in noncapital criminal cases and denied this right in capital cases, based upon the ostensible purpose of assuring that the accused would be brought to trial, Congress apparently, with equal consistency, could also pass a new statute denying the right to bail to persons because of predictions about their dangerousness to society.

Even assuming that preventive detention will survive an attack based on the Eighth Amendment, the due process issue must still be faced. Due process problems concerning the nature of the procedural system for administering preventive detention are exceedingly difficult. Aside from the obvious argument that preventive detention would violate due process *ex hypothesi*, since it would deprive the defendant of his liberty before a conviction, the outstanding fact is that we simply do not have available the predictive techniques that an acceptable system would require. As a result of this lack of technical proficiency, would there not be an inevitable tendency to over-detain? This emerged with particular clarity during the 1969 hearings of the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary. See especially testimony of Professor Dershowitz, Hearings on Amendments to Bail Reform Act, pp. 172–185. While it has been argued that the civil commitment of the mentally incompetent to stand trial, sexual psychopaths, narcotics addicts, chronic alcoholics, and the mentally ill provide analogous situations (see Mitchell, *supra* at pp. 1233–1234) the analogies are far from compelling. The essence of the problem is that comparable standards of judgment are unavailable in ordinary criminal cases, prior to full trial. Although some of the proposals for preventive detention try to minimize the dangers of abuse by specifically defining the offences to which the procedure would be applicable, and by providing for some form of adversary, though summary, proceedings, they do not obviate the basic difficulty of lack of adequate knowledge and standards for judgment. Indeed the closer that the hearing on detention comes to a full trial, the more it accentuates the underlying evil of court congestion and delayed trials.

It has also been argued that pre-trial detention has in effect been authorized, without violation of due process, in the denial of bail in capital cases as well as in the setting of prohibitively high bail in noncapital cases. In response to this argument, it should be noted first that the denial of bail in capital cases is primarily to assure appearance at the trial rather than to prevent danger to the community; and second that setting of prohibitively high bail is an abuse of the bail process which has been increasingly frowned upon both by judicial decisions (*e.g., Stack v. Boyle, supra*) and by the Bail Reform Act itself. Consequently it is doubtful that such arguments will be very persuasive in countering the due process objection.

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[1] The rule in point, here, is: (1) *Before Conviction*. A person arrested for an offense not punishable by death shall be admitted to bail. A person arrested for an offense punishable by death may be admitted to bail by any court or judge authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense. Federal Rules of Criminal Procedure, 46(a) (1).

[2] This statement does not apply to bail after conviction and pending appeal.

III. CONCLUSION

Our opposition to the current proposals for pre-trial detention is not, however, based primarily upon constitutional objections, even though these are serious and might be conclusive. Rather it is based upon the need for a more carefully thought out and factually supported program for improving the administration of criminal justice than is represented by these current legislative proposals. Almost all the experienced and well-informed witnesses at the 1969 Hearings of the Subcommittee on Constitutional Rights agreed that the most fundamental step toward solving the problem of crimes committed by criminal defendants awaiting trial would be the substantial expediting of the processes of criminal justice. It was testimony such as this which convinced Senator Ervin that pre-trial detention, instead of contributing toward such a fundamental solution, might even aggravate the situation by increasing court congestion through the need for additional, adversary pre-trial hearings.

Finally, Senator Ervin was particularly disturbed by the lack of a basic factual study to support the administration proposals. As he said in the last Senate debate on the District of Columbia Omnibus Crime Bill:

"If there was one thing upon which all witnesses were agreed in the January 1969, hearings of the Constitutional Rights Subcommittee, it was that there was inadequate information upon which to judge the necessity for such a gross invasion of the Bill of Rights. 116 Cong. Rec., p. 8915 (March 24, 1970)."

This was especially surprising because a major scientific study was commissioned by the Law Enforcement Assistance Administration and conducted by the National Bureau of Standards to ascertain the amount of pre-trial crime committed, to develop reliable predictive devices, if possible, to support preventive detention, and to search out ways to prevent and control pre-trial crime short of preventive detention. This commissioned study was completed on March 31, 1970, and it is astonishing that the Department did not allow for its completion and utilize its conclusions so that any legislation on preventive detention could be considered objectively on its merits. Senator Ervin has suggested that the study "will refute much of the frantic rhetoric the Department has issued about the need for preventive detention". 116 Cong. Rec., p. 8915 (March 24, 1970).

In the last analysis, however, the concept of due process must achieve a reasonable balance between essential protections of the individual and the essential protection of society. In this balancing process, fundamental fairness requires that the less extreme remedies must be exploded and tested before going on to the more extreme ones. This has not been done in the situation at hand. Attorney General Mitchell himself admits that alternative methods for dealing with the problems of crimes committed by persons released pending trial, such as speedier trials, better and more complete supervision of such released persons, and prompt revocation of the release in case of violation of such conditions, including of course, any subsequent offenses, have not been either extensively or effectively used. (See Mitchell, *op. cit. supra*, 55 Va. L. Rev. at 1242.) Whatever may be said with respect to the merits of such intermediate proposals, the case has certainly not been made out for proceeding immediately to so drastic a remedy as a pre-trial detention with all its concomitant evils, based on such elusive standards as are now being proposed.[3]

The problems we face in America, today, are exceedingly frustrating; but we must not allow frustration to lead us to extreme and costly overreactions which may undermine our way of life. As Chief Justice Burger has just reminded us.

"In periods of stress there are always some voices raised urging that we suspend fundamental guarantees and take short-cuts as a matter of self-protection.

"But this is not our way of doing things short of a giant national emergency.

* * * * *

"In those few periods of our history when we suspended basic guarantees of the individual in times of great national emergency we often found, in retrospect, that we had overreacted. (Speech to the American Law Institute, May 19, 1970, reported in Chicago Daily News, May 20, 1970.)"

THE SECRET CONGRESS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. SCHEUER. Mr. Speaker, there has been a striking amount of high quality support lately from the "fourth estate" for the bipartisan, antisecrecy amendments being proposed to the Legislative Reorganization Act. Various columns and editorials have focused their attention on the need for open committee sessions and similar recommendations designed to enable the public to scrutinize congressional activity.

There has been a noted absence of concern, however, with record votes on House amendments. If we are willing to propel the House to its legitimate status as a truly representative body, I strongly believe that we should respond to these voices around the country and conduct our operations in the public eye. Secrecy in the House is by no menas the fancy of the press' imagination as some have suggested. Rather, it has become so integral a part of our congressional lives that, I fear, we scarcely notice it. Demands for a more responsive Congress have come from all quarters of society. Today's passage of the amendment permitting radio and television coverage of committee hearings is an admirable first step in removing any Byzantine skulduggery from the House.

I urge adoption of all of the bipartisan antisecrecy amendments, but particularly the O'Neill-Gubser amendment to provide for record votes on amendments. It seems to me that how we vote on key issues before the House is the absolute minimum we owe our constiuents. I would like to include in the RECORD several articles and editorials which will be of interest to my colleagues:

THE SECRET CONGRESS

(By Donald R. Larrabee)

WASHINGTON.—America may have an "open society," compared to Communist countries, but Congress remains largely a "secret society." Most Americans actually do not know what their congressman is doing much of the time, despite the extensive press coverage of the House and Senate.

This is because the real work of Congress is done in committees, behind closed doors, and not on the floor in open view. Congressmen defend the practice as being in the interest of either national security or a smoother legislative process. The press and some other outside groups have challenged the secrecy rules to little avail.

GROUP SEEKS HOUSE REFORMS

Now, for the first time in anyone's memory, a group of concerned House members has come forth with a serious critique on the secrecy problem and some proposed solutions. The Democratic Study Group (DSG), a band of liberal Democrats seeking House reforms, worries that public confidence in the House may be destroyed unless something is done to expose the deliberations of Congress at their roots.

The DSG points out that secrecy takes many forms. It is closed committee meetings; it is refusal to disclose record votes taken in committee; it is the unavailability of reports and other information about the contents and effects of bills.

Beyond this, on the floor itself, there are scores of non-record votes on major amendments in the House (but not the Senate). And all House-Senate conference committees, where the final bargaining is done, are closed tight.

"Whatever the form," the committee says, "the effect of such procedures is to deny the public and members of Congress themselves basic information they need to participate effectively in the democratic process."

It is probably true that the secrecy pervading the legislative process has helped to make the House incomprehensible to the average citizen and, in its special way, has contributed to the unfavorable public image of a congressman as one not to be trusted.

Since most congressmen are hard-working, respectable people who deserve public trust, it would be in the interest of Congress to invite greater public scrutiny. A good argument can be made that secrecy prevents members of Congress from doing their jobs effectively.

Nearly half of the hearings and meetings of the House committees are currently closed to the press and public. Most of these sessions involve major committees such as Ways and Means, Armed Services, Foreign Affairs and Appropriations. Indeed, the DSG found that the powerful appropriations panels—the one that examine the budget in detail—hold all of their more than 300 annual meetings and hearings behind closed doors, "out of sight of the taxpayers who foot the bills for its actions."

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[3] In this connection attention is called to the Report of the Advisory Committee on Pre-trial Proceedings of the American Bar Association Project on Minimum Standards for Criminal Justice, which states in its Introduction:

"After lengthy consideration, and not without misgivings by some members, the Committee proposes new and far-reaching methods of meeting the problem but stops short of recommending outright preventive detention. In essence, the standards provide for revocation of release where the defendant violates the conditions of his release. (Section 5.6 *infra*). If a released defendant is indicted or held to answer for a subsequent serious crime his release will be revoked. (Sections 5.6–5.8 *infra*). While these measures do not, of course, provide absolute protection against crime while on release, the present state of knowledge about the magnitude of the problem, the difficulties of predicting criminal behavior in the immediate future and the fact that measures short of detention have never been tested, persuade the Committee that outright preventive detention could not be proposed. Pp. 6–7."

The House Appropriations Committee releases the transcript of its hearings in due course but they are heavily censored. It should be noted that the companion Senate committee manages to hold about three-fourths of its meetings in public.

Although the legislative reorganization act of 1946 requires all committees to keep a record of the votes on any question on which a record is demanded, the information is never released by the committees, with one exception in the House, the Education and Labor Committee.

A new attempt at legislative reorganization will be before the House in a few weeks. The DSG is suggesting that the measure be amended to open House proceedings to more public scrutiny.

Perhaps the most significant move will be an effort to require record votes—not now permitted—when the House is considering amendments. If a lawmaker had to take a stand in public, he might make it a point to be present and voting. Currently, the participation is less than one-third of the House membership.

WANTS COMMITTEE VOTES PUBLIC

There will be a proposal to require a two-thirds rollcall vote to close a meeting or hearing, plus disclosure of the reason for doing so. And the DSG wants every member's vote on committee rollcalls to be made public.

The efforts at procedural reform will be closely watched but could suffer at the hands of the present system. Ironically, whether the House is to change its ways and get on the record" will be decided by "nonrecord" votes under the ingrained procedures of the past.

House Ready To Debate Controversial Secret Voting

(By Richard A. Ryan)

WASHINGTON.—How did your congressman vote on such recent controversial issues as:

Cutting off funds for the war in Indochina.

Continued development of the anti-ballistic missile (ABM) system, MIRV, and the supersonic transport airplane.

Limiting the government's ability to seek further school desegregation.

Further funding of the Apollo space exploration missions.

Chances are you don't know—not because you aren't interested but because the information is not available.

Unless your representative is willing to volunteer the information there is simply no way of knowing for sure how he voted—if indeed he even took the time to vote.

But this shroud of secrecy, under which congressmen have ducked politically explosive issues since 1789, is now under attack.

The House begins debate Monday on the legislative reorganization bill of 1970.

The bill, the first one to stand a chance of passage since the reorganization act of 1946, appears to be rather innocuous.

Its main provisions provide for opening some House committee hearings to television broadcasting, extending the Legislative Reference Service, permitting free tours of the Capitol and requiring that House pages be of college age.

But a broad-based coalition of congressmen is prepared to offer a series of amendments which, if adopted, would rattle Capitol Hill.

Chief target of reform-bent legislators is the system whereby congressmen can avoid being recorded on controversial votes. Current rules prohibit record votes being taken when the House meets as a Committee of the Whole, as it does when it debates pending legislation.

The concept was patterned on the English system whereby members of Parliament could hide their individual votes from the king. Although Britain reformed this system to provide for public votes in 1832, Congress has clung to its secrecy.

During Committee of the Whole sessions, votes are taken either by voice, division—in which opponents and proponents alternately stand up—and teller, whereby congressmen simply walk down the aisle and are counted as supporting or opposing the measure.

Amendments defeated in Committee of the Whole cannot be brought up again when the House is in formel session. And most of the controversial measures are contained in amendments.

Efforts to record how legislators vote on teller votes is made extremely difficult because they walk away from the press gallery, the only gallery where note-taking is permitted.

Among the important measures decided this year by nonrecord votes were:

An amendment to delete funds for American ground combat forces in Cambodia which was defeated 94–163, on a teller vote.

Amendments offered to cut funds for ABM, the C–5A plane, the MIRV (multiple targetable reentry vehicle) missile, and the B–1 bomber, defeated by teller votes.

An amendment to strip funds from the Department of Transportation appropriations bill for development of the supersonic plane (SST) which lost, 86–102, on a teller vote.

Arguments against recording votes are that it is too time-consuming. Roll call votes, for example, take about 30 minutes; teller votes take only 10.

Reformers, however, intend to counter this argument by proposing that teller votes be continued but that the congressmen be recorded by name, not merely counted. This will mean an additional two minutes over the present system.

Nonrecord votes, critics contend, are inherently dangerous.

A congressman, for example, might vote in support of his chairman to curry favor rather than in support of his constituency.

House Weighs Voting Reform

(By Antony Prisendorf)

WASHINGTON.—The House of Representatives is poised to act this week on a crucial measure that would put an end to the traditional secrecy in voting on major legislative amendments.

Next to the stifled issue of seniority, it is probably the most important procedural reform to confront the Congress since 1946, when it enacted its last major internal reorganizations.

Bipartisan supporters of the measure, who represent practically the entire spectrum of political thinking, are fairly confident of passage when their amendment to the Legislative Reorganiaztion Act of 1970 is introduced on the floor, either tomorrow or on Wednesday.

But even though the amendment has the endorsement of the Democratic majority's leadership and House Republican conference chairman John B. Anderson of Illinois (GOP minority leader Gerald Ford has yet to commit himself) the sponsors are refraining from any bold predictions of victory.

One Capitol Hill strategist explained the unusual degree of caution this way:

"We don't know for sure, even at this late point, who our enemies in this one are. And it's rare for a major amendment like this one to pass on the floor without some kind of parliamentary procedure being invoked."

HIGH STAKES

The stakes are high. If adopted, the reform measure would abolish the time-honored procedure of permitting House members to vote anonymously on most of the important and controversial issues to come before them.

The chief target of the proposed reform is the parliamentary procedure by which unrecorded votes are taken on amendments during committee-of-the whole sessions, when quorum requirements have been lowered and roll-call votes suspended to save time.

Members presently cast their votes in committee-of-the-whole sessions by lining up in the two main aisles and filing by tellers who count them as they pass but who do not record their names.

During the current session, members voted in this anonymous way on amendments dealing with such crucial issues as the right of 18-year-olds to vote, the ABM, the supersonic transport, school desegregation, as well as various aspects of the war in Southeast Asia.

A record vote can be requested later on amendments, but only on those that have been adopted, not those that were defeated. Shielded in this way from public accountability, "often only 30 per cent of the membership bothers to vote," a public-interest organization based here in Washington has found.

One bit of irony surrounding the reform effort is that when the amendment comes up for the deciding vote, that vote, too, will be cast in secret, which makes it sponsors slightly more wary of its outcome.

House Challenged To Record Members On All Key Issues

(By Robert Healy)

WASHINGTON.—On May 6 during the debate on the military procurement bill in the House, there were three amendments offered that gave members a chance to make a stand on the Cambodian invasion. But in each case, there was a teller vote where the Congressmen file down the aisle and are counted for and against the amendment by tellers. There was no record of the vote.

The House was meeting as a committee of the whole. The committee is kind of a procedural fiction which allows the House to operate under less stringent rules. A quorum, for instance, in the committee of the whole is 100 rather than a majority or 218 under the regular rules. It allows for limitation of debate and it prohibits roll calls.

In the past the House has dealt with the anti-ballistic missile systems, the SST and key domestic amendments in the committee. And in every case where there was voting on these amendments, the public had no way of knowing how their Congressmen voted or whether in fact they had voted.

The committee of the whole procedure was taken from the British when Congress was established. British members of Parliament developed the procedure when they were rowing with the king. It had the effect of removing the king's man from the chair, and protected individual members of Parliament from the king's wrath. (The British abandoned, the no-record vote system 140 years ago.)

But the Congress has used this as a neat device for ducking the wrath of the voters for all these years.

This week, the House will begin a major effort towards reform. It has little sex appeal for the public because it deals with procedural changes about which the general public knows little and cares less.

But the major effort of this reform is easy to understand and has broad implications for the voters in the nation. It is an amendment sponsored by Rep. Thomas P. O'Neill (D-Mass.) a liberal, and Rep. Charles Gubser (R-Calif.), a conservative. The amendment is to the overall reform bill. It would eliminate the secret vote in the committee of the whole.

Like many other processes which are made more responsive to the public, it does not make it more efficient. To the contrary, the House operates largely through its committee systems and in many cases this means through a strong committee chairman, Committee chairmen and a handful of members of the committee handle the processing of a bill on the floor and usually in the committee of the whole and pass an amendment. The chairmen of the individual committees are very persuasive in this process. This persuasiveness will be challenged in part when and if the new reform is accepted in the House this week.

The arguments for the passage of the amendment are obvious—people. The people's right to know how their Congressmen voted on key legislation. The secrecy of the teller vote erodes the credibility of the House itself at a time when institutions are under assault.

And while regular roll calls produce 85 to 90 percent attendance in the House, frequently less than one fourth of the House passes on the critical amendments in the committee of the whole.

Beyond that there are the less obvious arguments. Committee chairmen sometimes jam a special interest provision into a bill which would not stand the debate and roll call test and the procedure of the full House. But because of the very nature of the committee of the whole system it passes through easily.

And finally sometimes the votes on amendments are more meaningful to the record of a Congressman than the final record vote.

The O'Neill amendment has broad support, including Carl Albert, who is expected to be the next Speaker of the House.

But at the same time it is a very "in" thing and there is apt to be very little public interest or pressure on the Congressmen to vote for the amendment. And many of the committee chairmen will be opposed to it.

Yet it is a very simple proposition. As Congressman O'Neill put it at his press conference last week: "I believe this amendment is necessary to restore Congressional accountability and to involve more members in these important decisions." And that's about the best argument for it.

Against Secrecy in Congress

For many years this newspaper has argued long and often for the public's right to see and hear the deliberations of its elected officials. Illinois now has on its statute book a law requiring all public meetings to be public, including committee meetings, with certain reasonable exceptions.

We therefore are particularly pleased that the anti-secrecy movement is taking hold in Congress where members have notoriously ignored the people's right to know.

This week action is scheduled in the House on H.R. 17654, the Legislative Reorganization Act of 1970. A group of Congressmen, including Illinois Republicans John N. Erlenborn and Thomas F. Railsback, are sponsoring amendments which would require a public recording of how members vote on major issues both in committee and the House floor. They would open committee hearings and meetings to the press and public, and require publication of committee reports and hearings a reasonable length of time before final House action is taken.

House members now can avoid putting themselves on record on a final vote on an issue by permitting passage by a voice vote (all in favor say "Aye") or by a standing vote in which members are counted but not recorded individually.

The public is entitled to know how its individual members vote on major issues and it is entitled to even more that that. It is entitled to know the reasons behind their votes and this means the voters are entitled to hear the arguments made in committee meetings.

Unless there is such a free flow of information to the public, the democratic process is handicapped.

One of the most secret of the House committees is the one labelled Ways and Means, in which all government spending originates. (In the Senate, virtually all appropriations hearings are open.)

It has been argued that secrecy is needed in such House committees so that members may not be inhibited about speaking up and asking questions, thereby, perhaps, exposing ignorance of the subject.

Secrecy is argued for appropriations subcommittees on the grounds that it is necessary to prevent "raids on the treasury." We don't follow that argument. It seems to us that raids on the treasury might better be prevented by letting the public see what's going on.

In a special report, the Democratic Study Group, which has been working to modernize government and the political parties, noted that what the secrecy process does is concentrate the "power of the purse" in the hands of a few men. It denies the taxpaying public an opportunity effectively to influence national priorities and makes a farce of the principle of representative government. Even congressmen who are not members of the particular subcommittees are barred from them.

The Democratic Study Group says:

"The only real opportunity afforded other members of the House to influence an appropriations measure is during floor consideration. However, after months of closed-door committee consideration, this stage of the appropriations process is telescoped into a few days with the predictable result that members can do little more than rubber-stamp the committee decisions."

Surely the public expenditure of billions of dollars should not be the private business of a few influential congressman. Nor should the public be held at arms length as the House debates life and death and dollar issues and then votes them up or down in virtual anonymity.

We salute the courageous band of innovating congressmen who are trying to let some light into the capitol.

House Secrecy Under Attack

A drive to end secrecy in the U.S. House of Representatives is gaining impetus backed by a broadly-based, bipartisan coalition of 56 members.

The group's major effort is directed against present procedures which permit members to vote anonymously on most important amendments that come before the House. For example in recent months the House has defeated amendments dealing with such key issues as the Vietnam war, the supersonic transport, the 18-year-old vote and antiballistic missile without any member being put on record.

The House Democratic Study Group in a June 24 special report said "secrecy has a more debilitating impact on the House than its well-publicized companion, the seniority system."

That's a pretty strong statement, but the report cites chapter and verse:

"Secrecy in the House takes many forms. It is closed committee meetings; . . . refusal to disclose record votes taken in committee; . . . unavailability of reports and other information about the contents and effect of legislation; . . . non-record votes on major amendments during floor consideration of bills; . . . closed House-Senate conferences and more off-the-record votes; . . . calling up conference reports and other measures for a vote before members have had adequate opportunity to study them."

The report also says: "Perhaps the most notorious example of secrecy is the House appropriation process which is almost totally closed not only to the public but also to most of the membership . . ."

Proposals to change at least some of these procedures will be acted upon next week when the House takes up a reorganization bill.

Prospects are hardly bright for the thorough-going reform our national legislative process so urgently needs. But the fact that a widening base of younger members persist in bringing the matter up is encouraging and perhaps indicative of eventual success.

CAPTIVE NATIONS WEEK

HON. DONALD E. LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1970

Mr. LUKENS. Mr. Speaker, during this past week of July 12–18, 1970, the 12th annual observance of Captive Nations Week was held throughout the United States and in 17 other free nations. This week called attention to the brave but long-suffering peoples of nations which have been captured by the Soviet Union in the name of international communism.

We cannot afford to forget the atrocities, terrorism, mass deportations, and comprehensive subjugation by which the peoples of the captive nations were forced to submit to superimposed political structures directed from Moscow. The inhumane and abominable methods by which the Soviet Union militantly suppresses rebellions against Communist tyrannies by courageous victims further underlies the despicable nature of communism.

Whenever any human being is denied the most elemental right of human liberty against his will, then each individual's own liberty is diminished. Today over 1 billion of our fellowmen languish behind the Iron Curtain. Theirs is an existence in which there is little or no freedom of speech, in which freedom of the press is largely unknown, and in which freedom of religion is largely nonexistent. Their freedom to travel is severely restricted. Communist governments continue to impose all-encompassing control over all aspects of daily life.

In asking ourselves what we as concerned American citizens can do to help the plight of the Captive Nations, I would like to make the following suggestions and points:

First, educate ourselves and our neighbors.

Second, set up a special Committee on Captive Nations. Mr. Speaker, I would like to ask for reconsideration of House Resolution 420, that I submitted in April of 1967 and which reads as follows:

H. RES. 420

Whereas on the all-important issue of colonialism the blatant hypocrisy of imperialist Moscow has not been adequately exposed by us in the United Nations and elsewhere; and

Whereas Presidential proclamations designating Captive Nations Week summon the American people "to study the plight of the Soviet-dominated nations and to recommit themselves to the support of the just aspirations of the people of those captive nations"; and

Whereas the nationwide observances in the seven anniversaries of Captive Nations Week have clearly demonstrated the enthusiastic response of major sections of our society to this Presidential call; and

Whereas following the passage of the Captive Nations Week resolution in 1959 by the Congress of the United States and again during the annual observances of Captive Nations Week, Moscow has consistently displayed to the world its profound fear of growing free world knowledge of and interest in all of the captive nations, and particularly the occupied non-Russian colonies within the Soviet Union; and

Whereas the indispensable advancement of such basic knowledge and interest alone can serve to explode current myths on Soviet unity, Soviet national economy, and monolithic military prowess and openly to expose the depths of imperialist totalitarianism and economic colonialism throughout the Red Russian empire, especially inside the so-called Union of Soviet Socialist Republics; and

Whereas, for example, it was not generally recognized, and thus not advantageously made use of, that in point of geography, history, and demography, the now famous U–2 plane flew mostly over captive non-Russian territories in the Soviet Union; and

Whereas in the fundamental conviction that the central issue of our times is imperialist totalitarian slavery versus democratic national freedom, we commence to win the psychopolitical cold war by assembling and forthrightly utilizing all the truths and facts pertaining to the enslaved condition of peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, Cuba and other subjugated nations; and

Whereas the enlightening forces generated by such knowledge and understanding of the fate of these occupied and captive non-Russian nations would also give encouragement to latent liberal elements in the Russian Soviet Federative Socialist Republic—which contains Russia itself—and would help bring to the oppressed Russian people their overdue independence from centuries-long authoritarian rule and tyranny; and

Whereas these weapons of truth, fact, and ideas would counter effectively and overwhelm and defeat Moscow's worldwide propaganda campaign in Asia, Africa, the Middle East, Latin America, and specifically among the newly independent and underdeveloped nations and states; and

Whereas it is incumbent upon us as free citizens to appreciatively recognize that the captive nations in the aggregate constitute not only a primary deterrent against a hot global war and further overt aggression by Moscow's totalitarian imperialism, but also a prime positive means for the advance of world freedom in a struggle which in totalistic form is psychopolitical; and

Whereas in pursuit of a diplomacy of truth we cannot for long avoid bringing into question Moscow's legalistic pretensions of "noninterference in the internal affairs of states" and other contrivances which are acutely subject to examination under the light of morally founded legal principles and political, economic, and historical evidence; and

Whereas in the implementing spirit of our own congressional Captive Nations Week resolution and the eight Presidential proclamations it is in our own strategic interest and that of the nontotalitarian free world to undertake a continuous and unremitting study of all the captive nations for the purpose of developing new approaches and fresh ideas for victory in the psychopolitical cold war: Now, thereore, be it

Resolved, That there is hereby established a nonpermanent committee which shall be known as the Special Committee on the Captive Nations. The committee shall be compsed of ten Members of the House, of whom not more than six shall be members of the same political party, to be appointed by the Speaker of the House of Representatives.

SEC. 2. (a) Vacancies in the membership of the committee shall not affect the power of the remaining members to execute the functions of the committee, and shall be filled in the same manner as in the case of the original selection.

(b) The committee shall select a chairman and a vice chairman from among its members. In the absence of the chairman, the vice chairman shall act as chairman.

(c) A majority of the committee shall constitute a quorum except that a lesser number, to be fixed by the committee, shall constitute a quorum for the purpose of administering oaths and taking sworn testimony.

SEC. 3. (a) The committee shall conduct an inquiry into and a study of all the captive non-Russian nations, which includes those in the Soviet Union and Asia, and also of the Russian people, with particular reference to the moral and legal status of Red totalitarian control over them, facts concerning conditions existing in these nations, and means by which the United States can assist them by peaceful processes in their present plight and in their aspiration to regain their national and individual freedoms.

(b) The committee shall make such interim reports to the House of Representatives as it deems proper, and shall make its first comprehensive report of the results of its inquiry and study, together with the recommendations, not later than January 31, 1968.

SEC. 4. The committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times within or outside the United States to hold such hearings, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony as it deems advisable.

SEC. 5. The committee may employ and fix the compensation of such experts, consultants, and other employees as it deems necescary in the performance of its duties.

SEC. 6. The committee shall enjoy a nonstanding status, performing its duties in the course of the Ninetieth Congress and subject to renewal only as determined by needs in the completion of its work and further purposes of the House of Representatives.

As individual citizens you can write the members of the Rules Committee urging them to reconsider House Resolution 420. This committee would unquestionably offset the appalling ignorance of our youth and others regarding the captive nations.

Third, move for reconsideration of the Freedom Academy bill—the purpose of the bill is to establish a research and educational institution as an independent agency of the U.S. Government, to assist in the development of methods and means employable in both the governmental and private sectors to counter all forms of Communist political warfare, subversion, and insurgency.

Fourth, stop trading with the Communist bloc nations. We are committing treason and national suicide when we trade with the Communist bloc nations.

Fifth, I propose that we mount an effective "freedom offensive." This would consist of a campaign using psychological, political, and economic weapons against the regimes of captive nations everywhere.

Sixth, I urge President Nixon and the governments of all other free nations to call for the United Nations to institute a U.N. Committee to investigate Russian communist tactics, communist enslavement, and persecution of the captive nations under its direct and indirect domination.

I further urge President Nixon to demand that the United Nations enforce its charter provisions which guarantee self-determination to all peoples; a U.N. provision which the Soviet Union accepted but has openly refused to follow.

Seventh, I call on my colleagues to review our U.S. policy toward the Soviet Union. There are a great deal of misconceptions and false assumptions on which our policy is based, and thus a full review of our U.S. policy toward the Soviet Union would go a long way to dissipate present illusions about "building bridges to Eastern Europe, "detente," "accommodation," "peaceful coexistence," and other wishful steps that are not even in harmony with the principles and traditions of our country.

The observance of Captive Nations Week must be so absorbed in the world's mind that no one forgets the Hungarys, the East Germanys, and all the captive nations. It is paramount that we remember the almost daily escapes of the exceptionally brave men and women who leave their heritage, their possessions, and often some of their loved ones, to join the free world and leave behind the Communist enslavement of the captive nations.

This week should also remind each of us to give thanks to our God for the liberty that we enjoy as American citizens. We who possess the blessings of life, liberty, property, and pursuit of happiness as inalienable rights must never take our good fortune lightly. May we ever be aware of the great sacrifices of those who have gone before us to make our freedom possible and of the present personal sacrifices of our young men in defense of insured liberty.

Oppressed people have traditionally looked to us for hope and inspiration. During last week, we reaffirmed a twofold promise: To remain firm against further Communist usurpation in the world, and to do all within our power to work for the ultimate liberation of every captive nation.

The people of the United States cannot permit themselves to ignore the reality of 1 billion freedom loving people living in Communist dominated captive nations. We cannot forget the strategy of the Soviet Union is to ever expand the territory under its influence and control, until it gains total world domination.

It is an inherent right of all human beings to have the freedom to choose their respective forms of government; a right that the captive nations have been denied by brutal and godless communism. Let us remember the plight of the captive nations and do all within our power to help them; lest we forget and become a captive nation ourself.

LT. GEN. LESLIE R. GROVES

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. SPRINGER. Mr. Speaker, just 2 days before the 25th anniversary of the first atomic bomb explosion, the man who created and directed the organization that built the bomb, died in Washington. He was Lt. Gen. Leslie R. Groves, director of the Manhattan project in World War II.

The New York Times, in an editorial last week, summed up General Groves' vital role by saying:

> General Groves's personal achievement was the organizational miracle that brought together hundreds of thousands of men and women of the most diverse talents to make a theoretical concept reality in less than three years. The force he unleashed is still not tamed, but it is still true that if the United States had not been the first in this field, the atomic bomb would nevertheless have been built, probably by others of greater malevolence and less responsibility.

General Groves, as the Washington Daily News said in an editorial July 16, "was the right man, in the right job, at the right time." The News did not exaggerate in saying:

> Many thousands of American men are alive today because Gen. Groves' team won the bomb race.

General Groves was a great man of strength and courage, as brought out in a Washington Post editorial on July 16. Henry L. Stimson, then Secretary of War, picked him to head the atomic bomb project because he was capable of "ruling with an iron hand."

General Groves had the character and qualities for leadership and responsibility that are inherent in the best of Americans. I recommend to my colleagues the reading of the following obituary from the New York Times as well as the editorials from the Times, the Washington Post and the Washington Daily News:

GENERAL GROVES OF MANHATTAN PROJECT DIES

(By Albin Krebs)

Lieut. Gen. Leslie R. Groves, director of the World War II Manhattan Project, which developed the atomic bomb and ushered in the nuclear age, died Monday night at Walter Reed Army Medical Center in Washington. The retired general, who was 73 years old, had suffered a heart attack at his home earlier in the evening.

General Groves' Army career spanned almost 30 years—from 1918, when he was graduated from West Point, to his retirement in 1947—but it was his role as overseer of the development of the atomic bomb that brought him prominence.

On Aug. 6, 1945, a 400-pound atomic bomb nicknamed "Little Boy" was dropped over the Japanese city of Hiroshima, reducing it to ashes and leaving more than 70,000 people dead and 68,000 injured.

The explosion brought to a close one of the greatest military-industrial adventures in history, the race by the United States, in a $2-billion calculated risk, to be the first nation to unleash the power of the atom. The driving force behind that victory was a brusque Army engineer, Leslie R. Groves.

As director of the secrecy-shrouded Manhattan Engineer District, created specifically to beat Nazi Germany to the development of an atomic weapon, General Groves recruited the nation's greatest scientists to work on the project.

He directed the program to build, in a matter of months, the atomic bomb research, experimentation and manufacturing facilities that stretched from Washington and New York to Oak Ridge, Tenn., Los Alamos, N.M., and Hanford, Wash.

Wearing civilian clothes, he criss-crossed the country, persuading such industrial giants as E. I. duPont de Nemours & Co. to take an active part in the production of fissionable materials. Hundreds of private contractors were intimately involved in the secret project.

General Groves watched over the details of securing and processing the radium and other materials used in the bombs, and he supervised development of the devices that carried the nuclear loads and triggered them over Hiroshima and Nagasaki, Japan.

Ultimately, he even had the final responsibility for deciding that it would be Hiroshima and Nagasaki, and not other Japanese cities, that would be subjected to mass death and destruction.

Although many of his scientific colleagues in the Manhattan Project raised deeply troubling moral questions with themselves over their involvement in the atomic bomb program, after the war, General Groves never wavered in his belief that making and using the bombs had been his country's correct course.

"The atomic bombings of Hiroshima and Nagasaki ended World War II," he wrote in 1962. "There can be no doubt of that. While they brought death and destruction on a horrifying scale, they averted even greater losses—American, English and Japanese. No man can say what would have been the result if we had not taken the steps that were necessary to achieve this end."

KEPT OUT OF POLITICS

In light of his background, General Groves was not an altogether likely choice for one of the most gravely important assignments of the war, which he received in 1942. Until that time he had been regarded as not much more than an efficient plodder, and he did not play Army politics.

Leslie Richard Groves, who was born in Albany on Aug. 17, 1896, was named for his father, a Presbyterian minister who became an Army chaplain shortly after his son's arrival. The Groves lived where the Army sent them—Cuba, the Philippines and various posts in the Western states.

At 17 the future general entered the University of Washington, where he spent a year. Then, after two years at the Massachusetts Institutes of Technology, he was appointed to the United States Military Academy. In 1918, having graduated fourth in his class, he was commissioned a second lieutenant in the Army Corps of Engineers.

He did not become a captain until 1934. In the years intervening, he attended various service schools to complete his civil engineering education, and he served in Hawaii, Nicaragua, Washington, and at several Army posts.

In July, 1940, when he was promoted to the rank of major, he joined the War Department's general staff. With the outbreak of war the following year, he became Lieutenant Col. Groves, and was soon put in charge of supervision of construction of training camps. Part of his job was overseeing completion of the Pentagon.

Like many regular officers, Colonel Groves was eager for service abroad as a commander of combat troops, and in September, 1942, he was offered such an assignment. But he needed the approval of his superior officer, who told him he could not leave Washington.

"The Secretary of War has selected you for a very important assignment, and the President has approved the selection," General Groves quoted the superior officer years later, "If you do the job right, it will win the war."

Secretary of War Henry L. Stimson soon informed General Groves, who was promoted to brigadier because of the importance of his new job, that he was chosen because he had earned a reputation for "ruling with an iron hand, which will come in handy."

General Groves, who confessed he knew little about atomic physics, quickly learned a lot.

For some years, he was told, such renowned scientists as Neils Bohr, Enrico Fermi and Ernest O. Lawrence had been at work on the problem of utilizing the tremendous force locked within the atom. By 1942, several scientists were working on means of using the explosion of the atoms of metal uranium, a lustrous white substance derived from pitch-blende or carnolite, to create a lethal new weapon.

In a report to President Roosevelt on how an atomic bomb might be feasible, General Groves wrote: "I realize that the human race in its better moments might wish that this thing would be impossible, that we would fail; but . . . there are also elements in the human race that would not hope that, and maybe they would find out how to do it."

The President's reply was a scrawled "O.K., F. D. R.," and General Groves and his rapidly-building army of civilians and military men went to work in earnest.

Rapidly, the Manhattan Project grew, until, by 1945, more than 600,000 scientists, technicians, mechanics, construction workers, soldiers and other personnel were concentrating on creation of the supersecret weapon.

OPPENHEIMER A PROBLEM

General Groves, as expected, ruled all with an iron hand. His passion for elaborate security measures—all of his own reports to the President and other superiors were made verbally—became legendary. Sensitive scientists, accustomed to working at a leisurely, scholarly pace, squirmed under his restrictions and demands that they work 18-hour days, since he did so himself.

Throughout most of his adult life, General Groves was a chunky, heavyset man, with a tendency toward paunchiness. He was just under 6 feet tall, and he tried to keep in shape playing tennis. Although he was businesslike and tough-talking at work, on social occasions he was soft-spoken and genial.

One of his thorniest problems was the case of Dr. J. Robert Oppenheimer, whose selection as director of the Los Alamos laboratory was opposed by General Groves's own security men on grounds Dr. Oppenheimer had, years before, associated with Communists and other left-wingers.

General Groves chose Dr. Oppenheimer for the job anyway. Years later, long after Dr. Oppenheimer was stripped of his security clearance because of his opposition to development of the hydrogen bomb, General Groves praised him and said he still considsidered him to have been the best man for the Los Alamos job.

RECALLS FIRST TEST

It was near Los Alamos, at Alamagordo, N.M., that the first atomic bomb was tested, at 5:30 A.M., July 16, 1945. General Groves wrote of it in his book:

"My first impression was one of tremendous light, and then as I turned, I saw the now familiar fireball. As [we] sat on the ground looking at this phenomenom, the first reactions were expressed in a silent exchange of handshakes. We all arose so that by the time the shock wave arrived we were standing. I was surprised by its comparative gentleness . . . but the light had been so much greater than any human had previously experienced."

The decision to use larger bombs on the

populations of Hiroshima and Nagasaki was made by President Harry S. Truman, at the urging of General Groves and most of his colleagues in the Manhattan Project. (The Nagasaki bomb, which killed 45,000 people, was dropped Aug. 10, 1945.)

General Groves opposed turning over atomic development to the civilian-run Atomic Energy Commission after the war. He believed that there was great potential for peacetime use of atomic energy, but that because other nations, notably the Soviet Union, were seeking to perfect atomic weapons, control of atomic secrets and materials should remain in the military.

JOINED REMINGTON RAND

He left the Army in 1947 to become a vice president in charge of research for Remington Rand in Connecticut. He retired to private life in 1961. Last Feb. 27, President Nixon presented him with an Atomic Pioneers Award.

Tribute to General Groves came from Dr. Glenn T. Seaborg, chairman of the A.E.C., and a key scientist in the original A-bomb project (he was a co-discoverer of plutonium, one of the original nuclear explosives).

"For three critical years," Dr. Seaborg said, "he directed the most awesome project in the history of mankind. He was a constant source of amazement . . . He had the deep respect and admiration of his staff for his ability to organize and get things done."

General Groves is survived by his widow, the former Grace Wilson, whom he married in 1922; a son, Brig. Gen. Richard H. Groves of the Army Corp of Engineers; a daughter, Mrs. John A. Robinson; a brother, Dr. Owen G. Groves; and seven grandchildren.

ALAMOGORDO PLUS 25

Just before dawn, in the desert near Alamogordo, New Mexico, 25 years ago today, the age of nuclear weapons was born. Those who watched that first atomic bomb explosion were stunned and awed by the giant fireball. One of them, William L. Laurence of this newspaper, described it as "a burst of flame such as had never before been seen on this planet, illuminating earth and sky for a brief span that seemed eternal with the light of many super-suns." But secrecy veiled that first test. Not until a few weeks later, when atomic bombs wiped out Hiroshima and Nagasaki, did men all over the world learn what a fateful milestone in human history had been passed.

The destructive power that thundered at Alamogordo was almost trivial in comparison with that which exists in any one of thousands of atomic and hydrogen bombs now in the arsenals of the five nuclear powers. But the ingenuity and industry which have added so much to the effectiveness of the military atom have not yet been matched by corresponding political accomplishment aimed at protecting all mankind, at guaranteeing there will be no successors to Hiroshima and Nagasaki. Today's reality among the major powers is a peace based on mutual terror. It is unsatisfactory and inadequate, an unstable equilibrium that could be broken by unexpected technological advances or by a political disaster that brought an irrational individual or group of individuals to leadership of a nuclear power.

The man who headed the effort to build the first atomic bombs, Lieut. Gen. Leslie R. Groves, died earlier this anniversary week. He and his Manhattan Project colleagues—scientists and non-scientists alike—were driven until near the end by fear that Hitler's Nazis might obtain this weapon first. They could not foresee all the complications and terrors their achievement would bring long after World War II was dusty history.

General Groves's personal achievement was the organizational miracle that brought together hundreds of thousands of men and women of the most diverse talents to make a theoretical concept reality in less than three years. The force he unleashed is still not tamed, but it is still true that if the United States had not been the first in this field, the atomic bomb would nevertheless have been built, probably by others of greater malevolence and less responsibility.

[From the Washington Post, July 16, 1970]

LESLIE R. GROVES

Just 25 years ago—at half past five on the morning of July 16, 1945—at Alamogordo, N.M.—the first atomic weapon devised by man was tested. It produced a blinding flash of light brighter than any ever glimpsed before by human eyes; and it produced as well a loss of innocence akin, perhaps, to that experienced by man and his mate when they first tasted that fruit which the serpent told them: "In the day ye eat thereof, then your eyes shall be opened, and ye shall be as gods, knowing good and evil." Two days ago Gen. Leslie R. Groves, the man who commanded the titanic collective enterprise through which that weapon was created, died unexpectedly at the age of 73.

An able and experienced—although not particularly distinguished—officer in the Army Corps of Engineers at the time he was chosen to command the Manhattan Project, Leslie Groves was one more illustration of the mysterious way in which great responsibility and great opportunity often marry to generate great leadership. Secretary of War Henry L. Stimson chose him because he was said to be capable of "ruling with an iron hand" and told him, "If you do the job right, it will win the war." The "job" entailed the expenditure of more than $2 billion, the construction of vast and complicated engineering facilities scattered all over the United States and the management of some 600,000 scientists, technicians, mechanics and other personnel in and out of uniform. It entailed, also, the most elaborate security regulations and controls, both in regard to the selection of people and in regard to the secrecy surrounding their endeavors.

Perhaps the single most fateful decision made by General Groves was the selection of Dr. J. Robert Oppenheimer to head the Los Alamos laboratory. The physicist was known to have radical political views, and known Communists were among his intimate associates. Nevertheless, he was a man of towering intellect, unique skill and an extraordinary capacity for organizing and inspiring men of science. Strong objections were raised to the selection of Dr. Oppenheimer. General Groves overrode them. In July of 1943, he issued a firm directive: "In accordance with my verbal directions of July 15, it is desired that clearance be issued for the employment of Julius Robert Oppenheimer without delay, irrespective of the information which you have concerning Mr. Oppenheimer. He is absolutely essential to the project."

Oppenheimer's performance more than vindicated the general. It was a decision that must have taken immense nerve and toughess—and a sense of judgment reflecting far more wisdom, compassion and understanding of human character than was shown by those who, years later, pilloried Robert Oppenheimer after he had nobly served his country. Oppenheimer himself was asked once how he accounted for General Groves' choosing him. Philip M. Stern, in his fine account of "The Oppenheimer Case," reports that the scientist characteristically replied: "Leslie Groves had a fatal weakness for good men."

The ultimate appraisal of Leslie Groves' contribution to his country and to mankind must await a future judgment—perhaps a Judgment Day. He was a superb soldier. The talents for organization and administration, the daring and imagination he brought to his mammoth assignment were peculiarly American, reflective in a sense of the genius of America. Their imprint on the world is, in any event, indelible.

[From the Washington Daily News, July 16, 1970]

LIEUTENANT GENERAL GROVES

This country owes much to Lt. Gen. Leslie R. Groves who died this week at age 73.

In the darkest days of World War II, Gen. Groves was the right man, in the right job, at the right time.

In the summer of 1942 when the Allied cause was at its lowest, the then Col. Groves was given the task of heading up the super-secret Manhattan Project to develop an atomic bomb.

No one knew whether an atomic bomb actually could be developed. But the Nazis were known to know about the splitting of atoms of uranium and the race was on.

Thousands of scientists were recruited, new plants built around which whole cities grew up and the project proceeded at full speed and under such secrecy that not even Mrs. Groves knew what was going on.

It's history that three years later the U.S. team won. And all that time the project was under the firm direction of Gen. Groves, a superb manager from start to finish. His cardinal principles were that responsibility and authority cannot be diluted or divided and that the job of a manager is to pick the best possible man for a job, give him the broadest possible charter for action and then leave him alone.

Humanists will argue for the rest of time, we suspect, whether the atomic bomb ever should have been developed. But in WW II there was little, if any, disposition to think so altruistically. It was the firm conviction of our leaders that the enemy unhesitatingly would use an atomic bomb if he had one.

Gen. Groves' achievement in planning an organization to bring the atomic bomb program to a successful fruition ahead of the enemy certainly ranks with the skills necessary to mount a successful invasion.

And possibly more so. For the development and use of the bomb unquestionably shortened that war by no one knows how many days.

The bomb was first exploded 25 years ago this week in New Mexico. On Aug. 6, 1945, the first atomic bomb was dropped on Hiroshima, Japan. On Aug. 9, a second was dropped on Nagasaki, and on Aug. 14, Japan surrendered unconditionally.

Many thousands of American men are alive today because Gen. Groves' team won the bomb race.

MISS CONNECTICUT CHOSEN

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MONAGAN. Mr. Speaker, I want to extend my personal congratulations and best wishes to Miss Cynthia Ann Fowler of Cheshire, Conn., who recently was chosen Miss Connecticut. I am pleased that out of all the lovely young ladies who competed for the title that one of my constituents from the Fifth District was bestowed with so gracious an honor. I was delighted to learn of her rendition of Strauss' Laughing Song at the competition which is a favorite of mine and no doubt was a factor which contributed to her selection as Miss Connecticut. Miss Fowler not only is a talented singer but she plays the piano, clarinet, violin, trumpet, and flute, making her a true virtuoso. Future generations of students will receive the benefits of her varied talents since she aspires to a career in music education; Miss Fowler's beauty, charming personality, and zest for life will contribute to her continued success. I wish Cynthia Ann Fowler, Miss Connecticut, the very best of luck in the forthcoming competition for the Miss America title in September at Atlantic City, N.J.

I am enclosing an editorial which appeared in the Waterbury Republican. The editorial follows:

Miss Connecticut Winner

Congratulations are in order for Cynthia Ann Fowler of Cheshire after being crowned the new Miss Connecticut.

The 21-year-old blonde, a senior at Western Connecticut State College, was chosen over the weekend from a competitive field of young ladies from throughout the state.

Not only is Miss Fowler an attractive young lady, but she possesses all the credentials of a very talented musician. Besides singing, which won her the preliminary talent contest, she plays piano, clarinet, violin, trumpet and flute.

We wish the new Miss Connecticut well when she competes for the Miss America title in September at Atlantic City, N.J.

A COURAGEOUS YOUNG MAN

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. LONG of Maryland. Mr. Speaker, Sp4c. Joseph F. McDermott, a courageous young man from Maryland, was killed recently in Vietnam. I should like to honor his memory by including the following article in the Record.

GI From College Park Killed in Vietnam

A 20-year-old Army draftee who lived in College Park, has been killed in an engagement with the enemy near the demilitarized zone in Vietnam, the Department of Defense announced yesterday.

Spec. 4 Joseph F. McDermott 3d, was wounded on July 8 when his unit encountered an enemy force while on patrol in Quang Tri province, an Army spokesman said. He was admitted to an Army hospital and died the same day.

DEMATHA HIGH GRADUATE

He was a member of Troop D, 2d Squadron, 17th Cavalry, 101st Airborne Division (Air Mobile). He was on a two-day support mission when he was fatally wounded.

Specialist McDermott was born in Washington. He graduated from DeMatha Catholic High School in Hyattsville in June 1968.

He attended Prince Georges Junior College for six months and then went to work as an installer with the Chesapeake and Potomac Telephone Company in Washington.

SURVIVORS LISTED

He was drafted on September 19, 1969. He completed his basic training at Fort Bragg, N.C., and his advanced training at Fort Knox, Ky. Following completion of his training, he was sent to Vietnam on February 19, 1970.

Before being drafted he had lived with his parents at 4803 Delaware street in College Park. He had planned to return to school and study accounting after completion of his military service.

Specialist McDermott is survived by his parents, Mr. and Mrs. Joseph F. McDermott 2d, of College Park; three sisters, Miss Mary L. McDermott, Miss Margaret A. McDermott and Miss Dorothy E. McDermott, all of College Park, and his grandparents, Mr. and Mrs. Joseph F. McDermott, of Mount Rainier, Md., and Mrs. Benjamin Hollenback, of Scranton, Pa.

A SCIENTIST PLEADS FOR ABOLITION OF SECRECY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. BINGHAM. Mr. Speaker, last Wednesday's Wall Street Journal and Sunday's Washington Star carried an article on secrecy by one of our Nation's most eminent scientific leaders, Dr. Edward Teller, "the father of the H-bomb." Dr. Teller's remarks are not directed at secrecy in the House of Representatives, but rather at secrecy in his own field of expertise, nuclear weapons and military security. Many of his observations and judgments, however, are pertinent to our present discussions here in the House.

For example, Dr. Teller comments that—

> A quarter-century of experience should have taught us that a democracy cannot function effectively under a cloak of secrecy.
>
> The public is denied the vital information that is essential background to critical decisions.
>
> An uninformed public creates as dangerous a situation as a misinformed public.
>
> Openness (is) the first commandment . . . because without openness, truth cannot be found.
>
> The spirit of openness is a powerful and necessary tool if we want to create some order in our shrinking world in which dangers and opportunity multiply with an ever-increasing speed.
>
> The sad fact is that secrecy works in reverse to what our public believes: our position is weakened and our adversary is strengthened. The underlying reason is that secrecy does not, and cannot, work in a democracy.

Mr. Speaker, these are words of wisdom, words of experience, words of insight. I, therefore, insert Dr. Teller's article at this point in the Record and commend it to my colleagues:

[From the Sunday Star]

A Scientist Pleads for the Abolition of Secrecy

(By Edward Teller)

There is evidence that Russia is able to obtain virtually any information she desires from the United States—including secret defense information. It is equally evident that Russia's tight security cloak has effectively blocked our access to Russian security information.

The immediate reaction by many is that we should strengthen and enforce security measures. In my opinion, this would be a mistake.

Security is probably not protecting our "secrets" because the Russians possess a very sophisticated police state intelligence apparatus. In this respect we cannot match them. As a democracy we should not attempt to do so.

It would be a sad day if we matched the Russians by building up a secret police force of 2,000,000 men—occupying many high positions in all walks of life, ranging across the entire economic and political spectrum. We should work in the opposite direction: we should reduce the restrictions of secrecy as completely and as rapidly as possible.

A quarter-century of experience should have taught us that a democracy cannot function effectively under a cloak of secrecy; that secrecy impedes the flow and exchange of knowledge and dampens the productivity of scientific research. In contrast, a dictatorship can keep secrets by exercising strict control over human freedom of communication and movement. It is their normal order of society, and their scientists are adapted to a repressive environment.

Secret research is generally abhorred by our scientists, many of whom cannot, and will not work under security restrictions that block open discussion and the free flow and exchange of ideas between scientists. Russian scientists do not like secrecy any more than we do. But most of them do not even dare to make any suggestion.

In developing nuclear weapons we practiced secrecy and lost the leadership that we will not be able to regain for years to come. By contrast, in the case of nuclear reactors, the removal of secrecy in 1955 resulted in the achievement of economical nuclear power a dozen years later. In this respect we are the best in the world.

In electronic computers even more remarkable results have been obtained by open competition and no fetters of "security." We are so far ahead of all of our competitors that even if they had a sample of each of our computers (which they don't), they would not be able to duplicate our progress; the same is true of solid state electronics.

I wish we could say the same with equal confidence concerning the development of nuclear weapons—which is secret.

Our policy of secrecy has been successful only in confusing the discussions of preparedness in our country.

We are in real ignorance of the advances Russia has made in the development of nuclear explosives, and our public is poorly informed regarding the developing strength of Russian nuclear arms.

The weight that Soviet missiles can carry to the United States is today several times as great as the weight we can deliver against Russia. In order to make vital decisions regarding defense, the public should be realistically and accurately informed. It is not.

But secrecy has become in the first part of the sixties a political tool to shield our leaders from criticism. For quite a few years it has been known that the Russians are rapidly expanding their nuclear capability. The facts of this deployment were not publicly emphasized and most of the relevant points were actually kept secret. Thus, the American people were unaware of a developing danger. Fortunately, this policy has been reversed by Secretary Laird.

Factual information, known to the Russians and our own government, is withheld from the public by "security" restrictions. The public is denied the vital information that is essential background to critical decisions. An uninformed public creates as dangerous a situation as a misinformed public.

And it is a paradox that we have vast stores of information, all of which is highly secret from the public and not clearly understood by authorized members of Congress, while the Russians can and do obtain this same secret information.

It might be argued that the atom bomb—the biggest, most complex and completely successful scientific project of all time—

was developed in complete secrecy. It was, but under that tight envelope of war-time secrecy, our scientists, military and politicians cooperated closely for national survival. At that time, secrecy was the barrier between two warring nations. Under those conditions, secrecy did not isolate the scientific, military and political communities from each other. They worked together. Nevertheless the Russians penetrated that area before the end of World War II.

After World War II, our best scientists returned to the universities, and the freedom of unclassified research. Meanwhile, the military concept of secrecy—"the cloak and dagger syndrome"—has persisted.

The news media, when reporting our strength in terms of numbers of weapons, do not know what they are talking about.

There is a popular misconception that the world is involved in an arms race in the classical sense of the word. This is not so. It is rather a race in technological discovery, closely coupled with research in applied science.

This race works in secrecy—real secrecy on the part of the Russians; pretended secrecy on the part of the United States.

The classical concept of the arms race was to compare, for instance, the number of battleships. Today we compare the numbers of atomic warheads and we imagine we know what we are talking about. But we do not. The nuclear warheads differ in power, a hundredfold or a thousandfold. They differ in function, in purpose, in sensitivity to defense measures. Actually, the situation is even more complicated. What counts are the weapons that could be created by research on defense: it is the race of ideas and the implementation of these ideas.

Our universities have been a splendid source of ideas. They also have prepared a small fraction of the students for research work on national defense as a career. Today our students in our foremost universities are indoctrinated against any such activity. The change was initiated in March 1969 at the Massachusetts Institute of Technology. The demand was raised to exclude from the university all work related to national defense. In the last few months even more radical steps have been proposed. It is suggested that those working on national defense should be excluded from the scientific community. These demands are inflamed by offensive placards and demonstrations at scientific meetings.

The movement has spread to many institutions, including most of our leading universities. Our academic community is being separated in a most effective manner from those who are trying to apply research to the defense of our country.

I am sure that the March 4 movement at MIT was not organized by the Kremlin. But had it been so organizd it could not have been more help to the Russian Communist's dream of world domination.

Meanwhile, our highly sophisticated, technological defense establishment is advancing the state-of-the-art weaponry into new and therefore secret areas. They are encountering problems of extreme complexity, and need the brain power of our best scientists. But the work is secret, and our best scientists do not want to engage in secret work. Therefore, the gap widens.

There is an urgent need to heal the breach between the academic world and those who work on the defense of our country. A revision of our security rules would be an important step in this direction.

Ever since alchemy expired, which was not so very long ago, openness was the first commandment of science. It came even before truth, because without openness, truth cannot be found.

During the difficult period of the Second World War, the commandment of openness was violated. It was replaced with secrecy. It might be argued that under the cloak of secrecy the alchemists' dream, transmutation of elements, was actually accomplished.

To put the development of our present attitude towards maintaining a fiction of secrecy, we should review its development.

Around 1900 no important secrets existed in military technology. The arms race was something visible, something that could be seen and understood. The great unknown was the way in which forces would be employed in an actual war. Strategy and tactics remained unpredictable. Thus uncertainty, rather than secrecy, sufficed to confound every prediction concerning the course of World War I.

Technological secrets scarcely existed in this country between the two World Wars, but most of the vast scientific and technical progress of the 1940–45 era was shielded by wartime secrecy, much of which was declassified after peace treaties were signed.

But after 1945 secrecy became a permanent fixture of our policy and administrative practice. We called this policy of secrecy "security."

It would be a mistake to believe that Russian spies had no effect on history. True, nobody knows to what extent the knowledge handed over to Moscow accelerated development of the Russian atomic bomb. My guess is that Russian scientists could have performed the task just as quickly without any inside information. Once Hiroshima demonstrated the atomic explosives would work, a competent and well supported group of scientists could reproduce the result without excessive difficulty.

But Stalin was not a trusting soul. One can hardly believe that he would have placed complete confidence in his scientists when they claimed to understand atomic explosions and their feasibility. However, when Russian intelligence delivered the American atomic bomb secrets he had a complete set of indepedent data, and was able to move ahead on the correct project with great confidence.

On a number of occasions our negotiations with Russia on arms control failed because they already knew our atomic secrets. The first failure was the Baruch Plan, a few months after Hiroshima. We were offering them a "bargain." We wanted international control and the security such control would create. In exchange we offered our atomic secrets.

Actually, our secrets had been passed on to the Russians by an excellent scientist, Klaus Fuchs, who worked in Los Alamos during the war, and by an independent group of agents, the Rosenbergs and their associates.

Therefore, when we offered our secrets in the Baruch Plan, we were actually offering nothing. Stalin summarily rejected our proposals and the negotiations folded.

Our next attempt toward a policy of openness was made in 1954. We proposed the "Open Skies Policy," with freedom of international inspection. Russia answered "Nyet."

In 1958 we returned to the conference table and agreed with the Russians to place a moratorium on all nuclear tests.

This example should have sufficied to alert us to a peculiar fact: secrecy did not permit the discussion of the issue which turned out to be one of the most relevant results of future tests under discussion.

In 1961, after only there years, Russia broke the moratorium in a surprise move. We had claimed that our intelligence would detect any preparation for nuclear testing on a big scale in Russia. Unfortunately, we were caught by surprise.

In 1961 and 1962 there was a concentrated effort to perform atomic tests, both in Russia and in the United States. The Russian tests were numerous and well planned. The American tests were fewer and performed on the basis of improvisation.

At that time both sides began to pay attention to the possibility of ballistic missile defense. Ironically, in forthcoming negotiations of a partial test ban, the question of ballistic missile defense was not even discussed. This, in spite of the fact that perhaps the main result of these tests was connected with such a defense.

The agreement to stop nuclear atmospheric tests in 1962 has been called the first step on the long road toward a stable and peaceful world. In the meantime, underground tests were going on in both the United States and Russia. As long as the Russian tests were carried out in the atmosphere we could assess their rate of progress. As soon as the tests went underground we could not make this evaluation. Therefore, one effect of the atmospheric test ban was to strengthen effective Russian secrecy.

Atmospheric tests are particularly well adapted to the exploration of the ways in which a nuclear explosion of appropriate size can destroy an incoming missile without inflicting damage on the ground. Thus, our agreement to stop atmospheric tests has guaranteed that the Russians will have permanent superiority gained in 1961–62, in the knowledge of missile defense.

The possibilities of missile defense have been loudly discussed. But the discussions consistently stopped at the brink of technological secrecy. The potential use of nuclear arms in destroying cities is understood, but the most important details of the delivery system are classified secret.

The sad fact is that the secrets which we are trying to keep are in all probability known to the Russians.

It is lamentable that at present our government is much further from an open policy than our highly competitive industry.

We should attempt to be as open—unfettered by secrecy—as possible. Without openness no conference on disarmament or arms control can produce results. But once the policy of openness is adopted in the United States and hopefully, in the whole free world, Russia will feel the pressure and may gradually open up. If that happens it will become possible not only to discuss arms in a more meaningful manner—we will also be able to approach real understanding. The sharp difference between free societies and the communist police states will diminish.

The difference between East and West has deep roots in the past. Peace, freedom and stability will not be brought about by any single conference or by rapid political change. But the spirit of openness is a powerful and necessary tool if we want to find the means to create some order in our shrinking world in which dangers and opportunities multiply with an ever increasing speed.

One can, of course, argue that we should discuss a secret development with the Russians at the conference table in Vienna without exposing the secrets to other nations. Such a procedure would have two unfortunate consequences. The first that we would have no way of checking whether the Russians were indeed opening up their secrets.

The second and more serious result would be a feeling of utter dismay in the NATO alliance. To talk with the Russians on such subjects which we do not discuss with our allies would be tantamount to depriving the Western Alliance of its last claim to honesty and strength.

In practical terms it is impossible for the United States to open up all secrets. Some tactical secrets will have to be kept, but one may give serious consideration to a regulation whereby classified information will automatically be published after a limited period of time, for instance, after one year. This will effectively open up research and it will give pause to those who would use secrecy for purely political advantage. It may also pave the way toward a real agreement with our Russian proponents.

To observe the growth of nuclear arms should be an obligation. Today it is called spying. We should publish as much of the relevant details of all information concerning Russia as ever possible.

In the end, a policy of openness will probably lead to faster progress in our country. The sad fact is that secrecy works in reverse to what our public believes: our position is weakened and our adversary is strengthened. The underlying reason is that secrecy does not, and cannot, work in a democracy.

VIETNAM BIBLIOGRAPHY

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. WALDIE. Mr. Speaker, in view of the fact that the Vietnam war is of vital concern to many Americans all of whom may diverge in their opinions concerning that conflict, I would like to call your attention to the following bibliography of scholarly works written on the subject.

This list of books was submitted to me by one of my constituents, Mr. Claude Ury of Kensington, Calif. The list includes authors who hold many diverse opinions; from the far right, to the far left. In any case, I am sure that this might be of assistance to any person seeking information on the subject.

The listing follows:

SELECTED LIST ON WAR IN VIETNAM

(Prepared by the Staff of the Center for South/Southeast Asia Reading Rooms)

VOICES OF DISSENT

Aptheker, Herbert. Mission to Hanoi. New York, International Publishers, 1966.

Ashmore, Harry S. Mission to Hanoi; a Chronicle of Double Dealing in High Places. New York, Putnam's, 1968.

Bain, Chester Arthur, Vietnam: the Roots of Conflict. Englewood Cliffs, N.J., Prentice-Hall, 1967.

Brookings Institution, Washington D.C. Vietnam After the War: Peacekeeping and Rehabilitation. By H. Field Haviland, Larry L. Favian, Washington, D.C., 1968.

Brown, Robert McAfee. Vietnam: Crisis of Conscience. New York, Associated Press, 1967.

Buttinger, Joseph. Vietnam: a Political History. N.Y., Washington, Frederick A. Praeger, 1963.

Civic Education Service. Two Vietnams in War and Peace. By the editors of Civic Education Service. Washington, D.C., 1968.

Draper, Theodore. Abuse of Power. New York, Viking Press, 1968.

Duncan, David. I Protest. New York, a Signet Broadside published by The New American Library, 1968.

Falk, Richard A. The Vietnam War and International Law. Princeton, N.J., Princeton University Press, 1968.

Fall, Bernard B. Last Reflections on a War. Garden City, N.Y., Doubleday, 1967.

———, The Two Vietnams, a Political and Military Analysis. New York, F. A. Praeger, 1965.

Friends, Society of. American Friends Service Committee. Peace in Vietnam; a New Approach in Southeast Asia. New York, Hill and Wang, 1967.

Gettlemen, Marvin E. Vietnam; History, Documents, and Opinions on a Major World Crisis. Greenwich, Conn., Fawcett Publications, 1965.

Hamilton, Michael P. The Vietnam War: Christian Perspectives. Grand Rapids, Michigan, William B. Eerdmans Publishing Co., 1967.

Hartke, Vance. The American Crisis in Vietnam. Indianapolis, Bobbs-Merrill Co., 1968.

Harvey, Frank. Air War—Vietnam. New York, Bantam Books, 1967.

Kahin, George McTurnan. The United States in Vietnam. New York, Dial Press, 1967.

Kraslow, David. The Secret Search for Peace in Vietnam. New York, Random House, 1958.

Lacouture, Jean. Vietnam: Between Two Truces. New York, Vintage Books, 1966.

Luce, Don. Vietnam; the Unheard Voices. Ithaca, N.Y., Cornell University Press, 1969.

Lynd, Staughton. The Other Side. New York, New American Library, 1967.

Manning, Robert. Who We Are; an Atlantic Chronicle of the United States and Vietnam. Boston, Little, Brown, 1969 (c1965).

Morgenthau, Hans Joachim. Vietnam and the United States. Washington, Public Affairs Press, 1965.

P'an, Chao-ying. Vietnam Crisis. New York, Twin Circle Publishing Co., Inc., c1966.

Pickerell, James H. Vietnam in the Mud. Indianapolis, Bobbs-Merrill, 1966.

Reischauer, Edwin O. Beyond Vietnam; the United States and Asia. New York, 1967.

Russell, Bertrand. War Crimes in Vietnam. London, Allen & Unwin, 1967.

Salisbury, Harrison E. Behind the Lines—Hanoi. Toronto, New York, London, Bantam Books, 1967.

Sartre, Jean Paul. On Genocide. Boston, Beacon Press, 1968.

Scheer, Robert. How the United States Got Involved in Vietnam; a Report to the Center for the Study of Democratic Institutions. Santa Barbara, California Center for the Study of Democratic Institutions, 1965.

Schlesinger, Arthur Meier. The Bitter Heritage: Vietnam and American Democracy, 1941–1966. Boston, Houghton, Mifflin, 1967.

Schoenbrun, David. Vietnam; How We Got In, How to Get Out. New York, Antheneum, 1968.

Schurmann, Herbert Franz. The Politics of Escalation in Vietnam. Boston, Beacon Press, 1966.

Scigliano, Robert G. South Vietnam: Nation Under Stress. Boston, Houghton Mifflen, c1964.

Shaplen, Robert. The Lost Revolution. New York, Harper and Row, 1965.

———. Time Out of Hand. New York, Harper Colophon Books, 1970.

U.S. Congress. Senate Committee on Foreign Relations. The Truth About Vietnam; Report on the U.S. Senate Hearings. San Diego, Ca. Greenheaf Classics, 1966.

Vietnam Hearings; Voices from the Grass Roots, A transcript of testimony given at the Hearing on the war in Vietnam conducted by the Hon. Robert W. Kastenmeir, Member of Congress, 2nd District, Wisconsin. Garden City, N.Y., Doubleday, 1966.

Zinn, Howard. Vietnam; the Logic of Withdrawal. Boston, Beacon Press, 1967.

II. AND THE OTHER SIDE

Fishel, Wesley R. Vietnam; Anatomy of a Conflict. Itasca, Ill., Peacock Publishers, 1968.

Goodwin, Richard. Triumph of Tragedy; Reflections on Vietnam. New York, Random House, 1966.

Hoang, Van Chi. From Colonialism to Communism. New York, Praeger, 1964.

Monroe, Malcolm. The Means is the End in Vietnam. White Plains, N.Y., Murlagen Press, c1968.

Thompson, Sir Robert. Defeating Communist Insurgency. New York, Praeger, 1966.

———. No Exit from Vietnam. New York, McKay, c1969.

Trager, Frank N., Why Vietnam? New York, Praeger, 1966.

Tregaskis, Richard W., Vietnam Diary. New York, Holt, Reinhart and Winston, 1963.

Available at: Center for South/Southeast Asia Reading Rooms, University of California, 2420 Bowditch Street, Berkeley, California 94720. Phone: 642–3095 and 642–3609.

Also available at the Center for South/Southeast Asia Reading Rooms: Cambodia: Selected Reading List.

CONGRESSMAN SCHERLE—A MAN OF ACTION IN IMPROVING SYSTEM

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HUNT. Mr. Speaker, the gentleman from Iowa (Mr. SCHERLE) recently distinguished himself, as we would all be proud to do, by his watchful vigilance over the affairs of Government—in this instance the Office of Education. As a member of the Committee on Education and Labor, Congressman SCHERLE's interest in the summer intern program at the Office of Education was sparked by newspaper accounts of the "Days of Listening" program. The student-designed program included films which attacked the President, his policies, and even his family in the most scurrilous terms. His subsequent investigation of the Office of Education yielded the conclusion that the entire Office is in dire need of reorganization and redirection.

In recognition of Mr. SCHERLE's energetic actions on behalf of the American people, all of whom the Office of Education is meant to serve, the Council Bluffs Nonpareil published on July 17, 1970, the following editorial:

SCHERLE HELPS SYSTEM WORK

We're proud of what Southwest Iowa's Congressman Bill Scherle is doing in trying to straighten out the summer intern program in the Office of Education. President Nixon has expressed his appreciation to Mr. Scherle; we hope Southwest Iowans will do the same.

Congressman Scherle sent two of the members of his staff over to the Office of Education, which is in the Department of Health, Education and Welfare, to see if they could be of help in weeding out the practices of the summer intern program which he found to be offensive. The program has been criticized (though probably not as much as it deserved) for allowing obscenity and blatant attacks on President Nixon, his family and the policies of his administration.

The acting commissioner of education, Dr. Terrell Howard Bell, had been placed in an impossible situation. Just recently appointed as interim replacement for Dr. James Allen, he has been surrounded by officials who paid him little attention and who seemed intent on promoting policies which he found objectionable. Bill Scherle's interest and concern has now made it possible for control to be established where it should be—in the hands of the acting commissioner.

The situation in the Office of Education has made it patently clear that much of the bureaucracy in Washington still looks for leadership to individuals whose main goal is to undermine the Nixon administration whenever and wherever the opportunity presents itself. And like so many professional educators, these leaders have joined ranks with the most ultraliberal element in the student groups, those who by the use of obscenity and extreme dress and living habits express revolt against the society.

It would have been easy—and quite appealing—for Congressman Scherle to have stood back and fired critical attacks at the whole intern program. But he realizes that great good can come from the project and as a Republican, he recognized that he is part of the administration that is charged with the responsibility for making it work. So he became involved; he offered the considerable influence of his office to Dr. Bell and his help was eagerly accepted.

That's the way the system is supposed to work. In injecting himself into this affair, Bill Scherle has made himself a target for the extreme leftists in the educational field who resent intrusions by individuals outside their exalted fraternity—even congressmen. But we are confident Scherle's constituents appreciate his efforts to try to clean up—instead of scuttle—what could be a worthwhile program.

We hope they let the congressman know how they feel.

THE TIGER CAGES

HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. FLOWERS. Mr. Speaker, the general treatment by a large segment of the press of the revelations concerning the Con Son prison affair has particularly disturbed me. In many cases, balanced reporting was sacrificed for the sensational. However, I certainly endorse the levelheaded approach appearing on the editorial pages of the Birmingham News for Wednesday, July 15, 1970, and am pleased to offer that editorial for inclusion in the RECORD at this time:

THE TIGER CAGES

If you suggested, when the flood of stories about an alleged massacre at My Lai was at its crest, that the story ought to be kept in some perspective—that My Lai was the exception rather than the rule, while terrorism and cold-blooded murder were routine elements of the Communists' operations—you were denounced as an apologist for American atrocities and accused of closing your eyes to the brutalizing effect on fine young American boys of this immoral war in Vietnam.

You can make book that to suggest now that some perspective is needed in the case of the so-called "tiger cages" at a South Vietnamese prison will brand you as someone insensitive to injustice and inhumane treatment of prisoners.

But it was true then and it's true now.

This does not mean that inhumane treatment of any prisoners should be condoned. The United States should be using whatever influence it has to alleviate such conditions where they exist.

But the "tiger cage" revelations by two congressmen who were members of an investigating group have been seized upon by those anxious to discredit the Thieu government, while the group's majority report including observations of substantial progress in the pacification program bringing vital assistance to thousands of South Vietnamese in hamlets and villages all over the country, while warning of the need for greater economic stability—has been virtually ignored.

The impression has been fostered, too, that the Thieu government is vigorously suppressing dissent and that the jails—which we are to presume are all manned by sadistic guards who specialize in torture—are teeming with "political prisoners."

It's amazing how many common criminals suddenly become victims of political persecution when they land in jail (a phenomenon not unknown in this country).

Some Vietnamese prisoners' offenses are in essence "political," of course. One may well regret this. But one has no right to expect that a democratic government with all the niceties can be created full blown, or that benign tolerance of all opposition can be expected in a war situation such as exists in in Vietnam.

Even so, the Thieu government came to power by elections; North Vietnam did not. And the Saigon government is infinitely preferable to the ruthless totalitarianism of its counterpart in the north. How free do the critics of Saigon believe dissent to be in Hanoi?

Let us, by all means, keep after the South Vietnamese officials to remedy any shortcomings in the operation of their jails and prisons.

When we're done with that, perhaps some congressmen will lead a fact-finding mission to Czechoslovakia or East Germany or the Soviet Union, or China, and check up on the prisoners—yes, Virginia, including prisoners whose "crimes" are differences with their governments' policies—and lead world opinion to demand reform.

And maybe the North Koreans will invite them to tea, and explain the treatment which the crewmen of the *Pueblo* received during their captivity.

Better yet, perhaps Hanoi will welcome them on an inspection tour of the prisons where hundreds of Americans are held.

But don't count on it.

HORTON PAYS TRIBUTE TO REV. GUY MASSEY FOR FINE COMMUNITY SPIRIT AND ACTIVITY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. HORTON. Mr. Speaker, having in mind the current reports of people who do not want to "get involved," it is inspiring to be made aware of those among us who do get involved and who share their talents with their communities. Such a man is Rev. Guy Massey of Rochester.

I have long been aware of Reverend Massey's gift for community involvement. Also I realize that much of his activity in behalf of others has gone too long unsung and unpraised.

It was with much personal satisfaction then that I became aware of a fine tribute paid to Reverend Massey in the Rochester Times-Union by Jose Echaniz, Jr. I share that recent column with my colleagues:

REV. GUY MASSEY

(By Jose Echaniz, Jr.)

Dedication to a better community has been the overriding concern of Rev. Guy Massey. He has devoted most of his time to cleanup of the 5th and 7th Wards since moving to Rochester some seven years ago.

He has worked closely with city police in helping to clear the area of abandoned cars. Most recently, his attention has been directed to the city as a whole as vice chairman of the Mayor's Beautification Committee.

Rev. Massey was an organizer and first chairman of the Rochester Neighborhood Health Center Council and a coordinator of the Northeast District Council.

In his many cleanup campaigns, he credits the cooperation of city officials—the current Republican administration as well as its Democratic predecessors—for any success. "No man accomplishes anything by himself," he says, "I would like to emphasize the cooperation of Department of Public Works officials in both administrations."

At one time, the Rev. Mr. Massey and police were responsible for removing an average of 100 junked autos a month from city streets.

The Rev. Mr. Massey was born in Jacksonville, Fla., one of 15 children of a bricklayer father. Before entering the ministry he operated his own remodeling and plastering business in California and in various other cities. "You name the state and I've worked there," he says.

In World War II, he served in the Army at Fort Ontario, remodeling and decorating barracks. Although only a private first class, at one time he had as many as 250 men working under him.

He entered the ministry in California 17 years ago because "I had thought of it all my life but I never got serious with it. I thought it was time to do something for God with the health He has given me."

In his 70 years, the tall active minister has never been confined to bed by illness.

A Baptist, the Rev. Mr. Massey has filled pulpits in and out of the city. Mayor Stephen May recently honored him on his 70th birthday for "unselfish dedication . . . on behalf of the people of Rochester."

I know the Members of Congress will join me unanimously in wishing a continued long and happy life to this outstanding gentleman. All of us are deeply appreciative of his unselfish efforts in behalf of others.

SAVE THE "DELTA QUEEN"

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MINSHALL. Mr. Speaker, as author of H.R. 17418, to save that great old riverboat, *Delta Queen*, the last of its kind in actual operation in this Nation, I was more than pleased when WKYC-TV in Cleveland recently editorialized on the need for keeping her afloat and "on active duty."

I strongly urge my colleagues in the House, and particularly those who serve on the Merchant Marine and Fisheries Committee where my bill and similar legislation is pending, to join in the effort to save the *Delta Queen*. Time is growing short.

The editorial referred to, follows:

EDITORIAL NO. 68

We Americans have a curious affinity for junking anything old or out of style. In the name of progress, we slap aluminum over fine granite or trade our cars because the stylists have given the new ones another hunk of chrome or lopped off a fin. In the process, we sometimes get rid of something worth saving.

This is the Delta Queen, the last of a breed. Oh, there are still riverboats around, serving as restaurants or curio shops or theaters. But this old sternwheeler still carries passengers on overnight trips. She's based in Cincinnati and travels the Ohio and Mississippi River systems from Pittsburgh to New Orleans and Minneapolis-St. Paul. As you can see, there's nothing really spectacular about this 40-year old boat. No streamlining, no chrome. She's slow and not very graceful. But the Delta Queen is the last of her breed. And the breed is scheduled to die November second.

In an effort to protect passengers on ocean liners, Congress passed a Safety-at-Sea law that, among other things, forbids wooden superstructures. The intent of the law was fine and, after several disastrous fires at sea, certainly was necessary. Unfortunately, in our opinion, the law was written so broadly as to include riverboats such as the Delta Queen. A law written to protect people on the ocean days from shore applies to the Delta Queen, never more than five minutes from land. It would seem more logical if the safety regulations that apply to hotels and motels were to apply to this riverboat.

Beyond doubt, the Delta Queen's beautiful wood superstructure of oak, walnut, teak, mahogany and ironwood is more dangerous than one made of steel. It's also got more class. And, it's the last of its kind. Unless Congress grants the Delta Queen an exemption from the more restrictive provisions of the Safety-at-Sea law, the breed will disappear in November. It's a pity.

SELECTIVE INDUSTRIAL DEVELOPMENT URGED

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. BURTON of Utah. Mr. Speaker, the people of Utah are as eager as anyone else in the West to welcome more industry to their rapidly growing State. However, there is a growing awareness throughout the State that there is much to be learned from the mistakes of others. We all want to increase industrial development in the State, but not to the detriment of our clear water, pure air, and wide-open spaces.

I would like to call attention to an editorial in the Deseret News of Salt Lake City of June 11, 1970, which makes it clear that the rational direction of man's creative energy is absolutely essential to the preservation of an environment which enhances the lives of every citizen.

The editorial follows:

WHY UTAH PROMOTERS SHOULD BE CHOOSY

Over the years this page has said that while Utah needs to promote industrial development aggressively, the state also should be highly selective about the kind of industry it seeks.

We have agreed that Utah should seek more private industry to bring a better balance to an economy that relies too heavily on government and can be hurt by a sudden shift in federal policies.

But we have declared that Utah should not seek the kind of private industry that produces noise, air and water pollution as a byproduct.

If any Utahans still doubt the wisdom of being choosy about the kind of industry this state should attract and develop, we invite their attention to a statement made by the chairman of the California Water Resources Board during this week's Western States Governors Conference in Park City.

Due to problems of waste disposal and pollution, he said, Southern California is within five to 10 years of closing its doors to any further industrial expansion.

The lesson should be clear: Either a state is extremely careful in screening its industries, or ultimately the quality of the environment deteriorates to the point where new industry is no longer welcome.

New industry is more than welcome in Utah, of course. We need it to broaden the tax base so that additional revenue can be provided from economic growth and not just from additional taxes. We need it so Utah can provide enough jobs to keep more of its young people here, instead of educating them at great expense only to have them go elsewhere to make a living.

But Utah doesn't need more factories that obscure our beautiful mountains with palls of smoke and send Utahans to other climates in order to draw an easy breath. Utah doesn't need more manufacturing plants that turn sparkling streams and lakes into stagnant swamps where dead fish float belly-up amidst slime and scum.

We're convinced that Utah can have a healthy, livable environment and still enjoy more economic growth and progress. How? By concentrating the state's industrial promotion and development efforts on smokeless, noiseless, pollutionless industries—the kind that usefully involve highly sophisticated technology and employ highly skilled workers. and by prodding the industries already here to clean up.

Utah, unlike Southern California, is a long way from having to draw the line against industrial expansion. Let's make sure we never get to that point.

AFTER THE EAGLE'S LANDING

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. TEAGUE of Texas. Mr. Speaker, on the anniversary of the Apollo 11 flight it seems appropriate not only to remember the outstanding performance of astronauts Neil A. Armstrong, Michael Collins, and Edward E. Aldrin, Jr., but also the magnificent team of engineers, scientists, technicians, and the American public who backed them on their flight to the moon. Only a year later we find ourselves in a position of disbanding the crews and throwing away the vast knowhow that was developed in the Apollo program. Instead of reaping the benefit of the investment made in our national space program, we stand a chance of losing much of that investment unless decisions are made to pursue a vigorous space effort in the next several years. An editorial in the New York Times of July 20 points not only to the commemoration of a major national event in the original lunar landing but also to the enlargement of man's horizons and to the paramount reasons for continuing our national and international space effort. I commend the editorial to your reading.

The article follows:

AFTER THE EAGLE'S LANDING

"Houston. Tranquility Base here. The Eagle has landed."

A year ago tonight those words from the moon sent a wave of pride and excitement throughout the world. For the first time in history men had landed on another body in the universe. People everywhere recognized instinctively that a new era had begun, that a feat had been accomplished which generations to come would remember and honor over many centuries and millennia. For a moment then, most men forgot the usual divisions of nationality, religion and ideology. They were united by feelings of gratitude and admiration toward the brave men and who had gone to the moon and toward the skilled and brilliant men on earth who had made the journey possible.

Inevitably, this rare mood of exaltation and brotherhood could not be sustained even though the enormous success of Apollo 11 was followed by the equally productive feat of Apollo 12 and then by the unexpectedly hazardous ordeal of Apollo 13. In the last half of the twentieth century, the year just passed has proved, men's sense of wonder is easily satiated, and their minds return quickly to their daily mundane concerns. By the time Apollo 13 was launched, boredom seemed to be the prevalent attitude toward moon voyages. Today the political atmosphere surrounding space exploration is so unfriendly that the already diminished NASA budget is a favorite target of Congressional economizers.

Nevertheless, the Eagle's landing was one of mankind's finest hours. The scientific dividends from the new era of lunar exploration have already been very rich, and they will be even more abundant in the future when numerous astronauts from many nations will work on the lunar surface. Men now inhabit the earth-moon system, not earth alone, and much in tomorrow's history will be shaped by the developments that will follow the Eagle's triumph.

A BIG LITTLE GUY

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. MOLLOHAN. Mr. Speaker, heroes are rare enough, but to find one who is only 12 years old is rare indeed, and such a find must not go unrecognized.

Bruce Burrows is such a young man, as the following editorial in the Weirton Daily Times, edited by Mr. Paul Glover, will testify.

Bruce was involved in an automobile accident while riding in one of the cars. Without fanfare he quickly helped free the cars' occupants, offered first aid, called police, and directed traffic.

As Mr. Glover expressed it, Bruce "is a little guy but he's a giant of a hero." I might add to that, he is also a giant of a man.

My congratulations to Bruce Burrows for his extraordinary service.

If he exemplifies the young men and women of this country, then America has little need to worry about its future.

The editorial follows:

A BIG LITTLE GUY

The instantaneous reaction and response of a 12-year-old boy was credited by Mrs. Ruth O'Connor with saving the life of her daughter in an auto accident which occurred here July 2.

Bruce Burrows was one of two neighborhood boys who accompanied Mrs. O'Connor and her daughter on a trip to a Pennsylvania ranch. On their return their car was involved in a head-on collision.

Mrs. O'Connor said it was Bruce's interception reaction that saved her daughter from being hurled by the impact against the windshield.

She said it was remarkable how this boy helped free the occupants of the car, gave first aid, summoned the police and ambulance and then proceeded to direct traffic.

Where did a boy of such young age acquire the training for such self-control, self-discipline and calmness in such a tense and critical situation?

They were acquired and developed in the home, the church, the school, as a newspaper carrier and as a Boy Scout.

Weirton is proud of Bruce's distinguished record. He's a litle guy but he's a Giant of a Hero.

TEENAGER PROJECT LAUDED

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. BURTON of Utah. Mr. Speaker, we constantly hear the cry from some of our idealistic youth that the system discourages any attempt at effective reform or change. However, nationally syndicated columnist, Jack Anderson, wrote recently of a concrete way in which teenagers from my home State of Utah worked within existing structures to help the members of another church and another race. The story follows:

To Rebuild World, Youth Needs Plan

(By Jack Anderson)

America's questing youth, fiercely idealistic, impatient for change, have been unleashed for the summer.

They are the most alert, most aware, most aroused generation in our history. But many are copouts, living in a psychedelic dreamworld, doing their own thing, taking drugs to escape reality.

Some seem to believe we can end war with millenial thinking, eliminate social problems with talk of love, overcome injustice with catchwords and cliches.

Others have lost faith that social ills can be corrected without a structural change in our system. They seek to tear down our society without a clear idea of how to rebuild it.

The young need to understand, first, that there are no simple solutions. Ahead lie Himalayan-sized problems—rugged inclines to climb, not easy slopes to coast down.

The view from the bottom of the mountain may be discouraging. The Pike's Peak problems may seem too staggering for any individual to tackle. But great mountains are climbed a step at a time, and great events are produced from small acts.

The young who believe in the future, who aren't yet ready to resign from the human race, should take the initiative. Let me make a few modest suggestions:

1. Stir the starry-eyed from their pseudo-romantic dreams; rouse them to their feet; inspire them to substitute deeds for dreams. Invite the militants down from their soapboxes; challenge them to exchange their rhetoric for practical solutions.

MORMON EXAMPLE

2. Fill your summer with constructive, not destructive activity. If you can find no great cause, settle for a small cause. In Salt Lake City, white Mormon teen-agers moved lawns, washed cars, sold baked goods, cleaned garages and did yard work to raise more than $35,000 to help build a Negro church. You can do as much. Organize a project of your own; roll up your sleeves; pitch in and do something worthwhile. Then write me about your project; tell me what you accomplished. Your experience may stimulate others.

3. All too often, Congress has made crucial decisions affecting the lives of millions of young persons with little regard for their views. Congress would never pass farm legislation without consulting the farmers, would never take up oil issues without checking with the oil industry, would never consider a banking bill without inviting the bankers to testify. The special interests make their influence felt through the political processes. You can do the same. Let your congressman know how you feel about the issues and back up your stand by campaigning for or against him. You can be even more effective by organizing a youth lobby on Capitol Hill.

There has always been a price tag on reform, freedom, democracy. America's questing youth cannot expect these blessings without paying the price.

NATIONAL SERVICE VERSUS THE ALL-VOLUNTEER ARMY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1970

Mr. BINGHAM. Mr. Speaker, Henry Owen, writing in the Washington Post last Saturday, July 18, compared the two principal alternatives thus far advanced to continuation of the military draft: the National Service Act of 1970, H.R. 18025, and the all-volunteer Army approach.

This thoughtful article is worthy of the attention of anyone concerned with enacting meaningful draft reform:

One Thing Sure About the Draft Is a Change

(By Henry Owen)

The issue of the draft is coming to a boil. Senator Dominick predicts that it will not be renewed beyond next June 30. Twelve senators have introduced a bill calling for a volunteer army, to take its place. Ten members of the House have proposed an alternate arrangement which would involve civilian, as well as military services; although this proposal has received little public attention, a recent Gallup poll suggests that it is favored by 71 percent of the American people.

The one thing sure in all this is that the present system will somehow eventually be changed. The draft provides needed military manpower in the right amounts, of the right kinds, and at reasonable cost. For these reasons, it is an effective system when we have a massive need for military manpower and when that need is generally accepted. But neither of these conditions now obtains. The proportion of young men registering for the draft who are not called will continue to grow, as the size of the armed forces declines; and this is bound to intensify a feeling of inequity among those who are called.

The most popular and likely alternative is a volunteer army. There is a common sense attraction to the notion that we should recruit manpower for the armed forces in the same way that we do for other purposes: by paying a competitive wage. It would eliminate some resentments caused by the present system. But critics suggest that it would create two new difficulties: volunteers would have to be paid more, which would divert budgetary resources from domestic programs; and a volunteer army would tend to attract poorer folk who would be drawn in by the higher salaries—thus raising a new distinction between them and middle class youngsters who stay out, at a time when we need new distinctions between social classes like we need a hole in the head. These arguments may not be decisive, but they at least suggest the need to look hard at other options.

One such option would be to widen, rather than abandon, the principle of national service. This is what the 10 House members have in mind. They propose that each young man be offered a choice, when he reaches age 18, between enrolling in civilian service, volunteering for the armed forces, and taking his chances in a military lottery. If he chose civilian service, he might serve in a government agency, school, hospital, the police, non-profit organizations, etc.

This proposal raises a good many questions; the sponsors have answers to some of them. To the question of whether it would cost the government too much, they answer that the government would only pay civilian servicemen a subsistence wage, whereas private employers would have to pay the government the going wage for their services. To the question of whether too many registrants would prefer civilian to military service, they suggest that the length of civilian service could be extended, and other incentives manipulated, to ensure that civilian service was not that much more attractive. Clearly, there are other problems which would need to be studied in more detail. For example: could enough useful openings be found for all the young men who might choose civilian service?

But the important thing about this proposal is not its technicalities, which can no doubt be analyzed and refined, but the broad issue which it poses: should we maintain the principle that young Americans owe their country a period of service, and extend this principle to the civilian field as part of a new approach to the draft?

The *con* argument is clear: the element of compulsion would remain.

On the other hand, this plan would allow young men who object to military service to serve in a civilian capacity instead. Additional civilian manpower could surely be used in a variety of fields—to carry out conservation and anti-pollution programs, help out in schools and hospitals, strengthen municipal services, work with the poor in Appalachia and on Indian reservations, and so on. The domestic Peace Corps (VISTA) covers some of these needs, but not all.

A program of expanded service would not only address these needs; it would also provide an outlet for healthy idealism among the young. The turbulance of student life has obscured a central fact: young people no longer believe that it is an acceptable life goal merely to earn a living; they want to leave the world better than they found it. A good deal of present discontent reflects the difficulty which young people find in addressing this goal. Civilian service might help to fill the gap.

It would do something else besides. It would offer young people of widely differing backgrounds an opportunity to come together in common ventures. We speak of "the young" as though they were a single and interchangeable commodity. They are not. There are barriers of class, region, education and race among them, as among the rest of us. Common service would help to reduce these barriers, at a time when fragmentation is the most urgent threat facing the nation. Anyone who has lived in Switzerland knows what an important role universal service has played in cementing its diverse regions and classes. The Swiss service is military; civilian service might help to do the same thing in the United States.

All of this does not prove that civilian service is the right course; there are powerful arguments for allowing young people to arrange their own future, which is what the volunteer army would do. But it does suggest the need to look hard at the question of whether an arrangement which included both civilian and military service might not be as effective as the draft, as acceptable as a volunteer army, and more socially cohesive than either.